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federal register

WEDNESDAY, JANUARY 17, 1979

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
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DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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[Originally published at 43 FR 49080, 10-20-78; 43 FR 54147, 11-20-78; and 43 FR 59447, 12-20-78]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[1505-01-M]

Title 7—Agriculture

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—General Regulations Governing Price Support for the 1978 and Subsequent Crops

Correction

In FR Doc. 79-973 appearing at page 2353 in the issue for Thursday, January 11, 1979, on page 2354, first column, the EFFECTIVE DATE should read "January 11, 1979".

[3410-05-M]

[CCC Grain Price Support Regulations, 1978 and Subsequent Crops, Wheat Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1978 and Subsequent Crops Wheat Loan and Purchase Program

AGENCY: Commodity Credit Corporation.

ACTION: Final Rule.

SUMMARY: This rule sets forth the general provisions under which producers may obtain price support on their 1978 and subsequent crops of wheat. This rule changes the definition of eligible wheat. This rule also changes warehouse charges and deletes reference to terminal markets. This rule is needed in order to advise producers of program provisions.

EFFECTIVE DATE: January 17, 1979.

ADDRESS: Price Support and Loan Division, ASCS U.S. Department of Agriculture, 3734 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Cecil Lower, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on December 21, 1977, 42 FR 63895, stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for 1978 crop wheat. Such determinations were to include operational provisions needed to carry out the program.

No comments were received concerning the operational provisions.

FINAL RULE

Therefore, the General Regulations Governing Price Support for 1978 and Subsequent Crops in this Part 1421 are supplemented as stated herein for the 1978 and subsequent crops of wheat. The material previously appearing in this subpart remains in full force and effect as to the crops to which it was applicable. Accordingly, the regulations in 7 CFR § 1421.460 through 1421.469 and the title of the subpart are revised to read as follows:

Subpart—1978 and Subsequent Crops Wheat Loan and Purchase Programs

Sec.
1421.460 Purpose.
1421.461 Eligible wheat.
1421.462 Determination of quality.
1421.463 Determination of quantity.
1421.464 Warehouse receipts.
1421.465 Fees and charges.
1421.466 Warehouse charges.
1421.467 Maturity of loans.
1421.468 Settlement.
1421.469 Support rates.

AUTHORITY: The provisions of this subpart issued under secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 107A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1445b, 1421).

Subpart—1978 and Subsequent Crops Wheat Loan and Purchase Programs

§ 1421.460 Purpose.

This supplement contains program provisions which together with (a) the annual crop year supplement, (b) the General Regulations Governing Price Support for the 1978 and Subsequent Crops, (c) the Cooperative Marketing Association Eligibility Requirements for Price Support regulations in Part 1425 of this chapter, and (d) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1978 and Subsequent Crops of wheat.

§ 1421.461 Eligible wheat.

(a) *General.* To be eligible for a loan or purchase, the wheat (1) may be of any class except unclassed wheat, (2) must be merchantable for food or feed or for other uses, as determined by CCC, (3) must not contain mercurial compounds, toxin producing molds, or other substances poisonous to man or animals, (4) must not contain two or more rodent pellets or comparable amounts of other excreta per 1,000 grains of wheat or one percent or more by weight of kernels visibly damaged by weevils or other insects, (5) The wheat must have also been produced by a producer who has complied with the set-aside and normal crop acreage requirements, if any, as prescribed in Parts 718, 722, 728, 730, 775, and 791 of this title and any amendments thereto.

(b) *Warehouse stored loan grade requirements.* To be eligible for a warehouse storage loan, the wheat must also meet the following requirements:

(1) The wheat must grade No. 5 or better except that it may grade sample on the factors of (i) test weight provided test weight is not less than 40 pounds per bushel, (ii) damaged kernels (total) with not more than 3 percent heat damage, (iii) foreign material, (iv) total defects with not more than 3 percent heat damage, or (v) any combination of subdivisions (i) through (iv) of this subparagraph.

(2) If of the class Mixed wheat, the wheat must consist of mixtures of grades of eligible wheat as specified in subparagraph (1) of this paragraph, provided such mixtures are the natural products of the field.

(3) The wheat may have the special grade designations "Garlicky" or "Smutty," or both.

(4) The wheat must not grade Ergoty or Treated.

(5) The wheat must not grade "Weevily" or have moisture over 13.5 percent unless the warehouse receipt representing the wheat is accompanied by

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a supplemental certificate which provides that the warehouseman shall deliver wheat which is not "Weevily," does not contain in excess of 13.5 percent moisture, and is otherwise of an eligible grade and quality. The grade, quality and quantity shown on the supplemental certificate shall be provided in § 1421.464(c).

§ 1421.462 Determination of quality.

(a) *Regular grading factors.* The class, grade, grading factors, and all other quality factors shall be based on the Official Grain Standards of the United States for Wheat, whether or not such determinations are made on the basis of an official inspection. The cost of official grade determinations, when made, shall not be for the account of CCC.

(b) *Protein content determinations.* Producers may obtain official protein content determinations or protein content determinations arrived at by mutual agreement between the producer and the warehouseman on wheat of the classes Hard Red Winter and Hard Red Spring, to be placed under warehouse-storage loans or stored in approved warehouses for later purchase by CCC and on wheat delivered from farm storage in satisfaction of a loan or for purchase by CCC. Producers may also obtain official protein determinations on wheat of such classes placed under farm-storage loans in accordance with paragraph (c) of this section. The cost of official protein content determinations shall not be for the account of CCC.

(c) *Protein determinations on farm-storage loan wheat.* If a producer at time of request for a farm-storage loan also requests that the premium for protein content be applied to the basic support rate for the classes of wheat specified in paragraph (b) of this section, the county office will draw a representative sample of, and arrange for protein tests on, the wheat to be placed under loan. The premium applicable to the values determined by such test shall be applied to the basic support rate at the time the loan is made, but settlement shall be based on the protein content determined upon delivery of the wheat to CCC. The producer who requests the protein premium on his farm storage wheat to be placed under loan shall be charged a fee of $3.50 for each bin of wheat tested for protein content.

§ 1421.463 Determination of quantity.

When the quantity is determined by weight, a bushel shall be 60 pounds of wheat free of dockage.

(a) *In warehouse.* The quantity of wheat on which a warehouse storage loan shall be made and the quantity delivered to or acquired by CCC in an approved warehouse shall be the net weight specified on the warehouse receipt or on the supplemental certificate, if applicable. If the wheat has been dried or blended to reduce the moisture content, the quantity specified on the warehouse receipt or the supplemental certificate, if applicable, shall represent the quantity after drying or blending, and such quantity shall reflect a minimum shrink in the receiving weight of 1.2 times the percentage difference between the moisture content of the wheat, when received, and 13.5 percent.

(b) *On farm.* The quantity of wheat eligible to be placed under a farm storage loan shall be determined in accordance with § 1421.17. The quantity acquired by CCC from farm storage under a loan or purchase shall be determined by weight.

§ 1421.464 Warehouse receipts.

Warehouse receipts tendered to CCC in connection with a loan or purchase must meet the requirements of this section.

(a) *Separate receipt.* A separate warehouse receipt must be submitted for each grade and subclass of wheat.

(b) *Entries.* Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt, must show: (1) Gross weight and net bushels, (2) subclass, (3) grade (including special grades), (4) test weight, (5) moisture content if above 13.5 percent, (6) dockage, (7) any other grading factor(s) when such factor(s) and not test weight determine the grade, (8) protein content when applicable, (9) whether the wheat arrived by rail, truck or barge, (10) the date the wheat was received or deposited in the warehouse, (11)) the storage start date.

(c) *Where warehouse receipt shows "Weevily", excess moisture, or both.* If a warehouse receipt tendered as security for a loan indicates the wheat grades "Weevily" or contains over 13.5 percent moisture, or both, the warehouse receipt must be accompanied by a supplemental certificate as provided in § 1421.461(b)(5) in order for the wheat to be eligible for price support. The grade, grading factors, and quantity to be delivered must be shown on the supplemental certificate as follows: (1) When the warehouse receipts show "Weevily" and the wheat has been conditioned to correct the "Weevily" condition, the supplemental certificate must show the same grade without the "Weevily" designation and the same grading factors and quantity as shown on the warehouse receipt, (2) when the warehouse receipt shows a moisture content of over 13.5 percent and the wheat has been dried or blended, the supplemental certificate must show the grade, grading factors, and quantity after drying or blending the wheat to a moisture content of not over 13.5 percent which shall reflect a drying or blending shrink as specified in § 1421.463(a).

The supplemental certificate must state that no lien for processing will be claimed by the warehouseman from Commodity Credit Corporation or any subsequent holder of the warehouse receipt. In the case of conditions specified in subparagraphs (1) and (2) of this paragraph, the grade, grading factors, and the quantity shown on the supplemental certificate shall supersede the entries for such items on the warehouse receipt.

(d) *Liens.* Warehouse receipts and the wheat represented thereby stored in an approved warehouse operating under the Uniform Grain Storage Agreement (hereinafter called "UGSA") may be subject to liens for warehouse charges only to the extent indicated in § 1421.466. However, in no event shall a warehouseman be entitled to satisfy the lien by sale of the wheat when CCC is holder of the warehouse receipt.

(e) *Freight certificate requirements.* Warehouse receipts representing wheat which has been shipped by rail, or by barge utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission, from a country shipping point to a normal trade channel market or to a storage point and stored intransit to a normal trade channel market, must be accompanied by supplemental certificates. These certificates must be representative as to origin and date of movement of the wheat and must reflect the rate of freight paid into the storage point and the amount of penalty, if any, for out-of-line haul. The form of the certificates will be prescribed by the ASCS commodity office and shall be signed by the warehouseman.

§ 1421.465 Fees and charges.

The producer shall pay a loan service fee and delivery charge as specified in § 1421.11.

§ 1421.466 Warehouse charges.

The Kansas City Commodity Office (KCCO) approved list of handling and storage rates will provide the rates to be deducted from the amount of the loan or purchase price in the case of wheat stored in an approved warehouse operated under the UGSA. Such deduction shall be based on entries shown on the warehouse receipts. If written evidence is submitted with the warehouse receipts that (a) storage charges through the loan maturity date have been prepaid or (b) that the producer has arranged with the warehouseman for the payment of storage charges through loan maturity and the warehouseman enters an endorsement in substantially the following form on the warehouse receipt: "Warehouse storage charges through (the applicable maturity date) accrued or to accrue prior to the acquisition of the wheat by CCC on wheat represented by this warehouse receipt have been paid or otherwise provided for and a lien for such charges will not be asserted by the warehouseman against CCC or against any subsequent holder of the warehouse receipt," no storage deductions shall be made. The beginning date to be used for computing the storage deduction on wheat stored in warehouses operating under the UGSA shall be the latest of the following: (1) The date the wheat was received or deposited in the warehouse, (2) the date storage charges start, or (3) the day following the date through which storage charges have been paid.

§ 1421.467 Maturity of loans.

Loans mature on demand but no later than the date specified in the annual crop year supplement to the regulations in this subpart.

§ 1421.468 Settlement.

Notwithstanding the provisions of § 1421.22, if the wheat delivered is of a quality which does not meet the sanitation requirements of § 1421.461 (a)(4), the wheat shall be sold for uses other than for human consumption and the settlement value shall be the same as the sale price, except that if CCC is unable to sell the wheat for such other uses, the settlement value shall be the market value determined by CCC, as of the date of delivery.

§ 1421.469 Support rates.

Basic county support rates for wheat and the schedule of premiums and discounts will be set forth in the annual crop year supplement to the regulations contained in this subpart. Farm-stored wheat loans will be made at the applicable basic county support rate adjusted, where applicable, for the Weed Control discount and as provided in § 1421.462(c). The support rate for warehouse-storage loans and for wheat acquired under a loan or by purchase shall be the applicable basic support rate adjusted in accordance with the provisions of this section, and the premiums and discounts in the annual crop year supplement on the basis of quality factors on warehouse receipts or supplemental certificates in the case of wheat stored in or delivered to an approved warehouse or on such other form as CCC may prescribe in the case of wheat delivered to other than an approved warehouse. Settlement of loans and purchases shall be made in accordance with the provisions of § 1421.22. If two or more approved warehouses are located in the same or adjoining towns, villages, or cities which have the same freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point and the same basic county support rate shall apply even through such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

(a) *Basic support rates for farm-stored wheat.* The applicable basic support rate for farm-stored loans shall be the basic county support rate established for the county in which the wheat is stored.

(b) *Basic support rates for warehouse-stored wheat received by rail or utilizing combination barge-rail rates.* (1) *When shipped by rail.* The applicable basic support rate for warehouse-stored loans on wheat which was received by rail and stored in an approved warehouse which is in line of normal commercial channels of trade shall be determined by adding to the basic support rate established for the county from which the wheat was shippped, the amount of freight charges per bushel actually paid in and an amount equal to the truck receiving and rail loading-out charges in effect for the shipping warehouse. The freight rate paid into the storage point shall not exceed the lowest rate which will permit the storage intransit privilege and protect the lowest single car rate applying from origin through point of storage to a normal trade channel market that would be used in commercial channels of trade. If the wheat is stored in an approved warehouse at a transit point which takes a penalty by reason of backhaul or out-of-line movement when destined to a normal trade channel market that would be used in commercial channels of trade, such penalty or cost by reason of such movement shall be deducted from the support rates as determined in this paragraph.

(2) *When shipped utilizing combination barge-rail rates.* The applicable basic support rate for warehouse storage loans on wheat which was shipped utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission and stored in an approved warehouse shall be determined by adding to the basic support rate established for the county from which the wheat was shipped, the amount of freight charges per bushel actually paid in and an amount equal to the truck receiving and rail loading-out charges computed in accordance with the applicable rates of the UGSA in effect at the time the loan is made. The freight rate paid into the storage point shall be a rate which will permit the storage intransit privilege and protect the lowest single car or barge freight rate applying from origin through point of storage to a normal trade channel that would be used in commmercial channels of trade. If the wheat is stored in an approved warehouse at a transit point which takes a penalty by reason of backhaul or out-of-line movement when destined to a normal trade channel that would be used in commercial channels of trade, such penalty of cost by reason of such movement shall be deducted from the support rates as determined in this paragraph.

(c) *Basic support rates for warehouse-stored wheat received by truck or nontariff barge.* (1) The basic support rate for wheat delivered by truck by the producer to a warehouse at normal delivery point shall be the rate for the county where the wheat is stored. (2) The basic support rate for wheat delivered by truck by the producer to an in-line warehouse beyond normal delivery point shall be the support rate for the county from which shipped plus the smaller of the actual freight charge or the following truck freight rate from the farm to the storing warehouse minus the distance from the farm to the producer's normal delivery point.

Map mileage	Allowance
0-19	$.0
20-50	$.06 per bushel
51-100 add	$.0010 per bushel per mile
101- and over add	$.0004 per bushel per mile

(3) The basic support rate for wheat delivered to a warehouse and shipped by truck to in-line warehouse shall be the support rate for the county in which the shipping warehouse is located plus truck freight from schedule shown in subparagraph (c) (2) plus truck receiving and truck load out charges for the shipping warehouse.

(4) The basic support rate for wheat shipped by barge or truck-barge to an in-line warehouse at negotiated rate shall be the support rate for the county from where shipped plus truck freight from schedule shown in subparagraph (c)(2) plus origin truck receiving and load out charge.

(d) *Storing responsibilities.* The storing warehouseman in the case of wheat received by rail or utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission shall be responsible for determining the normal trade channel routes via the storing warehouse that will protect the lowest freight rate to the designated normal trade channel market that would be used in commercial channels of trade, and for protecting such routes. The storing warehouseman shall also execute supplemental certificates showing (1) the rate of freight

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paid into the storage point, (2) amount of penalty if any, for backhaul or out of line movement, (3) the applicable normal trade channel market that would be used in commercial channels of trade and (4) any other information which may be prescribed by CCC. The warehouseman is responsible to CCC for the accuracy or omissions of information on the supplemental certificate. Warehouseman liability, if any, for their failure to comply with the provisions of this paragraph (d) will be determined in accordance with the provisions of the UGSA after acquisition of the warehouse receipt by CCC.

NOTE: An approved Impact Analysis Statement is available from Orville Overboe (ASCS), (202) 447-7987.

NOTE: Based on an assessment of the environmental impacts of the proposed action, it has been determined that an Environmental Impact Statement need not be prepared since the proposals will have no significant effect on the quality of the human environment.

Signed at Washington D.C., on January 9, 1979.

STEWART N. SMITH,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 79-1573 Filed 1-16-79; 8:45 am]

[3410-05-M]

[CCC Grain Price Support Regulations, 1978 and Subsequent Crops, Barley Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1978 and Subsequent Crops Barley Loan and Purchase Program

AGENCY: Commodity Credit Corporation.

ACTION: Final Rule.

SUMMARY: This rule sets forth the general provisions under which producers may obtain price support on their 1978 and subsequent crops of barley. This rule changes the definition of eligible barley. This rule also changes warehouse charges and deletes reference to terminal markets. This rule is needed in order to advise producers of program provisions.

EFFECTIVE DATE: February 17, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3734 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Cecil Lower, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on December 21, 1977, 42 FR 63895, stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for 1978 crop barley. Such determinations were to include operational provisions needed to carry out the program.

No comments were received concerning the operational provisions.

FINAL RULE

Therefore, the General Regulations Governing Price Support for 1978 and Subsequent Crops in this Part 1421 are supplemented as stated herein for the 1978 and subsequent crops of barley. The material previously appearing in this subpart remains in full force and effect as to the crops to which it was applicable. Accordingly, the regulations in 7 CFR § 1421.50 through 1421.58 and the title of the subpart are amended to read as follows:

Subpart—1978 and Subsequent Crops Barley Loan and Purchase Programs

Sec.
1421.50 Purpose.
1421.51 Eligible barley.
1421.52 Determination of quality.
1421.53 Determination of quantity.
1421.54 Warehouse receipts.
1421.55 Fees and charges.
1421.56 Warehouse charges.
1421.57 Maturity of loans.
1421.58 Support rates.

AUTHORITY: The provisions of this subpart issued under secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); 105 A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444c, 1421).

§ 1421.50 Purpose.

This supplement contains program provisions which together with (a) the annual crop year supplement, (b) the General Regulations Governing Price Support for the 1978 and Subsequent Crops, (c) the Cooperative Marketing Association Eligibility Requirements for Price Support regulations in Part 1425 of this chapter, and (d) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1978 and Subsequent Crops of barley.

§ 1421.51 Eligible barley.

(a) *General.* (1) To be eligible for a loan or purchase, the barley must be merchantable for food or feed or for other uses, as determined by CCC, and must not contain mercurial compounds, toxin producing molds, or other substances poisonous to man or animals. (2) The barley must have also been produced by a producer who has complied with the set-aside and normal crop acreage requirements, if any, as prescribed in parts 718, 722, 728, 730, 775, and 791 of this title and any amendments thereto.

(b) *Warehouse stored loan grade requirements.* To be eligible for a warehouse storage loan, the barley must also meet the following requirements:

(1) The barley must grade No. 5 or better, except that (i) the barley may grade "Sample" on the factor of total damage (except heat damage), (ii) Western Barley shall have a test weight of not less than 36 pounds per bushel, and (iii) the barley may have the following special grade designations: "Garlicky" and in the State of Alaska only, "Tough".

(2) The barley must not grade Blighted, Bleached, Ergoty, Smutty, or if Western Barley, Stained.

(3) The barley must not grade "Weevily" or have moisture over 14.5 (13.5 if Western Barley) percent unless the warehouse receipt representing the barley is accompanied by a supplemental certificate which provides that the warehouseman shall deliver barley which is not "Weevily," does not contain in excess of 14.5 (13.5 if Western Barley) percent moisture, and is otherwise of an eligible grade and quality. The grade, quality and quantity shown on the supplemental certificate shall be as provided in § 1421.54(c). This subparagraph shall apply to barley produced in the State of Alaska.

§ 1421.52 Determination of quality.

The class, grade, grading factors, and all other quality factors shall be based on the Official Grain Standards of the United States for Barley, whether or not such determinations are made on the basis of an official inspection. The cost of official grade determinations when made shall not be for the account of CCC.

§ 1421.53 Determination of quantity.

When the quantity is determined by weight, a bushel shall be 48 pounds of barley free of dockage.

(a) *In warehouse.* The quantity of barley on which a warehouse storage loan shall be made and the quantity delivered to or acquired by CCC in an approved warehouse shall be the net weight specified on the warehouse receipt or on the supplemental certificate, if applicable. If the barley has been dried or blended to reduce the moisture content, the quantity specified on the warehouse receipt or the supplemental certificate, if applicable, shall represent the quantity after drying or blending, and such quantity shall reflect a minimum shrink in the receiving weight excluding dockage of 1.2 times the percentage difference between the moisture content of the barley, when received, and 14.5 (13.5 if Western Barley) percent.

(b) *On farm.* The quantity of barley eligible to be placed under a farm storage loan shall be determined in accordance with § 1421.17. The quantity acquired by CCC from farm storage under a loan or purchase shall be determined by weight.

§ 1421.54 Warehouse receipts.

Warehouse receipts tendered to CCC in connection with a loan or purchase must meet the requirements of this section.

(a) *Separate receipt.* A separate warehouse receipt must be submitted for each grade and class of barley.

(b) *Entries.* Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt must show: (1) Gross weight and net bushels, (2) class, (3) grade (including special grades), (4) test weight, (5) moisture content if above 14.5 (13.5 if Western Barley) percent, (6) dockage, (7) any other grading factor(s) when such factor(s) and not test weight determine the grade, (8) whether the barley arrived by rail, truck or barge, (9) the date the barley was received or deposited in the warehouse, (10) the storage start date.

(c) *Where warehouse receipt shows "Weevily", excess moisture, or both.* If a warehouse receipt tendered as security for a loan indicates the barley grades "Weevily" or contains over 14.5 (13.5 if Western Barley) percent moisture, or both, the warehouse receipt must be accompanied by a supplemental certificate as provided in § 1421.51(b) (3) in order for the barley to be eligible for price support. The grade, grading factors, and quantity to be delivered must be shown on the supplemental certificate as follows: (1) When the warehouse receipts shows "Weevily" and the barley has been conditioned to correct the "Weevily" condition, the supplemental certificate must show the same grade without the "Weevily" designation and the same grading factors and quantity as shown on the warehouse receipt, (2) when the warehouse receipt shows a moisture content of over 14.5 (13.5 if Western Barley) percent and the barley has been dried or blended, the supplemental certificate must show the grade, grading factors, and quantity after drying or blending the barley to a moisture content of not over 14.5 (13.5 if Western Barley) percent which shall reflect a drying or blending shrink as specified in § 1421.53 (a).

The supplemental certificate must state that no lien for processing will be claimed by the warehouseman from Commodity Credit Corporation or any subsequent holder of the warehouse receipt. In the case of conditions specified in subparagraphs (1) and (2) of this paragraph, the grade, grading factors, and the quantity shown on the supplemental certificate shall supersede the entries for such items on the warehouse receipt.

(d). *Liens.* Warehouse receipts and the barley represented thereby stored in an approved warehouse operating under the Uniform Grain Storage Agreement (hereinafter called "UGSA") may be subject to liens for warehouse charges only to the extent indicated in § 1421.56. However, in no event shall a warehouseman be entitled to satisfy the lien by sale of the barley when CCC is holder of the warehouse receipt.

(e) *Freight certificate requirements.* Warehouse receipts representing barley which has been shipped by rail, or by barge utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission, from a country shipping point to a normal trade channel market or to a storage point and stored intransit to a normal trade channel market, must be accompanied by supplemental certificates. These certificates must be representative as to origin and date of movement of the barley and must reflect the rate of freight paid into the storage point and the amount of penalty, if any, for out-of-line haul. The form of the certificates will be prescribed by the ASCS commodity office and shall be signed by the warehouseman.

§ 1421.55 Fees and charges.

The producer shall pay a loan service fee and delivery charge as specified in § 1421.11.

§ 1421.56 Warehouse charges.

The Kansas City Commodity Office (KCCO) approved list of handling and storage rates will provide the rates to be deducted from the amount of the loan or purchase price in the case of barley stored in an approved warehouse operated under the UGSA. Such deduction shall be based on entries shown on the warehouse receipts. If written evidence is submitted with the warehouse receipts that (a) storage charges through the loan maturity date have been prepaid or, (b) that the producer has arranged with the warehouse operator for the payment of storage charges through loan maturity and the warehouseman enters an endorsement in substantially the following form on the warehouse receipt; "Warehouse storage charges through (the applicable maturity date) accrued or to accrue prior to the acquisition of the barley by CCC on barley represented by this warehouse receipt have been paid or otherwise provided for and a lien for such charges will not be asserted by the warehouseman against CCC or against any subsequent holder of the warehouse receipt," no storage deductions shall be made. The beginning date to be used for computing the storage deduction on barley stored in warehouses operating under the UGSA shall be the latest of the following: (1) The date the barley was received or deposited in the warehouse, (2) the date storage charges start, or (3) the day following the date through which storage charges have been paid.

§ 1421.57 Maturity of loans.

Loans mature on demand but no later than the date specified in the annual crop year supplement to the regulations in this subpart.

§ 1421.58 Support rates.

Basic county support rates for barley and the schedule of discounts will be set forth in the annual crop year supplement to the regulations contained in this subpart. Farm-stored barley loans will be made at the applicable basic county support rate, adjusted only for the Weed Control discount where applicable. The support rate for warehouse-storage loans and for barley acquired under a loan or by purchase shall be the applicable basic support rate adjusted in accordance with the provisions of this section, and the discounts in the annual crop year supplement on the basis of quality factors on warehouse receipts or supplemental certificates in the case of barley stored in or delivered to an approved warehouse or on such other form as CCC may prescribe in the case of barley delivered to other than an approved warehouse. Settlement of loans and purchases shall be made in accordance with the provisions of § 1421.22. If two or more approved warehouses are located in the same or adjoining towns, villages, or cities which have the same freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point and the same basic county support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

(a) *Basic support rates for farm-stored barley.* The applicable basic support rate for farm-stored loans shall be the basic county support rate established for the county in which the barley is stored.

(b) *Basic support rates for warehouse-stored barley received by rail or utilizing combination barge-rail rates.* (1) *When shipped by rail.* The applicable basic support rate for warehouse-storage loans on barley which was received by rail and stored in an approved warehouse which is in line of normal commercial channels of trade shall be determined by adding to the basic support rate established for the county from which the barley was shipped, the amount of freight charges per bushel actually paid in

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and an amount equal to the truck receiving and rail loading-out charges in effect for the shipping warehouse. The freight rate paid into the storage point shall not exceed the lowest rate which will permit the storage intransit privilege and protect the lowest single car rate applying from origin through point of storage to a normal trade channel market that would be used in commercial channels of trade. If the barley is stored in an approved warehouse at a transit point which takes a penalty by reason of backhaul or out-of-line movement when destined to a normal trade channel market that would be used in commercial channels of trade, such penalty or cost by reason of such movement shall be deducted from the support rates as determined in this paragraph.

(2) *When shipped utilizing combination barge-rail rates.* The applicable basic support rate for warehouse storage loans on barley which was shipped utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission and stored in an approved warehouse shall be determined by adding to the basic support rate established for the county from which the barley was shipped the amount of freight charges per bushel actually paid in and an amount equal to the truck receiving and rail loading-out charges computed in accordance with the applicable rates of the UGSA in effect at the time the loan is made. The freight rate paid into the storage point shall be a rate which will permit the storage intransit privilege and protect the lowest single car, or barge freight rate applying from origin through point of storage to a normal trade channel that would be used in commercial channels of trade. If the barley is stored in an approved warehouse at a transit point which takes a penalty by reason of backhaul or out-of-line movement when destined to a normal trade channel that would be used in commercial channels of trade, such penalty or cost by reason of such movement shall be deducted from the support rates as determined in this paragraph.

(c) *Basic support rates for warehouse-stored barley received by truck or nontariff barge.* (1) The basic support rate for barley delivered by truck by the producer to a warehouse at normal delivery point, shall be the rate for the county where the barley is stored. (2) The basic support rate for barley delivered by truck by the producer to an in-line warehouse beyond normal delivery point shall be the support rate for the county from which shipped plus the smaller of the actual freight charge or the following truck freight rate from the farm to the storing warehouse minus the distance from the farm to the producer's normal delivery point.

Map mileage	Allowance
0-19	$.0
20-50	$.06 per bushel
51-100 add	$.0010 per bushel per mile
101 and over add	$.0004 per bushel per mile

(3) The basic support rate for barley delivered to a warehouse and shipped by truck to in-line warehouse shall be the support rate for the county in which the shipping warehouse is located plus truck freight from schedule shown in subparagraph (c)(2) plus truck receiving and truck load out charges for the shipping warehouse.

(4) The basic support rate for barley shipped by barge or truck-barge to an in-line warehouse at negotiated rate shall be the support rate for the county from where shipped plus truck freight from schedule shown in subparagraph (c)(2) plus origin truck receiving and load out charge.

(d) *Storing responsibilities.* The storing warehouseman in the case of barley received by rail or utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission shall be responsible for determining the normal trade channel routes via the storing warehouse that will protect the lowest freight rate to the designated normal trade channel market that would be used in commercial channels of trade, and for protecting such routes. The storing warehouseman shall also execute supplemental certificates showing (1) the rate of freight paid into the storage point, (2) amount of penalty if any, for backhaul or out of line movement, (3) the applicable normal trade channel market that would be used in commercial channels of trade and (4) any other information which may be prescribed by CCC. The warehouseman is responsible to CCC for the accuracy or omissions of information on the supplemental certificate. Warehouseman liability, if any, for their failure to comply with the provisions of this paragraph (d) will be determined in accordance with the provisions of the UGSA after acquisiton of the warehouse receipt by CCC.

NOTE—An approved Impact Analysis Statement is available from Orville Overboe (ASCS), (202) 447-7987.

NOTE—Based on an assessment of the environmental impacts of the proposed action, it has been determined that an Environmental Impact Statement need not be prepared since the proposals will have no significant effect on the quality of the human environment.

Signed at Washington, D.C., on January 9, 1979.

STEWART N. SMITH,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 79-1569 Filed 1-16-79; 8:45 am]

[3410-05-M]

[CCC Grain Price Support Regulations, 1978 and Subsequent Crops, Rye Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1978 and Subsequent Crops Rye Loan and Purchase Program

AGENCY: Commodity Credit Corporation.

ACTION: Final Rule.

SUMMARY: This rule sets forth the general provisions under which producers may obtain price support on their 1978 and subsequent crops of rye. This rule changes the definition of eligible rye and deletes the section on availability which is sufficiently covered in the annual crop supplement. This rule also changes warehouse charges and deletes reference to terminal markets. This rule is needed in order to advise producers of program provisions.

EFFECTIVE DATE: February 17, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3734 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Cecil Lower, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on December 21, 1977, 42 FR 63895, stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for 1978 crop rye. Such determinations were to include operational provisions needed to carry out the program.

No comments were received concerning the operational provisions.

FINAL RULE

Therefore, the General Regulations Governing Price support for 1978 and Subsequent Crops in this Part 1421 are supplemented as stated herein for the 1978 and subsequent crops of rye. The material previously appearing in this subpart remains in full force and effect as to the crops to which it was applicable. Accordingly, the regulations in 7 CFR § 1421.335 through

1421.343 and the title of the subpart are revised to read as follows:

Subpart—1978 and Subsequent Crops Rye Loan and Purchase Programs

Sec.
1421.335 Purpose.
1421.336 Eligible rye.
1421.337 Determination of quality.
1421.338 Determination of quantity.
1421.339 Warehouse receipts.
1421.340 Fees and charges.
1421.341 Warehouse charges.
1421.342 Maturity of loans.
1421.343 Support rates.

AUTHORITY: The provisions of this subpart issued under secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 105 A, 401, 63 Stat. 1051, as amended (15 U.S.C. 7 U.S.C. 1444c, 1421).

§ 1421.335 Purpose.

This supplement contains program provisions which together with (a) the annual crop year supplement, (b) the General Regulations Governing Price Support for the 1978 and Subsequent Crops, (c) the Cooperative Marketing Association Eligibility Requirements for Price Support regulations in Part 1425 of this chapter, and (d) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1978 and Subsequent Crops of rye.

§ 1421.336 Eligible rye.

(a) *General.* (1) To be eligible for a loan or purchase, the rye must be merchantable for food or feed or for other uses, as determined by CCC, and must not contain mercurial compounds, toxin producing molds, or other substances poisonous to man or animals. (2) The rye must have also been produced by a producer who has complied with the set-aside and normal crop acreage requirements, if any, as prescribed in parts 718, 722, 728, 730, 775, and 791 of this title and any amendments thereto.

(b) *Warehouse stored loan grade requirements.* To be eligible for a warehouse storage loan, the rye must also meet the following requirements:

(1) The rye must grade U.S. No. 2 or better, except that it may grade U.S. No. 3 or 4 on the factor of test weight or "thin" grade, or both, but otherwise must grade U.S. No. 2 or better.

(2) Rye must not grade "Light Smutty," "Light Garlicky," "Garlicky," or contain in excess of 1 percent Ergot.

(3) Rye must not grade "Weevily" or contain over 14 percent moisture unless the warehouse receipt representing the rye is accompanied by a supplemental certificate which provides that the warehouseman shall deliver rye which is not "Weevily," or does not contain over 14 percent moisture, or both and is otherwise of an eligible grade and quality. The grade, quality, and quantity shown on the supplemental certificate must be as provided in § 1421.339(c).

§ 1421.337 Determination of quality.

(a) *Grading factors.* The grade, grading factors, and all other quality factors shall be based on the Official Grain Standards of the United States for Rye, whether or not such determinations are made on the basis of an official inspection. (b) Ergot. The quantity of ergot shall be stated in terms of tenths of 1 percent and, where applicable, the word "Ergoty" shall be added to, and made a part of, the grade designation. (c) The cost of official grade determinations, when made shall not be for the account of CCC.

§ 1421.338 Determination of quantity.

When the quantity is determined by weight, a bushel shall be 56 pounds of rye free of dockage.

(a) *In warehouse.* The quantity of rye on which a warehouse storage loan shall be made and the quantity delivered to or acquired by CCC in an approved warehouse shall be the net weight specified on the warehouse receipt or on the supplemental certificate, if applicable. If the rye has been dried or blended to reduce the moisture content, the quantity specified on the warehouse receipt or the supplemental certificate, if applicable, shall represent the quantity after drying or blending, and such quantity shall reflect a minimum shrink in the receiving weight of 1.2 times the percentage difference between the moisture content of the rye, when received, and 14 percent.

(b) *On farm.* The quantity of rye eligible to be placed under a farm storage loan shall be determined in accordance with § 1421.17. The quantity acquired by CCC from farm storage under a loan or purchase shall be determined by weight.

§ 1421.339 Warehouse receipts.

Warehouse receipts tendered to CCC in connection with a loan or purchase must meet the requirements of this section.

(a) *Separate receipt.* A separate warehouse receipt must be submitted for each grade and class of rye.

(b) *Entries.* Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt, must show: (1) Gross weight and net bushels, (2) percentage of ergot for rye containing in excess of three tenths of 1 percent of ergot, (3) grade (including special grades), (4) test weight, (5) moisture content if above 14 percent; (6) dockage, (7) any other grading factor(s) when such factor(s) and not test weight determine the grade, (8) whether the rye arrived by rail, truck or barge, (9) the date the rye was received or deposited in the warehouse, and (10) the storage start date.

(c) *Where warehouse receipt shows "Weevily", excess moisture, or both.* If a warehouse receipt tendered as security for a loan indicates the rye grades "Weevily" or contains over 14 percent moisture, or both, the warehouse receipt must be accompanied by a supplemental certificate as provided in § 1421.336(b) (3) in order for the rye to be eligible for price support. The grade, grading factors, and quantity to be delivered must be shown on the supplemental certificate as follows: (1) When the warehouse receipts show "Weevily" and the barley has been conditioned to correct the "Weevily" condition, the supplemental certificate must show the same grade without the "Weevily" designation and the same grading factors and quantity as shown on the warehouse receipt, (2) when the warehouse receipt shows a moisture content of over 14 percent and the rye has been dried or blended, the supplemental certificate must show the grade, grading factors, and quantity after drying or blending the rye to a moisture content of not over 14 percent which shall reflect a drying or blending shrink as specified in § 1421.338(a).

The supplemental certificate must state that no lien for processing will be claimed by the warehouseman from Commodity Credit Corporation or any subsequent holder of the warehouse receipt. In the case of conditions specified in subparagraphs (1) and (2) of this paragraph, the grade, grading factors, and the quantity shown on the supplemental certificate shall supersede the entries for such items on the warehouse receipt.

(d) *Liens.* Warehouse receipts and the rye represented thereby stored in an approved warehouse operating under the Uniform Grain Storage Agreement (hereinafter called "UGSA") may be subject to liens for warehouse charges, only to the extent indicated in § 1421.341. However, in no event shall a warehouseman be entitled to satisfy the lien by sale of the rye when CCC is holder of the warehouse receipt.

(e) *Freight certificate requirements.* Warehouse receipts representing rye which has been shipped by rail, or by barge utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission, from a country shipping point to a normal trade channel market or to a storage point and stored intransit to a normal trade channel market, must be accompanied by supplemental certificates. These certificates must be representative as to origin and date of movement of the rye and must reflect the rate of

freight paid into the storage point and the amount of penalty, if any, for out-of-line haul. The form of the certificates will be prescribed by the ASCS commodity office and shall be signed by the warehouseman.

§ 1421.340 Fees and charges.

The producer shall pay a loan service fee and delivery charge as specified in § 1421.11.

§ 1421.341 Warehouse charges.

The Kansas City Commodity Office (KCCO) approved list of handling and storage rates will provide the rates to be deducted from the amount of the loan or purchase price in the case of rye stored in an approved warehouse operated under the UGSA. Such deduction shall be based on entries shown on the warehouse receipts. If written evidence is submitted with the warehouse receipts that (a) storage charges through the loan maturity date have been prepaid or, (b) that the producer has arranged with the warehouseman for the payment of storage charges through loan maturity and the warehouse operator enters an endorsement in substantially the following form on the warehouse receipts; "Warehouse storage charges through the applicable maturity date accrued or to accrue prior to the acquisition of the rye by CCC on rye represented by this warehouse receipt have been paid or otherwise provided for and a lien for such charges will not be asserted by the warehouseman against CCC or against any subsequent holder of the warehouse receipt, "no storage deductions shall be made. The beginning date to be used for computing the storage deduction on rye stored in warehouses operating under the UGSA shall be the latest of the following: (1) The date the rye was received or deposited in the warehouse, (2) the date storage charges start or (3) the day following the date through which storage charges have been paid.

§ 1421.342 Maturity of loans.

Loans mature on demand but no later than the date specified in the annual crop year supplement to the regulations in this subpart.

§1421.343 Support rates.

Basic county support rates for rye and the schedule of premiums and discounts will be set forth in the annual crop year supplement to the regulations contained in this subpart. Farm-stored rye loans will be made at the applicable basic county support rate, adjusted only for the Weed Control discount where applicable. The support rate for warehouse-storage loans and for rye acquired under a loan or by purchase shall be the applicable basic support rate adjusted in accordance with the provisions of this section, and the premiums and discounts in the annual crop year supplement on the basis of quality factors on warehouse receipts or supplemental certificates in the case of rye stored in or delivered to an approved warehouse or on such other form as CCC may prescribe in the case of rye delivered to other than an approved warehouse. Settlement of loans and purchases shall be made in accordance with the provisions of § 1421.22. If two or more approved warehouses are located in the same or adjoining towns, villages, or cities which have the same freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point and the same basic county support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

(a) *Basic support rates for farm-stored rye.* The applicable basic support rate for farm-stored loans shall be the basic county support rate established for the county in which the rye is stored.

(b) *Basic support rates for warehouse-stored rye received by rail or utilizing combination barge-rail rates.* (1) *When shipped by rail.* The applicable basic support rate for warehouse-storage loans on rye which was received by rail and stored in an approved warehouse which is in line of normal commercial channels of trade shall be determined by adding to the basic support rate established for the county from which the rye was shipped, the amount of freight charges per bushel actually paid in and an amount equal to the truck receiving and rail loading-out charges in effect for the shipping warehouse. The freight rate paid into the storage point shall not exceed the lowest rate which will permit the storage intransit privilege and protect the lowest single car rate applying from origin through point of storage to a normal trade channel market that would be used in commercial channels of trade. If the rye is stored in an approved warehouse at a transit point which takes a penalty by reason of backhaul or out-of-line movement when destined to a normal trade channel that would be used in commercial channels of trade, such penalty or cost by reason of such movement shall be deducted from the support rates as determined in this paragraph.

(2) *When shipped utilizing combination barge-rail rates.* The applicable basic support rate for warehouse storage loans on rye which was shipped utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission and stored in an approved warehouse shall be determined by adding to the basic support rate established for the county from which the rye was shipped the amount of freight charges per bushel actually paid in and an amount equal to the truck receiving and rail loading-out charges computed in accordance with the applicable rates of the UGSA in effect at the time the loan is made. The freight rate paid into the storage point shall be a rate which will permit the storage intransit privilege and protect the lowest single car or barge freight rate applying from origin through point of storage to a normal trade channel that would be used in commercial channels of trade. If the rye is stored in an approved warehouse at a transit point which takes a penalty by reason of backhaul or out-of-line movement when destined to a normal trade channel that would be used in commercial channels of trade, such penalty of cost by reason of such movement shall be deducted from the support rates as determined in this paragraph.

(c) *Basic support rates for warehouse-stored rye received by truck or nontariff barge.* (1) The basic support rate for rye delivered by truck by the producer to a warehouse at normal delivery point shall be the rate for the county where the rye is stored. (2) The basic support rate for rye delivered by truck by the producer to an in-line warehouse beyond normal delivery point, shall be the support rate for the county from which shipped plus the smaller of the actual freight charge or the following truck freight rate from the farm to the storing warehouse minus the distance from the farm to the producer's normal delivery point.

Map mileage	Allowance
0-19	$.0
20-50	$.06 per bushel
51-100 add	$.0010 per bushel per mile
101- and over add	$.0004 per bushel per mile

(3) The basic support rate for rye delivered to a warehouse and shipped by truck to an in-line warehouse, shall be the support rate for the county in which the shipping warehouse is located plus truck freight from schedule shown in subparagraph (c)(2) plus truck receiving and truck load out charges for the shipping warehouse.

(4) The basic support rate for rye shipped by barge or truck-barge to an in-line warehouse at negotiated rate shall be the support rate for the county from where shipped plus truck freight from schedule shown in subparagraph (c)(2) plus origin truck receiving and load out charge.

(d) *Storing responsibilities.* The storing warehouseman in the case of rye received by rail or utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission shall be responsible for determining the normal trade channel routes via the storing warehouse that will protect the lowest freight rate to the designated normal trade channel market that would be used in commercial channels of trade, and for protecting such routes. The storing warehouseman shall also execute supplemental certificates showing (1) the rate of freight paid into the storage point, (2) amount of penalty if any, for backhaul or out of line movement, (3) the applicable normal trade channel market that would be used in commercial channels of trade and (4) any other information which may be prescribed by CCC. The warehouseman is responsible to CCC for the accuracy or omissions of information on the supplemental certificate. Warehouseman's liability, if any, for their failure to comply with the provisions of this paragraph (d) will be determined in accordance with the provisions of the UGSA after acquisition of the warehouse receipt by CCC.

NOTE.—An approved Impact Analysis Statement is available from Orville Overboe (ASCS), (202) 447-7987.

NOTE.—Based on an assessment of the environmental impacts of the proposed action, it has been determined that an Environmental Impact Statement need not be prepared since the proposals will have no significant effect on the quality of the human environment.

Effective date: January 17, 1979.

Signed at Washington D.C., on January 9, 1979.

STEWART N. SMITH,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 79-1570 Filed 1-16-79; 8:45 am]

[3410-05-M]

[CCC Grain Price Support Regulations, 1978 and Subsequent Crops, Sorghum Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1978 and Subsequent Crops Grain Sorghum Loan and Purchase Program

AGENCY: Commodity Credit Corporation.

ACTION: Final Rule.

SUMMARY: This rule sets forth the general provisions under which producers may obtain price support on their 1978 and subsequent crops of sorghum. This rule changes the definition of eligible sorghum. This rule also changes warehouse charges and deletes reference to terminal markets. This rule is needed in order to advise producers of program provisions.

EFFECTIVE DATE: January 17, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3734 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Cecil Lower, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on December 21, 1977, 42 FR 63895, stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for 1978 crop sorghum. Such determinations were to include operational provisions needed to carry out the program.

No comments were received concerning the operational provisions.

FINAL RULE

Therefore, the General Regulations Governing Price Support for 1978 and Subsequent Crops in this Part 1421 are supplemented as stated herein for the 1978 and subsequent crops of sorghum. The material previously appearing in this subpart remains in full force and effect as to the crops to which it was applicable. Accordingly, the regulations in 7 CFR § 1421.210 through 1421.218 and the title of the subpart are amended to read as follows:

Subpart—1978 and Subsequent Crops Sorghum Loan and Purchase Programs

Sec.
1421.210 Purpose.
1421.211 Eligible sorghum.
1421.212 Determination of quality.
1421.213 Determination of quantity.
1421.214 Warehouse receipts.
1421.215 Fees and charges.
1421.216 Warehouse charges.
1421.217 Maturity of loans.
1421.218 Support rates.

AUTHORITY: The provisions of this subpart issued under secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 105 A, 401, 63 Stat. 1051, as amended (7 U.S.C., 1444c, 1421).

§ 1421.210 Purpose.

This supplement contains program provisions which together with (a) the annual crop year supplement, (b) the General Regulations Governing Price Support for the 1978 and Subsequent Crops, (c) the Cooperative Marketing Association Eligibility Requirements for Price Support regulations in Part 1425 of this chapter, and (d) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1978 and Subsequent Crops of sorghum.

§ 1421.211 Eligible sorghum.

(a) *General.* (1) To be eligible for a loan or purchase, the sorghum must be merchantable for food or feed or for other uses, as determined by CCC, and must not contain mercurial compounds, toxin producing molds, or other substances poisonous to man or animals. (2) The sorghum must have also been produced by a producer who has complied with the set-aside and normal crop acreage requirements, if any, as prescribed in parts 718, 722, 728, 730, 775, and 791 of this title and any amendments thereto.

(b) *Warehouse stored loan grade requirements.* To be eligible for a warehouse stored loan, the sorghum must also meet the following requirements:

(1) The sorghum must grade U.S. No. 4 or better, except for moisture, and in addition, may carry the special grade designation "Smutty."

(2) The sorghum must not grade "Weevily" or have moisture over 14 percent unless the warehouse receipt representing the sorghum is accompanied by a supplemental certificate which provides that the warehouseman shall deliver sorghum which is not "Weevily," does not contain in excess of 14 percent moisture, and is otherwise of an eligible grade and quality. The grade, quality and quantity shown on the supplemental certificate shall be as provided in § 1421.214(c).

§ 1421.212 Determination of quality.

The class, grade, grading factors, and all other quality factors shall be based on the Official Grain Standards of the United States for Sorghum, whether or not such determinations are made on basis of an official inspection. The cost of official grade determinations, when made, shall not be for the account of CCC.

§ 1421.213 Determination of quantity.

When the quantity is determined by weight, a hundred weight shall be 100 pounds of sorghum free of dockage.

(a) *In warehouse.* The quantity of sorghum on which a warehouse storage loan shall be made and the quantity delivered to or acquired by CCC in an approved warehouse shall be the net weight specified on the warehouse receipt or on the supplemental certificate, if applicable. If the sorghum has been dried or blended to reduce the moisture content, the quantity specified on the warehouse receipt or the supplemental certificate, if applicable, shall represent the quantity after drying or blending, and such quantity shall reflect a minimum shrink in the receiving weight of 1.2 times the percentage difference between the mois-

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ture content of the sorghum, when received, and 14 percent.

(b) *On farm.* The quantity of sorghum eligible to be placed under a farm storage loan shall be determined in accordance with § 1421.17. The quantity acquired by CCC from farm storage under a loan or purchase shall be determined by weight.

§ 1421.214 Warehouse receipts.

Warehouse receipts tendered to CCC in connection with a loan or purchase must meet the requirements of this section.

(a) *Separate receipt.* A separate warehouse receipt must be submitted for each grade and class of sorghum.

(b) *Entries.* Each warehouse receipt, or the warehousman's supplemental certificate (in duplicate) properly identified with the warehouse receipt must show: (1) Gross and net weight, (2) class, (3) grade (including special grades), (4) test weight, (5) moisture, (6) dockage, (7) any other grading factor(s) when such factor(s) and not test weight determine the grade, (8) whether the sorghum arrived by rail, truck or barge, (9) the date the sorghum was received or deposited in the warehouse, and (10) the storage start date.

(c) *Where warehouse receipt shows "Weevily," excess moisture, or both.* If a warehouse receipt tendered as security for a loan indicates the sorghum grades "Weevily" or contains over 14 percent moisture, or both, the warehouse receipt must be accompained by a supplemental certificate as provided in § 1421.211(b) (2) in order for the sorghum to be eligible for price support. The grade, grading factors, and quantity to be delivered must be shown on the supplemental certificate as follows: (1) When the warehouse receipts show "Weevily" and the sorghum has been conditioned to correct the "Weevily" condition, the supplemental certificate must show the same grade without the "Weevily" designation and the same grading factors and quantity as shown on the warehouse receipt, (2) when the warehouse receipt shows a moisture content of over 14 percent and the sorghum has been dried or blended, the supplemental certificate must show the grade, grading factors, and quantity after drying or blending the sorghum to a moisture content of not over 14 percent which shall reflect a drying or blending shrink as specified in § 1421.213(a).

The supplemental certificate must state that no lien for processing will be claimed by the warehouseman from Commodity Credit Corporation or any subsequent holder of the warehouse receipt. In the case of conditions specified in subparagraphs (1) and (2) of this paragraph, the grade, grading factors, and the quantity shown on the supplemental certificate shall supersede the entries for such items on the warehouse receipt.

(d) *Liens.* Warehouse receipts and the sorghum represented thereby stored in an approved warehouse operating under the Uniform Grain Storage Agreement (hereinafter called "UGSA") may be subject to liens for warehouse charges, only to the extent indicated in § 1421.216. However, in no event shall a warehouseman be entitled to satisfy the lien by sale of the sorghum when CCC is holder of the warehouse receipt.

(e) Freight certificate requirements. Warehouse receipts representing sorghum which has been shipped by rail, or by barge utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission, from a country shipping point to a normal trade channel market or to a storage point and stored intransit to a normal trade channel market, must be accompanied by supplemental certificates. These certificates must be representative as to origin and date of movement of the sorghum and must reflect the rate of freight paid into the storage point and the amount of penalty, if any, for out-of-line haul. The form of the certificates will be prescribed by the ASCS commodity office and shall be signed by the warehouseman.

§ 1421.215 Fees and charges.

The producer shall pay a loan service fee and delivery charge as specified in § 1421.11.

§ 1421.216 Warehouse charges.

The Kansas City Commodity Office (KCCO) approved list of handling and storage rates will provide the rates to be deducted from the amount of the loan or purchase price in the case of sorghum stored in an approved warehouse operated under the UGSA. Such deduction shall be based on entries shown on the warehouse receipts. If written evidence is submitted with the warehouse receipts that (a) storage charges through the loan maturity date have been prepaid or (b) that the producer has arranged with the warehouse operator for the payment of storage charges through loan maturity and the warehouseman enters an endorsement in substantially the following form on the warehouse receipt; "Warehouse storage charges through the applicable maturity date accrued or to accrue prior to the acquisition of the sorghum by CCC on sorghum represented by this warehouse receipt have been paid or otherwise provided for and a lien for such charges will not be asserted by the warehouseman against CCC or against any subsequent holder of the warehouse receipt," no storage deductions shall be made if such written evidence is submitted. The beginning date to be used for computing the storage deduction on sorghum stored in warehouses operating under the UGSA shall be the latest of the following: (1) The date the sorghum was received or deposited in the warehouse, (2) the date storage charges start, or (3) the day following the date through which storage charges have been paid.

§ 1421.217 Maturity of loans.

Loans mature on demand but no later than the date specified in the annual crop year supplement to the regulations in this subpart.

§ 1421.218 Support rates.

Basic county support rates for sorghum and the schedule of discounts will be set forth in the annual crop year supplement to the regulations contained in this subpart. Farm-stored sorghum loans will be made at the applicable basic county support rate adjusted only for the Weed Control discount, where applicable. The support rate for warehouse-storage loans and for sorghum acquired under a loan or by purchase shall be the applicable basic support rate adjusted in accordance with the provisions of this section, and the discounts in the annual crop year supplement on the basis of quality factors on warehouse receipts or supplemental certificates in the case of sorghum stored in or delivered to an approved warehouse or on such other form as CCC may prescribe in the case of sorghum delivered to other than an approved warehouse. Settlement of loans and purchases shall be made in accordance with the provisions of § 1421.22. If two or more approved warehouses are located in the same or adjoining towns, villages, or cities which have the same freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point and the same basic county support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

(a) *Basic support rates for farm-stored sorghum.* The applicable basic support rate for farm-stored loans shall be the basic county support rate established for the county in which the sorghum is stored.

(b) *Basic support rates for warehouse-stored sorghum received by rail or utilizing combination barge-rail rates.* (1) *When shipped by rail.* The applicable basic support rate for warehouse-storage loans on sorghum which was received by rail and stored in an approved warehouse which is in line of normal commercial channels of trade shall be determined by adding to the basic support rate established for the county from which the sorghum was shipped, the amount of freight charges per hundred weight actually paid in and an amount equal to the truck receiving and rail-loading charges in effect for the shipping warehouse. The freight rate paid into the storage point shall not exceed the lowest rate which will permit the storage intransit privilege and protect the lowest single car rate applying from origin through point of storage to a normal trade channel market that would be used in commercial channels of trade. If the sorghum is stored in an approved warehouse at a transit point which takes a penalty by reason of backhaul or out-of-line movement when destined to a normal trade channel market that would be used in commercial channels of trade, such penalty or cost by reason of such movement shall be deducted from the support rates as determined in this paragraph.

(2) *When shipped utilizing combination barge-rail rates.* The applicable basic support rate for warehouse storage loans on sorghum which was shipped utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission and stored in an approved warehouse shall be determined by adding to the basic support rate established for the county from which the sorghum was shipped the amount of freight charges per hundred weight actually paid in and an amount equal to the truck receiving and rail loading-out charges computed in accordance with the applicable rates of the UGSA in effect at the time the loan is made. The freight rate paid into the storage point shall be a rate which will permit the storage intransit privilege and protect the lowest single car or barge freight rate applying from origin through point of storage to a normal trade channel that would be used in commercial channels of trade. If the sorghum is stored in an approved warehouse at a transit point which takes a penalty by reason of backhaul or out-of-line movement when destined to a normal trade channel that would be used in commercial channels of trade, such penalty of cost by reason of such movement shall be deducted from the support rates as determined in this paragraph.

(c) *Basic support rates for warehouse-stored sorghum received by truck or nontariff barge.* (1) The basic support rate for sorghum delivered by truck by the producer to a warehouse at normal delivery point, shall be the rate for the county where the sorghum is stored. (2) The basic support rate for sorghum delivered by truck by the producer to an in-line warehouse beyond normal delivery point shall be the support rate for the county from which shipped plus the smaller of the actual freight charge or the following truck freight rate from the farm to the storing warehouse minus the distance from the farm to the producer's normal delivery point.

Map mileage	Allowance
0-19	$.0
20-50	$.10 per cwt
51-100 add	$.0017 per cwt per mile
101 and over add	$.0007 per cwt per mile

(3) The basic support rate for sorghum delivered to a warehouse and shipped by truck to an in-line warehouse shall be the support rate for the county in which the shipping warehouse is located plus truck freight from schedule shown in subparagraph (c)(2) plus truck receiving and truck load out charges for the shipping warehouse.

(4) The basic support rate for sorghum shipped by barge or truck-barge to an in-line warehouse at negotiated rate shall be the support rate for the county from where shipped plus truck freight from schedule shown in subparagraph (c)(2) plus origin truck receiving and load out charge.

(d) *Storing responsibilities.* The storing warehouseman in the case of sorghum received by rail or utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission shall be responsible for determining the normal trade channel routes via the storing warehouse that will protect the lowest freight rate to the designated normal trade channel market that would be used in commercial channels of trade, and for protecting such routes. The storing warehouseman shall also execute supplemental certificates showing (1) the rate of freight paid into the storage point, (2) amount of penalty if any, for backhaul or out of line movement, (3) the applicable normal trade channel market that would be used in commercial channels of trade and (4) any other information which may be prescribed by CCC. The warehouseman is responsible to CCC for the accuracy or omissions of information on the supplemental certificate. Warehouseman liability, if any, for their failure to comply with the provisions of this paragraph (d) will be determined in accordance with the provisions of the UGSA after acquisition of the warehouse receipt by CCC.

NOTE.—An approved Impact Analysis Statement is available from Orville Overboe (ASCS), (202) 447-7987.

NOTE.—Based on an assessment of the environmental impacts of the proposed action, it has been determined that an Environmental Impact Statement need not be prepared since the proposals will have no significant effect on quality of the human environment.

Signed at Washington, D.C., on January 9, 1979.

STEWART N. SMITH,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 79-1571 Filed 1-16-79; 8:45 am]

[3410-05-M]

[CCC Grain Price Support Regulations, 1978 and Subsequent Crops, Soybean Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1978 and Subsequent Crops Soybean Loan and Purchase Program

AGENCY: Commodity Credit Corporation.

ACTION: Final Rule.

SUMMARY: This rule sets forth the general provisions under which producers may obtain price support on their 1978 and subsequent crops of soybeans. This rule changes the definition of eligible soybeans. This rule also provides for deducting warehouse storage charges from the loan. This rule is needed in order to advise producers of program provisions.

EFFECTIVE DATE: January 17, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3734 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Cecil Lower, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on December 21, 1977, 42 FR 63895, stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for 1978 crop soybeans. Such determinations were to include operational provisions needed to carry out the program. No comments were received concerning the operational provisions.

FINAL RULE

Therefore, the General Regulations Governing Price Support for 1978 and Subsequent Crops in this Part 1421 are supplemented as stated herein for the 1978 and subsequent crops of soybeans. The material previously appearing in this subpart remains in full force and effect as to the crops to which it was applicable. Accordingly, the regulations in 7 CFR § 1421.365 through § 1421.373 and the title of the subpart are revised to read as follows:

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Subpart—1978 and Subsequent Crops Soybean Loan and Purchase Program

Sec.
1421.365 Purpose.
1421.366 Eligible soybeans.
1421.367 Determination of quality.
1421.368 Determination of quantity.
1421.369 Warehouse receipts.
1421.370 Fees and charges.
1421.371 Warehouse charges.
1421.372 Maturity of loans.
1421.373 Support rates.

AUTHORITY: The provisions of this subpart issued under secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 201, 401, 63 Stat. 1051, as amended (7 U.S.C. 1446, 1421).

§ 1421.365 Purpose.

This supplement contains program provisions which together with (a) the annual crop year supplement, (b) the General Regulations Governing Price Support for the 1978 and Subsequent Crops, (c) the Cooperative Marketing Association Eligibility Requirements for Price Support regulations in Part 1425 of this chapter, and (d) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1978 and Subsequent Crops of soybeans.

§ 1421.366 Eligible soybeans.

(a) *General.* (1) To be eligible for a loan or purchase, the soybeans must be merchantable for food or feed or for other uses, as determined by CCC, and must not contain mercurial compounds, toxin producing molds, or other substances poisonous to man or animals. (2) The soybeans must have also been produced by a producer who has complied with the set-aside and normal crop acreage requirements, if any, as prescribed in parts 718, 722, 728, 730, 775, and 791 of this title and any amendments thereto.

(b) *Warehouse stored loan grade requirements.* To be eligible for a warehouse storage loan, the soybeans must also meet the following requirements:

(1) The soybeans must grade No. 4 or better.

(2) The soybeans must not grade Weevily" or have moisture over 14 percent unless the warehouse receipt representing the soybeans is accompanied by a supplemental certificate which provides that the warehouseman shall deliver soybeans which are not "Weevily," do not contain in excess of 14 percent moisture, and are otherwise of an eligible grade and quality. The grade, quality and quantity shown on the supplemental certificate shall be as provided in § 1421.369(c).

§ 1421.367 Determination of quality.

The class, grade, grading factors, and all other quality factors shall be based on the Official Grain Standards of the United States for soybeans, whether or not such determinations are made on the basis of an official inspection. The cost of official grade determinations, when made, shall not be for the account of CCC.

§ 1421.368 Determination of quantity.

When the quantity is determined by weight, a bushel shall be 60 pounds of soybeans free of foreign material in excess of 1 percent; the weight of foreign material in excess of 1 percent shall be deducted from the gross weight in the determination of the net number of bushels of soybeans.

(a) *In warehouse.* The quantity of soybeans on which a warehouse storage loan shall be made and the quantity delivered to or acquired by CCC in an approved warehouse shall be the net weight specified on the warehouse receipt or on the supplemental certificate, if applicable. If the soybeans have been dried or blended to reduce the moisture content, the quantity specified on the warehouse receipt or the supplemental certificate, if applicable, shall represent the quantity after drying or blending, and such quantity shall reflect a minimum shrink in the receiving weight of 1.2 times the percentage difference between the moisture content of the soybeans, when received, and 14 percent.

(b) *On farm.* The quantity of soybeans eligible to be placed under a farm storage loan shall be determined in accordance with § 1421.17. The quantity acquired by CCC from farm storage under a loan or purchase shall be determined by weight.

§ 1421.369 Warehouse receipts.

Warehouse receipts tendered to CCC in connection with a loan or purchase must meet the requirements of this section.

(a) *Separate receipt.* A separate warehouse receipt must be submitted for each grade and class of soybeans.

(b) *Entries.* Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt, must show: (1) Gross weight and net bushels, (2) class, (3) grade (including special grades), (4) test weight, (5) moisture content if above 14 percent, (6) percentage of foreign material (7) any other grading factor(s) when such factor(s) and not test weight or moisture determine the grade, (8) whether the soybeans arrived by rail, truck or barge, (9) the date the soybeans were received or deposited in the warehouse, and (10) the storage start date.

(c) *Where warehouse receipt shows "Weevily", excess moisture, or both.* If a warehouse receipt tendered as security for a loan indicates the soybeans grade "Weevily" or contains over 14.0 percent moisture, or both, the warehouse receipt must be accompanied by a supplemental certificate as provided in § 1421.366(b)(2) in order for the soybeans to be eligible for price support. The grade, grading factors, and quantity to be delivered must be shown on the supplemental certificate as follows: (1) When the warehouse receipts show "Weevily" and the soybeans have been conditioned to correct the "Weevily" condition, the supplemental certificate must show the same grade without the "Weevily" designation and the same grading factors and quantity as shown on the warehouse receipt, (2) when the warehouse receipt shows a moisture content of over 14.0 percent and the soybeans have been dried or blended, the supplemental certificate must show the grade, grading factors, and quantity after drying or blending the soybeans to a moisture content of not over 14.0 percent which shall reflect a drying or blending shrink as specified in § 1421.368(a). The supplemental certificate must state that no lien for processing will be claimed by the warehouseman from Commodity Credit Corporation or any subsequent holder of the warehouse receipt.

In the case of conditions specified in subparagraphs (1) and (2) of this paragraph, the grade, grading factors, and the quantity shown on the supplemental certificate shall supersede the entries for such items on the warehouse receipt.

(d) *Liens.* Warehouse receipts and the soybeans represented thereby stored in an approved warehouse operating under the Uniform Grain Storage Agreement (hereinafter called "UGSA") may be subject to liens for warehouse charges only to the extent indicated in § 1421.371. However, in no event shall a warehouseman be entitled to satisfy the lien by sale of the soybeans when CCC is holder of the warehouse receipt.

§ 1421.370 Fees and charges.

The producer shall pay a loan service fee and delivery charge as specified in § 1421.11.

§ 1421.371 Warehouse charges.

The Kansas City Commodity Office (KCCO) approved list of handling and storage rates will provide the rates to be deducted from the amount of the loan or purchase price in the case of soybeans stored in an approved warehouse operated under the UGSA. Such deduction shall be based on entries shown on the warehouse receipts. If written evidence is submitted with the warehouse receipts that (a) storage charges through the loan maturity date have been prepaid or (b) that the producer has arranged with the warehouseman for the payment of storage charges through loan maturity and the warehouse operator enters an endorsement in substantially the following form on the warehouse receipt; "Warehouse storage charges through the applicable maturity date accrued or to accrue prior to the acquisition of the soybeans by CCC on soybeans represented by this warehouse receipt have been paid or otherwise provided for and a lien for such charges will not be asserted by the warehouseman against CCC or against any subsequent holder of the warehouse receipt," no storage deductions shall be made. The beginning date to be used for computing the storage deduction on soybeans stored in warehouses operating under the UGSA shall be the latest of the following: (1) The date the soybeans were received or deposited in the warehouse, (2) the date storage charges start, or (3) the day following the date through which storage charges have been paid.

§ 1421.372 Maturity of loans.

Loans mature on demand but no later than the date specified in the annual crop year supplement to the regulations in this subpart.

§ 1421.373 Support rates.

Basic county support rates for soybeans and the schedule of premiums and discounts will be set forth in the annual crop year supplement to the regulations contained in this subpart. Farm-stored soybean loans will be made at the applicable basic county support rate for the county where stored and adjusted only for the Weed Control discount, where applicable. The support rate for warehouse-storage loans and for soybeans acquired under a loan or by purchase shall be the applicable basic support rate for the county where stored adjusted in accordance with the provisions of this section, and the premiums and discounts in the annual crop year supplement on the basis of quality factors on warehouse receipts or supplemental certificates in the case of soybeans stored in or delivered to an approved warehouse or on such other forms as CCC may prescribe in the case of soybeans delivered to other than an approved warehouse. Settlement of loans and purchases shall be made in accordance with provisions of § 1421.22.

If two or more approved warehouses are located in the same or adjoining towns, villages, or cities which have the same freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point and the same basic county support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

NOTE—An approved Impact Analysis Statement is available from Orville Overboe (ASCS), (202) 447-7987.

NOTE—Based on an assessment of the environmental impacts of the proposed action, it has been determined that an Environmental Impact Statement need not be prepared since the proposals will have no significant effect on the quality of the human environment.

Signed at Washington, D.C., on January 9, 1979.

STEWART N. SMITH,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-1572 Filed 1-16-79; 8:45 am]

[3410-05-M]

[CCC Grain Price Support Regs., 1978 and Subsequent Crops, Corn Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1978 and Subsequent Crops Corn Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final Rule.

SUMMARY: This rule sets forth the general provisions under which producers may obtain price support on their 1978 and subsequent crops of corn. This rule changes the definition of eligible corn. This rule also provides for deducting storage charges from the loan. This rule is needed in order to advise producers of program provisions.

EFFECTIVE DATE: January 15, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3734 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Cecil Lower, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on December 21, 1977, 42 FR 63895, stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for 1978 crop corn. Such determinations were to include operational provisions needed to carry out the program.

No comments were received concerning the operational provisions.

FINAL RULE

Therefore, the General Regulations Governing Price Support for 1978 and Subsequent Crops in this Part 1421 are supplemented as stated herein for the 1978 and subsequent crops of corn. The material previously appearing in this subpart remains in full force and effect as to the crops to which it was applicable. Accordingly, the regulations in 7 CFR § 1421.90 through 1421.98 and the title of the subpart are amended to read as follows:

Subpart—1978 and Subsequent Crops Corn Loan and Purchase Programs

Sec.
1421.90 Purpose.
1421.91 Eligible corn.
1421.92 Determination of quality.
1421.93 Determination of quantity.
1421.94 Warehouse receipts.
1421.95 Fees and charges.
1421.96 Warehouse charges.
1421.97 Maturity of loans.
1421.98 Support rates.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 105A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444c, 1421).

Subpart—1978 and Subsequent Crops Corn Loan and Purchase Programs

§ 1421.90 Purpose.

This supplement contains program provisions which together with (a) the annual crop year supplement, (b) the General Regulations Governing Price Support for the 1978 and Subsequent Crops, (c) the Cooperative Marketing Association Eligibility Requirements for Price Support regulations in Part 1425 of this chapter, and (d) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1978 and Subsequent Crops of corn.

§ 1421.91 Eligible corn.

(a) *General.* (1) To be eligible for a loan or purchase, the corn must be merchantable for food or feed or for other uses, as determined by CCC, and must not contain mercurial compounds, toxin producing molds, or other substances poisonous to man or animals. (2) The corn must have also been produced by a producer who has complied with the set-aside and normal crop acreage requirements, if any, as prescribed in parts 718, 722, 728, 730, 775, and 791 of this title and any amendments thereto.

(b) *Shelling requirements.* The corn may be ear or shelled corn: *Provided,* That the corn must be shelled before being placed under a warehouse-storage loan or before delivery is made under a loan or purchase. If the corn is not shelled prior to delivery, the cost of shelling on or after delivery shall be for the account of the producer. A producer with a farm-storage loan or ear corn may with the approval of the county committee, shell the corn and keep it under loan on the farm.

(c) *Warehouse stored loan grade requirements.* In order to be eligible for

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a warehouse storage loan, corn must also meet the following requirements:

(1) The corn must, except for moisture, grade No. 3 or better, or No. 4 or better on the factor of test weight only, but otherwise No. 3 or better.

(2) The corn must not grade "Weevily" or have moisture over 15.5 percent unless the warehouse receipt representing the corn is accompanied by a supplemental certificate which provides that the warehouse operator shall deliver corn which is not "Weevily," does not contain in excess of 15.5 percent moisture, and is otherwise of an eligible grade and quality. The grade, quality and quantity shown on the supplemental certificate shall be as provided in § 1421.94(c).

§ 1421.92 Determination of quality.

The class, grade, grading factors, and all other quality factors shall be based on the Official Grain Standards of the United States for Corn, whether or not such determinations are made on the basis of an official inspection. The cost of official grade determinations, when made shall not be for the account of CCC.

§ 1421.93 Determination of quantity.

When the quantity is determined by weight, a bushel shall be 56 pounds of corn free of dockage.

(a) *In warehouse.* The quantity of corn on which a warehouse storage loan shall be made and the quantity delivered to or acquired by CCC in an approved warehouse shall be the net weight specified on the warehouse receipt or on the supplemental certificate, if applicable. If the corn has been dried or blended to reduce the moisture content, the quantity specified on the warehouse receipt or the supplemental certificate, if applicable, shall represent the quantity after drying or blending, and such quantity shall reflect a minimum shrink in the receiving weight of 1.2 times the percentage difference between the moisture content of the corn, when received, and 15.5 percent.

(b) *On farm.* The quantity of corn eligible to be placed under a farm storage loan shall be determined in accordance with § 1421.17. The quantity acquired by CCC from farm storage under a loan or purchase shall be determined by weight.

§ 1421.94 Warehouse receipts.

Warehouse receipts tendered to CCC in connection with a loan or purchase must meet the requirements of this section.

(a) *Separate receipt.* A separate warehouse receipt must be submitted for each grade and class of corn.

(b) *Entries.* Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt, must show: (1) Gross weight and net bushels, (2) class, (3) grade, (4) test weight, (5) moisture, (6) broken corn, and foreign material, (7) any other grading factors(s) when such factor(s) and not test weight determine the grade, (8) whether the corn arrived by rail, truck or barge, (9) the date the corn was received or deposited in the warehouse, and (10) the storage start date.

(c) *Where warehouse receipt shows "Weevily," excess moisture, or both.* If a warehouse receipt tendered as security for a loan indicates the corn grades "Weevily" or contains over 15.5 percent moisture, or both, the warehouse receipt must be accompanied by a supplemental certificate as provided in § 1421.91(c)(2) in order for the corn to be eligible for price support. The grade, grading factors, and quantity to be delivered must be shown on the supplemental certificate as follows: (1) When the warehouse receipts show "Weevily" and the corn has been conditioned to correct the "Weevily" condition, the supplemental certificate must show the same grade without the "Weevily" designation and the same grading factors and quantity as shown on the warehouse receipt, (2) when the warehouse receipt shows a moisture content of over 15.5 percent and the corn has been dried or blended, the supplemental certificate must show the grade, grading factors, and quantity after drying or blending the corn to a moisture content of not over 15.5 percent which shall reflect a drying or blending shrink as specified in § 1421.93(a). The supplemental certificate must state that no lien for processing will be claimed by the warehouseman from Commodity Credit Corporation or any subsequent holder of the warehouse receipt. In the case of conditions specified in subparagraphs (1) and (2) of this paragraph, the grade, grading factors, and the quantity shown on the supplemental certificate shall supersede the entries for such items on the warehouse receipt.

(d) *Liens.* Warehouse receipts and the corn represented thereby stored in an approved warehouse operating under the Uniform Grain Storage Agreement (hereinafter called "UGSA") may be subject to liens for warehouse charges only to the extent indicated in § 1421.96. However, in no event shall a warehouseman be entitled to satisfy the lien by sale of the corn when CCC is holder of the warehouse receipt.

§ 1421.95 Fees and charges.

The producer shall pay a loan service fee and delivery charge as specified in § 1421.11.

§ 1421.96 Warehouse charges.

The Kansas City Commodity Office (KCCO) approved list of handling and storage rates will provide the rates to be deducted from the amount of the loan or purchase price in the case of corn stored in an approved warehouse operated under the UGSA. Such deduction shall be based on entries shown on the warehouse receipts. If written evidence is submitted with the warehouse receipts that (a) storage charges through the loan maturity date have been prepaid or (b) that the producer has arranged with the warehouse operator for the payment of storage charges through loan maturity and the warehouseman enters an endorsement in substantially the following form on the warehouse receipt: "Warehouse storage charges through the applicable maturity date accrued or to accrue prior to the acquisition of the corn by CCC on corn represented by this warehouse receipt have been paid or otherwise provided for and a lien for such charges will not be asserted by the warehouseman against CCC or against any subsequent holder of the warehouse receipt," no storage deductions shall be made. The beginning date to be used for computing the storage deduction on corn stored in warehouses operating under the UGSA shall be the latest of the following: (1) The date the corn was received or deposited in the warehouse, (2) the date storage charges start, or (3) the day following the date through which storage charges have been paid.

§ 1421.97 Maturity of loans.

Loans mature on demand but no later than the date specified in the annual crop year supplement to the regulations in this subpart.

§ 1421.98 Support rates.

Basic county support rates for corn and the schedule of premiums and discounts will be set forth in the annual crop year supplement to the regulations contained in this subpart. Farm-stored corn loans will be made at the applicable basic county support rate for the county where stored adjusted only for the Weed Control discount where applicable. The support rate for warehouse-storage loans and for corn acquired under a loan or by purchase shall be the applicable basic support rate for the county where stored adjusted in accordance with the provisions of this section, and the premiums and discounts in the annual crop year supplement on the basis of quality factors on warehouse receipts or supplemental certificates in the case of corn stored in or delivered to an approved warehouse or on such other form as CCC may prescribe in the case of corn delivered to other than an approved warehouse. Settlement of loans and purchases shall be made in accordance with the provisions of § 1421.22. If two or more approved warehouses are located in the same or adjoining towns, villages, or cities which have the same freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point and the same basic county support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

NOTE.—An approved Impact Analysis Statement is available from Orville Overboe (ASCS), (202) 447-7987.

NOTE.—Based on an assessment of the environmental impacts of the proposed action, it has been determined that an Environmental Impact Statement need not be prepared since the proposals will have no significant effect on the quality of the human environment.

Signed at Washington D.C., on January 9, 1979.

STEWART N. SMITH,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 79-1647 Filed 1-16-79; 8:45 am]

[3410-05-M]

[CCC Grain Price Support Regs., 1978 and Subsequent Crops, Oats Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1978 and Subsequent Crops Oats Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final Rule.

SUMMARY: This rule sets forth the general provisions under which producers may obtain price support on their 1978 and subsequent crops of oats. This rule changes the definition of eligible oats and deletes the section on availability which is sufficiently covered in the General Regulations. This rule also changes warehouse charges. This rule is needed in order to advise producers of program provisions.

EFFECTIVE DATE: January 17, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3734 South Building, P.O. Box 2415, Washington, D.C. 20013

FOR FURTHER INFORMATION CONTACT:

Cecil Lower, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on December 21, 1977, 42 FR 63895, stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for 1978 crop oats. Such determinations were to include operational provisions needed to carry out the program.

No comments were received concerning the operational provision.

FINAL RULE

Therefore, the General Regulations Governing Price Support for 1978 and Subsequent Crops in this Part 1421 are supplemented as stated herein for the 1978 and subsequent crops of oats. The material previously appearing in this subpart remains in full force and effect as to the crops to which it was applicable. Accordingly, the regulations in 7 CFR 1421.245 through 1421.253 and the title of the subpart are revised to read as follows:

Subpart—1978 and Subsequent Crops Oats Loan and Purchase Programs

Sec.
1421.245 Purpose.
1421.246 Eligible oats.
1421.247 Determination of quality.
1421.248 Determination of quantity.
1421.249 Warehouse receipts.
1421.250 Fees and charges.
1421.251 Warehouse charges.
1421.252 Maturity of loans.
1421.253 Support rates.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 105 A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444 c, 1421).

Subpart—1978 and Subsequent Crops Oats Loan and Purchase Programs

§ 1421.245 Purpose.

This supplement contains program provisions which together with (a) the annual crop year supplement, (b) the General Regulations Governing Price Support for the 1978 and Subsequent Crops, (c) the Cooperative Marketing Association Eligibility Requirements for Price Support regulations in Part 1425 of this chapter, and (d) any amendments or revisions of such regulations, set forth the requirements with respect to price support for the 1978 and Subsequent Crops of oats.

§ 1421.246 Eligible oats.

(a) *General.* (1) To be eligible for a loan or purchase, the oats must be merchantable for food or feed or for other uses, as determined by CCC, and must not contain mercurial compounds, toxin producing molds, or other substances poisonous to humans or animals. (2) The oats must have also been produced by a producer who has complied with the set-aside and normal crop acreage requirements, if any, as prescribed in parts 718, 722, 728, 730, 775, and 791 of this title and any amendments thereto.

(b) *Warehouse stored loan grade requirements.* To be eligible for a warehouse storage loan, the oats must also meet the following requirements:

(1) The oats must grade No. 3 or better, except that (i) they may grade No. 4 on the factor of test weight, and because of being badly stained or materially weathered, and (ii) they may have the special grade designation "Garlicky."

(2) The oats must not grade "Weevily" or have moisture over 14 percent unless the warehouse receipt representing the oats is accompanied by a supplemental certificate which provides that the warehouseman shall deliver oats which are not "Weevily," do not contain in excess of 14 percent moisture, and are otherwise of an eligible grade and quality. The grade, quality and quantity shown on the supplemental certificate shall be as provided in § 1421.249(c).

(3) The oats must not grade Smutty, Ergoty, Bleached or thin or otherwise of a distinctly low quality.

§ 1421.247 Determination of quality.

The class, grade, grading factors, and all other quality factors shall be based on the Official Grain Standards of the United States for Oats, whether or not such determinations are made on the basis of an official inspection. The cost of official grade determinations, when made shall not be for the account of CCC.

§ 1421.248 Determination of quantity.

When the quantity is determined by weight, a bushel shall be 32 pounds of oats.

(a) *In warehouse.* The quantity of barley on which a warehouse storage loan shall be made and the quantity delivered to or acquired by CCC in an approved warehouse shall be the net weight specified on the warehouse receipt or on the supplemental certificate, if applicable. If the oats have been dried or blended to reduce the moisture content, the quantity specified on the warehouse receipt or the supplemental certificate, if applicable, shall represent the quantity after drying or blending, and such quantity shall reflect a minimum shrink in the receiving weight of 1.2 times the percentage difference between the moisture content of the oats, when received, and 14 percent.

(b) *On farm.* The quantity of oats eligible to be placed under a farm storage loan shall be determined in accordance with § 1421.17. The quantity acquired by CCC from farm storage under a loan or purchase shall be determined by weight.

§ 1421.249 Warehouse receipts.

Warehouse receipts tendered to CCC in connection with a loan or purchase must meet the requirements of this section.

(a) *Separate receipt.* A separate warehouse receipt must be submitted for each grade and class of oats.

(b) *Entries.* Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt, must show: (1) Net weight and bushels, (2) class, (3) grade (including special grades), (4) test weight, (5) moisture content if above 14 percent, (6) any other grading factor(s) when such factor(s) and not test weight determine the grade, (7) whether the oats arrived by rail, truck or barge, (8) the date the oats were received or deposited in the warehouse, and (9) the storage start date.

(c) *Where warehouse receipt shows "Weevily," excess moisture, or both.* If a warehouse receipt tendered as security for a loan indicates the oats grade "Weevily" or contain over 14 percent moisture, or both, the warehouse receipt must be accompanied by a supplemental certificate as provided in § 1421.246(b) in order for the oats to be eligible for price support. The grade, grading factors, and quantity to be delivered must be shown on the supplemental certificate as follows: (1) When the warehouse receipts show "Weevily" and the oats have been conditioned to correct the "Weevily" condition, the supplemental certificate must show the same grade without the "Weevily" designation and the same grading factors and quantity as shown on the warehouse receipt, (2) when the warehouse receipt shows a moisture content of over 14 percent and the oats have been dried or blended, the supplemental certificate must show the grade, grading factors, and quantity after drying or blending the oats to a moisture content of not over 14 percent which shall reflect a drying or blending shrink as specified in § 1421.248(a).

The supplemental certificate must state that no lien for processing will be claimed by the warehouseman from Commodity Credit Corporation or any subsequent holder of the warehouse receipt. In the case of conditions specified in subparagraphs (1) and (2) of this paragraph, the grade, grading factors, and the quantity shown on the supplemental certificate shall supersede the entries for such items on the warehouse receipt.

(d) *Liens.* Warehouse receipts and the oats represented thereby stored in an approved warehouse operating under the Uniform Grain Storage Agreement (hereinafter called "UGSA") may be subject to liens for warehouse charges only to the extent indicated in § 1421.251. However, in no event shall a warehouseman be entitled to satisfy the lien by sale of the oats when CCC is holder of the warehouse receipt.

§ 1421.250 Fees and charges.

The producer shall pay a loan service fee and delivery charge as specified in § 1421.11.

§ 1421.251 Warehouse charges.

The Kansas City Commodity Office (KCCO) approved list of handling and storage rates will provide the rates to be deducted from the amount of the loan or purchase price in the case of oats stored in an approved warehouseman under the UGSA. Such deduction shall be based on entries shown on the warehouse receipts. If written evidence is submitted with the warehouse receipts that (a) storage charges through the loan maturity date have been prepaid or (b) that the producer has arranged with the warehouseman for the payment of storage charges through loan maturity and the warehouse operator enters an endorsement in substantially the following form on the warehouse receipt; "Warehouse storage charges through the applicable maturity date accrued or to accrue prior to the acquisition of the oats by CCC on oats represented by this warehouse receipt have been paid or otherwise provided for and a lien for such charges will not be asserted by the warehouseman against CCC or against any subsequent holder of the warehouse receipt," no storage deductions shall be made. The beginning date to be used for computing the storage deduction on oats stored in warehouses operating under the UGSA shall be the latest of the following: (1) The date the oats were received or deposited in the warehouse, (2) the date storage charges start, or (3) the day following the date through which storage charges have been paid.

§ 1421.252 Maturity of loans.

Loans mature on demand but no later than the date specified in the annual crop year supplement to the regulations in this subpart.

§ 1421.253 Support rates.

Basic county support rates for oats and the schedule of premiums and discounts will be set forth in the annual crop year supplement the regulations contained in this subpart. Farm-stored oat loans will be made at the applicable basic county support rate for the county where stored, adjusted only for the Weed Control discount where applicable. The support rate for warehouse-storage loans and for oats acquired under a loan or by purchase shall be the applicable basic support rate for the county where stored, adjusted in accordance with the provisions of this section, and the premiums and discounts in the annual crop year supplement on the basis of quality factors on warehouse receipts or supplemental certificates in the case of oats stored in or delivered to an approved warehouse. Settlement of loans and purchases shall be made in accordance with the provisions of § 1421.22. If two or more approved warehouses are located in the same or adjoining towns, villages, or cities which have the same freight rate, such towns, villages, or cities shall be deemed to constitute one shipping point and the same basic county support rate shall apply even though such warehouses are not all located in the same county. Such support rate shall be the highest support rate of the counties involved.

NOTE.—An approved Impact Analysis Statement is available from Orville Overboe, (ASCS), (202) 447-7987.

NOTE.—Based on an assessment of the environmental impacts of the proposed action, it has been determined that an Environmental Impact Statement need not be prepared since the proposals will have no significant effect on the quality of the human environment.

Signed at Washington, D.C., on January 9, 1979.

STEWART N. SMITH,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 79-1649 Filed 1-16-79; 8:45 am]

[3410-05-M]

[Cotton Loan Program Reg., Amdt. 1]

PART 1427—COTTON

Interest Rate

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final Rule.

SUMMARY: The purpose of this rule is to delete the requirement that the interest rate on upland cotton shall be established on the basis of the lowest current interest rate of ordinary obligations of the United States. The rule is needed in order to conform to the Act of September 30, 1978, which amended section 103(b) of the Agricultural Act of 1949, as added by the Food and Agriculture Act of 1977. Interest rates on upland cotton loans for the 1978 and subsequent crops shall be determined in the same manner as interest rates for other commodity loans.

EFFECTIVE DATE: January 17, 1979.

ADDRESS: Price Support and Loan Division, ASCS, USDA, 3741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Dalton J. Ustynik, ASCS, (202) 447-6611, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: This amendment will benefit upland cotton producers since it will provide that interest rates will be the same as for other commodities and such rate will be lower since it will be based upon the interest rate charged Commodity Credit Corporation by the United States Treasury. It is essential that this amendment be made effective as soon as possible in order to satisfy statutory requirements and since farmers are now marketing 1978 crop upland cotton. Accordingly, it has been determined that compliance with the notice of proposed rulemaking and public procedure of 5 U.S.C. 553 and the requirements of Executive Order 12044 are impractical and contrary to the public interest. Therefore, this amendment is being issued without compliance with such procedure and requirements.

FINAL RULE

Accordingly, 7 CFR 1427.17 is amended, effective as to all loans, on 1978 and subsequent crops of cotton, to read as follows:

§ 1427.17 Interest rates.

Loans shall bear interest at the rate announced in a separate notice published in the FEDERAL REGISTER.

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 103, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1444, 1421).)

NOTE.—An approved Impact Analysis Statement is available from Charles Cunningham, ASCS (202) 447-7873.

Signed at Washington, D.C., on January 11, 1979.

STEWART N. SMITH,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 79-1650 Filed 1-16-79; 8:45 am]

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

[Docket No. ERA-R-78-20]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Amendment To Reinstate Special Set-Aside Procedures for Middle Distillates

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final Rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts an amendment to the Mandatory Petroleum Allocation Regulations which reinstates, by the adoption of a Special Rule No. 6, a special middle distillate set-aside program for those states electing to participate for the period from the date of issuance of this final rule through March 31, 1979. The special set-aside procedures are intended to permit ultimate consumers of middle distillates who have made unsuccessful efforts to obtain supplies for an emergency or hardship to acquire that volume required to meet their certified requirements. The ERA is also requesting comments as to whether there will be a continuing need for a middle distillate set-aside program in future heating seasons.

DATES: Effective date: January 12, 1979. Further comments due on or before June 15, 1979.

ADDRESS: Send comments to Department of Energy, Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-78-20, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2222 A, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B 110, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-2170.

William E. Caldwell (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-8034.

Alan T. Lockard (Office of Fuels Regulation), Economic Regulatory Administration, Room 6222, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-7422.

Jack O. Kendall (Office of General Counsel), Room 5146 B, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461, (202) 633-8624.

SUPPLEMENTARY INFORMATION:

I. Background and Discussion of Major Comments
II. Special Set-Aside Procedures Adopted
III. Comment Procedures
IV. Other Matters

I. BACKGROUND AND DISCUSSION OF MAJOR COMMENTS

On November 14, 1978, we issued a notice of proposed rulemaking and public hearing (43 FR 54180, November 20, 1978) proposing to reinstate special set-aside procedures for middle distillates by adopting a new Special Rule No. 6 for Subpart A of 10 CFR Part 211.

Written comments were invited on the proposed Special Rule No. 6 through December 20, 1978, and a public hearing was held on December 7, 1978 in Washington, D.C. Comments were received from twelve refiners, six associations of resellers, one consumer group, and seventeen state energy offices.

Refiners were unanimous in their opposition to the proposal, contending that set-aside procedures are not necessary to assure equitable distribution of middle distillates. They based this contention on the adequacy of current middle distillate supplies and the fact that many states have utilized set-aside procedures sparingly, if at all, during the past two heating seasons. Moreover, refiners indicated that set-aside procedures create disturbances in normal supply channels by delaying distribution of middle distillates until they are released from the state set-asides. Most refiners requested that set-aside volumes not exceed two percent of their supplies for distribution into a particular state in any event.

The majority of resellers' associations commenting on the proposal supported the reinstatement of a set-aside program. They generally agreed with refiners, however, that a two percent set-aside would be adequate to meet any foreseeable shortage of middle distillates.

The state energy offices and consumer group commenting on the proposal indicated strong support for the reinstatement of a four percent set-aside program to insure that any emergency or hardship needs of consumers in their states which may arise this winter are met. Many of the state energy offices stressed the need for timely implementation of the set-aside procedures and encouraged action to insure that in the future such procedures will be available from the beginning of the heating season.

We have carefully considered the comments of all persons who have participated in this rulemaking proceeding. While we recognize that set-aside procedures may create some inefficiency in middle distillate distribution systems, we have concluded that set-aside procedures should be reinstated this winter as a means of insuring adequate supplies of middle distillates to consumers in the event emergency and hardship situations arise. In view of the historical usage of set-aside procedures, it is our further determination, however, that the implementation of such procedures should be discretionary on the part of the state concerned. In addition, we have determined that the amount of the set-aside can vary up to a four percent maximum as determined by the needs of the individu-

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al states. Accordingly, set-aside procedures will not be in effect in a particular state until such state notifies the ERA of its election to participate in the set-aside program and as to the amount of the set-aside.

With the issuance of this final rule, middle distillate set-aside procedures will have been in effect each winter since the exemption of middle distillates from mandatory pricing and allocation regulation in July 1976. Furthermore, as indicated by many of the state energy offices commenting in this proceeding, it appears that there will be a continuing need for a set-aside program. In view of these considerations, we are soliciting further comments and suggestions as to what action, if any, should be taken to insure the timely implementation of set-aside procedures in future heating seasons. Comments in this matter are invited through June 15, 1979.

II. Special Set-Aside Procedures Adopted

Notwithstanding the exemption of middle distillates from controls, Special Rule No. 6 provides for a special set-aside program for middle distillates for the period from the date of issuance of this final rule through March 31, 1979 so as to permit assignments to consumers and marketers by state energy offices in those states which have notified the ERA of their election to participate in the set-aside program.

A state electing to participate in the set-aside program shall notify each supplier which operates as a prime supplier in the state of such election as well as the percentage of the set-aside. Within ten days of such notification by a state, a prime supplier shall designate for that state a representative who will act on behalf of the prime supplier with regard to these special procedures. The set-aside will constitute that percent selected by the state of a prime supplier's estimated portion of its total supply of middle distillates for the particular month to be sold into the distribution system of the state for consumption therein. No state can elect a set-aside in excess of four percent in any one month. The set-aside requirement for a particular month will not be carried over to the following month. States are urged to order the release of any unrequired set-aside volumes as early as possible during the month.

Set-aside volumes will be available for assignment by participating state energy offices to wholesale purchaser-consumers and end-users who have made unsuccessful efforts to obtain supplies to meet an emergency or hardship. Such assignments will be limited to that volume required to satisfy certified requirements and conditioned upon the demonstration of hardship. Assignments may also be made to wholesale purchaser-resellers who are unable to obtain a sufficient volume of product to meet the emergency or hardship needs of those wholesale purchaser-consumers and end-users with whom the wholesale purchaser-reseller had a supplier/purchaser relationship on January 1, 1979.

Applications for assignment of set-aside volumes should be made to the appropriate state energy office which will approve or disapprove the application. Since an assignment will only be made in response to emergency situations, an applicant will not be required to make its application in writing. Each applicant will be required, however, to submit a written certification as to the validity of the emergency or hardship situation to the state energy office within five days of its verbal or written application.

If the state energy office approves an application, it will assign a prime supplier to furnish the applicant an amount from the set-aside. The state energy office will issue to both the applicant and the representative of the prime supplier a document authorizing such assignment. This document will entitle the applicant to receive the assigned volume from any convenient local distributor of the prime supplier form which the set-aside assignment has been made. Such document will expire ten days after issuance unless it has been presented to the prime supplier or a designated local distributor of the prime supplier.

Each month participating state energy offices will submit to the appropriate DOE Regional Office copies of all authorizing documents issued during the previous month and a tabulation of the usage of the middle distillate set-aside during the previous month.

III. Comment Procedures

As discussed above, we are requesting further comments as to what action, if any, we should take to insure the timely implementation of set-aside procedures in future heating seasons. We invite comments in this matter through June 15, 1979.

Comments should be submitted to the address indicated in the "Addresses" section of this preamble and should be identified on the outside envelope and on documents submitted with the designation "Middle Distillate Set-Aside—Further Comments," Docket No. ERA-R-78-20. Fifteen copies should be submitted. All comments received by the ERA will be available for public inspection in the DOE Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

You should identify any information or data considered by you to be confidential and submit it in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

IV. Other Matters

In reimposing special set-aside procedures for middle distillates, we are taking action under section 12(f) of the Emergency Petroleum Allocation Act of 1973, as amended (EPAA, Pub. L. 93-159), which permits the establishment of such a regulation upon determination that such action is necessary to and consistent with the attainment of the objectives specified in section 4(b)(1) of the EPAA. In particular, we have determined that this rule will promote public health, safety and welfare (including maintenance of residential heating for individual homes, apartments and similar occupied dwelling units) and the equitable distribution of refined petroleum products among all regions and areas of the United States, and sectors of the petroleum industry, and among all users. It is our further determination that the immediate effectiveness of this rule is necessary to promote these objectives since middle distillates are currently required for heating purposes in most areas of the nation and any delay in the implementation of Special Rule No. 6 could contribute to supply distortions.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70 and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Energy Conservation and Production Act, Pub. L. 94-385, as amended, Pub. L. 95-70, Pub. L. 95-91; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267).

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C., January 12, 1979.

David J. Bardin,
Administrator,
Economic Regulatory
Administration.

The Appendix to Subpart A of Part 211 is amended by adding Special Rule No. 6 to read as follows:

Special Rule No. 6—Special Set-Aside Procedures for Middle Distillates

1. *Scope.* This Special Rule provides for a set-aside program for middle distillates for the period from the date of issuance of this Special Rule through March 31, 1979, as provided below, notwithstanding the exemption of middle distillates from the Mandatory Petroleum Allocation and Price Regulations effective July 1, 1976.

2. *Provision for middle distillate set-aside.* Notwithstanding the provisions of paragraphs (b) and (c) of § 210.35 of Part 210 of this chapter and of subparagraphs (b) (5) and (6) of § 211.1 of this part, a set-aside is hereby established for the period from the date of issuance of this Special Rule through March 31, 1979 for designated middle distillates for assignment by State Offices in accordance with the provisions of this Special Rule.

For purposes of this Special Rule the term middle distillates includes the following, as defined in § 212.31 of Part 212 of this chapter: No. 1 heating oil, No. 1-D diesel fuel, No. 2 heating oil, No. 2-D diesel fuel and kerosene.

3. *State election to participate in set-aside program.* The special set-aside procedures provided in this Special Rule will not be in effect in a particular State prior to notification to the Office of Fuels Regulation, ERA, by the appropriate State Office that such State elects to participate in the set-aside program provided for by this Special Rule.

4. *State representative.* A State electing to participate shall notify each prime supplier operating within that State of such election. A prime supplier receiving such notification shall designate a representative for that State to act for and on behalf of the prime supplier with respect to set-aside petitions and assignments from the set-aside to be supplied by that prime supplier. The appropriate State Office shall be informed in writing of such designation within ten (10) days following the State's notification to the prime supplier of its election to participate. The State Office shall to the maximum extent possible consult with a prime supplier's representative prior to issuing any authorizing document affecting set-aside volumes to be provided by the prime supplier.

5. *Set-aside volume.* A prime supplier shall inform each appropriate participating State Office monthly of the estimated volume of middle distillates to be sold into a State for consumption within that State. The set-aside volume available in a participating State for a particular month shall be that percent elected by the state. The amount will be calculated by multiplying the elected percentage of no more than four (4) percent by each prime supplier's estimated portion of its total supply for that month which will be sold into that State's distribution system for consumption within the State. The set-aside for a particular month cannot be accumulated from prior months or deferred to later months; it shall be made available from stocks of prime suppliers whether directly or through their wholesale purchaser-resellers.

6. *Eligible recipients of set-aside volumes.* The set-aside provided for by this Special Rule shall be utilized by participating State Offices in issuing authorizations to applicants for designated middle distillates to be supplied by a prime supplier to meet hardship and emergency requirements of wholesale purchaser-consumers and end-users. To facilitate relief of the hardship and emergency requirements of wholesale purchaser-consumers and end-users, the State Office may also direct that a wholesale purchaser-reseller be supplied from the set-aside to enable the wholesale purchaser-reseller to supply the emergency and hardship needs of wholesale purchaser-consumers and end-users with whom the wholesale purchaser-reseller had a supplier/purchaser relationship on January 1, 1979.

7. *Term of assignments.* Assignments to eligible end-users and wholesale purchaser-consumers under section 6 of this Special Rule by a State Office shall be made to meet the emergency or hardship conditions being experienced during that period. Assignments to wholesale purchaser-resellers shall be only for the period necessary to preclude hardship and provide emergency requirements to that wholesale purchaser-reseller's wholesale purchaser-consumers and end-users. No assignments under this Special Rule shall relate to any period subsequent to March 31, 1979.

8. *Application for assignment.* All applications for assignment under this Special Rule shall be made to the State Office having jurisdiction over the State in which the applicant conducts its business operations, in accordance with the procedures set forth in §§ 205.211-218 of Subpart Q of Part 205 of this chapter with respect to the state set-aside, except as otherwise provided in this Special Rule. Within five (5) days of its application for assignment of middle distillates under these special procedures, an applicant shall submit to the State Office a written certification that such application was for a valid hardship or emergency situation.

9. *Approval of application.* If a State Office approves an application for assignment, it shall assign a prime supplier an amount from the set-aside to the applicant necessary to meet the expressed emergency or hardship condition. To determine an appropriate prime supplier, the State Office may coordinate with the State representatives of prime suppliers.

10. *Authorizing document.* The State Office shall issue to an applicant granted an assignment a document authorizing such assignment. A copy of the authorizing document (or a summary) shall also be provided by the State Office to the designated State representative of the prime supplier assigned to the applicant. An authorizing document not presented to either the prime supplier or a designated local distributor of the prime supplier within ten (10) days of issuance shall expire after that ten-day period. The State Office shall by the twentieth day of each month submit to the appropriate DOE Regional Office copies of all authorizing documents issued during the previous month and a tabulation of the usage of the middle distillate set-aside during the previous month.

11. *Supplier's responsibilities.* When presented with an authorizing document, suppliers shall provide the assigned amount of middle distillates to an applicant. The authorizing document shall entitle the applicant to receive product from any convenient local distributor of the prime supplier from which the set-aside assignment has been made. Wholesale purchaser-resellers of prime suppliers shall, as non-prime suppliers, honor such authorizing documents upon presentation and shall not delay deliveries required by the authorizing documents while confirming such deliveries with the prime supplier. Any non-prime supplier which provides middle distillates pursuant to an authorizing document shall in turn receive from its prime supplier an equivalent volume of the product. The requirements of paragraph (b) of § 210.62 of Part 210 of this chapter continue to apply to suppliers to whom an authorizing document is presented pursuant to this Special Rule to prohibit any form of discrimination (including price discrimination) which has the effect of circumventing, frustrating or impairing the objectives, purposes and intent of this Special Rule.

12. *Prime suppliers.* All prime suppliers shall supply designated middle distillates from their set-aside volume each month, as directed by the State Offices, not to exceed the total set-aside volume for such middle distillates for that month for the State concerned.

13. *Release of set-aside.* At any time during the month, a State Office may order the release of part or all of a prime supplier's set-aside volume through the prime supplier's normal distribution system in the State.

14. *Orders issued by State Offices.* Authorizing documents and other

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orders issued pursuant to this Special Rule shall be in writing and effective immediately upon presentation to the prime supplier's designated State representative. Authorizing documents shall represent a call on the prime supplier's set-aside volumes for the month of issuance irrespective of the fact that delivery cannot be made until the following month. Any order issued by a State Office pursuant to this Special Rule may be appealed to the DOE Regional Office that has jurisdiction over the State involved, in accordance with the procedures set forth in Subpart H of Part 205 of this chapter. Any appeal from such an order shall be filed within ten (10) days of service of the order from which the appeal is taken. If a State Office fails to take action on an application within ten (10) days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this section.

[FR Doc. 79-1692 Filed 1-16-79; 8:45 am]

[6720-02-M]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

Amendments Concerning Investment in the Inter-American Savings and Loan Bank

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: These amendments permit Federal savings and loan associations to invest within certain limitations in the Inter-American Savings and Loan Bank, as authorized by section 22 of the Housing Authorization Act of 1976. The amendments are needed because the Bank Board's present regulations do not permit such investment.

EFFECTIVE DATE: February 20, 1979.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552 (202-377-6440).

SUPPLEMENTARY INFORMATION: Section 22 of the Housing Authorization Act of 1976 (Pub. L. 94-375, 90 Stat. 1067; August 3, 1976) amended Section 5(c) of the Home Owners' Loan Act of 1933 to permit Federal savings and loan associations to invest in the share capital and capital reserve of the Inter-American Savings and Loan Bank (BIAPE). The statute provides that such investment, when combined with investments in loans guaranteed under the Foreign Assistance Act of 1961, as amended (AID Housing Guaranty Program), shall not exceed the amount previously authorized for such guaranteed loans, i.e., one percent of the association's assets.

BIAPE was formed in November, 1975, by the savings and loan industry in Latin America to create an international secondary mortgage market to increase the volume of capital available for housing loans in Latin America. BIAPE, a privately-owned investment bank specializing in housing and housing finance on an international basis, is empowered to borrow from, and lend and guarantee loans to, its members to facilitate their housing finance operations. Its initial subscribers represent ten Latin American countries and a group of state-chartered savings and loan associations located in the southwestern part of the United States.

Because of the present illiquidity of investments in BIAPE, due to lack of an organized secondary market in its shares and absence of a repurchase arrangement, and the fact that the organization is now in its formative period, the Bank Board proposed to limit implementation of the statutory authority by imposition of certain conditions on a Federal association's investment: (1) threshold eligibility criteria to preclude illiquid investments by marginal associations, (2) aggregate investment limitations to assure that an association's investment does not exceed the *lesser* of one-quarter of one percent of assets or $100,000 and (3) inclusion of both paid-in and callable capital in the aggregate investment limitation.

The proposal appeared in the FEDERAL REGISTER on June 1, 1978 (43 FR 23727), and the public comment period closed July 3, 1978. Comments were received from two Federal savings and loan associations; both expressed approval of the amendments as proposed.

The Bank Board is pleased to adopt these amendments to permit Federal associations to invest in BIAPE in view of the substantial contributions which it has already made to improve housing in the Central and South Americas. It is the Bank Board's hope that BIAPE will continue to develop into a strong and useful vehicle for establishment of an international secondary mortgage market.

Accordingly, the Board hereby amends Part 545 by revising § 545.6-20(c) and adding a new paragraph (h) to § 545.9 thereof, to read as set forth below.

§ 545.6-20 Loans guaranteed under the Foreign Assistance Act of 1961.

. . . . . .

(c) *Percentage-of-assets limitations.* No Federal association may invest in any loan, or interest therein, pursuant to paragraph (a) of this section if, as a result, its aggregate outstanding principal amount of investment in such loans or interests therein and in investments made pursuant to § 545.9(h) of this Part would exceed one percent of its assets.

§ 545.9 Securities and other investments.

A Federal association may invest in the following:

. . . . . .

(h) The share capital and capital reserve of the Inter-American Savings and Loan Bank, subject to the following conditions:

(1) The association's net worth meets the requirements of § 563.13 of this chapter, its scheduled items do not exceed 2.5 percent of its specified assets, and all appraised losses have been offset by specific loss reserves to the extent required by § 563.17-2 of this chapter;

(2) The association's aggregate investment pursuant to this paragraph, including the amount of any obligations undertaken to provide said Bank with reserve capital in the future (callable capital), will not, as a result of such investment, exceed one-quarter of one percent of its assets or $100,000, whichever is less; and

(3) The association's aggregate investment under this paragraph and its aggregate outstanding principal amount of investment under § 545.6-20 of this Part, will not, as a result of such investment, exceed one percent of its assets.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc. 79-1608 Filed 1-16-79; 8:45 am]

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation ER-1092; Amendment No. 35; Docket No. 30537]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Elimination of CAB Form 41 Schedule P-13, "Passenger Revenue and Traffic Data by Type of Fare—48 States"

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule eliminates the requirement that certificated route air carriers file CAB Form 41 Schedule P-13, "Passenger Revenue and Traffic Data—48 States." It also terminates EDR-339, dated November 10, 1977, which proposed modifications to Schedule P-13 and related schedules. This rule reflects a change in the Board's data needs and relieves carriers from filing data that are no longer needed.

DATES: Effective: February 15, 1979; adopted: January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5270.

SUPPLEMENTARY INFORMATION: Adopted by the Civil Aeronautics Board at its office in Washington, D.C., January 11, 1979.

CAB FORM 41 SCHEDULE P-13

In ER-956 (41 FR 28268, July 9, 1976), the Board established CAB Form 41 Schedule P-13, "Passenger Revenue and Traffic Data by Type of Fare—48 States." Schedule P-13 was designed to provide the data necessary for monitoring the 48-State fare level in light of the fare level policy adopted in Phase 5 of the *Domestic Passenger Fare Investigation* (DPFI) (Orders 72-12-18, 73-5-2, 73-8-55), and for monitoring the results of particular discount fares.

By EDR-339 (42 FR 59884, November 22, 1977), the Board proposed to add three additional markets to those markets for which data are reported on Schedule P-13. The Mainland U.S.-Puerto Rico/Virgin Islands market was proposed as a result of a petition from Eastern Air Lines, Inc., dated February 22, 1977, which requested that revenue and traffic data be collected for this market so that the Board could evaluate tariff filings and monitor the effects of discount fares. The Board also proposed that carriers be required to file Schedule P-13 data for the Mainland U.S.-Alaska and Mainland U.S.-Hawaii markets so that information would be available to monitor the entity fare level and the results of particular discount fares, to evaluate tariff filings, and to measure the effect on yields resulting from discount fare dilution.

Five comments were received on the proposal; four were from carriers—American Airlines, Inc., Eastern Air Lines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc.—and the fifth was from the Puerto Rico Planning Board. Essentially, all the carriers supported the Board's proposal, although some made suggestions to change certain portions of it.

The Puerto Rico Planning Board indicated that passenger traffic data for the Mainland-Puerto Rico Market would be very useful in preparing studies for the Government of Puerto Rico, but that the proposal would not serve that purpose unless Mainland-Puerto Rico traffic data were separated from Mainland-Virgin Islands traffic data. The Planning Board, therefore, suggested that Puerto Rico and the Virgin Islands be treated as separate markets in the final rule. It should be noted that information on passenger traffic between specific points in Puerto Rico and the Mainland is contained in the Board's international service segment data files and, although such information is restricted from public disclosure, it has been made available to the Planning Board over the years upon a showing of its need for the data to be in the public interest.

The comments of the carriers will not be discussed in detail in this rule because the Board has decided against adopting the proposals made in EDR-339. Instead, the requirement that certificated route air carriers file revenue and traffic data on Schedule P-13 is eliminated. While the Board still has the responsibility to monitor the effects of discount fares, the occurrence of two events has eliminated the need for Schedule P-13 reporting.

First, on August 25, 1978, the Board adopted a policy statement, PS-80 (43 FR 39522, September 5, 1978), "Domestic Passenger-Fare Level Policies; Domestic Passenger-Fare Structure Policies; Discount Fare Policy," which removed the requirements established in Phase 5 of the DPFI. With liberalized policies as to the institution of fares by air carriers, it is no longer necessary to obtain the detailed revenue and traffic statistics included in Schedule P-13.

Second, on April 17, 1978, the Director, Bureau of Accounts and Statistics, issued Passenger Origin-Destination Directive No. 65, which added fare level data to the information submitted on the quarterly origin and destination survey reports. This information should enable the Board to oversee the general impact of discount fares on various markets, so Schedule P-13 will no longer be needed for that purpose.

CAB FORM 41 SCHEDULES P-2(a) AND T-7

EDR-339 proposed several changes to CAB Form 41 Schedules P-2(a), "Revenue Market Report," and T-7, "Statistical Market Report," which were designed to improve and clarify the reporting requirements. These proposed changes included:

(1) adding the reporting of Virgin Islands operations to Schedules P-2(a) and T-7 by establishing a new market entitled "Mainland U.S.-Puerto Rico/Virgin Islands";

(2) clarifying Schedules P-2(a) and T-7 by incorporating "the market concept" included in Accounting and Reporting Interpretation Letter No. 19; that is, data to be reported for a market should be limited to the service segments operated between two named regions;

(3) excluding the reporting of data on Schedules P-2(a) and T-7 for military charters; and

(4) changing the format of Schedule P-2(a) by substituting Form 41 account numbers for the data lines that are currently contained on the schedule.

While the Board believes that these changes would improve the reporting on Schedules P-2(a) and T-7, the Board is currently reconsidering the need for the information collected on these and other CAB Form 41 schedules in view of the gradual deregulation of the air transportation industry. We are also considering changes in reporting adapted to the requirements of the Airline Deregulation Act of 1978. It would not be worthwhile to adopt a proposal to modify schedules that the Board is considering modifying in other respects.

Accordingly, the Board amends Part 241 of the Economic Regulations (14 CFR Part 241) as follows:

1. Amend the List of Schedules in CAB Form 41 Report in Section 22—*General Reporting Instructions* by deleting Schedule P-13 to read:

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SECTION 22.—*General Reporting Instructions*

LIST OF SCHEDULES IN CAB FORM 41 REPORT

Schedule No.	Schedule Title	Filing Frequency	Applicability by Carrier Group		
			I	II	III
. . .	. . .	. . .	.	.	.
P-12(a)	Fuel Consumption by Type of Service and Specific Operational Markets.	Monthly	X	X	X
T-1(a)	Traffic and Capacity Statistics by Class of Service.	Monthly	(²)	(²)	(²)
. . .	. . .	. . .	.	.	.

2. Amend Due Dates of Schedules in CAB Form 41 Report in Section 22—*General Reporting Instructions* by deleting Schedule P-13 to read:

Due Dates of Schedules in CAB Form 41 Report

Due Dates[1]	Schedule No.
Jan. 20	P-12, P-12(a)
Jan. 30	B-1,[4] B-11, P-1(a), T-1, T-2, T-3, T-3.1, T-6, T-7, T-41
Feb. 10[3]	A, B-1,[5] B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3.1, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.2, P-10, P-11(a), P-11(b)
Feb. 20	P-12, P-12(a)
Mar. 1	B-1,[4] B-11, P-1(a), T-1, T-3.1, T-7
Mar. 20	P-12, P-12(a)
Mar. 30	A-2, B-1,[4] B-2,[5] B-11, B-41, B-43, B-44, B-46, P-1(a), G-41, G-42, G-43, G-44, T-1, T-3.1, T-7
Apr. 20	P-12, P-12(a)
Apr. 30	B-1,[4] B-11, P-1(a), T-1, T-2, T-3, T-3.1, T-6, T-7
May 10	A, B-1,[5] B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3.1, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.2, P-11(a), P-11(b)
May 20	P-12, P-12(a)
May 30	B-1,[4] B-11, P-1(a), T-1, T-3.1, T-7
June 20	P-12, P-12(a)
June 30	B-1,[4] B-11, P-1(a), T-1, T-3.1, T-7
July 20	P-12, P-12(a)
July 30	B-1,[4] B-11, P-1(a), T-1, T-2, T-3, T-3.1, T-6, T-7
Aug. 10	A, A-1, B-1,[5] B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3.1, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.2, P-11(a), P-11(b)
Aug. 20	P-12, P-12(a)
Aug. 30	B-1,[4] B-11, P-1(a), T-1, T-3.1, T-7
Sept. 20	P-12, P-12(a)
Sept. 30	B-1,[4] B-11, P-1(a), T-1, T-3.1, T-7
Oct. 20	P-12, P-12(a)
Oct. 30	B-1,[4] B-11, P-1(a), T-1, T-2, T-3, T-3.1, T-6, T-7, T-41
Nov. 10	A, B-1,[5] B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3.1, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.2, P-11(a), P-11(b)
Nov. 20	P-12, P-12(a)
Nov. 30	B-1,[4] B-11, P-1(a), T-1, T-3.1, T-7
Dec. 20	P-12, P-12(a)
Dec. 30	B-1,[4] B-11, P-1(a), T-1, T-3.1, T-7

[1] Due dates falling on a Saturday, Sunday or national holidays will become effective the first following working day.

[2] B and P reporting dates are extended to Mar. 30, if preliminary schedules are filed at the Board by Feb. 10.

[3] Air carriers reporting to the Securities and Exchange Commission on other than a calendar year basis shall be permitted to submit Schedule B-2 90 days after the end of the calendar quarter nearest to the end of the reporting air carrier's fiscal year.

[4] Due date for Schedule B-1 for route air carriers.

[5] Due date for Schedule B-1 for supplemental air carriers.

3. Amend Section 24—*Profit and Loss Elements* by deleting the reporting provisions for Schedule P-13, "Passenger Revenue and Traffic Data by Type of Fare—48 States."

(Sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766, as amended, 49 U.S.C. 1324(a) and 1377.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-1502 Filed 1-16-79; 8:45 am]

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-6012, 34-15462, 35-20877, IC-10542, IA-654, FOIA-57]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Delegation of Authority to Comptroller

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting a rule delegating to the Commission's Comptroller the function of compromise and collection of Federal claims as required by the Federal Claims Collection Act of 1966, 31 U.S.C. 951 *et seq.*

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Philip Becker, Law Clerk, Office of the General Counsel, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 755-1234.

SUPPLEMENTARY INFORMATION: The Commission is amending its regulations governing delegation of authority to delegate authority to its Comptroller to compromise and collect Federal claims as required by the Federal Claims Collection Act of 1966, 31 U.S.C. 951 *et seq.* in conformance with standards and procedures which have been jointly promulgated by the Attorney General and Comptroller General, 4 CFR 101.1-105.7.

Accordingly, 17 CFR 200 is amended by adding a new section as follows:

§ 200.30-13 Delegation of authority to Comptroller.

Pursuant to the provisions of Pub. L. 94-29, 89 Stat. 163, Pub. L. 87-592, 76 Stat. 395, 15 U.S.C. 78d-1, 78d-2, the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following function to the Comptroller of the Commission, to be performed by him or under his direction by such person or persons as may be designated from time to time by the Chairman of the Commission: The compromise and collection of Federal claims as required by the Federal Claims Collection Act of 1966, 31 U.S.C. 951 *et seq.*, in conformance with standards and procedures jointly promulgated by the Attorney General and Comptroller General, 4 CFR 101.1-105.7.

(Sec. 25, 89 Stat. 163, 15 U.S.C. 78d-1; Sec. 2, 76 Stat. 395 15 U.S.C. 78d-2)

The Commission finds, in accordance with the Administrative Procedure Act, 5 U.S.C. 553(b)(A), 5 U.S.C. 553(d), that the foregoing action relates solely to a rule of agency organization, procedure or practice and does not relate to a substantive rule. Accordingly, the foregoing action becomes effective immediately. In addition, the Commission finds that there is no burden on competition imposed by the foregoing action.

By the Commission.

GEORGE FITZSIMMONS,
Secretary.

JANUARY 9, 1979.

[FR Doc. 79-1556 Filed 1-16-79; 8:45 am]

[4810-22-M]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 79-20]

PART 159—LIQUIDATION OF DUTIES

Chains and Parts Thereof, of Cast Iron, Iron or Steel From Italy; Countervailing Duties

AGENCY: United States Treasury Department.

ACTION: Modification of Final Countervailing Duty Order and Declaration of Net Amount of Bounty or Grant.

SUMMARY: This notice is to advise the public of the net amount of benefits given by the Government of Italy, which constitute bounties or grants upon manufacture, production, or exportation of chains and parts thereof within the meaning of the countervailing duty law. Based upon a review of information received, the net amount of such bounties or grants has been determined to be 15 lire per kilogram. Accordingly, entries of chains and parts thereof from Italy will be subject to countervailing duties in accordance with this determination.

This notice is to further advise the public that the Treasury is modifying its order with respect to chains and parts thereof from Italy manufactured by Acciaierie Weissenfels S.p.A. It has been determined that this firm receives benefits upon the manufacture, production or exportation of this product from the Government of Italy in an amount less than 15 lire per kilogram and the countervailing duty is being adjusted accordingly.

EFFECTIVE DATE: January 17, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald W. Eiss, Office of Tariff Affairs, U.S. Treasury Department, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20220 (202-566-8256).

SUPPLEMENTARY INFORMATION: On October 11, 1977, Treasury Decision 77-249 was published in the FEDERAL REGISTER (42 FR 54799). In that decision, the Treasury Department found that rebates paid to Italian exporters of chain and parts thereof under Italian Law 639 constituted the bestowal of a bounty or grant within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (hereinafter referred to as "the Act"). The products covered by this determination are provided for in

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the Tariff Schedules of the United States under item numbers 652.24, 652.27, 652.30, 652.33 and 652.35 and include chains and parts thereof, of cast iron, iron, or steel, including terminal and connecting links, hooks, rollers, pivots and plates.

Italian Law 639 provides for a rebate to manufacturers of certain steel products, including the subject chain, when the product is exported. The rebate is calculated to cover certain customs duties, indirect taxes and a number of stamp taxes assessed during the manufacturing process. Certain portions of the Italian Law 639 rebates have been determined in previous proceedings under the Act to constitute bounties or grants within the meaning of the Act. In those cases, the countervailing duty was set equal to the amount of the 639 rebate associated with indirect taxes not directly related to the manufacture of the products.

In the case of chain, the Italian Law 639 rebate is set at 15 lire per kilogram. During the course of the investigation no information was supplied by the Italian Government which would have enabled the Treasury to differentiate between directly related and not directly related elements of the rebate. In our final determination, the bounty or grant was estimated to be the full 15 lire per kilogram rebate.

However, during the course of the investigation, the principal exporter of chain to the U.S., Acciaierie Weissenfels, S.p.A. (Weissenfels), alleged that it pays customs duties and indirect taxes directly related to the manufacture of chain which are not rebated upon export and which exceed the 639 rebate. Because the rebate of such duties and taxes would not be considered a bounty or grant by Treasury, the "effective" subsidy provided by the 639 rebate would be reduced to the extent that Weissenfels had foregone the rebate of those duties and indirect taxes when exporting chain.

The Treasury was unable to determine the validity of Weissenfels' claims prior to the final determination and therefore the liquidation of all entries for consumption or withdrawals from warehouse for consumption was suspended pending clarification of the net amount of bounty or grant applicable to Weissenfels.

It has now been determined that Weissenfels pays a number of customs duties on imported raw materials and component parts which should be allowed as offsets to the Italian Law 639 rebate. A request for an offset in an amount equal to taxes paid on electricity, fuels, lubricants, water and insurance has been denied. In a notice published contemporaneously with this decision, the Treasury Department has established that only taxes and duties paid on elements physically incorporated into the exported product (or its packing) should be allowed as offsets to benefits otherwise received. Since the elements upon which the above enumerated taxes were paid do not meet the physical incorporation test, no offset has been granted. The net benefit received by Weissenfels has been calculated to be 6.88 lire per kilogram which represents an *ad valorem* benefit of 0.8 percent.

Absent any information regarding offsets to the 639 rebate for other Italian manufacturers/exporters of the product covered by this order, it is determined that the net amount of the bounty or grant paid or bestowed, directly or indirectly, upon the manufacture, production or exportation, of chains or parts thereof from Italy is 6.88 lire per kilogram for merchandise produced by Acciaierie Weissenfels, S.p.A. and 15 lire per kilogram for this merchandise manufactured or produced by all other firms in Italy.

Accordingly, notice is hereby given that countervailing duties in the amount ascertained in accordance with the above declaration will be collected upon the liquidation of all entries of the subject merchandise for consumption or withdrawals from warehouse for consumption which were suspended pursuant to T.D. 77-249 during the period October 11, 1977 to the present. Customs officers are instructed to proceed with liquidation of all such entries of chains and parts thereof from Italy in accordance with the terms of this order.

Effective January 17, 1979, and until further notice, upon the entry, or withdrawal from warehouse, for consumption of this merchandise, imported directly or indirectly from Italy, which benefits from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of the merchandise covered by this determination are benefiting from a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be collected.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be paid or credited or bestowed, directly or indirectly, upon the manufacture, production or exportation of such chains and parts thereof from Italy.

The table in §159.47(f) of the Customs Regulations (19 CFR 159.47(f)), is amended by adding after the last entry from Italy for "Certain chains and parts thereof" in the column headed "Commodity", the number of this Treasury Decision in the column headed "Treasury Decision", and the words "Final Rate Declared; Modified as to chains and parts thereof manufactured by Acciaierie Weissenfels S.p.A." in the column headed "Action".

(R.S. 251, secs. 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2049 (19 U.S.C. 66, 1303), as amended, 1624).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190, Revision 15, March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and §159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a countervailing duty order by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

DECEMBER 21, 1978.

[FR Doc. 79-1627 Filed 1-16-79; 8:45 am]

[4810-22-M]

(T.D. 79-18)

PART 159—LIQUIDATION OF DUTIES

Countervailing Duties—Non-rubber Footwear From Argentina

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a determination that the Government of Argentina provides benefits which constitute bounties or grants within the meaning of the countervailing duty law on the manufacture, production or exportation of non-rubber footwear. Deposited countervailing duties in the amount of these benefits will be required at the time of entry in addition to duties normally due on dutiable shipments of the merchandise.

EFFECTIVE DATE: January 17, 1979.

FOR FURTHER INFORMATION CONTACT:

James Lyons, Office of Tariff Affairs, U.S. Treasury Department, 15th Street and Pennsylvania Avenue, NW., Washington, D.C. 20220 (202-566-8256).

SUPPLEMENTARY INFORMATION: On July 12, 1977, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (42 FR 35927). The notice stated that it had been preliminarily determined that benefits had been received by Argentine manufacturer/exporters of non-rubber footwear which might constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (hereinafter referred to as "the Act").

The merchandise in question is described in part 1A of Schedule 7 of the Tariff Schedules of the United States (TSUS), excluding TSUS items 700.51, 700.52, 700.53, 700.54 and 700.60.

A reembolso, or export rebate, granted by the Government of Argentina to exporters in the amount of 20 percent of the f.o.b. value of the merchandise, was preliminarily determined to be a bounty or grant. The stated purpose of this rebate is to reimburse exporters for various taxes paid in the production or sale of the exported article and for various taxes passed on to the exporter from earlier production stages. Information contained in a survey conducted by the Argentine Government (which examined the cost structure of a preponderance of the non-rubber footwear manufacturers who export) indicates that indirect taxes assessed on the exported product or physically incorporated components which could be, but which have not been, rebated have a total incidence of 20.46 percent. According to past Treasury practice, such taxes may be rebated and are considered eligible as an offset against the reembolso. Other taxes which the Argentine Government also had presented as eligible for rebate and, thus, appropriate as an additional offset have not been determined to constitute taxes directly related to the exported product or its physical components and therefore are ineligible as an offset. These levies include labor-related taxes, calculated as a percentage of wages, and taxes on real estate, bank credits, and credits to industrial companies. The indirect taxes which are eligible for rebate, however, are more than sufficient to offset the entire reembolso. Consequently, this practice has been determined not to constitute bounty or grant within the meaning of the Act.

The 10 percent income tax exemption on export-related income is the only other practice investigated which has been determined to constitute a bounty. The value of the income tax benefit to exporters of non-rubber footwear has been calculated at 1.32 percent of f.o.b. value.

It has been determined that none of the other practices examined during the investigation constitute a bounty or grant. The non-excessive rebate of value added taxes upon the export of goods and the rebate of import duties paid on raw materials used in the production of non-rubber footwear for export were determined not to constitute bounties or grants within the meaning of the Act. Programs found not to have been utilized by the non-rubber footwear industry include the issuance of tax rebate certificates, economic development incentives, the drawback of duty on industrial equipment and export risk insurance at low rates. Two other practices, the use of multiple exchange rates and preferential financing, have been eliminated by the Government of Argentina. The current rates of interest reflect those which are prevalent commercially.

After consideration of all information received subsequent to the preliminary determination, it is hereby determined that exports of non-rubber footwear from Argentina benefit from bounties or grants within the meaning of section 303 of the Act (19 U.S.C. 1303) in the form of the income tax exemption on export-related income.

Accordingly, notice is hereby given that non-rubber footwear, imported directly or indirectly from Argentina, if entered, or withdrawn from warehouse, for consumption on or after January 17, 1979, will be subject to payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303 of the Act and until further notice, the net amount of such bounties or grants has been determined to be .86 percent of the f.o.b. price for export of non-rubber footwear to the United States.

Effective on or after January 17, 1979, upon the entry, or withdrawal from warehouse, for consumption of the merchandise from Argentina which benefits from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of non-rubber footwear from Argentina are subject to a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

The Government of Argentina has suggested that additional information regarding the applicable rates of indirect taxes assessed on the exported footwear or its physical components may be forthcoming. Should any additional information, once received and analyzed, result in any change in the size of the bounties or grants presently determined to exist, notice thereof will be published, declaring whether new rates would then be applicable to entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of such a notice in the FEDERAL REGISTER.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation of non-rubber footwear manufactured in Argentina.

The table in §159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting, after the last entry for "Argentina", the words "non-rubber footwear" under the column headed "Commodity," the number of this Treasury Decision in the column headed "Treasury Decision" and the words "Bounty Declared-Rate" in the column headed "Action."

(R.S. 251, as amended, secs. 303, as amended, 624, 46 Stat. 687 as amended, 759 (19 U.S.C. 66, 1303, 1624). This final determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15) March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and §154.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

DECEMBER 21, 1978.

[FR Doc. 79-1628 Filed 1-16-79; 8:45 am]

[4810-22-M]

(T.D. 79-19)

PART 159—LIQUIDATION OF DUTIES

Vitamin K From Spain—Declaration of Net Amount of Bounty or Grant

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Net Amount of Bounty or Grant Declared.

SUMMARY: This notice is to advise the public of the new rate of countervailing duty applicable to imports of vitamin K from Spain. Based upon a review of information received, the net amount of benefits given by the Government of Spain which constitute bounties or grants within the meaning of the countervailing duty law upon the manufacture, production, or ex-

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portation of vitamin K has been determined to be 3.07 percent of the f.o.b. or ex-works price to the United States. Accordingly, effective today, vitamin K from Spain will be subject to countervailing duty in accordance with this declaration.

EFFECTIVE DATE: January 17, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles F. Goldsmith, Economist, Office of Tariff Affairs, U.S. Department of the Treasury, 15th Street and Pennsylvania Avenue, NW., Washington, D.C. 20220, telephone (202) 566-2323.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 16, 1976 (41 FR 50419), a notice, T.D. 76-321, was published stating that it had been determined that exports of vitamin K from Spain received bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303).

At that time, notice was given that vitamin K imported directly or indirectly from Spain, if entered for consumption or withdrawn from warehouse for consumption on or after November 16, 1976, would be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed. In accordance with section 303 and based on the information then available, the net amount of bounties or grants was determined to be 10.5 percent of f.o.b. or ex-works price to the United States.

On the basis of subsequent information submitted regarding the tax incidence on the manufacture of vitamin K, it has been ascertained and determined that the net amount of benefits paid or bestowed, directly or indirectly, by the Government of Spain on the exportation of vitamin K is 3.07 percent. The benefits are received as a result of the rebate upon export of certain elements of the Spanish indirect tax, the "Desgravacion Fiscal". The rebate consists of: (1) Taxes on services and inputs which are not physically incorporated in the final product; (2) the special tax levied on the sales of a product from a manufacturer to a wholesaler which, in fact, is not levied on export sales; and (3) the amount of a number of "parafiscal" taxes included in the computation of the rebate, all of which are deemed charges assessed for services provided and are not levied on an *ad valorem* basis on the product.

Accordingly, effective on January 17, 1979, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable vitamin K imported directly or indirectly from Spain which benefit from such bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

Any merchandise subject to the terms of this declaration shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be paid or credited, directly or indirectly, upon the manufacture, production, or exportation of such vitamin K from Spain.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry for "vitamin K" under the country heading "Spain", the number of this Treasury Decision in the column so headed and the words "New rate" in the column headed "Action".

(R.S. 251, section 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2049, (19 U.S.C. 66, 1303), as amended, 1624).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

DECEMBER 20, 1978.

[FR Doc. 79-1629 Filed 1-16-79; 8:45 am]

[4810-22-M]

[T.D. 79-21]

PART 159—LIQUIDATION OF DUTIES

Unwrought Zinc From Spain—Declaration of Net Amount of Bounty or Grant

AGENCY: Customs Service, United States Treasury Department.

ACTION: Net Amount of Bounty or Grant Declared.

SUMMARY: This notice is to advise the public of the decision to reinstate the basis for calculating the countervailing duty applicable to imports of unwrought zinc from Spain which prevailed prior to the Treasury Department's decision with respect to the product announced on June 15, 1978 (43 FR 25812). A countervailing duty is imposed when the Treasury Department determines that a bounty or grant is being paid to producers and exporters of merchandise. Based upon a review of the decision made in June, the Treasury Department has determined that only those indirect taxes which are directly related to the product, in the sense that the tax is assessed on the exported product or its physical components or packing (making allowance for waste) may be considered as an offset against the benefits represented by the Desgravacion Fiscal. The net amount of benefits given by the Government of Spain which constitute bounties or grants upon the manufacture, production or exportation of unwrought zinc, within the meaning of the countervailing duty law, has been determined to be 3.24 percent of the f.o.b. price to the United States. Accordingly, effective today, unwrought zinc from Spain will be subject to countervailing duty in accordance with this determination.

EFFECTIVE DATE: January 7, 1979.

FOR FURTHER INFORMATION CONTACT:

James Lyons, Office of Tariff Affairs, United States Treasury Department, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220, telephone 202-566-8256.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of April 8, 1977 (42 FR 18587), notice was given (T.D. 77-103) that it had been determined that exports of unwrought zinc from Spain are subject to bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303).

At that time, notice was given that unwrought zinc imported directly or indirectly from Spain, if entered for consumption or withdrawn from warehouse for consumption after the expiration of 30 days after publication of the notice in the Customs Bulletin would be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed. The amount of the bounties or grants was determined to be 4 percent of the f.o.b. price to the United States.

As is indicated in the notice published contemporaneously, the Treasury Department has determined that the net amount of the bounty or grant being paid or bestowed, directly or indirectly within the meaning of section 303 of the Act, upon the exportation of unwrought zinc from Spain should be that which was determined to exist prior to June 15, 1978 less adjustments for a lower value base and taxes on export licenses and metals. This amount 2.64 percent, represents the difference between the Desgravacion Fiscal net rebate and those amounts the Government of Spain has estimated is paid by the producers of unwrought zinc or any prior stage producers in indirect taxes on any components that were physically incorporated in the exported product or its packing (making normal allowance for waste).

Effective on January 17, 1979, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable unwrought zinc imported directly or indirectly from Spain which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be paid or credited, directly or indirectly, upon the manufacture, production, or exportation of such unwrought zinc from Spain.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting in respect of the commodity "unwrought zinc" and of the country "Spain", the number of this Treasury Decision in the column headed "Treasury Decision" and the words "new rate" in the column headed "Action". (R.S. 251, secs. 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2049, 19 U.S.C. 66, 1303, as amended, 1624).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 15, March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47) insofar as they pertain to the issuance of a countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

DECEMBER 21, 1978.

[FR Doc. 79-1630 Filed 1-16-79; 8:45 am]

[4810-22-M]

[T.D. 79-22]

PART 159—LIQUIDATION OF DUTIES

Bottled Green Olives From Spain—Declaration of Net Amount of Bounty or Grant

AGENCY: Customs Service, United States Treasury Department.

ACTION: Net Amount of Bounty or Grant Declared.

SUMMARY: This notice is to advise the public of the decision to reinstate the basis for calculating the countervailing duty applicable to imports of bottled green olives from Spain which prevailed prior to the Treasury Department's decision with respect to the product announced on June 15, 1978 (43 FR 25812). A countervailing duty is imposed when the Treasury Department determines that a bounty or grant is being paid to producers and exporters of merchandise. Based upon a review of the decision made in June, the Treasury Department has determined that only those indirect taxes which are directly related to the product, in the sense that the tax is assessed on the exported product or its physical components or packing (making allowance for waste) may be considered as an offset against the benefits represented by the Desgravacion Fiscal. The net amount of benefits given by the Government of Spain which constitute bounties or grants upon the manufacture, production or exportation of bottled green olives, within the meaning of the countervailing duty law, has been determined to be 2.84 percent of the f.o.b. price to the United States. Accordingly, effective today, bottled green olives from Spain will be subject to countervailing duty in accordance with this determination.

EFFECTIVE DATE: January 17, 1979.

FOR FURTHER INFORMATION CONTACT:

James Lyons, Office of Tariff Affairs, United States Treasury Department, 15th and Pennsylvania Avenue, NW., Washington, D.C. 20220, telephone 202-566-8256.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of September 12, 1974 (39 FR 32904), notice was given (T.D. 74-234) that it had been determined that exports of bottled green olives from Spain are subject to bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303).

At that time, notice was given that bottled green olives imported directly or indirectly from Spain, if entered for consumption or withdrawn from warehouse for consumption after the expiration of 30 days after publication of the notice in the Customs Bulletin would be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed. The amount of the bounties or grants was determined to be 2.9 percent of the f.o.b. price to the United States.

As is indicated in the notice published contemporaneously, the Treasury Department has determined that the net amount of the bounty or grant being paid or bestowed, directly or indirectly within the meaning of section 303 of the Act, upon the exportation of bottled green olives from Spain should be that which was determined to exist prior to June 15, 1978 less adjustments for tax on export license. This amount 2.44 percent, represents the difference between the Desgravacion Fiscal net rebate and those amounts the Government of Spain has estimated is paid by the producers of bottled green olives or any prior stage producers in indirect taxes on any components that were physically incorporated in the exported product or its packing (making normal allowance for waste).

Effective on January 17, 1979, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable bottled green olives imported directly or indirectly from Spain which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be paid or credited, directly or indirectly, upon the manufacture, production, or exportation of such bottled green olives from Spain.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting in respect of the commodity "bottled green olives" and of the country "Spain", the number of this Treasury Decision in the column headed "Treasury Decision" and the words "new rate" in the column headed "Action". (R.S. 251, secs. 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2049, 19 U.S.C. 66, 1303, as amended, 1624).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 15, March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47) insofar as they pertain to the issuance of a countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

DECEMBER 21, 1978.

[FR Doc. 79-1631 Filed 1-16-79; 8:45 am]

[4810-22-M]

[T.D. 79-23]

PART 159—LIQUIDATION OF DUTIES

Non-rubber Footwear From Spain—Declaration of Net Amount of Bounty or Grant

AGENCY: Customs Service, United States Treasury Department.

ACTION: Net Amount of Bounty or Grant Declared.

SUMMARY: This notice is to advise the public of the decision to reinstate the basis for calculating the countervailing duty applicable to imports of non-rubber footwear from Spain which prevailed prior to the Treasury Department's decision with respect to the product announced on June 15, 1978 (43 FR 25812). A countervailing

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duty is imposed when the Treasury Department determines that a bounty or grant is being paid to producers and exporters of merchandise. Based upon a review of the decision made in June, the Treasury Department has determined that only those indirect taxes which are directly related to the product, in the sense that the tax is assessed on the exported product or its physical components or packing (making allowance for waste) may be considered as an offset against the benefits represented by the Desgravación Fiscal. The net amount of benefits given by the Government of Spain which constitute bounties or grants upon the manufacture, production or exportation of non-rubber footwear, within the meaning of the countervailing duty law, has been determined to be 2.54 percent of the f.o.b. price to the United States. Accordingly, effective today, non-rubber footwear from Spain will be subject to countervailing duty in accordance with this determination.

EFFECTIVE DATE: January 17, 1979.

FOR FURTHER INFORMATION CONTACT:

James Lyons, Office of Tariff Affairs, United States Treasury Department, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220, telephone 202-566-8256.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of September 12, 1974 (39 FR 32904), notice was given (T.D. 74-235) that it had been determined that exports of non-rubber footwear from Spain are subject to bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303).

At that time, notice was given that non-rubber footwear imported directly or indirectly from Spain, if entered for consumption or withdrawn from warehouse for consumption after the expiration of 30 days after publication of the notice in the Customs Bulletin would be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed. The amount of the bounties or grants was determined to be 3 percent of the f.o.b. price to the United States.

As is indicated in the notice published contemporaneously, the Treasury Department has determined that the net amount of the bounty or grant being paid or bestowed, directly or indirectly within the meaning of section 303 of the Act, upon the exportation of non-rubber footwear from Spain should be that which was determined to exist prior to June 15, 1978 less adjustments for an export license tax and a previous overvaluation of the basis upon which the Desgravacion Fiscal was calculated. This amount, 2.27 percent, represents the difference between the Desgravacion Fiscal net rebate and those amounts the Government of Spain has estimated is paid by the producers of non-rubber footwear or any prior stage producers in indirect taxes on any components that were physically incorporated in the exported product or its packing (making normal allowance for waste).

Effective on January 17, 1979, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable non-rubber footwear imported directly or indirectly from Spain which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be paid or credited, directly or indirectly, upon the manufacture, production, or exportation of such non-rubber footwear from Spain.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting in respect of the commodity "non-rubber footwear" and of the country "Spain", the number of this Treasury Decision in the column headed "Treasury Decision" and the words "new rate" in the column headed "Action". (R.S. 251, secs. 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2049, 19 U.S.C. 66, 1303, as amended, 1624).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 15, March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47) insofar as they pertain to the issuance of a countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

DECEMBER 21, 1978.

[FR Doc. 79-1632 Filed 1-16-79; 8:45 am]

[4810-22-M]

PART 159—LIQUIDATION OF DUTIES

Notice of Revised Method for Calculation of Bounty or Grant With Regard to Certain Indirect Taxes

AGENCY: Treasury Department.

ACTION: Method of Calculation of "Net Amount" of bounty or grant in determining countervailing duties revised.

SUMMARY: A notice published in the June 15, 1978, issue of the FEDERAL REGISTER set forth a revised method by which the Treasury Department would determine the "net amount" of bounties or grants under the countervailing duty law with regard to the rebate of various indirect taxes. This notice is to advise the public that the Department has reviewed the bases for its determination of June 15, 1978, and hereby restores the rule previously applied. Treasury Decisions establishing new rates of duty with respect to affected products from Spain are being published contemporaneously. A notice which applies the revised method of calculation to certain textiles and textile products from Colombia and India and chains from Italy also is published today. Two final determinations involving leather products from Argentina which reflect the revised method of calculation announced today are also published. In several other investigations which have not yet proceeded beyond preliminary determinations, the revision in the method by which bounties or grants will henceforth be calculated will be reflected in the final determinations.

FOR FURTHER INFORMATION CONTACT:

Richard B. Self, Director, Office of Tariff Affairs, U.S. Treasury Department, Room 1124, Washington, D.C. 20220, telephone (202-566-8585).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 15, 1978 (43 FR 25812) a notice was published adopting a revised method by which the "net amounts" of bounties or grants would be determined under the countervailing duty law, 19 U.S.C. section 1303, with regard to the rebate of various indirect taxes. A subsequent notice, published on August 29, 1978 (43 FR 38658), indicated that the Department had decided to review the bases upon which it had revised its method of calculating the "net amounts" of bounties or grants in such instances. Comments from interested persons were invited.

The Department, having considered the comments received, has recalculated the "net amount" of the "bounty" or "grant" bestowed prior to the June 15, 1978 notice for the reasons set forth herein. With regard to affected products from countries with a cascade-type turnover tax system and to other countervailing duty investigations in which the net amount of the bounty or grant has been calculated on the basis of the "directly related" concept adopted in the June 15 decision, the net amount of the bounty or grant shall be determined by subtracting from the aggregate amounts of the rebates paid to exporters of a particular product, only those amounts which the government providing such rebates has, to the satisfaction of the Secretary, estimated are paid by the producers of those products, or prior stage producers, in indirect taxes on any components physically incorporated in the exported product or its packing (making normal allowances for waste). The Department consistently has considered the export rebate of indirect taxes directly related to an exported product or its components as not being a bounty or grant under the countervailing duty law. Upon review, it has been concluded that this standard insofar as it applied to prior stage taxes will continue to guide the Treasury as it applies the countervailing duty law to the rebate of certain non-excessive indirect taxes.

All Treasury Decisions with respect to products imported from countries remitting or rebating on export value added taxes uniformly have determined that the remission or rebate of the full amount of final stage value added taxes is not a "bounty" or "grant" within the meaning of the countervailing duty law. In the decision announced last June, it was noted that a turnover tax system may be, in its economic effects, similar to a system using taxes on "value added." Accordingly, it was determined that as the amount of the final stage value added tax rebated or remitted to the exporter of merchandise from one country includes any taxes on prior stages and is not treated as a "bounty" or "grant", it would be inappropriate to deny to an exporter in a country using a cascade turnover tax system similar treatment with respect to individual indirect taxes paid both at the final stage and in prior stages of the production of the exported merchandise.

A final stage tax on value added is, in form and effect, no different from sales and excise taxes, whose non-excessive remission on the export of the affected merchandise has long been regarded as not constituting a bounty or grant. The principle of not regarding the non-excessive rebate of final stage sales and excise taxes as countervailable was affirmed by the Supreme Court in *Zenith Radio Corp. v. United States*, 437 U.S. 433 (1978). The rebate of the final stage sales tax in a cascade tax system will continue to be regarded as not constituting a bounty or grant under this rule.

However, in addition, all producers and exporters in a country in which a value added tax applies receive rebates of prior stage value added taxes, whether or not the product is exported. On the other hand, only exporters receive rebates of prior stage taxes under a cascade type tax, giving the latter system a potential for favoring exports. Furthermore, under a value added tax system, the total tax borne by the product is determined precisely and solely by its value at the final stage and it is irrelevant to the size and incidence of that tax and its rebate or remission upon exportation whether the taxes assessed at prior stages were on physical components of the final product, or, indeed, whether any taxes were assessed at earlier stages. On the other hand, the total tax borne by a product under a cascade type tax system is very difficult to determine, and may only in small part be composed of the final stage tax; the bulk of the tax burden may arise from taxes assessed at prior stages. Thus, whatever general similarity may exist between the two systems in broad economic effect, they differ in their application and in their impact upon manufacturers or exporters. Equalizing them is not required by either domestic law or international practice.

Furthermore, experience with a number of determinations made since the publication of the decisions announced in June suggests that the effort made to equalize the effects of the two tax systems is not practical. Nevertheless, the Department has long recognized the propriety of permitting rebates of prior stage indirect taxes on the physical components (or necessary waste) and packing of exported merchandise. Generally, these constitute the largest proportion of prior stage taxes incurred. Such taxes are readily identifiable and capable of reasonable estimation. This principle will continue to be applied. Other taxes, although in an accounting or economic sense perhaps regarded as "directly related" to production, may in fact relate to labor inputs or to elements of overhead. Rebates intended to cover such taxes, often numerous, complex and difficult to quantify, will be regarded as countervailable grants. This standard should be easily understood and appears to be fair and equitable.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JANUARY 12, 1979.

[FR Doc. 79-1623 Filed 1-16-79; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-4345]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Flushing, Genesee County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Flushing, Genesee County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Flushing, Genesee County, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Flushing are available for review at the City Hall, Flushing, Michigan.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Flushing, Genesee County, Michigan.

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This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Flint River	Northeast corporate limit.	667
	2,700 feet downstream of Main Street.	669
	At Main Street	674
	2,650 feet upstream of Main Street.	677
	7,600 feet upstream of Main Street.	680
	5,300 feet downstream of east corporate limit.	684
	At east corporate limit	687
Cole Creek	20 feet downstream of Grand Trunk Western Railroad.	669
	80 feet upstream of Seymour Road.	674
	360 feet upstream of Seymour Road.	674
	1,430 feet upstream of Seymour Road.	679
	1,830 feet upstream of Seymour Road.	681
	120 feet downstream of Pierson Road.	684
	50 feet upstream of Pierson Road.	690
	540 feet upstream of Pierson Road.	691
	730 feet upstream of Pierson Road.	692
	200 feet downstream of Grand Trunk Western Railroad.	694
	50 feet downstream of Seymour Road.	696
	50 feet upstream of Seymour Road.	698
	550 feet upstream of Seymour Road.	699
	At southwest corporate limit.	702
Mud Creek	At corporate limit downstream of Morrish Road.	688
	50 feet downstream of Morrish Road.	691
	50 feet upstream of Morrish Road.	695
	450 feet upstream of Morrish Road.	695

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1125 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4348]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Rockwood, Wayne County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Rockwood, Wayne County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Rockwood, Wayne County, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Rockwood are available for review at the City Hall, Rockwood, Michigan.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Rockwood, Wayne County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Huron River	East corporate limit	579
	Just downstream Detroit & Toledo Shoreline Railroad.	582
	Just upstream of Conrail.	583
	Just downstream Fort Street.	584
	Just upstream of Conrail (at Fort Street).	585
	Just upstream of Interstate 75.	586
	West corporate limit	587
Smith Creek	East corporate limit	577
Silver Creek	East corporate limit	577
	At Huron River Drive	578
	Just upstream of railroad spur to Silica Mine.	580
	Just downstream of Detroit & Toledo Shoreline Railroad.	581
	Just downstream of Fort Street.	582
	100 feet downstream of Interstate 75.	585
	West corporate limit	587

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1126 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4447]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Halstad, Norman County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Halstad, Norman County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Halstad, Norman County, Minnesota.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Halstad are available for review at the City Hall, Halstad, Minnesota.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for City of Halstad, Norman County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Red River of the North.	Intersection of Lake Street and 4th Street.	867
	Intersection of Main Street and 5th Street.	867
		Depth in feet, above-ground level
Red River of the North.	Intersection of Northern Corporate Limit and U.S. Highway 75.	3
	Intersection of 5th Street and U.S. Highway 75.	3
	Intersection of 2nd Avenue and 5th Street.	3

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1127 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4448]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Perley, Norman County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Perley, Norman County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Perley, Norman County, Minnesota.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Perley are available for review at the Perley City Hall, Perley, Minnesota.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for City of Perley, Norman County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Red River of the North.	West of U.S. Highway 75.	878
		Depth in feet, above-ground level
Red River of the North.	East of U.S. Highway 75	1

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33

FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1128 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4349]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Dearborn, Platte County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Dearborn, Platte County, Missouri. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Dearborn, Platte County, Missouri.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Dearborn are available for review at the City Hall, Dearborn, Missouri.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for City of Dearborn, Platte County, Missouri.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bee Creek	Southwest Corporate Limit.	877
	200 feet Upstream from Highway 371.	878
	Northern Corporate Limit.	878
Bee Creek Tributary.	At Confluence with Bee Creek.	877
	70 feet Upstream of Great Western Railroad.	878
	At Southern Corporate Limit 100 feet Upstream from Main Street.	879

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1129 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4229]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Des Peres, St. Louis County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Des Peres, St. Louis County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Des Peres, St. Louis County, Mo.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Des Peres are available for review at the Department of Public Works, City Hall, Des Peres, Missouri.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Des Peres, St. Louis County, Mo.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Twomile Creek	West corporate limit	553
	Fawnvalley Drive	556
	Confluence with Claychester Creek.	562
	Claychester Drive	565
	950 feet upstream of Claychester Drive.	568
Northwest Branch Twomile Creek.	Confluence with Twomile Creek.	555
	50 feet downstream of Firethorn Drive.	555
	450 feet upstream of Firethorn Drive.	557
	500 feet downstream of Gray Drive.	561
	50 feet downstream of Gray Drive.	562
	50 feet upstream of Gray Drive.	564
	250 feet upstream of Gray Drive.	565
	North corporate limits	569
Des Peres Creek	Confluence with Sugar Creek.	448
	Des Peres Road	452
	200 feet upstream of Des Peres Road.	453
	50 feet downstream of entrance to Normandy Osteopathic Hospital.	456
	50 feet upstream of Normandy Osteopathic Hospital.	460
Sugar Creek	1,000 feet upstream of west corporate limits.	445
	200 feet downstream of Dougherty Ferry Road.	447
	Dougherty Ferry Road	449
	400 feet upstream of Dougherty Ferry Road.	451
	200 feet downstream of Highland Drive.	454
	Highland Drive	456
	200 feet upstream of Interstate 270.	463
	East corporate limits	464

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1130 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4228]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Grandview, Jackson County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Grandview, Jackson County, Missouri. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Grandview, Jackson County, Missouri.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Grandview are available for review at the Community Development Office, City Hall, Grandview, Missouri.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for City of Grandview, Jackson County, Missouri.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Blue River	Just Upstream of Kelly Road.	897
	1,900 feet Upstream of Kelly Road.	904
	1,600 feet Downstream of Byars Road.	920
	Just Upstream of 139th Street.	924
	825 feet Upstream of Merrywood Lane.	932
	Confluence of Oil Creek	937
	1,160 feet Downstream of Outer Belt Road.	939
	Just Downstream of Outer Belt Road.	942
	100 feet Upstream of Outer Belt Road.	943
	50 feet Downstream of Barat Avenue.	948
	Upstream corporate limit..	950
Oil Creek	750 feet Upstream of Mouth.	937
	1,320 feet Downstream of Outer Belt Road.	943
	50 feet Downstream of Outer Belt Road.	948
	Just Downstream of South Outer Road.	951
	50 feet Upstream of South Outer Road.	953
	1,600 feet Upstream of South Outer Road.	953
	4,350 feet Downstream of Southern corporate limits.	962
	Southern corporate limits.	975

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1131 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI- 4227]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Jennings, St. Louis County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Jennings, St. Louis County, Missouri. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Jennings, St. Louis County, Missouri.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Jennings are available for review at the City Hall, 2120 Hord Avenue, Jennings, Missouri.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Jennings, St. Louis County, Missouri.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Maline Creek	Eastern corporate limits	457
	Western corporate limits.	457

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1132 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4449]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of New Madrid, New Madrid County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of New Madrid, New Madrid County, Missouri. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of New Madrid, New Madrid County, Missouri.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of New Madrid are available for review at the City Hall, 560 Mott Street, New Madrid, Missouri

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for City of New Madrid, New Madrid County, Missouri.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River...	Adjacent to community..	304
Rainfall Ponding Within Community.	Intersection of Line Street and Mill Street.	297
	Intersection of Capital Boulevard and Mill Street.	297
	Intersection of Pinnell Lane and Second Street.	297
	Intersection of Dawson Road and Sycamore Street.	297

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1133 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4352]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Tracy, Platte County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Tracy, Platte County, Missouri. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Tracy, Platte County, Missouri.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Tracy are available for review at the home of Mayor Hartland, Andy Street, Tracy, Missouri.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Tracy, Platte County, Missouri.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National Geodetic Vertical Datum
Platte River	Corporate Limit 2640 feet above Missouri Highway 92. Andy Street (Extended).	786
		786

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1134 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4351]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Weston, Platte County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Weston, Platte County, Missouri. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Weston, Platte County, Missouri.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Weston are available for review at the City Hall, 526 Main, Weston, Missouri.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Weston, Platte County, Missouri.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Brills Creek	50 feet upstream of Washington Street.	784
	150 feet upstream of State Highway 45..	803
Benner Branch	At Burlington Northern Railroad.	780
	Just upstream of Spring Street.	782
	Upstream corporate limit.	795
Wells Branch	At Burlington Northern Railroad..	780
	Just upstream of private road approximately 1,300 feet downstream of west corporate limit.	805

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Eastern corporate limit.	815

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1135 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4450]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Scottsbluff, Scotts Bluff County, Nebr.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Scottsbluff, Scotts Bluff County, Nebraska. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Scottsbluff, Scotts Bluff County, Nebraska.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Scottsbluff are available for review at the City Hall, 1818 Avenue A, Scottsbluff, Nebraska.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for City of Scottsbluff, Scotts Bluff County, Nebraska.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Platte River.	East extraterritorial limits near sewage disposal ponds.	3,855
	1,800 feet downstream from Broadway Avenue.	3,874
	1,200 feet upstream from Broadway Avenue.	3,876
	Just downstream from Avenue I.	3,878
	Just upstream from Avenue I.	3,880
	3,900 feet upstream from Avenue I.	3,881
	West corporate limits	3,886
	West extraterritorial limits near Nansen Island.	3,888
	Just Downstream of State Highway 29.	3,894
	3,400 feet upstream of State Highway 29.	3,897

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1136 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4421]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Nashua, Hillsborough County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Nashua, Hillsborough County, N.H.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Nashua, Hillsborough County, New Hampshire.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Nashua, Hillsborough County, New Hampshire, are available for review at the Planning Office, City Hall, 229 Main Street, Nashua, New Hampshire 03060.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Nashua, Hillsborough County, New Hampshire.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merimack River	Just upstream of Circumferential Highway.	112
	Approximately 500 feet upstream of New Hampshire Route 111.	114
	Hills Ferry Road (extended).	115
Pennichuck Brook	Just upstream of Supply Pond Dam.	139
	Just upstream of F.E. Everett Turnpike.	175
	Just upstream of Holts Pond Dam.	185
	Just upstream of the Boston and Maine Railroad nearest to the Western Corporate Limits.	191
Nashua River	Just upstream of Canal Street Bridge.	116
	Just upstream of F.E. Everett Turnpike.	132
	Approximately 500 feet upstream of Mine Falls Dam.	166
	Skyline Drive (extended).	168
	Southern Corporate Limits.	177
Salmon Brook	Just upstream of Allds Street Bridge.	118
	Just upstream of Harris Road.	151
	Just upstream of Ridge Road.	160
Bartemus Brook	Just downstream of Western Corporate Limits.	168
Hassells Brook	Just upstream of Lund Road.	155
Spit Brook	Appoximately 500 feet upstream of dam near Royal crest Drive.	162
Lyle Reed Brook	Just upstream of State Route 111.	169

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 13, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1137 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4422]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the town of Northfield, Merrimack County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Northfield, Merrimack County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Northfield, Merrimack County, New Hampshire.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Northfield are available for review at the Town Office, Northfield, New Hampshire.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Northfield, Merrimack County, New Hampshire.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Winnipesaukee River	At northwestern corporate limits.	386
	Just upstream of Cross Mill Road.	406
	Confluence of Williams Brook.	413
	1,500 feet downstream of Tilton Dam.	416
	Just downstream of Tilton Dam.	434
	Just upstream of Tilton Dam.	446
	Just upstream of Elm Street Bridge.	451
	Just upstream of Boston and Maine Railroad.	456
	Just upstream of Interstate 93.	468
	At northeastern corporate limits.	471
Williams Brook	At confluence with Winnipesaukee River.	413
	Just upstream of Sargent Road.	414
	Just upstream of New Forest Road.	419
	Just downstream of Route 3B.	429
	Just upstream of Route 3B.	434
	Just upstream of Interstate 93.	442
Tioga River	Confluence with Winnipesaukee River.	471
	Just upstream of Route 140.	474
	Northeastern corporate limit.	477
Merrimack River	Southwestern corporate limit.	268
	Confluence with Cross Brook.	268
	Western corporate limit.	269

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Sectin 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1138 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4507]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the town of Salem, Rockingham County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Salem, Rockingham County, New Hampshire.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Salem, Rockingham County, New Hampshire.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Salem are available for review at the Town Office, Salem, New Hampshire.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Salem, Rockingham County, New Hampshire.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Spickett River	Southern corporate limits.	112
	Just upstream of Boston and Maine Railroad.	118
	Just upstream of State Route 28.	114
	0.25 mile downstream from Bridge Street.	118
	Upstream side of Bridge Street.	120
	Upstream side of Town Farm Road.	122
	Just downstream of North Main Street.	126
	Just downstream of Wheeler Dam.	127
	Just upstream of Wheeler Dam.	162
	Just downstream of North Main Street 1.7 miles upstream of Wheeler Dam.	162
Policy Brook/ unnamed brook.	Inlet to Rockingham Park inlet.	124
	Just downstream of Boston and Maine Railroad.	126
	Just upstream of State Route 28.	127
	Just upstream of Main Street.	127

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1139 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4423]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Sanbornton, Belknap County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Sanbornton, Belknap County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Sanbornton, Belknap County, New Hampshire.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Sanbornton, Belknap County, New Hampshire, are available for review at the Town Office, Sanbornton, New Hampshire.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Sanbornton, Belknap County, New Hampshire.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Black Brook	Mouth at Lake Winnisquam.	486
	950 feet Downstream of Black Brook Road.	486
	40 feet Downstream of Black Brook Road.	489
	Just Upstream of Black Brook Road.	492
	975 feet Upstream of Black Brook Road.	492
Chapman Brook	Mouth at Lake Winnisquam.	486
	1,650 feet Upstream of Bay Road.	486
	100 feet Downstream of Chapman Road.	491
	Just Upstream of Chapman Road.	494
	Just Downstream of Philbrook Road.	500
	Just Upstream of Philbrook Road.	502
	300 feet Upstream of Philbrook Road.	502
	50 feet Downstream of Poplar Road.	518
	50 feet Upstream of Poplar Road.	522
Tributary A (located entering Lake Winnisquam, approximately 700 feet North of the Mouth of Chapman Brook).	Mouth at Lake Winnisquam.	486
	40 feet Downstream of Lower Bay Road.	499
	Just Upstream of Lower Bay Road.	503
	50 feet Downstream of Bay Road.	517
	Just Downstream of Bay Road.	520
	Just Upstream of Bay Road.	523
	150 feet Upstream of Bay Road.	523
	1,260 feet Upstream of Bay Road.	547
	3,400 feet Upstream of Bay Road.	574
Salmon Brook	Downstream Corporate Limit.	414
	2,530 feet Downstream of Prescott Road.	418
	25 feet Upstream of Prescott Road.	468
	160 feet Upstream of Prescott Road.	472
	50 feet Downstream of Interstate 93.	587
	180 feet Upstream of Interstate 93.	588
	100 feet Downstream of Tilton Bridge Road.	589
	100 feet Upstream of Tilton Bridge Road.	591
	2,400 feet Upstream of Tilton Bridge Road.	594

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1140 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4317]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Island Heights, Ocean County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Island Heights, Ocean County, New Jersey.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Island Heights, Ocean County, New Jersey.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Island Heights, Ocean County, New Jersey, are available for review at the Island Heights Borough Hall, Island Heights, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Island Heights, Ocean County, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Barnegat Bay	Entire Shoreline	6

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1141 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4319]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Point Pleasant Beach, Ocean County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for se-

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lected locations in the Borough of Point Pleasant Beach, Ocean County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Point Pleasant Beach, Ocean County, New Jersey.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Point Pleasant Beach, Ocean County, New Jersey, are available for review at the Point Pleasant Beach Borough Hall, New Jersey Avenue, Point Pleasant Beach, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Point Pleasant Beach, Ocean County, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Shoreline	8

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1142 Filed 1-16-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4094]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Town of Maynard, Middlesex County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Maynard, Middlesex County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Maynard are available for review at the Town Clerk's Office, Maynard, Mass.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Maynard, Middlesex County, Mass.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Maynard, Middlesex County, Mass.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Assabet River.....	At Acton-Maynard Town Line.	146
	120 feet Downstream of Waltham Street.	146
	700 feet Upstream of Waltham Street.	152
	At Walnut Street.....	155
	Just Downstream of Florida Road.	160
	1500 feet Upstream of Florida Road.	165
	100 feet Downstream of Mill Street.	169
	100 feet Upstream of Mill Street.	170
	130 feet Upstream of Great Road.	174
	Just Downstream of American Woolen Co. Dam.	175
	Just Upstream of American Woolen Co. Dam.	179
	At Western Corporate Limits.	180
Fort Pond Brook Branch.	160 feet Upstream of Stone Culvert.	200
	60 feet Upstream of Rockland Street.	205
Taylor Brook	At Confluence with Assabet River.	179
	20 feet Upstream of Abandoned Boston & Main Railroad.	180

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: July 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1428 Filed 1-16-79; 8:45 am]

[1505-01-M]

Title 36—Parks, Forests, and Public Property

CHAPTER 1—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 1—MISCELLANEOUS PROVISIONS

PART 7—SPECIAL REGULATIONS; AREAS OF THE NATIONAL PARK SYSTEM

Interim Rules for New Alaska National Monuments Managed by the National Park Service

Correction

In FR Doc. 78-35953, appearing at page 60252 in the issue of Tuesday, December 26, 1978, the two CFR part headings in column two, page 60254 should read as follows:

PART 1—MISCELLANEOUS PROVISIONS

PART 7—SPECIAL REGULATIONS; AREAS OF THE NATIONAL PARK SYSTEM

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1017-7]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Wood Residue-Fired Steam Generators

APPLICABILITY DETERMINATION

AGENCY: Environmental Protection Agency.

ACTION: Notice of Determination.

SUMMARY: This notice presents the results of a performance review of particulate matter control systems on wood residue-fired steam generators. On November 22, 1976 (41 FR 51397), EPA amended the standards of performance of new fossil-fuel-fired steam generators to allow the heat content of wood residue to be included with the heat content of fossil-fuel when determining compliance with the standards. EPA stated in the preamble that there were some questions about the feasibility of units burning a large portion of wood residue to achieve the particulate matter standard and announced that this would be reviewed. This review has been completed, and EPA concludes that the particulate matter standard can be achieved, therefore, no revision is necessary.

ADDRESSES: The document which presents the basis for this notice may be obtained from the Public Information Center (PM-215), U.S. Environmental Protection Agency, Washington, D.C. 20460 (specify "Wood Residue-Fired Steam Generator Particulate Matter Control Assessment," EPA-450/2-78-044.)

The document may be inspected and copied at the Public Information Reference Unit (EPA Library), Room 2922, 401 M Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Director, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5271.

SUPPLEMENTARY INFORMATION: On November 22, 1976, standards under 40 CFR Part 60, Subpart D for new fossil-fuel-fired steam generators were amended (41 FR 51397) to clarify that the standards apply to each fossil-fuel and wood residue-fired steam generating unit capable of firing fossil-fuel at a heat input of more than 73 megawatts (250 million Btu per hour). The primary objective of this amendment is to allow the heat input provided by wood residue to be used as a dilution agent in the calculations necessary to determine sulfur dioxide emissions. EPA recognized in the preamble of the amendment that questions remained concerning the ability of affected facilities which burn substantially more wood residue than fossil-fuel to comply with the standard for particulate matter. The preamble also stated that EPA was continuing to gather information on this question. The discussion that follows summarizes the results of EPA's examination of available information.

INTRODUCTION

Wood residue is a waste by-product of the pulp and paper industry which consists of bark, sawdust, slabs, chips, shavings, and mill trims. Disposal of this waste prior to the 1960's consisted mostly of incineration in Dutch ovens or open air tepees. Since then the advent of the spreader stroker boiler and the increasing costs of fossil-fuels has made wood residue an economical fuel to burn in large boilers for the generation of process steam.

There are several hundred steam generating boilers in the pulp and paper and allied forest product industry that use fuel which is partly or totally derived from wood residue. These boilers range in size from 6 megawatts (20 million Btu per hour) to 146 megawatts (500 million Btu per hour) and the total emissions from all boilers is estimated to be 225 tons of particulate matter per day after application of existing air pollution control devices.

Most existing wood residue-fired boilers subject to State emission standards are equipped with multitube-cyclone mechanical collectors. Manufacturers of the multitube collector have recognized that this type of control will not meet present new source standards and have been developing processes and devices to meet the new regulations. However, the use of these various systems on wood residue-fired boilers has not found widespread use to date, resulting in an information gap on expected performance of collector types other than conventional mechanical collectors.

In order to provide needed information in this area and to answer questions raised in the November 22, 1976 (41 FR 51397), amendment, a study was conducted on the most effective control systems in operation on wood residue-fired boilers. Also the amount and characteristics of the particulate emissions from wood residue-fired boilers was studied. The review that follows presents the results of that study.

PERFORMANCE REVIEW

The combustion of wood residue results in particulate emissions in the form of bark char or fly ash. Entrained with the char are varying amounts of sand and salt, the quantity depending on the method by which the original wood was logged and delivered. The fly ash particulates have a lower density and are larger in size than fly ash from coal-fired boilers. In general, the bark boiler exhaust gas will have a lower fly ash content than emissions from similar boilers burning physically cleaned coals or low-sulfur Western coals.

The bark fly ash, unlike most fly ash, is primarily unburned carbon. With collection and reinjection to the

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boiler, greater carbon burnout can increase boiler efficiency from one to four percent. The reinjection of collected ash also significantly increases the dust loading since the sand is also recirculated with the fly ash. This increased dust loading can be accommodated by the use of sand separators or decantation type dust collectors. Collectors of this type in combination with more efficient units of air pollution control equipment constitute the systems currently in operation on existing plants that were found to operate with emissions less than the 43 nanograms per joule (0.10 pounds per million Btu) standard for particulate matter.

A survey of currently operated facilities that fire wood residue alone or in combination with fossil-fuel shows that most operate with mechanical collectors; some operate with low energy wet scrubbers, and a few facilities currently use higher energy venturi scrubbers (HEVS) or electrostatic precipitators (ESP). One facility reviewed is using a high temperature baghouse control system.

Currently, the use of multitube-cyclone mechanical collectors on hogged-fuel boilers provides the sole source of particulate removal for a majority of existing plants. The most commonly used system employs two multiclones in series allowing for the first collector to remove the bulk of the dust and a second collector with special high efficiency vanes for the removal of the finer particles. Collection efficiency for this arrangement ranges from 65 to 95 percent. This efficiency range is not sufficient to provide compliance with the particulate matter standard, but does provide a widely used first stage collection to which other control systems are added.

Of special note is one facility using a Swedish designed mechanical collector in series with conventional multiclone collectors. The Swedish collector is a small diameter multitube cyclone with a movable vane ring that imparts a spinning motion to the gases while at the same time maintaining a low pressure differential. This system is reducing emissions from the largest boiler found in the review to 107 nanograms per joule.

Electrostatic precipitators have been demonstrated to allow compliance with the particulate matter standard when coal is used as an auxiliary fuel. Available information indicates that this type of control provides high collection efficiencies on combination wood residue coal-fired boilers. One ESP collects particulate matter from a 50 percent bark, 50 percent coal combination fired boiler. An emission level of 13 nanograms per joule (.03 pounds per million Btu) was obtained using test methods recommended by the American Society of Mechanical Engineers.

The fabric filter (baghouse) particulate control system provides the highest collection efficency available, 99.9 percent. On one facility currently using a baghouse on a wood residue-fired boiler, the sodium chloride content of the ash being filtered is high enough (70 percent) that the possibility of fire is practically eliminated. Source test data collected with EPA Method 5 showed this system reduces the particulate emissions to 5 nanograms per joule (0.01 pounds per million Btu).

The application of fabric filters to control emissions from hogged fuel boilers has recently gained acceptance from several facilities of the paper and pulp industry, mainly due to the development of improved designs and operation procedures that reduce fire hazards. Several large sized boilers, firing salt and non-salt laden wood residue, are being equipped with fabric filter control systems this year and the performance of these installations will verify the effectiveness of fabric filtration.

Practically all of the facilities currently meeting the new source particulate matter standard are using wet scrubbers of the venturi or wet-impinger type. These units are usually connected in series with a mechanical collector. Three facilities reviewed which are using the wet-impingement type wet scrubber on large boilers burning 100 percent bark are producing particulate emissions well below the 43 nanograms per joule standard at operating pressure drops of 1.5 to 2 kPa (6 to 8 inches, H_2O). Five facilities using venturi type wet scrubbers on large boilers, two burning half oil and half bark and the other three burning 100 percent bark, are producing particulate emissions consistently below the standard at pressure drops of 2.5 to 5 kPa (10 to 20 inches, H_2O).

One facility has a large boiler burning 100 percent bark emitting a maximum of 5023 nanograms per joule of particulate matter into a multi-cyclone dust collector rated at an efficiency of 87 percent. The outlet loading from this mechanical collector is directed through two wet impingement-type scrubbers in parallel. With this arrangement of scrubbers, a collection efficiency of 97.7 percent is obtained at pressure drops of 2 kPa (8 inches, H_2O). Source test data collected with EPA Method 5 showed particulate matter emissions to be 15 nanograms per joule, well below the 43 nanograms per joule standard.

Another facility with a boiler of similar size and fuel was emitting a maximum of 4650 nanograms per joule into a multi-cyclone dust collector operating at a collection efficiency of 66 percent. The outlet loading from this collector is drawn into two wet-impingement scrubbers arranged in parallel. The operating pressure drop on these scrubbers was varied within the range of 1.6 to 2.0 kPa (6 to 8 inches, H_2O), resulting in a proportional decrease in discharged loadings of 25.8 to 18.5 nanograms per joule. Source test data collected on this source was obtained with the Montana Sampling Train.

Facilities using a venturi type wet scrubber were found to be able to meet the 43 nanogram per joule standard at higher pressure drops than the impingement type scrubber. One facility with a large boiler burning 100 percent bark had a multi-cyclone dust collector in series with a venturi wet scrubber operating at a pressure drop of 5 kPa (20 inches, H_2O). Source test data using EPA Method 5 showed this system consistently reduces emissions to an average outlet loading of 17.2 nanograms per joule of particulate matter. Another facility with a boiler burning 40 percent bark and 60 percent oil has a multi-cyclone and venturi scrubber system obtaining 25.8 nanograms per joule at a pressure drop of 2.5 kPa (10 inches, H_2O). The Florida Wet Train was used to obtain emission data on this source. A facility of similar design but burning 100 percent bark is obtaining the same emission control, 25.8 nanograms per joule, at a pressure drop of 3 kPa (12 inches, H_2O). Source test data collected on this source were obtained with the EPA Method 5.

This review has shown that the use of a wet scrubber, ESP, or a baghouse to control emissions from wood bark boilers will permit attainment of the particulate matter standard under 40 CFR Part 60. The control method currently used which has the widest application is the multitube cyclone collector in series with a venturi or wet-impingement type scrubber. Source test data have shown that facilities which burn substantially more wood residue than fossil-fuel have no difficulty in complying with the 43 nanogram per joule standard for particulate matter. Also the investigated facilities have been in operation successfully for a number of years without adverse economical problems. Therefore EPA has concluded from evaluation of the available information that no revision is required of the particulate matter standard for wood residue-fired boilers.

Dated: January 3, 1979.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 79-1427 Filed 1-16-79; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER C—ACCOUNTS, REPORTS, AND RECORDS

[Docket No. 36873]

PART 1201—RAILROAD COMPANIES

Subpart A—Uniform System of Accounts

JANUARY 10, 1979.

DEFINITION OF RAIL TRANSPORTATION PROPERTY

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Railroad Revitalization and Regulatory Reform Act of 1976 made it illegal for a State to levy or collect an ad valorem property tax on rail transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction. This final rule defines rail transportation property to include all property and other assets that comprise the entire operating unit devoted to the rail transportation service. This revision will provide a uniform definition for State taxing authorities to use in determining ad valorem and other property taxes for railroads.

DATES: This rule is effective for the year beginning January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., Chief, Section of Accounting, Tele. No. (202) 275-7448.

SUPPLEMENTAL INFORMATION: Section 306 of the Railroad Revitalization and Regulatory Reform Act (4-R Act) added a new section to the Interstate Commerce Act, section 11503 (formerly section 28), which makes it unlawful for any State to levy or collect an ad valorem property tax on rail transportation property at a tax rate that exceeds the tax rate applicable to commerical and industrial property in the same assessment jurisdiction (49 U.S.C. 11503(b)(3)). "Rail transportation property" means property, as defined by the Commission (49 U.S.C. 11503 (a)(3)). In a notice of proposed rulemaking published August 3, 1978 (43 FR 34172), the Commission noted that its interpretation of rail transportation property did not consider cash, accounts receivable, materials and supplies and the franchise or "going concern" value, thus making it possible for some States to circumvent the intent of section 306. The Commission proposed to redefine rail transportation property to include all assets comprising the entire operating unit devoted to transportation service.

In response to its notice, the Commission received comments from Western Pacific Railroad Company (WPRC), the Association of American Railroads (AAR), and Trailer Train Company (TTX) and American Rail Boxcar Company (Railbox).

WPRC expressed its concern that the revised definition, which includes a Railroad's "going concern" value, could lead to increased Federal income taxes for certain railroads. In recent Federal tax cases, the courts have ruled that, in acquisitions where going concern value is included in the adjusted tax basis of the assets, the tax basis of depreciable property must be reduced by the going concern value. This reduction in basis would lessen the depreciation expense, which would correspondingly increase income taxes. The Commission believes that section 11503(a) makes it clear that the definition of "Rail transportation property" being adopted in this proceeding applies only for purposes of section 11503. This definition does not affect transportation property as defined by the Internal Revenue Code nor does it affect the tax basis of depreciable property for Federal income tax purposes.

In response to the concern expressed by TTX and Railbox, the Commission has adopted a definition which clearly indicates that rail transportation property includes equipment held under lease or pooling agreements. This has always been the Commission's intent. In a notice published May 10, 1976 (41 FR 19185), the Commission stated that transportation property leased from others, that is used but not owned, will be considered transportation property if such property would be included in Account 731, Road and equipment property, and Account 732, Improvements on leased property, if owned.

In its comments, AAR unconditionally endorsed the revised definition and expressed its belief that it will provide for more effective interpretation of accounting regulations.

This is not a major Federal action significantly affecting the quality of the human environment.

This action is taken under the authority of 49 U.S.C. 10311 and 11142 and 5 U.S.C. section 553.

It is ordered: 49 CFR part 1201, Subpart A is amended by adding definition Number 33 "Rail Transportation Property" to "Regulations Prescribed," section (ii), "Definitions", as set forth below.

Decided December 13, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham and Clapp.

H.G. HOMME, Jr.,
Secretary.

33. "Rail Transportation Property." Rail transportation property is all property and other assets, irrespective of ownership, that comprise the entire operating unit devoted to rail transportation service. This definition comprises the following accounts:

701 Cash
702 Temporary cash investments
703 Special deposits
704 Loans and notes receivable
705 Accounts receivable—interline and other balances
706 Accounts receivable—customers
707 Accounts receivable—other
708.5 Receivables with affiliated companies
709 Accrued accounts receivable
710 Working funds
711 Prepayments
712 Material and supplies
713 Other current assets
714 Deferred income tax charges
731 Road and equipment property
732 Improvements on leased property

[FR Doc. 79-1373 Filed 1-16-79; 8:45 am]

[7035-01-M]

[Ex Parte No. MC-85]

PART 1062—SPECIAL REGULATIONS FOR FOR-HIRE MOTOR CARRIERS ENGAGED IN THE TRANSPORTATION FOR RECYCLING OR REUSE OF "WASTE" PRODUCTS IN FURTHERANCE OF RECOGNIZED POLLUTION CONTROL PROGRMS

Statement of Policy

AGENCY: Interstate Commerce Commission.

ACTION: Statement Policy.

SUMMARY: This statement is being issued by the Commission to inform the public that the Commission no longer follows the practice of limiting grants of authority to participate in the Special Certificate of Public Convenience and Necessity (49 CFR 1062.1(e)) to specified points. Therefore, when the Commission publishes the notice of the filing of an application, it will not longer specify the specific points applicant seeks to serve.

EFFECTIVE DATE: This policy is effective January 17, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg (202) 275-7292.

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SUPPLEMENTARY INFORMATION: The Special Rules set forth in 49 CFR 1062.1 govern the filing and handling of applications seeking the right to operate pursuant to a special certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, by motor vehicle over irregular routes, of "waste" products for recycling or reuse in furtherance of recognized pollution control programs, between all points in the United States (including Alaska and Hawaii). Under this regulation, once an applicant has established that it seeks to transport "waste" products pursuant to a "recognized pollution control program," as these terms are used in the regulation, and that it is otherwise fit, it is entitled to participate in the Special Certificate. In the past, the Commission's notice of the authority sought published in the FEDERAL REGISTER specified the points to be served. Grants of authority were limited to these points. The Commission no longer follows the practice of limiting grants of authority to participate in the special certificate to specified points. The particular points an applicant serves are limited only by the tariffs it files with the Commission. Therefore, pursuant to 49 CFR 1062.1(d), it is now the policy of the Commission to publish in the FEDERAL REGISTER a notice of each applicant's intention to participate in the special certificate of public convenience and necessity "between points in the United States". The specific commodities sought as well as a named sponsor or sponsors will continue to be listed in the FEDERAL REGISTER notice. The appendix to this notice contains a sample FEDERAL REGISTER notice under the new policy.

Dated December 20, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp. Commissioner Stafford dissenting.

H. G. HOMME, Jr.,
Secretary.

APPENDIX—SAMPLE FEDERAL REGISTER NOTICE

INTERSTATE COMMERCE COMMISSION

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

SPECIAL CERTIFICATE LETTER NOTICE(S)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in *"Waste" Products*, Ex Parte No. MC-85, 124 M.C.C. 583 (1976). Requests are processed as seeking authority between all points in the United States.

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission *within 20 days* from the date of this publication. A copy must also be serve upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the FEDERAL REGISTER, subject to its tariff publication effective date.

P-O-79 (SPECIAL CERTIFICATE—WASTE PRODUCTS) Filed July 25, 1979. Applicant: ABC CARRIERS CORPORATION, P.O. Box 000, Houston, TX 77088. Representative: John Doe, K Street, NW., Washington, D.C. 20005. Sponsor: Sunshine Recyclers, Main Street, Houston, TX 77088. Commodities: Scrap metal and waste paper.*

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1890 Filed 1-16-79; 8:45 am]

*Applicants may seek broader commodity authority.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 461]

CHILDRENS ADVERTISING

Revisions of Notice of Proposed Trade Regulation Rulemaking and Public Hearing

AGENCY: Federal Trade Commission.

ACTION: Revision of notice of proposed rulemaking.

SUMMARY: This notice sets forth a revision in the Commission's prior notice of a rulemaking to consider certain restrictions regarding television advertising directed towards children (43 FR 17967 (April 27, 1978)). The revision concerns a requirement to produce studies and surveys pertaining to a person's testimony or comments.

DATES: Comments should be submitted on or before February 1, 1979.

ADDRESS: All documents submitted in response to this notice should be submitted in five copies, when feasible, to Morton Needleman, Presiding Officer, Children's Advertising, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Barry R. Rubin, Assistant General Counsel, Federal Trade Commission, 6th & Pennsylvania, N.W., Washington, D.C. 20580; (202) 523-3520.

SUPPLEMENTARY INFORMATION: In the Commission's original notice of proposed rulemaking, paragraph D(2)(e) provided as follows:

e. *Other information relevant to the rule.* Any person who seeks to present information either orally or in writing, shall also present any studies or surveys in the possession, custody or control of the person or the organization he represents or is otherwise compensated by in connection with this proceeding which support, contradict or otherwise pertain to the person's presentation. This need not include information submitted by any other person or information which is publicly available.

On April 28, 1978, the Grocery Manufacturers of America moved for "clarification" of the requirements of this paragraph, raising eleven specific questions. In Order No. 2 dated May 9, 1978, the Presiding Officer promptly granted the motion and gave answers to the questions. By order issued July 31, 1978, the Commission endorsed the Presiding Officer's rulings (pp. 13-15). As the Commission noted in its order, paragraph D(2)(e), adopted pursuant to the Commission's authority under Sections 6(g) and 18(c)(2) of the FTC Act, was not entirely novel, but rather was derived from a similar provision in the general rules of the Food & Drug Administration for formal public evidentiary hearings, 21 CFR §§ 12.85(a)(2), (b).[1]

Although the Presiding Officer and the Commission had demonstrated a willingness to deal promptly with questions raised with respect to paragraph D(2)(e), several persons interested in the subject matter of the Commission's rulemaking filed suit seeking to have paragraph D(2)(e) held invalid on various grounds, including grounds based on the plaintiffs' asserted concerns about possible applications of paragraph D(2)(e) which they had not raised before the Presiding Officer or the Commission. The district court dismissed these actions on the ground that such objections should be presented to the Commission in the first instance, subject to judicial review in the course of review of any trade regulation rule the Commission might adopt. *Chocolate Mfrs. Ass'n Inc., et al.* v. *FTC*, No. 78-1372 (D.D.C. Nov. 17, 1978). In the course of the hearing, however, the court expressed concern about a number of points pertaining to paragraph D(2)(e), and suggested that the Commission give it further consideration. Other questions concerning paragraph D(2)(e) were raised in connection with comments or proposed testimony actually submitted on or before the deadline (November 27, 1978).

Accordingly, the Commission has further considered paragraph D(2)(e) in light of its intended purpose and the questions that have been raised about it either before the Commission or in court, and has concluded that the following revisions should be made to clarify or refine its appropriate scope:

1. The revised paragraph defines "studies" and "surveys."

2. The revised paragraph applies only to persons who refer to or rely upon any published or unpublished study or survey in their testimony or comments.

3. The revised paragraph makes clear that it applies only to the person or organization on whose behalf testimony or comments are submitted, and not to the person's attorney or the members of an organization (unless the attorney or member also submits testimony or comments on the attorney or member's behalf).

4. The revised paragraph requires identification and production only of those studies or surveys that are known to or in the files of an individual involved in the preparation of the testimony or comments.

5. The revised paragraph makes clear that relief may be sought as to studies that are confidential, privileged, or not under a person's control, such as limitations on access or use, masking, deletion, coding, or non-production.

6. The revised paragraph makes clear that submission of materials to the Presiding Officer in connection with a request for relief as to asserted-ly privileged materials does not waive the privilege.

7. The revised paragraph explicitly authorizes the Presiding Officer to impose appropriate sanctions for unexcused noncompliance.

8. The revised paragraph expressly requires that the Presiding Officer specifically indicate in the rulemaking record his disposition of requests for relief and his imposition of sanctions.

9. The revised paragraph, in an effort to minimize unnecessary duplication of materials in the rulemaking record, specifies that studies or surveys called for by paragraph D(2)(e) should not be produced if they are publicly available or have already been made part of the rulemaking record.

It has been suggested that some persons may have declined to submit comments or proposed testimony because of questions they had about paragraph D(2)(e) and that the contents of comments or proposed testimony submitted by others may have been af-

[1] Section 12.85(a) provides: Before the notice of hearing is published pursuant to § 12.35, the director of the bureau responsible for the matters involved in the hearing shall submit to the Hearing Clerk:

• • • • •

(2) All documents in his files containing factual data and information, whether favorable or unfavorable to his position, which relate to the issues involved in the hearing.

(3) All other documentary data and information on which he relies.

Section 12.85(b) extends this requirement to each participant in the hearing.

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fected by questions the submitter had about paragraph D(2)(e). Although the Commission has seen little persuasive evidence that this is the case, in an effort to assure maximum participation in the rulemaking the Commission is affording an additional opportunity for submission of comments or proposed testimony or revisions therein by those whose prior actions may have been based on assumptions about the scope of paragraph D(2)(e) contrary to the scope as set forth in this notice. The Commission is also authorizing and directing the Presiding Officer to implement this revision with respect to comments and proposed testimony previously submitted.

Accordingly, paragraph D(2)(e) of the Commission's Children Advertising, rulemaking notice is amended to read as follows:

e. Studies and surveys relevant to a person's presentation. Any person who seeks to present testimony or written comments which refer to or rely upon any study or survey whether published or unpublished shall also identify and submit to the presiding officer any studies or surveys in existence as of the date of the submission of the comments or proposed testimony that (1) are in the possession, custody or control of that person or of the organization he represents or is otherwise compensated by in connection with this proceeding; (2) support, contradict or otherwise pertain to the person's testimony or comments; and (3) are known to or in the files of any individual involved in the preparation of the testimony or comments. Such studies and surveys should not be submitted if they are publicly available or have been made part of the rulemaking record by any other person. For purposes of this paragraph, the terms "survey" and "study" means research and investigations such as literature searches, experiments, clinical tests, and polls.

The requirements of this paragraph apply only to the person on whose behalf testimony is given or comment made, and do not apply to the attorneys for such a person, unless and to the extent that the attorneys themselves testify or submit comments on their own behalf, and do not apply to members of an organization that testifies or comments unless and to the extent that the member also testifies or comments on the member's own behalf.

If a study or survey is deemed privileged or confidential, or is subject to the control of a third party, the person may request that the presiding officer grant relief from the operation of this paragraph, in which event the study or survey will not be put on the rulemaking record until the presiding officer has disposed of the request. The submission of a survey or study to the presiding officer pending its disposition shall not be deemed a waiver of any privilege asserted in a request for relief. Such relief may include, for example, *in camera* treatment under appropriate limitations on access, use or disclosure; deletion, masking or coding of data, a determination that in view of the relative pertinence and sensitivity, or absence of control, the study or survey need not be produced; or such other relief as the presiding officer may deem reasonable and appropriate.

In the event of unexcused or unjustified non-compliance with this paragraph, the presiding officer may (1) impose appropriate sanctions, including, for example, striking or assigning diminished weight to the person's testimony or comment, or drawing adverse inferences; and (2) may issue subpoenas.

All determinations made by the presiding officer with respect to a request for relief or the imposition of sanctions under this paragraph shall be specifically identified and made part of the rulemaking record.

On or before February 1, 1979, any person may submit comments or proposed testimony or revisions in previously submitted comments or proposed testimony or request from the Presiding Office and extension of time to make such a submission. Such requests should indicate the length of time desired and whether the person desires to present his views orally; requests for oral presentations will be accommodated at the close of the hearings in Washington, D.C., or as soon thereafter as practicable. Persons submitting comments or proposed testimony or revisions therein under this provision must (1) certify that the prior failure to submit or the difference embodied in the revision was solely the consequence of the person's understanding that the meaning and potential effect of this paragraph D(2)(e) of the Commission's original notice of proposed rulemaking was otherwise than as delineated in this revision; (2) specify the particular respects in which the original version of paragraph D(2)(e) caused the person not to submit testimony or comments or to submit testimony or comments in the form originally submitted as opposed to the revised form; and (3) certify that the provisions of paragraph D(2)(e) as revised have been met.

The Presiding Officer is authorized and directed to apply paragraph D(2)(e) as revised by this notice to comments and proposed testimony previously submitted to the maximum extent possible to assure that its purpose is served without substantially prejudicing those who wish to participate in the rulemaking.

By direction of the Commission. dated January 9, 1979. Commissioner Pitofsky and Chairman Pertschuk did not participate.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-1768 Filed 1-16-79; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4900]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Athens, Limestone County, Alabama

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Athens, Limestone County, Alabama. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the City Clerk, City Hall, P.O. Box 268, Athens, Alabama. Send comments to: Honorable DeWitt Garratt, Mayor of Athens, or Mr. Bill Owens, City Clerk, Athens City Hall, P.O. Box 268, Athens, Alabama 35611.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Athens, Limestone County, Alabama, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Swan Creek	Just downstream of City Street.	635
	Just upstream of U.S. Highway 72.	657
	Just upstream of State Highway 251.	662
	Just downstreamstream of Elkton Street.	706
Tributary to Swan Creek at Mile 9.74.	Just upstream of Hobbs Street.	676
	Just upstream of Elkton Street.	706
Town Creek	Just upstream of Humane Road.	652
	Just upstream of Washington Street.	690
	Just downstream of Elm Street.	710
Tributary to Town Creek Mile 2.21.	Just downstream of Monroe Street.	675
	Just downstream of Levert Street.	687
	Approximately 100 feet downstream of Sommers Road.	696
Tributary to Town Creek Mile 3.91.	Approximately 60 feet downstream of Westbrook Street.	706
	Approximately 110 feet downstream of Hines Street.	700

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1429 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4901]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Gila Bend, Maricopa County, Arizona

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Gila Bend, Maricopa County, Arizona. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office, Gila Bend, Arizona. Send comments to: Honorable Will Williams, Mayor of Gila Bend, Town Hall, 202 North Euclid Street, Gila Bend, Arizona 85337

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Gila Bend, Maricopa County, Arizona in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sand Tank and Bender Washes.	North of U.S. Route 80...	(1)
	South of U.S. route 80 and north of Southern Pacific Railroad.	735
	South of Southern Pacific Railroad and north of Gila Bend Canal.	740
	South of Gila Bend Canal and east of TC & GB Railway.	747
	North of Southern Pacific Railroad and east of Gila Bend Canal.	744
Scott Avenue Wash.	North of Southern Pacific Railroad and south of U.S. Route 80.	733
	South of Southern Pacific Railroad and north of Gila Bend Canal.	740
	South of Gila Bend Canal and west of TC & GB Railway.	745
Rodeo Wash	South of Southern Pacific Railroad.	753
	North of Southern Pacific Railroad and south of U.S. Route 80.	749
	North of U.S. Route 80 and east of Gila Bend Canal.	742
	Northwest of Gila Bend Canal at Old U.S. Route 80.	737
Rodeo Wash Tributary.	South of Southern Pacific Railroad.	759
Airport Wash	South of U.S. Route 80..	761

'Average Depth=2'.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1430 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4487]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of East Hartford, Hartford County, Connecticut; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 42262 of the FEDERAL REGISTER of September 20, 1978.

EFFECTIVE DATE: September 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The following:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Burnham Brook....	2,900 feet downstream of University Avenue.	50
Pewterpot River....	At Glastonbury-East Hartford Expressway.	32
	At bridge, 200 feet upstream of Brewer Street.	35
	900 feet downstream of Forbes Street.	53
Porter Brook.....	At the downstream corporate limits.	28

Should be corrected to read:

Burnham Brook....	Approximately 2,930 feet downstream of University Avenue.	50
Pewterpot River....	Just upstream of Glastonbury-East Hartford Expressway.	32
	Just upstream of bridge, 200 feet upstream of Brewer Street.	35
	Approximately 915 feet downstream of Forbes.	53
Porter Brook.....	At the downstream corporate limits.	29

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1431 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4902]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of East St. Louis, St. Clair County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of East St. Louis, St. Clair County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 7 Collinsville Avenue, East St. Louis, Illinois. Send comments to: The Honorable William E. Mason, Mayor, City of East St. Louis, City Hall, 7 Collinsville Avenue, East St. Louis, Illinois 62201.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of East St. Louis, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River...	At southern corporate limits.	426
	800 feet north of Interstate 70.	427
	At northern corporate limits.	428
Interior drainage within community due to rainfall (ponding AH zones).	500 feet south of St. Clair Avenue along Lansdowne Street.	409
	800 feet north of St. Clair Avenue along 2nd Street.	419
	Intersection of Exchange Avenue and 13th Street.	416
	Intersection of College Avenue and 18th Street.	416
	Intersection of St. Louis Avenue and 7th Street.	416
	Intersection of Bond Avenue and 4th Street.	409
	Intersection of Missouri Avenue and 24th Street.	413
	500 feet south of State Street along 31st Street.	416
	500 feet north of Belmont Avenue along 39th Street.	414
	Intersection of Audubon Avenue and 25th Street.	415
	Intersection of Bushmore Avenue and 35th Street.	414
	Intersection of Dickman Place and 61st Street.	413
	500 feet east of Harding Ditch along Marybell Avenue.	417

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1432 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4903]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of St. John, Lake County, Indiana

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of St. John, Lake County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Clerk's Office, West 93rd Street, St. John, Indiana. Send comments to: The Honorable William Tuley, President of Town Board, Town of St. John, Town Hall, West 93rd Street, St. John, Indiana 46373. Attention: Ms. Betty Siedelmann, Town Clerk.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of St. John, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bull Run.....	At the confluence with West Creek.	675
	Just downstream of Dirt Road.	676
	Just downstream of White Oak Avenue (corporate limits).	679
St. John Ditch.....	At the confluence with West Creek.	675
	At Farm Lane.....	678
	Just downstream of U.S. 41.	683
	Just upstream of U.S. 41	686
	Just downstream of Conrail.	687
	Just upstream of Conrail.	691
	Just upstream of Louisville & Nashville Railroad.	694
	3,750 feet upstream of Hart Street (at upstream corporate limits).	694
West Creek.....	Downstream corporate limits.	674
	Confluence with St. John Ditch & Bull Run.	675

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted wavier of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,

Federal Insurance Administrator.

[FR Doc. 79-1433 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4333]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Hampton, Franklin County, Iowa; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 31357 of the FEDERAL REGISTER of July 21, 1978.

EFFECTIVE DATE: July 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The following location:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Squaw Creek	125 feet upstream of Central Avenue East.	1,104
	75 feet downstream of Sewage Treatment Plant Road.	1,109

Should be corrected to read:

Squaw Creek	500 feet upstream of Central Avenue East.	1,104
	300 feet downstream of Sewage Treatment Plant Road.	1,105

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1434 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4904]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Tangipahoa, Tangipahoa Parish, Louisiana

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Tangipahoa, Tangipahoa Parish, Louisiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the City Clerk, City Hall, P.O. Box 156, Tangipahoa, Louisiana. Send comments to: Honorable Walter D. Tyrney, Mayor of the Village of Tangipahoa or Ms. Betty Lou Hutchinson, Town Clerk, Town Hall, P.O. Box 156, Tangipahoa, Louisiana.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Tangipahoa, Tangipahoa Parish, Louisiana, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Beaver Creek	At the Eastern Corporate Limits.	173
	Just upstream of U.S. Highway 51.	176
	Approximately 170 feet west of L.A. Highway 1050 along the Northern Corporate Limits.	180

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1435 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4905]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Granby, Hampshire County, Massachusetts

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Granby, Hampshire County, Massachusetts. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Clerk's Office, Kellog Hall, Granby, Massachusetts. Send comments to: The Hon. Leroy A. Nutting, Chairman Board of Selectmen, Town of Granby, Kellog Hall, Granby, Mass. 01033.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Granby, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum)
Bachelor Brook	Downstream corporate limits.	181
	1,700 feet downstream of Barnett Road.	188
	Just upstream of Barnett Road.	191
	Just downstream of Lyn Drive.	193
	Just upstream of Lyn Drive.	204
	Just downstream of Notch Place.	204
	Just upstream of Notch Place.	207
	Approximately 1,200 feet downstream of Aldrich Street.	210
	Just upstream of Aldrich Street.	222
	Just upstream of Aldrich Mills Dam.	248
	740 feet downstream of Porter Street.	249
	Just downstream of Porter Street.	251
	Just upstream of Porter Street.	252
	Just upstream of Swimming Hole Dam.	254
	Just downstream of North Street.	255
	Just upstream of North Street.	258
	Approximately 300 feet downstream of access road 3,380 feet downstream of Trompke Avenue.	258
	Just upstream of access road 3,380 feet downstream of Trompke Avenue.	260
	Just downstream of Trompke Avenue.	263
	Just downstream of School Street.	265
	Just downstream of Forge Pond Dam.	270
	Just upstream of Fofge Pond Dam.	275
	4,550 feet upstream of Forge Pond Dam.	275
Tributary "K" (Located 315 feet upstream of U.S. Route 202 on Lower Stony Brook).	Confluence with Stony Brook.	220
	Just upstream of Stony Brook Motel driveway.	222
	Just downstream of Morgan Street.	224
	Just upstream of Morgan Street.	226
	Approximately 1,450 feet upstream of Morgan Street.	227
	Approximately 1,050 feet downstream of U.S. Route 202.	234
	Approximately 80 feet upstream of U.S. Route 202.	239
	Confluence with Bachelor Brook.	275
Tributary "I" (Located 3,170 feet upstream of Forge Pond Dam on Bachelor Brook).	260 feet upstream of U.S. Route 202.	275
Tributary "H" (Located near Trompke Avenue on Bachelor Brook).	Confluence with Bachelor Brook.	263
	Approximately 475 feet upstream of confluence with Bachelor Brook.	265
	Approximately 610 feet upstream of confluence with Bachelor Brook.	267
Muddy Brook	Downstream county boundary.	238
	Just upstream of Truby Street.	238
	Approximately 1.04 miles upstream of Truby Street.	238
Upper Stony Brook.	Downstream corporate limits.	246
	Approximately 130 feet downstream of Taylor Street.	251
	Just upstream of Taylor Street.	252
	Just upstream of Old Wood Bridge.	255
	1.34 miles upstream of Old Wood Bridge.	261
Lower Stony Brook.	Downstream corporate limits.	219
	Approximately 2,825 feet upstream of U.S. Route 202.	220
	Just downstream of access road 3,100 feet downstream of Morgan Street.	222
	Just upstream of Morgan Street.	226
	Just upstream of New Ludlow Road.	227
	Approximately 1,820 feet upstream of New Ludlow Road.	227

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1436 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4502]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Seekonk, Bristol County, Massachusetts; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 42271 of the FEDERAL REGISTER of September 20, 1978.

EFFECTIVE DATE: September 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The following:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum)
Ten Mile River	Corporate limit near Central Avenue.	67
Oak Hill Stream	At northern Corporate limit.	79
Coles Brook	At western corporate limit (Mouth at Central Pond).	52
Runnins River	Just downstream of School Street.	10

Should be corrected to read:

Ten Mile River	Just upstream of Central Avenue.	67
Oak Hill Stream	At downstream corporate limit.	79
Coles Brook	Mouth at Central Pond.	52
Runnins River	Mouth at Barrington River.	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1437 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4906]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Gaines, Genesee County, Michigan

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Gaines, Genesee County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at 12124 West Hill Road, Swartz Creek, Michigan. Send comments to: Mr. Rodney May, Township Supervisor, Township of Gaines, 9305 Shendon Road, Gaines, Michigan 48436.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Gaines, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum)
West Branch Swartz Creek.	Downstream corporate limits.	772
	About 1,175 feet upstream of corporate limits.	772
Crapo Drain	Mouth at Algor Creek	772
	2,400 feet upstream of Van Vleet Road.	773
Davison Drain	Downstream corporate limits.	771
	2,400 feet upstream of corporate limits.	771
	300 feet downstream of Hill Road.	778
	2,000 feet upstream of Hill Road.	784
	About 2,100 feet upstream of Hill Road.	786
	About 125 feet upstream of Duffield Road.	794
	350 feet upstream of Duffield Road.	797
	1,250 feet upstream of Duffield Road.	797
Jones Creek	Downstream corporate limits.	771
	1,550 feet downstream of Reid Road.	772
	2,500 feet upstream of Grand Trunk Western Railroad.	782
	Just downstream of Duffield Road.	786
	Just upstream of Duffield Road.	787
	1,400 feet upstream of Grand Blanc Road.	789
	3,000 feet upstream of Grand Blanc Road.	793
Alger Creek	Downstream corporate limits.	772
	Just upstream of Hill Road.	774
	Just upstream of Reid Road.	784
	Just downstream of Morrish Road.	789
	Just upstream of Morrish Road.	791
	Just downstream of Grand Blanc Road.	795

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1438 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4907]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Lake, Berrien County, Michigan

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Lake, Berrien County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Hall, Lake, Michigan. Send comments to: Mr. Wade Shuler, Township Supervisor, Township of Lake, Route 1, Snow Road, Baroda, Michigan 49101.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Lake, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Michigan	Lake Michigan (entire length of shoreline).	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1439 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4701]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Shelby, Macomb County, Michigan; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 50201 of the FEDERAL REGISTER of October 27, 1978.

EFFECTIVE DATE: October 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The following:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Newland Drain	1,100 feet downstream of northern corporate limits.	738
	At northern corporate limits.	741

Should be corrected to read:

Newland Drain	1,100 feet downstream of 25 Mile Road.	738
	At 25 Mile Road	741

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1440 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4908]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Scribner, Dodge County, Nebraska

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Scribner, Dodge County, Nebraska.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Scribner, Nebraska. Send comments to: The Honorable Donald Berg, Mayor, City of Scribner, c/o City Clerk's Office, Scribner, Nebraska 68057.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Scribner, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selection locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Elkhorn River	Downstream extraterritorial limits.	1,244
	Just downstream of Bridge Street.	1,253
	Upstream extraterritorial limits.	1,260
Pebble Creek	Downstream extraterritorial limits.	1,252
	Just downstream of Main Street.	1,254
	Approximately 400 feet upstream of Main Street.	1,256
	Just downstream of County Road 13.	1,259
	Upstream extraterritorial limits.	1,262

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1441 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4909]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Snyder, Dodge County, Nebraska

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Snyder, Dodge County, Nebraska. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Office, Snyder, Nebraska. Send comments to: The Honorable David Heywood, Chairman of the Village Board, Village of Snyder, Village Office, Snyder, Nebraska 68664.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Snyder, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Middle Pebble Creek.	Just upstream of County Road 16.	1,312
	500 feet downstream from Rangeline Street.	1,317
	700 feet upstream from Rangeline Street.	1,322
	1.36 miles upstream from Rangeline Street.	1,326

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1442 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4910]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of LaGrange, Dutchess County, New York

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of LaGrange, Dutchess County, New York.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the La-Grange Town Hall, Springham Road, Pleasant Valley, New York.

Send comments to: Mr. Arthur McCluskey, Town Supervisor, or Mr. George Wade, Town Board Member, LaGrange Town Hall, Springham Road, Pleasant Valley, New York 12569.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of LaGrange, Dutchess County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Wappinger Creek	Approximately 425 feet downstream of State Route 376.	134
	Approximately 1500 feet upstream of Red Oaks Mill Dam.	148
	Just upstream of State Route 55.	160
Branch 3	Just upstream of Noxon Road.	245
Wappinger Creek	Just downstream State Highway 55.	345
Branch 4	Approximately 100 feet upstream of Sleight-Plass Road.	178
Wappinger Creek	Just downstream of Birch Hill Drive.	250
	Just upstream of Birch Hill Drive.	258
	Old Overlook Road	362
Sprout Creek	Just upstream of Noxon Road.	297
	Just upstream of Stringham Road.	311
	Just upstream of Barmore Road.	336
Jackson Creek	Approximately 100 feet downstream of Arthursburg Road.	307
	Approximately 60 feet upstream of Arthursburg Road.	310
	Emans Road	344
	Just downstream of State Route 82.	365
Branch 3	Just upstream of Todd Hill-Bushwick Road.	308
Sprout Creek	Dr. Fink Road	315
Branch 4	Just upstream of Velie Road.	329
Sprout Creek	Just downstream of State Route 82.	385
	Just upstream of State Route 82.	390
Whortle Kill Creek.	Just upstream of Arthursburg Road.	339
	Just upstream of Clapp Hill Road.	400

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1443 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4911]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Town of Webster, Monroe County, New York

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Webster, Monroe County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town of Webster, Monroe County, New York. Send comments to: Mr. William J. Lochner, Town Supervisor of Webster, 1000 Ridge Road, Webster, New York 14580.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Webster, Monroe County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

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stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fourmile Creek	Confluence with Lake Ontario.	249
	Lake Road	272
	Salt Road Upstream	284
	Basket Road Upstream	316
	Woodward Road Upstream.	343
	Schlegel Road Upstream	385
	County Line Road Upstream.	395
	Ridge Road Upstream	432
	Salt Road	441
	State Road	455
Mill Creek	Downstream Corporate Limits.	274
	Woodhull Road	288
	Imperial Drive Upstream.	345
	Wall Road Upstream	352
	Klem Road	359
	Holley Road	375
	Orchard Street Upstream.	398
	Sanford Street	449
	State Road	479
Shipbuilders Creek.	Lake Road	264
	Vosburg Road	282
	Upstream Conrail	289
	Klem Road	336
	Gravel Road	389
	Adeline Drive	403
	Route 404	428
East Branch Shipbuilders Creek.	Upstream Conrail	328
	Klem Road Upstream	349
	Independence Drive Upstream.	363
	Fivemile Line Road	396
	Route 104 (Ridge Road).	428

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1444 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4912]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Statesville, Iredell County, North Carolina

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Statesville, Iredell County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the City Clerk, City Hall, P.O. Box 1111, Statesville, North Carolina. Send comments to: Mayor Thomas Fanjoy or Mr. Jerry Loudy, City Planner, City Hall, P.O. Box 1111, Statesville, North Carolina.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Statesville, Iredell County, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Third Creek	Just upstream of Amity Hill Road.	774
	Just downstream of U.S. Highway 21.	787
	Just downstream of Buffalo Shoals Road.	801
Fourth Creek	Just upstream of Broad Street.	773
	Just downstream of I-77	787
	Just upstream of U.S. Highway 21.	795
Morrison Creek	Confluence with Fourth Creek.	798
	Just upstream of N.C. State Route 1907.	819
Gregory Creek	Gaither Road	819
	Just downstream of N.C. Highway 115.	825
Free Nancy Branch.	Just upstream of Georgia Avenue.	805
	Just upstream of North Mulberry Street.	847
Tributary A	Just upstream of Gregory Road.	850
	Just upstream of Hendricks Road.	873
Tributary B	Just downstream of Newton Drive.	838
Tributary 1	Approximately 1700 feet upstream of the confluence with Fourth Creek.	771
Tributary 2	Valley Stream Road	808
	Just downstream of Salisbury Road.	834
Tributary 3	Just upstream of I-40	803

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1445 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4913]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Thomasville, Davidson County, North Carolina

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Thomasville, Davidson County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the City Engineer Department, City Hall, Engineers Department, P.O. Box 368, Thomasville, North Carolina. Send comments to: Mayor Dalton Meyers or Mr. Kyle Williams, City Manager, City Hall, Thomasville, North Carolina 27306.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Thomasville, Davidson County, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Beck Creek	Approximately 50 feet upstream of the confluence of Short Creek.	770
Black Creek	Just downstream of Doak Street.	737
	Just upstream of Doak Street.	744
Brooke Branch	Just upstream of Doak Street.	739
	Approximately 100 feet upstream of Fairview Road.	796
Carlan Creek	Approximately 100 feet upstream of the Southern Corporate Limits.	850
	Just upstream of Raleigh Road.	868
Charles Creek	Just upstream of the High Point, Thomasville, and Denton Railroad.	808
	Just upstream of Hillcrest Drive.	815
	Just upstream of Maplewood Avenue.	823
	Just upstream of Carolina Avenue.	841
Crest Creek	Just upstream of Crestview Drive.	861
	Approximately 50 feet downstream of Hill Top Road.	864
Crooked Creek	Approximately 100 feet downstream of Blair Street.	843
Cucumber Creek	Approximately 100 feet downstream of County Line Road.	903
Davidson Creek	Approximately 100 feet upstream of the confluence with Sour Creek.	841
Douty Creek	Just upstream of Welloske Drive.	820
East Creek	Approximately 100 feet upstream of the confluence with Carlan Creek.	838
	Just downstream of Raleigh Road.	855
	Just upstream of Raleigh Road.	859
Hall Creek	Approximately 100 feet downstream of Burgin Stream.	821
Hamby Creek	Just upstream of Lake Road.	745
	Approximately 100 feet downstream of Kendall Mill Road.	751
	Approximately 100 feet upstream of Fisher Ferry Street.	768
	Approximately 100 feet upstream of Access Road.	774
	Approximately 100 feet downstream of Ferndale Drive.	776
	Just upstream of the High Point, Thomasville, and Denton Railroad.	816
	Just upstream of Liberty Drive.	831
	Just upstream of Holly Hill Road.	854
Hanks Branch	Approximately 100 feet upstream of Young Street.	731
	Approximately 100 feet upstream of Salem Street.	746
	Just upstream of Burke Trail Avenue.	776
	Just upstream of Memorial Park Drive.	789
	Just upstream of Cox Avenue.	810
	Approximately 100 feet upstream of Griffith Street.	822
Hogeye Creek	Approximately 100 feet downstream of Carolina Avenue.	826
	Just upstream of Warner Street.	830
	Approximately 150 feet downstream of Julian Avenue.	836
Huntsford Creek	Just upstream of Huntsford Terrace.	763
Hunts Fork	Just downstream of Ball Park Road.	735
	Approximately 100 feet downstream of Valley Road.	744
	Just upstream of Menderhall Road.	763
	Approximately 150 feet downstream of National Highway.	790
	Approximately 150 feet upstream of Albertson Road.	826
	Approximately 150 feet downstream of Blair Street.	843
Kyle Creek	Approximately 200 feet upstream of the confluence with North Hamby Creek.	870
Leonard Creek	Just upstream of Randolph Street.	847
Liberty Creek	Just upstream of Holly Hill Drive.	846
	Approximately 150 feet upstream of Liberty Drive.	859
	Just upstream of Duke Street.	875
Mitchell Creek	Approximately 100 feet upstream of the confluence with Spencer Creek.	865
Myers Creek	Approximately 100 feet downstream of Circle Drive.	776
	Just upstream of Kinreed Drive.	813
	Approximately 100 feet downstream of National Highway.	815
	Just upstream of Turner Street.	833

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Hamby Creek.	Approximately 100 feet upstream of Lake Road.	737
	Approximately 200 feet upstream of Wastewater Treatment Plant Road.	762
	Approximately 100 feet downstream of Field Road.	764
	Just upstream of Farmview Road.	775
	Approximately 200 feet downstream of Carmalt Street.	797
	Approximately 100 feet downstream of Fisher Ferry Street.	804
	Approximately 150 feet upstream of Taylor Street.	820
	Just downstream of Sherman Street.	837
	Approximately 100 feet upstream of Mason Way.	857
	Just upstream of Cucumber Road.	884
Pineywood Branch.	Just upstream of Pineywood Road.	765
Regan Creek	Approximately 150 feet upstream of Stadium Drive.	779
	Just upstream of June Street.	802
	Just upstream of Leonard Street.	820
School Creek	Approximately 100 feet upstream of the confluence with Huntsford Creek.	784
Short Creek	Approximately 50 feet upstream of the confluence with Beck Creek.	770
Small Creek	Approximately 210 feet upstream of the confluence with Hunts Fork.	737
Sour Creek	Approximately 150 feet upstream of the Davidson County Line.	838
Spencer Creek	Just upstream of Randolph Street.	827
	Just upstream of Raleigh Road.	846
Spitting Creek	Approximately 200 feet upstream of the confluence with Spencer Creek.	861
Straight Creek	Just upstream of Dirt Road.	867
Trinity Creek	Just downstream of Trinity Street.	865
	Just upstream of Trinity Street.	872
Ward Creek	Approximately 100 feet upstream of Kendall Mill Road.	767
	Approximately 150 feet upstream of Fisher Ferry Road.	797
	Approximately 150 feet upstream of Old North Carolina 109.	815
Warner Creek	Just upstream of Randolph Street.	821
	Just upstream of Liberty Drive.	843
	Just upstream of Holly Hill Road.	856
Wash Creek	Approximately 400 feet upstream of the confluence with Spencer Creek.	860

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1446 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4515]

Proposed Flood Elevation Determinations for the City of Dayton, Montgomery County, Ohio; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 42279 of the FEDERAL REGISTER of September 20, 1978.

EFFECTIVE DATE: September 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410 (202) 755-5581 or Toll Free Line 800-424-8872.

The following:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stillwater River	2,800 feet upstream of Ridge Ave.	748

Should be corrected to read:

Stillwater River	2,270 feet upstream of Ridge Ave.	748

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1447 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4914]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Willowick, Lake County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Willowick, Lake County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 30435 Lakeshore Boulevard, Willowick, Ohio. Send comments to: The Honorable Raymond Kaluba, Mayor, City of Willowick, City Hall, 30435 Lakeshore Boulevard, Willowick, Ohio 44090.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Willowick in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).)

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Erie	Entire Shoreline of community.	576

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1448 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4915]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Bixby, Tulsa and Wagoner Counties, Oklahoma

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Bixby, Tulsa and Wagoner Counties, Oklahoma. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the City Clerk, 112 North Armstrong Street, Bixby, Okla. 74008.

Send comments to: Honorable Charles Allbread, Mayor of the City of Bixby, or Mr. Fred Keas, City Manager, 112 North Armstrong Street, Bixby, Okla.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Bixby, Tulsa and Wagoner Counties, Okla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Arkansas River	Just upstream Mingo Road.	600
	Just upstream Memorial Drive Bridge (Okla. Highway 64).	602
Haikey Creek	Just upstream 131st St.	607
	Just upstream 121st St.	621
Little Haikey Creek.	Just downstream 111th St.	631
White Church Creek.	Just downstream Garnett Road.	615
Fry Ditch No. 1	Just upstream 116th St.	629
	Just upstream South 89th East Ave. Bridge.	642
Fry Ditch No. 2	East 118th St. South Extended.	624
Tributary Snake Creek.	Just upstream Garnett Road.	599
	Just upstream Mingo Road.	604
Tributary Arkansas River.	Just upstream Mingo Road.	600
	Just downstream 151st St.	602

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1449 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4916]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Moosic, Lackawanna County, Pennsylvania

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Moosic, Lackawanna County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain

qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough of Moosic, Pennsylvania Send comments to: Honorable John Segilia, Mayor of Moosic, 611 Hollenback Street, Moosic, Pennsylvania 18507.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Moosic, Lackawanna County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lackawanna River	Confluence of Mill Creek.	618
	Confluence of Spring Brook.	624
	Third Street	636
	Pennsylvania Turnpike Northeast Extension.	648
	Conrail Bridge (Downstream).	652
	Conrail Bridge (Upstream).	659
	Upstream Corporate Limit.	660
Mill Creek	Confluence with the Lackawanna River.	616
	Dick Street	622
	Abandoned Railroad Bridge.	629
	Downstream end of Culvert.	633
	Upstream end of Culvert.	636
	County Boundary	636
Spring Brook	Confluence with the Lackawanna River.	624
	Delaware and Hudson Railroad.	641
	Scranton Highway	646
	Interstate 81	669
	State Route 502 just upstream from Interstate 81.	680
	Second crossing of State Route 502.	717
	Conrail Bridge	734
	Pennsylvania Turnpike Northeast Extension.	751
	County Boundary	762

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1450 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4917]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Conway, Horry County, South Carolina

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Conway, Horry County, South Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Building Inspector, P.O. Box 1075, Conway, South Carolina. Send comments to: Honorable Philip A. Thompson, Mayor of the Town of Conway, or Mr. S. E. Hendricks, City Building Inspector, P.O. Box 1075, Conway, South Carolina.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Conway, Horry County, South Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Waccamaw River	Just downstream of U.S. 501 Bypass.	13
	Just upstream of Main Street (U.S. 501 Business).	13
	Confluence of Kingston Lake Swamp.	13
Crab Tree Swamp (Backwater effects of Waccamaw River).	Just upstream of Long Avenue.	13

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1451 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4918]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Bruceville-Eddy, McLennan County, Texas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Bruceville-Eddy, McLennan County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Bruceville-Eddy Fire Department, Bruceville-Eddy, Texas, Send comments to: Honorable Richard Relyea, Mayor of Bruceville-Eddy, P.O. Box 9, Eddy, Texas 76524.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Bruceville-Eddy, McLennan County, Texas in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hoolia Creek	Upstream Corporate Limits.	687
	West Frontage Road (Upstream).	667
	Downstream Corporate Limits.	667
Tributary to Hoolia Creek.	Upstream Corporate Limits.	677
	West Frontage Road (Upstream).	673
	East Frontage Road (Upstream).	672
	Old Farm to Market Road 107 (Upstream).	666
Tributary to Hoolia Creek.	Downstream Corporate Limits.	653
South Cow Bayou, Lusk Branch.	Upstream Corporate Limits.	583
	Centerline of Soil Conservation Service Structure Number 5 (upstream).	583

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1452 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4919]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of LeRoy, McLennan County, Texas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of LeRoy, McLennan County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the City Secretary, P.O. Box 86, LeRoy, Texas 76654. Send comments to: Mayor W. H. Janes, P.O. Box 56, or

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Mrs. Yvonne Martin, City Secretary, P.O. Box 86, LeRoy, Texas 76654.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of LeRoy, McLennan County, Texas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rice Creek	Southernmost corporate limits.	459

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1453 Filed 1-16-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4920]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Hayward, Sawyer County, Wisconsin

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Hayward, Sawyer County, Wisconsin. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's, Office, Hayward, Wisconsin. Send comments to: Mr. Rolf Williamson, City Clerk, City of Hayward, Box 593, Hayward, Wisconsin 54843.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Hayward, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Namekagon River	400 feet upstream from western corporate limits (4,120 feet downstream from the dam).	1,171
	Downstream of the dam.	1,176
	Upstream of the dam.....	1,189
	At eastern corporate limits.	1,189
Smith Lake Creek	Upstream of Chicago & Northwestern Railroad.	1,196
	Downstream of 3rd Street.	1,198
	Upstream of 3rd Street ..	1,202
	At the dam.....	1,204
	At Highways 27 and 77...	1,207
	At northern corporate limits.	1,208

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1454 Filed 1-16-79; 8:45 am]

[6570-06-M]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1601]

706 AGENCIES

Proposed Designations

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed rule.

SUMMARY: The Equal Employment Opportunity Commission proposes to amend its regulations on designation of certain State and local agencies so that they may handle employment discrimination charges filed with the Commission. Proposed are State and local agencies that requested deferral designation as provided under the authority of Title VII of the Civil Rights Act of 1964, as amended. The proposal would authorize the agencies listed to process charges deferred to them by the Commission.

DATES: Comments must be received by February 1, 1979.

ADDRESS: Comments should be sent to: Equal Employment Opportunity Commission, Office of Field Services (State and local), 2401 E Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Ann C. Jeffreys, Equal Employment Opportunity Commission, Office of Field Services (State and local), 2401 E Street, NW., Washington, D.C. 20506, telephone 202-634-6040.

SUPPLEMENTARY INFORMATION: Pursuant to § 1601.71, Title 29, Chapter XIV of the Code of Federal Regulations as revised and published in the FEDERAL REGISTER, 42 FR 55388, October 14, 1977, the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) proposes that each of the agencies listed below be designated as a "706 Agency," § 1601.70(a). Three (3) purposes for such designation are as follows: First, that the agencies receive charges deferred by the Commission pursuant to Section 706 (c) and (d) of Title VII of the Civil Rights Act of 1964, as amended; second, that the Commission accord "substantial weight" to the final findings and orders of the agencies pursuant to Section 706(b) of Title VII of the Civil Rights Act of 1964, as amended; and third, to commence the 15-day period within which any person or organization may file written comments as provided for under § 1601.71(i).

At the expiration of the 15-day period, the Commission may effect designation of the agencies by publishing them as an amendment to § 1601.74(a).

§ 1601.74 [Amended]

The proposed "706 Agencies" are as follows:

Anchorage (Alaska) Equal Rights Commission.

Broward County (Florida) Human Relations Division.

Written comments pursuant to this notice must be filed with the Commission on or before February 1, 1979.

Signed at Washington, D.C. this 11th day of January 1979.

For the Commission.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 79-1607 Filed 1-16-79; 8:45 am]

[4310-31-M]

DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Part 250]

OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

AGENCY: Department of the Interior, U.S. Geological Survey.

ACTION: Proposed rule.

SUMMARY: Enactment of Pub. L. 95-372 necessitates revision of the regulations contained in 30 CFR 250.34. By notice of November 1, 1978 (43 FR 50903), the Department of the Interior identified provisions of 30 CFR 250.34, published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3880), which it temporarily suspended pending full implementation of the provisions of Pub. L. 95-372. The proposed revisions to 30 CFR 250.34, contained in this notice, are intended to implement those provisions of Pub. L. 95-372 which relate to (1) exploration activities on OCS oil and gas leases, (2) coordination and consultation with the Governors of affected States and the executives of affected local governments, and (3) development and production activities on OCS oil and gas leases.

DATE: Written comments and recommendations should be submitted on or before March 16, 1979.

ADDRESS: Interested persons are invited to submit written comments and recommendations with respect to the proposed regulations. Responses should identify the subject matter and be directed to the Chief, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 600, Reston, Virginia 22092 (703/860-7524).

FOR FURTHER INFORMATION CONTACT:

Don E. Kash, Chief, Conservation Division, U.S. Geological Survey, National Center (Mail Stop 600), Reston, Virginia 22092 (703/860-7524).

SUPPLEMENTARY INFORMATION: Regulations to revise and more clearly define procedures for the submission by oil and gas lessees of plans for exploration and development and production activities on the Outer Continental Shelf (OCS) were published as final rules on January 27, 1978 (43 FR 3880). Those regulations are found in 30 CFR 250.34 and are herein referred to as "existing regulations." On September 18, 1978, the OCS Lands Act Amendments of 1978 were enacted (Pub. L. No. 95-372). Certain provisions of those Amendments supersede the procedures established by the existing regulations and necessitate their revision.

EXPLORATION PLANS: § 250.34-1

Section 11 of the OCS Lands Act, as amended, (herein referred to as "the Act") creates a process for the submission, evaluation and approval of exploration plans. While the new statutory provisons are similar to the existing regulations governing the submission of explorations plans, some significant changes have been made and are reflected in the proposed regulations. Differences between the existing regulations and the proposed regulations, as well as additions to the proposed regulations which are not present in the existing regulations, are discussed below.

TIMEFRAMES AND APPROVAL PROCESS

Section 11(c)(1) of the Act establishes specific criteria for decisions regarding approval of an exploration plan and provides that the Secretary shall approve, disapprove, or require modifications of such a plan within 30 days of its submission. Accordingly, the proposed regulations establish criteria which the Director must use to evaluate an exploration plan. If a plan is consistent with the criteria, the Director is required to approve the plan within 30 days of submission except that the plan must be disapproved within the 30-day period if it is determined that any activity under the plan would probably cause serious harm or damage to life, property, mineral resources, national security or defense, or the marine, coastal, or human environment, and the harm or damage cannot be avoided by modification of the plan. If the plan is inconsistent with the criteria, the Director must require the lessee to modify the plan. The lessee may then resubmit the plan, as modified, to the Director

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who must approve or disapprove the modified plan within 30 days of the resubmission date.

These provisions differ from existing regulations which require the Supervisor to withhold a decision on a plan until written comments have been received from each affected State or until 30 days after each State receives a copy of the plan, whichever comes first. Also, the provisions of the proposed regulations allowing for modification of a plan and establishing specific disapproval criteria are not in the existing regulations.

Environmental Reports

While Section 11 of the Act does not specifically refer to Environmental Reports, subsections 11(c) (1) and (2) impose on the Secretary the obligation to make decisions concerning the environmental impact of OCS exploration activities. To do this, the Secretary must have access to or have the ability to require that environmental information be provided by lessees. Accordingly, the proposed regulations require the lessee to submit an Environmental Report at the same time the exploration plan is submitted to the Director; the Environmental Report will be considered part of the exploration plan and will accompany the plan through all the review processes. An exception to this requirement is made for a lessee submitting an exploration plan in the Gulf of Mexico, except in that area adjacent to the State of Florida. In such cases, Environmental Reports are not automatically required unless the proposed activities would affect a State with an approved Coastal Zone Management (CZM) program, in which case an Environmental Report is required and furnished to the State. Even where this Gulf of Mexico exemption is applicable, however, the Director may request a complete Environmental Report or specific environmental information in lieu of the report, where such report or information is necessary to enable the Director to make required findings pursuant to the Act or the National Environmental Policy Act (NEPA), and the necessary information is otherwise unavailable. The discretion to require certain environmental information in lieu of a complete Environmental Report in the exempted areas of the Gulf of Mexico gives the Director the flexibility to require only that environmental information which is needed but is otherwise unavailable.

The exception for leases in the Gulf of Mexico (except off the coast of Florida) has been created because sufficient environmental information is generally available for this area. Exploration and development and production activities in the Gulf have occurred for the past 30 years and during that period a great amount of environmental data have been collected. This exception eliminates the requirement for the submission of duplicative and unneccessary environmental information but insures that, where a void in such information exists, the Director may require that it be furnished. The Director's discretionary authority to require an Environmental Report will be relied upon where information concerning the onshore air quality impacts of offshore activities is needed or in other situations where existing environmental data are not sufficient, such as where unusual environmental conditions exist or unprecedented activities are proposed.

This approach differs from the provisions of the existing regulations which make Environmental Reports mandatory throughout the entire OCS and which require that each affected State be furnished an advance copy of the Environmental Report prior to the Supervisor's determination that the plan and report are complete.

Opportunity for Comment

Copies of an exploration plan will be distributed by the Director to the Office of Coastal Zone Management of the Department of Commerce, the Governor and coastal zone management agency of each affected State with an approved CZM program, and the Governors of each affected State (except that copies will not be furnished to the Governor of an affected State adjacent to the Gulf of Mexico, other than the State of Florida, unless the Governor submits a written request for such plans). The lessee will be responsible for providing a sufficient number of copies of the plans to accomplish this distribution.

Section 11 of the Act is silent on the subject of whether the Secretary should consult with affected States without an approved CZM program, or give such States an opportunity to comment on exploration plans prior to the Director's decision to approve, require modification, or disapprove plans. However, because the general policy of the Secretary of the Interior and the Act is to encourage consultation, the proposed regulations provide that the Governor of an affected State without an approved CZM program will be furnished exploration plans. The exception to this procedure for States in the Gulf of Mexico other than the state of Florida is created in order to comply with Congress' desire for the Secretary to ". . . . minimize delays in the search for . . . . oil and gas" (House Conference Report No. 95-1474, p. 115).

The procedures outlined above differ from the current procedures in that under existing regulations the Governors of affected States have 30 days from the date of receipt to submit written comments to the Supervisor, who is required to respond to those comments in writing. The 30-day time limit imposed by section 11(c)(1) of the Act necessitates the elimination of the 30-day period provided for comments by affected states and the requirement that comments be responded to in writing. Despite the changes proposed in these new regulations, it should be emphasized that affected States will continue to receive exploration plans and that if the affected States' comments are submitted in a timely manner, they will be considered by the Director during the plan evaluation process.

Coastal Zone Management Considerations

The Coastal Zone Management Act (CZMA), as amended, gives States with approved CZM programs up to six months to concur or object to OCS exploration activities described in detail in an exploration plan. In some circumstances the time period may be shortened to 3 months, but in all cases it is within the State's power to insure that the full 6-month period is available. Section 11(c)(2) of the OCS Lands Act provides that the Secretary shall not approve any activity described in detail in an exploration plan and affecting any land or water use in the coastal zone of a State with an approved CZM program until such State or its designated agency concurs or is conclusively presumed to concur with the consistency certification accompanying the plan. The Secretary of Commerce may override a State's objection and allow exploration to proceed if it is found that such exploration is in the national interest. To accommodate both the 30-day approval deadline of the Act and the consistency requirements of the CZMA, the proposed regulations are written in such a way that conditional approval of a plan which is in conformance with the provisions of the Act, the regulations, and the lease must occur within 30 days of plan submission whether or not the State has concurred with the lessee's consistency determination. Conditional approval will become final immediately upon receipt of the State concurrence in the consistency certification for the conditionally approved plan. However, if the State objects to the consistency certification, the lessee has two choices: (1) the State's objection may be appealed to the Secretary of Commerce pursuant to the procedures described in the CZMA and implementing regulations; or (2) the lessee may revise the plan in a manner acceptable to the Director to address the State's objection. Where the latter course is chosen, the revised plan must then be

resubmitted to the Director and to the State for review. The Director's decision to approve or disapprove the revised plan must be made within 30 days of the resubmission date.

This regulatory scheme insures that even though the lessee has a conditionally approved exploration plan, no activities can occur on a lease until the State concurs or is conclusively presumed to concur with the consistency certification, or until the Secretary of Commerce overrides the State's objection. This manner of complying with the consistency provisions of the CZMA is different from the existing regulations which provide that the Supervisor may not approve or disapprove an exploration plan until the consistency concurrence is received.

The proposed regulations also contain a provision which advises States with an approved CZM program to notify the lessee and Director as soon as possible after it has determined that the exploration activities described in a plan will have no significant impacts on the land and water use in the State's coastal zone. The purpose of this provision is to encourage any State that has completed its consistency review, or that may decide not to review a consistency certification, to notify the lessee and Director as soon as possible.

Other Additions to the Proposed Rules

Timely Submission of Plans—Provisions setting a deadline for submission of exploration plans have been included to insure the prompt and efficient exploration of a leased area. For leases issued prior to the effective date of the regulations, an exploration plan must be submitted within 90 days following the first lease anniversary date subsequent to the effective date of the proposed regulations, or before the end of the second lease year, whichever is later. For leases issued after the effective date of the regulations, the exploration plan must be submitted before the end of the second lease year.

Scope of Activities—Provisions requiring that an exploration plan comprehensively address all anticipated drilling activities on the entire leased area have been added to more clearly indicate the scope of activities to be covered by the plan.

Submission of Plans—Provisions have been added to the proposed regulations which state that a plan (including where applicable the Environmental Report) shall not be deemed submitted until the Director has determined that the plan contains all necessary information. Such a determination shall be made within ten (10) working days of the filing of the plan. The 30 day review period will begin running on the date that the completeness determination is made. This provision has been added to insure the prompt and efficient processing of plans and to insure that the document reproduced by the lessee for distribution is complete.

Clean Air Act—A provision stating that the Director shall require modification of the plan if it is determined that onshore air quality will be significantly affected by offshore activities has been included in the proposed regulations. A detailed description of the regulatory procedures the Secretary will follow in implementing the air quality requirement of Section 5(a)(8) of the Act, will be published in a separate rulemaking action and, when completed, will be fully integrated with these regulations.

Development and Production Plans: § 250.34-2

Section 25 of the Act creates a process for the submission, evaluation, and approval of development and production plans. Although the new statutory provisions are similar to the existing regulations governing development and production plan approval, several major changes have been made which are reflected in the proposed regulations. Differences between the existing and proposed regulations, as well as new features of the proposed regulations, are discussed below.

Submission of a Development and Production Plan

Information historically contained in development and production plans is critical to the efficient administration of the OCS oil and gas development program, and the proposed regulations indicate that the Director will continue to require the submission of development and production plans from all lessees. Section 25(a)(1) of the Act contains an exemption for tracts in the Gulf of Mexico other than off the coast of Florida (see section 25(e)), and for tracts for which a lease was issued before enactment of the Amendments (September 18, 1978) and on which oil and gas in paying quantities has been discovered. For these exempt leases it is not mandatory that the Secretary require the submission of development and production plans; however, the Secretary is not prohibited from doing so.

For those leases covered by the statutory exception, Environmental Reports will generally not be required and procedures and timeframes for State consultation will not be followed except as described below (see discussion of "Environmental Reports" and "Opportunity for Comment"). This regulatory scheme is consistent with the Congress' express intent that the Secretary continue to apply "existing law and requirements to tracts which have commenced development and production, and to other areas in the Gulf of Mexico, where development and production activities have been going on for a number of years, in such a manner as to limit bureaucratic red tape and otherwise minimize delays in the search for and production of oil and gas." (House Conference Report No. 95-1474, p. 115).

Timeframes and Approval Process

Section 25 of the Act establishes specific criteria and timeframes for the Secretary to follow in deciding whether to approve a development and production plan. The Governors of affected States and executives of affected local governments (except those covered by the exception described below) will have 60 days from the date of receipt of the plan to submit comments and recommendations to the Director. During that same 60-day period the Director will prepare an Environmental Assessment and decide whether approval of the plan will be a major Federal action requiring an Environmental Impact Statement (EIS). In making this determination the Director will follow the guidelines promulgated by the Council on Environmental Quality [43 FR 55978 (1978)] the Department's regulations governing such determinations, and the provisions of 30 CFR 250.34-4.

If it is determined that approval of the plan will not be a major Federal action, the Director will review all comments and recommendations and will approve, require modification, or disapprove the plan no later than 60 days after the last day of the comment period. If it is determined that approval of the plan will be a major Federal action, the procedures and comment periods provided in NEPA and its implementing regulations will be followed and the Director, after reviewing the record of the EIS public hearing, will approve, require modification, or disapprove the plan within 60 days of the date that the final EIS is released.

The proposed regulations set forth the criteria which the Director will use to determine the acceptability of a plan. These criteria are derived from Section 25(h) and Section 5(a) of the Act. If a plan is consistent with the criteria, the Director is required to approve the plan within 60 days of the close of the comment period except that the plan must be disapproved within the 60 day period if: (1) State concurrence with the consistency certification has not been received or the State objects to the consistency certification and the Secretary of Commerce does not overrule the objection; (2) activities described in the plan threaten national security or national

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defense; or (3) exceptional circumstances exist which would probably cause serious harm or damage to life (including fish and other aquatic life) to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments, and the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time and the advantages of disapproving the plan outweigh the advantages of development and production.

If the plan does not meet the criteria but is not subject to disapproval for reasons (1), (2), or (3) above, the Director will require modification of the plan to meet the criteria. The lessee may then resubmit the plan, as modified, to the Director who must approve or disapprove the plan within 60 days of the resubmission date.

The 60-day limit on the Director's approval decision, the modification procedures, specific approval and disapproval criteria, and the provisions for approvals which constitute major Federal actions are new provisions not found in the existing regulations

ENVIRONMENTAL REPORTS

Although Section 25 of the Act does not specifically require the preparation of Environmental Reports, subsections 25(e), (f) and (h) impose on the Secretary the obligation to make certain decisions concerning the environmental impact of OCS development and production. Accordingly, the proposed regulations require the lessee to submit an Environmental Report at the same time the development and production plan is submitted to the Director; the Environmental Report will be considered part of the development and production plan and will accompany the plan through all the review processes. An exception to the Environmental Report requirement is made for a lessee submitting a plan for a lease or leases in the Gulf of Mexico (except off Florida) and for leases anywhere on the OCS on which oil and gas in paying quantities was discovered before the date of enactment of the Amendments (September 18, 1978). In such cases Environmental Reports are not required unless the development and producion plan would affect a State with an approved CZM program, in which case an Environmental Report is required and will be furnished to the State. Even where the exemptions are applicable, the Director may request a complete Environmental Report or specific environmental information in lieu of the report where such report or information is necessary to enable the Director to make findings pursuant to the Act or NEPA, and the necessary information is otherwise unavailable. These exceptions have been created in order to comply with the statutory exemption created in Section 25 and Congress' desire for the secretary "to limit bureaucratic red tape and otherwise minimize delays in the search for and production of oil and gas" (House Conference Report No. 95-1474, p. 115). Despite the exception it should be noted that the Director will always require from the lessee the information necessary to determine the onshore air quality effects of offshore activities, pursuant to Section 5(a)(8) of the Act.

The proposed regulations differ from the provisions of § 250.34-2 of the existing regulations which make Environmental Reports mandatory throughout the entire OCS and requires that each affected State be furnished an advance copy of the report prior to the Supervisor's determination that the plan and report are complete.

OPPORTUNITY FOR COMMENT

Copies of a development and production plan will be distributed by the Director to the Office of Coastal Zone Management, the Governor and coastal zone management agency of each affected State that has an approved CZM program, and the Governors of each affected State (except that copies will not be furnished to the Governor of an affected State adjacent to the Gulf of Mexico, other than the State of Florida, unless the Governor submits a written request for such plans) within 10 days after the plan is received. The lessee will be responsible for providing a sufficient number of copies of the plan to accomplish this distribution.

If it is determined that approval of a development and production plan is a major Federal action, the Director will transmit the draft environmental impact statement to the Governor of each affected State, the coastal zone management agency of each affected State that has an approved CZM program, the U.S. Office of Coastal Zone Management and, upon request, to the executive of each affected local government. The Director shall also make copies of the statement available to any appropriate interstate entity and the public. All parties will have an opportunity to comment on the plan during the comment periods established in NEPA and implementing regulations. If approval of a development and production plan is found not to be a major Federal action, the Governor of each affected State receiving a copy of the plan, will have 60 days from the date of receipt of the plan to submit comments and recommendations.

The Director will provide an opportunity for consultation with the Governors of affected States and the executives of affected local governments and will accept recommendations that provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. Reasons for accepting or rejecting any Governor's recommendations or for implementing any alternative means identified during consultations with the Governor shall be provided to the Governor in writing.

The 60-day period for opportunity to comment is the same as the period available under existing regulations. Under existing regulations the Supervisor is required only to "consider comments received from the Governors of affected States"; according to the proposed regulations, the Director shall accept recommendations of the Governor if the recommendations provide a reasonable balance between the national interest and the well-being of the citizens of the affected State. This change is based on the language of Section 19 of the Act (43 U.S.C. 1345). Under the existing regulations there is no exception to the comment opportunity for Gulf of Mexico States which do not request copies of the plan.

COASTAL ZONE MANAGEMENT CONSIDERATIONS

As in the case of exploration plans, the 6-month consistency review period afforded States with approved CZM programs may create a situation where the Director must take approval action on a plan without knowing whether the State will object to or concur with the lessee's consistency certification. This situation is most likely to occur where the approval is determined not to be a major Federal action, in which case the Director must take some action on the plan no later than 120 days after its submission to the Governors of affected States. The Act specifically provides that the Director shall disapprove a plan "if any of the activities described in detail in the plan for which a Federal license or permit is required • • • do not receive concurrence • • • with respect to the consistency certification • • • ." To accommodate both CZMA's consistency requirements and the time limitations imposed by Section 25 of the Act, the proposed regulations provide for disapproval of a plan where State concurrence with the consistency certification has not been received but provides for an immediate reversal of the disapproval decision upon receipt of the State's concurrence or at the time when concurrence is conclusively presumed. If a State objects to the consistency certification, the lessee may either appeal the State's objection to the Secretary of Commerce pursuant to the procedures described in the CZMA and implementing regulations or may revise the plan in a manner acceptable to the Director to address the State's objection.

Where the latter course is chosen, the revised plan must then be resubmitted to the Director and the State for review. The Director's decision to approve or disapprove the revised plan must be made within 60 days of the resubmission date.

The existing regulations, unlike the proposed regulations, require the Supervisor to wait until the State's consistency concurrence with the lessee's certification is made before approving or disapproving a plan. This change is necessary in order to comply with the statutory time constraints imposed in Section 25(h) of the Act. The proposed regulations also contain provisions which encourage States with approved CZM programs to notify the lessee and Director at the earliest possible time if a determination is made that activities described in the plan will have no significant impacts on the land and water uses in the State's coastal zone. The purpose of this provision is to encourage any State with an approved CZM program that has completed its consistency review, or decides not to review a plan, to notify the lessee and the Director as soon as possible so that the approval process may not be delayed unnecessarily.

OTHER ADDITIONS TO THE PROPOSED RULES

Scope of Activities—Provisions requiring that the initial development and production plan describe in detail all development and production activities that the lessee proposes to undertake during the time period covered by the plan up to and including the commencement of sustained production have been included to indicate the scope of activities to be covered by the initial plan.

Submission of Plans—Provisions have been added to the proposed regulations which state that a plan shall not be deemed submitted until the Supervisor has determined that the plan contains all necessary information. Such a determination shall be made within twenty (20) working days of the filing of the plan. This provision has been added to insure the prompt and efficient processing of plans and to insure that the document reproduced by the lessee for distribution is complete.

Clean Air Act—A provision stating that the Director shall require modification of a plan, if it is determined that onshore air quality will be significantly affected by offshore activities, has been included in the proposed regulations. A detailed description of the regulatory procedures the Secretary will follow in implementing the air quality requirements of Section 5(a)(8) of the Act will be published in a separate rulemaking action and, when completed, will be fully integrated with these regulations.

ENVIRONMENTAL REPORTS: § 250.34-3

Minor modifications have been made to the section of the regulations which describes the contents of Environmental Reports associated with exploration plans and development and production plans. Duplicative requirements have been eliminated; the intent is to insure that a lessee is not required to include the same information in both the plans and the Environmental Reports. No substantive requirements of the existing regulations have been deleted from the proposed regulations.

COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA): § 250.34-4

This section of the regulations, along with other Department regulations and Council on Environmental Quality guidelines, will be used by the Director to determine whether approval of an exploration plan or development and production plan is a major Federal action pursuant to NEPA. To implement Section 25(e)(1), a provision has been added to the proposed regulations which requires that at least once the Director will declare the approval of a development and production plan in any area or region of the OCS, except in the Gulf of Mexico other than the State of Florida, to be a major Federal action.

ENVIRONMENTAL IMPACT AND REGULATORY ANALYSIS STATEMENTS

The Department of the Interior has determined that the revision of the regulations in 30 CFR 250.34, as proposed in this notice, will not have a significant impact on the quality of the human environment and, therefore, will not require preparation of an Environmental Impact Statement. The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

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Dated: January 10, 1979.

JOAN M. DAVENPORT,
Assistant Secretary of the Interior.

It is proposed to modify 30 CFR 250.34 to read:

Sec.
250.34 Exploration, development, and production plans.
250.34-1 Exploration plan.
250.34-2 Development and production plan.
250.34-3 Environmental Report.
250.34-4 Compliance with the National Environmental Policy Act.

AUTHORITY: Outer Continental Shelf Lands Act, 43 U.S.C. § 1331 et seq., as amended, Pub. L. 95-372; National Environmental Policy Act of 1969, 42 U.S.C. 4332 et seq. (1970); Coastal Zone Management Act of 1972, as amended, 16 U.S.C. § 1451 et seq.

§ 250.34 Exploration, development, and production plans.

§ 250.34-1 Exploration plan.

(a)(1) No exploration activities, except for preliminary activities, may be commenced on any leased area until an exploration plan covering that area has been submitted to and approved by the Director. For the purposes of this section, preliminary activities are geological, geophysical, and other surveys necessary to develop a comprehensive exploration plan. Such preliminary activities are those which do not result in any physical penetration of the seabed of greater than three hundred (300) feet of unconsolidated formations, or fifty (50) feet of consolidated formations, whichever is less, and which do not result in any significant adverse impact on the natural resources of the Outer Continental Shelf (OCS). A proposed exploration plan may apply to one or more leases held by an individual lessee, or may be submitted by a group of lessees acting under an approved unitization, pooling, or drilling agreement. An exploration plan shall be based upon all available information and shall identify, to the maximum extent possible, all the wells that the lessee proposes to drill to evaluate the prospective hydrocarbon accumulations on the entire leased area. An exploration plan shall include:

(i) The proposed type and sequence of exploration activities to be undertaken together with a tentative timetable for their performance from commencement to completion;

(ii) A description of the drilling vessels, platforms, or other installations or devices permanently or temporarily attached to the seabed indicating the important features thereof with special attention to safety features and pollution-prevention and control features;

(iii) Types of geophysical equipment to be utilized;

(iv) Approximate location of each proposed exploratory well, including surface and projected bottom hole lo-

cation of each directionally drilled well;

(v) Current structure maps and, as appropriate, schematic cross sections showing expected depths of marker formations, and

(vi) Such other relevant data and information as the Director may require.

(2)(i) Except as provided in (a)(2)(ii) of this section, at the same time a lessee submits an exploration plan, an Environmental Report (Exploration) shall be submitted pursuant to the provisions of § 250.34-3(a). The report will be considered part of the exploration plan and will accompany it through all review processes.

(ii) A lessee submitting an exploration plan for leases in the Gulf of Mexico, except in that area adjacent to the State of Florida, is not required to submit an Environmental Report, unless:

(A) The proposed exploration activities would affect a State with a coastal zone management program, approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1455); or

(B) The Director determines that an Environmental Report is necessary to make required findings under the Outer Continental Shelf Lands Act, (43 U.S.C. § 1331 et seq.), as amended, (Pub. L. 95-372) and the National Environmental Policy Act of 1969, [42 U.S.C. 4332 et seq. (1970)].

(3) The Director may require that an exploration plan be accompanied by a general statement of development and production intentions, which shall be for planning purposes only and shall not be binding on any party.

(4) (i) The owners of oil and gas leases issued or maintained under the Outer Continental Shelf Lands Act, (43 U.S.C. § 1331 et seq.), as amended, (Pub. L. 95-372), prior to the effective date of the regulations in this section, and for which a plan of exploration has not been submitted, shall submit a plan within 90 days following the first lease anniversary date subsequent to the effective date of this section, or before the end of the second lease year, whichever is later. The plan must conform to the requirements of § 250.34-1(a) and § 250.34-3(a).

(ii) The owners of oil and gas leases issued under the Outer Continental Shelf Lands Act, (43 U.S.C. § 1331 et seq.), as amended, (Pub. L. 95-372), after the effective date of the regulations in this section, shall submit a plan of exploration before the end of the second lease year. The plan must conform to the requirements of § 250.34-1(a) and § 250.34-3(a).

(5) The lessee shall indicate which portions of the exploration plan are believed to be exempt from disclosure under the Freedom of Information Act (5 U.S.C. § 552) and implementing regulations (43 CFR Part 2).

(6) An exploration plan shall not be deemed submitted to the Director until it has been determined that it is complete and contains the information required by §§ 250.34-1(a) and 250.34-3(a). Such a determination shall be made within ten (10) working days of the filing of the plan.

(b) (1) Once a plan is deemed submitted, the lessee shall provide to the Director a sufficient number of copies of each exploration plan to permit the Director to transmit copies of the plan to: the Governor of each affected State, except as provided in (b)(3) of this section; the coastal zone management agency of each affected State that has a coastal zone managment program approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1455); and to the United States Office of Coastal Zone Management. The Director shall determine and advise the lessee of the number of plans needed to comply with this section.

(2) Immediately after receiving copies of a plan under (b)(1) of this section, the Director shall transmit a copy of the plan except for those portions determined to be exempt from disclosure under the Freedom of Information Act (5 U.S.C. § 552) and implementing regulations (43 CFR Part 2), to: the Governor of each affected State, except as provided in (b)(3) of this section; the coastal zone management agency of each affected State that has a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1455); and to the United States Office of Coastal Zone Management in accordance with established Departmental procedures, the Director shall also make copies available to any appropriate interstate regional entity and the public, except for those portions of the plan determined to be exempt from disclosure under the Freedom of Information Act (5 U.S.C. § 552) and implementing regulations (45 CFR Part 2).

(3) The Governor of an affected State adjacent to an area in the Gulf of Mexico (other than the State of Florida) may receive copies of exploration plans by submitting to the Director a written request for the documents. The Director shall notify the appropriate lessees immediately upon receipt of such a request.

(4) If the Governor of an affected State that has a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1455) determines that the activities described in detail in an exploration plan will have no significant impacts on land and water uses in the State's coastal zone, the lessee and the Director should be notified of that determination at the earliest possible time.

(c) The Director shall prepare an Environmental Assessment for each exploration plan pursuant to the provisions of § 250.34-4.

(d) In the evaluation of an exploration plan the Director shall consider comments received from the Governors of affected States, whether or not such States have coastal zone management programs approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1455). The Director may consult directly with affected States regarding matters contained in the comments.

(e) (1) In the evaluation of an exploration plan the Director shall consider whether the plan is consistent with:

(i) The terms of the lease; and

(ii) The Outer Continental Shelf Lands Act, (43 U.S.C. § 1331 et seq.), as amended, (Pub. L. 95-372), and regulations prescribed under the Act, including air quality regulations prescribed by the Secretary pursuant to section 5(a)(8) of the Act and environmental, safety, and health requirements.

(2) Within 30 days of submission of the proposed plan, the Director shall:

(i) Approve, either finally or conditionally, any plan which is consistent with the criteria in (e)(1)(i) and (ii) of this section;

(ii) Require modification by the lessee of any plan which is inconsistent with (e)(1)(i) or (ii) to achieve consistency; or

(iii) Disapprove any plan if it is determined that any proposed activity under such plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environment and that such proposed activity cannot be modified to avoid such condition.

(3) The Director shall notify the lessee in writing of the reason(s) for disapproving a plan or for requiring modification of a plan and the conditions that must be met for plan approval.

(f) The lessee may resubmit a plan, as modified, to the Director. Within 30 days of resubmission, the Director shall approve or disapprove the modified plan based upon the criteria in (e)(1) of this section.

(g) Conditional approval of any plan will be granted for a plan that is otherwise approvable when it is determined that proposed activities will significantly affect any land or water use

in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1455), and final approval will be granted immediately upon receipt of the State's concurrence or upon the State being conclusively presumed to concur with the consistency certification accompanying a plan pursuant to section 307 of the Coastal Zone Management Act of 1972, as amended, [16 U.S.C. § 1456(c)(3)(B)].

(h) When a State objects to a lessee's consistency certification, the lessee may revise the plan to accommodate the State's objection(s) and resubmit the plan to the Director for review pursuant to the criteria in (e)(1) of this section and to the State for review pursuant to the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456) and implementing regulations (15 CFR § 930.83 and 930.84), or may appeal to the Secretary of Commerce pursuant to the procedures described in the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456) and implementing regulations (Subpart H of 15 CFR § 930).

(i) A modified plan which has been disapproved pursuant to (f) of this section, may be revised and resubmitted to the Director for approval in the same manner as, and with the same information required for, a new plan of exploration.

(j) If the Director disapproves an exploration plan, pursuant to (e)(2)(iii) of this section, the Director may, subject to the provisions of § 5(a)(2)(B) of the Outer Continental Shelf Lands Act, (43 U.S.C. § 1331 et seq.), as amended, (43 U.S.C. 1334) and implementing regulations (30 CFR § 250.12), cancel the lease(s) and the lessee shall be entitled to compensation in accordance with section (5)(a) of the Act, as amended, and implementing regulations (30 CFR § 250.12)

(k) The Director shall periodically review approved plans. The frequency and extent of his review shall be based upon the significance of any changes in available information and in other onshore or offshore conditions affected or impacted by exploration activities pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this Part, the Director shall require such revision pursuant to (1) of this section.

(l) Proposals to revise an approved exploration plan, whether initiated by the lessee or ordered by the Director, shall be submitted to the Director for approval in the same manner as, and with the same information required for, a new plan of exploration. When the Director determines that a proposed revision could result in a significant change in the impacts previously identified and evaluated, the revision shall be subject to the procedures in (b) through (e) of this section.

(m) The Director may authorize or direct the lessee to conduct such geological, geophysical, or other surveys as the Director determines to be necessary for the evaluation of activities to be carried out under an exploration plan or being carried out under an approved exploration plan. The lessee shall provide the Director, upon request and without cost to the lessor, copies of any data obtained as a result of such surveys.

(n) The lessee may not drill any well until the Director's approval of an application for permit to drill, filed in accordance with the requirements of 30 CFR 250.41(a) and 250.91(a), has been received. The Director shall not approve any permit which does not conform to the applicable approved exploration plan. Pursuant to (16 U.S.C. § 1456(c)(3)(B)(iii)) of the Coastal Zone Management Act, as amended, once the affected State has concurred in the consistency determination accompanying the exploration plan, subsequent permit applications for activities described in detail in the plan are not subject to State consistency review under the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1455).

(o) Nothing in this section shall be viewed as limiting the lessee's responsibility to take appropriate measures to meet emergency situations. In such situations, the Director may approve or require departures from an approved exploration plan.

§ 250.34-2 Development and production plan.

(a) (1) No development or production activities may be commenced on an oil and gas lease issued in any area of the OCS, until a plan of development and production has been submitted to and approved by the Director. A development and production plan may apply to one or more leases held by an individual lessee, or may be submitted by a group of lessees acting under an approved unitization, pooling, or drilling agreement. A plan of development and production must describe in detail all the development and production activities that the lessee proposes to undertake during the time period covered by the plan. The initial development and production plan must include a description of all activities to be undertaken up to and including the commencement of sustained production. A development and production plan must provide for the effective and efficient development and production of all known accumulations of hydrocarbons found on the leasehold that are capable of production in paying quantities. A development and production plan shall include:

(i) A description of the specific work to be performed;

(ii) A description of all drilling vessels, platforms, pipelines, or other facilities and operations located on the OCS which are proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location, size, design, and important features (with emphasis on features pertaining to safety and to pollution prevention and control) of such facilities and operations; and the labor, material and energy requirements associated with such facilities and operations;

(iii) The location of each well, including surface and projected bottom hole locations for each directionally drilled well;

(iv) Current interpretations of all available geological and geophysical data, including structure maps and schematic cross sections of productive formations;

(v) A description of the environmental safeguards to be implemented in the course of development and production operations under the plan, together with a discussion of how such safeguards are to be implemented;

(vi) All safety standards to be met and the safety features to be utilized in order to meet those standards;

(vii) An expected rate of development and production and a time schedule for the performance of activities from commencement to completion; and

(viii) Such other relevant data and information as the Director may require.

(2) (i) Except as provided by (a)(2)(ii) of this section, at the same time the lessee submits a development and production plan to the Director, an Environmental Report (Development/Production) shall also be submitted pursuant to the provisions of § 250.34-3(b). The report will be considered part of the development and production plan and will accompany it through all review processes.

(ii) Submission of an Environmental Report will not be required for leases in the Gulf of Mexico, except as provided in (a)(2)(iii), or for leases anywhere on the OCS on which oil and gas in paying quantities had been discovered before enactment of Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372), unless:

(A) The proposed activities will have a significant impact on the land and water uses in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management

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Act of 1972, as amended (16 U.S.C. § 1455); or

(B) An Environmental Report is necessary to enable the Director to make required findings under the Outer Continental Shelf Lands Act, (43 U.S.C. § 1331 et seq.), as amended, (Pub. L. 95-372), or the National Environmental Policy Act of 1969, [42 U.S.C. 4332 et seq. (1970)], except that the Director may request specific environmental information in lieu of an entire report described in § 250.34-3(b).

(iii) Submission of an Environmental Report will be required for leases located in the area of the Gulf of Mexico adjacent to the State of Florida.

(3) The Director may require the lessees of tracts on which oil or gas, or both, have been discovered in paying quantities and which are adjacent to or nearby the area covered in the development and production plan, to submit a preliminary description of their plans for development and production from leases on adjacent or nearby areas.

(4) The lessee shall indicate which portions of the development and production plan are believed to be exempt from disclosure under the Freedom of Information Act (5 U.S.C. § 552) and implementing regulations (43 CFR Part 2).

(5) A development and production plan shall not be deemed submitted to the Director until it has been determined that it is complete and contains the information required by §§ 250.34-2(a) and 250.34-3(b). Such a determination shall be made within twenty (20) working days of the filing of the plan.

(b) (1) Once a plan is deemed submitted the lessee shall provide to the Director a sufficient number of copies of each plan of development and production to permit the Director to transmit copies of the plan to: the Governor of each affected State, except as provided in (b)(3) of this section; the coastal zone management agency of each affected State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1455); the United States Office of Coastal Zone Management; and, upon request and where applicable, to the executive of each affected local government. The Director shall determine and advise the lessee of the number of plans needed to comply with this section.

(2) Within ten (10) days after the Director receives the required number of copies of a plan under (b)(1) of this section, the Director shall transmit a copy of the plan, except for those portions of the plan determined to be exempt from disclosure under the Freedom of Information Act (5 U.S.C. § 552) and implementing regulations (43 CFR Part 2) to: the Governor of each affected State, except as provided in (b)(3) of this section; the coastal zone management agency of each affected State that has a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1455); to the United States Office of Coastal Zone Management, and, upon request, and where applicable, to the executive of each affected local government. In accordance with established Departmental procedures, the Director shall also make copies of the plan available to any appropriate interstate regional entity and the public, except for those portions of the plan determined to be exempt from disclosure under the Freedom of Information Act (5 U.S.C. § 552) and implementing regulations (43 CFR Part 2).

(3) The Governor of an affected State adjacent to an area in the Gulf of Mexico (other than the State of Florida) may receive copies of development and production plans by submitting to the Director a written request for the documents. The Director shall notify the appropriate lessees immediately upon receipt of such a request.

(c) (1) The Governor of each affected State, except those not submitting a request under (b)(3) of this section, the coastal zone management agency of each affected State that has a coastal zone mangement program approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1455), the United States Office of Coastal Zone Management, and the executive of each affected local government shall have 60 days from the date of receipt of the plan from the Director to submit comments and recommendations. Prior to submitting recommendations to the Director, the executive of any affected local government must forward his recommendations to the Governor of the State. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

(2) The Director shall accept recommendations of the Governor, any may accept the recommendations of the executive of any affected local government, if it is determined, after having provided the opportunity for consultation, that the recommendations provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. The Governor shall be provided, in writing, the reasons for accepting or rejecting the Governor's recommendations, or for implementing any alternative means identified during consultations with the Governor.

(3) (i) If the Governor of an affected State that has a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1455) determines that the activities described in detail in a development and production plan will have no significant impacts on land and water uses in the State's coastal zone, the lessee and the Director should be notified of that determination at the earliest possible time.

(ii) The Governor of an affected State that does not have a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1455) may advise the Director that the State does not wish to receive or review development and production plans under section 19 of the Outer Continental Shelf Lands Act, as amended, (43 U.S.C. 1345).

(d) The Director shall prepare an Environmental Assessment for each development and production plan pursuant to the provisions of § 250.34-4.

(e) (1) If the Director determines that approval of a development and production plan is a major Federal action, subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 [42 U.S.C. 4332 et seq. (1970)], the Director shall transmit the draft environmental impact statement to the Governor of each affected State, the coastal zone management agency of each affected State that has a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1455), the United States Office of Coastal Zone Management; and, upon request, to the executive of each affected local government. The Director shall also make copies of the environmental impact statement available to any appropriate interstate entity and the public.

(2) The Director may require lessees of tracts for which development and production plans have not been approved, to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Director that approval of a development and production plan requires that the procedures under the National Environmental Policy Act of 1969 [42 U.S.C. 4332 et seq. (1970)] shall commence.

(f) After reviewing the record of any public hearing held with respect to the approval of a plan for which an environmental impact statement was prepared, the Director shall, within 60 days after the release of the final environmental impact statement, approve, require modification, or disapprove the plan. Where no environmental impact statement was prepared, the Director shall, after reviewing all comments and recommendatios submitted pursuant to (c)(1) of this section, approve, require modification, or disapprove a plan no later than 60 days after the last day of the comment period.

(g) (1) In the evaluation of a development and production plan the Director shall consider whether the plan is consistent with:

(i) The terms of the lease;

(ii) The Outer Continental Shelf Lands Act, (43 U.S.C. § 1331 et seq.), as amended, (Pub. L. 95-372), and regulations prescribed under the Act, including air quality regulations prescribed by the Secretary pursuant to section 5(a)(8) of the Act;

(iii) Other applicable Federal laws, including, but not limited to, the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1451 et seq.);

(iv) Environmental, safety, and health requirements; and

(v) The statutory requirement to protect property, any mineral deposits (in areas leased or not leased), and the national security or defense.

(2) The Director shall:

(i) Approve any plan which is consistent with the criteria in (g)(1) of this section;

(ii) Require modification of any plan which is inconsistent with the criteria in (g)(1) of this section to achieve consistency; or

(iii) Disapprove any plan if the Director determines that:

(A) State concurrence with the consistency certification has not been received or the state objects to the consistency certification and the Secretary of Commerce does not make the determination authorized by subsection 307(c)(3)(B)(iii) of the Coastal Zone Management Act of 1972, as amended, [16 U.S.C. § 1456(c)(3)(B)];

(B) Operations threaten national security or national defense; or

(C) Exceptional geological conditions in the lease area, exceptional resource value in the marine or coastal environment, or other exceptional circumstances exist, and that (*1*) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environments, (*2*) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time, and (*3*) the advantages of disapproving the plan outweigh the advantages of development and production.

(3) The Director shall notify the lessee in writing of the reason(s) for disapproving a plan or for requiring modification of a plan and the conditions which must be met for plan approval.

(h) (1) The lessee may resubmit a development and production plan, as modified, to the Director. Within 60 days of resubmission, the Director shall approve, or disapprove the modified plan based upon the criteria in (g)(1) or (g)(2)(iii)(A) of this section.

(2) The Director shall notify the lessee in writing of the reason(s) for disapproval of a plan and the conditions which must be met for approval.

(i)(1) If a development and production plan is disapproved for the sole reason that a State concurrence with the consistency certification has not been received by the Director, the Director shall approve the plan upon receipt of the concurrence or at the time when concurrence is conclusively presumed.

(2) If a development and production plan is disapproved because a State objects to the consistency certification, the lessee may revise the plan to accommodate the State's objection(s) and resubmit the plan to the Director for review pursuant to the criteria in (g)(1) of this section and to the State for review pursuant to the Coastal Zone Management Act of 1972, as amended (16 U.S.C. §§ 930.83 and 930.84), or may appeal to the Secretary of Commerce pursuant to the procedure described in the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456), and implementing regulations (Subpart H of 15 CFR § 930). The Director shall approve or disapprove a plan, as revised, within 60 days of the resubmission date.

(3) A modified plan which has been disapproved pursuant to (h)(1) of this section, may be revised and resubmitted to the Director for approval in the same manner as, and with the same information required for, a new plan of development and production.

(j) All development and production plans disapproved pursuant to (g)(2)(iii) and (h)(1) of this section are subject to the provisions of section 25(h)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. § 1334 et seq.), as amended (Pub. L. 95-372), and implementing regulations (30 CFR Part 250.12).

(k) (1) The Director shall, from time to time, review approved development and production plans. The frequency and extent of this review shall be based upon the significance of any changes in available information and in other onshore or offshore conditions affecting or impacted by development or production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this Part, the Director shall require such revision pursuant to (k)(2) of this section.

(2) Proposals to revise an approved development and production plan, whether initiated by the lessee or ordered by the Director, shall be submitted to the Director for approval in the same manner as, and with the same information required for, a new development and production plan. When the Director determines that a proposed revision could result in a significant change in the impacts identified, the revision shall be subject to the procedures of (b) through (h) of this section.

(3) The Director may approve any revision of an approved plan proposed by the lessee if it is determined that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of the Outer Continental Shelf Lands Act (43 U.S.C. § 1331 et seq.), as amended (Pub. L. 95-372), to the extent such revision is consistent with protection of the human, marine, and coastal environments.

(l) Whenever the lessee fails to submit a plan in accordance with provisions of this section, or fails to comply with an approved plan, the lease may be canceled in accordance with section (5) (c) and (d) of the Outer Continental Shelf Lands Act (43 U.S.C. § 1334), and implementing regulations (30 CFR Part 250.12).

(m) The lessee may not drill any well until the Director's approval of an application for permit to drill filed in accordance with the requirements of 30 CFR § 250.41(a) and § 250.91(a) has been received. The Director shall not approve any permit which does not conform with the applicable approved plan of development and production. Pursuant to 16 U.S.C. §1456(c)(3)(B)(iii) of the Coastal Zone Management Act of 1972, as amended, once the affected State has concurred in the consistency certification for a development and production plan, subsequent permit applications for activities described in detail in the plan are not subject to State consistency review under the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456).

(n) The Director may authorize or direct the lessee to conduct such geological, geophysical, or other surveys as the Director determines to be necessary for the evaluation of activities to be carried out under a development and production plan or being carried out under an approved development

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and production plan. The lessee shall provide the Director, upon request and without cost to the lessor, copies of any data obtained as a result of such surveys.

(o) Nothing in this section shall be viewed as limiting the lessee's responsibility to take appropriate measures to meet emergency situations. In such situations, the Director may approve or require departures from an approved development and production plan.

(p) The lessee shall contemporaneously submit to the Federal Energy Regulatory Commission that portion of any development and production plan which relates to production of natural gas and the facilities for transportation of natural gas.

§ 250.34-3 Environmental report.

(a) Environmental Report (Exploration). At the same time the lessee submits an exploration plan to the Director, an Environmental Report (Exploration) shall be submitted except as provided for in § 250.34-1(a)(2)(ii). The report shall identify the name of the lessee or operator and the lease(s) involved. The report should be in summary form and should reference information contained in the related exploration plan and the most recent environmental impact statement prepared for the area. The Environmental Report (Exploration) shall include information available at the time of the plan's submission to the extent that such information is accurate, current, and applicable to the geographic area covered by the exploration plan. The Environmental Report (Exploration) shall include the following:

(1) To the extent that information is not contained in the related exploration plan, the Environmental Report shall contain:

(i) A brief description of the following:

(A) The procedures, personnel, and equipment that are to be used for preventing, reporting, and cleaning up spills of oil or waste materials which might occur during the exploration activities, including information on response time, capacity, and location of equipment;

(B) The location, size, number and land requirements (including rights-of-way and easements) of onshore support and storage facilities, and, where possible, a timetable regarding the acquisition of lands and the construction or expansion of any facilities;

(C) The estimated number of persons expected to be employed in support of offshore, onshore, and transportation activities, and, where possible, the approximate number of new employees and families likely to move into the affected area;

(D) The most likely travel routes for boat and aircraft traffic between offshore and onshore facilities, the probable location of onshore terminals, and the estimated frequency such routes will be traversed;

(E) The quantity and composition of solid, liquid, and gaseous wastes and pollutants likely to be generated by offshore, onshore, and transport operations;

(F) Major supplies, services, energy, water, or other resources within affected States necessary for carrying out the related plan;

(G) The directly affected offshore and onshore areas, including a general description of water depths, currents, water quality, weather patterns, ambient air quality, flora and fauna, cultural resources, other uses of the area, affected socioeconomic conditions, and geology. This will include a description of environmentally sensitive or potentially hazardous areas which might be affected by the proposed exploration activities. Such areas shall include, but are not limited to, those of cultural (e.g., archeological), biological (e.g., fisheries), or geological (e.g., seismic) significance, and areas of particular concern designated by affected States pursuant to the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1451 et seq.). Emphasis is to be placed on those environmental values that may be affected by the proposed activity.

(ii) An assessment of the affects on the offshore and onshore environments expected to occur as a result of implementation of the exploration plan, expressed in terms of magnitude and duration, with special emphasis upon the identification and evaluation of unavoidable and irreversible impacts on the environment.

(2) Such other data and information as the Director may require.

(3) Copies of all consistency certifications required pursuant to the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456) and implementing regulations (15 CFR § 930.76). The consistency certification shall be accompanied by the information required by 15 CFR § 930.77 (2) and (3).

(4) The name, address, and telephone number of an individual employee of the lessee to whom inquiries by the Director and the affected States may be made.

(b) Environmental Report (Development/Production). At the same time the lessee submits a development and production plan to the Director, an Environmental Report (Development/Production) shall be submitted except as provided for in § 250.34-2(a)(2)(ii). The report shall identify the name of the lessee or operator, and the lease(s) involved. The report shall be as detailed as necessary to enable identification and evaluation of the significant environmental consequences of the proposed activities and should reference information contained in the related development and production plan. The Environmental Report (Development/Production) shall include information available at the time of the plan's submission to the extent that such information is accurate, current, and applicable to the geographic area covered by the development and production plan.

(1) To the extent that information is not contained in the related development and production plan, the Environmental Report shall contain:

(i) A brief description of the following:

(A) The location, description, and size of any offshore and, to the maximum extent practicable, land-based operations to be conducted or contracted for as a result of the proposed activity.

This shall include: (*1*) The acreage required within a State for facilities, rights-of-way, and easements;

(*2*) The means proposed for transportation of oil and gas to shore, the routes to be followed by each mode of transportation, and the estimated quantities of oil or gas, or both, to be moved along such routes;

(*3*) An estimate of the frequency of boat and aircraft departures and arrivals, the onshore location of terminals, and the normal routes for each mode of transportation; and

(*4*) Quantities, types, and plans for disposal of solid, liquid, and gaseous wastes and pollutants likely to be generated by offshore, onshore, and transport operations, and, regarding any wastes which may require onshore disposal, the means of transportation to be used to bring the wastes to shore and the location of onshore waste disposal or treatment facilities.

(B) The requirements for land, labor, material, and energy for the items identified above including:

(*1*) The approximate number, timing, and duration of employment of persons who will be engaged in onshore development and production activities, and approximate number of local personnel who will be employed for or in support of the development activities (classified by the major skills or crafts that will be required from local sources and estimated number of each such skill needed), and the approximate total number of persons who will be employed during the onshore construction activity and during all activities related to offshore development and production;

(*2*) The approximate number of people and families to be added to the population of local near-shore areas as a result of the planned development;

(*3*) An estimate of significant quantities of energy and resources to be used or consumed, including electricity, water, oil and gas, diesel fuel, aggregate, or other supplies, which may be purchased within an affected State; and

(*4*) The type of contractors or vendors which will be needed, although not specifically identified, and which may place a demand on local goods and services.

(C) A schedule setting forth specific near and onshore development activities which correspond to the offshore development and production activities described in detail in the related plan. To the maximum extent possible, individual activities are to be projected on a year-to-year basis. The schedule shall include:

(*1*) Sequence in which events are expected to be accomplished;

(*2*) Best estimate of time required to complete specific activities;

(*3*) Month and year that specific actions are most likely to occur onshore and offshore; and

(*4*) Month and year that other pertinent activities associated with development of onshore and offshore activities are likely to be accomplished.

(D) A description of any environmental monitoring systems proposed by the lessee.

(E) A description of the contingency plans that are in effect for the area to be developed together with a discussion of the population-prevention and cleanup equipment that is or will be maintained on the drill site and in the area pursuant to a Regional Contingency Plan.

(F) A narrative description of the existing environment, with an emphasis placed on those environmental value that may be affected by the proposed action. This section shall contain a description of the physical environment of the leased lands covered by the related plan. This portion of the report shall include data and information obtained or developed by the lessee together with other pertinent data and information available to the lessee from other sources. The lessee should cross-reference information on the physical environment in the most recent environmental impact statement and should summarize pertinent information contained in other published accredited reports. The report shall clearly identify the source of all data and information contained therein. The data and information to be included in the lessee's report on the environment shall include where appropriate:

(*1*) Cultural and historical resource surveys of the lease or unit area;

(*2*) Seafloor configuration, stability, foundation characteristics, sedimentation, and erosion potential at the site of structural components described in the plan;

(*3*) Seismic risk and conditions (geophysical high resolution surveys of sites, routes, and corridors);

(*4*) Aquatic biota, including a description of fishery and marine mammal significance and utilization of the lease or unit area;

(*5*) Predevelopment water column quality (ambient) and temperature data for incremental depths for the area encompassed by the plan;

(*6*) Ocean currents described as to prevailing direction, seasonal variations and variations at different depths in the lease or unit area;

(*7*) Meteorologic conditions, including storm frequency and magnitude, wind direction and velocity, and ambient air quality, listing, where possible, the means and extremes of each;

(*8*) Other uses of the area;

(*9*) Socioeconomic conditions; and

(*10*) Existing monitoring systems that are currently measuring impacts of activities on the environment in the lease sale area.

(ii) An assessment of the affects on the environment expected to occur as a result of implementation of the related plan. This section of the report shall identify specific and cumulative impacts that may occur both onshore and offshore and measures proposed to mitigate these impacts. Such impacts shall be quantified to the fullest extent possible and shall be accumulated for all activities for each of the major elements of the environment (i.e., air, water, biota, etc.). In every case, impacts shall be expressed in terms of magnitude and duration. The report shall place special emphasis upon the identification and evaluation of unavoidable and irreversible impacts on the environment and additional environmental monitoring systems that may be needed to provide accurate reporting of cumulative impacts on the environment.

(iii) A discussion of alternatives to the activities proposed that were considered during the development of the related plan; for example, a comparison of development and production operations using a bottom-supported platform which extends above the surface of the ocean with a similar degree of oil and gas development using seafloor completion and production techniques. Any significant differences in the environmental impacts of the use of alternative technologies shall be identified and discussed.

(2) Such other data and information as the Director may require.

(3) Copies of all consistency certifications required pursuant to the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456) and implementing regulations (15 CFR § 930.76). The consistency certification shall be accompanied by the information required by 15 CFR § 930.77.

(4) The name, address, and telephone number of an individual employee of the lessee to whom inquires by the Director and the affected States may be directed.

§ 250.34-4 Compliance with the National Environmental Policy Act (NEPA)

(a)(1) Prior to approval of an exploration or development and production plan, or approval of significant revisions to approved exploration or development and production plans the Director shall prepare an Environmental Assessment under § 250.34-1(c) or § 250.34-2(c) of this Part in accordance with applicable policies and guidelines, to determine whether approval of the proposed activities constitute a major Federal action significantly affecting the quality of the human environment requiring preparation of an Environmental Impact Statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 [42 U.S.C. § 4332(2)(C)]. In this assessment, the Director may utilize information contained in the lessee's Environmental Report.

(2) In the assessment the Director shall give particular attention to:

(i) Location of major engineering structures in areas of high seismic risk or seismicity;

(ii) Location of major engineering structures within or near the boundary of a marine sanctuary, wildlife refuge, or other areas of high ecological sensitivity;

(iii) Location of bottom-founded structures in areas of potentially hazardous natural bottom conditions; and

(iv) Use of new and/or unusual technology.

(3) At least once the Director shall declare the approval of a development and production plan in any area or region (as defined by the Director) of the Outer Continental Shelf, except in the Gulf of Mexico other than the State of Florida, to be a major Federal action.

(4) An Environmental Impact Statement shall be prepared when the Director determines that the impacts of activities described in the plan or revision have not been adequately considered in a previous Environmental Impact Statement. In this regard, the Director shall consider:

(i) Whether implementation of the activities described in the plan or revision would require construction of new onshore processing, storage, treatment, or transportation facilities which could have significant adverse impacts upon the human, marine, or coastal environments that have not been adequately considered in a previous Environmental Impact Statement;

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(ii) Whether the cumulative impact of proposed activities have not been previously considered, or whether the impacts are significantly greater than those previously analyzed.

(iii) The likelihood of adverse impacts on the human, marine, or coastal environments that differ significantly in magnitude, duration, or nature from the impacts considered in a previous Environmental Impact Statement.

(b) Where it has been determined that an Environmental Impact Statement will be prepared, the Director shall decide whether the Statement will cover the activities described in a single development and production plan or in a number of such plans covering an area of the OCS where there is a likelihood of significant development.

[FR Doc. 79-1489 Filed 1-16-79; 8:45 am]

[4310-31-M]

[30 CFR Part 252]

OUTER CONTINENTAL SHELF (OCS) OIL AND GAS INFORMATION PROGRAM

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Proposed rule.

SUMMARY: Enactment of the Outer Continental Shelf (OCS) Lands Act, 43 U.S.C. 1331 et seq., as amended, Pub. L. 95-372, necessitates revision of the regulations contained in 30 CFR Part 252. The proposed rule establishes new procedures and, to the extent required, modifies existing procedures which require the Director, U.S. Geological Survey to make certain information available to the Governors of affected States in accordance with the provisions of the Freedom of Information Act (5 U.S.C. 552), and the OCS Lands Act Amendments of 1978 (43 U.S.C. 1352).

DATE: Written comments should be submitted on or before March 16, 1979.

ADDRESS: Interested persons are invited to submit written comments and recommendations with respect to the proposed regulations. Responses should identify the subject matter and be directed to the Chief, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 600, Reston, Virginia 22092 (703/860-7524).

FOR FURTHER INFORMATION CONTACT:

Don E. Kash, Chief, Conservation Division, U.S. Geological Survey, National Center (Mail Stop 600), Reston, Virginia 22092 (703/860-7524).

SUPPLEMENTARY INFORMATION: Background: Regulations establishing procedures for the Director, U.S. Geological Survey, to make available summary reports of data and information to the Governors of affected States were published as final rules on January 27, 1978 (43 F.R. 3887). On September 18, 1978, the OCS Lands Act Amendments of 1978 were enacted (Public Law No. 95-372). Certain provisions of those amendments (43 U.S.C. § 1352) supersede the procedures established by the existing regulations and necessitate their revision. The most significant revisions are the expansion of the scope of the information covered by the provisions of section 252.5, "Information made available to affected States," and the addition of a new section 252.7, entitled "Privileged and proprietary data and information to be made available to affected States."

ENVIRONMENTAL IMPACT AND REGULATORY ANALYSIS: The Department of the Interior has determined that the revision of the regulations in 30 CFR Part 252, as proposed in this notice, is not a major Federal action significantly affecting the quality of the human environment and will not require preparation of an Environmental Impact Statement. The Department has also determined that this notice of proposed rule does not require preparation of a regulatory analysis under Executive Order 12044.

AUTHORS: Thomas J. McCloskey, Office of the Assistant Secretary—Energy and Minerals, U.S. Department of the Interior (202/343-4457); and Gerald Rhodes, Geological Survey, U.S. Department of the Interior (703/860-7531).

Dated: January 12, 1979.

JOAN M. DAVENPORT,
Assistant Secretary of the Interior.

It is proposed to modify 30 CFR Part 252 to read:

PART 252—OUTER CONTINENTAL SHELF (OCS) OIL AND GAS INFORMATION PROGRAM

Sec.

252.1 Purpose.
252.2 Definitions.
252.3 Oil and gas data and information to be provided for use in the OCS Oil and Gas Information Program.
252.4 Summary report to affected States.
252.5 Information to be made available to affected States.
252.6 Freedom of Information Act requirements.
252.7 Privileged and proprietary data and information to be made available to affected States.

AUTHORITY: Outer Continental Shelf Lands Act, 43 U.S.C. § 1331 et seq., as amended, Pub. L. 95-372; Freedom of Information Act (5 U.S.C. 552).

§ 252.1 Purpose.

The purpose of this Part is to supplement the procedures contained in Parts 250 and 251 of this Chapter for the submission of oil and gas data and information resulting from exploration, development, and production operations on the Outer Continental Shelf (OCS) to the Director, U.S. Geological Survey. In addition, this Part establishes procedures for the Director to make available certain information to the Governors of affected States and, upon request to the executives of affected local governments in accordance with the provisions of the Freedom of Information Act and the OCS Lands Act Amendments of 1978.

§ 252.2 Definitions.

(a) "Act" refers to the Outer Continental Shelf Lands Act, as amended (43 U.S.C. § 1331 et seq.).

(b) "Affected State" means, with respect to any program, plan, lease sale, or other activity, proposed, conducted, or approved pursuant to the provisions of the Act, any State—

(1) the laws of which are declared, pursuant to section 4(a)(2)(A) of the Act, to be the law of the United States for the portion of the OCS on which such activity is, or is proposed to be, conducted;

(2) which is, or is proposed to be, directly connected by transportation facilities to any artificial island or installations, and other devices permanently, or temporarily attached to the seabed;

(3) which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the OCS and tranported directly to such State by means of vessels or by a combination of means including vessels;

(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the OCS; or

(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities.

(c) "Analyzed geological information" means data collected under a permit (or for the purposes of § 250.97 of this Chapter under a lease) which have been analyzed. Analysis may include, but is not limited to, identification of lithologic and fossil content, core analyses, laboratory analyses of physical and chemical properties, logs or charts of electrical, radioactive, sonic, and other well logs, and descriptions of hydrocarbon shows or hazardous conditions.

(d) "Data" means facts and statistics or samples which have not been analyzed or processed.

(e) "Development" means those activities which take place following discovery of oil or natural gas in paying quantities, including geophysical activity, drilling, platform construction, and operation of all onshore support facilities, and which are for the purpose of ultimately producing the oil and gas discovered.

(f) "Director" means the Director of the U.S. Geological Survey or a designee of the Director.

(g) "Exploration" means the process of searching for oil and natural gas, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such oil or natural gas, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production.

(h) "Governor" means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to a Governor pursuant to the Act.

(i) "Information", when used without a qualifying adjective, includes analyzed geological information, processed geophysical information, interpreted geological information, and interpreted geophysical information.

(j) "Interpreted geological information" means knowledge, often in the form of maps, developed by determining the geological significance of data and analyzed geological information.

(k) "Interpreted geophysical information" means knowledge, often in the form of maps, developed by determining the geological significance of geophysical data and processed geophysical information.

(l) "Lease" means any form of authorization which is issued under section 8 or maintained under section 6 of the Act and which authorizes exploration for, and development and production of, oil or natural gas, or the land covered by such authorization, whichever is required by the context.

(m) "Lessee" means the party authorized by a lease, or an approved assignment thereof, to explore for and develop and produce the leased deposits in accordance with the regulations in Part 250 of this Chapter, including all parties holding such authority by or through the lessee.

(n) "Outer Continental Shelf (OCS)" means all submerged lands (1) which lie seaward and outside of the area of lands beneath navigable waters as defined in the Submerged Lands Act (67 Stat. 29) and (2) of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

(o) "Permittee" means the party authorized by a permit issued pursuant to Part 251 of this Chapter to conduct activities on the OCS.

(p) "Processed geophysical information" means data collected under a permit (or for the purposes of § 250.97 of this Chapter under a lease) which have been processed. Processing involves changing the form of data so as to facilitate interpretation. Processing operations may include, but are not limited to, applying corrections for known perturbing causes, rearranging or filtering data, and combining or transforming data elements.

(q) "Production" means those activities which take place after the successful completion of any means for the removal of oil or natural gas, including such removal, field operations, transfer of oil or natural gas to shore, operation monitoring, maintenance, and workover drilling.

(r) "Secretary" means the Secretary of the Interior or a designee of the Secretary.

§ 252.3 Oil and gas data and information to be provided for use in the OCS oil and gas information program.

(a) Any permittee or lessee engaging in the activities of exploration for, or development and production of, oil and gas on the OCS shall provide the Director access to all data and information obtained or developed as a result of such activities, including geological data, geophysical data, analyzed geological information, processed and reprocessed geophysical information, interpreted geophysical information, and interpreted geological information. Copies of these data and information and any interpretation of these data and information shall be provided to the Director upon request. No permittee or lessee submitting interpreted geological information or interpreted geophysical information, where such interpreted information has been submitted in good faith, shall be held responsible for any consequence of the use or reliance upon such interpretations.

(b)(1) Whenever a lessee provides any data or information, at the request of the Director and specifically for use in the OCS Oil and Gas Information Program, in the form and manner of processing which is utilized by the lessee in the normal conduct of business, the Director shall pay the reasonable cost of reproducing such data and information. The cost shall be computed and paid in accordance with the applicable provisions of (e)(1) of this section.

(2) Whenever a permittee provides any data or information, at the request of the Director and specifically for use in the OCS Oil and Gas Information Program, in the form and manner of processing which is utilized by the permittee in the normal conduct of business, the Director shall pay the permittee the reasonable cost of reproducing such data and information for the Director and shall pay at the lowest rate available to any purchaser for processing such data and information the costs attributable to such processing. The cost is to be computed and paid in accordance with the applicable provisions of (e)(3) of this section.

(3) Whenever a lessee or permittee provides any data or information, at the request of the Director and specifically for use in the OCS Oil and Gas Information Program, in a form and manner of processing not normally utilized by the lessee or permittee in the normal conduct of business the Director shall pay the reasonable cost of processing and reproducing such data and information. The cost is to be computed and paid in accordance with the applicable provisions of (e)(2) of this section.

(c) Data or information requested by the Director shall be provided as soon as practicable, but not later than 30 days following receipt of the Director's request.

(d) The Director reserves the right to disclose any data or information acquired from a lessee or permittee to an independent contractor or agent for the purpose of reproducing, processing, reprocessing, and interpreting such data or information. Prior to any such disclosure, the contractor or agent shall be required to execute a written commitment not to disclose any data or information to anyone without the express consent of the Director. In the event of any unauthorized disclosure of data or information by the contractor or agent or by an employee thereof the responsible contractor or agent or employee thereof shall be liable for penalties pursuant to section 24 of the Act.

(e)(1) After delivery in accordance with (b)(1) of this section of data or information, the lessee shall, upon request for reimbursement and upon determination by the Director that the requested reimbursement is proper, be reimbursed for the cost of reproducing the data or information at the lessee's

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lowest rate or at the lowest commercial rate established in the area, whichever is less.

(2) After delivery in accordance with (b)(3) of this section of data or information which has been processed at the Director's specific request in a form or manner not utilized by the permittee or lessee in the normal conduct of business, the permittee or lessee shall, upon request and upon determination by the Director that the requested reimbursement is proper, be reimbursed for the cost of processing or reproducing. Reimbursement shall be for only the costs attributable to processing and reproducing, as distinguished from the costs of data acquisition.

(3) After delivery in accordance with (b)(2) of this section of data or information which has been processed in the manner utilized by the permittee in the normal conduct of business, the permittee, upon request, shall be reimbursed for the reasonable costs attributed to reproducing the data and information and also for the processing costs at the lowest rate at which the processed information is made available by the permittee to any purchaser. The permittee shall refund to the United States any amount paid by the United States in excess of the amount paid by any other purchaser of the same processed information.

(4) Requests for reimbursement will contain a cost breakdown in sufficient detail to allow separation of reproduction, processing, and reprocessing costs from acquisition costs. No reimbursement to a lessee or permittee shall be made until the Director determines that the request for reimbursement as originally submitted or as revised is proper.

(f) Each Federal department or agency shall provide the Director with any data which it has obtained pursuant to section 11 of the Act, and any other information which may be necessary or useful to assist the Director in carrying out the provisions of the Act.

§ 252.4 Summary report to affected States.

(a) The Director, as soon as practicable after analysis, interpretation, and compilation of oil and gas data and information developed by the U.S. Geological Survey and of oil and gas data and information furnished by lessees, permittees, or other government agencies, shall make available to affected States and, upon request, to the executive of any local government whose jurisdiction covers an area impacted by OCS activities, a Summary Report of data and information designed to assist them in planning for the nearshore and onshore impacts of potential OCS oil and gas development and production. The Director shall consult with affected States and other interested parties to define the nature, scope, content, and timing of the Summary Report. The Summary Report shall not contain data or information which the Director determines is exempt from disclosure in accordance with § 252.6 of this Part. The Summary Report shall include:

(1) estimates of oil and gas reserves, estimates of the oil and gas resources that may be found within areas which the Secretary plans to offer for lease, and when available, projected rates and volumes of oil and gas to be produced from leased areas;

(2) approximate projections of the magnitude and timing of development, if and when oil or gas (or both) is discovered;

(3) methods of transportation to be used, including pipelines and approximate location of routes to be followed; and

(4) general location and nature of near-shore and onshore facilities expected to be utilized.

(b) When the Director determines that significant changes occur in the information contained in a Summary Report, the Director shall prepare and distribute the new information to each affected State, and, upon request, to the executive of any affected local government.

§ 252.5 Information to be made available to affected States.

The Director shall make available on a regular basis to each affected State and, upon request, to the executive of any affected local government, a copy of an index which lists, to the best of the Department's knowledge, all relevant, actual or proposed programs, plans, reports, environmental impact statements, lease sale information (See: 43 CFR 3301.8), and any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Director pursuant to the Act. Upon request, the Director shall make available to such affected States and local governments copies of any information listed in the index and which is subject to the control of the U.S. Geological Survey. The Director shall not make available any information which identifies any particular tract with the name or names of any party or parties participating in the tract nomination process. The Director shall not make available any information which the Director determines is exempt from disclosure in accordance with § 252.6 of this Part.

§ 252.6 Freedom of Information Act requirements.

(a) The Director shall make available data and information in accordance with the requirements of the Freedom of Information Act (5 U.S.C. 552) and of the regulations contained in 43 CFR Part 2 (Records and Testimony), and the requirements of the Act and the regulations contained in 30 CFR Part 250 (Oil and Gas Sulphur Operations in the Outer Continental Shelf) and 30 CFR Part 251 (Geological and Geophysical Explorations of the Outer Continental Shelf).

(b) Except as provided in § 252.7 of this Part, no data or information determined by the Director to be exempt from public disclosure under (a) of this section shall be made available to the public or provided to any affected State or to the executive of any affected local government unless the lessee, or the permittee and all persons to whom that permittee has sold such data or information under promise of confidentiality, agree to such transmittal.

§ 252.7 Privileged and proprietary data and information to be made available to affected States.

(a)(1)(i) When the Secretary includes, in a solicitation for nominations for leasing, land areas within three miles of the seaward boundary of any coastal State, the Governor of the affected State may designate an appropriate State official to receive privileged or proprietary data or information regarding any field, geological structure, or trap located within this three-mile zone.

(ii) The Secretary, after receipt of nominations for leasing areas within three miles of the seaward boundary of a coastal State, may designate a portion of the nominated area for further consideration for leasing. For the purposes of consultation, the Governor may designate an appropriate State official to receive relevant privileged or proprietary data and information on the possible existence of oil or gas pools or fields underlying both the OCS lands and lands subject to the jurisdiction of such State in the areas designated by the Secretary.

(iii) After the issuance of a lease, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Director shall designate, any privileged or proprietary data or information regarding any activity in an area adjacent to such State covered by the lease sale. For purposes of this section, "area adjacent to such State" is defined as the area within three miles of the seward boundary of a State.

(2) Data and information obtained by a State under (a)(1)(i), (ii), and (iii) of this section shall be subject to the requirements of the Freedom of Information Act (5 U.S.C. 552) and of the regulations contained in 43 CFR Part 2 (Records and Testimony), and the Act (92 Stat. 629) and of the regulations contained in 30 CFR Part 250 (Oil and Gas Sulphur Operations in the Outer Continental Shelf), 30 CFR Part 251 (Geological and Geophysical Explorations of the Outer Continental Shelf), and this Part 252 (Outer Continental Shelf Oil and Gas Information Program).

(3) Prior to transmitting any privileged or proprietary data or information to any State, or granting such State access to such data or information, the Director shall enter into a written agreement with the Governor of each State in accordance with Section 26(e) of the Act in which the State agrees, as a condition precedent to receiving or being granted access to such data or information, to: (i) protect and maintain the confidentiality of privileged or proprietary data and information; (ii) waive the defenses set forth in (b)(2) of this section, and (iii) hold the United States harmless from any violations of the agreement to protect the confidentiality of privileged or proprietary data or information by the State or its employees.

(b)(1) Whenever any employee of the Federal Government or of any State reveals privileged or proprietary data or information obtained pursuant to the regulations in this Chapter, the lessee or permittee who supplied such information to the Director or any other Federal official, and any person to whom such lessee or permittee has sold such data or information under the promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or the State, as the case may be. Any Federal or State employee who fails to comply with any of the requirements of this section shall be subject to the penalties described in section 24 of the Act.

(2) In any action commenced against the Federal Government or a State pursuant to (b)(1) of this section, the Federal Government or the State, as the case may be, may not raise as a defense any claim of sovereign immunity, or any claim that the employee who revealed the privileged or proprietary data or information which is the basis of the suit was acting outside the scope of the person's employment in revealing such data or information.

(c) If the Director finds that any State cannot or does not comply with the constraints described in the agreement in (a)(3) of this section, the Director shall thereafter withhold transmittal of privileged or proprietary data or information to the State and shall deny the State the right of inspection until the Director finds that the State can and will comply with those constraints.

[FR Doc. 79-1671 Filed 1-16-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 1038-2; Docket No. DCO-78-46]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of Delayed Compliance Order Issued by the North Carolina Environmental Management Commission to E. J. Snyder and Co., Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the North Carolina Environmental Management Commission to E. J. Snyder and Company, Inc., in Albemarle, North Carolina. The delayed compliance order requires E. J. Snyder and Company, Inc., to bring air emissions from the two (2) Fabcon tenter frames in Complex B in Albemarle, North Carolina, into compliance with an applicable regulation contained in the North Carolina State Implementation Plan (SIP) by April 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 16, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copies (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Floyd Ledbetter, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308. Telephone number: (404) 881-4298.

SUPPLEMENTARY INFORMATION: E. J. Snyder and Company, Inc. operates a textile manufacturing and finishing plant in Albemarle, Stanley County, North Carolina. The order under consideration addresses emissions from the two (2) Fabcon tenter frames in Complex B, which is subject to the North Carolina Administrative Code (NCAC) Title 15, Chapter 2D, Section .0521. This regulation limits the visible emissions from process and fuel burning sources, and is part of the federally-approved North Carolina State Implementation Plan. The order requires compliance with the regulations by April 1, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

(1) Begin construction of devices to implement the control plan on or before December 1, 1978.

(2) Complete construction of all devices to implement the control plan on or before April 1, 1979.

(3) Show that the two Fabcon tenter frames meet 15 NCAC 2D.0521 on or before April 1, 1979.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. As an interim limit, the two units shall not exceed sixty (60%) percent opacity averaged over any one (1) hour period, prior to the attainment of the last milestone.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the North Carolina SIP. Compliance with the proposed order will not exempt the company from complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will

be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

Dated: January 9, 1979.

JOHN A. LITTLE,
Acting Regional Administrator,
Region IV.

[FR Doc. 79-1534 Filed 1-16-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1038-3; Docket No. DCO-78-47]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of Delayed Compliance Order Issued by the North Carolina Environmental Management Commission to Camp Lejeune Marine Corps Base

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the North Carolina Environmental Management Commission to Camp Lejeune Marine Corps Base in Camp Lejeune, North Carolina. The delayed compliance order requires Camp Lejeune Marine Corps Base to bring air emissions from the 4 coal fired boilers at the central heating plant in Camp Lejeune, North Carolina, into compliance with an applicable regulation contained in the North Carolina State Implementation Plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 16, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Floyd Ledbetter, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308. Telephone number (404) 881-4298.

SUPPLEMENTARY INFORMATION: Camp Lejeune Marine Corps Base is operated by the U.S. Marine Corps for the purpose of housing and training recruits for combat. The order under consideration addresses emissions from the four coal fired boilers at the central heating plant, which is subject to the North Carolina Administrative Code (NCAC) Title 15, Chapter 2D, Section .0503 and Section .0521. These regulations limit emissions of particulates and visible emissions from fossil fuel burning boilers, and is part of the federally-approved North Carolina State Implementation Plan. The order requires compliance with the regulation by June 30, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

(1) Begin installation of devices to implement the control plant on or before April 15, 1979.

(2) Complete construction of emission control equipment on or before April 30, 1979.

(3) Achieve and document compliance with Emission Standards and 15 NCAC 2D.0521 on or before June 30, 1979.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. As an interim limit, the 4 coal fired boilers shall not emit more than .72 pounds/million BTU's and visible emissions shall not exceed 70% opacity aggregate of more than 6 minutes in any one hour, prior to the attainment of the last milestone.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the North Carolina SIP. Compliance with the proposed order will not exempt the company from complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

Dated: January 9, 1979.

JOHN A. LITTLE,
Acting Regional Administrator,
Region IV.

[FR Doc. 79-1535 Filed 1-16-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1038-4; Docket No. DCO-78-51]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of Delayed Compliance Order Issued by the North Carolina Environmental Management Commission to Drexel Heritage Furnishings, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the North Carolina Environmental Management Commission to Drexel Heritage Furnishings Plant Number 43 in Hildebran, North Carolina. The delayed compliance order requires Drexel Heritage Furnishings Plant Number 43 to bring air emissions from the wood/coal fired boiler in Hildebran, North Carolina, into compliance with an applicable regulation contained in the North Carolina State Implementation Plan (SIP) by January 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be issued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 16, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Floyd Ledbetter, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308. Telephone number: (404) 881-4298.

SUPPLEMENTARY INFORMATION: Drexel Heritage Furnishings, Inc., operates a furniture manufacturing plant in Hildebran, Burke County, North Carolina. The order under consideration addresses emissions from the wood/coal fired boiler, which are subject to the North Carolina Administrative Code (NCAC), Title 15, Chapter 2D, Section .0504 and .0503. These regulations limit the particulate emissions from Wood Burning Indirect Fired Heat Exchangers and Fuel Burning Sources, and is part of the federally-approved North Carolina State Implementation Plan. The order requires final compliance with the regulations by January 1, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

(1) Resubmit plans detailing modifications to achieve compliance on or before September 1, 1978.

(2) Complete modification to eliminate fly ash reinjection on or before November 1, 1978.

(3) Achieve compliance and submit a source test documenting compliance with 15 NCAC 2D.0504 and 15 NAC 2D.0503 on or before January 1, 1979.

The source has consented to the terms or the order and has agreed to meet the order's increments during the period of this informal rulemaking. As an interim limit, the wood/coal fired boiler shall not emit more than 0.68 pounds/million BTU's and visible emissions shall not exceed the limits in 15 NCAC 2D.0521 prior to the attainment of the last milestone.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the North Carolina SIP. Compliance with the proposed order will not exempt the company from complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

Dated: January 9, 1979.

JOHN A. LITTLE,
Acting Regional Administrator,
Region IV.

[FR Doc. 79-1536 Filed 1-16-79; 8:45 am]

[6560-01-M]

[40 CFR 180]

[OPP-300019; FRL 1038-1]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Exemption From Requirement of a Tolerance for an Inert Ingredient in Pesticide Formulations

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This notice proposes that an additional inert (or occasionally active) ingredient in pesticide formulations be exempted from the requirement of a tolerance. The proposal was submitted by BASF Wyandotte Corp. This amendment would permit the use of the exempted inert in pesticide products.

DATE: Comments must be received on or before February 16, 1979.

ADDRESS COMMENTS TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M Street, SW, Washington DC 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. David Ritter, Toxicology Branch, Hazard Evaluation Division (TS-729), Office of Pesticide Programs, EPA (202/426-2680).

SUPPLEMENTARY INFORMATION: At the request of BASF Wyandotte Corp., Wyandotte, MI 48192, the Administrator is proposing to amend 40 CFR 180.1001 by exempting an additional presticide chemical which is an inert (or occasionally active) ingredient in pesticide formulations from the requirement of a tolerance.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to the following types of ingredients (except when they have pesticidal efficacy of their own): Solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The preables to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and the toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Inert Ingredient	Firm	Bases for Approval
α-Alkyl(C_{10}-C_{16})-ω-hydroxy-poly(oxyethlene)-poly(oxy- r propylene) mixture of di- and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the combined poly-(oxyethylene)poly(oxypropylene) content averages 3-20 moles.	BASF Wyandotte Corp., Wyandotte, MI 48192.	Broadening the edible fatty alcohol range will not materially alter the nontoxic nature of these moieties.

Based on the above information, available information on the chemistry of these substances, and a review of their use, it has been found that, when used in accordance with good agricultural practice, these substances are useful and do not pose a hazard to the environment. It is concluded, therefore, that the proposed amendment to 40 CFR 180.1001 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request within 30 days after publication in the FEDERAL REGISTER that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject matter and the OPP document control number "OPP-300019". All written comments filed in response to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: December 1, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

STATUTORY AUTHORITY: Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346(e)].

It is proposed that Part 180, Subpart D, section 180.1001 be amended by alphabetically inserting "α-Alkyl(C_{10}-C_{16})-ω-• • • in the table of inert ingredients in paragraph (d) to read as follows:.

§ 180.1001 Exemptions from the requirement of a tolerance.

• • • • •

(d) • • •

Inert Ingredient	Limits	Uses
• • • • • • •		
α-Alkyl(C_{10}-C_{16})-ω-hydroxypoly-(oxyethylene)poly- (oxypropylene) mixture of di and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the combined poly(oxyethylene)-poly(oxypropylene) content averages 3-20 moles.		Surfactants, related adjuvants of surfactants.
• • • • • • •		

[FR Doc. 79-1424 Filed 1-16-79; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Parts 116, 116a and 116d]

PROGRAMS FOR EDUCATIONALLY DEPRIVED CHILDREN

Decision to Develop Regulations

AGENCY: Office of Education, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Commissioner of Education proposes to publish regulations for the program for educationally disadvantaged children under Title I of the Elementary and Secondary Education Act. These revisions are required by the Education Amendments of 1978 and Operation Common Sense. The revised Title I Regulations are intended to clarify existing provisions that are still applicable and to reflect statutory changes with respect to State and local applications, Title I project areas, parent advisory councils, maintenance of effort, the equitable use of State and local funds for the education of children in Title I projects, and the participation of children enrolled in private schools. These regulations are policy significant.

FOR FURTHER INFORMATION CONTACT:

Dr. John F. Staehle, Room 3642, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: 202/245-2720.

Dated: September 28, 1978.

(Catalog of Federal Domestic Assistance Numbers: 13.428, Educationally Deprived Children—Local Educational Agencies; and 13.430, Educationally Deprived Children—State Administration)

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-1484 Filed 1-16-79; 8:45 am]

[4110-02-M]

[45 CFR Part 158]

FOLLOW THROUGH PROGRAM

Decision to Develop Regulations

AGENCY: Office of Education, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Commissioner of Education proposes to recodify the regulations for the Follow Through Program, authorized by Title V of the Community Services Act. The regulations govern the selection of all grantees and some contractors for funding under the Follow Through Program. The recodification of these regulations is necessary for needed program reform. The regulations state the criteria for the funding of a second generation of projects and sponsors as well as the criteria for the refunding of existing projects and sponsors. These criteria for the refunding of existing projects and sponsors. These criteria also indicate the performance expected of grantees. The role of technical assistance recipients in terms of projects conducting expanded demonstration activities (Resource Centers) is explained. The emphasis placed upon the training of parents is clarified. These regulations are policy significant.

FOR FURTHER INFORMATION CONTACT:

Mr. Fred Bresnick (Room 3624, ROB3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-2500.

Dated: September 29, 1978.

(Catalog of Federal Domestic Assistance Number 13.433, Follow Through Program)

WILLIAM F. PIERCE
Acting U.S. Commissioner of Education.

[FR Doc. 79-1483 Filed 1-16-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X]

[Ex Parte No. 361]

EXEMPTION OF CERTAIN DESIGNATED OPERATORS FROM SECTION 11343 (FORMERLY SECTION 5(2) OF THE INTERSTATE COMMERCE ACT)

JANUARY 12, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Interstate Commerce Commission is proposing the exemption of companies operating exclusively as designated operators from the requirements of Section 5(2) of the Interstate Commerce Act (recodified at 49 U.S.C. 11343-11347). The purpose of the exemption is to reduce the regulatory burden imposed upon companies operating exclusively as designated operators.

COMMENTS: Send comments (15 copies) to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

DATES: Effective February 15, 1979. Comments due on or before February 16, 1979.

FOR FURTHER INFORMATION CONTACT:

G. Marvin Bober, (202) 275-7564.

SUPPLEMENTARY INFORMATION: The Commission realizes that companies operating exclusively as designated operators are few in number and generally very small in size. It believes that those companies are unduly burdened with little or no useful public purpose by the requirements of Section 5(2) and, that the application of this provision is not necessary to carry out the transportation policy set forth in the preamble of the Act (recodified at 49 U.S.C. 10101).

This proceeding is instituted under the authority of section 12(1)(b) of the Interstate Commerce Act (recodified at 49 U.S.C. 10505) and pursuant to sections 553 and 559 of the Administrative Procedure Act (5 U.S.C. 553, 559).

This proceeding is not a major Federal action significantly affecting the quality of the human environment or the consumption of energy.

Dated: January 3, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham and Clapp.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1697 Filed 1-16-79; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

MOUNTAIN HOME HORSE AUCTION, MOUNTAIN HOME, ARK., ET AL.

Proposed Posting of Stockyards

The Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards, Agriculture Marketing Service, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in Section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

AR-159 Mountain Home Horse Auction, Mountain Home, Arkansas.
GA-186 Tri State Livestock Co., Valdosta, Georgia.
MN-171 Minnesota Feeder Pig Markets, Inc., Windom, Minnesota.
MN-172 Winger Livestock Sales, Winger, Minnesota.
SD-161 Gettysburg Livestock Exchange, Inc., Gettysburg, South Dakota.
SD-162 Yankton Livestock Auction Market, Yankton, South Dakota.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in Section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards, Agriculture Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, by February 1, 1979.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 11th day of January, 1979.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc. 79-1568 Filed 1-16-79; 8:45 am]

[3410-11-M]

Forest Service

COOL-BURNT PLANNING UNIT, KOOTENAI NATIONAL FOREST, LINCOLN COUNTY, MONT.

Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Statement for implementation of land management guidelines proposed for Cool-Burnt Planning Unit #39.

Cool-Burnt is presently being managed under the Multiple Use Plan for the Yaak Ranger Disrtict, which places approximately 83 percent of the Unit under optimized timber production while providing for dispersed recreation and big game winter range. In formulating new guidelines for this Unit, input from other government agencies and from public organizations and inidividuals was solicited. The protection or grizzly bear habitat is a primary concern in development of this plan.

Robert H. Torheim, Regional Forester, is the responsible official; and Floyd J. Marita, Forest Supervisor, and his staff will prepare this statement.

The Draft Environmental Statement for the Cool-Burnt Planning Unit is scheduled for completion by January 1979, with a 60-day minimum review period. The Final Environmental Statement is scheduled for filing with the Environmental Protection Agency in July 1979.

Comments on the Notice of Intent or on management proposals for the Unit should be sent to Floyd J. Marita, Forest Supervisor, Kootenai National Forest, Libby, Montana 59923.

JANUARY 8, 1979.

JAMES E. REID,
Director, Planning, Programming, and Budgeting.

[FR Doc. 79-1539 Filed 1-16-79; 8:45 am]

[3410-11-M]

PILGRIM PLANNING UNIT, KOOTENAI NATIONAL FOREST, SANDERS COUNTY, MONT.

Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Statement for the Pilgrim Planning Unit Land Management Plan. This Plan will allocate land to various uses, specify which activities are permissible, desirable, and/or necessary according to use, and prescribe measures to be taken in order to mitigate any environmental impacts caused by projects undertaken in accordance with each allocation.

Pilgrim is presently being managed under the Multiple Use Plan (revised 1969) for the Cabinet Ranger District. Roughly half of the Unit has been designated for some form of timber harvesting, 25 percent is involved in the RARE II process, 15 percent is being managed to protect soils and water, and 10 percent is being managed for recreation and big game habitat.

In formulating new guidelines for this Unit, comment from other government agencies and from public organizations and individuals has been solicited by the Forest Service. The Pilgrim Planning Unit mailer was published and distributed to interested parties in October 1978 and public meetings were held November 14 and 16 in Heron and Noxon. Issues of primary concern are: development vs. nondevelopment; management direction for important wildlife habitat and for productive timber stands, and possible conflicts between these two uses; maintenance of soil productivity and water quality; protection of sites or artifacts of historical or prehistorical value; land adjustments; and existing and potential power transmission lines.

Robert H. Torheim, Regional Forester, is the responsible official; and Floyd J. Marita, Forest Supervisor, and his staff will prepare the statement.

The Draft Environmental Statement for the Pilgrim Planning Unit is scheduled for completion by April 1979, with a 60-day minimum review period. The Final Environmental Statement is scheduled for filing with the Environmental Protection Agency in October 1979.

Comments on the Notice of Intent or on management proposals for the Unit should be sent to Floyd J. Marita, Forest Supervisor, Kootenai National Forest, Libby, Montana 59923.

JAMES E. REID,
Director, Planning, Programming, and Budgeting.

JANUARY 8, 1978.

[FR Doc. 79-1540 Filed 1-16-79; 8:45 am]

[3410-03-M]

Science and Education Administration

FOOD AND NUTRITION INFORMATION AND EDUCATION RESOURCES CENTER

Expansion and Transfer to Existing Program

Pursuant to Section 1411(b) of Public Law 95-113, the "Food and Agriculture Act of 1977," the Science and Education Administration has established a "Food and Nutrition Information and Education Resources Center" (FNIERC) as a permanent entity of the National Agricultural Library (NAL). The NAL is a component of Technical Information Systems (TIS), Science and Education Administration (SEA).

As of October 1, 1978, the Department's Food and Nutrition Service (FNS) terminated the agreement under which it has financially supported a similar but smaller center since its inception in 1971. The shift of support from the FNS to the TIS/NAL will permit the Center to enlarge its role from support of FNS programs to broad dissemination of food and nutrition information to other Federal and State educational agencies, private institutions and interested individuals.

Until the expansion of its mandate this year, the primary mission of the Center was to provide information and educational materials to those who administered the FNS Child Nutrition Programs: School Breakfast, School Lunch, Summer Recreations, and Day Care. In 1973, the Center published the "Catalog of the Food and Nutrition Information and Educational Materials Center." With eight supplements issued to date, the catalog contains approximately 16,000 citations. A separate "Audio Visual Guide" has been issued. The Center's citations are included in NAL's AGRICOLA data base which is available for on-line retrieval

The basic scope of the Center's collection of serials, monographs, and audio-visuals has been in foods, nutrition education, and service management. The Center will continue to collect materials in these subject areas, but will put new emphasis on human nutrition research. In addition to servicing school food service personnel, the expansion of the Center's program will include providing information to educators, dietitians, nutritionists, cooperative extension personnel, and other interested persons.

Services provided by the Center include lending, reference, and on-line retrieval of food and nutrition information.

Further information may be obtained from Dr. Richard A. Farley, Deputy Director for Technical Information Systems, Science and Education Administration, Room 109-A, National Agricultural Library Building, Beltsville, Maryland 20705, Telephone 301-344-4248.

Done at Washington, D.C., this 12th day of January, 1979.

ANSON R. BERTRAND,
Director, Science and Education.

[FR Doc. 79-1752 Filed 1-16-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket No. 34435; Order No. 79-1-70]

AIR CARRIER RULES PERTAINING TO TRANSPORTATION OF CERTAIN CATEGORIES OF PASSENGERS

Order To Show Cause

Adopted by the Civil Aeronautics Board at its offices in Washington, D.C., on the 11th day of January 1979.

Most U.S. certificated scheduled service air carriers have adopted a tariff rule which permits them to refuse to transport passengers "whose conduct, status, age, or mental or physical condition" makes them unable to care for themselves without assistance, makes refusal "necessary for the reasonable safety or comfort of other passengers," or presents "any unusual hazard or risk to himself or to other persons (including, in cases of pregnant passengers, unborn children) or to property." [1] The rule is apparently intended to give the carriers discretion to refuse transportation to passengers who are intoxicated or abusive, or to passengers who, because of severe illness, infirmity or other condition (including, in some cases, advanced pregnancy) may present unusual dangers to themselves or to other passengers. We understand the need for this type of rule, and there are many individual situations in which the rule might properly be applied. But, as presently written, the rule allows carriers almost unfettered discretion to refuse carriage. We believe that it is unlawfully vague, overbroad, and unjustly discriminatory.

Under this rule, airlines may refuse to carry pregnant women at any stage of pregnancy, elderly people regardless of the state of their health, and almost anyone else whose "status" may displease a fellow passenger. This discretion is clearly much greater than is required in the interest of safety, or even of "reasonable comfort."

In some respects, the present rule is patently unjustly discriminatory. Pregnant women as a class, for example, cannot lawfully be refused air transport over the term of the pregnancy. Sufficient medical and legal precedent exists to warrant limitation of any restriction to some much shorter period.[2] The use of "age" as a criterion for refusal of service is also discriminatory. While this category, more narrowly drawn, might properly be applied to refuse service to unaccompanied children, carriage of children is already fully covered by Rule 25 of C.A.B. No. 142. And there is no other circumstance in which age, standing alone, can possibly justify a refusal of service. Elderly persons who are infirm may be refused service, if warranted, on the basis of their condition. Those who are not have the same right to travel as any other passenger.

Even those aspects of the rule that are not blatantly discriminatory are so broad and ambiguous that they are capable of unlawful application. What, for example, is a "status" which might justify a refusal of service? Where the "reasonable comfort" of other passengers is a sufficient standard for exclusion, this might permit an air carrier to refuse service on the basis of appearance, manner of dress, apparent economic class, or even race. If there is any "status" which would justify a refusal of service, carriers should set it forth specifically instead of couching it in a vague, overbroad term. While it

[1] Airline Tariff Publishing Company, Agent, Tariff C.A.B. Nos. 142 and 294, Rules 15(A)(2), 16(F) and 16(H); Air Tariffs Corporation, Agent, Tariff C.A.B. No. 55, Rules 15A(1)(c), 15A(3) (a) and (c), 15E(5), and 15E(6).

[2] Cf. *Burwell v. Eastern Airlines*, 458 F. Supp. 474 (E.D. Va. 1978), *appeal pending; Harness v. Pan American World Airways, Inc.*, 437 F. Supp. 143 (N.D. Cal. 1977); *In re National Airlines, Inc.*, 434 F. Supp. 249 (S.D. Fla. 1977). Alternatively or in addition, carriers might require medical certificates from passengers in specific stages of pregnancy which present special risks.

is easier to see the purpose for the inclusion of "conduct" in the rules, this term too is far broader than necessary, potentially including much more than the inebriated, abusive, or violent conduct which would justify a legitimate refusal of service. Section 221.38(e) of the Board's rules requires that tariff rules be clear and explicit. This rule falls far short of that standard.

By contrast, most carriers have adopted more detailed provisions governing carriage of nonambulatory and physically handicapped passengers. Questions have been raised about these tariff provisions, and they are undergoing comprehensive review. However, the problems they present are more complex than those we are dealing with in this order, and we do not intend to reach any conclusions about those rules at this time.

In summary, these tariff rules, which rely on terms as broad as conduct, status and age to permit refusal of service, and use those terms to measure the applicability of equally vague standards such as "reasonable comfort" and "unusual risk", appear to be unclear, unjustly discriminatory and unlawful. For these reasons, the Board tentatively finds and concludes that the carriers' present rules governing refusal of service in interstate and overseas air transportation on the basis of conduct, status, age, or pregnancy are unjustly discriminatory, contrary to § 221.38(e) of the Board's rules and unlawful, and therefore should be cancelled.

Accordingly: 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here;

2. Any interested person objecting to the issuance of an order making final the findings and conclusions set forth here shall, no later than February 7, 1979, file with the Board and serve upon all certificated air carriers a statement of objections together with a summary of testimony, statistical data and any other evidence that is expected to be relied upon to support the stated objections; answers to objections, which should also be filed with the Board and served upon all certificated air carriers, shall be filed no later than February 22, 1979; parties requesting an evidentiary on-the-record hearing in this matter shall set forth in detail the reasons therefor, accompanied by a statement of the facts which they intend to develop in a hearing;

3. If timely and properly supported objections are filed, we will accord full consideration to the matters or issues raised by the objections before taking further action;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the matter will be submitted to the Board for final action; and

5. This order shall be served on all U.S. certificated scheduled service air carriers.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[3]
Secretary.

[FR Doc. 79-1701 Filed 1-16-79; 8:45 am]

[6320-01-M]

[Docket No. 33288; Order No. 79-1-61]

ROCKFORD PARTIES

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 11th day of January, 1979. Petition of James R. Thompson, Governor, State of Illinois; John B. Anderson, Member of Congress; Adlai E. Stevenson, U.S. Senator; Charles H. Percy, U.S. Senator; Greater Rockford Airport Authority; Rockford Area Chamber of Commerce; Winnebago County Board of Supervisors; City of Rockford, Illinois; and City of Loves Park, Illinois, for an order to show cause.

On August 24, 1978, the Rockford Parties (detailed in the caption above) filed a petition for an order to show cause why the certificates of the air carriers authorized to serve Chicago, Illinois, but not Rockford, Illinois,[1] should not be amended to add Rockford as a hyphenated point with Chicago.

In support of their petition, they point out that the overcrowding of runway, air traffic control, terminal, and access road facilities at O'Hare requires the designation of a satellite airport to absorb some of that airport's current traffic. They go on to state that Greater Rockford Airport is well suited for the role of a satellite airport for Chicago; can handle increased airline service; and has traffic potential better than that indicated by past O&D figures.

No answers to the petition were filed.

We have tentatively concluded, based on the tentative findings below, that it is consistent with the public convenience and necessity to amend the certificates of all airlines authorized to serve Chicago, but not Rockford, to show Rockford and Chicago as a hyphenated point.[2] Authority for service via the Greater Rockford Airport will be permissive.[3]

The air travel needs of the Rockford area, despite the fact that it has its own airport, are met almost exclusively by Chicago O'Hare Airport. A bus which makes 16 daily round trips between Rockford and O'Hare carried 211,020 passengers in 1977. A survey of travel agencies in Rockford in 1973 revealed that there were 374,223 domestic and 23,532 international passengers generated by Rockford; and the majority of these passengers originated their air travel at Chicago rather than at Greater Rockford Airport. Although Chicago is 90 miles from Rockford, O'Hare Airport is convenient to Rockford air travelers. The airport is on the west side of Chicago, which still places it 70 miles from Rockford, but it is directly connected to Rockford by Interstate 90. This results in fast access to O'Hare for both automobile and the express airport bus traffic out of Rockford. Hyphenation would take account of this relationship.

Further, while we are not sanguine about the prospect of many Chicago travelers going 90 miles to Rockford when O'Hare, for all its overcrowding, offers more service to more destinations than any other airport in the country, it is conceivable that if one or more carriers take advantage of this new authority resulting from hyphenation, use of air service at Rockford Airport would increase. As the Rockford Parties state in their petition for hyphenation, "[this petition] contains the risk that no carrier will in fact use the authority." The grant of additional rights, however, at Rockford will best effect the 1978 Airline Deregulation Act's policy objective of placing maximum reliance on the decisions of the marketplace and on actual and potential competition. This will occur because the carriers with hyphenated authority will be free to enter the market in order to exploit unmet

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[3]All Members concurred.

[1]The only carrier that currently has authority at both points is Ozark Air Lines.

[2]Order E-18533, *North Central Area Airline Service Airport Investigation*, establish a 50-mile radius as a maximum distance for hyphenating two points. Although Chicago and Rockford are 90 miles apart, O'Hare Airport is only 70 miles from Rockford and the easy access to O'Hare from Rockford (via direct interstate highway and frequent express bus) makes it as accessible to Rockford as other airports are to their own hyphenated cities which are less than 50 miles distant. The hyphenation in this case is being allowed because of the special set of circumstances involved, and thus should not be viewed as setting a 90-mile precedent for hyphenation.

[3]This authority will create no obligation, expressed or implied, for the carriers certificated at Chicago-Rockford to offer service through the Greater Rockford Airport. Our policy is to allow each carrier to select which airport to serve at a hyphenated point.

Ozark is the only carrier certificated at both points. We will not amend its certificate by hyphenating Chicago and Rockford as this would preclude it from carrying local traffic between the two points as it currently does.

demand, and the threat of that additional entry should encourage the incumbent to operate at or near the optimum.[4]

No environmental evaluation has been submitted by the Rockford Parties. We nonetheless find that hyphenation is not a major Federal acton significantly affecting the quality of the environment since little immediate change in aircraft operations is anticipated.

We direct interested persons objecting to this order to show cause to show, within 30 days of the date of service of this order, why the tentative findings and conclusions set forth above should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is necessary, and what the objector could establish that cannot be established by written pleadings. We will not entertain general, vague, or unsupported objections.

ACCORDINGLY, 1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated here, and amending the certificates of public convenience and necessity of Airlift International, Allegheny Airlines, American Airlines, Braniff Airways, Chicago Helicopter Airways, Continental Air Lines, Delta Air Lines, Eastern Air Lines, The Flying Tiger Line, Frontier Airlines, North Central Airlines, Northwest Airlines, Pan American World Airways, Piedmont Aviation, Seaboard World Airlines, Southern Airways, Trans World Airlines, and United Air Lines, so as to replace Chicago, Illinois, with the hyphenated point Chicago-Rockford, Illinois, wherever it appears in their certificates;

2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth here, by February 14, 1979, to file with us and serve upon all persons listed in paragraph 6, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Answers shall be due no later than February 26, 1979;

3. If timely and properly supported objections are filed, we will accord full consideration to the matters and issues raised by them before we take further action;

4. In the event no objections are filed, we will deem all further procedural steps to have been waived and may proceed to enter an order in accordance with the tentative findings and conclusions set forth in this order;

5. We shall serve a copy of this order upon Airlift International, Allegheny Airlines, American Airlines, Braniff Airways, Chicago Helicopter Airways, Continental Air Lines, Delta Air Lines, Eastern Air Lines, The Flying Tiger Line, Frontier Airlines, North Central Airlines, Northwest Airlines, Ozark Air Lines, Pan American World Airways, Piedmont Airlines, Seaboard World Airways, Southern Airways, Trans World Airlines, United Air Lines, the Mayor, Chicago, Illinois, and the Rockford Parties.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-1700 Filed 1-16-79; 8:45 am]

[6320-01-M]

[Order No. 79-1-34; Docket Nos. 32315, 32722, etc.]

TEXAS INTERNATIONAL AIRLINES, INC. ET AL.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 4th day of January, 1979.

Application of TEXAS INTERNATIONAL AIRLINES, INC., for amendment of its certificate of public convenience and necessity. Docket 32315

Application of FRONTIER AIRLINES, INC., for amendment of its certificate of public convenience and necessity. Docket 32722

Application of AMERICAN AIRLINES, INC., for amendment of its certificate of public convenience and necessity. Docket 32728

Application of SOUTHWEST AIRLINES CO. for a certificate of public convenience and necessity under section 401 of the Federal Aviation Act of 1958, as amended. Docket 32734

Application of CONTINENTAL AIR LINES, INC., for amendment of its certificate of public convenience and necessity. Docket 32938

Application of NORTHWEST AIRLINES, INC., for the amendment of its certificate of public convenience and necessity Docket 33540. Order to show cause.

On March 29, 1978, Texas International Airlines (TXI) filed an application in Docket 32315, under Subpart M of the Board's Procedural Regulations, requesting (1) nonstop authority between Dallas/Ft. Worth and New Orleans, and (2) one-stop authority in the New Orleans-Albuquerque market. TXI's realigned route contains a one-stop restriction on the former and a two-stop restriction on the latter. Statements requesting dismissal of the application were filed by Continental Air Lines, Braniff Airways, and Delta Air Lines. TXI filed a response to Continental's pleading, along with a motion for leave to file.[1]

We took no action on TXI's application by April 26, 1978,[2] and therefore, under the provisions of Subpart M, the application automatically moved forward to the next procedural stage. We received motions to consolidate applications into this proceeding by Frontier Airlines (Docket 32722), American Airlines (Docket 32728), and Southwest Airlines (Docket 32734). The Southwest motion to consolidate has raised two issues which have been addressed by several parties. The first issue is service to Dallas/Ft. Worth through Love Field. The Dallas and Ft. Worth parties,[3] Frontier, American, and Delta[4] have filed answers opposing the inclusion of authority to serve that airport, arguing that we were instrumental in advancing the concept of a single regional airport and in securing the agreement between the two cities which resulted in the construction of the Dallas/Ft. Worth Regional Airport (DFW) and the ultimate consolidation of certificated services there;[5] and that Southwest's proposal is contrary to our previous directives and should not be allowed. The second issue raised by Southwest's proposal is whether it may carry interstate traffic beyond Dallas to points on its intrastate system as a result of any award in this proceeding. Southwest filed a reply, contending that its right to serve Love Field has been upheld by the courts, and that it is not seeking a certificate authorizing air transportation be-

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[4]We also tentatively conclude that the carriers listed in ordering paragraph 1 are citizens of the United States and based on officially noticeable data are fit, willing, and able to provide the services made possible by the proposed certificate amendment, and comply with the Act and our rules and regulations.

[1]We will grant the motion.

[2]Ordinarily, the action date would have been April 12, or 14 days after the application was filed. However, the time allowed for filing statements requesting dismissal was extended by two weeks, and all subsequent procedural steps were deferred by a similar period.

[3]City of Dallas, Dallas Chamber of Commerce, City of Ft. Worth, Ft. Worth Chamber of Commerce, and North Texas Commission.

[4]Delta's answer was accompanied by a motion for leave to file an otherwise unauthorized document. We will grant the motion.

[5]These parties refer to the *Dallas-Ft. Worth Regional Airport Investigation*, Docket 13959, Order E-18719, *et. seq.*

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tween New Orleans and any point other than Dallas, or, between any points within Texas.[6]

Petitions for leave to intervene have been filed by the Dallas and Ft. Worth Parties, the Texas Aeronautics Commission, and the International Association of Machinists and Aerospace Workers.[7]

On September 1, 1978, TXI filed a Motion for Final Board Order, under Rule 18 of the Rules of Practice, requesting the issuance of a final order granting all applications for nonstop Dallas/Ft. Worth-New Orleans authority. It recommends, however, that the effectiveness of Southwest's certificate be stayed pending resolution of the federal jurisdiction and Love Field issues. It submits that, since no answers were filed in opposition to its application, the incumbent carriers have waived their right to a hearing; that we are under no obligation to hold a hearing; and that we can, therefore, issue a final order as requested. It contends that, except for issues raised by Southwest's application, there has been no controversy in this case, and therefore only the incumbents benefit from the delay resulting from holding a hearing on the important issues raised by Southwest's pleadings.

Braniff and Delta filed answers in opposition to TXI's motion. American supports the motion, and Southwest argues that its application should be granted at the same time as those of the other three carriers.

Continental filed an answer conditionally supporting TXI's motion,[8] accompanied by a motion for leave to file an otherwise unauthorized document,[9] to which was attached a motion to consolidate the applicable portion of its certificate amendment application in Docket 32938 with the applications of American, Frontier, Southwest, and TXI. It states that it is not requesting that its application be considered on a comparative basis with the Subpart M applicants, but only that its application for Dallas/Ft. Worth-New Orleans nonstop authority also be granted in the event we decide to grant multiple permissive authority to all of the Subpart M applicants.

On September 26, Northwest Airlines filed a motion for leave to file an otherwise unauthorized document,[10] to which was attached a motion to consolidate its newly-filed certificate application in Docket 33540 with the Subpart M proceeding.

Delta filed a consolidated contingent answer in opposition to the motions to consolidate of Continental and Northwest, contending that they have failed to show good cause why their late-filed motions should be granted.[11] American filed an answer in opposition to Northwest's motion.[12]

On November 20, TXI filed a motion for immediate action, contending that there has been undue delay in considering its application. American and Delta filed answers. Southwest filed a response to the motion and to the answers of American and Delta.[13]

We have decided to grant TXI's motions for a final Board order and for immediate action, in part, by issuing an order to show cause as outlined below. On the basis of tentative findings more fully described later, we have tentatively concluded that it is consistent with the public convenience and necessity to grant, on a Category II subsidy-ineligible basis, the Dallas/Ft. Worth-New Orleans applications of TXI, American, Frontier, Continental, Northwest and any other fit, willing and able applicant whose fitness, willingness and ability can be established by officially noticeable data.[14] Further, we tentatively conclude that no oral evidentiary hearing is needed here since there are no material determinative issues of fact requiring such a hearing for their resolution. Finally, upon submission of further evidence concerning fitness and section 408 and 409 questions by Southwest,[15] we will deal with its request in a subsequent show-cause order.[16]

Under the Airline Deregulation Act of 1978, we must approve an application for certificate authority unless we find, by a preponderance of the evidence, that approval would not be consistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). The new Act creates a presumption that the grant of all applications is consistent with the public convenience and necessity. It places on any opponents of these applications the burden of proving them inconsistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). To give such opponents a reasonable opportunity to meet an admittedly heavy burden of proof, it is our view that applicants must indicate what type of service they would provide if, after receiving authority, they chose to serve the markets at issue. This does not mean that an applicant must show that it will provide service if it receives authority but rather what the nature of its service would be if it decided to serve. We will give Continental, Northwest, and any further applicants 15 days from the date of service

[6] Southwest states that only a small portion of the traffic in its forecast is made up of beyond passengers and that its application is not heavily dependent on beyond benefits it could offer. Its application includes a request to combine its certificated services with its intrastate services. We note that under the new Act, Southwest's intrastate authority must be included in any certificate we give it.

[7] Southwest filed a motion for leave to file an otherwise unauthorized document, to which was attached an answer in opposition to IAM's petition. We will grant the petition, since in numerous other cases labor parties have participated (see *Colorado Ski-Points Investigation*, Order 78-1-47).

[8] It contends that grant of multiple permissive authority to American, Frontier, Southwest and TXI, without at the same time also granting its application for similar nonstop authority in Docket 32938, would raise serious notice problems, in that other parties would not have an opportunity to respond to and apply for multiple permissive authority in a proceeding which traditionally involves carrier selection after hearing.

[9] We will grant the motion. We are cognizant of America's answer to Continental's motion to consolidate, in which it contends that the filing is over three months late, that it contains no plausible justification, and that to grant it would be inconsistent with orderly Board procedures. However, we have concluded that Continental's timing has prejudiced no one (American's answer was accompanied by a motion for leave to file, which we will grant).

[10] We will grant the motion.

[11] Delta argues that both carriers have been on notice since May that multiple awards might be granted as a matter of policy, or at least would be a decisional option in ongoing cases, whether such cases proceed under Subpart A or Subpart M.

[12] The answers were accompanied by motions for leave to file. We will grant the motions.

[13] American states that with the new Act, its request for unused authority between Dallas/Ft. Worth and New Orleans is entitled to at least as great, if not greater, priority than the applications that are the subject of TXI's motion, and it opposes the grant of Southwest's application unless it is subject to a condition that service at Dallas/Ft. Worth be rendered only through the Dallas-Ft. Worth Regional Airport. Delta opposes TXI's motion. Southwest's response was accompanied by a motion for leave to file. We will grant the motion.

[14] Officially noticeable data consist of that material filed under section 302.24(m) of our Procedural Regulations. Applicants whose fitness cannot be so established must make a showing of fitness, as well as deal with any questions under sections 408 and 409 of the Act. Should such applications be filed, we will then consider how to deal with them procedurally.

On the basis of officially noticeable data, we find that TXI, American, Frontier, Continental, and Northwest are citizens of the United States and are fit, willing and able to perform the air services proposed and to conform to the provisions of the Act and our rules, regulations and requirements.

[15] We will allow Southwest 21 days from the date of service of this order to supply the data detailed in Appendix A.

[16] We will not deal with the matter of airport selection at Dallas/Ft. Worth here. We acknowledge the contentions of the civic parties and the opposing carriers regarding service at Love Field. However, we have not limited the certificates of existing interstate carriers to service to DFW (see Orders 77-10-36 and 78-1-38), and we do not see any reason to reverse that finding here. However, Southwest's proposal raises different questions and all interested persons will have an opportunity to fully address the Love Field question in the show-cause proceeding dealing with Southwest's application.

of this order to supply data,[17] in order to give interested persons sufficient information on the nature of the applicant's proposal to assess consistency with the public convenience and necessity. Our tentative findings concerning all applicants that have not filed illustrative service proposals are contingent on such findings.

Upon review, of all the facts and pleadings in this case, we have tentatively determined that there is no reason why we should not grant multiple awards. Our tentative conclusions comport with the letter and spirit of the Airline Deregulation Act of 1978, particularly the declaration of policy set forth in section 102 which instructs us to rely, to the maximum extent possible, on competitive forces, including potential competition.[18] See our general conclusions about the benefits of multiple permissive authority in *Improved Authority to Wichita Case, et al.*, Order 78-12-106, December 14, 1978. Accordingly, we conclude that it is desirable to award the additional authority sought by the applicants, whether or not services are in fact operated. The existence of additional operating rights in markets now being served by incumbent carriers or authorized to be served will best effect the statute's policy objective of placing maximum reliance on the decisions of the marketplace. This will occur because newly authorized carriers may actually enter the market in order to exploit unmet demand, both in terms of price and service, or because incumbents will be encouraged by the realistic threat of entry to meet that demand. Because demand is dynamic in character and therefore constantly changing, the most effective means to assure that competitive forces will operate quickly and efficiently is to award multiple operating authority to carriers that are fit, willing and able to provide service.

Notwithstanding the foregoing tentative conclusions in support of multiple authority in this proceeding, we wish to make clear that we in no way desire to deter objections that might be asserted under the 1978 Act by air carriers, civic interests or other interested persons. The new statute contains a completely revised declaration of policy in section 102, as well as numerous additional and modified substantive provisions. Some of these statutory changes relate to considerations not expressly covered in the preceding statute. For example, while diversion from existing carriers will not be given decisive weight in rejecting applications for new authority except upon an extraordinary showing of financial jeopardy on the part of one or more existing air carriers, with the consequent loss of essential air service which cannot be immediately replaced, other provisions suggest that the Congress desires us to take into account other factors. These include, but not limited to, satellite airport questions, the degree of concentration within the industry, and safety. Any party in this proceeding may explain in full why the authority that we propose to grant should not issue. Such explanations should apply specifically to the applications in issue, and should be sufficiently detailed to overcome the statutory presumption of favorable treatment that the Act bestows on applications.

We also tentatively conclude that it is consistent with the public convenience and necessity to grant New Orleans-Albuquerque nonstop authority to TXI. No party has objected to this aspect of its application, and currently there is no single-plane service in the market. Although it requested only one-stop authority, unrestricted authority will give it maximum operating flexibility in serving the market.

Finally, upon review of the environmental evaluations submitted by TXI, American, and Frontier in their applications, to which no answers have been filed, we tentatively find that our decision to award them authority does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, or a major regulatory action under the Energy Policy and Conservation Act of 1975.[19] We reserve judgment on the environmental consequences of other applications, pending submission of environmental data.

We will give interested persons 30 days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; replies will be due within 10 days thereafter. We expect such persons to direct their objections, if any, to specific findings, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a proceeding that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.

Accordingly, 1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated above and amending the certificates of public convenience and necessity of Texas International Airlines for Route 82, American Airlines for Route 4, Frontier Airlines for Route 73, Continental Air Lines for Route 29, and Northwest Airlines for Route 3, so as to authorize them to engage in nonstop operations between Dallas/Ft. Worth and New Orleans; amending the certificate of Texas International so as to authorize it to provide nonstop service between New Orleans and Albuquerque; and amending, to grant Dallas/Ft. Worth-New Orleans authority, the certificates of any other fit, willing, and able applicants whose fitness can be established by officially noticeable material;

2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth here, to file with us and serve upon all persons listed in paragraph 11, no later than February 12, 1979, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections; answers shall be due no later than February 22, 1979;

3. If timely and properly supported objections are filed, we will accord full consideration to the matters and issues raised by the objections before we take further action; [20]

4. In the event no objections are filed, we will deem all further procedural steps to have been waived and we may proceed to enter an order in accordance with the tentative findings and conclusions set forth here;

5. Except to the extent granted here, we will deny the motions of Texas International Airlines for a final Board order and for immediate action;

[17] They should submit an illustrative schedule of service in the market at issue, which shows all points that they might choose to serve, the type and capacity of the equipment they would likely use and the elapsed trip time of flights in block hours over the segments. For the market at issue only, they should also provide an environmental evaluation as required by Part 312 of our Regulations, and an estimate of the gallons of fuel to be consumed in the first year of operations in the market if they instituted the proposed service, as well as a statement on the availability of the required fuel.

[18] Section 102(a) specifies as being in the public interest, among other things: "The placement of maximum reliance on competitive market forces and on actual and potential competition (a) to provide the needed air transportation system, and (b) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital" and "The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services."

[19] We assumed that the maximum amount of new service in the market and additional fuel consumed would not exceed the maximum proposed by any applicant.

[20] Since provision is made for the filing of objections to this order, we will not entertain petitions for reconsideration.

6. We grant the motions of American Airlines, Southwest Airlines, Frontier Airlines, Continental Air Lines, and Northwest Airlines to consolidate their applications in Dockets 32728, 32734, 32722, 32938, and 33540, respectively, with Docket 32315,[1] to the extent that they involve nonstop authority between Dallas/Ft. Worth and New Orleans;

7. We grant the motions of Texas International Airlines, Delta Air Lines, Southwest Airlines, Continental Air Lines, American Airlines, and Northwest Airlines for leave to file otherwise unauthorized documents;

8. We grant the petitions for leave to intervene filed by the Dallas and Ft. Worth Parties, the Texas Aeronautics Commission, and the International Association of Machinists and Aerospace Workers;

9. We direct Southwest Airlines to file the data indicated in Appendix A by February 1, 1979;

10. We direct Continental Air Lines, Northwest Airlines, and any other applicant for the authority at issue, to file the data indicated in footnote [17] by January 26, 1979; and

11. We will serve this order on Texas International Airlines; American Airlines; Southwest Airlines; Frontier Airlines; Continental Air Lines; Northwest Airlines; Braniff Airways; Delta Air Lines; the Texas Aeronautics Commission; the Dallas and Ft. Worth Parties; and the International Association of Machinists and Aerospace Workers.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

All Members concurred.

APPENDIX A.—FITNESS EVIDENCE TO BE SUBMITTED BY NON-CERTIFICATED APPLICANTS

(1) *Identity, Citizenship, and Relationships*

(a) Name and Address.

(b) Type of organization and the name of the state under the laws of which it is organized.

(c) Statement that the applicant is a citizen of the United States as defined in section 101(14) of the Federal Aviation Act.

(d) List the names and addresses and briefly indicate the expertise and responsibilities of all directors, officers and key management personnel of the applicant.

(1) Is each a U.S. citizen? If not, give citizenship;

(2) Set forth for each, the amount of applicant's stock held by class, the number of options and warrants held, including value and the exercise dates and price;

(3) Each should submit a statement describing the shares of stock (if 5% or more of total voting stock is owned), officerships and directorships, or other interests held in any (1) air carrier, (2) foreign air carrier, (3) person engaged in a phase of aeronautics, (4) common carrier, or (5) person whose principal business (in purpose or in fact) is the holding of stock in or control of (1), (2), (3) or (4).

(e) State the name, address, citizenship and principal business of each person holding 5% or more of applicant's total voting stock, together with the amount and percentages held, and the name, address, citizenship and principal business of any person for whose account, if other than the holder, such interest is held; if any of these people are related by blood or marriage, include the relationship;

(1) Is any person or is any subsidiary [1] of any person listed in (e) an (1) air carrier, (2) foreign air carrier, (3) person engaged in a phase of aeronautics, (4) common carrier, (5) officer or director of (1)-(4), or (6) an owner of 10% or more of the total voting stock of (1)-(4)? If so, describe.

(f) List any person not included in (d) or (e) above, who has the power to substantially influence the management of the applicant.

(g) List all subsidiaries of the applicant, briefly describing the relationship to the applicant and principal business.

(h) Describe the shares of stock or other interests the applicant or any of its subsidiaries holds in any (1) air carrier, (2) foreign air carrier, (3) person engaged in a phase of aeronautics, (4) common carrier, and (5) person whose principal business (in purpose or in fact) is the holding of stock in or control of (1)-(4).

(2) *Financial Information*

(a) Supply copies of 10K reports filed with the SEC for the past three years, if such reports were filed.

(b) To the extent not supplied under 2(a) supply for the most recent twelve month period and the two preceding calendar years (audited if possible, otherwise notarized), separating out for (2) and (3) transport and nontransport activities:

(1) balance sheet;
(2) profit and loss statement;
(3) cash flow statement.

(3) *Operational Information*

(a) Provide a brief chronological narrative of the ownership and operations of the applicant, including

(1) CAB, State and FAA authority under which the applicant has conducted operations;

(2) For the past three calendar years, total aircraft hours, aircraft miles, revenue passenger miles, and revenue ton miles flown;

(3) Types of aircraft used, types of service performed, and major (*e.g.* 10) markets served.

(b) Provide a list of aircraft currently operated indicating aircraft type, capacity, and whether owned or leased.

(c) Describe equipment (other than aircraft), ground facilities, and personnel currently utilized.

(4) *Compliance Disposition*

(a) Provide a description of each formal or docketed complaint lodged against the applicant, any predecessor or affiliate thereof (or against any other transportation company over which the applicant or predecessor exercises or has ever exercised control) in the past five years regarding compliance with the Federal Aviation Act or the rules, regulations and requirements thereunder. Indicate the final disposition, if any, of the matters.

(b) State whether any of the persons and/or companies listed in Item 1 above, either as a partner, officer, director or stockholder, have been affiliated with, controlled, or participated in control of any air carrier which during such association, was found to have committed knowing willful violations of the Act, or of any order, rule, or regulation issued pursuant to the Act. If so, list the orders covering the period from ten years ago to date.

(c) Indicate any action taken by the FAA under 14 CFR 13.15 (involving civil penalties of $500 or more per violation), 13.17, 13.19, and 13.23 and the disposition of each.

(d) Has the applicant, any predecessor, or any of the persons listed in 1. (d), (e), or (f) ever been convicted of a felony, anti-trust violation, or fraud (criminal or civic) within the past ten years? If so, identify the proceeding and provide a description, including current status or final disposition.

[FR Doc. 79-1703 Filed 1-16-79; 8:45 am]

[1] As used in this request, a subsidiary means any business of which the applicant owns 10 percent or more of the total voting stock, and any subsidiaries of the applicant's subsidiary.

[6320-01-M]

[Docket No. 30356 Order No. 79-1-75]

TRANSCONTINENTAL LOW—FARE ROUTE PROCEEDING

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of January 1979.

The Board has considered the record and issued its opinion containing its findings, conclusions and decision which is attached to and made a part of this order.[1]

Therefore, the Board: 1. Issues new certificates in the form attached to Capitol International Airways and World Airways;

2. Amends the certificates of public convenience and necessity of American Airlines for Route 4, Pan American World Airways for Route 132A, Trans World Airlines for Route 2, and United Airlines for Route 1;

3. Makes the authority awarded in paragraphs 1 and 2 effective 60 days after the date of service of this order unless the Board extends the effective date on its own initiative or in response to a petition for reconsideration; provided that the continued effectiveness of the authority granted here shall be conditioned upon the timely payment of such license fees as may be prescribed by the Board.

4. Defers action on the applications of Trans International Airlines, Air Transport Associates, Air United States, Standard Airways, and United States Overseas Airways;

5. Reopens the record in this case to receive an illustrative service proposal (containing the information described in Appendix B) from Trans International Airlines and replies to that submission from parties to this proceeding; the illustrative service proposal shall be filed within 30 days from the service date of this order and replies shall be filed within 15 days therefter;

6. Reopens and remands the record for additional oral evidentiary proceedings to reexamine the qualifications of the other carriers listed in paragraph 4 to engage in scheduled transcontinental air transportation;

7. Refers the matter of Pan American's violation of Part 300 of our Procedural Regulations to the Bureau of Consumer Protection for the purpose of instituting an enforcement proceeding consistent with our decision in this case.

8. Denies all other applications, motions, and other requests, except to the extent that they have been granted or deferred here.

9. Invites interested persons to show cause why the attached certificates should not be amended to authorize American, Capitol, Pan American and World to serve the following city-pair markets on transcontinental flights: Between New York, N.Y.-Newark, N.J. and Washington, D.C.-Baltimore, Md. (in the case of Capitol and World); and between Los Angeles-Ontario-Long Beach and San Francisco-Oakland-San Jose (in the case of American, Capitol, Pan American and World).

10. Requests that comments supporting or opposing our findings that these certificates should be so amended, be filed no later than 21 days from the service date of this order. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised before the Board takes further action.* If no objections are filed, all further procedural steps will be deemed waived, and we will proceed to enter an order effectuating our findings contained in our opinion.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

UNITED STATES OF AMERICA CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR ROUTE 191

CAPITOL INTERNATIONAL AIRWAYS, INC. is authorized subject to the following provisions, the provisions of Title IV of the Federal Aviation Act of 1958, as amended, and the orders, rules and regulations issued under it, to engage in interstate air transportation of persons, property, and mail:

Between the alternate terminal points New York, N.Y.-Newark, N.J., and Washington, D.C.-Baltimore, Md., on the one hand, and the alternate terminal points Los Angeles-Ontario-Long Beach and San Francisco-Oakland-San Jose, Calif., on the other.

This service is subject to the following terms, conditions and limitations:

(1) The holder may continue to serve regularly any point named here through the airport it last used regularly to serve that point before the effective date of this certificate. Upon compliance with such procedures as the Board may prescribe, the holder may, in addition, regularly serve points named here through any convenient airport.

(2) The authority granted here is permissive.

(3) The holder's authority to engage in the transportation of mail in these operations is limited to carriage on a non-subsidy basis, i.e., on a service mail rate to be paid entirely by the Postmaster General. The holder acknowledges and agrees that it is entitled to receive only service mail pay in connection with these operations, and that it is not authorized to request or receive any compensation for mail service rendered or to be rendered for such operations in excess of the amount payable by the Postmaster General.

The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This certificate shall be effective on March 13, 1979: *Provided, however,* That prior to the date on which this certificate would otherwise become effective the Board, either on its own initiative or upon the timely filing of a petition or petitions seeking reconsideration of the Board's order of January 11, 1979 (Order 79-1-75) insofar as such order authorizes the issuance of this certificate, may by order or orders extend such effective date from time to time: *Provided, further,* That the continued effectiveness of the authority granted here shall be conditioned upon the timely payment by the holder of such license fee as may be established under rules to be prescribed by the Board.

The Civil Aeronautics Board has directed its Secretary to execute this certificate and affix the Board's seal, on January 11, 1979.

PHYLLIS T. KAYLOR,
Secretary.

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR ROUTE 192

WORLD AIRWAYS, INC. is authorized subject to the following provisions, the provisions of Title IV of the Federal Aviation Act of 1953, as amended, and the orders, rules and regulations issued under it, to engage in interstate air transportation of persons, property, and mail:

Between the alternate terminal points New York, N.Y.-Newark, N.J., and Washington, D.C.-Baltimore, Md., on the one hand, and the alternate terminal points Los Angeles-Ontario-Long Beach and San Francisco-Oakland-San Jose, Calif., on the other.

This service is subject to the following terms, conditions and limitations:

(1) The holder may continue to serve regularly any point named here through the airport it last used regularly to serve that point before the effective date of this certificate. Upon compliance with such procedures as the Board may prescribe, the holder may, in addition, regularly serve points named here through any convenient airport.

(2) The authority granted here is permissive.

(3) The holder's authority to engage in the transportation of mail in these operations is limited to carriage on a non-subsidy basis, i.e., on a service mail rate to be paid entirely by the Postmaster General. The holder acknowledges and agrees that it is entitled to receive only service mail pay in connection with these operations, and that it is not authorized to request or receive any compensation for mail service rendered or to be rendered for such operations in excess of the amount payable by the Postmaster General.

The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This certificate shall be effective on March 13, 1979: *Provided, however,* That prior to the date on which this certificate would otherwise become effective the Board, either on its own initiative or upon the timely filing of a petition or petitions seeking reconsideration of the Board's order of January 11, 1979 (Order 79-1-75) insofar as such order authorizes the issuance of this certificate, may by order or orders extend such effective date from time to time: *Provided, further,* That the continued effectiveness of the authority granted here shall be conditioned upon the timely payment by the holder of such license fee as may be established under rules to be prescribed by the Board.

The Civil Aeronautics Board has directed its Secretary to execute this certificate and affix the Board's seal, on January 11, 1979.

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX A TO ORDER 79-1-75

AMENDMENTS TO THE CERTIFICATE OF AMERICAN AIRLINES (ROUTE 4)

Add a new segment:

Between the alternate terminal points New York, N.Y.-Newark, N.J., and Washington, D.C.-Baltimore, Md., on the one hand, and the alternate terminal points Los Angeles-Ontario-Long Beach and San Francisco-Oakland-San Jose, Calif., on the other hand.

Amend condition (1) to make service over this segment permissive.

Amend condition (20) to authorize single-plane service between Ontario, Calif., on the one hand, and New York, Newark, Washington and Baltimore, on the other hand.

AMENDMENT TO THE CERTIFICATE OF PAN AMERICAN WORLD AIRWAYS (ROUTE 132A)

Add a new segment:

Between the terminal point New York, N.Y.-Newark, N.J., on the one hand, and the alternate terminal points Los Angeles-Ontario-Long Beach and San Francisco-Oakland-San Jose, on the other hand.

AMENDMENT TO THE CERTIFICATE OF TRANS WORLD AIRLINES (ROUTE 2)

Amend condition (36) to authorize single-plane service between Ontario, Calif., on the

[1] The opinion is attached to the original of the Board's order and to the official copies in the Board's files and may be examined there.

*If lengthy comments are filed, parties are requested to include a summary of no more than five pages.

one hand, New York, Newark, Washington and Baltimore, on the other hand.

AMENDMENT TO THE CERTIFICATE OF UNITED AIR LINES (ROUTE 1)

Amend condition (16) to authorize single-plane service between Ontario, Calif., on the one hand, New York, Newark, Washington and Baltimore, on the other hand.

EFFECTIVE: March 13, 1979

APPENDIX B

EVIDENCE TO BE SUPPLIED IN ILLUSTRATIVE SERVICE PROPOSAL

1. *Illustrative Schedule*

The illustrative schedule of proposed nonstop or one-stop operations shall show all points to be served, type and capacity of equipment to be used, frequency of service and elapsed flight time, in block hours, over each segment.

2. *Illustrative Cost Estimate*

Applicants shall make, for the market(s) at issue only, an estimate of the cost of operating the illustrative schedule using current Subpart K methodology with appropriate adjustments to reflect innovative features of the proposal. All such adjustments shall be clearly noted. The applicant shall estimate the annual amount of traffic needed to generate sufficient revenue for profitable operation of the illustrative schedule.

3. *Price/Quality Options*

The applicant shall state the normal and discount fares to be offered in the market(s) applied for, estimate the proportion of total traffic that would use each fare category, and estimate yield for each market.

[FR Doc. 79-1699 Filed 1-16-79; 8:45 am]

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

WEST VIRGINIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the West Virginia Advisory Committee (SAS) of the Commission will convene at 2:00 p.m. and will end at 5:45 p.m. at Charleston House, Room 1021-23; 600 Kanawha Boulevard East, Charleston, West Virginia and again at 6:00 p.m. to 8:55 p.m. at the Kanawha County Public Library; 123 Capitol Street, Charleston, West Virginia 25301 on February 1, 1979.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, NW., Washington, D.C., Room 510, Washington, D.C., 20037.

Primarily to discuss Alderson Federal Correctional Institution review, State Affirmative Action project, Multi-Cultural Education Task Force plans, and to view Public Broadcasting TV presentation on D.C. Full Voting Representation Constitutional Amendment.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., January 12, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-1616 Filed 1-16-79; 8:45 am]

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

CHEMICAL INDUSTRY INSTITUTE OF TOXICOLOGY ET AL.

Applications for duty free entry of scientific articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before February 6, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue, N.W. Washington, D.C. 20230.

Docket Number: 79-00097. Applicant: Chemical Industry Institute of Toxicology, P.O. Box 12137, Research Triangle Park, North Carolina 27709. Article: Electron Microscope, Model EM 400 and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of tissues from experimental animals used in toxicology research. Liver will be the major tissue examined; although kidney, lung and nervous tissue will also be frequently examined. Crystallized enzyme preparations and DNA molecules from research animals will also be examined. The article will be used to identify and study changes in the earliest identifiable cancer cells. Application received by Commissioner of Customs: December 18, 1978.

Docket Number: 79-00098. Applicant: National Aeronautics and Space Administration, George C. Marshall Space Flight Center, Marshall Space Flight Center, Alabama 35812. Article: Mitra 125 S Computer and accessories. Manufacturer: Compagnie D' Information Militare Spatiple ET Aeronautique, France. Intended use of article: The article is intended to be used in research and development in coordination with Spacelab equipment developed by ESA and several European sources. The article will provide NASA the simulated capability to that existing in Europe in order to develop, train, maintain, and verify flight computer programs in the Spacelab hardware. In addition, the article is to be used for development of computer software (programs) on the NASA Space Shuttle/Spacelab to simulate the communication data on board the flight orbiter. Application received by Commissioner of Customs: December 18, 1978.

Docket Number: 79-00099. Applicant: University of Pennsylvania, Dept. of Metallurgy and Materials Science, Laboratory for Research on the Structure of Matter-K1 3231 Walnut St., Philadelphia, PA 19104. Article: (2) Two of HPT2—High Precision Translator with Tilt Capability, and (2) Two RD2-S—High Precision Rotary Drive with Axial Motion Capability. Manufacturer: Vacuum Generators Ltd., United Kingdom. Intended use of article: The article is intended to be used in the investigation of segregation of impurity and alloying elements, to free surfaces of oriented single crystal and polycrystalline from iron and nickel. The investigations will include both time dependent and equilibrium aspects of segregation. Single crystal experiments will consist of a comparison of low energy electron diffraction data (LEED) and Auger electron spectra (AES) of surfaces after sulfur segregation from the bulk with similar data on surfaces after gas phase adsorption of sulfur. Similar comparisons on other impurity elements for which suitable gas phase species can be found will also be conducted. In the polycrystal experiments, the applicant will combine segregation studies by scanning Auger microscopy with direct observations by optical, X-ray, and electron microscopy. High purity oriented single crystals will be doped with pairs of alloying elements and used in ternary cosegregation studies. The articles will also be used routinely by several Ph.D. candidates in persuance of the thesis research necessary for the Ph.D. degree. Application received by Commissioner of Customs: December 18, 1978.

Docket Number: 79-00100. Applicant: Pinceton University, Flight Research Laboratory, Forrestal Campus, Princeton, NJ 08540. Article: Research Aircraft Navigation Computer. Manufacturer: Canadian Marconi Company, Canada. Intended use of article: The article is intended to be used to investigate flight safety requirements, fuel efficiency, human factors, and navigational accuracies for general aviation and transport aircraft. Experiments will be conducted to investigate flying qualities criteria for single-pilot instrument flight operations. The article may also be used to supplement the material contained in the graduate course MAE 565, 566, Aircraft Dynamics. Application received by Commissioner of Customs: December 18, 1978.

Docket Number: 79-00101. Applicant: Boston University School of Medicine, Dept. of Dermatology, Houseman Research Building, Rm. 316, 80 East Concord Street, Boston, MA 02118. Article: LKB 2088 Ultrotome V Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare human and animal specimens for investigations which will include: ultrastructural studies on normal and pathologic tissues, developmental studies on skin, blood vessels and muscle systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions and subcellular changes in cells induced by changes in their biochemical and physical environments. The article will also be used in the courses Ultrastructure and Cell Biology which will involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. Application received by Commissioner of Customs: December 19, 1978.

Docket Number: 79-00102. Applicant: National Institutes of Health, Neuromuscular Diseases Section, IRP, Building 10/10D20, Clinical Center, 9000 Rockville Pike, Bethesda, Maryland 20014. Article: LKB 2088 Ultrotome V Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigations which include ultrastructural studies of normal and pathological human and animal tissues. Developmental studies of cytochemical and histochemical staining for enzymes and subcellular organelle localization. Subcellular changes in cells induced by changes in their biochemical and physical environs will be investigated. Application received by Commissioner of Customs: December 19, 1978.

Docket Number: 79-00103. Applicant: USAF Medical Center/SGLE, Wilford Hall, Lackland AFB, TX 78326. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for the investigation of human and animal tissues as well as bacteria and virus in order to determine a diagnosis or rule out a condition in an attempt to properly treat patients. Application received by Commissioner of Customs: December 29, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 79-1614 Filed 1-16-79; 8:45 am]

[3510-25-M]

NATIONAL INSTITUTES OF HEALTH

Withdrawal of Application for Duty-Free Entry of Scientific Article

The National Institutes of Health has withdrawn its application (Docket Number 79-00054) for duty-free entry of a Model LKB 8800A Ultramicrotome.

Accordingly, further administrative proceedings will not be taken by the Department of Commerce with respect to this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 79-1610 Filed 1-16-79; 8:45 am]

[3510-25-M]

PRINCETON UNIVERSITY ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before February 6, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue, N.W. Washington, D.C. 20230.

DOCKET NUMBER: 79-00091. APPLICANT: Princeton University, P.O. Box 33, Princeton, New Jersey 08540. ARTICLE: JNM/FX-90Q NMR Spectrometer and Accessories. MANUFACTURER: JEOL Ltd., Japan. INTENDED USE OF ARTICLE: The article is intended to be used to obtain routine H^1 and ^{13}C spectra to determine chemical shifts, coupling constants and lineshapes, nuclear overhauser effects, variable temperature effects, and relaxation times (T_1 and $T_{1\rho}$) for various molecules investigated under the following projects:

1. Studies of Carbene Rearrangements.
2. Dynamic Stereochemistry of Molecular Propellers.
3. Conformational Analysis of Tetraarylethanes.
4. Studies of the Gear Effect.
5. Inversion Barrier of Stibines.
6. Barriers to Rotation about Metal-carbon σ Bonds.
7. Polynuclear Cations: Racemization Barriers and Catalytic Properties.
8. Mechanisms of Reductive Elimination.
9. Palladium-catalyzed Synthesis of Methylene Lactones.
10. Organometallic Reagents for Organic Synthesis: New Routes to Prostacyclins Through Novel Organometallic Catalytic Reactions, Reductive Polymerization of Carbon Monoxide by Transition Metal Catalysts and Oxidation of Organic Compounds Using Organometallic Catalysts.
11. Natural Product Synthesis and Development of New Synthetic Methods.
12. Synthesis of Heterocycles.
13. Organic Synthetic Transformation Involving the Use of Thallium.
14. Studies of Hydrocarbons Adsorbed on Surfaces.
15. Organometallic and Spirocyclic Synthesis: Studies in Total Synthesis, New Synthetic Methods, Mechanisms of Organometallic Reactions and Synthesis and Study of Spirocyclic Molecules.

APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 18, 1978.

DOCKET NUMBER: 79-00092. APPLICANT: Duke University, Durham, N.C. 27706. ARTICLE: M301 1000W Lamp Power Supply and Starter with

V 4 4 / 1 2

ALH 220 Housing for 1000W Arc Lamp and ORC XL-1000W Xenon Arc Lamp. MANUFACTURER: Photochemical Research Association, Canada. INTENDED USE OF ARTICLE: The article is intended to be used as the radiation source for a photoacoustic spectrometer being constructed for employment in the study of various condensed phase materials, particularly eye lens cataracts (not in vivo). Other materials to be studied include crystalline powders, single crystals and solutions. The objectives of the research on eye lens cataracts are to gain an understanding of the nature of the pigments occurring in cataractous lenses and to explore the relationship between both UV and IR radiation, and the formation of cataracts. The objective of the work with crystalline materials is to determine the electronic structures of various materials which (like cataractous lenses) are highly scattering and/or highly absorbing, and thus not easily studied by optical transmission techniques. The article will be used in the training of graduate students as well as undergraduates students in chemistry courses. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 18, 1978.

DOCKET NUMBER: 79-00093. APPLICANT: The M.S. Hershey Medical Center of the Pennsylvania State University, Department of Obstetrics and Gynecology, Division of Reproductive Biology, Hershey, Pennsylvania 17033. ARTICLE: Vickers M85 Scanning Microdensitometer and accessories. MANUFACTURER: Vickers Instruments Inc., United Kingdom. INTENDED USE OF ARTICLE: The article is intended to be used to examine the properties and activities of a number of enzymes and of stored lipid within the Leydig cells of the testes of normal (rat) fetuses and fetuses of stressed mothers. The objective of these studies is to examine the role of the Leydig cells in differentiation of the brain along normal masculine lines. These studies of fetal testicular Leydig cells in the rat should provide information as to the physical and enzymatic state of the testosterone-producing component of the testis at a time during fetal life when circulating androgen is likely to be required for normal masculinization of the brain. In addition, the article is to be used for training of undergraduate, graduate and medical students in the courses Problem Solving Projects and Anatomy Research Problems. These courses will enable the student to gain experience in research problems, planning of experiments, experimental techniques, experimental methodologies and analysis of data. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 18, 1978.

DOCKET NUMBER: 79-00094. APPLICANT: National Aeronautics and Space Administration, George C. Marshall Space Flight Center, AL 35812. ARTICLE: Data Display System and accessories. MANUFACTURER: Thomson CSF, France. INTENDED USE OF ARTICLE: The article is intended to be used in research and development in coordination with Spacelab equipment developed by ESA and several European sources. The article will provide the capability to develop, train, maintain and verify flight computer programs in Spacelab hardware. In addition, the article will be used for astronaut training to simulate the flight equipment on the NASA Space Shuttle Spacelab to support the communication data onboard the flight orbiter. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 18, 1978.

DOCKET NUMBER: 79-00095. APPLICANT: National Aeronautics and Space Administration, George C. Marshall Space Flight Center, Marshall Space Flight Center, AL 35812. ARTICLE: High Rate Multiplexer Interface Simulator. MANUFACTURER: Messerschmidt Boelkow-Blohm GmbH, West Germany. INTENDED USE OF ARTICLE: The article is intended to be used in research and development in coordination with Spacelab equipment developed by ESA and several European sources. The article will provide the capability to develop, train, maintain and verify flight computer programs in Spacelab hardware. In addition, the article will be used for development of computer software (programs) on the NASA Space Shuttle/Spacelab to support the communication data on board the flight orbiter. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 18, 1978.

DOCKET NUMBER: 79-00096. APPLICANT: National Aeronautics and Space Administration, George C. Marshall Space Flight Center, Marshall Space Flight Center, AL 35812. ARTICLE: SDF and Level IV CDMS Simulator and accessories. MANUFACTURER: Matra Service, France. INTENDED USE OF ARTICLE: The article is intended to be used in research and development in coordination with Spacelab equipment developed by ESA and several European sources. The article will provide the capability to develop, train, maintain, and verify flight computer programs in Spacelab hardware. In addition, the article will be used for development of computer software (programs) on the NASA Space Shuttle/Spacelab to support the communication data on board the flight orbiter. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 18, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 79-1615 Filed 1-16-79; 8:45 am]

[3510-25-M]

UNIVERSITY OF CALIFORNIA—SAN DIEGO

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to ths decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

DOCKET NUMBER: 78-00341. APPLICANT: University of California, San Diego, Purchasing Division, Q-026, La Jolla, Calif. 92093. ARTICLE: High Resolution Superconducting Magnet System and accessories. MANUFACTURER: Oxford Instrument Co., Ltd., United Kingdom. INTENDED USE OF ARTICLE: The article is intended to be used in research which centers on the study of nuclear spin relaxation in a variety of chemical systems, in particular organic liquid and liquid crystalline solutions. The objectives of this research are to: (a) Develop appropriate descriptions of relaxation processes in multilevel nuclear spin systems by studies of nuclei such as ^{2}H, ^{14}N, and ^{13}C, in particular in ordered fluids such as thermotropic nematic liquid crystals; (b) characterize the motional processes in such ordered fluids; (c) develop new experimental techniques for studies of nuclear relaxation in multilevel systems; and (d) explore the potential for use of less sensitive nuclei such as ^{17}O and ^{33}S for general structural and dynamic studies of organic molecules. The article will also be used as part of the education of graduate and postdoctoral students. COMMENTS: No comments have been received with respect to this application. DECISION: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. REASONS: The foreign article provides a field strength of 5.9 tesla and a bore size of 73 millimeters. The National Bureau of Standards advises in its memorandum dated December 14, 1978 that (1) the combination of capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 79-1611 Filed 1-16-79; 8:45 am]

[3510-25-M]

UNIVERSITY OF CHICAGO

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to the decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

DOCKET NUMBER: 76-00460. APPLICANT: University of Chicago, Enrico Fermi Institute, 5640 South Ellis Avenue, Chicago IL 60637. ARTICLE: Isotope Micromass, Model 602C. MANUFACTURER: VG Micromass Ltd., United Kingdom. INTENDED USE OF ARTICLE: The article is intended to be used in research which involves determination of the abundances of the stable isotopes of nitrogen (N^{15} and N^{14}) extracted from lunar rocks and soils. Nitrogen and other trace gases will be extracted from lunar samples by one of the following alternative procedures: (1) pyrolysis at various temperatures in a high-vacuum furnace; (2) acid dissolution of the sample followed by a Kjeldahl distillation of ammonia and a hypobromite oxidation to produce N_2.

COMMENTS: No comments have been received with respect to this application. A letter dated December 1, 1976 was received from Nuclide Corporation (Nuclide) after expiration of the comment period. This letter is being treated as an offer to provide additional information in accordance with Subsection 301.10(a) of the regulations. DECISION: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (October 10, 1973). REASONS: This application is resubmission of Docket Number 74-00302-65-40600 which was denied without prejudice to resubmission on April 6, 1976 for informational deficiencies. The applicant, in response to question 8, alleges that the following features of the article are pertinent to its intended use and are not available in a domestic instrument, specifically those manufactured by Nuclide:

1. A sample inlet system of all-metal construction which is bakable for decontamination.

Minimum sample size for full precision of 0.025 atmosphere cubic centimeter (atm. cm^3).

3. Vacuum system background pressure in 10^{-9} torr range.

4. Sensitivity of 10^{-2} amperes/torr for carbon dioxide (CO_2).

5. Accelerating voltage of 5000 volts (v) for nitrogen (N_2).

6. Reproducibility for isotope ratio measurement of ±0.0025 percent (%).

7. Magnet of the permanent type which is important for stability.

The National Bureau of Standards (NBS) advises in its memorandum dated February 10, 1977 that the Model 6-60-RMS ratio mass spectrometer manufactured by Nuclide is the domestic instrument which is most closely comparable to the article. NBS further advises that the 6-60-RMS was of equivalent scientific value to the foreign article for the article's intended purposes at the time the article was ordered. A discussion of each of the features alleged to be pertinent prefaced by a discussion of the nature of the applicant's contact with Nuclide follows.

APPLICANT'S CONTACT WITH NUCLIDE

Question 8.c. of the application form provides guidelines needed for justification of duty-free entry. The applicant is asked to identify the particular domestic instrument(s) that were compared with the foreign article and to list the features of that article that are both pertinent to the intended program and unmatched in domestic instrument(s) being compared. An important facit in selection of the instrument(s) to be compared with the foreign article depends very much on the information that the applicant obtains on the instrumentation available from the domestic manufacturer. However, the information that one obtains from manufacturers can vary greatly with the manner in which one approaches them. Question 9 of the application form as well as Subsections 301.7 and 301.9(c)(7) of the regulations are intended, in part, to ascertain whether the domestic manufacturer was made sufficiently aware of the applicant's needs to furnish the required information. Both question 9 and Subsection 301.7 request that documentation be enclosed with the application to support the applicant's statements relative to the nature of the contact with the domestic manufacturer.

The record contains no evidence that Nuclide was made aware of the complete specifications alleged by the applicant to be pertinent to the intended use of the article described in this application. As indicated below the record actually indicates the opposite. The applicant did not formally seek a Request for Quote on such specifications from Nuclide. In this connection, it is explained in the applicant's letter of June 8, 1976, that after the intended application was described in a long telephone conversation, Nuclide responded with sufficient information to allow selection of the instrument superior for the intended purposes. However, Nuclide's response (a copy of which was provided by the applicant) was dated December 20, 1972 (11 months before purchase of the foreign article) and was clearly preliminary in nature. For example, Nuclide suggested (as though the foreign article and its features had not been discussed previously with the applicant) that its competitively priced 3-60-RMS be compared with the foreign article (a brief comparison was provided which involved only one of the detailed specifications now deemed pertinent), Nuclide suggested, in anticipation of a RFQ delayed by funding problems, that allowance should be made for a 10% price increase, Nuclide indicated that it would be interested in any areas of disagreement, and, finally Nuclide asked if other information was needed. If a properly worded RFQ had been sent to Nuclide the applicant would have known whether Nuclide could meet the specifications deemed pertinent and there was ample time to send such a RFQ. As will be seen in the discussion of specifications below, Nuclide could have met the applicant's needs if such needs were expressed in formal RFQ.

Of nine purchases of the foreign article involving applications for duty-free entry, in only one instance was Nuclide provided the opportunity to respond to a formal RFQ prior to the placement of a purchase order by the applicant. In that case, Nuclide of-

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fered to meet all of the applicant's technical requirements (Docket Number 78-00046). Many of these requirements, including some at issue in this application (Docket Number 76-00460), appear to be tailored exactly to those quoted for the foreign article. In June, 1974, Nuclide accepted an order for a 6-60-RMS matching and even exceeding several of the specifications of the foreign article in question. The Department has no knowledge of failure on Nuclide's part to offer the specifications at issue in this decision after receiving formal RFQ. In this regard, it is noted that the legislative history and the Department's regulations (15 C.F.R. § 301.11 (1978)) require the Department to take into account the capability of a domestic manufacturer to produce an instrument with certain specifications, even if it has not previously done so. No evidence has been supplied which suggests that Nuclide would not have been willing and able to supply the pertinent specifications of the foreign article.

All Metal Bakeable Inlet

Dated specifications show that Nuclide has been delivering glass or metal bakeable inlets since 1965 or earlier. In its recommendation, relating to the applicant's initial submission (Docket Number 74-00302-65-40600), NBS advised that bakeable inlet systems in both glass-and-metal and all-metal designs were available from Nuclide at the time of order of the foreign article. NBS's advice was conveyed to the applicant as part of the Denial Without Prejudice to resubmission (DWOP) of the initial application. On resubmission, (Docket Number 76-00460) the applicant provides no new information or evidence to show that such inlets were not available from Nuclide. Further, NBS advises in its memorandum dated February 10, 1977 that the specific choice of materials of which the inlet system is made is a design feature which is not pertinent within the meaning of Subsection 301.2(n) of the regulations and that a bakeable inlet system is pertinent to the applicant's intended purposes.

The Department notes that the specifications of the foreign article which were included in Docket Number 74-00302-65-40600 (the initial submission) state that the all-metal sample inlet system of the foreign article is bakeable to 300°C except for the mercury/glass manometers which are only required for initial adjustments and can be subsequently valved off and removed. (These same specifications stipulate that bakeout is provided by a 250°C oven.) At the time the foreign article was ordered Nuclide provided two bakeout systems, the BS-1, insulated heating tapes with temperatures of 200°C to 300°C and the BS-2, an oven enclosure with temperatures of up to 300°C to 400°C. Both of these systems provide a matching specification for the pertinent bakeable inlet system of the foreign article. NBS advises that the 6-60-RMS matches the article with respect to the bakeable inlet. Based on a review of the above, the Department finds that the 6-60-RMS is scientifically equivalent to the article with respect to the pertinent feature.

Minimum Sample Size for Full Precision

In response to question 8 the applicant alleges that the minimum sample size for "full precision" is 0.1 atm cm^3 for Nuclide and 0.025 atm cm^3 for the article. The applicant further alleges that the article can analyze a sample "40 times smaller than the Nuclide system" (though 0.025 is only 4 times as small as 0.1). These claims should be examined from several points of view, especially from the standpoint of the applicant's intended purposes, the specifications of the article relating to these purposes and Nuclide's ability to meet such specifications.

The response to question 7 clearly indicates that only Nitrogen (N_2) analysis is to be performed. The Department's review is limited to an analysis of the guaranteed specifications of the foreign article for the intended use of the article (in this case N_2 analysis) pursuant to Subsection 301.11(a) of the regulations. The applicant's purchase order references Technical Information Sheet (TIS) 01.625. This sheet provides specifications of the article including the article's small sample capability. Although the small sample capability for CO_2 with the small sample inlet option purchased by the applicant (C_s) is stated to be 0.02 atm cm^3 with a precision of 0.01% on page 1 and to be 0.025 atm cm^3 on page 3, no information is provided on small sample capability for analysis of N_2. The applicant attached to the application a copy of two pages of the foreign manufacturer's brochure, Publication No. (P) 02.214, which provides more detail on many of the article's specifications, including small sample capability. The pages supplied by the applicant indicate that the small sample inlet is used only for CO_2 and that the minimum quantity of N_2 that is analyzed from the standard inlet is 0.1 atm cm^3 at a precision of 0.01%. If "full precision" means the best precision of the article regardless of sample size, P 02.214 shows that value to be 0.0025%. TIS 01.625 indicates that the normal sample requirement is in the range 1-20 atm cm^3. Thus, specifications do not confirm that a small sample capability of 0.025 atm cm^3 for N_2 was guaranteed to the applicant. Further, the precision of the article at the smallest N_2 sample size specified is not the best precision specified.

A scientific report on the applicant's work, in which the applicant exceeded the specified N_2 small sample capability of the article, was attached to the application. (In the applicant's letter dated June 8, 1976, it is stated that a very small volume inlet was, in part, a factor in attaining results.) Samples were chosen to yield at least 0.01 atm cm^3 of N_2 gas. Analytical precision under normal conditions was ±0.03% although most of the analyses, due to small sample sizes used, had 20 errors of ±0.025%. In some cases (19%), the uncertainties were of the order of 0.1% and higher to a maximum of ±1.4%. These results cannot be used to confirm the guaranteed specifications of the foreign article but they do indicate that precision with the article suffers considerably as sample size decreases.

No evidence is presented to show that Nuclide was asked if it could provide analysis of 0.025 atm cm^3 at any specified precision (or even 0.1 atm cm^3 at a precision of 0.01%). Further, there is evidence to indicate that if Nuclide had been asked to provide 0.025 atm cm^3 it could have complied. First, specifications for the 6-60-RMS (PUBS 1002-A-0172) match those in the foreign manufacturer's literature on analysis of small quantities of N_2. These specifications state, "an optional modification makes it possible to successfully analyze samples as small as 0.1 cc [cubic centimeters] STP [standard temperature and pressure] or *less* [emphasis added]. A Toepler pump is available to facilitate analysis of non-LN_2. [liquid N_2] condensible gases such as nitrogen, hydrogen and argon". Second, Nuclide's precision matches that of the foreign article (as will be shown in the discussion of "reproducibility" below). Third, Nuclide met a 1974 RFQ by providing 0.025 atm cm^3 at an internal precision of ±0.01% for CO_2 analysis to match the foreign manufacturer's quotation of April 6, 1973. Fourth, Nuclide's optional small sample system is offered at a very small price indicating both that it is not difficult to make and the matching or bettering of the foreign article's small sample reservoir volume (0.5 cc) in glass or metal would represent no great technological breakthrough.

The primary difficulty in small sample analysis of non-condensible gases such as N_2 is quantitative transfer of sample to the reservoir. This can be accomplished in both the Nuclide and the foreign systems through the use of the Toepler pump or by cooling the sample with liquid Helium to condense it. Other techniques for small sample analysis such as the static technique, gas dilution and the use of low pressure reservoirs with matched molecular leaks are also amenable to analysis of samples equal to or less than 0.025 cc STP. In view of this and NBS advice received, the Department finds that Nuclide was capable of satisfying the applicant's 0.025 atm cm^3 small sample requirement at the time of order.

Vacuum System Background Pressure

The specifications for the foreign article (quotation of April 6, 1973 and TIS 01.625) state that its vacuum system provides a background pressure in the 10^{-9} torr range. NBS notes that the term "10^{-9} torr range" is ambiguous as it is not a quantitative definition but advises that the best available vacuum, at least 10^{-9} torr, is pertinent to the applicant's intended use. In support of the contention that Nuclide could not provide the required background pressure, the applicant noted that the background at mass 28 of a spectrum enclosed with Nuclide's letter of December 20, 1972 was 5.4×10^{-14} amperes (A) and stated that the article gives 1.5×10^{-14} A (without providing a spectrum or stating conditions involved). The cited Nuclide data was obtained in 1967 and it is clear from the text accompanying the spectrum that conditions were not ideal and the background obtained was not representative of Nuclide's full capability. Thus, the Department does not find the applicant's background comparison useful. However, NBS advises that at the time of order the Nuclide Model 6-60-RMS was available with ion pumps capable of producing a vacuum better than 10^{-9} torr. Accordingly, the Department finds that the 6-60-RMS matches the foreign article with respect to background pressure.

Sensitivity

The foreign article's sensitivity specification, 10^{-2} A/torr for CO_2, is not well-defined because it lacks statements of resolution, ionizing current and site of measurement of current and pressure. Although the specification is not directly comparable with Nuclide specifications published at the time the foreign article was ordered, it is clear from the discussion below, however, that Nuclide would have offered to provide 10^{-2} A/torr for CO_2, in response to a RFQ.

Nuclide indicated to the applicant in material attached to its letter of December 20, 1972 that (1) its 3-60-RMS uses a 7.5 centimeter (cm.) 60° sector magnet, while the article has a 6 cm. 90° magnet and (2) the resolving power sensitivity product of the 3-60 is 25% greater than that of the article. The applicant, aware that sensitivity is directly related to magnetic sector radius, stated in response to question 8.c.(2) (of both the initial submission and this submission) that, "[the foreign manufacturer] quotes a value [for sensitivity] which is typical of a good 6-inch [15 cm.] radius mass spectrometer; . . .". From Nuclide's letter of December 20, 1972, the Department learned that the applicant played a key role in the development of Nuclide's 6-60-RMS and, in the absence of statements to the contrary, assumes that the 6-60 is regarded as a good 6-inch radius instrument.

In response to a 1974 RFQ tailored to the specifications of the foreign article, Nuclide offered 4×10^{-3} A (measured at the collector) at a pressure in the analyzer of 2×10^{-7} torr for CO_2. (This is 2×10^{-2} A/torr for CO_2) better than the quoted sensitivity of the foreign article.)

In the DWOP of the initial application (Docket Number 74-00302-65-40600) the applicant was informed of NBS advice that at the time of order Nuclide was capable of satisfying the sensitivity specification of the article. Although the applicant attempted to rebut some of NBS's advice, no attempts was made to rebut the advice on sensitivity.

In view of the above, the Department finds that the 6-60-RMS was capable of matching the sensitivity specification of the foreign article.

Accelerating Voltage

The foreign article provides an ion accelerating voltage of 5000 v for N_2. The Nuclide Model 6-60-RMS also provided 5000 v for N_2 at the time the foreign article was ordered. Based on this information and on the recommendation of NBS, the Department finds that the Nuclide 6-60-RMS matched the ion accelerating voltage of the foreign article at the time of order.

Reproducibility

In the initial submission (Docket Number 74-00302-65-40600), the applicant alleged that the article's reproducibility for isotope ratio measurement is ±0.0025% whereas the corresponding specification for the Nuclide 3-60-RMS was ±0.02%. However, after being informed via DWOP that the comparable Nuclide 6-60-RMS provided an internal precision (a term which corresponds to "reproducibility" as defined by the foreign manufacturer) of ±0.0002%, the applicant (on resubmission) stated that the precision for N_2 of the article (±0.0025%) exceeds the *best* value in the range given by Nuclide (±0.003%) for the 6-60-RMS. An examination of this new statement from the standpoint of the applicant's work, the article's specifications, Nuclide specifications and NBS advice follows.

Specifications of the foreign article and other technical literature attached to the application indicate that precision, reproducibility and/or internal reproducibility are defined as the $2\sigma_{10}$ (two sigma sub ten) value calculated from results of a single run (one sample/standard pair) of ten ratio measurements. For an undefined sample size, the article's $2\sigma_{10}$ is 0.0025% on N_2 and CO_2; and for a sample size of 0.01 atm cm^3 using the small volume inlet, the $2\sigma_{10}$ is 0.01%. No information is given in the article's specifications on the reproducibility specified for the very small samples of N_2 utilized in the applicant's work but the scientific report on this work attached to the application indicates that for samples yielding at least 0.01 atm cm^3 of N_2 precision under normal conditions was ±0.03% and the uncertainties varied from ±0.1% to ±1.4% for 19% of the analyses. Thus, with the context of the applicant's work, reproducibility in the article (which under normal conditions is ±0.03%) is effected considerably by conditions of the experiment.

Nuclide defines precision as the differences between eight out of ten ratio pairs of two samples varying by approximately 0.5% in isotopic composition. Nuclide specifications attached to the application (PUBS 1151-0771, page 2) state precision as a range with the explanation that ranges are given since precision achievable in ratio determination depends on many factors such as the ratio difference itself, available sample size, sample purity, the time per analysis allocated by the analyst, whether the instrument is dedicated to only one kind of work or to many types of work and operator experience.

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2) state precision as a range with the explantion that ranges are given since precision achievable in ratio determination depends on many factors such as the ratio difference itself, available sample size, sample purity, the time peranalysis allocated by the analyst, whether the instrument is dedicated to only one kind of work or to many types of work and operator experience.

The range for carbon as CO_2 is $\pm 0.002\%$ while that for Oxygen and N_2 is $\pm 0.003\%$ to $\pm 0.02\%$. The worst value of these ranges compares favorably with the $\pm 0.03\%$ and larger amount achieved by the applicant in the report cited above. The best values of these ranges to be compared with the article's $\pm 0.0025\%$ are $\pm 0.002\%$ and $\pm 0.003\%$.

In 1974 Nuclide provided a 6-60-RMS to a customer in response to specifications patterned after those of the foreign article. Precision was defined in a manner analogous to the foreign manufacturer's definition of reproducibility and Nuclide matched the article's specifications.

NBS advises that without regard to differences in definition, there is no significant difference between the numerical value of the article's reproducibility and that specified by Nuclide and moreover, taking into account that the specified values are not on the same terms, the Nuclide specifications is considered to be more meaningful. Using equivalent definitions NBS advises that Nuclide's "reproducibility" is $\pm 0.0002\%$.

In view of the above, the Department finds that the Nuclide 6-60-RMS was capable of matching the reproducibility specifications of the foreign article at the time the article was ordered.

PERMANENT MAGNET

The foreign article is equipped with a permanent magnet. Nuclide specifications of July 1971, attached to the application, indicate that a permanent magnet was available for the 3-60-RMS. Similarly, specifications for the 6-60-RMS (e.g., those of March 1965) indicate that a permanent magnet was available for that instrument. The Department therefore finds that Nuclide was capable of matching the permanent magnet of the article at the time of order.

Based on the foregoing considerations, NBS advice and our own review of the application as well as other factual information in our possession (specifications, textbooks, etc.), we find that the Nuclide Model 6-60-RMS was of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 79-1612 Filed 1-16-79; 8:45 am]

[3510-25-M]

NUMERICALLY CONTROLLED MACHINE TOOL TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Numerically Controlled Machine Tool Technical Advisory Committee will be held on Tuesday, February 6, 1979, at 10 a.m. in Room 3817, Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C.

The Numerically Controlled Machine Tool Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to numercially controlled machine tools, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has six parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Nomination and election of a new Chairman.
(4) Discussion of accuracy parameters.
(5) New business.

EXECUTIVE SESSION

(6) Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Numerically Controlled Machine Tool Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on October 25, 1978 (43 FR 49828).

Copies of the minutes of the General Session will be available by calling Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone A/C 202-377-4196.

For further information, contact Mr. Swanson either in writing or by telephone at the address or number shown above.

Dated: January 12, 1979.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-1698 Filed 1-16-79; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL, SCIENTIFIC AND STATISTICAL COMMITTEE

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council was established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) and the Council has established a Scientific and Statistical Committee (SSC). The Committee will meet to review a draft fishery management plan for spiny lobster.

DATES: The meeting will convene on Thursday, February 1, 1979, at 8:00 a.m. and will adjourn on Friday, February 2, 1979, at 12:00 noon.

ADDRESS: The meeting will take place in the Capri Room of the Landmark Motor Hotel, 2601 Severn Avenue, Metairie, Lousiana:

FOR FURTHER INFORMATION CONTACT:

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609. Telephone: (813) 228-2815.

Dated: January 12, 1979.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 79-1550 Filed 1-16-79; 8:45 am]

[3910-01-M]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

JANUARY 8, 1979.

The USAF Scientific Advisory Board Tactical Cross-Matrix Panel will meet on February 13 and 14, 1979 at Langley AFB, Virginia from 8:30 a.m. to 4:30 p.m. each day. The purpose of the meeting is to receive classified briefings on TAC mission area analysis, Ground Launch Cruise Missile Operational Concepts, Assault Breaker and other subjects relevant to current tactical operations.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

CAROL M. ROSE,
Air Force Federal Register Liaison Officer.

[FR Doc. 79-1541 Filed 1-16-79; 8:45 am]

[3810-70-M]

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee will be held as follows:

Wednesday and Thursday, February 21-22, 1979, Missile Intelligence Agency, Redstone Arsenal, Alabama.

The entire meeting, commencing at 0900 hours, each day, is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on the growth and the potential implications of Soviet technology.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 12, 1979.

[FR Doc. 79-1641 Filed 1-16-79; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD

Advisory Committee Meeting

The Defense Science Board will meet in closed session February 15-16, 1979 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense, Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Board has been scheduled for February 15-16, 1979 to discuss interim findings and tentative recommendations resulting from ongoing Task Force activities associated with Strategic, Tactical, Intelligence/Command, Control and Communication, and Technology issues. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board meeting concerns matters listed in Section 552b(c) of Title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, DoD/WHS.

JANUARY 12, 1979.

[FR Doc. 79-1640 Filed 1-16-79; 8:45 am]

[4310-10-M]

ENDANGERED SPECIES COMMITTEE

GRAYROCKS DAM AND RESERVOIR IN WYOMING; TELLICO DAM AND RESERVOIR IN TENNESSEE

Meeting

AGENCY: Endangered Species Committee.

ACTION: Notice of meeting.

SUMMARY: The Endangered Species Committee will meet to consider whether or not the Grayrocks Dam and Reservoir in Wyoming and the Tellico Dam and Reservoir in Tennessee should be granted exemptions from the requirements of Section 7(a) of the Endangered Species Act.

DATE: January 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Raphaelle Semmes, Room 4160, Interior Building, 18th & C Streets, N.W., Washington, D.C. 20240, Phone: 202-343-5978.

FOR MEDIA CONTACTS: Harmon Kallman, Office of Public Affairs, Phone: 202-343-3171.

SUPPLEMENTARY INFORMATION: Secretary of the Interior Cecil D. Andrus, in his capacity as Chairman, has called a meeting of the Endangered Species Committee for Tuesday, January 23, 1979, at 9:00 a.m. in the auditorium of the Interior Building, 18th and C Streets, N.W., Washington, D.C.

The Endangered Species Act Amendments of 1978 (Amendments) create the Endangered Species Committee. The Committee is charged with the responsibility of determining whether exemptions should be granted from the requirement of § 7(a) of the Endangered Species Act of 1973, as amended, that Federal agency actions not jeopardize the continued existence of endangered or threatened species or adversely modify their critical habitat.

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The Amendments directed the Committee to give prompt consideration to exemptions for two specific projects, the Grayrocks Dam and Reservoir on the Laramie River in Wyoming, and the Tellico Dam and Reservoir on the Little Tennessee River in Tennessee.

The Endangered Species Committee is made up of six permanent Federal members, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, the Chairman of the Council of Economic Advisors, the Administrator of the Environmental Protection Agency, and the Administrator of the National Oceanic and Atmospheric Administration. Members of the Committee are also appointed by the President from States affected by the particular project which is being considered for exemption.

The Director of the Fish and Wildlife Service has concluded that the Tellico Dam and Reservoir Project will cause the extinction of the endangered snail darter (*Percina tanasi*) and will destroy its critical habitat, and that the Grayrocks Dam and Reservoir is likely to jeopardize the continued existence of the endangered whooping crane (*Grus americana*) and is likely to adversely modify its critical habitat.

Public hearings were held on January 8, 1979, to receive information and public comment on the issues before the Committee in considering exemptions for the Grayrocks and Tellico Projects. Tellico hearings were held in Washington, D.C. and Knoxville, Tennessee; Grayrocks hearings were held in Washington, D.C. and Cheyenne, Wyoming.

The meeting will commence with Committee consideration of the Grayrocks Project, to be followed by consideration of the Tellico Project. In the course of the meeting the Committee may vote on wether or not exemptions will be granted for either the Grayrocks or Tellico Projects.

The meeting will be open to the public.

Dated: January 10, 1979.

CECIL D. ANDRUS,
Secretary of the Interior, Chairman, Endangered Species Committee.

[FR Doc. 79-1419 Filed 1-16-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

STUDY PLAN FOR STUDY REQUIRED BY TITLE III OF THE PETROLEUM MARKETING PRACTICES ACT

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: This notice contains the study plan for Title III of the Petroleum Marketing Practices Act (Pub. L. 95-297). This study will examine alleged subsidization in the marketing of motor fuel and functional profitability in the petroleum industry. On October 6-7, 1978, a public hearing was held in Washington, D.C. which addressed the scope and methodology of this study. Comments on this study plan and requests for futher information regarding it should be addressed to: William C. Lane, Jr. or David W. Penn, Office of Competition, Department of Energy, 20 Massachusetts Avenue, NW., Room 7127, Washington, D.C. 20845 (202) 376-9495.

SUPPLEMENTARY INFORMATION:

I. INTRODUCTION

This document constitutes the plan of the Office of Competition for studying the alleged subsidization of motor fuel sales. Its publication in the FEDERAL REGISTER is part of the continuing effort to solicit comments and suggestions from all interested parties. The sooner that these comments are received, the earlier they can be evaluated and incorporated into our plans wherever possible. Concurrently, we are field testing various elements of the data collection strategy as outlined in this document.

A. BACKGROUND

Title III of the Petroleum Marketing Practices Act (hereinafter "Title III") requires the Secretary of Energy to examine the extent to which producers, refiners, and other suppliers of motor fuel subsidize the sale of such fuel at retail or wholesale with profits obtained from other operations.[1] Section 301(b) of the Act specifies that the study shall examine:

(1) The role of vertically integrated operations in facilitating subsidization of sales of motor fuel at wholesale or retail;

(2) The extent to which such subsidization is predatory and presents a threat to competition;

(3) The profitability of various segments of the petroleum industry;

(4) The impact of prohibiting such subsidization on the competitive viability of various segments of the petroleum industry, on prices of motor fuel to consumers and on the health and structure of the petroleum industry as a whole; and

(5) Such other matters as the Secretary considers appropriate.

Within DOE, the Office of Competition has the responsibility for conducting this study.

In its deliberations on the Title III legislation, Congress took special note of the impact of possible subsidization on the consuming public. In addition, the Department of Justice observed that "limiting the pricing flexibility of integrated firms could significantly impede the functioning of competition in the motor fuel market, thereby increasing the cost of those products to consumers."[2] Congressman Dingell further stated that the Title III study "• • • will explore questions relating to market strtucture, competition, and consumer costs" and will examine the extent to which present pricing practices may be resulting in lower motor fuel prices to ultimate consumers.[3] The Office of Competition has developed the following study plan with this Congressional perspective in mind.

B. PUBLIC HEARING

The Office of Competition held a public hearing on October 6 and 7, 1978, soliciting comments on the following areas: (1) The direction of the study and the issues to be emphasized; (2) the most appropriate methodology; and (3) the potential problem areas. Oral and/or written statements have been received from the following individuals and organizations:

Professor Fred Allvine
American Petroleum Refiners Association
Ashland Oil Company
Atlantic Richfield Co.
Beacon Oil Co.
Chevron USA, Inc.
Committee of Independent Refiner/Marketers
Continental Oil Co.
Exxon Co., USA
Georgia Independent Oil Mens' Assoc.
Gulf Refining and Marketing Co.
Senator Floyd Haskell
Independent Gasoline Marketers Council
Independent Refiners Assoc. of America
Independent Terminal Operators Assoc.
Senator Edward M. Kennedy
Marathon Oil Co.
Mobil Oil Co.
Mt. Airy Refining Co.
National Congress of Petroleum Retailers
National Oil Jobbers Council
Pine Tree Gasoline Retailers Assoc.
Rock Island Refining Corp.
Shell Oil Co.
Society of Independent Gasoline Marketers of America
Standard Oil (Indiana)
Texas Oil Marketers Assoc.
Thunderbird Resources, Inc.
Union Oil Co.
United Refining Corp.
Vickers Petroleum Co.
Virginia Gasoline Retailers Assoc.

Many statements stressed the importance of the Title III Study. For example, a representative of the Independent Refiners Association noted that:

[1] Petroleum Marketing Practices Act, Pub. L. 95-297 (June 19, 1978).

[2] Letter from Patricia M. Wald, Assistant Attorney General, to Hon. Clifford P. Hansen, May 3, 1978. 124 *Congressional Record* S7000 (May 4, 1978).

[3] 124 *Congressional Record* H5002 (June 6, 1978).

> The subject of the present hearing • • • represents potentially the most important government action in many years.[4]

Professor Fred Allvine echoed these sentiments:

> (T)his investigation has the potential for being one of the most important studies ever made of the petroleum industry.[5]

The Office of Competition agrees with these observations. The conclusions of the Title III study could significantly affect the future marketing patterns of motor gasoline.

II. THE CONCEPT OF SUBSIDIZATION

A. FOCUS OF THE TITLE III STUDY

At the October 6-7, 1978 hearings, many speakers expressed opinions, as requested, concerning the scope and methodology of the study. These opinions covered a wide range of views and reflected a broad spectrum of interests in the petroleum industry. They ranged from suggesting a very narrowly-defined project, in which only functional profitability would be analyzed, to recommending a very comprehensive investigation, where every facet of the petroleum industry is researched.

To some degree, the background of each speaker played an important role in his recommendations. For instance:

> Retailers want the study to focus on the rival operations of refiner-and wholesaler-owned retail outlets. They allege that integrated companies are subsidizing operations at their retail outlets.

Wholesalers (jobbers) want the study to focus on the favorable treatment that refiners allegedly give their own directly supplied retail outlets.

Large independent refiners want the study to focus on the refinery operations of major crude producers. They allege that the major oil companies are subsidizing their refinery operations with crude oil profits.

Small refiners want the study to focus on a broad spectrum of refinery products, and not merely on motor gasoline which acccounts for an insignificant proportion of their output. These refiners argue that they suffer significant competitive disadvantages due to the majors' control of crude oil.

Independent terminal operators want the study to examine the manner in which majors price their products to various classes of consumers, including independent terminal operators. They imply that the majors are engaging in price discrimination, particularly against terminal operators.

> The majors contend that the study should focus on government induced subsidization, alleged to be the only possible type of subsidization in today's industry.

[4] See, hearing transcript, pp. 6-7.

[5] Ibid., p. 116. Also, see references at p. 292 and p. 310.

Nevertheless, most speakers felt that the study should focus primarily on the marketing of motor fuel. We share this opinion. However, this evaluation will include an examination of motor fuel marketing activity relative to operations in other segments of the industry.

B. THE DEFINITION OF SUBSIDIZATION

1. *Opinions at the Hearings.* Nearly every speaker at the October 6-7, 1978 hearing argued that a precise definition of subsidization was an essential starting point for conducting the Title III Study. We agree. Given the diverse backgrounds and perceptions of these speakers, however, it is not surprising that many alternative definitions of subsidization were suggested.

Most speakers opined that subsidization in the petroleum industry involved integrated companies (either vertically integrated refiners or wholesaler/chain retailers) purposely setting the retail price of motor gasoline below a level which would enable a non-integrated or less completely integrated firm to realize a "competitive" return from its gasoline operations.[6] It is alleged that vertically integrated firms are pricing gasoline in their directly operated and supplied retail outlets at prices "below cost." Thus, retail outlets in direct competition with these "subsidized" outlets, are forced by the integrated companies' pricing policy to accept such a low price-cost margtin on their gasoline sales taht they cannot earn a competitive return in this line of business.

The phenomenon is considered subsidization because many observers believe that integrated petroleum companies "finance" low prices at the marketing stage through high profits at another stage of their operations. In other words, the low price and resultant low or negative profits of the vertically integrated companies' downstream operations are subsidized by their high (excessive) profits in upstream operations (crude oil exploration and production).

Another view expressed at the hearings, holds that the artifically low prices set downstream by vertically integrated companies *enable* them to earn higher profits at another stage of operation perhaps in crude oil production. Thus, low downstream prices are not "financed" from upstream earnings, but actually enable the vertically integrated petroleum companies to be more profitable on a companywide basis. Curiously, this is also considered subsidization by those who advance this thesis.

2. *Problems with subsidization definitions.* The Office of Competition believes that subsidization should be defined so that it is meaningful, operational, and empirically testable. Nearly every definition we have reviewed, however, has its own operational shortcomings. Consider the empirical test of subsidization that relies on functional profitability. Some speakers at the hearing argued that lower profits in the vertically integrated firm's downstream operations, in comparison to its upstream operations, was evidence of subsidization. Although Title III requires us to analyze the profitability of these companies at various functional levels, these profits will not tell the whole story. First, computing functional profits requires adjustments for the differing risks involved in different levels of a company's business. Second, reserves constitute a substantial share of a company's asset base upstream. No method of accounting consistently and accurately portrays the economic value of these assets. Finally, the determination of appropriate transfer prices and the allocation of joint and corporate outlays yield, at best, only estimates of functional profitability. Small changes in the estimated transfer price could potentially lead to large swings in the relative profitability between functions. Because of these problems, the Office of Competition has decided not to rely exclusively on differentials in functional profits to determine subsidization.

3. *Empirical test of subsidization.* For the purposes of this study, subsidization in the marketing of motor gasoline exists when a supplier's directly operated stations (refiner/marketer or wholesaler/chain retailer) sell gasoine at a price that, after netting out marketing and transportation expenses, is below the wholesale commodity price and cannot be justified on the basis of economic efficiency. Economic efficiency in terms of motor gasoline production and distribution refers to a method of operation (e.g., a new distribution technique) which has the effect of either reducing real resource costs for a given output or increasing output for a fixed resource base. We cannot merely compare the pump price of an integrated company's operations to the pump price of an independent retailer because of differences in the amount of services offered, the scale of operations, and other factors which

[6] For the purpose of this study an independent jobber or wholesaler is an individual or firm which purchases gasoline from refiners and resells this product to retail outlets. An independent wholesaler is not integrated forward to the retail level. A chain retailer is an individual or firm which buys gasoline directly from refiners in order to supply its owned and operated retail outlets. An integrated jobber, alternatively referred to as a wholesaler/chain retailer, is an individual or firm which purchases gasoline from refiners in order to supply his owned and operated retail outlets and to resell gasoline to other retail dealers.

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affect unit operating costs. However, after making appropriate adjustments, comparisions across alternative channels of distribution can be made for both branded and unbranded product sales.

We have taken the approach of subtracting from the retail price charged by the integrated company those costs which can be directly attributable to its marketing operations and then comparing this adjusted pump price, which represents the effective transfer price, to the wholesale price at which it sells its product. If this adjusted pump price is *above* the commodity price (the price the company can receive if it sold the product to a wholesaler or chain retailer), then we can reject the hypothesis that integrated companies are subsidizing their retail operations. In this case, if the integrated company reduced its volume sold through its retail outlets and instead increased its sales of product to wholesalers or chain retailers *by a similar amount*, its company-wide profits would fall.

On the other hand, if the adjusted pump price of the integrated company is *below* the price at which the company can sell its product to wholesalers or chain retailers, then the hypothesis that integrated companies' subsidize their retail operations cannot be rejected. An integrated comany *may* be able to increase its profits in this situation by withdrawing from the retail market and expanding its sales to such firms. However, other factors which directly relate to the economic efficiency of the company's operations must be taken into account. For example, if the integrated firm is able to move to larger volumes through its retail outlets at a relatively low price and reduce the variability of product flow from crude to gasoline sales, thereby realizing significant reductions in unit cost elsewhere in its operations, then subsidization may not be occurring.

In this case, if the integrated company attempts to take advantage of the higher wholesale commodity price by reducing its direct retail outlet sales and increasing its sales to jobbers, its total company-wide profitability may fall. If a company's vertically integrated operation, including the retailing of motor gasoline, enables it to sell gasoline at a lower price to consumers and simultaneously to take advantage of lower per unit costs in the crude to gasoline production chain, or some part of that chain, then we are not observing subsidization of motor fuel marketing operations, but rather are observing that vertically integrated operations are more efficient than nonintegrated marketers. In such circumstances, a policy of separating retail outlets from the integrated companies, or forcing them to sell gasoline at higher prices, will lead to an increase in their company-wide costs and a reduction in their company-wide profits, with adverse effects to consumers.

While this economic efficiency justification allows for the case where a low marketing pump price leads to increased overall company profits due to operations at another functional level because of reductions in average cost, it does not justify the traditional predatory case of using profits from another functional level to finance a campaign to drive out competitors at the retail/wholesale level (or to reduce their rate of participation or perhaps lower the rate of entry). The goal of such a policy is to increase the supplier's ability to control the market and, thereby, increase profits over the long run. However, those increased profits would not be the result of increased operating efficiency, but, would reflect the effects of increased market power.

This empirical definition of subsidization can be modified so that branded product sales can be compared to unbranded product sales. In order to compare the wholesale (or retail) price of branded product to the unbranded wholesale (or retail) commodity price, one must net out any selling expenses of the branded product that are not also associated with unbranded product sales. For example, branded product retailers are allowed use of the company credit cards. If the costs of operating these cards average approximately one cent per gallon, then this one cent additional cost would have to be netted out of the branded product price if one wanted to make an economically meaningful comparison to the unbranded product price. Other services that may need to be considered in the comparative evaluation of the branded price to the unbranded price are advertising outlays, the use of established trademarks, accounting services, dealer training, or franchise fees. Through use of such adjustments our analysis will be able to examine alleged downstream subsidization between branded and unbranded products, and between various levels of distribution.

In addition to the empirical comparisons discussed above, motivation can be an important factor in distinguishing marketing strategies which represent subsidization. This study will rely partially on motivational considerations.

III. Information Requirements

The Office of Competition will need to combine information from numerous sources to conduct the Title III Study. This section identifies the information required, deficiencies in existing data sources, the plan for a regional approach with hearings and test areas, and new information requirements.

In general, the following information will be required:

(1) Upstream/downstream functional profits;

(2) Operating margins by type of retail outlets or channel of distribution;

(3) Calculation of the effective wholesale commodity transfer price for owned and operated retail outlets;

(4) Market share trends;

(5) Patterns of entry and exit; and

(6) Information relating to the motivation for and economies of vertically integrated petroleum operations.

We plan to supplement publicly available and existing government data sources with the following:

(1) Retail outlet survey;

(2) Refiner/jobber survey;

(3) Functional profitability survey;

(4) Internal documents subpoena; and

(5) Regional hearings.

A. Utilization of Existing Data

In its written statement on the Title III Study, the Continental Oil Company notes that the use of existing forms, the proposed Financial Reporting System, and the Bureau of Labor Statistics and Census surveys will *not* provide sufficient information to conduct the Title III Study.

> We question whether such minimum information can provide any insight into the competitive marketing practices or the impact of government regulations on such data. Without a fairly comprehensive knowledge of the marketing practices of the various types of retail marketers and wholesalers as well as refiners, it is doubtful (that an) adequate assessment can be made of any subsidies which are determined to exist. It is also doubtful that any remedial action could be adequately evaluated in terms of impact on competition and the consumer.[7]

The Office of Competition strongly concurs with Conoco. Existing data will *not* allow the calculation of (1) operating margins by channel of distribution on an outlet basis, (2) nonproduct costs, including rental payments and credit card expenses, (3) market shares by state, since currently collected volume data is restricted to directly supplied refiner stations, or (4) the effective transfer wholesale commodity price for refiner-owned and operated or wholesaler/chain retailer stations on an outlet basis. In addition, existing data does not reveal any information on company decisionmaking or motivation.

[7] Continental Oil Company, Motor Fuel Marketing Under Title III of the Petroleum Marketing Practices Act (October 16, 1978), pp 9-10. Conoco also proposes a retail outlet survey collecting the same type of information proposed to be collected herein.

B. New Information Requirements

1. *Retail Outlet Survey.* A two-stage sampling approach will be utilized. An initial postcard prescreening of retail outlets in each SMSA will be followed by selecting a representative sample from the initial respondents. The prescreening will serve to identify stations by type of ownership, method of supply, and brand. The use of this prescreening will reduce the number of stations required to be surveyed in the second phase. The retail outlet sample will be stratified by channel of distribution and gallonage sold.

This survey will collect volume, revenues, and product purchase costs on an annual basis. In addition, certain non-product costs (e.g., rental payments) will be analyzed. Although monthly operating data may be more relevant, we have been advised that such data are not available, especially on an historical basis. Qualitative information which will enhance the interpretation of the quantitative information will also be collected.

Due to the large number of gasoline outlets in the United States and the statutory deadline for the Title III study, the Office of Competition will confine the retail data collection survey to five Standard Metropolitan Statistical Areas (SMSAs). The regions were selected using several criteria: access to product pipeline, proximity to refineries, regional balance, proximity to crude supplies, preponderance of different channels of distribution, etc. The following list of SMSAs has been developed:

1. Atlanta
2. Boston
3. Fort Wayne
2. Refiner/Jobber Survey
4. Houston
5. Los Angeles

Some of the statements presented at the October 6-7, 1978 hearing focused on issued related to refiners' marketing allocations for those whom they supplied, refiners' manipulation of retail banked costs, and jobber integration into the direct retailing of gasoline.[8]

The Office of Competition believes that these allegations are an essential part of the Title III study. Selected operating data, e.g., volumes and revenues, will comprise the refiner/jobber survey. These data will be collected on a state basis for the years 1972, 1977, and 1978 if available. From this information, trends in market shares across distribution channels can be analyzed. In addition, descriptive information on pricing policies will be evaluated.

3. *Functional profitability survey.* An integral part of the Title III Study will be the computation of upstream-downstream profit comparisons. Many statements at the October 6-7, 1978 hearing focused entirely on functional profitability.[9] Although high production profits and low refining/marketing profits do not *necessarily* imply subsidization, we believe that the calculation of such rates is necessary. More importantly, such calculations have been mandated by the Congress. We also believe that trends in functional profits, when compared to *overall* company profits, can provide useful information regarding interrelationships among segments of the integrated firm and facilitate our understanding of the operations of integrated petroleum companies.

The Office of Competition further believes that forming conclusions or making policy recommendations on a single years' profit data are ill-advised. Profitability can be viewed as an indicator of monopoly power if it remains persistently high over a relatively long time span. Likewise, a differential between upstream and downstream profit rates must be present over a sufficient span of time to indicate the possibility of subsidization. A large differential in the rates of return between upstream and downstream operations in a short time period could be attributed to forces which affect supply and demand for crude oil and petroleum products. Thus, a multi-year sample period is required to insure that observed differentials can be useful proxies or indicators of the existence of subsidization. We believe 10 years is the most reasonable span considering analytical capabilities and burden.

Representatives of integrated oil companies argue that subsidization, if it exists, is due to crude oil and refined petroleum product price and allocation regulations. To analyze this proposition requires data relating to events before the host of regulations were established by the government during the early and mid-1970's. The petroleum industry has had some form of direct government regulation since President Nixon initiated general economy-wide price-controls in 1971. Thus, going back to 1968 will enable us to gather some annual data which are free from the influence of these regulations. (Although company behavior during this earlier period may also have been influenced by such government programs and benefits as the mandatory oil import program and the percentage depletion allowance.)

Form EIA-28 represents the only effort by the Department of Energy or the Federal Government to collect data in order to compute profitability by functions in a consistent and standardized fashion for energy producing companies. Currently, the EIA has authorization to collect and process data for the years 1977 and 1978 in time for use in the Title III study.[10] With the Office of Management and Budget's approval, EIA will be able to collect a limited amount of data for the years 1974 through 1976. For reasons discussed above, data for this time period are woefully inadequate for any meaningful profit analysis. In order to meet our Congressional requirements and to supplement the information from EIA-28, it will be necessary to collect some asset and income data by energy line of business for the years 1968-1973. In order to minimize the costs of collecting these data, we will follow the guidelines (definitions, instructions, format and sample selection) set forth in EIA-28.

4. *Internal planning and financial documents.* At the October 6-7, 1978 hearings, several speakers thought that obtaining internal planning documents was an absolute necessity. For example, Dr. Joseph Byrne, Vice President of Union Oil Company noted that the Title III Study should focus on motivation of the petroleum companies for particular actions. Dr. Byrne said that company internal planning documents would be needed to answer the motivation issue.[11]

Similarly, Mr. C. R. Turvey, Executive Vice President of the Continental Oil Company, suggested that internal documents should be obtained to determine the motivational aspects of the study.[12]

Mr. Jack Blum, General Counsel of the Independent Gasoline Marketers Council, a trade association of nonbranded marketers of motor gasoline, urged that "the strategic planning documents of a number of major oil companies should be selectively subpoenaed."

> It is common knowledge in the industry that several firms have undertaken an economic analysis of their downstream operations in an effort to find out whether they are making or losing money. It seems to me that these analyses as well as internal planning documents would go far in telling you whether subsidization occurs, and if it does, whether it is a deliberate strategy or simple managerial stupidity, and what factors management considers as it decides on a management marketing strategy.[13]

Mr. Robert Amori, President of Barnosky Oil Company of Wyandotte, Michigan, appeared on behalf of the National Oil Jobbers Council. He

[8] For example, see statements of Robert Amori, National Oil Jobbers Council and Jack Houston, National Congress of Petroleum Retailers.

[9] For example, see the oral statements of Messrs. Allvine, Amori, Blum, Dryer, and Huff.

[10] The EIA currently plans to receive EIA-28 data for 1978 by August 1, 1979, and data for 1974-76 by September 15, 1979 if approved by OMB.

[11] See, October 6, 1978 hearing transcript p. 64.

[12] Ibid., p. 78.

[13] Ibid, p. 91.

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urged the DOE to obtain financial reports dating from 1972 which break out marketing profits and costs from other information. He also urged the Department to subpoena the companies' five year marketing strategy plans.[14]

This position was also supported by Mr. Jack W. Houston, Co-chairman, State and Legislative Committee, National Congress of Petroleum Retailers, Inc. Mr. Houston stated:

> As we understand the law, DOE has subpoena powers which it can use to obtain the internal data of integrated firms, including the internal planning records of the various firms we believe the internal planning records, long range and short range, would be of immense value to DOE in its study of the various reasoning for particular marketing practices which result in the forms of subsidizing, particularly in the retail level.
>
> We, therefore, urge DOE to utilize their subpoena power wherever necessary to obtain the internal information about possible motives and actual success of the company's internal plans.[15]

In addition, Senators Kennedy and Haskell submitted written comments stating that, "it will be necessary for you to use subpoena power to obtain the companies' own judgment on the value and usefulness of these assumptions" (underlying transfer prices and accounting data).

Although two speakers were opposed to the use of internal, corporate planning documents for the purposes of the study, the Office of Competition believes that such documents are vital to the successful completion of the study.[16] As Mr. Edwin Jason Dryer of the Independent Refiner's Association of America explained, "you need to know how the companies themselves analyze the data and that is something you can't just get by simply sending a form out."[17]

Thus, the Office of Competition will subpoena nine companies. These companies will likely include the largest marketers, those that conduct operations in the chosen regions, those refiners who have accounted for the increase in the refiner owned and operated retail outlets, and those firms that represent a mix of the types of marketing strategies and public accounting records used in the industry.

C. REGIONAL HEARINGS

Data collection and internal marketing documents can overlook specific instances of subsidization. By their very nature, surveys are subject to design constraints, sampling errors, and verification problems. In some circumstances the data can be consistent with many varied interpretations. On the other hand, internal planning documents do not necessarily represent company policy as it is actually adopted and practiced.

After alluding to these problems, Mr. Jack Blum, representing the Independent Gasoline Marketers Council, suggested that a series of hearings be held around the country.[18] In addition, James W. Heizer of the Virginia Gasoline Retailers Association noted the following:

> Finally, and most importantly, we would recommend that DOE hold hearings in at least ten major metropolitan areas throughout the country so as to afford all interested parties an opportunity to appear and present evidence on this important matter.[19]

The Office of Competition believes that several regional hearings should be held. Testimony presented at the hearings would be evaluated by the staff as well as transmitted to the Congress. Depending on the outcome of these hearings, additional field tests may become necessary.

D. SUMMARY

Because of the importance of the Title III Study and the complex interrelationships in the marketing of motor fuel, the Office of Competition believes that a successful completion of this congressionally mandated study can only be achieved through a multifaceted approach. Each portion of this study plan must be viewed in a complementary fashion. These components include:

(1) Use of existing data where applicable;

(2) A retail outlet survey of five regions;

(3) A refiner/jobber survey by state;

(4) A selected asset and income survey for functional profitability data for 1968 to 1973 that is consistent with the FRS (EIA-28) concepts;

(5) A subpoena of internal financial and planning documents;

(6) A series of regional hearings; and

(7) Additional field work as needed.

Issued this day January 10, 1979 in Washington, D.C.

ALVIN L. ALM,
Assistant Secretary, Policy and Evaluation.

[FR Doc. 79-1405 Filed 1-16-79; 8:45 am]

[14] Ibid., p. 105.
[15] Ibid., p. 151.
[16] The major concern of the representatives of Ashland Oil and Shell seemed to be insuring the confidential treatment of these documents in light of their competitive sensitivity. Ibid., p. 215.
[17] Ibid., p. 18.
[18] Ibid., p. 88.
[19] Ibid., p. 242.

[6450-01-M]

Federal Energy Regulatory Commission

[Docket No. RP79-20]

ALABAMA-TENNESSEE NATURAL GAS CO.

Proposed Changes in FERC Gas Tariff

JANUARY 9, 1979.

Take notice that on December 20, 1978 Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, following revised tariff sheet:

Thirtieth Revised Sheet No. 3-A
Third Revised Sheet No. 5
Third Revised Sheet No. 6
Third Revised Sheet No. 11
Second Revised Sheet No. 13-B
Third Revised Sheet No. 14
Fourth Revised Sheet No. 36-F

The increase in jurisdictional revenues to be provided by the revised rates would be $2,600,445, based upon the 12-month period ending September 30, 1978.

Alabama-Tennessee states that the increased rates filed herewith are required to provide additional jurisdictional revenues sufficient to permit Alabama-Tennessee to recover its jurisdictional cost of service. Alabama-Tennessee states that the primary reason for this filing is to reflect in its rates, the costs associated with processing and transporting the supplementary gas authorized in Docket No. CP78-352, including the transportation charge of Tennessee Natural Gas Company.

Alabama-Tennessee states that copies of this filing have been served upon its customers and the State Commissions of Alabama, Mississippi, and Tennessee.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1582 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. RP72-110]

ALGONQUIN GAS TRANSMISSION CO.

Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

JANUARY 8, 1979.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on December 11, 1978 tendered for filing Substitute 45th Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that this sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in Section 17 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1. Algonquin Gas also indicates that the lower rate proposed to be effective December 1, 1978, is being filed to reflect a lower cost of purchased gas filed by its supplier, Texas Eastern Transmission Corporation.

Algonquin Gas proposes that the revised tariff sheet become effective on December 1, 1978.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1583 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. RP72-110]

ALGONQUIN GAS TRANSMISSION CO.

Rate Change Pursuant to the Purchased Gas Cost Adjustment Provision and the Gas Research Institute Charge Adjustment Provision

JANUARY 8, 1979.

Take notice that Algonquin Gas Transmission Company (Algonquin Gas) on December 15, 1978, tendered for filing Subsitute 46th Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that this sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision and the Gas Research Institute (GRI) Charge Adjustment Provision set forth in Sections 17 and 28 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1. Algonquin Gas also states the rate change proposed to be effective January 1, 1979, is being filed to reflect a change in the purchased gas costs filed by its supplier, Texas Eastern Transmission Corporation, and the GRI adjustments filed by Algonquin Gas on November 30, 1978, under the approved 1979 GRI research and development program, proposed to be effective January 1, 1979.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1584 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. CP69-78]

CARNEGIE NATURAL GAS CO. AND CONSOLIDATE GAS SUPPLY CORP.

Petition To Amend

JANUARY 11, 1979.

Take notice that on December 18, 1978, Carnegie Natural Gas Company (Carnegie), 3404 Main Street, Munhall, Pennsylvania 15121, and Consolidated Gas Supply Corporation (Consolidated) 445 West Main Street, Clarksburg, West Virginia 26301 (Petitioners) filed in Docket No. CP69-78 a petition to amend the order issued on November 22, 1968, in the instant docket pursuant to Section 7(c) of the Natural Gas Act to authorize Petitioners to exchange more natural gas at additional points of delivery, and to authorize the construction of the facilities necessary to effectuate such exchanges, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.[1]

Petitioners request authority to implement the provisions of a September 13, 1978, amendment to the gas exchange agreement under which Petitioners have been exchanging gas pursuant to the November 22, 1968, order. Specifically, Petitioners propose that

(1) Consolidated would deliver gas to Carnegie at two new points in Lincoln District, Marion County, West Virginia, and in Dekalb District, Gilmer County, West Virginia;

(2) Carnegie would deliver gas to Consolidated at a new point in Center District, Gilmer County, West Virginia; and

(3) Petitioners would construct the necessary appurtenant facilities at the proposed exchange points in addition to extra interconnection facilities in Church District, Wetzel County, West Virginia. Petitioners estimate the total cost of the proposed facilities to be $53,103.

It is stated that these proposals would enable Petitioners to make available to their systems gas that otherwise would not be available, to rectify existing imbalances in exchange volumes and to prevent the recurrence of similar imbalances in the future.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1595 Filed 1-16-79; 8:45 am]

[1] This proceeding was commenced under the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

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[6450-01-M]

[Docket No. CP73-329]

CHATTANOOGA GAS CO.

Proposed PGA Rate Adjustment

JANUARY 9, 1979.

Take notice that on December 28, 1978, Chattanooga Gas Company A Division of Jupiter Industries, Inc. (Chattanooga) tendered for filing proposed changes to Original Volume No. 1 of its FERC Gas Tariff to be effective or January 1, 1979 consisting of the following revised tariff sheet: Thirty Third Revised Tariff No. 6.

Chattanooga states that the sole purpose of this Revised Tariff Sheet is to ajdust Chattanooga's, LNG rates pursuant to the PGA provision in Section 5 of the General Terms and Conditions of its Gas Tariff to reflect the underlying rate adjustments filed for by Southern Natural Gas Company (Southern) in Docket No. RP73-64 and East Tennessee Natural Gas Company (East Tennessee) in Docket Nos. RP71-15 and RP75-28.

The Thirty Third Revised Tariff Sheet No. 6 reflects a current increase in the LNG rates of 9.5 cents per MMBTU and a cumulative increase of $1.567 pe MMBTU.

Chattanooga requests that the Thirty Third Revised Sheet No. 6 become effective on January 1, 1979, the proposed effective date of the general rate increase by Southern Natural.

Chattanooga states that copies of the filing have been mailed to all of its jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1596 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-114]

CITIES SERVICE GAS CO. AND EL PASO NATURAL GAS CO.

Application

JANUARY 11, 1979.

Take notice that on December 12, 1978, Cities Service Gas Company (Cities Service), P.O. Box 25128, Oklahoma City, Oklahoma 73125, and El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978 (Applicants), filed an application in Docket No. CP79-114 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants to exchange up to 100,000 Mcf of gas per day, and to construct the necessary facilities therefor, and further, to authorize El Paso to operate facilities heretofore not subject to the jurisdiction of the Commission, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants state that they executed a gas exchange agreement on November 30, 1978, pursuant to which El Paso would receive up to 100,000 Mcf of natural gas per day on a firm basis from Northwest Pipeline Corporation (Northwest) for Cities Service's account at an existing point of interconnection between the systems of Northwest and El Paso in La Plata County, Colorado (Ignacio Exchange Point), and would deliver equivalent volumes of gas [1] to Cities Service at a proposed point of interconnection between the systems of El Paso and Cities Service in Hemphill County, Texas (Higgins Exchange Point). Applicants state that there would be no charge by either party for the proposed exchange.

Applicants state that no additional facilities are required at the Ignacio Exchange Point, but the following facilities would be required at the Higgins Exchange Point:

(1) El Paso proposes to constuct and operate, at a total cost of $2,468,855, approximately 9.5 miles of 16-inch O.D. pipeline, approximately 6 miles of 10¾-inch O.D. pipeline, and the necessary measurement and flow control devices.

(2) Cities Service proposes to construct and operate one pipeline tap and appurtenant facilities, at a cost of $44,200.

(3) Further, El Paso requests authorization to transport gas subject to the gas exchange agreement through two segments of pipe in Hemphill County, Texas, which were previously utilized only in a gathering function.

Applicants state that the proposed gas exchange would enable them to receive gas volumes close to their respective market areas.

The application indicates that Cities Service would finance the cost of its proposed facilities from treasury cash and that El Paso's financing for its proposed facilities would be from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before Febraury 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1597 Filed 1-16-79; 8:45 am]

[1] This term is stated to mean equal volumes of gas plus thermally balancing up to 50 percent of the difference in Btu's contained in those equal volumes. The gas to be exchanged is stated to have substantially the same heat content.

[6450-01-M]

[Docket No. CP79-124]

COLORADO INTERSTATE GAS CO.

Application

JANUARY 11, 1979.

Take notice that on December 15, 1978, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed an application in Docket No. CP74-124 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport natural gas for United Gas Pipe Line Company (United) all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that Applicant and United, on November 10, 1978, executed an agreement pursuant to which Applicant would transport, on an interruptable basis, up to 50,000 Mcf of natural gas per day, not to exceed 7,000,000 Mcf per year, from existing points of interconnection between the systemns of Applicant and Mountain Fuel Supply Company (Mountain Fuel) in Sweetwater County, Wyoming, to existing points of interconnection between systems of Applicant and Northern Natural Gas Company in Kearny County, Kansas, and Moore County, Texas. Applicant states that the initial rate for this service would be 20.98 cents per Mcf of gas delivered.

Applicant further states that the proposed transportation service is required to enable United to have access to its supplies of natural gas to be purchased from Mountain Fuel.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1979, file with the February Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it wil be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1598 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-128]

COLORADO INTERSTATE GAS CO.

Application

JANUARY 11, 1979.

Take notice that on December 18, 1978, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed an application in Docket No. CP79-128 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate facilities necessary to establish an underground natural storage reservoir at the Flank Field, Baca County, Colorado (Flank Reservoir), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that due to the decline in peak day deliverability of its existing primary gas supplies, the Flank Reservoir is required to continue to provide adequate service to its service area. The proposed Flank Reservoir would consist of 33 injection-withdrawal wells, 25 observation wells, two saltwater disposal units, a 9,800 horsepower compressor station, a central dehydration unit, and other appurtenant facilities. It is stated that the Flank Reservoir would have a maximum capacity of 20,000,000 Mcf at a static reservoir pressure of 1,300 psia.

Applicant estimates the project would cost $32,063,800, and states that the financing would be done on a year by year basis through the 5-year construction period; 1979 financing would come from internally generated funds and the remaining proceeds from the 1978 issue of $60 million of long term 9¾% notes. Later financing would consist of internally generated funds, bank borrowings and long-term security issues, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1599 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. CP71-290]

CONSOLIDATED SYSTEM LNG CO.

Proposed Changes in FERC Gas Tariff and Petition To Amend Certificate of Public Convenience and Necessity

JANUARY 11, 1979.

Take notice that Consolidated System LNG Company (Consolidated LNG), on June 1, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. By this petition to amend its certificate of public convenience and necessity, issued by the Commission in Opinion

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Nos. 622 and 622-A, Consolidated LNG tenders Substitute Original Sheet Nos. 4, 6 and 8 to its FERC Gas Tariff, Original Volume No. 1. The Substitute Original Sheets hereby tendered are intended to clarify several ambiguities and omissions included in the sheets initially approved. Consolidated LNG states that billing difficulties will be encountered if these defects are not remedied, further stating that the net effect of the proposed changes will reduce the charges under Consolidated LNG's approved cost-of-service tariff by approximately $1.2 million during calendar year 1979.

The proposed Substitute Original Sheet No. 4 reflects a clarification following Accounts 408-411.1 to more specifically identify the taxes to be billed to Consolidated Gas Supply Corporation, and the addition of Account 411.4 to the list of billable accounts, which is intended to prevent Consolidated LNG from losing the investment tax credit.

Consolidated LNG also proposes to amend the last paragraph of Section 3.2 of Original Sheet No. 6 to clarify the fact that estimated billings will be corrected to actual amounts as soon as possible after the estimated bill for the month of December is rendered. The proposed Substitute Original Sheet No. 6 also reflects the addition of a new subsection 3.3 of Rate Schedule LNG, which refers to a tax loss credit incurred during the construction of the LNG project. Consolidated LNG states that the tax loss credit balance will be flowed through monthly at the rate of one-two hundred and fortieth (1/240) of such credit balance.

Consolidated LNG states that the proposed amendment to Original Sheet No. 8 is necessary only to change the definition of "Total Heating Value" from a reference to 14.735 psia to 14.73 psia.

Finally, Consolidated LNG requests waiver of the notice requirements of Section 154.22 of the Commission's Regulations to the extent necessary to permit these substitute tariff sheets to be made effective on the date of initial deliveries.

Consolidated LNG states that it has served copies of this petition upon all parties of record to this proceeding in accordance with Section 1.17 of the Commission's Rules of Practice and Procedure.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 31, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1600 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Project No. 2599]

CONSUMERS POWER CO.

Application for Approval of Revised Exhibit R

JANUARY 9, 1979.

Public notice is hereby given that on March 31, 1978, Consumers Power Company (Licensee) filed an application for Commission approval of its revised Exhibit R pursuant to Article 40 of its major license issued on February 3, 1976 for the Hodenpyl Project No. 2599. On April 20, 1978 and May 4, 1978, the Licensee supplemented its application for approval of Exhibit R. The project is located on the Manistee River in Manistee and Wexford Counties, Michigan. Correspondence regarding the application should be sent to: Mr. P. A. Perry, Secretary, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

The Licensee currently leases 229 acres of project lands for recreational purposes, which include three private boat docks, five areas for parks and camping sites, two Boy Scout Camps, a roadside overlook and a picnic area. There is a U.S. Forest Service campground adjacent to the project. The Michigan Department of Natural Resources maintains a Canadian goose sanctuary on the marshy upper reaches of the reservoir.

The Licensee proposes the development of future recreational facilities, which would include: (1) a public fishing site at Woodpecker Creek downstream of the dam, an improved road access to the fishing site, as well as a gravel parking area for 10 to 15 cars; (2) improvement of the existing canoe portage facility; (3) improvements to boat launching facilities within the Mesick Trailer Park, and withdrawal of trailer sites from the water's edge; (4) construction of a new boat launching ramp at "Village Park"; and (5) the reservation of additional project lands for future recreational uses.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before February 20, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is one file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1585 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-120]

IOWA POWER & LIGHT CO.

Filing

JANUARY 11, 1979.

Take notice that Iowa Power and Light Company, (Iowa Power) on December 26, 1978, tendered for filing three Participation Power Agreements with Nebraska Public Power District, Columbus, Nebraska (NPPD).

Iowa Power states that the Agreement relates to NPPD's purchase of 300 MW from May 1, 1978 through September 30, 1978; 150 MW from October 1, 1978 through October 31, 1978; 170 MW from November 1, 1978 through February 3, 1979; and 300 MW from February 4, 1979 through April 30, 1979 of participation power according to Service Schedule A of the Mid-Continent Area Power Pool Agreement dated May 31, 1972. Iowa Power further states that this Participation Power Pool Agreement establishes demand, energy, and transmission charges for such services and is to run from May 1, 1978 through April 30, 1979.

Iowa Power indicates that the purpose of the proposed rates is to recover reflected costs of the facilities to be provided as the scheduling path and for demand and energy power provided.

Iowa Power requests waiver of the Commission's notice requirements and proposes an effective date of May 1, 1978.

According to Iowa Power copies of the filing have been mailed to NPPD and to the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with

the Federal Energy Regulatory Commission 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 22, 1979. Tests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1601 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. E-9601]

LAKE OSWEGO CORP.

Petition for Declaratory Order

JANUARY 9, 1979.

Take notice that a petition for declaratory order was filed on August 14, 1977, by the Lake Oswego Corporation. Petitioner seeks a determination that its Oswego Hydroelectric Plant does not require a license from the Commission under the Federal Power Act (16 U.S.C. 791a-825r). The Oswego Plant is located at the foot of Oswego Lake in Clackamas County, Oregon, near the City of Portland. Correspondence should be addressed to: Jack L. Kennedy, Kennedy, King & McClurg, 1402 Standard Plaza, Portland, Oregon 97204.

The project proper consists of a concrete dam at the foot of Oswego Lake, which impounds the waters of the lake originally called "Sucker Lake", and diverts them throughh a 1,200 foot wood stave pipeline to a concrete powerhouse containing a 900 hp double Francis turbine directly connected to a 500 kVa Westinghouse generator. The project was originally owned by the Oregon Iron and Steel Company and sold to the Lake Oswego in 1960. An order of determination was issued by the State Engineer of Oregon on December 9, 1959, granting Oregon Iron and Steel a right to use 57.5 cubic feet per second of water from the Tualatin River for the purpose of generating electric power at its Oswego Plant under date of priority of July 2, 1906.

Petitioner states that the electrical energy produced at the powerhouse is sold at the bus bar to Portland General Electric Company, whose transmission lines are attached directly to the powerhouse. The electricity is then used in the local area of Lake Oswego, Oregon. The total production of the powerplant for 1976 was 2,334,000 kWh.

Anyone desiring to be heard or to make any protest about this petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before February 20, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

The petition for declaratory order is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1602 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. RP73-23 PGA79-2]

LAWRENCEBURG GAS TRANSMISSION CORP.

Proposed Change in FERC Gas Tariff

JANUARY 11, 1979.

Take notice that on January 3, 1979, Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing two (2) revised gas tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, both of which are dated as issued on December 29, 1978, proposed to become effective February 1, 1979, and identified as follows: Seventeenth Revised Sheet No. 4, and Sixteenth Revised Sheet No. 18.

These proposed changes reflect the following rate adjustments:

(1) A PGA rate adjustment, pursuant to Section 2.1 of the General Terms and Conditions of Lawrenceburg's FERC Gas Tariff, First Revised Volume No. 1, to recover increased costs of gas purchased of $1,350,962 annually.

(2) A Commodity Surcharge pursuant to Section 2.9 of the General Terms and Conditions of Lawrenceburg's FERC Gas Tariff, First Revised Volume No. 1, to return the Deferred Purchased Gas Cost Credit Balance of $12,066 over the six month period February 1 through July 31, 1979.

Copies of this filing were served upon Lawrenceburg's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rule of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1603 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket Nos. E-9469 and ER76-377]

LOCKHART POWER CO.

Compliance Filing

JANUARY 9, 1979.

Take notice that on December 1, 1978, Lockhart Power Company submitted in compliance with Opinion Nos. 29 and 29A the following material for Commission review and approval:

(1) A statement of Lockhart's wholesale regulatory expenses associated with proceedings in these dockets to date;

(2) A calculation of Lockhart's jurisdictional cost of service, including *pro forma* adjustments, based on a 1974 test year, in accordance with the determinations of the Commission in Opinion Nos. 29 and 29A; and

(3) Comparisons of the total jurisdictional revenues actually collected by Lockhart against the cost of providing jurisdictional service, again calculated according to the determinations of the Commission in Opinion Nos. 29 and 29A for calendar years 1975, 1976 and 1977, and for the first eight months of 1978. These cost of service calculations, together with the 1974 cost of service calculation noted above cover the entire four-year period that rates in Dockets E-9469 and ER76-377 were in effect.

Any person desiring to be heard or to protest said compliance filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before January 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this compliance

filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1586 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. RP74-100 et al.]

NATIONAL FUEL GAS SUPPLY CORP.

Proposed PGA Rate Adjustment

JANUARY 8, 1979.

Take notice that on December 29, 1978, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Twenty-Fifth Revised Sheet No. 4, proposed to be effective February 1, 1979.

National states that the sole purpose of this revised tariff sheet is to adjust National's rates pursuant to the PGA provisions in Section 17 of the General Terms and Conditions. National further states that such tariff sheet reflects an adjustment in National's rates of 3.38¢ per Mcf on Twenty-Fifth Revised Sheet No. 4.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before January 17, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants party to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1587 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-116]

NIAGARA MOHAWK POWER CORP.

Cancellation

JANUARY 8, 1979.

Take notice that Niagara Mohawk Power Corporation (Niagara Mohawk) on December 22, 1978, tendered for filing a Notice of Cancellation of Niagara Mohawk's FPC Electric Tariff, Original Volume No. 1.

Niagara Mohawk requests an effective date of January 18, 1979, and therefore requests waiver of the Commission's notice requirements.

According to Niagara Mohawk copies of this filing have been served upon the Village of Green Island and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before January 15, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1588 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Project No. 2114 etc.]

PUBLIC UTILITY DISTRICT NO. 2 OF GRANT COUNTY, WASHINGTON ET AL.

Motions for Modification of Project Operations

JANUARY 10, 1979.

In the matter of Public Utility District No. 2 of Grant County, Washington (Project No. 2114); Public Utility District No. 1 of Chelan County, Washington (Project Nos. 943 and 2145); Public Utility District No. 1 of Douglas County, Washington (Project No. 2149).

Public notice is given that on December 4, 1978, the State of Washington Department of Game and Department of Fisheries (Departments) filed four motions for modification of project operation at the Priest Rapids Project No. 2114, Rock Island Project No. 943, Rocky Reach Project No. 2145, and Wells Project No. 2149. The motions were filed pursuant to Article 39, Article 21, Article 31, and Article 41 of the respective licenses. The four projects are located on the Columbia River in the State of Washington. Correspondence concerning these motions should be sent to: James M. Johnson, Sr. Asst. Attorney General, 600 North Capitol Way, Olympia, Washington 98504.

The Departments are requesting certain flows and spills at each project dam for the protection of chinook, sockeye, coho, and steelhead trout juvenile smolts. The Department provided specified minimum flows out of each dam for varying time periods.

The Oregon Department of Fish and Wildlife, National Marine Fisheries Service, and the Yakima Indian Nation jointly filed a petition for modification of project operation also in the above dockets. Their petition requests flows identical to those recommended by the Departments.

Any party that has been granted intervention in Docket No. E-9569 (State of Washington Department of Fisheries v. Public Utility District No. 2 of Grant County, Washington) need not file a petition to intervene to be a party in any proceeding on these motions. If any of those parties do not wish to be a party in any of these proceedings it should so notify the Commission's Secretary, in writing, by February 20, 1979.

Anyone desiring to be heard or to make any protest about these motions should file a petition with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before February 20, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The motions are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1589 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Project No. 2655]

REEVES BROTHERS, INC.

Application for Transfer of License

JANUARY 10, 1979.

Public notice is hereby given that an application for transfer of license was filed on November 9, 1978, under the Federal Power Act (16 U.S.C. §§ 791a-825r), by Reeves Brothers, Inc., licensee for the Eagle and Phenix Mills Projects, FERC Project No. 2655, and Fieldcrest Mills, Inc. (Transferee), the proposed transferee. The Eagle and Phenix Mills Project is located on the Chattahoochee River in Muscogee County, Georgia and Russell County, Alabama. Correspondence should be sent to: William J. Madden, Jr., Debevoise & Liverman, 1200 17th Street NW., Washington, D.C. 20036; and Thomas W. Graves, Jr., Vice President, Secretary and General Counsel, Fieldcrest Mills, Inc., Eden, North Carolina 27288.

The applicants request Commission approval of the transfer of the major license presently held for Eagle and Phenix Mills Project No. 2655 by Reeves Brothers, Inc., to Fieldcrest Mills, Inc. Transferee agrees to accept all the terms and conditions of the license and to be bound thereby as if it were the original licensee. Transferee proposes to continue to operate Project No. 2655 in the same manner and for the same purposes for which it is now operated, namely, as to source of power and energy for the textile mill adjacent to the hydroplant. The project consists essentially of a rubble masonry dam about 900 feet long and 17 feet high, a 50-acre reservoir, a forebay, two water flumes, two powerhouses containing nine generators with a total capacity of 4,260 kilowatts, and associated transmission facilities.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before February 26, 1979. The Commission's address is: 825 N. Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1590 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. RP78-36]

SOUTHERN NATURAL GAS CO.

Certification of Settlement and Agreement II

JANUARY 8, 1979.

Take notice that on December 14, 1978, Presiding Administrative Law Judge Samuel Kanell certified to the Commission a settlement in this proceeding entitled "Stipulation and Agreement II." The agreement, if approved by the Commission, will resolve issues related to Southern Energy Corporation's cost of service and certain cost classification issues.

Any person desiring to be heard or to protest the proposed settlement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, on or before January 15, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken upon the settlement. Copies of the settlement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1591 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. EL78-41]

SPAULDING FIBER CO., INC.

Petition for Declaratory Order

JANUARY 10, 1979.

Take notice that on September 11, 1978, Spaulding Fiber Company, Inc. ("Spaulding"), filed a petition for declaratory order. Spaulding seeks a determination that two of its hydroelectric power projects do not require a license from the Commission under the Federal Power Act (16 U.S.C. §§ 791(a)-825(r) (1970). The two projects are located on the Salmon Falls River—between river miles 24 and 36—in the towns of Milton and North Rochester, Strafford County, New Hampshire. Correspondence regarding the petition should be addressed to Leo B. Lind, Jr., Esq., Orr and Reno, 95 North Main Street, Box 709, Concord, New Hampshire 03301.

The Milton Dam, with a capacity of 1,400 horsepower, was built in 1910. The North Rochester dam, with a capacity of 400 horsepower, was built in 1900. Spaulding uses the entire electric generating capacity of both projects at its Technical Papers and Boards Division plants in Milton and North Rochester, New Hampshire.

Anyone desiring to be heard or to make any protest about this petition should file a protest or a petition to intervene with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure ("Rules"), 18 CFR § 1.10 or § 1.8 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before March 2, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The petition is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1592 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-122]

TEXAS EASTERN TRANSMISSION CORP. ET AL.

Application

JANUARY 11, 1979.

In the matter of Texas Eastern Transmission Corporation, Transcontinental Gas Pipe Line Corporation, Northern Natural Gas Company.

Take notice that on December 15, 1978, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, and Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102 (Applicants), filed an application in Docket No. CP79-122 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants to transport natural gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants state that they and Columbia Gas Transmission Corporation (Columbia Gas) executed on December 11, 1978, an agreement pursuant to which Applicants would transport up to 6,000 Mcf per day of natural gas for Columbia Gas through their jointly owned pipeline from West Cameron Block 480, offshore Louisiana to a point on Texas Eastern's system in East Cameron Block 245. For their transportation service, Applicants state that they each would charge as follows:

Texas Eastern, 6.40 cents per Mcf.
Transco, 5.00 cents per Mcf.
Northern, 6.40 cents per Mcf.

It is stated that this proposed transportation service would enable Columbia Gas to have access to its reserves in West Cameron Block 479, offshore Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1979, file with the Federal

Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1604 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Project No. 2872]

TOWN OF SPRINGFIELD, VT.

Application for Preliminary Permit

JANUARY 10, 1979.

The public should note that an application for preliminary permit was filed on October 2, 1978, under the Federal Power Act (16 U.S.C. §§ 791a-825r) by the Town of Springfield, Vermont (correspondence to: Paul Ruse, Jr., Acting Town Manager, 96 Main Street, Springfield, Vermont 05156 or Frederick D. Palmer, Esq., 1775 Pennsylvania Avenue NW., Washington, D.C. 20006) for the proposed North Springfield Hydroelectric Project, FERC No. 2872. The proposed project would be located on the Black River in Windsor County, Vermont.

Applicant proposes to develop a hydroelectric facility in conjunction with the existing North Springfield Dam, a flood control dam owned by the U.S. Army Corps of Engineers. Applicant estimates that the proposed project would have an installed capacity of 3.0 MW with an average annual generation of 4.5 million kwh.

The power developed by the proposed project would be utilized by the Town of Springfield in meeting its present and future load requirements with any surplus being sold to or exchanged with other utilities in the area.

A preliminary permit does not authorize construction. A permit, if issued, gives the permittee, during the term of the permit, the right of priority of application for a license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before March 12, 1979. The Commission's address is: 825 N. Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1593 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. RP77-107]

UNITED GAS PIPE LINE CO.

Certification of the Volumetric Issue

JANUARY 8, 1979.

Take notice that on December 13, 1978, Presiding Administrative Law Judge Allen C. Lande certified to the Commission in the above referenced docket the volumetric rate issue which was the subject of a hearing on December 12, 1978. This issue was a contested issue of a proposed settlement agreement.

Any person desiring to be heard or to protest this issue should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, on or before January 15, 1979 and should file reply comments on or before January 30, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1594 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-120]

UNITED GAS PIPE LINE CO. ET AL.

Application

JANUARY 11, 1979.

In the matter of United Gas Pipe Line Company and Columbia Gulf Transmission Company.

Take notice that on December 14, 1978, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, and Columbia Gulf Transmission Company (Columbia), P.O. Box 683, Houston, Texas 77001 (Applicants), filed an application in Docket No. CP79-120 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants to exchange natural gas all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants state that they executed an agreement on October 9, 1978, pursuant to which Columbia would deliver to United up to 50 Mcf of natural gas per day at the outlet side of Shell Oil Company's Lirette Processing Plant, Terrebonne Parish, Louisiana, and concurrently United would redeliver thermally equivalent volumes at Columbia's measuring station in La Fourche Parish, Louisiana. Applicants state there would be no charges for these services, nor would any new facilities be required.

It is stated that the proposed exchange of gas would permit United to take gas supplies into its system immediately without the cost and delay incident to the construction of facilities that would otherwise be necessary.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18

CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1605 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Project No. 906]

VIRGINIA ELECTRIC & POWER CO.

Application for New Major License

JANUARY 11, 1979.

Public notice is hereby given that an application for new major license was filed on August 5, 1977, under the Federal Power Act (16 U.S.C. §§ 791a-825r) by Virginia Electric and Power Company (Applicant) for the Cushaw Project, FERC Project No. 906. The project is located on the James River in Amherst County, Virginia and affects U.S. Forest Service lands in the George Washington and Jefferson National Forests. Correspondence should be sent to: Mr. W. L. Proffitt, Senior Vice President, Virginia Electric and Power Company, P.O. Box 26666, Richmond Virginia 23261; and copy to: Arnold H. Quint, Esquire, Hunton & Williams, 1730 Pennsylvania Avenue, N.W., Suite 1060, Washington, D.C. 20006.

The Cushaw Project consists of: (1) a 1,500 foot long and 27 feet high reinforced concrete dam extending diagonally across the river; (2) a 138 acre reservoir with a storage capacity of approximately 380 acre-feet at the normal full pond elevation of 656 feet m.s.l.; (3) a powerhouse containing five generators with an aggregate capacity of 7,500 kW; and (4) all other facilities and interests appurtenant to the operation of the project. The Cushaw Project is part of Virginia Electric and Power Company's generating system supplying electric utility service in Virginia.

According to the application filed, primary recreational use of project lands and waters is by local fishermen. Access to the project waters is provided by a gravel boat ramp. Applicant proposes no future recreational development.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before March 26, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1606 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-122]

ALABAMA POWER CO.

Proposed Tariff Change

JANUARY 12, 1979.

Take notice that Alabama Power Company (Alabama) on December 28, 1978, tendered for filing a rate schedule designated Amendment No. 1 to Rate Schedule-Interim Power Supply. Alabama states that the filed rate schedule operates in addition to and in accordance with the provisions of the Interconnection Agreement between Alabama and Alabama Electric Cooperative, Inc. dated February 23, 1972, as amended (FERC Rate Schedule No. 133), and amends the Rate Schedule-Interim Power Supply, filed May 17, 1978 (FERC Docket No. ER78-378).

Alabama further states that the rate schedule is intended to cover and provide for temporary capacity and energy transactions between the Company and the Cooperative on and after January 1, 1979, from month to month, until the Cooperative's new generating capacity is declared available for commercial operation.

Alabama proposes an effective date of January 1, 1979, and therefore requests waiver of the Commission's notice requirements.

According to Alabama copies of this filing were served upon Alabama Electric Cooperative, Inc., the Southeastern Power Administration, and the Alabama Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with § 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1655 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-127]

ALLEGHENY POWER SERVICE CORP.

Filing

JANUARY 12, 1979.

Take notice that Allegheny Power Service Corporation (APSC) on January 2, 1979, tendered for filing on behalf of Monongahela Power Company (Monongahela), The Potomac Edison Company (PE), and West Penn Power Company (West Penn), the electric utilities which make up the integrated Allegheny Power System, Amendment No. 7 dated December 15, 1978 to the Interconnection Operating Agreement dated February 1, 1973 between Monongahela, PE, and West Penn and Virginia Electric Power Company (VEPCO) designated Monongahela Rate Schedule FPC No. 32, PE Rate Schedule FPC No. 33 and West Penn Rate Schedule FPC No. 31.

APSC indicates that Amendment No. 7 provides for an increase in the

demand charge for short-term power and energy from $0.60 to $0.70 per kilowatt week, an increase in demand charge for limited-term power and energy from $3.25 to $3.75 per kilowatt month and an increase in the charge for short-term and limited-term power obtained by the supplying party from another system from $0.15 to $0.175 and from $0.65 to $0.75, respectively. APSC requests waiver of the Commission's notice requirements to allow these increases to become effective February 1, 1979. APSC states that since short-term power and energy transactions and limited-term power and energy transactions are scheduled from time to time as load capacity conditions on the systems of the parties dictate it is impossible to estimate the increase in revenues which would result from Amendment No. 7.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before February 5, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1657 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-121]

COLUMBIA GULF TRANSMISSION CO. AND NATURAL GAS PIPELINE CO. OF AMERICA

Application

JANUARY 11, 1979.

Take notice that on December 15, 1978, Columbia Gulf Transmission Company (Columbia), P.O. Box 683, Houston, Texas 77001, and Natural Gas Pipeline Company of America (Natural), 122 South Michigan Ave., Chicago, Illinois 60603, (Applicants), filed an application in Docket No. CP79-121 pursuant to Section 7(c) of the Natural Gas Act for permission and approval to abandon certain facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants state that a side tape and the pipeline connecting Platform 309C to Columbia's 20-inch pipeline in Block 309, Eugene Island Area, offshore Louisiana, have been damaged in a collision and are no longer needed or used. Consequently, Applicants seek permission and approval to abandon them. Applicants state that if abandonment authority is granted an attempt would be made to salvage the facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1658 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. RP72-157]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FERC Gas Tariff

JANUARY 11, 1979.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on December 22, 1978 tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1 pursuant to the requirements of Section 4 of the Natural Gas Act and Section 154.63 of the Commission's Regulations.

Consolidated has included in the "Base Cost of Gas from Producer Suppliers" pipeline production that qualifies for area, national or statutory rate treatment. No changes in sale's rates are proposed. The "Base Cost of Gas from Producer Suppliers" of 96.24¢ per Dt is shown on Second Substitute Eighth Revised Sheet No. 16 proposed to be effective December 1, 1978 and Second Substitute Ninth Revised Sheet No. 16 proposed to be effective January 1, 1979.

Consolidated requests a waiver of any of the Commission's Rules and Regulations as may be deemed necessary to permit the revised tariff sheets to become effective as proposed.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1659 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket Nos. RP78-76 and R-406]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FERC Gas Tariff

JANUARY 12, 1979.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on January 5, 1979, tendered for filing proposed changes to its FERC Gas Tariff, Third Revised Volume No. 1, pursuant to the FERC letter of December 26, 1978 in the above referenced dockets. The Commission accepted revised tariff sheets to be effective December 1, 1978 and January 1, 1979 but denied Consolidated's request for Account 191 treatment of unrecovered AGA payments. However, the

letter has permitted Consolidated • • • "to refile to recover such amounts through your base rates." Third Substitute Ninth Revised Sheet, No. 16, proposed to be effective January 1, 1979, reflects this change.

While Consolidated believes no waivers are necessary, Consolidated requests a waiver of any of the Commission's Rules and Regulations that may be deemed necessary in order to permit the rates shown on Third Substitute Ninth Revised Sheet No. 16 to become effective as proposed.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1660 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. RP79-22]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in Rates and Charges

JANUARY 11, 1979.

Take notice that Consolidated Gas Supply Corporation (Consolidated), pursuant to Section 4 of the Natural Gas Act and Section 154.63 of the Commission's Regulations thereunder, tendered for filing on December 29, 1978, proposed changes to its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2 to become effective on February 1, 1979.

The proposed rate changes would increase Consolidated's revenues from jurisdictional sales and services by $27.4 million, or in the alternative $26.9 million, based on the twelve months ended September 30, 1978, adjusted for known changes for a nine-month period through June 30, 1979.

The changed rates reflect costs of liquefied natural gas (LNG) at substantially full contract deliveries. In addition to the costs of LNG, Consolidated states that the increased rates are required to recoup, *inter alia*, increased depreciation expense, increased rate base, and increased operating expenses including but not limited to an increase in the import ceiling price which is pending ERA approval based on a filing in Docket No. CP71-68, *et al.*, to amend FPC Opinion Nos. 622 and 622-A and a July 27, 1977 FPC order. The rates proposed include an overall rate of return of 11.84% and reflect the recently enacted statutory Federal income rate of 46%.

Consolidated states that the test period cost of purchased gas, exclusive of pipeline production from wells commenced prior to January 1, 1973, on leases acquired prior to October 7, 1969, and LNG, was computed at a single unit cost using data supporting Consolidated's rates in effect on December 1, 1978. For pipeline production from wells commenced prior to January 1, 1973, on leases acquired prior to October 7, 1969, rates are based on Consolidated's costs of service for that production derived in Docket No. RP77-7, as adjusted for inflation under Section 104 of the Natural Gas Policy Act of 1978. In the alternative, rates for this production are based on a current test period cost of service.

Finally, Consolidated states that Statement P will be filed within fifteen days of this filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 24, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1661 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ER78-414]

DELMARVA POWER AND LIGHT CO.

Certification

JANUARY 11, 1979.

Take notice that on December 11, 1978, Presiding Administrative Law Judge Graham W. McGowan certified proposed revisions and rates for wholesale electric service applicable to sales of electric power and energy to all wholesale customers of Delmarva filed as of May 31, 1978. Delmarva serves eight municipalities and one private company in Delaware and three municipalities in Maryland.

The Judge indicated that the proposed tariff would result in a total revenue increase of $7,891,583 (20.4$) over existing rates of the 12-month period ending December 31, 1978.

The Judge also indicated a proposed settlement Agreement was entered into by Delmarva and the Cooperatives on November 3, 1978. Delmarva, the Cooperatives and Staff expressed their full support for the agreement.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before January 26, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1662 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. RP79-16]

FLORIDA GAS TRANSMISSION CO.

Proposed Changes in Rates and Charges

JANUARY 11, 1979.

Take notice that on December 11, 1978 Florida Gas Transmission Company (FGT) tendered for filing proposed changes in its F.E.R.C. Gas Tariff, Original Volumes No. 1, 2 and 3.

The proposed rate changes would increase Florida Gas' revenues from resale sales and a transportation service by $18,479,192 based on the twelve months ended September 30, 1978, as adjusted.

Florida Gas states that the increased rates are required to reflect higher levels of all costs of operation, including the cost of labor, materials, and capital, and the termination of two large transportation services in June 1979.

FGT has further proposed a change in the minimum bill provision applicable to Rate Schedule G, changes in the date of payment and interest rate on late payments, and a simplification of rate structure for jurisdictional resale customers. In addition, FGT has proposed a rate change in Rate Schedule X-6 covering a transportation service for Southern Natural Gas Company.

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Additionally, FGT states that pursuant to the Commission's Regulations the instant tariff filing has been mailed to each affected customer and the Florida Public Service Commission.

Any person desiring to be heard or to make any protests with reference to said application should on or before January 18, 1979 file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1663 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. EL79-6]

FLORIDA POWER & LIGHT CO.

Application

JANUARY 12, 1979.

Take notice that on December 22, 1978, Florida Power & Light Company (Applicant) filed an application seeking an order pursuant to Section 203 of the Federal Power Act authorizing it to dispose of certain portions of its 69 kV transmission facilities and certain substation facilities located in Lee and Charlotte Counties, Florida by selling same to Lee County Electric Cooperative, Inc.

Applicant is incorporated under the laws of the State of Florida with its principal business offices in Miami, Florida, and is engaged in the electric utility business in parts of 35 of the 67 counties in the State.

Lee County Electric Cooperative, Inc. is a rural electric cooperative incorporated under the laws of the State of Florida with its principal business in North Fort Myers, Florida and owns and operates facilities for the distribution and sale of electric energy within parts of four counties in the southwestern section of peninsular Florida.

The applicant proposes, subject to regulatory approval, to sell approximately 18 miles of 69 kV transmission line facilities and two 138-69 kV autotransformers with associated equipment to the Cooperative for use in its system.

The applicant is to receive a sum of approximately $606,575 in exchange for said property (subject to adjustments at time of closing).

Any person desiring to be heard or to make any protest with references to said application should, on or before January 31, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). Protests file with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1664 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. RI79-20]

GRACE PETROLEUM CORP.

Petition

JANUARY 11, 1979.

Take notice that on November 22, 1978, Grace Petroleum Corporation, 6501 North Broadway, Oklahoma City, Oklahoma 73116 (Petitioner), filed a petition for relief from ceiling price in Docket No. RI79-20 pursuant to Sections 104(b)(2), 107(c)(5) and 502(c) of the Natural Gas Policy Act of 1978 (NGPA) and Section 1.7(b) of the Commission's Rules of Practice and Procedure. Petitioner also requests expedited action by the Commission.

The Polumbus Company, a corporate relative of Petitioner, previously filed in Docket No. CS73-545 for waiver of Section 2.56a of the Commission's Regulations Under the Natural Gas Act based on facts as set forth in the instant petition. These facts include the history of Slade 26-1 Well e.g. a severe casing failure and other occurrences beyond applicants' control which eventually required rework of the well instead of carrying out the intended plugging and abandonment of the well which was to be replaced by a well 250 feet away; the costs of the rework were substantially more than would have been incurred in drilling a new well; and that these higher costs were all incurred after January 1, 1975. The instant petition requests the Commission to deem the previous petition to be withdrawn.

Petitioner states it has four wells in the Alkali Gulch Field either producing or capable of producing if reworked: the Slade 26-1 and the Mary Mayers 27-1 (both producing) and the Schmitt 1-35 and the Wright 34-1 well both having ceased production due to water problems.

Petitioner alleges that ceiling prices under Section 104 of the NGPA are inadequate to make further production from the Slade and Mary Myers wells economic or to permit performance of the reworking and recompletion operations necessary for production from the Schmitt and Wright wells to be resumed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1665 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-118]

IOWA-ILLINOIS GAS ELECTRIC CO.

Filing

JANUARY 11, 1979.

Take notice that Iowa-Illinois Gas and Electric Company, Davenport, Iowa (Company) on December 26, 1978, tendered for filing a new and additional Service Schedule K, Participation Power, and a related Participation Power Transaction No. 1, under an Interchange Agreement of November 15, 1971, with the City of Geneseo, Illinois (City). Company indicates that each is dated December 20, 1978, and each is proposed to become effective as of February 1, 1979.

Company states Service Schedule K provides that transactions for participation power may be negotiated by the parties for each transaction and attached to this Schedule. Company further states that the related Participation Transaction No. 1, to commence February 1, 1979, provides for the sale of 2 MW to City from Company's shares of Neal Unit 3 and Council Bluffs Unit 3, for a two year term utilizing weighted cost based rates related to the participation units, and provides for substitute energy, at Company's option, and establishes rates therefore. It is stated that no new or additional facilities are required to effectuate the transaction, or the Service Schedule under which it was negotiated.

Company requests an effective date of February 1, 1979, and therefore requests waiver of the Commission's notice requirements.

According to the Company, copies of the filing have been mailed to the City, to the Iowa State Commerce Commission and to the Illinois Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before January 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1666 Filed 1-16-79; 8:45 am]

[6450-01—M]

[Docket Nos. RP78-10 and RP72-32 (PGA77-2)]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Certification of Proposed Settlement Agreement

JANUARY 11, 1979.

Take notice that on November 24, 1978, Administrative Law Judge Wagner certified to the Commission a Stipulation and Agreement proposed in settlement of the issues in the above-captioned rate proceeding. The certification states that the proposed Stipulation and Agreement, which was tendered by Kansas-Nebraska Natural Gas Company on November 21, 1978, is not opposed by any party. If approved, the proposed Stipulation and Agreement would resolve all but three of the issues in this proceeding. The three issues which have been reserved for hearing are the following: rate of return, the pricing of storage injection volumes, and the treatment of extraction plant revenues.

Any person desiring to be heard or to protest said Stipulation and Agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 26, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1667 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. RP72-149 (PGA79-3)]

MISSISSIPPI RIVER TRANSMISSION CORP.

Proposed Change in Rates

JANUARY 11, 1979.

Take notice that Mississippi River Transmission Corporation ("Mississippi") has submitted for filing Seventy-First Revised Sheet No. 3A to its Federal Energy Regulatory Commission Gas Tariff, First Revised Volume No. 1, which carries a proposed effective date of February 1, 1979.

Mississippi states that Seventy-First Revised Sheet No. 3A is being filed pursuant to the Purchased Gas Cost Adjustment provisions of its currently effective tariff to track a rate change filing of Trunkline Gas Company ("Trunkline") made pursuant to the terms and conditions of Trunkline's PGA provisions and a settlement agreement at Docket No. RP78-11. Trunkline's filing also carries a proposed effective date of February 1, 1979.

Mississippi states that copies of its filing, including computations in support thereof, have been served on its jurisdictional customers and the State Commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1668 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ER78-484]

MONONGAHELA POWER CO.

Certification

JANUARY 12, 1979.

Take notice that on December 11, 1978 Presiding Administrative Law Judge Samuel Kanell certified a proposed settlement involving a proposed rate increase of $314,240 for the 12 month period following proposed effective date of August 9, 1978, for such higher rates, to be applicable to the four wholesale for resale customers of Monongahela Power Company.

The Judge indicated that following prehearing conference and negotiation discussions among the parties, agreement was reached among all parties providing for a test year revenue increase (test year is 12 month period ending December 31, 1977) of 180,000. The proposed higher rate filed by the company would have produced the estimated amount of $290,778 for this test period.

The Judge states further stipulations were reached by the parties with respect to possible tax refunds and restrictions on additional rate increase filings as set forth in the proposed settlement.

The Judge also states that by intervenor motion dated December 7, 1978, it is represented that all parties concur in this settlement and support its certification to the Commission.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 26, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1699 Filed 1-16-79; 8:45 am]

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[6450-01-M]

[Docket No. ER79-123]

MONTAUP ELECTRIC CO.

Filing

JANUARY 12, 1979.

Take notice that on December 28, 1978, Montaup Electric Company filed a service agreement with the Town of Middleborough, Massachusetts. Montaup states that the service agreement provides for transmission service under Montaup's FERC Electric Tariff, Original Volume No. II.

Montaup further states that Exhibit A to the agreement provides for transmission of Middleborough's purchases from Fitchburg Gas & Electric Company and from Vermont Yankee Nuclear Power Company for various periods beginning November 1, 1978 and ending October 31, 1981.

Montaup requests an effective date of November 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Montaup indicates that the filing has been served on Middleborough and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 29426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1670 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-128]

MONTAUP ELECTRIC CO.

Filing

JANUARY 12 1979.

Take notice that on January 2, 1979, Montaup Electric Company (Montaup) tendered for filing a service agreement between itself and the Town of Templeton, Massachusetts under which Montaup agrees to furnish transmission service to Templeton under Montaup's FERC Electric Tariff, Original Volume No. 11. Montaup states that the present filing provides specifically for transmission of 1000 kw of power purchased by Templeton from the Massachusetts Municipal Wholesale Electric Company for the period November 1, 1978 through April 30, 1979. Montaup requests waiver of the Commission's notice requirements in order to allow said agreement to become effective as of November 1, 1978.

According to Montaup copies of this filing were served upon Templeton and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before February 5, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1672 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket Nos. CP76-372 and CP76-374]

NATURAL GAS PIPELINE CO. OF AMERICA AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Petition To Amend

JANUARY 11, 1979.

Take notice that on December 28, 1978, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001 (Petitioners) filed in Docket Nos. CP76-372 and CP76-374 a petition to amend the order issued on October 14, 1978, in the instant docket pursuant to Section 7(c) of the Natural Gas Act to authorize Petitioners to exchange natural gas from a new source, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioners state that Transco has available to it a volume of up to 1000 Mcf of gas per day from the Clayton Field area of Live Oak County, Texas, purchased from the Block 76 unit well production of Atlantic Richfield Company. In order to make this gas available to Transco's system, Petitioners propose for Transco to have this gas delivered to Natural at the outlet of the nearby Clayton Area Facilities of Mobil Oil Corporation (Mobil) and for Natural to continue to deliver thermally equivalent volumes to Transco, free of charge, at Mobil's Cameron Meadow's Plant in Cameron Parish, Louisiana.

Any person desiring to be heard or to make any protest with reference to said petition should on or before February 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1673 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-125]

NORTHERN NATURAL GAS CO.

Application

JANUARY 11, 1979.

Take notice that on December 15, 1978, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed an application in Docket No. CP79-125 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transfer of service for a certain customer from Cedar Falls Utilities (CFU) to Applicant's Peoples Division, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that CFU no longer wishes to deliver gas to Beaver Hills Country Club, (Beaver Hills), located in Blackhawk County, Iowa, because Beaver Hills is CFU's only rural customer. Accordingly, Applicant seeks authority to transfer such service to its Peoples Division in lieu of CFU's continuing such service. Peoples would serve Beaver Hills from its presently effective contract demand, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecesary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1674 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. RP71-107 (Phase II) (PGA79-1) (R&D79-1)]

NORTHERN NATURAL GAS CO.

Pipeline Rates: Emergency Purchases; Order Accepting for Filing and Suspending Proposed Rate Increase and Establishing Procedures

JANUARY 10, 1979.

On December 11, 1978, Northern Natural Gas Company (Northern) filed a rate increase of 21.63¢ per Mcf for transportation sales [1] and a rate increase of 26.86¢ per Mcf for field sales.[2] The 21.63¢ per Mcf increase for transmission sales consists of:

(1) A 26.63¢ per Mcf PGA rate increase which reflects:

(a) A 23.55¢ per Mcf increase in the estimated cost of purchased gas, or $153.6 million per year;

(b) A 2.45¢ per Mcf increase in the surcharge (from 0.81¢ to 3.26¢) to recover unrecovered cost of purchased gas of $16,156,688; and

(c) A .63¢ per Mcf increase (from negative .85¢ to negative .22¢) to reflect refund obligations of $1,435,785 pertaining to Docket Nos. RP77-18 and RP76-86.

(2) A .18¢ per Mcf reduction (from .08¢ to negative .10¢) in the base rates to reflect reductions in Research and Development Expenditures.

(3) An initial GRI surcharge of .41¢ per Mcf consisting of:

(a) .35¢ per Mcf for 1979, as approved in Opinion No. 30, and

(b) A .06¢ per Mcf which was deferred by Northern until this filing to avoid a small rate adjustment which would have been effective June, 1978.

(4) A decrease of 5.23¢ per Mcf to eliminate the surcharge for the Northern Illinois Gas Company storage agreement pursuant to Commission Order issued April 26, 1978, in Docket No. RP78-46.

The 26.86¢ per Mcf net rate increase for field sales reflects the identical components of the transmission sales increase (Items 1, 2 and 3 above) except for the elimination of the 5.23¢ surcharge for storage (Item 4) which was not charged to field sales.

The instant filing reflects the impact on purchased gas costs of the Natural Gas Policy Act of 1978. The instant filing replaces Northern's similar filing of October 26, 1978,[3] which did not reflect the impact of costs associated with the NGPA.

The Commission orders: (A) Northern's proposed Substitute Seventeenth Revised Sheet No. 4a to FERC Gas Tariff Third Revised Volume No. 1, Substitute Seventeenth Revised Sheet No. 1 to FERC Gas Tariff Original Volume No. 2, are accepted for filing, suspended and waiver of notice requirements is granted such that the filing shall become effective on December 27, subject to refund.

(B) Pursuant to the authority of the Natural Gas Act, Sections 4, 5, 8 and 15, and the Commission's rules and regulations, a public hearing shall be held concerning the prudency of the emergency purchases made by Northern.

(C) Northern shall serve its case-in-chief in support of the prudency of the questioned emergency purchases on or before February 12, 1979.

(D) The Commission Staff shall prepare and serve its statement of position in the emergency purchase proceeding on all parties on or before April 11, 1979.

(E) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff in the emergency purchase proceeding in a hearing or conference room of the Federal Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1625 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-115]

NORTHWEST PIPELINE CORP.

Application

JANUARY 11, 1979.

Take notice that on December 12, 1978, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed an application in Docket No. CP79-115 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport up to 100,000 Mcf of natural gas for Cities Service Gas Company (Cities Service), and to construct and operate the facilities necessary therefor, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that Applicant and Cities Service entered into two agreements, both dated September 20, 1978, involving the gathering of natural gas in Lincoln, Uinta and Sweetwater Counties, Wyoming, (gathering area) and the subsequent transportation of this gas (gathering and transportation agreements). Applicant seeks authority to implement the terms of these agreements as they now stand, as well as blanket authority to gather and transport gas from additional wells that may in the future be made subject to the agreements. Applicant states that the gathering agreement presently encompasses 15 wells, but it proposes in the instant application to attach 27 more wells in the gathering

[1] Substitute Seventeenth Revised Sheet No. 4a to FERC Gas Tariff, Third Revised Volume No. 1.

[2] Substitute Seventeenth Revised Sheet No. 1c to FERC Gas Tariff, Original Volume No. 2.

[3] Seventeenth Revised Sheet No. 4a to FERC Gas Tariff, Third Revised Volume No. 1 and Seventeenth Revised Sheet No. 1c to FERC Gas Tariff, Original Volume No. 2.

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area. Applicant further proposes to gather gas from any other wells that may be hereafter developed in the gathering area. The facilities specifically proposed to the construction are:

(1) Approximately 7 miles of 12¾-inch O.D. pipeline
(2) Approximately 14 miles of 8⅝-inch O.D. pipeline
(3) Approximately 25 miles of 6⅝-inch O.D. pipeline
(4) Approximately 36 miles of 9½-inch O.D. pipeline
(5) 41 wellhead setting,[1] and
(6) Necessary appurtenant facilities.

Applicants projects these facilities to cost, excluding filing fees, approximately $7,631,000,[2] which would be initially financed from funds on hand or from short term borrowing. The facilities necessary to connect any additional wells would be constructed pursuant to the appropriate budget-type certificate authorization, it is stated.

Applicant states that pursuant to the transportation agreement it would receive for Cities Service's account up to 100,000 Mcf of gathering area gas at a delivery point on Applicant's mainline in Lincoln County, Wyoming, and redeliver equivalent volumes for Cities Service's account, less fuel and line loss, to El Paso Natural Gas Company (El Paso) at an existing point of interconnection between the systems of Applicant and El Paso in La Plata County, Colorado.[3] Although the initial volumes to be transported are estimated to be 32,000 Mcf per day, by 1981 Applicant estimates the transported volumes would be 98,000 Mcf per day.

It is stated the initial gathering rate would be 16.81 cents per Mcf of gas, while the initial transportation rate would be 20.69 cents per Mcf for direct delivery, and 2.0 cents per million Btu for displacement delivery.

It is stated that the authorization requested would enable Cities Service to make additional volumes of natural gas available to its market area, which it could use to reduce its projected curtailments.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1676 Filed 1-16-79; 8:45 am]

[1] One of the 15 wells presently covered by the agreements is already attached.

[2] This figure includes line pack and an allowance for funds used during construction based on a rate of return presently the subject of a pending proceeding in Docket No. RP78-50.

[3] It is stated that El Paso and Cities Service have executed an exchange agreement covering this gas.

[6450-01-M]

[Docket No. EL79-5]

PENNSYLVANIA POWER & LIGHT CO.

Application for the Sale and the Purchase of a 2.3 Mile Portion of one of Pennsylvania Electric Co.'s 230 kV Transmission Lines

JANUARY 11, 1979.

Take notice that Pennsylvania Power & Light Company on December 4, 1978, tendered for filing, two Agreements between Pennsylvania Electric Company and Pennsylvania Power & Light Company, for the sale of Pennsylvania Electric Company to Pennsylvania Power & Light Company of 2.3 mile section of one of Pennsylvania Electric Company's 230 kV transmission lines and a 15-mile portion of a 115 transmission line.

One Agreement provides for the acquisition by Pennsylvania Power & Light Company of the 2.3 mile section of a 230 kV electric transmission facility, currently owned by Pennsylvania Electric Company. The acquisition of the aforementioned facility is in connection with the operation by Pennsylvania Power & Light Company of its Lackawanna Switching Station in Blakely Borough, Lackawanna County, Commonwealth of Pennsylvania. The said 230 kV transmission line currently is used as an interconnection link in accordance with an Interconnection Agreement between Pennsylvania Power & Light Company and Pennsylvania Electric Company, dated May 31, 1968, and as a tie-line between Pennsylvania Power & Light Company's Lackawanna Switching Station and its Peckville Substation. Upon transfer of the said transmission line section, Pennsylvania Power & Light Company will then own, operate and maintain the tie-line between its Lackawanna Switching Station and its Peckville Substation. The 2.3 mile section of the 230 kV transmission line will then be a source of supply if Pennsylvania Power & Light Company expands its Lackawanna Switching Station.

The other Agreement provides for the sale of Pennsylvania Electric Company and the purchase by Pennsylvania Power & Light Company of the 15-mile Lenox-Peckville Line, which line is for the most part in Pennsylvania Power & Light Company's service territory. Pennsylvania Power & Light Company if able to use a 10-mile portion of said Lenox-Peckville Line for its electric transmission business to supply the Edella Substation, which is a new Pennsylvania Power & Light Company Substation currently under construction in Scott Township, Lackawanna County, Commonwealth of Pennsylvania. Because of changing demand requirements, Pennsylvania Electric Company no longer has significant use for the said Lenox-Peckville Line.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1677 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-115]

PORTLAND GENERAL ELECTRIC CO.

Filing

JANUARY 11, 1979.

Take notice that on December 26, 1978, Portland General Electric Company (Portland) tendered for filing an Agreement with the Montana Power Company, dated September 8, 1978, and a Supplement to this Agreement dated November 22, 1978. Portland states that under the terms of this Agreement and the Supplement thereto, the Montana Power Company will make available to Portland 100 MW of firm capacity and associated energy monthly during the months of September, October, and November, 1978. Portland further states that it will return the power and energy so received from the Montana Power Company commencing in August, 1979. Portland indicates that such power and energy is to be returned in varying amounts through February, 1983. Portland further indicates that if not fully repaid by March 1, 1984, then Portland is to pay the Montana Power Company the reasonable value of the unreturned power and energy furnished. Portland states that the Montana Power Company is to be compensated for the time differential between the time of the delivery of capacity and energy and its return by an interest charge payable in power and enrgy calculated to yield 10% per annum when compounded monthly.

Portland requests an effective date of September 11, 1978, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served on the Montana Power Company according to Portland.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1678 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ER78-511]

PUBLIC SERVICE CO. OF OKLAHOMA

Proposed Settlement

JANUARY 11, 1979.

Take notice that on December 6, 1978, Public Service Company of Oklahoma and its wholesale customers, including Southwestern Power Administration, filed for approval by the Commission an executed Settlement Agreement purporting to resolve all issues present in this docket.

Any person desiring to be heard or to protest said settlement proposal should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 5, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this proposal are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1679 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ID-1859]

R. C. SOMERS

Filing

JANUARY 12, 1979.

Take notice that on December 19, 1978, R. C. Somers, (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Louisville Gas and Electric Company, Public Utility.
Vice President, Ohio Valley Transmission Corporation, Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § § 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1680 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ID-1472]

R. L. ROYER

Filing

JANUARY 12, 1979.

Take notice that on December 19, 1978, R. L. Royer, (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

President and Director, Louisville Gas and Electric Company, Public Utility.
President and Director, Ohio Valley Transmission Corporation, Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1681 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-114]

Southern California Edison Co.

Filing

JANUARY 11, 1979.

Take notice that Southern California Edison Company (Edison), on December 26, 1978, tendered for filing an Amended Edison-San Diego Interruptible Transmission Service Agreement (the Agreement) with the San Diego Gas and Electric Company (San Diego) providing for the transmission by Edison, on an interruptible basis, of energy purchased by San Diego from various sources. Edison states that this Agreement dated December 7, 1976, provides for the transmission of energy in addition to the purchased energy contemplated under the original agreement. Edison further states

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that the Agreement provides that Edison will charge San Diego for transmission, dispatching, and scheduling services. Edison indicates that San Diego will reimburse Edison in kind for transmission losses. Edison further indicates that the Agreement is proposed to become effective, and service under the Agreement to commence, when accepted for filing by the FERC and will continue until May 31, 1986, or until terminated on 30 days notice.

Edison states that San Diego requests that service be initiated at the earliest possible date under this Agreement, and for that reason Edison requests that the prior notice requirements of the Commission's regulations be waived and the filing be permitted to become effective as soon as possible.

Copies of this filing were served upon San Diego and Electric Company and the Public Utilities Commission of the State of California, according to Edison.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1682 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-125]

SOUTH CAROLINA ELECTRIC & GAS CO.

Filing

JANUARY 12, 1979.

Take notice that on December 29, 1978, South Carolina Electric & Gas Company (SCE&G) tendered for filing a Second Amendment to the Interchange Agreement between SCE&G and Duke Power Company, dated August 28, 1956. SCE&G states that the Second Amendment deletes service schedules providing for Spinning Reserve, Coordination of Scheduled Maintenance, Interchange Power, Limited Term Power and Energy, and Short Term Power and Energy and substitutes therefore the following service schedules: Spinning Reserve, Short-term Power, Limited-term Power, Economy Interchange, and Other Energy.

SCE&G requests an effective date of January 22, 1979, and therefore requests waiver of the Commission's notice requirements.

According to SCE&G copies of this filing have been sent to the South Carolina Public Service Commission and the Duke Power Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before January 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1683 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. RP79-21]

TENNESSEE NATURAL GAS LINES, INC.

Proposed Changes in FERC Gas Tariff

JANUARY 11, 1979.

Take notice that on December 28, 1978, Tennessee Natural Gas Lines, Inc. ("TNGL") tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1, consisting of the following listed tariff sheets:

Thirtieth Revised Sheet No. PGA-1
Fifth Revised Sheet No. 4-A
Fifth Revised Sheet No. 4-B
Third Revised Sheet No. 8
First Revised Sheet No. 8-I
First Revised Sheet No. 14
First Revised Sheet No. 30-A

The proposed changes would increase revenues from jurisdictional sales and service by $1,125,525, or approximately 2.97%, based on the twelve consecutive months of actual experience as adjusted for known and measurable changes through May 31, 1979. TNGL states that, in addition to such general rate increase, its tariff filing makes clarifying, conforming, and updating changes in certain provisions of its tariff.

TNGL states that its general rate increase is necessary so as to provide it with the minimum return necessary to enable it to maintain its credit and financial integrity and to attract the capital which it will require and to recover increased taxes and increasing operating and maintenance expenses. It states that its tariff filing proposes no increase in depreciation rates and is based on a slightly reduced rate base (because of depreciation accruals) and slightly reduced sales volumes.

TNGL states that its tariff filing was served upon its jurisdictional customer, Nashville Gas Company, and the affected state Commission, the Tennessee Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before January 24, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1684 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-121]

UTAH POWER & LIGHT CO.

Proposed Tariff Change

JANUARY 12, 1979.

Take notice that Utah Power & Light Company (Utah) on December 28, 1978, tendered for filing proposed changes in its FERC Electric Service Tariff, Original Volume No. 1. Utah states that the proposed changes would increase revenues by $12,422,180 from jurisdictional sales and service based on the twelve-month period ending December 31, 1979.

Utah further states that the increases are necessary because of inflationary increases in all categories of costs, and to attain a reasonable rate of return on the sales for resale. Utah proposes an effective date of March 1, 1979.

Copies of the filing were served upon the Company's jurisdictional customers, and regulatory commissions for the states of Utah, Idaho and Wyoming, according to Utah.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 5, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1685 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-119]

VIRGINIA ELECTRIC & POWER CO.

Filing

JANUARY 11, 1979.

Take notice that on December 26, 1978, Virginia Electric and Power Company (VEPCO) tendered for filing a revised supplement to the contract between VEPCO and Tri-County Electric Cooperative. VEPCO states that the revised contract supplement reflects changes due to a change in transformer capacity from 2500 kVA to 3750/4687 kVA as set forth below:

Delivery point	Present FERC No.	Proposed FERC No.	Item corrected
Sycoline	86-25	86-30	5(1), (3), 10, 11

VEPCO states that the revised contract supplement is intended to supersede the listed FERC Rate Schedule and requests that the revised supplement be allowed to become effective on September 22, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR § 1.8, 1.10). All such petitions or protests should be filed on or before January 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1686 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-104]

WEST PENN POWER CO.

Filing

JANUARY 11, 1979.

Take notice that West Penn Power Company on November 30, 1978, tendered for filing a fully executed Electric Service Agreement entered into with the Borough of Mont Alto. Also enclosed for filing is an agreement between West Penn and the Borough of Chambersburg.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with § § 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before January 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1689 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ER78-63]

WESTERN POWER DIVISION AND CENTRAL TELEPHONE & UTILITIES CORPORATION

Certification

JANUARY 11, 1979.

Take notice that Administrative Law Judge Jon G. Lotis certified on November 9, 1978, the settlement agreement and accompanying documents which resolve all issues in this proceeding.

The Judge indicated that analysis of the settlement document discloses that the settlement rates will result in increased revenues for Central Telephone & Utilities Corporation of $1,156,211 based on data for the twelve months ending December 31, 1978, as contrasted with the $2,471,469 originally sought.

The Judge stated that at the November 8, 1978 prehearing conference, the parties expressed unanimous consent to the settlement and requested that it be approved without further proceedings.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 26, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1690 Filed 1-16-79; 8:45 am]

[6450-01-M]

[Docket No. ID-1620]

WILLIAM B. BECHANAN

Application

JANUARY 12, 1979.

Take notice that on October 23, 1978, William B. Bechanan, (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

President and Director, Kentucky Utilities Company, Public Utility.
President and Director, Old Dominion Power Company, Public Utility.
Director, Electric Energy, Inc., Public Utility.
Director, Ohio Valley Electric Corporation, Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-1691 Filed 1-16-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

CANADIAN STANDARD BROADCAST STATIONS

Notification List

List of new stations, proposed changes in existing stations, deletion, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

NOVEMBER 24, 1978.

CANADIAN LIST NO. 378

Call letters	Location	Power kW	Antenna	Schedule	Class	Antenna height (feet)	Ground System: Number of radials	Ground System: Length (feet)	Proposed date of commencement of operation
				540 kHz					
CBGA-1	New Carlisle, Quebec, N. 47°49'26", W. 65°06'02" (assignment of call letters)	10	DA-2	U	II				*Nov. 24, 1979*
				560 kHz					
CHCM	Marystown, Newfoundland, N. 47°09'33", W. 55°14'37" (now in operation with increased power)	10D/5N	DA-N, ND-D-180.5.	U	III				
				690kHz					
CBKF-1	Gravelbourg, Saskatchewan, N. 49°52'16", W. 106°28'19" (change of call letters from CFRG)	5	DA-N, ND-D-183.	U	II				
				790 kHz					
CFAN	Newcastle, New Brunswick, N. 47°00'21", W. 65°33'10" (now in operation with increased day power)	5D/1N	DA-2	U	III				
				860 kHz					
CBKF-2	Saskatoon, Saskatchewan, N. 52°15'00", W. 106°39'33" (change of call letters from CFNS) (now in operation on new frequency)	10	DA-2	U	II				
				1150 kHz					
CKX	Brandon, Manitoba, N. 49°50'28", W. 100°03'19" (now in operation with increased day power)	50D/10N	DA-2	U	III				
				1170 kHz					
CFNS	Saskatoon, Saskatchewan, N. 52°06'49", W. 106°33'38" (delete)	1	DA-1	U	II				
				1260 kHz					
(New)	Richmond, British Columbia, N. 49°07'30", W. 122° 55'55"	10	DA-2	U	III				Nov. 24, 1979
				1400 kHz					
(New)	Fredericton, New Brunswick, N. 45°56'32", W. 66° 42'42" (delete)	10D/1N	DA-2	U	IV				

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc. 79-1494 Filed 1-16-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

AGREEMENT FILED

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orelans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 29, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No.: T-3760.

Filing Party: Neal M. Mayer, Esquire, Coles and Goertner, 1000 Connecticut Avenue, N.W., Washington, D.C. 20036.

SUMMARY: Agreement No. T-3760, between the City of Los Angeles (City) and Seatrain Pacific Services, Inc. (Seatrain) is a permit whereby Seatrain is granted the right to utilize certain terminal facilities located at Berth 131 of the Port of Los Angeles. Seatrain will use the premises for the docking, mooring, berthing and undocking of vessels for receiving, handling, loading, unloading, storing, transporting and delivering containerized cargo; and for all other purposes involved in or related to the operation of a marine terminal facility. The term of this permit will be for a period of five years. As compensation, Seatrain shall pay City 100 percent of all charges collected pursuant to the Port of Los Angeles Tariff No. 3, up to an annual guaranteed amount of $646,265. Tariff charges accruing above $646,265 annually will be shared equally by Seatrain and City.

By Order of the Federal Maritime Commission.

Dated: January 11, 1979.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-1566 Filed 1-16-79; 8:45 am]

[6325-01-M]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

OPEN COMMITTEE MEETINGS

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on: Thursday, February 1, 1979; Thursday, February 8, 1979; Thursday, February 15, 1979; Thursday, February 22, 1979.

The meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. section 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, D.C. 20415 (202-632-9710).

JEROME H. ROSS,
Chairman, Federal Prevailing Rate Advisory Committee.

JANUARY 11, 1979.

[FR Doc. 79-1565 Filed 1-16-79; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

Meeting

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the National Advisory Council on Bilingual Education. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: Committee meetings: February 11, 1979, 3:00 p.m. Full Council

V 4 4 - 1 2

Meeting: February 12 and 13, 1979, 8:30 a.m. to 5:00 p.m.

ADDRESS: District Office, Maricopa County Community College, 3910 East Washington, Phoenix, Arizona 85034.

FOR FURTHER INFORMATION CONTACT:

Willie Alire, Office of Bilingual Education, Reporter's Building, Room 421, Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202 (202-245-2600).

The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 880b-11) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning matters arising in the administration of the Bilingual Education Act.

The meetings on February 11, 12, and 13, 1979 will be open to the public beginning at 3:00 p.m. on February 11 and from 8:30 a.m. to 5:00 p.m. on February 12 and 13, 1979.

February 11, 1979: Orientation of New Members and Committee meetings.

February 12, 1979: A meeting of the Full Council on the following subjects is scheduled from 8:30 a.m. until 5:00 p.m. The proposed agenda includes the following:

(1) New business:

(a) Reading, amendments and approval of November meeting minutes.

(b) Review of the minutes of the December meeting.

(c) Discussion of draft of Rules and Regulations, Hearings schedules, etc.

(d) Review and discussion of Dr. de los Santos' Paper.

(e) Other.

(2) Unfinished business:

(a) Items discussed during December meeting.

(1) Letter to Secretary Califano regarding quorum.

(2) Report on Califano's reaction to interim final regs.

(3) Requested Commission on Bilingual Education.

(4) Employment of Hispanics and Asians in OE.

(5) Recruitment of individuals to respond to European and Native American Languages Paper.

(6) Letter on Foreign Travel.

(7) Annual Report.

(8) Co-ordination paper requested in December meeting.

(9) Other.

February 13, 1979: The proposed agenda includes the following:

(1) Other business:

(a) Discussion with Clearinghouse Personnel.

(1) Public Service Announcements.

(2) IAPS duplications with Council papers.

(3) Plan for joint meeting between Clearinghouse Council and Bilingual Education Council.

(4) Plan for next Council meeting.

(2) Old business:

(a) At the pleasure of the membership.

Records will be kept of all Council proceedings and shall be available for public inspection after approval, by the full Council, of said records has been obtained. These records will be available in room 421, Reporter's Building, 300 7th Street SW., Washington, D.C. Written requests for such records should be sent to 400 Maryland Avenue SW., Reporter's Building, Room 421, Washington, D.C. 20202.

In the event that the proposed agenda is completed prior to the projected date or time, the council will adjourn the meeting.

Signed at Washington, D.C. on January 11, 1979.

DEAN BISTLINE,
Acting Director,
Office of Bilingual Education.

[FR Doc. 79-1549 Filed 1-16-79; 8:45 am]

[4110-12-M]

Office of the Secretary

ETHICS ADVISORY BOARD

Meeting

Notice is hereby given that the Ethics Advisory Board will hold a meeting on February 2-3, 1979, in the Auditorium of the HEW Building (North), 330 Independence Avenue, S.W., Washington, D.C. 20201. The meeting will begin at 9 a.m. on both days, and will be open to the public subject to limitations of available space.

The agenda for the meeting will include deliberations on whether the Department of Health, Education, and Welfare should support research involving human in vitro fertilization and discussion of an application for HEW support of research involving fetoscopy.

Requests for information should be directed to Ms. Roberta Garfinkle, Westwood Building, Room 125, 5333 Westbard Avenue, Bethesda, Maryland, 20016, telephone, 301-496-7776.

Dated: January 11, 1979.

PETER D. BELL,
Deputy Under Secretary.

[FR Doc. 79-1567 Filed 1-16-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ARIZONA; CROSSMAN PEAK RADAR FACILITY PROPOSAL

Intent To Prepare an Environmental Statement and Scoping Meeting

The Department of the Interior, Bureau of Land Management, Yuma District Office will be preparing an Environmental Impact Statement in connection with a Federal Aviation Administration proposal to construct an Air Route Surveillance Radar Facility on the top of Crossman Peak, about 10 miles northeast of Lake Havasu City, Arizona. The statement will also consider a three-site alternative which involves Cherum Peak, about 3½ miles east of Chloride, Arizona; Harquahala Peak, about 10½ miles east of Wenden, Arizona; and Tucker Mesa, about 8 miles west of Winslow, Arizona.

Two public meetings will be held for the purpose of scoping (determining the scope of issues to be addressed, and for identifying the significant issues related to a proposed action) the environmental statement.

The meetings will be held on February 22, 1979, at the Ramada Inn in Lake Havasu City, Arizona, at 1:00 p.m. and 7:00 p.m. Interested parties may attend either meeting or submit comments in writing to the address shown below.

These meetings will be workshop structured, for the purpose of gathering information, using the "Nominal Group Process."

For information concerning the proposed action or the environmental impact statement, contact the following individual: Karl L. Kipping, Project Manager, Bureau of Land Management, USDI, Post Office Box 5680, Yuma, Arizona 85364, Area Code 602-726-2681, FTS: 261-2681.

Dated: January 10, 1979.

HAROLD H. RAMSBACHER,
Acting State Director, Arizona.

[FR Doc. 79-1542 Filed 1-16-79; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-61]

CERTAIN COMPACT CYCLOTRONS WITH A PRE-SEPTUM

Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this Order upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued: January 2, 1979.

DONALD K. DUVALL,
Chief Administrative Law Judge.

[FR Doc. 79-1709 Filed 1-16-79; 8:45 am]

[7020-02-M]

[Investigation No. 337-TA-54]

CERTAIN MULTICELLULAR PLASTIC FILM

Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on January 16, 1979, in Room 610, Bicentennial Building, 600 E Street NW., Washington, D.C. The purpose of this prehearing conference is to review the prehearing statements submitted by the parties, to complete the exchange of exhibits, and to resolve any other necessary matters in preparation for the hearing.

Notice is also given that the hearing in this proceeding will commerce at 9:00 a.m. on January 18, 1979, in Room 610, Bicentennial Building, 600 E Street NW., Washington, D.C.

The Secretary shall publish this notice in the FEDERAL REGISTER.

Issued: January 3, 1979.

JANET D. SAXON,
Administrative Law Judge.

[FR Doc. 79-1702 Filed 1-16-79; 8:45 am]

[7020-02-M]

[Investigation No. 337-TA-63]

CERTAIN PRECISION RESISTOR CHIPS

Investigation

Notice is hereby given that a complaint was filed with the United States International Trade Commission on December 15, 1978, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Vishay Intertechnology, Incorporated, 63 Lincoln Highway, Malvern, Penssylvania 19355. The complaint alleges that unfair methods of competition and unfair acts exist in the importation of certain precision resistors, precision resistor chips and products utilizing such precision resistor chips into the United States, or in their sale by the owner, importer, consignee, or agent of either, by reason of the alleged (1) misappropriation by respondents of certain proprietary technological know-how and trade secrets, and (2) incorporation by respondents of the misappropriated proprietary technological know-how and trade secrets in the design and manufacture of the articles.

The complaint alleges that the effect or tendency of these unfair methods of competiton and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

Complainant requests a permanent exclusion of said imports from entry into the United States. Complainant further requests a cease and desist order.

Having considered the complaint, the United States International Trade Coommission on January 11, 1979, ORDERED THAT—

(1) Pursuant to subsection (b) section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c) whether there is a violation of subsection (a) of this section in the unauthorized importation of certain precision resistors, precision resistor chips and products utilizing such presision resistor chips into the United States, or in their sale by the owner, importer, consignee, or agent of either, by reason of the alleged (1) misappropriation by respondents of certain proprietary technological know-how and trade secrets and (2) incorporation by respondents of the misappropriated proprietary technological know-how and trade secrets in the design and manufacture of these articles, the effect or tendency of which is to detroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of this investigation so instituted, the following are hereby named as parties:

(a) The complainant is—

Vishay Intertechnology, Incorporated, 63 Lincoln Highway, Malvern, Pennsylvania 19355.

(b) The respondents are the following companies alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, and are parties upon which the complaint and this notice are to be served:

Societe Francaise De L'Electro-Resistance, 115-121, Boulevard de la Madeleine, C6—Nice, France.

Resistor Research Corporation, Suite 895, National Press Building, 529-14th Street, N.W., Washington, D.C. 20045.

Suite 906, 1828 L Street, N.W., Washington, D.C. 20036.

Suite 110, 400 North Washington Street, Falls Church, Virginia 22046.

(c) Robert D. Bannerman, United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge, Donald K. Duvall, United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure, as amended (19 CFR 210.21). Pursuant to §§ 201.16)d) and 210.21(a) of the Rules, such responses will be considered by the United States International Trade Commission if received no later than 20 days after the date of service of the complaint. Extensions of time for submitting a response wil not be granted unless good and dufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and will authorize the presiding officer and the United States International Trade Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and in this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint is available for inspection by interested persons at the Office of the Secretary, United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, and in the Commission's New York City Office, 6 World Trade Center, New York, New York 10048.

By order of the Commission.

Issued: January 12, 1979.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-1710 Filed 1-16-79; 8:45 am]

[7020-02-M]

[Investigation No. 337-TA-62]

CERTAIN ROTARY SCRAPING TOOLS

Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this Order upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued: January 10, 1979.

DONALD K. DUVALL,
Chief Administrative Law Judge.

[FR Doc. 79-1708 Filed 1-16-79; 8:45 am]

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[6820-35-M]

LEGAL SERVICES CORPORATION

COLORADO RURAL LEGAL SERVICES

Grants and Contracts

JANUARY 5, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Colorado Rural Legal Services, Inc. in Denver, Colorado to serve Elbert, Kit Carson, Lincoln, Logan, Morgan, Phillips, Ouray, San Miguel, Sedgwick, Washington and Yuma.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Denver, Colorado 80202.

THOMAS EHRLICH,
President.

[FR Doc. 79-1577 Filed 1-16-79; 8:45 am]

[6820-35-M]

CUMBERLAND TRACE LEGAL SERVICES, INC. ET AL.

Grants and Contracts

JANUARY 9, 1979.

The Legal Service Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

1. Cumberland Trace Legal Services, Inc. in Bowling Green, Ky. to serve Hart, Metcalf, Green, and Taylor Counties.
2. Central Kentucky Legal Services in Lexington, Ky. to serve Harrison, Mercer, Boyle, and Anderson Counties.
3. Legal Aid Society of Louisville in Louisville, Ky. to serve Larue, Nelson, Hardin, Breckenridge, Grayson, Shelby, Spencer, Bullitt, and partial coverage to Henry Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, N.E., 9th Floor, Atlanta, GA 30308.

THOMAS EHRLICH,
President.

[FR Doc. 79-1579 Filed 1-16-79; 8:45 am]

[6820-35-M]

GREATER BOSTON LEGAL SERVICES, INC., ET AL.

Grants and Contracts

JANUARY 9, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

1. Cambridge & Somerville Legal Services, Inc. in Cambridge, Mass. to serve Middlesex County (Woburn, Winchester, Arlington, Belmont).
2. Greater Boston Legal Services, Inc., Boston, Mass. to serve Middlesex County (Watertown, Waltham, Stoneham, Melrose, Wakefield), and Norfolk County (Brookline).
3. Merrimack Valley Legal Services, Inc., in Lowell, Mass. to serve Middlesex County (Ashby, Townsend, Pepperell, Shirley, Groton, Ayer, Littleton, Boxboro).
4. Central Massachusetts Legal Services, Inc., in Worcester, Mass. to serve Worcester County.
5. Neighborhood Legal Services in Lynn, Mass. to serve Essex County (Ipswich, Gloucester, Rockport, Essex).
6. Legal Services for Cape Cod and Islands, Inc. in Hyannis, Mass. to serve Nantucket County.
7. South Middlesex Legal Services, Inc., in Farmingham, Mass. to serve Middlesex County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office or the Legal Services Corporation at:

Legal Services Corporation, Boston Regional Office, 84 State Street, Room 520, Boston, Massachusetts 02101.

THOMAS EHRLICH,
President.

[FR Doc. 79-1578 Filed 1-16-79; 8:45 am]

[6820-35-M]

OREGON LEGAL SERVICES CORP.

Grants and Contracts

JANUARY 9, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Oregon Legal Services Corporation in Portland, Oregon to serve Douglas, Josephine (partial) and Jackson (partial) Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Seattle Regional Office, 506 Second Avenue, Seattle, WA 98104.

THOMAS EHRLICH,
President.

[FR Doc. 79-1580 Filed 1-16-79; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (79-13)]

NASA ADVISORY COUNCIL

Meeting

The NASA Advisory Council will meet on February 6 and 7, 1979, in room 7002, Federal Office Building 6, 400 Maryland Avenue, SW, Washington, DC 20546. The meeting will be open to the public up to the seating capacity of the room (about 60 persons, including Council members and other participants). Visitors will be requested to sign a visitor's register.

The NASA Advisory Council was established as an interdisciplinary group to advise NASA senior management on NASA's aeronautics and space programs. The Council is concerned with providing advice in the substantive areas of aeronautics, life sciences, space and terrestrial applications, space sciences, space systems and technology and history as they relate to aeronautics and space programs. The Chairperson of the Council is Dr. William A. Nierenberg. There are currently fifteen members on the Council and additional members on standing committees which report to the Council. The following list sets forth the approved schedule for the meeting. For further information contact the Executive Secretary, Mr. Nathaniel B. Cohen, Area Code 202 755-8383, NASA Headquarters, Washington, DC 20546.

AGENDA

FEBRUARY 6, 1979

8:30 a.m.—Chairperson's Opening Remarks
8:45 a.m.—Review of Space Policy
10:00 a.m.—Summary of NASA FY 1980 Budget Proposal
11:00 a.m.—Summary of NASA FY 1980-1984 Five Year Plan
1:00 p.m.—NASA FY 1981-1985 Five Year Planning
2:45 p.m.—Balance Between Science/Technology Activities and Hardward Projects
3:15 p.m.—Discussion of Post-2000 Goals
4:00 p.m.—Innovation Group
4:45 p.m.—Adjourn

FEBRUARY 7, 1979

8:30 a.m.—Comparative National Space Programs
10:15 a.m.—NASA's International Cooperative Space Programs
11:00 a.m.—NAC Committee and Subcommittee Reports
2:15 p.m.—Examination of Peer Review Process, A Status Report
2:45 p.m.—New Business
3:30 p.m.—Adjourn

ARNOLD W. FRUTKIN,
Associate Administrator for External Relations.

JANUARY 10, 1979.

[FR Doc. 79-1544 Filed 1-16-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-331]

IOWA ELECTRIC LIGHT & POWER CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 47 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment authorizes Iowa Electric Light and Power Company (the licensee) to operate the Duane Arnold Energy Center with safe-ends of a modified design installed on the eight primary recirculation system inlet lines. The safe-ends are a transition piece between the recirculation system piping and the inlet nozzles on the reactor vessel.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 31, 1978 as supplemented by letter dated December 8, 1978, (2) Amendment No. 47 to License No. DPR-49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 8th day of January 1979

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-1273 Filed 1-16-79; 8:45 am]

[7590-01-M]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT & POWER CO., CENTRAL IOWA POWER COOPERATIVE, AND CORN BELT POWER COOPERATIVE

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revised Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of the date of issuance.

The amendment consists of changes to the Technical Specifications to: (1) revise the operating limit-minimum critical power ratio restrictions as a result of reanalysis of the postulated fuel loading error and loss of feedwater heating, (2) reduce the set point on one of the six safety relief valves from 1090 psig to 1080 psig to reduce potential stresses on the torus support system, (3) delete the requirement to change the names on the plant staffing organization chart with a change in one of the incumbents, (4) delete reference to a hydraulic snubber that has been removed from the plant and (5) delete the section on respiratory protection since these requirements have been superseded by 10 CFR 20.103.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendments dated July 7, 1977, June 21, 1978 and July 25, 1978 and the Commission's generic letter to Iowa

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Electric Light and Power Company of July 29, 1977 on respiratory protective equipment (2) Amendment No. 48 to License No. DPR-49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of January 1979.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-1552 Filed 1-16-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-443A and 50-444A]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE, ET AL.

Receipt of Correction to the Attorney General's Advice

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following letter from the Attorney General of the United States dated December 29, 1978, which corrects the letter of additional advice from the Attorney General of the United States, dated December 19, 1978, and published in the FEDERAL REGISTER on December 27, 1978 (43 FR 60355) with respect to a construction permit application for Seabrook Nuclear Power Station, Units No. 1 and No. 2:

In my letter to you of December 19, 1978, pertaining to Seabrook Nuclear Power Station, Units 1 and 2, NRC Docket Nos. 50-443A and 50-444A, I referred to my previous advice letter of August 27, 1977, relating to Millstone Nuclear Power Station, Unit No. 3, NRC Docket No. 50-423A, indicating the Maine Public Service Company had undergone affirmative antitrust review. In fact, it was Central Maine Power Company which had received antitrust clearance from the Department. In all other respects my letter of December 19 was accurate and our advice that an antitrust hearing would not be necessary is unaffected.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,
Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

[FR Doc. 79-1553 Filed 1-16-79; 8:45 am]

[7590-01-M]

REGULATORY GUIDES

Changes in Procedures for Developing and Issuing Regulatory Guides

The Nuclear Regulatory Commission, in its continuing effort to provide for increased public participation in the regulatory process, is making a change in the procedures for developing and issuing its regulatory guides. This change is intended to involve the public early in guide development, before a proposed guide has received complete staff review and an official NRC staff position has been established.

New regulatory guides and substantive changes to existing guides will be mailed in draft form directly to the regulatory guide distribution list, which includes professional societies, industry, public interest groups, unions, and government agencies. Each draft guide will be accompanied by a draft of an associated value/impact statement. Public comments will be requested on both the draft guide and the draft of its value/impact statement in a FEDERAL REGISTER notice and in the direct mailing. The comment period will normally be 60 days. The Division Director in the Office of Standards Development responsible for developing the draft guide will, without higher-level management review, authorize its issuance and will sign the FEDERAL REGISTER notice.

In the case of regulatory guides related to nuclear power plants, an additional change will be made. Previously, these guides were reviewed by the Regulatory Requirements Review Committee (RRRC), a committee representing top NRC management, before they were issued for comment. Under the new procedure, the RRRC will not review the guide until public comments have been received. Thus the RRRC will have the public comments on both the guide and its value/impact statement to consider in developing its recommendations. A summary of the results of the RRRC meeting, the Committee's recommendations, and all of the associated documents and comments considered by the RRRC in reaching its recommendations will be made publicly available shortly after each Committee meeting. Except in those instances in which public health and safety considerations require more expeditious implementation, no action will be taken to implement the Committee's recommendations until after they have been made publicly available.

As in the past, the advice of the Regulatory Activities Subcommittee of the Advisory Committee on Reactor Safeguards will be requested on drafts of regulatory guides related to nuclear power plants before public comment is solicited. After public comments have been resolved, the Subcommittee will review the revised draft, and the full Committee will be asked to concur in the guide's regulatory position.

The primary purposes of regulatory guides are (1) to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and in some cases to delineate techniques used by the staff in evaluating specific problems or postulated accidents and (2) to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses. Regulatory guides are not intended as substitutes for regulations, and therefore compliance with these guides is not required. Methods and solutions different from those set out in the guides will be acceptable if they provide a basis for the findings requisite to the issuance or continuance of a permit or license by the Commission.

Nothing in the foregoing should be construed to imply that comments and suggestions are encouraged only on the draft version of a regulatory guide. Comments and suggestions in connection with improvements in all published guides are encouraged at any time, and the guides will be revised periodically, as appropriate, to accommodate comments and to reflect new information or experience in areas covered by the guides.

Comments and suggestions for improvements in all guides, including draft guides and their value/impact statements, should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides and the latest revision of issued guides or for placement on an automatic distribution list for single copies of future guides should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 9th day of January 1979.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 79-1554 Filed 1-16-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 10, 1979 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF ENERGY

International Energy Agency Emergency Supply Report
On occasion
EIA-142
Importers of crude petroleum and product
500 responses; 625 hours
Hill, Jefferson B., 395-5867

DEPARTMENT OF LABOR

Bureau of Labor Statistics
Pricing Collective Bargaining Settlements—Public Sector
3116A, 3116B
On occasion
Pub. Sector units w/labor contr. covering 5,000 or more workers
150 responses; 600 hours
Office of Federal Statistical Policy & Standard, 673-7956
Labor Management and Service Administration
Annual Report Form Delinquency Questionnaire
LMSA-87T
Single-time
Pension and wel. plans w/no 1975 and/or 1976 forms 5500 on file
300,000 responses; 25,000 hours
Strasser, A., 395-6132

REVISIONS

ENVIRONMENTAL PROTECTION AGENCY

Importation of Motor Vehicles and Motor Vehicle Engines Subject to Federal Air Pollution Control Regulations
3520-1
On occasion
Commercial and individual importers
100,000 responses; 16,667 hours
Clarke, Edward H., 395-5867

DEPARTMENT OF LABOR

Bureau of labor Statistics
Current Point of Purchase Questionnaire
CPP-1, CPP-2A, CPP-2B, CPP-3
Annually
Households in 86 selected SMSA's and smaller cities
5,100 responses; 6,375 hours
Off. of Federal Statistical Policy & Standard, 673-7956

EXTENSIONS

DEPARTMENT OF LABOR

Employment and Training Administration
In-Season Farm Labor Report
ES-223
Monthly
State Agency for Agri. Rept Areas and Crop Act. Mtg Cov. Reqmt
1,900 responses; 1,900 hours
Strasser, A., 395-6132

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-1574 Filed 1-16-79; 8:45 am]

[3110-01-M]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 9, 1979 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service
1979 Wheat Variety Survey
Single-time
Wheat growers
38,000 responses; 6,333 hours
Off. of Federal Statistical Policy & Standard, 673-7956

Agricultural Marketing Service
FGIS Program Evaluation Questionnaires
Single-time
Grain elevators & processors
2,312 responses; 1,087 hours
Ellett, C. A., 395-6132

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research
Nonbuyer Interview for Prepurchase Homeownership Counseling Demonstration and Evaluation
Single-time
Demonstration program enrollees
300 responses; 375 hours
Strasser, A., 395-6132

Policy Development and Research
Non-enrollment and No Counseling Interviews for Prepurchase Homeownership Counseling Demonstration and Evaluation
Single-time
Elig. inter. non-enrollees; enrollees in the demonstra.
650 responses; 163 hours
Strasser, A., 395-6132

Policy Development and Research
Participation Survey for Prepurchase Homeownership Counseling Demonstration and Evaluation
Single-time
Recent first-time home buyers at demonstration sites
1,500 responses; 325 hours
Strasser, A., 395-6132

REVISIONS

ENVIRONMENTAL PROTECTION AGENCY

Estimate of Municipal Wastewater Treatment Facility Requirements
EPA-form-1
On occasion
Contractor
10,000 responses; 2,500 hours
Clarke, Edward H., 395-5867

VETERANS ADMINISTRATION

Application for Burial Benefits
21-530
On occasion
Funeral director
326,000 responses; 109,000 hours
Caywood, D. P., 395-6140

ENVIRONMENTAL PROTECTION AGENCY

National Aerometric Data Information Service
Saroad forms
Quarterly
State and local air pollution control agencies
675 responses; 41 hours
Clarke, Edward H., 395-5867

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service
Farmland Market Survey
Semi-annually
Realtors, lending institutions
1,800 responses; 7,500 hours
Ellett, C. A., 395-6132

Economics, Statistics, and Cooperatives Service
Multiframe Hog and Cattle Survey
Quarterly
Hog & cattle farmers
185,267 responses; 45,905 hours
Off. of Federal Statistical Policy & Standard, 673-7956

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control
Congenital Rubella Syndrome Case Report
On occasion
State and territorial epidemiologists
60 responses; 30 hours
Richard Eisinger, 395-3214

EXTENSIONS

ACTION

VISTA Survey of Project Directors and Volunteer
Supervisors Activities and Effects
Single-time
Director/supervisors of VISTA projects
720 responses; 504 hours
Reese, B. F., 395-3211

NATIONAL ENDOWMENT FOR THE HUMANITIES

Reference Letter Form
On occasion
College professors
5,000 responses; 5,000 hours
Laverne V. Collins, 395-3214

DEPARTMENT OF AGRICULTURE

Science and Education Administration
Application for Nonexclusive Patent License for USDA Invention
AD-761
On occasion
Public manufacturers
50 responses; 150 hours
Ellett, C.A., 395-6132

Rural Electrification Administration
Tabulation of Materials Furnished by Borrowers
REA form 281
On occasion
Consulting engineers of REA telephone borrowers
125 responses; 150 hours
Ellett, C.A., 395-6132

Rural Electrification Administration
Graphic Schedule and Progress Report
REA form 443
Monthly
REA electric borrowers'engineers
240 responses; 600 hours
Ellett, C.A., 395-6132

Rural Electrification Administration
Request for Approval to Sell Capital Assets—REA Electric Borrowers
REA form 369
On occasion
REA electric borrowers
260 responses; 780 hours
Ellett, C.A., 395-6132

Agricultural Stabilization and Conservation Service Designation of Flue-Cured Tobacco Sales
ASCS-807
Annually
Flue-Cured tobacco producers
220,000 responses; 22,000 hours
Ellett, C.A., 395-6132

DEPARTMENT OF COMMERCE

Bureau of Census
Survey on Pollution Abatement Cost and Expenditures
MA 200
Annually
Manufacturing establishments
20,000 responses; 20,000 hours
Off. of Federal Statistical Policy & Standard, 673-7956

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development
Community Development Block Grant Small Cities
Single-Purpose HAP (Housing Assistance Plan)
Annually
Small units of general local government
1,300 responses; 7,800 hours
Budget Review Division, 395-4775

Housing Production and Mortgage Credit
Notice of Intention to File Title I Claim and Request for Collection Assistance
FH-83
On occasion
Title I lenders
9,000 responses; 2,700 hours
Strasser, A., 395-6132

Housing Production and Mortage Credit
Application for Title I Contract of Insurance
FH-21
On occasion
Title I, lenders
7,000 responses; 1,400 hours
Strasser, A., 395-6132

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration
1978 Nilecj Planning Survey
Criminal justice research professionals
500 responses; 250 hours
Laverne V. Collins, 395-6132

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-1575 Filed 1-16-79; 8:45 am]

[3190-01-M]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Docket No. 301-13]

TANNER'S COUNCIL OF AMERICA SECTION 301 COMMITTEE

Hearing on Proposed Action

Pursuant to Section 301(e)(1) of the Trade Act of 1974, regulations of the Office of the Special Representative for Trade Negotiations (STR) (Title 15 CFR 2006.5), and Executive Order No. 11846, the Section 301 Committee is by this notice requesting the submission of views of interested persons on proposed action in the form of quotas and or increased duties against certain products from Japan (see Annex). The hearing will also cover views with respect to other actions affecting the exportation of raw hides to Japan which have been proposed by interested persons in the private sector. A public hearing will be held on February 27, 1979 and will continue on February 28 if necessary, at which time interested parties may submit oral or written views.

This proposed action is a result of the maintenance by the Government of Japan of quantitative restrictions and administrative obstacles which

have virtually precluded selling of U.S. leather in the Japanese market. These quantitative restrictions and administrative obstacles were imposted at a time when Japan was facing a serious balance of payments situation and apparently were justified as a way to help alleviate the balance of payment problem. Despite the resolution of the balance of payment situation, however, the Government of Japan has nevertheless retained its quantitative restrictions on leather and has exacerbated the restrictive effects of these quotas by administrative obstacles which make it almost impossible for U.S. leather producers to fill even the small quota they have reportedly been granted. The size of the quota has not been disclosed by the Government of Japan but the best information of the U.S. Government is that this quota is *de minimis.*

In August of 1977 the Tanner's Council of America filed a complaint pursuant to Section 301 charging that these Japanese quantitative restrictions, high tariffs and administrative obstacles are unjustifiable and unreasonable import restrictions within the meaning of Section 301 of the Trade Act (See FEDERAL REGISTER of August 23, 1977, 42 FR page 42413). A hearing on the Tanner's complaint was held on October 11, 1977 and the U.S. Government initiated discussions with the Government of Japan pursuant to the recommendations of the Section 301 Committee. After numerous meetings with the Government of Japan on this subject, there has been no successful resolution of this dispute and the Japanese restrictions continue. The United States has also filed a formal complaint with the General Agreement on Tariffs and Trade, requesting that international body to determine that these restrictions violate Japan's international obligations. A panel of experts has been formed to hear the U.S. complaint and to report its findings to the Contracting Parties to the GATT.

Under Section 301(a) of the Trade Act, the President shall take all the appropriate and feasible steps to obtain the elimination of unjustified restrictions against U.S. Commerce.

It is proposed that should the Japanese restrictions not be removed or significantly liberalized the U.S., pursuant to Section 301(a) of the Trade Act, impose import restrictions in the form of quotas, or increase duties on, imports from Japan of the products listed in the annex to this notice.

Since the filing of this complaint and the hearing on this issue, interested parties have also recommended that the U.S. take some type of action limiting or otherwise affecting the exportation of raw hides to Japan as a response to the actions by Japan in the leather sector.

Interested persons are invited to submit their written views or oral testimony on both the proposed action with respect to import restrictions and the recommendations made by interested persons in the private sector with respect to possible actions affecting exports to Japan.

HEARINGS

I. Hearings on the above mentioned matters will be held on Tuesday, February 27, 1979, and if necessary February 28, 1979. Hearings will be held at the Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C.—Room 730, beginning at 10:00 a.m.

II. Requests to present oral testimony and accompanying briefs must be received on or before February 20, 1979. Written briefs from those persons not wishing to present oral testimony should be received in the Office of the Special Representative for Trade Negotiations on or before the date of the hearing, February 27, 1979, in order to be considered by the Section 301 Committee.

Interested persons are advised to refer to the regulations promulgated by the Office of the Special Representative for Trade Negotiations covering procedures to be followed in all Section 301 proceedings (15 CFR Part 2006 as amended by FEDERAL REGISTER notice of Tuesday, October 18, 1977 page 55611). Please note that all communications to the Chairman of the Section 301 Committee should be addressed to the Office of Special Representative for Trade Negotiations—Room 715, 1800 G Street NW., Washington, D.C. 20506.

a. Submission of Briefs and Requests to Present Oral Testimony. Requests for oral testimony and submission of written briefs should conform to the procedures set forth in 15 CFR 2006.6 and 2006.7 (found in the FEDERAL REGISTER of August 28, 1975, page 39497).

b. Rebuttal Briefs. In order to assure parties an opportunity to contest information provided by other interested parties in written briefs and oral testimony, rebuttal briefs may be filed by any party within 15 days after the transcript of the hearing becomes available.

c. Attendance at Hearings. The hearing will be open to the public.

SHIRLEY A. COFFIELD,
Chairman 301 Committee, Office of the Special Representative for Trade Negotiations.

[3190-01-C]

TSUS item	Article
	[The bracketed language in this list has been included only to clarify the scope of the numbered items which are being considered, and such language is not itself intended to describe articles which are under consideration.]
	Leather in the rough, partly finished, or finished:
	Chamois:
121.10	Oil-tanned
121.15	Other
121.20	Patent
121.25	Upholstery leather
	Other:
	Calf and kip:
121.30	Upper
121.35	Lining
	Other:
121.40	Not fancy
121.45	Fancy
121.50	Pig and hog
	Other:
	Not fancy:
	Vegetable-tanned goat and sheep, in the rough:
121.52	Goat
121.54	Sheep
121.55	Buffalo
121.56	Reptilian
121.59	Other
	Fancy:
121.60	Goat and kid
121.65	Other
	Skins bearing wool or hair of a kind described in subpart C of part 1 of schedule 3, raw or not dressed, if suitable for use as furs without the removal of the wool or hair from the skins (except removal resulting in an unsought residue of wool or hair incidental to processing of the skins for use as furs) and imported to be so used:
	Whole skins of lamb and sheep:
	[Caracul, Shiraz, Krimmer, Broadtail, Monsul, Bessarabian, Astrakhan, S.W. African lamb, cross and half Persian, and other types of Persian lamb]
123.0050	Other
	Plywood, whether or not face finished:
	Not face finished, or face finished with a clear or transparent material which does not obscure the grain, texture, or markings of the face ply:
240.14	With a face ply of birch (Betula spp.)
	Yarns of man-made fibers:
	[Of glass]
	Other:
	Wholly of noncontinuous man-made fibers:
	Plied:
	[Textured yarns]
	Other:
310.5049	Of acrylic

TSUS item	Article
	Woven fabrics, of wool:
	[Fabrics, hand-woven, with a loom width of less than 30 inches]
	[Serges, weighing not over 6 ounces per square yard, and other fabrics weighing not over 4 ounces per square yard, all the foregoing (not including hand-woven fabrics with a loom width of less than 30 inches), of sheep's wool, valued over $4 per pound, in solid colors, imported to be used in the manufacture of apparel for members of religious orders]
	Other:
	[Weighing not over 4 ounces per square yard with warp wholly of vegetable fibers]
	Other:
336.60	Valued over $2 per pound
	Woven fabrics, of man-made fibers:
	Containing over 17 percent of wool by weight:
338.15	Valued over $2 per pound
	Other:
	[Of glass]
	Other:
	[Suitable for making typewriter and machine ribbon, containing yarns the average denier of which exceeds etc.]
	Other:
	Wholly of continuous man-made fibers:
	Not bleached and not colored:
338.3027	Of nylon
338.3028	Of polyester
	Other:
	[Yarn dyed, the thread count of which per inch (treating ply yarns as single threads) is over 175 but not over 360 in the warp and over 79 but not over 180 in the filling]
	Other:
338.3056	Of nylon
338.3057	Of polyester
	Other men's or boys' wearing apparel, not ornamented:
	Of man-made fibers:
380.81	Knit

TSUS item	Article
	Other women's, girls', or infants' wearing apparel, not ornamented:
	Of cotton:
	Knit:
	Shirts:
	[T-shirts]
	[Sweatshirts]
	Other:
382.0669	Women's
382.0671	Girls' and infants'
	Not knit:
	[Coats]
	[Dressing gowns, including bathrobes, and beach robes]
	[Pajamas]
	[Vests]
	Other:
	[Certified hand-loomed and folklore products]
	Other:
382.3333	Shorts
	Trousers and slacks:
	Corduroys:
382.3353	Women's
	Of wool:
	Not Knit:
	Valued over $4 per pound:
	[Certified hand-loomed and folklore products]
	Other:
	Coats:
	[3/4-length or longer]
382.6320	Other
382.6346	Trousers and slacks
	Of man-made fibers:
382.78	Knit
382.81	Not knit
	Articles chiefly used for preparing, serving, or storing food or beverages, or food or beverage ingredients:
	Of fine-grained earthenware, whether or not decorated, having a reddish-colored body and a lustrous glaze which, on teapots, may be any color, but which, on other articles, must be mottled, streaked, or solidly colored brown to black with metallic oxide or salt:
533.14	Valued not over $1.50 per dozen articles
533.16	Valued over $1.50 per dozen articles
	Of fine-grained earthenware (except articles provided for in items 533.14 and 533.16) or of fine-grained stoneware:
	Available in specified sets:
533.28 ¢/pt.	In any pattern for which the aggregate value of the articles listed in headnote 2(b) of schedule 5, subpart 2-C of the Tariff Schedules of the United States is over $38
	Not available in specified sets:
	[Steins, mugs, candy boxes, decanters, punch bowls, pretzel dishes, tidbit dishes, tiered servers, and bonbon dishes]
	Other articles:
533.38	Cups valued over $1.70 per dozen, saucers valued over $0.95 per dozen, plates not over 9 inches in maximum diameter and valued over $1.55 per dozen, plates over 9 but not over 11 inches in maximum diameter and valued over $2.65 per dozen, and other articles valued over $3.40 per dozen

TSUS item	Article
	Articles chiefly used for preparing serving, or storing food or beverages, or food or beverage ingredients (con):
	Of nonbone chinaware or of subporcelain:
533.51	Hotel or restaurant ware and other ware not household ware
	Household ware available in specified sets:
533.66	In any pattern for which the aggregate value of the articles listed in headnote 2(b) of schedule 5, subpart 2-C of the Tariff Schedules of the United States is over $24 but not over $56
533.68	In any pattern for which the aggregate value of the articles listed in headnote 2(b) of schedule 5, subpart 2-C of the Tariff Schedules of the United States is over $56
	Household ware not covered by item 533.63, 533.65, 533.66, 533.68, or 633.69:
533.71	Steins, mugs, candy boxes, decanters, punch bowls, pretzel dishes, tidbit dishes, tiered servers, and bonbon dishes
	Other articles:
533.77	Cups valued over $4 per dozen, saucers valued over $1.90 per dozen, plates not over 9 inches in maximum diameter and valued over $3.40 per dozen, plates over 9 but not over 11 inches in maximum diameter and valued over $6 per dozen, and other articles valued over $11.50 per dozen
	Ferroalloys:
	Ferromanganese:
607.36	Containing over 1 percent but not over 4 percent by weight of carbon
607.37	Containing over 4 percent by weight of carbon
	Angles, shapes, and sections, all the foregoing, of iron or steel, hot rolled, forged, extruded, or drawn, or cold formed or cold finished, whether or not drilled, punched, or otherwise advanced; sheet piling of iron or steel:
	Angles, shapes, and sections:
	Hot rolled; or, cold formed and weighing over 0.29 pound per linear foot:
	Drilled, punched, or otherwise advanced:
609.84	Other than alloy iron or steel
609.86	Alloy iron or steel

TSUS item	Article
	Wood screws (including lag screws or bolts) of base metal:
	Of iron or steel:
646.4920	Lag screws or bolts
	Pliers, nippers, and pincers, and hinged tools for holding and splicing wire; tin snips, bolt and chain clippers, and other metal cutting shears; pipe cutters and other pipe tools; spanners and wrenches; files (except nail files), and rasps; all the foregoing which are hand tools, and metal parts thereof:
	Pliers, nippers, and pincers, and hinged tools for holding and splicing wire, and parts of the foregoing:
648.81	Slip-joint pliers
648.97	Pipe tools (except cutters), wrenches, and spanners, and parts thereof
649.37	Vises and clamps (except parts of, or accessories for, machine tools)
	Scissors and shears (except machines and except shears provided for in any of the foregoing provisions), and blades therefor:
650.91	Valued over $1.75 per dozen
	Hangars and other buildings, bridges, bridge sections, lock-gates, towers, lattice masts, roofs, roofing frameworks, door and window frames, shutters, balustrades, columns, pillars, and posts, and other structures and parts of structures, all the foregoing of base metal:
	Of iron or steel:
	Columns, pillars, posts, beams, girders, and similar structural units:
	Not in part of alloy iron or steel:
	[Cast-iron (except malleable cast-iron) articles, rough or advanced]
652.94	Other
	In part of alloy iron or steel:
652.96	[In part of stainless steel]
652.98	Other
	Other

TSUS item	Article
	Air pumps, vacuum pumps and air or gas compressors (including free-piston compressors for gas turbines); fans and blowers; all the foregoing, whether operated by hand or by any kind of power unit, and parts thereof:
	Compressors, and parts thereof:
	Refrigeration and air-conditioning:
661.1205	1/4 HP and under
661.1208	Over 1/4 HP but not over 1 HP
661.1212	Over 1 HP but not over 3 HP
661.1214	Over 3 HP but not over 10 HP
661.1216	Over 10 HP
	Refrigerators and refrigerating equipment, whether or not electric, and parts thereof:
	Refrigerators and combination refrigerator-freezers:
	Compression type, having a refrigerated volume of:
661.3505	Under 6.5 cubic feet
	Parts of textile machinery:
	Needles for knitting machines:
670.58	Latch needles
	Sewing machines and parts thereof, including furniture specially designed for such machines:
	[Sewing machines specially designed to join footwear soles to uppers, and parts thereof (except needles)]
	Sewing machines other than those in item 672.05:
672.15	Valued over $10 each
	Typewriters not incorporating a calculating mechanism:
	Non-automatic with hand-operated keyboard:
	Portable:
676.0510	Electric
676.0530	Nonelectric
	Calculating machines accounting machines, cash registers, postage-franking machines, ticket-issuing machines, and similar machines, all the foregoing incorporating a calculating mechanism:
676.20	Calculating machines specially constructed for multiplying and dividing

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TSUS item	Article
	Office machines not specially provided for:
	Office copying machines:
676.3021	Photocopying machines
676.3025	Other
	Ball or roller bearings, including such bearings with integral shafts, and parts thereof:
	[Ball bearings with integral shafts]
680.35	Other
682.95	Primary cells and primary batteries, and parts thereof
	Electric instantaneous or storage water heaters and immersion heaters; electric soil heating apparatus, and electric space heating apparatus; electric hair dryers, hair curlers, and other electric hair dressing appliances; electric flatirons; electro-thermic kitchen and household appliances; electric heating resistors other than those of carbon; all the foregoing and parts thereof:
	[Flatirons]
	[Toasters, waffle irons, skillets, ovens, stoves, coffee makers and other portable electro-thermic kitchen and household appliances]
	Other:
	[Cooking stoves and ranges, and parts thereof]
	[Furnaces, heaters, and ovens, and parts thereof]
	Other:
	Hairdressing appliances:
684.5005	Dryers
684.5010	Curlers
	Electrical telegraph (including printing and typewriting) and telephone apparatus and instruments, and parts thereof:
	Telephonic apparatus and instruments and parts thereof:
684.6210	Telephone switching and switchboard equipment and parts and components thereof
684.6220	Telephone instruments
	Other:
684.6420	Teleprinting and teletypewriting machines, and parts

TSUS item	Article
	Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and television cameras; record players, phonographs, tape recorders, dictation recording and transcribing machines, record changers, and tone arms; all of the foregoing, and any combination thereof, whether or not incorporating clocks or other timing apparatus, and parts thereof:
	[Television cameras, and parts thereof]
	Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and parts thereof:
	[Television apparatus, and parts thereof]
	Other:
	Solid-state (tubeless) radio receivers:
685.21	Designed for motor-vehicle installation
	Footwear, of leather (except footwear with uppers of fibers):
700.05	Huaraches
700.10	McKay-sewed footwear
700.15	Moccasins
700.20	Turn or turned footwear
	Welt footwear:
700.25	Valued not over $2 per pair
700.26	Valued over $2 but not over $5 per pair
700.27	Valued over $5 but not over $6.80 per pair
	Valued over $6.80 per pair:
700.28	Ski boots
700.29	Other
700.30	Footwear with molded soles laced to uppers
700.32	Slippers
	Other:
700.35	For men, youths, and boys
	For other persons:
700.41	Sandals of buffalo leather, the uppers of which consist primarily of straps across the instep and big toe
	Other:
700.43	Valued not over $2.50 per pair
700.45	Valued over $2.50 per pair

TSUS item	Article
	Footwear (whether or not described elsewhere in this unit) which is over 50 percent by weight of rubber or plastics or over 50 percent by weight of fibers and rubber or plastics with at least 10 percent by weight being rubber or plastics:
	Hunting boots, galoshes, rainwear, and other footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease, or chemicals or cold or inclement weather, all the foregoing having soles and uppers of which over 90 percent of the exterior surface area is rubber or plastics (except footwear with uppers of nonmolded construction formed by sewing the parts thereof together and having exposed on the outer surface a substantial portion of functional stitching):
700.51	Having soles and uppers of which over 90 percent of the exterior surface area is polyvinyl chloride, whether or not supported or lined with polyvinyl chloride but not otherwise supported or lined
700.52	Footwear (except footwear provided for in item 700.51), the uppers of which do not extend above the ankle, designed for use without closures, whether or not supported or lined
700.53	Other
	Other footwear (except footwear having uppers of which over 50 percent of the exterior surface area is leather):
	Having uppers of which over 90 percent of the exterior surface area is rubber or plastics (except footwear having foxing or a foxinglike band applied or molded at the sole and overlapping the upper):
700.54	Zoris (thonged sandals)
700.58	Other
700.60	Other
	Footwear, with uppers of fibers:
	With soles of leather:
700.66	Valued not over $2.50 per pair
700.68	Valued over $2.50 per pair
	With soles of material other than leather:
700.70	With uppers of vegetable fibers
700.75	With soles and uppers of wool felt
700.80	Other
	Other footwear:
700.83	Of wood
700.85	Other

TSUS item	Article
705.30	Gloves and glove linings of fur on the skin
705.35	Gloves of horsehide or cowhide (except calfskin) leather
	Gloves of leather except gloves in item 705.35:
	Not seamed:
705.40	Valued not over $20 per dozen pairs
705.42	Valued over $20 per dozen pairs
	Seamed:
	Men's, not lined:
	Seamed wholly or in part by hand:
705.43	Valued not over $20 per dozen pairs
705.45	Valued over $20 but not over $24 per dozen pairs
705.46	Valued over $24 per dozen pairs
	Not seamed wholly or in part by hand:
705.48	Valued not over $20 per dozen pairs
705.50	Valued over $20 per dozen pairs
	Men's, lined:
	Seamed wholly or in part by hand:
705.51	Valued not over $20 per dozen pairs
705.53	Valued over $20 but not over $30 per dozen pairs
705.54	Valued over $30 per dozen pairs
	Not seamed wholly or in part by hand:
705.55	Valued not over $20 per dozen pairs
705.57	Valued over $20 but not over $26 per dozen pairs
705.58	Valued over $26 per dozen pairs
	Women's or children's, not lined:
	Seamed wholly or in part by hand:
705.60	Valued not over $20 per dozen pairs
	Valued over $20 per dozen pairs:
705.62	Not over 12 inches in length
705.64	Over 12 inches in length
	Not seamed wholly or in part by hand:
705.66	Valued not over $15 per dozen pairs
	Valued over $15 but not over $20 per dozen pairs:
705.67	Not over 12 inches in length
	Over 12 inches in length:
705.68	Valued not over $17.14 per dozen pairs
705.69	Valued over $17.14 per dozen pairs
	Valued over $20 per dozen pairs:
705.70	Not over 12 inches in length
705.71	Over 12 inches in length
	Women's or children's, lined:
	Seamed wholly or in part by hand:
705.72	Valued not over $32 per dozen pairs
705.73	Valued over $32 but not over $36 per dozen pairs
705.74	Valued over $36 per dozen pairs
	Not seamed wholly or in part by hand:
705.76	Valued not over $32 per dozen pairs
705.78	Valued over $32 per dozen pairs

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TSUS item	Article
	Gloves of rubber or plastics:
	Seamless:
705.82	Surgical and medical
705.83	Other
705.85	With textile fabric fourchettes or sidewalls; or with the outer surface thereof (except as to applied cuffs, if any) wholly of plastics, and the seams of which are heat sealed and not sewn or stitched
705.86	Other
705.90	Other gloves and glove linings
	Luggage and handbags, whether or not fitted with bottle, dining, drinking, manicure, sewing, traveling, or similar sets; and flat goods:
	Of leather:
	Flat goods:
706.04	Of reptile leather
706.05	Other
	Luggage and handbags:
706.06	Of reptile leather
706.08	Other
	Of unspun fibrous vegetable materials:
706.10	Of bamboo
706.11	Of willow
706.12	Of rattan or of palm leaf
706.14	Other
	Of textile materials (except yarns, of paper), whether or not ornamented:
706.20	Wholly or in part of braid
	Other:
	Of vegetable fibers and not of pile or tufted construction:
706.22	Of cotton
706.23	Other
706.24	Other
706.30	Of reinforced or laminated plastics
	Of other materials:
	Handbags:
706.40	Of beads, of bugles, of spangles, of imitation gemstones, or of any combination thereof
706.45	Of metal
706.47	Of paper yarns
	Flat goods, of metal:
706.50	Valued not over $5 per dozen
706.55	Valued over $5 per dozen
706.60	Other
725.01	Stringed musical instruments:
	Pianos (including player pianos, whether or not with keyboards); harpsichords, clavichords, and other keyboard stringed instruments:
725.01	Pianos (including player pianos, whether or not with keyboards), except grand pianos
725.03	Other
	[Violins, violas, violoncellos, and double basses]
	Other stringed instruments:
725.0510	Guitars
	Wind musical instruments:
	Brass wind instruments:
725.22	Valued over $10 each

TSUS item	Article
	Fishing reels and parts thereof:
	Reels:
731.20	Valued not over $2.70 each
731.22	Valued over $2.70 but not over $8.45 each
731.24	Valued over $8.45 each
	Bicycles:
	Having both wheels over 25 inches in diameter:
	If weighing less than 36 pounds complete without accessories and not designed for use with tires having a cross-sectional diameter exceeding 1.625 inches:
732.18	Valued over $16.66-2/3 each
	Parts of bicycles:
	[Frames]
732.35	Coaster brakes designed for single-speed bicycles
	Other parts of bicycles:
	[Hubs]
	[Saddles]
	[Pedals]
	Other:
732.3765	Derailleurs (complete sets)
732.3775	Caliper brakes
732.3780	Multiple freewheel sprockets
732.3790	Other
	Skis and ski equipment, snowshoes, sleds, and toboggans, all the foregoing and parts thereof:
734.96	Skis and snowshoes
735.20	Puzzles; game, sport, gymnastic, athletic, or playground equipment; all the foregoing, and parts thereof, not specially provided for
	Dolls, and parts of dolls including doll clothing:
	[Doll clothing imported separately]
	Other:
	Dolls (with or without clothing):
	[Stuffed]
	Other:
737.2215	Over 13 inches in height
737.2225	13 inches and under in height
	Slide fasteners, and parts thereof including tapes in continuous lengths but not including tapes wholly of textile fibers:
	[Fasteners]
745.74	Parts
	[Brooms and brushes consisting of vegetable materials bound together but not mounted or set in a block or head, with or without handles]
	[Feather dusters]
	Other brooms and brushes:
	[Tooth brushes; toilet brushes, except tooth brushes; paint brushes, except artists' brushes]
	Artists' brushes and hair pencils:
750.50	Valued not over 5 cents each
750.55	Valued over 5 cents but not over 10 cents each
750.60	Valued over 10 cents each
750.70	Other

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TSUS item	Article
	Wearing apparel not specially provided for, of fur on the skin:
791.05	Of silver, black, or platinum fox
791.10	Of dog, goat, or kid
791.15	Other
	Articles not specially provided for, of fur on the skin:
791.17	Of silver, black, or platinum fox
791.19	Other
	Leather cut or wholly or partly manufactured into forms or shapes suitable for conversion into footwear:
791.20	Patent leather
791.25	Other
791.30	Belting leather cut or wholly or partly manufactured into forms or shapes suitable for conversion into belting
791.35	Leather welting
791.45	Book bindings, wholly or in part of leather
791.48	Book covers, wholly or in part of leather
791.50	Leather shoelaces
791.54	Leather straps and strops
791.57	Leatherboard comprised primarily of leather fibers bonded together with rubber or plastics materials
791.60	Leather apparel belts, with or without buckles (except buckles classifiable in part 6A of this schedule)
791.65	Bags, baskets, boxes, and cases, all the foregoing, not specially provided for, of leather
	Wearing apparel not specially provided for, of leather:
791.70	Of reptile leather
	Other:
791.74	Containing 50% or more by weight of cotton, wool, or man-made fibers, or any combination thereof, or containing 50% or more by weight of textile materials with wool comprising 17% or more by weight of the article
791.76	Other
	Articles not specially provided for, of leather:
791.80	Of reptile leather
791.90	Other

[FR Doc. 79-1654 Filed 1-16-79; 8:45 am]

[7715-01-M]

POSTAL RATE COMMISSION

[Docket No. MC79-2; Order No. 232]

EXPRESS MAIL METRO SERVICE, 1978

Order Granting Petitions for Intervention, Allowing Participation, Designating Presiding Officer and Officer of the Commission, Fixing Date for a Prehearing Conference, and Establishing Procedures

JANUARY 10, 1979.

The United States Postal Service filed with the Postal Rate Commission, on December 7, 1978, a request for a recommended decision on establishing an express mail metro service. The Commission issued a notice to that effect on December 12, 1978. The notice was published in the FEDERAL REGISTER on December 15, 1978 (43 FR 58664). The notice announced the docketing of the Postal Service's request as MC79-2 and directed persons who wished to participate in Docket No. MC79-2 to file, on or before December 29, 1978, petitions for leave to intervene or requests for leave to be heard as a limited participator. The notice also invited persons who wished to express their views, but did not wish to become a party or limited participator, to file comments (39 CFR §§ 3001.19-.20).

I. INTERVENTION

Seventeen persons have petitioned to intervene in Docket No. MC79-2 and five persons have requested to be heard as limited participators. These persons are listed in Attachment A.

The persons listed in Attachment A either are users of the mails or have otherwise demonstrated an interest in Docket MC79-2. Accordingly, the requests for participation will be granted. The Service's opposition as to the intervention of the Office of Advocacy, U.S. Small Business Administration, will be denied and the petition granted. The Commission has concluded that the U.S. Small Business Administration's general statutorily derived duty to represent the interests of small businesses before Federal agencies gives it standing to intervene in Docket MC79-2.[1] We distinguish the derivative interests of a Federal agency from the interests of a private firm which we discussed in Order No. 226 (December 15, 1978), cited by the Postal Service in its pleading.

Pursuant to § 65 of the rules of practice (39 CFR § 3001.65) the Service will be required to serve copies of its Request and its prepared direct evidence upon the persons identified in Attachment A and upon the Officer of the Commission. Where service upon more than one representative has been requested in the petition to intervene or request to be heard as a limited participator, the Service will be required to serve only the first two named representatives in the petition. *See* §§ 12(c) and (d) of the rules of practice [39 CFR §§ 3001.12(c)-(d)].

II. APPOINTMENT OF PRESIDING OFFICER AND DATE OF INITIAL PREHEARING CONFERENCE

In furtherance of the Commission's desire for expeditious consideration and pursuant to § 30(b) of the Commission's rules of practice [39 CFR § 3001.30(b)], the Commission will conduct all prehearing conferences and hearings en banc. Clyde S. DuPont, Chairman, will be the presiding officer in such proceedings [39 CFR §§ 3001.5(e), 3001.23]. An initial prehearing conference will be held on January 31, 1979 at 9:30 a.m. and, thereafter, on such further dates as may be designated by the presiding officer. Subsequent conferences and hearings will commence each day at 9:30 a.m. at the Postal Rate Commission's hearing room, suite 500, 2000 L Street, N.W., Washington, D.C. 20268, and shall be on the record and a transcript made except where the presiding officer determines otherwise.

III. APPOINTMENT OF THE OFFICER OF THE COMMISSION

The Officer of the Commission (OOC) designated to represent the general public [*see* 39 U.S.C. § 3624(a)] in this proceeding will be Stephen L. Sharfman[2] as was noted in the FEDERAL REGISTER on December 15, 1978 (43 FR 58664). During this proceeding, the OOC will direct the activities of Commission personnel assigned to assist him, and neither he nor any such personnel will participate in nor advise as to any Commission decision in the case. *See* 39 CFR § 3001.8. The OOC will supply for the record, at the appropriate time, the names of all Commission personnel assigned to assist him in this case. In this proceeding the OOC shall be separately served three copies of all findings in addition to and simultaneously with, service on the Commission of the 25 copies required by § 10(c) of the rules of practice [39 CFR § 3001. 10(c)].

IV. PROCEDURES FOR EXPEDITION

To the degree consistency with procedural fairness permits, it is our intention to expedite the proceedings in this docket.[3] Accordingly, we are issuing a proposed schedule of procedural stages (including dates for the first three stages) which all participants should review and be prepared to comment upon at the initial prehearing conference. *See* Attachment B. We also alert the parties that our intention to expedite this proceeding applies with equal force to the briefing stage following the close of the record. Parties should therefore be prepared to adhere to a briefing schedule consonant with this policy.

V. PREHEARING CONFERENCE STATEMENTS

In preparation for the initial prehearing conference, each participant should serve a document captioned "Prehearing Conference Statement" on or before January 24, 1979, containing the following:

1. A suggested list which states with particularity the issues the party believes should be addressed in this case. (Asterisks, denoting those issues on which the party intends to present evidence, should precede the stated issue.)

2. A statement of the participant's tentative position on each of the proposed issues.

3. A brief statement describing for each issue the evidence, if any, the participant proposes to introduce.

4. A legal memorandum, where appropriate, in support of the issues proposed, the positions taken, the evidence to be presented and other legal matters which should be considered.

5. Any other matter the participant believes should be pursued at the prehearing conference.

Prior to the initial prehearing conference, all participants are encouraged formally and promptly to inform the Postal Service of desired preliminary clarification in the Service's presentation which each participant believes necessary in order to expedite this proceeding.

The Commission orders: (A) Each of the petitioners identified in Attach-

[1] *Cf.* Public Service Commission of the State of New York v. Federal Power Commission, 295 F.2d 140 (D.C. Cir. 1961), and In the Matter of National Association of Securities Dealers, Inc., 15 SEC 577 (1944), (holding that intervention of Federal agencies in administrative proceedings upon filing of notice to intervene pursuant to rules of practice is sufficient to establish standing).

[2] Mr. Sharfman is the Commission's Acting Assistant General Counsel (Litigation).

[3] The Postal Reorganization Act requires us to consider requests for changes in the classification schedule "promptly" and to conduct proceedings "with utmost expedition consistent with procedural fairness" [29 U.S.C. § 3624]. While the statute does not specify a particular time frame for classification cases, we are inclined to adopt the 10-Month schedule to which we must adhere in rate cases [*see* 39 U.S.C. § 3624(c)] as a general guideline. Of course, some cases can, and will, be completed in considerably less time, and we recognize that others which involve particularly complex or novel issues may require somewhat lengthier proceedings.

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ment A to this Order is hereby permitted to intervene or to become a limited participator in this proceeding, subject to the provisions of paragraph (C), below.

(B) The Postal Service's motion opposing the intervention of the Office of Advocacy, U.S. Small Business Administration is denied.

(C) The participation of the intervenors and limited participators permitted by paragraph (A), above, is subject to the rules and regulations of the Commission: *Provided, however,* that their participation shall be limited to matters affecting rights and interests specifically set forth in their respective petitions to intervene and requests to become limited participators, and *Provided, further* that the admission of such intervenors and limited participators shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(D) The Postal Service shall serve copies of its Request and its prepared direct evidence upon representatives of petitioners permitted to intervene and the representatives of the limited participators. For purposes of such service, where service upon more than one representative has been requested in the petition to intervene or in a request for leave to be heard as a limited participator, including those petitions and requests filed jointly and severally by two or more persons, only the first two named representatives in the petition need be served.

(E) The Commission will sit en banc, with Clyde S. DuPont, Chairman, as presiding officer, in the above-captioned proceeding.

(F) A prehearing conference in this proceeding will be held on January 31, 1979, commencing at 9:30 a.m. in the Postal Rate Commission hearing room, suite 500, 2000 L Street NW., Washington, D.C. 20268. The conference will be held for the purposes specified in § 24 of the Commission's rules of practice (39 CFR § 3001.24) and in this Order, and to afford all participants in the proceeding an opportunity to be heard with respect to the procedures to be followed in expeditiously determining the issues to be resolved in Docket No. MC79-2. The conference proceedings shall be recorded by an official reporter except where otherwise directed by the presiding officer.

(G) Stephen L. Sharfman, Acting Assistant General Counsel (Litigation), has been designated as the Officer of the Commission to represent the general public in this proceeding. Service of documents on the Commission shall not constitute service on the OOC, who shall separately be served three copies of all documents.

By the Commission.

DAVID F. HARRIS,
Secretary.

ATTACHMENT A

PERSONS FILING PETITIONS TO INTERVENE

Air Courier Conference of America
American Package Express Carriers Association
Association of Messenger Services, Inc.
Association of Milwaukee Messenger Services
Avon Products, Inc.
Central Carrier Corporation
Columbus Parcel Service, Inc.
The Council of Public Utility Mailers
Doyle Mail/Courier Service, inc.[1]
Geico Courier Services, Inc.
J.C. Penney Company, Inc.
Jamour, Inc., d/b/a Quick Metropolitan Messenger Services[1]
Messenger Service Association of Illinois
Metro Couriers Committee
Metropolitan Messenger and Delivery Service Corp.
Purolator Services, Inc.
U.S. Small Business Administration, Office of Advocacy

PERSONS FILING REQUESTS TO BECOME LIMITED PARTICIPATORS

Associated Third Class Mail Users
Dow Jones & Company, Inc.
National Association of Greeting Card Publishers
U.S. Department of Justice, Antitrust Division
United Parcel Service

TENTATIVE HEARING SCHEDULE FOR PROCEEDINGS—DOCKET MC79-2

Month/Date/Year

1-31-79

Prehearing Conference.

4-10-79

Completion of all discovery directed to the Postal Service.

5-04-79

Filing of the case-in-chief of each participant (including that of OOC).

Beginning of hearings, *i.e.*, cross-examination of the Postal Service's case-in-chief.

Completion of evidentiary hearings as to the Service's case-in-chief.

Completion of all discovery directed to the intervenors.

Beginning of evidentiary hearings as to the case-in-chief of each participant.

Completion of the evidentiary hearings as to the case-in-chief of each participant.

Rebuttal evidence of the Postal Service and each participant. (No discovery to be permitted on this rebuttal evidence; only oral cross-examination.)

Beginning of evidentiary hearings on rebuttal evidence.

Close of evidentiary record.

Initial briefs filed.

Reply briefs filed.

Oral argument (if scheduled).

[FR Doc. 79-1609 Filed 1-16-79; 8:45 am]

[1] Petitions withdrawn on January 8 and 5, 1979, respectively.

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

ADVISORY COMMITTEE ON OIL AND GAS ACCOUNTING

ACTION: Notice of Meeting of the Securities and Exchange Commission Advisory Committee on Oil and Gas Accounting.

SUMMARY: The initial meeting of the Securities and Exchange Commission Advisory Committee on Oil and Gas Accounting will be held on Tuesday, January 30, 1979, at the Commission's headquarters in Washington, D.C. beginning at 9:30 a.m. The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT:

James L. Russell, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-755-0222).

SUPPLEMENTARY INFORMATION: The Commission has established an Advisory Committee on Oil and Gas Accounting to advise the Chief Accountant of the Commission on various matters relating to the development of reserve recognition accounting for oil and gas producers. Formation of the Advisory Committee was announced on January 4, 1979 (Securities Act Release No. 6011, 44 FR 3112).

The Commission expects to announce the names of the members of the Advisory Committee within the next few days. An open meeting of the committee will be held in Room 776 of the Commission's headquarters office at 500 North Capitol Street, Washington, D.C. 20549, on Tuesday, January 30, 1979, beginning at 9:30 A.M. The summarized agenda for the meeting is as follows:

1. Discussion of issues relating to disclosure of reserve information in 10-K filings for 1978.
2. Discussion of the proposed supplemental earnings summary for oil and gas producing activities.
3. Consideration of cost-effective standards for reserve valuations.

Although unanticipated delays in the formation of the Committee have prevented prior public notice of this meeting, it has been determined that it is necessary for the Advisory Committee to hold its initial meeting January 30 to insure that matters relating to reserve recognition accounting can be addressed in a timely manner, particularly with regard to possible additional guidance on disclosure of reserve information for 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 15, 1979.

[FR Doc. 79-1812 Filed 1-16-79; 8:45 am]

[8010-01-M]

[Administrative Proceeding File No. 3-5617; File No. 81-446]

BASIC FOOD INDUSTRIES, INC.

Application and Opportunity for Hearing

JANUARY 4, 1979.

Notice is hereby given that Basic Food Industries, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order granting Applicant an exemption from the provisions of Sections 13 and 15(d) of the 1934 Act.

The Applicant states in part:

1. On November 1, 1978, Applicant merged with and became a wholly-owned subsidiary of Eastern Shores Food Corporation of Delaware, Inc. As a result of this merger, Applicant no longer has any publicly owned common stock.

2. No eligible shareholders remain dissenting from the merger.

3. The merger transaction was reported in detail in the Applicant's merger proxy statement dated September 22, 1978.

Applicant argues that the granting of the exemption would not be inconsistant with the public interest or the protection of investors.

For a more detailed statement of the information presented, interested persons are referred to said application which is on file in the office of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that not later than January 29, 1979, any interested person may submit to the Commission in writing his views on any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-1555 Filed 1-16-79; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5286]

EQUICO CAPITAL CORP.

Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Equico Capital Corporation (Equico), 1270 Avenue of the Americas, New York New York 10020, a Federal licensee under Section 301(d) of the Small Business Investment Act of 1958, as amended (Act), has filed an application pursuant to 13 CFR 107.1004 (1979) for approval of a conflict of interest transaction.

It is proposed that Equico invest $500,000 in Prepac Inc., a company owned by Mr. Howard H. Mackey, III, 5900 Arlington Avenue, Apartment 12-F, Riverdale, New York 10471 as follows:

(1) $200,000 in 10 percent ten year subordinated debentures. These debentures will also carry warrants enabling Equico to purchase 3,324 shares (8 percent) of the corporation's common stock.

(2) Purchase of $300,000 of the company's 8 percent preferred stock.

Mr. Howard H. Mackey III is the former President of Equico who resigned August 25, 1978 and, therefore, pursuant to § 107.3(a) of the regulations, he is considered to be an associate of the licensee at this time.

Accordingly, the transaction falls within the purview of 13 CFR 107.1004 (1979) requiring prior written approval of the Small Business Administration (SBA).

Notice is further given that any person may, not later than February 1, 1979, submit to SBA, in writing, relevant comments on the proposed transaction. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Detroit, Michigan.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: January 10, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-1633 Filed 1-16-79; 8:45 am]

[8025-01-M]

[License No. 05/05-0112]

INTERCAPCO, INC.

Filing of an Application for Approval of a Conflict of Interest Transaction

Notice is hereby given that the Small Business Administration is considering what actions it may appropriately take with respect to a transaction consummated in violation of § 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004 (1978)). Matters involved in SBA's consideration of the request include the substantive or non- substantive nature of the violation.

Intercapco, Inc. (Intercapco), One Erieview Plaza, Cleveland, Ohio 44114, is a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act).

On February 15, 1978, Intercapco invested $298,800 in the Cleveland Magazine Company (CMC). At the time of the Licensee's financing, Mr. Glen Golenberg, Chairman of the Board, Treasurer and Director of the Licensee, was a director of CMC. Mr. Golenberg is an associate of the Licensee as defined in § 107.3(a) of the regulations. CMC is an associate of the Licensee as defined in § 107.3(f) of the regulations. As a result, the Licensee's financing of CMC fell within the purview of § 107.1004(b)(1) of the regulations which provides that, except where a written exemption may be granted in special circumstances in furtherance of the purposes of the Act, a licensee shall not provide financing to any of its associates. The Licensee did not request nor was a written exemption granted prior to the consummation of the financing.

Notice is hereby given that any person may, no later than February 16, 1979, submit to the Small Business Administration, in writing, relevant comments on this transaction. Any such communications should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Cleveland, Ohio.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

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Dated: January 10, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-1638 Filed 1-16-79; 8:45 am]

[8025-01-M]

MAXIMUM INTEREST RATES

Notice is given that the Small Business Administration ("SBA") has established the maximum rates of interest that lending institutions participating with SBA may charge on loans approved by SBA on and after January 8, 1979, under Section 7 of the Small Business Act, as amended, and Section 502 of the Small Business Investment Act, as amended.

Effectively January 8, 1979, the maximum rate of interest acceptable to SBA on a guaranteed loan or a guaranteed revolving line of credit shall be twelve percent (12%) per year, and the maximum rate on an immediate participation loan shall be eleven percent (11%) per year. These maximum interest rates are three-fourths percent higher than the rates published in the FEDERAL REGISTER on October 12, 1979, and shall remain in effect until notification of a change is issued by SBA.

In recognition of the substantially different characteristics of the economy of Alaska, including a substantially higher level of loan interest rates as compared with the "lower 49 states", an interest rate differential of three fourths percent (¾%) above the maximum allowable interest rate otherwise applicable for SBA loans remains in effect for SBA loans made to borrowers in Alaska by lenders located in Alaska. This action is taken in light of the relatively limited availability of loan funds and the higher costs experienced by lenders in Alaska. The action is consistent with the fact that SBA has published a size standard differential for Alaskan small businesses and has recognized differentials to wage scales and cost of living allowances as applicable to Alaska.

This Notice is issued under 13 CFR 120.3(b)(2)(iv). Catalog of Federal Domestic Assistance Programs:

No. 59.002 Economic Injury Disaster Loans (E,F)
No. 59.012 Small Business Loans (E,F)
No. 59.013 State and Local Development Company Loans (E,F)
No. 59.014 Coal Mine Health and Safety Loans (E,F)
No. 59.017 Meat and Poultry Inspection Loans (E,F)
No. 59.018 Occupational Safety Health Loans (E,F)
No. 59.001 Displaced Business Loans (E,F)
No. 59.003 Economic Opportunity Loans for Small Businesses (E,F)
No. 59.010 Product Disaster Loans (E)
No. 59.020 Based Closing Economic Injury Loans (E,F)
No. 59.021 Handicapped Assistance Loans (E,F)
No. 59.022 Emergency Energy Shortage Economic Injury Loans (E,F)
No. 59.023 Strategic Arms Economic Injury Loans (E,F)
No. 59.024 Water Pollution Control Loans (E,F)
No. 59.025 Air Pollution Control Loans (E,F)

Dated: January 5, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-1637 Filed 1-16-79; 8:45 am]

[8025-01-M]

[License No. 04/04-0145]

MOUNTAIN VENTURES, INC.

On November 14, 1978, a Notice was published in the FEDERAL REGISTER (43 F.R. 52796) stating that an application had been filed by Mountain Ventures, Inc., 911 North Main Street, London, Kentucky 40741, with the Small Business Administration, pursuant to Section 107.102 of the regulations governing small business investment companies (SBIC).

Interested parties were given until the close of business November 29, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, the SBA issued License No. 04/04-0145 to Mountain Ventures, Inc., to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 10, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-1705 Filed 1-16-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1557]

OHIO

Declaration of Disaster Loan Area

Clermont and Hamilton Counties and adjacent counties within the State of Ohio constitute a disaster area as a result of damage caused by heavy rains and flooding which occurred from December 8-13, 1978. Applications will be processed under the provisions of Public Law 94-305. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on March 12, 1979 and for economic injury until the close of business on October 12, 1979, at:

Small Business Administration, Branch Office, Federal Building—Room 5028, 550 Main Street, Cincinnati, Ohio 45202

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Date: January 10, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-1636 Filed 1-16-79; 8:45 am]

[8025-01-M]

[Application No. 04/04-5158]

SAFECO CAPITAL, INC.

Notice of Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et. seq.*) has been filed by Safeco Capital, Inc. (applicant) with the Small Business Administration pursuant to 13 C.F.R. 107.102 (1978).

The officers and directors are as follows:

Rene J. Leonard, President & Director, 309 N.W. 27th Avenue, Miami, Florida 33125.
Martha P. Leonard, Secretary/Treasurer, 309 N.W. 27th Avenue, Miami, Florida 33125.
Manual P. Ramos, Vice President & Director, 4810 S.W. 87th Avenue, Miami, Florida 33165.

The applicant will maintain its principal place of business at 309 N.W. 27th Avenue, Miami, Florida 33125. It will begin operations with $500,000 of private capital derived from the sale of 1,000 shares to Rene J. Leonard.

The applicant will conduct its operations in Dade, Broward, Monroe and Palm Beach Counties of Florida, which are going through great stress.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than February 1, 1979, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Miami, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: January 11, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-1704 Filed 1-16-79; 8:45 am]

[8025-01-M]

[License No. 01/01-0031]

SCI-TRONICS FUND, INC.

Surrender of License

Notice is hereby given that Sci-Tronics Fund, Inc. (STF) 110 Concord Street, Nashua, New Hampshire 03060, a New Hampshire Corporation, has surrendered its License No. 01/01-0031, issued by the Small Business Administration on October 13, 1961.

STF has complied with all conditions prescribed by SBA for the surrender of its License. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the Regulations adopted thereunder, the surrender of the License of STF is hereby accepted effective as of January 5, 1979, and it is no longer Licensed to operate as a Small Business Investment Company.

(Catalogue of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: January 10, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-1634 Filed 1-16-79; 8:45 am]

[8025-01-M]

[License No. 03/03-0138]

TDH CAPITAL CORP.

Issuance of License

On October 24, 1978, a Notice was published in the FEDERAL REGISTER (43 FR 49599) stating that an application had been filed by TDH Capital Corporation, 2 Radnor Center, Radnor, Pennsylvania 19087, with the Small Business Administration, pursuant to § 107.102 of the regulations governing small business investment companies (SBIC).

Interested parties were given until the close of business November 8, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, the SBA issued License No. 03/03-0138 to TDH Capital Corporation, to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 10, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-1635 Filed 1-16-79; 8:45 am]

[1505-01-M]

[Declaration of Disaster Loan Area No. 1515]

WASHINGTON

Declaration of Disaster Loan Area

Correction

For FR Doc. 78-34848, appearing on page 58692 in the issue of Friday, December 15, 1978, the headings should read as set forth above.

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

LEATHER WEARING APPAREL FROM ARGENTINA

Final Countervailing Duty Determination

AGENCY: Customs Service, Treasury.

ACTION: Final countervailing duty determination

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a final determination that the Government of Argentina has not given benefits which are considered to be bounties or grants on the manufacture or exportation of leather wearing apparel.

EFFECTIVE DATE: January 17, 1979.

FOR FURTHER INFORMATION CONTACT:

James Lyons, Office of Tariff Affairs, U.S. Treasury Department, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20220 (202-566-8256).

SUPPLEMENTARY INFORMATION: On July 27, 1977, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (42 FR 38251). The notice stated that it preliminarily had been determined that benefits had been received by the Argentine manufacturer/exporters of leather wearing apparel which might constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act"). The benefits preliminarily determined to be bounties or grants were:

1. Income tax exemptions on certain export related income;
2. Preferential financing for exports;
3. Export rebates or reembolsos;
4. Certain economic development incentives;
5. Drawback of duty on industrial equipment; and
6. Export risk insurance at low rates.

The non-excessive rebate of value added taxes upon the export of goods and the rebate of import duties paid on raw materials used in the production of leather wearing apparel for export were determined not to constitute bounties or grants within the meaning of the Act.

Programs found not to have been utilized by the leather wearing apparel industry included the use of multiple exchange rates favoring exporters and the issuance of tax rebate certificates.

The notice stated further that before a final determination would be made in the proceeding, consideration would be given to any relevant data, views or arguments.

It has now been determined that several of the programs preliminarily determined to be bounties or grants have not been utilized by the leather wearing apparel manufacturer/exporters. These include the economic development incentives, the drawback of duty on industrial equipment, and export risk insurance at low rates. It has also been determined that leather wearing apparel manufacturers and exporters have not utilitzed benefits given to firms located within certain free ports and zones.

Further investigation has disclosed that other practices which were con-

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sidered to be bounties in the preliminary determination, in fact, are not. The preferential financing which previously had been available to manufacturer/exporters was discontinued on January 1, 1978. The current interest rates reflect those prevalent commercially. Moreover, a survey, conducted by the Government of Argentina, (which examined the cost structure of a preponderance of the leather apparel manufacturers who export) indicates that indirect taxes assessed on the exported product or physically incorporated components which could be, but which have not been previously, rebated offset the 20 percent reembolso paid to exporters of leather apparel. The amount eligible for rebate did not include offsets based on certain labor related taxes, calculated as a percentage of wages, and other taxes on real estate, credit to industrial corporations, and bank credits, since none of them are physically incorporated in the export and therefore are not directly related to either the manufacture or export of the products concerned. The total incidence of direct taxes eligible for rebate thus calculated, is 21.12 percent of the value of the exported product, more than sufficient to offset the entire reembolso (calculated to provide a 20 percent benefit). Consequently, the grant of the reembolso on leather apparel exports has been determined not to constitute a bounty or a grant within the meaning of the countervailing duty law.

The benefit derived from the income tax exemption on export-related income has been calculated at 1.32 percent of f.o.b. value. However, the indirect tax offset, available after full allowance for the reembolso, is 1.12 percent. Thus, when all benefits received and offsets available are considered, a net benefit of only 0.2 percent remains. This total benefit is considered to be *de minimis*.

On the basis of all information received, it is hereby determined that benefits have been paid or bestowed by the Government of Argentina on the manufacture/exportation of leather wearing apparel in the form of the income tax exemption on export-related income. It has further been determined that these benefits involve an amount which is *de minimis* in size, and that therefore no bounty or grant is being paid or bestowed, directly or indirectly, within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), upon the manufacture, production or exportation of leather wearing apparel from Argentina.

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Order 190 (Revision 15) March 16, 1978, the provisions of Treasury Department Order 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

DECEMBER 21, 1978.

[FR Doc. 79-1624 Filed 1-16-79; 8:45 am]

[4810-22-M]

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM COLOMBIA

Amendment of Final Countervailing Duty Determination and Modification of Estimated Duty

AGENCY: Customs Service, Treasury.

ACTION: Amendment of final countervailing duty determination and modification of estimated duty.

SUMMARY: This notice is to inform the public that based upon certain revisions in the policies of the Treasury Department as set out in a notice published contemporaneously with this one, a review has been conducted of the "Final Countervailing Duty Determination" issued with respect to certain textiles and textile products from Colombia. No change has been determined necessary with respect to those products which were found not to have benefitted from the payment of bounties or grants.

In the case of certain leather wearing apparel from Columbia, in which bounties or grants were found to exist, changes have been made in the size of the estimated duty to reflect the revision in Treasury policy:

FOR FURTHER INFORMATION CONTACT:

Donald W. Eiss, Office of Tariff Affairs, Department of the Treasury, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220 (202-566-8256).

SUPPLEMENTARY INFORMATION: On November 16, 1978, a "Final Countervailing Duty Determination" was published in the FEDERAL REGISTER with respect to Certain Textiles and Textile Products from Colombia (43 FR 53525-53527). In that determination, certain offsets were granted in calculating the size of the net "bounty or grant" consistent with the position established by the Treasury Department in its determination published in the FEDERAL REGISTER of June 15, 1978 (43 FR 25812-25814) with respect to countervailing duties being imposed on unwrought zinc, bottled green olives and nonrubber footwear from Spain. It was also noted that on August 29, 1978 the Treasury Department published in the FEDERAL REGISTER (43 FR 38658) its intention to review the bases upon which the countervailing duties in the Spanish cases were revised, and that if any changes in the policies established on June 15, 1978 were made, the determination being issued with respect to Colombian textiles would also be reviewed.

In a notice published contemporaneous with this action, the Treasury Department has modified the position announced on June 15 and determined that:

> "the net amount of the bounty or grant shall be determined by subtracting from the aggregate amounts of the rebates paid to exporters of a particular product, only those amounts which the government providing such rebates has, to the satisfaction of the Secretary, estimates are paid by the producers of those products, or any prior stage producers, in indirect taxes on any components physically incorporated in the exported product or its packing (making normal allowances for waste). The rebate or export of taxes paid at prior stages of the production process which are not physically incorporated in the exported product shall be considered bounties or grants, as was the case prior to the June decision."

In the case of Colombia, the offset in question involved the non-rebate of the National Sales Tax assessed on machinery used in export production and was found to equal 0.219 percent with respect to those products on which a 5 percent negotiable tax certificate (CAT) is paid, 0.264 percent with respect to those products on which a 9 percent CAT is paid, and 0.228 percent with respect to those products on which a 12 percent CAT is paid.

In the Final Determination, no bounties or grants were found to exist with respect to the products under investigation with the exception of certain leather wearing apparel receiving 12 percent CAT's. With respect to those products receiving a 5 percent CAT, the negative determination was based on the fact that the allowable offsets exceeded the CAT rebate. Despite the change in allowable offsets, offsets still exceed the CAT rebate and therefore no adjustment to our negative Final Determination is necessary.

With respect to products receiving 9 and 12 percent CAT's (except leather apparel), a negative determination was issued upon receipt of certification by Colombian manufacturers of those products that they would voluntarily renounce CAT certificates valued in the amounts found to be "net" bounties or grants. The Colombian manufacturers of products (except leather apparel) receiving 9 and 12 percent CAT's have now agreed to renounce the addition to the "net" bounty stemming from Treasury's revised policy, and therefore there is still no "net" bounty or grant and a negative determination is appropriate.

Regarding certain leather wearing apparel from Colombia, a "net" bounty or grant of 5.94 percent was estimated to exist. Based upon the change in allowable offsets, the "net" bounty or grant is now estimated to be 6.18 percent. Accordingly, a deposit of 6.18 percent will be required upon the entry, or withdrawal from warehouse, for consumption of leather wearing apparel from Colombia entering the U.S. under item number 791.76 of the Tariff Schedules of the United States pending a determination by the U.S. International Trade Commission whether an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of such article or merchandise into the United States. Until further notice following such determination by the International Trade Commission, liquidation will continue to be suspended upon the entry, or withdrawal from warehouse, for consumption of this merchandise.

In accordance with section 303 of the Act and until further notice, the net amount of such bounties or grants has been estimated to be 6.18 percent of the value of the merchandise.

This amended determination is published pursuant to section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provision of Treasury Department Order 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

DECEMBER 21, 1978.

[FR Doc. 79-1625 Filed 1-16-79; 8:45 am]

[4810-22-M]

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM INDIA

Amendment of Final Countervailing Duty Determination

AGENCY: Customs Service, Treasury.

ACTION: Amendment of final countervailing duty determination.

SUMMARY: This notice is to inform the public that based upon certain revisions in the policies of the Treasury Department as set out in a notice published contemporaneously with this one, a review has been conducted of the negative "Final Countervailing Duty Determination" issued with respect to certain textiles and textile products from India. Although certain amendments have been made in the method of calculation, it has been determined that no change in our original negative determination is necessary.

FOR FURTHER INFORMATION CONTACT:

Donald W. Eiss, Office of Tariff Affairs, Department of the Treasury, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220 (202-566-8256).

SUPPLEMENTARY INFORMATION: On November 16, 1978, a "Final Countervailing Duty Determination" was published in the FEDERAL REGISTER with respect to Certain Textiles and Textile products from India (43 FR 53525-53527). In that determination, certain offsets were granted in calculating the size of the net "bounty or grant" consistent with the position established by the Treasury Department in its determination published in the FEDERAL REGISTER of June 15, 1978 (43 FR 25812-25814) with respect to countervailing duties being imposed on unwrought zinc, bottled green olives and non-rubber footwear from Spain. It was also noted that on August 29, 1978 the Treasury Department published in the FEDERAL REGISTER (43 FR 38658) its intention to review the bases upon which the countervailing duties in the Spanish cases were revised, and that if any changes in the policies established on June 15, 1978 were made, the determination being issued with respect to Indian textiles would also be reviewed.

In a notice published contemporaneous with this action, the Treasury Department has modified the position announced on June 15 and determined that:

> "the net amount of the bounty or grant shall be determined by subtracting from the aggregate amounts of the rebates paid to exporters of a particular product, only those amounts which the government providing such rebates has, to the satisfaction of the Secretary, estimates are paid by the producers of those products, or any prior stage producers, in indirect taxes on any components physically incorporated in the exported product or its packing (making normal allowances for waste). The rebate on export of taxes paid at prior stages of the production process which are not physically incorporated in the exported product shall be considered bounties or grants, as was the case prior to the June decision."

In the case of India, the program affected involved certain cash rebates which are paid to exporters as a fixed percentage of the f.o.b. value of the exported item. The Indians alleged that no "net" bounty or grant existed as a result of this program since there were allowable offsets which exceeded the benefits bestowed. The offsets in question involved certain taxes paid by Indian manufacturers during the manufacture of the products under investigation but which are not otherwise rebated upon export. In the original investigation the average allowable offsets for all of the products covered by the investigation exceeded the cash rebate received on export for each product and no bounty or grant was determined to exist as a result of this program. Certain of the tax offsets granted, specifically for taxes on consumable stores (spools, reeds, and similar devices that are a part of the machinery and require replacement on a regular basis), fuel and electricity, do not meet the standard cited above and can no longer be considered offsets. Appropriate adjustments having been made, it has been determined that with respect to all of the products included in this investigation, the benefits which have been determined to be bestowed are still *de minimis* in size, and that therefore no bounty or grant is being paid or bestowed, directly or indirectly within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) on the manufacture, production or exportation of the subject merchandise from India.

This amended determination is published pursuant to section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provision of Treasury Department Order 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of an amended final countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

DECEMBER 26, 1978.

[FR Doc. 79-1626 Filed 1-16-79; 8:45 am]

[4810-35-M]

Fiscal Service

[Dept. Circ. 570, 1978, Rev., Supp. No. 8]

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

A certificate of authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $203,000 has been established for the company.

A 1 7 7 9 UMI

NAME OF COMPANY, BUSINESS ADDRESS, AND STATE IN WHICH CORPORATED

Fidelity and Deposit Company, Charles and Lexington Streets, Baltimore, Maryland 21203.

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewals as long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: January 10, 1979.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc. 79-1618 Filed 1-16-79; 8:45 am]

[4830-01-M]

Internal Revenue Service

[Delegation Order No. 173]

ASSISTANT COMMISSIONER (COMPLIANCE)

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Nationwide authority to determine intercompany and intracompany transfer prices of bauxite, alumina, and the principal raw materials used to produce primary steel, and directly related matters, has been delegated to the Assistant Commissioner (Compliance). This authority may not be redelegated.

EFFECTIVE DATE: January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Chechele, CP:E:G:I Room 2007, 1111 Constitution Avenue NW, Washington, D.C. 20224, 202-566-3921 (not toll free).

This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

JOHN L. WEDICK, Jr.,
Director, Examination Division.

[Order No. 173]

NATIONWIDE AUTHORITY TO MAKE DETERMINATIONS ON CERTAIN ALUMINUM AND STEEL RELATED ISSUES

Date of issue: January 11, 1979.
Effective Date: January 11, 1979.

Pursuant to authority vested in the Commissioner of Internal Revenue by IRC 7802, 26 CFR 1.482, 1.613, 301.7701-9 and Treasury Department Order No. 150-37, the authority to enter into and approve settlements of the National Office controlled inter/intra-company transfer pricing issue and issues resulting therefrom present in bauxite, alumina and steel company issues, is hereby delegated to the Assistant Commissioner (Compliance).

To the extent that any action heretofore taken consistent with this Delegation Order may require ratification, such action is hereby affirmed and ratified.

This authority may not be redelegated.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-1619 Filed 1-16-79; 8:45 am]

[4810-25-M]

Office of the Secretary

INCOME TAX TREATY

Announcement of United States and Nigeria Discussion

Representatives of the United States and Nigeria will meet in Washington in late January to begin discussions on a new income tax treaty between the two countries, the Treasury Department announced today.

The current treaty between the United States and Nigeria (as a result of the 1959 extension of the United States/United Kingdom income tax treaty of 1945 to Nigeria) is being terminated by Nigeria, effective January 1, 1979, for United States tax purposes and April 1, 1979 for Nigerian tax purposes.

The proposed treaty is intended to prevent double taxation and to facilitate trade and investment between the two countries. It will be concerned with the taxation of income from business, investment and personal services, and with procedures for administering the provisions of the treaty.

The new treaty is expected to take into account the 1977 Model Income Tax Convention of the Organization for Economic Cooperation and Development, the May 17, 1977, United States model income tax convention, and recent treaties entered into by the United States.

The Treasury Department invited comments or suggestions concerning the forthcoming discussions. They should be in writing and be submitted, as soon as possible, to H. David Rosenbloom, International Tax Counsel, Room 3064, Treasury Department, Washington, D.C. 20220. Since the negotiations are likely to take some time, even those comments received after the late January meetings will be able to be considered.

Dated: January 11, 1979.

DONALD C. LUBICK,
Assistant Secretary for Tax Policy.

[FR Doc. 79-1576 Filed 1-16-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 8]

ASSIGNMENT OF HEARINGS

JANUARY 12, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION:

No. MC 66746 (Sub-No. 21F), Shippers Express, Inc. now assigned for hearing on January 16, 1979, at Tupelo, Mississippi is postponed to February 20, 1979 (9 days), at Tupelo, Mississippi, in a hearing room to be later designated instead of being postponed indefinitely.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1694 Filed 1-16-79; 8:45 am]

[7035-01-M]

[Notice No. 9]

ASSIGNMENT OF HEARINGS

JANUARY 12,1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains

prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 32882 (Sub-No. 96F), Mitchell Bros. Truck Lines, now assigned for hearing on March 13, 1979, (9 days), at Los Angeles, California in a hearing room to be later designated.

No. MC 36989, Adams Packing Association, Inc., ETAL-V-Consolidated Rail Corporation, ETAL, now assigned for hearing on February 6, 1979, at Orlando, Florida and will be held in Room 455, Federal Building.

No. MC 74107 (Sub-No. 2F), Super Motor Lines, Inc., now assigned for hearing on February 5, 1979, at Raleigh, North Carolina and will be held in Grand Jury Rm 820, Federal Bldg.

No. MCC 10094, International Brotherhood of Teamsters, Chauffers, Warehousemen & Helpers of America-V-Akers Motor Lines, Inc., now assigned for hearing on February 5, 1979, at Charlotte, North Carolina and will be held in Radisson Plaza.

No. MCC 10167, Akers Motor Lines, Inc., and Akers-Central Motor Lines, Inc.,—Investigation and Revocation of Certificates, now assigned for hearing on Febraury 5, 1979, at Charlotte, North Carolina and will be held in Radisson Plaza.

No. MC 42405 (Sub-No. 36F), Mistletoe Express Service DBA Mistletoe Express, now assigned for hearing on February 12, 1979 at Oklahoma City, Oklahoma and will be held in Alfred Murrah Federal Building, Room 911.

No. MC 138469 (Sub-No. 67F), Donco Carriers, Inc., now assigned for hearing on February 6, 1979, at Dallas, Texas and will be held in Federal Building, Room 5a15-17.

No. MC 66746 (Sub-No. 21F), Shippers Express, Inc., now assigned for hearing on February 20, 1979, at Tupelo, Mississippi and will be held in The Ramada Inn, 854 North Gloster Street.

No. MC 123819 (Sub-No. 68F), Ace Freight Line, Inc., now assigned for hearing on Febraury 12, 1979, at New Orleans, Louisiana and will be held in Fifth Circuit Court of Appeals, 600 Camp Street.

No. MC 144265 (Sub-No. 1F), Aid Inc., now assigned for hearing on February 7, 1979, at New Orleans, Louisiana and will be held in Fifth Circuit Court of Appeals, 600 Camp Street.

No. MC 989 (Sub-No. 30F), Ideal Truck Lines, Inc., now assigned for hearing on February 26, 1979, at Wichita, Kansas and will be held in Federal Building, West Tower.

No. MC 144096 (Sub-No. 1F), Robert J. Savage, DBA Bob Savage Trucking, now assigned for hearing on February 7, 1979, at Billings, Montana and will be held in Room 5000, Federal Bldg.

No. MC 127042 (Sub-No. 206F), Hagen, Inc., now assigned for hearing on February 6, 1979, at Billings, Montana and will be held in Room 5000, Federal Building.

No. MC 124692 (Sub-No. 197F), Sammons Trucking, now assigned for hearing on February 9, 1979, at Billings, Montana and will be held in Room 5000, Federal Building.

No. MC 108119 (Sub-No. 106F), E. L. Murphy Trucking Company, Now assigned January 11, 1979, (2 days), at St. Paul, Minnesota, is postponed indefinitely.

No. MC 1515 (Sub-No. 239), Greyhound Lines, Inc., now assigned for continued hearing on February 12, 1979, 2 weeks, at the Sheraton Inn-Mockingbird West, 1893 Mockingbird Lane, Dallas, Texas.

No. MC 30032 (Sub-No. 8F), Grane Transportation Lines, Ltd., now assigned February 1, 1979, at Chicago, Ill., is postponed to March 12, 1979 (5 days), at Chicago, Illinois, location of hearing room will be designated later.

No. MC-126118 (Sub-No. 91F), Crete Carrier Corporation, now assigned for Prehearing Conference on February 12, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC-143910 (Sub-No. 4F), New Hamsphire Continental Express, Inc., now assigned for hearing on February 21, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC-107403 (Sub-No. 1105F), Matlack, Inc., now assigned for hearing on February 27, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC-105566 (Sub-No. 173F), Sam Tanksley Trucking, Inc., now assigned for hearing on February 21, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC-C 8877, Consolidated Freightways Corporation of Delaware—Investigation Of And Revocation Of Certificates, now assigned for Prehearing Conference on February 26, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC-106398 (Sub-No. 828F), National Trailer Convoy, Inc., now assigned for hearing on February 27, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC-C 10166, North American Van Lines, Inc., Molloy Bros. Trucking, Inc. Aero Mayflower Transit Company, Inc. Dahill Moving & Storage Co., Inc. Paramount Moving & Storage Co., Inc. And Red Ball Van Lines, Inc.—Investigation And Revocation Of Certificates, now assigned for hearing on March 13, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC-C 10164, B. J. McAdams, Inc., and McCormack's Highway Transportation Inc.—Investigation and Revocation of Certificates & MC-C 9847, B. J. McAdams, Inc., Eugene D. Anderson-Investigation Shipper Support-Misrepresentation and Coercion & MC-C 9969, B. J. McAdams, Inc., Whirlpool Corporation-Investigation-Misrepresentation & MC 134922 (Sub-No. 93), B. J. McAdams, Inc., & MC 134922 (Sub-No. 100), B. J. McAdams, Inc., & MC 134922 (Sub-No. 101), B. J. McAdams, Inc., & MC 134922 (Sub-No. 103), B. J. McAdams, Inc., & MC 134922 (Sub-No. 116), B. J. McAdams, Inc., & MC 134922 (Sub-No. 181), B. J. McAdams, Inc., & MC 134922 (Sub-No. 189), B. J. McAdams, Inc., & MC 134922 (Sub-No. 199), B. J. McAdams, Inc., & MC 134922 (Sub-No. 224), B. J. McAdams, Inc., & MC 134922 (Sub-No. 235), B. J. McAdams, Inc., & MC 19157 (Sub-No. 21), McCormack's Highway Transportation, Inc., & MC 19157 (Sub-No. 23), McCormack's Highway Transportation, Inc., & MC 19157 (Sub-No. 26), McCormack's Highway Transportation, Inc., & MC 19157 (Sub-No. 30), McCormack's Highway Transportation, Inc., & MC 19157 (Sub-No. 31), McCormack's Highway Transportation, Inc., & MC 19157 (Sub-No. 33), McCormack's Highway Transportation, Inc., & MC 19157 (Sub-No. 34), McCormack's Highway Transportation, Inc., & MC 19157 (Sub-No. 41), McCormack's Highway Transportation, Inc., now assigned January 25, 1979 for prehearing conference at Washington, D.C. and will be held at the Offices of the Interstate Commerce Commission.

No. MC 142189 (Sub-No. 35F), C. M. Burns, DBA Western Trucking, now being assigned for hearing on March 8, 1979 (2 days), at Chicago, Illinois in a hearing room to be later designated.

No. MC 123819 (Sub-No. 68F), Ace Freight Lines, Inc., now being assigned for hearing on February 12, 1979 (1 week), at New Orleans, Louisiana, in a hearing to be later designated.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1695 Filed 1-16-79; 8:45 am]

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[7035-01-M]

[No. MC-C-10147]

DEFINITION OF CASH LETTERS

Interpretation

AGENCY: Interstate Commerce Commission.

ACTION: Final Commodity Interpretation.

SUMMARY: The commodity description "such commercial papers, documents, and written instruments (except currency and negotiable securities) as are used in the business of banks and banking institutions", commonly referred to as "cash letters," interpreted to include any data, item, article or material, irrespective of form or nature, which (1) falls within the ambit of a paper, document, or written instrument and (2) is intended for use in the banking industry. This action will clarify the authority of carriers servicing the banking industry.

EFFECTIVE DATE: March 19, 1979.

ADDRESS: For copies of this notice contact: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg (202) 275-7292.

SUPPLEMENTARY INFORMATION: The Commission, on its own motion, instituted this proceeding and published in the FEDERAL REGISTER 43 FR 28602, June 30, 1978 notice of its intent to interpret the commodity description "such commercial papers, documents, and written instruments (except currency and negotiable securities) as are used in the business of banks and banking institutions". The Commission has used "cash letters" as the shorthand expression for these commodities. Representations from the general public and other interested parties were solicited concerning banking and transportation industry custom, usage, and practice as to the nature of the materials transported under this commodity description and whether technological advances within the banking industry such as the use of computers, microfilm, plastic cards, and data processing services have affected the complete transportation service being provided under the commodity description. Comments were submitted by a number of motor carriers and representatives of the banking industry. Almost all favored a broad interpretation of the commodity description to accommodate the new and expanding forms of data and other materials brought about by technological innovations and improvements in banking systems as well as changes in banking laws and regulations.

The decision traces the background of cash letters authority and the evolution of automated banking systems for check clearing and accounting. It notes the changing role and patterns for handling various bank documents and the changing forms of the indicia of money transfers. It concludes that although the functions of banks have not materially changed, the manner in which they perform those functions has undergone a substantial transformation; an interpretation of the cash letters authority is necessary to eliminate any ambiguities or uncertainties as to the scope of the authority and to enable the carriers to provide banks with a complete service.

After exploring some alternative methods of interpretation the Commission chose a flexible and open-ended approach leaving room for the inclusion of current and future commodities within the bounds of (1) the language parameters of the present description and (2) an intended use test. This was found to be consistent with Commission policy. The interpretation would clarify the meaning of the description and result in positive environmental effects and significant cost savings.

One carrier pointed out that while a liberal interpretation would enhance service for existing carriers and the banking industry, it would restrict the service of carriers whose authority is specifically restricted against the transportation of cash letters. The Commission established a procedure to redress the grievances of any carriers in such a position.

Adopted under authority of 5 U.S.C. 554 and 49 U.S.C. 10321 (formerly section 204 of the Interstate Commerce Act).

Dated: December 19, 1978.

By the Commission. Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham and Clapp. Commissioner Brown absent and not participating.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1358 Filed 1-16-79; 8:45 am]

[7035-01-M]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

JANUARY 13, 1979.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce under the Commission's *Gateway Elimination Rules* (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before January 27, 1979. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 106497 (Sub-E18), filed September 15, 1978. Applicant: PARKHILL TRUCK COMPANY, P.O. Box 912, Joplin, MO 64801. Representative: T. M. Tallon (same as above). (1) *Commodities* which by reason of size or weight, require special handling or the use of special equipment and *commodities* which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which, by reason of size or weight, require special handling or the use of special equipment, (2) *self-propelled articles*, weighing 15,000 pounds or more, transported on trailers, and *related machinery, tools, parts and supplies* moving in connection therewith, (3) *iron and steel and iron and steel articles*, and (4) *pipe and pipe fittings* (except iron and steel), as embraced in (A) machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, or (B) earth drilling machinery and equipment and machinery, equipment, materials, supplies and pipe incidental to, used in or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in UT, on the one hand, and, on the other, points in NE, restricted against the transportation of commodities in bulk. (Gateway eliminated: points in CO.)

MC 106497 (Sub-E19), filed September 15, 1978. Applicant: PARKHILL TRUCK COMPANY, P.O. Box 912, Joplin, MO 64801. Representative: T. M. Tallon (same as above). (1) *Commodities* which by reason of size or weight, require special handling or the use of special equipment and *commodities* which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment; (2) *self-propelled articles*, weighing 15,000 pounds or more, transported on trailers, and *related machinery, tools, parts and supplies* moving in connection therewith, (3) *iron and steel and iron and steel articles* which are parts of commodities the transportation of which, because of their size or weight, require the use of special equipment or special handling, and (4) *pipe and pipe fittings* (except iron and steel), which are parts of commodities the transportation of which, because of size or weight, require the use of special equipment or handling, between points in UT, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, LA, MO, NM, OK, TX, WI, and points in WY on and east of a line beginning at the WY-MT State line extending along US HWY 87 to Casper; then along WY Hwy 220 to junction I Hwy 80, then along I Hwy 80 to Criston, then along WY Hwy 789 to the WY-CO State line, restricted against the transportation of commodities in bulk. RESTRICTED: The operations authorized herein are restricted to commodities which are transported on trailers. (Gateway eliminated: points in CO.)

MC 106497 (Sub-E20), filed September 15, 1978. Applicant: PARKHILL TRUCK COMPANY, P.O. Box 912, Joplin, MO 64801. Representative: T. M. Tallon (same as above). (1) *Commodities* which by reason of size or weight, require special handling or the use of special equipment and *commodities* which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment, (2) *self-propelled articles*, weighing 15,000 pounds or more, transported on trailers, and *related machinery, tools, parts and supplies* moving in connection therewith, (3) *iron and steel and iron and steel articles* which are parts of commodities the transportation of which, because of their size or weight, require the use of special equipment or special handling, and (4) *pipe and pipe fittings*, (except iron and steel), which are parts of commodities the transportation of which, because of size or weight, require the use of special equipment, or handling, between points in UT, on the one hand, and, on the other, points in KY, restricted against the transportation of commodities in bulk. (Gateway eliminated: points in CO and IN.)

MC 106497 (Sub-E21), filed September 15, 1978. Applicant: PARKHILL TRUCK COMPANY, P.O. Box 912, Joplin, MO 64801. Representative: T. M. Tallon (same as above). (1) *Building panels* which by reason of size or weight, require special handling or the use of special equipment and *building panels* which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as building panels which by reason of size or weight require special handling or the use of special equipment, and (2) *iron or steel building panels* which are parts of commodities, the transportation of which, because of size or weight, require special equipment or handling, between points in UT, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, KY, ME, MD, MA, Lower Peninsula of MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN VT, VA, and WV, restricted against the transportation of commodities in bulk. (Gateway eliminated: points in CO, and the facilities of Star Manufacturing Co, at Oklahoma City, OH.)

MC 106497 (Sub-E22), filed September 15, 1978. Applicant: PARKHILL TRUCK COMPANY, P.O. Box 912, Joplin, MO 64801. Representative: T. M. Tallon (same as above). (1) *Electrical substations, circuit breakers, and switches, and related parts, attachments, and accessories* used in the assembly and construction thereof, which by reason of size or weight require special handling or the use of special equipment, and *such commodities* which are iron or steel and iron or steel articles and are also parts of size and weight commodities, and (2) *equipment, materials and supplies* used in the manufacture and assembly of the above-named articles, which by reason of size or weight require special handling or the use of special equipment, and parts moving therewith, and *such commodities* which are iron or steel and iron or steel articles and are also parts of size and weight commodities, (except commodities in bulk), from points in UT to points in AL, CT, DE, FL, GA, KY, ME, MD, MA, Lower Peninsula of MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, and WV. (Gateway eliminated: points in CO and Springdale, AR.)

MC 106497 (Sub-E23), filed September 15, 1978. Applicant: PARKHILL TRUCK COMPANY, P.O. Box 912, Joplin, MO. 64801. Representative: T. M. Tallon (same as above. *Transformers*, which because of their size or weight require the use of special equipment (except commodities in bulk), from points in UTA to points in AL, FL, GA, MS, NC, TN, SC, and VA. (Gateway eliminated points in CO and the facilities of General Electric at Shreveport, LA.)

MC 113651 (Sub-E16), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Meats, meat products and meat by-products* as described in Section a of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from New York, NY, and from points in Bergen, Essex, Judson, Passaic and Union Counties, NJ, to points in LA; MI; TX; MO (except St. Louis); Bloomington, IL; OK; KS; points in AL on and west of a line beginning at the FL-AL State line extending along AL Hwy 55 to Andalusia, then along AL Hwy 55 to McKenzie, then along U.S. Hwy 31 to Montgomery, then along U.S. Hwy 231 to the AL-TN State line; points in FL on and west of FL Hwy 85; points in TN on and west of a line beginning at the TN-GA State line extending along TN Hwy extending along TN Hwy 97 to Winchester, then along TN Hwy 127 to Hillsboro, then along TN Hwy 41 to junction TN Hwy 53, then along TN Hwy 53 to junction TN Hwy 52, then along TN Hwy 52 to junction TN Hwy 56, then along TN Hwy 56 to the TN-KY State line. CONDITION: This authority shall be subject to the same 3-year term limitation and other conditions imposed in Certificate No. MC 113651 (Sub-No. 198) issued December 21, 1976. (Gateway elminated: Muncie, IN.)

MC 113651 (Sub-E17), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404, North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Meats, meat products and meat by-products* as described in Section A of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, poultry and rabbits, vegetable oils, animal oils and blends thereof), from points in New York, NY, and from points in Bergen, Essex, Hudson, Passaic and Union Counties, NJ, to points in LA; MI; points in AL on and northwest of a line beginning at the FL-AL State

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line extending along AL Hwy 55 to Andalusia, then along AL Hwy 55 to McKenzie, then along U.S. Hwy 231 to the AL-TN State line; points in FL on and west of FL Hwy 85; points in TN on and west of a line beginning at the TN-GA State line extending along TN Hwy 97 to Winchester, then along TN Hwy 127 to Hillsboro, then along TN Hwy 41 to junction TN Hwy 53, then along TN Hwy 53 to juntion TN Hwy 52, then along TN Hwy 52 to junction TN Hwy 56, then along TN Hwy 56 to the TN-KY State line. CONDITION: This authority shall be subject to the same 3-year term limitation and other conditions imposed in Certificate No. MC 113651 (Sub-No. 198), issued December 21, 1976. (Gateway eliminated: Columbus, IN.)

MC 113651 (Sub-E18), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Meats, meat products and meat by-products,* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except poultry and rabbits, and except vegetable oils, animal oils, and blends thereof, in bulk, in tank vehicles), from New York, NY, and from points in Bergen, Essex, Hudson, Passaic and Union Counties, NJ, to points in LA; MI; and points in TN on and northwest of a line beginning at the AL-TN State line extending along I Hwy 65 to the TN-KY State line. CONDITION: This authority shall be subject to the same 3-year term limitation and other conditions imposed in Certificate No. MC 113651 (Sub-No. 198) issued December 21, 1976. (Gateway eliminated: Danville, IL.)

MC 113651 (Sub-E19), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Meats, meat products, and meat by-products,* as described in Section A of Appendix I of the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except poultry and rabbits and except vegetable oils, and blends thereof, in bulk, in tank vehicles), from New York, NY, and from points in Bergen, Essex, Hudson, Passaic and Union Counties, NJ, to points in AL on and northwest of a line beginning at the FL-AL State line extending along AL Hwy 55 to Andalusia, then along AL Hwy 55 McKenzie, then along U.S. Hwy 31 to Birmingham, then along I Hwy 65 to the AL-TN State line; points in LA; MI, and points in TN on and west of a line beginning at the TN-GA State line extending along TN Hwy 97 to Winchester, then along TN Hwy 127 to Hillsboro, then along TN Hwy 41 to junction TN Hwy 53, then along TN Hwy 53 to junction TN Hwy 52, then along TN Hwy 52 to junction TN Hwy 56, then along TN Hwy 56 to the TN-KY State line; points in FL on and west of FL Hwy 85. CONDITION: This authority shall be subject to the same 3-year term limitation and other conditions imposed in Certificate No. MC-113651 (Sub-No. 198) issued December 21, 1976. (Gateway eliminated: Anderson, IN.)

MC 113651 (Sub-E20), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Canned meats, canned meat products, and canned meat by-products,* from New York, NY and from points in Bergen, Essex, Hudson, Passaic, and Union Counties, NJ, to points in IA; KS; MO; NE; LA; MI; points in TN on and west of a line beginning at the TN-GA State line extending along TN Hwy 97 to Winchester, then along TN Hwy 127 to Hillsboro, then along TN Hwy 41 to junction TN Hwy 53, then along TN Hwy 53 to junction TN Hwy 52, then along TN Hwy 52 to junction TN Hwy 56, then along TN Hwy 56 to the TN-KY State line; Dixonville, AL; points in AL on and west of a line beginning at the AL Hwy 41 to East Brewton, then along U.S. Hwy 31 to Evergreen, then along AL Hwy 83 to junction AL Hwy 47, then along AL Hwy 47 to Pine Apple, then along AL Hwy 10 to Darlington, then along AL Hwy 89 to Carlowville, then along AL Hwy 41 to Selma, then along AL Hwy 22/139 to Ashby, then along AL Hwy 17 to Oak, then along US Hwy 31 to the AL-TN State line; points in FL on and west of a line extending along FL Hwy 291 Pensacola, then along FL Hwy 197 to junction FL Hwy 89, then along FL 89 to the FL-AL State line. CONDITION: This authority shall be subject to the same 3-year term limitation and other conditions imposed in Certificate No. MC-113651 (Sub-No. 198) issued December 21, 1976. (Gateway eliminated: Mt. Summit, IN.)

MC 113651 (Sub-E21), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Canned Meats, canned meat products, and canned meat by-products,* from New York, NY, and points in Bergen, Essex, Hudson, Passaic and Union Counties, NJ, to points in IA; KS; MO; NE; LA; MI; points in AL on and northwest of a line beginning at the FL-AL State line extending along AL Hwy 55 to Andalusia, then along AL Hwy 55 to McKenzie, then along U.S. Hwy 31 to Montgomery, then along U.S. Hwy 231 to the AL-TN State line; points in FL on and west of FL Hwy 85; points in TN on and west of a line beginning at the TN-GA State line extending along TN Hwy 97 to Winchester, then along TN Hwy 127 to Hillsboro, then along TN Hwy 41 to junction TN Hwy 53, then along TN Hwy 53 to junction TN Hwy 52, then along TN Hwy 52 to junction TN Hwy 56, then along TN Hwy 56 to the TN-KY State line. CONDITION: This authority shall be subject to the same 3-year term limitation and other conditions imposed in No. MC-113651 (Sub-No. 198) issued December 21, 1976. (Gateway eliminated: Muncie, IN.)

MC 113651 (Sub-E22), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Frozen meats, frozen meat products and frozen meat by-products,* from New York, NY, and from points in Vergen, Essex, Hudson, Passaic, and Union Counties, NJ, to points in IL. CONDITION: This authority shall be subject to the same 3-year term limitation and other conditions imposed in Certificate MC 113651 (Sub-198) issued December 21, 1976. (Gateway eliminated: La Porte, IN).

MC 113651 (Sub-E23), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Meats, meat products and meat by-products,* as described in Section A of Appendix I of the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the facilities of Swift & Co., at Grand Island, NE, to points in PA, NJ, DE, NY, and points in WV on an west of US Hwy 219. RESTRICTION: The operations authorized as restricted to traffic originating at the facilities of Swift & Co. CONDITION: This authority shall be subject to the same 3-year term limitation and other conditions imposed in Certificate MC 113651 (Sub-198) issued December 21, 1976. (Gateway eliminated: Muncie, IN.)

MC 113651 (Sub-E24), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Meats, meat products and meat by-products,* as described in Section A of Appendix I of the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the facilities of Swift & Co., at Grand Island, NE, to points in PA, NJ, DE, New York, NY, and points in WV on and west of US Hwy 219. RESTRICTION: The operations authorized herein are restricted to traffic originating at the facilities of Swift & Co. CONDITION: This authority shall be subject to the same 3-year term limitation and other conditions imposed in Certificate MC 113651 (Sub-198) issued December 21, 1976. (Gateway eliminated: Jeffersonville, IN).

MC 113651 (Sub-E27), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Canned meats, canned meat products and canned meat by-products* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from New York, NY, and points in Bergen, Essex, Hudson, Passaic and Union Counties, NJ, to points in IA; KS; MO; NE; LA; MI; points in TN on and west of a line beginning at the TN-GA State line extending along TN Hwy 97 to Winchester, then along TN Hwy 127 to Hillsboro, then along TN Hwy 41 to junction TN Hwy 53, then along TN Hwy 53 to junction TN Hwy 52, then along TN Hwy 52 to junction TN Hwy 56, then along TN Hwy 56 to the TN-KY State line; Dixonville, AL; and points in AL on and west of a line extending along AL Hwy 41 to East Brewton, then along US Hwy 31 to Evergreen, then along AL Hwy 83 to junction AL Hwy 47, then along AL Hwy 47 to Pine Apple, then along AL Hwy 10 to Darlington, then along AL Hwy 89 to Carlowville, then along AL Hwy 41 to Selma, then along AL Hwy 22/139 to Ashby, then along AL Hwy 17 to Oak, then along US Hwy 31 to the AL-TN State line; and points in FL on and west of a line extending along FL Hwy 291 to Pensacola, then along FL Hwy 197 to junction FL Hwy 89, then along FL Hwy 89 to the FL-AL State line. CONDITION: This authority shall be subject to the same 3-year term limitation and other conditions imposed in Certificate MC 113651 (Sub-198) issued December 21, 1976. (Gateway eliminated: Shirley, IN).

MC 113651 (Sub-E28), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Meats, meat products and meat by-products,* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles) from the facilities of American Beef Packers, Inc., in Pottawattamie County, IA, to points in DE; NJ; and PA; and points in WV on and west of US Hwy 219; and New York, NY. CONDITION: This authority shall be subject to the same 3-year term limitation and other conditions imposed in Certificate MC 113651 (Sub-198) issued December 21, 1976. (Gateway eliminated: Louisville, KY).

MC 113651 (Sub-E30), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Meats, meat products, and meat by-products,* as described in Section A of Appendix I of the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the facilities of Armor & Co. at Sterling, IL, to points in WV on and west of U.S. Highway 219. Restriction: Restricted to traffic originating at the facilities of Armour & Co., at Sterling, IL. Condition: This authority is subject to the same 3-year term limitation and other conditions imposed in Certificate MC 113651 (Sub-198) issued December 21, 1976. (Gateway eliminated: Saint Matthews, KY).

MC 113651 (Sub-E31), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Mcats, meat products, and meat by-products,* as described in Section A of Appendix I of the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Mid-America Protein, Inc., at Sterling, IL, to points in WV on and west of U.S. Highway 219, restricted to traffic originating at the facilities of Mid-America Protein, Inc., at Sterling, IL. Condition: This authority shall be subject to the same 3-year term limitation and other conditions imposed in carrier's Certificate MC 113651 (Sub-198) issued December 21, 1976. (Gateway eliminated: Jeffersonville, IN).

MC 113651 (Sub-E32), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Meats, meat products, and meat by-products,* as described in Section A of Appendix I of the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Denison, IA, to New York, NY, and points in PA, and points in WV on and west of US Hwy 219. Condition: This authority shall be subject to the same 3-year term limitation and other conditions imposed in Certificate MC 113651 (Sub-198) issued December 21, 1976. (Gateway eliminated: Jeffersonville, IN).

MC 113651 (Sub-E33), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Meats, meat products and meat by-products,* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Denison, IA, to points in DE; NJ; PA; New York, NY; and points in WV on and west of US Hwy 219. CONDITION: This authority shall be subject to the same 3-year term limitation and other conditions imposed in Certificate MC 113651 (Sub-198) issued December 21, 1976. (Gateway eliminated: Louisville, KY)

MC 113651 (Sub-E34), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Meats, meat products, and meat by-products,* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Denison, IA, and the facilities of Farmland Foods, Inc., located at Iowa Falls, IA, to points in DE; NJ; PA; New York, NY; and points in WV on and west of US Hwy 219. CONDITION: This authority shall be subject to the same 3-year term limitation and other conditions imposed in Certificate MC 113651 (Sub-198) issued December 21, 1976. (Gateway eliminated: Louisville, KY)

MC 113651 (Sub-E35), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Meats, meat products and meat by-products,* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from Iowa Falls, IA, to points in DE and points in WV on and west of US Hwy 219. CONDITION: This authority shall be subject to the same 3-year term limitation and other conditions imposed in Certificate MC 113651 (Sub-198) issued December 21, 1976. (Gateway eliminated: Louisville, KY)

MC 113651 (Sub-E37), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404

North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South La Salle St., Chicago, IL 60604. *Meats, meat products and meat by-products,* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Peoria, IL, to points in PA; NJ; DE; and points in WV on and west of US Hwy 219; and New York, NY, restricted to traffic originating at Peoria, IL. CONDITION: This authority shall be subject to the same 3-year term limitation and other conditions imposed in Certificate MC 113651 (Sub-198) issued December 21, 1976. (Gateway eliminated: Louisville, KY.)

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1693 Filed 1-16-79; 8:45 am]

[1505-01-M]

Office of Proceedings

[Notice No. 200]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc 78-31589, appearing at page 52328 in the issue of Thursday, November 9, 1978, make the following corrections:

On page 52330, in the last column, the last paragraph designated as MC 128270 (Sub-30TA), in the twelfth line down the abbreviation "MI" should be corrected to read "MS".

(2) On page 52334, in the last column, the first paragraph designated as MC 145312 (Sub-1TA), in the eighth line down the word "*common*" should be corrected to read "*contract*".

[1505-01-M]

[Notice No. 201]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Important Notice

Correction

In FR Doc. 78-31590, appearing at page 52335 in the issue of Thursday, November 9, 1978, on page 52339 in the last column, the first paragraph, the fourteenth line down, correct "MY" to read "NY".

[7035-01-M]

[No. 37074]

UPWARD FARE FLEXIBILITY IN THE INTERCITY PASSENGER MARKET (PETITION OF TRAILWAYS, INC., FOR THE INSTITUTION OF RULEMAKING PROCEEDINGS)

JANUARY 9, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of request for rulemaking.

SUMMARY: Public comment is invited upon the request by Trailways, Inc., that the Commission institute a rulemaking to accord the bus industry upward fare flexibility in the intercity passenger market.

DATES: Comments should be filed with the Commission on or before February 16, 1979.

ADDRESSES: An original and 10 copies, if possible, of each submission should be forwarded to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, or Harvey Gobetz. Telephone: (202) 275-7693.

SUPPLEMENTARY INFORMATION: Trailways requests a rulemaking proceeding for the establishment of regulations allowing motor carriers of passengers to increase all fares on scheduled, intercity passenger service at the end of a consecutive 12-month period during which no other interstate increase has been received. Fares could be increased by an amount up to but not exceeding 5.75 percent over the rates prevailing for the 12 immediately preceding months, or 90 percent of the Consumer Price Index (whichever is less). Increases within this range would not be subject to suspension or investigation by the Commission. They would be published upon 30 days' notice, and the Commission would retain the power to suspend any proposed increase determined to be in excess of the "no-suspend" zone.

Trailways believes its proposal is non-inflationary because the degree of the proposed increases is within the price guidelines adopted by the Administration, which are intended to produce an economy-wide rate of price increase of 5.75 percent. The proposal would also help give the bus industry the freedom to price its services in response to competitive forces. For these reasons, Trailways believes its proposal will further critical national economic goals.

Trailways argues that the proposed fare flexibility is necessary to enable buses to compete with other modes of transportation. It points out that airlines now may arise fares 5 or 10 percent without prior authorization from the Civil Aeronautics Board and that Amtrak not only may raise or lower its fares at will on short notice but is also subsidized by the Federal Government. Trailways provides comparisons of air and rail fares with bus fares between various cities to demonstrate that the bus industry is at a rate disadvantage. It contends that the market is capable of regulating increases within the no-suspend zone, and that pricing flexibility is necessary for it to continue serving many communities.

Upward rate flexibility, it is argued, would help carriers:

(1) Offset rapid changes in operational costs, such as fuel;

(2) Support sufficient peak-hour capacity through insuring coverage of the added costs such service entails;

(3) Offset any losses sustained in innovative pricing and service experiments that fail or are slow to develop;

(4) Provide premium services as demand warrants;

(5) Respond quickly to rate adjustments by competitive modes;

(6) Maintain adequate levels of profitability in order to insure the long-run viability of the system (for example, through upward adjustments in less competitive markets to compensate for the reduced but significant contribution of other traffic);

(7) Respond quickly to the entry or exit of competing modes.

Trailways believes upward flexibility would enable it to maximize revenues through selective, rational fare increases in those markets whose operating costs and demand characteristics indicate that increases are justified. It cites 49 U.S.C. Section 10762 (formerly section 217(c) of the Interstate Commerce Act) as authority for the Commission to adopt the proposal.

Those submitting comments are requested, where applicable, to indicate clearly any organization they may be representing, with emphasis on the type of organization (e.g. carrier, broker, agent) and the manner in which they believe their organization would affected by the proposal.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1696 Filed 1-16-79; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

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[6320-01-M]

1

[M-190, Jan. 11, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., January 18, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notations.

2. Dockets 30670 and 33173—Applications of Western and Northwest for Anchorage-London nonstop authority (Memo 8422, BIA, OGC, BALJ).

3. Docket 34196—Emergency Waiver of Permit Restrictions Japan Air Lines Company, Ltd. (Memo 8430, BIA, OGC).

4. Amendment of Board's *Ex Parte* Rules, 14 CFR 300.2, 300.3 (OGC).

5. Docket 32774—Norfolk's petition for an Investigation of United's Service Cuts in the Norfolk-Washington Market (Memo 8290-A, BPDA, OCCR, OGC).

6. Dockets 31128, 31213, 31244, 31529, and 32791—Service to Fort Myers (Memo 8233-A, BPDA, OCCR, BALJ, OGC).

7. Dockets 33196, 33350, 32720, 32964, 33438, 33351 and 32891—Applications of various carriers for competitive, nonstop authority between Atlanta and the San Francisco area (Memo 8437, BPDA, OGC, BALJ).

8. Dockets 33826, 34086, 34145, 34174, 33894, 34102 and 34143—Petitions of Continental, Delta, Ozark, and Trans World Airlines for Amendment of Certificate of Public Convenience and Necessity and Applications of Continental Airlines and Delta Airlines for Exemption Authority (Memo 8432, BPDA, OGC).

9. Dockets 33580, 33629, 33672, 33821, 33863, 33878 and 33997—Applications for certificate amendments nonstop Denver-Detroit authority in the following: Frontier, Braniff, Northwest, Allegheny, Continental, American, and Ozark (Memo 8423, BPDA, OGC).

10. Dockets 31447 and 33734—Piedmont's application for Dallas/Ft. Worth extension from Greensboro/High Point and Raleigh/Durham and Braniff's application for DFW-Greensboro/Raleigh service (Memo 8159-C, BPDA, OGC, BCP).

11. Dockets 29774, 25897, 26183, 31141, 31259, 32908, 33036 and 30076—Delta Air Lines Route Realignment and related matters (Memo 7905-A, BPDA).

12. Dockets 31808, 31886, 31930, 31943 and 31944—*Chicago-Albany / Syracuse-Boston Competitive Service Investigation* (OGC).

13. Docket 34238—Southern's notice of intent to suspend its single-plane service between Dothan, Alabama and New Orleans, La., in 60 days (Memo 8438, BPDA, OGCR).

14. Docket 33171—Dismissal of an application for an approval of interlocking directors. Hawaiian Airlines, Inc., *et al.* (Memo 8425, BPDA, OGC).

15. Docket 33201—Application of Hughes Airwest for a general long-haul restriction to replace the existing restriction on Los Angeles-San Francisco service, (Memo 8243-A, BPDA).

16. Dockets 34197 and 34224—Increased international excess baggage charges proposed by American and Pan American. DHL, air courier, complains that the proposed charges are variously not cost justified as required by the Board and are discriminatory (Memo 8408-A, BPDA, BIA).

17. Dockets 33276, 33622, and 33720—Vacation of Orders 78-9-38, 78-10-61, and 78-10-143 insofar as they suspended increases in normal economy fares between the United States and the Netherlands, Belgium and Germany (Memo 8433, BPDA, BIA).

18. Docket 30777—IATA agreement proposing a four percent currency-related surcharge on fares from the United States to Japan, and a four percent discount on fares from Japan to the United States. The Embassy of Japan has submitted comments, through the Department of State, arguing that the surcharge is justified to reduce the present directional differential in U.S./Japan fares (Memo 8071-B, BPDA, BIA, OGC).

19. Docket 32660—IATA composite traffic conference agreement on passenger matters ancillary to price (Memo 8426, BPDA, BIA, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-92-79 Filed 1-15-79; 10:02 am]

[6335-01-M]

2

JANUARY 15, 1978.

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Tuesday, January 2, 1979; 2 p.m.

PLACE: Room 800, 1121 Vermont Avenue NW., Washington, D.C.

STATUS: Open to the public. Conference call meeting.

MATTERS TO BE CONSIDERED: Discussion of Commission Public Hearing—Philadelphia, Pennsylvania, February 6 and 20, 1979.

FOR FURTHER INFORMATION CONTACT:

Loretta Ward, Public Affairs Unit, 202-254-6697.

[S-93-79 Filed 1-15-79; 10:29 am]

[6570-06-M]

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-68-79.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, January 16, 1979.

CHANGE IN THE MEETING: The following matter is added to the agenda for the open portion of the meeting:

Proposed Revision of Jurisdictional Boundaries for Field Offices.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change: Eleanor Holmes Norton, Chair; Ethel Bent Walsh, Commissioner; Armando M. Rodriguez, Commissioner; and J. Clay Smith, Jr., Commissioner.
Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued January 12, 1979.

[S-97-79 Filed 1-15-79; 3:29 pm]

V 4 4 / 1 2 J A 1 7 7 9 UMI

[6740-02-M]

4

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published January 15, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 17, 1979.

CHANGES IN MEETING: The following items have been added:

Item No., Docket No., and Company

M-3 RM78-17, Procedures for Review by the Federal Energy Regulatory Commission of Adjustment Request Denials by the Secretary of Energy.
M-4. Interim Rules on § 314 of NGPA. Offers and Right of First Refusal.
M-5. Staff Recommendations on the Revenue Act of 1978 Which Reduces the Statutory Corporate Federal Income Tax Rate from 48% to 46%.
M-6. RM79- , Treatment of Certain Production Related Costs for Gas to be Transported Through the Alaska Natural Gas Transportation System.
M-7. RM79- , Certification of Pipeline Transportation Agreements for Certain High-Priority Uses.

KENNETH F. PLUMB,
Secretary.

[S-94-79 Filed 1-15-79; 10:58 am]

[6720-01-M]

5

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published on Monday, January 15, 1979—Volume 44, No. 10.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., January 18, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open and closed meetings.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

CHANGES IN THE MEETING: The following items have been added to the agenda for the open meeting:

Application of California Federal Savings & Loan Association, Los Angeles, California, for Permission to Issue Commercial Paper.
Application of Perpetual Federal Savings & Loan Association, Washington, D.C., for Permission to Issue Commercial Paper.
Consideration of Appointment of General Counsel Designate.
Consideration of Delegation of Authority Regarding Commercial Paper.

The following item will be considered at a closed meeting to be held immediately following the above mentioned open meeting:

Consideration of Personnel Matter.

No. 210, January 12, 1979.

[S-91-79 Filed 1-15-79; 10:02 am]

[7020-02-M]

6

[USITC SE-79-3]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, January 25, 1979.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Certain machine needles (Inv. TA-201-38)—Vote on remedy, if necessary.
6. Steel wire nails from Canada (Inv. AA1921-189)—Briefing and vote.
8. Any items left over from previous agenda.

PORTIONS CLOSED TO THE PUBLIC

7. Status report on Investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-95-79 Filed 1-15-79; 11:04 am]

[7545-01-M]

7

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 10 a.m., Tuesday, January 23, 1979.

PLACE: Board Conference Room, sixth floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Selection of Solicitor.

CONTACT PERSON FOR MORE INFORMATION:

William A. Lubbers, Executive Secretary, Washington, D.C. 20570, telephone 202-254-9430.

Dated, Washington, D.C., January 15, 1979.

By direction of the Board:

GEORGE A. LEET
Associate Executive Secretary,
National Labor Relations Board.

[S-96-79 Filed 1-15-79; 2:44 pm]

8

NATIONAL RAILROAD PASSENGER CORPORATION.

In accordance with rule 4a. of Appendix A of the By-laws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on January 24, 1979.

A. The meeting will be held on Wednesday, January 24, 1979, in the Charles Suite of the L'Enfant Plaza Hotel, 480 L'Enfant Plaza East, Washington, D.C., beginning at 9:30 a.m.

B. The meeting will be open to the public at 10 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

AGENDA—NATIONAL RAILROAD PASSENGER CORPORATION

MEETING OF THE BOARD OF DIRECTORS—JANUARY 24, 1979

Closed Session (9:30)

1. Internal personnel matters.
2. Litigation mattters.

Open Session (10:00)

3. Approval of minutes of regular meeting of December 13, 1978.
4. Commitment approval requests:
79-20 NEC Work Equipment.
79-39 Data Center Relocation.
79-40 Centralized Control—Voice Communications.
79-44 Conversion of Cars to Head End Power for the Broadway Limited.
78-167 Radio Equipment for Work Locomotives on NEC.
75-117-S1 Strengthen Amtrak Staff Support for the Superliner Program.
77-154-S1 Michigan Track Upgrading—Phase III.
76-163-S1 Conversion of Six Baggage Cars to Head End Power Generator Cars.
76-294-S3 FY1979 Installment for Purchase of the Northeast Corridor.
5. Fare policy.
6. Route restructuring.
7. Advertising presentation.
8. Board Committee reports: Audit, Equipment, Northeast Corridor Improvement Project, Organization and Compensation, and Planning and Finance.
9. President's report.
10. New business.
11. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's By-laws should be directed to the Corporate Secretary at (202) 383-3973

Dated: January 12, 1979.

[S-90-79 Filed 1-12-79; 3:05 pm]

federal register

WEDNESDAY, JANUARY 17, 1979
PART II

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

LIST OF ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Republication

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Republication of the List of Species

(NOTE: This document is reprinted from the issue of Monday, December 11, 1978 (43 FR 58030).)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Republication of the U.S. List of Endangered and Threatened Wildlife and Plants.

SUMMARY: The Service hereby issues a republication of the list of Endangered and Threatened Wildlife and Plants. An annual publication of this list is required under the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884).

DATE: This list is inclusive of September 30, 1978.

ADDRESSES: Comments concerning this republication should be sent to the Director (OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Washington, D.C. 20240, telephone 202-343-4646.

SUPPLEMENTARY INFORMATION: The list incorporates species officially listed as Endangered or Threatened since the republication of the list in the FEDERAL REGISTER, July 14, 1977 (42 FR 36420). These new species are African elephant, San Clemente longerhead shrike, San Clemente sage sparrow, giant anole, Mona boa, Mona ground iguana, island night lizard, New Mexican ridge-nosed rattlesnake, Atlantic salt marsh snake, eastern indigo snake, green sea turtle, loggerhead turtle, Olive (Pacific) Ridley sea turtle, pine barrens tree frog, golden coqui, Alabama cavefish, slender chub, spotfin chub, leopard darter, slackwater darter, yellowfin madtom, little kern golden trout, greenback cutthroat trout, Chittenango ovate amber snail, flat-spired three-toothed snail, Iowa Pleistocene snail, noonday snail, painted snake coiled forest snail, Stock Island tree snail, Virginia fringed mountain snail, tan riffle shell, Socorro isopod, Virginia round-leaf birch, Contra Costa wallflower, McDonald's rock cress, Santa Barbara Island live forever, Rydberg milkvetch, hairy rattleweed, San Clemente broom, Hawaiian wild broadbean, unnamed *Phacelia*, San Diego pogogyne, persistent trillium, San Clemente Island bushmallow, Eureka evening-primrose, Antioch Dunes evening primrose, Crampton's orcutt grass, Eureka dune grass, Texas wild-rice, northern wild monkshood, San Clemente Island Larkspur, salt marsh bird's-beak, San Clemente Island Indian paintbrush, and Furbish lousewart. Populations of both the gray wolf and the bald eagle have been reclassified. The Mexican duck has been removed from the list as directed by the rulemaking published in the July 25, 1978, FEDERAL REGISTER (43 FR 32258-32261). Errors detected in the FEDERAL REGISTER, July 14, 1977 (42 FR 36420) list have been corrected, and some scientific names have been changed to reflect current usage.

Dated: November 20, 1978.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

1. The table in 50 CFR 17.11 is revised to read as follows:

[4310-55-C]

17.11 - Endangered and Threatened Wildlife

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
MAMMALS:							
Anoa	Bubalus (Anoa) depressicornis	N/A	Indonesia	Entire	E	3	N/A
Anoa, mountain	Bubalus (Anoa) quarlesi	N/A	Indonesia	Entire	E	15	N/A
Anteater, scaly	Manis temmincki	N/A	Africa	Entire	E	15	N/A
Antelope, Bontebok	Damaliscus dorcas dorcas	N/A	South Africa	Entire	E	15	N/A
Antelope, giant sable	Hippotragus niger variani	N/A	Angola	Entire	E	15	N/A
Antelope, Mongolian saiga	Saiga tatarica mongolica	N/A	Mongolia	Entire	E	15	N/A
Argali,	Ovis ammon hodgsoni	N/A	China (Tibet)	Entire	E	15	N/A
Armadillo, giant	Priodontes giganteus (=maximus)	N/A	Venezuela and Guyana to Argentina	Entire	E	15	N/A
Armadillo, pink fairy	Chlamyphorus truncatus	N/A	Argentina	Entire	E	3	N/A
Ass, African wild	Equus asinus	Somalia, Sudan, Ethiopia	Somalia, Sudan, Ethiopia	Entire	E	3	N/A
Ass, Asian wild	Equus hemionus	N/A	Southwestern and Central Asia	Entire	E	3	N/A
Avahis	Avahi spp. (all species)	N/A	Malagasy Republic (Madagascar)	Entire	E	4	N/A
Aye-Aye	Daubentonia madagascariensis	N/A	Malagasy Republic (Madagascar)	Entire	E	3	N/A
Babiroussa	Babyrousa babyrussa	N/A	Indonesia	Entire	E	15	N/A
Bandicoot, barred	Perameles bougainville	N/A	Australia	Entire	E	4	N/A
Bandicoot, desert	Perameles eremiana	N/A	Australia	Entire	E	6	N/A
Bandicoot, lesser rabbit	Macrotis leucura	N/A	Australia	Entire	E	4	N/A
Bandicoot, pig-footed	Chaeropus ecaudatus	N/A	Australia	Entire	E	4	N/A
Bandicoot, rabbit	Macrotis lagotis	N/A	Australia	Entire	E	4	N/A
Banteng	Bos banteng	N/A	Southeast Asia	Entire	E	4	N/A
Bat, gray	Myotis grisescens	N/A	Central and Southeastern USA	Entire	E	13	N/A
Bat, Hawaiian hoary	Lasiurus cinereus semotus	N/A	USA (Hawaii)	Entire	E	2	N/A
Bat, Indiana	Myotis sodalis	N/A	Eastern and Middlewestern USA	Entire	E	1	N/A
Bear, brown	Ursus arctos pruinosus	China (Tibet)	China (Tibet)	Entire	E	15	N/A
Bear, brown	Ursus arctos	Italy	Holarctic	Entire	E	15	N/A
Bear, brown or grizzly	Ursus arctos horribilis	USA - 48 conterminous States	Holarctic	Entire	T	9	17.40(b)
Bear, Mexican grizzly	Ursus arctos nelsoni	Mexico	Mexico	Entire	E	3	N/A
Beaver	Castor fiber birulai	N/A	Mongolia	Entire	E	15	N/A
Bison, wood	Bison bison athabascae	N/A	Canada	Entire	E	3	N/A
Bobcat	Felis (Lynx) rufus escuninapae	N/A	Central Mexico	Entire	E	15	N/A
Camel, Bactrian	Camelus bactrianus	N/A	Mongolia, China	Entire	E	15	N/A
Cat, Andean	Felis jacobita	N/A	Chile, Peru, Bolivia, Argentina	Entire	E	15	N/A
Cat, black-footed	Felis nigripes	N/A	Southern Africa	Entire	E	15	N/A
Cat, flat-headed	Felis planiceps	N/A	Malaysia	Entire	E	15	N/A
Cat, leopard	Felis bengalensis bengalensis	N/A	Eastern Asia	Entire	E	15	N/A
Cat, marbled	Felis marmorata	N/A	Nepal, Burma, Malaysia, Indonesia (Sumatra, Borneo)	Entire	E	15	N/A
Cat, Temminck's	Felis temmincki	N/A	China (Tibet) Malaysia, (Sumatra)	Entire	E	15	N/A
Cat, tiger	Felis tigrina	N/A	Costa Rica to Northern South America	Entire	E	4	N/A
Chamois, Apennine	Rupicapra rupicapra ornata	N/A	Italy	Entire	E	15	N/A
Cheetah	Acinonyx jubatus	N/A	Africa to India	Entire	E	3,5	N/A
Chimpanzee	Pan troglodytes	N/A	Western and Central Africa	Entire	T	16	17.40(b)
Chimpanzee, Pigmy	Pan paniscus	N/A	Zaire	Entire	T	16	17.40(b)
Chinchilla	Chinchilla brevicaudata boliviana	N/A	Bolivia	Entire	E	15	N/A
Colobus, black	Colobus satanas	N/A	Cameroon, Equatorial Guinea, Gabon, Congo (Brazzaville)	Entire	E	16	N/A
Colobus, red	Colobus badius rufomitratus	N/A	Kenya	Entire	E	16	N/A
Colobus, Zanaibar red	Colobus kirkii	N/A	Tanzania	Entire	E	4	N/A
Cougar, eastern	Felis concolor couguar	N/A	Eastern North America	Entire	E	6	N/A

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SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
Deer, Bawean	Axis (Hyelaphus) porcinus kuhli	N/A	Indonesia	Entire	E	3	N/A
Deer, Cedros Island mule	Odocoileus hemionus cedrosensis	N/A	Mexico (Cedros Island)	Entire	E	10	N/A
Deer, Columbian white-tailed	Odocoileus virginianus leucurus	N/A	USA (Washington, Oregon)	Entire	E	1	N/A
Deer, Eld's brow-antlered	Cervus eldi	N/A	India, Southeast Asia	Entire	E	4	N/A
Deer, hog	Axis (Hyelaphus) porcinus annamiticus	N/A	Thailand, Cambodia, Laos, India, Vietnam	Entire	E	15	N/A
Deer, key	Odocoileus virginianus clavium	N/A	USA (Florida)	Entire	E	1	N/A
Deer, marsh	Blastocerus dichotomus	N/A	Argentina, Uruguay, Paraguay, Brazil	Entire	E	4	N/A
Deer, McNeill's	Cervus elaphus macneilli	N/A	China	Entire	E	4	N/A
Deer, musk	Moschus moschiferus moschiferus	N/A	Southcentral Asia	Entire	E	15	N/A
Deer, pampas	Ozotoceras bezoarcticus	N/A	Brazil, Paraguay, Uruguay, Argentina	Entire	E	15	N/A
Deer, Persian fallow	Dama dama mesopotamica	N/A	Iraq, Iran	Entire	E	3	N/A
Deer, Philippine	Axis (Hyelaphus) calamianensis	N/A	Philippines (Calamian Islands)	Entire	E	15	N/A
Deer, swamp	Cervus duvauceli	N/A	India, Nepal	Entire	E	4	N/A
Dibbler	Antechinus apicalis	N/A	Australia	Entire	E	4	N/A
Dog, Asiatic wild (Dhole)	Cuon alpinus	N/A	Soviet Union, India	Entire	E	4	N/A
Drill	Papio leucophaeus	N/A	Western Cameroon, eastern Nigeria	Entire	E	16	N/A
Dugong	Dugong dugon	N/A	East Africa to Ryukyu Islands including USA (Trust territories)	Entire	E	4	N/A
Elephant, African	Loxodonta africana	N/A	Africa	Entire	T	40	17.40(c)
Elephant, Asian	Elephas maximus	N/A	India, Burma, Laos, Thailand, Cambodia, Malaysia, Sri Lanka, Vietnam	Entire	E	15	N/A
Ferret, black-footed	Mustela nigripes	N/A	USA (Western), Western Canada	Entire	E	1,3	N/A
Forester, Tasmanian (kangaroo)	Macropus giganteus tasmaniensis	N/A	Australia	Entire	E	6	N/A
Fox, Northern swift	Vulpes velox hebes	N/A	USA (Northern Plains), Canada	Entire	E	3	N/A
Fox, San Joaquin kit	Vulpes macrotis mutica	N/A	USA (California)	Entire	E	1	N/A
Gazelle, Clark's (Dibatag)	Ammodorcas clarkei	N/A	Somalia, Ethiopia	Entire	E	3	N/A
Gazelle, Cuvier's	Gazella cuvieri	N/A	Morocco, Tunisia	Entire	E	4	N/A
Gazelle, Mhorr	Gazella dama mhorr	N/A	Morocco	Entire	E	4	N/A
Gazelle, Moroccan (Dorcas)	Gazella dorcas massaesyla	N/A	Morocco, Algeria	Entire	E	4	N/A
Gazelle, Rio de Oro Dama	Gazella dama lozanoi	N/A	Spanish Sahara	Entire	E	4	N/A
Gazelle, slender-horned (Rhim)	Gazella leptoceros	N/A	Sudan, Algeria, Egypt, Libya	Entire	E	4	N/A
Gelada	Theropithecus gelada	N/A	Northern Ethiopia	Entire	T	16	17.40(c)
Gibbons	Hylobates spp.	N/A	China, India, and S.E. Asia	Entire	E	15	N/A
Goral	Nemorhaedus goral	N/A	East Asia	Entire	E	15	N/A
Gorilla	Gorilla gorilla	N/A	Central and Western Africa	Entire	E	4	N/A
Hare, hispid	Caprolagus hispidus	N/A	India, Nepal	Entire	E	15	N/A
Hartebeest, Swayne's	Alcelaphus buselaphus swaynei	N/A	Ethiopia	Entire	E	4	N/A
Hog, pygmy	Sus salvanius	N/A	India, Nepal, Bhutan, Sikkim	Entire	E	4	N/A
Horse, Przewalski's	Equus przewalskii	N/A	Mongulia	Entire	E	15	N/A
Huemul, North Andean	Hippocamelus antisiensis	N/A	Ecuador, Peru, Chile, Bolivia, Argentina	Entire	E	15	N/A
Huemul, South Andean	Hippocamelus bisulcus	N/A	Chile, Argentina	Entire	E	15	N/A
Hyena, Barbary	Hyaena hyaena barbara	N/A	Morocco	Entire	E	4	N/A
Hyena, brown	Hyaena brunnea	N/A	South Africa	Entire	E	4	N/A
Ibex, Pyrenean	Capra pyrenaica pyrenaica	N/A	Spain	Entire	E	3	N/A
Ibex, Walia	Capra walie	N/A	Ethiopia	Entire	E	3	N/A
Impala, black-faced	Aepyceros melampus petersi	N/A	Namibia, Angola	Entire	E	4	N/A
Indris	Indris spp. (all species)	N/A	Malagasy Republic (Madagascar), Comoro I. sd.	Entire	E	3,4	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
Jaguar	Panthera onca	N/A	U.S. (Southwestern) to South America	Entire	E	4	N/A
Jaguar	Panthera onca	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Jaguarundi	Felis yagouaroundi cacomitli	N/A	USA (Texas), Mexico	Entire	E	15	N/A
Jaguarundi	Felis yagouaroundi fossata	N/A	Mexico, Nicaragua	Entire	E	15	N/A
Jaguarundi	Felis yagouaroundi panamensis	N/A	Nicaragua, Costa Rica, Panama	Entire	E	15	N/A
Jaguarundi	Felis yagouaroundi tolteca	N/A	USA (Arizona), Mexico	Entire	E	15	N/A
Kangaroo, eastern gray (see also Forester, Tasmanian)	Macropus giganteus (all subspecies except tasmaniensis)	N/A	Australia	Entire	T	7	17.40(a)
Kangaroo, red	Megaleia rufa	N/A	Australia	Entire	T	7	17.40(a)
Kangaroo, western gray	Macropus fuliginosus	N/A	Australia	Entire	T	7	17.40(a)
Kouprey	Bos sauveli	N/A	Cambodia	Entire	E	3	N/A
Langur, capped	Presbytis pileatus	N/A	India, Burma	Entire	E	15	N/A
Langur, entellus	Presbytis entellus	N/A	China (Tibet), India, Nepal, Sri Lanka, Pakistan, Kashmir, Sikkim, Bangladesh	Entire	E	15	N/A
Langur, Douc	Pygathrix nemaeus	N/A	Cambodia, Laos, China, Vietnam	Entire	E	4	N/A
Langur, golden	Presbytis geei	N/A	Assam, Bhutan	Entire	E	15	N/A
Langur, long-tailed	Presbytis potenziani	N/A	Mentawi Islands, Indonesia	Entire	T	16	17.40ca)
Langur, Pagi Island	Simias concolor	N/A	Indonesia	Entire	E	4	N/A
Langur, purple-faced	Presbytis senex	N/A	Sri Lanka (Ceylon)	Entire	T	16	17.40(c)
Lechwe	Kobus leche	N/A	Southern Africa	Entire	E	15	N/A
Lemurs	Lemuridae; all members of the genera Lemur, Hapalemur, Lepilemur, Cheirogaleus, Allocebus, Microcebus, Phaner	N/A	Malagasy Republic (Madagascar) and Comoro Islands	Entire	E	3,4,15	N/A
Lemur, black	Lemur macaco	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Lemur, ring-tailed	Lemur catta	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Leopard	Panthera pardus	N/A	Africa and Asia	Entire	E	3,5	N/A
Leopard	Panthera pardus	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Leopard, clouded	Neofelis nebulosa (all subspecies except brachyurus)	N/A	Southeast Asia	Entire	E	15	N/A
Leopard, Formosan clouded	Neofelis nebulosa brachyurus	N/A	Taiwan	Entire	E	4	N/A
Leopard, snow	Panthera uncia	N/A	Central Asia	Entire	E	5	N/A
Linsang, spotted	Prionodon pardicolor	N/A	Nepal, Assam, Burma, Cambodia, Laos, Vietnam	Entire	E	15	N/A
Lion, Asiatic	Panthera leo persica	N/A	India	Entire	E	3	N/A
Loris, lesser slow	Nycticebus pygmaeus	N/A	Vietnam, Laos	Entire	T	16	17.40(c)
Lynx, Spanish	Felis (Lynx) lynx pardina (Felis pardina)	N/A	Spain	Entire	E	3	N/A
Macaque, Formosan rock	Macaca cyclopis	N/A	Taiwan	Entire	T	16	17.40(c)
Macaque, Japanese	Macaca fuscata	N/A	Japan (Shikoku, Kyushu, and Honshu Islands)	Entire	T	16	17.40(c)
Macaque, lion-tailed	Macaca silenus	N/A	India	Entire	E	3	N/A
Macaque, stump-tailed	Macaca arctoides	N/A	Assam (India), to southern China and	Entire	T	16	17.40(c)
Macaque, Toque	Macaca sinica	N/A	Sri Lanka (Ceylon)	Entire	T	16	17.40(c)
Manatee, Amazonian	Trichechus inunguis	N/A	South America; Amazon River Basin	Entire	E	3	N/A
Manatee, West Indian (Florida)	Trichechus manatus	N/A	USA (Southeastern), Caribbean Ocean, South America	Entire	E	1,3	N/A
Mandrill	Papio sphinx	N/A	Central West Africa	Entire	E	16	N/A
Mangabey, Tana River	Cercocebus galeritus	N/A	Kenya	Entire	E	3	N/A
Mangabey, white-collared	Cercocebus torquatus	N/A	Senegal to Ghana; Nigeria to Gabon	Entire	E	16	N/A
Margay	Felis wiedii	N/A	Central and South America	Entire	E	5	N/A
Markhor, Chiltan	Capra falconeri chiltanensis	N/A	Pakistan	Entire	E	15	N/A
Markhor, Kabal	Capra falconeri megaceros	N/A	Afghanistan, Pakistan	Entire	E	15	N/A

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SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
Markhor, straight-horned	Capra falconeri jerdoni	N/A	Pakistan, Afghanistan border	Entire	E	15	N/A
Marmoset, cotton-top	Saguinus oedipus	N/A	Panama, Costa Rica, Colombia	Entire	E	16	N/A
Marmoset, Goeldi's	Callimico goeldii	N/A	Brazil, Colombia, Ecuador, Peru	Entire	E	4	N/A
Marsupial, eastern jerboa	Antechinomys laniger	N/A	Australia	Entire	E	4	N/A
Marsupial-mouse, large desert	Sminthopsis psammophila	N/A	Australia	Entire	E	4	N/A
Marsupial-mouse, long-tailed	Sminthopsis longicaudata	N/A	Australia	Entire	E	4	N/A
Marten, Formosan yellow-throated	Martes flavigula chrysospila	N/A	Taiwan	Entire	E	4	N/A
Monkey, black howler	Alouatta pigra	N/A	Mexico, Guatemala, Belize	Entire	T	16	17.40(c)
Monkey, Diana	Cercopithecus diana	N/A	Coastal West Africa	Entire	E	16	N/A
Monkey, Francois' leaf	Presbytis francoisi	N/A	Kwangsi (People's Republic of China), Indochina	Entire			
Monkey, howler	Alouatta villosa (=palliata)	N/A	Mexico to Ecuador	Entire	E	15	N/A
Monkey, L'hoest's	Cercopithecus lhoesti	N/A	Upper eastern Congo Basin, Cameroon	Entire	E	16	N/A
Monkey, proboscis	Nasalis larvatus	N/A	Borneo	Entire	E	15	N/A
Monkey, red-backed squirrel	Saimiri oerstedii (Saimiri sciureus oerstedii)	N/A	Costa Rica, Panama	Entire	E	3	N/A
Monkey, red-bellied	Cercopithecus erthrogaster	N/A	Western Nigeria	Entire	E	16	N/A
Monkey, red-eared nose spotted	Cercopithecus erythrotis	N/A	Nigeria, Fernando Po, Cameroon	Entire	E	16	N/A
Monkey, spider	Ateles geoffroyi frontatus	N/A	Costa Rica, Nicaragua	Entire	E	3	N/A
Monkey, spider	Ateles geoffroyi panamensis	N/A	Costa Rica, Panama	Entire	E	3	N/A
Monkey, Tonkin snub-nosed	Rhinopithecus avunculus	N/A	Vietnam	Entire	T	16	17.40(c)
Monkey, woolly spider	Brachyteles arachnoides	N/A	Brazil	Entire	E	4	N/A
Monkey, yellow-tailed woolly	Lagothrix flavicauda	N/A	Andes of northern Peru	Entire	E	16	N/A
Mouse, Australian native	Zyzomys pedunculatus	N/A	Australia	Entire	E	15	N/A
Mouse, Australian native	Notomys aquilo	N/A	Australia	Entire	E	15	N/A
Mouse, Field's	Pseudomys fieldi	N/A	Australia	Entire	E	4	N/A
Mouse, Gould's	Pseudomys gouldii	N/A	Australia	Entire	E	6	N/A
Mouse, New Holland	Pseudomys novaehollandiae	N/A	Australia	Entire	E	4	N/A
Mouse, salt marsh harvest	Reithrodontomys raviventris	N/A	USA (California)	Entire	E	2	N/A
Mouse, Shark Bay	Pseudomys praeconis	N/A	Australia	Entire	E	4	N/A
Mouse, shortridge's	Pseudomys shortridgei	N/A	Australia	Entire	E	4	N/A
Mouse, Smoky	Pseudomys fumeus	N/A	Australia	Entire	E	4	N/A
Mouse, Western	Pseudomys occidentalis	N/A	Australia	Entire	E	4	N/A
Native-cat, Eastern	Dasyurus viverrinus	N/A	Australia	Entire	E	6	N/A
Numbat	Myrmecobius fasciatus	N/A	Australia	Entire	E	6	N/A
Ocelot	Felis pardalis	N/A	Central and South America	Entire	E	5	N/A
Orangutan	Pongo pygmaeus	N/A	Indonesia, Malaysia, Brunei	Entire	E	3	N/A
Oryx, Arabian	Oryx leucoryx	N/A	Arabian Peninsula	Entire	E	3	N/A
Otter, Cameroon clawless	Paraonyx microdon	N/A	Cameroon	Entire	E	4	N/A
Otter, giant	Pteronura brasiliensis	N/A	South America	Entire	E	3	N/A
Otter, La Plata	Lutra platensis	N/A	Uruguay, Argentina, Bolivia, Brazil	Entire	E	4	N/A
Otter, long-tailed	Lutra longicaudis	N/A	South America	Entire	E	15	N/A
Otter, marine	Lutra felina	N/A	Peru, Chiloe Island, Straits of Magellan	Entire	E	15	N/A
Otter, Southern River	Lutra provocax	N/A	Chile, Argentina	Entire	E	15	N/A
Otter, Southern Sea	Enhydra lutris nereis	N/A	California	Entire	T	21	N/A
Panther, Florida	Felis concolor coryi	N/A	Florida	Entire	E	1	N/A
Planigale, little	Planigale subtilissima	N/A	Australia	Entire	E	4	N/A
Planigale, Southern	Planigale tenuirostris	N/A	Australia	Entire	E	4	N/A
Porcupine, thin-spined	Chaetomys subspinosus	N/A	Brazil	Entire	E	3	N/A
Possum, mountain pygmy	Burramys parvus	N/A	Australia	Entire	E	4	N/A
Possum, scaly-tailed	Wyulda squamicaudata	N/A	Australia	Entire	E	4	N/A
Prairie Dog, Mexican	Cynomys mexicanus	N/A	Mexico	Entire	E	4	N/A
Prairie Dog, Utah	Cynomys parvidens	N/A	USA (Utah)	Entire	E	6	N/A

SPECIES			RANGE				
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Pronghorn, peninsular	Antilocapra americana peninsularis	N/A	Mexico (Baja California)	Entire	E	10	N/A
Pronghorn, Sonoran	Antilocapra americana sonoriensis	N/A	USA (Arizona), Mexico	Entire	E	1,3	N/A
Pudu	Pudu pudu	N/A	Southern South America	Entire	E	15	N/A
Puma, Costa Rican	Felis concolor costaricensis	N/A	Nicaragua, Panama, Costa Rica	Entire	E	15	N/A
Quokka	Setonix brachyurus	N/A	Australia	Entire	E	6	N/A
Rabbit, volcano	Romerolagus diazi	N/A	Mexico	Entire	E	4	N/A
Rat, false water	Xeromys myoides	N/A	Australia	Entire	E	4	N/A
Rat, stick-nest	Leporillus conditor	N/A	Australia	Entire	E	6	N/A
Rat, Morro Bay kangaroo	Dipodomys heermanni morroensis	N/A	USA (California)	Entire	E	2	N/A
Rat-kangaroo, brush-tailed	Bettongia penicillata	N/A	Australia	Entire	E	4	N/A
Rat-kangaroo, Gaimard's	Bettongia gaimardi	N/A	Australia	Entire	E	6	N/A
Rat-kangaroo, Lesuer's	Bettongia lesueur	N/A	Australia	Entire	E	4	N/A
Rat-kangaroo, plain	Caloprymnus campestris	N/A	Australia	Entire	E	4	N/A
Rat-kangaroo, Queensland	Bettongia tropica	N/A	Australia	Entire	E	4	N/A
Rhinoceros, great Indian	Rhinoceros unicornis	N/A	India, Nepal	Entire	E	4	N/A
Rhinoceros, Javan	Rhinoceros sondaicus	N/A	Indonesia, Burma, Thailand	Entire	E	3	N/A
Rhinoceros, northern white	Ceratotherium simum cottoni	N/A	Zaire, Uganda, Sudan Central African Republic	Entire	E	4	N/A
Rhinoceros, Sumatran	Didermoceros sumatrensis	N/A	Bangladesh to Vietnam to Indonesia (Borneo)	Entire	E	3	N/A
Saki, white-nosed	Chiropotes albinasus	N/A	Brazil	Entire	E	4	N/A
Seal, Hawaiian monk	Monachus schauinslandi	N/A	Hawaiian Archipelago	Entire	E	18	N/A
Seal, Mediterranean monk	Monachus monachus	N/A	Mediterranean, North-west African Coast and Black Sea	Entire		3	N/A
Seledang (Gaur)	Bos gaurus	N/A	India, Southeast Asia, Bangladesh	Entire	E	4	N/A
Serow, Sumatran	Capricornis sumatraensis	N/A	Sumatra	Entire	E	15	N/A
Serval, Barbary	Felis serval constantina	N/A	Algeria	Entire	E	4	N/A
Shapo	Ovis vignei	N/A	Kashmir	Entire	E	15	N/A
Shou	Cervus elaphus wallichi	N/A	Tibet, Bhutan	Entire	E	4	N/A
Siamang	Symphalangus syndactylus	N/A	Thailand, Malaysia, (Malay Peninsula, Sumatra)	Entire	E	15	N/A
Sifakas	Propithecus spp. (all species)	N/A	Malagasy Republic (Madagascar)	Entire	E	4	N/A
Sloth, Brazilian three-toed	Bradypus torquatus	N/A	Brazil	Entire	E	4	N/A
Solenondon, Cuban	Atopogale cubana	N/A	Cuba	Entire	E	4	N/A
Solenondon, Haitan	Solenodon paradoxus	N/A	Dominican Republic, Haiti	Entire	E	4	N/A
Squirrel, Delmarva Peninsula fox	Sciurus niger cinereus	N/A	USA (Maryland)	Entire	E	1	N/A
Stag, Barbary	Cervus elephus barbarus	N/A	Tunisia, Algeria	Entire	E	3	N/A
Stag, Kashmir	Cervus elephus hanglu	N/A	Kashmir	Entire	E	3	N/A
Tamaraw	Bubalus (Anoa) mindorensis	N/A	Philippines	Entire	E	4	N/A
Tamarin, golden-rumped (golden-headed Tamarin; golden-lion Marmoset)	Leontideus spp. (all species)	N/A	Brazil	Entire	E	3	N/A
Tamarin, pied	Saguinus bicolor	N/A	Northern Brazil	Entire	E	16	N/A
Tamarin, white-footed	Saguinus leucopus	N/A	Northern Colombia	Entire	T	16	17.40(c)
Tapir, Asian	Tapirus indicus	N/A	Burma, Thailand, Cambodia, Laos, Vietnam, Malaysia (Sumatra)	Entire	E	15	N/A
Tapir, Brazilian	Tapirus terrestris	N/A	Venezuela, Argentina, Brazil, Colombia	Entire	E	4	N/A
Tapir, Central American	Tapirus bairdii	N/A	Southern Mexico to Colombia and Ecuador	Entire	E	4	N/A
Tapir, mountain	Tapirus pinchaque	N/A	Colombia, Ecuador	Entire	E	4	N/A
Tarsier, Philippine	Tarsius syrichta	N/A	Philippines	Entire	T	16	17.40(c)
Tiger	Panthera tigris	N/A	Temperate & Tropical Asia	Entire	E	3,5	N/A
Tiger	Panthera tigris	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Tiger, Tasmanian (Thylacine)	Thylacinus cynocephalus	N/A	Australia	Entire	E	3	N/A

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Uakari	Cacajao spp. (all species)	N/A	Peru, Colombia, Brazil, Venezuela, Ecuador	Entire	E	3	N/A
Urial	Ovis orientalis ophion	N/A	Cyprus	Entire	E	15	N/A
Vicuna	Vicugna vicugna	N/A	Peru, Bolivia, Argentina	Entire	E	3	N/A
Wallaby, banded hare	Lagostrophus fasciatus	N/A	Australia	Entire	E	4	N/A
Wallaby, brindled	Onychogalea frenata	N/A	Australia	Entire	E	4	N/A
Wallaby, crescent nail-tailed	Onychogalea lunata	N/A	Australia	Entire	E	4	N/A
Wallaby, Parma	Macropus parma	N/A	Australia	Entire	E	4	N/A
Wallaby, western hare	Lagorchestes hirsutus	N/A	Australia	Entire	E	4	N/A
Wallaby, yellow-footed rock	Petrogale xanthopus	N/A	Australia	Entire	E	6	N/A
Whale, blue	Balaenoptera musculus	N/A	Oceanic	Entire	E	4	N/A
Whale, bowhead	Balaena mysticetus	N/A	Oceanic	Entire	E	4	N/A
Whale, finback	Balaenoptera physalus	N/A	Oceanic	Entire	E	4	N/A
Whale, gray	Eschrichtius gibbosus	N/A	Oceanic	Entire	E	4	N/A
Whale, humpback	Megaptera novaeangliae	N/A	Oceanic	Entire	E	4	N/A
Whale, right	Eubalaena spp. (all species)	N/A	Oceanic	Entire	E	4	N/A
Whale, Sei	Balaenoptera borealis	N/A	Oceanic	Entire	E	4	N/A
Whale, sperm	Physeter catodon	N/A	Oceanic	Entire	E	4	N/A
Wolf, gray	Canis lupus	USA (48 conterminous States other than MN), Mexico	AZ,ID,MI,MT,NM,ND, OR,TX,WA,WI,WY,MX	Entire	E	1,6,13 15,35	N/A
Wolf, gray	Canis lupus	MN	Northern Minnesota	Entire	T	35	17.40(d)
Wolf, maned	Chrysocyon brachyurus	N/A	Argentina, Bolivia, Brazil, Paraguay	Entire	E	4	N/A
Wolf, red	Canis rufus	N/A	Texas, Louisiana	Entire	E	2	N/A
Wombat, Barnard's	Lasiorhinus barnardi	N/A	Australia	Entire	E	4	N/A
Wombat, Queensland hairy-nosed	Lasiorhinus gillespiei	N/A	Australia	Entire	E	6	N/A
Yak, wild	Bos grunniens mutus	N/A	China (Tibet), India	Entire	E	4	N/A
Zebra, mountain	Equus zebra zebra	N/A	Southern Africa	Entire	E	15	N/A

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BIRDS:							
Akepa, Hawaii (honeycreeper)	Loxops coccinea coccinea	N/A	USA (Hawaii)	Entire	E	2	N/A
Akepa, Maui (honeycreeper)	Loxops coccinea ochracea	N/A	USA (Hawaii)	Entire	E	2	N/A
Akialoa, Kauai (honeycreeper)	Hemignathus procerus	N/A	USA (Hawaii)	Entire	E	1	N/A
Akiapolaau (honeycreeper)	Hemignathus wilsoni	N/A	USA (Hawaii)	Entire	E	1	N/A
Albatross, short-tailed	Diomedea albatrus	N/A	North Pacific Ocean: Japan, Soviet Union, USA	Entire	E	3	N/A
Blackbird, yellow-shouldered	Agelaius xanthomus	N/A	Puerto Rico & Mona Island	Entire	E	17	N/A
Bobwhite, masked (quail)	Colinus virginianus ridgwayi	N/A	USA (Arizona), Mexico (Sonora)	Entire	E	1,3	N/A
Booby, Abbott's	Sula abbotti	N/A	Indian Ocean: Christmas Island	Entire	E	15	N/A
Bristlebird, western	Dasyornis brachypterus longirostris	N/A	Australia	Entire	E	4	N/A
Bristlebird, western rufous	Dasyornis broadbenti littoralis	N/A	Australia	Entire	E	15	N/A
Bulbul, Mauritius olivaceous	Hypsipetes borbonicus olivaceus	N/A	Mauritius	Entire	E	3	N/A
Bullfinch, Sao Miguel (finch)	Pyrrhula pyrrhula murina	N/A	Eastern Atlantic Ocean: Azores	Entire	E	3	N/A
Bushwren, New Zealand	Xenicus longipes	N/A	New Zealand	Entire	E	3	N/A
Bustard, great Indian	Choriotis nigriceps	N/A	India, Pakistan	Entire	E	3	N/A
Cahow (Bermuda Petrel)	Pterodroma cahow	N/A	Western Atlantic Ocean: Bermuda	Entire	E	4	N/A
Condor, Andean	Vultur gryphus	N/A	Colombia to Chile and Argentina	Entire	E	4	N/A
Condor, California	Gymnogyps californianus	N/A	USA (OR,CA), Mexico (Baja California)	Entire	E	1	N/A
Coot, Hawaiian	Fulica americana alai	N/A	USA (Hawaii)	Entire	E	2	N/A
Cotinga, banded	Cotinga maculata	N/A	Brazil	Entire	E	15	N/A
Cotinga, white-winged	Xipholena atropurpurea	N/A	Brazil	Entire	E	15	N/A
Crane, black-necked	Grus nigricollis	N/A	China (Tibet)	Entire	E	15	N/A
Crane, Cuba sandhill	Grus canadensis nesiotes	N/A	West Indies: Cuba (Isle of Pines)	Entire	E	15	N/A
Crane, hooded	Grus monacha	N/A	Japan, Soviet Union	Entire	E	4	N/A
Crane, Japanese	Grus japanensis	N/A	China, Japan, Korea, Soviet Union	Entire	E	4	N/A
Crane, Mississippi sandhill	Grus canadensis pulla	N/A	USA (Mississippi)	Entire	E	6	N/A
Crane, Siberian white	Grus leucogeranus	N/A	Soviet Union (Siberia) to India	Entire	E	4	N/A
Crane, white-naped	Grus vipio	N/A	Mongolia	Entire	E	15	N/A
Crane, whooping	Grus americana	N/A	Canada, USA, Mexico	Entire	E	1,3	N/A
Creeper, Hawaiian	Loxops maculata mana	N/A	USA (Hawaii)	Entire	E	10	N/A
Creeper, Molokai (Kakawahie)	Loxops maculata flammea	N/A	USA (Hawaii)	Entire	E	2	N/A
Creeper, Oahu (Alauwahio)	Loxops maculata maculata	N/A	USA (Hawaii)	Entire	E	2	N/A
Crow, Hawaiian (Alala)	Corvus tropicus	N/A	USA (Hawaii)	Entire	E	1	N/A
Cuckoo-shrike, Mauritius	Coquus (=Coracina) typicus	N/A	Indian Ocean, Mauritius	Entire	E	3	N/A
Cuckoo-shrike, Reunion	Coquus (=Coracina) newtoni	N/A	Indian Ocean: Reunion Island	Entire	E	3	N/A
Curassow, razor-billed	Mitu mitu mitu	N/A	Brazil (Eastern)	Entire	E	15	N/A
Curassow, red-billed	Crax blumenbachii	N/A	Brazil	Entire	E	4	N/A
Curassow, Trinidad white-headed	Pipile pipile pipile	N/A	West Indies: Trinidad	Entire	E	3	N/A
Curlew, Eskimo	Numenius borealis	N/A	Alaska to Argentina	Entire	E	1,3	N/A
Dove, cloven-feathered	Drepanoptila holosericea	N/A	Southwest Pacific Ocean: New Caledonia	Entire	E	4	N/A
Dove, Grenada	Leptotila wellsi	N/A	West Indies: Grenada	Entire	E	4	N/A
Dove, Palau ground	Gallicolumba canifrons	N/A	West Pacific Ocean: USA (Palau Islands)	Entire	E	4	N/A
Duck, Hawaiian (Koloa)	Anas wyvilliana	N/A	USA (Hawaii)	Entire	E	1	N/A
Duck, Laysan	Anas laysanensis	N/A	USA (Hawaii)	Entire	E	1	N/A
Duck, pink-headed	Rhodonessa caryophyllacea	N/A	India	Entire	E	15	N/A
Duck, white-winged wood	Cairina scutulata	N/A	India, Burma, Thailand, Malaysia, Indonesia	Entire	E	3	N/A

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Eagle, Greenland white-tailed	Haliaeetus albicilla groenlandicus	N/A	Greenland and adjacent Atlantic Islands	Entire	E	15	N/A
Eagle, harpy	Harpia harpyja	N/A	Mexico south to Argentina	Entire	E	15	N/A
Eagle, Philippine	Pithecophaga jefferyi	N/A	Philippines	Entire	E	3	N/A
Eagle, bald	Haliaeetus leucocephalus	N/A	North America south to northern Mexico	USA (conterminous States other than WA,OR,MN,WI,MI)	E	1,34	
Eagle, bald	Haliaeetus leucocephalus	N/A	North America south to northern Mexico	USA (WA,OR, MN,WI,MI)	T	1,34	17.41(a)
Eagle, Spanish imperial	Aquila heliaca adalberti	N/A	Spain, Morocco, Algeria	Entire	E	4	N/A
Egret, Chinese	Egretta eulophotes	N/A	China, Korea	Entire	E	4	N/A
Falcon, American peregrine	Falco peregrinus anatum	N/A	Canada, USA, Mexico	Entire	E	2,3	N/A
Falcon, Arctic peregrine	Falco peregrinus tundrius	N/A	Alaska to Greenland, south to South America	Entire	E	2,4	N/A
Falcon, Eurasian peregrine	Falco peregrinus peregrinus	N/A	Europe, Soviet Union	Entire	E	15	N/A
Finch, Laysan (honeycreeper)	Telespyza (=Psittirostra) cantans	N/A	USA (Hawaii)	Entire	E	1	N/A
Finch, Nihoa (honeycreeper)	Telespyza (=Psittirostra) ultima	N/A	USA (Hawaii)	Entire	E	1	N/A
Flycatcher, Euler's	Empidonax euleri johnstonei	N/A	West Indies: Grenada	Entire	E	3	N/A
Flycatcher, Palau fantail	Rhipidura lepida	N/A	West Pacific Ocean: USA (Palau Islands)	Entire	E	4	N/A
Flycatcher, Seychelles paradise	Terpsiphone corvina	N/A	Indian Ocean: Seychelles	Entire	E	4	N/A
Flycatcher, Tahiti	Pomarea nigra nigra	N/A	South Pacific Ocean: Tahiti	Entire	E	3	N/A
Flycatcher, Tinian monarch	Monarcha takatsukasae	N/A	Western Pacific Ocean: USA (Marianas Islands)	Entire	E	3	N/A
Fody, Seychelles (Weaver-finch)	Foudia sechellarum	N/A	Indian Ocean	Entire	E	3	N/A
Frigatebird, Andrew's	Fregata andrewsi	N/A	East Indian Ocean	Entire	E	15	N/A
Gallinule, Hawaiian	Gallinula chloropus sandvicensis	N/A	USA (Hawaii)	Entire	E	1	N/A
Goose, Aleutian Canada	Branta canadensis leucopareia	N/A	Western USA (AK,WA, OR,CA), Japan	Entire	E	1,4	N/A
Goose, Hawaiian (Nene)	Branta sandvicensis	N/A	USA (Hawaii)	Entire	E	1	N/A
Goshawk, Christmas Island	Accipiter fasciatus natalis	N/A	Indian Ocean: Australia (Christmas Island)	Entire	E	3	N/A
Grackle, slender-billed	Cassidix palustris	N/A	Mexico	Entire	E	4	N/A
Grasswren, Eyrean (flycatcher)	Amytornis goyderi	N/A	Australia	Entire	E	4	N/A
Grebe, Atitlan	Podilymbus gigas	N/A	Guatemala	Entire	E	3	N/A
Greenshank, Nordmann's	Tringa guttifer	N/A	Bangladesh, Japan, Sakhalin Island, Korea, Thailand, Malaysia, Burma	Entire	E	15	N/A
Guan, horned	Oreophasis derbianus	N/A	Guatemala, Mexico	Entire	E	3	N/A
Gull, Audouin's	Larus audouinii	N/A	Mediterranean Sea and adjacent islands	Entire	E	3	N/A
Gull, relict	Larus relictus	N/A	India, China	Entire	E	15	N/A
Hawk, Anjouan Island sparrow	Accipiter francesii pusillus	N/A	Indian Ocean: Comoro Islands	Entire	E	3	N/A
Hawk, Galapagos	Buteo galapagoensis	N/A	Ecuador (Galapagos Islands)	Entire	E	3	N/A
Hawk, Hawaiian (Io)	Buteo solitarius	N/A	USA (Hawaii)	Entire	E	1	N/A
Hermit, hook-billed (hummingbird)	Glaucis (=Ramphodon) dohrnii	N/A	Brazil	Entire	E	15	N/A
Honeycreeper, crested (Akohekohe)	Palmeria dolei	N/A	USA (Hawaii)	Entire	E	1	N/A
Honeyeater, helmeted	Melíphaga cassidix	N/A	Australia	Entire	E	4	N/A
Hornbill, helmeted	Rhinoplax vigil	N/A	Thailand, Malaysia	Entire	E	15	N/A
Ibis, Japanese crested	Nipponia nippon	N/A	China, Japan, Korea, Soviet Union	Entire	E	3	N/A
Kagu	Rhynochetos jubatus	N/A	Southwest Pacific Ocean: New Caledonia	Entire	E	3	N/A
Kakapo (owl-parrot)	Strigops habroptilus	N/A	New Zealand	Entire	E	4	N/A
Kestrel, Mauritius	Falco punctatus	N/A	Indian Ocean: Mauritius	Entire	E	3	N/A

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Kestrel, Seychelles	Falco araea	N/A	Indian Ocean: Seychelles Islands	Entire	E	3	N/A
Kite, Cuba hook-billed	Chondrohierax wilsonii	N/A	Cuba	Entire	E	4	N/A
Kite, Grenada hook-billed	Chondrohierax uncinatus mirus	N/A	West Indies: Grenada	Entire	E	4	N/A
Kite, Everglade (snail kite)	Rostrhamus sociabilis plumbeus	N/A	USA (Florida)	Entire	E	1	N/A
Kokako (Wattlebird)	Callaeas cinerea	N/A	New Zealand	Entire	E	3	N/A
Macaw, glaucous	Anodorhynchus glaucus	N/A	Paraguay, Uruguay, Brazil	Entire	E	15	N/A
Macaw, indigo	Anodorhynchus leari	N/A	Brazil	Entire	E	15	N/A
Macaw, little blue	Cyanopsitta spixii	N/A	Brazil	Entire	E	15	N/A
Magpie-robin, Seychelles (thrush)	Copsychus sechellarum	N/A	Indian Ocean: Seychelles Islands	Entire	E	3	N/A
Malkoha, red-faced (cuckoo)	Phaenicophaeus pyrrhocephalus	N/A	Sri Lanka	Entire	E	3	N/A
Mallard, Marianas	Anas oustaleti	N/A	Guam, Marianas Islands (Rota, Saipan, Tinian)	Entire	E	23	N/A
Megapode, La Perouse's	Megapodius laperouse	N/A	Western Pacific Ocean: USA (Palau Islands, Marianas Islands)	Entire	E	4	N/A
Megapode, Maleo	Macrocephalon maleo	N/A	Indonesia (Celebes)	Entire	E	4	N/A
Millerbird, Nihoa (willow warbler)	Acrocephalus familiaris kingi	N/A	USA (Hawaii)	Entire	E	1	N/A
Nukupuu (honeycreeper)	Hemignathus lucidus	N/A	USA (Hawaii)	Entire	E	2	N/A
Oo, Kauai (Oo Aa) (honeyeater)	Moho braceatus	N/A	USA (Hawaii)	Entire	E	1	N/A
Ostrich, Arabian	Struthio camelus syriacus	N/A	Jordan, Saudi Arabia	Entire	E	3	N/A
Ostrich, West African	Struthio camelus spatzi	N/A	Spanish Sahara	Entire	E	4	N/A
Ou (honeycreeper)	Psittirostra psittacea	N/A	USA (Hawaii)	Entire	E	1	N/A
Owl, Anjouan scops	Otus rutilus capnodes	N/A	Indian Ocean: Comoro Islands	Entire	E	3	N/A
Owl, giant scops	Otus gurneyi	N/A	Islands of Marinduque and Minda	Entire	E	15	N/A
Owl, Palau	Otus podargina	N/A	Western Pacific Ocean: USA (Palau Islands)	Entire	E	4	N/A
Owl, Seychelles	Otus insularis	N/A	Indian Ocean: Seychelles Islands	Entire	E	3	N/A
Owlet, Mrs. Morden's	Otus ireneae	N/A	Kenya	Entire	E	3	N/A
Palila (honey-creeper)	Psittirostra bailleui	N/A	USA (Hawaii)	Entire	E	1	N/A
Parakeet, Forbes'	Cyanoramphus auriceps forbesi	N/A	New Zealand	Entire	E	15	N/A
Parakeet, golden	Aratinga guarouba	N/A	Brazil	Entire	E	4	N/A
Parakeet, golden-shouldered	Psephotus chrysopterygius	N/A	Australia	Entire	E	4	N/A
Parakeet, Mauritius ring-neck	Psittacula krameri echo	N/A	Indian Ocean: Mauritius	Entire	E	4	N/A
Parakeet, ochre-marked	Pyrrhura cruentata	N/A	Brazil	Entire	E	4	N/A
Parakeet, orange-bellied	Neophema chrysogaster	N/A	Australia	Entire	E	4	N/A
Parakeet, paradise	Psephotus pulcherrimus	N/A	Australia	Entire	E	4	N/A
Parakeet, scarlet-chested	Neophema splendida	N/A	Australia	Entire	E	4	N/A
Parakeet, turquoise	Neophema pulchella	N/A	Australia	Entire	E	4	N/A
Parrot, Bahaman or Cuban	Amazona leucocephala	N/A	West Indies (Cuba, Bahamas, Cayman)	Entire	E	15	N/A
Parrot, ground	Pezoporus wallicus	N/A	Australia	Entire	E	6	N/A
Parrot, imperial	Amazona imperialis	N/A	West Indies: Dominica	Entire	E	4	N/A
Parrot, Australian night	Geopsittacus occidentalis	N/A	Australia	Entire	E	3	N/A
Parrot, Puerto Rican	Amazona vittata	N/A	USA (Puerto Rico)	Entire	E	1	N/A
Parrot, red-browed	Amazona rhodocorytha	N/A	Brazil	Entire	E	4	N/A
Parrot, red-capped	Pionopsitta pileata	N/A	Brazil	Entire	E	15	N/A
Parrot, red-spectacled	Amazona pretrei pretrei	N/A	Brazil, Argentina	Entire	E	15	N/A
Parrot, St. Lucia	Amazona versicolor	N/A	West Indies: St. Lucia	Entire	E	4	N/A
Parrot, St. Vincent	Amazona guildingii	N/A	West Indies: St. Vincent	Entire	E	3	N/A
Parrot, thick-billed	Rhynchopsitta pachyrhyncha	N/A	Mexico, USA (Arizona, New Mexico)	Entire	E	3	N/A
Parrot, vinaceous-breasted	Amazona vinacea	N/A	Brazil	Entire	E	15	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
Parrotbill, Maui (honeycreeper)	Pseudonestor xanthophrys	N/A	USA (Hawaii)	Entire	E	1	N/A
Pelican, brown	Pelecanus occidentalis	N/A	USA, West Indies, Central and South America: Coastal	Entire	E	2,4	N/A
Penguin, Galapagos	Spheniscus mendiculus	N/A	Ecuador (Galapagos Islands)	Entire	E	2,4	N/A
Petrel, Hawaiian dark-rumped	Pterodroma phaeopygia sandwichensis	N/A	USA (Hawaii)	Entire	E	1	N/A
Pheasant, bar-tailed	Symaticus humiae	N/A	Burma, China	Entire	E	3	N/A
Pheasant, bar-tailed	Symaticus humiae	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Pheasant, Blyth's tragopan	Tragopan blythii	N/A	Burma, China, India	Entire	E	3	N/A
Pheasant, brown eared	Crossoptilon mantchuricum	N/A	China	Entire	E	3	N/A
Pheasant, brown eared	Crossoptilon mantchuricum	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Pheasant, Cabot's tragopan	Tragopan caboti	N/A	China	Entire	E	3	N/A
Pheasant, Chinese monal	Lophophorus lhuysii	N/A	China	Entire	E	3	N/A
Pheasant, Edward's	Lophura edwardsi	N/A	Vietnam	Entire	E	3	N/A
Pheasant, Edward's	Lophura edwardsi	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Pheasant, Elliot's	Syrmaticus ellioti	N/A	China	Entire	E	15	N/A
Pheasant, imperial	Lophura imperialis	N/A	Vietnam	Entire	E	3	N/A
Pheasant, Mikado	Syrmaticus mikado	N/A	Taiwan	Entire	E	4	N/A
Pheasant, Mikado	Syrmaticus mikado	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Pheasant, Palawan peacock	Polyplectron emphanum	N/A	Philippines	Entire	E	3	N/A
Pheasant, Palawan peacock	Polyplectron emphanum	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Pheasant, Sclater's monal	Lophophorus sclateri	N/A	Burma, China, India	Entire	E	3	N/A
Pheasant, Swinhoe's	Lophura swinhoii	N/A	Taiwan	Entire	E	3	N/A
Pheasant, Swinhoe's	Lophura swinhoii	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Pheasant, western tragopan	Tragopan melanocephalus	N/A	India, Pakistan	Entire	E	3	N/A
Pheasant, white eared	Crossoptilon crossoptilon	N/A	China (Tibet), India	Entire	E	4	N/A
Pigeon, Azores wood	Columba palumbus azorica	N/A	East Atlantic Ocean: Portugal (Azores)	Entire	E	3	N/A
Pigeon, Chatham Island	Hemiphaga novaeseelandiae chathamensis	N/A	New Zealand	Entire	E	4	N/A
Pigeon, Mindoro zone-tailed	Ducula mindorensis	N/A	Philippines	Entire	E	15	N/A
Pigeon, Puerto Rican plain	Columba inornata wetmorei	N/A	USA (Puerto Rico)	Entire	E	2	N/A
Piping-guan, black fronted	Pipile jacutinga	N/A	Argentina	Entire	E	15	N/A
Pitta, Koch's	Pitta kochi	N/A	Philippines	Entire	E	15	N/A
Plover, New Zealand Shore	Thinornis novaeseelandiae	N/A	New Zealand	Entire	E	4	N/A
Poo-uli	Melamprosops phaeosoma	N/A	USA (Hawaii)	Entire	E	10	N/A
Prairie chicken, Attwater's greater	Tympanuchus cupido attwateri	N/A	USA (Texas)	Entire	E	1	N/A
Quail, Merriam's Montezuma	Cyrtonyx montezumae merriami	N/A	Mexico (Vera Cruz)	Entire	E	15	N/A
Quetzel, northern resplendent	Pharomachrus mocinno mocinno	N/A	Mexico to Nicaragua	Entire	E	15	N/A
Quetzel, central resplendent	Pharomachrus mocinno costaricensis	N/A	Costa Rica to Panama	Entire	E	15	N/A
Rail, Aukland Island	Rallus pectoralis muelleri	N/A	New Zealand	Entire	E	3	N/A
Rail, California clapper	Rallus longirostris obsoletus	N/A	USA (California)	Entire	E	2	N/A
Rail, light-footed clapper	Rallus longirostris levipes	N/A	USA (California), Mexico (Baja Calif.)	Entire	E	2	N/A
Rail, Lord Howe wood	Tricholimnas sylvestris	N/A	Lord Howe Island	Entire	E	15	N/A
Rail, Yuma clapper	Rallus longirostris yumanensis	N/A	Mexico (Sonora), USA (Arizona, California)	Entire	E	1	N/A
Rhea, Darwin's	Pterocnemia pennata	N/A	Argentina, Bolivia, Peru, Uruguay	Entire	E	4	N/A
Robin, Chatham Island	Petroica traversi ultima	N/A	New Zealand	Entire	E	4	N/A
Robin, scarlet-breasted (flycatcher)	Petroica multicolor multicolor	N/A	Australia (Norfolk Island)	Entire	E	3	N/A
Rockfowl, grey-necked	Picathartes oreas	N/A	Cameron	Entire	E	3	N/A
Rockfowl, white-necked	Picathartes gymnocephalus	N/A	Africa: Togo to Sierra Leone	Entire	E	3	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
Roller, long-tailed ground	Uratelornis chimaera	N/A	Malagasy Republic (Madagascar)	Entire	E	4	N/A
Scrub-bird, noisy	Atrichornis clamosus	N/A	Australia	Entire	E	3	N/A
Shama, Cebu black (thrush)	Copsychus niger cebuensis	N/A	Philippines	Entire	E	3	N/A
Shearwater, Newell's Manx	Puffinus puffinus newelli	N/A	USA (Hawaii)	Entire	T	10	N/A
Shrike, San Clemente loggerhead	Lanius ludovicianus mearnsi	N/A	USA (California)	Entire	E	26	N/A
Siskin, red	Carduelis (=Spinus) cucullatus	N/A	South America	Entire	E	15	
Sparrow, Cape Sable	Ammospiza maritima mirabilis	N/A	USA (Florida)	Entire	E	1	N/A
Sparrow, dusky seaside	Ammospiza maritima nigrescens	N/A	USA (Florida)	Entire	E	1	N/A
Sparrow, San Clemente sage	Amphispiza belli clementae	N/A	USA (California)	Entire	T	26	N/A
Sparrow, Santa Barbara song	Melospiza melodia graminea	N/A	USA (California)	Entire	E	6	N/A
Starling, Ponape mountain	Aplonis pelzelni	N/A	Western Pacific Ocean: USA (Caroline Islands)	Entire	E	4	N/A
Starling, Rothchild's (Myna)	Leucopsar rothschildi	N/A	Indonesia (Bali)	Entire	E	4	N/A
Stilt, Hawaiian	Himantopus himantopus knudseni	N/A	USA (Hawaii)	Entire	E	2	N/A
Stork, oriental white	Ciconia ciconia boyciana	N/A	China, Japan, Korea, Soviet Union	Entire	E	4	N/A
Teal, Campbell Island flightless	Anas aucklandica nesiotis	N/A	New Zealand (Campbell Island)	Entire	E	15	N/A
Tern, California least	Sterna albifrons browni	N/A	Mexico, USA (California)	Entire	E	2,4	N/A
Thrasher, white-breasted	Ramphocinclus brachyurus	N/A	West Indies: Martinique, St. Lucia	Entire	E	3	N/A
Thrush, large Kauai	Phaeornis obscurus myadestina	N/A	USA (Hawaii)	Entire	E	2	N/A
Thrush, Molokai (Olomau)	Phaeornis obscurus rutha	N/A	USA (Hawaii)	Entire	E	2	N/A
Thrush, New Zealand (wattlebird)	Turnagra capensis	N/A	New Zealand	Entire	E	3	N/A
Thrush, small Kauai (Puaiohi)	Phaeornis palmeri	N/A	USA (Hawaii)	Entire	E	1	N/A
Tinamou, solitary	Tinamus solitarius	N/A	Brazil, Paraguay, Argentina	Entire	E	15	N/A
Trembler, Martinique brown (thrasher)	Cinclocerthia ruficauda gutturalis	N/A	West Indies: Martinique	Entire	E	3	N/A
Wanderer, plain	Pedionomus torquatus	N/A	Australia	Entire	E	6	N/A
Warbler (wood), Bachman's	Vermivora bachmanii	N/A	Cuba, USA (Southeastern)	Entire	E	1,4	N/A
Warbler (wood), Barbados yellow	Dendroica petechia petechia	N/A	West Indies: Barbados	Entire	E	4	N/A
Warbler (wood), Kirtland's	Dendroica kirtlandii	N/A	USA, West Indies: Bahama Islands	Entire	E	1,4	N/A
Warbler, reed	Acrocephalus luscinia	N/A	Western Pacific Ocean: Marianas Islands	Entire	E	3	N/A
Warbler, Rodrigues	Bebrornis rodericanus	N/A	Mauritius (Rodrigues Island)	Entire	E	3	N/A
Warbler, Semper's	Leucopeza semperi	N/A	West Indies: St. Lucia	Entire	E	3	N/A
Warbler, Seychelles	Bebrornis sechellensis	N/A	Indian Ocean: Seychelles Island	Entire	E	3	N/A
Whipbird, Western	Psophodes nigrogularis	N/A	Australia	Entire	E	4	N/A
Whip-poor-will, Puerto Rican	Caprimulgus noctitherus	N/A	USA (Puerto Rico)	Entire	E	6	N/A
White-eye, Norfolk Island	Zosterops albogularis	N/A	Indian Ocean: Norfolk Island	Entire	E	15	N/A
White-eye, Ponape great	Rukia sanfordi	N/A	Western Pacific Ocean: USA (Caroline Islands)	Entire	E	4	N/A
White-eye, Seychelles	Zosterops modesta	N/A	Indian Ocean: Seychelles	Entire	E	4	N/A
Woodpecker, imperial	Campephilus imperialis	N/A	Mexico	Entire	E	3	N/A
Woodpecker, ivory billed	Campephilus principalis	N/A	Cuba, USA (South-central and south-eastern)	Entire	E	1,3	N/A
Woodpecker, red-cockaded	Picoides (=Dendrocopos) borealis	N/A	USA (Southcentral and Southeastern)	Entire	E	3	N/A
Woodpecker, Tristam's	Dryocopus javensis richardsi	N/A	Korea	Entire	E	3	N/A
Wren, Guadeloupe house	Troglodytes aedon guadeloupensis	N/A	West Indies: Guadeloupe	Entire	E	3	N/A
Wren, St. Lucia house	Troglodytes aedon mesoleucus	N/A	West Indies: St. Lucia	Entire	E	3	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
REPTILES:							
Alligator, American	Alligator mississippiensis	Wherever found in the wild, except in those areas where it is listed as Threatened, as set forth below.	Southeastern United States	Entire	E	11	N/A
Alligator, American	Alligator mississippiensis	In the wild in FL and in certain areas of GA, LA (except in Cameron, Vermillion, and Calcasieu Parishes), SC and TX, as set forth in Sec. 17.42(a)(2)(iv).	U.S. FL and certain areas of GA, LA (except in Cameron, Vermillion and Calcasieu Parishes), SC and TX	Entire	T	20	17.42(a)
Alligator, American	Alligator mississippiensis	In the wild in Cameron, Vermillion & Calcasieu Parishes in LA.	U.S. (Cameron, Vermillion, and Calcasieu Parishes in LA).	N/A	T(S/A)	11	17.42(a)
Alligator, American	Alligator mississippiensis	In captivity wherever found	Worldwide	N/A	T(S/A)	11	N/A
Alligator, Chinese	Alligator sinensis	N/A	China	Entire	E	15	N/A
Anole, giant	Anolis roosevelti	N/A	Culebra Island	Entire	E	25	N/A
Boa, Jamaican	Epicrates subflavus	N/A	Jamaica	Entire	E	4	N/A
Boa, Mona	Epicrates monensis monensis	N/A	USA (Puerto Rico)	Entire	T	33	N/A
Boa, Puerto Rico	Epicrates inornatus	N/A	USA (Puerto Rico)	Entire	E	2	N/A
Caiman, Apaporis River	Caiman crocodilus apaporiensis	N/A	Colombia	Entire	E	15	N/A
Caiman, black	Melanosuchus niger	N/A	Amazon basin	Entire	E	15	N/A
Caiman, broad-snouted	Caiman latirostris	N/A	Brazil, Uruguay Argentina, Paraguay	Entire	E	15	N/A
Crocodile, African dwarf	Osteolaemus tetraspis tetraspis	N/A	West Africa	Entire	E	15	N/A
Crocodile, African slender-snouted	Crocodylus cataphractus	N/A	Western and Central Africa	Entire	E	5	N/A
Crocodile, American	Crocodylus acutus	Florida	USA (South Florida and Florida keys)	Entire	E	10	N/A
Crocodile, Ceylon mugger	Crocodylus palustris kimbula	N/A	Sri Lanka, Africa	Entire	E	15	N/A
Crocodile, Congo dwarf	Osteolaemus tetraspis osborni	N/A	Congo River drainage	Entire	E	15	N/A
Crocodile, Cuban	Crocodylus rhombifer	N/A	Cuba	Entire	E	3	N/A
Crocodile, Morelet's	Crocodylus moreletii	N/A	Mexico, Belize, Guatemala	Entire	E	4	N/A
Crocodile, mugger	Crocodylus palustris palustris	N/A	India, Pakistan, Bangladesh, Iran	Entire	E	15	N/A
Crocodile, Nile	Crocodylus niloticus	N/A	Africa	Entire	E	4	N/A
Crocodile, Orinoco	Crocodylus intermedius	N/A	South America: Orinoco River Basin	Entire	E	4	N/A
Crocodile, Philippine	Crocodylus novaeguineae mindorensis	N/A	Philippine Islands	Entire	E	15	N/A
Crocodile, Siamese	Crocodylus siamensis	N/A	Southeast Asia, Malay Peninsula	Entire	E	15	N/A
Gavial (Gharial)	Gavialus gangeticus	N/A	Pakistan, India, Burma, Bangladesh	Entire	E	4	N/A
Gecko, day	Phelsuma newtoni	N/A	Mauritius	Entire	E	4	N/A
Gecko, Round Island day	Phelsuma guentheri	N/A	Mauritius	Entire	E	4	N/A
Iguana, Anegada ground	Cyclura pinguis	N/A	West Indies: Virgin Islands (Anegada Island)	Entire	E	3	N/A
Iguana, Barrington land	Conolophus pallidus	N/A	Ecuador: Galapagos Islands	Entire	E	4	N/A
Iguana, Mona ground	Cyclura stejnegeri	N/A	USA (Puerto Rico: Mona Island)	Entire	T	33	N/A
Lizard, blunt-nosed leopard	Crotaphytus silus	N/A	USA (California)	Entire	E	1	N/A
Lizard, Island night	Klauberina riversiana	N/A	USA (California)	Entire	T	26	N/A
Lizard, St. Croix Ground	Ameiva polops	N/A	Virgin Islands: Green Cay, Protestant Cay	Entire	E	24	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
Monitor, Bengal	Varanus bengalensis	N/A	Iran, Iraq, India, Afganistan, Burma, Sri Lanka, Vietnam, Thailand, Malaysia	Entire	E	15	N/A
Monitor, desert	Varanus griseus	N/A	North Africa to Near-east, Caspian Sea through Soviet Union to Rakistan, North-west India	Entire	E	15	N/A
Monitor, Komodo Island	Varanus komodensis	N/A	Indonesia (Komodo, Rintja, Padar, and Western Flores Islands)	Entire	E	15	N/A
Monitor, yellow	Varanus flavescens	N/A	West Pakistan through India to Bangladesh	Entire	E	15	N/A
Python, Indian	Python molurus molurus	N/A	Sri Lanka and India	Entire	E	15	N/A
Rattlesnake, New Mexican ridge-nosed	Crotalus willardi obscurus	N/A	USA (New Mexico); Mexico	Entire	T	43	N/A
Snake, Atlantic salt marsh	Nerodia fasciata taeniata	N/A	USA (Florida)	Entire	T	30	N/A
Snake, eastern indigo	Drymarchon corais couperi	N/A	USA (FL,GA,MS,SC,AL)	Entire	T	32	N/A
Snake, San Francisco garter	Thamnophis sirtalis tetrataenia	N/A	USA (California)	Entire	E	1	N/A
Terrapin, river (Tuntong)	Batagur baska	N/A	Burma, India, Indonesia, Malaysia, Bangladesh	Entire	E	4	N/A
Tomistoma	Tomistoma schlegelii	N/A	Malaysia, Indonesia	Entire	E	15	N/A
Tortoise, angulated	Geochelone yniphora	N/A	Malagasy Republic (Madagascar)	Entire	E	15	N/A
Tortoise, Galapagos	Geochelone elephantopus	N/A	Ecuador: Galapagos Islands	Entire	E	4	N/A
Tortoise, Indian flap-shell	Lissemys punctata punctata	N/A	India, Pakistan, and Bangladesh	Entire	E	15	N/A
Tortoise, Madagascar radiated	Geochelone radiata	N/A	Malagasy Republic (Madagascar)	Entire	E	4	N/A
Tortoise, short-necked or swamp	Pseudemydura umbrina	N/A	Australia	Entire	E	4	N/A
Tuatara	Sphenodon punctatus	N/A	New Zealand	Entire	E	4	N/A
Turtle, aquatic box	Terrapene coahuila	N/A	Mexico	Entire	E	6	N/A
Turtle, black softshell	Trionyx nigricans	N/A	Bangladesh	Entire	E	15	N/A
Turtle, Burmese peacock	Morenia ocellata	N/A	Burma	Entire	E	15	N/A
Turtle, Cuatro Cienegas softshell	Trionyx ater	N/A	Mexico	Entire	E	15	N/A
Turtle, geometric	Geochelone geometrica	N/A	Union of South Africa	Entire	E	15	N/A
Turtle, green sea	Chelonia mydas	Wherever found except in those areas where it is listed as Endangered as set forth below	Circumglobal in tropical and temperate seas and oceans	Entire	T	42	17.42(b) and Part 220 and 227
Turtle, green sea	Chelonia mydas	Breeding colony populations in Florida and on the Pacific coast of Mexico	All State waters of Florida including Hutchison and Jupiter Islands and Pacific Coast of Mexico including the Gulf of California	Entire	E	42	N/A
Turtle, hawksbill sea	Eretmochelys imbricata	N/A	Tropical Seas	Entire	E	3	N/A
Turtle, Indian sawback	Kachuga tecta tecta	N/A	India	Entire	E	15	N/A
Turtle, Indian softshell	Trionyx gangeticus	N/A	Pakistan, India	Entire	E	15	N/A
Turtle, Kemp's (Atlantic) Ridley sea	Lepidochelys kempii	N/A	Tropical & Temperate Seas	Entire	E	4	N/A
Turtle, leatherback sea	Dermochelys coriacea	N/A	Tropical and Temperate Seas	Entire	E	3	N/A
Turtle, loggerhead sea	Caretta caretta	N/A	Circumglobal in tropical and temperate seas and oceans	Entire	T	42	17.42(b) and Part 220 and 227
Turtle, Olive (Pacific) Ridley sea	Lepidochelys olivacea	Wherever found except in those areas where it is listed as Endangered as set forth below	Circumglobal in tropical and temperate seas and oceans	Entire	T	42	17.42(b) and Part 220 and 227

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SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
Turtle, Olive (Pacific) Ridley sea	Lepidochelys olivacea	Breeding colony population in Pacific Coast of Mexico	Pacific coast of Mexico including the Gulf of California	Entire	E	42	N/A
Turtle, peacock softshell	Trionyx hurum	N/A	India and Bangladesh	Entire	E	15	N/A
Turtle, South American	Podocnemis expansa	N/A	South America: Orinoco and Amazon River basins	Entire	E	3	N/A
Turtle, South American	Podocnemis unifilis	N/A	South America: Orinoco and Amazon River basins	Entire	E	4	N/A
Turtle, spotted pond	Geoclemmys (=Damonia) hamiltonii	N/A	Northern India, Pakistan	Entire	E	15	N/A
Turtle, three-keeled Asian	Geoemyda (=Nicoria) tricarinata	N/A	Central India to Bangladesh and Burma	Entire	E	15	N/A
Yacare (Caiman)	Caiman yacare	N/A	Bolivia, Peru, Argentina, Brazil	Entire	E	3	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
AMPHIBIANS:							
Coqui, golden	Eleutherodactylus jasperi	N/A	USA (Puerto Rico)	Entire	T	29	N/A
Frog, Israel painted	Discoglossus nigriventer	N/A	Israel	Entire	E	4	N/A
Frog, Panamanian golden	Atelopus varius zeteki	N/A	Panama	Entire	E	15	N/A
Frog, Stephen Island	Leiopelma hamiltoni	N/A	New Zealand	Entire	E	4	N/A
Salamander, Chinese giant	Andrias davidianus davidianus	N/A	Western China	Entire	E	15	N/A
Salamander, desert slender	Batrachoseps aridus	N/A	USA (California)	Entire	E	6	N/A
Salamander, Japanese giant	Andrias davidianus japonicus	N/A	Japan	Entire	E	15	N/A
Salamander, Red Hills	Phaeognathus hubrichti	N/A	USA (Alabama)	Entire	T	19	N/A
Salamander, Santa Cruz long-toed	Ambystoma macrodactylum croceum	N/A	USA (California)	Entire	E	1	N/A
Salamander, Texas blind	Typhlomolge rathbuni	N/A	USA (Texas)	Entire	E	1	N/A
Toad, African viviparous	Nectophrynoides spp.	N/A	Tanzania, Guinea	Entire	E	15	N/A
Toads, Cameroon	Bufo superciliaris	N/A	Equatorial Africa	Entire	E	15	N/A
Toad, Houston	Bufo houstonensis	N/A	USA (Texas)	Entire	E	2	N/A
Toad, Monte Verde	Bufo peripiglenes	N/A	Costa Rica	Entire	E	15	N/A
Treefrog, Pine Barrens	Hyla andersonii	FL	USA (Florida)	Entire	E	29	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
FISHES:							
Ala Balik	Salmo platycephalus	N/A	Turkey	Entire	E	3	N/A
Ayumodoki	Hymenophysa curta	N/A	Japan	Entire	E	3	N/A
Blindcat, Mexican	Prietella phreatophila	N/A	Mexico	Entire	E	3	N/A
Bonytail, Pahranagat	Gila robusta jordani	N/A	USA (Nevada)	Entire	E	2	N/A
Bonytongue, Asian	Scleropages formosus	N/A	Thailand, Indonesia, Malaysia	Entire	E	15	N/A
Catfish	Pangasius sanitwongsei	N/A	Thailand	Entire	E	3	N/A
Catfish, giant	Pangasianodon gigas	N/A	Thailand	Entire	E	3	N/
Cavefish, Alabama	Speoplatyrhinus poulsoni	N/A	USA (Alabama)	Entire	T	28	N/A
Chub, humpback	Gila cypha	N/A	USA (AZ,UT,WY)	Entire	E	1	N/A
Chub, Mohave	Gila mohavensis	N/A	USA (California)	Entire	E	2	N/A
Chub, slender	Hybopsis cahni	N/A	USA (TN,VA)	Entire	T	28	17.4
Chub, spotfin	Hybopsis monacha	N/A	USA (VA,TN,NC)	Entire	T	28	17.44
Cicek	Acanthorutilus handlirschi	N/A	Turkey	Entire	E	3	N/A
Cisco, longjaw	Coregonus alpenae	N/A	USA (Lakes Michigan, Huron and Erie)	Entire	E	1	N/A
Cui-ui	Chasmistes cujus	N/A	USA (Nevada)	Entire	E	1	N/A
Dace, Kendall Warm Springs	Rhinichthys osculus thermalis	N/A	USA (Wyoming)	Entire	E	2	N/A
Dace, Moapa	Moapa coriacea	N/A	USA (Nevada)	Entire	E	1	N/A
Darter, bayou	Etheostoma rubrum	N/A	USA (Mississippi)	Entire	T	10	17.44
Darter, fountain	Etheostoma fonticola	N/A	USA (Texas)	Entire	E	2	N/A
Darter, leopard	Percina pantherina	N/A	USA (AR,OK)	Entire	T	31	17.44
Darter, Maryland	Etheostoma sellare	N/A	USA (Maryland)	Entire	E	1	N/A
Darter, Okaloosa	Etheostoma okaloosae	N/A	USA (Florida)	Entire	E	6	N/A
Darter, slackwater	Etheostoma boschungi	N/A	USA (AL,TN)	Entire	T	28	17.44
Darter, snail	Percina tanasi	N/A	USA (Tennessee)	Entire	E	12	N/A
Darter, watercress	Etheostoma nuchale	N/A	USA (Alabama)	Entire	E	2	N/A
Gambusia, Big Bend	Gambusia gaigei	N/A	USA (Texas)	Entire	E	1	N/A
Gambusia, Clear Creek	Gambusia heterochir	N/A	USA (Texas)	Entire	E	1	N/A
Gambusia, Pecos	Gambusia nobilis	N/A	USA (Texas)	Entire	E	2	N/A
Killifish, Pahrump	Empetrichthys latos	N/A	USA (Nevada)	Entire	E	1	N/A
Madtom, Scioto	Noturus trautmani	N/A	USA (Ohio)	Entire	E	10	N/A
Madtom, yellowfin	Noturus flavipinnis	N/A	USA (TN,VA)	Entire	T	28	17.44(c)
Nekogigi	Coreobagrus ichikawai	N/A	Japan	Entire	E	3	N/A
Pike, blue	Stizostedion vitreum glaucum	N/A	USA (Lakes Erie and Ontario)	Entire	E	1	N/A
Pupfish, Comanche Springs	Cyprinodon elegans	N/A	USA (Texas)	Entire	E	1	N/A
Pupfish, Devil's Hole	Cyprinodon diabolis	N/A	USA (Nevada)	Entire	E	1	N/A
Pupfish, Owens River	Cyprinodon radiosus	N/A	USA (California)	Entire	E	1	N/A
Pupfish, Tecopa	Cyprinodon nevadensis calidae	N/A	USA (California)	Entire	E	2	N/A
Pupfish, Warm Springs	Cyprinodon nevadensis pectoralis	N/A	USA (Nevada)	Entire	E	2	N/A
Squawfish, Colorado River	Ptychocheilus lucius	N/A	USA (AR, CA, CO, NM, UT, WY)	Entire	E	1	N/A
Stickleback, unarmored three-spine	Gasterosterus aculeatus williamsonii	N/A	USA (California)	Entire	E	2	N/A
Sturgeon, shortnose	Acipenser brevirostrum	N/A	USA (Atlantic Coast of US and Canada)	Entire	E	1	N/A
Tango, Miyako	Tanakia tanago	N/A	Japan	Entire	E	3	N/A
Temolek, Ikan	Probarbus jullieni	N/A	Thailand, Laos, Vietnam, Cambodia, Malaysia	Entire	E	15	N/A
Topminnow, Gila	Poeciliopsis occidentalis	N/A	USA (Arizona), Mexico	Entire	E	1	N/A
Trout, Arizona	Salmo apache	N/A	USA (Arizona)	Entire	T	8	17.44(a)
Trout, Gila	Salmo gilae	N/A	USA (New Mexico)	Entire	E	1	N/A
Trout, greenback cutthroat	Salmo clarki stomias	N/A	USA (Colorado)	Entire	T	1,38	N/A
Trout, Lahontan cutthroat	Salmo clarki henshawi	N/A	USA (California, Nevada)	Entire	T	8	17.44(a)
Trout, little kern golden	Salmo aguabonita whitei	N/A	USA (California)	Entire	T	37	17.44(e)
Trout, Paiute cutthroat	Salmo clarki seleniris	N/A	USA (California)	Entire	T	8	17.44(a)
Woundfin	Plagopterus argentissimus	N/A	USA (Arizona, Nevada, Utah)	Entire	E	2	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
SNAILS:							
Snail, Chittenango ovate amber	Succinea chittenangoensis	N/A	USA (New York)	New York	T	41	N/A
Snail, flat-spired three-toothed	Triodopsis platysayoides	N/A	USA (West Virginia)	Entire	T	41	N/A
Snail, Iowa Pleistocene	Discus macclintocki	N/A	USA (Iowa)	Entire	E	41	N/A
Snail, Manus Island tree	Papustyla pulcherrima	N/A	Admiralty Islands (Manus Islands)	Entire	E	4	N/A
Snail, noonday	Mesodon clarki nantahala	N/A	USA (North Carolina)	Entire	T	41	N/A
Snail, painted snake coiled forest	Anguispira picta	N/A	USA (Tennessee)	Entire	T	41	N/A
Snail, Stock Island tree	Orthalicus reses	N/A	USA (Florida)	Entire	T	41	N/A
Snail, Virginia fringed mountain	Polygyriscus virginianus	N/A	USA (Virginia)	Entire	E	41	N/A
CLAMS:							
Pearly mussel, Alabama lamp	Lampsilis virescens	N/A	USA (Alabama)	Entire	E	15	N/A
Pearly mussel, Appalachian monkey-face	Quadrula sparsa	N/A	USA (VA,TN)	Entire	E	15	N/A
Pearly mussel, birdwing	Conradilla caelata	N/A	USA (VA,TN)	Entire	E	15	N/A
Pearly mussel, Cumberland bean	Villosa (=Micromya) trabalis	N/A	USA (Kentucky)	Entire	E	15	N/A
Pearly mussel, Cumberland monkey-face	Quadrula intermedia	N/A	USA (VA,TN)	Entire	E	15	N/A
Pearly mussel, Curtis'	Epioblasma (=Dysnomia) florentina curtisi	N/A	USA (Missouri)	Entire	E	15	N/A
Pearly mussel, dromedary	Dromus dromas	N/A	USA (VA,TN)	Entire	E	15	N/A
Pearly mussel, green-blossom	Epioblasma (=Dysnomia) torulosa gubernaculum	N/A	USA (VA,TN)	Entire	E	15	N/A
Pearly mussel, Higgin's eye	Lampsilis higginsi	N/A	USA (MN,WI,IL,MO)	Entire	E	15	N/A
Pearly mussel, Nicklin's	Megalonaias nicklineana	N/A	Mexico	Entire	E	15	N/A
Pearly mussel, orange-footed	Plethobasis cooperianus	N/A	USA (AL,TN)	Entire	E	15	N/A
Pearly mussel, pale lilliput	Toxolasma (=Carunculina) cylindrella	N/A	USA (AL,TN)	Entire	E	15	N/A
Pearly mussel, pink mucket	Lampsilis orbiculata orbiculata	N/A	USA (AL,WV,TN)	Entire	E	15	N/A
Pearly mussel, Sampson's	Epioblasma (=Dysnomia) sampsoni	N/A	USA (IN,IL)	Entire	E	15	N/A
Pearly mussel, Tampico	Cyrtonaias tampicoensis tecomatensis	N/A	Mexico	Entire	E	15	N/A
Pearly mussel, tubercled-blossom	Epioblasma (=Dysnomia) torulosa torulosa	N/A	USA (KY,IL,TN,WV)	Entire	E	15	N/A
Pearly mussel, turgid-blossom	Epioblasma (=Dysnomia) turgidula	N/A	USA (Tennessee)	Entire	E	15	N/A
Pearly mussel, white cat's eye	Epioblasma (=Dysnomia) sulcata delicata	N/A	USA (OH,MI,IN)	Entire	E	15	N/A
Pearly mussel, white wartyback	Plethobasis cicatricosus	N/A	USA (AL,TN)	Entire	E	15	N/A
Pearly mussel, yellow-blossom	Epioblasma (=Dysnomia) florentina florentina	N/A	USA (Tennessee)	Entire	E	15	N/A
Pigtoe, fine-rayed	Fusconaia cuneolus	N/A	USA (VA,AL,TN)	Entire	E	15	N/A
Pigtoe, rough	Pleurobema plenum	N/A	USA (KY,VA,TN)	Entire	E	15	N/A
Pigtoe, shiny	Fusconaia edgariana	N/A	USA (VA,AL,TN)	Entire	E	15	N/A
Pocketbook, fat	Potamilus (=Proptera) capax	N/A	USA (AR,MO)	Entire	E	15	N/A
Riffle shell clam, tan	Epioblasma walkeri	N/A	USA (TN,VA,KY)	Entire	E	15	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
CRUSTACEANS:							
Isopod, Socorro	Exosphaeroma thermophilus	N/A	USA (New Mexico)	Entire	E	36	N/A
INSECTS:							
Butterfly, Bahama swallowtail	Papilio andraemon bonhotei	USA	USA (Florida), Bahamas	USA	T	13	17.47
Butterfly, El Segundo blue	Shijimiaeoides battoides allyni	N/A	USA (California)	Entire	E	14	N/A
Butterfly, Lange's metalmark	Apodemia mormo langei	N/A	USA (California)	Entire	E	14	N/A
Butterfly, Lotis blue	Lycaeides argyrognomon lotis	N/A	USA (California)	Entire	E	14	N/A
Butterfly, mission blue	Icaricia icarioides missionensis	N/A	USA (California)	Entire	E	14	N/A
Butterfly, San Bruno elfin	Callophrys mossii bayensis	N/A	USA (California)	Entire	E	14	N/A
Butterfly, Schaus swallowtail	Papilio aristodemus ponceanus	N/A	USA (Florida)	Entire	T	13	17.47
Butterfly, Smith's blue	Shijimiaeoides enoptes smithi	N/A	USA (California)	Entire	E	14	N/A

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2. The table at the end of § 17.12 is revised to read as set forth below:

17.12 - Endangered and Threatened Plants

SPECIES		RANGE				
Scientific Name	Common Name	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
PLANTS:						
Betulaceae, Birch family:						
Betula uber	Virginia round-leaf birch	USA (Virginia)	Entire	E	39	N/A
Brassicaceae, Mustard family:						
Arabis macdonaldiana	McDonald's rock cress	USA (California)	Entire	E	44	N/A
Erysimum capitatum var. angustatum	Contra Costa wallflower	USA (California)	Entire	E	39	N/A
Crassulaceae, Stonecrop family:						
Dudleya traskiae	Santa Barbara Island liveforever	USA (California)	Entire	E	39	N/A
Fabaceae, Pea family:						
Astragalus perianus	Rydberg milk-vetch	USA (Utah)	Entire	T	39	N/A
Baptisia arachnifera	hairy rattleweed	USA (Georgia)	Entire	E	39	N/A
Lotus scoparius ssp. traskiae	San Clemente broom	USA (California)	Entire	E	26	N/A
Vicia menziesii	Hawaiian wild broad-bean	USA (Hawaii)	Entire	E	39	N/A
Hydrophyllaceae, Waterleaf family:						
Phacelia argillacea	unnamed phacelia	USA (Utah)	Entire	E	44	N/A
Lamiaceae, Mint family:						
Pogogyne abramsii	San Diego pogogyne	USA (California)	Entire	E	44	N/A
Liliaceae, Lily family:						
Trillium persistens	persistent trillium	USA (GA,SC)	Entire	E	39	N/A
Malvaceae, Mallow family:						
Malacothamnus clementinus	San Clemente Island bush-mallow	USA (California)	Entire	E	26	N/A
Onagraceae, Evening-primrose family:						
Oenothera avita ssp. eurekensis	Eureka evening-primrose	USA (California)	Entire	E	39	N/A
Oenothera deltoides ssp. howellii	Antioch Dunes evening-primrose	USA (California)	Entire	E	39	N/A
Poaceae, Grass family:						
Orcuttia mucronata	Crampton's Orcutt grass	USA (California)	Entire	E	44	N/A
Swallenia alexandrae	Eureka dune grass	USA (California)	Entire	E	39	N/A
Zizania texana	Texas wild-rice	USA (Texas)	Entire	E	39	N/A
Ranunculaceae, Buttercup family:						
Aconitum noveboracense	northern wild monkshood	USA (IA,NY,OH,WI)	Entire	T	39	N/A
Delphinium kinkiense	San Clemente Island larkspur	USA (California)	Entire	E	26	N/A
Scrophulariaceae, Snapdragon family:						
Castilleja grisea	San Clemente Island Indian paintbrush	USA (California)	Entire	E	26	N/A
Cordylanthus maritimus ssp. maritimus	salt marsh bird's beak	USA (California), Mexico	Entire	E	44	N/A
Pedicularis furbishiae	Furbish lousewort	USA (ME), Canada (New Brunswick)	Entire	E	39	N/A

1--32 FR 4001; March 11, 1967
2--35 FR 16047; October 13, 1970
3--35 FR 8495; June 2, 1970
4--35 FR 18320; December 2, 1970
5--37 FR 6476; March 30, 1972
6--38 FR 14678; June 4, 1973
7--39 FR 44991; December 30, 1974
8--40 FR 29864; July 16, 1975
9--40 FR 31736; July 28, 1975
10--40 FR 44151; September 25, 1975
11--40 FR 44418; September 26, 1975
12--40 FR 47506; October 9, 1975
13--41 FR 17740; April 28, 1976
14--41 FR 22044; June 1, 1976
15--41 FR 24064; June 14, 1976
16--41 FR 45993; October 19, 1976
17--41 FR 51021; November 19, 1976
18--41 FR 51612; November 23, 1976
19--41 FR 53034; December 3, 1976
20--42 FR 2076; January 10, 1977
21--42 FR 2968; January 14, 1977
22--42 FR 28056; June 1, 1977
23--42 FR 28137; June 2, 1977
24--42 FR 28545; June 3, 1977
25--42 FR 37373; July 21, 1977
26--42 FR 40685; August 11, 1977
27--42 FR 42353; August 23, 1977
28--42 FR 45528; September 9, 1977
29--42 FR 58755; November 11, 1977
30--42 FR 60745; November 29, 1977
31--43 FR 3715; January 27, 1978
32--43 FR 4028; January 31, 1978
33--43 FR 4621; February 3, 1978
34--43 FR 6233; February 14, 1978
35--43 FR 9612; March 9, 1978
36--43 FR 12691; March 27, 1978
37--43 FR 15429; April 13, 1978
38--43 FR 16345; April 18, 1978
39--43 FR 17916; April 26, 1978
40--43 FR 20504; May 12, 1978
41--43 FR 28932; July 3, 1978
42--43 FR 32808; July 28, 1978
43--43 FR 34479; August 4, 1978
44--43 FR 44812; September 28, 1978

[FR Doc. 78-34237 Filed 12-8-78; 8:45 am]

federal register

WEDNESDAY, JANUARY 17, 1979
PART III



FEDERAL COMMUNICATIONS COMMISSION

■

IMPROVEMENTS TO UHF TELEVISION RECEPTION; TELEVISION RECEIVER PERFORMANCE STANDARDS; AND TECHNICAL IMPROVEMENTS TO TELEVISION RECEIVERS AND CERTAIN TRANSMITTER STANDARDS

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[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 15]

[General Docket No. 78-391; FCC 78-864]

IMPROVEMENTS TO UHF TELEVISION RECEPTION

Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry.

SUMMARY: The FCC is soliciting the public for comments on Improvements to UHF Television Reception in both the technical and consumer areas. This information is needed to form the basis upon which action may be taken to improve UHF reception.

DATES: Comments must be received on or before April 2, 1979. A date for reply comments will be set after the initial comments have been summarized.

ADDRESSES: Federal Communications Commission, 1919 M St., NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Philip Gieseler or Virginia Armstrong, Office of Plans and Policy, (202) 634-7651.

In the matter of improvements to UHF television reception, GEN Docket No. 78-391.

Adopted: December 20, 1978.

Released: December 29, 1978.

INTRODUCTION

1. The Federal Communications Commission (FCC) is instituting this Inquiry as part of a process to determine how UHF (ultra-high frequency—channels 14-83) television reception can be improved relative to VHF (very high frequency—channels 2-13) television reception. Prompted at this time by a recent Congressional mandate, we are initiating this Inquiry and convening a UHF Comparability Task Force to analyze the many possibilities for improved UHF service.[1] In this Notice, we reaffirm our commitment to a fully viable and competitive UHF service; we ask questions of the public and interested parties that will aid in our deliberations; and we present an initial plan for the work of the UHF Comparability Task Force.

2. We view parity not as an end in itself, but as a means for accomplishing other goals such as increasing the number of UHF station viewers and their level of satisfaction. Larger UHF audiences should cause revenues and profits of existing UHF stations to increase, encouraging the establishment of additional new UHF stations. Higher profits and more stations on the air should ultimately increase the number, quality and diversity of television programs available to viewers, while encouraging other goals such as local programming, and minority ownership and operation of television stations. At the same time, we are aware that any requirements to improve the technical quality of UHF reception may increase the cost of manufacturing antennas and receivers, a cost which will ultimately be borne by the consumers who purchase those items.

3. The process, in which this Inquiry is the first step, will determine which of several approaches for improving UHF television will best serve the consumer and the overall public interest, by analyzing the costs and benefits of particular improvements. Initially, we are concentrating on gathering together in one Docket all existing information on UHF reception. This information will be updated and analyzed for any gaps. Solutions require accurately knowng the components of a problem, so our emphasis will first be on compiling data that define the problem, and then seeking solutions.

4. To encourage wide participation and debate in this proceeding, and to produce a detailed record for Commission review, the Task Force will issue periodic reports. Interested persons will then have the opportunity to submit relevant comments. All comments will be analyzed for a final report to the Commission. The final report of the UHF Comparability Task Force will take into account all comments received, consistent with a timetable for Task Force recommendations within the next two years.

HISTORICAL BACKGROUND

5. Allocations for television spectrum space were first made in 1941 in the VHF frequency band (channels 2-13).[2] By 1945, however, it became apparent that those 12 channels could not adequately meet the demand. Thus, in order to achieve a competitive nationwide television system, the FCC sought to create additional channels on the readily available frequencies of the UHF band.

6. With the publication of its *Sixth Report and Order on Television Allocation* in 1952, the Federal Communications Commission fully committed itself to UHF television.[3] It believed that allocating channels 14-83 for television broadcasting would help maximize the television audience.[4] It expected UHF to prosper because the 12 VHF channels were too few to meet the public's needs; VHF was not thought to be sufficiently mature to put UHF at a great disadvantage; and differences in wave propagation were not thought to be serious enough to affect competition. Scientific advances, when coupled with these market incentives, were expected to create a technologically improved UHF system. The FCC at that time believed television would eventually shift to the higher frequency band (channels 14-83).[5]

7. When the UHF television band became available for commercial use in 1952, VHF was already well-established with 108 stations reaching two-thirds of the nation's population.[6] Stations broadcasting on UHF thus faced widespread competition from intrinsically superior VHF facilities. Furthermore, few television sets were equipped to receive the UHF signals.

8. Due to the physical characteristics of wave propagation as a function of frequency, UHF signal strength declines more rapidly with distance than does VHF signal strength. In addition, terrain variations and high buildings are more likely to affect the higher frequency UHF signals. These competitive and technical disadvantages, collectively known as the "UHF Handicap," substantially hindered further development of UHF television, and this hindrance was circular. With smaller audiences being reached through UHF, advertisers and networks preferred VHF. And without sources of major network programming and advertising revenues for improving transmission facilities, UHF stations could not induce a large segment of the population to purchase receivers equipped for channels 14-83. The UHF disadvantage is still evident today when rating comparisons are made between UHF and VHF stations—even between UHF and VHF network affiliates where the programming differences are minimal.[7]

9. The number of UHF stations increased from 45 in 1953 to 137 in 1954, but decreased to only 108 in 1955.[8] In 1955, the FCC acknowledged that UHF still lacked a substantial audience and was concerned about UHF's no-growth situation. In response to these problems, the FCC proposed a policy of deintermixture (FCC allocation of only UHF or only VHF channels in a given market).[9] This policy was expected to eventually shift the country to primary use of the UHF band. However, the Commission never established a deadline for conversion of some markets to UHF-only markets. As a result, the public was left with no incentive to purchase all-channel receivers, and industry with no incentive to manufacture them. When Congress began formulating the *All-Channel Television Receiver Act of 1962* (the Act), the Commission issued a *Report and Order Terminating the Eight Captioned Deintermixture Proceedings.* The FCC decided that deintermixture was not in keeping with either the Act, or the Commission's policy of seeking "a system of using both UHF and VHF channels" as the best way to reach a "general or long-range solution for the television allocations problem."[10] By 1962 there were only 104 UHF stations nationwide and it was estimated that only 8.35% of the 3.3 million receivers produced in the first half of that year were equipped to receive all channels.[11]

10. The *All-Channel Television Receiver Act of 1962* stipulated that all television sets shipped in interstate commerce after April, 1964, had to be adequately equipped to receive channels 14-83.[12] It permitted the FCC to regulate television receivers with respect to UHF reception: the Commission subsequently set a maximum 18 dB noise figure for the UHF portion of a set.[13] In 1978, the Commission again voted to reduce this maximum noise figure to 14 dB, effective by October 1979, and to 12 dB by 1982.[14]

11. In implementing the *All-Channel Television Receiver Act*, the Commission called for adequate but not necessarily comparable UHF reception, believing that adequacy was sufficient to solve the "root problem" behind the UHF disadvantage: inability of consumers to receive UHF stations.[15] It also believed implementation of the Act would

> lead to research efforts by the manufacturers, which it is hoped, will greatly improve the UHF portion of the receiver. Our conferences with industry representatives have indicated that such research and improvement will be undertaken without delay and in a vigorous fashion.

As in the past, the Commission felt that

> With increased use of UHF, and increased incentive for both equipment manufacturers and station operators to exploit its maximum potential, there is reason to believe that several of the problems which presently restrict coverage of UHF stations would be overcome.[16]

12. By August 1965, an estimated 33% of the nation's households owned all-channel receivers, and the figure increased to 42.1% in 1967.[17] The next year, the Commission mandated that all sets have comparable ease of tuning for both UHF and VHF portions of the receiver. This regulation would eliminate the "built-in UHF deterrent in the form of separate, different and more complicated UHF tuning system."[18] It would apply to all sets measuring at least 9" diagonally manufactured after April, 1971, and to all television sets after April, 1975. The Commission considered a six-position UHF click-stop tuner sufficient to meet this requirement, although in 1976 it required a 70-detent ("click-stop") tuner equipped with automatic frequency control (AFC) on all sets manufactured after June, 1977.[19]

13. In 1976, the Commission further acted to improve the allowable tuner accuracy to +2 MHz.[20] It also required that all sets with a manufacturer-supplied VHF antenna must have a similarly supplied UHF antenna, and if one was permanently affixed to the set, the other must also be affixed.[21] In 1976, 92% of the nation's households with television owned all-channel receivers.[22]

14. In 1978, Congress found that "the intent of the *All-Channel Receiver Act of 1962* has not been realized. UHF television broadcasting remains sorely disadvantaged within the national television system. The [Senate] Committee [on Appropriations] directs that the Commission devise a plan for UHF to reach comparability with VHF in as short a time as practicable. * * * This plan should address all the technical and regulatory aspects of achieving parity and should set a schedule for dealing with each, including dates for achieving specific goals, such as noise level reductions. It should also include indications of the probable need for any legislation necessary to fulfill the plan."[23] Accordingly, we are issuing this Inquiry and have formed the UHF Comparability Task Force to address the fundamental technical differences between UHF and VHF reception and to propose and consider methods for minimizing those differences.

CONSUMER ISSUES

15. A fundamental assumption in this Inquiry is that viewers consider the technical aspects of UHF reception to be inferior to VHF reception. A second assumption is that UHF viewer satisfaction would rise and the audience for UHF programs would increase if UHF picture quality were judged equal to VHF quality.[24]

16. Thus, the first set of questions to which we seek answers are these:

A. Do consumers perceive UHF picture and sound quality to be significantly lower than VHF quality?

B. Assuming that viewers do perceive a difference in the technical quality of UHF and VHF signals, what differences are the most bothersome:

(1) Multiple images or ghosts?

(2) Snow or other indications of a weak signal?

(3) Pictures which do not stay locked in position but roll or slide?

(4) Color pictures with unnatural colors or bleeding of colors?

(5) Poor quality sound?

(6) Interference which causes lines or blanks out the picture?

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[1] Congress approved a $750,000 appropriation and created five staff positions to examine comparability for UHF and VHF television. Public Law No. 95-431 92 Stat 1040 (October 10, 1978), *Appropriations for Departments of State, Justice, Commerce, Judiciary and related agencies.* See also Senate Report 95-1043, 95th Cong. 2nd Sess. (July 28, 1978). (Paragraph 14 of this *Notice* includes specific language contained in the Senate Report.)

[2] Channel 1 was reallocated to land mobile radio in 1944. See FCC *Allocations of Frequencies to Non-governmental Services*, 9 FR 10270 (1944).

[3] Docket Nos. 8736, 8975-6 and 9175, 1 Radio Regulation (RR) 601, 607, 660 ff (1952).

[4] Channels 70-83 were reallocated to land mobile radio in 1970, although some television translator stations (low-power rebroadcast devices) still operate in this band on a secondary basis. See *Report and Order* in Docket 18262, 23 FCC 2d 325, 19 RR 1663 (1970).

[5] 11 FCC Annual Report 21-22 (1946).

[6] See H. Plotkin, *TV Networks and the UHF Problems*, report prepared for the Senate Committee on Interstate and Foreign Commerce, 85th Cong. Sess. 1. (1955).

[7] See R. E. Park, "Potential Impact of Cable Growth on Television Broadcasting" (Rand Corporation Report R-587-FF), October 1970, Chapter III. The preliminary results from an updated study being done by Park for the FCC with more recent data confirm that there is still a substantial handicap for UHF network affiliates even during primetime.

[8] 19 Annual Report 93 (1953), 20 Annual Report 89 (1954), 21 Annual Report 95 (1955).

[9] Dockets Nos. 11238 and 11333-6, 13 RR 1511 (1955).

[10] Docket Nos. 14239-46, 23 RR 1645 (1962).

[11] 28 FCC Annual Report 58, (1962).

[12] Pub. L. 87-529, enacted July 10, 1962, 76 Stat 150; 47 U.S.C. 303(s) and 330.

[13] Noise figure refers to the amount of "snow" (a kind of visual interference) added by receiving components to the television picture. A lower noise figure will mean less "snow" for a large number of viewers in areas where the signal is weak.

[14] *Report and Order* in Docket No. 21010, FCC 78-582, 43 FR 36096 (August 15, 1978).

[15] Docket No. 14796, FCC 62-631, 1192 in 27 FR 9923, 11698.

[16] Docket Nos. 14239-46, 23 RR 1645 (1962).

[17] FCC 33 Annual Report 38 (1967).

[18] See *Notice of Proposed Rule Making*, FCC 69-88, 18 RR 2d 1577 (1968); also *Report and Order* Docket No. 18433, FCC 70-113, 21 FCC 2d 245 (1970).

[19] See Docket No. 20719 FCC 76-1063, 39 RR 2d 89 (1976); also *Notice of Proposed Rulemaking* FCC 76-138, 58 FCC 2d 338 (1976).

[20] See *Report and Order* in Docket No. 20839, FCC 76-1146, 42 FR 1231 (1977).

[21] *Ibid.*

[22] *TV Factbook*, 1978, at 98-101a.

[23] Senate Report 95-1043, 95th Cong., 2nd Sess. (July 28, 1978).

[24] Some studies indicate a cultural bias against UHF. See for example K. White, "Television Market Shares, Station Characteristics and Viewer Choice," *Communication Research*, Vol. 4, No. 4, October 1977. Such a "psychological" handicap, if it exists, could be inhibiting the development of UHF even if performance is equal to that of VHF.

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(7) Other problems?

C. How much would consumers be willing to pay to improve the picture and sound quality of UHF?

D. Do consumers have the knowledge to install and adjust their sets correctly?

E. Do consumers finds it more difficult to adjust their sets for UHF programs than for VHF programs?

F. Is informational material on installation and adjustment of sets available to the public, and written in such a way that it is understandable?

G. Does the existence of the two-dial (rotary) tuning system affect viewer choice of UHF or VHF signals? For push-button tuning, do full random access (digital) tuners afford more comparability in channel selection than preset memory tuners?

H. Has cable TV affected viewers choice of UHF or VHF programs? How?

I. What information about improving UHF reception would consumers find most useful, and in what form (brochures, public service announcements, etc.)?

J. Would consumers prefer:

(1) More information made easily available on how to compare, select, install and adjust equipment for UHF reception?

(2) Mandated labels on TV receivers, UHF antennas and lead in which would make it easier to compare reception capability?

(3) Higher technical standards required of manufacturers of TV receivers, UHF antennas and antenna lead-in?

K. As none of these changes will be costless, at what price would consumers choose one alternative over another? As an example, if it would cost $5 to provide more information to consumers, $10 to implement mandatory labeling, and $20 to institute mandatory standards, which alternative would consumers prefer?

L. What is the relative contribution of picture quality and ease of tuning to the UHF Handicap?

M. If UHF picture and sound quality were equal to that of VHF, by how much would the audience for UHF television increase?

N. What uses and services, other than over the air reception, do viewers expect of UHF TV in the future? How will this affect our study?

17. The second aspect of consumer participation involves providing information that will help implement better receiving systems. The purchase and proper installation of television receiving equipment—TV sets, antennas, and lead-in (such as coaxial cable and twin lead)—is largely the consumer's responsibility. Yet it appears that the receiving components, particularly antennas and lead-in, are major determinants of UHF/VHF reception problems. We hope to ascertain whether and to what degree UHF reception would benefit if various improvements were made and to pass this information on to the public in the most effective manner. Possibilities for disseminating this data include a consumer information program, and grading or labeling of receiving equipment for adequate UHF reception. The UHF Comparability Task Force will develop information concerned with providing useful information to the consumer.[25]

Technical Issues

18. TV reception is a function of both the transmitting and receiving equipment. Therefore, improvements in reception may be achieved by changing many different components. The following technical areas will be examined on the basis of the costs of improvements versus the benefits obtained. We are interested in costs to viewers, stations, manufacturers and the Commission. Similarly, we are interested in measuring and comparing the benefits to each of these groups. Therefore, the UHF Comparability Task Force will be evaluating improvements in the following areas:

A. Increased transmitter power [26]

B. Improved transmitting antennas (increased gain and better coverage)

C. Increased transmitter antenna height

D. Circular polarization [27]

E. Better outdoor receiving antennas

F. Better indoor receiving antennas

G. Better built-in receiving antennas

H. Lower-loss lead-in

I. External low-noise UHF amplifiers

J. Receiving antenna coaxial connector on TV sets

K. Better installation of receiving equipment

L. More usable UHF channel selection mechanism [28]

M. Other technical improvement to UHF television reception and transmission [29]

19. At this time we particularly seek the following information concerning the above improvements:

A. When a commercial UHF station increases its service coverage by increasing transmitter power, improving transmitting antenna gain and/or increasing transmitting antenna height, do sufficient increased advertising revenues result such that the upgraded facilities are economically worthwhile?

B. Could UHF reception be improved by changes in the transmitting antenna location? Do reception problems exist when a UHF station in a market transmits from a different location than VHF stations? What, if any, improvement is available from locating transmitters in the same vicinity?

C. What, if any, technical or economic impediments are inhibiting the introduction of higher efficiency transmitting equipment (e.g. klystron tubes) into the marketplace?

D. Do the benefits of circular polarization adequately compensate for the requirement (assuming the same service area) for additional transmitter power that results because both a horizontally and vertically polarized transmitting component are required?

E. Under what circumstances would a viewer receive adequate VHF reception using an indoor receiving antenna, but would require an outdoor UHF antenna for comparable reception on UHF?

F. What is the difference in antenna gain for the UHF and VHF antennas that come with television sets when purchased?

G. As distance from the transmitter increases, what is the relative proportion of built-in antennas, indoor antennas, outdoor antennas, antennas with preamplifiers, and master antenna systems?

H. What receiver gain or other guidelines could be formulated for adequate UHF reception for various environments? How do these guidelines compare with VHF?

I. What improvements exist for the antenna lead-in? Could losses due to impedance mismatching of antenna, lead-in and receivers, or the losses that may exist in impedance-matching transformers (baluns) be economically eliminated if all components were of the same impedance?

J. What improvement is obtainable from use of a coaxial connector rather than screw terminals for attaching the receiving antenna onto the set, and at what cost? What is the present availability of receivers specifically intended to accommodate coaxial cable?

K. What economical designs exist for external low-noise, linear UHF amplifiers? How much would use of such amplifiers improve UHF reception? What, if any, undesirable effects could result?

L. What improvement is obtainable if receiving equipment is simply installed more carefully?

20. The propagation of UHF and VHF signals through space are based on fixed laws of physics, but understanding the difference between UHF and VFF propagation will enable a fuller understanding of the degree of the UHF Handicap. We seek the following information:

A. For the limited purpose of differentiating between UHF and VHF coverage, is there a propagation model or set of assumptions that would produce an accurate comparision of signal strength:

(i) In highly reflective environments?

(ii) Within buildings?

(iii) Due to hilly or mountains terrain?

(iv) Due to foliage?

B. Present FCC planning factors have a differential value of 17 dB between the field strength of lower VHF signals and UHF signals.[30] This differential is assumed to produce a statistically acceptable picture at the Grade B contour.[31] That is, the planning factors indicate that the UHF signal must be 17 dB stronger than the VHF signal to produce the same quality picture. At the Grade A contour the similar differential is 6 dB. Are these differentials valid for current receiving equipment?

21. The Commission will gather materials for this proceeding through its UHF Comparability Task Force, which will evaluate comments submitted by the public, study existing literature, conduct analyses, and initiate research contracts. In evaluating the cost versus benefit of improvements to UHF reception, the Task Force will develop information for a wide range of criteria, such as:

A. Technical feasibility of the improvement.

B. Increased viewer satisfaction.

C. Effect on immediate and long term licensee viability.

D. Cost to the manufacturer and consumer.

E. Impact on the ability to efficiently utilize the radio spectrum.

F. Impact on rate of innovation.

G. Cost of administering an improvement to the FCC or to other government agencies.

Related Commission Actions

22. Additionally, the FCC has underway other Inquiries that could directly or indirectly address UHF television service. For instance:

A. The Commission, in a companion Inquiry, is determining whether the use of new receiver designs could improve the spectral utilization and overall performance of television. See *Notice of Inquiry*, in General Docket 78-392 *Technical Improvements to Television Receivers and Certain Transmission Standards*, FCC 78-866, elsewhere in Part III of this issue.

B. The Commission is reducing the maximum UHF noise figure to 14 dB by 1979, 12 dB by 1982, and will be evaluating whether further reductions in noise figure should be made. See *Report and Order* in Docket 21010, *UHF Television Receiver Noise Figures*, FCC 78-582, 43 FR 36095 (August 15, 1978).

C. The public could be provided with more information that would assist in the choice of television receiving equipment through a program of grading and labeling television reception equipment. See *Notice of Inquiry* in General Docket 78-307, *Television Receiver Equipment Grading*, FCC 78-665, 43 FR 49550 (October 24, 1978).

D. The study of networks might point to regulatory changes that in turn might lead to new networks that would include many UHF stations. (See paragraph 46 of the *Further Notice of Inquiry* in Docket 21049, *Commercial Television Network Practices*, FCC 78-736, 43 FR 50126 (October 26, 1978).

E. Fees for use of the spectrum could be based on the value of the particular spectrum used. (See *Notice of Inquiry* in General Docket 78-316, adopted September 27, 1978 released October 6, 1978, FCC 78-695, and HR 13015, 95th Cong. 2d Sess. (1978), the proposed Communications Act of 1978, 43 FR 46658 (October 10, 1978).) Should such a fee system ever be passed by Congress, the fee difference between UHF and VHF could eliminate the cost handicap facing UHF.[32]

23. The Task Force will maintain close contact with the proceedings listed above and any others that are instituted during its work. For instance, some evidence indicates that a tradeoff may exist between a receiver's interference rejection and its adequate reception of weak signals.[33] Coordination among proceedings will enable a better determination of whether benefits in fact tend to oppose one another due to technological limits, and, if so, the most appropriate reconciliation.

Task Force Plan of Action

24. The Task Force will initially seek to isolate the degree and causes of the UHF Handicap. Though opinions are strong concerning UHF Television, they do not agree on what the problems are and how to correct them. In determining the true problems with the UHF service, we hope to lay a foundation that will guide implementation of the most beneficial improvements.

25. The Task Force will work to identify the scope of particular problems. Is a snowy picture experienced in rural, suburban and urban areas, or just in rural areas well removed from the transmitter? Should we focus our attention on improved outdoor receiving antennas, or will most viewers rely on indoor antennas? Wide ranging solutions are required for broad-based problems; but such solutions could be counterproductive if applied to localized problems, since they would administer a cure to everyone for a problem experienced only by a few. Thus determining the nature and degree of the problem is of utmost importance. Assuming we know what the problem is before studying it may not produce cost-effective solutions.

26. The ultimate goal of an improved UHF service is increased public satis-

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[25] Consumer information will also be developed for use in a separate FCC proceeding concerning labeling and grading. See *Notice of Inquiry* in Docket 78-307, *Television Receiver Equipment Grading*, 43 FR 49550 (October 24, 1978).

[26] Most UHF stations operate well below the maximum power allowed in § 73.614 of the FCC rules. 47 U.S.C. 73.614.

[27] We plan in part to evaluate information contained in a previous FCC proceeding concerning circular polarization. (See *Report and Order* Docket No. 20802, *Amendment of Subpart E, Part 73 of the Commission Rules and Regulations to permit television broadcast stations to employ circular or elliptical polarization*, adopted April 6, 1977, released April 14, 1977, FCC 77-259.)

[28] A narrower version of this question was previously addressed in Docket 21179 (*UHF Channel Readout on Television Receivers*). The comments received in that Docket have convinced us that this issue should be pursued in the broader, more comprehensive framework provided by this Inquiry and the concurrent proceeding *Technical Improvements to Television Receivers and Certain Transmission Standards*, General Docket 78-392; FCC 78-866, elsewhere in Part III of this issue. Consequently, we have today terminated the Channel Readout Docket (Order adopted December 20, 1978, released December 29, 1978, FCC 78-865) and have incorporated the record of that Docket into the record of this Docket.

[29] In this Inquiry we will evaluate components from the transmitting system up to the television receiver. In a related proceeding being adopted today, changes internal to TV receivers will be considered (including consideration of UHF interference susceptibility and receiver noise figure). See *Notice of Inquiry* in General Docket 78-392, *Technical Improvements to Television Receivers and Certain Transmission Standards*, FCC 78-866, elsewhere in Part III of this issue.

[30] See, for example, *A Review of the Technical Planning Factors for VHF Television Service*, Gary S. Kalagian, FCC/OCE RS 77-01 (1977), NTIS PB 266341. A similar report for UHF planning factors is in preparation. See also § 73.683 of the FCC Rules. 47 U.S.C. 73.683.

[31] The Grade B and Grade A contours are used in determining the approximate service area of a television station, by employing an engineering model of how radio waves propagate through the atmosphere. Due to a myriad of natural factors such as weather, terrain and foliage, actual service may be quite different from that predicted by the FCC model.

[32] Additional inquiries that could aid the implementation of television improvements are: *Notice of Inquiry* in General Docket 78-348, *Measurement Techniques of Television Receiver Noise Figures*, FCC 78-737, 43 FR 51560 (November 6, 1978). This Inquiry will explore the definition of Noise Figure, methods for its measurements, and other related technical issues. *Notice of Inquiry, Television Receiver Performance Standards*, adopted December 20, 1978, FCC 78-866, elsewhere in Part III of this issue. This Inquiry will explore performance standards to use in conjunction with noise figure to insure overall television adequacy, and new measures of weak signal performance to supersede noise figure.

[33] *Relationship Between Noise Figures and Other Performance Characteristics of Contemporary UHF-TV Receivers*, L. C. Middlekamp et al, FCC/OCE LAB 78-02 (May 1978).

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faction. But how can television viewers best be served? Are they in fact satisfied with present UHF television? If not, what are their specific complaints? How large are particular problems? The Task Force will undertake a consumer survey to determine the major problems with UHF reception, from the consumer's point of view. Concurrently, a technical study will be initiated to analytically evaluate UHF performance relative to VHF.

27. In determining the relative contribution of each component of the transmission/reception system, existing information will be compiled and analyzed, and, where appropriate, additional research will be undertaken. The following areas will be evaluated:

Receiver performance. Using a cross section of modern television receivers, the additional UHF signal strength needed to produce the same quality signal displayed on VHF channels will be determined. This should show the state of the existing television receivers concerning UHF/VHF performance.

Receiving antenna gain. A cross section of indoor and outdoor receiving antennas will be evaluated under laboratory conditions to determine gain and directivity. The uniformity of antenna gain across the UHF band will be evaluated. It is hoped that this analysis will reveal optimum receiving antenna designs, develop figures of merit to describe antenna performance, and help specify what antennas are desirable at varied distances from the transmitter.

Transmission line. The performance and uniformity of performance of twin-lead, coaxial cable, and matching transformers will be evaluated. Problems due to the need to match the impedances of the receiving antenna, transmission line and receiver will be determined.

Receiving system. A sample of actual receiving antenna/transmission line systems will be evaluated to determine the system gain or loss. This will reveal actual rather than laboratory performance, and will indicate the effects of aging, damaged components, and antenna/transmission line connections.

Propagation. Understanding the differences in radio propagation between UHF and VHF is needed in order to precisely define the UHF Handicap. We would like to formulate a limited purpose propagation model that will predict statistical differences in UHF/VHF picture quality, including effect within buildings, in dense urban areas, and due to mountainous terrain.

Transmission systems. Statistics will be compiled on the effective radiated power (ERP) of commercial and noncommercial UHF stations, and trends toward increased ERP.

Channel selection systems. We wish to determine the effect that present tuning systems have on viewer selection of VHF or UHF channels. A study will show the effect, if any, of the separate dial UHF/VHF tuning system on UHF viewership, and compare this result with other channel selection systems such as electronic tuning. Marketing trends toward new channel selection systems will be determined.

28. Understanding the components of the UHF Handicap will require several months of staff effort, and will yield important benefits.[34] It will enable subsequent work to be based on concrete data rather than assumption or opinion. The importance of the problem, and therefore the needed solution, will be determined. The most logical improvements will be known, and initial ideas about how best to implement the various improvements will become clear.

29. Completion of this work will represent the conclusion of the first part of the following three part program:

1. *Determination* of the nature and components of the UHF Handicap;
2. *Evaluation* of specific improvments and methods for implementation; and
3. *Formulation* of alternatives for correcting the deficiencies with UHF.

30. The possibilities for improvement to be considered in the second (evaluation) phase of the program are given in Paragraph 18 of this Notice. In keeping with a desire to avoid predisposition towards any solution or set of solutions, particular improvements to receive major consideration will not be specified until full information is obtained from phase one. It is the Task Force's intention to issue an interim report at a later date that will present conclusions resulting from this phase of its work, and it will present an outline of further work to be undertaken at that time.

INFORMATION ON COMMENTS

31. *Who should file comments?* We urge the viewing public, television equipment manufacturers, broadcasters, and all other interested parties to participate in this Inquiry. You may participate by sending information and opinions that are relevant to the questions listed in this Inquiry.

32. *How will this information be used?* The comments we receive will be used to evaluate the issues we have discussed above. Comments may result in FCC action to improve UHF television service. For example, we might change the FCC rules to specify additional requirements for television receiver certification. The FCC will make rule changes only after all interested parties are given an adequate opportunity to comment.

33. *How comments should be prepared.* Your comments must clearly show this docket number "Gen Docket No. 78-391, at the top of the first page. Please label your responses so that it will be clear which number paragraph and question is being answered. If your comments are general, and not related to a specific question, please state the issue being addressed.

34. *How many copies should be sent?* Sec. 1.419 of the rules requires that you file the original and five copies of your comments. If you want each Commissioner to receive a personal copy of your comments, you should include 6 additional copies. The FCC will fully consider all comments, even if only the original is filed.

35. *Where to send comments.* Send your comments to: Secretary, Federal Communications Commission, Washington, D.C. 20554.

36. *How to see the comments of other parties.* All comments will be available for public inspection in the FCC Dockets Reference Room, Room, 239, 1919 M St., N.W., Washington, D.C. The FCC is open weekdays between 8:00 am and 5:30 pm. You can reply to comments submitted by another party by following the same procedure as you do for commenting.

37. *Deadline for filing Comments.* Comments must be received by April 2, 1979. You are encouraged to submit a one-page summary of your comments at the time you file. A date for replies to comments will be set after the initial comments have been summarized.

38. The source of our legal authority. Section 4(i), 302, 303(f), (g), (r), and (s), 330, and 403 of the Communications Act gives the FCC the authority to conduct this Inquiry. Accordingly, the FCC orders that this Inquiry is instituted.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-1503; Filed 1-16-79; 8:45 am]

[34] Initial estimates are that from 4 to 6 months will be required to undertake the first phase of the UHF improvement program.

[6712-01-M]

[47 CFR Part 15]

[Docket No. 21179; FCC 78-865]

UHF CHANNEL READOUT ON TELEVISION RECEIVERS

Termination of Proceeding

AGENCY: Federal Communications Commission.

ACTION: Termination of proceeding without action and merger of the record into a general inquiry into UHF television reception.

SUMMARY: This proceeding has been concerned with the improvement of the UHF channel display on television receivers. Because a new, broader inquiry into UHF television reception includes the possibility of requiring electronic tuning and because electronic tuning would eliminate any and all UHF channel display problems, this proceeding is being terminated. Channel display issues will be considered with other broader questions concerning UHF television reception in a new proceeding.

EFFECTIVE DATE: Non-Applicable.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Upton Guthery, Office of General Counsel, (202) 632-6444.

Adopted: December 20, 1978.

Released: December 29, 1978.

Order. In the matter of UHF Channel Readout On Television Receivers, Docket No. 21179.[1]

1. A *Notice of Inquiry* in this proceeding was released on March 25, 1977 (FCC 77-221, 42 FR 18643, April 8, 1877). In the *Notice*, we explained that comments in an earlier proceeding (Docket No. 20719) had raised a number of legitimate questions concerning the UHF channel readout on television receivers. Those comments were addressed to receivers equipped with a 70-position electromechanical UHF tuning system in which the channel numbers are displayed on the face of the tuning knob. The substance of the comments was summarized as follows:

> First the complaint is that our rules permit only every other channel number to be displayed with marks between numbers to indicate the channels not displayed numerically (*see* § 15.68(d)(1)). Secondly, it is complained that the numbers are small in size and closely spaced, so that it is difficult to determine what channel has been tuned. Third, it is said that superior on-the-knob channel displays are available for minimal additional cost.

Comments and reply comments in this proceeding were filed in August 1977. On the basis of these comments, we have been able to conclude that the channel displays in question are significantly inferior to VHF displays, that UHF tuning is therefore somewhat more difficult, and that some percentage of the viewing public will, in all likelihood, be disinclined to tune UHF stations. However, we have not been able to determine the numbers of UHF viewers lost because of tuning difficulty or whether the number is significant. Nor have we been able to determine that the alternative device is (or is not) mechanically sound or, if mechanicallly sound, and considering its disadvantages as well as advantages, whether its use would contribute to UHF TV viewing. The comments pro and con are, in this respect, irreconcilable.

2. We are today issuing two *Notices of Inquiry* that, together, will provide a more comprehensive framework for investigation of the question of UHF channel readout. In *Improvements to UHF Television Reception*, (Gen. Docket No. 78-391, FCC 78-864), we will study the effect of UHF channel readout on UHF viewing. In *Technical Improvements to Television Receivers and Certain Transmission Standards* (Gen. Docket No. 78-392, FCC 78-866), we will explore the possibility of requiring electronic tuning. If such a requirement were imposed, it would eliminate any and all present differences between UHF and VHF channel readout and would moot the issues under consideration in this proceeding.

3. We are therefore terminating this proceeding. The record herein will be made a part of the record in General Docket Nos. 78-391 and 78-392. Further comment concerning the display of UHF channels and tuning difficulty may be submitted in either or both of these proceedings. If they are not otherwise resolved (e.g., by requiring electronic tuning), the issues in this proceeding will be addressed in greater detail in those proceedings.

4. *Accordingly, it is ordered,* Effective February 12, 1979, that the instant proceeding is hereby terminated as a separate inquiry, and the comments and reply comments of the instant proceeding are made part of the inquiries in Gen. Docket No. 78-391 and Gen. Docket No. 78-392.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-1504 Filed 1-16-79; 8:45 am]

[1] See 42 FR 32567, June 27, 1977.

[6712-01-M]

[47 CFR PART 15]

[Gen. Docket No. 78-393; FCC 78-868]

TELEVISION RECEIVER PERFORMANCE STANDARDS

Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry Initiated.

SUMMARY: Inquiry into the need for television receiver performance standards. The objective of this proceeding is to determine what, if any, additional performance standards the Commission should impose on television receivers to insure that the overall quality of television reception is not degraded by the F.C.C.'s actions in Docket No. 21010. This Notice solicits public comment on various performance characteristics that describe the quality of picture and sound produced by television receivers.

DATES: Comments must be received by June 1, 1979 and Reply Comments must be received by September 1, 1979.

ADDRESSES: Secretary, Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT:

Hector Davis, FCC Laboratory Division, Laurel, MD 20145, (301) 725-1585.

Adopted: December 20, 1978.

Released: December 29, 1978.

In the matter of Television Receiver Performance Standards, GEN Docket No. 78-393.

INTRODUCTION

1. The Federal Communications Commission (FCC) is initiating this Inquiry to investigate the need for television receiver performance standards in our rules.[1] UHF noise figure and peak picture sensitivity are the only requirements now in our rules that give some measure of the picture quality produced by the receiver. Noise figure is only one of many parameters that describe receiver performance. In this proceeding[2] we intend to examine

[1] Television receivers are now required to comply with Part 15 of the rules (47 CFR 15.61 *et seq.*) limiting the amount of spurious radiation from the local oscillators. In addition, the performance of the UHF portion of the receiver must meet several performance levels aimed at providing satisfactory UHF performance. Failure to meet these requirements would result in the denial of FCC certification, a prerequisite for sale of the receivers in this country.

[2] The FCC is taking several interrelated actions which we anticipate will improve television reception by the general public, and possibly have other benefits as well. Briefly, these actions are:

Report and Order in Docket No. 21010, UHF Television Noise Figure, FCC 78-582, 43 FR 36096 (August 15, 1978). This Order will change the Noise Figure standard to 12 dB by 1982.

Notice of Inquiry in General Docket No. 78-307, Television Receiver Equipment Grading, FCC 78-665, 43 FR 49550, (October 24, 1978). This Inquiry will explore ways to improve reception by increasing the amount of information available to consumers.

Notice of Inquiry in General Docket No. 78-348, Measurement Techniques of Television Receiver Noise Figures, FCC 78-737, 43 FR 51650 (November 6, 1978). This Docket

Footnotes continued on next page

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it and other measures of evaluating weak signal performance. In addition, because optimizing weak signal performance may degrade other aspects of receiver performance, we intend to examine other receiver performance measures that complement noise figure when describing the overall performance of television receivers.

2. The use of noise figure as a measure of weak signal sensitivity was recently examined by the FCC's Laboratory Division.[3] The noise figures and apparent weak signal sensitivities of several different television receivers were measured. The data produced by this study suggested that noise figure did not consistently predict the apparent sensitivity of the receivers tested. This called into question the usefulness of noise figure as a measure of weak signal performance. As a result we intend to examined other available or technically feasible measures of television receiver weak signal performance with the objective of identifying alternative measures that could supersede the requirements now in our Rules.

3. In addition we wish to examine what performance standards might be adopted as complements to noise figure measurement as an indication of receiver sensitivity. The FCC recently decided in Docket No. 21010, to reduce the UHF noise figure standard in our Rules to 14 dB by 1979 and 12 dB by 1982.[4] During the panel discussion in this proceeding [5] concern was expressed by several parties, including the FCC's Chief Engineer, that achieving the mandated reduction in noise figure might lead to certain receiver design changes which would degrade other receiver performance characteristics (e.g. selectivity; front end dynamic range; etc.) It was feared that, as a result of competitive pressures, manufacturers might feel compelled to elect this solution. The new stricter noise figure standards might thus, inadvertantly, result in some television sets providing an overall poorer picture under some receiving conditions albeit with a better noise figure. To avoid this possibility the Commission will also consider additional performance standards complementary to noise figure.[6]

Subjects To Be Addressed in This Inquiry

4. Comments are requested on the subjects listed below. When describing the usefulness of a particular performance measure, please include as much information as possible on the costs, benefits, and trade-offs involved in adopting the proposed measure. The effect of technology presently available, and anticipated on the basis of recognized trends, should be taken into account when analyzing the practicality of a proposal. Parameters which cannot be measured, or cannot be measured economically today, but that may become practical in the near future, should be considered. In addition, parameters of special importance to the performance of a receiver fed by a cable television system should be identified as such, and a supporting explanation should be given for its special relevance.

5. Subject 1. *Parameters to use in indicating weak signal performance.* When estimating specifications, please consider costs, benefits, trade-offs and present and probable technological trends. Information is requested regarding:

1-A. Noise figure (12 dB or less) modified to include other receiver characteristics such as bandwith, and impedance match.

1-B. Relative and/or absolute picture sensitivity.

1-C. Objective and/or subjective use of a signal to noise ratio (e.g., 30 dB, TASO 3 or other measures); and,

1-D. Other measures of weak signal performance.

6. Subject 2. *Receiver performance standards that describe the adequacy of reception.* (Please describe the interrelations of parameters as appropriate.)

2-A. Receiver selectivity, overall and interstage (e.g., effects on noise figure and interference rejection, changes with desired signal level to reduce receiver noise, in weak signals).

2-B. Dynamic range considerations (receiver overload protection, changes in interference rejection with desired signal level).

2-C. Interference rejection (e.g., specifications and measurements of rejection of out-of-band signals such as CB transmissions, adjacent TV channels, intermodulation, image, etc.).

2-D. Television receiver picture resolution standards (e.g. frequency response, "sharpness" control, focus, interlace, display linearity).

2-E. Color rendition by a receiver (e.g., an objective measure of color quality related to subjective observations, use of VIR signal circuitry, full bandwidth demodulation).

2-F. Receiver transient performance, that is, the ability of the receiver to handle abrupt picture transitions without smear, overshoot, or ringing.

2-G. Effect of circuit design on apparent noise (e.g. synchronous detector versus envelope detector, d.c. restorer, color or monochrome).

2-H. Receiver audio performance (e.g. frequency reponse, distortion, freedom from "buzz", etc.).

2-I. Receiver stability (e.g. change of performance parameters with such variables as vibration and movement, input supply voltage, length of time in service, and ambient temperature.

2-J. Cable television service characteristics (e.g., channel selection flexibility, protection from ambient non-cable signals, receiver input terminals).

2-K. Receiver performance indices (e.g. a number or numbers between 1 and 100 where 100 means "perfect" performance) based on each of the specific parameters previously discussed, and, in addition, the overall comparability of the UHF and VHF performance, the effectiveness of compensation for ghosts, the amount of overscan, vertical interval blanking, etc.

Inquiry Procedures

7. *Who should file comments?* We urge television and test equipment manufacturers, engineering groups and all other interested parties to participate in this investigation. You may participate by sending information and opinions that are relevant to the subjects of this Inquiry.

8. *How will this information be used?* These comments will be used to evaluate the issues we have discussed above. We expect that the comments received will result in a refinement of the areas commented on leading to further notices of inquiry or proposals to adopt amendments to our Rules. For example, we might change the Rules to reflect the need for additional certification requirements in conjunction with the 1982 implementation of the 12 dB noise figure.

9. *How should comments be prepared?* Your comments must clearly show this docket number "GEN No. 78-393" on the first page. Please label your responses so that it will be clear which subject is being addressed. If you have general comments which are not on a specific technical subject listed above, simply label these comments with the Docket number. Please state the issue being addressed. We encourage you to submit a one page summary of your comments at the time you file.

10. *How many copies should be sent?* Section 1.419 of the Rules requires that you file the original and five copies of your comments. If you want each Commissioner to receive a personal copy of your comments, you should include 6 additional copies. The FCC will consider all comments, even if only the original is filed.

11. *Where to send comments.* Send your comments to: Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments must be received by June 1, 1979.

12. *How to see the comments of other parties.* All comments will be available for public inspection in the FCC Dockets Reference Room, Room 239, 1919 M Street, NW., Washington, D.C. The FCC is open weekdays between 8:00 am and 5:30 pm. You can reply to these comments by following the same procedure for preparing and sending comments. Replies to comments must be received by September 1, 1979.

13. Regarding questions on matters covered by this document, contact Hector Davis (301) 725-1585.

14. *The source of our legal authority.* Sections 4(i), 302, 303 (f), (g), (r), and (s), 330, and 403 of the Communications Act of 1934 as amended gives the FCC the authority to conduct this Inquiry. Accordingly, the FCC Orders that this Inquiry is instituted.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-1506 Filed 1-16-79; 8:45 am]

Footnotes continued from last page
will explore the definition of noise figure, methods for its measurement, and other related technical issues.

Notice of Inquiry in General Docket No. 78-391, Improvements to UHF Television Reception, FCC 78-864, elsewhere in Part III of this issue. This Inquiry will explore ways of bringing about better UHF reception and achieving UHF television reception parity or comparability.

Notice of Inquiry in General Docket No. 78-392, Technical Improvements to Television Receivers and Certain Transmission Standards. FCC 78-866, elsewhere in Part III of this issue. This Inquiry will explore technical improvements leading to the next generation of television receivers.

[3] *Relationship Between Noise Figures and Other Performance Characteristics of Contemporary UHF-TV Receivers,* L. C. Middlekamp et al., FCC/OCF LAB 78-02.

[4] *Report and Order in Docket No. 21010, UHF Television Noise Figure* FCC 78-582, 43 F.R. 36096 (August 15, 1978).

[5] *Notice of Panel Presentation,* 43 F.R. 15744 (April 4, 1978); *Procedure for Panel Presentation, 43 F.R. 19893 (May 9, 1978).*

[6] What we propose here is related to, but does not overlap with, our *Notice of Inquiry* on *Measurement Techniques of Television Receiver noise Figures,* in which we are examining improvements to the existing noise figure measurement technique. There we are examining short-term improvements: how can what we now require to be measured (the noise figure of the UHF tuner) be updated to reflect changes in circuit configuration—e.g. the change from hot filament vacuum tubes to solid state devices—and the availability of more sophisticated test equipment? Here we are looking beyond the existing noise figure characteristics, to a new definition of noise figure or a new weak signal performance standard altogether.

[6712-01-M]

[47 CFR Part 15]

[General Docket No. 78-392; FCC 78-866]

TECHNICAL IMPROVEMENTS TO TELEVISION RECEIVERS AND CERTAIN TRANSMITTER STANDARDS

Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry.

SUMMARY: The FCC is soliciting the public for comments on the Texas Instruments TV receiver, other receiver improvements, and certain related transmitter characteristics. This information is needed to form the technical basis from which action may be taken to improve television reception.

DATES: Comments must be received on or before July 1, 1979, Reply Comments must be received on or before October 1, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Will McGibbon, Office of Chief Engineer, Federal Communications Commission, Washington, D.C. 20554 (202-632-7060)

Adopted: December 20, 1978.

Released: December 29, 1978.

In the matter of technical improvements to television receivers and certain transmitter standards, Gen. Docket No. 78-392.

Introduction

1. The Federal Communications Commission (FCC) is initiating this Inquiry to pursue the most economical way to improve television reception and to increase the utilization of the radio spectrum. We have taken several actions in the past to upgrade UHF television service to achieve eventual comparability with VHF television. We recently lowered the maximum receiver noise figure on UHF channels from 18 dB to 12dB—an action that will improve most receivers manufactured in the future.[1] Looking further ahead, we have attempted to stimulate the development of the next generation of television receivers. We believe that technological advances will allow dramatic improvements in receiver design. In this Inquiry, the Commission will investigate improvements in receiver design, and other related technical issues, with the aim of continuing the process of improving television reception.

2. On March 2, 1978, Texas Instruments, Inc. (T.I.), presented to the Commission a summary of their final report on FCC Contract No. 0206-6TQ, High Performance Television Receiver.[2] An FCC Laboratory Division report [3] evaluating the T.I. prototype receiver was also presented. Both reports are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 (Telephone 703/557-4650). The genesis of the T.I. contract was the Commission's belief that many or all of the UHF "taboos", adopted in 1952, could be eliminated by improved receiver design. The "taboos" arise from several different UHF television receiver technical limitations. A UHF TV receiver tuned to a specific UHF TV channel can receive interference from other nearby TV transmitters on certain channels, or from other receivers tuned to a different TV channel. The "taboo" channels have certain known frequency relationships to each desired channel.

3. In May 1975, we began Docket No. 20485, *UHF Taboos,*[4] to get public comments on the issue of taboo reduction or elimination. Less than a year later, in April 1976, the FCC formally solicited bids for the development of a television receiver having improved technical performance which might eliminate a majority of the taboos. No responsive proposals were received to this offer. In August 1976, we received an unsolicited proposal from Texas Instruments that addressed most of the improvements in our original solicitation. We then awarded a contract to T.I. which resulted in the development of a "high performance" television receiver (hereinafter the "T.I. receiver").

4. The proceeding we initiate today is the next step of this continuing and important effort. Because this broader inquiry into receiver characteristics incorporates Docket No. 20485, we are closing that Docket but will consider all comments filed therein as part of the record here. Since many of the issues addressed in Docket No. 21010

[1] The FCC is taking several interrelated actions, which we anticipate will result in improved television reception by the general public, and possibly other benefits. Briefly, these actions are:

Report and Order in Docket No. 21010, UHF Television Noise Figure, FCC 78-582, 43 FR 36096 (August 15, 1978). This order will change the Noise Figure standard to 12 dB by 1982.

Notice of Inquiry in General Docket No. 78-307, Television Equipment Grading, FCC 78-665, 43 FR 49550 (October 24, 1978). This Inquiry will explore ways to improve reception by increasing the amount of information available to consumers.

Notice of Inquiry in General Docket No. 78-348, Measurement Techniques of Television Receiver Noise Figures, FCC 78-737, 43 FR 51650 (August 15, 1978). This Inquiry will explore the definition of Noise Figure, methods for its measurement, and other technical related issues.

Notice of Inquiry in General Docket No. 78-391, Improvements to UHF Television Reception, FCC 78-864, elsewhere in Part III of this issue (December 20, 1978). This Inquiry will explore ways of bringing about better UHF reception and achieving UHF television parity.

Notice of Inquiry in General Docket No. 78-393, Television Receiver Performance Standards, FCC 78-868, elsewhere in Part III of this issue (December 20, 1978). This Inquiry will explore performance standards to use in conjunction with noise figures to insure overall television adequacy, and new measure of weak signal performance to supersede noise figure.

[2] *Final Report for High Performance TV Receiver,* D. L. Ash and C. S. Hartmann, Texas Instruments, Inc., FCC/OCE CE 78-01 (March, 1978) NTIS #PB 277186.

[3] *A Study of the Characteristics of the FCC Prototype TV Receiver Relative to Conventional Receiver UHF Taboos,* L. C. Middlekamp et al, FCC/OCE LAB 78-01 (February, 1978) NTIS #PB 277187.

[4] *Notice of Inquiry in Docket No. 20485,* 53 F.C.C. 2d 411 (1975).

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are also pertinent to this Inquiry, we are incorporating herein all comments filed in that proceeding.

5. The improvements we are considering in this proceeding have the potential for providing better reception of existing UHF television signals and may permit the reduction of the UHF taboos. We believe that the reduction of the UHF taboos is of significant importance. Such a reduction can be expected to result in more efficient use of the spectrum. If there are spectrum savings, there are a variety of ways that spectrum thus saved may be used. For example, there may be the opportunity to create new TV stations, or we could put all or a portion in a "spectrum bank" to be drawn upon as needed rather than expended immediately. We also note that while reduction of the UHF taboos was the prime reason for our seeking a high performance receiver, the TI receiver may have improved performance at VHF as well. A new receiver may benefit the public by also increasing the flexibility of VHF channel assignments.

6. The work performed by Texas Instruments only addressed some of the changes that could be made in TV receiver design. Yet, the implementation of these changes would require a major redesign of future television receivers. When contemplating such a change, it is important that other possible improvements in receiver performance characteristics also be considered. Other possibilities include: improvements to audio quality, improvements to UHF picture quality, better receiver antenna performance, less picture ghosting, stereo TV sound, alternate sound channels with foreign language translations, and other technological advances so new, their potential has not yet been brought to the FCC's attention. Several desirable improvements, perhaps each by itself too costly to implement, might, when considered together, be the most appropriate option to elect. Failure to examine a valid possibility now might require a second, sequential change in any new receiver performance standards—a prospect costly to manufacturers and consumers. Case-by-case consideration of major technical receiver modifications may prevent or delay introduction of desirable improvements in receiver performance that would prove cost effective if incorporated in a redesign mandated for other reasons. Thus, it is appropriate to consider as many of those technical changes as possible at this time.

7. We have identified below a number of specific issues upon which the views of interested parties are solicited. We find it necessary to ask these questions in order to thoroughly consider all possible actions, but we stress that we have not prejudged any of the issues. In this particular Notice we are focusing on three areas:

(A) An evaluation of the technical design, potential benefits, and cost efficiency of the T.I. receiver;

(B) An evaluation of other possible changes in television receiver design; and

(C) An evaluation of possible changes in certain transmitter standards, and coverage protection criteria.[5] We recognize that, were we to adopt rules, many of the issues raised here could have a major impact on the manufacturers of television receivers, the television broadcast industry, and on the consumer.[6] We want to make it clear at the outset that we will not begin the rule amendment process until we have given all interested parties sufficient opportunity to contribute to our deliberations.

8. Although possible changes to the UHF television taboos are being addressed in this Notice, the Commission does not intend to address spectrum reallocation issues or the existing nationwide table of television assignments at this time. Allocation issues such as these are being reserved for future consideration since it is our intent in this Notice to focus upon specific technical and economic issues related to receiver design and transmission standards. The information developed in this Notice will form the foundation for consideration of broader issues in the future. Whether this inquiry is a step toward adoption of additional standards for TV receivers, a realignment of our table of television assignments, creation of a completely new television service based on a new generation of television receivers, or a combination of these measures, remains to be decided in a future proceeding.

9. We are also not addressing in this Notice more fundamental changes in the configuration of the television broadcast service (e.g., digital transmission, different picture aspect ratio, higher resolution pictures gained by increasing the number of lines in each frame and the scan time, or the use of new frequency compression techniques to save spectrum).[7] In limiting the scope of our Notice, we have assumed the continuation of the existing form of television service, and focus here on changes within the existing television service. While we recognize the existence and importance of these other matters, and intend to address them in a subsequent Notice, responses directed to these issues will be deemed unresponsive to this particular Notice.

Summary of the TI Study

10. Texas Instruments, Inc., concluded that it is feasible to redesign television receivers to generally meet the performance standards set forth in the Commission's original Request for Proposals (RFP). T.I. demonstrated this by providing the Commission with the T.I. receiver, which appears to meet many of the the Commission's target performance standards. With respect to these standards, this receiver appears to be generally superior to conventional receivers, and may reduce the need for some of the UHF and VHF taboos.[8]

11. The T.I. study addressed the radio frequency (RF) system (including the VHF and UHF tuners) the intermediate frequency (IF) amplifier circuits, the demodulator, and the controller. The FCC supplied a "1976" model, electronically tuned, color TV set in which T.I. replaced the IF modules and the tuners. T.I. developed a new system architecture and several new RF components. T.I. indicated that the improved system performance depends on the new devices and new circuits used in the converted TV receiver. T.I. referred to the RF system as a "pure IF" tuning system. The key devices in it are the steep selectivity, low loss, 346 MHz IF surface-acoustic wave (SAW) filters and the low noise, wide dynamic range silicon MESFET (metal Schottky field effect transistor) devices. T.I. claimed one advantage of the high (346 MHz) first IF is that some of the UHF spurious responses, such as picture image, sound image, half-IF, and IF-beat, are greatly reduced. T.I. discussed several other potential benefits of their redesign.

12. T.I. felt that the key cost elements of the new system would be the silicon MESFETs, the low-loss UHF SAW IF filters, and the SAW frequency control resonators. None of these parts are currently mass produced. A significant imvestment of effort and money would be necessary to develop

[5] There are important trade-offs between these possible changes and improvements in receiver design. We hope that some of these questions can be resolved quickly, because these changes could be implemented prior to a major receiver redesign.

[6] This Inquiry covers many technical issues which may greatly affect the public. It may become necessary to issue a subsequent NOI to determine opinion and interest from the consumer's point of view.

[7] Many alternatives to the present transmission standards and receiver designs were considered by the National Television Systems Committee (NTSC) (*See Report and Order in Docket No. 10637, Amendment to the Commission's Rules Governing Color Television Transmission*, (41 F.C.C. 658, 10 R.R. 150 (1953)) and the Television Allocations Study Organization (*See Engineering Aspects of Television Allocations*, (March 16, 1959), Wallace Homestead Books, 1912 Grand Ave., Des Moines, IA. 50309). These alternatives may be of interest because of the numerous technological advances that have been made since they were last considered by the Commission.

[8] *See* the Table in Paragraph 15 below.

the production process for these items. Receiver cost may also increase because the T.I. prototype uses about 10% more electronic component parts than a conventional tuner would. This increase in the number of component parts may not be significant, they note, because much of the circuitry could be replaced or reduced by special integrated circuits and more careful production design.

13. With the new devices and a higher number of electronic components, T.I. projected a semiconductor parts cost for the new receiver of approximately $13.00 as compared to $4.90 for a conventional receiver. They also projected a slight increased in other material costs and a decrease in labor and overhead costs. T.I.'s estimates assumed that 1.5 million units had already been produced, and that manufacturers would therefore be out of the production startup phase. T.I. concluded that at this point the increased cost of manufacturing the tuner would be about $9.00, and the increased cost to the consumer would be about $30.00 for an average color television.

14. The FCC Laboratory evaluated the performance of the prototype receiver using video and audio program material from three television channels. These signals were converted to various combinations of UHF channels to test the T.I. receiver (and a control receiver) for susceptibility to various types of interference. Three FCC engineers were used to make subjective observations of interference at the "barely perceptible level." According to the FCC Laboratory, the T.I. receiver appears to perform generally better than the stock receiver used as a control. For some types of interference, however, the FCC Laboratory found that the T.I. receiver did not meet all of the specifications set forth in the Commission's original RFP. The Laboratory report notes that some of the interference subsceptibility of the T.I. receiver may have resulted from the use of electronic (varactor) tuning.

15. The following summary of the T.I. receiver performance was prepared by the Commission's Laboratory Division, and is quoted directly from the Laboratory Division Report referred to above in note 3, paragraph 2:

Prototype Receiver's Performance

UHF "Taboos"	re FCC RFP	re TI Projections	re Stock Rcvr	re Mean Conv Rcvr
Adjacent Channel:				
n, n+1	Slightly better	Worse	Much better	Much better
n, n−1	Better	Slight better	Much better	Much better
Picture Image:				
n, n+15*	Much better	Much better	Much better	Much better
Sound Image:				
n, n+14*	Much better	Much better	Much better	Much better
Cross Modulation:				
n, n+2	Worse	Worse	Much better	Better
n, n−2	Worse	Worse	Much better	Better
n, n+4**	Much better	Better	Much better	Much better
n, n−4	Much better	Better	Much better	Better
Intermodulation:				
n, n+2, n+4	Worse	Much worse	Much better	Equal
n, n−2, n−4	Worse	Much worse	Better	Worse
IF Beat:				
n+8*	Much worse	Worse	Much better	Much worse
n−8*	Much worse	Equal	Much better	Worse
n+7*	Equal	Better	Much better	Better
n−7*	Worse	Slightly better	Much better	Better
Input for Noise-Equivalent: "TASO Grade 3"***	Worse		Better	Equal
Noise Figure****	Worse	Worse	Worse	
		Slightly better	Much better	Better

Notes: * The prototype receiver has a much higher IF than a conventional receiver, therefore, these "taboo" combinations apply only to conventional receivers. Effects of the new IF are under study.

** For a conventional receiver, n+4 gives rise to a "half-IF" beat phenomenom. The different IF of the prototype translates this condition to higher channel separations and is under study.

*** This is not a UHF "taboo."

**** Although not a UHF "taboo," a performance specification was made. However, doubt exists as to the applicability of noise figure measurements to complete TV receivers.

Questions To Be Addressed in This Inquiry

16. Technical Issues Raised by the T.I. receiver.

QUESTION 1: If receiver performance standards based on the results of the T.I. study were adopted:

(1a) Are there reasons why the additional cost to the consumer would not average approximately $30.00 as projected by T.I? Would this estimate apply to black and white sets?

(1b) If the cost of a TV receiver increased or reception improved, what would be the effect on the demand for TV receivers?

(1c) What would be the effect on receiver manufacturers and on the structure of the receiver manufacturing industry?

(1d) To what extent would these standards be achieved in production television receivers?

(1e) To what extent could the taboo distances be reduced, for:

(1e-1) Intermodulation?

(1e-2) IF Beat?

(1e-3) Sound Image?

(1e-4) Picture Image?

(1e-5) Local Oscillator Radiation?

(1e-6) Adjacent Channel (VHF and UHF)?

(1f) If the adjacent channel taboo were essentially eliminated, under what conditions could co-location or near co-location of transmitters then be used to reduce the intermodulation problems? What problems would be generated in co-locating or near co-locating transmitters?

(1g) Would there be a better choice of local oscillators and intermediate frequencies than T.I.'s, some of which are in a portion of the spectrum allocated to Government use?

(1g-1) What new taboos would a receiver using the T.I. intermediate and local oscillator frequencies require?

(1g-2) How could any problems created by TI's local oscillators and intermediate frequencies be alleviated (e.g. by requiring stricter chassis radiation standards)?

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(1g-3) What problems would other recommended local oscillators and intermediate frequencies cause?

(1h) What impact would the mandated changes have on a receiver designed to utilize the mid- and superband frequencies between 108-136 MHz and 225-400 MHz (i.e. a "cable compatable" receiver) for viewing of cable television service according to the specifications in Docket No. 21006? [9]

QUESTION 2: Are there alternatives to the T.I. receiver design which would achieve the Commission's goals, as outlined in paragraph 1? If so:

(2a) Would these receiver design changes require different receiver performance standards than the T.I. receiver? If so, describe the standards required.

(2b) What would be the benefits of these changes?

(2c) How much would these design changes add to the purchase price of television receivers?

(2d) How would these design changes affect the cable compatibility of future television receivers?

17. Other Improvements to Television Reception

QUESTION 3: What potential improvements in current receiver performance or design are foreclosed by current transmitter performance (e.g. would reduced incidental phase modulation allow greater use of synchronous detectors)?

(3a) What would be the costs, benefits and trade-offs of implementing these improvements?

(3b) How would these improvements impact on cable television systems and receivers connected to cable systems?

QUESTION 4: Should the Commission require minimum audio performance standards for receivers?

(4a) What audio bandwidth should be specified?

(4b) What distortion standards should be specified?

(4c) What other audio standards should be specified?

(4d) What provisions if any, should the Commission require for the reception of alternate aural channels (e.g. Spanish translations of popular programs, reception of stereo broadcasts, augmented audio for the blind, or educational uses) [10]

(4e) What would be the affect on cost if these standards were adopted?

QUESTION 5: In the context of a complete TV receiver design, would it be in the public interest to allow manufacturers to make receivers which did not receive channels 70 through 83? [11]

(5a) What opportunities would such action offer for improving receiver performance?

(5b) How would the cost of receivers be affected?

(5c) What would be the impact on UHF TV translator operators and their viewing public?

QUESTION 6: Describe the impact of electronic tuning [12] in the following areas:

(6a) To what extent will electronic tuning affect the noise figure and interference susceptibility of the receiver?

(6b) How much would the cost of receivers change if the Commission required electronic tuning?

(6c) Would the demand for television receivers be affected if the Commission required electronic tuning?

(6d) What tuner specifications would best promote comparability of VHF and UHF reception?

(6e) On receivers with automatic tuning systems that include automatic channel loading mechanisms [13] what manner of loading and minimum number of channel positions should be made a precondition for certification.[14]

(6f) What problem would be encountered by cable systems and cable subscribers if the Commission were to require TV receivers to be electronically tuned?

QUESTION 7: In the context of a total receiver redesign, mandated for other reason, what would be the incremental cost and the additional changes necessary to make such a receiver "off-air cable compatible"? [15]

(7a) What would be the incremental cost of requiring such newly redesigned receivers to be easily convertable to off-air cable compatability?

(7b) How do these incremental costs compare to the cost of a converter to:

(7b-1) the individual cable viewer;

(7b-2) the Nation as a whole, considering all cable viewers and all television purchasers.

QUESTION 8: Should accessible (but not necessarily exterior) test terminals be required as part of the receiver for any certification or grading program? If so, what performance characteristics should be measurable through the test terminals? [16]

QUESTION 9: Concerning Vertical Interval Reference (VIR): [17]

(9a) Should the Commission require the transmission of the VIR signal by all televisions stations?

(9b) Should the Commission require receivers to have the capability of using the VIR signal for automatic receiver color adjustments?

QUESTION 10: Can the present 1.25 MHz bandwidth provided for the vestigial sideband of the visual portion of the television signal be reduced in view of recent filter and phase equalization developments? If so:

(10a) What new circuitry would be required in television receivers?

(10b) What would be the impact on the performance and cost of television receivers?

QUESTION 11: Current television transmission standards prohibit use of lines 1-16 in the vertical blanking interval for purposes other than receiver synchronization because of reciever limitations. Lines 17-21 may be used for other specified purposes, (such as test signals, VIR, etc).

(11a) To what extent will current technology permit reduction in the number of lines needed for synchronization?

(11b) What would be the added cost, if any, in receivers?

QUESTION 12: Present day television transmissions in accordance with FCC Standards [18] contain 4.2 MHz of luminance information and 1.5 and 0.5 Mhz of color information (in-phase and quadrature color signals respectively). A number of the current receivers do not use all of this information, some of them using as little as 3 MHz of bandwith for liminance information and 1 Mhz for color information.

Given the state of the art:

(12a) What improvements in picture fidelity, acuity and color clarity could be achieved with existing transmission bandwidths?

(12b) What changes in receiver design would be necessary to achieve these improvements?

(12c) Would these changes result in any change in cost to the consumer? I so, how much?

(12d) In what ways would these changes affect the demand for television receivers?

(12e) To what degree would improved quality in television receivers require different practices by the broadcaster (e.g. better aperture correction in cameras or different luminance bandwidth roll-off in color cameras)?

QUESTION 13: The lack of accessible input and output jacks to the video and audio amplifiers of television receivers necessitates utilization of RF devices in video games, video tape recorders, and other equipment that use the home TV as a video display unit. This increases the cost of such items, and increases the probability of electromagnetic interference to other electronic equipment. Should such video and audio jacks be required for certification of TV receivers? If so, what associated technical standards should be established? What would be the cost of these changes?

QUESTION 14: What improvements to receiver design are possible to alleviate picture ghosting? How much would these improvements cost?

QUESTION 15: To what degree should the FCC specify the dynamic range for TV receivers to reduce front end overloading? How much cost would be added to receivers if the FCC adopted these standards?

QUESTION 16: If the FCC finds that some of the changes in receiver design described above would be in the public interest:

(16a) Would any or all of these improvements be likely to occur in the next five years if no Commission rule making action is taken in this regard?

(16b) What courses of actions should the Commission consider taking to promote implementation of these changes?

(16c) Are there particular courses of action which would be harmful or most beneficial?

QUESTION 17: What should the Commission's performance standards be for the transmission line between the antenna terminals and the tuner (e.g. should shielded co-axial cable be required)?

18. Possible changes in transmitter standards and coverage protection criteria.

QUESTION 18: Should the FCC consider requiring minimum antenna heights and coverages, or increases in the minimum effective radiated power (ERP) requirements?[19] If so, what values would be appropriate?

QUESTION 19: In what way should protection criteria for assignments reflect actual ERP, antenna heights, and coverage areas? (e.g. creating classes of lower power TV stations such as those that exist in the FM radio broadcast service)?

QUESTION 20: How can the FCC's protection criteria for assignments reflect the use of directional antennas?

QUESTION 21: Should television stations be required to use precise frequency control,[20] and how should the FCC's protection criteria for assignments reflect such use?

(21a) How would this affect the cost of TV transmitter equipment?

(21b) What would be the potential benefits of such a requirement?

QUESTION 22: The FCC's rules require that the aural transmitter power be 10-20% (7-10 dB) of the visual carrier transmitter power.[21] If the FCC required an even lower aural transmitter power level:

(22a) What would be the effect on reception with current receivers? [22]

(22b) What would be the effect on reception if new performance standards (e.g. based on the TI study) were adopted?

(22c) What would be the effect on television broadcast costs?

(22d) What changes in television protection criteria should be made to reflect the changes in reception?

(22e) Would there be any improvements in adjacent channel reception if the aural carrier power was reduced?

Information on Comments

19. *Who should file comments?* We urge television equipment manufacturers, broadcasters, the viewing public, and all other interested parties to participate in this Inquiry. You may participate by sending information and opinions that are relevant to the questions listed in this Inquiry.

20. *How will this information be used?* These comments will be used to evaluate the issues we have discussed above. We expect that some comments will lead us to propose specific rule changes, and that some comments may lead to further Notice of Inquiry. For example, a second Notices of Inquiry may be necessary to determine the opinions and equipment preferences of the viewing public. The FCC will make rule changes only after all interested parties are given an adequate opportunity to comment.

21. *How comments should be prepared.* Your comments must clearly show this docket number "General Docket No. 78-392" on the first page. Please lable your responses so that it will be clear which number question is being answered. If your comments are general and do not address a specific question, please state the issue being addressed. We encourage you to submit a one page summary of your comments at the time you file.

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[9] *See Notice of Proposed Rule Making in Docket 21006*, 61 FCC 2d, 1022 (released December 8, 1976) and *Report and Order in Docket 21006*, 65 FCC 2d 813 (released August 8, 1977).

[10] We note that the question of specifying transmission standards for these possible additions to the television broadcast service is being considered in Docket No. 21323. *See, Use of Subcarrier Frequencies in Aural Base Band*, FCC 77-477, 42 F.R. 38606 (July 15, 1977).

[11] *First Report and Order, in Docket No. 18262*, 19 R.R. 2d 1663 (1970), the FCC reallocated UHF channels 70-83 to the land mobile radio services, but allowed existing translators to operate on a secondary basis. *See also Memorandum, Opinion and Order*, 25, F.C.C. 2d 764, 20 R.R. 2d 1512 (1970).

[12] In a companion order, to be issued today we are terminating Docket No. 21179, *UHF Channel Readout on Television Receivers (Notice of Inquiry*, FCC 77-221, 42 FR 18643 (April 8, 1977)). The extensive changes we are considering in this and several related proceedings (*see supra* note 1) supersede the issues raised by Docket No. 21179, making it inappropriate to pursue this line of inquiry further.

[13] The FCC has recently received requests to grant certification of a TV receiver system which has a number of electronically preset positions (similar to the selectors in push button car radios) which can be programmed to automatically tune to particular stations. In addition, this system can automatically scan the TV frequencies in an area, and assign each selector position a station. If there are a greater number of stations in the area than preset positions, some stations will be excluded. The total number of preset positions (and the preference for automatic systems to load from the top down or bottom up) therefore potentially puts stations at one end of the televison band or the other at a significant disadvantage, even though the viewer can change the preset channels. The FCC could require, for example, that a particular ratio of UHF and VHF stations be selected, or that the positions be loaded with UHF stations first.

[14] The current minimum number of preset positions required for certification is eleven. 47 C.F.R. 15.68 (b)(1) (1976).

NOTE: cable systems serving 3500 or more subscribers are required to have at least 120 MHz of bandwith (the equivalent of 20 television channels) for immediate or potential use. 47 C.F.R. 76.252(a)(1).

[15] For a detailed description of a cable-compatible receiver, *see* (1) EIA-Cable Television System Committee (CTSC) (Draft of) Engineering Bulletin of Cable-TV Receiver and System Standards (November 8, 1973) and (2) Panel #-3, C-TAC Report available from the U.S. Department of Commerce, National Technical Information Service, PB-247, 810, Springfield, Va., 22151.

[16] *See, Notice of Inquiry General Docket No. 78-307, Television Equipment Grading*, FCC 78-665, 43 F.R. 49550 (October 24, 1978). *See also, Notice of Inquiry in General Docket* No. 78-393, *Television Receiver Performance Standards*, FCC 78-868, elsewhere in Part III of this issue (December 20, 1978).

[17] The FCC Rules allow the VIR signal to be added to the program signal at the point where its color characteristics are established, and to accompany the program signal as it traverses all circuits to the output of the transmitter. The VIR signal is constructed so that circuit distortions responsible for color deterioration will ordinarily cause measureable changes in the standardized VIR signal. Measurement of the distortion in the VIR signal allows corrections to be made to the signal. This is primarily used to correct distortions before transmission. Presently, some home TV receivers are capable of using this same information to automatically adjust color. Docket 19907, FCC 74-1234, 49 F.C.C. 2d 884, 31 R.R. 2d 1505 (1974).

[18] The FCC adopted the NTSC Standards as part of its Rules in Docket No. 10637, 41 F.C.C. 658, 10 R.R. 1501 (1953). A summary of the NTSC standards appears in Appendix A of this Docket. 41 F.C.C. 675, at 10 R.R. at 1518.

[19] The present Rules allow UHF television stations to use maximum radiated powers of 5000 kW (37 dBk) at antenna heights above average terrain of 2000 feet. A survey made by the FCC Office of Chief Engineer in 1974 showed that relatively few UHF stations operated near the limits, *Antenna and Power Statistics of TV Stations in the U.S.*, J. C. H. Wang, FCC/OCE RS 76-02 (1976).

[20] Present television transmitter frequency tolerance is 1kHz. If television stations were required to control the transmit frequency more precisely, to within a few Hertz, interference could be decreased, and service area increased. Precise Frequency Control (PFC) is now used voluntarily by some VHF stations to reduce average co-channel interference by about 6dB. It is not used at UHF, as it is not now needed (since there is little if any co-channel interference on UHF). UHF television stations are generally noise limited rather than interference limited. If UHF assignments were to be made on an interference-limited basis, which took into account actual power and antenna heights PFC for UHF might be useful.

[21] 47 C.F.R. 73.682 (a)(15).

[22] *See*, Dean, Charles E. "Measurements of the Subjective Efforts of Interference in Television Reception," *Proceedings of the IRE* (June 1960) at 1040.

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22. *How many copies should be sent?* Sec. 1.419 of the rules requires that you file the original and five copies of your comments. If you want each Commissioner to receive a personal copy of your comments, you should include 6 additional copies. The FCC will fully consider all comments, even if only the original is filed.

23. *Where to send comments:* Send your comments to: Secretary, Federal Communications Commission, Washington, D.C. 20554.

24. *How to see the comments of other parties.* All comments will be available for public inspection in the FCC Dockets Reference Room, Room 239, 1919 M St., NW. Washington, D.C. The FCC is open weekdays between 8:00 am and 5:30 pm on weekdays. You can reply to these comments by following the same procedure as you would for commenting.

25. Regarding questions on matters covered by this document, contact Will McGibbon (202) 632-7060.

26. *Deadline for filing Comments.* Comments must be received by July 1, 1979. Replies to comments must be received by October 1, 1979.

27. *The source of our legal authority.* Sections 4(i), 302, 303(f), (g), (r) and (s), 330, and 403 of the Communications Act of 1934, as amended gives the FCC the authority to conduct this Inquiry. Accordingly, the FCC orders that this Inquiry is instituted. The FCC further orders that the records from Docket Nos. 20485 and 21010 be included in this proceeding, and that Docket No. 20485 is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-1505 Filed 1-16-79; 8:45 am]

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THURSDAY, JANUARY 18, 1979

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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
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DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
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Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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rules and regulations

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02-M]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 449; Navel Orange Reg. 448, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 19-25, 1979, and increases the quantity of such oranges that may be so shipped during the period January 12-18, 1979. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective January 19, 1979, and the amendment is effective for the period January 12-18, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of navel oranges, as hereafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on January 12, 15, and 16, 1979, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is expected to continue active.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. Navel Orange Regulation 449 is set forth below:

§ 907.749 Navel Orange Regulation 449.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period January 19, 1979, through January 25, 1979, are established as follows:

(1) District 1: 650,000 cartons;
(2) District 2: 89,754 cartons;
(3) District 3: unlimited movement.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

2. Paragraph (a) (1) and (2) in § 907.748 Navel Orange Regulation 448 (44 FR 2353), is hereby amended to read:

§ 907.748 Navel Orange Regulation 448.

(a) • • •

(1) District 1: 765,000 cartons;
(2) District 2: 135,000 cartons.

• • • • •

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: January 17, 1979.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-2117 Filed 1-17-79; 11:34 am]

[3410-02-M]

[Papaya Regulation 9, Amendment 1]

PART 928—PAPAYAS GROWN IN HAWAII

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment relaxes the quality requirement applicable to export shipments of Hawaiian papayas during the period January 15 through April 30, 1979. Such action recognizes the current and prospective marketing situation for Hawaiian papayas and is consistent with the composition of the crop.

EFFECTIVE DATE: January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

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SUPPLEMENTARY INFORMATION: Pursuant to the marketing agreement and Order No. 928 (7 CFR Part 928) regulating the handling of papayas grown in Hawaii, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Papaya Administrative Committee, established under this marketing order, and upon other information, it is found that this amendment will tend to effectuate the declared policy of the act. This amendment has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The Papaya Administrative Committee reports that supply of papayas is less than anticipated due to wet weather and loss of fruit due to anthracnose. Demand is good and additional supplies are needed. The recommended amendment is consistent with the quality of much of the potential supply in the period specified. The amendment is designed to permit movement of available supplies of papayas consistent with the interests of producers and consumers.

It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of papayas grown in Hawaii.

In § 928.309 (Papaya Regulation 9; 44 FR 30) paragraph (b) is redesignated as paragraph (c) and a new paragraph (b) inserted reading as follows:

§ 928.309 Papaya Regulation 9.

(a) • • •
(1) • • •
(2) • • •

(b) Notwithstanding the provisions of paragraph (a)(2) of this section, any handler may during the period January 15 through April 30, 1979, handle papayas to any export destination which meet the requirements of the Hawaii No. 1 grade, except that allowable tolerances for defects may total 5 percent: *Provided*, That not more than 3 percent shall be for serious damage, not more than 1 percent for immature fruit, and not more than 1 percent for decay: *Provided further*, That such papayas shall individually weigh not less than 11 ounces each.

• • • • •

(Secs. 1-10, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated January 15, 1979, to become effective January 15, 1979.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc 79-1873 Filed 1-17-79; 8:45 am]

[3410-05-M]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regulations, 1978 Crop Barley Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1978 Crop Barley Loan and Purchase Program

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the: (1) Final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates and premiums and discounts under which Commodity Credit Corporation (CCC) will extend price support on 1978 crop barley. This rule is needed in order to provide a price support program for barley. This rule will enable eligible barley producers to obtain loans and purchases on their eligible 1978 crop barley.

EFFECTIVE DATE: January 18, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3732 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Merle Strawderman, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on December 21, 1977, 42 FR 56751 stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1978 crop of barley. Such determinations included determining loan and purchase rates and other related program provisions. Nineteen responses were received: 5 recommendations pertained to loan rates, and 14 dealt with target prices. It has been determined that the loan and purchase rates for 1978 crop barley on a national average will be $1.63 per bushel. The final availability date for purchases will be changed to March 31, 1979, the same as for loans

Producers who wish to secure loans can do so by contacting their local Agricultural Stabilization and Conservation Service Office or Agricultural Service Center.

FINAL RULE

Since storage can now be deducted, the General Regulations Governing Price Support for 1980 and Subsequent Crops, and any amendments thereto and the 1978 and Subsequent Crops Barley Loan and Purchase Regulations, and any amendments thereto in this Part 1421 are further supplemented for the 1978 crop of barley. Accordingly, the regulations in 7 CFR § 1421.72 through § 1421.76 and the title of the subpart are revised to read as provided below effective as to the 1978 crop of barley. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1978 Crop Barley Loan and Purchase Program

Sec.
1421.72 Purpose.
1421.73 Availability.
1421.74 Maturity of loans.
1421.75 Warehouse charges.
1421.76 Loans and purchase rates and discounts.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); secs. 105A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444c, 1421).

§ 1421.72 Purpose.

This supplement contains additional program provisions which together with the provisions of the General Regulations Governing Price Support for the 1978 and Subsequent Crops, the 1978 and Subsequent Crops Barley Loan and Purchase Program regulations, and any amendments thereto, apply to loans on and purchase of the 1978 crop of barley.

§ 1421.73 Availability.

(a) *Loans.* Producers desiring to participate in the program through loans must request a loan on their 1978 crop of eligible barley on or before March 31, 1979.

(b) *Purchases.* A producer desiring to offer eligible 1978 crop barley not under loan for purchase must execute and deliver to the county ASCS office on or before March 31, 1979, a Purchase Agreement (Form CCC-614) indicating the approximate quantity of 1978-crop barley they will sell to CCC.

§ 1421.74 Maturity of loans.

Loans mature on demand but not later than the last day of the ninth calendar month following the month the loan is disbursed.

§ 1421.75 Warehouse charges.

If storage is not provided for through loan maturity the county office shall deduct storage charges at the daily storage rate for the storing warehouse times the number of days from the date the commodity was received or date through which storage has been provided for to the maturity date.

§ 1421.76 Loan and purchase rates and discounts.

(a) *Basic loan and purchase rates.* Basic rates per bushel for loan and settlement purposes for barley grading U.S. No. 2 or better are as follows:

1978 CROP BARLEY LOAN AND PURCHASE PROGRAM SUPPLEMENT

1978—Crop Barley Loan and Purchase Rates

County	Rate per Bushel
ALABAMA	
All Counties	$1.60
ALASKA*	
Delta	1.54
Fairbanks	1.53
Glenallen	1.63
Homer	1.59
Kenai-Sold	1.66
Palmer	1.72
Talkeetna	1.72
Weighted avg. simple average of marketing area loan rates	1.63
ARIZONA	
All Counties	1.80
ARKANSAS	
All Counties	1.60
CALIFORNIA	
Alameda	1.98
Alpine	1.81
Amador	1.94
Butte	1.89
Calaveras	1.94
Colusa	1.93
Contra Costa	1.95
El Dorado	1.93
Fresno	1.92
Glenn	1.90
Humboldt	1.78
Imperial	1.92
Inyo	1.80
Kern	1.93
Kings	1.91
Lake	1.88
Lassen	1.78
Los Angeles	1.98
Madera	1.94
Marin	1.95
Mariposa	1.92
Mendocino	1.82
Merced	1.94
Modoc	1.76
Monterey	1.90
Napa	1.93
Orange	1.96
Placer	1.91
Plumas	1.81
Riverside	1.93

*In Alaska, loan rates are for marketing areas.

1978 CROP BARLEY LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Sacramento	1.98
San Benito	1.90
San Bernardino	1.94
San Diego	1.98
San Francisco	1.98
San Joaquin	1.98
San Luis Obispo	1.90
San Mateo	1.95
Santa Barbara	1.89
Santa Clara	1.94
Santa Cruz	1.91
Shasta	1.78
Sierra	1.80
Siskiyou	1.76
Solano	1.95
Sonoma	1.93
Stanislaus	1.96
Sutter	1.92
Tehama	1.89
Tulare	1.90
Tuolumne	1.92
Ventura	1.93
Yolo	1.95
Yuba	1.92
Weighted avg. for State	1.91
COLORADO	
All Counties	1.66
CONNECTICUT	
All Counties	1.60
DELAWARE	
All Counties	1.60
FLORIDA	
All Counties	1.61
GEORGIA	
All Counties	1.61
IDAHO	
Ada	1.65
Adams	1.65
Bannock	1.65
Bear Lake	1.62
Benewah	1.74
Bingham	1.64
Blaine	1.65
Boise	1.65
Bonner	1.70
Bonneville	1.62
Boundary	1.69
Butte	1.64
Camas	1.65
Canyon	1.65
Caribou	1.62
Cassia	1.64
Clark	1.61
Clearwater	1.73
Custer	1.65
Elmore	1.65
Franklin	1.66
Fremont	1.62
Gem	1.65
Gooding	1.65
Idaho	1.69
Jefferson	1.62
Jerome	1.65
Kootenai	1.74
Latah	1.74
Lemhi	1.61
Lewis	1.73
Lincoln	1.65
Madison	1.62
Minidoka	1.66
Nez Perce	1.74
Oneida	1.65
Owyhee	1.65
Payette	1.65
Power	1.65
Shoshone	1.62
Teton	1.62
Twin Falls	1.66
Valley	1.65
Washington	1.65
Weighted avg. for State	1.65
ILLINOIS	
Alexander	1.66
Cook	1.61
Madison	1.65
Saint Clair	1.65
All Other Counties	1.56
Weighted avg. for State	1.56

1978 CROP BARLEY LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
INDIANA	
All Counties	1.56
IOWA	
Pottawattamie	1.62
All Other Counties	1.58
Weighted avg. for State	1.58
KANSAS	
Wyandotte	1.63
All Other Counties	1.59
KENTUCKY	
All Counties	1.57
LOUISIANA	
East Baton Rouge	1.78
Jefferson	1.78
Orleans	1.78
Saint Charles	1.78
West Baton Rouge	1.78
All Other Counties	1.61
Weighted avg. for State	1.61
MAINE	
All Counties	1.60
MARYLAND	
Baltimore	1.78
All Other Counties	1.60
Weighted avg. for State	1.60
MASSACHUSETTS	
All Counties	1.60
MICHIGAN	
All Counties	1.52
MINNESOTA	
Aitkin	1.68
Anoka	1.71
Becker	1.59
Beltrami	1.61
Benton	1.68
Big Stone	1.63
Blue Earth	1.71
Brown	1.69
Carlton	1.72
Carver	1.72
Cass	1.64
Chippewa	1.68
Chisago	1.71
Clay	1.58
Clearwater	1.58
Cottonwood	1.68
Crow Wing	1.64
Dakota	1.72
Dodge	1.71
Douglas	1.63
Faribault	1.70
Fillmore	1.68
Freeborn	1.71
Goodhue	1.71
Grant	1.61
Hennepin	1.72
Houston	1.67
Hubbard	1.61
Isanti	1.70
Itasca	1.67
Jackson	1.67
Kanabec	1.69
Kandiyohi	1.68
Kittson	1.52
Koochiching	1.65
Lac Qui Parle	1.67
Lake of the Woods	1.60
Le Sueur	1.72
Lincoln	1.64
Lyon	1.67
McLeod	1.71
Mahnomen	1.57
Marshall	1.55
Martin	1.70
Meeker	1.69
Mille Lacs	1.69
Morrison	1.66
Mower	1.70
Murray	1.66
Nicollet	1.71
Nobles	1.64
Norman	1.58
Olmsted	1.71
Otter Tail	1.60
Pennington	1.56
Pine	1.72
Pipestone	1.63
Polk	1.56
Pope	1.66

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1978 CROP BARLEY LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Ramsey	1.72
Red Lake	1.58
Redwood	1.69
Renville	1.68
Rice	1.72
Rock	1.61
Roseau	1.54
Saint Louis	1.72
Scott	1.72
Sherburne	1.71
Sibley	1.71
Stearns	1.68
Steele	1.72
Stevens	1.63
Swift	1.67
Todd	1.63
Traverse	1.61
Wabasha	1.71
Wadena	1.62
Waseca	1.72
Washington	1.72
Watonwan	1.70
Wilkin	1.59
Winona	1.69
Wright	1.72
Yellow Medicine	1.68
Weighted avg. for State	1.58
MISSISSIPPI	
All Counties	1.60
MISSOURI	
Buchanan	1.62
Clay	1.62
Jackson	1.62
Saint Louis	1.64
All Other Counties	1.60
Weighted avg. for State	1.60
MONTANA	
Beaverhead	1.56
Big Horn	1.51
Blaine	1.47
Broadwater	1.59
Carbon	1.52
Carter	1.42
Cascade	1.55
Chouteau	1.51
Custer	1.44
Daniels	1.41
Dawson	1.44
Deer Lodge	1.62
Fallon	1.42
Fergus	1.51
Flathead	1.67
Gallatin	1.62
Garfield	1.46
Glacier	1.54
Golden Valley	1.52
Granite	1.60
Hill	1.50
Jefferson	1.62
Judith Basin	1.52
Lake	1.60
Lewis and Clark	1.53
Liberty	1.52
Lincoln	1.67
McCone	1.44
Madison	1.62
Meagher	1.56
Mineral	1.64
Missoula	1.64
Musselshell	1.51
Park	1.60
Petroleum	1.49
Phillips	1.44
Pondera	1.53
Powder River	1.44
Powell	1.62
Prairie	1.44
Ravalli	1.60
Richland	1.41
Roosevelt	1.41
Rosebud	1.46
Sanders	1.64
Sheridan	1.39
Silver Bow	1.62
Stillwater	1.52
Sweet Grass	1.55
Teton	1.53
Toole	1.53
Treasure	1.46
Valley	1.43
Wheatland	1.53
Wibaux	1.42
Yellowstone	1.51
Weighted avg. for State	1.52

1978 CROP BARLEY LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
NEBRASKA	
Douglas	1.63
All Other Counties	1.55
Weighted avg. for State	1.52
NEVADA	
All Counties	1.80
NEW HAMPSHIRE	
All Counties	1.60
NEW JERSEY	
All Counties	1.60
NEW MEXICO	
All Counties	1.70
NEW YORK	
Albany	1.78
New York City	1.78
All Other Counties	1.60
Weighted avg. for State	1.60
NORTH CAROLINA	
All Counties	1.61
NORTH DAKOTA	
Adams	1.42
Barnes	1.54
Benson	1.48
Billings	1.40
Bottineau	1.42
Bowman	1.40
Burke	1.40
Burleigh	1.46
Cass	1.57
Cavalier	1.48
Dickey	1.52
Divide	1.40
Dunn	1.40
Eddy	1.49
Emmons	1.44
Foster	1.50
Golden Valley	1.40
Grand Forks	1.54
Grant	1.41
Griggs	1.52
Hettinger	1.40
Kidder	1.48
La Moure	1.51
Logan	1.48
McHenry	1.44
McIntosh	1.49
McKenzie	1.43
McLean	1.44
Mercer	1.43
Morton	1.43
Mountrail	1.40
Nelson	1.51
Oliver	1.44
Pembina	1.51
Pierce	1.46
Ramsey	1.49
Ransom	1.54
Renville	1.41
Richland	1.57
Rolette	1.45
Sargent	1.56
Sheridan	1.45
Sioux	1.43
Slope	1.40
Stark	1.40
Steele	1.54
Stutsman	1.53
Towner	1.46
Traill	1.54
Walsh	1.52
Ward	1.42
Wells	1.48
Williams	1.40
Weighted avg. for State	1.50
OHIO	
All Counties	1.54
OKLAHOMA	
All Counties	1.61
OREGON	
Baker	1.72
Benton	1.77
Clackamas	1.81
Clatsop	1.87
Columbia	1.87
Coos	1.68
Crook	1.78
Curry	1.66

1978 CROP BARLEY LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Deschutes	1.76
Douglas	1.70
Gilliam	1.81
Grant	1.76
Harney	1.63
Hood River	1.83
Jackson	1.69
Jefferson	1.79
Josephine	1.69
Klamath	1.69
Lake	1.66
Lane	1.76
Lincoln	1.76
Linn	1.78
Malheur	1.66
Marion	1.79
Morrow	1.80
Multnomah	1.87
Polk	1.79
Sherman	1.82
Tillamook	1.82
Umatilla	1.77
Union	1.75
Wallowa	1.72
Wasco	1.83
Washington	1.83
Wheeler	1.78
Yamhill	1.81
Weighted avg. for State	1.75
PENNSYLVANIA	
Philadelphia	1.75
All Other Counties	1.60
Weighted avg. for State	1.60
RHODE ISLAND	
All Counties	1.60
SOUTH CAROLINA	
Charleston	1.76
All Other Counties	1.61
Weighted avg. for State	1.61
SOUTH DAKOTA	
Aurora	1.52
Beadle	1.56
Bennett	1.44
Bon Homme	1.55
Brookings	1.60
Brown	1.54
Brule	1.50
Buffalo	1.52
Butte	1.37
Campbell	1.47
Charles Mix	1.53
Clark	1.56
Clay	1.57
Codington	1.59
Corson	1.44
Custer	1.42
Davison	1.52
Day	1.57
Deuel	1.62
Dewey	1.46
Douglas	1.53
Edmunds	1.51
Fall River	1.42
Faulk	1.53
Grant	1.62
Gregory	1.52
Haakon	1.44
Hamlin	1.59
Hand	1.52
Hanson	1.52
Harding	1.39
Hughes	1.50
Hutchinson	1.54
Hyde	1.52
Jackson	1.44
Jerauld	1.52
Jones	1.49
Kingsbury	1.59
Lake	1.58
Lawrence	1.37
Lincoln	1.57
Lyman	1.49
McCook	1.53
McPherson	1.51
Marshall	1.56
Meade	1.40
Mellette	1.48
Miner	1.54
Minnehaha	1.57
Moody	1.56
Pennington	1.42
Perkins	1.41

1978 CROP BARLEY LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Potter	1.51
Roberts	1.60
Sanborn	1.52
Shannon	1.42
Spink	1.54
Stanley	1.49
Sully	1.51
Todd	1.48
Tripp	1.49
Turner	1.57
Union	1.58
Walworth	1.48
Washabaugh	1.44
Yankton	1.57
Ziebach	1.43
Weighted avg. for State	1.54
TENNESSEE	
Shelby	1.66
All Other Counties	1.60
Weighted avg. for State	1.60
TEXAS	
Chambers	1.80
Galveston	1.80
Harris	1.80
Jefferson	1.80
Nueces	1.80
San Patrici	1.60
All Other Counties	1.64
Weighted avg. for State	1.64
UTAH	
All Counties	1.70
VERMONT	
All Counties	1.60
VIRGINIA	
Chesapeake (Norfolk)	1.70
All Other Counties	1.60
Weighted avg. for State	1.60
WASHINGTON	
Adams	1.77
Asotin	1.77
Benton	1.79
Chelan	1.81
Clallam	1.67
Clark	1.87
Columbia	1.78
Cowlitz	1.87
Douglas	1.76
Ferry	1.72
Franklin	1.78
Garfield	1.78
Grant	1.77
Grays Harbor	1.76
Island	1.80
Jefferson	1.72
King	1.87
Kitsap	1.60
Kittitas	1.79
Klickitat	1.80
Lewis	1.81
Lincoln	1.76
Mason	1.74
Okanogan	1.75
Pacific	1.78
Pend Oreille	1.70
Pierce	1.87
San Juan	1.75
Skagit	1.75
Skamania	1.82
Snohomish	1.80
Spokane	1.74
Stevens	1.71
Thurston	1.81
Wahkiakum	1.64
Walla Walla	1.78
Whatcom	1.73
Whitman	1.76
Yakima	1.78
Weighted avg. for State	1.76
WEST VIRGINIA	
All Counties	1.60
WISCONSIN	
Douglas	1.67
All Other Counties	1.57
Weighted avg. for State	1.57
WYOMING	
All Counties	1.64

(b) *Schedule of Discounts for 1978—Crop Barley*

DISCOUNTS

(a) Grade discounts:

U.S. No. 3	−4
U.S. No. 4	−8
U.S. Grade No. 5	−20

(b) Special discounts:

Garlicky	−10
Weed control discount (where required by § 1421.24)	−10

(c) *Other.* Barley with quality factors exceeding limits shown in foregoing schedule or barley that (1) contains in excess of 14.5 percent moisture, (2) is weevily, (3) is musty, (4) sour, shall not be eligible for loan. In the event quantities of barley exceeding limits shown are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity Office for settlement purposes. Such discounts will be established not later than the time delivery of barley to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

NOTE.—Discounts are cumulative except only one grade discount shall be applied.

Signed at Washington, D.C., on January 9, 1979.

STEWART N. SMITH,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-1653 Filed 1-17-79; 8:45 am]

[3410-05-M]

[CCC Grain Price Support Regulations, 1978 Crop Wheat Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1978 Crop Wheat Loan and Purchase Program

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the: (1) Final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates and premiums and discounts under which Commodity Credit Corporation (CCC) will extend price support on 1978 crop wheat. This rule is needed in order to provide a price support program for wheat. This rule will enable eligible wheat producers to obtain loans and purchases on their eligible 1978 crop wheat.

EFFECTIVE DATE: January 18, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3732 South Building, P.O. Box 2415, Washington, D. C. 20013.

FOR FURTHER INFORMATION CONTACT:

Merle Strawderman, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on December 21, 1977, 42 FR 56751 stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1978 crop of wheat. Such determinations included determining loan and purchase rates and other related program provisions. Twelve recommendations were reviewed: six dealing with loan rates, and six pertaining to target prices. After considering applicable factors, it has been determined that the loan and purchase rates for 1978 crop wheat on a national average will be $2.35 per bushel.

Producers who wish to secure loans can do so by contacting their local Agricultural Stabilization and Conservation Service Office or Agricultural Service Center.

FINAL RULE

Since storage can now be deducted, the General Regulations Governing Price Support for 1978 and Subsequent Crops, and any amendments thereto and the 1978 and Subsequent Crops Wheat Loan and Purchase Regulations, and any amendments thereto in this Part 1421 are further supplemented for the 1978 crop of wheat. Accordingly, the regulations in 7 CFR § 1421.485 through § 1421.488 and the title of the subpart are revised to read as provided below effective as to the 1978 crop of wheat. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1978 Crop Wheat Loan and Purchase Program

Sec.
1421.485 Availability.
1421.486 Maturity of loans.
1421.487 Ineligible classes.
1421.488 Warehouse charges.
1421.489 Loan and purchase rates premiums and discounts.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 and c); Secs. 107A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1445b, 1421).

V 4 4 / 1 3 1 8 7 9 JAN UMI

§ 1421.485 Availability.

(a) *Loans.* Producers desiring to participate in the program through loans must request a loan on their 1978 crop of eligible wheat on or before March 31, 1979.

(b) *Purchases.* A producer desiring to offer eligible 1978 crop wheat not under loan for purchase must execute and deliver to the county ASCS office on or before March 31, 1979, a Purchase Agreement (Form CCC-614) indicating the approximate quantity of 1978 crop wheat he will sell to CCC.

§ 1421.486 Maturity of loans.

Loans mature on demand but not later than the last day of the ninth calendar month following the month the loan is disbursed.

§ 1421.487 Ineligible classes.

Unclassed wheat shall not be eligible for loan or purchase.

§ 1421.488 Warehouse charges.

If storage is not provided through loan maturity, the county office shall deduct storage charges at the daily storage rate for the storing warehouse times the number of days from the date the commodity was received or date through which storage has been provided for to maturity.

§ 1421.489 Loan and purchase rates premiums and discounts.

(a) *Basic loan and purchase rates.* Basic rates per bushel for loan and settlement purposes for wheat grading U.S. No. 1 and are as follows:

1978 CROP WHEAT LOAN AND PURCHASE PROGRAM SUPPLEMENT

1978—Crop Wheat Loan and Purchase Rates

County	Rate per Bushel
ALABAMA	
Mobile	$2.36
All Other Counties	2.17
Weighted Avg. for State	2.27
ARIZONA	
All Counties	2.27
ARKANSAS	
All Counties	2.18
CALIFORNIA	
Alameda	2.43
Alpine	2.25
Amador	2.38
Butte	2.32
Calaveras	2.38
Colusa	2.37
Contra Costa	2.38
El Dorado	2.37
Fresno	2.33
Glenn	2.31
Humboldt	2.20
Imperial	2.35
Inyo	2.31
Kern	2.38
Kings	2.35
Lake	2.31
Lassen	2.20
Los Angeles	2.43
Madera	2.36
Marin	2.36
Mariposa	2.36
Mendocino	2.25

1978 CROP WHEAT LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Merced	2.39
Modoc	2.20
Monterey	2.33
Napa	2.37
Orange	2.43
Placer	2.37
Plumas	2.20
Riverside	2.35
Sacramento	2.43
San Benito	2.36
San Bernardino	2.44
San Diego	2.43
San Francisco	2.43
San Joaquin	2.43
San Luis Obispo	2.32
San Mateo	2.43
Santa Barbara	2.33
Santa Clara	2.37
Santa Cruz	2.38
Shasta	2.21
Sierra	2.22
Siskiyou	2.20
Solano	2.38
Sonoma	2.35
Stanislaus	2.40
Sutter	2.37
Tehama	2.27
Tulare	2.35
Tuolumne	2.36
Ventura	2.40
Yolo	2.38
Yuba	2.37
Weighted Avg. for State	2.46
COLORADO	
Adams	2.07
Alamosa	2.04
Arapahoe	2.07
Archuleta	2.01
Baca	2.11
Bent	2.07
Boulder	2.06
Chaffee	2.04
Cheyenne	2.08
Conejos	2.04
Costilla	2.04
Crowley	2.07
Custer	2.06
Delta	1.98
Denver	2.07
Dolores	1.98
Douglas	2.07
Eagle	2.01
Elbert	2.07
El Paso	2.07
Fremont	2.06
Garfield	2.01
Grand	2.04
Huerfano	2.08
Jackson	2.04
Jefferson	2.06
Kiowa	2.08
Kit Carson	2.08
La Plata	1.98
Larimer	2.07
Las Animas	2.10
Lincoln	2.07
Logan	2.07
Mesa	1.98
Moffat	2.04
Montezuma	1.98
Montrose	1.98
Morgan	2.07
Otero	2.07
Ouray	1.98
Phillips	2.07
Pitkin	1.98
Prowers	2.09
Pueblo	2.07
Rio Blanco	2.01
Rio Grande	2.04
Routt	2.04
Saguache	2.04
San Miguel	1.98
Sedgwick	2.07
Summit	2.01
Teller	2.06
Washington	2.07
Weld	2.07
Yuma	2.08

1978 CROP WHEAT LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Weighted Avg. for State	2.17
CONNECTICUT	
All Counties	2.19
DELAWARE	
All Counties	2.22
FLORIDA	
All Counties	2.16
GEORGIA	
All Counties	2.16
IDAHO	
Ada	2.19
Adams	2.19
Bannock	2.17
Bear Lake	2.15
Benewah	2.30
Bingham	2.15
Blaine	2.15
Boise	2.19
Bonner	2.22
Bonneville	2.14
Boundary	2.20
Butte	2.14
Camas	2.16
Canyon	2.19
Caribou	2.16
Cassia	2.18
Clark	2.12
Clearwater	2.28
Custer	2.14
Elmore	2.18
Franklin	2.18
Fremont	2.13
Gem	2.19
Gooding	2.19
Idaho	2.27
Jefferson	2.14
Jerome	2.19
Kootenai	2.28
Latah	2.30
Lemhi	2.14
Lewis	2.29
Lincoln	2.18
Madison	2.14
Minidoka	2.18
Nez Perce	2.32
Oneida	2.18
Owyhee	2.18
Payette	2.19
Power	2.18
Shoshone	2.28
Teton	2.13
Twin Falls	2.19
Valley	2.18
Washington	2.19
Weighted Avg. for State	2.31
ILLINOIS	
Adams	2.20
Alexander	2.23
Bond	2.26
Boone	2.28
Brown	2.20
Bureau	2.26
Calhoun	2.27
Carroll	2.25
Cass	2.22
Champaign	2.26
Christian	2.24
Clark	2.22
Clay	2.22
Clinton	2.26
Coles	2.22
Cook	2.28
Crawford	2.21
Cumberland	2.22
De Kalb	2.28
DeWitt	2.22
Douglas	2.23
DuPage	2.28
Edgar	2.24
Edwards	2.22
Effingham	2.24
Fayette	2.25
Ford	2.26
Franklin	2.26
Fulton	2.24
Gallatin	2.19

1978 CROP WHEAT LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Greene	2.26
Grundy	2.28
Hamilton	2.20
Hancock	2.20
Hardin	2.19
Henderson	2.22
Henry	2.25
Iroquois	2.28
Jackson	2.25
Jasper	2.21
Jefferson	2.26
Jersey	2.27
Jo Daviess	2.25
Johnson	2.23
Kane	2.28
Kankakee	2.28
Kendall	2.28
Knox	2.24
Lake	2.28
LaSalle	2.28
Lawrence	2.21
Lee	2.27
Livingston	2.27
Logan	2.22
McDonough	2.22
McHenry	2.28
McLean	2.24
Macon	2.22
Macoupin	2.26
Madison	2.27
Marion	2.28
Marshall	2.25
Mason	2.20
Massac	2.22
Menard	2.20
Mercer	2.24
Monroe	2.27
Montgomery	2.26
Morgan	2.24
Moultrie	2.23
Ogle	2.26
Peoria	2.24
Perry	2.26
Piatt	2.22
Pike	2.21
Pope	2.20
Pulaski	2.23
Putnam	2.25
Randolph	2.27
Richland	2.21
Rock Island	2.25
Saint Clair	2.27
Saline	2.20
Sangamon	2.24
Schuyler	2.20
Scott	2.22
Shelby	2.24
Stark	2.24
Stephenson	2.27
Tazewell	2.22
Union	2.23
Vermilion	2.27
Wabash	2.21
Warren	2.24
Washington	2.26
Wayne	2.22
White	2.19
Whiteside	2.26
Will	2.28
Williamson	2.24
Winnebago	2.27
Woodford	2.24
Weighted Avg. for State	2.34
INDIANA	
Adams	2.21
Allen	2.21
Bartholomew	2.21
Benton	2.26
Blackford	2.21
Boone	2.20
Brown	2.21
Carroll	2.24
Cass	2.24
Clark	2.26
Clay	2.22
Clinton	2.20
Crawford	2.26
Daviess	2.22
Dearborn	2.21

1978 CROP WHEAT LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Decatur	2.21
De Kalb	2.21
Delaware	2.21
Dubois	2.23
Elkhart	2.23
Fayette	2.21
Floyd	2.26
Fountain	2.24
Franklin	2.21
Fulton	2.24
Gibson	2.21
Grant	2.20
Greene	2.22
Hamilton	2.21
Hancock	2.21
Harrison	2.26
Hendricks	2.20
Henry	2.21
Howard	2.20
Huntington	2.20
Jackson	2.22
Jasper	2.27
Jay	2.21
Jefferson	2.24
Jennings	2.22
Johnson	2.20
Knox	2.21
Kosciusko	2.24
Lagrange	2.20
Lake	2.28
La Porte	2.28
Lawrence	2.22
Madison	2.21
Marion	2.21
Marshall	2.24
Martin	2.22
Miami	2.20
Monroe	2.21
Montgomery	2.22
Morgan	2.20
Newton	2.27
Noble	2.21
Ohio	2.21
Orange	2.24
Owen	2.21
Parke	2.24
Perry	2.22
Pike	2.22
Porter	2.28
Posey	2.19
Pulaski	2.27
Putnam	2.20
Randolph	2.21
Ripley	2.21
Rush	2.21
Saint Joseph	2.26
Scott	2.24
Shelby	2.21
Spencer	2.22
Starke	2.27
Steuben	2.21
Sullivan	2.22
Switzerland	2.22
Tippecanoe	2.23
Tipton	2.20
Union	2.21
Vanderburgh	2.21
Vermillion	2.24
Vigo	2.23
Wabash	2.20
Warren	2.26
Warrick	2.22
Washington	2.24
Wayne	2.21
Wells	2.21
White	2.26
Whitley	2.20
Weighted Avg. for State	2.32
IOWA	
Pottawattamie	2.31
All Other Counties	2.20
Weighted Avg. for State	2.30
KANSAS	
Allen	2.26
Anderson	2.29
Atchison	2.31
Barber	2.15
Barton	2.15

1978 CROP WHEAT LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Bourbon	2.27
Brown	2.20
Butler	2.19
Chase	2.22
Chautauqua	2.22
Cherokee	2.24
Cheyenne	2.08
Clark	2.12
Clay	2.20
Cloud	2.20
Coffey	2.27
Comanche	2.13
Cowley	2.19
Crawford	2.25
Decatur	2.12
Dickinson	2.19
Doniphan	2.29
Douglas	2.30
Edwards	2.15
Elk	2.22
Ellis	2.15
Ellsworth	2.16
Finney	2.12
Ford	2.13
Franklin	2.30
Geary	2.22
Gove	2.12
Graham	2.14
Grant	2.10
Gray	2.12
Greeley	2.08
Greenwood	2.22
Hamilton	2.09
Harper	2.17
Harvey	2.18
Haskell	2.11
Hodgeman	2.14
Jackson	2.28
Jefferson	2.30
Jewell	2.19
Johnson	2.31
Kearny	2.10
Kingman	2.16
Kiowa	2.15
Labette	2.24
Lane	2.12
Leavenworth	2.31
Lincoln	2.18
Linn	2.29
Logan	2.09
Lyon	2.24
McPherson	2.18
Marion	2.16
Marshall	2.24
Meade	2.12
Miami	2.30
Mitchell	2.18
Montgomery	2.24
Morris	2.22
Morton	2.11
Nemaha	2.26
Neosho	2.25
Ness	2.14
Norton	2.14
Osage	2.27
Osborne	2.18
Ottawa	2.19
Pawnee	2.15
Phillips	2.15
Pottawatomie	2.26
Pratt	2.15
Rawlins	2.10
Reno	2.18
Republic	2.20
Rice	2.18
Riley	2.24
Rooks	2.16
Rush	2.15
Russell	2.16
Saline	2.19
Scott	2.10
Sedgwick	2.18
Seward	2.11
Shawnee	2.29
Sheridan	2.12
Sherman	2.06
Smith	2.18
Stafford	2.15
Stanton	2.09

1978 CROP WHEAT LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Stevens	2.11
Sumner	2.18
Thomas	2.10
Trego	2.14
Wabaunsee	2.25
Wallace	2.08
Washington	2.22
Wichita	2.09
Wilson	2.24
Woodson	2.25
Wyandotte	2.31
Weighted Avg. for State	2.26
KENTUCKY	
Jefferson	2.27
All Other Counties	2.19
Weighted Avg. for State	2.29
LOUISIANA	
East Baton Rouge	2.37
Jefferson	2.37
Orleans	2.37
Saint Charles	2.37
West Baton Rouge	2.37
All Other Counties	2.22
Weighted Avg. for State	2.32
MAINE	
All Counties	2.16
MARYLAND	
Baltimore	2.35
All Other Counties	2.22
Weighted Avg. for State	2.32
MASSACHUSETTS	
All Counties	2.18
MICHIGAN	
Alcona	2.11
Alger	2.12
Allegan	2.20
Alpena	2.06
Antrim	2.06
Arenac	2.12
Baraga	2.12
Barry	2.19
Bay	2.16
Benzie	2.11
Berrien	2.24
Branch	2.21
Calhoun	2.20
Cass	2.21
Charlevoix	2.07
Cheboygan	2.07
Chippewa	2.12
Clare	2.14
Clinton	2.17
Crawford	2.11
Delta	2.12
Dickinson	2.12
Eaton	2.19
Emmet	2.05
Genesee	2.19
Gladwin	2.14
Gogebic	2.12
Grand Traverse	2.11
Gratiot	2.17
Hillsdale	2.22
Houghton	2.12
Huron	2.18
Ingham	2.19
Ionia	2.17
Iosco	2.12
Iron	2.12
Isabella	2.16
Jackson	2.20
Kalamazoo	2.20
Kalkaska	2.11
Kent	2.17
Keweenaw	2.12
Lake	2.13
Lapeer	2.19
Leelanau	2.10
Lenawee	2.23
Livingston	2.20
Luce	2.12
Mackinac	2.12
Macomb	2.22
Manistee	2.12
Marquette	2.12
Mason	2.15
Mecosta	2.16
Menominee	2.12
Midland	2.18
Missaukee	2.11
Monroe	2.25
Montcalm	2.17
Montmorency	2.08
Muskegon	2.17
Newago	2.15
Oakland	2.22
Oceana	2.15
Ogemaw	2.12
Ontonagon	2.12
Osceola	2.13
Oscoda	2.11
Otsego	2.08
Ottawa	2.17
Presque Isle	2.07
Roscommon	2.11
Saginaw	2.19
Saint Clair	2.22
Saint Joseph	2.21
Sanilac	2.19
Schoolcraft	2.12
Shiawassee	2.19
Tuscola	2.19
Van Buren	2.20
Washtenaw	2.22
Wayne	2.22
Wexford	2.11
Weighted Avg. for State	2.29
MINNESOTA	
Aitkin	2.43
Anoka	2.43
Becker	2.33
Beltrami	2.36
Benton	2.42
Big Stone	2.34
Blue Earth	2.41
Brown	2.41
Carlton	2.43
Carver	2.43
Cass	2.39
Chippewa	2.37
Chisago	2.43
Clay	2.31
Clearwater	2.35
Cottonwood	2.36
Crow Wing	2.41
Dakota	2.43
Dodge	2.43
Douglas	2.36
Faribault	2.40
Fillmore	2.39
Freeborn	2.39
Goodhue	2.43
Grant	2.36
Hennepin	2.43
Houston	2.36
Hubbard	2.36
Isanti	2.43
Itasca	2.41
Jackson	2.37
Kanabec	2.42
Kandiyohi	2.41
Kittson	2.27
Koochiching	2.37
Lac Qui Parle	2.35
Lake of the Woods	2.31
Le Sueur	2.43
Lincoln	2.33
Lyon	2.36
McLeod	2.43
Mahnomen	2.33
Marshall	2.30
Martin	2.39
Meeker	2.43
Mille Lacs	2.42
Morrison	2.41
Mower	2.41
Murray	2.36
Nicollet	2.43
Nobles	2.35
Norman	2.31
Olmsted	2.41
Otter Tail	2.36
Pennington	2.32
Pine	2.42
Pipestone	2.33
Polk	2.32
Pope	2.39
Ramsey	2.43
Red Lake	2.32
Redwood	2.39
Renville	2.41
Rice	2.43
Rock	2.33
Roseau	2.28
Saint Louis	2.43
Scott	2.43
Sherburne	2.43
Sibley	2.43
Stearns	2.41
Steele	2.41
Stevens	2.37
Swift	2.37
Todd	2.39
Traverse	2.33
Wabasha	2.42
Wadena	2.37
Waseca	2.42
Washington	2.43
Watonwan	2.40
Wilkin	2.33
Winona	2.40
Wright	2.43
Yellow Medicine	2.37
Weighted Avg. for State	2.44
MISSISSIPPI	
Harrison	2.37
Jackson	2.37
All Other Counties	2.18
Weighted Avg. for State	2.28
MISSOURI	
Adair	2.17
Andrew	2.29
Atchison	2.24
Audrain	2.22
Barry	2.19
Barton	2.23
Bates	2.27
Benton	2.23
Bollinger	2.22
Boone	2.19
Buchanan	2.31
Butler	2.21
Caldwell	2.28
Callaway	2.22
Camden	2.20
Cape Girardeau	2.23
Carroll	2.26
Carter	2.19
Cass	2.29
Cedar	2.22
Chariton	2.23
Christian	2.16
Clark	2.18
Clay	2.29
Clinton	2.29
Cole	2.20
Cooper	2.20
Crawford	2.22
Dade	2.21
Dallas	2.18
Daviess	2.26
De Kalb	2.28
Dent	2.20
Douglas	2.15
Dunklin	2.22
Franklin	2.26
Gasconade	2.24
Gentry	2.25
Greene	2.18
Grundy	2.23
Harrison	2.25
Henry	2.26
Hickory	2.23
Holt	2.27
Howard	2.22
Howell	2.13
Iron	2.22
Jackson	2.31
Jasper	2.22
Jefferson	2.25
Johnson	2.27
Knox	2.17
Laclede	2.17

1978 CROP WHEAT LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Lafayette	2.29
Lawrence	2.19
Lewis	2.19
Lincoln	2.26
Linn	2.23
Livingston	2.25
McDonald	2.19
Macon	2.20
Madison	2.22
Maries	2.22
Marion	2.21
Mercer	2.22
Miller	2.19
Mississippi	2.24
Moniteau	2.20
Monroe	2.21
Montgomery	2.24
Morgan	2.21
New Madrid	2.24
Newton	2.19
Nodaway	2.27
Oregon	2.17
Osage	2.21
Ozark	2.14
Pemiscot	2.22
Perry	2.23
Pettis	2.23
Phelps	2.20
Pike	2.24
Platte	2.29
Polk	2.21
Pulaski	2.18
Putnam	2.19
Ralls	2.22
Randolph	2.20
Ray	2.29
Reynolds	2.20
Ripley	2.19
Saint Charles	2.27
Saint Clair	2.24
Saint Francois	2.23
Saint Genevieve	2.24
Saint Louis	2.27
Saline	2.24
Schuyler	2.15
Scotland	2.15
Scott	2.24
Shannon	2.17
Shelby	2.20
Stoddard	2.23
Stone	2.19
Sullivan	2.20
Taney	2.16
Texas	2.16
Vernon	2.25
Warren	2.26
Washington	2.23
Wayne	2.21
Webster	2.17
Worth	2.25
Wright	2.17
Weighted Avg. for State	2.34
MONTANA	
Beaverhead	2.13
Big Horn	2.14
Blaine	2.15
Broadwater	2.19
Carbon	2.15
Carter	2.15
Cascade	2.18
Chouteau	2.18
Custer	2.14
Daniels	2.13
Dawson	2.15
Deer Lodge	2.20
Fallon	2.16
Fergus	2.17
Flathead	2.21
Gallatin	2.20
Garfield	2.13
Glacier	2.18
Golden Valley	2.17
Granite	2.20
Hill	2.16
Jefferson	2.20
Judith Basin	2.17
Lake	2.20
Lewis and Clark	2.18
Liberty	2.17
Lincoln	2.21
McCone	2.14
Madison	2.20
Meagher	2.18
Mineral	2.20
Missoula	2.20
Musselshell	2.15
Park	2.19
Petroleum	2.15
Phillips	2.14
Pondera	2.18
Powder River	2.14
Powell	2.20
Prairie	2.15
Ravalli	2.18
Richland	2.15
Roosevelt	2.14
Rosebud	2.13
Sanders	2.20
Sheridan	2.14
Silver Bow	2.20
Stillwater	2.17
Sweet Grass	2.18
Teton	2.18
Toole	2.17
Treasure	2.14
Valley	2.13
Wheatland	2.18
Wibaux	2.16
Yellowstone	2.15
Weighted Avg. for State	2.26
NEBRASKA	
Adams	2.18
Antelope	2.26
Arthur	2.09
Banner	2.06
Blaine	2.16
Boone	2.26
Box Butte	2.06
Boyd	2.23
Brown	2.16
Buffalo	2.19
Burt	2.31
Butler	2.28
Cass	2.30
Cedar	2.27
Chase	2.08
Cherry	2.12
Cheyenne	2.06
Clay	2.19
Colfax	2.28
Cuming	2.30
Custer	2.16
Dakota	2.30
Dawes	2.06
Dawson	2.18
Deuel	2.07
Dixon	2.27
Dodge	2.30
Douglas	2.31
Dundy	2.06
Fillmore	2.21
Franklin	2.16
Frontier	2.11
Furnas	2.14
Gage	2.24
Garden	2.07
Garfield	2.20
Gosper	2.14
Grant	2.09
Greeley	2.22
Hall	2.20
Hamilton	2.22
Harlan	2.15
Hayes	2.10
Hitchcock	2.10
Holt	2.23
Hooker	2.10
Howard	2.20
Jefferson	2.23
Johnson	2.24
Kearney	2.16
Keith	2.09
Keya Paha	2.18
Kimball	2.06
Knox	2.26
Lancaster	2.27
Lincoln	2.13
Logan	2.13
Loup	2.16
McPherson	2.12
Madison	2.26
Merrick	2.23
Morrill	2.06
Nance	2.24
Nemaha	2.24
Nuckolls	2.18
Otoe	2.27
Pawnee	2.26
Perkins	2.06
Phelps	2.15
Pierce	2.26
Platte	2.26
Polk	2.25
Red Willow	2.11
Richardson	2.27
Rock	2.19
Saline	2.23
Sarpy	2.31
Saunders	2.30
Scotts Bluff	2.06
Seward	2.26
Sheridan	2.07
Sherman	2.19
Sioux	2.04
Stanton	2.28
Thayer	2.21
Thomas	2.13
Thurston	2.30
Valley	2.19
Washington	2.31
Wayne	2.27
Webster	2.18
Wheeler	2.22
York	2.23
Weighted Avg. for State	2.24
NEVADA	
All Counties	2.19
NEW HAMPSHIRE	
All Counties	2.18
NEW JERSEY	
All Counties	2.22
NEW MEXICO	
All Counties	2.24
New York	
Albany	2.35
New York City	2.35
All Other Counties	2.20
Weighted Avg. for State	2.30
NORTH CAROLINA	
All Counties	2.16
NORTH DAKOTA	
Adams	2.15
Barnes	2.28
Benson	2.21
Billings	2.14
Bottineau	2.15
Bowman	2.15
Burke	2.13
Burleigh	2.19
Cass	2.30
Cavalier	2.22
Dickey	2.26
Divide	2.12
Dunn	2.15
Eddy	2.24
Emmons	2.22
Foster	2.25
Golden Valley	2.14
Grand Forks	2.29
Grant	2.17
Griggs	2.28
Hettinger	2.15
Kidder	2.22
La Moure	2.26
Logan	2.24
McHenry	2.16
McIntosh	2.24
McKenzie	2.13
McLean	2.15
Mercer	2.15
Morton	2.18
Mountrail	2.14
Nelson	2.27

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1978 CROP WHEAT LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Oliver	2.16
Pembina	2.26
Pierce	2.18
Ramsey	2.23
Ransom	2.31
Renville	2.15
Richland	2.32
Rolette	2.18
Sargent	2.31
Sheridan	2.18
Sioux	2.17
Slope	2.15
Stark	2.15
Steele	2.28
Stutsman	2.26
Towner	2.19
Traill	2.29
Walsh	2.28
Ward	2.14
Wells	2.22
Williams	2.13
Weighted Avg. for State	2.31
OHIO	
Adams	2.22
Allen	2.23
Ashland	2.26
Ashtabula	2.28
Athens	2.25
Auglaize	2.22
Belmont	2.26
Brown	2.22
Butler	2.22
Carroll	2.26
Champaign	2.22
Clark	2.22
Clermont	2.22
Clinton	2.22
Columbiana	2.27
Coshocton	2.26
Crawford	2.25
Cuyahoga	2.26
Darke	2.22
Defiance	2.22
Delaware	2.25
Erie	2.25
Fairfield	2.25
Fayette	2.22
Franklin	2.25
Fulton	2.24
Gallia	2.22
Geauga	2.28
Greene	2.22
Guernsey	2.26
Hamilton	2.22
Hancock	2.25
Hardin	2.25
Harrison	2.26
Henry	2.24
Highland	2.22
Hocking	2.25
Holmes	2.26
Huron	2.25
Jackson	2.22
Jefferson	2.26
Knox	2.26
Lake	2.28
Lawrence	2.22
Licking	2.26
Logan	2.22
Lorain	2.26
Lucas	2.25
Madison	2.22
Mahoning	2.28
Marion	2.25
Medina	2.26
Meigs	2.22
Mercer	2.22
Miami	2.22
Monroe	2.26
Montgomery	2.22
Morgan	2.26
Morrow	2.26
Muskingum	2.26
Noble	2.26
Ottawa	2.25
Paulding	2.22
Perry	2.25
Pickaway	2.25
Pike	2.22

1978 CROP WHEAT LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Portage	2.26
Preble	2.22
Putnam	2.24
Richland	2.26
Ross	2.25
Sandusky	2.25
Scioto	2.22
Seneca	2.25
Shelby	2.22
Stark	2.26
Summit	2.26
Trumbull	2.28
Tuscarawas	2.26
Union	2.25
Van Wert	2.22
Vinton	2.25
Warren	2.22
Washington	2.26
Wayne	2.26
Williams	2.22
Wood	2.25
Wyandot	2.25
Weighted Avg. for State	2.34
OKLAHOMA	
Adair	2.25
Alfalfa	2.22
Atoka	2.27
Beaver	2.17
Beckham	2.26
Blaine	2.26
Bryan	2.27
Caddo	2.27
Canadian	2.27
Carter	2.27
Cherokee	2.25
Choctaw	2.27
Cimarron	2.17
Cleveland	2.27
Coal	2.27
Comanche	2.27
Cotton	2.27
Craig	2.24
Creek	2.26
Custer	2.26
Delaware	2.25
Dewey	2.25
Ellis	2.20
Garfield	2.24
Garvin	2.27
Grady	2.27
Grant	2.22
Greer	2.27
Harmon	2.27
Harper	2.17
Haskell	2.27
Hughes	2.27
Jackson	2.27
Jefferson	2.27
Johnston	2.27
Kay	2.23
Kingfisher	2.26
Kiowa	2.27
Latimer	2.27
Le Flore	2.27
Lincoln	2.27
Logan	2.26
Love	2.27
McClain	2.27
McCurtain	2.27
McIntosh	2.27
Major	2.24
Marshall	2.27
Mayes	2.25
Murray	2.27
Muskogee	2.27
Noble	2.24
Nowata	2.24
Okfuskee	2.27
Oklahoma	2.27
Okmulgee	2.27
Osage	2.24
Ottawa	2.24
Pawnee	2.24
Payne	2.26
Pittsburg	2.27
Pontotoc	2.27
Pottawatomie	2.27
Pushmataha	2.27
Roger Mills	2.24

1978 CROP WHEAT LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Rogers	2.25
Seminole	2.27
Sequoyah	2.27
Stephens	2.27
Texas	2.17
Tillman	2.27
Tulsa	2.25
Wagoner	2.25
Washington	2.24
Washita	2.26
Woods	2.22
Woodward	2.22
Weighted Avg. for State	2.34
OREGON	
Baker	2.30
Benton	2.36
Clackamas	2.43
Clatsop	2.50
Columbia	2.50
Coos	2.16
Crook	2.34
Curry	2.15
Deschutes	2.34
Douglas	2.20
Gilliam	2.39
Grant	2.34
Harney	2.20
Hood River	2.45
Jackson	2.20
Jefferson	2.37
Josephine	2.20
Klamath	2.28
Lake	2.25
Lane	2.34
Lincoln	2.26
Linn	2.37
Malheur	2.20
Marion	2.41
Morrow	2.37
Multnomah	2.50
Polk	2.39
Sherman	2.39
Tillamook	2.43
Umatilla	2.37
Union	2.32
Wallowa	2.30
Wasco	2.41
Washington	2.43
Wheeler	2.36
Yamhill	2.41
Weighted Avg. for State	2.47
PENNSYLVANIA	
Philadelphia	2.35
All Other Counties	2.20
Weighted Avg. for State	2.30
RHODE ISLAND	
All Counties	2.19
SOUTH CAROLINA	
Charleston	2.35
All Other Counties	2.16
Weighted Avg. for State	2.26
SOUTH DAKOTA	
Aurora	2.28
Beadle	2.27
Bennett	2.15
Bon Homme	2.29
Brookings	2.31
Brown	2.27
Brule	2.25
Buffalo	2.25
Butte	2.13
Campbell	2.20
Charles Mix	2.25
Clark	2.27
Clay	2.31
Codington	2.31
Corson	2.17
Custer	2.07
Davison	2.31
Day	2.31
Deuel	2.34
Dewey	2.17
Douglas	2.27
Edmunds	2.24
Fall River	2.05
Faulk	2.26

1978 CROP WHEAT LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Grant	2.34
Gregory	2.22
Haakon	2.20
Hamlin	2.30
Hand	2.27
Hanson	2.28
Harding	2.14
Hughes	2.23
Hutchinson	2.30
Hyde	2.25
Jackson	2.19
Jerauld	2.28
Jones	2.21
Kingsbury	2.28
Lake	2.30
Lawrence	2.13
Lincoln	2.33
Lyman	2.22
McCook	2.31
McPherson	2.24
Marshall	2.31
Meade	2.14
Mellette	2.20
Miner	2.29
Minnehaha	2.32
Moody	2.32
Pennington	2.14
Perkins	2.14
Potter	2.22
Roberts	2.33
Sanborn	2.26
Shannon	2.12
Spink	2.27
Stanley	2.21
Sully	2.22
Todd	2.17
Tripp	2.20
Turner	2.32
Union	2.31
Walworth	2.22
Washabaugh	2.19
Yankton	2.29
Ziebach	2.15
Weighted Avg. for State	2.33
TENNESSEE	
Shelby	2.28
All Other Counties	2.17
Weighted Avg. for State	2.27
TEXAS	
Anderson	2.39
Andrews	2.25
Archer	2.30
Armstrong	2.25
Atascosa	2.39
Bailey	2.25
Bandera	2.35
Bastrop	2.39
Baylor	2.29
Bee	2.47
Bell	2.39
Bexar	2.39
Blanco	2.37
Borden	2.25
Bosque	2.36
Bowie	2.32
Brazos	2.44
Briscoe	2.25
Brown	2.33
Burleson	2.44
Burnet	2.37
Caldwell	2.39
Calhoun	2.43
Callahan	2.29
Carson	2.25
Castro	2.25
Chambers	2.49
Cherokee	2.41
Childress	2.27
Clay	2.31
Cochran	2.25
Coke	2.26
Coleman	2.30
Collin	2.34
Collingsworth	2.25
Comal	2.39
Comanche	2.34
Concho	2.31
Cooke	2.32

1978 CROP WHEAT LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Coryell	2.38
Cottle	2.25
Crosby	2.25
Culberson	2.25
Dallam	2.22
Dallas	2.36
Dawson	2.25
Deaf Smith	2.25
Delta	2.35
Denton	2.34
DeWitt	2.41
Dickens	2.25
Dimmit	2.33
Donley	2.25
Eastland	2.29
Edwards	2.29
Ellis	2.36
El Paso	2.25
Erath	2.34
Falls	2.38
Fannin	2.32
Fisher	2.26
Floyd	2.25
Foard	2.27
Frio	2.37
Gaines	2.25
Galveston	2.49
Garza	2.25
Gillespie	2.33
Glasscock	2.25
Goliad	2.43
Gonzales	2.41
Gray	2.25
Grayson	2.32
Grimes	2.44
Guadalupe	2.39
Hale	2.25
Hall	2.25
Hamilton	2.36
Hansford	2.22
Hardeman	2.27
Harris	2.49
Hartley	2.22
Haskell	2.27
Hays	2.39
Hemphill	2.22
Henderson	2.37
Hill	2.36
Hockley	2.25
Hood	2.33
Houston	2.41
Howard	2.25
Hudspeth	2.25
Hunt	2.35
Hutchinson	2.22
Irion	2.27
Jack	2.31
Jackson	2.39
Jeff Davis	2.25
Jefferson	2.45
Johnson	2.35
Jones	2.27
Karnes	2.43
Kaufman	2.37
Kendall	2.37
Kent	2.25
Kerr	2.33
Kimble	2.31
King	2.25
Kinney	2.29
Knox	2.27
Lamar	2.32
Lamb	2.25
Lampasas	2.38
Limestone	2.38
Lipscomb	2.22
Live Oak	2.45
Llano	2.35
Loving	2.25
Lubbock	2.25
Lynn	2.25
McCulloch	2.33
McLennan	2.38
Martin	2.25
Mason	2.33
Maverick	2.29
Medina	2.35
Menard	2.31
Midland	2.25

1978 CROP WHEAT LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Milam	2.42
Mills	2.34
Mitchell	2.26
Montague	2.31
Moore	2.22
Motley	2.25
Navarro	2.37
Nolan	2.26
Nueces	2.49
Ochiltree	2.22
Oldham	2.25
Palo Pinto	2.31
Parker	2.33
Parmer	2.25
Pecos	2.25
Potter	2.25
Presidio	2.25
Randall	2.25
Real	2.31
Red River	2.32
Reeves	2.25
Refugio	2.46
Roberts	2.22
Robertson	2.41
Rockwall	2.35
Runnels	2.29
San Patricio	2.49
San Saba	2.34
Schleicher	2.27
Scurry	2.26
Shackelford	2.29
Sherman	2.22
Somervell	2.33
Stephens	2.30
Sterling	2.26
Stonewall	2.25
Sutton	2.27
Swisher	2.25
Tarrant	2.36
Taylor	2.27
Terry	2.25
Throckmorton	2.29
Tom Green	2.26
Travis	2.39
Uvalde	2.32
Van Zandt	2.37
Victoria	2.43
Waller	2.44
Ward	2.25
Wharton	2.44
Wheeler	2.25
Wichita	2.29
Wilbarger	2.29
Williamson	2.39
Wilson	2.41
Wise	2.32
Yoakum	2.25
Young	2.30
Zavala	2.33
Weighted Avg. for State	2.37
UTAH	
All Counties	2.19
VERMONT	
All Counties	2.18
VIRGINIA	
Chesapeake (Norfolk)	2.35
All Other Counties	2.20
Weighted Avg. for State	2.30
WASHINGTON	
Adams	2.35
Asotin	2.34
Benton	2.37
Chelan	2.37
Clallam	2.29
Clark	2.50
Columbia	2.36
Cowlitz	2.50
Douglas	2.35
Ferry	2.27
Franklin	2.37
Garfield	2.36
Grant	2.35
Grays Harbor	2.42
Island	2.31
Jefferson	2.31
King	2.50
Kitsap	2.32

1978 CROP WHEAT LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Kittitas	2.39
Klickitat	2.41
Lewis	2.45
Lincoln	2.33
Mason	2.39
Okanogan	2.33
Pacific	2.42
Pend Oreille	2.22
Pierce	2.50
San Juan	2.31
Skagit	2.39
Skamania	2.45
Snohomish	2.44
Spokane	2.32
Stevens	2.27
Thurston	2.44
Wahkiakum	2.44
Walla Walla	2.37
Whatcom	2.36
Whitman	2.35
Yakima	2.37
Weighted Avg. for State	2.45
WEST VIRGINIA	
All Counties	2.21
WISCONSIN	
Douglas	2.38
All Other Counties	2.16
Weighted Avg. for State	2.26
WYOMING	
All Counties	2.06

(b) Schedule of Premiums and Discounts for 1978—Crop Wheat

	Cents per Bushel
1. *Class Premiums and Discounts:*	
(i) Premiums: Hard Amber Durum, No. 3 or better	+7½
(ii) Discounts:	
Durum	−10
Mixed wheat (mixes of classes other than contrasting classes	−3
Mixed wheat (mixtures of contrasting classes)	−10
(iii) Unclassed wheat which includes Red Durum	(1)
2. *Grade Discounts:*	
(i) Grade Discounts:	
No. 2	−2
No. 3	−4
No. 4	−6
No. 5	−9
(ii) Special Grade Discounts:	
Smut:	
Light Smutty	−3
Smutty	−9
Garlic:	
Light Garlicky	−10
Garlicky	−20
3. Weed Control discount (where required by § 1421.24	−15

[1]Unclassed wheat which includes Red Durum is ineligible for loan.

4. *Grade Discounts Sample—on factors of test weight and total damage.*

SAMPLE ON ACCOUNT OF TEST WEIGHT

Hard Red Spring		All other classes	
Test weight	Cents per bushel	Weight	Cents per bushel
49	−13	50	−13
48	−17	49	−17
47	−21	48	−21
46	−25	47	−25
45	−29	46	−29
44	−35	45	−33
43	−41	44	−39

SAMPLE ON ACCOUNT OF TEST WEIGHT—Continued

Hard Red Spring		All other classes	
Test weight	Cents per bushel	Weight	Cents per bushel
42	−47	43	−45
41	−53	42	−51
40	−59	41	−57
		40	−63

SAMPLE ON ACCOUNT OF TOTAL DAMAGED KERNELS

Percent—total damaged kernels:	Cents per bushel
15.1 to 16	−10
16.1 to 17	−12
17.1 to 18	−14
18.1 to 19	−16
19.1 to 20	−18
20.1 to 21	−20
21.1 to 22	−22
22.1 to 23	−24
23.1 to 24	−26
24.1 to 25	−28
25.1 to 26	−30
26.1 to 27	−32
27.1 to 28	−34
28.1 to 29	−36
29.1 to 30	−38
Each percent over 30	−3

5. *Premiums for Protein Content*

Applicable to wheat grading No. 5 or better of the classes Hard Red Winter and Hard Red Spring

Percent Protein Hard Red Winter:	*Cents/Bu.*
10.50-10.99	0
11.00-11.49	½
11.50-11.99	1
12.00-12.49	2
12.50-12.99	3
13.00-13.49	4½
13.50-13.99	6
14.00-14.49	8
14.50-14.99	10
15.00 & over	12
Hard Red Spring:	
11.50-11.99	0
12.00-12.49	1
12.50-12.99	2
13.00-13.49	4
13.50-13.99	6
14.00-14.49	9
14.50-14.99	12
15.00-15.49	16
15.50-15.99	20
16.00-16.49	25
16.50-16.99	30
17.00 & over	36

(c) *Other.* Wheat with quality factors exceeding limits shown in foregoing schedule on wheat that (1) contains in excess of 13.5 percent moisture, (2) is weevily, (3) is musty, (4) sour, and heating shall not be eligible for loan. In the event quantities of wheat exceeding limits shown are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of premiums and discounts as provided by the Kansas City Commodity Office for settlement purposes. Such discounts will be established not later than the time delivery of wheat to CCC begin and will thereafter be adjusted from time to time as COC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS office approximately one month prior to the loan maturity date.

NOTE:—Premiums and discounts are cumulative except only one grade discount shall be applied.

Signed at Washington, D.C. on January 9, 1979.

STEWART N. SMITH,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 79-1652 Filed 1-17-79; 8:45 am]

[3410-05-M]

[CCC Grain Price Support Regulations, 1977 Crop Oat Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1978 Crop Oats Loan and Purchase Program

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the: (1) Final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates and premiums and discounts under which Commodity Credit Corporation (CCC) will extend price support on 1978 crop oats. This rule is needed in order to provide a price support program for oats. This rule will enable eligible oat producers to obtain loans and purchases on their eligible 1978 crop oats.

EFFECTIVE DATE: January 18, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3732 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Merle Strawderman, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on December 21, 1977, 42 FR 56751 stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1978 crop of feed grains including oats. Such determinations included determining loan and purchase rates and other related program provisions. No recommendations were received concerning the loan and purchase program for oats. After considering applicable factors, it has been determined that the loan and purchase rates for 1978 crop oats on a national average will be $1.03 per bushel.

Producers who wish to secure loans can do so by contacting their local Agricultural Stabilization and Conservation Service Office or Agricultural Service Center.

FINAL RULE

Since warehouse storage charges can now be deducted. The General Regulations Governing Price Support for 1978 and Subsequent Crops, and any amendments thereto and the 1978 and Subsequent Crops Oats Loan and Purchase Regulations, and any amendments thereto in this Part 1421 are further supplemented for the 1978 crop of oats. Accordingly, the regulations in 7 CFR § 1421.270 through § 1421.273 and the title of the subpart are revised to read as provided below effective as to the 1978 crop of oats. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1978 Crop Oats Loan and Purchase Program

Sec.
1421.270 Purpose.
1421.271 Availability.
1421.272 Maturity of loans.
1421.273 Warehouse charges.
1421.274 Loans and purchase rates and premiums and discounts.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); Secs. 105A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444c, 1421).

§ 1421.270 Purpose.

This supplement contains additional program provisions which together with the provisions of the General Regulations Governing Price Support for the 1976 and Subsequent Crops, the 1970 and Subsequent Crops Oats Loan and Purchase Program regulations, and any amendments thereto, apply to loans on and purchase of the 1978 crop of oats.

§ 1421.271 Availability.

(a) *Loans.* Producers desiring to participate in the program through loans must request a loan on their 1978 crop of eligible oats on or before March 31, 1979.

(b) *Purchases.* A producer desiring to offer eligible 1978 crop oats not under loan for purchase must execute and deliver to the county ASCS office on or before March 31, 1979, a Purchase Agreement (Form CCC-614) indicating the approximate quantity of 1978-crop oats they will sell to CCC.

§ 1421.272 Maturity of loans.

Loans mature on demand but not later than the last day of the ninth calendar month following the month the loan is disbursed.

§ 1421.273 Warehouse charges.

If storage is not provided for through loan maturity the county office shall deduct storage charges at the daily storage rate for the storing warehouse times the number of days from the date the commodity was received or date through which storage has been provided for to the maturity date.

§ 1421.274 Loan and puchase rates and premiums and discounts.

(a) *Basic loan and purchase rates (counties).* Basic county rates (marketing area in the case of Alaska) for loan and settlement purposes for oats grading U.S. No. 3, containing moisture not in excess of 14 percent moisture are as follows:

1978 CROP OATS LOAN AND PURCHASE PROGRAM SUPPLEMENT

County	Rate per bushel
ALABAMA	
All Counties	$1.13
Alaska*	
Delta	1.01
Fairbanks	1.00
Glennallen	1.07
Homer	1.04
Kenai-Soldontna	1.09
Palmer	1.13
Talkeetna	1.13
Weighted Avg. for State	1.07
ARIZONA	
All Counties	1.22
ARKANSAS	
All Counties	1.11
CALIFORNIA	
All Counties	1.22
COLORADO	
All Counties	1.12
CONNECTICUT	
All Counties	1.12
DELAWARE	
All Counties	1.12
FLORIDA	
All Counties	1.16
GEORGIA	
All Counties	1.13
IDAHO	
All Counties	1.12
ILLINOIS	
Adams	1.06
Alexander	1.09
Bond	1.07
Boone	1.06
Brown	1.06
Bureau	1.06
Calhoun	1.07
Carroll	1.06
Cass	1.06
Champaign	1.06
Christian	1.06
Clark	1.07

*In Alaska, loan rates are for Marketing Areas.

1978 CROP OATS LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per bushel
Clay	1.08
Clinton	1.08
Coles	1.06
Cook	1.08
Crawford	1.06
Cumberland	1.07
De Kalb	1.06
De Witt	1.06
Douglas	1.06
Du Page	1.06
Edgar	1.06
Edwards	1.09
Effingham	1.07
Fayette	1.07
Ford	1.06
Franklin	1.09
Fulton	1.06
Gallatin	1.10
Greene	1.07
Grundy	1.06
Hamilton	1.09
Hancock	1.06
Hardin	1.10
Henderson	1.06
Henry	1.06
Iroquois	1.06
Jackson	1.09
Jasper	1.06
Jefferson	1.06
Jersey	1.07
Jo Daviess	1.06
Johnson	1.09
Kane	1.06
Kankakee	1.06
Kendall	1.06
Knox	1.06
Lake	1.07
La Salle	1.06
Lawrence	1.06
Lee	1.06
Livingston	1.06
Logan	1.06
McDonough	1.06
McHenry	1.06
McLean	1.06
Macon	1.06
Macoupin	1.07
Madison	1.06
Marion	1.06
Marshall	1.06
Mason	1.06
Massac	1.09
Menard	1.06
Mercer	1.06
Monroe	1.09
Montgomery	1.07
Morgan	1.06
Moultrie	1.06
Ogle	1.06
Peoria	1.06
Perry	1.09
Platt	1.06
Pike	1.06
Pope	1.10
Pulaski	1.09
Putnam	1.06
Randolph	1.09
Richland	1.06
Rock Island	1.06
Saint Clair	1.09
Saline	1.10
Sangamon	1.06
Schuyler	1.06
Scott	1.06
Shelby	1.06
Stark	1.06
Stephenson	1.06
Tazewell	1.06
Union	1.09
Vermilion	1.06
Wabash	1.09
Warren	1.06
Washington	1.06
Wayne	1.09
White	1.09
Whiteside	1.06
Will	1.07
Williamson	1.09

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1978 CROP OATS LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per bushel
Winnebago	1.08
Woodford	1.08
Weighted avg. for State	1.06
INDIANA	
Adams	1.12
Allen	1.12
Bartholomew	1.12
Benton	1.10
Blackford	1.11
Boone	1.11
Brown	1.13
Carroll	1.11
Cass	1.11
Clark	1.13
Clay	1.11
Clinton	1.11
Crawford	1.13
Daviess	1.13
Dearborn	1.14
Decatur	1.12
De Kalb	1.12
Delaware	1.11
Dubois	1.13
Elkhart	1.12
Fayette	1.11
Floyd	1.13
Fountain	1.10
Franklin	1.13
Fulton	1.11
Gibson	1.13
Grant	1.11
Greene	1.13
Hamilton	1.11
Hancock	1.11
Harrison	1.13
Hendricks	1.11
Henry	1.11
Howard	1.11
Huntington	1.11
Jackson	1.13
Jasper	1.10
Jay	1.12
Jefferson	1.14
Jennings	1.14
Johnson	1.11
Knox	1.13
Kosciusko	1.11
Lagrange	1.12
Lake	1.11
La Porte	1.12
Lawrence	1.13
Madison	1.11
Marion	1.11
Marshall	1.11
Martin	1.13
Miami	1.11
Monroe	1.13
Montgomery	1.11
Morgan	1.11
Newton	1.10
Noble	1.11
Ohio	1.14
Orange	1.13
Owen	1.11
Parke	1.10
Perry	1.13
Pike	1.13
Porter	1.11
Posey	1.13
Pulaski	1.11
Putnam	1.11
Randolph	1.12
Ripley	1.14
Rush	1.11
Saint Joseph	1.12
Scott	1.14
Shelby	1.11
Spencer	1.13
Starke	1.11
Steuben	1.12
Sullivan	1.12
Switzerland	1.14
Tippecanoe	1.11
Tipton	1.11
Union	1.12
Vanderburgh	1.13
Vermillion	1.10
Vigo	1.11

1978 CROP OATS LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per bushel
Wabash	1.11
Warren	1.10
Warrick	1.13
Washington	1.13
Wayne	1.12
Wells	1.11
White	1.11
Whitley	1.11
Weighted avg. for State	1.11
IOWA	
Adair	1.04
Adams	1.04
Allamakee	1.01
Appanoose	1.04
Audubon	1.02
Benton	1.04
Black Hawk	1.03
Boone	1.02
Bremer	1.02
Buchanan	1.03
Buena Vista	1.02
Bulter	1.02
Calhoun	1.02
Carroll	1.02
Cass	1.04
Cedar	1.04
Cerro Gordo	1.01
Cherokee	1.02
Chickawaw	1.02
Clarke	1.04
Clay	1.01
Clayton	1.02
Clinton	1.04
Crawford	1.01
Dallas	1.02
Davis	1.05
Decatur	1.04
Delaware	1.03
Des Moines	1.04
Dickinson	1.00
Dubuque	1.03
Emmet	1.00
Fayette	1.02
Floyd	1.01
Franklin	1.02
Fremont	1.04
Greene	1.02
Grundy	1.02
Guthrie	1.02
Hamilton	1.02
Hancock	1.01
Hardin	1.02
Harrison	1.02
Henry	1.04
Howard	1.01
Humboldt	1.02
Ida	1.01
Iowa	1.04
Jackson	1.04
Jasper	1.02
Jefferson	1.04
Johnson	1.04
Jones	1.04
Keokuk	1.04
Kossuth	1.00
Lee	1.04
Linn	1.04
Louisa	1.04
Lucas	1.04
Lyon	.99
Madison	1.04
Mahaska	1.04
Marion	1.04
Marshall	1.02
Mills	1.04
Mitchell	1.00
Monona	1.01
Monroe	1.04
Montgomery	1.04
Muscatine	1.04
O'Brien	1.01
Osceola	.99
Page	1.04
Palo Alto	1.02
Plymouth	1.00
Pocahontas	1.02
Polk	1.02
Pottawattamie	1.05
Poweshiek	1.02

1978 CROP OATS LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per bushel
Ringgold	1.04
Sac	1.02
Scott	1.04
Shelby	1.02
Sioux	1.00
Story	1.02
Tama	1.02
Taylor	1.04
Union	1.04
Van Buren	1.04
Wapello	1.04
Warren	1.04
Washington	1.04
Wayne	1.04
Webster	1.02
Winnebago	1.00
Winneshiek	1.01
Woodbury	1.00
Worth	1.00
Wright	1.02
Weighted avg. for State	1.02
KANSAS	
All Counties	1.08
KENTUCKY	
All Counties	1.13
LOUISIANA	
All Counties	1.13
MAINE	
All Counties	1.12
MARYLAND	
All Counties	1.13
MASSACHUSETTS	
All Counties	1.12
MICHIGAN	
Alcona	1.07
Alger	1.08
Allegan	1.09
Alpena	1.07
Antrim	1.08
Arenac	1.07
Baraga	1.07
Barry	1.09
Bay	1.07
Benzie	1.08
Berrien	1.10
Branch	1.10
Calhoun	1.09
Cass	1.10
Charlevoix	1.08
Cheboyan	1.08
Chippewa	1.08
Clare	1.08
Clinton	1.08
Crawford	1.07
Delta	1.07
Dickinson	1.07
Eaton	1.08
Emmet	1.08
Genesee	1.07
Gladwin	1.07
Gogebic	1.07
Grand Traverse	1.08
Gratiot	1.08
Hillsdale	1.10
Houghton	1.07
Huron	1.07
Ingham	1.08
Ionia	1.08
Iosco	1.07
Iron	1.07
Isabella	1.08
Jackson	1.09
Kalamazoo	1.09
Kalkaska	1.08
Kent	1.09
Keweenaw	1.07
Lake	1.09
Lapeer	1.07
Leelanau	1.08
Lenawee	1.10
Livingston	1.08
Luce	1.08
Mackinac	1.08
Macomb	1.08
Manistee	1.09

1978 CROP OATS LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per bushel
Marquette	1.07
Mason	1.09
Mecosta	1.08
Menominee	1.07
Midland	1.07
Missaukee	1.08
Monroe	1.10
Montcalm	1.08
Montmorency	1.07
Muskegon	1.09
Newwaygo	1.09
Oakland	1.08
Oceana	1.09
Ogemaw	1.07
Ontonagon	1.07
Osceola	1.08
Oscoda	1.07
Otsego	1.08
Ottawa	1.09
Presque Isle	1.07
Roscommon	1.07
Saginaw	1.07
Saint Clair	1.08
Saint Joseph	1.10
Sanilac	1.07
Schoolcraft	1.08
Shiawassee	1.07
Tuscola	1.07
Van Buren	1.09
Washtenaw	1.09
Wayne	1.09
Wexford	1.09
Weighted avg. for State	1.07
MINNESOTA	
Aitkin	.99
Anoka	1.01
Becker	.95
Beltrami	.95
Benton	.99
Big Stone	.96
Blue Earth	.99
Brown	.98
Carlton	1.01
Carver	1.00
Cass	.97
Chippewa	.97
Chisago	1.01
Clay	.94
Clearwater	.95
Cook	1.01
Cottonwood	.98
Crow Wing	.98
Dakota	1.00
Dodge	.99
Douglas	.97
Faribault	.99
Fillmore	1.00
Freeborn	1.00
Goodhue	.99
Grant	.96
Hennepin	1.01
Houston	1.00
Hubbard	.96
Isanti	1.00
Itasca	.99
Jackson	.98
Kanabec	1.00
Kandiyohi	.98
Kittson	.92
Koochiching	.96
Lac Qui Parle	.97
Lake	1.01
Lake of the Woods	.94
Le Sueur	.99
Lincoln	.97
Lyon	.97
McLeod	.99
Mahnomen	.94
Marshall	.93
Martin	.98
Meeker	.99
Mille Lacs	.99
Morrison	.98
Mower	.99
Murray	.97
Nicollet	.99
Nobles	.97
Norman	.93

1978 CROP OATS LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per bushel
Olmsted	.99
Otter Tail	.96
Pennington	.93
Pine	1.00
Pipestone	.97
Polk	.93
Pope	.97
Ramsey	1.01
Red Lake	.93
Redwood	.98
Renville	.98
Rice	.99
Rock	.97
Roseau	.93
Saint Louis	1.01
Scott	1.00
Sherburne	1.00
Sibley	.99
Stearns	.98
Steele	.99
Stevens	.96
Swift	.97
Todd	.97
Traverse	.95
Wabasha	.99
Wadena	.97
Waseca	.99
Washington	1.01
Watonwan	.98
Wilkin	.95
Winona	1.00
Wright	1.00
Yellow Medicine	.97
Weighted avg. for State	.97
MISSISSIPPI	
All Counties	1.13
MISSOURI	
All Counties	1.09
MONTANA	
Beaverhead	1.08
Big Horn	1.01
Blaine	.98
Broadwater	1.04
Carbon	1.03
Carter	.97
Cascade	1.03
Chouteau	1.00
Custer	.97
Daniels	.95
Dawson	.94
Deer Lodge	1.06
Fallon	.95
Fergus	1.00
Flathead	1.06
Gallatin	1.05
Garfield	.97
Glacier	1.03
Golden Valley	1.02
Granite	1.07
Hill	.99
Jefferson	1.05
Judith Basin	1.01
Lake	1.07
Lewis and Clark	1.05
Liberty	1.00
Lincoln	1.08
McCone	.95
Madison	1.08
Meagher	1.03
Mineral	1.08
Missoula	1.07
Musselshell	1.01
Park	1.05
Petroleum	.98
Phillips	.97
Pondera	1.02
Powder River	.99
Powell	1.06
Prairie	.96
Ravalli	1.07
Richland	.94
Roosevelt	.94
Rosebud	.99
Sanders	1.08
Sheridan	.94
Silver Bow	1.06
Stillwater	1.03

1978 CROP OATS LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per bushel
Sweet Grass	1.04
Teton	1.02
Toole	1.01
Treasure	1.00
Valley	.96
Wheatland	1.03
Wibaux	.94
Yellowstone	1.02
Weighted avg. for State	.98
NEBRASKA	
Adams	1.04
Antelope	1.01
Arthur	1.02
Banner	1.02
Blaine	1.01
Boone	1.02
Box Butte	1.01
Boyd	.99
Brown	1.00
Buffalo	1.03
Burt	1.03
Butler	1.04
Cass	1.05
Cedar	1.01
Chase	1.05
Cherry	1.00
Cheyenne	1.03
Clay	1.04
Colfax	1.03
Cuming	1.03
Custer	1.02
Dakota	1.03
Dawes	1.01
Dawson	1.03
Deuel	1.03
Dixon	1.02
Dodge	1.04
Douglas	1.05
Dundy	1.08
Fillmore	1.04
Franklin	1.05
Frontier	1.04
Furnas	1.05
Gage	1.06
Garden	1.02
Garfield	1.01
Gosper	1.04
Grant	1.01
Greeley	1.02
Hall	1.03
Hamilton	1.03
Harlan	1.05
Hayes	1.05
Hitchcock	1.06
Holt	1.00
Hooker	1.01
Howard	1.02
Jefferson	1.05
Johnson	1.06
Kearney	1.04
Keith	1.03
Keya Paha	.99
Kimball	1.03
Knox	1.00
Lancaster	1.05
Lincoln	1.03
Logan	1.02
Loup	1.01
McPherson	1.02
Madison	1.02
Merrick	1.02
Morrill	1.02
Nance	1.02
Nemaha	1.06
Nuckolls	1.05
Otoe	1.05
Pawnee	1.08
Perkins	1.04
Phelps	1.04
Pierce	1.01
Platte	1.02
Polk	1.03
Red Willow	1.05
Richardson	1.06
Rock	1.00
Saline	1.05
Sarpy	1.05
Saunders	1.05

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1978 CROP OATS LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per bushel
Scotts Bluff	1.02
Seward	1.04
Sheridan	1.01
Sherman	1.02
Sioux	1.01
Stanton	1.02
Thayer	1.05
Thomas	1.01
Thurston	1.03
Valley	1.02
Washington	1.04
Wayne	1.02
Webster	1.05
Wheeler	1.01
York	1.03
Weighted avg. for State	1.02
NEVADA	
All Counties	1.22
NEW HAMPSHIRE	
All Counties	1.12
NEW JERSEY	
All Counties	1.13
NEW MEXICO	
All Counties	1.20
NEW YORK	
All Counties	1.17
NORTH CAROLINA	
All Counties	1.13
NORTH DAKOTA	
Adams	.91
Barnes	.92
Benson	.90
Billings	.89
Bottineau	.88
Bowman	.93
Burke	.89
Burleigh	.90
Cass	.93
Cavalier	.91
Dickey	.92
Divide	.91
Dunn	.89
Eddy	.91
Emmons	.91
Foster	.91
Golden Valley	.91
Grand Forks	.92
Grant	.90
Griggs	.91
Hettinger	.90
Kidder	.91
La Moure	.92
Logan	.91
McHenry	.88
McIntosh	.91
McKenzie	.91
McLean	.88
Mercer	.88
Morton	.89
Mountrail	.89
Nelson	.91
Oliver	.89
Pembina	.92
Pierce	.89
Ramsey	.91
Ransom	.93
Renville	.88
Richland	.94
Rolette	.89
Sargent	.93
Sheridan	.89
Sioux	.90
Slope	.92
Stark	.88
Steele	.92
Stutsman	.92
Towner	.90
Traill	.92
Walsh	.92
Ward	.88
Wells	.90
Williams	.91
Weighted avg. for State	.90

1978 CROP OATS LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per bushel
OHIO	
Adams	1.14
Allen	1.12
Ashland	1.13
Ashtabula	1.15
Athens	1.15
Auglaize	1.12
Belmont	1.16
Brown	1.14
Butler	1.12
Carroll	1.15
Champaign	1.13
Clark	1.13
Clermont	1.14
Clinton	1.14
Columbiana	1.15
Coshocton	1.14
Crawford	1.13
Cuyahoga	1.14
Darke	1.11
Defiance	1.11
Delaware	1.13
Erie	1.13
Fairfield	1.13
Fayette	1.13
Franklin	1.13
Fulton	1.12
Gallia	1.15
Geauga	1.14
Greene	1.13
Guernsey	1.15
Hamilton	1.13
Hancock	1.12
Hardin	1.12
Harrison	1.15
Henry	1.12
Highland	1.14
Hocking	1.14
Holmes	1.14
Huron	1.13
Jackson	1.14
Jefferson	1.16
Knox	1.13
Lake	1.14
Lawrence	1.14
Licking	1.13
Logan	1.13
Lorain	1.14
Lucas	1.12
Madison	1.13
Mahoning	1.15
Marion	1.13
Medina	1.14
Meigs	1.15
Mercer	1.10
Miami	1.12
Monroe	1.16
Montgomery	1.12
Morgan	1.15
Morrow	1.13
Muskingum	1.14
Noble	1.15
Ottawa	1.13
Paulding	1.11
Perry	1.14
Pickaway	1.13
Pike	1.14
Portage	1.14
Preble	1.11
Putnam	1.12
Richland	1.13
Ross	1.14
Sandusky	1.13
Scioto	1.14
Seneca	1.13
Shelby	1.12
Stark	1.14
Summit	1.14
Trumbull	1.15
Tuscarawas	1.14
Union	1.13
Van Wert	1.11
Vinton	1.14
Warren	1.13
Washington	1.18
Wayne	1.14
Williams	1.12
Wood	1.12
Wyandot	1.13
Weighted avg. for State	1.13

1978 CROP OATS LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per bushel
OKLAHOMA	
All Counties	1.14
OREGON	
All Countries	1.18
PENNSYLVANIA	
All Counties	1.17
RHODE ISLAND	
All Counties	1.12
SOUTH CAROLINA	
All Counties	1.13
SOUTH DAKOTA	
Aurora	.95
Beadle	.95
Bennett	.96
Bon Homme	.98
Brookings	.96
Brown	.93
Brule	.95
Buffalo	.95
Butte	.94
Campbell	.92
Charles Mix	.98
Clark	.94
Clay	1.00
Codington	.95
Corson	.92
Custer	.97
Davison	.95
Day	.94
Deuel	.96
Dewey	.94
Douglas	.96
Edmunds	.93
Fall River	.97
Faulk	.94
Grant	.96
Gregory	.96
Haakon	.95
Hamlin	.95
Hand	.95
Hanson	.95
Harding	.93
Hughes	.95
Hutchinson	.97
Hyde	.95
Jackson	.95
Jerauld	.95
Jones	.95
Kingsbury	.95
Lake	.95
Lawrence	.94
Lincoln	.98
Lyman	.95
McCook	.96
McPherson	.92
Marshall	.93
Meade	.94
Mellette	.96
Miner	.95
Minnehaha	.97
Moody	.98
Pennington	.95
Perkins	.92
Potter	.94
Roberts	.94
Sanborn	.95
Shannon	.97
Spink	.94
Stanley	.95
Suly	.95
Todd	.96
Tripp	.96
Turner	.98
Union	1.00
Walworth	.94
Washabaugh	.98
Yankton	.99
Ziebach	.94
Weighted avg. for State	.96
TENNESSEE	
All Counties	1.13
TEXAS	
All Counties	1.18

1978 CROP OATS LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per bushel
UTAH	
All Counties	1.20
VERMONT	
All Counties	1.12
VIRGINIA	
All Counties	1.13
WASHINGTON	
All Counties	1.14
WEST VIRGINIA	
All Counties	1.15
WISCONSIN	
Adams	1.04
Ashland	1.04
Barron	1.02
Bayfield	1.03
Brown	1.03
Buffalo	1.01
Burnett	1.01
Calumet	1.03
Chippewa	1.03
Clark	1.03
Columbia	1.03
Crawford	1.04
Dane	1.05
Dodge	1.04
Door	1.03
Douglas	1.01
Dunn	1.02
Eau Claire	1.02
Florence	1.05
Fond du Lac	1.03
Forest	1.05
Grant	1.04
Green	1.05
Green Lake	1.04
Iowa	1.05
Iron	1.05
Jackson	1.03
Jefferson	1.05
Juneau	1.04
Kenosha	1.06
Kewaunee	1.03
LaCrosse	1.02
Lafayette	1.05
Langlade	1.04
Lincoln	1.04
Manitowac	1.03
Marathon	1.04
Marinette	1.05
Marquette	1.04
Menominee	1.04
Milwaukee	1.06
Monroe	1.03
Oconto	1.04
Oneida	1.05
Outagamie	1.03
Ozaukee	1.05
Pepin	1.01
Pierce	1.01
Polk	1.01
Portage	1.04
Price	1.04
Racine	1.06
Richland	1.03
Rock	1.05
Rusk	1.03
Saint Croix	1.01
Sauk	1.05
Sawyer	1.03
Shawano	1.04
Sheboygan	1.04
Taylor	1.04
Trempealeau	1.02
Vernon	1.02
Vilas	1.05
Walworth	1.05
Washburn	1.02
Washington	1.05
Waukesha	1.06
Waupaca	1.04
Waushara	1.04
Winnebago	1.03
Wood	1.04
Weighted avg. for State	1.03

1978 CROP OATS LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per bushel
WYOMING	
All Counties	1.10

(b) *Premiums and discounts:* The basic loan and purchase rates shall be adjusted as applicable by premiums and discounts as follows:

	Cents per bushel
Premiums:[1]	
Grade U.S. No. 1	+2
Grade U.S. No. 2	+1
Test weight:	
Heavy	+1
Extra heavy	+2
Discounts:	
Grade U.S. No. 4 on the factor of test weight only but otherwise U.S. No. 3 or better	−3
Grade U.S. No. 4 because of being "badly stained or materially weathered"	−7
Garlicky	−3
Weed control discount (where required by § 1421.24)	−10

[1]Premiums shall not be applicable to badly stained or materially weathered oats.

(c) *Other.* Oats with quality factors exceeding limits shown in forgoing schedule or oats that (1) contain in excess of 14 percent moisture, (2) is weevily, (3) is musty, (4) sour, shall not be eligible for loan. In the event quantities of oats exceeding limits shown are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity Office for settlement purposes. Such discounts will be established not later than the time delivery of oats to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions.

Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

Signed at Washington, D.C., on January 9, 1979.

STEWART N. SMITH
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-1651 Filed 1-17-79; 8:45 am]

[3410-05-M]

[CCC Grain Price Support Regulations, 1978 Crop Corn Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1978 Crop Corn Loan and Purchase Program

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the: (1) Final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates and premiums and discounts under which Commodity Credit Corporation (CCC) will extend price support on 1978 crop corn. This rule is needed in order to provide a price support program for corn. This rule will enable eligible corn producers to obtain loans and purchases on their eligible 1978 crop corn.

EFFECTIVE DATE: January 18, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3732 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Merle Strawderman, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on December 21, 1977, 42 FR 56751 stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1978 crop of feed grains including corn. Such determinations included determining loan and purchase rates and other related program provisions. Forty-one responses were received: 23 recommendations pertained to loan rates, and 18 dealt with target prices. It has been determined that loan and purchase rates for 1978-crop corn on a national average will be $2.00 per bushel. The final availability date for purchases will be changed to May 31, 1979, the same as for loans.

Producers who wish to secure loans can do so by contacting their local Agricultural Stabilization and Conservation Service Office or Agricultural Service Center.

FINAL RULE

Since storage can now be deducted, The General Regulations Governing Price Support for 1978 and Subsequent Crops, and any amendments thereto and the 1978 and Subsequent Crops Corn Loan and Purchase Regulations, and any amendments thereto in this Part 1421 are further supple-

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mented for the 1978 crop of corn. Accordingly, the regulations in 7 CFR § 1421.111 through § 1421.113 and the title of the subpart are revised to read as provided below, effective as to the 1978 crop of corn. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1978 Crop Corn Loan and Purchase Program

Sec.
1421.111 Availability.
1421.112 Maturity of loans.
1421.113 Warehouse charges.
1421.114 Loans and purchase rates, premiums and discounts.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); secs. 105A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444 c, 1421).

§ 1421.111 Availability.

(a) *Loans.* Producers desiring to participate in the program through loans must request a loan on their 1978 crop of eligible corn on or before May 31, 1979.

(b) *Purchase.* A producer desiring to offer eligible 1978 crop corn not under loan for purchase must execute and deliver to the county ASCS office on or before May 31, 1979, a Purchase Agreement (Form CCC-614) indicating the approximate quantity of 1978 crop corn they will sell to CCC.

§ 1421.112 Maturity of loans.

Loans mature on demand but not later than the last day of the ninth calendar month following the month the loan is disbursed.

§ 1421.113 Warehouse charges.

If storage is not provided for through loan maturity the county office shall deduct storage charges at the daily storage rate for the storing warehouse times the number of days from the date the commodity was received or date through which storage has been provided for to the maturity date.

§ 1421.114 Loans and purchase rates, premiums and discounts.

County basic loan and purchase rates for corn and the schedule of premiums and discounts are contained in this section. Farm stored loans will be made at the basic rate for the county where the corn is stored, adjusted only for the weed control discount where applicable. The rate for warehouse stored loans shall be the basic rate for the county where the corn is stored, adjusted by the premiums and discounts prescribed in paragraph (b) of this section. Notwithstanding § 1421.22(c), settlement for corn delivered from other than approved warehouse storage, shall be based (1) on the basic rate for the county in which the producer's customary delivery point is located, and (2) on the quality and quantity of the corn delivered as shown on the warehouse receipts and accompanying documents issued by an approved warehouse to which delivery is made, or if applicable, the quality and quantity delivered as shown on a form prescribed by CCC for this purpose.

(a) *Basic county rates.* Basic county rates for corn grading No. 2 and containing from 15.1 through 15.5 percent moisture are as follows:

1978 CROP CORN LOAN AND PURCHASE PROGRAM SUPPLEMENT

County	Rate per Bushel
ALABAMA	
All Counties	$2.14
ARIZONA	
All Counties	2.20
ARKANSAS	
All Counties	2.11
CALIFORNIA	
All Counties	2.20
COLORADO	
Baca	2.03
Cheyenne	2.02
Kiowa	2.02
Kit Carson	2.02
Lincoln	2.05
Logan	2.04
Phillips	2.02
Prowers	2.02
Sedgwick	2.02
Washington	2.04
Yuma	2.01
All Other Counties	2.06
Weighted Avg. for State	2.03
CONNECTICUT	
All Counties	2.23
DELAWARE	
All Counties	2.17
FLORIDA	
All Counties	2.15
GEORGIA	
All Counties	2.15
IDAHO	
All Counties	2.17
ILLINOIS	
Adams	2.04
Alexander	2.08
Bond	2.06
Boone	2.04
Brown	2.05
Bureau	2.04
Calhoun	2.06
Carroll	2.02
Cass	2.05
Champaign	2.03
Christian	2.05
Clark	2.03
Clay	2.04
Clinton	2.07
Coles	2.03
Cook	2.08
Crawford	2.03
Cumberland	2.03
De Kalb	2.04
De Witt	2.03
Douglas	2.03
Du Page	2.07
Edgar	2.03
Edwards	2.05
Effingham	2.04
Fayette	2.05
Ford	2.04
Franklin	2.06
Fulton	2.05
Gallatin	2.06

1978 CROP CORN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Greene	2.06
Grundy	2.05
Hamilton	2.05
Hancock	2.04
Hardin	2.07
Henderson	2.04
Henry	2.04
Iroquois	2.04
Jackson	2.07
Jasper	2.03
Jefferson	2.07
Jersey	2.06
Jo Daviess	2.01
Johnson	2.07
Kane	2.06
Kankakee	2.05
Kendall	2.05
Knox	2.05
Lake	2.07
La Salle	2.04
Lawrence	2.04
Lee	2.04
Livingston	2.04
Logan	2.04
McDonough	2.05
McHenry	2.06
McLean	2.03
Macon	2.04
Macoupin	2.06
Madison	2.08
Marion	2.05
Marshall	2.04
Mason	2.05
Massac	2.08
Menard	2.04
Mercer	2.03
Monroe	2.09
Montgomery	2.05
Morgan	2.05
Moultrie	2.03
Ogle	2.03
Peoria	2.05
Perry	2.08
Piatt	2.03
Pike	2.05
Pope	2.07
Pulaski	2.08
Putnam	2.04
Randolph	2.08
Richland	2.04
Rock Island	2.03
St. Clair	2.09
Saline	2.06
Sangamon	2.04
Schuyler	2.05
Scott	2.05
Shelby	2.04
Stark	2.05
Stephenson	2.01
Tazewell	2.04
Union	2.07
Vermilion	2.03
Wabash	2.05
Warren	2.05
Washington	2.09
Wayne	2.05
White	2.05
Whiteside	2.03
Will	2.07
Williamson	2.06
Winnebago	2.02
Woodford	2.04
Weighted Avg. for State	2.04
INDIANA	
Adams	2.02
Allen	2.02
Bartholomew	2.03
Benton	2.04
Blackford	2.01
Boone	1.99
Brown	2.03
Carroll	2.02
Cass	2.04
Clark	2.06
Clay	2.01
Clinton	2.00
Crawford	2.06
Daviess	2.05

1978 CROP CORN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Dearborn	2.06
Decatur	2.03
De Kalb	2.02
Delaware	2.00
Dubois	2.05
Elkhart	2.04
Fayette	2.02
Floyd	2.06
Fountain	2.01
Franklin	2.05
Fulton	2.04
Gibson	2.06
Grant	2.01
Greene	2.03
Hamilton	1.99
Harrison	2.06
Hancock	2.00
Hendricks	2.00
Henry	2.00
Howard	2.02
Huntington	2.01
Jackson	2.05
Jasper	2.05
Jay	2.02
Jefferson	2.06
Jennings	2.05
Johnson	2.01
Knox	2.05
Kosciusko	2.04
LaGrange	2.02
Lake	2.07
La Porte	2.07
Lawrence	2.05
Madison	1.99
Marion	2.00
Marshall	2.05
Martin	2.05
Miami	2.02
Monroe	2.03
Montgomery	2.01
Morgan	2.01
Newton	2.05
Noble	2.02
Ohio	2.06
Orange	2.05
Owen	2.01
Parke	2.01
Perry	2.06
Pike	2.05
Porter	2.07
Posey	2.06
Pulaski	2.05
Putnam	2.00
Randolph	2.01
Ripley	2.05
Rush	2.01
St. Joseph	2.05
Scott	2.06
Shelby	2.01
Spencer	2.06
Starke	2.05
Steuben	2.02
Sullivan	2.03
Switzerland	2.06
Tippecanoe	2.02
Tipton	2.00
Union	2.03
Vanderburgh	2.06
Vermilion	2.02
Vigo	2.02
Wabash	2.02
Warren	2.02
Warrick	2.06
Washington	2.06
Wayne	2.01
Wells	2.01
White	2.04
Whitley	2.02
Weighted Avg. for State	2.03
IOWA	
Adair	1.97
Adams	2.00
Allamakee	1.95
Appanoose	2.00
Audubon	1.97
Benton	1.98
Black Hawk	1.98
Boone	1.96

1978 CROP CORN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Bremer	1.97
Buchanan	1.98
Buena Vista	1.93
Butler	1.96
Calhoun	1.94
Carroll	1.97
Cass	1.98
Cedar	2.01
Cerro Gordo	1.95
Cherokee	1.93
Chickasaw	1.96
Clarke	1.99
Clay	1.91
Clayton	1.97
Clinton	2.01
Crawford	1.98
Dallas	1.96
Davis	2.01
Decatur	2.01
Delaware	1.98
Des Moines	2.01
Dickinson	1.89
Dubuque	1.99
Emmet	1.89
Fayette	1.97
Floyd	1.96
Franklin	1.95
Fremont	2.01
Greene	1.95
Grundy	1.97
Guthrie	1.96
Hamilton	1.95
Hancock	1.94
Hardin	1.97
Harrison	1.99
Henry	2.01
Howard	1.94
Humboldt	1.92
Ida	1.95
Iowa	1.99
Jackson	2.00
Jasper	1.98
Jefferson	2.00
Johnson	2.00
Jones	1.99
Keokuk	2.00
Kossuth	1.91
Lee	2.01
Linn	1.98
Louisa	2.01
Lucas	1.99
Lyon	1.90
Madison	1.97
Mahaska	1.99
Marion	1.98
Marshall	1.98
Mills	2.00
Mitchell	1.94
Monona	1.98
Monroe	1.99
Montgomery	2.00
Muscatine	2.01
O'Brien	1.92
Osceola	1.90
Page	2.02
Palo Alto	1.90
Plymouth	1.94
Pocahontas	1.93
Polk	1.97
Pottawattamie	2.00
Poweshiek	1.98
Ringgold	2.02
Sac	1.95
Scott	2.01
Shelby	1.99
Sioux	1.92
Story	1.98
Tama	1.98
Taylor	2.02
Union	2.00
Van Buren	2.01
Wapello	2.00
Warren	1.98
Washington	2.00
Wayne	2.00
Webster	1.94
Winnebago	1.93
Winneshiek	1.95
Woodbury	1.96

1978 CROP CORN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Worth	1.94
Wright	1.94
Weighted Avg. for State	1.97
KANSAS	
Allen	2.05
Anderson	2.06
Atchison	2.07
Barber	1.99
Barton	1.97
Bourbon	2.07
Brown	2.05
Butler	2.01
Chase	2.01
Chautauqua	2.01
Cherokee	2.07
Cheyenne	1.95
Clark	1.99
Clay	1.99
Cloud	1.99
Coffey	2.04
Comanche	1.99
Cowley	2.00
Crawford	2.07
Decatur	1.97
Dickinson	1.99
Doniphan	2.05
Douglas	2.07
Edwards	1.98
Elk	2.01
Ellis	1.97
Ellsworth	1.98
Finney	1.98
Ford	1.99
Franklin	2.06
Geary	2.01
Gove	1.96
Graham	1.96
Grant	1.99
Gray	1.99
Greeley	1.97
Greenwood	2.02
Hamilton	1.98
Harper	1.99
Harvey	1.99
Haskell	1.99
Hodgeman	1.98
Jackson	2.05
Jefferson	2.07
Jewell	1.98
Johnson	2.08
Kearny	1.98
Kingman	1.99
Kiowa	1.98
Labette	2.03
Lane	1.97
Leavenworth	2.08
Lincoln	1.98
Linn	2.07
Logan	1.96
Lyon	2.03
McPherson	1.99
Marion	1.99
Marshall	2.03
Meade	2.00
Miami	2.07
Mitchell	1.98
Montgomery	2.02
Morris	2.01
Morton	2.00
Nemaha	2.04
Neosho	2.05
Ness	1.97
Norton	1.98
Osage	2.04
Osborne	1.97
Ottawa	1.99
Pawnee	1.98
Phillips	1.98
Pottawatomie	2.04
Pratt	1.98
Rawlins	1.96
Reno	1.98
Republic	2.00
Rice	1.98
Riley	2.03
Rooks	1.97
Rush	1.97
Russell	1.97

1978 CROP CORN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Saline	1.99
Scott	1.97
Sedgwick	2.00
Seward	2.00
Shawnee	2.05
Sheridan	1.96
Sherman	1.96
Smith	1.98
Stafford	1.98
Stanton	1.99
Stevens	2.00
Sumner	2.00
Thomas	1.96
Trego	1.96
Wabaunsee	2.03
Wallace	1.96
Washington	2.02
Wichita	1.97
Wilson	2.03
Woodson	2.04
Wyandotte	2.08
Weighted Avg. for State	1.99
KENTUCKY	
Ballard	2.08
Boone	2.07
Bracken	2.09
Breckinridge	2.08
Bullitt	2.09
Campbell	2.07
Carroll	2.08
Crittenden	2.08
Daviess	2.08
Gallatin	2.08
Hancock	2.08
Henderson	2.08
Jefferson	2.08
Kenton	2.07
Lewis	2.09
Livingston	2.08
McCracken	2.08
Mason	2.09
Meade	2.08
Oldham	2.08
Trimble	2.08
Union	2.08
All Other Counties	2.10
Weighted Avg. for State	2.09
LOUISIANA	
All Counties	2.13
MAINE	
All Counties	2.23
MARYLAND	
All Counties	2.17
MASSACHUSETTS	
All Counties	2.23
MICHIGAN	
Alcona	2.00
Alger	1.98
Allegan	2.00
Alpena	2.00
Antrim	2.00
Arenac	1.99
Baraga	1.98
Barry	1.99
Bay	1.98
Benzie	2.00
Berrien	2.05
Branch	2.02
Calhoun	2.00
Cass	2.03
Charlevoix	2.00
Cheboygan	2.00
Chippewa	1.98
Clare	1.98
Clinton	1.99
Crawford	2.00
Delta	1.98
Dickinson	1.98
Eaton	2.00
Emmet	2.00
Genesee	2.00
Gladwin	1.98
Gogebic	1.98
Grand Traverse	2.00
Gratiot	1.97

1978 CROP CORN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Hillsdale	2.03
Houghton	1.98
Huron	1.98
Ingham	2.00
Ionia	1.99
Iosco	1.99
Iron	1.98
Isabella	1.97
Jackson	2.01
Kalamazoo	2.01
Kalkaska	2.00
Kent	1.98
Keweenaw	1.98
Lake	1.99
Lapeer	2.00
Leelanau	2.00
Lenawee	2.04
Livingston	2.01
Luce	1.98
Mackinac	1.98
Macomb	2.01
Manistee	1.99
Marquette	1.98
Mason	1.99
Mecosta	1.97
Menominee	1.98
Midland	1.97
Missaukee	1.99
Monroe	2.05
Montcalm	1.97
Montmorency	2.00
Muskegon	1.99
Newaygo	1.98
Oakland	2.01
Oceana	1.99
Ogemaw	1.99
Ontonagon	1.98
Osceola	1.98
Oscoda	2.00
Otsego	2.00
Ottawa	1.99
Presque Isle	2.00
Roscommon	1.99
Saginaw	1.97
St. Clair	2.00
St. Joseph	2.02
Sanilac	1.98
Schoolcraft	1.98
Shiawassee	1.99
Tuscola	1.97
Van Buren	2.01
Washtenaw	2.02
Wayne	2.03
Wexford	1.99
Weighted Avg. for State	2.00
MINNESOTA	
Aitkin	1.91
Anoka	1.91
Becker	1.89
Beltrami	1.89
Benton	1.91
Big Stone	1.86
Blue Earth	1.90
Brown	1.89
Carlton	1.91
Carver	1.91
Cass	1.89
Chippewa	1.89
Chisago	1.91
Clay	1.89
Clearwater	1.89
Cook	1.91
Cottonwood	1.87
Crow Wing	1.90
Dakota	1.91
Dodge	1.91
Douglas	1.90
Faribault	1.89
Fillmore	1.93
Freeborn	1.90
Goodhue	1.91
Grant	1.89
Hennepin	1.91
Houston	1.93
Hubbard	1.89
Isanti	1.91
Itasca	1.91
Jackson	1.88

1978 CROP CORN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Knabec	1.91
Kandiyohi	1.90
Kittson	1.89
Koochiching	1.91
Lac Qui Parle	1.86
Lake	1.91
Lake of the Woods	1.89
Le Sueur	1.91
Lincoln	1.85
Lyon	1.86
McLeod	1.91
Mahnomen	1.89
Marshall	1.89
Martin	1.88
Meeker	1.91
Mille Lacs	1.91
Morrison	1.90
Mower	1.92
Murray	1.87
Nicollet	1.90
Nobles	1.88
Norman	1.89
Olmsted	1.92
Otter Tail	1.89
Pennington	1.89
Pine	1.91
Pipestone	1.87
Polk	1.89
Pope	1.89
Ramsey	1.91
Red Lake	1.89
Redwood	1.88
Renville	1.90
Rice	1.91
Rock	1.88
Roseau	1.89
St. Louis	1.91
Scott	1.91
Sherburne	1.91
Sibley	1.91
Stearns	1.90
Steele	1.90
Stevens	1.88
Swift	1.88
Todd	1.90
Traverse	1.88
Wabasha	1.91
Wadena	1.90
Waseca	1.90
Washington	1.91
Watonwan	1.88
Wilkin	1.88
Winona	1.92
Wright	1.91
Yellow Medicine	1.87
Weighted Avg. for State	1.90
MISSISSIPPI	
All Counties	2.13
MISSOURI	
Adair	2.03
Andrew	2.07
Atchison	2.04
Audrain	2.05
Barry	2.10
Barton	2.06
Bates	2.07
Benton	2.05
Bollinger	2.07
Boone	2.04
Buchanan	2.08
Butler	2.08
Caldwell	2.08
Callaway	2.05
Camden	2.06
Cape Girardeau	2.07
Carroll	2.07
Carter	2.08
Cass	2.08
Cedar	2.07
Chariton	2.06
Christian	2.10
Clark	2.02
Clay	2.08
Clinton	2.08
Cole	2.05
Cooper	2.03
Crawford	2.07
Dade	2.07

1978 CROP CORN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Dallas	2.08
Daviess	2.06
De Kalb	2.06
Dent	2.08
Douglas	2.12
Dunklin	2.08
Franklin	2.07
Gasconade	2.05
Gentry	2.04
Greene	2.08
Grundy	2.05
Harrison	2.04
Henry	2.08
Hickory	2.06
Holt	2.05
Howard	2.04
Howell	2.12
Iron	2.07
Jackson	2.08
Jasper	2.07
Jefferson	2.08
Johnson	2.08
Knox	2.03
Laclede	2.08
Lafayette	2.08
Lawrence	2.08
Lewis	2.03
Lincoln	2.06
Linn	2.05
Livingston	2.07
McDonald	2.09
Macon	2.04
Madison	2.07
Maries	2.06
Marion	2.03
Mercer	2.03
Miller	2.06
Mississippi	2.08
Moniteau	2.05
Monroe	2.04
Montgomery	2.05
Morgan	2.05
New Madrid	2.08
Newton	2.08
Nodaway	2.05
Oregon	2.10
Osage	2.05
Ozark	2.12
Pemiscot	2.08
Perry	2.07
Pettis	2.04
Phelps	2.08
Pike	2.05
Platte	2.08
Polk	2.06
Pulaski	2.08
Putnam	2.02
Ralls	2.04
Randolph	2.04
Ray	2.08
Reynolds	2.08
Ripley	2.08
St. Charles	2.06
St. Clair	2.06
St. Francois	2.07
Ste. Genevieve	2.07
St. Louis	2.08
Saline	2.06
Schuyler	2.03
Scotland	2.02
Scott	2.08
Shannon	2.10
Shelby	2.03
Stoddard	2.08
Stone	2.10
Sullivan	2.04
Taney	2.12
Texas	2.10
Vernon	2.06
Warren	2.06
Washington	2.07
Wayne	2.08
Webster	2.10
Worth	2.04
Wright	2.10
Weighted Avg. for state	2.06
MONTANA	
All Counties	2.08

1978 CROP CORN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
NEBRASKA	
Adams	1.98
Antelope	1.96
Arthur	1.96
Banner	2.01
Blaine	1.92
Boone	1.96
Box Butte	1.99
Boyd	1.93
Brown	1.92
Buffalo	1.93
Burt	2.00
Butler	1.99
Cass	2.00
Cedar	1.94
Chase	1.95
Cherry	1.94
Cheyenne	1.99
Clay	1.98
Colfax	1.99
Cuming	1.98
Custer	1.92
Dakota	1.94
Dawes	1.99
Dawson	1.92
Deuel	1.99
Dixon	1.94
Dodge	1.99
Douglas	2.01
Dundy	1.94
Fillmore	1.99
Franklin	1.96
Frontier	1.94
Furnas	1.95
Gage	2.02
Garden	1.97
Garfield	1.93
Gosper	1.94
Grant	1.96
Greeley	1.95
Hall	1.95
Hamilton	1.95
Harlan	1.96
Hayes	1.94
Hitchcock	1.94
Holt	1.93
Hooker	1.94
Howard	1.95
Jefferson	2.01
Johnson	2.02
Kearney	1.95
Keith	1.97
Keya Paha	1.92
Kimball	2.01
Knox	1.94
Lancaster	2.00
Lincoln	1.94
Logan	1.93
Loup	1.92
McPherson	1.94
Madison	1.96
Merrick	1.95
Morrill	2.01
Nance	1.96
Nemaha	2.02
Nuckolls	1.98
Otoe	2.01
Pawnee	2.03
Perkins	1.96
Phelps	1.95
Pierce	1.96
Platte	1.97
Polk	1.97
Red Willow	1.94
Richardson	2.04
Rock	1.92
Saline	2.00
Sarpy	1.99
Saunders	1.99
Scotts Bluff	2.01
Seward	1.99
Sheridan	1.97
Sherman	1.93
Sioux	2.01
Stanton	1.98
Thayer	1.99
Thomas	1.93
Thurston	1.98
Valley	1.93

1978 CROP CORN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Washington	2.01
Wayne	1.96
Webster	1.96
Wheeler	1.95
York	1.97
Weighted Avg. for State	1.96
NEVADA	
All Counties	2.21
NEW HAMPSHIRE	
All Counties	2.23
NEW JERSEY	
All Counties	2.19
NEW MEXICO	
Curry	2.10
Hardin	2.10
Lea	2.10
Quay	2.10
Roosevelt	2.10
Union	2.10
All Other Counties	2.17
Weighted Avg. for State	2.11
NEW YORK	
All Counties	2.18
NORTH CAROLINA	
All Counties	2.16
NORTH DAKOTA	
All Counties	1.92
OHIO	
Adams	2.07
Allen	2.04
Ashland	2.07
Ashtabula	2.14
Athens	2.10
Auglaize	2.03
Belmont	2.12
Brown	2.07
Butler	2.04
Carroll	2.11
Champaign	2.03
Clark	2.03
Clermont	2.06
Clinton	2.05
Columbiana	2.14
Coshocton	2.08
Crawford	2.05
Cuyahoga	2.10
Darke	2.02
Defiance	2.03
Delaware	2.04
Erie	2.06
Fairfield	2.06
Fayette	2.04
Franklin	2.03
Fulton	2.05
Gallia	2.08
Geauga	2.12
Greene	2.03
Guernsey	2.10
Hamilton	2.05
Hancock	2.05
Hardin	2.04
Harrison	2.12
Henry	2.05
Highland	2.05
Hocking	2.07
Holmes	2.08
Huron	2.06
Jackson	2.07
Jefferson	2.13
Knox	2.05
Lake	2.12
Lawrence	2.08
Licking	2.05
Logan	2.04
Lorain	2.07
Lucas	2.07
Madison	2.03
Mahoning	2.14
Marion	2.05
Medina	2.09
Meigs	2.09
Mercer	2.02
Miami	2.03
Monroe	2.13

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1978 CROP CORN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Montgomery	2.03
Morgan	2.10
Morrow	2.05
Muskingum	2.08
Noble	2.11
Ottawa	2.07
Paulding	2.03
Perry	2.08
Pickaway	2.04
Pike	2.08
Portage	2.12
Preble	2.03
Putnam	2.04
Richland	2.05
Ross	2.05
Sandusky	2.05
Scioto	2.07
Seneca	2.05
Shelby	2.03
Stark	2.11
Summit	2.10
Trumbull	2.14
Tuscarawas	2.10
Union	2.04
Van Wert	2.03
Vinton	2.07
Warren	2.05
Washington	2.12
Wayne	2.09
Williams	2.04
Wood	2.05
Wyandot	2.05
Weighted Avg. for State	2.05
OKLAHOMA	
Beaver	2.05
Beckham	2.09
Cimarron	2.04
Ellis	2.07
Harmon	2.09
Harper	2.05
Roger Mills	2.09
Texas	2.04
All Other Counties	2.11
Weighted Avg. for State	2.05
OREGON	
All Counties	2.17
PENNSYLVANIA	
All Counties	2.18
RHODE ISLAND	
All Counties	2.23
SOUTH CAROLINA	
All Counties	2.16
SOUTH DAKOTA	
Aurora	1.85
Beadle	1.85
Bennett	1.92
Bon Homme	1.89
Brookings	1.85
Brown	1.85
Brule	1.85
Buffalo	1.85
Butte	1.91
Campbell	1.87
Charles Mix	1.87
Clark	1.85
Clay	1.92
Codington	1.85
Corson	1.89
Custer	1.95
Davison	1.86
Day	1.85
Deuel	1.85
Dewey	1.89
Douglas	1.86
Edmunds	1.86
Fall River	1.98
Faulk	1.86
Grant	1.85
Gregory	1.87
Haakon	1.89
Hamlin	1.85
Hand	1.85
Hanson	1.86
Harding	1.91
Hughes	1.87

1978 CROP CORN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
Hutchinson	1.88
Hyde	1.86
Jackson	1.90
Jerauld	1.85
Jones	1.89
Kingsbury	1.85
Lake	1.87
Lawrence	1.91
Lincoln	1.90
Lyman	1.87
McCook	1.87
McPherson	1.86
Marshall	1.85
Meade	1.90
Mellette	1.89
Miner	1.86
Minnehaha	1.88
Moody	1.87
Pennington	1.92
Perkins	1.89
Potter	1.88
Roberts	1.85
Sanborn	1.86
Shannon	1.95
Spink	1.85
Stanley	1.89
Sully	1.87
Todd	1.90
Tripp	1.88
Turner	1.89
Union	1.92
Walworth	1.87
Washabaugh	1.90
Yankton	1.90
Ziebach	1.90
Weighted Avg. for State	1.88
TENNESSEE	
All Counties	2.12
TEXAS	
Armstrong	2.06
Bailey	2.06
Briscoe	2.06
Carson	2.06
Castro	2.06
Childress	2.07
Cochran	2.08
Collingsworth	2.07
Cottle	2.08
Crosby	2.08
Dallam	2.06
Deaf Smith	2.06
Dickens	2.08
Donley	2.07
Floyd	2.06
Gray	2.06
Hale	2.06
Hall	2.07
Hansford	2.06
Hartley	2.06
Hemphill	2.06
Hockley	2.08
Hutchinson	2.06
King	2.08
Lamb	2.06
Lipscomb	2.08
Lubbock	2.08
Moore	2.06
Motley	2.08
Ochiltree	2.06
Oldham	2.06
Parmer	2.06
Potter	2.06
Randall	2.08
Roberts	2.06
Sherman	2.06
Swisher	2.06
Wheeler	2.07
All Other Counties	2.13
Weighted Avg. for State	2.07
UTAH	
All Counties	2.20
VERMONT	
All Counties	2.23
VIRGINIA	
All Counties	2.17

1978 CROP CORN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
WASHINGTON	
All Counties	2.15
WEST VIRGINIA	
All Counties	2.16
WISCONSIN	
Adams	1.96
Ashland	1.98
Barron	1.94
Bayfield	1.93
Brown	1.98
Buffalo	1.93
Burnett	1.92
Calumet	1.98
Chippewa	1.94
Clark	1.98
Columbia	2.00
Crawford	1.96
Dane	2.02
Dodge	2.02
Door	1.99
Douglas	1.91
Dunn	1.94
Eau Claire	1.94
Florence	1.98
Fond du Lac	2.00
Forest	1.98
Grant	1.98
Green	2.02
Green Lake	2.00
Iowa	2.02
Iron	1.97
Jackson	1.94
Jefferson	2.03
Juneau	1.98
Kenosha	2.05
Kewaunee	1.99
La Crosse	1.93
Lafayette	2.01
Langlade	1.98
Lincoln	1.97
Manitowoc	1.99
Marathon	1.97
Marinette	1.98
Marquette	1.98
Menominee	1.98
Milwaukee	2.03
Monroe	1.94
Oconto	1.98
Oneida	1.98
Outagamie	1.97
Ozaukee	2.01
Pepin	1.93
Pierce	1.93
Polk	1.92
Portage	1.97
Price	1.96
Racine	2.05
Richland	1.99
Rock	2.03
Rusk	1.95
St. Croix	1.93
Sauk	1.99
Sawyer	1.95
Shawano	1.98
Sheboygan	1.99
Taylor	1.96
Trempealeau	1.93
Vernon	1.94
Vilas	1.98
Walworth	2.04
Washburn	1.94
Washington	2.02
Waukesha	2.03
Waupaca	1.98
Waushara	1.98
Winnebago	1.98
Wood	1.96
Weighted Avg. for State	1.99
WYOMING	
All Counties	2.08

(b) *Premiums and discounts.* The basic loan and purchase rates shall be adjusted as applicable by premiums and discounts as follows:

Premiums	Cents per bushel
(i) Moisture (percent):	
14.6 through 15.0	+1
14.5 or less	+2
(ii) Broken corn and foreign material (percent):	
2.0 or less	+2

Premiums do not apply to sample grade corn.

Discounts	Cents per bushel
(i) Class—mixed corn	−2
(ii) Test weight per bushel, pounds:	
53.0 through 53.9	−1
52.0 through 52.9	−2
51.0 through 51.9	−4
50.0 through 50.9	−6
49.0 through 49.9	−9
(iii) Total damage (percent):	
5.1 through 6.0	−1
6.1 through 7.0	−2
(iv) Heat damage (percent):	
.21 through .50	−1
(v) Broken corn and foreign material (percent):	
3.1 through 4.0	−2
(vi) Weed control laws:	
Where required by § 1421.15	−10

(c) *Other.* Corn with quality factors exceeding limits shown in foregoing schedule or corn that (1) contains in excess of 15.5 percent moisture, (2) is weevily, (3) is musty, (4) is sour, shall not be eligible for loan. In the event quantities of corn exceeding limits shown are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity Office for settlement purposes. Such discounts will be established not later than the time delivery of corn to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

Signed at Washington, D.C., on January 9, 1979.

STEWART N. SMITH,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-1648 Filed 1-17-79; 8:45 am]

[3410-05-M]

[CCC Grain Price Support Regulations, 1978 Crop Rye Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1978 Crop Rye Loan and Purchase Program

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the: (1) Final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates and premiums and discounts under which the Commodity Credit Corporation (CCC) will extend price support on 1978-crop rye. This rule is needed in order to provide a price support program for rye. This rule will enable eligible rye producers to obtain loans and purchases on their eligible 1978-crop rye.

EFFECTIVE DATE: January 18, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3732 South Building, P.O. Box 2415, Washington, D. C. 20013.

FOR FURTHER INFORMATION CONTACT:

Merle Strawderman, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on December 21, 1977, 42 FR 56751 stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1978 crop of feed grains including rye. Such determinations included determining loan and purchase rates and other related program provisions. No recommendations were received concerning the loan and purchase program for rye. After considering applicable factors, it has been determined that the loan and purchase rates for 1978 crop rye on a national average will be $1.70 per bushel.

Producers who wish to secure loans can do so by contacting their local Agricultural Stabilization and Conservation Service Office or Agricultural Service Center.

FINAL RULE

Since storage can now be deducted, the General Regulations Governing Price Support for 1978 and Subsequent Crops, and any amendments thereto and the 1978 and Subsequent Crops Rye Loan and Purchase Regulations, and any amendments thereto in this Part 1421 are further supplemented for the 1978 crop of rye. Accordingly, the regulations in 7 CFR's 1421.350 and the title of the subpart are revised to read as provided below effective as the 1978 crop of rye. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1978 Crop Rye Loan and Purchase Program

Sec.
1421.350 Purpose.
1421.351 Availability.
1421.352 Maturity of loans.
1421.353 Warehouse charges.
1421.354 Loans and purchase rates, premiums and discounts.

AUTHORITY: Secs. 4 and 5, 62 Stat. 100, as amended (15 U.S.C. 714b and c); Secs. 105 A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444 c, 1421).

§ 1421.350 Purpose.

This supplement contains additional program provisions which together with the provisions of the General Regulations Governing Price Support for the 1978 and Subsequent Crops, the 1978 and Subsequent Crops Rye Loan and Purchase Program regulations, and any amendments thereto, apply to loans on and purchase of the 1978 crop of rye.

§ 1421.351 Availability.

(a) *Loans.* Producers desiring to participate in the program through loans must request a loan on their 1978 crop of eligible rye on or before March 31, 1979.

(b) *Purchases.* A producer desiring to offer eligible 1978 crop rye not under loan for purchase must execute and deliver to the county ASCS office on or before March 31, 1979, a Purchase Agreement (Form CCC-614) indicating the approximate quantity of 1978 crop rye they will sell to CCC.

§ 1421.352 Maturity of loans.

Loans mature on demand but not later than the last day of the ninth calendar month following the month the loan is disbursed.

§ 1421.353 Warehouse charges.

If storage is not provided for through loan maturity the county office shall deduct storage charges at the daily storage rate for the storage warehouse times the number of days from the date the commodity was received or date through which storage has been provided for to the maturity date.

§ 1421.354 Loan and purchase rates, premiums, and discounts.

(a) *Basic loan and purchase rates.* Basic county rates per bushel for loan and settlement purposes for rye are established for rye grading U.S. No. 2 or better, or U.S. No. 3 on the factor of test weight only and are as follows:

1978 CROP RYE LOAN AND PURCHASE PROGRAM SUPPLEMENT

1978 Crop Rye Loan and Purchase Rates

County	Rate per Bushel
ALABAMA	
All Counties	$1.80
ARIZONA	
All Counties	1.77

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1978 CROP RYE LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
ARKANSAS	
All Counties	1.74
CALIFORNIA	
Alameda	1.94
Los Angeles	1.94
Sacramento	1.94
San Diego	1.94
San Francisco	1.94
San Joaquin	1.94
All Other Counties	1.81
Weighted Avg. for State	1.81
COLORADO	
All Counties	1.63
CONNECTICUT	
All Counties	1.78
DELAWARE	
All Counties	1.83
FLORIDA	
All Counties	1.87
GEORGIA	
All Counties	1.87
IDAHO	
All Counties	1.72
ILLINOIS	
Cook	1.81
St. Clair	1.81
All Other Counties	1.75
Weighted Avg. for State	1.75
INDIANA	
All Counties	1.73
IOWA	
Pottawattamie	1.72
Woodbury	1.72
All Other Counties	1.68
Weighted Avg. for State	1.68
KANSAS	
Wyandotte	1.72
All Other Counties	1.62
Weighted Avg. for State	1.62
KENTUCKY	
All Counties	1.80
LOUISIANA	
East Baton Rouge	1.96
Jefferson	1.96
Orleans	1.96
St. Charles	1.96
West Baton Rouge	1.96
All Other Counties	1.77
Weighted Avg. for State	1.77
MAINE	
All Counties	1.78
MARYLAND	
Baltimore	1.94
All Other Counties	1.83
Weighted Avg. for State	1.83
MASSACHUSETTS	
All Counties	1.78
MICHIGAN	
All Counties	1.65
MINNESOTA	
Hennepin	1.74
St. Louis	1.74
All Other Counties	1.68
Weighted Avg. for State	1.68
MISSISSIPPI	
All Counties	1.82
MISSOURI	
St. Louis	1.85
All Other Counties	1.72
Weighted Avg. for State	1.72
MONTANA	
All Counties	1.53
NEBRASKA	
All Counties	1.62
NEVADA	
All Counties	1.67

1978 CROP RYE LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Bushel
NEW HAMPSHIRE	
All Counties	1.78
NEW JERSEY	
All Counties	1.80
NEW MEXICO	
All Counties	1.67
NEW YORK	
Albany	1.94
New York City	1.94
All Other Counties	1.78
Weighted Avg. for State	1.78
NORTH CAROLINA	
All Counties	1.87
NORTH DAKOTA	
All Counties	1.58
OHIO	
All Counties	1.73
OKLAHOMA	
All Counties	1.70
OREGON	
Clatsop	1.95
Multnomah	1.95
All Other Counties	1.82
Weighted Avg. for State	1.82
PENNSYLVANIA	
Philadelphia	1.94
All Other Counties	1.78
Weighted Avg. for State	1.78
RHODE ISLAND	
All Counties	1.78
SOUTH CAROLINA	
Charleston	1.94
All Other Counties	1.85
Weighted Avg. for State	1.85
SOUTH DAKOTA	
All Counties	1.62
TENNESSEE	
Shelby	1.87
All Other Counties	1.82
Weighted Avg. for State	1.82
TEXAS	
Galveston	1.96
Harris	1.96
Jefferson	1.96
Nueces	1.96
San Patricio	1.96
All Other Counties	1.75
Weighted Avg. for State	1.75
UTAH	
All Counties	1.62
VERMONT	
All Counties	1.78
VIRGINIA	
Chesapeake (Norfolk)	1.94
All Other Counties	1.83
Weighted Avg. for State	1.83
WASHINGTON	
Clark	1.95
Cowlitz	1.95
King	1.95
Pierce	1.95
All Other Counties	1.82
Weighted Avg. for State	1.82
WEST VIRGINIA	
All Counties	1.80
WISCONSIN	
Douglas	1.74
Milwaukee	1.82
All Other Counties	1.73
Weighted Avg. for State	1.73
WYOMING	
All Counties	1.62

(b) Schedule of Premiums and Discounts for 1978—Crop Rye:

1. *Premiums:* Rye, grading U.S. No. 1, +2

2. *Discounts:*

a. Rye, grading U.S. No. 3 on account of test weight, −2.

b. Rye, grading U.S. No. 3 on account of "thin" rye: 15.1-17.0% thins, −3; 17.1-19.0% thins, −5; 19.1-21.0% thins, −7; 21.1-23.0% thins, −9; 23.1-25.0% thins, −11.

c. Rye, grading U.S. No. 3 for factors other than test weight or % of thins, −5.

d. Weed control discount (where required by § 1421.24), −10.

(c) *Other.* Rye with quality factors exceeding limits shown in foregoing schedule or rye that (1) contains in excess of 14 percent moisture, (2) is weevily, (3) is musty, (4) sour, shall not be eligible for loan. In the event quantities of rye exceeding limits shown are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity Office for settlement purposes. Such discounts will be established not later than the time delivery of rye to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

Signed at Washington, D.C., on January 9, 1979.

STEWART N. SMITH,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-1646 Filed 1-17-79; 8:45 a.m.]

[3410-05-M]

[CCC Grain Price Support Regulations, 1978 Crop Sorghum Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1978 Crop Sorghum Loan and Purchase Program

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the: (1) Final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates and premiums and discounts under which Commodity Credit Corporation (CCC) will extend price support on 1978 crop sorghum. This rule is needed in order to provide a price support program for sorghum. This rule will enable eligible sorghum producers to obtain loans and purchases on their eligible 1978 crop sorghum.

EFFECTIVE DATE: January 18, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3732 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Merle Strawderman, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on December 21, 1977, 42 FR 56751 stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1978 crop of feed grains including sorghum. Such determinations included determining loan and purchase rates and other related program provisions. Twelve recommendations were received: 6 dealing with loan rates, and 6 pertaining to target prices. After considering applicable factors, it has been determined that the loan and purchase rates for 1978 crop sorghum a national average will be $3.39 per hundredweight.

Producers who wish to secure loans can do so by contacting their local Agricultural Stabilization and Conservation Service Office or Agricultural Service Center.

FINAL RULE

The General Regulations Governing Price Support for 1978 and Subsequent Crops, and any amendments thereto and the 1978 and Subsequent Crops Sorghum Loan and Purchase Regulations, and any amendments thereto in this Part 1421 are further supplemented for the 1978 and subsequent crops of sorghum. Accordingly, the regulations in 7 CFR § 1421.235 through 1421.237 and the title of the subpart are revised to read as provided below, effective as to the 1978 crop of sorghum. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1978 Crop Sorghum Loan and Purchase Program

Sec.
1421.235 Availability.
1421.236 Maturity of loans.
1421.237 Warehouse charges.
1421.238 Loans and purchase rates and discounts.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); Secs. 105A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1444c, 1421).

§ 1421.235 Availability.

(a) *Loans.* Producers desiring to participate in the program through loans must request a loan on their 1978 crop of eligible sorghum on or before May 31, 1979.

(b) *Purchases.* A producer desiring to offer eligible 1978 crop sorghum not under loan for purchase must execute and deliver to the county ASCS office on or before May 31, 1979, a Purchase Agreement (Form CCC-614) indicating the approximate quantity of 1978 crop sorghum he will sell to CCC.

§ 1421.236 Maturity of loans.

Loans mature on demand but not later than the last day of the ninth calendar month following the month the loan is disbursed.

§ 1421.237 Warehouse charges.

If storage is not provided for through loan maturity, the county office shall deduct storage charges at the daily storage rate for the storing warehouse times the number of days from the date the commodity was received or date through which storage has been provided for to the maturity date.

§ 1421.238 Loans and purchase rates and discounts.

(a) *Basic rates (counties).* Basic county rates for loan and settlement purposes for sorghum grading U.S. No. 2 or better are established as follows:

1978 CROP SORGHUM LOAN AND PURCHASE PROGRAM SUPPLEMENT

1978 Crop Sorghum Loan and Purchase

Basic County Loan and Purchase Rates for Sorghum No. 2 or Better

County	Rate per Cwt.
ALABAMA	
All Counties	$3.37
ARIZONA	
Apache	3.36
Cochise	3.58
Coconino	3.36
Gila	3.36
Graham	3.40
Greenlee	3.36
Maricopa	3.72
Mohave	3.84
Navajo	3.36
Pima	3.64
Pinal	3.72
Santa Cruz	3.61
Yavapai	3.36
Yuma	3.77
Weighted Avg. for State	3.59
ARKANSAS	
Arkansas	3.47
Ashley	3.43
Baxter	3.35
Benton	3.28
Boone	3.31
Bradley	3.41
Calhoun	3.40
Carroll	3.28
Chicot	3.43
Clark	3.36
Clay	3.49
Cleburne	3.42
Cleveland	3.43
Columbia	3.39
Conway	3.38
Craighead	3.50
Crawford	3.33
Crittenden	3.51
Cross	3.50
Dallas	3.39
Desha	3.45
Drew	3.43
Faulkner	3.41
Franklin	3.33
Fulton	3.40
Garland	3.35

1978 CROP SORGHUM LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per Cwt.
ARKANSAS—Continued	
Grant	3.38
Greene	3.49
Hempstead	3.37
Hot Spring	3.36
Howard	3.34
Independence	3.42
Izard	3.38
Jackson	3.47
Jefferson	3.43
Johnson	3.33
Lafayette	3.39
Lawrence	3.47
Lee	3.50
Lincoln	3.44
Little River	3.36
Logan	3.33
Lonoke	3.45
Madison	3.29
Marion	3.32
Miller	3.38
Mississippi	3.51
Monroe	3.49
Montgomery	3.33
Nevada	3.37
Newton	3.32
Ouachita	3.38
Perry	3.36
Phillips	3.50
Pike	3.35
Poinsett	3.50
Polk	3.33
Pope	3.35
Prairie	3.47
Pulaski	3.43
Randolph	3.46
St. Francis	3.50
Saline	3.37
Scott	3.33
Searcy	3.34
Sebastian	3.33
Sevier	3.34
Sharp	3.42
Stone	3.38
Union	3.39
Van Buren	3.39
Washington	3.29
White	3.45
Woodruff	3.48
Yell	3.35
Weighted Avg. for State	3.46
CALIFORNIA	
Alameda	3.88
Amador	3.85
Butte	3.75
Calaveras	3.85
Colusa	3.79
Contra Costa	3.86
El Dorado	3.84
Fresno	3.78
Glenn	3.76
Humboldt	3.50
Imperial	3.81
Inyo	3.57
Kern	3.82
Kings	3.77
Lake	3.69
Lassen	3.54
Los Angeles	3.86
Madera	3.81
Marin	3.82
Mariposa	3.81
Mendocino	3.61
Merced	3.82
Modoc	3.53
Monterey	3.73
Napa	3.80
Orange	3.86
Placer	3.79
Plumas	3.81
Riverside	3.81
Sacramento	3.88
San Benito	3.79
San Bernardino	3.84
San Diego	3.86
San Francisco	3.88
San Joaquin	3.86
San Luis Obispo	3.70
San Mateo	3.85

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1978 CROP SORGHUM LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

CALIFORNIA—Continued

County	Rate per Cwt.
Santa Barbara	3.73
Santa Clara	3.86
Santa Cruz	3.78
Shasta	3.56
Sierra	3.63
Siskiyou	3.52
Solano	3.85
Sonoma	3.81
Stanislaus	3.86
Sutter	3.79
Tehama	3.74
Tulare	3.76
Tuolumne	3.81
Ventura	3.83
Yolo	3.79
Yuba	3.78
Weighted Avg. for State	3.80

COLORADO

Baca	3.33
All Other	3.26
Weighted Avg. for State	3.28

DELAWARE

All Counties	3.42

FLORIDA

All Counties	3.37

GEORGIA

All Counties	3.42

IDAHO

All Counties	3.15

ILLINOIS

Alexander	3.42
Bond	3.34
Calhoun	3.30
Clay	3.34
Clinton	3.36
Edwards	3.36
Franklin	3.37
Gallatin	3.36
Hamilton	3.38
Hardin	3.39
Jackson	3.39
Jefferson	3.36
Jersey	3.30
Johnson	3.40
Lawrence	3.32
Madison	3.36
Marion	3.35
Massac	3.41
Monroe	3.36
Perry	3.37
Pope	3.40
Pulaski	3.42
Randolph	3.37
Richland	3.33
Saint Clair	3.36
Saline	3.38
Union	3.41
Wabash	3.33
Washington	3.36
Wayne	3.36
White	3.36
Williamson	3.39
All Other Counties	3.24
Weighted Avg. for State	3.34

INDIANA

All Counties	3.29

IOWA

Adair	3.27
Adams	3.26
Appanoose	3.23
Audubon	3.25
Calhoun	3.20
Carroll	3.24
Cass	3.28
Clarke	3.24
Crawford	3.25
Decatur	3.25
Fremont	3.28
Greene	3.21
Guthrie	3.24
Harrison	3.27
Ida	3.22
Lucas	3.23
Madison	3.25
Marion	3.20
Mills	3.28
Monona	3.26

1978 CROP SORGHUM LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

IOWA—Continued

County	Rate per Cwt.
Monroe	3.21
Montgomery	3.28
Page	3.28
Pottawattamie	3.28
Ringgold	3.27
Sac	3.22
Shelby	3.26
Taylor	3.27
Union	3.25
Warren	3.23
Wayne	3.24
Woodbury	3.24
All Other Counties	3.18
Weighted Avg. for State	3.22

KANSAS

Allen	3.36
Anderson	3.37
Atchison	3.40
Barber	3.26
Barton	3.22
Bourbon	3.37
Brown	3.37
Butler	3.27
Chase	3.32
Chautauqua	3.31
Cherokee	3.35
Cheyenne	3.19
Clark	3.26
Clay	3.28
Cloud	3.27
Coffey	3.34
Comanche	3.26
Cowley	3.27
Crawford	3.36
Decatur	3.21
Dickinson	3.27
Doniphan	3.36
Douglas	3.38
Edwards	3.22
Elk	3.31
Ellis	3.22
Ellsworth	3.24
Finney	3.23
Ford	3.26
Franklin	3.39
Geary	3.31
Gove	3.22
Graham	3.22
Grant	3.23
Gray	3.25
Greeley	3.19
Greenwood	3.32
Hamilton	3.21
Harper	3.26
Harvey	3.26
Haskell	3.24
Hodgemen	3.24
Jackson	3.38
Jefferson	3.39
Jewell	3.25
Johnson	3.39
Kearny	3.21
Kingman	3.25
Kiowa	3.24
Labette	3.35
Lane	3.20
Leavenworth	3.40
Lincoln	3.25
Linn	3.39
Logan	3.20
Lyon	3.33
McPherson	3.26
Marion	3.27
Marshall	3.32
Meade	3.25
Miami	3.39
Mitchell	3.25
Montgomery	3.35
Morris	3.31
Morton	3.25
Nemaha	3.34
Neosho	3.36
Ness	3.21
Norton	3.22
Osage	3.35
Osborne	3.24
Ottawa	3.26
Pawnee	3.22
Phillips	3.23
Pottawatomie	3.34
Pratt	3.24

1978 CROP SORGHUM LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

KANSAS—Continued

County	Rate per Cwt.
Rawlins	3.20
Reno	3.24
Republic	3.27
Rice	2.24
Riley	3.32
Rooks	3.24
Rush	3.22
Russell	3.22
Saline	3.26
Scott	3.20
Sedgwick	3.26
Seward	3.25
Shawnee	3.37
Sheridan	3.22
Sherman	3.19
Smith	3.24
Stafford	3.22
Stanton	3.23
Stevens	3.25
Sumner	3.26
Thomas	3.20
Trego	3.22
Wabaunsee	3.34
Wallace	3.19
Washington	3.28
Wichita	3.20
Wilson	3.35
Woodson	3.34
Wyandotte	3.40
Weighted Avg. for State	3.28

KENTUCKY

All Counties	3.37

LOUISIANA

All Counties	3.39

MARYLAND

All Counties	3.42

MICHIGAN

All Counties	3.24

MINNESOTA

All Counties	3.19

MISSISSIPPI

All Counties	3.37

MISSOURI

Adair	3.23
Andrew	3.38
Atchison	3.28
Audrain	3.26
Barry	3.26
Barton	3.30
Bates	3.36
Benton	3.30
Bollinger	3.39
Boone	3.27
Buchanan	3.38
Butler	3.45
Caldwell	3.38
Callaway	3.26
Camden	3.29
Cape Girardeau	3.40
Carroll	3.37
Carter	3.39
Cass	3.38
Cedar	3.29
Chariton	3.33
Christian	3.27
Clark	3.18
Clay	3.40
Clinton	3.39
Cole	3.26
Cooper	3.30
Crawford	3.29
Dade	3.26
Dallas	3.29
Daviess	3.33
De Kalb	3.33
Dent	3.32
Douglas	3.32
Dunklin	3.48
Franklin	3.32
Gasconade	3.27
Gentry	3.29
Greene	3.26
Grundy	3.32
Harrison	3.28
Henry	3.34
Hickory	3.30
Holt	3.31
Howard	3.30

1978 CROP SORGHUM LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

MISSOURI—Continued

County	Rate per Cwt.
Howell	3.35
Iron	3.38
Jackson	3.40
Jasper	3.29
Jefferson	3.36
Johnson	3.36
Knox	3.22
Laclede	3.29
Lafayette	3.36
Lawrence	3.26
Lewis	3.20
Lincoln	3.30
Linn	3.30
Livingston	3.36
McDonald	3.26
Macon	3.27
Madison	3.39
Marles	3.27
Marion	3.22
Mercer	3.26
Miller	3.28
Mississippi	3.41
Moniteau	3.26
Monroe	3.27
Montgomery	3.29
Morgan	3.30
New Madrid	3.44
Newton	3.26
Nodaway	3.31
Oregon	3.38
Osage	3.27
Ozark	3.33
Pemiscot	3.49
Perry	3.38
Pettis	3.30
Phelps	3.27
Pike	3.27
Platte	3.40
Polk	3.27
Pulaski	3.27
Putnam	3.26
Ralls	3.23
Randolph	3.28
Ray	3.40
Reynolds	3.34
Ripley	3.44
Saint Charles	3.32
Saint Clair	3.32
Saint Francois	3.36
Sainte Genevieve	3.37
Saint Louis	3.36
Saline	3.34
Schuyler	3.20
Scotland	3.18
Scott	3.40
Shannon	3.34
Shelby	3.24
Stoddard	3.42
Stone	3.27
Sullivan	3.26
Taney	3.29
Texas	3.29
Vernon	3.33
Warren	3.31
Washington	3.35
Wayne	3.42
Webster	3.26
Worth	3.29
Wright	3.28
Weighted Avg. for State	3.35

NEBRASKA

Antelope	3.24
Burt	3.27
Butler	3.27
Cass	3.28
Colfax	3.26
Cuming	3.26
Dodge	3.27
Douglas	3.28
Gage	3.28
Hall	3.23
Hamilton	3.24
Jefferson	3.25
Johnson	3.28
Lancaster	3.27
Madison	3.25
Merrick	3.23
Nemaha	3.29
Otoe	3.27
Pawnee	3.29
Pierce	3.25

1978 CROP SORGHUM LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

NEBRASKA—Continued

County	Rate per Cwt.
Platte	3.25
Polk	3.25
Richardson	3.31
Saline	3.27
Sarpy	3.28
Saunders	3.27
Seward	3.27
Stanton	3.28
Thayer	3.23
Thurston	3.26
Washington	3.28
York	3.26
All Other Counties	3.21
Weighted Avg. for State	3.25

NEVADA

All Counties	3.31

NEW MEXICO

Chaves	3.35
Curry	3.37
De Baca	3.34
Guadalupe	3.34
Harding	3.36
Hidalgo	3.40
Lea	3.37
Luna	3.40
Quay	3.37
Roosevelt	3.37
Union	3.33
All Other Counties	3.32
Weighted Avg. for State	3.37

NORTH CAROLINA

All Counties	3.42

NORTH DAKOTA

All Counties	3.14

OHIO

All Counties	3.29

OKLAHOMA

Adair	3.41
Alfalfa	3.38
Atoka	3.49
Beaver	3.34
Beckham	3.43
Blaine	3.44
Bryan	3.49
Caddo	3.46
Canadian	3.47
Carter	3.49
Cherokee	3.46
Choctaw	3.49
Cimarron	3.34
Cleveland	3.49
Coal	3.49
Comanche	3.48
Cotton	3.48
Craig	3.39
Creek	3.47
Custer	3.44
Delaware	3.41
Dewey	3.39
Ellis	3.38
Garfield	3.41
Garvin	3.49
Grady	3.49
Grant	3.38
Greer	3.44
Harmon	3.43
Harper	3.34
Haskell	3.47
Hughes	3.48
Jackson	3.44
Jefferson	3.49
Johnston	3.49
Kay	3.38
Kingfisher	3.44
Kiowa	3.47
Latimer	3.48
Le Flore	3.47
Lincoln	3.48
Logan	3.45
Love	3.49
McClain	3.49
McCurtain	3.47
McIntosh	3.47
Major	3.39
Marshall	3.50
Mayes	3.41
Murray	3.49
Muskogee	3.47

1978 CROP SORGHUM LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

OKLAHOMA—Continued

County	Rate per Cwt.
Noble	3.42
Nowata	3.39
Okfuskee	3.47
Oklahoma	3.48
Okmulgee	3.47
Osage	3.40
Ottawa	3.39
Pawnee	3.43
Payne	3.45
Pittsburg	3.48
Pontotoc	3.49
Pottawatomie	3.48
Pushmataha	3.49
Roger Mills	3.39
Rogers	3.41
Seminole	3.48
Sequoyah	3.46
Stephens	3.49
Texas	3.34
Tillman	3.44
Tulsa	3.46
Wagoner	3.45
Washington	3.38
Washita	3.46
Woods	3.38
Woodward	3.38
Weighted Avg. for State	3.40

OREGON

All Counties	3.30

PENNSYLVANIA

All Counties	3.42

SOUTH CAROLINA

All Counties	3.42

SOUTH DAKOTA

Bon Homme	3.23
Clay	3.25
Hutchinson	3.22
Lincoln	3.24
Turner	3.22
Union	3.25
Yankton	3.25
All Other Counties	3.21
Weighted Avg. for State	3.21

TENNESSEE

Shelby	3.49
All Other Counties	3.37

TEXAS

Anderson	3.56
Andrews	3.35
Angelina	3.61
Aransas	3.69
Archer	3.45
Armstrong	3.38
Atascosa	3.61
Austin	3.66
Bailey	3.37
Bandera	3.57
Bastrop	3.56
Baylor	3.45
Bee	3.68
Bell	3.53
Bexar	3.56
Blanco	3.57
Borden	3.37
Bosque	3.49
Bowie	3.46
Brazoria	3.69
Brazos	3.60
Brewster	3.28
Briscoe	3.39
Brooks	3.67
Brown	3.47
Burleson	3.58
Burnet	3.56
Caldwell	3.57
Calhoun	3.65
Callahan	3.45
Cameron	3.73
Camp	3.47
Carson	3.38
Cass	3.46
Castro	3.37
Chambers	3.73
Cherokee	3.53
Childress	3.43
Clay	3.47
Cochran	3.37
Coke	3.43

1978 CROP SORGHUM LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued
TEXAS—Continued

County	Rate per Cwt.
Coleman	3.46
Collin	3.49
Collingsworth	3.42
Colorado	3.63
Comal	3.56
Comanche	3.49
Concho	3.47
Cooke	3.49
Coryell	3.50
Cottle	3.43
Crane	3.35
Crockett	3.33
Crosby	3.40
Culberson	3.28
Dallam	3.33
Dallas	3.49
Dawson	3.37
Deaf Smith	3.37
Delta	3.48
Denton	3.49
DeWitt	3.62
Dickens	3.43
Dimmit	3.50
Donley	3.38
Duval	3.64
Eastland	3.48
Ector	3.34
Edwards	3.47
Ellis	3.49
El Paso	3.28
Erath	3.49
Falls	3.55
Fannin	3.49
Fayette	3.58
Fisher	3.43
Floyd	3.39
Foard	3.43
Fort Bend	3.69
Franklin	3.47
Freestone	3.54
Frio	3.52
Gaines	3.37
Galveston	3.73
Garza	3.39
Gillespsie	3.55
Glasscock	3.37
Goliad	3.68
Gonzales	3.58
Gray	3.38
Grayson	3.50
Gregg	3.46
Grimes	3.65
Guadalupe	3.56
Hale	3.37
Hall	3.41
Hamilton	3.49
Hansford	3.33
Hardeman	3.43
Hardin	3.73
Harris	3.73
Harrison	3.47
Hartley	3.33
Haskell	3.45
Hays	3.56
Hemphill	3.36
Henderson	3.52
Hidalgo	3.70
Hill	3.50
Hockley	3.37
Hood	3.49
Hopkins	3.48
Houston	3.61
Howard	3.37
Hudspeth	3.29
Hunt	3.49
Hutchinson	3.33
Irion	3.39
Jack	3.49
Jackson	3.61
Jasper	3.63
Jeff Davis	3.29
Jefferson	3.73
Jim Hogg	3.64
Jim Wells	3.70
Johnson	3.49
Jones	3.45
Karnes	3.66
Kaufman	3.49
Kendall	3.57
Kenedy	3.67
Kent	3.43
Kerr	3.56
Kimble	3.51
King	3.43
Kinney	3.49
Kleberg	3.70
Knox	3.45
Lamar	3.48
Lamb	3.37
Lampasas	3.51
La Salle	3.53
Lavaca	3.59
Lee	3.58
Leon	3.56
Liberty	3.69
Limestone	3.54
Lipscomb	3.33
Live Oak	3.66
Llano	3.53
Loving	3.34
Lubbock	3.37
Lynn	3.37
McCulloch	3.47
McLennan	3.53
McMullen	3.57
Madison	3.60
Marion	3.47
Martin	3.37
Mason	3.51
Matagorda	3.67
Maverick	3.43
Medina	3.55
Menard	3.47
Midland	3.36
Milam	3.57
Mills	3.49
Mitchell	3.40
Montague	3.49
Montgomery	3.70
Moore	3.33
Morris	3.47
Motley	3.41
Nacogdoches	3.54
Navarro	3.53
Newton	3.63
Nolan	3.43
Nueces	3.73
Ochiltree	3.33
Oldham	3.37
Orange	3.69
Palo Pinto	3.49
Panola	3.53
Parker	3.49
Parmer	3.37
Pecos	3.33
Polk	3.66
Potter	3.37
Presidio	3.28
Rains	3.48
Randall	3.37
Reagan	3.36
Real	3.54
Red River	3.47
Reeves	3.35
Refugio	3.70
Roberts	3.34
Robertson	3.56
Rockwall	3.49
Runnels	3.44
Rusk	3.50
Sabine	3.58
San Augustine	3.58
San Jacinto	3.64
San Patricio	3.73
San Saba	3.48
Schleicher	3.40
Scurry	3.40
Shackelford	3.46
Shelby	3.54
Sherman	3.32
Smith	3.50
Somervell	3.49
Starr	3.65
Stephens	3.48
Sterling	3.39
Stonewall	3.45
Sutton	3.45
Swisher	3.37
Tarrant	3.49
Taylor	3.45
Terrell	3.33
Terry	3.37
Throckmorton	3.46
Titus	3.47
Tom Green	3.43
Travis	3.56
Trinity	3.62
Tyler	3.63
Upshur	3.47
Upton	3.34
Uvalde	3.54
Val Verde	3.44
Van Zandt	3.48
Victoria	3.65
Walker	3.65
Waller	3.67
Ward	3.35
Washington	3.66
Webb	3.51
Wharton	3.65
Wheeler	3.39
Wichita	3.44
Wilbarger	3.44
Willacy	3.73
Williamson	3.56
Wilson	3.61
Winkler	3.34
Wise	3.49
Wood	3.48
Yoakum	3.37
Young	3.48
Zapata	3.63
Zavala	3.48
Weighted Avg. for State	3.51
UTAH	
All Counties	3.28
VIRGINIA	
All Counties	3.42
WASHINGTON	
All Counties	3.30
WISCONSIN	
All Counties	3.19
WYOMING	
All Counties	3.20

(b) *Discounts.* The basic loan and purchase rates shall be adjusted as applicable by discounts as follows:

	Cents per bushel
1. Discounts apply per hundredweight-test, weight, in pounds:	
(i) 52.9 to 52.0	−1
(ii) 51.9 to 51.0	−2
2. Total damaged kernels, percent:	
(i) 5.1 to 6.0	−2
(ii) 6.1 to 7.0	−4
(iii) 7.1 to 8.0	−6
(iv) 8.1 to 9.0	−8
(v) 9.1 to 10.0	−10
(vi) 10.1 to 11.0	−12
(vii) 11.1 to 12.0	−14
(viii) 12.1 to 13.0	−16
(ix) 13.1 to 14.0	−18
(x) 14.1 to 15.0	−20
3. Heat damaged kernels, percent:	
(i) 0.51 to 1.00	−2
(ii) 1.01 to 2.00	−6
(iii) 2.01 to 3.00	−10
4. Broken kernels, foreign material and other grains, percent:	
(i) 8.1 to 9.0	−2
(ii) 9.1 to 10.0	−4
(iii) 10.1 to 11.0	−6
(iv) 11.1 to 12.0	−8
(v) 12.1 to 13.0	−10
(vi) 13.1 to 14.0	−12
(vii) 14.1 to 15.0	−14
5. Weed control law (where required by law § 421.24)	−15

(c) *Other.* Sorghum with quality factors exceeding limits shown in foregoing schedule or sorghum that (1) contains in excess of 14 percent moisture, (2) is weevily, (3) is musty, (4) sour, shall not be eligible for loan. In the event quantities of sorghum exceeding limits shown are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity Office for settlement purposes. Such discounts will be established not later than the time delivery of sorghum to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

Signed at Washington, D.C., on January 9, 1979.

STEWART N. SMITH,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-1645 Filed 1-17-79; 8:45 am]

[3410-05-M]

[CCC Grain Price Support Regulations, 1978 Crop Soybean Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1978 Crop Soybean Loan and Purchase Program

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the: (1) Final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates and premiums and discounts under which Commodity Credit Corporation (CCC) will extend price support on 1978-crop soybeans. This rule is needed in order to provide a price support program for soybeans. This rule will enable eligible soybean producers to obtain loans and purchases on their eligible 1978-crop soybeans.

EFFECTIVE DATE: January 18, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3732 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Merle Strawderman, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on December 21, 1977, 42 FR 56751, stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1978 crop of feed grains including soybeans. Such determinations included determining loan and purchase rates and other related program provisions. Forty-one responses were received: 23 recommendations pertained to loan rates, and 18 dealt with target prices. It has been determined that loan and purchase rates for 1978 crop soybeans on a national average will be $4.50 per bushel. The final availability date for purchases will be changed to May 31, 1979, the same as for loans.

Producers who wish to secure loans can do so by contacting their local Agricultural Stabilization and Conservation Service Office or Agricultural Service Center.

FINAL RULE

The General Regulations Governing Price Support for 1978 and Subsequent Crops, and any amendments thereto and the 1978 and Subsequent Crops Soybean Loan and Purchase Regulations, and any amendments thereto in this Part 1421 are further supplemented for the 1978 crop of soybeans. Accordingly, the regulations in 7 CFR § 1421.390 through § 1421.392 and the title of the subpart are revised to read as provided below, effective as to the 1978 crop of soybeans. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1978 Crop Soybean Loan and Purchase Program

Sec.
1421.390 Availability.
1421.391 Maturity of loans.
1421.392 Warehouse charges.
1421.393 Loans and purchase rates, premiums and discounts.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); secs. 201, 401, 63 Stat. 1051, as amended (7 U.S.C. 1446, 1421).

§ 1421.390 Availability.

(a) *Loans.* Producers desiring to participate in the program through loans must request a loan on their 1978 crop of eligible soybeans on or before May 31, 1979.

(b) *Purchasers.* A producer desiring to offer eligible 1978 crop soybeans not under loan for purchase must execute and deliver to the county ASCS office on or before May 31, 1979, a Purchase Agreement (Form CCC-614) indicating the approximate quantity of 1978 crop soybeans he will sell to CCC.

§ 1421.391 Maturity of loans.

Loans mature on demand but not later than the last day of the ninth calendar month following the month the loan is disbursed.

§ 1421.392 Warehouse charges.

If storage is not provided for through loan maturity, the county office shall deduct storage charges at the daily storage rate for the storing warehouse times the number of days from the date the commodity was received or date through which storage has been provided for to the maturity date.

§ 1421.393 Loans and purchase rates, premiums and discounts.

County basic loan and purchase rates for soybeans and the schedule of premiums and discounts are contained in this section. Farm stored loans will be made at the basic rate for the county where the soybeans are stored, adjusted only for the weed control discount where applicable. The rate for warehouse stored loans shall be the basic rate for the county where the soybeans are stored, adjusted by the premiums and discounts prescribed in paragraph (b) and (c) of this section. Notwithstanding § 1421.22(c), settlement for soybeans delivered from other than approved warehouse storage, shall be based (1) on the basic rate for the county in which the producer's customary delivery point is located, and (2) on the quality and quantity of the soybeans delivered as shown on the warehouse receipts and accompanying documents issued by an approved warehouse to which delivery is made, or if applicable, the quality and quantity delivered as shown on a form prescribed by CCC for this purpose.

(a) *Basic county rates.* Basic county rates for the classes Green or Yellow Soybeans containing 12.8 to 13 percent moisture and grading not lower than U.S. No. 2 on the factors of test weight, splits, and heat damage and U.S. No.1 on all other factors are as follows:

1978 CROP SOYBEAN LOAN AND PURCHASE PROGRAM SUPPLEMENT

1978 Crop Soybeans

County	Rate per bushel
ALABAMA	
All Counties	$4.47
ARIZONA	
All Counties	4.36
ARKANSAS	
Arkansas	4.54
Ashley	4.53
Baxter	4.49
Benton	4.43
Boone	4.46
Bradley	4.53
Calhoun	4.51
Carroll	4.45
Chicot	4.53
Clark	4.49
Clay	4.53
Cleburne	4.50
Cleveland	4.53
Columbia	4.49
Conway	4.50
Craighead	4.52

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1978 CROP SOYBEAN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per bushel
Crawford	4.46
Crittenden	4.54
Cross	4.54
Dallas	4.51
Desha	4.53
Drew	4.53
Faulkner	4.51
Franklin	4.47
Fulton	4.50
Garland	4.49
Grant	4.51
Greene	4.53
Hempstead	4.46
Hot Spring	4.50
Howard	4.45
Independence	4.50
Izard	4.50
Jackson	4.52
Jefferson	4.52
Johnson	4.48
Lafayette	4.46
Lawrence	4.52
Lee	4.54
Lincoln	4.53
Little River	4.46
Logan	4.47
Lonoke	4.53
Madison	4.45
Marion	4.48
Miller	4.46
Mississippi	4.54
Monroe	4.54
Montgomery	4.46
Nevada	4.48
Newton	4.46
Ouachita	4.50
Perry	4.50
Phillips	4.54
Pike	4.46
Poinsett	4.52
Polk	4.46
Pope	4.49
Prairie	4.54
Pulaski	4.51
Randolph	4.52
St. Francis	4.54
Saline	4.50
Scott	4.46
Searcy	4.48
Sebastian	4.46
Sevier	4.45
Sharp	4.52
Stone	4.50
Union	4.51
Van Buren	4.49
Washington	4.44
White	4.51
Woodruff	4.54
Yell	4.48
CALIFORNIA	
All Counties	4.36
COLORADO	
All Counties	4.49
DELAWARE	
All Counties	4.47
FLORIDA	
All Counties	4.47
GEORGIA	
All Counties	4.47
ILLINOIS	
Adams	4.55
Alexander	4.55
Bond	4.57
Boone	4.54
Brown	4.56
Bureau	4.54
Calhoun	4.55
Carroll	4.52
Cass	4.57
Champaign	4.58
Christian	4.58
Clark	4.57
Clay	4.56
Clinton	4.55
Coles	4.57
Cook	4.58
Crawford	4.56
Cumberland	4.57
De Kalb	4.56
De Witt	4.58
Douglas	4.57
Du Page	4.58
Edgar	4.57
Edwards	4.51
Effingham	4.57
Fayette	4.57
Ford	4.58
Franklin	4.51
Fulton	4.56
Gallatin	4.50
Greene	4.56
Grundy	4.58
Hamilton	4.51
Hancock	4.55
Hardin	4.50
Henderson	4.54
Henry	4.54
Iroquois	4.58
Jackson	4.55
Jasper	4.57
Jefferson	4.52
Jersey	4.55
Jo Daviess	4.52
Johnson	4.53
Kane	4.57
Kankakee	4.58
Kendall	4.57
Knox	4.56
Lake	4.57
LaSalle	4.56
Lawrence	4.54
Lee	4.54
Livingston	4.58
Logan	4.58
McDonough	4.58
McHenry	4.55
McLean	4.58
Macon	4.58
Macoupin	4.57
Madison	4.56
Marion	4.56
Marshall	4.58
Mason	4.57
Massac	4.49
Menard	4.57
Mercer	4.53
Monroe	4.55
Montgomery	4.57
Morgan	4.57
Moultrie	4.57
Ogle	4.54
Peoria	4.57
Perry	4.54
Piatt	4.58
Pike	4.55
Pope	4.50
Pulaski	4.53
Putnam	4.54
Randolph	4.55
Richland	4.55
Rock Island	4.52
St. Clair	4.55
Saline	4.55
Sangamon	4.58
Schuyler	4.58
Scott	4.57
Shelby	4.57
Stark	4.57
Stephenson	4.52
Tazewell	4.58
Union	4.55
Vermilion	4.58
Wabash	4.51
Warren	4.56
Washington	4.55
Wayne	4.52
White	4.50
Whiteside	4.52
Will	4.58
Williamson	4.53
Winnebago	4.53
Woodford	4.58
INDIANA	
Adams	4.52
Allen	4.52
Bartholomew	4.52
Benton	4.57
Blackford	4.52
Boone	4.53
Brown	4.52
Carroll	4.53
Cass	4.53
Clark	4.52
Clay	4.54
Clinton	4.53
Crawford	4.53
Daviess	4.52
Dearborn	4.52
Decatur	4.52
De Kalb	4.52
Delaware	4.52
Dubois	4.52
Elkhart	4.52
Fayette	4.52
Floyd	4.52
Fountain	4.57
Franklin	4.52
Fulton	4.53
Gibson	4.52
Grant	4.52
Greene	4.53
Hamilton	4.53
Hancock	4.52
Harrison	4.53
Hendricks	4.52
Henry	4.52
Howard	4.53
Huntington	4.52
Jackson	4.52
Jasper	4.56
Jay	4.52
Jefferson	4.52
Jennings	4.52
Johnson	4.52
Knox	4.52
Kosciusko	4.52
Lagrange	4.52
Lake	4.58
La Porte	4.55
Lawrence	4.52
Madison	4.52
Marion	4.53
Marshall	4.53
Martin	4.52
Miami	4.53
Monroe	4.52
Montgomery	4.54
Morgan	4.52
Newton	4.57
Noble	4.52
Ohio	4.52
Orange	4.52
Owen	4.53
Parke	4.55
Perry	4.53
Pike	4.52
Porter	4.57
Posey	4.53
Pulaski	4.55
Putnam	4.54
Randolph	4.52
Ripley	4.52
Rush	4.52
St. Joseph	4.53
Scott	4.52
Shelby	4.52
Spencer	4.53
Starke	4.55
Steuben	4.52
Sullivan	4.54
Switzerland	4.52
Tippecanoe	4.55
Tipton	4.53
Union	4.52
Vanderburgh	4.53
Vermillion	4.57
Vigo	4.58
Wabash	4.52
Warren	4.57
Warrick	4.53
Washington	4.52

1978 CROP SOYBEAN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per bushel
Wayne	4.52
Wells	4.52
White	4.55
Whitley	4.52
IOWA	
Adair	4.46
Adams	4.46
Allamakee	4.47
Appanoose	4.49
Audubon	4.45
Benton	4.50
Black Hawk	4.47
Boone	4.47
Bremer	4.46
Buchanan	4.48
Buena Vista	4.45
Butler	4.46
Calhoun	4.45
Carroll	4.45
Cass	4.46
Cedar	4.51
Cerro Gordo	4.46
Cherokee	4.45
Chickasaw	4.46
Clarke	4.48
Clay	4.45
Clayton	4.48
Clinton	4.52
Crawford	4.45
Dallas	4.47
Davis	4.51
Decatur	4.48
Delaware	4.48
Des Moines	4.54
Dickinson	4.45
Dubuque	4.49
Emmet	4.45
Fayette	4.47
Floyd	4.45
Franklin	4.47
Fremont	4.45
Greene	4.45
Grundy	4.48
Guthrie	4.45
Hamilton	4.47
Hancock	4.48
Hardin	4.48
Harrison	4.44
Henry	4.53
Howard	4.46
Humboldt	4.46
Ida	4.45
Iowa	4.50
Jackson	4.52
Jasper	4.49
Jefferson	4.52
Johnson	4.50
Jones	4.51
Keokuk	4.52
Kossuth	4.46
Lee	4.54
Linn	4.50
Louisa	4.53
Lucas	4.49
Lyon	4.44
Madison	4.47
Mahaska	4.51
Marion	4.49
Marshall	4.49
Mills	4.45
Mitchell	4.45
Monona	4.44
Monroe	4.49
Montgomery	4.45
Muscatine	4.52
O'Brien	4.45
Osceola	4.45
Page	4.45
Palo Alto	4.45
Plymouth	4.44
Pocahontas	4.45
Polk	4.48
Pottawattamie	4.45
Poweshiek	4.50
Ringgold	4.47
Sac	4.45
Scott	4.52
Shelby	4.45
Sioux	4.44
Story	4.48
Tama	4.50
Taylor	4.46
Union	4.47
Van Buren	4.53
Wapello	4.51
Warren	4.48
Washington	4.53
Wayne	4.49
Webster	4.47
Winnebago	4.46
Winneshiek	4.47
Woodbury	4.44
Worth	4.46
Wright	4.46
KANSAS	
All Counties	4.43
KENTUCKY	
All Counties	4.51
LOUISIANA	
All Counties	4.51
MARYLAND	
All Counties	4.47
MICHIGAN	
Allegan	4.44
Arenac	4.44
Barry	4.44
Bay	4.44
Berrien	4.49
Branch	4.48
Calhoun	4.46
Cass	4.49
Clinton	4.44
Eaton	4.45
Genesee	4.44
Gladwin	4.44
Gratiot	4.44
Hillsdale	4.49
Huron	4.44
Ingham	4.45
Ionia	4.44
Isabella	4.44
Jackson	4.47
Kalamazoo	4.46
Lapeer	4.44
Lenawee	4.49
Livingston	4.45
Macomb	4.45
Midland	4.44
Monroe	4.50
Montcalm	4.44
Oakland	4.45
Saginaw	4.44
Saint Clair	4.44
St. Joseph	4.48
Sanilac	4.44
Shiawassee	4.44
Tuscola	4.44
Van Buren	4.46
Washtenaw	4.47
Wayne	4.47
All Other Counties	4.43
MINNESOTA	
Aitkin	4.38
Anoka	4.45
Becker	4.39
Beltrami	4.38
Benton	4.42
Big Stone	4.42
Blue Earth	4.47
Brown	4.48
Carlton	4.39
Carver	4.47
Cass	4.38
Chippewa	4.44
Chisago	4.42
Clay	4.39
Clearwater	4.38
Cottonwood	4.43
Crow Wing	4.38
Dakota	4.47
Dodge	4.45
Douglas	4.41
Faribault	4.46
Fillmore	4.45
Freeborn	4.46
Goodhue	4.45
Grant	4.41
Hennepin	4.47
Houston	4.45
Hubbard	4.39
Isanti	4.42
Itasca	4.38
Jackson	4.43
Kanabec	4.40
Kandiyohi	4.43
Kittson	4.36
Koochiching	4.38
Lac Qui Parle	4.44
Lake of the Woods	4.37
Le Sueur	4.47
Lincoln	4.41
Lyon	4.42
McLeod	4.46
Mahnomen	4.38
Marshall	4.38
Martin	4.45
Meeker	4.44
Mille Lacs	4.40
Morrison	4.40
Mower	4.45
Murray	4.42
Nicollet	4.47
Nobles	4.43
Norman	4.38
Olmsted	4.45
Otter Tail	4.39
Pennington	4.37
Pine	4.40
Pipestone	4.41
Polk	4.37
Pope	4.42
Ramsey	4.47
Red Lake	4.37
Redwood	4.43
Renville	4.44
Rice	4.46
Rock	4.42
Roseau	4.36
Scott	4.47
Sherburne	4.45
Sibley	4.47
Stearns	4.42
Steele	4.46
Stevens	4.42
Swift	4.42
Todd	4.40
Traverse	4.41
Wabasha	4.45
Wadena	4.39
Waseca	4.46
Washington	4.45
Watonwan	4.46
Wilkin	4.39
Winona	4.45
Wright	4.45
Yellow Medicine	4.45
MISSISSIPPI	
All Counties	4.53
MISSOURI	
Adair	4.50
Andrew	4.46
Atchison	4.46
Audrain	4.52
Barry	4.45
Barton	4.45
Bates	4.45
Benton	4.46
Bollinger	4.54
Boone	4.49
Buchanan	4.46
Butler	4.52
Caldwell	4.46
Callaway	4.49
Camden	4.47
Cape Girardeau	4.54
Carroll	4.48
Carter	4.50
Cass	4.45
Cedar	4.44
Chariton	4.49
Christian	4.46

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1978 CROP SOYBEAN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per bushel
Clark	4.54
Clay	4.46
Clinton	4.46
Cole	4.48
Cooper	4.48
Crawford	4.50
Dade	4.45
Dallas	4.46
Daviess	4.46
De Kalb	4.46
Dent	4.50
Douglas	4.46
Dunklin	4.54
Franklin	4.52
Gasconade	4.50
Gentry	4.46
Greene	4.46
Grundy	4.48
Harrison	4.46
Henry	4.45
Hickory	4.46
Holt	4.46
Howard	4.48
Howell	4.48
Iron	4.52
Jackson	4.45
Jasper	4.45
Jefferson	4.54
Johnson	4.45
Knox	4.52
Laclede	4.48
Lafayette	4.45
Lawrence	4.45
Lewis	4.54
Lincoln	4.53
Linn	4.49
Livingston	4.48
McDonald	4.45
Macon	4.50
Madison	4.52
Maries	4.48
Marion	4.54
Mercer	4.48
Miller	4.47
Mississippi	4.54
Moniteau	4.48
Monroe	4.52
Montgomery	4.50
Morgan	4.47
New Madrid	4.54
Newton	4.45
Nodaway	4.46
Oregon	4.50
Osage	4.48
Ozark	4.47
Pemiscot	4.54
Perry	4.54
Pettis	4.47
Phelps	4.48
Pike	4.54
Platte	4.46
Polk	4.46
Pulaski	4.47
Putnam	4.49
Ralls	4.54
Randolph	4.50
Ray	4.46
Reynolds	4.50
Ripley	4.50
Saint Charles	4.53
Saint Clair	4.45
Saint Francois	4.52
Sainte Genevieve	4.54
Saint Louis	4.54
Saline	4.47
Schuyler	4.50
Scotland	4.52
Scott	4.54
Shannon	4.50
Shelby	4.52
Stoddard	4.54
Stone	4.46
Sullivan	4.49
Taney	4.48
Texas	4.48
Vernon	4.44
Warren	4.51
Washington	4.52
Wayne	4.52

1978 CROP SOYBEAN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per bushel
Webster	4.46
Worth	4.48
Wright	4.46
MONTANA	
All Counties	4.36
NEBRASKA	
All Counties	4.41
NEW JERSEY	
All Counties	4.45
NEW MEXICO	
All Counties	4.36
NEW YORK	
All Counties	4.37
NORTH CAROLINA	
All Counties	4.47
NORTH DAKOTA	
All Counties	4.36
OHIO	
Adams	4.52
Allen	4.53
Ashland	4.52
Ashtabula	4.50
Athens	4.52
Auglaize	4.53
Belmont	4.52
Brown	4.52
Butler	4.52
Carroll	4.50
Champaign	4.52
Clark	4.51
Clermont	4.52
Clinton	4.52
Columbiana	4.50
Coshocton	4.50
Crawford	4.52
Cuyahoga	4.50
Darke	4.51
Defiance	4.52
Delaware	4.51
Erie	4.52
Fairfield	4.52
Fayette	4.52
Franklin	4.51
Fulton	4.54
Gallia	4.52
Geauga	4.50
Greene	4.51
Guernsey	4.52
Hamilton	4.52
Hancock	4.53
Hardin	4.54
Harrison	4.50
Henry	4.54
Highland	4.52
Hocking	4.52
Holmes	4.50
Huron	4.52
Jackson	4.52
Jefferson	4.50
Knox	4.50
Lake	4.50
Lawrence	4.52
Licking	4.50
Logan	4.53
Lorain	4.52
Lucas	4.55
Madison	4.51
Mahoning	4.50
Marion	4.53
Medina	4.52
Meigs	4.52
Mercer	4.52
Miami	4.51
Monroe	4.52
Montgomery	4.51
Morgan	4.52
Morrow	4.52
Muskingum	4.52
Noble	4.52
Ottawa	4.53
Paulding	4.52
Perry	4.52
Pickaway	4.52
Pike	4.52

1978 CROP SOYBEAN LOAN AND PURCHASE PROGRAM SUPPLEMENT—Continued

County	Rate per bushel
Portage	4.50
Preble	4.51
Putnam	4.53
Richland	4.52
Ross	4.52
Sandusky	4.53
Scioto	4.52
Seneca	4.53
Shelby	4.52
Stark	4.50
Summit	4.50
Trumbull	4.50
Tuscarawas	4.50
Union	4.51
Van Wert	4.52
Vinton	4.52
Warren	4.52
Washington	4.52
Wayne	4.50
Williams	4.52
Wood	4.54
Wyandot	4.53
OKLAHOMA	
All Counties	4.39
PENNSYLVANIA	
All Counties	4.43
SOUTH CAROLINA	
All Counties	4.47
SOUTH DAKOTA	
All Counties	4.39
TENNESSEE	
All Counties	4.47
TEXAS	
All Counties	4.39
VERMONT	
All Counties	4.36
VIRGINIA	
All Counties	4.47
WEST VIRGINIA	
All Counties	4.45
WISCONSIN	
All Counties	4.43

(b) *Premiums and discounts.* The basic loan and purchase rates shall be adjusted as applicable by premiums and discounts as follows (all footnotes at end of paragraph):

	Cents per bushel
1. Premiums—Moisture (percent):	
12.2 or less	+7.0
12.3 through 12.7	+3.5
2. Discounts:	
(a) Class:	
Black	−25
Brown	−25
Mixed	−25
(b) Mositure:	
13.1 through 13.5	−3.5
13.6 through 14.0	−7.0
(c) Test weight per bushel (pounds):	
53.9 to 53.0	−0.5
52.9 to 52.0	−1.0
51.9 to 51.0	−1.5
50.9 to 50.0	−2.0
49.9 to 49.0	−2.5
(d) Splits:	
20.1 to 25.0	−0.25
25.1 to 30.0	−0.50
30.1 to 35.0	−0.75
35.1 to 40.0	−1.00
(e) Damaged kernels:	
(1) Heat damage (percent):	
0.6 to 1.0	−1.0
1.1 to 1.5	−2.0
1.6 to 2.0	−3.0
2.1 to 2.5	−4.0
2.6 to 3.0	−5.0
(2) Total damage:	
2.1 to 3.0	−1.0
3.1 to 4.0	−2.0
4.1 to 5.0	−3.0
5.1 to 6.0	−5.0
6.1 to 7.0	−7.0
7.1 to 8.0	−9.0
(f) Black, brown, and/or bicolored soybeans in yellow or green soybeans:	
1.1 to 2.0	−0.5
2.1 to 5.0	−1.5
5.1 to 10.0	−3.5
(g) Special factors:	
(1) Materially weathered	−5.0
(2) Stained	−2.0
(3) Purple mottled	−2.0
(4) Weed control laws (where required by § 1421.25	−10

(c) *Other.* Soybeans with quality factors exceeding limits shown in foregoing schedules or soybeans that (1) contain in excess of 14 percent moisture, (2) is weevily, (3) is musty, (4) sour, shall not be eligible for loan. In the event quantities of soybeans exceeding limits shown are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity Office for settlement purposes. Such discounts will be established not later than the time delivery of soybeans to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Procedures may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

Signed at Washington, D.C., on January 9, 1979.

STEWART N. SMITH,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79—1644 Filed 1-17-79; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 17939; Amdt. 39-3396]

PART 39—AIRWORTHINESS DIRECTIVES

Agusta Model A109 and A109A Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that would require inspections and replacement of the tail rotor drive shaft hanger bearing support bracket on Costruzioni Aeronautiche Giovanni Agusta Model A109 and A109A helicopters. The AD is needed because the affected bracket is subject to cracking which could result in the failure of the tail rotor.

DATES: Effective February 19, 1979. Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable service bulletin may be obtained from: Costruzioni Aeronautiche Giovanni Agusta, Cascina Costa (Gallarate), Italy. A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30. Chris Christie, AFS-110, Engineering & Mfg. Div., FAA, telephone 202-426-8374.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspections and replacement of the tail rotor drive shaft hanger bearing support bracket on certain Costruzioni Aeronautiche Giovanni Agusta Model A109 and A109A helicopters was published in the FEDERAL REGISTER at 43 FR 24850; June 8, 1978.

The proposal was prompted by an FAA determination that the tail rotor drive shaft hanger bearing support bracket, P/N 109-0370-02-1, on Agusta Models A-109 and A-109A helicopters is subject to cracking which could result in failure of the tail rotor.

Interested persons have been afforded an opportunity to participate in the making of the amendment. One comment was received, and disagreed with the necessity for issuing an airworthiness directive on the basis that none of the affected helicopters was on the U.S. Registry, and that voluntary compliance would be shown for all other affected helicopters. However, voluntary compliance with a manufacturer's service bulletin does not relieve the FAA from taking Airworthiness Directive action as appropriate.

The amendment therefore is adopted as proposed with the exception of minor clarifying changes.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

COSTRUZIONI AERONAUTICHE GIOVANNI AGUSTA. Applies to Model A109 and A109A helicopters, serial numbers 7109 and below, certificated in all categories, incorporating tail rotor drive shaft hanger bearing support bracket P/N 109-0370-02-1.

Compliance is required as indicated, unless already accomplished.

To prevent a possible tail rotor failure, accomplish the following:

(a) Within the next 10 hours time in service after the effective date of this AD, and thereafter following the last flight of each day in which the helicopter is operated, inspect the tail rotor drive shaft hanger bearing support bracket, P/N 109-0370-02-1, for cracks in accordance with Part I of the "Accomplishment" paragraph of Agusta Bollettino Tecnico No. 109-2, dated April 14, 1976, including Rev. A dated May 11, 1976, or an FAA-approved equivalent. (Hereinafter referred to as Service Bulletin.)

(b) If a crack is found during an inspection required by this AD, before further flight, except as provided in paragraph (d) of this AD, replace the affected bracket with—

(1) A serviceable bracket of the same part number, and continue to inspect in accordance with paragraph (a) of this AD after the last flight of each day in which the helicopter is operated; or,

(2) A new support bracket, P/N 109-0370-12-1, in accordance with Part II of the "Accomplishment" paragraph of the Service Bulletin.

(c) Within the next 100 hours time in service after the effective date of this AD, replace support bracket, P/N 109-0370-02-1 with a new bracket, P/N 109-0370-12-1, in accordance with Part II of the "Accomplishment" paragraph of the Service Bulletin. The repetitive inspections required by paragraphs (a) and (b)(1) of this AD may be discontinued upon the installation of a support bracket, P/N 109-0370-12-1, in accordance with this AD.

(d) Helicopters may be flown in accordance with FAR's 21.197 and 21.199 to a base where the required work can be performed.

This amendment becomes effective February 19, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in Washington, D.C., on January 8, 1979.

J. A. FERRARESE,
Acting Director, Flight Standards Service.

[FR Doc. 79-1729 Filed 1-17-79; 8:45 am]

[4910-13-M]

[Docket No. 17526; Amdt. 39-3399]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Aviation, Ltd. (British Aerospace) Model DH-104 Dove Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

V 4 4 / 1 3 J A 1 8 7 9 UMI

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections of the center section main spar top boom and replacement of the boom as necessary on Hawker Siddeley Aviation, Limited Model DH-104 "Dove" airplanes. The AD is needed to detect cracks in the lugs at each end of the boom which could result in separation of the wing in flight.

DATES: Effective February 19, 1979. Compliance schedule—as prescribed in body of AD.

ADDRESSES: The applicable technical news sheet may be obtained from: Hawker Siddeley Aviation, Limited, Hatfield Hertfordshire, England, Product Support Department. Telephone: Hatfield 62345. A copy of the technical news sheet is contained in the Rules Docket, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium. Telephone: 513.38.30. Chris Christie, FAA, Eng. & Mfg. Div., AFS-110, Washington, D.C. Telephone: 202-426-8374.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring repetitive inspection and replacement as necessary of the center lug of the three lugs located at each end of the center section main spar top boom on Hawker Siddeley Aviation, Limited Model DH-104 Dove airplanes was published in the FEDERAL REGISTER at 43 FR 974. The proposal was prompted by reports of cracks in the center section main spar boom which affect the structural integrity of the wing to fuselage attachment and could result in separation of the wing in flight on Hawker Siddeley Limited Model DH-114 Heron airplanes. The cracks are believed to be caused by stress corrosion and an airworthiness directive (AD 76-16-03), Amendment 39-2689, has been issued to correct this problem. Since the corresponding lug arrangement on the DH-104 Dove airplane is almost identical in configuration and of the same material as the Heron, it is likely that similar cracking exists or will develop on these airplanes.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. However, upon further review the FAA has determined that certain clarifications are needed (1) to define more explicitly the meaning of a serviceable used boom that can be used as a replacement; (2) to point out that in paragraph (b) the inspection in accordance with Appendix 2 requires use of the dye penetrant method as well as the ultrasonic method; (3) to eliminate an ambiguity in the repetitive inspection schedule set forth in paragraph (b)(1); and (4) to define more accurately the cracking covered by paragraph (d) to make clear that that paragraph applies to cracking which is other than literally horizontal. In addition, the applicability statement has been corrected to show that this AD does not apply to those airplanes which have been modified in accordance with STC SA1747WE. Other minor editorial changes have also been made.

In addition, the FAA has determined that it is necessary to revise the repetitive inspection schedule for replacement booms to be more consistent with the inspection schedules for those booms which are currently in service and to point out that replacement of the boom is required when cracking is found which runs from the bolt hole in an inboard direction only.

Accordingly, with the exception of paragraph (e), the amendment is adopted as proposed with the clarifications noted above. Revised paragraph (e) is also adopted and since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure thereon are impracticable.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

HAWKER SIDDELEY AVIATION, LIMITED (British Aerospace). Applies to DH-104 "Dove" airplanes, all series, certificated in all categories, except those airplanes modified in accordance with STC SA1747WE.

Compliance required as indicated.

To prevent possible failure of the wing to fuselage attachment and loss of wing in flight, accomplish the following:

(a) Within the next 100 hours time in service after the effective date of this AD, unless already accomplished, remove the port and starboard wing root fairings and inspect the upper three lugs at each end of the center section main spar top boom, P/N 4FS.135 A/1, for cracks using an ultrasonic method of inspection in accordance with Appendix 1 of Hawker Siddeley Aviation, Ltd., Technical New Sheet TNS 237, dated September 9, 1976, (hereinafter referred to as the Technical News Sheet) or an FAA-approved equivalent.

NOTE.—This inspection can be conducted with the wing installed.

(b) If no cracks are found during the inspection required by paragraph (a) of this AD, repeat the inspection at intervals not to exceed 1200 flight hours or 2 calendar years, whichever occurs sooner, until the wings are removed for compliance with AD 72-16-07 at which time the area must be further inspected using the ultrasonic and dye penetrant methods in accordance with appendix 2 of the Technical News Sheet or an FAA-approved equivalent. Thereafter, if no cracking is found, continue to inspect the area as follows:

(1) In accordance with the method specified in paragraph (a) of this AD at an interval not to exceed 3 calendar years from each time the area is inspected in conjunction with the wing removal required by AD 72-16-07; and

(2) In accordance with the ultrasonic and dye penetrant methods specified in appendix 2 of the Technical News Sheet or an FAA-approved equivalent at each time the wings are removed for compliance with AD 72-16-07.

(c) If any cracks are found during any inspection required by this AD to be performed in accordance with the method specified in paragraph (a) of this AD, further inspect by ultrasonic and dye penetrant methods in accordance with Appendix 2 of the Technical News Sheet or an FAA-approved equivalent with the wing removed.

(d) If, during any inspection required by this AD, cracking of the lugs is found which is confined to only one of the lugs per side of the aircraft and exists only from the bolt hole towards the outboard end of the lug, the center section carry through boom may remain on the aircraft and continued flight is permitted provided the wing is removed at intervals not to exceed 300 flight hours, or 3 months, whichever is sooner, and the cracked lug is inspected for crack propagation and the remaining two lugs are inspected for cracking, all in accordance with Appendix 2 of the Technical News Sheet or an FAA-approved equivalent, until the boom is replaced with a new boom of the same part number or a used boom of the same part number determined after inspection in accordance with Appendix 2 of the Technical News Sheet to be crack-free.

(e) If, during any inspection required by this AD, cracking is found in more than one lug per side of the aircraft or the cracking of any one lug extends to both sides (inboard and outboard) of the bolt hole or runs from the bolt hole in an inboard direction only, before further flight, replace the carry through boom with a new boom of the same part number or a used boom of the same part number determined after inspection in accordance with Appendix 2 of the Technical News Sheet to be crack-free. Replacement booms must continue to be inspected in accordance with the following schedule:

(1) For used replacement booms, within 3 years from replacement, inspect the lug area in accordance with Appendix 1 of the Technical News Sheet or an FAA-approved equivalent except if any wing removal is required by AD-72-16-07 during that period, inspect in accordance with Appendix 2 of the Technical News Sheet or an FAA-approved equivalent concurrently with that wing removal. Thereafter inspect in accordance with the schedule and inspection methods specified in paragraphs (b)(1) and (b)(2) of this AD.

(2) For new replacement booms, inspect the lug area in accordance with Appendix 2 of the Technical News Sheet or an FAA-approved equivalent with the wing removed prior to accumulating 6 years in service and thereafter in accordance with the schedule and inspection methods specified in paragraphs (b)(1) and (b)(2) of this AD. However, if the first inspection required after replacement is not performed in conjunction with a wing removal required by AD 72-16-07, within the next 3 years after that inspection, inspect in accordance with Appendix 1 of the Technical News Sheet or an FAA-approved equivalent except if any wing removal is required by AD 72-16-07 during that period inspect in accordance with Appendix 2 of the Technical News Sheet or an FAA-approved equivalent concurrently with that wing removal and thereafter inspect in accordance with the schedule and inspection methods specified in paragraphs (b)(1) and (b)(2) of this AD.

This amendment becomes effective February 19, 1979.

(Secs. 313(a), 601, and 603 Federal Aviation Act of 1958, as amended. (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Issued in Washington, D.C. on January 10, 1979.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 79-1731 Filed 1-17-79; 8:45 am]

[4910-13-M]

[Docket No. 79-SO-2; Amendment 39-3394]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Models PA-28-161, PA-28R-201, and PA-28R-201T Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts an airworthiness directive which requires checking the fuel gascolator for proper installation on certain Piper PA-28-161, PA-28R-201, and PA-28R-201T airplanes. This amendment requires corrective action if a gascolator is found installed with the ports reversed. This amendment is necessary to insure that the fuel system is not contaminated and that the proper fuel flow is maintained to the engine.

DATES: Effective date: January 29, 1979. Compliance is required within the next 25 hours time in service after the effective date of this AD.

ADDRESSES: Piper Service Bulletin 612 may be obtained from Piper Aircraft Corporation, 820 East Bald Eagle Street, Lockhaven, Pennsylvania 17745. Copies of Piper Service Bulletin 612 are maintained in the AD Docket File and may be examined in Room 275, Federal Aviation Administration, Southern Region, 3400 Whipple Street, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT:

Gil Carter, ASO-214, Propulsion Section, Engineering and Manufacturing Branch, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7435.

SUPPLEMENTARY INFORMATION: There have been reports of improperly installed fuel gascolators which could result in fuel contamination, interrupted fuel flow, and engine power loss. Since this condition is likely to exist or develop in other airplanes of the same type design, this amendment is issued to insure that the fuel gascolator is installed properly.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

PIPER AIRCRAFT CORPORATION: Applies to Model PA-28-161, serial numbers 28-7816002 through 28-7816553, 28-7816554, 28-7816556 through 28-7816564, 28-7816566 through 28-7816597, 28-7816599 through 28-7816607, 28-7816609 through 28-7816634, 28-7816636 through 28-7816643; Model PA-28R-201T, serial numbers 28R-7803002 through 28R-7803294, 28R-7803296 through 28R-7803308, 28R-7803310, 28R-7803311, 28R-7803315, 28R-7803317 through 28R-7803321, 28R-7803323 through 28R-7803325; and Model PA-28R-201, serial numbers 28R-7837002 through 28R-7837232, 28R-7837234, 28R-7837236, 28R-7837238 through 28R-7837241, 28R-7837243 through 28R-7837245, 28R-7837248 through 28R-7837250, 28R-7837253 through 28R-7837257, 28R-7837260, 28R-7837262 through 28R-7837264, 28R-7837266 through 28R-7837270, 28R-7837272 through 28R-7837275, airplanes certificated in all categories.

Compliance is required within the next 25 hours time in service after the effective date of this AD unless already accomplished.

To prevent possible fuel flow interruption, accomplish the following:

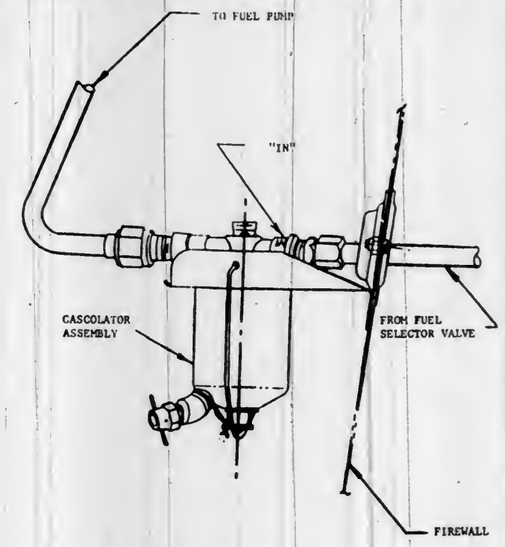
(a) Remove the top cowl or open the top left cowl as appropriate.

(b) Remove the lower cowl attaching hardware on left side only and pull lower cowl outward to gain visual access to the fuel gascolator assembly.

(c) Check the gascolator installation to determine if the gascolator is installed with the ports oriented as shown in the accompanying figure.

(d) If the gascolator is installed in accordance with the accompanying figure, secure the cowling and make the appropriate maintenance record entry.

(e) If the gascolator is not installed in accordance with the accompanying figure, have the following accomplished by a person authoized by FAR 43.3:



V 4 4 / 1 3 J A 1 8 7 9 UMI

(1) Remove lower cowling.
(2) Place the fuel selector valve in the "OFF" position.
(3) Cut safety wire on the gascolator bowl bail. Remove the filter bowl, gasket and screen from the gascolator. Clean any deposits that may be on the screen and/or the bowl.
(4) Carefully spread the bail wire where it enters the housing until the bail can be removed.
(5) Supporting the fittings in the gascolator housing with an open end wrench, remove the inlet and outlet "B" nuts. It will facilitate the removal and re-installation of the gascolator assembly if the fuel line is loosened at the electric fuel pump inlet.
(6) On the PA-28-161 only, disconnect the primer line directly on top of the gascolator housing.
(7) Remove the gascolator assembly from the attaching bracket and turn 180°, positioning as shown in the accompanying figure.
(8) If the line assembly does not reach the inlet fitting, remove the forward left hand upholstery panel and inspect for, and correct, improper bends.

Caution: Pulling the line into position with the "B" nut may cause damage to the flare.

(9) Re-assemble the gascolator assembly and tighten all fuel line connections.
(10) Turn on the aircraft power and the fuel boost pump and check for any fuel leaks. Correct any discrepancies found.
(11) Reinstall the cowling.
(12) Make the appropriate maintenance record entry.
(f) An alternate method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

The checks in this AD may be accomplished by the pilot and appropriate maintenance record entries made in accordance with FAR 91.173. Installation correction must be accomplished by a person authorized by FAR 43.3.

NOTE.—Piper Service Bulletin 612 dated October 25, 1978, also pertains to this subject.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).)

Issued in East Point, Georgia, on January 8, 1979.

GEORGE R. LA CAILLE,
Acting Director,
Southern Region.

[FR Doc. 79-1733 Filed 1-17-79; 8:45 am]

[4910-13-M]

[Airspace Docket No. 77-EA-90]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area: Suffolk, Va.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will designate a Suffolk, Va., Transition Area, over Suffolk Municipal Airport, Suffolk, Va. This designation will provide protection to aircraft executing the new instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: 0901 G.M.T. March 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: On page 64130 of the FEDERAL REGISTER for December 22, 1977, the FAA published an NPRM giving interested parties time in which to submit comments. No objections have been received.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.M.T. March 22, 1979, as published.

(Section 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Jamaica, New York, on December 28, 1978.

L. J. CARDINALI,
Acting Director,
Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Suffolk, Va. 700-foot Floor transition area as follows:

SUFFOLK, VA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, (36° 40' 53" N., 76° 36' 11" W.,) of Suffolk Municipal Airport, Suffolk, Va.; within 3 miles each side of a 249° bearing from the Suffolk RBN (36° 40' 49" N., 76° 36' 28" W.) extending from the 6.5-mile radius area to 8.5 miles west of the RBN.

[FR Doc. 79-1730 Filed 1-17-79; 8:45 am]

[6320-01-M]

CHAPTER II—CIVIL AERONAUTICS BOARD

[Amdt. No. 77]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Creation of Bureau of Pricing and Domestic Aviation; Correction

AGENCY: Civil Aeronautics Board.

ACTION: Correction in Final Rule.

SUMMARY: This is a correction of an error in the Board's delegation of authority reflecting the consolidation of the Bureau of Operating Rights and the Bureau of Fares and Rates into a new bureau, the Bureau of Pricing and Domestic Aviation.

DATES: Effective: December 14, 1978. Adopted: December 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428. 202-673-5442.

SUPPLEMENTARY INFORMATION: Several new paragraphs were added to 14 CFR 385.16 by OR-141, 44 FR 59831, December 22, 1978. The opening sentence of new paragraph (k)(3) of § 385.16 should read:

§ 385.16 Delegation to the Associate Director, Pricing, Bureau of Pricing and Domestic Aviation.

. . . . . .

(k) . . .

(3) Issue orders approving, disapproving, or approving subject to conditions, IATA agreements relating to fare and rate matters, with respect to the following:

Dated: January 15, 1979.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-1874 Filed 1-17-79; 8:45 am]

[3510-08-M]

Title 15—Commerce and Foreign Trade

CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 930—FEDERAL CONSISTENCY WITH APPROVED COASTAL ZONE MANAGEMENT PROGRAMS

Consistency for Outer Continental Shelf (OCS) Exploration, Development and Production Activities

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Amendments to rules.

SUMMARY: This rule amends existing regulations on consistency for Outer Continental Shelf (OCS) exploration, development, and production activities with approved State coastal management programs. These amendments are necessary to make these regulations conform with subsequently enacted law (Section 504 of the Outer Continental Shelf Lands Act Amendments of 1978—Pub. L. 95-372), and to resolve a procedural difference between these regulations and Department of the Interior regulations pertaining to the same general subject matter.

EFFECTIVE DATE: January 18, 1979.

FOR FURTHER INFORMATION CONTACT:

James P. Lawless, Assistant General Counsel, (202) 634-4239, or John O'Donnell, Office of Coastal Zone Management, (202) 634-4243, NOAA, Page Building 1, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235.

SUPPLEMENTARY INFORMATION: In volume 43 of the FEDERAL REGISTER of Monday, March 13, 1978, beginning at page 10510, the National Oceanic and Atmospheric Administration (NOAA) published final regulations for the Office of Coastal Zone Management (OCZM) pertaining to the Federal consistency provisions of the Coastal Zone Management Act of 1972, as amended (CZMA, sections 307(c)(1), 307(c)(2, 307(c)(3) (A) and (B) and 307(d)). Subpart E of these regulations, beginning at page 10526, addresses section 307(c)(3)(B) of the CZMA. This provision requires each activity described in detail in any plan submitted to the Secretary of the Interior for the exploration or development of, or production from, any area leased under the Outer Continental Shelf Lands Act to be conducted in a manner consistent with approved state coastal zone management programs.

In more detail—and prior to amendment—section 307(c)(3)(B) required that any person submitting such a plan must attach to it a certification that each activity described in detail in the plan complied with the state program and would be conducted in a manner consistent with it. The section went on to say, among other things, that the state coastal zone management agency had to decide at the earliest practicable time, whether it concurred with or objected to the certification and so notify the Secretaries of Interior and Commerce. Subsection (ii) of the provision said, in effect, that unless the state agency gave this notification within six months of that agency's receipt of copy of the certification, its concurrence was "conclusively presumed." These matters are treated in 15 CFR 930.70 and 930.78 of the March 13, 1978, regulations.

Section 504 of the 1978 amendments to the Outer Continental Shelf Lands Act amended subsection (ii) of section 307(c)(3)(B). Section 504 added the requirement that any state agency in receipt of the required consistency certification that had not submitted the required notification of concurrence or objection to the Secretary of Commerce, the appropriate federal agency and the person submitting the OCS plan within three months following receipt of the certification must submit to them a written statement "describing the status of review and the basis for further delay in issuing a final decision." Section 504 went on to provide that, if the state agency did not submit such a written statement, then its concurrence with the certification would be "conclusively presumed." Accordingly, it becomes necessary to amend the implementing regulations to reflect these amendments of the law.

On another subject, conflict has been found in terminology between the Department of the Interior regulations pertaining to the submission of OCS plans and the NOAA consistency regulations pertaining to this same subject. The DOI regulations (30 CFR 250.34) require the submission of such plans to the "USGS Area Supervisor." The NOAA regulations require any person submitting any OCS plan to the Secretary of the Interior to furnish the state agency a copy of the OCS plan. The procedural conflict is eliminated by directing any person submitting an OCS plan to furnish the necessary number of copies of a plan to the USGS Area Supervisor who in turn will distribute them to the appropriate parties. This change will provide one contact for the submission of OCS plans.

Also, to clarify the DOI contact for submission of plans, it has been agreed between DOI and NOAA that the NOAA regulations will be amended to substitute "USGS Area Supervisor" for "Secretary of the Interior" wherever the latter appears in the NOAA regulations.

Since the first amendment to the regulations described above is required by law, and since the second is not of a substantive nature, NOAA hereby finds for good cause, in accordance with 5 U.S.C. 553 (b) and (d), that notice of public procedures on such regulatory amendments is unnecessary and that a 30-day delay prior to the effective date of the amendments is unnecessary.

In consideration of the foregoing:

1. Delete so much of subparagraph (ii) under *Comment* as begins with "Concurrence" and ends with "subparagraph (A)" and substitute the following:

§ 930.70 Objectives [Amended]

. . . . . .

(ii) Concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except if such state fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such state shall provide the Secretary, the appropriate federal agency, and such person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if such statement is not so provided, concurrence by such state with such certification shall be conclusively presumed: . . .

. . . . . .

2. *15 CFR 930.79 (Amended).* Delete the entire section and substitute the following:

§ 930.79 State agency concurrence or objection.

(a) At the earliest practicable time, the State agency shall notify the person, the USGS Area Supervisor, and the Assistant Administrator of its

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concurrence with or objection to the consistency certification. State agencies should restrict the period of public notice, receipt of comments, hearing proceedings and final decision-making to the minimum time necessary to inform the public, obtain sufficient comment, and develop a reasonable decision on the matter. If the State agency has not issued a decision within three months following commencement of State agency review, it shall notify the person, the USGS Area Supervisor, and the Assistant Administrator of the status of review and the basis for further delay in issuing a final decision. Notice shall be in written form and postmarked no later than three months following the State agency's receipt of the certification and supporting information. Concurrence by the State agency shall be conclusively presumed if the notification required by this subparagraph is not provided.

(b) Concurrence by the State agency shall be conclusively presumed in the absence of a State agency objection to the consistency certification within six months following commencement of State agency review.

(c) If the State agency objects to one or more of the Federal license or permit activities described in detail in the OCS plan, it must provide a separate discussion for each objection in accordance with the directives within § 930.64 (b) and (d). The objection shall also include a statement informing the person of a right of appeal to the Secretary on the grounds described in Subpart H.

(*Comment:* Except for the requirements for State agencies to take certain actions within three months and to inform the USGS Area Supervisor of consistency decisions, the provisions in this section are comparable to those described in §§ 930.63-930.64).

3. The following sections in Subpart E of 15 CFR Part 930 are amended by the deletion of the phrase "Secretary of the Interior" wherever it appears and the substitution of the phrase "USGS Area Supervisor":

a. 930.71
b. 930.72
c. 930.73
d. 930.76
e. 930.79(a), as amended
f. 930.83
g. 930.86(c)
h. 930.86(d)

4. 15 CFR 930.76(b) is revised to read as follows:

§ 930.76 Submission of an OCS plan and consistency certification [Amended]

* * * * *

When satisfied that the proposed activities meet the Federal consistency requirements of this Subpart, provide the USGS Area Supervisor with a consistency certification, attached to the OCS plan, and the USGS Area Supervisor shall furnish the State agency a copy of the OCS plan (excluding proprietary information) and consistency certification.

* * * * *

Dated: January 10, 1979.

ROBERT L. CARNAHAN,
Acting Assistant Administrator for Administration.

[FR Doc. 79-1871 Filed 1-17-79; 8:45 am]

[1505-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

Commodity Pool Operators and Commodity Trading Advisors; Final Rules

Correction

In FR Doc. 79-638, appearing at page 1918, in the issue for Monday, January 8, 1978, make the following changes:

1. On page 1925, second column, in § 4.21 (a), third line, the comma following the word "Act" should be removed.

2. On page 1925, third column, in § 4.21 (a)(4)(i)(C), fifth line, "hundreth" should be corrected to read "hundredth".

3. On page 1926, first column, in § 4.21 (a)(4)(ii), fourteenth and seventeenth lines, the dashes between "of" and "percent" and "only" and "months" are intended to represent blanks.

4. On page 1926, third column, in § 4.22 (a) in the fifth line, "operate" should be corrected to read "operates".

5. On page 1927, in the second column, in § 4.22 (d) sixth line, "advisor(s)" should be corrected to read "advisor(s))".

6. On page 1928, third column, in § 4.31 (c) sixth line, "amended" should be corrected to read "amendment".

[4310-84-M]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT: DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5656; CA-1560]

CALIFORNIA

Partial Revocation of Public Land Order No. 5043

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This order partially revokes a public land order which withdrew and reserved lands for use of the Department of the Navy as a parachute test facility. The lands remain withdrawn by Executive Order of March 10, 1924, establishing Public Water Reserve No. 90; E.O. No. 5498 of November 25, 1930, reserving lands for the Salton Sea National Wildlife Refuge; and the order of October 19, 1920, of the Secretary of the Interior, withdrawing lands for reclamation purposes, so far as such order affects any of the lands described below.

EFFECTIVE DATE: January 18, 1979.

FOR FURTHER INFORMATION CONTACT:

Louis B. Bellesi, 202-343-8731.

By virtue of the authority contained in section 204 of the Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 5043 of April 14, 1971, which withdrew and reserved public lands for the Department of the Navy as a parachute test facility is hereby revoked so far as it affects the following described lands:

SAN BERNARDINO MERIDIAN

T. 10 S., R. 11 E.,
Secs. 14, 18, 20, 22, 24, 26, 28, 32, 34, 36.
T. 10 S., R. 12 E.,
Secs. 18, 20, 30, and 32.
T. 11 S., R. 12 E.,
Secs. 6, 8, 18, 19, 20, 29, and 30;
Sec. 32, N½.

The area described aggregates approximately 13,810 acres in Imperial County.

2. All the lands described remain in existing withdrawals and under water.

GUY R. MARTIN,
Assistant Secretary of the Interior, Land and Water Resources.

JANUARY 12, 1979.

[FR Doc. 79-1734 Filed 1-17-79; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21291; RM-2711]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in St. Ignace, Mich., Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein substitutes a Class C FM channel for a Class A channel at St. Ignace, Michigan, in response to a petition filed by Mighty-Mac Broadcasting Company. The Class C channel could permit establishment of a station which would provide a first and second FM as well as a first and second nighttime aural service to the area.

EFFECTIVE DATE: February 19, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 4, 1979.

Released: January 12, 1979.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (St. Ignace, Michigan.)

By the Chief, Broadcast Bureau:

1. The Commission has under consideration its Notice of Proposed Rule Making, adopted June 16, 1977, 42 FR 32813, inviting comments on a proposal to substitute Class C FM Channel 275 for Channel 272A at St. Ignace, Michigan. The proceeding was instituted on the basis of a petition filed by Mighty-Mac Broadcasting Company ("petitioner"), licensee of daytime-only AM Station WIDG, St. Ignace, Michigan. There were no oppositions to the proposal.

2. St. Ignace (pop. 2,892), seat of Mackinac County (pop. 9,600),[1] is located at the southeastern tip of Michigan's "Upper Peninsula," between Lakes Michigan and Huron, and is approximately 64 kilometers (40 miles) southwest of the Canadian border. It is served locally by daytime-only AM Station WIDG, licensed to petitioner. Channel 272A is assigned to St. Ignace, but is presently unoccupied and unapplied for.

3. Petitioner asserts that the area's principal business is tourism, with a heavy influx of tourists into the county during the summer and fall, increasing the population well beyond that estimated by the Census. The area around St. Ignace is classified as rural by the Census Bureau.

4. Channel 275 could be assigned to St. Ignace, Michigan, in conformity with the minimum distance separation requirements. One community, Onaway (pop. 1,262), would be precluded as a result of the proposed assignment. However, petitioner has indicated that an alternative Class A channel is available for assignment should the need arise.

5. Petitioner's engineering analysis, using Roanoke Rapids 9 F.C.C. 2d 672 (1967), and Anamosa and Iowa City, Iowa, 46 F.C.C. 2d 520 (1974), criteria indicates that, if Channel 275 were assigned and Channel 272A were deleted, an FM station operating with 39 kilowatts and antenna height of 70 meters (230 feet), as contemplated by petitioner, would provide a first and second FM and aural nighttime service to 83 persons in a 67 square kilometer (26 square miles) area and 373 persons in a 215 square kilometer (83 square miles) area, respectively.

6. In the Notice we pointed out that in 1966, Channel 272A was assigned to St. Ignace at the request of the petitioner. Although petitioner at that time stated its intent to apply for the channel, it later realized construction of a Class A facility could not be cost-justified. In this proceeding petitioner claims that a wide coverage Class C assignment would be able to obtain enough revenue to make it financially viable. Because of our concern as to whether petitioner would be financially able to construct a station with the proposed facilities, and whether funds exist to sustain construction costs, we requested petitioner to provide a realistic and convincing showing of its commitment, indicating both intent and ability to promptly provide FM service, if authorized. Petitioner has furnished adequate information which persuades us that it is financially able to construct and operate a station if it is ultimately authorized to do so.

7. The proposed Channel 275 assignment would provide for an FM station which could render first and second FM service as well as first and second nighttime aural service to the area. In this light, and since it has been shown that there is an alternate channel available for assignment to the community of Onaway, which is located in the precluded area, we believe the public interest would be served by the proposed assignment.

8. The Canadian Government has given its concurrence to the proposed assignment of Channel 275 to St. Ignace, Michigan.

9. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

10. In view of the foregoing, IT IS ORDERED, That effective February 19, 1979, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, as regards St. Ignace, Michigan, IS AMENDED as follows:

City	Channel No.
St. Ignace, Michigan	275

11. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 79-1771 Filed 1-17-79; 8:45 am]

[1] Population figures are taken from the 1970 U.S. Census.

[4910-60-M]

Title 49—Transportation

CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

[Docket No. HM-22; Amdt. Nos. 171-43, 173-126]

Matter Incorporated by Reference

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments to §§ 171.7(d)(3)(ii) and 173.34(e)(10) of the Hazardous Materials Regulations is to permit the use of the updated edition of the Compressed Gas Association's (CGA) Pamphlet C-6 for visual inspection of compressed gas cylinders. In addition, these amendments correct an inconsistency existing between §§ 173.34(e)(5) and 173.34(e)(10). The intended effect of these amendments is to improve proce-

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dures in the visual inspection of compressed gas cylinders and to clarify the time requirements for retention of cylinder reinspection and retest records.

EFFECTIVE DATE: Upon publication in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Douglas A. Crockett, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, 2100 Second Street S.W., Washington, D.C. 20590; 202/426-2075.

SUPPLEMENTARY INFORMATION: On January 9, 1978, the Materials Transportation Bureau (MTB) published a notice of proposed rulemaking, Docket HM-22, Notice 78-1 (43 FR 1369). The proposals contained in Notice 78-1 were based on petitions for rulemaking submitted by the CGA. One petition requested an update to § 171.7(d)(3)(ii), which incorporates by reference CGA Pamphlet C-6 setting out the standards for visual inspection of compressed gas cylinders, from the referenced 1968 edition to the 1975 edition. The CGA periodically reviews its standards and publishes revisions when clarification, improvement, or additions are necessary. The revisions made by CGA in the 1975 pamphlet were coordinated with the MTB and it was mutually agreed that each of the changes was necessary. The notice proposed to update the reference from the 1968 edition of the pamphlet to the 1975 edition.

The CGA also petitioned to amend § 173.34(e)(10) to eliminate an inconsistency between that paragraph and paragraph (e)(5) with respect to the length of time cylinder reinspection and retest records are to be retained. Currently, § 173.34(e)(10) requires inspection results to be kept as a permanent record, while paragraph (e)(5) requires the owner or his authorized agent to keep the records until expiration of the retest period or until the cylinder is reinspected or retested, whichever occurs first. The notice proposed to amend § 173.34(e)(10) to refer to the retesting requirements of paragraph (e)(5).

One commenter objected to the proposed amendment to § 171.7(d)(3)(ii) on the grounds that paragraph 5.3.9.2 of CGA Pamphlet C-6 contains a visual inspection procedure for high pressure cylinders which the commenter considers inadequate and unsafe. The commenter was advised that the objectionable paragraph in Pamphlet C-6 is not applicable to § 173.24(e)(10), the paragraph in which the pamphlet is referenced and, therefore, the objection is not germane to the proposed rulemaking. The commenter subsequently withdrew his objection. Other comments submitted were in support of the proposals.

In consideration of the foregoing, Parts 171 and 173 of Title 49, Code of Federal Regulations, are amended as follows:

1. In § 171.7 paragraph (d)(3)(ii) is amended by changing "1968" to read "1975."

2. In § 173.34 paragraph (e)(10) is amended by revising the fourth sentence to read as follows:

§ 173.31 Qualification, maintenance and use of cylinders.

* * * * *

(e) * * *

(10) * * * Inspections shall be made only by competent persons and the results shall be recorded on a suitable data sheet, the completed copies which shall be kept in accordance with the requirements of paragraph (e)(5) of this section. * * *

(AUTHORITY: (49 U.S.C. 1803, 1804, 1806, 1808; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that this final amendment will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C. on January 5, 1979.

L. D. SANTMAN,
Director, Materials, Transportation Bureau.

[FR Doc. 79-1482 Filed 1-17-79; 8:45 am]

[4910-59-M]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. LVM 77-05; Notice 3]

PART 531—PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

Exemption From Average Fuel Economy Standards

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final decision to grant exemption from average fuel economy standards.

SUMMARY: This notice exempting Excalibur Automobile Corp. (Excalibur) from the generally applicable average fuel economy standard of 18.0 miles per gallon (mpg) for 1978 model year passenger automobiles and establishing an alternative standard is issued in response to a petition by Excalibur. The alternative standard is 11.5 mpg.

DATE: The exemption and alternative standard apply in the 1978 model year.

FOR FURTHER INFORMATION CONTACT:

Douglas Pritchard, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-755-9384).

SUPPLEMENTARY INFORMATION: The National Highway Traffic Safety Administration (NHTSA) is exempting Excalibur from the generally applicable passenger automobile average fuel economy standard for the 1978 model year and establishing an alternative standard.

This exemption is issued under the authority of section 502(c) of Title V of the Act. Section 502(c) provides that a manufacturer of passenger automobiles that manufactures fewer than 10,000 vehicles annually may be exempted from the generally applicable average fuel economy standard if that generally applicable standard is greater than the low volume manufacturer's maximum feasible average fuel economy and if the NHTSA establishes an alternative standard applicable to that manufacturer at the manufacturer's maximum feasible average fuel economy. In determining the manufacturer's maximum feasible average fuel economy, section 502(e) of the Act requires the NHTSA to consider:

(1) Technological feasibility;
(2) Economic practicability;
(3) The effect of other Federal motor vehicle standards on fuel economy; and
(4) The need of the Nation to conserve energy.

This final rule was preceded by a notice announcing the receipt of a petition for exemption from the 1978 standard (43 FR 19311; May 4, 1978) and a proposed decision to grant an exemption to Excalibur for the 1978 model year (43 FR 33268; July 31, 1978).

No comments were submitted in response to the notice of receipt of the petition.

Three comments were submitted in response to the proposed decision. One of these comments was submitted by a private citizen, who supported the proposed exemption, because he believed that Excalibur produced an excellent product. The other two comments, both of which opposed the proposed exemption, were submitted by public interest groups. The objections centered primarily on the suggestion that the proposed exemption for Excalibur was contrary to the Congressional

intent, that the agency had erroneously determined Excalibur's maximum feasible average fuel economy level, and that even if Excalibur's maximum feasible average fuel economy level had correctly been determined, the agency should use its discretion to deny the requested exemption.

With regard to the first point, both commenters stated that granting an exemption to Excalibur would be contrary to the general Congressional intent to improving fuel economy. Congress, however, specifically included a provision whereby low volume manufacturers could be exempted from the generally applicable standard if that generally applicable standard were greater than the low volume manufacturer's maximum feasible average fuel economy and the agency establishes an alternative standard for the low volume manufacturer at its maximum feasible average fuel economy level. The inclusion of this provision strongly suggests that Congress intended that, in some circumstances, low volume manufacturers would be exempted from the generally applicable standard.

One commenter went on to argue that Congress had intended that the low volume exemptions only be available to manufacturers of moderately priced cars, and not to manufacturers of very expensive cars. In this commenter's view, the manufacturer of very expensive cars can pass on any civil penalties to its customers in the form of a price increase, and both manufacturer and customer could consider this as "conscience money".

No legislative history supporting this contention regarding Congressional intent is cited by the commenter or known to this agency. Congress did give the agency discretionary authority to grant or deny petitions. However, Congress did not direct the agency to use the discretion to deny exemption petitions by manufacturers of high-priced automobiles or to use it in any other particular manner.

This commenter went on to urge that there is no incentive for these low volume manufacturers to improve fuel economy, because an exemption can be expected. However, any exemption is required to be accompanied by an alternative standard set at that manufacturer's maximum feasible average fuel economy level. This will ensure that these manufacturers must improve their fuel economy, or pay a civil penalty.

Both public interest groups asserted that NHTSA had incorrectly determined Excalibur's maximum feasible average fuel economy. One commenter pointed out that had Excalibur adopted the Corvette engine in 1975, its automobiles would have better fuel economy for the 1978 model year. This point is true, but, as the notice of receipt of Excalibur's petition pointed out, the decision not to use the Corvette engine was made because of technical problems relating to the placement of the catalyst and the costs of certifying that vehicle. This decision was not clearly unreasonable when made, and was made before the passage of any fuel economy standards by Congress. Accordingly, the determination of maximum feasible average fuel economy for Excalibur was made assuming that Excalibur was using the engine currently in its vehicles, instead of another engine it might have installed in those vehicles. It should be emphasized that the time for selecting a different engine and improving the fuel economy of 1978 Excaliburs has passed.

Both of these commenters asserted that the agency erred in suggesting that the Nation's need to conserve energy would be negligibly affected by granting this exemption. However, neither of these commenters questioned the agency estimate that Excalibur's 1978 automobiles achieving an average fuel economy of 11.5 mpg rather than 18.0 mpg would result in the consumption of an additional 2.5 barrels of fuel per day. Since the United States currently consumes about 5 million barrels of fuel in passenger automobiles each day, the additional fuel consumed by Excalibur achieving an average fuel economy of 11.5 mpg represents .00005 percent of daily passenger car fuel consumption. The agency again concludes that this amount is insignificant. In any event, NHTSA again points out that no excess fuel is used if Excalibur's standard is set at its maximum feasible level instead of some higher level.

Both commenters urged that even if Excalibur's excess use of fuel is minor, the excess use by all low volume manufacturers would not be minor. The additional fuel consumption by all low volume manufacturers who have petitioned for exemption the 1978 model year achieving their maximum feasible average fuel economy levels rather than the generally applicable standard of 18.0 mpg will amount to about 64 barrels of fuel per day. This total represents about .0013 percent of daily passenger car fuel use, and is still small enough for this agency to conclude that it is an insignificant amount. More important, setting standards above these manufacturer's maximum feasible levels would not result in additional fuel savings.

The final reason suggested by the commenters for denying Excalibur's petition for exemption was that the agency should exercise its discretion to deny the petition on the grounds that it is contrary to the general goal of energy conservation and that an exemption would erode public support for the fuel economy program. This agency believes that the language in section 502(c) specifying that the agency may exempt low volume manufacturers indicates that Congress intended this agency to apply a test of whether granting an exemption would be generally consistent with the purposes of the Act. The main purpose of the Act is conserving energy. Establishing standards above the maximum feasible average fuel economy for Excalibur would not conserve any energy, since the alternative standard is based on the premise that it is not possible for Excalibur to achieve better fuel economy than its maximum feasible level.

As to the comments stating that an exemption for Excalibur would endanger public support for the program, this agency does not agree that requiring very small manufacturers like Excalibur to comply with standards set at their maximum feasible level instead of the maximum feasible level for larger manufacturers will necessarily erode public support for the program. Instead, the agency believes that the process of exempting the very small manufacturers will be viewed as equitably adjusting the generally applicable fuel economy standards to the lesser capabilities of these manufacturers.

For these reasons the agency had determined that the maximum feasible average fuel economy for Excalibur in the 1978 model year is 11.5 mpg. Therefore, this agency is exempting Excalibur from the generally applicable standard of 18.0 mpg for the 1978 model year and is establishing an alternative standard for Excalibur at 11.5 mpg for the 1978 model year.

Accordingly, 49 CFR Part 531 is amended by adding § 531.5(b)(5), to read as set forth below.

§ 531.5 Fuel economy standards.

* * * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

(1) * * *
(2) * * *
(3) * * *
(4) [Reserved]
(5) Excalibur Automobile Corp.

AVERAGE FUEL ECONOMY STANDARD

Model year 1978. *Miles per gallon* 11.5.

The program official and attorney principally responsible for the development of this decision are Douglas Pritchard and Stephen Kratzke, respectively.

(Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89

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Stat. 901 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976.)

Issued on January 11, 1979.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 79-1807 Filed 1-17-79 8:45 am]

[4910-59-M]

[Docket No. LVM 77-02; Notice 3]

PART 531—PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

Exemption from Average Fuel Economy Standards

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final decision to grant exemption from average fuel economy standards.

SUMMARY: This notice exempting Rolls-Royce Motors Inc. (Rolls-Royce) from the generally applicable average fuel economy standard of 18.0 miles per gallon (mpg) for 1978 model year passenger automobiles and establishing an alternative standard is issued in response to a petition by Rolls-Royce. The alternative standard is 10.7 mpg.

DATE: The exemption and alternative standard apply in the 1978 model year.

FOR FURTHER INFORMATION CONTACT:

Douglas Pritchard, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-755-9384).

SUPPLEMENTARY INFORMATION: The National Traffic Safety Administration (NHTSA) is exempting Rolls-Royce from the generally applicable passenger automobile average fuel economy standard for the 1978 model year and establishing an alternative standard.

This exemption is issued under the authority of section 502(c) of Title V of the Act. Section 502(c) provides that a manufacturer of passenger automobiles that manufactures fewer than 10,000 vehicles annually may be exempted from the generally applicable average fuel economy standard if that generally applicable standard is greater than the low volume manufacturer's maximum feasible average fuel economy and if the NHTSA establishes an alternative standard applicable to that manufacturer at the manufacturer's maximum feasible average fuel economy. In determining the manufacturer's maximum feasible average fuel economy, section 502(e) of the Act requires the NHTSA to consider:

(1) Technological feasibility;
(2) Economic practicability;
(3) The effect of other Federal motor vehicle standards on fuel economy; and
(4) The need of the Nation to conserve energy.

This final rule was preceded by a notice announcing the receipt of a petition for exemption from the 1978 standard (42 FR 64171; December 22, 1977) and a proposed decision to grant an exemption to Rolls-Royce for the 1978 model year (43 FR 30081; July 13, 1978). Only one comment on the notice of receipt was submitted. That commenter urged that Rolls-Royce be exempted "in the name of common sense".

Eleven comments were received in response to the proposed decision, all of which opposed the proposed exemption. These comments raised three main points: Congress never intended that Rolls-Royce receive an exemption; the agency had incorrectly determined the maximum feasible average fuel economy for Rolls-Royce; and even if Rolls-Royce were eligible and had a maximum feasible average fuel economy of less than the generally applicable standard of 18.0 miles per gallon (mpg), NHTSA should use its discretion to deny the Rolls-Royce petition.

With respect to the first point, several commenters stated that it was unfair for some manufacturers to be forced to comply with a standard of 18 mpg, while others were exempted from that requirement. Congress determined, however, through section 502(c) of the Act, to authorize this agency to exempt low volume manufacturers from the generally applicable standard and establish a standard for those manufacturers at the level of their maximum feasible average fuel economy. Congress took this action in recognition of a variety of factors, including the limited engineering staff and financial resources of these manufacturers. Low volume manufacturers can be exempted from the generally applicable standards only if they cannot comply with those standards, and if alternative standards are set.

Other commenters said that the agency should require fuel economy improvements by all manufacturers, not permit certain manufacturers to ignore the generally applicable fuel economy standards. The agency is requiring all exempted manufacturers to comply with an alternative standard set at their maximum feasible average fuel economy. A requirement that these manufacturers achieve some higher fuel economy level would not save any additional fuel, since the alternative standard is based on the premise that it is not possible for a manufacturer to achieve a higher fuel economy level. Hence, exempting low volume manufacturers from the generally applicable standards and establishing an alternative standard at their maximum feasible level does not result in any additional use of fuel.

In this vein, one other commenter suggested that Congress had intended that the low volume exemptions only be available to manufacturers of moderately priced cars, and not to manufacturers of very expensive cars. In this commenter's view, the manufacturer of very expensive cars can pass on any civil penalties to its customers in the form of a price increase. Given the price of these cars, this commenter concluded that the increase would not cause any noticeable decrease in sales, while an exemption would only serve to keep prices down for the purchasers of these expensive vehicles.

No legislative history supporting this contention regarding Congressional intent is cited by the commenter or known to this agency. Congress did give the agency discretionary authority to grant or deny petitions. However, Congress did not direct the agency to use that discretion to deny exemption petitions by manufacturers of high-priced automobiles or to use it in any other particular manner.

Other comments suggested that it was unfair to grant exemptions only to foreign companies, while requiring all domestic companies to comply with the generally applicable standard. Both domestic and foreign low volume manufacturers are eligible for exemptions. Indeed, the first two low volume manufacturers to receive exemptions were domestic manufacturers, Avanti and Checker.

The second major objection raised by the commenters concerned this agency's determination of the maximum feasible average fuel economy for Rolls-Royce. No commenters suggested that the consideration of technological feasibility or the effect of other Federal motor vehicle standards on fuel economy had been in error. In this connection, it should be emphasized that the time for improving the fuel economy of 1978 Rolls-Royces has passed. However, several commenters stated that this agency had not properly considered the economic practicability or the need of the Nation to conserve energy.

One commenter argued that this agency had not considered the ability of Rolls-Royce to pay the civil penalty which would be assessed if Rolls-Royce failed to comply with the higher generally applicable standard. The agency agrees that it has confined itself under section 502(c) to an analysis of the financial capabilities of the petitioner to improve fuel economy by using smaller engines, lighter components, and the like, and does not consider the ability to absorb any potential civil penalties.

The reason for so limiting the analysis of economic practicability in setting alternative standards for individual manufacturers is that the agency believes that Congress intended the maximum feasible concept to result in an alternative set at the highest average fuel economy level a manufacturer could reasonably be expected to achieve in a given model year. If the ability to pay any civil penalty is considered as a part of economic practicability for an individual manufacturer, the resulting standard would be higher than the highest fuel economy level the manufacturer could achieve in that model year, and thus would impose an unavoidable civil penalty. This would not conserve any additional fuel since it would not cause that manufacturer to achieve higher fuel economy and would not apply to other manufacturers whose fuel economy could exceed the fuel economy of that manufacturer. Accordingly, the agency does not believe that Congress intended the ability to pay a civil penalty to be a part of economic practicability under these circumstances.

Other commenters suggested that NHTSA's determination that the need of the Nation to conserve energy would be negligibly affected by granting this exemption was erroneous. For instance, one commenter stated that it was unfair to consider exempting Rolls-Royce because of the insignificant amount of fuel involved, and compared this to a proposal allowing Cadillac drivers to drive at whatever speed they chose while requiring drivers of all other cars to observe posted speed limits, because of the small number of Cadillacs on the road. Congress has already decided the issue of fairness by authorizing the exemptions of low volume manufacturers. Further, the Act specifically directs the agency to consider the need of the nation to conserve energy, and when that need is negligibly affected by a given fuel economy, the agency must give weight to that fact.

None of these comments questioned the agency estimate that Rolls-Royce 1978 automobiles achieving an average fuel economy level of 10.7 mpg rather than 18.0 mpg would result in the consumption of an additional 30.4 barrels of fuel per day. Since the United States currently uses about 5 million barrels of fuel in passenger automobiles each day, the additional fuel consumed by Rolls-Royce represents .00061 percent of daily fuel consumption. The agency concludes that an amount this small is insignificant.

The final reason suggested by the commenters for denying an exemption for Rolls-Royce was that the agency should exercise its discretion to deny the exemption request on the grounds that it is contrary to the goal of energy conservation and will erode public support for the fuel economy program. This agency believes that the language in section 502(c) specifying that this agency may exempt low volume manufacturers indicates that Congress intended this agency to apply a test of whether granting an exemption would be generally consistent with the purposes of the Act. The main purpose of the Act is conserving energy. Establishing standards above the maximum feasible average fuel economy levels for Rolls-Royce would not conserve any additional energy, since the alternative standard is based on the premise that it is not possible for the company to achieve better fuel economy than the maximum feasible level.

As to the comments stating that exemptions would endanger public support for the fuel economy program, this agency does not agree that requiring very small manufacturers like Rolls-Royce to comply with standards set at their maximum feasible level instead of the maximum feasible level for larger manufacturers will necessarily erode public support for the program. Instead, the agency believes that the processs of exempting the very small manufacturers will be viewed as equitably adjusting the generally applicable fuel economy standards to the lesser capabilities of these manufacturers.

For the above reasons, the agency has determined that the maximum feasible average fuel economy for Rolls-Royce in the 1978 model year is 10.7 mpg. Therefore, the agency is exempting Rolls-Royce from the generally applicable standard of 18.0 mpg for the 1978 model year and establishing an alternative standard for Rolls-Royce at 10.7 mpg for the 1978 model year.

Accordingly, 49 CFR Part 531 is amended by § 531.5(b)(2) to read as set forth below.

§ 531.5 **Fuel economy standards.**

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(2) Rolls-Royce Motors Inc.

AVERAGE FUEL ECONOMY STANDARD
Model year. 1978.
Miles per gallon. 10.7.

The program official and attorney principally responsibile for the development of this decision are Douglas Pritchard and Stephen Kratzke, respectively.

AUTHORITY: Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 49 FR 25015, June 22, 1976.

Issued on JANUARY 11, 1979.

JOAN CLAYBROOK,
Administrator.

(FR Doc. 79-1808 Filed 1-17-79; 8:45 am]

[7035-01-M]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1327, Amdt. No. 1]

PART 1033—CAR SERVICE

Brillion & Forest Junction Railroad Co. Authorized To Operate Over Tracks Abandoned by Chicago & North Western Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Amendment No. 1 to Service Order No. 1327.

SUMMARY: The Chicago & North Western Transportation Co. (CNW), in Docket AB-1 Sub. No. 52, has been authorized to abandon its line between Rosemer, Wisconsin, and Forest Junction, Wisconsin. A new railroad, the Brillion and Forest Junction, has been formed by a group of shippers located in Brillion, Wisconsin, to acquire and operate that portion of the line abandoned by the CNW between Brillion and Forest Junction. Service Order No. 1327 authorizes the Brillion and Forest Junction to operate that portion of the line in order to provide uninterrupted rail service to shippers located at Brillion. Service Order No. 1327 is printed in full in Volume 43 of the FEDERAL REGISTER at page 22212. Amendment No. 1 extends the order for six months.

DATES: Effective 11:59 p.m., January 15, 1979. Expires 11:59 p.m., July 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided: January 10, 1979.

V 4 4 / 1 3 J A 1 8 7 9 UMI

Upon further consideration of Service Order No. 1327 (43 FR 22212), and good cause appearing therefor:

It is ordered, that § 1033.1327 *Brillion & Forest Junction Railroad Co. authorized to operate over tracks abandoned by Chicago & North Western Transportation Co.*

Service Order No. 1327 is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 79-1831 Filed 1-17-79; 8:45 am]

[7035-01-M]

[Service Order No. 1339, Amdt. No. 1]

PART 1033—CAR SERVICE

Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Authorized To Operate Over Tracks of Union Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Amendment No. 1 to Service Order No. 1339.

SUMMARY: Due to deteriorated track conditions between Maytown, Washington, and Helsing Junction, Washington, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company is unable to continue service over that line. Service Order No. 1339 authorizes that railroad to operate over tracks of the Union Pacific Railroad Company between Blakeslee Junction Interlocker, Washington, and Helsing Junction, Washington. The Order is printed in full in Volume 43 of the FEDERAL REGISTER at page 43719. Amendment No. 1 extends the order until July 15, 1979.

DATES: Effective 11:59 p.m., January 15, 1979. Expires 11:59 p.m., July 15, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided: January 10, 1979.

Upon further consideration of Service Order No. 1339 (43 FR 43719), and good cause appearing therefor:

It is ordered, that § 1033.1339 *Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over tracks of Union Pacific Railroad Company*, Service Order No. 1339 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1815 Filed 1-17-79; 8:45 am]

[7035-01-M]

[Service Order No. 1331, Amdt. No. 1]

PART 1033—CAR SERVICE

South Central Tennessee Railroad Co. Authorized To Operate Over Tracks Abandoned by Louisville & Nashville Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Amendment No. 1 to Service Order No. 1331.

SUMMARY: The Louisville and Nashville Railroad Company (LN), in Docket AB-2 (Sub-No. 5), has been authorized to abandon its line between Colesburg, Tennessee, and Hohenwald, Tennessee. A new railroad, the South Central Tennessee Railroad Company, has been formed to acquire and operate this line. Service Order No. 1331 authorizes the South Central Tennessee Railroad Company to operate that portion of the line in order to provide uninterrupted rail service to shippers located on this line. The order is printed in full in Volume 43 of the FEDERAL REGISTER at page 29126. Amendment No. 1 extends the order for six months.

DATES: Effective 11:59 p.m., January 15, 1979. Expires 11:59 p.m., July 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided: January 10 1979.

Upon further consideration of Service Order No. 1331 (43 FR 29126), and good cause appearing therefor:

It is ordered, That § 1033.1331 *South Central Tennessee Railroad Company authorized to operate over tracks abandoned by Louisville and Nashville Railroad Company*

Service order No. 1331 is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1830 Filed 1-17-79; 8:45 am]

[7035-01-M]

[Service Order No. 1325, Amdt. No. 2]

PART 1033—CAR SERVICE

The Atchison, Topeka and Santa Fe Railway Co. Authorized To Operate Unit-Grain Train Comprised of 60 Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 2 to Service Order No. 1325).

SUMMARY: There is a severe shortage of both covered hopper cars and locomotives on the Atchison, Topeka and Santa Fe Railroad (ATSF) for transporting shipments of grain and related commodities. Service Order No. 1325 authorizes the ATSF to waive certain tariff requirements requiring the shipment of 75 carloads of grain in a single train and to apply in lieu thereof a minimum weight of 5,700 net tons per shipment in not to exceed 60 cars from ATSF origins in rate zone F and west to California destinations. The reduced train size will enable the ATSF to make a more equitable distribution of its covered hopper cars and to secure more efficient utilization of its locomotives. Service Order No. 1325 is published in full in volume 43 of the FEDERAL REGISTER at page 19396. Amendment No. 2 extends the order until May 15, 1979.

DATES: Effective 11:59 p.m., January 15, 1979. Expires 11:59 p.m., May 15, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423. Telephone (202) 275-7840. Telex 89-2742.

Decided: January 10, 1979.

Upon further consideration of Service Order No. 1325 (43 FR 19396 and 39103), and good cause appearing therefor:

It is ordered, That § 1033.1325 *The Atchison, Topeka and Santa Fe Railway Company authorized to operate unit-grain train comprised of 60 cars*, Service Order No. 1325 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1816 Filed 1-17-79; 8:45 am]

[7035-01-M]

[Amdt. No. 1 to Service Order No. 1336]

PART 1033—CAR SERVICE

MISSOURI-KANSAS-TEXAS RAILROAD CO. AUTHORIZED TO OPERATE OVER TRACKS OF ST. LOUIS-SAN FRANCISCO RAILWAY CO.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Amendment No. 1 to Service Order No. 1336.

SUMMARY: Due to deteriorated track conditions between Labette, Kansas, and Columbus, Kansas, Missouri-Kansas-Texas Railroad Company is unable to continue operation over this line. Service Order No. 1336 authorizes that railroad to operate over tracks of the St. Louis-San Francisco Railway Company between Oswego, Kansas, and Columbus, Kansas. The order is printed in full in Volume 43 of the FEDERAL REGISTER at page 40020. Amendment No. 1 extends the order until July 31, 1979.

DATES: Effective 11:59 p.m., January 15, 1979. Expires 11:59 p.m., July 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Section of Rail and Pipeline Operations, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423. Telephone (202) 275-7840. Telex 89-2742.

Decided: January 10, 1979.

Upon further consideration of Service Order No. 1336 (43 FR 40020), and good cause appearing therefor:

It is ordered, that § *1033.1336 Missouri-Kansas-Texas Railroad Company authorized to operate over tracks of St. Louis-San Francisco Railway Company*, Service Order No. 1336 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1819 Filed 1-17-79; 8:45 am]

[7035-011-M]

[Amdt. No. 2 to Service Order No. 1294]

PART 1033—CAR SERVICE

INDIANA INTERSTATE RAILWAY CO., INC., AUTHORIZED TO OPERATE OVER TRACKS OWNED BY THE CITY OF BICKNELL, IND.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 2 to Service Order No. 1294).

SUMMARY: Service Order No. 1294 authorizes the Indiana Interstate Railway Company, Inc., to operate over 1.1 miles of track leased from the City of Bicknell, Indiana, in order to provide essential railroad service to industries served by that track. Amendment No. 2 extends this order until July 15, 1979. The order is printed in full in Volume 43 of the FEDERAL REGISTER at page 1092.

DATES: Effective 11:59 p.m., January 15, 1979. Expires 11:59 p.m., July 15, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423. Telephone (202) 275-7840. Telex 89-2742.

Decided: January 10, 1979.

Upon further consideration of Service Order No. 1294 (43 F.R. 1092 and 29007), and good cause appearing therefor:

It is ordered, that § *1033.1294 Indiana Interstate Railway Company, Inc., authorized to operate over tracks owned by the City of Bicknell, Indiana*, Service Order No. 1294 is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1820 Filed 1-17-79; 8:45 am]

[7035-01-M]

[Second Revised Service Order No. 1323]

PART 1033—CAR SERVICE

DISTRIBUTION OF FREIGHT CARS

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Second Revised Order No. 1323.

SUMMARY: There is a shortage of tri-level auto rack flat cars on the Union Pacific Railroad (UP) for the shipment of automobiles. Bi-level auto rack cars are available to this railroad but cannot be used because of tariff provisions requiring the use of tri-level cars. Second Revised Service Order No. 1323 authorizes the UP to substitute three bi-level cars for each two tri-level cars ordered by shippers for transporting automobiles.

DATES: Effective 11:59 p.m., January 15, 1979. Expires 11:59 p.m., May 31, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423. Telephone (202) 275-7840. Telex 89-2742.

Decided: January 10, 1979.

There are shortages of tri-level multi-level auto rack flat cars on the Union Pacific Railroad Company (UP) required to transport automobiles subject to tariff restrictions requiring the use of such tri-level cars. This railroad has available supplies of bi-level cars of similar types which could be used for transporting these automobiles if tariff provisions permitted. The economic loss suffered by shippers dependent upon the UP for their car supplies can be alleviated by the substitution of bi-level cars for tri-level cars at the ratio of three bi-level cars for each two tri-level cars ordered.

In the opinion of the Commission, present regulations and practices with respect to the use of supply of auto rack flat cars are ineffective to overcome these shortages of auto rack flat cars and an emergency exists requiring immediate action. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1323 Distribution of frieght cars.

•(a) Subject to the concurrence of the shipper the Union Pacific Railroad Company (UP) may substitute three bi-level auto rack flat cars, listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 409, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "FA" for each two tri-level auto rack flat cars ordered by the shipper for transporting automobiles.

(b) The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(c) *Rates and Minimum Weights Applicable.* The rates to be applied to shipments for which three bi-level cars have been substituted for two tri-level cars ordered as authorized by Section (a) of this order shall be the rates applicable to the larger cars ordered. The minimum weight to be applied to each group of three bi-level cars substituted for two tri-level cars shall be the combined minimum weights applicable to the two tri-level cars ordered.

(d) *Billing to be Endorsed.* The carrier substituting smaller cars for larger cars as authorized by Section (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

Two tri-level cars ordered. Three bi-level cars furnished authority I.C.C. Second Revised Service Order No. 1323.

(e) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(f) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D. C. 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(g) *Rules and Regulations Suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(h) *Effective date.* This order shall become effective at 11:59 p.m., January 15, 1979.

(i) *Expiration date.* This order shall expire at 11:59 p.m., May 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.
Secretary.

[FR Doc. 79-1821 Filed 1-17-79; 8:45 am]

•St. Louis-San Francisco Railway Company deleted.

[7035-01-M]

[Amdt. No. 4 to Service Order No. 1316]

PART 1033—CAR SERVICE

CHICAGO AND NORTH WESTERN TRANSPORTATION CO. AUTHORIZED TO OPERATE OVER TRACKS OF CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD CO. AT APPLETON, WIS.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 4 to Service Order No. 1316).

SUMMARY: The tracks of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) between Menasha, Wisconsin, and Appleton, Wisconsin, have deteriorated and can no longer be used forcing the termination of rail service to shippers in Appleton served by the MILW. The Chicago and North Western Transportation Company (CNW) connects with the MILW in Appleton and is able to provide service to those shippers by operations over the tracks of the MILW in Appleton. Service Order No. 1316 authorizes the CNW to operate over tracks of the MILW in Appleton, Wisconsin for the purpose of providing continued railroad service to shippers served by those tracks. Service Order No. 1316 is published in full in Volume 43 of the FEDERAL REGISTER at page 14668. Amendment No. 4 extends this order until July 15, 1979.

DATES: Effective 11:59 p.m., January 15, 1979. Expires 11:59 p.m., July 15, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423. Telephone (202) 275-7840. Telex 89-2742.

Decided: January 10, 1979.

Upon further consideration of Service Order No. 1316 (43 F.R. 14668, 28497, 39796 and 51024), and good cause appearing therefor:

It is ordered, that § *1033.1316 Chicago and North Western Transportation Company authorized to operate over tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Appleton, Wisconsin*, Service Order No. 1316 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1822 Filed 1-17-79; 8:45 am]

[7035-01-M]

[Service Order No. 1352]

PART 1033—CAR SERVICE

CHICAGO & NORTH WESTERN TRANSPORTATION CO. AUTHORIZED TO OPERATE OVER TRACKS OF CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO. AT FOND DU LAC, WIS.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Service Order No. 1352.

SUMMARY: The lines of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) serving Fond du Lac, Wisconsin, are inoperable because of heavy snow at this location, which is depriving industries located adjacent to the MILW tracks at this location of railroad service. Service Order No. 1352 authorizes the Chicago and North Western Transportation Company to operate over tracks of the MILW in Fond du Lac in order to restore railroad service to these shippers.

DATES: Effective 3:00 p.m., January 12, 1979. Expires 11:59 p.m., January 19, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423. Telephone (202) 275-7840. Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

Decided: January 12, 1979.

The lines of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) serving Fond du Lac, Wisconsin, have become inoperable because of heavy snow. Numerous shippers located adjacent to the tracks of the MILW have been deprived of essential railroad service because of the inability of the MILW to switch the industries at Fond du Lac. The Chicago and North Western Transportation Company (CNW) has agreed to operate over the tracks of the MILW at Fond du Lac in order to restore essential railroad service to these shippers. The MILW has consented to such use of its tracks by the CNW.

It is the opinion of the Commission that an emergency exists requiring the operation of CNW trains over these tracks of the MILW in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, that § *1033.1352 Chicago and North Western Transportation Company authorized to operate over tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Fond du Lac, Wisconsin.*

(a) The Chicago and North Western Transportation Company (CNW) is authorized to operate over tracks of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) at Fond du Lac, Wisconsin, for the purpose of serving industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the CNW over tracks of the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved by the CNW over the tracks of the MILW shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 3:00 p.m., January 12, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 19, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Associ-

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ation. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member John R. Michael not participating.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1823 Filed 1-17-79; 8:45 am]

[7035-01-M]

[Amdt. No. 2 to Revised Service Order No. 1318]

PART 1033—CAR SERVICE

REGULATIONS FOR RETURN OF HOPPER CARS

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order. Amendment No. 2 to Revised Service Order No. 1318.

SUMMARY: There is a severe shortage of hopper cars on twelve railroads named in Revised Service Order No. 1318. These carriers own large fleets of these cars. Because of traffic flow patterns, substantial numbers of these cars are shipped to points located on the lines of other railroads and must be returned promptly to the car owners for reloading. Amendment No. extends this order for six months. e order is printed in full in Volume 43 of the FEDERAL REGISTER at page 17360.

DATES: Effective 11:59 p.m., January 15, 1979. Expires 11:59 p.m., July 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided January 10, 1979.

Upon further consideration of Revised Service Order No. 1318 (43 FR 17360 and 29008), and good cause appearing therefore:

It is ordered, that § *1033.1318 Regulations for return of hopper cars,* Revised Service Order No. 1318 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1824 Filed 1-17-79; 8:45 am]

[7035-01-M]

[Amdt. No. 3 to Service Order No. 1270]

PART 1033—CAR SERVICE

CHESAPEAKE AND OHIO RAILWAY COMPANY AUTHORIZED TO OPERATE OVER TRACKS ABANDONED BY GRAND TRUNK WESTERN RAILROAD COMPANY

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order. Amendment No. 3 to Service Order No. 1270.

SUMMARY: Service Order No. 1270 authorizes The Chesapeake and Ohio Railway Company to operate over approximately 0.6 miles of track authorized to be abandoned by the Grand Trunk Western Railroad, between Ferrysburg, Michigan, and Grand Haven, Michigan. The trackage involved is owned by the Grand Trunk Western but is used as an integral part of The Chesapeake and Ohio's line between Holland, Michigan, and Muskegon, Michigan. The order also authorizes The Chesapeake and Ohio to operate over an additional 0.2 miles of track abandoned by the Grand Trunk Western in order to provide continued rail service to a shipper located adjacent to those tracks. The amendment extends the order for six months. The order is printed in full in Volume 42 of the FEDERAL REGISTER at page 38379.

DATES: Effective 11:59 p.m., January 15, 1979. Expires 11:59 p.m., July 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided January 10, 1979.

Upon further consideration of Service Order No. 1270 (42 FR 38379, 43 FR 2725 and 36639), and good cause appearing therefor:

It is ordered, that § *1033.1270 The Chesapeake and Ohio Railway Company authorized to operate over tracks abandoned by Grand Trunk Western Railroad Company,* Service Order No. 1270 is amended by substituting the following paragraph (c) for paragraph (c) thereof:

(c) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc 79-1825 Filed 1-17-79; 8:45 am]

[7035-01-M]

[Amdt. No. 3 to Service Order No. 1275]

PART 1033—CAR SERVICE

ERIE WESTERN RAILWAY COMPANY AUTHORIZED TO OPERATE OVER TRACKS ABANDONED BY CONSOLIDATED RAIL CORPORATION

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order. Amendment No. 3 to Service Order No. 1275.

SUMMARY: Service Order No. 1275 authorizes Erie Western Railway Company (EW) to operate over the former Erie Lackawanna (EL) line between Hammond and Decatur, Indiana, via North Judson, Indiana. Operation by the EW over these tracks of the former EL is necessary to provide rail service to shippers located adjacent to the line. Amendment No. 3 extends the order until July 15, 1979. Service Order No. 1275 is published in full in Volume 42 of the FEDERAL REGISTER at page 48882.

DATES: Effective 11:59 p.m., January 15, 1979. Expires 11:59 p.m., July 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Section of Rail and Pipeline Operations, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided January 10, 1979.

Upon further consideration of Service Order No. 1275 (42 FR 48882, 43 FR 2395 and 31014), and good cause appearing therefor:

It is ordered, that § *1033.1275 The Erie Western Railway Company authorized to operate over tracks abandoned by Consolidated Rail Corporation,* Service Order No. 1275 is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member John R. Michael not participating.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1826 Filed 1-17-79; 8:45 am]

[7035-01-M]

[Amdt No. 2 to Service Order No. 1333]

PART 1033—CAR SERVICE

ILLINOIS TERMINAL RAILROAD CO. AUTHORIZED TO OPERATE OVER TRACKS OF ILLINOIS CENTRAL GULF RAILROAD CO.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Amendment No. 2 to Service Order No. 1333.

SUMMARY: The Illinois Terminal Railroad Company is unable to operate over its line between Lincoln, Illinois, and Allentown, Illinois, because of damage to a bridge at Mackinaw, Illinois. Service Order No. 1333 authorizes the Illinois Terminal to operate over parallel trackage of the Illinois Central Gulf Railroad Company between Lincoln and Pekin, Illinois, in order to provide continued rail service for shipments routed via its line. The order is published in full in Volume 43 of the FEDERAL REGISTER at page 35317. Amendment No. 2 to Service Order No. 1333 extends the order for two months.

DATES: Effective 11:59 p.m., January 15, 1979. Expires 11:59 p.m., March 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Section of Rail and Pipeline Operations, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided January 10, 1979.

Upon further consideration of Service Order No. 1333 (43 F.R. 35317 and 56902), and good cause appearing therefor:

It is ordered, that § *1033.1333 Illinois Terminal Railroad Company Authorized To Operate Over Tracks of Illinois Central Gulf Railroad Company,* Service Order No. 1333 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126.)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1827 Filed 1-17-79; 8:45 am]

[7035-01-M]

[Amdt. No. 1 to Service Order No. 1340]

PART 1033—CAR SERVICE

REGULATIONS FOR THE USE OF LOCOMOTIVES

Atlanta and West Point Rail Road Co., Clinchfield Railroad Co., Georgia Railroad, Seaboard Coast Line Railroad Co. and Western Railway of Alabama to Deliver Locomotives to Louisville and Nashville Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Amendment No. 1 to Service Order No. 1340.

SUMMARY: Service Order No. 1340 requires the Seaboard Coast Line Railroad and other members of the Family Lines system to furnish 100 additional locomotives to the Louisville and Nashville Railroad. The order is printed in full in Volume 43 of the FEDERAL REGISTER at page 44536. Amendment No. 1 extends the order until January 31, 1979.

DATES: Effective 11:59 p.m., January 15, 1979. Expires 11:59 p.m., January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Section of Rail and Pipeline Operations, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone (202) 275-7840, Telex 89-2742.

Service date January 15, 1979. Decided January 12, 1979.

Upon further consideration of Service Order No. 1340 (43 FR 44536), and good cause appearing therefor:

As invited, in our order served December 27, 1978, several parties interested in the service order have filed comments relating to the extension, modification, or expiration of the serv-

ice order. The Commission believes that a short extension should be ordered to preserve the status quo while these comments and suggestions are considered.

It is ordered, that § *1033.1340 Atlanta and West Point Rail Road Company, Clinchfield Railroad Company, Georgia Railroad, Seaboard Coast Line Railroad Company and Western Railway of Alabama to Deliver Locomotives to Louisville and Nashville Railroad Company*, Service Order No. 1340 is amended by substituting the following paragraph (j) for paragraph (j) thereof:

(j) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing with the Director, Office of the Federal Register.

By the Commission, Chairman O'Neal, Vice Chairman Brown, and Commissioners Stafford, Gresham, Clapp and Christian.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1828 Filed 1-17-79; 8:45 am]

[7035-01-M]

[Amdt. No. 1 to Second Revised Service Order No. 1308]

PART 1033—CAR SERVICE

DISTRIBUTION OF COVERED HOPPER CARS

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Amendment No. 1 to Second Revised Service Order No. 1308.

SUMMARY: The Union Pacific Railroad Company and the Illinois Central Gulf Railroad Company are unable to furnish individual shippers with jumbo covered hopper cars for consecutive shipments of grain as required by the applicable tariffs. Second Revised Service Order No. 1308 waives the consecutive-trip provisions of the applicable tariffs, enabling these railroads to make a more equitable distribution of its supply of covered hopper cars among all potential users of these cars. Second Revised Service Order No. 1308 is printed in full in Volume 43 of the FEDERAL REGISTER at page 47730. Amendment No. 1 extends the order for three months.

DATES: Effective 11:59 p.m, January 15, 1979. Expires: 11:59 p.m., April 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided: January 10, 1979.

Upon further consideration of Second Revised Service Order No. 1308 (43 FR 47730), and good cause appearing therefor:

It is ordered, that § *1033.1308 Distribution of covered hopper cars*, Second Revised Service Order No. 1308 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 15, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1829 Filed 1-17-79; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-03-M]

DEPARTMENT OF AGRICULTURE

Science and Education Administration [1]

[9 CFR Parts 445 and 447]

NATIONAL POULTRY IMPROVEMENT PLAN AND AUXILIARY PROVISIONS

Extension of Comment Period

AGENCY: Science and Education Administration, USDA.

ACTION: Notice to Extend Period to Receive Comments on Proposed Rule.

SUMMARY: The purpose of this notice is to extend the period during which the Department will receive comments on the Proposed Rules pertaining to amendments to the National Poultry Improvement Plan which were published in the FEDERAL REGISTER on December 1, 1978 (43 FR 56245).

DATE: Comments will be received through February 2, 1979.

ADDRESS: Send comments to Dr. Lewis W. Smith, Animal Physiology and Genetics Institute, Building 173, BARC-East, Beltsville, Maryland 20705. All written submissions made pursuant to this notice will be made available for public inspection at the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Raymond D. Schar at 301/344-2227.

SUPPLEMENTARY INFORMATION: This extension of time during which the Department will receive comments on proposed amendments to the National Poultry Improvement Plan is being made available in order to permit interested organizations and individuals to meet, study the proposals, and submit comments.

Done at Washington, D.C., this 15th day of January, 1979.

ANSON R. BERTRAND,
Director, Science and Education.

[FR Doc. 79-1875 Filed 1-17-79; 8:45 am]

[1] 9 CFR Chapter IV is currently designated Agricultural Research Service. A document in a future FEDERAL REGISTER will redesignate this chapter Science and Education Administration.

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 50]

DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Codes and Standards for Nuclear Powerplants

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending its regulation, "Codes and Standards," to incorporate by reference with modifications a new edition and addenda of the national code that specifies the requirements for the inservice inspection of nuclear power plant components. Adoption of this amendment would provide the use of improved, updated methods for inservice inspection for use in nuclear power plants.

DATES: Comment period expires March 5, 1979.

ADDRESSES: Written Comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT:

Mr. A. Taboada, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone 301-443-5999).

SUPPLEMENTARY INFORMATION: On April 24, 1978, the Nuclear Regulatory Commission published in the FEDERAL REGISTER (43 FR 17337) an amendment to its regulations, 10 CFR Part 50, "Licensing of Production and Utilization Facilities," which incorporated by reference new addenda to a specific national code. The Commission amended § 50.55a to incorporate by reference the 1977 Edition and the Summer 1977 Addenda to Section III, Division 1, "Rules for the Construction of Nuclear Power Plant Components," of the ASME Boiler and Pressure Vessel Code. However, that amendment did not incorporate by reference addenda to Section XI, "Inservice Inspection of Nuclear Power Plant Components," of the ASME Code issued after the Summer 1975 Addenda. These addenda, which contained substantial changes to the existing inservice inspection requirements previously incorporated by reference into the regulations, were still being evaluated when the amendment was published. The statement of considerations to the April 24, 1978 amendment stated that the later addenda to Section XI of the ASME Code were expected to be referenced with modifications in a subsequent amendment to the regulations.

A review of the 1977 Edition of Section XI and addenda issued from Winter 1975 Addenda through the Winter 1977 Addenda has disclosed several major changes to the code which, if adopted, would significantly reduce the examination requirements of inservice inspection programs presently required by the Commission for the reactor coolant pressure boundary and for systems required for safe shutdown of the reactor. This edition and addenda would be acceptable for incorporation by reference into the regulations only with appropriate modifications to retain those requirements considered necessary for an acceptable inservice inspection program.

In this regard, the Summer 1978 Addenda provide such modifications to Section XI of the ASME Code. The examination requirements removed from the code by previous addenda, but still required by the regulations, have either been restored or have been superseded by provisions considered to be improvements.

In light of the changes made in the Summer 1978 Addenda, the Commission now proposes to amend § 50.55a to incorporate by reference the 1977 Edition of Section XI of the ASME Code and Addenda through the Summer 1978 Addenda. Certain limitations and modifications to Section XI of the Code would also be included in the amendment to address the applicability of specific editions and addenda and to provide for flexibility and consistency in the implementation of the Code. The limitations and modifications include the following:

1. The applicability of certain code addenda would be qualified to assure that appropriate inservice examination requirements are included in inservice inspection programs for nuclear facilities. The proposed amendment would, in effect, require the application of the Summer 1978 Addenda to those inservice inspection programs that would otherwise apply additions

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and addenda of Section XI from the Winter 1975 Addenda through the Winter 1977 Addenda.

2. Alternatives would be provided to the requirements for inservice inspection of pipe welds. Operating facilities and facilities in the construction stages with inservice inspection programs (facilities with applications for construction permits docketed prior to July 1, 1978) would be permitted the option of examining code Class 1 and Code Class 2 pipe welds to either the Summer 1975 Addenda or the summer 1978 Addenda or later. This addenda is the latest code addenda incorporated by reference in § 50.55a. By applying this option, such facilities would have continuity in the extent and frequency of examinations for pipe welds. the amendment also would specify the use of the Summer 1975 Addenda for establishing examination requirements for pipe welds in the Residual Heat Removal System, the Emergency core Cooling System, and the Containment Heat Removal System. This provision is needed since new code requirements for inservice examination of these systems are still under development for later addenda.

3. Provisions added to article IWB-2000 of Section XI of the ASME Code by the winter 1975 Addenda contained, for the first time, requirements for inservice inspection of steam generator tubing. However, it has been the practice of the commission to include detailed provisions for the inservice inspection of steam generator tubing in the technical specifications for a specific reactor. the potential for conflicting requirements would exist if code requirements were incorporated by reference into the regulations without appropriate modifications. Since the provisions in the technical specifications approved by the Commission are, in general, more complete and more current, the proposed amendment would require that the inservice inspection program for steam generator tubing be governed by the requirements in the technical specifications.

In addition to incorporating by reference the new edition and addenda with modifications, the Commission proposes several minor and clarifying amendments to § 50.55a. These include a change in the time interval for revising programs for inservice examination of components and for testing pumps and valves to make it consistent with the inservice inspection interval in Section XI of the ASME Code. The interval for revising inservice inspection programs for operating plants would be extended from 40 and 20 months to 120 months. Such a change would make the regulation more practical to implement and save time and effort for both the NRC and the licensee. Extending the period for revising the program is not considered a significant relaxation of safety requirements since new code changes generally deal with practical considerations or the application of new developments. In this regard the Commission may impose new code requirements at any time if safety considerations so dictate.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 50 is contemplated. All interested persons who wish to submit written comments or suggestions in connection with the proposed amendments should send them to the Secretary of the commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch by March 5, 1979. Copies of comments received may be examined in the Commission's Public Document room at 1717 H Street, NW., Washington, D.C.

In § 50.55a of 10 CFR Part 50, paragraphs (g)(2) and (g)(3)(v) are amended by deleting the words "become effective" and substituting therefor "are incorporated by reference in paragraph (b) of this section subject to the limitations and modifications listed therein"; paragraphs (b)(2) and (g)(4)(i) through (g)(4)(iv) are revised to read as follows:

§ 50.55a Codes and standards.

Each operating license for a boiling or pressurized water-cooled nuclear power facility shall be subject to the conditions in paragraph (g) and each construction permit for a utilization facility shall be subject to the following conditions in addition to those specified in § 50.55:

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(b)(2) As used in this section, references to Section XI of the ASME Boiler and Pressure Vessel Code refer to Section XI, Division 1 and include editions through the 1977 Edition and addenda through the Summer 1978 Addenda, except that the addenda to the 1974 Edition issued after the Summer 1975 Addenda and the 1977 Edition and subsequent addenda are subject to the following limitations and modifications: (i) *Applicability of specific editions and addenda.* When using the 1974 Edition for establishing an inservice inspection program only the addenda through the Summer 1975 Addenda may be used. When using the 1977 Edition for establishing an inservice inspection program all of the addenda through the summer 1978 addenda must also be used.

(ii) *Pressure-retaining welds in ASME Code Class 1 piping (applies to Table IWB-2500 and IWB-2500-1 Category B-J).* If the facility's application for a construction permit was docketed prior to July 1, 1978, Code Class 1 pipe welds may be examined to the requirements of Table IWB-2500 and Table IWB-2600 Category B-J of Section XI of the ASME code in the 1974 Edition and addenda through the Summer 1975 Addenda.

(iii) *Steam generator tubing (modifies Article IWB-2000).* If the technical specifications of a nuclear power plant include surveillance requirements for steam generators different than those in Article IWB-2000, the inservice inspection program for steam generator tubing shall be governed by the requirements in the technical specifications.

(iv) *Pressure-retaining welds in ASME Code Class 2 piping (applies to Tables IWC-2520 or IWC-2520-1, Category C-F)*

(A) The Code Class 2 pipe welds in Residual Heat Removal Systems, Emergency Core Cooling Systems, and Containment Heat Removal Systems, shall be examined to the requirements of paragraph IWC-1220, Table IWC-2520 Category C-F and C-G, and paragraph IWC-2411 in the Summer 1975 Addenda of Section XI of the ASME Code.

(B) For a nuclear power plant whose application for a construction permit is docketed prior to July 1, 1978, Code Class 2 pipe welds may be examined to the requirements of paragraph IWC-1220, Table IWC-2520 Category C-F and C-G and paragraph IWC-2411 in the Summer 1975 Addenda of section XI of the ASME Code.

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(g) Inservice Inspection Requirements:

• • • • •

(4) (i) Inservice examinations of components and inservice tests of pumps and valves conducted during the intial 120-month inspection interval shall comply with the requirements in the latest edition and addenda of the code incorporated by reference in paragraph (b) of this section on the date 12 months prior to the date of issuance of the operating license, subject to the imitations and modifications listed in paragraph (b).

(ii) Inservice examinations of components and inservice tests of pumps and valves conducted during successive 120-month inspection interval shall comply with the requirements of the latest edition and addenda of the Code incorporated by reference in paragraph (b) of this section 12 months prior to the start of the 120-month inspection interval, subject to the limitations and modifications listed in paragraph (b).

(iii) For a facility whose operating license was issued prior to March 1, 1976, the provisions of paragraph (g)(4) of this section are effective after September 1, 1976, at the start of the next one-third of a 120-month inspection interval. During that third of an inspection interval and the remainder of the inspection interval, the inservice inspections of components and tests of pumps and valves for such facilities shall comply with the requirements in the latest edition and addenda of the Code incorporated by reference in paragraph (b) of this section on the date 12 months prior to the start of that third of an inspection interval, subject to the limitations and modifications listed in paragraph (b).

(iv) Inservice examinations of components and tests of pumps and valves may meet the requirements set forth in subsequent editions and addenda that are incorporated by reference in paragraph (b) of this section, subject to the limitations and modifications listed in paragraph (b), and subject to Commission approval. Portions of editions or addenda may be used provided that all related requirements of the respective editions or addenda are met.

• • • • •

(Secs. 103, 104, 1611, Pub. Law 83-703; 68 Stat. 936, 937, 948; Sec. 201, Pub. Law 93-438, 88 Stat. 1242; (42 U.S.C. 2133, 2134, 2201(i), 5841)).

Dated at Bethesda, Maryland this 2nd day of January 1979.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc. 79-1773 Filed 1-17-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Parts 500, 501, 502, 503, and 505]

[Docket No. ERA-R-78-19]

HEARINGS ON PROPOSED RULES TO IMPLEMENT THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Public Hearings on New Facilities; Extension of the Public Comment Period.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby announces a series of public hearings on its proposed rules for implementation of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), Public Law 95-620, and extension of the public comment period. Proposed rules concerning new facilities were published on November 17, 1978 (43 FR 53974). Proposed rules concerning existing facilities will be published in the near future. Notice of public hearings on the Draft Environmental Impact Statement concerning implementation of FUA was published in the January 9, 1979 FEDERAL REGISTER (44 FR 2004).

DATES: Public hearings will be held on February 7, 1979, and if required, on February 8, 1979, in Boston, Massachusetts; February 14, 1979, and if required, February 15, 1979 in Salt Lake City, Utah; February 21, 1979, and if required, February 22, 1979 in Tampa, Florida; and March 1, 1979, and if required, March 2, 1979 in Lexington, Kentucky. All hearings will begin at 9:30 a.m. Written comments on new facilities are now due by March 2, 1979, 4:30 p.m. Requests to speak for the Boston, Salt Lake City, and Tampa hearings by January 26, 1979, 4:30 p.m. Requests to speak for the Lexington hearing by February 15, 1979, 4:30 p.m.

ADDRESSES: Send all written comments to: Department of Energy, Public Hearing Management, Room 2313, 2000 M Street, NW., Washington, D.C. 20461, Docket No. ERA-78-R-19. Where possible, comments on separate issues should be clearly identified to allow efficient review and consideration.

City	Hearing date	Location	Requests to speak
Boston, Mass.	Feb. 7	Shawmut Bank Bldg., Conf. Rm. 8th Fl., 1 Federal Street, Boston, Mass.	Dept. of Energy, 150 Causeway Street, Room 700, Boston, Mass., (617) 223-5257.
Salt Lake City, Utah	Feb. 14	Salt Palace, 100 S.W. Temple, Room 128, Salt Lake City, Utah.	Dept. of Energy, 1075 S. Yukon Street, P.O. Box 26247, Belmar Branch, Lakewood, Colo., (303) 234-2420.
Tampa, Fla.	Feb. 21	Sheraton Tampa Motor Hotel, Ballroom, 500 E. Cass Street, Tampa, Fla.	Dept. of Energy, 1655 Peachtree, St. NE, Atlanta, Ga., (404) 257-2051.
Lexington, Ky.	Mar. 1	Hyatt Regency, Washington Room, 400 W. Pine Street, Lexington, Ky.	Dept. of Energy, 1655 Peachtree, St. NE, Atlanta, Ga., (404) 257-2051.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170.

John L. Gurney (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, Room 2130, 2000 M Street, N.W., Washington, D.C. 20461, (202) 632-6690.

Barton R. House (Fuels Regulation Program Office), Economic Regulatory Administration, Department of Energy, Room 6128-I, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-3905.

James H. Heffernan (Office of General Counsel), Department of Energy, Room 6144, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-9296.

SUPPLEMENTARY INFORMATION: On November 9, 1978, ERA issued proposed rules for implementation of FUA pertaining to new facilities (November 17, 1978, 43 FR 53974).

FUA prohibits the use of petroleum and natural gas by certain new electric powerplants and industrial major fuel burning installations. The proposed rules establish procedures and criteria by which users may petition for exemptions from the prohibitions of the Act. The rules also establish a requirement for a Fuels Decision Report which must be submitted as part of any petition for exemption.

Interested persons who would like to participate in any hearing should contact the appropriate Regional Ofice of DOE as listed above in the "ADDRESSES" section of this Notice. A request to participate in any hearing shall be in writing and signed by the person making the request. Please provide a phone number where we may contact you through the day before the hearing.

Participants should bring 50 copies of their testimony and each exhibit to be presented to ERA with them on the day of the hearing. The hearings will be conducted in accordance with the procedures set forth in the November 17, 1978 Proposed Rules.

We will notify each person selected to be heard before 4:30 p.m., January 30, 1979 for the Boston, Salt Lake City and Tampa hearings, and February 20, 1979 for the Lexington hearing.

(Department of Energy Organization Act, Pub. L. 95-91; Powerplant and Industrial Fuel Use Act, Pub. L. 95-620.)

Issued in Washington, D.C. January 12, 1979.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

[FR Doc. 79-1872 Filed 1-17-79; 8:45 am]

[7535-01-M]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Nondiscrimination Requirements in Lending

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: The National Credit Union Administration proposes to amend its nondiscrimination in lending regulation. The amendments, which are in accordance with the Fair Housing Act of 1968, would: (a) Prohibit a Federal credit union from denying a real estate related loan (or offering it on less favorable terms and conditions) based on the age or location of the dwelling, or based upon the race, color, sex, or national origin of the borrower or of the people who reside (or may reside) in the vicinity of the dwelling securing the loan; (b) Make the real estate appraisal available to any requesting member/applicant; and (c) Enable a member who feels he/she has been discriminated against to contact the National Credit Union Administration.

DATE: Comments must be received on or before February 28, 1979.

SEND COMMENTS TO: Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 2025 M Street, NW. Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT:

Edward J. Dobranski, Senior Attorney, Office of the General Counsel, at the above address. Telephone: (202) 632-4870.

SUPPLEMENTARY INFORMATION: The National Credit Union Administration proposes to broaden its nondiscrimination regulation (§ 701.31) to specifically address certain practices, such as racial redlining, which violate the Fair Housing Act of 1968 (42 U.S.C. 3601, *et seq.*). Given Federal credit union entry into the long term mortgage market, the National Credit Union Administration believes the changes are necessary to assist Federal credit unions in distinguishing legitimate reasons for denying a loan from those that are prohibited by the Fair Housing Act. Also, it is hoped that the regulation will impress upon Federal credit unions the necessity of assisting in the revitalization of urban neighborhoods.

The proscriptions contained in the proposals are based upon the Fair Housing Act and the interpretations given that statute by the Federal courts. *See*, e.g., *Laufman* v. *Oakley Bldg. & Loan Co.*, 408 F. Supp. 489 (D. Ohio 1976). Other applicable statutes and regulations protecting a credit applicant from prohibited discrimination, such as the Equal Credit Opportunity Act, are neither incorporated nor supplanted by the proposed regulation.

SCOPE

The proposed regulation applies to those loans secured by a first lien made for the purpose of financing (or refinancing) the acquisition of a 1-4 family dwelling and also applies to home improvement loans. Both types of loans are referred to in the regulation as 'real estate related' loans.

NONDISCRIMINATION IN LENDING

This section encompasses both denying a loan and offering a loan on less favorable terms and conditions. It prohibits consideration of the racial, ethnic, or religious affiliation of both the borrower *and* of the people who live (or are expected to live) in the neighborhood where the dwelling is located. Considering such factors is a clear violation of the Fair Housing Act of 1968.

This section also prohibits reliance upon two other factors (*i.e.*, age and location of dwelling) neither of which relates to the creditworthiness of the borrower, and both of which often have a discriminatory effect, irrespective of whether a discriminatory intent is present. (Use of such factors in the appraisal, as opposed to underwriting of the loan, is discussed below).

ADVERTISING

Section 701.31 has been amended to require that the Fair Housing logotype and legend state that the applicant/borrower may file a complaint with the National Credit Union Administration, as well as with HUD. it has also been amended to require an Equal Credit Opportunity Act legend stating that the applicant/borrower may file an ECOA complaint with the Administration.

APPRAISAL

This section prohibits the use of an appraisal which was made in violation of the Fair Housing Act (either *per se* or *in effect*). This includes reliance on an appraisal which, based on the age or location of the dwelling, undervalues the appraised dwelling. (Since the appraiser is an agent of the Federal credit union in this respect, any of his/her discriminatory actions are imputed to the Federal credit union, irrespective of the Federal credit union's actual knowledge of them). It should be noted that prohibition relating to age does not prevent consideration of the structual soundness of a dwelling. The prohibition extends only to underappraisal due to the age of a dwelling without regard to its structural soundness.

With respect to the prohibition against consideration of the dwelling's location, the Administration recognizes that certain factors relating to location can be validly considered in the appraisal process. For example, the fact that the dwelling is located atop an abandoned mine shaft or land fault. It is the Administration's position, however, that the burden of justifying an exception to the consideration of location prohibition be placed upon the Federal credit union and its agent appraiser, and documented accordingly. This approach has been proposed for two reasons. First, the Administration cannot possibly list a litany of every location factor causing a lower appraisal which can be validly considered. Second, consideration of certain location factors (such as zoning changes and abandoned homes in the neighborhood) can be proper in some instances and improper in others. The Administration believes this approach best implements its position that arbitrary decisions based on location are prohibited.

This section also enables the member to obtain a copy of the appraisal on request.

MONITORING

The National Credit Union Administration believes that the application and loan information a Federal credit union maintains pursuant to Regulation B (race, sex, age, and marital status), Regulation C (census tract); FHLMC loan application Form 65/FNMA Form 1003 (year property built) and National Credit Union Administration Regulation 701.21-6 (application, sales contract, appraisal, settlement statement, note and security instrument) are sufficient to enable to National Credit Union Administration to determine, upon examination, whether redlining or other discriminatory practices have taken place. In short, the National Credit Union Administration can assume the full responsibility for collecting and analyzing the data needed for determining compliance.

Consequently, the National Credit Union Administration will not require a Federal credit union to maintain a separate loan application register for residential real estate loans and no additional burden will be placed upon Federal credit unions. The agency believes this approach is consistent with the President's anti-inflation policies.

Accordingly, the National Credit Union Administration proposes to delete existing § 701.31 and proposes new § 701.31 to read as follows:

LAWRENCE CONNELL,
Administrator.

JANUARY 12, 1979.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789). (42 U.S.C. 3601-3619; 42 U.S.C. 1981, 15 U.S.C. 1601 et seq.; 12 U.S.C. 1757, 1759, 1786 and 1789)

§ 701.31 Nondiscrimination requirements.

(a) *Definitions.* As used in this part, the term,

(1) 'Application' carries the meaning of that term as defined in 12 CFR 202.2(f) (Regulation B); and

(2) 'Real estate related loan', means any loan (or application therefor) made pursuant to Section 107(5)(A)(i) of the Federal Credit Union Act and any loan (or application therefor) made pursuant to Section 107(5)(A)(ii) of the Federal Credit Union Act for the purpose of repair, alteration, or improvement of the applicant's residential dwelling.

(b) *Nondiscrimination in Lending.* (1) A Federal credit union may not deny a real estate related loan on the basis of age or location of the dwelling.

(2) A Federal credit union may not discriminate in setting the terms and conditions of a real estate related loan on the basis of the age or location of the dwelling.

(3) A Federal credit union may not deny a real estate related loan, nor may it discriminate in setting the terms and conditions of such loan on the basis of the race, color, religion, sex, or national origin of:

(i) Any applicant or joint applicant;

(ii) Any person associated with an applicant or joint applicant in connection with a real estate related loan application;

(iii) The present or prospective owners, lessees, tenants, or occupants of the dwelling for which a real estate related loan is requested to be made;

(iv) The present or prospective owners, lessees, tenants, or occupants of other dwellings in the vicinity of the dwelling for which a real estate related loan is requested to be made.

(c) *Nondiscrimination in Appraisals.* (1) A Federal credit union may not rely upon an appraisal of a dwelling if the appraisal is discriminatory on the basis of the age or location of the dwelling, or is discriminatory either *per se* or *in effect*, on a basis prohibited by the Fair Housing Act of 1968.

(2) Notwithstanding paragraph (c)(1) of this section it is recognized that there may be factors concerning location of the dwelling which can be properly considered in an appraisal. If any such factors are relied upon, such reliance must be justified as not in violation of the Fair Housing Act of 1968, and documented accordingly.

(3) Each Federal Credit union shall make available, to any requesting member/applicant, a copy of the appraisal used in connection with that member's real estate related loan application.

(d) *Nondiscrimination in Advertising—(1) Advertising notice of nondiscrimination compliance.* No Federal credit union may directly or indirectly engage in any form of advertising of real estate related loans which implies or suggests a discriminatory preference or policy of exclusion in violation of the provisions of the Fair Housing Act of 1968 or of this Part. Advertisements relating to such loans shall include a facsimile of the logotype and legend appearing in paragraph (d)(3) of this section.

(2) *Lobby notice of nondiscrimination compliance.* Every Federal credit union which engages in real estate related lending shall conspicuously display in the public lobby of such credit union and in the public area of each office where such loans are made, in a manner so as to be clearly visible to the general public entering such lobby or area, a notice that incorporates a facsimile of the logotype and legend appearing in paragraph (d)(3) of this section. Posters containing this legend and logotype may be obtained from the regional offices of the National Credit Union Administration.

(3) *Logotype and notice of nondiscrimination compliance.* The logotype and text of the notice required in paragraphs (d) (1) and (2) of this section shall be as follows:

EQUAL HOUSING LENDER

We Do Business in Accordance With the Federal Fair Housing Law

(Title VIII of the Civil Rights Act of 1968, as Amended by the Housing and Community Development Act of 1974)

IT IS ILLEGAL TO DISCRIMINATE AGAINST ANY PERSON BECAUSE OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN, TO:

- Deny a loan for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling or
- Discriminate in fixing of the amount, interest rate, duration, application procedures or other terms or conditions of such a loan

IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST, YOU MAY SEND A COMPLAINT TO:

NATIONAL CREDIT UNION ADMINISTRATION, Division of Consumer Affairs, Washington, D.C. 20456

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, Assistant Secretary for Fair Housing and Equal Opportunity, Washington, D.C. 20410

or call your local HUD Area or Insuring Office.

IT IS ILLEGAL UNDER THE EQUAL CREDIT OPPORTUNITY ACT TO DISCRIMINATE IN EXTENDING CREDIT:

- ☐ On the basis of race, color, religion, national origin, sex, or marital status, or age
- ☐ Because income is from public assistance
- ☐ Because a right was exercised under the Consumer Credit Protection Act.

IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST, YOU MAY SEND A COMPLAINT TO:

NATIONAL CREDIT UNION ADMINISTRATION, DIVISION OF CONSUMER AFFAIRS, WASHINGTON, D.C. 20456

[FR Doc. 79-1870 Filed 1-17-79; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-SO-81]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Proposed Alteration of Control Zone, Anderson, S.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to alter the Anderson, South Carolina, control zone and lower the base of controlled airspace in the vicinity of the Anderson County Airport from 700 feet AGL to the surface to accommodate Instrument Flight Rule (IFR) operations. A new public use instrument approach procedure has been developed for the Anderson County Airport, and the additional controlled airspace is required to protect aircraft executing the approach procedure.

DATES: Comments must be received on or before: February 28, 1979.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

Harlen D. Phillips, Airspace and Pro-

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cedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georiga 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before February 28, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR 71) to provide additional controlled airspace protection for IFR operations at Anderson County Airport. The NDB Runway 35 standard instrument approach procedure utilizing the Anderson County (nonfederal) nondirectional radio beacon is proposed in conjunction with the alteration of this control zone.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Subpart F, § 71.171 (44 FR 353), of Part 71 of the Federal Aviation Regulations (14 CFR 71) by adding the following:

ANDERSON, S.C.

". . . and within 3 miles each side of the 171° bearing from the Anderson County RBN (latitude 34°29'53" N., longitude 82°42'31" W.), extending from the 5 mile radius zone to 8.5 miles south of the RBN . . .".

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in East Point, Georgia, on January 4, 1979.

LONNIE D. PARRISH,
Acting Director, Southern Region.

[FR Doc. 79-1732 Filed 1-17-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[14 CFR Part 399]

[Docket 30362; PSDR-54]

STATEMENTS OF GENERAL POLICY PAYMENTS TO SHIPPERS AND INTERMEDIARIES BY DIRECT CARRIERS

JANUARY 11, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes a policy statement that since payments by direct carriers to shippers, air freight forwarders, or cooperative shippers associations for ready-for-carriage services are not directly connected with the basic sale of transportation, these payments are not barred as rebates. The rulemaking is in response to a petition from the Airfreight Forwarders Association.

DATES: Comments by March 20, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: January 29, 1979.

Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Comments should be sent to Docket 30362, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: In response to a petition for rulemaking from the Air Freight Forwarder Association, the Board issued Advance Notice of Proposed Rulemaking EDR-330 (42 FR 38600, July 29, 1977), asking for comment about payment of commissions or ready-for-carriage fees to shippers or intermediaries on international shipments. The Board specifically asked for information and views about: the kinds of services usually performed by freight intermediaries such as forwarders and agents; any differences in costs that would result if a particular service were performed by someone else; the type of intermediary that should receive these payments; and the tariffs and system of fees connected with the services performed. Comments and reply comments were received from several large shippers, U.S. and foreign direct carriers, and from air freight forwarders and cargo agents.[1]

Under the Act (section 403(b)) and Board regulations (14 CFR Parts 221 and 296), the payment of commissions or fees to shippers or indirect cargo carriers has been considered a method for rebates from the direct carrier's

[1] Comments were received from: Air Express International, Air Freight Forwarder Association, Amerford International Corporation, American Airlines, British Airways, Control Date Corporation, Customs Brokers and Forwarders Association of Miami, The Flying Tiger Line (FTL), Intercontinental Forwarders, International Airfreight Agents Associations (IAAA), Japan Air Lines, Novo International Airfreight, Outboard Marine Corporation, Trans World Airlines, United Air Lines, Venezolana Internacional de Aviacion, S.A. (VIASA), W. R. Zane & Co., and 3M Company.

FTL filed a Motion for Leave to File Late with its comments, and IAAA filed a Motion for Leave to File an Otherwise Unauthorized Document with a response to FTL's comment. For good cause, the motions are granted.

tariff.[2] Forwarders, however, may receive a commission when acting as an agent for an individual shipment on the airwaybill of the direct carrier. Cargo agents receive a commission from the direct carrier on individual shipments. These agents do not receive a commission on consolidated shipments. The forwarder may not receive a commission for either an individual or consolidated shipment when transmitted on his airwaybill. To do so would be a rebate from the direct carrier's tariff, because of these shipments the forwarder is acting as a shipper in relation to the direct carrier. For the same reasons, the direct carriers may not pay commissions on these shipments.

Ready-for-carriage fees (payments for services rendered), however, have been prohibited not as rebates, but because they could be used as a vehicle to disguise rebating. We have tentatively decided that this prophylactic restraint on ready-for-carriage fees is no longer justified. The Airline Deregulation Act of 1978 (Pub. L. 95-504) has emphatically changed the policy of regulation of air transportation from protection to competition. Previously, in balancing the danger of rebating against freer opertion of the market, the Board found protection was necessary. In view, however, of the changes in the Act freeing price and entry, and of the more liberalized regulation of the cargo industry, not only has the danger of rebating receded, but such a prohibition would tend to stifle these competitive market forces.

The forwarders and shippers contended that direct carriers receive specific, valuable services from them at no cost. Only part of their services, they claimed, are in any way compensated by the difference between their rates and the discounts given by the direct carriers on volume shipments. They argued that the prohibitions on such payments have been discriminatory in two ways. First, cargo agents performing the same services to receive payments in the form of commissions.[3] Second, since the international cargo rate structure is based on the implicit assumption that commissions are paid to forwarders, there are insufficient incentives for U.S. forwarders to develop and expand international air freight markets. Also, this situation is to the competitive advantage of foreign forwarders, allowing them the financial resources, in part because of the receipt of commissions, to penetrate U.S. markets, while denying U.S. forwarders the same resources for foreign markets.

The opponents stressed that these payments can camouflage rebates and are not economically justified. They argued that the freight rate structure of the direct carriers is designed so that the shippers or indirect air carriers performing ready-for-carriage services receive the resulting cost saving to the direct carriers. If permitted, they argued, these payments would increase the cost to the shipper to cover the additional cost to the direct carrier.

While we agree that payment of commissions to forwarders or shippers could be considered a rebate from the direct carrier's tariff to the purchaser of its air transportation, ready-for-carriage fees would appear to be payment for services which are only ancillary to the air transportation provided, and in addition would appear to provide incentives for efficiency and price competition. With the passage of the cargo deregulation amendments (Pub. L. 95-163) and the Airline Deregulation Act of 1978 (Pub. L. 95-504), the air freight industry will gradually become more responsive to price competition.

Since the forwarder or shipper can often more efficiently prepare shipments for carriage at a lower cost than the direct carrier, payment by the direct carrier of ready-for-carriage fees to the forwarder could result in the shipper receiving more efficient service at lower cost. Overall, we believe that shaper price competition between the direct air carrier and the forwarder, and price competition at the forwarder level, would create pressures to minimize the costs of shipment handling, and would force forwarders to pass along lower rates to the shipper, driving rates down and benefiting both the shipping public and the ultimate consumer of the goods.

It is also our tentative decision that if the direct carrier is paying for actual services received, there is no rebate involved in the transaction. For example, although decided on a narrow basis, and not a precedent for this case, in Order 77-4-80, dated April 15, 1977, the Board has stated that the bona fide sharing of advertising expenses by a direct carrier and a tour operator would not be a rebate. In view of the Congressionally mandated emphasis on competition as the primary regulator of air transportation, since these ready-for-carriage services appear to be only ancillary to the provision of the air transportation itself, this artificial, prophylactic restraint is no longer warranted. Payment for these services would not be a refund or remittance to the purchaser from the direct carrier's rate for air transportation, and since they are not directly connected to its sale there is no point in denying this competitive tool to the air cargo industry.

Accordingly, the Board proposes to amend Part 399 of its Policy Statements (14 CFR Part 399) to read as follows:

1. The Table of Contents would be revised by adding a new section 399.86 to Subpart G to read:

Subpart G—Policies Relating to Enforcement

* * * * *

§ 399.86 Payments to shippers and indirect cargo carriers.

2. Subpart G would be revised by adding a new section 399.86 to read:

§ 399.86 Payments to shippers and indirect cargo carriers.

The Board considers that payments by direct air carriers to shippers or indirect air cargo carriers for delivering shipments to the direct carriers in a ready-for-carriage form are for services ancillary to the provision of air transportation, and are not rebates under section 403 of the Act.

(Secs. 204, 401, 403, 404(b), of the Federal Aviation Act, as amended, 72 Stat. 743, 754, 758, and 760; 49 U.S.C. 1324, 1371, 1373, and 1374; Pub. L. 95-504).

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-1867 Filed 1-17-79; 8:45 am]

[2] By ER-1080 (43 FR 53628, November 16, 1978), the Board has exempted direct carriers in domestic cargo transportation from the requirement to file tariffs.

[3] They do not ship on their own tariffs, however, or charge their own rates. They charge the shipper the rate of the direct carrier's airwaybill.

[6450-01-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Part 281]

[Docket No. RM79-15]

NATURAL GAS CURTAILMENT

Notice of Proposed Rulemaking Implementing Section 401 of the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Natural Gas Policy Act of 1978 (NGPA), in section 401, requires interstate pipeline curtailment plans, to the maximum extent practicable, to protect the requirements of essential agricultural uses. This Notice of Proposed Rulemaking contains a proposed regulation of the implementation of that section.

DATES: Written comments by February 26, 1979.

PUBLIC HEARINGS: Dates and locations to be announced. The Commis-

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sion solicits suggestions as to where it would be appropriate to hold other proceedings in addition to the one to be held in Washington, D.C. Such requests should be submitted by January 25, 1979 to the address below.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (Reference Docket No. RM79-15).

FOR FURTHER INFORMATION CONTACT:

Romulo L. Diaz, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 275-3771.

or

Martin A. Burless, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 275-4349.

PREAMBLE TO THE PERMANENT CURTAILMENT RULE

BACKGROUND

Section 401 of the Natural Gas Policy Act of 1978 (NGPA) seeks to assure that natural gas required for essential agricultural uses will not be curtailed unless curtailment is required to protect the needs of enumerated high priority users.

Section 401(a) provides that not later than 120 days after the date of enactment of the NGPA the Secretary of Energy shall prescribe and make effective a rule which provides that no curtailment plan of an interstate pipeline may provide for curtailment of deliveries of natural gas for any essential agricultural use except to meet the requirements of enumerated high priority users.

Section 401(c) states that the Secretary of Agriculture shall certify to the Secretary of Energy and to the Federal Energy Regulatory Commission and natural gas requirements for essential agricultural uses in order to meet the requirements of full food and fiber production.

Pursuant to section 403(b) of the NGPA and section 402(a)(1)(E) of the Department of Energy Organization Act, the Federal Energy Regulatory Commission is charged with implementing the rules prescribed under section 401 under its authority to establish, review, and enforce curtailments under the Natural Gas Act. By a separate rulemaking the Commission has proposed rules to give effect to section 401 for the period March 9, 1979, 120 days after the date of enactment, through October 31, 1979. The rules proposed herein are to be effective November 1, 1979, the beginning of the first full winter heating season when section 401 will be in effect. However, as will be discussed, public comment is solicited on when this rule should be made effective.

Title IV of the NGPA creates new priority classifications for high priority users as defined in the statute, essential agricultural uses, and essential industrial process and feedstock uses. There is no statutory deadline for implementation of a rule regarding essential industrial process and feedstock uses. The Economic Regulatory Administration of the Department of Energy is studying curtailment priorities and it is likely that a rule regarding essential industrial process and feedstock uses will be proposed by the Secretary of Energy upon its completion.

By this rulemaking the Commission proposes a method for the permanent implementation of section 401. In developing this proposed rule the Commission has had the benefit of consultation with the United States Department of Agriculture as contemplated by section 401. The Commission is aware, however, that consultation does not imply concurrence by the USDA with all aspects of these proposed regulations.

Under the proposed rule pipeline curtailment plans will be amended so that high priority end users that are not now in the highest priority of pipeline curtailment plans will be reclassified into Priority One. Pipeline curtailment plans will create a new Priority Two which will contain the requirements necessary to serve essential agriculture uses. All other pipeline curtailment categories will remain the same and their order will remain the same but they will be below these two new categories.

The proposed changes in curtailment plans are to be implemented on November 1, 1979. It will be necessary for the interstate pipelines to revise their end use profiles and curtailment plans to reflect the changes brought about by the enactment of NGPA. Thus, although the rule will not be implemented until November 1, substantial work will be required before that date to prepare for its implementation. The Commission anticipates as soon as this rule is promulgated end users, local distribution companies, and interstate pipelines will immediately commence working towards its implementation.

The Commission requests interested parties to comment on the proposed date for implementation of these changes in curtailments. It is possible that the rules promulgated under section 402 may require similar modifications to the ones proposed here. There may be benefits to postponing permanent implementation until after those rules are promulgated. However, it is unlikely that the section 402 rule will be in place for the 1979-80 heating season so that if section 401 were implemented with section 402, some interim plan would have to be adopted for the 1979-80 heating season. Comments and suggestions are requested on this issue.

The Commission recognizes that there may be interstate pipelines with existing curtailment plans that will not require modification. For example, there may be interstate pipelines that do not have any essential agricultural uses on their systems and whose existing curtailment plans already classify high priority users ahead of all other uses. Another situation might find a pipeline's natural gas supply and existing curtailment plan adequate to forestall curtailment of high priority users and essential agricultural uses for the foreseeable future. In such cases it is not the Commission's intent to compel alteration of the existing curtailment plan needlessly. If an interstate pipeline's existing curtailment plan, given current supply projections, adequately protects those uses the statute seeks to protect, the interstate pipeline may file for an exception to the provisions of this rule.

Where modification of a pipeline's curtailment plan is required, individual pipelines may require a plan which varies from that in the proposed rule. Once again, the Commission seeks to be sensitive to the differences among interstate pipelines. Should differing treatment be appropriate for individual pipelines the Commission is prepared to recognize this fact and respond accordingly.

In past curtailment proceedings the parties have often arrived at a settlement of all issues without resort to adjudicatory proceedings before the Commission. This procedure may be appropriate here, and nothing in the proposed rule precludes any interstate pipeline and its customers from proposing, as a settlement, a curtailment plan that differs from that set out in our proposed rules. Such a settlement will be evaluated by the Commission in light of its ability to meet the statutory goal of protecting, to the maximum extent practicable, high priority users and essential agricultural uses.

SUMMARY OF PROPOSED RULE

The proposed rule would have interstate pipelines file revised curtailment plans setting forth two new categories, placing high priority users and essential agricultural uses ahead of existing curtailment categories. The Commission views this as a reclassification of existing curtailment plans so that uses once categorized on another basis would now be categorized as high priority users or essential agricultural uses.

The requirements of high priority users would be the same as the requirements for those users currently reflected in existing interstate pipeline curtailment plans.[1] Thus, were an interstate pipeline curtails on a past fixed base period the high priority user requirements would be those reflected in the base period data. Where an interstate pipeline uses an alternate approach to curtailment then the high priority user's requirements would be computed on the same basis as they are computed in the interstate pipeline's presently effective curtailment plan.

Under the Commission's proposed rules essential agricultural uses requirements will be calculated on the same basis as they are calculated in the interstate pipeline's presently effective curtailment plan. Thus, where an interstate pipeline curtails based on a past fixed base period, the requirements will be the base period allocation. Where another basis is used that method will be used. After this volume is calculated, the user's alternate fuel capability will be subtracted out. The Commission is of the view that this will help insure that uses without alternate fuel capability, those most in need of protection, receive the highest curtailment classification. Failure to examine alternate fuel capability would result in the rule protecting those with alternate fuel capability on the same basis as those without that capability, thereby diminishing the quality of the protection afforded to those who most need it.

Where a determination is made that certain requirements can be satisfied with alternate fuel, those requirements will not be reclassified. This may result in certain end user's volumes being split among various curtailment categories. This is not unusual and has been done in the past with industrial needs which may be divided among process, feedstock and boiler fuel requirements with curtailment of the lower priority uses occurring while the same end user's high priority needs are served.

This proposed rule is linked to the basis upon which the interstate pipeline now curtails. This is designed to result in minimal disruption of existing curtailment plans as expressed in the NGPA Conference Report at page 113:

> For purposes of implementing this section, the Commission is instructed to reopen curtailment plans that are already in effect under the Natural Gas Act only to the extent necessary to adjust those plans to bring them into conformity with the new curtailment priority schedule. The conferees were concerned that these changes not burden the Commission with lengthy proceedings which might throw existing curtailment plans into disarray. Therefore, the conference agreement includes the term "to the maximum extent practicable" to assure that the Commission has the necessary flexibility in implementing any changes. For example, the conferees do not intend the reopening of curtailment plans for this limited purpose to result in adoption of a new base year for curtailment purposes.

In the course of the Commission's consultation with the Department of Agriculture, pursuant to section 401(b) of the NGPA, two alternative methods of calculating agricultural requirements were suggested.[2] The Commission is giving serious consideration to these proposals as alternatives that might be adopted in place of the procedure in the proposed rule. The Secretary of Agriculture has stated:

> The Department of Agriculture has taken the position that the proposed rule would not achieve the statutory intent that access of agricultural users to pipeline supplies of gas be protected at significantly higher levels than previously and that such additional protection of gas supply must be available to agricultural users on equally favorable economic terms with other pipeline gas supplies that are protected against curtailment.
>
> The USDA has recommended the following as one possible way to achieve the statute's intent in a practicable way:
>
> 1. Small-scale agricultural uses, as defined in the January 3, 1979, draft FERC rule, would be placed in the high-priority classification under a broad interpretation of the definition of "commercial establishments using less than 50 mcf per peak day." Such users would be presumed to lack the economic practicability to utilize a fuel other than natural gas in their operations, and would be protected in their access to gas on demand within appropriate tariff provisions or up to contract entitlements.
>
> 2. For essential agricultural uses under 401(f)(1)(A), protect all projected and verified natural gas requirements of certified essential agricultural users up to contract entitlements, with a rebuttable presumption that such users lack the economic practicabiltity to utilize a fuel other than natural gas in their operations.
>
> 3. For essential agricultural uses under 401(f)(1)(B), natural gas requirements would be computed as:
>
> (a) the certified peak use, in the time frame normally employed by the pipeline, during a rolling 3-year base period; plus
>
> (b) the volume of natural gas the essential agricultural user would have consumed in that curtailment period but for curtailment or plant shutdowns.
>
> For determination of past curtailments and plant shutdowns, the burden of coming forward with the relevant verifiable information would be upon the agricultural users, and such information would be rebuttably presumed to be accurate. This would generally eliminate sequential determination on economic practicability and reasonable availability of alternate fuels; agricultural users would be rebuttably presumed to lack the economic practicability to utilize a fuel other than natural gas up to the base corrected for past curtailments and plant shutdowns.[3]

Comment is invited on the USDA preferred proposal, regarding (1) its sufficiency in fulfilling the intent of the statute and (2) its practicability of implementation.

However, should the Commission decide to adopt a historical base period approach the Department of Agriculture would advance an alternative proposal, although USDA emphasizes that the proposal set out above is the preferred approach in its view. USDA's alternative proposal follows:

> 1. Small-scale agricultural uses, as defined in the January 3, 1979, draft rule, would be placed in the high-priority classification under a broad interpretation of the definition of "commercial establishments using less than 50 mcf per peak day." Such users would be presumed to lack the economic practicability to utilize a fuel other than natural gas in their opcrations, and would be protected in their access to gas on demand within appropriate tariff provisions or up to contract entitlements.
>
> 2. For all other essential agricultural uses, natural gas requirements would be computed as:
>
> (a) the certified peak use, in the time frame normally employed by the pipeline, during a rolling 3-year period; plus
>
> (b) the volume of natural gas the essential agricultural user would have consumed in that curtailment period but for curtailment or plant shutdowns.
>
> 3. For determination of past curtailments and plant shutdowns, the burden of coming forward with the relevant verifiable information would be upon the agricultural user, and such information would be rebuttably presumed to be accurate. This would generally eliminate sequential determination on economic practicability and reasonable availability of alternate fuels; agricultural users would be rebuttably presumed to lack the economic practicability to utilize a fuel other than natural gas up to the base corrected for past curtailments and plant shutdowns.[4]

Comment is invited on the USDA's second proposal regarding (1) its sufficiency in fulfilling the intent of the statute and (2) its practicability of implementation.

Should USDA's second approach be adopted, the Commission would continue to employ the data verification committees of the various interstate pipelines in order to examine require-

[1] The Commission's rule conforms to the Department of Energy's proposed rule insofar as it considers the alternate fuel capability of high priority users. If the Department of Energy's proposed rule is altered, appropriate modifications will be made to this rule.

[2] Memoranda submitted to the Commission by the USDA pursuant to this consultation are in the public record in this docket.

[3] Memorandum from Secretary Bergland to Commissioner Hall, Subject: USDA Comments on FERC Proposed Rule, dated January 9, 1979. The definition of small agricultural use proposed by USDA is the same as that in the proposed rule.

[4] Memorandum from Mr. Barton to Commissioner Hall, January 6, 1979.

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ments. The data verification committees would be instructed to determine that small users be deemed to have no alternate fuel capability and that they be given treatment comparable to high priority uses. For all other essential agricultural uses the data verification committee would be instructed to determine the peak use of the essential agricultural use over the past three years, with such use determined on the basis on which the interstate pipeline's curtailment plan is based such as daily, seasonally, monthly, or annually. If the essential agricultural user demonstrated that it had been curtailed during this period of time and that the use of a three year rolling period did not adequately cover a period where there had been no curtailment, the volumes that would have been used if there were no curtailment would be added into this requirement. Implementing this rule, the Commission would eliminate its presumption of past alternate fuel use as in indication of economic practicability and reasonable availability of alternate fuels now. Any challenges to essential agricultural users requirements calculated under this method would be adjudicated with the burden of proof on the challenger, and any adjustment in the essential agricultural users requirements would be prospective only.

How essential agricultural use requirements are to be calculated including the determination of alternate fuel capability is a major issue. The Commission specifically requests comments on this aspect of the proposed rule in general and both of the USDA's proposals in particular. Parties who prefer other alternate approaches are requested to submit the proposed methods for computing the requirements of essential agricultural uses. The practical implications of the various proposals on interstate natural gas pipeline systems and the impact on natural gas demands by consuming category should be analyzed and evaluated.

Parties to this proceedings should be aware that the Commission is considering adoption of a direct purchase program as contemplated by section 608 of the Public Utility Regulatory Policies Act of 1978. The proposed changes would provide an opportunity for agricultural users of natural gas whose requirements are not covered by pipeline curtailment plans to obtain natural gas by means of direct purchases. The changes in this program, if adopted, should provide an important complement to the rule proposed here.

To reclassify high priority users or essential agricultural uses, it will be necessary for the pipelines to identify such end users. The Commission recognizes that many of those classified as high priority uses in the NGPA are already classified in pipeline curtailment Category One. To the extent such consumers are known and their requirements, whether individually or aggregated by distributor, are known to the interstate natural gas pipeline they would not be expected to file requests for reclassification nor would their requirements be subject to reexamination by data verification committees. The requests for reclassification should contain the information set out in the proposed rule and any other information that a person seeking reclassification deems relevant. This requested information is comprehensive so as to obviate the need for additional requests for information.

The rule provides that suppliers of natural gas, where appropriate, are to review the request for reclassification and indicate whether to the best of their knowledge, information, and belief the statements made by the end user are true. These requests for reclassification will then be forwarded to the interstate pipeline suppliers.

Each interstate pipeline will use its Data Verification Committee to review the data submitted. Interstate pipelines that do not presently have data verification committees are to form them. Interstate pipelines with existing data verification committees should continue to employ those committees.

The Commission anticipates that the data verification proceedings will be informal forums for the amicable resolution of disputes. The Commission has set out in its proposed rule the minimum requirements for membership but individual pipelines may choose to add additional members, and groups of customers may designate an individual to serve as their representative. While the proposed regulation specifies those groups who we expect to be represented, attendance by any member of the Data Verificaiton Committee is, of course, not mandatory.

The Data Verification Committee is expected to examine the information submitted by the end user and determine whether the end user actually qualifies for reclassification as a high priority user or essential agricultural use. Once this decision is made the Data Verification Committee is expected to examine the requirements of the high priority user and the essential agricultural use and compute them in accordance with the provisions of this rule. Where necessary, high priority users, agricultural users or challengers may appear before the Data Verification Committee.

The report of the Data Verification Committee, as spelled out in this rule, is required to be in detail. It is to be the basis of the interstate pipeline's tariff filing. Once the interstate pipeline files the proposed tariff sheets with the Data Verification Committee's report the Commission will review the tariff filing and Data Verification Committee report. Where there are challenges to the Data Verification Committee report, or the Data Verification Committee has not been able to reach an agreement on a recommendation, challenges will be heard by the Commission. In those proceedings the burden of proof will be on those who seek to change the status quo. Thus, if an essential agricultural use is challenged based on alleged availability of alternate fuel and its economic practicability and that end user has not used alternate fuel in the past, the burden of proof would be on the challenger.

Where a consumer has been denied reclassification by the data Verification Committee or where a consumer with a high priority or essential agricultural use believes its requirements were inaccurately stated by the Data Verification Committee the challenge to the Data Verification Committee report will be construed as a complaint under Section 1.6 of the Commission's regulations.

The proposed rule also defines alternative fuel capability for the purposes of implementation of section 401. The definition of alternate fuel capability contained in section 401(b) of the NGPA differs from that presently contained in the Commission's regulations. The new definition of alternate fuel capability is proposed solely for the purposes of this rule so as not to require a relitigation of existing curtailment plans. One difference from the Commission's existing rule is that propane and other gaseous fuels are not excluded from the definition of alternate fuel by this rule. The Commission believes that the standard set out in the statute, reasonably available and economically practicable will provide an adequate basis for dealing with propane and other gaseous fuels on a case-by-case basis, or where appropriate, on a blanket basis. Comments are requested on the Commission's proposed treatment of propane and other gaseous fuels.

It may not be possible for the Data Verification Committee to examine the alternative fuel capability criteria in each case becasue of time constraints. In such situations the Data Verification Committee may elect to submit its report calculating alternate fuel capability based ona ctual past use under the presumption established in the rule. It would be desirble for the Data Verification Committee to consider all factors in reaching its decision but it is also important to complete determination of requirements under the permanent rule as promptly as possible in order to limit uncertainty.

The proposed rule deems small essential agricultural users, those consumers using less than 50 Mcf per day, at each separately metered delivery point as not having alternate fuel capability. Additionally, small low load factor agricultural users are presumed not to have alternate fuel capability.[5] These features of the rules are designed to minimize litigation involving small users and low load factor users so that the Commission's implementation program does not become backlogged because of excessive adjudication of disputes involving small volumes of natural gas. The presumption also reflects experience with small users that indicates that they generally do not have economically feasible alternatives. Generally, small natural gas users do not have alternate fuel capability and would have great difficulty converting to alternative fuel such as coal, solar energy, or waste heat. As a general proposition in most curtailment cases the Commission has classified small volume users with a relatively high priority.

Where there are challenges to the report of the Data Verification Committee and the associated tariff filing the Commission will establish procedures to adjudicate those challenges. It is hoped that the use of the data verification committees will minimize the number of disputes that require adjudication. Where the Commission determines that a high priority user or an essential agricultural use has been misclassified by the Data Verification Committee the Commission will grant relief prospectively. However, where a consumer received excess volumes while the Commission was adjudicating the challenge to its requirements or status, the Commission reserves the right to order payback of excess volumes in appropriate cases.

PUBLIC COMMENT PROCEDURES

Interested persons may participate in this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 26, 1979. Each person submitting a comment should include his name and address, identify the notice (Docket No. RM79-15), and give reasons for any recommendations. An original and 14 conformed copies should be filed with the Secretary of the Commission. Comments should indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. Written comments shall be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours.

The Commission intends to allow an opportunity for the oral presentation of data, views and arguments. One such proceeding will be held in Washington, D.C. and additional proceedings will be scheduled at appropriate times and places. The Commission solicits suggestions as to where it would be appropriate to hold such other proceedings and the names of those interested in appearing. Such requests should be submitted by January 25, 1979 to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Requests should reference Docket No. RM79-15 and indicate whether the request is for Washington, D.C. or elsewhere. The dates and exact locations of the public hearings will be announced as soon as practicable.

(Administrative Procedure Act (5 USC § 553), Natural Gas Act, as amended (15 U.S.C. 717), Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 FR 46267), Federal Energy Administration Act (15 U.S.C. 761), Energy Supply and Environmental Coordination Act (15 U.S.C. 791), Natural Gas Policy Act of 1978, Pub. L. 95-621, Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617.)

In consideration of the foregoing, it is proposed to add Part 281, Subpart B, Title 18, Code of Federal Regulations, as set forth below:

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

PART 281—NATURAL GAS CURTAILMENT

Subpart B—Proposed Rule for Curtailment of Natural Gas Under Section 401 of NGPA

Sec.
281.201 Purpose.
281.202 Applicability.
281.203 Definitions.
281.204 General rule.
281.205 Request for classification.
281.206 Review of requests for reclassification.
281.207 Data Verification Committee.
281.208 Protests and challenges.

AUTHORITY: (Administrative Procedure Act (5 USC § 553), Natural Gas Act, as amended (15 U.S.C. 717), Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 FR 46267), Federal Energy Administration Act (15 U.S.C. 761), Energy Supply and Environmental Coordination Act (15 U.S.C. 791), Natural Gas Policy Act of 1978, Pub. L. 95-621, Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617.)

§ 281.201 Purpose.

The purpose of this subpart is to implement section 401 of the NGPA in order to provide that effective November 1, 1979, the curtailment plans of interstate pipelines protect to the maximum extent practicable, deliveries of natural gas for essential agricultural uses and for high-priority uses.

§ 281.202 Applicability.

This subpart applies to sales of natural gas made by an interstate pipeline on and after November 1, 1979, if the pipeline is curtailing its sales of natural gas.

§ 281.203 Definitions.

(a) *NGPA definitions.* Terms defined in the NGPA shall have the same meaning for purposes of this subpart as they have under the NGPA, unless further defined in this subpart.

(b) *Subpart B definitions.* For purposes of this subpart:

(1) "NGPA" means the Natural Gas Policy Act of 1978.

(2) "School" means a facility the primary function of which is delivering instruction to regularly enrolled students in attendance at such facility. Facilities used for both educational and noneducational activities are not included under this definition unless the latter activities are merely incidental to the delivery of instruction.

(3) "Hospital" means a facility the primary function of which is delivering medical care to patients who remain at the facility. Outpatient clinics or doctors' offices are not included in this definition. Nursing homes and convalescent homes are included in this definition.

(4) "Essential agricultural use" means any use of natural gas which is certified by the Secretary of Agriculture under 7 CFR § 2900.3 as an "essential agricultural use" under section 401(c) of the NGPA.

(5) "Essential agricultural user" means a person who uses natural gas for an essential agricultural use.

(6) "High-priority use" means any use of natural gas:

(i) In a residence;

(ii) In a commercial establishment in amounts of less than 50 Mcf on a peak day;

(iii) In a school or hospital; or

(iv) By any person who is designated by the Secretary of Energy as a "high-priority user" under 10 CFR § 580.2(c)(2)(iv).

(7) "High-priority user" means a person who consumes natural gas for a high-priority and who does not have installed alternate fuel capability.

[5] Load factors are computed by taking the total annual consumption and dividing that figure by 365. The resulting figure, the average daily consumption, is then divided by the consumption on the day of highest use during the year. If the result is equal to or less than .20 the consumer is a low load factor user within this definition.

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(8) "High-priority requirements" for a curtailment period from a particular interstate pipeline means the high-priority requirements as determined by the Data Verification Committee under § 281.207 or the high-priority requirements as determined by the Commission, as appropriate.

(9) "Essential agricultural requirements" for a curtailment period from a particular interstate pipeline means the essential agricultural requirements as determined by the Data Verification Committee under § 281.207 or the essential agricultural requirements as determined by the Commission, as appropriate.

§ 281.204 General rule.

(a) Each interstate pipeline shall file tariff sheets amending its effective curtailment plan to provide that the total requirements for high-priority uses and essential agricultural uses are fully met prior to delivering natural gas for any other end use. These end uses are designated end-use priorities one and two and, for all interstate pipelines with existing curtailment plans based on numbered priority of use categories, those existing categories are renumbered to follow sequentially the new priorities one and two. In the event the interstate pipeline has insufficient gas available to meet both its high-priority requirements and essential agricultural requirements, the high-priority requirements will be fully served before any deliveries are made for essential agricultural requirements.

(b) The tariff sheets shall be filed on October 1, 1979, with a proposed effective date of November 1, 1979. The tariff sheets shall contain the conditions prescribed in paragraph (a) and indicate the volumes as determined by the Data Verification Committee under § 281.207, needed to serve the requirements of the high-priority users and the essential agricultural users for which there is no alternate fuel. The report of the Data Verification Committee shall be the basis of the tariff filing and shall be filed with the tariff sheets required by this subpart.

§ 281.205 Request for classification.

(a) Any end user of natural gas may file a request with its direct supplier to classify a specified volume of its purchases as high-priority use or essential agricultural use.

(b) Except as provided in paragraph (c), the end user shall submit under oath the following information, where applicable, to its direct supplier:

(1) Name of end user;

(2) Address of end user;

(3) Standard Industrial Classification (SIC) code of activity for which natural gas is required;

(4) Direct supplier of natural gas;

(5) Current curtailment priority classification;

(6) Contract entitlement for the calendar years 1976, 1977, and 1978, computed on the basis or bases utilized by the supplier (e.g., daily, monthly, seasonal, annual) for the calendar years 1976, 1977, and 1978;

(7) Actual agricultural use computed on the basis or bases utilized by the supplier (e.g., daily, monthly, seasonal, annual) for the calendar years 1976, 1977, and 1978;

(8) The current requirements of the high-priority end user as reflected in the interstate pipeline's curtailment plan;

(9) If natural gas volumes have been curtailed, the dates of such curtailment and the amount of gas curtailed;

(10) Whether the end user has alternative fuel available;

(11) Whether any fuel other than natural gas, has ever been used by the end user for end uses designated as essential agricultural uses or high-priority use and, if another fuel has been used, the dates of such use and the amount of alternate fuel used; and

(12) Whether fuels other than natural gas are planned to be used in the future; if so, the fuel and the amount involved.

(c) Residential and small commercial customers who use less than the 50 Mcf of natural gas on a peak day are not required to file with their direct supplier. Direct suppliers shall base these requirements on those already included in pipeline curtailment plan or, if none, they may estimate the high-priority requirements of these customers.

(d) The request described in paragraph (b) must be filed with the direct supplier by June 10, 1979.

§ 281.206 Review of requests for reclassification.

(a) *Suppliers.* (1) The natural gas supplier shall determine whether to the best of its knowledge, information and belief, the statements made by the end user requesting reclassification of natural gas as a high-priority use, or as an essential agricultural use are true.

(2) Where appropriate, the supplier shall file under oath the information with its interstate pipeline supplier no later than June 25, 1979, a copy of the information shall be sent simultaneously to the appropriate state or local regulatory authority. If the supplier has more than one interstate pipeline supplier, the volumes for which the reclassification is sought shall be prorated among the interstate pipeline suppliers on the same basis as proration was made for purposes of the interstate pipeline's effective curtailment plan.

(b) *Interstate pipelines.* No later than June 30, 1979, the interstate pipeline shall forward all requests for reclassification as high-priority use or essential agricultural use to the Data Verification Committee and circulate a list of customers seeking such classification to all its distributors, appropriate State and local regulatory authorities, all parties to its curtailment proceeding and the Commission staff.

§ 281.207 Data Verification Committee.

(a) The Data Verification Committees of each interstate pipeline shall include at a minimum a representative of the interstate pipeline, Commission staff, large and small distributors and appropriate State or local regulatory bodies. If an interstate pipeline does not have a Data Verification Committee, it shall form one.

(b) The interstate pipeline shall convene a meeting of the Data Verification Committee within 10 days of receipt of the information sent to it under § 281.206.

(c) The Data Verification Committee shall review the requests for reclassification and shall make an initial determination of the essential agricultural requirements and high-priority requirements of each person requesting reclassification. The initial determination of the Data Verification Committee shall be made in accordance with subparagraphs (1) and (2).

(1) *High-priority users and essential agricultural users.* The high-priority requirements of a high-priority user and the essential agricultural requirements of an essential agricultural user shall be the maximum volume the high-priority user or essential agricultural user would be entitled to purchase for high-priority use or essential agricultural use under the interstate pipeline's effective curtailment plan, but not including volumes a high-priority user or essential agricultural user may receive solely by operation of Subpart A, or volumes obtained under § 2.79, less volumes of natural gas for which the high-priority user or essential agricultural user has alternate fuel capability.

(2) *Determination of alternate fuel capability.* (i) For purposes of this paragraph and except as provided in clause (ii), alternate fuel capability will be deemed to be equal to the least amount of alternate fuel actually used in the comparable curtailment period of lowest alternate fuel use during the past three years.

(ii) (A) A person whose natural gas consumption for high-priority use or essential agricultural use during the curtailment period on which the interstate pipelines curtailment plan is based did not exceed a peak day requirement of 50 Mcf at each separately metered delivery point is deemed to have no alternate fuel capability.

(B) A person whose natural gas consumption for high-priority use or essential agricultural uses during the curtailment period on which the interstate pipelines curtailments is based did not exceed 300 Mcf on a peak day at each separately metered delivery point and whose average daily requirements for essential agricultural uses, measured over the calendar years 1976, 1977, and 1978 did not exceed 20 percent of such person's peak day requirement for essential agricultural uses measured on the 36-month period ending October 31, 1978, is deemed to have no alternate fuel capability.

(C) The Data Verification Committee shall compile a list reflecting its initial determination of high-priority requirements and essential agricultural requirements. This list shall be prepared by August 1, 1979, and simultaneously a copy shall be mailed to the interstate pipeline, all of its distributors, appropriate State and local regulatory authorities, all parties to its curtailment proceeding and the Commission staff.

(D) Any person aggrieved by an initial determination of the Data Verification Committee may challenge the determination on the basis of the actual use of the natural gas, the volumes of natural gas required for the high-priority use or the essential agricultural use or the alternate fuel capability determination. Any person challenging an initial determination shall be permitted to make an oral or written presentation to the Data Verification Committee.

(E) Subject to the provisions of subparagraphs (1) and (2) the Data Verification Committee may adjust the challenged initial determinations.

(*1*) *Alternate fuel capability.*

(*i*) Any person challenging an initial determination on the basis of alternate fuel capability shall have the burden of proving there is no alternate fuel capability.

(*ii*) For purposes of this subparagraph "alternate fuel capability" means a condition where a fuel other than natural gas could be utilized to achieve the end use of natural gas. The facilities for such use may have actually been installed, but a potential capability to use a fuel other than natural gas also qualifies as an alternate fuel capability. Alternate fuel capability exist when use of alternate fuel is economically practicable and reasonably available to the end user. A fuel other than natural gas is deemed economically practicable when the cost of such other fuel plus the cost of the facilities required to utilize such fuel are, when compared with natural gas on the basis of units of energy displaced, sufficiently similar so that the user might reasonably be expected to use either fuel without serious adverse financial consequences.

(*iii*) In determining alternate fuel capability as defined in clause (*ii*), the following factors shall be considered:

(*A*) Does the facility or industry in question have the installed capacity to use an alternate fuel?

(*B*) Does the present state of technology permit the use of an alternate fuel to perform the particular end use?

(*C*) Do other similar types of consumers presently utilize fuels other than natural gas?

(*D*) If alternate fuel capability is technically feasible, what is the cost of conversion or replacement of facilities so that alternate fuel can be utilized?

(*E*) What is the projected cost of the alternate fuel?

(*F*) What is the projected cost of natural gas?

(*G*) Are there any other out-of-pocket costs required to utilize natural gas?

(*H*) What part of the end user's total costs is attributable to the cost of fuel?

(*I*) What competitive disadvantage will the end user suffer if it utilizes a fuel other than natural gas?

(*J*) What is the projected availability of natural gas for that end user?

(*K*) What is the projected availability of fuels other than natural gas?

(*2*) *Essential agricultural requirements.* An end user may request an increase of the initial determination of its essential agricultural requirements on the grounds that the initial determination is not sufficient to satisfy its natural gas needs for full food and fiber production. The Data Verification Committee may increase the essential agricultural requirement up to the contract entitlement if it determines that no other source of natural gas is available to satisfy these requirements including but not limited to purchases by the distributor or end user.

(F) By September 15, 1979, the Data Committee shall make a final determination of the high-priority requirements and essential agricultural requirements of each person seeking reclassification. This determination and the report described in paragraph (g) shall be sent by September 15, 1979 to the interstate pipeline, the pipeline's distributors, appropriate state and local regulatory authorities, all parties to the interstate pipeline's curtailment proceeding, the Commission staff and all customers who sought reclassification.

(G) No later than September 15, 1979, the Data Verification Committee shall prepare a report which contains the following information:

(*1*) a list by end user indicating:

(*i*) the volume for which reclassification is sought;

(*ii*) the standard industrial classification of the end user;

(*iii*) the alternate fuel capability as determined by the Data Verification Committee; and

(*iv*) the high-priority requirements or essential agricultural requirements as determined by the Data Verification Committee;

(*2*) a list by end user and the volumes requested for reclassification for whom a challenge to such reclassification was made if such challenge has not been resolved and the basis, therefore, and a list of those for whom insufficient information existed to make a determination as to whether the essential reclassification is appropriate;

(*3*) the recommendation of the Data Verification Committee as to the appropriate resolution of any challenge to a request for reclassification as a high-priority user or as an essential agricultural use;

(*4*) a copy of the minutes of the Data Verification Committee meeting.

§ 281.208 Protests and challenges.

(a) *Protests.* Protests to this tariff filing shall be limited to further challenges to natural gas end users seeking reclassification in either priority-of-service category one or two, challenges by customers who were denied certification by the Data Verification Committee as either high-priority users or essential agricultural users on whose requirements were decreased by the Data Verification Committee. All such protests shall be treated as complaints pursuant to § 1.6 of this chapter. The Secretary of Agriculture may intervene as a matter of right under § 1.8(a)(1) of the chapter in any proceeding initiated under this section.

(b) *Burden of proof.* (1) In the case of a consumer being challenged as to the propriety of its inclusion in priority-of-service category one or two, the consumer shall have the initial burden of going forward to explain why it should be included in either priority-of-service category one or two. The ultimate burden of proof is upon those challenging the end users inclusion to show conclusively that the end user is not a high-priority user or essential agricultural use, that the requirements of the end users approved by the Data Verification Committee are not correct or, that alternate fuel technology exists and that use of an alternate fuel is economically practicable and that such fuel is reasonably available.

(2) In the case of challenge by an end user that has been denied certification by the Data Verification Committee as either a high-priority user or essential agricultural use or in the case of a certified consumer whose pri-

ority-of-service category one or two requirements were decreased by the Data Verification Committee, the challenge will be construed as a complaint pursuant to § 1.6 of this chapter.

(3) In the case of an end user that has provided insufficient information upon which to conclude that it qualifies for either priority-of-service category one or two treatment, the consumer's request for classification will be construed as a complaint pursuant to § 1.6 of this chapter.

(c) *Commission decision.* (1) If the Commission determines that an end user who has been temporarily classified in priority-of-service category one or two does not qualify for the classification, the end user shall be placed in the appropriate curtailment category.

(2) The Commission, in its discretion, may direct the payback to excess volumes taken while the end user was temporarily misclassified.

(3) If the Commission finds that an end user who was denied certification as a high-priority user or an essential agricultural use qualifies for such status, the end user shall be reclassified on a prospective basis.

(4) If the Commission finds that a certified end user whose requirements were decreased by the Data Verification Committee, warrants the recognition of increased requirements, the increase shall be granted on a prospective bases.

[FR Doc. 79-2035 Filed 1-17-79; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Chapter I]

LAW-RELATED EDUCATION PROGRAM

Availability of Draft Proposed Regulations

AGENCY: Office of Education, HEW.

ACTION: Notice of availability of draft proposed regulations.

SUMMARY: Notice is given that a first draft of proposed regulations to implement the Law-Related Education Act of 1978 is now available to the public.

The program was enacted by the Education Amendments of 1978 as Part G of Title III of the Elementary and Secondary Education Act. It authorizes the Commissioner to award grants and contracts to encourage State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to provide law-related education programs.

The program has not been funded for Fiscal Year 1979, and it is not clear whether it will be funded for Fiscal Year 1980. Regulations are being developed for the program in the event that it is funded. The draft proposed regulations now available have not been adopted as official views of either the U.S. Office of Education or the Department of Health, Education, and Welfare. They have no legal effect.

ADDRESS: Copies of these draft proposed regulations may be obtained by writing to: Steven Y. Winnick, U.S. Office of Education, Room 4091, 400 Maryland Avenue, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Steven Y. Winnick, telephone (202) 245-8953.

Dated: January 11, 1979.

JOHN ELLIS,
Acting U.S. Commissioner of Education.

[FR Doc. 79-1772 Filed 1-17-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21310; RM-1847; RM-1984; RM-2742; FCC 79-1]

FM QUADRAPHONIC BROADCASTING

Further Notice of Inquiry

AGENCY: Federal Communications Commission.

ACTION: Further notice of inquiry.

SUMMARY: Federal Communications Commission issues Further Notice of Inquiry to determine the extent that adoption of proposed quadraphonic broadcasting standards would preclude the Commission's option of reducing the FM broadcast channel spacing and the feasibility of operation of the proposed systems within a possible reduced channel spacing. The Inquiry seeks to further examine the merits of alternative systems in addition to the proposed systems. The effect on SCA operation will be studied.

DATES: Comments must be received on or before April 16, 1979 and reply comments must be received on or before May 16, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Albert S. Jarratt, Sr., Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of FM Quadraphonic Broadcasting, Docket No. 21310, RM-1847, RM-1984, RM-2742. See also 43 FR 4678, February 1, 1978.
Adopted: January 2, 1979.

Released: January 10, 1979.

BACKGROUND

1. A Notice of Inquiry was released in this proceeding on July 6, 1977 (FCC 77-444, FR 42 FR 34913), as a result of three petitions filed with the FCC which proposed rules and standards for FM quadraphonic broadcasting. These petitions were filed by Pacific FM, Inc., RM-1847 (hereafter identified as "Pacific"), General Electric Company, RM-1984 ("GE"), and CBS, Inc., RM-2742 ("CBS").[1] A further consideration was the study performed by the National Quadraphonic Radio Committee (NQRC).[2] The objective of that Inquiry was to determine if there was sufficient interest to warrant the Commission's adoption of standards for quadraphonic broadcasting, and if so to develop a record which would assist the Commission in formulating the needed standards for this service.

2. Quadraphonic systems which have been studied in this proceeding fall into three general categories, 4-2-4, 4-3-4, and 4-4-4. Where four independent or discrete audio sources are encoded by a "matrix" into two signals transmitted as compatible left and right stereo signals to be later decoded back into four audio signals, the system has been designated as a 4-2-4 system. Where the four independent or discrete audio sources are combined and transmitted as a main channel plus either 2 or 3 subchannels, all to be later converted back into 4 (discrete in the case of 4-4-4) audio signals, the systems are designated as 4-3-4 or 4-4-4 respectively. In issuing its first *Notice of Inquiry*, the FCC recognized that it was faced with the difficult task of not only trying to evaluate the merits of 4-4-4, 4-3-4 and 4-2-4 systems as compared to each other, but also to evaluate the several designs being proposed.

3. Pacific and GE petitioned the FCC to adopt standards for 4-4-4

[1] These petitions were filed on August 23, 1971, May 30, 1972, and August 10, 1976, respectively.

[2] In 1972 the Electronic Industries Association sponsored the National Quadraphonic Radio Committee whose objective was to report to the Commission its conclusions regarding quadraphonic FM broadcasting standards. In November, 1975, the NQRC submitted its report and conclusions to the FCC. This report consists of two volumes, of which Volume One is a summary of the tests and conclusions and Volume Two, consisting of 5 Parts, includes the various tests performed on receivers, interconnecting facilities, transmitters, field tests, and compatibility tests. This report was made a part of the record in this proceeding.

quadraphonic systems. Pacific proposed adoption of the system designed by Quadracast Systems, Inc. (QSI), whereas, GE proposed adoption of its system. the third petition was submitted by CBS for a 4-2-4 system identified under the trademark SQ.

4. The NQRC tests were performed primarily on 4-4-4 and 4-3-4 quadraphonic systems.[3] There was a lack of comparative test data for 4-2-4 systems since proponents of such systems did not choose to provide their equipment for tests. As a consequence, the Commission's Laboratory Division, Office of the Chief Engineer, performed comparative listening tests between 4-4-4, 4-3-4 and several 4-2-4 systems.[4][5]

5. A substantial record was developed in response to the *Notice of Inquiry*. Over 2,000 comments from broadcasters, manufacturers, and the general public were received. With few exceptions comments were in support of some form of quadraphonic broadcasting. Comments from the listening public were divided between expressions of interest for 4-4-4 and 4-2-4 quadraphonic systems. Although no significant preference was shown for any particular 4-4-4 system, those parties indicating interest in 4-2-4 systems predominantly favored the CBS SQ system.

6. A considerable number of comments were received from engineers, manufacturers, and broadcasters who addressed many of the questions contained in the *Notice of Inquiry*. Broadcasters were also split in their preferences for 4-2-4 and 4-4-4 systems. It is quite evident that the needs of broadcasters, taking into consideration location, market size, equipment limitations, etc. vary considerably. Many broadcasters are providing ancillary services through use of SCA's which may effect their ability to provide quadraphonic radio service.[6]

7. After analysis and review of the comments received to the *Notice of Inquiry*, the FCC has concluded that there is substantial interest in FM quadraphonic broadcasting. Additionally, technical comments received as well as the FCC's own analysis of technical data submitted indicate that 4-4-4/4-3-4 quadraphonic systems can be accommodated within the present frequency assignment plan without objectionable degradation to monophonic and stereophonic radio service. With these conclusions in mind and after considerations of the many technical issues involved, we believe that further action is warranted.

ADDITIONAL CONSIDERATIONS

8. This *Further Notice of Inquiry* is being issued to obtain additional information to assist the FCC as it gives further consideration to FM quadraphonic broadcasting. One of the primary questions remaining to be resolved is: What impact would the adoption of quadraphonic broadcasting standards have on the possibility of reducing the channel spacing in the FM broadcast band to 150 kHz or 100 kHz? In December of 1975, the Office of the Chief Engineer of the FCC released a report entitled "FM Broadcast Channel Frequency Spacing" (FCC/OCE RS 75-08). This document studies the effect of reducing the channel spacing for FM broadcasting stations from the present 200 kHz to 150 kHz or 100 kHz, and concludes "that from a technical point of view both the 100 kHz offset, with a low pass receiver filter after the second demodulator, and the 150 kHz offset are more efficient than the presently used 200 kHz offset, both in overall area coverage efficiency and in the available number of station assignments—i.e., in area and population coverage." The authors clearly state however that a number of assumptions have been made in developing the study. For example, the report notes that the study is based upon assuming "A simplified equilateral triangular co-channel assignment plan • • •" and observes that "• • • such a regular configuration is not representative of the true physical distribution of the distances between population centers • • •" The report also states "For lack of protection criteria the effect of reducing the frequency offset (channel spacing) upon SCA and quadraphonic operation could not be evaluated", and recognized that other non-technical aspects are important, such as the cost to change the operating frequency of many FM stations, and the cost of incorporating needed changes to both new and existing receivers. Though the study results reflect a very preliminary effort, the FCC considers it desirable to ascertain the extent to which adoption of standards for quadraphonic broadcasting might foreclose possible options should the Commission find it in the public interest to look toward reducing the spacing between FM broadcast channels, and we are requesting comments on this matter.

9. In addition, we wish to explore the feasibility of operation of the various proposed quadraphonic systems within the narrower channel spacing suggested by the OCE report. For example, it may be necessary with 150 kHz channel spacing to restrict all baseband signals to within 75 kHz, a point which could preclude some of the proposed quadraphonic systems as well as present and proposed SCA operations. We are therefore requesting comments concerning the effects on co-channel and adjacent channel protection ratios due to the operation of 4-2-4, 4-3-4 and 4-4-4 systems and SCA transmission, if FM channel separations should be reduced to 150 kHz or 100 kHz.* Pending a Commission determination regarding the efficacy of reducing FM channel spacings, we will further consider adoption of quadraphonic broadcasting standard(s) only for such system(s) as can be clearly demonstrated to not preclude possible future reductions in channel spacing.

10. After having first determined that the technical issues involved and interest by the public warrants further consideration of some form of quadraphonic broadcasting, the FCC's next task is to determine which system or combination of systems consistent with the restrictions discussed above will best serve the public interest. To arrive at this determination the FCC has concluded that certain threshold objectives should be met:

a. Any standards established must be compatible with the present monophonic and stereophonic broadcasting service.

b. Any system proposed should be capable of providing the highest quality service possible, consistent with reasonable cost. Such costs would include both the equipment necessary to implement and receive these transmissions and the spectrum space which may be necessary to provide for effective quadraphonic broadcasting.

c. Any standards established should be as broad as practical to permit the marketplace (broadcasters and listening public) to influence the selection between alternative transmission modes.

11. The FCC is of the view that any quadraphonic broadcasting standards proposed should allow licensees to select the particular transmission mode which best suits their needs as well as those of their particular listening audience. The primary considerations to broadcasters and listeners of the three quadraphonic modes proposed would be as follows:

[3] The 4-4-4 systems tested were those proposed by Quadracast Systems, Inc. (QSI), RCA Corporation, Cooper-UMX, General Electric Company, and Zenith Radio Corporation. Additionally, RCA and Cooper-UMX proposed 4-3-4 systems which are compatible with their 4-4-4 systems and existing SCA (Subsidiary Communication Authorization) standards.

[4] The 4-2-4 systems tested were QS (Sansui Electric Company, Ltd.), SQ (CBS, Inc.), and the BBC H Matrix.

[5] The FCC Laboratory report for these tests, "A Subjective Evaluation of FM Quadraphonic Reproduction Systems-Listening Tests" Project No., 2710-1, was released in August, 1977 and was made a part of the record.

* We recognize that 100 kHz Channel spacing would probably preclude presently permitted operation, such as stereo and SCA.

V 44 / 13 JA 18 79 UMI

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4-4-4 This type of system involves four original audio channels encoded and transmitted over the main channel and three subchannels, to be received and decoded by the receiver into four audio channels. Broadcast stations presently equipped for stereophonic operation face a greater expense to implement this service than would be encountered by the other formats discussed below, and station coverage will be somewhat reduced. However, many commenting parties expressed the view that the 4-4-4 transmission provides the best overall quadraphonic performance. Existing SCA standards would generally have to be changed when transmitting in this mode.

4-3-4 This type of system is similar to the 4-4-4 system with the exception that one subchannel is deleted such that the four audio channels are broadcast over the main channel and two subchannels. It is, therefore, not possible to uniquely recover the original four audio channels at the receiver, resulting in a degradation of the separation of the received channels. Stations opting for this mode would face expenses somewhat similar to those required for 4-4-4 transmissions. The potential loss of coverage area however, is less than that experienced with 4-4-4 transmissions and the existing SCA standards could be retained. The 4-3-4 mode is considered to have many of the desirable characteristics of the 4-4-4 mode, although there are some inherent limitations, especially concerning the amount of separation between the audio channels. However, some of the comments expressed the view that this mode of transmission has the ability to provide acceptable "surround sound" reception. 4-4-4 and 4-3-4 transmissions can be made compatible so that a single decoder will decode either transmission mode. The cost of this equipment to the public appears to be about the same as for the 4-4-4 system.[7]

4-2-4 This system also starts with four audio channels, however, it is encoded into the usual two stereophonic channels using the main channel and one subchannel. The four channels are encoded using phase and signal amplitude information such that the receiver can attempt to recover the original four channels of information. Because of the lack of separation between channels which results from this type of encoding, it is usually desirable to install "logic decoders" at the receiver in an effort to increase the apparent separation between the channels. Such logic enhancement in the receiver could increase the cost to the public of the necessary equipment, more so than the other systems listed above. There are also serious questions of "listening fatigue" that appear to occur with the use of such encoders over extended time periods.[8] Stations presently equipped for stereophonic transmissions could implement such a system with minimum expense as well as continuing SCA operations under existing standards. However, the performance of such a system is considered by many to have inherent overall limitations when compared to a 4-3-4 or 4-4-4 system.

12. The selection between 4-2-4, 4-3-4, and 4-4-4 modes may best be left to the marketplace. The broadcast marketplace has not been given a full opportunity to determine whether one of these three modes is preferred. Since August 9, 1972, the only quadraphonic transmissions permitted on a regular basis have been the 4-2-4 versions. In spite of this, it does not appear that there has been overwhelming public acceptance of these 4-2-4 system transmissions. Where feasible and practical, it is the Commission's desire to permit the marketplace to influence the choice between transmitted modes. One choice may be to permit both 4-2-4 and 4-3-4/4-4-4 transmissions.

13. In addition to the issues identified above, the FCC finds certain inherent faults in the proposed GE, Zenith and Cooper systems. On the other hand, a compatible 4-3-4/4-4-4 system similar to that proposed by QSI and RCA appears to offer the most nearly optimum quadraphonic sound reproduction at this time. Therefore, of the systems that were tested by the NQRC, we tend to prefer standards for a system that is similar to that proposed by QSI and RCA. The basis for this preference is system simplicity coupled with performance equal to other proposals.

14. GE proposes that the diagonal difference signal modulate the second quadraphonic subcarrier and that the front minus back information signal modulate the third quadraphonic subcarrier. Such an arrangement has been shown to be least desirable.[9] GE also proposes the use of a vestigial filter to reduce the upper sidebands of the third quadraphonic subchannel above 76 kHz. The use of this filter adds complexity to this system and is a potential source of distortion for the third subchannel. Thus, the FCC believes that this system does not provide the most compatible quadraphonic signal with the added disadvantages of increased complexity and potentially inferior audio linearity.

15. Zenith proposes that the diagonal difference signal modulate a third quadraphonic subcarrier at 95 kHz using a vestigial filter to reduce the upper sidebands which otherwise would cause an out-of-band interference condition. This system also includes optional variable pre-emphasis (from 25 to 225 microseconds) that is program level controlled. Two 57 kHz pilot tones, one in-phase and one in quadrature with the pilot subcarrier, are modulated with control signals representing variable pre-emphasis and audio signal compression respectively. The use of the 95 kHz subcarrier in the third quadraphonic information subchannel leaves the usual 67 kHz SCA operation unchanged. The FCC is critical of this system for the following reasons: a) use of a vestigial filter adds complexity and is a potential source of distortion for the third subchannel, b) placement of the third quadraphonic subcarrier on 95 kHz subjects this subchannel to more degradation from noise and interference than subcarriers at lower frequencies as proposed for other systems.

16. Cooper proposed a compatible 4-3-4/4-4-4 system which is a more complex system requiring several audio phase shift networks both at the transmitter and in each receiver. Because of the equal performance without this added complexity in the other systems which have been proposed, the FCC would tend to reject this system. Further discussion of this system is included in the Alternative Considerations.

17. The Quadracast Systems, Inc. (QSI) and RCA Systems are quite similar. The RCA system emphasis is on the compatible 4-3-4/4-4-4 aspect while the QSI system emphasis is on a 4-4-4 system. However, the QSI proposal includes a 4-3-4 option that is almost identical with the proposed RCA system. The second quadraphonic subcarrier is in quadrature (90° out of phase) with the first subcarrier which is in phase with the 19 kHz pilot signal. Both systems use 76 kHz for a third quadraphonic subcarrier in addition to the conventional 38 kHz stereophonic subchannel. The main channel contains the monophonic information (left plus right) signal and the first subchannel contains the L-R (left minus right) signal as is presently done for stereophonic transmission. The RCA proposal specifies that the front minus back signal modulate the second quadraphonic subcarrier and the diagonal or criss-cross signal modulate the third quadraphonic subcarrier. The QSI proposal specifies that the diagonal difference signal modulate the second quadraphonic subcarrier and the front minus back signal modulate the third quadraphonic subcarrier. However, during the NQRC tests the signals on these two subcarriers were switched to agree with the preferred configuration. RCA proposed a second pilot subcarrier in phase quadrature at 76 kHz to control receiver mode switching, indicating a 4-4-4 transmission. RCA also suggested that the presence of a signal modulating the 38 kHz quadrature subcarrier could be used to indicate 4-3-4 transmission. QSI suggested that the 19 kHz pilot be used for the frequency/phase reference of all subcarriers including the SCA. Although QSI mentioned that a second pilot "may be optionally inserted" for mode indication, it stated that insertion of a second pilot tone may increase the overall intermodulation and multipath susceptability. Therefore, QSI suggested that the presence of quadraphonic information may be used to automatically switch quadraphonic receiving modes and to indicate quadraphonic presence.

18. As a result of the test performed by the FCC Laboratory Division and the substantial number of comments received in this proceeding, the proposal submitted by CBS for its 4-2-4 SQ system is being given further consideration. This system is transmitted in exactly the same manner as the present stereophonic operation utilizing the standard 19 kHz pilot tone and a single 38 kHz subcarrier in phase with the pilot tone. It should also be noted that CBS has proposed the transmission of a 57 kHz pilot as an identification signal. However, such a pilot would interfere with present SCA transmissions.

19. The FCC prefers switching and mode indication techniques that minimize the use of additional pilot tones. The FCC will consider including an additional pilot tone for mode switching only upon a strong showing that such mode switching cannot be satisfactorily accomplished by use of other means. Informal comments to the FCC indicate that submerged switching tones (more than 60 decibels below 100 percent modulation of the main carrier) in the vicinity of 16 to 17 kHz may be practical to indicate which quadraphonic mode is being transmitted and to provide automatic receiver mode switching. Additional information concerning such techniques is requested.

Alternative Considerations

20. Comments in reply to our *Notice of Inquiry* were received which, for example, concerned development of a quadraphonic system defined as a "universal system." Such a system contains within it characteristics such that 4-2-4, 4-3-4, and 4-4-4 transmissions are compatible. In other words, this is an extension of the compatible 4-3-4/4-4-4 concept, as discussed earlier and for which we have expressed a preference. Further, this concept would allow the listener to receive and decode any of the three modes transmitted.

21. However, such systems are still under development. The original Cooper-UMX System contained elements of such a universal system, but in its comments, Cooper concurs to changes of its system along the lines recommended by the NRDC (National Research and Development Corporation, a Corporation in the United Kingdom). Therefore, the Cooper-UMX system as modified approximates the HJ Universal system. This system (UHJ) advocates inclusion of a 4-2 1/2-4 mode. Because of the alleged flexibility that such a system would allow, the FCC desires that additional consideration be given to these proposals. The FCC desires to know what effect, if any, the adoption of standards permitting a "universal" system will have on the artistic freedom of live and recorded productions. Because the NRDC system is in the early stages of development, it has not been given serious consideration in this proceeding.

22. The FCC is therefore requesting comments addressing these systems and their feasibility. Also of interest in these comments would be the capability of the QSI/RCA 4-3-4/4-4-4 systems and the CBS SQ 4-2-4 system to lend themselves to practical conversion to a universal system in the future should such a system eventually be determined to be desirable. Claims have been made that other systems such as the UHJ system may optimize total sound reproduction and provide a more acceptable form of "surround sound." Any comments on the applications of these techniques in quadraphonic reproduction are requested.

SCA Considerations

23. A number of comments were received from parties involved in the use of SCAs expressing concern that certain quadraphonic systems might preclude or cause degradation of SCA operations. Flexible quadraphonic standards which permit several transmission modes could provide options to the broadcaster in providing SCA service. Present SCA transmission standards would, for example, limit quadraphonic broadcasting to only the 4-3-4 (4-2 1/2-4) or 4-2-4 systems. However, the Commission could consider expanding the limits of the FM baseband from the present 75 kHz to 99 kHz to permit stations using the 4-4-4 mode of transmission to place an SCA at 95 kHz. Such an expanded limit would also allow a station transmitting stereo or the 4-3-4 quadraphonic mode to move its SCA to 76 kHz. It has been suggested that phase-locking the SCA to the fourth or fifth harmonic (76 or 95 kHz) of the 19 kHz pilot subcarrier will reduce cross modulation and intermodulation.

24. QSI proposes SCA standards at 95 kHz similar to those in use today, but RCA suggests that at 95 kHz the SCA subcarrier be limited to a modulating frequency of 2 kHz, an injection level of 5% and a deviation of ±2 kHz. Analysis of the NQRC data for protection ratios indicates that the more permissive standards proposed by QSI warrant further consideration. Additional comments are requested concerning the SCA standards proposed by QSI and the possible need to further modify those standards as proposed by RCA.

Special Temporary Authorizations

25. In the event any station licensee determines that additional significant data can be obtained by over-the-air tests, the Commission will entertain applications for Special Temporary Authorizations. Any authorization will be conditioned with the requirement that the public be informed that the quadraphonic programs are being broadcast on a temporary basis, and that any receiving equipment purchased may have no utility after the testing period. Other conditions may also be imposed. The granting of such temporary authority will be strictly to gather needed information. The FCC will not be swayed in its final decision by claims of expenses encountered in implementing these tests.

Other Matters

26. In addition to the quality of the reception from the various quadraphonic systems, along with other matters already covered, there have been a number of specific questions raised which were not adequately covered in

[7] 4-2½-4 (Special Case of 4-3-4) This is similar to the 4-3-4 system, yet because of some differences from that system, it is being mentioned separately. The four channels of audio are similarly sent over the main channel and two subchannels, however, the second subchannel is reduced in both bandwidth and in its amount of modulation. Because of this reduction, the signal-to-noise ratio of the received signal, compared to usual stereophonic transmissioin, is reduced by only ½ to 1 decibel and the occupied bandwidth required for the transmission is reduced. Reduction of the coverage area of the station is, therefore, less than that of the 4-3-4 system. At the present it appears that only the UHJ universal system, under development in the United Kingdom, is being tested in this category.

[8] Logic enhancement (signal processing) may produce unnatural movements of the sound images which if listened to over an extended period of time may result in a condition termed "listening fatigue."

[9] The diagonal difference signal consists of the difference between the sum of the left front and right back signals and the sum of the left back and the right front signals. It was shown by RCA in its comments that the diagonal difference signal is less significant than the front minus back signals. It was also shown that the effects of crosstalk in the arrangement proposed by GE is more harmful.

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the comments to this proceeding. Many of these could possibly be resolved through the use of the STA's mentioned earlier. One such problem involves multipath distortion, especially the reception in a moving automobile. This matter has already been addressed on a theoretical basis but practical testing is needed.

27. The FCC will address quadraphonic modulation monitors at a later time. Also, the FCC is studying the desirability of requiring that quadraphonic generators be typed-accepted. Type-accepting generators may facilitate the substitution or addition of quadraphonic generators to existing transmitters. Further, as was of concern during the FM stereophonic proceeding (Docket No. 13506), here also the FCC requests that the proponents whose systems are included in this *Further Notice* submit information concerning the identity of persons or organizations applying for or holding patents on FM quadraphonic broadcast transmission and reception systems and apparatus. And, in addition, we are requesting information with respect to the arrangements that will be employed for the licensing of patents for competitive distribution and use of such systems and apparatus.

28. Pursuant to applicable procedures set forth in § 1.415 of the FCC's rules, interested persons may file comments on or before April 16, 1979, and reply comments on or before May 16, 1979. All relevant and timely comments and reply comments will be considered by the FCC before further action is taken in this proceeding.

29. In accordance with the provision of § 1.419 of the FCC's rules and regulations, an original and 5 copies of all comments, replies or other documents filed in this proceeding shall be furnished to the FCC. Participants filing the required copies who also desire that each Commissioner receive a personal copy of the comments may file an additional 6 copies. Members of the general public who wish to express their interest by participating informally in this proceeding may do so by submitting one copy of their comments, without regard to form, provided that the Docket Number 21310 is specified in the heading. Such informal participants who desire that responsible members of the staff receive a personal copy and to have an extra copy available for the Commissioners may file an additional 5 copies. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M Street, NW.). Further information concerning this proceeding may be obtained from Albert Jarratt, Sr., Broadcast Bureau 202-632-7792.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-1770 Filed 1-17-79; 8:45 am]

[6712-01-M]

[47 CFR—Part 90]

[SS Docket No. 78-394; FCC 78-877]

RADIO FREQUENCIES

Changing the Method for Assigning Frequencies for Trunked Systems in the 806-821 MHz and 851-866 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Communications Commission proposes to amend its regulations by adopting a new method for assigning radio frequencies in certain bands for trunked radio systems. It has been alleged that the present method of assigning frequencies for trunked systems may result in significant increase in system costs, in high levels of intermodulation interference, and perhaps more significantly, in severe reduction of system efficiency. The Commission, therefore, has studied alternative frequency assignment methodologies for trunked systems in this frequency band.

DATES: Comments must be received on or before February 7, 1979 and Reply Comments must be received on or before February 22, 1979.

ADDRESS: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Neal Pike, Safety and Special Radio Services Bureau, (202) 632-6497.

Adopted: December 21, 1978.

Released: January 8, 1979.

By the Commission:

In the Matter of Amendment of § 90.365 (formerly 89.751) of the Commission's Rules to change the method for assigning frequencies for trunked systems in the 806-866 MHz bands.

1. The rules adopted by the Commission in Docket 18262 provide for the assignment of frequencies for trunked and for conventional radio systems in the 806-821 and 851-866 MHz bands sequentially; that is, assign the first assignable frequency followed by the next assignable frequency and proceed to the end of the band in a uniform 25 kHz channeling.[1] The rules also provide for the assignment of a minimum of five and a maximum of twenty contiguous channel pairs for the operation of trunked systems authorized in the Public Safety, Industrial, and Land Transportation Radio Services in the 806-822 and in the 851-866 MHz bands. However, in the development of trunked system designs and in applications for trunked system authorizations now on file, the question has been raised whether this frequency assignment method initially adopted for trunked systems should be changed.

2. It has been alleged that the present method of assigning frequencies for trunked systems may result in significant increase in system costs, in high levels of intermodulation interference, and perhaps more significantly, in severe reduction of system efficiency. The Commission, therefore, has studied alternative frequency assignment methodologies for trunked systems in this frequency band. A number of methods have been considered. Obviously, primary consideration was given to retaining the sequential assignment procedure now prescribed by the rules. However, for the reasons mentioned, we believe that some other method may be more appropriate. Thus, we have also considered the feasibility of a random, rather than sequential, frequency assignment approach. Under the random method, applicants would choose their frequencies from among the channels available in the 800 MHz bands on the basis of the most suitable frequencies for the particular system involved. However, this alternative was rejected basically because it would be difficult to administer; it provides little incentive to applicants to prevent or to reduce intermodulation interference by the use of interference suppressing techniques; and because, in general, it is inconsistent with the overall plan for 800-MHz under which frequencies are assigned by the Commission under a prearranged, standard assignment plan.

3. A second alternative studied is somewhat complex but does retain many of the advantages of sequential assignment procedures, while at the same time permitting system configurations which reduces the intermodulation problems and allows the use of more effective and efficient combining techniques. Under this method, the following assignment procedures would be adopted and included in Section 90.365 (formerly 89.751) of the Rules.

(a) Divide the 200 channels now allocated for trunked systems into ten, twenty-channel blocks with ten channel spacing between frequencies from block to block. Further, arrange each twenty-channel block into five-channel groups with forty channel spacings between successive frequencies in each five-channel group. In addition, arrange these five-channel groups into four blocks with twenty-channel spacings and one, ten-channel spacing between five-channel groups. Offset successive twenty-channel blocks by one channel to form ten, twenty-channel groups. This arrangement is shown in Table 1, below.

[1] Section 90.365(a) (formerly 89.751(a)). See also *Land Mobile Radio Service, Second Report and Order*, Docket 18262, 46 FCC 2d 752 (1974).

TABLE 1.—*Proposed Channelization for Trunked Systems**

5 CHANNEL GROUPS	
1-41-81-121-161 21-61-101-141-181 11-51-91-131-171 31-71-111-151-191	20-Channel Block 1
2-42-82-122-162 22-62-102-142-182 12-52-92-132-172 32-72-112-152-192	20-Channel Block 2
3-43-83-123-163 23-63-103-143-183 13-53-93-133-173 33-73-113-153-193	20-Channel Block 3
4-44-84-124-164 24-64-104-144-184 14-54-94-134-174 34-74-114-154-194	20-Channel Block 4
5-45-85-125-165 25-65-105-145-185 15-55-95-135-175 35-75-115-155-195	20-Channel Block 5
6-46-86-126-166 26-66-106-148-186 16-56-96-136-176 36-76-116-156-196	20-Channel Block 6
7-47-87-127-167 27-67-107-147-187 17-57-97-137-177 37-77-117-157-197	20-Channel Block 7
8-48-88-128-168 28-68-108-148-188 18-58-98-138-178 38-78-118-158-198	20-Channel Block 8
9-49-89-129-169 29-69-109-149-189 19-59-99-139-179 39-79-119-159-199	20-Channel Block 9
10-50-90-130-170 30-70-110-150-190 20-60-100-140-180 40-80-120-160-200	20-Channel Block 10

*In the Chicago Region, the table will be slightly different because some of the frequencies have already been assigned.

(b) Each applicant for twenty-channels will be assigned the next successive complete twenty-channel block.

(c) Five channel applicants will be assigned the next available five-channel group. Ten and fifteen channel applicants will be given the next two or three 5-channel groups provided they are within the same block.

(d) Frequencies for applicants for other than 5, 10, 15, or 20 channels will be selected by taking integral multiples of 5 channels within a twenty-channel group with the remaining channels (less than 5 channels) made up from the next five-channel group provided all channels are in the same twenty-channel group.

4. This assignment method provides significant separation between frequencies in one system. It also insures that intermodulation products generated by a given system will fall within that system, as well as on systems of later applicants and those out-of-band. This should assure that each licensee will have the incentive to take corrective measures to prevent intermodulation interference since his own system would be the first to be adversely affected. At the same time, this approach is a compromise derived from many possible formulations. We realize, therefore, that there could be other similar methodologies that achieve these objectives and we welcome comments with suggestions on any other reasonable methods.

5. Accordingly, Notice is hereby given for proposed rule making in the above-entitled matter. Any interested person may participate in this proceeding by filing comments by February 7, 1979, and reply comments by February 22, 1979. Comments and reply comments may be addressed to the issues and proposals set forth in this Notice and to such other issues as the participants believe are relevant and necessary to the resolution of these matters.

6. Authority for the proposed amendments is contained in Section 4(i) and 303 of the Communications Act of 1934, as amended. In accordance with Section 1.419 of the Commission's Rules, an original and five (5) copies of all comments, reply comments, and other pleadings and submissions shall be furnished to the Commission. All documents will be available for public inspection during regular hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

7. For further information on this document, you may contact Neal Pike, (202) 632-6497.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-1509 Filed 1-17-79; 8:45 am]

[4910-59-M]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 531]

[Docket No. LVM 77-07; Notice 2]

PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

Officine Alfieri Maserati S.p.A.; Proposed Decision To Grant Exemption

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Proposed decision to grant exemption from average fuel economy standards.

SUMMARY: This notice is being issued in response to a petition by Officine Alfieri Maserati (Maserati) requesting that it be exempted from the generally applicable average fuel economy standard of 18.0 miles per gallon (mpg) for 1978 model year passenger automobiles and that a lower, alternative standard be established for it. This notice proposes that the requested exemption be granted and that an alternative standard of 12.6 mpg be established for Maserati.

DATE: Comment closing date: February 2, 1979.

ADDRESS: Comments on this notice must refer to Docket LVM 77-07 and should be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Douglas Pritchard, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-755-9384).

SUPPLEMENTARY INFORMATION: Section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended (the Act), provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards for passenger automobiles if those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if the National Highway Traffic Safety Administration (NHTSA) establishes an alternative standard for the manufacturer at its maximum feasible level. Under the Act, a low volume manufacturer is one which manufactures less than 10,000 passenger automobiles worldwide in the model year for which the exemption is sought ("the affected model year") and which manufactured less than 10,000 passenger automobiles worldwide in the second model year before the affected model year. In determining maximum feasible average fuel economy, the agency is required by section 502(e) of the Act to consider:

(1) Technological feasibility;
(2) Economic practicability;
(3) The effect of other Federal motor vehicle standards on fuel economy; and
(4) The need of the Nation to conserve energy.

To implement section 502(c), NHTSA issued Part 525, Exemptions from average fuel economy standards (42 FR 39374; July 28, 1977). Part 525 prescribes the contents of exemption petitions and sets forth the procedures for processing those petitions. After

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receipt of a complete petition, the agency publishes a notice of receipt which summarizes the petition and invites comments on it. Subsequently, the agency publishes a proposed decision to grant or deny the petition and provides a further opportunity for comment. Finally, the agency publishes a final decision to grant or deny the petition.

This agency issued a notice announcing the receipt of Maserati's petition for exemption from the generally applicable standards for the 1978-1930 model years (43 FR 46106; October 5, 1978). That notice summarized the Maserati petition and invited public comment on it.

Only one comment on the notice of receipt was submitted. That commenter urged that the petition be granted so that Maserati could remain in the U.S. market and asserted that the world will be a better place because of the continued existence of these automobiles.

Requested alternative standard. Maserati requested that its alternative standard for the 1978 model year be set at a level bwtween 11.3 and 11.5 mpg. This was based on the company's inability to exactly forecast what average fuel economy level the Environmental Protection Agency (EPA) would certify as its 1978 average fuel economy level. Since the time Maserati filed its petition for exemption, EPA has certified that company's 1978 average fuel economy level as 12.6 mpg. Accordingly, NHTSA has used 12.6 mpg as the base figure, and tentatively determined this proposed maximum feasible average fuel economy for Maserati by adding to this base all fuel economy improvements which are deemed feasible for the 1978 model year.

Technological feasibility and economic practicability. In considering whether Maserati could improve its average fuel economy for the 1978 model year, the agency examined the same methods for improving average fuel economy that it examined in establishing average fuel economy standards for model year 1981-1984 passenger automobiles (42 FR 33534; June 30, 1977) and for model year 1980-1981 light trucks (43 FR 11995; March 23, 1978). Those methods were weight reduction, aerodynamic improvements, engine efficiency improvements, engine accessory efficiency improvements, alternative engines, turbochargers, automatic transmission improvements, improved lubricants, reduced rolling resistance, engine displacement or drive ratio reductions, and mix shifts.

NHTSA's examination of these methods in this proceeding was significantly less detailed than in those earlier proceedings since there is no time now available for Maserati to make any changes to its 1978 automobiles. At this point, Maserati could not take any step which would increase its 1978 average fuel economy, so the agency tentatively concludes that running changes to improve the fuel economy of Maserati's 1978 model year automobiles are not technologically feasible and economically practicable.

The effect of other Federal vehicle standards. The other motor vehicle standards are important for the current model year only in determining whether those standards could be complied with in a more fuel efficient manner. Any fuel economy penalty which might be imposed by these standards, in the current model year would be reflected in the fuel economy of the 1978 Maseratis, and would have already been considered in the analysis of technological feasibility and economic practicability.

In determining whether the Federal Standards could be complied with in a more fuel efficient manner, the leadtime available to the manufacturer is a critical factor. In this case, Maserati has no leadtime available, so NHTSA concludes that no more fuel efficient means of compliance with the other Federal motor vehicle standards is available to Maserati for the 1978 model year.

The need of the Nation to conserve energy. The daily extra U.S. demand for petroleum that will result from Maserati achieving an average fuel economy level of 12.6 mpg rather than the generally applicable level of 18.0 mpg is estimated to average 8.4 barrels per day over the life of the 1978 Maseratis. To give perspective on this number, the fuel consumed by passenger automobiles in the United States is about 5 million barrels per day. For all purposes, the United States currently consumes about 17 million barrels of petroleum each day.

Selection of the type of alternative standard. The Act permits NHTSA to establish an alternative average fuel economy standard applicable to exempted manufacturers in one of three ways: (1) A separate standard may be established for each exempted manufacturer; (2) classes, based on design, size, price, or other factors, may be established for the automobiles of exempted manufacturers, with a separate average fuel economy standard applicable to each class; and (3) a single standard may be established for all exempted manufacturers. In the case of each manufacturer exempted thus far, the agency has used the first approach, that of establishing a separate standard for each exempted manufacturer. Since this approach has proven effective, the NHTSA will continue its use and by this notice, proposes a separate standard for Maserati.

Proposed alternative standard. Based on the agency's tentative conclusions stated above, the agency believes that the maximum feasible average fuel economy for Maserati for the 1978 model year is 12.6 mpg. Therefore, the agency proposes to exempt Maserati from the generally applicable standard of 18.0 mpg and to establish an alternative standard of 12.6 mpg for Maserati for the 1978 model year.

In consideration of the foregoing, it is proposed that 49 CFR Part 531 be amended by adding § 531.5(b)(7) reading as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(7) Officine Alfieri Maserati, S.p. A.

Model year, 1978.
Average fuel economy standard (miles per gallon), 12.6.

Persons are invited to submit comments on this proposed decision. Comments must be limited so as not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

NHTSA typically allows at least 45 days for the public to comment on its proposals. With respect to this proposal, however, the agency has shortened the comment period to 15 days. There are a number of reasons for taking this action. First, it is clear that Maserati cannot improve its average fuel economy for the 1978 model year. Further, the agency has indicated in its final decision on the Rolls-Royce petition for the 1978 model year (in this issue of the FEDERAL REGISTER) that it will not exercise its discretion at this time to establish alternative standards in excess of a manufacturer's maximum feasible average fuel economy. It appears to this agency that, given these circumstances, the preparation of comments on this proposal should be fairly simple. Second, the agency already provided a 30-day period to comment on the petition when the agency published its notice of receipt, and only one comment was received. Third, it is very desirable to have a final decision on the Maserati petition for the 1978 model year published as soon as possible.

All comments received before the close of business on the comment closing date indicated at the beginning of this proposal will be considered, and will be available for public inspection in the docket both before and after the comment closing date. To the extent possible, comments filed after the comment closing date will also be considered. The agency will continue to file relevant material in the docket as it becomes available after the comment closing date, and it is recommended that interested persons continue to examine the docket for new material.

The agency has reviewed the impacts of this proposal and determined that they are minimal and that the proposal is not a significant regulation within the meaning of Executive Order 12044.

The program official and attorney principally responsible for the development of this proposed regulation are Douglas Pritchard and Stephen Kratzke, respectively.

AUTHORITY: Sec. 9, Pub. L. 89-670, 80 Stat. 981 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976, and 43 FR 8515, March 2, 1978.

Issued on January 11, 1979.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 79-1809 Filed 1-17-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1001]

[Ex Parte Nos. 356, 360]

INSPECTION OF RECORDS

Regulations for the Processing of FOIA Requests and Confidentiality of Financial Data (General Policy Statement)

AGENCY: Interstate Commerce Commission.

ACTION: Consolidation of proceedings and change in date for filing comments.

SUMMARY: In a notice in Ex Parte No. 360, published December 8, 1978, at 43 FR 57625, and in a notice published in Ex Parte No. 356, published on December 11, 1978, at 43 FR 58001, the Commission asked for comments on whether proposed regulations or a policy statement on the disclosure of commercial data is warranted. These proceedings involve similar subject matter—the processing and consideration of requests for the disclosure of business data. In a decision served January 9, 1979 the two proceedings were consolidated. Comments in both proceedings are now due January 22, 1979.

DATE: Written comments are due January 22, 1979.

ADDRESSES: An original and 15 copies of any comments should be sent to: Secretary, Interstate Commerce Commission, 12th and Constitution Avenue N.W., Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Wayne M. Senville, Tel: (202) 275-1684.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1769 Filed 1-17-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FLR 1040-2]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Texas Air Quality Surveillance Network

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This rule proposes approval of a revision to the Texas Air Quality Surveillance Network. This revision involves the deletion of 4 particulate monitoring sites. These deletions will remove 4 hi-vol samplers from the Texas Air Quality Surveillance Network. The deletion of these hi-vol samplers was evaluated and the remaining network is considered an adequate SIP network.

DATE: Comments on the proposed approval should be submitted before February 20, 1979 in order to be considered by EPA in arriving at a final approval/disapproval decision.

ADDRESSES: Copies of the State's submittal are available for inspection during normal business hours at the following locations:

Environmental Protection Agency,
Region VI,
Air Program Branch,
1201 Elm Street,
Dallas, Texas 75270.

Environmental Protection Agency,
Public Information Reference Unit,
401 "M" Street, S.W., Room 2922,
Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Jerry Stubberfield, Air Program Branch, SIP Section, Region VI, Dallas, Texas 75270, (214) 767-2742.

SUPPLEMENTARY INFORMATION: The proposed revision was submitted by the Texas Air Control Board (TACB) on August 14, 1978. The table below lists the 4 sites to be deleted and a detailed discussion of the revision follows the table.

FOUR PARTICULATE MONITORING SITES

Site No.	City	Sampler
1. 066001	Brownwood	Hi-Vol
2. 261001	Huntsville	Hi-Vol
3. 131027	Dallas	Hi-Vol
4. 158003	Eagle Pass	Hi-Vol

Texas proposes the deletion of site 066001, designated site category Background (BG) by TACB, as this site is not representative of background air quality levels. Site 261001, designated site category Growth Areas (GA) by the TACB, has had an unacceptable data return, with no reasonable remedy projected. The location for the sampler at site 131027 is no longer available and as there are 8 other sites in Dallas designated site category Air Quality Surveillance (AQS) by the TACB, it is proposed this site be deleted. It is proposed site 158003 designated site category Air Quality Surveillance (AQS) by the TACB, be deleted as the location is not longer available.

This notice or proposed rulemaking is issued under the authority of section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410-(a).

Dated: January 3, 1979.

EARL N. KARI,
Acting Regional Administrator.

It is proposed to amend Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations as follows:

Subpart SS—Texas

1. In § 52.2270, paragraph (c) is amended by adding a new paragraph (16) as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(16) An administrative revision to Section IX, Air Quality Surveillance System, was submitted by the Texas Air Control Board on August 14, 1978. (Non-regulatory)

[FR Doc. 79-1888 Filed 1-17-79; 8:45 am]

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[6560-01-M]

[40 CFR Part 180]

[FRL 1038-7; PP 7F1912/P100]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerance for the Pesticide Chemical 6-Benzyladenine

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the plant growth regulator 6-benzyl adenine on apples. The proposal was submitted by Abbott Laboratories. This amendment would establish a maximum permissible level for residues of 6-benzyladenine on apples.

DATE: Comments must be received on or before February 20, 1979.

ADDRESS COMMENTS TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW, Washington DC 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency (202/755-7013).

SUPPLEMENTARY INFORMATION: On March 21, 1977, notice was given (42 FR 15361) that Abbott Laboratories, 14th Street and Sheridan Road, N. Chicago, IL 60064, had filed a petition (PP 7F1912) with the EPA. This petition proposed to amend 40 CFR Part 180 by establishing an exemption from the requirement of a tolerance for residues fo the plant growth regulator 6-benzyladenine (*N*-phenylmethyl)-1*H*-purine-6-amine) in or on the raw agricultural commodity apples. No comments were received in response to this notice of filing. Subsequently, the petitioner amended the petition by proposing the establishment of a tolerance of 0.15 part per million (ppm) for residues of 6-benzyl adenine in or on apples. Because of the potential increase in exposure to humans to 6-benzyladenine residues as a result of the 0.15 ppm tolerance, the tolerance is being proposed at this time to provide an opportunity for public comment.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a rat oral acute toxicity study with a lethal dose (LD_{50}) of 1.3 grams (g)/kilogram (kg) of body weight (bw), a 90-day rat feeding study with a no-observable-effect level (NOEL) of less than 500 ppm, a 90-day dog feeding study with an NOEL in excess of 1,500 ppm, a one-generation rat reproduction study with no adverse effects, and metabolism studies. Although the above studies were taken into consideration, the chief considerations in establishing the 0.15 ppm tolerance were: (1) The subject pesticide is naturally found in apples, (2) The natural residues of this pesticide will not be changed by the establishment of the 0.15 ppm tolerance, and (3) since the residue level will not be increased, the risk to the consumer of apples will not be increased. Since there is no discrenible difference in the 6-benzyladenine levels in treated vs. control samples, there will be no problem with respect to secondary residues in eggs, meat, milk, or poultry.

Since the levels of the compound are the same on both sprayed and unsprayed apples, consideration of the acceptable daily intake (ADI) and the maximum permissible intake (MPI) are not relevant to this petition. The metabolism of 6-benzyladenine is adequately understood, and an adequate analytical method (gas-liquid chromatography using electron capture detection) is available for enforcement purposes. No regulatory actions are pending against the continued registration of the pesticide, nor are desirable data lacking to support the 0.15 ppm tolerance, nor are any other considerations involved in establishing the tolerance.

The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the tolerance of 0.15 ppm on apples established by amending 40 CFR Part 180 will protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before February 20, 1979, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 7F1912/P100". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: January 11, 1979.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)))

It is proposed that Part 180, Subpart C, be amended by adding the new § 180.376 to read as follows:

§ 180.376 6-Benzyladenine; tolerances for residues.

A tolerance is established for residues of the plant growth regulator 6-benzyladenine (*N*-(phenylmethyl)-1*H*-purine-6-amine) in or on the following raw agricultural commodity:

Commodity:	Parts per million
Apples	0.15

[FR Doc. 79-1711 Filed 1-17-79; 8:45 am]

[6560-01-M]

[40 CFR Part 52]

[FRL 1041-2]

AIR POLLUTION CONTROL; RECOMMENDATION FOR ALTERNATIVE EMISSION REDUCTION OPTIONS WITHIN STATE IMPLEMENTATION PLANS

AGENCY: Environmental Protection Agency.

ACTION: Proposed policy statement.

SUMMARY: The Policy Statement set forth below encourages states to extend to facilities, subject to State Implementation Plans, the option for use of alternative emission reduction controls, and to be receptive to proposals from facilities seeking to employ the more economically efficient mix of controls allowed by the policy. This alternative emission control approach, commonly referred to as the "bubble" concept, enables states to revise their plans to permit facilities to place a greater burden of control on sources where the marginal cost of control is low, and a lesser burden where cost is high.

COMMENT PERIOD: March 19, 1979.

ADDRESS: Submit comments and direct inquiries to: Barbara Ingle, U.S. Environmental Protection Agency, Office of Planning and Evaluation (PM-220), 401 M Street, S.W., Room 3009, Washington, D.C. 20460, Telephone: (202) 755-2811.

FOR FURTHER INFORMATION CONTACT:

Inquiries may also be directed to: Edward Reich, Office of Enforcement (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Room 1111, Washington, D.C. 20460, Telephone: (202) 755-2550.

Kent Berry, Office of Air Quality Planning and Standards (MD-11), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Telephone: (919) 629-5431.

SUPPLEMENTARY INFORMATION: The text of the proposed Policy Statement is set forth below. We invite comments on all aspects of the issues it raises.

In addition, we are explicitly requesting comments on the resource burden that final adoption of such an approach might place on state air pollution control agencies to evaluate and rule on alternative emission reduction applications. We are aware that these agencies have limited staffs, and that the requirements of the new Clean Air Act are placing heavy burdens on them. Therefore, we would like to hear views on whether the further resource burdens arsing from this policy are sufficiently large as to outweigh the corresponding benefits.

PROPOSED POLICY STATEMENT ON ALTERNATIVE EMISSION REDUCTION OPTIONS WITHIN STATE IMPLEMENTATION PLANS

INTRODUCTION

State Implementation Plans (SIPs) and facility specific compliance schedules are the regulatory vehicles designated by the Clean Air Act to be used for attaining and maintaining air quality standards.

The Clean Air Act requires that states adopt implementation plans to attain and maintain ambient air quality standards as expeditiously as practicable, but no later than by dates set forth in the statute. In developing these plans states adopt regulations setting forth emission limits which, when applied to sources contributing to the ambient air problem, are calculated to assure that standards are attained. In making these decisions states regularly take into account the nature and amount of emissions from each source, the control technology available and the time required for its installation. However, SIPs are not necessarily as economically efficient as possible, nor are regulated companies prompted to seek innovations in control technology.

For this reason, the Environmental Protection Agency is proposing this policy to allow plants to reduce control where costs are high in exchange for an equal increase in control where abatement is less expensive. We strongly recommend that the states inform facilities of the availability of the alternative emission reduction approach, explain the advantages and conditions to use, and be receptive to proposals from facilities seeking to employ the more cost-effective mix of controls this policy allows.

Under the new policy, facilities may obtain financial savings by employing more cost-effective mixes of control techniques than current process-by-process regulations allow, as long as total environmental benefits are not reduced. Properly applied, the alternative approach should promote greater economic efficiency and increased technological innovation.

The possible financial savings of the alternative approach will provide an economic incentive to plant managers to develop innovative control strategies. This is one of our few opportunities to provide positive incentives for innovation, and the new control strategies developed in response to the program could be used as a basis for setting tighter standards in the future.

It is very important to ensure that use of the alternative approach will not obstruct progress toward air quality objectives by permitting degradation of air quality, weakening enforcement, or providing an opportunity for delaying compliance. To avoid these problems, the use of the alternative approach is carefully conditioned as described in detail in the body of this statement. The proposed policy is intended, and should be interpreted, as an alternative means to expeditious compliance with the SIP's regirements, not as a way to avoid or delay compliance with the SIP or any other requirements of the Clean Air Act nor as a way to avoid, delay, or reduce the sanctions flowing from previous or future noncompliance.

In this statement I am urging states to extend this option to eligible sources and be receptive to proposed alternative emission reduction applications whenever they are drawing up or revising SIPs. Under the Clean Air Act, EPA may, in certain cases, draw up or revise SIPs and in those cases we will advise eligible sources and be receptive to such applications too, where it would be appropriate [1] to do so.

The following discussion describes the alternative emission reduction approach and how it will be implemented, and discusses concerns which lead to conditions in its use.

THE ALTERNATIVE EMISSION REDUCTION CONCEPT

A. *What is the Concept?* The primary tests to which EPA subjects State Implementation Plans are: Do its provisions assure the attainment and maintenance of ambient air quality standards as expeditiously as practicable? And, are its provisions enforceable? The Agency has had no stated policy on the degree of which individual sources of air pollution within an industrial site should be controlled, if the pattern of control adopted meets those requirements.

Under the alternative emissions reduction concept, a facility with multiple process-related emission sources, (stacks, vents, ports, etc.) each of which is subject to specific emission limitation requirements under an approved SIP, may propose to meet the total emission control requirements of the SIP for a given pollutant through a different mix of controls than that mandated by the existing or proposed regulations.

Facilities would have the opportunity to come forward with alternative abatement strategies that would place relatively more control on sources with a low marginal cost of control, and less on sources with a high cost, achieving the same amount of emission reduction for less cost.

EPA has already issued guidance approving use of the alternative approach in some cases for control of hydrocarbon emissions. (See July 3, 1978 memorandum from David Hawkins on "Internal Offsets for RACT Categories".) The concept is generally similar to the offset policy, except that, to avoid overburdening the program, the alternative approach outlined here is restricted to use only within a single plant.

B. *How will the alternative emission reduction approach be implemented?* It is the regulatee's responsibility to come forward with the alternative control approach. The regulatee also has the burden to demonstrate satisfactorily that the proposal is equivalent in pollution reduction, enforceability, and environmental impact to existing individual process standards. In this way the resource demands on control agencies are primarily limited to deciding what kind of demonstration is required and reviewing the results.

The implementation will differ depending on whether the alternative approach is being applied to existing SIP requirements or new ones.[2] Where existing SIP requirements are concerned, overall emissions limits and compliance deadlines are known. Once a plant comes forward with a promising alternative proposal that seems to achieve the goals of the current com-

[1] Under the Clean Air Act EPA cannot relax any air pollution control regulations which a State has adopted and, of course, EPA's own use of the alternative emission reduction policy would be subject to that condition too.

[2] Plants which are neither in compliance nor on an EPA approved schedule (including EPA agreement as to penalty issues and other sanctions) nor in compliance with an acceptable court decree are not eligible to use this approach (see discussion in Section 2(a).)

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pliance schedule, then the control agency must decide upon a test to verify the equivalency of the proposed trade. If the source is able to present sufficient evidence, and the control agency agrees, then a provision would be drawn up as an addition to the existing SIP requirement, which will continue to be on the books. All proposals must be approved by EPA.

Sources may propose an alternative for existing SIP requirements at any time, though it is clearly to the plant's advantage to do so as early as possible. This is because until equivalency tests have been conducted and the alternative approach is approved the plant will be expected to meet the requirements of the existing schedule on time. In some cases this could mean that a plant would have to make a pollution control investment that would not have to be made under the alternative approach. By presenting alternative proposals as early as possible (preferably during the engineering and design period that is provided at the beginning of most compliance schedules), plants can avoid any such conflicting investments.

When a State is revising a SIP, plants may, in anticipation of overall emissions limit, or in response to limits being proposed, present a counterproposal. The plant would then have to show that its alternative mix of controls would be environmentally equivalent to the process-specific standards. If the demonstration is successful, the counter-proposal can be adopted as part of the SIP.

The S02 regulation for the Stuart Power Plant of the Dayton Power and Light Company in Ohio provides an example of how the alternative emission reduction approach can be used. This SIP regulation contains an alternative set of limitations which the company may use in lieu of a uniform limitation at each of the four boiler stacks at its power generating plant. The plant still must meet specific limitations at its individual stacks, but these limitations are set using an equation that makes the overall emissions under the emission reduction alternative equal to the amount permitted under the uniform emissions limit. This flexibility will allow the power plant to apply the least-cost mix of scrubbing, low-sulfur coal and/or cleaning controls among the facility's four boilers. In this case a demonstration has been made that differences in emissions from each of the stack sources will not result in overall differences in ambient air quality attainment or maintenance.

Another situation where this approach can be applied is to different stages of a plant's production process which emit the same kind of pollutant. For example, painting and degreasing operations of an automobile paint shop are both sources of hydrocarbon emissions. A plant may want to apply greater control to the degreasing process in order to reduce the amount of required control of the painting operations. This will enable the plant to achieve the same overall emissions standard at a lower cost since it can avoid such expensive measures as reformulating paints and installing new spraying equipment.

C. *Conditions on Use of the Alternative Approach.* States that apply the alternative approach must make sure that the basic goal of achieving the air quality standards on time is not compromised, and that SIPs with alternative provisions are just as enforceable and are enforced as promptly as those without them. Certain conditions on use of the alternative approach are necessary for this. EPA will disapprove any alternative SIP that does not satisfy these conditions.

1. *Air Quality Considerations.* a. *Air quality standards must be met.* The overriding command of the statute is to attain and maintain ambient air quality standards. Many States are required to submit revised SIP's (due January 1979) because existing regulations are not sufficient to meet this basic condition of the Act. In those areas where states submit revised plans which are not adequate to achieve the future statutory deadlines contained in the new Clean Air Act, the alternative approach will not be allowed for the pollutant in question. Under these conditions, control of all sources with reasonably available control measures, done without trading one against the other, will be needed to meet the statutory requirements.[3]

In addition, states must also disapprove proposals where controlling one source less and another source more might violate a basic condition of attainment even where source total emissions do not increase. For example, particulates emitted from a stack would have a totally different and more harmful impact upon ambient air quality than road dust stirred up by trucks within the plant site.

EPA will insist on a demonstration that any SIP employing alternative emission reduction approaches will result in attainment and maintenance of standards. The more different the types of sources included under the new approach, the more detailed the demonstration will have to be. In other words, two industrial sources of the same nature (e.g. steam boilers) would have to make a less detailed showing of equality for the alternative approach than would a stack source combined with fugitive emission source.

The treatment of certain low-emitting processes deserves special mention in this regard. Some existing sources may be emitting less than existing SIP regulations would allow, for example, because they are burning a clean fuel like natural gas. In such cases the current SIP often assumes, as part of its demonstration of attainment, that these emissions will not be increased above current levels even though this increase is not explicitly forbidden by a SIP regulation. Whenever this assumption has been made, the difference between such a low-emitting source's actual emissions and the emissions the SIP might theoretically allow may be, in effect, unavailable to offset any proposed higher emissions from another source under this policy since the low-emitting process is already being relied on to attain ambient air quality standards. Therefore, in any case where the difference between actual and allowable emission levels for such low-emitting sources is proposed to be used to offset higher emission levels for other sources, the alternative emission reduction proposal must include an explicit demonstration that the total actual emissions resulting from such an approach will not interfere with the attainment and maintenance of air quality standards.

All demonstrations should be initiated and paid for by the source.

b. *Emissions under the alternative approach must all be quantifiable and trades among them must be even.* A facility that wishes to control one source less in exchange for controlling another source more must demonstrate that the trade will in fact be even—that the lesser emissions at the first source will at least offset the greater emissions at the second and that emissions from the two sources have a similar impact on ambient air quality. This can only be done if the emissions from both sources (and increases and decreases in them) can be acceptably quantified and related to ambient air quality considerations.

This condition applies with particular force where "fugitive" emissions are concerned. These emissions are much more difficult to quantify than stack emissions. EPA will insist on an adequate demonstration that emissions can be quantified and that any trades being made are in fact even and do not result in a worsening of overall ambient air quality.

c. *The pollutants under the alternative proposal must be comparable.* Clearly, trade offs cannot be applied across pollutants, e.g., to trade S02 against hydrocarbons. And even within the categories, those with different health or ambient air impacts cannot be traded against each other. For example:

i. Coke oven particulate emissions and other proven carcinogens should not be traded against paticulate emissions from any other source. (EPA plans to designate coke ovens emissions as hazardous emissions under section 112 of the Clean Air Act and there is no prospect that control requirements for coke ovens could be eased for long by such trades.)

ii. Some hydrocarbon emissions, such as benzene where EPA has made a determination as to their hazardous nature, cannot be traded against other hydrocarbon emissions.

iii. Emissions from open dust sources like roads and storage piles may not be traded against emissions from stacks or against fugitive emissions from industrial processes. The latter contain far more intensive concentrations of fine particulates, which disperse more widely in the air than coarse particulates, stay in the air longer, and penetrate more deeply into the lungs. Moreover, there is sufficient evidence that open dust sources do not contribute significantly to ambient concentrations. For example, violations of the 24 hour particulate standard are frequently observed under conditions of atmospheric inversions. In these situations the accompanying low wind speeds are insufficient to disturb open dust sources.

The problems of determining emission rates from these open dust sources, modeling their impact on ambient air quality in concert with process emission sources, and assuring that all actual and potential ambient air quality standard violations are protected against, are sufficiently complex to effectively preclude acceptable demonstrations of equivalency of controls.

2. *Enforcement Considerations.* The alternative emissions reduction policy, if improperly carried out, could be a source of delay in compliance and an impediment to effective enforcement. It is therefore carefully conditioned, as described below, to avoid creation of any additional grounds for legal challenges to present or revised SIPs, delays in enforcement, or any weakening of the enforceability or sanctions (e.g., penalties) of SIP requirements.

a. *Existing SIPs provisions must not be replaced.* Under the Clean Air Act, potential litigants have sixty days after a SIP is promulgated to challenge it in court. For almost all existing SIPs, that litigation has long since run its course, and the SIP is enforceable and is being enforced. If states rewrite existing SIPs to incorporate the alternative approach, these new provisions might reopen litigation opportunities and lead to long delays before new provisions are enforceable. To make sure there is still an enforceable SIP pending compliance, all alternative emission reduction provisions of the new SIP must be submitted as alternatives or additions to the existing SIP, not as replacements for it. That way the existing SIP can still be enforced even if the new one is not approved or is otherwise held up.

b. *Each emission point must have a specific emission limit and that limit must be tied to enforceable testing techniques.* In order for an alternative emission reduction proposal to be enforceable specific limitations on each source must be imposed. Apart from other difficulties, a SIP without specific limitations would be effectively unenforceable in most cases since continuous monitoring of a number of different sources would be required to make sure the total allocation was not exceeded. Accordingly, EPA will approve alternative proposals only if they contain a specific emissions limit on each regulated source that is inforceable. Of course, each limit must have an enforceable testing requirement associated with it. In general, the new requirements must be at least as enforceable as the existing requirements.

c. *Non-complying sources should not be free to submit alternative emission reduction proposals.* Facilities that have successfully deferred compliance with existing SIP requirements, including compliance schedules, may be tempted to use the possibility that an alternative might be drafted to further delay compliance. They would argue that any steps toward compliance should be further delayed until the possibilities of this new approach have been fully explored.

If this argument were allowed to succeed, it would only continue unlawful pollution and increase the present inequity between sources that have incurred the expense and difficulty of compliance and those that have deferred it so far. Accordingly, applications should be restricted to facilities which are:

i. In compliance;

ii. Not in compliance, but meeting an EPA approved compliance schedule (including EPA agreed to resolution of penalties issues and other sanctions); or

iii. Subject to court decree: (1) in an action in which EPA was a party or which decree EPA has found to be satisfactory, (2) which decree includes schedules for compliance, and (3) which decree recognizes the possibility of SIP revision and allows for timely modification of the decree without delay in the final compliance date.

To be acceptable, any compliance schedule under ii and any decree under iii must set out a timetable to which the source has agreed (i.e., is not appealing or otherwise contesting) to expeditious compliance with the overall emissions limits under the *existing* SIP, and which provides for a resolution of penalties issues and other sanctions.[4]

d. *Existing compliance dates must not be extended.* In some cases, SIP requirements that took effect several years ago have not yet been complied with. States are free if they wish, subject to the conditions in this statement, to apply the alternative approach to these requirements as well. However, that revision should not have the effect of relieving noncomplying sources of the consequences of their noncompliance. Under no circumstances can the proposal be used to delay or defer compliance deadlines. To accomplish this, any such new requirement should have the same SIP compliance deadline as the existing requirement to which it is an alternative. And, if the new requirement allows the use of alternatives which can be adopted more quickly than those included in the existing compliance schedule, then the states should consider establishing earlier compliance dates.

Whichever method of compliance the source elects—the old or the new—penalties will be assessed and collected from the same date, namely the date by which the original requirement should have been met. Until the alternative proposal is approved, all noncompliance penalties under authority of Sections 113 or 120 of the Clean Air Act or equivalent state provisions will be based on the pre-alternative proposal definition of cost. For that part of the period which follows the date of approval of the alternative proposal, the basis for estimating noncompliance penalties should be changed to the cost that would have been incurred by the facility assuming it had complied with the alternative emissions reduction approach on the date of approval.

Sources for which alternative emission reduction proposals are accepted by EPA for consideration, or built into a decree must agree in writing not to seek stays of compliance with the existing requirement or any avoidance of sanctions (e.g., penalties) if the alternative proposal is disapproved, challenged, or otherwise delayed or not made effective.

e. *There will be no delay of existing enforcement actions.* As discussed

[3] In addition, under the Clean Air Act new or modified sources of air pollution are subject to various requirements to apply "best available control technology", to attain a "lowest achievable emission rate", or to meet "new source performance standards". These requirements raise different legal and practical problems from SIPs generally, and in these cases sources may only use substitute provisions as specific EPA guidance or regulations allow.

[4] It is EPA's policy not to approve compliance schedules for existing requirements which extend beyond December 31, 1982.

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above, non-complying sources must not be allowed to further delay compliance due to the pendency of possible alternative requirements under the alternative approach. Therefore, states should continue to pursue enforcement actions and seek compliance with the requirements of the existing SIP as expeditiously as practicable.

Where completely new SIP provisions are concerned, of course by definition there are as yet no non-complying sources, and parts (c), (d), and (e) above do not apply.

CONCLUSION

EPA believes that the alternative emission reduction approach, properly applied, will be of significant benefit to the states, to EPA, and to industry. We therefore encourage states to review carefully the policy and inform facilities of the options, explain the advantages and conditions of use and be receptive to industry proposals.

Dated: January 16, 1979.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 79-2087 Filed 1-17-79; 9:49 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

DESCHUTES NATIONAL FOREST, DESCHUTES, KLAMATH, JEFFERSON, AND LAKE COUNTIES, OREG.; FOREST PLAN

Intent To Prepare an Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, and the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the Deschutes National Forest intends to prepare and file an Environmental Statement on a Forest Plan.

The Plan will be prepared according to regulations being promulgated by the Secretary of Agriculture. The regulations will implement section 6 of the National Forest Management Act of 1976.

The Plan will be sensitive to public issues. Public workshops are being conducted and written comments are being solicited to help the Forest identify public issues. The Plan will be coordinated with local, county, State, and other Federal agencies.

The official responsible for preparing the Forest Plan Environmental Statement is Earl E. Nichols, Forest Supervisor, Deschutes National Forest. The official responsible for approving the Forest Plan Environmental Statement is Richard E. Worthington, Regional Forester, Pacific Northwest Region, Portland, Oregon.

The Draft Environmental Statement is scheduled for completion by January 1980. A 3-month review period of the Draft Environmental Statement is planned. The Final Environmental Statement is scheduled for filing by September 1980.

Comments on the Notice of Intent or on the planning project should be sent to Earl E. Nichols, Forest Supervisor, Deschutes National Forest, 211 N. E. Revere, Bend, Oregon 97701.

Dated: January 9, 1979.

R. E. WORTHINGTON,
Regional Forester.

[FR Doc. 79-1744 Filed 1-17-79; 8:45 am]

[3410-11-M]

GIFFORD PINCHOT NATIONAL FOREST; DRY CREEK I PRECOMMERCIAL THINNING PROJECT

Determination

An Environmental Assessment Report that discusses the proposed precommercial thinning project by stem injection using Tordon 101 Weed and Brush Killer, on no more than 363 acres of National Forest lands in Section 1, T.5N., R.6E., W.M., and Sections 6, 7, 8, 17 and 20, T.5N., R.7E., W.M., on the Wind River Ranger District in Skamania County, Washington, is available for public review in the Gifford Pinchot National Forest Supervisor's Office.

These projects consist of six (6) thinning areas (units). Two (2) units are north of Dry Creek on National Forest Road Number N614 and four (4) units are between Big Hollow Creek and Dry Creek on National Forest Road Number N558. The Environmental Assessment Report does not indicate that there will be any significant effects on the quality of the human environment. Therefore, it has been determined that an Environmental Statement will not be prepared.

This determination was based upon consideration of the following factors which are discussed in detail in the Environmental Assessment Report: (a) No irreversible or irretrievable effects on the environment; (b) No apparent adverse cumulative or secondary effects; (c) Physical and biological effects limited to the area of plant treatment; (d) No known threatened or endangered species of plants, animals or birds have been recorded or observed in any proposed treatment area.

Some problems exist over the slash hazard that may result. Since slash hazards from chemical thinning are unknown, fuel breaks will be established in the project area. Permanent photoplots will also be established so that the data from this project will be on record. Annual data will be taken for future project use.

No action will be taken prior to thirty (30) days from the date of publication in the FEDERAL REGISTER.

The responsible official is Robert D. Tokarczyk, Forest Supervisor, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Washington 98660.

Dated January 8, 1979.

ROBERT D. TOKARCZYK,
Forest Supervisor.

[FR Doc. 79-1745 Filed 1-17-79; 8:45 am]

[3410-11-M]

OLYMPIC NATIONAL FOREST, CLALLAM, JEFFERSON, GRAYS HARBOR AND MASON COUNTIES, WASHINGTON; OLYMPIC FOREST PLAN

Intent to Prepare an Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an Environmental Statement on a comprehensive land and resource plan for the Olympic National Forest.

Subunit plans for the Soleduck and Quinault Ranger Districts have been prepared and implemented. The Hoodsport and Quilcene Ranger District and Satsop Block plans are in process. The Hoodsport and Quilcene Districts were incorporated into a single plan entitled Canal Front Plan. Other resource plans covering specific resources have been developed prior to this effort. The Ten Year Timber Management Plan for the Shelton Ranger District is complete.

The Plan will provide management direction for all lands and resources in the Olympic National Forest. Existing plans may be modified.

The Forest Plan will be developed in accordance with direction for land and resource planning developed pursuant to the National Forest Management Act of 1976.

Issues, concerns and opportunities have not yet been identified but are expected to include the effect of timber harvest on long term soil productivity and stability, fisheries and esthetics. Full identification of issues will be accomplished through public involvement.

Richard E. Worthington, Regional Forester, Pacific Northwest Region, is the responsible official and Paul G. Schaufler, Forester, will be the team leader for Environmental Assessment and Statement.

It is anticipated that the environmental assessment will require about three years.

The Draft Environmental Statement is scheduled to be filed in December 1981.

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Comments on the Notice of Intent or the Forest Plan should be sent to Richard D. Boaubein, Forest Supervisor, Olympic National Forest, P.O. Box 2288, Olympia, Washington 98507.

JANUARY 10, 1979.

R. E. WORTHINGTON,
Regional Forester.

[FR Doc. 79-1746 Filed 1-17-79; 8:45 am]

[3410-05-M]

Office of the Secretary

ADVISORY COMMITTEE ON EXPORT SALES REPORTING

Meeting Cancellation

Notice is hereby given pursuant to Pub. L. 92-463, that the meeting of the Advisory Committee on Export Sales Reporting scheduled to be held on January 17, 1979, as stated in 43 FR 59408 is cancelled. As announced in 43 FR 59408, the Committee's next meeting is scheduled for January 31, 1979 from 9:00 a.m. to 4:00 p.m., in room 218-A, Administration Building, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250.

Dated: January 15, 1979.

KELLY HARRISON,
General Sales Manager and Executive Secretary, Advisory Committee on Export Sales Reporting.

[FR Doc. 79-1784 Filed 1-17-79; 8:45 am]

[6820-32-M]

ARMS CONTROL AND DISARMAMENT AGENCY

GENERAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I, (the Act) and paragraph 8b of Office of Management and Budget Circular No. A-63 (Revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on February 8, 1979 from 9 a.m. to 6 p.m. and on February 9, 1979 from 9 a.m. to 6 p.m. at 2201 C Street, NW., Washington, D.C., in Room 7516.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 12065, dated June 28, 1978.

The meeting will be closed to the public in accordance with the determination of January 8, 1979 made by the Director of the U.S. Arms Control and Disarmament Agency pursuant to section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973 issued under the authority of Executive Order 11769 dated February 21, 1974.

Dated: January 10, 1979.

SIDNEY D. ANDERSON,
Advisory Committee Management Officer.

[FR Doc. 79-1783 Filed 1-17-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket 33091]

FLORIDA SERVICE CASE

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing will be held on February 21, 1979 at 10:00 a.m. (local time) at the Leon Room, Host International Hotel, Tampa International Airport, Tampa, Florida.

At the conclusion of the hearing schedule in Tampa, the hearing will be recessed until February 28, 1979 at 10:00 a.m. (local time) in the Mobile Municipal Auditorium, 401 Auditorium Drive, Mobile, Alabama.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served October 23, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., January 12, 1979.

WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc. 79-1877 Filed 1-17-79; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL, SPINY LOBSTER ADVISORY SUB-PANEL

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Council has established an Advisory Subpanel on Spiny Lobsters. This panel will meet to review a draft fishery management plan.

DATES: The meeting will convene on Monday, February 12, 1979, at 10:00 a.m., adjourning at 5:00 p.m. and on Tuesday, February 13, 1979, at 8:30 a.m. and adjourning at 3:00 p.m. This meeting is open to the public.

ADDRESS: The meeting will take place in the Tampa Room of the Barclay Best Western Inn, 5303 West Kennedy Boulevard, Tampa, Florida.

FOR FURTHER INFORMATION CONTACT:

Wayne Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228-2815.

Dated: January 15, 1979.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 79-1721 Filed 1-17-79; 8:45 am]

[3510-22-M]

MARINE MAMMALS

Receipt of Application for General Permit

Notice is hereby given that the following application has been received to take marine mammals incidental to the course of commercial fishing operations within the U.S. Fishery Conservation Zone, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the regulations thereunder.

Sovryhflot, Moscow, U.S.S.R. has applied for a Category 1: "Towed or Dragged Gear" general permit.

The application is available for review in the office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Interested parties may submit written views on this application within 30 days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

Dated: January 12, 1979.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 79-1722 Filed 1-17-79; 8:45 am]

[3510-04-M]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, 1900 Half Street, SW., Washington, D.C. 20324.

Patent Application 925,899; 2-Amino-4-Ethynylphenol; filed July 19, 1978.

Patent Application 925,900; Fluorocarbon Ether Bibenzoxazole Oligomers Containing Reactive Acetylenic Terminal Groups; filed July 19, 1978.

Patent Application 926,059; Microwave Power Level Stabilizing Circuit for Cesium Beam Frequency Standards; filed July 19, 1978.

Patent Application 926,358; Floating Head Laser Mirror Assembly; filed July 20, 1978.

Patent Application 928,329; Mechnical Munition Flight Environment Sensor; filed July 26, 1978.

Patent Application 932,986; Speckle Suppression of Holographic Microscopy; filed Aug. 8, 1978.

Patent 4,091,279; Method and Means for Equalizing the Sensitivity of a Multi-Element Sensor Array; filed Mar. 23, 1976; patented May 23, 1978; not available NTIS.

Patent 4,094,730; Method for Fabrication of High Minority Carrier Lifetime, Low to Moderate Resistivity, Single Crystal Silicon; filed Mar. 11, 1977 patented June 13, 1978; not available NTIS.

Patent 4,095,331; Fabrication of an Epitaxial Layer Diode in Aluminum Nitride on Sapphire; filed Nov. 4, 1976; patented June 20, 1978; not available NTIS.

Patent 4,095,420; Augmentor Outer Segment Lockout and Fan Upmatch; filed Apr. 26, 1977; patented June 20, 1978; not available NTIS.

Patent 4,096,509; MNOS Memory Transistor having a Redeposited Silicon Nitride Gate Dielectric; filed July 22, 1976, patented June 20, 1978; not available NTIS.

Patent 4,096,804; Plastic/Mischmetal Incendiary Projectile; filed Mar. 10, 1977; patented June 27, 1978; not available NTIS.

Patent 4,097,776; Coated Electroluminescent Phosphors; filed Mar. 25, 1977; patented June 27, 1978; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent Application 897,083; Method of Protecting Proteins for Animal Feed; filed Apr. 17, 1978.

Patent Application 932,080; Precooked Baking Potatoes; filed Aug. 8, 1978.

Patent Application 934,288; Antibacterial Textile Finishes Utilizing Zinc Acetate and Hydrogen Peroxide; filed Aug. 17, 1978.

Patent 4,113,567; Insolubilization of Enzymes on Modified Phenolic Polymers; filed Aug. 25, 1977; patented Sept. 12, 1978, not available NTIS.

U.S. DEPARTMENT OF TRANSPORTATION, Patent Counsel, 400 7th Street, SW., Washington, D.C. 20590.

Patent 4,103,547; Locomotive Track Curvature Indicator; filed Feb. 7, 1977; patented Aug. 1, 1978; not available NTIS.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets, NW., Washington, D.C. 20240.

Patent Application 920,513; Method of Continuously Determining Radiation Working Level Exposure; filed June 29, 1978.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent Application 899,956; Energy Absorber; filed Apr. 25, 1978.

Patent 4,063,215; High Fidelity Low Frequency Transducer for Use at Great Depth; filed Feb. 28, 1977; patented Dec. 13, 1977; not available NTIS.

Patent 4,085,627; Elliptical Flywheel Apparatus; filed July 22, 1976; patented Apr. 25, 1978; not available NTIS.

Patent 4,085,795; Method for Using Geothermal energy; filed May 10, 1976; patented Apr. 25, 1978; not available NTIS.

Patent 4,089,162; Accommodating Device for Thermal Transient Expansions; filed Sept. 3, 1976; patented May 16, 1978; not available NTIS.

Patent 4,089,492; Ocean Adapted Airship; filed Jan. 27, 1977; patented May 16, 1978; not available NTIS.

Patent 4,091,711; Rotary Bolt Liquid Propellant Gun; filed May 26, 1977; patented May 30, 1978; not available NTIS.

Patent 4,091,731; Fuel Injection with Flameholding; filed July 6, 1976; patented May 30, 1978; not available NTIS.

Patent 4,091,732; Fuel Injection; filed July 6, 1976; patented May 30, 1978; not available NTIS.

Patent 4,092,383; Modification of Ballistic Properties of HMX by Spray Drying; filed Aug. 15, 1977; patented May 30, 1978; not available NTIS.

Patent 4,093,380; Optical Systems Utilizing Three-Wave Heterodyne Detectors; filed Nov. 4, 1976; patented June 6, 1978; not available NTIS.

Patent 3,695,951; Pyrotechnic Composition; filed June 25, 1970; patented October 3, 1972.

Patent 4,093,976; Acousto-Optic Image Scanner; filed Aug. 26, 1976; patented June 6, 1978; not available NTIS.

NATIONAL AERONAUTICS & SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent Application 929,087; Visible and Infrared Polarization Ratio Spectroreflectometer; filed July 28, 1978.

Patent Application 943,087; Hypersonic Air-breathing Missile; filed Sept. 18, 1978.

Patent 4,087,975; Ocean Thermal Plant; filed Mar. 29, 1977; patented May 9, 1978; not available NTIS.

Patent 4,088,954; Magnetometer with a Miniature Transducer and Automatic Scanning; filed Mar. 19, 1976; patented May 9, 1978; not available NTIS.

Patent 4,091,613; Independent Power Generator; filed July 30, 1976; patented May 30, 1978; not available NTIS.

Patent 4,093,156; Supersonic Transport; filed Aug. 27, 1976; patented June 6, 1978; not available NTIS.

Patent 4,093,917; Velocity Measurement System; filed Oct. 6, 1976; patented June 6, 1978; not available NTIS.

Patent 4,094,073; Angle Detector; filed Nov. 10, 1976; patented June 13, 1978; not available NTIS.

Patent 4,116,131; Solid Propellant Motor; filed May 13, 1970; patented Sept. 26, 1978; not available NTIS.

[FR Doc. 79-1723 Filed 1-17-79; 8:45 am]

[6360-01-M]

DELAWARE RIVER BASIN COMMISSION

PUBLIC HEARING

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, January 24, 1979, commencing at 2:00 p.m. The hearing will be a part of the Commission's regular January business meeting which is open to the public. Both the hearing and the meeting will be held at the Hall of Flags East, Sheraton Hotel, 17th and Kennedy Boulevards, Philadelphia, Pennsylvania. The subject of the hearing will be applications for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to Section 3.8 of the Compact.

1. *North Wales Water Authority (D-77-90 CP).* A well water supply project to augment public water supplies in the Authority's service area in Upper Gwynedd Township, Montgomery County, Pa. Designated as Well No. 23, the new facility is expected to yield 115,000 gallons per day.

2. *North Penn Water Authority (D-78-42 CP).* A well water supply project to augment public water supplies in the Authority's

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service area in Skippack Township and adjacent Townships and Boroughs in Montgomery County, Pa. Designated as Well No. 39, the new facility has a capacity of 360,000 gallons per day.

3. *Audubon Water Company (D-78-77 CP).* A well water supply project to augment public water supplies in the Company's service area in Lower Providence Township, Montgomery County, Pa. Designated as Well No. 11, the new facility is expected to yield 20,000 gallons per day bringing the total capacity of the approved system to 78,000 gallons per day.

4. *Bristol Borough Water and Sewer Authority (D-78-83 CP).* A well water supply project to augment public water supplies in the Authority's service area in Bristol Township, Bucks County, Pa. Designated as Well No. 8, the new facility is expected to yield 288,000 gallons per day.

5. *Hatfield Borough (D-78-84 CP).* A well water supply project to augment water supplies in the Borough of Hatfield and adjacent portions of Hatfield Township, Montgomery County, Pa. The facility has a capacity of 180,000 gallons per day.

6. *Town of Smyrna (D-78-96 CP).* Increased water allocation of two existing wells serving the Town of Smyrna, Kent County, Del. Use of the two facilities would be limited to a combined withdrawal of 30 million gallons per month.

7. *New Hanover Township Authority (D-73-26 CP (Rev.)).* A sewage treatment project serving New Hanover and Upper Frederick Townships, Montgomery County, Pa. The treatment facility will provide removal of 85% of BOD from a sewage flow of 275,000 gallons per day. Treated effluent will discharge to eight spray irrigation fields.

8. *Abington Township (D-73-191 CP (Rev.)).* Upgrading of the Township's existing sewage treatment plant in Montgomery County, Pa., serving portions of Abington, Cheltenham, Springfield, Upper Dublin and Upper Moreland Townships, Montgomery County, Pa. The treatment plant will provide for removal of 95% of BOD from a sewage flow of approximately 3.9 million gallons per day. Treated effluent will discharge to Sandy Run, a tributary of Wissahickon Creek.

9. *Moyer Packing Co. (D-77-93).* Expansion of industrial waste treatment facilities at the company's plant in Franconia Township, Montgomery County, Pa. Additional facilities will provide treatment for up to 300,000 gallons per day and removal of approximately 99 percent of BOD and suspended solids. Treated effluent will discharge to Skippack Creek.

10. *Esser Chemical Corp. (D-77-95).* A wastewater treatment and a stream encroachment project at the company's property in Paulsboro, Gloucester County, N.J. Approximately 2.2 million gallons per day of treated wastewater will discharge to the Delaware River. Additional gypsum will be stored in the area adjacent to Mantua Creek.

11. *Brown Company (D-78-72).* Industrial waste treatment project at the Company's Specialty Products Division in Bristol Township, Bucks County, Pa. The applicant proposes to install additional waste treatment facilities to handle an average wastewater flow of 4 million gallons per day. Treated effluent will discharge to the Delaware River.

12. *Barcroft Company (D-78-85).* A well water supply project for use at the company's magnesium production plant in Lewes, Sussex County, Delaware. Four seawater infiltration wells with a combined design capacity of 580,000 gallons per day will be used at the plant.

Documents relating to the above-listed projects may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the date of the hearing.

W. BRINTON WHITALL,
Secretary.

JANUARY 10, 1978.

[FR Doc. 79-1774 Filed 1-17-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

NORTHERN STATES POWER CO. 500 KV INTERNATIONAL TRANSMISSION LINE

Availability of Final Environmental Impact Statement

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of availability of final environmental impact statement.

SUMMARY: The Department of Energy gives notice of the availability of the final environmental impact statement (EIS) for the Northern States Power Company 500kV International Transmission Line, DOE/EIS-0032.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4070, Vanguard Building, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-5620.

Robert J. Stern, Office of Environment, Department of Energy, Room 7119, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8755.

Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5116, Federal Building, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8277 or (202) 633-9380.

SUPPLEMENTARY INFORMATION: The final environmental impact statement was prepared pursuant to the requirements of the National Environmental Policy Act of 1969 to analyze the environmental impacts of a 500kV transmission line extending to the U.S. Canadian border. This facility would be constructed and operated by the Northern States Power Company and the Minnesota Power and Light Company to exchange electric energy with the Manitoba Hydor-Electric Board. The construction of this facility will require the issuance of a Presidential Permit by DOE.

Copies of the draft EIS were distributed for review and comment to appropriate Federal, Minnesota and local agencies, and other organizations and individuals who were known to be interested in the project. All comments received were incorporated into the final EIS.

Copies of the final EIS have also been distributed for review and comment to appropriate Federal, Minnesota and local agencies, and other organizations and individuals who commented on the draft EIS.

Copies of the statement are also available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, at the following DOE public reading rooms:

FOI Reading Room GA-152, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20545.
Freedom of Information Reading Room, Department of Energy, Room 2107—Federal Building 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base, Albuquerque, New Mexico 87115.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois 60439.
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Illinois 60604.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho 83401.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nevada 89109.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee 37830.
Richland Operation Office, Federal Building, Richland, Washington 99352.
San Francisco Operations Office, 1333 Broad, Oakland, California 94612.
Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina 29801.

Individual copies of the final Environmental Impact Statement are available upon request at the System Reliability and Emergency Response Branch, U.S. Department of Energy, Room 4070—Vanguard Building, 2000 M Street, N.W., Washington, D.C. 20461.

Issued in Washington, D.C., January 15, 1979.

RUTH C. CLUSEN,
Assistant Secretary for Environment.

[FR Doc. 79-1760 Filed 1-17-79; 8:45 am]

[6450-01-M]

Federal Energy Regulatory Commission

[Docket No. CP79-126]

NORTHERN NATURAL GAS CO.

Application

JANUARY 11, 1979.

Take notice that on December 15, 1978, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed an application in Docket No. CP79-126 pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate certain small volume sales meters, and to sell and deliver natural gas, as set forth in the appendix hereto, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has received gas service requests from 63 right-of-way grantors who meet the requirements for such service set forth in FPC Opinion No. 773, issued August 13, 1976. Accordingly, Applicant seeks authority to install and operate the necessary small volume sales meters to sell gas to these customers in Minnesota, South Dakota, Iowa, Nebraska, Kansas and Texas.

Further, there are stated to be two right-of-way customers in Oklahoma who seek gas service. Applicant requests authority to increase its annual delivery volumes of natural gas under Rate Schedule X-46 of Applicant's FPC Gas Tariff, Volume No. 2, to Southern Union Gas Company from 726,509 Mcf to 726,809 Mcf to meet these needs.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Utility Project No.	Right-of-Way Grantor	Legal Description Sec.	Twp.	Rge.	County	ST	Northern Pipeline Number	Estimated Sales (Mcf) Peak Day	Peak Month	Annual	Primary End-Use	Delivery Station Type Meter	Estimated Cost ($)	Daily Meter Cap. (Mcf)
PEOPLES NATURAL GAS DIVISION														
P-1	Anderson, Thomas	22	110	53	Kingsbury	SD	SDB-91901	2.0	45	190	Res. Heat	Am. 5B	870	13.7
P-2	Arduser, Rose	17	86	3	Jones	IA	IB-54001	2.5	60	270	Res. Heat	R/W 175	890	13.7
P-3	Bongeaser, Charles F.	17	121	24	Wright	MN	MB-67101	3.0	40	200	Res. Heat	Am. 5B	1,000	13.7
P-4	Boving, D. E.	11	97	37	Clay	IA	IB-49901	12.0	220	660	Crop Dryer	R/W 1600	1,440	93.0
P-5	Bradley, Gary	16	14	2	Butler	NE	NB-44002	3.0	22	138	Res. Heat	Am. 5B	130	13.7
P-6	Bristle, W. W.	3	82	27	Boone	IA	IB-65001	1.7	25	165	Res. Heat	Am. 5B	1,110	13.7
P-7	Broadie, Maurice R.	12	99	36	Dickinson	IA	IB-77401	1.1	28	156	Res. Heat	Am. 5B	1,040	13.7
P-8	Brown, Robert S.	32	89	2	Dubuque	IA	IB-40901	20.0	250	430	Crop Dryer	Am. 425	1,090	22.5
P-9	Button, Ralph W.	9	19	13	Barton	KS	KM-20501	1.5	40	191	Res. Heat	Am. 250	1,200	13.7
P-10	Coffin, Leonard	23	14	2	Polk	NE	NB-44001	3.0	22	138	Res. Heat	Am. 5B	1,040	13.7
P-11	Collingwood Trust	5	31	29	Meade	KS	KM-20201	72.0	2,160	13,200	Irrigation	R/W 3000	[illegible]	146.0
P-12	Coullerd, Thomas D.	3	33	21	Chisago	MN	MM-86501	3.0	40	200	Res. Heat	Am. 5B	1,000	13.7
P-13	Cox, Forrest	2	28	33	Haskell	KS	KG-24701	33.6	600	3,800	Irrigation	R/W 1600	1,100	93.0
P-14	Cox, Kenny	11	28	33	Haskell	KS	KG-24701	33.6	600	3,800	Irrigation	R/W 1600	1,100	93.0
P-15	Engstrom, Roger	30	97	33	Palo Alto	IA	IB-59201	2.0	36	169	Res. Heat	Am. 5B	1,040	13.7
P-16	Fulmer, Gary	35	12	8	Lancaster	NE	NB-44601	10.0	300	560	Irrigation	Am. 5B	1,330	13.7
P-17	Gould, Walter A.	28	20	12	Barton	KS	KM-20601	3.0	80	382	Res. Heat	Am 5B	380	13.7
P-18	Gustafson, E. Allen	28	35	21	Chisago	MN	MM-86501	1.3	40	178	Res. Heat	Am. 5B	1,000	13.7
P-19	Henderson, W. Wallis	34	86	6	Linn	IA	IB-78601	1.5	40	165	Res. Heat	R/W 175	890	13.7
P-20	Holmer, Arthur	10	83	30	Greene	IA	IB-64002	13.5	200	590	Crop Dryer	R/W 1600	1,400	93.0
P-21	Hosch, Herbert	24	87	2	Dubuque	IA	IB-52401	1.4	30	165	Res. Heat	R/W 250	1,180	13.7
P-22	Huffman, Wesley M.	9	93	37	Buena Vista	IA	IB-77701	2.0	43	190	Res. Heat	Am. 5B	1,170	13.7
P-23	James, Robert L.	21	28	19	Kiowa	KS	KM-20605	21.6	587	3,640	Irrigation	R/W 1600	1,020	93.0
P-24	Jensen, Lyman H.	24	107	19	Steele	MN	MB-82001	3.0	27	210	Res. Heat	Am. 5B	910	13.7
P-25	Johnson, Ernest E.	8	36	28	Benton	MN	MB-77501	1.3	40	178	Res. Heat	Am. 5B	1,100	13.7
P-26	Kearny County Land Co.	19	25	32	Finney	KS	KG-42201	4.0	120	790	Res. Heat	Am. 5B	1,300	13.7
P-27	Kilburg, Loren	23	84	5	Jackson	IA	IB-40701	4.8	100	528	Crop Dryer	R/W 1600	1,930	93.0
P-28	Knop, Harold F.	13	96	23	Hancock	IA	IM-60603	4.8	52	268	Res. Heat	Am. 5B	1,250	13.7
P-29	Kobs, William H.	14	31	28	Meade	KS	KB-22101	28.8	864	4,666	Irrigation	R/W 1600	1,600	93.0
P-30	Kruckenberg, Homer A.	18	19	14	Barton	KS	KM-20501	3.0	80	382	Res. Heat	Am. 5B	1,190	13.7
P-31	Kuehner, Duane J.	6	97	8	Winneshiek	IA	IB-56801	1.5	30	150	Res. Heat	R/W 175	890	13.7
P-32	Kuns, Myron	32	10	10	Cass	NE	NM-40101	1.5	33	176	Res. Heat	Am. 5B	1,330	13.7
P-33	Kyser, Kenneth	27	21	36	Kearny	KS	KG-67901	2.0	20	110	Res. Heat	Sing. 250	1,400	13.7
P-34	Male, Joseph	13	86	22	Hardin	IA	IM-60902	16.2	244	447	Crop Dryer	R/W 415	1,380	15.5
P-35	Mellak, Ernest J.	27	117	28	McLeod	MN	MB-75601	2.5	45	255	Res. Heat	Am. 5B	850	13.7
P-36	Metea, Robert	19	36	25	Isanti	MN	MB-77501	1.3	40	178	Res. Heat	Am. 5B	1,000	13.7
P-37	Miller, Steven D.	5	118	31	Meeker	MN	MB-75601	2.5	45	256	Res. Heat	Am. 5B	850	13.7
P-38	Morris, Harry C.	29	34	38	Stevens	KS	KG-68501	33.6	600	4,000	Irrigation	Met. 35B	850	91.2
P-39	Morris Stephen R.	29	34	38	Stevens	KS	KG-68501	33.6	600	4,000	Irrigation	Met. 35B	850	91.2
P-40	Nelson, Marvin	12	2	5	Gage	NE	NM-40104	1.5	41	136	Res. Heat	Am. 5B	830	13.7
P-41	Nemmers, John R.	2	104	49	Minnehaha	SD	SDB-95701	2.0	45	190	Res. Heat	Am. 425	860	22.5

Utility Project No.	Right-of-Way Grantor	Legal Description Sec.	Twp.	Rge.	County	ST	Northern Pipeline Number	Estimated Sales (Mcf) Peak Day	Peak Month	Annual	Primary End-Use	Delivery Station Type Meter	Estimated Cost ($)	Daily Meter Cap. (Mcf)
PEOPLES DIVISION (Continued)														
P-42	Ney, Stanley	3	95	8	Fayette	IA	IB-51101	20.0	440	1,155	Crop Dryer	R/W 1600	1,320	93.0
P-43	Olsen, Alan	10	26	7	Thurston	NE	NB-57001	2.8	80	436	Res. Heat	Am. 5B	1,630	13.7
P-44	Fletcher, William	20	12	M&CN	Ochiltree	TX	TG-21501	31.2	600	3,000	Irrigation	R/W 1600	1,230	93.0
P-45	Pottebaum, Howard R.	28	95	43	Sioux	IA	IM-65801	64.0	367	1,060	Crop Dryer	R/W 1600	1,390	93.0
P-46	Riley, Tom	28	102	38	Jackson	MN	MB-87001	2.0	40	210	Res. Heat	Am. 5B	1,040	13.7
P-47	Roberts, William B.	8	91	40	Cherokee	IA	IB-44501	3.0	32	160	Res. Heat	Am. 5B	1,190	13.7
P-48	Rodenborg, Everett E.	23	39	23	Kanabec	MN	MB-64701	1.3	40	178	Res. Heat	Am. 5B	1,000	13.7
P-49	Sammon, Donald C.	33	107	21	Steele	MN	MM-80301	40.0	100	305	Crop Dryer	R/W 1600	1,110	93.0
P-50	Schlichter, Vincent J.	32	102	16	Mower	MN	MB-58801	60.0	720	1,200	Crop Dryer	R/W 1600	1,080	93.0
P-51	Scott, Wilbur A.	24	29	24	Ford	KS	KM-20201	21.6	576	1,439	Irrigation	R/W 1600	1,260	93.0
P-52	Severence, James	1	87	17	Grundy	IA	IB-73401	4.0	30	180	Res. Heat	R/W 175	890	13.7
P-53	Shimon, William	24	92	32	Pocahontas	IA	IB-77701	70.0	300	600	Crop Dryer	R/W 1600	1,420	93.0
P-54	Shriver, Richard L.	13	94	39	O'Brien	IA	IB-77701	2.5	32	160	Res. Heat	Am. 250	1,190	13.7
P-55	Steben, Alvin G.	31	12	12	Cass	NE	NB-47701	1.5	33	176	Res. Heat	Am. 5B	1,330	13.7
P-56	Stence, John E.	36	93	5	Clayton	IA	IB-51301	1.5	40	180	Res. Heat	R/W 175	890	13.7
P-57	Strandmark, Richard	29	26	32	Finney	KS	KG-42701	72.0	2,000	11,000	Irrigation	R/W 3000	1,600	146.0
P-58	Swanson, Dale	23	89	38	Sac	IA	IB-44501	20.0	160	510	Crop Dryer	R/W 1600	1,440	93.0
P-59	Tessmer, Donald R.	23	36	26	Mille Lacs	MN	MB-77501	3.0	40	200	Res. Heat	Am. 5B	1,000	13.7
P-60	Thompson, Chester H.	10	98	48	Lyon	IA	SDM-90801	2.0	32	160	Res. Heat	Am. 5B	870	13.7
P-61	VanDenBerg, Robert J.	2	32	26	Sherburne	MN	MB-67701	1.3	40	200	Res. Heat	Am. 5B	1,000	13.7
P-62	Wenger Farms, Inc. #1	19	84	27	Boone	IA	IM-60902	13.5	200	590	Crop Dryer	R/W 1600	1,400	93.0
P-63	Wenger Farms, Inc. #2	30	84	27	Boone	IA	IM-60901	1.7	25	165	Res. Heat	Am. 5B	1,320	13.7
P-64	Worlie, Richard	14	119	61	Spink	SD	SDM-90801	2.0	45	190	Res. Heat	Am. 5B	1,150	13.7
P-65	Yetzer, Wilfred R.	17	116	24	Carver	MN	MB-67301	2.5	45	256	Res. Heat	Am. 5B	910	13.7
	Totals, Peoples Division							841.6	14,553	67,245			$73,080	
SOUTHERN UNION GAS COMPANY														
S-1	Hodges, J. R.	28	6	24	Beaver	OK	OG-32601	1.0	20	150	Res. Heat	Am. 5B	860	13.7
S-2	Hodges, R. E.	26	5	23	Beaver	OK	OG-34601	1.0	20	150	Res. Heat	Am. 5B	860	13.7
	Totals, Southern Union							2.0	40	300			$ 1,720	
	TOTALS, ALL PROJECTS							843.6	14,593	67,545			$74,800	
	Commission Costs												200	
	TOTAL COSTS, ALL PROJECTS												$75,000	

[FR Doc. 79-1581 Filed 1-17-79; 8:45 am]

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[6450-01-M]

Office of Hearings and Appeals

ISSUANCE OF PROPOSED DECISIONS AND ORDERS

December 18 through December 22, 1978

Notice is hereby given that during the period December 18 through December 22, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of a Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice (January 18, 1979), or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding of conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except federal holidays.

JANUARY 12, 1979.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

PROPOSED DECISIONS AND ORDERS

Burk Royalty Company, Washington, D.C., DEE-1010, crude oil

The Burk Royalty Co. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. By permitting the firm to sell the crude oil produced for the benefit of the working interest owners at the Garden Island properties at upper tier ceiling prices, the exception request, if granted, would enable the firm to invest in new equipment for the properties. On December 21, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Chevron USA, Inc., San Francisco, California, DEE-1968, crude oil

Chevron USA, Inc. (Chevron) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Chevron to sell a portion of the crude oil produced for the working interest owners at the Murphy Non-Unit at upper tier ceiling prices. On December 21, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

City of Long Beach, California, Long Beach, California, DXE-2023, crude oil

The City of Long Beach, California filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the working interest owners to continue selling a portion of the crude oil which is produced at the Fault Block II Unit of the Wilmington Field located in Los Angeles County, California, at upper tier ceiling prices. *City of Long Beach, California*, 2 DOE Par. 81,008 (1978). On December 18, 1978, the DOE issued a Proposed Decision and Order to the City of Long Beach, California, which would grant an extension of exception relief permitting the City to sell at upper tier ceiling prices 53.78 percent of the crude oil produced for the benefit of the working interest owners at the Fault Block II Unit during the period January 1, 1979 through June 30, 1979.

Consumers Power Company, Jackson, Michigan, DEE-0978, residual fuel oil

Comsumers Power Company filed an Application for Exception in which it requested additional entitlement benefits for each barrel of residual fuel oil which it has imported into the State of Michigan since January 1, 1977. On December 21, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

Chester F. Dolley and Atlantic Oil Company, Los Angeles, California, DEE-1020 and DEE-1032, crude oil

Chester F. Dolley and the Atlantic Oil Company filed Applications for Exception from § 212.54 of the Mandatory Petroleum Price Regulations. The exception requests, if granted, would have the effect of relieving them of any obligation to refund revenues that they received by charging prices in excess of the maximum levels permitted by §§ 212.72 and 212.73. On December 19, 1978, the DOE issued a Proposed Decision and Order which determined that the exception requests should be denied.

Gary Operating Company, Englewood, Colorado, DEE-1975, crude oil

Gary Operating Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, in which the firm requested that it be permitted to sell certain of the crude oil produced from the Ranch Creek Muddy Sand Unit, located in Powder River County, Montana, at upper tier ceiling price levels. On December 21, 1978, the DOE issued a Proposed Decision and Order which determined that the Gary exception request be denied.

Gulf Oil Corporation, Tulsa, Oklahoma, DXE-2024, crude oil

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Gulf to sell at upper tier ceiling prices the crude oil which it produces from the Northwest Graylin "D" Sand Unit. On December 18, 1978, the DOE issued a Proposed Decision and Order which determined that Gulf should be permitted to sell at upper tier ceiling prices 57.38 percent of the crude oil produced from the Northwest Graylin "D" Sand Unit for the benefit of the working interest owners during the period January 1, 1979 through June 30, 1979.

H.&M. Oil Company, Lyman, Wyoming, DEE-0893, crude oil

The H.&M. Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart L. The exception request, if granted, would permit H.&M. to sell the crude oil which it obtains from processing contaminated or waste crude oil without regard to the restrictions imposed by the Mandatory Petroleum Price Regulations. On December 18, 1978, the DOE issued a Proposed Decision and Order in which it determined that the exception request should be granted in part.

Henry Petroleum Corporation, Martin County, Texas, DEE-1400, crude oil

The Henry Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the working interest owners to sell the crude oil produced from the Epley B lease at market prices. The request would also allow Henry to treat the Epley B lease as a new crude oil producing property with a zero base production control level effective February 1, 1975. On December 19, 1978 the DOE issued a Proposed Decision and Order denying the Henry exception request.

Pacific Resources, Inc., Honolulu, Hawaii, DEE-1874, residual fuel oil

Pacific Resources, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67. The PRI exception request, if granted, would result in the issuance of entitlements to PRI for each barrel of residual fuel oil produced by the firm which is transported and sold into the East Coast market. On December 18, 1978, the DOE issued a Proposed Decision and order which determined that the exception request be denied.

Perrault Production Company, Tulsa, Oklahoma, DXE-1943, crude oil

On October 4, 1978, the Perrault Producing Company (Perrault) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Perrault to sell at exempt prices all of the crude oil produced and sold for the benefit of the working interest owners from the Varnum and Cudjo Leases located in Seminole County, Wyoming. On December 21, 1978, the Department of Energy issued a Proposed Decision and Order which granted in part Perrault's request.

Rickelson Oil and Gas Company, Tulsa, Oklahoma, DEE-0363, crude oil

The Rickelson Oil and Gas Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling price levels the crude oil produced from the Chapman "A" Lease located in Hughes County, Oklahoma. On December 18, 1978, the DOE issued a Proposed Decision and Order in which it determined that the exception request be granted.

Southwestern Refining Company, Inc., Washington, D.C., DEE-0483, crude oil

Southwestern Refining Company, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would relieve Southwestern of its obligation to purchase entitlements with respect to the crude oil that it refines. On December 19, 1978, the DOE issued a Proposed Decision and Order which determined that the firm's request should be denied in the form submitted. However, the DOE also determined that the obligations of the Mobil Oil Corporation and the Mountain Fuel Supply Company to allocate crude oil supplies to Southwestern's supplier, Johnson Oil Company, should be terminated, and that Mobil and Mountain should supply the same quantities of crude oil directly to Southwestern.

Texaco, Inc., Denver, Colorado, DEE-1394, crude oil

Texaco, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, in which the firm requested that it be permitted to sell certain of the crude oil produced from the Government Graves Lease, located in Campbell County, Wyoming, at upper tier ceiling price levels. On December 21, 1978, the DOE issued a Proposed Decision and Order which determined that the Texaco exception request be granted.

Texaco, Inc., Los Angeles, California, DEE-1777, crude oil

Texaco, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit Texaco to sell at market prices the crude oil which it produces for the benefit of the working interest owners from the TS-1 and TS-3 wells which operate from an offshore drilling platform known as Platform A located in Cook Inlet, Alaska. On December 21, 1978, the DOE issued a Proposed Decision and Order tentatively granting Texaco permission to sell 74.41 percent at market prices and 25.59 percent at upper tier ceiling prices for twelve months following completion of the investment plan described in Texaco's application, and 100 percent at market prices in the subsequent three month period.

Union Oil Company of California, Los Angeles, California, DXE-2016, crude oil

Union Oil Company of California filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to continue to sell a portion of the crude oil produced from the West Richfield Chapman Zone Unit at upper tier ceiling price levels. On December 18, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Young Coal Company, Waterloo, Iowa, DEE-0664, fuel oil

Young Coal Company filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would permit Young to increase retroactively its maximum permissible selling prices for No. 1, No. 2 and No. 5 fuel oils and relieve the firm of the obligation to refund overcharges under the terms of a Remedial Order issued by DOE Region VII. On December 19, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 79-1761 Filed 1-17-79; 8:45 am]

[6450-01-M]

ISSUANCE OF PROPOSED DECISION AND ORDER

December 26 through December 29, 1978

Notice is hereby given that during the period December 26 through December 29, 1978, the Proposed Decision and Order which is summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an Application for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 F.R. 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of a Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice (January 17, 1979) or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form.

Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this Proposed Decision and Order is available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except federal holidays.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

JANUARY 12, 1979.

PROPOSED DECISION AND ORDER

Mobile Oil Corporation, New York, New York, DXE-2007, crude oil

Mobile Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit Mobil to continue selling at upper tier prices certain of the crude oil which it produces for the benefit of the working interest owners of the H&J 495-D Lease located in North Russell Devonian Field, Gaines County, Texas. On December 28, 1978, the DOE issued a Proposed Decision and Order tentatively granting Mobil permission to sell 64.29 percent of the working interest share of production at upper tier ceiling prices for the period from January 1, 1979 until June 30, 1979.

[FR Doc. 79-1762 Filed 1-17-79; 8:45 a.m.]

[6450-01-M]

ISSUANCE OF DECISIONS AND ORDERS

Week of October 10 through October 13, 1978

Notice is hereby given that during the week of October 10 through October 13, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEALS

Harold Fruchtbaum, New York, New York, DFA-0211, Freedom of Information

Harold Fruchtbaum appealed from a partial denial of a request for information which he had filed under the Freedom of Information Act (the Act). In his request for information, Fruchtbaum had sought

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copies of certain reports written by Dr. Klaus Fuchs during the time Fuchs was at the Los Alamos Scientific Laboratory. The DOE initially released copies of four of the requested documents but withheld several documents on the grounds that they were exempt from disclosure under the provisions of Exemption 1 (national security information) and Exemption 3 (information specifically exempted from disclosure by another statute) of the Act. In considering Fruchtbaum's Appeal, the DOE found that the documents withheld from Fruchtbaum contained "Restricted Data" as that term is defined in the Atomic Energy Act. Since the unauthorized release of "Restricted Data" is prohibited by the Atomic Energy Act, the DOE determined that the documents were properly withheld under Exemption 3. The DOE further determined that, in as much as the documents at issue contained information relating to the design of nuclear weapons, their release could adversely affect National security. The DOE therefore concluded that the documents were also properly withheld under Exemption 1. Accordingly, Fruchtbaum's Appeal was denied.

Home Gas Service, Inc., Swanton, Ohio, FRA-1466, Propane

Home Gas Service, Inc. Filed an Appeal of a Remedial Order which was issued to the firm by the FEA Region V Office on August 22, 1977. In the Remedial Order, the Regional Office found the Home gas had sold propane at prices which exceeded the maximum permissible price levels calculated pursuant to 10 CFR 212.93. In its Appeal, Home Gas did not challenge any of the factual or legal findings contained in the Remedial Order. Instead, Home Gas claimed that it was entitled to exception relief because the application of Section 212.93 to its operations would result in an inequity and a hardship and because enforcement of the Remedial Order could cause the firm to terminate its business operations. In support of its claim for exception relief, Home Gas contended that its markup on sales of propane on May 15, 1973 was abnormally low because of a seasonal price discount offered by the firm on that date. The DOE rejected this argument, noting that the firm would have earned substantial profits throughout the entire period covered by the Regional Office's audit if it had charged lawful prices. Consequently, the DOE determined that Home Gas had failed to make a *prima facie* showing that exception relief should be granted in this case. However, the DOE also concluded that if Home Gas were required to refund the overcharges in the manner set forth in the Remedial Order, the firm's profitability in future periods would be reduced to unreasonably low levels. Accordingly, the DOE ordered the Region V Office to issue a revised Remedial Order to Home Gas which will not require the firm to implement refunds in any single year which exceed the average annual amount of overcharges obtained during the FEA audit period. In all other respects, the Home Gas Appeal was denied.

Karchmer Pipe & Supply Company, Centralia, Illinois, FXA-1365, crude oil

Karchmer Pipe & Supply Company filed an Appeal from a Decision and Order which was issued to the firm on February 22, 1977. *Karchmer Pipe & Supply Co.*, 5 FEA Par. 83,075 (1977). In the February 22 Decision and Order, the FEA denied Karchmer's request for retroactive exception relief and granted its request for prospective exception relief from the provisions of 10 CFR, Part 212, Subpart D. The Appeal, if granted would have permitted Karchmer to retain revenues which it apparently received as a result of charging unlawfully high prices for the crude oil produced from its Patoka Unit No. 1 in Marion County, Illinois. The Appeal would also have extended prospective exception relief to the other working interest owner on the Unit. In considering the firm's Appeal, the DOE found that the firm had merely reiterated the contentions which it has raised in the exception proceeding regarding retroactive relief and had failed to demonstrate that the DOE's analysis of any of these contentions was erroneous in fact or law or was arbitrary or capricious. The DOE therefore denied Karchmer's Appeal of the February 22 Order with respect to retroactive exception relief. The DOE also found that Karchmer's request that prospective exception relief be extended to the other working interest owner had not beeen raised in Karchmer's initial exception application. The DOE therefore concluded that this aspect of Karchmer's subimission would be considered as an exception request under the provisions of Part 205, Subpart D and that a separate order would be issued with respect to that matter.

Martin Oil Company, Wichita, Kansas, DRA-0118, crude oil

The Martin Oil Company filed an Appeal from a Remedial Order which the Acting Director of Enforcement of DOE Region VII issued to the firm on January 5, 1978. In the Remedial Order, the DOE Regional Office found that Martin had improperly classified its Spier Lease and "Montford Property" as stripper well properties, and had, as a result, sold crude oil produced from the properties at prices which were in excess of those permitted by the Mandatory Petroleum Price Regulations. In considering the Martin Appeal, the DOE determined that the Remedial Order was correct in finding that a series of post-1972 subdivisions of the premises of which the Spier Lease was originally a part did not establish a new "property" for purposes of measuring the lease's base production control level. With respect to the "Montford Property" Martin argued that the Regional Office's determination that interest be paid on the overcharges was arbitrary and capricious. In support of this position, Martin contended that in a number of consent orders the DOE had compromised or waived the payment of interest and that by voluntarily refunding the full amount of its overcharges Martin had placed itself in a situation similar to that of a firm that agreed to a consent order. The DOE found, however, that Martin's refund of overcharges had not made formal administrative proceedings unnecessary and that the firm had not waived its right to judicial review. The DOE further found that the firm had not specified any unusual circumstances which should have led the Regional Office to exercise its discretion to waive the payment of interest in this case. Consequently, the DOE determined that Martin had failed to demonstrate that any of the circumstances which might justify the waiver or compromise, in a consent order, of the generally imposed requirement that interest be paid on overcharges existed in the present case. The DOE therefore concluded that the January 5 Remedial Order was neither erroneous in fact or law nor arbitrary and capricious. Accordingly, the Martin Appeal was denied.

State of Illinois, Chicago, Illinois, DFA-0210, Freedom of Information

The State of Illinois appealed from a denial by the Acting Director of the Office of Nuclear Waste Management of a Request for Information which the State submitted under the Freedom of Information Act (the Act). In its Appeal, the State requested that the DOE order the release of two documents withheld on the grounds that they are intra-agency memoranda which are exempt from mandatory public disclosure under the provisions of 5 U.S.C. 552(b)(5). In considering the Appeal, the DOE found that the documents which were withheld from the State generally analyze and make recommendations concerning alternative methods of implementing the DOE's spent nuclear fuel policy. The DOE therefore determined that the material which was withheld is precisely the type of information which Exemption 5 of the Act was designed to protect from disclosure and that the release of the material would not be in the public interest. The States's Appeal was therefore denied.

Sun Company, Inc., Philadelphia, Pennsylvania, FXA-1282, motor gasloine

Sun Company, Inc. filed and Appeal from a Decision and Order which the Federal Energy Administration issued to Amtel, Inc. on February 25, 1977. *Amtel, Inc.*, 5 FEA Par. 83,091 (1977). The prior proceeding involved the allocation and pricing of the motor gasoline that Sun supplied to South Central Oil Company, a marketing subsidiary which Amtel acquired from Sun on March 29, 1974. In the February 25 Decision, the FEA granted Amtel an exception which required Sun to establish a new class of purchaser for sales of motor gasoline to Amtel's South Central subsidiary and also directed Sun to determine its prices to that class of purchaser under 10 CFR 212.111(b) (1) (the new item rule). In its Appeal, Sun first claimed that the FEA's determination exceeded the agency's authority and denied Sun due process of law. In rejecting those contentions, the DOE found that, contrary to Sun's assertions: (i) The exceptions process was the appropriate forum for consideration of Amtel's claims of serious hardship and gross inequity; (ii) the February 25 Decision did not constitute an improper remedial order proceeding, because the pricing methodology prescribed by the FEA in that determination was not based on any finding that Sun had violated the price regulation; (iii) the prior determination did not constitute a procedurally invalid rulemaking proceeding in which the agency failed to provide Sun with adequate notice and opportunity to comment; and (iv) Sun was afforded an adequate opportunity to respond to the evidence on which the FEA relied in granting exception relief to Amtel

Sun next contended that Amtel had failed to establish that it qualified for exception relief. The DOE also rejected this claim, finding that: (i) Amtel was not stopped from seeking exception relief with respect to South Central's financial operations merely because Sun had notified Amtel of South Central's financial position prior to Amtel's acquisition of South Central; (ii) the February 25 Order did not constitute an impermissible government impairment of the contract between Sun and Amtel for the sale of South Central; and (iii) Sun's contention that Amtel had failed to demonstrate the existence of a serious hardship was irrelevant because the exception relief granted to Amtel was based upon gross inequity rather than serious hardship.

With respect to Sun's third contention, however, the DOE agreed with Sun that the exception relief previously granted to Amtel should be revised. The DOE found that the requirement in the February 25, Order that Sun refer to the new item rule in establishing its prices to Amtel had not accomplished the objective of lowering Sun's prices to Amtel and in turn lowering Amtel's prices to South Central's historical wholesale purchasers. The DOE concluded that in order to accomplish that objective Sun should continue to treat Amtel/South Central as a separate class of purchaser, but that Sun should adopt as its imputed May 15, 1973 selling price to Amtel the lowest price that Sun had charged to members or its wholesale unbranded class of purchaser on that date. The DOE also determined that this revised exception relief should be limited to the volume of motor gasoline which Sun sold to Amtel for resale to South Central's customers at the wholesale level. Finally, the DOE noted that Whitco, Inc., an historical purchaser of gasoline from South Central, is currently subject to exception relief which permits it to purchase gasoline directly from Sun rather than through Amtel/South Central. The DOE indicated that the supplier/purchaser relationships among Sun, Amtel and Whitco would be reevaluated in a future determination to consider whether Whitco should be required once again to purchase motor gasoline directly from Amtel rather than Sun. On the basis of these considerations the Sun Appeal was granted in part and denied in part.

T-C Oil Company, San Antonio, Texas, DRA-0140, crude oil

The T-C Oil Company filed an Appeal from a Remedial Order which was issued to the firm by the Acting Director of Enforcement of DOE Region VI on January 6, 1978. In the Remedial Order, the Regional Office determined that T-C Oil had sold crude oil produced from its "L" and "A" leases at unlawful price levels. In its Appeal, T-C Oil contended that the aggregation of the right to produce condensate from the "L" lease with the right to produce condensate from two other leases in the same field, all of which was processed in T-C Oil's mechanical separator facility, created a new "property" which was separate from the three leases. T-C Oil also argued that the light and heavy crude oil producing reserviors on the "L" lease constitute two separate "properties." The firm also asserted that it was entitled to offset the undercharges which occurred on its "LP" and "D" leases against the overcharges found to have occurred on the "L" lease. Finally, T-C Oil asserted that the DOE was barred by the applicable Texas statute of limitations from issuing any orders to T-C Oil to refund overcharges for the audit period. In considering the Appeal, the DOE found that each of the three leases from which casinghead gas was recovered and processed into condensate at the mechanical separator facility constitutes a single right to produce and therefore a single "property" under the Mandatory Petroleum Price Regulations. The DOE held that T-C Oil's construction of a mechnical separator facility and its use of that facility to process the casinghead gas recovered from each of the leases did not create a new right to produce and therefore did not create a new property separate from the three leases. In regard to T-C Oil's separate reservior argument, the DOE held that before September 1, 1976 the existence of two or more separate reserviors did not create two or more separate "properties," notwithstanding any alleged separate development, production, and pricing of production from the reserviors. The DOE also determined that while under appropriate circumstances a Regional Office could exercise its discretion to permit a firm to offset undercharges and overcharges among two or more leases, the record in the present case did not support the granting of an offset. Finally, the DOE determined that the Texas statutes of limitations was not applicable to the present enforcement action against T-C Oil. Accordingly, the T-C Oil Appeal was denied.

Trends Publishing, Inc., Washington, D.C., DFA-0220, Freedom of Information

Trends Publishing, Inc. filed an Appeal of an order issued by the Director of Safeguards and Security of Defense Programs (OSSDP) denying a request for information that Trends submitted under the Freedom of Information Act. The DOE noted that the Trends Appeal had not been filed within 60 days of receipt of the OSSDP order as required by § 709.10(b) of the regulations of the Energy Research and Development Administration (ERDA), which governed the Appeal. The DOE also noted that Trends had failed to show good cause for its failure to file its Appeal in a timely manner. The Trends Appeal was therefore dismissed. However, in view of the fact that the Trends Appeal was one of the first requests filed under ERDA regulations to be reviewed by the Office of Hearings and Appeals, Trends was given leave to file an amended appeal that satisfies the provisions of § 709.10.

Vickers Dividend Oil Company, Wichita, Kansas, DEA-0082, motor gasoline

The Vickers Dividend Oil Company filed an Appeal from an Assignment Order which was issued to it by the Acting Regional Representative of DOE Region VIII on November 8, 1977. The Appeal, if granted, would result in the assignment of a supplier to furnish a base period volume of 2,700,000 gallons of motor gasoline for a retail outlet which Dividend owns and operates. In its Appeal, Dividend claimed that the November 8, 1977 Order did not take into account the firm's intent to operate a new retail outlet at the site. In rejecting this contention, the DOE pointed out that under the criteria discussed in Ruling 1975-6 and *Red Carpet Car Wash*, 1 DOE Par. 82,530 (1978), a firm which succeeds another firm as the operator at a retail site is not eligible to receive an assignment of supplier and base period volume as a new whole sale purchaser-reseller if it intends to continue to engage in the retail sale of motor gasoline at the site, regardless of any change in the mode of operation. The DOE found that since Dividend has always intended to continue the retail sale of motor gasoline at the site, it failed to qualify as a new retail outlet, despite the conversion of the mode of operation from a full-service facility to a self-service operation. The Dividend Appeal was accordingly denied.

REQUESTS FOR EXCEPTION

Asiatic Petroleum Corp., New York, New York, DPI-0017
Pacific Resources, Inc., Honolulu, Hawaii, DPI-0009
Inter-Americas Oil Company, Pittsburgh, Pennsylvania, DPI-0010
Roarda, Inc., Washington, D.C., DPI-0011
Scanoil, Inc., New York, N.Y., DPI-0012

Asiatic Petroleum Corporation, Pacific Resources, Inc., the Inter-Americas Oil Company, Roarda, Inc., and Scanoil, Inc. filed Applications for Exception from the provisions of 10 CFR 213.15(c) which, if granted, would result in the issuance of an Order by the DOE authorizing the firms to import additional barrels of residual fuel oil into PAD District I on a fee-exempt basis during the 1978-1979 allocation year. In its Application, Asiatic stated that it expects to exhaust its present fee-exempt authority authorized under Section 213.15 by September 1978. The remaining four firms stated that since they were not importers of residual fuel into District I during 1973, they are not eligible to receive fee-exempt licenses under § 213.15 and therefore must pay license fees for all of the residual fuel oil which they import. All five firms stated that, in contrast, their competitors possess substantial fee-exempt authority under § 213.15. In the consolidated Decision which it issued to the five firms, the DOE noted that significant dislocations in the allocation of fee-exempt authority among importers of residual fuel oil had arisen since the Mandatory Oil Import Program (MOIP) was promulgated in 1973. The DOE also found that the maldistribution of fee-exempt authority to the five applicants threatened the competitive viability of those firms and therefore constituted an exceptional hardship to the firms and an unfair distribution of the burdens generally imposed on importers by the MOIP. Based on these considerations, the DOE concluded that exception relief should be granted. In determining the specific level of relief to be granted to the firms, the DOE noted that the fee-exempt authority mandated under § 213.15 for all importers during the 1978-1979 allocation year represents approximately 81.2 percent of the projected residual fuel imports for all importers for the same period. The DOE found that these five firms should be placed in a similar position and directed that additional fee-exempt licenses be issued in order to raise each firm's fee-exempt authority for the 1978-1979 allocation year to 81.2 percent of its total projected imports for that period.

Sidney E. Pinkston, Jr., Natchez, Mississippi, DEE-1409, Crude oil

Sidney E. Pinkston, Jr. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell the crude oil produced from the U.S.A. No. 1, U.S.A. No. 5, and U.S.A. No. 7 wells located on Lease BLM-A-011586-C in the Beaver Branch Field, Adams County, Mississippi at upper tier ceiling prices. In considering the exception request the DOE found that Pinkston's operating costs had increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the BLM-A-011586-C

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Lease if the crude oil were subject to the lower tier ceiling price rule. The DOE also determined that if Pinkston abandoned its operations at the Lease, a substantial quantity of domestic crude oil would not be recovered. On the basis of criteria applied in previous Decisions, the DOE determined that Pinkston should be permitted to sell 100% of the crude oil produced from the U.S.A. No. 1, No. 5 and No. 7 wells for the benefit of the working interest at upper tier ceiling prices.

S&W Engine Supply Company, Oklahoma City, Oklahoma, DXE-1472, crude oil

The S&W Engine Supply Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would result in the extension of exception relief previously granted to S&W and would permit the firm to sell at upper tier ceiling prices certain quantities of crude oil produced from the Baker Townsend Lease located in Oklahoma County, Oklahoma. *S&W Engine Supply Co.*, 1 DOE Par. 81,123 (1978). In considering the S&W request, the DOE found that the firm had continued to experience operating losses at the Baker Townsend lease despite the exception previously granted. The DOE also found that S&W would have no economic incentive to continue its operations at the Baker Townsend property unless the type of exception relief previously granted were extended for an additional six month period. In view of this situation and on the basis of the operating data which S&W submitted for the most recently completed six-month period, S&W was permitted to sell at upper tier ceiling prices 78.84 percent of the crude oil produced from the Baker Townsend lease for the benefit of the working interest owners through March 31, 1979.

Tenneco Oil Company, Houston, Texas, DXE-1557, crude oil

The Tenneco Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception, if granted, would result in the extension of relief previously granted and would permit Tenneco to continue to sell certain quantities of the crude oil produced from the South Coast Unit located in St. Mary Parish, Louisiana, at upper tier ceiling prices. In considering the Tenneco exception request, the DOE found that operating costs per barrel at the South Coast Unit continued to exceed the applicable lower tier ceiling price and that exception relief was therefore necessary to provide the firm with an economic incentive to maintain production operations. In accordance with the methodology established in previous Decisons, the DOE permitted Tenneco to sell 74.21 percent of the crude oil produced from the South Coast Unit at upper tier ceiling prices for a six month period of time.

PETITION FOR SPECIAL REDRESS

Robert B. Sutton, Tulsa, Oklahoma, DSG-0032, DES-0104, crude oil

Robert B. Sutton filed a Petition for Special Redress which, if granted, would have resulted in the issuance of an order quashing a subpoena that DOE Region VI issued to him on June 30, 1978. Sutton also requested a stay of the provisions of the subpoena pending a final determination on his Petition. In considering the Sutton Petition, the DOE noted that § 205.8(h)(4) of the DOE Regulations sets forth criteria governing the review by the Office of Hearings and Appeals of a Petition in which a firm seeks to quash or modify a subpoena. That Section provides that a preliminary review will be made in order to determine whether a reasonable probability exists that the petitioner will be able to satisfy the criteria for relief. If the Office of Hearings and Appeals determines that a Petition might satisfy those criteria, the Petition will then be considered on its merits. On the other hand, if the determination is made that the Petition fails to meet this threshold standard the Petition will be dismissed. See 41 FR 55322 (December 20, 1976). The DOE reviewed the contentions which Sutton advanced in his Petition and concluded that he had failed to demonstrate that an immediate review was warranted to correct substantial errors of law, to prevent substantial injury to legal rights, or to cure a gross abuse of administrative discretion. The Sutton Petition was therefore dismissed and the Application for Stay was denied.

REQUESTS FOR STAY

Northland Oil & Refining Company, Tulsa, Oklahoma, DES-0109, crude oil

Northland Oil & Refining Company requested that its obligation under the provisions of 10 CFR 211.67 (the Domestic Crude Oil Entitlements program) be stayed for the month of October 1978 pending a determination on the merits of an Application for Exception which the firm had filed. In considering the Northland request, the DOE found that the material which the firm submitted made a *prima facie* showing that the firm did not possess the financial resources which would enable it to purchase entitlements during October 1978. Accordingly, the DOE concluded that it was impossible for the firm to purchase entitlements during the month of October 1978. The DOE therefore granted the request for stay pending a determination on the firm's Application for Exception.

San Joaquin Refinging Company, Newport Beach, California, DES-1049 crude oil

San Joaquin Refining Company filed an Application for Stay in which it requested that the firm's obligation to purchase entitlements in the amount specified in the Entitlement Notice issued in September 1978 be suspended pending a final determination on an Application for Exception which the firm filed on April 20, 1978. In considering the San Joaquin request, the DOE found that San Joaquin had insufficient amounts of cash and other current assets to satisfy the full amount of its September entitlements purchase obligation. The DOE concluded that the financial material presented by San Joaquin therefore supported the firm's claim that it would suffer a severe and irreparable injury in the absence of a stay. The DOE also noted that there existed a substantial likelihood of success on the merits of San Joaquin's Application for Exception. Accordingly, the DOE granted the request for stay.

REQUEST FOR TEMPORARY STAY

Continental Oil Company, Houston, Texas, DST-1947, motor gasoline

The Continental Oil Company filed an Application for Temporary Stay of the requirements of 10 CFR 211.10(b). In its Application, Continental contended that because of an explosion and fire at its Denver, Colorado refinery it was unable to fulfill the allocation obligations imposed by 10 CFR 211.10(b). After considering the Application, the DOE determined that as a result of the explosion and fire it was impossible for Continental to maintain a single allocation fraction for the distribution subsystems served by the firm's Denver, Colorado and Billings, Montana refineries. Therefore, the DOE granted a temporary stay which permitted Continental to use separate allocation fractions for its Denver and Billings customers pending consideration of an Application for Stay which Continental intended to file.

MOTIONS FOR EVIDENTIARY HEARING

Champlin Petroleum Company, Fort Worth, Texas, DRH-0018, DRX-0115
Special Counsel, Washington, D.C., Motor gasoline

Champlin Petroleum Company filed a Motion for Evidentiary Hearing in connection with its Appeal of a Remedial Order. In its Motion, Champlin designated 49 issues with respect to which the firm wished to present testimony at an evidentiary hearing. In reviewing the Champlin Motion, the DOE noted that a firm seeking an evidentiary hearing must establish that the issues designated in its Motion are relevant to the enforcement proceedings and that the facts that the firm wishes to establish are not susceptible to documentary proof. The DOE noted that a large number of the issues designated in the Champlin Motion did not involve material disputes of a factual nature. In this regard, the DOE found that a number of the firm's assertions had already been accepted by the FEA and referred to in the Remedial Order. The DOE also noted that a number of issues designated by Champlin involved the interpretation of the contents of documents and should be resolved on the basis of those documents.

In its Motion Champlin also stated that it wished to elicit the testimony of various DOE officials regarding circumstances surrounding the preparation and issuance of the Remedial Order and other notices to the firm. The DOE determined that the presentation of this type of evidence was barred by the testimonial privilege recognized by the United States Supreme Court in *Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402 (1971). Under that privilege, the oral testimony of agency officials may be elicited by parties affected by agency action only in unusual circumstances. Where administrative findings were made contemporaneously with the agency action challenged, there must be a strong showing of bad faith or improper behavior on the part of agency officials before inquires may be made as to their mental processes in formulating agency action. The DOE determined that Champlin failed to make any preliminary showing that bad faith existed or that contemporaneous findings were not made.

The DOE also rejected Champlin's request to present testimony regarding alleged *ex parte* contacts involving the agency's enforcement personnel and individuals representing one of the firm's customers. The DOE concluded that no impropriety was committed even if the alleged *ex parte* contacts were made since the alleged contacts were with enforcement personnel acting in a prosecutorial capacity. The DOE further noted that even if the alleged *ex parte* contacts had been improper, Champlin was receiving an independent review of the Remedial Order before the OHA. In view of Champlin's failure to demonstrate the existence of any material factual dispute that was not susceptible to disposition on the basis of documentary proof, the Champlin Motion for Evidentiary Hearing was denied.

The DOE also considered the Motion of the Office of Special Counsel to strike from the administrative record excerpts of a deposition of a DOE official which were included in the Champlin submissions. The DOE determined that Special Counsel failed to make a showing that it would be prejudiced by the admission of that evidence into the record, and the Special Counsel's Motion to Strike was denied.

Petroleum Management, Inc., Corpus Christi, Texas, DRH-0015, crude oil

Petroleum Management, Inc. filed a Motion for Evidentiary hearing in connection with its Statement of objections to a Proposed Remedial Order which was issued to the firm by DOE Region VI on May 23, 1978. In the Proposed Remedial order, Region VI found that during the period from September 1, 1973 through December 31, 1975, PMI's Fred Blundell No. 5 Well produced only natural gas and natural gas condensate. In its Motion for Evidentiary Hearing, PMI stated that it intended to present testimonial evidence and supporting documents in support of its position that this finding was incorrect and that the well in fact produced crude oil during the audit period. In considering PMI's Motion, the DOE determined that there was a substantial dispute as to the nature of the liquids produced from the Fred Blundell No. 5 Well during the audit period. The DOE also determined that this factual dispute was central to the question of whether or not PMI engaged in practices which violated the price regulations. Moreover, the DOE concluded that because the credibility of PMI's witnesses was certain to be a critical factor in the DOE's decision with respect to this dispute, it was desirable that the DOE have the opportunity to observe the demeanor of PMI's witnesses and consider the veracity of their statements as they presented evidence and responded to cross-examination. Accordingly, the PMI Motion for Evidentiary Hearing was granted.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Amerada Hess Corporation, New York, New York, DEE-0858
Homer Moore, Baton Rouge, Louisiana, DEE-1068
Texas City Refining, Inc., Washington, D.C., DSG-0033

The following submissions were dismissed on the grounds that recent regulatory changes have eliminated the need for the exception relief requested:

Getty Oil Company, Los Angeles, California, DEE-1702 through DEE-1706
Hunt Petroleum Corporation, Dallas, Texas, DXE-1864
Texas Pacific Oil Company, Inc., Dallas, Texas, DXE-1878 through DXE-1880

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W. Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

JANUARY 12, 1979.

[Fr Doc. 79-1763 Filed 1-17-79; 8:45 am]

[6450-01-M]

ISSUANCE OF DECISIONS AND ORDERS

Week of October 16 through October 20, 1978

Notice is hereby given that during the week of October 16 through October 20, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEALS

Como Gas Sales Company, Inc., Duluth, Minnesota, DRA-0085 propane.

Como Gas Sales Company, Inc. appealed from a Remedial Order which the Department of Energy Region V Office issued to the firm on November 4, 1977. In the Remedial Order, the DOE found that Como had sold propane to its customers at prices which exceeded the maximum permissible levels computed pursuant to 6 CFR 150.359 and 10 CFR 212.93. In its Appeal, Como contended that its 20-lb. and 30-lb. propane cylinder transactions should be eliminated from the Regional Office's audit because they constituted a service rather than sales of a covered petroleum product and because it was impossible for the DOE to correctly calculate the amount of any violation which occurred. Como further challenged the manner in which the Regional Office had calculated Como's cost of product in inventory on May 15, 1973. In addition, Como challenged the application to it of the firmwide inventory requirement and the equal application rule. Como also asserted that DOE representatives had led the firm to believe that its pricing methods were correct and that netting, or subtraction of undercharges from overcharges, would be permissible if any overcharges were found to have occurred. Finally, Como sought an exception which, if granted, would have permitted the firm to retroactively calculate its selling prices on a separate inventory basis.

In considering Como's contentions with respect to its cylinder transactions, the DOE noted that a firm cannot avoid the applicability of the Price Regulations by the manner in which it characterizes its business activities. The DOE further determined that it would be inappropriate to relieve a firm of liability for compliance with the Price Regulations on the basis of an argument that it was impossible for the DOE to calculate correctly the amount of the violation, particularly when the firm had made no effort to comply with the Price Regulations with respect to the transactions involved and had not maintained records to show the quantity of product sold during the audit period. With respect to the application of the firmwide inventory requirement to Como, the DOE initially noted that in prior cases the FEA has stated that prior to May 1, 1976 a reseller or retailer was required to calculate its increased product costs on a firmwide basis. However, because the Office of Enforcement is apparently giving some further consideration to this issue, the DOE remanded the matter for further consideration.

In addition, the DOE found that the record was insufficient to enable it to assess the validity of Como's claim that the Regional Office had incorrectly calculated the firm's May 15, 1973 cost of product in inventory. Accordingly, the DOE determined that the Remedial Order should be remanded for further findings and conclusions regarding this issue. With respect to Como's argument that it had relied on the advice of DOE representatives, the DOE found that Como had not established that the DOE representatives had approved any specific pricing practice such as netting or the use of separate inventory accounting. Moreover, the DOE noted that Como had not shown that it actually established its prices on the basis of incorrect oral advice received from IRS and FEA representatives. In considering Como's netting argument, the DOE noted that netting is not permitted unless a firm convincingly demonstrates that it reduced its prices for the sole purpose of making restitution for previous overcharges. The DOE determined that Como had not made the proper showing. With respect to Como's request for a retroactive exception, the DOE found that the firm had failed to make a *prima facie* showing that exception relief should be granted, and consequently had failed to demonstrate that an exception should be granted in the context of its Appeal of the Remedial Order. On the basis of the foregoing considerations, Como's Appeal was granted in part and the Remedial Order was remanded for further findings.

Fuel Distributors, Inc., Temple, Texas, DFA-0213, Freedom of Information

Fuel Distributors, Inc. (Fuel) appealed from a partial denial by the Director of the Division of Freedom of Information and Privacy Activities of the Department of Energy (the FOI Director) of a request for information which the firm had filed pursuant to the Freedom of Information Act (FOIA). In its request, Fuel requested records related to a DOE investigation and audit of Foremost Petroleum Corporation, Inc. In his initial determination the FOI Director released six documents to Fuel and withheld 93 documents which were within the scope of the firm's request. On appeal Fuel requested that the DOE release 25 of the 93 documents which the FOI Director had

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withheld from the firm. In considering the appeal, the DOE found that 13 of those 25 documents were a part of an ongoing investigation of the pricing practices of Foremost Petroleum Corporation, Inc. and that release of those documents could seriously affect that investigation in an adverse manner. The DOE also found that nine documents contained confidential proprietary information and were therefore properly withheld from Fuel pursuant to exemption 4 of the FOIA. In addition, the DOE found that four documents contained significant substantive content which was a part of the decisionmaking process of the agency and that those documents were therefore properly withheld from Fuel pursuant to exemption 5 of the FOIA. Finally, the DOE determined that two documents and the routing slips attached to three documents should have been released to Fuel after material which is exempt from the mandatory public disclosure provisions of the FOIA had been segregated and withheld.

Petroleum Management, Inc., Wichita, Kansas, FRA-1311 crude oil

Petroleum Management, Inc. (PMI) appealed from a Remedial Order which was issued to it on April 27, 1979. In the Remedial Order, the DOE found that PMI had sold the crude oil produced from 12 leases as "stripper well crude oil" when those properties did not qualify for stripper well status during periods of time from November 16, 1973 through December 31, 1974. As a result of these findings, the Remedial Order directed PMI to refund the overcharges to the six purchasers of the crude oil. In considering the Appeal, the DOE rejected PMI's contention that injection wells should be included for purposes of determining eligibility of a property for stripper well status. The DOE also concluded that the record indicated that the production of crude oil from several of the properties was not maintained at maximum feasible rates and that the Regional Office had therefore acted properly in adjusting the calculations of average daily production from the Sutley and Barney-Morgan properties to reflect the disruptions in production that these properties to reflect the disruptions in production that these properties had experienced during 1973. However, the DOE determined that the Regional Office appeared to have correctly calculated the average daily porduction from the Krug Lease, and the property may have properly been entitled to stripper well status. Moreover, the DOE also concluded that the payment mechanism utilized by the Koch Oil Company for certain crude oil produced from the Palmer C Lease during December 1973 appears to have been appropriate. Accordingly, those portions of the Remedial Order were remanded to the Director of Enforcement of Region VII for further consideration of the issues involved. In all other respects, the Appeal filed by PMI was denied.

True Oil Purchasing Company, Casper, Wyoming, DFA-0215, freedom of information

True Oil Purchasing Company (True) filed an Appeal from an Order which the Director of the DOE Division of Freedom of Information and Privacy Act Activities (the Director) issued to the firm on August 14, 1978. In that Order the Director denied in part a Request for Information which True had filed under the Freedom of Information Act, 5 U.S.C. 552 (the Act), as implemented by the DOE in 10 CFR, Part 202. In its Appeal, True argued that a document which was found to be within the scope of the firm's request but which was withheld by the Director pursuant to 5 U.S.C. 552(b)(5) (Exemption 5) should be disclosed. Exemption 5 generally exempts from the mandatory disclosure provisions of the Act documents which are part of the agency's predecisional deliberative processes. See *Exxon Co., U.S.A*, 2 DOE Par. — (November 1, 1978) and cases cited therein. In considering the Appeal, the DOE determined that the document in question which is a draft Notice of Proposed Rulemaking had been properly withheld under Exemption 5 in accordance with previous DOE decisions. *See Shank, Irwin, Conant, Williamson, and Greverlle,* 1 DOE Par. 80,209 (1977). The firm also appealed a determination by the Director that portions of the firm's request for information did not reasonably describe the records sought. Since the firm failed to demonstrate that this aspect of the Director's determination constituted a gross abuse of administrative discretion, the DOE dismissed this aspect of the firm's appeal in accordance with the principles of a recent decision. *See Andrews, Kurth, Campbell and Jones,* 2 DOE Par. — (September 28, 1978). Finally, the DOE determined that a document which was within the scope of the firm's request but which had not yet been released to the firm should be released since it did not contain any material which is exempt from mandatory disclosure under the Act.

PETITION FOR SPECIAL REDRESS

Marathon Oil Company, Findlay, Ohio, DEH—0030, DSG—0030, DES—0103, crude oil

Marathon Oil Company filed a Petition for Special Redress, a Motion for Evidentiary Hearing, and an Application for Stay. In its Petition for Special Redress, the firm requested that an order be issued (i) directing the Special Counsel of the Department of Energy to refrain from reviewing a subpoena which was issued to Marathon by the Deputy Special Counsel on December 13, 1977, and (ii) designating another DOE official to conduct that review. The Application for Stay sought to restrain the Special Counsel from review of the subpoena until a determination was reached concerning the Petition for Special Redress. Marathon based its requests upon a contention that the Special Counsel was not the appropriate offical to review the December 13 subpoena because of his alleged involvement in its issuance. In considering Marathon's application for Stay, the DOE found that Marathon failed to make any showing that an irreparable injury to the firm was imminent or that it would experience a serious hardship or gross inequity if its Application for Stay was denied. The DOE found that since the Special Counsel might designate another DOE official to review the subpoena or might modify or rescind the subpoena, Marathon's contention that it would experience an irreparable injury in the absence of stay relief was without merit. In addition, the DOE noted that in any event Marathon could obtain review of the Special Counsel's determination by the DOE Office of Hearings and Appeals under § 205.8(h)(4). Inasmuch as Marathon failed to make a showing of an imminent irreparable injury resulting from the normal operations of the subpoena review regulations, the DOE determined that a Stay was not warranted and that, for the same reason, the Petition for Special Redress was premature. Accordingly, Marathon's Application for Stay was denied and its Petition for Special Redress was dismissed. The firm's Motion for Evidentiary Hearings was also dismissed on the ground that the subpoena review regulations make no provision for evidentiary hearings.

REQUESTS FOR EXCEPTION

Damson Oil Company, Houston, Texas, DXE—1607, curde oil

Damson Oil Company filed an application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of the exception relief previously granted to Damson and would permit the firm to continue to sell a portion of the crude oil produced from the Venice Beach lease at upper tier ceiling prices. *Damson Oil Co.*, 1 DOE Par. 81,101 (1978). In considering the exception application, the DOE found that in the absence of exception relief the working interest owners would lack an economic incentive to continue to produce crude oil from the property. In view of this determination, and on the basis of operating data which Damson had submitted for the most recently completed fiscal period, the DOE concluded that Damson should be permitted to sell 74.15 percent of the crude oil produced from the Venice Beach lease for the benefit of the working interest owners at upper tier ceiling prices. On September 26, 1978, Damson filed a Statement of Objections citing an alleged error in the effective date of the relief proposed in the Proposed Decision and Order. After reviewing the Damson submission, the DOE concluded that Damson was correct. Accordingly, Damson was permitted to sell at upper tier ceiling prices 74.15 percent of the crude oil produced from the Venice Beach Lease for the benefit of the working interest owners from September 1, 1978 to February 28, 1979.

H & K Oil Company, Yankton, South Dakota, DRC-0012, No. 2 fuel oil

H & K filed a statement of Objections relating to a Proposed Decision and Order that DOE Region VIII issued to the firm on January 13, 1978. In that determination, Region VIII tentatively concluded that H & K's request for exception relief from the provisions of 10 CFR 212.93 should be denied. The exception request, if granted, would have permitted H & K to retain revenues which it realized during the period November 1, 1973 through December 31, 1974 as a result of charging the University of South Dakota prices for No. 2 fuel oil which exceeded maximum permissible levels. In considering that request, the DOE applied the standard which is generally applied to requests for retroactive exception relief. *Marvin E. Boyer Co., Inc.*, 3 FEA Par. 83,088 (1978). Under that standard and on the basis of the financial material submitted by H & K, the DOE found that the firm had not shown that either an irreparable injury existed or compelling reasons were present which justified the approval of retroactive exception relief. In fact, the DOE found that H & K had realized increasing profits since 1973. Under these circumstances, the DOE concluded that retroactive exception relief was not warranted, and the H & K Application for Exception was denied.

Kewanee Oil Company, Tulsa, Oklahoma, DXE-1288 crude oil

Kewanee Oil Company filed an Application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of the exception relief previously granted to Kewanee and would permit the firm to sell a portion of the crude oil produced from the South Stanley Lease at upper tier ceiling prices. In considering the Kewanee exception application, the DOE determined that the Kewanee firm had been acquired by the Gulf Oil Corporation (Gulf) and that Gulf, rather than Kewanee, should have filed the exception application. However, the DOE also determined that the financial material which Kewanee submitted for a recent six-month period covered a period in which Kewanee continued as the operator of the property. The DOE also found that the working interest ownership of the property continued at the same level as under Kewanee's ownership and that it did not appear that the manner in which Gulf accounted for the operations was different from the manner in which Kewanee had accounted for them. Accordingly, the DOE determined that the exception proceeding should not be dismissed. Based on the current financial and operating data furnished for the property, the DOE concluded that exception relief should be continued so the firms would have an economic incentive to produce the crude oil involved. The DOE therefore granted Kewanee and Gulf exception relief which permits them to sell 41.18 percent of the crude oil produced from the South Stanley Lease during a six-month period for the benefit of the working interest owners at upper ceiling prices.

Monsanto Company, Winkler County, Texas, DXE-1115, crude oil

The Monsanto Company (Monsanto) filed an Application for Exception from the provisions of 10 CFR, Part 212, subpart D which, if granted, would permit Monsanto to sell the crude oil which it produces from the Hendrick "C" Property at upper tier ceiling prices. In considering the exception request, the DOE found that Monsanto continued to incur per barrel operating costs for the Hendrick "C" Property which were in excess of the lower tier ceiling price the firm was permitted to charge pursuant to Subpart D and that in the absence of continued exception relief, the working interest owners would lack an economic incentive to continue production of crude oil from the property. In view of this situation and on the basis of the operating data presented for the property for the preceding six months, the DOE issued a Proposed Decision and Order in which it concluded that the working interest owners should be permitted to sell 48.5 percent of the crude oil produced from the property at upper tier ceiling prices in order to recover the increased operating costs of the property. On July 25, 1978, Monsanto filed a Statement of Objections in which the firm asserted that the amount of relief specified in the Proposed Order was inadequate because it was based in part upon monthly operating results which were anomalous. In considering Monsanto's arguments, the DOE determined that the impact of any anomalous production period was minimized or eliminated as a result of the DOE's consideration of operating results from an entire six month period. Accordingly, on October 16, 1978, the DOE issued the Proposed Order in final form without modification.

Phillips Petroleum Company, Bartlesville, Oklahoma, DEE-0386, crude oil

The Phillips Petroleum company (Phillips) filed an Application for Exception from the provisions of 10 CFR 212.73. The exception request, if granted, would permit Phillips to sell a sufficient protion of the crude oil produced from the Bridger Lake Unit located in Summit County, Utah, at upper tier ceiling prices to generate revenues that would contemporaneously offset the projected cost of injecting natural gas into the underlying reservoir. Phillips claimed that natural gas is required to be injected into the reservoir in order to maintain the miscibility pressure of the Unit prior to the implementation of a major secondary recovery project at the Unit. Phillips further alleged that unless a level of revenues which would contemporaneously offset the cost of injecting the gas were achieved, the firm would cancel its plans to implement the secondary recovery project and large volumes of otherwise recoverable crude oil would be permanently lost. After consideration of the projected cost of the injection gas and the magnitude of the volume of crude oil that could be produced if the firm actually proceeded with the planned secondary recovery project, the DOE found that Phillips would have sufficient incentive to purchase and inject the natural gas if the firm was permitted to recover the increased operating costs per barrel that it actually incurred at the Unit since May 15, 1973. Since Phillips could recover the cost of injecting the natural gas after it had actually been incurred through subsequent exception requests the DOE concluded that there was no need to permit Phillips to recover the projected cost of the injection gas contemporaneously with the expenditures for that gas in order to provide the firm with an incentive to undertake the project. Consequently, the DOE granted Phillips permission only to increase the price of the crude oil produced from the Unit in order to recover the increased operating cost per barrel which it actually had incurred since May 15, 1973.

Phillips Petroleum Company, Bartlesville, Oklahoma, DXE-1554, crude oil

Phillips Petroleum Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted to Phillips and would permit the firm to continue to sell a portion of the crude oil produced from the Foote Lease, located in Oklahoma County, Oklahoma, at upper tier ceiling prices. In considering the exception application, the DOE found that Phillips had continued to incur increased operating expenses at the Foote Lease and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue to produce crude oil from the property. In view of this determination and on the basis of the operating data which Phillips had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued permitting Phillips to sell at upper tier prices 90.98 percent of the crude oil produced at the Foote Lease for the benefit of the working interest owners.

Phillips Puerto Rico Core, Inc., Puerto Rico Sun Oil Company, Commonwealth Oil Refining Company, Inc., PPG Industries, Inc., and Puerto Rico Olefins Company, Washington, D.C., DPI-0002, DEE-0392, DXE-0611, DPI-0006, naphtha crude oil

This proceeding involved several Applications for Exception filed by firms that maintain refineries or petrochemical plants in Puerto Rico. Commonwealth Oil Refining Company, Inc. (Corco), Phillips Puerto Rico Core, Inc. (Phillips) and the Puerto Rico Olefins Company (PRO), a subsidiary of PPG Industries, requested exception relief from the license fee provisions of the Mandatory Oil Import Program contained in 10 CFR, Part 213. Corco and the Puerto Rico Sun Oil Company (Sun) requested exception relief from certain provisions of the Old Oil Entitlements Program.

After reviewing the material submitted by Corco, PRO and Phillips, the DOE determined that the firms should be granted exception relief from the license fee provisions. The DOE noted that in a previous case, the Federal Energy Administration had granted similar exception relief to Corco based in part on the firm's deteriorating financial condition, and on the fact that due to competitive conditions, the firm was not able to pass through to its customers the additional costs associated with license fees. The relief granted in that case was also based on the finding that adequate domestic supplies of crude oil and naphtha were not available to Corco at competitive price levels as a result of the Jones Act requirements and the fact that the Corco facilities are located in Puerto Rico. *Commonwealth Oil Refining Co., Inc.*, 5 FEA Par. 83,132 (1977). Based on information submitted by Corco, the DOE determined that these conclusions were still valid, and that the firm, now in bankruptcy, was experiencing even more serious financial difficulties. Accordingly, Corco was granted exception relief permitting it to import all of its expected crude oil and naptha feedstock needs for the current allocation period on a fee-exempt basis. It was also found that PRO was subject to the same economic factors which affect Corco and was experiencing serious financial difficulties. Consequently, PRO was also granted exception relief permitting it to import its expected naphtha, raffinate and gas oil feedstock needs for the current allocation period on a fee-exempt basis. The DOE further determined that as a result of this Decision and the existence of long-term allocations and other regulatory fee-exempt allocations, all of the refiners and petrochemical plants located in Puerto Rico will have substantial fee-exempt authority except for Phillips. The DOE concluded that since Phillips has no ongoing fee-exempt authority on a permanent basis, the firm is subject to a substantial competitive disadvantage. Consequently, Phillips was also granted exception relief permitting it to import its expected naphtha feedstock needs for the current allocation period on a fee-exempt basis. Phillips was also granted limited retroactive exception relief from the license fee provision due to administrative delay in reaching a decision on the merits of its request.

The DOE also pointed out that other factors supported the approval of the exception relief from the license fee program

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granted to Corco, PRO and Phillips. The agency noted that each of the firms had constructed facilities in Puerto Rico that were dependent on foreign feedstocks largely as a result of incentives provided by the Federal and Puerto Rican Governments. It also found that since the firms generally had no feasible alternative to the use of imported feedstocks the license fee, which was designed to discourage the use of imported crude oil and petroleum products, did not serve its intended function with respect to these firms and exacerbated the competitive disadvantages already being experienced by the firms.

The DOE also concluded that Corco and Sun should be granted exception relief from the provisions of 10 CFR 211.67(i)(4) of the Old Oil Entitlements Program. In this regard, the DOE noted that the purpose of that provision was to provide a cost advantage for refiners who process domestic crude oil over those who process imported crude oil. It was determined that this objective is not met by the application of § 211.67(i)(4) to Corco and Sun since under provisions of the Jones Act neither of the firms has an economic incentive to process domestic crude oil. The DOE reiterated that these firms initially relied on incentives provided by the Federal and Puerto Rican Governments to locate facilities in Puerto Rico, but now were experiencing competitive cost disadvantages as a result of the Jones Act and changes in the economic climate. In addition, the DOE determined that a denial of exception relief could have a potentially significant adverse impact on the economy of Puerto Rico. Based on these factors, the DOE granted Corco and Sun exception relief for specified periods to eliminate the cost disadvantage which accrues to the firms under the entitlements program as a result of their use of imported crude oil feedstocks.

After reviewing the material submitted by Corco, the DOE also concluded that the firm should be granted exception relief from the provision of 10 CFR 211.67(d)(5). Under that provision, the level of entitlements benefits which a Puerto Rican firm receives for the naphtha which it imports for use as feedstock in its petrochemical plant is based on the weighted average cost of all naphtha imported into Puerto Rico for use as a petrochemical feedstock. The DOE noted that in a previous decision, the FEA found that Corco's weighted average cost of imported naphtha was significantly in excess of the weighted average cost of imported naphtha for all of Puerto Rico. In view of this finding and the financial difficulties being experienced by Corco, the FEA concluded that exception relief from the provisions of § 211.67(d)(5) should be granted, permitting the firm to substitute its actual cost of naphtha for purposes of applying the formula set forth in that section. *Commonwealth Oil Refining Co., Inc., supra.* The DOE found that because Corco's financial condition continued to be precarious and its weighted average cost of imported naphtha still exceeded the weighted average cost for all of Puerto Rico, the exception relief previously approved should be continued until September 30, 1979.

The DOE also determined that exception relief from the equal application rule, 10 CFR 212.83(h), which had previously been granted to Corco and Phillips should also be granted to Sun and PRO. The DOE noted that the purpose of the rule was to preserve existing price differentials which are the basis of the class of purchaser concept. As a result of the provisions of the equal application rule, a refiner which passes through different amounts of increased costs to different classes of purchaser is not permitted to "bank" for recovery in future months the costs which it failed to reflect in the lower prices charged to certain classes of purchaser. The DOE determined that the equal application rule may not serve any useful purpose when applied to Puerto Rico and instead functions to inhibit the passthrough in Puerto Rico of costs incurred by refiners operating only in Puerto Rico. Consequently, exception relief was approved permitting all of the firms involved in this proceeding to reflect in the prices which they charge for petroleum products sold in Puerto Rico the actual cost increases incurred in their Puerto Rican refining and marketing operations.

Finally, the DOE noted that several firms had filed submissions objecting to the Proposed Decision and Order which was issued in this proceeding. Corco objected to certain procedures attached to the exception relief from the entitlements program which had been tentatively approved. The procedures generally permitted Corco to sell entitlements pursuant to the exception only if it takes appropriate measures to ensure that the revenues generated from such sales are used only to meet current expenses of the firm. The DOE noted that these procedures were the subject of ongoing discussions between Corco and the DOE, and that in order to avoid any delay in this proceeding, the procedures should be adopted in the final Decision issued in this matter. However, the DOE stated that if new procedures were ultimately approved as a result of the negotiations with Corco, a Supplemental Order will be issued to conform the procedures adopted in this Decision with the new procedures. Several other firms argued that the exception relief fromthe license fee program which had been tentatively approved was intended to alleviate general economic problems facing Puerto Rico and the Puerto Rican refining and petrochemical industries, and was thus more properly the subject of a rulemaking proceeding. In rejecting this argument, the DOE determined that the approval of this exception relief was designed to mitigate the impact of specific DOE regulatory provisions which under the unique circumstances involved produced an inequity to the Puerto Rican firms and economy.

The DOE also rejected the contention advanced by several firms that relief from the regulatory provisions involved in this proceeding should be considered for all refiners through the regulatory process. The DOE determined that the inequity being experienced by Puerto Rican refiners and petrochemical manufactures is unique, and that the allegation that a larger problem exists should not restrict the agency from addressing specific inequities presented to it in individual applications for exception. Several firms also contended that the exception relief proposed would adversely affect every other refiner in the United States to some extent. The DOE stated that this argument had been fully considered, and that various factors favoring exception relief were more compelling. Lastly, Sun stated that it was now processing substantial quantities of Alaskan North Slope (ANS) crude oil in its Puerto Rican refinery, and requested additional exception relief from the entitlements penalty on that crude oil, which is identical to the penalty on foreign crude oil. The DOE determined that it would be anomalous if this entitlements penalty were not removed, since it would encourage Sun and othen Puerto Rican refiners to use imported crude oil rather than ANS crude oil. Accordingly, both Sun and Corco were granted exception relief until September 30, 1979 relieving them of the cost disadvantage mandated under § 211.67 (l) (4) with respect to ANS crude oil.

Total Petroleum, Inc., Apco Oil Corporation, Oklahoma Refining Corporation, Washington, D.C., FEE-4753, FEE-4774, FEE-4832, crude oil and refined petroleum products

On February 6, 1977, the DOE issued a Proposed Decision and Order to Total Petroleum, Inc., Apco Oil Corporation, and Oklahoma Refining Corporation in which the DOE proposed to grant exception relief to facilitate Apco's sale to Total and ORC of two refineries located in Arkansas City, Kansas and Cyril, Oklahoma. As a condition of receiving relief, the DOE proposed to limit the entitlements which ORC may earn under 10 CFR 211.67(e) (the small refiner bias) to the benefits which Apco would have earned if it did not sell the facility. Apco and ORC objected to that limitation. In considering their contentions, the DOE observed that the agency's Economic Regulatory Administration (ERA) had recently indicated that it was reassessing the propriety of the small refiner bias. The DOE had as a result determined that exception relief in cases involving refinery acquisitions should not be conditioned upon the continuation of the level of small refiner bias that existed prior to the refinery sale. *Dorchester Gas Corp.; American Petrofina, Inc.*, 2 DOE Par. 81,048 (1978). On the basis of the precedent established in *Dorchester/Fina*, the DOE concluded that the parties to the Apco/ORC/Total refinery transfers should be permitted to receive the full measure of entitlement benefits calculated pursuant to the provisions of § 211.67(2).

In its Statement of Objections to the February 6 Proposed Decision, ORC also requested that the DOE permit the firm to calculate its increased product and nonproduct cost on the basis of the actual purchase price of Apco's inventory at the Cyril refinery. The DOE found that this method of calculating costs could result in a misallocation of costs between the cost of inventory and the costs of the refinery itself. The DOE therefore concluded that the method indicated in the February 6 Proposed Decision, which would instead require ORC to assume Apco's actual costs of the inventory purchased, would result in a more consistent application of § 212.83 and would prevent the sudden and unwarranted price variations which might result from using a negotiated price for Apco's inventory on the date of the sale of the Cyril refinery.

The DOE issued a Decision and Order which finalized the proposed determination except as noted above.

REMEDIAL ORDERS

Drew Cornell, Inc., Lafayette, Louisiana, DRO-0003, crude oil

Drew Cornell, Inc. objected to a Proposed Remedial order which the DOE Region VI Office issued to the firm on January 27, 1978. In the Proposed Remedial Order the Regional Office found that during the period September 1, 1973 through June 30, 1976, Cornell erroneously treated the V. Boagni and V. Boagni "C" leases as two separate "properties" as that term is defined in 6 CFR 150.354(b) and 10 CFR 212.72, and as a result had sold crude oil produced from the leases at unlawful price levels. The Proposed Remedial Order therefore directed Cornell to refund to the purchaser the full amount of the overcharges, plus interest. In considering Cornell's objections the DOE noted that the definition of the term "property" which was applicable during the period of the alleged overcharges was based exclusively upon the right to produce crude oil conveyed by the governing oil and gas lease or other instrument. The DOE therefore determined that the execution of a new lease covering a portion of a premises subject to an already existing right to produce does not create a new property with a separate BCPL of zero. The DOE also found that, contrary to the contentions advanced by Cornell, the circumstances surrounding crude oil production at the V. Boagni and V. Boagni "C" leases are readily distinguishable from the special cases identified in Rulings 1977-1 and 1977-2 in which separate property treatment for portions of premises subject to a single right to produce would be permitted. The DOE additionally rejected Cornell's contentions that the interest payments required by the the Proposed Remedial Order were excessive and punitive in nature. Finally, with respect to Cornell's claim that it should not be held liable for the entire amount of overcharges since its working interest in the property is only 2.7 percent, the DOE determined that the objective of compensating the purchaser for the overcharges might well be frustrated if Cornell were required to meet the full refund requirement of the Proposed Remedial Order. Consequently, the DOE remanded the Proposed Remedial Order to the Regional Director of Enforcement of Region VI with instructions to formulate a price reduction arrangement under which each working interest owner will bear its proportionats share of the refund burden.

Norco Oil Company, Cheboygan, Michigan, DRO—0064, DRH-0064

Norco Oil Company filed a Statement of Objections and a Motion for Evidentiary Hearing in connection with a Proposed Remedial Order which DOE Region V issued to the firm on March 20, 1978. After reviewing the Norco submissions, the DOE determined that additional information was necessary. Norco failed, however, to respond to numerous requests that it submit the additional information. The DOE therefore determined that the Statement of Objections and the Motion for Evidentiary Hearing should be dismissed with prejudice. Accordingly, the Proposed Remedial Order was issued as a final Remedial Order of the Department of Energy.

In the following case involving a Proposed Remedial Order, no Statement of Objections was filed. The DOE therefore issued the Remedial Order in final form.

Selby Williams, Piketon, Ohio, DRW-0001

REQUEST FOR MODIFICATION AND OR RESCISSION

Sun Company, Inc., Dallas, Texas, DMR-0018, natural Gas

The Sun Company, Inc. filed an Application for Modificiation or Rescission of a Decision and Order which was issued by the DOE to the firm on February 27, 1978. *Sun Co., Inc.*, Case No. DEE-0068 (Unreported Decision issued February 27, 1978). In that Decision, the DOE granted Sun an exception to 10 CFR 212.165 and permitted it to increase prices for natural gas liquids to reflect the increased non-product costs which the firm incurred at its Putnam-Oswego natural gas processing plant. The firm stated in its Application for Modification that in January 1978 the Putnam-Oswego plant was converted from the production of natural gas liquids (NGL's) to the production of natural gas liquid products (NGL products). The firm contended that since 10 CFR 212.165 limited to $.005 per gallon the amount of non-product costs associated with the production of NGL's which a firm may automatically pass through to its customers in the form of higher prices, and since the non-product cost passthrough provided for NGL products is only $.00375 per gallon, the firm was entitled to modification relief which would permit it to charge an additional $.00125 per gallon for the NGL products produced at the Putnam-Oswego plant since January 1978. In support of its contention, the firm stated that the Mobil Oil Corporation, the operator of Sun's plant, failed to notify Sun that the plant had been converted to NGL products. Sun contended that it had met the criterion of significantly changed circumstances set forth in 10 CFR 205.135(b) and that a modification should therefore be granted. In rejecting that contention, the DOE stated that any firm which seeks exception relief is under an affirmative duty to take all necessary steps to ensure that all factual representations made in support of an exception request accurately reflect the current situation of the firm. The DOE found that Sun had failed to make the showing necessary to qualify for modification relief under the criterion of significantly changed circumstances since the firm could easily have taken steps to inform itself of the conversion of its plant and to inform the DOE accordingly. Sun's Application for Modification was therefore denied.

REQUEST FOR STAY

Texas City Refining, Inc., Texas City, Texas, DES-0105 crude oil

Texas City Refining, Inc. (TCR) filed an Application for Stay in which it requested that it be relieved of any obligation to purchase entitlements during the months of September through November 1978. On September 22, 1978, the DOE issued a Decision and Order to TCR in which it denied the firm's initial request for a stay of its entitlement purchase obligation during these months. In its second Application for Stay, TCR presented updated financial information and argued that this material demonstrated that it would incur an irreparable injury in the absence of a stay. In considering the TCR request, the DOE concluded that the financial difficulties being experienced by the firm were not primarily attributable to DOE regulations. In view of this finding, the DOE concluded that only a very strong showing that the firm had made a diligent effort to minimize its cash flow problem before requesting assistance from the DOE would justify the approval of the requested stay. The DOE concluded that TCR had not made that showing. In reaching this conclusion, the DOE found that TCR had made a discretionary business decision to incur a sizable loss on the sale of motor gasoline to its parent corporations prior to restoring its refinery to normal operation. The DOE also found that TCR had placed an additional strain on its financial resources by electing to expand immediately its refining capacity even though its cash position had significantly worsened as a result of the refinery fire. In addition, the DOE observed that TCR had made virtually no effort to obtain funds from its parent corporations even though the record indicated that those firms had a strong vested interest in the continuation of operations by their subsidiary. Finally, the DOE concluded that TCR had not satisfied any of the criteria for a stay set forth in Part 205 of the DOE Procedural Regulations. Accordingly, the TCR request was denied.

MOTION FOR EVIDENTIARY HEARING

Valley Oil Corporation, Staunton, Virginia, DEH-0119 motor gasoline

Valley Oil Corporation (Valley) filed a Motion for Evidentiary Hearing in which it requested that an evidentiary hearing be convened in connection with the DOE's consideration of a Statement of Objections to a Proposed Exception Decision and Order issued to the firm on March 10, 1978. In its Motion Valley requested that it be permitted to present witnesses to testify that the DOE's regulations were ambiguous and that it received contradictory guidance from agency officials regarding the proper method of calculating its cost of product in inventory. In considering the Valley request, the DOE found that the preliminary determination reached in the Proposed Decision and Order issued to the firm would not be influenced by specific evidence regarding the clarity of the DOE regulations. Consequently, Valley's request for an evidentiary hearing was denied.

INTERLOCUTORY ORDER

Husky Oil Company of Delaware, Denver, Colorado, DEZ-0112 crude oil

On September 20, 1978, the United States District Court for the District of Wyoming remanded to the DOE for reconsideration a Decision and Order issued to the Husky Oil Company of Delaware (Husky) by the Federal Energy Administration on December 15, 1976. *Husky Oil Co. of Delaware*, 4 FEA Par. 83,244 (1976), *aff'd*, 5 FEA Par. 80,649 (1977). In that Decision, the FEA granted Husky a partial exception from the provisions of 10 CFR 211.67 (the Entitlements Program). In remanding the Husky exception request to the DOE, the District Court ordered the DOE to recalculate the level of relief which had been approved in the December 15 order and to disregard any negative historical profit margin, crude oil production activities or profits, or base years unrepresentative of Husky's historical financial and operating position. After reviewing the record developed in the prior Husky exception proceedings and the directive of the District Court, the DOE concluded that its reconsideration could not be premised on the use of the standards established in *Delta Refining Co.*, 2 FEA Par.

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83,275 (1975). Consequently, the DOE determined on a preliminary basis that the standard which should be adopted in its reconsideration of the Husky exception request is one which will prevent the entitlement purchase obligations which Husky would otherwise have incurred from placing the firm's refining and marketing operations into a loss position. Finally, in view of the fact that the utilization of a new standard in this case would necessitate a *de novo* review of Husky's historical financial and operating position, the DOE stated its intention to request certain financial and operating data which will enable the DOE to fully reconsider the Husky Application for Exception.

SUPPLEMENTAL ORDER

Pawnee Petroleum Company, Seminole, Oklahoma, DRX-0117, crude oil

A Remedial Order which was issued to Pawnee Petroleum Company on August 9, 1978 implied that Pawnee could file an Appeal of that Order with the Federal Energy Regulatory Commission. In order to clarify Pawnee's appellate rights, the DOE amended the Order to state that the Remedial Order was a final order of the DOE from which any aggrieved party may seek judicial review.

DISMISSALS

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Equipment, Inc., Lafayette, Louisiana, DRH-0121

The following submissions were dismissed on the grounds that the requests are now moot:

Sun Company, Inc., Philadelphia, Pennsylvania, DES-0392
Sun Company, Inc., Philadelphia, Pennsylvania, DEA-0070

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information:

Helter Gas Company, Oran, Missouri, DEE-1112

The following submissions were dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

Standard Oil Co. of California, San Francisco, California, DEE-1911 through DEE-1918, DXE-1919 through DXE-1935
Sun Company, Inc., Dallas, Texas, DXE-1945

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W. Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

JANUARY 12, 1979.

[FR Doc. 79-1764 Filed 1-17-79; 8:45 am]

[6450-01-M]

ISSUANCE OF DECISIONS AND ORDERS

Week of October 23 through October 27, 1978

Notice is hereby given that during the week of October 23 through October 27, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the office of Hearings and Appeals and the basis for the dismissal.

APPEALS

Ernest E. Allerkamp, San Antonio, Texas, DRA-0042, crude oil

Ernest E. Allerkamp filed an Appeal from a Remedial Order issued to him by FEA Region VI on September 9, 1977. In that Remedial Order, Region VI found that Allerkamp had improperly classified as stripper well properties the Halff & Oppenheimer property in Frio County, Texas, and the M. A. Tyler property in McMullen County, Texas. In his Appeal, Allerkamp maintained that the Halff & Oppenheimer property actually consisted of two properties, the Navarro Lease and the Austin Chalk Lease, and he claimed that the Navarro Lease qualified as a stripper well property on the basis of its 1972 production. In considering the Appeal, the DOE observed that Allerkamp had not contested the DOE's treatment of the Halff & Oppenheimer property as a single property prior to his Appeal. Nevertheless, the DOE exercised its discretion to consider this issue on Appeal in view of material submitted by Allerkamp which strongly indicated that the Halff & Oppenheimer property did in fact consist of two separate and distinct properties. In this regard, the DOE observed that the record developed by Region VI contained information which should have led that Office to determine whether one or two properties existed. The DOE also concluded that the data submitted by Allerkamp supported his contention that the Navarro Lease qualified as a stripper well property on the basis of 1972 production. In view of these findings, the DOE remanded the Remedial Order for further consideration.

Arizona Fuels Corporation, Salt Lake City, Utah, FXA-1474, crude oil

Arizona Fuels Corporation appealed from a Decision and Order which the FEA issued to it on July 12, 1977. *Arizona Fuels Corporation*, 6 FEA Par. 83,033 (1977). In that determination, the FEA granted Arizona Fuels an exception from the provisions of 10 CFR 211.67 (the Entitlements program) which extended the firm's prior exception relief through December 1977. The Arizona Fuels' Appeal, if granted, would provide additional entitlement exception relief for that period. In its Appeal, Arizona Fuels contended that the prior Decision was based on inaccurate financial data. In considering the Appeal, however, the DOE found that the FEA's determination relied on data which the firm itself had submitted. in addition, the DOE rejected the contention that the July 12 Decision should be revised to reflect an entitlement obligation based on the firm's corrected data because the DOE would review the financial projections at the end of the current fiscal year in any event. Accordingly, the Arizona Fuels Appeal was denied.

Depco, Inc., Renville County, North Dakota, DRA-0068, crude oil

Depco, Inc. filed an Appeal from a Remedial Order issued to the firm by DOE Region VIII on November 14, 1977. In the Remedial Order, DOE Region VIII found that Depco had erroneously classified 75 percent of the production from the Bryans No. 1 well as new crude oil by attributing that production to an adjoining property with a base production control level (BPCL) of zero. According to the Remedial Order, Depco attributed 75 percent of its production to the adjoining property because the Bryans lease occupied only 25 percent of a state-imposed Spacing Unit. In its Appeal, Depco asserted that the crude oil was properly attributed to the adjoining property in compliance with North Dakota state law. Depco also stated that if DOE regulations did not permit the firm to attribute production from one property to another, then the federal regulations would conflict impermissably with state law. In considering the Depco Appeal, the DOE first noted that its regulations did not permit a firm to ascribe the production from one property to another property since that policy would circumvent the intent of the price regulations. In addition, the DOE found that its price regulations did not conflict with the provisions of state law because, contrary to Depco's claim, the North Dakota Spacing Order which established the spacing units did not require production to be attributed from one property to another. Therefore, Depco's Appeal was denied.

Dunaway, McCarthy & Dye, P.C., Washington, D.C., DFA-0223, Freedom of Information

Dunaway, McCarthy & Dye, P.C. (DMD) appealed from a partial denial of a request for information which the firm had submitted under the Freedom of Information Act (FOIA). In its Appeal, DMD requested that the DOE direct the Information Access Officer to release documents which were withheld from the firm pursuant to the exemptions set forth in 5 U.S.C. 552(b). In considering the Appeal, the DOE determined that the three documents which had been withheld pursuant to Section 552(b)(4) should be released because the disclosure of the commercial information contained in those documents was unlikely to cause substantial competitive harm to the firms involved. With respect to those documents withheld pursuant to Section 552(b)(5), the DOE concluded that with the exception of certain segregable nonexempt portions which were releasable, these documents were properly withheld because they consisted of nonfactual predecisional intra-agency materials that were used in the department's deliberative process. In addition, the DOE found

that a "Regional Compliance Review" was properly withheld under Sections 552(b)(5) and (7A) because it contained investigative materials of a deliberative nature, the release of which would interfere with an ongoing enforcement proceeding. The DOE did, however, direct the release of a letter sent by the Federal Energy Administration to a committee of the House of Representatives, which had been withheld pursuant to Sections 552(b), 552(7A) and 552(7E). The DOE found that the release of this material would not interfere with any ongoing investigation and would not disclose investigatory techniques or procedures of the department. The DOE also directed the release of three documents which were arguably exempt, after finding that disclosure would not be contrary to the public interest.

Enterprise Products Company, Houston, Texas, FRA-1200, propane

Enterprise Products Company appealed from a Remedial Order for Immediate Compliance which was issued to the firm by FEA Region IV on February 16, 1977. The Remedial Order directed Enterprise to make available to Horne Products, Inc. that firm's base period use of propane at a pipeline terminal in Albany, Georgia. In its Appeal, Enterprise contended that it had acted in accordance with its normal business practices when it refused to supply Horne at the Albany terminal. In considering the Enterprise Appeal, the DOE found that during the base period, Enterprise had employed a prorationing policy to allocate transport rights on the pipeline during periods of excess demand. The DOE found, however, that FEA Region IV had failed to consider Enterprise's normal business practices in issuing the Remedial Order to the firm. Based on these findings, the DOE concluded that the Remedial Order should be remanded for further consideration.

Hedrick and Lane, Washington, D.C., DFA-0209, Freedom of Information

The law firm of Hedrick and Lane appealed from a denial of a request for information which the firm had submitted under the Freedom of Information Act (the FOIA). In its request, the firm sought the release of a document entitled "Joint Committee Policy and Progress in the H-Bomb Program: A Chronology of Leading Events, January 1, 1953" (the Chronology). The Information Access Officer had denied Hedrick and Lane's request on the ground that the Chronology was not an agency record, but was instead a Congressionally-generated document which remained the exclusive property of Congress, despite the fact that it was in the possession of the DOE and its predecessors. In considering the Appeal, the DOE noted that the FOIA did not define the term "agency records." The DOE referred, however, to a memorandum from the United States Attorney General which stated that the FOIA required the disclosure of "records in being and in the possession or control of an agency." According to the DOE, the Attorney General's position was consistent with the policy of full disclosure underlying the FOIA. The DOE determined that the Chronology was an "agency record" which would be subject to disclosure unless it fell within one of the nine categories of information listed in the FOIA. The DOE therefore remanded the proceeding for a determination as to its releasability and directed DOE officials to determine whether the information contained in the Chronology remained classified.

Richard Levy, Alexandria, Virginia, DFA-0219, Freedom of Information

Richard Levy appealed from a partial denial by the DOE Information Access Officer of a request for information which he had filed under the Freedom of Information Act (the Act). In his request, Levy had sought all documents in the custody of DOE Region VIII concerning his client, the Taylor Oil Company. The Information Access Officer released copies of several documents to Levy, but withheld 37 documents on the grounds that they satisfied one or more of the exemptions to the mandatory disclosure provisions of the Act. The Information Access Officer also withheld 28 documents on the ground that they were predecisional intra-agency memoranda, which are exempt from disclosure pursuant to Section 552(b)(5) of the Act. In addition, seven documents were withheld on the ground that they contained confidential financial information that was exempt from public disclosure under Section 552(b)(4) of the Act. Thirty-six documents were also withheld on the rationale that as part of an ongoing enforcement proceeding, they were exempt from mandatory disclosure under Section 552(b)(7)(A) of the Act. Finally, the Information Access Officer withheld one document on the ground that it was related solely to internal agency practices and was therefore exempt from disclosure, pursuant to section 552(b)(2) of the Act. Upon review of these documents, the DOE determined that five of the 28 documents which were withheld under Section 552(b)(5) did not contain predecisional analyses and recommendations, the release of which would injure the agency's deliberative processes. Therefore, the DOE concluded that those five documents did not properly fall within the exemption set forth in Section (b)(5) and directed their release. The DOE further determined that the seven documents withheld under Section 552(b)(4) contained confidential trade information that could harm the competitive position of Taylor. The DOE noted, however, that the Information Access Officer generally releases such information to counsel for the firm to which the information refers. Because the present denial apparently was made without knowledge of Levy's status as counsel for Taylor, the DOE ordered the release of the documents withheld under Section 552 (b)(4) that did not contain material protected from disclosure by Section 552(b)(5) of the Act. In addition, the DOE determined that the ten documents, or portions thereof, that were not exempt from disclosure under Sections 552(b)(4) and (b)(5) of the Act were also not exempt from disclosure under Section 552(b)(7)(A), because their release would not interfere with the ongoing enforcement proceedings against Taylor. Finally, the DOE determined that the single document withheld pursuant to Section 552(b)(2) was not exempt from disclosure because its release would not disclose any internal DOE investigative technique. Based on these determinations, the Levy Appeal was granted in part and denied in part.

Louisiana Crude Oil and Gas Company, Inc., New Orleans, Louisiana, DRA-0109, crude oil

Louisiana Crude Oil and Gas Company, Inc. filed an Appeal from a Remedial Order which the Acting Regional Director of Enforcement of DOE Region VI issued to the firm on December 1, 1977. In that Remedial Order, Region VI determined that Louisiana Crude had improperly treated Tract 988 and 988A as a single property and had sold crude oil produced from these properties at unlawful price levels. On the basis of these findings, Louisiana Crude was directed to refund the overcharges which it had obtained. In considering the Appeal, the DOE found that Shell Oil Company subdivided the property into Tract 988 and 988A in 1968 and that two separate properties existed on January 1, 1972. With respect to Louisiana Crude's contention that the Remedial Order did not contain specific findings of fact to support the Regional Office's calculation of ceiling prices and cumulative deficiencies, the DOE determined that the Remedial Order did not provide sufficient information regarding the volume of new crude oil produced from Tract 988A. Therefore, the DOE granted the Appeal in part and remanded that portion of the Remedial Order to DOE Region VI for further elaboration of the calculations contained in the Remedial Order.

McAfee, Taft, Mark, Bond, Rucks & Woodruff, Oklahoma City, Oklahoma, DFA-0222, Freedom of Information

The law firm of McAfee, Taft, Mark, Bond, Rucks and Woodruff (McAfee) appealed from a denial of a Request for Information that the firm submitted under the Freedom of Information Act (the Act) on behalf of its client, Unit Operations, Inc. In its request McAfee sought copies of three interviews conducted by a DOE investigator with former employees of Unit Operations. The Information Access Officer withheld the documents on the grounds that they fell within the scope of the exemption for investigatory records specified in Section 552(b)(7)(a). In considering McAfee's Appeal, the DOE determined that the interviews contained information relating to an ongoing DOE investigation. The DOE concluded that disclosure of the nature of the government's enforcement proceeding against Unit Operations at the present time would make it more difficult to secure voluntary compliance from the firm, which is an integral part of the DOE enforcement program. Accordingly, McAfee's Appeal was denied.

State of Hawaii; Chevron U.S.A., Inc., Union Oil Company of California, Honolulu, Hawaii, FXA-1488; FXA-1489; FXA-1473; motor gasoline and diesel fuel

The State of Hawaii, Chevron U.S.A., Inc. and Union Oil Company of California filed Appeals from a Decision and Order that the FEA had issued to the State. State of Hawaii, 6 FEA Par. 83,046 (1977). In the previous Decision, the FEA granted a request for exception relief from the provisions of Section 212.83 that permitted certain refiners to increase prospectively their maximum permissible prices for motor gasoline and diesel fuel to reflect an increase in a license tax imposed by the State. The FEA denied a request for similar relief on a retroactive basis. In considering the three Appeals, which were consolidated for resolution in a single proceeding, the DOE first noted that the relief requested by the State had already been granted on a prospective basis in an earlier Decision. *State of Hawaii*, 3 FEA Par. 83,245 (1976). With respect to the pres-

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ent request, which was limited to the period prior to the issuance of the 1976 Decision, the DOE found that the same circumstances which led to approval of prospective exception relief were present during the earlier period as well. The DOE therefore concluded that the State's request for additional relief would have been granted if it had applied on a timely basis. In addition, the DOE determined that there were compelling reasons that justified the approval of retroactive relief. In this regard, the DOE noted that the State's principal objectives in enacting the license tax were (i) to distribute the burdens of maintaining the State highway system equitably among highway users and (ii) to encourage conservation of the State's energy resources. The DOE found that these objectives would be frustrated if retroactive relief were not granted which permitted distributors to pass through the full amount of the increased license tax to their customers. Therefore, the three Appeals were granted.

PETITION FOR SPECIAL REDRESS

Lerner Oil Company, Inc., Gardena, California, DSG-0024, motor gasoline

Lerner Oil Company, Inc. filed a Petition for Special Redress with the DOE Office of Hearings and Appeals. In its Petition, Lerner requested that the DOE issue an order directing the Region IX Office to issue a Remedial Order on the basis of a complaint that Lerner filed against its base period supplier of motor gasoline. In considering the petition, the Office of Hearings and Appeals indicated that the decision whether to commence compliance proceedings against a particular firm is a matter of prosecutorial discretion. Accordingly, the Office of Hearings and Appeals held that it would not issue an order directing that a prosecution be initiated in the absence of a *prima facie* showing of a gross abuse of discretion on the part of the enforcement officials or a showing that the reasons provided for the Regions's actions are patently erroneous. The DOE found that Lerner had submitted no evidence to indicate that the failure of Region IX to issue a Remedial Order fell within either of these criteria. Therefore, the Lerner Petition for Special Redress was denied.

REQUESTS FOR EXCEPTION

Aminoil U.S.A., Inc., Washington, D.C., DEE-1432 crude oil

Aminoil U.S.A., Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell the crude oil produced from the California State Lease 392, Lower Main Zone at upper tier ceiling prices. In considering the exception application, the DOE determined that the costs of producing crude oil from the Lower Main Zone had increased significantly since 1973 and that Aminoil's costs of production exceeded the prices that the firm was permitted to charge for the crude oil. Consequently, the DOE concluded that Aminoil did not have an economic incentive to continue to operate the Lower Main Zone. The DOE also found that the recoverable crude oil in the reservoir underlying the Lower Main Zone would not be produced in the absence of exception relief. On the basis of precedents involving similar factual situations, the DOE concluded that the application of the lower tier ceiling price resulted in a gross inequity to Aminoil. Based on operating data which the firm submitted for its most recently completed fiscal period, the DOE granted exception relief which permitted the firm to sell at upper tier ceiling prices 28.32 percent of the crude oil produced and sold for the benefit of the working interest owners from the Lower Main Zone.

R. H. Engelke, San Antonio, Texas, DXE-1667 crude oil

R. H. Engelke filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would extend the exception relief previously granted to Engelke and permit him to continue to sell a portion of the crude oil produced from the Bertha Copsey lease located in Jackson County, Texas, at upper tier ceiling prices. In considering the exception application, the DOE found that Engelke had continued to experience increased operating expenses at the lease and that in the absence of exception relief, the working interest owners would lack an economic incentive to continue to produce crude oil from the property. On the basis of operating data which Engelke had provided for the most recently completed fiscal period, the DOE granted exception relief which permitted Engelke to sell 98.14 percent of the crude oil produced for the benefit of the working interest owners from the Bertha Copsey Lease at upper tier ceiling prices.

Getty Oil Company, Los Angeles, California, DEE-1377, through DEE-1381, crude oil

Getty Oil Company filed five Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit Getty to sell the crude oil produced from five properties located on the Zaca Field near Santa Maria, California, at upper tier or market price levels. In considering the exception applications, the DOE determined that the operating costs for each of the properties had increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the properties. The DOE also found that if Getty abandoned its operations at the five properties, a substantial quantity of otherwise recoverable domestic crude oil would not be produced. In order to provide Getty with an economic incentive to operate the properties, exception relief was granted which permitted the firm to sell a portion of the crude oil produced for the benefit of the working interest owners from three of the leases at upper tier ceiling prices. In addition, the DOE granted exception relief which permitted Getty to sell a portion of the working interest share of production from the remaining two leases at market price levels.

P & M Petroleum Management, Denver, Colorado, DXE-1606 crude oil

P & M Petroleum Management filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would result in the extension of exception relief previously approved and would permit P & M to continue to sell a portion of the crude oil produced from the Track Lease in the Tule Creek South field in Roosevelt County, Montana, at upper tier ceiling prices. In considering the exception request, the DOE found that P & M had continued to incur increased operating costs in connection with the Track Lease and that in the absence of continued exception relief, P & M would lack an economic incentive to produce crude oil from the property. On the basis of the financial data which P & M provided for the most recent six-month period, the DOE granted exception relief which permitted P & M to sell at upper tier ceiling prices 68.65 percent of the crude oil produced from the Track Lease for the benefit of the working interest owners.

Standard Oil Company (Indiana), Chicago, Illinois, DEE-0252, natural gas liquids

The Standard Oil Company (Indiana) (SOC) filed a Statement of Objections to a Proposed Decision and Order issued to SOC on February 13, 1978. In the Proposed Decision, the DOE tentatively determined that the firm should be granted an exception from the provisions of 10 CFR 212.165 which would permit it to increase its prices for natural gas liquids and liquid products to reflect non-product cost increases incurred at its Bairoil natural gas processing plant. The DOE also noted in the proposed determination that the Bairoil-facility had been shut down for repairs for a portion of the third quarter of the firm's 1977 fiscal year, resulting in a lower level of production during that quarter than SOC otherwise would have obtained. Accordingly, the DOE utilized production volume data from the fourth quarter of 1977 in its calculations of increased costs. In objecting to this methodology, SOC contended that the DOE should have used both cost as well as production volume data for the fourth fiscal quarter of 1977 since its cost data for the third quarter was also unreasonably low, due to the shutdown. Although the record contained no written submission from SOC of its cost or production volume data for the fourth quarter of 1977, the DOE noted that the production volume data appeared in Table A of the Proposed Decision and Order. Moreover, SOC had submitted an affidavit which indicated that the firm's fourth quarter cost and production volume data was provided to the DOE in a telephone conversation prior to issuance of the Proposed Decision and Order. The DOE concluded that it should incorporate that data in its calculation of non-product costs. On the basis of that data, the DOE found that the level of exception relief granted in the Proposed Decision should be increased from $.0064 to $.0109 per gallon.

REMEDIAL ORDERS

Bright & Schiff, Dallas, Texas, DRO-0099, crude oil

Bright and Schiff filed a Statement of Objections to a Proposed Remedial Order which FEA Region VI issued to the firm on September 2, 1977. The Proposed Remedial Order found that Bright & Schiff had incorrectly classified its A. E. Webb lease in Yokum, Texas, as a stripper well property and improperly sold crude oil produced from that property at market price levels. In reaching this determination, FEA Region VI relied upon Ruling 1974-29 as a basis for its calculations of the lease's average daily production (ADP). In its Statement of Objections, Bright & Schiff contended that the FEA erroneously excluded injection wells from the calculation of the ADP of the Webb lease under the recent holding in *Energy Reserves Group, Inc. v. FEA*, 447 F. Supp. 1135 (D. Kan. 1978). In that case, a

Federal district court invalidated Ruling 1974-29, which specifies that injection wells are not to be counted in determining the ADP of a crude oil producing property. The DOE noted, however, that the department's Office of Enforcement had not acquiesced in the district court's opinion and was continuing to enforce Ruling 1974-29 against all firms except the plaintiffs in that lawsuit, pending a decision by the Temporary Emergency Court of Appeals on an appeal on the *Energy Reserves* case. Since the DOE in a prior decision had approved the Office of Enforcement's policy of continuing to enforce Ruling 1974-29, the DOE found no basis to suspend enforcement of the Ruling in the present proceeding. The DOE also rejected Bright & Schiff's claim that the FEA lacked the authority to assess interest on the overcharges specified in its Proposed Remedial Order. Bright & Schiff's Statement of Objections was therefore rejected, and the Proposed Remedial Order was issued as a final order of the DOE.

In the following cases involving Proposed Remedial Orders, no Statements of Objections were filed. The DOE therefore issued Remedial Orders in final form.

NAME, LOCATION AND CASE NO.

Greene Oil Company, Letcher, South Dakota, DRW-0005
O'Kun Fluid Service, Inc., Liberal, Kansas, DRW-0009
Butler Fuel Company, Oxford, Massachusetts, DRW-0004
Jedco, Inc., Mobile, Alabama, DRW-0006
John T. Ackerman, Sisseton, South Dakota, DRW-0002
R. W. Jones & E. Haag, A Copartnership, Freer, Texas, DRW-0007

MOTIONS FOR EVIDENTIARY HEARING

Marine Petroleum Company, Washington, D.C.; Tresler Oil Company, Washington, D.C.; Independent Terminal Operators Association, Washington, D.C.; Northeast Petroleum Industries, Inc., Washington, D.C.; Mid-Valley Petroleum Company, Washington, D.C.; Gibbs Oil Company, Washington, D.C.; Supreme Petroleum Company of New Jersey, Washington, D.C., DRH-0019; DRH-0025; DRH-0024; DRH-0011, motor gasoline

Seven intervenors filed Motions for Evidentiary Hearing in connection with an Appeal proceeding involving a Remedial Order issued to Champlin Petroleum Company. In considering the Motions, the DOE found that the issues raised by the intervenors could best be resolved through the submission of documentary evidence, rather than oral testimony at an evidentiary hearing. Although the Motions were accordingly denied, the DOE permitted the intervenors to file additional documentary submissions in support of their positions.

Quincy Oil, Inc.; Quincy, Massachusetts, Taunton Municipal Lighting Plant, Taunton, Massachusetts, DEH-0028; DEH-0029, fuel oil

Quincy Oil, Inc. and Taunton Municipal Lighting Plant filed Motions for Evidentiary Hearing in connection with the DOE's consideration of Statements of Objections which the two firms had filed to a Proposed Decision and Order issued to Quincy on March 17, 1978. In that Proposed Decision, the DOE tentatively determined that Quincy's Application for Exception from the provisions of 10 CFR 212.93 should be granted in part. The DOE had also issued a determination relating to portions of the Quincy and Taunton requests for an evidentiary hearing. *See Quincy Oil, Inc.*, 2 DOE Par. —— (August 31, 1978). The present proceeding related to the remaining issues in the parties' Motions for Evidentiary Hearing. The DOE first considered Quincy's request that it be permitted to present the testimony of DOE officials to demonstrate that FEA Ruling 1977-5 constituted an impermissible retroactive change in regulatory requirements. With respect to this issue, Quincy first sought to examine the deliberative processes of DOE officials that led to the issuance of FEA Ruling 1977-5. The DOE determined that this request should be denied under the standards announced in *Champlin Petroleum Co.*, 2 DOE Par. —— (October 13, 1978). The DOE observed that Quincy had failed to establish that the agency left no written record of its reasons for issuing the Ruling. Therefore, the DOE held that an examination of the thought processes of departmental officials was not justified. Nevertheless, the DOE granted Quincy's request to examine agency personnel for the purpose of showing that previous informal interpretations of the regulatory term "transaction" were inconsistent with the use of that term in the Ruling. The DOE observed that the Ruling itself acknowledged that the term "transaction" had been subject to varying interpretations. In addition, the DOE found that during the period relevant to Quincy's exception requests, the agency had issued no rulings, interpretations, or decisional law clarifying the term "transaction." Since the issue of whether the interpretation of "transaction" contained in the Ruling constituted a departure from the agency's past practices was a principal issue in the pending exception proceeding, the DOE determined that Quincy should be permitted to explore that issue at an evidentiary hearing. The DOE also granted Taunton's request to present testimony on the question of whether Quincy would receive windfall benefits at Taunton's expense if exception relief were approved.

REQUEST FOR DISCOVERY

Leonard E. Belcher, Inc., Springfield, Massachusetts, DRD-0197 No. 2, heating oil

Leonard E. Belcher, Inc. filed a Motion for Discovery in connection with an Appeal which the firm has filed from a Revised Remedial Order. In that appellate proceeding, Belcher claimed that the overcharges set forth in that Remedial Order should be offset by voluntary price reductions allegedly implemented by the firm. In the present discovery request, the firm sought copies of certain remedial orders and consent orders issued by the DOE to other firms, as well as the administrative records underlying those determinations. Belcher also requested that if its Motion were denied, the DOE nevertheless grant a stay of the appellate proceeding pending a determination on a Request for Information which Belcher intended to file pursuant to the Freedom of Information Act. Belcher contended that the material it sought was necessary to clarify DOE enforcement policy with respect to voluntary refunds. In considering the firm's discovery request, the DOE noted that its policy governing offsets was set forth in a previous Decision issued to Belcher in connection with the present enforcement proceeding, *Leonard E. Belcher, Inc.*, 1 DOE Par. 80,183 (1978). The DOE also noted the Belcher could acquire the information through research conducted in the DOE Freedom of Information Reading Room. In its Motion, Belcher also renewed a request that the DOE subpoena certain personnel employed by five of Belcher's competitors. The DOE had previously considered and rejected this request in *Leonard E. Belcher, Inc.*, 2 DOE Par. 82,505 (1978), and again concluded that this information would not assist the DOE in determing whether Belcher's price reductions satisfy the *Mid-Continent* criteria. Accordingly, the DOE denied Belcher's discovery request. In evaluating the request for stay, the DOE found that the information sought by Belcher would not materially advance the appellate proceeding. The DOE also concluded that any further delay in the enforcement proceeding would adversely affect any customer who was actually overcharged and would frustrate the compelling public interest of securing timely compliance with the DOE price regulations. Accordingly, the DOE denied the Belcher stay request.

DISMISSALS

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Mid-America Refining Company, Washington, D.C., DEE-1421

The following submissions were dismissed on the grounds that recent regulatory changes have eliminated the need for the exception relief requested:

Coastal States Gas Corporation, Houston, Texas, DXE-1893
Texas Pacific Oil Company, Inc., Dallas, Texas, DEE-1970

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

JANUARY 12, 1979.

[FR Doc. 79-1765 Filed 1-17-79; 8:45 am]

[6450-01-M]

ISSUANCE OF DECISIONS AND ORDERS

Week of October 30 Through November 3, 1978

Notice is hereby given that during the week of October 30 through November 3, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dis-

missed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEALS

Andrews, Kurth, Campbell & Jones, Washington, D.C., DFA-0228, Freedom of Information

Andrews, Kurth, Campbell & Jones appealed from a partial denial by the Director of the Division of Freedom of Information and Privacy Act Activities (the Director) of a request for information which the firm had submitted under the Freedom of Information Act (FOIA). In its Appeal, Andrews requested that the DOE release the documents which had been withheld and order the Director to identify additional documents responsive to the firm's request. In considering the Appeal, the DOE determined that ten of the requested documents had been properly withheld by the Director under Section (b)(5) of the FOIA, which exempts from mandatory disclosure certain inter-agency and intra-agency memoranda. The DOE nevertheless directed the release of material in eight of those documents on the basis that disclosure would be in the public interest. With respect to the remaining documents withheld under other exemptions of the FOIA, the DOE determined that disclosure would not be in the public interest. Finally, the DOE released portions of two other documents since they did not fall within any exemption. The DOE also ordered the Director to identify with greater specificity certain documents responsive to Andrews' request.

Exxon Company, U.S.A., Washington, D.C., DFA-0216, Freedom of Information

Exxon Company, U.S.A. appealed from a partial denial by the Director of the Division of Freedom of Information and Privacy Act Activities (the Director) of a Request for Information which the firm submitted under the Freedom of Information Act, 5 U.S.C. 552 (FOIA). The Director had withheld a number of the requested documents under the provisions of Sections (b)(4), (b)(5), and (b)(7) (A) and (E) of the FOIA. In considering the Exxon Appeal, the DOE found that the Director had erred in allowing individual DOE offices to determine whether the request was for reasonably described documents. The matter was therefore remanded to the Director for a single determination as to whether the Exxon request reasonably described the records sought. The DOE also reviewed the documents which had been withheld by the Director and determined that a number of them should be disclosed.

Gray Operating Company, Oklahoma City, Oklahoma, DRA-0009, crude oil

Gray Operating Company appealed from a Remedial Order which the Acting Director of Enforcement of DOE Region VI issued to the firm on December 10, 1977. In the Remedial Order, Region VI found that Gray had sold crude oil produced from four properties at prices in excess of the maximum permissible prices. The Remedial Order therefore directed Gray to refund $31,170.23 in overcharges to its customers. In considering the Gray Appeal, the DOE determined that contrary to the firm's contention the DOE has the authority to issue remedial orders requiring restitution of revenues obtained in violation of the pricing regulations. The DOE also rejected Gray's claim that the Remedial Order had incorrectly applied the term "preceding calendar year." Finally, the DOE rejected Gray's claim that the overcharges should be offset by certain alleged undercharges to some of its customers. On the basis of the foregoing considerations, the DOE denied Gray's Appeal.

REQUESTS FOR EXCEPTION

Age Investment Co., Inc., Lynnwood, Washington, DRC-0006, motor gasoline

Age Investment Co., Inc. filed an Application for Exception from the provisions of 10 CFR 211.12 which, if granted, would result in the issuance of an order increasing Age's base period use of motor gasoline at a retail service station located in Lynnwood, Washington. In its Application, Age contended that the increased allocation was necessary to satisfy an increased demand for motor gasoline at the station since 1972. Age maintained that unless it received an increase in its base period use of motor gasoline, its financial position would be impaired and the firm would be unable to complete a capital expansion project at the station. After considering the firm's request, DOE Region X issued a Proposed Decision and Order in which it determined that the Age request should be denied. In considering the firm's Statement of Objections to the Proposed Decision, the DOE observed that, contrary to an argument advanced by Age, § 211.13(e) of the Mandatory Petroleum Allocation Regulations requires that a firm demonstrate that a serious hardship or gross inequity exists before it may be granted exception relief. The DOE determined that Age had failed to demonstrate that it was unable to obtain adequate supplies of motor gasoline. The DOE further found that the firm's claim of financial hardship was speculative and it had not shown that denial of its request would significantly frustrate one or more of the policy objectives of the Emergency Petroleum Allocation Act. Based on these findings, the DOE determined that Age had failed to demonstrate that it was experiencing a serious hardship or gross inequity and the firm's Application was therefore denied.

Clarke County Supply, Inc., Berryville, Virginia, DEE-0452, coal, No. 2 heating oil

Clarke County Supply, Inc. filed an Application for Exception from the requirement that it file Form EIA 2 ("Monthly Coal Report Retail Dealers—Upper Docks") and Form EIA 9 ("No. 2 Heating Oil Supply/Price Monitoring Report") with the DOE. In considering the exception request, the DOE found that Clarke should be able to compile the information required with minimal effort. The DOE also determined that Clarke had not demonstrated that any inconvenience that it might experience in filing the forms outweighed the benefits of compliance. Accordingly, the DOE denied Clarke's exception request.

Forty-One Petitioners, natural gas liquids, natural gas liquid products

Forty-one petitioners filed 239 Applications for Exception from the provisions of 10 CFR 212.165 requesting extensions of exception relief previously granted to them. However, the DOE recently amended § 212.165, providing that effective November 1, 1978 natural gas processors may pass through most increased non-product costs incurred in the production of natural gas liquids and natural gas liquid products. 43 FR 42984 (September 21, 1978). Those amendments have made it unlikely that continuing exception relief for the petitioners will be necessary after October 31, 1978. However, the DOE determined that exception relief should be approved for the month of October 1978. Accordingly, the DOE issued a Decision and Order which extended for the period October 1 through October 31, 1978 the exception relief that was previously granted to each of the petitioners.

Green's Propane Gas Company, Smiths, Alabama, DEO-0005, propane

Green's Propane Gas Company filed an Application for Exception from the provisions of 10 CFR 212.93 which, if granted, would permit it to charge prices for propane in excess of the maximum permissible prices. On February 10, 1978, DOE Region IV issued a Proposed Decision and Order to Green's which determined that relief should be granted prospectively from April 6, 1977 but denied prior to that date. A Consent Order was subsequently executed which resolved a compliance proceeding against Green's concerning the period from November 1, 1973 to March 31, 1974. Consequently, Green's withdrew its Statement of Objections to the proposed determination and the DOE issued the Proposed Decision and Order in final form.

L & H Gas and Electric Co., Inc., Sharon Springs, Kansas, DRC-0007, propane

L & H Gas and Electric Co., Inc. filed an Application for Exception from the provisions of 10 CFR 212.93 which, if granted, would permit L & H to retain revenues which it realized in sales of propane during the period October 1, 1973 through September 30, 1975. In its Application, L & H contended that retroactive exception relief was necessary because it would earn no profits if required to implement prospective price reductions. DOE Region VII issued a Proposed Decision and Order to L & H which determined that the exception request should be denied. In considering the firm's Statement of Objections, the DOE found that L & H's markup on sales of propane on May 15, 1973 was substantially lower that its historical markup. The DOE also found that if L & H had complied with the pricing regulations its pretax profits during the period in question would have been reduced significantly. The DOE concluded that if L & H were required to refund the alleged overcharges, the firm would probably have to cease its business operations. Accordingly, the Application for Exception was granted.

Mid-Michigan Truck Service, Inc., Kalamazoo Michigan, DXE-1147, motor gasoline

On May 10, 1978, the DOE issued a Supplemental Order to Mid-Michigan Truck Service, Inc. in which it approved an extension of exception relief previously granted to the firm. *Mid-Michigan Truck Service, Inc.*, 1 DOE par. 81,127 (1978). In that Order, the DOE directed Gulf Oil Corporation to supply Mid-Michigan with its base period use of petroleum products directly rather than through a substitute supplier. Based upon data submitted by Mid-Michigan in its present request and upon the recommendation of the Regional Administrator of DOE Region V, the DOE determined that Mid-Michigan would experience a serious hardship in te absence of continued exception relief. Accordingly, an extension of exception relief was approved through December 31, 1978.

North Pole Refining (a subsidiary of Earth Resources Company), Washington, D.C. FEE-4451, crude oil

North Pole Refining filed an Application for Exception in which it requested that the DOE treat it and Delta Refining Company as separate entities for purposes of the Crude Oil Buy/Sell program (§ 211.65) and the Old Oil Entitlements Program (§ 211.67). In considering the request, the DOE noted that North Pole and Delta are both owned and controlled by Earth Resources Company and are therefore a single firm under the Mandatory Petroleum Price and Allocation Regulations. The DOE found that there was no basis to conclude that treating the entities as a single firm would prevent them from recovering their increased costs under the DOE Regulations. The DOE also noted that North Pole had not alleged that it was currently incurring a serious hardship as a result of the provisions of the Crude Oil Buy/Sell Program, but had only speculated that it might incure a hardship at some time in the future. The DOE also concluded that the applicant was not experiencing a serious hardship or gross inequity as a result of being treated as the same firm as Delta for purposes of the Old Oil Entitlements Program. Accordingly, North Pole's Application for Exception was denied.

Panhandle Eastern Pipe Line Company, Houston, Texas, DEE-0349, DEE-0350, DEE-0351, DEE-0352, natural gas liquids, natural gas liquid products

The Anadarko Production Company, a subsidiary of the Panhandle Eastern Pipe Line Company (PEPLC) filed a Statement of Objections to a Proposed Decision and Order issued to PEPLC on February 28, 1978. In the Proposed Decision, the DOE determined that PEPLC should be granted an exception from the provisions of 10 CFR 212.165 to permit it to increase its prices for natural gas liquids and natural gas liquid products to reflect non-product cost increases at three of its natural gas processing facilities. In its Statement of Objections, Anadarko contended that the effective date of the Proposed Decision and Order should be December 1, 1977, the date on which its Applications for Exception were filed. Anadarko also contended that the Order should have been issued to it rather than to its parent firm. In rejecting these contentions, the DOE noted that Anadarko had apparently misconstrued the meaning of the term "prospective exception relief," which the DOE uses to indicate the time period following the issuance of a Proposed Decision and Order. The DOE found that since the firm had not demonstrated that it satisfied the criteria generally applied to requests for retroactive relief, it should not be granted relief prior to the date of the Proposed Decision and Order. The DOE also found that under the applicable definition of "firm" it could consider either Anadarko or PEPLC as the applicant for exception relief. Since Anadarko had not alleged that the issuance of a Decision to its parent would cause either of those corporate entities any difficulties, the DOE concluded that there was no reason to depart from its general practice of issuing Decisions involving the provisions of 10 CFR 212.165 to parent firms. Accordingly, the Statement of Objections was denied and the relief proposed in the February 28 Decision was made final.

Petroleum, Inc. Wichita, Kansas, DEE-0317, crude oil

Petroleum, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which if granted, would permit the firm to sell all of crude oil produced from the Crowder Lease located in Cleveland County, Oklahoma, at upper tier ceiling prices. In considering the exception request, the DOE found that the operating costs involved in producing crude oil from the property had increased to a level where those costs exceeded the revenues which the firm could obtain from the sale of the crude oil at the applicable ceiling price levels. The DOE concluded that under these circumstances Petroleum did not have an economic incentive to continue to produce crude oil from the Crowder Lease. Accordingly, on the basis of recent operating data submitted by the firm, Petroleum was granted exception relief which permitted the firm to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Crowder Lease for the benefit of the working interest owners for a period of six months.

Sabre Refining, Inc., Bakersfield, California, DXE-0346, crude oil

Sabre Refining, Inc. filed an Application for Exception from its regulatory obligations under the Old Entitlements Program (10 CFR 211.67). The exception request, if granted, would relieve the firm of any obligation to purchase entitlements for the period November 1977 through April 1978. On January 16, 1978, the DOE issued a Proposed Decision and Order in which it reached the preliminary determination that the level of relief to be granted to Sabre pursuant to the criteria established in *Delta Refining Co.*, 2 FEA Par. 83,275 (1975), should be limited to the maximum entitlement purchase obligation which the firm would incur during the current period if its level of crude oil receipts and runs to stills were the same as in 1975 (the 1975 ceiling). On the basis of the application of the 1975 ceiling, the DOE proposed to deny Sabre's request for exception relief for the period November 1977 through April 1978. In its Statement of Objections to the Proposed Decision, Sabre contended that the DOE could not apply the 1975 ceiling to exception relief calculated under the *Delta* standards without first complying with statutory rulemaking provisions. Sabre also asserted that the DOE impermissibly applied the modifications to the *Delta* standards retroactively. In considering Sabre's first contention, the DOE found that the *Delta* standards had been adopted in the context of an adjudicatory proceeding and that the modification of those standards in subsequent proceedings represented the continuing development of that area of administrative law through case-by-case adjudication. Therefore, the DOE concluded that the rulemaking provisions of the Administrative Procedure Act did not apply to the present proceeding. With respect to Sabre's second argument, the DOE concluded that its proposed action was prospective in nature since it concerned a period of time that had not previously been considered and did not alter any relief previously granted to the firm. The DOE therefore concluded that the modified *Delta* standard was not being applied in a retroactive manner. Although the DOE concluded that it would be appropriate to apply the 1975 ceiling to the entire period for which Sabre requested exception relief, equitable considerations led it to approve additional relief for the months of November and December 1977. With respect to the period January through April 1978, the DOE utilized the 1975 ceiling and concluded that no exception relief was warranted.

Southland Drilling Company, Inc., Houston, Texas, DEE-0113, crude oil

Southland Drilling Company, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212 Subpart D, which, if granted, would permit Southland to charge upper tier ceiling prices for the crude oil which the firm produced from the ARCO Castillo "A" Lease during the months of February, March, and April 1977. Southland stated that early in 1977 it had attempted to certify the crude oil produced from the lease as new oil pursuant to the provisions of 10 CFR 212.131(a), but that the necessary certification forms were apparently lost in the mail. As a result, the lease's production was not certified in a timely manner and Southland was not able to charge upper tier ceiling prices for the crude oil until May 1977. In considering the exception request, the DOE found that Southland had failed to provide any evidence that it actually mailed the certification forms in a timely manner. In addition, the DOE noted that Southland had not submitted any financial material indicating that the firm would experience a severe and irreparable injury in the absence of retroactive exception relief. Southland's Application for Exception was therefore denied.

REQUESTS FOR MODIFICATION AND/OR RESCISSION

Powerine Oil Company, Santa Fe Springs, California, DMR-0027, crude oil

Powerine Oil Company filed an Application for Modification in which it requested that the DOE modify a Decision and Order which was issued to the firm on April 11, 1977. *Powerine Oil Co.*, 5 FEA Par 80,603 (1977). In that Decision, the FEA concluded that Special Rule No. 6 did not preclude it from considering Powerine's operating profits during October 1975 through January 1976 in calculating exception relief from its entitlements purchase obligations for the firm's 1975 fiscal year. In a subsequent Decision, the DOE determined that operating results for the months of October 1975 through March 1976 should be excluded in calculating exception relief to small refiners for 1975. *Southland Oil Co.*, 1 DOE Par. 82,503 (1977). In the present proceeding, Powerine requested that the relief previously granted to the firm be modified to reflect the adjustment which was implemented in the *Southland* case. In considering Powerine's request, the DOE noted that the present circumstances were virtually identical to those in the *Southland* case. The DOE therefore concluded that the entitlement exception relief granted to Powerine for its 1975 fiscal year should be modified. However, the DOE denied Powerine's request that exception relief be based solely on its profit margin. In this regard, the DOE observed that it had consistently applied both a

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return on invested capital test and a profit margin test in granting exception relief to small refiners. Accordingly, the DOE amended the April 11, 1977 Decision and Orders and permitted Powerine to sell $1,271,648 in additional entitlements during November 1978.

Tenneco Oil Company, Houston, Texas, FMR—0107 motor gasoline

Tenneco Oil Company filed an application for Modification or Rescission of a Decision and Order which the FEA issued to it on March 31, 1977. *Tenneco Oil Co.*, 5 FEA Par. 80,590 (1977). In that determination, the FEA had upheld the previous denial of the firm's request for exception relief from the refiner price regulations with respect to sales of motor gasoline. According to Tenneco, the price regulations required it to establish a May 15 selling price for purchased gasoline that was less than the unit cost incurred on those purchases during May. Tenneco claimed that it was experiencing a gross inequity on gasoline sales due to the requirement that it include the negative May 15, margin in determining its maximum permissible selling prices. In considering the Tenneco request, the DOE found that the firm's margin on sales of gasoline on May 15, 1973 was less than its margin in 1971 and 1972. The DOE stated, however, that a decline in profitability per unit during the base period did not demonstrate the existence of a gross inequity, absent a showing of a significant adverse impact on the firm. In this regard, the DOE found that Tenneco's sales volumes of gasoline had increased during 1974 and 1975, offsetting the effect of the lower profit margin. In addition, the DOE found that Tenneco continued to realize significant profits on its revenues from gasoline sales. Based on these findings, the DOE affirmed its previous conclusion that Tenneco was not experiencing a gross inequity as a result of the pricing regulations. Accordingly, the Tenneco Application for Modification was denied.

REQUEST FOR STAY

Continental Oil Company, Houston, Texas, DES—1947, motor gasoline

Continental Oil Company filed an Application for Stay or the provisions of 10 CFR 211.10(b), in which it requested that the DOE permit it to apply a separate allocation fraction for its customers in Denver, Colorado and Billings, Montana. The stay was requested pending a determination on an Application for Exception which Continental has filed. In considering the Continental request, the DOE found that an explosion had rendered the firm's Denver refinery inoperative and that it was unable to transport sufficient amounts of gasoline into the Denver area to compensate for the loss of refining capacity. The DOE therefore concluded that Continental could not maintain a single allocation fraction for all of its customers. Accordingly, Continental's Application for Stay was granted.

REQUEST FOR TEMPORARY STAY

Continental Oil Company, Houston, Texas, DST-1979, motor gasoline

Continental Oil Company filed an Application for Temporary Stay of the provisions of 10 CFR 211.9, in which it requested that it be partially relieved of its obligation to supply gasoline to certain customers served by the firm's refineries in Denver, Colorado and Billings, Montana. In considering the request, the DOE found that due to an explosion which rendered Continental's Denver refinery inoperative it did not appear that the firm could supply all of the requirements of its Denver and Billings customers during November 1978. Accordingly, Continental's Application for Temporary Stay was granted.

MOTIONS FOR EVIDENTIARY HEARING

Atlas Gas Company, Jacksonville, Florida, DRH-0020, propane

Atlas Gas Company filed a Motion for Evidentiary Hearing in connection with a Statement of Objections to a Proposed Decision and Order which DOE Region IV issued to the firm on March 14, 1978. In considering the Atlas Motion, the DOE concluded that an evidentiary hearing should be convened in order to provide the firm with an opportunity to present evidence that Region IV calculated the overcharges in the Proposed Remedial Order on the basis of an incorrect formulation of the firm's classes of purchasers. The DOE denied the Atlas Motion with respect to its position that an audit completed on January 9, 1973 showed that Atlas was in compliance with the pricing regulations. The DOE found that Atlas would have a sufficient opportunity to support this contention through the submission of documentary evidence.

Peterson Oil Company, Inc., Red Cloud, Nebraska, DRH-0033, refined products.

Peterson Oil Company, Inc. filed a Motion for Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order which DOE Region VII issued to the firm on April 7, 1978. In considering the Motion, the DOE determined that the facts which Peterson wished to establish at an evidentiary hearing concerning the operation of the wholesale portion of its business had been accepted as correct by the Office of Enforcement. Accordingly, the DOE concluded that there was no factual dispute between the parties and that an evidentiary hearing would therefore be unnecessary.

SUPPLEMENTARY ORDER

Tonkawa Refining Company, Washington, D.C., DEX-0120, refined petroleum products

On March 8, 1978, the DOE approved exception relief which permitted the Tonkawa Refining Company to be classified as a new refiner as of July 1, 1975, the date on which Tonkawa was released from Bankruptcy. *Tonkawa Refining Co.*, 1 DOE Par. 81,090 (1978). Subsequent to the issuance of that Decision, a dispute arose as to the proper calculation of the firm's increased product costs for the period July through December 1975. After reviewing the record in the matter, the DOE concluded that Tonkawa should be permitted to refer to the cost of crude oil purchased prior to July 1, 1975 in calculating its increased product costs. Accordingly, the March 8 Order was modified to permit Tonkawa to use the costs which it incurred in the month of June 1975 in establishing the cost of items offered for sale after July 1, 1975.

REMEDIAL ORDERS

In the following cases involving Proposed Remedial Orders, since no Statements of Objections were filed the DOE issued Remedial Orders in final form:

NAME, LOCATION, AND CASE NO.

Southern Texas Oil and Gas Producing Company, Inc., Corpus Christi, Texas; DRW-0012

Thomas Petroleum, Liberal, Kansas, DRW-0013

Mecca Oil Company, Olney, Illinois, DRW-0008

Robert L. Adams, Corpus Christi, Texas, DRW-0003

Peterson Gas Company, Harlan, Iowa, DRW-0010

J. L. and W. L. Pulsipher, d/b/a Webster Village, Salt Lake City, Utah, DRW-0011

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Dixie Gas Industries, Inc., Winter Park, Florida, DRA-0154; DRD-0154

Herlocker Fuel Company, Albemarle, North Carolina, DEE-1950

Robert E. Park, Casper, Wyoming, DRD-0046.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,

Director, Office of Hearings and Appeals.

JANUARY 12, 1979.

[FR Doc. 79-1766 Filed 1-17-79; 8:45 am]

[6450-01-M]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

Week of November 6 Through November 10, 1978

Notice is hereby given that during the week of November 6 through November 10, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEALS

Cleary, Gottlieb, Steen & Hamilton, Washington, D.C., DFA-0230, Freedom of Information

The law firm of Cleary, Gottlieb, Steen & Hamilton appealed from a partial denial by the DOE Information Access Officer of a request for information which Cleary had filed under the Freedom of Information Act. In its request for information, Cleary had sought copies of 25 DOE memoranda contained in a document entitled "Clarifications". In response to Cleary's request, the Information Access Officer released six of the memoranda but withheld the remaining 19 under Exemption 5 of the Act, which generally protects from disclosure predecisional agency documents. In considering the Cleary Appeal, the DOE found that the withheld material formed part of the deliberative process of the agency regarding the implementation of various petroleum pricing regulations and therefore properly fell within the purview of Exemption 5. However, three of the memoranda contained segments of factual material which were segregable from the portions containing policy discussions and one memorandum contained material which was postdecisional in nature. The DOE determined that this material should have been released. Accordingly, the Cleary Appeal was granted in part.

Estate of H. L. Hunt, Allen and Beauregard Parishes, Louisiana, DRA-0076, crude oil

The Estate of H. L. Hunt appealed from a Remedial Order which had been issued to it by Department of Energy Region VI. In the Remedial Order, the DOE found that Hunt had improperly classified its Upper Bearhead Creek Unit as a stripper well property and as a result charged prices for the crude oil produced which were in excess of applicable ceiling price levels. The Remedial Order therefore directed Hunt to refund to the purchaser of the crude oil the excess revenues which Hunt had improperly obtained. In considering the Appeal, the DOE rejected Hunt's contention that the DOE lacked authority to require that interest be paid on the refund amount. The DOE found that the agency's statutory authority to impose interest charges had been established in a number of prior decisions and that the regulatory amendment authorizing interest payments merely clarified and made explicit the authority which the FEA already possessed under existing Regulations. The DOE also rejected Hunt's contention that it was improperly held liable for refunds of revenues received by other working and royalty interest owners. With respect to this argument, the DOE determined that the operator of a crude oil producing property may be held liable for all violations that may occur and that the Regional Office had not abused its discretion by issuing the Remedial Order to Hunt for the entire amount of overcharges. Hunt's final argument on Appeal was that FEA Ruling 1974-29 was invalid because it had not been promulgated in accordance with the procedural requirements of the Administrative Procedure Act and the Federal Energy Administration Act. In considering Hunt's contention, the DOE noted that Ruling 1974-29 had been upheld in a recent decision of the Temporary Emergency Court of Appeals and therefore had been properly applied to Hunt in determining that the Upper Bearhead Creek Unit did not qualify as a stripper well property during 1974. On the basis of the foregoing considerations, the DOE denied Hunt's Appeal.

REQUESTS FOR EXCEPTION

Bock and Bacon Oil Company, Houston, Texas, DXE-1169, crude oil

The Bock and Bacon Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would result in the extension of exception relief previously approved and would permit Bock and Bacon to continue to sell certain quantities of the crude oil produced from the Champion Paper Company Lease property at upper tier ceiling prices or at market price levels. In considering the exception request, the DOE found that the operating costs per barrel at the property continued to exceed the applicable lower tier ceiling price and that continued exception relief was therefore necessary to provide the firm with an adequate economic incentive to maintain production operations. In accordance with the precedent established in a number of previous Decisions, the DOE permitted Bock and Bacon to sell 59 percent of the crude oil produced from the property at market price levels and the remaining 41 percent of the crude oil at upper tier ceiling prices for a period of six months.

Cheyenne Airways, Inc., Cheyenne, Wyoming, FEE-4657, aviation fuel

Cheyenne Airways, Inc., filed an Application for Exception in which the firm requested that it be permitted to calculate its maximum allowable selling price for aviation fuel as if the firm qualified for fixed base operator status under the provisions of 10 CFR 212.93. If granted, Cheyenne's Application would permit the firm to increase its maximum allowable selling price for aviation fuel by three cents per gallon in order to reflect certain non-product cost increases which it has incurred since May 15, 1973. In considering Cheyenne's Application, the DOE found that Cheyenne offered the full services of a fixed base operator and therefore experienced the non-product cost increases which a fixed base operator typically experiences. However, the DOE noted that since Cheyenne does not technically qualify as a fixed base operator under a strict application of the regulatory definition set forth in 10 CFR 212.31, Cheyenne has been prevented from passing those increased non-product costs through to its customers. The DOE further found that as a result of this regulatory restriction on the passthrough of its non-product cost increases, Cheyenne was incurring substantial losses in the aviation fuels portion of its business. On the basis of the DOE's analysis of the history and purpose of the regulatory distinction between the two types of sellers of aviation fuels, the DOE concluded that the definition of a "fixed base operator" contained in the regulations was not intended to prevent firms such as Cheyenne from recovering a portion of their non-product cost increases which result from activities characteristic of a fixed base operator. Accordingly, Cheyenne's Application for Exception was granted.

Knob Noster Oil Company, Inc., Knob Noster, Missouri, DEE-1290, propane

The Knob Noster Oil Company, Inc., filed an Application for Exception from the provisions of 10 CFR 211.9, which, if granted, would result in the issuance of an Order assigning the Continental Oil Company to replace Knob Noster's base period supplier of propane. In considering Knob Noster's request, the DOE found that Knob Noster's base period supplier of propane charged prices which were substantially in excess of the prices which Knob Noster's competitors paid their suppliers. The DOE also found that Knob Noster was unable to purchase surplus propane at competitive price levels. As a result, the DOE determined that Knob Noster was experiencing a serious hardship which threatened the firm's continued existence as an independent marketer of propane. Consequently, the DOE concluded that exception relief was warranted. The DOE further concluded that since Knob Noster had experienced a consistent decline in operating income over the past six fiscal years, it would not be necessary for the DOE to review Knob Noster's exception relief on a quarterly basis. Therefore, Continental was assigned to supply Knob Noster with 67.25 percent of Knob Noster's base period use for a period of one year.

Pacific Northern Oil Corporation, Seattle, Washington, FPI-0124, refined petroleum products

Pacific Northern Oil Corporation (PANOCO) filed an Application for Exception from the provisions of 10 CFR 213.35(c). The exception request, if granted, would permit PANOCO to import into PAD Districts I-V on a license fee-exempt basis (i) 740,000 barrels of residual fuel oil, and (ii) 47,000 barrels of motor gasoline during the allocation period May 1, 1977, through April 30, 1978. On March 13, 1978, a Proposed Decision and Order was issued to PANOCO in which the DOE stated its intention to permit the firm to import 678,334 barrels of residual fuel oil into Districts II-V on a license fee-exempt basis during the 1977-78 allocation period and to permit the firm to utilize this level of exception relief until August 31, 1978. The DOE proposed to deny the PANOCO request in all other respects. On April 4, 1978, PANOCO filed a Statement of Objections to the Proposed Decision and Order. In its Statement of Objections, PANOCO contended that it should have been granted authority to import residual fuel oil on a fee-exempt basis into District I as well as District II-V. In considering the firm's contention, the DOE noted that under the provisions of Special Guideline I, 42 Fed. Reg. 54255 (1977), full exception relief had already been made available to PANOCO for the 1977-78 allocation period. Since PANOCO and all other importers of residual fuel oil into PAD I have already had full exception relief made available to them for the 1977-78 period, the DOE found that there was no reason to grant PANOCO any additional exception relief from the license fee requirements in that period. PANOCO also contended that it should have been permitted an extended period of time in which to utilize the exception relief specified in the Proposed Decision and Order so that the firm could have sufficient time to import the entire volume of residual fuel oil tentatively authorized by the DOE. In considering the firm's contention, the DOE noted that the Proposed Decision had been based to a large extent on PANOCO's projection that in the absence

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of exception relief the firm would experience an operating loss during the 1977-78 allocation period. Nevertheless, the DOE found that the firm's actual financial results for that period, which were subsequently submitted, showed that PANOCO earned a substantial profit. In addition, the DOE determined that the shortage of domestic residual fuel oil on the West Coast which previously hampered PANOCO's operations no longer existed. In view of these changes in the factual situation which formed the basis for the March 13, 1978, Proposed Decision and Order, the DOE concluded that there was no longer any proper basis for an approval of exception relief for the 1977-78 allocation period. Accordingly, the PANOCO exception request was denied.

Smith's Bottled Gas, Bruceton Mills, West Virginia, FEE-4846, propane

Smith's Bottled Gas filed an Application for Exception from the provisions of 10 CFR, Part 211, which, if granted, would result in the issuance of an Order assigning Smith's a new base period supplier of propane and increasing the firm's base period use of propane from 85,193 to 154,800 gallons per year. On March 10, the DOE issued a Proposed Decision and Order in which it determined that Smith's was not incurring a serious financial hardship. On April 24, 1978, Smith's filed a Statement of Objection in which it contended that in calculating the firm's profitability, the DOE should not have excluded the owner-manager's salary and the firm's capital expenses. In considering these objections, the DOE noted that it generally excludes the owner-manager's salary when calculating a closely held firm's profitability. The DOE also found that even after taking into account increased depreciation and interest resulting from capital expenses, the firm still projected a pre-tax profit for 1978 which compared favorably to prior years. The DOE therefore concluded that Smith's had failed to demonstrate that it was suffering a severe financial hardship as a result of the application of the DOE regulatory program to its operations. Accordingly, Smith's request for exception relief was denied.

United Independent Oil Company, Lusk, Wyoming, FEE-4393, crude oil

United Independent Oil Company (UIOC) filed an Application for Exception from the provisions of 10 CFR 211.67(e)(2). The exception request, if granted, would result in the issuance of additional entitlements to the firm for crude oil which UIOC intended to have processed for its account by other refiners. In considering the UIOC exception request and Statements of Objection to the Proposed Decision and Order issued in this case, the DOE noted that the regulatory amendments to 10 CFR 211.67(e)(2) which eliminated the issuance of small refiner bias entitlements for crude oil processed for a small refiner's account, resulted in a significant alteration of the factual situation upon which UIOC apparently based its initial determination that its venture into the refinery business would be profitable. However, the DOE found that UIOC had failed to make any showing that the DOE had an affirmative duty to maintain the small refiner bias regulations in such a manner as to benefit UIOC. The DOE therefore concluded that the alteration in the factual situation which existed at the time UIOC decided to enter the refining business did not provide a basis upon which exception relief may be granted. Finally, the DOE determined that UIOC had failed to demonstrate that exception relief from the Entitlements Program was warranted under the precedents established in *Della Refining Co.*, 2 FEA Par. 83,275 (1975), or *Wicket Refining Co.*, 2 FEA Par. 83,238 (1975). Accordingly, UIOC's Application for Exception was denied.

PETITION FOR SPECIAL REDRESS

Schultz Gas Services, Inc., Lansing, Illinois, DSG-0035; DES-0110, propane

Schultz Gas Service, Inc., filed a Petition for Special Redress which, if granted, would have resulted in the rescission of a Modified Special report order (MSRO) which DOE Region V issued to the firm on February 17, 1978. Schultz also requested a stay of the provisions of the MSRO pending a final determination on its Petition. In considering the Schultz petition, the DOE noted that the Office of Hearings and Appeals may only consider a petition for rescission of a Special Report Order if a preliminary review indicates that a reasonable probability exists that the petitioner will be able to satisfy the criteria specified in Section 210.91(d) of the DOE Regulations. Upon reviewing the contentions in Schultz's petition, the DOE concluded that Schultz had failed to show a reasonable probability that it could show circumstances so exceptional that an immediate review was warranted to correct substantial errors of law, to prevent substantial injury to legal rights, or to cure a gross abuse of administrative discretion. In this regard, the DOE noted that although the firm alleged that the MSRO requires it to develop information not readily available from its records, the DOE is empowered to require a firm to submit information in the format specified by the DOE regulations to demonstrate the firm's compliance with the applicable regulations. The DOE also rejected the firm's argument that compliance with the provisions of MSRO would be unduly burdensome. Finally, Schultz contended that the U.S. District Court's holding in *Crown Central Petroleum v. FEA*, Fed. Energy Guidelines Par. 26,101 (D. Md. 1978), rendered improper the MSRO's request for the basis and rationale of the firm's determination of its classes of purchaser. In considering Schultz's contentions, the DOE noted that it is not required as a matter of law to follow the holding of a U.S. District Court and that in the present case there were strong policy reasons for declining to apply the *Crown Central* holding. The DOE concluded that in order for it to determine whether the firm complied with the price regulations, Schultz must supply information concerning its class of purchaser determinations as required by the MSRO. On the basis of these findings, the Schultz Petition was dismissed and the firm's Application for Stay was denied.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Atlas Gas Company, Jacksonville, Florida, DRO-0020, DRH-0020, DEO-0054
Dixie Gas Industries, Goldenrod, Florida, DEO-0120
Petroleum, Inc., Wichita, Kansas, DEE-1833
Carper S. Ryland, Winchester, Virginia, DEE-1311
Texaco, Inc., Tulsa, Oklahoma, DEE-1676
Texaco, Inc., Tulsa, Oklahoma, DEE-1468
Trends Publishing, Inc., Washington, D.C., DFA-0246

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the DOE Procedural Regulations:

Bob Adams, Washington, D.C., DFA-0229

The following submissions were dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

Hugh M. Briggs, Dallas, Texas, DXE-1990
Ben R. Briggs, Dallas, Texas, DXE-1987

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

JANUARY 12, 1979.

[FR Doc. 79-1767 Filed 1-17-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00084A; FRL 1034-7]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Meeting Agenda Change

The agenda for the two-day open meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel meeting to be held on January 25 and 26, 1979 has been changed. Notice of this meeting was published in the FEDERAL REGISTER on January 5, 1979 (44 FR 1454).

The primary agenda topics will be:

1. Completion of Panel review of proposed regulatory action to conclude the Rebuttable Presumption Against Registration (RPAR) process on amitraz (BAAM); and

2. Completion of Panel review of proposed regulatory action to conclude the RPAR process on pronamide.

The following alternative agenda topics will be discussed if time permits:

1. Final review of FIFRA Section 3(c)(7) interim-final regulations for

conditional registration of pesticides; and

2. Review of draft final regulations implementing Section 5(f) of the amended FIFRA for State Experimental Use Permits.

Special Note: Subpart H—Label Development, and Subpart I—Experimental Use Permits—of the Guidelines for registration of Pesticides in the United States will be scheduled for a subcommittee meeting in February; a separate FEDERAL REGISTER Notice giving details will be published.

For further information contact Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766), Room 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia, telephone 703/557-7560.

Dated: January 12, 1979.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-1717 Filed 1-17-79; 8:45 am]

[6560-01-M]

[PF-119; FRL 1039-3]

PESTICIDE PROGRAMS

Filing of Pesticide and Feed Additive Petitions

Pursuant to sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration.

PP 9F2157. 3M Co., 3M Center, St. Paul, MN 55101. Proposes that 40 CFR 180 be amended by establishing a tolerance for the combined residues of the herbicide mefluidide (*N*-[2,4-dimethyl-5-[[(trifluoromethyl) sulfonyl]amino]phenyl] acetamide) in or on the raw agricultural commodity soybeans with a tolerance limitation of 0.01 part per million (ppm). The proposed analytical method for determining residues is by gas chromatography with flame photometric detection in a sulfur mode. PM25. (202/755-2196)

FAP 9H5203. Dow Chemical USA, Midland, MI 48640. Proposes that 21 CFR 561 be amended by establishing a regulation permitting residues of the insecticide chlorpyrifos [0,0-diethyl 0-(3,5,6-trichloro-2-pyridyl) phosphorothiate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on sorghum grain milling fractions (bran, germ, screenings) intended for animal feed with a tolerance limitation of 1.5 ppm resulting from application of the insecticide to the growing of sorghum. PM12. (202/426-9425)

Interested persons are invited to submit written comments on these petitions to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St., SW, Washington DC 20460. Inquiries concerning these petitions may be directed to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone at the numbers cited. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: January 11, 1979.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 79-1715 Filed 1-17-79; 8:45 am]

[6560-01-M]

[PF-118; FRL 1039-2]

FILING OF PESTICIDE PETITION

Rohm & Haas Co., Independence Mall West, Philadephia, PA 19105, has submitted a petition (PP 9F2158) to the Environmental Protection Agency (EPA) which proposes that 40 CFR 180 be amended by establishing a tolerance for the residues of the herbicide sodium salt of acifluorfen (sodium 5 - [2 - chloro - 4 - (trifluoromethyl)-phenoxy]-2-nitrobenzoate) and its metabolites (the corresponding acid, methyl ester and amino analogs) in or on the raw agricultural commodities soybeans at 0.1 part per million (ppm); liver and kidney of cattle, goats, hogs, horses and sheep at 0.01 ppm; fat, meat and meat byproducts of poultry at 0.01 ppm; milk and eggs at 0.01 ppm. The proposed analytical method is by gas-liquid chromatographic separation and electron capture detection. Notice of this submission is given pursuant to section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested perosons are invited to submit written comments on this petition to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St., SW., Washington, DC 20460. Inquiries concerning this petition may be directed to Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone at 202/755-1397. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: January 11, 1979.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 79-1714 Filed 1-17-79; 8:45 am]

[6560-01-M]

[PF-117; FRL 1039-1]

PESTICIDE PROGRAMS

Filing of Pesticide Petition

Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166, has submitted a petition (PP 9F2156) to the Environmental Protection Agency (EPA) which proposes that 40 CFR 180.249 be amended by establishing a tolerance for residues of the herbicide alachlor [2-chloro-2',6'-diethyl-*N*-(methoxymethyl) acetanilide] and its metabolites (calculated as alachlor) in or on the raw agricultural commodity cabbage at 0.3 part per million (ppm). The proposed analytical method for determining residues is by gas liquid chromatography using a flame ionization detector. Notice of this submission is given pursuant to the provisions of section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St., SW. Washington DC 20460. Inquiries concerning this petition may be directed to Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone at 202/755-2196. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: January 11, 1979.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 79-1713 Filed 1-17-79; 8:45 am]

[6560-01-M]

[OPP-31022; FRL 1038-8]

PESTICIDE PROGRAMS

Receipt of Application to Register Pesticide Product Entailing a Changed Use Pattern

Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond, CA 94804, has submitted to the Environmental Protection Agency (EPA), an application to amend registration of the product ORTHO TRIFORINE EC (EPA Reg. No. 239-2455), which contains 18.2% of the active ingredient triforine (*N,N*-[1,4-piperazinediylbis (2,2,2-trichloroethylidene)] bis [formamide]). The application received from Chevron Co. proposes that the use pattern of this pesticide be changed to include outdoor uses on roses and asters. The application also proposes that this product be classified for restricted use.

Notice of receipt of this application does not indicate a decision by the Agency on the application. Interested persons are invited to submit written comments on this application to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401 East Tower, 401 M St., SW, Washington DC 20460. The Comments must be received on or before February 20, 1979, and should bear a notation indicating the EPA Registration Number "239-2455". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application and the data submitted should be directed to Product Manager (PM) 21, Registration Division (TS-767), Office of Pesticide Programs, at the above address or by telephone at 202/755-2562. The label furnished by Chevron Chemical Co., as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Notice of approval or denial of this application to amend registration of ORTHO TRIFORINE EC will be announced in the FEDERAL REGISTER. Except for such material protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136,) the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: January 11, 1979.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 79-1712 Filed 1-17-79; 8:45 am]

[6560-01-M]

[FRL-1039-6]

SCIENCE ADVISORY BOARD; EXECUTIVE COMMITTEE

Meeting

As required by Pub. L. 92-463, notice is hereby given that a meeting of the Science Advisory Board's Executive Committee will be held beginning at 9:15 a.m., February 5 and 6, 1979 in the Administrator's Conference Room (Room 1101 West Tower), EPA Headquarters, 401 M Street, SW., Washington, D.C. The first day's Agenda includes a Report on Risk Assessment Methodologies, A Report on Research and Development Aspects of the President's Proposed Budget, A briefing by the Study Group on Regulatory Costs, A Discussion of the Agency's Five Year Research and Development Plan, and an update on EPA and the Universities. The second day's Agenda will be devoted to a Report by the Health Effects Research Review Group. The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Ms. Shirley Smith (202) 755-0263 by close of business January 31, 1979.

Dated: January 12, 1979.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

[FR Doc. 79-1716 Filed 1-17-79; 8:45 am]

[6560-01-M]

[FRL 1040-8]

SAFE DRINKING WATER ACT

Review of Variances and Exemptions

This public notice is issued pursuant to sections 1415(a)(1)(F) and 1416(d) of the Safe Drinking Water Act as amended through November 1977, Pub. L. 95-190, (42 U.S.C. 300f *et seq.*), and 40 CFR 142.22 (July 1, 1977 ed.), National Interim Primary Drinking Water Regulations.

Under these regulations, the U.S. Environmental Protection Agency, Region V, is required to conduct a comprehensive review of all variances and exemptions granted during the period June 24, 1977 to June 23, 1978 by the Minnesota Department of Public Health, Michigan Department of Public Health, and the Wisconsin Department of Natural Resources.

Written documentation has been received by EPA Region V from each of the named States stating that there were no variances or exemptions granted during the period June 24, 1977 to June 23, 1978.

Consequently, notice is hereby given that in the absence of any State issued variances or exemptions during the statutory time period the section 1415(a)(1)(F) and 1416(d) review is not required and accordingly will not be conducted by the U.S. Environmental Protection Agency, Region V.

For further information, inquiries can be directed to Joseph F. Harrison, Chief, Water Supply Branch, U.S. Environmental Protection Agency, 230 S. Dearborn St. Chicago, Illinois 60604 (312) 353-2151.

Dated: January 10, 1979.

JOHN MCGUIRE,
Regional Administrator,
Region V.

[FR Doc. 79-1887 Filed 1-17-79; 8:45 am]

[6560-01-M]

[OPP-180259, FRL 1040-5]

IDAHO, OREGON & WASHINGTON STATE

Issuance of Specific Exemptions To Use Benomyl To Control Cercosporella Foot Rot of Wheat

The Environmental Protection Agency (EPA) has granted specific exemptions to the Idaho, Oregon, and Washington State Departments of Agriculture (hereafter referred to as "Idaho", "Oregon", and "Washington") to use benomyl on 50,000 acres in each State to control *Cercosporella* foot rot of wheat. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the applications on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., S.W., Room E-315, Washington, D.C. 20460.

According to the three States, *Cercosporella* foot rot, caused by the fungal pathogen *Cercosporella herpotrichoides*, is a serious disease of cereal grains and is most damaging to early fall-seeded wheat crops. The severity of the infection is dependent upon optimum climatic conditions, such as temperature and humidity. Because of heavy rains this year, conditions are conducive for the development of *Cercosporella* foot rot inoculum.

There are no other pesticidal methods for controlling this disease and wheat strains resistant to this pathogen are not available. Specific exemptions for the use of benomyl to control this wheat disease have been issued annually since 1976 to Idaho, Oregon, and Washington. The three States estimated economic losses ranging from 1.3 to 6.8 million dollars in Idaho, 5 million dollars in Oregon and 1.425 million dollars in Washington if an effective pesticide is not used.

It should be noted that a rebuttable presumption against registration of pesticide products containing benomyl was published in the FEDERAL REGISTER on December 6, 1977 (42 FR 61788); however, no decision has yet been made by EPA as to appropriate regulatory action in this matter.

It was proposed to make a single application of Benlate 50W, containing the active ingredient benomyl, at a dosage rate of 1.0 pound of product (0.5 pound active ingredient (a.i.)) per acre either with aerial equipment (5-10 gallons of water) or with ground equipment (20-30 gallons of water).

After reviewing the applications and other available information, EPA has determined that (a) pest outbreaks of *Cercosporella* foot rot have occurred or are about to occur; (b) there is no pesticide presently registered and available for use to control *Cercosporella* foot rot in Idaho, Oregon, and Washington; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the foot rot is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, Idaho, Oregon, and Washington State have been granted specific exemptions to use the pesticide noted above until June 30, 1979, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The DuPont product Benlate 50W, EPA Reg. No. 352-354, containing the active ingredient benomyl, is authorized at a dosage rate of 0.1 pound of product (0.5 lb. a.i.) per acre in either 5 to 10 gallons of water (if applied aerially) or in 20 to 30 gallons of water (if applied by ground equipment). Only one application per acre is authorized;

2. Treatment areas are as follows: *Idaho:* Benewah, Clearwater, Idaho, Kootenai, Latah, Lewis, and Nez Perce counties. *Oregon:* Baker, Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco counties and the Willamette Valley counties of Benton, Clackamas, Lane, Linn, Marion, Polk, Washington, and Yamhill. *Washington:* All counties east of the crest of the Cascade Mountains;

3. Applications may be made by either growers or State-licensed commercial applicators;

4. The presence of *Cercosporella* foot rot must be verified by qualified extension agents of Idaho University, Oregon University, or Washington State University in a given area before any treatment with benomyl is made;

5. Wheat grain with residues of benomyl not exceeding 0.2 part per million (ppm) and wheat straw with residues of benomyl not exceeding 15 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

6. All applicable label use directions, precautions, and restrictions must be adhered to;

7. The EPA shall be immediately informed of any adverse effects resulting from the use of benomyl in connection with these exemptions;

8. All applicators involved in the preparation of spray suspension must wear protective gloves and masks;

9. All clothing worn during the preparation of spray suspension must be removed and cleaned after each day of use;

10. All employees must wash immediately upon dermal contact with benomyl or the spray suspension; and

11. Idaho, Oregon, and Washington are each responsible for ensuring that all of the provisions of its specific exemption are met and each must submit a full report on the results of its specific exemption to EPA by January 31, 1980.

Statutory Authority: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136 *et seq.*).

Dated: January 12, 1979.

EDWIN L. JOHNSON
Deputy Assistant
Administrator
For Pesticide Programs.

[FR Doc. 79-1886 Filed 1-17-79; 8:45 am]

[6560-01-M]

[OPP-31023; FRL 1040-4]

PESTICIDE PROGRAMS

Receipt of Application to Register Pesticide Product Entailing a Changed Use Pattern

3M Co., 3M Center, St. Paul, MN 55101 has submitted to the Environmental Protection Agency (EPA) an application to register the product VISTAR 2-S (EPA File Symbol 7182-0), containing 28% of the active ingredient mefluidide (*N*-[2,4-dimethyl-5-[[trifluoromethyl)sulfonyl]amino]phenyl]acetamide). The application received from 3M Co. proposes that the use pattern of this pesticide be changed to include use on soybeans as a postemergence herbicide for rhizome and seedling johnsongrass and for volunteer corn control. The application also proposes that the product be classified for general use.

Notice of receipt of this application does not indicate a decision by the Agency on the application. Interested persons are invited to submit written comments on this application to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. The comments must be received on or before February 20, 1979 and should bear a notation indicating the EPA File Symbol "7182-0". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application and the data submitted should be directed to Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, at the above address or by telephone at 202/755-2196. The lable furnished by 3M Co., as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Notice of approval or denial of this application to register VISTAR 2-S will be announced in the FEDERAL REGISTER. Except for such material protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136), the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: January 12, 1979.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 79-1885 Filed 1-17-79; 8:45 am]

V 4 4 / 1 3 JA 18 79 UMI

V 4 4 / 1 3 J A 1 8 7 9 UMI

[4560-01-M]

[OPP-30157; FRL 1040-3]

PESTICIDE PROGRAMS

Receipt of Applications to Register Pesticide Products Containing New Active Ingredient

Applications have been submitted to the Environmental Protection Agency (EPA) to register pesticide products containing active ingredients which have not been included in any previously registered pesticide products. Applications were made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFR 162). Notice of receipt of these applications does not indicate a decision by the Agency on the applications.

Interested persons are invited to submit written comments on any applications referred to in this notice to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M St., SW, Washington, DC 20460. The comments must be received on or before February 20, 1979 and should bear a notation indicating the EPA file symbol number of the application to which the comments pertain. Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific comments concerning these applications and the data submitted should be directed to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, at the above address or appropriate telephone number cited. The labels furnished by each applicant, as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Notice of approval or denial of the applications to register pesticide products will be announced in the FEDERAL REGISTER. Except for such material protected by Section 10 of FIFRA, the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: January 12, 1979.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED

EPA File Symbol 707-RUO. Rohm & Haas, Independence Mall West, Philadelphia, PA 19105. Blazer™ 2L. Active Ingredient: *Sodium salt of acifluorfen (sodium-[2-chloro - 4 - (trifluoromethyl) - phenoxy] - 2-nitrobenzoate)* 20.4%. Application proposes that this product be classified for general use for post-emergence application to soybeans to control susceptible weeds. PM23. (202/755-1397)

EPA File Symbol 707-RLN. Rohm & Haas. BLAZER™ 2S. Active Ingredient: 21.4% of same ingredient as above. Application proposes that this product be classified for general use for post-emergence application to soybeans to control susceptible weeds. PM23.

EPA File Symbol 100-ANN. Ciba-Geigy Corp., Agricultural Div., PO Box 11422, Greensboro, NC 27409. CGA-48988 5W. Active Ingredient: *N-(2,6-dimethylphenyl)-N-(methoxyacetyl) alanine methyl ester* 5%. Application proposes that this product be classified for general use for control of certain diseases of ornamentals and non-bearing citrus. PM21.

[FR Doc. 79-1884 Filed 1-17-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 79-10]

TELEVISION BROADCAST SIGNALS

Further FCC Policy Concerning Technical Standards

JANUARY 10, 1979.

The temporary policy expressed in this Public Notice concerning enforcement of television horizontal and vertical blanking standards supersedes the temporary policy that was pronounced in the FCC's Public Notice of June 16, 1978 (FCC 78-423).

BACKGROUND

On June 16, 1978, the FCC issued a Public Notice entitled "FCC Policy Concerning Technical Standards for Television Broadcast Signals." That Notice announced a temporary policy for enforcement of the television horizontal and vertical blanking standards and was stated as follows:

The Commission finds it in the public interest to adopt a temporary policy and will, until July 1, 1979, issue Advisory Notices when horizontal blanking is detected in excess of 11.44 microseconds, up to 12 microseconds, and when vertical blanking of 22 or 23 lines is detected. Horizontal blanking in excess of 12 microseconds, and vertical blanking in excess of 23 lines, will be cause for issuance of a Notice of Violation. Irrespective of this announcement of our temporary policy, stations demonstrating a pattern of operation with horizontal blanking in excess of 11.44 microseconds, and vertical blanking in excess of 21 lines, will be subject to more severe sanctions.

It was also pointed out that the use of black or other colored borders, or reinserted video, solely to mask excessive horizontal or vertical blanking, is an unacceptable practice.

The Public Notice was issued in response to numerous inquiries which had been received from various sectors of the television industry as well as the FCC's own observations of blanking problems. We had arrived at the conclusion that rejection of program material for reasons of excessive vertial or horizontal blanking generates repercussions adverse to the public interest and that given time the problems being encountered could be remedied.

When the FCC announced its temporary enforcement policy in June, 1978, it did so with the understanding that the industry would cooperatively work together to correct the blanking problems. It was understood that the factors creating the problem touched upon many sectors of the industry such as broadcasters, independent producers of programs and commercials, and manufacturers. It is encouraging to learn that groups and individuals within the television industry are now studying the blanking problem in order to develop recommendations for long term solutions. For example, an Ad Hoc Committee of broadcasters was convened on August 8, 1978, to coordinate with many sectors of the industry for this purpose. Our Public Notice clearly has had the effect of heightening awareness of blanking problems and the following observations are pertinent:

1. Vertical and horizontal blanking difficulties are a much larger problem than the FCC and segments of the industry had realized.

2. Blanking problems are attributable to many activities in the industry: *e.g.*, the manufacture and adjustment of equipment either not meeting standards or which are borderline in meeting the standards; stretching and lengthening of blanking during program production, editing, and broadcast; production techniques not taking into account blanking requirements, etc.

3. There is still a lack of full understanding of the problems and the best long-term solutions to the problem.

4. There is a voluminous amount of program material now in archives, some of which will not comply with blanking standards if broadcast. An FCC policy concerning such material must be formulated.

5. The Commission's workload has increased as a result of an influx of requests for waiver of the blanking rules to permit both new as well as archives program material to be broadcast. In some instances, the program material

was derived from ENG equipment for newscasts, etc.

6. Information coming to the Commission staff indicates that there is uncertainty about the measurement procedures used in determining the horizontal blanking interval with program scenes having dark edges or having low illumination such as night scenes. Dark picture edges may be confused with excessive blanking.

ANNOUNCEMENT OF NEW TEMPORARY POLICY

In conclusion of the magnitude of the blanking problem and the cooperative effort underway among the various segments of the industry, effective upon release of this Notice and until July 1, 1979, the FCC will not issue Advisory Notices or Notices of Violation for vertical and horizontal blanking in excess of 21 lines and 11.44 microseconds, respectively. Under this policy, licensees must, in the exercise of their responsibility to broadcast in the public interest, take such measures as are necessary to insure that the technical quality of program material used comports with this responsibility.

In light of the temporary policy announced herein, our June, 1978, statement concerning use of black or other colored borders or reinserted video, is likewise being modified to place reliance upon each licensee's discretion and judgment.

We also propose to institute an Inquiry in the near future that addresses both the short-term and long-term aspects of this program. This will be a broad Inquiry investigating the many issues that have come to light concerning horizontal and vertical blanking such as the degree of picture degradation actually caused by existing program material having excessive horizontal and vertical blanking, the costs of bringing such material into compliance with our standards, and the tradeoffs between the costs and benefits of bringing existing program material into compliance, etc. It is also proposed to investigate the economic incentives facing program producers, distributors, and broadcasters to determine the role of the marketplace as a possible replacement for or complement to government regulations in insuring that unacceptable degradation of television programs having excessive horizontal and vertical blanking does not occur.

By July 1, 1979, it is expected that the Notice of Inquiry will have produced a record which will guide the FCC in identifying appropriate long-term action. Additionally, it will provide guidance in regard to appropriate action to be taken upon expiration of our temporary policy. It is also intended that such an inquiry will provide the vehicle or groups studying the blanking problems to submit their comments, observations and recommendations to the FCC.

It is to be emphasized that the policy announced herein goes solely to our decision to not issue Advisory Notices or Notices of Violation for excessive blanking for the period until July 1, 1979. It should not be interpreted, in any way, as prejudging an ultimate decison concerning the appropriateness of our current blanking standards. That decision will significantly depend upon results of the extensive effort underway within the industry to identify factors which may contribute to excessive blanking and develop proposed methods for dealing with these factors. Accordingly, we encourage continued industry effort to assist the FCC in developing a sound, long-range solution to the problem.

As a final matter, the many pending requests for waiver of our rules governing blanking are mooted by the action we are now taking. Therefore, these requests are dismissed.

For further information on this matter, please contact Wilson A. LaFollette or John W. Reiser (telephone 202-632-9660) or John M. Taff (telephone 202-632-5414).

Action by the Commission January 9, 1979. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, White and Brown.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-1794 Filed 1-17-79; 8:45 am]

[6720-01-M]

FEDERAL HOME LOAN BANK BOARD

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Hearings on the Savings and Loan Holding Company Regulatory Program; Closing of Record

The Federal Home Loan Bank Board on January 10, 1979 held previously scheduled hearings on the savings and loan holding company regulatory program. At those hearings it was announced that the record of the proceedings would be held open for fourteen days—until the close of business January 24, 1979—so that all interested parties might submit in writing any further views and comments on the above referenced regulatory program.

All submissions, which will be deemed filed when received, should be directed to W. Michael Herrick, Attorney, Federal Home Loan Bank Board, Office of the General Counsel, 1700 G Street, N.W., Washington, D.C. 20552, (202-377-6417).

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc. 79-1806 Filed 1-17-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSES

Correction to Notice of Revocation

By Decision served July 24, 1978, in Docket No. 77-53, *Licensing of Independent Ocean Freight Forwarders,* (FEDERAL REGISTER, Vol. 43, No. 146 p. 32776, July 28, 1978), the Federal Maritime Commission amended its General Order 4 (46 CFR 510) to require all licensed independent ocean freight forwarders to file with the Commission a surety bond in the amount of $30,000. The amendment stated that if a licensee fails to file such bond on or before December 1, 1978, the license shall be revoked in accordance with Rule 510.9 of General Order 4.

The Commission published a Notice of Revocation in the FEDERAL REGISTER, on January 3, 1979 (Vol. 44, No. 2, pp. 953-955) wherein notice was given of the independent ocean freight forwarders who had failed to file with the Commission a surety bond in the amount of $30,000 and whose licenses were revoked effective December 2, 1978. Erroneously, the following were among the licensees named:

Alf Halbig, 39 Broadway, Suite 2701, New York 10006; FMC 2027.
Mangill Shipping Corp., 39 Broadway, Suite 1017, New York 10006; FMC 1144.
H. E. Schurig & Co. of Louisana, 1810 International Trade Mart Tower, New Orleans, Louisanna 70130; FMC 988.

All requirements for bonds were met by December 1, 1978.

Hence, the above FMC Independent Ocean Freight Forwarder Licenses have not been revoked.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-1883 Filed 1-17-79; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

BANK HOLDING COMPANIES

Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue

to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application of which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than February 9, 1979.

A. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

1. CITICORP, New York, New York (insurance activities; Ohio): to act through its subsidiaries, Advance Insurance Agency, Inc., and Advance Life Insurance Agency, Inc., as agent or broker for the sale of property and casualty insurance for property securing extensions of credit or the provision of other financial services by Applicant's subsidiary, Advance Mortgage Corporation, generally with regard to one-to-four family residences, and to include liability coverage in home-owners "package" policies where such is the general practice. These activities would be conducted from an office located at 9247 North Meridian Street, Indianapolis, Indiana 46260, and the proposed services would be made available to customers served by offices of Advance Mortgage Corporation in Cleveland, Dayton, and Cincinnati, Ohio. The geographic areas to be served are the Cleveland, Dayton, and Cincinnati, Ohio metropolitan areas.

2. CITICORP, New York, New York (insurance activities; Maryland, Virginia, District of Columbia): to act through its subsidiaries, Advance Insurance Agency, Inc., and Advance Life Insurance Agency, Inc., as agent or broker for the sale of property and casualty insurance for property securing extensions of credit or the provision of other financial services by Applicant's subsidiary, Advance Mortgage Corporation, generally with regard to mobile homes and one-to-four family residences, and to include liability coverage in homeowners "package" policies where such is the general practice. These activities would be conducted from an office located at 9247 North Meridian Street, Indianapolis, Indiana 46260, and the proposed services would be made available to customers served by offices of Advance Mortgage Corporation in Towson, Baltimore, and Severna Park, Maryland. The geographic areas to be served are the Washington, D.C., and Baltimore, Maryland metropolitan areas (residential mortgage borrowers), and Northern Virginia, Washington, D.C., and Maryland (mobile home borrowers).

3. CITICORP, New York, New York (insurance activities; Illinois): to engage in the activities specified in the preceding paragraph 2 through the subsidiaries and from the office there identified. The proposed services would be made available to customers served by offices of Advance Mortgage Corporation in Springfield, Chicago, and Waukegan, Illinois. The geographic areas to be served are the Chicago and Waukegan metropolitan areas (residential mortgage borrowers), and the State of Illinois (mobile home borrowers).

4. CITICORP, New York, New York (insurance activities; Indiana): to engage in the activities specified in the preceding paragraph 2 through the subsidiaries and from the office there identified. The proposed services would be made available to customers served by offices of Advance Mortgage Corporation in Gary and Indianapolis, Indiana. The geographic areas to be served are the Gary, Indiana metropolitan area (residential mortgage borrowers) and the State of Indiana (mobile home borrowers).

B. *Federal Reserve Bank of Philadelphia*, 100 North 6th Street, Philadelphia, Pennsylvania 19105:

PHILADELPHIA NATIONAL CORPORATION, Philadelphia, Pennsylvania (factoring and commercial finance activities; Western United States): to engage through its subsidiaries, Congress Factors Corporation and Congress Financial Corporation, in the purchase of accounts receivable and the making of loans secured by accounts receivable, inventory, machinery, and equipment, and generally in the factoring and commercial finance business. These activities would be performed from an office of Applicant's subsidiaries at 3440 Wilshire Boulevard, Los Angeles, California 90010, and the geographic area to be served is the west coast of the United States, primarily California.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, January 11, 1979.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 79-1879 Filed 1-17-79; 8:45 am]

[6210-01-M]

ST. CLAIR BANCORP.

Formation of Bank Holding Co.

St. Clair Bancorporation, East St. Louis, Illinois, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 93.3 percent of the voting shares of First National Bank at East St. Louis, East St. Louis, Illinois. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 31, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 11, 1979.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 79-1878 Filed 1-17-79; 8:45 am]

[6210-01-M]

UNITED OKLAHOMA BANKSHARES, INC.

Proposed Acquisition of United Securities, Inc.

United Oklahoma Bankshares, Inc., Oklahoma City, Oklahoma, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of United Securities, Inc., Oklahoma City, Oklahoma. Notice of the application was published on December 21, 1978, in *The Daily Oklahoman*, a newspaper circulated in Oklahoma County, Oklahoma.

Applicant states that the proposed subsidiary would engage in the business of the purchase and sale for its own account and the account of others, of U.S. Treasury Securities, Securities of U.S. Government Agencies, and general obligations of States and political subdivisions thereof including the underwriting thereof. In its order of October 19, 1976 (41 FR 47083 (1976)) deferring consideration of an application to form United Bancorp Municipals, Inc. (62 *Federal Reserve Bulletin* 917 (1876)), the Board concluded as a general matter that the activity of underwriting and dealing in certain government and municipal securities was closely related to banking. That conclusion was affirmed in the Board's Order of January 26, 1978 (43 FR 5382 (1978)) announcing its decision to terminate suspension of consideration of the activity; not to adopt the proposed amendment; and to permit the activity, if at all, by order. On two previous occasions, by order, the Board has approved individual applications by bank holding companies to engage in this activity. (Stepp, Inc., (64 *Federal Reserve Bulletin* 223 (1978)). United Bancorp, (64 *Federal Reserve Bulletin* 222 (1978)).)

Applicant also states that the proposed subsidiary would provide portfolio investment advice to individuals, associations, corporations, financial institutions, and commercial banks. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal to engage in the listed activities can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 12, 1979.

Board of Governors of the Federal Reserve System, January 11, 1979.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 79-1880 Filed 1-17-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

CIGARETTES AND RELATED MATTERS

Methods to be Employed in Determining Carbon Monoxide, "Tar" and Nicotine Content; Notice of Opportunity to Submit Public Comments

AGENCY: Federal Trade Commission.

ACTION: Proposed methods for determination of carbon monoxide, "tar" and nicotine content of cigarette smoke.

SUMMARY: Since 1967, the Commission has been determining and annually reporting the "tar" and nicotine content of cigarettes. The Commission has been using the Federal Trade Commission Method for Determination of Particulate Matter ("Tar") and Alkaloids (reported as Nicotine) in Cigarette Smoke as referred to in the Federal Trade Commission Notice of August 1, 1967, 32 FR 11178, and described in an article entitled, "Tar and Nicotine in Cigarette Smoke," by H. C. Pillsbury et al., which appeared in the Journal of Association of Official Analytical Chemists, Vol. 52, No. 3, 1969.

In addition to continuing its program of testing and reporting the "tar" and nicotine content of cigarettes, the Commission is now planning to initiate a program for the determination and publication of the carbon monoxide content of cigarette smoke. The Commission is also considering whether to initiate technical improvements in the presently used method for determining nicotine content. This new method is expected to reduce the time needed for checking results.

The purpose of this proceeding is to establish a public record to assist the Commission in resolving specific questions which relate to the manner of determining and reporting the carbon monoxide, "tar" and nicotine content of cigarette smoke.

To establish this public record, the Commission hereby invites all interested parties to submit written comments, including their views, data, arguments and suggestions, on the following questions:

1. Whether to use, in performing the above-described analysis, the new smoking machine as described by H. C. Pillsbury and G. Merfeld at the 32nd. Tobacco Chemists' Research Conference, October 1978, for the determination of "Tar," Nicotine and Carbon Monoxide. This determination involves the use of infra-red spectrophotometry. A written description of this machine, entitled "A 20-Part Sequential Smoking Machine for the Determination of Carbon Monoxide in Cigarette Smoke," is available upon request by writing Harold C. Pillsbury, Director, Tobacco Research Laboratory, Sixth and Pennsylvania Avenue, NW., Washington, D.C. 20580, or by calling him collect at (202) 523-3559.

2. Whether the carbon monoxide determined with the new smoking machine should be reported as milligram per cigarette.

3. Whether to modify the presently used method of "tar" and nicotine determination by using the method described in an article entitled, "Gas Chromatographic Determination of Nicotine Contained on Cambridge Filter Pads," by John R. Wagner et al., as presented at the annual meeting of The Association of Official Analytical Chemist, October, 1978; also available from Mr. Pillsbury at above address and telephone number.

Written comments pertinent to these questions or other aspects of the subject should be submitted in quintuplicate to Mr. Carol M. Thomas, Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C. 20580, and postmarked on or before February 20, 1979.

The data, views arguments and suggestions presented in writing will be available for examination by interested parties at the Federal Trade Commission, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

William I. Rothbard, Attorney, Rm. 6716, (202) 724-1475, or Jane Dolkart, Attorney, Rm. 6109, (202) 724-1458, Star Building, Federal Trade Commission, Washington, D.C. 20580.

Issued: January 12, 1979.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-1817 Filed 1-17-79; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on January 12, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice

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in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before February 5, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

NUCLEAR REGULATORY COMMISSION

The NRC requests clearance of new application requirements contained in 10 CFR Part 9, "Public Records" (new sections 9.14a(c) and 9.14b(d)). These amendments add a new section "Waiver or Reduction of Fees" and reflect the requirements of the Freedom of Information Act that documents shall be furnished without charge or at a reduced charge where an agency determines that waiver or reduction of the fee for searching and reproduction of records is in the public interest because furnishing the information can be considered as primarily benefiting the general public. New section 9.14b(d), approved by the Commission on a trial basis, provides that, in those cases where a waiver of fees was requested and denied and the requester agreed to bear the estimated cost, the requester may, within 30 days of receipt of the requested documents, resubmit a request for a waiver or reduction of fees if the receipt of the documents has materially changed the information originally furnished by the requester. The Commission believes that these amendments implement procedures for processing Freedom of Information Act requests which provide a reasonable balance between the rights of the requester, the resources available to the NRC, and the rights of the general public. The NRC estimates that potential respondents will number approximately 93 and that burden per licensee will average 4 hours annually.

NORMAN F. HEYL,
Regulatory Reports,
Review Officer.

[FR Doc. 79-1793 Filed 1-17-79; 8:45 am]

[4110-88-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of February 1979:

CLINICAL PROGRAM-PROJECTS RESEARCH REVIEW COMMITTEE

February 15-16; 9:00 a.m.
Room C130, Shoreham Americana Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008.
Open—February 15; 9:00-10:00 a.m.
Closed—Otherwise.
Contact: Ms. Eileen Nugent, Room 10C-25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3367.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to clinical research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., February 15, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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EPIDEMIOLOGIC STUDIES REVIEW COMMITTEE

February 15-16; 9:00 a.m.
Brent Room II, Old Town Holiday Inn, 480 King Street, Old Town Alexandria, Virginia 22314.
Open—February 15; 9:00-10:00 a.m.
Closed—Otherwise.
Contact: Ms. Lavinia Walsh, Room 10C-09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3774.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to reseach and training activities in the field of epidemiology and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-9:30 a.m., February 15, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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SOCIAL SCIENCES RESEARCH REVIEW COMMITTEE

February 15-17; 9:00 a.m.
Shoreham Americana Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008.
Open—February 15; 9:00-9:30 a.m.
Closed—Otherwise.
Contact: Ms. Marilyn Andersen, Room 10-95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3936.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social science research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-9:30 a.m., February 15, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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SOCIAL WORK EDUCATION REVIEW COMMITTEE

February 20-23; 9:00 a.m.
Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Open—February 20; 9:00 a.m.—1:00 p.m. and February 23; 1:00 p.m. until adjournment.
Closed—Otherwise.
Contact: Dr. Milton Wittman, Room 8C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4187.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social work education activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 a.m. to 1:00 p.m., February 20, and 1:00 p.m. to adjournment on February 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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CLINICAL PROJECTS RESEARCH REVIEW COMMITTEE

February 22-24; 9:00 a.m.
Sheraton-Potomac Inn, 3 Research Court, Rockville, Maryland 20850.
Open—February 22; 9:00-10:00 a.m.
Closed—Otherwise.
Contact: Ms. Harriet German, Room 10C-05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3367.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to clinical research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., February 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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NEUROPSYCHOLOGY RESEARCH REVIEW COMMITTEE

February 22-24; 9:00 a.m.
Holiday Inn, Spring East Room, 8777 Georgia Avenue, Silver Spring, Maryland 20910.
Open—February 22; 9:00-10:00 a.m.
Closed—Otherwise.
Contact: Ms. Jean Pierce, Room 10C-06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3942.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to neuropsychology research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., February 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal Assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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CLINICAL PSYCHOPHARMACOLOGY RESEARCH REVIEW COMMITTEE

February 26-27; 9:00 a.m.
The Georgetown Holiday Inn, 2101 Wisconsin Avenue, N.W., Washington, D.C. 20007.
Open—February 26; 9:00-10:00 a.m.
Closed—Otherwise.
Contact: Ms. Jane Gascoyne, Room 9-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3568.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., February 26, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance, and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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ALCOHOL RESEARCH REVIEW COMMITTEE

February 28-March 2; 9:00 a.m.
Bethesda Holiday Inn, Bethesda Maryland 20014.
Open—February 28; 9:00-10:00 a.m.
Closed—Otherwise.
Contact: Dr. James C. Teegarden, Room 16C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Alcohol Abuse and Alcoholism relating to research activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00-10:00 a.m., February 28, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance, and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIAAA information Officer who will furnish upon request summaries of the meeting and rosters of the Committee members is Mr. Harry Bell, Director, Office of Public Affairs, NIAAA, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3306. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the Committee members is Dr. Jacquelyn Hall, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15C-17, Parklawn Building, Rockville, Maryland 20857, 301-443-4573.

Dated: January 12, 1979.

ELIZABETH A. CONNOLLY,
Committee Management Officer,
Alcohol, Drug Abuse, and
Mental Health Administration.

[FR Doc. 79-1735 Filed 1-17-79; 8:45 am]

[4110-88-M]

ADVISORY COMMITTEES

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of Februry 1979:

MINORITY ADVISORY COMMITTEE, ADAMHA

February 7-9, 1979—OPEN MEETING
February 7, 1:00 p.m.; February 8-9, 9:00 a.m., room 17-09B, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.
Contact: Mr. Ernest Hurst, Room 13C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3838.

Purpose: The Minority Advisory Committee, ADAMHA, advises the Secretary, Department of Health, Education, and Welfare, and the Administrator, Alcohol, Drug Abuse, and

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Mental Health Administration, on needs, programs, and activities regarding minority alcohol, drug abuse, and mental health matters, and makes recommendations for possible solutions which meet the needs and concerns of minority groups throughout the United States. The Committee functions in an advisory capacity to the Administrator, ADAMHA, on these matters which relate to the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health.

Agenda: On February 7, the Committee will discuss recommendations concerning minority issues from the State and Territorial Alcohol, Drug Abuse, and Mental Health Conference, and response to first phase of Minority Manpower Development and Training Report. The remainder of the meeting will include meetings with Institute Directors; discussion of issues related to the proposed Mental Health Systems Act; Regional Office liaison activities; and plans for the Second Annual National Conference on Minority Group Alcohol, Drug Abuse, and Mental Health Issues. Agenda items are subject to change as priorities dictate.

Mr. James C. Helsing, Deputy Director, Office of Public Affairs, ADAMHA, will furnish, on request, summaries of the meeting and a roster of the Committee members. Mr. Helsing is located in Room 6C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3783.

Dated: January 11, 1979.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-1736 Filed 1-17-79; 8:45 am]

[4110-88-M]

ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of February 1979:

NATIONAL ADVISORY MENTAL HEALTH COUNCIL

February 5-7; 9:30 a.m.
Conference Rooms A and F, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
OPEN—February 5. This is the policy session of Council and it will be convened in Conference Room F.
CLOSED—February 6-7. Both of these closed meetings of Council will be convened in Conference Room A.
Contact: Ms. Zelia Diggs, Room 11-101, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4333.

Purpose: The National Advisory Mental Health Council advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding the policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research, training, and services in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and the amount of, these grants.

Agenda: On February 5, the meeting will be open for discussion of NIMH policy issues. These will include current administrative, legislative and program developments. Otherwise, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in section 552 (c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact person listed above. Attendance by the public will be limited to space available.

The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the Council members is Mr. Paul Sirovatka, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4536.

Dated: January 12, 1979.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-1737 Filed 1-17-79; 8:45 am]

[4110-88-M]

ADVISORY COMMITTEES

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of February 1979:

DEVELOPMENTAL PROBLEMS RESEARCH REVIEW COMMITTEE

February 1-2; 9:00 a.m.
Lobby Room, Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20015
OPEN—February 1; 9:00-10:00 a.m.
CLOSED—Otherwise.
Contact: Ms. Diana Souder, Room 10-104, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3566.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to the developmental growth of juveniles and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., February 1, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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DRUG ABUSE TRAINING REVIEW COMMITTEE.

February 1-2; 9:00 a.m.
Conference Room B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
OPEN—February 1; 9:00-10:00 a.m.
CLOSED—Otherwise.
Contact: Mr. James F. Callahan, Room 10A-48, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-6720.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to Drug Abuse Training Activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00-10:00 a.m., February 1, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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MENTAL HEALTH SMALL GRANT COMMITTEE

February 1-3; 1:00 p.m.
Board Room and Chef's Corner, Shoreham Americana Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008.
OPEN—February 1; 1:00-2:00 p.m.
CLOSED—Otherwise.
Contact: Ms. Mary E. Enyart, Room 10C-14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4337.

Purpose: The Committee is charged with the initial review of small grant applications for Federal assistance in all disciplines relevant to the National Institute of Mental Health and for small grant projects submitted for support to the other Institutes of the Alcohol, Drug Abuse, and Mental Health Administration, and makes recommendations to the National Advisory Councils of the respective Institutes for final review.

Agenda: From 1:00-2:00 p.m., February 1, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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METROPOLITAN MENTAL HEALTH PROBLEMS REVIEW COMMITTEE

February 1-3; 9:00 a.m.
The Colonial Room, Shoreham Americana Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008
OPEN—February 1; 9:00-9:30 a.m.
CLOSED—Otherwise
Contact: Ms. Phyllis Pinzow, Room 15-99, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3373.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to metropolitan mental health problems and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-9:30 a.m., February 1, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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MENTAL HEALTH SERVICES RESEARCH REVIEW COMMITTEE

February 5-7; 9:00 a.m.
Lobby Room, Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20015
OPEN—February 5; 9:00-10:00 a.m.
CLOSED—Otherwise
Contact: Mr. James T. Cumiskey, Room 11C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3754.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to mental health services research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 900-10:00 a.m., February 5, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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DRUG ABUSE RESEARCH REVIEW COMMITTEE

February 5-9; 9:00 a.m.
Conference Rooms G, I, & K, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
OPEN—February 5; 9:00-9:30 a.m.
CLOSED—Otherwise
Contact: Ms. Lucy Stevens, Room 9-46, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-6664.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to research activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00-9:30 a.m., February 5, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(b)(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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PSYCHOLOGY EDUCATION REVIEW COMMITTEE

February 8-10; 9:00 a.m.
Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
OPEN—February 8; 9:00-11:00 a.m.
CLOSED—Otherwise
Contact: Ms. Betty Wells, Room 9C-23, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3536.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to psychology training activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-11:00 a.m., February 8, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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PERSONALITY AND COGNITION RESEARCH REVIEW COMMITTEE

February 9-11; 9:00 a.m.
Ohio Room, The Capitol Hilton, 16th and K Streets, N.W., Washington, D.C. 20036
OPEN—February 9; 9:00-10:00 a.m.
CLOSED—Otherwise
Contact: Ms. Shirley; Maltz, Room 10C-06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3942.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., February 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section

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552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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PSYCHIATRIC NURSING EDUCATION REVIEW COMMITTEE

13-16; 9:00 a.m.
Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
OPEN—February 13; 9:00 a.m.-1:00 p.m.
CLOSED—Otherwise
Contact: Dr. Jeanette Chamberlain, Room 9C-24, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4423.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to psychiatric nursing manpower development and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-1:00 p.m., February 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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PSYCHIATRY EDUCATION REVIEW COMMITTEE

February 13-16; 10:00 a.m.
Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
OPEN—February 13; 10:00-11:00 a.m.
CLOSED—Otherwise
Contact: Ms. Constance M. Verney, Room 8C-12, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-2120.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to psychiatry education and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 10:00-11:00 a.m., February 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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EXPERIMENTAL AND SPECIAL TRAINING REVIEW COMMITTEE

February 14-16; 9:00 a.m.
Conference Room B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
Open—February 14; 11:30-12:30 p.m.
Closed—Otherwise
Contact: Dr. Ralph Simon, Room 8-95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3893.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to experimental and special training activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 11:30-12:30 p.m., February 14, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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MINORITY GROUP MENTAL HEALTH PROGRAMS REVIEW COMMITTEE

February 15-17; 9:00 a.m.
Parkview Room, Gramercy Inn, 1616 Rhode Island Avenue, Washington, D.C. 20036
Open—February 15; 9:00-11:00 a.m.
Closed—Otherwise
Contact: Ms. Edna M. Hardy Hill, Room 7-103, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-2988.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to minority mental health research and training and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-11:00 a.m., February 15, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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EXPERIMENTAL PSYCHOLOGY RESEARCH REVIEW COMMITTEE

February 19-22; 9:00 a.m.
Shoreham Americana Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008
Open—February 19; 9:00-9:30 a.m.
Closed—Otherwise
Contact: Mr. John T. Hammack, Room 10-95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3936.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to experimental psychology research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-9:30 a.m., February 19, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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PARAPROFESSIONAL MANPOWER DEVELOPMENT REVIEW COMMITTEE

February 21-23; 9:00 a.m.
Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
Open—February 21; 9:00-11:00 a.m.
Closed—Otherwise
Contact: Mr. Donald L. Fisher, Room 8C-02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-1333.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to paraprofessional manpower development and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-11:00 a.m., February 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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PSYCHOLOGY EDUCATION REVIEW COMMITTEE

February 21-24; 9:00 a.m.
Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
Open—February 21; 9:00-11:00 a.m.
Closed—Otherwise
Contact: Ms. Betty Wells, Room 9C-23, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3536.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to psychology training activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-11:00 a.m., February 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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RESEARCH SCIENTIST DEVELOPMENT REVIEW COMMITTEE

February 22-24; 9:00 a.m.
Sheraton-Park Hotel, 2660 Woodley Road, N.W., Washington, D.C. 20009
OPEN—February 22; 9:00-11:00 a.m.
CLOSED—Otherwise
Contact: Ms. Barbara Ann Spelman, Room 9C-18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-433-4347.

Purpose: The Committee is charged with the initial review of grant applications for Research Scientist Development Awards and Research Scientist Awards administered by the National Institute of Mental Health and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-11:00 a.m., February 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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COMMUNITY ALCOHOLISM SERVICES REVIEW COMMITTEE

February 23-26; 8:30 a.m.
Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20014
OPEN—February 23; 8:30-10:00 a.m.
CLOSED—Otherwise
Contact: Mr. Sidney Leopold, Room 11-10, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-1374.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to alcoholism services activities and makes recommendations to the National Advisory Council on Alchohol Abuse and Alcoholism for final review.

Agenda: From 8:30-10:00 a.m., February 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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PRECLINICAL PSYCHOPHARMACOLOGY RESEARCH REVIEW COMMITTEE

February 26-27; 9:00 a.m.
Connecticut Inn Motel, 4400 Connecticut Avenue, N.W., Washington, D.C. 20008
OPEN—February 26; 9:00-9:30 a.m.
CLOSED—Otherwise
Contact: Ms. Allyson Rowell, Room 9-97, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-433-3454.

Purpose: The committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to preclinical psychopharmacology research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-9:30 a.m., February 26, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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SOCIAL PROBLEMS RESEARCH REVIEW COMMITTEE

February 26-27; 9:00 a.m.
Plaza Suite, Dupont Plaza Hotel, Washington, D.C. 20036
OPEN—February 26; 9:00-9:30 a.m.
CLOSED—Otherwise
Contact: Ms. Vi Kemp, Room 10-104, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4843.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to the field of social problems and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-9:30 a.m., February 26, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

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SOCIAL SCIENCES TRAINING REVIEW COMMITTEE

February 26-28; 9:00 a.m.
Conference Room I, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
OPEN—February 26; 9:00-11:00 a.m.
CLOSED—Otherwise
Contact: Ms. Miriam Stein, Room 9C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3857.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social sciences training and makes recommendations to the Na-

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tional Advisory Mental Health Council for final review.

Agenda: From 9:00–11:00 a.m., February 26, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIAAA Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Harry Bell, Associate Director, Office of Public Affairs, NIAAA, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3306. The NIDA Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Ms. Mary Carol Kelly, Program Information Officer for Drug Abuse, NIDA, Room 10-18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-6245. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Dr. Jacquelyn Hall, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4573.

Dated: January 12, 1979.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-1738 Filed 1-17-79; 8:45 am]

[4110-87-M]

Center for Disease Control

EPIDEMIOLOGIC STUDY OF PORTSMOUTH NAVAL SHIPYARD

Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health of the Center for Disease Control and will be open to the public, limited only by the space available:

Date: January 30, 1979.
Time: 9:00 a.m. to 6:00 p.m.
Place: Room 2003A, JFK Federal Building, Government Center, Boston, Massachusetts 02203.

Purpose: To discuss protocol for the epidemiologic study of civilian employees at the Portsmouth Naval Shipyard.

Additional information may be obtained from:

Mr. Philip J. Bierbaum, Division of Surveillance, Hazard Evaluations and Field Studies, National Institutes for Occupational Safety and Health, Center for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226. Telephone: 513/684-2422.

Dated: January 9, 1979.

WILLIAM C. WATSON, JR.,
Acting Director, Center for Disease Control.

[FR Doc. 79-1775 Filed 1-17-79; 8:45 am]

[4110-39-M]

National Institute of Education

PANEL FOR THE REVIEW OF LABORATORY AND CENTER OPERATION

Meeting

Notice is hereby given that the next meeting of the Panel for the Review of Laboratory and Center Operations will be held on February 3-4, in room 800-A of the Carnegie Endowment for International Peace, 11 Dupont Circle, N.W., Washington, D.C. The Panel will meet from 1:00 p.m. until 5:00 p.m. on February 3 and from 9:00 a.m. until approximately 3:00 p.m. on February 4.

The Panel for the Review of Laboratory and Center Operations is established under Section 405 of the General Education Provisions Act as amended by Section 403(d) of the Education Amendments Act of 1976, 20 U.S.C. 1221e. Its functions include:

(a) Preparing recommendations on initial long-range funding and program plans submitted by the 17 educational laboratories and research and development centers;

(b) Reviewing and assessing the operations of the laboratories and centers and making recommendations for the improvement and continuation of the individual laboratories and centers and for the support of new laboratories and centers.

The meeting will have two main purposes: discussion of reactions to the Panel's final report, which was submitted to the Director of the National Institute of Education on December 15, 1978 and to the Congress on January 15, 1979; and discussion and planning of future Panel activities, which will include making recommendations on the establishment of new laboratories and centers as well as further inquiry into issues of dissemination and equality of educational opportunity.

This meeting immediately follows a meeting of the National Council on Educational Research (NCER) to which the Panel is invited to discuss its final report. That meeting will be held on February 3, 1979 from 9—11 a.m., in room 823 of the National Institute of Education, 1200 19th St. N.W.

The following agenda gives a tentative outline of the Panel's meeting:

SATURDAY, FEBRUARY 3

1:00-2:00 Convene. Discussion of NIE and NCER reactions to the Panel's final report.
2:00-3:00 Discussion with NIE on current plans for the establishment of new laboratories and centers and other means of providing R&D services.
3:00-3:15 Break.
3:15-5:00 Discussion of issues related to the establishment of new laboratories and centers.

SUNDAY, FEBRUARY 4

9:00-10:30 Discussion of issues related to dissemination.
10:30-10:45 Break.
10:45-12:00 Discussion of issues related to equality of educational opportunity.
12:00-1:00 Lunch.
1:00-3:00 Planning and scheduling of future meetings.

The entire meeting will be open to the public. Interested persons are invited to attend the session. Written statements relevant to an agenda item or any topic deemed of interest to the Panel may be submitted to the Panel staff at the address below.

Copies of the records of all Panel proceedings may be obtained through the office of the Panel Staff. Minutes require approval by the Panel at a subsequent meeting and are available to the public two weeks following their approval.

In order to verify the tentative agenda, or assure adequate seating arrangements, persons likely to attend the Panel meeting may contact the Panel Staff Office as indicated below:

Panel for the Review of Laboratory and Center Operations.
National Institute of Education Washington, D.C. 20208 (202) 254-5830 or 254-5306.

Dated: January 15, 1979.

GRADY MCGONAGILL,
Staff Director, Panel for the Review of Laboratory and Centers Operations.

[FR Doc. 79-1759 Filed 1-17-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 35702, 35703 and 35697]

NEW MEXICO

Applications

JANUARY 9, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for three 4½-inch natural gas pipeline and related facilities rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 10 W.,
Sec. 1, lots 11 and 14;
Sec. 24, lots 2 and 9.

These pipelines will convey natural gas across 0.407 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-1726 Filed 1-17-79; 8:45 am]

[4310-84-M]

NEW MEXICO WILDERNESS INVENTORY

Commencement and Schedule of Inventory

JANUARY 10, 1979.

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The New Mexico State Office of the Bureau of Land Management announces the initiation of the systematic inventory of all public lands, administered by the Bureau of Land Management in New Mexico, to determine which areas may possess wilderness characteristics and should be subjected to an intensive wilderness inventory and which areas clearly and obviously do not possess wilderness characteristics and should be deleted from further wilderness consideration. This inventory is directed by the Federal Land Policy and Management Act of 1976. The initial inventory is expected to be completed by March 12, 1979 at which time a 90-day review period to comment on preliminary findings will begin. The inventory will be conducted using procedures outlined in the Wilderness Inventory Handbook published September 27, 1978. Copies of these procedures are available on request from the State Office, Bureau of Land Management.

DATES: Comments on the initial inventory should be submitted between March 12, 1979 and June 9, 1979. A schedule of open houses and public meetings associated with the 90-day public review period between March 12, 1979 and June 9, 1979, will be announced on or before February 2, 1979 by the State Office, Bureau of Land Management. Specific information on the open houses or public meetings may be obtained by contacting any Bureau of Land Management office in New Mexico, after February 2, 1979.

ADDRESS: Send comments and requests to: State Director (930), Bureau of Land Management, United States Post Office and Federal Building, South Federal Place, P.O. Box 1449, Santa Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT:

Dan Wood at the above Santa Fe, New Mexico address or call 505-988-6227.

LARRY L. WOODARD,
Acting State Director.

[FR Doc. 79-1725 Filed 1-17-79; 8:45 am]

[4310-84-M]

NEW MEXICO WILDERNESS INVENTORY

Star Lake-Bisti Accelerated Wilderness Inventories

JANUARY 10, 1979.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of inventory recommendations and commencement of public review period.

SUMMARY: The New Mexico State Office of the Bureau of Land Management announces the initial wilderness inventory recommendations for the public lands, included in the draft Star Lake-Bisti Regional Coal Environmental Statement. All affected wilderness inventory units are located within New Mexico's Albuquerque District. Inventory units recommended as not qualifying for further inventory and should, therefore, be dropped from the wilderness review process are NM-010-5, NM-010-6, NM-010-58, all public lands affected by both the proposed Star Lake Railroad and the Fruit Land Coal Load Transmission Line which are not contained within the boundaries of an identified wilderness inventory unit, southwestern corner of NM-010-9 and NM-010-57 excluding approximately 1800 acres commonly referred to as the Bisti Badlands. Inventory units recommended for intensive wilderness inventory are that portion of NM-010-57 commonly referred to as the Bisti Badlands, NM-010-4 and NM-010-9 excluding the southwestern corner. Copies of the situation evaluation for each of the inventory units and detailed maps showing their location are available on request from the Albuquerque District Office Bureau of Land Management.

DATES: Comments by April 9, 1979. A public meeting will be held March 14, 1979, 1:00-3:00 p.m. and 7:00-9:00 p.m. in the Cavalier Ballroom, Four Seasons Motor Lodge, 2550 Carlisle Avenue, N.E., Albuquerque, New Mexico to receive public comment on the initial inventory recommendations.

ADDRESS: Send comments or requests to: District Manager, Bureau of Land Management, P.O. Box 677, 3550 Pan American Freeway, N.E., Albuquerque, New Mexico 87107.

FOR FURTHER INFORMATION CONTACT:

Randy Botkin at the above Albuquerque, New Mexico address or call 505-766-2455.

LARRY L. WOODARD,
Acting State Director.

[FR Doc. 79-1724 Filed 1-17-79; 8:45 am]

[4310-84-M]

PHOENIX DISTRICT, KINGMAN RESOURCE AREA GRAZING ADVISORY BOARD

Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Kingman Resource Area (Phoenix District) Grazing Advisory Board will be held on March 6, 1979.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management Office, 2475 Beverly Avenue, Kingman, Arizona 86401.

The agenda for the meeting will include:

(1) Election of Officers.
(2) A discussion of the duties and functions of the Board.
(3) The Range Improvement Program for Fiscal Year 1979.
(4) Policy on Maintenance of Range Improvements.
(5) County Contributed Range Improvement Funds.
(6) Cerbat/Black Mountain Livestock Grazing Program Decision Document.
(7) Arrangements for Future Meetings—number per year, timing, and agenda items.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is request-

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ed to do so through the office of the District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: January 10, 1979.

W. K. BARKER,
District Manager.

[FR Doc. 79-1748 Filed 1-17-79; 8:45 am]

[4310-84-M]

PHOENIX DISTRICT PHOENIX/LOWER GILA RESOURCE AREAS GRAZING ADVISORY BOARD

Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Phoenix Lower Gila Resource Areas (Phoenix District) Grazing Advisory Board will be held on March 8, 1979.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017.

The agenda for the meeting will include:

(1) Election of Officers.
(2) A discussion of the duties and functions of the Board.
(3) The Range Improvement Program for Fiscal Year 1979.
(4) Policy on Maintenance of Range Improvements.
(5) County Contributed Range Improvement Funds.
(6) Cerbat/Black Mountain Livestock Grazing Program Decision Document.
(7) Arrangements for Future Meetings—number per year, timing, and agenda items.

The meeting is open to the public. Anyone wishing to make oral or written statements to the board is requested to do so through the office of the District Manager at the above named address at least 7 days prior to the meeting date.

Summary minutes of the board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: January 9, 1979.

W. K. BARKER,
District Manager.

[FR Doc. 79-1747 Filed 1-17-79; 8:45 am]

[4310-84-M]

MOTORIZED VEHICLES ON PUBLIC LANDS CLOSURE TO USE

In continuation of the previous closure, notice is hereby given that use of motorized vehicles on certain public lands in the area between Shan Creek and Griffin Park in Josephine County, Oregon, is prohibited in accordance with the provisions of 43 CFR 6010.4.

This closure does not apply to emergency, law enforcement, and Federal or other government vehicles while being used for official or emergency purposes, or vehicles authorized by permit or contract.

The area affected by this closure lies approximately eight air miles west of Grants Pass. The legal description of the closed land is:

Township 36 South, Range 7 West, Willamette Meridian, Section 11, Government Lots 5, 6, 7, 8
Total Acres: 113

The closure is effective immediately and will remain in effect until further notice. Violation of this closure is punishable by a maximum of $1,000.00 fine and/or 12 months in jail. The closure is necessary to protect the natural environment of the Rogue National Wild and Scenic River.

This closure is effective immediately and will remain in effect until December 31, 1979. Maps showing the area described above are available for examination at the BLM Medford District Office, 310 W. Sixth Street, Medford, Oregon, 97501. For further information, contact Charles Grymes at 779-2351, ext. 341.

This land remains open for non-motorized recreational use, including fishing and horseback riding. It is closed to motorized vehicles, camping, and fires.

JERRY E. ASHER,
Bureau of Land Management, Acting District Manager.

JANUARY 8, 1979.

[FR Doc. 79-1749 Filed 1-17-79; 8:45 am]

[4310-84-M]

[Group 597]

ARIZONA

Filing of Plats of Survey; Filing Date Suspended

JANUARY 8, 1979.

FEDERAL REGISTER Doc. 78-30213 appearing on page 50047 of the issue for October 26, 1978 prescribed that plats of dependent resurvey of a portion of the former boundary of Fort Mohave Indian Reservation, portions of subdivisional lines, and a portion of the former left bank of the Colorado River, T. 18 N., R. 22 W., Gila and Salt River Meridian, Arizona would be officially filed in the Arizona State Office, Bureau of Land Management, Phoenix, Arizona, effective 10:00 a.m. on December 5, 1978.

The official filing is herewith suspended.

ROBERT L. PETERSON,
Chief, Branch of Records and Data Management.

[FR Doc. 79-1776 Filed 1-17-79; 8:45 am]

[4310-84-M]

DECKER-BIRNEY, SOUTH ROSEBUD AND COALWOOD MANAGEMENT FRAMEWORK PLANS

Intent

JANUARY 11, 1979.

This notice is to advise you that the Miles City, Montana District Office, Bureau of Land Management, is proceeding to review and supplement portions of the Decker-Birney, South Rosebud and Coalwood Management Framework Plans (MFPs) to make certain that those portions of the MFPs reflect, as completely as possible, existing statutory requirements and policies and to begin to carry out the requirements of the Federal Lands Review mandated by Section (522)(c) of the Surface Mining Control and Reclamation Act (SMCRA).

Background standards and procedures for this MFP review and supplement preparation are contained in FEDERAL REGISTER Notice 43 FR 57662-57670 of December 8, 1978. The standards for this review are also discussed in a draft environmental statement, describing the Secretary of Interior's preferred coal program and alternatives, which was released for review on December 15, 1978 (43 FR 58776-58778).

Comments on revisions in the unsuitability criteria through the environmental statement process as well as through participation in the MFP review process are welcome.

For further information on the areas being reviewed, please contact: District Manager, Bureau of Land Management, West of Miles City, P.O. Box 940, Miles City, Montana 59301, (406) 232-4331.

EDWIN ZAIDLICZ,
State Director.

[FR Doc. 79-1802 Filed 1-17-79; 8:45 am]

[4310-84-M]

NEVADA

Airport Lease Application

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214), Alfred Gerstler has applied for an airport lease for the following land:

MOUNT DIABLO MERIDIAN

T. 21 S., R. 53 E.,
Sec. 3, Lots 2, 3, 4, SW¼NE¼, S½NW¼, N½SW¼, SE¼SW¼, NW¼SE¼;
Sec. 4, Lots 1, 2, 3, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 10, W½NE¼, E½NW¼.

The area described comprises 920 acres in Clark County, Nevada. The application was filed on September 15, 1976, and on that date the land was segregated from all forms of appropriation under the public land laws.

Interested persons may submit comments to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 300 Booth Street, Federal Building—Room 3008, Reno, Nevada 89509.

ROGER A. JARRELL,
Acting Chief, Division of Technical Services.

[FR Doc. 79-1777 Filed 1-17-79; 8:45 am]

[4310-84-M]

[NM 35784]

NEW MEXICO

Application

JANUARY 10, 1979.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 25 E.,
Sec. 7, E½NW¼;
Sec. 8, N½N½.

This pipeline will convey natural gas across 1.181 miles of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-1781 Filed 1-17-79; 8:45 am]

[4310-84-M]

[NM 35785]

NEW MEXICO

Application

JANUARY 9, 1979.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Company of America has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 34 E.,
Sec. 6, SE¼SW¼ and S½SE¼;
Sec. 7, NE¼NE¼;
Sec. 8, N½N½;
Sec. 9, S½NE¼, W½NW¼ and SE¼NW¼.

This pipeline will convey natural gas across 2.735 miles of public land in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-1780 Filed 1-17-79; 8:45 am]

[4310-84-M]

[NM 35716]

NEW MEXICO

Application

JANUARY 10, 1979.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 32 N., R. 13 W.,
Sec. 30, lot 9.

This pipeline will convey natural gas across 0.065 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-1778 Filed 1-17-79; 8:45 am]

[4310-84-M]

[NM 35700, 35701, 356711, 35712]

NEW MEXICO

Applications

JANUARY 11, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for four 4½-inch natural gas pipeline rights-of-way across the following lands:

[4310-84-M]

[NM 35698]

NEW MEXICO

Application

JANUARY 10, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline and related facilities right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 10 S., R. 29 E.,
Sec. 23, SW¼SE¼.

This pipeline will convey natural gas across 0.154 of a mile of public land in Chaves County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-1779 Filed 1-17-79; 8:45 am]

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NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 7 W.,
Sec. 4, lot 2 and SW¼NE¼.
T. 30 N., R. 7 W.,
Sec. 35, E½NW¼ and SW¼NW¼.
T. 30 N., R. 10 W.,
Sec. 6, lot 22;
Sec. 7, lot 6.
T. 32 N., R. 10 W.,
Sec. 26, lot 6.

These pipelines will convey natural gas across 0.863 of a mile of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-1803 Filed 1-17-79; 8:45 am]

[4310-84-M]

[NM 35786, 35787 and 35789]

NEW MEXICO

Notice of Applications

JANUARY 12, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 27 N., R. 6 W.,
Sec. 27, W½NW¼;
Sec. 28, NE¼NE¼.
T. 30 N., R. 6 W.,
Sec. 31, N½SE¼
T. 32 N., R. 12 W.,
Sec. 23, NW¼NE¼, SE¼NE¼ and NE¼SE¼.

These pipelines will convey natural gas across 1.069 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-1804 Filed 1-17-79; 8:45 am]

[4310-84-M]

[NM 35790 and 35831]

NEW MEXICO

Applications

JANUARY 11, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for four 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 25 S., R. 26 E.,
Sec. 1, S½NW¼ and NW¼SW¼.
T. 19 S., R. 34 E.,
Sec. 15, NW¼SW¼.

These pipelines will convey natural gas across 0.689 of a mile of public lands in Eddy and Lea Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands, and Minerals Operations.

[FR Doc. 79-1805 Filed 1-17-79; 8:45 am]

[4310-84-M]

[Oregon 016753; 2330 (943.4)]

OREGON

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

JANUARY 8, 1979.

The Corps of Engineers, U.S. Department of the Army, on August 30, 1965, filed application Serial No. Oregon 016753 for withdrawal of 3,970.80 acres of lands. A notice of the proposed withdrawal was published in the FEDERAL REGISTER on September 17, 1965, Vol. 30, page 11926, F.R. Doc. 65-9866. On September 21, 1972, the application was amended to delete 3,130.80 acres, and a notice of termination was published on October 6, 1972, Vol. 37, pages 21193 and 21194, F.R. Doc. 72—17125. The lands remaining in the application are described as:

WILLAMETTE MERIDIAN

REVESTED OREGON AND CALIFORNIA RAILROAD GRANT LANDS

T. 32 S., R. 1 E.,
Sec. 33, NE¼NE¼NW¼, S½NE¼NW¼, and SE¼NW¼.
T. 33 S., R. 1 E.,
Sec. 5, NE¼SW¼SE¼ and S½SW¼SE¼;
Sec. 9, W½NE¼NW¼;
Sec. 17, Lots 5 and 6 (Formerly N½SW¼);
Sec. 19, E½W½NE¼, NE¼SE¼, E½NW¼SE¼, S½SW¼NW¼SE¼, and SW¼SE¼;
Sec. 29, NW¼, N½SW¼, and SW¼SW¼.

PUBLIC DOMAIN LAND

T. 33 S., R. 1 E.,
Sec. 30, E½E½ and NW¼NE¼.

The areas described aggregate 840.59 acres in Jackson County, Oregon.

The applicant desires that the lands be reserved for the Elk Creek Reservoir Project.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, at the address shown below, on or before February 20, 1979. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2361.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before February 20, 1979.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except public hearing requests) in connection with this pending withdrawal application should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-1782 Filed 1-17-79; 8:45 am]

[4310-70-M]

National Park Service

[INT DES 79-4]

PROPOSED FERAL BURRO MANAGEMENT AND ECOSYSTEM RESTORATION PLAN, GRAND CANYON NATIONAL PARK, ARIZ.

Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for the proposed Feral Burro Management and Ecosystem Restoration Plan, Grand Canyon National Park, Arizona.

The statement considers a management plan to restore natural ecosystems in four impacted areas of the park. The plan proposes to remove approximately 300 feral burros, primarily by shooting and secondarily by herding, and to fence a 2.5-mile section of the park boundary to prevent re-entry of burros from adjacent Federal land.

Written comments on the environmental statement are invited and will be accepted on or before March 19, 1979. Comments should be addressed to the Superintendent, Grand Canyon National Park.

Copies of the draft environmental statement are available from or for inspection at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Avenue, San Francisco, CA 94102.
Southern Arizona Group, National Park Service, 1115 N. 1st Street, Phoenix, AZ 85004.
Grand Canyon National Park, P.O. Box 129, Grand Canyon, AZ 86023.

Dated: January 15, 1979.

LARRY R. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc.79-1785 Filed 1-17-79; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-53]

CERTAIN SWIVEL HOOKS AND MOUNTING BRACKETS

Commission Request for Public Comments Concerning Settlement Agreement

RECOMMENDATION OF "NO PRESENT VIOLATION" ISSUED

In connection with the Commission's investigation, under section 337 of the Tariff Act of 1930, of alleged unfair methods of competition and unfair acts in the importation and sale of certain swivel hooks and mounting brackets in the United States, the presiding officer recommended on December 1, 1978, that the Commission determine that there is no present violation of section 337. The presiding officer certified the record to the Commission for its consideration. Copies of the presiding officer's recommendation may be obtained by interested persons by contacting the Office of the Secretary to the Commission, 701 E Street, N.W., Washington, D.C. 20436, telephone (202) 523-0161.

SETTLEMENT AGREEMENT SIGNED BY COMPLAINANT AND ALL RESPONDENTS

The Presiding Officer's recommendation of "no present violation" follows a joint motion by all parties to terminate this investigation, which was supported by a settlement agreement signed by complainant and all respondents ("Settlement Agreement"). The presiding officer found that, while the importation or sale of the swivel hooks and mounting brackets which are the subject of the Commission's investigation may have violated section 337 in the past by infringing U.S. Letters Patent No. 3,995,822 or U.S. Letters Patent No. 4,049,225, in light of the Settlement Agreement these alleged violations will not occur in the future. In addition, the presiding officer found that, while the importation of swivel hooks which are the subject of the Commission's investigation and their subsequent sale to retail purchasers without a clear and conspicuous disclosure of the foreign country of origin may have violated section 337 in the past, in light of the Settlement Agreement these alleged violations will not occur in the future.

WRITTEN COMMENTS ON THE PUBLIC INTEREST REQUESTED

Since all parties have filed a joint motion to terminate this investigation, which is supported by the Settlement Agreement, and since the presiding officer has recommended termination on the basis of the Settlement Agreement, no oral argument will be held with respect to the Presiding Officer's recommendation. However, in light of the Commission's duty to consider the public interest, the Commission requests written comments from the parties, interested agencies, public-interest groups, or other interested persons concerning the effect of the termination of this investigation, supported by the Settlement Agreement, upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers. These written comments must be filed with the Secretary to the Commission on or before February 20, 1979. The test of the settlement agreement follows.

TEXT OF THE SETTLEMENT AGREEMENT

This agreement, by and between Coats & Clark, Inc. (hereinafter referred to as "Complainant") and Sato Metal Trading Co., Ltd., Sato American Metal, Inc., Japan Hardcraft (U.S.A.) Corporation, Jordan Industries, Inc., and Carol Cable Company (hereinafter referred to as "Respondents");

Whereas, Complainant has filed a complaint under Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337) with the United States International Trade Commission on May 9, 1978;

Whereas, an investigation was instituted by the International Trade Commission on June 7, 1978 based on said Complaint;

Whereas, Answers to said Complaint were timely filed by Respondents;

Whereas, Complainant and Respondents have agreed to settle their differences underlying said investigation;

Now, therefore, be it known, that in consideration of the mutual covenants contained herein, the parties hereto agree to be bound as follows:

1. Respondents have re-designed their "Swivel hooks" so as not to infringe U.S. Patent No. 3,995,822.

2. Respondents shall not import or sell "Swivel Hooks" infringing U.S. Patent No. 3,995,822.

3. U.S. Patent No. 3,995,822 is valid.

4. Based on the affidavits of Robert C. Faber, Melba Holbrook, and James Ban attached to the MOTION TO DISMISS ALL ALLEGATIONS IN COATS & CLARK'S COMPLAINT PERTAINING TO "HINGED MOUNTING BRACKETS" filed with the International Trade Commission on the 19th day of July, 1978, and of the Affidavits of Lawrence H. Koffler, James Ban and Earl Oda attached hereto as Exhibits, 1, 2, and 3, respectively, all of said Affidavits being embodied herein by reference, Respondents have not imported or sold any mounting brackets infringing U.S. Patent No. 4,049,225 except for a small number of samples which were imported but not sold.

5. Respondents will not import or sell mounting brackets infringing U.S. Patent No. 4,049,225.

6. U.S. Patent No. 4,049,225 is valid.

7. Respondents have imported and/or sold swivel hooks either lacking an indication of the country of origin or not prominently displaying an indication of the country of origin such that the consumer of said swivel

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hooks may have been deceived as to the country or origin.

8. Respondents shall disclose clearly and conspicuously the foreign country of origin of all imported swivel hooks on the swivel hooks and on the retail packages in which these swivel hooks are sold in the United States.

9. Respondents, for themselves and for any customers for whom they adopt and use trademarks, shall not use "SWIVEL CEILING HOOK" and "SWIVEL HOOK/EYE" or colorable variations thereof on their swivel hooks and Respondent, Jordan Industries, Inc., shall submit its proposed new trademarks to Complainant for approval. Complainant shall not unreasonably withhold such approval. Said obligation of submission for approval shall not be a continuing one beyond the first change to new trademarks.

10. Respondents, for themselves and for any customers for whom they adopt and use trade dress, shall adopt trade dress for their swivel hooks that is not similar to that of Complainant and Respondent, Jordan Industries, Inc. shall submit its proposed new trade dress to Complainant for approval. Complainant shall not unreasonably withhold such approval. Said obligation for approval shall not be a continuing one beyond the first change to new trade dress.

1. Complainant shall release Respondents from all past claims of patent or trademark infringement, or unfair competition, in the United States, said release to be in a form substantially the same as that attached hereto as Exhibit 4.

12. The International Trade Commission has jurisdiction over the subject matter of said investigation.

13. Respondents will not challenge the validity of U.S. Patents Nos. 3,995,822 and 4,049,225 or of any trademark registrations which may issue to Complainant covering "SWIVEL CEILING HOOK" or "SWIVEL HOOK/EYE".

14. Complainant and Respondents shall enter into a JOINT MOTION FOR TERMINATION with the Commission investigative attorney.

15. Complainant shall assert no claim against Respondents' customers, nor against Respondents by reason of sale or other disposal of products physically present in the United States prior to the date of this settlement agreement, it being the intent of this Paragraph 15 to make clear that Respondents and Respondents' customers have the right to dispose of stock on hand within one year from the date of signing of this Agreement.

16. Complainant agrees that specimens of Respondents' revised trademarks and/or trade designation for the products herein referred to as "SWIVEL CEILING HOOK" and "SWIVEL HOOK/EYE" submitted to Complainant on or about September 15, 1978, satisfies the obligation of Respondents set out in paragraph 9 herein to submit said revisions to Complainant for approval, and Complainant hereby gives its approval thereto.

17. Complainant agrees that specimens of Respondents' revised trade dress for the products herein referred to as "SWIVEL CEILING HOOK" and "SWIVEL HOOK/EYE" submitted to Complainant on or about September 15, 1978, satisfies the obligations of Respondents set out in paragraph 10 herein to submit said revisions to Complainant for approval, and Complainant hereby gives its approval thereto.

In witness whereof, the parties hereto have executed this agreement by their duly authorized attorneys as of this 20th day of September, 1978.

COMPLAINANT: COATS & CLARK, INC., By: Milton J. Wayne, *Attorney for Complainant.*

RESPONDENTS: SATO METAL TRADING CO., LTD.; SATO AMERICAN METAL, INC.; JAPAN HARDCRAFT (U.S.A.) CORP.; CAROL CABLE COMPANY, By: Robert C. Faber, *Their Attorney;* JORDAN INDUSTRIES, INC., By: Robert C. Faber; By: James G. Staples, *Its Attorneys.*

ADDITIONAL INFORMATION

The original and 19 true copies of all written submissions must be filed with the Secretary to the Commission. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request *in camera* treatment. Such request should be directed to the Chairman of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept such submission in confidence or return it. All nonconfidential written submissions will be open to public inspection at the Secretary's Office.

Notice of the Commission's investigation was published in the FEDERAL REGISTER of June 14, 1978 (43 FR 25743).

By order of the Commission.

Issued: January 15, 1979.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-1881 Filed 1-17-79; 8:45 am]

[7020-02-M]

[Investigation No. 337-TA-48]

ALTERNATING PRESSURE PADS

Commission Procedure for Solicitation of Public Comment

On September 7, 1978, the presiding officer in investigation No. 337-TA-48 (Alternating Pressure Pads), an investigation being conducted by the United States International Trade Commission under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), issued his recommended determination that the Commission (1) determine that there is no present violation of section 337 in the importation or sale of alternating pressure pads, and (2) terminate the investigation as to all issues and parties, contingent upon complainants filing a copy of their reissue application with proof of filing with the Patent and Trademark Office with the Commission.

Copies of the presiding officer's recommended determination may be obtained by contacting the Office of the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202-523-0161.

The Commission, before proceeding on the recommended determination, has determined that it will consider any written submission relating to the public interest for a period of 20 days following publication of this notice in the FEDERAL REGISTER. this notice outlines the procedures for submissions to the Commission relating to its consideration of the public interest.

PROCEDURAL BACKGROUND

This investigation was instituted on February 17, 1978, on the basis of a complaint filed by Gaymar Industries, Inc., and Medisearch PR, Inc. (complainants). Named as respondents in the Commission's notice of investigation were Flowtron Aire, Ltd., and the Huntleigh Group, Inc. (respondents). The notice of investigation listed the unfair practice allegedly engaged in by respondents as (1) the importation of alternating pressure pads which were allegedly covered by claims 1 and 3-6 of U.S. Letters Patent 3,701,173 and (2) the alleged unfair use of promotional and advertising material pertaining to alternating pressure pads (43 FR 7483, Feb. 23, 1978).

On August 7, 1978, complainants filed, pursuant to section 210.51 of the Commission's Rules of Practice and Procedure (19 CFR 210.51), a motion to terminate this investigation as to all issues and with respect to all respondents.

The motion to terminate is based on the discovery by respondents of a prior West German patent reference, which was previously unknown to the parties. Complainants stated that this prior art was not before the patent examiner while the above patent was pending, and that the discovery of the West German patent reference places in question the validity of one or more of the claims in the patent. Complainants also stated in the motion that respondents have withdrawn the promotional literature from circulation and that prior activities connected therewith were de minimis. Complainants then withdrew their request for an exclusion order based on the alleged infringement and on the alleged unfair use of promotional literature. Complainants indicated an intention to surrender the patent and to file a reissue application with the Patent and Trademark Office, which they subsequently did. On August 18, 1978, complainants filed a supplemental memorandum (which is attached to this notice) containing a settlement agreement whereby complainants agreed not to assert the patent claims against respondents or those in privity with respondents (settlement agreement).

The presiding officer, acting in conformity with sections 210.51(c) and 210.53 of the Rules (19 CFR 210.51(c) and 210.53), concluded that (1) the issue of the promotional literature published by respondents is now moot owing to respondents' discontinuing distribution of such literature, and (2) because complainants have voluntarily moved to terminate the investigation and have entered into an agreement with respondents not to assert the patent claims against them, there is no present violation of section 337. The presiding officer also found that the discovery of the West German patent removes the statutory presumption of validity of the 3,701,173 patent under 35 U.S.C. 282. The presiding officer recommended that the Commission (1) determine that there is no present violation of section 337 in the importation or sale of alternating pressure pads, and (2) terminate the investigation as to all issues and parties, contingent upon complainants' filing with the Commission a copy of their reissue application with proof of filing with the Patent and Trademark Office. The copy of the reissue application with proof of filing has been properly filed with the Commission.

Under section 337, the Commission is required to consult with and seek advice and information from the Department of Health, Education, and Welfare, the Department of Justice, the Federal Trade Commission, and departments and agencies as it considers appropriate (19 U.S.C. 1337(b)). In addition, after considering the effect of a determination with respect to the concerned articles on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers, the Commission may find that the articles which are the subject of its investigation should not be excluded from entry (19 U.S.C. 1337(d)).

The Commission particularly desires to obtain public comment on possible anticompetitive effects arising from this agreement and any adverse effect on the public interest. Under the agreement, third parties may be sued by complainants, and complainants are not precluded from filing a section 337 investigation against other importers which allegedly infringe this patent. A copy of the settlement agreement entered into between the parties follows this notice.

DISPOSITION OF THE MOTION

The Commission will, on the basis of the record, the recommended determination, and the public-interest comments received, (1) grant the motion and terminate the investigation, (2) suspend the investigation, (3) advise the parties of alterations in the agreement that would be acceptable to the Commission so that it will not be in opposition to the public interest, (4) remand the matter to the presiding officer for further consideration, (5) determine that there is no violation in this case, or (6) take other appropriate action, as may be necessary.

The granting of complainants' motion would terminate the present investigation. The agreement would be binding only on the signatories, and there would be no judgment as to the validity of the patent, at least for the purposes of section 337.

Suspension of the investigation would allow the Commission to reopen the investigation on motion by the parties or on its own motion, should further information indicate that this would be in the public interest.

The alternatives of remanding the agreement for further consideration by the parties or by the presiding officer would allow a further consideration of any anti-competitive aspects of the agreement.

PROCEDURE FOR CONSIDERATION OF THE PUBLIC INTEREST

Requests for oral argument and oral presentation. At present, no oral argument is planned with respect to the public-interest factors raised by the recommended determination of the presiding officer. However, the Commission will consider requests for an oral argument or an oral presentation if they are received by the Secretary to the Commission on or before February 20, 1979.

Written submissions on the recommended determination. Written submissions from the parties, other interested persons, government agencies and departments, governments, or the public with respect to the public interest will be considered by the Commission if received on or before February 20, 1979.

Statements made in submissions should be supported by reference to the record. Persons with the same position are encouraged to consolidate their submissions, if possible.

Additional information. The original and 19 true copies of all written submissions must be filed with the Secretary to the Commission. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence, must request *in camera* treatment. Such request should be directed to the Chairman of the Commission and must include a full statement of the reasons the Commission should grant such treatment. The Commission will either accept such submission in confidence or return the submission. All nonconfidential written submissions will be open to public inspection at the Secretary's Office.

Issued: January 15, 1979.

By order of the Commission.

KENNETH R. MASON,
Secretary.

AMSTER, ROTHSTEIN & EHRENBERG,
COUNSELORS AT LAW,
New York, N.Y., August 7, 1978.

Re: *The Huntleigh Group, Inc. et al* v. *Gaymar Industries, Inc., et al,* Civil Action No. 77 Civ. 4154 (MEL).

SIDNEY R. BRESNICK, Esq.,
Pennie & Edmonds,
330 Madison Avenue,
New York, N.Y. 10017.

DEAR SID: This letter is to advise you that our client Medisearch PR Inc. (and persons and entities in privity with it, such as Gaymar Industries, Inc. and John Whitney) covenant that it will not assert against your clients Flowtron Aire Ltd., The Huntleigh Group, Inc. and The Huntleigh Group Ltd. (and those in privity with them) claims 1, 3, 4, 5 and 6 of United States Patent No. 3,701,173, whether in the original patent or a reissue of that patent.

The above statement is not to be taken as prejudicial to any possible claims which might arise in the future based upon alleged infringement of any new and narrower claims in a reissue of that patent.

Medisearch (and those in privity with it) hereby release your clients from all claims existing up to this date as alleged in the counterclaims in the above-identified litigation.

Although you may take this letter as binding upon my clients, I am having a copy of this letter countersigned by an officer of the owner of the patent, Medisearch PR Inc. and I will forward such countersigned copy to you in the near future.

Very truly yours,

JESSE ROTHSTEIN.

Medisearch PR Inc. acknowledges its agreement with the foregoing and confirms Mr. Rothstein's authorization to commit the company as stated above.

JOHN WHITNEY, *President,*
Medisearch PR Inc.

AMSTER, ROTHSTEIN & EHRENBERG,
COUNSELORS AT LAW,
New York, N.Y., August 9, 1978.

Re: *The Huntleigh Group, Inc. et al* v. *Gaymar Industries, Inc., et al,* Civil Action No. 77 Civ. 4154 (MEL), Alternating Pressure Pads Investigation No. 337-TA-48.

SIDNEY R. BRESNICK, Esq.,
Pennie & Edmonds,
330 Madison Avenue,
New York, N.Y. 10017.

DEAR SID: This letter shall serve as the agreement between and among our respective clients concerning the termination of the above District Court case and ITC proceeding.

The ITC proceeding shall be terminated in accordance with Complainants' motion filed on August 2, 1978. Respondents shall file a document indicating that they have no opposition to the motion and request that it be granted.

The District Court case shall be dismissed under Rule 41(a) by stipulation; both the complaint and the counterclaims shall be

dismissed without prejudice. Our clients again acknowledge the covenants contained in my letter to you dated August 7, 1978.

The covenant contained in our letter to you of August 7, 1978, copy attached, contemplates the dismissal of the complaint and counterclaims in the District Court case without prejudice. This covenant shall take precedence over such dismissal without prejudice.

We further confirm that we will specifically notify your clients upon the filing of an application to reissue U.S. Patent No. 3,701,173.

This agreement, the letter of August 7, 1978, the ITC proceeding, the District Court case and the agreement by the parties to terminate those legal proceedings shall not be used for advertising, promotion or publicity purposes.

Please have a copy of this letter countersigned by persons authorized to sign on behalf of your clients; we will do the same on our side and we can then exchange signed copies.

Very truly yours,

JESSE ROTHSTEIN.

AGREED TO:

THE HUNTLEIGH GROUP, INC.
By: _____

FLOWTRON AIRE LIMITED
By: _____

THE HUNTLEIGH GROUP LIMITED
By: _____

GAYMAR INDUSTRIES, INC.
By: HOWARD R. GESSNER,
JOHN K. WHITNEY.

MEDISEARCH PR INC.
By: JOHN K. WHITNEY, *President*

[FR Doc. 79-188 Filed 1-17-79; 8:45 a.m.]

[4410-02-M]

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

NATIONAL CRIME INFORMATION CENTER ADVISORY POLICY BOARD

Renewal

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the renewal of the NCIC Advisory Policy Board.

The Assistant Attorney General for Administration, United States Department of Justice, and the Committee Management Secretariat, Office of the Assistant to the Administrator, General Services Administration, have determined that renewal of this Board is necessary and in the public interest. Copies of documents relating to the work of the Board can be obtained at FBI Headquarters, Washington, D.C. 20535.

The purpose of the Board is to recommend to the FBI general policy with respect to the philosophy, concept and operational principles of the NCIC system.

Membership on this Board consists of 26 representatives of criminal justice agencies throughout the United States. Twenty members are elected; five each from the four NCIC geographic regions. Qualified electors are representatives of NCIC control terminal agencies. The FBI does not participate in the electoral process. Six additional members representing the judicial, prosecutorial, and correctional segments of the criminal justice community are appointed by the Director of the FBI.

The Chairman of the Board is elected by the Board members and will serve until January 4, 1981.

WILLIAM H. WEBSTER,
Director.

[FR Doc. 79-1727 Filed 1-17-79; 8:45 am]

[1505-01-M]

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Arson Research Grants; Solicitation

Correction

In FR Doc. 79-748, appearing on page 2028, in the issue of Tuesday, January 9, 1979 in the last column, the second paragraph in the last line, correct the figure "$25,000" to read "$250,000".

[4410-01-M]

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION

Meeting

United States Circuit Judge Nominating Commission Fourth Circuit Panel Chairman: Wesley M. Walker

The Panel for the Fourth Circuit of the United States Circuit Judge Nominating Commission will meet to interview applicants for Fourth Circuit vacancies in North Carolina and Maryland.

The first meeting will be held at the Federal Building, 401 West Trade Street, Charlotte, North Carolina on February 15, 16, and 17, 1979, at 9:30 a.m.

The second meeting will be held at the United States Court of Appeals, 101 West Lombard Street, Baltimore, Maryland, on February 26, 27, and 28, 1979, at 9:30 a.m.

These meetings will be closed to the public pursuant to Pub. L. 92-463, Section 10(D) as amended. (CF 5 U.S.C. 552b (c)(6).

JOSEPH A. SANCHES,
Advisory Committee, Management Officer.

JANUARY 10, 1979.

[FR Doc. 79-1750 Filed 1-17-79; 8:45 am]

[7537-01-M]

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

MUSIC ADVISORY PANEL (CONTEMPORARY ENSEMBLES)

Meeting

Pursuant to section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Contemporary Ensembles Section of the Music Advisory Panel to the National Council on the Arts, previously announced as a meeting of the Composer Librettist Section in the FEDERAL REGISTER, Vol. 43, No. 251, Fri., Dec. 29, 1978, page 61052, will be held on January 25, 26, 27 and 28, 1979, from 9:30 a.m. to 5:30 p.m. each day, in room 1422, Columbia Plaza Office Bldg., 2401 E Street, N.W., Washington D.C.

A portion of this meeting will be open to the public on January 26, 1979, from 1:30 p.m. to 5:30 p.m. for a discussion of guidelines.

The remaining sessions of this meeting on January 25, 1979, from 9:30 a.m. to 5:30 p.m., January 26, 1979, from 9:30 a.m. to 1:30 p.m., January 27, 1979, from 9:30 a.m. to 5:30 p.m., and January 28, 1979, from 9:30 a.m. to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9 (b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

JANUARY 10, 1979.

[FR Doc. 79-1751 Filed 1-17-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-10]

COMMONWEALTH EDISION CO.

Issuance of Amendent to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. DPR-2, issued to the Commonwealth Edison Company (the licensee), which revised the Technical Specifications for operation of Unit 1 of Dresden Nuclear Power Station (the facility) located in Grundy County, Illinois. The license amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to permit tensioning of the reactor vessel head bolting studs with the vessel shell temperature greater than 70°F.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 1, 1978, (2) Amendment No. 28 to License No. DPR-2, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 4th day of January, 1979.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 79-1789 Filed 1-17-79; 8:45 am]

[7590-01-M]

[Docket No. 50-302]

FLORIDA POWER CORP., ET AL.

Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 17 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

This amendment revises the Technical Specifications to delete the requirement to maintain the sodium thiosulfate tank operable while it is also required to be isolated; add surveillance for emergency core cooling system valves; delete reference to two reactor coolant pump operation; change discharge temperature monitoring locations; and change the requirement for condenser vacuum pump exhaust flow rate monitoring from continuous to once per shift.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated July 15, October 11, and November 8, 1977, and February 17, 1978, (2) Amendment No. 17 to License No. DPR-72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Crystal River Public Library, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 4th day of January 1979.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-1790 Filed 1-17-79; 8:45 am]

[7590-01-M]

HEALTH EFFECTS RESEARCH

Memorandum of Understanding

Pursuant to Pub. L. 95-601, the Nuclear Regulatory Commission and the Environmental Proection Agency have executed a Memorandum of Understanding delineating respective agency responsibilities in the conduct of epidemiological planning studies to investigate the health risks associated with low-level ionizing radiation. The text of the memorandum is set forth below.

Dated at Washington, D.C., this 12th day of January 1979.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

NRC/EPA MEMORANDUM OF UNDERSTANDING CONCERNING EPIDEMIOLOGICAL RESEARCH ON THE HEALTH EFFECTS OF LOW-LEVEL IONIZING RADIATION

The Nuclear Regulatory Commission (NRC) and the Environmental Protection Agency (EPA) have complementary responsibilities in areas of environmental protection and the control of radiation health hazards. Pursuant to Reorganization Plan No. 3 of 1970, all functions of the former Federal Radiation Council and the authority of the former Atomic Energy Commission (AEC) for setting "generally applicable environmental radiation standards" were transferred to EPA. In addition, under other environmental statutes EPA has authority to establish various specific environmental standards for radiation protection of the public. The Nuclear Regulatory Commission

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was created by the Energy Reorganization Act of 1974 to continue the regulatory activities of the former AEC for ensuring, among other things, the protection of public health and safety from commercial uses of source, byproduct, and special nuclear materials. The NRC also has responsibility for implementing Federal guidance prepared by EPA and approved by the President which pertains to NRC-licensed activities and responsibility for enforcing "generally applicable environmental radiation standards" issued by EPA.

The Congress of the United States has authorized and directed NRC and EPA to: (1) conduct preliminary planning and design studies for epidemiological research on the health effects of low-level ionizing radiation; (2) submit to Congress by April 1, 1979 an assessment of their capabilities and needs in the area of health effects of ionizing radiation research; and (3) submit a report to Congress by September 30, 1979, which includes a study of options for Federal epidemiological research on the health effects of low-level ionizing radiation, with evaluations of the feasibility of such options.

In order to clarify their respective roles with regard to the conduct of the planning studies, the EPA and NRC agree as follows:

1. In complying with the specific requirement of Subsection 5C of the 1979 NRC Authorization bill (item (2) in the preceding paragraph), NRC and EPA will separately prepare assessments of capabilities and research needs in the area of health effects of low-level ionizing radiation for their respective agencies, and will jointly prepare the report to Congress of the results of those assessments.

2. Preparation of the technical scopes of work for the preliminary planning and design studies, selection of the type of organizations most appropriate to conduct such studies and monitoring of the technical progress and the effort, will be accomplished under the direction of a five-member scientific review group. It will consist of members of the professional staffs of NRC, EPA, and the Department of Health, Education, and Welfare (HEW), two members designated by NRC and two by EPA with each other's agreement, and one member designated by HEW, with NRC's and EPA's agreement. EPA will select, with NRC's agreement, the chairperson of this review group. NRC will select, with EPA's agreement, a program manager (not a member of the review group), to be responsible for the day-to-day management of the feasibility and planning studies and for the submission of technical reports to the review group.

3. Any questions that cannot be resolved by the scientific review group will be resolved by conference between the EPA Assistant Administrator for Air, Noise, and Radiation Programs and the Director of NRC's Office of Standards Development.

4. As appropriate during the conduct of the studies, NRC and EPA shall consult with appropriate scientific organizations and Federal and State agencies.

5. NRC and EPA professional staffs will be utilized for preparation of work scopes, technical and administrative management of studies, and preparation of necessary reports to the Congress. The NRC will make available up to $500,000 for outside assistance for the studies. If a private contractor is to be selected, the Division of Contracts of the Nuclear Regulatory Commission will provide administrative support for issuing requests for proposals, receiving proposals, making contract awards, and administering the funds authorized for this purpose.

6. After review of the report by the scientific review group, the report will be sent to the Commission and Administrator of EPA for final approval prior to transmittal to the Congress.

LEE V. GOSSICK,
Executive Director for Operations, U.S. Nuclear Regulatory Commission.

DAVID G. HAWKINS,
Assistant Administrator for Air, Noise and Radiation, U.S. Environmental Protection Agency.

STEPHEN J. GAGE,
Assistant Administrator for Research and Development, U.S. Environmental Protection Agency.

[FR Doc. 79-1791 Filed 1-17-79; 8:45 am]

[7590-01-M]

STUDY OF NUCLEAR POWER PLANT CONSTRUCTION DURING ADJUDICATION

Establishment and First Meeting

The Nuclear Regulatory Commission has established an advisory committee to study the issue of nuclear power plant construction during adjudication. The study group will examine the present NRC licensing process to develop options for dealing with issues arising from the present practice of permitting construction of nuclear power plants while challenges to their construction permits or limited work authorizations are under adjudication. Among the reasons for initiating this study are the following:

a. Irrevocable changes can be made in the site environment during review.

b. Large sums spent on construction, ultimately derived from the rate-paying or tax-paying public, as well as from investors, are being placed at risk.

c. Construction work underway can create psychological pressure on decision makers to uphold permits under conditions when a proper balancing of factors might have led to revocation or modification.

d. Activities performed while a construction permit is under review might ultimately prove to be the decisive factor in tipping a cost-benefit balance in favor of a plant, when that balance before construction was unfavorable.

e. The cloud of litigation during construction, or fear of it, can make utilities' planning more difficult, and result in undesirable distortions of rational planning.

The study group will examine experience under the Commission's current regulations permitting construction during adjudication as well as studying the experiences and practices of other agencies with similar responsibilities and functions. The study group will consider a variety of topics including the Commission's immediate effectiveness rule (10 CFR 2.764), its stay regulations (10 CFR 2.788), adjudicatory proceedings other than direct review, increased use of rulemaking to resolve issues on a generic basis, and any other matters that its members may view as having a potential bearing on the issues considered in the study. The study will not consider possible revision of the Commission's appellate structure which is currently the subject of a separate examination being performed by the Office of the General Counsel.

The report of the study group is expected to aid the NRC in establishing policy in the important area of when and under what conditions it should permit construction of nuclear power reactors to begin. The Commission desires the maximum practical public participation, and all meetings of the group will be publicly noticed and will be open to the public.

The first meeting of the study group will be at 9:30 A.M. on Friday, February 2, 1979, at the headquarters of the NRC at 1717 H Street, N.W., Washington, D.C. 20555. The purpose of the first meeting will be for the study group members to discuss their views on the data that will be necessary to prepare the group's report and also to begin work on the group's interim report to the Commission which must be submitted within 60 days after the first meeting. At this meeting there will be a limited amount of time available for members of the public to make oral statements to the study group. Written comments, addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Docketing and Service Branch, will be accepted for one week after the meeting. Similar arrangements will be made for future meetings of the group which will be held at 9:30 A.M. on the first Friday of each month and at other times as necessary. The location of future meetings may change depending upon circumstances. The Chairman of the study group is empowered to conduct the meetings in a manner that, in his judgment, will facilitate the group's work, including, if necessary, continuing or rescheduling meetings to another day.

A file of documents relevant to the group's work including the minutes of each meeting, memoranda exchanged between group members, and other documents will be maintained and will be available for inspection and copying at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555. The Secretary of the NRC will maintain a mailing list for persons interested in receiving notices of the group's meetings and actions. Anyone wishing to be on that list should write to: Secretary of the Commission, Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Docketing and Service Branch.

The study group will provide its final report to the Commisson by November 1, 1979. The Commission will be furnishing the study group with administrative and secretarial services and with funds for other necessary expenses. Copies of the study group's charter have been filed with the appropriate standing committees of Congress and with the Library of Congress as required by the Federal Advisory Committee Act. For further information on the study group's mission please call Stephen S. Ostrach, Office of the General Counsel, Nuclear Regulatory Commission (202) 634-3224.

Dated at Washington, D.C. this 12th day of January, 1979.

GARY MILHOLLIN,
Chairman.

[FR Doc. 79-1786 Filed 1-17-79; 8:45 am]

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-3]

SAFETY RECOMMENDATIONS AND RESPONSES

Availability

Cooperative government and industry action to cut the high rate of railroad/highway grade crossing accidents in Florida's 240-mile Jacksonville-Tampa high-speed rail corridor was urged by the National Transportation Safety Board following investigation of the October 2, 1977, grade crossing accident in Plant City, Fla. The accident occurred when a westbound Amtrak passenger train struck a northbound pickup truck at the Turkey Creek Road crossing.

Investigation showed that the crossing was equipped with red flashing signals, which were operating. The train was traveling at 70 mph in a 79-mph speed zone; the pickup truck was traveling at 50 mph in a 45-mph speed zone. The 10 occupants of the truck died in the crash. None of the train crew or its 30 passengers was injured.

On the north approach to the crossing, the westbound train was not visible to the northbound driver until she passed a stand of trees 400 feet south of the crossing. At that point the train was 559 feet from the crossing and there was no way the train could have stopped. The pickup truck could have stopped short of the crossing after the train became visible, but the time and distance available were marginal. An autopsy of the driver of the truck disclosed a 0.14-percent blood alcohol level. The Florida traffic code states that blood alcohol level of 0.10 percent or more is prima facie evidence of driving while under the influence of alcohol.

As a result of its investigation of this accident, the Safety Board on December 27 recommended that:

Federal Highway Administration, Federal Railroad Administration, National Railroad Passenger Corporation (Amtrak), Seaboard Coast Line Railroad Company, and Florida Department of Transportation—

Cooperate to take necessary corrective action to reduce the high frequency of railroad/highway grade crossing accidents along the 240 miles of track between Jacksonville and Tampa, Fla. (H-78-71)

City of Plant City, Fla.—

Cooperate with the Florida Department of Transportation and the Seaboard Coast Line Railroad Company to bring about the installation of the recommended reflectorized, lighted, automatic gates and cantilever flashing light signals and uniform warning signal timing devices at the Turkey Creek crossing in Plant City. (H-78-72)

Install the required advance pavement markings on Turkey Creek Road on both approaches to the railroad/highway grade crossing. (H-78-73)

Relocate the advance railroad/highway grade crossing warning signs on Turkey Creek Road 250 feet before both approaches to the grade crossing, as required by the Manual on Uniform Traffic Control Devices. (H-78-74)

As part of its Operation Lifesaver program, emphasize in its selective traffic law enforcement program grade crossing warning signal violators and those who drive while under the influence of alcohol or drugs. (H-78-75)

National Highway Traffic Safety Administration—

Evaluate and report to the National Transportation Safety Board those alcohol countermeasures that the NHTSA found to be practical and effective for the reduction in the number of alcohol-involved drivers. (H-78-76)

Governor of Florida—

Encourage State-level participation in and high-priority implementation of effective and continuous Statewide Operation Lifesaver railroad/highway grade crossing and selective law enforcement programs. (H-78-77)

Florida Department of Transportation—

Insure that the improvement plans for upgrading the Turkey Creek Road railroad/highway grade crossing, as well as all crossings on the 240 miles of track between Jacksonville and Tampa, Fla., include provisions for uniform warning times for various train speeds in conformity with the Amercian Association of Railroads and Federal Highway Administration guidelines. (H-78-78)

Seaboard Coast Line Railroad Company—

Cooperate with the city of Plant City to expedite the installation of the recommended reflectorized, lighted automatic railroad/highway grade crossing gates and cantilever light signals at the Turkey Creek crossing in Plant City, Fla. (H-78-79)

Recommendation H-78-75, directed to Plant City, is designated "Class I, Urgent Action." The other eight recommendations are designated "Class II, Priority Action."

Copies of the Safety Board's formal investigation report will be made available within the next few weeks. The report will provide factual information, analysis, conclusions, and the probable cause of the Plant City accident.

RESPONSES TO SAFETY RECOMMENDATIONS

Highway

H-78-67 and 68.—Letter of December 12 from the Department of Transportation of the State of North Carolina responds to the Safety Board's letter of December 5 and concerns recommendations issued following investigation of the January 5, 1978, tractor-semitrailer/pickup truck collision on N.C. Route 226 near Marion, N.C. The recommendations called for upgrading State guardrail installations and maintaining edge line markings at the accident site by clearing debris from the pavement surface. (See 43 FR 48742, October 19, 1978.)

The Safety Board on December 5, with reference to the Department's October 5 response, asked to be informed of the final action concerning the guardrail installations at the accident site and to be advised if the pavement edge line markings have indeed been maintained. The Department's December 12 response reports that a study, soon to be completed, will determine the feasibility and estimated cost of upgrading the existing guardrail installations at the accident site. The Department also advises that the pavement markings at the site were repainted in July 1978 and are being properly maintained.

Intermodal

I-78-13.—Letter of December 27 from the Environmental Protection Agency is in response to a recommendation issued as a result of the Safety Board's hearing, held last April 4-6, on derailments and the carriage of hazardous materials. The recommendation asked EPA to assist the U.S. Department of Transportation in assuring that hazardous materials regulations issued by the Department are in agreement with EPA's hazardous materials regulation. (See 43 FR 30149, July 13, 1978.)

EPA reports that for several months EPA and DOT have been cooperating to amend DOT regulations (49 CFR Parts 171 and 172) to require shippers

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to identify substances designated in EPA hazardous substance discharge regulations (49 CFR Part 11). EPA is also revising the regulations which define reporting requirements for hazardous substances discharges (40 CFR Part 117). Target dates of December 1978 for Part 117 and January 1979 for Parts 171 and 172 were set for proposing revised regulations, with final promulgations in April 1979.

Marine

M-78-45 through 52.—The U.S. Coast Guard on December 22 responded to recommendations issued as a result of the grounding of the M/V DAUNTLESS COLOCOTRONIS in the Mississippi River near New Orleans, La., July 22, 1977. In seeking better means of coping with submerged wrecks in busy waterways, the Safety Board's recommendations to the Coast Guard and the Corps of Engineers, U. S. Army, included these objectives: Improved standards for defining a navigation hazard in the Mississippi River; an annual summary of Mississippi River wrecks which continue to be hazardous to mariners; greater clarity in stating water depths over submerged wrecks; improved firefighting training for tanker crews, better foreign crew compliance with international fire drill requirements, and enhanced fireproofing of foreign-flag tankers; and international agreement on an exterior display on all large ships which would show emergency personnel the ship's interior layout. (See 43 FR 34222, August 3, 1978.)

In response to M-78-45, Coast Guard states that it will contact the U.S. Army Corps of Engineers through the Second and Eighth Coast Guard Districts to develop standards to establish minimum criteria for defining hazards to navigation in the Mississippi River. Results of this effort will form the basis for a publication listing the hazards to navigation in the Mississippi River, as called for in recommendation M-78-46; the study effort will also address the various means of measuring the level of water in the Mississippi River and determine which is most beneficial for dissemination in Local Notices to Mariners and Broadcasts to Mariners, as recommended in M-78-47.

With reference to M-78-48, which recommended that Coast Guard seek international agreement to improve the firefighting training for officers and crew on tankships, Coast Guard notes that the recently adopted (July 1978) International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, contains in the Annex Chapter V, Regulation V/1 entitled "Mandatory Minimum Requirements for the Training and Qualifications of Masters, Officers and Ratings of Oil Tankers." These requirements are spelled out in Coast Guard's December 22 letter. Coast Guard also reports publication on April 25, 1977, of a notice of proposed rulemaking in 46 CFR 10.11 and 46 CFR 12.20 tankerman requirements. However, due to lengthy comments received on this proposal, as well as the General Accounting Office's Liquefied Energy Gas Report, the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and the requirements of Public Law 94-474 (Port and Tanker Safety Act of 1978), this proposal is being withdrawn and will be reissued as a new notice of proposed rulemaking by mid-1979.

Recommendation M-78-49 asked Coast Guard to insure that all foreign tankships that enter U.S. waters comply with the 1960 Safety of Life at Sea Convention (SOLAS) requirements for fire drills. Coast Guard notes that SOLAS Regulation 26, Chapter III, requires fire drills for tankship at intervals of not more than a month and within 24 hours of leaving port if more than 25 percent of the crew have been replaced at that port. Coast Guard does not concur with a recommendation requiring that each foreign-flag tank vessel entering U.S. waters be boarded for determining compliance with the SOLAS requirements for drills. As required by Presidential initiatives and Commandant Instruction 16711.4 dated February 16, 1978, each foreign-flag tank vessel entering U.S. waters is examined at least annually with reexaminations as considered necessary. Coast Guard notes that the decision to board and examine each foreign-flag tank vessel is based upon that vessel's operational and examination history as contained in the Marine Safety Information System.

Recommendation M-78-50 asked for regulations, under the Ports and Waterways Act of 1972, to require all foreign tankships built after 1980 and entering U.S. waters to meet the fire safety requirements of the 1974 SOLAS Convention. Coast Guard reports that ratification of SOLAS 74 is making substantial progress internationally and that the required amount of tonnage necessary for ratification has been obtained. Only nine more countries are needed to have the requisite 25 countries with at least 50 percent of the world's gross tonnage. Final rules implementing this action are anticipated by June 1979.

With reference to M-78-51, Coast Guard reports that the chairman of the U.S. SOLAS working group on fire protection will present to the working group for consideration the proposal to require all ships of more than 500 gross tons to post, under watertight cover and outside the ship's deckhouse in a prominent place, an arrangement plan of the ship to aid emergency personnel.

The Coast Guard does not believe that it is necessary to seek international agreement to require that cargo pumps on tankships be segregated from all sources of vapor ignition by gastight bulkheads and that pump shafts penetrating these bulkheads be fitted with stuffing boxes or other approved glands which will prevent vapor ignition, as recommended by the Safety Board in M-78-52. Coast Guard states, "The requirements paraphrase 46 CFR 32.60-20(a). Classification societies (ABS, LLOYD's DNV, NKK) and IMCO Resolution A. 325 (IX) have similar requirements. The problem occurring on the DAUNTLESS COLOCOTRONIS was not one of arrangement; it was due to improper installation of the shaft packing gland."

Railroad

R-78-57.—Letter of December 22 from the Atlanta & Saint Andrews Bay Railway Company is in response to a recommendation issued November 27, following investigation of the derailment of one of the Company's trains at Youngstown, Fla., last February 26. The recommendation called for maintaining a 24-hour radio communications monitoring capability between trains and communications based stations. (See 43 FR 59558, December 21, 1978.)

In response, the Company informed the Board that on October 12, 1978, before receiving the recommendation, the Company put in service a 24-hour radio communication monitoring system on the Bay Line.

NOTE.—Single copies of the Safety Board's recommendation letters and letters in response to recommendations are available without charge. Requests for copies must be in writing and provide the recommedation number and date of letter. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

JANUARY 15, 1979.

[FR Doc. 79-1798 Filed 1-17-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

IMPLEMENTATION OF SECTION 223(a)(3) OF PUBLIC LAW 95-507

Invitation for Public Comment

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget.

ACTION: Notice of proposed Policy Letter implementing section 223(a)(3) of Pub. L. 95-507.

SUMMARY: On October 24, 1978, the President signed into law Pub. L. 95-507, amending the Small Business Investment Act and the Small Business Act.

Public Law 95-507, among other things, requires that upon the request of a small business concern a Federal agency must provide to it "adequate citations to each major Federal law or agency rule with which such business concern must comply in performing" a contract to be let by the agency.

The proposed policy letter requires that procurement solicitations estimated to result in a contract of $10,000 or more indicate by adequate citation the Federal law or agency rule on which each contract provision is based.

DATE: Comments must be received by February 15, 1979.

ADDRESS: Comments are to be submitted to the Office of Federal Procurement Policy, OMB, 726 Jackson Place, NW., Room 9025, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Mr. Owen Birnbaum, Deputy Associate Administrator for Acquisition Law, (202) 395-3455.

LESTER A. FETTIG,
Administrator.

Policy Letter No. 79-

To: The Heads of Executive Departments and Establishments.

Subject: Contract Citations.

Section 223(a)(3) of Public Law 95-507, October 24, 1978, requires that Federal agencies provide to a requesting small business, with respect to a contract to be awarded, "adequate citations to each major Federal law or agency rule with which such business concern must comply in performing such contract."

Accordingly, in all procurement solicitations estimated to result in a contract that will exceed $10,000 the contracting officer shall, at the end of each provision, indicate by adequate citation the Federal law or agency directive or rule on which the provision is based. If the provision already contains, within its text, the statutory or administrative basis for the provision, that fact will satisfy this requirement.

LESTER A. FETTIG,
Administrator.

[FR Doc. 79-2034 Filed 1-17-79; 8:45 am]

[7710-12-M]

POSTAL SERVICE

TEMPORARY CHANGE IN MAIL CLASSIFICATION SCHEDULE

Third-Class Carrier Route Presort

On September 8, 1978, the United States Postal Service requested the Postal Rate Commission to submit to the Governors of the Postal Service a recommended decision on a change in the mail classification schedule establishing a new subclass of third-class mail, a third-class carrier route presort subclass, pursuant to Chapter 36 of Title 39, United States Code. An explanation of the Postal Service proposal was published in the FEDERAL REGISTER by the Postal Rate Commission on September 18, 1978 (43 FR 41440).

In its filing with the Postal Rate Commission, the Postal Service proposed the addition of section 300.222 to the Domestic Mail Classification Schedule as follows:

300.222 Carrier route presort

a. Carrier route presort mail consists of mailings of properly prepared and presorted separately addressed pieces of third-class mail of identical weight and size, with dimensions not to exceed 10 inches x 12 inches x .75 inch (except as provided in section 300.222c). Each mailing must consist of ten pieces for each carrier route included in the mailing, and a minimum of 2,000 pieces per mailing.

b. Mail for each individual carrier route included in the mailing must be sacked or containerized in the manner prescribed by the Postal Service.

c. Merchandise samples with detached labels may be sent as carrier route presort even though their dimensions may exceed the prescribed maxima, if they meet all other requirements of the subclass and the detached labels do not exceed those dimensions.

The proposal included the addition of a "carrier route presort" column to section 300.223 as follows:

300.223 *Rates and fees, bulk rates.*

• • • • • •

	Special Rates for Authorized Organizations Only	Regular Rates	Carrier Route Presort
a. Books and catalogs having 24 or more bound pages with at least 22 printed, seeds, cuttings, bulbs, roots, scions, and plants.	• • •	• • •	36¢ per pound or fraction minus 1.5¢ per piece
Minimum rate per piece	• • •	• • •	6.9¢
b. All matter, except the items in (a) included in the first- or second-class.			41¢ per pound or fraction minus 1.5¢ per piece
Minimum rate per piece	• • •	• • •	6.9¢

In addition, the proposal included the deletion of section 300.22c which reads as follows:

c. Identifying words as follows must be printed or rubber stamped by the mailer either in or immediately adjacent to permit imprints, meter stamps, or precanceled stamps:

(1) BULK RATE or abbreviation BLK.RT. by mailers other than nonprofit organizations.

(2) NONPROFIT ORGANIZATION or the abbreviation NONPROFIT ORG. by nonprofit organizations.

Since the Postal Rate Commission has not transmitted its recommended decision to the Governors of the Postal Service within 90 days after submission of the Postal Service's request (September 8, 1978), the Postal Service will, under the authority of 39 U.S.C. 3641(e), place in effect at 12:01 a.m. on January 28, 1979, temporary changes in the mail classification schedule as described above.

(39 U.S.C. 401, 403, 404, 3621, 3623, 3641)

W. ALLEN SANDERS,
Acting Deputy General Counsel.

[FR Doc. 79-2006 Filed 1-16-79; 1:44 pm]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15486; File No. SR-Amex-78-25]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 2, 1978 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

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AMEX'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would permit a member organization to extend credit to customers on shelf-registered, control or restricted securities within the guidelines of Regulation T and the amount set forth in the rule. The total amount of such credit which a member organization may extend will be limited as prescribed from time to time by the Exchange, but in no event greater than 25% of its excess Net Capital. The total amount of credit which may be extended to all customers on such securities of any one issuer is limited to 5% of excess Net Capital. The firm must take deductions in the computation of its net capital, for the amount of credit extended on such securities in order to determine whether it can expand, or if it must reduce its business.

Documentation must be obtained by the member organization to insure the ready saleability and marketability prior to extending credit on shelf-registered securities. The Exchange may require formal reports from member organizations showing the amount of credit extended in accordance with the rule.

AMEX'S STATEMENT OF BASIS AND PURPOSE OF PROPOSED RULE CHANGE

The proposed amendments would permit member organizations to extend credit to customers on shelf-registered, control or restricted securities within the guidelines of Regulation T and, thereby, allow member organizations to better compete with non-members, which are permitted to extend credit on such securities. Under the proposed amendments, safeguards would be imposed to assure the financial integrity of member organizations and to protect investors.

The proposed amendments to Rules 462 and 471 are designed to remove impediments to a free and open market and to eliminate any burden on competition not necessary or appropriate as well as the protection of investors and of the public interest in furtherance of the purposes of the Act, and therefore are authorized by subparagraphs (b)(5) and (b)(8) of Section 6 of the Act.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

No comments were solicited or received with respect to the proposed rule change.

BURDEN ON COMPETITION

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

On or before February 22, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 20. 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 10, 1979.

EXHIBIT I-A—PROPOSED AMENDMENTS TO RULES 462 AND 471

Rules 462 and 471 of the American Stock Exchange is proposed to be amended as set forth below. *Italics* indicate added material.

RULE 462—EXCEPTIONS

(c) The foregoing requirements of this Rule are subject to the following exceptions:

• • • • •

(9) Shelf-Registered, Control and Restricted Securities.

(A) Shelf-Registered Securities—The margin which must be maintanined in margin accounts of customers for securities which are the subject of a current and effective registration for a delayed offering (shelf-registered securities) shall be at least the amount required by paragraph (b) of this Rule provided the member organization:

(i) Obtains a current prospectus in effect with the Securities and Exchange Commission, meeting the requirements of Section 10 of the Securities Act of 1933, covering such securities;

(ii) Has no reason to believe the Registration Statement is not in effect or that the issuer has been delinquent in filing such periodic reports as may be required of it with the Securities and Exchange Commission and is satisfied that such registration will be kept in effect and that the prospectus will be maintained on a current basis;

(iii) Retains a copy of such Registration Statement, including the prospectus, in an easily accessible place in its files; and

(iv) Values such securities more conservatively than securities of the same class which are freely traded, in the light of current market prices, the amount which might be realized upon liquidation, unusually rapid or volatile changes in value or volume and other business considerations deemed appropriate under the circumstances in determining fair value.

Shelf-registered securities which do not meet all the conditions prescribed above shall have no value for purposes of this Rule. (Also see paragraph (C) of this subsection (9)).

(B) Control and Restricted Securities—The margin which must be maintained in margin accounts of customers for control securities and other restricted securities which are saleable under Rules 144 or 145(d) of the Securities Act of 1933, shall be 40% of the current market value of such securities "long" in the account, provided the member organization;

(i) In computing Net Capital under Rule 470 deducts any cash margin deficiencies in customers' accounts based upon a margin requirement of 25% for such securities and values only that amount of such securities which are then readily saleable under Rules 144 or 145(d) of the Securities Act of 1933 for purposes of determining such deficiencies;

(ii) Makes volume computations necessary to determine the amount of securities saleable under Rules 144 or 145(d) of the Securities Act of 1933 on a weekly basis or at such greater frequency as the member organization and/or the Exchange may deem appropriate in the circumstances; and

(iii) Values such securities more conservatively than securities of the same class which are freely traded, in the light of current market prices, the amount which might be realized upon liquidation, unusually rapid or volatile changes in value or volume and other business considerations deemed appropriate under the circumstances in determining fair value. (Also see paragraph (C) of this subsection (9)).

(C) Additional Requirements on Shelf-Registered Securities and Control and Restricted Securities—Notwithstanding the provisions of paragraphs (A) and (B) of this subsection (9), a member organization extending credit on shelf-registered, control and other restricted securities in margin accounts of customers shall be subject to the following requirements;

(i) The credit extended to all customers on such securities may not in the aggregate exceed a percentage of the member organization's excess Net Capital as prescribed from time to time by the Exchange but in any event not greater than 25% of its excess Net Capital. The amount of the total credit extended, which has been deducted in computing Net Capital, need not be included in calculating this limitation.

(ii) The credit extended to all customers on such securities of any one issuer may not in the aggregate exceed 5% of the member organizations's excess Net Capital. The amount of the total credit extended, which has been deducted in computing Net Capital, need not be included in calculating this limitation.

(iii) The aggregate credit extended on such securities reduced by the amount of credit extended which has been deducted in computing Net Capital under Rule 470 shall be deducted from Net Capital for purposes of determining a member organization's status under Rule 471.

(iv) The Exchange may at any time require reports from member organizations showing relevant information as to the amount of credit extended on shelf-registered, control and restricted securities and the amount, if any, charged to Net Capital due to such security positions.

Rule 471(a) A member organization which carries customer accounts shall not expand its business during any period in which any of the following conditions exist for more than fifteen (15) consecutive business days:

• • • • •

(iv) Capital withdrawals including maturities scheduled during the next six months *and/or the special deduction from net capital set forth in Rule 462(c)(9)(C)(iii)* would result in the condition described in (i), (ii) or (iii) above, or

• • • • •

(b) A member organization which carries customer accounts shall forthwith reduce its business to a point enabling its available capital to meet the standards of paragraph (a) if for more than fifteen (15) consecutive business days:

• • • • •

(iv) Capital withdrawals including maturities scheduled during the next six months *and/or the special deduction from net capital set forth in Rule 462(c)(9)(C)(iii)* would result in the condition described in (i), (ii) or (iii) above, or

[FR Doc. 79-1756 Filed 1-17-79; 8:45 am]

[8010-01-M]

[Release No. 34-15482; File No. SR-CBOE-78-37]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposal Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 5, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF THE PROPOSED RULE CHANGE

The Chicago Board Options Exchange, Incorporated (the "CBOE" or "Exchange") proposes to amend Section 11.4 of the CBOE Constitution as set forth below. (Italics indicate words to be added.)

OFFICERS AND EMPLOYEES RESTRICTED

Section 11.4.

(a) No Change

(b) No Change

(c) *Paragraphs (a) and (b) above of this Section shall not be construed to preclude any salaried officer or employee of the Exchange or of any corporation in which the Exchange owns a majority of the stock from performing his duties and responsibilities as assigned to him by such organization.*

PURPOSE OF THE PROPOSED RULE CHANGE

CBOE states that the purpose of the proposed change to Section 11.4 of the CBOE Constitution (Officers and Employees Restricted) is to make clear that such constitutional provision shall not operate to preclude any salaried officer of employee of the Exchange, or of any corporation in which the Exchange owns a majority of the stock, from performing his duties as assigned to him by the Exchange or by such corporation.

BASIS UNDER THE ACT

CBOE states that the basis under the Act for the proposed rule change is Section 6(b)(5) in that the change to the CBOE Constitution is designed to facilitate transactions in securities by making clear that Section 11.4 of the Constitution was not intended to restrict Exchange officers and employees from effecting securities transactions as part of their assigned duties.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGE

No comments were solicited or received by the CBOE respecting the proposed rule change.

BURDEN ON COMPETITION

The Exchange does not believe the proposed rule change will impose any burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 8, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 9, 1979.

[FR Doc. 79-1757 Filed 1-17-79; 8:45 am]

[8010-01-M]

[Rel. No. 20883; 70-6249]

INDIANA-KENTUCKY ELECTRIC CORP. AND OHIO VALLEY ELECTRIC CORP.

Proposed Financing of Pollution Control Facilities

JANUARY 10, 1979.

Notice is hereby given that Indiana-Kentucky Electric Corporation ("IKEC"), P.O. Box 97, Madison, Indiana 47250, and Ohio Valley Electric Corporation ("OVEC"), P.O. Box 468, Piketon, Ohio 45661, both indirect electric utility subsidiaries of Allegheny Power System, Inc., American Electric Power Company, Inc., and Ohio

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Edison Company, all registered holding companies, have filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a), 10 and 12(d) of the Act and Rule 44(b)(3) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the appplication-declaration, which is summarized below, for a complete statement of the proposed transactions.

OVEC and its wholly-owned subsidiary IKEC were organized on October 1, 1952, to provide the power requirements of the gaseous diffusion plant at Portsmouth, Ohio, now owned and operated by the Department of Energy ("DOE"). Such services are provided pursuant to a power agreement ("DOE Agreement"), as modified from time to time. The DOE Agreement provides, *inter alia*, that DOE will pay OVEC and IKEC the entire cost of certain replacements of property and plant, including replacements reasonably required to comply with any governmental pollution control requirements. The DOE Agreement also provides that OVEC will use its best efforts to arrange for financing pollution control replacements from sources of capital funds other than DOE unless DOE prefers to finance OVEC's and IKEC's pollution control replacements directly. Under the DOE Agreement, DOE agrees to pay an amount equal to the principal component of any purchase price payment under an installment sales agreement relating to the purchase by OVEC or IKEC of any pollution control replacement, and an amount equal to the interest component of any such purchase price payment. The DOE Agreement terminates on December 31, 1979. OVEC and DOE are engaged in negotiations with respect to Modification No. 10 which would extend its term to October 14, 1992, and contain certain other provisions the details of which have not been agreed upon.

OVEC has under construction one 1,000-foot smokestack, a foundation and related facilities at its Kyger Creek plant (the "Ohio Project"), which will replace three existing 538-foot smokestacks. The Ohio Project is believed by OVEC to be reasonably required to enable it to limit the emission of pollutants or to be otherwise reasonably necessary in order to comply with governmental pollution control requirements. It is currently estimated that the Ohio Project will cost not more than $18,000,000. OVEC proposes to enter into an agreement ("OVEC Agreement") for the financing of the cost of the Ohio Project by its sale to the Ohio Air Quality Development Authority ("Authority"), which under Ohio statutes is authorized to enter into agreements concerning the acquisition and construction of pollution control facilities. The OVEC Agreement will provide for the construction of the facilities comprising the Ohio Project by the Authority and for the issuance by the Authority of one or more series of Air Quality Development Revenue Bonds ("Authority Bonds") to cover the costs of construction (as defined in the OVEC Agreement), including the issuance of an initial principal amount of up to $18,000,000 of Authority Bonds. The proceeds from the sale of the Authority Bonds will be deposited with a bank as trustee ("Authority Trustee") under an indenture pursuant to which the Authority Bonds are to be issued and secured. Such proceeds will be withdrawn by OVEC upon certification to the Authority of the costs of construction.

The OVEC Agreement will also provide for the sale of the Ohio Project to OVEC, the payment by OVEC of the purchase price thereof in installments over a term of years and the assignment and pledge to the Authority Trustee by the Authority of its interest in and to monies (including the interest and principal components of the purchase price) receivable by the Authority under the OVEC Agreement. DOE and OVEC will consent to such assignment so that amounts equal to the interest and principal components of the purchase price payable by OVEC to the Authority will be paid by DOE directly to the Authority Trustee. The principal and interest components will be payable in such amounts as to enable the Authority to pay when due the principal and interest on the Authority Bonds. The OVEC Agreement also obligates OVEC to pay the fees and charges of the Authority Trustee, as well as certain expenses of the Authority.

OVEC has the option to prepay the purchase price in whole (i) upon the occurrence of certain events by paying amounts sufficient to redeem all Authority Bonds then outstanding and all other amounts payable under the indenture, or (ii) at any time by depositing monies in the bond fund under the indenture or delivering to the Authority Trustee governmental obligations sufficient in either case to provide for the release of the Authority indenture in accordance with its terms. Upon prepayment of the entire purchase price of the Ohio Project, OVEC may terminate the OVEC Agreement. OVEC may also prepay the purchase price in part, such payments to be paid to the Authority Trustee for deposit in the bond fund under the Authority Indenture and credited against the purchase price and used for the redemption or purchase of outstanding Authority Bonds in the manner and to the extent that oustanding bonds are redeemable or subject to purchase under the indenture.

OVEC will be required to prepay the purchase price of the Ohio Project and redeem all Authority Bonds in the event that (a) on or before November 30, 1979, neither a modification of the DOE Agreement providing for an extension of the term thereof through October 14, 1992, nor an interim arrangement for the supply of electric utility services to DOE at its existing gaseous diffusion plant near Portsmouth, Ohio through March 29, 1980, in either case including contract provisions obligating DOE to pay directly to the Authority Trustee all interest and principal components of the purchase price becoming due during the term of such modification or interim arrangement, shall have become effective; (b) on or before the thirty-first day prior to the date on which any such interim arrangement or any succeeding interim arrangement would otherwise terminate, neither a further interim arrangement for a period of ninety days or more, nor a modification of the DOE Agreement referred to in clause (a) above, in each case including the contract provisions referred to in clause (a) above, shall have become effective; (c) any modification of the DOE Agreement is executed by OVEC which has the effect of reducing or eliminating DOE's obligation to make payments of interest and principal components of the purchase price; or (d) the DOE Agreement shall be about to terminate by action of DOE.

It is stated that OVEC will take necessary action under its mortgage and deed of trust to release the portion of the Ohio Project, to the extent constructed and in place at the plant site, from the lien of its mortgage, and, after such release, will convey the same to the Authority. OVEC will receive from the Authority Bond sale proceeds an amount equal to its original cost for the facilities so conveyed.

Under Ohio law, the interest rate to be borne by the Authority Bonds will be fixed by the Authority. OVEC understands that the interest on the Authority Bonds will not be exempt from federal income taxation. The Authority Bonds are expected to be dated on or about the first day of the month in which they are issued, to bear interest semiannually, to mature at a date or dates not earlier than five years subsequent to the date of their issuance and not later than October 14, 1992, and to be subject to optional and mandatory redemption under the circumstances and terms specified in the indenture. It is contemplated that the Authority bonds will be sold directly by the Authority to an unaffiliated investment banking firm ("Authority Bond Buyer"), at a price of not less than 97.5% of principal amount, and that the Authority Bond Buyer will contemporaneously resell them (at a price of not more than 2.5% of principal amount above its purchase price) to certain of its customers appearing on a special list of not more than 200 institutional investors, such resales being under circumstances in which counsel for OVEC and the Authority Bond Buyer advise that no registration of a security under the Securities Act of 1933 and that no qualification of an indenture under the Trust Indenture Act of 1939 is required.

IKEC has under construction two 984-foot smokestacks, foundations and related facilities at its Clifty Creek Plant (the "Indiana Project"), which will replace three existing 684-foot smokestacks. The Indiana Project is believed by IKEC to be reasonably required to enable it to limit the emission of pollutants or to be otherwise reasonably necessary in order to comply with governmental pollution control requirements. It is currently estimated that the Indiana Project will cost not more than $20,000,000. IKEC proposes to enter into an agreement ("IKEC Agreement") for the financing of the cost of the Indiana Project by its sale to the City of Madison, Indiana ("City"), which under Indiana statutes is authorized to enter into agreements concerning the acquisition and construction of pollution control facilities. The IKEC Agreement will provide for the construction of the facilities comprising the Indiana Project by the City and for the issuance by the City of one or more series of pollution control and/or economic development revenue bonds ("City Bonds") to cover the costs of construction (as defined in the IKEC Agreement), including the issuance of an initial principal amount of up to $20,000,000 of City Bonds. The proceeds from the sale of the City Bonds will be deposited with a bank as trustee ("City Trustee") under an indenture pursuant to which the City Bonds are to be issued and secured. Such proceeds will be withdrawn by IKEC upon certification to the City of the costs of construction.

The IKEC Agreement will also provide for the sale of the Indiana Project to IKEC, the payment by IKEC of the purchase price thereof in installments over a term of years and the assignment and pledge to the City Trustee by the City of its interest in and to monies (including the interest and principal components of the purchase price) receivable by the City under the IKEC Agreement. DOE and IKEC will consent to such assignment so that amounts equal to the interest and principal components of the purchase price payable by IKEC to the City will be paid by DOE directly to the City Trustee. The principal and interest components will be payable in such amounts as to enable the city to pay when due the principal and interest on the City Bonds. The IKEC Agreement also obligates IKEC to pay the fees and charges of the City Trustee, as well as certain expenses of the City.

IKEC has the option to prepay the purchase price in whole (i) upon the occurrence of certain events by paying amounts sufficient to redeem all City Bonds then outstanding and all other amounts payable under the indenture, or (ii) at any time by depositing monies in the bond fund under the indenture or delievering to the City Trustee governmental obligations sufficient in either case to provide for the release of the City indenture in accordance with its terms. Upon prepayment of the entire purchase price of the Indiana Project, IKEC may terminate the IKEC Agreement. IKEC may also prepay the purchase price in part, such payments to be paid to the City Trustee for deposit in the bond fund under the City Indenture and credited against the purchase price and used for the redemption or purchase of outstanding City Bonds in the manner and to the extent that outstanding bonds are redeemable or subject to purchase under the indenture.

IKEC will be required to prepay the purchase price of the Indiana Project and redeem all City Bonds in the event that (a) on or before November 30, 1979, neither a modification of the DOE Agreement providing for an extension of the term thereof through October 14, 1992, nor an interim arrangement for the supply of electric utility services to DOE at its existing gaseous diffusion plant near Portsmouth, Ohio through March 29, 1980, in either case including contract provisions obligating DOE to pay directly to the City Trustee all interest and principal components of the purchase price becoming due during the term of such modification or interim arrangement, shall have become effective; (b) on or before the thirty-first day prior to the date on which any such interim arrangement or any succeeding interim arrangement would otherwise terminate, neither a further interim arrangement for a period of ninety days or more, nor a modification of the DOE Agreement referred to in clause (a) above, in each case including the contract provisions referred to in clause (a) above, shall have become effective; (c) any modification of the DOE Agreement is executed which has the effect of reducing or eliminating DOE's obligation to make payments of interest and principal components of the purchase price; or (d) the DOE Agreement shall be about to terminate by action of DOE.

It is stated that IKEC will take necessary action under its mortgage and deed of trust to release the portion of the Indiana Project, to the extent constructed and in place at the plant site, from the lien of its mortgage, and, after such release, will convey the same to the City. IKEC will receive from the City Bond sale proceeds an amount equal to its original cost for the facilities so conveyed.

Under Indiana law, the interest rate to be borne by the City Bonds will be fixed by the Common Council of the City. IKEC understands that the interest on the City Bonds will not be exempt from federal income taxation. The City Bonds are expected to be dated on or about the first day of the month in which they are issued, to bear interest semiannually, to mature at a date or dates not earlier than five years subsequent to the date of their issuance and not later than October 14, 1992, and to be subject to optional and mandatory redemption under the circumstances and terms specified in the indenture. It is contemplated that the City Bonds will be sold directly by the City to an unaffiliated investment banking firm ("City Bond Buyer"), at a price of not less than 97.5% of the principal amount, and that the City Bond Buyer will contemporaneously resell them (at a price of not more than 2.5% of principal amount above its purchase price) to certain of its customers appearing on a special list of not more than 200 institutional investors, such resales being under circumstances in which counsel for IKEC and the City Bond Buyer advise that no registration of a security under the Securities Act of 1933 and no qualification of an indenture under the Trust Indenture Act of 1939 is required.

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that the Public Utilities Commission of Ohio has jurisdiction over the proposed transactions with respect to OVEC, that the Public Service Commission of Indiana has jurisdiction over the proposed transactions with respect to IKEC, and that no other state commission and no federal commission, other than this Commission, has jurisdiction thereover.

Notice is further given that any interested person may, not later than February 5, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Sec-

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retary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-1753 Filed 1-17-79; 8:45 am]

[8010-01-M]

[Release No. 10552; 811-2113]

MEMBERS' INVESTMENT FOR GROWTH FUND, LTD.

Application for an Order Declaring That the Applicant has Ceased to be an Investment Company

JANUARY 11, 1979.

Notice is hereby given that Members' Investment For Growth Fund, Ltd, ("Applicant"), 1617 Sherman Avenue, Madison, Wisconsin 53704, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on November 3, 1978, and an amendment thereto on January 2, 1979, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a corporation organized under the laws of the State of Maryland, registered under the Act on September 10, 1970, and concurrently filed a registration statement on Form S-5 under the Securities Act of 1933 for the public offer and sale of shares of its common stock. Applicant states that this registration statement was never declared effective, and was formally withdrawn pursuant to its request on June 19, 1978.

Applicant further states that on August 10, 1970, it issued 125,000 shares of its common stock to Michigan Credit Union Employees Pension Plan (the "Plan") in a private placement transaction, and that during the period from August 10, 1970, to February 29, 1972, Applicant issued an additional 699,915 shares of its common stock to the Plan. Applicant represents that on July 3, 1973, ICU Services Corporation, Applicant's current investment adviser, purchased all of Applicant's outstanding shares from the League Life Insurance Company, a wholly owned subsidiary of the Michigan Credit Union League which had purchased all of the shares of the Applicant held by the Plan. Applicant further represents that it has not issued any shares since July 3, 1973, except those shares resulting from the automatic reinvestment of dividends paid to Applicant's sole stockholder, ICU Services Corporation.

Applicant states that on June 30, 1978, it made an in-kind liquidating distribution to its sole stockholder, ICU Services Corporation, pursuant to a plan of liquidation adopted by Applicant's board of directors and approved by its sole stockholder.

Applicant represents that it currently has no assets, except for $100 in a checking account which will be distributed to its sole shareholder upon final dissolution of the Applicant and will not be invested in securities. Applicant further represents that it has no outstanding debts or other liabilities, is not a party to any pending litigation or administrative hearing, has ceased all business activities and does not propose to engage in any business activities other than activities necessary for the final winding up of its affairs, and that, upon approval of this application, intends to take the necessary action to formally dissolve under the laws of the State of Maryland.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the affectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 5, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-1754 Filed 1-17-79; 8:45 am]

[8010-01-M]

[Release No. 34-15493; File No. SR-OCC-79-1]

OPTIONS CLEARING CORP.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 4, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Proposed rule change would permit OCC, if it so elected, to charge to its current earnings losses otherwise required to be charged pro rata against the Clearing Fund contributions of its Clearing Members.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to permit OCC to elect to charge to its current earnings losses which would otherwise be required to be charged pro rata against the Clearing Fund contributions of its Clearing Members. In recent years, OCC has followed a practice of refunding to Clearing Members, in the form of clearing fee rebates, most of its current earnings. The proposed rule change would permit OCC to use those earnings to discharge obligations to which its Clearing Members would otherwise be subject, instead of refunding them.

The rule change would enable OCC to absorb certain losses with its own assets, without resorting to the cumbersome mechanism of a pro rata charge.

Whether to charge a particular loss to current earnings or to the Clearing Fund would be left to the descretion of OCC, and would depend on such factors as OCC's cash position and commitments at the time of the loss.

The proposed rule change relates to the equitable allocation of reasonable charges among OCC's Clearing Members.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change would impose any burden on competition.

On or before February 22, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C., 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 8, 1979.

For the Commision by the Division of Market Regulation, pursuant to delegate authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 12, 1979.

[FR Doc. 79-1758 Filed 1-17-79; 8:45 am]

[8010-01-M]

[Release No. 6013; 18-24]

RETIREMENT PLAN FOR LEGAL AND OTHER PERSONNEL OF CAHILL GORDON & REINDEL

Filing of Application for an Order Exempting From Provisions Interests or Participations

JANUARY 10, 1979.

Notice is hereby given that Cahill Gordon & Reindel (the "Applicant" or the "Firm"), 80 Pine Street, New York, NY 10005, a law firm organized as a partnership under the laws of the State of New York, on April 25, 1978, filed an application for an exemption from the registration requirements of the Securities Act of 1933 (the "Act") for participations or interests issued in connection with its Retirement Plan for Legal and Other Personnel (the "Plan"). All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

INTRODUCTION

The Plan covers Applicant's partners and full-time salaried employees who have attained age 25 and have completed three years of service with the Firm. At September 30, 1978, 44 partners, 49 other attorneys and 61 non-legal employees were participating.

Applicant states that the Plan is of the type commonly referred to as a "Keogh" plan which covers persons (in this case, Applicant's partners) who are "employees" within the meaning of Section 401(c)(1) of the Internal Revenue code of 1954 (the "Code") and, therefore, the exemption provided by Section 3(a)(2) of the Act is inapplicable to interests in the Plan, absent an order of the Commission issued under said Section 3(a)(2).

In relevant part, Section 3(a)(2) provides that the Commission, by rules and regulations or order, shall exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

DESCRIPTION AND ADMINISTRATION OF THE PLAN

Applicant states that the Plan was originally established effective as of January 1, 1968 and was amended most recently, effective October 1, 1976, primarily to comply with the requirements of the Employee Retirement Income Security Act of 1974 ("ERISA"). Applicant has received a determination letter from the Internal Revenue Service that the Plan, as so amended, meets the requirements for qualification under Section 401 of the Code.

Applicant contributes to the Plan for each fiscal year in respect of each participating partner that amount, if any, designated by such partner not exceeding 7% of an amount equal to the lesser of such partner's share of Firm net income for such year or $100,000, less the applicable Social Security wage base for that year. In respect of each participating employee, Applicant contributes 7% of an amount equal to the lesser of the employee's nondeferred compensation for that fiscal year or $100,000, less the applicable Social Security wage base for such year. A participant may make voluntary contributions to the Plan of up to 10% of such participant's aggregate compensation (or share of Firm income) for all years during which such person has been a participant, subject to certain limitations. The interest of each participant in the Plan is fully vested at all times.

The Plan is administered by three Trustees under an amended Trust Agreement (the "Trust Agreement") who are appointed by and serve at the pleasure of the Firm. The present Trustees are all partners of the Firm. All assets of the Plan are maintained by Marine Midland Bank. Applicant has retained Wertheim Asset Management Services Incorporated as the registered investment adviser for the Plan and Stone, Young & Co., actuaries, as employee benefit plan consultants.

The Plan provides that the trustees establish rules for the administration of the Plan, interpret its provisions and have authority over the investment of the Plan's funds. However, the investment adviser has been given authority to designate the investment securities in which Plan assets are to be invested.

Applicant states that all contributions under the Plan are paid to a single trust maintained by marine Midland Bank. Such funds are invested in two investment funds maintained solely and separately for the investment of Plan moneys. The first fund is a fixed income fund consisting of obligations issued or guaranteed by the United States or an instrumentality thereof or by a State or political subdivision thereof, bonds, notes or debentures and deposits in banks, trust companies or savings banks. The second fund is a discretionary fund consisting of such securities and other investments as the Trustees of the Plan deem proper and suitable. While the Trust Agreement allows Plan assets to be commingled in collective

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funds and pooled for joint ventures into oil and gas drilling, Applicant represents that no such commingling or pooling has occurred, nor is either contemplated.

Applicant states that if the partnership were a corporation, interests and participations in the Plan would be exempt under Section 3(a)(2) of the Act. Applicant submits that merely because it is unincorporated is no reason for subjecting such interests and participations to the registration requirements of the Act. Applicant further submits that the intent of Congress in excluding from the exemption plans in which self-employed persons were participants was to prevent the sale without registration of interests in prepackaged plans offered by financial institutions to self-employed persons lacking the sophistication to protect themselves and their employees, and that the provision permitting the Commission to grant exemptions upon application included in Section 3(a)(2) of the Act makes available an exemption for partnership plans where the plan and the entity involved are comparable to corporate plans exempted by Section 3(a)(2).

Applicant also states that the Plan covers partners and employees of a single firm and is not a uniform prototype plan of a type designed to be marketed by a sponsoring financial institution or promoter to numerous unrelated self-employed persons. Applicant represents that assets of the Plan have not been and will not be commingled in any collective investment fund unless such fund has been registered under the Act.

Applicant represents that it has not distributed and does not intend to distribute any type of promotional material relating to the Plan (other than such material as Applicant is required under ERISA to distribute to participants or to employees) and has not made and does not intend to make any solicitation of voluntary contributions under the Plan.

Applicant states that it is engaged in furnishing legal services of a type which necessarily involves sophisticated and complex financial matters and, for that reason as well as the extensive administrative control over the Plan maintained by the Firm, is able to represent adequately its interests and the interests of its employees who are participants in the Plan.

Applicant concludes that for the foregoing reasons, granting the requesting exemptive order would be appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 5, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement of the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request to be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following February 5, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notice or order issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-1755 Filed 1-17-79; 8:45 am]

[8010-01-M]

[Rel. No. 20882; 70-6253]

EASTERN UTILITIES ASSOCIATES

Proposed Issuance and Sale of Notes and Request for Exemption From Competitive Bidding

JANUARY 10, 1979.

Notice is hereby given that Eastern Utilities Associates ("EUA"), P.O. Box 2333, Boston, Massachusetts 02107, a registered holding company, has filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7 and 12(c) of the Act and Rules 42(b)(2) and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

EUA proposes to issue and sell by negotiation to institutional investors $22,500,000 aggregate principal amount of unsecured notes ("New Notes"), having a maturity of up to 20 years from date of issuance. The proceeds from the sale of the New Notes will be used (i) to prepay EUA's remaining collateral trust bonds. 3¾% Series due 1979 ("Bonds"), which are now outstanding in the principal amount of $2,437,000; (ii) to prepay EUA's serial notes ("Serial Notes"), which are held by two banks and are now outstanding in the principal amount of $20,000,000; and (iii) to add to EUA's treasury cash.

The Bonds, which mature December 1, 1979, were issued and sold pursuant to an order dated November 30, 1954 (HCAR No. 12717), in the original principal amount of $7,250,000, which amount has been reduced to $2,437,000 through the operation of a sinking fund (and purchases in anticipation of its requirements).

The Bonds are secured under an indenture and deed of trust between EUA and the First National Bank of Boston, successor trustee, by a lien on all the shares of common stock of EUA's three direct electric utility subsidiaries. The Bonds are now subject to redemption at their principal amount plus accrued interest to date of redemption, without premium.

The Serial Notes were issued and sold pursuant to an order dated September 3, 1976 (HCAR No. 19670), under separate loan agreements with The First National Bank of Boston in the principal amount of $11,500,000 ("First National Note") and the Chase Manhattan Bank in the principal amount of $8,500,000 ("Chase Note"). The First National Note bears interest at 125% of the sum of ½ of 1% plus the prime rata in effect from time to time at The First National Bank of Boston. The Chase Note bears interest at 115% of the "applicable rate" in effect at the Chase Manhattan Bank, such rate being the higher of (i) said bank's prime commercial rate or (ii) the sum of ½ of 1% plus the average rate per annum (on a discount basis and adjusted to the nearest higher ¼ of 1%) for 90 to 119 day dealer placed, prime commercial paper. EUA also pays on the Chase Note a finance fee at a rate per annum equal to 15% of the "applicable rate" together with the payments of interest.

The Serial Notes mature in semi-annual installments of $3,333,334 each commencing November 30, 1979, and ending on May 31, 1982. Each Serial Note is prepayable, in whole or in part (not less than $250,000), at any time without penalty, provided that each prepayment of one Serial Note must be accompanied by a concurrent pro rate prepayment of the other Serial Note. The loan agreements relating to the Serial Notes provide in effect that if EUA issues additional or new collateral trust bonds, it must secure the Serial Notes by pledging and delivering to each holder of the Serial Notes a principal amount of such additional or new collateral trust bonds equal to the principal amount of that holder's

Serial Notes which are to remain outstanding. In addition the loan agreement relating to the Chase Note requires that the net proceeds of any issue of common shares by EUA after November 30, 1979, be applied to pro rata prepayments of the Serial Notes.

It is stated that EUA recognizes that the authorization of the issuance and sale of the Serial Notes represented an exception to the Commission's general policy of not permitting the issuance of long-term or intermediate-term indebtedness by holding companies. EUA management believes, after discussion with representatives of Reis and Chandler, its financial advisor, that in order to achieve the most economical financing of the cash requirements of the EUA system, it is desirable for EUA to continue to have long-term indebtedness in approximately the same amount now represented by the Bonds and the Serial Notes, and that a refunding of the Bonds and Serial Notes, at or prior to the December 1, 1979, maturity of the Bonds, by the issuance of securities such as the New Notes will be the most advantageous course for EUA to take. In support of this conclusion it is noted that EUA has issued and sold common shares in each of the years 1974 through 1978, each such sale being at a price which resulted in proceeds to EUA of less than book value, resulting in a continued dilution of existing shareholders' equity, that contemplated further sales of common shares in 1979, 1980 and 1981 may also be below book value and that such sales and dilution cannot continue indefinitely without impairing the marketability of such shares. If the Serial Notes remain outstanding, the problem will be intensified because of the Chase Note loan agreement provision requiring prepayment from sales of common shares after November 30, 1979.

Management also believes that an extension of EUA's long-term debt is desirable in order to make it as nearly certain as possible that short-term loans will be available from the EUA system's bank connections as needed.

It is further stated that after discussions with representatives of Reis & Chandler and of Paine, Webber, Jackson & Curtis, Inc., EUA management also has reason to believe that there presently exists an institutional market for securities of the general character of the New Notes, which can be sold upon relatively favorable terms, particularly if the sale can be made as early as possible in 1979, and that such a sale is more likely to produce favorable terms for EUA than would a sale of bonds or notes at competitive bidding. It is thought that one of the terms of the New Notes would be a provision for sinking fund payments over a 15 year period commencing after an initial 5 year period during which refunding from proceeds of debt having a lower interest cost would be prohibited. Thus the replacement of EUA's present long-term debt with the New Notes would have the effect of spreading principal payments over a longer term, with smaller annual cash requirements. In addition, the expected interest rate on the New Notes would be lower than that of the Serial Notes, unless the prime rate falls below 8%.

EUA requests an exemption from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a)(5). In support thereof, EUA states that competitive bidding for a $22,500,000 long-term debt issue would be impracticable due to (1) the size of the issue, (2) the fact that it would be a holding-company debt, and (3) the Ba rating which would be expected on such an issue. EUA also claims that while it believes that there exists an institutional market for the New Notes at this time, a delay in refinancing the Serial Notes with the New Notes could result in the disappearance of such market so that the refinancing might have to be accomplished under adverse market conditions.

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 7, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such a request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this manner, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-1795 Filed 1-17-79; 8:45 am]

[8010-01-M]

[Rel. No. 20885; 70-6254]

LOUISIANA POWER & LIGHT CO.

Proposed Issuance and Sale of Preferred Stock at Competitive Bidding

JANUARY, 11, 1979.

Notice is hereby given that Louisiana Power & Light Company ("LP&L"), 142 Delaronde Street, New Orleans, Louisiana 70174, and electric utility subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

LP&L intends to establish, by appropriate corporate action, a new series of its Preferred Stock, Cumulative, $100 par value, which shall consist of 350,000 shares ("Stock"), and to issue and sell the Stock, subject to the competitive bidding requirements of Rule 50 under the Act. The dividend rate of the Stock (which will be a multiple of ½₅th of 1%) and the price to be paid to LP&L for the Stock (which will be not less than $100 nor more than $102.75 per share) will be determined by the competitive bidding. The terms of the Stock, will include a prohibition until March 1, 1984, against refunding the Stock, directly or indirectly, with funds derived from the issuance of debt securities at a lower effective interest cost or from the issuance of other stock, which ranks prior to or on a parity with the Stock as to dividends or assets, at a lower effective dividend cost.

LP&L will apply the net proceeds derived from the issuance an sale of the Stock to the payment in part of short-term borrowings estimated to total $107,000,000 at the time the sale proceeds are received and to the financing in part of the company's construction program.

The fees, commission, and expenses incurred or to be incurred in connection with the proposed transaction total $145,000, including counsel fees

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of $46,500, printing and engraving costs of $42,500, auditor's fees of $13,500 and miscellaneous expenses of $15,307. In addition, the fee of counsel for the successful bidders is estimated at $17,000, and is to be paid by the successful bidders. LP&L states that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later that February 7, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemptions from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate regulations, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-1796 Filed 1-17-79; 8:45 a.m.]

[8010-01-M]

[Rel. No. 15484; SR-MSE-78-21]

MIDWEST STOCK EXCHANGE, INC.

Correction of Order Approving Proposed Rule Change

JANUARY 9, 1979.

In FR Doc. 78-34215 appearing at page 57708 in the FEDERAL REGISTER of December 8, 1978, the Commission approved a proposed rule change filed by the Midwest Stock Exchange, Incorporated ("MSE"), 120 South LaSalle Street, Chicago, Illinois 60603. The proposed MSE rule change provided two additional exceptions to the rule restricting trading in out-of-the-money options. First, investors would be permitted to enter an order for out-of-the-money options provided such order would result in a spread position. Second, investors would be permitted to purchase (opening) out-of-the-money puts provided such position is offset in the account by long stock or convertible security positions. In announcing that approval, Securities Exchange Act ("SEA") Release No. 15378 (December 1, 1978) should read "Such exception would not permit an investor to initiate an opening purchase or sale in out-of-the-money options and subsequently execute the other side of the spread." In SEA Release No. 15378 the "not" was inadvertently omitted.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-1797 Filed 1-17-79; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-185]

PERSONAL FLOTATION DEVICE RESEARCH

Open Meeting

Notice is hereby given that the Coast Guard will hold a meeting to discuss a recently completed Coast Guard research report on Personal Flotation Devices (PFD's) and the future direction of Coast Guard research in the PFD area. The meeting will be held at 9:00 a.m. on 1 February 1979 at Underwriters' Laboratories, Inc., Northbrook Office, in Meeting Rooms A, B, and C of Building 6 (Main Bldg.), 333 Pfingsten Road, Northbrook, Illinois 60062.

A contract research project on the performance of inherently buoyant PFD's in comparison with inflatable PFD's has recently been completed. The report, in three volumes, is available to the public through the National Technical Information Service, Springfield, VA 22161; telephone 703-557-4650. The following ordering information is necessary.

Title	NTIS No.	Price
PFD Research, Phase II, Volume I (Executive Summary).	ADA058737	$5.25
PFD Research, Phase II, Volume II (Basic Report).	ADA058738	$15.25
PFD Research, Phase II, Volume II (Appendices).	ADA058739	$3.00

NOTE.—Volume III is available in microfiche only.

The Coast Guard has received requests from individual members of the PFD industry for an opportunity to present technical comments on the research report and to discuss the report. The Coast Guard has also received requests for an opportunity to discuss further research in the PFD area. This meeting has been scheduled to provide an opportunity for members of the PFD industry and the public to participate in the exchange of information. Emphasis of the discussions is expected to be on volume II of the report. It is recommended that persons wishing to attend the meeting read Volume II of the research report beforehand.

This meeting is open to the public. Seating capacity is limited. Anyone wishing to attend should contact Mr. Sam Wehr, U.S. Coast Guard Headquarters (G-MMT-3/83), Washington, D.C. 20590; telephone number 202-426-1444.

Dated: January 12, 1979.

E. A. DELANEY,
Captain, U.S. Coast Guard,
Acting Chief, Office of Boating Safety.

[FR Doc. 79-1801 Filed 1-17-79; 8:45 am]

[4910-14-M]

[79-004]

SHIP STRUCTURE SUBCOMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Ship Structure Subcommittee to be held Thursday, March 1, 1979 at 9:30 A.M. in the Federal Building, 500 Camp Street, New Orleans, Louisiana. The agenda for this meeting is as follows: The current research programs of the Ship Structure Committee will be discussed and reviewed, and recommendations for future continuing research work will be developed.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify LCDR T. H. Robinson, USCG, Secretary, Ship Structure Committee, U.S. Coast Guard Headquarters, Washington, D.C. 20590, (202) 426-2205 not later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

HENRY H. BELL,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Merchant Marine Safety.

JANUARY 12, 1979.

[FR Doc. 79-1800 Filed 1-17-79; 8:45 am]

[4910-13-M]

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA), SEPARATION STUDY REVIEW GROUP

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Separation Study Review Group to be held February 13 and 14, 1979, RTCA Conference Room 261, 1717 H Street, N.W., Washington, D.C., commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Third Meeting held May 31 and June 1, 1978; (3) Status Report on FAA Separation/Navigation Standards Program; (4) Summary and Discussion of Preliminary Results of Data Collected in Cleveland Air Route Traffic Control Center; (5) Report and Discussion of Mathematical Modeling for Separation Study; (6) Report and Discussion on the Lateral Separation of Parallel Routes in Procedural Control Airspace; (7) Report and Discussion on Lateral Separation of Parallel Routes in Air Space with Active Surveillance; (8) Report on the Study of Separation Intersecting or Non-Parallel Routes; (9) Report on VOR Component Error Analysis; (10) Report on the VOR Flight Inspection for Data Collection; and (11) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on January 8, 1979.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 79-1719 Filed 1-17-79; 8:45 am]

[4910-13-M]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA), SPECIAL COMMITTEE 133

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463); 5 U.S.C. App. 1) notice is hereby given of a meeting of the RTCA Special Committee 133 to be held February 6-8, 1979 in the RTCA Conference Room 261, 1717 "H" Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Remarks; (2) Approval of the Minutes of the Sixth Meeting held September 19-21, 1978; (3) ARB/RACON *ad hoc* Working Group Report; (4) Briefing on Vega Transponder Model 367X; (5) Review EUROCAE WG-3 Comments on the SC-133 MOPS and EUROCAE's Fifth Draft Minimum Performance Standards for an Airborne Radar; (6) Working Group Reports; (7) Discussion on the Weather Radar Portion of the MOPS; (8) Assignment of Tasks, and (9) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 "H" Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on January 5, 1979.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 79-1720 Filed 1-17-79; 8:45 am]

[4910-06-M]

Federal Railroad Administration

[FRA Waiver Petition Docket HS-78-14]

GREAT SOUTHWEST RAILROAD CO.

Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR Section 211.41 and Section 211.9, notice is hereby given that the Great Southwest Railroad (GSW) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64a(e)). That petition requests that the GSW be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The GSW seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS-78-14, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590. Communications received before February 16, 1979, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 4406, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590.

(Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), Sec. 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d).)

Issued in Washington, D.C. on January 12, 1979.

ROBERT H. WRIGHT,
Acting Chairman,
Railroad Safety Board.

[FR Doc. 79-1792 Filed 1-17-79; 8:45 am]

[4910-60-M]

Materials Transportation Bureau

EXEMPTIONS OR APPLICATIONS TO BECOME A PARTY TO AN EXEMPTION

Renewal or Modification Applications

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application To Become a Party to an Exemption.

V 4 4 / 1 3 J A 1 8 7 9 UMI

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier FEDERAL REGISTER publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes February 2, 1979.

ADDRESSED TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION:

Copies of the applications are available for inspection in the Dockets Branch, Room 6500, Trans Point Building, 2100 Second Street, S.W., Washington, D.C.,

Application No.	Applicant	Renewal of Exemption
1479-X	Rockwell International, Canoga Park, Calif.	1479
3330-X	Teledyne Wah Chang Albany Corp., Albany, Oreg.	3330
4575-X	Kaiser Aluminum and Chemical Corp., Oakland, Calif.	4575
4845-X	Graviner Limited, Slough, England.	4845
5062-X	Dow Chemical U.S.A., Plaquemine, La.	5062
5206-X	Monsanto Co., St. Louis, Mo.,	5206
5792-X	Chemplex Co., Rolling Meadows, Ill.	5792
6080-X	Air Products and Chemicals, Inc., Allentown, Pa. (See Footnote 1).	6080
6113-X	Chemplex Co., Rolling Meadows, Ill.	6113
6215-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. (See Footnote 2).	6215
6418-X	Dow Chemical Co., Midland, Mich.	6418
6466-X	Monsanto Co., St. Louis, Mo.,	6466
6517-X	Coyne Cylinder Co., Huntsville, Ala.	6517
6571-X	Chemplex Co., Rolling Meadows, Ill.	6571
6614-X	FMC Corp., Philadelphia, Pa	6614
6686-X	Chilton Metal Products Division, Chilton, Wis. (See Footnote 3).	6686
6752-X	Pennwalt Corp., Philadelphia, Pa. (See Footnote 4).	6752
6826-X	McDonnell Douglas Astronautics Co., Huntington Beach, Calif.	6826
6919-X	Chemplex Co., Rolling Meadows, Ill.	6919
6960-X	PepsiCo, Inc., Purchase, N.Y.	6960
7005-X	Lowaco, S.A., Geneva, Switzerland.	7005
7010-X	Great Lakes Chemical Corp., West Lafayette, Ind. (See Footnote 5).	7010
7010-X	Great Lakes Chemical Corp., West Lafayette, Inc. (See Footnote 6).	7010
7023-X	Hi-Pure Chemicals Inc., Nazareth, Pa.	7023
7056-X	Diamond Shamrock Corp., Cleveland, Ohio.	7056
7207-X	Matheson Gas Products, Lyndhurst, N.J.	7207
7423-X	Reade Manufacturing Company, Inc., Lakehurst, N.J.	7423
7444-X	James Russell Engineering Works, Inc., Boston, Mass.	7444
7458-X	Ekohwerks Co., Eastlake, Ohio.	7458
7495-X	General American Transportation Corp., Sharon, Pa. (See Footnote 7).	7495
7603-X	Air Products and Chemicals, Inc., Allentown, Pa.	7603
7694-X	Borg Warner Corp., Van Nuys, Calif.	7694
7701-X	Orval Manutention, Paris, France.	7701
7735-X	Rheem Manufacturing Co., Linden, N.J.	7735
7830-X	Orval Manutention, Paris, France.	7830
7870-X	Explogiochi, S.P.A., Barberino Di Mugello, Italy.	7870
7876-X	Allied Chemical Corp., Morristown, N.J.	7876
7942-X	Chevron U.S.A. Inc., San Francisco, Calif.	7942
8000-X	Fauvet-Girel, Paris, France (See Footnote 8).	8000
8118-X	Magna Corp., Houston, Tex...	8118

Application Number	Applicant	Party to Exemption
2787-P	Mitsubishi International Corp., New York, N.Y.	2787
4717-P	Chemplex Co., Rolling Meadows, Ill.	4717
6762-P	Taylor Chemicals, Inc., Baltimore, Md. (See Footnote 1).	6762
6765-P	Jack B. Kelley, Inc. Amarillo, Tex.	6765
7005-P	Societe Anonyme Pour L'Industrie Chimique, Mulhouse, France.	7005
7015-P	Jack B. Kelley, Inc. Amarillo, Tex.	7015
7060-P	Summit Airlines, Philadelphia, Pa.	7060
7423-P	The Metals Selling Corp., Putnam, Conn.	7423
7483-P	Compagnie Generale Maritime Paris, France.	7483
7819-P	Societe Anonyme Pour L'Industrie Chimique, Mulhouse, France.	7819
7924-P	Ray-O-Vac Division, Madison, Wis.	7924
8002-P	Transcontainer Leasing, S.A., Geneva, Switzerland.	8002
8002-P	Compagnie des Containers Reservoirs, Neuilly-sur-Seine, France.	8002
8047-P	Compagnie des Containers Reservoirs, Neuilly-sur-Seine, France.	8047

[1] To become a party to the exemption and to add strong, rigid plastic cases as authorized packaging for chemical kits.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on January 11, 1979.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-1613 Filed 1-18-79; 8:45 am]

[1] To provide for additional tube trailers with an increased volumetric capacity of approximately 60% over the current tube trailers for nitric oxide.

[2] Renewal and to delete requirement to compute the capacity of the safety relief valves on a bare tank basis, and to make editorial changes to paragraph 8j.

[3] To authorize shipment of methylacetylene-propadiene, stabilized in DOT-39 cylinders having seams formed by a brazing alloy containing not more than 60% copper.

[4] To renew and provide for additional trailer having 38 tubes instead of 30 for difluorethylene.

[5] To provide rail freight as an additional mode of transportation.

[6] To authorize bromine protable tanks to be double-stacked on-board vessel.

[7] To include sulfur dioxide as an additional commodity.

[8] To provide for certain design and volumetric capacity changes to portable tanks.

[4910-60-M]

OFFICE OF HAZARDOUS MATERIALS REGULATION

Applications for Exemptions

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein.

DATES: Comment period closes February 20, 1979.

ADDRESSED TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION:

Copies of the applications are available for inspection in the Dockets Branch, Room 6500, Trans Point Building, 2100 Second Street, SW., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

NEW APPLICATION

Application No.	Applicant	Regulation(s) Affected	Nature of Application
8121-N	Republic Steel Corp., Cleveland, Ohio	49 CFR 173.245	To authorize shipment of compound cleaning liquid, corrosive material, in DOT Specification 57 portable tanks. (mode 1)
8122-N	International Business Machines Corp., Princeton, N.J.	49 CFR 173.263	To authorize shipment of hydrochloric acid mixture in non-DOT specification fiberglass reinforced plastic portable tank. (mode 1)
8123-N	Texas Instruments Inc., Dallas, Tex	49 CFR Part 173	To ship various hazardous materials in non-DOT specification plastic overpack containing multiple 1-gallon DOT Specification 2E bottles or prescribed metal containers. (mode 1)
8124-N	Alloy Products Corp., Waukesha, Wis	49 CFR 173.119, 173.245	To manufacture, mark and sell a non-DOT specification steel drum having a 6 inch closure for the shipment of certain flammable liquids and corrosive materials. (mode 1)
8125-N	Fauvet Girel, Paris, France	49 CFR 173.315	To authorize shipment of various liquefied gases in non-DOT specification ISO-IMCO Type 5 high pressure portable tanks. (modes 1, 2, 3)
8126-N	Fauvet Girel, Paris, France	49 CFR 173.315	To authorize shipment of various liquefied gases in non-DOT specification ISO-IMCO Type 5 low pressure portable tanks. (modes 1, 2, 3)
8127-N	Societe Nationale Des Poudres et Explosifs, Bergerac, France.	49 CFR 173.217, 173.184	To authorize shipment of nitrocellulose wet in non-DOT specification fiber drums similar to DOT Specification 21C. (modes 1, 3)
8129-N	RAD Service Inc., Laurel, Md	49 CFR 173.245	To authorize shipment of certain corrosive liquids (1-pint to 1-gallon capacity) packed in bottles surrounded by absorbent material within DOT Specification 17H or 6J removable head drums for disposal. (mode 1)
8130-N	Union Oil Company of California, Los Angeles, Calif.	49 CFR 173.1080	To authorize shipment of sulfur, dry, in specially designed freight containers. (mode 3)
8131-N	National Aeronautics and Space Administration, Washington, D.C.	49 CFR 173.34(d), 173.302(a), 173.301(d), 175.3.	To authorize the shipment of oxygen in a specially designed metal pressure vessel. (modes 1, 2, 4)
8132-N	Rockwell International, Richland, Wash	49 CFR 173.363, 173.365	To authorize a one time shipment of beryllium compound, n.o.s. in a non-DOT specification wooden box. (mode 1)
8133-N	Alpha Chemical Co, Lake Charles, La	49 CFR 173.272(g)(25), 178.343.	To authorize shipment of corrosive liquid, n.o.s. in non-DOT specification stainless steel cargo tank trucks. (mode 1)
8134-N	J. T. Baker Chemical Co., Phillipsburg, N.J	49 CFR 173.268, 173.269	To ship nitric acid or perchloric acid in DOT-12R packages having inside glass bottles closed with liner-less polypropylene caps. (modes 1, 2, 3)
8135-N	Schlumberger Well Services, Houston, Tex	49 CFR 173.80, 173.110, 175.320.	To authorize shipment of charged oil well jet perforating guns, Class A or C explosives by cargo-only aircraft. (mode 4)
8136-N	Eastman Kodak Co., Rochester, N.Y	49 CFR 173.245	To authorize shipment of phosphoric acid not to exceed 85% strength in DOT Specification 57 stainless steel portable tanks. (mode 1)
8137-N	Ensign Bickford Co., Simsbury, Conn	49 CFR 173.66(b), (c)	To authorize shipment of blasting caps, Class C explosive, in a DOT Specification 12H fiberboard box without inner packaging. (mode 1)
8139-N	Utility Chemical Co., Paterson, N.J	49 CFR 173.217	To authorize shipment of a solid oxidizer in non-DOT specification polyethylene pail placed inside a plastic bag, overpacked in a fiberboard box. (modes 1, 2, 3)
8140-N	CNG Services Inc., Pittsburgh, Pa	49 CFR 173.301(d)(2), 173.302(a)(3).	To authorize shipment of natural gas in DOT Specification 3AAX cylinders. (mode 1)
8141-N	GTE Sylvania, Needham, Mass	49 CFR 173.206(a)(1)	To authorize shipment of lithium batteries in non-DOT specification wooden box. (mode 1)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on January 11, 1979.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-1743 Filed 1-17-79; 8:45 am]

V 4 4 / 1 3 J A 1 8 7 9 UMI

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Permanent Authority Decisions Volume No. 1]

PERMANENT AUTHORITY APPLICATION

Decision-Notice

JANUARY 4, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after January 18, 1979.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, of the United States Code and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 (1978) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a noncomplying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

H. G. HOMME, JR.,
Secretary.

MC 1759 (Sub-38F), filed November 6, 1978. Applicant: FROEHLICH TRANSPORTATION CO., INC., Federal Rd., Danbury, CT 06810. Representative: Thomas W. Murrett, 342 N. Main St., West Hartford, CT 06117. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meat and meat products,* (except commodities in bulk), from New York, NY, to points in RI. (Hearing site: New York, NY, or Hartford, CT.)

NOTE: Purpose of application is to substitute single-line for joint-line operations.

MC 2202 (Sub-572F), filed November 6, 1978. Applicant: ROADWAY EXPRESS, INC., a Delaware corporation, P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Neosho, MO, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Joplin or Springfield, MO.)

MC 3854 (Sub-45F), filed October 23, 1978. Applicant: BURTON LINES, INC., P.O. Box 11306, East Durham Station, 815 Ellis Rd., Durham, NC 27703. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th St., NW, Washington, DC 20004. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *building materials and industrial asphalt,* from points in Carteret County, NC, to points in VA. (Hearing site: Washington, DC.)

MC 8958 (Sub-32F), filed November 27, 1978. Applicant: THE YOUNGSTOWN CARTAGE CO., An Ohio Corporation, 825 West Federal Street, P.O. Box 119, Youngstown, OH 44501. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* (1) from points in CT, MA, and RI, to those points in MI on, east, and south of a line beginning at the IN-MI State line and extending along U.S. Hwy 27 to junction MI Hwy 20, then along MI Hwy 20 to the Saginaw Bay, (2) between those points in NJ on and south of Interstate Hwy 80, those points in PA on, south, and east of a line beginning at the NJ-PA State line and extending along Interstate Hwy 80 to junction U.S. Hwy 15, then along U.S. Hwy 15 to the PA-MD State line, and those points in MD on and east of U.S. Hwy 15, on the one hand, and, on the other, those points in OH on, south, and east of a line beginning at the WV-OH State line and extending along U.S. Hwy 22 to junction U.S. Hwy 23, then along U.S. Hwy 23 to the OH-KY State line, (3) between those points in PA on and west of U.S. Hwy 15, on the one hand, and, on the other, those points in OH on and south of a line beginning at the OH-WV State line and extending along U.S. Hwy 22 to junction U.S. Hwy 250, then along U.S. Hwy 250 to Dennison, OH, then along U.S. Hwy 36 to junction Interstate Hwy 77, then along Interstate Hwy 77 to junction U.S. Hwy 250, then along U.S. Hwy 250 to junction OH Hwy 21, then along OH Hwy 21 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction OH Hwy 309 (formerly U.S. Hwy 30S), then along OH Hwy 309 to junction U.S. Hwy 30, then along U.S. Hwy 30 to the OH-IN State line, (4) between points in Hancock, Brooke, Ohio, and Marshall Counties, WV, on the one hand, and, on the other, those points in OH on and south of a line beginning at the OH-WV State line and extending along U.S. Hwy 22 to junction U.S. Hwy 250, then along U.S. Hwy 250 to Dennison, OH, then along U.S. Hwy 36 to junction Interstate Hwy 77, then along Interstate Hwy 77 to junction U.S. Hwy 250, then along U.S. Hwy 250 to junction OH Hwy 21, then along OH Hwy 21 to junction Interstate Hwy 77, then along Interstate Hwy 77 to junction OH Hwy 21, then along OH Hwy 21 to junction OH Hwy 82, then along OH Hwy 82 to junction U.S. Hwy 42, then along U.S. Hwy 42 to junction U.S. Hwy 224, then along U.S. Hwy 224 to junction Interstate Hwy 75, then along Interstate Hwy 75 to junction OH Hwy 309 (formerly U.S. Hwy 30S), then along OH Hwy 309 to junction U.S. Hwy 30, then along U.S. Hwy 30 to the OH-IN State line, (5) from those points in OH on, west, and south of a line beginning at Sandusky, OH, and extending along OH Hwy 13 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction OH Hwy 21, then along OH Hwy 21 to junction Interstate Hwy 77, then along Interstate Hwy 77 to junction OH Hwy 7, then along OH Hwy 7 to junction U.S. Hwy 33, then along U.S. Hwy 33 to the OH-WV State line (except Toledo, OH), to Chicago and Belvidere, IL, those points in Lake and Porter Counties,

IN, which are on and north of U.S. Hwy 30, points in Cook, McHenry, DuPage, DeKalb, Grundy, Kane, Kendall, and Will Counties, IL, those points in LaSalle County, IL, which are within 50 miles of Oswego, IL, and points in Kenosha and Walworth Counties, WI, (6) from Chicago and Belvidere, IL, points in Kenosha and Walworth Counties, WI, those points in LaSalle County, IL, which are within 50 miles of Oswego, IL, points in Cook, McHenry, DuPage, Lake, DeKalb, Grundy, Kane, Kendall, and Will Counties, IL, and those points in Lake and Porter Counties, IN, which are on and north of U.S. Hwy 30 to (a) those points in OH on, west, and south of a line beginning at Toledo, OH, and extending along U.S. Hwy 23 to junction OH Hwy 309 (formerly U.S. Hwy 30S), then along OH Hwy 309 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction OH Hwy 21, then along OH Hwy 21 to junction Interstate Hwy 77, then along Interstate Hwy 77 to junction OH Hwy 7, then along OH Hwy 7 to junction U.S. Hwy 33, then along U.S. Hwy 33 to the OH-WV State line, and (b) those points in MI, within an area defined by a line beginning at the Saginaw Bay and extending along MI Hwy 20 to junction U.S. Hwy 27, then along U.S. Hwy 27 to junction Interstate Hwy 94, then along Interstate Hwy 94 to Detroit, then from Detroit along MI Hwy 24 to junction MI Hwy 138, then along MI Hwy 138 to junction MI Hwy 25, then along MI Hwy 25 to the Saginaw Bay at Bay Port, MI, (7) between those points in MI on, south, and east of a line beginning at Port Huron and extending along MI Hwy 21 to junction U.S. Hwy 27, then along U.S. Hwy 27 to the MI-IN State line, on the one hand, and, on the other, those points in OH on, west, and south of a line beginning at Lake Erie and extending along OH Hwy 21 to junction Interstate Hwy 77, then along Interstate Hwy 77 to junction OH Hwy 21, then along OH Hwy 21 to junction U.S. Hwy 250, then along U.S. Hwy 250 to the OH-WV State line, (8) from those points in OH on, west, and south of a line beginning at Sandusky, OH, and extending along OH Hwy 13 to junction U.S. Hwy 30, then along U.S. Hwy 30 to the OH-WV State line (except Toledo, OH), to those points in MI within an area defined by a line beginning at Port Huron, MI, and extending along MI Hwy 21 to junction U.S. Hwy 27, then along U.S. Hwy 27 to junction MI Hwy 20, then along MI Hwy 20 to the Saginaw Bay, and (9) between points in Allegheny, Washington, and Westmoreland Counties, PA, on the one hand, and, on the other, points in CT, DE, MA, NJ, NY, RI, and those in MD on and east of U.S. Hwy 15. (Hearing site: Columbus, OH.)

MC 22509 (Sub-12F), filed December 6, 1978. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., an Iowa corporation, 5310 St. Joseph Ave., St. Joseph, MO 64505. Representative: Harry Ross, 58 S. Main St., Winchester, KY 40391. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *automobile parts, automobile supplies, automobile accessories, refrigerators, paints*, and *such commodities* as are dealt in by wholesale and retail hardware business houses, (except commodities in bulk), from Chicago, IL, to Kansas City, MO. (Hearing site: Kansas City, MO.)

NOTE: Applicant seeks to eliminate the gateway of Clarinda, IA.

MC 29079 (Sub-96F), filed October 2, 1978, previously published in the FR issue of November 9, 1978. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., 1210 S. Union St., Kokomo, IN 46801. Representative: Richard H. Streeter, 1729 H Street NW, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand and sand with additives*, (except commodities in bulk, in tank vehicles), from the facilities of Manley Brothers, at or near Troy Grove, IL, and Bridgman, MI, and the facilities of Acme Resin Company, at or near Oregon, IL, to points in CT, IL, IN (except Kokomo and points within 50 miles thereof), IA, KY (except Louisville), MA, MO, MN, NH, NJ, OH, RI, VA, WV (except points in Brooke, Hancock, Marshall, and Ohio Counties), WI, those in the Lower Peninsula of MI, those in NY on and east of U.S. Hwy 62, and those in PA on and east of U.S. Hwy 219. (Hearing site: Washington, DC.)

NOTE: This republication shows the addition of the facilities of Manley Brothers as origins and the additional destinations of IL, MN, and OH.

MC 29568 (Sub-6F), filed December 8, 1978. Applicant: ASSOCIATED TRANSFER & STORAGE COMPANY, INC., 730 North Northlake Way, Seattle, WA 98103. Representative: Susan W. Carlson, 1215 Norton Bldg., Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials, pipe, and steel*, and (2) *commodities* which are otherwise exempt from economic regulation under 49 U.S.C. 10526(a)(6) (formerly Section 203(b)(6) of the Interstate Commerce Act) when moving in mixed loads with the commodites in (1) above, between points in WA, MT, ID, OR, WY, CA, NV, UT, CO, AZ, and NM. (Hearing site: Seattle, WA.)

MC 30844 (Sub-631F), filed October 25, 1978. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *Meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Waterloo and Columbus Junction 1A, to points in TX. (Hearing site: Chicago, IL.)

MC 35831 (Sub-14F), filed November 1, 1978. Applicant: E. A. HOLDER, INC., P.O. Box 69, Kennedale, TX 76060. Representative: Billy R. Reid, P.O. Box 9093, Ft. Worth, TX 76107. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *asbestos cement pipe, couplings, and fittings*, and *accessories* used for the installation of the commodities named in (1) above, (except commodities in bulk), from the facilities of CertainTeed Corporation, at Hillsboro, TX, to points in the United States (except AK and HI). (Hearing site: Dallas or Houston, TX.)

MC 40978 (Sub-50F), filed December 4, 1978. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, a corporation, 3321 Business 141 South, Sheboygan, WI 53081. Representative: William C. Dineen, Suite 412 Empire Bldg., 710 North Plankinton Avenue, Milwaukee, WI 53203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *powdered and granular plastic materials*, in containers and *hexamethylenetetramine*, in containers, from the facilities of Plastics Engineering Co., at Sheboygan, WI, to points in AL, AR, CT, DE, GA, IA, IL, IN, KS, KY, LA, MA, MD, MI, MN, MO, MS, NC, NE, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, WV, and DC; and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Milwaukee, WI.)

MC 42261 (Sub-142F), file October 27, 1978. Applicant: LANGER TRANSPORT CORP., Box 305, Jersey City, NJ 07303. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers* and *container closures*, and (2) *materials, equipment, and supplies*

used in the manufacture, distribution and sale of the commodities named in (1) above, (except commodities in bulk), between points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC, on the one hand, and, on the other, points in FL, GA, KY, NC, SC, and TN, restricted to the transportation of traffic originating at or destined to the facilities of National Can Corporation. (Hearing site: New York, NY, or Washington, DC.)

MC 58549 (Sub-27F), filed December 12, 1978. Applicant: GENERAL MOTOR LINES, INC., P.O. Box 13727, Roanoke, VA 24034. Representative: Jerry D. Beard (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pulpboard* (except corrugated), and *activated carbon*, (except commodities in bulk), from Covington, VA, to points in NC. (Hearing site: Roanoke, VA.)

MC 82079 (Sub-69F), filed December 7, 1978. Applicant: KELLER TRANSFER LINE, INC., 5635 Clay Ave. SW, Grand Rapids, MI 49508. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Michigan, Lloyd J. Harriss Pie Company, at Saugatuck and Holland, MI, to points in IL. (Hearing site: Lansing, MI, or Chicago, IL.)

MC 83539 (Sub-513F), filed December 12, 1978. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 270535, Dallas, TX 75227. Representative: Thomas E. James (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *material handling equipment, winches, compaction and road making equipment, rollers, mobile cranes*, and *highway freight trailers*, and (2) *parts, attachments and accessories* for the commodities in (1) above, between the facilities of Hyster Company, at or near Danville and Kewanee, IL, Crawfordsville, IN, and Berea, KY, on the one hand, and, on the other points in AR, ID, IA, KS, KY, LA, MS, MT, NE, NM, OK, OR, SD, TX, and WA, restricted to the transportation of traffic originating at or destined to the facilities of Hyster Company, at the named points. (Hearing site: Washington, DC, or Atlanta, GA.)

MC 100318 (Sub-3F), filed December 18, 1978. Applicant: JAMES F. MOLLENHAUER, d/b/a CITY TRANSPORT COMPANY, P.O. Box 1331, Cherry Hill, NJ 08002. Representative: Ronald Ervais, 2520 PSFS Building, 12 South 12th Street, Philadelphia, PA 19107. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *clothing and wearing apparel*, between the facilities of Lane Bryant, Inc., at Philadelphia, PA, on the one hand, and, on the other, Trenton, NJ, Newark, DE, and points in Deptford Township (Gloucester County), NJ, restricted to the transportation of traffic originating at or destined to the above named facilities of Lane Bryant, Inc. Condition: Issuance of a certificate is subject to the coincidental cancellation, at applicant's written request, of the duplicating portions of the outstanding certificate in MC 100318 (Sub-No. 1), issued March 11, 1977. (Hearing site: Philadelphia, PA.)

MC 103051 (Sub-459F), filed November 2, 1978. Applicant: FLEET TRANSPORT COMPANY, INC., a Georgia corporation, 934—44th Ave., North, Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *inedible tallow*, in bulk, in tank vehicles, from Bessemer, AL, to Springfield, TN. (Hearing site: Nashville, TN, or Atlanta, GA.)

MC 103798 (Sub-24F), filed December 4, 1978. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by wholesale and retail food business houses, and (2) *agricultural commodities* which are otherwise exempt from economic regulation under 49 U.S.C. 10526(a)(6) [formerly Section 203(b)(6) of the Interstate Commerce Act], when moving in mixed loads with the commodities in (1) above, from points in CA and AZ to Bismarck and Fargo, ND, Green Bay and Milwaukee, WI, Hopkins, MN, Champaign, IL, Des Moines, IA, and Mitchell, SD. (Hearing site: St. Paul, MN.)

NOTE.—Dual operations may be involved in this proceeding.

MC 105269 (Sub-71F), filed December 13, 1978. Applicant: GRAFF TRUCKING COMPANY, INC., P.O. Box 986, Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *felt and paper insulation and sound deadening materials*, from the facilities of GAF Corporation, at or neaf Joliet, IL, to points in MI. (Hearing site: Lansing, MI, or Chicago, IL.)

MC 105461 (Sub-104F), filed October 30, 1978. Applicant: HERR'S MOTOR EXPRESS, INC., P.O. Box 8, Quarryville, PA 17566. Representative: Robert R. Herr (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials* (except in bulk), from Manville, NJ, to points in WV and those in PA on and west of U.S. Highway 219. (Hearing site: Washington, DC, or Philadephia, PA.)

MC 105566 (Sub-174F), filed December 4, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, 6901 Keene Mill Rd., Springfield, VA 22150. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printed matter and paper stock*, (a) between Senatobia, MS, on the one hand, and, on the other, Jonesboro, AR, and Brookfield and New Berlin, WI, (b) from Phoenix, AZ, to Jonesboro, AR, Senatobia, MS, Brookfield and New Berlin, WI, and Los Angeles and San Francisco, CA, (c) from Jonesboro, AR, and Senatobia, MS, to Effingham, IL, (d) from Jonesboro, AR, Phoenix, AZ, and Senatobia, MS, to Chicago, IL, (e) from Jonesboro, AR, Phoenix, AZ, Brookfield and New Berlin, WI, and Senatobia, MS, to Denver, CO, Atlanta, GA, Indianapolis, IN, Kansas City, KS, Glasgow, KY, Boston, MA, Buffalo and New York, NY, Columbus, OH, Philadelphia and Pittsburgh, PA, Dallas, TX, and Washington, DC, and (f) from Senatobia, MS to points in AZ, CA, CO, ID, MT, NV, OR, UT, WA, and WY. (Hearing site: Chicago, IL.)

MC 106674 (Sub-348F), filed October 23, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Jonson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting: *Building materials* (except commodities in bulk), from the facilities of Bird & Son, Inc., at Chicago, IL, to points in AR, KS, KY, IN, IA, MI, MN, MO, NE, ND, OH, OK, SD, TN, and WI. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 106674 (Sub-349F), filed October 25, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Jonson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: *Glass containers* from Char-

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lotte, MI, and Streator, IL, to points in AL, AR, GA, KY, LA, and TN. (Hearing site: Chicago, IL, or Indianapolis, IN.)

NOTE.—The purpose of this application is to substitute single-line for joint-line service.

MC 106674 (Sub-350F), filed October 25, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Jonson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *Gypsum and gypsum products, and materials and supplies used in the manufacture*, and distribution of gypsum and gypsum products, from the facilities of Georgia-Pacific Corporation, at or near (1) Buchanan, NY, to points in MI, OH, and PA, and (2) Wilmington, DE, to points in KY, MD, MI, NC, OH, PA; VA, WV, TN, and DC. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 107012 (Sub-282F), filed October 26, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Plastic and plastic articles*, between the facilities of Thompson Industries Company, at or near Phoenix, AZ, Alexandria, VA, City of Industry, CA, Des Plaines, IL, Fort Worth, TX, Higginsville, MO, Milford, NH, Monroeville and Mt. Sterling, OH, Renton, WA, Shreveport, LA, Stone Mountain, GA, and Tinton Falls, NJ, and (2) *plastic beads* (a) from Fort Worth, TX, to the facilities of Thompson Industries Company, at or near Phoenix, AZ, City of Industry, CA, and Shreveport, LA, and (b) from Kobuta, PA, to the facilities of Thompson Industries Company, at or near Phoenix, AZ, Alexandria, VA, City of Industry, CA, Des Plaines, IL, Fort Worth, TX, Higginsville, MO, Milford, NH, Monroeville and Mt. Sterling, OH, Renton, WA, Shreveport, LA, Stone Mountain, GA, and Tinton Falls, NJ. (Hearing site: Phoenix, AZ, or Chicago, IL.)

MC 107012 (Sub-288F), filed November 6, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., a Delaware corporation, 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *mist eliminators, asbestos cooling tower media, and plastic scrubbers*, from the facilities of Munters Corporation, at or near Cincinnati, OH, to points in the United States (except AK and HI), and (2) *paper* from Fulton, NY, and Norristown, PA, to the facilities of Munters Corporation, at or near Cincinnati, OH. (Hearing site: Cincinnati, OH, or Louisville, KY.)

MC 107107 (Sub-472F), filed October 23, 1978. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 N.W. 42nd Ave., Opa Locka, FL 33054. Representative: Ford W. Sewell (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of John Morrell & Co., at Montgomery, AL, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at the named origin. (Hearing site: Chicago, IL, or Washington, DC.)

MC 107478 (Sub-39F), filed December 7, 1978. Applicant: OLD DOMINION FREIGHT LINE, INC., 1791 Westchester Drive, P.O. Box 2006, High Point, NC 27261. Representative: Harry J. Jordan, 1000 16th Street, NW, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, between Milford, VA, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, TN, VT, VA, WV, WI, and DC. (Hearing site: Washington, DC.)

MC 108119 (Sub-111F), filed December 12, 1978. Applicant: E. L. MURPHY TRUCKING COMPANY, a Corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Mark E. Moser (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *material handling equipment, winches, compaction and road making equipment, rollers, mobile cranes*, and *highway freight trailers*, and (2) *parts, attachments and accessories* for the commodities in (1) above, between the facilities of Hyster Co., at or near Danville and Kewanee, IL, Crawfordsville, IN, and Berea, KY, on the one hand, and, on the other, points in MN, ND, SD, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Hyster Co., at the above-named points. (Hearing site: Washington, DC, or Atlanta, GA.)

MC 108341 (Sub-119F), filed November 1, 1978. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 8409, Charlotte, NC 28208. Representative: Jack F. Counts, P.O. Box 26125, Charlotte, NC 28213. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plywood, paneling, gypsumboard, composition board*, and *molding*, and (2) *materials* used in the manufacture of the commodities named in (1) above (except commodities in bulk), between the facilities of Pan-American Gyro-Tex Company, at or near Jasper, FL, on the one hand, and, on the other, those points in the United States in and east of MN, IA, NE, CO, and NM. (Hearing site: Jacksonville, FL, or Washington, DC.)

MC 109126 (Sub-13F), filed September 12, 1978. Applicant: LA SALLE TRUCKING COMPANY, a Corporation, 690 Anita St., Chula Vista, CA 92011. Representative: Fred H. Mackensen, 9454 Wilshire Blvd., Suite 400, Beverly Hills, CA 90212. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *diatomaccous earth*, from Lompoc, CA, to the port of entry on the International Boundary line between the United States and the Republic of Mexico, at Tecate, CA. (Hearing site: Los Angeles, CA.)

MC 109649 (Sub-25F), filed December 12, 1978. Applicant: L. P. TRANSPORTATION, INC., Main and Cross Streets, Chester, NY 10918. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fuel oil and gasoline*, in bulk, in tank vehicles, from Newark, NJ, to points in Dutchess, Orange, Sullivan and Ulster Counties, NY. (Hearing site: New York, NY.)

MC 110420 (Sub-791F), filed November 6, 1978. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St., NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, in tank vehicles, from points in the United States (except AK and HI), to Sedalia, MO. (Hearing site: Washington, DC, or Baltimore, MD.)

MC 110525 (Sub-1271F), filed December 4, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from the plant site of Allied Chemical Corporation, at or near Solvay, NY, to points in OH, MI, and PA, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: New York, NY.)

MC 111545 (Sub-264F), filed December 7, 1978. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: Robert E. Born (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *trailers* designed to be drawn by passenger automobiles (except travel trailers and camping trailers), in initial movements, and (2) *buildings*, complete or in sections, mounted on wheeled undercarriages, from points in TN, VA, OK, and AR, to points in the United States (including AK, but excluding HI). (Hearing site: Nashville, TN, or Washington, DC.)

MC 111545 (Sub-265F), filed December 7, 1978. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: Robert E. Born (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *trailers* designed to be drawn by passenger automobiles (except travel trailers and camping trailers), in initial movements, and (2) *buildings*, complete or in sections, mounted on wheeled undercarriages, from points in AZ, NM, CO, NE, and KS, to points in the United States (including AK, but excluding HI). (Hearing site: San Francisco, CA, or Washington, DC.)

MC 111729 (Sub-749F), filed November 6, 1978. Applicant: PUROLATOR COURIER CORP., 333 New Hyde Park Rd., New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk and those requiring special equipment) between points in AZ, restricted against the transportation of articles weighing more than 50 pounds. (Hearing site: Phoenix, AZ.)

NOTE.—Dual operations may be involved in this proceeding.

MC 112801 (Sub-215F), filed October 30, 1978. Applicant: TRANSPORT SERVICE CO., a corporation, 2 Salt Creek Lane, Hinsdale, IL 60521. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from Bay City and Midland, MI, to points in IA and MN. (Hearing site: Washington, DC.)

MC 112989 (Sub-82F), filed November 21, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals, chemical products, petroleum products, acids, plastic articles, and rubber articles*, (except commodities in bulk), from the facilities of Rohm and Haas Company, in CA, to ponts in AZ, ID, NV, OR, UT, and WA. (Hearing site: San Francisco, CA.)

MC 113362 (Sub-340F), filed November 7, 1978. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, 1105½ Eight Avenue N.E., P.O. Box 429, Austin, MN 55912. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (except in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of M&M/Mars, Division of Mars, Inc., at Cleveland, TN, to points in AR, CT, DE, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, OH, OK, PA, RI, TX, VT, WV, and WI, restricted to the transportation of traffic orginating at the named origin and destined to the indicated destinations. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 113459 (Sub-128F), filed December 12, 1978. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, OK 73109. Representative: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *material handling equipment, winches, compaction and road making equipment, rollers, mobile cranes*, and *highway freight trailers*, and (2) *parts, attachments and accessories* for the commodities in (1) above, between the facilities of Hyster Company, at or near Danville and Kewanee, IL, Crawfordsville, IN, and Berea, KY, on the one hand, and, on the other, points in AR, CO, KS, LA, MO, MT, NM, ND, OK, SD, TX, and WY, restricted to the transportation of traffic originating at or destined to the facilities of Hyster Company at the above-named points. CONDITION: Prior or coincidental cancellation, at applicant's written request, of its authority in MC-113459 Sub-No. 80 and the duplicating portions of its authority in MC-113459 Sub-No. 43. (Hearing site: Washington, DC, or Atlanta, GA.)

MC 113475 (Sub-30F), filed December 1, 1978. Applicant: RAWLINGS TRUCK LINE, INC., Emporia, VA 23847. Representative: Harry J. Jordan, 1000 16th Street, N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials*, and (2) *equipment and supplies* used in the manufacture, installation, and distribution of the commodities in (1) above, between the facilities of Georgia-Pacific Corporation, at Quakertown, PA, on the one hand, and, on the other, points in DE, MD, MI, NJ, NC, OH, SC, VA, and DC. (Hearing site: Washington, DC, or Richmond, VA.)

MC 113651 (Sub-293F), filed October 30, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Rd., Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products, and meat byproducts*, and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Louisville, KY, to points in CT, DE, ME, MD, MA, NY, NH, NJ, PA, RI, VT, VA, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 113651 (Sub-294F), filed October 30, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Rd., Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts*, and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Albert Lea, MN, to points in AL, FL, GA, LA, MS,

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NC, SC, and TN, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 114274 (Sub-52F), filed October 26, 1978. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St. Place, Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Schuyler, NE, to points in IA, MN, WI, and IL. CONDITION: In view of the findings in MC 114274 (Sub-38), the certificate issued here will be limited to in point of time to a period expiring 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable rules and regulations. (Hearing site: Omaha, NE.)

MC 114301 (Sub-97F), filed August 24, 1978, and previously noticed in the FR issue of November 9, 1978. Applicant: DELAWARE EXPRESS CO., a Corporation, P.O. Box 97, Elkton, MD 21921. Representative: MAXWELL A. HOWELL, 1100 Investment Building, 1511 K Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed ingredients* (except liquid), from Peabody, MA, to Roaring Springs and Reading, PA. (Hearing site: Washington, DC.)

NOTE.—This republication modifies the commodity description.

MC 114552 (Sub-182F), filed October 26, 1978. Applicant: SENN TRUCKING COMPANY, a corporation, P.O. Drawer 220, Newberry, SC 29108. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *lumber, gypsum wallboard, poles, and posts*, and (2) *materials and supplies* used in the installation, manufacture, and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between points in OK, AR, TX, LA, MS, AL, GA, FL, SC, NC, TN, KY, VA, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Weyerhaeuser Company. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 115162 (Sub-439F), filed October 26, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *lumber, gypsum wallboard, poles, and posts*, and (2) *materials and supplies* used in the installation, manufacture, and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between points in OK, AR, TX, LA, MS, AL, GA, FL, SC, NC, TN, KY, VA, and WV, restricted to the transportation of traffic originating at or destined to the facilities used by the Weyerhaeuser Company. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 115311 (Sub-319F), filed October 17, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Mark C. Ellison, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, and gasoline additives*, in containers, and (2) *such commodities* as are dealt in by distributors and suppliers of petroleum products in mixed loads with those commodities named in (1) above, (except commodities in bulk), from the facilities of Texaco, Inc., in Jefferson County, TX, to Bayonne, NJ, and points in IL, OH, IN, KY, TN, MS, AL, GA, NC, SC, MI, and FL. (Hearing site: Atlanta, GA.)

MC 115311 (Sub-322F), filed October 26, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *lumber, gypsum wallboard, poles, and posts*, and (2) *materials and supplies* used in the manufacture, distribution and installation of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), between points in OK, AR, TX, LA, MS, AL, GA, FL, SC, NC, TN, KY, VA, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Weyerhaeuser Company. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 115554 (Sub-15F), filed October 23, 1978. Applicant: Scott's Transportation Service, Inc., P.O. Box 1136, Cedar Rapids, IA 52406. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *refrigeration, cooling, heating, and electrical equipment*, and (2) *materials and supplies* used in the manufacture, repair, and distribution of the commodities in part (1), between the facilities of McGraw-Edison Co., at or near Ripon, WI, Searcy, AR, Albion, MI, Chattanooga, TN, and Madisonville, KY, on the one hand, and, on the other, those points in the United States in and west of OH, KY, TN, GA, and FL (except AK and HI). (Hearing site: Chicago, IL.)

MC 116004 (Sub-51F), filed October 24, 1978. Applicant: TEXAS OKLAHOMA EXPRESS, INC., P.O. Box 47112, Dallas, TX 75247. Representative: Doris Hughes (Same as above). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Liberal, KS, and St. Louis, MO, from Liberal over U.S. Hwy 54 to junction Kansas Turnpike, then over Kansas Turnpike to junction Interstate Hwy 70, then over Interstate Hwy 70 to St. Louis, and return over the same route, serving the intermediate points of Emporia, El Dorado and Wichita, KS, restricted against the transportation of traffic moving between Kansas City and St. Louis, MO. (Hearing site: Wichita or Kansas City, MO.)

MC 116459 (Sub-78F), filed December 6, 1978. Applicant: RUSS TRANSPORT, INC., P.O. Box 4022, Chattanooga, TN 37405. Representative: Charles T. Williams (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt*, in bulk, in tank vehicles, from Memphis, TN, to points in AR, MO, and MS. (Hearing site: Chattanooga, TN, or Atlanta, GA.)

MC 117589 (Sub-56F), filed December 6, 1978. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Ave. S., Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from Seattle and Ellensburg, WA, to points in CO and UT. (Hearing site: Seattle, WA, or Denver, CO.)

MC 111842 (Sub-193F), filed November 8, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in the United States (except AK, HI, and KS), restricted to the transportation of traffic originating at the named origin. (Hearing site: Wichita, KS, or Kansas City, MO.)

NOTE.—Dual operations may be involved.

MC 118959 (Sub-188F), filed December 6, 1978. Applicant: JERRY LIPPS, INC., a Florida corporation, P.O. Drawer F, Cape Girardeau, MO 63701. Representative: Jack Gleason, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *janitorial materials, janitorial equipment, and janitorial supplies*, (except commodities in bulk), between Cairo and Downers Grove, IL, and Lancaster, PA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 119399 (Sub- 81F), filed September 18, 1978. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, Joplin, MO 64801. Representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers*, (1) from Henryetta, OK, to points in IL (except Chicago), MN, ND, SD, and WI, (2) from Sapulpa and Sand Springs, OK to Arkansas City, Wichita and Winfield, KS, Carrollville, Cudahy, Kenosha, Milwaukee, Racine, Wauwatosa, and West Allis, WI, points in AR, IL (except Chicago), LA, MS, TN, TX, and those in Johnson, Leavenworth, and Wyandotte Counties, KS, and those in Jefferson, St. Charles, St. Louis, Platte, Clay, Jackson and Cass Counties, MO, (3) from Okmulgee, OK, to points in AR, CO, IL (except Chicago), IA, LA, MN, MS, MO, ND, SD, TN, TX, WI, and those in Johnson, Leavenworth, and Wyandotte Counties, KS, (4) from Ada, OK, to points in CO, LA, MS, TN, and TX, and (5) from Muskogee, OK, to points in CO, LA, MS, and TN. (Hearing site: Tulsa, OK, or Kansas City, MO.)

MC 119399 (Sub-89F), filed December 7, 1978. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, Joplin, MO 64801. Representative: Dean Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th St., Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *prepared feed*, (except in bulk), from Muscatine, IA, to points in IL, IN, KS, KY, MI, MN, MO, NE, OH, PA, WI, and WV. (Hearing site: Kansas City, MO.)

MC 119741 (Sub-114F), filed October 30, 1978. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, ND, OH, PA, RI, SD, VT, VA, and WI, restricted to the transportation of traffic originating at the named origin. (Hearing site: Wichita, KS.)

MC 119765 (Sub-66F), filed December 7, 1978. Applicant: EIGHT WAY XPRESS, INC., a Iowa corporation, 5402 South 27th Street, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery stores and food business houses, (except commodities in bulk in tank vehicles), from Chicago, IL, to points in CT, DE, MA, MD, MI, NY, NJ, OH, PA, VA, WV, and DC. (Hearing site: Chicago, IL, or Omaha, NE.)

MC 119777 (Sub-351F), filed September 28, 1978. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *stone and stone products*, from points in Lincoln, Rio Arriba, and Santa Fe Counties, NM, Millard County, UT, and Costilla County, CO, to those points in the United States in and east of MI, WI, IA, MO, AR, and LA. (Hearing site: Albuquerque, NM.)

NOTE.—Dual operations are involved.

MC 119789 (Sub-532F), filed December 13, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *malt beverages*, from Galveston, TX, to points in LA. (Hearing site: Houston, TX.)

MC 120098 (Sub-31F), filed December 6, 1978. Applicant: UINTAH FREIGHTWAYS, A Corporation, 1030 South Redwood Road, Salt Lake City, UT 84104. Representative: Robert L. Bloomquist (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Vernal, UT, and Denver, CO, over U.S. Hwy 40, serving all intermediate points between Vernal UT, and Craig, CO, (2) between Baggs, WY, and Denver, CO, from Baggs over WY Hwy 79 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Cheyenne, WY, then over Interstate Hwy 25 to Denver, and return over the same route, serving no intermediate points, (3) between Franklin, ID, and Salt Late City, UT: from Franklin over U.S. Hwy 91 to junction Interstate Hwy 15, then over Interstate Hwy 15 to Salt Lake City, and return over the same route, serving no intermediate points, (4) between Price, UT, and Denver, CO: from Price over U.S. Hwy 6 to Grand Junction, CO, then over U.S. Hwy 6 to Denver, and return over the same route, serving no intermediate points, and (5) between Salt Lake City, UT, and Denver, CO: from Salt Lake City over Interstate Hwy 80 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Cheyenne, WY, then over Interstate Hwy 25 to Denver, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points. (Hearing site: Salt Lake City, UT.)

MC 123744 (Sub-46F), filed October 5, 1978. Applicant: BUTLER TRUCKING COMPANY, a corporation, P.O. Box 88, Woodland, PA 16881. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *refractories*, from Farber, MO, to points in OH, PA, NY, NJ, MD,

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WV, and KY. (Hearing site: Washington, DC.)

MC 123819 (Sub-72F), filed December 12, 1978. Applicant: ACE FREIGHT LINE, INC., P.O. Box 16589, Memphis, TN 38116. Representative: Bill R. Davis, Suite 101—Emerson Center, 2814 New Spring Road, Atlanta, GA 30339. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *burlap and polypropylene bags*, (1) from New Orleans, LA, to points in OK and TX (except Beaumont, Port Arthur, Houston, Galveston, Corpus Christi, TX, and points in their respective commercial zones) and (2) from Nashville, GA, to points in TX. (Hearing site: New Orleans, LA.)

MC 124711 (Sub-68F), filed October 30, 1978. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73-034. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, in bulk, from the facilities of Martin Marietta Cement Company, at or near Tulsa, OK, to points in KS, MO, AR, and those points in Sherman, Hansford, Ochiltree, Lipscomb, Moore, Hutchinson, Roberts, Hemphill, Potter, Carson, Gray, Wheeler, Randall, Armstrong, Donley, Collingsworth, Childress, Hardeman, Wilbarger, and Wichita Counties, TX. (Hearing site: Tulsa, OK, or Kansas City, MO.)

MC 124821 (Sub-38F), filed October 31, 1978. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt*, in containers, from the facilities of Morton Salt Company, at Silver Springs, NY and Perth Amboy, NJ, to points in NY, NJ, PA, MA, CT, and RI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Harrisburg, PA.)

MC 125764 (Sub-9F), filed October 23, 1978. Applicant: LILAC CITY EXPRESS, INC., East 6619 Riverside, Spokane, WA 99206. Representative: Donald A. Ericson, 708 Old National Bank Building, Spokane, WA 99201. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, transporting (1) *packaged foodstuffs*, (except fresh meats), from points in Los Angeles and San Bernardino Counties, CA, and (2) *paper products and frozen foods*, from points in Alameda, Sacramento, Costa, San Joaquin, Stanislaus, Butte, Solano, Santa Clara, San Francisco, Sonoma, Monterey, Merced, Fesno, Orange, Los Angeles, and San Bernardino counties, CA, to points in Spokane County, WA, under contract with U.R.M. Stores, Inc., of Spokane, WA. (Hearing site: Spokane or Seattle, WA.)

MC 126679 (Sub-9F) filed December 7, 1978. Applicant: DENNIS TRUCK LINE, INC., P.O. Box 189, Vidalia, GA 30474. Representative: Virgil H. Smith, Suite 12, 1578 Phoenix Blvd., Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, from points in FL, to those points in GA on and north of U.S. Hwy 80. (Hearing site: Atlanta, GA.)

MC 133095 (Sub-227F), filed December 5, 1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of plastic articles (except commodities in bulk), between the facilities of Intercontinental Plastics Manufacturing Company, at or near Dallas, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX, or Omaha, NE.)

MC 133689 (Sub-247F), filed December 6, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First St. SW, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by drug, grocery and food business houses, (except commodities in bulk), from the facilities used by Jewel Companies, Inc., at Chicago, IL, to points in DE GA, MA, NJ, PA, and DC, restricted to the transportation of traffic originating at the named origin. (Hearing site: St. Paul, MN.)

MC 133962 (Sub-6F), filed October 26, 1978. Applicant: ALDRICH TRUCKING, INC., 3420 N.E. 9th Avenue, Ocala, FL 32670. Representative: Dan R. Schwartz, 1729 Gulf Life Tower, Jacksonville, FL 32207. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *charcoal, charcoal briquets, vermiculite, active carbon, and hickory chips*, (2) *charcoal lighter fluid, charcoal grills, and accessories for charcoal grills*, and (3) *materials, supplies, and machinery* used in the manufacture and distribution of the commodities in (1) and (2) above, between the facilities of Husky Industries, Inc., in FL, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Husky Industries, Inc., of Atlanta, GA. (Hearing site: Jacksonville, or Tampa, FL.)

MC 134387 (Sub-59F), filed October 23, 1978. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Ave., South Gate, CA 90280. Representative: Patricia M. Schnegg, 1800 United California Bank Bldg., 707 Wilshire Blvd., Los Angeles, CA 90017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from Halsey, OR, to points in CA. (Hearing site: Los Angeles, CA).

MC 134755 (Sub-165F), filed December 4, 1978. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Pet Incorporated, Frozen Food Division, at Allentown and Chambersburg, PA, to points in AL, GA, LA, MS, NC, OK, SC, TN, and TX. (Hearing site: St. Louis, MO.)

NOTE.—Dual operations may be involved.

MC 135399 (Sub-12F), filed December 7, 1978. Applicant: HASKINS TRUCKING, INC., P.O. Drawer 7729, Longview, TX 75602. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paperboard boxes*, from the facilities of J. G. Clark Company, in Morrow, County, OH, to points in AZ, CA, CO, NM, OK, TX, and UT. (Hearing site: Dallas, TX, or Washington, DC.)

MC 135399 (Sub-14F), filed December 11, 1978. Applicant: HASKINS TRUCKING, INC., P.O. Drawer 7729, Longview, TX 75602. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by manufacturers of cleaning compounds, scouring compounds, washing compounds, and buffing compounds, from the facilities of Rochester Germicde Co., Inc., at or near Montgomery, IL, to Memphis, TN, Atlanta, GA, New Orleans, LA, Dallas, TX, Tampa, FL, San Diego, Los Angeles, and San Francisco, CA, St. Paul, MN, Des Moines, IA, St. Louis, MO and Indianapolis, IN. (Hearing site: Dallas, TX, or Washington, DC.)

MC 135598 (Sub-19F), filed December 4, 1978. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 S. LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood store fixtures*, from Quincy, IL, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

NOTE.—Dual operations may be involved in this proceeding.

MC 135639 (Sub-11F), filed December 1, 1978. Applicant: QUEENSWAY, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, Camp Hill, PA 17011. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs* from the facilities of Curtice-Burns, Inc., at or near Alton, Brockport, Holley, Phelps, Shortsville, Egypt, Red Creek, Waterloo, Rushville, Leicester, Le Roy, Oakfield, and South Dayton, NY, to points in FL, GA, IL, IN, MI, NC, OH, and SC, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Harrisburg, PA.)

MC 135797 (Sub-15F), filed October 15, 1978. Applicant: J. B. HUNT TRANSPORT, INC., a Georgia corporation, P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *appliances*, and (2) *parts, accessories, and supplies* for appliances, from the facilities of the Maytag Company, at or near Newton, IA, to points in AR, LA, MS, OK, and TX. (Hearing site: Chicago, IL.)

MC 136482 (Sub-5F), filed November 8, 1978. Applicant: INDUSTRIAL ASPHALT TRANSPORT, INC., P.O. Box 5560, Statesville, NC 28677. Representative: Bill R. Davis, Suite 101—Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products*, in bulk, in tank vehicles, between points in NC and SC, restricted against the transportation of (a) asphalt, in bulk, from Moorehead City, NC, to points in SC, and (b) roofing asphalt, in bulk, in tank vehicles, from Charleston, SC, to points in NC. (Hearing site: Dallas, TX, or Washington, DC.)

MC 136644 (Sub-5F), filed October 18, 1978. Applicant: WESTERN DRYWALL TRANSPORT, INC., 2001 Broadway, Vallejo, CA 94590. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *gypsum wallboard*, from the facilities of Domtar Gypsum, America, Inc., at or near Antioch, CA, to San Francisco, CA, Carson City, NV, and points in Douglas, Washoe, and Storey, Counties, NV, under contract with Domtar Gypsum America, Inc., of Oakland, CA. (Hearing site: San Francisco, CA.)

MC 136644 (Sub-6F), filed October 23, 1978. Applicant: WESTERN DRYWALL TRANSPORT, INC., 2001 Broadway, Vallejo, CA 94590. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: (1) *roofing and roofing materials*, from the facilities of The Flintkote Company, at or near Portland, OR, to points in CA, and (2) *gypsum wallboard*, from the facilities of The Flintkote Company, at or near Fremont, CA, to Carson City, NV, points in OR and WA, and those points in Washoe, Douglas, and Storey Counties, NV, under contract with The Flintkote Company, of Los Angeles, CA. (Hearing site: San Francisco, CA.)

MC 138438 (Sub-37F), filed December 6, 1978. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bricks*, from points in NC, SC, TN, VA, and PA (except Leesport and those in Oxford and Mount Pleasant Townships), to points in MD, PA, VA, WV, and DC. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 138469 (Sub-96F), filed December 8, 1978. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Stephen H. Loeb, Suite 200, 205 W. Toyhy Ave., Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail variety stores, (1) from Oklahoma City, OK, to points in AL, CA, FL, GA, KS, KY, LA, MS, MO, and TX, (2) from points in MA, MN, and OH, to points in OK, and (3) from points in CA, to points in AL, FL, GA, KS, KY, LA, MS, MO, OK, and TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Oklahoma City, OK.)

MC 138469 (Sub-97F), filed December 13, 1978. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by wholesale and retail chain and grocery houses, (except commodities in bulk), between the facilities of Hudson Industries, Inc., at or near Troy and Brundidge, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Birmingham, AL.)

MC 138510 (Sub-11F), filed September 29, 1978. Applicant: RICCI TRANSPORTATION CO., INC., Odessa Avenue, Pomona, NJ 08240. Representative: J. Raymond Clark, 600 New Hampshire Ave., NW., Suite 1150, Washington, DC 20037. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, in containers, from Columbus, OH, and Williamsburg, VA, to Pleasantville, NJ, under contract with Harrison Beverage Co., of Pleasantville, NJ. (Hearing sites: Atlantic City or Trenton, NJ.)

NOTE.—Dual operations are involved in this proceeding.

MC 138741 (Sub-59F), filed October 30, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel tubing*, from the facilities of Maverick Tube Corp., at or near Union, MO, to points in AR, IL, IN, KS, KY, MI, TN, OH, and WI. (Hearing site: St. Louis, MO.)

MC 138882 (Sub-173F), filed November 7, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned*

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goods (except frozen), from the facilities of Joan of Arc Co., at or near Turkey, NC, St. Francisville and Belledeau, LA, to points in IL, WI, MI, ME, NH, VT, RI, CT, MA, OH, PA, NY, and NJ. (Hearing site: Peoria, IL, or Birmingham, AL.)

MC 138941 (Sub-31F), filed October 24, 1978. Applicant: COUNTRY WIDE TRUCK SERVICE, INC., 1110 South Reservoir Street, Pomona, CA 91766. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (*1*) *plastic articles*, (except commodities in bulk), and (*2*) *materials, equipment, and supplies* used in the manufacture and distribution of plastic articles, (except commodities in bulk), between the facilities of Mobil Chemical Company, Plastics Division, in the United States (except AK and HI), on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Mobil Chemical Company, Plastics Division, of Macedon, NY. (Hearing site: Buffalo, NY.)

MC 140002 (Sub-1F), filed October 30, 1978. Applicant: EDWARD J. RING DETECTIVE AGENCY, INC., 412 Lafayette Building, 5th and Chestnut Streets, Philadelphia, PA 19102. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage, and valuables*, in the same vehicle with passengers, in special and charter operations, in nonscheduled door-to-door service, between Philadelphia, PA, on the one hand, and, on the other, points in Berks, Bucks, Chester, Delaware, Lehigh, Montgomery, and Northampton Counties, PA, Atlantic, Burlington, Camden, Cape May, Gloucester, Essex, Hudson, Passaic, and Union Counties, NJ, and New Castle County, DE, restricted (a) to the transportation of not more than five passengers in a vehicle, not including the driver, and (b) to a service in which the vehicles are accompanied by armed drivers or escorts. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 140024 (Sub-130F), filed October 12, 1978. Applicant: J. B. MONTGOMERY, INC., a Delaware corporation, 5565 East 52nd Avenue, Commerce City, CO 80022. Representative: Jeffrey A. Knoll (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *paper and paper products*, from Winslow, ME, Albany and Fort Edward, NY, and Philadelphia, PA, to points in IL, OH, IN, WI, MN, NY, PA, and MO. (Hearing site: Philadelphia, PA.)

MC 140104 (Sub-5F), filed October 23, 1978. Applicant: TOLEDO FRIGID LINES, INC., 4060 W. Fitch Road, Toledo, OH 43613. Representative: Jerry B. Sellman, 50 West Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *ice cream, ice cream confections, ice confections, and frozen desserts*, from Toledo, OH, to points in AZ, ID, MT, NV, NM, ND, OR, SD, UT, WY, and WA; and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in part (1), (except commodities in bulk), in the reverse direction under contract with Vroman Foods, Inc., of Toledo, OH. (Hearing site: Columbus, OH, or Washington, DC.)

MC 141921 (Sub-27F), filed October 26, 1978. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Rd., Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen prepared foodstuffs*, from the facilities of Sara Lee, at Deerfield, IL, and New Hampton, IA, to points in CT, ME, MA, MD, NH, NJ, VT, RI, PA, NY, DE, VA, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations (except traffic moving in foreign commerce). (Hearing site: Chicago, IL, or Boston, MA.)

NOTE.—Dual operations may be involved.

MC 142059 (Sub-56F), filed December 11, 1978. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum articles*, from the facilities of Kaiser Aluminum and Chemical Corporation, at or near Ravenswood, WV, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC. (Hearing site: Washington, DC.)

MC 142254 (Sub-3F), filed October 23, 1978. Applicant: FRIEDL FUEL & CARTAGE, INC., 417 W. Whitewater St., Whitewater, WI 53190. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *concrete products* and *accessories* for use in the distribution or installation of concrete products, from Whitewater, WI, to points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, SD, and TN; (2) *materials, equipment and supplies* used in the manufacture, distribution, or installation of the commodities in part (1) (except commodities in bulk, in tank vehicles), in the reverse direction; (3) *washing, cleaning, buffing, and polishing compounds* (except commodities in bulk), from Milton, WI, to points in IL, IN, IA, MI, MN, MO, OH, NY, NJ, MD, CA, FL, GA, CT, PA, and DC; and (4) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities in part (3) (except commodities in bulk), in the reverse direction. (Hearing site: Milwaukee or Madison, WI.)

MC 142559 (Sub-70F), filed December 4, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bicycles, bicycle parts, and bicycle accessories*, (except commodities in bulk), between Boston and Westwood, MA, Secaucus, NJ, Miami, FL, Bensenville, IL, New Orleans, LA, Long Beach, CA, Houston, TX, and Buffalo, NY, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH.)

NOTE.—Dual operations may be involved in this proceeding.

MC 142559 (Sub-71F), filed November 30, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Gas and electric appliances*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and repair of the commodities in (1) above, from the facilities of Whirlpool Corporation, at Evansville, IN, to points in AL, FL, GA, MD, NJ, NY, NC, PA, SC, TN, VA, and WV. (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 142559 (Sub-72F), filed December 11, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *automotive accessories*, and

materials, equipment and supplies used in the manufacture and distribution of automotive accessories (except commodities in bulk), between Boston, MA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH.)

NOTE.—Dual operations may be involved in this proceeding.

MC 142559 (Sub-73F), filed December 11, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *television picture tubes*, and *materials, equipment and supplies* used in the manufacture of television picture tubes (except commodities in bulk), from Scranton, PA, to Chicago, IL. (Hearing site: Columbus, OH.)

NOTE.—Dual operations may be involved in this proceeding.

MC 143154 (Sub-4F), filed October 23, 1978. Applicant: Arthur E. Pamin, Jr., and Steven V. Bidlake, a partnership, d.b.a. A & S Trucking, 6450 Highway 10 West, Missoula, MT 59801. Representative: Charles A. Murray, Jr., 207A Behner Building, 2822 Third Avenue North, Billings, MT 59101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pencil slats, boxes, paper, packaging materials, and materials* used in the manufacture of pencil slats, between points in ID, MT, and CA. (Hearing site: Billings or Missoula, MT.)

MC 143159 (Sub-3F), filed November 27, 1978. Applicant: BRICK HAULERS, INC., Route 1 Box 407, Forest City, NC 28043. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, transporting (1) *brick*, from Augusta, GA, Blacksburg, Columbia, Gaffney, Ninety-Six, and Van Wyck, SC, and Elizabethton, Johnson City, and Kingsport, TN, (2) *cement and mortar mix*, from Cayce, SC, (3) *concrete block*, from Spartanburg, SC, (4) *sand*, in bulk, in dump vehicles, from Dixiana and Pageland, SC, and (5) *terracotta pipe and flue lining*, from Milledgeville, GA, in (1) through (5) above, to points in NC, under contract with Clyde H. Robbins Brick & Concrete Products, Inc., of Forest City, NC. (Hearing site: Charlotte, NC.)

MC 143239 (Sub-3F), filed November 20, 1978. Applicant: JAMOUR, INC., doing business as QUICK METROPOLITAN SERVICES, 123 N. 23rd St., Philadelphia, PA 19121. Representative: Alan Kahn, Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value and classes A and B explosives), limited to packages not exceeding 50 pounds in weight and total shipments not exceeding 200 pounds, (1) between Philadephia, PA, and Lancaster, PA, restricted to the transportation of traffic moving in the small package express service of the scheduled airlines or the express mail service of the scheduled airlines or the express mail service of the United States Postal Service, and (2) between Lancaster, PA, on the one hand, and, on the other, points in New Castle County, DE. (Hearing site: Washington, DC or Philadelphia, PA.)

MC 143511 (Sub-3F), filed October 25, 1978. Applicant: HARDINGER TRANSFER CO., INC., P.O. Box 521, Erie, PA 16512. Representative: Paul F. Sullivan, 711 Washington, Blvd., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *scrap metals* (except in dump vehicles), from Erie, PA, to points in OH, IL, IN, and MI. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 143687 (Sub-7F), filed October 23, 1978. Applicant: DAVID DALE TRANSPORT, INC., 2 Franklin Street, West Medway, MA 02053. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, transporting (1) *plastic articles* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of plastic articles, (except commodities in bulk), between the facilities of Mobil Chemical Company, Plastics Division, in the United States (except AK and HI), on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Mobil Chemical Company, Plastics Division, of Macedon, NY. (Hearing site: Washington, DC, or Buffalo, NY.)

MC 143699 (Sub-2F), filed December 4, 1978. Applicant: QUALITY CONTRACT CARRIER, INC., 1009 W. Edgewood Ave., Indianapolis, IN 46217. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic resins and plastic sheets*, in containers, from the facilities of General Electric Company, at (1) Mt. Vernon and Evansville, IN, to points in IL, KS, MI, NE, UT (except Salt Lake City), and WI, and (2) Evansville, IN, to Phoenix, AZ, Boulder and Fort Collins, CO, Albuquerque, NM, Salt Lake City, UT, and points in CA, OR, and WA, under contract in (1) and (2) above, with General Electric Company, of Mount Vernon, IN. (Hearing site: Indianapolis, IN.)

MC 144069 (Sub-5F), filed December 8, 1978. Applicant: FREIGHTWAYS, INC., P.O. BOX 5204, Charlotte, NC 28225. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles* (1) between the facilities of Florida Steel Corporation, at Charlotte and Raleigh, NC and Aiken, SC, on the one hand, and, on the other, points in AL, GA, KY, NC, SC, TN, VA, and WV, and (2) between the facilities of Republic Steel Corporation, at or near Charlotte, NC, Bristol, TN, and Seneca, SC, on the one hand, and, on the other, points in AL, GA, KY, NC, SC, TN, VA, and WV. (Hearing site: Charlotte, NC.)

MC 144355 (Sub-1F), filed December 8, 1978. Applicant: MANKE BROTHERS TRUCK LINES, a corporation, 2550 Boynton Lane, Reno, NV 89502. Representative: Charles H. McCrea, Jr., One East First Street, Suite 900, Reno, NV 89501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles, and building materials*, as described in Appendices V and VI to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209, (1) from points in CA, to points in NV (except those in Clark, Nye, Esmeralda, and Lincoln Counties), and (2) from Washoe County, NV, to points in CA, under contract with Western Nevada Supply, of Sparks, NV, Tholl Fence Company Inc., of Sparks, NV, Sierra Supply Inc., of Sparks, NV, Hydro Conduitt Corporation, of Sparks, NV, and L & L Roofing Company, of Reno, NV. (Hearing site: Reno or Carson City, NV.)

MC 144498 (Sub-1F), filed December 7, 1978. Applicant: HIX TRANSPORT, INC., 4129 N. 500 E., Van Buren, IN 46991. Representative: Robert W. Loser, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between the facilities of The Kroger Company, at

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Columbus and Cincinnati, OH, on the one hand, and, on the other, Nashville and Memphis, TN, Little Rock, AR, and Dallas and Houston, TX, under contract with The Kroger Company, of Cincinnati, OH. (Hearing site: Indianapolis, IN, or Cincinnati, OH.)

MC 144572 (Sub-5F), filed November 6, 1978. Applicant: MONFORT TRANSPORTATION COMPANY, a corporation, P.O. Box G, Greeley, CO 80631. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, from the facilities of Champion International Corporation, at or near Cincinnati and Hamilton, OH, to points in AR, CO, IA, KS, MN, MO, NE, and OK, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products, (except commodities in bulk), in the reverse direction. (Hearing site: Cincinnati, OH.)

NOTE.—Dual operations may be involved.

MC 144745 (Sub-1F), filed December 6, 1978. Applicant: W & D EXPRESS, INC., 295-305 Northern Avenue, Boston, MA 02210. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *frozen bakery products, frozen onion rings*, and (2) *commodities* otherwise exempt from economic regulation under 49 USC 3 10526(a)(6) (formerly section 203(b)(6) of the Interstate Commerce Act), when moving in mixed loads with the commodities in (1) above, from Boston, Gloucester, Lawrence, Wilmington, and Worcester, MA, to points in AL, IA, LA, MS, TN, VA, and DC, under contracts with Boston Bonnie, Inc., and Boston Bonnie Bakers, Inc., both of Boston, MA. (Hearing site: Boston, MA.)

MC 144844 (Sub-2F), filed October 26, 1978. Applicant: OZARK TRANSPORTATION, INC., P.O. Box 203, Greenville, MO 63944. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufactures of nails, (except commodities in bulk), from Chicago, IL, to the facilities of American Nail Corporation, at or near St. Charles, MO, restricted to the transportation of traffic originating at the named origin and destined to the indicated destination. (Hearing site: St. Louis, MO.)

MC 144948 (Sub-2F), filed December 6, 1978. Applicant: BILLY WAYNE HUDSON, d/b/a BILL HUDSON, 860 Nicholas Street, Carlinville, IL 62626. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from Carlinville, IL, to points in AL, IN, MO, OK, TN, and TX; (2) *steel pipe, steel tubing, and steel pipe fittings*, from Carlinville, IL, to points in IN, IA, MO, MN, and WI; and (3) *mine ventilating equipment*, from Taylorville, IL, to points in CO, OH, PA, UT, WV, and WY, under contract (a) in (1) above with Central Illinois Steel Co., Inc., of Carlinville, IL, (b) in (2) above with Valley Steel Products Company, a Division of Valley Industries, Inc., of Centralia, IL, and (c) in (3) above with Jack Kennedy Metal Products & Buildings, Inc., of Taylorville, IL. (Hearing site: St. Louis, MO.)

MC 144969 (Sub-4F), filed November 9, 1978. Applicant: WHEATON CARTAGE CO., a Corporation, Millville, NJ 08332. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chemicals* used in the curing and processing of cement and concrete, (except commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture, distribution, and application of the commodities in (1) above, (except commodities in bulk), (a) from the facilities of Nox-Crete Chemicals, Inc., at or near Omaha, NE, to Edison, NJ, Baton Rouge, LA, and points in AZ, CA, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NV, NM, ND, OH, OK, OR, SD, TN, TX, UT, WA, and WI, and (b) from Edison, NJ, Emeryville, CA, Baton Rouge, LA, and points in IL, IN, and OH, to the facilities of Nox-Crete Chemicals, Inc., at or near Omaha, NE, restricted in (a) and (b) above, to the transportation of traffic originating at or destined to the facilities of Nox-Crete Chemicals, Inc., at or near Omaha, NE. (Hearing site: Omaha, NE.)

NOTE.—Dual operations may be involved in this proceeding.

MC 145134 (Sub-2F), field filed September 29, 1978. Applicant: FMLD, Inc., Freeport Road, Box 181, Creighton, PA 15030. Representative: Mark Lasser, 7130 Penn Avenue, Pittsburgh, PA 15208. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers of petroleum products, between points in the United States (except AL or HI), under contract with Pittsburgh Penn Oil Company, of Creighton, PA. CONDITION: Said carrier shall conduct separately its contract carrier operations and its other business activities. Carrier shall maintain separate accounting systems for each such business. Carrier shall not transport property as both a private and for-hire carrier at the same time and in the same vehicle. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 145152 (Sub-21F), filed November 3, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garison, 324 North Second Street, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural fungicides, herbicides, disinfectants, and cleaning compounds*, (except commodities in bulk), from the facilities of New South Manufacturing Company, at or near Atlanta, GA, to points in AL, AR, LA, MS, OK, TN, and TX. (Hearing site: Atlanta, GA, or Fayetteville, AR.)

MC 145304 (Sub-1F), filed October 25, 1978. Applicant: LAMPTON-LOVE, INC., 134 South Lamar Street, Jackson, MS 39201. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *anhydrous ammonia*, in bulk, in tank vehicles, (1) from Yazoo City, MS, to points in AL, AR, LA, and TX, (2) from Pascagoula, MS, to points in AL, FL, GA, and LA, and (3) from the facilities of Mid South Terminals, Inc., at Memphis, TX, to points in AL, AR, MS, and MO. CONDITIONS: The person or persons who it appears may be engaged in common control must either file an application under 49 U.S.C. 11343(a) (formerly section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Said carrier shall conduct separately its common carrier operation and its other business activities. Carrier shall maintain separate accounting systems for each such business. Carrier shall not transport property as both a private and for hire carrier at the same time and in the same vehicle. (Hearing site: Jackson, MS.)

MC 145359 (Sub-1F), filed December 12, 1978. Applicant: THERMO TRANSPORT, INC., 156 E. Market Street, Indianapolis, IN 46204. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *lumber and wood products*, and (2) *building materials*, (except

those described in (1) above), from points in AR, AZ, CA, ID, LA, MS, MT, NM, OR, TX, WA, and WY, to points in IN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Indianapolis, IN.)

NOTE.—Dual operations are involved in this proceeding.

MC 145426F, filed September 14, 1978. Applicant: ODELL RITTER, INC., 940 Hwy 99 North, Eugene, OR 97402. Representative: Robert R. Hollis, 400 Pacific Bldg., Portland, OR 97204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber and lumber products*, (1) between points in OR and WA, and (2) from points in OR and WA, to points in AZ, CA, CO, ID, NV, UT, and WY. (Hearing site: Eugene or Portland, OR.)

MC 145627, filed October 19, 1978. Applicant: M&T TRUCKING, INC., 4290 State Route No. 7, New Waterford, OH 44445. Representative: Stanley I. Goldman, 1700 K St., NW, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coal, road building materials, aggregates, clay, and refractory products*, between points in Beaver, Lawrence, Mercer, Butler, Crawford, Erie, and Allegheny Counties, PA, on the one hand, and, on the other, points in Columbiana, Mahoning, and Trumbull Counties, OH. CONDITION: Issuance of this certificate is subject to prior or coincidental cancellation, at applicant's written request, of MC-135062 Sub 1. (Hearing site: Pittsburgh, PA.)

MC 145641F, filed October 26, 1978. Applicant: DILIDO TRANSPORTATION CO., INC., 501-551 West 30th St., New York, NY 10001. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, and *aluminum articles*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution and sale of the commodities named in (1) above, (except commodities in bulk), between New York, NY, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Metal Purchasing Company, Inc., of New York, NY. (Hearing site: New York, NY.)

MC 145669F, filed November 1, 1978. Applicant: PETROLEUM TANK LINE, a corporation, 2600 Rice Avenue, West Sacramento, CA 06902. Representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum and petroleum products*, in bulk, in tank vehicles, (a) from points in Butte, Contra Costa, Sacramento, San Mateo, San Joaquin, Solano, and Yolo Counties, CA, to Carson City, NV, and points in Curry, Jackson, Josephine, Klamath, and Lake Counties, OR, and Churchill, Douglas, Esmeralda, Eureka, Humboldt, Lander, Lyon, Mineral, Nye, Pershing, Storey, and Washoe Counties, NV, and (b) from Sparks, NV, to points in Alpine, Amador, El Dorado, Lassen, Mono, Nevada, Placer, Plumas, and Sierra Counties, CA; and (2) *lignum sulfate*, from points in Yolo County, CA, to points in NV, and those in Curry, Jackson, Josephine, Klamath, and Lake Counties, OR. (Hearing site: Sacramento, CA.)

MC 145702F, filed November 6, 1978. Applicant: TRANSURFACE CARRIERS, INC., 6 Thayer Street, Northboro, MA 01532. Representative: Bernard P. Rome, 31 Milk Street, Boston, MA 02109. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *woodworking hand tools, automatic door-operating equipment, steel strapping, steel strip, builders' hardware, industrial hardware, and drapery hardware*, from Farmington, New Britain, and Wallingford, CT, to points in the United States (except AK, HI, and CT), under contract with The Stanley Works, of New Britain, CT. (Hearing site: Washington, DC, or Boston, MA.)

MC 145785 (Sub-2F), filed December 4, 1978. Applicant: McADAMS TRUCKING CO., a corporation, 3 South Des Plaines, Joliet, IL 60431. Representative: Patrick H. Smyth, Suite 521, 19 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel parts for trusses*, from the facilities of Alpine Engineered Products, Inc., at or near St. Charles, IL, to points in IA, IN, KY, MI, MN, MO, ND, NE, NJ, NY, OH, PA, SD, WI, and WV, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction, under contract with Alpine Engineered Products, Inc., of St. Charles, IL. (Hearing site: Chicago, IL.)

MC 145789F, filed November 20, 1978. Applicant: WILLIAM JOSEPH SWOPE, JR., Route No. 1; Lexington, Rd., Winchester, KY 40391. Representative: Herber D. Liebman, P.O. Box 478, Frankfort, KY 40602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *boats* from points in Clark County, KY, to points in FL, MD, and MS. (Hearing site: Frankfort or Lexington, KY.)

MC 145849F, filed December 7, 1978. Applicant: CHARLES MONIN AND JOSEPH MONIN, A Partnership, doing business as MONIN BROTHERS, 300 W. John Rowan Blvd., Bardstown, KY 40004. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, from Evansville and Ft. Wayne, IN, Detroit, MI, Eden, NC, Cincinnati, OH, Memphis, TN, and Milwaukee, WI, to Bardstown, KY. (Hearing site: Bardstown or Louisville, KY.)

PASSENGER AUTHORITY

MC 88929 (Sub-3F), filed December 6, 1978. Applicant: BAGGSTROM'S BUS SERVICE, INC., Route 12, Frenchtown, NJ 08825. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Hunterdon County, NJ, and those points in PA on an east of a line beginning at the PA-NJ State line and extending along PA Hwy 611 to Danboro, then along PA Hwy 611 ByPass, near Doylestown, then along U.S. Hwy 202 ByPass to junction U.S. Hwy 202 ByPass to junction U.S. Hwy 202, then along U.S. Hwy 202 to the PA-NJ State line, and extending to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC. (Hearing site: Newark, NJ, or Philadelphia, PA.)

MC 145845F, filed December 4, 1978. Applicant: RAYMOND W. PAYNE, d./b./a. PAYNE BUS SERVICE, Route No. 1, Box 122, Beverdam, VA 23015. Representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage* in the same vehicle with passengers, in round-trip charter operations, beginning and ending at Fredericksburg and Richmond, VA, and points in Stafford, Spotsylvania, King George, Caroline, King and Queen, King William, Hanover, Henrico, Louisa, and Orange

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Counties, VA, and extending to those points in the United States in and east of MN, IA, MO, AR, LA. (Hearing site: Fredericksburg, VA.)

[FR Doc. 79-1687 Filed 1-17-79; 8:45 am]

[7035-01-M]

[Volume No. 3]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Petitions for Modification, Interpretation, or Reinstatement of Operating Rights Authority

JANUARY 10, 1979.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 99439 (Sub-3) (M1F) (notice of filing of petition to modify certificate), filed October 16, 1978. Petitioner: SUWANNEE TRANSFER, INC., 1830 E. 21st Street, Jacksonville, FL 32206. Representative: Dan R. Schwartz, 1729 Gulf Life Tower, Jacksonville, FL 32207. Petitioner holds a motor *common carrier* certificate in MC 99439 Sub 3, issued September 14, 1977, authorizing transportation over irregular routes, of (a) *Commodities* the transportation of which by reason of size or weight require the use of special equipment, and *related machinery and parts and related contractors' materials and supplies* when their transportation is incidental to the transportation of commodities which by reason of size or weight require special equipment, (b) *iron and steel articles* as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209; and (c) *plastic pipe*, between points in FL, and between points in FL, on the one hand, and, on the other, points in GA. Restriction: The authority granted herein is restricted against the transportation of aerospacecraft, aerospacecraft parts, and aerospacecraft ground support equipment. By the instant petition, petitioner seeks to broaden the commodity description in part (c) above, to read as follows: "(c) *plastic, plastic articles, plastic pipe, tubing, fittings, and connections, materials, supplies, and accessories* used in the manufacture and installation of all such commodities in the manufacture and installation of all such commodities in part (c) hereof (except in bulk, in tank vehicles)."

MC 124887 (Sub-11) (M1F) (Notice of filing of petition to modify certificate), filed October 11, 1978. Petitioner: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Petitioner holds a motor *common carrier* certificate in MC 124887 Sub 11 issued September 16, 1975 authorizing transportation, as pertinent, over irregular routes, of *Steel joists*, from the plant site of Socar, Inc., in Florence County, SC, to points in FL, GA, NC, and TN. By the instant petition, petitioner seeks to modify the above authority by deleting the plant site reference in the origin so the origin would read: "from points in Florence County, SC".

MC 141426 (Sub-10) (M1F) (Notice of filing of petition to modify permit), filed October 12, 1978. Petitioner: WHEATON CARTAGE CO., INC., Millville, NJ 08332. Representative: E. STEPHEN HEISLEY, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. Petitioner holds motor *contract carrier* permit in MC 141426 Sub 10, issued August 24, 1978, authorizing transportation, over irregular routes, of *Glass products, metal products, plastic products, paper products, wax products, clay products, feldspar products and wood products, foodstuffs, antipollution and bio-chemical apparatus, products used in radiological research, organic chemistry kits, bottle coating systems, talc, feldspar, candles, pottery, chinaware, ceramics, gift items, molds and machinery* and *parts and accessories* for the above-described commodities and *materials, equipment and supplies* used in the manufacture or distribution of the above-named commodities (except in bulk, in tank vehicles), between the facilities of Wheaton Industries at or near Miami, FL, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract(s) with Wheaton Industries of Millville, NJ. By the instant petition, petitioner seeks to modify the above authority to add American International Container, Inc. as an additional contracting shipper, and also to add an additional radial base point of Tampa, FL.

MC 141871 (M1F) (Notice of filing of petition to modify certificate), filed March 16, 1978. Petitioner: WNI SERVICE SYSTEM, 8700 S.W. Elligsen Rd., Wilsonville, OR 97070. Representative: John R. Patterson, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. Petitioner holds a motor *common carrier* certificate in MC 141871 issued April 18, 1977 authorizing transportation, over irregular routes, as pertinent, of (1) *Plastic products* except commodities in bulk), from Lewiston and Clearfield, UT, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY, and (2) *Equipment materials and supplies* (except commodities in bulk and those which because of size or weight require special equipment), used in the manufacture and distribution of plastic products, from points in the destination States named above, to Lewiston and Clearfield, UT. By the instant petition, petitioner seeks to modify the above authority by adding "aluminum foil and stretch wrap holders" to the commodity descriptions in (1) and (2) above.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER. An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before February 20, 1979. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 108207 (Sub-478F) (republication), filed March 24, 1978, published in the FEDERAL REGISTER issue of May 11, 1978, and republished this issue. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 5888, Dallas, TX 75222. Representative: Mike Smith (same address as applicant). A Decision of the Commission, Review Board Number 3, decided December 4, 1978, and served January 3, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Foodstuffs* (except in bulk), from the facilities of Welch Foods, Inc., at or near Lawton, MI, to points in AR, KS, LA, MS, MO, NM, OK, TN, and TX, restricted to the transportation of traffic originating at the named facilities and destined to the named destination States, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 112184 (Sub-57) (2nd republication), filed October 3, 1977, published in the FEDERAL REGISTER issues of December 30, 1977, and September 7, 1978, and republished this issue. Applicant: THE MANFREDI MOTOR TRANSIT CO., a Corporation, 11250 Kinsman Road, Newberry, OH 44065. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. A Decision of the Commission, Division 1, decided December 15, 1978, and served December 28, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Paint ingredients*, in bulk, in tank vehicles, from Oak Creek, WI, and Wallingford, CT, to Cleveland, OH; and (2) *paint and paint products*, in bulk, in tank vehicles, from, Cleveland, OH, to (a) Leed, MO, Chicago, IL, Tarreytown, NY, Wilmington, DE, Oklahoma City, OK, Baltimore, MD, Atlanta, Doraville and Lakewood, GA, Arlington, TX, Norfolk, VA, Minneapolis and St. Paul, MN, Louisville, KY, Fremont, San Jose, Southgate and Van Nuys, CA; and (b) ports of entry on the International Boundary line between the United States and Canada which lie between Buffalo, NY, and Calais, ME, inclusive, under a continuing contract or contracts with PPG Industries, Inc., a Pittsburgh, PA, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected.

The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such request shall meet the requirements of Section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the* FEDERAL REGISTER *of a notice that the proceeding has been assigned for oral hearing.*

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 25798 (Sub-347F), filed December 11, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., A North Carolina Corporation, P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *drugs, toilet preparations, health care products, aluminum calcined, magnesium hydroxide, soaps, and dental care cleaning compounds*, (except commodities in bulk), (1) from Philadelphia, PA, and Lewes, DE, to points in the United States (except AK, CT, DE, HI, ME, MD, MA, NH, NJ, NY, PA, RI, VA, VT, WV, and DC), (2) from Lakewood, NJ, and Millsboro, DE, to points in AR, CA, CO, GA, IL, LA, MO, NV, OK, and TX, (3) from Friendship (Guilford County), NC, to points in the United States (except AK, HI, NC, SC, and VA), (4) from Round Rock, TX, to points in the United States (except AK, HI, and TX), (5) from San Leandro, CA, to points in IN, GA, and PA, (6) from Reno, NV, to points in PA, and (7) from West Point, PA, to points in CA, CO, and OR. (Hearing site: Washington, DC.)

MC 123255 (Sub-186F), filed November 30, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, OH 43055. Representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers, container ends, and closures*, (2) *commodities* manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers; and (3) *materials, equipment and supplies* used in the manufacture and distribution of containers, container ends and closures, restricted in (1) through (3) above against the transportation of commodities in bulk. Note: Common control may be involved. Procedural information: Applicants shall file their initial verified statements on or before February 13, 1979. Protestants shall file their verified reply statements on or before March 13, 1979. Applicants shall file their rebuttal statements on or before April 2, 1979.

MC 124211 (Sub-350F), filed December 26, 1978. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, NE 68101. Representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

common carrier, by motor vehicle, over irregular routes, transporting: (1) *Containers, container ends, and closures*, (2) *commodities* manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers; and (3) *materials, equipment and supplies* used in the manufacture and distribution of containers, container ends and closures, restricted in (1) through (3) above against the transportation of commodities in bulk.

NOTE.-Common control may be involved. Procedural information: Applicants shall file their initial verified statements on or before February 13, 1979. Protestants shall file their verified reply statements on or before March 13, 1979. Applicants shall file their rebuttal statements on or before April 2, 1979.

MC 135684 (Sub-85F), filed December 27, 1978. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, NJ 08822. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers, container ends, and closures*, (2) *commodities* manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers; and (3) *materials, equipment and supplies* used in the manufacture and distribution of containers, container ends and closures, restricted in (1) through (3) above against the transportation of commodities in bulk.

NOTE.-Procedural information: Applicants shall file their initial verified statements on or before February 13, 1979. Protestants shall file their verified reply statements on or before March 13, 1979. Applicants shall file their rebuttal statements on or before April 2, 1979.

MC 139495 (Sub-402F), filed December 27, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers, container ends, and closures*, (2) *commodities* manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers; and (3) *materials, equipment and supplies* used in the manufacture and distribution of containers, container ends and closures, restricted in (1) through (3) above against the transportation of commodities in bulk.

NOTE.-Procedural information: Applicants shall file their initial verified statements on or before February 13, 1079. Protestants shall file their verified reply statements on or before March 13, 1979. Applicants shall file their rebuttal statements on or before April 2, 1979.

MC 139577 (Sub-29F), filed December 18, 1978. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Representative: Wayne W. Wilson, 150 E. Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers, container ends, and closures*, (2) *commodities* manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers; and (3) *materials, equipment and supplies* used in the manufacture and distribution of containers, container ends and closures, restricted in (1) through (3) above against the transportation of commodities in bulk.

NOTE.-Procedural information: Applicants shall file their initial verified statements on or before February 13, 1979. Protestants shall file their verified reply statements on or before March 13, 1979. Applicants shall file their rebuttal statements on or before April 2, 1979.

PASSENGER

MC 140247 (Sub-2F), filed October 23, 1978. Applicant: ALLSTATE CHARTER LINES, INC., P.O. Box 9022, Fresno, CA 93790. Representative: John Paul Fischer, 256 Montgomery Street, San Francisco, CA 94104. Authority to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, *transporting passengers and their baggage* in the same vehicle with passengers, in round trip, charter and special operations, in executive coach service, beginning and ending at points in AZ, CA, NV and OR, and extending to points in the United States, including AK, but excluding HI. (Hearing site: San Francisco, CA.)

NOTE.—Common control may be involved.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission on or before February 20, 1979. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC-F-13822F. Applicant: WESTPORT TRUCKING COMPANY, 812 South Silver, Paola, Kansas 66071. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, Missouri 64141. Authority sought for purchase by Westport Trucking Company, 812 South Silver, P.O. Box 40, Paola, KS 66071, a portion of the operating rights of Arnold E. Debrick d/b/a Debrick Truck Lines, 103 North Silver, P.O. Box 421, Paola, KS 66071, and for acquisition by Laredo Express Company and John M. Edgar, 2100 TenMain Center, Kansas City, MO 64105, of control of the rights through purchase. Operating rights sought to be purchased: Green and salted hides (1) *Between points* in KS, MO and NE, restricted against service to or from Pittsburg, Parsons, Coffeyville and Independence, KS and Joplin, Carthage and Springfield, MO; (2) From points in ND, SD, CO, MT, WY, OK and TX to points in KS, MO, and NE, restricted against traffic originating at (a) Sioux Falls, SD and destined to Kansas City, KS-MO, and (b) Sioux Falls and Huron, SD and Fargo and West Fargo, ND destined to points in NE. Approval of the proposed transaction will result in vendee acquiring operating authority to handle traffic which it is presently handling in interline service with Vendor at Liberal and Sedgwick County, KS; Enid and Muskogee, OK; and Butler, Joplin, Kansas City and Springfield, MO. Vendee is authorized to operate as a common carrier in all the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b) of the Act.

NOTE.—MC-126822 (Sub-No. 53F) is a directly related matter.

MC-F-13839F. Authority sought for purchase by ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 63126, a portion of the operating rights of Farris Truck Line, P.O. Box 224, Faucett, MO 64448, and for acquisition by Henry Zellmer of control of the rights through purchase. Attorneys: E. Stephen Heisley, 666 Eleventh Street, NW, No. 805, Washington, DC 20001; Tom B. Kretsinger, 20 E. Franklin, Liberty, MO 64068. Operating rights sought to be purchased: (1) *Dry fertilizer* and *fertilizer materials*, from the facilities of W. R. Grace & Co. located at or near Henry, IL to points in IA, IN, KY, MI, MN, MO, OH, and WI; (2) *Dry fertilizer, dry fertilizer materials, urea, and pesticides* (except liquid in tank vehicles), from the facilities of W. R. Grace & Co. at or near Henry, IL to points in OH, MI, KY, TN, IL, WI, MN, IA, MO, NE, KS, IN, AR, OK, ND, and SD; from the facilities of W. R. Grace & Co. at or near Perry, IA to points in MN, WI, NE, KS, and IL; from the facilities of W. R. Grace & Co. at or near Lansing, MI to points in OH, IN, and IL; from the facilities of W. R. Grace & Co. at or near New Albany, IN to points in OH, IL, KY, and TN; from the facilities of W. R. Grace & Co. at Columbus, OH to points in MI, IN, IL, KY, and TN. RESTRICTION: The operations in (1) and (2) are limited to a transportation service to be performed under a continuing contract, or contracts, with W. R. Grace & Co. of New York, NY. Vandee is authorized to operate as a *common carrier* in certain States in the United States. Application has been filed for temporary authority under Section 210a(b).

NOTE.—MC 127303 (Sub 51F), is a directly related matter.

MC-F-138484F. Authority sought for purchase by MECCA & SON TRUCKING CORP., 25 Fairmount Ave., Jersey City, NJ 07304, of a portion of the operating rights of CENTRAL TRANSFER COMPANY, 1080 Springfield Rd., Union, NJ 07083, and for acquisition by Jerry Mecca and Helen Mecca, also of 25 Fairmount Ave., Jersey City, NJ 07304. Applicant's attorneys: A. DAVID MILLNER, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006, and THOMAS F. X. FOLEY, State Highway 34, Colts Neck, NJ 07722. Operating rights sought to be transferred: That portion of Certificate No. MC-1403 (Sub-No. 2), authorizing the transportation of *general commodities*, with exceptions, as a motor common carrier over *regular* routes BETWEEN Philadelphia, PA and Princeton, NJ, serving the intermediate points of Bristol and Morrisville, PA; and Trenton and Lawrenceville, NJ; FROM Philadelphia over US Hwy 13 to Morrisville, PA, then over US Hwy 1 to Trenton, NJ, and then over US Hwy 206 to Princeton, and return over the same route. Transferee is a common carrier authorized to operate in NY, NJ, and PA. Application has not been filed for temporary authority under Section 210a(b).

MC-F-13859F. Applicant: VALION R. JORDAN, 100 Beta Drive, P.O. Box 756, Franklin, TN 37064. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought for control by Valion R. Jordan, 100 Beta Drive, P.O. Box 756, Franklin, TN 37064 of (B) Rajor, Inc. and (BB) California Express, Ltd. both of 100 Beta Drive, P.O. Box 756, Franklin, TN 37064. Rajor, Inc. operates as a contract carrier, over irregular routes, in all points in the United States (except Alaska and Hawaii) under authority issued by the Commission in Permit No. MC 129862 Subs 1, 2, 3, 4, 5, 11, 12, 15, 17F, 18TA, and 20TA. Rajor, Inc. also has a contract carrier application pending, MC 129862 Sub 19F as well as two common carrier temporary authority applications, MC 145392 TA and Sub 1TA. California Express, Ltd. does not hold any authority from the Commission but is filing an application simultaneously with this control application which, because of the *Hannon* principle is directly related to this application. There is no duplicating authority involved but approval of the transaction will result in dual operations. VALION R. JORDAN holds no authority from this Commission. However, he owns all the stock of RAJOR, INC. Application for temporary authority under Section 210a(b) has not been filed. (HEARING SITE: Nashville, TN or Washington, D.C.)

NOTE.—No. MC-145979F is a directly related matter.

MC-F-13861F. Authority sought for the purchase by LOMBARD BROTHERS, INCORPORATED, 233 Mill Street, Waterbury, CT 06706, of the operating rights of APD TRANSPORT CORP., 1 Railroad Place, Maspeth, NY 11378, and for acquisition by Clotilda Lombard, New Haven Road, Prospect, CT 06712, and A. J. Lombard, Flanders Road, Woodbury, CT 06798, of control of such rights through the purchase. Applicants' attorneys: Hugh M. Joseloff, 80 State Street, Hartford, CT 06103 and Morton E. Kiel, 5 World Trade Center, New York, NY 10048. Operating rights sought to be transferred: *General commodities*, with the usual exceptions, as a *common carrier*, between points in the New York, NY commercial zone, on the one hand, and on the other, points in CT, NJ and NY within 50 miles of the New York, NY commercial zone; and certain specific commodities, between points in PA, a short distance beyond the 50 mile radius, and the New York, NY commercial zone. Approval thereof will result in some duplication of rights to a small extent. Vendee is authorized to operate as a common carrier in MA, RI, CT, NH, NY, NJ, PA, MD, VT, ME, DE and DC. Application has been filed for temporary authority under Section 210a(b). NOTE: MC 42289 (Sub No. 12) is a directly related matter. (Hearing site: Hartford, CT or Washington, DC.)

NOTE.—No. MC-42289 (Sub-No. 12F) is a directly related matter.

MC-F-13868F. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32209. Representatives Roland Rice, Esq., Suite 501, 1111 E Street, NW., Washington, DC 20004; Alan Kahn, Esq., 1920 Two Penn Center, Philadelphia, PA 19102. Authority sought for the purchase by RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32209, of a portion of the operating rights of SHANAHAN MOTOR LINES, INC., 1001 Fairview Street, Camden, NJ 09104, and for acquisition by I.U. Transportation Services, 1105 N. Market Street, The Wilmington Tower, Wilmington, DE 19801, and in turn, by I.U. International Corp., of the same address, of control of such rights through the transaction. Operating rights sought to be transferred: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, automobiles and trucks, and garments on hangers) as a *common carrier* over *irregular routes*, between Philadelphia, PA, and points in that part of New Jersey south of a line beginning at Trenton, NJ, and extending along Mercer County Hwy. 535 through Edinburg, NJ, to Locust Corner, NJ, thence along Mercer County Hwy. 571 to junction New Jersey Hwy, 33, thence along New Jersey Hwy. 33 to junction Monmouth County Hwy, 537 near Freehold, NJ, and thence along Monmouth County Hwy. 537 through Freehold, Colts Neck, Eatontown, and Long Branch, NJ, to the Atlantic Ocean, including points on the indicated portions of the highways specified. The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. Vendee is authorized to operate pursuant to Certificate No. MC-2900 and Subs as a *common carrier* of general and specified commodities in the States of AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, MA, MD, ME, MI, MO, MS, NC, NH, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, WI, WV, and DC. Application has been filed for temporary authority under Section 210a(b). (Hearing site: Washington, DC.)

MC-F-13871F. Authority sought for purchase by EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Dallas, TX 75207, of a portion of the operating rights of Shanahan Motor Lines, Inc., 1001 Fairview Street, Camden, NJ 08104 and for acquisition by H. R. Bright, Individually, and as Executor and Trustee of the Estate of Mary Frances Smith Bright, Deceased, also of 2355 Stemmons Freeway, Dallas, TX 75207, of control of such rights through the purchase. Applicant's attorneys: J.

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Raymond Chesney, P.O. Box 10125, Dallas, TX 75207 and Alan Kahn, 1920 Two Penn Central Plaza, Philadelphia, PA 19102. Operating rights sought to be transferred: *General Commodities*, with the usual exceptions, as a common carrier, over regular routes, between New York, NY and Boston, MA, serving points within 25 miles of the State House in Boston; between New Haven, CT and Boston, MA, serving points within 25 miles of the State House in Boston; between New York, NY and New Haven, CT, serving the intermediate and off-route points of Bridgeport, Stamford, Fairfield, Westport, Greenwich, Derby, South Norwalk, Meriden, Middletown, Hartford, Shelton, Ansonia, New Britain, Manchester, Bristol, West Haven, East Haven and Branford, CT, Yonkers, NY, and Hoboken, Weehawken and Jersey City, NJ; between Boston, MA and Norwalk, CT, serving all intermediate points and the off-route points of Canton, Montville, New Britain, Rockville, Simsbury, Stafford, Thompson, Thompsonville, Torrington, Unionville, Versailles, Willington and Winstead, CT, points within 8 miles of Boston, MA, points within 8 miles of Norwalk, CT, and points within 12 miles of Providence, RI; between New York, NY and New Haven, CT, serving all intermediate points; between Bridgeport, CT and New Haven, CT, serving all intermediate points; between New Haven, CT and Norwich, CT, serving all intermediate points; between Derby, CT and Waterbury, CT, serving all intermediate points; serving the off-route points of New Milford, Torrington, Baltic, Franklin, Occum, Taftville, Jewett City and Versailles, CT and points in Connecticut on and south of U.S. Hwy. 6 and west of Connecticut Hwy. 32 (except Chester, Deep River, Center Brook, Ivoryton, and Essex, CT); and *General Commodities*, with the usual exceptions, over irregular routes, from New York, NY to Springfield, MA, as more fully described in Docket No. MC-F-13431. Vendee is authorized to operate pursuant to Certificate No. MC-41432 and subs thereunder and MC-F-12872 as a common carrier in Alabama, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and the District of Columbia. Approval of the proposed transaction will result in Vendee acquiring no duplicating authority. Approval of the proposed transaction will result in a split of Vendor's authority at New York, NY. Application has been filed for temporary authority under Section 210a(b) of the Act.

MC-F-13872F. Authority sought for purchase by SUNDERMAN TRANSFER INC., Box 63, Windom, MN 56101, of a portion of the operating rights of Katuin Bros., Inc., Highway 61 South, P. O. Box 311, Fort Madison, IA 52627, and for acquisition by Sunderman Transfer Inc., of control of such rights through acquisition. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. Operating rights sought to be purchased are those contained in MC 126539 Sub Nos. 14, 36F and 39F thereunder which authorize the transportation of: Foodstuffs and nonedible food products, in vehicles equipped with mechanical refrigeration, from Bettendorf, IA, to IL, MN, MO, NE, SD and WI, restricted to traffic originating at facilities of Terminal Ice & Cold Storage Co., and destined to above-named destinations. Foodstuffs (except in bulk) in mechanically refrigerated equipment, from the facilities of Termicold Corp. at or near Bettendorf, IA, to IN, KY, MI, OH, PA and WV, restricted to the transportation originating at named origin and destined to indicated destinations. Frozen foods (except in bulk), from facilities of Termicold Corp. at or near Plover, WI, to points in AR, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, OH, PA, SD, TN, TX, restricted to the transportation of traffic originating at named origin and destined to indicated destinations. Vendee authorized to transport commodities between named points in AL, AR, CO, CT, DC, GA, IL, IN, IA, KY, LA, MA, ME, MI, MD, MN, MO, MS, NC, ND, NE, NJ, NH, NY, OH, PA, RI, SC, SD, TN, TX, VA, VT, WI, and WV. No duplicating authority involved but possible dual operations. Sec. 5 Application filed. (Hearing Site: Minneapolis, MN.)

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights application(s) are filed in connection with pending finance applications under section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 10926 (formerly Section 212(b)) of the Interstate Commerce Act.

An original and one copy of protests to the granting of the authorities must be filed with the Commission on or before February 20, 1979. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 42289 (Sub-12F), filed December 14, 1978. Applicant: LOMBARD BROTHERS, INCORPORATED, 233 Mill Street, Waterbury, CT 06706. Representative: Hugh M. Joseloff, 80 State Street, Hartford, CT 06103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except commodities in bulk, household goods as defined by the Commission, classes A and B explosives, those of unusual value, and commodities which because of size or weight require the use of special equipment), between points in CT, NJ, and NY within 50 miles of the New York, NY commercial zone. (Hearing site: Hartford, CT or Washington, D.C.)

NOTE.—The purpose of this application is to eliminate the gateway of the New York, NY commercial zone. This is a matter directly related to a Section 5(2) proceedings in MC-F-13861F published in a previous section of this FEDERAL REGISTER issue.

MC 99902 (Sub-5F), filed December 19, 1978. Applicant: DAVE'S MOTOR TRANSPORTATION, INC., Logan International Airport, Boston, MA 02109. Representative: Kenneth B. Williams, 84 State Street, Boston, MA 02109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), between Logan International Airport, Boston, MA, on the one hand, and, on the other, Bradley Field, Windsor Locks, CT, LaGuardia and John F. Kennedy International Airports, New York, NY and Newark Airport, Newark, NJ. Restricted to the transportation of shipments having an immediately prior or subsequent movement by air. (Hearing site: Boston, MA.)

NOTE.—The purpose of this application is to eliminate the gateways of Windsor Locks, CT, and points in MA and CT within 50 miles of Windsor Locks and to tack applicant's present irregular route authority with the irregular route authority sought to be acquired in the Section 5 application at Boston, MA to provide a through service between points in RI and the airports in CT, NY and NJ, and is directly related to a finance proceeding docketed MC-F—13865F published in a previous section of the FEDERAL REGISTER issue of January 11, 1979.

MC 126822 (Sub-53F), filed November 9, 1978. Applicant: WESTPORT TRUCKING COMPANY, a Corporation, 812 South Silver, Paola, Kansas 66071. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, Missouri 64141. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *hides and pelts:*

(1) From points in IA. MN, MO. IN, OH, IL, TX, NE, MI, KS, NM, and WI to points in CA. (Gateways eliminated: Sedgwick County and Liberal, KS; Butler, MO; and Enid, OK.)

(2) From points in OH, MI, SD, IL, IN, MO, NM, OK, MN, TN, KY, ND, NE, KS, IA, and WI to points in TX. (Gateways eliminated: Sedgwick County and Liberal, KS; Butler, MO; and Muskogee and Enid, OK.)

(3) From points in TX, KS, TN, and NM to points in MN. (Gateways eliminated: Liberal and Sedgwick County, KS; Butler, MO; and Muskogee and Enid, OK.)

(4) From points in TX, OK, MO, CA, and NE to points in MI. (Gateways eliminated: Butler and Kansas City, MO, and Sedgwick County, KS.)

(5) From points in OK, SD, MO, MI, TX, and NY to Denver, CO. (Gateways eliminated: Butler, MO, and Liberal and Sedgwick County, KS.)

(6) From points in TX, KS, and MO to Chicago, IL. (Gateways eliminated: Sedgwick County, KS, and Kansas City and Springfield, MO.)

(7) From points in IA, WI, MN, MO, KS, NE, ND, and IN to New Orleans, LA (Gateways eliminated: Butler, MO, and Sedgwick County, KS.)

(8) From points in TX, NM, NE, KS, and CO to points in NY. (Gateways eliminated: Butler, Kansas City, and Springfield, MO and Enid, OK.)

(9) From points in TX, MO, NE, NM, and KS, to points in ME. (Gateways eliminated: Springfield and Kansas City, MO, and Muskogee, OK.)

(10) From points in TX to points in AZ, DE, OH, and OR. (Gateways eliminated: Liberal and Sedgwick County, KS, and Springfield and Butler, MO.)

(11) From points in TX, KS, NE, and MO to points in KY. (Gateways eliminated: Sedgwick County, KS, and Butler, MO.)

(12) From points in TX, CA, CO, NM, OK, KS, KY, MO, and LA to points in WI. (Gateways eliminated: Sedgwick County, KS; Springfield, Butler and Kansas City, MO; and Enid, OK.)

(13) From points in MO, TX, AZ, KS, and NE to points in MA. (Gateways eliminated: Enid, OK, and Kansas City and Springfield, MO.)

(14) From points in CO, MO, KS, and NE to points in NH. (Gateway eliminated: Kansas City, MO.)

(15) From points in ID, TX, NE, KS, MO, NM, and MN to points in TN. (Gateways eliminated: Enid, OK; Butler, MO; and Sedgwick County and Liberal, KS.)

(16) From points in KS to points in WA. (Gateways eliminated: Sedgwick County and Liberal, KS.)

(17) From points in IN, TX, and IL, to St. Joseph, MO. (Gateways eliminated: Butler, MO, and Sedgwick County, KS.)

(18) From points in MO, CO, and TX to points in PA. (Gateways eliminated: Butler, MO, and Sedgwick County, KS.)

(19) From points in MO and CO to points in WV. (Gateway eliminated: Butler, MO.)

(20) From points in IA to points in GA. (Gateways eliminated: Butler, MO, and Sedgwick County, KS.)

(21) From points in TX and MO to Newark, NJ. (Gateways eliminated: Sedgwick County, KS, and Butler, MO.)

(22) From points in WI to points in UT. (Gateways eliminated: Butler, MO, and Sedgwick County, KS.)

(23) From points in CO to points in VA. (Gateway eliminated: Butler, MO.) (Hearing site: Kansas City, MO.)

NOTE.—This gateway elimination application is directly related to finance proceedings docketed MC-F-13822F published in a previous section of this FEDERAL REGISTER issue.

MC 127303 (Sub-51F), filed December 15, 1978. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *dry fertilizer and fertilizer materials* (except liquid commodities in bulk), from the facilities of W. R. Grace & Co., at or near Henry, IL, to points in IA, IN, KY, MI, MN, MO, OH, and WI, and (2) *dry fertilizer, dry fertilizer materials, urea, and pesticides* (except liquid commodities in bulk), (a) from the facilities of W. R. Grace & Co., at or near Henry, IL, to points in OH, MI, KY, TN, IL, WI, MN, IA, MO, NE, KS, IN, AR, OK, ND, and SD, (b) from the facilities of W. R. Grace & Co., at or near Perry, IA, to points in MN, WI, NE, KS, and IL, (c) from the facilities of W. R. Grace & Co., at or near Lansing, MI, to points in OH, IN, and IL, (d) from the facilities of W. R. Grace & Co., at or near New Albany, IN, to points in OH, IL, KY, and TN, and (e) from the facilites of W. R. Grace & Co., at Columbus, OH, to points in MI, IN, IL, KY, and TN. (Hearing site: Memphis, TN.)

NOTE.—The purpose of this application is to convert permits to certificates of public convenience and necessity and is directly related matter to MC-F-13839F published in a previous section of this FEDERAL REGISTER issue.

MC 145979F, filed December 13, 1978. Applicant: CALIFORNIA EXPRESS, LTD., P.O. Box 756, 100 Beta Drive, Franklin, TN 37064. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, cleaning, scouring and washing compounds, plastic liquids and sheeting, ink, defoaming compounds, laminating machinery, laminating machinery parts, solvents, pallets and containers* between the facilities of Thiokol/Dynachem Corporation at or near Tustin, CA, on the one hand, and on the other, Woburn and South Hadley Falls, MA, Herndon, VA, Elmhurst, IL, Matthews, NC, Tampa, FL, and Detroit, MI. Restriction: Restricted against the transportation of commodities in bulk and further restricted to traffic originating at and destined to the named origins and destinations. This application is directly related to an application for approval of control, MC-F-13859F, published in a previous section of this FEDERAL REGISTER issue. (Hearing site: Los Angeles, CA.)

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before February 20, 1979.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

MOTOR CARRIERS OF PASSENGERS

MC 61599 (Deviation No. 14), CONTINENTAL SOUTHEASTERN LINES, INC., 200 Spring St., N.W., Atlanta, GA 30343, filed December 4, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers, and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: From Asheville, NC over Interstate Hwy 26 to junction US

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Hwy 29, then over US Hwy 29 to Spartanburg, SC, with the following access routes: (1) From junction Interstate Hwy 26 and US Hwy 25, over US Hwy 25 to Hendersonville, NC, and (2) From junction Interstate Hwy 26 and US Hwy 64, over US Hwy 64 to Hndersonville, NC and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Asheville, NC over NC Hwy 191 to Hendersonville, NC, then over US Hwy 176 to Spartanburg, SC, and return over the same route.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1688 Filed 1-17-79; 8:45 am]

[1505-01-M]

[Notice No. 732]

ASSIGNMENT OF HEARINGS

Correction

In FR Doc. 78-29821, appearing at page 49399, in the issue of Monday, October 23, 1978, make the following changes:

1. On page 49399, first column, under the heading, "MC 140995 (Sub-1TA) in the third line, "MI" should be corrected to read "MS"

2. On page 49399, first column, under the heading, "MC 140995 (Sub-1TA) in the fifth line, "MI" should be corrected to read "MS".

3. On page 49399, first column, under the heading, "MC 140995 (Sub-1TA) in the eleventh line, "MI" should be corrected to read "MS".

[1505-01-M]

[Decisions Volume No. 44]

DECISION-NOTICE

Correction

In FR Doc. 78-31973 appearing at page 52798 in the issue for Tuesday, November 14, 1978, on page 52802, in the third column, in the paragraph beginning "MC 107515", "(Sub-117F)" should be corrected to read "(Sub-1177F)".

[1505-01-M]

[Notice No. 213]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-32574 appearing at page 54159 in the issue for Monday, November 20, 1978, make the following corrections:

1. On page 54160, in the third column, in the paragraph beginning "MC 106644 (Sub-268TA)", in line eleven, "AK" should be corrected to read "AR".

2. On page 54161, in the second column, in the paragraph beginning "MC 111729 (Sub-747TA)", in line fourteen, "AR" should be corrected to read "AZ".

[1505-01-M]

[Notice No. 214]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-32575 appearing at page 54164 in the issue for Monday, November 20, 1978, on page 54164, in the third column, in the paragraph beginning "MC 29910 (Sub-193TA)", in the ninth line, "irregular" should be corrected to read "regular".

[1505-01-M]

[Notice No. 216]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-32702 appearing at page 54341 in the issue for Tuesday, November 21, 1978, the following corrections should be made:

1. On page 54345, in the third column, the paragraph beginning "MC 138274 (Sub-6TA)" should be corrected to begin "MC 138279 (Sub-6TA)".

2. On page 54347, in the first column, the paragraph beginning "MC 14506 (Sub-1TA)" should be corrected to begin "MC 145406 (Sub-1TA)".

3. On page 54347, in the second column, the paragraph beginning "MC 145541 (Sub-1TA)" should be corrected to begin "MC 145541TA".

[7035-01-M]

[No. MC-C-3437 (Sub-No. 7)]

OPERATING RIGHTS AUTHORIZING SERVICE AT DESIGNATED AIRPORTS

Petition To Amend Interpretation

AGENCY: Interestate Commerce Commission.

ACTION: Extension of time for filing public comments in this proceeding.

SUMMARY: This proceeding was instituted by a notice of petition for rulemaking published in the FEDERAL REGISTER on October 24, 1978, at 43 FR 49601. All interested parties were initially invited to file comments respecting the proposal on or before December 8, 1978.

That date was extended to February 1, 1979 because of the pendency of a decision in No. MC-C-3437, a proceeding with potential implications in the instant proceeding.

A decision in that proceeding was served on January 11, 1979. We believe that a further extension of time is necessary for interested parties to evaluate their positions and prepare comments.

DATES: Comments regarding the proposed rulemaking proceeding should be submitted to the Commission on or before March 1, 1979. No further extensions are contemplated.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg 202-275-7292.

By the Commission, Alan M. Fitzwater, Director, Office of Proceedings.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1836 Filed 1-17-79; 8:45 am]

[7035-01-M]

[Service Order No. 1344; Revised I.C.C. Order No. 14]

MICHIGAN NORTHERN RAILWAY CO. AND SOO LINE RAILROAD CO.

Rerouting Traffic

In the opinion of Robert S. Turkington, Agent, the Michigan Northern Railway Company (MN) is unable to receive traffic from the Soo Line Railroad Company at St. Ignace-Mackinaw City, Michigan, and is unable to transport traffic presently on its line because of disrupted train operations on the MN caused by heavy snow and a shortage of locomotives.

It is ordered, (a) *Rerouting traffic.* The Soo Line Railroad Company (Soo) being unable to deliver traffic to the Michigan Northern Railway Company (MN) and the MN being unable to transport traffic because of disrupted train operations on the MN caused by heavy snow and a shortage of locomotives, these lines are directed to divert or reroute such traffic over any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Acceptance of rerouted cars required.* Any railroad named in the original routing is required to accept and transport cars rerouted or diverted by the Soo Line Railroad or Michigan Northern Railway in accordance with the requirements of this order.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers, or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 4:00 p.m., January 5, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 10, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 5, 1979.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 79-1832 Filed 1-17-79; 8:45 am]

[7035-01-M]

[Notice No. 148]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission on or before February 20, 1979. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses from, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77905, filed October 24, 1978. Transferee: Dreisbsch Enterprises, Inc., 8451 San Leandro St., Oakland, CA 94603. Transferor: Penguin Trucking Co., Inc., 2045 East Vernon Ave., Los Angeles, CA 90058. Representative: Eldon M. Johnson, Attorney at Law, 650 California St., Suite 3808, San Francisco, CA 94108. Authority sought for purchase by transferee of the entire operating rights of transferor as set forth in Certificate No. MC-65115, issued July 9, 1971, and portion of operating rights in Certificate of Registration 98886 Sub 2 issued October 26, 1973, to Alco Transportation Co., and portion of Certificate of Registration No. MC-120936 Sub 1 issued October 1, 1974, to Alco Fast Freight, Inc., and acquired by transferor pursuant to approval and consummation of the transfer proceeding in MC-F-12741, as follows: MC-65115: Agricultural commodities, from points in Los Angeles and Orange Counties, CA, to Los Angeles Harbor, CA, commercial fertilizer, from Los Angeles Harbor, CA, to points in Los Angeles and Riverside Counties, CA, general commodities (with certain exceptions), between Los Angeles, CA, and Los Angeles Harbor Commercial Zone as defined by the Commission, to Colton and San Diego, CA. MC-98886 Sub 2: Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment, between points in specified areas and territories in California, with certain restrictions; and MC-120936 Sub 1: Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment, between points in specified areas and territories in California, with certrain restrictions. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77922, filed November 6, 1978. Transferee: James Mulvihill, Patricia Carrell, Donna McMahon, Robert, Michael and Kevin Mulvihill, 2607 Cravey Drive, NE., Atlanta, GA 30345. Transferor: Thompson Travel Bureau, 625 Lackawanna Ave., Scranton, PA 18503. Authority sought for control by transferees through the purchase of capital stock of the operating rights of transferor as set forth in License No. MC 12681, issued December 12, 1958, authorizing the transportation of passengers and their baggage, between points in the United States and authorizing operations as a broker at Scranton and Philadelphia, PA and Binghamton, Rochester, and Syracuse, NY.

MC-FC-77925, filed November 6, 1978. Transferee: H & K Transport Co., Inc., Rt. 2, Box 2087-X, Wenatchee, WA 98801. Transferor: Brader Hauling Service, Inc., P.O. Box 655, Zillah, WA 98953. Applicants' Representative: Larry Brader, President, Brader Hauling Service, Inc., P.O. Box 655, Zillah, WA 98953. Applicants' Representative: Charles C. Flower, Suite 2, Yakima Legal Center, 303 East "D" Street, Yakima, WA 98901. Authority sought for purchase by transferee of the operating rights of transfer as set forth in Permit No. MC-124658 (Sub-No. 2) issued June 30, 1969, as follows: Orchard heaters and parts and accessories thereof, from Upland and Cucamonga, CA to points in Wasco, Sherman, Hood River, Union, and Baker Counties, OR, and that part of Washington lying east of the summit of the Cascade Mountain Range, restricted to a transportation service to be performed under a continuing contract with Scheu Products Company of Upland, CA. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77947, filed December 6, 1978. Transferee: Twin City Trucking, Inc., 57 Cathy Street, Fitchburg, MA 01420. Transferor: Furniture Warehouse, Inc., 323 Speen Street, Natick,

MA 01760. Applicants' Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate of Registration No. MC-39339 (Sub-No. 2), issued October 23, 1967, as corrected March 12, 1968, authorizing the transportation of general commodities anywhere in the Commonwealth of Massachusetts. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77956, filed December 12, 1978. Transferee: Ohio Movers and Storage, Inc., 9420 Sandusky Ave., Cleveland, OH 44105. Transferor: The Schott-Geise Moving & Cartage Company, 9420 Sandusky Ave., Cleveland, OH 44105. Applicants' Representative: Richard H. Brandon, Attorney at Law, 220 West Bridge St., P.O. Box 97, Dublin, OH 43107. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-79678, issued September 26, 1940, as follows: *Household goods*, over irregular routes, between points and places in Cuyahoga County, Ohio, on the one hand, and, on the other, points and places in Illinois, Indiana, Michigan, Pennsylvania, and Wisconsin, traversing West Virginia for operating convenience only. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-1835 Filed 1-17-79; 8:45 am]

[7035-01]

[Notice No. 4]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 8, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 29910 (Sub-201TA), filed December 13, 1978. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber, 301 South Eleventh Street, Fort Smith, AR 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of A. M. General Corporation, at or near Marshall and Wildlawn, TX., as off-route points in connection with applicant's authorized regular route operations at Shreveport, LA. (ABF's authority to serve Shreveport, LA., is found on Page 3, Lines 64-68 and Page 4, Lines 31-34 of its operating authority attached hereto), for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): A. M. General Corporation, P.O. Box 1779, Marshall, TX 75670. SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 56244 (Sub-69TA), filed December 1, 1978. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R. D. #2, Gardners, PA 17324. Representative: John M. Musselman, Rhoads, Sinon & Hendershot, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. *Canned and preserved foodstuffs* (except commodities in bulk, and frozen foods), from the facilities of National Fruit Products Company, Inc., and Shenandoah Apple Co-Operative, Inc., at Winchester, VA, to points in KY and OH, restricted to the transportation of shipments originating at said facilities and destined to the points named, for 180 days. SUPPORTING SHIPPER(S): (1) National Fruit Product Company, Inc., P.O. Box 2040, Winchester, VA 22601. (2) Shenandoah Apple Co-Operative, Inc., P.O. Box 435, Winchester, VA. SEND PROTESTS TO: Charles F. Myers Trans., Specialist, ICC, P.O. Box 869 Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 59098 (Sub-11TA), filed December 5, 1978. Applicant: KNAPP'S EXPRESS, INC., 37 Emerson Street, Ridgefield Park, NJ 07660. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 08934. *Carpet and carpeting*, from the facilities of Galaxy Carpet Mills, Mt. Laurel, NJ., to points in New York, NY., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Galaxy Carpet Mills, Inc., 112B Gaither Drive, Mt. Laurel, NJ. SEND PROTESTS TO: Joel Morross DS, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 71652 (Sub-23TA), filed November 28, 1978. Applicant: BYRNE TRUCKING, INC., 4669 Crater Lake Highway, P.O. Box 280, Medford, OR 97501. Representative: William D. Taylor, Handler, Baker & Greene, 100 Pine Street, Suite 2550, San Francisco, CA 94111. *Iron and steel articles*, as described in Appendix V in Ex Parte MC-45, 61 M.C.C. 209, between the plant site of Metra Steel, at or near Portland, OR, and points in the state of CA., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Metra Steel, 5851 N. Lagoon, Swan Island, Portland, OR 97208. SEND PROTESTS TO: A. E. Odoms DS, 114 Pioneer Courthouse, 555 S.W., Yamhill Street, Portland, OR 97204.

MC 78687 (Sub-53TA), filed December 11, 1978. Applicant: LOTT MOTOR LINES, INC., West Cayuga Street, P.O. Box 751, Moravia, NY 13118. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. *Sulfate of Ammonia*, in bulk, in dump vehicles, from Bethlehem, PA to Big Flats and Lyons, NY for 180 days. SUPPORTING SHIPPER(S): Agway Inc., Fertilizer Division, P.O. Box 4933, Syracuse, NY 13221. SEND PROTESTS TO: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., Room 1259, 100 South Clinton Street, Syracuse, NY 13260.

MC 85811 (Sub-10TA), filed December 14, 1978. Applicant: AMSCO TRANSPORTATION, INC., 10560 Mykawa Road, P.O. Box 33280, Houston, TX 77033. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Iron and steel articles*, from Kansas City, MO., and commercial zone to points in Arkansas, Louisiana, New Mexico, Oklahoma and TX., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): (1) ARMCO, INC., 703 Curtis Street, Middletown, OH 45043. (2) Butler Manufacturing Co., 7400 E. 13th Street, Kansas City, MO 64126. (3) TRICO IND., INC., Columbian Steel Tank Division, 5400 Kansas Avenue, Kansas City, KS. SEND PROTESTS TO: John F. Mensing DS, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

MC 95540 (Sub-1066TA), filed December 5, 1978. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher, 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. *Plastic film or sheeting, other than cellulose*, (in vehicles equipped with mechanical refrigeration), (1) between Griffin, GA and Andover, MA., on the one hand, and, on the other, points in FL, and; (2) between Griffin, GA, on the one hand, and, on the other, Andover, MA., for 180 days. There is no environmental impact involved in this application. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Borden Chemical Div., of Borden, Inc., 1 Clark Street, North Andover, MA 10845. SEND PROTESTS TO: Donna M. Jones Trans. Asst., ICC, Monterey Building, Suite 101, 8410 N.W., 53rd Terrace, Miami, FL 33166.

MC 107295 (Sub-898TA), filed December 13, 1978. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). *Lumber and lumber products*, from Ashland, MT., to points in Illinois, Iowa, Minnesota and WI., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Richard E. Harmer V.P., Andersonia Forest Products, Inc., P.O. Box 4240, Arcata, CA 95521. SEND PROTESTS TO: Charles D. Little DS, ICC, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 109818 (Sub-36TA), filed December 6, 1978. Applicant: WENGER TRUCK LINE, INC., 3909 West Rusholme, P.O. Box 3427, Davenport, IA 52804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Foodstuffs and nonedible food products*, (except commodities in bulk), from the facilities of Termicold Corporation at or near Bettendorf, IA, to points in Ohio, Kentucky, Michigan and IN., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Termicold Corporation, 1618 S.W., First Avenue, Portland, OR 97201. SEND PROTESTS TO: Herbert W. Allen DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 111231 (Sub-251TA), filed December 5, 1978. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, Fort Smith, AR 72902. *Asbestos roofing or siding, building wallboard, and roofing insulation*, from the facilities of G.A.F. Corporation at or near St. Louis, MO., to all points in Alabama, Arkansas, Illinois, Louisiana, Mississippi, Oklahoma, Tennessee and TX., restricted to traffic originating at the facilities of G.A.F., Corporation, for 180 days. SUPPORTING SHIPPER(S): GAF Corporation, 1361 Alps Road, Wayne, NJ 07470. SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 111548 (Sub-12 TA), filed December 6, 1978. Applicant: SHARPE MOTOR LINES, INC., P.O. Box 517, Hildebran, NC 28637. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pa., Ave., 13th Street, N.W., Washington, DC 20004. *Furniture and furniture parts*, (1) from points in Iredell, Cleveland and Alexander Counties, NC, to points in Illinois, Indiana, Michigan and OH; (2) from points in Wilkes County, NC, to points in Illinois, Indiana, and MI; (3) from the facilities of Broyhill Furniture Industries at or near Rutherfordton, NC, to points in IL and NH, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): There are approximately (19) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Terrell Price DS, 800 Briar Creek Road, Room, CC516, Mart Office Building, Charlotte, NC 28205.

MC 112223 (Sub-118 TA), filed December 6, 1978; Applicant: QUICKIE TRANSPORT COMPANY, 1700 New Brighton Boulevard, Minneapolis, MN 55413. Representative: Earl Hacking 1700 New Brighton Boulevard, Minneapolis, MN 55413. *Petroleum Products*, (in bulk, in tank vehicles), from Superior, WI, to points in Itasca, Lake, Cook, and St. Louis Counties, MN, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): There are approximately (8) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Delores A. Poe Trans. Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN. 55401.

MC 113666 (Sub-143 TA), filed December 4, 1978. Applicant: FREE PORT TRANSPORT, INC. 1200 Butler Road, Freeport, PA 16229. Representative: Daniel R. Smetanick (Same address as applicant). *Soy bean meal*, (in bulk, in tank vehicles), from Louisville, KY, to Pearl River, NY, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Lederle Laboratories, division of American Cyanamid Co., Pear River, NY. SEND PROTESTS TO: John England DS, ICC, 2111 Federal Bldg., 1000 Liberty Avenue, Pittsburgh, PA 15222

MC 115496 (Sub-110 TA), filed December 5, 1978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Highway 23 South, Cochran, GA 31014. Representative: Virgil H. Smith, 1587 Phoenix Boulevard, Suite 12, Atlanta, GA 30349. *Lumber, plywood, particleboard, wallboard, composition board, and paneling*, from the facilities of Plywood Panels, Inc., at New Orleans, LA, to points in Georgia, Alabama, Florida, Tennessee, Kentucky, Ohio, Virginia, North Carolina and SC, for 180 days. SUPPORTING SHIPPER(S): Plywood Panels, Inc., P.O. Box 435, New ORLEANS, LA 70175. SEND PROTESTS TO: Sara K. Davis Trans., Asst., ICC, 1252 W. Peachtree Street, N.W., Room 300, Atlanta, GA 30309.

MC 115841 (Sub-657 TA), filed December 5, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Charcoal briquets*, from the facilities utilized by Husky Industries located at or near Meridian and Pachuta, MS., to points in the states of Alabama, Oklahoma, Texas, Louisiana, Tennessee, Georgia, Florida, North Carolina and South Carolina, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA. SEND PROTESTS TO: Glenda Kuss Trans., Asst., ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN. 37203.

MC 116004 (Sub-53 TA), filed December 5, 1978. Applicant: TEXAS OKLAHOMA EXPRESS, INC., P.O. Box 47112, Dallas, Texas 75247. Representative: Doris Hughes, P.O. Box 47112, Dallas, Texas 75247. Authority sought to operate as a *common carrier*, by motor vehicle, over regular

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routes transporting *general commodities,* (except those of unusual value, Classes A & B Explosives, Household Goods as defined by the Commission, commodities in bulk and those requiring special equipment), BETWEEN Dallas, TX, and its commercial zone, on the one hand, and, on the other, Houston, TX, and its commercial zone, serving no intermediate points: From Dallas, TX over I.S. Hwy. 45 (or U.S. Hwy. 75) to Houston, TX and return over the same route, in connection with carrier's present regular route operations for 180 days. Tacking is requested at Dallas, TX and interlining at Houston, TX. There are approximately 214 Support Appendices. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 117786 (Sub-42 TA), filed December 5, 1978. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85009. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. *Paper labels and tags, and equipment, materials, and supplies* used in the printing and distribution of paper labels and tags, from the facilities of Monarch Marking Systems at or near Dayton, OH to all points in Alabama, Arkansas, Georgia, Louisiana, Mississippi, Oklahoma and TX., for 180 days. SUPPORTING SHIPPER(S): Monarch Marking Systems, P.O. Box 698, Dayton, OH 45401. SEND PROTESTS TO: Andrew V. Baylor DS, ICC, Room 2020 Federal Building, 230 N. First Avenue, Phoeniz, AZ 85025.

MC 119399 (Sub-88 TA), filed December 4, 1978. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: Dean Williamson, 280 National Foundation Life Bldg., Oklahoma City, OK 73112. *Automotive parts and materials and supplies* used in the manufacture of automotive parts, between the facilities of Ford Motor Company in the State of Michigan, on the one hand, and, on the other, St. Louis, MO, Kansas City, MO and St. Paul, MN., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Ford Motor Company, One Parklane Blvd., Parklane Towers East, Suite 200, Dearborn, MI 48126. SEND PROTESTS TO: John V. Barry DS, ICC, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 119569 (Sub-8TA), filed December 6, 1978. Applicant: HALBERG CONSTRUCTION AND SUPPLY, INC., d.b.a. KIRSCHER TRANSPORT CO., Virginia, MN 55792. Representative: Earl Hacking, 1790 New Brighton Blvd., Minneapolis, MN 55413. *Petroleum products,* (in bulk, in tank vehicles), from Superior, WI., to points in Itasca, Lake, Cook, and St. Louis, Counties MN., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): There are approximately (9) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Delores A. Poe Trans. Asst., 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 119726 (Sub-151TA), filed December 1, 1978. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 130 E. Washington Street, Suite 1000, Indianapolis, IN 46204. *Paper products,* from the facilities of Western Kraft, Inc., at Cmpti, LA., to Memphis, TN.; St. Louis, MO, Bridgeview, Streator, Montgomery, Elk Grove, Mt. Olive, and Alton, IL, Indianapolis, and Crawfordsville, IN; Bowling Green and Louisville, KY; Milan, MI; Circleville, Delaware, and Middletonn, OH; Pittsburg, PA; Riegelsville and Bellmawr, NJ, and Huntington, WV., for 180 days. An underlying ETA seeks up to 90 days of authority. SUPPORTING SHIPPER(S): Western Kraft Paper Group, Williamette Industries, Inc., 3700 First Nat'l Bank Tower, Portland, OR 97201. SEND PROTESTS TO: Beverly J. Williams Trans., Asst., ICC, Federal Building & U.S. Courthouse, 46 East Ohio St., Room 429, Indianapolis, IN 46204.

MC 119988 (Sub-176TA), filed December 4, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Highway 103 East, Lufkin, TX 75901. Representative: Paul D. Angenend, 1806 Rio Grande, P.O. Box 2207, Austin, TX 78768. *Paper and paper articles,* from (1) the plantsite for International Paper Company located at or near Mobile, AL and Moss Point, MS., to AZ., and CA, and; (2) from the plantsite of International Paper Company located at or near Bastrop, LA., to CA., for 180 days. SUPPORTING SHIPPER(S): International Paper Co., P.O. Box 160707, Mobile, AL 36616. SEND PROTESTS TO: John F. Mensing DS, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

MC 123361 (Sub-8TA), filed December 13, 1978. Applicant: CANTWELL MOTOR SERVICE, INC., 1718 Pontiac Road, East St. Louis, IL 62203. Representative: Ernest A. Brooks, II, 1301 Ambassdor Building, St. Louis, MO 63101. *Meats,* between the facilities of Holten's Wholesale Meats, Inc., at East St. Louis, IL., on the one hand, and, on the other, points in Minnesota, Wisconsin, Kentucky, Indiana and IA., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): James Holten President, Holten's Wholesale Meats, Inc., 919 Lynch Avenue, East St. Louis, IL 62201. SEND PROTESTS TO: Charles D. Little DS, ICC, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 123407 (Sub-513TA), filed December 7, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). *Lumber, lumber products, wood products, and millwork* from OR to CA, for 180 days. Applicant has also filed an underlying ETA seeking authority up to 90 days. Supporting shipper: Merrill Lynch, Wood Markets, Inc., 840 Crown Plaza Bldg., Portland, OR 97201. Send protests to: Lois Stahl, Transportation Asst., I.C.C., Everett McKinley Dirksen Bldg., Rm 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 124170 (Sub-108TA), filed December 8, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, WILLIAM J. BOYD, P.C., 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. *"Canned and Preserved Foodstuffs,* From the facilities of Heinz U.S.A., Division of H. J. Heinz Co. at or near Pittsburgh, PA to points in AR, OK and TX, restricted to traffic originating at the named facilites and destined to the named destination.," for 180 days. SUPPORTING SHIPPER(S): Heinz U.S.A., Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. SEND PROTESTS TO: Tim Quinn DS, ICC, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Blvd., Detroit, MI 48226.

MC 124896 (Sub-79TA), filed December 6, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., Corner Thorne & Ralston Streets, Wilson, NC 27893. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Refrigeration equipment* designed to be installed on motor vehicles and components therefor, from Charleston, SC and/or Louisville, GA, to Atlanta, GA, and/or Raleigh, NC and/or Wilson, NC., and from Atlanta, GA and/or Raleigh, NC, and/or Wilson, NC to Lousiville, GA and/or Charleston, SC., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): (1) Thermo-King of Wilson, Inc., P.O. Box 3565, Wilson, NC 27893. (2) Thermo-King of Raleigh, Inc., Raleigh, NC 27611. (3) Thermo-King of Atlanta, Inc., 1082 Huff Road, N.W., Atlanta, GA 30318. SEND PROTESTS TO: Archie W. Andrews DS, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 125049 (Sub-5TA), filed December 5, 1978. Applicant: TROINA TRUCKING COMPANY, INC., 24 Entwistle Avenue, Nutley, NJ 07110. Representative: Norman Weiss, Bowes, Millner, Rodgers, Liberstein & Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Automobile parts and tools* used in the installation of automobile parts, from Oceanside, NY., to New York, NY, points in Nassau, Suffolk, Rockland and Westchester Counties, NY, points in Bucks, Chester, Delaware, Lehigh, Monroe, Montgomery, Northampton and Philadelphia Counties, PA, and points in CT and NJ, under a continuing contract or contracts, with Questor Corporation and its subsidiaries or divisions, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Questor Corporation, 1 John Goerlich Square, Toledo, OH. SEND PROTESTS TO: Joel Morrows DS, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 125470 (Sub-38TA), filed December 6, 1978. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, Norfolk, NE 68701. Representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. *Limestone and gypsum,* from points in Marion County, IA., to points in Nebraska, Illinois, Missouri, Wisconsin, North Dakota, South Dakota, Arkansas, Kansas, Oklahoma, Texas, Colorado and MN, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): American Pelletizing Corp., Marvin T. Zelibor President, P.O. Box 3628, Des Moines, IA 50322. SEND PROTESTS TO: Carroll Russell DS, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 125535 (Sub-11TA), filed December 1, 1978. Applicant: JOHN SHARP TRUCKING COMPANY, INC., 12015 Manchester Road, Suite 118, St. Louis, MO 63131. Representative: Donald S. Helm (same address as applicant). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Cooling rooms, cooling or freezing machines, evaporators, counters, shelving and hardware, and commodities* used in the manufacture and distribution of such commodities, (except commodities in bulk, in tank vehicles), between the facilities of Hussmann Refrigerator at Bridgeton, MO, on the one hand, and on the other, points in the United States in and east of Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and TX., under a continuing contract or contracts, with Hussmann Refrigerator Co., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Hussmann Refrigerator Company, 1299 St. Charles Rock Road, Bridgeton, MO 63044. SEND PROTESTS TO: P. E. Binder DS, ICC, Room 1465, 210 N. 12th Street, St. Louis, MO 63101.

MC 12655 (Sub-62TA), filed December 5, 1978. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, SD 57709. Representative: Barry C. Burnette, P.O. Box 3000, Rapid City, SD 57709. *Bentonite,* (in bulk, in tank vehicles), From Colony, WY., to points in the United States, (except Hawaii), for 180 days. SUPPORTING SHIPPER(S): International Minerals & Chemical Corp., 421 E. Hawley Street, Mundelein, IL 60060 (Bruce W. Nied Traffic Research Analyst-Motor) SEND PROTESTS TO: J. L. Hammond DS, ICC, Room 455, Federal Building, Pierre, SD 57501.

MC 133655 (Sub-136TA), December 1, 1978. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Paper and paper products and equipment, materials and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk) between the facilities of Container Corporation of America located at or near Ft. Worth, TX on the one hand, and, on the other, New Orleans, Alexandria, and Colfax, LA; Greenville, MS; Wescosville, PA; and Terre Haute, IN, for 180 days. Supporting shipper: Container Corporation of America, P.O. Box 1441, Fort Worth, TX 76101 (O. Daniel Finholt). Send protests to: Haskell E. Ballard, District Supervisor, ICC, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 135023 (Sub-20TA), filed December 5, 1978. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. (1) *Such commodities* dealt in by wholesale and retail food business houses and (2) *Agricultural commodities* which are exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act when transported at the same time and in the same vehicle with commodities listed in (1) above, from points in CA and AZ, to Bismarck and Fargo, ND; Green Bay and Milwaukee, WI; Hopkins, MN; Champaign, IL; Des Moines, IA; and Mitchell, SD, for 180 days. SUPPORTING SHIPPER(S): Super Valu Stores, Inc., 101 Jefferson Avenue South, Hopkins, MN 55343. SEND PROTESTS TO: Delores A. Poe Trans. Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 135399 (Sub-13TA), filed December 6, 1978. Applicant: HASKINS TRUCKING, INC., P.O. Drawer 7729, Longview, TX 75602. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. *Paperboard boxes,* knocked down, from the facilities of J. G. Clark Company in Morrow County, OR, to points in Arizona, California, Colorado, New Mexico, Oklahoma, Texas and UT, for 180 days. SUPPORTING SHIPPER(S): J. G. Clark Company, 2079 Canaan Twp., Road, #244, Edison, OH 43320. SEND PROTESTS TO: Opal M. Jones Trans. Asst., ICC, 1100 Commerce Street, Room 13 C12, Dallas, TX 75242.

MC 136208 (Sub-8TA), filed December 6, 1978. Applicant: CREAGER TRUCKING CO., INC. 4 N.E., Marine Drive, Portland, OR 97217. Representative: Jerry R. Woods, 200 Market Building, Suite 1440, Portland, OR 97201. *Flat glass products,* from the facilities of Guardian Industries Corp., near Kingsburg, CA, to points in Idaho, Montana, Nevada, Oregon, Utah, Washington and AZ, for 180 days. SUPPORTING SHIPPER(S): Guardian Industries Corp., 11535 E. Mountain View Road, Kingsburg, CA 93631. SEND PROTESTS TO: R. V. Dubay DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 136315 (Sub-45TA), filed December 1, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, PA 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. (1) *Iron and steel articles,* from the facilities of Keystone Consolidated Industries, Inc., at or near Peoria, IL, to points in Louisiana, Mississippi and TX; and (2) *Materials, equipment and supplies,* (except in bulk), from points in the above named states to the facilities of Keystone Consolidated Industries, Inc., at or near Peoria, IL, for 180 days. SUPPORTING SHIPPER(S): Keystone Consolidated Industries, Inc., 7000 South Adams Street, Peoria, IL 61607. SEND PROTESTS TO: Alan C. Tarrant DS, ICC, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 136989 (Sub-19TA), filed December 4, 1978. Applicant: R. F. BOX, INC., 500 Kinley, N.E., Albuquerque, NM 87104. Representative: Edwin E. Piper, Jr., 1115 Sandia Savings Bldg., Albuquerque, NM 87102. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Paints, wood stains, wood filler and caulking compounds,* from the plantsite of Dar-

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worth Co., at or near Avon, CT, to points in Arizona, New Mexico, Colorado, Idaho, Montana, Utah, Nevada, California, Oregon and WA, under a continuing contract or contracts with, Darworth Co., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Danworth Co., P.O. Box K, Tower Lane, Avon, CT 06001. SEND PROTESTS TO: DS, ICC, 1106 Federal Office Building, 517 Gold Avenue, S.W., Albuquerque, NM 87101.

MC 138039 (Sub-7TA), filed December 4, 1978. Applicant: BAY DELIVERY CORP., 1919 Broadhollow Road, Farmingdale, NY 11735. Representative: Bruce J. Robbins, Robbins & Newman, 118-21 Queens Boulevard, Forest Hills, NY 11375. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Health and beauty aids* from Syosset, NY, to points in the State of FL, (including Altamonte Springs, Orlando; Hialeah, Miami; North Miami Beach; Ft. Lauderdale; Sunrise; Boca Raton; Hallandale; Coral Gables; Sarasota and Fort Myers), *Returned, refused and rejected shipments on return*, under a continuing contract or contracts, with Allou Distributors, Inc., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Allou Distributors, Inc., 425 Underhill Boulevard, Syosset, NY 11791. SEND PROTESTS TO: Maria B. Kejss Trans. Asst., ICC, 26 Federal Plaza, New York, NY 10007.

MC 138126 (Sub-33TA), filed December 5, 1978. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., P.O. Box 47, Old Denton Road, Federalsburg, MD 21632. Representative: Chester A. Zyblut, 1030 15th Street, N.W., Washington, DC 20005. *Foodstuffs*, from the facilities of Campbell Soup Company and affiliates or subsidiaries at or near Milford and Clayton, DE; Salisbury, Pocomoke City and Baltimore, MD; Downingtown, PA, to points in Arkansas, Florida, Georgia, Nebraska and TX, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Donald R. Loring, Distribution Manager, Campbell Soup Company, P.O. Box 1618, Salisbury, MD 21801. SEND PROTESTS TO: William L. Hughes DS, ICC, 1025 Federal Building, Baltimore, MD 21201.

MC 139078 (Sub-15TA), filed December 5, 1978: Applicant: MIDCOAST TRUCKING, 131 Beaverbrook Road, Lincoln Park, NJ 07035. Representative: Alan Kahn, Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (not requiring refrigeration), from the facilities of Globe Products Company, Inc., at Clifton, NJ, to points in MI and OH, under a continuing contract ore contracts, with Globe Products Company, Inc., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Globe Products Company, Inc., P.O. Box 1927, Clifton, NJ 07015. SEND PROTESTS TO: Joel Morrows DS, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 141085 (Sub-5TA), filed December 5, 1978. Applicant: EAST COAST TRUCKING, INC., 90 Rentell Road, Hamden, CT 06514. Representative: John E. Fay, 630 Oakwood Avenue, Suite 127, West Hartford, CT 06110. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Processed log products, millwork, materials, accessories, parts and supplies* for assembly, processing, and manufacture of log homes, between plants located at Houston, MO, Laurenceville, VA; and Great Barrington, MA; on the one hand, to points and places in Arizona, Arkansas, California, Idaho, Iowa, Louisiana, Minnesota, Mississippi, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming, under a continuing contract or contracts, with New England Log Homes, Inc., d.b.a. NELHI., for 180 days. SUPPORTING SHIPPER(S): New England Log Homes, Inc., d.b.a. NELHI, 2301 State Street, Hamden, CT 06518 SEND PROTESTS TO: J. D. Perry, Jr., DS, ICC, 135 High Street, Room 324, Hartford, CT 06103.

MC 142408 (Sub-1TA), filed December 5, 1978. Applicant: J. B. HAMILTON, d.b.a., HAMILTON TRUCKING COMPANY, P.O. Box 7543, Fort Worth, TX 76111. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, from Fort Worth, TX., to Los Angeles and San Francisco, CA, and Marion and Hartsville, SC, and between Fort Worth, TX., and Winston-Salem, NC, under a continuing contract or contracts, with Gallos Plastics Corporation, Fort Worth, TX., for 180 days. SUPPORTING SHIPPER(S): Gallos Plastics Corporation, 3220 May Street, Fort Worth, TX 76110. SEND PROTESTS TO: Martha A. Powell Trans. Asst., ICC, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 143163 (Sub-11TA), filed December 4, 1978. Applicant: RICHARDSON TRUCKING, INC., 603 8th Street, Greeley, CO 80611. Representative: Fred Cantonwine (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packing houses*, (except hides and commodities in bulk), and foodstuffs from (1) Austin and Owatonna, MN; Ft. Dodge and Ottumwa, IA; Beloit, WI; and Fremont, NE., to points in Arizona, California, Colorado, New Mexico, Oklahoma, Oregon, Texas, and WA; (2) Stockton, CA to Austin, MN and Beloit, WI; (3) Ft. Worth, TX., to Chicago, IL; Fullerton, CA; Grand Rapids, MI; Indianapolis, IN; and Milwaukee, WI., restricted to service for George A. Hormel Co., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): George A. Hormel & Co., P.O. Box 800, Austin, MN 55912. SEND PROTESTS TO: Roger L. Buchanan DS, ICC, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 143580 (Sub-1TA), filed December 5, 1978. Applicant: FREIGHT SYSTEMS, INC., 6303 Corsair Street, Commerce, CA 90040. Representative: Savery L. Nash, 800 Wilshire Boulevard, Suite 700, Los Angeles, CA 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed materials*, from points in Los Angeles County, CA., to points in CA., for 180 days. SUPPORTING SHIPPER(S): Dayton Press, Inc., 2219 McCall Street, Dayton, OH 45401. (2) The Conde Nast publications, Inc., 350 Madison Avenue, New York, NY. 10017. SEND PROTESTS TO: Irene Carlos Trans. Asst., ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 143868 (Sub-3TA), filed December 1, 1978. Applicant: R.E.T.E.N.O. CARRIERS, INC., 2001 North Tyler, Suite H, South El Monte, CA 91733. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel*, moving in vehicles equipped with mechanical refrigeration, from Franklin Park, IL, to points in the Milwaukee, OR, commercial zone as defined by the Commission, under a continuing contract or contracts, with Carlton Company, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Carlton Company, 3901 S.E., Naef Road, Milwaukee, OR 97222. SEND PROTESTS TO: Irene Carlos Trans. Asst., ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 143956 (Sub-2TA), filed December 13, 1978. Applicant: GARDNER TRUCKING CO., INC., Drawer 493, Waterboro, SC 29488. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Foodstuffs*, in vehicles equipped with temperature control, from the facilities of Hoslum Foods, Waukesha, WI, to Mechanicsburg, PA and Norfolk, VA, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Holsum Foods, 500 South Prairie Avenue, Waukesha, WI 53186. SEND PROTESTS TO: E. E. Strotheid DS, ICC, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 144054 (Sub-4TA), filed December 5, 1978. Applicant: BILL LITTLEFIELD TRUCKING, INC., 775 E. Vilas Road, Medford, OR 97501. Representative: Lawrence V. Smart, Jr., 419 N.W., 23rd Avenue, Portland, OR 97210. (1) *Gift-wrapped and packaged foods, food products and commodities* dealt in by retail gift shops (except frozen), and (2) *plants and bulbs* when moving at the same time and in the same vehicle with the commodities in (1) above, from the facilities of Harry and David at or near Medford, OR, to points in the United States (except Alaska, Hawaii and California), for 180 days. Applicant holds TA to serve CA (MC 144054) (Sub-1 TA). An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Harry and David, P.O. Box 712, Medford, OR 97501. SEND PROTESTS TO: A. E. Odoms DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 144117 (Sub-22TA), filed December 8, 1978. Applicant: TLC LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: William D. Brejcha, Esq., 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. *Processed nuts and processed seeds and dried banana chips* (moving in mixed loads with exempt commodities), From the facilities of Tenneco West, Inc. at Paso Robles, Chico, Indio, Kerman, and Bakersfield, CA to points in the U.S. (except AK and HI), for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Tenneco West, P.O. Box 9080, Bakersfield, CA 93309. SEND PROTESTS TO: P. E. Binder DS, ICC, Room 1465, 210 N. 12th Street, St. Louis, MO 63101.

MC 144703 (Sub-1TA), filed December 1, 1978. Applicant: MICHAEL PETERSEN TRUCKING, INC., 1452 Santa Monica Blvd., Santa Monica, CA. Representative: Greg P. Steffire, of Kellner, 700 S. Flower Street, Suite 1724, Los Angeles, CA 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Childrens furniture and toys*, from the facilities of GRACO Children's Products, Inc., at or near Elverson, PA., to points in Mississippi, Louisiana, Arkansas, Oklahoma, Texas, Missouri, Colorado, Utah, Arizona, California and Nevada, under a continuing contract or contracts, with GRACO Childrens Products, Inc., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): GRACO Childrens Products, Inc., Elverson, PA 19520. SEND PROTESTS TO: Irene Carlos Trans., Asst., ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 144941 (Sub-1TA), filed December 4, 1978. Applicant: THE BEVERAGE CARRIER CORPORATION, 595 East Tallmadge Avenue, Akron, OH 44310. Representative: Gary Rowland, 595 East Tallmadge Avenue, Akron, OH 44310. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated or flavored beverages, and equipment, materials and supplies* used in the manufacture and distribution of such commodities (except commodities in bulk), between points in OH and MI., under a continuing contract or contracts, with Coca Cola Bottling Company, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Coca Cola Bottling Company of OH., Coca Cola Bottling Company of MI., 4710 W. Saginaw Highway, Lansing, MI. SEND PROTESTS TO: Mary Wehner Trans. Specialist, ICC, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 145001 (Sub-4TA), filed December 4, 1978. Applicant: HORACE CHAVIS, d/b/a CHAVIS TRANSFER, 2019 Decatur Street, Richmond, VA 23224. Representative: Calvin F. Major, 200 W. Grace Street, Suite 415, Richmond, VA 23220. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated cabinets and kitchen fixtures*, from points in VA., to points in Massachusetts, Connecticut, Pennsylvania, New Jersey, Delaware, Tennessee, Alabama, Mississippi and AR., under a continuing contract or contracts, with Richmond Lumber Co., for 130 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Richmond Lumber Co., 4th & Maury Streets, Richmond, VA 23205. SEND PROTESTS TO: Paul D. Collins DS, Room 10-502 Federal Building, 400 North 8th Street, Richmond, VA 23240.

MC 145129 (Sub-2TA), filed December 4, 1978. Applicant: WHITAKER TRANSPORTATION CO., INC., P.O. Box 1705, Chattanooga, TN 37401. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. (1) *Corrugated cartons, K.D., and pulpboard* (except commodities in bulk), from the facilities of Container Corporation of America at or near Chattanooga, TN to points in Alabama and GA; and (2) *Materials and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), from points in AL and GA., to the facilities of Container Corporation of America at or near Chattanooga, TN., for 180 days. SUPPORTING SHIPPER(S): Container Corporation of America, P.O. Box 2225, 5853 E. Ponce De Leon Avenue, Stone Mountain, GA. 30086. SEND PROTESTS TO: Glenda Kuss Trans. Asst., ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 145679 (Sub-3TA), filed Dec. 4, 1978. Applicant: A & A TRANSPORT SERVICES, INC., Maple Tree Industrial Park, Boston Road, P.O. Box 12, Palmer, MA 01069. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Meats and packinghouse products*, From East St. Louis, IL and its Commercial Zone to points in CT, MD, MA, MI, NH, NJ, NY, OH, PA, RI, and DC, for 180 days. An underlying ETA seeking up to 90 days of operating authority and has been granted a 20-day ETA partially duplicating the authority sought herein. SUPPORTING SHIPPER(S): Royal Packing Company, P.O. Box 156, National Stockyards, Il 62071. SEND PROTESTS TO: Mr. David Miller, District Supervisor, Interstate Commerce Commission, 436 Dwight Street, Room 338, Springfield, MA 01103.

MC 145718 (Sub-1TA), filed December 6, 1978. Applicant: MARCUS FREDELL, 2524 Columbus Circle, Charlotte, NC 28208. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bricks*, between points in NC, on the one hand, and points in SC, on the other, under a continuing contract or contracts, with Ashe Brick Co., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Ashe Brick Co., Van Wyck, SC 29744. SEND PROTESTS TO: Terrell Price DS, 800 Briar Creek Road, Room CC 516, Mart Office Building, Charlotte, NC 28205.

MC 145809 (Sub-1TA), filed December 6, 1978. Applicant: R. V. BANNONS TRANSPORTERS, 4609 Longbranch Drive, Sacramento, CA 95842. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *New mobile home coaches in initial movement in truckaway service*, From Rancho Cordova, CA, to Reno, Sparks, Carson City and Fallon, NV; routing Rancho Cordova, CA, to Sacramento,

CA, U.S. 40; to Reno, NV, and Sparks, NV, via I-80; U.S. 395 to Carson City, NV; to U.S. 50 to Fallon, NV, under a continuing contract or contracts, with Kaufman & Broad Home Systems, Inc., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Kaufman & Broad Home Systems, Inc., 11320 Amalgam Street, Rancho Cordova, CA. SEND PROTESTS TO: A. J. Rodriguez DS, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 145817 TA filed December 1, 1978. Applicant: RECREATIONAL PRODUCTS TRANSPORT, INC., (R.P.T.), Uxbridge Road (Route 16), Mendon, Massachusetts 01756. Representative: Mr. S. L. Watts, TDS, Inc.; 1050 Waltham Street, Lexington, Massachusetts 02173. *Boats new or used, and other products*, dealt with in the recreational marine products industry (except in bulk). Proposed operation will be between points in the states of CT, MA, ME, NH, NY, RI and VT on the one hand, and, on the other, points in the United States, excepting AK and HI, for 90 days. An underlying ETA seeking up to 90 days authority. SUPPORTING SHIPPER(S): Jessee F. White, Inc., Uxbridge Road, Mendon, MA 01756. SEND PROTESTS TO: David M. Miller DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 145834 (Sub-1 TA), filed December 6, 1978. Applicant: PIPE HAULERS, INC., 1900 Grant Building, Pittsburgh, PA 15219. Representative: James P. Giltner, 709 Brookpark Road, Cleveland, OH 44109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Conduits and other pipe, and attachments, parts and fittings therefor*, and commodities used in the manufacture of same, between Croydon, PA., and points in New Jersey, New York, Delaware and MD., within 150 miles of Croydon, PA., under a continuing contract or contracts, with United States Concrete Pipe Company, for 180 days. SUPPORTING SHIPPER(S): United States Concrete Pipe Company, 709 Brookpark Rd., Cleveland, OH 44109. SEND PROTESTS TO: Mary Wehner DS, ICC, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 145851 (Sub-1 TA), filed December 6, 1978. Applicant: BRUNSWICK TRUCK SERVICE, INC., Old Portland Road, Brunswick, ME 04011. Representative: Philip Sherwood, Old Portland Road, Brunswick, ME 04011. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *All types of scrap metals and all types of materials for recycling purposes*, from points in ME., on the one hand, to Madbury, NH, and Boston, MA, on the other, under a continuing contract, or contracts, with A. Gagnon & Sons, Inc., for 90 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): A. Gagnon & Sons, Inc., P.O. Box 2418, South Portland, ME 04106. SEND PROTESTS TO: ICC, Room 305, 76 Pearl St., Portland, ME 04111.

MC 145870 TA, filed December 13, 1978. Applicant: L-J-R HAULING, INCORPORATED, P.O. Box 699, Dublin, VA 24084. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. (1) *Mining machinery and equipment, and parts* for such commodities, and (2) *materials, equipment and supplies* used in the manufacture and installation of mining machinery and equipment (except commodities in bulk), between the facilities of Long-Airdox Company, at or near Pulaski, VA and Rural Retreat, VA, on the one hand, and, on the other, points in AL, AR, CO, IL, IN, KY, MD, OH, OK, PA, TN, VT, VA, WV, and WY for 180 days. Applicant has also filed an underlying application seeking up to 90 days of emergency temporary authority. Supporting shipper: Long-Airdox Company, P.O. Box 1231, Pulaski, VA 24301. Send protests to: Mr. Paul D. Collins, District Supervisor, Interstate Commerce Commission, 10-502 Federal Bldg., 400 North Eighth Street, Richmond, VA 23240.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-1834 Filed 1-17-79; 8:45 am]

[7035-01-M]

[Exception No. 11 under Section (a), Paragraph (1), Part (v) Second Revised Service Order No. 1332]

SOUTHERN PACIFIC TRANSPORTATION CO.

Decided: January 9, 1979.

By the Board:

Because of traffic interruptions and power problems, the Southern Pacific Transportation Company (SP) is temporarily unable to forward all cars within 60 hours as required by Section (a)(4)(i) of Second Revised Service Order No. 1332.

It is ordered, Pursuant to the authority vested in the Railroad Service Board by Section (a)(1)(v) of Second Revised Service Order No. 1332, the SP is required to forward loaded cars or empty foreign or private cars from the points named below within 72 hours.

SP

Houston, Texas, San Antonio, Texas, El Paso, Texas, Tucson, Arizona.

Effective: January 9, 1979.

Expires: 11:59 p.m., January 15, 1979.

Robert S. Turkington,
Acting Chairman,
Railroad Service Board.

[FR Doc. 79-1833 Filed 1-17-79; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

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[6320-01-M]

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[M-190-Amdt. 1; Jan. 15, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the January 18, 1978, meeting agenda.

TIME AND DATE: 10 a.m., January 18, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

6a. Docket 29968, *Louisville Service Case*—Tentative opinion and order disposing of deferred issues. (Memo 6240-D, OGC.)

9a. Docket 33105, Braniff's application for a further extension of its Las Vegas-Reno exemption. (Memo 8122-F, OGC.)

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Although work on Item 6a was completed and it was circulated to Board Members on December 11, 1978, it was not received by the Secretary's Office until after the December 18, 1978, calendar had been closed. Item 9a is being added because Braniff's exemption expires after January 18, 1979. Accordingly, the following Members have voted that agency business requires the addition of Items 6a and 9a to the January 18, 1979, agenda and that no earlier announcement of these additions was possible.

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

[S-103-79 Filed 1-16-79; 3:22 pm]

[6320-01-M]

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[M-190 Amdt 2; Jan. 15, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the January 18, agenda.

TIME and DATE: 10 a.m., January 18, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: (9). Dockets 33580, 33629, 33672, 33821, 33863, 33878, and 33997; applications for certificate amendments nonstop Denver-Detroit authority in the following: Frontier, Braniff, Northwest, Allegheny, Continental, American, and Ozark (memo 8423, BPDA, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The staff needs additional time in order for further revisions. Accordingly, the following Members have voted that agency business requires the deletion of Item 9 from the January 18, 1979, agenda and that no earlier announcement of this change was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

[S-104-79 Filed 1-16-79; 3:22 pm]

[6351-01-M]

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COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR, Vol. 44, No. 7, Wednesday, January 10, 1979, page 2238.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m. January 19, 1979.

CHANGES IN THE MEETING: Meeting canceled.

[S-105-79 Filed 1-16-79; 3:22 pm]

[6351-01-M]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., January 23, 1979.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Leverage contracts on commodities other than gold and silver.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-106-79 Filed 1-16-79; 3:22 pm]

[6351-01-M]

5

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., January 23, 1979.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters: proposed administrative proceedings.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-107-79 Filed 1-16-79; 3:22 pm]

[6351-01-M]

6

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., January 24, 1979.

PLACE: 2033 K Street NW., Washington, D.C., eight floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Judicial session.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-108-79 Filed 1-16-79; 3:22 pm]

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[6351-01-M]

7

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., January 26, 1979.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-109-79 Filed 1-16-79; 3:22 pm]

[6712-01-M]

8

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, January 17, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN MEETING: Additional item to be considered:

AGENDA, ITEM NUMBER, AND SUBJECT

Common Carrier—4—Transmittals by the International Record Carriers proposing rate reductions to implement flow through of Comsat's reductions in satellite facility costs.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone number 202-632-7260.

Issued: January 12, 1979.

[S-98-79 Filed 1-16-79; 10:16 am]

[6730-01-M]

9

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., January 24, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open the public.

1. Agreement No. 9882-1: Modification of the Pacific Australia direct line joint service agreement to provide for intermodal authority.

2. Agreement No. 10012-3: Application for extension of the intermodal authority of the Australia-Pacific Coast rate agreement.

3. Proposed reduced rates applicable between Charleston, S.C., and Puerto Rico filed by Puerto Rico Maritime Shipping Authority.

4. Docket No. 76-11: In re: Agreement Nos. 150 DR-7 and 3103 DR-7—Request for oral argument and petition of J. Alton Boyer to file brief amicus curiae.

5. Agreement No. 10066: Equal access agreement in the United States-Colombian trades—Compliance with conditional order of approval.

Portion closed to the public:

1. Docket No. 78-32: Pacific Westbound Conference—Equalization and absorption rules and practices—Discussion of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-99-79 Filed 1-16-79; 11:33 am]

[6735-01-M]

10

JANUARY 15, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., January 19, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: This meeting will be partly open and partly closed.

MATTERS TO BE CONSIDERED: Part open to public.

1. *Consolidation Coal Co.*, Docket Nos. 79-2-P, 79-4-P, 79-5-P. The issue involves whether the Commission should direct review on its own motion of the Administrative Law Judge's decision approving a settlement.

Part closed to public.

2. *Anschutz Coal Corporation* v. *Federal Mine Safety and Health Review Commission*, No. 78-1840, pending 10th Circuit. This part of the meeting involves the Commission's position in the above civil preceeding. 29 CFR 2701.7 (44 FR 25767.

It was determined by unanimous vote of the Commissioners that Commission business required that these matters be immediately scheduled for a Commission meeting and that no earlier announcement of this action was possible.

CONTACT PERSON FOR MORE INFORMATION:

Joanne Kelley, 202-653-5644.

[S-101-79 Filed 1-16-79; 2:07 pm]

[7550-01-M]

11

NATIONAL MEDIATION BOARD

TIME AND DATE: 2 p.m., Wednesday, February 7, 1979.

PLACE: Board hearing room, Eighth floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Ratification of Board actions taken by notation voting during the month of January 1979.

(2) Consideration of proposed rulemaking actions with respect to NMB rules §§ 1202.15, 1206.2, and 1206.4; 29 CFR §§ 1202.15, 1206.2 and 1206.4.

(3) Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthy report of the Board's notation voting actions will be available from the Executive Secretary following the meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rowland K. Quinn, Jr., Executive Secretary; 202-523-5920.

Date of notice: January 15, 1979.

[S-100-79 Filed 1-16-79; 11:40 am]

[4910-58-M]

12

[NM-79-2]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, January 25, 1979.

PLACE: NTSB board room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Discussion of NTSB's Affirmative Action Program.

2. Marine Accident Report—Charter Fishing Board *Dixie Lee II*, capsizing in severe thunderstorm in the Chesapeake Bay near Norfolk, Va., June 6, 1977.

3. Marine Accident Report—Showboat *Whippoorwill*, capsizing in Pomona Lake, Kans., June 17, 1978.

4. Letter to U.S. Coast Guard re recommendation M-78-13, loadlines.

5. Inclusion in the record of Member McAdams' memorandum of January 15, 1979, relative to Notation 2548, adopted by the Board on January 11, 1979.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-102-79 Filed 1-16-79; 2:43 pm]

federal register

THURSDAY, JANUARY 18, 1979
PART II



DEPARTMENT OF TRANSPORTATION

Coast Guard

CHESAPEAKE BAY, COVE POINT, MARYLAND

Safety Zone Regulations

V 4 4 - 1 3

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Port 165]

[CGD5-78-06R]

CHESAPEAKE BAY, COVE POINT, MD.

Safety Zone Regulations

AGENCY: Goast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: The Coast Guard proposes to establish a safety zone in the vicinity of the Columbia LNG Corporation's offshore liquefied natural gas (LNG) receiving terminal near Cove Point, Maryland. This safety zone is proposed to minimize the risk of collision between LNG carriers and other vessels while they are maneuvering in the vicinity of, or moored to, the offshore terminal. This additional precautionary measure is deemed necessary in consideration of the nature and quantity of the liquefied natural gas cargo involved and the limited ability of the LNG vessels to take evasive action when maneuvering to approach or depart the offshore terminal. This proposed safety zone regulation would require persons to comply with the general safety zone regulations contained in 33 CFR Part 165.20, which prohibit persons from entering or remaining in the safety zone without authorization from the Captain of the Port. This safety zone is in effect at all times. The exact parameters of the zone are dependent upon whether an LNG vessel is moored to; maneuvering in the vicinity of; or is not present at the Columbia LNG offshore terminal. Mariners will be provided advance notice of scheduled arrivals and departures of LNG vessels calling at the Cover Point terminal via Broadcast Notice to Mariners.

DATES: Comments must be received on or before March 5, 1979.

ADDRESSES: Comments should be submitted to the Captain of the Port, Customhouse, Baltimore, Maryland 21202. Comments will be available for examination at the office of the Captain of the Port, Room 333, Customhouse, Gay and Lombard Streets, Baltimore, Maryland.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander Eric J. Williams III, Chief, Port Operations, Department, Marine Safety Office, Customhouse, Baltimore, Maryland 21202. (301-752-3573)

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include his name and address, identify the notice (CGD5-78-06R and the specific section of the proposal to which his comment applies, and give reasons for his comment. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Lieutenant D. G. BRATTON, Port Safety Branch of the Marine Safety Division, and Lieutenant M. P. TROSETH of the office of the District Legal Officer, Fifth Coast Guard District.

DISCUSSION OF THE PROPOSED RULE

This proposed safety zone is intended to be part of an overall safety program implemented by the Captain of the Port, Baltimore, Maryland to enhance the safety of liquefied natural gas operations on Chesapeake Bay. The Coast Guard promulgated regulations which set forth the procedures for the establishment of safety zones for the protection of vessels, structures, and water and shore areas. These regulations also provide for publishing specific safety zones when they have a continuing application (33 CFR Part 165, 42 FR 63369). This safety zone is in effect at all times, whether an LNG vessel is or is not moored to the Columbia LNG Corporation's offshore terminal; when an LNG vessel is maneuvering in the vicinity of the offshore terminal; or when an LNG vessel signals its intention to depart from the offshore terminal. All marine traffic in the vicinity would be prohibited from entering or remaining in this safety zone without authorization from the Captain of the Port, Baltimore, Maryland. Mariners will be provided notice of scheduled arrivals and departures of LNG vessels calling at the Cove Point terminal via Broadcast Notice to Mariners.

This proposed safety zone is to be established in the immediate vicinity of the Columbia LNG Corporation's offshore receiving terminal near Cove Point, Maryland. This offshore structure is located approximately one mile from the western shore of Chesapeake Bay, and is designed to accommodate a maximum of two LNG vessels simultaneously. The vessels that use this facility are approximately 925 feet in length and operate at a draft of approximately 36 feet. Both the size of these vessels and the significant "sail areas" presented by their above-water hull configurations require the masters to exercise delicate handling skills when maneuvering in the vicinity of the offshore terminal, thereby limiting their ability to take evasive action to avoid other traffic while conducting these maneuvers. The waters surrounding the offshore platform are utilized by both commercial and sport fishermen, as well as by general recreational boaters. The establishment of this safety zone would enhance the safety of all watermen operating in this area.

This safety zone covers a small area and therefore it should not cause undue hardships to local fishermen and watermen. The size and configuration of this safety zone were chosen after consultations by the Captain of the Port, Baltimore with representatives of various state and local agencies and local watermen associations. The Coast Guard is proposing this safety zone both because if affords ample maneuvering room for the LNG vessels and because its application is limited to only those situations when hazardous conditions are deemed to exist. The Columbia LNG Corporation received its initial shipment of LNG at its Cove Point terminal in March 1978. For that and subsequent vessel arrivals, the Captain of the Port, Baltimore, has exercised his authority under 33 CFR 165 by establishing, on each occasion, a temporary safety zone describing the identical location and conditions contained in this notice of proposed rulemaking. Interested persons who have communicated with the Captain of the Port, Baltimore have voiced general approval of the safety zone. The Coast Guard has determined that establishing this safety zone, which has continuing application, would enhance its effectiveness through greater dissemination.

This regulation has been reviewed under DOT notice 78-1 "Improving Government Regulations" (43 FR 9582) and a draft evaluation has been prepared and is available for public inspection at the fifth district address indicated above.

An environmental assessment has been completed and an initial determination has been made that this proposed action would result in no adverse impact on the quality of the human environment.

In consideration of the foregoing, it is proposed to amend Part 165 of Title 33 Code of Federal Regulations by adding § 165.—, to read as follows

§ 165.— Cove Point, Chesapeake Bay, Maryland.

(a) The waters and waterfront facilities located within the following boundary constitute a safety zone effective when an LNG carrier is maneuvering in the vicinity of the Cove Point terminal and when a moored LNG carrier indicates its intention to get underway; a line beginning at a point one-half mile NW of the end of the north pier of the Columbia LNG facility at Cove Point, Maryland, located at 38°24'43" N latitude, 76°23'32" W longitude; thence 056°T to a point 2800 yards off shore at 38°24'59" N latitude, 76°23'01" W longitude; thence 146°T to a point located 2300 yards off shore at 38°23'52" N latitude, 76°22'03" W longitude; thence 236°T to a point one-half mile SE of the end of the south pier of the Columbia LNG facility at Cove Point, Maryland, located at 38°23'39" N latitude, 76°22'35" W longitude; thence north westerly to the point of origin.

(b) The waters and waterfront facilities located within the following boundary constitute a safety zone when an LNG carrier is moored at the receiving terminal: the area within 200 yards of the moored LNG carriers at the Columbia LNG offshore terminal, Cove Point, Maryland. Regardless of whether one or two LNG vessels are moored, the safety zone will extend 50 yards on the shoreside of the offshore terminal.

(c) The waters and waterfront facilities located within the following boundary constitute a safety zone when no LNG carrier is moored at the receiving terminal: the area within 50 yards of the Columbia LNG Corporation offshore terminal, Cove Point, Maryland.

(d) The general regulations governing safety zones as contained in 33 CFR 165.20 apply.

(86 Stat. 427 (33 USC 1224); 49 CFR 1.46), as amended by Section 2 of the Port and Tanker Safety Act of 1978 (Pub. L. 95-474).

J. W. KIME,
Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Md.

[FR Doc. 79-1374 Filed 1-16-79; 8:45 am]

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THURSDAY, JANUARY 18, 1979
PART III



DEPARTMENT OF COMMERCE

Office of the Secretary

NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM

Test Thermal Insulation Materials; General and Specific Criteria, and Fees and Charges

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[3510-13-M]

DEPARTMENT OF COMMERCE

Office of the Secretary

NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM

Final General and Specific Criteria for Accrediting Laboratories That Test Thermal Insulation Materials

AGENCY: Assistant Secretary of Commerce for Science and Technology.

ACTION: Announcing the final general and specific criteria that laboratories which test thermal insulation materials must meet in order to be accredited under the provisions of the National Voluntary Laboratory Accreditation Program.

SUMMARY: Pursuant to the Procedures for a National Voluntary Laboratory Accreditation Program (NVLAP) (15 CFR Part 7), this notice contains the text of the final general and specific criteria to be used by the Secretary of Commerce (Secretary) in accrediting testing laboratories that voluntarily request such accreditation under the National Voluntary Laboratory Accreditation Program for Thermal Insulation Materials (NVLAP-1). These final criteria are based upon criteria proposed in the FEDERAL REGISTER on September 29, 1978 (43 FR 45290-45297), and include modifications to the proposed criteria in response to comment from the public. The evaluation of these public comments and the recommendations of the National Laboratory Accreditation Criteria Committee for Thermal Insulation Materials (NLACC-1) submitted to the Assistant Secretary of Commerce for Science and technology on December 18, 1978, provided valuable guidance in arriving at the final criteria.

These final criteria do not differ from the proposed criteria in any significant way. The Notes following Criteria G1 and S1 were modified so as to make it clear that the on-site examiner, upon visiting a laboratory, may compare resumes of key persons with resumes and job descriptions provided by the testing laboratory in response to the requirements of sections G1.1.6 and S1.1 of criteria. The purpose of this comparison will be to assure that the laboratory is staffed with personnel competent in the principles and practices of measurement in the area in which accreditation is sought. Section G2.1.4 was changed to make it clear that the laboratory is expected to have a procedure to respond to complaints about test results. Although these procedures may vary among the various accredited laboratories, NVLAP will establish its own uniform procedures to respond to complaints which it receives about accredited laboratories. The note following section 4 of Criterion S4 was also expended to make it clear that a laboratory accredited for a specific test method must also be accredited for all other test methods in the NVLAP program which are used to obtain data necessary to complete the specific test method.

In addition to these modifications of the criteria proposed on September 29, 1978, several paragraphs have been added at the beginning of the criteria which contain instructions for making application for accreditation and describe the conditions related to examination of the laboratory, fees to be paid by the laboratory, and limits on the laboratory in publicizing the laboratory's NVLAP accreditation as specified in section 7.7(c) of the NVLAP procedures (15 CFR Part 7). Several paragraphs have also been added at the end of criteria in order to clearly identify the requirements applicable to proficiency sample testing.

Finally, Appendix 1 of the proposed criteria was clarified and amplified. Several test methods, dealing primarily with tests for cellulose insulation, were added to the program. The data presented in Appendix 1 are supplemental to the criteria, clarifying the application of the criteria to thermal insulation materials. As such, they are part of the operating process of the program and not part of the criteria. As this NVLAP program is implemented, it may be necessary to change some of the stated values for precision and accuracy of each test method, modify proficiency sampling programs, or to make other adjustments to the material in Appendix 1 in response to changes in the state-of-the-art. When such changes are developed they will be published in the FEDERAL REGISTER and made effective immediately upon publication.

DATES: These final criteria shall go into effect on (please insert the date which is 30 days from the date this notice will appear). Laboratories which complete their application for accreditation and submit their fee by February 28, 1979 will be included among the first group of laboratories to be evaluated for accreditation under NVLAP procedures. Applications received after this date will be included in a second group of laboratories to be evaluated six months to one year later.

FOR FURTHER INFORMATION CONTACT:

Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards. Room 3876, U.S. Department of Commerce, Washington, DC 20230; (202) 377-3221.

SUPPLEMENTARY INFORMATION: On September 29, 1978, the Department of Commerce (Department) announced in the FEDERAL REGISTER (43 FR 45290-45297) the issuance of proposed criteria for accrediting testing laboratories that test thermal insulation materials. On the same day in a separate FEDERAL REGISTER notice (43 FR 45298) the Department issued the proposed schedule of estimated fees that laboratories would be charged if they want to become accredited. Information on fees was provided to enable a laboratory to more completely evaluate the proposed criteria.

Persons desiring to comment on the proposed criteria were invited to submit their comments to the Assistant Secretary for Science and Technology on or before November 13, 1978. Fourteen respondents submitted written statements during the comment period. Their statements are part of the public record and are available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, DC 20230.

Persons desiring to present views at an informal hearing on the proposed criteria were invited to request such hearings. No such requests were received and, accordingly, no hearings were held.

The issues raised by the public comment in response to the notice of proposed criteria were addressed by the NLACC-1 in an open meeting on December 8, 1978. The Committee's report entitled "Report of Evaluation and Recommendations with Respect to Comments Received from the Public on the Proposed Criteria for Accrediting Testing Laboratories that Test Thermal Insulation Materials" was presented to the Assistant Secretary for Science and Technology on December 18, 1978 and is available for inspection and copying in the Departmental Central Reference and Records Inspection Facility mentioned above.

EVALUATION OF COMMENTS

A total of 14 issues were raised in response to the criteria as proposed. Eight issues relate directly to the criteria for accrediting laboratories. The six other issues relate to the operating process of NVLAP, including the content of Appendix 1 of the proposal which is not part of the criteria. The criteria and Appendix 1 have been revised to respond to a number of the comments. Further revisions to Appendix 1 may be necessary as the program is implemented. When such revisions are developed, they will be published in FEDERAL REGISTER and made effective immediately upon publication.

ISSUES RELATED TO THE CRITERIA

1. Should the names and resumes of laboratory personnel be required in evaluating a laboratory's capability? Two respondents agreed with the criteria as proposed in that names and resumes of key laboratory personnel need not be provided, while three other respondents expressed the belief that such a requirement is appropriate if restricted to a limited number of personnel. This issue remains controversial. Some of the Committee members expressed concern that if names and resumes are required, individuals could be "black listed", while others were concerned that, without resumes, the personnel function cannot be effectively evaluated pursuant to Criterion S1. Criteria and examination methodology from six existing laboratory accreditation programs were reviewed. In most of these, the submission of resumes describing the technical background, expertise, and competence of the laboratory staff is required. However, without criterial which specify minimum levels of educational attainment, professional recognition (e.g. "professional engineer"), and a requisite number of years of working experience, the evaluation of a laboratory's staff would be subjective. In response to the recommendations of the Criteria Committee, Criteria G1 and S1 continue to state that either resumes or position descriptions may be supplied to meet this requirement. Moreover, the notes following Criteria G1 and S1 make clear that during on-site evaluation, personnel backgrounds of incumbent laboratory personnel will be compared to corresponding position descriptions or resumes supplied by the laboratories in response to the questionnaire. Also Appendix 2 has been added as a guide showing the type of information which a laboratory should supply in resumes or position descriptions.

2. May unaccredited laboratories be used by accredited laboratories as subcontractors? Two respondents indicated that the possible use of subcontractors by accredited laboratories for the performance of test methods included in the program was unclear. Using test methods in the NVLAP program as examples, one respondent described how a laboratory accredited for a second test method might use as input data to this second test method data provided by a subcontractor using a first test method. At issue is whether NVLAP accredited testing laboratories would have to be used as a subcontractor or whether unaccredited laboratories could be used. In such a situation, the Committee recommended that the laboratory accredited for the second test method should also be accredited for all other test methods used to obtain input data.

The Committee further suggested that if an accredited laboratory obtains data from an unaccredited laboratory for a test method that was included in the program, the accredited laboratory's client should be so notified. It was recognized that problems associated with the repeated testing of products are related more to a certification of the product than to NVLAP recognition of a laboratory through accreditation. Thus, it was recommended that an accredited laboratory should be allowed to subcontract to an unaccredited laboratory any tests for which the former laboratory itself is accredited, provided its clients were so notified. However, subcontracting for test specimen preparation and for determining intermediate values (except where such intermediate values are obtained from a test method included in the NVLAP program) should not require notification of the laboratory's clients if there is compliance with provisions of section S4.2 of the criteria.

The note after section S4.2 of the Criteria has been changed in response to the Committee's recommendations.

3. Should only independent laboratories be included in NVLAP? Three respondents addressed the independence of laboratories and the related conflict of interest issue. One respondent felt that only commercial independent laboratories should be accredited. Another respondent suggested that sections G3.3 and G3.4 of the criteria should be strengthened to minimize possible conflict of interest and to provide a means of validating that independent actions are actually made. However, another respondent expressed the belief that sections G3.3 and G3.4 are fair to both independent and in-house laboratories and therefore should remain unchanged.

Section 7.7(e)(1) of the NVLAP procedures explicitly states that, "No action will be taken or criteria developed that would prohibit the accreditation of a testing laboratory solely on the basis of that laboratory's association or nonassociation with manufacturing, distributing, or vending organizations . . ." The criteria as proposed are consistent with the above quoted prohibition. Moreover, if the actions of an accredited laboratory are not in accord with the submitted evidence of the "independent decisional relationship" requirements of sections G3.3 and G3.4 of the criteria, appropriate action including deaccreditation may be taken. The Committee's recommendation against changing sections G3.3 and G3.4 has been accepted.

4. How will proficiency testing be used in the program? One respondent indicated that the frequency of proficiency testing is not clear in the proposed criteria and suggested that such testing be carried out at least yearly. This respondent added that the proposed criteria do not establish a relationship between proficiency testing and the establishment of protocols for assuring that the requisite precision and accuracy figures cited in Appendix 1 are achieved. Also, this respondent expressed the belief that guidelines and requirements concerned with the conduct of these proficiency tests must be included in the final criteria document. A better description of the operation of the proficiency testing program is indeed needed.

In response to the recommendations of the Committee, this issue has been addressed in the criteria under a separate heading and a new table (Table 2) has been added to Appendix 1 showing those test methods currently subject to proficiency testing and the frequency of such tests. It is the intent of the National Bureau of Standards (NBS) which is responsible for evaluating the testing laboratories to use Collaborative Testing Services, Inc. (CTS), a nonprofit organization currently cosponsoring collaborative reference programs with NBS, to conduct the proficiency testing programs. Enrollment in the NBS-CTS Collaborative Reference Program for the test methods shown in Table 1 of Appendix 1 and the successful attainment of the precision and accuracy shown will be accepted as fulfilling the proficiency testing requirements of NVLAP-1. This does not preclude the use of other collaborative reference programs or existing proficiency testing programs for the test methods involved if appropriate arrangements can be completed with NBS. The Committee also raised a question with regard to materials used in conducting corrosion tests. For example, metal coupons (strips) employed for evaluating corrosion require removal of protective coatings before use. However, if such a coating is not removed properly, inaccurate results may be obtained. It was suggested that, if proficiency tests are planned, chemical coating removers should be supplied with the metal coupons and the proficiency sample insulation materials. NBS will give careful consideration to this operational recommendation as the state-of-the-art develops.

5. Should modifications to the test methods be allowed? Two respondents commented on the provisions of the proposed criteria allowing for noncritical modifications of equipment or facilities and noncritical varitions in the test procedures as long as test result are not degraded. One respondent suggested that judgments regarding whether such modifications and variations are "noncritical" should be

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relegated to the responsible standards development groups. The other respondent suggested that a section be added to Criterion S2 encouraging participation in professional societies and continuing education as ways of maintaining current knowledge thereby maintaining capability to make appropriate judgments. The Committee discussed this subject in depth in one of its earlier meetings and had concluded that, although in some instances it may be very difficult to determine what is noncritical, knowledgeable NVLAP on-site evaluators and proficiency testing should be adequate to evaluate these modifications. There appears to be no need to specify particular requirements, such as continuing education or society participation, for maintaining required competence. Accordingly, the Committee's recommendation that no change be made to the criteria has been accepted.

The Department believes it is appropriate at this point to stress, that under § 7.7(e)(5) of the NVLAP procedures, any written information supplied in response to these criteria and Criterion S2 in particular will not be considered confidential business data, trade secrets, or proprietary information.

6. Are the requirements for written information too extensive? Two respondents addressed the requirements for written information. One respondent stated that there appears to be excessive written compliance information which is either repetitious or only remotely related to a laboratory's competence. The other respondent suggested that NVLAP examiners, during on-site examinations, should concentrate on the actions taken by the laboratory to implement that procedure and to provide the written information, and should observe actual calibration tests on selected test equipment.

There may very well be some unnecessary overlap in the criteria. However, different characteristics of the laboratory are being assessed and the evaluation is being approached from different standpoints. Nonetheless, as explained in the notice of the proposed criteria, duplication of information is not required; a simple cross reference would be sufficient. Change in the criteria may be appropriate after experience has been gained. NVLAP examiners are expected to use all appropriate means to verify that the laboratories implement test procedures properly and prepare appropriate written information. The Committee's recommendation that no change is deemed necessary at this time has been accepted.

7. Should uniform appeal procedures be established? One respondent suggested that there should be a unified complaint handling procedure to be established by NBS for contesting test results. Criterion G2.5.6 refers to the complaint handling procedures established by the laboratory to respond to complaints it receives. Any complaints made to NBS and the Department relative to a laboratory will be handled under a single unified procedure. It does not appear to be necessary to require each laboratory to handle complaints to it in the same way. In response to the Committee's recommendation, the Note at the end of Criterion G2 has been modified to clarify the intent of the criterion.

8. Should the time within which it is necessary to notify NVLAP of changes in the laboratory be increased? One respondent expressed the belief that the costs for reporting of changes will be excessive if a 30-day notification period and a 45-day implementation period is adopted as specified in Criterion G4. This respondent recommended a 120-day notification period and a 180-day implementation period. A delay of 120 days before notification of changes was excessive in the view of the Committee. In response to the Committee's recommendations, deadlines for reporting and implementing changes remain as specified in the proposed criteria.

ISSUES RELATED TO THE PROGRAM OPERATIONS (INCLUDING APPENDIX 1)

9. Should additional test methods be included in this laboratory accreditation program? A number of respondents expressed concerns about the apparent omission from the program of test methods contained in certain product standards (e.g., test methods in product standard ASTM C739, General Services Administration Specification (GSA) HH-I-515, and cellulose insulation standards published by the Consumer Product Safety Commission (CPSC)). Several other test methods were also suggested for inclusion in NVLAP-1.

The requestor of this program identified specific product standards and test methods covering the following five properties of thermal insulation materials:

1. Thermal properties;
2. Dimensions, stability and density properties;
3. Strength properties;
4. Fire properties; and
5. Properties of vapor barriers.

The requestor did not identify tests in the areas of corrosiveness and odor emission contained in C739. Standard ASTM C739 was included as a relevant standard, however, in the final finding of need for the program as published on October 12, 1977 (42 FR 55020-55024). The following ASTM standard test methods listed in that standard are included in NVLAP-1: C177, C518, C236, C687, C519, C591, and E84.

There are a number of test methods contained integrally in ASTM C739 and several other product standards which do not have an independent ASTM test method designation. During the second NLACC-1 meeting, it was reported that if all test methods contained in the specification standards but not identified as specific ASTM test methods were included in the program, some 80 additional test methods would be added to the program. NVLAP staff indicated that it intended to include in the program only the test methods which were explicitly requested.

In the comments received from the public, it was clearly pointed out that the test methods identified in ASTM C739 should be included in the program because of their use in mandatory standards being promulgated by the Consumer Product Safety Commission (CPSC). The Committee agreed that it was desirable to include test methods from ASTM C739 in the program. Specifically, this would mean that four test methods should be added to the program; (1) flame resistance; (2) corrosion; (3) moisture absorption; and (4) odor emission. The Committee, however, questioned the inclusion of the test method on odor because of the nature of that test.

The Committee also agreed that it was desirable to add test methods which are an integral part of the GSA specification HH-I-515 but which do not have a unique identification. Using the program provision that only the latest version of the standards and test methods would be included in NVLAP, the test methods in HH-I-515D which should be added to the program are for: (1) settled density; (2) smoldering combustion; (3) corrosion; (4) moisture absorption; (5) odor emission; (6) starch; and (7) fungus.

The tests for corrosion and moisture absorption in ASTM 739 and HH-I-515D are not identical and each would be added to the program. However, the Committee took cognizance of the difficulty in conducting the odor emission test according to the ASTM 739 procedures and the qualitative nature of both odor emission tests and recommended that the odor emission tests not be included in the NVLAP-1 at this time.

Some respondents also suggested that additional test methods contained in the CPSC standards be included in the program. These standards are based upon HH-I-515 although there are significant differences. Since a request to include CPSC standards was never a part of the final finding of need for this program, a formal request to include the CPSC standards should be made and in response to such request an extension to the finding of need would have to be made using the NVLAP procedures. However, it may be more practical for the CPSC to request that its standards be included using the optional NVLAP procedures (15 CFR Part 7B proposed on October 25, 1978, 43 FR 49812-49818) if and when these procedures become final.

The CPSC staff, in a comment on the proposed criteria, has requested that four test methods of interest to the CPSC be added to the program. The Committee suggested adding these methods to the program if at all possible when the final NVLAP criteria are published. The Department is concerned, however, about differences between some of the test methods as they appear in the iterim CPSC regulations and the proposed final CPSC regulations. For this reason, the Department believes that the most appropriate way to include CPSC requirements in the NVLAP Program is to ask the CPSC to clarify its intent with respect to all aspects of their relevant regulations and to make a request to the Department for inclusion of the CPSC requirements under provisions of Part 7B of the NVLAP procedures which are expected to be published in final form early in 1979.

In response to the Committee's recommendations, all test methods of ASTM C739 and of HH-I-515 not already included in the program will be added to the program with the exception of the test for odor emission.

In deciding which test methods were to be included in this program, it was reasoned that standard methods which were not referenced in the thermal insulation material specifications (standards) included in the final finding of need for the program would not be included in the program. For this reason, ASTM test method D1623 which the requestor originally identified was not included in the program. The final finding of need did not specifically address those test methods contained in the standards which do not have unique designations. In response to the recommendations of the Committee, ASTM D1623, D732, and E408 which a respondent suggested should be included will not be included in the program. ASTM test method D1622 is included in the program. (Unfortunately, due to a typographical error, this test method was shown incorrectly as 01/D18-ASTM D162 in the proposed criteria.)

At the suggestion of the Committee, an index has been added as Appendix 3 which identifies the formal designation and title of those test methods and recommended practices for which accreditation can be granted under NVLAP-1.

10. What should be the frequency of on-site examinations under the program? Three of four respondents who commented on this question indicated that two-year intervals plus or minus three months was adequate. However, the other respondent suggested that inspections should occur every 12 months. Concern for the magnitude of fees in relation to the frequency of on-site examination was given as one reason why a two-year interval would be more appropriate since the cost of the program for the laboratories will depend upon the frequency of on-site examinations. If the fees and charges become too great, few laboratories will apply and accordingly there would be a possibility that there will be no program. Less frequent examinations may result in a reduction in credibility of the program although the magnitude of any such reduction is unpredictable. More frequent examination would provide a check to ensure that the latest versions of the test methods are being used. In the proposed fee structure which was published in the FEDERAL REGISTER notice on September 29, 1978 (43 FR 45298), it was assumed that a "typical" laboratory involved in the program would request to be accredited for nine test methods at a cost of $1,225 per year if examined every two years (including the costs of the proficiency tests). The costs of unannounced visits to one-third of the laboratories in the program was estimated to be six percent of the cost. If the on-site examination were performed every year and unannounced visits were eliminated, the fees would almost double if it were necessary to complete all elements of the evaluation. In actual practice, some additional costs could be saved since a complete evaluation (evaluation of all the data about the laboratories) would not have to be done every year. In response to the recommendations of the Committee, NVLAP will conduct examinations annually for the first two years in which a laboratory is enrolled in the program and biannually thereafter. NVLAP will also retain provisions for random, unannounced visits to accredited laboratories as presently stated in the proposed criteria, particularly for cases where poor proficiency test results suggest a potential problem.

11. Should the stated precision and accuracy of test results be changed? Three respondents expressed concern about the precision and accuracy of test results that are stated in Appendix 1 to the proposed criteria. One respondent suggested deletion of the precision and accuracy requirements and a clarification of the definitions of various terms used in Appendix 1. Another respondent suggested that the accuracy limit for 01/D13-ASTM C519 should be changed to plus or minus five percent rather than the stated plus or minus two percent. The third respondent suggested that Appendix 1 should be revised to convey recommended repair and preventive maintenance cycles for each piece of equipment covered by the test methods because proper repair and maintenance are critical to the production of accurate data. Precision and accuracy values will be particularly important for those test methods where proficiency samples are used. The values suggested in Table 1 are the best available at this stage in the program. Changes to some values may be appropriate as experience is gained in implementating the program. In some instances, the values are specified in the product standards themselves and are not likely to change. Values for precision and accuracy are provided for many of the test methods even though proficiency tests are not being required for these methods. Such values are meant as guides or goals for the laboratory.

With regard to 01/D13-ASTM C519, the target values of plus or minus two percent were intended for classifying "good" laboratories. Limints approximately 50 percent greater (± three percent) define "acceptable" laboratories for this aspect of NVLAP accreditation. It was also pointed out that part of the reason that five percent limits were suggested by the respondent is that the materials tested may not be homogeneous, thereby accountin for part of the deviation. It was recommended that limits of plus or minus two percent for "good" laboratories, based on the use of homogeneous materials, was appropriate. The Committee did not believe that repair and maintenance schedules were necessary for inclusion in the criteria since actual performance of the laboratory was being monitored through periodic proficiency testing and on-site examinations. In response to the Committee's recommendations, the accuracy limit of plus or minus two percent of 01/D13-ASTM C519 was retained. A clarification of how precision and accuracy requirements will be used is included in the portion of this criteria labeled Proficiency Testing.

12. Which versions of test methods are included in the program? Two repondents suggested that Appendix 1 should contain a clear statement to the effect that the latest versions of the test methods shall be applicable. The Committee agreed and in response to its recommendation, such clarification has been added to Appendix 1.

13. Will full fees and charges be paid by a laboratory participating in successive NVLAP programs? One respondent requested a clarification with respect to the fees and charges. Specifi-

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cally, will a laboratory which seeks accreditation for a number of products be required to pay the fixed charge for each product area? The Department believes that charging full fees for each of several programs a laboratory may participate in is not appropriate. As successive NVLAP programs are established, it is the Department's intent to eliminate the duplication of data and to consolidate visits to a laboratory thereby keeping fees to a minimum. It is the policy of NVLAP to accredit laboratories as inexpensively as possible without compromising the effectiveness of the program.

14. Should examiners and evaluators be exclusively government employees? Two respondents commented on issues related to the use of examiners and evaluators. One respondent suggested that the major emphasis of the program should be geared toward on-site peer examination with frequent proficiency testing. The other respondent expressed the belief that examiners and evaluators be full-time government employees in order to insure uniform evaluation. Peer evaluation is a long term goal of the program. When a group of peers is identified and trained so as to ensure consistent evaluation, more emphasis will be placed on this approach. In the interim, the program will use full-time government employees or contract employees who have specific evaluation skills. Although the program will strive for uniform evaluation, it is not necessarily true that using all full-time government employees will ensure such uniformity. NVLAP should be open in the long term to the use of contractor services and other methods of providing on-site examination and evaluation. The Committee recommended that no change in the operating process was necessary at this time, and its recommendation has been accepted.

Laboratory Accreditation Criteria

The final general and specific criteria to be used to accredit laboratories which test thermal insulation materials under the National Voluntary Laboratory Accreditation Program (NVLAP) of the Department of Commerce are contained in the following paragraphs. These criteria have been developed in compliance with the NVLAP procedures (15 CFR Part 7) and form the basis for accrediting testing laboratories which voluntarily request such accreditation.

Instructions for Making Application. Any testing laboratory which desires accreditation as a NVLAP accredited laboratory testing thermal insulation materials using one or more of the test methods in the program may request such accreditation from the Assistant Secretary of Commerce for Science and Technology, Department of Commerce, Washington, DC 20230. Each request will be acknowledged upon receipt, and will be forwarded to the National Bureau of Standards (NBS) for further action. NBS will transmit materials describing the program and an application form which will allow the requesting laboratory to identify the specific test methods for which it desires accreditation. When the requesting laboratory returns the completed application and requisite fees, it becomes an official applicant in the program.

Basic Conditions for Accreditation. In order for a laboratory to be accredited under these NVLAP procedures, it must, among other things, agree to the following basic conditions:

1. It must submit to examination and audit procedures established for the program initially and on a continuing basis;

2. It must pay accreditation fees and charges; and

3. It must avoid reference by itself and forbid others utilizing its services from referencing its accredited status in consumer media and in product advertising or on product labels, containers and packaging or the contents therein.

In addition, the applicant laboratory must recognize that compliance by testing laboratories with these general and specific criteria and accreditation of a laboratory by the Secretary shall in no way relieve such laboratory from the necessity of observing and being in compliance with existing Federal, State and local statutes, ordinances, and regulations that may be applicable to the operation of such laboratory, including consumer protection and anti-trust laws.

This accreditation program consists of three distinct operations. First, the laboratory submits written information in response to a questionnaire based on the requirements of the general and specific criteria. These written responses are evaluated, and if the laboratory is judged to meet the criteria based on these responses, an on-site examination is arranged. The second operation is to conduct an on-site examination of the laboratory with appropriate equipment to compare the observed characteristics of the laboratory with written information submitted by the laboratory and with the criteria. The third operation is to arrange for and obtain data from proficiency tests which are part of the program. An evaluation of the written information, the on-site examiners' assessment, and proficiency testing data all taken together will form the basis for making a decision about whether or not to accredit a specific laboratory.

General Criteria. For initial accreditation and continued accreditation, an applicant laboratory shall provide the information listed below for the general product and testing areas for which accreditation is sought. This information will be formally requested on a questionnaire sent to each applicant testing laboratory upon receipt of that laboratory's application and requisite fees and will be verified by on-site examiners.

A single or double asterisk preceding a section number signifies that the section must be included in quality control procedures as explained in section G2.6.

Criterion G1. *The laboratory has an organizational structure that enables it to develop and maintain a testing capability to perform satisfactorily the functions for which accreditation is sought.*

G1.1 A description of the laboratory's organization including:

*G1.1.1 The complete legal name and address of the main office, or parent company if part of a larger organization;

*G1.1.2 The name and location of the laboratory if different from that stated in G1.1.1;

G1.1.3 A general description of the laboratory, including, its equipment and facilities;

G1.1.4 The laboratory's and parent company's (if any) principal ownership and management structure, including the names and positions of the principal officers and board of directors;

*G1.1.5 An outline or chart showing the titles or positions of all key management and supervisory personnel in each operating, support, and service unit in the laboratory's functional organization, and their reporting relationships relative to this accreditation request;

**G1.1.6 The names and resumes of the individuals assigned to each of the positions identified in G1.1.5 or the personnel requirements for the individuals occupying those positions.

G1.2 A listing of the relevant technical services performed.

*G1.3 A list of test method standards for which accreditation is sought, showing the approximate number of times each test is performed per year.

*See sections 2.6.1 and 2.6.2 for meaning of asterisks.

NOTE.—This criterion and its sections require a relatively straightforward description of the testing laboratory. An evaluator will review written information supplied by the laboratory in response to this criterion for appropriate definition of authority and responsibility, for the personnel qualifications, and for consistency between services offered and personnel and facilities available. An on-site examiner will verify the responses to the questionnaire regarding the laboratory's facilities and organization, will compare resumes of personnel with personnel requirements submitted by the laboratory, and will conduct other appropriately

related examinations. Appendix 2 is provided as a guide to applicant laboratories for reporting the requirements for management and technical personnel involved in the testing area for which accreditation is sought. The examples given in Appendix 2 are guides to the type of information desired and should not be interpreted as minimum or even typical requirements for personnel in this program.

Criterion G2. *The laboratory has and maintains a quality control system to assure the technical integrity of its work.*

**G2.1 A description of the laboratory's system for auditing and monitoring its test work, including procedures for:

**G2.1.1 Preventing or reducing testing errors and discrepancies;

**G2.1.2 Identifying and correcting known errors and discrepancies;

**G2.1.3 Specifying the frequency and the sample size (quantity) of the audit sampling of the test results of testing personnel.

**G2.1.4 Obtaining tracing the validity of, and responding to complaints and charges received by the laboratory about the quality of its test work.

**G2.2 A description of the laboratory's system for insuring that all test equipment and reference standards are calibrated or verified to the requisite degree of accuracy including procedures for:

**G2.2.1 Maintaining written descriptions of the standardization (calibration and verifications) procedures for all test equipment and reference standards;

**G2.2.2 Maintaining standardization records, including:

(a) Equipment, description or name,
(b) Name of manufacturer,
(c) Model, style, and serial number or other identification,
(d) Equipment variables subject to standardization,
(e) Range of operation and range of standardization,
(f) Resolution of the instrument and allowable error tolerances on readings,
(g) Standardization schedule (intervals),
(h) Date and result of last standardization and date of next standardization,
(i) Name of laboratory person or standardization service providing the above standardization,
(j) Traceability to NBS or other authority as required;

**G2.2.3 Insuring that all test equipment is recalled periodically for verification and/or recalibration.

**G2.3 A description of the laboratory's system for assuring that all equipment and facilities are properly maintained (e.g., routine operational checks and upkeep, maintenance of instructions for equipment operation and repair, power sources, electricity, and gases).

**G2.4 A description of the laboratory's system for controlling the flow of work, including procedures for at least the following:

**G2.4.1 Specifying workflow from reception to reporting;

**G2.4.2 Specifying the functions to be performed at each step along the workflow path;

**G2.4.3 Data recording, processing and reporting;

**G2.4.4 Selecting specimens for testing;

**G2.4.5 Retention or disposal of specimens tested.

**G2.5 A description of the laboratory's system for maintaining records, including records of:

**G2.5.1 Test reports;

**G2.5.2 Data generated during testing;

**G2.5.3 Receiving, shipping and disposal of test samples;

**G2.5.5 Personnel (including training);

**G2.5.6 Complaints contesting results.

G2.6 A copy of the laboratory's quality control manual or procedures which should:

G2.6.1 Explicitly include information required by sections of these general specific criteria preceded by a single asterisk (*);

G2.6.2 Clearly state where in the laboratory is maintained the information required by sections of these general and specific criteria preceded by a double asterisk (**), or explicitly include this information.

G2.6.3 Explicitly include the procedures to be followed for maintaining the manual current and the name or title of the person responsible for implementing those procedures.

NOTE.—In assessing a laboratory's capability to meet this criterion, an evaluator, based on information submitted by the laboratory, will be making judgments about the adequacy of the test auditing and monitoring program of the laboratory, the adequacy of the laboratory's calibration system, the appropriateness of the laboratory's equipment and facility maintenance, the laboratory's system for controlling the flow of work, the laboratory's system for maintaining records, and the laboratory's system for responding to complaints. The on-site examiner will verify the information supplied by the laboratory and examine other characteristics as appropriate.

The laboratory's quality control system must be documented by a quality control manual or written procedures. The purpose of the manual is to provide, in one convenient location, detailed descriptions, or clear instructions where such descriptions may be found, of the operating and quality assurance procedures governing the human and physical resources of the laboratory. The manual must be available at all times to serve as a guide for the laboratory staff, and procedures must exist for maintaining and periodically updating it. It is subject to review during on-site laboratory examinations by NVLAP personnel. An example of how such a manual might be structured is presented in the American Council of Independent Laboratories (ACIL) publication, "Quality Control, Requirements for a Testing and Inspection Laboratory, Manual of Practice—1976." As a minimum, the manual should be structured in accordance with sections G2.6.1, G2.6.2, and G2.6.3 above.

Criterion G3. *The laboratory is operated in accordance with generally accepted professional and ethical business practices.*

G3.1 The laboratory has a stated and effective policy which assures that reported values accurately reflect all properly measured data.

G3.2 Documentary evidence assuring that:

G3.2.1 Test work is limited to that for which competence and capacity are available;

G3.2.2 Test data, records, and reports are treated as proprietary information and are released only to such other individuals as the client agrees to in writing;

G3.2.3 Complaints contesting test results are considered and properly handled.

G3.3 For a laboratory that is part of a larger organization, dependent on manufacturing or supplier interest: evidence that there is an independent decisional relationship between the testing and other components of the organization. (This may be demonstrated, for example, by a letter of authority from the parent organization management.)

G3.4 For a private laboratory that is not part of a larger manufacturing or supplier organization: evidence that there is an independent decisional relationship between the laboratory and other organizations, including clients (e.g., a policy declaration or a contract provision that the laboratory's relationships with these organizations are not allowed to affect the laboratory's capacity to render reports of findings objectively and without bias).

NOTE.—An evaluator will review the information supplied by the laboratory and compare it with other information provided under criteria G1 and G2 to evaluate compliance with this criterion. Particular attention will be paid under this criterion relative to complaints received about the laboratory by the Assistant Secretary. On-site examiners will verify the information supplied and will address any complaints which may have arisen.

Criterion G4. *During the processing of the application and following accreditation, the laboratory reports to NBS, within specified times, any substantive changes in the laboratory related to the general and specific crite-*

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ria, and documents these changes as per the original submission.

G4.1 A description of the change mailed within 30 days following a substantive change relative to the general and specific criteria.

G4.2 Implementation within 45 days of the "official notice" date, or by the effective date, whichever is later, of all changes necessitated by a revision in the standard test method, unless another date is established by notice from NBS. (The "official notice" date is the date the organization responsible for the standard test method gives notice in its official publication that the standard has been revised. In some cases the organization may indicate a later "effective" date which will be used instead.)

NOTE.—An evaluator will evaluate changes as they may affect other aspects of the criterion and on-site examiners will report the absence of unreported substantive changes.

Specific Criteria. For each standard test method for which accreditation or continued accreditation is sought, an applicant laboratory shall provide the information required.

Criteria S1. *The laboratory is staffed with trained and experienced personnel competent in the principles and practices of measurement in the area of testing for which accreditation is sought.*

**S1.1 A list of, or the requirements of, the personnel responsible for and capable of conducting the tests specified in the test method, if not specifically addressed in the response to section G1.1.6 of the general criteria.

**S1.2 A description of the specific training program to assure proficiency and uniformity in applying the test method to the requisite degree of accuracy and precision (e.g., methods for ensuring job competence, probationary periods under close supervision, audits of test work performed, and performance reviews with affected personnel).

NOTE.—For each test method for which a laboratory requests accreditation, an evaluator will evaluate the competence of the personnel function and the training function. On-site examiners will compare resumes of personnel at the laboratory with the personnel requirements or resumes submitted by the laboratory in evaluating the laboratory under this criterion. Examiners will also address how newly trained personnel move into the work force, the nature of periodic reviews of competence, and the kinds of continuous education programs available. The on-site examiner will verify the content and utilization of training programs.

Criterion S2. *The laboratory's facilities and equipment are appropriate to the functions for which accreditation is sought and are properly maintained.*

**S2.1 A description of the test setups and a list of test instruments used, sufficiently identified to allow correlation with the calibration information requested in criterion S3. (Provide diagrams and photographs, if helpful in demonstrating conformance with the test requirements.)

**S2.2 A description of all special or laboratory-fabricated equipment listed in section S2.1, and evidence that this equipment conforms to the requirements of the test method and assures requisite accuracy and precision. (Provide schematics or shop drawings with annotated photographs, if helpful in demonstrating conformance with the test requirements.)

**S2.3 A description of any auxiliary equipment, facilities, or procedures required by or used for the test method, such as: storage and conditioning of samples; environmental conditions or controls (including how compliance is measured and percentage of time within required limits); automatic data collection, reduction or analysis; housekeeping, safety and custodial care; maintenance of laboratory equipment and facilities.

**S2.4 An inventory of the laboratory's collection of applicable standards and other documents referred to or used for the test method.

**S2.5 Evidence by analytical or other means that the test results are not degraded by the use of equipment or facilities which have received noncritical modifications not in strict conformance with the standard method of test.

NOTE.—For this criterion, an evaluator would evaluate the setups, instrumentation, special equipment, facilities, etc. of the laboratory as compared to the requirements of each test method for which accreditation is sought. Evidence would be examined to confirm that non-critical modifications have not degraded the test results. Information provided will not be considered confidential business data, trade secrets, or proprietary information. The on-site examiner during his visit to the laboratory would explore evidence justifying claims made by the laboratory by comparing selected measurements with the requirement of the test methods.

Criterion S3. *The laboratory's equipment and procedures are standardized (calibrated and verified) periodically.*

**S3.1 A description of the standardization equipment (including diagrams, etc., as appropriate) and a listing of the standardization schedule to ensure continuing adequate performance and accuracy of results.

**S3.2 Either references to recognized standardization procedures or descriptions of standardization procedures used for each laboratory standard and test instrument to assure that all measurements can be made to the requisite precision and accuracy.

**S3.3 A listing of the reference standards and materials being used with the test method, including:

**S3.3.1 The source, identity, latest dates and results of the standardization of the reference standards and materials;

**S3.3.2 For other than specifically required standards and standard reference materials, the procedures used to reference the standards to national standards;

**S3.3.3 Clear identification and differentiation between reference and working standards.

**S3.4 A listing of the measurement assurance, collaborative reference or other program(s), appropriate to the test method, in which the laboratory participates.

NOTE.—This criterion relates to the laboratory's fundamental program for establishing and maintaining basic references upon which its testing program is built. In some cases, much of the standardization procedures required herein will be part of an overall computerized laboratory program. In other cases, such standardization will be accomplished on a test method by test method basis. The evaluators and on-site examiners will be responsive to evaluation and verification in either case.

Criterion S4. *The laboratory maintains documented and acceptable in-house operating protocols for the test method to assure the requisite degree of accuracy and precision.*

**S4.1 A copy of the in-house instructions, if any, supplementing the instructions of the standard test method, including those necessary for equipment maintenance and calibration checks, sample preparation, testing and disposal, data reduction, and reporting of test results.

**S4.2 A copy of the instructions to the subcontractor and a description of how the laboratory assures the required precision and accuracy for any highly specialized part of the test method which is subcontracted.

NOTE.—Only that laboratory having the measuring equipment by which final test values are obtained can be accredited. If data obtained using one test method in this accreditation program are used as input data for a second test method, a laboratory seeking accreditation for the second method must be accredited for the first method also. In a laboratory's operating practice, if final test values for the first test method are obtained from an unaccredited laboratory, the client of the accredited laboratory must be notified. In general, if a NVLAP accredited laboratory does not or cannot, because of equipment failure, conduct a test method for which it has been accredited, it may supply data obtained from an unaccredited laboratory provided its client has been notified. If the data are obtained from a laboratory which is accredited for the test method, such notification is not necessary.

**S4.3 Evidence by analytical or other means that the use of noncritical variations in the procedure from that specified in the standard test method does not degrade the results of the test.

**S4.4 Evidence demonstrating the capability of satisfactorily complying with the intent of the standard test method when any variation in test equipment or procdures is made necessary by environmental conditions or by special requirements of a product for which accreditation is sought.

**S4.5 A sample test report (with name of client deleted) showing test results accompanied by the raw data and a copy of the worksheet showing the steps to reduce the raw data and the method of data reduction or reference to appropriate "calculation" sections of the test protocol or standard.

NOTE.—This criterion deals with the fundamental ability of the laboratory to obtain test results to the required precision and accuracy of the test methods. When reviewing data submitted by the laboratory, the evaluator's emphasis will be placed upon evaluation of instructions and procedures for the staff of the laboratory and for any subcontracted segments of the work. The applicability of nonconforming test procedures will also be carefully evaluated. A sample report will be reviewed and the on-site examiners will look for evidence that such sample reports are typical rather than specially produced for the accreditation program.

Proficiency Testing. Of utmost importance to the user of laboratory services is whether or not a testing laboratory consistently obtains accurate results. The existence of facilities, equipment and personnel, verified by a laboratory's ability to meet the preceding criteria, establishes the capability to obtain such results. An analysis of actual test results is necessary to determine if these ingredients do in fact produce the desired results.

A proficiency testing program may be considered an interlaboratory testing program in which specially prepared samples are distributed—on a periodic schedule. The samples are tested by the participating laboratories in accordance with standard test methods and the results reported to proficiency test evaluators. The "true" or target test result for any particular test is obtained by one of the following ways:

(1) *Manufacturer.* For some properties of a sample, it is possible to determine what the test result should be from information on how the sample was made. However, each case has to be thoroughly examined before manufacturing information can be used as the basis for determining the target or "true" values. This approach is often useful in proficiency testing programs requiring qualitative responses or identifications only (e.g. is starch present or not).

(2) *Reference Laboratory.* Sometimes a single laboratory, such as the National Bureau of Standards, has sufficiently high competence and national recognition that it can be used to provide the target or "true" test result. This is particularly useful when the laboratory has the capability of and has agreed to carefully verify the correctness of every important dimension of its apparatus and every step in its application of the standard test method.

(3) *Group of Reference Laboratories.* When no single laboratory can be given national recognition as having sufficiently high competence to set the national standard, it sometimes is possible for a proficiency test coordinator to use the results from a number of reputable laboratories. This would be accomplished by pooling their results (after a suitable statistical check on the agreement among the results) in order to establish the target or "true" test result.

(4) *Reference Method.* Under NVLAP procedures, the standard test method will usually also be the reference method. However, in some cases the standard test method may be so broadly written as to permit a wide variety of test equipment and testing protocols. If in such a case a particular protocol and equipment combination is recognized as a reference method (or can be shown through error analysis to yield results well within the required precision and accuracy), then the results obtained with that method by one or more "reference" laboratories is used to establish the target test result.

(5) *Participants.* If there is a sufficient number of participating testing laboratories and an insufficient number of reference laboratories, then the test results of the participating laboratories are sometimes pooled by a proficiency test coordinator to establish the target result for the individual participants. It is important that the pooled test results include only test data from laboratories known (on the basis of all available information) to be following the standard test method. This is determined not from the test data, but from an inspection report and from information submitted originally and with the test data.

(6) *Previous Proficiency Test and Interlaboratory Data.* Sometimes the same samples are used as were used in a previous proficiency test. If so, the new target test result is based on a weighted pooling of current and previous test results.

Most of the proficiency testing specified for NVLAP will consist of methods described in (5) and (6).

Another type of proficiency testing program makes use of samples of products which are being routinely tested. In this case, the sample, assumed to be homogeneous, is split into two parts, with the laboratory being evaluated testing one part and a reference laboratory or laboratories testing the second part. Typically, the reference laboratory tests its portion of the sample only occasionally and comparisons of its results with the results obtained by the laboratory being evaluated are used to determine proficiency.

Although some sort of proficiency test could conceivably be designed for all test methods, that step is not always appropriate. Some test methods depend upon qualitative observations and others depend upon the proper and sequential use of measuring equipment. In the latter situation, proficiency can often be more easily established through observation by the on-site examiners. In addition, if proficiency is established for one test method, it would not appear to be necessary to conduct a second proficiency test for a method which is very similar and which simply requires the demonstration of the same skills as were demonstrated in the first test method.

On the basis of these considerations, proficiency tests have been arranged for the test methods shown in Table 2 of Appendix 1. This Table and the description which follows are not intended to be part of the criteria but rather are part of the program operations. Although it is intended that proficiency must be demonstrated for all the test methods shown in Table 2, that may not be feasible if an insufficient number of laboratories request accreditation for a given test method. In such a case, any fee collected for the proficiency test would be returned to the applicant laboratory and the accreditation would be based only on the information submitted by the laboratory and the on-site examiner's review.

Values for the desired precision and accuracy for the test methods in NVLAP-1 are shown in Table 1 of Appendix 1. For test methods requiring proficiency testing (Table 2), the precision and accuracy figures represent the values required for demonstrating "good" laboratory performance and the desired degree of proficiency. Approximately 95 percent of the laboratories should be able to achieve this. Limits approximately 50 percent greater are used to define "acceptable" performance for accreditation purposes. The frequency of proficiency testing is also shown in Table 2 of Appendix 1. For test methods not requiring proficiency testing, the precision and accuracy values suggest guides for desired capability.

Initial and Periodic Examination and Audit Procedures. Once a laboratory has satisfactorily completed the written questionnaire and evaluators have concluded that the laboratory appears to be qualified to conduct the tests for which accreditation has been requested, NBS will arrange for a mutually convenient time for the on-site examiners to visit the laboratory. At

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the time of that visit, the laboratory will be provided with the inspection guide which the on-site examiner will use during the visit. The visit may last from one to three days or even longer depending on the number and complexity of the test methods for which accreditation is sought. The on-site examiner will conduct an exit interview with the laboratory management at the conclusion of the examination.

Laboratories will be granted accreditation for one year. The yearly accreditation fee must be paid each year. The fees and charges for this program are described in a separate notice published in this issue of the FEDERAL REGISTER.

Based upon the recommendation of the Committee, a scheduled on-site evaluation and a complete review of a laboratory's capability will be completed each year for the first two years and every two years thereafter. Unannounced visits may occur at any time with approximately one-third of the laboratories being visited each year. These visits may be initiated by the use of a random selection scheme or because the laboratory appears to have testing problems. A complete review of the laboratory is not planned for the unannounced visits. In the case of randomly selected visits, key items in the Laboratory will be checked. In the case of visits due to apparent problems, items relating to the problem will be checked. However, in both cases additional inspection may take place at the discretion of the examiner.

The National Bureau fo Standards will be responsible for the professional and technical performance of all examiners. The description which follows is not intended to be part of the criteria but rather is part of the program's operations. It is provided in order to give a potential applicant laboratory an indication of background and capabilities of personnel who will be employed to evaluate the laboratories. These procedures are subject to change as experience in the operation of the program is gained.

Evaluators will carefully review the completed questionnaire and prepare an evaluation of the laboratory indicating whether appropriate personnel, facilities, equipment, and procedures are provided which could produce accurate results. Examiners will be carefully trained to conduct the on-site examinations, so that these examinations will be consistently performed among the laboratories and so that subsequent examinations will be consistent. Personnel who are experienced in performing the specific test methods included in the program and in performing day-to-day laboratory operations will be used. These personnel will be government employees or will be specifically retained to perform certain aspects of the work. One of the key features in selecting personnel to work on this program will be the minimization of potential conflicts of interest.

REQUESTING ACCREDITATION

Any laboratory interested in being accredited by the Department of Commerce should write to the Department requesting information about the program. The address is: Assistant Secretary for Science and Technology, U.S. Department of Commerce, Room 3864, Washington, DC 20230. No commitment is implied or intended by such a request. The laboratory will receive a formal application accompanied by material which describes the program.

Laboratories will be accredited in groups so as to minimize costs of employing test method experts, to minimize travel costs, and to avoid one laboratory's receiving exclusive recognition. All applications postmarked by February 28, 1979 and accompanied by the required fee will be included in the first group of laboratories to be considered for accreditation. Applications received after this date will be included in a second group of laboratories to be considered for accreditation six months to one year later. It is suggested that those laboratories wishing to be in the first group mail a request for an application by February 7, 1979.

Issued: January 12, 1979.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[3510-13-C]

Appendix 1

U.S. Department of Commerce
National Voluntary Laboratory Accreditation Program (NVLAP)

Criteria and Compliance
Information Supplement for
Thermal Insulation Materials
1/10/79

Table 1 establishes the performance requirements for the initial and continued accreditation of laboratories that test thermal insulation materials. It also lists measurement assurance aids which are available for helping laboratories maintain their testing performance. Evidence of appropriate use of such aids or their equivalent is required for accreditation.

The performance requirements are specified in terms of the desired precision and accuracy in applying the test method; that is, the overall precision and accuracy of application involving such potential sources of error as test operator, test environment, test equipment, test protocol and test sample. The capability of a laboratory to perform to these overall requirements is judged from the written information it submits in response to the examination material and from the findings of the on-site inspection. The ability of the laboratory to apply this capability is determined from the results of its performance in a proficiency testing program.

A NVLAP proficiency sample number designation and frequency of testing is shown in Table II for those test methods currently subject to proficiency testing requirements. Note: Participation in an NBS accepted collaborative reference program (CRP) may be accepted as partial fulfillment of the NVLAP proficiency testing requirement.

Precision is expressed in terms of repeatability (R) and comparability (C). Repeatability is a measure of the ability of a laboratory to repeat its own test result on the same or essentially identical samples. Comparability is a measure of the ability of a laboratory to compare two materials (intended for the same use), obtaining comparative test results (e.g. difference between or ratio of the two test results) consistent with comparisons obtained by other laboratories. Accuracy (A), is a measure of the ability of a laboratory to obtain a test result in agreement with the "true" or target test result.

The limits specified in the table for precision and accuracy are for "good" performance. Approximately 95% of the laboratories should be able to achieve this. Limits approximately 50 wider are used to define "acceptable" performance for accreditation purposes. CAUTION: The limits presented in this table for laboratory accreditation purposes should not be interpreted as setting specification limits on products.

In addition to utilizing the measurement assurance aids listed below for each test method, each laboratory should maintain a uniform batch of test specimens for more frequent checks of its performance (or should use other means for this purpose). The sources of currently available measurement assurance aids are listed at the end of the table. The table shows those programs currently available. As other aids become available, especially for methods not now covered, and are determined to be desirable for NVLAP, they will be added to the table.

The standards identified in this Appendix for accreditation under the provisions of NVLAP refer to the latest versions applicable.

TABLE 1

NVLAP Code Test Method No.	Complexity	Short title (property) Subtitle (if applicable)	Desired Precision and Accuracy	Measurement Assurance Aids
01/C01 ASTM C739 (para. 7.7 in 77 version)	B_2 1/	Corrosiveness; Cellulosic fiber (loose-fill)	Non-quantitative Test	
01/C02 HH-I-515 (para. 4.8.5 in D version)	B_2	Corrosiveness; Cellulosic fiber (loose-fill)	Non-quantitative test	
01/D01 ASTM C136	B_1	Sieve or screen analysis	R=4 percent aggregate A=4.4 percent aggregate	SRMs 1017a 2/ 1018a, 1019a

1/ See footnotes at the end of the table

NVLAP Code Test Method No.	Complexity	Short title (property) Subtitle (if applicable)	Desired Precision and Accuracy	Measurement Assurance Aids
01/D02 ASTM C167	B_1	Thickness and density Blanket and batt	Thickness: A=1/16 in. (1.0 mm) Density: A=2%	
01/D03 ASTM C209 (para. 6 in 72 version)	B_1	Thickness Board (cellulosic fiber)	A=0.1 mm	
01/D04 ASTM C209	B_1	Water absorption, 2 hr. Board (cellulosic fiber)	A=25 of percent water absorption	CTS CRP[3/]
01/D05 ASTM C209 by D1037 (para. 100-106 in 72 version)	B_1	Water absorption, 24 hr. Board (cellulosic fiber)	A=25 of percent water absorption	CTS CRP
01/D06 ASTM C209 by D1037 (para. 107-110 in 72 version)	B_2	Linear expansion Board (cellulosic fiber)	A=0.1 percent expansion	
01/D07 ASTM C272	B_1	Water absorption Core materials	A=25 of percent water absorption	CTS CRP
01/D08 ASTM C302	B_1	Density Preformed pipe insulation	Thickness: A = 1 mm Density: A = 2	
01/D09 ASTM C303	B_1	Density Preformed block insulation	A = 2	
01/D10 ASTM C355	B_2	Water vapor transmission Thick materials Desiccant method	A = 25%	CTS CRP
01/D11 ASTM C356	B_1	Linear shrinkage Soaking heat Preformed high temperature insulation	R = 0.5 percent linear shrinkage A = 0.5 percent linear shrinkage	
01/D12 ASTM C411	B_1	Hot-surface performance High temperature insulation	Warpage: A = 1 mm	
01/D13 ASTM C519	B_2	Density Loose-fill (fibrous)	A = 2%	
01/D14 ASTM C520	B_2	Density Granular loose-fill	A = 2%	
01/D15 ASTM D756	B_2	Weight and shape changes Accelerate service (Proc. A) Plastics	A=0.5 percent weight change A=0.5 percent linear dimension change A=1.5 percent volume change	
01/D16 ASTM D756	B_2	Weight and shape changes Accelerated service (Proc. B) Plastics	Same as for 01/D15	

NVLAP Code Test Method No.	Complexity	Short title (property) Subtitle (if applicable)	Desired Precision and Accuracy	Measurement Assurance Aids
01/D17 ASTM D756	B_2	Weight and shape changes Accelerated service (Proc. E) Plastics	Same as for 01/D15	
01/D18 ASTM D1622	B_2	Apparent density Rigid cellular plastics	A = 4%	
01/D19 ASTM D2126	B_2	Response to thermal and humid Aging (Procedure B) Rigid cellular plastics	A=0.5 percent weight change A=0.5 percent linear dimension change	
01/D20 ASTM D2126	B_2	Response to thermal and humid Aging (Procedure D) Rigid cellular plastics	Same as 01/D19	
01/D21 ASTM D2126	B_2	Response to thermal and humid Aging (Procedure E) Rigid cellular plastics	Same as 01/D19	
01/D22 ASTM D2126	B_2	Response to thermal and humid Aging (Procedure F) Rigid cellular plastics	Same as 01/D19	
01/D23 ASTM D2842	B_2	Water absorption Rigid cellular plastics	A = 1.0 percent absorption (by volume)	CTS CRP
01/D24 ASTM C739 (para. 7.5 in 77 version)	B_2	Moisture absorption Cellulosic fiber (loose-fill)	A=25% percent water absorption	CTS CRP
01/D25 HH-I-515 (para 4.8.3 in D version)	B_2	Moisture absorption Cellulosic fiber (loose-fill)	A=25% percent water absorption	CTS CRP
01/D26 HH-I-515 (para. 4.8.1 in D version)	B_2	Settled density Cellulosic fiber (loose-fill)	A = 3%	CTS CRP
01/F01 ASTM D777 as modified by Federal Specification H-H-B-1008	B_1	Flammability Paper and paperboard	Char length: R = 3.6% A = 9.0% Fire resistance permanence: R = 6 percent increase in char length A = 10 percent increase in char length	
01/F02 ASTM E84	B_3	Surface burning characteristics Building materials Loose-fill	Flame spread classification: A = 20% Smoke classification: A = 40%	CTS CRP
01/F03 ASTM E84	B_3	Surface burning characteristics Building materials Blanket and batt	Same as 01/F02	CTS CRP
01/F04 ASTM E84	B_3	Surface burning characteristics Building materials Board and Block	Same as 01/F02	CTS CRP

NVLAP Code Test Method No.	Complexity	Short title (property) Subtitle (if applicable)	Desired Precision and Accuracy	Measurement Assurance Aids
01/F05 ASTM E136	B_1	Noncombustibility Elementary materials	Primarily a non-quantitative test	
01/F06 ASTM C739 (para. 10.4 in 77 version)	B_3	Flame resistance permanency cellulosic fiber (loose-fill)	A=20% flame spread	CTS CRP
01/F07 HH-I-515 (para. 4.8.7 in D version)	B_3	Critical radiant flux Radiant Panel (cellulosic fiber, loose-fill)	A = 14% R = 20%	CTS CRP
01/F08 HH-I-515 (para. 4.8.8 in D version)	B_2	Smoldering combustion cellulosic fiber (loose-fill)	A = 20% R = 20%	CTS CRP
01/S01 ASTM C165	B_2	Compressive properties Thermal Insulation Procedure A	A = 4%	CTS CRP TMVS[4/]
01/S02 ASTM C203	B_2	Breaking load/flexural strength Preformed block insulation	Breaking load: A = 2% Flexural strength: A = 10%	CTS CRP TMVS
01/S03 ASTM C209 (para. 9 in 72 version)	B_2	Transverse strength Board (cellulosic fiber)	A = 4%	CTS CRP TMVS
01/S04[5/] ASTM C209 (para. 10 in 72 version)	B_2	Deflection at specified load Board (cellulosic fiber)	A = 0.2 mm	CTS CRP TMVS
01/S05 ASTM C209 (para. 11 in 72 version)	B_2	Tensile strength Parallel to surface Board (cellulosic fiber)	A = 15%	CTS CRP TMVS
01/S06 ASTM C209 (para. 12 in 72 version)	B_2	Tensile strength Perpendicular to surface	A = 4%	CTS CRP TMVS
01/S07 ASTM C273	B_2	Shear test Sandwich construction	A = 25%	CTS CRP TMVS
01/S08 ASTM C446	B_2	Breaking load/modulus of rupture Preformed pipe insulation	Breaking load: A = 2% Modulus of rupture: A = 5%	CTS CRP TMVS
01/S09 ASTM D781	B_2	Puncture test Paperboard and fiberboard	R = 7.3% A = 8.0%	

NVLAP Code Test Method No.	Complexity	Short title (property) Subtitle (if applicable)	Desired Precision and Accuracy	Measurement Assurance Aids
01/S10 ASTM D828	B_2	Tensile breaking strength Paper and paperboard	R = 5% C = 9% A = 11%	TAPPI CRP[5/] or CTS CRP
01/S11 ASTM D1621	B_2	Compressive properties Rigid cellular plastics Procedure A - Crosshead	A = 6%	CTS CRP TMVS
01/T01 ASTM C177	B_3	Thermal transmission properties Low-temperature guarded hot plate Loose-fill	R = 1% A = 4%	SRM 1450 CTS CRP
01/T02 ASTM C177	B_3	Thermal transmission properties Low-temperature guarded hot plate Compressible blanket and batt	R = 1% A = 4%	SRM 1450 CTS CRP
01/T03 ASTM C177	B_3	Thermal transmission properties Low-temperature guarded hot plate Rigid board and block	R = 1% A = 4%	SRM 1450 CTS CRP
01/T04 ASTM C236	B_3	Thermal conductance Guarded hot box	A = 4%	CTS CRP
01/T05 ASTM C335	B_3	Thermal conductivity Pipe insulation	A = 4%	CTS CRP
01/T06 ASTM C518	B_3	Thermal transmission properties Heat flow meter Blanket and batt	R = 1% A = 4%	SRM 1450 CTS CRP
01/T07 ASTM C518	B_3	Thermal transmission properties Heat flow meter Board	R = 1% A = 4%	SRM 1450 CTS CRP
01/T08 ASTM C518	B_3	Thermal transmission properties Heat flow meter Loose-fill	R = 1% A = 4%	SRM 1450 CTS CRP
01/T09[7/] ASTM C653	B_3	Thermal resistance (Rec. Practice) Blanket (mineral fiber)	See 01/T02 and 01/T06	See 01/T02 and 01/T06
01/T10[7/] ASTM C687	B_3	Thermal resistance (Rec. Practice) Loose-fill (fibrous)	See 01/T01, 01/T04 and 01/T08	See 01/T01, 01/T04 and 01/T08
01/V02 ASTM D591	B_1	Starch in paper Qualitative test	non-quantitative test	
01/V03 ASTM D2020	B_2	Mildew (fungus) resistance Paper and paperboard	non-quantitative test	
01/V04 ASTM E96	B_2	Water vapor transmission Thin sheets Procedure A	R = 19% A = 25%	SRM 707
01/V05 HH-I-515 (para. 4.8.6 in D version)	B_2	Fungus; Cellulosic fiber (loose-fill)	non-quantitative test	
01/V06 HH-I-515 (para. 4.8.9 in D version)	B_1	Starch, Cellulosic fiber (loose-fill)	non-quantitative test	

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Footnotes:

1/ The letter B followed by a numerical subscript 1, 2 or 3 indicates the complexity of the test method for examination purposes. Subscript 1 indicates relatively simple test methods, subscript 2 indicates moderate test methods and subscript 3 indicates complex test methods.

2/ SRM - Standard Reference Materials may be obtained from the National Bureau of Standards. Ordering information may be obtained from the Office of Standard Reference Materials, B311 Chemistry Bldg., National Bureau of Standards, Washington, D.C. 20234. (Telephone: (301) 921-2045)

3/ CTS CRP - Collaborative Reference Program for Thermal Insulation co-sponsored by the Collaborative Testing Services, Inc. and NBS. Information may be obtained from NBS Collaborative Reference Programs, A05 Technology Bldg., National Bureau of Standards, Washington, D.C. 20234. (Telephone: (301) 921-2946)

4/ TMVS - Testing Machine Verification Service is obtainable from a number of sources. Specify verification to ASTM Standard E4. Most manufacturers of testing machines can provide information on sources of verification service.

5/ Eligible for accreditation only if accredited for 01/S03.

6/ TAPPI CRP - Collaborative Reference Program co-sponsored by the Technical Association of the Pulp and Paper Industry and NBS. Information may be obtained from NBS Collaborative Reference Programs, A05 Technology Bldg., National Bureau of Standards, Washington, D.C. 20234. (Telephone: (301) 921-2946)

7/ Eligible for accreditation only if laboratory is accredited for C177, C236 or C518 for same class of materials.

TABLE 2

NVLAP Test Method Code	Proficiency Sample Designation	Test Frequency Times per year	Comment
01/D04	P.S. 01/01	2	accreditation for one or more of D04, D05, D07 requires proficiency in only one P.S. 01/01 test
01/D05	P.S. 01/01	2	accreditation for one or more of D04, D05, D07 requires proficiency in only one P.S. 01/01 test
01/D07	P.S. 01/01	2	accreditation for one or more of D04, D05, D07 requires proficiency in only one P.S. 01/01 test
01/D10	P.S. 01/02	2	
01/D23	P.S. 01/03	2	
01/D24	P.S. 01/04	2	a single proficiency test is needed for either D24 or D25
01/D25	P.S. 01/04	2	a single proficiency test is needed for either D24 or D25
01/D26	P.S. 01/05	2	
01/F02	P.S. 01/06	2	
01/F03	P.S. 01/07	2	
01/F04	P.S. 01/08	2	
01/F06	P.S. 01/06	2	
01/F07	P.S. 01/06	2	
01/F08	P.S. 01/06	2	
01/S01	P.S. 01/07	2	
01/S02	P.S. 01/07	2	
01/S03			Both S01 and S02 proficiency tests are required for accreditation of any one or all S03, S04, S05, S06, S07, S08
01/S04			
01/S05			
01/S06			
01/S07			
01/S08			

NVLAP Test Method Code	Proficiency Sample Designation	Test Frequency Times per year	Comment
01/S10	P.S. 01/08	6	
01/S11			Both S01 and S02 proficiency tests are required for accreditation of S11
01/T01	P.S. 01/09	2	loose-fill and batt proficiency sample
01/T02	P.S. 01/10	2	batt proficiency sample
01/T03	P.S. 01/11	2	board and batt proficiency sample
01/T04 1/	P.S. 01/12		not required if in T03 or T07 test
01/T05	P.S. 01/13	2	
01/T06	P.S. 01/10	2	not required if in T02 test
01/T07	P.S. 10/11	2	not required if in T03 test
01/T08	P.S. 01/09	2	not required if in T01 test

Footnote:

1/ Laboratories seeking accreditation for 01/T04 while not also seeking accreditation for 01/T03 or 01/T07 will be required to perform proficienty tests using the guarded hot box during on-site laboratory inspection visits.

APPENDIX 2

EXAMPLE PERSONNEL REQUIREMENTS 1/

EDUCATION	EXPERIENCE	NATURE OF EMPLOYMENT (full or part time)	AFFILIATIONS
GENERAL MANAGEMENT	This individual, or group of individuals, may or may not be involved at the technical level. They could be full time or part time employees of the firm. In either case, they should become familiar with the broad technical aspects of the business, so as to make policy decisions consistent with quality testing.		
TECHNICAL DIRECTOR	Minimum of a B.S. degree or demonstrated capability in applicable field. Shall possess applicable professional license or certificates in one or more fields directed.	Minimum of 5 years in one or more fields directed. Must demonstrate capability in applicable field.	Full time employee of the Laboratory. Holds affiliations with the technical and professional societies pertinent to fields.
TECHNICAL SUPERVISOR	B.S. Degree or 5 years experience. Both relevant to the technology supervised. Shall possess applicable licenses or certificates in one or more fields directed.	1 year with degree full time or 5 years w/o under qualified technical director in field supervised.	Full time. Holds affiliations with the technical and professional societies pertinent to fields.
ENGINEERING OR SCIENTIFIC STAFF	B.S. degree or equivalent pertinent to field of work. Working towards or has achieved any applicable license or certificate.	On job training by supervisor or predecessor.	Full or part time. Holds affiliations with the technical and professional societies pertinent to fields.
TECHNICAL STAFF	High School graduate or equivalent. Shall strive for any applicable certificates in their field.	Sufficient "on-the-job" training and/or trade school. Competence must be demonstrated.	Part or Full Time.
CONSULTANT	An individual, who by academic training, work experience, or both brings the Laboratory technical skills and expertise equivalent to those of a Technical Supervisor on a part time basis.		
SUPPORT STAFF	Sufficient "on-the-job" training by a supervisor or predecessor so that job is performed properly.		

1/ This Appendix is adopted from the chart, "Recommended Personnel Basic Requirements" from the American Council of Independent Laboratories (ACIL) publication, "Quality Control, Requirements for a Testing and Inspection Laboratory, Manual of Practice - 1976," The qualifications given in this Appendix should not be interpreted as minimum or typical requirements for personnel in the NVLAP program.

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APPENDIX 3

INDEX OF TEST METHODS AND RECOMMENDED PRACTICES
APPLICABLE TO THE NVLAP FOR THERMAL INSULATION MATERIALS

ASTM designation:	Title
C177	Steady-state thermal transmission properties by means of the guarded hot plate.
C518	Steady-state thermal transmission properties by means of the heat flow meter.
C335	Thermal conducitivity of pipe insulation.
C236	Thermal conductance and transmittance of built-up sections by means of the guarded hot box.
C653	Recommended practice for determination of thermal resistance of low-density mineral fiber blanket-type building insulation.
C687	Recommended practice for determination of thermal resistance of low-density fibrous loose fill-type building insulation.
C167	Tests for thickness and density of blanket- or batt-type thermal insulating materials.
C302	Test for density of preformed pipe-covering-type thermal insulation.
C303	Test for density of preformed block-type thermal insulation.
C519	Test for density of fibrous loose fill building insulations.
C520	Test for density of granular loose fill insulations.
D1622	Test for apparent density of rigid cellular plastics.
C135	Sieve or screen analysis of fine and coarse aggregates.
C356	Test for linear shrinkage of preformed high-temperature thermal insulation subjected to soaking heat.
C355	Tests for water vapor transmission of thick materials.
D2842	Test for water absorption of rigid cellular plastics.
D2126	Test for response of rigid cellular plastics to thermal and humid aging.
D591	Test for starch in paper.
C272	Test for water absorption of core materials for structural sandwich constructions.
D756	Tests for resistance of plastics to accelerated service conditions.
C411	Test for hot-surface performance of high-temperature thermal insulation.
C165	Test for compressive strength or preformed block-type thermal insulation.
C203	Test for breaking load and calculated flexural strength of preformed block-type thermal insulation.

C446	Test for breaking load and calculated modulus of rupture of preformed insulation for pipes.
D781	Tests for puncture and stiffness of paperboard, corrugated and solid fiberboard.
D828	Test for tensile breaking strength of paper and paperboard.
C209	Testing insulating board (cellulosic fiber), structural and decorative.
C273	Shear test in flatwise plane of flat sandwich constructions or sandwich cores.
E84	Test for surface burning characterisitics of building materials.
E136	Test for noncombustibility of elementary materials.
E96	Test for water vapor transmission of materials in sheet form.
D2020	Tests for mildew (fungus) resistance of paper and paperboard.
D777	Test for flammmability of treated paper and paperboard.
C739	Cellulosic fiber (wood-base) loose-fill thermal insulation. Test for flame resistance, corrosion, and moisture absorption.

Federal designation:

HH-I-515	Insulation thermal (loose fill for pneumatic or poured application) cellulosic or wood fiber. Test for settled density, smoldering combustion, corrosion, moisture absorption, starch, and fungus.

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[3510-13-M]

NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM

Fees and Charges To Accredit Laboratories Which Test Thermal Insulation Materials

In a separate notice appearing in this issue of the FEDERAL REGISTER, the Department of Commerce announced the issuance of general and specific criteria for accrediting testing laboratories that test thermal insulation materials. Pursuant to paragraph (a) of § 7.10 of the Procedures for a National Voluntary Laboratory Accreditation Program (15 CFR Part 7) notice is hereby given of the fees and charges which the Secretary of Commerce (Secretary) has established for this laboratory accreditation program (LAP).

Basis for Fees: Fees and charges have been established on the basis that each laboratory in the program will be evaluated annually for the first two years of enrollment and once every two years thereafter. This evaluation schedule has been adopted as a compromise between the two year schedule originally proposed for the program on September 29, 1978 (43 FR 45298), and the recommendation of the National Laboratory Accreditation Criteria Committee which urged that evaluations be conducted every year. The fees cited in this notice have been increased from those originally proposed in order to reflect the more frequent inspections during the first two years.

The fees and charges cover the cost of examining, accrediting, and auditing laboratories that test thermal insulation materials. The fees also include a contingency factor to cover the cost associated with conducting unannounced re-inspection visits for up to one-third of the participating laboratories. The Department of Commerce's administrative cost associated with developing this LAP has not been included.

It is unlikely that any one laboratory will seek accreditation for all of the various test methods which are included in this LAP. Therefore, the fees have been established on the basis of allowing total charges to vary with the number and complexity of the individual test methods selected by the laboratory seeking accreditation.

Fees and Charges: The fee to any laboratory will be determined by the following equation:

$$F = A + B_1(N_1) + B_2(N_2) + B_3(N_3) + \ldots .$$

where F is the fee in dollars. A is a fixed charge in dollars to cover administrative and some basic examination costs associated with the program operation. B is a variable charge in dollars which covers the examination costs for evaluating a laboratory's capability to meet the specific criteria for each test method. N is the number of test methods for which the laboratory requests accreditation.

Subscripts 1, 2, and 3 represent the three levels of complexity into which the test methods fall when considered for examination purposes. The fee per method for the simpler test methods is represented as B_1. N_1 is the number of such test methods. B_2 is the fee per method for test methods of intermediate complexity and N_2 is the number of such test methods. The most complex test methods and the number of each are represented by B_3 and N_3 respectively. Values for each coefficient in the equation are: A=$750, B_1=$75, B_2=$125, and B_3=$175. The level of complexity for each test method is shown by the letter B with subscripts 1, 2, and 3 in the column, labeled "Complexity" in Table 1 of Appendix 1 to the FEDERAL REGISTER announcement referenced in the first sentence of this notice.

Proficiency Sample Fees: In addition to the basic inspection and evaluation charges referenced above, there will be a fee associated with proficiency sample testing where such tests are required. Table 2 in Appendix 1 referred to above identifies those test methods for which proficiency sample tests are currently required in this LAP. Proficiency sample fees pay for distribution of samples (where appropriate), the collection and analysis of the data, and the reporting of results. The fee for proficiency sample testing associated with each of the test methods is nominally $80 for each test performed. In most instances where proficiency testing is prescribed for test methods in the LAP, it is a requirement of the program that such testing be performed twice yearly. Thus, for each test method identified in Table 2 of Appendix 1 for which a laboratory desires accreditation, an additional fee of $160 is required. Explicit instructions regarding proficiency testing will be supplied with examination materials.

As explained under issue 4 in the FEDERAL REGISTER announcement referenced in the first sentence of this notice, the proficiency testing requirement for this LAP will be fulfilled by enrollment in a CTS CRP for the tests requiring NVLAP proficiency testing and the successful attainment of precision and accuracy of NVLAP.

Example Calculation: In order to clearly illustrate the annual cost for accreditation, the following example is provided. If a laboratory was to choose to be accredited for four simple test methods (B_1), three intermediate test methods (B_2), and two complex test methods (B_3), the fee equation would become:

$$F = \$750 + \$75(4) + \$125(3) + \$175(2) = \$1,775$$

Added to this would be the cost of proficiency testing. If proficiency sample tests were required twice annually for two of these nine test methods at a cost of $80 each, the total cost of proficiency sample testing would be $320. The total annual accreditation cost for the testing laboratory in this example would be $2,095.

Inquiries: Any inquiries may be addressed to Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, DC 20230, 202-377-3221.

Dated: January 12, 1979.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc. 79-1707 Filed 1-17-79; 8:45 am]

Federal register

THURSDAY, JANUARY 18, 1979
PART IV



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

■

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

Contract Rent Annual Adjustment Factors

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[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-79-613]

PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT ANNUAL ADJUSTMENT FACTORS

Publication of Subpart B—Contract Rent Annual Adjustment Factors

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Interim rule.

SUMMARY: HUD is publishing for effect amendments to Subpart B—Contract Rent Annual Adjustment Factors to require that the adjusted monthly amount of the Contract Rent of a dwelling unit shall be determined by multiplying the unit's *pro rata* share of the operating expense by the applicable Annual Adjustment Factors. The adjustment factors will not apply to depreciation, interest or amortization. The factors are applicable to Section 8 New Construction, Substantial Rehabilitation, Housing Finance and Development Agencies, New Construction Set-Aside for Section 515 Rural Rental Housing Projects, and Additional Assistance Program for Projects with HUD-insured and HUD-held mortgages.

EFFECTIVE DATE: November 8, 1978.

COMMENTS DUE: February 20, 1979.

ADDRESS: Written comments should be submitted to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Comments should be identified by the above title, docket number and date of publication. A copy of each such communications will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT:

Fred W. Pfaender, Acting Director, Office of Multifamily Housing Management and Occupancy, Department of Housing and Urban Development, Room 6156, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755-5677. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Revised Annual Adjustment Factors are being published for effect on November 8, 1978 to supersede the factors which were made effective as of November 8, 1977.

RATIONALE FOR ADJUSTING EXPENSES

The basic purpose of the interim amendment is to prevent unnecessary escalation of Section 8 rents beyond what is needed to meet increases in operating expenses. The current Subpart B specifies that the contract rent Annual Adjustment Factors are applied to the full amount of the latest adjusted Contract Rent. The Department is concerned that this method of adjusting rents has the effect of providing greater rent increases than are needed to compensate for increases in operating expenses. This overcompensation is due to two basic facts: (1) The portion of the owner's rent which is needed to pay operating expenses generally amounts to much less than 50% of the total rent while the portion needed for debt service represents more than half of the total rent, and (2) although operating expenses are subject to annual escalation, in response to market conditions, the annual debt service payment for a section 8 project remains at a fixed level throughout the 30 or 40 years of the financing period. Assuming that there has been 6 or 7 percent escalation in materials and labor resulting in an Adjustment Factor of commensurate amount, the owner under the present system may be overcompensated by being permitted to apply the 6 or 7 percent increase to the large portion of the rent which is available for payment of the non-escalating debt service.

To discourage increases in operating costs which may be induced by applying the Adjustment Factor to operating expense, an overall control is provided by specifying that the amount of Operating Expense on which the adjustment may be based shall not exceed 45 percent of the total revenue of the project as determined by an audited financial statement. Since Operating Expense is generally less than 45 percent, this allows some leeway for individual differences among projects.

If there is any situation in which a project-owner finds that this adjustment is insufficient, he/she could request relief under § 888.204 which applies "If the application of the Automatic Annual Adjustment Factors results in rents that are substantially lower than rents charged for comparable units not receiving assistance under the U.S. Housing Act of 1937, in the area for which the factor was published or a portion thereof * * *".

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of the Finding of Inapplicability is available for public inspection during regular business hours at the Office of the Rules Docket Clerk.

Accordingly, the Department Title 24 CFR Part 888, Subpart B, is amended as follows:

1. Amend § 888.203(b) to read as follows:

§ 888.203 Use of contract rent annual adjustment factors.

* * * * *

The adjusted monthly amount of the Contract Rent of a dwelling unit shall be determined by (1) multiplying the unit's *pro rata* share of the Operating Expense by the applicable Annual Adjustment Factor (see paragraph (a) of this section) and (2) by adding the difference between the calculation under subparagraph (1) of this paragraph and the *pro rata* share, rounded to the next higher whole dollar amount to the Contract Rent in effect on the anniversary date of the Contract. For purposes of this paragraph, Operating Expenses (i) shall include administrative expense, management fee, trustee fee, insurance, property tax, utilities, maintenance and repairs, and payments to a maintenance or replacements reserve, (ii) shall not include depreciation, interest or amortization, and (iii) shall not be more than 45 percent of the total operating revenue, all of the foregoing to be supported by an audited financial statement submitted to HUD.

2. Amend the first sentence of § 888.204(a) to read as follows:

§ 888.204 Revision to the annual adjustment factors.

* * * * *

(a) If the application of the Annual Adjustment Factors results in rents that are substantially lower than rents charged for comparable units not receiving assistance under the U.S. Housing Act of 1937, in the area for which the factor was published or a portion thereof, and it is shown to HUD that the costs of operating comparable rental housing have increased at a substantially greater rate than is compensated for by application of the Adjustment Factors, the HUD Field Office will consider establishing separate or revised Annual Adjustment Factors for that particular area.* * *

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); sec. 5(b), U.S. Housing Act of 1937 (42 U.S.C. 1437c(b)); sec. 8, U.S. Housing Act of 1937 (42 U.S.C. 1437(f).)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued at Washington, D.C., January 9, 1979.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 79-1548 Filed 1-17-79; 8:45 am]

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federal register

THURSDAY, JANUARY 18, 1979
PART V



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

■

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM

Contract Rent Annual Adjustment Factors

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-79-614]

PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT ANNUAL ADJUSTMENT FACTORS

Publication of Subpart B—Contract Rent Annual Adjustment Factors

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: HUD is publishing for effect amendments to Subpart B—Contract Rent Annual Adjustment Factors to require that the adjusted monthly amount of the Contract Rent of a dwelling unit shall be determined by multiplying the unit's *pro rata* share of the operating expense by the applicable Annual Adjustment Factors. The Adjustment Factors will not apply to depreciation, interest or amortization.

EFFECTIVE DATE: November 8, 1978.

ADDRESS: Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Fred W. Pfaender, Acting Director, Office of Multifamily Housing Management and Occupancy, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755-5677: (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The revised factors supersede those published for effect at 42 FR 60508 on November 25, 1977, which were made effective as of November 8, 1977. Different adjustment factor schedules are provided for 23 Standard Metropolitan Statistical Areas (SMSAs) and for the four Census Regions on the basis of changes in the Consumer Price Index (CPI) for rent and utilities. A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of the Finding of Inapplicability is available for public inspection during regular business hours at the Office of the Rules Docket Clerk.

Accordingly, Title 24, Part 888, is amended by publishing updated Schedule C factors for effect as set forth below.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); sec. 5(b), U.S. Housing Act of 1937 (42 U.S.C. 1437c(b)); sec. 8, U.S. Housing Act of 1937 (42 U.S.C. 1437f))

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued at Washington, D.C., January 9, 1979.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[4210-01-C]

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)

NORTHCENTRAL CENSUS REGION

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.073	1.075	1.079	1.083	1.087
100 - 124	1.071	1.073	1.076	1.079	1.082
125 - 149	1.070	1.072	1.075	1.077	1.079
150 - 174	1.070	1.071	1.073	1.076	1.077
175 - 199	1.069	1.071	1.072	1.074	1.076
200 - 224	1.069	1.070	1.072	1.073	1.075
225 - 249	1.069	1.070	1.071	1.073	1.074
250 - 274	1.069	1.069	1.071	1.072	1.073
275 - 299	1.068	1.069	1.070	1.072	1.072
300 - 324	1.068	1.069	1.070	1.071	1.072
325 - 349	1.068	1.069	1.070	1.071	1.071
350 - 374	1.068	1.069	1.069	1.070	1.071
375 - 399	1.068	1.069	1.069	1.070	1.071
400 - 424	1.068	1.068	1.069	1.070	1.071
425 - 449	1.068	1.068	1.069	1.070	1.071
450 - 474	1.068	1.068	1.069	1.070	1.070
475 - 499	1.068	1.068	1.069	1.070	1.070
500 OR MORE	1.068	1.068	1.069	1.069	1.070

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.053

NOTE: THE NORTHCENTRAL CENSUS REGION INCLUDES THE FOLLOWING STATES:
ILLINOIS
INDIANA
IOWA
KANSAS
MICHIGAN
MINNESOTA
MISSOURI
NEBRASKA
NORTH DAKOTA
OHIO
SOUTH DAKOTA
WISCONSIN

[4210-01-C]

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)

NORTHEAST CENSUS REGION

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.051	1.049	1.047	1.046	1.044
100 - 124	1.051	1.050	1.049	1.047	1.046
125 - 149	1.052	1.051	1.050	1.048	1.047
150 - 174	1.052	1.051	1.050	1.049	1.048
175 - 199	1.052	1.051	1.051	1.050	1.049
200 - 224	1.052	1.052	1.051	1.050	1.050
225 - 249	1.052	1.052	1.051	1.050	1.050
250 - 274	1.052	1.052	1.052	1.051	1.050
275 - 299	1.053	1.052	1.052	1.051	1.051
300 - 324	1.053	1.052	1.052	1.051	1.051
325 - 349	1.053	1.052	1.052	1.051	1.051
350 - 374	1.053	1.052	1.052	1.052	1.051
375 - 399	1.053	1.053	1.052	1.052	1.052
400 - 424	1.053	1.053	1.052	1.052	1.052
425 - 449	1.053	1.053	1.052	1.052	1.052
450 - 474	1.053	1.053	1.052	1.052	1.052
475 - 499	1.053	1.053	1.052	1.052	1.052
500 OR MORE	1.053	1.053	1.052	1.052	1.052

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.053

NOTE: THE NORTHEAST CENSUS REGION INCLUDES THE FOLLOWING STATES:
CONNECTICUT
MAINE
MASS.
NEW HAMP
NEW JERSEY
NEW YORK
PENNSYLVANIA
PUERTO RICO
RHODE ISLAND
VERMONT
VIRGIN IS

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)

SOUTH CENSUS REGION

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.074	1.075	1.078	1.081	1.083
100 - 124	1.073	1.074	1.076	1.078	1.080
125 - 149	1.072	1.073	1.075	1.077	1.078
150 - 174	1.072	1.073	1.074	1.076	1.077
175 - 199	1.071	1.072	1.073	1.075	1.076
200 - 224	1.071	1.072	1.073	1.074	1.075
225 - 249	1.071	1.072	1.073	1.074	1.075
250 - 274	1.071	1.071	1.072	1.073	1.074
275 - 299	1.071	1.071	1.072	1.073	1.074
300 - 324	1.071	1.071	1.072	1.073	1.073
325 - 349	1.071	1.071	1.072	1.072	1.073
350 - 374	1.071	1.071	1.072	1.072	1.073
375 - 399	1.071	1.071	1.071	1.072	1.073
400 - 424	1.070	1.071	1.071	1.072	1.072
425 - 449	1.070	1.071	1.071	1.072	1.072
450 - 474	1.070	1.071	1.071	1.072	1.072
475 - 499	1.070	1.071	1.071	1.072	1.072
500 OR MORE	1.070	1.071	1.071	1.071	1.072

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.070

NOTE: THE SOUTH CENSUS REGION INCLUDES THE FOLLOWING STATES:

ALABAMA
ARKANSAS
DELAWARE
D.C.
FLORIDA
GEORGIA
KENTUCKY
LOUISIANA
MARYLAND
MISSISSIPPI
N. CAROLINA
OKLAHOMA
S. CAROLINA
TENNESSEE
TEXAS
VIRGINIA
W. VIRGINIA

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)

WEST CENSUS REGION

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.087	1.088	1.090	1.091	1.092
100 - 124	1.087	1.088	1.089	1.090	1.091
125 - 149	1.087	1.087	1.088	1.089	1.090
150 - 174	1.087	1.087	1.088	1.088	1.089
175 - 199	1.086	1.087	1.087	1.088	1.089
200 - 224	1.088	1.087	1.087	1.088	1.088
225 - 249	1.088	1.087	1.087	1.088	1.088
250 - 274	1.086	1.086	1.087	1.087	1.088
275 - 299	1.086	1.086	1.087	1.087	1.088
300 - 324	1.088	1.086	1.087	1.087	1.087
325 - 349	1.086	1.086	1.087	1.087	1.087
350 - 374	1.086	1.086	1.086	1.087	1.087
375 - 399	1.086	1.086	1.086	1.087	1.087
400 - 424	1.088	1.086	1.086	1.087	1.087
425 - 449	1.088	1.088	1.086	1.087	1.087
450 - 474	1.088	1.086	1.086	1.087	1.087
475 - 499	1.086	1.086	1.086	1.086	1.087
500 OR MORE	1.086	1.086	1.086	1.086	1.087

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.086

NOTE: THE WEST CENSUS REGION INCLUDES THE FOLLOWING STATES:

ALASKA
ARIZONIA
CALIFORNIA
COLORADO
HAWAII
IDAHO
MONTANA
NEVADA
NEW MEXICO
OREGON
UTAH
WASHINGTON
WYOMING

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)

SMSA: ATLANTA, GA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.061	1.064	1.071	1.077	1.082
100 - 124	1.058	1.061	1.066	1.071	1.075
125 - 149	1.057	1.060	1.064	1.068	1.071
150 - 174	1.056	1.058	1.062	1.065	1.068
175 - 199	1.056	1.057	1.060	1.063	1.066
200 - 224	1.055	1.057	1.059	1.062	1.064
225 - 249	1.055	1.056	1.058	1.061	1.063
250 - 274	1.054	1.056	1.058	1.060	1.062
275 - 299	1.054	1.055	1.057	1.059	1.061
300 - 324	1.054	1.055	1.057	1.058	1.060
325 - 349	1.054	1.055	1.056	1.058	1.059
350 - 374	1.053	1.054	1.056	1.057	1.059
375 - 399	1.053	1.054	1.056	1.057	1.058
400 - 424	1.053	1.054	1.055	1.057	1.058
425 - 449	1.053	1.054	1.055	1.056	1.057
450 - 474	1.053	1.054	1.055	1.056	1.057
475 - 499	1.053	1.054	1.055	1.056	1.057
500 OR MORE	1.053	1.053	1.054	1.056	1.056

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.051

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)

SMSA: BALTIMORE, MD

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.083	1.090	1.102	1.114	1.124
100 - 124	1.079	1.084	1.094	1.103	1.111
125 - 149	1.076	1.081	1.088	1.098	1.102
150 - 174	1.074	1.078	1.085	1.091	1.097
175 - 199	1.073	1.077	1.082	1.088	1.092
200 - 224	1.072	1.075	1.080	1.085	1.089
225 - 249	1.071	1.074	1.079	1.083	1.087
250 - 274	1.071	1.073	1.077	1.081	1.085
275 - 299	1.070	1.073	1.076	1.080	1.083
300 - 324	1.070	1.072	1.075	1.079	1.081
325 - 349	1.070	1.071	1.075	1.078	1.080
350 - 374	1.069	1.071	1.074	1.077	1.079
375 - 399	1.069	1.071	1.073	1.076	1.078
400 - 424	1.069	1.070	1.073	1.075	1.077
425 - 449	1.069	1.070	1.072	1.075	1.077
450 - 474	1.068	1.070	1.072	1.074	1.076
475 - 499	1.068	1.069	1.072	1.074	1.076
500 OR MORE	1.068	1.069	1.071	1.073	1.075

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.065

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: BOSTON, MA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.041	1.042	1.044	1.045	1.047
100 - 124	1.040	1.041	1.042	1.044	1.045
125 - 149	1.040	1.041	1.042	1.043	1.044
150 - 174	1.040	1.040	1.041	1.042	1.043
175 - 199	1.039	1.040	1.041	1.042	1.042
200 - 224	1.039	1.040	1.040	1.041	1.042
225 - 249	1.039	1.040	1.040	1.041	1.041
250 - 274	1.039	1.039	1.040	1.041	1.041
275 - 299	1.039	1.039	1.040	1.040	1.041
300 - 324	1.039	1.039	1.040	1.040	1.041
325 - 349	1.039	1.039	1.040	1.040	1.040
350 - 374	1.039	1.039	1.039	1.040	1.040
375 - 399	1.039	1.039	1.039	1.040	1.040
400 - 424	1.039	1.039	1.039	1.040	1.040
425 - 449	1.039	1.039	1.039	1.040	1.040
450 - 474	1.039	1.039	1.039	1.040	1.040
475 - 499	1.039	1.039	1.039	1.039	1.040
500 OR MORE	1.039	1.039	1.039	1.039	1.040

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.038

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: BUFFALO, NY

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.044	1.043	1.040	1.038	1.036
100 - 124	1.045	1.044	1.042	1.040	1.038
125 - 149	1.046	1.045	1.043	1.042	1.040
150 - 174	1.046	1.045	1.044	1.043	1.041
175 - 199	1.046	1.046	1.045	1.043	1.042
200 - 224	1.047	1.046	1.045	1.044	1.043
225 - 249	1.047	1.046	1.045	1.044	1.044
250 - 274	1.047	1.046	1.046	1.045	1.044
275 - 299	1.047	1.047	1.046	1.045	1.044
300 - 324	1.047	1.047	1.046	1.045	1.045
325 - 349	1.047	1.047	1.046	1.046	1.045
350 - 374	1.047	1.047	1.046	1.046	1.045
375 - 399	1.047	1.047	1.046	1.046	1.045
400 - 424	1.047	1.047	1.047	1.046	1.046
425 - 449	1.047	1.047	1.047	1.046	1.046
450 - 474	1.047	1.047	1.047	1.048	1.046
475 - 499	1.048	1.047	1.047	1.046	1.046
500 OR MORE	1.048	1.047	1.047	1.046	1.046

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.048

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: CHICAGO, IL

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.063	1.061	1.059	1.057	1.054
100 - 124	1.064	1.063	1.061	1.059	1.057
125 - 149	1.064	1.063	1.062	1.060	1.059
150 - 174	1.065	1.064	1.063	1.061	1.060
175 - 199	1.065	1.064	1.063	1.062	1.061
200 - 224	1.065	1.064	1.063	1.062	1.062
225 - 249	1.065	1.065	1.064	1.063	1.062
250 - 274	1.065	1.065	1.064	1.063	1.063
275 - 299	1.066	1.065	1.064	1.064	1.063
300 - 324	1.066	1.065	1.064	1.064	1.063
325 - 349	1.066	1.065	1.065	1.064	1.063
350 - 374	1.066	1.065	1.065	1.064	1.064
375 - 399	1.066	1.065	1.065	1.064	1.064
400 - 424	1.066	1.066	1.065	1.064	1.064
425 - 449	1.066	1.066	1.065	1.065	1.064
450 - 474	1.066	1.066	1.065	1.065	1.064
475 - 499	1.066	1.066	1.065	1.065	1.064
500 OR MORE	1.066	1.066	1.065	1.065	1.065

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.087

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: CINCINNATI, OH-KY-IN

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.096	1.101	1.109	1.117	1.124
100 - 124	1.093	1.097	1.104	1.110	1.115
125 - 149	1.092	1.095	1.100	1.105	1.110
150 - 174	1.091	1.093	1.098	1.102	1.106
175 - 199	1.090	1.092	1.096	1.100	1.103
200 - 224	1.089	1.091	1.094	1.098	1.101
225 - 249	1.088	1.090	1.093	1.098	1.099
250 - 274	1.088	1.090	1.092	1.095	1.097
275 - 299	1.088	1.089	1.092	1.094	1.096
300 - 324	1.087	1.089	1.091	1.093	1.095
325 - 349	1.087	1.088	1.091	1.093	1.094
350 - 374	1.087	1.088	1.090	1.092	1.094
375 - 399	1.087	1.088	1.090	1.092	1.093
400 - 424	1.087	1.088	1.089	1.091	1.093
425 - 449	1.086	1.087	1.089	1.091	1.092
450 - 474	1.086	1.087	1.089	1.090	1.092
475 - 499	1.086	1.087	1.089	1.090	1.091
500 OR MORE	1.086	1.087	1.088	1.090	1.091

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.084

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: CLEVELAND, OH

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.072	1.067	1.060	1.053	1.046
100 - 124	1.074	1.071	1.065	1.059	1.054
125 - 149	1.076	1.073	1.068	1.064	1.060
150 - 174	1.077	1.074	1.070	1.068	1.063
175 - 199	1.078	1.075	1.072	1.069	1.066
200 - 224	1.078	1.076	1.073	1.070	1.068
225 - 249	1.079	1.077	1.074	1.072	1.069
250 - 274	1.079	1.077	1.075	1.073	1.071
275 - 299	1.079	1.078	1.076	1.073	1.072
300 - 324	1.080	1.078	1.076	1.074	1.072
325 - 349	1.080	1.079	1.077	1.075	1.073
350 - 374	1.080	1.079	1.077	1.075	1.074
375 - 399	1.080	1.079	1.077	1.078	1.074
400 - 424	1.080	1.079	1.078	1.076	1.075
425 - 449	1.080	1.080	1.078	1.077	1.075
450 - 474	1.081	1.080	1.078	1.077	1.076
475 - 499	1.081	1.080	1.079	1.077	1.076
500 OR MORE	1.081	1.080	1.079	1.077	1.076

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.083

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: DALLAS-FORT WORTH , TX

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.083	1.079	1.074	1.068	1.064
100 - 124	1.084	1.082	1.078	1.073	1.070
125 - 149	1.086	1.083	1.080	1.077	1.073
150 - 174	1.086	1.085	1.082	1.079	1.076
175 - 199	1.087	1.085	1.083	1.080	1.078
200 - 224	1.087	1.086	1.084	1.082	1.080
225 - 249	1.088	1.087	1.085	1.083	1.081
250 - 274	1.088	1.087	1.085	1.083	1.082
275 - 299	1.088	1.087	1.086	1.084	1.083
300 - 324	1.088	1.088	1.086	1.084	1.083
325 - 349	1.089	1.088	1.086	1.085	1.084
350 - 374	1.089	1.088	1.087	1.085	1.084
375 - 399	1.089	1.088	1.087	1.086	1.085
400 - 424	1.089	1.088	1.087	1.086	1.085
425 - 449	1.089	1.088	1.087	1.086	1.085
450 - 474	1.089	1.089	1.088	1.087	1.086
475 - 499	1.089	1.089	1.088	1.087	1.086
500 OR MORE	1.089	1.089	1.088	1.087	1.086

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.091

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: DENVER-BOULDER , CO

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.079	1.082	1.086	1.090	1.094
100 - 124	1.078	1.080	1.083	1.087	1.089
125 - 149	1.077	1.079	1.081	1.084	1.086
150 - 174	1.077	1.078	1.080	1.082	1.084
175 - 199	1.076	1.077	1.079	1.081	1.083
200 - 224	1.076	1.077	1.079	1.080	1.082
225 - 249	1.076	1.077	1.078	1.080	1.081
250 - 274	1.075	1.076	1.078	1.079	1.080
275 - 299	1.075	1.076	1.077	1.078	1.080
300 - 324	1.075	1.076	1.077	1.078	1.079
325 - 349	1.075	1.076	1.077	1.078	1.079
350 - 374	1.075	1.075	1.076	1.077	1.078
375 - 399	1.075	1.075	1.076	1.077	1.078
400 - 424	1.075	1.075	1.076	1.077	1.078
425 - 449	1.075	1.075	1.076	1.077	1.077
450 - 474	1.074	1.075	1.076	1.077	1.077
475 - 499	1.074	1.075	1.076	1.076	1.077
500 OR MORE	1.074	1.075	1.075	1.076	1.077

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.073

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: DETROIT, MI

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.068	1.067	1.066	1.065	1.064
100 - 124	1.069	1.068	1.067	1.066	1.065
125 - 149	1.069	1.068	1.068	1.067	1.066
150 - 174	1.069	1.069	1.068	1.067	1.067
175 - 199	1.069	1.069	1.068	1.068	1.067
200 - 224	1.069	1.069	1.069	1.068	1.068
225 - 249	1.070	1.069	1.069	1.068	1.068
250 - 274	1.070	1.069	1.069	1.068	1.068
275 - 299	1.070	1.069	1.069	1.069	1.068
300 - 324	1.070	1.069	1.069	1.069	1.068
325 - 349	1.070	1.070	1.069	1.069	1.069
350 - 374	1.070	1.070	1.069	1.069	1.069
375 - 399	1.070	1.070	1.069	1.069	1.069
400 - 424	1.070	1.070	1.069	1.069	1.069
425 - 449	1.070	1.070	1.069	1.069	1.069
450 - 474	1.070	1.070	1.069	1.069	1.069
475 - 499	1.070	1.070	1.070	1.069	1.069
500 OR MORE	1.070	1.070	1.070	1.069	1.069

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.070

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: HONOLULU, HI

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.067	1.075	1.088	1.102	1.113
100 - 124	1.062	1.069	1.079	1.089	1.098
125 - 149	1.059	1.065	1.073	1.082	1.089
150 - 174	1.057	1.062	1.069	1.076	1.082
175 - 199	1.056	1.060	1.066	1.072	1.078
200 - 224	1.055	1.058	1.064	1.069	1.074
225 - 249	1.054	1.057	1.062	1.067	1.071
250 - 274	1.053	1.056	1.060	1.065	1.069
275 - 299	1.053	1.055	1.059	1.063	1.067
300 - 324	1.052	1.055	1.058	1.062	1.065
325 - 349	1.052	1.054	1.057	1.061	1.064
350 - 374	1.051	1.053	1.057	1.060	1.063
375 - 399	1.051	1.053	1.056	1.059	1.062
400 - 424	1.051	1.053	1.055	1.058	1.061
425 - 449	1.051	1.052	1.055	1.058	1.060
450 - 474	1.050	1.052	1.054	1.057	1.059
475 - 499	1.050	1.052	1.054	1.056	1.059
500 OR MORE	1.050	1.051	1.054	1.056	1.058

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.047

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: HOUSTON, TX

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.058	1.057	1.057	1.056	1.055
100 - 124	1.058	1.058	1.057	1.056	1.056
125 - 149	1.058	1.058	1.058	1.057	1.056
150 - 174	1.059	1.058	1.058	1.057	1.057
175 - 199	1.059	1.058	1.058	1.058	1.057
200 - 224	1.059	1.059	1.058	1.058	1.057
225 - 249	1.059	1.059	1.058	1.058	1.058
250 - 274	1.059	1.059	1.058	1.058	1.058
275 - 299	1.059	1.059	1.058	1.058	1.058
300 - 324	1.059	1.059	1.059	1.058	1.058
325 - 349	1.059	1.059	1.059	1.058	1.058
350 - 374	1.059	1.059	1.059	1.058	1.058
375 - 399	1.059	1.059	1.059	1.058	1.058
400 - 424	1.059	1.059	1.059	1.059	1.058
425 - 449	1.059	1.059	1.059	1.059	1.058
450 - 474	1.059	1.059	1.059	1.059	1.058
475 - 499	1.059	1.059	1.059	1.059	1.059
500 OR MORE	1.059	1.059	1.059	1.059	1.059

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.059

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: KANSAS CITY, MO-KS

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.061	1.057	1.051	1.048	1.040
100 - 124	1.063	1.060	1.058	1.051	1.047
125 - 149	1.064	1.062	1.058	1.054	1.051
150 - 174	1.065	1.063	1.060	1.057	1.054
175 - 199	1.068	1.064	1.061	1.059	1.056
200 - 224	1.066	1.065	1.062	1.060	1.058
225 - 249	1.067	1.065	1.063	1.061	1.059
250 - 274	1.067	1.066	1.064	1.062	1.060
275 - 299	1.067	1.066	1.064	1.063	1.061
300 - 324	1.067	1.066	1.065	1.063	1.062
325 - 349	1.068	1.067	1.065	1.064	1.062
350 - 374	1.068	1.067	1.066	1.064	1.063
375 - 399	1.068	1.067	1.066	1.064	1.063
400 - 424	1.068	1.067	1.066	1.065	1.064
425 - 449	1.068	1.067	1.066	1.065	1.064
450 - 474	1.068	1.068	1.066	1.065	1.064
475 - 499	1.068	1.068	1.067	1.066	1.065
500 OR MORE	1.068	1.068	1.067	1.066	1.065

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.070

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: LOS ANGELES-LONG BEACH, CA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.096	1.088	1.076	1.064	1.054
100 - 124	1.100	1.094	1.085	1.075	1.067
125 - 149	1.102	1.097	1.090	1.082	1.076
150 - 174	1.104	1.100	1.093	1.087	1.081
175 - 199	1.105	1.102	1.096	1.091	1.086
200 - 224	1.106	1.103	1.098	1.093	1.089
225 - 249	1.107	1.104	1.100	1.095	1.092
250 - 274	1.108	1.105	1.101	1.097	1.094
275 - 299	1.108	1.106	1.102	1.099	1.095
300 - 324	1.108	1.106	1.103	1.100	1.097
325 - 349	1.109	1.107	1.104	1.101	1.098
350 - 374	1.109	1.107	1.105	1.102	1.099
375 - 399	1.109	1.108	1.105	1.102	1.100
400 - 424	1.110	1.108	1.106	1.103	1.101
425 - 449	1.110	1.108	1.106	1.104	1.102
450 - 474	1.110	1.109	1.106	1.104	1.102
475 - 499	1.110	1.109	1.107	1.105	1.103
500 OR MORE	1.110	1.109	1.107	1.105	1.103

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.113

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION.
(INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: MILWAUKEE, WI

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.036	1.033	1.029	1.024	1.020
100 - 124	1.038	1.035	1.032	1.028	1.025
125 - 149	1.039	1.037	1.034	1.031	1.029
150 - 174	1.039	1.038	1.035	1.033	1.031
175 - 199	1.040	1.038	1.036	1.034	1.032
200 - 224	1.040	1.039	1.037	1.035	1.034
225 - 249	1.040	1.039	1.038	1.036	1.035
250 - 274	1.041	1.040	1.038	1.037	1.035
275 - 299	1.041	1.040	1.039	1.037	1.036
300 - 324	1.041	1.040	1.039	1.038	1.037
325 - 349	1.041	1.040	1.039	1.038	1.037
350 - 374	1.041	1.041	1.039	1.038	1.037
375 - 399	1.041	1.041	1.040	1.039	1.038
400 - 424	1.041	1.041	1.040	1.039	1.038
425 - 449	1.042	1.041	1.040	1.039	1.038
450 - 474	1.042	1.041	1.040	1.039	1.039
475 - 499	1.042	1.041	1.040	1.040	1.039
500 OR MORE	1.042	1.041	1.040	1.040	1.039

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.043

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION.
(INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: MINNEAPOLIS-ST PAUL, MN-WI

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.089	1.098	1.114	1.129	1.143
100 - 124	1.084	1.091	1.103	1.115	1.126
125 - 149	1.080	1.086	1.096	1.106	1.115
150 - 174	1.078	1.083	1.092	1.100	1.107
175 - 199	1.076	1.081	1.088	1.095	1.102
200 - 224	1.075	1.079	1.085	1.092	1.097
225 - 249	1.074	1.078	1.083	1.089	1.094
250 - 274	1.073	1.076	1.082	1.087	1.091
275 - 299	1.073	1.076	1.080	1.085	1.089
300 - 324	1.072	1.075	1.079	1.083	1.087
325 - 349	1.072	1.074	1.078	1.082	1.086
350 - 374	1.071	1.073	1.077	1.081	1.084
375 - 399	1.071	1.073	1.076	1.080	1.083
400 - 424	1.070	1.072	1.076	1.079	1.082
425 - 449	1.070	1.072	1.075	1.078	1.081
450 - 474	1.070	1.072	1.075	1.078	1.080
475 - 499	1.070	1.071	1.074	1.077	1.079
500 OR MORE	1.069	1.071	1.074	1.076	1.079

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.065

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION.
(INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: NEW YORK CITY, NY-NJ

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.053	1.053	1.052	1.050	1.050
100 - 124	1.054	1.053	1.052	1.051	1.051
125 - 149	1.054	1.053	1.053	1.052	1.051
150 - 174	1.054	1.054	1.053	1.053	1.052
175 - 199	1.054	1.054	1.053	1.053	1.052
200 - 224	1.054	1.054	1.053	1.053	1.053
225 - 249	1.054	1.054	1.054	1.053	1.053
250 - 274	1.054	1.054	1.054	1.053	1.053
275 - 299	1.054	1.054	1.054	1.054	1.053
300 - 324	1.054	1.054	1.054	1.054	1.053
325 - 349	1.054	1.054	1.054	1.054	1.053
350 - 374	1.054	1.054	1.054	1.054	1.054
375 - 399	1.055	1.054	1.054	1.054	1.054
400 - 424	1.055	1.054	1.054	1.054	1.054
425 - 449	1.055	1.054	1.054	1.054	1.054
450 - 474	1.055	1.054	1.054	1.054	1.054
475 - 499	1.055	1.054	1.054	1.054	1.054
500 OR MORE	1.055	1.054	1.054	1.054	1.054

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.055

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION.
(INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: PHILADELPHIA, PA-NJ

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.054	1.053	1.052	1.050	1.049
100 - 124	1.055	1.054	1.053	1.052	1.051
125 - 149	1.055	1.054	1.053	1.052	1.052
150 - 174	1.055	1.055	1.054	1.053	1.052
175 - 199	1.055	1.055	1.054	1.054	1.053
200 - 224	1.056	1.055	1.054	1.054	1.053
225 - 249	1.056	1.055	1.055	1.054	1.054
250 - 274	1.056	1.055	1.055	1.054	1.054
275 - 299	1.056	1.055	1.055	1.055	1.054
300 - 324	1.056	1.056	1.055	1.055	1.054
325 - 349	1.056	1.056	1.055	1.055	1.054
350 - 374	1.056	1.056	1.055	1.055	1.055
375 - 399	1.056	1.056	1.055	1.055	1.055
400 - 424	1.056	1.056	1.055	1.055	1.055
425 - 449	1.056	1.056	1.056	1.055	1.055
450 - 474	1.056	1.056	1.056	1.055	1.055
475 - 499	1.056	1.056	1.056	1.055	1.055
500 OR MORE	1.056	1.056	1.056	1.055	1.055

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.056

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: PITTSBURGH, PA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.090	1.089	1.087	1.085	1.084
100 - 124	1.091	1.090	1.088	1.087	1.086
125 - 149	1.091	1.090	1.089	1.088	1.087
150 - 174	1.091	1.091	1.090	1.089	1.088
175 - 199	1.092	1.091	1.090	1.089	1.089
200 - 224	1.092	1.091	1.091	1.090	1.089
225 - 249	1.092	1.091	1.091	1.090	1.089
250 - 274	1.092	1.092	1.091	1.090	1.090
275 - 299	1.092	1.092	1.091	1.091	1.090
300 - 324	1.092	1.092	1.091	1.091	1.090
325 - 349	1.092	1.092	1.091	1.091	1.091
350 - 374	1.092	1.092	1.092	1.091	1.091
375 - 399	1.092	1.092	1.092	1.091	1.091
400 - 424	1.092	1.092	1.092	1.091	1.091
425 - 449	1.092	1.092	1.092	1.091	1.091
450 - 474	1.092	1.092	1.092	1.092	1.091
475 - 499	1.092	1.092	1.092	1.092	1.091
500 OR MORE	1.092	1.092	1.092	1.092	1.091

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.093

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: SAN DIEGO, CA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.090	1.088	1.084	1.079	1.076
100 - 124	1.092	1.090	1.086	1.083	1.080
125 - 149	1.093	1.091	1.088	1.086	1.083
150 - 174	1.093	1.092	1.090	1.087	1.085
175 - 199	1.094	1.092	1.090	1.088	1.087
200 - 224	1.094	1.093	1.091	1.089	1.088
225 - 249	1.094	1.093	1.092	1.090	1.089
250 - 274	1.094	1.094	1.092	1.091	1.090
275 - 299	1.095	1.094	1.093	1.091	1.090
300 - 324	1.095	1.094	1.093	1.092	1.091
325 - 349	1.095	1.094	1.093	1.092	1.091
350 - 374	1.095	1.094	1.093	1.092	1.091
375 - 399	1.095	1.095	1.094	1.093	1.092
400 - 424	1.095	1.095	1.094	1.093	1.092
425 - 449	1.095	1.095	1.094	1.093	1.092
450 - 474	1.095	1.095	1.094	1.093	1.093
475 - 499	1.095	1.095	1.094	1.093	1.093
500 OR MORE	1.095	1.095	1.094	1.094	1.093

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.097

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: SAN FRANCISCO-OAKLAND, CA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.088	1.094	1.104	1.114	1.123
100 - 124	1.085	1.090	1.097	1.105	1.112
125 - 149	1.083	1.087	1.093	1.099	1.105
150 - 174	1.082	1.085	1.090	1.095	1.100
175 - 199	1.081	1.083	1.088	1.093	1.096
200 - 224	1.080	1.082	1.086	1.090	1.094
225 - 249	1.079	1.081	1.085	1.089	1.092
250 - 274	1.079	1.081	1.084	1.087	1.090
275 - 299	1.078	1.080	1.083	1.086	1.089
300 - 324	1.078	1.080	1.082	1.085	1.087
325 - 349	1.078	1.079	1.082	1.084	1.086
350 - 374	1.077	1.079	1.081	1.083	1.086
375 - 399	1.077	1.078	1.081	1.083	1.085
400 - 424	1.077	1.078	1.080	1.082	1.084
425 - 449	1.077	1.078	1.080	1.082	1.083
450 - 474	1.076	1.078	1.079	1.081	1.083
475 - 499	1.076	1.077	1.079	1.081	1.082
500 OR MORE	1.076	1.077	1.079	1.081	1.082

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.074

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: SEATTLE-EVERETT, WA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.089	1.082	1.071	1.059	1.049
100 - 124	1.093	1.088	1.079	1.070	1.062
125 - 149	1.096	1.091	1.084	1.076	1.070
150 - 174	1.098	1.094	1.087	1.081	1.076
175 - 199	1.099	1.095	1.090	1.085	1.080
200 - 224	1.100	1.097	1.092	1.087	1.083
225 - 249	1.101	1.098	1.094	1.089	1.086
250 - 274	1.101	1.099	1.095	1.091	1.088
275 - 299	1.102	1.099	1.096	1.092	1.089
300 - 324	1.102	1.100	1.097	1.094	1.091
325 - 349	1.102	1.101	1.098	1.094	1.092
350 - 374	1.103	1.101	1.098	1.095	1.093
375 - 399	1.103	1.101	1.099	1.096	1.094
400 - 424	1.103	1.102	1.099	1.097	1.095
425 - 449	1.103	1.102	1.100	1.097	1.095
450 - 474	1.104	1.102	1.100	1.098	1.096
475 - 499	1.104	1.102	1.100	1.098	1.096
500 OR MORE	1.104	1.103	1.101	1.099	1.097

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.107

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SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: WASHINGTON, DC-MD-VA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.083	1.066	1.069	1.073	1.076
100 - 124	1.062	1.064	1.067	1.070	1.072
125 - 149	1.061	1.063	1.065	1.068	1.070
150 - 174	1.061	1.062	1.064	1.066	1.068
175 - 199	1.060	1.062	1.063	1.065	1.067
200 - 224	1.060	1.061	1.063	1.064	1.065
225 - 249	1.060	1.061	1.062	1.063	1.065
250 - 274	1.060	1.060	1.062	1.063	1.064
275 - 299	1.060	1.060	1.061	1.062	1.063
300 - 324	1.059	1.060	1.061	1.062	1.063
325 - 349	1.059	1.060	1.061	1.062	1.063
350 - 374	1.059	1.060	1.061	1.062	1.062
375 - 399	1.059	1.060	1.060	1.061	1.062
400 - 424	1.059	1.059	1.060	1.061	1.062
425 - 449	1.059	1.059	1.060	1.060	1.062
450 - 474	1.059	1.059	1.060	1.060	1.061
475 - 499	1.059	1.059	1.060	1.060	1.061
500 OR MORE	1.059	1.059	1.060	1.060	1.061

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.058

SCHEDULE C [redacted] ANNUAL ADJUSTMENT FACTOR FOR UPDATING SECTION 8 CONTRACT RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION. (INCLUDING THE HOUSING FINANCE & DEVELOPMENT AGENCIES PROGRAM)
SMSA: ST LOUIS, MO-IL

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER $100	1.061	1.062	1.065	1.067	1.069
100 - 124	1.060	1.061	1.063	1.065	1.066
125 - 149	1.060	1.061	1.062	1.063	1.065
150 - 174	1.059	1.060	1.061	1.063	1.064
175 - 199	1.059	1.060	1.061	1.062	1.063
200 - 224	1.059	1.060	1.060	1.061	1.062
225 - 249	1.059	1.059	1.060	1.061	1.062
250 - 274	1.059	1.059	1.060	1.061	1.061
275 - 299	1.059	1.059	1.060	1.060	1.061
300 - 324	1.058	1.059	1.060	1.060	1.061
325 - 349	1.058	1.059	1.059	1.060	1.060
350 - 374	1.058	1.059	1.059	1.060	1.060
375 - 399	1.058	1.059	1.059	1.060	1.060
400 - 424	1.058	1.059	1.059	1.060	1.060
425 - 449	1.058	1.059	1.059	1.059	1.060
450 - 474	1.058	1.058	1.059	1.059	1.060
475 - 499	1.058	1.058	1.059	1.059	1.059
500 OR MORE	1.058	1.058	1.059	1.059	1.059

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.058

[FR Doc. 79-1547 Filed 1-17-79; 8:45 am]

federal register

THURSDAY, JANUARY 18, 1979
PART VI

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF ENERGY

Economic Regulatory Administration

PETROLEUM SUPPLY SHORTAGE; STANDBY PRODUCT ALLOCATION AND PRICE REGULATIONS AND IMPOSED ALLOCATION FRACTIONS

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

[Docket No. ERA-R-78-15]

STANDBY PRODUCT ALLOCATION AND PRICE REGULATIONS AND IMPOSED ALLOCATION FRACTIONS

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") hereby adopts in standby status three special rules to be appended to 10 CFR Parts 210, 211 and 212, respectively. These special rules, which would be made effective to govern the allocation and pricing of refined petroleum products in a petroleum supply shortage, are adopted today in a standby status. These special rules provide the Administrator of the ERA with revised allocation rules, the discretion to impose maximum allocation fractions and revised pricing provisions. To further the objectives of the Emergency Petroleum Allocation Act of 1973 ("EPAA"), as amended, the Administrator may order the provisions of these special rules into effect on a national or regional basis, at any level of distribution, and upon any or all refined petroleum products subject to the EPAA, including both those already subject to the price and allocation regulations and those that have previously been exempted.

DATES: Adopted immediately in standby status. Further comments due on or before March 16, 1979.

ADDRESSES: Send comments to: Department of Energy, Public Hearing Management, Docket No. ERA-R-78-15, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William Webb (Office of Public Information), 2000 M Street NW., Room B110, Washington, D.C. 20461 (202) 634-2170.

William Caldwell, (Office of Regulations and Emergency Planning), 2000 M Street NW., Room 2304, Washington, D.C. 20461, (202) 254-8034.

W. Mayo Lee or Joel M. Yudson (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5138, Washington, D.C. 20461 (202) 633-8624.

SUPPLEMENTARY INFORMATION:

I. General Features of the New Rules

II. Discussion of Comments Received

A. Notice and Scope of Authority

B. Base Period

C. Imposed Allocation Fraction and Storage Requirement

D. Leaded and Unleaded Gasoline

E. Alternate Fuel Capability

F. Pricing Provisions

G. Delegation of Authority to the States

III. Specific Provisions of Final Rules

A. Special Rule No. 1 to Part 211

1. Activation of Special Rule.
2. Imposed Allocation Fractions.
3. Updated Base Period.
4. Adjustment of Base Period Volumes for Certain Users of Kerosene-Base Jet Fuel, Middle Distillates and Residual Fuel Oil.
5. Other Amendments to Part 211.

B. Special Rule No. 1 to Part 210

C. Special Rule No. 1 to Part 212

1. Refiner Price Rule.
2. Reseller Price Rule.

IV. Additional Comments Requested

I. General Features of the New Rules

These special rules of 10 CFR Parts 210, 211 and 212 set forth standby product allocation and price rules. These price and allocations rules are part of an overall effort by the Department of Energy to put into place various standby regulatory measures that could be used in the event of a significant national or regional crude oil or refined product shortage, or a widespread pattern of inequitable prices or, if otherwise necessary, to attain the objectives set forth in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, as amended (Pub. L. 93-159, EPAA). The other parts of this effort that have been announced include the newly issued final Emergency Standby Mandatory Crude Oil and Refinery Yield Control Programs; a proposed program for U.S. participation in the international allocation of petroleum under the terms of the International Energy Agreement (IEA), on which a hearing was held June 13, 1978; and the proposed motor gasoline rationing plan and regulations (43 FR 28134, June 28, 1978) on which public hearings were held in July and August 1978. These regulations together will fulfill the United States' commitments under the IEA and will help the Federal government to deal with any severe petroleum shortage. It is intended that in the event an emergency would occur, the three special rules adopted today, together with the standby crude oil regulations, would be made effective before gasoline rationing. If rationing later becomes necessary, certain provisions of the standby product regulations, such as an updated base period, will complement the gasoline rationing program.

Under section 12(f) of the EPAA, any oil or refined petroleum product which is exempted from price or allocation regulations pursuant to section 551 of the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, is subject to the reimposition of controls if DOE determines that reimposition is necessary for the achievement of, and is consistent with, the objectives specified in section 4(b)(1) of the EPAA. Consequently, the effect of a decontrol action is to place the controls in a "standby" status unless and until the need for the controls again arises. Controls may be reimposed and, once reimposed, may be removed a second time without congressional review under section 551 of EPCA.

The standby regulations adopted today are in addition to, rather than a replacement for, the regulations that went into standby status when certain refined petroleum products, such as middle distillates and residual fuel oil, were exempted from controls. Either could theoretically be reimposed if needed. However, the regulations currently in standby status (that is, those that were in effect when products were deregulated) are those that evolved during a period in which the products in question were in relatively plentiful supply. Those that are adopted today are designed for use in a period when shortages of product exist or are imminent. The regulations adopted today will also be available if necessary to supersede those regulations currently in effect for products such as gasoline that have not yet been exempted from controls.

In general, the regulations now adopted will provide the Administrator of the ERA (the "Administrator") with the flexibility, in conjunction with the partial or complete reimposition of the petroleum allocation and price regulations on some or all products that have been exempted from such regulations, to update the petroleum allocation or price regulations, or both, to a more current basis (including more recent base periods for both previously exempted and controlled refined petroleum products and residual fuel oil). The Administrator may also mandate national or regional maximum allocation fractions on some or all products to restrain abrupt inventory drawdowns in shortage situations. If mandatory allocation fractions are imposed, the special rules will also require suppliers to store product in inventory during the early stages of abrupt interruptions or other

possible shortages to ensure an equitable distribution of available supplies over a longer period of time so as to mitigate the long-term economic dislocations caused by petroleum supply shortages.

These regulations also give the Administrator authority to limit the allocation of kerosene-base jet fuel, middle distillates and residual fuel oil to firms that use them for industrial, electric utility or refinery fuel purposes if the purchaser has or could reasonably have been expected to have in place an alternate fuel source, including natural gas or propane. These provisions will assist in the implementation of the policy of the Powerplant and Industrial Fuel Use Act of 1978 and the DOE's recently announced policy to switch major users of middle distillates particularly to natural gas or propane where such fuel is available.

The period of effectiveness of the standby regulations, the exact provisions to be implemented, the products, class of persons and class of transactions subject to the rules and the areas of the country where they are applicable are left to the discretion of the Administrator at the time the rules are ordered into effect. For instance, the Administrator might act quite differently in addressing a supply interruption of a known, limited duration (resulting, for example, from an accident or single act of sabotage) than in addressing a situation where supplies of a particular product, such as unleaded gasoline, become short and prices rise to inequitable levels.

Imposed allocation fractions under Special Rule No. 1 to Part 211 differ from the allocation fraction requirements in Subpart A of Part 211 in that they are established by the Administrator and are not a function of a supplier's supply obligations and allocable supply. By imposing a mandatory allocation fraction, the Administrator determines the maximum extent to which suppliers would be permitted to meet obligations to base period purchasers, regardless of amount of supply available to them.

II. Discussion of Comments Received

We received approximately 150 comments on the proposal (43 FR 29565, July 10, 1978), including written submissions and oral statements presented at the national and regional hearings. A discussion of the major issues raised is included here.

A. Notice and Scope of Authority

One of the principal issues raised by the comments is whether additional notice is required before the Administrator of the ERA can reimpose controls. Commenters stated that if the Administrator acts without prior notice, such action would be violative of provisions of the Administrative Procedure Act and the Department of Energy Organization Act (Pub. L. 95-91, DOE Act) requiring that prior notice and opportunity for comment be given to the public and the Federal Energy Regulatory Commission (FERC). If such provisions are not included, it was suggested that set indices or "trigger" conditions be established for reimposition of controls. In this manner, industry would have notice of impending controls independent of action by the Administrator. Similarly, commenters requested that the standby regulations include a "sunset" provision that would terminate the effectiveness of the controls independently of action by the Administrator.

Other commenters questioned the authority of the ERA Administrator to reimpose controls because such action would be outside of his authority under DOE Delegation Order No. 0204-4, which, it was asserted, gives the Administrator the authority to administer the allocation and price regulations, but not to reimpose controls. In this connection, other commenters stated that the EPAA refers only to *national* shortages and therefore any actions of the Administrator which would affect only a particular region would be beyond his authority.

With respect to currently exempt products, the amendments adopted today provide that the standby product price and allocation regulations would be applicable only to the extent controls are reimposed on specific products. Actions taken under these special rules, whether on a national or regional basis, would be carried out as prescribed by section 12(f) of the EPAA as necessary to attain the objectives of section 4(b)(1) of the EPAA. We have determined that the FERC does not have to be notified in advance of action under these regulations, since the FERC was notified of the proposed standby regulations themselves and has declined to determine under Section 404 of the DOE Act that the matters raised herein may significantly affect any function within its jurisdiction under sections 402(a)(1), (b) and (c)(1) of the DOE Act.

We have also retained in the final rule the ERA Administrator as the official having authority to reimpose controls and administer the standby program. The Administrator's authority to "• • • adopt rules, issue orders, • • • and take such other action as may be necessary and appropriate to • • • administer • • • (t)he allocation and pricing of crude oil, residual fuel oil, and refined petroleum products, pursuant to the provisions of the Emergency Petroleum Allocation Act of 1973 • • •" (DOE Delegation Order No. 0204-4) clearly includes the authority to make the necessary determinations under EPAA section 12(f) to reimpose controls on some or all products and crude oil by implementing the standby regulations. The Administrator's authority is not limited merely to administering existing regulations but extends to the *function* of allocating and providing price rules for crude oil, residual fuel oil, and refined petroleum products.

We have also retained in the final rule those provisions that would authorize the Administrator to activate the standby regulations on a regional basis only. There is nothing in the legislative history of the EPAA to suggest that Congress intended that this authority could be exercised only on a national basis where there was a national shortage of crude oil or refined petroleum products. On the contrary, the Conference Report indicates that Congress "expressly intended to give the President flexibility to act selectively," including the authority to allocate on a regional basis. *See* 1 Fed. Energy Guidelines ¶10,610, p. 10,619-6. (While this quotation appears in the context of a discussion of crude oil allocation, the statutory objectives under discussion are equally applicable to refined products.) Clearly this language and the proscriptions in section 4(b)(1) regarding equitable allocation among all regions of the country and the minimization of economic distortion indicates that the Administrator has authority to act to deal with regional shortages or dislocations by activating the standby regulations on a regional basis.

As to the possibility of establishing indices which would automatically cause the controls to take effect, our experience with such indices following the exemption of middle distillates leads us to conclude that they are not needed here, would deprive the Administrator of the flexibility to tailor the programs to the situation at hand, and could have the potential for distorting market conditions. Therefore, the suggestion made in the comments that such indices be established has not been adopted.

We have, however, decided to adopt the suggestion made in the comments that the activated standby regulations automatically revert to standby status after a specified period of time. A ninety-day sunset provision has been provided. This provision can be overridden by the ERA Administrator if he determines that the continuation of controls beyond 90 days (including successive 90-day periods) is necessary.

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B. BASE PERIOD

The allocation base period set forth in the notice generated a great deal of comment. The base period as proposed was defined as the month or quarter corresponding to the current month or quarter in the 12-month period ending with the second full month prior to the month in which the Administrator issues an order effectuating the Special Rule, or such other 12-month period as the Administrator should consider appropriate. Commenters expressed concern over the Administrator's power to establish "any other base period as he may deem appropriate" as possibly being too arbitrary. Some persons felt that the base period proposed would be too close to a crisis to be truly representative of transactions. They suggested that the base period should be the 12-month period ending a full calendar year before the last day of the month preceding the imposition of Special Rule No. 1. Others felt that 1972 was the last normal year of distillate sales and therefore should be reflected in any base period calculations for that product. Still others requested the retention of the current base period allocation for middle distillates, propane and naphtha. There were also others who asked that the base period should be the same for all products placed under control at a given time.

In addition, there were commenters that opposed the idea of having any set base period. One utility stated that the concept of a base period ignores the usage for "peak shaving", the process by which a gas utility supplements its basic pipeline supplies during periods of peak customer demand. Such requirements, it was stated, are weather-related and do not necessarily pertain to usage during an historical period.

As can be seen from the divergent comments, it is impossible, in advance of an acutual situation necessitating the activation of the special rules, to state a precise mechanism for determining the base period or base date which would be equitable to most affected persons. We continue to believe that a 12-month period ending with the second full month prior to activation will in most instances be an appropriate base period but that authority must be retained to make it a different period if that period is for any reason not a representative one on which to base an allocation program. Accordingly, as proposed, we retain the Administrator's flexibility to establish a different base period if appropriate, including the authority to update the base period on a rolling or periodic basis.

C. IMPOSED ALLOCATION FRACTIONS AND STORAGE REQUIREMENTS

In regard to imposed allocation fractions, commenters were concerned primarily with the situation of not having adequate product to meet the imposed allocation fraction and the costs of having to acquire such product. These concerns were based on a misapprehension of the proposal which is clarified below.

Although many commenters felt that the storage requirement for "excess" product was a good idea, those opposed to the provision pointed out the complications that could arise. It would be difficult to implement an enforced storage requirement just before or during an emergency when the demand would be greatest. Commenters stated that the mandatory storage requirement creates costs that a person without such capacity would not incur, which would in turn permit that seller to have lower costs and therefore lower selling prices. This would consequently tend to penalize those with storage capabilities. Then too, if jobbers and dealers have to store excess product, great problems of financing, credit limits and cash flow will result. Finally, commenters pointed out that in order for a refinery to operate at its peak output, storage tanks should never be more than 70 percent full. Thus, it is alleged that requiring storage in excess of this percentage would create an even greater risk of shortages by lowering the potential utilization of refining capacity.

While we recognize that an enforced storage requirement will be difficult to implement when demand is great, it is precisely because we wish to preserve available supplies over an extended period that the requirement will be imposed. Although storage costs could be passed through in the prices of those firms storing product, the EPAA prohibits the ERA from setting minimum prices for those firms without storage capability. In deciding to impose maximum allocation fractions, the Administrator will have to weigh the benefits of stretching available supplies against possible reductions in refinery output and financial hardships caused by such action.

D. LEADED AND UNLEADED GASOLINE

The question raised in the preamble to the proposed rule concerning the allocation and pricing of leaded and unleaded gasoline as separate products produced conflicting comments. The majority seemed to prefer the present allocation system, but a number of commenters favored separate allocation. The prevalent opinion seemed to be that the present system is more responsive to market fluctuations as customer usage varies. One person suggested that if these products were to be allocated separately, this could most effectively be done at the prime supplier level. In general, persons who commented on the price issues stated that the price differential between the products should not be regulated.

Upon consideration of the comments received, we have decided not to include a provision establishing separate allocation levels for leaded and unleaded gasoline, but rather will retain present section 211.108, which provides that a base period purchaser of gasoline is entitled to a volume of unleaded gasoline which bears the same ratio to the purchaser's allocation entitlement as the supplier's supply of unleaded gasoline bears to its total gasoline supply. This provision should allow for the equitable distribution of unleaded gasoline to distributors and dealers as the demand for unleaded gasoline grows relative to leaded, and it has the necessary flexibility built into it to take account of the differing demands for unleaded gasoline in different regions of the country.

Provisions applicable to the separate pricing of leaded and unleaded gasoline are discussed *infra*. The price provisions do permit unleaded gasoline to be designated as a specified product for which separate computations of maximum selling prices would be required.

E. ALTERNATE FUEL CAPABILITY

The July notice asked for comments on whether provision should be made in these regulations for adjustment of allocation rights by rule or order as either a positive or negative incentive to encourage major users of refined petroleum products to use alternate fuels or to install and utilize cogeneration capability. It was suggested, for example, that allocation levels to installations capable of using an alternate fuel or installing the capability to use it could be assigned a lesser priority or allocation level, and that allocations to cogeneration facilities could receive a higher priority or allocation level.

Notwithstanding that few direct comments on these issues were received, we have decided to provide the Administrator with the flexibility to reduce, by either a general or case-by-case order, a firm's use of middle distillates, kerosene-base jet fuel or residual fuel oil for industrial, electric utility or refinery fuel uses where it has in place, or should have installed, the capability to use other available sources of energy that are in more abundant supply. Since the issuance of the notice of proposed rulemaking, it has become apparent that natural gas and propane supplies in particular are increasingly available for industrial and utility uses and that in many instances it is in the national interest for a firm to use natural gas in lieu of a petroleum based product. The Department of Energy has recently announced a policy of encouraging shifts from petroleum products, particularly middle distillates, to natural gas and has proposed regulations that would allow it to exempt utilities from provisions of the Powerplant and Industrial Fuel Use Act of 1978 that would otherwise prevent such switching. (44 FR 1694, January 5, 1979.) Under the standby rules adopted today, the Administrator would be authorized to take into account any available alternate form of energy, including natural gas, in establishing allocation levels for industrial, electric utility and refinery users of kerosene-base jet fuel, middle distillates and residual fuel oil.

F. PRICING PROVISIONS

A provision of the proposed regulations that provoked a considerable response was that which eliminated the provision in present Part 212 that allows costs not recovered in the current month to be "banked" and recovered in a subsequent month. Most persons who commented thought that banks should be retained because their elimination would violate the dollar-for-dollar cost passthrough provision of section 4(b)(2)(A) of the EPAA and that the ERA's fear of price increases was unfounded. This fear was unfounded, the commenters said, primarily because present price rules prohibit more than 10 percent of the accumulated banks to be passed through in any one month. Additionally, commenters asserted that the elimination of the banks would create wild fluctuations in prices because sellers would try to recoup as much of their increased costs as possible during the current month.

The final rule provides that banks of unrecovered costs of specified products existing on the date the special price rule is made effective may not be recouped during the period this special rule is in effect except as permitted by the Administrator. It is not anticipated that previously accumulated banks will be allowed to be recovered except perhaps in exceptional circumstances involving seasonal products. This will prevent sellers from taking advantage of a shortage to pass through increased costs that could not be recovered under normal competitive conditions. In addition, the Administrator is given discretion to eliminate a portion or all of the banked costs for covered products accumulated prior to the date of activation of the special rule. However, the special price rule does permit the banking and recoupment of unrecovered costs incurred *subsequent* to the effectuation of the rule.

We received several comments on the proposed elimination of the class of purchaser rule. Some commenters stated that the elimination of the rule would simply conform the special rule to existing industry practice and would eliminate unnecessary complexity and distortion. However, others stated that the elimination of the rule could have anticompetitive effects by altering some independent marketers' positions in the market. After weighing these comments carefully, we have decided to retain the class of purchaser rule for refiners but substantially eliminate it for resellers and retailers.

G. DELEGATION OF AUTHORITY TO THE STATES

We envisage that in some instances it may be appropriate to delegate to the States some of the allocation, pricing and enforcement authority contained in the standby regulations adopted today. Such delegation has been made in the past with respect to the allocation of refined products, for instance, in Puerto Rico. The rule adopted today does not in itself delegate any authority under these regulations to the States. However, the Administrator possesses the power to so delegate under section 5 of the EPAA, and it is our intention that such authority will be exercised in those instances where there is merit in allowing States to tailor the regulations or their enforcement to problems unique to their area. In particular, if these special rules are activated, the function of enforcing price controls on gasoline and other products at the retail level may be delegated to the States. In the comments requested on the special rules, we particularly invite discussion of whether enforcement authority at the retail level should be delegated to the States, whether certain rulemaking or administration, as well as enforcement, authority should be delegated to the States, and whether the delegated authority should extend to other products besides gasoline, such as middle distillates and propane.

III. SPECIFIC PROVISIONS OF FINAL RULE

A. SPECIAL RULE NO. 1 TO PART 211

1. *Activation of Special Rule.* The provisions of Special Rule No. 1 to Part 211 become effective if the international crude oil allocation provisions of the Agreement on an International Energy Program take effect, unless the Secretary of Energy expressly decides otherwise. At present, the "trigger" mechanism of the International Energy Program (IEP) consists of either of the following occurrences: (1) A general interruption of at least seven percent of the participating countries' total oil consumption during a particular period, or (2) a supply interruption of at least seven percent of any one participating country's or a major region of one country's consumption during a particular period. These criteria become, therefore, a part of these special rules in order to permit these rules to aid in the satisfaction of the United States' responsibility under the IEP's provisions.

Any or all of the provisions of the special rule may also be ordered into effect at any time by the ERA Administrator. He may make the special rule effective on either a national or regional basis, upon any category of refined petroleum product or products and residual fuel oil, and with respect to a class of persons or class of transactions.

Unless otherwise specified by the Administrator, Special Rule No. 1 when activated will apply to any firm engaged in the production, distribution or consumption of refined petroleum products and residual fuel oil produced or imported into the United States. To attain the objectives of section 4(b)(1) of the EPAA, it may be ordered into effect with respect to any product currently subject to the provisions of Part 211, and, to the extent the allocation regulations are reimposed on any product previously exempted, it may also be made effective as to such a product. When the special rule will be in effect as to previously exempt products, it will supersede the exemption provisions contained in § 211.1(b) and any other inconsistent provision of Part 211.

Although the proposed rule issued in July 1978 would have limited the discretion of the Administrator to impose the standby product allocation rule to situations in which a severe supply interruption would have occurred or been imminent, it has become apparent that the need for standby allocation regulations is wider than for those emergencies caused by severe supply interruptions. Significant crude oil or product shortages can occur in other situations such as demand surges beyond refiners' supply capabilities. Such occurrences could lead to rapid increases in price or other effects similar to those caused by severe supply interruptions. The standby regulations as adopted are designed to prevent significant adverse impacts regardless of their cause.

2. *Imposed Allocation Fractions.* The special rule will permit the ERA Administrator to set maximum allocation fractions for suppliers of any product subject to the allocation regulations. Imposed allocation fractions will not require suppliers to distribute more product than they have available. Rather, by imposing allocation fractions, the Administrator will designate a maximum fraction of an allocation

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requirement that would be distributable to each purchaser. Such fractions may be imposed nationwide or only in selected geographic areas, and they may apply only to categories of a refined petroleum product or to certain classes of suppliers, purchasers, users or transactions. At the time an order imposing allocation fractions is issued, the class of persons or transactions affected will be specifically described. Such an order may apply only to refiners and other prime suppliers, or it may also appy to other categories of suppliers.

An "imposed allocation fraction" will be defined as a fraction imposed by the Administrator which represents the maximum proportion of a supplier's total adjusted base period supply obligations that it will be permitted to supply. It does not prevent a supplier from declaring a smaller fraction and thereby distributing less product if its allocable supply is not large enough to meet the imposed fraction. The supply obligations referred to in the definition of "imposed allocation fraction" are the obligations to purchasers whose allocation levels are subject to an allocation fraction, and will not apply to obligations to purchasers not subject to an allocation fraction (that is, certain high priority users) and to product deliverable into state set-asides.

Under Subpart A of Part 211, § 211.10(b)(2) provides the method of calculating an allocation fraction when a firm knows its supply obligations and allocable supply for an allocation period. The regulations require that product first be distributed to purchasers not subject to an allocation fraction in amounts sufficient to satisfy such purchasers' total current requirements or 100 percent of their base period volumes (as determined by the appropriate allocation level), and to satisfy state set-aside obligations. As already stated, the remaining supply, the "allocable" supply, is then divided by the remaining unfulfilled supply obligations—that is, the obligations subject to an allocation fraction—to calculate the allocation fraction for that period. Each wholesale purchaser then receives an amount of product equal to its allocation level multiplied by the supplier's allocation fraction.

Under Special Rule No. 1, suppliers will be generally prohibited from delivering product to any purchaser at a fraction of that purchaser's allocation level higher than that designated by the Administrator, even though additional supplies might be available. Thus, if imposed allocation fraction is ordered, "excess product," which is the difference between a supplier's maximum allocable supply under the imposed fraction and its available supply, will result for many suppliers. The special rule will require these amounts to be maintained in a supplier's storage facilities until its maximum storage capability is attained or until it accumulates an amount of product equal to 90 days peak supply to purchasers with respect to whom it has a supply obligation, whichever is less. The definition of "excess product" thus differs greatly from a similar expression—"surplus product"—in Subpart A of Part 211, which is that product remaining when the supplier has met all of its supply obligations and which may be distributed subject only to the limitations of § 211.10(g)(5).

"Maximum storage capability" in the special rule means the maximum volume of product or products that a firm can store using its facilities in place at the time an imposed allocation fraction order is issued under the special rule. Such capability will include, but is not limited to, facilities owned, leased or otherwise available to a firm at the time the order is issued.

In the event that a firm accumulates an amount of excess product which (i) is in excess of the amount of product that firm would use or distribute during any 90-day period of peak usage or (ii) would necessitate that firm making physical additions to storage facilities, the rule provides that such excess product is subject to redirection by the Administrator to a supplier not able to meet its supply obligations even with the imposed allocation fraction. If not thus redirected, the excess product must then be distributed by the supplier to meet the rest of its base period supply obligations, up to the point where it raises the supplier's allocation fraction to 1.0, and then as surplus product under § 211.10(g)(5).

The authority adopted here is designed to be used by the Administrator primarily if shortage conditions are threatened. The imposed allocation fraction under the special rule will not have the effect of reducing supply in total, but will either delay the distribution of available petroleum products, thus making a given supply available over a longer period of time, or, if mandatory allocation fractions are imposed selectively upon only certain products, cause refiners to shift their yields away from products on which the maximum fraction is imposed to others which may be distributed.

Illustrations of the operation of the Special Rule as contrasted with the regulations in Subpart A of Part 211 are given below. For the first example, assume a supplier's available supply of a product for an allocation period is 125 barrels, its obligation not subject to an allocation fraction is 15 barrels and its obligation subject to an allocation fraction is 100 barrels. Under the regulations in Subpart A, without an imposed maximum allocation fraction, the supplier would first distribute the 15 barrels which represent the obligations not subject to an allocation fraction. Then (assuming no product is deliverable into a state set-aside) the supplier would calculate its allocation fraction by dividing the remaining supply (110 barrels) by the obligations subject to an allocation fraction (100 barrels). This fraction would result in an allocation fraction of approximately 1.1.

Next, the supplier would distribute the 100 barrels to satisfy its remaining supply obligations. Each purchaser would receive an amount of product equal to its appropriate allocation requirement set forth in Subparts D through K of Part 211 multiplied by the supplier's allocation fraction. In this case, since the supplier's allocation fraction is greater than 1.0, surplus product of 10 barrels will result. That surplus may then be distributed under the provisions of § 211.10(g)(5).

If, however, the Administrator imposes a mandatory allocation fraction of .90 under the special rule, a different distribution would result. The supplier would as before distribute first the 15 barrels representing obligations not subject to an allocation fraction. Then the supplier's maximum allocable supply would be determined by multiplying the remaining unsatisfied supply obligations by the imposed allocation fraction. In this example, 90 barrels could be distributed, since .90 (imposed allocation fraction)×100 barrels (obligations subject to a fraction)=90 barrels. Each base period purchaser would receive an amount of product equal to 90 percent of its allocation requirement.

The amount of excess product remaining would be the difference between the maximum allocable supply—90 barrels—and the available supply—110 barrels. Therefore, 20 barrels would have to be held as inventory (assuming that storage capacity or 90 days' peak supply have not been exceeded).

For a second example, assume that the same obligations are subject to a fraction and not subject to a fraction as set forth in the first example (100 barrels and 15 barrels, respectively), but that the supplier's available supply, rather than being 125 barrels, is 100 barrels. Under Subpart A regulations with no imposed allocation fraction, the supplier would initially distribute the 15 barrels to purchasers not subject to an allocation fraction. The allocation fraction would then be determined by dividing supply by the remaining obligations to be satisfied. This would produce an allocation fraction of 85/100=.85. The supplier would thus distribute the remaining 85 barrels under an allocation fraction of .85. No surplus product would result since the fraction is less than 1.0.

If, in this second example, a maximum allocation fraction of .90 were imposed under the special rule, the following allocation would occur: Again, the supplier would first distribute the 15 barrels to purchasers not subject to an allocation fraction, leaving 85 barrels available to be distributed. Then, to determine whether the imposed maximum allocation fraction would prevent the distribution of the supplier's entire available supply, the maximum allocable supply is calculated by multiplying the imposed allocation fraction (.90) by the obligations subject to an allocation fraction (100 barrels) to give 90 barrels. Since the supplier's remaining available supply of 85 barrels would be less than its maximum allocable supply under the imposed fraction, the remaining 85 barrels of the available supply would be distributed under a .85 fraction, a fraction less than the mandated .90 maximum. In this case, the supplier's supply obligation for the particular period will be met by distributing its entire available supply and there will be no excess product to add to inventory. The supplier will not have a further obligation to obtain and distribute product it does not have available, solely to meet a maximum imposed allocation fraction.

Excess product placed in inventory in previous months under an imposed allocation fraction shall, if required by the Administrator under 10 CFR 211.22, be considered as part of a supplier's allocable supply for purposes of determining its allocation fraction (and may be so considered even if not required by the Administrator). Thus, in the second example above, if, in addition to the supplier's 85 barrels of product available in the present month (after distribution to high priority customers), it had available 10 barrels of excess product accumulated in previous months, if so ordered by the Administrator it would be deemed to have an allocable supply of 95 barrels from which an allocation fraction of .95 could be calculated. Because it would be subject to an imposed allocation fraction of .90, however, it would be required to keep 5 barrels of excess product in inventory.

The Special Rule to Part 211 places two notices requirements upon suppliers subject to an imposed allocation fraction ordered by the administrator. The first requires suppliers to notify DOE if the supply obligation under the imposed allocation fraction for each product cannot be met. Such notification will be made within five days of determining that the fraction cannot be met to enable DOE to assess more accurately the availability of product supplies. Notice will also be required to be given of any excess product which has accumulated or will accumulate which exceeds a supplier's maximum storage capability. This notice must be given when storage capabilities are projected to be exceeded, but, in any event, no later than 48 hours before the maximum storage capability will be attained.

Such notifications to DOE may be by telephone or in such other manner to either the DOE National or Regional offices as may be specified by the Administrator.

3. *Updated Base Period.* The allocation scheme provided for under the special rule is the same as that under the existing active or standby petroleum allocation program. However, the Administrator will have the discretion to adopt certain modifications to the present rules that would make the existing program more responsive to a petroleum supply shortage. The most significant possible change to the existing allocation program provides for the establishment of an updated base period to determine base period volumes and supplier/purchaser relationships.

The base period year, necessary to determine the purchasers to which a supplier is obligated to provide product, and the amount of supply obligations, could be changed by the Administrator under the special rule to be the 12-month period ending with the second full month prior to the month in which the Administrator issues an order effectuating the special rule. This period will ordinarily reflect a relatively normal period upon which to base emergency allocations. However, if it does not, the Administrator may establish such other base period as he should consider appropriate, and may provide for a rolling or periodically updated base period. As revised, the "base period" for any product would be either the corresponding month or calendar quarter of the base period year, whichever had been used in the relevant subpart of Part 211 as the length of the base period for that particular product.

Because the special rule can be activated only in part, the Administrator could use the rule to update base periods for presently controlled products without activating any other provisions of the rule. This may be an appropriate response to a situation where a relatively modest shortage of product brings out the distortions and inequities existing in the present base period requirements.

The revised base period year could apply under today's final rule to all products except propane, butane and natural gasoline. The base period year for purposes of allocating these products is currently the subject of a separate rulemaking (42 FR 21242, August 15, 1977), which is now pending before the FERC under section 404 of the Department of Energy Organization Act, and will be determined in the context of that rulemaking.

4. *Adjustments of Base Period Uses for Certain Users of Kerosene-Base Jet Fuel, Middle Distillates and Residual Fuel Oil.* Section 6 of Special Rule No. 1 to Part 211 permits the Administrator to limit the use of kerosene-base jet fuel, middle distillates and residual fuel oil by wholesale purchasers for industrial, electric utility and refinery fuel uses. As was stated in the proposal, this provision could provide a means for encouraging the use of other sources of energy in more abundant supply. It will place industrial, electric utility and refinery fuel users of oil on notice that if they have facilities in place to use available sources of energy other than kerosene-base jet fuel, middle distillates or residual fuel oil, or they could reasonably have been expected to put such facilities in place, the Administrator may reduce their allocation of kerosene-base jet fuel, middle distillates and residual fuel oil when Special Rule No. 1 is ordered into effect. As a concomitant measure to insure that industrial, electric utility and refinery fuel users do not frustrate the purpose of these requirements by acquiring surplus product, the Administrator may also limit the *use* by wholesale purchasers of residual fuel oil, kerosene-base jet fuel or middle distillates to one hundred percent of their base period use, as adjusted under section 6 of the special rule.

The special rule also contains a provision which permits the Administrator to adjust upward a firm's base period use of kerosene-base jet fuel, middle distillates or residual fuel oil if it can demonstrate it previously had a base period use of such product or products; had switched to another source of energy in adequate supply and therefore was not using, or was using decreased volumes of, the original products in a period subsequently designated as a base period; and, finally, the new source of energy to which the firm switched is no longer in adequate supply.

To be consistent with the Administrator's authority to adjust the base period use of electric utilities in order to maximize switching to alternate fuels, in § 211.125 we have removed the floor below which the base period use of an electric utility could not heretofore be adjusted. Further, in §§ 211.125(c) and 211.163(b)(2), we have conformed the criteria for allocations of middle distillates and residual fuel oil to electric utilities to reflect our intentions.

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5. *Other Amendments to Part 211.* The other specific amendments to Part 211 that are adopted by Special Rule No. 1 are the same as proposed in the July notice. The reasons for these changes appear in that notice. Although some comments were received on the various allocation levels presented in Special Rule No. 1, the majority appeared to find the proposed levels satisfactory. Consequently, those levels are adopted as part of this final rule. Further comments are specifically requested, however, on appropriate allocation levels and whether imposed maximum allocation fractions should be extended to those uses which are not subject to an allocation fraction.

The mechanism for downward adjustment of base period use in § 211.13(e), as revised specifically provides that ERA may order downward adjustment of base period volumes whenever purchasers' needs have declined. This change will help insure that base period allocation entitlements reflect purchasers' actual requirements. In § 211.10(g)(5), the waiting time that a supplier must wait (unless otherwise notified by ERA) before distributing surplus after reporting to ERA will be reduced from ten days to five days.

Conforming technical changes have also been made to update the program and to reflect the establishment of the Department of Energy.

B. SPECIAL RULE NO. 1 TO PART 210

Special Rule No. 1 to Part 210, the General Allocation and Price rules, provides that § 210.35, which sets forth products that are exempt from the Mandatory Petroleum Allocation and Price Regulations, will be superseded and made inoperative to the extent and for the duration the Mandatory Petroleum Allocation and Price Regulations are reimposed upon any exempt product.

This special rule also contains a sunset provision which provides that, unless otherwise ordered by the ERA Administrator, the reimposition of the Mandatory Petroleum Allocation or Price Regulations upon a previously exempt product shall be for a period ending not later than the last day of the third full calendar month after controls are reimposed. It also states that Special Rules No. 1 to Part 211 and Part 212 may not be in effect as to either a previously exempt or previously controlled product for a period ending not later than the last day of the third full calendar month after the special rules became effective, unless otherwise ordered by the Administrator. If the Administrator decides to waive the sunset provisions of these rules, the rules may continue in effect only for three additional calendar months, unless the Administrator establishes a different time for their termination or again waives the sunset provision at the end of three months. Expiration of the special rules as applied to a product already subject to controls shall result in a reversion back to the prior controls.

C. SPECIAL RULE NO 1 TO PART 212

The product pricing provisions adopted today are set forth in Special Rule No. 1 to Part 212. The provisions in the special rule are similar but not identical to those in the current price regulations. When any or all of the provisions of this special rule are ordered into effect by the Administrator, the DOE, shall, in the provisions ordered into effect, set forth in greater detail the specifics of this special rule, and, if necessary, issue instructions with respect to the operation of this special rule.

The Administrator of ERA shall determine which products are subject to this special rule and at which levels of distribution it shall apply. The products subject, generally, to the special price provisions are defined as "specified products" in the special rule. The Administrator may order the special rule into effect at any or all levels of distribution, including refiner, wholesaler and retailer tiers or for full or self-service sales.

Before the Administrator could designate as a specified product any product exempt from the price regulations, the exemption for such product would first have to be removed. Products upon which controls have been reimposed, but which are not specified under the Special Rule, will be priced in accordance with the present provisions of Part 212 and, to the limited degree the Special Rule is applicable to covered products but not specified products, under the Special Rule.

1. *Refiner Price Rule.* Refiners shall calculate the maximum lawful selling price for specified products using the price formula currently set forth in Subpart E to Part 212 with certain modifications. Each specified product will be treated as a separate product category (of the type "i" under the refiner price formula) and the total dollar amount of cost increases attributable to the specified product will be allocated to that particular specified product to be recovered in sales of that specified product.

The current regulations permit refiners certain flexibility in determining on which products in the general refinery product category increased costs will be recouped and in reallocating increased costs between products. For example, if it were not exempt, under the current regulations residual fuel oil would be considered a general refinery product for purposes of determining maximum lawful selling prices. That category also includes lubricants, specialty oils and a variety of other products. A refiner determines what portion, if any, of the increased costs allocated to the general refinery product category will be passed through in price increases on the various products in the general refinery product category. Accordingly, a refiner would be permitted to recoup any or all of the costs increases attributable to general refinery products on residual fuel oil. Furthermore, increased costs allocated to the general refinery product category may be reallocated to gasoline thus permitting refiners an additional pricing flexibility.

This special rule modifies refiners' pricing flexibility. First, specified products will only have cost increases attributable to the specified product allocated to such product. Second, when a product is determined by the Administrator to be a specified product—*i.e.*, a product subject to this special rule and thus a separate category for purposes of the refiner price formula—no increased costs shall be reallocated to the product from other product categories. In other words, increased costs which may be recouped on a specified product are calculated in the same manner as increased costs for a product category "i" under the current rules. Thus, only the increased costs directly attributable to specified products shall be reflected in the maximum lawful selling price of these products and no increased costs attributable to other product categories shall be reallocated to the specified products.

For example, assume the Administrator determines that regular grade unleaded gasoline and residual fuel oil are specified products subject to this special rule. Cost increases which may be recouped on each of these products would be calculated by treating each product as a separate product category. In such a situation, the general refinery products category would not include residual fuel oil and the product category for gasoline would not include regular unleaded gasoline. Only increased costs attributable to regular grade unleaded gasoline and residual fuel oil could be recouped, respectively, on each of these products. Furthermore, increased costs initially allocated to residual fuel oil may not be reallocated to those products continued to be included in the general refinery products category except as directed by the Administrator. However, increased costs initially allocated to regular unleaded gasoline and residual fuel oil may be reallocated to any products remaining in the product category of gasoline which would continue to include all the grades of gasoline other than those designated as specified products.

Thus under this special rule, if prices for unleaded gasoline were to attain levels that were inequitable or which began to cause other adverse impacts, the Administrator could designate unleaded gasoline as a specified product. This designation would require its maximum lawful selling price to be computed separately, thus preventing the reallocation to unleaded gasoline of unrecovered increased costs reallocable to the product category of gasoline or unrecovered increased costs allocated to the other grades of gasoline.

Unrecouped increased costs for specified products incurred after this rule is ordered into effect may be carried forward or banked for later recovery. However, unrecouped costs in "banks" for specified products created prior to the day this special rule is made effective shall not be recouped on any specified product during the period this special rule is in effect. In addition, the Administrator may adjust or eliminate the "bank" created prior to the date the special rule is made effective for any covered but not specified product (a product which remains subject to the current rules) while the rule is in effect.

The rule also states that if the Administrator orders a type or grade of gasoline to be a specified product, the Administrator may adjust the base date selling price for that type or grade of gasoline or for the gasoline product category. To the extent the Administrator increases the base date selling price of any product under this provision, increased costs must be reduced in an equal total dollar amount on another product or products as determined by the Administrator. This provides the Administrator with a means, for instance, of controlling refiners' price differentials between leaded and unleaded gasoline on a basis more current than the one cent imputed price difference set forth in § 212.112(b). Additionally, the Administrator may adjust for each covered or specified product the base date and base period to a more recent date than May 15, 1973 and more recent month than May 1973, respectively, for the purpose of calculating maximum lawful selling prices.

2. *Reseller Price Rule.* Resellers and retailers will price product in a manner similar to the current pricing scheme with two major modifications: (1) The class of purchaser rule in the current regulations is changed substantially and (2) the amount of allowable non-product cost increases will be determined by the Administrator.

First, except for end-users, the base price to customers will be the price charged in the last sale to the customer during the 30 days immediately preceding the date the special rule is ordered into effect or as directed by the Administrator. Accordingly, the base price will reflect current market conditions. The base price to end-users will be determined using prices charged to members of the class of purchaser.

Customers other than end users, which did not purchase a specified product during the base period, will be assigned by the seller to the most suitable class of purchaser. The base price will be the weighted average price charged on the most recent day during the base period in sales of the specified product to customers in the most suitable class of purchaser. For example, assume Customers A, B, and C each bought one gallon of a specified product at a price of 50¢, 60¢, and 70¢ on September 1, 1979, September 15, 1979 and October 2, 1979 respectively. Further assume that this special rule was ordered into effect and the Administrator set the base date as October 5, 1979. The base price to customers B and C would be 60¢ and 70¢ per gallon respectively. Because Customer A did not purchase within 30 days of the base date, the base price would be the average weighted price of all the customers in the same class of purchaser as Customer A on the most recent date a sale was made to that class. Assuming Customers A, B, and C are in the same class of purchaser as defined in Part 212, then Customer A's base price would be 70¢ per gallon for the specified product. This base price is computed by averaging the price charged in sales to Customer C, the only member of the class of purchaser to whom a sale was made on the most recent day during the base period on which sales were made to the class of purchaser. As a further example with respect to the calculation of the base price for Customer A, assume that Customer D, a member of the same class of purchaser as Customers A, B, and C, purchased one gallon of the specified product on October 2, 1979 at 76¢ per gallon. The base price to Customer A would be 73¢ per gallon—*i.e.* the weighted average price to Customers C and D on October 2. The price charged to Customer B would not be included in the computation of Customer A's base price because it did not occur on the most recent date during the base period on which sales were made to the class.

Whenever a seller (except a seller to end-users) places a new purchaser in a class of purchaser for purposes of determining the appropriate base date price for that purchaser, the seller must maintain records which clearly and specifically indicate the criteria which were applied in determining the appropriate class of purchaser. Further, (except for end-users) a seller must notify the buyer in writing, at the time of the first sale to the buyer, of the class of purchaser, the weighted average of the lawful prices in the most recent base period sales to members of that class and the criteria used in determining which purchasers were in that class.

When this special rule is made effective, the nonproduct cost increases permitted by the current rules (ordinarily expressed in a maximum number of cents per gallon for all sellers) will be superseded by a provision which permits the Administrator to determine the amount of price increases that will be permitted to reflect increased marketing costs. This provision will allow the Administrator to make an immediate adjustment in allowable nonproduct cost increases to reflect increases in such costs since the last adjustment was made.

IV. ADDITIONAL COMMENTS REQUESTED

We recognize that the special rules adopted today could have significant impact on certain firms in the event they are made effective. Although the special rules are standby rules subject to being ordered into effect immediately, they may not be activated until a future date. Thus, there may be an opportunity to make additional improvements in these regulations prior to the time they are needed, and it is our intention to review these regulations continuously for this purpose prior to their activation.

In this regard, the DOE may conduct additional tests of the emergency supply interruption systems. These tests could demonstrate the need for amendments to these special rules and, if so, the changes will be made in the appropriate manner. In addition, we are soliciting further written comments, through March 16, 1979, on all aspects of these special rules, and particularly those provisions that represent significant modifications of the proposal, and are continuing this rulemaking proceeding for the purpose of making any further amendments that may be appropriate in light of the comments received. It is also our intention to request comments on these regulations at other appropriate intervals in the future, and we specifically request suggestions from the public as to whether we should establish a routine procedure for receiving public comments on these regulations and, if so, how often comments should be solicited.

Comments should be submitted to the address indicated in the "Address" section of this preamble and should be identified on the outside envelope with the designation "Standby Product Allocation and Price Regulations" and the docket number. Fifteen copies should be submitted. All comments re-

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ceived by the ERA will be available for public inspection in the ERA Office of Public Information, Room B-110, 2000 M Street, NW., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

You should identify any information or data considered by you to be confidential and submit it in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

In accord with section 404 of the DOE Organization Act, the Federal Energy Regulatory Commission received a copy of the proposed rulemaking and has notified ERA that it has not determined that the proposed regulations would significantly affect any function within its jurisdiction under sections 402(a)(1), (b), and (c)(1) of the DOE Act.

The amendments issued today are adopted immediately in standby status. If any of their provisions are ordered into effect by the ERA Administrator within thirty days of publication, such action will be taken in accordance with the requirement set forth at 5 U.S.C. section 553(d).

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385 and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267; Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620)

In consideration of the foregoing, Parts 210, 211 and 212 of Chapter II of Title 10 of the Code of Federal Regulations are amended, as set forth below, on the day of issuance.

Issued in Washington, D.C., on January 12, 1979.

DAVID J. BARDIN,
Administrator,
Economic Regulatory Administration.

PART 210—GENERAL ALLOCATION AND PRICE RULES

1. Part 210 is amended by adding Special Rule No. 1 as an appendix to read as follows:

APPENDIX—SPECIAL RULE NO. 1

STANDBY PRODUCT PRICE AND ALLOCATION REGULATIONS

1. To the extent and for the duration the Mandatory Petroleum Allocation and Price Regulations are reimposed upon any exempt product, this Special Rule supersedes and renders inoperative the relevant portions of § 210.35.

2. Unless otherwise ordered by the ERA Administrator,

(a) the reimposition of the Mandatory Petroleum Allocation or Price Regulations upon any exempt product shall be for a period ending not later than the last day of the third full calendar month following reimposition or such other period as the Administrator shall determine, and

(b) Special Rules No. 1 to Part 211 and Part 212 of this chapter shall remain in effect as to either a previously exempt or a previously controlled product for a period ending not later than the last day of the third full calendar month following the date they are made effective or such other period as the Administrator shall determine.

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

2. Part 211 is amended by adding Special Rule No. 1 as an appendix at the end thereof to read as follows:

APPENDIX—SPECIAL RULE NO. 1

STANDBY PRODUCT ALLOCATION REGULATIONS

1. *Purpose.* The provisions of this special rule shall be ordered into effect if necessary to attain the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, as amended.

2. *Scope.* This special rule applies to any firm engaged in the production, distribution or consumption of refined petroleum products and residual fuel oil produced or imported into the United States. This special rule may be ordered into effect with respect to any product subject to the provisions of Part 211 and, to the extent the Mandatory Petroleum Allocation Regulations are reimposed on any product previously exempted, this rule may be made effective as to such product. During the time period this special rule is in effect it supersedes any inconsistent provision of this part.

3. *Applicability.* Unless the Secretary of Energy shall determine otherwise, the provisions of this special rule shall take effect, and remain in effect, if the international crude oil allocation provisions of the International Energy Agreement take effect. Any or all of the provisions of this special rule may also be ordered into effect at any time by the Administrator of the Economic Regulatory Administration ("the Administrator"). The Administrator may apply the provisions of this rule on either a national or regional basis upon any category of refined petroleum product or products and residual fuel oil), and with respect to any class of persons or class of transactions.

4. *Definitions.* For the purposes of this special rule:

"Excess product" means the volume of available supply for a base period which results after (1) a supplier has met all of its base period obligations for those end uses not subject to an allocation fraction and (2) has applied an imposed allocation fraction to the remainder of its supply obligations.

"Imposed allocation fraction" means the maximum proportion of a supplier's total adjusted base period supply obligations for all purchasers subject to an allocation fraction (as calculated in § 211.10(b)(2) for any refined product or products) that a supplier is permitted to supply pursuant to an order issued by the Administrator under this Special Rule.

"Maximum storage capability" means the maximum volume of product or products that a firm can store using its facilities in place at the time an order is issued. Such capability shall include, but is not limited to, facilities owned, leased or otherwise available to a firm.

5. *Imposed Allocation fractions.* (a) When the provisions of this special rule take effect, the Administrator may, by order, impose maximum allocation fractions.

(b) Suppliers shall not supply any amounts of product in excess of those amounts permitted under the order issued by the Administrator. To the extent that a supplier does not have enough supply to meet the imposed allocation fraction, there is no requirement to obtain additional product and lesser allocation fractions may be declared as calculated in §211.10(b).

(c) If the supply obligation under the maximum imposed allocation fraction for each product subject to this special rule cannot be met, suppliers subject to an order issued by the Administrator shall notify ERA within five days of making that determination. Such notification shall be made to the DOE national office unless otherwise specified by the Administrator.

(d) Each supplier subject to an order issued under this Special Rule shall (i) hold all excess product in storage up to the amount of product such firms would use or distribute during any 90-day period of peak usage and (ii) report to ERA any excess product which has accumulated or will accumulate in excess of its maximum storage capability. Nothing in this paragraph shall be construed as requiring any firm to make physical additions to storage facilities in order to comply with this rule.

(e) In the event that a firm accumulates an amount of excess product which is the lesser of (i) the amount of product that firm would use or distribute during any 90-day period of peak usuage or (ii) the total available capacity of that firm's storage facilities, then, subject to redirection by the Administrator, such excess product may be distributed first to meet the rest of its base period supply obligations and then as surplus product under § 211.10(g)(5).

(f) As ordered by the Administrator, for each base period suppliers shall notify ERA of the volume of excess product when storage capabilities are projected to be exceeded, and, in any event, no later than 48 hours before the maximum storage capability will be attained.

(g) Notification to ERA by suppliers shall be by telephone or any other manner specified by the Administrator to the ERA National office.

6. *Adjustments and Use Limitations for Kerosene-Base Jet Fuel, Middle Distillates and Residual Fuel Oil.* When the provision of this special rule are in effect as to either kerosene-base jet fuel, middle distillates or residual fuel oil, the Administrator may, by general or special order:

(a) Adjust downward a wholesale purchaser's base period use of kerosene-base jet fuel, middle distillates or residual fuel oil which is used for industrial, electric utility, or refinery fuel use: *Provided,* That (i) the wholesale purchaser has in place, or could reasonably have been expected to have put in place, the facilities and the capability to use instead another source of energy and (ii) the other source of energy is available to it;

(b) Impose limitations on the use by wholesale purchaser-consumers of kerosene-base jet fuel, middle distillates and residual

fuel oil for industrial, electric utility and refinery fuel use in excess of one hundred percent of their base period use, as adjusted pursuant to paragraph (a) of this section; and

(c) Adjust upward the base period use of kerosene-base jet fuel, middle distillates or residual fuel oil for a firm which demonstrates it (1) had a previous base period use of such product or products; (2) had switched to another source of energy in adequate supply and was therefore not using, or using decreased amounts of, kerosene-base jet fuel, middle distillates or residual fuel oil during a period subsequently designated as a base period; and (3) the source of energy to which the firm switched is no longer in adequate supply.

7. *Proposed Amendments to Part 211.* When the provisions of this special rule are in effect, the Administrator may order the following amendments to supersede or modify as set forth herein the following sections of this part:

(a) Section 211.2 may be amended by designating the present section as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 211.2 *Relationship of subparts.*

(a) Unless otherwise specified in Subparts D through K of this part, the general provisions set forth in this subpart apply to the mandatory allocation of all allocated products.

(b) Where inconsistent with the provisions of this part, Special Rule No. 1 to this part shall take precedence.

(b) Section 211.9 may be amended by revising paragraphs (a) and (b) to read as follows:

§ 211.9 *Supplier/purchaser relationships.*

(a) *Supplier/wholesale purchaser relationship.* (1) Each supplier of an allocated product shall supply all wholesale purchaser-resellers and all wholesale purchaser-consumers which purchased or obtained that allocated product from that supplier during the base period as specified in Subparts D through K of this part and Special Rule No. 1 to this part.

• • • • •

(b) *Supplier/end-user relationship.* Each supplier of an allocated product shall, to the maximum extent practicable, supply as of the date specified by the Administrator, all end-users which purchased that allocated product from that supplier during the base period or the interim period between the end of the base period and the effective date of these provisions and which are entitled to an allocation level under the provisions of Subparts D through K of this part.

(c) Section 211.10 may be amended as follows: Paragraphs (a) and (e) are revised, paragraph (f), subparagraph (3) is deleted and paragraph (g), subparagraphs (1) and (5) are revised.

§ 211.10 *Suppliers' method of allocation.*

(a) *General.* (1) Suppliers of allocated products shall allocate all their allocable supply in accordance with the provisions of this section unless otherwise specified in Subparts D through K of this part or in Special Rule No. 1 of this part. Each supplier shall determine its allocation fraction pursuant to the provisions of paragraph (b) of this section. Suppliers shall then allocate to wholesale purchasers and end-users in accordance with the provisions of paragraph (c) of this section. Suppliers of end-users without allocation levels shall allocate their allocable supply in accordance with the provisions of paragraph (d) of this section. The method of allocation for new suppliers is specified in paragraph (e) of this section. Suppliers with allocation fractions less than one (1.0) must act in accordance with the provisions of paragraph (f) of this section, while suppliers with allocation fractions in excess of one (1.0) must act in accordance with the provisions of paragraph (g) of this section. Suppliers which sell products with different uses which are subject to allocation under more than one subpart shall determine the applicable subpart by reference to paragraph (h) of this section.

• • • • •

(e) *New supplier.* (1) A supplier which was not a base period supplier but was a supplier during the interim period after the end of the base period but before the date specified by the Administrator under Special Rule No. 1 to this part, shall supply, in accordance with the provisions of this section, (i) wholesale purchasers which it supplied as of a date specified by the Administrator and which have no base period supplier; (ii) any assigned purchasers; (iii) new wholesale purchasers acquired during the interim period described in this paragraph (e)(1) in accordance with the provisions of § 211.12; and (iv) to the maximum extent possible, end-users.

(2) A supplier which was not a supplier prior to the date specified by the Administrator under Special Rule No. 1 to this part shall be considered to have no supply obligation and shall not allocate supplies to any purchaser without ERA approval.

(f) *Allocation fractions less than one.* • • •

(3) [Deleted]

• • • • •

(g) *Allocation fractions greater than one—*

(1) *General.* Unless otherwise directed by the ERA, in allocating allocable supplies of any allocated product among wholesale purchasers and end-users, no supplier may use an allocation fraction greater than one (1.0) except as provided herein. Propane and butane imported and distributed by suppliers pursuant to § 211.12(g) shall be subject only to the provisions of paragraph (g)(8), of this section.

• • • • •

(5) *Distribution of surplus product.* Any supplier subject to subparagraph (2) or any supplier which reports pursuant to subparagraph (3) of this paragraph and which is not notified to the contrary within five (5) days of receipt by ERA of the supplier's notification under subparagraph (3) of this paragraph, may distribute its surplus product at its discretion except that (i) the supplier shall offer, to each purchaser a volume based on the aggregate pro-rata volume supplied during the base period in the category of (A) wholesale purchaser-resellers which are entitled to receive an allocation from that supplier and which are branded independent marketers, to the extent that such category of purchaser is willing to accept it, at least the same proportion of the supplier's surplus product as the total base period volumes (prior to any adjustments) of branded independent marketers which are entitled to receive an allocation from that supplier bear to the total base period volumes (prior to any adjustments) of all purchasers, including those assigned by ERA, which are entitled to receive an allocation from that supplier; and (B) wholesale purchaser-resellers which are entitled to receive an allocation from that supplier and which are non-branded independent marketers, to the extent that such category of purchasers is willing to accept it, at least the same proportion of the supplier's surplus product as the total base period volumes (prior to any adjustments) of non-branded independent marketers which are entitled to receive an allocation from that supplier bear to the total base period volumes (prior to any adjustments) of all purchasers including those assigned by ERA, which are entitled to receive an allocation from that supplier; and (ii) the supplier may not supply to retail sales outlets owned and operated by the supplier, in the aggregate, a greater proportion of the supplier's surplus product than the total base period volumes (prior to any adjustments) of all such retail sales outlets bear to the total base period volumes (prior to any adjustments) of all purchasers, including those assigned by ERA, which are entitled to receive an allocation from that supplier unless the supplier first offers surplus product to and meets all requests for surplus product from all independent marketers which are entitled to receive an allocation from that supplier to the extent required in clause (i) of this subparagraph. *Provided,* That a supplier shall not be required to offer surplus product available for distribution during a period corresponding to a base period to any purchaser which has refused to lift all of its allocation entitlement in that same period corresponding to a base period.

• • • • •

(d) Section 211.12 may be amended as follows: Paragraph (c), paragraph (e), subparagraph (2)(i), and paragraph (g) are revised and paragraph (h), subparagraphs (5) and (6) are deleted.

§ 211.12 *Purchasers allocation entitlement.*

• • • • •

(c) *Base period volume determination.* (1) Within fifteen (15) days after the date specified by the Administrator under Special Rule No. 1 to this part, each supplier which sells an allocated product to a wholesale purchaser or end-user entitled to an allocation level which is a percentage of a base period use shall report to each of those purchasers with respect to each allocated product, the volume of product which it sold to or transferred to that purchaser in each base period.

• • • • •

(3) If the supplier and purchaser are unable to resolve their differences, the supplier shall commence allocation based on the supplier's records, in accordance with the allocation provisions in this part, and the purchaser shall make application to the appropriate ERA office for a corrected base period volume in accordance with ERA forms and instructions. Copies of the purchaser's records for base period purchases should be included with the application.

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(4) If the ERA determines that the purchaser's application for a corrected base period volume is valid it may order the supplier to adjust the purchaser's base period and to supply the purchaser with additional volumes of the allocated product equal to the adjusted amount the purchaser should have received if allocation had initially been based on the corrected base period volume.

• • • • • •

(e) *New wholesale purchasers.* • • •

(2) *New wholesale purchaser-resellers.* (i) Suppliers which have accepted as new purchasers wholesale purchaser-resellers after the end of the base period but prior to the date specified by the Administrator under Special Rule No. 1 to this part, shall notify ERA of the names of all such new purchasers, the proposed base period volume for each purchaser and the basis upon which the proposed base period volume was determined. Such notification shall be received by ERA within fifteen (15) days of the date specified by the Administrator. The proposed base period volume is subject to adjustment by ERA. ERA may also assign the wholesale purchaser-reseller to another supplier. Suppliers may provide interim supplies to such wholesale purchaser-resellers pending ERA assignment of a supplier and a base period volume.

• • • • • •

(g) *Importers.* • • •

(2) *Supplier importers of propane and butane.* • • •

(vi) Products that are imported under paragraph (g) of this section shall be subject to orders issued under Special Rule No. 1 to this part.

(h) *Curtailment of certain energy sources pursuant to Federal or State rule or order.* • • •

(5) [Deleted]

(6) [Deleted]

(e) Section 211.13 may be amended by revising paragraph (a), deleting paragraph (b), relettering the remaining paragraphs and revising paragraph (e), the relettered paragraph (f), to read as follows:

§ 211.13 *Adjustments to base period volume.*

(a) *Scope.* • • •

(2) Paragraph (b) of this section provides for adjustments to a wholesale purchaser-reseller's entitlements of purchasers which are occasioned by new assignments to supply wholesale purchasers, or adjustments granted its purchasers pursuant to § 211.12(h), § 211.13(e), § 211.125(b) or § 211.145(b) of this part. Paragraph (c) of this section provides an adjustment to base period use when increased requirements are certified by end-users and wholesale purchaser-consumers entitled to receive an allocation level based upon their current requirements.

• • • • • •

(b) *Adjustments to a wholesale purchaser-reseller's base period for new and increased allocation entitlements of purchasers.* • • •

(c) *Adjustments for increased current requirements.* • • •

(d) *Additional Adjustments.* • • •

(e) *Certifications and downward adjustments of base period uses.* (1) The chief executive officer (or his authorized agent) of a purchaser applying to a supplier for an adjustment under this section shall certify such application for accuracy. Such allocation shall contain a statement that increased allocation shall be used only for the purpose stated in the application, shall not be diverted for other uses; and that if its needs decline, the purchaser shall file an amended application to ERA for a downward adjustment to its base period use.

(2) Each supplier shall report to the appropriate ERA Regional Office when (A) any one of its base period purchasers purchases less than 80% of its base period entitlements during each of two consecutive months or quarters corresponding to the relevant base period; (B) these purchases of volumes less than base period entitlements indicate a decline in the purchaser's needs and (C) the supplier has not been notified of a downward adjustment to its purchaser's base period volume.

(3) ERA may order a downward adjustment to a purchaser's base period volumes and the respective supplier's obligations whenever ERA determine that a decline in the purchaser's needs has occured.

• • • • • •

(f) *Non-discrimination among wholesale purchasers.* • • •

(f) Section 211.17 may be amended by revising paragraphs (c) and (f) to read as follows:

§ 211.17 *State set-aside.*

• • • • • •

(c) *State representative.* Each supplier shall designate a representative within each State in which the supplier is a prime supplier to act for and on behalf of the prime supplier with respect to State set-aside petitions ans assignments from the State set-aside to be supplied by that prime supplier. As to products not previously exempt from this part, each prime supplier for a State shall maintain its designated representative for that State. For those products upon which Mandatory Petroleum Allocation regulations are reimposed, each prime supplier for a State shall designate its representative for that State and shall notify in writing the appropriate State office of such designation within fifteen (15) days of a date specified by the Administrator under Special Rule No. 1 to this part. The designated representative for a State shall be a firm which maintains a place of business within the State. The State office shall to the maximum extent possible consult with a prime supplier's representative prior to issuing any authorizing document affecting State set-aside volumes to be provided by the prime supplier.

• • • • • •

(f) *Supplier's responsibilities.* Suppliers shall provide the assigned amount of an allocated product to an applicant when presented with an authorizing document. The authorizing document shall entitle the applicant to receive product from any convenient local distributor of the prime supplier from which the State set-aside assignment has been made which is readily accessible to the applicant. Wholesale purchaser-resellers of prime suppliers shall, as non-prime suppliers, honor such authorizing documents upon presentation, and shall not delay deliveries required by the authorization document while confirming such deliveries with the prime supplier. Any non-prime supplier which provides an allocated product pursuant to an authorizing document shall in turn receive from its supplier an equivalent volume of the allocated product which shall not be considered part of its allocation entitlement otherwise authorized by this part.

(g) Section 211.26 may be amended by revising subparagraph (b) to read as follows:

§ 211.26 *Department of Defense allocations:*

• • • • • •

(b) The Department of Defense shall report to the Department of Energy on a semi-annual basis a bulk product purchase program, and, or an annual basis, the purchase program needed in support of the "Posts, Camps, and Stations", "Into-Plane Refueling" (at commercial-civil airports), "Marine Bunkers", "Lubes, Greases and Specialty Products," and "Federal Civil agencies" programs. These programs shall take effect only following the approval of the President. Whenever necessary to assure that the Department of Defense is fully supplied with its current requirements, the Administrator of the ERA shall assign to suppliers the volumes of crude oil and allocated products to be allocated to the Department of Defense.

• • • • • •

(h) Section 211.102 may be amended by revising the definition of "base period" to read as follows:

§ 211.102 *Definitions.*

For purposes of this subpart—

"Base period" means the month corresponding to the current month in the 12-month period ending with the second full month prior to the month in which the Administrator issues an order effectuating the Special Rule, or such other 12-month period as the Administrator should consider appropriate.

• • • • • •

(i) Section 211.105 may be amended by revising paragraphs (b) and (c) to read as follows:

§ 211.105 *Supplier/purchaser relationships.*

• • • • • •

(b) Notwithstanding the provisions of Subpart A of this part, any wholesale purchaser-reseller of motor gasoline which is a branded independent marketer and which during the base period has two or more base period suppliers, shall have designated as its base period supplier that supplier which is its supplier on the date the provisions of Special Rule No. 1 take effect as ordered by the Administrator. This supplier shall be maintained for all periods corresponding to base periods commencing after the provisions of Special Rule No. 1 take effect. This designation shall be for the duration of the Mandatory Allocation Program unless otherwise ordered by ERA pursuant to Part 205 of this chapter.

(c) A wholesale purchaser-reseller which has a base period supplier designated pursuant to paragraph (b) of this section shall provide, within thirty (30) days of the date

specified by the Administrator pursuant to paragraph (b) of this section, written notice of this designation and of the termination of the supply obligations of other suppliers to any supplier(s) which supplied the wholesale-purchaser reseller during base period. Such wholesale purchaser-reseller shall also provide written notice to the designated supplier of the amount of the wholesale purchaser-reseller's base period use which was formerly supplied by the terminated base period supplier(s) and which is to be supplied by the designated supplier. The notice of the designated supplier shall include the names and addresses of the terminated base period suppliers and of the wholesale purchaser-reseller and the location of any facility, including any retail sales outlet concerned.

• • • • • •

(j) Section 211.106 may be amended as follows: Paragraph (b), subparagraph (4) is revised and paragraph (c), subparagraph (2)(i) is revised and subparagraph (2)(ii) is deleted.

§ 211.106 *Retail sales outlets.*

• • • • • •

(b) *Retail sales outlets as a firm.* • • •

(4) To the extent that retail sales outlets have not been considered separate firms and therefore separate wholesale purchaser-resellers in the base period volume determination required under § 211.12(c), an operator of more than one retail sales outlet shall, not later than 20 days after the date specified by the Administrator, determine the base period volume of each of its retail sales outlets.

(c) *Loss of allocation entitlement for going out of business.* • • •

(2)(i) *Closing of retail outlets.* An entity which operates more than one retail sales outlet and which intends to go or goes out of business at one or more such retail sales outlets may apply to ERA for an adjustment to the base period volumes of its retail sales outlets which will remain in business. ERA may allow such adjustments to the extent that the vacating of business at a particular retail sales outlet does not result in an inequitable distribution of motor gasoline in the market areas served by the entity and that such an adjustment would not otherwise be inconsistent with the objectives of the allocation program. Pending ERA action on an application, ERA may provide adjustments to the base period volume of the pertinent retail sales outlets, which will remain in business.

• • • • • •

(2)(ii) [Deleted]

(k) Section 211.122 may be amended by revising the definition of "base period" to read as follows:

§ 211.122 *Definitions.*

For the purposes of this subpart—

"Base Period" means the month corresponding to the current month in the 12-month period ending with the second full month prior to the month in which the Administrator issues an order effectuating the Special Rule, or such other 12-month period as the Administrator should consider appropriate.

• • • • • •

(l) Section 211.123 may be amended by revising paragraph (c), subparagraphs (2) and (3) to read as follows:

§ 211.123 *Allocation levels.*

• • • • • •

(c) *Allocation levels subject to an allocation fraction.* • • •

(2) One hundred ten (110) percent of base period use (as reduced by application of an allocation fraction) for residential space heating.

(3) One hundred (100) percent of base period use (as reduced by application of an allocation fraction) for the following uses:

(i) Synthetic natural gas plant feedstock use;

(ii) Electric utilities;

(iii) Industrial space heating uses; and

(iv) All other non-space heating uses.

(m) Section 211.125 may be amended by revising paragraph (c) to read as follows:

§ 211.125 *Supplier/purchaser relationships and adjustments to base period use for electric utilities.*

• • • • • •

(c) The ERA may at any time adjust the base period use of an electric utility. The FEA shall notify the utility and the affected supplier of any such adjustment. In making such an adjustment, the ERA may consider, but is not limited to the following:

(1) The addition or phasing out of generating units;

(2) Ability, within appropriate groupings, to absorb equal percentage cutback in middle distillate supply;

(3) Ability to utilize non-oil based energy;

(4) System reserve capacity;

(5) Available energy from imports;

(6) Minimum level of consumption, which cannot be supplied by non-oil fired generation; and

(7) Middle distillate inventory held by a utility.

(n) Section 211.142 may be amended by revising the definitions of "base period," "base period supplier" and "base period volume" and inserting a definition of "mail transport flying" in alphabetical order to read as follows:

§ 211.142 *Definitions.*

For purposes of this subpart—

• • • • • •

"Base period" means the calendar quarter corresponding to the current calendar quarter, of the 12-month period ending with the second full month prior to the month in which the Administrator issues an order effectuating the Special Rule, or such other 12-month period as the Administrator should consider appropriate.

"Base period supplier" means a base period supplier as set forth in Subpart A of this part or as designated by the ERA, and includes in the case of an international air carrier its suppier during the base period of bonded or non-bonded fuel.

"Base period volume" means base period volume as defined in § 211.51 and § 211.10(b)(2)(ii), and includes in the case of an international air carrier, the volume of bonded and non-bonded aviation fuels purchased during a base period.

"Mail transport flying" means use of aircraft operating under 14 CFR Parts 121 and 135 in transporting mail under contract with the United States Postal Service, including use of aircraft in transporting such mail by "other air carriers" as defined in this § 211.142.

• • • • • •

(o) Section 211.143 paragraph (c) may be amended by revising subparagraphs (1) and (2) to read as follows:

§ 211.143 *Allocation levels.*

• • • • • •

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred percent of current requirements (as reduced by application of an allocation fraction) for the following uses:

(i) Emergency aviation services; safety and mercy missions;

(ii) Energy production flying; and

(iii) Telecommunications flying.

(2) One hundred (100) percent of base period use (as reduced by application of an allocation fraction) for the following uses:

(i) Aircraft manufacturing;

(ii) Business flying, including requirements for crew training and proficiency flying;

(iii) Domestic, supplemental, and scheduled cargo air carriers, including requirements for crew training and proficiency flying;

(iv) International air carriers, including requirements for crew training and proficiency flying—the total of both bonded and non-bonded fuels;

(v) Intrastate carriers, including requirements for crew training and proficiency flying;

(vi) Instructional flying;

(vii) Local service air carriers, including requirements for crew training and proficiency flying;

(viii) Mail transport flying including requirements for crew training and proficiency flying;

(ix) Non-flying use of aviation fuels;

(x) Other air carriers including requirements for crew training and proficiency flying; and

(xi) Public aviation including requirements for crew training and proficiency flying.

(3) Ninety (90) percent of base period use (as reduced by application of an allocation fraction) for the following uses:

(i) Air travel club flying, including requirements for crew training and proficiency flying; and

(ii) Personal non-business flying.

(p) Section 211.144 may be amended to read as follows:

§ 211.144 *Fixed based operators.*

Notwithstanding the general provisions of § 211.12(b)(1), fixed base operators are entitled to receive from their suppliers an amount of aviation fuel equal to one hundred (100) percent of base period use as reduced by the application of the supplier's allocation fraction for use in the conduct of an ongoing business of selling aviation fuels to wholesale purchaser-consumers and end-

users. Notwithstanding the provisions of Subpart A of this part, if during the base period, a fixed base operator had more than one base period supplier, the fixed base operator shall have designated as its base period supplier that supplier which is its supplier on the date of the provisions of Special Rule No. 1 take effect.

(q) Section 211.145 may be amended by revising paragraph (b), subparagraph (1) and deleting paragraphs (c) and (d) to read as follows:

§ 211.145 *Supplier/purchaser relationships and adjustments of base period use.*

• • • • • •

(b)(1) Civil air carriers may apply to the appropriate DOE office for adjustments to base period use based upon changed circumstances. Applications under this paragraph shall be fully supported by detailed facts, figures and other documentation. DOE may consult with appropriate Federal agencies in processing such applications. Adjustments under this paragraph will be granted only where there are compelling situations requiring relief.

• • • • • •

(c) [Deleted]

(d) [Deleted]

(r) Section 211.146 may be amended by revising paragraph (c) subparagraphs (1), (3) and (7) to read as follows:

§ 211.146 *Method of Allocation.*

• • • • • •

(c)(1) For periods corresponding to a base period beginning after the date specified by the Administrator international air carriers which have traditionally used bonded aviation fuel for international flights shall be allocated non-bonded aviation fuels by their base period suppliers as provided by this paragraph. Upon certification by an international air carrier to its base period suppliers that the carrier is unable to purchase or obtain sufficient bonded aviation fuel for a period corresponding to a base period at prices which do not exceed the lawful price of its base period suppliers of bonded fuel for similar volumes of non-bonded aviation fuel at the desired location, the base period suppliers shall provide non-bonded aviation fuel to that carrier. International air carriers which do not have base period suppliers or whose base period suppliers are unable to supply them currently with non-bonded aviation fuel shall apply to ERA for assignment of suppliers of non-bonded aviation fuels.

• • • • • •

(3) An international air carrier which files a certification with a supplier under this paragraph shall provide such certification to its supplier at least fifteen (15) days prior to the beginning of the period corresponding to a base period to which the certification applies except that the initial certification following the effective date of the provisions of Special Rule No. 1 to this part shall be provided to the supplier within fifteen (15) days after such date. The certification shall specify:

(i) The volumes of bonded aviation fuel which can be obtained for the period from all sources;

(ii) The volumes of bonded aviation fuel which can be obtained from that supplier;

(iii) The international air carrier's base period use for that period;

(iv) The amount of the international air carrier's base period use to be supplied by that supplier;

(v) The amount of bonded fuel which the supplier it to subtract from that portion of the carrier's base period use to be supplied by the supplier in addition to the volume of bonded aviation fuel to be supplied by the supplier in determining the amount of non-bonded fuel the supplier is to supply to the carrier.

• • • • • •

(7) For each period corresponding to a base period beginning after the date specified by the Administrator under Special Rule No. 1 to this part, no international air carrier shall accept non-bonded aviation fuel under this paragraph unless it has provided ERA with the following information by supplier for each period corresponding to a base period:

(i) The carrier's base period volume of bonded fuel;

(ii) The carrier's base period volume of non-bonded aviation fuel;

(iii) The amounts of any adjustments to the carrier's base period volume; and

(iv) The carrier's total base period volume.

(s) Section 211.147 may be amended by revising paragraphs (a), (b), (c) and (d) and the addition of paragraph (e) to read as follows:

§ 211.147 *Procedures and reporting requirements.*

(a) All applications for adjustment or assignment of aviation fuels to civil air carriers (except non-scheduled air taxi/commercial operators) shall be filed with the ERA National Office in accordance with Subparts B and C, respectively of Part 205 of this chapter. All other matters pertaining to the allocation of aviation fuels to civil air carriers (except non-scheduled air taxi/commercial operators) shall be addressed to the ERA National Office at the address provided in § 205.12, unless otherwise specified.

(b) All matters pertaining to the allocation of aviation fuels for general aviation, non-scheduled air taxi/commercial operators, public aviation and non-flying uses of aviation fuels shall be addressed to the appropriate supplier. Any matters unresolved at the supplier level may be referred directly to the appropriate ERA Regional Office at the address provided in § 205.12.

Civil air carriers (except non-scheduled air taxi-commercial operators) shall report monthly their aviation fuel usage to ERA in accordance with forms and instructions issued by ERA. Civil air carriers shall file reports pursuant to this paragraph with the National ERA at the address provided in § 205.12.

(d) All other wholesale purchaser-consumers, including non-scheduled air taxi/commercial operators and wholesale purchaser-resellers shall comply with the reporting and recordkeeping requirements specified in § 211.223 with information on uses and activities and total pumpage per month of jet fuel and aviation gasoline.

(e) The general reporting and recordkeeping requirements for refiners and importers contained in § 211.222 shall apply to this subpart.

(t) Section 211.162 may be amended by revising the definition of "base period" to read as follows:

§ 211.162 *Definitions.*

For the purposes of this subpart—"Base period" may be defined separately for utility and non-utility users and means the month or calendar quarter corresponding to the current month or calendar quarter, in the 12-month period ending with the second full month prior to the month in which the Administrator issues an order effectuating the Special Rule, or such other 12-month period as the Administrator should consider appropriate.

(u) Section 211.163 may be amended by revising paragraph (b), subparagraph (2), and paragraph (c), subparagraphs (2) and (3) to read as follows:

§ 211.163 *Allocation levels*

• • • • • •

(b) *Allocation levels not subject to an allocation fraction.* • • •

(2) The allocation level as specified each month by the ERA for utility use. In specifying the allocation levels for each utility the ERA may include but is not limited to the following considerations:

(i) Each utility within appropriate groupings shall absorb an equal percentage cutback in electricity generation, to the maximum extent possible.

(ii) The fact that electric generating plants which now burn residual fuel oil have been identified by the ERA as candidates for conversion to coal, and the maximum possible extent to which such plants could be utilized after conversion.

(iii) The extent to which any electric generating plants which burn coal may be utilized more fully than at present.

(iv) The ability to use other forms of energy in adequate supply;

(v) The extent to which certain minimal levels of residual fuel oil consumption are essential; and

(vi) Available stocks of residual fuel oil held by each utility.

(c) *Allocation levels subject to an allocation fraction.* • • •

(2) One hundred and ten (110) percent of base period use (as reduced by application of an allocation fraction) for residential space heating.

(3) One hundred (100) percent of base period use as reduced by an allocation fraction for industrial use including space heating and all other users and uses of residual fuel oil not included in paragraphs (b) or (c) (1) or (2) of this section.

(v) Section 211.166 may be amended by revising subparagraph (d) to read as follows:

§ 211.166 *Method of allocation.*

• • • • • •

(d) *Utilities.* (1) For purposes of calculating the allocation of residual fuel oil to utilities for delivery in each month beginning with the first month of the date specified by the Administrator under Special Rule No. 1 to this part:

(i) The ERA will notify each utility to establish a supplier percentage for each supplier and forward this information to the ERA within 7 days of such notification. The supplier percentage will be the volume purchased from each supplier divided by the total volume purchased from all suppliers during the base period.

(ii) The ERA will determine the amount of residual fuel oil allocated for delivery to each utility for a single month, or for several months at a time, based upon the supply available for utilities, the ability of the utility to use non-oil based energy, the considerations specified in § 211.163(b)(2) and other relevant considerations and may modify such determinations if necessary.

(iii) Based on the supplier percentages determined as set forth in paragraph (d)(1)(i) of this section, the ERA will publish the amounts of residual fuel oil allocated to each utility for delivery for a single month or several months at a time, and the amounts required to be supplied for each month by each supplier. The amounts required to be supplied by each supplier will be calculated by multiplying each utility's specified monthly allocation amount by that supplier's percentage.

(2) Within 48 hours after receipt of an ERA allocation notice, each supplier of a utility shall notify that utility of its anticipated ability to supply, during the month for which the allocation amount is specified, the entire amount of residual fuel required to be supplied by that supplier. If a supplier of a utility is unable to supply its specified amount, the supplier may request an extension to the delivery period in that month of up to 12 days. Following receipt of a request for extension, the utility must notify the supplier within 48 hours of its determination of the acceptability of the requested extension and of the amount to be delivered during the extension period. If the utility refuses to accept the extension, the supplier and utility shall notify the ERA of the reason for the request for extension by the supplier and the refusal to accept the extension by the utility. The ERA shall then determine the amounts to be delivered and the date or dates for delivery.

(3) Suppliers and utilities may apply to the ERA for adjustment to the requirement of § 211.163 and paragraph (d)(1)(i) of this section, or assignment of a new supplier, in accordance with Subparts B and C, respectively, of Part 205 of this chapter.

(4) Utilities may, and are encouraged to, by mutual agreement and after notice to ERA, apportion their respective allocated residual fuel oil volumes, other fuel volumes, or generated power among themselves.

• • • • • •

(w) Section 211.167 may be amended by revising subparts (a) and (b) to read as follows:

§ 211.167 *Procedures and reporting requirements.*

(a) All matters pertaining to the allocation of residual fuel oil for the electric industry shall be addressed to the ERA National Office, at the address provided in § 205.12. Applications for adjustment and assignment of residual fuel oil for the electric utilities shall be filed in accordance with Subparts B and C, respectively, of Part 205 of this chapter.

(b) All matters pertaining to the allocations of residual fuel oil to non-utility users of residual fuel oil shall be addressed to the appropriate ERA Regional Office at the address provided in § 205.12. Applications for adjustment and assignment of residual fuel oil to non-utility users of residual fuel oil shall be filed in accordance with Subparts B and C, respectively, of Part 205 of this chapter.

• • • • • •

(x) Section 211.182 may be amended by revising the definition of "base period" and "naphthas" to read as follows:

§ 211.182 *Definitions.*

For purposes of this subpart—

"Base Period" means the calendar quarter corresponding to the current calendar quarter of the 12-month period ending with the second full month prior to the month in which the Administrator issues an order effectuating the Special Rule, or such other 12-month period as the Administrator should consider appropriate. • • •

"Naphthas" mean petroleum fractions made up predominantly of hydrocarbons whose boiling points fall within the temperature range of 85° to 430°F, excluding natural gasoline and condensates. This definition does not include specific hydrocarbon constituents such as hexane or special naphthas (solvents) or other products which are separately allocated.

• • • • • •

(y) Section 211.183 may be amended by revising paragraphs (a), (b) and adding paragraph (c) to read as follows:

(a) *General.* The allocation levels in this paragraph apply only to allocations made by suppliers to wholesale purchaser-consumers and end-users. Suppliers shall first allocate one hundred (100) percent of the allocation requirements of all their purchasers entitled to an allocation under this part without application of an allocation fraction. Suppliers may then dispose of the remainder of their total supply in accordance with the provisions of § 211.10(g). The allocation levels listed below are not arranged in sequence of priority. Suppliers shall distribute available supplies of naphthas and gas oils to all classifications of purchasers listed in the following allocation levels without regard to order of listing.

(b) *Allocation levels (not subject to an allocation fraction).* One hundred (100) percent of current requirements for the following uses:

(1) Agricultural production and

(2) Department of Defense use as specified in § 211.26.

(c) *Allocation levels (subject to an allocation fraction).* One hundred (100) percent of base period use for the following uses:

(1) Petrochemical feedstock uses;

(2) Synthetic natural gas feedstock use or plant fuel use;

(3) Gasoline blending and manufacturing; and

(4) All other uses

(z) Section 211.185, paragraph (a) may be amended to read as follows:

§ 211.185 *Method of allocation.*

(a) The provisions of § 211.10 shall apply to this subpart.

• • • • • •

(aa) Section 211.186 may be amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 211.186 *Procedures and reporting requirements.*

(a) All refiners and importers shall report in accordance with forms and procedures to be issued by DOE.

(b) The provisions contained in subpart L of this part shall not apply to this subpart except §§ 211.223 and 211.225.

(c) All applications for adjustment or assignment of naphthas and gas oils shall be filed with the DOE National Office in accordance with Subparts B and C, respectively, of Part 205 of this chapter, except that applications pertaining to synthetic natural gas production shall accord with § 211.29. All other matters pertaining to allocation of naphthas and gas oils shall be addressed to the FEA National Office at the address provided in § 205.12.

(bb) Section 211.202 may be amended by revising the definition of "base period", "greases", "lubricants" and "wholesale purchaser-consumer" to read as follows:

§ 211.202 *Definitions.*

For purposes of this subpart—

"Base Period" means the calendar quarter corresponding to the current calendar quarter of the 12-month period ending with the second full month prior to the month in which the Administrator issues an order effectuating the Special Rule, or such other 12-month period as the Administrator should consider appropriate. • • •

"Greases" means petroleum lubricating products which are solid or semifluid, produced through a refining process or dispersion of a thickening agent in a liquid petroleum lubricant. • • •

"Lubricants" means all grades of lubricating oils designed to be used for lubricating purposes in industrial, commercial and automotive use without further modification, including lubricating oils that have been blended with additives, provided that refined petroleum products comprise more than 10 percent of the blend by weight. • • •

"Wholesale purchaser-consumer" means any firm that is an ultimate consumer which, as part of its normal business practices, purchases or obtains an allocated product from a supplier and receives delivery of that product into storage substantially under the control of that firm at a fixed location and purchased or obtained more than 20,000 gallons of lubricants, 10,000 pounds of greases or 55,000 gallons of any other product subject to this subpart in any completed base period year.

(cc) Section 211.203, paragraph (c) may be amended to read as follows:

§ 211.203 *Allocation levels.*

• • • • • •

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by the application of an allocation fraction) for the following uses:

(i) Emergency service;

(ii) Energy production;

(iii) Sanitation services;

(iv) Passenger transportation services;

(v) Telecommunications services; and

(vi) Cargo, freight and mail hauling.

(2) One hundred (100) percent of base period use for:
(i) Chemical processing;
(ii) Petrochemical feedstock use;
(iii) Industrial use;
(iv) Synthetic natural gas plant feedstock use; and
(v) Blending and compounding of lubricants.
(3) Ninety (90) percent of base period use for:
(i) Gasoline blending and manufacturing; and
(ii) All other uses.

• • • • •

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

3. Part 212 is amended by adding Special Rule No. 1 as an appendix to read as follows:

APPENDIX—SPECIAL RULE NO. 1 TO PART 212

STANDBY PRODUCT PRICE REGULATIONS

1. *Purpose.* This Special Rule No. 1 to Part 212 sets forth the rules for pricing of covered and specified products as defined in paragraph 4 of this special rule, as necessary to attain the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, as amended.

2. *Applicability.* (a) This special rule is effective when ordered by the Administrator.

(b) During the time period this special rule is in effect, it supersedes the relevant portions of sections 212.56 and 212.57 and any inconsistent provisions of Part 212.

(c) This special rule expires when Special Rule No. 1 to Part 211 expires or when ordered by the Administrator.

3. *Scope.* The Administrator may order this special rule into effect upon any or all products subject to the provisions of Part 212 and, to the extent the Mandatory Petroleum Price Regulations are reimposed on any product previously exempted, this special rule may be made effective as to such products. This special rule may be imposed with respect to refiners, resellers, retailers, and reseller-retailers. Products subject to this special rule, as ordered by the Administrator, are set forth in paragraph 4 of this special rule as specified products and in Part 212 as covered products.

4. *Definitions.* "Administrator" means the Administrator of the Economic Regulatory Administration, Department of Energy.

"Base period" with respect to resellers and retailers means the 30-day period immediately preceding the date this special rule is made effective for that product or such other date as the Administrator may determine.

"Covered products" means covered products as defined in § 212.31 of Part 212.

"Specified products" means products subject to this special rule as ordered by the Administrator.

5. *Refiner Price Rule.* (a) When this special rule is ordered into effect by the Administrator, refiners shall calculate the maximum lawful selling price for each specified product pursuant to the price computation formula set forth in Subpart E to Part 212. The maximum lawful selling price shall be computed separately for each specified product.

(b) Notwithstanding the provisions in Subpart E or in Paragraph 5(a) above;

(i) When this special rule is imposed on middle distillate and residual fuel oil, a portion or all of the increased costs attributable to middle distillate and residual fuel oil may be reallocated to covered and specified products (other than propane) as directed by the Administrator;

(ii) Unrecouped increased costs for specified products incurred prior to the day this special rule is made effective shall not be recouped on such specified products while this special rule is in effect but unrecouped increased costs incurred subsequent to the date this rule is made effective may be carried forward and recovered pursuant to § 212.83(e);

(iii) The Administrator may adjust the extent, if any, to which unrecouped increased costs for covered but not specified products, incurred prior to the day this special rule is made effective, may be recouped while this special rule is effective;

(iv) The Administrator may adjust the maximum lawful selling price for specified products and covered products to reflect unrecouped increased costs incurred prior to the day this special rule is made effective;

(v) When any type or grade of gasoline becomes a specified product, the Administrator may adjust the May 15, 1973 selling price (or selling price on a date established under subparagraph (vi) below) for that type or grade of gasoline or for the category "1" equals gasoline; to the extent the Administrator increases the May 15, 1973 selling price (or selling price on a date established under subparagraph (vi) below) of any product pursuant to this paragraph, increased costs must be reduced in an equal total dollar amount on other covered or specified products as determined by the Administrator;

(vi) The Administrator may adjust the base date and base period for specified or covered products to a more recent date than May 15, 1973 and more recent month than May 1973, respectively, for the purpose of calculating maximum lawful selling prices.

6. *Reseller and Retailer Price Rule.* (a) Except for sales to end-users as defined in § 211.51 of Part 211 and except for sales to purchasers which did not purchase during the base period, a reseller or retailer may not charge a price for a specified product which exceeds the price charged by the seller in the most recent sale to the purchaser concerned during the base period, plus an amount which reflects, on a dollar for dollar basis, increased product costs incurred subsequent to the date this special rule is made effective and plus an amount, as established by the Administrator, which reflects increased nonproduct costs.

(b) In the case of sales to end-users as defined in § 211.51 of Part 211, a reseller or retailer may not charge a price for a specified product which exceeds the weighted average of the lawful prices charged in sales of the product to the class of purchaser concerned on the most recent day during the base period in which there were sales of the product to the class of purchaser concerned, plus an amount which reflects on a dollar for dollar basis, increased product costs incurred subsequent to the date this special rule is made effective and plus an amount, as established by the Administrator, which reflects increased nonproduct costs.

(c) In the case of sales to purchasers which did not purchase a specified product during the base period, a reseller or retailer may not charge a price for a specified product which exceeds the weighted average of the lawful prices charged in sales of the product to the class of purchaser concerned on the most recent day during the base period in which there were sales of the product to the class of purchaser concerned, plus an amount which reflects, on a dollar for dollar basis, increased product costs incurred subsequent to the date this special rule is made effective and plus an amount, as established by the Administrator, which reflects increased nonproduct costs. For purposes of this subparagraph (c), the class of purchaser concerned is the class, as defined in Part 212.31, which is the most suitable class for the purchaser which did not purchase the specified product during the base period.

(d) In the case of sales to a purchaser which did not purchase a specified product during the base period and for which there is no suitable class as defined in Part 212.31, a reseller or retailer may not charge a price which exceeds the weighted average of the lawful prices charged in sales of the product to the most comparable class of purchaser on the most recent day during the base period in which there were sales of the product to purchasers of the specified product, plus an amount which reflects, on a dollar for dollar basis, increased product costs incurred subsequent to the date this special rule is made effective and plus an amount, as established by the Administrator, which reflects increased nonproduct costs.

(e) The Administrator may establish price adjustments to reflect increased nonproduct costs incurred subsequent to the base period.

(f) A seller which determines a highest permissible selling price pursuant to subparagraph (c) and (d) of this special rule shall:

(i) Maintain records, to be made available to DOE upon request, which state (1) the name of the class of purchaser; (2) all purchasers currently in the class of purchaser, and, (3) the factors (e.g., location) used to establish the class of purchaser; and

(ii) Notify the purchaser, except for end users, in writing at the time of the first sale to the purchaser of (1) the name of the class of purchaser; (2) the factors used to establish the class of purchaser; and, (3) the weighted average of the lawful prices as determined under subparagraph (c) or (d) above, together with a statement that the weighted average price is the purchaser's imputed base price under this special rule.

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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA//FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
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[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—OFFICE OF PERSONNEL MANAGEMENT

TITLE CHANGE

AGENCY: Office of Personnel Management.

ACTION: Editorial change.

SUMMARY: This document changes the title of Chapter I from Civil Service Commission to Office of Personnel Management to implement Reorganization Plan No. 2 of 1978 and Pub. L. 95-454.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

James C. Spry, Special Assistant to the Director, 202-632-5556. Accordingly, chapter I of 5 CFR is renamed Office of Personnel Management.

(5 U.S.C. 1105)

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-2081 Filed 1-18-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Pharmacy Resident positions at grade GS-7 in the National Institutes of Health's Clinical Center, Pharmacy Department, are excepted under Schedule A because it is impracticable to examine for them. Employment in these positions is confined to graduates of approved schools of pharmacy and is limited to a period not to exceed 12 months pending licensure.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3116(b)(11) is added as set out below:

§ 213.3116 Department of Health, Education, and Welfare.

• • • • • •

(b) *Public Health Service.* • • •

(11) Pharmacy Resident positions at GS-7 in the National Institutes of Health's Clinical Center, Pharmacy Department. Employment in these positions is confined to graduates of approved schools of pharmacy and is limited to a period not to exceed 12 months pending licensure.

(5 U.S.C. 3301, 3302, EO 10577, 3 CFR 1954-1958 Comp., p. 218)

JAMES C. SPRY,
Special Assistant to the Director, Office of Personnel Management.

[FR Doc. 79-2082 filed 1-18-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This authority excepts from the competitive service under Schedule A one GS-15 Deputy Executive Director position, one GS-10 Staff Assistant position, and one GS-7 Secretary position with the President's Commission on the Holocaust, with the provision that employment under this authority may not exceed February 1, 1980. This exception was granted because it is impracticable to examine for these positions.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3199(y) is added as set out below:

§ 213.3199 Temporary boards and commissions.

• • • • • •

(y) *President's Commission on the Holocaust.*

(1) One GS-15 Deputy Executive Director position, one GS-10 Staff Assistant position, and one GS-7 Secretary position with the President's Commission on the Holocaust. Employment under this authority may not exceed February 1, 1980.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

JAMES C. SPRY,
Special Assistant to the Director, Office of Personnel Management.

[FR Doc. 79-2078 Filed 1-18-79; 8:45 am]

[6325-01-M]

PART 307—VETERANS READJUSTMENT APPOINTMENTS

PART 316—TEMPORARY AND TERM EMPLOYMENT

Disabled and Vietnam Era Veterans

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is amending the regulations to implement certain provisions of the Veterans Administration Programs Extension Act of 1978 (Pub. L. 95-520), which liberalizes eligibility requirements for Veterans Readjustment Appointments and other kinds of employment for VRA eligibles. These regulations are amended to combat continuing unemployment problems of disabled and Vietnam era veterans.

EFFECTIVE DATE: January 10, 1979.

FOR FURTHER INFORMATION CONTACT:

Oliver J. Thomsen, Chief, Veterans Employment Programs, Office of Affirmative Employment Programs, Office of Personnel Management, 1900 E Street, N.W., Washington, DC 20415, 202-254-3058.

SUPPLEMENTAL INFORMATION: The Director finds that good cause exists for making these regulations effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of Pub. L. 95-520 enacted October 26, 1978.

Accordingly, 5 CFR Parts 307 and 316 are amended as set forth below:

(1) By revising § 307.101 (a) and (b) as follows:

§ 307.101 Definitions.

In this part: (a) "Veteran" has the meaning given in section 2011(2)(A) of title 38, United States Code.

(b) "Vietnam era" is the period beginning August 5, 1964 and ending May 7, 1975.

• • • • •

(2) By revising § 307.102 (a) and (b) as follows:

§ 307.102 Basic eligibility.

(a) A veteran may receive a veterans readjustment appointment if s/he:

(1) Has served on active duty in the armed forces of the United States during the Vietnam era;

(2) Has completed not more than 14 years of education unless compensably disabled or discharged because of service-connected disabilities, in which case the 14-year educational requirement does not apply; and

(3) Agrees in writing that during employment under the appointment, veteran will pursue a training or educational program developed under § 307.104.

(b) A Vietnam era veteran may be given a veterans readjustment appointment at any time following separation from the service, except that no veterans readjustment appointment may be made under current statutory authority after September 30, 1981.

(3) By revising § 307.103 (a) and (c) as follows:

§ 307.103 Appointment authority.

(a) An agency may appoint any veteran eligible under section 307.102 who meets the qualification standards of the Office of Personnel Management for the position, to a position at GS-7 or below, or the equivalent in another pay system. On the basis of military and civilian experience, any veteran eligible under § 307.102 is deemed to meet the qualification standards for positions at GS-3 and below, and equivalent levels: *Provided,* The agency considers the veteran capable of performing the duties of the specific position.

• • • • •

(c) An appointment under this section is subject to investigation by the Office. A law, Executive Order, or regulation which disqualifies a person for appointment in the competitive service also disqualifies a person for a veterans readjustment appointment.

(4) By revising § 307.104(a) and (b) as follows:

§ 307.104 Training or educational programs.

(a) Each agency shall develop a training or educational program for each employee given a veterans readjustment appointment.

(b) The Office shall establish and publish guidelines for developing training or education programs under this section.

(5) By revising § 307.105 as follows:

§ 307.105 Conditions of employment.

An employee holding a veterans readjustment appointment serves subject to satisfactory performance of assigned duties and satisfactory participation in the required training or educational program. The agency shall separate an employee who does not meet these conditions, following the procedures in Part 43 of this chapter if the employee has completed one year of current continuous employment.

(6) By revising § 307.106(a), by deleting section 307.106(b) and by changing § 307.106(c) to read 307.106(b), as follows:

§ 307.106 Noncompetitive movement.

(a) Subject to § 335.103 of this chapter an agency may reassign, promote, or transfer an employee serving under veterans readjustment appointment to any position for which the employee meets the qualifications standards of the Office.

(b) Noncompetitive movements under this section are subject to completion of applicable training or educational programs.

• • • • •

(7) By adding § 307.107 to bring into regulation a reporting requirement contained in § 2014(d) of title 38, United States Code as follows:

§ 307.107 Reporting requirement.

(a) Agencies shall submit reports on efforts to promote maximum employment, placement, and job advancement opportunities for disabled and Vietnam era veterans to the Office on a 6-month basis.

(b) The Office shall establish and issue guidelines for the preparation and submission of these reports.

(8) By revising § 316.302(c)(2) as follows:

§ 316.302 Selection of term employees.

• • • • •

(c) • • •

(2) A veteran, as defined in section 2011(2)(A) of title 38, United States Code, who:

(i) Served on active duty in the Armed Forces of the United States beginning August 5, 1964 and ending May 7, 1975;

(ii) Completed not more than 14 years of education, unless compensably disabled or discharged because of service-connected disabilities, in which case the 14-year educational requirement does not apply; and

(iii) Is qualified to perform the duties of the position.

An appointment under this subparagraph may be made only to a position at GS-7 or below, or equivalent in another pay system, without time limitation after separation from the military service, but not after September 30, 1981. A veteran who is an applicant for a position at GS-3 or equivalent, and below under this subparagraph is deemed qualified to perform the duties of the position on the basis of the veteran's civilian and military service.

(9) By revising § 316.402(b)(4) as follows:

§ 316.402 Authorities for temporary appointments.

• • • • •

(b) *Noncompetitive temporary limited appointments.* • • •

(4) A veteran, as defined in section 2011(2)(A) of title 38, United States Code, who:

(i) Served on active duty in the Armed Forces of the United States beginning August 5, 1964 and ending May 7, 1975;

(ii) Completed not more than 14 years of education, unless compensably disabled or discharged because of service-connected disabilities, in which case the 14-year educational requirement does not apply; and

(iii) Is qualified to perform the duties of the position.

An appointment under this subparagraph may be made only to a position at GS-7 or below, or equivalent in another pay system, without time limitation after separation from the military service, but not after September 30, 1981. A veteran who is an applicant for a position at GS-3 or below, or equivalent, under this subparagraph is deemed qualified to perform the duties of the position on the basis of the veteran's civilian and military service.

(76 A Stat. 18; 2 C.Z.C. 149 (c)(2); E.O. 9830, 3 CFR 1943-1948 Comp., p. 606; E.O. 11103, 3 CFR, 1959-1963 Comp., p. 762)

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-2079 Filed 1-18-79; 8:45 am]

[6325-01-M]

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

AGENCY: Office of Personnel Management.

ACTION: Interim regulation with comments invited for consideration in final rulemaking.

SUMMARY: The Office of Personnel Management is issuing interim regulation which requires Federal agencies to notify State Job Service Offices and the Office of Personnel Management of vacancies in the competitive service which they intend to fill from outside the Federal service other than through competitive examinations or rehiring of former Federal employees. This requirement is specifically included in the Civil Service Reform Act of 1978, section 309 (5 U.S.C. 3327).

DATE: Effective Date: January 11, 1979, and until final regulations are issued. Comment Date: Written comments will be considered if received no later than March 20, 1979.

ADDRESS: Send written comments to Arch S. Ramsay, Deputy Associate Director for Staffing, Room 6F08, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Patricia Esslinger, Staffing Services, 202-632-6013.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

Accordingly, § 330.102 is added to 5 CFR Part 330 as set out below:

§ 330.102 Notification of vacancies to State Job Service and Office of Personnel Management.

Federal agencies (as defined in 5 USC 5102(a)(1) must notify State Job Service offices and the Office of Personnel Management of vacant positions in the competitive service which they intend to fill from outside the Federal service, other than through competitive examinations or rehiring of former Federal employees. Such notification must indicate the period during which applications will be accepted.

(5 U.S.C. 3327)

JAMES C. SPRY,
Special Assistant to the Director, Office of Personnel Management.

[FR Doc. 79-2083 Filed 1-18-79; 8:45 am]

[6325-01-M]

PART 550—PAY ADMINISTRATION (GENERAL)

Allotments to Labor Organizations and Other Associations

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The following amendments revise Subpart C of Part 550 which governs allotments to labor organizations and other associations. With the enactment of the Civil Service Reform Act of 1978, effective January 11, 1979, allotments for union dues will generally be made under section 7115 of title 5, United States Code. Therefore, in order to reflect this change in the legal basis for most allotments for union dues, §§ 550.321-2 and 550.324 of Title 5, Code of Federal Regulations, governing allotments to labor organizations are being deleted effective January 11, 1979. In addition, the enactment into law of the Federal service labor-management relations program has rendered obsolete certain references to Executive Order 11491 which previously provided the legal basis for the program. Therefore, such references are being deleted from subsections (e) and (m) of § 550.301. Since these changes are required by statute and are not discretionary, they are being published as a final rule.

It is important to note, however, that not all references to labor organizations or to Executive Order 11491 hve been eliminated. This results from the need to retain both the savings provision in § 550.323 which incorporates such references and sufficient definitional and other explanatory material to make that section understandable.

EFFECTIVE DATE: January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

Harry A. Wolf, Office of Personnel Management, Room 3351, 1900 E Street NW., Washington, D.C. 20415, 202-632-6553.

SUPPLEMENTARY INFORMATION: Section 7115 of title 5, United States Code, under which allotments for union dues will generally be made beginning January 11, 1979, reads as follows:

§ 7115. Allotments to representatives.

(a) If an agency has received from an employee in an appropriate unit a written assignment which authorizes the agency to deduct from the pay of the employee amounts for the payment of regular and periodic dues of the exclusive representative of the unit, the agency shall honor the assignment and make an appropriate allotment pursuant to the assignment. Any such allotment shall be made at no cost to the exclusive representative or the employee. Except as provided under subsection (b) of this section, any such assignment may not be revoked for a period of 1 year.

(b) An allotment under subsection (a) of this section for the deduction of dues with respect to any employee shall terminate when—

(1) the agreement between the agency and the exclusive representative involved ceases to be applicable to the employee; or

(2) the employee is suspended or expelled from membership in the exclusive representative.

(c)(1) Subject to paragraph (2) of this subsection, if a petition has been filed with the Authority by a labor organization alleging that 10 percent of the employees in an appropriate unit in an agency have membership in the labor organization, the Authority shall investigate the petition to determine its validity. Upon certification by the Authority of the validity of the petition, the agency shall have a duty to negotiate with the labor organization solely concerning the deduction of dues of the labor organization from the pay of the members of the labor organization who are employees in the unit and who make a voluntary allotment for such purpose.

(2)(A) The provisions of paragraph (1) of this subsection shall not apply in the case of any appropriate unit for which there is an exclusive representative.

(B) Any agreement under paragraph (1) of this subsection between a labor organization and an agency with respect to an appropriate unit shall be null and void upon the certification of an exclusive representative of the unit.

All of Subpart C, "Allotments and Assignments from Federal Employees" will be amended to conform with the Civil Service Reform Act of 1978. However, at the present time only the portions affected by section 7115 of title 5, United States Code, are amended.

Accordingly, paragraphs (e) and (m) of § 550.301 of Title 5, Code of Federal Regulations, are amended and §§ 550.321, 550.322, and 550.324 are revoked as set out below:

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§ 550.301 Definitions.

. . . . . .

(e) "Association of management officials or supervisors" means an association composed of management officials or of supervisors with which the agency has established official relationships.

. . . . . .

(m) "Professional or other associations" means an organization with which the agency has established official relationships.

. . . . . .

§ 550.321 [Revoked]

§ 550.322 [Revoked]

§ 550.324 [Revoked]

(5 U.S.C.; EO 10982, 3 CFR 1959-1963 Comp., p. 502)

JAMES C. SPRY,
Special Assistant to the Director, Office of Personnel Management.

[FR Doc. 79-2077 Filed 1-18-79; 8:45 am]

[6325-01-M]

CHAPTER II—MERIT SYSTEMS PROTECTION BOARD

Organization and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Publication of interim regulations.

SUMMARY: These regulations establish interim procedures for the operations of the Merit Systems Protection Board under the Civil Service Reform Act of 1978. These regulations expire no later than June 30, 1979. Proposed regulations for public comment will be published as soon as possible.

EFFECTIVE DATE: January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

Alan Greenwald or Deborah House, Office of the Chair of the Merit Systems Protection Board, Washington, D.C. 20419 (202-653-7101).

SUPPLEMENTARY INFORMATION: These regulations are published under the authority conferred on the Board by 5 U.S.C. § 1101 et seq., the Civil Service Reform Act of 1978 (Pub. L. 95-454) signed into law by President Carter on October 13, 1978 ("the Act").

Under the findings and statement of purpose of that enactment, the Congress stated ten underlying policy considerations, including among others the desire that:

Federal personnel management be implemented consistent with merit system principles and free from prohibited personnel practices; that those principles be expressly stated to furnish guidance to federal agencies in carrying out their responsibilities in administering the public business; that prohibited personnel practices be statutorily defined to enable federal employees to avoid conduct which undermines the merit system principles and the integrity of the merit system; and that federal employees receive appropriate protection through increasing the authority and powers of the Merit Systems Protection Board.

These regulations supersede all regulations adopted at any time by the Civil Service Commission relating to the functions imposed on the Merit Systems Protection Board by the Act and Reorganization Plans 1 and 2 of 1978. However, it should be emphasized that these regulations are issued in compliance with the Savings Provision of Pub. L. No. 94-454 (§ 902(b)) which states:

No provision of this Act shall affect any administrative proceeding pending at the time such provision takes effect. Orders shall be issued in such proceedings and appeals shall be taken therefrom as if this Act had not been enacted.

Accordingly, these interim regulations are not applicable to any administrative proceeding instituted prior to the effective date of the Act. Such proceedings will be conducted in accordance with all regulations applicable prior to the effective date of this Act which are incorporated herein by reference, except that all actions previously delegated to the Federal Employee Appeals Authority or the Appeals Review Board are vested in the Merit Systems Protection Board.

The Merit Systems Protection Board has determined that the January 11, 1979 effective date of the Act establishes good cause for immediately publishing regulations under the Act.

Accordingly, 5 CFR is amended as follows:

Chapter II, entitled, "Merit Systems Protection Board" is established and new Parts 1200—1206 are added to read as follows:

SUBCHAPTER A—ORGANIZATION AND PROCEDURES

PART 1200—BOARD ORGANIZATION

Subpart A—General

Sec.
1200.1 The Board.
1200.2 The Chair; Vice Chair.

Subpart B—Offices of the Board [Reserved]

Authority: 5 U.S.C. 1101 et seq.

Subpart A—General

§ 1200.1 The Board.

The Merit Systems Protection Board ("the Board") is composed of three members who are appointed by the President with the advice and consent of the Senate, and whose terms are for a period of seven years.

§ 1200.2 The Chair; Vice Chair.

One of the members of the Board shall be designated from time to time by the President, with the advice and consent of the Senate, to serve as the Chair and chief executive and administrative officer of the Board. From time to time the President shall also designate one of the members of the Board to serve as Vice Chair. In the absence or disability of the Chair, or when the office of Chair is vacant, the Vice Chair shall perform the functions vested in the Chair. During the absence or disability of both the Chair and Vice Chair or when their offices are vacant, the remaining Board member shall perform the functions vested in the Chair.

Subpart B—Offices of the Board [Reserved]

PART 1201—PRACTICES AND PROCEDURES

Subpart A—Jurisdiction and Definitions

Sec.
1201.1 General.
1201.2 Original jurisdiction: definition and application.
1201.3 Appellate jurisdiction: definition and application.
1201.4 General definitions.

Subpart B—Hearing Procedures for Appellate Cases

GENERAL

1201.11 Scope.
1201.12 Suspension, revocation, amendment or waiver of rules.

PETITIONS FOR REVIEW OF AGENCY ACTION, PLEADINGS

1201.21 Filing of petition for appeal.
1201.22 Computation of time.
1201.23 Length, form and content of pleadings.
1201.24 Petitions, pleadings and briefs to be filed: form and proof of service.

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INTERLOCUTORY APPEALS

1201.91 [Reserved]

EX PARTE COMMUNICATIONS

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1201.102 Prohibition against ex parte communications.
1201.103 Permissible ex parte communications.
1201.104 Sanctions for prohibited ex parte communications.

FINAL DECISIONS

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1201.112 Jurisdiction of the presiding official.
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Subpart E—Compliance Enforcement

1201.161 Enforcement of Board orders.

AUTHORITY: 5 U.S.C. 1101 et seq.

Subpart A—Jurisdiction and Definitions

§ 1201.1 General.

The Board exercises two types of jurisdiction: original jurisdiction and appellate jurisdiction.

§ 1201.2 Original jurisdiction: Definition and application.

The Act confers upon the Board original jurisdiction over: actions brought by the Special Counsel (5 U.S.C. §§ 1206(c)(1)(B)(g)(1), (h) and 1207(d)); requests for stays of certain personnel actions (5 U.S.C. § 1208) actions against administrative law judges (5 U.S.C. § 7521); and requests for informal hearings in cases of removal from the Senior Executive Service (5 U.S.C. § 3592).

§ 1201.3 Appellate jurisdiction: Definition and application.

(a) Appellate jurisdiction lies in the Board in cases specified in the Act where there have been prior actions or proceedings within an agency except to the extent that the Board has original jurisdiction as described in § 1201.2. The Act confers appellate jurisdiction over: actions based upon removal, suspension for more than 14 days, reduction in grade or pay, or furlough for 30 days or less (5 U.S.C. § 7513(d)); actions otherwise appealable to the Board and involving an allegation of discrimination (5 U.S.C. § 7702); certain actions relating to the Senior Executive Service (5 U.S.C. § 7543(d)); of the Act and § 413(j) of Public Law 95-454); actions involving reinstatement of preference eligibles (38 U.S.C. § 2023); removal or reduction in grade of competitive or preference eligible employees. (5 U.S.C. § 4303(e)); and denial of grade step increases (5 U.S.C. § 5335(c)); and such actions for which jurisdiction may be granted by regulations of the Office of Personnel Management (OPM).

(b) The Board may not hear matters under §§ 4303 and 7512 where the aggrieved employee has elected to utilize a negotiated grievance procedure rather than the appellate procedures of § 7701. This election does not, however, prejudice the right of the employee to request review pursuant to § 7702 of any final decision otherwise appealable to the Board involving discrimination. (5 U.S.C. § 7121(d) and (e)).

§ 1201.4 General definitions.

(a) *Presiding Official:* This term means any person designated by the Board to preside over any hearing under this Chapter including: a hearing officer, administrative law judge, the Board or any of the Members of the Board when so sitting;

(b) *The Act:* This term means the Civil Service Reform Act of 1978 (Public Law 95-454).

Subpart B—Hearing Procedures for Appellate Cases

GENERAL

§ 1201.11 Scope.

The rules in this subpart govern proceedings pursuant to the appellate jurisdiction of the Board. These rules are also applicable to proceedings pursuant to the original jurisdiction of the Board except as otherwise provided. It is the policy of the Board that these rules shall be applied in order to process each case expeditiously with due regard to the rights of all parties.

§ 1201.12 Suspension, revocation, amendment, or waiver of rules.

These rules may be suspended, revoked, amended or waived in whole or in part by the Board on petition or on its own motion. *Provided, however,* That a presiding official may waive a rule, such as the time limit for filing, for the purpose of an individual case for good cause shown.

PETITIONS FOR REVIEW OF AGENCY ACTION, PLEADINGS

§ 1201.21 Filing of petition for appeal.

(a) *Place of filing:* Petitions for appeal to the Board shall be filed at the appropriate Board field office.

(b) *Time of filing:* The petition shall be filed in the designated place no

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later than twenty calendar days after the effective date of the agency action complained of, or the appellant's receipt of notice of the appealable action, whichever is later. Petitions received from outside of the contiguous 48 states, however, shall be deemed timely filed if received within thirty days after appellant's receipt of notice of an appealable action or the effective date of the action, whichever is later. Such responsive pleadings, briefs, and other documentation as may be required to adjudicate the case fairly and completely shall be filed in accordance with the time limits set by the presiding official. For purposes of this regulation, filing shall be interpreted to mean receipt of the document by the presiding official.

§ 1201.22 Computation of time.

In computing the time for filing any pleadings prescribed by or allowed under these regulations, the day of the event, action, or failure to act, from which the designated time period begins to run shall not be counted. The last day of the period so computed shall be counted unless it is a Saturday, Sunday, or federal legal holiday, in which case the time period shall include the next day which is not a Saturday, Sunday, or federal legal holiday. When the time period prescribed or allowed under these regulations or by order of the presiding official is less than seven (7) days, the time computation shall exclude intervening Saturdays, Sundays and federal legal holidays. When these regulations require the filing of any petition for appeal or review, such petition must be received at the office of the presiding official before the close of business of the last day of the original time limit for such filing, or the last day of any extension of time which may have been granted.

§ 1201.23 Length, form, and content of pleadings.

(a) All petitions shall clearly set forth: the names of the parties; the agency involved; the date of the agency's decision and its effective date; and the nature of the action (*e.g.*, suspension for more than fourteen days, removal, et cetera). All petitions and other pleadings or briefs must bear the signature of the party filing the document or his/her representative.

(b) An appellant under 5 U.S.C. § 7701 is entitled to a hearing before a qualified presiding official. Appellant may waive his/her right to a hearing and in such an event the decision of the presiding official will be made on the written record.

(c) All pleadings, including petitions, responsive pleadings, and briefs, shall be neat and legible and shall be reasonable in length and contain certificates of service where required.

§ 1201.24 Petitions, pleadings, and briefs to be filed: Form and proof of service.

(a) Two copies of all petitions, responsive pleadings, motions and briefs must be filed at the office of the presiding official. Except where otherwise provided in these regulations or by order of the presiding official, a copy of each such document must be served on all parties, including, whenever relevant, intervenors.

(b) Service may be made either upon the party or parties, or, where represented, upon the representative(s) of the party or parties. Such service may be made either by mail or in person. In cases where service is made by mail, the document served must be deposited in an official depository of the United States Postal Service, addressed to the party or his/her representative at the last known address thereof, or, if no address is known, addressed to the office of the presiding official. Service by mail is complete upon mailing. Whenever service is made in person, service is accomplished by handing a copy to the party or representative or by leaving it at the home or office of the party or representative with a person of suitable age and discretion.

(c) Proof of service consists of a certificate affixed to the original of the document being served and filed, showing the name and residence or business address of the person who deposited the document in the mail; the name and residence or business address of the person to whom the document was addressed; and the date, city and state where the document was deposited in the mail. In the case of personal service, the same certificate shall be appended to the document being served and filed, but shall show the name and address of the person making service, the date and place of such service, and the name and address of the person being served.

PARTIES, PRACTITIONERS, WITNESSES

§ 1201.31 Parties, representation.

(a) All parties to an appeal may be represented. The parties shall immediately designate their representatives, if any, in writing to the presiding official, and shall serve a copy of such designation upon all other parties to the appeal. Any subsequent changes in representatives shall also be in writing and served on all other parties.

(b) There are no limitations as to what person may be chosen by a party to represent him/her before the presiding official; however, the other party or parties may challenge the choice on the grounds of conflict of position or conflict of interest. Such a challenge must be made within seven (7) calendar days after receipt of the notice of designation, and must be decided by the presiding official prior to consideration of the case on the merits. These procedures apply equally to original and subsequent designations of representatives.

(c) The presiding official, on his/her own motion, may disqualify a party's representative on the same grounds as described above.

§ 1201.32 Witnesses, right to representation.

Witnesses shall have the right to representation when testifying.

§ 1201.33 Federal witnesses.

Every federal agency shall make its employees available to furnish sworn statements or to appear as witnesses at the hearing when requested by the presiding official.

§ 1201.34 Intervenors.

(a) *Intervention by OPM:* The Director of OPM ("the Director") pursuant to 5 U.S.C. § 7701(d)(1) may intervene as a matter of right if:

(1) the interpretation or application of any Civil Service law, rule or regulation, under the jurisdiction of OPM is at issue; and

(2) the Director is of the opinion that an erroneous decision would have a substantial impact on any Civil Service law, rule, or regulation under the jurisdiction of the Office.

Such intervention shall be made at the earliest practicable time so as not to prejudice the parties or unduly delay the proceeding.

(b) *Intervention of the Special Counsel:* Pursuant to 5 U.S.C. § 1206(i), the Special Counsel may intervene as a matter of right in any proceeding before the Board. Such intervention must be made at the earliest practicable time in the proceeding so as not to prejudice the parties or unduly delay the proceedings.

(c) *Permissive intervention:* Any person whose interests may be directly affected by the outcome of a proceeding before the Board may petition the presiding official for permission to intervene. Such petition shall be served upon all parties of record to the proceeding. It shall be solely within the discretion of the presiding official to grant or deny the petition, based upon his/her determination that the intervention will not prejudice the rights of the parties or unduly delay the proceedings. Such determination shall specify the issues regarding which the intervenor may participate. Under these regulations, a permissive intervenor has the same rights and obligations as a party, except that: 1) the intervenor's scope of participation may be limited by the presiding official to

issues affecting the intervenor; 2) the intervenor shall not have an independent right to a hearing.

§ 1201.35 Substitution.

If a party to an appeal dies or is otherwise unable to pursue the action, the appeal will be processed to completion upon substitution as the party of record of the successor-in-interest to the rights of the party.

§ 1201.36 Consolidation or joinder.

If the presiding official believes that consolidation or joinder of cases would result in more expeditious processing of the appeals and would not adversely affect any party, he/she may, after giving the parties opportunity to object, consolidate the cases and hear and decide them concurrently. In so doing the presiding official may:

(a) consolidate appeals filed by two or more appellants; or

(b) join two or more appeals filed by the same appellant.

§ 1201.37 Fees.

(a) *Attorney fees:* Except as provided in subparagraph (1) of this section, the presiding official may require payment by the agency involved of reasonable attorney fees incurred by an appellant if he/she is the prevailing party and payment by the agency is warranted in the interest of justice, including any cases in which a prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit.

(1) If an appellant is the prevailing party and the decision is based on a finding of discrimination prohibited under 5 U.S.C. § 2302(b)(1), the payment of attorney fees shall be in accordance with the standards prescribed under § 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)).

(2) If, after a presiding official determines that fees are properly payable, the agency involved agrees to the amount of the fees requested, the presiding official shall order payment of such fees. If the agency does not agree to the amount requested, the presiding official may require the attorney requesting the fees and the agency involved to submit any information or argument concerning the application for fees. The presiding official shall then determine the proper amount of fees to be awarded.

(b) *Witness fees:* (1) Federal employees: Employees of any federal agency who testify in any proceeding before the Board shall not receive witness fees if they are in official duty status. Payment of travel and per diem expenses shall be governed by applicable regulations of OPM and the Federal Travel Regulations of the General Services Administration.

(2) Other witnesses: Witnesses who are not covered by subsection (1) of this section are entitled to the same witness fees as those paid subpenaed witnesses under 28 U.S.C. § 1821.

(3) Payment of witness fees: Witness fees shall be paid by the party requesting the presence of the witness and shall be tendered to the witness at the time the subpena is served, or, where the witness appears voluntarily, at the time of appearance.

PRESIDING OFFICIALS

§ 1201.41 Authority of presiding officials.

Presiding officials shall conduct fair and impartial hearings and take all necessary action to avoid delay in the disposition of all proceedings. They shall have all powers necessary to that end unless otherwise limited by statute or regulation, including the authority to:

(a) Administer oaths and affirmations;

(b) Issue subpenas in accordance with § 1201.81 of this Part;

(c) Rule upon offers of proof and receive relevant evidence;

(d) Rule upon the institution of discovery procedures as appropriate in accordance with § 1201.74;

(e) Regulate the course of the hearing, maintain decorum, and exclude from the hearing any person engaged in contemptuous conduct or otherwise disrupting the proceeding, any witness whose presence may adversely affect the testimony of any other witness, or any witness who may testify in the future;

(f) Consider and rule upon all procedural and other appropriate motions;

(g) Require the filing of memoranda of law and the presentation of oral argument with respect to any question of law;

(h) Order the production of evidence relevant to the issues to be resolved in the hearing;

(i) Impose sanctions as provided under § 1201.43 of this Part;

(j) File initial decisions; and

(k) To take any other action authorized by these rules.

§ 1201.42 Disqualification of presiding official.

(a) In the event that a presiding official deems him/herself disqualified he/she shall withdraw from the case and immediately notify the Board of the withdrawal.

(b) Any party may make a motion for disqualification of the presiding official not later than 5 days before the commencement of the hearing. The basis for the motion for disqualification shall be stated with specificity.

(c) The presiding official may rule on the motion for disqualification. If the ruling is against the moving party, exception must be taken to the ruling or the right to request disqualification will be deemed to have been waived.

(d) In the event that an exception is taken to the ruling of the presiding official he/she shall certify the motion to the Board and the proceeding shall be stayed pending its determination.

§ 1201.43 Sanctions.

The presiding official may impose any necessary sanctions upon the parties as will serve the ends of justice including:

(a) *Failure to comply with an order:* In the absence of good cause shown, if a party fails to comply with an order including an order for: the taking of a deposition; the production of evidence within the party's control; compliance with a subpena; a request for admission; and production of a witness; the presiding official may:

(1) Draw an inference in favor of the requesting party with regard to the information sought; or

(2) Prohibit the party failing to comply with such request from introducing evidence of, or otherwise relying upon testimony relating to, the information sought; or

(3) Permit the requesting party to introduce secondary evidence of the information sought, and prohibit the party failing to comply with the request from objecting thereto; or

(4) Strike that part of the pleadings or other submission of the party failing to comply with such request pertaining thereto.

(b) *Failure to prosecute:* If a party fails to prosecute his/her case or defend an appeal the presiding official may dismiss the action with prejudice or rule for the appellant.

(c) *Failure to make timely filing:* The presiding official may refuse to consider any motion or other action which is not filed in a timely fashion in compliance with this Part.

(d) *Failure to make service:* The presiding official may refuse to consider any motion or other action which is not properly served on all parties. A failure to meet technical requirements of service under this Part will not affect the rights of any parties if service was actually completed and the rights of the party being served was not prejudiced.

HEARINGS

§ 1201.51 Scheduling the hearing.

The notice of hearing shall fix the date, time and place of the hearing. The hearing shall be scheduled not earlier than ten calendar days after the date of the notice. The agency, upon request of the presiding official,

shall provide adequate hearing facilities. Requests for postponement by either party shall be made in writing and shall be granted only upon good cause shown.

§ 1201.52 Public hearings.

A public hearing shall be held unless the appellant requests a closed hearing. The presiding official may close one or more sessions of a hearing in the best interests of the appellant, a witness, the public or other affected persons. The reasons for the hearing officer's decision to close one or more sessions of a hearing, and any objections thereto, shall be made a part of the record.

§ 1201.53 Transcript.

(a) *Preparation:* Every hearing shall be recorded verbatim under the supervision of the presiding official and shall be the sole official transcript of the proceeding. A copy of the transcript shall be made available to each party; intervenors shall be furnished a copy at their own cost.

(b) *Corrections:* Corrections of the official transcript will be permitted only when errors of substance are involved and only upon approval of the presiding official.

§ 1201.54 Official record.

The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding shall constitute the exclusive and official record.

Where any decision rests on official notice of a material fact not appearing in the record, the presiding official shall so state in his/her decision.

§ 1201.55 Motions.

(a) All motions shall be filed with and decided by the presiding official—if within his/her authority to do so.

(b) All motions shall be in writing, stating the particular order, ruling or action desired and the basis therefor and shall be served on all parties. The presiding official may waive the requirement for a written submission if it is made during the course of the hearing.

(c) Motions for extension of time will be granted only for good cause shown.

§ 1201.56 Burden and degree of proof.

(a) *Burden of proof:*

(1) Pursuant to § 7701(c)(2) of the Act the agency's decision may not be sustained by the presiding official if the employee can demonstrate that the decision of the agency:

(i) was based upon harmful error in the application of its own procedures;

(ii) was based upon a prohibited personnel practice as set forth in § 2302(b) of the Act; or

(iii) was not otherwise in accordance with law.

(b) *Degree of proof:* In the absence of the appellant's ability to demonstrate the above, the decision of the agency must be sustained by the Board pursuant to § 7701(b)(1) of the Act if:

(1) it is brought under § 4303 of the Act and can be supported by substantial evidence, or

(2) it is any other type of case and is supported by a preponderance of the evidence.

(c) *Moving forward:* The agency shall present its case first. The appellant may then present rebuttal evidence, Provided however, that the appellant shall have the burden of proof as to issues of jurisdiction.

§ 1201.57 Closing the record.

(a) When there is a hearing, the record shall be closed at the conclusion of the hearing except that, when the presiding official allows the parties to submit written argument or briefs or documents previously identified for introduction into evidence, the record shall be left open for such time as the presiding official grants for that purpose.

(b) In cases in which the appellant waives a hearing, the record will be closed on the date set by the hearing officer as the final date for the receipt of representations of the parties to the matter.

(c) Once the record is closed, no additional evidence or argument shall be accepted into the record except upon a showing that new and material evidence which was not readily available prior to the closing of the record is now available and is offered into evidence.

Evidence

§ 1201.61 Service of documents.

All evidentiary documents shall be served upon all parties to the proceeding in the same manner as pleadings, to the extent practicable. Exception to this rule shall be made for medical evidence which a prudent physician would hesitate to release to a patient. Such evidence shall be made available only to a duly licensed physician designated by the appellant or his/her representative.

§ 1201.62 Admissibility.

All evidence and testimony offered in the hearing, or where appropriate, a description thereof, shall be made a part of the record even though excluded by the presiding official from consideration as being irrelevant, immaterial, or unduly repetitious.

§ 1201.63 Production of evidence by order of presiding official.

At any stage of a hearing, the presiding official may request further evidence upon an issue and require its submission.

§ 1201.64 Production of statements.

After a witness is called and has given direct testimony in a hearing, but before he/she is excused, any party may move for production of a statement of such witness, or part thereof relevant to his/her direct testimony, which has been reduced to writing and signed by the witness and is in the possession of the party calling the witness. If the party declines to furnish the statement, the testimony of the witness pertaining to the requested statement may be stricken.

§ 1201.65 Admission of facts and genuineness of documents.

(a) Upon leave of the presiding official, a party may serve upon any other party a request for the admission by the latter of the genuineness of any relevant documents identified within the request or the truth of any relevant matters of fact as set forth in the request.

(b) Within the time period prescribed by the presiding official, the party on whom the request is served must serve upon the requesting party:

(1) a sworn statement specifically denying or admitting or expressing a lack of knowledge regarding the specific matters on which an admission is requested; or

(2) an objection to the request in whole or in part on the ground that the matters contained therein are privileged or irrelevant or otherwise improper.

§ 1201.66 Stipulations.

The parties may stipulate to the truth of any alleged fact. Such a stipulation will satisfy a party's burden of proving the alleged fact.

§ 1201.67 Official notice.

The presiding official may take official notice of matters of common knowledge or certain verification and the taking therof will be noted in the record. Notice will not be taken unless the parties are advised and given the opportunity to oppose the propriety of taking such notice. Official notice satisfies a party's burden of proving the fact which is noticed.

Discovery

§ 1201.71 Statement of purpose.

It is the intent of the Board that all proceedings will be conducted as expeditiously as possible with due regard to the rights of the parties. With regard to discovery, these two considerations

require that a careful balance be established between avoiding unproductive delay in adjudication and obtaining that information essential to perfect the record. Accordingly, the discretion of the presiding official must be carefully exercised in determining the necessity for discovery in the appellate jurisdiction of the Board.

§ 1201.72 Motions for discovery.

Any party to the proceeding may file a motion with the presiding official for approval of the taking of depositions and interrogatories; the production of documents or other evidence or information. Such motions shall be filed prior to hearing.

§ 1201.73 Scope.

Persons and parties may be examined regarding any matter, not privileged, which is relevant to the hearing issues, including the existence, description, nature, custody, condition and location of documents or other tangible things and the identity and location of persons having knowledge of relevant facts.

§ 1201.74 Orders for discovery.

(a) Request for order: Requests for orders to take deposition or respond to written interrogatories where the presiding official is an administrative law judge or the Board may be submitted directly to the presiding official.

(b) Rulings: Presiding officials may approve or deny motions for discovery in whole or in part when authorized to do so. Approval in whole or in part of any motion for discovery shall be made by written order and shall include the following where appropriate:

(1) provision for notice to the party to be orally deposed as to the time and place of such deposition;

(2) any limitations on the conduct of the proceeding or the subject matter so as to protect any party or deponent from expense, embarrassment or oppression;

(3) any limitations upon the time for: deposition; submission of or answer to written interrogatories; or production of evidence; and

(4) any other restrictions upon the discovery procedures as determined by the presiding official.

§ 1201.75 Taking of depositions.

Depositions may be taken before a presiding official, or a notary public not interested in the outcome of the proceeding.

§ 1201.76 Rules governing discovery procedures.

Because discovery pursuant to the appellate jurisdiction of the Board is intended to be of a simplified nature, procedures are not set forth in great detail. To the extent, however, that the nature of discovery in a case requires further detail, the presiding official and parties may seek guidance in the Federal Rules of Civil Procedure on this subject. However, such rules should be interpreted as being instructive rather than controlling.

Subpenas

§ 1201.81 Who may sign and issue.

Pursuant to 5 U.S.C. § 1205(b)(2) of the Act any Member of the board or an administrative law judge appointed under 5 U.S.C. § 3105, may issue subpenas requiring the attendance and testimony of witnesses and the production of documents or other evidence.

§ 1201.82 Requests for issuance of subpenas.

(a) Requests for a subpena in a proceeding where the presiding official is the Board, a Member of the Board, or an administrative law judge, may be submitted directly to the presiding official;

(b) Unless submitted on the record while a hearing is in progress, requests for a subpena for testimony and documents shall be submitted in writing, and in the case of the latter shall specify with particularity the books, papers and documents desired and the facts expected to be proven thereby.

(c) All requests for subpenas shall be supported by a showing of the general relevance and reasonable scope of the evidence sought.

§ 1201.83 Motions to quash.

Any person against whom a subpena is directed may file a motion to quash or limit the subpena, setting forth the reasons why the subpena should not be complied with or why it should be limited in scope.

§ 1201.84 Rulings.

In denying a request for a subpena or motion to quash, in whole or in part, presiding officials shall render prompt rulings including a statement of the reasons for such denial.

§ 1201.85 Service.

Service of subpena may be made by a United States Marshal or Deputy Marshal, by Board personnel or any person who is not a party to the hearing and is over 18 years of age.

§ 1201.86 Return of service.

The service of a subpena by a person other than a United States Marshal or Deputy Marshal shall be attested to by the person making such service. The attesting affidavit should state the date, time and method of making service.

§ 1201.87 Enforcement.

In the case of contumacy or failure to obey a subpena issued, the Board may request the United States District Court to enforce the subpena pursuant to 5 U.S.C. § 1205(c). Application for enforcement of the subpena shall be made by the General Counsel of the Board.

Interlocutory Appeals

§ 1201.91 [Reserved]

Ex Parte Communications

§ 1201.101 Definitions.

(a) *Ex parte communication:*

(1) Any written presentation made to decision-making personnel of the Board during the course of a restricted proceeding by any other person which is not served on the parties to the proceeding.

(2) Any oral presentation made to decision-making personnel by any other person during the course of a restricted proceeding without advance notice to the parties to the proceeding.

(b) *Restricted proceeding:* All adjudicative proceedings, from the time they are assigned for decision until the time they are no longer subject to review or reconsideration by the Board.

(c) *Interested persons:* Any person having a direct or indirect interest in the outcome of a restricted proceeding, including the following:

(1) Parties to the restricted proceeding.

(2) Any other person who might be aggrieved or adversely affected by the outcome of the restricted proceeding.

(3) Agents for persons who might be aggrieved or adversely affected by the outcome of the restricted proceeding, including attorneys and other representatives.

(d) *Decision-making Board personnel:* The term "Decision-making personnel" includes any presiding official and his/her immediate staff or other Board employee who participates, or can reasonably be expected to participate, in the initial decision-making process or the decision-making process on review or reconsideration.

§ 1201.102 Prohibition against ex parte communications.

(a) No interested person shall, in a restricted proceeding, make or knowingly cause to be made, any ex parte communications to decision-making personnel.

(b) No person shall solicit or encourage others to make any presentation which is otherwise prohibited under this section.

(c) Except as provided in § 1202.102, decision-making personnel shall not make or cause to be made, solicit or encourage ex parte presentations from

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any person and shall not entertain prohibited ex parte communications.

§ 1201.103 Permissible ex parte communications.

The following ex parte communications shall not be considered to be ex parte communications prohibited by the provisions of this subpart.

(a) Ex parte communications authorized by statute or by the Board's rules. However, pleadings which are required to be served but which may be ruled on ex parte do not fall within this category.

(b) Any communication made by or to the General Counsel or his/her staff.

(c) Any communication from an agency of the Federal Government involving classified security information.

(d) Any request for information solely with respect to the status of a restricted proceeding.

§ 1201.104 Sanctions for prohibited ex parte communications.

(a) *Parties:*

(1) Upon notice and hearing, any party to a restricted proceeding who directly or indirectly makes any unauthorized ex parte presentation or who encourages or solicits others to make any such presentation, may be disqualified by the presiding official from further participation in that proceeding. Such alternative or additional sanctions as may be appropriate may be imposed.

(2) To the extent consistent with the interests of justice and the public, a party who has made an ex parte presentation may be required to show cause why his/her claim or interest in the proceeding should not be dismissed, denied, disregarded or otherwise adversely affected.

(b) *Board personnel:* Violations of the provisions of this subpart by Board personnel will be treated in accordance with established disciplinary procedures.

(c) *Other persons:* Such sanctions as may be appropriate under the circumstances will be imposed upon other persons who violate the provisions of this subpart.

FINAL DECISIONS

§ 1201.111 Initial decisions by presiding officials other than the Board.

(a) Except as otherwise provided in this section, the presiding official shall prepare an initial (or recommended) decision within 25 days of the closing of the record, such initial decision shall be immediately transmitted to the Secretary of the Board, to the Director of OPM and to all parties to the hearing.

(b) Each initial decision shall contain:

(1) Findings of fact and conclusions, as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented on the record.

(2) The appropriate rule or order and the sanction, relief or denial thereof.

(3) Recommendations as to the final disposition of the case; and

(4) The date upon which the decision will become effective in accordance with the provisions of this section and in the absence of appeal or reopening.

§ 1201.112 Jurisdiction of the presiding official.

The jurisdiction of the presiding official other than the Board shall cease after he/she has filed the initial decision, *Provided, however,*, that he/she shall retain limited jurisdiction over the proceeding for the purpose of correcting the transcript.

§ 1201.113 Petition for review: Contents.

The petition for review shall contain exceptions to the decision of the presiding official. The basis for each exception shall be clearly set forth and shall include the laws relied upon in support of the petition with specific reference to the record. The Board may grant a petition for review when the party requesting submits written review argument and supporting documentation tending to establish that:

(a) New and material evidence is available that despite due diligence was not available when the decision of the presiding official was issued; or

(b) The decision of the presiding official is based upon an erroneous interpretation of law, rule, or regulation, or a misapplication of established policy; or

(c) The decision of the presiding official is of a precedential nature involving new or unreviewed policy considerations that may have substantial impact on a civil service law, rule, regulation or a more Government-wide policy directive.

§ 1201.114 Filing of petition.

(a) *Who may file:* Any party to the proceeding or the Director of the Office of Personnel Management. The Director may request review of a case when he/she is of the opinion that the decision is erroneous and will have a substantial impact on any civil service law, rule, or regulation under the jurisdiction of the Office.

(b) *Time limit for filing:* A petition for review of the initial or final decision must be filed within 30 days of receipt of the decision.

(c) *Place of filing:* Petitions for review shall be filed with the Secretary to the Merit Systems Protection Board, Washington, D.C. (20419).

§ 1201.115 Board action upon petition for review of initial decision.

Any member of the Board may grant a petition for review. In the event that a petition for review is granted shall suspend the running of the 30 day period before which the initial decision will become final. A failure to grant review within the 30 day period shall be deemed to be a denial and the initial decision shall become final.

§ 1201.116 Board reopening and reconsideration of case.

The Board may reopen and reconsider an initial decision of a presiding official on its own motion.

§ 1201.117 Review or reopening of initial decision by Board.

(a) In any case where the Board determines to reopen on its own motion, it shall inform the parties, the Director of OPM and the Special Counsel, in writing, of its decision to reopen, and state the issues which it will consider.

(b) In any case where the Board has determined to grant a petition for review or to reopen a case on its own motion it may take one or more of the following actions:

(1) hear oral argument;

(2) require the filing of briefs; and

(3) reopen the record and remand the proceedings to the presiding official to take further testimony or evidence or to make further findings or conclusions. The Board may deny a petition to review issues not raised before the presiding official.

(c) The Board may affirm or reject, in whole or in part, the initial decision of the presiding official and shall issue a final decision and order a date for compliance where appropriate.

Subpart C—Hearing Procedures for Original Jurisdiction Cases

ACTIONS BROUGHT BY THE SPECIAL COUNSEL

§ 1201.121 Compliance with hearing procedures under subpart B.

In cases where the Special Counsel, under §§ 1206(c), (g)(1) and (h), files a complaint with the Board, he/she shall comply in all regards with the regulations set forth in subpart B, regarding hearing procedures, except as otherwise provided in this subpart. The presiding official in such actions shall be an administrative law judge appointed under 5 U.S.C. § 3105, or the Board.

§ 1201.122 Rights of employees or agencies.

Pursuant to 5 U.S.C. § 1207(a), an employee or agency against whom a complaint has been presented by the

Special Counsel shall have the right to:

(a) file an answer to the complaint;

(b) be represented by an attorney;

(c) a hearing upon the record before the Board or an administrative law judge appointed under 5 U.S.C. § 3105; and

(d) a decision by the Board and the basis therefore at the earliest possible date.

§ 1201.123 Complaint.

(a) If the Special Counsel determines that action should be taken against any employee or agency under 5 U.S.C. §§ 1206(g) or (h), a written complaint setting forth with particularity the supporting facts shall be filed with the Board.

(b) If the Special Counsel determines that an agency has not taken corrective action recommended under 5 U.S.C. § 1206(c)(1)(B) or has engaged in a pattern of prohibited personnel practices not otherwise appealable to the Board under 5 U.S.C. § 7701, a written complaint setting forth with particularity the supporting facts may be filed with the Board.

§ 1201.124 Answer.

(a) *Filing and Default:* The answer shall be filed with the Secretary of the Board within 30 days of receipt of the complaint made by the Special Counsel to the Board. Failure to file an answer without good cause shall be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint. This failure shall authorize the administrative law judge to find the facts alleged in the complaint to be true and to enter an initial decision.

(b) *Content:* An answer shall conform to the following:

(1) *Allegations of the complaint which are contested:* An answer shall contain, for those allegations of a complaint which are contested:

(i) A concise statement of the facts constituting each ground of defense and any documentary evidence in support thereof.

(ii) Specific admission, denial, or explanation of each fact alleged in the complaint or, if the respondent is without knowledge thereof, a statement to that effect. Allegations of a complaint not thus answered shall be deemed to have been admitted.

(2) *Allegations of the complaint which are admitted:* For those allegations which the respondent elects not to contest, his/her answer shall consist of statements of admissions to the truth of such allegations. Such portions of an answer shall constitute a waiver of hearings as to those facts alleged in the complaint, and together with the complaint will provide a record basis on which the administrative law judge or the Board may file an initial decision with respect to such allegations, containing appropriate finding and conclusions and an appropriate order disposing of the proceeding with respect to them.

§ 1201.125 Final order of the Board.

(a) A final order of the Board under 5 U.S.C. § 1207 may impose disciplinary action consisting of removal, reduction in grade, debarment from federal employment for a period not to exceed five years, suspension, reprimand, or the assessment of a civil penalty not to exceed $1,000.

(b) A final order of the Board under 5 U.S.C. 1206(c)(1)(B) may not be imposed without granting to OPM the opportunity to comment on the charges filed by the Special Counsel. The Board may order such corrective actions as are necessary.

(c) The Board may order an agency under 5 U.S.C. § 1206(h) to take such corrective actions as the Board determines necessary.

§ 1201.126 Administrative appeal.

No administrative appeal lies from an order of the Board. In the case of employee disciplinary actions under § 1207, the employee may seek judicial review in the United States Court of Appeals for the circuit in which the employee resides or is employed at the time of such action. An initial decision of an administrative law judge may be appealed to the Board for review under § 1201.113 of this Part.

§ 1201.127 State and local officers or employees.

Cases involving state and local officers and employees shall be considered in accordance with the provisions of Chapter 15 of 5 U.S.C.

ACTIONS AGAINST ADMINISTRATIVE LAW JUDGES

§ 1201.131 Procedures of this part.

Where, pursuant to 5 U.S.C. § 7521, an agency proposes to take action against an administrative law judge appointed under 5 U.S.C. § 3105, the hearing shall comply with the procedures established under subpart B, except as otherwise provided.

§ 1201.132 Presiding official.

The presiding official in all cases brought under this section shall be the Board.

§ 1201.133 Board jurisdiction.

The proposed agency actions which may be heard before the Board under this provision are limited to:

(a) a removal;

(b) a suspension;

(c) a reduction in grade;

(d) a reduction in pay; and

(e) a furlough of 30 days or less.

§ 1201.134 Filing of complaint.

Any action against an administrative law judge shall be initiated by the filing of a complaint setting forth with particularity the facts in support of the action proposed by the moving agency.

§ 1201.135 Procedure.

The administrative law judge against whom the complaint is filed shall file an answer to the complaint in compliance with § 1201.124 of this Subpart.

§ 1201.136 Showing required.

Proposed agency actions under this section are sustainable only for good cause shown.

REMOVAL FROM THE SENIOR EXECUTIVE SERVICE

§ 1201.141 Entitlement to hearing.

In the case of removal of a career appointee from the Senior Executive Service to a civil service position outside the Senior Executive Service pursuant to 5 U.S.C. § 3592, when such action is based on less than fully successful performance as determined under subchapter II of Chapter 43 of title 5, United States Code, the career appointee shall, at least 15 days before the effective date of the removal, be entitled, upon request, to an informal hearing before an official appointed by the Board.

§ 1201.142 Hearing procedures.

In an informal hearing before the Board or its designee as provided for in this section, the appointee may appear and present arguments on the record but shall not be entitled to any other procedural rights.

§ 1201.143 Right to appeal.

No right to appeal from this action shall be available under 5 U.S.C. § 7701, nor shall the removal action be delayed as a result of this hearing.

Subpart D—Procedures for Cases Alleging Discrimination

§ 1201.151 Compliance with hearing procedures under Subpart B.

In cases brought under 5 U.S.C. § 7702, the hearing shall comply with the procedures established under Subpart B except as otherwise provided.

§ 1201.152 Statutory basis.

This subpart applies to appeals in which an appellant alleges that an action otherwise appealable to the Board was based in whole or in part upon discrimination prohibited by—

(a) section 717 of the Civil Rights Act of 1964 (42 U.S.C. § 2000e-16c),

(b) section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. § 206(d)),

(c) section 501 of the Rehabilitation Act of 1973 (29 U.S.C. § 791),

(d) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. §§ 631, 633a), or

(e) any rule, regulation, or policy directive prescribed under any provision of law described in paragraphs (a) through (d) of this section.

§ 1201.153 Acceptance of appeal by Board.

The Board shall accept cases involving discrimination where:

(a) The appellant first raised the issue of discrimination before the agency whose action is being appealed, the Board shall accept the appeal only if—

(1) the agency has issued its final decision in the matter pursuant to 5 U.S.C. § 7702(a)(2); or

(2) the agency has failed to issue its decision in the matter within 120 days following the appellant's initial allegation of discrimination to the agency pursuant to 5 U.S.C. § 7702(e)(2).

(b) The appellant initially pursued a grievance otherwise appealable to the Board under this subpart through a negotiated grievance procedure established pursuant to the provisions of 5 U.S.C. § 7121, the Board shall accept the appeal only if—

(1) A final decision has been issued in the matter pursuant to the negotiated grievance procedure and such decision constitutes the agency decision pursuant to 5 U.S.C. § 7702(a)(2); or

(2) the agency has failed to issue its decision in the matter within 120 days following the employee's initial allegation of discrimination to the agency.

§ 1201.154 Basis of allegation of discrimination.

Where a party alleges discrimination by an agency and brings an action before the Board it may require the party to submit a written statement under oath setting forth the basis for the allegation of discrimination.

§ 1201.155 Right to review by the Equal Employment Opportunity Commission.

The Board shall notify an appellant under this subpart of his/her right to petition the Equal Employment Opportunity Commission (the "Commission") to consider the Board's decision on the discrimination issue within 30 days after notice of the decision by the Board, or to file a civil action in an appropriate U.S. District Court.

§ 1201.156 Action by the Commission.

(a) *Time Limit:* In cases where an employee or applicant decides to petition the Commission for reconsideration, the Commission, under 5 U.S.C. § 7702(b)(2) shall determine within 30 days after receipt of the petition whether to consider the Board's decision. In those instances where the Commission determines to consider, within 60 days after reaching such determination, it shall complete its reconsideration and either concur or write a contrary decision.

(b) *Transmittal of record:* The Board shall transmit a copy of its record to the Commission.

(c) *Development of additional evidence:* When requested by the Commission the Board shall develop additional evidence necessary to supplement the record.

§ 1201.157 Board action on the Commission decision.

Within 30 days after receipt of the decision of the Commission, the Board shall:

(a) concur and adopt in whole the decision of the Commission; or

(b) reject the decision of the Commission to the extent that it finds it erroneous and:

(1) reaffirm the initial decision of the Board; or

(2) reaffirm the initial decision of the Board with such revisions as it determines appropriate.

§ 1201.158 Referral of case to special panel.

If the Board reaffirms the Board's initial decision, with or without modification, the matter shall be immediately certified to the special panel established pursuant to 5 U.S.C. § 7702. Upon certification, the Board shall within 5 days (excluding Saturdays, Sundays, and federal holidays), transmit to the special panel the administrative record in the proceeding, including—

(a) the factual record compiled under this section,

(b) the decisions issued by the Board and the Commission under this section, and

(c) any transcript of oral arguments made, or legal briefs filed, before the Board or the Commission.

§ 1201.159 Action by special panel.

The special panel, convened pursuant to 5 U.S.C. § 7702(d)(2)(A), shall review the administrative record transmitted to it, and, on the basis of the record, issue a final decision which shall be judicially reviewable. The Board shall, upon receipt of the decision of the special panel, order the agency concerned to take any action appropriate to carry out the decision of the panel.

Subpart E—Compliance Enforcement

§ 1201.161 Enforcement of Board orders.

The Board may, upon an adverse decision after a hearing on a complaint filed by the Special Counsel under subchapter B of this Chapter or after giving the employee an opportunity to be heard by the Board or its designee, order that any employee, other than an employee appointed by the President by and with the consent of the Senate, charged with complying with an order of the Board, shall not be entitled to receive payment for service as an employee during any period that the Board's order has not been complied with. The Board shall certify to the Comptroller General of the United States that such an order has been issued and no payment shall be made out of the Treasury of the United States for any service specified in the Board's order.

PART 1202—STATUTORY REVIEW BOARDS

§ 1202.1 Designation of Chair of Statutory Review Boards.

Upon written request by the agency—

(a) The Chair of the Board shall designate a hearing officer of the Board to serve as Chair of the Boards of Review, established by the Secretary of Transportation pursuant to 5 U.S.C. § 3383(b) for review of certain actions to remove air traffic controllers.

(b) The Board shall designate qualified employees of the Board to serve as chairs of performance rating review boards which may be required to be established pursuant to 5 U.S.C. § 4305(b) of the Act as in effect immediately before the effective date of the Act until such time that all reviews of performance ratings pending on the effective date of the Act have been disposed of. (5 U.S.C. 1101 et seq.)

PART 1203—REVIEW OF OFFICE OF PERSONNEL MANAGEMENT RULES AND REGULATIONS [RESERVED]

PART 1204—FREEDOM OF INFORMATION ACT [RESERVED]

PART 1205—PRIVACY ACT [RESERVED]

PART 1206—OPEN MEETINGS OF THE BOARD [RESERVED]

PART 1203—REVIEW OF OFFICE OF PERSONNEL MANAGEMENT RULES AND REGULATIONS [RESERVED]

PART 1204—FREEDOM OF INFORMATION ACT [RESERVED]

PART 1205—PRIVACY ACT [RESERVED]

PART 1206—OPEN MEETINGS OF THE BOARD [RESERVED]

Issued on January 16, 1979, at Washington, D.C.

RUTH T. PROKOP,
Chair, Merit Systems Protection Board.

[FR Doc. 79-2111 Filed 1-18-79; 8:45 am]

[1505-01-M]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

PART 225—SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Final rule

Correction

In FR Doc. 78-36365 appearing at page 8 in the issue of Tuesday, January 2, 1979, make the following changes:

1. On page 10, first column, first complete paragraph, forty-fifth line, "Stat" should be corrected to read "State".

2. On page 10, first column, first complete paragraph, forty-eighth line, "recognize" should be corrected to read "recognizes".

3. On page 10, second column, first line, "export" should be corrected "expect".

4. On page 12, first column, ninth line, "for" should be corrected to read "from".

5. On page 24, second column, in 225.12(c), second line, "descretion" should be corrected to read "discretion".

[3410-30-M]

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—CHILD NUTRITION PROGRAMS

PART 227—NUTRITION EDUCATION AND TRAINING PROGRAM

Assessment of State Nutrition Education Needs, Development of State Plans, and Operational Requirements; Authority Citation

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notification of Authority Citation.

SUMMARY: At 43 FR 25132, June 9, 1978, the Food and Nutrition Service adopted amendments to the interim regulations relating to the Nutrition Education and Training Program. Those amendments added new sections governing the assessment of State nutrition education needs, the development of State plans, and additional operational requirements. This document adds the authority citation under which those amendments were issued.

EFFECTIVE DATE: June 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Henry Rodriguez, Acting Director, Nutrition and Technical Services Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8286.

SUPPLEMENTARY INFORMATION: The proper authority citation for the rule document 78-16251 which amended §§ 227.5, 227.30 and added §§ 227.31, 227.36, 227.37, 227.41-227.44, published at 43 FR 25132 is as follows:

(Section 15, Pub. L. 95-166, 91 Stat. 1340 (42 U.S.C. 1788))

Dated: January 12, 1979.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 79-1642 Filed 1-18-79; 8:45 am]

[3410-30-M]

SUBCHAPTER B—GENERAL REGULATIONS AND POLICIES—FOOD DISTRIBUTION

PART 250—DONATION OF FOODS FOR USE IN UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

Notification of Authority Citations

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notification of authority citations.

SUMMARY: At 43 FR 9782-9783, the Food and Nutrition Service (FNS) adopted a final rule (Amdt. 39) deleting provisions for the Commodity Supplemental Food Program since new regulations for that program had been published under 7 CFR Part 247 at 43 FR 8777. Also, at 43 FR 20954-20955, FNS adopted a final rule (Amdt. 40) pertaining to food donations to nonprofit summer camps for children. Finally, at 43 FR 39070-39074, FNS adopted a final rule (Amdt. 41) making miscellaneous changes related to food donations to programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966. This document adds the authority citations under which these amendments were issued.

DATES: Amdts. 39, 40 and 41 appeared on March 10, 1978, May 16, 1978, and September 1, 1978, respectively.

FOR FURTHER INFORMATION CONTACT:

Darrell E. Gray, Director, Food Distribution Division, Food and Nutrition Services, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-8371.

SUPPLEMENTARY INFORMATION: The proper authority citation for the rule document published at 43 FR 9782-9783 is as follows:

(7 U.S.C. 612c note)

The proper authority citation for the rule document published at 43 FR 20954-20955 is as follows:

(7 U.S.C. 613 note)

The proper authority citations for the rule document published at 43 FR 39070-39074 are as follows:

(43 U.S.C. 1755; 42 U.S.C. 1762a; 42 U.S.C. 1760)

(Catalog of Federal Domestic Assistance Program No. 10.550)

Dated: January 11, 1979.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 79-1799 Filed 1-18-79; 8:45 am]

[3410-02-M]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 182]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period January 21-27, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: January 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on January 16, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.482 Lemon Regulation 182.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period January 21, 1979, through January 27, 1979, is established at 200,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: January 18, 1979.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-2274 Filed 1-18-79; 11:28 am]

[3410-34-M]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Areas Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to quarantine additional portions of San Luis Obispo County in California and a portion of Bureau County in Illinois because of the existence of cattle scabies. Psoroptic cattle scabies was confirmed from specimens collected from cattle in these areas by the Veterinary Services Laboratories in Ames, Iowa. Therefore, in order to prevent the dissemination of cattle scabies it is necessary to quarantine the infested areas.

EFFECTIVE DATE: January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8322.

SUPPLEMENTARY INFORMATION: These amendments quarantine additional portions of San Luis Obispo County in California and a portion of Bureau County in Illinois because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the areas quarantined.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended as follows:

1. In § 73.1a, in paragraph (c) relating to the State of California, new paragraphs (c)(4) and (c)(5) are added to read:

§ 73.1a Notice of quarantine.

* * * * *

(c) * * *

* * * * *

(4) The premises of the Davis Brothers (Happy Valley Ranch), Atascadero, San Luis Obispo County, California, R. 13 E., T 28 S., S. ½ sec. 30, and N. ½ sec. 31.

(5) The premises of the Edwin Borchert Ranch, Paso Robles, San Luis Obispo County, California, R. 13 E., T 25 S., secs. 1, 2, 11, 12, 27, 28, 33, and 34, T. 24 S., secs. 25, 35, and 36.

* * * * *

2. In § 73.1a, a new paragraph (f) relating to the State of Illinois is added to read:

§ 73.1a Notice of quarantine.

* * * * *

(f) Notice is hereby given that cattle in a certain portion of the State of Illinois are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following area in such State is hereby quarantined because of said disease:

The premises of the Prime Rib Feedlot, Walnut, Bureau County, Illinois, Sec. 24, T. 18 N., R. 8 E., Bureau County, Illinois.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

These amendments impose certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and contrary to the public interest, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 12th day of January 1979.

NOTE.—This final rulemaking is being published under emergency procedures as authorized by E.O. 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the possibility of the spread of cattle scabies into other States or Territories of the United States is severe enough to constitute an emergency which warrants the publication of this quarantine without waiting for public comment. These amendments to the regulations covering cattle scabies will be scheduled for review under provisions of E.O. 12044 and Secretary's Memorandum 1955. The review will include preparation of an Impact Analysis Statement which will be available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. 301-436-8695.

M. T. GOFF,
Acting Deputy Administrator, Veterinary Sevices.

[FR Doc. 79-1643 Filed 1-18-79 8:45 am]

[6210-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUPCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. R-0196]

PART 262—RULES OF PROCEDURE

Statement of Policy

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Statement of policy regarding expanded rulemaking procedures.

SUMMARY: The Board of Governors of the Federal Reserve System desires to improve the quality of its regulations through greater public participation in the development of its regulations and early involvement by Board members in the process to assure that regulations are not unduly burdensome and complex. The Board also wishes to improve public understanding of the considerations underlying the regulations it adopts. To accomplish these objectives, the Board is adopting a general policy of following rulemaking procedures that will be more elaborate than those prescribed in the Board's Rules of Procedure for Rulemaking (12 CFR 262.2). When the Board has good cause to follow more expedited procedures, such as those set forth in its regulations, it will state the reasons in the FEDERAL REGISTER notice accompanying the action. The new procedures do not apply to the formulation of monetary policy or to amendments of regulations required to implement monetary policy decisions.

The Board believes that this approach fully complies with the spirit of Executive Order No. 12044 ("Improving Government Regulations") and contributes significantly to furthering the President's goals of reducing regulatory burdens and improving regulations.

The Board is implementing this policy immediately and welcomes suggestions for improving the policy.

DATES: Comments should be submitted in writing on or before March 20, 1979. The new policy is effective January 10, 1979.

ADDRESS: Submit comments to the Secretary to the Board, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The comments received will be available for inspection and copying.

FOR FURTHER INFORMATION CONTACT:

Jerauld C. Kluckman, Associate Director, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Telephone: (202) 452-3401.

SUPPLEMENTARY INFORMATION: The Board, with participation by the Federal Reserve Banks, is engaged in a Regulatory Improvement Project involving a zero-base review of all Federal Reserve regulations that affect the public. Each regulation is being analyzed to determine: the fundamental objectives of the regulation; whether the regulation is obsolete or a different approach would be appropriate; the costs and benefits of the regulation; whether it can be made less burdensome or nonregulatory alternatives adopted without reducing its effectiveness to achieve present-day goals; and whether the regulation is as simple as possible and understandable to those who must comply. To date, this review has been completed for two regulations (Regulations C and E; see 43 FR 53708 and Board release of Nov. 9, 1978), and substantial staff work has been done on others. Deadlines have been set to assure that the review of remaining regulations will be completed as soon as possible.

The Board also has decided to improve access to all Federal Reserve regulatory materials by authorizing issuance of a new, publicly distributed regulatory service that will include regulations, published and previously unpublished Board interpretations, previously uncirculated Board and staff rulings and opinions, relevant policy statements and other materials that affect the public. The Board plans to introduce this service in early 1980 and will update it periodically. The Board believes that ready access to the full range of regulatory materials will enable those regulated to operate with a far greater degree of certainty, and understanding of and compliance with Board rules will be enhanced.

As a further effort to improve its regulations and the regulatory process, the Board as a matter of policy also will apply expanded procedures to the development of new regulations. These procedures are more elaborate than those prescribed in the Board's Rules of Procedure for Rulemaking (12 CFR 262.2).

At the same time, the Board is aware that a lengthier, more involved rulemaking procedure may result in delays detrimental to those making plans or seeking immediate relief from undue burdens. Therefore, when the Board believes that more expedited procedures are fair, necessary, or desirable, it will follow such procedures and inform the public of the reasons for its decision. Ordinarily, consideration of a regulation in a new area of the law will involve greater time and public participation than an amendment to an existing regulation in an established area of the law.

Examples of regulatory actions for which expedited procedures may be appropriate are the following:

(1) The regulation is a technical amendment (e.g., reflecting a name change) or a clarifying change;

(2) The regulation requires prompt action in the public interest (e.g., changes in reserve requirements, stock market margin requirements, or the discount rate, or actions designed to eliminate a loophole);

(3) The regulation reduces a burden where further delay would cause unnecessary harm;

(4) The regulation is a reformulation of a proposal previously issued for public comment; and

(5) The regulation must be adopted within a statutory deadline.

The Board believes its policy will result in improved Board regulations and fully complies with the spirit of Executive Order No. 12044, dated March 23, 1978 ("Improving Government Regulations") (43 FR 12661). In several ways, it goes beyond that Order. For example, the policy generally will be followed for all new proposals, whether or not they are re-

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garded as "significant," and a regulatory analysis will be made in all cases.

To implement this approach the Board has adopted the following policy statement:

STATEMENT OF POLICY REGARDING EXPANDED RULEMAKING PROCEDURES

SECTION 1

Policy. It is the policy of the Board of Governors of the Federal Reserve System to improve the quality and minimize the burdens of its regulations by carefully considering an analysis of proposed regulations before they are published for comment, encouraging maximum public participation in the development of the regulations, and informing the public of the reasons for the Board's regulatory actions.

To achieve these objectives and to comply with the spirit of Executive Order 12044, the Board is setting forth in this statement expanded rulemaking procedures that it intends to follow in developing regulations. If the Board finds it necessary or beneficial in the public interest to avoid delay by following more expedited procedures, such as those set forth in the Board's Rules of Procedure for Rulemaking (12 CFR 262.2), the Board will state its reasons in a notice accompanying its actions. The new procedures do not apply to the formulation of monetary policy or to amendments of regulations required to implement monetary policy decisions.

Examples of regulatory actions for which expedited procedures may be appropriate are the following:

(1) The regulation is a technical amendment (e.g., reflecting a name change) or a clarifying change;

(2) The regulation requires prompt action in the public interest (e.g., changes in reserve requirements, stock market margin requirements, or the discount rate, or actions designed to eliminate a loophole);

(3) The regulation reduces a burden where further delay would cause unnecessary harm;

(4) The regulation is a reformulation of a proposal previously issued for public comment; and

(5) The regulation must be adopted within a statutory deadline.

SECTION 2

Development of regulatory plan. Designated members of the Board will become involved at an early stage in the development of regulations and will meet with staff to review the issues to be considered, the alternative approaches to be explored, a tentative plan to obtain public comment, and target dates for completion of steps in the development of the regulation.

SECTION 3

Public involvement in the development of proposals. The Board believes that the public can make valuable contributions in identifying issues that should be addressed in its regulations. With respect to regulations implementing new areas of law or major revisions of existing regulations, the Board will endeavor to obtain preliminary views of interested persons prior to the development of a proposed regulation. For this purpose, the Board will utilize such procedures as it deems appropriate, including publication of an advance notice of proposed rulemaking, which may suggest specific issues on which comments should be focused; scheduling of an open conference or informal public hearing; and direct solicitation of views from interested persons or groups, selected so as to assure that conflicting interests and appropriate public bodies are fairly represented.

SECTION 4

Initial analysis of proposals. Before presenting any proposals regarding a regulation to the Board for formal action, the staff will prepare a regulatory analysis of the proposal. The extent of the regulatory analysis at this stage will vary, depending upon the nature of the regulation. In every case, at a minimum, the regulatory analysis will discuss the need for and purposes of the regulation, set forth the various options available, discuss, where appropriate, their possible economic implications, evaluate their compliance, recordkeeping and reporting burdens, and recommend the best course of action based on an evaluation of the alternatives. If the regulation concerns an area where considerable information is available, a correspondingly more exhaustive regulatory analysis will be expected.

When the designated Board members involved are satisfied that the issues have been adequately treated by the staff, that the proposals are as simple as possible and understandable to those who must comply and that no unnecessary burdens would be imposed, the staff will present the proposals to the Board for action.

SECTION 5

Preliminary action by the Board. Consideration of the proposals by the Board ordinarily will take place at a meeting open to public observation. The Board ordinarily will authorize publication of a proposed regulation for comment. At that time, the regulatory analysis of the proposals will be made available to the public.

SECTION 6

General public participation. The Board generally will allow at least 60 days for public comment on a proposed regulation. The notice accompanying the proposal will contain a summary analysis of the regulation and inform the public that copies of the regulatory analysis are available through the Freedom of Information Office. When deemed appropriate, the Board may also schedule an informal public hearing.

SECTION 7

Staff analysis following public comments. The staff will prepare a summary of comments received, and this document, as well as the written comments, will be made available to the public. After taking account of the public comments, the staff will prepare recommendations for consideration by the designated Board members. When these members are satisfied that the public comments have received full and appropriate attention, the staff's analysis and recommendations will be presented to the Board for action.

SECTION 8

Final action by the Board and announcement of its decision. Final action on the proposals by the Board ordinarily will take place at a meeting open to public observation. The Board will announce the reasons for whatever action it takes regarding a proposed regulation. The announcement will discuss the Board's rationale for accepting or rejecting arguments regarding the significant issues raised by the public. If the earlier regulatory analysis made available to the public is changed materially, a revised regulatory analysis will be made available.

SECTION 9

Semiannual agenda of regulations. On the first Monday in October, the Board will publish in the FEDERAL REGISTER a schedule showing the times during the next twelve months when it will publish a semiannual agenda of regulations under development or review. The agenda shall describe the regulations that the Board anticipates will be considered, the need and legal basis for the action being taken, and the status of regulations previously listed on the agenda. Each item on the agenda will include the name and telephone number of a knowledgeable member of the Board's staff. Supplements to the agenda may be published at other times during the year as appropriate.

SECTION 10

Periodic review of regulations. The Board will review each of its existing

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regulations at least once every five years. Each regulation is to be re-examined with a view toward eliminating or simplifying it and easing burdens imposed by it. In selecting regulations to be reviewed, the Board will consider such factors as the length of time since the last evaluation of the regulation, the continued need for it, the type and number of complaints and suggestions received, the direct and indirect burdens imposed by the regulation, and the need to simplify or clarify the regulation and eliminate duplication. Essentially the same procedures described in this policy statement will be followed in the periodic review of regulations.

Board of Governors of the Federal Reserve System, January 15, 1979.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 79-1910 Filed 1-18-79; 8:45 am]

[3510-24-M]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 305—PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

Amendment of Grant Rate Policy for Public Works Projects Experiencing Underruns

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Final rule.

SUMMARY: The Economic Development Administration is amending regulations affecting the grant rates for certain public works projects. These amendments will allow an increase in grant rates, within legal maximum, to qualified public works projects which have experienced cost underruns. EDA has discovered that, because of its previous grant rate policy, certain grantees which had experienced underruns were prevented from receiving the full dollar amount of funding committed to their projects. The intended effect of these amendments is to correct that situation and to allow qualified underrun projects to obtain their full commitment of EDA funding.

EFFECTIVE DATE: January 19, 1979.

FOR FURTHER INFORMATION ON THESE RULES CONTACT:

James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230, (202) 377-5441.

SUPPLEMENTARY INFORMATION: During the years 1972 to 1974, some EDA public works grant offers were written offering a stated sum of money (e.g., $100,000) not to exceed a certain percentage of total project cost (e.g. 40%), which percentage was below the maximum grant rate then allowable for the area in which the project was to be located. If the project costs ultimately fell below those estimated at the time of approval, 13 CFR 305.89(b), as it previously read, prevented the grantee from receiving the stated sum of Federal funds because the percentage that the stated sum represented would have exceeded the percentage of total project cost written into the grant agreement. Although total project costs were less, this diminution of the Federal share worked hardships on grantees in meeting their project financing budgets.

On page 47980 of the October 18, 1978, FEDERAL REGISTER, EDA published proposed amendments to 13 CFR 305.8 and 305.89 to correct this unintended effect. 13 CFR 305.89(b) previously stated that in the event the total cost of the project is less than the amount stated in the "Offer of Grant," the grant rate will be unchanged. As amended, § 305.89(b) allows EDA the discretion to increase the percentage of the Federal share of a project's cost, within the legal maximum, above that percentage originally provided for in the "Offer of Grant" if (1) the total cost of the project will be less than the amount stated in the "Offer of Grant," *and* (2) the percentage of the Federal share originally provided for in the "Offer of Grant" was less than that percentage allowed by law at the time the "Offer of Grant" was made. Where these two circumstances coincide (an underrun and a grant rate less than the maximum allowed by law), EDA may increase a project's rate to the maximum allowable at the time the project was approved.

13 CFR 305.8(b) was prefaced by a general statement that "• • • the percentage of the Federal share of a project's cost shall not exceed that percentage originally provided for in the grant agreement, • • •". This restriction applied only to projects receiving construction cost increase grants under the authority of section 107 of PWEDA, as implemented in 13 CFR 305.8. However, the amendment to 13 CFR 305.89(b) appears to create a conflict with this statement. Therefore, in order to avoid confusion, EDA has revised § 305.8 (b) and (c) to clarify the limited scope of application of their restriction on grant rate increases. This modification in language does not change EDA's administration of the construction cost increase grant program.

Interested persons were given thirty days to submit comments on the proposed amendments. Three comments were received from the public. Two commentators complimented EDA on the proposed changes. The third misunderstood the nature and effect of the proposed changes, confusing the amendment of the grant rate policy for underrun projects with EDA's program of assistance for overruns caused by increased construction costs. As no substantive comments on the proposed amendments were received, they are hereby adopted without change as set forth below.

1. 13 CFR 305.8 (b) and (c) are revised to read as follows:

§ 305.8 Grants for construction cost increases.

• • • • • •

(b) The Assistant Secretary may increase the amount of any grant made under the authority of Title I of the Act to a project which meets all the following conditions:

(1) The project is being or will be constructed according to original designs and specifications;

(2) The project's total cost has increased because of increases in costs based on the original designs and specifications; and

(3) The project has incurred construction cost increases after the grant was made but prior to completion of the project.

(c) *Limitations on amount of grants.* (1) The amount of a grant made under paragraph (b) of this section may be equal to an amount based on the percentage increase in the costs referred to in paragraph (b)(2) of the section, as determined by the Assistant Secretary.

(2) A construction cost increase grant may not be in an amount which would cause the Federal share of the project's costs to exceed the percentage originally provided for in the grant agreement.

2. 13 CFR 305.89(b) is revised to read as follows:

§ 305.89 Variance in cost of grant and loan projects.

• • • • • •

(b) In the event the total cost of the project shall be less than the amount stated in the "Offer of Grant," the grant rate may be increased up to the maximum amount allowed by law at the time the grant was accepted.

Dated: January 12, 1979.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

[FR Doc. 79-2000 Filed 1-18-79; 8:45 am]

7 9 UMI

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation ER-1093; Amendment No. 1]

PART 291—GENERAL RULES FOR ALL-CARGO CARRIERS

Approval by Comptroller General

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. January 15, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice of approval by the Comptroller General of the application filing requirements, recordkeeping requirements, and certain notification requirements contained in a regulation governing the operating rules for all-cargo carriers and domestic cargo transportation by section 401 and section 418 carriers. This approval is required by the Federal Reports Act and was transmitted to the Civil Aeronautics Board by letter dated December 27, 1978.

DATES: Effective: January 15, 1979. Adopted: January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

Accordingly, the Civil Aeronautics Board amends Part 291 of its Economic Regulations (14 CFR 291) by adding the following note at the end of Part 291:

NOTE.—The requirement to file an application in section 291.11, the recordkeeping requirement in section 291.23, and the reporting requirement in section 291.33 have been approved by the U.S. General Accounting Office under Number B-180226 (R0574).

This amendment is issued under authority delegated from the Board to the Secretary in 14 CFR section 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-2039 Filed 1-18-79; 8:45 am]

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5973A, 34-15135A, 35-20699A, IC-10389A, AS-254A]

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

Requirements for Form and Content of Financial Statements of Bank Holding Companies and Banks

AGENCY: Securities and Exchange Commission.

ACTION: Correction.

SUMMARY: This document corrects FR Doc. 78-25887 appearing on pages 41022 through 41028 in the FEDERAL REGISTER of September 14, 1978. In § 210.9-02-5(c)(4) in the middle column on page 41025 the reference at the end of the sentence to § 210.9-04(c)(1) should be § 210.9-04(c).

DATE: January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Lawrence J. Bloch, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 472-3782.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 15, 1979.

[FR Doc. 79-2041 Filed 1-18-79; 8:45 am]

[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 76N-0460]

PART 2—GENERAL ADMINISTRATIVE RULINGS AND DECISIONS

Drug Products Containing Chlorofluorocarbons as Propellants in Self-Pressurized Containers for Essential Uses; Clarification of NDA Requirements

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document clarifies the regulation permitting the essential use of chlorofluorocarbons in certain human drug products. It amends the regulation to specifically identify those essential drug products for which the Food and Drug Administration (FDA) has made a finding that an abbreviated new drug application is acceptable.

DATES: Effective January 19, 1979: comments by February 20, 1979.

ADDRESSES: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Paul O. Fehnel, Jr., Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-433-6490.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of March 17, 1978 (43 FR 11301), the Commissioner of Food and Drugs issued a final regulation (21 CFR 2.125) that prohibited, in general, the use of chlorofluorocarbons as propellants in self-pressurized containers in products subject to the Federal Food, Drug, and Cosmetic Act. Five drug classes in which the use of chlorofluorocarbon propellants was believed essential were exempt from the ban. These five drug classes, set forth in § 2.125(e) (21 CFR 2.125(e)), are: (1) Metered-dose steroid human drugs for nasal inhalation, (2) metered-dose steroid human drugs for oral inhalation, (3) metered-dose adrenergic bronchodilator human drugs for oral inhalation, (4) contraceptive vaginal foams for human use, and (5) metered-dose ergotamine tartrate human drugs for oral inhalation.

Section 2.125(c) of this regulation (21 CFR 2.125(c)) provides that any drug product in a self-pressurized container that contains a chlorofluorocarbon propellant is a new drug; this includes the five classes in which the use of chlorofluorocarbons is deemed essential.

The chlorofluorocarbon ban was proposed in the FEDERAL REGISTER of May 13, 1977 (42 FR 24535). At that time, FDA recognized that some specific products included in the drugs generally described in the proposal as containing a chlorofluorocarbon for an essential use had not previously been the subject of new drug applications (NDA's). Specifically, of three over-the-counter (OTC) contraceptive vaginal foam products containing nonoxynol 9 as the active ingredient, one product was not then the subject of an approved NDA. Similarly, some OTC metered-dose epinephrine products for oral inhalation were not the subject of approved NDA's. Accordingly, a provision was included in the May 13, 1977 proposal that would require a firm to submit an NDA for any drug product that is not currently the subject of an approved NDA and is listed in the regulation as using a chlorofluorocarbon propellant for an essential use. The proposal recommended that each firm required to submit such an NDA discuss with FDA the type of information needed before submitting the application. This provision was included because the Commissioner of Food and Drugs had tentatively determined that no additional clinical data to establish efficacy and safety would be needed for the OTC epinephrine inhalation products and the OTC contraceptive vaginal foam products containing nonoxynol 9.

One comment on the proposal recommended that the regulations be revised to specify that an abbreviated new drug application (ANDA) would be acceptable for these drugs. The comment stated that this course would conform to the FEDERAL REGISTER announcement of September 8, 1976 (41 FR 37836), pertaining to isoproterenol hydrochloride for inhalation. This announcement permitted ANDA's to be submitted for isoproterenol hydrochloride inhalation products that were not then the subject of approved NDA's.

In response to this comment, the Commissioner agreed (see paragraph 29 of the March 17, 1978 final order (43 FR 11312)) to allow manufacturers to submit an ANDA in these cases. However, the ANDA provision was intended to apply only to OTC epinephrine products for oral inhalation, OTC contraceptive vaginal foams containing at least 8 percent of the active ingredient nonoxynol 9, and any other essential product for which FDA has made a finding that an ANDA is acceptable. Such a finding was made for ergotamine tartrate aerosol for oral inhalation in a notice published in the FEDERAL REGISTER of July 27, 1972 (37 FR 15032). A similar notice was published in the FEDERAL REGISTER of September 8, 1976 (41 FR 37836) indicating that ANDA's may be submitted for isoproterenol hydrochloride products for oral inhalation. Because § 2.125(h) of the March 17, 1978 final regulation did not specifically limit the use of ANDA's to these few products, it is the purpose of this rule to clarify the intent of this section.

Although a specific notice has not been published finding that an ANDA would be acceptable for epinephrine products for oral inhalation or for OTC contraceptive vaginal foam products containing nonoxynol 9, the Commissioner concludes that ANDA's will be acceptable for these two types of products when they contain a chlorofluorocarbon. This conclusion is based on the tentative findings of the OTC advisory review panels that reviewed the drug classes to which these products belong. As a result of that review, epinephrine for OTC use as a bronchodilator has been placed in Category I (generally recognized as safe and effective and not misbranded) in the proposed monograph for cold, cough, allergy, bronchodilator, and antiasthmatic products published in the FEDERAL REGISTER of September 9, 1976 (41 FR 38312). There has not been any question concerning the safety and effectiveness of epinephrine for oral inhalation. Although the proposed monograph recommended by the Advisory Review Panel on Contraceptive Products has not yet been published, the status of contraceptive vaginal products containing nonoxynol 9 has been discussed at open meetings of this Panel, and this ingredient has tentatively been placed in Category I. The agency expects that this ingredient will remain in Category I following publication of a final monograph. Pending any change in the status of epinephrine products for oral inhalation or OTC contraceptive vaginal foams containing nonoxynol 9, an ANDA may be submitted for these products when packaged to contain a chlorofluorocarbon propellant provided the product complies with the conditions of any proposed, tentative final, or final monograph as applicable.

Currently, all the classes of drug products listed in § 2.125(e) are drug products for human use. Thus, the requirement in § 2.125(h) that the manufacturer of any drug product listed in § 2.125(e) that is not covered by an approved new animal drug application shall submit such an application in accord with § 514.1 *Applications* (21 CFR 514.1) serves no useful purpose and may tend to confuse the reader. Therefore, the Commissioner concludes that § 2.125(h) should be revised to remove these references to new animal drug applications. If, at some time in the future, the Commissioner proposes to amend § 2.125(e) to include a drug product for animal use, these references can be reinserted into § 2.125(h).

Because this amendment simply clarifies the intent of § 2.125(h), the Commissioner finds that notice and public procedure are unnecessary and contrary to the public interest. Interested persons may, however, on or before February 20, 1979, file with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, four copies of written comments on this amendment identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by the comments will be the subject of a further amendment.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 505, 701(a), 52 Stat. 1052-1053 as amended, 1055 (21 U.S.C. 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 2 is amended by revising § 2.125(h) to read as follows:

§ 2.125 Use of chlorofluorocarbon propellants in self-pressurized containers.

• • • • •

(h)(1) Each manufacturer of a drug product listed in paragraph (e) of this section that is not covered by an approved new drug application shall submit a new drug application in accord with § 314.1 of this chapter on or before June 15, 1978.

(2) The Food and Drug Administration may find that an abbreviated new drug application conforming to § 314.1(f) of this chapter is acceptable in lieu of a full new drug application for any product included in the classes of products in paragraph (e) of this section. An ANDA for any of these products shall also contain full information with respect to items 6 (components), 7 (composition), 8 (methods, facilities, and controls), and 9 (samples) of new drug application form FD-356H. A finding has been made that an ANDA may be submitted for the following products included in the classes of products listed in paragraph (e) of this section:

(i) Ergotamine tartrate supplied in a metered-dose aerosol form suitable for oral inhalation for the treatment of migraine headaches. Each measured dose must deliver a dose of the active ingredient equivalent to that contained in the product that has been the subject of a separate finding that an abbreviated new drug application is suitable.

(ii) Isoproterenol hydrochloride supplied in a metered-dose aerosol form suitable for oral inhalation for use as an adrenergic bronchodilator. Each measured dose must deliver a dose of the active ingredient equivalent to that contained in the products that have been the subject of a separate finding that an abbreviated new drug application is suitable.

(iii) Epinephrine, epinephrine bitartrate, or epinephrine hydrochloride (racemic) in a metered-dose aerosol form suitable for oral inhalation for use as an adrenergic bronchodilator. Each measured dose must deliver a dose of the active ingredient equivalent to that specified in an OTC proposed or final monograph issued under the provisions of 21 CFR Part 330.

(iv) Nonoxynol 9 in an aerosol foam suitable for vaginal administration as a contraceptive foam. The aerosol foam must contain 8 to 12.5 percent of nonoxynol 9.

* * * * *

Effective date. This regulation is effective January 19, 1979.

(Secs. 505, 701(a), 52 Stat. 1052-1053 as amended, 1055 (21 U.S.C. 355, 371(a)))

Dated: January 11, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-1559 Filed 1-18-79; 8:45 am]

[4110-03-M]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 77N-0040]

FOOD SUBSTANCES GENERALLY RECOGNIZED AS SAFE

Clove and its Derivatives

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming clove and its derivatives as generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review being conducted by this agency.

EFFECTIVE DATE: February 20, 1979.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 29, 1977 (42 FR 38613), the agency proposed to affirm that clove and its derivatives are generally recognized as safe (GRAS) for use as direct human food ingredients. The proposal was made on the initiative of the Commissioner of Food and Drugs as part of the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

Under § 170.35 (21 CFR 170.35), relating to the affirmation of GRAS food ingredients, copies of the Scientific Literature Review on oil of cloves and the report of the Select Committee on GRAS Substances on oil of cloves have been made available for public review in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

In addition to proposing to affirm the GRAS status of clove and its derivatives, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for these ingredients other than for the proposed conditions of use. Persons asserting additional or extended uses under approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions so that the safety of the prior-sanctioned uses could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of clove and its derivatives approved by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181), provided the prior-sanctioned uses could be affirmed as safe on the basis of information and data now available to the Commissioner. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for clove or its derivatives were submitted in response to the proposal, and any right to assert a prior sanction for uses of clove and its derivatives under conditions different from those set forth in the final regulation has therefore been waived.

Eight respondents submitted comments on the Commissioner's proposal and supporting data and information on clove and its derivatives. A summary of the comments and the Commissioner's conclusions on them follows:

1. Five comments objected to placing good manufacturing practice (GMP) use limitations on clove and its derivatives.

The Commissioner has reexamined the National Academy of Sciences/National Research Council (NAS/NRC) survey data, the available safety data, and the range of anticipated consumption for clove and its derivatives, and agrees that certain inconsistencies do exist. For example, there are inconsistencies in the maximum levels of use for the different parts of the clove plant (e.g., stems, buds, leaves) based on estimated eugenol content, and for pure eugenol when compared to the amounts of plant parts used. The inconsistencies in the data do not, however, affect the safety evaluation of clove and its derivatives, which was based on total dietary consumption of these ingredients in food. The Commissioner finds that a relaxation of conditions of use will not significantly change total consumption and that adequate margins of safety exist for use of these food ingredients. Therefore, the Commissioner concludes that clove, its essential oils, oleoresins, and natural extractives may be affirmed as GRAS without designating specific good manufacturing practice guidelines.

Although this regulation specifies that clove and its derivatives need be used only in accordance with good manufacturing practice and without indicated levels of GMP use, the Commissioner is not abandoning the practice of designating maximum GMP levels of use for other ingredients affirmed as GRAS. Maximum GMP levels establish conditions of use upon which the GRAS status of the substance was affirmed and serve as important food-processing guidelines in providing information on the concentration of ingredients required to produce intended effects in food. Therefore, although several natural spices may be affirmed as GRAS without GMP guidelines, this practice will only be adopted when it can be determined that the food-processing use information available to FDA is totally inadequate for this purpose and that safety margins for consumption of the ingredient are very high.

2. One comment specifically reported that clove oleoresin is currently used in chewing gum and requested that acceptable flavors made with whole cloves, oleoresins, or extracts also be permitted.

As indicated above, the Commissioner has reexamined the NAS/NRC survey data reported by the food industries and has concluded that clove and its derivatives may be used in food in accordance with good manufacturing practice.

3. Three comments indicated that the specifications for solvent-free clove bud extract and clove bud oleoresin were either inappropriate or did not conform with usual industry specifications. One comment specifically objected to the proposed angular rotation, refractive index, and specific gravity specifications for clove bud oleoresin, indicating that these specifications are difficult to perform on the oleoresin and are usually performed on volatile oils extracted from this product. In addition, the comments objected to the term "residual solvent free" because this term conflicts with the provisions of Part 173 (21 CFR Part 173), Subpart C, which permits certain solvent residues in spice extracts and oleoresins. The comments also recommended that the proposed specifications for clove bud oleoresin and clove bud extract be expanded to define the products more accurately (e.g., by requiring designation of the volatile oil content). Another comment suggested that the Food Chemicals Codex specifications for clove bud oil, clove leaf oil, or clove stem oil be adopted, by reference, for the volatile oil of clove oleoresin and of other natural clove extractives.

The Commissioner has found the comments helpful in formulating specifications for clove and its derivatives. The Commissioner agrees that the specifications for clove bud oil, with some modifications, can be used to characterize the volatile oil of the oleoresin and other extractives of clove, and further agrees that specific gravity, refractive index, and angular rotation specifications for oleoresin should be eliminated and that these specifications are most appropriately applied to the volatile oil of oleoresin. Accordingly, angular rotation, refractive index, and specific gravity specifications have been adopted for the volatile oil of oleoresin in the final regulation. The Commissioner also acknowledges that the term "residual solvent free" conflicts with solvents that are permitted for food use because of their GRAS status or included in Part 173, Subpart C, and the final regulation has been modified to permit residual solvents as specified in these regulations.

4. Three comments noted an error in proposed § 184.1257(a) in the terminology describing cloves as "dried unopened 'flavor' buds and twig tips." The correct description should read "flower" buds. Another comment indicated that the description uses the term "twig tips" to describe the hypanthium of the clove bud structure. The comment indicated that the term "calyx" or "calyx tube" would be more precise than "twig tip" and would avoid the implication of nonfloral twigs in the definition of clove.

The Commissioner agrees with these comments and has amended the final regulation accordingly.

5. One comment noted that deleting clove from §§ 182.10 and 182.20 (21 CFR 182.10 and 182.20) and reaffirming it as GRAS in Part 184 (21 CFR Part 184) creates a problem of interpretation in § 101.22(a) (2) and (3) (21 CFR 101.22(a) (2) and (3)) because the spices listed in Part 184 would not be included in these sections.

The Commissioner acknowledges this oversight during the promulgation of the affirmed GRAS list. Dill, garlic, and rue, previously affirmed as GRAS, were not cross-referenced with the food labeling provisions in § 101.22. However, it was always FDA's intent to cross-reference the affirmed GRAS list (Part 184) with the food labeling provisions just as the GRAS list (Part 182) had been cross-referenced with these provisions. Therefore, the Commissioner is amending § 101.22(a) (2) and (3) to include the spices and natural essences or extractives obtained from plants that are also listed in Part 184. Inasmuch as this action merely cross-references § 101.22(a) (2) and (3) with Part 184, formal rulemaking procedures are unnecessary and the amendment of § 101.22(a) (2) and (3) is included in the final regulation.

6. One comment was concerned that the affirmation of clove and its derivatives as GRAS substances would increase the usage of these ingredients and result in an increase in reactions by hyperkinetic children. The comment suggested that the term "cloves" or "clove derivative," rather than the lesser known term "eugenol," be required on the label of any product containing these substances.

The Commissioner emphasizes that cloves, clove buds, clove leaves, and clove stems, as well as the synthetic flavoring substance eugenol, have appeared on the GRAS list since 1960 and 1961, respectively. Reaffirming these substances as generally recognized as safe is not expected to cause an increase in usage of these ingredients.

The Commissioner also advises that under section 403(i)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(i)(2)), the common or usual name of each ingredient of a food fabricated from two or more ingredients must appear on the label. However, spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings without naming each specifically. The Commissioner recognizes that some consumers may experience adverse effects from some food ingredients and welcomes comments and suggestions from knowledgeable individuals on this subject. However, in the absence of clear evidence that the public health would be jeopardized if clove or its derivatives were not stated on the product label, it is premature to single out these ingredients from other food additives for special attention.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 101, 182, and 184 are amended as follows:

PART 101—FOOD LABELING

1. In Part 101, § 101.22 is amended by revising the second sentence of paragraph (a)(2) and the last sentence of paragraph (a)(3) to read as follows:

§ 101.22 Foods; labeling of spices, flavorings, colorings, and chemical preservatives.

(a) * * *

(2) * * * Spices include the spices listed in § 182.10 and Part 184 of this chapter, such as the following: * * *

(3) * * * Natural flavors include the natural essence or extractives obtained from plants listed in §§ 182.10, 182.20, 182.30, 182.40, and 182.50 and Part 184 of this chapter, and the substances listed in § 172.510 of this chapter.

* * * * *

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.10 [Amended]

3. In § 182.10 *Spices and other natural seasonings and flavorings* by deleting the entry for "Cloves."

§ 182.20 [Amended]

4. In § 182.20 *Essential oils, oleoresins (solvent-free), and natural extractives (including distillates)* by deleting the entries for "Clove bud," "Clove leaf," and "Clove stem."

§ 182.60 [Amended]

5. In § 182.60 *Synthetic flavoring substances and adjuvants* by deleting the entry for "Eugenol."

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

6. By adding new § 184.1257 to read as follows:

§ 184.1257 **Clove and its derivatives.**

(a) Cloves are the dried unopened flower buds and calyx tubes, harvested before the flowers have opened, of the clove tree *Eugenia caryophyllata* Thunberg, native to tropical Asia. Their derivatives include essential oils (cloves, CAS Reg. No. 8000-34-8; buds; leaves, CAS Reg. No. 8015-97-2; stems, CAS Reg. No. 8015-98-3; and eugenol, CAS Reg. No. 97-53-0), oleoresins, and natural extractives obtained from clove buds, leaves, and stems.

(b) Clove bud oil, clove leaf oil, clove stem oil, and eugenol meet the specifications of the Food Chemicals Codex (FCC), 2d Ed. (1972),[1] which is incorporated by reference. As determined by analytical methods in FCC, clove oleoresin or other natural extractives (other than clove oils) meet FCC specifications for clove (clove bud) oil and the following modifications:

(1) The assay for phenols, as eugenol, by the FCC test (p. 898) or the volatile oils content by the FCC test (p. 901) should conform to the representation of the vendor;

(2) Optical rotation of the volatile oil between −2° and 0°;

(3) Refractive index of the volatile oil between 1.527 and 1.538 at 20° C;

(4) Specific gravity of the volatile oil between 1.036 and 1.060; and

(5) Residual solvent free, except those solvents that are GRAS or within tolerance levels as specified in Part 173, Subpart C, of this chapter.

(c) Clove and its derivatives are used as flavoring agents and adjuvants as defined in § 170.3(o)(12) of this chapter.

(d) The ingredients are used in food at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1).

(e) Prior sanctions for these ingredients different from the uses established in this section do not exist or have been waived.

Effective date. This regulation is effective February 20, 1979.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

NOTE.—Incorporation by reference was approved by the Director of the Office of the Federal Register on July 10, 1973 and is on file in the FEDERAL REGISTER library.

Dated: January 15, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-1904 Filed 1-18-79; 8:45 am]

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

[4110-03-M]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 77N-0119]

PART 131—MILK AND CREAM

Nonfat Dry Milk, Lowfat Dry Milk, Dry Whole Milk, and Dry Cream; Standards of Identity; Confirmation of Effective Date and a Further Amendment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of the final regulation of May 9, 1978 that amended the standards of identity for nonfat dry milk and nonfat dry milk fortified with vitamins A and D and established standards of identity for lowfat dry milk, dry whole milk, and dry cream based on consideration of the international standards developed by the Codex Alimentarius Commission for these foods. This document also amends the description for dry cream to make it consistent with the descriptions for dry whole milk and lowfat dry milk.

DATES: Voluntary compliance may have begun July 10, 1978. Mandatory compliance for all products initially introduced into interstate commerce begins July 1, 1979. Objections to the amendment by February 20, 1979.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued a final regulation in the FEDERAL REGISTER of May 9, 1978 (43 FR 19834) that established standards of identity for low fat dry milk, dry whole milk, and dry cream (21 CFR 131.123, 131.147, and 131.149, respectively) and amended the standards of identity for nonfat dry milk and nonfat dry milk fortified with vitamins A and D (21 CFR 131.125 and 131.127, respectively). The new standards of identity were based on the recommended international standards for whole milk powder, partly skimmed milk powder, and skimmed milk powder (Codex Standard No. A-5 (1971)) and the recommended international standards for cream powder, half cream powder, and high-fat milk powder (Codex Standard No. A-10 1971)) which were submitted to the United States for consideration of acceptance by the Joint Food and Agriculture Organization/World Health Organization's Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products, and auxiliary body of the Codex Alimentarius Commission. The new standards of identity for lowfat dry milk, dry whole milk, and dry cream establish (1) requirements for mandatory ingredients, (2) provisions for optional ingredients such as stabilizers, emulsifiers, anticaking agents, antioxidants, and characterizing flavoring ingredients, with or without coloring, and (3) requirements for label declaration of optional ingredients. In addition, the standards of identity for nonfat dry milk and nonfat dry milk fortified with vitamins A and D were amended to provide for the use of nutritive carbohydrate sweetners in the optional characterizing flavoring ingredients.

The final regulation provided that any person who would be adversely affected could at any time, on or before June 8, 1978, file written objections to the final regulation and request a hearing on the specific provisions to which there were objections.

OBJECTIONS AND REQUESTS FOR A HEARING

Two objections and requests for a hearing and one letter suggesting a minor change were received in response to the final regulation. The Commissioner has considered these responses and his conclusions are as follows:

1. *Description of dry cream.* The American Dry Milk Institute (ADMI) suggested that the standard of identity for dry cream provide for the manufacture of dry cream by dry blending dry cream with other dry milk products even though this method is not currently common practice in the United States. The ADMI is of the opinion that this would (1) make the description of dry cream in § 131.149(a) uniform with the descriptions of lowfat dry milk in § 131.123(a) and dry whole milk in § 131.147(a); and (2) allow flexibility without restricting future manufacturing processes for dry cream.

The Commissioner agrees with ADMI's suggestions and is revising the standard of identity for dry cream accordingly.

2. *Lactose-reduced dry milk products.* Two firms marketing the enzyme lactase objected to the establishment of the standards of identity for lowfat dry milk, dry whole milk, and dry cream, and the amendment of the standard of identity for nonfat dry milk. They maintained that the final regulations, as published, will adversely affect them and will not be in the best interest of consumers. They stated that the standards of identity establish the level of lactose contained in the foods, thereby eliminating lactose-reduced dry milk products as foods that can be made and sold under the standard nomenclature. The firms said that alternate nomenclature such as "lactose reduced skim milk solids" would have to be substituted for the preferred "lactose reduced nonfat dry milk." Further, they stated that this exclusion from standard product nomenclature obscures the product's identity and causes unnecessary confusion for the consumer. Further, they said that the conversion of lactose to the more readily digestible galactose and glucose, resulting from the treatment of milk with lactase, is beneficial to that segment of the population, estimated at about 30 million in the United States, that cannot readily tolerate lactose in its naturally occuring form. The firms suggested that consideration be given to other foods that may be produced with lactose in the hydrolyzed form for which standards of identity not exist or will be developed in the future.

The Commissioner recognizes the benefits to be derived from lactose reduced milk products by lactose-intolerant individuals but does not believe that there is a need to delay issuing the standards of identity for dry milk products in order to establish appropriate names for lactose-reduced milk products. Lactose-reduced milk products differ in composition from dry milk products. As the objectors recognize, the lactose-reduced foods cannot bear the same name as dry milk products but must instead be named to indicate their distinctive feature. However, they do not have to be labeled with obscure names as suggested by the objectors. Furthermore, as the Commissioner has previously advised in the FEDERAL REGISTER of August 2, 1973 (38 FR 20703), the existence of a standard of identity for a particular food does not necessarily preclude the use of the standardized name in connection with the name of a nonstandardized food, and "in some cases it may be necessary to include a standardized name in the name of a substitute food in order to provide the consumer with accurate, descriptive, and fully informative labeling." In other words, the standards of identity to which objections are made do not by themselves, affect the objecting parties' ability to market accurately labeled lactose-reduced milk products using the standardized nomeclature, to the extent appropriate, as part of the name of the new foods.

Accordingly, the Commissioner is denying a hearing on the points made in the objections because they do not raise factual issues concerning the validity of the standards of identity in question. Rather, the objections seek to avoid an effect that the standards do not have by seeking to establish new names for distinct foods that are not subject to the standards; the promulgation of these standards for dry milk products will not preclude the development of appropriate names for the new product. Under 21 CFR 12.24(b)(4), a hearing will not be granted when a food standard does not have the effect of excluding or otherwise affecting the products. The lactose-reduced foods may be sold as nonstandardized foods named in accordance with the general principles in 21 CFR 102.5. Alternatively, the objectors may file a petition to establish a new standard of identity for these products. Since the lactose-reduced foods are special dietary foods, the foods should also comply with the applicable labeling requirements in Part 105.

A GRAS affirmation petition for lactase enzyme derived from *Kluyveromyces (Saccharomyces) lactis*, submitted by one of the objectors, is being considered by the agency. No decision has been made regarding its safety. In view of the undetermined status of this source of lactase enzyme and the option for production of lactose-reduced milk products as special dietary foods, the Commissioner concludes that a hearing on the above objections is not warranted.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), notice is given that the objections filed to the final regulation establishing standards of identity for lowfat dry milk, dry whole milk, and dry cream under §§ 131.123, 131.147, and 131.149 and amending the standards of identity for nonfat dry milk and nonfat dry milk fortified with vitamins A and D under §§ 131.125 and 131.127 are not accepted as valid, except that, in accordance with the foregoing: *It is ordered*, That § 131.149 as promulgated in the FEDERAL REGISTER of May 9, 1978, be amended by revising paragraph (a) to read as follows:

§ 131.149 **Dry cream.**

(a) *Description.* Dry cream is the product obtained by removal of water only from pasteurized milk or cream or a mixture thereof, which may have been homogenized. Alternatively, dry cream may be obtained by blending dry milks as defined in §§ 131.123(a), 131.125(a), and 131.147(a) with dry cream as appropriate: *Provided*, That the resulting product is equivalent in composition to that obtained by the method described in the first sentence of this paragraph. It contains not less than 40 percent but less than 75 percent by weight of milkfat on an as is basis. It contains not more than 5 percent by weight of moisture on a milk solids not fat basis.

* * * * * *

Any person who will be adversely affected by the foregoing amendment to the final regulation may at any time on or before February 20, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description an analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: Except as to the amendment that may be stayed by the filing of proper objections, compliance with this amendment to the final regulation may begin Feburary 20, 1979. Notice of the filing of objections or lack thereof will be published in the FEDERAL REGISTER. Compliance with all other provisions of the final regulation may have begun on July 10, 1978, and all products initially introduced into interstate commerce on or after July 1, 1979, shall fully comply.

Dated: January 11, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-1560 Filed 1-18-79; 8:45 am]

[4110-03-M]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 510—NEW ANIMAL DRUGS

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Selenium Disulfide Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations to reflect approval of a new animal drug application (NADA) filed by Farnam Companies, Inc., providing for use of a selenium disulfide suspension on dogs as a shampoo and agent for removing skin debris, and to indicate the sponsor's current corporate address.

EFFECTIVE DATE: January 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Farnam Companies, Inc., 2230 E. Magnolia St., Phoenix, AZ 85036, filed an NADA (115-579V) providing for use of a selenium disulfide suspension on dogs as a cleansing shampoo and as an agent for removing skin debris associated with dry eczema and nonspecific dermatoses.

This application concerns a product similar to one reviewed by the National Academy of Sciences/National Research Council (NAS/NRC), approval of which is reflected in the regulations in § 524.2101 (21 CFR 524.2101). This application is approved on the basis of generic equivalence to the NAS/NRC reviewed product. It conforms to the NAS/NRC panel recommendations published in the FEDERAL REGISTER of September 5, 1970 (35 FR 14168).

In addition, the regulations do not reflect the current address of the firm in the list of approved sponsors in § 510.600(c) (21 CFR 510.600(c)). The address is revised appropriately.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 524 are amended as follows:

1. In Part 510, § 510.600 is amended by revising the entries for Farnam Companies, Inc., in paragraph (c) (1) and (2) to read as follows:

§ 510.600 Names, addresses, and code number of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug listing No.

* * * * *

Farnam Companies, Inc., 2230 E. Magnolia St., Phoenix, AZ 85036;	017135.

* * * * *

(2) * * *

Drug listing No.	Firm name and address
017135	Farnam Companies, Inc., 2230 E. Magnolia St., Phoenix, AZ 85036.

* * * * *

2. In Part 524, § 524.2101 is amended by revising paragraph (b)(2) to read as follows:

§ 524.2101 Selenium disulfide suspension.

* * * * *

(b) * * *

(2) See Nos. 011536, 015563, and 017135 in § 510.600(c) of this chapter for use as in paragraph (c)(2)(ii) of this section.

* * * * *

Effective date. This regulation is effective January 19, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: January 10, 1979.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-1903 Filed 1-18-79; 8:45 am]

[4110-03-M]

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Diethylcarbamazine Citrate Syrup

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) providing for safe and effective use of an anthelmintic syrup for prevention of heartworm disease in dogs and as an aid in treatment of ascarid infections in dogs and cats. The application was filed by Evsco Pharmaceutical Corp.

EFFECTIVE DATE: January 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Evsco Pharmaceutical Corp., P.O. Box 209, Harding Highway, Buena, NJ 08310, filed an NADA (100-689V) providing for use of diethylcarbamazine citrate syrup for prevention of heartworm disease (*Dirofilaria immitis*) in dogs and as an aid in treatment of ascarid infections in dogs (*Toxocara canis*) and cats (*Toxocara canis* and *Toxascaris leonina*). The regulations are amended to add Evsco as a sponsor and revise the existing text in accordance with the current format.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83)

Part 520 is amended in § 520.622b by revising paragraph (b) to read as follows:

§ 520.622b Diethylcarbamazine citrate syrup.

* * * * *

(b) (1) *Specifications.* Each milliliter of syrup contains 60 milligrams of diethylcarbamazine citrate.

(2) *Sponsors.* (i) See No. 010042 in § 510.600(c) of this chapter for use as in paragraphs (3)(ii) (*a*) and (*b*) of this section.

(ii) See No. 017030 for use as in paragraphs (3)(ii) (*a*) and (*c*) of this section.

(3) *Conditions of use*—(i) *Amount.* 3 milligrams per pound of body weight per day for prevention of heartworm disease and as an aid in control of large roundworms; 25 to 50 milligrams per pound of body weight as an aid in treatment of ascarid infections.

(ii) *Indications for use.* (*a*) For prevention of heartworm disease (*Dirofilaria immitis*) in dogs.

(*b*) As an aid in control of large roundworms (*T. canis*) in dogs.

(*c*) As an aid in treatment of ascarid infections in dogs (*T. canis*) and cats (*T. canis* and *T. leonina*).

(iii) *Limitations.* The drug may be placed on the daily ration or given directly by mouth. For treatment of ascarid infections, a repeat dose should be given in 10 to 20 days to remove immature worms which may enter the intestine from the lungs after the first dose. Older dogs should be proven negative for presence of *Dirofilaria immitis* infections before administering the drug. Dogs with established heartworm infections should not receive the drug until they have been converted to a negative status by the use of adulticidal and microfilaricidal drugs. Inadvertent administration to heartworm-infected dogs may cause adverse reactions due to pulmonary occlusion. Overdosage may cause emesis. For prevention of heartworm disease in heartworm-endemic areas, administration of the drug should start 1 month before the mosquito season and be continued daily throughout the mosquito season and for 2 months thereafter. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

* * * * *

Effective date. This regulation is effective January 19, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: January 10, 1979.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-1811 Filed 1-18-79; 8:45 am]

[7600-01-M]

Title 29—Labor

CHAPTER XX—OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

PART 2400—REGULATIONS IMPLEMENTING THE PRIVACY ACT

Adoption of Regulations

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Final regulations.

SUMMARY: The Occupational Safety and Health Review Commission has adopted rules to govern the manner in which it will implement the requirements of the Privacy Act of 1974. The regulations set forth the procedures under which the public may determine the systems of records maintained by the Commission and procedures on how to access may be gained for purposes of review, amendment and/or correction of those records.

EFFECTIVE DATE: These regulations are effective January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gombar, General Counsel, Occupational Safety and Health Review Commission, 1825 K Street NW., Washington, D.C. 20006, (202) 634-4015.

SUPPLEMENTARY INFORMATION: On August 29, 1975, the Occupational Safety and Health Review Commission published, pursuant to Section 3(f) of the Privacy Act of 1974, proposed regulations which, if adopted, would be used to govern the manner in which the requirements of the Act would be carried out by the Occupational Safety and Health Review Commission. The public was invited to participate in the rulemaking proceeding by submitting written data, views and arguments on the proposed regulations. No comments were received. Several amendments have been incorporated in the final regulations, however, either at the suggestion of the Office of Management and Budget or for the purpose of clarifying the regulations or changing the agency official responsible for taking certain actions under the regulations.

One area of concern raised by a Member of Congress and the Office of Management and Budget dealt with the lack of a provision for supplying personal information to individual congressional offices in connection with constituent case work inquiries. Section 2400.4(b)(2)(ix) provided for dissemination of personal information to either House of Congress or its committees or subcommittees, but not to Members of Congress. Accordingly, § 2400.4(b)(2)(xii) of the final regulations provides for such dissemination, if there has been a written request from the individual constituent to the Member of Congress. The consent of the individual shall be inferred from his letter to the Member of Congress.

Section 2400.6(a)(3) of the proposed regulations provided for access to records in person. Upon the recommendation of the Office of Management and Budget, the final regulations also provide for access by mail. Because of this expansion, several subsections of § 2400.6 required amendments, and the entire section was renumbered to accommodate the changes and substantially rewritten to clarify the procedures for requesting access. Paragraph (a)(1) specifically provides for a written request to be made either in person or by mail, and paragraphs (f)(1) and (2) provide for the record to be either mailed, if possible, or made available for personal inspection in OSHRC offices, depending on the expressed wishes of the individual. Paragraph (f)(1) also furnishes a means for notifying the requester of the cost of copying the record if the responsible OSHRC official has reason to believe the cost may be considerably more than anticipated by the requester. Paragraph (f)(2) specifies the information that shall be supplied in the notice of the availability of the record to those who intend to review it in person.

Sections 2400.6(b)(1)-(3), in addition to establishing a procedure for verification of identity when requests are mailed, also provide for a means by which a person not having identification papers can establish his identity, and further specify the documents of identification that shall be accepted when an individual makes the request for a record in person. One amendment incorporated into the final regulation at § 2400.6(d) deals with the verification of guardianship where the parent or guardian of a minor or a person judicially determined to be incompetent seeks access on behalf of such minor or incompetent. This provision inadvertently was omitted from the OSHRC proposed regulations on Privacy.

Another addition to the final regulations is a provision for access to OSHRC records maintained in the National Archives and Records Service Centers. This clause was unintentionally left out of the proposed regula-

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tions, and accordingly, is included in the final regulation at § 2400.6(a)(1).

Also new is a provision, added at the suggestion of the Office of Management and Budget, to allow for an accounting to a requester of any disclosures made from the individual's record.

The final regulation includes this requirement at Section 2400.6(a)(2).

Section 2400.6(a)(1) of the proposed regulation specified that a person making an inquiry provide OSHRC with the name of the system and category of individual making the request. The final regulation, at § 2400.6(a)(2), deletes the requirement that the category of individual be identified, but asks that additional information be supplied, namely the nature of the record sought and the approximate dates covered by the record. This modification was made because it was thought that the new information requested would facilitate the search for a record.

Other revisions incorporated throughout the final regulations change the official to whom all Privacy Act requests should be made from the Chief Administrative Law Judge to the Executive Director. In addition, the agency is abbreviated as OSHRC rather than OSAHRC to maintain consistency with the abbreviation used by the agency in other matters. Finally, several technical perfecting amendments are made in the language of the regulations so that it more closely corresponds with that of the Privacy Act itself.

Therefore, pursuant to Section 3(f) of the Privacy Act of 1974 (5 U.S.C. 552a(f), 88 Stat. 1896, 1900), and 5 U.S.C. 553, Title 29 Code of Federal Regulations, is amended by adding a new part, Part 2400, to read as follows:

Sec.
2400.1 Purpose and scope.
2400.2 Description of agency.
2400.3 Delegation of authority.
2400.4 Collection and disclosure of personal information.
2400.5 Notification.
2400.6 Procedures for requesting records.
2400.7 Procedures for requesting amendment.
2400.8 Schedule of fees.
2400.9 Exemptions.

AUTHORITY: Sec. 3(f), Privacy Act of 1974 (5 U.S.C. 552a(f), 88 Stat. 1896, 1900), and 5 U.S.C. 553.

§ 2400.1 Purpose and scope.

The purpose of the provisions of this Part is to provide procedures to implement the Privacy Act of 1974 (5 U.S.C. 552a). The following provisions are applicable only to such items of information as relate to the agency or are within its custody. The Commission's custody encompasses all information which is kept by an agent by contract with the agency. They are not applicable to the rights of parties appearing in adversary proceedings before the Commission to obtain discovery from an adverse party. Such matters are governed by the Commission's Rules of Procedure which are published at 29 CFR 2200.1 *et seq.* This part is intended to protect individual privacy, and affects all personal information collection and usage activity of the agency.

§ 2400.2 Description of agency.

The Occupational Safety and Health Review Commission (OSHRC) adjudicates contested enforcement actions under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651-677). Decisions of the Commission on such actions are issued only after the parties to the case are afforded an opportunity for a hearing in accordance with Section 554 of Title 5, United States Code. All such hearings are conducted by an OSHRC Administrative Law Judge at a place convenient to the parties and are open to the public. Each Commission member has the authority to direct that a decision of a Judge be reviewed by the full Commission before becoming a final order.

§ 2400.3 Delegation of authority.

(a) The Executive Director shall insure agency-wide compliance with this policy.

(b) Custodians are responsible for adherence to this part within their respective units and in particular for their collection, use and disclosure of personal information, and for affording individuals the right to inspect, obtain copies of and correct records concerning them. They are responsible for reporting the existence of personal records systems, changes to the contents of those systems and changes of routine use to the Executive Director, and also for establishing the relevancy of information within those systems.

§ 2400.4 Collection and disclosure of personal information.

(a) The following rules govern the collection of personal information throughout OSHRC operations:

(1) The OSHRC shall: (i) Solicit, collect and maintain only such personal information as is relevant and necessary to accomplish a purpose required by statute or Executive Order.

(ii) Collect information, to the greatest extent practicable, directly from the subject individual when such information may result in adverse determinations about an individual's rights, benefits or privileges.

(iii) Inform any individual requested to disclose personal information whether that disclosure is mandatory or voluntary, by what authority it is solicited, the principal purposes for which it is intended to be used, the routine uses which may be made of it, and any penalties or consequences known to the OSHRC which shall result to the individual from such nondisclosure.

(2) OSHRC shall not discriminate against any individual who fails to provide personal information unless that information is required or necessary for the conduct of the system or program in which the individual desires to participate. See § 2400.4(a)(1)(i).

(3) No information shall be collected or maintained which describes how individuals exercise rights guaranteed by the First Amendment unless the Commission specifically determines that such information is relevant and necessary to carry out a statutory purpose of the OSHRC, and the collection is expressly authorized by statute or by the individual about whom the record is maintained.

(4) OSHRC shall not require disclosure of any individual's Social Security account number or deny a right, privilege or benefit because of the individual's refusal to disclose the number unless disclosure is required by Federal law.

(b) Disclosures. (1) Limitations. OSHRC shall not disseminate personal information unless reasonable efforts have been made to assure that the information is accurate, complete, timely and relevant and

(i) The individual to whom the record pertains has requested in writing that the information be disseminated, or

(ii) It has obtained the prior written consent of the individual to whom the record pertains, or

(iii) The dissemination is in accordance with paragraph (b)(2) of this section.

(2) Dissemination of personal information may be made:

(i) To a person pursuant to a requirement of the Freedom of Information Act (5 U.S.C. 552);

(ii) To those officers and employees of OSHRC who have a need for such information in the performance of their duties;

(iii) For a routine use as contained in the system notices published in the FEDERAL REGISTER;

(iv) To a recipient who has provided adequate advance written assurance that the information shall be used solely as a statistical reporting or research record, and to whom the information is transferred in a form that is not individually identifiable;

(v) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13, U.S. Code;

(vi) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(vii) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual, if upon such disclosure notification is transmitted to the last known address of such individual;

(viii) To a federal agency or an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity, if such activity is authorized by law and if the head of the agency or instrumentality has made a written request to the OSHRC specifying the particular portion of the record desired and the law enforcement activity for which the record is sought;

(ix) To either House of Congress or its committees or subcommittees to the extent of matter within their jurisdiction;

(x) To the Comptroller General or any of his authorized representatives in the course of the performance of the duties of the General Accounting Office;

(xi) Pursuant to the order of a court of competent jurisdiction;

(xii) To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the written request of that individual. The consent implied from such a written request applies only to congressional inquiries.

(3) Employee credit references. The Personnel Office shall verify the following information provided by an employee to a credit bureau or commercial firm from which an employee is seeking credit: length of service, job title, grade, salary, tenure of employment, and Civil service status.

(4) Employee job references. Prospective employers of an OSHRC employee or a former OSHRC employee may be furnished with the information in § 2400.4(b)(3) above, in addition to the date and reason for separation if applicable, upon the request of the employee or former employee.

(c) Correction disclosure. Any person or other agency to which a personal record has been or is to be disclosed shall be informed of any corrections or be provided copies of statements of dispute, and notifications specifying the portions of the record relating thereto affecting the accuracy, timeliness or relevance of that personal record.

(d) Record of disclosure. (1) An accurate accounting of each disclosure shall be kept in all instances except those in which disclosure is made to OSHRC employees in the performance of their duties or is required by the Freedom of Information Act (5 U.S.C. 552), in conformance with Section 552a(c) of the Privacy Act.

(2) The accounting shall be maintained for at least five (5) years or the life of the record, whichever is longer.

(3) The accounting shall be made available to the individual named in the record upon inquiry, except for disclosures made pursuant to provision (b)(2)(viii) of this section relating to law enforcement activities.

§ 2400.5 Notification.

(a) Notification of systems. The following procedures permit individuals to determine the types of personal records systems maintained by OSHRC.

(1) Upon written request, OSHRC shall notify any individual whether a specific system named by him contains a record pertaining to him. See § 2400.6 for suggested form of request.

(2) OSHRC shall publish annually in the FEDERAL REGISTER a notice of existence and character of all personal systems of records. This notice shall contain the following information:

(i) Name and location of the system,

(ii) Nature and purposes of the system,

(iii) Categories of individuals on whom records are maintained and categories of records generally maintained in the system,

(iv) Confidentiality requirements and the extent to which access controls apply to such information,

(v) OSHRC policies and standards regarding the safeguarding and disclosure of information, retrievability of information, information storage, duration of retention of information, and disposal of such information from the system,

(vi) Each routine use made by OSHRC of the personal information contained in the system, including the categories of users and the purpose of the use,

(vii) Title and official address of the custodian,

(viii) Procedures by which an individual can be informed if a system contains personal information pertaining to himself, gain access to such information, and contest the content, accuracy, completeness, timeliness, relevance and necessity for retention of the information,

(ix) Categories of sources of such personal information,

(x) System status—either developmental or operational.

(b) Notification of disclosure. OSHRC shall make reasonable efforts to serve notice on an individudial before any personal information is made available to any person under compulsory legal process when such process becomes a matter of public record.

(Also see § 2400.4(b) (1)(ii) and (2)(vii).)

(c) Notification of amendment. (See § 2400.7 relating to amendment of records upon request.)

(d) Notification of new use. Any new or revised use of personal information maintained by OSHRC shall be published in the FEDERAL REGISTER thirty (30) days before such use becomes operational. Public views may then be submitted to the Executive Director.

(e) Notification of exemptions. OSHRC shall publish in the FEDERAL REGISTER its intent to exempt any system of records and shall specify the nature and purpose of that system.

§ 2400.6 Procedures for requesting records.

The purpose of this section is to provide procedures by which an individual may have access to personal information within a comprehensive format.

(a) Submission of requests for access—(1) Manner. An individual seeking information regarding the contents of records systems or access to records about himself in a system of records should present a written request to that effect either in person or by mail to the Executive Director, OSHRC, 1825 K Street, NW., Washington, D.C. 20006. Access to OSHRC records maintained in National Archives and Records Service Centers may be obtained in accordance with the regulations issued by the General Services Administration.

(2) Specification of records sought. Requests for access to records shall describe the nature of the record sought, the approximate dates covered by the record, and the system in which the record is thought to be included as described in the "Notification" for that system as published in the FEDERAL REGISTER. The requester should also indicate whether he wishes to review the record in person or obtain a copy by mail. If the information supplied is insufficient to locate or identify the record, the requester shall be notified promptly and, if necessary, informed of additional information required. Upon request, OSHRC also shall disclose to the individual an accounting of any disclosures made from the individual's record.

(3) Period for response. Upon receipt of an inquiry the Executive Director shall respond promptly to the request and no later than 10 days from receipt of such inquiry.

(b) Verification of identity. The following standards are applicable to any individual who requests records concerning himself.

(1) An individual seeking access to records about himself in person may establish his identity by the presenta-

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tion of a single document bearing a photograph (such as a passport, employee identification card, or valid driver's license) or by the presentation of two items of identification which do not bear a photograph but do bear both a name and address (such as a valid driver's license, or credit card).

(2) An individual seeking access to records about himself by mail shall establish his identity by a signature, address, date of birth, place of birth, employee identification number, if any, and one other identifier such as a photocopy of an identifying document.

(3) An individual seeking access to records about himself by mail or in person who cannot provide the necessary documentation of identification may provide a notarized statement swearing or affirming to his identity and to the fact that he understands the penalties for false statements pursuant to 18 U.S.C. § 1001. Forms for such notarized statements may be obtained on request from the Executive Director.

(c) Verification of guardianship. The parent or guardian of a minor or a person judicially determined to be incompetent and seeking to act on behalf of such minor or incompetent shall, in addition to establishing his own identity, establish the identity of the minor or other person he represents as required in paragraph (b) of this section and establish his own parentage or guardianship of the subject of the record by furnishing either a copy of a birth certificate showing parentage or a court order establishing the guardianship.

(d) Accompanying persons. An individual seeking to review records about himself may be accompanied by another individual of his own choosing. Both the individual seeking access and the individual accompanying him shall be required to sign the required form indicating that OSHRC is authorized to discuss the contents of the subject record in the presence of both individuals.

(e) Special rules for medical records. Medical records shall be disclosed to the requester to whom they pertain unless the Executive Director, in consultation with a medical doctor named by the requesting individual, determines that access to such record could have an adverse effect upon such individual. In such a case, the Executive Director shall transmit such information to the named medical doctor.

(f) When compliance is possible. (1) The Executive Director shall inform the requester of the determination to grant the request and shall make the record available to the individual in the manner requested, that is, either by forwarding a copy of the information to him or by making it available for review, unless:

(i) It is impracticable to provide the requester with a copy of a record, in which case the requester shall be so notified, and, in addition, be informed of the procedures set forth in paragraph (b)(2) of this section, or (ii) the responsible official has reason to believe that the cost of a copy of a record is considerably more expensive than anticipated by the requester, in which case he shall notify the requester of the estimated cost, and ascertain whether the requester still wishes to be provided with a copy of the information.

(2) Where a record is to be reviewed by the requester in person, the disclosure officer shall inform the requester in writing of: (i) The date on which the record shall become available for review, the location at which it may be reviewed, and the hours for inspection; (ii) the type of identification that shall be required in order for him to review the record; (iii) such person's right to have a person of his own choosing accompany him to review the record; and (iv) such person's right to have a person other than himself review the record.

(3) If the requester seeks to inspect the record without receiving a copy, he shall not leave OSHRC premises with the record and shall sign a statement indicating he has reviewed a specific record or category of record.

(g) Response when compliance is not possible. A reply denying a written request to review a record shall be in writing signed by the Executive Director or other appropriate official and shall be made only if such a record does not exist or does not contain personal information relating to the requester, or is exempt. This reply shall include a statement regarding the determining factors of denial, and the right to obtain judicial review in a district court of the United States.

§ 2400.7 Procedures for requesting amendment.

(a) Submission of requests for amendment. Upon review of an individual's personal record, that individual may submit a request to amend such record. This request shall be submitted in writing to the Executive Director and shall include a statement of the amendment requested and the reasons therefor, e.g., relevance, accuracy, timeliness or completeness of the record.

(b) Action to be taken by the Executive Director. Upon receiving an amendment request, he or she shall promptly:

(1) Acknowledge in writing within ten (10) working days the receipt of the request.

(2) Make such inquiry as is necessary to determine whether the amendment is appropriate, and

(3) Correct or eliminate any information that is found to be incomplete, inaccurate, not relevant to a statutory purpose of OSHRC, or not timely and notify the requester when this action is complete, or

(4) Notify the requester of a determination not to amend and of the individual's right to appeal not later than thirty (30) working days after receipt of a request to amend.

(c) Appeal procedure. (1) If a request to inspect, copy or amend a record is denied, in whole or in part, or if no determination is made within the period prescribed by this part, the requester may appeal to the Chairman, OSHRC, 1825 K Street, N.W., Washington, D.C. 20006.

(2) The requester shall submit his appeal in writing within thirty (30) days of the date of denial, or within ninety (90) days of such request if the appeal is from a failure of the Executive Director to make a determination. The letter of appeal should include, as applicable:

(i) Reasonable identification of the record to which access was sought or the amendment of which was requested.

(ii) A statement of the OSHRC action or failure to act being appealed and the relief sought.

(iii) A copy of the request, the notification of denial and of any other related correspondence.

(3) The Chairman shall make his final determination not later than thirty (30) days from the date of the request, unless he extends the time for good cause to be shown by him but not to exceed ninety (90) days from the date of the request. Any record found on appeal to be not complete, accurate, relevant, or timely, shall within thirty (30) working days of the date of such findings be appropriately amended.

(4) The decision of the Chairman constitutes the final decision of OSHRC on the right of the requester to inspect, copy, change or update a record. The decision on the appeal shall be in writing and, in the event of a denial, shall set forth the reasons for such denial and state the individual's right to obtain judicial review in a district court. An indexed file of the agency decisions on appeal shall be maintained by the Executive Director.

(d) Submission of statement of disagreement. If the final decision does not satisfy the requester, any statement of reasonable length, provided by that individual, setting forth a position regarding the disputed information, shall be accepted and included in the relevant personal record.

(e) Availability of assistance in exercising rights. The Executive Director is available to provide an individual with assistance in exercising rights pursuant this Part.

§ 2400.8 Schedule of fees.

(a) Policy. The purpose of this section is to establish fair and equitable fees to permit reproduction of records for concerned individuals.

(b) Reproduction. (1) For reproducing any paper or micrographic record or publication, the fee is $.10 per page. No charge shall be made if the total fee authorized by this Part in compliance with a request or series of related requests is less than $3.00.

(2) OSHRC shall not normally furnish more than one copy of any record.

(c) Limitations. No fee shall be charged to any individual for the process of retrieving, or amending records.

§ 2400.9 Exemptions.

(a) Subsections 552a (j) and (k) of Title 5, United States Code, empower the Chairman to exempt systems of records meeting certain criteria from various other subsections of Section 552a. With respect to systems of records so exempted, nothing in this Part shall require compliance with any provisions hereof implementing any subsections of Section 552a from which those systems may properly be and have been exempted.

(b) [Reserved for specific exemptions.]

Signed this 15th day of January, 1979.

RAY H. DARLING, JR.,
Executive Secretary.

[FR Doc. 79-2071 Filed 1-18-79; 8:45 am]

[7708-01-M]

CHAPTER XXVI—PENSION BENEFIT GUARANTY CORPORATION

PART 2610—INTERIM REGULATION ON VALUATION OF PLAN BENEFITS

Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Amendment to the interim regulation.

SUMMARY: This amendment to the interim regulation on Valuation of Plan Benefits prescribes the rates and factors the Pension Benefit Guaranty Corporation (the "PBGC") will use to value benefits provided under terminating pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA"). This valuation is necessary because under section 4041 of ERISA, the PBGC must determine whether a terminating pension plan has sufficient assets to pay all guaranteed benefits provided under the plan. If the assets are insufficient, the PBGC will pay the unfunded guaranteed benefits under the plan termination insurance program established under Title IV.

The interest rates and factors set forth in the regulation must be adjusted periodically to reflect changes in investment markets. This amendment adopts the rates and factors applicable to plans that terminated on or after June 1, 1978, but before September 1, 1978, and will enable the PBGC to value the benefits provided under those plans.

EFFECTIVE DATE: January 19, 1979.

FOR FURTHER INFORMATION CONTACT:

William E. Seals, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202-254-4895.

SUPPLEMENTARY INFORMATION: On November 3, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") issued an interim regulation establishing the methods for valuing plan benefits of terminating plans covered under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act") (41 FR 48484 *et seq.*). Specifically, the regulation contains a number of formulae for valuing different types of benefits. In addition, Appendix B of the regulation sets forth the various rates and factors that are to be used in the formulae. Because these rates and factors must be reflective of investment experience, it is necessary to update the rates and factors periodically. When first published, Appendix B contained rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before June 1, 1978. (42 FR 2678 *et seq.*, 42 FR 32777 *et seq.*, 42 FR 41858 *et seq.*, 42 FR 59753 *et seq.*, 43 FR 10559 *et seq.*, 43 FR 25337 *et seq.*, 43 FR 55240 *et seq.*).

On October 11, 1978, the PBGC published for comment in the FEDERAL REGISTER rates and factors for valuing benefits in plans that terminated on or after June 1, 1978, but before September 1, 1978 (43 FR 46868 *et seq.*).

No comments were received regarding that proposed amendment to the interim regulation, and accordingly the PBGC hereby adopts the proposed interest rates and factors without change.

The PBGC has determined that this proposed amendment to the Valuation of Benefits regulation is not "significant" under the criteria prescribed by Executive Order 12044, "Improving Government Regulations," 43 FR 12661 (March 24, 1978), and the PBGC's Statement of Policy and Procedures implementing the Order, 43 FR 58237 (December 13, 1978). The reasons for this determination are that this proposal is not likely to engender substantial public interest or controversy, does not affect another Federal agency, and will not have a major economic impact.

Because of the need to provide immediate guidance for the valuation of benefits in plans that terminated on or after June 1, 1978, but before September 1, 1978, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making this amendment to the interim regulation effective immediately.

In consideration of the foregoing, Part 2610 of Chapter XXVI, Code of Federal Regulations, is amended by adding a new Table XII to Appendix B to read as follows:

APPENDIX B—INTEREST RATES AND QUANTITIES USED TO VALUE DEFERRED ANNUITIES

XII. *The following interest rates and quantities used to value benefits shall be effective for plans that terminate on or after June 1, 1978, but before September 1, 1978.*

I. *Interest rate for valuing immediate annuities.* An interest rate of 7¼ percent shall be used to value immediate annuities, to compute the quantity "Gy" in § 2610.6 and for valuing both portions of a cash refund annuity.

II. *Interest rate for valuing death benefits.* An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

III. *Interest rates and quantities used for valuing deferred annuities.* The following factors shall be used to value deferred annuities pursuant to § 2610.6:

(1) $k_1 = 1.0675$
(2) $k_2 = 1.0475$
(3) $k_3 = 1.035$
(4) $n_1 = 7$
(5) $n_2 = 10$

(Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93-406, 88 Stat. 1004, 1020, 1025-27, 1029 (29 U.S.C. 1302(b)(3), 1341(b), 1344, 1362(b)(1)(A)).)

Issued at Washington, D.C., on this 27th day of December 1978.

RAY MARSHALL,
Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing its chairman to issue same.

HENRY ROSE,
Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 79-1891 Filed 1-18-79; 8:45 am]

[3810-70-M]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

[DoD Instruction 1336.1][1]

PART 45—CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY (DD FORM 214/5 SERIES)

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule prescribes new procedures for the issuance of DD Form 214, Certificate of Release or Discharge from Active Duty, and DD Form 215, Correction to Certificate of Release or Discharge from Active Duty. The revised forms update the reporting requirements of the military services and other Government agencies. The rule will also provide the separating member with a more suitable document for use as a summary of military service when seeking most types of civilian employment, and will provide the military services with a consolidated report of the significant aspects of the member's service. Moreover, it will provide the Veterans Administration, the Department of Labor, and the State Directors of Veterans Affairs, when requested by the member, with selected information that will be used in adjudicating an individual's claim for various veterans' benefits.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

LTC G. A. Johnson, USAF, Office of the Deputy Assistant Secretary of Defense (MPP), The Pentagon, Room 3C980, Washington, D.C. 20301 (202) 697-9525.

SUPPLEMENTARY INFORMATION: In FR 78-19707 appearing in the FEDERAL REGISTER on July 18, 1978 (43 FR 30828), the Department of Defense published a notice of proposed rulemaking concerning the reissuance of revised DD Forms 214 and 215. The revision of the DD Form 214 eliminates the need for issuing the certificates entitled "General Discharge" (DD Form 257), or "Discharge Under Other Than Honorable Conditions" (DD Form 794), when an individual is discharged from active duty status. DD Forms 257 or 794, as appropriate, will continue to be issued when a member is discharged from a reserve status until other appropriate instructions are issued. The "Honorable Discharge Certificate" (DD Form 256), will continue to be issued under appropriate circumstances upon completion of a member's reserve obligation. The separating member will receive copy No. 1 of the DD Form 214 containing items 1 through 22. It will be a shortened version of the form, eliminating the Special Additional Information section that may contain potentially adverse information. The member will also have the option of receiving copy No. 4 which will contain the Special Additional Information section. The copies sent to the Veterans Administration, the Department of Labor, and the State Directors of Veterans Affairs, will not contain items 25 through 27, which are intended for internal DoD use only.

The member will also have the option of requesting that a copy of this form be sent to his/her designated State Director of Veterans Affairs. Shading of the form in certain areas, spot carbon, security ink, and improved storage requirements will serve to deter its use from unintended purposes, and to preclude unauthorized alterations. In order to avoid unnecessary duplication of the various pages of the DD Form 214, the sample forms below are limited to an image of copy No. 2 of the eight page carbon set, a DD Form 214 worksheet and a sample DD Form 215.

COMMENTS RECEIVED

In response to the proposed notice of rulemaking, the Department received comments from over 30 organizations and individuals, many of which were from offices of State Directors of Veterans' Affairs. Full and careful consideration was given to all written comments received. To accommodate substantive recommendations, the rule and DD Form 214 were modified in some instances. Major changes from the proposed rulemaking are discussed below. In addition, some alterations were made to promote consistency and clarity in grammar, vocabulary and style.

1. Applicability and scope. § 45.2 was extended to include the U.S. Coast Guard.

2. Policy and Procedures. Section 45.3(b) was revised to include a provision whereby the Military Services may also prescribe other circumstances when a DD Form 214 may be issued. It also prescribes the format for continuation sheets, if necessary. Section 45.3(c) has added a provision that limits the issuance of DD Forms 214 to only those other circumstances which may dictate the reissuance of the form for some other reason. Section 45.3(d) provides for the recording of disability pay and non-pay/excess leave days in appropriate cases, as well as annotating actions relating to discharge upgrade. Section 45.3(e) clarifies the issuance of DD Forms 214 issued prior to July 1, 1979.

3. Responsibilities. Section 45.4(a) prescribes surprinting on DD Form 214 and DD Form 215.

One area of comments that reflects some misunderstanding is the use of separation program designator (SPD) codes. These are generally a three to five position code that indicates a specific reason for separation for ease of computer input. They are intended for internal use by the Department of Defense in collecting data to analyze statistical reporting trends that may influence changes in separation policy. Trend analysis studies of cohort year groups require matchup of individuals and SPD's between computer tapes. This analysis would not be possible if the linkage were broken. In addition, the individual identifier-SPD linkage is key to managing the Services' prior service enlistment programs.

If either the individual identifier or SPD were deleted from the data system after a certain period of time, we would be required to establish and maintain two separate data files. One file would contain the SPD and other-than-individual identifier information; the other would contain individual identifiers, other information, but no SPD. Establishment of two files to replace one would unnecessarily increase costs, particularly when multiplied by the number of user files.

Additionally, they may be used to identify individuals separated for a specific reason if some subsequent policy decision may affect them as a group.

Without full knowledge of the circumstances associated with an individual's separation, especially when mitigating factors may be involved, individuals or organizations who attempt to use these codes as a bar to prospective employment commit a disservice to former servicemembers.

The unique requirement associated with military service and a particular individual's inability to cope in such an environment are not necessarily indicative of his/her potential within the civilian sector. By not placing these codes on the original copy of the DD Form 214 given to the member, the Department is attempting to preclude their use for unintended purposes. These codes have not been placed on the original copy since 1974; however, a cumbersome administrative procedure has been used to accomplish this while using the 1 November 1972 edition of the form.

Accordingly, 32 CFR Chapter I is amended by adding a new Part 45, reading as follows:

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA. 19120. Attention: Code 301.

Sec.
45.1 Purpose.
45.2 Applicability and scope.
45.3 Policy and procedures.
45.4 Responsibilities.
45.5 State Directors of Veterans Affairs.

AUTHORITY: Title 10, U.S.C. 1168 and 972.

§ 45.1 Purpose.

This Part prescribes procedures concerning the preparation and distribution of revised DD Form 214 to comport with the requirements of 10 U.S.C. 1168, 972, and DoD Directive 1332.14, "Enlisted Administrative Separations," December 29, 1976, and the control and publication of separation program designators (SPDs).

§ 45.2 Applicability and scope.

(a) The provisions of this Part apply to the Office of the Secretary of Defense, the Military Services, the Organization of the Joint Chiefs of Staff, and the Defense Agencies (hereafter referred to as "DoD Components"). The term "Military Services," as used here, refers to the Army, the Navy, the Air Force, the Marine Corps and, by agreement with the Department of Transportation, to the Coast Guard.

(b) Its provisions include procedures on the preparation and distribution of DD Forms 214, 214-ws, and 215 (enclosures 1, 2 and 3) which record and report the transfer of or separation of military personnel from a period of active duty.

NOTE.—Computer generated formats are acceptable substitutes provided Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) approval is obtained.

DD Forms 214 and 215 (or their substitutes) will provide:

(1) *The Military Services* with a source of information relating to military personnel for administrative purposes, and for making determinations of eligibility for enlistment or reenlistment.

(2) *The servicemember* with a brief, clear-cut record of the member's active service with the Armed Forces at the time of transfer, release, or discharge, or when the member changes status or component while on active duty.

(3) *Appropriate governmental agencies* with an authoritative source of information which they require in the administration of Federal and State laws applying to personnel who have been discharged, otherwise released, or transferred to a Reserve component of the Military Services.

(c) Its provisions include procedures on the control and distribution of all lists of SPDs.

§ 45.3 Policy and procedures.

(a) Administrative Issuance or Reissuance of DD Forms 214 and 215.

(1) The DD Form 214 will normally be issued by the command from which the member was separated. In those instances where a DD 214 was not issued, the Services concerned may establish procedures for administrative issuance.

(2) The DD Form 214, once issued, will not be reissued except:

(i) When directed by appropriate appellate authority, Executive Order or by the Secretary concerned.

(ii) When it is determined by the Service concerned that the original DD Form 214 cannot be properly corrected by issuance of a DD Form 215 or if the correction would require issuance of more than two DD Forms 215.

(iii) When two DD Forms 215 have been issued and an additional correction is required.

(3) Whenever a DD Form 214 is administratively issued or reissued, an appropriate entry stating that fact and the date of such action will be made in Block 18, Remarks, of the DD Form 214 unless the appellate authority, Executive Order, or Secretarial directive specifies otherwise.

(b) The Military Services will ensure that every member (except as limited in § 45.3(b)(2), and excluding those listed in § 45.3(c)) being separated from the Military Services is given a completed DD Form 214 describing relevant data regarding the member's service, and the circumstances of termination. DD Form 214 may also be issued under other circumstances prescribed by the Military Service concerned. A continuation sheet, if required, will be bond paper, and will reference: the DD Form 214 being continued, information from blocks 1 through 4; the appropriate block(s) being continued; the member's signature, date; and the authorizing official's signature. DD Forms 214 are not intended to have any legal effect on termination of the member's service.

(1) *Release or Discharge from Active Service.* (i) The original of DD Form 214 showing separation from a period of active service with a Military Service, including release from a status that is legally determined to be void, will be physically delivered to the separatee prior to departure from the separation activity (*a*) on the effective date of separation; or (*b*) on the date authorized travel time commences.

(A) Copy No. 4, containing the statutory or regulatory authority, reenlistment eligibility code, SPD code, and narrative reason for separation also will be physically delivered to the separatee prior to departure, if he/she so requests by initialing Block 30, Member Requests Copy 4.

(B) Remaining copies of DD Form 214 will be distributed on the day following the effective date of separation (see § 45.3(e)).

(ii) When separation is effected under emergency conditions which preclude physical delivery, or when the recipient departs in advance of normal departure time (e.g., on leave in conjunction with retirement; or at home awaiting separation for disability), the original DD Form 214 will be mailed to the recipient on the effective date of separation.

(iii) If the separation activity is unable to complete all items on the DD Form 214, the form will be prepared as completely as possible and delivered to the separatee. The separatee will be advised (*a*) that a DD Form 215 will be issued by the Military Service concerned when the missing information becomes available; and (*b*) that it will not be necessary for the separatee to request a DD Form 215 for such information (see § 45.3 (e)(3)).

(iv) If an optical character recognition format is utilized by a Military Service, the first carbon copy of the document will be physically delivered or mailed to the separatee as prescribed in subparagraphs (1) (i), (ii) and (iii) of this paragraph.

(2) *Release from Active Duty for Training or Full Time Training Duty.* Personnel being separated from a period of active duty for training or full-time training duty will be furnished a DD Form 214 only when they have served 90 days or more. However, personnel being separated for physical disability, and those serving under special active duty for training programs of the National Guard or Reserve will be furnished a DD Form 214, regardless of the length of time served on active duty.

(3) *Continuing on Active Duty.* Members who change their status or component as outlined below, while they are serving on active duty will be provided a completed DD Form 214 upon:

(i) Discharge for immediate enlistment or reenlistment (optional—at the discretion of the Military Services). However, Military Services not providing the DD Form 214 will issue instructions requiring those military offices which maintain a member's records to provide necessary Service data to the member for application to

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appropriate civilian individuals, groups, and governmental agencies. Such data will include Service component, entry date and grade.

(ii) Termination of enlisted status to accept an appointment to warrant or commissioned officer grade.

(iii) Termination of a temporary appointment to accept a permanent warrant or commission in the Regular or Reserve components of the Armed Forces.

(iv) Termination of an officer appointment in one of the Military Services to accept appointment in another Service.

(c) *DD Form 214 need not be prepared for.* (1) Personnel found disqualified upon reporting for active duty and who do not enter actively upon duties in accordance with orders.

(2) Personnel whose active duty, active duty for training, or full-time training duty is terminated by death.

(3) Personnel being removed from the Temporary Disability Retired List.

(4) Enlisted personnel receiving temporary appointments to warrant or commissioned officer grades.

(5) Personnel whose temporary warrant or commissioned officer status is terminated and who remain on active duty to complete an enlistment.

(6) Personnel who terminate their Reserve component status to integrate into a Regular component.

(7) Personnel separated or discharged who have been furnished a prior edition of this form, unless that form is in need of reissuance for some other reason.

(d) *Preparation.* The Military Departments will issue instructions governing the preparation of DD Form 214, consistent with the following:

(1) DD Form 214 is an important record of service which must be prepared accurately and completely. Any unavoidable corrections and changes made in the unshaded areas of the form during preparation shall be neat, legible and initialed on all copies by the authenticating official. The recipient will be informed that making any unauthorized change or alteration of the form will render it void.

(2) Since DD Form 214 is often used by civilian personnel, abbreviations should be avoided.

(3) Copies of DD Form 214 transmitted to various governmental agencies shall be legible, especially those provided to the Veterans Administration and the Department of Labor.

(4) The authority for a member's transfer or discharge will be cited by reference to the appropriate Military Service regulation, instruction, or manual, followed by the appropriate separation program designator on copies 2, 4, 7 and 8 only. A narrative description to identify the reason for transfer or separation will not be used on copy 1.

(5) To assist the former servicemember in employment placement and job counseling, formal inservice training courses successfully completed during the period covered by the form will be listed in Block 14, Military Education; e.g., medical, dental, electronics, supply, administration, personnel or heavy equipment operations. Training courses for combat skills will not be listed. See 1978 Guide to the Evaluation of Educational Experiences in the Armed Services, published by the American Council on Education, for commonly accepted course titles and abbreviations.

(6) For the purpose of reemployment rights (DoD Directive 1205.12 "Assistance to be Provided members of the Armed Forces in Exercising Reemployment Rights for Obtaining Employment or Training," January 15, 1969), all extensions of service, except those under 10 U.S.C. 972, are considered to be at the request and for the convenience of the Government. In these cases, Block 18 of DD Form 214 will be annotated to indicate "Extension of Service was at the request and for the convenience of the Government."

(7) When one or more of the data items on the DD Form 214 are not available and the document is issued to the separatee, the applicable block(s) will be annotated "See Remarks." In such cases, Block 18 will contain the entry "DD Form 215 will be issued to provide missing information." When appropriate, Block 18 will also reflect the amount of disability pay, and the inclusive dates of any non-pay/excess leave days.

(8) Authorizing official (E-7, GS-7 or above) will sign the original in ink ensuring that the signature is legible on all carbon copies. If not, a second signature may be necessary on a subsequent carbon copy.

(9) The following are the only authorized entries in Block 24, Character of Service, as appropriate: "Honorable, Under Honorable Conditions (General), Under Other Than Honorable Conditions, Bad Conduct, or Dishonorable." When a discharge has been upgraded, the DD Form 214 will be annotated on copies 2 through 8 in Block 18 to indicate the character of service has been upgraded; the date the application for upgrade was made; and the effective date of the corrective action.

(e) *Distribution.* The Military Services will prescribe procedures governing the distribution of copies of the DD Forms 214 and 215, consistent with their internal requirements, and the following:

(1) *DD Form 214*—(i) *Copy No. 1 (original).* To the member.

(ii) *Copy No. 2.* To be used as the Military Services' record copy.

(iii) *Copy No. 3.* To the Veterans Administration, Data Processing Center (214), 1614 E. Woodward Street, Austin, Texas 78772. A reproduced copy will also be provided to the hospital with the medical records if the individual is transferred to a VA hospital. If the individual completes VA Form 21-526e, "Veterans Application for Compensation or Pension at Separation from Service," include a copy of the DD Form 214 with medical records forwarded to the VA regional office having jurisdiction over the member's permanent address. When an individual is in Service and enlisting or reenlisting in an active duty status or otherwise continuing on active duty in another status, copy No. 3 will not be forwarded to the VA.

(iv) *Copy No. 4.* To the member, if the member so requested by having initialed Block 30. If the member does not request this copy, it may be retained in the master military personnel record, to be available in case the member requests a copy later.

(v) *Copy No. 5.* To the U.S. Department of Labor, Unemployment Insurance Systems Design Center, P.O. Box 44246, Capitol Station, Baton Rouge, Louisiana 70804.

(vi) *Copy No. 6.* To the appropriate State Director of Veterans Affairs (see § 45.5), if the member so requested by having checked "Yes" in Block 20, "Member Requests Copy Be Sent to Director of Veterans Affairs." The member must specify the State. If the member does not request the copy be mailed, it may be utilized as prescribed by the Military Service concerned.

(vii) *Copies No. 7 and 8.* To be distributed in accordance with regulations issued by the Military Service concerned.

(viii) *Additional Copy Requirements.* Discharged Alien Deserters. Provide one reproduced copy of Copy No. 1 to the U.S. Department of State, Visa Office—SCA/VO, State Annex No. 2, Washington, D.C. 20520 to assist the Visa Office in precluding the unwarranted issuance of visas to discharged and alien deserters in accordance with DoD Directive 1325.2[1], "Desertion and Unauthorized Absenteeism," February 10, 1977. Place of birth will be entered in Block 18.

(2) *DD Form 214-ws.* Utilized to facilitate the preparation of DD Form 214. The document will be used and disposed of in accordance with regulations issued by the Military Service concerned.

(3) *DD Form 215.* Utilized to correct errors in DD Form 214 discovered after the original has been delivered and/or distribution of copies of the form has been made, and to furnish to separatee information not available when the DD Form 214 was prepared. The distribution of DD Form 215 will be identical to the distribution of DD Form 214.

(4) *Requests for Copies of DD Form 214 Subsequent to Separation.* Agencies maintaining a separatee's DD Form 214 will provide a copy only upon written request by the member. Agencies will provide the member with 1 copy with the Special Additional Information section, and 1 copy with that information deleted. In the case of DD Forms 214 issued prior to 1 July 1979, agencies will provide the member with 1 copy containing all items of information completed, and 1 copy with the following items deleted from the form: Specific authority and narrative reason for separation, reenlistment eligibility code, and separation program designator/number.

(i) In those cases where the member has supplied an authorization to provide a copy of the DD Form 214 to another individual or group, the copy furnished will not contain the Special Additional Information section or, in the case of DD Forms issued prior to 1 July 1979, those items listed in d., above.

(ii) A copy will be provided to authorized personnel for official purposes only.

(f) *Procurement.* Arrangements for procurement of DD Forms 214, 214-ws, and 215 will be made by the Military Services.

(g) *Modification of Forms.* The modification of the content of format of DD Forms 214, 214-ws, and 215 may not be accomplished without prior authorization of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L)). Requests to add or delete information will be coordinated with the other Military Services in writing, prior to submission to the ASD(MRA&L). If a Military Service uses computer capability to generate forms, the items of information may be rearranged.

§ 45.4 Responsibilites.

(a) The DD Forms 214 and 215 are a source of significant and authoritative information used by civilian and governmental agencies to validate veteran eligibility for benefits. As such, they are valuable forms, and therefore, vulnerable for fraudulent use. Since they are sensitive, the forms must be safeguarded at all times. They will be transmitted, stored, and destroyed in a manner which will prevent unauthorized use. The Military Services will issue instructions consistent with the following:

(1) All DD Forms 214 will be surprinted with a reproducible screen tint using appropriate security ink on blocks 1, 3, 4, 12 and 18 through 30. In addition blocks 1, 3, 5 and 7 of the DD Form 215 will be similarly surprinted to make alterations readily discernible. No corrections will be permitted in the screened areas.

(2) All forms will be secured after duty hours.

(3) All obsolete forms will be destroyed.

(4) All forms to be discared, including those which are blank or partially completed, and reproduced copies of DD Form 214, will be destroyed. No forms will be discared intact.

(5) Blank forms given to personnel for educational or instructional purposes, and forms maintained for such use, are to be clearly voided in an unalterable manner.

(6) The commander or commanding officer of each unit or activity authorized to ussue DD Form 214 will appoint, in writing, a commissioned officer, warrant officer, enlisted member (grade E-7 or above), or DoD civilian (GS-7 or above) who will requisition, control, and issue blank DD Forms 214 and 215.

(7) The Military services will monitor the use of DD Form 214 and review periodically its issuance to insure compliance with procedures for safeguarding.

(b) The DD Form 214-ws will contain the word "WORKSHEET" on the body of the Form. This DD Form 214-ws will be treated in the same manner as the DD Form 214.

(c) The Military Services will issue appropriate instructions to separation activities stressing the importance of the DD Forms 214 and 215 in obtaining veterans benefits, reemployment rights and unemployment insurance.

(d) Standard separation program designator (SPD) codes for officer and enlisted personnel developed under the provisions of DoD Instruction 5000.12, [1] "Data Elements and Data Codes Standardization Procedures," April 27, 1965 are published in DoD Manual 5000.12-M, [2] "Manual for Standard Data Elements," March 1, 1970.

(1) Requests to add, change, or delete an SPD code shall be forwarded by the DoD Component concerned with appropriate justification to the Assigned Responsible Agency accountable for evaluating, recommending approval of, and maintaining such codes:

Department of the Navy, Bureau of Naval Personnel, (PERS 3), Washington, D.C. 20370

(2) Requests to add, change, or delete an SPD code will be submitted in accordance with section V., DoD Instruction 5000.12, [1] with prior written approval by the ASD(MRA&L), or his/her designee.

(e) All lists of SPD codes, including supplemental lists, published by the DoD Components will be stamped "For Official Use Only" and will not be furnished to any agency or individual outside the Department of Defense.

(1) Appropriate provisions of the Freedom of Information Act, 5 U.S.C. 522, as amended by Pub. L. 93-502 will be used to deny the release of the lists to the public. An individual being separated or discharged is entitled access only to his/her SPD code. It is not intended that these codes stigmatize an individual in any manner. They are intended for internal use by the Department of Defense in collecting data to analyze statistical reporting trends that may, in turn, influence changes in separation policy.

(2) Agencies or individuals who come into the possession of these lists are cautioned on their use because a particular list may be outdated and not reveal correctly the full circumstances relating to an individual's separation or discharge.

§ 45.5 State Directors of Veterans Affairs.

ALABAMA

Director, Department of Veterans Affairs, P.O. Box 1509, Montgomery, AL 36106.

ALASKA

Director, Division of Veterans Affairs, Pouch DA, Juneau, AK 99801.

ARIZONA

Director, Department of Economic Security, P.O. Box 6123, Phoenix, AZ 85005.

ARKANSAS

Director, Veterans Service Office, 1200 West 3rd, Little Rock, AR 72201.

CALIFORNIA

Director, Department of Veterans Affairs, P.O. Box 1559, Sacramento, CA 95807.

COLORADO

Director, Veterans Affairs Section, Department of Social Services, 1575 Sherman Street—Rm 103, Denver, CO 80203.

CONNECTICUT

Commandant, Veterans Home and Hospital, 287 West Street, Rocky Hill, CT 06067.

DELAWARE

Director, Veterans Services Division, Department of Finance, Emily P. Bissell Hospital, 3000 Newport Gap Pike Bldg., Wilmington, DE 19808.

DISTRICT OF COLUMBIA

Chief, Office of Veterans Affairs, 941 N. Capitol St., N.E., Room 1211 F, Washington, D.C. 20421.

FLORIDA

Director, Division of Veterans Affairs, P.O. Box 1437, St. Petersburg, FL 33731.

GEORGIA

Director, Department of Veterans Service, Veterans Bldg., State Capitol, Atlanta, GA 30334.

[1] Copies may be obtained, if needed, through normal military publication channels.

UMI

HAWAII

Director, Department of Social Services, Veterans Affairs Section, P.O. Box 339, Honolulu, HI 96809.

IDAHO

Director, Division of Veterans Services, P.O. Box 7765, Boise, ID 83707.

ILLINOIS

Director, Department of Veterans Affairs, P.O. Box 5054, 126 W. Jefferson Street, Springfield, IL 62705.

INDIANA

Director, Department of Veterans Affairs, 707 State Office Building, 100 N. Senate Bldg., Indianapolis, IN 46204.

IOWA

Executive Secretary, Bonus Board, State Capitol, Des Moines, IA 50319.

KANSAS

Executive Director, Veterans Commission Division, Department of Human Resources, 701 Jackson Street, Topeka, KS 66603.

KENTUCKY

Manager, Kentucky Center for Veterans Affairs, 600 Federal Place—Rm 136J, Louisville, KY 40202.

LOUISIANA

Director, Department of Veterans Affairs, 4th Floor, Old State Capitol, Baton Rouge, LA 70801.

MAINE

Commissioner, Bureau of Veterans Services, Camp Keys, Augusta, ME 04333.

MARYLAND

Director, Veterans Commission, 113 Federal Bldg.—Rm G-07, 31 Hopkins Plaza, Baltimore, MD 21201.

MASSACHUSETTS

Commissioner of Veterans Services, 100 Cambridge St., Rm 1002, Leverett Saltonstall Bldg., Boston, MA 02202.

MICHIGAN

Executive Secretary, Veterans Trust Fund, 3500 N. Logan St., Rm 379, Lansing, MI 48913.

MINNESOTA

Commissioner, Department of Veterans Affairs, Veterans Service Building, St. Paul, MN 55155.

MISSISSIPPI

Commissioner, Veterans Affairs Commission, 637 North President St., Jackson, MS 39202.

MISSOURI

Director, Division of Veterans Affairs, P.O. Drawer 147, Jefferson City, MO 65101.

MONTANA

Administrator, Veterans Welfare Commission, P.O. Box 1702, Helena, MT 59601.

NEBRASKA

Director, Department of Veterans Affairs, First Floor, State Capitol, Lincoln, NE 68509.

NEVADA

Commissioner, Veterans Affairs, 1201 Terminal Way, Reno, NV 89502.

NEW HAMPSHIRE

Director, State Veterans Council, 100 State House Annex, Concord, NH 03301.

NEW JERSEY

Director, Division of Veterans Programs & Special Services, 143 E. State Street, P.O. Box 1237, Trenton, NJ 08608.

NEW MEXICO

Director, Veterans Service Commission, P.O. Box 2324, Santa Fe, NM 87503.

NEW YORK

Director, Division of Veterans Affairs, 13th Floor, Empire State Plaza, Agency Building, No. 4, Albany, NY 12223.

NORTH CAROLINA

Director, Department of Veterans Affairs, 227 E. Edenton Street, Raleigh, NC 27601.

NORTH DAKOTA

Commissioner, Department of Veterans Affairs, P.O. Box 1287, Fargo, ND 58102.

OHIO

Chief, Division of Soldiers Claims & Veterans Affairs, 11 State House Annex, Columbus, OH 43215.

OKLAHOMA

Director, Department of Veterans Affairs, P.O. Box 53067, Capitol Station, Oklahoma City, OK 73105.

OREGON

Director, Department of Veterans Affairs, 1225 Perry Street, S.E., Salem, OR 97310.

PENNSYLVANIA

Deputy Adjutant General, of Veterans Affairs & Assistance, Fort Indiantown Gap, Annville, PA 17003.

PUERTO RICO

Director, Veterans Office, 1332 Jesue T. Pinero Avenue, Puerto Nuevo, PR 00921.

RHODE ISLAND

Chief, Soldier's Welfare Services, 46 Aborn Street, Providence, RI 02903.

SOUTH CAROLINA

Director, Department of Veterans Affairs, 227 Brown Building, 1205 Pendleton Street, Columbia, SC 29201.

SOUTH DAKOTA

Director, Division of Veterans Affairs, P.O. Box 298, State Capitol Building, Pierre, SD 57501.

TENNESSEE

Commissioner, Department of Veterans Affairs, 215 8th Avenue, North, Nashville, TN 37203.

TEXAS

Director, Veterans Affairs Commission, Box 12277, Capitol Station, Austin, TX 78711.

UTAH

Director, Department of Social Services, Office of Veterans Affairs, 150 West North Temple, P.O. Box 2500, Salt Lake City, UT 84110.

VERMONT

Director, State Veterans Affairs Section, City Hall, Main Street, Montpelier, VT 05602.

VIRGINIA

Director, Division of War Veteran Claims, 210 Franklin Road, S.W., Roanoke, VA 24011.

VIRGIN ISLANDS

Director, Department of Veterans Affairs, P.O. Box 708, Christiansted, St. Croix, VI 00820.

WASHINGTON

Director, Department of Veterans Affairs, P.O. Box 9778 Olympia, WA 95804.

WEST VIRGINIA

Director, Department of Veterans Affairs, 612 Atlas Building, Charleston, WV 25301.

WISCONSIN

Secretary, Department of Veterans Affairs, 77 North Dickinson Street, Madison, WI 53702.

WYOMING

No DVA.

JANUARY 16, 1979.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[3810-70-C]

Enclosure 1

CAUTION NOT TO BE USED FOR IDENTIFICATION PURPOSES

THIS IS AN IMPORTANT RECORD SAFEGUARD IT

ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID

DD FORM 214 PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE. **CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY**

1. NAME (Last, first, middle)	2. DEPARTMENT, COMPONENT AND BRANCH	3. SOCIAL SECURITY NO.

4a. GRADE, RATE OR RANK	4b. PAY GRADE	5. DATE OF BIRTH	6. PLACE OF ENTRY INTO ACTIVE DUTY

7. LAST DUTY ASSIGNMENT AND MAJOR COMMAND	8. STATION WHERE SEPARATED

9. COMMAND TO WHICH TRANSFERRED	10. SGLI COVERAGE
	AMOUNT $ _____,000 ☐ NONE

11. PRIMARY SPECIALTY NUMBER, TITLE AND YEARS AND MONTHS IN SPECIALTY (Additional specialty numbers and titles involving periods of one or more years)	12. RECORD OF SERVICE	YEAR(s)	MON(s)	DAY(s)
	a. Date Entered AD This Period			
	b. Separation Date This Period			
	c. Net Active Service This Period			
	d. Total Prior Active Service			
	e. Total Prior Inactive Service			
	f. Foreign Service			
	g. Sea Service			
	h. Effective Date of Pay Grade			
	i. Reserve Oblig. Term. Date			

13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service)

14. MILITARY EDUCATION (Course Title, number weeks, and month and year completed)

15. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VEAP	16. HIGH SCHOOL GRADUATE OR EQUIVALENT	17. DAYS ACCRUED LEAVE PAID
☐ YES ☐ NO	☐ YES ☐ NO	

18. REMARKS

19. MAILING ADDRESS AFTER SEPARATION	20. MEMBER REQUESTS COPY 6 BE SENT TO _____ DIR OF VET AFFAIRS ☐ YES ☐ NO
21. SIGNATURE OF MEMBER BEING SEPARATED	22. TYPED NAME, GRADE, TITLE AND SIGNATURE OF OFFICIAL AUTHORIZED TO SIGN

SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)

23. TYPE OF SEPARATION	24. CHARACTER OF SERVICE (Includes upgrades)	
25. SEPARATION AUTHORITY	26. SEPARATION CODE	27. REENLISTMENT CODE
28. NARRATIVE REASON FOR SEPARATION		
29. DATES OF TIME LOST DURING THIS PERIOD		30. MEMBER REQUESTS COPY 4 _____ INITIALS

SERVICE

19

Enclosure 2

DATA REQUIRED BY THE PRIVACY ACT. Authority: 10 U.S.C. 1168. Principal Purpose: Record and report the release or discharge of military personnel from active duty and to facilitate verification of eligibility for veterans benefits. Routine Uses: To provide authorized government agencies data required in performing functions required by law. Disclosure: Voluntary. Failure to disclose data could delay receipt of benefits.

DD FORM 214 WS PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE — **CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY**

1 NAME (Last, first, middle)		2 DEPARTMENT, COMPONENT AND BRANCH	3 SOCIAL SECURITY NO.
4a GRADE, RATE OR RANK	4b PAY GRADE	5 DATE OF BIRTH	6 PLACE OF ENTRY INTO ACTIVE DUTY
7 LAST DUTY ASSIGNMENT AND MAJOR COMMAND			8 STATION WHERE SEPARATED
9 COMMAND TO WHICH TRANSFERRED			10 SGLI COVERAGE: AMOUNT $_____,000 ☐ NONE

11 PRIMARY SPECIALTY NUMBER, TITLE AND YEARS AND MONTHS IN SPECIALTY (Additional specialty numbers and titles involving periods of one or more years)	12 RECORD OF SERVICE	YEAR(S)	MONTH(S)	DAY(S)
	a. Date Entered AD This Period			
	b. Separation Date This Period			
	c. Net Active Service This Period			
	d. Total Prior Active Service			
	e. Total Prior Inactive Service			
	f. Foreign Service			
	g. Sea Service			
	h. Effective Date of Pay Grade			
	i. Reserve Oblig. Term. Date			

13 DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service)

14 MILITARY EDUCATION (Course Title, number of weeks and month and year completed)

15 MEMBER CONTRIBUTED TO POST VIETNAM ERA VEA	16 HIGH SCHOOL GRADUATE OR EQUIVALENT	17 DAYS ACCRUED LEAVE PAID
☐ YES ☐ NO	☐ YES ☐ NO	

18 REMARKS

19 MAILING ADDRESS AFTER SEPARATION	20 MEMBER REQUESTS COPY 6 BE SENT TO _____ DIR OF VET AFFAIRS ☐ YES ☐ NO
21 SIGNATURE OF MEMBER BEING SEPARATED	22 TYPED NAME, GRADE, TITLE AND SIGNATURE OF OFFICIAL AUTHORIZED TO SIGN

SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)

23 TYPE OF SEPARATION	24 CHARACTER OF SERVICE (Includes upgrades)	
25 SEPARATION AUTHORITY	26 SEPARATION CODE	27 REENLISTMENT CODE
28 NARRATIVE REASON FOR SEPARATION		
29 DATES OF TIME LOST DURING THIS PERIOD		30 MEMBER REQUESTS COPY 4 _____ INITIALS

WORK SHEET

Enclosure 3

CORRECTION TO DD FORM 214, CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

MEMBER - 1
SERVICE - 2
VETERANS ADMINISTRATION - 3
MEMBER - 4

DEPARTMENT OF LABOR - 5
STATE DIRECTOR OF VETERANS AFFAIRS - 6
SERVICE - 7 AND 8

[FR Doc. 79-1999 Filed 1-18-79; 8:45 am]

DD FORM 215 PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE.

CAUTION NOT TO BE USED FOR IDENTIFICATION PURPOSES

ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID

1. NAME (Last, first, middle)	2. DEPARTMENT, COMPONENT AND BRANCH	3. SOCIAL SECURITY NO. (Also, Service Number if applicable)
4. MAILING ADDRESS (Include ZIP Code)		

5. ORIGINAL DD FORM 214 IS CORRECTED AS INDICATED BELOW

ITEM NO.	CORRECTED TO READ

SEPARATION DATE ON DD FORM 214 BEING CORRECTED _____

6. DATE	7. TYPED NAME, GRADE, TITLE AND SIGNATURE OF OFFICIAL AUTHORIZED TO SIGN

[4110-08-M]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 52h—SCIENTIFIC PEER REVIEW OF RESEARCH GRANT APPLICATIONS AND RESEARCH AND DEVELOPMENT CONTRACT PROJECTS

Correction

AGENCY: Public Health Service, HEW.

ACTION: Correction of Rules and Regulations.

SUMMARY: HEW corrects the Regulation published in the FEDERAL REGISTER February 24, 1978 (43 FR 7861, FR Doc. 78-4441). In that publication, the effective date was erroneously listed as October 1, 1977. The effective date should have read February 24, 1978, the date of publication in the FEDERAL REGISTER.

EFFECTIVE DATE: This correction is effective January 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. William H. Goldwater, Collaborative Programs Policy Officer, National Institutes of Health, OCR, Building 1, Room 113, 9000 Rockville Pike, Bethesda, Md. 20014, (301) 496-2241.

Dated: January 12, 1979.

L. DAVID TAYLOR,
Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 79-2070 filed 1-18-79; 8:45 am]

[4110-35-M]

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—MEDICARE PROGRAM

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart D—Principles of Reimbursement for Provider Costs and for Services by Hospital-based Physicians

DEPRECIATION: ALLOWANCE FOR DEPRECIATION BASED ON ASSET COSTS

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: Current regulations dealing with the computation of gains and losses on disposal of depreciable assets are being amended. These amendments specify the Medicare cost accounting treatment of gains and losses arising from both voluntary and involuntary disposal of assets. The amendments preclude immediate reimbursement for substantial losses resulting from the premature and voluntary demolition or abandonment of depreciable assets. These amendments also include rules for determining the useful lives of depreciable assets and provide that estimated useful lives may not be shortened for such reasons as anticipated early disposal of assets or termination from the Medicare program. The new provisions are intended to assure that depreciation allowed under Medicare accurately reflects providers' costs of using assets for patient care.

EFFECTIVE DATE: These amendments become effective March 20, 1979 in order to allow providers and intermediaries sufficient time to make any necessary changes in recordkeeping or procedures.

FOR FURTHER INFORMATION CONTACT:

Mr. Hugh McConville, Medicare Bureau, Health Care Financing Administration, 412 East Building, 6401 Security Boulevard, Baltimore, Maryland 21235, 301-594-9430.

SUPPLEMENTARY INFORMATION:

SUMMARY OF AMENDMENTS

Medicare reimburses providers for the direct and indirect costs necessary to the provision of patient care, including the cost of using assets in patient care. Thus, depreciation of these assets has always been an allowable cost under Medicare. The allowance is computed on the depreciable basis and estimated useful life of the assets. When an asset is disposed of, no further depreciation may be taken on it. However, if a gain or loss is realized from the disposition, reimbursement for depreciation must be adjusted so that Medicare pays the actual cost the provider incurred in using the asset for patient care.

Existing regulations contain a requirement that any gain or loss realized on the disposal of a depreciable asset must be included in Medicare allowable cost computation. (See 42 CFR 405.415(f).) The regulations, however, specify neither the procedures for computations of the gain or loss nor the methods for making adjustments to depreciation. These amendments provide rules for the treatment of gain or loss depending on the manner of disposition of the asset.

Depreciable assets may be disposed of in various ways: voluntarily through sale, scrapping, trade-in, exchange, demolition and abandonment, or involuntarily through casualty. These amendments provide that, if a provider sells or scraps depreciable assets, a gain or loss will be included as an adjustment to depreciation allowed in the year of disposal. (§ 405.415(f)(2).) The amendments retain the present requirement that gain or loss on a sale of assets within one year after a provider terminates Medicare participation is included in computing allowable cost. (§ 405.415(f)(3).) If several assets are sold for a lump sum, the amendments provide that the sales price will be allocated to each asset according to its fair market value for purposes of computing gain or loss. The regulation encourages the buyer and seller to agree on an allocation of the sales price, but if the parties fail to agree, or if they do agree but there is not sufficient documentation of current fair market value of each asset, the intermediary of the selling provider will determine the fair market value of each asset by an independent appraisal.

If a provider trades in or exchanges an asset, no gain or loss is included in computation of allowable cost. Instead, consistent with principles of the Internal Revenue Service (IRS), the undepreciated value of the traded asset, plus any additional assets transferred to acquire the new asset, are used as the basis for depreciation of the new asset under Medicare. Any gain or loss upon disposition of the new asset will be computed in accordance with the applicable provisions of this section.

These amendments preclude immediate reimbursement of a loss resulting from a voluntary and premature demolition or abandonment of assets, since the loss is not related to patient care furnished in the year of disposal. In order to obtain reimbursement, a provider must ordinarily replace the asset and capitalize the loss as a deferred charge, to be amortized over the useful life of the replacement asset. (§ 405.415(f)(5)(iv).) There are several exceptions to this general principle. If the loss is less than $5,000 or the asset disposed of is virtually exhausted, a depreciation adjustment will be allowed in the year of disposition. (§ 405.415(f)(5)(ii).) We have decided that the recordkeeping costs that would result from requiring deferral and amortization of these losses are not warranted by the amounts involved.

Moreover, if demolition or abandonment of patient care assets is approved by the State Health Planning and Development Agency (SHPDA) responsible under P.L. 93-641 for developing standards, criteria, and plans to meet the health care needs in the area, the regulation allows a loss to be recovered over the remaining life of the demolished asset. (§ 405.415(f)(5)(iv).)

We have added a similar provision modifying section 405.415(f)(6) of the proposed regulation. The change liberalizes the proposed regulation which required that a provider replace involuntarily-converted assets in order to include involuntary losses in costs reimbursed under Medicare. The final regulation provides that if a provider intends to replace the assets, but a State Health Planning and Development Agency finds that replacement is inconsistent with the health systems plan of the health service area, the loss will be included in computing allowable cost. This provision and section 405.415(f)(5)(iv) are consistent with our commitment to effective health planning and development and to cost containment; their purpose is to encourage voluntary compliance with SHPDA recommendations and to eliminate Medicare costs that would be associated with unnecessary replacement of assets.

These amendments also expand current provisions with respect to estimating useful lives of assets. They specify the factors to be used in determining useful lives. They also require that in computing depreciation providers use useful life guidelines published by the Secretary, or, if none exist, the guidelines published by IRS or the American Hospital Association. Any changes in estimated useful lives must be properly documented by the provider and approved by the intermediary. This procedure is intended to assure that providers do not inappropriately shorten the estimated useful lives of assets to increase Medicare reimbursement.

The proposed regulation did not specify how costs should be assigned between depreciable and nondepreciable assets disposed of through demolition. To rectify this omission, we have added § 405.415(f)(5)(vi) and (vii), describing the items of cost to be included in the computation of a loss arising from a demolition or abandonment and those items that are treated under generally accepted accounting principles as adjustments to the basis of the assets. Similarly, § 405.415(f)(6)(ii) was added to define the net loss allowable with respect to involuntary conversion of assets; this term was not defined in the NPRM.

We have made a number of editorial changes for clarity, including amending paragraph (a) of § 405.415 by adding the phrase "used in the provision of patient care" after the words "buildings and equipment." This phrase previously appeared in paragraph (f)(2), but it more properly belongs in paragraph (a) as a general principle.

DISCUSSION OF MAJOR COMMENTS

A notice of proposed rulemaking for these regulations was published on August 20, 1976 in the FEDERAL REGISTER (41 FR 35197). Comments and suggestions were received from a number of organizations, hospitals, and individuals. Responses to the most significant ones and changes in the proposed regulations are described below.

1. DEFERRAL OF LOSSES WHERE ASSETS ARE DISPOSED OF THROUGH ABANDONMENT OR DEMOLITION

Several comments received regarding § 405.415(f) concerned the deferral of losses where assets are disposed of through abandonment or demolition. Commenters criticized the procedure, stating that it is not consistent with generally accepted accounting principles, is arbitrary and capricious, and is contrary to the law because it would result in costs associated with Medicare patients being borne by non-Medicare patients. Further, comments contended that deferral of such losses is not justified because there is no future economic value to the demolished or abandoned asset and that such treatment adversely affects the provider's cash flow. We think it would be inconsistent with the reimbursement of reasonable cost to include the entire loss in the year of disposal, since the loss is not related to the cost of services rendered in that year. Also, full recognition of such losses in the year of disposal tends to encourage the demolition or abandonment of patient care assets at the expense of the Medicare program. We have, however, modified the proposed regulation to allow reimbursement in the year of disposal for demolition or abandonment losses incurred on assets which are at least 80 percent depreciated (as computed under the straight-line method) at the time of demolition or abandonment. Since assets held for 80 percent of their estimated useful life are substantially exhausted, we have decided not to treat their disposal as a premature disposition. If an asset is not 80 percent depreciated under the straight-line method, the loss, if in excess of $5,000, must still be capitalized and amortized, but the amount to be amortized each year will be the greater of the annual amortized amount or $5,000. This will insure the rapid amortization of small losses.

2. USE OF STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES

The second major objection concerned the requirement that providers secure State Health Planning and Development Agencies' approval of demolitions or abandonments. Such agencies do not exist in all States and some agencies are not authorized to approve proposed demolitions or abandonments. The proposed regulation has, therefore, been changed to provide that where such agencies cannot perform this function, a provider must seek approval from the Medicare Bureau Regional Office.

3. GAINS OR LOSSES ON EXCHANGE OR TRADE-IN NOT INCLUDED IN ALLOWABLE COST

Some commenters objected that the regulation does not permit inclusion of gains or losses on exchange or trade-in in determining allowable cost. Although gains or losses are not immediately allowable, the historical cost of the new asset is based upon the book value of the traded asset plus other assets included in the exchange. Thus, gain or loss on the exchange or trade-in would be indirectly reflected in any gain or loss realized when the new asset is disposed of. This policy is consistent with IRS treatment of these gains and losses and is currently widely employed in accounting for exchange or trade-in of assets by all industries in order to comply with IRS requirements. Therefore, we have retained this provision as published in the NPRM, with a minor addition: the regulation now provides that historical cost of the new asset is limited to the lower of its list price or fair market value. The addition of the phrase "fair market value" is intended to clarify how the provision will be applied to assets that have no list price or both list price and fair market value.

4. USE OF APPRAISALS TO ALLOCATE A LUMP SUM SALES PRICE

The proposed regulation required that allocation of a lump sum sales price among the assets sold be based on an independent appraisal. Some commenters objected that this requirement would unnecessarily increase costs. We have amended the provision to allow the seller and buyer to agree upon an allocation of a lump sum sales price, and we encourage them to do so. If the parties do not agree on an allocation, or if they do agree but there is insufficient documentation of the current fair market value of each asset, the regulation provides that the intermediary of the selling provider will require an independ-

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ent appraisal to establish the fair market value of each asset. We believe that these changes in the regulation will avoid unnecessary costs, while assuring accurate allocations of lump sum sales prices.

5. EXCLUSION OF DEFERRED CHARGES FROM EQUITY CAPITAL COMPUTATION

Other commenters disagreed with our excluding from equity capital computation the deferred charges arising from demolition or abandonment losses. (See discussion in Paragraph 1 above.) Pursuant to § 405.429, proprietary providers may include as an allowable cost a return on equity capital invested and used in the provision of patient care. In our view, however, since assets demolished or abandoned are no longer used in the provision of patient care as required by § 405.429, the deferred unrecovered cost should be excluded from the equity capital computation.

6. $5,000 LIMITATION

Numerous requests were received to increase the limit of $5,000 for current allowance of losses from demolition or abandonment of depreciable assets. Rather than raising the $5,000 limit, we have liberalized the proposed regulation by allowing inclusion of losses in the year of disposal if the asset disposed of is at least 80 percent depreciated. As amended, the provision will limit deferral of losses to extraordinary disposals.

7. DETERMINING AND CHANGING USEFUL LIVES OF ASSETS

A few comments received opposed the use of useful life guidelines set by the American Hospital Association or the Internal Revenue Service. These guidelines have been used since the inception of the program and have proved to be equitable to the providers and the program. Therefore, we have decided to require their use where the Secretary does not publish applicable useful life guidelines. The regulation, however, does allow providers to establish estimated useful lives different from the guidelines under specified conditions.

Other commenters objected to the requirement for advance approval of changes in useful life, arguing that this new procedure is impractical, will increase administrative cost, and will cause undue hardship to providers. However, since this policy allows changes in useful life where justified by supportable documentation and merely assures proper review of such modifications, we have retained the requirement for advanced written approval.

Many comments expressed concern about the requirement that any change in useful life would be effective in the reporting period following the period the request is approved. Some stated that this provision could delay by an additional year the proper recording of depreciation. Accordingly, we have made such changes in useful life effective in the reporting year immediately following the year in which the provider's request is submitted for approval provided that the request to change is approved.

EFFECTIVE DATE

Some of these amendments may require providers and intermediaries to revise their recordkeeping and review procedures in order to assure proper implementation. These include § 405.415 (b)(7)(ii), (f)(2)(iv), (f)(5), and (f)(8). For this reason, we have deferred the effective date of these amendments for 60 days.

However, some of these amendments are merely a clarification or codification of existing Medicare policies. This is true for paragraphs (a), (b)(7)(i), (c), (f)(1), (f)(2) (i) through (iii), (f)(3), (f)(4), and (f)(7). (See § 405.415 (a), (c), and (f) and § 405.429 of the current regulations and Chapter I of the Medicare Provider Reimbursement Manual (HIM-15-1).) With respect to these provisions, we will continue to implement the current policies, in the manner specified in these amendments.

42 CFR Part 405 is amended as follows:

1. Section 405.415 is amended by revising paragraphs (a), (c), and (f), and adding a new paragraph (b)(7) to read as follows:

§ 405.415 Depreciation: Allowance for depreciation based on asset costs.

(a) *Principle.* An appropriate allowance for depreciation on buildings and equipment used in the provision of patient care is an allowable cost. The depreciation must be:

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(b) *Definitions.*

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(7) *Useful life.* The estimated useful life of a depreciable asset is its normal operating or service life to the provider, subject to the provisions in paragraph (b)(7)(i) of this section. Factors to be considered in determining useful life include normal wear and tear; obsolescence due to normal economic and technological changes; climatic and other local conditions; and the provider's policy for repairs and replacement.

(i) *Initial selection of useful life.* In selecting a proper useful life for computing depreciation under the Medicare program, providers must use the useful life guidelines published by the Secretary. If the Secretary has not published applicable useful life guidelines, the useful life guidelines published by the American Hospital Association in its 1973 edition of *Chart of Accounts for Hospitals* or by the Internal Revenue Service shall be used. A different useful life may be approved by the intermediary if the provider's request is properly supported by acceptable factors which affect the determination of useful life. However, such factors as an expected early sale, retirement, demolition or abandonment of an asset, or termination from the Medicare program may not enter into a determination of the expected useful life of an asset.

(ii) *Changing useful life.* A change in the estimated useful life may be made when clear and convincing evidence justifies a redetermination of the useful life used by the provider. Such a change must be approved by the intermediary in writing, and the factors cited in paragraphs (b)(7) and (b)(7)(i) of this section are applicable in making such redeterminations of useful life. If the request is approved, the change is effective with the reporting period immediately following the period in which the provider's request is submitted for approval.

(c) *Recording of depreciation.* Appropriate recording of depreciation includes the identification of the depreciable assets in use, the assets' historical costs, the assets' dates of acquisition, the method of depreciation, estimated useful lives, and the assets' accumulated depreciation.

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(f) *Gains and losses on disposal of assets.*

(1) *General.* Depreciable assets may be disposed of through sale, scrapping, trade-in, exchange, demolition, abandonment, condemnation, fire, theft, or other casualty. If disposal of a depreciable asset results in a gain or loss, an adjustment is necessary in the provider's allowable cost. The amount of a gain included in the determination of allowable cost shall be limited to the amount of depreciation previously included in Medicare allowable costs. The amount of a loss to be included shall be limited to the undepreciated basis of the asset permitted under the program. The treatment of the gain or loss depends upon the manner of disposition of the asset, as specified in paragraphs (f)(2) through (f)(6) of this section.

(2) *Bona fide sale or scrapping.* (i) Except as specified in paragraph (f)(3) of this section, gains and losses realized from the bona fide sale or scrapping of depreciable assets are included in the determination of allowable cost only if the sale or scrapping occurs while the provider is participating in Medicare. The extent to which such gains and losses are included is calculated by prorating the basis for depreciation of the asset in accordance with the proportion of the assets' useful life for which the provider participated in Medicare. For purposes of this paragraph (f)(2)(i), scrapping refers to the physical removal from the provider's premises of tangible personal properties which are no longer useful for their intended purpose and are only salable for their scrap or junk value.

(ii) If the total amount of gains or losses realized from bona fide sales or scrapping does not exceed $5,000 within the cost reporting period or if the provider's cumulative utilization under the Medicare program is less than 5 percent, the net amount of gains or losses realized from sale or scrapping shall be allowed as a depreciation adjustment in the period of disposal. For purposes of this paragraph (f)(2)(ii), the provider's cumulative Medicare utilization percentage is determined by comparing the cumulative total of the Medicare inpatient days for all reporting periods in which depreciation on the asset disposed of was claimed under the Medicare program to the cumulative total of inpatient days of the participating provider for the same reporting periods.

(iii) If the conditions specified in paragraph (f)(2)(ii) of this section are not met, the adjustment to reimbursable cost in the reporting period of asset disposition shall be calculated as follows:

The total amount of gains or losses shall be allocated to all reporting periods under the Medicare program, based on the ratio of the depreciation allowed on the assets in each reporting period to the total depreciation allowed under the Medicare program. The results of this allocation are multiplied by the ratio of Medicare reimbursable cost to total allowable cost for each reporting period. The results of this multiplication are then added.

(iv) If a provider sells more than one asset for a lump sum sales price, the gain or loss on the sale of each depreciable asset must be determined by allocating the lump sum sales price among all the assets sold, in accordance with the fair market value of each asset as it was used by the provider at the time of sale. If the buyer and seller cannot agree on an allocation of the sales price, or if they do agree but there is insufficient documentation of the current fair market value of each asset, the intermediary for the selling provider shall require an appraisal by an independent appraisal expert to establish the fair market value of each asset and shall make an allocation of the sales price in accordance with the appraisal.

(3) *Sale within 1 year after termination.* Gains and losses realized from a bona fide sale of depreciable assets within 1 year immediately following the date on which the provider terminates participation in the Medicare program are also included in the determination of allowable cost, in accordance with the procedure specified in paragraph (f)(2) of this section. However, if several assets are sold for a lump sum sales price, the determination of fair market value must be based on the appraised value of the assets as they were last used by the provider while participating in the Medicare program.

(4) *Exchange or trade-in.* Gains or losses realized from the exchange or trade-in of depreciable assets are not included in the determination of allowable cost. When the disposition of an asset is by means of exchange or trade-in, the historical cost of the new asset is the sum of the undepreciated cost of the asset disposed of and the additional cash or other assets transferred or to be transferred to acquire the new asset. However, if the asset disposed of was acquired by the provider before its participation in the Medicare program and the sum of the undepreciated cost and the cash or other assets transferred or to be transferred exceed the list price or fair market value of the new asset, the historical cost of the new asset is limited to the lower of its list price or fair market value.

(5) *Demolition or abandonment.* (i) For purposes of this section, the term "abandonment" means the permanent retirement of an asset for any future purpose, not merely the provider's ceasing to use the asset for patient care purposes. To claim an abandonment under the Medicare program, the provider must have relinquished all rights, title, claim, and possession of the asset with the intention of never reclaiming it or resuming its ownership, possession, or enjoyment.

(ii) If losses resulting from the demolition or abandonment of depreciable assets do not exceed $5,000 within the cost-reporting period, the losses shall be allowed in the period of disposal.

(iii) If losses exceed $5,000 and, at the date of disposition, the demolished or abandoned assets are at least 80 percent depreciated as computed under the straight-line method, such losses are includible in the determination of allowable cost under the Medicare program in the period of disposal and the procedure provided in paragraph (f)(2)(iii) of this section shall be used in determining the adjustment to reimbursable cost.

(iv) Losses in excess of $5,000 resulting from the demolition or abandonment of assets, which at the date of disposition are not 80 percent depreciated as computed under the straight-line method, must be capitalized as a deferred charge and amortized as follows:

(A) If the State Health Planning and Development Agency (SHPDA) designated under Section 1521 of the Public Health Service Act approves the demolition or abandonment of a depreciable asset as being consistent with the health systems plan of the health service area in which the provider is located, the net loss realized shall be capitalized as a deferred charge and amortized over the remaining life of the demolished or abandoned asset, or at the rate of $5,000 per year, whichever is greater. If no State Health Planning and Development Agency exists or if such agency is unable or unwilling to perform this function, the provider shall submit a request for approval to the intermediary. The intermediary, after reviewing this request and before issuing the approval, shall submit the request along with its recommendation to the appropriate Medicare Bureau Regional Office for its approval.

(B) If a provider fails to obtain approval as specified in paragraph (f)(5)(iv)(A) of this section, a loss is not allowable unless the demolished or abandoned asset is replaced. If the asset is replaced, the loss resulting from the unapproved demolition or abandonment must be capitalized as a deferred charge and amortized over the estimated usefull life of the replacement asset or at the rate of $5,000 per year, whichever is greater.

(v) If a loss resulting from the demolition or abandonment is deferred and amortized and the provider terminates its participation in the Medicare program or ceases to use a replacement asset in the provision of patient care services, the unamortized deferred charge remaining at that time shall not be included in determining allowable cost under the Medicare program.

(vi) Losses on demolition shall include the demolition cost incurred by the provider for razing and removal of the asset, less any salvage value recovered by the provider. However, where a provider demolishes a depreciable asset for the purpose of preparing land for future sale, the net demolition cost incurred by the provider (razing and removal costs less salvage recovered) shall be considered a capital expenditure and added to the historical basis of the land.

(vii) If a provider purchases land on which there is a building, no depreciation shall be allowed under the Medicare program unless the building is used in providing patient care. If the building is demolished, the entire purchase price and demolition cost shall be considered the historical cost of the land. If the building is used for patient

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care, but demolished within 5 years of purchase, the entire purchase price, less allowed depreciation, plus demolition cost shall be considered the historical cost of the land.

(6) *Involuntary conversion.* (i) Losses resulting from the involuntary conversion of depreciable assets, such as condemnation, fire, theft, or other casualty, are generally included in the determination of allowable cost on a deferred basis if the asset is restored or replaced. However, losses resulting from a provider's imprudent management of its depreciable assets, such as the failure to obtain proper insurance coverage, are not included in the determination of allowable cost.

(ii) The net allowable loss from involuntary conversion shall consist of the undepreciated cost or unrecovered book value of the asset, less amounts received from insurance proceeds, gifts and grants received from local, State, or Federal government, or any other source as a result of the involuntary conversion.

(iii) If the asset is replaced and the net allowable loss in any cost-reporting period does not exeed $5,000, the entire amount shall be included in allowable cost in the period in which the loss is incurred. If the asset is replaced and the net allowable loss in any cost-reporting period exceeds $5,000, the loss must be capitalized as a deferred charge and amortized over the useful life of the replacement or restored asset. If a replaced or restored asset ceases to be used in the provision of patient care services or the provider terminates its participation in the Medicare program, the unamortized deferred charge remaining at that time shall not be included in determining allowable cost under the Medicare program.

(iv) If the provider fails to replace or restore an involuntarily-converted asset, the loss is not included in determining allowable cost. However, if the provider intends to replace or restore the asset but is unable to do so because the designated State Health Planning and Development Agency finds such replacement or restoration to be inconsistent with the health systems plan of the provider's health service area, the loss is allowable so long as the provider continues to participate in Medicare. In this case, the loss shall be capitalized as a deferred charge and amortized over the remaining life of the involuntarily converted asset, or at the rate of $5,000 per year, whichever is greater.

(v) If a gain is realized from an involuntary conversion of depreciable assets, the net amount realized shall reduce the basis of the restored or replacement asset. If the asset is not restored or replaced, the gain shall be treated in accordance with paragraph (f)(2) of this section.

(7) *Effect on equity capital.* The unrecovered loss entered on the books of the provider as a deferred charge, in accordance with paragraphs (f)(5) and (f)(6) of this section, is not includable in the computation of equity capital under § 405.429.

(8) *Sale of replacement or restored assets.* If a provider sells a replacement or restored asset while participating in the Medicare program or within 1 year immediately following the date on which it terminates its participation in the Medicare program, the unrecovered loss entered on the books of the provider as a deferred charge in accordance with paragraphs (f) (5) and (6) of this section will not be included in determining the gain or loss realized from the sale of the replacement or restored asset. However, if the sale of such asset is made to a related organization, as defined in § 405.427, and the purchasing organization continues as a provider in the Medicare program, the remaining deferred charge representing the unrecovered depreciable basis of the demolished, abandoned or destroyed asset shall continue to be amortized over the remaining expected useful life of the replacement or restored asset. If the sale is made to an unrelated organization, further amortization of the deferred charge is not allowed.

(Sections 1102, 1814(b), 1815, 1861(v)(1), and 1871 of the Social Security Act, 42 U.S.C. 1302, 1395f(b), 1395g, 1395x(v)(1) and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance.)

Dated: December 1, 1978.

LEONARD D. SCHAEFFER,
Administrator, Health Care Financing Administration.

Approved: January 10, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 79-2038 Filed 1-18-79; 8:45 am]

[4110-35-M]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart D—Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians

ELIMINATION OF THE COMBINATION METHOD OF APPORTIONMENT AND MODIFIED COST FINDING FOR PROVIDERS

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: The amendments eliminate the Combination Method of apportionment and modified cost finding used to determine a provider's allowable costs for health care services provided to Medicare beneficiaries. The elimination of the Combination Method is effective for cost reporting periods starting on or after July 1, 1979. The amendments also allow providers presently required to use the Combination Method to switch to the Departmental Method of apportionment for current cost reporting periods beginning on or after January 1, 1978, but before July 1, 1979. The purpose is to achieve greater uniformity with respect to cost reporting, cost finding, and apportionment methodology under the Medicare program.

EFFECTIVE DATE: These amendments shall be effective on February 20, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Hugh McConville, Medicare Bureau, Room 412, East Building, Baltimore, Maryland 21235. Telephone: (301) 594-9430.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The purpose of a method of apportionment is to determine what portion of a provider's costs is properly attributable to furnishing services to Medicare beneficiaries. The purpose of a method of cost finding is to determine the full cost of routine revenue-producing departments, ancillary revenue-producing departments, and activities for which reimbursement is not allowed under Medicare. For this purpose, "full-cost" means the direct cost incurred by these departments and activities, as well as their share of the cost of overhead.

The current Medicare regulations provide for two different methods of apportionment and cost finding. (See 42 CFR 405.404.) Under the simpler method of modified cost finding, the costs of groups of nonrevenue-producing departments are allocated to the benefiting departments using a common allocation basis for each group. This method of cost finding requires a division of the provider's costs among the general routine revenue-producing department, the aggregate of special care routine revenue-producing departments, the aggregate of most ancillary revenue-producing departments, and nonallowable activities. The Combination Method of apportionment, used with this method of cost finding to determine the cost attributable to services furnished to Medicare beneficiaries, requires the use of an aggregate determination of the cost of most ancillary services.

Step-down cost finding is a more precise methodology for allocating the costs of nonrevenue-producing departments, in that costs of each nonrevenue-producing department are allocated separately to each revenue-producing department and nonallowable activity. This method of cost finding requires a division of the provider's costs among the general routine revenue-producing department, each special care routine revenue-producing department, each ancillary revenue-producing department, and each nonallowable activity. The Departmental Method of apportionment, which is used with this method of cost finding to determine the cost attributable to services furnished to Medicare beneficiaries, requires a separate determination of the cost of services furnished to Medicare beneficiaries in each ancillary revenue-producing department.

The requirement that certain providers use the simpler Combination Method of apportionment and modified cost finding and that other providers use the Departmental Method of apportionment and step-down or a more sophisticated method of cost finding was established in accordance with the report of the Senate Finance Committee (S. Rep. No. 91-1431, 91st Cong. 2d sess. 178(1970)). However, after requiring the use of these two different methods, we received a significant amount of correspondence from providers, and from Congressmen on behalf of providers required to use the simpler method, expressing the desire and ability to use the more precise step-down cost finding and the Departmental Method of apportionment. A subsequent survey revealed that all but a few of the providers using the Combination Method had the ability to develop the necessary statistics which would enable them to use the Departmental Method. A majority of the providers surveyed stated their preference to use the Departmental Method. In addition, although the Combination Method of apportionment originally offered some simplicity in the manner in which the health insurance program determines its share of the smaller and less complex providers' allowable costs, legislative amendments affecting the Medicare program since 1972 no longer permit this simplicity. For cost reporting periods ending after June 30, 1973, allowable costs must be identified separately for renal dialysis services and delivery room and labor room services. Moreover, additional information and computations are now required on cost reports as a result of Section 223, Limitations on Coverage of Costs and Section 233, Payments of Lower of Costs or Charges, of the Social Security Amendments of 1972 (P.L. 92-603).

Consequently, we have decided to eliminate the simpler Combination Method of apportionment and modified cost finding.

DISCUSSION OF MAJOR COMMENTS

A Notice of Proposed Rulemaking was published on November 26, 1976 (41 FR 52067). Interested persons were given 45 days from the date of publication of the Notice of Proposed Rulemaking in which to submit data, views, or arguments. Comments and suggestions relative to the proposed regulations were received from a number of organizations, hospitals, and individuals. Responses to the most significant ones and changes in the proposed regulations are described below.

1. *Should Providers be Given an Option to Convert to the Departmental Method of Apportionment?*

Several commenters were concerned that small hospitals and small free-standing skilled nursing facilities may experience financial hardships in trying to perform the Departmental Method of apportionment and step-down cost finding. Moreover, they thought that a number of these providers have a very limited capability to perform the cost finding and apportionment requirements of the Departmental Method. They suggested that the solution to the problem would be to retain the Combination Method of apportionment and modified cost finding and to allow providers currently using this method a one-time irrevocable option to convert to the Departmental Method of apportionment and step-down cost finding.

Although we are also concerned with the small provider who may find difficulty in using the Departmental Method of apportionment and step-down cost finding, we did not accept this suggestion because we believe that optional methods of computing program reimbursement would not be consistent with our objective not to reimburse providers an amount exceeding the reasonable cost of covered services furnished to Medicare beneficiaries. The Senate Finance Committee, in its original recommendation to require the use of Combination and Departmental Methods, recognized that reimbursement options should be eliminated because the Committee believed that providers would not necessarily choose the reimbursement method that produces the most precise results. Rather, they could be expected to choose the method that yields them the greatest financial benefit. (Senate Report No. 91-1431, 91st Cong. 2d sess. 180(1970.) Moreover, the use of one reimbursement method would permit better cost analyses for making program payment determinations, because all providers would use the same method of cost finding, cost apportionment, and cost reporting.

These amendments continue the current procedure of permitting providers to file less than a full cost report if they have a low utilization of covered services by Medicare beneficiaries and receive correspondingly low interim reimbursement payments. In these cases, intermediaries may permit providers to submit only a minimum amount of cost report information in order to determine Medicare's share of the providers' allowable costs. Moreover, even where low utilization does not exist, providers are required to complete only those cost reporting forms which are applicable to their operations. For example, providers that do not have provider-based physicians may ignore the forms for reporting provider-based physican compensation.

2. *Should the Regulations be Applied Retroactively?*

Several of those who commented suggested that providers required to use the Combination Method since 1972 be permitted to use the Departmental Method retroactively to 1972. We do not believe that the results obtained by reopening prior cost determinations on such a large scale would be sufficient to justify the administrative effort. Moreover, as presently interpreted, the existing rules permit certain cost allocations on a provider's accounting records prior to allocation on the Medicare cost report and therefore provide some degree of the flexibility sought by these providers. Under these rules, a provider may make certain cost allocations on its accounting records prior to completion of the Medicare cost report if it can demonstrate that such allocations produce a more accurate determination of program reimbursement. These rules can be applied retroactively, since they are applicable to all cost reporting periods that can be reopened under § 405.1885 of the regulations

3. *Should Providers be Permitted to Use Modified Cost Finding With the Departmental Method of Apportionment?*

One commenter suggested that if the Departmental Method is mandated as proposed, the intermediary

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should be permitted to authorize the use of modified cost finding in lieu of step-down cost finding for a provider that makes a request to do so and has never used step-down or a more sophisticated method of cost finding. We believe that the use of modified cost finding with the Departmental Method would not be consistent with our intent to establish uniformity with respect to provider cost reporting, cost finding, and apportionment methodology. Such uniformity is desirable in order to simplify the administration of the Medicare program and provide a data base for the uniform reporting requirements under section 19 of the Medicare-Medicaid Anti-Fraud and Abuse Act of 1977 (P.L. 95-142). Uniformity will also provide a common language upon which problems in individual providers and in the health care field can be discussed and resolved more easily.

4. *Should Small Providers be Permitted to Use the Combination Method for Outpatients?*

One commenter suggested that we permit small providers with a small volume of outpatient business to use the Combination Method of apportionment for outpatient reimbursement. This comment was not accepted because we believe that any use of the Combination Method of Apportionment would not be consistent with the program's intent to establish uniformity, as explained in our response to comment number 3. Moreover, small providers would generally not be required to furnish the amount of cost report information required from large providers because some of the cost report information for large providers would not be applicable.

5. *Should a More Simplified Method Than the Combination Method be Used?*

One commenter suggested that a more simplified method than the Combination Method be made available to the small providers. This suggestion was not accepted because we believe that the use of any method of apportionment other than the Departmental Method would not be consistent with the program's intent to establish uniformity, as explained in our response to comment number 3.

RECODIFICATION AND EDITORIAL REVISIONS

The Notice of Proposed Rulemaking proposed to codify the regulation under 20 CFR Part 405. Recodification of HCFA regulations, effective October 1, 1977, moved all Medicare regulatios to Title 42 of the Code of Federal Regulations. Accordingly, the final regulation is codified under Part 405 of 42 CFR Chapter IV.

In keeping with the Department's "Operation Common Sense," extensive editorial revisions have been made to clarify the regulation. No substantive changes, other than those discussed above, have been made in the final regulation.

42 CFR Part 405 is amended as follows:

1. Section 405.404(b) is revised to read as follows:

§ 405.404 Methods of apportionment under title XVIII.

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(b) For cost reporting periods starting after December 31, 1971, the rules governing the use of the Departmental Method and the Combination Method of apportionment are set forth in §§ 405.452 and 405.453 of this part.

2. Section 405.452 is amended by revising paragraph (c) and adding a new paragraph (e)(3)(iv) to read as follows:

§ 405.452 Determination of cost of services to beneficiaries.

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(c) *Availability of apportionment methods for cost reporting periods starting after December 31, 1971.* (1) *Hospitals and hospital complexes having less than 100 beds.* Any hospital or hospital complex having less than 100 beds on the first day of its cost reporting period must use the applicable apportionment method specified in this paragraph. (A hospital complex contains inpatient areas in which patients receive a level of care other than hospital care.) For this purpose, the number of beds includes both those certified for use by Medicare beneficiaries and those not certified, but does not include newborn beds. (A newborn bed is a bed set aside for regular use by an infant newly born in the hospital.)

(i) For cost reporting periods starting after December 31, 1971, but before January 1, 1978. These providers must use the Combination Method of apportionment.

(ii) For cost reporting periods starting on or after January 1, 1978, but before July 1, 1979, these providers may use either the Departmental Method or the Combination Method of apportionment. If the Departmental Method is used for any cost reporting period, the Combination Method may not be used for any subsequent cost reporting period.

(iii) For cost reporting periods starting on or after July 1, 1979, these providers must use the Departmental Method of apportionment.

(2) *Hospitals and hospital complexes having 100 or more beds.* For cost reporting periods starting after December 31, 1971, any hospital or hospital complex having 100 or more beds on the first day of its cost reporting period must use the Departmental Method of apportionment.

(3) *Skilled nursing facilities.* All skilled nursing facility providers that are not part of a hospital complex must use the applicable apportionment method as follows:

(i) For cost reporting periods starting after December 31, 1971, but before January 1, 1978, these providers must use the Combination Method of apportionment.

(ii) For cost reporting periods starting on or after January 1, 1978, but before July 1, 1979, these providers may use either the Departmental Method or the Combination Method of apportionment. If the Departmental Method is used for any cost reporting period, the Combination Method may not be used for any subsequent cost reporting period.

(iii) For cost reporting periods starting on or after July 1, 1979, these providers must use the Departmental Method of apportionment.

(4) *New providers.* All providers entering the program on or after January 1, 1979, must use the Departmental Method of apportionment starting with their first cost reporting period.

• • • • • •

(e) • • •

(3) • • •

(iv) *Using cost finding for cost reporting periods ending after June 30, 1973.* Use of the Combination Method of apportionment for cost reporting periods ending after June 30, 1973, and starting before July 1, 1979, necessitates cost finding as specified in § 405.453(d)(3) to determine the division of the provider's total costs among general routine care, routine care in special care units, renal dialysis, delivery room and labor room, the aggregate of all other ancillary services, and nonallowable activities.

3. In § 405.453, new paragraphs (g) and (h) are added to read as follows:

§ 405.453 Adequate cost data and cost finding.

• • • • • •

(g) *Exception from full cost reporting for lack of program utilization.* If a provider does not furnish any covered services to Medicare beneficiaries during a cost reporting period, it is not required to submit a full cost report. It must, however, submit an abbreviated cost report, as prescribed by the Health Care Financing Administration.

(h) *Waiver of full cost reporting for low program utilization.* (1) If the provider has had low utilization of covered services by Medicare beneficiaries (as determined by the intermediary) and has received correspondingly low interim reimbursement payments for the cost reporting period, the intermediary may waive a full cost report if it decides that it can determine, without a full report, the reasonable cost of covered services provided during that period.

(2) If a full cost report is waived, the provider must submit within the same time period required for full cost reports:

(i) The cost reporting forms prescribed by the Health Care Financing Administration for this situation; and

(ii) Any other financial and statistical data the intermediary requires.

(Secs. 1102, 1814(b), 1815, 1833(a), 1861(v) and 1871 of the Social Security Act (42 U.S.C. 1302, 1395f(b), 1395(g), 1395l(a), 1395x(v) and 1395hh).)

(Catalog of Federal Domestic Assistance Program No. 13.773 Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance.)

Dated: September 29, 1978.

ROBERT A DERZON,
Administrator, Health Care Financing Administration.

Approved: January 15, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 79-2046 Filed 1-18-79; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

PART 1100—RULES OF PRACTICE

JANUARY 16, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Corrections to rules.

SUMMARY: These corrections to rules 97(c) and 97(g) of the Commission's Rules of Practice, effective July 19, 1977, are being made to remove a draftsmanship error. As corrected the rules will provide that the filing of administrative appeals will not automatically stay the effectiveness of a decision of the entire Commission in the first instance or a decision of the Commission on appeal.

EFFECTIVE DATE: January 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak or Harvey Gobetz, Section of Rates, Office of Proceedings, Washington, D.C. 20423 (202-275-7693).

SUPPLEMENTARY INFORMATION: During the pendency of Investigation and Suspension Docket No. M-29772, *General Increase, S.M.C.R.C., April 1978*, significant questions have come to our attention concerning the proper interpretation of rules 97(c) and 97(g) of the Commission's General Rules of Practice, 49 CFR 1100.97(c) and 97(g).

Our review indicates that a literal reading of Rules 97(c) and 97(g) appears to provide for an automatic stay of all nonrail decisions, including those made by the entire Commission, upon the filing of an administrative appeal. With respect to entire Commission decisions, the applicability of the automatic stay provision results from a draftsmanship error made during the revision of our Rules of Practice subsequent to the enactment of Pub. L. 94-210, the Railroad Revitalization and Regulatory Reform Act of 1976 (the 4R Act). The revised Rules of Practice became effective on July 19, 1977.

Prior to the revision of our Rules of Practice, it was clearly not Commission procedure to provide for automatic stays of entire Commission decisions. In those instances where an entire Commission decision was issued in the first instance or on appeal, that decision was administratively final. Administrative appeals (petitions for reconsideration) were permitted. However, the filing of such petitions did not stay the decision or interfere with its administrative finality. When we revised our Rules of Practice, we did not intend to depart from this procedure. See the original notice in Ex Parte No. 55 (Sub-No. 24), *Revised Rules of Practice*, published November 8, 1976, at 41 FR 49282. Moreover, this distinction between the "staying" effect of an appeal of an entire Commission decision and an appeal of a decision by a lesser panel has its basis in former Section 17(8) of the Interstate Commerce Act.[1] That section provided that:

[w]here application for rehearing, reargument, or reconsideration of a decision . . . of *a division, an individual Commissioner, or board*, is made . . . the decision . . . shall be stayed or postponed pending disposition of the matter by the Commission or appellate division . . . (emphasis added)

Significantly, this language does not refer to entire Commission decisions. Nothing in the Act provided for an automatic stay of a decision made by the entire Commission. Indeed, Section 17(8) went on to state that "otherwise the making of such an application [the filing of an administrative appeal] shall not . . . operate to stay [the decision], without the special order of the Commission."

Furthermore, it would be contrary to sound regulatory practice for a party to be able to stay a decision made by the entire Commission, even in an urgent case, by merely filing a pleading which is, or purports to be, an administrative appeal. It is essential that the Commission have the ability to make its decisions effective expeditiously, especially when confronted with cases of urgency or compelling public interest. This point was recognized in Ex Parte No. 55 (Sub-No. 24A), *Rail Appellate Procedures-Revision of Rule 98 of the Rules of Practice 49 CFR 1100.98* (notice of proposed rulemaking.)[2] Because of certain errors contained in rule 98, including a similar implication that entire Commission decisions are stayed by the filing of administrative appeals, the Commission recently proposed a revision of that rule. An administratively final decision concerning rule 98 will be served shortly.

The error in draftsmanship in rule 97 may be corrected without an entire revision at this time. Accordingly, the inappropriate references to entire Commission decisions in rules 97(c) and 97(g) will be deleted, so that our present rules will now be consistent with our prior practice of not automatically staying decisions of the Entire Commission upon the filing of an administrative appeal. We will retain, of course, the *discretion* to stay the effectiveness of an entire Commission decision when we believe that action to be appropriate.

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Part 1100 of Title 49 of the Code of Federal Regulations is amended in the following respects by correcting rules 97(c) and 97(g) of § 1100.97 as follows:

§ 1100.97 Administrative appeals—nonrail proceedings. (Rule 97)

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(c) *Conclusiveness.* Unless the division reverses, changes or modifies the prior decision, order, or requirement or unless the decision, order, or requirement is issued by the division in the first instance, or unless the decision, order, or requirement is issued by

[1] The Interstate Commerce Act was recently revised, codified, and enacted without substantive change as subtitle IV of title 49, United States Code. Act of October 17, 1978, Pub. L. 95-473, 92 Stat. 1337. Former Section 17(8) is recodified at 49 U.S.C. 10324. While the distinction between stays of entire Commission decisions and stays of decisions by lesser panels is not clearly delineated in the recodified Act, Congress did not intend any substantive change from prior laws when enacting the recodification. Section 3(a) of the Revised Act declares: Sections 1 and 2 of this Act restate, without substantive change, laws enacted before May 16, 1978, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Pub. L. 95-473, 92 Stat. 1466.

[2] 43 FR 17006 April 21, 1978.

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an employee board, no further administrative appeal shall lie.

. . . . .

(g) *Administrative finality.* The timely filing of exceptions and petitions for administrative review shall, and the Commission on its own motion may, stay the effect of the decision, order, or requirement until thirty days after the date of service of the order of the division or review board acting thereon, unless otherwise provided. Decisions of an employee board whether original or on review, are not administratively final.

. . . . .

These rules were promulgated and are being corrected under the authority of 49 U.S.C. 10321-10324 and 5 U.S.C. 553(b).

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp, and Christian. Commissioner Gresham dissenting.

Dated January 15, 1979, at Washington, D.C.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2086 Filed 1-18-79; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

AGRICULTURAL MARKETING SERVICE

[7 CFR Part 1065]

[Docket No. AO-86-A39]

MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

Extension of Time for Filing Briefs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing briefs.

SUMMARY: This notice extends the date for filing briefs on the hearing held October 24-27, 1978, at Omaha, Nebraska, concerning proposals to amend the Nebraska-Western Iowa order. Interested parties requested the additional time to complete their analysis of the record.

DATE: Briefs now are due on or before January 31, 1979.

ADDRESS: Briefs (4 copies) should be filed with the Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of hearing: Issued September 29, 1978, published October 4, 1978 (43 FR 45881).

Notice is hereby given that the time for filing briefs, proposed findings, and conclusions on the record of the public hearing held October 24-27, 1978, at Omaha, Nebraska, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Nebraska-Western Iowa marketing area pursuant to the above listed notice is hereby extended to January 31, 1979.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR PART 900).

Signed at Washington, D.C., on January 15, 1979.

JAMES E. SPRINGFIELD,
Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-1998 Filed 1-18-79; 8:45 am]

[1505-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 781 0040]

CRANE CO., ET AL.

Consent Agreement With Analysis to Aid Public Comment

Correction

In FR Doc. 79-889, appearing at page 2182 in the issue of Wednesday, January 10, 1979, make the following changes:

1. On page 2184, second column, sixth paragraph, "wholly owned by Medusa shareholders." should be corrected to read "wholly owned by Medusa and then shall cause Medusa to distribute the stock to Medusa shareholders."

2. On page 2184, second column, seventh paragraph, "Paragraph II" should be corrected to read "Paragraph III".

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1209]

CELLULOSE INSULATION

Extension of Time to Propose An Amendment to the Interim Standard

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of extension of time for proposing an amendment to the interim standard.

SUMMARY: In this notice, the Commission extends for 45 days, from January 22, until March 8, 1979, the time in which it must publish the flame resistance and corrosiveness provisions of a revised General Services Administration (GSA) specification as a proposed amendment to the interim safety standard for cellulose insulation. The Commission is extending the time in order to further study the technical and scientific basis and safety and economic consequences of the revised GSA specification.

DATES: Comments by March 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Philip Bechtel, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, (202) 634-7770.

SUPPLEMENTARY INFORMATION: As required by the "Emergency Interim Consumer Product Safety Standard Act of 1978" (Pub. L. 95-319), the Commission has published an interim standard for cellulose insulation, based on the flame resistance and corrosiveness provisions of General Services Administration (GSA) Specification HH-I-515C (43 FR 35240, August 8, 1978). Section 35(c)(2) of the Consumer Product Safety Act, as amended by Pub. L. 95-319, requires the Commission to publish as a proposed amendment to the Commission's interim standard for cellulose insulation each revision GSA issues that supersedes the requirements for flame resistance and corrosiveness in GSA Specification HH-I-515C. The Commission must publish the revision as a proposed amendment within 45 days after having received notice from the Administrator of the General Services Administration, or, if a revision becomes effective between February 1, 1978 and the effective date of the act, within 45 days of the effective date of the act.

Pub. L. 95-319 provides that the Commission may extend the 45 day period for publishing the proposed amendment by 150 days if the Commission determines that an extension is necessary to study the technical and scientific basis for the revision, or to study the safety and economic consequences of the revision. Pub. L. 95-319 also provides that the Commission may take additional 45 day extensions of this time period if the Commission makes the same determination. If the Commission takes one additional 45 day extension, the Commission may take further 45 day extensions if it makes the appropriate findings, unless both the Committee on Commerce,

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Science, and Transportation of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives disapprove any further extensions, by committee resolution.

On June 15, 1978, GSA specification HH-I-515D became effective. This specification contains requirements for the flame resistance and corrosiveness of cellulose insulation that supersede the flame resistance and corrosiveness provisions of HH-I-515C. Therefore, the Commission would have been required to publish the proposed amendment to the interim standard by August 24, 1978, unless the Commission extended this period. On August 8, 1978, the Commission extended this period for 150 days, until January 22, 1979 (43 FR 35238).

The Commission believes that it is necessary to further extend the period of time for proposing the flame resistance and corrosiveness requirements of HH-I-515D as an amendment to the interim standard in order to study the technical and scientific basis and the safety and economic consequences of these requirements. This further extension is for 45 days, from January 22, 1979 until March 8, 1979.

Pub. L. 95-319 provides that the Commission shall issue an amendment to the interim standard unless the Commission determines, after considering public comments, that the amendment is not necessary to protect consumers from the unreasonable risk of injury associated with flammable or corrosive cellulose insulation, or unless the Commission determines that implementation of the amendment will create an undue burden on persons subject to the interim standard. Therefore, the Commission is required to consider these issues.

The additional time is necessary for the Commission to evaluate comments from interested persons that raise technical and economic issues concerning the proposed amendment. The Commission received these comments in response to a notice of intent to propose an amendment, which the Commission published in the FEDERAL REGISTER on September 6, 1978 (43 FR 39720). The additional time is also necessary for the Commission to consider technical and economic evaluations of the proposed amendment that the National Bureau of Standards and a contractor prepared for the Commission and made available to the Commission staff in December 1978. The Commission will also use the additional time to review the proposed amendment for technical accuracy and make editorial and other changes necessary to insure that the document is suitable for publication in the FEDERAL REGISTER.

The Commission does not anticipate that any further extension will be necessary for preparing the proposed amendment. If the Commission is able to complete its work before March 8, 1979, the Commission will publish the proposal at an earlier date.

Therefore, in accordance with section 35(c)(2)(D)(i) of the act, as amended by Pub. L. 95-319, the Commission extends by 45 days, from January 22, 1979 until March 8, 1979, the time in which it must publish the flame resistance and corrosiveness requirements of GSA Specification HH-I-515D as a proposed amendment to the interim standard for cellulose insulation at 16 CFR Part 1209. In accordance with Pub. L. 95-319, this period may be further extended.

Dated: January 16, 1979.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 2040 Filed 1-18-79; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 109]

[Docket No. 77N-0166]

ACTION LEVEL FOR MERCURY IN FISH, SHELLFISH, CRUSTACEANS, AND OTHER AQUATIC ANIMALS

Withdrawal of Proposed Rulemaking and Termination of Rulemaking Proceeding

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposal.

SUMMARY: This document withdraws a proposed rulemaking and terminates a rulemaking proceeding to codify the existing action level limiting the amount of unavoidable mercury residues permitted in fish and shellfish. Instead of establishing the action levels by a formal regulation, the Food and Drug Administration (FDA) will continue to use an administrative action level to regulate those mercury residues. Elsewhere in this issue of the FEDERAL REGISTER is a notice announcing the availability of that action level.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of December 6, 1974 (39 FR 42738), the Commissioner of Food and Drugs proposed to adopt, in former Part 122 (21 CFR Part 122) (recodified as Part 109 (21 CFR Part 109) in the FEDERAL REGISTER of March 15, 1977 (42 FR 14032)), an action level of 0.5 part per million for unavoidable residues of mercury in the edible portion of fish and shellfish.

In the same issue of the FEDERAL REGISTER, the Commissioner proposed to establish procedural regulations regarding poisonous and deleterious substances in food (39 FR 42743). That proposal included procedures and criteria for establishing tolerances under section 406 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346) for unavoidable poisonous or deleterious substances in food. It also included provisions for establishing "action levels," through informal, i.e., notice and comment, rulemaking.

The procedural regulations that were finally promulgated, however, differed from those proposed. As discussed in the preamble to the final order published in the FEDERAL REGISTER of September 30, 1977 (42 FR 52814), the Commissioner decided that a simpler procedure than that proposed for establishing action levels is appropriate. This simplified procedure, set forth in § 109.4(b) (21 CFR 109.4(b)), provides for FDA to set an action level administratively and to publish a notice of availability of the action level and the information on which the agency relied in setting the action level. The supporting information is placed on file with the Hearing Clerk, FDA, and the notice invites public comments on the action level.

Because FDA expects to continue to receive new information bearing on the appropriate limit for mercury in fish and other aquatic animals, it is appropriate to continue to regulate the mercury levels in fish and shellfish through an action level, rather than a formal tolerance. The Commissioner is therefore terminating the December 6, 1974, proposal to codify the action level for mercury in fish and shellfish and, in accordance with the procedure in § 109.4(b), is announcing the availability of the revised action level for mercury in fish and shellfish.

RECEIVED COMMENTS

The agency received 71 comments in response to the December 6, 1974 proposal. Although most of the comments have been rendered moot due to the withdrawal of the proposal, the Commissioner has decided to respond to them because many of them reflect a lack of understanding of FDA's current procedures regarding action levels for mercury in fish. Also, some information received bears on the still relevant issue of what the action level should be. Based on current information, the Commissioner has determined that the action level should be changed from 0.5 part per million (ppm) mercury to 1.0 ppm.

1. Two comments objected to the Commissioner's interpretation of "added" in applying the principles of section 406 of the act. Both comments pointed out that because mercury occurs naturally in some of the waters inhabited by fish, particularly marine fish, and is not introduced to these waters by some activity of man, resulting mercury residues in the fish are naturally occurring and not "added."

The Commissioner notes that these issues were also raised by the comments received in response to the proposal regarding general principles for the establishment of tolerances for added poisonous or deleterious substances in food. In the preamble to the September 30, 1977 final rule establishing the procedures for regulating food contaminants and naturally occurring poisonous or deleterious substances, the Commissioner discussed in detail the issue of added versus naturally occurring substances, with specific reference to mercury in fish. The Commissioner concluded that under the act the test for determining whether a substance is "added" or natural is whether it is necessarily an inherent part of the food, in which case it is natural. Otherwise it is "added" under the law.

This issue has been raised in a pending case involving mercury in fish (*Anderson Seafoods, Inc.* v. *Califano et al.*, No. 78-1962 (5th Cir. 1978)). In that case, the district court rejected FDA's definition of "added" and held that to be "added" within the meaning of section 402(a)(1) of the act (21 U.S.C. 342(a)(1)), the substance must be present in food as a result of human action (*United States* v. *Anderson Seafoods, Inc.*, 447 F. Supp. 1151 (N.D. Fla. 1978)). The district court also held, however, that some part of the mercury in swordfish, although not quantifiable, was due to human intervention. Thus, even under the district court's test, mercury in swordfish would be treated as an added poisonous or deleterious substance under section 402(a)(1) of the act.

As noted above, this issue is currently pending before the United States Court of Appeals for the Fifth Circuit in the appeal of the district court's decision in *Anderson Seafoods*. Pending a final resolution of this issue, the Commissioner intends to adhere to the definition of "added" found in § 109.3(d) of the agency's regulations (21 CFR 109.3(d)).

2. One comment stated that in view of the lack of adequate definitive information regarding mercury residues in fish, and action level should be set for a limited period, with automatic expiration in 1 or 2 years, so that reexamination of accumulated data would be automatic and that action level could be revised according to the most current data.

The Commissioner considers this provision unnecessary. The Food and Drug Administration will continue to monitor mercury residues in fish, shellfish, and other aquatic animals and will continue to evaluate any data regarding methlymercury in fish that become available, so that the action level can be reevaluated and revised as necessary. As with any other action level, the time for any such reevaluation must be based on the availability of scientific information rather than on an absolute calendar-year interval.

3. One comment requested that the definition of a "lot" of fish be revised to reflect current fishery practices. Specific changes requested were that a boatload of fish should be allowed to constitute a lot and that the fish in a lot should be allowed to range considerably in size. Another comment requested that the provision that fish constituting a lot be from "similar waters" be changed to "the same waters." The comment stated that in a locale where there are several lakes constituting "similar waters," one lake may be polluted and contain contaminated fish, while another nearby lake may not.

The Commissioner advises that because the proposed regulation for mercury in fish and shellfish is being withdrawn, there will not be a definition of "lot" specifically directed to fish sampled for mercury residues. Instead, in enforcing the action level, FDA will use its traditional definitions and interpretations of "lot," which appear in several places in the regulations (e.g., § 101.9(e) (21 CFR 101.9(e))) and in agency documents such as the Inspector Operations Manual sample collection instructions for unprocessed fish, e.g., imported whitefish, which include the following definition:

> A lot is defined as follows: "Each group of fish of a distinct size, listed in the invoice as from a distinct lake, will be considered as a separate lot. Where an invoice does not list the lakes or origin of boxes of fish in a shipment, fish of the same size and kind will be considered to comprise a *single lot.* When the size of fish or lakes or origin in a shipment are not specified, the shipment will be treated as a single lot."

This definition is an example of how FDA defines a "lot" based on the manner in which the food is shipped (invoiced) in interstate commerce. In the case of a boatload of fish, if the fish are invoiced for sale without any classification other than the entire contents of the boat, then the entire amount of fish would constitute a single lot. If the fish sold from that boat are classified by size and/or by waters of origin, or any other more specific classification, however, than each group of fish so classified would constitute a separate lot.

Regarding the use of "similar waters" rather than "the same waters," the Commissioner points out that "similar waters" applies to open waters, i.e., similar areas in one body of water, either at sea or in a very large lake. When the water-of-origin information is available, fish from different lakes constitute separate lots.

4. Some comments contended that regulation of mercury residues in fish should be based on the amount of methlymercury present rather than total mercury, because methlymercury is the compound of toxicological concern. One comment stated that only about half of the mercury in American fish is in the form of methylmercury.

The Commissioner does not agree with the contention that only half of the total mercury in fish is methylmercury. The limited data obtained to date indicate that mercury residues in most fish and other aquatic animals are 80 percent or more methylmercury. The Commissioner agrees, however, that it may be more appropriate to use methylmercury levels to regulate these mercury residues. The agency is currently developing an analytical method that may be adequate for determining methylmercury for enforcement purposes. If such a method is developed, the Commissioner will revise the action level to a methylmercury basis.

TOXICOLOGICAL REEVALUATION

A number of the comments requested that the Commissioner reevaluate the proposed 0.5 ppm action level. Several stated that the Commissioner had not considered all the available information in making the toxicological evaluation of mercury residues in fish and that this information does not support an action level as low as 0.5 ppm. Among the information provided in some of these comments were reports of a protective effect against methylmercury toxicity provided by the selenium that occurs in marine fish and studies of certain populations who ingested large amounts of fish containing methylmercury and who did not exhibit symptoms of mercury poisoning.

At the time of the proposal, the Commissioner was aware of some studies suggesting a protective effect of selenium against methylmercury toxicity but considered the available data inconclusive. Since 1974, other information on the selenium/methylmercury relationship has become available. A workshop was jointly sponsored by FDA and the National Marine Fisheries Service in 1977 to review recent research on the effects of selenium on methylmercury toxicity (a copy of the

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report of the workshop is on file in the office of the Hearing Clerk, FDA). Participants had hoped to reach a consensus as to the extent that the presence of selenium in fish should be taken into account in reassessing the guideline for mercury. Although much work has been done in the area of mercury/selenium relationships and there appears to be some mechanism in fish for protection against methylmercury toxicity in animals, whether or not selenium is protective is not clear. The participants in the workshop concluded that the findings to date are inconclusive.

The Commissioner advises that at the time of the proposal, the estimate of tolerable weekly or daily intakes of methylmercury was based on information developed primarily by Swedish studies of Japanese individuals poisoned in the episode of Niigata, which resulted from consumption of contaminated fish and shellfish. Data on mercury levels in blood and hair, and in some cases the brains of poisoned patients, provided a basis for establishing methylmercury levels at which toxic effects were observed. The blood level at the time of onset of symptoms was estimated by extrapolation and it was concluded that the lowest blood level for the appearance of signs and symptoms of methylmercury poisoning was 200 parts per billion (ppb) (0.2 ppm). Biochemical studies in Finland and Sweden on the movement of methylmercury through the human system made it possible to relate blood levels to daily intake. Using trace amounts of radiolabled methylmercury, it was shown that methylmercury is completely absorbed from food and is distributed rapidly throughout the body and that its estimated average biological half-life is about 70 days. This information was used to show the theroretical total body burden of mercury as a function of time when a constant dose of methylmercury is ingested. This calculated body burden becomes essentially steady after about a year. In this steady state the total amount of methylmercury in the body is proportional to the daily intake. This result was confirmed by studies on Swedish fishermen having relatively high daily intakes of methylmercury.

From these data and using these calculations it was estimated that a blood level of 200 ppb would be reached with a minimum daily intake of approximately 300 micrograms (μg) of mercury, present as methylmercury in the diet. In setting intake standards for a whole population it is usual to apply a safety factor. In cases where human data are available the safety factor used is 10. Thus a maximum tolerable level would be 20 ppb of methylmercury daily in the blood, or 30 μg methylmercury daily in the diet.

The following limitations to this approach were recognized: (1) it was not known to what extent particular individuals are more or less sensitive to mercury than others; (2) the estimates were based on the "lowest level that caused an effect" rather than the normal procedure of using a "no effect dose level"; (3) questions about dose/response relationships in human fetuses and newborn infants were unanswered; and (4) there is a possibility of subclinical effects arising from exposure to very low levels of methylmercury.

Since the 0.5 ppm action level was proposed, there have been further studies of individuals exposed to methylmercury as a result of the poisoning episode in Iraq in 1972, in which homemade bread prepared from seed wheat treated with a methylmercurial fungicide was consumed. There are also reports on populations ingesting large amounts of fish that show that many individuals have blood mercury levels that clearly exceed the allowable limit and appear to be asymptomatic. The Iraqi studies contained indications that toxic effects were associated with a total intake of methylmercury in the range of 40 to 60 milligrams (mg) for a 70-kilogram (kg) man or with blood levels of 400 to 600 ppb.

These data would appear to suggest that the values used in 1974 for estimating a tolerable level of methylmercury for humans may have been too low. Additional data developed on the biological half-life of methylmercury in humans, however, indicate a need to take into account the problem of variations among individuals. In the Iraqi episode, 90 percent of the individuals studied had a biological half-life of methylmercury of 35 to 100 days and 10 percent showed values of 110 to 120 days. Individuals having a long biological half-life would accumulate much higher steady state levels than those having short biological half-lives and would thus be at greater risk from the same level of methylmercury intake.

In addition, information has been developed on the so-called "late onset of symptoms" associated with methylmercury poisoning. Specifically, by 1973, in the Agano area of Niigata, Japan, new cases of methylmercury poisoning were detected years after the consumption of contaminated fish had ceased. This finding indicates that there may be some damage which is not diagnosed under current procedures, and it introduces further uncertainty into the determination of the "lowest effect level" used to estimate tolerable intakes.

Therefore, the Commissioner concludes that, in spite of the contention of some of the comments, there are substantial uncertainties and variations in the total body of information on methylmercury toxicity form long-term chronic exposure. In light of these uncertainties and variations, the data cannot be considered as supporting a change in the estimated tolerable intake of methylmercury.

Seafood Consumption Reevaluation

The Commissioner has recently received new data on the consumption of fish in the United States, particularly those species of dietary significance known to contain mercury residues. The new data present more comprehensive and detailed information on fish consumption than has been available previously (Report on the Chance of U. S. Seafood Consumers Exceeding the Current Acceptable Daily Intake for Mercury and Recommended Regulatory Controls, National Marine Fisheries Service, February 8, 1978). In this report, the National Marine Fisheries Service (NMFS) concluded that the 0.5 ppm guideline is unnecessarily restrictive and recommended an action level of 1.0 ppm mercury for swordfish and freshwater fish and no action level for marine species other than swordfish. The NMFS concluded that a 1.0 ppm action level would protect consumers as much as does the 0.5 ppm level. also, the higher level would provide a significant economic benefit to those industries most seriously affected by regulatory actions under the 0.5 ppm guideline and would enhance the future development of a number of presently underutilized fisheries. The report also stated that the less restrictive regulatory approach it recommended would significantly increase consumer confidence in seafood. Accompanying NMFS's recommendations for a less restrictive regulatory level was a recommendation that monitoring of mercury levels in fish and other seafoods and consumption patterns of fishery products in the United States be continued.

The NMFS consumption study report has been carefully studied, and the Commissioner concludes that the probability of systematic exposure to a substantial intake of methylmercury by the average consumer appears to be lower than FDA had originally estimated when it set the 0.5 ppm guideline. Among other considerations, the new data make it possible to estimate probable methylmercury intakes bases on mercury levels in individual species of fish and other aquatic animals. When the 0.5 ppm level was reevaluated in 1974, the limitations in the available data required that maximum projected residues be applied to all species. This resulted in a higher estimated probable intake.

The Commissioner agrees with NMFS's conclusion that a 1.0 ppm regulatory level for swordfish and freshwater fish would provide adequate protection to consumers. Because completely abandoning a regulatory level for marine species other than swordfish may result in increased concentrations of mercury in some species as marketed, the Commissioner concludes that a regulatory level applicable to all species should be retained. Based on the NMFS's data on consumption rates, mercury residue levels, and individualized allowable daily intakes (ADI's) a 1.0 ppm regulatory level for marine species should provide adequate protection against significant numbers of consumers exceeding their ADI's.

Accordingly, the Commissioner concludes that 1.0 ppm is the appropriate level at which to regulate residues of mercury in fish and other aquatic animals. Elsewhere in this issue of the Federal Register, the Commissioner announces the availability of, and invites comments on, the Administrative Guideline establishing the action level of 1.0 ppm mercury in fish, shellfish, crustaceans, and other aquatic animals. The Administrative Guideline and underlying information supporting it are available for public examination in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

The Administrative Guideline (No. 7408.09) establishing the action level provides the following instructions to FDA District Offices: "Recommend legal action to Division of Regulatory Guidance where the composite of fish or shellfish analyzed by the procedure outlined in the Twelfth Edition of the Official Methods of Analysis of the Association of Official Analytical Chemists 25.103-25.107 shows:

Mercury (Hg) ..... 1.0 ppm (edible portion only)

Note.—Recommendations for legal action must clearly indicate the exact portion of the food used for analysis. The portion used for analysis must be prepared by the appropriate procedure outlined in Volume 1 of the Pesticide analytical Manual, sections 141.12 and 141.22.

The Food and Drug Administration will continue to monitor mercury levels in fish so that if there is any change in mercury residue levels as a result of raising the action level, or if there is any other change in the information regarding mercury in fish, the action level can be revised accordingly.

This notice of withdrawal and termination of rulemaking proceeding is issued under the Federal Food, Drug, and Cosmetic Act (secs. 306, 402, 406, 701(a), 52 Stat. 1045-1046 as amended, 1049, 1055 (21 U.S.C. 336, 342, 346, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: January 8, 1979.

Donald Kennedy,
Commissioner of Food and Drugs.

[FR Doc. 79-1810 Filed 1-18-79; 8:45 am]

[4110-03-M]

[21 CFR Parts 175 and 189]

[Docket No. 78N-0112]

2-NITROPROPANE

Proposed Removal From Food Additive Use

AGENCY: Food and Drug Administration.

ACTION: Extension of comment period for proposed rule.

SUMMARY: This document extends the comment period on the proposal to delete from the food additive regulations provisions for use of 2-nitropropane as a component of adhesives intended to contact food and to list it as a substance prohibited from addition to human food. The Commissioner of Food and Drugs, having evaluated available data, has concluded that 2-nitropropane is a carcinogen in test animals.

DATE: Written comments by April 2, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 1, 1978 (43 FR 56247), the Commissioner proposed to amend § 175.105 *Adhesives* (21 CFR 175.105) by deleting the use of 2-nitropropane currently permitted in this section, and to amend Part 189—Substances Prohibited from Use in Human Food (21 CFR Part 189) by adding new § 189.310 *Nitropropane.* These actions were taken by the Commissioner after evaluating the available data and concluding that the report by the Department of Health, Education, and Welfare/National Institute for Occupational Safety and Health (HEW/NIOSH) demonstrates that 2-nitropropane is a carcinogen in test animals and that the continued use of 2-nitropropane as a food additive is no longer warranted. Interested persons were requested to submit their comments on the proposal on or before January 2, 1979.

The Commissioner has received requests for extension of time for comment from the law firm of Covington and Burling on behalf of International Minerals and Chemical Corp. (IMC) and the law firm of Keller and Heckman on behalf of Durkee Foods, Division of SCM Corporation. The request for IMC sought an extension of time to prepare a written report on the most recent toxicology testing on 2-nitropropane, a risk assessment, and a regulatory analysis in response to the December 1 proposal. IMC has also made freedom of information requests to FDA and NIOSH in support of its request for extension. Further information on the availability of the material is expected to be indicated in the NIOSH response to the IMC request for information.

The Commissioner is extending the comment period to close of business April 2, 1979. The extension will permit consideration of the disposition of the request for background material and an opportunity for comments on any material that becomes available. Requests for access to the background material may be made to NIOSH.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 402, 409, 701, 52 Stat. 1046-1047 as amended, 1055-1056 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 342, 348, 371)) and under authority delegated to the Commissioner (21 CFR 5.1), the comment period on the December 1, 1978 proposal to remove 2-nitropropane from food additive use (43 FR 56248) is extended to April 2, 1979.

Interested persons may, on or before April 2, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding the proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 15, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-1902 Filed 1-6-79; 11:34 am]

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[4110-03-M]

[21 CFR Part 310]

[Docket No. 75N-0062]

ORAL HYPOGLYCEMIC DRUGS

Availability of Agency Analysis and Reopening of Comment Period on Proposed Labeling Requirements

AGENCY: Food and Drug Administration.

ACTION: Extension of comment period on proposed rule.

SUMMARY: This document extends to March 16, 1979, the comment period on the Food and Drug Administration's (FDA's) analysis of the University Group Diabetes Program (UGDP) study and on the proposed labeling requirements for oral hypoglycemic drugs. This action is being taken to allow more time to review the extenisve material made available as part of FDA's analysis. The original comment period would have expired on January 15, 1979.

ADDRESS: Written comments to the hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, MD 20857.

DATES: Comments by March 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bradley, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers, Lane, Rockville, MD 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 14, 1978 (43 FR 52732), the Commissioner of Food and Drugs announced the availability of FDA's analysis of the UGDP study and reopened, until January 15, 1979, the comment period on the labeling changes proposed in the FEDERAL REGISTER of July 7, 1975 (40 FR 28587). Comments on the FDA analysis of the UGDP were also invited.

A summary of the FDA analysis is contained in the Notice of Availability published in the FEDERAL REGISTER of November 14, 1978 (43 FR 52732). The analysis consists of a 121 page report complete with appendices and over 2,200 pages of records that were obtained from the UGDP or generated by FDA.

Requests have been received from the Upjohn Company and the American Diabetes Association to extend for an additional 60 days the comment period on the proposed oral hypoglycemic labeling. The basis for the requested extension includes the complexity of the issues, the volume of material to review, the need for review of certain of the data with experts who are not employees of the firm submitting the request, and the intervening Thanksgiving and Christmas holidays.

The Commissioner has considered these requests and finds that an extension of the comment period for 60 days is justified for the reasons cited in the petitions.

Accordingly, the comment period is extended to March 16, 1979. Comments may be seen in the office of the Hearing Clerk, Food and Drug Administration at the address noted above, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 11, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-1545 Filed 1-12-79; 10:42 am]

[4510-26-M]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1913]

[Docket No. H-112A]

CONFIDENTIALITY OF EMPLOYEE MEDICAL RECORDS

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Proposed rule.

SUMMARY: On July 21, 1978, OSHA published an interim final rule [1] (43 FR 31329) and a proposed rule on access to employee exposure and medical records (43 FR 31371). Both the interim rule and the proposal include requirements that employers make available to OSHA, upon request, employee exposure and medical records. Because of the concern for confidentiality of these records, OSHA has developed draft administrative guidelines on its access to and the use of these records, a copy of which has already been placed in the public record of the rulemaking proceeding in conjunction with the OSHA proposal on records access. Notice is hereby given of the public availability of these draft guidelines, and public comment is invited on any issue raised by them. After review and analysis of the comments, OSHA intends to issue procedures on records access and handling as administrative regulations.

DATES: Comments must be postmarked on or before March 1, 1979.

ADDRESS: Comments should be sent to: Docket Officer, Docket No. H-112A, Room S6212, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210, 202-523-7895.

FOR FURTHER INFORMATION CONTACT:

Ms. Flo Ryer, Director, Office of Special Standards Programs, Room N-3663, U.S. Department of Labor, Third and Constitution Avenue, N.W. Washington, D.C., 20210, 202-523-7174.

SUPPLEMENTARY INFORMATION: On July 21, 1978, OSHA published in the FEDERAL REGISTER an interim final rule (43 FR 31329)* and a proposed rule on access to employee exposure and medical records (43 FR 31371). Both the interim final rule and the proposed rule include requirements for the retention of all employee exposure and medical records which are maintained by employers, and for the availability of these records, upon request, to OSHA and the National Institute for Occupational Safety and Health (NIOSH). The text of the interim final rule and proposed rule and a discussion of their background, purpose, and significant issues appeared in the July 21 Federal Register document.

In accordance with 5 U.S.C. 553, OSHA gave interested persons until September 22, 1978, to present written comments, views or arguments on any issue raised by the proposal. As a result, OSHA received a total of 229 comments. Based on the widespread interest evidenced by these comments, OSHA scheduled public hearings on this proposal.

These hearings were held in Washington, D.C., December 5-8, 1978 and January 3-5, 1979; Chicago, Illinois, December 12-13, 1978 and January 9-10, 1979; and San Francisco, California, December 15, 1978.

A provision of both the interim final rule and the proposed rule (§ 1910.20(d)) provides for the employer to make available, upon request, to the Assistant Secretary of Labor, or to a designee, all employee exposure and medical records for examination and copying. While OSHA views this provision as simply implementing its authority under the OSH Act (29 USC 651 et seq.) to gain access to such records in appropriate circumstances, its inclusion in the rule raised the question of the agency's policies on access to and use of these data. Numerous commenters noted the absence of established OSHA procedures and policies concerning its access to, or handling of, often highly sensitive medical information; they indicated a need for

[1] Part 1910.

*The interim final rule was initially published on July 19, 1978 (43 FR 31019).

appropriate mechanisms protecting the confidentiality of these records. OSHA shares these concerns, and accordingly makes available for public comment the draft administrative guidelines for OSHA access to employee medical records.

The draft administrative guidelines respond to these concerns by articulating how OSHA intends to act in carrying out its authority. They would establish procedures which would provide answers to the following basic questions:

(1) Under what circumstances would OSHA seek to examine or copy identifiable exposure and medical records?

(2) Who in the agency would have authority to: (a) approve access requests; (b) initiate access request; and (c) use records obtained as a result of an access request?

(3) What procedures would be followed in gaining access to records?

(4) What internal security procedures would be followed to protect the confidentiality of records?

(5) How would the agency respond to requests for (a) interagency sharing or transfer; and (b) public disclosure of information in these records?

In developing procedures responsive to these basic questions, an attempt has been made to be as consistent as possible with the Privacy Protection Study Commission's Report with respect to governmental access to private sector records. Other sources of information considered include a draft report from the Privacy Initiative staff of the National Telecommunications and Information Administration to the Privacy Policy Coordinating Committee, draft work of the Interagency Regulatory Liaison Group Task Force on confidential business information, the Toxic Substances Control Act Confidential Business Information Security Manual, written statements of the Trade Secrets Subcommittee of the Toxic Substance Control Strategy Committee, the Court's decision in the *DuPont* v. *Finklea* case (459 F. Supp. 235 (1978)), and public comments on the OSHA proposal, including those of the National Commission on Confidentiality of Health Records.

The draft guidelines have been developed in light of the recommendations contained in those sources and in view of OSHA's needs to gain access to information whose confidential nature must be respected and protected. Further, these draft guidelines encompass the following recommended objectives:

1. A system of approving access to confidential records should be established so that a request to seek access requires an affirmative decision by an appropriate official within the agency that such access is necessary, and so that it is clear which officials within OSHA may be held accountable for making the key decisions concerning records access.

2. Access to these records should be limited to those OSHA employees who have the need to examine such confidential and private information.

3. A system of control over, and physical security of, these records when in the physical possession of the agency should be established to assure that their integrity is maintained and that they are completely unavailable to unauthorized persons.

4. Requests for public disclosures of information should be carefully scrutinized so that no information which may properly be withheld from disclosure under an applicable provision of the Freedom of Information Act or the Privacy Act is in fact disclosed.

A copy of the draft guidelines was placed in the public record (Docket No. H-112) of the rulemaking on OSHA's proposal on access to exposure and medical records on November 24, 1978. Their availability to the public was announced in Mr. Grover Wrenn's opening statement on behalf of OSHA at the December 5 hearings held on that proposal.

Since that time, OSHA has received a number of preliminary comments on the guidelines. OSHA has also had a limited opportunity to reevaluate the guidelines. One major area of consideration relates to the ultimate legal effect of these guidelines. Based on public expressions of concern from a spectrum of interested parties and on its own evaluation of the issue, OSHA has preliminarily decided to promulgate the guidelines as procedural regulations in a new Part 1913 of 29 CFR, at or about the same time as the final rule on records access is issued.

A second area of concern involves the intended scope of the guidelines. As originally drafted, the guidelines in many respects applied equally to exposure records containing alleged trade secrets and confidential business information and to personally identifiable medical records.

After reevaluation, OSHA has preliminarily determined that the draft guidelines are uniquely suited to medical records, but not to alleged trade secret information. The reason for this is, first, that trade secrets are already afforded protection by statute (18 U.S.C. 1905 and section 15 of the OSH Act), by regulation (29 CFR 1903.9), and by the OSHA Field Operations Manual. Secondly, the draft guidelines do not provide procedures which would allow for a quick and fair determination of the validity of a trade secret claim. The potential for abuse and delay if trade secrets were to be additionally covered by these guidelines was therefore apparent. Thus, OSHA intends that the final regulations will apply only to the agency's access to medical records.

OSHA invites comments on these preliminary determinations discussed above and all other issues raised in the draft guidelines.

The draft administrative guidelines for OSHA access to employee medical records as well as other public documents referred to in this notice may be obtained upon request at the OSHA Docket Office, Room S6212, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Washington, D.C., 20210, 202-523-7895.

PUBLIC PARTICIPATION

Although these are rules of agency organization, procedure or practice and are therefore not subject to the rulemaking requirements of the OSH Act or of the Administrative Procedure Act (5 U.S.C. 553 (b)), OSHA has decided to invite public comment in view of the numerous expressions of public interest in these issues.

Accordingly, interested persons are invited to submit comments, views, and arguments on any issue raised by this proposed rule. These comments must be submitted on or before March 1, 1979, in quadruplicate, to the Docket Officer, Docket No. H-112A, Room S6212, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Washington, D.C., 20210, 202-523-7895. They will be available for public inspection and copying at the above address and will be carefully evaluated and considered by OSHA before it promulgates the final rule.

AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Room S-2315, Third Street and Constitution Avenue, N.W., Washington, D.C., 20210.

Accordingly, pursuant to sections 8 (c) (1), 8 (c) (3), and 8 (g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1599, 1600; 29 U.S.C. 657) and Secretary of Labor's Order No. 8-76 (41 FR 25059) it is proposed to amend Title 29 of the Code of the Federal Regulations by adding a new Part 1913 containing procedural regulations on access to and use of employee medical records.

(Sec. 8, 84 Stat. 1599, 1600 (29 U.S.C. 657); Secretary of Labor's Order No. 8-76 (41 FR 25059)).

Signed at Washington, D.C., this 11th day of January, 1979.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 79-2084 Filed 1-18-79; 8:45 am]

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 1039-8]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of Administrative Orders Issued By Connecticut Department of Environmental Protection To New Haven Trap Rock-Tomasso

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rules.

SUMMARY: EPA proposes to approve administrative orders issued by the Connecticut Department of Environmental Protection. The orders require the company to bring air emissions from its asphalt batching plants in Bristol and Portland, Connecticut into compliance with certain regulations contained in the federally approved Connecticut State Implementation Plan (SIP) by May 15, 1979. Because the orders have been issued to a major source and permit a delay in compliance with provisions of the SIP, they must be approved by EPA before they become effective as delayed compliance orders under the Clean Air Act (the Act). If approved by EPA, the orders will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's approval of the orders as delayed compliance orders.

DATE: Written comments must be received on or before February 20, 1979.

ADDRESSEE: Comments should be submitted to Director, Enforcement Division, EPA, Region I, Rm. 2103, J.F.K. Federal Building, Boston, MA 02203. The State orders, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Attorney Michael Gurchin at 617/223-5061 or engineer Steven Fradkoff at 617/223-5610, both at the following address: U.S. Environmental Protection Agency, J.F.K. Federal Building, Room 2103, Boston, Massachusetts 02203.

SUPPLEMENTARY INFORMATION: New Haven Trap Rock-Tomasso operates asphalt batching plants at Bristol and Portland, Connecticut. The orders under consideration address emissions from equipment at these plants with state registration numbers 0017, 0018, 0004, and 0005, which are subject to section 19-508-5(e) of the Connecticut Regulations for the abatement of air pollution. The regulation governs the testing of emissions from all sources, and is part of the federally approved Connecticut State Implementation Plan. The orders require final compliance with the regulation by May 15, 1979 through installation of baghouses and subsequent emission testing by procedures approved by the Connecticut Department of Environmental Protection. The source has consented to the terms of the order.

Because these orders have been issued to a major source of particulate emissions and permit a delay in compliance with the applicable regulation, they must be approved by EPA before they become effective as delayed compliance orders under Section 113(d) of the Clean Air Act (the Act). EPA may approve the orders only if they satisfy the appropriate requirements of this subsection.

If the orders are approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the orders during the period the orders are in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the orders would also constitute additions to the Connecticut SIP.

All interested persons are invited to submit written comments on the proposed orders. Written comments received by the date specified above will be considered in determining whether EPA may approve the orders. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the orders in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

Dated: January 3, 1979.

WILLIAM R. ADAMS, Jr.,
Regional Administrator, Region I.

[FR Doc. 79-2067 Filed 1-18-79; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 123]

BILINGUAL EDUCATION PROGRAM

Decision to Develop Regulations

AGENCY: Office of Education, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Commissioner of Education proposes to amend the Bilingual Education Program regulations to reflect the Education Amendments of 1978 by issuing two separate sets of regulations.

(1) *Interim Final Regulations* are essential and effective immediately in order to issue grants for bilingual education programs during FY 1979. The Commissioner believes that it is impractical and contrary to the public interest to follow proposed rulemaking procedures that would delay the effective date of final regulations. The interim final regulations will amend existing regulations to implement certain provisions of the Education Amendments of 1978 that are not self-explanatory.

(2) *Proposed Regulations* will be published shortly after the interim final regulations. Proposed regulations will govern awards in FY 1980. They will:

(a) Simplify and clarify the language of existing regulations;

(b) Include the provisions published in the interim final regulations; and

(c) Further regulate on provisions of the Education Amendments of 1978.

Proposed rulemaking procedures will be followed for the FY 1980 regulations. Both sets of regulations are policy significant.

FOR FURTHER INFORMATION CONTACT:

Ms. Barbara J. Wells, 400 Maryland Avenue SW., (Room 421, Reporter's Building), Washington, D.C. 20202, Telephone: (202) 447-9273.

(Catalog of Federal Domestic Assistance Number 13.403; Bilingual Education.)

Dated: December 19, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-2042 Filed 1-18-79; 8:45 am]

[4110-02-M]

[45 CFR Part 160c]

COMMUNITY EDUCATION PROGRAM

Decision To Develop Regulations

AGENCY: Office of Education, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Commissioner of Education proposes regulations governing grants and allotments for implementation of the new Community Schools and Comprehensive Community Education Act of 1978. The proposed regulations will simplify and clarify the language of the existing regulations and implement the Education Amendments of 1978. These regulations will improve leadership and financial support for implementation of planning, establishing, expanding, and operating local community education programs. These proposed regulations are policy significant.

FOR FURTHER INFORMATION CONTACT:

Ms. Julie Englund, U.S. Office of Education, 7th and D Streets, S.W., Room 5622, Washington, D.C. 20202, Telephone (202) 245-0691.

(Catalog of Federal Domestic Assistance Number 13.653, Community Education Program.)

Dated: December 14, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-2043 Filed 1-18-79; 8:45 am]

[4110-02-M]

[45 CFR Part 184]

ETHNIC HERITAGE STUDIES PROGRAM

Decision To Develop Regulations

AGENCY: Office of Education, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Commissioner of Education proposes to amend the regulations for the Ethnic Heritage Studies Program. The regulations are being amended to include technical changes and for clarification and simplification of the language in the existing regulations to meet the requirements of Operation Common Sense.

FOR FURTHER INFORMATION CONTACT:

Dr. Stanley Wilcox (Room 3913, Regional Office Building No. 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-2761.

Dated: December 12, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-2044 Filed 1-18-79; 8:45 am]

[4110-02-M]

[45 CFR Part 193]

NATIONAL DIFFUSION NETWORK PROGRAM

Decision to Develop Regulations

AGENCY: Office of Education, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Commissioner of Education proposes to recodify the regulations governing the National Diffusion Network, NDN, to implement changes required by the Education Amendments of 1978, and policy changes within the Office of Education. Major provisions of the regulations describe the purpose of the program, govern the selection of projects eligible for funding, and describe characteristics of projects and specific activities to be carried out under the conditions of the awards. These regulations are policy significant.

FOR FURTHER INFORMATION CONTACT:

Dr. Andrew M. Lebby, 400 Maryland Avenue, S.W., (Room 3616, ROB-3), Washington, D.C. 20202. Telephone: (202) 245-9582.

(Catalogue of Federal Domestic Assistance Number 13.553, National Diffusion Network.)

Dated: November 28, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-2045 Filed 1-18-79; 8:45 am]

[3510-15-M]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 251]

REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

Construction-Differential Subsidy; Standard Contract Forms

AGENCY: Maritime Administration, Commerce.

ACTION: Extension of comment period.

SUMMARY: In FR Doc. 78-34361, appearing in the FEDERAL REGISTER on December 8, 1978 (43 FR 57624), Notice of Availability and request for comment on proposed regulation, standard forms for contracts which are subject to approval in awarding construction-differential subsidy, it was stated that written comments must be received by close of business on February 6, 1979. Upon request made and good cause shown by the Shipbuilders Council of America, the time for submission of comments has been extended to close of business on March 1, 1979.

DATE: Written comments are due on or before March 1, 1979.

ADDRESS: Submit (in triplicate) to Secretary, Maritime Administration, Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Melvin S. Eck, Maritime Administration, Office of General Counsel, Washington, D.C. 20230, Tel. (202) 377-2771.

AUTHORITY: Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)); Reorganization Plans No. 21 of 1950 (64 State. 1273), and No. 7 of 1961 (74 Stat. 840), as amended by Pub. L. 91-469 (84 Stat. 1036); and Department of Commerce Organization Order 10-8 (38 FEDERAL REGISTER 19707, July 23, 1973).

Date: January 15, 1979.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 79-2073 Filed 1-18-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-828]

[47 CFR Chapter I]

CELLULAR MOBILE RADIO COMMUNICATIONS SYSTEM

Order Concerning Extension of Time for Limit for Adoption of Rules and Technical Standards

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Federal Communications Commission extends the deadline for adoption of rules and technical standards for nationwide, broadband, "cellular" mobile radio communication systems, to January 1, 1980. Cellular mobile systems are mobile radio telephone systems using advanced technology in order to achieve high quality communications with a high order of frequency reuse. In Docket 18262 the Commission expected to have adopted final rules by January 1, 1979. A pilot "developmental" program was instituted to yield data on which to base proposed rules. In order to obtain more detailed data before adopting final rules, the Commission is extending its target date for adoption of rules by one year. The Chief, Common Carrier Bureau, is given delegated authority to renew the authorizations of the participants in the pilot program.

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DATES: Target date for adoption of definitive technical standards and institution of regular cellular radio communication service is January 1, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Michael D. Sullivan, Mobile Services Division, Common Carrier Bureau. Telephone (202) 632-6450.

SUPPLEMENTARY INFORMATION:

In the matter of extension of time limit for adoption of rules and technical standards for cellular Mobile Radio Communication Systems; *Order;* adopted November 30, 1978; released December 6, 1978; By the Commission: Commissioner Lee absent.

1. On March 19, 1975, the Commission adopted its *Memorandum Opinion and Order* in Docket No. 18262, *Land Mobile Radio Service*, 51 FCC 2d 945, 40 FR 14452 (1975) (MO&O), terminating a long proceeding to provide spectrum relief for the land mobile radio services.[1] In that proceeding, the Commission, *inter alia*, allocated 40 MHz to the Domestic Public Land Mobile Radio Service for the development of a nationwide, broadband, "cellular" mobile radio communication system.

2. In paragraph 34 of the MO&O, the Commission emphasized the urgent need for additional mobile telephone service. Accordingly, we set a target date of January 1, 1979, for the adoption of rules and the institution of regular cellular service, and we stated that developmental operations would not extend beyond January 1, 1979.[2]

3. The first application for developmental authority was filed on July 31, 1975, by the Illinois Bell Telephone Company (IBT), for a developmental cellular system in the Chicago, Illinois, metropolitan area. In a letter dated July 15, 1976, we suggested that IBT revise its application.[3] IBT and the American Telephone and Telegraph Company sought reconsideration of the letter. On March 10, 1977, we granted reconsideration and granted IBT's application.[4] IBT began constructing its developmental system in July 1977.

4. On February 14, 1977, American Radio Telephone Service, Inc. (ARTS), a radio common carrier, filed an application for a developmental system. ARTS proposed to test a cellular system designed by Motorola in the Baltimore-Washington area. We granted the application on October 28, 1977.[5]

5. On the same day as our grant to ARTS, we also returned as defective an application filed by ARCH, a joint venture, for a non-cellular "nonwireline multiple acess exchange (N-MAX) mobile telephone system."[6] The ARCH application was rejected because it did not comply with either the letter or the spirit of the guidelines for cellular systems laid down in paragraph 33 of our MO&O.[7]

6. Thus, the only developmental cellular systems presently authorized are those of IBT and American Radio Telephone Service, Inc. (ARTS). 51 FCC 2d at 955.

We have received six developmental reports from IBT and four from ARTS. IBT is currently in the equipment testing phase, and has informed us that in December 1978 it plans to start service tests to over 2000 mobile units. The ARTS system is in the early stages of a three-phase developmental program.

7. We recognized in our MO&O that "considerable additional work must be done before standards may be prescribed for [cellular] systems on a regular basis."[8] Accordingly, we decided that only developmental systems would be authorized. "Following that program, we will adopt standards to which all systems, existing and new, will be required to conform."[9] In 1975, we expected to be able to adopt technical standards and other rules governing cellular systems and move from a developmental stage to regular service by January 1, 1979. At this time, we believe that it would be desirable to have a further period of development before adopting rules which preclude new, creative approaches to cellular development. Accordingly, we now feel that it would be prudent to extend the target date for the adoption of the rules and technical standards and the institution of regular service to January 1, 1980, on our own motion.[10]

8. We are hereby delegating authority to the Chief, Common Carrier Bureau, to act on applications for renewal of developmental cellular authorizations consistent with this decision.

9. We are extending the period for cellular development in the hope that it will lead to the submission of information so that we can adopt a framework of rules which will make possible a nationwide compatible mobile communications network which will meet the needs of the American public. To this end, we still encourage the submission of new developmental proposals from the telecommunications industry. The experience gained from even a short period of developmental operation of a new system may be of more value in designing a framework of rules for future systems than an entire year of pleadings and comments. Accordingly, we are willing to entertain additional developmental proposals which would contribute significantly to our understanding of the cellular concept. Such proposals must be compatible with existing cellular technology, however, and they must be in keeping with the spirit of the MO&O in Docket 18262.[11]

[1] Land Mobile Radio Service, Docket No. 18262, Second Report and Order, 46 FCC 2d 752, 39 FR 16831 (1974), *on reconsideration*, 51 FCC 2d 945, 40 FR 14452 (1975), *clarified*, 55 FCC 2d 771, 40 FR 49779 (1975), *aff'd sub nom.* Nat'l Ass'n of Regulatory Utility Comm'rs v. FCC, 525 F.2d 630 (D.C. Cir. 1976), *cert. denied*, 425 U.S. 992 (1976). The rulemaking in Docket No. 18262 was initiated in 1968 with the Commission's Notice of Inquiry and Notice of Proposed Rule Making, 14 FCC 2d 311, 33 FR 10807 (1968).

[2] In paragraph 34 of the MO&O the Commission stated that: the public interest requires that development of cellular systems be carried forward as swiftly as possible. It is vital that the frequency spectrum made available for this purpose be put to use without delay in order to service the public needs for mobile radiotelephone and for limited dispatch service. There must be prescribed time limits within which an applicant who has received a developmental grant will carry out the proposal. Applications must include a proposed time schedule that must, at a minimum, call for beginning construction within one year following the grant and for completion of the developmental operation no later than January 1, 1979. We would expect to have adopted definitive technical standards and other regulations for regular system operation by that date.

[3] Illinois Bell Tel. Co., 62 FCC 2d 436 (1976).

[4] Illinois Bell Tel. Co., 63 FCC 2d 655 (1977), *appeal pending sub nom.* Rogers Radio Communication Services, Inc. v. FCC, Nos. 77-1352, 77-1357 (D.C. Cir.) (argued June 14, 1978). Note that part of the developmental data IBT is producing actually comes from Bell Laboratories' "Cellular test bed" in Newark, New Jersey, under several experimental licenses.

[5] American Radio Telephone Service, Inc., 66 FCC 2d 481 (1977).

[6] ARCH, 66 FCC 2d 496 (1977).

[7] 51 FCC 2d at 954.

[8] *Id.* at 953.

[9] *Id.* at 954. *See also* 63 FCC 2d at 662-63.

[10] Although we are taking action herein on our own motion, we note the filing, on September 13, 1978, of the "Petition of Illinois Bell Telephone Company and American Telegraph Company for an Extension of the Completion Date for Cellular Mobile Telephone Development." IBT and AT&T ask that the completion date for the cellular program be extended from January 1, 1979, to January 1, 1980. We are granting this petition insofar as it is consistent with this Order. We are not, however, extending the period of existing developmental authorizations; the developmental licensees will be required to apply for renewal of their authorizations. The IBT authorization, File No. 20115-CD-P-(—)-76, and the ARTS authorization, File No. 20777-CD-P-(—)-77, expire on January 1, 1979.

[11] We take note that the American Telephone and Telegraph Company and IBT have jointly filed a "Petition for Inquiry" looking toward standards for cellular systems. File No. RM-3200, Public Notice dated September 8, 1978 (Mimeo 7101). We have

Footnotes continued on next page

10. Authority for this action is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i) and 303.

11. In view of the foregoing, IT IS ORDERED, That the target date for adoption of definitive technical standards and institution of regular cellular radio communication service shall be January 1, 1980.

12. It is further ordered, That authority to renew developmental cellular authorizations until January 1, 1980, is hereby delegated to the Chief, Common Carrier Bureau.

13. It is further ordered, That the "Petition of Illinois Bell Telephone Company and American Telephone and Telegraph Company for an Extension of the Completion Date for Cellular Mobile Telephone Development" IS GRANTED, insofar as it is not inconsistent with this Order, and is in all other respects DENIED.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-1507 Filed 1-18-79; 8:45 am]

Footnotes continued from last page

previously waived the requirement of Section 21.403 of the Rules that an applicant for developmental authority accompany its application with a petition to amend the Rules. *See* 63 FCC 2d at 666; *cf.* 66 FCC 2d at 483. This was done because the very purpose of the cellular developmental systems was to yield data which would aid us in the adoption of rules. We are now of the belief, however, that following the experience gained by IBT and ARTS, it would be helpful to have specific proposals for rules from renewal applicants. Therefore, we expect to release a Notice of Inquiry in the near future, pertaining to rules governing cellular systems. It will still not be necessary for rulemaking petitions to accompany the applications. We anticipate that if we grant renewals of any developmental authorizations we may require, as a condition on the authorizations, that the licensee submit detailed comments and proposed rules in response to our Notice of Inquiry. In our Notice of Inquiry, we will address the question of varying the standards established in our MO&O; at present, however, any requests for waiver of those standards must be adequately justified. In any event, developmental proposals must use a mobile unit which is capable of being used in other cellular systems.

[6712-01-M]

[47 CFR Part 18]

[Docket No. 20718]

INDUSTRIAL, SCIENTIFIC, AND MEDICAL EQUIPMENT

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order extending time for comments.

SUMMARY: Order Extending time for comments and reply comments in FCC Docket 20718 re overall revision of Part 18 of FCC Rules governing ISM equipment to May 1, 1979 and June 1, 1979, respectively.

DATES: Comments must be received on or before May 1, 1979, and Reply Comments must be received on or before June 1, 1979.

ADDRESSES: Federal Communications Commission, 1919 M St., N.W. Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Art Wall, Office of Chief Engineer, FCC, Washington, D.C. 20554 (202-632-7095).

ORDER

Adopted: January 5, 1979.

Released: January 11, 1979.

In the Matter of overall revision of Part 18 governing industrial, scientific, and medical equipment, Docket 20718.

1. On September 29, 1978, the Commission released (43 FR 46326, October 6, 1978) a Notice of Proposed Rule Making in the above entitled matter soliciting public comments on or before January 15, 1979. Several parties have requested extensions of time within which to file comments on the grounds that the test procedures discussed in the proposal are not available.

2. Publication of the six test procedures has been unavoidably delayed. Recognizing the desirability of having these procedures available so they can be used to evaluate the proposed technical specifications, time for filing comments and reply comments is hereby extended to May 1, 1979, and June 1, 1979, respectively, pursuant to the authority granted by Section 0.241(d) of FCC Rules.

RAYMOND E. SPENCE,
Chief Engineer.

[FR Doc. 79-1901 Filed 1-18-79; 8:45 am]

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 34]

REFUGE REVENUE SHARING ACT

Participation of Local Governments in Revenue From Areas Administered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to revise Part 34 of Title 50, Code of Federal Regulations which prescribes regulations for revenue sharing with counties. These changes are necessitated by recent legislation which amended the Refuge Revenue Sharing Act. The proposed rule makes revenue sharing applicable to all service-administered lands instead of just to the refuge system; makes payments available for any governmental purpose; and provides a new computation for payments to county and local governments.

DATE: Comments must be received by February 20, 1979.

ADDRESS: Send comments to the Chief, Division of Realty, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Bernard J. Schaefer, Assistant Chief, Division of Realty, Telephone 202-343-4026.

SUPPLEMENTAL INFORMATION: Public Law 95-469, approved October 17, 1978, which amended 16 U.S.C. 715s, changes the provisions for sharing revenues with counties in a number of ways. It makes revenue sharing applicable to all lands administered solely or primarily by the U.S. Fish and Wildlife Service, whereas previously it was applicable only to areas in the National Wildlife Refuge System. Areas added are national fish hatcheries, administrative sites, and research stations. The new law makes payments available for any governmental purpose, whereas the old law restricted the use of the payments to roads and schools. For fee (acquired) lands, the new law provides a payment of 75¢ per acre, 3/4 of 1% of fair market value, or 25% of net receipts, whichever is greater, whereas the old law provided a payment of 3/4 of 1% adjusted cost or 25% of net receipts, whichever was greater. The new law makes reserve (public domain) lands entitlement lands under Public Law 94-565 (16 U.S.C. 1601-1607), and provides for a payment of 25% of net receipts. The new law authorizes appropriations to make up any short-fall in

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net receipts to make payments in the full amount for which counties are eligible. The old law provided that if the net receipts were insufficient to make the full payment, the payment to each county would be reduced proportionately. All written comments made pursuant to this notice will be available for inspection at the Division of Realty, U.S. Fish and Wildlife Service, 5th Floor Rear, 608 13th Street, N.W., Washington, D.C., during regular business hours, 7:45 a.m. to 4:15 p.m. (except holidays). The primary author of this proposal is Richard E. Corthell, Division of Realty, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (phone 202-343-4026).

NOTE.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive order 12044 and 43 CFR Part 14.

Accordingly, it is proposed to revise Part 34, Title 50, Code of Federal Regulations as follows:

PART 34—REFUGE REVENUE SHARING WITH COUNTIES

Sec.
34.1 Purpose.
34.2 Authority.
34.3 Definitions.
34.4 Eligibility of areas.
34.5 Distribution of revenues.
34.6 Schedule of appraisals.
34.7 Fair market value appraisals.
34.8 Appropriations authorized.
34.9 Protests.

AUTHORITY: 16 U.S.C. 715s, as amended.

§ 34.1 Purpose.

The purpose of the regulations contained in this part is to prescribe the procedures for making payments in lieu of taxes to counties for areas administered by the Secretary through the United States Fish and Wildlife Service in accordance with the Revenue Sharing Act.

§ 34.2 Authority.

(a) The Act of October 17, Public Law 95-469, amended the Act of June 15, 1935, as amended by the Act of August 30, 1964 (78 Stat. 701, 16 U.S.C. 715s), by revising the formula and extending the revenue sharing provisions to all fee and reserve areas that are administered solely or primarily by the Secretary through the United States Fish and Wildlife Service. Payments under this Act may be used for any governmental purpose.

(b) Pursuant to Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d), and the regulations issued pursuant thereto, which are contained in 43 CFR Part 17, counties must file an assurance with the Department, comply with the terms of the assurances, and comply with regulations contained in 43 CFR Part 17 in order to continue to receive this Federal financial assurance.

§ 34.3 Definitions.

(a) The term "fee area" means any area which was acquired in fee by the United States and is administered, either solely or primarily, by the Secretary through the Service.

(b) The term "reserve area" means any area of land withdrawn from the public domain and administered, either solely or primarily, by the Secretary through the Service. For the purpose of these regulations, reserve areas also include lands in Hawaii, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, which were initially administered by the United States through Act of Congress, Executive Order, Public Land Order or Proclamation of the President and administered, either solely or primarily, by the Secretary through the Service.

(c) The term "county" means any county, parish, organized or unorganized borough, or other unit of local government that collects and distributes real property taxes where fee area and/or reserve areas area located. For the purpose of sharing revenues, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands shall each be treated as a county.

(d) The term "fund" means the revenues received by the Service from (1) the sale or disposition of animals, salmonoid carcasses and eggs, products of the soil (including, but not limited to, timber, hay, and grass), minerals, shells, sand, and gravel; (2) leases for public accomodations or facilities incidental to, but not in conflict with, the basic purpose of such areas; and (3) other priviliges, including industrial leases at Crab Orchard National Wildlife Refuge, Illinois, as authorized by Section 8 of Public Law 95-616, approved October 27, 1978. The Service may pay from such revenues any necessary expenses incurred in connection with the revenue producing and revenue sharing activity. The fund shall also include any appropriations authorized by the Act to make up any difference between the total amount of receipts after payments of expenses and the total amount of payments to the counties.

(e) The term "net receipts" means the amount of revenue collected by the Service from an area of fee land and/or reserve land after the deduction of necessary expenses incurred in producing the particular revenues.

(f) The term "fair market value" means the amount in terms of money for which in all probability a property would be sold if exposed for sale in the open market by a seller who is willing but not obligated to sell, allowing a reasonable time to find a buyer who is willing but not obligated to buy, both parties having full knowledge of all the uses to which the property is adapted, and for which it is capable of being used.

§ 34.4 Eligibility of areas.

In order for any county to receive payments under the Act, there must be located within the county, areas of land and/or water administered by the Secretary of the Interior, including wildlife refuges, wildlife ranges, wildlife management areas, fish hatcheries, research centers or stations, and administrative sites, and these areas must be solely or primarily administered by the Service. In addition to this Act, reserve areas administered solely or primarily by the Service are entitlement lands under Section 6(a) of the Act of October 29, 1976 (Public Law 94-565, 31 U.S.C. 1601-1607), for which regulations are published in Title 43, Part 1880, Code of Federal Regulations.

§ 34.5 Distribution of revenues.

The Act provides that the Secretary, at the end of each fiscal year, shall pay to each county out of the fund:

(a) For reserve areas, an amount equal to 25 percentum of the net receipts, collected by the Secretary in connection with the operation and management of such area, provided that when any such area is situated in more than one county, the distributive share to each from the aforesaid receipts shall be proportional to its acreage of such reserve area.

(b) For fee areas, whichever of the following is greater:

(1) An amount equal to 75¢ per acre for the total acreage of the fee area located within such county.

(2) An amount equal to three-fourths of 1 percentum of the fair market value, as determined by the Secretary, of that portion of the fee area (excluding any improvements thereto made after the date of Federal acquisition) which is located within such county. For those areas of fee land within the National Wildlife Refuge System as of September 30, 1977, the amount of payment will not be less than the amount paid on the adjusted cost basis as in effect at that time. Actual cost, or appraised value in case of donation, will be used for lands acquired during fiscal year 1978, and for those areas of fee lands added to lands administered by the Service after September 30, 1978, by purchase, donation, or otherwise, fair market value shall be determined by appraisal as of the date said areas are administered by the Service.

(3) An amount equal to 25 percentum of the net receipts collected by the Secretary in connection with the operation and management of such fee area during such fiscal year; but if a

fee area is located in two or more counties, the amount each such county is entitled to shall be the amount which bears to such 25 percentum, the same ratio as that portion of the fee area acreage which is within such county bears to the total acreage of such fee area.

(c) In accordance with Section 5(A) of the Act, each county which receives a payment under (a) and (b) above with respect to any fee area or reserve area shall distribute that payment to those units of local government which have incurred the loss or reduction of real property tax revenues because of the existence of such area in accordance with the following guidelines. The local units of government entitled to this distribution will be those such as, but not limited to, cities, towns, townships, school districts, and the county itself in appropriate cases, which levy and collect real property taxes separately from the county or other primary taxing authority or those for which a tax is separately stated on a consolidated tax bill of the primary taxing authority in areas wherein eligible lands are located. The amount of distribution or passthrough to which each unit of local government will be entitled shall be in the same proportion as its current tax loss bears to the current whole tax loss for the area. Counties shall distribute the payment to eligible local units of government within 90 days from receipt of the payment. In the event a county cannot make the required distribution for reasons of State or local law, or otherwise, the Service will make the payments directly to local units of government upon return of the check and information upon which to make the payments. Payments generated from reserve lands are not subject to the requirements for distribution since these lands have never been on tax rolls. Where reserve land payments are included in payments to counties, the Service will furnish with the payment, a statement as to the portion pertaining to such reserve lands, which amount may be retained by the county in full.

(d) Each county which receives a payment under these regulations shall maintain a record for a period of three years as to how the payment was distributed to units of local government under (c) above. The record shall be available for inspection by the Regional Director should a dispute arise as to the distribution of payments. See Section 29.21-2(c) for a listing of the Regional Directors of the Service.

§ 34.6 Schedule of appraisals.

The Secretary shall make fair market value appraisals of areas administered by the Service within five years after October 17, 1978, beginning with areas established earliest, and on a schedule of approximately one-fifth of such areas each fiscal year. All areas for which payments were not authorized prior to fiscal year 1979 (i.e.; fish hatcheries, administrative sites, and research stations) shall be included in the areas appraised during the first fiscal year. Once appraised, areas shall be reappraised on a schedule of at least once every five years. Until areas are appraised, the fair market value for the purposes of this regulation shall be the adjusted cost as of September 30, 1978, except that fee lands added to such areas after that date shall be on the basis of fair market value.

§ 34.7 Fair market value appraisals.

Fee areas administered by the Service will be appraised in accordance with standard appraisal procedures in order to estimate the fair market value of each area as a whole. The evaluation will be premised on an appropriate determination of highest and best use in accordance with existing or potential zoning, the present condition of the land and the general economic situation in the vicinity. Standard appraisal techniques will involve a market data comparison of these areas with similar properties which have sold recently in the local market. These techniques may also include consideration of potential income and development of the cost approach for special use properties having limited marketability. An appropriate evaluation of these areas will also take into consideration a discount for size as recognized by the market for large properties where applicable. The appraisals will be made on a gross or overall basis rather than a summation of individual values for different cover type acreages. The appraisals will be accomplished by the regional director, using Service staff appraisers or private appraisers contracted by the Service. The Act requires that improvements placed upon the land after the date of Federal acquisition be excluded from the fair market value. The only structures that will be included in the appraisal are those that were present at the time of Federal acquisition and have not been the subject of substantial renovation or modification with Federal funds. Evaluation of improvements will be based on their contributory value to the area as determined by the highest and best use study. Lands occupied by improvements not subject to appraisal will be valued as though unimproved. The appraisals will be reviewed by the Service's review appraisers and the determination of the regional director as to fair market value shall be final and conclusive and shall be the basis for computation of revenue sharing payments.

§ 34.8 Appropriations authorized.

The Act authorizes appropriations to the fund for any fiscal year when the aggregate amount of payments required to be made exceeds the net receipts in the fund.

§ 34.9 Protests.

(a) Computation of payments shall be based on Federal records concerning land, real property improvements, and accounting of net receipts from area administered solely or primarily by the Service.

(b) Any affected county may protest the results of the computations of its payments to the Regional Director in charge of the State and county affected. See Section 29.21-2(c) for a listing of the regional directors of the Service.

(c) Any protesting county shall submit sufficient evidence to show error in the computation or the data from which the computations are made.

(d) All protests to the regional director shall be filed within 90 days from the date of receipt of the payment.

(e) The regional director shall consult with the affected county to resolve conflicts in the computations and/or data. The regional director shall make a determination as to the correct payment, which determination shall be final and conclusive.

Dated: January 15, 1979.

ROBERT S. COOK,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 79-1907 Filed 1-18-79; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[4310-10-M]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PUBLIC INFORMATION MEETING

Notice is hereby given that on Monday, January 29, 1979, from 3:00 to 7:30 p.m., a public information meeting will be held at the First Chicago Center, 1 First National Plaza, Chicago, Illinois. The purpose of this meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views on the proposed Franklin Line Rail Rapid Transit Project (Project No. IL-23-2005), an undertaking assisted by the Urban Mass Transportation Administration, U.S. Department of Transportation, that will adversely affect the Union Loop Elevated Structure in Chicago, Illinois, a property determined by the Secretary of the Interior to be eligible for inclusion in the National Register of Historic Places.

The following is a summary of the agenda of the public information meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council. The meeting is being held in accordance with § 800.5(c) of the Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800).

II. A description of the undertaking and an evaluation of its effects on the property by the Chicago Urban Transportation District.

III. A statement by the Illinois State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the Union Loop Elevated Structure.

V. A general question period.

Speakers should limit their time to 10 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street, N.W., Washington, D.C. 20005, (202)254-3974.

ROBERT M. UTLEY,
Deputy Executive Director.

[FR Doc. 79-2065 Filed 1-18-79; 8:45 am]

[3410-30-M]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

ADVISORY COUNCIL ON MATERNAL, INFANT AND FETAL NUTRITION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name: National Advisory Council on Maternal, Infant and Fetal Nutrition.

Date and time: 9:00 a.m., February 6-7, 1979.

Place: New Orleans Hilton Hotel, Poydras Street at the Mississippi River, New Orleans, Louisiana 70140.

Purpose of meeting: The Council will continue its study of the special Supplemental Food Program for Women, Infants and Children (WIC) and will discuss a wide range of matters concerning the operation of this program.

Proposed agenda: The agenda will cover issues in the proposed WIC program regulations including the following: priority systems for participant eligibility, local agency applications, and county participation or expansion as determined by the affirmative action plan; eligibility criteria; certification; nutrition education; performance standards; outreach requirements and food delivery standards. Future evaluations of the WIC program and developmental projects will also be discussed.

This meeting will be open to the public.

Persons wishing additional information about this meeting should contact Lindy Dahnk, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-8421.

Dated: January 12, 1979.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 79-1518 Filed 1-18-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

APPLICATION FOR AN ALL-CARGO AIR SERVICE CERTIFICATE

JANUARY 15, 1979.

In accordance with Part 291 (14 CFR Part 291) of the Board's Economic Regulations (effective November 9, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 34323, from Hawaii Pacific Air Cargo, Ltd. of Honolulu, Hawaii for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before February 9, 1979. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-2027 Filed 1-18-79; 8:45 am]

[6320-01-M]

APPLICATION FOR AN ALL-CARGO AIR SERVICE CERTIFICATE

JANUARY 16, 1979.

In accordance with Part 291 (14 CFR Part 291) of the Board's Economic Regulations (effective November 9, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 34322, from Piedmont Aviation, Inc. of Winston-Salem, N.C. for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before February 9, 1979. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-2028 Filed 1-18-79; 8:45 am]

[3510-07-M]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON HOUSING FOR THE 1980 CENSUS

Public Meeting

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. APP. (1976), notice is hereby given that the Census Advisory Committee on Housing for the 1980 Census will convene on February 9, 1979, at 9:30 a.m. The Committee will meet in Room 2424, Federal Building 3 at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee on Housing for the 1980 Census was established in March 1976 to provide technical advice and guidance in planning the forthcoming decennial census of housing to ensure that the major statistical requirements of decision-makers are provided by the 1980 Census of Housing program.

The Committee is composed of 18 members, including a representative from each of nine organizations, and nine members appointed by the Secretary of Commerce.

The agenda for the meeting, which is scheduled to adjourn at 4:00 p.m., is: 1) Introductory remarks by the Director, Bureau of the Census, 2) status of planning for the 1980 census, 3) status of the 1980 housing census, 4) Community Services Program, 5) publication outlines for the 1980 housing census, 6) outlying areas program, and 7) committee recommendations and plans for the next meeting.

The meeting will be open to the public and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact Mr. Arthur F. Young, Chief, Housing Division, Bureau of the Census, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone (301) 763-2863.

Dates: January 16, 1979.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

[FR Doc. 79-1987 Filed 1-18-79; 8:45 am]

[3510-25-M]

Foreign Trade Zones Board

[Order No. 141]

RESOLUTION AND ORDER APPROVING APPLICATION OF THE GREATER CINCINNATI FOREIGN-TRADE ZONE, INC., FOR FOREIGN, TRADE ZONE FACILITIES IN THE GREATER CINCINNATI AND COLUMBUS, OHIO, AREAS

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Greater Cincinnati Foreign-Trade Zone, Inc., filed with the Foreign-Trade Zones Board (the Board) on September 19, 1978, requesting a grant of authority for establishing, operating, and maintaining general-purpose foreign-trade zones in the Greater Cincinnati area of Ohio and northern Kentucky, and two special-purpose subzones near Cincinnati and Columbus, Ohio, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approved the application.

As the proposal involves industrial park type general-purpose zone sites that envisage the possible construction of buildings by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation at any of the various zone sites. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

FOREIGN TRADE ZONES BOARD—
WASHINGTON, D.C.

GRANT TO ESTABLISH, OPERATE AND MAINTAIN FOREIGN, TRADE ZONE AND SUBZONE FACILITIES IN THE GREATER CINCINNATI AND COLUMBUS, OHIO, AREAS

WHEREAS, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

WHEREAS, the Greater Cincinnati Foreign-Trade Zone, Inc., (the Grantee) has made application (filed September 19, 1978, and amended November 2, 1978) in due and proper form to the Board, requesting the establishment, operation and maintenance of foreign-trade zones in Butler County, Ohio, and Campbell County, Kentucky, within the Cincinnati Customs port of entry; and, two special-purpose subzones, one in Hamilton County, Ohio, within the Cincinnati Customs port of entry, the other in Union County, Ohio, adjacent to the Columbus port of entry;

WHEREAS, notice of said application and amendment has been given and published, and full opportunity has been afforded all interested parties to be heard; and

WHEREAS, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

NOW, THEREFORE, the Board hereby grants to the grantee the privilege of establishing, operating and maintaining foreign-trade zones and subzones, designated on the records of the Board as Zone No. 46 (Butler County, Ohio), Subzone No. 46A (Hamilton County, Ohio), Subzone 46B (Union County, Ohio), and Zone No. 47 (Campbell County, Kentucky) at two sites: (NKPA Site) and (Hosea Site), and more particularly described on the maps and drawings accompanying the application (as amended) in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were

fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zones and subzones shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zones and subzones in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operation within the zone and subzone sites.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone and subzone sites, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

IN WITNESS WHEREOF, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 12th day of January 1979, pursuant to Order of the Board.

C. L. HASLAM,
Foreign-Trade Zones Board, Acting Chairman and Executive Officer.

Attest:
JOHN J. DAPONTE,
Executive Secretary.

[FR Doc. 79-1909 Filed 1-18-79; 8:45 am]

[3510-15-M]

Maritime Administration

[Docket No. S-634]

OGDEN TRAVELER, INC.

Application

Notice is hereby given that Ogden Traveler, Inc., 280 Park Avenue, New York, New York 10017, has filed an application dated December 29, 1978, with the Maritime Subsidy Board (the Board) pursuant to Title VI of the Merchant Marine Act, 1936, as amended (the Act), for an operating-differential subsidy contract, to expire December 31, 1979, unless extended, to operate the SS TRAVELER, 25,977 deadweight tons, in the carriage of bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Dry and liquid bulk cargoes may be carried from the U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R., or other permissible ports of discharge.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in Title 46 of the Code of Federal Regulations, Part 294.

For purposes of section 605(c) of the Act, it should be assumed that should the Board grant the requested approval, the vessel named above will engage in the described trade, on a full-time basis, during the indicated time period. Under such approval, each voyage must be approved for subsidy assistance prior to its commencement, and the Board will act on such request(s) as an administrative matter for which there is no requirement for further section 605(c) notice(s).

Any person having an interest in the granting of the application and who would contest a finding by the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes previously specified is inadequate, must on or before January 30, 1979 notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's Rules of Practice and Procedure (46 CFR 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act, and, with as much specificity as possible, the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to the subject application, the purpose of such hearing will be to receive evidence relevant to (1) whether the application herein described, with respect to the vessel to be operated in an essential service and served by citizens of the U.S. would be in addition to the existing service or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such actions as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS)).

Dated: January 15, 1979.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 79-2072 Filed 1-18-79; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

NATIONAL MARINE FISHERIES SERVICE

Issuance of Permit To Take and Import Marine Mammals

On November 1, 1978, Notice was published in the FEDERAL REGISTER (43 FR 50955), that an application had been filed with the National Marine Fisheries Service by Dr. Lanny Cornell, Vice President.

Research/Veterinary Husbandry, 1720 South Shores Road, Mission Bay, San Diego, California 92109, for a public display/scientific research permit to take and import six (6) beluga whales, six (6) pilot whales, twenty (20) common dolphins and/or Pacific white-sided dolphins, fifteen (15) spotted dolphins, spinner dolphins, striped dolphins and/or Northern right whale dolphins and fifty (50) Atlantic or Pacific bottlenose dolphins.

Notice is hereby given that on January 12, 1979, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a public display/scientific research permit to Sea World, Inc., subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N. W., Washington, D.C.,

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;

Regional Director, National Marine Fisheries Service, Duval Building, 9450 Kroger Boulevard, St. Petersburg, Florida 33702;

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: January 12, 1979.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 79-2010 Filed 1-18-79; 8:45 am]

[3510-22-M]

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) will meet to discuss: (1) Report on NMFS groundfish mesh trials; (2) Report on NMFS Observer Program; (3) Report on legality of modifying the Surf Clam MP; (4) Report on development of Pollock MP; and (5) Other Business.

DATES: The meeting will convene on Wednesday, February 7, 1979, at approximately 10:00 a.m. and adjourn on Thursday, February 8, 1979, at approximately 5:00 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Holiday Inn, Junction of Routes 1 and 128, Peabody, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts 01960, Telephone: (617) 535-5450.

SUPPLEMENTARY INFORMATION: For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

Dated: January 15, 1979.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 79-1895 Filed 1-18-79; 8:45 am]

[3510-22-M]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss: (1) Council Decision Process on the King and Spanish Mackerel FMP; (2) Council Decision Process on the Snapper-Grouper FMP; (3) Review foreign fishing permits if any; and (4) Other management business.

DATES: The meeting will convene on Tuesday, January 23, 1979, at 1:00 p.m. and will adjourn on Thursday, January 25, 1979, at approximately 12:00 noon. The meeting is open to the public.

ADDRESS: The meeting will take place at Headquarters, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407.

FOR FURTHER INFORMATION CONTACT:

Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, SC 29407, Telephone: (803) 571-4366.

SUPPLEMENTARY INFORMATION: For more information on seating, changes to the agenda, and/or written comments, contact the Executive Director.

Dated: January 16, 1979.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 79-1896 Filed 1-18-79; 8:45 am]

[3510-17-M]

Office of the Secretary

MID-AMERICA ECONOMIC DEVELOPMENT REGION

Notice of Designation of an Economic Development Region

Pursuant to the provisions of Section 501(a) of the Public Works and Economic Development Act of 1965, as amended (Public Law 89-136; 42 U.S.C. 3181(a)), having examined all pertinent data, I have determined that the States of Illinois, Indiana, Iowa, and the following 60 counties in the State of Ohio meet the requirements of the Act for designation as an economic development region: Allen, Ashland, Ashtabula, Auglaize, Butler, Champaign, Clark, Clinton, Columbiana, Crawford, Cuyahoga, Darke, Defiance, Delaware, Erie, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hamilton, Hancock, Hardin, Henry, Huron, Knox, Lake, Licking, Logan, Lorain, Lucas, Madison, Mahoning, Marion, Medina, Mercer, Miami, Montgomery, Morrow, Ottawa, Paulding, Pickaway, Portage, Preble, Putnam, Richland, Sandusky, Seneca, Shelby, Stark, Summit, Trumbull, Union, Van Wert, Warren, Wayne, Williams, Wood, and Wyandot. Accordingly, in response to a request dated December 28, 1976, from the Governors of the four states, I have designated the above-described region as the Mid-America Economic Development Region.

Inquiries relating to this designation should be addressed to the Special Assistant to the Secretary for Regional Economic Coordination, Room 2092, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

Dated: January 9, 1979.

JUANITA M. KREPS
Secretary of Commerce.

[FR Doc. 79-2257 Filed 1-18-79; 10:30 am]

[3510-17-M]

MID-ATLANTIC ECONOMIC DEVELOPMENT REGION

Notice of Designation of an Economic Development Region

Pursuant to the provisions of Section 501 (a) of the Public Works and Economic Development Act of 1965, as amended (Public Law 89-136; 42 U.S.C. 3181(a)), having examined all pertinent data, I have determined that the entire States of Delaware and New Jersey, and parts of the States of Maryland, New York, and Pennsylvania meet the requirements of the Act for designation as an economic development region. Accordingly, in response to requests dated February 3, 1977, and June 16, 1978, from the Governors of the five states, I have designated as the Mid-Atlantic Economic Development Region the entire STates of Delaware and New Jersey and the counties listed below in Maryland, New York, and Pennsylvania.

MARYLAND

Anne Arundel	Howard
Baltimore	Kent
Calvert	Montgomery
Caroline	PrinceGeorges
Carroll	Queen Annes
Cecil	St. Marys
Charles	Somerset
Dorchester	Talbot
Frederick	Wicomico
Harford	Worcester

INDEPENDENT CITY of Baltimore

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NEW YORK

Albany	Onondaga
Bronx	Oneida
Cayuga	Ontario
Clinton	Orange
Columbia	Orleans
Dutchess	Oswego
Erie	Putnam
Essex	Queens
Franklin	Rensselaer
Fulton	Richmond
Genesee	Rockland
Greene	St. Lawrence
Hamilton	Saratoga
Herkimer	Schenectady
Jefferson	Seneca
Kings	Suffolk
Lewis	Sullivan
Livingston	Ulster
Madison	Warren
Monroe	Washington
Montgomery	Wayne
Nassau	Westchester
New York	Wyoming
Niagara	Yates

PENNSYLVANIA

Adams	Lancaster
Berks	Lebanon
Bucks	Lehigh
Chester	Montgomery
Cumberland	Northampton
Dauphin	Philadelphia
Delaware	York
Franklin	

Inquiries relating to this designation should be addressed to the Special Assistant to the Secretary for Regional Economic Coordination, Room 2092, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Dated January 9, 1979.

JUANITA N. KREPS,
Sectary of Commerce.

[FR Doc. 79-2258 Filed 1-18-79; 10:30 am]

[3510-17-M]

MID-SOUTH ECONOMIC DEVELOPMENT REGION

Notice of Designation of an Economic Development Region

Pursuant to the provisions of Section 501(a) of the Public Works and Economic Development Act of 1965, as amended (Public Law 89-136; 42 U.S.C. 3181(a)), having examined all pertinent data, I have determined that parts of the States of Alabama, Kentucky, Mississippi, and Tennessee meet the requirements of the Act for designation as an economic development region. Accordingly, in response to requests from the Governors of the four States, I have designated as the Mid-South Economic Development Region the counties listed below in the States of Alabama, Kentucky, Mississippi, and Tennessee:

ALABAMA

Autauga	Hale
Baldwin	Henry
Barbout	Houston
Bullock	Lee
Butler	Lowndes
Choctaw	Macon
Clarke	Marengo
Coffee	Mobile
Conecuh	Monroe
Covington	Montgomery
Crenshaw	Perry
Dale	Pike
Dallas	Russell
Escambia	Sumter
Geneva	Washington
Greene	Wilcox

KENTUCKY

Allen	Jessamine
Anderson	Kenton
Ballard	Larue
Barren	Livingston
Boone	Logan
Bourbon	lyon
Boyle	McCracken
Bracken	McClean
Breckinridge	Marion
Bullitt	Marshall
Butler	Mason
Caldwell	Meade
Calloway	Mercer
Campbell	Metcalfe
Carlisle	Muhlenberg
Carroll	Nelson
Christian	Nicholas
Crittendon	Ohio
Daviess	Oldham
Edmonson	Owen
Fayette	Pendelton
Franklin	Robertson
Fulton	Scott
Gallatin	Shelby
Grant	Simpson
Graves	Spencer
Grayson	Taylor
Hancock	Todd
Hardin	Trigg
Harrison	Trimble
Hart	Union
Henderson	Warren
Henry	Washington
Hickman	Webster
Hopkins	Woodford
Jefferson	

MISSISSIPPI

Adams	Lawrence
Amite	Leake —
Attala	Leflore
Bolivar	Lincoln
Calhoun	Madison
Carroll	Marion
Claibourne	Montgomery
Clarke	Neshoba
Coahoma	Newton
Copiah	Panola
Covington	Pearl River
DeSoto	Perry
Forrest	Pike
Franklin	Quitman
George	Rankin
Greene	Scott
Grenada	Sharkey
Hancock	Simpson
Harrison	Smith
Hinds	Stone
Holmes	Sunflower
Humphreys	Tallahatchie
Issaquena	Tate
Jackson	Tunica
Jasper	Walthall
Jefferson	Warren
Jefferson Davis	Washington
Jones	Wayne
Lafayette	Wilkinson
Lamar	Yalobusha
Lauderdale	Yazzoo

TENNESSEE

Bedford	Lauderdale
Benton	Lawrence
Carroll	Lewis
Cheatham	Lincoln
Chester	McNairy
Crockett	Madison
Davidson	Marshall
Decatur.	Maury
Dickson	Montgomery
Dyer	Moore
Fayette	Obion
Gibson	erry
Giles	Robertson
Hardeman	Rutherford
Hardin	Shelby
Haywood	Stewart
Henderson	Sumner
Henry	Tipton
Hickman	Trousdale
Houston	Wayne
Humphreys	Weakley
Lake	Williamson
	Wilson

Inquiries relating to this designation should be addressed to the Special Assistant to the Secretary for Regional Coordination, Room 2092, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

Dated: January 9, 1979.

JUANITA M. KREPS,
Secretary of Commerce.

[FR Doc. 79-2259 Filed 1-18-79; 10:30 am]

[6820-33-M]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHERS SEVERELY HANDICAPPED

PROCUREMENT LIST 1979

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1979 a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: January 19, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On October 20, 1978 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (43 FR 49035) of proposed addition to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodity is hereby added to Procurement List 1979:

Class 8135

Currency Packing Block
BEP Stock No. 1391

C. W. FLETCHER,
Executive Director.

[FR Doc. 79-1996 Filed 1-18-79; 8:45 am]

[3710-08-M]

DEPARTMENT OF DEFENSE

Department of the Army

THE NATIONAL TRAINING CENTER, FORT IRWIN SITE

Filing of Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army, on January 19, 1979, provided the Environmental Protection Agency a Final Environmental Impact Statement (FEIS) concerning the proposed National Training Center, Fort Irwin Site. The alternatives of no actions and locating the NTC at MCB 29 Palms or Yuma Proving Ground are also analyzed. Copies of the statement have been forwarded to concerned Federal, state, and local agencies. Interested organizations or individuals may obtain copies for cost of reproduction from Commander, Forces Command (FORSCOM), ATTN: AFOP-FSS, Fort McPherson, Atlanta, Georgia 30330, telephone: (404) 752-2794.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310, telephone: (202) 694-3434.

BRUCE A. HILDEBRAND,
Deputy for Environment, Safety and Occupational Health, OASA (IL&FM).

[FR Doc. 79-1538 Filed 1-18-79; 8:45 am]

[3810-70-M]

Office of the Secretary of Defense

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, New York, New York 10014 on 15 February 1979.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night vision sensors. The review will include classified program details throughout.

In accordance with Section 10(d) of Appendix 1, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in Section 552b(c) of title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: January 15, 1979.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

[FR Doc. 79-1986 Filed 1-18-79; 8:45 am]

[3810-70-M]

OVERSEAS MILITARY BANKING PROGRAM

Services Sought

Consideration is being given to competitive solicitation for the procurement of banking services at U.S. military installations in the foreign countries specified below for fiscal Year 1980 (October 1, 1979, through September 30, 1980).

Competitive solicitation is being considered to meet Defense needs. All qualified firms, including the present contractors, would be included in the competition.

This notice pertains to five present contracts. No. 1 provides for 134 full-time and satellite banking facilities at U.S. military installations in the Federal Republic of Germany, the United Kingdom, Greece, the Netherlands, and Iceland. No. 2 provides for 4 facilities in Germany. No. 3 provides for 20 facilities in Japan, Okinawa, and the Philippines. No. 4 provides for 4 facilities in Japan. No. 5 provides for 17 facilities in South Korea.

Such facilities normally furnish U.S. and local currency to military disbursing officers and nonappropriated fund activities and maintain official and nonappropriated fund dollar and local currency accounts. They also provide checking and savings accounts, local currency, and other common retail banking services to Defense personnel and their dependents.

Present contracts are cost reimbursement plus fixed fee. The Government pays the net loss, if any, after income from service fees and the investment of account balances has been deducted from allowable expenses. Contractor expenses include personnel, supplies, and equipment. Office space is provided by the Government.

Interested financial institutions may obtain additional information and a questionnaire by making a written request to the Defense Supply Service-

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Washington, Room 1D-245, The Pentagon, Washington, DC, 20310. Requests should specify the number, as given above, of each present contract for which information is desired. Deadline for return is February 23, 1979.

Dated: January 15, 1979.

MAURICE W. ROCHE,
Director, Correspondence and Di>rectives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-1911 Filed 1-18-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

INDUSTRIAL ENERGY CONSERVATION PROGRAM

Requirement for Certain Corporations to File Information on Energy Consumption for Identification; Correction

AGENCY: Department of Energy.

ACTION: Notice of Information Filing Requirement; Correction.

SUMMARY: This document corrects errors made in the notice of information filing requirement that appears on pages 1770 and following in the FEDERAL REGISTER of January 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert G. Massey, Office of Industrial Applications and Commercialization, Suite 735, 666 11th St. N.W., Washington, D.C. 20001, (202) 724-3461.

SUPPLEMENTARY INFORMATION: The format for filing the information with the Department of Energy required by section II.C.3 of FR Doc. 79-713 which appeared on page 1772 in the FEDERAL REGISTER of January 8, 1979 is corrected to read as follows:

(3) A statement as follows and the date of submission:

(A) (name of corporation)———— consumed at least one trillion Btu's of energy in calendar year 1977 in SIC(s)————, as determined according to instructions contained in "Requirement for Certain Corporations to File Information on Energy Consumption for Identification," (44 FR 1770, January 8, 1979).

(B) Excluding petroleum, natural gas and their derivatives used as feedstocks, (name of corporation)————consumed at least one trillion Btu's of energy in calendar year 1977 in SIC(s)————. I certify that all the information in this report is true and accurate to the best of my knowledge.

The first item in the list of energy consumption to be excluded from the determination of total energy consumption which is provided in section II.D.1. on page 1772 is corrected to read as follows:

(a) All uses of electricity self-generated by thermal means.

The conversion factor for Distillate fuel oil (including diesel) which is provided in section II.D.2. on page 1773 is corrected to read as follows:

Distillate fuel oil (including diesel)—5,825,000/bbl.

Issued in Washington, D.C., January 16, 1979.

OMI WALDEN,
Assistant Secretary, Conservation and Solar Application.

[FR Doc. 79-2005 Filed 1-18-79; 8:45 am]

[6450-01-M]

INTERGOVERNMENTAL AND INSTITUTIONAL RELATIONS

Consumer Affairs Advisory Committee Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Consumer Advisory Committee will meet at 4:00 p.m., Monday, February 5, 1979, in Room 8E083, and reconvene at 9:00 a.m., Tuesday, February 6, 1979, in Room 8E069, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C.

The purpose of the Committee is to provide the Secretary of Energy with diversified expert advice from qualified individuals relating to the identification and evaluation of the impact of proposed or existing energy policies and programs on consumers, the identifications of areas where new policy initiatives or program change is needed, and planning, developing, and implementing equitable energy policies and programs.

The agenda for the meeting is as follows:

1. Role of Office of Consumer Affairs and Energy.
2. Report on Contracts and Grants Information.
3. Discussion of Proposed Refund Procedures to Purchasers of Petroleum Products from Firms Found to Have Violated the Mandatory Petroleum Regulations.
4. Subcommittee Reports.
5. Public Comment (10 Minute Rule).

The meeting is open to the public. The Chairwoman of the Committee is empowered to conduct the meeting in a fashion that will, in her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee concerning items on the agenda will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements concerning items on the agenda should inform Georgia Hildreth, Director, Advisory Committee Management (202) 252-5935, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. In addition, any person may purchase a copy of the transcript from the reporter. An Executive Summary of the meeting may be obtained by calling the Advisory Committee Management Office at the above number.

Issued at Washington, D.C. on January 12, 1979.

TINA C. HOBSON,
Advisory Committee Management Officer.

[FR Doc. 79-2003 Filed 1-18-79; 8:45 am]

[6450-01-M]

INTERGOVERNMENTAL AND INSTITUTIONAL RELATIONS

Consumer Affairs Advisory Committee, Subcommittee Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Consumer Affairs Advisory Committee Subcommittees will meet Monday, February 5, 1979, in Rooms 8E069 and 8E083, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. at the time indicated below.

The objective of the subcommittees is to make recommendations to the parent Committee with respect to matters concerning consumer aspects of DOE policies and programs.

The agenda and schedule of meetings is as follows:

Consumers' Right to Appropriate Energy Sources
9:00 a.m.—12:00 Room 8E083.
Agenda:
- Report on the California Distributed Energy Project.
- Update on Appropriate Technology Small Grants Program.
- Energy Transportation Policy.
- Gasohol.

Funded Public Participation of Consumer Organizations
9:00 a.m.—12:00 Room 8E069.
Agenda:
General Planning Session by Subcommittee Members.

Consumers' Right to Heat and Light
1:00 p.m.—4:00 Room 8E069.
Agenda:
- PUPPA Implementation.
- Subcommittee Discussion on Conflict Between Energy Policy and Inflation.

Oversight of DOE
1:00 p.m.—4:00 Room 9E083.

Agenda:
- Follow-up Report on Committee Requests for Contracts & Grants Information.
- Discussion on National Consumer Cooperative Bank Act.
- Review of Functional Budget of the Office of Consumer Affairs.

The subcommittee meetings are open to the public. The Chairperson of each subcommittee is empowered to conduct the meeting in a fashion that will, in his/her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with a subcommittee concerning items on the agenda will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements concerning items on the agenda should inform Georgia Hildreth, Director, Advisory Committee Management (202) 252-5935, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Transcripts of the meetings will be available for public review and copying at the Freedom of Information Public Reading, Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. In addition, any person may purchase a copy of the transcript from the reporter. An Executive Summary of the Meeting may be obtained by calling the Advisory Committee Management Office at the above number.

Issued at Washington, D.C. on January 12, 1979.

TINA C. HOBSON,
Advisory Committee Management Officer.

[FR Doc. 79-2004 Filed 1-18-79; 8:45 am]

[6450-01-M]

NATIONAL PETROLEUM COUNCIL, TASK GROUP OF THE COMMITTEE ON MATERIALS AND MANPOWER REQUIREMENTS

Meeting

Notice is hereby given that a task group of the Committee on Materials and Manpower Requirements will meet in January 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Materials and Manpower Requirements will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The task group scheduling a meeting is the Task Group on Production Equipment. The time, location and agenda of the task group meeting follows:

The second meeting of the Task Group on Production Equipment will be on Wednesday, January 24, 1979, starting at 9:00 a.m. in Room 1992 on the 19th Floor of the Exxon Building, 800 Bell Avenue, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of the study methodology to be employed by the Task Group on Production Equipment and review of assignments.
3. Discussion of the timetable of the Task Group on Production Equipment.
4. Discussion of any other matters pertinent to the overall assignment of the Task Group on Production Equipment.

The meeting is open to the public. The chairman of the task group is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202-633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 12, 1979.

GEORGE S. MCISAAC,
Assistant Secretary for Resource Applications.

JANUARY 12, 1979.

[FR Doc. 79-1908 Filed 1-18-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1041-4]

SPRAYED ASBESTOS IN SCHOOLS: PETITION

Request for Comments

AGENCY: Environmental Protection Agency.

ACTION: Request for Comments on Citizens' Petition.

SUMMARY: The Environmental Protection Agency (EPA) requests comments from the public regarding a citizens' petition filed by the Environmental Defense Fund (EDF) requesting that asbestos-sprayed materials in school buildings be controlled under the Toxic Substances Control Act (TSCA). Comments will aid the Agency in responding to this petition.

DATE: Comments should be submitted by February 20, 1979.

ADDRESS: Copies of the petition are available from: John Ritch, Industry Assistance Office, TS-793, United States Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Phone: 800-424-9065 or 554-1404 (Washington, D.C.). Send comments to: Larry E. Longanecker, Office of Toxic Substances, TS-794, United States Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Larry E. Longanecker, address as above, Phone: (202) 755-8963.

SUPPLEMENTARY INFORMATION: On December 21, 1978, the Environmental Defense Fund (EDF) submitted to the EPA a "Petition to the Environmental Protection Agency to Control Asbestos Emissions From Spray-on Materials Which Have Been Applied in Public School Buildings for Insulation, Fireproofing, Decorative or Other Purposes," pursuant to Section 21 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2620. Under TSCA, EPA has 90 days to respond to this citizen's petition. The petition points out the extensive past use of asbestos-sprayed materials, the well-established health effects of asbestos inhalation, and the presence of asbestos in the air of some school buildings. Petitioner concludes that exposure to this asbestos may pose an unreasonable risk to the health of building occupants, particularly children. Briefly, the petition requests that EPA promulgate rules under Section 6 of TSCA to require removal or encapsulation of asbestos found to be deteriorating or damaged. Specifically, the petition suggests that EPA take actions under Sections 6(a)(3), 6(a)(5), and 6(a)(7) to (1) identify all public schools in which sprayed-asbestos has been used and (2) require manufacturers and processors of sprayed-asbestos to take appropriate corrective action.

All asbestos-sprayed materials in schools would be identified and labelled. School officials and asbestos manufacturers and processors would jointly carry out the investigation. Manufacturers or processors would be

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required either to (1) encapsulate or (2) remove and replace or repurchase sprayed-asbestos materials, depending upon which remedy provides adequate protection.

The petition requests that rulemaking activities be initiated no later than March 1, 1979, that investigative requirements be made immediately effective upon proposal of a rule, and that corrective action be immediately required where deteriorating asbestos has already been identified. EPA invites comment on the petition from State and local school officials, asbestos manufacturers and processors and all other interested parties.

Dated: January 15, 1979.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 79-2068 Filed 1-18-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[General Order 7, Rev.]

PETITIONS OF RATE-FIXING AGREEMENTS FOR AN EXEMPTION FROM PROVISIONS

Filing of Petition

A petition has been filed by the Household Goods Carriers' Bureau seeking a total exemption from the provisions of Part 528, 46 CFR, *Self-Policing Requirements For Section 15 Agreements* (General Order 7, Revised) for and on behalf of the following rate-fixing agreements; viz:

International Household Goods Rate Agreement, Agreement No. 8470.
U.S. Hawaii/Puerto Rico/Guam Household Goods Rate Agreement, Agreement No. 8480.
U.S. Alaska Household Goods Rate Agreement, Agreement No. 8490.

In particular, a total exemption is being sought from the requirement imposed by General Order 7, Revised that rate-fixing agreements provide for a policing authority and an impartial adjudicator. An exemption under § 528.3(b)(3) of General Order 7 to allow an agreement officer or employee to perform the self-policing functions in lieu of an independent policing authority is a *not* being sought by petitioners.

Interested parties may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 11101, and at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Comments on the petition may be submitted to the Secretary Federal Maritime Commission, Washington, D.C., 20573, on or before February 8, 1979. Comments should include facts and arguments concerning the requests for an exemption.

Dated: January 16, 1979.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-2011 Filed 1-18-79; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

BANK HOLDING COMPANIES

Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than February 14, 1979.

A. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

1. CITICORP, New York, New York (finance and insurance activities; Kansas): to engage, through its subsidiary, Citicorp Person-to-Person Financial Center, Inc., in making consumer installment personal loans; purchasing and servicing consumer installment sales finance contracts; making loans for the account of others, such as 1-4 family unit mortgage loans; making loans secured by real and personal property the proceeds of which may be for other than personal, family, or household purposes; and the sale of life, accident and health, decreasing or level (for single payment loans) term life, and property and casualty insurance (including liability coverage on home and automobile policies where such is the general practice) directly related to extensions of credit by Applicant's subsidiary. These activities would be conducted from an office at 4370 West 109 Street, Overland Park, Kansas, and the geographic area to be served is the Kansas City, Kansas metropolitan area.

2. LINCOLN FIRST BANKS, INC., Rochester, New York (factoring and commercial finance activities; New York): To engage, through its subsidiary, Lincoln First Commercial Corporation, in making or acquiring loans and other extensions of credit such as would be made by a commercial finance or factoring company, including advances to domestic commercial customers secured by assignments of accounts receivable, inventory, equipment, and other collateral; and servicing loans and other extensions of credit for any person. These activities would be performed from an office at 183 East Main Street, Rochester, New York 14604, and the geographic areas to be served are central and western New York, particularly Rochester, Buffalo, and Syracuse, New York.

3. MANUFACTURERS HANOVER CORPORATION, New York, New York (consumer finance and insurance activities; New Jersey): To engage through Applicant's subsidiaries, Ritter Financial Corporation and The Financial Source, Inc., of New Jersey, in arranging, making, or acquiring loans and other extensions of credit secured by second mortgages on residential real property such as would be made by a consumer finance company; servicing such loans and other extensions of credit; and acting as agent or broker for the sale of credit life insurance directly related to such loans or extensions of credit by Applicant's subsidiaries. These proposed services would be provided from offices in Penns Grove, Sicklerville, Berlin, Camden, Cherry Hill, Haddonfield, Moorestown, Lambertville, Willingboro, Bridgeton, Hammonton, Mantua, Pleasantville, and Vineland, New Jersey, and the geographic areas to be served are the counties in which the offices are located and certain adjacent counties in New Jersey.

4. MANUFACTURERS HANOVER CORPORATION, New York, New York (consumer finance and insurance activities; Virginia): To engage through its subsidiaries, the Financial Source, Incorporated of Virginia, and Ritter Life Insurance Company, in arranging, making, or acquiring loans and other extensions of credit such as would be made by a consumer finance company under a revolving loan plan, including loans under a revolving loan agreement secured by mortgages or deeds of trust on real property or security loans and other extensions of credit for any person; acting as agent or broker for the sale of credit life insurance directly related to extensions of credit by Applicant's subsidiaries; and reinsurance of credit life insurance. These activities would be conducted at an office in Lawrenceville, Virginia, and the geographic areas to be served are Brunswick, Mecklenburg, Greensville, Sussex, and Dinwiddie Counties, Virginia.

B. *Federal Reserve Bank of San Francisco*, 400 Sansome Street, San Francisco, California 94120:

1. FIRST NORTHERN BANCORPORATION, Anchorage, Alaska (leasing and financing activities; Alaska, Washington): To engage, through its subsidiary, First Northern Leasing, Inc., in packaging brokering, making and consulting for lease and loan financing for personal, commercial, and industrial property not including real estate. These activities would be conducted from an office at 101 West Benson Boulevard, Anchorage, Alaska 99503, and the geographic areas to be served are Alaska and Washington.

2. WESTERN BANCORPORATION, Los Angeles, California (mortgage banking and insurance activities; national): To engage, through its subsidiary, Western Bancorp Mortgage Company, in making, acquiring, selling, and servicing real estate and construction loans and conducting related activities incidental to the mortgage banking business, and acting as agent or broker with respect to credit life and credit accident and health insurance and mortgage disability and mortgage redemption insurance directly related to extensions of credit or the provision of other financial services by Applicant or its subsidiaries. These activities would be prerformed from an office at 1515 Arapahoe Street, Denver, Colorado 80202, and the geographic areas to be served are Colorado, Montana, New Mexico, Wyoming, Idaho, Utah, Arizona, Nevada, California, Oregon, and Washington (making or acquiring 1-4 family residential loans; insurance) and national (selling and servicing loans; making or acquiring construction loans and loans on income-producing property).

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, January 15, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-1898 Filed 1-18-79; 8:45 am]

[6210-01-M]

CHEVALIER, INC.

Proposed Retention of Credit Life Insurance Activities

Chevalier, Inc., Postville, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain the activity of serving as agent for the sale of credit life, accident, and health insurance. Notice of the application was published on December 13, 1978, in the *Postville Herald*, a newspaper circulated in Postville, Iowa.

Applicant states that it would engage in the activities of selling as agent credit life, accident, and health insurance directly related to extensions of credit by the Citizens State Bank, Postville, Iowa. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 12, 1979.

Board of Governors of the Federal Reserve System, January 11, 1979.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 79-1897 Filed 1-18-79; 8:45 am]

[6210-01-M]

FIRST NATIONAL BANCSHARES, INC.

Formation of Bank Holding Company

First National Bancshares, Inc., Plainview, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank of Plainview, Plainview, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 9, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 15, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-1899 Filed 1-18-79; 8:45 am]

[6210-01-M]

SOUTHWEST FLORIDA BANKS, INC.

Acquisition of Bank

Southwest Florida Banks, Inc., Fort Meyers, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of Madeira Beach Bank, Madeira Beach, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 9, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

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Board of Governors of the Federal Reserve System, January 15, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-1900 Filed 1-18-79; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77N-0166]

ACTION LEVEL FOR MERCURY IN FISH, SHELLFISH, CRUSTACEANS, AND OTHER AQUATIC ANIMALS

Availability of Revised Action Level

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of an Administrative Guideline that establishes a new action level for mercury in fish and shellfish.

ADDRESSES: Single copies of the action level are available from, and written comments on the guideline may be submitted to, the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St., SW., Washington, D.C. 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs withdraws proposed rulemaking and terminates a rulemaking proceeding that would have codified the existing action level that limits to 0.5 part per million (ppm) unavoidable residues of mercury in the edible portion of fish and shellfish. Instead of establishing a formal regulation, FDA will continue to use an administrative action level to regulate such mercury residues.

The Commissioner is therefore announcing the availability of Administrative Guideline No. 7408.09 establishing the action level of 1.0 ppm mercury in fish, shellfish, crustaceans, and other aquatic animals. The rationale for establishing this action level is discussed in the withdrawal and termination document referred to above. The Administrative Guideline establishing the action level is available for public examination in the office of the Hearing Clerk, FDA (address above), and requests for single copies of the guideline may be made in writing to that office.

The Administrative Guideline provides the following instructions to FDA District Offices: "Recommend legal action to Division of Regulatory Guidance where the composite of fish or shellfish analyzed by the procedure outlined in the Twelfth Edition of the Official methods of Analysis of the Association of Official Analytical Chemists 25.103-25.107 shows:

Mercury (Hg)..... 1.0 ppm (edible portion only)

Note.—Recommendations for legal action must clearly indicate the exact portion of the food used for analysis. The portion used for analysis must be prepared by the appropriate procedure outlined in Volume 1 of the Pesticide Analytical Manual, §§ 141.12 and 141.22.

In addition to announcing the 1.0 ppm action level, this notice also informs interested persons of the availability of information the agency relied on in establishing the action level. Supporting documents also are available for public examination in the office of the Hearing Clerk, FDA.

Interested person may submit written comments (preferably four copies, each identified with the Hearing Clerk document number found in brackets in the heading of this document) of the guideline to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Received comments will be incorporated into the public file on the guideline and may be seen in the above-named office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 8, 1979.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 79-1742 Filed 1-18-79; 8:45 am]

[4110-03-M]

[Docket No. 78F-0412]

AMERICAN CYANAMID CO.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: American Cyanamid Co. has filed a petition (FAP 2167) proposing that the regulations be amended to provide for safe use of acrylamide-acrylic acid resin as a flocculant in nonmedicated aqueous suspensions intended for addition to animal feeds.

FOR FURTHER INFORMATION CONTACT:

Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 2167) has been filed by American Cyanamid Co., Wayne, NJ 07470, proposing that § 573.120 *Acrylamide-acrylic acid resin* (21 CFR 573.120) be amended to provide for the safe use of acrylamide-acrylic acid resin as a flocculant in nonmedicated aqueous suspensions intended for addition to animal feeds.

The environmental impact analysis report and other relevant material are being reviewed to determine whether the proposed use of the additive will have a significant environmental impact. In accordance with the provisions of § 25.25(b) (21 CFR 25.25(b)) of the environmental impact regulations, environmental impact consideration of the final action on this petition will be addressed in a future publication.

Dated: January 9, 1979.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-1741 Filed 1-18-79; 8:45 am]

[4110-03-M]

[Docket No. 76N-0249]

BUCLIZINE HYDROCHLORIDE

Final Order on Objections and Request for a Hearing Regarding Approval of Supplemental New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs denies a hearing and refuses to approve the indications for Bucladin-S (NDA 10-911; DESI 9295) which lack substantial evidence of effectiveness. The drug is effective in the management of nausea, vomiting, and dizziness associated with motion sickness.

EFFECTIVE DATE: January 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Ronald Kartzinel, Bureau of Drugs (HFD-120), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (310-443-4020).

SUPPLEMENTARY INFORMATION: In a notice (DESI 10911) published in the FEDERAL REGISTER of July 28, 1972 (37 FR 15186), the Food and Drug Administration (FDA) announced its evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group (NAS-NRC) on the combination drug Bucladin Tablets (NDA 10-911, held by Stuart Pharmaceuticals, Division of ICI America, Inc., Wilmington, DE 19897; hereinafter ICI) containing buclizine hydrochloride, pyridoxine hydrochloride, scopolamine hydrobromide, atropine, sulfate, and hyoscyamine sulfate. The announcement stated that FDA intended to initiate proceedings to withdraw approval of the new drug application because there was as a lack of substantial evidence that the fixed combination drug is effective for its claimed uses and that each ingredient in the combination contributes to the total effects claimed. Holders of approved new drug applications and persons who might be adversely affected by removal of the drug from the market were given 30 days to submit data consisting of adequate and well-controlled clinical studies in support of Bucladin's effectiveness.

No data were submitted in response to the notice and a notice of opportunity for hearing was published in the FEDERAL REGISTER of November 15, 1972 (37 FR 24208) proposing to withdraw approval of NDA 10-911 on the grounds that there was a lack of substantial evidence of effectiveness for the combination drug. ICI and manufacturers of identical, similar or related drugs were invited to file hearing requests supported by substantial evidence of effectiveness. On December 6, 1972, ICI filed a hearing request and indicated its intention to reformulate and relabel Bucladin Tablets.

On June 18, 1973, ICI submitted a supplemental new drug application requesting permission to delete all ingredients from the combination product except buclizine hydrochloride; the firm also sought to relabel the reformulated drug as effective for nausea, vomiting and vertigo associated with labyrinthitis, Meniere's syndrome and motion sickness. On August 7, 1974, FDA notified ICI that the supplement was "permitted without approval • • • pending a determination of whether there is substantial evidence of effectiveness of the drug for all of the purposes claimed in the labeling." The conditionally permitted supplement allowed the reformulated product (renamed Bucladin-S) to be labeled as "effective" for management of nausea, vomiting and dizziness associated with motion sickness and as "possibly effective" for management of nausea, vomiting and vertigo which may occur in a variety of conditions including labyrinthitis and Meniere's syndrome. By letter dated August 27, 1974, the firm notified FDA that it was withdrawing its hearing request for Bucladin and on October 11, 1974, a notice was published in the FEDERAL REGISTER (39 FR 36626) withdrawing approval of the new drug application for the combination product.

On March 13, 1975, FDA published a notice (DESI 9295) in the FEDERAL REGISTER (40 FR 11794) amending a March 9, 1971 notice (36 FR 4558) which evaluated two drugs containing buclizine hydrochloride as a single entity. The earlier DESI notice found the drugs effective for the prevention of motion sickness; lacking substantial evidence for a number of specified claims; and possibly effective for all other labeled indications. The March 13, 1975 notice stated the these evaluations were also applicable to ICI's newly-formulated Bucladin-S Tablets and invited interested persons to submit adequate and well-controlled clinical studies to support the possible effective indications.

Because no data were submitted by ICI in response to the DESI amendment, a notice of opportunity for hearing was published in the FEDERAL REGISTER of July 29, 1976 (41 FR 31586). The notice stated that claims which previously had been evaluated as "lacking substantial evidence of effectiveness" and for which no evidence had been submitted were illegal and, if continued, subject to regulatory action. The notice also reclassified the "possibly effective" claims to "lacking substantial evidence of effectiveness" and proposed to issue an order withdrawing approval of the named new drug applications. Manufacturers and other interested parties were advised of the opportunity to request a hearing and to submit substantial evidence to support the effectiveness of the claims.

On August 27, 1976, ICI requested a hearing. No clinical investigations of any kind were submitted in support of the request. Instead, the firm called FDA's attention to clinical information regarding meclizine hydrochloride, a drug which it contended was similar and related to buclizine hydrochloride. ICI also contended that the possibly effective indication (management of nausea, vomiting, and vertigo which may occur in a variety of conditions including labyrinthitis and Meniere's syndrome) was never the subject of a DESI evaluation and that the decision regarding this indication should be held in abeyance pending the issuance of a follow-up DESI notice for meclizine hydrochloride.

The Commissioner has considered the arguments submitted by ICI and has concluded that they are insubstantial and present no genuine issue of material fact requiring a hearing. The arguments are discussed below.

I. THE DRUG

Bucladin-S Tablets each contain 50 milligrams of buclizine hydrochloride.

II. RECOMMENDED USES

Bucladin-S Tablets are presently labeled as follows:

INDICATIONS: Based on a review of this drug by the National Academy of Sciences-National Research Council and/or other information, FDA has classified the indications as follows: Effective: Management of nausea, vomiting and dizziness associated with motion sickness. Possibly Effective: Management of nausea, vomiting and vertigo which may occur in a variety of conditions including labyrinthitis and Meniere's syndrome.

Final Classification of the less than effective indications requires further investigation.

III. DATA SUBMITTED TO SUPPORT CLAIMS OF EFFECTIVENESS

No adequate and well-controlled clinical investigations were submitted to support the firm's claim that Bucladin-S Tablets are effective in the management of nausea, vomiting and vertigo which may occur in labyrinthitis and Meniere's syndrome.

ICI's attempt to support the claim for its product by reference to data relating to meclizine hydrochloride is inadequate for several reasons. First, contrary to the express direction of the hearing regulation, the firm has not submitted the meclizine study, the protocol or underlying raw data. 21 CFR 314.200(d). Nor has ICI submitted a factual analysis of the meclizine data specifying how it accords with the criteria for adequate and well-controlled clincial investigations. 21 CFR 314.200(d)(2). In fact, no information whatever is provided with respect to the design or results of the meclizine study. ICI has not even identified which firm submitted the study, when it was submitted, in which of the thousands of NDAs on file with the agency it may be located, or even whether it has obtained the permission of sponsor of the study to utilize the data generated therefrom. 21 CFR 314.11 and 314.14.

Moreover, although ICI contends that meclizine and buclizine are related or similar within the meaning of 21 CFR 310.6, it has failed to submit any data demonstrating that identical effectiveness conclusions would apply to both drugs. Although buclizine hydrochloride and meclizine hydrochloride are structurally similar, it does not necessarily follow that the are pharmacologically identical. Either form of the drug may be more or less effective than the other for any given indication. Also, even if it were shown that the two drugs have the identical active

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metabolite(s), there would undoubtedly be qualitative and quantitative differences in their pharmacokinetics. In short, on clinical data comparing the two drugs could prove that they have identical effects in vertigo, labyrinthitis and Meniere's syndrome. In the absence of any clinical data, no conclusion can be drawn regarding the effectiveness of buclizine hydrochloride for these indications.

IV. Summary

ICI did not submit any adequate and well-controlled clinical studies which demonstrate that Bucladin-S is effective for the management of nausea, vomiting and vertigo which may occur in labyrinthitis and Meniere's syndrome. Nor did it submit any data to support its contention that buclizine hydrochloride is either pharmacologically or pharmacokinetically identical to meclizine hydrochloride.

V. Legal Arguments

The firm's contention that a DESI notice has never been issued for buclizine hydrochloride as indicated for nausea, vomiting and vertigo associated with labyrinthitis and Meniere's syndrome is erroneous. The Federal Register DESI notices of March 9, 1971, and March 13, 1975, and the July 29, 1976 notice of opportunity for hearing evaluated buclizine hydrochloride for all indications for which it was labeled. Except for the indication classified as effective, all other labeled indications, whether or not specifically identified in the notices, were determined either to lack substantial evidence of effectiveness or to be possibly effective. This determination applied to the reformulated product labeled for nausea, vomiting, and vertigo associated with labyrinthitis and Meniere's syndrome.

ICI's "understanding" that the decision regarding the "possibly effective" indication for Bucladin-S was being held in abeyance pending the issuance of a follow-up DESI notice for meclizine hydrochloride is equally erroneous. The March 13, 1975 Federal Register notice specifically amended the March 9, 1971 DESI notice to apply to Bucaldin-S Tablets when recommended for vertigo and the other conditions evaluated as "possibly effective" on March 9, 1971; on that date Bucaldin was indicated for, among other things, Meniere's syndrome and labyrinthitis.

Neither the March 13, 1975 notice nor any other Federal Register notice relating to buclizine hydrochloride has suggested in any way that meclizine hydrochloride was involved in a future decision regarding buclizine hydrochloride.

VI. Findings

On the basis of the foregoing, the Commissioner finds that there is a lack of substantial evidence that Bucladin-S Tablets are effective for the management of nausea, vomiting and vertigo which may occur in a variety of indications including labyrinthitis and Meniere's syndrome. Since ICI has failed to identify any adequate and well-controlled studies or legal reason showing that there is a genuine and substantial issue of fact requiring a hearing, its hearing request is denied.

Therefore under the Federal Food, Drug, and Cosmetic Act (sec. 505(d), 52 Stat. 1052, as amended (21 U.S.C. 355(d)), and under authority delegated to the Commissioner (21 CFR 5.1), approval of the supplemental application for this indication for Bucladin-S (NDA 10-911) is refused.

Dated: January 9, 1979.

Donald Kennedy,
Commissioner of Food and Drugs.

[FR Doc. 79-1739 Filed 1-18-79; 8:45 am]

[4110-03-M]

[Docket No. 78N-0311]

DRUGS FOR VETERINARY USE; DRUG EFFICACY STUDY IMPLEMENTATION

Nitrofurazone Topical Preparations

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency announces the findings of the National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Group for nitrofurazone topical preparations for animal use and concludes that the preparations are effective for certain uses in dogs, cats, and horses but are not to be used in food-producing animals. Sponsors of such products are requested to submit new animal drug applications with labeling for the uses deemed effective.

DATE: Supplements to new animal drug applications by July 30, 1979.

ADDRESS: Applications should be sent to the Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION:

Background

The Federal Food, Drug, and Cosmetics Act of 1938 (21 U.S.C. 301 et seq.) established that manufacturers of new drugs must submit a new drug application (NDA) to the agency before marketing each new drug. The NDA required information on the drug's composition, labeling, and directions for use, as well as evidence of safety under the recommended conditions of use. The Food and Drug Administration (FDA) reviewed the data and, if they were acceptable, the NDA was approved and the new drug permitted to be marketed.

The Drug Amendments of 1962 (Pub. L. 87-781; 76 Stat. 780-796) required that new drugs must additionally be shown to be effective before the NDA can be approved. In 1966, the agency took steps to review the effectiveness of drugs that had been approved for marketing before 1962. As an aid in reviewing the effectiveness of these drugs, the agency called upon NAS/NRC to determine whether there was appropriate scientific evidence to support the claims being made. This review was known as the Drug Efficacy Study.

To facilitate the review, manufacturers were requested by notices published in the Federal Register of July 9, 1966 (31 FR 9426) and October 6, 1966 (31 FR 13014) to submit a special report containing the best available evidence to support the labeled efficacy claims made for their drug products. The report was to include identification of the drug product, copies of its labeling, a bibliography of publications pertinent to the claims, and any available unpublished data that the manufacturer wished to have considered.

The results of the NAS/NRC review were announced by Drug Efficacy Study Implementation (DESI) notices published in the Federal Register.

The NAS/NRC reviewed a new animal drug application (NADA) for four furacin (nitrofurazone) topical products for animal use (NADA 6-475) sponsored by Norwich Pharmacal, 13-27 Eaton Ave., Norwich, NY 18315. The results have not been published because questions regarding the safety of the drug for use in food-producing animals arose after the NAS/NRC reviews (see the notice of opportunity for hearing published in the Federal Register of August 17, 1976 (41 FR 34899)).

Because of August 17, 1976 notice pertains to the use of nitrofurazone only in food-producing animals, the Commissioner deems it appropriate to

announce the results of the NAS/NRC review for nitrofurazone topical products and permit their use in the treatment of animals that are not food-producing.

NAS/NRC Review for Nitrofurazone Topical, DESI

The NAS/NRC reviewed the following nitrofurazone topical products for animal use sponsored by Norwich Pharmacal under NADA 6-475:

1. Furacin Dressing Veterinary; contains 0.2% nitorfurazone in a water-soluble base:

Indications: For the prevention or treatment of surface bacterial infections of wounds, burns, cutaneous ulcers, eczema, ears and in the treatment of secondary bacterial infections of cow pox.

Administration: Apply directly on the lesion with a spatula or first place on a piece of gauze. Application of a bandage is optional. this preparation should be in contact with the lesion for at least 24 hours. The dressing may be changed several times daily or left on the lesion for a longer period.

2. Furacin Dressing Veterinary with Anesthetic; contains 0.2% nitrofurazone and 0.5% butacaine sulphate in a water-soluble base:

Indication: For the prevention or treatment of surface bacterial infections of wounds, burns, cutaneous ulcers, eczema, ears and in the treatment of secondary bacterial infections of cow pox.

Administration: Apply directly on the lesion with a spatula or first place on a piece of gauze. Application of a bandage is optional. This preparation should be in contact with the lesion for at least 24 hours. The dressing may be changed several times daily or left on the lesion for a longer period.

3. Furacin Soluble Powder Veterinary; contains 0.2% nitrofurazone in a water-soluble base:

Indications: For the prevention or treatment of surface bacterial infections of the eye, including bovine pink eye, and of wounds, burns, skin ulcers and abscesses after incision.

Administration: Apply several times daily to the lesion or affected area from the plastic squeeze bottle.

4. Furacin Solution Veterinary; contains 0.2% nitrofurazone in a water-miscible vehicle:

Indications:

(1) For the prevention or treatment of surface bacterial infections.

(2) For the treatment of bovine mastitis in dry cows caused by *Staphylococcus aureus; Streptococcus agalactiae, dysgalactiae,* or *uberis; Escherichia coli* and *Pseudomonas aeruginosa,* sensitive to Furacin.

(3) For the treatment of genital tract infections and impaired fertility of large female animals caused by strains of *Staphylococcus, Streptococcus, Escherichia coli, Salmonella, Pseudomonas* and *Vibrio fetus,* sensitive to Furacin.

Directions: (1) Surface bactrial infections: In topical bacterial infections, apply directly to the lesion. For wet dressings, it may be diluted with two or three parts of sterile water or saline solution. This may be applied several times daily or left beneath occlusive dressing for several days.

(2) Bovine mastitis—dry cow treatment: Into each quarter with a history of mastitis inject, aseptically, 30 cc, 4 to 6 weeks prior to onset of lactation. Repeat one week later if desired. Warning: Not for use in animals producing milk, since this use will result in contamination of the milk. Colostrum taken from treated animals after calving must not be used for food.

(3) Female Genital Tract Infections: To treat obvious bacterial infections of the female genital tract inject aseptically, 30 to 90 cc into the affected portions of the genital tract once daily until 48 hours after clinical signs subside or until negative bacteriological findings indicate recovery. In cases of impaired fertility inject, aseptically, 30 cc into the uterus 4 to 48 hours after breeding.

The NAS/NRC concluded that these products were "effective" for the prevention and treatment of surface bacterial infections of wounds, burns, and cutaneous ulcers. Additionally, NAS/NRC concluded that Furacin Dressing Veterinary, Furacin Dressing Veterinary with Anesthetic, and Furacin Solution Veterinary were "effective" for the prevention and treatment of surface bacterial infections of ears.

The NAS/NRC recommended the following labeling changes:

1. Delete "eczema" from the label because that term is not specific enough.

2. Provide a stronger statement to indicate a possible sensitizing property of butacaine and perhaps of the drug.

3. Indicate that the products are effective for infections caused by organisms sensitive to this drug.

Effective Classification

The agency has reviewed the NAS/NRC report for nitrofurazone topical products and concurs with its conclusions. However, because of concern for the safety of residues from food-producing animals, the agency concludes that these products must be limited to use in dogs, cats, and horses (i.e., not for food use). The agency also finds that Furacin Soluble Powder is "probably not effective" for use in the eye, based upon the lack of documentation in small animals and the NAS/NRC conclusion that there is little justification for the use of powder preparations in the eye unless it is the only way range cattle can be treated. This evaluation is concerned only with the effectiveness of these drugs. Nothing in this notice prevents further proceedings on questions of safety.

This announcement is published to inform NADA holders regarding the NAS/NRC and agency findings and to inform all interested persons that such articles must be the subject of an approved NADA and otherwise comply with the requirements of the Federal Food, Drug, and Cosmetic Act.

Sponsors with approved NADA's for nitrofurazone topical products are requested to submit supplemental NADA's before July 30, 1979 to revise their labeling by limiting the claims and presenting the conditions of use substantially as follows:

1. 0.2% Nitrofurazone Dressing (Water-soluble Base) Veterinary:

Indications: For the prevention or treatment of surface bacterial infections of wounds, burns, cutaneous ulcers. For use only on dogs, cats, and horses (not for food use).

Administration: Apply directly on the lesion with a spatula or first place on a piece of gauze. Application of a bandage is optional. This preparation should be in contact with the lesion for at least 24 hours. The dressing may be changed several times daily or left on the lesion for a longer period.

2. 0.2% Nitrofurazone Dressing (Water-soluble Base) with 0.5% Butacaine Sulfate Veterinary:

Indications: For the prevention or treatment of surface bacterial infections of ears, wounds, burns and cutaneous ulcers. For use only on dogs, cats, and horses (not for food use).

Administration: Apply directly on the lesion with a spatula or first place on a piece of gauze. Application of a bandage is optional. This preparation should be in contact with the lesion for at least 24 hours. The dressing may be changed several times daily or left on the lesion for a longer period.

3. 0.2% Nitrofurazone Soluble Powder Veterinary:

Indications: For the prevention or treatment of surface bacterial infections of wounds, burns, skin ulcers and abscesses after incision. For use only on dogs, cats, and horses (not for food use).

Administration: Apply several times daily to the lesion or affected area.

4. 0.2% Nitrofurazone Solution Veterinary:

Indications: For use only on dogs, cats, and horses (not for food use).

(1) For the prevention or treatment of surface bacterial infections.

(2) For the treatment of genital tract infections and impaired fertility of female horses caused by strains of *Staphylococcus, Streptococcus, Escherichia coli, Salmonella, Pseudomonas*

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and *Vibrio fetus*, sensitive to nitrofurazone.

Directions:

(1) Surface bacterial infections: In topical bacterial infections, apply directly to the lesion. For wet dressings, it may be diluted with two or three parts of sterile water or saline solution. This may be applied several times daily or left beneath occlusive dressing for several days.

(2) Female genital tract infections in horses: To treat obvious bacterial infections of the female genital tract inject aseptically, 30 to 90 cc into the affected portions of the genital tract once daily until 48 hours after clinical signs subside or until negative bacteriological findings indicate recovery. In cases of impaired fertility inject, aseptically, 30 cc into the uterus 4 to 48 hours after breeding.

4. Warning statements: The label for nitorfurazone topical products should also carry the warning statement recommended in § 505.20 (21 CFR 505.20) for Antiseptics for External Use:

Caution—In case of deep or puncture wounds or serious burns consult veterinarian. If redness, irritation, or swelling persists or increases, discontinue use and consult veterinarian.

Additionally, the label for nitorfurazone with butacaine should carry a warning of a possible sensitizing property of butacaine and perhaps the drug.

For such products that are not now the subject of approved NADA's approval of an application must be obtained before marketing. Marketing before approval of an NADA will cause such products, and the persons who caused the products to be marketed, to be subject to regulatory action. Applications providing for the effective conditions of use identified in this notice need not include data required by § 514.111 (21 CFR 514.111) to establish the effectiveness of the drug for these uses but must include certain data, including (1) composition of the drug and a representative batch formula, (2) name of the supplier of the new drug substance, (3) specifications and test methods for the raw materials, (4) method of manufacture for the product, (5) specifications for the finished dosage form, and (6) stability data on the dosage form in the market container and a description of the analytical method used for the stability study. If only limited data are available, a commitment should be made to run postapproval stability studies on production batches. If data indicate a need for an expiration date, a statement of the expiration date must be included.

Additionally, the applicant must certify that it is in compliance with good manufacturing practices and must submit proposed draft labeling. It is recommended that applicants follow the "Guidelines for Submitting NADA's for Generic Drugs Reviewed by NAS/NRC" available from the Hearing Clerk, FDA (address above).

New animal drug applications that comply with the requirements set forth in this notice and that meet all the other requirements of section 512(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)) will be approved and a regulation under section 512(i) of the act will be issued in the FEDERAL REGISTER identifying the approval.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050-1051 as amended, 82 Stat. 343-351 (21 U.S.C. 352, 360b)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

Dated: January 15, 1979

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-1837 Filed 1-18-79; 8:45 am]

[4110-03-M]

[NADA NO. 14-929V]

PARKE, DAVIS & CO.

Sernylan (Phencyclidine Hydrochloride) Injectable; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Director of the Bureau of Veterinary Medicine is with drawing approval of a new animal drug application (NADA) which provides for the use of Sernylan (Parke, Davis's phencyclidine hydrochloride injectable) for intramuscular use as an immobilizing agent for primates. This action is taken in response to a request by the sponsor, Parke, Davis & Co.

EFFECTIVE DATE: January 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Louis L. Nangeroni, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), the following notice is issued.

In a letter dated April 26, 1978, Parke, Davis & Co., Joseph Campau at the River, Detroit, MI 48232, requested that approval of NADA 14-929V be withdrawn because the drug is no longer being marketed. Therfore, in accordance with § 514-115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 14-929V and all supplements thereto is withdrawn, effective January 19, 1979.

Dated: January 3, 1979.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-1740 Filed 1-18-79; 8:45 am]

[4110-03-M]

BOARD OF TEA EXPERTS

Rechartering

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App.)), the Food and Drug Administration announces the rechartering of the Board of Tea Experts by the Commissioner of Food and Drugs for an additional period of 2 years beyond January 3, 1979. The charter for this Committee will expire January 3, 1981.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Office (HFA-27), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md 20857, 301-443-2765.

Dated: January 11, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner, for Regulatory Affairs.

[FR Doc. 79-1558 Filed 1-18-79; 8:45 am]

[4110-03-M]

[Docket No. 78P-0001]

DEPUY

Withdrawal of Reclassification Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a notice of withdrawal of a reclassification petition for a ceramic hip prosthesis. The petitioner requested that the petition be withdrawn due to the difficulty of compiling the necessary data and other considerations.

FOR FURTHER INFORMATION CONTACT:

James G. Dillon, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION: On December 2, 1977, DePuy, Warsaw, IN 46580, submitted to FDA under section 513(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)) a reclassification petition for a ceramic hip prosthesis. FDA referred the petition to an advisory committee, the Orthopedic Device Classification Panel, for a recommendation on whether to approve or deny the petition.

In the FEDERAL REGISTER of February 24, 1978 (43 FR 7709), FDA published a notice inviting interested persons to submit data, information, and views for consideration by the Panel. This notice stated that any data, information, and views submitted by March 27, 1978, would be mailed to the Panel for consideration before recommendations were made. The Panel's recommendations were received by the agency on March 27, 1978. The Panel recommended that the device be reclassified into class II (performance standards).

In the FEDERAL REGISTER of June 6, 1978 (43 FR 24601) FDA published a notice of this recommendation. In the June 6 notice, the Commissioner stated that he disagreed with the Panel recommendation and intended to deny the petition unless additional information was submitted to justify reclassification. Interested persons were given 60 days to submit written comments on the notice. At the request of the petitioner, the Commissioner extended the comment period for 60 days in a notice published in the FEDERAL REGISTER of August 11, 1978 (43 FR 35749).

On September 25, 1978, the petitioner requested that the petition be withdrawn because of the difficulty of compiling the necessary data and other considerations based on the company's competitive position. The Commissioner has determined that it is appropriate to allow the petition to be withdrawn. Therefore, the device remains in class III (premarket approval).

Dated: January 11, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-1557 Filed 1-18-79; 8:45 am]

[4110-83-M]

Health Resources Administration

GRADUATE TRAINING IN FAMILY MEDICINE

Application Announcement

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1979 Grants for Graduate Training in Family Medicine are now being accepted under the authority of section 786(a) of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (P.L. 94-484).

Section 786(a) authorizes the award of grants to public or nonprofit private hospitals, schools of medicine or osteopathy, and other public or private nonprofit entities located in a State to assist in meeting the cost of planning, developing and operating or participating in approved graduate training programs in the field of family medicine.

To receive support, programs must meet the requirements of the Interim-Final regulations, published in the FEDERAL REGISTER on October 16, 1978 (42 FR 47694).

In the funding of approved applications, preference will be given to projects in which:

(1) Substantial training experience is in settings which exemplify interdependent utilization of physicians and physician assistants and/or nurse practitioners; and/or

(2) substantial portions of a project are conducted in a health manpower shortage area(s) designated under section 332 of the Public Health Service Act, or in an Area Health Education Center, funded, at least in part, under Section 781 of the Act; and/or

(3) (for osteopathic medicine programs) projects are conducted in conjunction with a school of osteopathy with which the training institution is affiliated.

Requests for application materials and questions regarding grants policy should be directed to:

Grants Management Officer (D-15), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782. Phone: (301) 436-6564.

To be considered for fiscal year 1979 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, at the abover address no later than February 5, 1979. Approximately $3.5 to $4 million is expected to be available in FY 1979 for competitive grants.

Should additional programmatic information be desired, please contact:

Primary Care Education Branch, Division of Medicine, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-50, 3700 East-West Highway, Hyattsville, Maryland 20782. Phone: (301) 436-7350.

Competitive cycles for predoctoral and faculty development training under section 786(a) are not being initiated in fiscal year 1979.

Dated: January 9, 1979.

HENRY A. FOLEY,
Administrator.

[FR Doc. 79-1893 Filed 1-18-79; 8:45 am]

[4110-83-M]

HEALTH PROFESSIONS CAPITATION GRANTS

Application Announcement

The Bureau of Health Manpower, Health Resources Administration, announces that applications for Health Professions Capitation Grants for fiscal year 1979 are new being accepted under the authority of section 770 of the Public Health Service Act.

Grants are awarded to eligible schools of medicine, dentistry, osteopathy, public health, optometry, podiatry, pharmacy, and veterinary medicine for the support of their educational programs. The amount of each grant is determined by a formula based on the school's enrollment.

To be considered for fiscal year 1979 funding, applications must be postmarked no later than *February 1, 1979.* Application materials have been sent to all known eligible applicants. However, if the materials have not been received, they may be requested from:

Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782. Phone: (301) 436-6564.

Any questions concerning the program also should be directed to the Grants Management Officer at the above address.

Dated: January 9, 1979.

HENRY A. FOLEY, Ph. D.,
Administrator.

[FR Doc. 79-1802 Filed 1-18-79; 8:45 am]

[4110-02-M]

Office of Education

NATIONALLY RECOGNIZED ACCREDITING AGENCIES AND ASSOCIATIONS

List

For purposes of determining eligibility for Federal assistance pursuant to 20 U.S.C. 1141(a) and other legislation, beginning with the Veterans' Readjustment Assistance Act of 1952, the

U.S. Commissioner of Education hereby publishes a list of nationally recognized accrediting agencies and associations which he determines to be reliable authorities as to the quality of training offered by educational institutions either in a geographical area or in a specialized field, and the general scope of recognition granted to the accrediting bodies.

This list supersedes the list previously promulgated by the Acting Commissioner of Education on April 20, 1977, 42 FR 20507-20509.

REGIONAL INSTITUTIONAL ACCREDITING ASSOCIATIONS

New England Association of Schools and Colleges.
Commission on Independent Schools.
Commission of Institutions of Higher Education.
Commission on Public Schools.
Commission on Vocational, Technical, Career Institutions.

REGIONAL INSTITUTIONAL ACCREDITING COMMISSIONS

Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges.
Accrediting Commission for Schools, Western Association of Schools and Colleges.
Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges.
Commission on Colleges, Northwest Association of Schools and Colleges.
Commission on Colleges, Southern Association of Colleges and Schools.
Commission on Higher Education, Middle States Association of Colleges and Schools.
Commission on Institutions of Higher Education, North Central Association of Colleges and Schools.
Commission on Occupational Education Institutions, Southern Association of Colleges and Schools.
Commission on Schools, North Central Association of Colleges and Schools.

NATIONAL INSTITUTION AND SPECIALIZED ACCREDITING AGENCIES AND ASSOCIATIONS

Architecture: National Architectural Accrediting Board, Inc. (first professional degree programs).
Art: National Association of Schools of Art, Commission on Accreditation and Membership (professional schools and programs).
Bible College Education: American Association of Bible Colleges, Commission on Accrediting (Bible colleges and institutes).
Blind and Visually Handicapped Education: National Accreditation Council for Agencies Serving the Blind and Visually Handicapped (specialized schools for the blind and visually handicapped).
Blood Bank Technology: American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Subcommittee on Accreditation, American Association of Blood Banks (programs for the specialist in blood bank technology).
Business:
American Assembly of Collegiate Schools of Business, Accreditation Council (baccalaurate and graduate degree programs in business and administration).
Association of Independent Colleges and Schools, Accrediting Commission (private, postsecondary degree and non-degree granting institutions that are predominantly organized to train students for business careers).
Chiropractic: Council on Chiropractic Education, Commission on Accreditation (programs leading to the D.C. degree).
Clinical Pastoral Education: Association of Clinical Pastoral Education, Inc. (professional training centers).
Continuing Education: Council for Non-Collegiate Continuing Education, Accrediting Commission (programs in non-collegiate continuing education).
Cosmetology: Cosmetology Accrediting Commission (cosmetology schools and programs).
Cytotechnology: American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Cytotechnology Programs Review Committee, American Society of Cytology (programs for the cytotechnologist).
Dental and Dental Auxiliary Education: American Dental Association, Commission on Accreditation of Dental and Dental Auxiliary Programs (programs leading to the D.D.S. or D.M.D. degrees, advanced dental specialty programs, general practice residency programs and programs in dental hygiene, dental assisting and dental technology).
Dietetics: American Dietetic Association, Commission on Evaluation of Dietetic Education (coordinated undergraduate programs in dietetics and dietetic internships).
Engineering: Engineers' Council for Professional Development (first professional degree programs in engineering, graduate programs leading to advanced entry into the engineering profession and associate and baccalaureate degree programs in engineering technology).
Forestry: Society of American Foresters (program leading to a bachelor's or higher first professional degree and related resource-oriented programs).
Funeral Service Education: American Board of Funeral Service Education, Commission of Schools (independent schools and collegiate departments).
Health Services Administration: Accrediting Commission on Education for Health Services Administration (graduate programs in health services administration).
Histologic Technology: American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the National Accrediting Agency for Clinical Laboratory Sciences, which is sponsored by the American Society for Medical Technology and the American Society of Clinical Pathologists (programs for the histologic technician).
Home Study Education: National Home Study Council, Accrediting Commission (home study schools).
Interior Design Education: Foundation for Interior Design Education Research, Committee on Accreditation (professional and technical programs).
Journalism: American Council on Education for Journalism, Accrediting committee (first professional degree programs).
Landscape Architecture: American Society of Landscape Architects, Landscape Architectural Accreditation Board (first professional degree programs)
Law: American Bar Association, Council of the Section of Legal Education and Admissions to the Bar (professional schools).
Librarianship: American Library Association, Committee on Accreditation (graduate programs leading to the first professional degree).
Marriage and Family Counseling: American Association of Marriage and Family Counselors, Committee on Accreditation (graduate degree programs and clinical training programs).
Medical Assistant Education:
Accrediting Bureau of Health Education Schools (private medical assistant educational institutions and programs).
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Curriculum Review Board, American Association of Medical Assistants (one- and two-year medical assistant programs).
Medical Laboratory Technician Education:
Accrediting Bureau of Health Education Schools (schools and programs for the medical laboratory technician).
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the National Accrediting Agency for Clinical Laboratory Sciences, which is sponsored by the American Society for Medical Technology and the American Society of Clinical Pathologists (associate degree and certificate programs for the medical laboratory technician).
Medical Record Education: American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Education and Registration Committee, American Medical Record Association (programs for the medical record administrator and medical record technician).
Medical Technology: American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the National Accrediting Agency for Clinical Laboratory Sciences, which is sponsored by the American Society for Medical Technology and the American Society of Clinical Pathologists (professional programs).
Medicine: Liaison Committee on Medical Education, representing the Council on Medical Education, American Medical Association and the Executive Council, Association of American Medical Colleges (programs leading to the M.D. degree).
Music: National Association of Schools of Music (baccalaureate and graduate degree programs and non-degree granting institutions offering music education).
Nuclear Medicine Technology: American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Educational Programs in Nuclear Medicine Technology, which is sponsored by the American College of Radiology, American Society for Medical Technology, American Society of Clinical Pathologists, American Society of Radiologic Technologists and the Society of Nuclear Medicine (programs for the nuclear medicine technologist).
Nursing:
American Association of Nurse Anesthetists, Council on Accreditation of Educational Programs of Nurse Anesthesia (programs for nurse anesthetists).

National Association for Practical Nurse Education and Service, Inc., Accrediting Review Board (pratical nurse programs).
National League for Nursing, Inc., Board of Review for Associate Degree Programs, Board of Review for Baccalaureate and Higher Degree Programs, Board of Review for Diploma Programs, Board of Review for Practical Nursing Programs (professional, technical and practical nurse programs).
Occupational Therapy: American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Accreditation Committee, American Occupational Therapy Association (professional programs).
Occupational, Trade and Technical Education: National Association of Trade and Technical Schools, Accrediting Commission (private trade and technical schools).
Optometry: American Optometric Association, Council on Optometric Education (professional programs).
Osteopathic Medicine: American Osteopathic Association (programs leading to the D.O. degree).
Pharmacy: American Council on Pharmaceutical Education (professional degree programs).
Physical Therapy:
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Review Committee for Physical Therapy Education, which is sponsored by the American Medical Association (professional programs for the physical therapist).
American Physical Therapy Association, Committee on Accreditation in Education (professional programs for the physical therapist and programs for the physical therapist assistant).
Physician's Assistant Education: American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Educational Programs for Physician's Assistants, which is sponsored by the American Academy of Family Physicians, American Academy of Pediatrics, American Academy of Physician's Assistants, American College of Physicians, American College of Surgeons, American Society of Internal Medicine and the Association for Physician Assistant Programs (programs for the assistant to the primary care physician and the surgeon's assistant).
Podiatry: American Podiatry Association, Council on Podiatry Education (professional and graduate degree programs and podiatric assistant training programs).
Psychology: American Psychological Association, Committee on Accreditation (doctoral and internship programs in clinical and counseling psychology and doctoral programs in school psychology).
Public Health: Council on Education for Public Health (graduate schools of public health).
Rabbinical and Talmudic Education: Association of Advanced Rabbinical and Talmudic Schools, Accreditation Commission (rabbinical and Talmudic Schools).
Radiologic Technology: American Medical Association, Committee on Allied Health Education Accreditation, in cooperation with the Joint Review Committee on Education in Radiologic Technology, which is sponsored by the American College of Radiology and the American Society of Radiologic Technologists (programs for the radiographer and radiation therapy technologist).
Respiratory Therapy: American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee for Respiratory Terapy Education which is sponsored by the American Association for Respiratory Therapy, American College of Chest Physicians, American Society of Anesthesiologists and the American Thoracic Society (programs for the respiratory therapist and respiratory therapy technician).
Social Work: Council on Social Work Education, Commission on Accreditation (master's and baccalaureate degree programs).
Speech Pathlogy and Audiology: American Speech and Hearing Association, American Boards of Examiners in Speech Pathology and Audiology (master's degree programs).
Surgical Technology: American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Education for the Surgical Technologist, which is sponsored by the American College of Surgeons, American Hospital Association and the Association of Surgical Technologists (programs for the surgical technologist).
Teacher Education: National Council for Accreditation of Teacher Education (baccalaureate and graduate degree programs).
Theology: Association of Theological Schools in the United States and Canada, Commission on Accrediting (graduate professional degree programs offered by schools of theology).
Veterinary Medicine:
American Veterinary Medical Association, Committee on Animal Technician Activities and Training (associate degree programs for animal technicians).
American Veterinary Medical Association, Council on Education (programs leading to the D.V.M. or V.M.D. degree).
Other: New York State Board of Regents (registration [Accreditation] of collegiate degree-granting programs or curricula offered by institutions of higher education).

NATIONAL ACCREDITING AGENCIES AND ASSOCIATIONS RECOGNIZED FOR PREACCREDITATION CATEGORIES

REGIONAL INSTITUTIONAL ACCREDITING COMMISSIONS

Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges (Candidate for Accreditation).
Accrediting Commission for Schools, Western Association of Schools and Colleges (Candidate for Accreditation).
Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges (Candidate for Accreditation).
Commission on Colleges, Northwest Association of Schools and Colleges (Candidate for Accreditation).
Commission on Colleges, Southern Association of Colleges and Schools (Candidate for Accreditation).
Commission on Higher Education, Middle States Association of Colleges and Schools (Candidate for Accreditation).
Commission on Independent Schools, New England Association of Schools and Colleges (Recognition of Candidacy for Accreditation).
Commission on Institutions of Higher Education, New England Association of Schools and Colleges (Candidate for Accreditation).
Commission on Institutions of Higher Education, North Central Association of Colleges and Schools (Candidate for Accreditation).
Commission on Occupational Education Institutions, Southern Association of Colleges and Schools (Candidate for Accreditation).
Commission on Public Schools, New England Association of Schools and Colleges (Recognition of Candidacy for Accreditation).
Commission on Schools, North Central Association of Colleges and Schools (Candidate for Accreditation).
Commission on Vocational, Technical, Career Institutions, New England Association of Schools and Colleges (Candidate for Accreditation, Candidacy for Accreditation).

NATIONAL INSTITUTIONAL AND SPECIALIZED ACCREDITING AGENCIES AND ASSOCIATIONS

American Association of Bible Colleges, Accrediting Commission (Candidate for Accreditation).
American Association of Nurse Anesthetists, Council on Accreditation of Educational Programs of Nurse Anesthesia (Preaccreditation).
American Council on Pharmaceutical Education (Candidate).
American Dental Association, Commission on Accreditation of Dental and Dental Auxiliary Programs (Candidate for Accreditation, Preliminary Approval).
American Dietetic Association, Commission on Evaluation of Dietetic Education (Developmental Accreditation).
American Optometric Association, Council on Optemetric Education (Reasonable Assurance, Preliminary Approval).
American Osteopathic Association (Preaccreditation Status, Provisional Approval).
American Podiatry Association, Council on Podiatry Education (Reasonable Assurance, Preliminary Approval).
American Veterinary Medical Association, Council on Education (Reasonable Assurance of Accreditation).
Association of Advanced Rabbinical and Talmudic Schools, Accreditation Commission (Correspondent, Candidate).
Association of Independent Colleges and Schools, Accrediting Commission (Recognized Candidate Status).
Association of Theological Schools in the United States and Canada, Commission on Accrediting (Authorization of Self-Study).
Council on Chiropractic Education, Commission on Accreditation (Correspondent, Recognized Candidate for Accreditation).
Council on Education for Public Health (Preaccreditation).
Engineers' Council for Professional Development, Engineering Technology Committee (Candidate for Accreditation, Reasonable Assurance of Accreditation).
Liaison Committee on Medical Education (Reasonable Assurance, Provisional Accreditation).

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National Association of Schools of Art, Commission on Accreditation and Membership (Candidacy Status).
National League for Nursing, Inc., Board of Review for Associate Degree Programs, Board of Review for Baccalaureate and Higher Degree Programs, Board of Review for Diploma Programs (Reasonable Assurance of Accreditation).
New York Board of Regents (Interim Registration, Preliminary Registration).

Dated: January 8, 1979.

JOHN ELLIS,
Acting U.S. Commissioner of Education.

STATE AGENCIES RECOGNIZED FOR THE APPROVAL OF PUBLIC POSTSECONDARY VOCATIONAL EDUCATION

LIST

For purposes of determining eligibility for Federal Assistance, pursuant to 20 U.S.C. 1087-1(b), the U.S. Commissioner of Education hereby publishes a list of State agencies which he determines to be reliable authorities as to the quality of public postsecondary vocational education in their respective States.

This list supersedes the list previously promulgated by the Commissioner of Education on April 20, 1977, 42 FR 20509.

Arkansas State Board for Vocational Education.
Iowa State Board of Public Instruction.
Kansas State Board of Education.
Minnesota State Board for Vocational-Technical Education.
Missouri State Board of Education.
New Jersey State Board of Education.
New York State Board of Regents.
Oklahoma State Board of Vocational and Technical Education (for approval of postsecondary vocational education programs and courses offered at area vocational technical schools which are not offered for college credit).
Oklahoma State Regents for Higher Education (for approval of vocational education programs for which credit earned is applied toward a degree, diploma, or other postsecondary academic or collegiate award, or which are given at State Institutions comprising the Oklahoma State System of Higher Education).
Utah State Board of Vocational Education.

AGENCIES WITHDRAWN FROM LIST

Indiana State Board of Vocational and Technical Education (by request).
Kentucky State Board of Education (by request).

Dated: January 8, 1979.

JOHN ELLIS,
Acting U.S. Commissioner of Education.

ACCREDITING AND STATE APPROVAL AGENCIES RECOGNIZED FOR THE APPROVAL OF NURSE EDUCATION

LIST

For the purposes of determining eligibility for Federal assistance, pursuant to the Nurse Training Act, as amended (42 U.S.C. 298(b)), the U.S. Commissioner of Education hereby publishes a list of recognized accrediting and State approval agencies which he determines to be reliable authorities as to the quality of training offered by schools and programs for diploma, associate degrees and baccalaurate and graduate degrees in nursing.

This list supersedes the list previously promulgated by the Commissioner of Education on April 20, 1977, 42 FR 20509-20510.

REGIONAL INSTITUTIONAL ACCREDITING COMMISSIONS

Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges.
Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges.
Commission on Colleges, Northwest Association of Schools and Colleges.
Commission on Colleges, Southern Association of Colleges and Schools.
Commission on Higher Education, Middle States Association of Colleges and Schools.
Commission on Institutions of Higher Education, New England Association of Schools and Colleges.
Commission on Institutions of Higher Education, North Central Association of Colleges and Schools.

NATIONAL INSTITUTIONAL AND SPECIALIZED ACCREDITING AGENCIES AND ASSOCIATIONS

National League for Nursing, Inc.
Board of Review for Associate Degree Programs.
Board of Review for Baccalaureate and Higher Degree Programs.
Board of Review for Diploma Programs.

STATE AGENCIES

California Board of Registered Nursing.
Iowa Board of Nursing.
Louisiana State Board of Nursing.
Missouri State Board of Nursing.
Montana State Board of Nursing.
New Hampshire Board of Nursing Education and Nurse Registration.
New York State Board of Regents (Nursing Education Unit).
West Virginia Board of Examiners for Registered Nurses.

Dated: January 8, 1979.

JOHN ELLIS,
Acting U.S. Commissioner of Education.

[FR Doc. 79-1894 Filed 1-18-79; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No.NFD-6587; FDAA-570-DR]

ARIZONA

Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of major disaster declaration for the state of Arizona (FDAA-570-DR), dated December 21, 1978.

DATED: December 26, 1978.

FOR FURTHER INFORMATION CONTACT:

A. C. Reid, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: The Notice of major disaster for the State of Arizona dated December 21, 1978, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 21, 1978.

The Counties of: Coconino, Pinal, and Yuvapai.

(Catalog of Federal Domestic Assistance No. 14,701, Disaster Assistance)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 79-2002 Filed 1-18-79; 8:45 am]

[4310-05-M]

DEPARTMENT OF THE INTERIOR

Office of Surface Mining

[Federal Lease No. W-3446]

ATLANTIC RICHFIELD CO., COAL CREEK MINE, CAMPBELL COUNTY, WYO.

Availability of Coal Mining and Reclamation Plan for Public Review

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Availability of Coal Mining and Reclamation Plan for Public Review.

SUMMARY: Pursuant to § 211.5 of Title 30, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining, Region V, has received sufficient additional information from the applicant to form a coal mining and reclamation plan for a new mine appropriate for public review. The plan, described below, involves extraction of federally-, privately-, and state-owned coal.

Applicant	Mine name	Location of lands to be affected		
		State	County	Township, range, and sections
Atlantic Richfield Co.	Coal Creek	Wyoming	Campbell	T. 46 N. R. 70 W: 4, 7, 8, 9, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34. T. 46 N. R. 71 W: 13, 24. T. 45 N. R. 70 W: 3, 4, 5.

Office of Surface Mining Reference Number: WY-0003.—The mining and reclamation plan provides baseline environmental data, describes the mining and environmental protection procedures proposed by the operator to meet State and Federal requirements, and discusses the reclamation procedures proposed. The plan proposes a production rate of ten million tons per year, to be shipped by rail. The total area included in the permit application is 9,545 acres of which approximately 8,310 acres will be affected. A Draft Environmental Impact Statement for this mine was transmitted to the Environmental Protection Agency on August 24, 1978. A final Statement is in preparation.

The mining and reclamation plan submitted by ARCo for the Coal Creek Mine in available for public review in the Library, Office of Surface Mining, Region V, Room 207, Post Office Building, 1823 Stout Street, Denver, Colorado. This Notice is issued at this time for the convenience of the public. The Office of Surface Mining has not yet determined whether the plan is technically adequate. Therefore, OSM may request additional information during the technical review. Any information so obtained will also be available for public review.

No action with respect to approval of the plan shall be taken by the Regional Director until February 20, 1979, or until the appropriate comment period after submission of the Final Environmental Impact Statement to EPA has expired, whichever comes later.

Prior to a final decision on this plan, the Office of Surface Mining will issue a Notice of Pending Decision pursuant to Section 211.5(c)(2) of Title 30, Code of Federal Regulations.

FOR ADDITIONAL INFORMATION:

John Hardaway, Office of Surface Mining, Region V, 1823 Stout Street, Denver, Colorado 80202.

WALTER N. HEINE, P.E.,
Director, Office of Surface Mining, Reclamation and Enforcement.

JANUARY 15, 1979.

[FR Doc. 79-2008 Filed 1-18-79; 8:45 am]

[4310-05-M]

PEABODY COAL CO., BIG SKY MINE, ROSEBUD COUNTY, MONT.

Availability of Mine Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Major Modification of Existing Coal Mining and Reclamation Plan.

SUMMARY: Pursuant to § 211.5(b) of Title 30, CFR, Notice is hereby given that the Office of Surface Mining has received the following mine plan for a coal mining and reclamation operation on Federal coal lands:

LOCATION OF LANDS

Applicant: Peabody Coal Company.
Mine Property Name: Big Sky Mine.
State: Montana.
County: Rosebud.
OSM Reference Number: MT-0007-3.
General Description of Affected Lands: 29 Acres in E½ of Section 22, T1N, R41E of the Montana Principal Meridan.

This application is available for public review in the library of Region V Offices of the Office of Surface Mining, Room 270, Post Office Building, 1823 Stout Street, Denver, Colorado.

This Notice is issued at this time for the convenience of the public. The OSM has not yet determined whether the plan is adequate and may, during the course of its reviews, request additional information. Any additional information so obtained will also be available for public review. Prior to final decision on this mine plan, the Office of Surface Mining will issue a Notice of Pending Decision pursuant to § 211.5(c)(2) of Title 30, Code of Federal Regulations. Copies of the mining plan are also being sent to the offices of the Bureau of Land Management and the Geological Survey in Billings, Montana.

DATES: Comments on or objections to the plan should be received by the Region V Office no later than February 20, 1979.

ADDRESSES: Comments should be sent to the Regional Director, Office of Surface Mining and Reclamation and Enforcement, Region V, 1823 Stout Street, Denver, Colorado 80202.

WALTER N. HEINE,
Director, Office of Surface Mining, Reclamation and Enforcement.

JANUARY 15, 1979.

[FR Doc. 79-2009 Filed 1-18-79; 8:45 am]

[4310-05-M]

[Federal Lease No. U-28297]

SOUTHERN UTAH FUEL CO., CONVULSION CANYON MINE, SEVIER COUNTY, UTAH

Availability of Coal Mining and Reclamation Plan for Public Review

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Availability of Coal Mining and Reclamation Plan for Public Review.

SUMMARY: Pursuant to § 211.5 of Title 30, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining, Region V, has received sufficient additional information from the applicant to form a coal mining and reclamation plan for a new mine appropriate for public review. The plan, described below, involves extraction of federally owned coal.

Applicant	Mine name	Location of lands to be affected		
		State	County	Township, range, and sections
Southern Utah Fuel Company.	Convulsion Canyon Mine	Utah	Sevier	T. 22 S., R. 5 E. Sections: 4, 5, 7, 17 & 18. T. 21 S, R 5 E, Sections 32 & 33.

Office of Surface Mining Reference Number: UT-0026.—The mining and reclamation plan provides baseline environmental data, describes the mining and environmental protection procedures proposed by the operator to meet State and Federal requirements, and discusses the reclamation procedures proposed. The plan proposes a upper production rate of 2.1 million tons per year, to be shipped by truck and rail. The total area included in the permit application is 2632 acres. A Draft Environmental Impact Statement for Development of Coal Resources in Central Utah, within which this operation is located, but not addressed specifically, was transmitted to the Environmental Protection Agency on October 20, 1978. A final Statement is in preparation.

The mining and reclamation plan submitted by SUFCO for the Convulsion Canyon Mine is available for public review in the Library, Office of Surface Mining, Region V, Room 207, Post Office Building, 1823 Stout Street, Denver, Colorado.

This Notice is issued at this time for the convenience of the public. No action with respect to approval of the plan shall be taken by the Regional Director until February 20, 1979. The Office of Surface Mining has not yet determined whether the plan is technically adequate. Therefore, OSM may request additional information during its review. Any additional information so obtained will also be available for public review. Prior to a final decision on this plan, the Office of Surface Mining will issue a Notice of Pending Decision pursuant to § 211.5(c)(2) of Title 30, Code of Federal Regulations.

WALTER N. HEINE,
Director, Office of Surface Mining, Reclamation and Enforcement.

[FR Doc. 79-2007 Filed 1-18-79; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

National Institute of Corrections

ADVISORY BOARD

Public Hearings

The Advisory Board of the National Institute of Corrections (NIC) will hold four public hearings, during which selected practitioners and others involved in corrections will identify the priorities to which the agency's funding resources could be directed. Testimony will guide the Institute's program planning for Fiscal Year 1980.

Thirty-two people are expected to testify at each hearing. Statements will focus on the needs of corrections that can be addressed through NIC's legislatively mandated activities of training, technical assistance, research/evaluation, policy formulation/implementation, and clearinghouse. At the conclusion of each day's formal proceedings, time may be available for statements by members of the audience.

The hearings will be conducted from 8:30 a.m. to 5:00 p.m. each day, as follows:

JANUARY 29 AND 30, 1979

Museum of Modern Art, War Memorial Building, Corners of Van Ness and Macalaster Sts., San Francisco, CA, Board Room.

FEBRUARY 5 AND 6, 1979

Atlanta Regional Commission, 230 Peachtree St., N.W., Atlanta GA, Board Room.

FEBRUARY 12 AND 13, 1979

U.S. Department of Justice, Main Building, 10th and Pennsylvania Ave., N.W., Washington, D.C., Conference Rooms A and B.

FEBRUARY 15 AND 16, 1979

Houston City Council Chambers, City Hall, 901 Bagby, Houston, Texas.

FOR FURTHER INFORMATION CONTACT:

Nancy Sabanosh, National Institute of Corrections, 320 First Street, N.W., Room 970, Washington, D.C. 20534.

ROBERT L. SMITH,
Assistant Director, National Institute of Corrections.

JANUARY 15, 1979.

[FR Doc. 79-2066 Filed 1-18-79; 8:45 am]

[4510-24-M]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON FOREIGN LABOR AND TRADE

Meeting

The BRAC Committee on Foreign Labor and Trade will meet on Wednesday, January 31, 1979, at 1:30 p.m. in Room 4454 of the General Accounting Office Building, 441 G Street NW., Washington, D.C. The agenda for the meeting is as follows:

1. Development of international comparisons of hourly compensation.
2. International comparisons of unemployment rates.
3. Implications of the recommendations of the National Academy of Sciences' Panel to review productivity statistics for the international comparisons program.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 523-1559.

Signed at Washington, D.C., this 12th day of January 1979.

JANET L. NORWOOD,
Acting Commission of Labor Statistics.

[FR Doc. 79-1838 Filed 1-18-79; 8:45 am]

[4510-24-M]

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON PRODUCTIVITY AND TECHNOLOGICAL DEVELOPMENTS

Meeting

The BRAC Committee on Productivity and Technological Development will meet on Wednesday, January 31, 1979, at 9:30 a.m. in Room N-4437 (A,B,&C) of the New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. The agenda for the meeting is as follows:

1. The implications for the BLS Productivity Program of the recommendations of the National Academy of Sciences' Panel to review productivity statistics (Al Rees, Chairman).
2. The role of capital formation in the productivity slowdown.
3. Measures of unit labor cost for selected industries.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth C. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code 202-523-1559.

Signed at Washington, D.C., this 12th day of January.

JANET L. NORWOOD,
Acting Commissioner of Labor Statistics.

[FR Doc. 79-1839 Filed 1-18-79; 8:45 am]

[4510-30-M]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932 or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 16th day of January 1979.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING JANUARY 11, 1979

Name of applicant and location of enterprise and principal product or activity

Outers Laboratories, Inc., La Crosse County, Wisconsin, Manufacture of sporting goods, farming operations and custom job shop work.
Gran Parque del Caribe, Inc., Municipalities of Dorado and Toa Alta, Puerto Rico, Zoo, theme park and amusement park.
Southland Mower Company, Selma, Alabama, Manufacture of rotary lawn mowers and grey iron castings.
Eastern Milk Producers Cooperative Association, Inc., Waverly, New York, Manufacture of cheese.

[FR Doc. 79-1537 Filed 1-18-79; 8:45 am]

[4510-43-M]

Mine Safety and Health Administration

[Docket No. M-79-1-M]

CLIMAX MOLYBDENUM CO.

Petition for Modification of Application of Mandatory Safety Standard

Climax Molybdenum Co., 13949 West Colfax Avenue, Golden, Colorado 80401, has filed a petition to modify the application of 30 CFR 57.9-22 (berms) to its Climax Mill in Climax, Colorado. The petition if filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

(1) The petition concerns a roadway extending behind the petitioner's No. 3 and 4 mill building and regrind plant.

(2) The roadway is approximately 330 feet long and varies in width from 22 feet to 45 feet.

(3) The roadway is used infrequently by vehicles.

(4) The petitioner states that the installation of berms or guards on the outer bank of the roadway would create the following hazards:

(a) The roadway would become so narrow that safe passage could not be guaranteed for the movement of vehicular and pedestrian traffic.

(b) Approximately 258 inches of snow fall annually in the area. Berms or guards would prevent effective and efficient removal of snow and ice.

(c) Inability to engage in proper snow removal would also create a drainage problem because water would run off directly into the No. 3 and 4 mill and the regrind plant. In addition to cleanup and slippage hazards, water would enter the electrical substations in the mill, creating a potential for electrical accidents.

(d) This inability to remove snow and ice would also result in material being deposited onto the railroad track, which is situated below the roadway.

(e) Installation of a berm along the roadway would reduce visibility of the train traffic located on a lower level and increase the potential for an accident involving vehicular traffic on the road and rail traffic.

(5) As an alternative to the installation of berms or guards, the petitioner proposes the following:

(a) Warning signs consisting of 15 foot lengths of pipe covered with flourescent paint will be installed at regular intervals along the outer edge of the roadway so that men and equipment do not proceed over that edge.

(b) Traffic flow control signs as outlined in the petition will be installed at appropriate locations along the roadway.

(c) A "helper" will be present any time vehicles larger than a pickup truck (with the exclusion of snow removal equipment) travel along the roadway, to prevent accidental maneuvering over the outer edge of the roadway.

(d) The petitioner's vehicles which use the roadway will be inspected every 100 hours of operation. This in-

spection will include such items as defrosters, windshield wipers, back-up alarms, brakes, steering and other items whose proper maintenance help prevent the occurrence of accidents along the roadway.

(6) The petitioner states that this alternative will achieve no less protection than that provided by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before February 20, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Copies of the petition are available for inspection at that address.

Dated: January 10, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-1840 Filed 1-18-79; 8:45 am]

[4510-43-M]

[Docket No. M-78-61-C]

EASTERN ASSOCIATED COAL CORP.

Final Action Granting a Petition for Modification of Application of Mandatory Safety Standard

The Mine Safety and Health Administration (MSHA) has granted in part the petition (43 FR 19928) of Eastern Associated Coal Corp. to modify the application of 30 CFR 75.1105 to its Harris No. 2 Mine located in Boone County, W. Va., in accordance with Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164. MSHA has determined that an alternative method exists that will guarantee at all times no less than the same measure of protection given miners of the mine by the standard.

MSHA based its determination on the following findings:

1. The ten horsepower Gorman Rupp water pump listed in the petition is essential to prevent water from accumulating over the rails of No. 3 Pass sidetrack, off the north mains trolley haulageway.

2. The No. 3 pass sidetrack, 450 feet in length, is primarily used for parking mine supply cars and/or switching other track equipment. The water pump housed in a stacked masonary block enclosure was located approximately 650 feet from the 4 right main fan return airways with an automatic fire suppression system activated automatically by a rise in temperature.

Because of these findings, the Administrator for Coal Mine Safety and Health, under authority delegated by the Secretary of Labor, ordered that the petition be granted, conditioned on the terms of the petition and MSHA's findings.

A copy of the decision is available for inspection by the public at the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va, 22203.

Dated: January 9, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-1841 Filed 1-18-79; 8:45 am]

[4510-43-M]

[Docket No. M-77-205]

ELRO COAL CORP.

Final Action Granting a Petition for Modification of Application of Mandatory Safety Standard

The Mine Safety and Health Administration (MSHA) has granted in part the petition (42 FR 37455) of Elro Coal Corp. to modify the application of 30 CFR 75.1710 to its No. 2 Mine located in Wise County, Virginia, in accordance with Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164. MSHA has determined that the application of the standard to the mine will result in a diminution of safety to the miners of the mine.

MSHA based its determination on the following findings:

1. The minimum height from the mine floor to the bottom of the roof supports is 44 inches.

2. Joy Continuous Mining Machine (Model 14CM1-11A) height (mine floor to top of machine) is 31 inches.

3. Galis Roof Bolting Machine (Model 300) frame height is 24 inches.

4. Galis Shuttle Cars (Model 6L-56) have frame heights of 33 inches with a 6½ inch side-board added.

5. S and S Scoop Tractor (Model 488) frame height is 34 inches.

Because of these findings, the Administrator for Coal Mine Safety and Health, under authority delegated by the Secretary of Labor, ordered that the petition be denied as it relates to the Joy continuous mining machine and the Galis roof bolting machine, and granted as it relates to the Galis shuttle cars and the S and S scoop tractor.

A copy of the decision is available for inspection by the public at the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: January 9, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-1842 Filed 1-18-79; 8:45 am]

[4510-43-M]

[Docket No. M-78-12]

IMPERIAL COLLIERY CO.

Final Action Granting a Petition for Modification of Application of Mandatory Safety Standard

The Mine Safety and Health Administration (MSHA) has granted in part the petition (42 FR 60231) of Imperial Colliery Co. to modify the application of 30 CFR 75.305 to its No. 11 Mine located in Kanawha County, W.Va., in accordance with Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164. MSHA has determined that an alternative method exists that will guarantee at all times no less than the same measure of protection given miners of the mine by the standard.

MSHA based its determination on the following findings:

1. An attempt to travel the airway in question by MSHA's investigator resulted in reaching a point approximately 300 feet into the 1 left section return, 200 feet into the No. 11 mains inby the empty track, and 300 feet inby the No. 1 Fan. The condition of the entries is very poor. The entries were developed in the 1940's and 1950's and no roof bolts were installed. The wooden roof support has deteriorated. The floor is badly hooved and hazardous roof conditions are present. The MSHA investigator agreed that examination of the return airway would result in a diminution of safety.

2. The projected life of the mine, according to management, is approximately 2 years. To rehabilitate the return airway from the 1 left barriers section to the No. 1 Fan would not be economically feasible and would not add any degree of safety for the workmen. The No. 2 Fan, as mentioned in the alternate method section of the petitioner's request, has been installed and is operating. More than adequate air quantity to supply the one working unit was available at the time of the investigation. The abandoned areas of the mine appear to be well ventilated and records do not indicate any ventilation problems.

3. The "alternate method" set forth in the petitioner's request of installing the No. 2 Fan, examining the air quantities and velocities in the working section and at the No. 1 Fan has been instituted and is being carried out.

4. It was the opinion of the investigator that if the following recommendations were included with the tests set forth by the petitioner that the results would serve the purpose intended by the examination requirement:

a. Air quantity measuring stations should be established in the isolated intake airway outby the 1 left barriers section and in the track intake airway. Air measurements should be taken on a daily basis by a certified person and the results of these measurements be recorded in a book approved by the Secretary and made available to all interested persons.

b. If the measurements indicate that an unplanned change in air quantity of more than 25 percent exists, an immediate examination of the other areas of the mine should be conducted to determine the cause and corrective actions should be taken immediately. Corrective actions taken should be recorded in an approved book and made available to interested persons.

Because of these findings, the Administrator for Coal Mine Safety and Health, under authority delegated by the Secretary of Labor, ordered that the petition be granted, conditioned upon compliance with the recommendations stated above.

A copy of the decision is available for inspection by the public at the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: January 9, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-1843 Filed 1-18-79; 8:45 am]

[4510-43-M]

[Docket No. M-78-24]

STANSBURY COAL CO.

Final Action Granting a Petition for Modification of Application of Mandatory Safety Standard

The Mine Safety and Health Administration (MSHA) has granted in part the petition of Stansbury Coal Co. to modify the application of 30 CFR 75.902 to its Stansbury Mine located in Sweetwater County, Wyoming, in accordance with Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164. MSHA has determined that an alternative method exists that will guarantee at all times no less than the same measure of protection given miners of the mine by the standard.

MSHA based its determination on the following findings:

MSHA conducted an investigation which consisted of reviewing blueprints, walking the two slopes in question, inspecting the supply transformer, protective devices and lighting installation, and discussing the petition with mine personnel.

The MSHA investigators recommended that the petition for modification be approved for the circuit described in the petition, if the following additional recommendations are complied with:

1. The lighting circuits and fixtures must be examined weekly and examinations recorded as required by § 75.512.

2. Any broken or damaged lighting fixture or flexible fixture hanger or any other potentially dangerous condition must be properly repaired or corrected with minimum delay by a qualified electrician. The broken, damaged or dangerous components must be deenergized until such repairs or corrections are made.

3. All repair work, maintenance, and bulb changing must be done by a qualified electrician after he assures himself the circuit is safe to work on.

4. At least one flexible fixture hanger and one lamp globe shall be in stock or on order at all times to minimize delay of any necessary repairs.

The investigators stated that the manner of installation and additional safeguards provided by the following will provide equivalent safety:

1. The installation of rigid steel conduit, flexible fixture hangers, and substantially constructed waterproof light fixtures significantly reduces the probability of broken grounds or ground faults caused by physical damage.

2. The rock slopes are well supported and maintained, thereby further reducing probability of broken grounds or ground faults.

3. Individual grounding conductors run to each light fixture, as well as parallel grounding paths through the conduits, and flexible fixture hangers assure reliable grounding means.

4. The lighting fixtures are the most likely place for an open ground or ground fault. By elevation 10 feet above the floor and well above normal slope traffic, exposure to these hazards can be restricted to only qualified electricians made aware of the special safety requirements listed in MSHA's report.

Because of these findings, the Administrator for Coal Mine Safety and Health, under authority delegated by the Secretary of Labor, ordered that the petition be granted, conditioned upon proper installation and maintenance of the lighting system in accordance with the safeguards described in the petition and the recommendations made by MSHA's investigators.

A copy of the decision is available for inspection by the public at the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: January 10, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-1844 Filed 1-18-79; 8:45 am]

[4510-43-M]

[Docket No. M-76-422]

WESTMORELAND COAL CO.

Final Action Granting a Petition for Modification of Application of Mandatory Safety Standard

The Mine Safety and Health Administration (MSHA) has granted in part the petition (41 FR 21252) of Westmoreland Coal Co. to modify the application of 30 CFR 75.1710-1 to its Wentz No. 1 Mine located in Wise County, Virginia, in accordance with Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164. MSHA has determined that the application of the standard to the mine will result in a diminution of safety to the miners of the mine.

MSHA based its determination on the following findings:

1. The mine's roof is supported utilizing 48 inch roof bolts installed on not more than 4 foot centers. Except for the 2 sections at "B" Portal, the remaining sections are similar, generally damp and having extremely undulated mine floors.

2. During operations, the mine experienced two roof fall fatalities: March 11, 1969 and December 29, 1970, and has had 21 unintentional roof falls since 1970 when a record was started listing such occurrences.

3. On the 1 Right off 4 North Section, the minimum height floor to roof measurement was 48 inches.

4. On A Right Section, minimum height floor to roof measurement was 48 inches.

5. On Main North Section, minimum height floor to roof measurement was 47 inches.

6. Due to the extremely undulating mine floor and limited space available between the equipment frames and the mine roof, the MSHA investigator found that a diminution of safety would exist for the following equipment in the sections listed below.

a. 1 Right off 4 North Sections: One Lee Norse continuous mining machine (Model CM32) with a height of 37 inches, two Joy shuttle cars (Model 16SC) with heights of 36 inches.

b. "A" Right Section: One Lee Norse continuous mining machine (Model CM32) with a height of 39 inches, two Joy shuttle cars (Model 16SC) with heights of 36 inches.

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c. Main North Section: One Lee Norse continuous mining machine (Model CM32) with a height of 37 inches, two Joy shuttle cars (Model 16SC) with heights of 35 inches.

Because of these findings, the Administrator for Coal Mine Safety and Health, under authority delegated by the Secretary of Labor, ordered that the petition be granted in part for the continuous mining machines and shuttle cars listed above in 1 Right off 4 North section, "A" Right section and Main North section. If conditions or circumstances change in these sections which would allow canopies to be installed which would not result in a diminution of safety, then compliance with section 75.1710-1 should be accomplished.

A copy of the decision is available for inspection by the public at the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: January 9, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-1818 Filed 1-18-79; 8:45 am]

[4510-26-M]

Occupational Safety and Health Administration

FEDERAL ADVISORY COUNCIL ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under Section 4(a) of Executive Order 11807 of September 28, 1974 (39 FR 35559), Occupational Safety and Health Programs for Federal Employees, will meet on February 6 starting 9:30 a.m. in Room N4437 ABC, New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. The meeting will be open to the public.

The agenda provides for:

I. Announcements.
II. Appointments and Reappointments of FACOSH members.
III. Government—Industry Data Exchange Program (GIDEP)—Status of SAFALERT SYSTEM.
IV. Standing Committee on FARS—Status of the Standardized Reporting System.
V. Standing Committee on Occupational Noise discussion and approval of Operational Plan.
VI. Standing Committee on Safety and Health Conferences, discuss 1979 Conferences.
VII. Status of Noise Standard.

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business February 2, 1979, will be provided to the members of the meeting.

The Council will consider oral presentation relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business February 2, 1979. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to Ms. Annie Asensio, Executive Director, FACOSH, Department of Labor, OSHA, First Floor South, 2100 M Street, N.W., Washington, D.C. 20210, telephone (202) 653-5500.

Signed at Washington, D.C. this 16th day of January, 1979.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 79-2063 Filed 1-18-79; 8:45 am]

[4510-26-M]

WYOMING STATE STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the FEDERAL REGISTER (39 FR 15394) of the approval of the Wyoming Plan and the adoption of Subpart BB to Part 1952 containing the decision.

The Wyoming Plan provides for the adoption of Federal standards as State standards after public hearings. Section 1953.23(a)(2) of 29 CFR provides that whenever a Federal standard is promulgated, the State must adopt or promulgate a standard or standard change which will make the State standard at least as effective as the Federal standard or change within six months of the Federal promulgation or change. In response to Federal standard changes, the State has submitted by letter dated July 14, 1978, from Donald D. Owsley, Health and Safety Administrator, to Curtis A. Foster, Regional Administrator, and incorporated as part of the plan, State standards comparable to the 29 CFR 1910.1044 Occupational Exposure to 1,2-Dibromo-3-Chloropropane (DBCP), which were published in Federal Register (43 FR 11514), Friday, March 17, 1978. This standard, which is contained in Wyoming Occupational Safety and Health Rules and Regulations for General Industry, was promulgated after hearings held on May 11, 1978, and by resolutions adopted by the Wyoming Occupational Health and Safety Commission on May 11, 1978, and became effective on July 6, 1978, pursuant to Section 27-278 Wyoming Statutes 1957 as amended 1973.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards.

3. *Location of supplements for inspection and copying.* A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 1554, Federal Building, 1961 Stout Street, Denver, CO 80294; the Occupational Health and Safety Deprtment, 200 East Eighth Avenue, Cheyenne, WY 82001; and the Technial Data Center, Room N2439R, Third and Constitution Avenue, N.W., Washington, DC 20210.

4. *Public participation.* Under § 953.2(c) of 29 CFR Part 1953, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Wyoming State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law, which included public comments, and further public participation would be unnecessary.

This decision is effective January 19, 1979.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Denver, Colorado, this eighth day of August, 1978.

CURTIS A. FOSTER,
Regional Administrator.

[FR Doc. 79-2058 Filed 1-18-79 8:45 am]

[4510-29-M]

Pension and Welfare Benefit Programs

EMPLOYEE BENEFIT PLANS

Proposed Class Exemption To Permit Certain Transactions Involving Employee Benefit Plans Maintained by Insurance Agents and Brokers (Application Nos. D-985 and D-040)

AGENCY: Department of Labor.

ACTION: Notice of proposed class exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed class exemption from certain taxes imposed by the Internal Revenue Code of 1954 (the Code) and from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed class exemption, if granted, would permit the effecting of a sale of an insurance or annuity contract to an employee benefit plan and the receipt of a sales commission with respect to such sale by an agent or broker who is the employer maintaining the plan or a related person. The proposed exemption, if granted, would affect participants and beneficiaries of plans to which such insurance products are furnished, employers maintaining these plans, certain related persons that are covered by the exemption, and other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 20, 1979.

ADDRESSES: All written comments and requests for a hearing (preferably six copies) should be addressed to the U.S. Department of Labor, Pension and Welfare Benefit Programs, Office of Fiduciary Standards, Room C-4526, 200 Constitution Avenme, N.W., Washington, D.C. 20216, Attention: "Insurance In-House Plans." All the applications for exemption which form the basis of this class exemption and all comments relating to this proposed exemption will be available for public inspection at the Public Documents Room of the Pension and Welfare Benefit Programs, Room N-4467, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Richard Small, U.S. Department of Labor, Pension and Welfare Benefit Programs, Office of Fiduciary Standards, Room C-4526, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8195. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a class exemption from the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1) of the Code and from the restrictions of sections 406(a) and 406(b) of the Act. Two applications were filed requesting a class exemption for the subject transactions. One was filed jointly by the National Association of Life Underwriters (NALU) and the Association for Advanced Life Underwriting (AALU) (D-985). The other application was filed by Connecticut General Life Insurance Company (D-040).

The applications for class exemption were filed pursuant to section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, C.B. 722 and ERISA Procedure 75-1 (40 FR 18471), April 28, 1975).

Numerous applications have also been received for individual exemptions concerning transactions of the type described in this proposed class exemption. All such transactions will be exempted if they satisfy the terms and conditions of the proposed class exemption. As stated in ERISA Proc. 75-1, an application for an individual exemption will not ordinarily be considered separately if a class exemption which may encompass the transaction described in the application is under consideration by the Department. Accordingly, the Department is notifying directly each applicant for an individual exemption of the fact that such applicant's application is not being considered separately from this proposed class exemption, that such application will ordinarily be closed, and, therefore, that such applicant's comments with respect to this pending class exemption are sought by the Department.

The applications were filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978 (44 FR 1065, January 3, 1979), section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

SUMMARY OF FACTS AND REPRESENTATIONS

The applications contain representations with regard to the proposed class exemption which are summarized below. Interested persons are referred to the applications on file with the Department for the complete representations of the applicants.

1. It is common practice for insurance agents and brokers who are not employees of the insurance companies which they represent to establish employee benefit plans for themselves and their employees. Further, many agents and brokers have substantial economic interests in corporate and other entities which maintain plans for their employees. These plans are usually funded either wholly or partially with insurance or annuity contracts in order to provide pre-retirement death benefits and guaranteed payouts at retirement. Since the insurance agency or a member of such firm is licensed to effect sales of insurance and annuity contracts, commissions generated in connection with plan funding transactions are paid to the insurance agency or licensed member.

2. The provision of insurance and annuity contracts to the plan by the agent or broker which, within the meaning of section 4975(e)(2) of the Code and section 3(14) of the Act, is a disqualified person or party in interest with respect to a plan, and the receipt of commissions therefor, may be prohibited transactions under section 4975(c)(1) of the Code and section 406 of the Act.

3. Transactions described in the applications for exemption have occurred continually since the effective date of the prohibited transaction restrictions of the Code and the Act. Although the Applicants state that the transitional provisions of sections 414(c)(4) and 2003(c)(2)(D) of the Act applied to the transactions, such relief expired on June 30, 1977, and was not available for agents and brokers who were not considered to have furnished the type of services involved as of June 30, 1974. Furthermore, neither Prohibited Transaction Exemption 77-9 [1] nor any other administrative exemption granted heretofore has covered all the transactions effected by the disqualified persons/parties in interest which are the subject of this proposed exemption. Accordingly, the applicants have requested that the proposed class exemption be effective as of January 1, 1975, the effective date of the Prohibited Transactions provisions of the Code and Act.

4. It would be contrary to normal business practices and unnecessarily restrictive, to require an employee benefit plan maintanined by an employer-agent or broker to have its purchases of insurance and annuity contracts effected by an unrelated person. Moreover, with respect to the pur-

[1] Notice of the granting of the exemption was published in the FEDERAL REGISTER on June 24, 1977 (42 FR 32395). See also the Proposed Amendment of Prohibited Transaction Exemption 77-9 published in the FEDERAL REGISTER on April 28, 1978 (43 FR 18354) for further clarification of section V(a) of that exemption.

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chase of individual insurance policies for the plan, the cost to the plan would be unaffected by the identity of the agent or broker, since commissions received by the agent or broker on such sales to the plan are determined under a scale of compensation which is uniformly applied to all agents and brokers similarly situated with the same insurance company and are not subject to negotiation.

5. The benefit received by the agent or broker in the form of sales commissions is paid for, directly or indirectly, by the agent or broker as the employer maintaining the plan. The receipt of sales commissions by the employer who is an agent or broker represents a direct reduction in cost to the employer which would not be available if the employer was precluded from furnishing insurance or annuity contracts to the plan and was, instead, required to purchase it from a third person whose commission income on the sale could not be credited against the employer's cost. Consequently, the agent or broker can furnish insurance to the plan at a lower overall cost thereby providing an incentive for the agent or broker to secure better coverage for the plan than if the insurance or annuity contracts were to be purchased from an unrelated third person.

6. In support of the class request that agents and brokers be permitted to receive and retain the commissions derived from sales effected for their in-house plans, the applicants represent that the rebating of commissions by the agent or broker to the plan is illegal by specific statute in every state and the District of Columbia. All of these jurisdictions have passed the Model Unfair and Deceptive Practices Act which was promulgated by the National Association of Insurance Commissioners. Thus, the assignment, transfer or "return" to the plan of commissions attributable to sales effected on behalf of that plan would constitute violations of state insurance laws. The applicants further contend that state laws prohibited the payment of commissions except to licensed agents or brokers. Accordingly, these state laws would preclude the direct payment of commissions to the plan by the insurance company in connection with the sale of insurance to the plan which is effected by a licensed agent or broker.

In addition, the applicants also represent that many states have statutes prohibiting discrimination as to rates, premiums, dividends or benefits between individuals or risks of the same class, or of equal expectation of life. In view of these state law restrictions, the applicants content that the plan would be prohibited from obtaining insurance on a "net basis", i.e., without the cost element contained in the insurance company premium which is attributable to the commission otherwise payable to the agent or broker, since this practice would result in discrimination between persons of similar risk or classification.

GENERAL INFORMATION

It should be noted that the exemption, as proposed, only would be available if the total commissions received by the agent or broker in each taxable year as a result of effecting transactions under the exemption do not exceed five percent of the total commissions received in that taxable year by such agent or broker. This condition is designed to ensure that the sale of insurance to an "in-house" plan does not represent more than an incidental part of the agents' or brokers' insurance business.

It should also be noted that the term "insurance or annuity contract", as used in the exemption, is intended to cover contracts issued by insurance companies including those which provide only for the provision of administrative services. It should be further noted that under section 408(d) of the Act, no exemption may be granted under section 408(a) for transactions of the type described herein between a plan and certain persons such as an owner-employee as defined in section 401(c)(3) of the Code, or a shareholder-employee as defined in section 1379 of the Code. The proposed exemption is intended, however, to be applicable to such persons for purposes of section 4975 of the Code.

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code and section 408(a) of the Act does not relieve a fiduciary or disqualified person or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Code and the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 4975(c)(2) of the Code and section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan or plans and of their participants and beneficiaries, and protective of the rights of such participants and beneficiaries of such plan or plans;

(3) The Class exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code and the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction;

(4) If granted, the pending class exemption will be applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption; and

WRITTEN COMMENTS AND HEARING REQUEST

All interested persons are invited to submit written comments on this proposed class exemption to the address and within the time period set forth above. In addition, any interested person may submit to the address and within the time period set forth above, a written request that a hearing be held relating to the pending class exemption. Such written request should state the reasons for such person's interest in the proposed class exemption.

A list of individual applications which involve the subject transactions as well as the individual and class applications for exemption, all written comments and all requests for a hearing (preferably six copies) will be made part of the record and will be available for public inspection at the addresses set forth above.

PROPOSED EXEMPTION

Based on the applications hereinabove described, the Department has under consideration the granting of the following class exemption under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accodance with the procedures set forth in.

ERISA Procedure 75-1: Effective January 1, 1975, the restrictions of sections 406(a), and 406(b) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) of the Code, shall not apply to sales of insurance or annuity contracts effected for an employee benefit plan and to the receipt of sales commissions in connection with such sales by an agent or broker who is the employer maintaining the plan or a person related to the employer if the following conditions are met:

(a) The insurance agent or broker effecting the sale:

(1) Is an employer any of whose employees are covered by the plan;

(2) Is a 10 percent or more partner in capital or profits of an employer described in subparagraph (1); or

(3) Is a disqualified person or party in interest with respect to the plan by reason of an affiliation with the employer establishing or maintaining the plan that is described in section 4975(e)(2)(E), (G) or (H) of the Code and section 3(14)(E), (G) or (H) of the Act. For purposes of the condition set forth in paragraph (a)(1), an "employer" includes a sole proprietor maintaining a plan in which he or she is the only participant.

(b) The plan pays no more than adequate consideration for the insurance contracts or annuities;

(c) Effective (one year from date of granting of this exemption), the total commissions received in each taxable year of the insurance agent or broker as a result of effecting transactions under this exemption do not exceed 5 percent of total insurance commission income received in that taxable year by such agent or broker.

Signed at Washington, D.C., this 15th day of January, 1979.

IAN D. LANOFF,
Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-1889 Filed 1-16-79; 8:45 am]

[4510-28-M]

Office of the Secretary

WORKER ADJUSTMENT ASSISTANCE

Investigations Regarding Certifications of Eligibility To Apply

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 26, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 26, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 8th day of January 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: (Union/workers or former workers of:)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
Affinity Mining Company, Keystone #5 mine (U.M.W.A.).	Sophia, West Virginia	12/18/78	12/13/78	TA-W-4,581	mining of coal
Allied Chemical Corp., Semet Solvay Div., Shannon Branch Preparation (U.M.W.A.).	Capels, West Virginia	1/2/78	12/13/78	TA-W-4,582	cleaning of coal
Allied Chemical Corp., Semet Solvay Div., Shannon Branch Mine (U.M.W.A.).	Capels, West Virginia	1/2/78	12/13/78	TA-W-4,583	mining of coal
Bishop Coal Company (U.M.W.A.)	Pocahontas, Virginia	12/18/78	12/13/78	TA-W-4,584	mining of coal
Consolidation Coal Company (U.M.W.A.).	Pocahontas, Virginia	12/18/78	12/13/78	TA-W-4,585	mining of coal
Eastern Associated Coal Corporation, Keystone #1 Mine (U.M.W.A.).	Keystone, West Virginia	12/18/78	12/13/78	TA-W-4,586	mining of coal
Eastern Associated Coal Corporation, Keystone #2 mine (U.M.W.A.).	Herndon, West Virginia	12/18/78	12/13/78	TA-W-4,587	mining of coal
Eastern Associated Coal Corporation, Keystone #3 (U.M.W.A.).	Herndon, West Virginia	12/18/78	12/13/78	TA-W-4,588	mining of coal
Eastern Associated Coal Corporation, Keystone #4 Mine (U.M.W.A.).	Sophia, West Virginia	12/18/78	12/13/78	TA-W-4,589	mining of coal
Eastern Associated Coal Corporation, Harris #1 Mine (U.M.W.A.).	Bald Knob, West Virginia	12/18/78	12/13/78	TA-W-4,590	mining of coal
Eastern Associated Coal Corporation, Harris #2 Mine (U.M.W.A.).	Bald Knob, West Virginia	12/18/78	12/13/78	TA-W-4,591	mining of coal
Eastern Associated Coal Corporation, Hernshaw Mine (U.M.W.A.).	Bald Knob, West Virginia	12/18/78	12/13/78	TA-W-4,592	mining of coal
Eastern Associated Coal Corporation, Kopperston #1 (U.M.W.A.).	Kopperston, West Virginia	12/18/78	12/13/78	TA-W-4,593	mining of coal
Eastern Associated Coal Corporation, Kopperston #2 Mine (U.M.W.A.).	Kopperston, West Virginia	12/18/78	12/13/78	TA-W-4,594	mining of coal
Eastern Associated Coal Corporation, Wharton #2 Mine (U.M.W.A.).	Barrett, West Virginia	12/18/78	12/13/78	TA-W-4,595	mining of coal
Eastern Associated Coal Corporation, Wharton #11 Mine.(U.M.A.W.).	Barrett, West Virginia	12/18/78	12/13/78	TA-W—4, 596	mining of coal
Eastern Associated Coal Corporation, Wharton #4 Mine (U.M.W.A.).	Wharton, West Virginia	12/18/78	12/13/78	TA-W—4, 597	mining of coal

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APPENDIX—Continued

Petitioner: (Union/workers or former workers of:)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
Eastern Associated Coal Corporation, Lightfoot #1 Mine (U.M.W.A.).	Wharton, West Virginia	12/18/78	12/13/78	TA-W—4, 598	mining of coal
Eastern Associated Coal Corporation, Lightfoot #2 (U.M.W.A.).	Wharton, West Virginia	12/18/78	12/13/78	TA-W—4,599	mining of coal
Eastern Associated Coal Corporation, Wells Preparation Plant (U.M.W.A.).	Wharton, West Virginia	12/18/78	12/13/78	TA-W—4, 600	cleaning of coal
Eastern Associated Coal Corporation, Colver Mine (U.M.W.A.).	Colver, Pennsylvania	12/18/78	12/13/78	TA-W-4,601	mining of coal
Eastern Associated Coal Corporation, Delmont Loading Facility (U.M.W.A.).	Hunker, Pennsylvania	12/18/78	12/13/78	TA-W-4,602	loading of coal
Eastern Associated Coal Corporation, Federal #1 Mine (U.M.W.A.).	Grant Town, West Virginia.	12/18/78	12/13/78	TA-W-4,603	mining of coal
Eastern Associated Coal Corporation, Federal #2 Mine (U.M.W.A.).	Fairview, West Virginia	12/18/78	12/13/78	TA-W-4,604	mining of coal
Eastern Associated Coal Corporation, Joanne Mine (U.M.W.A.).	Rachel, West Virginia	12/18/78	12/13/78	TA-W-4,605	mining of coal
Gopher Mining Company, Strip Mine (U.M.W.A.).	Springdale, West Virginia	1/2/78	12/13/78	TA-W-4,606	mining of coal
Gopher Mining Company, Tipple (U.M.W.A.).	Springdale, West Virginia	1/2/78	12/13/78	TA-W-4,607	cleaning of coal
Gopher Mining Company, Black Bear Mine (U.M.W.A.).	Hilton Village, West Virginia.	1/2/78	12/13/78	TA-W-4,608	mining of coal
Gopher Mining Company (U.M.W.A.).	Hump Mountain, West Virginia.	1/2/78	12/13/78	TA-W-4,609	mining of coal
Gould Mines, Inc., Gould #1 Surface Mine (U.M.W.A.).	Greenbrier County, West Virginia.	1/2/76	12/13/78	TA-W-4,610	mining of coal
Gould Mines, Inc., Surface Mine #8 (U.M.W.A.).	Greenbrier County, West Virginia.	1/2/78	12/13/78	TA-W-4,611	mining of coal
Gould Mines, Inc., Gram #1 Surface (U.M.W.A.).	Greenbrier County, West Virginia.	1/2/78	12/13/78	TA-W-4,612	mining of coal
Gould Mines, Inc., Viking #5 Surface, (U.M.W.A.).	Greenbrier County, West Virginia.	1/2/78	12/13/78	TA-W-4,613	mining of coal
Itmann Coal Company (U.M.W.A.)	Pocahontas, Virginia	12/18/78	12/13/78	TA-W-4,614	mining of coal
Mill Coal Company, Inc. #2 Mine (U.M.W.A.).	Leivasy, West Virginia	1/2/78	12/13/78	TA-W-4,615	mining of coal
Ranger Fuel Corp., Beckley #2 Mine (U.M.W.A.).	Beckley, West Virginia	12/13/78	12/13/78	TA-W-4,616	mining of coal
Ranger Fuel Corp., Beckley #4 (U.M.W.A.).	Beckley, West Virginia	12/18/78	12/13/78	TA-W-4,617	mining of coal
Ranger Fuel Corp., F-Mine (U.M.W.A.).	Bolt, West Virginia	12/18/78	12/13/78	TA-W-4,618	mining of coal
Ranger Fuel Corp., A-Bolt Mine (U.M.W.A.).	Bolt, West Virginia	12/18/78	12/13/78	TA-W-4,619	mining of coal
Ranger Fuel Corp., K-Mine (U.M.W.A.).	Bolt, West Virginia	12/16/76	12/13/78	TA-W-4,620	mining of coal
Ranger Fuel Corp., AA-Mine (U.M.W.A.).	Bolt, West Virginia	12/18/78	12/13/78	TA-W-4,621	mining of coal
Ranger Fuel Corp., Cove Creek Mine (U.M.W.A.).	Bolt, West Virginia	12/18/78	12/13/78	TA-W-4,622	mining of coal
Ranger Fuel Corp., Bolt Preparation Plant (U.M.W.A.).	Bolt, West Virginia	12/16/78	12/13/78	TA-W-4,623	cleaning of coal
Royal Coal Company, Preparation Plant (U.M.W.A.).	Clairmont, West Virginia	12/18/78	12/13/78	TA-W-4,624	cleaning of coal
Royal Coal Company, Mine #5 (U.M.W.A.).	Fayette Station, West Virginia.	12/18/78	12/13/78	TA-W-4,625	mining of coal
Royal Coal Company, Mine #8 (U.M.W.A.).	Prance, West Virginia	12/18/78	12/13/78	TA-W-4,626	mining of coal
Royal Coal Company, Mine #7b (U.M.W.A.).	Prance, West Virginia	12/18/78	12/13/78	TA-W-4,627	mining of coal
Royal Coal Company, Mine #7 (U.M.W.A.).	Prance, West Virginia	12/18/78	12/13/78	TA-W-4,628	mining of coal
Royal Coal Company, Mine #11 (U.M.W.A.).	Leyland, West Virginia	12/18/78	12/13/78	TA-W-4,629	mining of coal
Royal Coal Company, Mine #10 (U.M.W.A.).	Leyland, West Virginia	12/18/78	12/13/78	TA-W-4,630	mining of coal
Royal Coal Company, Mine #3 (U.M.W.A.).	Leyland, West Virginia	12/18/78	12/13/78	TA-W-4,631	mining of coal
Royal Coal Company, Mine #6 (U.M.W.A.).	Leyland, West Virginia	12/18/78	12/13/78	TA-W-4,632	mining of coal
United Pocahontas Coal Company, Mine #14 (U.M.W.A.).	Algoma, West Virginia	12/18/78	12/13/78	TA-W-4,633	mining of coal
United Pocahontas Coal Company, Preparation Plant (U.M.W.A.).	Algoma, West Virginia	12/18/78	12/13/78	TA-W-4,634	cleaning of coal
United Pocahontas Coal Company, Mine #6a (U.M.W.A.).	Crumpler, West Virginia	12/18/78	12/13/78	TA-W-4,635	mining of coal
United Pocahontas Coal Company, Mine #18 (U.M.W.A.).	Crumpler, West Virginia	12/18/78	12/13/78	TA-W-4,636	mining of coal
United Pocahontas Coal Company, Preparation Plant (U.M.W.A.).	Crumpler, West Virginia	12/18/78	12/13/78	TA-W-4,637	cleaning of coal
United Pocahontas Mine (U.M.W.A.).	#19 Crumpler, West Virginia	12/18/78	12/13/78	TA-W-4,638	mining of coal
United Pocahontas Coal Company, Mine #10 (U.M.W.A.).	Crumpler, West Virginia	12/18/78	12/13/78	TA-W-4,639	mining of coal

[FR Doc. 79-1375 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4438]

BRENEMAN, INC.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4438: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 29, 1978 in response to a worker petition received on November 27, 1978 which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers and former workers producing plastic window shades at the Madison, Indiana plant of Breneman, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (44 FR 56953). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Breneman, Inc., a major customer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of window shades increased absolutely in 1977 compared to 1976 and in the first nine months of 1978 compared to the first nine months of 1977.

The Madison plant produced plastic window shades exclusively for one customer. In late 1978, that customer ceased all orders for one style produced by the Madison plant and began purchasing that style from a foreign manufacturer. The style represented a major portion of the output by the Madison plant during 1977 and 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with plastic window shades produced by the Madison, Indiana plant of Breneman, Inc. contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Madison, Indiana plant of Breneman, Inc., who became totally or partially separated from employment on or after September 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 9th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-1521 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-3943 TA-W-3945]

DUPLAN KNITS WEST DUPLAN KNITS WEST

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3943 and 3945: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 5, 1978, in response to a worker petition received on July 5, 1978, which was filed on behalf of workers and former workers engaged in employment related to the production of knitted fabrics and printed fabrics at the Compton, California plant and the Los Angeles, California sales office of Duplan Knits West. The investigation revealed that the Compton plant did not produce printed fabrics.

The Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30928-29). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Duplan Knits West, its customers, Duplan Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department of Labor survey revealed that none of the customers of Duplan Knits West had purchased imported finished fabrics in 1976, 1977 or the first half of 1978. Another survey revealed that none of Duplan Knits West customers had any commissioned fabric dyeing or finishing performed by foreign sources in 1976, 1977 or the first half of 1978.

Conclusion

After careful review, I determine that all workers of the Compton, California plant and the Los Angeles, California sales office of Duplan Knits West are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 9th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-1522 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4281]

HANNA FURNACE CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4281: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 20, 1978 in response to a worker petition received on October 17, 1978 which was filed by the United

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Steelworkers of America on behalf of workers and former workers producing merchant pig iron at the Buffalo, New York plant of the Hanna Furnace Corporation. The investigation revealed that the company also operates sales offices in West Seneca, New York; Greenwich, Connecticut; Detroit, Michigan and Philadelphia, Pennsylvania.

The investigation was expanded to include the West Seneca, New York; Greenwich, Connecticut; Detroit, Michigan and Philadelphia, Pennsylvania sales offices of the Hanna Furnace Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on October 31, 1978 (43 FR 50758). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Hanna Furnace Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of merchant pig iron declined each year from 478,000 tons in 1975 to 373,000 tons in 1977 before increasing from 218,000 tons in the three quarters of 1978. The ratio of imports to the domestic production of merchant pig iron declined each year from 51.5 percent in 1975 to 38.8 percent in 1977 before increasing from 29.8 percent in the first three quarters of 1977 to 80.0 percent in the first three quarters of 1978.

The Department conducted a survey of some of the customers of merchant pig iron of the Hanna Furnace Corporation. Customers accounting for a significant percent of the company's in both 1977 and in the first ten months of 1978 increased purchases of imported pig iron in 1977 compared to 1976 and in the first ten months of 1978 compared to the like 1977 period while decreasing purchases from the Hanna Furnace Corporation in the first 10 months of 1978 compared to the same period in 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the merchant pig iron produced at the Buffalo, New York plant of the Hanna Furnace Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Buffalo, New York plant and of the Greenwich, Connecticut; Detroit, Michigan; West Seneca, New York and Philadelphia, Pennsylvania sales offices of the Hanna Furnace Corporation, who became totally or partially separated from employment on or after October 13, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 9th day of January 1979.

HARRY. J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-1523 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4206]

KAISER STEEL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4206: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 21, 1978 in response to a worker petition received on September 18, 1978 which was filed on behalf of workers and former workers engaged in mining and concentrating of iron ore at the Eagle Mountain, California mine of the Kaiser Steel Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on October 10, 1978 (43 FR 46591). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Kaiser Steel Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that sales or production, or both, of the firm or subdivision have decreased absolutely.

All of the iron ore mined and processed at Eagle Mountain is used solely to supply Kaiser's Fontana steel mill, as part of the vertically integrated steel-making process. Production of iron ore did not decline from 1976 to 1977, in quantity, and increased in the first nine months of 1978 compared to the first nine months of 1977.

Employment at the Eagle Mountain mine was higher in 1977 than in 1976. Worker separations in September, 1978, were due to the conversion of the Fontana plant to the basic oxygen process which resulted in a production slow-down at the plant.

Conclusion

After careful review, I determine that all workers of the Eagle Mountain, California, mine of the Kaiser Steel Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 9th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-1524 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-3496]

LORING COAT COMPANY INCORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3496: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 11, 1978 in response to a worker petition received on March 31, 1978 which was filed by the International Ladies' Garments Workers' Union on behalf of workers and former workers producing rainwear at Loring Coast Company, Incorporated, Newburgh, New York. The investigation revealed that the plant primarily produces women's rain and cloth coats.

The Notice of Investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 8790). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Loring Coat Company, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

that sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales of women's rain and cloth coats increased in 1977 compared to 1976 and increased in 1978 compared to 1977.

Conclusion

After careful review, I determine that all workers of Loring Coat Company, Incorporated, Newburgh, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-1525 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4188]

ORANGE COUNTY COAT COMPANY, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4188: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 20, 1978 in response to a worker petition received on September 19, 1978 which was filed by the International Ladies' Garment Workers' Union, Locals 156-165 on behalf of workers and former workers producing women's sportswear, jackets and vests at Orange County Coat Company, Incorporated, Newburgh, New York. The investigation revealed that the firm primarily produces women's jackets and vests.

The Notice of Investigation was published in the FEDERAL REGISTER on October 31, 1978 (43 FR 50758). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Orange County Coat Company, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of production workers increased in each quarter compared to the previous quarter from the third quarter of 1977 through the third quarter of 1978. Average production employment increased in the last half of 1977 compared to the same period of 1976 and increased in the first nine months of 1978 compared to the same period of 1977.

Average monthly production hours increased in the second half of 1977 compared to the same period of 1976, and increased in the first three quarters of 1978 compared to the same period of 1977.

There is no immediate threat of separation to workers at Orange County Coat.

Conclusion

After careful review, I determine that all workers of Orange County Coat Company, Incorporated, Newburgh, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-1526 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4315]

S.M.R. ASSOCIATES

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 30, 1978 in response to a worker petition received on October 27, 1978 which was filed by the Industrial Union of Marine and Shipbuilding Workers of America on behalf of workers and former workers producing semi-trailers and metal containers for air freight at Air support Industries, Glassboro, New Jersey. During the course of the investigation it was determined that the name of the company is S.M.R. Associates.

The Notice of Investigation was published in the FEDERAL REGISTER on November 7, 1978 (43 FR 51866). No public hearing was requested and none was held.

The petitioner requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 9th day of January, 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-1527 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4323]

SAN JUAN MILLING CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4323: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 31, 1978 in response to a worker petition received on October 23, 1978 which was filed on behalf of workers and former workers mining gold, silver, lead and zinc and producing lead and zinc concentrates at San Juan Milling Company, Sliverton, Colorado. The investigation revealed that the mining predominantly yielded lead and zinc ore with minute amounts of silver, gold and copper.

The Notice of Investigation was published in the FEDERAL REGISTER on November 7, 1978 (43 FR 51865). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of San Juan Milling Company, *American Metal Market*, the American Bureau of Metal Statistics, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of refined and recovered lead increased absolutely from 1976 to 1977 and from January through September in 1977 to the same period in 1978. The import to domestic production ratio increased from 10.7 percent in 1976 to 18.4 percent in 1977. The import to domestic production ratio again increased from 19.2 percent for the first half of 1977 to 19.8 percent for the first half of 1978.

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Imports of lead are affected by the differential between the domestic producers' price and the price of lead on the London Metal Exchange (LME). Generally, the price charged by domestic producers ranges from two to four cents per pound above the LME price. When the LME price drops more than two to four cents per pound below the domestic producers' price, there is increased demand for imported lead. From October, 1977 through September 1978, the LME price of lead averaged more than four cents less than the U.S. producers' price.

U.S. imports of slab zinc increased relative to domestic production from 127.0 percent in 1976 to 127.9 percent in 1977. Imports increased absolutely in the first three quarters of 1978 compared to the same period in 1977. The import to domestic production ratio increased from 122.2 percent for the first three quarters in 1977 to 159.0 percent for the same period in 1978.

Imports of zinc are affected by the differential between the domestic price of zinc established by U.S. producers and the price established by the London Metal Exchange. When the LME price drops more than the estimated transportation cost of five cents per pound below the producers' price, the demand for imported zinc increases. From October, 1977 through September, 1978, the price differential averaged more than five cents per pound.

Lead and zinc were mined together at San Juan, since both were extracted from the same ore. Because the price San Juan receives for both lead and zinc concentrates is tied to the domestic producers' price, the San Juan price is closely affected by the difference between the U.S. producers' price and the London Metal Exchange price.

In addition, because San Juan is not fully integrated with a lead smelting operation as is the case for the major U.S. producers, the demand for San Juan's lead concentrate is highly vulnerable to competition from imported lead. Because San Juan is a small and sporadic supplier of zinc, the company is also highly vulnerable to competition from imported zinc.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the lead and zinc ore mined and lead and zinc concentrates produced at San Juan Milling Company, Silverton, Colorado, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of San Juan Milling Company, Silverton, Colorado, who became totally or partially separated from employment on or after January 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of January 1979.

C. MICHAEL AHO
Director, Office of Foreign Economic Research.

[FR Doc. 79-1528 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4224]

WILLIAM ORNSTEEN HEEL CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4224: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 29, 1978 in response to a worker petition received on September 25, 1978 which was filed on behalf of workers and former workers producing wood heels and plastic heels for women's novelty shoes and dress shoes at William Ornsteen Heel Company, Inc., Bradford, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on October 17, 1978 (43 FR 44795-6). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of William Ornsteen Heel Company, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The petitioners allege that the liquidation of Ornsteen's customers, which are shoe manufacturers, has adversely affected production and employment levels at the subject firm. However, imports of finished shoes cannot be considered like or directly competitive with shoe heels.

Customers of William Ornsteen Heel Company, Inc., who were surveyed, indicated that they did not purchase imported heels in 1976, 1977 or during the first three quarters of 1978.

Conclusion

After careful review, I determine that all workers of William Ornsteen Heel Company, Inc., Bradford, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 9th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-1529 Filed 1-18-79; 8:45 am]

[4510-28-M]

ROCKWELL INTERNATIONAL CORP., ADMIRAL GROUP

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

TA-W-4244	Cheektowaga, New York
TA-W-4246	Schaumburg, Illinois
TA-W-4246b	Bloomington, Illinois
TA-W-4246c	Des Plaines, Illinois
TA-W-4246d	Westwood, Massachusetts
TA-W-4246e	East Hartford, Connecticut
TA-W-4246f	Philadelphia, Pennsylvania
TA-W-4246g	Baltimore, Maryland
TA-W-4246h	Miami, Florida
TA-W-4246i	Oklahoma City, Oklahoma
TA-W-4246j	Denver, Colorado
TA-W-4246k	City of Commerce, California
TA-W-4252	McKees Rock, Pennsylvania
TA-W-4253	East Rutherford, New Jersey
TA-W-4254	Medford, Massachusetts
TA-W-4268	Detroit, Michigan
TA-W-4286	Brisbane, California
TA-W-4296	Long Island City, New York
TA-W-4300	San Antonio, Texas
TA-W-4301	Houston, Texas
TA-W-4321	West Babylon, New York
TA-W-4350	Rosemont, Illinois

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4244, 4246, 4246b-4246k, 4252-4254, 4268, 4286, 4296, 4300, 4301, 4321, and 4350: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on the dates listed in Appendix I in response to worker petitions which were filed on behalf of workers and former workers distributing, selling and servicing Admiral-produced color and monochrome televisions at locations of the Admiral Group, Rockwell International Corporation listed in Appendix I. The investigation revealed that these facilities also distribute, sell and service the refrigerators and freezers

which are also produced by Rockwell's Admiral Group.

The Notice of Investigation was published in the FEDERAL REGISTER on the dates listed in Appendix II. No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Admiral Group, Rockwell International Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With respect to workers distributing, selling and servicing refrigerators and freezers, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The investigation revealed that all of the refrigerators and freezers distributed, sold and serviced by the subject locations of Rockwell's Admiral Group are produced by Admiral's plant in Galesburg, Illinois. The Department issued a notice of negative determination regarding eligibility to apply for adjustment assistance for all workers of Admiral's Galesburg, Illinois plant (TA-W-4246a).

With respect to workers distributing, selling and servicing color and monochrome televisions, all of the group eligibility requirements of Section 222 of the Act have been met.

U.S. imports of color televisions decreased from 2856.3 thousand units in 1976 to 2538.7 thousand units in 1977. Imports increased from 1971.6 thousand units in the first three quarters of 1977 to 1999.7 thousand units in the like period of 1978. The ratio of imports to domestic production decreased from 45.5 percent in 1976 to 38.3 percent in 1977. The ratio decreased from 40.6 percent in the first three quarters to 35.5 percent in the like period of 1978.

U.S.A. imports of monochrome televisions increased from 4326.9 thousand units in 1976 to 4907.8 thousand units in 1977. Imports increased from 3504.0 thousand units in the first three quarters of 1977 to 4338.0 thousand units in the like period of 1978. The ratio of imports to domestic production increased from 266.3 percent in 1976 to 413.7 percent in 1977. The ratio increased from 401.1 percent in the first three quarters of 1977 to 452.3 percent in the like period of 1978.

A Department survey of customers of Rockwell's Admiral Group indicated that Admiral's largest customers increased purchases of imported color televisions and decreased purchases of color sets from Admiral in 1977 compared with 1976 and in the first three quarters of 1978 compared with the like period of 1977.

The major customers of Admiral's monochrome televisions increased purchases of imports while decreasing purchases of monochrome sets from Admiral from 1976 to 1977 and the first three quarters of 1978 compared with the like period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the color and monochrome televisions produced, distributed, sold and serviced by the Admiral Group, Rockwell International Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the locations of the Admiral Group, Rockwell International Corporation listed in Appendix II engaged in employment related to the distribution, sales and service of Admiral-produced color and monochrome televisions who became totally or partially separated from employment on or after the respective impact dates listed in Appendix II are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that the workers at the subject locations who were solely engaged in employment related to the distribution, sales and service of Admiral-produced refrigerators and freezers are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 8th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

APPENDIX I

	Location	Date Petition Received	Date Investigation	Date Published in FEDERAL REGISTER	FEDERAL REGISTER Number
TA-W-4244	Cheektowaga, NY	10/03/78	10/04/78	10/20/78	43FR49060-1
TA-W-4246	Schaumburg, IL	10/02/78	10/04/78	10/20/78	43FR49060-1
TA-W-4252	McKees Rock, PA	10/04/78	10/10/78	10/20/78	43FR49061
TA-W-4253	East Rutherford, NJ	10/06/78	10/10/78	10/20/78	43FR49061
TA-W-4254	Medford, MA	10/06/78	10/10/78	10/20/78	43FR49061
TA-W-4268	Detroit, MI	10/13/78	10.17/78	10/27/78	43FR50271
TA-W-4286	Brisbane, CA	10.20/78	10/24/78	11/03/78	43FR51476
TA-W-4296	Long Island City, NY	10/23/78	10/25/78	11/03/78	43FR51475
TA-W-4300	San Antonio, TX	10/25/78	10/26/78	11/03/78	43FR51475-6
TA-W-4301	Houston, TX	10/25/78	10/26/78	11/03/78	43FR51475-6
TA-W-4321	West Babylon, NY	10/30/78	10/31/78	11/07/78	43FR51865
TA-W-4350	Rosemont, IL	11/03/78	11/06/78	11/17/78	43FR53851-2

The investigation of TA-W-4246 was expanded to include the following plants, warehouses, and distribution centers of Rockwell's Admiral Group:

TA-W-4246b, Bloomington, IL; TA-W-4246c, Des Plaines, IL; TA-W-4246d, Westwood, MA; TA-W-4246e, East Hartford, DT; TA-W-4246f, Philadelphia, PA; TA-W-4246g, Baltimore, MD; TA-W-4246h, Miami, FL; TA-W-4246i, Oklahoma City, OK; TA-W-4246j, Denver, CO; and TA-W-4246k, City of Commerce, CA

APPENDIX II

Case Number	Admiral Facility Location	Function	Impact Date
TA-W-4244	Checktowaga, NY	Buffalo, NY Regional Center	Mar. 18, 1978
TA-W-4246	Schaumburg, IL	Admiral Headquarters	Jan. 21, 1978
TA-W-4246b	Bloomington, IL	Parts Warehouse	Feb. 18, 1978
TA-W-4246c	Des Plaines, IL	Products Warehouse	Oct. 22, 1977
TA-W-4246d	Westwood, MA	Boston, MA Regional Center	Nov. 19, 1977
TA-W-4246e	East Hartford, CT	Metro NY Regional Center	Sept. 29, 1977
TA-W-4246f	Philadelphia, PA	Philadelphia, PA Regional Center	Jan. 21, 1978
TA-W-4246g	Baltimore, MD	Baltimore, MD Regional Center	Aug. 19, 1978
TA-W-4246h	Miami, FL	Miami, FL Regional Center	Feb. 18, 1978
TA-W-4246i	Oklahoma City, OK	Oklahoma City, OK Regional Center.	Sept. 29, 1977
TA-W-4246j	Denver, CO	Denver, CO Regional Center	Feb. 18, 1978
TA-W-4246k	City of Commerce, CA	Los Angeles, CA Regional Center	Sept. 29, 1977
TA-W-4252	McKees Rock, PA	Pittsburgh, PA Regional Center	Dec. 24, 1977
TA-W-4253	East Rutherford, NJ	Metro NY Regional Center	Dec. 24, 1977
TA-W-4254	Medford, MA	Boston, MA Regional Center	Nov. 19, 1977
TA-W-4268	Detroit, MI	Detroit, MI Regional Center	Mar. 28, 1978
TA-W-4286	Brisbane, CA	San Francisco, CA Regional Center.	Dec. 24, 1977
TA-W-4296	Long Island City, NY	Metro NY Regional Center	Oct. 30, 1977
TA-W-4300	San Antonio, TX	San Antonio-Houston, TX Regional Center.	Oct. 7, 1978
TA-W-4301	Houston, TX	San Antonio-Houston, TX Regional Center.	Oct. 7, 1978
TA-W-4321	West Babylon, NY	Metro NY Regional Center	May 24, 1978
TA-W-4350	Rosemont, IL	Chicago, IL Regional Center	Dec. 24, 1977

[FR Doc. 79-1391 Filed 1-18-79; 8:45 am]

[4510-28-M]

Office of the Secretary

[TA-W-3563]

AMAX SPECIALTY METALS CORP., AKRON, N.Y.

Negative Determination Regarding Application for Reconsideration

On December 23, 1978, the petitioner requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance in the case of former workers of Amax Specialty Metals Corporation's plant at Akron, New York. The determination was published in the FEDERAL REGISTER on December 8, 1978. (43 FR 57674).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears, on the basis of facts not previously considered, that the determination complained of was erroneous.

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner cited new evidence that Amax sold zirconium to customers in France, England, Japan and Canada and feels that foreign customers will fabricate articles for reentry back into the United States from the subject firm's exported zirconium.

The Department learned that the subject firm, a raw material supplier, sold small amounts of zirconium ingots and scrap to France after production ceased in April 1978. Lesser amounts of zirconium ingots were sold to Canada, England and Japan. The impact of increased or decreased export sales is not relevant to the certification test of Section 222 of the Trade Act of 1974, whether increased imports of articles like or directly competitive with articles produced by the petitioning workers can be regarded as contributing importantly to employment and sales or production declines. Furthermore, imported fabricated zirconium, even when fabricated from exported zirconium ingots and scrap, would not be an article that is "like or directly competitive with" the zirconium metal produced by Amax.

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. the application is, therefore, denied.

Signed at Washington, D.C., this 12th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-1846 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4184]

AVTEX FIBERS, INC., FRONT ROYAL, VA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4184: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 20, 1978 in response to a worker petition received on September 18, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing rayon tire and industrial yarn and rayon staple fiber.

The Notice of Investigation was published in the FEDERAL REGISTER on October 31, 1978 (43 FR 50758). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of AVTEX Fibers, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of rayon and acetate staple fibers and yarns increased from 69 million pounds in 1976 to 82 million pounds in 1977. Imports declined from 61 million pounds in the first three quarters of 1977 to 57 million pounds in the like quarters of 1978. The ratio of imports to domestic production increased from 7.8 percent in 1976 to 11.7 percent in 1977.

The Department conducted a survey of the principal customers for which AVTEX Fibers, Inc. supplied rayon staple fiber for in 1977. The survey revealed that major customers decreased their purchases of rayon staple fiber from the subject firm and increased purchases of imported rayon staple fiber in 1977 compared to 1976. This survey is from TA-W-2645, AVTEX's Nitro, West Virginia plant. Customers of rayon staple fiber for both Nitro and Front Royal are the same. Workers at the Nitro plant were certified eligible to apply for Trade Adjustment Assistance on May 9, 1978.

The Department conducted an additional survey of the principal customers AVTEX Fibers, Incorporated supplied rayon tire and industrial yarn in 1977 and 1978. Customers representing a significant portion of the subject firms sales in 1977 decreased purchases of rayon tire and industrial yarn from the subject firm and increased purchases of imported rayon tire and industrial yarn in the first three quarters of 1978 compared to the like quarters of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with rayon staple fiber and rayon tire and industrial yarn produced at AVTEX Fibers, Inc., Front Royal, Va. contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Front Royal, Virginia plant of AVTEX Fibers, Incorporated engaged in employment related to the production of rayon staple fiber and rayon tire and industrial yarn who became totally or partially separated from employment on or after March 5, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-1847 Filed 1-18-79; 8:45 am]

[4510-28]

[TA-W-4277]

BROCKTON SOLE AND PLASTICS CO., WINCHESTER, TENN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4277: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 20, 1978 in response to a worker petition received on October 18, 1978 which was filed on behalf of workers and former workers producing heel bases, soles and shanks for shoes and boots at the Winchester, Tennessee plant of Brockton Sole and Plastics Company. The investigation revealed that the plant also produces rands.

The Notice of Investigation was published in the FEDERAL REGISTER on October 31, 1978 (43 FR 50758-50759). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Brockton Sole and Plastics, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Total company sales and production of each product, heel bases, steel shanks and rands, increased in the fourth quarter of 1977 compared with the same period of 1976 and in the first nine months of 1978 compared with the same period of 1977. Although sales of unit soles were down in 1977, average employment in that year was higher than in 1976.

The Department conducted a customer survey for unit soles. The survey indicated that in 1978 decreased purchases of unit soles from Brockton Shoe and Plastics Company were not associated with increased customer reliance on foreign sources.

CONCLUSION

After careful review, I determine that all workers of the Winchester, Tennessee, plant of Brockton Sole and Plastics Company are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-1848 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4380]

COMET MANUFACTURING CO., PHILADELPHIA, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4380: investigation regarding certitication of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 14, 1978 in response to a worker petition received on November 9, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing men's swimwear and sportswear and some ladies' blouses and skirts at Comet Manufacturing Company, Philadelphia, Pennsylvania. The investigation revealed that the plant primarily produces men's swimwear and men's robes, and a limited number of other items, such as terry cloth jackets and men's swimwear ensembles.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55013). No public hearing was requested and none was held.

The determination was based upon informaton obtained principally from officials of Comet Manufacturing Company, its manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Production of men's swimwear and men's robes, in both quantity and value, increased at Comet Manufacturing Company in 1977 compared with 1976 and in the first eleven months of 1978 compared with the same period in 1977. Production and sales are equivalent at Comet.

CONCLUSION

After careful review, I determine that all workers of Comet Manufacturing Company, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-1849 Filed 1-18-79; 8:45 am]

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[4510-28-M]

[TA-W-4515]

CONSOLIDATED METALS CORP., DOVER, N.J.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 14, 1978 in response to a worker petition received on December 12, 1978 which was filed on behalf of workers and former workers producing welded austinetic stainless steel pipe at the Dover, New Jersey plant of Consolidated Metals Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on December 26, 1978 (43 FR 60243). No public hearing was requested and none was held.

The petitioner requested withdrawal of the petition in a letter. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C., this 11th day of January 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-1850 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4466]

DEANNA DEE, INC., LOS ANGELES, CALIF.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4466: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 6, 1978 in response to a worker petition received on November 27, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's coats at Deanna Dee, Incorporated, Los Angeles, California. The investigation revealed that Deanna Dee manufactures wool and cahsmere women's coats.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59165-66). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Deanna Dee, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Evidence developed during the course of the investigation indicated that sales and production did not decrease. Sales of women's coats in dollars, adjusted by utilizing the wholesale price index for women's apparel, increased in 1977 compared to 1976 and increased in the first eleven months of 1978 compared to the same period in 1977.

CONCLUSION

After careful review, I determine that all workers of Deanna Dee, Incorporated, Los Angeles, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-1851 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4368]

DOWNEN ZIER KNITS, INC., ROCKVILLE CENTER, LONG ISLAND, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4368: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 13, 1978 in response to a worker petition received on November 6, 1978 which was filed on behalf of workers and former workers producing knit and finished fabric at the Rockville Center, Long Island, New York plant of Downen Zier Knits, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55012-13). No public hearing was requested and none was held.

The determination was based upon information obtained principally from the Accountant for the Trustee in Bankruptcy for Downen Zier, the company's customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Downen Zier Knits, Rockville Center, Long Island, New York produced and finished knit fabrics. The petition alleges that increased imports of apparel adversely affected production and employment at Downen Zier Knits. Imported apparel can not be considered to be like or directly competitive with finished fabrics. Imports of finished fabrics must be considered in determining import injury to workers producing finished knit fabrics.

Imports of finished fabric declined from 464 million square yards in 1976 to 453 million square yards in 1977 and increased from 341 million square yards in the first nine months of 1977 to 386 million square yards in the first nine months of 1978. The ratio of imports to domestic production of finished fabric has been less than 2 percent in each of the past four years.

Most of the customers surveyed, who accounted for the bulk of Downen Zier's business, did not purchase any imported finished fabric from 1976 through October 1978.

CONCLUSION

After careful review, I determine that all workers of Downen Zier Knits, Inc., Rockville Center, Long Island, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-1852 Filed 1-18-79; 8:45 am]

[4510-28]

[TA-W-4381]

FAG BEARINGS CORP., STAMFORD, CONN.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4381: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 14, 1978 in response to a worker petition received on November 14, 1978 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing base bearings at the Stamford, Connecticut of FAG Bearings Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55013). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of FAG Bearings Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

From 1976 to 1977 imports of ball bearings increased in quantity from 111.9 million to 127.9 million. the ratio of imports to domestic production increased from 45.6 percent to 49.2 percent. The ratio of imports to domestic consumption increased from 33.6 percent to 34.9 percent. For the first nine months of 1978 compared to the same period of 1977 imports increased from 97.1 million to 138.4 million. The ratio of imports to domestic production increased from 49.8 percent to 66.2 percent. Imports in relation to U.S. consumption increased from 35 percent to 42.9 percent.

The company has formally announced that the Stamford plant will be permanently closed by the end of 1979. Company imports of ball bearings in the range of sizes produced at the Stamford plant increased from 1977 to 1978 and will totally replace domestic production by the end of 1979.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ball bearings produced at the Stamford, Connecticut plant of the FAG Bearing Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of FAG Bearings Corporation, Stamford, Connecticut who became totally or partially separated from employment on or after March 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-1853 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4250]

GRUNART, INC., PATERSON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4250: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 10, 1978 in response to a worker petition received on October 2, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at Grunart, Incorporated, Paterson, New Jersey. The investigation revealed that most of production is tops and skirts.

The Notice of Investigation was published in the FEDERAL REGISTER on October 20, 1978 (43 FR 49061). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Grunart, Incorporated, its manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's skirts increased from 442,000 dozen in the first nine months of 1977 to 1,068,000 dozen in the first nine months of 1978. U.S. imports of women's, misses' and children's blouses and shirts increased from 30,273,000 dozen in 1976 to 30,849,000 dozen in 1977, and from 24,036,000 dozen in the first nine months of 1977 to 28,505,000 dozen in the first nine months of 1978.

Grunart is a contractor producing junior sportswear for a single manufacturer. This manufacturer is experiencing declining sales in the current fiscal year (year ending January 31, 1979). The Department surveyed some of this manufacturer's customers. Several of the respondents reported that they reduced purchases from the manufacturer and increased purchases of imports in 1977 and the first nine months of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' tops and skirts produced at Grunart, Incorporated, Paterson, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Grunart, Incorporated, Paterson, New Jersey who became totally or partially separated from employment on or after September 26, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-1854 Filed 1-18-79; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened

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total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 29, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 29, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 10th day of January 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: (Union/workers or former workers of)—	Location	Date received	Date of petition	Petition No.	Articles produced
Advent Corporation (workers)	Cambridge, Mass.	1/3/79	12/20/78	TA-W-4,640	speakers for stereo, audio & video systems
American & Efird Mills, Inc., Spun Fibers Division (workers).	Lenoir, North Carolina	1/8/79	1/5/79	TA-W-4,641	long & short staple, both of synthetic yarns
American Felt & Filter, Glenville Station (ACTWU).	Greenwich, Conn.	1/5/79	1/2/79	TA-W-4,642	industrial felt products
Armstrong Rubber Company, Pacific Coast Division (URW).	Hanford, California	1/8/79	1/3/79	TA-W-4,643	radial & bias-belted passengers cars, replacement cars, replacement tires & camper & pickup trucks replacement tires
Arvin Industries, Inc. (I.A.M. & A.W.).	Princeton, Kentucky	1/2/79	12/20/78	TA-W-4,644	AM-FM stereo compact systems
Beacon Garment Company, Inc., (workers).	Fall River, Mass.	1/4/79	1/2/79	TA-W-4,645	ladies' dresses & sportswear
Bonanza Coal Company, Inc. (U.M.W.A.).	Lexington, Kentucky	1/2/78	12/13/78	TA-W-4,646	mining of coal
Mercer Dress (workers)	Burgin, Kentucky	1/3/79	12/29/78	TA-W-4,647	ladies' sportswear, suits & dresses
Monroe Auto Equipment Company (UAW).	Hartwell, Georgia	1/3/79	12/12/78	TA-W-4,648	automobile shock absorbers
Ronald Coat Company (ILGWU)	Baltimore, Maryland	1/2/79	12/29/78	TA-W-4,649	ladies' cloth coats
Slab Fork Coal Co. Slab Fork #10 (U.M.W.A.).	Raleigh County, West Virginia.	12/18/78	12/13/78	TA-W-4,650	mining of coal
Slab Fork Coal Co. Slab Fork #8 (U.M.W.A.).	Raleigh County, West Virginia.	12/18/78	12/13/78	TA-W-4,651	mining of coal
Slab Fork Coal Co. Preparation Plant #1 (U.M.W.A.).	Raleigh County, West Virginia.	12/18/78	12/13/78	TA-W-4,652	cleaning of coal
Slab Fork Coal Co. Preparation Plant #2 (U.M.W.A.).	Raleigh County, West Virginia.	12/18/78	12/13/78	TA-W-4,653	cleaning of coal
Slab Fork Coal Co. FlabFork-Gastin (U.M.W.A.).	Wyoming County, West Virginia.	12/18/78	12/13/78	TA-W-4,654	mining of coal
Stouffer's Management Food Service, Inc. (workers).	Cleveland, Ohio	1/2/79	12/7/78	TA-W-4,655	prepared food for Youngstown Sheet & Tube cafeteria
Suz-ETTA Fashions, Inc. (workers)	Jersey City, New Jersey	1/5/79	12/29/78	TA-W-4,656	women's coats, pants suits, & jackets

Signed at Washington, D.C. this 11th day of January 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-1845 Filed 1-18-79; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 29, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 29, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Westmoreland Coal Co., Winding Gulf Division, Eccles No. 6 Mine (U.M.W.A.).	Beckley, West Virginia	12/18/78	12/13/78	TA-W-4,657	mining of coal
Westmoreland Coal Co., Winding Gulf Division, Eccles No. 5 Mine (U.M.W.A.).	Beckley, West Virginia	12/18/78	12/13/78	TA-W-4,658	mining of coal
Westmoreland Coal Co., Winding Gulf Division, Winding Gulf No. 4 Mine (U.M.W.A.).	Beckley, West Virginia	12/18/78	12/13/78	TA-W-4,659	mining of coal
Westmoreland Coal Co., Winding Gulf Division, Macalpin Mine (U.M.W.A.).	Beckley, West Virginia	12/18/78	12/13/78	TA-W-4,660	mining of coal
Westmoreland Coal Co., Winding Gulf Division, East Gulf Mine (U.M.W.A.).	Beckley, West Virginia	12/18/78	12/13/78	TA-W-4,661	mining of coal
Westmoreland Coal Co., Winding Gulf Division, Eccles Preparation Plant (U.M.W.A.).	Beckley, West Virginia	12/18/78	12/13/78	TA-W-4,662	cleaning of coal
Westmoreland Coal Co., Winding Gulf Division, East Prescott Preparation Plant (U.M.W.A.).	Beckley, West Virginia	12/18/78	12/13/78	TA-W-4,663	cleaning of coal
Westmoreland Coal Co., Stonega Division, Bullit Mine (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,664	mining of coal
Westmoreland Coal Co., Stonega Division, Derby No. 4 Mine (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,665	mining of coal
Westmoreland Coal Co., Stonega Division, Derby No. 5 Mine (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,666	mining of coal
Westmoreland Coal Co., Stonega Division, Armo Mine (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,667	mining of coal
Westmoreland Coal Co., Stonega Division, Prescott No. 1 Mine (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,668	mining of coal
Westmoreland Coal Co., Stonega Division, Prescott No. 2 Mine (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,669	mining of coal
Westmoreland Coal Co., Stonega Division, Prescott CBA Mine (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,670	mining of coal
Westmoreland Coal Co., Stonega Division, Osaka No. 2 (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,671	mining of coal
Westmoreland Coal Co., Stonega Division, Wentz No. 1 (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,672	mining of coal
Westmoreland Coal Co., Stonega Division, Wentz No. 2 (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,673	mining of coal
Westmoreland Coal Co., Stonega Division, Wentz B. Portal Mine (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,674	mining of coal
Westmoreland Coal Co., Stonega Division, Time Branch No. 1 (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,675	mining of coal
Westmoreland Coal Co., Stonega Division, Time Branch No. 2 (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,676	mining of coal
Westmoreland Coal Co., Stonega Division, Holton Marker Mine (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,677	mining of coal
Westmoreland Coal Co., Stonega Division, Holton Taggard Mine (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,678	mining of coal
Westmoreland Coal Co., Stonega Division, Bullit Preparation Plant (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,679	cleaning of coal
Westmoreland Coal Co., Stonega Division, Wendz Preparation Plant (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,680	cleaning of coal
Westmoreland Coal Co., Stonega Division, Time Branch Preparation Plant (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,681	cleaning of coal
Westmoreland Coal Co., Stonega Division, Prescott Preparation Plant (U.M.W.A.).	Big Stone Gap, Virginia	12/18/78	12/13/78	TA-W-4,682	cleaning of coal
Westmoreland Coal Co., Hampton Division, Ferrell Mine (U.M.W.A.).	Clothier, West Virginia	12/18/78	12/13/78	TA-W-4,683	mining of coal
Westmoreland Coal Co., Hampton Division, No. 3 Mine (U.M.W.A.).	Clothier, West Virginia	12/18/78	12/13/78	TA-W-4,684	mining of coal
Westmoreland Coal Co., Hampton Division, No. 6 Mine (U.M.W.A.).	Clothier, West Virginia	12/18/78	12/13/78	TA-W-4,685	mining of coal
Westmoreland Coal Co., Hampton Division, Ferrell Preparation Plant (U.M.W.A.).	Clothier, West Virginia	12/18/78	12/13/78	TA-W-4,686	cleaning of coal
Westmoreland Coal Co., Hampton Division, No. 3 Preparation Plant (U.M.W.A.).	Clothier, West Virginia	12/18/78	12/13/78	TA-W-4,687	cleaning of coal
Westmoreland Coal Co., Hampton Division, No. 6 Preparation Plant (U.M.W.A.).	Clothier, West Virginia	12/18/78	12/13/78	TA-W-4,688	cleaning of coal
Westmoreland Coal Co., Imperial Division, No. 7 Mine (U.M.W.A.).	Quinwood, West Virginia	12/18/78	12/13/78	TA-W-4,689	mining of coal

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Westmoreland Coal Co., Imperial Division, No. 2 Mine (U.M.W.A.).	Quinwood, West Virginia..	12/18/78	12/13/78	TA-W-4,690	mining of coal
Westmoreland Coal Co., Imperial Division, No. 8 Mine (U.M.W.A.).	Quinwood, West Virginia..	12/18/78	12/13/78	TA-W-4,691	mining of coal
Westmoreland Coal Co., Imperial Division, No. 29 Mine (U.M.W.A.).	Quinwood, West Virginia..	12/18/78	12/13/78	TA-W-4,692	mining of coal
Westmoreland Coal Co., Imperial Division, Carl Preparation Plant (U.M.W.A.).	Quinwood, West Virginia..	12/18/78	12/13/78	TA-W-4,693	cleaning of coal
Westmoreland Coal Co., Imperial Division, Clifftob Preparation Plant (U.M.W.A.).	Quinwood, West Virginia..	12/18/78	12/13/78	TA-W-4,694	cleaning of coal

[FR Doc. 79-1869 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4261]

JERSEY FASHIONS, INC., JERSEY CITY, N.J.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4261: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 16, 1978 in response to a worker petition received on October 4, 1978 which was filed on behalf of workers and former workers cutting ladies' and girls' coats as Jersey Fashions Inc., Jersey City, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on October 27, 1978 (43 FR 50268-70). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Jersey Fashions, Inc., its manufacturers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With respect to workers in the warehousing and shipping departments, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with those produced by the firm or appropriate subdivision have contributed importantly to the total or partial separations, or threat thereof, and to the decline in sales and/or production.

Evidence developed during the course of the Department's investigation revealed that Jersey Fashions, Inc. warehouses and ships both domestically produced coats and imported coats for the manufacturer with which it is affiliated. An increase in imports by the affiliated manufacturer would result in increased income for the warehouse and shipping departments.

Futhermore, the average number of workers per week increased every quarter from the first quarter of 1977 through the third quarter of 1978 compared to the same quarter of the previous year. Fluctuations in employment from quarter to quarter are attributable to seasonal factors.

With regard to workers in the cutting departments fo Jersey Fashions, Inc. it is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's coats and jackets increased from 2,252 thousand dozens in 1976 to 2,723 thousand dozens in 1977. In the first three quarters of 1978 imports decreases slightly to 1,906 thousand dozens compared to 2,081 thousand dozens in the same period of 1977. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The manufacturer with which Jersey Fashions is affiliated decreased contract work with the subject firm in fiscal year 1978 (May 1977 through April 1978) compared to fiscal year 1977 and increased purchases of imported ladies' and girls' coats.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's and girls' coats produced at Jersey Fashions, Inc., Jersey City, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of the cutting departments of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Jersey Fashions, Inc., Jersey City, New Jersey engaged in employment related to the cutting of women's and girls' coats who became totally or partially separated from employment on or after October 2, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that workers engaged in employment related to the warehousing and shipping of women's and girls' coats at Jersey Fashions, Inc., Jersey City, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-1855 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4228]

THE LAMSON & SESSIONS CO., BEDFORD HEIGHTS, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4228: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was inititated on September 29, 1978 in response to a worker petition received on September 25, 1978 which was filed on behalf of workers and former workers producing threaded screws and nuts at the Bedford Heights, Ohio plant of the Lamson and Sessions Company. The investigation revealed that the plant produced only specialty threaded screws.

The Notice of Investigation was published in the FEDERAL REGISTER on October 17, 1978 (43 FR 44795-44796). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Lamson and Sessions Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the criteria have been met.

U.S. imports of bolts and large screws increased from 474,084 thousand pounds in 1976 to 491,140 thousand pounds in 1977 and increased from 255,849 thousand pounds in the first six months of 1977 to 287,314 thousand pounds in the first six months of 1978. The ratio of imports to domestic production increased from 53.8 percent in 1976 to 54.7 percent in 1977 and increased from 53.6 percent in the first six months of 1977 to 60.7 percent in the first six months of 1978.

A Departmental survey of the customers of Lamson and Sessions Company revealed that some customers reduced purchases from the subject firm and increased purchases of imported specialty threaded screws in 1977 compared to 1976 and in the first nine months of 1978 compared to the first nine months of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with specialty threaded screws produced at the Bedford Heights, Ohio plant of Lamson and Session Company contributed importantly to the decline in sales and production and to the separation of workers at that facility. In accordance with the provisions of the Act, I make the following certification:

All workers of the Bedford Heights, Ohio plant of Lamson and Sessions Company who became totally or partially separated from employment on or after June 24, 1978 be certified eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-1856 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4480]

LEVI STRAUSS & CO., LUBBOCK, TEX.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4480: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 6, 1978 in response to a worker petition received on December 4, 1978 which was filed on behalf of workers and former workers producing men's jeans at the Lubbock, Texas plant of Levi Strauss & Company.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59165-66). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Levi Strauss & Company, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's and boys' woven cotton and man-made jeans and dungarees increased from 14 million pairs in 1976 to 23 million pairs in 1977 and from 16.7 million pairs in the first nine months of 1977 to 24.8 million pairs in the first nine months of 1978.

Customers who reduced purchases of jeans from Levi Strauss were surveyed. The survey revealed that customers increased purchases of imported jeans in the first six months of 1978 compared to the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's jeans produced by Levi Strauss & Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of the Lubbock, Texas plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Lubbock, Texas plant of Levi Strauss & Company who became totally or partially separated from employment on or after February 26, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-1857 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4492]

LEWNER FASHIONS, LTD., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4492: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 8, 1978 in response to a worker petition received on December 4, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing ladies' leather and suede coats at Lewner Fashions, Ltd., New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59179-59180). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Lewner Fashions, its major customer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's, women's and children's leather coats and jackets increased absolutely in 1977 from 1976 and in January-September 1978 compared to the same period in 1977.

Imports of coats by Lewner's major customer increased in 1977 from 1976 and in January-July 1978 from the same period in 1977 while purchases

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from Lewner decreased in the same periods.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' leather and suede coats produced at Lewner Fashions, Ltd., New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Lewner Fashions, Ltd., New York, New York who became totally or partially separated from employment on or after November 28, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-1858 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4039]

MARSHAL RAY CORP., TROY, N.Y.

Revised Determination of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 and in accordance with Section 223(a) of such Act, on November 7, 1978 the Department of Labor issued a Notice of Negative Determination of Eligibility to Apply for Adjustment Assistance applicable to workers and former workers of Marshall Ray Corporation, Troy, New York.

The Notice of Negative Determination was published in the FEDERAL REGISTER on November 17, 1978 (43 FR 53860).

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry on behalf of workers and former workers who were separated from Marshall Ray Corporation. Further investigation revealed that all of the group eligibility requirements of Section 222 of the Act have been met.

Imports of men's and boys' tailored dress coats and sportcoats increased from 2,567,000 units in the first six months of 1977 to 3,237,000 units in the same period of 1978.

The Department conducted a survey of customers of Marshall Ray. The survey revealed that some customers decreased purchases from Marshall Ray and increased purchases of imported sportcoats.

CONCLUSION

Based on the additional evidence, a review of the entire record, and in accordance with the provisions of the Act, I have determined that the following certification is hereby made as follows:

All workers at Marshall Ray Corporation, Troy, New York who became totally or partially separated from employment on or after July 27, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-1859 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-3315]

MAVEST, INC. AND MODERN MANUFACTURING CORP., TIMONIUM, MD.

Revised Determination of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 and in accordance with Section 223(a) of such Act, on October 24, 1978 the Department of Labor issued a Notice of Negative Determination of Eligibility to Apply for Adjustment Assistance applicable to workers and former workers of Mavest, Incorporated and Modern Manufacturing Corporation, Timonium, Maryland.

The Notice of Negative Determination was published in the FEDERAL REGISTER on October 31, 1978 (43 FR 50755).

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry on behalf of workers and former workers who were separated from Mavest and Modern Manufacturing. Further investigation revealed that all of the group eligibility requirements of Section 222 of the Act have been met.

Imports of men's and boys' tailored dress coats and sportcoats increased from 2,567,000 units in the first six months of 1977 to 3,237,000 units in the same period of 1978.

The Department conducted a survey of customers of Mavest and Modern Manufacturing. The survey revealed that some customers decreased purchases from Mavest and Modern Manufacturing and increased purchases of imported sportcoats.

CONCLUSION

Based on the additional evidence, a review of the entire record, and in accordance with the provisions of the Act, I have determined that the following certification is hereby made as follows:

All workers at Mavest, Incorporated and Modern Manufacturing Corporation, Timonium, Maryland who became totally or partially separated from employment on or after July 7, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-1860 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4310]

NABISCO, INC., FAIR LAWN, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4310: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 30, 1978 in response to a worker petition received on October 26, 1978 which was filed by the Bakery and Confectionery Workers' International Union of America on behalf of workers and former workers producing cookies and crackers at Nabisco, Inc., Fair Lawn, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on November 7, 1978 (43 FR 51866). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Nabisco, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation revealed that the declines in production and employment at the Fairlawn plant are attributable to the fact that Nabisco, Inc., transferred some of the production of cookies and crackers from its Fair Lawn, New Jersey facility to a modern plant in Richmond, Virginia.

The Richmond facility was opened in 1974. Production at the Richmond plant has increased steadily from year to year since its opening; production at some of the less efficient plants (Fair Lawn, Pittsburgh, and Philadelphia) has been reduced. Productivity figures show that the Richmond plant is much more efficient than the Fair Lawn facility. Nabisco, Inc., is currently upgrading some of the equipment at the Fair Lawn facility.

Sales by Nabisco's Bisquit Division, of which the Fair Lawn facility is a part, have increased in 1977 compared to 1976. Sales increased in the first three quarters of 1978 compared to the like period of 1977. Production by Nabisco's Bisquit Division remained approximately constant in the first three quarters of 1978 compared to the first three quarters of 1977.

CONCLUSION

After careful review, I determine that all workers of Nabisco, Inc., Fair Lawn, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of January 1979.

C. MICHAEL AHO,
Certifying Officer.

[FR Doc. 79-1861 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-3692]

NEW BRUNSWICK CHILDREN'S COAT CO., HIGHLAND PARK, N.J.

Affirmative Determination Regarding Application for Reconsideration

On December 8, 1978, the Central District Council of New Jersey, International Ladies' Garment Workers' Union, AFL-CIO, requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance. This determination was published in the FEDERAL REGISTER on November 17, 1978, (43 FR 53861).

The petitioning union raises one basic issue in the application; namely, that the manufacturer who supplied the New Brunswick Children's Coat Company with orders and material during the base period was approved for trade adjustment assistance.

CONCLUSION

After review of the application, I conclude that this claim of the petitioning union is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 12th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-1862 Filed 1-18-79; 8:45 am]

[4510-26-M]

[TA-W-4312]

PERVEL INDUSTRIES, INC., PLAINFIELD, CONN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4312: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 30, 1978 in response to a worker petition received on October 26, 1978 which was filed on behalf of workers and former workers producing vinyl-coated fabrics at Pervel Industries, Inc., Plainfield, Conn. The investigation revealed that Pervel Industries, Incorporated produced vinyl and urethane-coated fabric, flocked fabrics and printed textiles.

The Notice of Investigation was published in the FEDERAL REGISTER on November 7, 1978 (43 FR 51866). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Pervel Industries, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separation, or threat thereof, and to the absolute decline in sales or production.

Pervel Industries, Incorporated produced coated fabrics, printed textiles and flocked fabric. The petition alleges that increased imports of shoes, handbags and linens have adversely affected sales and production at Pervel Industries, Incorporated.

Imported shoes, handbags and linens cannot be considered to be like or directly competitive with coated fabrics, printed textiles and flocked fabrics. Imports of coated fabrics, printed textiles and flocked fabric must be considered in determinihg injury to workers producing coated fabrics, printed textiles and flocked fabric at Pervel Industries, Incorporated.

The ratio of imports to domestic production and consumption for coated fabrics remained below 5.0 percent during the period from 1974 to 1977.

The Department's survey of customers who purchased coated fabrics from Pervel revealed that customers did not decrease their purchases from Pervel and increase their purchases of imported coated fabrics.

The ratio of imports to domestic production and consumption for finished fabric remained below 2.0 percent from 1974 to 1977.

The Department's survey of customers for whom Pervel printed textiles revealed that customers did not decrease their business with Pervel and increase their business with foreign suppliers of finished fabric.

Industry sources indicate that there are no significant imports of flocked fabrics.

CONCLUSION

After careful review, I determine that all workers of Pervel Industries, Inc., Plainfield, Conn. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration, and Planning.

[FR Doc. 79-1863 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4062]

PUTNAM MANUFACTURING CO., NORTH GROSVENORDALE, CONN.

[TA-W-4079-A]

THE ARROW CO., DIVISION OF CLUETT, PEABODY & CO., INC., EVELETH, MINN.

[TA-W-4112]

MARION DYER, GAFFNEY, S.C.

[TA-W-4180]

GENESCO, INC., FOOTWEAR SECTOR, NASHVILLE, TENN.

Corrections

Due to an administrative error, the following documents should be corrected as follows:

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In the matter of Putnam Manufacturing Company, No. TA-W-4062, in FR Doc. 78-23792 appearing at page 38636 in the FEDERAL REGISTER of August 29, 1978, the date of the petition in the appendix under Putnam Manufacturing Company, No. TA-W-4062 should be corrected to read "August 10, 1978."

In the matter of the Arrow Company, No. TA-W-4079-A in FR Doc. 78-32446 appearing at page 53854 in the FEDERAL REGISTER of November 17, 1978, the last paragraph of that document should read: "Signed at Washington, D.C. this 9th day of November 1978."

In the matter of Marion Dyers, No. TA-W-4112, in FR Doc. 78-31853 appearing at page 52560 in the FEDERAL REGISTER of November 13, 1978, the city in South Carolina, which appears in the heading and the 2nd and 8th paragraphs, should be corrected to read "Gaffney, South Carolina."

In the matter of Genesco, Incorporated, No. TA-W-4180, In FR Doc 78-36160 appearing at page 61044 in the FEDERAL REGISTER of December 29, 1978, the impact date which appears in the Conclusion under TA-W-4180 should be corrected to read "December 28, 1977."

Signed at Washington, D.C., this 12th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-1864 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4449]

ROCKWELL INTERNATIONAL CORP., ADMIRAL SERVICE DIVISION, ROSEMONT, ILL.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 29, 1978 in response to a worker petition received on November 17, 1978 which was filed by the International Brotherhood of Electrical Workers on behalf of workers and former workers providing service repairs for televisions, stereos, refrigerators and freezers at Rockwell International Corporation, Admiral Service Division, Rosemont, Illinois.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56953). No public hearing was requested and none was held.

The petitioning group of workers in this case was included in a determination (TA-W-4350) issued on January 8, 1978 which certified as eligible to apply for adjustment assistance all workers engaged in sales and service of televisions and denied eligibility to all workers engaged in the sales and service of refrigerators and freezers. Since all workers separated, totally or partially, from the Rosemont, Illinois plant of Rockwell International Corporation, Admiral Service Division on or after December 24, 1977 (impact date) and before Januray 28, 1981 (expiration date of the determination) are covered by an existing determination, a new investigation would serve no purpose. Therefore, it is recommended that this investigation be terminated.

Signed at Washington, D.C. this 11th day of January, 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-1865 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4264]

TEXACO, INC., PITTSBURGH DIVISION OFFICE, CORAOPOLIS, PA.

Negative Determination Regarding Application for Reconsideration

On December 4, 1978, the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of all workers of Texaco, Inc., at the Pittsburgh Division Office in Coraopolis, Pennsylvania. The determination was published in the FEDERAL REGISTER on December 8, 1978, (43 FR 57690).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioners ask if imports of petroleum products have increased, then why has their industry suffered and why is it necessary for five of the largest oil companies to go on all allocations due to the shortage of petroleum products.

The Department would make a distinction between crude oil and refined petroleum products such as the various grades of gasoline, kerosene, diesel fuel, jet fuel, aviation gasoline, and fuel oil. The petitioners are not claiming that increased imports of refined products led to their separations but rather that the scarcity of crude oil was responsible. The Trade Act certification test, however, is whether increased imports of an article contributed importantly to worker separations and production or sales declines. Furthermore, increased imports of crude oil promote, rather than inhibit, the employment in marketing since increased crude oil imports enable the company to maintain or increase its domestic production of refined petroleum products which were marketed by the Pittsburgh Division Office of Texaco.

The shortage of refined petroleum products by some oil companies is the result of many factors, chiefly, inadequate refinery capacity, increased demand for winter heating oil, temporary refinery shutdowns and the continued demand for gasoline even in the slower winter driving months.

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 12th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-1866 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4190]

VICKI CLOTHING CO., INC., NEWBURGH, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4190: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 20, 1978 in response to a worker petition received on September 19, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's storm coats at Vicki Clothing Company, Incorporated, Newburgh, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on October 31, 1978 (43 FR 50758). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Vicki Clothing Company, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Evidence developed in the course of the investigation indicated the firm is an apparel contractor whose sales equal production.

Company production increased in the second and third quarters of 1977 compared to the same quarters in 1976, and increased in the first nine months of 1978 compared to the same period of 1977.

The value of company production increased in each quarter, compared to the same quarter in the previous year, from the third quarter of 1977 through the third quarter of 1978.

CONCLUSION

After careful review, I determine that all workers of Vicki Clothing Company, Incorporated, Newburgh, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-1867 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4328]

VICTOR GOLF EQUIPMENT CO., ELYRIA, OHIO

Negative Determination Regarding Eligibility To Apply for Work Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4328: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 2, 1978 in response to a worker petition received on October 27, 1978 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing golf balls and solid balls at Victor Comptometer Corporation, Worthington Golf Ball Plant, Elyria, Ohio. The investigation revealed that the plant primarily produces wound and solid golf balls. The plant is a facility of the Victor Golf Equipment Company which is a division of Victor Comptometer Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on November 13, 1978 (43 FR 52564). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Victor Golf Equipment Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

None of the customers of balls produced by the Elyria plant purchased imported golf balls. Reduced purchases by the customers in the first eleven months of 1978 reflect a general decline in demand for golf balls by those customers.

CONCLUSION

After careful review, I determine that all workers of the Elyria, Ohio plant of the Victor Golf Equipment Company, a division of Victor Comptometer Corproation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-1868 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4361]

BARRY KNITTING MILLS, INC., PHILADELPHIA, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4361: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 13, 1978 in response to a worker petition received on November 6, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers Union on behalf of workers and former workers producing men's and ladies' sweaters at Barry Knitting Mills, Incorporated in Philadelphia, Pennsylvania. The investigation revealed that the plant primarily produces men's sweaters.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55011). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Barry Knitting Mills, Incorporated, its manufacturers, the U.S. Department of Commerce, the U.S International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased from 20.4 million units in 1975 to 26.5 million units in 1976 and to 28.3 million units in 1977. Imports increased to 33.2 million units in the first three quarters of 1978 as compared to 22.6 million units in the first three quarters of 1977.

U.S. imports of women's, misses' and children's sweaters increased from 1975 to 1976. In 1977, imports of sweaters increased by 9.0 percent over the average level of imports for the years 1973 through 1976. The ratio of imports of sweaters to domestic production in 1977 was above the import to domestic production ratio recorded in each year in the 1973 to 1975 time period.

The Department conducted a survey of the customers of Barry Knitting Mills, Incorporated. Customers accounting for a substantial portion of Barry's sales in the first ten months of 1977 reduced purchases of sweaters from Barry and increased purchases of imported sweaters in the first ten months of 1978 compared to the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and ladies' sweaters produced at Barry

Knitting Mills, Incorporated, Philadelphia, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Barry Knitting Mills, Incorporated, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after September 15, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-2047 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4362]

BERGMAN KNITTING MILLS, INC., PHILADELPHIA, PENNSYLVANIA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4362: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 13, 1978 in response to a worker petition received on November 6, 1978 which was filed by the Knitgoods Union, International Ladies Garment Workers' Union on behalf of workers and former workers producing knit sweaters for men, women and boys at Bergman Knitting Mills, Incorporated in Philadelphia, Pennsylvania. The investigation revealed that the plant produces only men's and boys' sweaters.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55012). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Bergman Knitting Mills, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased from 20.4 million units in 1975 to 26.5 million units in 1976 and to 28.3 million units in 1977. Imports increased to 33.2 million units in the first three quarters of 1978 as compared to 22.6 million units in the first three quarters of 1977.

A Departmental survey was conducted with Bergman's major customers to determine whether their anticipated 1979 purchases would be from domestic of foreign sources. Most of the customers surveyed indicated that they currently import men's sweaters and that they are increasing their imports of sweaters. In addition, one of the major manufacturers who contracted sweater production to Bergman was itself affected by imports. The manufacturer had experienced decreasing sales in 1978 compared to 1977. Retailers had decreased their purchases from the manufacturer and had increased purchases of imported sweaters from 1977 to 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and boys' sweaters produced at Bergman Knitting Mills, Incorporated, Philadelphia, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Bergman Knitting Mills, Incorporated, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after August 5, 1978 are eligible to appiy for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-2048 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4363]

CAPITOL KNITTING MILLS, INC., LITTLE FALLS, NEW JERSEY

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4363: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 13, 1978 in response to a worker petition received on November 8, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union of behalf of workers and former workers producing knit sweaters at Capitol Knitting Mills, Incorporated, Little Falls, New Jersey. The investigation revealed that the plant primarily produced men's and women's sweaters and knitted fabric.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55012). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Capitol Knitting Mills, Incorporated its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased from 20.4 million units in 1975 to 26.5 million units in 1976 and to 28.3 million units in 1977. Imports increased to 33.2 million units in the first three quarters of 1978 as compared to 22.6 million units in the first three quarters of 1977.

U.S. imports of women's, misses' and children's sweaters increased both absolutely and relative to domestic production from 1975 to 1976. Imports of sweaters in 1977 were greater than average level of imports for the years 1973 through 1976. The ratio of imports of sweaters to domestic production exceeded 140 percent in 1976 and in 1977. The IP ratio in 1977 was higher than the average IP ratio for the period 1973 through 1976.

U.S. imports of finished fabric (bleached, dyed, and printed) increased in the first three quarters of 1978 compared to the first three quarters of 1977. The ratio of imports to domestic production increased in each year from 1975 through 1977.

In a Departmental survey the customers of Capitol Knitting Mills, Incorporated indicated that they increased their reliance of imported men's and women's sweaters and decreased their purchases from Capitol Knitting Mills, Incorporated during the first eleven months of 1978 compared to the same period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increase of imports of articles like or directly competitive with men's and women's sweaters and knitted fabric produced at Capitol Knitting Mills, Incorporated, Little Falls, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Capitol Knitting Mills, Incorporated, Little Falls, New Jersey who become totally or partially separated from employment on or after June 25, 1978 and before November 20, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-2049 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4391]

CHALFONT MILLS, INC., QUAKERTOWN, PENNSYLVANIA

[TA-W-4391A]

CHALFONT MILLS, INC., NEW YORK, NEW YORK

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4391 and TA-W-4391A: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 16, 1978 in response to a worker petition received on November 14, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing men's and ladies' sweaters at Chalfont Mills, Incorporated, Quakertown, Pennsylvania. The investigation revealed that the plant primarily produced men's sweaters.

The investigation was expanded to include the New York, New York sales office of Chalfont Mills, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55011-55012). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Chalfont Mills, Incorporated, its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased from 20.4 million units in 1975 to 26.5 million units in 1976 and to 28.3 million units in 1977. Imports increased to 33.2 million units in the first three quarters of 1978 as compared to 22.6 million units in the first three quarters of 1977.

A Departmental survey of a major manufacturer that contracted work to Chalfont revealed that this manufacturer substantially increased its purchases of imported men's sweaters and decreased its utilization of Chalfont Mills, Incorporated during the first ten months of 1978 compared to the same period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation; I conclude that increases of imports of articles like or directly competitive with men's sweaters produced at Chalfont Mills, Incorporated, Quakertown, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant and at the New York, New York sales office of Chalfont Mills, Incorporated. In accordance with the provisions of the Act, I make the following certification:

All workers of the Quakertown, Pennsylvania plant and the New York, New York sales office of Chalfont Mills, Incorporated who became totally or partially separated from employment on or after January 14, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-2050 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4366]

DEVON APPAREL, INC., PHILADELPHIA, PENNSYLVANIA

[TA-W-4366a]

DEVON APPAREL, INC., NEW YORK, NEW YORK

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4366 and TA-W-4366a: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 13, 1978 in response to a worker petition received on November 6, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coordinated sportswear: slacks, jackets, vests, sweaters, blouses, skirts, etc. at Devon Apparel, Incorporated in Philadelphia, Pennsylvania. The investigation revealed that the plant also produces women's walking shorts but does not produce vests. The investigation was expanded to include Devon's New York, New York sales office.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55012-3). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Devon Apparel, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales and production of ladies' coordinated sportswear increased at Devon Apparel, Incorporated from 1976 to 1977 and during the first ten months of 1978 compared to the same period of 1977.

CONCLUSION

After careful review, I determine that all workers of the Philadelphia, Pennsylvania facilities and the New York, New York sales office of Devon Apparel, Incorpoated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-2051 Filed 1-18-79 8:45 am]

[4510-28-M]

[TA-W-4145]

FORMAKER FOUNDATIONS, INC., WEST PATERSON, NEW JERSEY

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section. 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4145: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 13, 1978 in response to a worker petition received on September 11, 1978 which was filed on behalf of workers and former workers producing brassieres at Formaker Foundations, Inc., West Paterson, New Jersey. The investigation revealed that the company was closed in December 1977.

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43588). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Formaker Foundations, Incorporated, its customers, The New Jersey Bank, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of brassieres, bralettes, and bandeaux increased from 8.75 million dozen in 1976 to 9.51 million dozen in 1977. The Import/Production ratio (I/P) increased from 51.7 percent in 1976 to 59.3 percent in 1977.

The Department conducted a survey of customers purchasing brassieres from the subject firm during 1976 and 1977. Customers responding to the survey indicated declines in purchases from Formaker Foundations, Incorporated and increased purchases of imported brassieres from 1976 to 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with brassieres produced at Formaker Foundations, Incorporated, West Paterson, New Jersey contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Formaker Foundations, Incorporated, West Paterson, New Jersey engaged in employment related to the production of brassieres who became totally or partially separated from employment on or after September 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-2052 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4422]

GARMENT MAKERS, INC., BROOKLYN, NEW YORK

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4422: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 27, 1978 in response to a worker petition received on November 20, 1978 which was filed on behalf of workers and former workers producing women's coats at Garment Makers, Incorporated, Brooklyn, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Garment Makers, Incorporated, its manfacturers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or sibdivision have decreased absolutely.

Evidence developed during the course of the investigation revealed that company production increased in the fourth quarter of 1977 compared with the same period of 1976 and in 1978 compared with 1977. Production increased in each quarter of 1978 compared with the same quarter of 1977. The subject firm is an apparel contractor; therefore sales and production are equivalent.

CONCLUSION

After careful review, I determine that all workers of Garment Makers, Incorporated, Brooklyn, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of January 1979

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-2053 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4474]

NEW ENGLAND BOBBIN, INC., NASHUA, NEW HAMPSHIRE

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4474: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 6, 1978 in response to a worker petition received on November 29, 1978 which was filed on behalf of workers and former workers producing textile bobbins for weaving at New England Bobbin, Incorporated, Nashua, New Hampshire.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59165-59166). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of New England Bobbin, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

New England Bobbin, Incorporated produced bobbins. The petition alleges that increased imports of textiles and finished wearing apparel affected production and employment at New England Bobbin, Incorporated, Nashua, New Hampshire. Imported textiles and finished apparel can not be considered to be like or directly competitive with bobbins. Imports of bobbins must be considered in determining import injury to workers producing bobbins.

Imports of bobbins are negligible and supply only a very small percentage of the domestic bobbin market. Moreover, demand in general for bobbins has declined as a result of technological change in the textile industry. Shuttle looms using bobbins are now being replaced by imported shuttleless looms which do not require bobbins. In fact, in 1977, the ratio of imports to U.S. production of shuttleless looms was 650 percent. The imported shuttleless looms have proven to be more efficient than the older shuttle looms or domestically produced shuttleless looms.

CONCLUSION

After careful review, I determine that all workers of New England Bobbin, Incorporated, Nashua, New Hampshire are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-2054 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4062]

PUTNAM MANUFACTURING CO., NORTH GROSVENORDALE, CONNECTICUT

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 233 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4062: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 15, 1978 in response to a worker petition received on August 10, 1978 which was filed on behalf of workers and former workers producing children's and some ladies' outerwear at Putnam Manufacturing Company, North Grosvenordale, Connecticut. The investigation revealed that the firm primarily produces children's snowsuits

The Notice of Investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38635). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Putnam Manufacturing Company, its manufacturers, their customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of ski/snow suits and coat/legging sets increased absolutely and relative to domestic production from 1976 to 1977 and increased absolutely in the first nine months of 1978 compared with the same period of 1977.

The Department conducted a survey of customers of children's snowsuits produced by Putnam Manufacturing. The survey indicated that some customers decreased purchases from Putnam Manufacturing and increased purchases of imported children's snowsuits.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with children's snowsuits produced at Putnam Manufacturing Company, North Grosvenordale, Connecticut contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Putnam Manufacturing Company, North Grosvenordale, Connecticut who became totally or partially separated from employment on or after August 10, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-2055 Filed 1-18-79; 8:45 am]

[4510-28-M]

[TA-W-4399]

SAND N' SURF INC., PHILADELPHIA, PENNSYLVANIA

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4399: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 16, 1978 in response to a worker petition received on November 14, 1978 which was filed by the knitgoods Union ILGWU on behalf workers and former workers producing bathrobes and bathing suits for men and women at Sand N' Surf Incorporated, Philadelphia, Pennsylvania. The investigation revealed that the plant produces men's swim trunks and athletic shorts.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55011). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Sand N' Surf, Incorporated, its customers (manufacturers), the Knitgoods Union, the U.S. Department of Commerce, the U.S. international Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of manufacturers which accounted for a major portion of sales of Sand N' Surf. The survey indicated that these manufacturers did not purchase imported garments or use foreign contractors. The manufacturers which decreased orders with Sand N' Surf indicated that total sales increased from 1977 to 1978. Most manufacturers indicated that they had increased contract work with Sand N' Surf.

CONCLUSION

After careful review, I determine that all workers of Sand N' Surf Incorporated, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-2056 Filed 1-18-79; 8:45 am]

V 4 4 - 1 4 JA 19 79 UMI

[4510-28-M]

[TA-W-4415]

SPATOLA BROTHERS SHOE CO., WAYCROSS, GEORGIA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4415: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 21, 1978 in response to a worker petition received on November 17, 1978 which was filed on behalf of workers formerly producing cold cure casuals for women, jogging shoes, and dress shoes for men at the Spatola Brothers Shoe Company, Waycross, Georgia. The investigation revealed that the firm produced men's and women's nonrubber and athletic footwear.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56951-52). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Spatola Brothers Shoe Company, its manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's nonrubber footwear increased from 152.1 million pairs during January—September of 1977 to 160.4 million pairs during January—September of 1978. The ratio of imports to domestic production increased from 131.6 percent in 1976 to 137.3 percent in 1977 and from 143.4 percent during January—September of 1977 to 150.5 percent during January—September of 1978.

U.S. imports of men's nonrubber footwear increased from 62.9 million pairs in 1976 to 63.2 million pairs in 1977. The ratio of imports to domestic production increased from 75.4 percent in 1976 to 78.5 percent in 1977.

U.S. imports of men's and women's athletic footwear increased from 34.7 million pairs in 1976 to 51.4 million pairs in 1977. The ratio of imports to domestic production increased from 343.6 percent in 1976 to 407.6 percent in 1977.

From August 1976 to October 1978, contract work with one manufacturer accounted for virtually all of Spatola Brothers' production. This manufacturer, when contacted by the Department, verfied that it had ceased contract work with Spatola Brother in October 1978. During the period from January to November of 1978 compared to the same period of 1977, the manufacturer had decreased its reliance on domestic sources for footwear and increased its reliance on foreign sources to the extent that imports represented the preponderance of the manufacturer's total footwear sales.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and women's nonrubber and athletic footwear produced at the Spatola Brothers Shoe Company, Waycross, Georgia contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Spatola Brothers Shoe Company, Waycross, Georgia who became totally or partially separated from empioyment on or after May 30, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-2057 Filed 1-18-79; 8:45 am]

[7537-01-M]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

ARCHITECTURE, PLANNING, AND DESIGN ADVISORY PANEL

Renewal

In accordance with the provision of the Federal Advisory Committee Act (Pub. L. 92-463), Section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4) and Paragraph 9 of Office of Management and Budget Circular A-63) notice is hereby given that renewal of the Architecture, Planning and Design Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until January 15, 1981. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: a) applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and to the Library of Congress.

Dated: January 15, 1979.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-1988 Filed 1-18-79; 8:45 am]

[7537-01-M]

DANCE ADVISORY PANEL

Renewal

In accordance with the provision of the Federal Advisory Committee Act (Pub. L. 92-463), Section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4) and Paragraph 9 of Office of Management and Budget Circular A-63) notice is hereby given that renewal of the Dance Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until January 15, 1981. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: a) applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and to the Library of Congress.

Dated: January 15, 1979.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-1989 Filed 1-18-79; 8:45 am]

[7537-01-M]

EXPANSION ARTS ADVISORY PANEL

Renewal

In accordance with the provision of the Federal Advisory Committee Act (Pub. L. 92-463), Section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4) and Paragraph 9 of Office and Management and Budget Circular A-63) notice is hereby given that renewal of the Expansion Arts Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until January 15, 1981. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: a) applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and to the Library of Congress.

Dated: January 15, 1979.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-1990 Filed 1-18-79; 8:45 am]

[7537-01-M]

FEDERAL GRAPHICS EVALUATION ADVISORY PANEL

In accordance with the provision of the Federal Advisory Committee Act (Pub. L. 92-463), Section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4) and Paragraph 9 of Office and Management and Budget Circular A-63) notice is hereby given that renewal of the Federal Graphics Evaluation Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until January 15, 1981. The Committee's objectives and scope of activities include the provision of expert review and advice to Federal Agencies in the improvement of graphics design standards and performance throughout the Federal government. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and to the Library of Congress.

Dated: January 15, 1979.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-1991 Filed 1-18-79; 8:45 am]

[7537-01-M]

LITERATURE ADVISORY PANEL

Renewal

In accordance with the provision of the Federal Advisory Committee Act (Pub. L. 92-463), Section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4) and Paragraph 9 of Office and Management and Budget Circular A-63) notice is hereby given that renewal of the Literature Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until January 15, 1981. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: a) applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and to the Library of Congress.

Dated: January 15, 1979.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-1992 Filed 1-18-79; 8:45 am]

[7537-01-M]

MUSIC ADVISORY PANEL

Notice of Renewal

In accordance with the provision of the Federal Advisory Committee Act (Pub. L. 92-463), Section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4) and Paragraph 9 of Office and Management and Budget Circular A-63) notice is hereby given that renewal of the Music Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of 2 years until January 15, 1981. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: a) applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and to the Library of Congress.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-1993 Filed 1-18-79; 8:45 am]

[7537-01-M]

THEATRE ADVISORY PANEL

Renewal

In accordance with the provision of the Federal Advisory Committee Act (Pub. L. 92-463), Section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959(a)(4) and Paragraph 9 of Office and Management and Budget Circular A-63) notice is hereby given that renewal of the Theatre Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a

period of 2 years until January 15, 1981. The Committee's objectives and scope of activities include the formulation of expert advice and recommendations to the Chairman, National Endowment for the Arts and the National Council on the Arts with respect to: a) applications submitted to the National Endowment for the Arts for Federal grant assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, and b) policies and programs of the National Endowment for the Arts. This Committee shall report to the National Endowment for the Arts, National Foundation on the Arts and the Humanities.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Endowment and to the Library of Congress.

Dated: January 15, 1979.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-1994 Filed 1-18-79; 8:45 am]

[7536-01-M]

National Endowment for the Humanities

HUMANITIES PANEL ADVISORY COMMITTEE

Meeting

JANUARY 10, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street, NW, Washington, D.C. 20506, in room 1134, from 9 a.m. to 5:30 p.m. on February 5, 1979.

The purpose of the meeting is to review the applications submitted to the Research Tools Program of the National Endowment for the Humanities, for projects in the fields of Linguistics and Lexicography beginning June 1, 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, NW, Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 79-2085 Filed 1-18-79; 8:45 am]

[7555-01-M]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR ATMOSPHERIC SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Atmospheric Sciences.
Date: February 1 and 2, 1979.
Time: 9:00 a.m.—5:00 p.m.
Place: Room 543, National Science Foundation, 1800 G. Street, NW., Washington D.C. 20550
Type of meeting: Open.
Contact person: Dr. Alan J. Grobecker, Division Director, Division of Atmospheric Sciences, Room 644, National Science Foundation, Washington, D.C. 20550, telephone (202) 634-1490.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of committee: The Advisory Committee for Atmospheric Sciences provides advice, recommendations, and oversight concerning support for research and research-related activities in the atmospheric sciences area.

Agenda:

February 1, 1979:

0900—Welcome.
0915—Introduction of New Members, Approval of Agenda, Minutes of October 1978 ASAC Meeting, Annual Report of ASAC, 1978.
1000—Discussion of NSF Atmospheric Sciences Division. Funding Priorities.

February 2, 1979:

0900—Discussion of NSF Support of Graduate Students, Postdoctoral Scientists, etc.
1600—Future Activities of the Advisory Committee for Atmospheric Sciences.
1700—Adjourn.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 16, 1979.

Reason for late notice: 5 new members were recently appointed to the Advisory Committee. Due to this, it was difficult to get a date that was acceptable to both the old and new members. Normally, during the regular meeting of the Advisory Committee, future meeting dates are determined.

[FR Doc. 79-2029 Filed 1-18-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON ANTHROPOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Subcommittee on Anthropology of the Advisory Committee for Behavioral and Neural Sciences. (Physical/Archaeology).
Date and time: February 8 and 9, 1979: 9:00 a.m. to 5:00 p.m. each day.
Place: Room 628, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. John E. Yellen, Program Director, Anthropology Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4208.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in physical anthropology/archaeology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 17, 1979.

[FR Doc. 79-2030 Filed 1-18-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON DEVELOPMENTAL BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Developmental Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.
Date and time: February 8, 9, and 10th, 1979 from 9 to 5 each day.
Place: Room 540, National Science Foundation, 1800 G Street, N.W. Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Mary E. Clutter, Program Director, Developmental Biology Program, Room 326, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4314.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in developmental biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 17, 1979.

[FR Doc. 79-2032 Filed 1-18-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON LINGUISTICS

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee of Linguistics of the Advisory Committee for Behavioral and Neural Sciences.
Date and time: February 8 and 9, 1979; 9:00 A.M. to 5:00 P.M. each day.
Place: Room 421, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Paul G. Chapin, Program Director, Linguistics Program Room 320, National Science Foundation, Washington, D.C. 20550, telephone (202) 254-6326.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Linguistics.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The Proposals being reviewed include information of a proprietary or confidential nature, including technical information condering individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 17, 1979.

[FR Doc. 79-2033 Filed 1-18-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON METABOLIC BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announes the following meeting:

Name: Subcommittee on Metabolic Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.
Date and time: February 8 and 9, 1979—9:00 a.m. to 5:00 p.m. each day.
Place: Room 1242, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Elijah B. Romanoff, Program Director, Metabolic Biology Program, Room 331, National Science Foundation, Washington, D.C. 20550, Telephone—(202) 632-4312.
Purpose of Subcommittee: To provide advice and recommendations concerning support for research in Metabolic Biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 17, 1979.

[FR Doc. 79-2031 Filed 1-18-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published December 20, 1978 (43 FR 59448). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the FEDERAL REGISTER approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published approximately 15 days prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the February 1979 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., EST.

SUBCOMMITTEE AND WORKING GROUP MEETINGS

**Salem Nuclear Power Station, Unit No. 2*, January 24, 1979, rescheduled from December 19, 1978, Washington, DC. The Subcommittee will review the application of the Public Service Electric and Gas Company for a license to operate Unit No. 2 of this Station. Notice of this meeting was published December 20, 1978 and January 9, 1979 (43 FR 59448 and 44 FR 2044, respectively). A notice of change of time only, also appears elsewhere in this issue.

**Architect-Engineer Balance of Plant*, January 26, 1979, rescheduled from December 18, 1978, Washington, DC. The Subcommittee will review the Fluor Power Services, Inc. Balance of Plant Standard Safety Analysis Report (BOPSSAR) and its relationship to the Babcock and Wilcox Standard Reference System B-SAR-205 for a preliminary design approval. Notice of this meeting was published December 20, 1978 (43 FR 59448) and January 11, 1979 (44 FR 2439).

**Power and Electrical Systems*, January 31, 1979, Washington, DC. RESCHEDULED for February 28, 1978.

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Notice of this meeting was published December 20, 1978 (43 FR 59448).

**Anticipated Transients without Scram (ATWS)*, January 31, 1979, Washington, DC. The Subcommittee will continue its discussions of vol. 3, NUREG-0460, "Anticipated Transients without Scram for Light-Water Reactors." Notice of this meeting was published January 16, 1979.

**Regulatory Activities*, February 7, 1979, Washington, DC. CANCELLED. Notice of this meeting was published December 20, 1978 (43 FR 59448).

**Plant Arrangements*, February 7, 1979, Washington, DC. RESCHEDULED for March 7, 1979, Washington, DC. Notice of this meeting was published December 20, 1978 (43 FR 59448).

**Evaluation of Licensee Event Reports*, February 7, 1979, Washington, DC. The Subcommittee will meet in Executive Session to plan its review of Licensee Event Reports submitted during the period 1976-1978.

**Procedures and Administration*, February 7, 1979, Washington, DC. The Subcommittee will discuss work assignments of ACRS fellows and appointments of individuals as ACRS fellows.

**Power and Electrical Systems*, February 28, 1979, Washington, DC. Rescheduled from January 31, 1979. The Subcommittee will review the potential adverse interactions through the interconnection of protection and safety systems with reactor control systems on the Westinghouse RESAR-414 design.

**Regulatory Activities*, March 7, 1979, Washington, DC. The Subcommittee will review working papers and future regulatory guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations. Notice of this meeting was published December 20, (43 FR 59448).

**Plant Arrangements*, March 7, 1979 (Tentative), Washington, DC. Rescheduled from February 7, 1979. The Subcommittee will continue its review of NRC Task Action Plan A-17, Systems Interactions in Nuclear Power Plants.

**San Onofre Nuclear Generating Station, Units 2 and 3*, March 21-22, 1979, Los Angeles, CA. The Subcommittee will review the application of the Southern California Edison Company for a license to operate Units 2 and 3 of this Station. Notice of this meeting was published December 20, 1978 (43 FR 59448).

**Palo Verde Nuclear Generating Station, Units 4 and 5*, March 27, 1979, Phoenix, AZ. The Subcommittee will review the application of the Arizona Nuclear Power Company for a permit to construct Units 4 and 5 of this Station. Notice of this meeting was published December 20, 1978 (43 FR 59448).

ACRS FULL COMMITTEE MEETINGS

February 8-10, 1979

A. *Salem Nuclear Generating Station, Unit No. 2—Operating License Review

B. *Fluor Pioneer, Inc. Balance of Plant Standard Safety Analysis Report (BOPSSAR)/Babcock and Wilcox Standard Reference System B-SAR-205—Preliminary Design Approval.

March 8-10, 1979—Agenda to be announced.

April 5-7, 1979—Agenda to be announced.

Dated: January 15, 1979.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 79-1788 Filed 1-18-79; 8:45 am]

[7590-01-M]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE SALEM NUCLEAR POWER STATION

Change

The meeting of the ACRS Subcommittee on the Salem Nuclear Station scheduled to be held on January 24, 1979, in Washington, D.C. will start at 8:30 a.m. instead of 1 p.m. on that date.

Notice of this meeting was published on January 9, 1979 (44 FR 2044). All other matters pertaining to this meeting remain the same as previously announced.

Dated: January 15, 1979.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 79-1787 Filed 1-18-79; 8:45 am]

[7590-01-M]

[Docket No. 40-299]

UNION CARBIDE CORP.

Availability of Draft Environmental Statement for Gas Hills, Wyoming, Uranium Mill

Notice is hereby given that a Draft Environmental Statement has been prepared by the Commission's Office of Nuclear Material Safety and Safeguards related to license renewal for the operation of the Union Carbide Gas Hills Uranium Mill located in Natrona County, Wyoming. The Draft Statement also covers a proposed uranium heap leaching project located about 10 miles from the mill. The Draft Environmental Statement is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555. The Draft Statement is also being made available at the State Clearinghouse, State Planning Coordinator, Office of the Governor, Capitol Building, Cheyenne, Wyoming 82001. Requests for copies of the Draft Environmental Statement (identified as NUREG-0441) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Division of Technical Information and Document Control.

The Applicant's Environmental Report, as supplemented, submitted by Union Carbide Corporation is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on February 14, 1977 (42 FR 9069).

Interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. Comments are due by March 5, 1979. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Fuel Cycle and Material Safety.

Dated at Silver Spring, Maryland, this 9th day of January, 1979.

For The Nuclear Regulatory Commission.

ROSS A. SCARANO,
Section Leader, Uranium Mill Licensing Section, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 79-1551 Filed 1-18-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-280 and 50-281]

VIRGINIA ELECTRIC AND POWER CO.

Proposed Issuance of Amendments to Facility Operating Licenses

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-32 and DPR-37 issued to Virginia Electric and Power Company (the Licensee), for operation of the Surry Power Station, Unit Nos. 1 and 2 located in Surry County, Virginia.

The amendments would revise the provision in the Technical specifications related to a reevaluation of the ECCS using an approved model as required by Order for Modification of License Dated April 7, 1978 for Unit 2 and Exemption dated June 30, 1978 for Unit 1. The ECCS evaluation includes an increase in the steam generator tube plugging levels from 25% to 28% in accordance with the licensee's application for amendment dated December 26, 1978.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By February 20, 1979, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to A. Schwencer: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this FEDERAL REGISTER notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a)(i)-(v) and § 2.714(d).

For further details with respect to this section, see the application for amendment dated December 26, 1978, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Swem Public Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Bethesda, Maryland this 15th day of January, 1979.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch #1, Division of Operating Reactors.

[FR Doc. 79-1995 Filed 1-18-79; 8:45 am]

[7590-01-M]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON ANTICIPATED TRANSIENTS WITHOUT SCRAM (ATWS)

Meeting

The ACRS Subcommittee on Anticipated Transients without Scram (ATWS) will hold an opening meeting on January 31, 1979, in Room 1046, 1717 H Street, N.W., Washington, DC 20555 to continue its discussion of Vol. 3, NUREG-0460, "Anticipated Transients without Scram for Light-Water Reactors."

In accordance with the procedures outlined in the FEDERAL REGISTER on October 4, 1978, (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

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The agenda for subject meeting shall be as follows: *Wednesday, January 31, 1979. 8:30 a.m. until the conclusion of business.*

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, various industries, and their consultants, pertinent to this review. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Thomas G. McCreless, (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555.

Dated: January 9, 1979.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 79-2256 Filed 1-18-79; 10:30 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 10556; 812-4380]

CWC HOUSING INVESTMENT GROUP AND CONTINENTAL WINGATE CO., INC.

Filing of Application for Exemption From All Provisions of the Act

JANUARY 12, 1979.

Notice is hereby given that CWC Housing Investment Group ("Group"), 20 Kilby Street, Boston, Massachusetts 02109, a Massachusetts limited partnership, and its general partner, Continental Wingate Company, Inc. ("General Partner") (collectively, "Applicants"), filed an application on October 20, 1978, and amendments thereto on November 17, 1978, December 29, 1978, and January 12, 1979, pursuant to Section 6(c) of the Investment company Act of 1940 ("Act"), for an order exempting the Group from all provisions of the Act and rules thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Group was formed under the Massachusetts Limited Partnership Act on June 28, 1978. The Group is designed to implement the policy of Title IX of the Housing and Urban Development Act of 1968 that private investors be provided a means and an incentive to acquire equity interests in, and thereby provide equity financing for, government-assisted rental housing projects for low and moderate income persons.

The Group will operate as a "two-tier" partnership, i.e., the Group, a limited partnership, will invest in other limited partnerships (hereinafter referred to as "operating partnerships") which, in turn, will be engaged in the development, rehabilitation, ownership and operation of housing for low and moderate income persons. The Group is organized as a limited partnership because a limited partnership is the only form of organization which provides investors with both (1) the ability to claim on their individual tax returns the deductions, losses, credits, and other tax items arising from the rehabilitation and operation of the real estate projects, and (2) liability limited to their capital investment.

One of the Group's primary objectives is to pass through to its limited partners net losses which may be used to offset other taxable income. Rehabilitated governmentally-assisted housing projects, according to Applicants, generally incur substantial net losses, for tax purposes, particularly in their early years.

Applicants state that the Group has filed and amended a registration statement under the Securities Act of 1933 covering the sale of 350 to 1,090 units ("Units"), each consisting of one limited partnership interest. These interests are to be sold only to qualified investors with a minimum subscription of one Unit costing $5,000. The total capital of the Group, assuming all Units are sold, will be $5,450,000 before deductions for organization expenses, sales commissions, and expenses of the offering. This amount includes $75,000 from the initial Limited Partner, which is an affiliate of the General Partner, and $5,375,000 from public investors. The Group will pay selling commissions of up to $450 per Unit. The Group will have a minimum of $1,497,500 and a maximum of $4,796,000 available for investment after deductions for sales commissions and offering expenses.

Applicants further state that sales of Units to the public are proposed to be effected through Shearson Hayden Stone Inc., Continental Wingate Capital Corporation ("CWCC"), and other registered broker-dealers. CWCC is a wholly owned subsidiary of the General Partner. No subscription for units will be accepted unless it is approved by the General Partner, which approval shall be conditioned upon representations as to suitability of the investment for each subscriber. Units will be offered and sold only to investors who represent, among other things, (1) that the Federal income tax bracket at which a substantial portion of losses from this investment will be applied is at least 50% (46% for corporations) and is expected to continue to be at such level for six years; (2) that they have a net worth of at least $50,000 (exclusive of home, furnishings, and automobiles); and (3) that they are aware of the risks involved in investing in the Group. Each transferee of Units must, as a condition to being admitted to the Group as a substituted Limited Partner, represent that he meets the same suitability standards as those applicable to original investors.

Applicants state that the Group will be controlled by the General Partner pursuant to the partnership agreement. However, the partnership agreement provides that a majority in interest of the Limited Partners may dissolve the Partnership, amend the partnership agreement, and subject to (a) the receipt of an opinion of counsel that the Group will not (i) lose its status as a Limited Partnership under Massachusetts law or (ii) be treated for Federal income tax purposes as an association taxable as a corporation, and (b) the receipt of required government consents, remove the General Partner and/or elect substitute general partners. The opinion as to loss of status as a limited partnership under Massachusetts law will not be required to remove the General Partner for a material violation of the Group's partnership agreement. Also under the partnership agreement, each Limited Partner is entitled to review the records of the Group at reasonable times, including the register of the names, addresses, and number of Units owned by each other Limited Partner.

The Group's capital contributions to the operating partnerships will be made in stages and will be contingent, in each case, upon the occurrence of certain events, such as closing of construction, financing arrangements, completion of construction, receipts of certificates of occupancy, achievement of certain occupancy levels, and closing of permanent financing arrangements.

Because the Group will invest only in limited partnership interests, both the Group and the General Partner will have only limited control over the management of the operating partnerships. However, the general partners of each operating partnership are Gerald Schuster and A. Carleton Dukess, who, in turn, are directors, officers and principal shareholders of the General Partner. Each operating partnership agreement provides for (1) the right of the Group to approve or disapprove the sale or refinancing of its project (until January 1, 1999, the requirement for such consent will exist in all cases; after that date, such consent will not be required if the net proceeds will be sufficient to pay off all Partnership debt other than Mortgage Loans and to return the Group's capital contributions, less all prior cash distributions from cash flow or otherwise); and (2) upon the occurrence of certain events, the right to demand the resignation of the general partners.

Applicants state the General Partner and its affiliates will receive substantial reimbursements, fees and other compensation from the proceeds of the sale of the Units and from operations of the operating partnerships.

In addition, the General Partner will be entitled to receive 1% of the Group's profits, losses, and net cash receipts, and upon liquidation of the Group, 1% of the net proceeds available for distribution after return to the Limited Partners of their cash contributions to the Group plus a cumulative six percent annual return on such contributions minus any prior cash flow contributions. The general partners of the operating partnerships will be entitled to receive a 3% interest in the profits, losses, and net cash receipts from each operating partnership, and upon liquidation of any operating partnership, 14% of the net proceeds available for distribution after return to the Group of its capital contribution to such operating partnership plus a cumulative six percent annual return on such contributions, minus any prior cash distributions to the Group from such operating partnership's cash flow.

Applicants further state that in the initial period, the General Partner will be paid a builders and developers fee and will be reimbursed for costs not funded by project mortgage proceeds, building fees to general contractors, and anticipated GNMA discounts. Moreover, during the Group's operational period, affiliates of the General Partner will receive in consideration for their management services, a five year rent-up and additional management fee. The General Partner believes and represents that the reimbursements, compensation, fees and expenses receivable by it and its affiliates from the Group and/or the operating partnerships in which the Group will invest are reasonable, fair, and do not involve overreaching, and are competitive from the point of view of the Group, the operating partnerships in which the Group will invest and investors in the Group.

The Group states that it will file with the Commission pursuant to Section 15(d) of the Securities Exchange Act of 1934 all required annual reports, quarterly reports, and current reports on Forms 10-K, 10-Q and 8-K, as well as any other reports required by such Act. The General Partner will also distribute to each Limited Partner within 75 days after the end of each fiscal year an annual report containing a balance sheet, statement of income, partner's equity, and changes in financial position for such fiscal year. Such annual report shall include a report of the Group's activities during the year and a cash flow statement setting forth distributions to Limited Partners and specifying the specific sources of such cash. Within 75 days of the close of each fiscal year, each Limited Partner also will be sent a schedule containing all information from the Group necessary for the preparation of his federal and state income tax returns.

The General Partner expressly recognizes that it has a fiduciary obligation to the Group and will act in accordance with such fiduciary obligation in publicly or privately offering and selling limited partnership interests in other limited partnerships which it may sponsor. The General Partner will also act in accordance with such fiduciary obligations to the Group in choosing which operating partnerships the Group will invest in, if it does not invest in all of the operating partnerships described in the Group's prospectus.

Applicants maintain that the Group is not an investment company as defined in the Act, but request that, in any event, the Group be exempted from all provisions of the Act pursuant to Section 6(c) thereof. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of the Act and rule thereunder if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants contend that the exemption of the Group from the provisions of the Act is both necessary and appropriate in the public interest. It is asserted that the form of organization of the Group, i.e., a limited partnership, which is necessary to limit the liability of private investors investing in subsidized and low and moderate income housing, is incompatible with the regulatory framework of the Act. Applicants contend that to discourage the two-tier limited partnership arrangement by application of the Act would eliminate the primary means of attracting equity capital into government-assisted housing and would frustrate the national policy declared by Congress "to encourage the widest possible participation by private enterprise in the provision of housing for low and moderate income persons."

Applicants further state that the exemption would be consistent with the protection of investors and the purposes and policies of the Act. Sales of the Units will be restricted to specially qualified investors, who will be apprised of the management and operations of Group through reports sent to the Limited Partners and filed with the Commission and who must make representations as to income, net worth and present and projected income tax rate. With the exception of funds which the Group may hold in bank accounts or other interim investments, pending contribution to the capital of the operating partnerships, all of the proceeds of the sale of the Units will be invested in the operating partnerships. Such operating partnerships are specifically identified and described in the Group's registration statement under the Securities Act of 1933. Each such operating partnership is engaged in the development and construction of housing for low and moderate income tenants.

Applicants point out, in addition, that the Group's stated investment policies and objectives circumscribe the General Partner's discretion to invest the Group's assets. Likewise, the discretion of the general partners of the operating partnerships is limited by the governmental regulations to which each such entity is subject. The General Partner also represents that until the net proceeds of the offering by the Group have been invested or committed to investment, no partnership of the same objectives for which it acts as general partner wil make a public offering of its securities. Finally the General Partner represents that all transactions between it and its affiliates, on one hand, and the Group and the operating partnerships, on the other hand (including the reimbursements, compensation, fees and expenses receivable in connection therewith), will be made only on terms that are reasonable and fair and consistent with the policies and purposes of the Group, do not involve any overreaching, and are no less favorable to the Group than those offered by others in the same vicinity.

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Notice is further given that any interested person may, not later than February 5, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication, should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2013 Filed 1-18-79; 8:45 am]

[8010-01-M]

[Release No. 15490; SR-CBOE-78-23]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Order Approving Proposed Rule Change

JANUARY 11, 1979.

I. BACKGROUND

On June 28, 1978, the Chicago Board Options Exchange, Incorporated, LaSalle at Jackson, Chicago, Illinois 60604, (the "CBOE" or "Exchange") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 (17 CFR 240.19b-4) thereunder, copies of a proposed rule change which would permit the CBOE to provide for the maintenance of limit order books by Exchange employees to be known as "order book officials" or "OBO's," rather than by CBOE members.[1] This rule change proposal is intended by the CBOE to replace an earlier proposal which would have permitted CBOE members to continue to function as board brokers, but would have provided for the appointment of board brokers by a competitive bidding system, known as "bid-a-book."[2]

Under the competitive bidding proposal, an applicant would state the level of compensation for which he would be willing to act as a board broker in a particular class of options. That compensation would be received by the board broker from the CBOE which, in turn, would assess fees upon brokers using board broker services. The Commission approved the "bid-a-book" rule change on June 24, 1977,[3] but noted that the rule was not self-executing and that its implementation would require the CBOE to submit additional rules delineating the specific terms governing board broker appointments and the precise level of fees to be charged by the CBOE for providing limit order book services.[4]

On April 4, 1978, the CBOE filed rule proposals with the Commission that were designed to implement the "bid-a-book" system, *i.e.*, rules delineating the operating details of the proposed system, including how board broker assignments were to be awarded[5] and a proposed fee schedule.[6] At the request of the CBOE, however the Commission has taken no action on the "bid-a-book" implementation proposals because the CBOE, if the instant proposal is approved, will withdraw its "bid-a-book" implementation proposals.[7] Accordingly, the only proposal which this order addresses is SR-CBOE-78-23, which proposes an OBO system for the maintenance of limit order books on the CBOE.

II. BOARD BROKER FUNCTIONS

The CBOE, since its inception in 1973, has used CBOE members, known as "board brokers,"[8] to perform the functions associated with maintenance of the limit order book. Thus, the board broker acts as a central repository for the limit orders of public investors and executes those orders on the book if the current market renders them capable of execution. For each class of options[9] there is one limit order book and one board broker appointed by the Exchange to maintain the book.[10] In performing these functions the board broker acts solely in an agency capacity and is prohibited from trading for his own account in those options in which he is registered as a board broker.[11] As a member, the board broker is also financially responsible for any errors which may result from his mishandling of agency orders entrusted to him.

Each appointed board broker oversees a trading station staffed by at least two clerical assistants and every two stations share the services of an assistant board broker.[12] Active stations employ additional clerks and assistant board brokers. Each of the 28 board brokers on the floor is exclusively assigned from one to five classes of options. The board broker also is responsible for controlling the trading crowd at his station and is further obligated to report any unusual activities or market conditions involving his assigned options classes.[13]

The board broker also must conduct "opening trading rotations", (*i.e.*, a call market) in each series[14] of his assigned options classes, during which certain orders accumulated since the previous close are executed and opening trading prices are established,[15] and "closing trading rotations," during which closing prices are established at the end of each trading day.[16] The board broker also must conduct trading rotations when called upon to do so by a floor official during a "fast" market.[17]

All current board brokers have been appointed under CBOE rules which took into account board broker vacancies and the skill and experience of the applicants, as well as that of their prospective staffs. Board broker appointments may be terminated under CBOE Rule 7.3(b), after notice and opportunity for hearing, for "financial or operating difficulty," for the "protection of investors," or where it "would further the interests of the Exchange or its members in maintaining fair and orderly markets."[18] Finally, a board broker is compensated directly by CBOE members for orders placed on a CBOE limit order book and executed by that board broker.[19]

III. SR-CBOE-78-23: THE CURRENT RULE CHANGE PROPOSAL

During April, 1978, when options trading on the CBOE and other options exchanges reached record volumes, the CBOE experienced difficulty in handling its order flow. In response to perceived competitive disadvantages stemming from these operational difficulties, the CBOE's Executive Committee reexamined the Exchange's board broker system. That Committee concluded that the existing board broker system is the CBOE's "greatest weakness" and that the only way the Exchange could maintain "optimum efficiency" and "timely control over the quality of service" would be to "implement an Order Book Official system . . . to perform the Board Broker functions."[20] Consequently, pursuant to a unanimous vote of its Board of Directors, the CBOE filed with the Commission the instant rule proposal that would authorize the Exchange to replace its board broker system with an OBO system.[21]

The CBOE has also filed, pursuant to Section 19(b)(3)(A) of the Act, two additional rule proposals which relate to SR-CBOE-78-23. First, on December 4, 1978, the CBOE filed a proposal that would establish a schedule of exchange fees for limit orders executed on the CBOE floor by the Exchange's OBO's.[22] The Proposal would establish a uniform fee schedule for all options orders handled by OBO's and would not differentiate among options series or classes in any manner.[23] These rates will not be implemented unless and until the Commission first approves the instant OBO proposal (SR-CBOE-78-23).[24]

Second, on January 5, 1979, the CBOE filed a proposal which would amend its constitution by inclusion of an interpretation which clarifies that the article prohibiting employees and salaried officers from purchasing or selling options on the CBOE does not apply to employees or officers who do so in the performance of their duties and responsibilities as assigned by the CBOE.[25] This proposal, approved by a membership vote on January 8, 1978, was appropriately filed pursuant to Section 19(b)(3)(A) of the Act, and became effective, pursuant to that Section, upon receipt by the Commission of notice that such final Exchange action has been taken.[26]

Under CBOE's proposal to convert to an OBO system, the functions now

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[1] File No. SR-CBOE-78-23. Notice of the proposal was provided in Securities Exchange Act Release No. 15081 (August 21, 1978), 15 SEC Docket 682 (September 5, 1978), and the terms of substance were published in 43 FR 38651 (August 29, 1978).

[2] File No. SR-CBOE-77-6 (filed March 28, 1977). Notice of the proposal was provided in Securities Exchange Act Release No. 13434 (April 6, 1977), 11 SEC Docket 2195 (April 12, 1977), and by publication in 42 FR 20870 (April 22, 1977).

[3] Securities Exchange Act Release No. 13673 (June 24, 1977), 12 SEC Docket 1013 (July 12, 1977).

[4] *Id.*, 12 SEC Docket, note 1 at 1014. Prior to the Commission's order approving the "bid-a-book" rule change, CBOE board brokers sued the CBOE in Illinois state court seeking a declaratory judgment that the rule's implementation would deprive board brokers of certain rights under state law. (*Belenke et al* v. *Chicago Board Options Exchange, Inc.*, No. 77L 11428 (Cir. Ct. of Cook Co., Ill., filed June 15, 1977)).

On July 11, 1977, essentially the same board brokers filed a petition in the United States Court of Appeals for the Seventh Circuit for review of the Commission's June 24, 1977 approval order. (*Carey* v. *Securities and Exchange Commission*, Civil Action No. 77-1704 (C.A. 7, filed July 11, 1977)). The board brokers also requested the Commission to stay its "bid-a-book" approval order, pending judicial review. The Commission denied this request, in part, because the "bid-a-book" rule change was not self-executing and thus could not be implemented unless and until the CBOE filed additional rules with the Commission, ("Order Denying Stay," Securities Exchange Act Release No. 13869 (August 18, 1977), 12 SEC Docket 1530 (August 30, 1977)).

[5] File No. SR-CBOE-78-9 (filed April 4, 1978). Notice of the proposal was provided in Securities Exchange Act Release No. 14688 (April 20, 1978), 14 SEC Docket 834 (May 2, 1978) and the terms of substance were published in 43 FR 18374 (April 28, 1978).

[6] File No. SR-CBOE-78-10 (filed April 4, 1978). Notice of the proposal was provided by Securities Exchange Act Release No. 14687 (April 20, 1978), 14 SEC Docket 834 (May 2, 1978), and the terms of substance were published in 43 FR 18373 (April 28, 1978).

[7] Letter from Joseph W. Sullivan, President of the CBOE, to Kathryn B. McGrath, Associate Director, Division of Market Regulation (July 26, 1978) at 2 (File No. SR-CBOE-78-23). The CBOE also consented to an indefinite extension of the statutory time for the Commission's consideration of the bid-a-book implementation rules. *See*, Amendment No. 1 to File No. SR-CBOE-78-9, Form 19b-4A, Item 7, (filed July 28, 1978); and Amendment No. 1 to File No. SR-CBOE-78-10, Form 19b-4A, Item 7 (filed July 28, 1978).

[8] CBOE Rule 7.1 (*CBOE Guide* (CCH) Para. 2221, at 2111) defines a "board broker" as: ". . . an individual member, a nominee of a member organization or a member organization who or which is registered with the Exchange for the purposes of (i) acting as a 'broker's broker' for specified classes of options, at the post at which such classes of options are traded, by accepting and attempting to execute orders placed with him by other members, and (ii) monitoring the market for such classes of options at the post, all in accordance with the provisions of this Chapter."

CBOE Rule 7.1 also provides that a member organization that is doing business with the public in accordance with Chapter IX of the CBOE Rules, or any individual member or nominee employed by or otherwise associated with such a member organization, shall be ineligible to become associated as a board broker.

[9] A "class" consists of options of the same type (*i.e.*, put or call) covering the same underlying security.

[10] There is no hard copy "specialist's book" in the traditional sense. The book on the CBOE consists of: (a) the data on an electronic overhead screen (which displays the best bid and offer from the board broker's order file in each option series and the market size of those best bids and offers) and (b) the board broker's order file. *See* CBOE Rule 7.7, *CBOE Guide* (CCH) Para. 2227, at 2116. The screen also displays the best quotation in the trading crowd, which is transmitted to brokerage firms. *See* CBOE *Reference Manual*, 2d ed., March 1978, at 29.

[11] CBOE reference Manual, 2d ed., March 1978, at 27. The policy against board brokers trading for their own accounts is based on the floor Procedure Committee's interpretation of CBOE Rule 7.50, *CBOE Guide* (CCH) Para. 2250, at 2118.

[12] Both board brokers and assistant board brokers must be members of the CBOE and registered on the CBOE as board brokers, but assistant board brokers (a) lack formal appointments by the Exchange to take charge of the book for specific classes of options at an assigned trading station and (b) are salaried employees of appointed board brokers.

[13] CBOE Rule 7.6, *CBOE guide* (CCH) Para. 2226, at 2116.

[14] A "series" consists of options of the same class having the same exercise price and expiration date.

[15] CBOE Rule 6.2 and 6.201, *CBOE Guide* (CCH) Para. 2132, at 2081.

[16] The practice of conducting "closing rotations" has been temporarily eliminated for four months from October 23, 1978, through February 28, 1979. For this period the Commission has authorized the CBOE and other options exchanges to extend their trading hours until 4:10 p.m. (E.S.T.). *See* Securities Exchange Act Release No. 15241 (October 18, 1978), 15 SEC Docket 1319 (October 31, 1979).

[17] CBOE Rule 6.6(a,b), *CBOE Guide* (CCH) Para. 2136, at 2083.

[18] *CBOE Guide* (CCH) Para. 2223, at 2112-13.

[19] Prior to May 1, 1976, these intra-member rates were fixed by the CBOE. Since that date, Section 6(e) of the Act and Securities Exchange Act Rule 19b-1 (17 CFR 240.19b-1) have prohibited an exchange from fixing intra-member rates.

[20] Letter from CBOE Executive Committee, by Edward F. Neild, III, Chairman, to CBOE Board of Directors (June 22, 1978), at 1. *See* File No. SR-CBOE-78-23, Exhibit 3.

[21] In proposing an OBO system, the CBOE also proposed in SR-CBOE-78-23 to rescind its authority to establish a competitive bidding system for the appointment of members as board brokers.

[22] File No. SR-CBOE-78-31. Notice of the proposal was provided in Securities Exchange Act Release No. 15429 (December 22, 1978), and the terms of substance were published in 44 FR 1808 (January 8, 1979).

[23] The CBOE states that the basis for its uniform fee schedule is that "the schedules of charges it establishes from time to time will not provide a separate profit center for the Exchange, but will to the extent practicable, be designed to recover the Exchange's estimated costs in operating its OBO and Order Support Systems." File No. SR-CBOE-78-31, Form 19b-4A at 2-3.

[24] This proposal, since it is a fee proposal appropriately filed under Section 19(b)(3)(A) of the Act, generally would be effective upon filing. As noted, however, the proposal is expressly conditioned on the Commission's approval of the OBO proposal and would become effective concurrently with that approval. Moreover, under Section 19(b)(3)(B) of the Act, the Commission may summarily abrogate the fee proposal at any time within 60 days of its filing with the Commission and require the proposal to be refiled and reviewed pursuant to the advance approval requirement of Section 19(b)(2) of the Act (15 U.S.C. 78s(b)(2)).

[25] File No. SR-CBOE-78-37. Notice of the proposal was provided in Securities Exchange Act Release No. 15482 (January 9, 1979).

[26] *See* Amendment No. 1 to File No. SR-CBOE-78-37. As with proposed exchange fees, under Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C), the Commission has 60 days from the date an interpretation to an existing exchange rule has been filed to consider whether the interpretation should be abrogated and subjected to the advance approval procedures of Section 19(b)(2) of the Act (15 U.S.C. 78s(b)(2)).

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performed by board broker members would be performed by OBO's who, as salaried employees of the Exchange, would be subject to the direct supervision and control of the CBOE. The CBOE states that "[b]y changing to an OBO system, the Exchange will be able to exercise day to day personnel management control, will have the needed flexibility to reassign options classes and personnel as circumstances warrant and will have direct and timely control over the nature and quality of service provided to Exchange members and the public."[27]

The CBOE stated in its filing that it intends to implement the OBO system at the "approximate rate of one post per month, commencing approximately thirty days following the effectiveness of this proposed rule change."[28] The Commission understands, however, that the CBOE may proceed more rapidly depending upon its ability to implement the transition with the least amount of disruption to its trading floor.[29] Further, to aid in the transition and provide the CBOE with the broadest supply of potential OBO employees, the proposal would permit the CBOE to hire members as OBO's. Any members of the Exchange who accept employment as OBO's would be allowed to retain their memberships but would be required to assume "inactive" membership status, thereby suspending the privileges of membership, including voting and trading privileges, as long as they serve as OBO's.[30]

As noted above, board brokers are themselves currently liable for their errors in performing the board broker function. Under this proposal, the CBOE would assume limited liability to its members for errors or omissions by OBO's, their assistants or clerks. As to any single claim,[31] the Exchange would not be liable in excess of the larger of $100,000 or the amount recovered under any applicable insurance. As to any number of single claims on a single trading day, the Exchange would not be liable to its members in excess of the larger of $200,000 or the amount of recovery under any applicable insurance. If the number of single claims on a single trading day could not be fully satisfied because of the $200,000 limitation on the Exchange's liability, then recovery of all such claims would be limited to a pro rata share of the $200,000. The CBOE states that these limitations are in substance the same as those of the two other options exchanges having an OBO system, (*see* Midwest Stock Exchange (Art. XLVI, Rule 8) and Pacific Stock Exchange (Rule VI, Section 72)).[33]

Further, the CBOE would not be liable to members for errors or omissions resulting from failures by a member to enter or cancel an order on a timely basis or clearly and accurately to communicate information material to the transaction.[33] Finally, the CBOE does not propose to limit its liability to *non-members* for claims arising from the negligence of its OBO's.

In explaining the basis and purpose of its proposed conversion to an OBO system, the CBOE states that its exercise of day-to-day managerial control will enable it "to meet the needs of member firms and their customers with optimum efficiency."[34] The CBOE believes that the efficiencies achieved by implementation of this proposal will enhance the competitive position of the CBOE in relation to other market centers trading options and improve the overall services provided by the Exchange to its members and the public. Finally, the CBOE states that its proposal finds its statutory basis in, and is in accordance with, Section 6(b)(5) of the Act, which provides that the rules of an Exchange shall promote just and equitable principles of trade and protect investors and the public interest. The CBOE also states that this proposal would further the maintenance of a fair and orderly market and assure fair competition among markets in furtherance of the purposes of Section 11A(a)(1)(C) of the Act (15 U.S.C. 78k-1(a)(1)(C)).[35]

IV. Comments Received

The Commission received two comment letters concerning the CBOE proposal. On October 2, 1978, the Board Brokers Association ("BBA"), an organization representing certain CBOE board brokers, filed extensive written comments in opposition to the OBO proposal.[36] The comment letter incorporates by reference three prior BBA comment letters which were filed with the Commission in response to previous CBOE rule proposals which would have affected CBOE board brokers.[37] In addition, on November 29, 1978, the American Stock Exchange, Inc. (the "Amex)" filed a comment letter concerning the fees which the

[27] File No. SR-CBOE-78-23, Form 19b-4A at 52. The CBOE notes in comparison that, "[u]nder a system of competitive bidding by member Board Brokers, the Exchange could only specify minimum staffing levels, could only terminate or suspend appointments for substandard performance, would be inhibited (by the need to renegotiate contracts) in its ability to relocate options classes on the trading floor in response to changing trading conditions and would not have direct control over the quality of services provided." *Id.*

[28] *Id.* at 53.

[29] The Commission understands that the CBOE intends to phase-in its OBO stations in simple geographic order starting from the trading posts at the south end of the trading floor and proceeding north. By this systematic procedure, the CBOE expects to avoid any further exercise of discretion as to the sequence by which current board brokers will be replaced.

[30] *See* File No. SR-CBOE-78-23, letter from Scott L. Lager, CBOE's First Vice President and General Counsel, to Theodore W. Urban, Division of Market Regulation (November 27, 1978).

[31] The CBOE defines the term "single claim" to mean a claim arising out of all errors and omissions made by an OBO with respect to any single transaction. The term "transaction" is defined in paragraph (b)(1) of proposed CBOE Rule 7.11 to mean any order or instruction, or series of orders or instructions, which is placed with an OBO at substantially the same time by the same member and which relates to any one or more series of options of the same class.

[32] *MSE Guide* (CCH) ¶2086, at 2174; *PSE Guide* (CCH) ¶4271, at 3107-22. OBO systems similar to that proposed by CBOE have been in place on the options floors of the Pacific Stock Exchange ("PSE") and Midwest Stock Exchange ("MSE") since those exchanges commenced options trading. The PSE and the MSE received express Commission authority to commence option trading using OBO systems on March 30, 1976, and December 8, 1976, respectively. Securities Exchange Act Release No. 12283, 9 SEC Docket 317 (April 13, 1976); Securities Exchange Act Release No. 13045, 11 SEC Docket 1120 (December 21, 1976).

[33] Proposed CBOE Rule 7.11 also requires any claim against the Exchange for losses arising from errors or omissions of an OBO to be presented to the Exchange in writing not later than the next business day following the transaction giving rise to the claim. Where the error or omission results in an unmatched trade, the claim must be presented no later than the next business day after the unmatched trade has been closed out in accordance with CBOE Rule 10.1. Paragraph (b)(3) of CBOE Rule 7.11 provides for binding arbitration on all disputed claims.

[34] File No. SR-CBOE-78-23, Form 19b-4A, at 53.

[35] *Id.* at 60-61. In addition, the CBOE states that its proposed Interpretation .01 to Rule 2.22, which would permit the Exchange to charge fees for services provided by OBO's, is based upon Section 6(b)(4) of the Act, which permits an exchange's rules to provide for the equitable allocation of reasonable charges among its members. *Id.*

[36] The BBA's October 2, 1978, comment letter is entitled "Statement of the Board Brokers Association, Chicago Board Options exchange, Incorporated, in opposition to proposed CBOE rules changes filed July 28, 1978," (*i.e.*, File No. SR-CBOE-78-23) ("BBA October Comments"). The letter states (p.1) that the BBA represents 19 of the 53 CBOE board brokers.

An omission from the comment letter was corrected by the BBA by letter dated December 19, 1978. The BBA provided supplemental information concerning their comments by letter dated December 18, 1978, from David V. Kahn, Altheimer & Gray, counsel to the BBA, to Thomas Etter, Division of Market Regulation. *See* File No. SR-CBOE-78-23.

[37] The letters incorporated by reference in the BBA October Comments (note *, p.10) are from the following files: File No. SR-CBOE-76-2 (April 12, 1976); File No. SR-CBOE-77-8 (May 13, 1977); File No. SR-CBOE-78-9 (April 4, 1978) and File No. SR-CBOE-78-10 (April 4, 1978).

CBOE might charge for OBO services.[38]

In summary, the BBA asserts that the proposed rule changes "will profoundly alter the structure and operation of the CBOE floor in respects that have not been revealed by the CBOE in its filings and that are counterproductive to the interests of the public, CBOE and its members."[39] The BBA contends that the OBO proposal was submitted to the Commission without any member input or comment and that the proposal rejects the concept that trading on the CBOE floor should occur exclusively between members. The BBA states that the proposal is a repudiation by the CBOE of a basic recommendation of both the CBOE Task Force which initially recommended the bid-a-book system and the CBOE Board, both of which previously had declared that the concept of trading exclusively between members is vital to CBOE's well-being.

The BBA submits that it would be contrary to law for the Commission to permit an exchange, through its OBO employees or otherwise, to act as a broker. It notes that, under the OBO plan, the CBOE will have a direct economic interest in limit order trading. The BBA asserts that the OBO's are "members" within the meaning of that term as defined in the Act and that the proposed rule changes call for OBOs whose compensation is to be fixed by the Exchange and whose brokerage services are to be paid for by the charges to be fixed by the Exchange. The BBA believes that in light of these factors, the proposals should not be approved without proceedings which it contends are required under Section 6(e) of the Act (15 U.S.C. 78f(e)).

Further, the BBA contends that the proposals will impose burdens on competition not necessary or appropriate in furtherance of the purposes of the Act in contravention of the requirement of Section 6(b)(8) of the Act (15 U.S.C. 78f(b)(8)).[40] In its view, the CBOE submission demonstrates that the Exchange's proposed rules changes "are by no means supported by the bases nor do they serve the purposes set forth for them by CBOE."[41] The BBA concludes that the CBOE proposals "therefore should not be approved—certainly not without proceedings for factfinding by the Commission and oral presentations by all parties affected."[42]

The comment letter by the Amex is concerned solely with the fees which the CBOE might charge for its OBO services. The Amex expresses concern that if the CBOE uses a fee schedule that permits fees to vary among trading stations, the CBOE would be in a position to trade below cost in any of its options that were also traded on rival exchanges and to subsidize such trading by profits generated from those options traded exclusively on the CBOE. The Amex contends that such differences in pricing for OBO services would be inconsistent with Section 6(b)(4) of the Act (15 U.S.C. 78f(b)(4)).

V. Discussion

For the reasons discussed below, the Commission finds that the proposed rule change of the CBOE to establish an OBO system is consistent with the requirements of the Act, in particular, Sections 6(b)(1),[43] 6(b)(5),[44] 11A(a)(1)(C)(i),[45] 11A(a)(1)(C)(ii),[46] and 19(g)(1),[47] and accordingly should be approved.

Section 6(b)(5) requires that the rules of an exchange be designed "to foster cooperation and coordination with persons engaged in * * * facilitating transactions in securities" and Section 11A(a)(1)(C)(i) expresses a Congressional finding that "it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure * * * economically efficient execution of securities transactions." The CBOE proposal appears consonant with these statutory goals. Since trading volume and activity may differ greatly in different options traded on its floor, the CBOE has a strong interest in structuring its market in a way which will meet the demands of public investors and their brokers for prompt and efficient limit order book services. Thus, the CBOE states in support of its proposed rule change that:

> "By changing to an OBO system, the Exchange will be able to exercise day to day personnel management control, will have the needed flexibility to reassign options classes and personnel as circumstances warrant and will have direct and timely control over the nature and quality of service provided to Exchange members and the public."[48]

The Commission finds that the CBOE's proposal to assume responsibility for maintenance of the limit order book as an Exchange-offered service should enable the Exchange to standardize further the operation of all limit order books, to deploy its employees efficiently from stations of light volume to stations of heavy volume in response to shifting market conditions and to hire additional staff to meet additional market demands.

Second, the Commission finds that the CBOE's proposal to use Exchange employees to oversee trading activities at different stations on the floor appears likely to enhance the CBOE's capacity to enforce compliance by its members and persons associated with its members with the requirements of the federal securities laws and the CBOE's own rules. The use of exchange employees rather than members in this capacity should enable the CBOE to control more effectively and directly its on-floor surveillance responsibilities. Moreover, because OBO's, as Exchange employees, are not dependent for their compensation upon brokerage commissions paid them by members, their independence as regulatory agents of the Exchange may thereby be strengthened. Accordingly, the CBOE proposal furthers the purposes of Sections 6(b)(1), 6(b)(5) and 19(g)(1) of the Act.[49]

Finally, the Commission finds that the CBOE proposal may enhance competition between the CBOE and other options exchanges in options traded on more than one exchange and is thus consistent with Section 11A(a)(1)(C)(ii) of the Act.[50] In an OBO System, the CBOE may be able, through its standardization of operating procedures and the use of salaried employees, to incur lower costs in providing limit order book services than those currently incurred by board brokers in providing those services. In assessing fees for its limit order book services, the CBOE intends to use these anticipated cost savings to finance technological improvements in receiving, storing and executing limit orders through the CBOE's "Order

[38] Letter from William J. Brodsky, Vice President, Trading and Markets, Amex, to Theodore W. Urban, Division of Market Regulation (November 29, 1978).

[39] BBA October Comments, at 6.

[40] The BBA also asserts that the CBOE proposal is deficient in certain other respects. *See* BBA October Comments at 52-56. While not reiterated here, these additional assertions have been considered fully by the Commission.

[41] *Id.* at 7.

[42] *Id.*

[43] 15 U.S.C. 78f(b)(1).

[44] 15 U.S.C. 78f(b)(5).

[45] 15 U.S.C. 78k-1(a)(1)(C)(i).

[46] 15 U.S.C. 78k-1(a)(1)(C)(ii).

[47] 15 U.S.C. 78s(g)(1).

[48] Exhibit 1 to Form 19b-4A, File No. SR-CBOE-1978-23, at 53.

[49] Section 6(b)(1) requires an exchange, as a condition of registration, to be "so organized and [have] the capacity * * * to enforce compliance by its members and persons associated with its members, with the provisions of [the Act], the rules and regulations thereunder and the rules of the exchange." Section 19(g)(1) makes this a continuing duty for an exchange after registration. Finally, Section 6(b)(5) requires that an exchange have rules designed "to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade * * * and, in general, to protect investors and the public interest."

[50] Section 11A(a)(1)(C)(ii) states the Congressional finding that "it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure * * * fair competition *among brokers and dealers* [and] *among exchange markets*" (emphasis supplied).

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Support System." [51] In achieving cost reductions and by improving upon the prompt and efficient execution of customers' limit orders, the CBOE may thereby strengthen its ability to compete with other options exchanges in multiply-traded options.

The Commission has fully considered the adverse comments filed in this proceeding by the BBA,[57] and has concluded that these comments provide no basis to preclude a finding that the CBOE's proposal is consistent with the requirements of the Act and rules and regulations thereunder.

At the outset, the Commission rejects the BBA's contention that a national securities exchange is prohibited under the Act from using employees to carry out the functions associated with maintenance of the limit order book. The CBOE proposal to establish an OBO system, of course, is not the first of its kind. The Commission has previously approved such systems for the options markets of two other national securities exchanges.[53] Indeed, the Commission has found consistent with the requirements of the Act the proposal of another exchange to use automated technology to maintain the limit order book and provide for the matching and execution of orders according to price and time priority.[54]

Nothing in the Act prohibits the establishment of an OBO system by which the function of maintaining a limit order book is performed by exchange employees. Rather, the Act simply requires that an exchange be "so organized and [have] the capacity to be able to carry out the purposes of [the Act] and to comply, and • • • to enforce compliance by its members and persons associated with its members with the provisions of [the Act], the rules and regulations thereunder, and the rules of the exchange." [55] As discussed above, the Commission finds that the CBOE's proposal meets this standard.[56]

Further, the BBA's contention that the legislative history of the Act affords no support for an OBO system is simply erroneous. In explaining its grant to the Commission of broad regulatory authority over the activities of specialists, Congress, focusing upon the specialist's execution of orders in the limit order book, stated in 1934 that:

"There are many who believe that the exchange mechanism would function better without the specialist, that the work done by the specialist *could be done more effectively by a clerk or official of the exchange clearing the orders in a purely mechanical way, much as they are cleared today on the New York Stock Exchange in the 'bond crowd'*" (*emphasis supplied.*)[57]

As another alternative to the specialist system, Congress also discussed segregating the specialist's agency and dealer functions, and assigning those functions to different members on an exchange.[58] While Congress in adopting Section 11(b) of the Act did not require that exchanges replace their specialist systems with either an exchange-operated limit order book system or a segregated system,[59] Congress can hardly be said to have withheld from exchanges the authority to use employees to maintain the limit order book, particularly since Congress noted, without disapproval, use of that approach in the New York Stock Exchange's bond market.

The Commission also rejects the BBA's contention that the CBOE's OBO proposal will impose fixed commission rates in violation of Section 6(e) of the Act. That Section provides, in relevant part, that "no national securities exchange may impose any schedule or fix rates of commissions • • • or other fees *to be charged by its members*," except where the Commission makes specified findings (emphasis supplied). Under the instant proposal, the fees for OBO services will be assessed by and paid to the Exchange itself, not CBOE's members.[60]

The BBA strains the statutory definition of "member" in an attempt to characterize exchange employees as "members" under the Act, thereby invoking the prohibition of Section 6(e). Thus, the BBA cites Section 3(a)(3)(A) of the Act, 15 U.S.C. 78c(a)(3)(A), which defines a "member" of a national up securities exchange to include "any natural person permitted to effect transactions on the floor of the exchange without the services of another person acting as broker." But, under CBOE's proposal, the Exchange itself, not its employees, "effects transactions." OBO's are simply acting within the scope of their employment with the exchange, not in any proprietary capacity. In any event, definitions under Section3(a) of the Act apply "unless the context otherwise requires." Accordingly, because the Exchange, and not its employees, will assume financial and operational responsibility for the OBO System, the Commission finds in this context that employees of an exchange hired as order book officials are not "members" of that exchange for purposes of the Act solely by reason of their employment as OBO's.

The BBA also contends that the CBOE proposal will compromise the self-regulatory capabilities of the Exchange because an OBO system must necessarily attract persons less qualified than current board brokers and because the CBOE, while required to oversee trading in its market, at the same time will be dependent upon trading volume to generate revenues to support the OBO System. The appropriate standard for measuring the proposal's consistency with the Act is not whether persons hired as OBO's may perhaps prove to be more or less qualified than current board brokers, but rather whether an exchange under an OBO system can effectively discharge its self-regulatory responsibilities under Section 6(b) of the Act. In approving the OBO proposals of other exchanges, the Commission found that an exchange can meet its statutory obligations under an OBO

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[51] *See* File No. SR-CBOE-78-31 (filed Dec. 4, 1978), note 22, *supra.*

[52] Although comments have been received from the AMEX and the BBA on the OBO fee structure, the fees to be charged by the CBOE are included not in the instant proposal but in a separate rule change filing by the CBOE, File No. SR-CBOE-78-31 (*see* note 22, *supra*). The public comment period on the CBOE's proposed fee schedule extends until February 7, 1979. Thus, while the comments of the BBA and the AMEX on the fees to be assessed by the CBOE are not pertinent here, the Commission will consider them in determining whether to exercise its authority under Section 19(b)(3)(C) to abrogate the CBOE's filing made in SR-CBOE-78-31.

[53] *See* note 32, *supra.*

[54] *See* Securities Exchange Act Release No. 14674 (April 18, 1978), 14 SEC Docket 817 (May 2, 1978) (authorizing on a pilot basis the Cincinnati Stock Exchange "Multiple Dealer Trading System") and Securities Exchange Act Release No. 15413 (Dec. 15, 1978), 16 SEC Docket 511 (Jan. 2, 1979) (extension of Cincinnati Stock Exchange's pilot program).

[55] Section 6(b)(1) of the Act, 15 U.S.C. 78f(b)(1).

[56] Moreover, as discussed *supra*, the CBOE membership has approved an interpretation to the CBOE's constitution to make explicit the exchange's authority to use an OBO system.

[57] *Report of the House Comm. on Interstate and Foregin Commerce to Accompany H.R. 9323, H.R. Report No. 1383, 73d Cong., 2d Sess. 14-15 (1934)* ("*House Report on H.R. 9323*".)

[58] House Report on H.R. 9323, *supra*, at 14.

[59] Section 11(b) of the Act, Pub. L. 73-291, § 11b), 48 Stat. 891-92, as originally enacted provided, in relevant part: "When not in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, the rules of a national securities exchange may permit • • • a member to be registered as a specialist. If under the rules and regulations of the Commission a specialist is permitted to act as a dealer, or is limited to acting as a dealer, such rules and regulations shall restrict his dealings so far as practicable to those reasonably necessary to permit him to maintain a fair and orderly market • • •."

[60] The prospect under an earlier proposed rule change that CBOE members who handled the limit order book might ultimately receive fees collected by the CBOE for limit order book services prompted the Commission to institute proceedings under Section 19(b)(2) of the Act to determine whether to disapprove the CBOE proposal. *See* Securities Exchange Act Release No. 12358 (April 22, 1976), 9 SEC Docket 479 (May 11, 1976). The CBOE subsequently withdrew that proposal.

System and the Commission perceives no basis to find otherwise here. Indeed, the CBOE proposal appears to enable the exchange to strengthen its regulatory program since persons with surveillance responsibilities will be subject to direct supervision and control by the Exchange. Moreover, the Commission retains broad and flexible authority under the act to take remedial action if it determines that the CBOE, after implementing its OBO system, is failing to carry out an effective surveillance and enforcement program for trading occurring on its floor.[61]

Similarly, the Commission finds no basis to conclude that the receipt by the CBOE of fees from members will lead, or is likely to lead, the CBOE to ineffective performance of its self-regulatory duties. Indeed, the CBOE is currently dependent upon trading volume as a source of operating revenues.[62] This has not been shown, however, to have had any detrimental effect upon the CBOE's self-regulatory capabilities. In any event, as noted above, the Commission has authority to take effective remedial action if the CBOE, for any reason, fails to satisfy its self-regulatory obligations.

The Commission also finds unpersuasive assertions by the BBA that the OBO proposal "unfairly discriminates" against board broker members in violation of Section 6(b)(5) of the Act [63] and of the alleged "fiduciary obligation" owed by the CBOE to its members.[64] In denying the motion of the BBA for a stay of its order approving the CBOE's earlier competitive bidding proposal,[65] the Commission stated that:

> "'Unfair discrimination' • • • is found where other groups *similarly situated* are accorded different treatment, without any *rational basis* (footnote omitted). The members of no group other than the board brokers, however, occupy a monopoly position on the CBOE floor." [66] (Emphasis supplied)

First, the CBOE proposal to change from a board broker system to an OBO system does have a rational basis. As discussed above, the CBOE's adoption of an OBO system is an attempt by the Exchange, consistent with specific provisions of the Act, to increase the efficiency of its market in providing limit order book services to public customers, to strengthen the Exchange's on-floor surveillance capabilities, and to foster competition for public order flow between the CBOE and other options exchanges in options traded in more than one market.

Second, the Commission reiterates its earlier findings that board brokers, as a group, are distinctly dissimilar from other CBOE members. A board broker's exclusive operation of the limit order book in one or more options classes is reinforced by the CBOE's "public order priority" rule. That rule grants priority to non-broker-dealer limit orders over the orders of others at the same price, but only if these public limit orders are placed with the board broker in the appropriate options class [67] and are not instead placed with a floor broker.[68] Moreover, as discussed above, the board broker is solely responsible for conducting opening and closing "rotations" in the options to which he is assigned and is entrusted with the unique responsibility of monitoring trading activities at his station.

In rejecting the claim of unfair discrimination, the Commission also notes that the CBOE memberships held by persons now acting as board brokers are not confined to the performance of any particular member function.[69] Accordingly, persons now acting as board brokers, like others currently acting as floor brokers, market makers or "upstairs" members, are eligible to engage in any membership function on the CBOE.[70] By adoption of an OBO system, the CBOE has simply restructured its market so that maintenance of the limit order book will now be an Exchange function, not a member function. And, if any member now acting as a board broker does not wish to engage in any other function on or off the CBOE floor, he or she may choose to apply for an OBO position with the Exchange.

The Commission is, of course, mindful that elimination of the board broker function may have an adverse effect, however transitory, upon some members now acting as board brokers.[71] Nonetheless, where an exchange's proposed rule change furthers valid statutory purposes, as the Commission has found the CBOE proposal to do, these collateral effects do not establish "unfair discrimination" under the Act. In measuring an exchange's proposed rule change against the requirements of the Act, the Commission must consider not only the interests of an exchange's own membership or a particular group of members, but must also take into account the public interest,[72] the protection of investors,[73] the self-regulatory responsibilities of the exchange,[74] and the effect upon competition among exchange markets and between exchange markets and other markets.[75] In doing so, the Commission is mindful that a national securities exchange is not simply a private corporation or association existing solely, or even primarily, for the pecuniary gain of its members. Rather, exchanges are quasi-public organizations "affected with a public interest" [76] and, as self-regulatory organizations, are accorded governmental-type powers to carry out the purposes of the Act." Thus, while finding unpersuasive the BBA's claim that the CBOE has breached a "fiduciary obligation" by treating board brokers unfairly, the Commission also believes that according undue weight to these claims would disrupt the careful balancing of different interests required by the federal statutory scheme.

Nor is the Commission persuaded that the CBOE's "phase-in" of the OBO System on a station-by-station basis determined by geographic location on the floor unfairly discriminates against those board brokers who are replaced in the early months of the phase-in period. A gradual transition to an OBO System appears calculated to ameliorate the potential for

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[61] *See e.g.*, Sections 19(c), 19(h) and 21 of the Act, 15 U.S.C. 78s(c), (h) and 78u.

[62] *See* CBOE Rule 2.21 (charge on net Commissions for transactions effected on the Exchange).

[63] Section 6(b)(5) of the Act requires, in part, that the rules of an exchange not be designed "to permit unfair discrimination between customers, issuers, brokers, or dealers • • •."

[64] The BBA's assertions concerning CBOE's "fiduciary obligations" are set forth in their written comments on CBOE's earlier competitive bidding proposals. Those comments have been incorporated by reference by the BBA in its submission on the current CBOE proposal. *See* note 37, *supra.*

[65] *See* note 4, *supra.*

[66] *See* August Order, 12 SEC Docket at 1532.

[67] CBOE Rules 6.45 and 7.4. *CBOE Guide* (CCH) ¶¶2175, 2224. *See* August Order, *supra*, 12 SEC Docket at 1532-33, n.16.

[68] Unlike a board broker who is given sole control over the limit order book in his options class, a floor broker is not assigned any particular options class and, accordingly, must compete with other floor brokers on the CBOE for agency orders to be handled in the trading crowd.

[69] While most memberships on other exchanges are also unrestricted as to the functions in which a member may engage, there are exceptions. Thus, the Amex has offered a limited membership allowing a person to function only as a market maker (a "registered options trader") on the Amex options floor. *See* Amex Constitution, Art. IV. Sec. 1(b).

[70] Of course, all applicable financial and other standards must be met by any member who seeks to act in a particular capacity on the CBOE floor.

[71] As members of the CBOE, however, current board brokers are eligible to engage in any recognized member function on the Exchange. *See* text accompanying note 70, *supra.*

[72] Section 6(b)(5) of the Act.

[73] *Id.*

[74] Sections 6(b)(1) and 19(g)(1) of the Act.

[75] Section 11A(a)(C)(ii) of the Act.

[76] House Report on H.R. 9323, *supra*, at 15, *cited in Silver* v. *New York Stock Exchange*, 373 U.S. 341, 350 (1963).

[77] *See Report of the Senate Comm on Banking, Housing and Urban Affairs to Accompany S. 249*, Sen. Rep. No. 94-75, 94th Cong., 1st Sess. 29 (1975) (hereinafter "Senate Report").

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temporary disruption to the trading floor and thus serves the purposes of the Act in promoting the efficiency of an exchange's operations.[78] Accordingly, the Commission finds that the CBOE has a rational basis for achieving a gradual transition to an OBO System so that displacement of some board brokers before others would not constitute "unfair" discrimination.

The BBA further contends that the CBOE proposal is inconsistent with Section 6(b)(8) of the Act which proscribes exchange rules that impose a burden on competition unless "necessary or appropriate in furtherance of the purposes of [the Act.]" In comparison to the current board broker structure, however, the Commission cannot find that the proposed OBO System imposes an inappropriate burden on competition. While different board brokers may operate on the CBOE floor in different options classes, only one board broker is appointed for each class of options. Thus the current environment does not foster competition among board brokers.

In earlier comments, the BBA, in reliance upon *United States* v. *E. I. duPont*, 351 U.S. 377 (1956), asserted that the services of board brokers and floor brokers are "interchangeable" and, thus, board brokers should not be deemed to have monopoly-type franchises in their exclusive options classes. First, the holding in *duPont* has no application to Commission proceedings under Section 19(b) to determine the consistency of an exchange's proposed rule change with the requirements of the Securities Exchange Act. In any event, assuming the relevance of *duPont*, the Commission finds that the services provided by floor brokers and CBOE board brokers are not "interchangeable". Public limit orders may gain priority over other orders at the same price *only* if they are placed with the board broker for execution; a limit order held by a floor broker in the trading crowd is ineligible for public order priority. Also, only the board broker conducts opening and closing rotations in his assigned options and is entrusted with overseeing the trading activities occuring at his station.

Moreover, the change to an OBO System has the potential of enhancing intermarket competition. By assuming direct control over the costs of providing limit order book services to public investors, the CBOE may be able to reduce those costs. In addition, the Commission notes that revenues collected by the CBOE will be used not only to pay employees and meet other operating expenses but will also be used to finance technological improvements in providing limit order book services through the CBOE's automated "Order Support System" which is now being implemented.[79]

The Commission believes that the CBOE proposal does not impose any burden upon competition not necessary or appropriate in furtherance of the purposes of the Act, but rather furthers the public policy goals of enhancing the potential for competition among markets as set forth under the Act. To the extent that centralization of limit order book services in the CBOE may impose any specific burden on competition, the Commission finds that any potential anti-competitive effect is outweighed by the CBOE proposal's furtherance of the purposes of the Act in fostering economically efficient executions of securities transactions, and by enhancing the regulatory capabilities of the CBOE to monitor and enforce compliance by its members with the Act, rules thereunder, and rules of the Exchange.

The BBA's assertion that the CBOE proposal cannot be approved without holding an evidentiary hearing is without merit. No evidentiary hearing is required under Section 19(b) of the Act. In connection with the initial filing of a proposed rule change under Section 19(b)(1), the Commission is required simply to publish notice and give interested persons an opportunity to submit written data, views, and arguments, an opportunity which the BBA has been provided. Section 19(b) provides that the Commission shall approve a proposed rule change if it makes the findings enumerated in that Section; upon making those findings, the Commission is to grant approval under Section 19(b)(2)(A) without further proceedings. On the other hand, if the Commission does not make such findings, it is required to initiate a proceeding pursuant to Section 19(b)(2)(B) of the Act to determine whether to disapprove a proposed rule change.[80]

With respect to the CBOE's OBO proposal, the Commission is able to make the requisite findings, without initiating such further proceeding, on the basis of the CBOE's proposed rule change filing on Form 19b-4A, 17 CFR 249.19a; the submission of written data, views, and arguments; and the Commission's own expertise in overseeing the operation of the national securities exchanges.

In regard to Commission procedures to review proposed rule changes by self-regulatory organizations, the Senate Report on S. 249 (the predecessor of the Securities Act Amendments of 1975) explained:

> "Section 19(B)(2) would give the SEC sufficient flexibility to fashion a proceeding appropriate to the particular self-regulatory proposal being considered. In many, perhaps most, situations, notice and an opportunity for written comment would be sufficient and there would undoubtedly be few, if any, comments. In cases in which fundamental policy issues are involved, however, oral hearings or publicly announced conferences might be most appropriate."[81]

The Commission believes that no fundamental policy issues are posed by the CBOE's rule change. As noted, on two previous occasions the Commission has found that establishment of an OBO system is a valid exercise of an exchange's authority. The BBA has filed extensive written comments on this and previous CBOE rule proposals and the Commission has fully reviewed and considered them. The Commission believes that an oral or evidentiary hearing on the CBOE proposal will not appreciably further any purpose and, accordingly, denies BBA's request for such hearing.

Finally, the BBA contends that the fees to be charged by the CBOE for providing OBO services will be unreasonable and inequitbly allocated among CBOE members, in violation of Section 6(b)(4) of the Act, 15 U.S.C. 78f(b)(4). The proposed rule change before the Commission, however, does not set forth any specific level or schedule of fees.[82] The BBA takes the position, however, that any fees charged by the CBOE would violate Section 6(b)(4) because the CBOE would thereby be "appropriating" the income of board brokers. Thus, the BBA's argument is bottomed upon the premise that CBOE members who act as board brokers have some vested right or a reasonable expectation that they may continue to act in that capacity indefinitely, notwithstanding the CBOE's authority to amend its rules to improve its market in a manner consistent with the requirements of the Act. As the Commission stated in its August Order:

> "[A]ny [vested] 'right' [of a board broker], if it exists, is acquired under, and remains subject to, the governing rules of [the CBOE], as they may be amended from time to time, insofar as those rules and amendments thereto are consistent with the Act and the rules and regulations promulgated thereunder."[83]

The Commission notes that the BBA has not asserted any written contract in which the CBOE has agreed to refrain from proposing changes to its rules to alter the current board broker structure. And, as mentioned above, the memberships held by the board brokers have never been confined to the board broker function; persons who acquire CBOE memberships may perform any member function of the CBOE. Moreover, given the authority of exchanges as self-regulatory organizations under the Act, the Commission finds it unreasonable for an exchange member to expect that the *status quo* will not change in a manner which may affect his current economic interests. In accepting Exchange membership, and thereby subjecting themselves to the self-regulatory authority of the CBOE, board brokers must be deemed to have accepted the possibilities that have, in this case, come to pass.[84]

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It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-referenced rule change be, and it hereby is, approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2012 Filed 1-18-79; 8:45 am]

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[78] *See* Sections 6(b)(5) and 11A(a)(1)(C)(i) of the Act.

[79] *See* File No. SR-CBOE-78-31 (filed Dec. 4, 1978), note 22, *supra*.

[80] As explained above, the CBOE proposal does not constitute the imposition of fixed rates of commission to be charged by members. Accordingly, the hearing procedures outlined under Section 6(e)(4), 15 U.S.C. 78f(e)(4), of the Act are inapplicable here.

[81] Senate Report, *supra*, at 30.

[82] The CBOE's fee schedule is the subject of a separate proposed rule change filing by the CBOE. *See* note 22, *supra*. In that filing, the CBOE states that "the Exchange may, in the event it should deem it advisable for competitive reasons, lower its charges for particular classes of options". The current fee filing, however, sets forth a uniform fee schedule applicable to all classes of options. Under Section 19(b)(3)(A) of the Act, the CBOE, if it seeks to change its fees in any respect, must file a subsequent proposed rule change with the Commission. Accordingly, the question whether the CBOE, consistent with Section 6(b)(4) of the Act, may prescribe different OBO fees for different classes of options need not be addressed here.

[83] *See* August Order, *supra*, 12 SEC Docket at 1531.

[84] *Cf. Allan* v. *Securities and Exchange Commission*, [Current] Fed. Sec. L. Rep. (CCH) ¶96,451, at p. 93,673 (7th Cir. 1978).

[8010-01-M]

[File No. 1-7512]

MANHATTAN LIFE CORP.

Application To Withdraw from Listing and Registration

JANUARY 15, 1979.

In the matter of The Manhattan Life Corporation, Common Stock, Par Value $2.00.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the AMERICAN STOCK EXCHANGE, INC. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of The Manhattan Life Corporation (the "Company") has been listed for trading on the Amex since March 31, 1975. On January 2, 1979, the stock was listed for trading on the New York Stock Exchange, Inc. ("NYSE") and concurrently therewith, such stock was suspended from trading on the Amex. In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant to maintaining a dual listing on both exchanges. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for such stock.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect on the continued listing of such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before February 16, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2015 Filed 1-18-79; 8:45 am]

[8010-01-M]

[Release No. 10557]

NATIONWIDE LIFE INSURANCE CO. AND MFS VARIABLE ACCOUNT

Filing of Application

JANUARY 15, 1979.

Notice of filing of application pursuant to section 11 of the Act for an order approving certain offers of exchange and pursuant to section 6(c) of the Act for an order exempting proposed transactions from sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 27(c)(1), 27(c)(2), 27(d), and Rule 22c-1.

Notice is hereby given that Nationwide Life Insurance Company ("Nationwide"), a stock life insurance company organized under the laws of the State of Ohio, and MFS Variable Account ("MFS"), One Nationwide Plaza, Columbus, OH 43216 (812-4378), a separate account of Nationwide registered under the Investment Company Act of 1940 ("Act") as a unit investment trust (collectively "Applicants"), filed an application on October 16, 1978, and an amendment thereto on December 11, 1978, pursuant to Section 11 of the Act for an order approving certain offers of exchange, and pursuant to Section 6(c) of the Act, for an order exempting from Sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 27(c)(1), 27(c)(2), 27(d), and Rule 22c-1 of the Act, to the extent necessary, a proposed change in the pricing of one of their existing variable annuity contracts. All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, which are summarized below.

MFS, a separate account of Nationwide, was organized as a unit investment trust pursuant to a custodian agreement between Nationwide, as sponsor-depositor, and The State Street Bank and Trust Company ("State Street"), as custodian, and registered under the Act. MFS was established for the purpose of funding Individual Deferred Variable Annuity Contracts ("Contracts") issued by Nationwide. Presently Applicants assess an initial sales charge on the gross purchase payments under the Contracts. However, Applicants propose to implement a change in pricing of the Contracts. In lieu of the customary initial sales load, Applicants propose to assess a contingent deferred sales charge ("Contingent Charge").

Under the proposed Contracts a purchaser may make a single purchase payment, an irregular series of periodic purchase payments, or a regular series of periodic purchase payments. The amount and frequency of purchase payments is discretionary with the purchaser, and no requirements are imposed except for minimum amounts of the initial purchase payments ($1,500 for non-tax-qualified contracts and $300 on an annualized basis for the first contract year for contracts funding tax-qualified pension or profit-sharing plans). The purchaser may allocate all or a portion of each purchase payment among one or more of eight sub-accounts of the MFS, each of which invests in the shares of one of eight mutual funds managed by Massachusetts Financial Services Company, or to the general account of Nationwide. The Contracts provide for the accumulation of such purchase payments with any accrued

earnings until the annuity commencement date selected by the purchaser, at which time annuity payments begin as designated by the contract owner.

Under the proposed Contracts the contract owner may, at any time prior to the annuity commencement date, withdraw some or all of the accumulated contract value. However, Applicants would assess a Contingent Charge, which would be applied in the case of certain withdrawals by a contract owner from the contract value. The Contingent Charge would equal 5% of the lesser of: (1) all purchase payments received during the 96 months immediately prior to the valuation period during which the surrender is requested; or (2) the amount surrendered. The cumulative sum of all such charges, per contract owner, would never exceed 5% of that owner's purchase payments received during the 96 months immediately prior to the valuation period during which the surrender is requested.

An exception to the assessment of a Contingent Charge would permit certain surrenders without the imposition of a sales charge. This exception would apply to redemptions after the end of the second contract year. Under the exception, a contract owner would be able to redeem up to 10% of purchase payments made within 96 months immediately prior to the valuation period during which the redemption is requested without imposition of the Contingent Charge.

When a redemption is requested to effect a cash withdrawal prior to the annunity commencement date, State Street would surrender to the depositor cash equal to the amount of the cash withdrawal requested by the contract owner, plus the applicable Contingent Charge. The requested cash withdrawal would then be remitted to the contract owner. The Contingent Charge would be paid by State Street to Nationwide to reimburse it for the expenses incurred in connection with the sale of the Contracts. These expenses include commissions, promotional costs, sales administration, and similar sales related expenses.

Other charges which would be assessed by Nationwide under the Contracts include an annual contract maintenance charge of $30 per Contract and an asset charge equal, on an annual basis, to 1.3% of the daily net asset value of the assets of the MFS. The asset charge is composed of a mortality risk premium, equal to approximately .8%, and an expense risk charge, equal to approximately .5%. Applicants state that these charges are calculated to reimburse Nationwide for costs related to administration of the Contracts and the assumption of mortality and expense risks.

Applicants submit that the proposed pricing change in the Contracts is consistent with all provisions of the Act and that no exemptive relief is required in order to implement the transaction. However, to avoid any possibility that questions may be raised as to the potential applicability of various definitional and regulatory sections of the Act, Applicants have requested an order of the Commission exempting the proposed transaction, to the extent necessary, from the provisions of the Act detailed below.

Section 2(a)(35)

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested or held for investment by the issuer, less and portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes or administrative expenses or fees which are not properly chargeable to sales or promotional activities. Applicants assert that the proposed Contingent Charge is consistent with the intent of the definition of "sales load" contained in the Act. While eliminating the usual initial sales load deduction from purchase payments Nationwide would continue to incur expenses related to the sale of the Contracts, including commissions paid to sales personnel and the costs of promotion and sales administration. The Contingtent Charge would be retained by Nationwide to reimburse it solely for expenses related to the sale of the Contracts, which Applicants maintain is within the Section 2(a)(35) definition of sales load, but for the timing of the imposition of the charge. Applicants assert that the deferral of the sales charge, and its contingency upon the occurrence of an event which might not occur, does not change the basic nature of this charge, which is in every other respect a sales charge. However, Applicants have requested an exemption from the provisions of Section 2(a)(35), to the extent necessary, to implement their proposed change in the pricing of the Contracts.

Sections 27(c)(2) and 26(a)(2)(C)

Section 27(c)(2) of the Act, in pertinent part, makes it unlawful to sell any periodic payment plan certificate unless the proceeds of all payments on such certificates are deposited with a custodian having the qualifications described in Section 26(a)(1), and are held by such custodian under an agreement containing substantially the provisions required in Sections 26(a)(2) and (3) of the Act. Section 26(a)(2)(C) provides essentially that no payment to the depositor of, or a principal underwriter for, a registered unit investment trust shall be allowed the trustee or the custodian as an expense except a fee, not exceeding such reasonable amount as the Commission may prescribe, as compensation for performing bookkeeping and other administrative duties normally performed by the custodian.

Applicants assert that the proposed Contingent Charge is not the typical kind of expense contemplated by Section 26(a)(2). Applicants submit that Section 26 of the Act was enacted to deal with certain abuses by requiring the trust instrument of a unit investment trust to: (1) designate as trustee or custodian a bank of a specified minimum size; (2) require that all funds and property of the trust be held by a trustee; and (3) provide that the trustees is entitled to reimburse itself out of the trust property for its expenses incurred and fees actually earned. Applicants submit that these requirements were not intended to preclude the depositor of a unit investment trust from taking a sales load. They assert that the Contingent Charge is intended specifically and solely to reimburse Applicants for sales related expenses. Applicants maintain that the deferral of the imposition of this charge, and making it contingent upon an event which may never occur, do not change the basic nature of this charge as a sales charge to which Section 26(a)(2)(C) was not intended to apply. Furthermore, Applicants contend that Section 27(c)(2) excepts deductions for sales load from the requirement that the proceeds be deposited with a custodian. Applicants assert that the Contingent Charge is a sales load to which this exception should apply, and that deferring the imposition of the charge and making it contingent upon an event which might never occur should in no way be construed as violative of Section 27(c)(2). However, Applicants have requested an exemption from the provisions of Sections 27(c)(2) and 26(a)(2)(C), to the extent necessary, to implement their proposed change in the pricing of the Contracts.

Applicants have consented that the foregoing requested exemption may be made subject to the following conditions: (1) that the deductions under the Contract for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe and the Commission may reserve jurisdiction for such purpose; and (2) that the payment of sums and charges out of the assets of MFS shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that Applicants consent to this condition shall not be determined to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets, other than the charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Section 2(a)(32) and 27(d)

Section 2(a)(32) of the Act, in pertinent part, defines "redeemable security" as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 27(d) of the Act, in pertinent part, requires that the holder of a periodic payment plan certificate be able to surrender the certificate under certain circumstances with the recovery of certain initial sales charges. Applicants submit that the imposition of the Contingent Charge does not violate Section 2(a)(32) or Section 27(d). Applicants assert that Sections 2(a)(32) and 27(d) both contemplate the assessment of an initial sales load. However, Applicants assert that, with a Contingent Charge, the net amount invested is the gross purchase payments. Thus, the owner's proportionate share or account value would be the gross purchase payments, plus or minus any increase or decrease in value, less the Contingent Charge. Applicants assert that deferring the imposition of the sales charge in no way restricts the contract owner from receiving his proportionate share or the value of his account on redemption. Rather, Applicants maintain that the Contingent Charge will merely be deducted at the time of redemption in determining that proportionate share, instead of being deducted from purchase payments. Applicants contend that the Contingent Charge merely defers the timing of the imposition of the sales charge and makes the charge contingent upon an event which might never occur. Applicants submit that this method of assessing sales charges permits the purchaser's net amount invested to be increased, thus providing a benefit to the purchaser. However, Applicants have requested an exemption from the provisions of Section 2(a)(32) and 27(d), to the extent necessary, to implement their proposed change in the pricing of the Contracts.

Section 27(c)(1)

Section 27(c)(1) of the Act, in pertinent part, makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor or underwriter of such company, to sell any such certificate unless such certificate is a redeemable security. Applicants submit that the assessment of a Contingent Charge upon certain redemptions, which is fully disclosed in the prospectus, should not be construed as such a restriction on redemption. Applicants assert that the Contracts are sill redeemable securities, whether the sales charge is imposed against the purchase payment at the time of purchase, or whether such charge is deferred and made contingent upon an occurrence at a later instant during the contract period. Applicants assert that this is particularly true where the deferral of the Contingent Charge until a redemption is effected has the general effect of increasing the contract value that is available for redemption, as compared with the contract value that would be available for redemption were the sales charge deducted from the purchase payment before investment on behalf of the owner. However, Applicants have requested an exemption from the provisions of Section 27(c)(1), to the extent necessary, to implement their proposed change in the pricing of the Contracts.

Applicants further assert that the proposed transfers involve only a change in the Contracts' underlying accumulation units, which are merely accounting units of measure to quantify contract value, and, thus, do not involve an exchange of a unit investment trust security for the security of any other investment company. However, to avoid any questions that might be raised as to the applicability of Section 11, Applicants are requesting an Order pursuant to Section 11, to the extent necessary, to permit the proposed offer of transfer rights described above.

Section 6(c)

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 9, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following February 9, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2016 Filed 1-18-79; 8:45 am]

[8010-01-M]

[Rel. No. 10558]

NATIONAL LIQUID RESERVES, INC.

Filing of Application

JANUARY 15, 1979.

Notice of filing of application pursuant to section 6(c) of the Act for an order of exemption from rules 2a-4 and 22c-1 thereunder.

Notice is hereby given that National Liquid Reserves, Inc. ("Applicant"), 605 Third Avenue, New York, New York 10016, (812-4402), a no-load, open-end diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on December 8, 1978, and an amendment thereto on January 4, 1979, pursuant to Section 6(c) of the Act for an order of the Commission exempting Applicant from the provisions of Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to calculate its price per share for the purposes of sales and redemptions of its shares, to the nearest one cent on a share value of one dollar. In all other respects, portfolio securities held by the Company will be valued in accordance with the views set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC-9786"). All interested persons are referred to the application on file with the Commission for a statement of representations contained therein, which are summarized below. Applicant states that it is a money market fund designed as an investment vehicle for institutional and

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individual investors who seek liquidity for their investment. The application states that its portfolio is invested primarily in short-term marketable obligations issued or guaranteed as to principal and interest by the U.S. Government (or its agencies or instrumentalities), obligations of U.S. banks, commercial paper, and short-term corporate obligations. Application asserts that since its inception in 1974 and in keeping with its policies, its portfolio has been invested largely in certificates of deposit of domestic banks, which are members of the Federal Reserve System and which have capital, surplus, and undivided profits in excess of $100,000,000, and commercial paper rated A-1 by Standard & Poor's Corporation or Prime-1 by Moody's Investor Services, Inc.

Applicant states that it does not presently have nor does it intend to have investments in instruments having a remaining maturity of greater than one year. Applicant states that it values its portfolio at market and asserts that because of the short maturities of its portfolio, its net asset value per share has varied between $9.96 and $10.02 from its inception on May 28, 1974. Applicant states that its Board of Directors has authorized, subject to shareholder approval, a split-up of Applicant's common stock approximately 10 for 1 through a stock dividend of approximately 9 shares for each share outstanding, so that after the split-up, each new share will have a net asset value of $1.00. Applicant asserts that it expects that as a result of rounding the net asset value per share to the nearest $.01 on a $1.00 price, Applicant's price per share for the purpose of sales and redemptions will remain at $1.00.

Applicant states that its Board of Directors believes that this split and consequent $1.00 price per share will benefit Applicant and its shareholders. Applicant, designed as an investment vehicle for institutional and individual investors who seek liquidity for their investment, has as its investment objectives maximum current income and preservation of capital. Applicant's investors, the Applicant asserts, want the daily income dividends declared by the Applicant to reflect income as earned, and the sales and redemption price not to change. Applicant represents that its Board of Directors has therefore reached the conclusion that stability of capital and a steady flow of investment income would be of benefit to existing shareholders and a helpful tool in attracting potential investors to Applicant. Applicant asserts that its shareholders would have the convenience of being able to determine the value of their holdings simply by knowing the number of shares they own. Also, the task of maintaining an investment record would be made easier for Applicant's shareholders. Applicant also states that this change is expected to avoid the periodic changes in Applicant's net asset value per share as a result of which investors have realized nominal capital gains and losses upon redemption.

Rule 22c-1 adopted under the Act provides, in part, that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. In IC-9786 the Commission issued an interpretation of Rule 22c-1 expressing its view that Rule 22c-1 which would require a fund using a "floating" net asset value to maintain an accuracy in computing its price of one percent (equivalent to the nearest one cent on a net asset value of $10.00). Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be determined with reference to current market value for portfolio securities with respect to which market quotations are readily available and for other securities and assets fair value as determined in good faith by the board of directors of the registered company. In IC-9786 the Commission issued an interpretation of Rule 2a-4 expressing its view that it was inconsistent with Rule 2a-4 for certain money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a-4.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act and rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant asserts that a substantial number of money market funds now offer the public a $1.00 price for their shares. Applicant represents that, to the extent necessary, the Applicant's Board of Directors will consider the advisability of temporarily suspending payment of dividends, or making a capital gains or other distribution, to maintain a $1.00 price per share, if the net asset value per share declines to a value below $.997 or rises to a value of above $1.003, respectively. Applicant states that in order to attempt to assure the stability of Applicant's price it will also adhere to the following conditions:

1. Applicant's Board of Directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertakes—as a particular responsibility within its overall duty of care owed to the shareholders of Applicant—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objectives, that Applicant's price per share as computed for the purpose of sales and redemptions, rounded to the nearest cent, will not deviate from one dollar.

2. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share. Applicant will not purchase a portfolio security with a remaining maturity of greater than one year, nor will it maintain a dollar-weighted average portfolio maturity in excess of 120 days. Applicant states that, in addition, in the future to help maintain a $1.00 net asset value, the Board of Directors has resolved that unless particular circumstances dictate otherwise, portfolio securities having maturities of 60 days or less when purchased shall be valued at cost adjusted for amortization of premiums and accretion of discounts and that securities originally purchased with maturities in excess of 60 days should be valued beginning on the 60th day prior to maturity using market quotations on the 61st day prior to maturity with unrealized appreciation or depreciation of the 61st day, if any, amortized to maturity.

3. Applicant will invest in a portfolio of money market instruments consisting of U.S. Government obligations issued or guaranteed as to principal and interest by the U.S. Government or its agencies or instrumentalities (whether or not subject to repurchase agreements), U.S. bank obligations, high grade commercial paper, and short-term corporate obligations. Investments in U.S. bank obligations (including certificates of deposits, letters of credit, and bankers' acceptances) will be limited to domestic banks and their foreign branches provided such domestic banks are members of the Federal Reserve System and have capital, surplus, and undivided profits (as published in their most recently published financial statements prior to the date of the investment) in excess of $100,000,000. The commercial paper purchased by Applicant will be (i) rated A-1 by Standard & Poor's or Prime-1 by Moody's Investor Services, Inc., or (ii) issued by companies which at the time of purchase have an outstanding debt issue rated AA or better by Standard & Poor's or Aa or better by Moody's. The short-term obligations of corporations purchased by Applicant will be rated when purchased, AA or better by Standard & Poor's or Aa or better by Moody's.

Notice is further given that any interested person may, not later than February 7, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2017 Filed 1-18-79; 8:45 am]

[8010-01-M]

[Rel. No. 10560]

PILGRIM FORMULA SHARES, INC.

Filing of Application

JANUARY 15, 1979.

Notice of filing of application pursuant to section 8(f) of the Act for an order declaring that company has ceased to be an investment company

Notice is hereby given that Pilgrim Formula Shares, Inc. ("PFS"), 185 Cross Street, Fort Lee, New Jersey 07024, registered under the Investment Company Act 1940 ("Act") as a diversified, open-end, management investment company, filed an application on November 13, 1978, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that PFS has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that PFS was incorporated under the laws of the State of Maryland on July 13, 1973, and that it has been registered under the Act since 1973. Pursuant to a Plan and Agreement of Reorganization dated July 12, 1978 between PFS and Pilgrim Fund Inc. ("Pilgrim"), substantially all of the net assets of PFS were transferred to Pilgrim in exchange for shares of capital stock of Pilgrim, which shares were then distributed to the shareholders of PFS on a prorata basis pursuant to a Plan of Liquidation and Dissolution. The effective date of said transactions pursuant to the Plan and Agreement of Reorganization was October 31, 1978, and as of November 7, 1978, PFS had cash assets of less than $3,000, which amount was maintained as a reserve to pay accrued expenses and expenses to be incurred in the final liquidation and dissolution of PFS.

The Board of Directors of PFS, on October 26, 1978, authorized PFS to file an application pursuant to Section 8(f) of the Act, inasmuch as PFS does not have any current operations and has no plans or intentions to continue as either an investment company or a corporation, and further authorized PFS to file for dissolution under Maryland law.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 9, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2018 Filed 1-18-79; 8:45 am]

RLC CORP.

Application To Withdraw From Listing and Registration

[File No. 1-5728]

JANUARY 15, 1979.

In the matter of RLC Corp., Common Stock, Par Value $1.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the AMERICAN STOCK EXCHANGE, INC. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of RLC CORP. (the "Company") has been listed for trading on the Amex since October 1, 1968. On February 21, 1978, the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE") and concurrently therewith, such stock was suspended from trading on the Amex. In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant to maintaining a dual listing on both exchanges. The Company does not see any particular advantage in the dual listing of its stock and believes that dual listing would fragment the market for such stock.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect on the continued listing of such common stock of the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before February 16, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2019 Filed 1-18-79; 8:45 am]

[8010-01-M]

Release No. 34-15491/File No. SR-Amex-78-29]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 28, 1978 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The Board of Governors of the American Stock Exchange has approved the rescission of Rule 929 which prohibits member firms from carrying options accounts for Exchange employees.

(Brackets indicate deletions; italics indicate new material)

[Accounts of Exchange Employees

Rule 929. No member or member organization shall approve for options trading any account in which an employee of the Exchange or of any corporation in which the Exchange owns the majority of the capital stock, is directly or indirectly interested.]

Exchange's Statement of Basis and Purpose

At present, Exchange policy prohibits its employees from effecting certain securities transactions, including transactions in any option, whether or not listed on the Amex. Rule 929 prohibits member firms from carrying options accounts for Exchange employees. The basic purpose of the Exchange's policy is to avoid conflicts of interest and the misuse of non-public information. However, there is no risk that Amex employees will misuse non-public information obtained in the performance of their duties in transactions in options where neither the option nor its underlying security is listed on the Amex. Therefore, the Exchange has modified its policy to permit its employees to effect options transactions where neither the option nor the underlying security is traded on the Amex.* Rule 929 has been rescinded to accommodate this change in policy.

The rescission of Rule 929 relates to the administration of the Exchange, and is consistent with Section 6(b)(1) of the Act.

Comments Received From Members, participants, or Others on Proposed Rule Change

No comments were solicited or received with respect to the proposed rule change.

Burden on Competition

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W. Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this filing.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 12, 1979.

[FR Doc. 79-2020 Filed 1-18-79; 8:45 am]

*All other options exchanges permit their employees to effect such options transactions.

[8010-01-M]

[Release No. 34-15492 File No. SR-CBOE-1978-35]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 22, 1978 the above-mentioned self-regulatory organization filed with the Securities and Exchange Comission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

(Brackets indicate deletions; italics indicate new material)

FINANCIAL REPORTS

Rule 15.5 No change.

Interpretations and Policies

.01 Each member shall file with the Exchange a report of financial condition on SEC Form X-17A-5 as required by Securities and Exchange Commission Rule 17a-10. Any member who fails to file in a timely manner such report of financial condition pursuant to SEC Rule 17a-10 shall be subject to late filing charges as follows:

Days late and amount

01-30	$100
31-60	$200
61-90	$400

Repeated or aggravated failure to file in a timely manner a report of financial condition on Form X-17A-5 will be referred to the Business Conduct Committee. A failure to file such financial report of more than 90 days will be referred to the Business Conduct Committee.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to make explicit in the CBOE Rules the obligation of Exchange members subject to Rule 17a-10 filing requirements to file in a timely manner reports of finanical condition on Form X-17A-5 and to establish a schedule of late filing charges to encourage prompt compliance with such filing requirement. It is believed that these late filing charges will serve to communicate to the membership the necessity of prompt compliance and eliminate the necessity for more formal disciplinary action; however formal disciplinary action remains an available alternative, especially in case of aggravated or repeated failures to file required financial reports in a timely manner. The proposed late filing charge would also serve to defray the cost to the CBOE of dealing with members who have been delinquent in their filings.

The basis under the Act for the proposed rule interpretation is Section 6(b)(5) of the Securities Exchange Act which requires that the Exchange's rules be designed to promote just and equitable principles of trade and to protect investors and the public interest.

Comments have not been solicited or received respecting this proposed rule interpretation.

The Exchange does not believe the proposed rule interpretation will impose any burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 12, 1979.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2021 Filed 1-18-79; 8:45 am]

[8010-01-M]

[Release No. 34-15495; File No. SR-CBOE-78-34]

CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) (the "Act"), notice is hereby given that on December 20, 1978 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as folows:

INTRODUCTORY STATEMENT OF THE CHICAGO BOARD OPTIONS EXCHANGE, INC.

The Chicago Board Options Exchange, Incorporated ("CBOE") and the Midwest Stock Exchange, Incorporated ("Midwest") have entered into an agreement dated August 15, 1978 (the "Agreement"), to combine the options market of the two exchanges. (A copy of the Agreement has been filed as an exhibit to the form 19b-4A.) The Agreement contemplates the possibility that the transaction might occur in two stages: first, a relocation of Midwest's options market so as to be physically adjacent to CBOE's trading floor (the "Relocation"); and second, a full combination of the two options markets such that Midwest ceases to have responsibility for or connection with an options market, the options listed on Midwest become listed on CBOE and the Midwest options members become special members of CBOE (the "Combination").

The two-stage approach was agreed to in recognition that the Combination involved amendments to the rules of both exchanges, approval of which could take six or more months from the date of the Agreement, whereas some important benefits might be gained considerably earlier through a mere physical move of the Midwest options market without the necessity for rule amendments. In this filing, not only the proposed amendments to CBOE's rules necessary for accomplishing the full Combination but also CBOE's request for separate approval of the Relocation are presented as a proposed rule change, pursuant to a suggestion of the Staff, even though the Relocation itself does not require formal rule amendments. Concurrently herewith Midwest is also filing a proposed rule change covering both the formal amendments to its rules needed to accomplish the Combination and its request for approval of the Relocation.[1] In order to avoid unnecessary duplication in these filings, CBOE and Midwest have prepared a joint memorandum in support of the combination of the CBOE and Midwest options markets (the "Joint Memorandum"), which has been filed as an exhibit to each Form 19b-4A and incorporated by reference at various places in response to the appropriate items of the Form.[2]

For all the reasons set forth herein and in the Joint Memorandum, CBOE hereby requests that its filing and the concurrent filing of Midwest be processed on the most expeditious schedule possible (with minimum intervals between dates of filing, publication of notices, deadline for comments, and the Commission's final action) so that approval of the full Combination may be possible by not later than March 16; in that case the parties would forego the two-stage approach and therefore separate consideration of the Relocation (Stage I) would be unnecessary. If, however, it appears presently or in the course of consideration of this filing that approval of the full Combination (Stage II) is likely not to be possible by March 16 for any reason, CBOE hereby reqests that State I be separately considered and approved as expeditiously as possible, so that the Relocation may occur at the earliest possible date in view of the important (even though partial) benefits that can be achieved by proceeding with Stage I, as set forth in the Form 19b-4A and in the Joint Memorandum.[3]

The full Combination will of course result in a modest increase in the size of CBOE's market. it will not, however, expand options trading in the ag-

[1] Release No. 34-15494; File No. SR-MSE-78-30.

[2] Although both CBOE and Midwest are in full accord with the basic arguments and conclusions expressed in the "Joint Memorandum" it should be understood that statements specifically relating to Midwest's past experience, expectations, reasons, etc., are those of Midwest and that statements specifically relating to CBOE's plans, reasons, etc., are those of CBOE.

[3] If at all possible, CBOE and Midwest would like to complete the Relocation by not later than the weekend of March 24 in the event that approval of the full Combination appears not to be possible by March 16. As a practical matter the parties (i) will need an interval of approximately sixty days between approval of the Relocation and its actual effectuation and (ii) will want to avoid moving during any weekend related to expiration of any option series.

gregate, will not expand combined options-stock trading in the same market, and will not involve any new product or new form of options trading. Nor will it present any moratorium-related issues; the only relevant issue is market surveillance and regulation and, as will be seen below and in the Joint Memorandum, these will clearly be enhanced, not impaired, by the Combination.

Even less will the Relocation alone present moratorium-related issues. It will amount to a mere physical move of Midwest's options market, with no change in its operation and no diminution of Midwest's regulatory responsibility, but with an enhancement of Midwest's capacity to carry out both operational and regulatory functions through new contractual arrangements with CBOE.

At the time of agreeing to the voluntary moratorium, CBOE and Midwest informed the Chairman of the proposed transaction and of their intent to ask for prompt consideration during the moratorium. The two exchanges had in mind then, and again emphasize (i) Midwest's business reasons for terminating its options program and (ii) the obvious desirability of transferring the entire program to a location in Chicago in order to avoid unnecessarily harsh impacts on Midwest's members and employees whose livelihoods were involved in the Midwest options program. These considerations sharply distinguish the proposed Combination (and *a fortiori* the proposed Relocation considered separately) from other types of proposed rule changes that occasioned the moratorium. Accordingly, CBOE believes that the proposed rule changes should not be deemed expansionary within the meaning of the Points of Agreement with respect to the moratorium and should not be the basis for a general opening up of the right to file expansionary rule change proposals.

STATEMENT OF THE TERMS AND SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would implement the Agreement by making the amendments to CBOE's rules necessary in order to accomplish the full Combination of the CBOE and Midwest options markets. No amendments to CBOE's rules would be required in order to accomplish the relocation of the Midwest options market. The text of the formal amendment to CBOE's rules is set forth in Exhibit A hereto.

STATEMENT OF BASIS AND PURPOSE BY THE CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED.

The basis and purpose of the proposed rule change is as follows:

PURPOSE OF PROPOSED RULE CHANGE

The general purpose of this proposed rule change is to implement the Agreement with respect to the Combination of the options markets of CBOE and Midwest. The business reasons in support of the Combination and the public benefits that would be gained from the Combination are set forth in the Joint Memorandum (Exhibit 3 to the Form 19b-4A). The purpose of the proposed Relocation stage is to make possible the prompt achievement of certain of the benefits to be gained from the full Combination, in the event that the Commission's consideration of the full Combination becomes prolonged. The benefits to be gained from the Relocation are also set forth in the Joint Memorandum.

The specific purpose of each proposed amendment to CBOE's rules is as follows:

CERTIFICATE OF INCORPORATION

Article Fifth: This proposed amendment would enable CBOE to create different classes of membership (in this case, regular memberships for present CBOE members and special memberships for present Midwest options members) and provides that each regular member would have one vote. The amendment further provides that authority over the voting rights relating to other classes of membership would be contained in CBOE's by-laws (i.e., its Constitution and Rules) instead of its corporate charter, as permitted by Section 102 of the Delaware Corporation Law, with the result that the amending process would be less cumbersome.

Article Sixth: The first paragraph of this proposed amendment provides that, to the extent not set forth in the Certificate of Incorporation, authority over the conditions of membership and all matters relating to the membership, including limitations upon or qualifications of voting power of members, would be contained in the by-laws. The second paragraph of this proposed amendment provides that the by-laws would contain authority over matters relating to CBOE's internal management, organization, business and affairs. The Second paragraph does not relate to the combination of the two options markets, but is being made at this time for reasons of convenience and efficiency. Both paragraphs are consistent with Section 102 of the Delaware Corporation Law which permits authority over such matters to be contained in either the corporate charter or the by-laws, and are intended to give CBOE more flexibility in the conduct of its affairs than would be the case if all such matters were delineated in the Certificate of Incorporation, with its attendant cumbersome amending process.

Article Eighth: This proposed amendment provides that authority for the classification of CBOE's Board of Directors would be contained in its by-laws and is intended to confirm the classification which is now set forth in CBOE's Constitution. This proposed amendment does not relate to the combination of the two options markets, but is being made at this time for reasons of convenience and efficiency. This proposed amendment is consistent with Section 141 of the Delaware Corporation Law, which permits the corporate charter of a non-stock corporation to authorize the creation of classifications of its board of directors that are different from those specified for stock corporations.

CONSTITUTION

Section 1.1(b): This proposed amendment would define the term "member" to include a regular member and a special member, or their registered nominees, thereby taking account of the proposed new class of membership, and is intended to make the rules of CBOE generally applicable to special members as well as regular members.

Section 2.1(b): Because CBOE proposes to create a new class of membership, this proposed amendment would specify that the terms of eligibility for an existing CBOE membership apply only to regular memberships; the terms of eligibility for a special membership would be stated in proposed Section 2.1(d).

Section 2.1(d). This proposed amendment would establish and define the terms of eligibility for a new class of members of CBOE (ie., "special members") that would be available to Midwest options members in good standing on the effective date of the Combination and would also establish the right of those special members to act as market makers or floor brokers in those Midwest options classes which continue to be open for trading on CBOE. Special members would be subject to all the obligations of regular CBOE members, and the rights of special members would terminate ten years after CBOE assumes full responsibility for the Midwest options market. The Midwest options classes available for trading by special members would be (i) those classes of call options which were open for trading on Midwest on the last business day prior to the effective date of the Combination, and (ii) put classes on the securities underlying the classes of eligible call options, regardless of when trading commences in such put classes. Special members would be in a minority among CBOE members; for that reason, certain rights of special members would be detailed in this Section 2.1(d) and in proposed Section 2.6 (b) and (c) of the Constitution as a means of protecting against restriction of those rights by a majority vote of regular CBOE members. As proposed in Section 12.1, Sections 2.1(d), 2.6(b) and (c) and 12.1 could not be amended in a manner adversely affecting the rights of special members without the affirmative vote of a majority of the special members, voting as a separate class.

Section 2.6 This proposed amendment would establish the voting rights of a regular member (one vote) and a special member (one-sixth vote, except as otherwise provided by law) and would establish that a special member would have the same eligibility as a regular member to serve as a director or member of any committee of CBOE. The provisions with respect to the rights of special members are intended to provide the means by which such members participate in the selection of CBOE's directors and in the administration of its affairs and, as noted in the discussion with respect to proposed Section 2.1(d), would be included as Section 2.6(b) and (c) in the Constitution as a means of protecting against the restriction of those rights by a majority vote of regular CBOE members. The section would specify that a special member would have no interest in or right to share in any distribution of the assets of CBOE in the event of any liquidation or dissolution of CBOE. This provision restates a portion of CBOE's corporate charter that denies to special members any right to a distribution on liquidation or dissolution of CBOE.

Section 12.1. This proposed amendment would provide a means of protecting against the restriction of certain rights of special members (who would be in a minority on CBOE) by requiring that any amendment to Sections 2.1(d), 2.6 (b) and (c) and 12.1 of the Constitution adversely affecting the special members would require the affirmative vote of a majority of the special members eligible to vote, voting as a separate class.

RULES

Rule 2.23. This proposed amendment would permit the sale or cancellation by CBOE of a special membership in accordance with the provisions of Rule 3.14(b) [1] when amounts due to CBOE are more than six months past due. Regular memberships may now be sold under such circumstances, and special memberships would be included within that procedure. The provision with respect to cancellation of a special membership is intended to be used when the secondary market for special memberships ceases to exist, e.g., as the end of the ten-year life of the special memberships approaches.

Rule 3.10. This proposed amendment would provide a mechanism for establishing CBOE membership records with respect to special members and declaring an original application for special membership effective by tying such effectiveness to the filing by the special member of the usual documents and information required for membership on CBOE.

Rule 3.12. This proposed amendment would make clear that a special member would have no interest in or right to share in any distribution of the property of CBOE in the event of a dissolution or liquidation of CBOE.

Rule 3.13(b). This proposed amendment would include special memberships within the existing CBOE procedure for purchasing a membership.

Rule 3.14 (a) and (c). This proposed amendment would include special memberships within the existing CBOE procedure for sale or other transfer of a membership by an owner.

Rule 3.14(b). This proposed amendment would include special memberships within the existing CBOE procedure for the sale of a membership by CBOE where a member has died or been declared legally incompetent and his legal representative has not consummated a transfer within six months, or where a member's good standing has been suspended and has failed to be reinstated at the end of the period of suspension, or where a member's good standing has been terminated. In addition, the amendment would establish a procedure by which CBOE could cancel a special membership under such circumstances where it determines not to offer the special membership for sale. The provision with respect to cancellation of a special membership is intended to be used when the secondary market for special memberships ceases to exist, e.g., as the end of the ten-year life of the special memberships approaches.

Rule 3.15(a). This proposed amendment would include holders of special memberships within the existing CBOE procedure that is available to holders of non-transferable regular memberships for surrender of such a membership and would permit the holder of a special membership to surrender that membership in order to terminate his future obligations to CBOE. Such surrender might take place if the secondary market for such memberships ceases to exist, e.g., as the end of the ten-year life of the special membership approaches.

Rule 3.16(d). This proposed amendment would generally prohibit the leasing of special memberships, but would also establish the limited right of certain special members to continue leasing their memberships to persons who had been their lessees on Midwest continuously since July 18, 1978, and would subject all such lease arrangements to the existing requirements for leasing, and terminating the lease of, a regular membership. Further, the transfer of a special membership would terminate any lease arrangement with respect to that special membership. The exception to the general prohibition on leasing special memberships was included so that the limited number of leasing agreements in effect on Midwest at the time the exchanges reached an agreement in principle for the Combination could be continued following the Combination.

Rule 6.5. This proposed amendment would draw a distinction between the classes of options available for trading by regular members and those available for trading by special members (referred to as "MSE Options"), and is intended to call attention in the Rules (which tend to be more widely known by members than the Constitution) to the definition of MSE Options that is contained in proposed Section 2.1(d) of the Constitution. By utilizing a guideline under Rule 6.5, the listing of securities underlying the MSE Options could be updated readily as necessary by means of a filing under Section 19(b)(3) of the Act.

Rule 9.1. This proposed amendment is necessary because of the proposed new class of membership. The amendment would make clear that special members, in contrast to regular members, could act only as floor brokers or market makers on CBOE and could not transact business with the public.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

Section 6(b)(1) of the Act requires that an exchange have the capacity to be able to carry out the purposes of the Act and to comply and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange. The Joint Memorandum contains a discussion of CBOE's market and regulatory capacity. Given CBOE's present capacity and its current and planned programs for expansion, CBOE is confident that it can readily accommodate the Midwest options market.

The Agreement contemplates the possibility that the Relocation would take place prior to the effective date of the Combination, with CBOE providing most of the facilities and services necessary for the operation of the Midwest options market at that time. Upon the effective date of the Combination, except for incremental additions needed for CBOE to assume responsibility for surveillance with respect to its new special members (the

[1] The reference to Rule 3.13(b) in the current rule is a typographical error.

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former Midwest options members), no additional market or regulatory capacity would be needed by CBOE. Should the Relocation not precede the Combination, CBOE would of course take over responsibility for the entire Midwest options program at one time. CBOE's market and regulatory capabilities are more than adequate for that task.

Section 6(b)(2) of the Act requires that the rules of an exchange provide that any registered broker or dealer or natural person associated with a registered broker or dealer may become a member of such exchange. After the effective date of the Combination, special memberships will be freely transferable [3] and may be purchased by any registered broker or dealer or natural person associated with a broker or dealer who otherwise meets the existing requirements for membership on CBOE.

Section 6(b)(3) of the Act requires in part that the rules of an exchange assure a fair representation of its members in the selection of its directors and administration of its affairs. The Agreement and the formal amendments to CBOE's rules set forth the rights of special members in this regard.

Section 6(b)(4) of the Act requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees and other charges among the members of the exchange. Section 6(b)(5) of the Act requires that the rules of an exchange be designed in part to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest. Section 6(b)(6) of the Act requires that the rules of an exchange provide that its members be appropriately disciplined for violation of the provisions of the Act, the rules and regulations thereunder or the rules of the exchange. Section 6(b)(7) of the Act requires in part that the rules of an exchange provide a fair procedure for the disciplining of members, and for the denial of membership or the prohibition or limitation with respect to access to the services of the exchange or a member thereof. With respect to each of the foregoing statutory matters, special members of CBOE will be treated as regular CBOE members and will be fully subject to the existing rules of CBOE, as they are amended from time to time, governing such matters. In the event that the full Combination is preceded by the Relocation stage, the members of each exchange will continue to be fully subject to the existing rules of each exchange governing such matters, as they are amended from time to time, until the full Combination is accomplished.

CBOE did not solicit and has not received comments on the proposed rule change.

CBOE does not believe that the Combination will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Joint Memorandum sets forth the basis for such conclusion. For additional reasons, set forth in the Joint Memorandum, CBOE does not believe that the Relocation considered separately would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. The Commission encourages those submitting comments on the proposed rule change to address (i) whether the proposed action is an expansion or material alteration of an existing options programs within the meaning of the options moratorium [4] and (ii) whether the proposed action imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. [5] Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 30 days of the date of this publication.

By the Commission.

Dated: January 12, 1979.

GEORGE A. FITZSIMMONS,
Secretary.

EXHIBIT A TO (FILE NO. SR-CBOE-78-34)

(Additions are italicized; deletions are bracketed.)

The formal amendments to CBOE's rules necessary for implementation of the Combination [1] are as follows:

PROPOSED AMENDMENTS TO CERTIFICATE OF INCORPORATION

FIFTH: (a) The Corporation shall have members, and the [conditions of] membership of the Corporation [to the extent not stated in this certificate of incorporation, shall be stated] *shall consist of regular members and such other classes (if any) as may be provided* in the by-laws of the Corporation. *Each regular member shall be entitled at every meeting of members to one vote in person or by proxy. Members of each other class shall have only such voting rights and power (which may vary as between classes) as may be provided to such class in the by-laws of the Corporation, it being intended that, for each class, the by-laws, to the fullest extent permitted by law, may entirely withhold voting rights or grant voting rights only with respect to certain matters or generally with respect to all matters submitted to a vote by members, and, for each class granted voting rights, may grant voting power equal to, or more or less than, one vote per member of the class. Every reference in this Certificate of Incorporation to "members" or "membership" shall mean all classes of members and membership except as otherwise expressly provided in the text in which such words appear and except in paragraph (b) of Article FIFTH and in Article TENTH where the words "members" and "membership" mean regular members and regular membership only. Each reference in this Certificate of Incorporation to a majority or other proportion of the members entitled to vote on any matter shall mean such majority or other proportion of the votes of such members.* Subject to any limitation on the number of members which may be provided for in the by-laws *of the Corporation*, and except as provided in paragraph (b) of this Article FIFTH, membership in the Corporation shall be open to all individuals and organizations who qualify for membership pursuant to the by-laws.

(b) No Change

SIXTH: The By-laws of the Corporation shall consist of its Constitution and Rules, each as amended from time to time. The original By-laws shall be adopted by the initial Board of Directors of the Corporation, and thereafter the power to make, alter or repeal the Constitution shall be vested in the members of the Corporation entitled to vote thereon, and shall be exercisable by such vote of those members, subject to such condition (if any) of prior approval by the Board of Directors, as the Constitution may provide, while the power to make, alter or appeal the Rules shall be vested in the Board of Directors and shall be exercisable by such vote of Directors as the Constitution may provide.

To the extent that the conditions of membership are not stated in this Certificate of Incorporation, they shall be stated in the by-laws. In addition, the by-laws may contain provisions not inconsistent with this Certificate of Incorporation, as amended from time to time, governing any or all matters relating to the membership of the Corporation, including (without limiting the foregoing) the method of admission, the number, qualifications and classifications of members, the limitations, rights, powers, and duties of members, provisions relating to the transferability of memberships, the method of expulsion from and other termination of membership and limitations upon or qualifications of voting power by members. The by-laws may prescribe standards to determine good standing of members and if standards are so prescribed only members in good standing shall be entitled to vote on matters presented to members for their vote.

In addition, the by-laws may cover any and all other matters relating to the Corporation, including (without limiting the foregoing) its internal organization, management, business and affairs, in a manner not inconsistent with this Certificate of Incorporation, as amended from time to time. Such matters may be covered by the Constitution, or may be assigned expressly or impliedly (by absence of a provision in the Constitution) to the Rules.

EIGHTH: The governing body of the Corporation shall be its Board of Directors. The business and affairs of the Corporation shall be managed by the Board of Directors except to the extent that the authority, powers and duties of such management shall be delegated to a committee or committees of the Corporation established pursuant to the by-laws as hereafter provided. In addition to any committees of the Board of Directors which may be established as permitted by law, the by-laws of the corporation may provide for the establishment of one or more committees (the members of which shall be selected as provided in the by-laws and need not be either members of the Board of Directors or members of the Corporation), each of whom shall have the authority, powers and duties, including such authority, powers and duties in the management of the business and affairs of the Corporation, as the by-laws shall provide.

The number of Directors shall be as fixed in the Constitution and, to the extent provided in the Constitution, shall include non-member Directors appointed to represent the public. The Chairman of the Board, the Vice-Chairman of the Board and the President of the Corporation shall by virtue of their offices be members of the Board of Directors. *The members of the Board of Directors may be divided into such number of classes as may be provided in the by-laws of the Corporation, provided that the provision in such by-laws establishing such classes must be adopted by a vote of the members entitled to vote thereon.*

* * * * *

PROPOSED AMENDMENTS TO CONSTITUTION

ARTICLE I—DEFINITIONS

Section 1.1 Definitions.

(b) The term "member" means an individual member or a member organization of the Exchange (*or a registered nominee of such a member organization*) *that is a regular member* in good standing [in accordance with the Constitution and Rules, or a registered nominee of such a member organization] *described in Section 2.1(b) of Article II of the Constitution, or that is a special member in good standing described in Section 2.1(d) of Article II of the Constitution to the extent that such special members are entitled to the rights and are subject to the obligations of members under the Certificate of Incorporation, the Constitution, or the Rules.*

ARTICLE II—MEMBERSHIP

SECTION 2.1 NUMBER OF MEMBERSHIPS

(b) The *regular* membership of the Exchange shall consist of persons who acquire memberships made available by the Exchange in accordance with the Rules and shall also consist of those members of the Board of Trade of the City of Chicago who, pursuant to paragraph (b) of Article FIFTH of the Certificate of Incorporation, elect to apply for membership and are approved for membership in accordance with the Rules. Except as otherwise expressly provided in the Certificate of Incorporation, the Constitution or the Rules, every *regular* member of the Exchange shall be entitled to the same rights and privileges, and shall be subject to the same obligations, as every other *regular* member.

(c) No Change

(d) *The special membership of the Exchange shall consist of persons who were options members in good standing of the Midwest Stock Exchange, Incorporated ("Midwest"), as of ———— [2] and, subject to the conditions of approval for membership as stated in the Constitution and Rules, transferees of such persons. Special members in good standing, or lessees of such special members under lease arrangements that have been in effect continuously from July 18, 1978, shall be entitled to act as Market-Makers or Floor Brokers in accordance with Chapters VI and VIII of the rules in and only in those classes of MSE Options which continue to be open for trading on the Exchange; provided that all special memberships shall expire and all rights of special members shall cease, ten years after the date stated in the first sentence of this paragraph (d), and provided further, that a special membership may be cancelled by the Exchange at an earlier date under the circumstances, and with the effect, as provided in the Rules. Special members shall as a condition of their membership be subject to all of the obligations of regular members under the Constitution and the Rules, except as may be otherwise expressly provided in the Constitution or the Rules. For purposes of this paragraph (d), the term "MSE Options" shall mean (i) those classes of call options which were open for trading on Midwest at the close of business on the last business day prior to the date defined in the first sentence of this paragraph (d) other than classes of call options which, on the day Midwest commenced trading in such classes, also were open for trading on the Exchange, and (ii) all classes of put options on the securities underlying the classes of call options covered by (i).*

Voting and Other Rights and Powers

Section 2.6

(a) *Each regular member shall have the voting rights and power provided by law and by the Certificate of Incorporation.*

(b) *Except as otherwise provided by law and by Section 12.1, each special member shall be entitled at every meeting of members to one-sixth of one vote in person or by proxy, voting together with regular members and not as a separate class, and shall count as one-sixth of a member in all other instances when reference is made in the Constitution to a majority or other proportion or number of members (in-*

[1] Special memberships are not leasable, except to a lessee to whom the lessor had leased a Midwest options membership continuously from July 18, 1978.

[4] *See* Securities Exchange Act Release No. 14878 (June 22, 1978.)

[5] 15 U.S.C. 78f(b)(8) and Form 19b-4A.

[1] Implementation of the Relocation does not require any formal amendments to CBOE's rules.

[2] The date to be inserted in this blank is the thirtieth day after the conditions set out in paragraph 3.6 of the Agreement dated August 15, 1978 between the Exchange and Midwest have been satisfied, or such other date as to which the Exchange and Midwest shall agree in writing pursuant to paragraph 3.2 of such agreement.

cluding, without limiting the generality of the foregoing, reference to calling meetings of members, nominating by petition of members, determining a quorum of members or voting by members).

(c) Special members shall have the same eligibility as regular members to serve as directors of the Exchange and to serve on any committee of the Exchange.

(d) Special members shall have no interest in or right to share in any distribution of the property and assets of the Exchange in the event of any liquidation or dissolution of the Exchange.

ARTICLE XII—AMENDMENTS

CONSTITUTION

Section 12.1. The Constitution may be amended at any regular or special meeting of members by the affirmative vote of a majority of the members present in person or represented by proxy at the meeting; *provided, however, that any amendment to Section 2.1(d), Section 2.6 (b) and (c), or to this Section 12.1 having an adverse effect on special members must be approved by the affirmative vote of a majority of both the special members eligible to vote and the regular members present in person or represented by proxy at the meeting, voting as separate classes.* [The notice of the meeting shall state that such a proposed amendment will be considered.]

* * * * *

PROPOSED AMENDMENTS TO RULES

CHAPTER II—ORGANIZATIONS AND ADMINISTRATION

LIABILITY FOR PAYMENT

Rule 2.23. A member that does not pay any dues, fees, assessments, charges or other amounts due to the Exchange within 30 days after the same has become payable shall be reported to the Chairman, who may, after giving reasonable notice to the member of such arrearages, suspend the member until payment is made. Should payment not be made within 6 months after payment is due, [the] *a regular* membership may be disposed of by the Exchange *or a special membership may be disposed of or cancelled by the Exchange,* in accordance with Rule [3.13(b)] *3.14(b).*

CHAPTER III—MEMBERSHIP

EFFECTIVENESS OF MEMBERSHIP APPLICATIONS

Rule 3.10. (a) An application which has been approved by the Membership Committee shall become effective as follows:

[(a)] (*i*) An application for membership pursuant to paragraph (b) of Article FIFTH of the Certificate of Incorporation shall become effective upon payment to the Secretary of a registration fee in such amount as may be provided in Part C of Chapter II of the Rules.

[(b)] (*ii*) Except as provided in Rule 3.14(c) with respect to transferees of memberships, and except as provided in Rule 3.16(d) with respect to lessees of memberships, all other applications for membership (excluding applications for approval as the nominee of a member organization, or applications for the registration of an individual member on behalf of an organization) shall become effective upon the purchase of a membership and payment to the Secretary of the purchase price therefor and a registration fee in such amount as may be provided in Part C of Chapter II of the Rules.

[(c)] (*iii*) An application for registration as a nominee of a member organization shall become effective upon the effectiveness of the membership of the member organization and payment of a registration fee in such amount as may be provided in Part C of Chapter II of the Rules. Payment shall be made within 2 business days following the later of the receipt of the notice of approval by the applicant or the effectiveness of the membership of the member organization.

[(d)] (*iv*) An application for registration of an individual membership on behalf of an organization shall become effective upon the effectiveness of the individual membership and payment of a registration fee in such amount as may be provided in Part C of Chapter II of the Rules. Payment shall be made within 2 business days following the later of the receipt of the notice of approval by the applicant or the effectiveness of the individual membership.

(b) *An original application for special membership made by an options member of the Midwest Stock Exchange, Incorporated, pursuant to paragraph (d) of Section 2.1 of the Constitution shall become effective upon the filing with the Secretary of the documents and information required to be filed under Rules 3.5, 3.6, 3.7 and 3.8.*

OWNERSHIP OF MEMBERSHIP

Rule 3.12. The Exchange shall not recognize any interest in the property or other rights represented by a membership except that of its owner as registered with the Exchange. A nominee is not an owner, nor is a member organization on whose behalf an individual membership is registered nor is a lessee of a membership pursuant to Rule 3.16(d). No rights shall be acquired by the ownership of a *regular* membership except the right to an aliquot part of the net assets, if any, remaining after the payment of all debts and obligations of the Exchange in the event of its dissolution and winding-up and, if the owner of the membership is in good standing, such rights as may be provided by the Constitution and Rules to members in good standing. *Special members shall have no interest in or any right to share in any distribution of the property and assets of the Exchange in the event of its dissolution and winding-up.*

PURCHASE OF MEMBERSHIP

Rule 3.13.

(a) No Change.

(b) Outstanding Memberships. Outstanding transferable memberships with respect to which notices of sale have been filed under Rule 3.14 may be purchased by approved applicants, through the office of the Secretary, in accordance with the following procedures. All bids from approved applicants must be submitted in writing to the Secretary of the Exchange. The Secretary will file all bids *by class of membership* according to the highest price and the earliest submission date. The highest bid with the earliest filing date will be posted on the Exchange bulletin board. All bids remain in effect until written revocation thereof is received by the Secretary. When a bid filed in accordance with the procedures of this Paragraph (b) is matched with an offer filed in accordance with the provisions of Rule 3.14(a), then a binding sale will occur. Memberships purchased under this Paragraph (b) shall be acquired and paid for within 60 days of the applicant's receipt of the Notice of Approval issued pursuant to Rule 3.8.

(c) No Change.

SALE AND TRANSFER OF MEMBERSHIP

Rule 3.14 (a) Sale by Owner. The owner of a transferable membership who desires to sell his membership shall submit a written offer of sale to the Secretary of the Exchange. The Secretary will file all such offers *by class of membership* according to the lowest price and the earliest submission date. The lowest offer with the earliest filing date will be posted on the Exchange bulletin board. All offers remain in effect until written revocation thereof is received by the Secretary. When an offer filed in accordance with this paragraph (a) is matched with a bid filed in accordance with the provisions of Rule 3.13(b) then a binding sale will occur. In the case of a proposed transfer of all of the memberships of a member organization, the member organization's written offer shall include a representation that the customer's accounts, if any, held by such member have been transferred to other members. A member who has filed an offer of sale shall, so long as he remains in good

standing and until a confirmation of the purchase of his membership has been filed with the Secretary, continue to have all of the rights and privileges, and shall remain subject to all of the duties and obligations, of membership.

(b) Sale *or Cancellation* by Exchange. Whenever one or more of the following conditions exist with respect to a transferable *regular membership or a special* membership, the Exchange *may* [shall] offer the membership for sale *by filing with the Secretary of the Exchange* [and] a written notice of transfer specifying the price at which the membership is to be sold: [shall be filed with the Secretary of the Exchange].

(a) No change

(b) No change

(3) No change

Whenever one or more of such conditions exist with respect to a special membership and the Exchange determines not to offer such special membership for sale, the Exchange may cancel such special membership by filing a cancellation of special membership form with the Secretary of the Exchange. Notice of each such cancellation shall be mailed to all members and shall be posted on the bulletin board of the Exchange. Following such cancellation, the individual or organization having its special membership cancelled shall cease to have any of the rights, privileges or obligations of membership.

(c) No Change

(1) No Change

(2) No Change

(3) No Change

(4) No Change

Notwithstanding the foregoing, transfers pursuant to this Paragraph (c) shall not become effective until there has been deposited with the Secretary of the Exchange an amount equal to the weighted average [of all membership sales that] *of the price at which all sales of membership of the same class as the membership being transferred* took place during the ninety days immediately preceding the date on which the transferee is approved for membership (or if no sales took place during such ninety day period, then an amount equal to the price at which the last prior sale took place) or an acceptable Letter of Guarantee from a Clearing Member for such amount, which amount shall be applied as though it were proceeds of the sale of membership for the purposes of Rule 3.15 hereof; provided, however, that where the owner of a transferable membership is subject to an effecive performance obligation agreement with the Exchange, but has received Exchange approval to transfer such membership, the amount to be deposited with the Secretary of the Exchange or represented by an acceptable Letter of Guarantee from a Clearing Member as the final condition to be met prior to the effectiveness of the transfer shall be held for the purposes of Rule 3.15, as described above.

SPECIAL PROVISIONS REGARDING MEMBERSHIPS

Rule 3.16. (a) Surrender of [Non-transferable] Memberships. Individuals or organizations owning non-transferable memberships acquired pursuant to paragraph (b) of Article FIFTH of the Certificate of Incorporation *or owning special memberships* may surrender such memberships by giving notice thereof to the Secretary of the Exchange on a form provided by the Exchange. Upon receipt of such notice, the Secretary shall post a notice of proposed surrender of membership on the bulletin board of the Exchange. After such notice has been posted for at least 20 days, and after determining that the membership being surrendered is in good standing, has provided for the orderly transfer of its customers' accounts, if any, and has no outstanding debts or obligations to the Exchange, the Clearing Corporation, or members, the Secretary shall terminate such membership. Notice of each such termination shall be mailed to all members and shall be posted on the bulletin board of the Exchange. Following such termination, the individual or organization surrendering its membership shall cease to have any of the rights [or], privileges *or obligations* of membership.

(b) No Change

(c) No Change

(d) Leased Memberships. (i) The owner of a transferable *regular* membership in good standing that is not subject to disciplinary proceedings under Chapter XVIII of the Rules may lease such membership to an individual or organization, provided the lessee is approved for membership in accordance with the Rules of the Exchange. Lease agreements, which must be approved by the Exchange in accordance with Rule 3.6, shall include provisions covering (A) the duration of the lease arrangement; (B) the consideration to be paid by the lessee; (C) the assignability of the respective interests of the lessee and lessor in such lease agreement; and (D) as between the parties, which party shall exercise the voting rights of the membership and which party shall provide the funds necessary to satisfy all applicable Exchange dues, fees and other charges. Any division of rights and responsibilities between lessor and lessee shall not affect the obligation of the lessor to pay all amounts due the Exchange in accordance with its applicable Rules. The Exchange shall recognize the lessee as having the right to exercise all voting rights with respect to the membership, provided that the lease agreement may provide for the lessor to exercise voting rights through the use of a proxy as provided for in Section 5.2 of Article V of the Constitution.

(ii)[1] The lease of a *regular* membership or the reversion of a previously leased membership *of any class* to the lessor upon termination of the lease agreement shall not become effective until there has been deposited with the Secretary of the Exchange an amount equal to the weighted average of all membership sales *of the same class as the leased membership* that took place during the ninety days immediately preceding the date on which, in the case of a lease, the lessee is approved for membership or in the case of a reversion to a lessor, the lease terminates (or if no *such* sales took place during such ninety day period, then an amount equal to the price at which the last prior sale *of the same class of membership* took place) or an acceptable Letter of Guarantee from a Clearing Member for such amount, which amount shall be applied to claims of creditors of the previous lessee which arose in the course of that previous lease arrangement or of the lessor as though it were proceeds of the sale of a membership for the purposes of Rule 3.15 hereof.

(iii) No Change

(iv) No Change

(v) *Special memberships shall not be leasable, except that on the effective date of his special membership the original owner of a special membership may lease such membership to an individual or organization who has been his lessee on the Midwest Stock Exchange, Incorporated, continuously from July 18, 1978. The lease arrangement shall be subject to the provisions of subparagraphs (i) through (iv) of this paragraph (d). The sale of a special membership which is subject to a lease arrangement shall terminate that lease arrangement.*

CHAPTER VI—DOING BUSINESS ON THE EXCHANGE FLOOR LIMITATION ON DEALING

Rule 6.5 No *regular* member shall bid, offer, purchase or write (sell) on the Exchange any security other than an option contract that is currently open for trading in accordance with [Rule 5.5] *the provisions of Chapter V. No special member shall bid, offer, purchase, or write on the Exchange any security other than an option contract relating to one of the underlying*

[1] This text reflects a recent unrelated amendment to Section 3.16(d)(ii) made effective upon filing pursuant to the provisions of Section 19(b)(3) of the Act in File No. SR-CBOE-78-32.

securities listed in a guideline under this Rule 6.5 (MSE Options, as that term is defined in Section 2.1(d) of the Constitution) and currently open for trading in accordance with the provisions of Chapter V.

0.1 Special members may bid, offer, purchase, or write on the Exchange option contracts currently open for trading only with respect to the following underlying securities:

Bristol-Meyers Company
Carrier Corporation
Champion International Corporation
Coastal States Gas Corporation
Evans Products Co.
Freeport Minerals Company
Corning Glass Works
Hughes Tool Co.
Litton Industries, Inc.
Middle South Utilities, Inc.
Northwest Industries, Inc.
Owens-Illinois, Inc.
Ralston Purina Co.
Revlon, Inc.
Rockwell International Corp.
Safeway Stores, Incorporated

CHAPTER IX—DOING BUSINESS WITH THE PUBLIC

RULE 9.1 EXCHANGE APPROVAL

An individual *regular* member or any *special member* may not transact business with the public. A *regular* member organization may transact business with the public after an application, submitted on a form prescribed by the Exchange, has been approved by the Membership Committee. Approval to transact business with the public shall be based on a member organization's meeting the general requirements set forth in this Chapter and the net capital requirements set forth in Chapter XIII of the Rules, and such approval may be withdrawn if any of the requirements cease to be met.

[FR Doc. 79-2-22 Filed 1-18-79; 8:45 am]

[8010-01-M]

[Release No. 34-15494; File No. SR-MSE-78-30]

MIDWEST STOCK EXCHANGE, INCORPORATED

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 21, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

THE MIDWEST STOCK EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Midwest Stock Exchange, Incorporated ("Midwest") and the Chicago Board Options Exchange, Incorporated ("CBOE") have entered into an agreement dated August 15, 1978 (the "Agreement"), to combine the options markets of the two exchanges. (A copy of the Agreement has been filed as an exhibit to the Form 19b-4A). The Agreement contemplates the possibility that the transaction might occur in two stages: first, a relocation of Midwest's options market so as to be physically adjacent to CBOE's trading floor (the "Relocation") on the terms and conditions set forth in Article II, pp. 3 to 12, of the Agreement; and second, a full combination of the two options markets such that Midwest ceases to have responsibility for or connection with an options market, the options listed on Midwest become listed on CBOE and the Midwest options members become special members of CBOE (the "Combination"), on the terms and conditions set forth in Article III, pp. 13 to 19, of the Agreement.

The two-stage approach was agreed to in recognition that the Combination involved amendments to the rules of both exchanges, approval of which could take six or more months from the date of the Agreement, whereas some important benefits might be gained considerably earlier through a mere physical move of the Midwest options market without the necessity for rule amendments. If this filing, not only the proposed amendments of Midwest's rules necessary for accomplishing the full Combination but also Midwest's request for separate approval of the Relocation are presented as a proposed rule change, pursuant to a suggestion of the Staff, even though the Relocation itself does not require formal rule amendments. Concurrently herewith CBOE is also filing a proposed rule change covering both the formal amendments to its rules needed to accomplish the Combination and its request for approval of the Relocation. In order to avoid unnecessary duplication in these filings, CBOE and Midwest have prepared a joint memorandum (the "Joint Memorandum") which is attached to each filing as Exhibit 3 and incorporated by reference at various places in response to the appropriate items of the Form.[1]

For all the reasons set forth herein and in the Joint Memorandum, Midwest hereby requests that its filing and the concurrent filing of CBOE be processed on the most expeditious schedule possible (with minimum intervals between dates of filing, publication of notices, deadline for comments, and the Commission's final action) so that approval of the full combination may be possible by not later than March 16; in that case the parties would forego the two-stage approach and therefore separate consideration of the relocation (Stage I) would be unnecessary. If, however, it presently or in the course of consideration of this filing appears that approval of the full Combination (Stage II) is likely to be more prolonged for any reason, Midwest hereby requests that Stage I be separately considered and approved as expeditiously as possible so that the Relocation may occur at the earliest possible date in view of the important (even though partial) benefits that can be achieved thereby, as set forth herein and in the Joint Memorandum.[2]

To facilitate the Commission's consideration of the filing on the foregoing basis, the reasons, benefits and statutory justifications for the full Combination are set forth under appropriate headings herein and in the Joint Memorandum, with separate comments where appropriate with regard to the Relocation considered separately.

The formal amendments to Midwest's rules necessary for the implementation of the Combination are as follows:

PROPOSED CONSTITUTIONAL AMENDMENTS

Additions Italicized [Deletions-Bracketed]

ARTICLE I—NO CHANGE

ARTICLE II

[Types of Memberships

Sec. 1. There shall be three types of memberships:

a. Midwest Stock Exchange Memberships (also hereinafter referred to as "equity memberships without options privileges").

b. Midwest Stock Exchange Memberships With Options Privileges (also hereinafter referred to as "equity memberships with options privileges").

[1] Although both CBOE and Midwest are in full accord with the basic arguments and conclusions expressed in the "Joint Memorandum" it should be understood that statements specifically relating to Midwest;s past experience, expectations, reasons, etc., are those of Midwest and that statements specifically relating to CBOE's plans, reasons, etc., are those of CBOE.

[2] If at all possible, CBOE and Midwest would like to complete the Relocation by not later than the weekend of March 24 in the event that approval of the full Combination appears not to be possible by March 16. As a practical matter the parties (i) will need an interval of approximately sixty days between approval of the Relocation and its actual effectuation and (ii) will want to avoid moving during any weekend related to expiration of any option series.

c. Midwest Options Memberships (also hereinafter refered to as "options-only memberships").

A Midwest Stock Exchange Membership may be converted into a Midwest Stock Exchange Membership With Options Privileges any time up to and including December 31, 1979, by the payment of a fee as determined by the Board of Governors.

A Midwest Options Membership may be converted into a Midwest Stock Exchange Membership With Options Privileges upon the payment of a fee, as determined by the Board of Governors, at any time up to and including December 31, 1979. Upon conversion, such Midwest Options Membership will be cancelled.

Except as otherwise provided, the words "membership" or "member" when not preceded by the words equity or options shall include all three types of memberships. The words "equity membership" (or member) unless followed by the words "with options privileges" or "without options privileges" shall include both types of equity memberships (or members). The words "options memberships" (or member) unless preceded by the words, "Midwest," shall include both the equity memberships (or member) with options privileges and the options-only memberships (or member).

In those section of the By-Laws or in those Rules that are specifically designated as applicable to equity trading of equity members, the word member shall mean only equity members. In those sections of the By-Laws or in those rules specifically designated as applicable to options trading or options members, the word member shall mean only options members.]

NUMBER AND OWNERSHIP OF MEMBERS

Sec. [2.] *1* [(a)] The number of equity memberships in the Exchange shall not exceed *465* [635]. [Of such memberships, 200 may be issued only upon conversion of a Midwest Options Membership as provided in Sec. 1 of this Article. At December 31, 1979, any of the 200 memberships so reserved that have not been issued, will be cancelled.

(b) The number of Midwest Options Memberships shall not exceed 2-0. The number of Midwest Options Memberships authorized herein shall be reduced by the number of such memberships converted to equity memberships as provided in Sec. 1 of this Article.]

[(c)] Memberships may be owned by individuals, partnerships and corporations, under such conditions and qualifications as shall be prescribed in the Rules of the Exchange (these and all other Rules of the Exchange adopted by the Board of Governors being hereinafter referred to as the "Rules").

RIGHTS AND PRIVILEGES OF MEMBERSHIP

Sec. [3.] *2* (a) [Equity members have full rights and privileges with respect to equity trading on the Exchange but are not to be entitled to the rights and privileges of options trading unless also options members.

(b) Options members have full rights and privileges with respect to options trading on the Exchange but are not to be entitled to the rights and privileges of equity trading unless also equity members.

(c) Options-only members have no right to vote in any election for Governors of the Exchange or any other elected official, trustee or person authorized under the Constitution of the Exchange or upon any amendments to the Constitution or any other matter which may be submited to a vote of the members of the Exchange or in any other matter whatsoever, except:

(1) Options-only members may vote with respect to the selection of one individual to serve on the Board of Governors.]

[(2)(i)] [The consent of a majority of options-only members shall be necessary for effecting or validating any amendment, alteration or repeal of any provision of the Certificate of Incorporation or the By-Laws of the Exchange which adversely affects the rights of options-only members upon dissolution, final liquidation or winding up of the affairs of the Exchange to which such members may be entitled. However, any amendment of the provisions of the Certificate of Incorporation or by By-Laws of the Exchange which authorizes (a) any additional classes of membership which have no rights upon dissolution, final liquidation or winding up of the Exchange, or such rights as are expressly subordinate to the rights of the equity members and the options-only members to receive the distributions as provided in Sec. 2 (a) and (b) of Article IX of the Constitution of the Exchange, and (b) additional members of any existing classes of memberships, shall not be deemed to affect adversely the rights of the options-only members upon dissolution, final liquidation or winding up of the Exchange.

(ii) In any merger or consolidation of the Exchange or any sale, lease or conveyance of all or substantially all of its assets which would materially adversely affect the rights of options-only members upon dissolution, final liquidation or winding up of the Exchange, or of the corporation or entity resulting from such merger or consolidation, the options-only members shall be entitled to vote thereon together with the equity members of the Exchange as a single class.

(3) Options-only members may vote with respect to any matters upon which voting rights are granted by the Board of Governors.]

[(d)] Unless the owner of a membership has been approved by and is in good standing with the Exchange as provided in the Rules, such owner shall have no right to exercise any right or privilege of membership, to hold himself or itself out for any purpose as a member or otherwise affiliated with the Exchange, or to deal on or with the Exchange on any basis other than as a non-member, except as otherwise specifically provided in the Rules. When used in the Certificate of Incorporation, Constitution and Rules, unless the context otherwise requires, the terms "member," "member firm," "member corporation" and "member organization" refer exclusively to persons and organizations approved by and in good standing with the Exchange.

NOMINEES AND VOTING DESIGNEES

Sec. [4] *3* A member firm or member corporation (hereinafter referred to as a "member organization") owning a membership in the Exchange shall designate in writing filed with the Secretary of the Exchange:

(a) A nominee [(or in the case of an equity membership with options privileges, nominees as provided in the Rules)] to represent and act for it in all matters pertaining to the Exchange (except for those matters upon which the vote, consent or similar formal expression of the member organization is required or permitted or in connection with meetings or the obtaining of any such consent or similar formal expression) and business conducted by such member organization on the Exchange; a nominee of a member organization shall be one of its general partners or its Chairman of the Board, Vice-Chairman of the Board, President, one of its Vice-Presidents or, with the approval of the Board of Governors, another person affiliated with such member organization; and,

(b) A voting designee to represent and act for the member organization with respect to any matter upon which the vote, consent or similar formal expression of the member organization is required or permitted and in connection with all meetings of members and the obtaining of any such consent or similar formal expression; a voting designee of a member organization shall be one of its general partners or its Chairman of the Board, Vice-Chairman of the Board, President or one of its Vice-Presidents.

The nominee[(s)] and voting designee may be the same or different persons, provided that the voting designee must be a general partner, the Chairman or Vice-Chairman of the

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Board, the President or a Vice-President of a member organization and *the* [a] nominee may be one of such persons or, with the approval of the Board of Governors, another person affiliated with the member organization. Designations of nominees and voting designees of member organizations and any changes thereof shall be subject to the approval of the Exchange. Except as specifically provided otherwise, the word "member" wherever used in the Certificate of Incorporation, Constitution and Rules shall include and also mean the nominee of a member organization but shall not include the voting designee if a different person.

Old Sec. 4. becomes Sec. 5 with no change in text.

Old Sec. 5. becomes Sec. 6 with no change in text.

ARTICLE III

No change, except as follows:

MEMBERS OF THE BOARD OF GOVERNORS

Sec. 2. The Board of Governors shall be composed of the Chairman of the Board, the Vice Chairman of the Board, the President and *21* [22] Governors. The Chairman and Vice chairman of the Board and at least a majority of the *21* [22] Governors shall be members, general partners of member firms or officers of member corporation (such Governors sometime hereinafter referred to as "member Governors"), and at least six Governors (other than the President) shall be unaffiliated with the Exchange or any broker or dealer in securities (such Governors sometimes hereinafter referred to as "non-member Governors"). The Chairman, Vice chairman and President shall serve one year terms. The members of the Board of Governors [elected by the Equity members of the Exchange in accordance with Article IV of the Constitution] (other than the Chairman of the Board, the Vice Chairman of the Board and the President) shall be divided into classes; there shall be seven Governors in class I, seven Governors in Class II and seven Governors in Class III. At least two members of each class [I, II, & III] shall be non-member Governors. The Term of the Class I Governors elected at the first annual meeting of the Exchange shall expire at the annual meeting of the Exchange in 1974, the term of the Class II Governors then elected shall expire at the annual meeting of the Exchange in 1975, and the term of the Class III Governors then elected shall expire at the annual meeting of the exchange in 1976, or thereafter in each case when their respective successors are elected and qualified. [With respect to the Class I, II and III Governors,] at the annual meeting of the Exchange held in 1974 and at each annual meeting held thereafter, seven Governors, at least a majority of whom are member Governors and at least two of whom are non-member Governors, shall be elected to succeed those whose terms then expire. The Governors so elected shall be identified as being of the same class as the Governors they succeed and shall be elected for a term expiring at the third succeeding annual meeting of the Exchange or until their respective successors in each case are thereafter elected and qualified. [In addition, there shall be a member Governor elected by the options-only members. Such Governor shall be elected in accordance with Section 22(b) of Article IV of the Constitution for the one year term or portion thereof expiring at the annual meeting of the Exchange in 1978 or thereafter when a successor is elected and qualified. Such governor shall thereafter be elected in accordance with the provisions of Part II of Article IV of the Constitution for one year terms commencing with the conclusion of the annual meeting of the Exchange that follows such election.]

ARTICLE IV

PART I

MEETINGS OF [EQUITY] MEMBERS, NOMINATIONS AND ELECTIONS

PLACE OF MEETINGS

Sec. I. Meetings of [equity] members of the Exchange shall be held at such place, within or without the State of Delaware, as the Board of Governors may designate prior to the giving of notice of such meeting, but if no such designation is made, then at the principal business office of the Exchange.

ANNUAL MEETING

Sec. 2. The annual meeting of the Exchange shall be held on the second Monday in January each year, unless such day be a holiday, when the meeting shall be held on the next day following which is not a holiday. At each annual meeting there shall be elected a Chairman and a Vice-Chairman of the Board, to hold office for one year, not less than the required number of Governors to fill expiring terms and any vacancies in unexpired terms and three members of the Nominating Committee to act in connection with the following annual meeting.

NOMINATING COMMITTEE

Sec. 3. There shall be a Nominating Committee composed of three [equity] members elected at each annual meeting of the Exchange from among [equity] members, general partners of [equity] member firms and officers of [equity] member corporations who do not hold any office in the Exchange. Any vacancy upon the Nominating Committee shall be filled by the remaining members of the Nominating Committee from among persons who would have been eligible for election to such position at the preceding annual meeting. No member of the Nominating Committee in any year shall be eligible for election to any office or position in the Exchange for the ensuing year nor shall he serve as a member of the Nominating Committee for two successive years.

REPORTING OF NOMINATING COMMITTEE

Sec. 4(a). After consulting with the President and the Chairman of the Board with respect to the current developments and needs of the Exchange which should be considered in connection with nominations not later than 30 days preceding each annual meeting, the Nominating Committee shall report to the Secretary nominations to be voted on at the annual meeting as follows:

(i) A Chairman of the Board and a Vice Chairman of the Board, each to serve for one year;

(ii) Seven Governors, at least a majority of whom shall be member Governors, and at least two of whom shall be non-member Governors to serve for a term of three years;

(iii) That number of Governors required to fill any vacancies on the Board of Governors to serve for any unexpired terms. Any person nominated to fill a vacancy on the Board of Governors shall be of the same category (from the Chicago area or elsewhere, member or non-member) as the Governor he is nominated to succeed;

(iv) Three members of the Nominating Committee to act in connection with the next following annual meeting;

Sec. 4(b). The Nominating Committee shall make its nominations so as to accomplish the following:

(i) Having the 15 member Governors in Classes I, II and III consist of eight from the Chicago area (at least two of whom shall be active on the Floor of the Exchange) and seven from elsewhere in the United States or Canada, selected with a view to providing, over time, representation on the Board to all geographical areas in which there are member organizations which support and significantly contribute to the strength and growth of the Exchange; provided that, in the event that the number of non-member Governors of the Exchange exceeds six, the number of member Governors from each area (the Chicago area and elsewhere) shall be proportionately reduced (the number of member Governors not from the Chicago area being subject to the first reduction).

(ii) Having a Chairman of the Board, a Vice Chairman of the Board and member Governors who, if affiliated with member organizations, occupy senior management positions having substantial responsibility in such member organizations.

(iii) Having persons on the Board of Governors and the Nominating Committee who are interested in and knowledgeable about the various aspects of Exchange operations and of the securities business and the activities of the Midwest Clearing Corporation and the Service Corporation.

LIMITATION ON SERVICE

Sec. 5. No Governor [in Class I, II and III] who has served all or part of two consecutive terms as Governor (excluding terms expiring at the first annual meeting of the Exchange) shall be eligible for election as a Governor of the Exchange except after an interval of at least one year. This disqualification shall not apply to [any person who upon completion of one or more terms as a Class I, II or III Governor shall become] the Chairman or Vice Chairman of the Board or the President. [The Governor chosen by the options-only members in accordance with the provisions of Part II of this Article shall be eligible to serve six consecutive one-year terms. Such Governor will not be eligible to serve as a Governor after six consecutive one-year terms except after an interval of at least one year.]

Sec. 6. No change.

NOMINATIONS BY [EQUITY] MEMBERS

Sec. 7. [Equity] members may nominate other canidates for the same office or offices as the candidates nominated by the Nominating Committee. Such nominations shall be by written petition which shall designate the candidate by name and office and shall be signed by the equity members so nominating. The petition must be filed with the Secretary at least 20 days prior to the annual meeting. A petition shall not be valid unless signed by not less than 10 [equity] members. No [equity] member may endorse more than one candidate for the same office, excepting candidates for members of the Board of Governors and of the Nominating Committee, in which case as many candidates as there are offices to be filled may be filled may be endorsed. In case of any nomination of a candidate for election to the Board of Governors pursuant to this Section 7, the election of member Governors from the Chicago area, member Governors from elsewhere in the Unites States or Canada and non-member Governors shall be separate so that the candidate or candidates so nominated will be opposing only the candidate or candidates of the same category nominated by the Nominating Committee.

PROCEDURE OF ANNUAL MEETINGS

Sec. 8. Annual meetings shall be conducted in the following manner:

(a) The Secretary of the Exchange and two [equity] members appointed by the Chairman of the Board shall constitute a committee to conduct the election held at the annual meeting of the Exchange. The Committee shall have authority to decide all questions pertaining to the election (except tie votes) and its decision shall be final.

(b)At each annual meeting each [equity] member shall be entitled to one vote for each Governor, officer and committee member to be elected, which may cast in person or by proxy. Proxies shall be [equity] members or officers of the Exchange.

(c) Promptly after the expiration of the time within which nominations may be made by petition, the Secretary shall mail to each [equity] member a notice of the exection, and a ballot containing the names of all candidates listed under the offices for which they have been severally nominated and a proxy card. Candidates nominated by the Nominating Committee and those nominated by petition shall be so designated on the ballot. An envelope marked "For Ballot Only" and a copy of this article of the Constitution, or instructions for voting based thereon, shall be enclosed with the notice. Each member desiring to vote by proxy shall mark his ballot and seal the same in the envelope marked "For Ballot Only." The envelope containing the ballot shall not be marked in any way to identify the member voting. He shall sign the proxy card and mail or deliver it, accompanied by the envelope containing his marked ballot, to the proxy designated in the proxy card. At the annual meeting such proxy shall deliver the proxy card to the Secretary (who shall file the proxy card and check the name of the member so voting on the voting list) and shall vote by placing the envelope containing the ballot in the ballot box. Voting in person shall be by secret ballot deposited in the ballot box by the member so voting. The execution of the proxy card or the deposit of the ballot in the ballot box by a voting designee of a member organization shall constitute a representative by such voting designee that he is duly authorized to vote on behalf of such member organization and that such vote is not contrary to instructions received by him from such member organization.

(d) No Change.

SPECIAL MEETINGS OF [EQUITY] MEMBERS

Sec. 9. Special meetings of [equity] members, for purpose or purposes, unless otherwise prescribed by statue or by the Certificate of Incorporation, may be called by the President or by the Chairman of the Board at the direction of Board of Governors and shall be called by the Secretary at the written request of 25 [equity] members stating the purpose or purposes of the proposed meeting.

Sec. 10. Unless otherwise prescribed by statue or by the Certificate of Incorporation or Constitution notice of each annual or special meeting of [equity] members, stating the date time and place thereof and the purpose or purposes for which such meeting is called, shall be given to each member entitled to vote thereat not more than 30 days and at least 10 days before the date of the meeting. Only matters stated in the notice of a meeting of members shall be brought before such meeting. Any [equity] member desiring that any matter be brought before an annual meeting of members shall so notify the Secretary at least 35 days prior to the date of such meeting, and the consideration of such matter shall be stated in the notice of such meeting as one of the purposes of such meeting.

QUORUM

Sec. 11. A majority of the [equity] members, when present in person or represented by proxy shall constitute a quorum at all meetings of [equity] members for the transaction of business except as otherwise provided by statute, the Certificate of Incorporation or the Constitution.

VOTING BY [EQUITY] MEMBERS

Sec. 12. When a quorum is present at any meeting, a majority of members present in person or represented by proxy shall decide any question properly brought before such meeting, unless the question is one upon which by express provision of statute, the Certificate of Incorporation or the Constitution a different vote is required, in which case such express provision shall control. Voting on any question brought before any meeting of [equity] members shall be in accordance with the procedure provided by the Constitution for the election conducted at each annual meeting of the Exchange.

ACTION BY [EQUITY] MEMBERS WITHOUT A MEETING

Sec. 13. Any corporate action which might properly be brought before a meeting of [Equity] members upon which a vote of [equity] members is required or permitted may be taken without a meeting without prior notice and without a vote, with the written consent of [equity] members having not less than the minimum number of votes that would be neces-

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sary to authorize or take such action at a meeting at which all [such] members having a right to vote thereon were present and voted; provided that prompt notice be given to those members who have not consented in writing to the taking of corporate action without a meeting by less than unanimous written consent.

Sec. 14. No change.

[PART II]

[Meetings, Nominations and Elections—Options—Only Members

Sec. 15. Meetings of options-only members shall be held at such place as the Board of Governors may designate prior to the giving of notice of such meeting, but if no such designation is made, then at the principal business office of the Exchange.

ANNUAL MEETING

Sec. 16. Annual meetings of options-only members will be held on the first Monday in October of each year commencing in 1977, unless such day shall be a holiday, in which case the meeting will be held on the next day following which is not a holiday. At each such annual meeting there shall be elected one member for the Midwest Stock Exchange Board of Governors, three members of an Options Nominating Committee to act in connection with the next following annual meeting and one options-only member to preside at the next annual meeting of options-only members and any special meetings convened prior to the next annual meeting. If the member designated to preside at the next annual meeting shall be unable to preside at such meetings or at any special meetings, such presiding officer may designate another options-only member as a replacement.

OPTIONS NOMINATING COMMITTEE

Sec. 17. There shall be an Options Nominating Committee composed of three options-only members elected at each annual meeting of options-only members from among options-only members, general partners of member firms owning options-only memberships and officers of member corporations owning options-only memberships who do not hold any other office in the Exchange. Any vacancy upon the Options Nominating Committee shall be filled by the remaining members of the Nominating Committee from among persons who would have been eligible for selection to such position at the preceding annual meeting. No member of the Options Nominating Committee in any year shall be eligible for election to any office or position in the Exchange for the ensuing year nor shall he serve as a member of the Options Nominating Committee for two successive years.

REPORTING OF OPTIONS NOMINATING COMMITTEE

Sec. 18. After consulting with the President and Chairman of the Exchange with respect to current developments which should be considered in connection with nominations and no later than 30 days preceding each annual meeting of options-only members, the Options Nominating Committee shall report to the Secretary nominations to be voted on at the annual meeting as follows:

(a) A nominee to be placed in nomination for election to the Board of Governors of the Exchange by the options-only members.

(b) Three members of the Options Nominating Committee to act in connection with the next following annual meeting of options-only members.

(c) A member to preside at the next following annual meeting of options-only members and any intervening special meetings.

RECOMMENDATIONS OF CANDIDATES

Sec. 19. At any time prior to the filing of the report of the Options Nominating Committee with the Secretary of the Exchange, any options-only member may recommend candidates for any office to the Committee, either in writing or in person. The Options Nominating Committee shall hold at least two open meetings for the purpose of receiving recommendations as to candidates from the options-only members and member organizations.

NOMINATIONS BY OPTIONS-ONLY MEMBERS

Sec. 20. Options-only members may nominate other candidates for the same office as the candidates nominated in accordance with Section 18 of this Article. Such nominations shall be by written petition which shall designate the candidate by name and office and shall be signed by the members so nominating. The petition must be filed with the Secretary at least 20 days prior to the annual meeting of options-only members. A petition shall not be valid unless signed by not less than 10 options-only members. No options-only member may endorse more than one candidate for the same office, exception candidates for members of the Options Nominating Committee, in which case as many candidates as there are offices to be filled may be endorsed.

PROCEDURES OF ANNUAL MEETINGS

Sec. 21. Annual meetings of the options-only members shall be conducted in the following manner:

(a) The Secretary of the Exchange and two options-only members appointed by the Chairman of the Board shall constitute a committee to conduct the election held at the annual meeting of the options-only members. The Committee shall have authority to decide all questions pertaining to the election (except tie votes) and its decision shall be final.

(b) At each such annual meeting each options-only member shall be entitled to one vote for each position or committee member to be elected, which may be cast in person or by proxy. Proxies shall be options-only members or officers of the Exchange.

(c) Promptly after the expiration of the time within which nominations may be made by petition, the Secretary shall mail to each options-only member a notice of the election, and a ballot containing the names of all candidates listed under the offices for which they have been severally nominated and a proxy card. Candidates nominated by the Options Nominating Committee and those nominated by petition shall be so designated on the ballot. An envelope marked "For Ballot Only" and a copy of this Article of the Constitution, or instructions for voting based thereon, shall be enclosed with the notice. Each options-only member desiring to vote by proxy shall mark his ballot and seal the same in the envelope marked "For Ballot Only." The envelope containing the ballot shall not be marked in any way to identify the member voting. He shall sign the proxy card and mail or deliver it, accompanied by the envelope containing his marked ballot, to the proxy designated in the proxy card. At the annual meeting of the options-only members, such proxy shall deliver the proxy card to the Secretary (who shall file the proxy card and check the name of the member so voting on the voting list) and shall vote by placing the envelope containing the ballot in the ballot box. Voting in person shall be by secret ballot deposited in the ballot box by the member so voting. The execution of the proxy card or the deposit of the ballot in the ballot box by a voting designee of a member organization shall constitute a representation by such voting designee that he is duly authorized to vote on behalf of such member organization and that such vote is not contrary to instructions received by him from such member organization.

(d) Upon completion of the vote, the Committee shall open the ballot box and the envelopes containing the ballots. The ballots shall be counted by the Committee and the candidate or candidates receiving the largest number of votes shall be declared to have been elected. Tie votes shall be decided by secret ballot of the Board of Governors at its first meeting following the election at which the tie occures.

SPECIAL MEETINGS

Sec. 22(a) Special meetings of options-only members, for any purpose or purposes, unless otherwise prescribed by statute or by the Certificate of Incorporation, may be called by the President, by the Chairman of the Board at the direction of the Board of Governors or by the options-only member elected to preside at the annual meeting of options-only members, and shall be called by the Secretary at the written request of 25 options-only members stating the purpose or purposes of the proposed meeting.

(b)(1) An initial special meeting of options-only members shall be held, at a date to be determined by the Chairman of the Board, prior to the initiation of options trading, to elect one member of the Board for the term expiring at the annual meeting of equity members in 1978, the Options Nominating Committee to act in connection with the initial annual meeting of options-only members, and the member who will preside at the initial special meeting and initial annual meeting of options-only members. Nominations for such officers and committee memberships shall be made from the floor of the meeting. An options-only member will be entitled to nominate one candidate for each of the offices or committee memberships to be filled. Each member present, in person or by proxy shall be entitled to one vote for each of the offices or committee memberships to be filled. Voting shall be by secret ballot deposited in the ballot box by the member or a member's proxy so voting. The execution of a proxy card, as provided in paragraph (b)(2) of this section or the deposit of the ballot in the ballot box by a voting designee of a member organization shall constitute a representation by such voting designee that he is duly authorized to vote on behalf of such member organization and that such vote is not contrary to instructions received by him from such member organization.

(2) The Secretary shall provide notice of the initial special meeting in accordance with Sec. 23 of this Article. A proxy form will be provided with such notice enabling the member to name any other options-only member to vote on behalf of the member at such meeting.

NOTICE

Sec. 23. Unless otherwise prescribed by statute or by the Certificate of Incorporation or Constitution notice of each annual or special meeting of options-only members, stating the date, time and place thereof and the purpose or purposes for which such meeting is called, shall be given to each member entitled to vote thereat not more than 30 days and at least 10 days before the date of the meeting. Only matters stated in the notice of a meeting of options-only members shall be brought before such meeting. Any member desiring that any matter be brought before an annual meeting of options-only members shall so notify the Secretary at least 35 days prior to the date of such meeting, and the consideration of such matter shall be stated in the notice of such meeting as one of the purposes of such meeting.

QUORUM

Sec. 24. A majority of the options-only members when present in person or represented by proxy, shall constitute a quorum at all meetings of options-only members for the transaction of business except as otherwise provided by statute, the Certificate of Incorporation or the Constitution.

VOTING BY OPTIONS-ONLY MEMBERS

Sec. 25. When a quorum is present at any meeting, a majority of options-only members present in person or represented by proxy shall decide any questions properly brought before such meeting, unless the question is one upon which by express provision of statute, the Certificate of Incorporation or the Constitution a different vote is required, in which case such express provision shall control. Voting on any question brought before any meeting of options-only members shall be in accordance with the procedure provided by the Constitution for the election conducted at each annual meeting of the exchange.

ACTION BY OPTIONS-ONLY MEMBERS WITHOUT A MEETING

Sec. 26. Any corporate action which might properly be brought before a meeting of options-only members upon which a vote of options-only members if required or permitted may be taken without a meeting, without prior notice and without a vote, with the written consent of options-only members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all such members having a right to vote thereon were present and voted; provided that prompt notice be given to those members who have not so consented in writing to the taking of corporate action without a meeting by less than unamious written consent.

TERM "MEMBER" INCLUDES VOTING DESIGNEE

Sec. 27. The word "member" wherever used in this Article IV shall include and also mean the "voting designee" of a member organization but shall not include or mean the "nominee" of a member organization.]

ARTICLE V—NO CHANGE

ARTICLE VI—NO CHANGE

ARTICLE VII

BUSINESS CONDUCT

SUMMARY SUSPENSION

Sec. 1—No Change.

Sec. 2. The Exchange shall have the authority to discipline any member organization violating any provision of the Constitution or Rules or the By Laws or Rules of the Midwest Clearing Corporation, or Midwest Securities Trust Company [or the Options Clearing Corporation] as provided in the Rules. Discipline may be by censure, fine, suspension, expulsion or as the Board of Governors may determine. The Exchange, as and to the extent provided in the Rules, shall have regulatory and disciplinary jurisdiction over partners of member firms; officers, directors and principal stockholders of member corporations; employees of members and member organizations; subsidiaries of member organizations; parent firms and principal officers and subsidaries of parent firms. As and to the extent provided in the Rules, the disciplinary authority of the Exchange over any person or organization occupying a status described by this section shall continue after the termination of such status with respect to acts or omissions occurring prior to such termination. Disciplinary proceedings shall be in accordance with the Rules.

ARTICLE VIII

EXCHANGE CONTRACTS AND CLEARING CORPORATION[S]

EXCHANGE CONTRACTS

Sec. 1. All contracts pertaining to securities listed or admitted to unlisted trading privileges on the Exchange between member or member organizations for the purchase, sale, borrowing, loaning or hypothecation of such securities, or for the borrowing, loaning or payment of money in connection with a transaction in such securities, whether occurring on the Floor[s] of the Exchange or elsewhere, shall be Exchange contracts, unless made subject to the rules of another exchange. Contracts pertaining to other securities may be made Exchange Contracts by agreement of the parties.

TERMS AND CONDITIONS

Sec. 2. The provisions of the Certificate of Incorporation; Constitution and of the Rules shall be a part of the

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terms and conditions of all Exchange Contracts and the By-Laws and the Rules of the Midwest Clearing Corporation and [the Options Clearing Corporation] shall be a part of the terms and conditions of every contract which is to be cleared or settled through *the* such Midwest Clearing Corporation[s] and all such contracts shall be subject to the exercise by the Board of Governors and the [appropriate] clearing corporation of the powers with respect thereto vested in them by the Certificate of Incorporation, Constitution and Rules of the Exchange and by the By-Laws and Rules of [either] *the Midwest* [or the appropriate] clearing corporation[s], respectively.

DELIVERY AND PAYMENT

Sec. 3. On every Exchange Contract delivery and payment shall be made through the Midwest Clearing Corporation [or Options Clearing Corporation] as required by the By-Laws and Rules of the Midwest Clearing Corporation [or Options Clearing Corporation], unless it is otherwise mutually agreed by the parties to the contract, or the *Midwest* [appropriate] Clearing Corporation, either in the particular instance or in pursuance of its By-Laws and Rules, refuses to act in the matter.

A party to an Exchange Contract who is not a clearing member of the Midwest Clearing Corporation [or Options Clearing Corporation] shall cause the transaction to be cleared and settled for him or it by a clearing member of the *Midwest* [appropriate] Clearing Corporation; however, such non-clearing member having both the purchase and selling orders of a proposed transaction may have such transaction completed on the Exchange without the services of a clearing member, provided it is duly reported to the Exchange and the *Midwest* [appropriate] Clearing Corporation.

ARTICLE IX

DISSOLUTION AND LIQUIDATION

DISSOLUTION OF EXCHANGE

Sec. 1. The affirmative vote of at least three-quarters of the [equity] members shall be required in order to dissolve the Exchange; in all other respects, the procedure to propose and vote upon dissolution shall be as required by the General Corporation Law of Delaware.

LIQUIDATION OF ASSETS

Sec. 2. After payment of all obligations of the Exchange, any remaining assets shall be sold and the net proceeds distributed *in aliquot parts* to the persons and organizations owning memberships at the time of the vote to dissolve the Exchange irrespective of whether such persons and organizations were entitled to vote on such dissolution [in the following manner]:

[a.] [Equity memberships will be entitled to equal distributions until each such member has received $13,500 for each membership owned less any indebtedness due to the Exchange, any unpaid fees, fines, dues, assessments or other charges.]

[b.] [If there should be any funds or assets remaining after the $13,500 payment (or provision therefor) to equity members, such remaining funds shall be distributed equally to the persons and organizations owning options-only memberships until each such member has received $10,000 for each membership owned, less any indebtedness due to the Exchange, any unpaid fees, fines, dues, assessments or other charges.]

[c.] [If there should be any funds or assets remaining after the $10,000 payment (or provision therefor) to options-only members, then such remaining funds or assets shall be divided equally among all memberships and distributed to all owners of memberships in aliquot parts.]

[d.] [Neither the consolidation or merger of the Exchange nor the sale, lease or conveyance of all or a part of its assets shall be deemed a final liquidation, dissolution or winding up of the affairs of the Exchange for the purpose of the foregoing provisions.]

* * * * *

As stated in the Introduction Statement, the general purpose of this proposed rule change is to effect a combination of the options markets of the COBE and Midwest. The business reasons in support of the combination are set forth in Part II, pp. 6-16, of the Joint Memorandum (Exhibit to Form 19b-4A) and are incorporated herein be reference. The public benefits that would be gained from the combination are set forth in Part III, pp. 17-20, of the joint Memorandum and also incorporated herein by reference.

The purpose of the proposed Relocation step is to make possible the prompt achievement of certain of the benefits to be gained from the full Combination, in the event that the Commission's consideration of the full Combination becomes unduly prolonged. The benefits to be gained from the Relocation are set forth at page 20 of the Joint Memorandum and are incorporated herein by reference.

The specific purpose of the proposed amendments to Midwest's rules is to eliminate all references to Midwest's organization, operation and regulation of an options market. This is accomplished by simply deleting from Midwest's rules those rules with respect to options that have been adopted since November 15, 1976, when the Commission approved Midwest's establishment of an options market.

With respect to the Combination, the proposed amendments to Midwest's rules would effect the termination of Midwest's operation and regulation of an options market. As such, the provisions of Section 6(b)(1)-(4), (6) and (7) of the act are not applicable. However, insofar as the proposed amendments reflect Midwest's judgment as to the best interests of its members and the public, they are designed "to protect investors and the public interest" in accordance with Section 6(b)(5) of the act. (See Parts I and II of the Joint Memorandum with respect to Midwest's business reasons for the transactions contemplated by the proposed rule changes and the public benefits to be gained therefrom.)

During the Relocation, Midwest will continue to oversee and regulate its options market in full compliance with its obligations under the Act. See Part III, pp 17-20, of the Joint Memorandum with regard to the upgrading of Midwest's surveillance capabilities upon the Relocation.

The Agreement contemplates the possibility that the Relocation would take place prior to the effective date of the Combination, with CBOE taking over certain of the responsibilities for the operation of the Midwest options markets at that time. Part IV, pp. 20-22, of the Joint Memorandum discusses CBOE's market and regulatory capacity. Given CBOE's present capacity and its current and planned programs for expansion, Midwest is confident that CBOE can readily accommodate the Midwest options market.

The Midwest Stock Exchange, Incorporated has neither solicited nor received any comments.

The Midwest Stock Exchange, Incorporated believes that no burdens have been placed on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organizations consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. The Commission encourages those submitting comments on the proposed rule change to address (i) whether the proposed action is an expansion or material alteration of an existing options program within the meaning of the options moratorium[3] and (ii) whether the proposed action imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[4] Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 30 days of the date of this publication.

Dated: January 12, 1979.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2023 Filed 1-18-79; 8:45 am]

[8010-01-M]

[Release No. 34-15497; File No. SR-NSCC-78-13]

NATIONAL SECURITIES CLEARING CORPORATION

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended ("the Act") by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 2, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF PROPOSED RULE CHANGE

Amend Rule 11, Section 7 of the SCC Division of National Securities Clearing Corporation (the Corporation) as follows: (italics indicate new material and brackets indicate deletions)

Rule 11. Sec. 7. (a) In the event a Member has a Long Position in a CNS Security, the Member (the "originator") may demand immediate delivery thereof by filing, at or before the time specified in the Procedures, with the Corporation a Notice of Intention to Buy-In in the form prescribed by the Procedures. *For the purposes of this Section of these Rules and Section VI (K) and IX of the Procedures, the term "listed security(ies)" shall be deemed to mean a security(ies) traded on the New York Stock Exchange, Inc. and/or The American Stock Exchange, Inc., and the term "OTC security(ies)" shall be deemed to mean a security(ies) traded other than on The New York Stock Exchange, Inc. or The American Stock Exchange, Inc.* The originator may be given priority in the manner prescribed by the Procedures, in respect of the allocation by the Corporation of securities covered by the Notice of Intention to Buy-In in the settlement on the business day after the Notice of Intention to Buy-In is received by the Corporation and if the securities are not allocated to the originator in that settlement, in the settlement on the second business day after the Notice of Intention to Buy-In is received by the Corporation.

(b) In the event that less than all the securities covered by the Notice of Intention to Buy-In are received by the originator prior to the time specified in the Procedures, the Corporation shall as promptly as possible, but not later than the business day after the Notice of Intention to Buy-In is filed with the Corporation, deliver to the Member or Members, determined in accordance with the priorities specified in the Procedures, Retransmittal Notices specifying the total amount called for in the Notice of Intention to Buy-In which has not been received by the originator pursuant to said paragraph (a) (the "remaining securities") and demanding delivery from each such Member of a specified quantity of securities determined in accordance with the Procedures.

(c) Prior to the execution of a Buy-In *of either a listed security or an OTC security,* the originator must accept and pay for any portion or all the remaining securities delivered to the originator. [and if] *If* the originator *of a Notice of Intention to Buy-In a "listed security"* does not so receive all the remaining securities at the opening of business on the business day after which the Corporation delivers Retransmittal Notices pursuant to paragraph (b) of this Section, the originator may order the purchase of the portion remaining undelivered in the manner specified in the Procedures. *Extensions of the execution date for a Buy-In of a "listed security" will not be granted by the Corporation.*

[(d) In the event that a Notice of Intention to Buy-In is presented and sufficient securities are not delivered as provided in paragraph (b) of this Section and subsequently the originator does not order the purchase of the remaining securities, a charge may be levied against the originator in the amount of $250.]

(d) *If the originator of a Notice of Intention to Buy-In for an "OTC security" does not so receive all the remaining securities by the time specified in the Procedures, the originator may execute the Buy-In in the market of his choice and the originator must be prepared to defend the price at which the Buy-In is executed relative to the current market at the time of the Buy-In.*

(e) *Members who received Retransmittal Notices, which are the result of a Notice of Intention to Buy-In for a position in "listed securities" and do not deliver securities sufficient to satisfy such, shall assume liability for the loss, if any, which occurs as a result of the Buy-In.*

(f) *Members who received deliver security orders pursuant to the Procedures as a result of a Notice of Intention to Buy-In for a position in "OTC securities" and do not deliver securities sufficient to satisfy such, shall assume liability for the loss, if any, which occurs as a result of the Buy-In.*

(g) *Since Buy-Ins create the highest priority in the CNS Allocation System, to protect against improper use of the Buy-In Procedure, the Corporation, in its discretion, may levy a charge in the amount of $250 against the originator of a Buy-In in a listed security, who fails to order the purchase of securities representing the undelivered portion of the Buy-In request, if the Corporation determines that such failure to order or failure to execute was an abuse of the Buy-In Procedures.*

Amend Section VI. K. of the SCC Division Procedures as follows:

K. Recording of CNS Buy-Ins

LISTED SECURITIES

A member having a Long Position at the end of any day may submit to the Corporation a Notice of Intention to Buy-In (Buy-In Notice) specifying a quantity of securities not exceeding such Long Position which it intends to buy/in (Buy-In Position). For the purpose of this section, the day the Buy-In Notice is submitted is referred to as N, and N+1 and N+2 refer to the succeeding days. Each day commences in the evening and includes an evening allocation of securities and a daytime allocation. The Buy-In Position is given high priority for allocation through N+2.

NOTE: Same day and next day Buy-Ins against CNS positions are not permitted.

If a Buy-In Position remains unfilled after the evening allocation on N+1 the Corporation issues Retransmittal Notices on the morning of N+1 to Members with the oldest Short Positions. Age is defined as the number of consecutive days during which the Member has been short, irrespective of quantity. Retransmittal Notices are issued in an aggregate quantity at least equal to the Buy-In Position. In no case will the Buy-In Liability of a Member exceed the Buy-In Position or

[3] *See* Securities Exchange Act Release No. 14878 (June 22, 1978).

[4] 15 U.S.C. 78f(b)(8) and Form 19b-4A.

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the total Short Position of the Member. If several Members have Short Positions with the same age, all such Members are issued Retransmittal Notices, even if the total of their Short Positions exceeds the Buy-In Position.

The quantity specified on each Member's restransmittal notice is its Buy-In Liability.

A Member's Buy-In Liability may be satisfied by the actual settlement of the Short Position up to the completion of the evening allocation on N+2. If a deposit of securities is required to satisfy the Short Position, that deposit should be made prior to the Designated Depository evening deposit cutoff time on N+1. Going from a Short Position to a flat or Long Position due to Settling Trades, stock dividends, or other activity on N+2 does not free a Member from Buy-In Liability. If the Buy-In Position is not satisfied at the end of the evening cycle on N+2, the Buy-In may be executed. See Section IX for execution procedures.

If a Member satisfies its Short Position during the daytime cycle on N+2, and the Buy-In is, in fact, executed on that day, the Member's Buy-In Liability will not be satisfied.

OTC Securities

Submission of OTC Buy-Ins. The Clearing Member with a long CNS position in an OTC issue would submit a Notice of Intention to Buy-In to the Clearing Corporation on or after the evening of Settlement day.

OTC Buy-In Retransmittals. If the Clearing Member's long position is not filled during the night cycle processing on N+1 (note: night cycle processing precedes day cycle), retransmittal Buy-In Notices will be sent to the oldest short Clearing Member(s) the following morning (N+1).

OTC Buy-In Receive and Deliver Security Orders. If the long position is not filled during the day cycle on N+1, at the end of that day's CNS processing, the Corporation will be substituted in the CNS system for the long Clearing Member and a receive security order will be issued to the long Clearing Member with the Corporation as the deliver side. At the same time, using a separate NSCC account, the Corporation will be substituted for the one or more short Clearing Members, who have received the retransmittal notices on the morning of N+1 and who have not, during the day cycle processing, covered their short positions by deliveries. The short Clearing Members will receive a deliver security order with the Corporation as the receive side. Deliver security orders will require physical delivery to the Corporation unless the Corporation waives such requirement.

Satisfaction of OTC Buy-Ins. If short Clearing members deliver the securities to the Corporation, the Corporation will redeliver the securities to the buying-in Clearing Member in satisfaction of the deliver security order and the entries substituting the Corporation in the CNS system will be reversed. Absent delivery by the short Clearing Member, if the Corporation's long position in the CNS system is allocated the securities, the Corporation will deliver the securities to the buying-in Clearing Member, cancel any remaining short Clearing Members' deliver security orders not needed to satisfy the Buy-In and re-establish these as shorts in the CNS system.

Extension of Time for OTC Buy-Ins. Extensions of time for execution will be granted by the Corporation under the following conditions:

1. *Non-Clearing Member Originated Buy-In. The execution date for an OTC Buy-In submitted by a Clearing Member to the Corporation, which results from a non-Clearing Member originated Buy-In, which has been extended pursuant to 859(g) of the NASD's Uniform Practice Code (UPC), would be the extended date (i.e., seven calendar days from the original execution date prior to extension). This execution date must be indicated on the Buy-In Intent Notice as well as the fact that the Buy-In is a UPC transmittal. This date will also be indicated on the retransmittal notice and any receive or deliver orders issued as a result of Buy-In Intent Notices. Further extensions (i.e., extensions for transfer or transit) would not be given.*

2. *Clearing Member Originated Buy-In. A short Clearing Member who has received a retransmittal notice as the result of a Clearing Member originated Buy-In may take a seven (7) calendar day extension due to transit or transfer consistent with the UPC. Upon request, certificate numbers will be furnished by the short Clearing Member requesting the extension. If the securities are in transfer and due to the transfer agent, transfer is delayed, the Corporation may grant an additional seven (7) calendar days. If the short Clearing Member cannot take the extension but retransmits a Clearing Member originated Buy-In to a non-Clearing UPC Member and the UPC broker takes a UPC transfer or transit delay, the short Clearing Member can pass the extension back to the Corporation who will extend the execution date for the same period of time.*

Amend Section IX of the SCC Division Procedures as follows:

IX. Execution of Buy-Ins

A. CNS System

A Member who has submitted a Buy-In Notice under subsection K of Section VI and not received the Buy-In Position shown on his Notice by the end of the evening cycle on N+2, unless extensions have been granted, may instruct the Corporation to buy-in the remaining position by delivering a Buy-In Order to the Corporation prior to time therefor on N+2 specified by the Corporation.

Members who receive Retransmittal Notices and do not satisfy them (Subject Members) assume liability for the loss, if any, which occurs as a result of the Buy-In.

Listed Securities

The Buy-In Order is executed by the Corporation in such marketplace and through such agents as it shall elect. The quantity bought-in is pro-rated among the Subject Members.

N.B. If the Buy-In Order is not executed on N+2, the Buy-In Order will not be executed thereafter, and it will be necessary for the originator to recommence the Buy-In Procedure in order to have his Long Position bought-in.

When a Buy-In Order has been executed, the quantity bought-in will be removed from the Long Position of the originating Member and the contract money will be credited to his account by journal entry. The Short Positions of the Subject Members will be reduced by the portion of the quantity bought-in allocated to each, and the appropriate portion of the contract money will be debited to their accounts, by journal entry. These journal entries will be processed the evening the Buy-In Order is executed and will affect the CNS records on the following day and be reported in the Miscellaneous Activity Report for such day.

Note: At the time the originator submits a Buy-In Order to the Corporation under the CNS System, the Buy-In Order should contain instructions for execution on a cash, next day or regular way ex-CNS basis (Special Trade).

OTC Securities

Execution of the Buy-In will be performed by the originator of the Buy-In, either Clearing Member or UPC broker. The short Clearing Member's Buy-In liability would be fixed on the day he receives the retransmittal notice (N+1). Any security delivery orders which have not been completed and on which a Buy-In is executed will be the liability of the failing to deliver Clearing Member. The long Clearing Menber must report a Buy-In Execution price to NSCC along with any profit or loss. NSCC will debit and credit the accounts of the Clearing Members involved in the Buy-In. In the event all or part of the long Clearing Member's Buy-In requirement is not met through execution, on the day after the established execution date, the receive and deliver orders issued on the evening of N+1 will be voided and the respective positions re-established in CNS. (In the event of a partial execution, this will be on a pro-rata basis.) At the same time, the remaining positions established in the NSCC Buy-In account in CNS will be cancelled.

Balance Order Systems

A member (the originator) holding a receive balance order in respect of which securities are not delivered by the time on the Settlement Date specified by the Corporation may cause such securities to be bought-in; provided, however, that the Buy-In shall not be effected prior to the third business day following the Settlement Date.

The originator submits to the Member holding the deliver balance order (the Subject Member) a Buy-In Notice, attaching a copy of his receive balance order thereto and specifying the proposed execution date and the quantity of securities, not exceeding the quantity specified in the receive balance order, which he intends to buy-in (Buy-In Position). The Buy-In Notice shall be delivered not later than the time specified by the Corporation at least two business days before the proposed execution of the buy-in.

An originator who has not received the Buy-In Position shown on his Buy-In Notice by the time specified by the Corporation on the business day of the proposed execution of the buy-in may buy-in the Buy-In Position in such market as he shall elect. In the event the buy-in is not executed on the day proposed, the Buy-In Notice shall expire at the close of business such day.

The originator must be prepared to defend the price at which the buy-in is executed relative to the current market at the time of the buy-in. Upon the execution of a Buy-In Order, the Subject Member shall be liable for any damages which may accrue to the originator. All claims for such damages shall be made promptly.

If the balance order is for warrants, rights, convertible securities or other securities which have been called for redemption or are due to expire or on which a call or expiration date is impending or which is subject to a tender or exchange offer or other event which will expire, and the last day on which the securities must be delivered or surrendered (the "expiration date") is the Settlement Date for the balance order or any day after the Settlement Date, the Member holding the receive balance order may deliver a notice to the contra party by the time specified by the Corporation on the business day preceding the expiration date (a Liability Notice). If a Liability Notice is so delivered to the contra party, and the contra party fails to deliver the securities on expiration date, the contra party shall be liable for any damages which may accrue thereby. All claims for such damages shall be made promptly.

Receive and deliver instructions issued upon the removal of eligible securities from the CNS system (see Section VII (I)) shall be deemed to be balance orders for the purpose of this subsection B.

Extensions of Time for OTC Buy-Ins. Extensions of time for execution will be granted by the Corporation under the following conditions:

Clearing Member Originated Buy-In. A short Clearing Member who has received a buy-in notice from a Clearing Member for a balance order issued by the Corporation may taken a seven (7) calendar day extension due to transit or transfer consistent with the UPC. Upon request, certificate numbers will be furnished by the short Clearing Member requesting the extension. If the securities are in transfer and due to the transfer agent, transfer is delayed, the Corporation may grant an additional seven (7) calendar days. If the short Clearing Member cannot take the extension but retransmits a Clearing Member originated Buy-In to a non-Clearing UPC Member and the UPC broker takes a UPC transfer or transit delay, the short Clearing Member will advise the Corporation which will extend the execution date for the same period of time.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change permits certain aspects of the operation of Buy-Ins of securities transactions executed in the over-the-counter market (OTC transactions) to be accomplished in the SCC Division in a similar manner as these operations were formerly accomplished in the Corporation's NCC Division. When the SCC Division Rules were amended by filing SR-NSCC-77-10 (at Release No. 34-15142), operational features of the NCC Division and of the Corporation's ASECC Division were made available in the SCC Division. The differences in procedures between buy-ins in the SCC Division and buy-ins in the NCC Division were not reconciled at that time.

Current SCC procedures, for example, do not allow for a "short" broker to receive an extension of the execution date of the buy-in under any circumstances. Such extensions were available under NCC rules and currently are available under the Uniform Practice Code of the National Association of Securities Dealers, Inc.

Pursuant to current SCC Division procedures, buy-ins are executed by the Corporation, which would employ an agent broker to perform any such trade execution. NCC Division rules provided that buy-ins were executed by the "long" broker who initiated the buy-in (subject to the requirement that such broker be able to defend the price obtained upon execution). Additionally, a shorter time period imposed for buy-in liability is provided in the SCC Division than was provided in the NCC Division.

Several potential inequities could result if the proposed rule change is not adopted. For example, if a short SCC Division Member retransmits a Clearing Member originated buy-in to a UPC non-Clearing Member, to whom he is long, the short UPC non-Clearing Member can prevent the execution against himself for seven or even fourteen days because of transfer or transit, yet the short Clearing Member cannot prevent the execution against himself and, accordingly, would be liable for the full costs of execution by the buy-in originator.

Additionally, under the present rules, if a buy-in is received by a Clearing Member from a UPC non-Clearing Member outside the system, he must execute the buy-in in the system against a Short Clearing Member who owes him the stock even though the Long Clearing Member may never be executed against by the UPC non-Clearing Member who originated the buy-in.

Accordingly, the proposed rule change adopts certain limited procedures for by-ins, regarding OTC transactions only, which will be in conformity with provisions of the Uniform Practice Code in the same manner as NCC Division Rules formerly provided. The specific provisions of the proposed rule change are: the availability of buy-in extensions for transfer or transit delays, execution of the OTC buy-in by the initiating long broker (subject to his requirements to justify the execution price) and technical conforming changes to the CNS accounts of the long and short brokers who initiate and receive OTC Buy-In Notices so as to allow the substantive changes to operate in the SCC Division CNS system as well as in the SCC Division Balance Order System.

The proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions for which the Corporation is responsible by continuing existing appropriate Buy-In procedures for transactions in securities executed in the over-the-counter market.

Comments concerning the proposed rule change were not solicited by NSCC.

NSCC does not perceive that the proposed rule change would constitute a burden on competition.

NSCC has requested the Commission to exercise its authority under Section 19(b)(2) of the Act to approve the proposed rule change prior to the thirtieth day after the date of publication of this notice in the FEDERAL REGISTER. Section 19(b)(2) of the Act requires the Commission to find good cause for so doing and to publish its reasons for so finding. NSCC believes that accelerated treatment is necessary because of the significant exposure which SCC Division participants face until the rule change can become effective.

With 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to the file number referenced in the caption above and should be submitted within twenty-one days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 15, 1979.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2024 Filed 1-18-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 241, Rule 19, 55th Revised Exemption No. 901]

ABERDEEN & ROCKFISH RAILROAD CO., ET AL.

Exemption Under Mandatory Car Service Rules

To all railroads:

It appearing, That certain of the railroads named below own numerous 50-ft. plain boxcars; that under present conditions, there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 409, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Aberdeen & Rockfish Railroad Co.
Reporting Marks: AR
Camino, Placerville & Lake Tahoe Railroad Co.[1]
Reporting Marks: CPLT
City of Prineville
Reporting Marks: COP
The Clarendon & Pittsford Railroad Co.
Reporting Marks: CLP
Duluth, Missabe & Iron Range Railway Co.
Reporting Marks: DMIR
East Camden & Highland Railroad Co.
Reporting Marks: EACH
Genessee & Wyoming Railroad Co.
Reporting Marks: GNWR
Greenville & Northern Railway Co.
Reporting Marks: GRN
Lake Superior & Ishpeming Railroad Co.
Reporting Marks: LSI
Lenawee County Railroad Co., Inc.
Reporting Marks: LCRC
Louisiana Midland Railway Co.
Reporting Marks: LOAM
Louisville & Wadley Railway Co.
Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Co.
Reporting Marks: LNAC
Manufactures Railway Co.
Reporting Marks: MRS
Middletown & New Jersey Railway Co., Inc.
Reporting Marks: MNJ
Missouri-Kansas-Texas Railroad Co.
Reporting Marks: BKTY-MKT
New Orleans Public Belt Railroad
Reporting Marks: NOPB
Oregon & Northewestern Railroad Co.
Reporting Marks: ONW
Oregon, Pacific & Eastern Railway Co.
Reporting Marks: OPE
Pearl River Valley Railroad Co.
Reporting Marks: PRV
Peninsula Terminal Co.
Reporting Marks: PT
Providence & Worcester Co.
Reporting Marks: PW
Raritan River Rail Road Co.
Reporting Marks: RR
Sacremento Northern Railway
Reporting Marks: SN
St. Lawrence Railroad
Reporting Marks: NSL
Sierra Railroad Co.
Reporting Marks: SERA
Terminal Railway, Alabama State Docks
Reporting Marks: TASD
The Texas Mexican Railway Co.
Reporting Marks: TM
Tidewater Southern Railway Co.
Reporting Marks: TS
Toledo, Peoria & Western Railroad Co.
Reporting Marks: TPW
Vermont Railway, Inc.
Reporting Marks: VTR
WCTU Railway Co.
Reporting Marks: WCTR
Youngstown & Southern Railway Co.
Reporting Marks: YS
Yreka Western Railroad Co.
Reporting Marks: YW

Effective January 2, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., Decmeber 26, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 79-2059 Filed 1-18-79; 8:45 am]

[1] The Arcata and Mad River Rail Road Company and Atlanta & Saint Andrews Bay Railway Company deleted.

[7035-01-M]

[Notice No. 10]

ASSIGNMENT OF HEARINGS

JANUARY 16, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 32882 (Sub-96F), Mitchell Bros. Truck Lines, now assigned for hearing on March 13, 1979, (9 days), at Los Angeles, California in a hearing room to be later designated.
MC 102616 (Sub-942F), Coastal Tank Lines, Inc., now assigned for hearing on January 16, 1979, at Louisville, Kentucky is postponed indefinitely.
MC 107012 (Sub-274F), North American Van Lines, Inc., now assigned February 7, 1979, at Washington, D.C., is postponed indefinitely.
MC 105045 (Sub-83F), R. L. Jeffries Trucking Co., Inc., now assigned under Modified Procedure is canceled and application dismissed.
MC 87689 (Sub-13), Inter-City Truck Lines, Limited, now assigned February 12, 1979 at Helena, Montana is canceled and reassigned to February 12, 1979 (1 week) at Great Falls, Montana and will be held at Conference Rm., No. 1 O'Haire Manor, One Avenue South & 7th St.
MC 116915 (Sub-52F), Eck Miller Transportation Corp., now assigned May 8, 1979 at Birmingham, Alabama is canceled and application dismissed.
MC 144604F, John Haley, DBA J & R Auto Transport, now assigned February 21, 1979 at Kansas City, Missouri is canceled and application dismissed.
MC 114457 (Sub-399F), Dart Transit Co., A Corporation, now assigned for hearing on February 12, 1979, at New Orleans, Louisiana and will be held in Fifth Circuit Court of Appeals, East Courtroom 223.
MC 144469F, Ole South Dixieland Tours, Ltd., now assigned for hearing on February 7, 1979, at Natchez, Mississippi and will be held in City Hall Council Chamber.
MC 2908 (Sub-24F), Capital Motor Lines, dba Capital Trailways, now assigned February 12, 1979, at Montgomery, Ala., is postponed to March 19, 1979, (1 week), at Montgomery, Ala., in a hearing room to be later designated.
MC 138144 (Sub-30F), Fred Olson Co., Inc., now assigned February 28, 1979, at Chicago, Ill., is postponed to March 21, 1979 (3 days), at Chicago, Ill., in a hearing room to be later designated.
MC 139193 (Sub-74F), Roberts & Oake, Inc., now assigned February 13, 1979, at New Orleans, La., is postponed indefinitely.
MC 141550 (Sub-5F), Hoppy Lines, Inc., now assigned for continued hearing on February 21, 1979, (1 day), at Los Angeles, California in Room No. 324, U.S. Courthouse, 312 North Spring Street.
MC 109780 (Sub-76F), Trailways, Inc., now assigned for hearing on February 22, 1979 (2 days), at Los Angeles, California in Room No. 324, U.S. Courthouse, 312 North Spring Street.
FD-28910F, Denver & Rio Grande Western Railroad Company—Discontinuance of Passenger Trains Nos. 17 and 18 (The "Rio Grande Zephyr" Between Grand Junction, Co., and Salt Lake City, Ut., now assigned for hearing on February 26, 1979, (2 days), at Salt Lake City, Utah in a hearing room to be later designated.
FD-28910F, Denver & Rio Grande Western Railroad Company—Discontinuance of Passenger Trains Nos. 17 and 18 (The "Rio Grande Zephyr" Between Grand Junction, Co., and Salt Lake City, Ut., now assigned for hearing on February 28, 1979, (1 day), at Helper, Utah in a hearing room to be later designated.
FD-28910F, Denver & Rio Grande Western Railroad Company—Discontinuance of Passenger Trains Nos. 17 and 18 (The "Rio Grande Zephyr" Between Grand Junction, Co., and Salt Lake City, Ut., now assigned for continued hearing on March 1, 1979 (1 day), at Grand Junction, Colorado in a hearing room to be later designated.
FD-28910F, Denver & Rio Grande Western Railroad Company—Discontinuance of Passenger Trains Nos. 17 and 18 (The "Rio Grande Zephyr" Between Grand Junction, Co., and Salt Lake City, Ut., now assigned for continued hearing on March 2, 1979 (1 day), at Denver, Colorado in a hearing room to be later designated.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2060 Filed 1-18-79; 8:45 am]

[7035-01-M]

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 16, 1979.

This application for long- and short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before February 5, 1979.

FSA No. 43654, Eurobridge Lines' No. 1, intermodal rates on general commodities in containers, between rail carriers' terminals at U.S. Pacific Coast ports and ports in Europe and on the Mediterranean Sea, by way of U.S. Atlantic Coast ports, in its Tariffs No. 2 and 3, I.C.C. No. 2 and 3, respectively effective February 4, 1979. Grounds for relief—water competition.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2061 Filed 1-18-79; 8:45 am]

[7035-01-M]

[Amt. No. 1 to Revised ICC Order No. 14 under Service Order No. 1344]

MICHIGAN NORTHERN RAILWAY CO. AND SOO LINE RAILROAD CO.

REROUTING OF TRAFFIC

Upon further consideration of Revised I.C.C. Order No. 14 (Michigan Northern Railway Company and Soo Line Railroad Company), and good cause appearing therefor:

It is ordered,

Revised I.C.C. Order No. 14 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 17, 1979, unless otherwise modified, changed or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., January 10, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of the amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 10, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-2062 Filed 1-18-79; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[6712-01-M]

1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, January 17, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following item has been deleted:

Agenda, Item No., and Subject

Complaints and Compliance—1—Application for review of a letter by the Broadcast Bureau stating that a proposed 2½-hour auction program would violate the Commission's policy as to program-length commercials.

Additional information concerning this item may be obtained from the FCC Public Information Office, telephone (202) 632-7260.

Issued: January 15, 1979.

[S-117-79 Filed 1-17-79; 10:34 am]

[6712-01-M]

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, January 17, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following item has been deleted:

Agenda, Item No., and Subject

Common Carrier—3—GTE acquisition of Telenet.

Additional information concerning this item may be obtained from the FCC Public Information Office, telephone (202) 632-7260.

Issued: January 16, 1979.

[S-118-79 Filed 1-17-79; 10:34 am]

[6740-02-M]

3

JANUARY 17, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., January 24, 1979.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone (202) 275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

POWER AGENDA—242ND MEETING, JANUARY 24, 1979, REGULAR MEETING

CAP-1. Docket No. ER79-89, Missouri Public Service Co.
CAP-2. Docket No. ER79-96, Ohio Power Co.

GAS AGENDA—242ND MEETING, JANUARY 24, 1979, REGULAR MEETING

CAG-1. Docket No. RP72-134 (PGA79-2), Eastern Shore Natural Gas Co.
CAG-2. Docket No. RP76-30, Texas Gas Pipe Line Corp.
CAG-3. Docket No. CP78-494, United Gas Pipe Line Co.
CAG-4. Docket No. CP73-329 (PGA79-1), Chattanooga Gas Co.
CAG-5. Docket No. OR79-1, Williams Brothers Pipeline Co.
CAG-6. Docket No. R-386, Peninsula Gas Co.
CAG-7. Docket No. CP77-508, Northern Natural Gas Co.
CAG-8. Docket No. CP78-4, Transcontinental Gas Pipeline Corp.
CAG-9. Docket No. CP77-58, Texas Gas Transmission Corp.
CAG-10. Docket No. CP79-26, Consolidated Gas Supply Corp., Equitable Gas Co. Docket No. CP79-85, Texas Eastern Transmission Corp.
CAG-11. Docket No. CP78-369, El Paso Natural Gas Co.
CAG-12. Docket No. CP76-36, Equitable Gas Co.
CAG-13. Docket No. CP77-112, Panhandle Eastern Pipe Line Co.
CAG-14. Docket No. CP61-92, El Paso Natural Gas Co.
CAG-15. Docket No. CP79-12, Western Transmission Corp.
CAG-16. Docket No. CP79-71, Natural Gas Pipeline Co. of America.
CAG-17. Docket No. CP79-20, Southern Natural Gas Co.
CAG-18. Docket No. CP79-50, El Paso Natural Gas Co.

MISCELLANEOUS AGENDA—242ND MEETING, JANUARY 17, 1979, REGULAR MEETING

CAM-1. Draft Final Rule by ERA Relating to the Pricing of Certain Crude Oil.
CAM-2. Secretary of Energy's Proposed Amendments to Mandatory Canadian Crude Oil Allocation Regulations.
CAM-3. Docket No. RA79-5, Sabre Refining Inc.
CAM-4. Docket No. RA79-10, Milltown Skelgas Inc.
CAM-5. Mississippi River Transmission Corp.
CAM-6. Alpena Power Co.

POWER AGENDA—242ND MEETING, JANUARY 24, 1979, REGULAR MEETING

ER-1. Docket No. ER79-84, Southern Co. Services, Inc.
ER-2. Docket No. ER79-92, and ER79-93, New England Power Co.
ER-3. Docket No. ER79-90, Central Kansas power Co.
ER-4. Docket No. ER79-88, Georgia Power Co.
ER-5. Docket No. ER77-521, Arizona Public Service Co.
ER-6(A). Docket No. ER78-19 (Phase I) and ER78-81, Florida Power & Light Co.
ER-6(B). Docket Nos. ER78-325; ER78-376 and ER78-19, et al., Florida Power & Light Co.
ER-7. Docket No. ER76-285 (Phase II), Public Service Co. of New Hampshire.
ER-8. Docket No. E-7704, *The Electric and Water Plant Board of the City of Frankfort, Kentucky* v. *Kentucky Utilities Company.Docket No. E-7669, Public Service Co of Indiana. Docket No. E-7937, Indianapolis Power & Light Co. Docket No. E-8053, Kentucky Utilities Co.*
ER-9. Docket No. EL78-32, New York State Electric & Gas Corp.
ER-10. Docket NO. E-8855, ER76-90, ER76-854, and ER77-84, Boston Edison Co.

GAS AGENDA—242ND MEETING, JANUARY 24, 1979, REGULAR MEETING

I. PIPELINE RATE MATTERS

RP-1. Docket No. RP79-20, Alabama-Tennessee Natural Gas Co.
RP-2. Docket No. RP79-21, Tennessee Natural Gas Lines, Inc.
RP-3. Docket No. RP79-22, Consolidated Gas Supply Corp.
RP-4. Docket No. RP73-43 (PGA No. 79-1 and TT 79-2), Mid-Louisiana Gas Co.
RP-5. Docket No. RP76-136, and RP77-26, Transcontinental Gas Pipe Line Corp.

II. PRODUCER MATTERS

CI-1. Docket No. RI78-18, Natural Gas Pipeline Co. of America.

III. OIL PIPELINE RATE MATTERS

OR-1. Docket No. OR78-6, *Powder River Pipeline Corporation and the Crude Company*, Complaints, v. *Amoco Pipeline Company*, Defendant.

MISCELLANEOUS AGENDA—242ND MEETING, JANUARY 24, 1979, REGULAR MEETING

M-1. Docket NO. RM79-3, Interim Regulations Implementing the Natural Gas Policy Act of 1978.
M-2. Docket No. RM79-3, Regulations Implementing the Natural Gas Policy Act of 1978, Docket No. RM79-4, Amendments to the Commission's Regulations Relating to Independent Producer Filing Requirements.
M-3. Annual Reports Pursuant to Part 276 of the Interim Regulations Under NGPA and Proposed Changes to the Filing Requirements.
M-4. Docket No. RM79- , Treatment of Refunds Under Purchased Gas Adjustment Clauses.
M-5. Docket No. RM78-17, Procedures for Review by the Federal Energy Regulatory Commission of Adjustment Request Denials by the Secretary of Energy.
M-6. Interim Rules on 314 of NGPA, Offers and right of First Refusal.
M-7. Staff Recommendations on the Revenue Act of 1978 Which Reduces the Statutory Corporate Federal Income Tax Rate From 48% to 46%.
M-8. Docket No. RM79- , Treatment of Certain Production Related Costs for Gas to be Transported Through the Alaska Natural Gas Transportation System.
M-9. Docket No. 79- , Certification of Pipeline Transportation Agreements for Certain High-Priority Uses.
M-10. Docket No. RM77-22, Rate of Interest on Amounts Subject to Refund.
M-11. Docket NO. RM79- , Certain Sales of Natural Gas by Intrastate Pipelines.
M-12. Docket No. RM79-7, Final Regulation Allowing Jurisdictional Pipelines With a PGA Clause in Effect on January 1, 1979, Which Includes a Deferred Account, to Include in Their PGA Rate Adjustment, One Time, Certain Estimated Changes in Purchased Gas Cost due to Implementing the Natural Gas Policy Act of 1978.

KENNETH F. PLUMB,
Secretary.

[S-129-79 Filed 1-17-79; 3:55 pm]

[6720-01-M]

4

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., January 24, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Consideration of Regulation Regarding a 100 Mile Restriction on Branching.
Consideration of Regulation Regarding the Farmers' Home Administration Rural Housing Program (Guaranteed Loans).
Consideration of Regulation Regarding Optional Federal Association By Laws and Federal Home Loan Bank Policy Statement on Retirement Ages.
Consideration of Application for Bank Membership—Banco Financiero de Ahorro de Ponce, Ponce, P.R.
Consideration of Proposed Acquisition of Home Savings & Loan Association, Reno, Nevada by United States Leasing International, Inc., San Francisco, Calif.
Consideration of Merger of Bloomfield Federal Savings & Loan Association, Bloomfield, Nebr., into First Federal Savings & Loan Association of Lincoln, Lincoln, Nebr.
Consideration of Voluntary Termination of Insurance of Accounts and Withdrawal from Bank Membership—Seaboard Savings & Loan Association, Washington, N.C.
Consideration of Voluntary Termination of Insurance of Accounts and Withdrawal from Bank Membership—Robeson Savings & Loan Association, Lumberton, N.C.
Consideration of Association Request for Extension of Time—Peninsula Savings & Loan Association, South San Francisco, Calif.
Consideration of Application for Bank Membership and Insurance of Accounts—Newport-Balboa Savings & Loan Association, Newport Beach, Calif.
Consideration of Request for Extension of Time—Onie B. Granville, et al., Inglewood, Calif.
Consideration of Renewal of Federal Savings & Loan Advisory Council Charter.

No. 211, January 17, 1979.

[S-128-79 Filed 1-17-79; 3:09 pm]

[6210-01-M]

5

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, January 24, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551

STATUS: Open.

MATTERS TO BE CONSIDERED:

SUMMARY AGENDA

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed extension of the Monthly Survey of Six-Month Money Market Time Deposits (FR 2042).
2. Proposed revision of the Report of Certain Eurodollar Transactions (FR 2011).
3. The Board's Annual Report to Congress for 1978 on The Equal Credit Opportunity Act.

DISCUSSION AGENDA

1. Proposed statement to be presented to the Senate Committee on Banking, Housing and Urban Affairs regarding simplification of the Truth in Lending Act.
2. Proposed regulation prescribing certain exceptions for interlocking relationships that would otherwise be prohibited by Title II of the Financial Institutions Regulatory and Interest Rate Control Act.
3. Any agenda items carried forward from a previously announced meeting.

NOTE.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: January 16, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-112-79 Filed 1-17-79; 9:43 am]

[6750-01-M]

6

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 am., Tuesday, January 23, 1979.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

NONADJUDICATIVE MATTERS

(1) Approval of minutes on nonadjudicative matters considered meeting of November 29, December 14, 1978, and January 9, 1979.
(2) Consideration of possible courses of action in the Advertising Substantiation Program.

ADJUDICATIVE MATTERS UNDER PART 3 OF THE RULES OF PRACTICE

Discussion of Coca-Cola Bottling Company of New York, Inc. Docket No. 8992.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-114-79 Filed 1-17-79; 9:43 am]

[6750-01-M]

7

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, January 25, 1979.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO PUBLIC

(1) Oral Argument in American Home Products Corporation, et al., Docket 8918.

PORTIONS CLOSED TO THE PUBLIC

(2) Executive Session to Discuss Oral Argument in American Home Products Corporation, et al., Docket 8918.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-115-79 Filed 1-17-79; 9:43 am]

[7020-02-M]

8

[USITC SE-79-4]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Monday, January 22, 1979.

PLACE: Room 117, 701 E Street NW.,Washington, D.C. 20436.

STATUS: Emergency meeting—less than ten days' prior notice, open to the public.

MATTERS TO BE CONSIDERED:

1. Further consideration of the report in Investigation 332-87 (U.S. Western Steel Market).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-113-79 Filed 1-17-79; 9:43 am]

[7020-02-M]

9

[USITC SE-79-5]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, January 30, 1979.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC

1. Agenda.
2. Minutes.
3. Ratification.
4. Petitions and complaints, if necessary.
6. Slow cookers (Inv. 337-TA-42)—vote.
7. Any items left over from previous agenda.

PORTIONS CLOSED TO THE PUBLIC

5. Status report on Investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-119-79 Filed 1-17-79; 11:20 am]

[6720-01-M]

10

NATIONAL NEIGHBORHOOD REINVESTMENT CORPORATION.

FIRST ANNUAL MEETING

Pursuant to the Provisions of the Neighborhood Reinvestment Corporation Act (Title VI of Housing and Community amendments of 1978, P.L. 95-557), notice is hereby given of the annual meeting of the National Neighborhood Reinvestment Corporation.

TIME AND DATE: 2 p.m., January 24, 1979.

PLACE: Board Room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open Meeting, Board of Directors.

CONTACT PERSON FOR MORE INFORMATION:

Myra Peabody, telephone 202-377-6392.

AGENDA:

Call to Order and Remarks of the Chairman.
Review of Minutes, December 21, 1978 Meeting.
Election of the Vice Chairman.
Designation of the Executive Committee.
Approval of the Audit Committee.
Appointment of Auditors.
Appointment of General Counsel.
Executive Director's Report.
Treasurer's Report.
Other Business.

No. 2, January 17, 1979.

DONNIE L. BRYANT,
Secretary.

[S-120-79 Filed 1-17-79; 1:53 pm]

[4910-58-M]

11

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 11 a.m., Wednesday, January 17, 1979 [NM-79-3].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTTER CONSIDERED: A majority of the Board has determined by recorded vote that the business of the Board required that the following item be discussed on this date and that no earlier announcement was possible:

Discussion of the Director of the Bureau of Accident Investigation's memorandum of January 15, 1979, relative to the United Air Lines Flight 173 accident at Portland, Oregon on December 28, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-121-79 Filed 1-17-79; 2:07 pm]

[7590-01-M]

12

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: January 23 and 25, 1979.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

TUESDAY, JANUARY 23; 9:30 A.M.

1. Initial briefing on major issues in siting and licensing legislation (approximately 1½ hours, public meeting).
2. Briefing on the shipment of HEU to Romania (approximately 1 hour, public meeting).

THURSDAY, JANUARY 25; 9:30 A.M.

1. Briefing on final program plan for the NRC fiscal year 1979 budget (approximately 1 hour public meeting).
2. Discussion of proposed authorization hearing testimony in February (approximately 1½ hours, public meeting).

THURSDAY, JANUARY 25; 1:30 P.M.

1. Discussion of decision in S-3 rulemaking (approximately 1 hour, public meeting).
2. Discussion of personnel matter (approximately 3 hours, closed, exemption 6).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

JANUARY 16, 1979.

[S-116-79 Filed 1-17-79; 10:34 am]

[7910-01-M]

13

THE RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, January 23, 1979; 10 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C.

STATUS: Matters 1 through 3 are open to public observation. Matters 4 and 5 are closed to public observation. Matters 6 and 7 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held January 16, 1979, and other Board meetings, if any.
2. Determination of excessive profits and issuance of final opinion: H. P. Foley Co., fiscal year ended March 31, 1969.
3. Determination of excessive profits: Kaiser Aerospace & Electronics Corp.,fiscal year ended December 31, 1972.
4. Findings of excessive profits and issuance of proposed opinion: Dow Corning Corp., fiscal years ended October 31, 1967, 1968, and 1969.
5. Court of Claims case: *Norris Industries, Inc.* v. *United States*, Ct. Cl. No. 449-75.
6. Approval of agenda for meeting to be held February 6, 1979.
7. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: January 16, 1979.

GOODWIN CHASE,
Chairman.

[S-122-79 Filed 1-17-79; 2:47 pm]

[7910-01-M]

14

THE RENEGOTIATION BOARD.

DATE AND TIME: Thursday, January 25, 1979; 1:30 p.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED:

Kings Point Industries, Inc. (Consolidated), fiscal years ended April 30, 1969, 1970, and 1971; and Victory Enterprises, Inc., fiscal years ended September 30, 1969, 1970, and 1971; T. S. Lankford & Sons, Inc., fiscal years ended June 29, 1969 and June 27, 1970.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: January 17, 1979.

GOODWIN CHASE
Chairman.

[S-123-79 Filed 1-17-79; 2:47 pm]

[7910-01-M]

15

THE RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, January 30, 1979; 10 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C.

STATUS: Matter 1 is open to public observation. Matter 2 is closed to public observation. Matters 3 and 4 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held January 23, 1979, and other Board meetings, if any.
2. Court of Claims case: *Cooper-MacDonald, Inc.*, Ct. Cl. No. 88-75.
3. Approval of agenda for meeting to be held February 13, 1979.
4. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 29446, 202-254-8277.

Dated: January 17, 1979.

GOODWIN CHASE,
Chairman.

[S-124-79 Filed 1-17-79; 2:47 pm]

[7910-01-M]

16

THE RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, January 31, 1979; 9:30 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Teledyne Industries, Inc., SII to the Ryan Aeronautical Co., fiscal years ended October 31, 1967 and 1968; fiscal year ended December 31, 1968.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: January 17, 1979.

GOODWIN CHASE
Chairman.

[S-125-79 Filed 1-17-79; 2:47 pm]

[7910-01-M]

17

THE RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, February 14, 1979; 9:30 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Dow Corning Corp., fiscal years ended December 31, 1970, 1971, 1972, and 1973.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: January 17, 1979.

GOODWIN CHASE,
Chairman.

[S-126-79 Filed 1-17-79; 2:47 pm]

[7910-01-M]

18

THE RENEGOTIATION BOARD.

DATE AND TIME: Friday, February 16, 1979; 9:30 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Rex Precision Products, Inc., fiscal year ended November 30, 1974.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

V 4 4 / 1 4 J A 1 9 7 9 UMI

Dated: January 17, 1979.

GOODWIN CHASE,
Chairman.

[S-127-79 Filed 1-17-79; 2:47 pm]

[8010-01-M]

19

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.,

DATE PREVIOUSLY ANNOUNCED: Thursday, January 11, 1979.

CHANGES IN THE MEETING: Additional item to be considered.

The following additional item was considered by the Commission at the open meeting on Monday, January 15, 1979, at 10 a.m.:

Consideration of proposed Rules 9b-3, 9b-4(A) and 9b-4(B) under the securities Exchange Act of 1934, regarding trading rotations in exchange-traded options and options exchange closing hours.

Chairman Williams and Commissioner Loomis, Evans, Pollack, and Karmel determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

JANUARY 15, 1979.

[S-110-79 Filed 1-17-79; 9:43 am]

[8010-01-M]

20

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of January 22, 1979, in Room 825, 500 North Capitol Street, Washington, D.C

Closed meetings will be held on Tuesday, January 23, 1979, at 10 a.m. and on Thursday, January 25, 1979, after the 2:30 p.m. open meeting. Open meetings will be held on Wednesday, January 24, 1979 at 10 a.m. and on Thursday, January 25, 1979 at 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth 5 in U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (8), (9)(i), and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, January 23, 1979, will be:

Access to investigative files by Federal, State or self-regulatory authorities.
Amicus participation.
Chapter X
Formal orders of investigation.
Freedom of Information Act appeal.
Institution of criminal contempt proceeding.
Institution and settlement of administrative proceeding of an enforcement nature.
Litigation matters.
Settlement of administrative proceeding of an enforcement nature.
Subpoena enforcement action.

The subject matter of the closed meeting scheduled for Thursday, January 25, 1979, will be:

Post oral argument discussion.

The subject matter of the open meeting scheduled for Wednesday, January 24, 1979, at 10 a.m., will be:

1. Consideration of whether to: (1) issue a release adopting amendments to Forms S-1 and S-8 under the Securities Act, Rule 20a-2 under the Investment Company Act, and Forms N-1 and N-2 under the Securities Act and the Investment Company Act which would require disclosures to investors about brokerage placement policies and practices, relating to Section 28(e) of the Securities Exchange Act, and (2) incorporate similar disclosure requirements where investment managers have certain discretionary authority over clients' accounts into Rule 204-3 (the "brochure rule") and revised Form ADV under the Investment Advisers Act, which are before the Commission for simultaneous adoption. For futher information, please contact Sidney L. Cimmet at (202) 755-0211.

2. Consideration of whether to adopt new Rule 204-3 (the "brochure rule") under the Investment Advisers Act of 1940 (the "Act"); Amended Rules 204-1 and 204-2, Revised Form ADV and New Annual Form ADV-S under the Act; Revised Schedules A-D of Forms ADV and BD under the Securities Exchange Act of 1934 (the "Exchange Act"); and Revised Schedules E-G. For further information, please contact Eric Thompson at (202) 755-3507.

3. Consideration of whether to issue a temporary order, pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934, extending for a period of twelve months the Commission's temporary approval of the joint industry plan governing the implementation and operation of the consolidated quotation system. For further information, please contact Andre Weiss at (202) 755-8970 or Brandon Becker at (202) 755-8749.

The subject matter of the open meeting scheduled for Thursday, January 25, 1979, at 2:30 p.m., will be:

Oral argument on an appeal by Robert A. Podesta, from the initial decision of an administrative law judge.

FOR FURTHER INFORMATION, CONTACT:

Michael P. Rogan at (202) 755-1638.

JAANUARY 16, 1979.

[S-111-79 Filed 1-17-79; 9:43 am]

federal register

FRIDAY, JANUARY 19, 1979
PART II



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary For Community Planning and Development

■

INNOVATIVE GRANT—FISCAL YEAR 1979

Competitive Solicitation

V 4 4 / 1 4 JA 19 79 UMI

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-79-908]

INNOVATIVE GRANT—FISCAL YEAR 1979

Competitive Solicitation

AGENCY: Department of Housing and Urban Development.

ACTION: Notice regarding Innovative Grant competition—Solicitation for Fiscal Year 1979.

SUMMARY: HUD is inviting proposals from units of general local government for Innovative Grants to: (1) assist low- and moderate-income residents to remain in neighborhoods which are in the process of revitilization, or (2) provide opportunities for low- and moderate-income residents to move outside cities, if they so desire, on an areawide, intergovernmental basis. An applicant may submit a proposal which addresses either (1) or (2). *If both (1) and (2) are to be addressed by one applicant, separate applications must be submitted.*

FOR FURTHER INFORMATION CONTACT:

Robert L. Blake, Director, Secretary's Fund Division, Office of Policy Planning, Room 7138, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone number: (202) 755-6092. Program information kits are available upon request.

DATE: Applications are due by May 7, 1979.

General Information

Many factors such as increased property taxes, property acquisition by public and private entities, and the lack of adequate housing opportunities often force low- and moderate-income residents to move involuntarily out of neighborhoods undergoing revitilization. Further, when low- and moderate-income residents prefer to move out of a metropolitan area adequate and affordable housing with reasonable access to employment opportunities, as well as supportive social and commercial services, is often not available.

The President, in his March 27, 1978 message to the Congress on National Urban Policy, called for a new partnership, involving all levels of government, citizens and the private sector, aimed at making cities more healthy and improving the lives of people who live in them. In announcing the policy, the President indicated that it represents a comprehensive, long-term commitment to the Nation's urban areas.

The President identified five guiding principles of the urban policy as: (1) combining the resources of Federal, State, and local governments to conserve and strengthen cities and communities; (2) increasing access to opportunity for the disadvantaged; (3) simplifying and improving programs and policy at all levels of government; (4) flexibility in responding to the needs of communities; and (5) involving citizens in the efforts to meet the social and economic needs of their communities.

In accordance with the President's urban initiatives, HUD Secretary Patricia Roberts Harris has authorized a new competitive solicitation for Innovative Grants with special focus on public and private neighborhood revitalization activities causing displacement and relocation of low- and moderate-income households and the accompanying need for expanded housing opportunities on a neighborhood, as well as an areawide, intergovernmental basis for persons of low and moderate income.

For the purposes of this program notice, the following definitions will apply:

(1) The phrase "neighborhoods undergoing revitalization" refers to any specifically delineated geographic sector of a locality where public and/or private reinvestment is causing, or has the potential to cause, significant displacement and relocation of the households currently residing in the subject neighborhood.

(2) The term "displacement" refers to any direct or indirect action, whether publicly or privately initiated, which forces or encourages low- and moderate-income households to move.

(3) The term "relocation" refers to any move, voluntary or involuntary, as a result of publicly or privately caused displacement and the reestablishment of the household and/or business at a new location with appropriate financial or other assistance.

Proposal Objectives

HUD will consider for funding, on a competitive basis, proposals for Innovative Grants which relate to either one of the following subject purposes:

(1) To assist low- and moderate-income residents of neighborhoods undergoing revitalization to remain in the neighborhood, if they so desire, by improving neighborhood as well as individual housing resources. The assistance proposed should include a strategy for the use of Innovative Grant funds and other Federal, State, local and private assistance to minimize or avoid actions causing, or with the potential to cause, displacement and the subsequent relocation of neighborhood residents. If displacement is unavoidable and relocation is necessary, applicants must submit a plan for permanent and/or temporary relocation. This plan must contain a timetable which describes why, how, when and where relocation will take place and what steps will be taken to minimize hardship upon the residents. For permanent relocation, this assistance must include provision of housing which is (a) decent, safe and sanitary, (b) within their financial means and (c) as feasible, in locations which will include amenities which are an improvement over those in existence in the subject neighborhoods and areas. The plan must also insure that appropriate relocation assistance will be provided to displaced residents pursuant to the provisions of the Uniform Relocation Act of 1970 as applicable, but must not duplicate any services already being provided to such residents under the 1970 Uniform Relocation Act by the applicant or other public entity.

(2) To provide opportunities for low- and moderate-income residents of neighborhoods undergoing revitalization to move outside cities, if they so desire, to improved housing on an areawide, intergovernmental basis. The assistance proposed should include a strategy to insure that such moves will be coordinated in a manner as to foster neighborhood diversity, stability and expanded housing opportunities. The applicant must submit a plan with a timetable which describes why, how, when and where relocation is anticipated and what steps will be taken to minimize hardship on the residents. The plan must insure that counseling and other appropriate relocation assistance will be provided to the residents. This assistance must include provision of housing which is (a) decent, safe and sanitary, (b) within their financial means and (c) as feasible, in locations which will include amenities and supporting social and commercial services which are an improvement over those in existence in the subject neighborhoods and areas. The relocation assistance must not duplicate any services already being provided to such residents under the provisions of the Uniform Relocation Act of 1970.

Supplementary Information

The Innovative Grant Program is authorized by Section 107(a)(4) of the Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301 et seq.). The program funds projects which are untried, unique or advance the state of the community development art or which meet special needs. This notice informing eligible applicants of requirements for proposals is published pursuant to 24 CFR 570.406(b)(3)(i).

Eligible applicants are units of general local government as defined in the Community Development Block Grant regulations at 24 CFR 570.3(v). Proposals must be submitted by the Chief Executive of the Unit of general local government and must contain the certifications required by 24 CFR 570.307 with the exception of (d) and (f). Proposed activities must meet the eligibility requirements of 24 CFR Part 570, Subpart C and in addition, the applicant must certify that citizens likely to be affected by the proposed project, particularly low- and moderate-income persons, have been provided an opportunity to comment on the proposal.

It should be noted particularly that the Office of Management and Budget Circular A-95 must be followed as well as the provisions of the Uniform Relocation Act of 1970. Certifications, state and sub-state agency A-95 comments and additional supportive information as required by this notice and 24 CFR 570.406 must accompany the proposal and will not be accepted after May 7, 1979. Failure on the part of the applicant to comply with any one of these requirements will be sufficient cause for disqualification.

Award of Grant:

Grants of up to two years duration from the date of grantee signature on the grant agreement will be awarded on the basis of the following selection criteria:

1. The extent to which the proposal represents innovative approaches and techniques towards solving the urban problems identified in categories (1) or (2) under *Proposal Objectives;*

2. The extent to which the identified problem is common to a substantial number of communities and the extent to which the proposed approach can be adapted and replicated in a significant number of other communities;

3. If category (1) as described under *Proposal Objectives* is the objective of the applicant, the extent to which the proposed project avoids displacement of low- and moderate-income residents and small businesses;

4. If relocation is anticipated the specificity, completeness, and potential effectiveness of the relocation plan;

5. If category (2), as described under *Proposal Objectives* is the focus of the applicant, the extent to which the activities are areawide and intergovernmental must be explicit in the proposal;

6. The overall technical merit of the proposed project;

7. The assurance of timely public and private resource commitments to the project including commitments to continue the process described after completion of the proposed Innovative Grant;

8. The adequacy of the proposed plan for managing and evaluating the project; and

9. The financial and staff capacity of the applicant to effectively implement a project of the type and scope proposed.

Application Requirements:

Applications for Innovative Grants shall include all of the following required submissions:

1. A brief letter of transmittal containing the signature of the Chief Executive and the designated project leader who will be primarily responsible for execution of the project;

2. Standard Form 424;

3. A one-page abstract of the project summarizing the proposed activities;

4. A project narrative statement describing:

(a) The nature of the problem including a description of the physical economic and social characteristics of the project sites;

(b) The goals and objectives of the project;

(c) The proposed solution;

(d) Evidence of firm financial and staff resource commitments, both public and private, to be used;

(e) The management plan including a description of the professional experience and management capacity of key project personnel including those in cooperating agencies and organizations;

(f) The tasks to be carried out;

(g) The plan for evaluation including measurable planning and program criteria; and

(h) Other information necessary to describe the applicant's proposed project and to address the selection criteria described under *Award of Grants.*

5. A proposed budget clearly showing by line item, the expenditure of HUD and other public and private funds on HUD Form 7067;

6. The certifications required by 24 CFR 570.307 except (d) and (f);

7. Evidence of coordination with approved Housing Opportunity Plans for the applicant unit(s) of general local government as appropriate;

8. Cooperation agreements for multi-jurisdictional applications as appropriate;

9. Certification that the applicant agrees to comply with Innovative Grant reporting requirements which include at a minimum, quarterly and final project reports containing findings, conclusions and a description of progress towards achievement of project goals and objectives;

10. Certification that the applicant agrees to designate appropriate representatives to attend required meetings and conferences for Innovative Grant recipients.

Application Submission Procedures

Proposals must be delivered or postmarked no later than May 7, 1979. The original plus two copies of the proposal shall be submitted to the Office of Policy Planning, Room 7138, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Simultaneously, one informational copy of the proposal shall be sent to the HUD Regional Administrator and one complete copy with attachments shall be sent to the Area Office serving the jurisdiction of the applicant.

Applicant Notification

All applicants will be notified by mail of the final results of the competition after selections are made. Applications which do not meet all the requirements specified above by the deadline date will be returned and will not be considered in the competition. HUD reserves the right to decline to fund any or all proposals received under this solicitation if they are not deemed of sufficient quality and relevance to the objectives specified in this notice.

In connection with the environmental review of the notice, a Finding of Inapplicability has been made under HUD Handbook 1390.1, 38 FR 19183. A copy of the Finding is available for inspection in the Office of Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Issued at Washington, D.C., December 21, 1978.

ROBERT C. EMBRY,
Assistant Secretary for Community Planning and Development.

[FR Doc. 79-2064 Filed 1-18-79; 8:45 am]

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federal register

FRIDAY, JANUARY 19, 1979
PART III



DEPARTMENT OF THE TREASURY

Internal Revenue Service

INCOME TAX

Investment Credit Employee Stock Ownership Plans (TRASOP's); Final and Temporary Regulations and Proposed Rulemaking

[4830-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7590]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Requirements for Taxpayers Electing 11-Percent Investment Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations together with temporary regulations; request for comments on temporary regulations.

SUMMARY: This document provides final and temporary regulations relating to investment credit employee stock ownership plans ("TRASOP's"). Changes in the applicable tax law were made by the Tax Reduction Act of 1975 ("1975 TRA") and the Tax Reform Act of 1976 ("1976 TRA"). These final and temporary regulations are intended to provide guidance for the public in complying with the law. They affect all employees who participate in TRASOP's and employers who establish TRASOP's. This document does not reflect changes made by the Revenue Act of 1978.

DATE: Written comments on the temporary regulations and requests for a public hearing must be delivered or mailed by March 20, 1979. The regulations are generally effective for taxable years ending after January 21, 1975.

FOR FURTHER INFORMATION CONTACT:

Thomas Rogan of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3589).

SUPPLEMENTARY INFORMATION:

BACKGROUND—1975 TRA MATTERS

On July 30, 1976, the Internal Revenue Service published proposals in the FEDERAL REGISTER to amend the Income Tax Regulations (26 CFR Part 1) under section 46(a) of the Internal Revenue Code of 1954 and section 301 (d) of the 1975 TRA (41 FR 31828).

By a notice published in the FEDERAL REGISTER on October 19, 1976, the public was invited to comment orally or in writing not only upon issues addressed in the proposals, but also upon issues addressed by section 803(h) of the Tax Reform Act of 1976 (90 Stat. 1590) and by the Conference Report of the Committee of Conference on H.R. 10612 (H.R. Rep. No. 94-1515, 94th Cong., 2d Sess. 539-542 (1976)). A public hearing was held on November 12, 1976.

After consideration of all comments, some of the proposals are revised and adopted as final regulations under this Treasury decision. Others are re-proposed elsewhere in today's FEDERAL REGISTER. However, most of the re-proposed provisions also appear as temporary regulations in this document.

The final regulations change the 1975 TRA proposals both substantively and structurally. Certain provisions are added. Others are restructured or deleted. However, many changes are designed solely to simplify the final regulations. Therefore, no substantive inference should be drawn solely from the fact that a particular proposal is either deleted or restructured.

1976 TRA MATTERS

Other provisions appearing as temporary regulations in this document amend the regulations to conform them to amendments made by section 803(b)(2), (c), (d), (h), and (j) of the 1976 TRA. The same notice of proposed rule making published elsewhere in today's FEDERAL REGISTER that contains re-proposals under the 1975 TRA provisions unaffected by the 1976 TRA also proposes that these 1976 TRA temporary amendments be adopted as final regulations. A separate document noting the adoption of these provisions as temporary regulations under 26 CFR Part 9, Temporary Regulations under the Tax Reduction Act of 1975, also appears in today's FEDERAL REGISTER.

INTEGRATION OF FINAL AND TEMPORARY REGULATIONS

The final and temporary regulations in this Treasury decision are published together as integrated provisions under 26 CFR Part 1, Income Tax Regulations. This format enables the public to see more clearly the effect of the 1976 TRA amendments on the 1975 TRA. Also, it facilitates the use of these regulations until the temporary provisions are superseded by final provisions.

It has been the practice in the past to publish temporary Internal Revenue Service regulations separately from final regulations both in the FEDERAL REGISTER and in the Code of Federal Regulations. Therefore, a separate document published elsewhere in today's FEDERAL REGISTER makes it clear that certain provisions in this Treasury decision under 26 CFR Part 1 are in fact adopted and effective only as temporary regulations under 26 CFR part 9. The following table shows which of these provisions relate to unamended 1975 TRA provisions and which relate to 1975 TRA provisions amended by the 1976 TRA. All of these temporary provisions are italicized in this Treasury decision.

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TABLE OF ITALICIZED PROVISIONS

TEMPORARY REGULATIONS (26 CFR Part 9) INTEGRATED IN FINAL REGULATIONS (26 CFR Part 1)

§ 1.46-8	Subject	Provision relates to 1975 TRA	Provision relates to 1976 TRA
(b) (4) (i) (last sentence)	Employer securities, general definition		x
(b) (8)	Compensation		x
(c) (1) (i)	Procedures for additional credit, applicable year, general rule	x	
(c) (1) (ii)	Carryover option		x
(c) (1) (iii)	Increased credit	x	
(c) (1) (iv)	Illustration	x	x
(c) (8) (i)	Funding a TRASOP, in general	x	x
(c) (8) (ii)	Cash transfers	x	
(c) (8) (iii)	Valuation	x	x
(c) (8) (iv)	Cash reserve	x	x
(c) (8) (v)	Conditional funding		x
(c) (8) (vi)	Certain benefit offset mechanisms	x	
(c) (9) (iv)	Claiming additional credit, redeterminations increasing credit	x	
(d) (2)	Formal plan requirements, plan year	x	
(d) (5) (last sentence)	Debts and expenses of TRASOP		x
(d) (6) (iv) (last sentence)	Allocation of TRASOP securities, compensation considered	x	

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TABLE I (continued)

(d) (6) (ix)	Treatment of certain plan terminations	x
(d) (6) (xii)	Accounting for amounts withheld by employer or paid by plan as start-up or administrative expenses	x
(d) (7) (last sentence)	Nonforfeitability	X
(e) (6)	Operational plan requirements, start-up expenses	x
(e) (7)	Administrative expenses	x
(e) (8) (i) (last three sentences)	TRASOP qualification under section 401 (a), permanence	x
(e) (8) (iii)	Income distribution	x
(e) (9) (vii)	Reductions in investment credit, withdraw TRASOP securities	x
(e) (9) (viii)	Prior distribution rule	x
(e) (9) (ix)	Illustration	x
(f)	Section 301 (f) withdrawals	x
(h) (4)	Failure to comply, definition	x

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INCLUSION OF STATUTORY MATERIAL AND CROSS-REFERENCE TABLE

Section 301(d) of the 1975 TRA and amendments under the 1976 TRA are consolidated in § 1.46-7 of the regulations. Also, section 301 (e) and (f), as added by the 1976 TRA, is included. Because this material is not available in consolidated form and does not appear in the Code, it is added to the regulations for the convenience of the public. The regulations also contain a cross-reference table indexing and coordinating §§ 1.46-7 and 8. Regulations under section 301(e) will be proposed at a later date.

DISCUSSION OF ISSUES

1. SPECIAL VALUATION RULES (FINAL REGULATIONS)

As suggested in the comments, the final regulations clarify in two respects the operation of the 20-day average valuation rule. First, the regulations state that the 20-day average takes into account closing prices only for trading days on which a transaction involving a publicly traded TRASOP security has occurred. Second, the 20-day average rule does not apply unless a transaction occurs on at least 10 of the 20 trading days during the 20-day period.

Under this clarification, the 20-day average rule requires a degree of active trading. Also, it applies in the case of a TRASOP security that is publicly traded for less than 20 days if the active trading requirement is met.

2. TRASOP FUNDING (TEMPORARY REGULATIONS)

The temporary regulations revise the procedural requirements for obtaining an additional credit to conform with the 1976 TRA amendments relating to TRASOP funding.

The term "applicable year" is used in the regulations to establish a reference point for a particular year's qualified investment. As a general rule, funding is geared to the year when a qualified investment is made. However, for taxable years beginning after December 31, 1976, in which a qualified investment is made, funding may be geared to each taxable year in which a credit carryover is claimed for the qualified investment.

The regulations identify the earliest time for funding a TRASOP with respect to each year's qualified investment. They also establish a priority rule for taking into account TRASOP securities that may be contributed for either of two taxable years.

3. IRREVOCABILITY OF TRASOP ELECTION (FINAL REGULATIONS)

Some comments suggest that a TRASOP election should be revocable by amended return. The proposals would have permitted revocation with the Commissioner's consent. Rather than follow the suggestion of the comments, the final regulations forbid all revocations after the last day for funding the TRASOP by eliminating revocation with the Commissioner's consent. The irrevocable election represents a commitment to employees by the employer that would be inappropriate for the Commissioner to reverse.

4. MAINTENANCE OF CASH RESERVE (TEMPORARY REGULATIONS)

The temporary regulations contain a provision permitting a plan to maintain a limited cash reserve fund when cash is transferred to the plan instead of TRASOP securities. The fund is limited to the amount of cash needed for cash distributions in lieu of fractional securities or for the payment of certain start-up and administrative expenses.

5. EFFECT OF BENEFIT OFFSET ARRANGEMENTS (FINAL REGULATIONS)

Revenue Ruling 76-259, 1976-2 C.B. 111, permits benefits under qualified defined contribution plans to offset accrued benefits under qualified defined benefit plans in certain circumstances. However, the Revenue Ruling does not take into account the Senate Finance Committee Report on the Tax Reduction Act of 1975, which requires TRASOP contributions to be "added on" to the benefits of other plans. See S. Rep. No. 94-36, 94th Cong., 1st Sess. 59 (1975); 1975-19 I.R.B. 94. Therefore, the final regulations add a rule that a TRASOP is underfunded to the extent that TRASOP securities are used in a defined benefit plan offset arrangement.

6. PRIORITY OF INVESTMENT CREDITS (FINAL REGULATIONS)

As requested by the comments, the final regulations make it clear that, with respect to a particular year's qualified investment, the basic ten-percent investment credit is claimed before any additional credit for TRASOP's.

7. CREDITS INCREASED BY REDETERMINATIONS (TEMPORARY REGULATIONS)

A question unanswered in the proposals was how to account for increases in the additional credit caused by a redetermination. The temporary regulations now provide that the increase is generally treated as an unused credit carryover.

8. DEDUCTIBILITY OF UNUSED CARRYOVERS (FINAL REGULATIONS)

The comments question whether a TRASOP contribution for which no credit is claimed during the 7-year carryover period is deductible at the expiration of the carryover period. The final regulations provide that such contributions are deductible for the year in which the carryover period expires.

9. PLAN YEAR (TEMPORARY REGULATIONS)

Technical Information Release (TIR) 1413, 1975-50 I.R.B. 16, questions and answers relating to ESOP's, provides that, in the case of a single employer plan, a TRASOP's plan year must be identical to the taxable year during which the qualified investment is made. (See question and answer R-5.) The proposals were silent on this point. The temporary regulations now simply provide that the plan year of a TRASOP must begin with or within the employer's taxable year.

10. TIMING OF ALLOCATIONS (FINAL REGULATIONS)

The comments suggest that the regulations should clearly state for what plan year TRASOP allocations must first be made. The final regulations adopt this suggestion. They now provide that TRASOP allocations must begin with the plan year beginning with or within the taxable year for which the election is made.

11. COMPENSATION CONSIDERED FOR ALLOCATIONS (TEMPORARY REGULATIONS)

Many comments ask what compensation must be taken into account for the purpose of allocating TRASOP securities. The 1976 TRA adopts the concept of compensation in section 415 of the Code, as contained in the proposals. The temporary regulations now make it clear that this compensation must include total compensation of participants while employed, not just while participating, in a particular plan year.

12. SECTION 415 AND ALLOCATIONS (FINAL REGULATIONS)

Section 415 deals with limitations on benefits and contributions under qualified plans. The final regulations clarify the effect of section 415 on TRASOP's and other plans. They require TRASOP securities to satisfy section 415 before allocations are made to other defined contribution plans.

Also, the regulations provide a first-in-first-out rule for releasing unallocated TRASOP securities from a suspense account.

13. TREATMENT OF UNALLOCATED AMOUNTS ON PLAN TERMINATION (TEMPORARY REGULATIONS)

The temporary regulations contain a new provision requiring the withdrawal upon plan termination of TRASOP securities that are unallocated because

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of the application of section 415. These securities are treated as amounts withdrawn from the plan as a result of recapture.

14. PASSTHROUGH RIGHTS (FINAL REGULATIONS)

The passthrough of voting rights remains a requirement for TRASOP securities under the final regulations. However, the requirement for the passthrough of other rights is deleted.

The regulations continue to prohibit voting rights unexercised by participants to be exercised by a fiduciary. However, they permit proxy solicitations.

15. INFORMATION STATEMENTS FOR EXERCISE OF VOTING RIGHTS (FINAL REGULATIONS)

The proposals required that participants be supplied with the same information statements supplied to security holders in general prior to their exercising voting rights passed through to them under the plan. The comments suggest that this obligation rest not with the plan fiduciary, but with the employer. The final regulations adopt this suggestion.

16. CONTROLLED GROUP OF CORPORATIONS (FINAL REGULATIONS)

The comments raise questions concerning TRASOP's and members of a controlled group of corporations or an affiliated group filing a consolidated return.

The final regulations make it clear that a member of a controlled group may obtain an additional credit under the proper circumstances without having actual employees. Other principles generally applicable to members of a controlled group having a plan qualified under section 401(a) would apply to a plan that is a TRASOP, whether or not qualified under section 401(a).

General principles relating to members of a controlled group of corporations apply in cases involving employers filing a consolidated return involving an additional credit.

17. TREATMENT OF CERTAIN START-UP AND ADMINISTRATIVE EXPENSES (TEMPORARY REGULATIONS)

The temporary regulations provide rules for taking certain start-up and administrative expenses into account under a TRASOP. The regulations also give retroactive effect to these rules. They allow the plan to treat past expenses as if they were amounts reducing the corporation's additional credit because of a recapture in the first taxable year after publication of this Treasury decision.

18. INCOME DISTRIBUTION (TEMPORARY REGULATIONS)

The temporary regulations permit passthrough of dividends to all TRASOP participants who have been allocated employer securities. The provision is substantially identical to one that applies under § 54.4975-11(f)(3) to qualifying employer securities held by an ESOP.

19. REDUCTIONS IN INVESTMENT CREDIT (FINAL REGULATIONS)

The final regulations clarify a number of questions raised in comments regarding reductions in the investment credit by recapture or redetermination. Although it is clear under the regulations that the 10-percent credit must be claimed first before an additional credit can be claimed, the regulations also make it clear that the converse is not true when a claim is later reduced. On the contrary, to minimize the unraveling effect of investment credit reductions on established TRASOP's, the regulations generally require the ratable reduction of the 10-percent credit and the additional credit.

Also, the regulations provide rules for determining the date on which a reduction in the additional credit occurs. They provide further that this reduction must be taken into account in the earliest year possible under the applicable method available under the plan.

20. TERMS FOR WITHDRAWING TRASOP SECURITIES (TEMPORARY REGULATIONS)

The temporary regulations prohibit the withdrawal of TRASOP securities on recapture unless, when the securities are acquired by the plan, there is a plan provision permitting the withdrawal. However, this provision has prospective effect only. In the case of securities acquired before publication of this Treasury decision, they may not be withdrawn unless, when the securities are withdrawn, there is a plan provision permitting the withdrawal.

21. PRIOR DISTRIBUTION RULE (TEMPORARY REGULATIONS)

The temporary regulations contain a provision that protects later distributees from having plan assets drained off by earlier distributions followed by recaptures. The rule limits the extent to which a participant's account can be reduced by treating any previously distributed TRASOP securities as if the distribution had not occurred. It also restricts the use of recaptured amounts in decreasing future contributions.

22. SECTION 301(f) RULES (TEMPORARY REGULATIONS)

The temporary regulations spell out the requirements for withdrawing assets from the plan under section 301 (f) of the 1975 TRA. They make it clear that asset segregation is merely a bookkeeping requirement. Also, they permit withdrawals for taxable years beginning before October 4, 1976, if all these years' assets are accounted for in the aggregate apart from the separate accounts for later years.

23. CONVERTIBLE EMPLOYER SECURITIES (FINAL REGULATIONS)

Under the proposals, a convertible employer security had to be convertible at a "resonable conversion ratio."

As suggested in the comments, the final regulations refine the "reasonable conversion ratio" concept. This is done by providing that a convertible employer security must be convertible at a price no greater than the value of the common stock into which is is convertible when the convertible security is acquired.

24. DIVIDEND RIGHT RESTRICTIONS (FINAL REGULATIONS)

As suggested in the comments, the provision in the proposals relating to restrictions on dividend rights is modified. Under the final regulations, the "unrestricted dividend right" requirement is eliminated. In its place is a provision permitting dividend restrictions to which at least 50 percent of the employer's common stock is subject. Also, any dividend restriction is permitted if the same percentage of each outstanding class of common stock is acquired by the TRASOP at any time.

25. SHAREHOLDER ATTRIBUTION (FINAL REGULATIONS)

The comments note the absence of ownership attribution provisions under the 10-percent shareholder test for an employer security. In addressing this problem, the final regulations incorporate the constructive ownership rules of section 318.

26. DEFINITION OF FAILURE TO COMPLY (TEMPORARY REGULATIONS)

The temporary regulations revise the definition of failure to comply. They identify three all-inclusive classes of defects that apply to formal and operational plan deficiencies. Each class of defect triggers the operation of a specific formula for determining the amount involved.

27. CORRECTION OF FORMAL PLAN DEFECTS (FINAL REGULATIONS)

Instead of providing general transitional rules and retroactive amendment provisions, the final regulations state that the provisions relating to correction are applicable when a plan fails to meet a formal plan requirement of the regulations. Thus, to be a TRASOP, a plan's failure to satisfy the regulations must be corrected within the correction period.

28. EXTENSION OF CORRECTION PERIOD (FINAL REGULATIONS)

Under the final regulations, the provisions of the Foundation Excise Tax Regulations (§ 53.4941(e)-1) relating to the extension of the correction period are incorporated by reference.

29. GOOD FAITH EFFORT TO COMPLY (FINAL REGULATIONS)

The final regulations make it clear that compliance with TIR 1413 is a good faith effort to comply with the regulations.

30. CONTINUING FAILURE TO COMPLY (FINAL REGULATIONS)

Where the prior proposals were silent, the final regulations now provide that a number of separate failures to comply may occur if a failure to comply in a particular year goes uncorrected for more than one year. However, a cumulative civil penalty ceiling equal to 100 percent of the additional credit applies in such cases. This rule encourages correction when less than the maximum amount of civil penalty is involved initially, for example, when the failure to comply involves a formal plan defect.

31. AMOUNT INVOLVED (FINAL REGULATIONS)

The final regulations change the structure of the prior proposals relating to the definition of "amount involved". Any amount involved now falls within one of three categories to which an objective formula applies for determining the amount. Uncertainty as to the amount involved under the prior proposals is removed.

32. ESOP PROVISIONS (FINAL REGULATIONS)

The final regulations incorporate by reference provisions applicable to ESOP's under §§ 54.4975-7 (b) and -11. These provisions relate to the definition of "publicly traded", to rights of first refusal, and to put options. See the preamble to Treasury Decision 7506 (42 FR 44388) for a discussion of these provisions.

GUIDELINES AND PROCEDURES SUPERSEDED

Questions and answers published in Technical Information Release (TIR) 1413 on November 4, 1975, contain guidelines relating to the 11-percent investment credit. The final and temporary regulations under this Treasury decision supersede those questions and answers that have not already been superseded. (See preamble to Treasury Decision 7506 (42 FR 44388).) They also supersede section 4.01 of Rev. Proc. 75-48 (1975-2 C.B. 583), election of 11-percent credit.

DRAFTING INFORMATION

The principal author of this regulation was Thomas Rogan of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 1 is amended by adding §§ 1.46-7 and 1.46-8 after § 1.46-6:

§ 1.46-7 Statutory provisions; plan requirements for taxpayers electing additional investment credit, etc.

As amended by sections 802(b)(7), and 803 (c), (d), and (e) of the Tax Reform Act of 1976 (90 Stat. 1520), section 301 (d), (e), and (f) of the Tax Reduction Act of 1975 (89 Stat. 38) provides as follows:

Sec. 301. Increase in investment credit.

• • •

(d) *Plan requirements for taxpayers electing additional credit.* In order to meet the requirements of this subsection—

(1) Except as expressly provided in subsections (e) and (f), a corporation (hereinafter in this subsection referred to as the "employer") must establish an employee stock ownership plan (described in paragraph (2)) which is funded by transfers of employer securities in accordance with the provisions of paragraph (6) and which meets all other requirements of this subsection.

(2) The plan referred to in paragraph (1) must be a defined contribution plan established in writing which—

(A) Is a stock bonus plan, a stock bonus and a money purchase pension plan, or a profit-sharing plan,

(B) Is designed to invest primarily in employer securities, and

(C) Meets such other requirements (similar to requirements applicable to employee stock ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954) as the Secretary of the Treasury or his delegate may prescribe.

(3) The plan must provide for the allocation of all employer securities transferred to it or purchased by it (because of the requirements of section 46(a)(2)(B) of the Internal Revenue Code of 1954) to the account of each participant (who was a participant at any time during the plan year, whether or not he is a participant at the close of the plan year) as of the close of each year in an amount which bears substantially the same proportion to the amount of all such securities allocated to all participants in the plan for that plan year as the amount of compensation paid to such participant (disregarding any compensation in excess of the first $100,000) bears to the compensation paid to all such participants during that year (disregarding any compensation in excess of the first $100,000 with respect to any participant). Notwithstanding the first sentence of this paragraph, the allocation to participants' accounts may be extended over whatever period may be necessary to comply with the requirements of section 415 of the Internal Revenue Code of 1954. For purposes of this paragraph, the amount of compensation paid to a participant for a year is the amount of such participant's compensation within the meaning of section 415(c)(3) of such Code for such year.

(4) The plan must provide that each participant has a nonforfeitable right to any stock allocated to his account under paragraph (3), and that no stock allocated to a participant's account may be distributed from that account before the end of the eighty-fourth month beginning after the month in which the stock is allocated to the account except in the case of separation from the service, death, or disability.

(5) The plan must provide that each participant is entitled to direct the plan as to the manner in which any employer securities allocated to the account of the participant are to be voted.

(6) On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, the employer states in such claim that it agrees, as a condition of receiving any such credit, adjustment, or refund—

(A) In the case of a taxable year beginning before January 1, 1977, to transfer employer securities forthwith to the plan having an aggregate value at the time of the claim of 1 percent of the amount of the qualified investment (as determined under section 46 (c) and (d) of such Code) of the taxpayer for the taxable year, and

(B) In the case of a taxable year beginning after December 31, 1976—

(i) To transfer employer securities to the plan having an aggregate value at the time of the claim of 1 percent of the amount of the qualified investment (as determined under section 46 (c) and (d) of such Code) of the employer for the taxable year,

(ii) Except as provided in clause (iii), to effect the transfer not later than 30 days after the time (including extensions) for filing its income tax return for a taxable year, and

(iii) In the case of an employer whose credit (as determined under section 46 (a)(2)(B) of such Code) for a taxable year beginning after December 31, 1976, exceeds the limitations of paragraph (3) of section 46(a) of such Code—

(I) To effect that portion of the transfer allocable to investment credit carrybacks of such excess credit at the time required under clause (ii) for the unused credit year (within the meaning of section 46(b) of such Code), and

(II) To effect that portion of the transfer allocable to investment credit carryovers of such excess credit at the time required under clause (ii) for the taxable year to which such portion is carried over.

For purposes of meeting the requirements of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.

(7) Notwithstanding any other provisions of law to the contrary, if the plan does not

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meet the requirements of section 401 of the Internal Revenue Code of 1954—

(A) Stock transferred under paragraph (6) or subsection (e)(3) and allocated to the account of any participant under paragraph (3) and dividends thereon shall not be considered income of the participant or his beneficiary under the Internal Revenue Code of 1954 until actually distributed or made available to the participant or his beneficiary and, at such time, shall be taxable under section 72 of such Code (treating the participant or his beneficiary as having a basis of zero in the contract).

(B) No amount shall be allocated to any participant in excess of the amount which might be allocated if the plan met the requirements of section 401 of such Code, and

(C) The plan must meet the requirements of sections 410 and 415 of such Code.

(8)(A) Except as provided in subparagraph (B)(iii), if the amount of the credit determined under section 46(a)(2)(B) of the Internal Revenue Code of 1954 is recaptured or redetermined in accordance with the provisions of such Code, the amounts transferred to the plan under this subsection and subsection (e) and allocated under the plan shall remain in the plan or in participant accounts, as the case may be, and continue to be allocated in accordance with the plan.

(B) If the amount of the credit determined under section 46(a)(2)(B) of the Internal Revenue Code of 1954 is recaptured in accordance with the provisions of such Code—

(i) The employer may reduce the amount required to be transferred to the plan under paragraph (6) of this subsection, or under paragraph (3) of subsection (e), for the current taxable year or any succeeding taxable years by the portion of the amount so recaptured which is attributable to the contribution to such plan,

(ii) Notwithstanding the provisions of paragraph (12), the employer may deduct such portion, subject to the limitations of section 404 of such Code (relating to deductions for contributions to an employees' trust or plan), or

(iii) If the requirements of subsection (f)(1) are met, the employer may withdraw from the plan an amount not in excess of such portion.

(C) If the amount of the credit claimed by an employer for a prior taxable year under section 38 of the Internal Revenue Code of 1954 is reduced because of a redetermination which becomes final during the taxable year, and the employer transferred amounts to a plan which were taken into account for purposes of this subsection for that prior taxable year, then—

(i) The employer may reduce the amount it is required to transfer to the plan under paragraph (6) of this subsection, or under paragraph (3) of subsection (e), for the taxable year or any succeeding taxable year by the portion of the amount of such reduction in the credit or increase in tax which is attributable to the contribution to such plan, or

(ii) Notwithstanding the provisions of paragraph (12), the employer may deduct such portion subject to the limitations of section 404 of such Code.

(9) For purposes of this subsection, the term—

(A) "Employer securities" means common stock issued by the employer or a corporation which is a member of a controlled group of corporations which includes the employer (within the meaning of section 1563(a) of the Internal Revenue Code of 1954, determined without regard to section 1563(a)(4) and (e)(3)(C) of such Code) and with voting power and dividend rights no less favorable than the voting power and dividend rights of other common stock issued by the employer or such controlling corporation, or securities issued by the employer or such controlling corporation, convertible into such stock, and

(B) "Value" means the average of closing prices of the employer's securities, as reported by a national exchange on which securities are listed, for the 20 consecutive trading days immediately preceding the date of transfer or allocation of such securities or, in the case of securities not listed on a national exchange, the fair market value as determined in good faith and in accordance with regulations issued by the Secretary of the Treasury or his delegate.

(10) The Secretary of the Treasury or his delegate shall prescribe such regulations and require such reports as may be necessary to carry out the provisions of this subsection and subsections (e) and (f).

(11) If the employer fails to meet any requirement imposed under this subsection or subsection (e) or (f) or under any obligation undertaken to comply with the requirement of this subsection or subsection (e) or (f), he is liable to the United States for a civil penalty of an amount equal to the amount involved in such failure. The preceding sentence shall not apply if the taxpayer corrects such failure (as determined by the Secretary of the Treasury or his delegate) within 90 days after notice thereof. For purposes of this paragraph, the term "amount involved" means an amount determined by the Secretary or his delegate, but not in excess of 1 percent of the qualified investment of the taxpayer for the taxable year under section 46(a)(2)(B) and not less than the product of one-half of one percent of such amount multiplied by the number of months (or parts thereof) during which such failure continues. The amount of such penalty may be collected by the Secretary of the Treasury in the same manner in which a deficiency in the payment of Federal income tax may be collected.

(12) Notwithstanding any provision of the Internal Revenue Code of 1954 to the contrary, no deduction shall be allowed under section 162, 212, or 404 of such Code for amounts transferred to an employee stock ownership plan and taken into account under this subsection.

(13) (A) As reimbursement for the expense of establishing the plan, the employer may withhold from amounts due the plan for the taxable year for which the plan is established, or the plan may pay, so much of the amounts paid or incurred in connection with the establishment of the plan as does not exceed the sum of 10 percent of the first $100,000 that the employer is required to transfer to the plan for that taxable year under paragraph (6) (including any amounts transferred under subsection (e)(3)) and 5 percent of any amount in excess of the first $100,000 of such amount.

(B) As reimbursement for the expense of administering the plan, the employer may withhold from amounts due the plan, or the plan may pay, so much of the amounts paid or incurred by the employer during the taxable year as expenses of administering the plan as does not exceed the smaller of—

(i) The sum of 10 percent of the first $100,000 and 5 percent of any amount in excess of $100,000 of the income from dividends paid to the plan with respect to stock of the employer during the plan year ending with or within the employer's taxable year, or

(ii) $100,000.

(14) The return of a contribution made by an employer to an employee stock ownership plan designed to satisfy the requirements of this subsection or subsection (e) (or a provision for such a return) does not fail to satisfy the requirements of this subsection, subsection (e), section 401(a) of the Internal Revenue Code of 1954, or section 403(c)(1) of the Employee Retirement Income Security Act of 1974 if—

(A) The contribution is conditioned under the plan upon determination by the Secretary of the Treasury that such plan meets the applicable requirements of this subsection, subsection (e), or section 401(a) of such Code.

(B) The application for such a determination is filed with the Secretary not later than 90 days after the date on which the credit under section 38 is allowed, and

(C) The contribution is returned within one year after the date on which the Secretary issues notice to the employer that such plan does not satisfy the requirements of this subsection, subsection (e), or section 401(a) of such Code.

(e) *Plan requirements for taxpayers electing additional one-half percent credit.*

(1) *General rule.* For purposes of clause (ii) of section 46 (a)(2)(B) of the Internal Revenue Code of 1954, the amount determined under this subsection for a taxable year is an amount equal to the sum of the matching employee contributions for the taxable year which meet the requirements of this subsection.

(2) *Election; basic plan requirements.* No amount shall be determined under this subsection for the taxable year unless the corporation elects to have this subsection apply for that year. A corporation may not elect to have the provisions of this subsection apply for a taxable year unless the corporation meets the requirements of subsection (d) and the requirements of this subsection.

(3) *Employer contribution.* On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, the employer shall state in such claim that the employer agrees, as a condition of receiving any such credit, adjustment, or refund attributable to the provisions of section 46 (a)(2)(B)(ii) of such Code, to transfer at the time described in subsection (d)(6)(B) employer securities (as defined in subsection (d)(9)(A)) to the plan having an aggregate value at the time of the transfer of not more than one-half of one percent of the amount of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) of the taxpayer for the taxable year. For purposes of meeting the requirements of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.

(4) *Requirements relating to matching employee contributions.*

(A) An amount contributed by an employee under a plan described in subsection (d) for the taxable year may not be treated as a matching employee contribution for that taxable year under this subsection unless—

(i) Each employee who participates in the plan described in subsection (d) is entitled to make such a contribution,

(ii) The contribution is designated by the employee as a contribution intended to be used for matching employer amounts transferred under paragraph (3) to a plan which meets the requirements of this subsection, and

(iii) The contribution is in the form of an amount paid in cash to the employer or plan administrator not later than 24 months after the close of the taxable year in which the portion of the credit allowed by section 38 of such Code (and determined under clause (ii) of section 46 (a)(2)(B) of such Code which the contribution is to match) is allowed, and is invested forthwith in employer securities (as defined in subsection (d)(9)(A)).

(B) The sum of the amounts of matching employee contributions taken into account for purposes of this subsection for any taxable year may not exceed the value (at the time of transfer) of the employer securities transferred to the plan in accordance with the requirements of paragraph (3) for the year for which the employee contributions are designated as matching contributions.

(C) The employer may not make participation in the plan a condition of employment and the plan may not require matching employee contributions as a condition of participation in the plan.

(D) Employee contributions under the plan must meet the requirements of section 401 (a)(4) of such Code (relating to contributions).

(5) A plan must provide for allocation of all employer securities transferred to it or purchased by it under this subsection to the account of each participant (who was a participant at any time during the plan year, whether or not he is a participant at the close of the year) as of the close of the plan year in an amount equal to his matching employee contributions for the year. Matching employee contributions and amounts so allocated shall be deemed to be allocated under subsection (d)(3).

(f) *Recapture.*

(1) *General rule.* Amounts transferred to a plan under subsection (d)(6) or (e)(3) may be withdrawn from the plan by the employer if the plan provides that while subject to recapture—

(A) Amounts so transferred with respect to a taxable year are segregated from other plan assets, and

(B) Separate accounts are maintained for participants on whose behalf amounts so transferred have been allocated for a taxable year.

(2) *Coordination with other law.* Notwithstanding any other law or rule of law, an amount withdrawn by the employer will neither fail to be considered to be nonforfeitable nor fail to be for the exclusive benefit of participants or their beneficiaries merely because of the withdrawal from the plan of—

(A) Amounts described in paragraph (1), or

(B) Employer amounts transferred under subsection (e)(3) to the plan which are not matched by matching employee contributions or which are in excess of the limitation of section 415 of such Code.

nor will the withdrawal of any such amount be considered to violate the provisions of section 403 (c)(1) of the Employee Retirement Income Security Act of 1974.

[Sec. 301 (d) of the Tax Reduction Act of 1975 (89 Stat. 38) as amended by sec. 802 (b)(7) and sec. 803 (c) and (e) of the Tax Reform Act of 1976 (90 Stat. 1520); sec. 301 (e) and (f) of the Tax Reduction Act of 1975 as added by sec. 803 (d) of the Tax Reform Act of 1976]

§ 1.46-8 Requirements for taxpayers electing additional one-percent investment credit (TRASOP's).

(a) *Introduction*—(1) *In general.* A corporation may elect under section 46(a)(2)(B) of the Code to obtain an additional investment credit for property described in section 46(a)(2)(D). This section provides rules for electing to have the provisions of section 46(a)(2)(B) apply and for implementing an employee stock ownership plan under section 301(d) of the Tax Reduction Act of 1975 ("1975 TRA"). The plan must meet the formal requirements of paragraph (d), and the operational requirements of paragraph (e), of this section. An additional credit may be obtained for the periods described in section 46(a)(2)(D). Unless otherwise indicated, statutory references in this section are to the Internal Revenue Code of 1954.

(2) *Reports.* The returns required by section 6058 (a) must be filed on behalf of a plan established under paragraph (c)(7) of this section, whether or not the plan is qualifed under section 401(a).

(3) *Cross-references.* The following table indicates where in this section provisions appear relating to each provision of section 301 (d) and (f) of the 1975 TRA.

[4830-01-C]

Section 301	§ 1.46-8	SUBJECT
(d) (1)	(c) (7) (i) (c) (8) (i)	Establishing a TRASOP, in general Funding a TRASOP, in general
(2) (A)	(c) (7) (ii)	Type of plan
(B)	(d) (3)	Investment design
(C)	(d) (1)	Plan requirements, in general
(3)	(c) (6) (b) (8)	Allocation Compensation, definition
(4)	(d) (7) (d) (9)	Nonforfeitability Distributions
(5)	(d) (8)	Voting rights
(6)	(c)	Procedures for additional credit
(7) (A)	(c) (7) (ii)	Taxability, non-401 (a) TRASOP
(B)	(e) (3)	Allocations under 401 (a)
(C)	(e) (3)	Section 410 and section 415 requirements
(8)	(e) (9)	Reductions of investment credit
(9) (A)	(b) (4) (f)	Employer securities, definition Employer securities, requirements
(B)	(b) (7)	Value, definition
(10)	(a) (2)	Reporting requirements
(11)	(h)	Failure to comply
(12)	(c) (10)	Deductibility
(13)	(e) (6) and (7)	Reimbursement for expenses
(14)	(c) (8) (v) and (d) (7) (i)	Contingent contributions
(f)	(d) (7), (e) (8) (vii), (f)	Withdrawals of TRASOP securities

(4) *Temporary regulations.* There is need for immediate guidance with respect to certain provisions contained in this section. For this reason, they are not issued with notice and public procedure under subsection 553 of Title 5 of the United States Code. Accordingly, until superseded by final regulations, the following provisions in this section are deemed effective only as temporary regulations under § 9.2, Temporary Income Tax Regulations under the Tax Reduction Act of 1975:

(i) The last sentence of paragraph (b)(4)(i);

(ii) Paragraph (b)(8);

(iii) Paragraph (c) (1), (8), and (9) (iv);

(iv) Paragraph (d)(2);

(v) The last sentences of subparagraphs (5) and (6)(iv) of paragraph (d);

(vi) Paragraph (d)(6) (ix) and (xii);

(vii) The last sentence of paragraph (d)(7);

(viii) Paragraph (e) (6) and (7);

(ix) The last three sentences of paragraph (e)(8)(i);

(x) Paragraph (e)(8)(iii) and (9)(vii),(viii), and (ix);

(xi) Paragraph (f); and

(xii) Paragraph (h) (4).

(b) *Definitions.* When used in this section, the terms listed below have the indicated meanings:

(1) *TRASOP.* A "TRASOP" is an employee stock ownership plan that meets the requirements of section 301 (d) of the 1975 TRA. See § 1.46-7. It is a type of plan described in paragraph (d)(1) of this section and may, but need not, be an ESOP under § 54.4975-11 of this chapter (Pension Excise Tax Regulations).

(2) *Additional credit.* An "additional credit" is the additional one-percent investment credit under section 46(a)(2)(B)(i).

(3) *Employer.* An "employer" is a corporation that establishes a TRASOP.

(4) *Employer securities*—(i) *In general.* "Employer securities" are common stock, and securities convertible into common stock, of the employer or of a corporation that is a member of a controlled group of corporations including the employer. Employer securities must meet the requirements of paragraph (g) of this section. *Membership in a controlled group for purposes of this section is determined under section 414(b) of the Code.*

(ii) *Pre-1977 employer securities.* In addition, employer securities acquired by a TRASOP before January 1, 1977, include common stock, and securities convertible into common stock, of a corporation in control of the employer within the meaning of section 368(c).

(iii) *Caution.* An employer security under this section is not necessarily a qualifying employer security as defined in section 407(d)(5) of the Employee Retirement Income Security Act of 1974 (ERISA) or section 4975 (e)(8). Moreover, sections 406, 407, and 408 of ERISA in certain cases in effect limit the acquisition of qualifying employer securities as defined in section 407 (d)(5) of ERISA.

(5) *TRASOP securities.* "TRASOP securities" are employer securities that—

(i) Are transferred to a TRASOP, or acquired with cash transferred to a TRASOP, to obtain an additional credit, and

(ii) Except as provided under paragraph (g) (4) and (5) of this section or as required by applicable law, are subject to no other put, call, or other option, or buy-sell or similar arrangement while held by the plan.

(6) *Publicly traded.* The term "publicly traded" has the meaning specified in § 54.4975-7(b)(1)(iv) of this chapter.

(7) *Value*—(i) *In general.* With respect to the transfer of TRASOP securities by a corporation to a TRASOP or the acquisition of TRASOP securities with cash transferred by a corporation to a TRASOP, "value" means fair market value determined in good faith and based on all relevant factors as of the date of transfer or acquisition of the TRASOP securities. If the plan acquires TRASOP securities from other than a disqualified person within the meaning of section 4975(e)(2), a good faith determination of value includes a determination of fair market value based on an appraisal independently arrived at by a person who customarily makes such appraisals and who is independent of any person from whom the TRASOP securities are acquired.

(ii) *Twenty-day average rule.* A special 20-day average valuation rule applies to certain publicly traded securities transferred by a corporation to a TRASOP. It does not apply to securities acquired with cash transferred by a corporation to a TRASOP. Under the special rule, the term "value" refers to an average of daily closing prices for a security, as reported on any national securities exchange or as quoted on any system sponsored by a national securities association, over the 20 consecutive trading days immediately preceding the date on which a corporation files a claim for an additional credit. The average is based on the closing prices for each day when the security is in fact traded during the 20-day period. However, the special rule does not apply unless the security is in fact traded for at least 10 of the 20 days.

(iii) *20-day-average transitional exception.* If a TRASOP security is transferred before March 20, 1979, the plan may value the security on the basis of the 20 consecutive trading days preceding the date on which the security is transferred or the date as of which the security is allocated to a participant's account.

(8) *Compensation. "Compensation" means "participant's compensation" under section 415(c)(3). However, except for purposes of applying section 415, compensation must be determined for a plan year, not a limitation year.*

(c) *Procedures for additional credit—(1) Applicable year—(i) General rule. With respect to a qualified investment, the "applicable year" of a corporation is the taxable year in which the investment is made.*

(ii) Carryover option. A corporation may consistently determine the applicable years for all qualified investments made in taxable years beginning after December 31, 1976, under the following option: The first applicable year is the year the qualified investment is made or, if later, the first taxable year for which any additional credit is claimed for that qualified investment. If there is an investment credit carryover from the first applicable year, each taxable year to which any part of the additional credit for that qualified investment is carried over is also an applicable year.

(iii) Increased credit. A taxable year in which a corporation's additional credit is increased because of a redetermination is also an applicable year. See paragraph (c)(9)(iii) of this section.

(iv) Illustration. To illustrate the application of paragraph (c)(1) (i) and (ii) of this section, assume that a calendar year corporation makes a qualified investment in 1977 and that 1977 is not an unused credit year described in section 46(b)(1). If the general rule is applied, 1977 generally is an applicable year. However, if 1977 is an unused credit year, under section 46 (b)(1), if the corporation carries over its entire investment credit for 1977 to 1978, and if the corporation does not treat 1977 as an applicable year, then 1978 is an applicable year. If part of the investment credit is carried over further to 1979, the year 1979 is also an applicable year.

(2) *Time and manner of electing.* A corporation with a qualified investment must elect to be eligible for an additional credit by attaching a statement of election—

(i) To its income tax return, filed on or before the due date including extensions of time, for its first applicable year with respect to a qualified investment, or

(ii) In the case of a return filed before December 31, 1975, to an amended return filed on or before December 31, 1975.

(3) *Statement of election.* The statement of election must contain the name and taxpayer identification

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number of the corporation. Also, it must declare in the following words, or in words having substantially the same meaning, that:

(i) The corporation elects to have section 46(a)(2)(B)(i) of the Internal Revenue Code of 1954 apply; and

(ii) The corporation agrees to implement (or continue to implement, as appropriate) a TRASOP and to claim the additional credit as required by § 1.46-8 of the Income Tax Regulations.

(4) *Separate election.* A separate election must be made for each taxable year's qualified investment to obtain an additional credit for that qualified investment. If a corporation does not make a timely election to obtain an additional credit for a taxable year, it may not subsequently make the election on an amended return or otherwise.

(5) *No partial election.* An election to obtain an additional credit applies to a corporation's entire qualified investment for a taxable year. Thus, a corporation may not elect to obtain a partial additional credit for any year's qualified investment. However, the partial disallowance of an additional credit will not result in an election being treated as a partial election. Also an election by a member of a controlled group of corporations that applies only to the electing member's qualified investment is not a partial election.

(6) *No revocation of election.* After the time for electing the additional credit has expired for a taxable year, a corporation may not revoke its election for that year.

(7) *Establishing a TRASOP*—(i) *In general.* A corporation electing to obtain an additional credit must establish a TRASOP with accompanying trust on or before the last day for making the election regardless of when in fact the election is made. A TRASOP is considered to be in existence on a particular date if it meets the requirements of § 1.410(a)-2(c) (1). A new plan need not be established if an existing plan qualifies as a TRASOP, or is amended to meet the requirements of this section, on or before the last day for making the election. The requirements of this section are not satisfied merely by establishing and crediting a separate "TRASOP" account on the corporation's books.

(ii) *Type of plan.* A TRASOP need not meet the requirements of section 401(a). However, it must be a stock bonus plan, a combination stock bonus plan and money purchase pension plan, or a profit-sharing plan under § 1.401.-1(b)(1) of this chapter. See section 301(d)(7)(A) of the 1975 TRA for the tax consequences relating to a TRASOP that does not meet the requirements of section 401(a). See also Title I of ERISA for additional provisions applicable to a TRASOP as an employee pension benefit plan under section 3(2) of ERISA.

(8) *Funding a TRASOP*—(i) *In general. A corporation electing to obtain an additional credit must fund its TRASOP by transferring TRASOP securities or cash to it no later than 30 days after the applicable last day. That days is the last day for electing the additional credit. However, in the case of an investment credit that was carried over and claimed in a subsequent applicable year by reason of paragraph (c)(1)(ii) of this section, that day is the last day (including extensions) for filing its income tax return for the subsequent applicable year. TRASOP securities may be transferred to a plan at any time during the applicable year, but not before the first day of an applicable year. If TRASOP securities are transferred to the plan within the permissible time period after the close of the applicable year, they are treated as transferred during that applicable year first until all TRASOP securities required by this paragraph (c) for that applicable year are transferred to, and taken into account under, the TRASOP. Thus, for example, assume that a calendar-year corporation claims an additional credit of $5,000 for 1978, an applicable year under the TRASOP. The corporation also expects to be able to claim an additional credit of $10,000 for 1979. TRASOP securities transferred between January 1, 1979, and October 15, 1979, must be taken into account under the plan for 1978 before they are taken into account for 1979.*

(ii) Cash transfers. A corporation may transfer cash to the TRASOP instead of TRASOP securities only if the TRASOP uses the cash to acquire TRASOP securities no later than 30 days after the time for funding the TRASOP.

(iii) Valuation. The value of the TRASOP securities for an applicable year must equal one percent of the corporation's qualified investment for that year. However, if paragraph (c)(1)(ii) of this section is followed by a corporation, the value of TRASOP securities for an applicable year must equal the amount of additional credit claimed for that year.

(iv) Cash reserve. The value of TRASOP securities acquired with cash transferred by a corporation may be reduced by two items. The first item is an amount not more than the value of fractional shares allocable to participants entitled to receive an immediate distribution at the time of the transfer. The second item is start-up expenses and administrative expenses to the extent permitted under section 301(d)(13) of the 1975 TRA and paragraph (e)(6) and (7) of this section.

(v) Conditional funding. The funding of a TRASOP may be conditional if the TRASOP satisfies the provisions of section 301(d)(14) of the 1975 TRA. For purposes of section 301(d)(14), an investment credit is considered to be allowed on the date the election for the applicable year is made under paragraph (c)(2) of this section.

(vi) Certain benefit offset mechanisms. A TRASOP will be deemed to be underfunded to the extent that TRASOP securities are used to offset benefits under a defined benefit plan.

(9) *Claiming additional credit*—(i) *In general.* Section 46 (a)(3) subjects the amount of investment credit earned with respect to a taxpayer's qualified investment for a taxable year to a limitation based on the corporation's tax liability.

(ii) *Unused credit year.* Section 46 (a) (1) provides a first-in-first-out rule for the investment credit in a taxable year. Section 46(b)(1) provides for the carryback and carryover of unused credits. If less than all of a taxpayer's credit earned for a taxable year is allowed, the 10 percent credit determined under section 46(a)(2)(A) for a particular year is allowed first. Any portion of the additional credit for a taxable year that is not allowed may be carried back or carried over to the extent permitted by section 46(b)(1). However, an additional credit which is allowed for a taxable year is not reduced by a carryback to that year of an unused credit from a succeeding taxable year.

(iii) *Example.* paragraph (c)(9)(ii) of this section is illustrated by the following example:

Example. A calendar-year corporation begins operation and establishes a TRASOP in 1975. The facts and treatment relating to the corporation's qualified investments and investment tax credits for 1975 and 1976 are as follows:

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Facts:	1975	1976
1. Qualified investment	$500,000	$500,000
2. Credits earned		
a. 10% credit	50,000	50,000
b. Additional credit	5,000	5,000
c. Carryover of additional credit from prior year line 5	___	3,000
3. Sec. 46 (a) (3) limitation	52,000	47,000
Treatment of credits:		
4. Credits allowed		
a. Carryover of additional credit	___	3,000
b. Current 10% credit	50,000	44,000
c. Current additional credit	2,000	0
5. Unused credits		
a. 10% credit	0	6,000
b. Additional credit	3,000	5,000

Thus, in 1975 the section 46 (a) (3) limitation ($52,000) is applied first to allow all of the 10 percent investment credit ($50,000). Accordingly only $2,000 of the additional credit earned is allowed in 1975 and $3,000 of the additional credit is carried forward to 1976. In 1976, section 46 (a) (1) requires that this $3,000 of additional credit is allowed first, and then only $44,000 of the 10 percent credit earned in 1976 is allowed since the section 46 (a) (3) limitation for that year is $47,000. The unused credits from 1976 cannot be carried back since 1975, the only prior year, is an unused credit year.

(iv) Redeterminations increasing credit. If a corporation's allowable additional credit is increased because of a redetermination, the increase is treated as if it were an unused credit carryover for purposes of paragraph (c)(1)(ii) and (c)(8)(i) of this section. Thus, for example, assume that a calendar-year corporation claims an additional credit of $100,000 in 1978 because of a qualified investment in that year. In 1980 the additional credit is redetermined to be $110,000. With respect to the 1978 qualified investment, 1980 is also an applicable year to the extent of $10,000. The corporation must fund the TRASOP with this $10,000 under paragraph (c)(8) of this section. For purposes of this subdivision (iv), the date of the increase is determined under paragraph (e)(9)(iii) of this section as if it were the date of a reduction.

(10) *Deductions at expiration of carryover period.* Under paragraph (c)(1)(ii) of this section, a corporation that uses no additional credit in the year of a qualified investment may nonetheless treat the year in which the qualified investment is made as the first applicable year. If the 7-year carryover period under section 46(b)(1)(B) expires before the corporation uses the entire additional credit with respect to the qualified investment, contributions attributable to the unused credit are deductible, subject to the limitations of section 404(a), as if made in the taxable year when the carryover period expires.

(d) *Formal plan requirements*—(1) *In general.* To be a TRASOP, a plan must meet the formal requirements of this paragraph (d).

(2) Plan year. To be a TRASOP, a plan must specify a plan year that begins with or within the corporation's taxable year.

(3) *Designed to invest primarily in employer securities.* To be a TRASOP, a plan must state that it is designed to invest primarily in employer securities. A TRASOP intended to qualify as an ESOP under § 54.4975-11 must state that it is designed to invest primarily in employer securities that are qualifying employer securities.

(4) *Separate accounting.* To be a TRASOP, a plan must state that TRASOP securities are to be accounted for separately from other contributions to the plan.

(5) *Debts and expenses of the TRASOP.* To be a TRASOP, a plan must state that TRASOP securities cannot be used to satisfy a loan made to the TRASOP or be used as collateral for a loan made to a TRASOP. *However, if the plan so provides, to the extent permitted under section 301 (d) (13) of the 1975 TRA and paragraph (e) (6) and (7) of this section, certain amounts may be used for the TRASOP's start-up expenses and administrative expenses.*

(6) *Allocation of TRASOP securities*—(i) *General rules.* To be a TRASOP, a plan must provide for the allocation of TRASOP securities under section 301 (d) (3) of the 1975 TRA and this subparagraph (6).

(ii) *Timing.* TRASOP securities are allocated as of the last day of the plan year beginning with or within the appropriate applicable year.

(iii) *Participants.* Each employee who is a participant at any time during the plan year for which allocation is made must receive an allocation as of the end of that year even though not then employed by the employer. However, to receive allocations, employees must satisfy the minimum participation requirements of the plan (for example, 1000 hours of service).

(iv) *Compensation considered.* Compensation in excess of $100,000 must be disregarded in making these allocations. If the plan has a lower stated ceiling on compensation (from $0 to $100,000), compensation in excess of this ceiling must likewise be disregarded. *Also, allocations must be based on a participant's compensation while actually employed, not just while actually participating, in any year.*

(v) *Section 415 priority rule.* If a TRASOP security is not allocated to a participant's account because of section 415 and section 301 (d) (3) of the 1975 TRA, no other amount may be allocated for that participant under any defined contribution plan. This subdivision (v) applies to a TRASOP even when, under section 415 (f) (1) (B), the TRASOP is treated along with an employer's other defined contribution plans as one plan for purposes of section 415.

(vi) *Unallocated amounts.* Under section 301(d) (3) of the 1975 TRA, TRASOP securities unallocated to participants' accounts because of section 415 must be allocated proportionately to the accounts of other participants until the addition to the account of each participant reaches the limits of section 415.

(vii) *Suspense account.* If, after these allocations, TRASOP securities remain unallocated, they must be held in an unallocated suspense account under the TRASOP. Any income produced by these securities must also be held in the account. A plan with such an account will not fail to qualify under section 401 (a) merely because of the account. In each successive year (whether or not an applicable year), the unallocated assets are released from this account for allocation on a first-in-first-out basis. They are then allocated to the participants' accounts proportionately under paragraph (d) (6) (i)–(vi) of this section for each later year until no TRASOP securities remain unallocated. Value for this allocation is determined under paragraph (b)(7) of this section by treating the date as of which allocation occurs as either the date of transfer or, if the special 20-day average rule is otherwise applicable, the date on which the corporation files a claim for an additional credit.

(viii) *Escrow account.* A TRASOP may provide for the establishment of an escrow account instead of a suspense account. The escrow account must satisfy paragraph (d) (6) (vii) of this section. The beneficiary of the escrow account is to be the TRASOP. The corporation may establish the escrow account and contribute stock or cash to it. In such a case, the escrow agent must transfer assets to the plan each year equal to the amount to be allocated proportionately under paragraph (d) (6) (i)–(vi) of this section. Assets held in an escrow account are plan assets.

(ix) Treatment of certain plan terminations. To be a TRASOP, a plan must provide that, if a plan terminates because the corporation ceases to exist, unallocated amounts described in paragraph (d) (6) (vi) of this section must be allocated to the extent possible under section 415 for the year of termination. The remaining unallocated amounts must then be withdrawn. These unallocated amounts are treated as recaptured under all the rules of paragraph (e) (9) (vii) of this section except its last sentence. Section 301 (f) (2), but not (1), of the 1975 TRA applies to this withdrawal.

(x) *No integration.* Under section 301 (d) (3) of the 1975 TRA, no TRASOP may be integrated, directly or indirectly, with contributions or benefits under Title II of the Social Security Act or any other State or Federal law.

(xi) *Fractional securities.* Under section 301 (d) (3) of the 1975 TRA, participants' accounts are to be allocated fractional securities or fractional rights to securities.

(xii) Accounting for amounts withheld by employer or paid by plan as start-up or administrative expenses. An employer may withhold certain start-up and administrative expenses from TRASOP securities due the plan. Also, a plan may reduce amounts to be allocated to the extent that certain plan assets are used to reimburse the employer, for example for salaries of employees providing services to the plan, or to pay fees directly to independent contractors for expenses. These expenses do not reduce the amount of additional credit claimed and are not allowable as expenses in computing taxable income. Additional rules concerning these expenses are in paragraph (e) (6) and (7) of this section.

(7) *Nonforfeitability.* To be a TRASOP, a plan must state that each participant has a nonforeitable right to allocated TRASOP securities. For purposes of this section, forfeitures described in section 411 (a) (3) are not permitted. *However, amounts shall not fail to be considered to be nonforfeitable if the plan provides for their return to the corporation—*

(i) In the case of conditional contributions, under section 301 (d) (14) of the 1975 TRA, and

(ii) In the case of investment credit recapture or an event deemed to be a recapture, under section 301 (f) of the 1975 TRA.

(8) *Voting rights*—(i) *Provision for passthrough.* To be a TRASOP, a plan must state that each participant is entitled to direct a designated fiduciary how to exercise any voting rights on TRASOP securities allocated to the account of the participant. The plan need not permit participants to direct the voting of unallocated TRASOP or other securities held by the trust. It may authorize the designated fiduciary to exercise voting rights for unallocated securities.

(ii) *Notification by the employer.* To be a TRASOP, the plan must obligate the corporation to furnish the designated fiduciary and participants with notices and information statements when voting rights are to be exercised. The time and manner for furnishing participants with a notice or information statement must comply with both applicable law and the corporation's charter and by-laws as generally applicable to security holders. In general, the content of the statement must be the same for plan participants as for security holders in general.

(iii) *Fractional securities.* To be a TRASOP, the plan must allow the participants to vote any fractional securities or fractional rights to securities. This requirement is met if the designated fiduciary votes the combined fractional securities or rights to the extent possible to reflect the direction of the participants holding them.

(iv) *Unexercised voting rights.* To be a TRASOP, the plan may not permit the designated fiduciary to exercise voting rights which a participant fails to exercise. However, the plan may permit the solicitation and exercise of participants' voting rights by management and others under a proxy provision applicable to all security holders.

(9) *Distributions*—(i) *In general.* To be a TRASOP, a plan must permit the distribution of allocated TRASOP securities only as provided under section 301(d)(4) of the 1975 TRA. Also, under § 1.401-1(b)(1)(i) of this chapter, to the extent that a TRASOP is a money purchase pension plan, it can only provide for a distribution in the case of separation from service, death, or disability. No TRASOP may provide for the distribution of TRASOP securities upon plan termination within the 84-month holding period. For purposes of section 301(d)(4) of the 1975 TRA, the 84-month holding period begins on the date as of which TRASOP securities are allocated.

(ii) *Certain fractional securities.* A stock bonus TRASOP may distribute cash instead of fractional securities.

(e) *Operational plan requirements*—(1) *General rule.* To be a TRASOP, a plan in operation must meet the requirements of this paragraph (e). However, the provisions under paragraph (e)(8) of this section apply only to TRASOP's qualified under section 401(a).

(2) *Compliance with plan provisions.* To be a TRASOP, a plan must operate in compliance with its provisions.

(3) *Compliance with certain Code provisions.* To be a TRASOP, a plan must meet the requirements of section 301(d)(7) of the 1975 TRA. Thus, whether or not it is qualified under section 401(a), a TRASOP must meet the requirements of section 401(a) with respect to allocations, section 410 with respect to participation, and section 415 with respect to limitations on contributions and benefits. However, these requirements are modified by paragraph (d)(6) of this section, relating to allocations and section 415.

(4) *Employee contributions.* Under a TRASOP, the receipt of benefits attributable to TRASOP securities must not depend on contributions by participants. If a corporation has a plan in existence which requires employee contributions, a portion of the plan may be a TRASOP if employee contributions are not required with respect to that portion of the plan.

(5) *Controlled group of corporations, etc.* Whether or not a TRASOP is qualified under section 401(a), all employees who by reason of section 414 (b) and (c) are treated as employees of an electing corporation are treated as employed by the corporation in determining whether the plan satisfies the requirements of sections 301(d)(7) (B) and (C) of the 1975 TRA. A member of a controlled group under paragraph (b)(4)(i) of this section with a qualified investment but with no actual employees may obtain an additional credit even though the only participants in the corporation's TRASOP are actually employed by another member of the controlled group.

(6) Start-up expenses—(i) In general. For purposes of this section, the term "start-up expense" means any ordinary and necessary amount of a nonrecurring nature paid or incurred by the corporation or by the plan in connection with the establishment of a TRASOP under paragraph (c)(7) of this section. Thus, for example, start-up expenses may include expenses relating to: the drafting or amending of plan documents to establish a TRASOP under section 301 (d) or (e) of the 1975 TRA, the seeking of agency approval for these documents and related transactions, the obtaining of shareholder approval for establishing a TRASOP, and the registering of securities for initial funding of a TRASOP.

(ii) Treatment of start-up expenses. Start-up expenses may be withheld by the employer, from amounts that would otherwise be due the plan under paragraph (c)(8) of this section, to the extent that these amounts are known by the employer when funding first occurs for an applicable year. To the extent that these amounts are not withheld by the employer, the plan may pay remaining amounts from plan assets within a reasonable time after the amounts are known by the plan.

(iii) Ceiling on start-up expenses. Reimbursement for start-up expenses is limited to a ceiling. This ceiling is the sum of 10 percent of the first $100,000 that an employer is first required to transfer under paragraph (c)(8) of this section for an applicable year and 5 percent of that amount in excess of $100,000. If this first year is an unused credit year from which there is a carryover, amounts required to be transferred in subsequent years for claiming carryovers from this first year are considered in determining this ceiling. Thus, for example, assume that a calendar-year corporation first earns an additional credit in 1977 of $9,000 and that $3,000 of this amount is claimed on the income tax return for 1977, for 1978 and for 1979. The corporation's ceiling on start-up expenses is $300 when its 1977 return is filed. The ceiling increases to $600 when its 1978 return is filed and to $900 when its 1979 return is filed, with the claiming of an additional $3,000 credit for each of the three years.

(iv) Special rule for taxable years ending before January 1, 1977. Special treatment is available for expenses paid or incurred before January 1, 1977, that were not taken into account in the manner provided by section 301(d)(13) of the 1975 TRA. These expenses may be withdrawn under paragraph (e)(9)(vii) of this section as reductions in the corporation's additional credit caused by a recapture. This withdrawal may only be made during the first taxable year ending after March 20, 1979. It is subject to the ceilings of section 301(d)(13) of the 1975 TRA. Expenses previously deducted by a corporation must be reduced on a timely-filed amended return by the amount of this withdrawal.

(7) Administrative expenses—(i) In general. For purposes of this section,

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the term "administrative expense" means any amount, other than a start-up expense, paid or incurred by the corporation or by the plan that is ordinary and necessary in maintaining the TRASOP. Thus, for example, administrative expenses may include expenses relating to: the compensating of plan fiduciaries and administrators, the leasing of office space and equipment, the reproducing and mailing of information to participants and beneficiaries, and the filing of reports, returns, and amendments relating to a TRASOP. Paragraph (e)(6) (ii) and (iv), relating to treatment of start-up expenses and to a special rule for taxable years ending before January 1, 1977, also applies to administrative expenses.

(ii) Ceiling on administrative expenses. Reimbursement for administrative expenses under paragraph (e)(6)(ii) of this section is limited to the smaller of two amounts for each plan year. The first amount is $100,000. The second amount is the sum of 10 percent of the first $100,000 of dividend income paid with respect to TRASOP securities held by the plan during the plan year ending with or within the corporation's taxable year and 5 percent of any such dividend income in excess of $100,000.

(8) TRASOP qualification under section 401(a)—(i) Permanence. A TRASOP is not required to be a qualified plan under section 401(a). However, to meet the requirements of section 401(a), a TRASOP must be a permanent plan, as described in § 1.401-1(b)(2) of this chapter. *Under section 401(a)(21), a plan will not fail to be considered permanent merely because the amount of employer contributions under the plan is determined solely by reference to the amount of additional credit claimed under this section. Thus, for example, it will not fail to be considered permanent merely because employer contributions are not made for a year for which an additional credit is not available by reason of no qualified investment for which an additional credit can be obtained. Section 401(a)(21) applies only to the extent the TRASOP is funded with TRASOP securities and cash in lieu of TRASOP securities.*

(ii) Partial discontinuance of contributions. A plan that meets the requirements of section 401(a) may receive contributions of TRASOP securities as well as other contributions. If the other contributions continue on a permanent basis, the plan's qualification under section 401(a) will not be adversely affected merely because TRASOP securities cease to be contributed to it.

(iii) Income distribution. Income paid with respect to employer securities acquired by a TRASOP may be distributed at any time after receipt by the plan to participants on whose behalf such securities have been allocated without adversely affecting the qualified status of the plan under section 401(a). (See the last sentence of section 803(h), Tax Reform Act of 1976.) However, under a TRASOP that is a stock bonus or profit-sharing plan, income held by the plan for a 2-year period or longer must be distributed under rules generally applicable to stock bonus and profit-sharing plans qualified under section 401(a).

(9) Reductions in investment credit—(i) General rule. Certain reductions in a corporation's investment credit result from either a recapture under section 47 of the corporation's investment credit or a redetermination of the allowable credit. If these reductions are taken into account under a TRASOP, the plan may only use one or more of the methods described in paragraph (e) (9) (v), (vi), and (vii) of this section for taking into account these reductions. Thus, for example, more than one method is permitted upon a recapture with respect to a qualified investment made in a particular year. However, the method described in paragraph (e) (9) (vii) of this section applies only to a recapture and not to a redetermination.

(ii) Ratable reduction. A reduction is allocated ratably between the 10-percent credit and the additional credit. Thus, for example, if a calendar-year corporation claims a $33,000 investment credit for 1976, including a $3,000 additional credit, and $11,000 of the total credit is recaptured in 1978, the $3,000 additional credit is reduced by $1,000. This subdivision (ii) does not apply to a reduction solely of the additional credit as could occur, for example, in the case of a redetermination caused by a mathematical error in computing the additional credit or in the case of a recapture caused by a bad faith failure to comply under paragraph (h) of this section.

(iii) Date of reduction. A reduction in investment credit occurs under this paragraph (e) (9) on the earliest of these dates: (A) The date an income tax return (or an amended return) is filed reflecting the reduction; (B) the date a judicial determination affecting the amount of the reduction becomes final; and (C) the date specified in a closing agreement made under section 7121 is approved by the Commissioner. For purposes of this subdivision (iii), a judicial determination becomes final at the time prescribed in § 1.547-2 (b) (1) (ii) or (iii), relating to personal holding company tax.

(iv) Year for taking reduction into account. A reduction in investment credit must be taken into account in the earliest year or years possible under the applicable method beginning no later than the year in which the date of the reduction falls.

(v) Decrease future contributions. The reduction may be taken into account as a decrease in the value of TRASOP securities to be transferred to the plan.

(vi) Deduct under section 404. On the date of the reduction, the reduction may be treated an amount paid to the TRASOP for purposes of, and as a deduction to the extent allowed under, section 404.

(vii) Withdraw TRASOP securities. If an additional credit allowed for a taxable year is recaptured, the corporation may withdraw from the plan TRASOP securities transferred to, or acquired by, the plan for claiming that year's credit. If the plan has converted these securities into other assets, the withdrawal may be of these other assets. In either case, the withdrawal must only be from assets segregated under paragraph (f)(2) of this section and must be first from assets accounted for in an unallocated suspense account for the particular year. The amount of assets actually withdrawn bears the same proportion to the amount of assets subject to withdrawal as the amount of additional credit recaptured bears to the amount of additional credit claimed. Thus, for example, if the assets subject to withdrawal consist of 300 shares of one class of employer stock and one-third of the additional credit is recaptured, 100 shares of the stock are withdrawn. However, if the current value of the assets subject to withdrawal exceeds the dollar amount of the additional credit claimed, assets may be withdrawn only to the extent that their current value does not exceed the dollar amount of the recaptured portion of the additional credit. Thus, for example, if the 300 segregated shares in the prior example have a current value of $9,000 and the dollar value of the additional credit claimed is $4,500, when one-third of the additional credit is recaptured, only 50 shares, not 100 shares, are withdrawn. Current value is determined under paragraph (b)(7) of this section by treating the withdrawal date as either the date of transfer or, if the special 20-day average rule is otherwise applicable, the date on which the corporation files a claim for an additional credit. Withdrawals from an individual's account for the year with respect to which recapture occurs must bear the same ratio to the total amount withdrawn for that year as the individual's TRASOP account balance for that year bears to the total TRASOP account balance for that year. In the case of a TRASOP security acquired after March 20, 1979, the corporation may not withdraw it or assets into which it has been converted unless the plan meets the requirements of paragraph (d)(7)(ii) of this section when the plan acquires the TRASOP security.

(viii) Prior distribution rule. If a TRASOP distributes an amount allocated with respect to an investment credit for a taxable year and the credit for that year is later recaptured, withdrawals may not reduce participants' accounts below the level to which they would have been reduced had the prior distribution not occurred. Recaptured amounts above this level may only be deducted under paragraph (e)(9)(vi) of this section. They may not be used to decrease future contributions under paragraph (e)(9)(v).

(ix) Illustration. Paragraph (e)(9)(viii) of this section operates as follows:

Example. For 1977, a calendar-year corporation claims an additional credit of $10,000. The corporation's TRASOP meets the requirements of section 301(f) of the 1975 TRA. Each of 10 participants under the plan for that year receives an equal allocation of 10 shares valued at $1,000. In 1978, one participant terminates employment and receives a distribution of 10 shares. In 1979, a recapture reduces the 1977 additional credit by $2,000. If the 10 shares had not been distributed, 20 shares would be available for withdrawal, 2 shares from each participant's account. Since 9 participants remain from 1977, only 18 shares are available for withdrawal (2 shares × 9 remaining participants). If these 18 shares are withdrawn, the corporation may take into account 2 shares by deducting their value under paragraph (e)(9)(vi) of this section.

(f) Section 301(f) withdrawals—(1) In general. No assets may be withdrawn by a corporation under section 301(f) of the 1975 TRA unless the assets are either TRASOP securities or plan assets into which TRASOP securities have been converted ("withdrawal assets"). Withdrawal assets must meet the segregated accounting requirements of this paragraph. The physical segregation of assets is not required.

(2) Segregated accounting. The segregated accounting requirements are that—

(i) Withdrawal assets must be segregated from other plan assets on a taxable-year-by-taxable-year basis; and

(ii) Separate accounts must be maintained on a taxable-year-by-taxable-year basis for each participant on whose behalf withdrawal assets are allocated.

(3) Aggregate plan year accounting. Withdrawal assets for taxable years beginning before October 4, 1976, also meet the segregated accounting requirements if they are aggregated and accounted for in one separate account apart from withdrawal assets in separate accounts for later taxable years.

(g) *Requirements for employer securities—(1) General rules.* The term "employer security" does not include stock rights, warrants and options. An employer security that is not common stock must at all times be immediately convertible into common stock that is an employer security at a conversion price which is no greater than the fair market value of that common stock at the time the plan acquires the security.

(2) *Common stock—(i) In general.* To be an employer security, common stock must meet certain voting power and dividend right requirements. For purposes of this paragraph (g), stock held by the TRASOP is not treated as outstanding.

(ii) *Dividend right limitations.* If dividend rights are subject to a limitation, then at least 50 percent of the fair market value of the employer's outstanding common stock at the time the common stock is transferred must be subject to the same limitation. However, common stock that satisfies paragraph (g)(3)(ii) of this section is not subject to this subdivision (ii).

(3) *Voting power and dividend rights.* To be an employer security, common stock must have voting power and dividend rights which, when taken together, are "no less favorable" than the voting power and dividend rights of any other common stock issued by the employer. Common stock which meets one of the following tests is "no less favorable".

(i) *Ten-percent shareholder test.* The stock is part of, or identical to, a class of outstanding stock of which at least 50 percent is not owned by 10-percent shareholders. For this purpose, a 10-percent shareholder is one who owns at least 10 percent of the outstanding shares in a class, including shares constructively owned under section 318.

(ii) *Substantial proportionality test.* More than one class of common stock is outstanding and an identical percentage of shares from each class is transferred to the TRASOP.

(iii) *Voting power test.* The stock is part of, or identical to, the existing class of stock having the greatest number of votes per unit of fair market value. For example, assume there are only two classes of common stock, Class A and Class B. Their fair market values per share are $1 and $.50, respectively, and the owner of each share of each class is entitled to one vote per share. Thus, Class B has 2 votes per $1 and Class A has 1 vote per $1. Accordingly, the Class B stock has the greater number of votes per unit of fair market value.

(4) *Right of first refusal.* TRASOP securities may, but need not, be subject to a right of first refusal. However, whether or not the plan is an ESOP, any such right must meet the requirements of § 54.4975-7(b)(9) of this chapter.

(5) *Put option.* A TRASOP security that is transferred to a TRASOP after September 30, 1976, must be subject to a put option if it is not publicly traded when distributed or if it is subject to a trading limitation when distributed. The provisions of § 54.4975-7(b) (10)–(12) and § 54.4975-11(a)(3) of this chapter apply to such securities, whether or not the plan is ESOP.

(6) *Change of employer security status.* In general, a transaction changing the status of a corporation as an employer, or as a member of a controlled group of corporations including the employer, adversely affects the status as employer securities of common stock and securities held by a plan ("old employer securities"). However, common stock and securities ("new employer securities") substituted for old employer securities are treated as if they were the old employer securities if—

(i) The plan is not terminated;

(ii) The transaction causing the change in status of the old employer securities does not result in a recapture under section 47 of any investment credit underlying the transfer to, or acquisition by, the plan of the old employer securities;

(iii) The old employer securities and the new employer securities are of equal value at the time of the transaction changing the status of the old employer securities; and

(iv) The new employer securities otherwise meet the requirements of this section.

(h) *Failure to comply—(1) General rule—(i) Effect of failure.* If a corporation elects under paragraph (c) (2)–(5) of this section to obtain an additional credit and fails to comply with respect to that credit at any time, it is liable to the United States for a civil penalty equal to the amount involved in the failure to comply. If the corporation fails to comply with respect to an additional credit during the 84-month period described in section 301(d)(4) of the 1975 TRA, it also is not entitled to any portion of that credit. A separate failure to comply occurs for each taxable year in which a failure continues to exist.

(ii) *Illustration of continuing failure's effect.* Assume that in 1975 an additional credit is allowed and a failure to comply occurs in 1975 with respect to that credit. Assume also that in 1976 the 1975 failure continues uncorrected, another additional credit is allowed, and a failure to comply occurs with respect to the 1976 credit. Under these circumstances, on the last day of 1976 three separate failures to comply exist: (a) The 1975 failure with respect to the 1975 credit, (b) the 1976 failure with respect to the 1975 credit, and (3)

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the 1976 failure with respect to the 1976 credit.

(2) *Assessment and collection.* The civil penalty must be assessed and collected in the same manner in which a deficiency in the payment of Federal income tax is assessed and collected.

(3) *Exception.* If a failure to comply is corrected within the correction period described in paragraph (h) (5) of this section—

(i) The corporation is not liable for a civil penalty; and

(ii) If the corporation establishes that at the time of the failure a good faith effort to comply was made, its additional credit is not disallowed.

(4) *Failure to comply (penalty classifications)—(i) In general. An electing corporation fails to comply if a defect described in paragraph (h) (4) (ii)–(iv) of this section occurs with respect to an additional credit allowed for a particular taxable year. The characterization of the defect in this subparagraph (4) determines the amount involved under paragraph (h) (8) of this section for the purpose of assessing the civil penalty.*

(ii) Funding defect. A funding defect occurs if a corporation or its TRASOP fails to satisfy the requirements of paragraph (c) (8) or (9) of this section, relating to funding a TRASOP and claiming an additional credit.

(iii) Special operational defect. A special operational defect occurs if a TRASOP fails in operation to satisfy the requirements described in paragraph (d) (5)–(9) of this section, relating to debits and expenses of a TRASOP, allocation of TRASOP securities, nonforfeitability, voting rights, and distributions or paragraph (e) (3) of this section, relating to compliance with certain Code provisions.

(iv) De minimis defect. A de minimis defect occurs if a corporation or its TRASOP fails to satisfy any requirement of this section other than those enumerated either in paragraph (h) (4) (ii) and (iii) of this section or in paragraphs (a) (2) and (c) (2)–(5) of this section. A failure to comply under this subdivision (iv) may be formal or operational in nature.

(5) *Failure to comply (correction rules classifications)—(i) In general.* If for an electing corporation a defect described in paragraph (h) (4) of this section occurs, the procedure for correcting the failure to comply depends upon whether the failure is classified as a "formal" failure or an "operational" failure under this subparagraph (5).

(ii) *Formal failure to comply.* Formal failures are corrected by retroactive amendment. If a formal plan requirement is not met, the plan must be retroactively amended by no later than the expiration of the correction period under paragraph (h) (6) of this section. A plan fails to meet a formal plan requirement of paragraph (d) of this section if, for example, it does not state, as required by paragraph (d) (3) of this section, that it is designed to invest primarily in employer securities.

(iii) *Operational failure to comply.* Operational failures are corrected by undoing the defective transaction and by making the plan and the participants whole. If the value of TRASOP securities transferred to the TRASOP is less than the amount of the additional credit, the corporation must make up any resulting funding deficiency within the correction period. This is done, for example, by contributing additional TRASOP securities plus an amount equal to the dividends or interest that would have been paid between the time that the TRASOP securities should have been transferred and the actual time of the transfer. The contribution of additional TRASOP securities is based on their value under paragraph (b) (7) of this section as of the date by which they were required to be transferred to the plan. These further contributions are subject to the deduction limits of section 404. An electing corporation fails to meet an obligation undertaken under this section if, for example, it fails to comply with paragraph (c) (8) of this section.

(6) *Correction period—(i) In general.* For purposes of this paragraph (h), the "correction period" begins when the failure to comply occurs and ends 90 days after receipt by the corporation of a notice of deficiency under section 6212 with respect to the civil penalty and the investment credit.

(ii) *Extensions of correction period.* Extensions of the correction period are determined under § 53.4941 (e)–1 (d) (2) (i), (ii), and (iv) of this chapter (Foundation Excise Tax Regulations). For this purpose, a failure to comply is treated as an act of self-dealing, the corporation is treated as a foundation, and a civil penalty is treated as a tax under section 4941 (a) (1).

(7) *Good faith.* The corporation has the burden of establishing under paragraph (h) (3) (ii) of this section that it made a good faith effort to comply. For example, if a corporation shows that it has made a good faith effort to establish the fair market value of the employer securities transferred to the TRASOP, it may be entitled to the additional credit even if, on later examination of the return, it is determined that more securities should have been transferred. For purposes of this paragraph (h) (7), reasonable reliance on Technical Information Release 1413 (1975–50 I.R.B. 16), questions and answers relating to ESOP's, is a good faith effort to comply.

(8) *Amount involved—(i) In general.* The amount involved in a failure to comply is an amount described in this subparagraph (8). A maximum amount and a minimum amount are determined with respect to an additional credit allowed for a particular taxable year.

(ii) *Maximum amount involved.* Notwithstanding any other rule in this paragraph (h), all amounts involved with respect to an additional credit allowed for a particular taxable year may not exceed the amount of that credit.

(iii) *Minimum amount involved.* The minimum amount is ½ of one percent of the additional credit times the number of full months, or parts of full months, during which the failure to comply exists. "Full month" has the meaning assigned in § 1.1250-1 (d) (4) (Realty depreciation recapture).

(iv) *Funding amount involved.* The amount involved for a funding defect is the greater of the minimum amount involved or the amount required to place the plan in the position it would have been in if no funding defect had occurred.

(v) *Special operational amount involved.* The amount involved for a special operational defect is the maximum amount involved.

(vi) *De minimis amount involved.* The amount involved for a *de minimis* defect is the minimum amount involved.

(Sec. 301 (d) (2) (C) of the Tax Reduction Act of 1975 and sec. 7805 of the Internal Revenue Code of 1954 (89 Stat. 38, 68A Stat. 917 (26 U.S.C. 7805).)

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: January 5, 1979.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

[FR Doc. 79-1620 Filed 1-15-79; 8:45 am]

[4830-01-M]

[T.D. 7589]

PART 9—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REDUCTION ACT OF 1975

Certain Provisions for TRASOP's

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document notes the temporary effect of certain provisions relating to investment credit employee stock ownership plans ("TRASOP's") that are integrated with final Income Tax Regulations. Changes in the applicable tax law were made by the Tax Reduction Act of 1975 ("1975 TRA") and the Tax Reform Act of 1976 ("1976 TRA"). The document affects all employees who participate in TRASOP's and employers who establish TRASOP's. This document does not reflect changes made by the Revenue Act of 1978.

DATE: The regulations are generally effective for taxable years ending after January 21, 1975.

FOR FURTHER INFORMATION CONTACT:

Thomas Rogan of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3589) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

INTEGRATION OF FINAL AND TEMPORARY REGULATIONS

It has been the practice in the past to publish temporary Internal Revenue Service regulations separately from final regulations both in the FEDERAL REGISTER and in the Code of Federal Regulations. However, the temporary regulations noted in this document are published together with final regulations as integrated provisions under 26 CFR Part 1, Income Tax Regulations (published elsewhere in this Part III of today's FEDERAL REGISTER) in a separate Treasury decision. This integrated format enables the public to see more clearly the effect of the 1976 TRA amendments on the 1975 TRA. Also, it facilitates the use of both the temporary and the final regulations until the temporary provisions are superseded by final provisions.

The publication of this document makes it clear that the temporary provisions published in an integrated format with final regulations elsewhere in today's FEDERAL REGISTER under 26 CFR Part 1 are in fact adopted and effective only as temporary regulations under 26 CFR Part 9.

IDENTIFICATION AND DISCUSSION OF TEMPORARY PROVISIONS

See preamble to T.D. 7590 published elsewhere in this Part III of today's FEDERAL REGISTER for a table identifying temporary provisions appearing in 26 CFR Part 1 and for a discussion of major issues.

DRAFTING INFORMATION

The principal author of this regulation was Thomas Rogan of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 9 is amended by inserting in the appropriate place the following new section:

§ 9.2 Temporary TRASOP requirements for 1-percent additional investment credit.

The provisions listed in § 1.46-8 (a) (4) (i)–(xii) (Income Tax Regulations) are deemed effective only as temporary regulations under this section.

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 301 (d) (2) (C) and (10) of the Tax Reduction Act of 1975 and sec. 7805 of the Internal Revenue Code of 1954 (89 Stat. 38, 68A Stat. 917 (26 U.S.C. 7805).)

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: January 5, 1979.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

[FR Doc. 79-1621 Filed 1-15-79; 8:45 am]

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[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[EE-4-78]

INCOME TAX

Certain Provisions for TRASOP's

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In the Rules and Regulations portion of this FEDERAL REGISTER, the Internal Revenue Service is issuing temporary income tax regulations relating to investment credit employee stock ownership plans ("TRASOP's"). This notice of proposed rulemaking for final income tax regulations requests comments on these temporary regulations. These provisions would affect all employees who participate in TRASOP's and all employers who establish TRASOP's. The provisions do not reflect changes made by the Revenue Act of 1978.

DATE: Written comments and requests for a public hearing must be delivered or mailed by March 20, 1979.

ADDRESS: Send comments and requests for public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T [EE-4-78], Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Thomas Rogan of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3589).

SUPPLEMENTARY INFORMATION:

IDENTIFICATION AND DISCUSSION OF TEMPORARY PROVISIONS

See preamble to T.D. 7590 published elsewhere in this Part III of today's FEDERAL REGISTER for a table identifying temporary provisions appearing in 26 CFR Part 1 on which comments are requested by this notice and for a discussion of major issues.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of this regulation was Thomas Rogan of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 1 are as follows:

1. The temporary regulations described in § 1.46-8(a)(4) (i)-(xii) and published in italics in T.D. 7590 are adopted as final regulations. These provisions appear in today's FEDERAL REGISTER. See FR Doc. No. 79-1620.
2. Section 1.46-8(a)(4) is deleted.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 79-1622 Filed 1-15-79; 8:45 am]

federal register

FRIDAY, JANUARY 19, 1979
PART IV



DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27-M]

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 224-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Mofifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Government Contract Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Florida	
FL78-1064	Aug. 4, 1978.
Georgia	
GA77-1104	Aug. 26, 1977.
Idaho	
ID78-5120	Sept. 8, 1978.
Illinois	
IL78-2106; IL78-2109; IL78-2111; IL78-2112; IL78-2122.	Oct. 20, 1978.
IL78-2123	Oct. 27, 1978.
IL78-2188	Dec. 8, 1978.
Louisiana	
LA79-4001	Jan. 5, 1979.
Massachusetts	
MA78-2079; MA78-2081; MA78-2082; MA78-2086; MA78-2087; MA78-2088; MA78-2089; MA78-2090.	Sept. 22, 1978.
Nevada	
NV78-5010	Mar. 10, 1978.
New Jersey	
NJ78-3047	June 16, 1978.
New Mexico	
NM78-4021	May 5, 1978.
NM79-4021	Jan. 5, 1978.
Oklahoma	
OK77-4037	Feb.18, 1977.
Texas	
TX78-4080	Aug. 4, 1978.
TX79-4007; TX79-4010	Jan. 5, 1979.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Massachusetts	
MA78-2155(MA79-2001)	Nov. 3, 1978.
Mississippi	
MS78-1034(MA79-1002)	Apr. 14, 1978.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

General Wage Determination Decision No. MS77-1054 DeSoto County, Mississippi is cancelled. Agencies with building construction projects pending in this County should utilize the project determination procedure by submitting form SF-308. See Regulations Part 1 (29 CFR), §1.5. Contracts for which bids have been opened shall not be affected by this notice, and consistent with 29 CFR 1.7 (b)(2), the incorporation of Decision No. MS77-1054 in contract specifications, the opening of bids for which is within ten (10) days of this notice, need not be affected.

Signed at Washington, D.C., this 12th day of January 1979.

DOROTHY P. COME,
Assistant Administrator,
Wage and Hour Division.

[4510-27-C]

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision No. FL78-1064 - Mod. # 2 (43 FR 34661 - August 4, 1978) Brevard and Volusia (excluding Cape Canaveral, Kennedy Space Flight Center, Patrick Air Force Base, and Melabar Radar Site), Hillsborough, Indian River, Manatee, Pinellas, Polk, St. Lucie, Sarasota, Seminole Counties, Florida.					
Omit: Painters, structural steel	9.75				
Add: Painters, spray	9.75				
DECISION #ID78-5120 - Mod. #4. (43 FR 40176 - September 8, 1978) Statewide Idaho					
Change: Boilermakers: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	$12.76	$1.075	$1.00	$1.00	.03
Remaining Counties	12.56	1.075	1.00	1.00	.03
Electricians: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Electricians	14.62	.83	3% + .40		.02
Cable Splicers	15.02	.83	3% + .40		.02
Painters: Ada, Adams, Boise, Canyon, Elmore (except Mt. Home Air Force Base), Gem, Gooding County (western third of County including City of Bliss), Idaho County (south of 46th Parallel), Owyhee, Payette, Valley, Washington Counties:					
Painters and Tapers	9.54	.36	.40		
Elmore County (Mt. Home Air Force Base):					
Painters and Tapers	10.54	.56	.40		
Roofers: Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power, Teton Counties	9.95	.65	.40		

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IL78-2106 - Mod. #3 (43 FR 49167 - October 20, 1978) Fulton, Hancock, McDonough, and Schuyler Counties, Illinois					
CHANGE: CARPENTERS: McDonough Co. & Eastern 1/3 of Hancock Co.	11.76	.40	.75		.05
Carpenters & Soft Floor Layers	12.26	.40	.75		.05
Millwrights & Piledrivermen					
Decision #IL78-2109 - Mod. #2 (43 FR 49175 - October 20, 1978) Bureau, LaSalle, Livingston, Marshall, Putnam, and Woodford Counties, Illinois					
CHANGE: CARPENTERS: Remainder of Livingston County	11.76	.40	.75		.05
Carpenters & Soft Floor Layers	12.26	.40	.75		.05
Millwrights & Piledrivermen					
Decision #IL78-2111 - Mod. #2 (43 FR 49179 - October 20, 1978) Logan, Mason and Menard Counties, Illinois					
CHANGE: CARPENTERS: Logan County	11.15	.45	.80		.06
Carpenters & Soft Floor Layers	11.65	.45	.80		.06
Millwrights & Piledrivermen					
Decision #IL78-2112 - Mod #1 (43 FR 49182 - October 20, 1978) McLean County, Illinois					
CHANGE: CARPENTERS:					
Carpenters & Soft Floor Layers	11.76	.40	.75		.05
Millwrights & Piledrivermen	12.26	.40	.75		.05

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MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IL78-2122 - Mod. #2 (43 FR 49186 - October 20, 1978) Peoria & Tazewell Counties, Illinois					
CHANGE:					
CARPENTERS:					
Residential					
Tazewell County and Remainder of Peoria County	11.76	.40	.75		.05
Commerical					
Tazewell County and Remainder of Peoria County					
Carpenters & Soft Floor Layers	11.76	.40	.75		.05
Millwrights & Piledrivermen	12.26	.40	.75		.05
Decision #IL78-2123 - Mod. #2 (43 FR 50308 - October 27, 1978) Henderson, Henry, Knox, Mercer, Rock Island, Stark & Warren Counties, Illinois					
CHANGE:					
CARPENTERS:					
Knox, Henderson, & Warren Cos.:					
Carpenters & Soft Floor Layers	11.76	.40	.75		.05
Millwrights & Piledrivermen	12.26	.40	.75		.05
Decision #IL78-2166 - Mod. #2 (43 FR 57767 December 8, 1978) Kankakee County, Illinois					
Change:					
CARPENTERS:					
Carpenters, Millwrights, Soft Floor Layers & Piledrivermen					
Building Construction over $200,000	11.88	.65	.80		.01
Residential Construction $200,000 or less	8.32	.65	.80		.01

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #LA79-4001 - Mod. #1 (44 FR 1634 - January 5, 1979) Statewide Louisiana					
Change:					
Electricians:					
Zone 8 - Electricians	$11.95		3%		1/2%
Cable splicers	12.20		3%		1/2%
Lathers - Zone 9	9.40				.01
Line Construction:					
Zone 5:					
Linemen & equipment ops.	11.95		3%		1/2%
Cable splicers	12.20		3%		1/2%
Groundmen	60%JR		3%		1/2%

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. MA78-2079 Mod. #1 (43 FR 43155 - September 22, 1978 (Barnstable County, Massachusetts					
Change:					
Elevator Constructors	$12.02	.895	.69	b+c	.03
Elevator Constructors' Helpers	70%JR	.895	.69	b+c	.03
Elevator Constructors' Helpers (Prob.)	50%JR	.895	.69	b+c	.03
Laborers (Building):					
Laborers; carpenter tenders; wrecking laborers	8.50	.60	.80		.10
Jackhammers op., pavement breakers; asphalt rakers; carbide core drilling machine, chain saw op.; pipelayer; Barco-type jumping tampers; laser beam; concrete pump; mason tender; mortar tar mixers; ride-on motorized buggy, fence & beam rail erectors & plasterer's tenders	8.75	.60	.80		.10
Air track; block pavers, tampers curb setters	9.00	.60	.80		.10
Blasters; powdermen	9.25	.60	.80		.10
Open air caisson; cylintical work & boring crew					
Laborer; Top man	8.50	.60	.80		.10
Helper	8.62	.60	.80		.10
Bottom Man	9.25	.60	.80		.10
Driller	9.37	.60	.80		.10
Lathers	10.05	.65	.55		.01
Painters:					
Brush, roller, steel on ground	9.25	.80			
Sandblasting, Chipping hammer, power brush	12.75	.80	.65		
Structural Steel	12.30	.80	.65		
Spray	10.60	.80	.65		
Steel Spray	13.85	.80	.65		
Sandblasting, Chipping hammers, power tools on steel	14.00	.80	.65		
Paperhangers and vinyl installers	9.75	.80	.65		
Tapers	9.35	.80	.65		

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. MA78-2079 Cont'd					
Piledrivermen	11.20	.85	1.00		
Roofers:					
Roofers, kettlemen & waterproofers	9.45	.60	.20		
Mechanic on shingle work	7.61	.60	.20		
Laborers:					
Heavy and Highway Construction					
Class I	8.50	.60	.80		.10
Class II	8.75	.60	.80		.10
Class III	9.00	.60	.80		.10
Class IV	9.25	.60	.80		.10
Truck Drivers:					
Class I	8.515	.75	.80	a+b	
Class II	8.665	.75	.80	a+b	
Class III	8.715	.75	.80	a+b	
Class IV	8.815	.75	.80	a+b	
Class V	8.915	.75	.80	a+b	
Class VI	9.165	.75	.80	a+b	
Class VII	9.415	.75	.80	a+b	

MODIFICATIONS P. 7

DECISION NO. MA78-2081 - Mod. #2	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(43 FR 43164 - September 22, 1978)					
Bristol County, Massachusetts					
Change:					
Carpenters & Soft Floor Layers:					
Attleboro, N. Attleboro & S. Attleboro	11.05	.90	1.00		.07
Electrical contracts (Easton)					
$50,000.00 or more	12.15	6%	7%	2%	.5%
Elevator Constructors	12.02	.895	.69	b+c	.03
Elevator Constructors' Helpers	70%JR	.895	.69	b+c	.03
Elevator Constructors' Helpers	50%JR	.895	.69	b+c	.03
Glaziers: Easton	11.15	.77	.69		.03
Laborers: Building					
Laborers; carpenter tenders; wrecking laborers	8.50	.60	.80		.10
Jackhammer op.; pavement breakers; asphalt rakers; carbide core drilling machine; Chain saw op.; pipelayers; barco type jumping tampers; laser beam; concrete pump; mason tenders; mortar mixers; ride-on motorized buggy, fence and beam rail erectors and plasterers' tenders	8.75	.60	.80		.10
Air track; block pavers; rammers curb setters	9.00	.60	.80		.10
Blasterers; powdermen	9.25	.60	.80		.10
Open air caisson; cylindrical & boring crew:					
Laborers; top man	8.50	.60	.80		.10
Helper	8.62	.60	.80		.10
Bottom Men	9.25	.60	.80		.10
Driller	9.37	.60	.80		.10
Lathers	10.05	.65	.55		.01
Millwrights	11.30	.90	1.00		.10
Painters:					
Achushnet, Dartmouth, Fairhaven, New Bedford, N. Dartmouth & S. Dartmouth:					
Brush and Roller	9.25	.80	.65		

MODIFICATIONS P. 8

DECISION NO. MA78-2081 Cont'd	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters (Cont'd)					
Spray	$10.60	.80	.65		
Sandblasting, Chipping hammer, power brush	10.75	.80	.65		
Paperhangers & vinyl installer	9.75	.80	.65		
Tapers	9.35	.80	.65		
Steel	12.50	.80	.65		
Steel Spray	13.85	.80	.65		
Remainder of County:					
Brush taper	10.96	.82	1.20		.04
Steel (new & repaint steel)	13.08	.82	1.20		.04
Spray, sandblasting	11.96	.82	1.20		.04
Repaint & Alteration	9.26	.82	1.20		.04
Piledrivermen	11.20	.85	1.00		
Plasterers' Tenders	8.75	.60	.80		.10
Roofers:					
Remainder of County:					
Journeyman and mechanics	9.45	.75	.30		
Mechanic on shingle work	7.61	.75	.30		
Sheet metal workers:					
Remainder of County	11.63	1.16	1.45		.08
Laborers (Heavy & Highway)					
Class I	8.50	.60	.80		.10
Class II	8.75	.60	.80		.10
Class III	9.00	.60	.80		.10
Class IV	9.25	.60	.80		.10
Truck Drivers (Building, Heavy and Highway Construction)					
Class I	8.515	.75	.80	a+b	
Class II	8.665	.75	.80	a+b	
Class III	8.715	.75	.80	a+b	
Class IV	8.815	.75	.80	a+b	
Class V	8.915	.75	.80	a+b	
Class VI	9.165	.75	.80	a+b	
Class VII	9.415	.75	.80	a+b	

MODIFICATIONS P. 9

DECISION NO. MA78-2082 - MOD. #1	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(43 FR 43169 - September 22, 1978)					
Essex County, Massachusetts					
Change:					
Carpenters & Soft Floor Layers:					
Amesbury, Boxford, Georgetown, Groveland, Haverhill, Newbury, Newburyport, Rowley, Salisbury, W. Newbury, Lynn, Lynnfield Nahant, Saugus and Swampscott, Andover, Lawrence, Methuen, N. Andover and W. Andover	$11.05	.90	1.00		.07
Andover, Lawrence, Methuen, N. Andover, & W. Andover	11.05	.90	1.00		.07
Remainder of County	10.10	1.00	1.00		
Electricians:					
Lynn, Lynnfield, Nahant, Saugus and Swampscott	12.23	.75	3%+1.55		.07
Remainder of County:					
Electrical contracts over $30,000	10.80	.92	3%+.26		.02
Elevator constructors	12.02	.895	.69	a+b	.03
Elevator constructors' helpers	70%JR	.895	.69	a+b	.03
Elevator constructors' Helpers (Prob.)	50%JR	.895	.69	a+b	.03
Glaziers	11.15	.77	.69		.03
Laborers (Building):					
Laborers, carpenters tenders wrecking laborers	8.50	.60	.80		.10
Jackhammer ops; pavement breakers; asphalt rakers; carbide core drilling machines; chain saw ops; pipelayers, barco type jumping tampers, laser beam ops, concrete ops., mason tenders, mortar mixers, rideon motorised buggy ops, dence beam rail erectors & plasterers tenders	8.75	.60	.80		.10

MODIFICATIONS P. 10

DECISION NO. MA78-2082 Cont'd	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers Cont'd					
Air track, block paver, rammers, curb setters	9.00	.60	.80		.10
Blaster, powdermen	9.25	.60	.80		.10
Open air caisson, cylindrical work and boring crew:					
Laborers, top man	8.50	.60	.80		.10
Helper	8.62	.60	.80		.10
Bottom man	9.25	.60	.80		.10
Driller	9.37	.60	.80		.10
All work, including demolition, repair and alteration of any existing structure which is tended for repdominantly residential use:					
Laborers	6.38	.60	.80		.10
Millwrights	11.30	.90	1.00		.10
Painters:					
Remainder of County:					
New Construction:					
Brush and Tapers	10.96	.82	1.20		.04
Sandblasters and spray	11.96	.82	1.20		.04
Steel (new & repaint-steel)	13.08	.82	1.20		.04
Repain: BRUsh	9.26	.82	1.20		.04
Spray and Sandblasting	10.26	.82	1.20		.04
Piledrivermen	11.20	.85	1.00		
Plumbers and Steamfitters:					
Lynn, Lynnfield, Nahant, Saugus and Swampscott:					
Plumbers	12.45	1.02	1.28		.05
Steamfitters	12.61	.94	1.45		.07
Remainder of County	10.55	1.65	.62		.05
Roofers:					
Haverhill and Lawrence	7.65	.70	1.55		.05
Sheet metal workers	11.63	1.16	1.45		.08
Laborers: Heavy & Highway:					
Class I	8.50	.60	.80		.10
Class II	8.75	.60	.80		.10
Class III	9.00	.60	.80		.10
Class IV	9.25	.60	.80		.10

MODIFICATIONS P. 11

DECISION NO. MA78-2082 Cont'd	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers					
Class I	8.515	.75	.80	a+b	
Class II	8.665	.75	.80	a+b	
Class III	8.715	.75	.80	a+b	
Class IV	8.815	.75	.80	a+b	
Class V	8.915	.75	.80	a+b	
Class VI	9.165	.75	.80	a+b	
Class VII	9.415	.75	.80	a+b	

MODIFICATIONS P. 12

DECISION NO. MA78-2086 - MOD. #2 (43 FR 43189 - September 22, 1978) Middlesex County, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers:					
Reading, North Reading and Wakefield	$ 10.75	.65	1.40		.12
Veneer Plastering	8.60	.65	1.40		.12
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Acton, Ashby, Ayer, Bedford, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Ft. Devens, Groton, Littleton, Lowell, North Acton, Pepperell, Shirley, South Acton, Tewksbury, Townsend, Tyngsboro, West Acton, Westford, and Willmington	9.52	.90	.70		.09
Newton	10.75	.65	1.40		.12
Veneer Plasterers	8.60	.65	1.40		.12
All work, including demolition repair and alteration of any existing structure which is intended for predominantly residential use:					
Bricklayers:					
Belmont, Burlington, Concord, Lexington, Lincoln, Stoneham, Sudbury, Waltham, Wayland, Weston, Winchester and Woburn	9.39	.75	1.00		.09
Carpenters & Soft Floor Layers:					
Ashby, Ayer & entire boundaries of Ft. Devens which are the towns of Lunenburg, Shirley, Lancaster, & Howard, Groton, Pepperell, Shirley Center; entire boundaries of Shirley, Industrial School, Townsent, W. Groton, & W. Townsend	11.30	.65	1.00		.07

NOTICES

MODIFICATIONS P. 13

DECISION NO. MA78-2086 Cont'd	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters & Soft Floor Layers Cont'd					
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Carpenters:					
Bedford, Concord, Dover, Lincoln, Natick, Newton, Sudbury, Waltham, Watertown, Wayland, Weston, Acton, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford	9.14	.90	1.00		.07
Remainder of County	11.05	.90	1.00		.07
Cement Masons:					
Bedford, Burlington, Lowell, Billerica, Tyngsboro, Westford, Tewksbury, Acton, Littleton, Dracut, Wilmington, Dunstable, Chelmsford, and Carlisle	10.40	.90	.70		.02
Electricians:					
Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Wesford and Willmington	10.95	1.00	3%+.80		.02

MODIFICATIONS P. 14

DECISION NO. MA78-2086 Cont'd	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians Cont'd:					
All work including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Electricians:					
Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford and Wilmington	9.31	.85	3%+.30		.02
Ashland; Hopkinton, Hudson, Marlboro and Stow	11.07	8%	5½%+.30		.01
Remainder of County	12.23	.75	3%+.55		.07
Elevator Constructors	12.02	.895	.69	a+b	.03
Elevator Constructors Helpers	70%JR	.895	.69	a+b	.03
Elevator Constructors Helpers (Prob.)	50%JR	.895	.69	a+b	.03
Glaziers	11.15	.77	.69		.03
Laborers (Building):					
Laborers, Carpenters' tenders; Wrecking laborers	8.50	.60	.80		.10
Jackhammer operstor; Pavement breaker; Asphalt rakers; Carbide core drilling machine; Chain saw Operators; Pipelayers; Barco type jumping tampers; Laser beam operators; Concrete pump operators; Mason tenders; Mortar micers; ride-on motorized buggy; Fence and beam rail erectors	8.75	.60	.80		.10
Air track operators; Block pavers; Rammers; Curb setters	9.00	.60	.80		.10
Blasterers; Powdermen	9.25	.60	.80		.10
Open air caisson; Cylindrical work and boring crew:					
Laborer and top man	8.50	.60	.80		.10
Helpor	8.62	.60	.80		.10
Driller	9.37	.60	.80		.10

NOTICES

DECISION NO. MA78-2086 Cont'd	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers Cont'd					
All work, including demolition, repair and lateration of any existing strucutre which is intended for predominantly residential use:					
Laborers	7.01	.60	.80		.10
Lathers:					
Remainder of county	10.70	1.00	.55		.03
Millwrights	11.30	.90	1.00		.10
Painters:					
Arlington, Belmont, Cambridge Malden, Medford , Melrose, Somerville, Stoneham, Wakefield, Winchester, Woburn, Reading, Nroth Reading:					
New Construction:					
Brush	10.96	.82	1.20		.04
Sandblasting, Spray	11.96	.82	1.20		.04
Steel	13.08	.82	1.20		.04
Repaint Alterstions, Residential:					
Brush	9.26	.82	1.20		.04
Sandblasting, Spray	10.26	.82	1.20		.04
Steel	12.08	.82	1.20		.04
Piledrivermen	11.20	.85	1.00		
Plasterers' Tenders	8.75	.60	.80		.10
Plumbers:					
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Acton, ayer (except portion lying west of the Greenville Branch of the Boston & Main RR), Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Graniteville, Hudson, Littleton, Lowell, Pepperell, Tewksbury					

DECISION NO. MA78-2086 Cont'd	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers (Cont'd)					
Tyngsboro, Westford and Wilmington	9.79	1.10	.60		.02
Ashby, Ayer (portion lying west of the Greenville Branch of the Boston and Main RR), Ft. Devens, Groton, Shirley and Townsend	10.42	.80	.65	.42	.05
Ashland, Belmont, Concord, Framingham, Holliston, Hopkington, Lexington, Lincoln, Marlboro, Maynard, Natick, Sherborn, Stow, Sudbury, Waltham, Wayland, and Weston	12.22	1.23	.85		.05
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Ashland, Belmont, Concord, Framington, Holliston, Hopkington, Lexington, Lincoln, Marlboro, Maynard, Natick, Sherborn, Stow, Sudbury, Waltham, Wayland and Weston	9.75	1.23	.85		.05
Arlington, Cambridge, Everett, Malden, Medford, Melrose, Newton, North Reading Reading, Somerville, Stoneham, Wakefield, Watertown, Winchester and Woburn	12.45	1.02	1.28		.05
Sheet Metal Workers	11.63	1.16	1.45		.08
Steamfitters:					
Acton, Arlington, Cambridge, Everett, Malden, Medford, Melrose, Newton, North Reading, Reading, Somerville, Stoneham, Wakefield, Watertown, Winchester and Woburn	12.61	.94	1.45		.07

DECISION NO. MA78-2086 Cont'd	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers: (Heavy & Highway):					
Class I	8.50	.60	.80		.10
Class II	8.75	.60	.80		.10
Class III	9.00	.60	.80		.10
Class IV	9.25	.60	.80		.10
Truck Drivers:					
Class I	8.515	.75	.80	a+b	
Class II	8.665	.75	.80	a+b	
Class III	8.715	.75	.80	a+b	
Class IV	8.815	.75	.80	a+b	
Class V	8.915	.75	.80	a+b	
Class VI	9.165	.75	.80	a+b	
Class VII	9.415	.75	.80	a+b	

DECISION NO. MA78-2087 - MOD. #1 (43 FR 43197 - September 22, 1978) Norfolk County, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers, Cement Masons, Plasterers & Stonemasons:					
Dover, Needham & Wellesley	$ 10.75	.65	1.40		.12
Veneer Plasterers	8.60	.65	1.40		.12
Cement Masons:					
Brookline & Milton	11.15	1.15			.20
Electricians:					
Electrical contracts $50,000 or over	12.15	6%	7%	2%	.3%
Remainder of County	12.23	.75	3%+.55		.07
Elevator Constructors	12.02	.895	.69	4%+a+b	.025
Elevator Constructors Helpers	70%JR	.895	.69	4%+a+b	.025
Elevator Constructors Helpers (Prob.)	50%JR	.895	.69	4%+a+b	.025
Glaziers:					
Remainder of County	11.15	.77	.69		.03
Laborers (Building):					
Laborers, carpenter tenders, wrecking laborers	8.50	.60	.80		.10
Jackhammer op., pavement breaker, asphalt rakers, carbide core drilling machine, chain saw op., pipelayer, barco type jumping tamper, laser beam concrete pump, mason tender, mortar mixer, ride-on buggy, fence and beam rail erectors and plasterers' tenders	8.75	.60	.80		.10
Air track, block paver, rammer, curb setter	9.00	.60	.80		.10
Blasters, powdermen	9.25	.60	.80		.10
Open air caisson, cylindrical work & boring crew:					
Laborer, top man	8.50	.60	.80		.10
Helper	8.62	.60	.80		.10
Bottom men	9.25	.60	.80		.10
Driller	9.37	.60	.80		.10

DECISION NO. MA78-2087 Cont'd	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lathers	10.70	1.00	.55		.03
Millwrights	11.30	.90	1.00		
Painters:					
Remainder of County:					
New Construction					
Brush and Taper	10.96	.82	1.20		.04
Steel	13.08	.82	1.20		.04
Spray	11.96	.82	1.20		.04
Repaint, Alterations & Residential					
Brush	9.26	.82	1.20		.04
Steel	12.08	.82	1.20		.04
Spray and Sandblasting	10.26	.82	1.20		.04
Piledrivermen	11.20	.85	1.00		
Plasterer's Tenders	8.75	.60	.80		.10
Plumbers and Steamfitters: Dover, Medfield, Medway, and Wellesley	12.22	1.23	.85		.05
Plumbers & Gasfitters: Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Foxboro, Franklin, Millis, Milton, Needham, Norfolk, N. Weymouth, Norwood, Plainville, Quincy, Sharon, S. Weymouth, Walpole Westwood, Weymouth, & Wrentham	12.45	1.02	1.28		.05
Steamfitters: Bellingham, Brookline, Canton, Dedham, Foxboro, Franklin, Medway, Milton, Needham, Norfolk, Norwood, Plainville, Quincy, Sharon, Welpole, Westwood & Wrentham	12.61	.94	1.45		.07

Footnote:
Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly for less than 5 years of service as vacation pay Credit.

DECISION NO. MA78-2087 Cont'd	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers:					
Class I	8.515	.75	.80	a+b	
Class II	8.665	.75	.80	a+b	
Class III	8.715	.75	.80	a+b	
Class IV	8.815	.75	.80	a+b	
Class V	8.915	.75	.80	a+b	
Class VI &	9.165	.75	.80	a+b	
Class VII	9.415	.75	.80	a+b	
Laborers (Heavy & Highway):					
Class I	8.50	.60	.80		.10
Class II	8.75	.60	.80		.10
Class III	9.00	.60	.80		.10
Class IV	9.25	.60	.80		.10

DECISION #MA78-2088 - MOD #1 (43 FR 43203 - September 22, 1978) Plymouth County, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS; CEMENT MASONS; Plasterers and Stonemasons: Resid.:Hingham,Hull,Scituate	$ 8.56	1.10	1.00		.09
CARPENTERS; SOFT FLOOR LAYERS: Duxbury, Hnaocar, Hingham, Hull, Marshfield, Norwell, Pembroke, Rockland and Scituate	11.05	.90	1.00		.07
ELECTRICIANS: Hingham, Hull	12.23	.75	3%+1.55		.07
Remainder of County: Electrical contracts $50,000 or more	12.15	.73	7%	.97	.5%
Electrical contracts under $50,000	9.15	6%	7%	.82	.5%
GLAZIERS: Remainder of County	11.15	.77	.69		.03
LABORERS (BUILDING): Laborers, Carpenters Tenders and wrecking laborers	8.50	.60	.80		.10
Jackhammer operator; Pavement breakers; Asphalt rakers; Carbide core drilling machine; Chain saw operators; Pipelayers; Barco type jumping tampers; Laser beam operators, concrete pumps operators; Mason tenders; Mortar mixers, Ride-on motorized buggy operators; Fence and beam erectors	8.75	.60	.80		.10
Air track; Block pavers; Rammers; Curb setters	9.00	.60	.80		.10
Blasters, Powdermen	9.25	.60	.80		.10
Open air caisson, cylindrical work and boring crew:					
Laborers, Top man	8.50	.60	.80		.10
Helper	8.62	.60	.80		.10
Bottom man	9.25	.60	.80		.10
Driller	9.37	.60	.80		.10
LATHERS	10.70	1.00	.55		.03
MILLWRIGHTS	11.30	.90	1.00		.10

DECISION #MA78-2088 - MOD #1 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
PAINTERS:					
Marion, Mattapoisett, Rochester and Wareham:					
Brush, rollers	$ 9.25	.80	.65		
Spray	10.60	.80	.65		
Steel	12.50	.80	.65		
Tapers	9.35	.80	.65		
Steel Srpay	13.85	.80	.65		
Sandblasting, chipping hammers, power tools on steel	14.00	.80	.65		
Paperhangers and vinyl installers	9.75	.80	.65		
Remainder of County:					
Brush, taper (New construction)	10.96	.82	1.20		.04
Steel (New construction)	13.08	.82	1.20		.04
Spray and Sandblasting (New construction)	11.96	.82	1.20		.04
Brush (repaint, alterations, residential)	9.26	.82	1.20		.04
Steel (repaint, alterations, residential)	13.08	.82	1.20		.04
Spray (repaint, spray & sandblasting, residential)	10.26	.82	1.20		.04
Sign Painters	8.80	.84	.35	.32	.04
PILEDRIVERMEN: Remainder of County	11.20	.85	1.00		
PLASTERERS' TENDERS: Hanson, Hingham, Hull, Kingston, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, Scituate, West Bridgewater and Whitman	8.75	.60	.80		.10
ROOFERS: Carver, Lakeville, Marion, Mattapoisett, Middleboro, Rochester, Wareham and Hingham					
Roofers and Kettlemen	9.45	.60	.20		
Mechanic on shingle work	7.61	.60	.20		
SHEET METAL WORKERS: Remainder of County	11.63	1.16	1.45		.08

MODIFICATIONS P. 23

DECISION #MA78-2088 - MOD #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
HEAVY and HIGHWAY CONSTRUCTION					
LABORERS					
Class I	$ 8.50	.60	.80		.10
Class II	8.75	.60	.80		.10
Class III	9.00	.60	.80		.10
Class IV	9.25	.60	.80		.10
BUILDING, HEAVY AND HIGHWAY CONSTRUCTION					
TRUCK DRIVERS					
Class I	8.515	.75	.80	a+b	
Class II	8.665	.75	.80	a+b	
Class III	8.715	.75	.80	a+b	
Class IV	8.815	.75	.80	a+b	
Class V	8.915	.75	.80	a+b	
Class VI	9.165	.75	.80	a+b	
Class VII	9.145	.75	.80	a+b	
OMIT:					
BRICKLAYERS; CEMENT MASONS and STONEMASONS:					
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use.					
Abington, Bridgewater, Brockton, Carver, Duxbury, East Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield Middleboro, Norwell, Pembroke, Plymouth, Rockland, West Bridgewater and Whitman					
CARPENTERS; SOFT FLOOR LAYERS					
All work, including demolition, repair and alteration of and existing structure which is intended for predominantly residential use:					
Remainder of County					

MODIFICATIONS P. 24

DECISION #MA78-2088 - MOD #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
ELECTRICIANS:					
Residential					
All work, including demolition repair and alteration of any existing structure which is intended for predominantly residential use.					
Remainder of County					
LABORERS (BUILDING)					
All work, including demolition repair and alteration of any existing structure which is intended for predominantly residential use.					
Laborers					
PAINTERS:					
All work, including demoltion repair and alteration of any existing structure which is intended for predominantly residential use.					
Remainder of County					
PLUMBERS:					
All work, including demolition rpeair and alteration of any existing structure which is intended for predominantly residential use:					
Abington, Bridgewater, Brockton, Carver, Duxbury, East Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, West Bridgewater and Whitman					

MODIFICATIONS P. 25

DECISION #MA78-2089 - MOD #1
(43 FR 43209 - September 22, 1978)
Suffolk County, Massachusetts

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
CARPENTERS AND SOFT FLOOR LAYERS	$11.05	.90	1.00		.07
CEMENT MASONS	11.15	1.15	.60		.20
ELECTRICIANS	12.23	.75	3%+1.55		.07
ELEVATOR CONSTRUCTORS	12.02	.895	.69	a+b	.03
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.895	.69	a+b	.03
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%J$	.895	.69	a+b	.03
GLAZIERS	11.15	.57	.64		.03
LABORERS (BUILDING):					
Laborers, carpenter tenders, wrecking laborers	8.50	.60	.80		.10
Jackhammer op., pavment breakers, asphalt rakers, carbida core drilling machine, chain saw op., pipelayer, baro type jumping tampers; laser beam, concrate pump, mason tenders, motorized mixers, ride-on motorized buggy, fence and beam rail erectors	8.75	.60	.80		.10
Air track, block pavers, rammers curb setter	9.00	.60	.80		.10
Blasterers, powdarmen	9.25	.60	.80		.10
Open air caisson, sylindrical work & boring crew:					
Laborer; top man	8.50	.60	.80		.10
Helpers	8.62	.60	.80		.10
Bottom men	9.25	.60	.80		.10
Driller	9.37	.60	.80		.10
LATHERS	10.70	1.00	.55		.02
MILLWRIGHTS	11.30	.90	1.00		.10
PAINTERS:					
Brush, New Construction	10.96	.82	1.20		.04
Structural Steel	13.08	.82	1.20		.04
Spray & Sandblasting	11.96	.82	1.20		.04
Repaint; alterations; & Residential:					
Brush	9.26	.82	1.20		.04
Structural Steel	13.08	.82	1.20		.04
Spray & Sandblasting	10.26	.82	1.20		.04

MODIFICATIONS P. 26

DECISION #MA78-2089 - MOD #1 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
PILEDRIVERMEN	$11.20	.85	1.00		
PLASTERERS' TENDERS	8.75	.60	.80		.10
PLUMBERS	12.45	1.02	1.28		.05
SHEET METAL WORKERS	11.63	1.16	1.45		.08
STEAMFITTERS	12.61	.94	1.45		.04
HEAVY & HIGHWAY LABORERS:					
Class I	8.50	.60	.80		.10
Class II	8.75	.60	.80		.10
Class III	9.00	.60	.80		.10
Class IV	9.25	.60	.80		.10
POWER EQUIPMENT OPERATORS:					
FOOTNOTES:					
a. Paid Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day					
BUILDING, HEAVY AND HIGHWAY CONSTRUCTION					
TRUCK DRIVERS					
Class I	8.515	.75	.80	a+b	
Class II	8.665	.75	.80	a+b	
Class III	8.715	.75	.80	a+b	
Class IV	8.815	.75	.80	a+b	
Class V	8.915	.75	.80	a+b	
Class VI	9.165	.75	.80	a+b	
Class VII	9.415	.75	.80	a+b	

DECISION #MA78-2090 - MOD #1
(43 FR 43214 - September 22, 1978)
Worcester County, Massachusetts

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BOILERMAKERS, CEMENT MASONS, PLASTERERS AND STONEMASONS:					
Warren	$10.30	.70	.95		.06
Remainder of County	10.70	.95	1.15		.02
CARPENTERS, SOFT FLOOR LAYERS:					
Remainder of County	11.30	.65	1.00		.07
ELECTRICIANS:					
Warren W. Warren Ashburnham, Athol, Bolton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Lunenbueg, Phillipston, Westminster, and Winchendon	10.88	.75	3%+.30		.03
Remainder of.County	11.20	.75	3%+.70		.02
GLAZIERS:	11.07	8%	5½%+.30		.01
Remainder of County	11.15	.77	.69		.03
LABORERS (BUILDING):					
Laborers, Carpenter tenders and wrecking laborers	8.50	.60	.80		.10
Jachkhammer operators, Pavement breakers, Asphalt rakers, Carbide core drilling machine, Chain saw operators, Pipelayers, Barco type jumping tampers, Laser beam, Concrete pump, Mason tenders, Mortar mixers, Ride-on motorized buggies, and fence and beam rail erectors and plasterers' tenders	8.75	.60	.80		.10
Air track, Block pavers, Rammers, and Curb setters	9.00	.60	.80		.10
Blasterers and powdermen	9.25	.60	.80		.10
Open air caisson and cylindrical work and boring crew:					
Laborer, Topman	8.50	.60	.80		.10
Helper	8.62	.60	.80		.10
Bottom men	9.25	.60	.80		.10
Driller	9.37	.60	.80		.10
MILLWRIGHTS	11.30	.90	1.00		.10

DECISION #MA78-2090 - MOD #1 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
PAINTERS					
Remainder of County:					
Brush	$10.96	.82	1.20		.04
Steel	13.08	.82	1.20		.04
Sandblasting; Spray	11.96	.82	1.20		.04
Repaint	9.26	.82	1.20		.04
PILEDRIVERMEN	11.20	.85	1.00		
PIPEFITTERS:					
Remainder of County	11.23	.80	.45		
Pondville	12.61	.94	1.45		.07
PLUMBERS:					
Hopedale adn Southboro Ashburnham, Athol, Bolton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Lunenburg, Petersham, Phillipston, Royalsotn, Templeton, Westminster and Winchendon	12.22	1.23	.85		.05
Remainder of County	10.42	.80	.65	.42	.05
	10.83	1.15	.65		.05
LABORERS					
Class I	8.50	.60	.80		.10
Class II	8.75	.60	.80		.10
Class III	9.00	.60	.80		.10
Class IV	9.25	.60	.80		.10
POWER EQUIPMENT OPERATORS:					
Class I	10.18	.95	.25+.75	a	.07
Class II	9.98	.95	.25+.75	a	.07
Class III	9.78	.95	.25+.75	a	.07
Class IV	9.41	.95	.25+.75	a	.07
Class V	8.58	.95	.25+.75	a	.07
Class VI	8.09	.95	.25+.75	a	.07
Class VII	7.29	.95	.25+.75	a	.07

DECISION #MA78-2090 - MOD #1 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
HEAVY AND HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS:					
Class I	$10.18	.95	1.00	a	.07
Class II	9.98	.95	1.00	a	.07
Class III	9.78	.95	1.00	a	.07
Class IV	9.41	.95	1.00	a	.07
Class V	8.58	.95	1.00	a	.07
Class VI	8.09	.95	1.00	a	.07
Class VII	7.29	.95	1.00	a	.07
Class VIII	10.68	.95	1.00	a	.07
BUILDING, HEAVY AND HIGHWAY CONSTRUCTION					
TRUCK DRIVERS					
Class I	8.515	.75	.80	a+b	
Class II	8.665	.75	.80	a+b	
Class III	8.715	.75	.80	a+b	
Class IV	8.815	.75	.80	a+b	
Class V	8.915	.75	.80	a+b	
Class VI	9.165	.75	.80	a+b	
Class VII	9.415	.75	.80	a+b	

DECISION #NV78-5010 - Mod. #6
(43 FR 10229 - March 10, 1978)
Nevada Test Site including Tonopah Test Range in Clark and Nye Counties, Nevada

Change:					
Carpenters:					
Carpenters	$12.16	.85	$1.10	.80	.06
Floor Layers	12.185	.85	1.10	.80	.06
Millwrights	12.96	.85	1.10	.80	.06
Ironworkers:					
Ornamental; Reinforcing; Structural	12.01	1.29	2.57	1.65	.07
Roofers	14.75	.80			

DECISION #NJ78-3047 - Mod. #4
(43 FR 26235 - June 16, 1978)
Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers Zone 5	12.46	.90	1.05		.08
Bricklayers, Stonemasons, Marble Masons, Cement Masons, Plasterers, Tile Layers, and Terrazzo Workers:					
Zone 1					
Bricklayers, Stonemasons, Marble Masons, & Plasterers	11.20	.75	.80		.04
Cement Masons, Tile Layers, & Terrazzo Workers	11.05	.75	.80		.04
Zone 3	11.35	.50	.60		
Electricians & Cable Splicers:					
Zone 1	12.30	7%	3%+1.87		.01
Zone 2	14.01	7%	3%+ .70		.15
Zone 3	12.87	7%	3%+ .75		.05
Zone 4	12.55	7%	3%+1.10		.04
Laborers, Building Construction:					
Zone 3					
Laborers	8.65	.40	.65		.07
Hod carriers, mason tenders, operators of jack hammers, tampers, and electric hammers	8.90	.40	.65		.07
Zone 5					
Laborers	8.25	.80	.65		.07
Jackhammers	8.50	.80	.65		.07
Lathers:					
Atlantic, Cape May, & Cumberland Counties	11.75		.15		.01
Line Construction:					
Zone 2					
Linemen, Cable Splicers, Truck Drivers, Equipment Operators, & Techniciana	14.01	7%	3%+ .70		3/4%
Groundmen & Winch Operators	11.21	7%	3%+ .70		3/4%
Zone 3					
Linemen	12.87	7%	3%+ .75		3/4%
Groundmen & Winch Operators	10.42	7%	3%+ .75		3/4%
Zone 4					
Linemen	12.55	7%	3%+1.10		3/4%
Line Digger Truck Drivers	8.08	7%	3%+1.10		3/4%
Groundmen	9.23	7%	3%+1.10		3/4%
Roofers:					
Zone 4					
Composition, Waterproofing, Slate & Asphalt Shingle	11.62	1.33	.80		

MODIFICATIONS P. 31

DECISION #NJ78-3047 - Mod. #4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Sheet Metal Workers: Zone 1	12.04	1.01	.88		.02
Soft Floor Layers Zone 2	10.74	6%	5%+ .50		.02

DECISION NO. NM78-4021 - Mod. #1
(43 FR 19559 - May 5, 1978)
Statewide, New Mexico

CHANGE:
LABORERS:

Common laborer; carpenter tender; concrete buggy operator (hand); concrete workers	$2.90	.20	.15		

MODIFICATIONS P. 32

DECISION NO. NM79-4021 - Mod. #1
(44 FR 1632 - January 5, 1979)
Statewide, New Mexico

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
BUILDING & RESIDENTIAL LABORERS CLASSIFICATION DEFINITIONS					
GROUP V (Laborers (Building)	$7.36	.53	.67		.05

ADD:

BUILDING & RESIDENTIAL LABORERS CLASSIFICATION DEFINITIONS

GROUP I
UNSKILLED: Building and common laborers, carpenter tenders, concrete workers, chainmen-stakedrivers, concrete buggy operators, heater tender, tool room tender

GROUP II
SEMI-SKILLED: Air power tool operator, asphalt rakers, cutting torch operators, demolition, gunite rebound men, fog machine operators, power buggy operators, rodmen, sandblasters (potmen), window washers, wagon, core and diamond driller tenders outside, pumps under 6"

GROUP III
MISCELLANEOUS: Concrete burner, cement mason tenders, hodcarriers, mortar mixers, plaster spreader operators, tenders, gunite nozzlemen, pipelayers, pumpcrete nozzlemen

GROUP IV
Powderman & Blasterer

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LABORERS: (BUILDING)					
Group I	$7.11	.53	.77		.05
Group II	7.41	.53	.77		.05
Group III	7.71	.53	.77		.05
Group IV	7.86	.53	.77		.05
LABORERS (RESIDENTIAL)					
Group I	5.02	.53	.77		.05
Group II	5.32	.53	.77		.05
Group III	5.62	.53	.77		.05

MODIFICATIONS P. 33

DECISION NO. OK77-4037 - Mod. #1
(42 FR 10262 - February 18, 1977)
Tulsa & Osage Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Laborers	$2.90				

DECISION #TX78-4080 - Mod. #6
(43 FR 35886 - August 4, 1978)
Jefferson & Orange Cos., Texas

Change:					
Plumbers	$12.37	.34			.03

DECISION #TX79-4007 - Mod. #1
(44 FR 1679 - January 5, 1979)
Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas

Change:					
Line Construction:					
Lineman; Operator	10.50	.50	3%		1/2%
Cable splicer	10.75	.50	3%		1/2%
Groundman, 1st 6 months	50%JR	.50	3%		1/2%
Groundman, 2nd 6 months	60%JR	.50	3%		1/2%
Groundman, 1 year & over	70%JR	.50	3%		1/2%

DECISION #TX79-4010 - Mod. #1
(44 FR 1681 - January 5, 1979)
Wichita County, Texas

Change:					
Line Construction:					
Lineman; Lineman operator	10.50	.50	3%		1/2%
Cable splicer	10.75	.50	3%		1/2%
Groundman, 1st 6 months	50%JR	.50	3%		1/2%
Groundman, 2nd 6 months	60%JR	.50	3%		1/2%
Groundman, 1 year & over	70%JR	.50	3%		1/2%

MODIFICATIONS P. 34

DECISION #GA77-1104 - Mod. #2
(42 FR 43322 - August 26, 1977)
Banks, Barrow, Bartow, Catoosa, Chatcoogs, Cherokee, Cobb, Dade, Dawson, Douglas, Elbert, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordon, Gwinnett, Habersham, Hall, Haralson, Hart, Jackson, Lumpkin, Madison, Murray, Paulding, Pickens, Polk, Rabun, Stephens, Towns, Union, Walker, White, and Whitfield Counties, Georgia

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Bulldozer	$ 3.99				
Motor grader/patrol	4.68				
Pans - scraper	4.00				
Shovel	4.00				

SUPERSEDEAS DECISION

STATE: Massachusetts
COUNTIES: See Below*
DECISION NUMBER: MA79-2001
DATE: Date of Publication
Supersedeas Decision No. MA78-2155 dated November 3, 1978, in 43 FR 51580
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories except Berkshire Co., which including Residential), Heavy and Highway Construction

*Berkshire, Franklin, Hampden and Hampshire Counties

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION BERKSHIRE COUNTY	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.65	.94	1.25		.01
BOILERMAKERS	11.80	1.05	10%		.02
BRICKLAYERS, CEMENT MASONS, MARBLE MASONS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS & TILE SETTERS:					
Twps. of Adams, North Adams, Cheshire, Florida, Savoy, Clarksbury and Williamstown	11.85				
Twps. of Becket, Otis and Sandisfield	10.30	.70	.93		.06
Remainder of County	11.78	.70	.55		
CARPENTERS, SOFT FLOOR LAYERS, & DRYWALL CARPENTERS	10.04	.60	1.00		.04
ELECTRICIANS	10.59	.55	3%+.94		.02
ELEVATOR CONSTRUCTORS	10.45	.745	.29	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.29	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.45	.47	.45		
IRONWORKERS:					
Structural, ornamental and reinforcing:					
Otis and North and East Otis	9.43	.70	1.50		.05
Remainder of County	9.49	.60	.85		.04
LABORERS (BUILDING):					
Laborers, Carpenter tenders and Wrecking laborers	8.50	.60	.80		.10
Jackhammer operator, Pavement breakers, Wagon drills, Asphalt rakers, Carbide core drilling machine, Chain saw operators, Pipelayers, Barco type jumping tampers, Laser beam iperators, Concrete pump operators, Mason tenders, Mortar mixers, Ride-on motorized buggy and Plasterers tenders	8.75	.60	.80		.10

DECISION NO. MA79-2001

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Air track; Block pavers; Rammers curb setters	$ 9.00	.60	.80		.10
Blasterers, Powdermen	9.25	.60	.80		.10
LATHERS:	10.65	.45	.25		.01
Drywall lathers	9.25	.45	.15		
LEAD BURNERS	9.25	.35		c	.01
LINE CONSTRUCTION:					
Linemen	11.42	.70	3%+.50	d	
Equipment Operator	10.69	.70	3%+.50	d	
Driver Groundmen	8.37	.70	3%+.50	d	
MARBLE SETTERS' & TILE SETTERS' HELPERS.	8.95				
MILLWRIGHTS	11.30	.90	1.00		.10
PAINTERS:					
Brush and Tapers	9.17	.88	.55		.05
Spray-epoxys & interior dry fogs & materials thinned with anything other than water &/or mineral spirits	12.2267	1.1733	.7333		.0667
Spray-materials thinned with water &/or mineral spirits, excluding epoxys & interior dry fogs	12.7567	1.1733	.7333		.0667
Swing Stage under 40' Steel	9.357	.88	.55		.05
Swing Stage over 40' Steel	9.67	.88	.55		.05
Sign Painters	8.80	.84	.35	.32	.04
PILEDRIVERMEN	11.20	.85	1.00		
PLUMBERS and STEAMFITTERS:					
Adams, Clarksburg, Florida, North Adams, Savoy, Williamstown and Northern half of Cheshire, and New Ashford	10.47	.90	.75		.02
Becket, Otis, Sandisfield (Plumbers ONLY)	10.30	1.01	1110	e	.10
Becket, Otis, Sandisfield and New Boston (Steamfitters)	11.15	.57	1.45	.08	.03
Remainder of County	10.30	.83	.50		.05
ROOFERS:					
Composition, damp & waterproof	9.215	1.00	2.03		
Slate, tile and precast concrete	9.87	1.00	2.03		
SHEET METAL WORKERS	10.10	1.09	1.46		.06
SPRINKLER FITTERS	12.08	.65	.95		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. MA79-2001

BUILDING, HEAVY and HIGHWAY CONSTRUCTION FRANKLIN COUNTY	Basic Hourly Rates	Fringe Benefits Payments: H &'W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.65	.94	$ 1.25		.01
BOILERMAKERS	11.80	1.05	10%		.02
BRICKLAYERS, CEMENT MASONS, PLASTERERS, STONE MASONS, MARBLE, TILE, TERRAZZO WORKERS, CAULKER, And CLEANER, POINTER	10.30	.70	.95		.06
CARPENTERS & SOFT FLOOR LAYERS:					
Irving, Warwick, Orange and North Orange (including drywall)	10.70	.60	1.00		.07
Remainder of County	10.35	.45	1.00		.02
Monroe and Monroe Bridge	10.04	.60	1.00		.04
ELECTRICIANS:					
Hawley, Monroe and Rowe	10.59	.55	3%+.94		.02
Remainder of County:					
Electrical contracts $75,000.00 and over	11.26	.85	3%+.40		.02
Electrical contracts under $75,000.00	9.10	.85	3%+.40		.02
Shaft and tunnel work	11.76	.85	3%+.40		.02
ELEVATOR CONSTRUCTORS	10.45	.745	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.45	.47	.45		
IRONWORKERS:					
Structural, Ornamental and Reinforcing	10.80	1.10	1.95		.09
LABORERS: BUILDING					
Laborers, Carpenter tenders, Wrecking laborer	8.50	.60	.80		.10
Asphalt rakers, Carbide core drillers, Chain saw operator, Pipelayers, Jackhammer and paving breakers operators, Barco-type jumping tampers, Laser beam operators, Concrete pump operators, Mason tenders, Mortar mixers, and Ride-on motorized buggy operator and plasterera tenders	8.75	.60	.80		.10

DECISION NO. MA79-2001

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Air track operators, Block pavers, Rammers and curb setters	8.75	.60	.80		.10
Powdermen and blasterers	9.00	.60	.80		.10
Open air caisson, underpinning work and test boring crew:					
Bottom Man	9.25	.60	.80		.10
Top Man	8.50	.60	.80		.10
Driller	9.37	.60	.80		.10
Helper	8.62	.45	.25		.10
LATHERS:	10.65	.45	.25		.01
Drywall lathers	9.25	.45	.25		.01
LINE CONSTRUCTION:					
Linemen	11.42	.70	3%+.50	d	
Equipment Operators	10.69	.70	3%+.50	d	
Driver Groundmen	8.37	.70	3%+.50	d	
MILLWRIGHTS	11.30	.90	1.00		.10
PAINTERS:					
Brush and Tapers	9.17	.88	.55		.05
Spray-epoxys & interior dry fogs & materials thinned with anything other than water &/or mineral spirits	12.2267	1.1733	.7333		.0667
Spray-materials thinned with water &/or mineral spirits, excluding epoxys & interior dry fogs	12.7567	1.1733	.7333		.0667
Swing Stage under 40' Steel	9.357	.88	.55		.05
Swing Stage over 40' Steel	9.67	.88	.55		.05
PILEDRIVERMEN	11.20	.85	1.00		
PLUMBERS AND STEAMFITTERS:					
Monroe, Towe and Western part of Charlemont	10.47	.90	.75		.02
Orange	10.42	.80	.65	.42	.02
Remainder of County	10.95	.85	.85		.02
ROOFERS:					
Composition, damp wagerproof	9.215	1.00	2.03		
Slate, tile, precast concrete	9.87	1.00	2.03		
SHEET METAL WORKERS	10.10	1.09	1.46		.06
SPRINKLER FITTERS	12.08	.65	.95		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. MA79-2001

BUILDING, HEAVY and HIGHWAY CONSTRUCTION HAMPDEN COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.65	.94	1.25		.01
BOILERMAKERS	11.80	1.05	10%		.02
BRICKLAYERS:					
Cement masons, Marble masons, Plasterers, Stone masons, Terrazzo workers, and Tile setters	10.30	.70	.95		.06
CARPENTERS & SOFT FLOOR LAYERS:					
Holyoke (including drywall)	10.35	.45	1.00		.02
Remainder of County	10.20	.60	1.00		.02
ELECTRICIANS:					
Chester, Holyoke & that portion of Chicopee Township north of the following line: Mckinstry Avenue from the Connecticut River to Gratten Street, South on Gratten to Lafayette Street, east on Lafayette to York Street, North on York to Mckinstry, east on McKinstry to Grady Road & projects to the Westover Air Force fence & that arear north of Westover field:					
Contracts 75,000 & over	11.26	.85	3%+.40		.02
Contracts under $75,000	9.10	.85	3%+.40		.02
Shaft & tunnel work	11.76	.85	3%+.40		.02
Remainder of County	10.88	.75	3%+.30		.03
ELEVATOR CONSTRUCTORS	10.45	.745	.29	a+b	.02
ELEVATOR CONSTRUCTORS' Helpers	70%JR	.745	.29	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.45	.47	.45		
IRONWORKERS:					
Ornamental, Reinforcing and Structural	10.80	1.10	1.95		.09
LABORERS (Building)					
Laborers, Wrecking, laborers and carpenter tenders	8.50	.60	.80		.10
Asphalt rakers, Carbide Core Driller Ops., Saw Ops., Pipelayers, Jackhammer & Paving Breaker Op., Barco-type jumping tampers, Laser Beams op., concrete pump ops., &					

DECISION NO. MA79-2001

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asphalt rakers, carbide core driller operators, Saw Operators, Pipelayers, Jackhammer and Paving breaker operator, Barcotype jumping tampers, Laser beams operators and Wagon drill operators, Mason Tenders, Mortar mixers and ride-on motorized buggy operators and plasterers tenders	8.75	.60	.80		.10
Air track operator, Block pavers, Rammers and Curb setters	9.00	.60	.80		.10
Blasterers and Powdermen	9.25	.60	.80		.10
Open air caisson, Cylinderical work and boring crew:					
Bottom Man	9.25	.60	.80		.10
Top Man	8.50	.60	.80		.10
Testing Boring:					
Driller	9.37	.60	.80		.10
Helper	8.62	.60	.80		.10
LATHERS:	10.65	.45	.25		.01
Drywall lathers	8.25	.45	.25		.01
LEADBURNERS	9.25	.35		c	.01
LINE CONSTRUCTION:					
Linemen	11.42	.70	3%+.50	d	
Groundmen, Driver	8.37	.70	3%+.50	d	
Equipment Operator	10.69	.70	3%+.50	d	
MARBLE, MOSAIC & TERRAZZO WORKERS' HELPERS	8.95				
MILLWRIGHTS	11.30	.90	1.00		.10
PAINTERS:					
Brush and Tapers	9.17	.88	.55		.05
Spray-epoxys & interior dry fogs & materials thinned with anything other than water &/or mineral spirits	12.2267	1.1733	.7333		.0667
Spray-materials thinned with water &/or mineral spirits, excluding epoxys & interior dry fogs	12.7567	1.1733	.7333		.0667
Swing Stage under 40' Steel	9.357	.88	.55		.05
Swing Stage over 40' Steel	9.67	.88	.55		.05
PILEDRIVERMEN	11.20	.85	1.00		
PLUMBERS	10.30	1.01	1.10	e	.10
ROOFERS: Composition, damp and waterproofing	9.215	1.00	2.03		
Slate, Tile, Prescast Concrete	9.87	1.00	2.03		
SHEET METAL WORKERS	10.10	1.09	1.46		.06
SPRINKLER FITTERS	12.08	.65	.95		.08
STEAMFITTERS	11.15	.57	1.45	.08	.03

DECISION NO. MA79-2001

BUILDING, HEAVY and HIGHWAY CONSTRUCTION HAMPSHIRE COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.65	.94	1.25		.01
BOILERMAKERS	11.80	1.05	10%		.02
BRICKLAYERS, PLASTERERS, CEMENT MASON, STONE MASONS, MARBLE TILE and TERRAZZO WORKERS, CAULKER, CLEANER, POINTERS	10.30	.70	.95		.06
CARPENTERS:					
Amherst, Belchertown, Granby, South Hadley, and Pleham (including drywall)	10.35	.45	1.00		.02
Remainder of County	10.20	.60	1.00		.02
ELECTRICIANS:					
Bechertown, Ware	10.88	.75	3%+.30		.03
Middlefield, Cummington and Plainfield	10.59	.55	3%+.94		.02
Remainder of County:					
Electrical contracts under $75,000.00	9.10	.85	3%+.40		.02
Electrical contracts $75,000.00 and over	11.26	.85	3%+.40		.02
Shaft and Tunnel Work	11.76	.85	3%+.40		.02
ELEVATOR CONSTRUCTORS	10.45	.745	.29	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.29	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.45	.47	.45		
IRONWORKERS:					
Structural, Ornamental and Reinforcing	10.80	1.10	1.95		.09
LABORERS: (BUILDING)					
Laborers, Wrecking laborers, Carpenter adn Cement finishers tenders	8.50	.60	.80		.10
Asphalt rakers, Carbide core driller operators, Chain saw operators, Pipelayers, Jackhammer and Paving breaker operator, Barco-type jumping tampers, Laser beam operators, Concrete pumps operators and Wagon drill operators, Mason tenders, Mortar mixers adn Ride-on motorized buggy operators and plasterer tenders	8.75	.60	.80		.10

DECISION NO. MA79-2001

LABORERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air track operators, Block pavers, Rammers and Curb setters	$ 9.00	.60	.80		.10
Powdermen and Blasters	9.25	.60	.80		.10
Open air caisson, Underpinning work and boring crew: (ENTIRE COUNTY)					
Bottom Man	9.25	.60	.80		.10
Top Man	8.50	.60	.80		.10
Test Boring:					
Driller	9.37	.60	.80		.10
Helper	8.62	.60	.80		.10
LATHERS:	10.69	.45	.25		.01
Drywall	9.25	.45	.25		.01
LINE CONSTRUCTION:					
Linemen	11.42	.70	3%+.50	d	
Equipment Operator	10.69	.70	3%+.50	d	
Driver Groundman	8.37	.70	3%+.50	d	
MARBLE & TILE SETTERS HELPERS AND TERRAZZO WORKERS' HELPERS	8.95				
MILLWRIGHTS	11.30	.90	1.00		.10
PAINTERS:					
Brush and Tapers	9.17	.88	.55		.05
Spray-epoxys & interior dry fogs & materials thinned with anything water &/or mineral spirits	12.2267	1.1733	.7333		.0667
Spray-materials thinned with water &/or mineral spirits, excluding epoxys & interior dry fogs	12.7567	1.1733	.7333		.0667
Swing Stage under 40' Steel	9.357	.88	.55		.05
Swing Stage over 40' Steel	9.67	.88	.55		.05
Sign Painters	8.80	.84	.35	.32	.04
PILEDRIVERMEN	11.20	.85	1.00		
PLUMBERS and STEAMFITTERS:					
Belthertown, Granby, Huntington, Middlefield, South Hadley, Ware:					
Plumbers	10.30	1.01	1.10	e	.10
Steamfitters	11.15	.56	1.45	f	.03
Remainder of County:					
Plumbers and Steamfitters	10.95	.85	.85		.02
ROOFERS:					
Composition, damp, waterproof	9.215	1.00	2.03		
Slate, tile, precast concrete	9.87	1.00	2.03		
SHEET METAL WORKERS	10.10	1.09	1.46		.05
SPRINKLER FITTERS	12.08	.65	.95		.08

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independance Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Holidays: A through F, and the day after Thanksgiving

c. Holidays: A through F, Washington's Birthday, Good Friday & Christmas Eve provided the employee has worked 45 full days during the 120 calendar days prior to thr holiday and the regular scheduled work days immediately preceding and following the holiday.

d. Holidays: A through F, provided the employee hwe been employed for at least 5 days prior to the holiday and is available for work the day before and after the holiday, plus on floating holiday, Washington's Birthday and Patriots Day.

e. Holidays: Independence Day & Labor Day provided the employee has been employed 7 days prior to the holiday for the same employer.

f. July 4th and Labor Day - $.08 per hour employer contribution to make two paid holidays.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Class I	$10.18	.95	1.00	a	.07
Class II	9.98	.95	1.00	a	.07
Class II	9.78	.95	1.00	a	.07
Class IV	9.41	.95	1.00	a	.07
Class V	8.58	.95	1.00	a	.07
Class VI	8.09	.95	1.00	a	.07
Class VII	7.29	.95	1.00	a	.07

CLASSIFICATIONS

Class I: Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Backhoes, Gradalls, Elevating Graders, Piledriving Rigs, Concrete Road Pavers, three drum hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5½ yads. or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.) Combination Back Hoe-loader-3/4 yd. hoe or over

Class II: Rotary Drill (with mounted compressor), Compressor house (3 to 6 compressors), Rock and Earth Boring Mahines (excluding McCarthy and similar drills), Grades, Front End Loaders -. 4 yds. to 5½ yds., two drum hoiste, High Fork Lifts with capacity of 15 feet and over, Scrapers - 21 yds. and over (struck load), Sonic Hammer Console

Class III: Combination Backhoe - Loader - up to 3/4 hoe, Bulldosers, Push Cats, Scraper - up to 21 yds. (struck load) - Self-propelled or tractor drawn, Tireman, Front End Loaders - up to 4 yds., Asphalt Paver, Asphalt Roller - 10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant, Well Point, Electric pumps used in Well point system, Pumps - 12 inches and over (total discharge), Compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators (manually or remote controls), Grout pumps, Boom Truck, Hydraulic Cranes - under 10 ton

Class IV: Asphalt Roller - under 10 ton

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CLASSIFICATIONS CONT'D

CLASS V Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors Power Pavement Breakers, Concrete Pavement FInishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts up to 15 feet

CLASS VI Compressors (one or two) 315 cu. ft. to 900 cu. ft.. Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers Rubber, Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding

CLASS VII Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck, and Grease Trucks with hand greasing equipment

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F, Veterans' Day and Columbus Day

DECISION NO. MA79-2001

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	$10.18	.95	1.00	a	.07
CLASS II	9.98	.95	1.00	a	.07
CLASS III	9.78	.95	1.00	a	.07
CLASS IV	9.41	.95	1.00	a	.07
CLASS V	8.58	.95	1.00	a	.07
CLASS VI	8.09	.95	1.00	a	.07
CLASS VII	7.29	.95	1.00	a	.07
CLASS VIII	10.68	.95	1.00	a	.07

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processin Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5½ yards and over Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Paver, Automatic Graders-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (struck Load), Forklifts-7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well point Operators, Electric Pumps used in well Point system, Tiremen, Pumps-16 inches or over total discharge, Compressors (1 or 2) cu. ft. and over Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes up to 10 ton

CLASS IV Asphalt Roller-up to 10 ton

DECISION NO. MA79-2001

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot roller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat

FOOTNOTES:

a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day and Christmas Day

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	$ 8.50	.60	.80		.10
CLASS II	8.75	.60	.80		.10
CLASS III	9.00	.60	.80		.10
CLASS IV	9.25	.60	.80		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op.

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

DECISION NO. MA79-2001

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	$ 8.515	.75	.80	a+b	
CLASS II	8.665	.75	.80	a+b	
CLASS III	8.715	.75	.80	a+b	
CLASS IV	8.815	.75	.80	a+b	
CLASS V	8.915	.75	.80	a+b	
CLASS VI	9.165	.75	.80	a+b	
CLASS VII	9.415	.75	.80	a+b	

CLASS I - Station wagons, Panel trucks and pickup truck

CLASS II - Two axle equipment; Helpers on low bed when assigned at the discretion of the employer , warehousemen, Forklift operators

CLASS III - Three axle equipment and Tiremen

CLASS IV - Four and five axle equipment

CLASS V - Specialized earth moving equipment under 35 tons other than convential type trucks, Low bed, Vachual, Mechanics, Paving restoration equipment, Mechanics

CLASS VI - Specialized earth moving equipment over 35 tons

CLASS VII - Trailers for earth moving equipment (double hookup)

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Mississippi
DECISION NUMBER: MS79-1002
Supersedes Decision No.: MS78-1034 dated April 14, 1978, in 43-FR-16065
DESCRIPTION OF WORK: Sewer Line and Water Line Construction

COUNTY: Statewide *See below
DATE: Date of Publication

	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE VI
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Bricklayers		5.50				
Carpenters & form setters	4.53	5.50	4.00	4.50	7.00	5.38
Cement masons	4.10	2.90	4.00	3.75	3.18	4.50
Chain saw operators	3.00					
Electricians		8.95+a	8.95+a	7.16	8.95+a	
Grade checkers		2.90				
Ironworkers:						
Structural			8.10+b		8.10+b	
Reinforcing	4.00		2.90		6.00	
Laborers:						
Air tool operator						2.90
Laborers	2.90	2.90	2.90	2.90	3.00	2.90
Mortar mixers	3.25					
Pipelayers	3.00	3.00	3.48	3.15	4.00	4.00
Painters		3.90			4.75	
Truck drivers	2.90	2.90	4.50	3.00		3.50
Welders	4.00				3.33	
POWER EQUIPMENT OPERATORS						
Backhoe	3.97	4.09	4.41	4.00	5.29	5.00
Bulldozer	4.08	4.25	5.00	3.75	4.86	4.25
Concrete finishing machine		6.63				
Crane	5.00	4.75	5.00	4.00	5.50	7.00
Drilling machine	4.00	3.76	4.10		4.10	5.27
Elevating machine		4.25				
Front end loader	3.50	3.50	5.00	4.00		5.00
Gradall		4.98				
Mechanic	4.09	4.50	5.58	5.50		4.00
Motor patrol	3.50	4.00	4.50	4.55		
Oiler-greaser	4.00	2.90	4.25	4.50	3.38	2.90
Piledriver		5.00			5.00	
Roller	3.00		3.50	3.60		
Scraper	4.50	4.25	4.50	4.55	4.00	
Tractor		2.90			5.00	4.00
Trenching machine	2.90	3.50	4.01	5.00		4.75
Winch		4.25	4.25			3.35

MS79-1002 (Continued) Page 2

FOOTNOTES:

a. .37 Health & Welfare; .09 Pension; .06 Apprentice Training

b. .35 Health & Welfare; .35 Pension; .04 Apprentice Training

* COUNTIES:

ZONE I: Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo Union, and Webster.

ZONE II: Bolivar, Carroll, Coahoma, DeSoto, Grenada, Leflore, Montgomery, Panola, Quitman, Sunflower, Tallahatchie, Tate, Tunica, Washington, and Yalobusha.

ZONE III: Claiborne, Copiah, Hinds, Holmes, Humphreys, Issaquena, Madison, Rankin, Sharkey, Simpson, Warren, and Yazoo.

ZONE IV: Attala, Clarke, Jasper, Kemper, Laudordale, Leake, Neshoba, Newton, Noxubee, Scott, Smith, and Winston.

ZONE V: Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, and Wilkinson.

ZONE VI: George, Hancock, Harrison, Jackson, Pearl River, and Stone.

[FR Doc. 79-1639 Filed 1-18-79; 8:45 am]

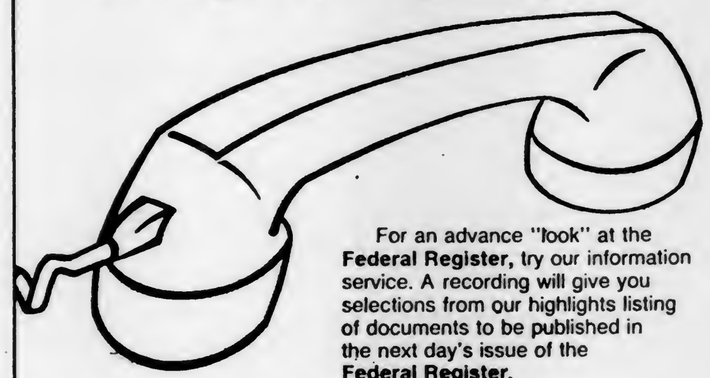
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federal register

BOOK 2 OF 2 BOOKS

FRIDAY, JANUARY 19, 1979
PART V



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

IMPROVING GOVERNMENT REGULATIONS

Publication of Semiannual Agenda

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[4110-12-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

IMPROVING GOVERNMENT REGULATIONS

Semiannual Agenda of Regulations

AGENCY: Department of Health, Education, and Welfare.

ACTION: Publication of the semiannual agenda of regulations (Improving Government Regulations).

SUMMARY: The President's Executive Order on Improving Government Regulations, Executive Order 12044, requires each Federal agency to publish at least twice a year a list of significant regulations under development. HEW published its first semiannual agenda in the May 30, 1978 FEDERAL REGISTER. This semiannual agenda contains: (1) *all* non-FDA regulations being developed within the Department; and (2) FDA regulations classified as "policy significant." The Department plans to publish its next semiannual agenda by June 30, 1979.

ADDRESS: For inquiries or comments related to specific regulations listed in the agenda, the public is encouraged to contact the appropriate responsible individual. Questions or comments concerning the overall agenda should be sent to Rick Cotton, Executive Secretary to the Department of Health, Education, and Welfare, 200 Independence Avenue, S.W., Washington, D.C., 20201.

Dated: January 2, 1979.

JOSEPH A. CALIFANO, JR.,
Secretary.

U.S. OFFICE OF EDUCATION

[4110-12-C]

TITLE	CLASSIFICATION	STATUTORY BASE	NEED TO REGULATE	DESCRIPTION	*RA	CONTACT
Adult Education (NPRM)	Policy Significant	Adult Education Act, P.L. 91-230, as amended by Education Amendment of 1978. P.L. 95-561	Regulations are needed to provide uniform interpretation and implementation of the law.	The regulations will expand the current delivery system of adult education and will broaden the outreach of the program.	No	Paul V. Delker, Adult Edu. Prog., Office of Education, 7th & D Sts., S.W., Washington, D.C., (202) 245-2278
Metric Education (NPRM)	Technical	Sec. 403 of P.L. 93-380, as amended by the Education Amendments of 1978. P.L. 95-561	Need to clarify program purpose, objectives, and funding criteria.	The regulations will establish criteria for evaluation of grants to prepare students, parents and other adults to use the metric system.	No	Floyd Davis, Metric Education, Prog., U.S. Office of Education, 831 Riviera Bld., 1832 M. St., N.W. Washington, D.C. 20202 (202) 653-5811
Consumers' Education (NPRM)	Policy Significant	Sec. 811 of P.L. 93-380, as amended by the Education Amendments of 1978. P.L. 95-561	Need to clarify standards and establish uniform evaluation criteria.	Develop the capacity of Education institutions and community agencies to provide consumers' education to persons of all ages.	No	Dustin W. Wilson, Jr., Office of Consumers' Ed., Office of Education 400 Maryland Ave., S.W. Washington, D.C. 20202 (202) 653-5983
Community Education (NPRM)	Policy Significant	Sec. 405 of P.L. 93-380, as amended by the Education Amendments of 1978. P.L. 95-561	Regulations are needed to clarify the law.	The regulations will expand the scope and responsibilities of the present community education program.	No	Julie Englund, Community Education Program, Office of Education, 7th & D Sts., S.W. Washington, D.C. 20202 (202) 245-0691
Youth Employment (NPRM)	Policy Significant	Sec. 627 of Education Amendments of 1978. P.L. 95-561	Regulations are needed to interpret and clarify the law.	Regulations will establish requirements to prepare children to take their place as working members of society.	No	Sid High, Office of Career Education, U.S. Office of Education, 7th & D Sts., S.W., Washington, D.C. 20202 (202) 245-2335

*RA - Regulatory Analysis (Yes/No)

Basic Skills Improvement Program (R2R) (NPRM)	Policy Significant	Title II & Title IX, Part B, Education Amendments of 1978 (P. L. 95-561)	Law in general terms in the two applicable titles thereby requiring clarification.	Expands National Reading Improvement Act Program affecting all States, LEAs, and many non-public schools.	No	Tom Keyes, Program Officer, Office of Education, 400 Maryland Ave., S.W., Washington, D.C. 20202 (202) 245-2710
Gifted & Talented (NPRM)	Technical	Education Amendments of 1978 (P.L. 95-561)	Required to incorporate changes of Ed. Amendments of 1978 and write in simple English.	Revised the present regulations to provide interested parties, a better understanding of the program.		Dr. Dorothy Sisk, Director, Office of Gifted & Talented, Office of Education 7th & D Sts., S.W. Washington, D.C. 20202 (202) 245-2482
Handicapped Children Early Education Program (NPRM)	Technical	Education Amendments P.L. 94-142	Law in general terms and require clarification to include all age groups. Also write in simple English.	Provides funds for Handicapped children's Early childhood Education.	No	Dr. William Swan, Division of Innovation & Development, BEH, Rm. 3120, Donohoe Bldg. 400 Maryland Ave., S.W. Washington, D.C. 20202 (202) 245-9722
Indian Education Program (NPRM)	Policy Significant	Ed. Amendment of 1978 P.L. 95-561	Law in general terms, needs to clarify existing regulations.	Supports all phases of Indian Education children and adults.	No	Dr. John Tippeconic U.S. Office of Education Rm. 2177, ROB-6 400 Maryland Ave., S.W. Washington, D.C. 20202 (202) 245-8020
Handicapped Media Services (NPRM)	Technical	Ed. Amendment of 1977 P.L. 95-49	Incorporate minor language change and write in simple English.	The regulations govern the administration of programs which provides a free loan service of captioned films for the deaf and promotes the educational and cultural advancement of handicapped persons through research and the use of media and technology.	No	Barry E. Katz, U.S. Office of Education Rm. 4819, Donohoe Bldg. 400 Maryland Ave., S.W. Washington, D.C. 20202 (202) 472-4640

General Provisions Relating to Student Assistance Program (FINAL)	Policy Significant	Section 497-A of the Higher Education Act of 1965, as amended (P.L. 94-482)	Statute in general terms - implementing provisions need regulation (NPRM pub. 8/10/78)	This regulation will establish fiscal and administrative standards for institutions participating in	No	William L. Moran Chief, Basic Grants Policy Section, OPPD/ BSFA/OE, Rm. 4318, ROB-3 400 Maryland Ave., S.W. Washington, D.C. 20202
1979-1980 Basic Grant Family Contribution Schedule (FINAL)	Technical	Sec. 411(a)(3)(A)(i) of the Higher Edu. Act of 1965, as amended (P.L. 94-482)	Statute requires the annual publication of the Family Contribution Schedule (NPRM pub. 8/14/78)	The Family Contribution Schedules are the formula used in determining eligibility on the basis of financial need for the Basic Educational Opportunity Grants Program.	No	Same as above
Basic Educational Opportunity Grant Program-Administrative and Technical (FINAL)	Technical	Sec. 411 of the Higher Education Act of 1965, as amended (P.L. 94-482)	New regulations which revise and consolidate existing program regulations and incorporate applicable provisions of the Education Amendments of 1976 and the Middle Income Student Assistance Act (NPRM pub. 5/15/78)	These regulations govern institutional administration of the Basic Grant Program, computation of awards, and all other areas of program administration except the Family Contribution Schedules.	No	Same as above
HEAL (NPRM)	Policy Significant	Title VII, Part C, Subpart 1, PHS Act as amended (P.L. 94-484, P.L. 95-83, P.L. 95-215)	To implement three major provisions of law never regulated before.	This regulation will establish requirements for non-student borrowers, withholding of Federal reimbursement for health services from defaulted HEAL loans for service in health manpower shortage areas.	No	David Bayer, Acting Chief, GSL Branch, BSFA, Rm. 4002, ROB-3, 7th & D Sts., S.W. Washington, D.C. 20202 (202) 245-9717

GSL (503) Interest Benefits & Special Allowance (FINAL)	Policy Significant	Higher Education Act of 1965 as amended (20 U.S.C. 1071-1087-4) (P.L. 94-482)	Regulations required by Sec. 503 of the Education Amendments of 1972 (P.L. 92-318) Implementing changes to current regulations required by the Ed. Amendments of 1976 (P.L. 94-482) Middle Income Student Assistance Act (P.L. 95-566)	This regulation will establish requirements for the GSLP.	No	David Bayer, Acting Chief, GSL Branch BSFA, Rm. 4002, ROB-3 7th & D Sts., S.W. Washington, D.C. 20202 (202) 245-9717
NDSL, CWS, & SEOG (NPRM)	Technical	HEA of 1965 (P.L. 94-482)	Law in general terms implementing instructions needed.	This regulation will change institutional application procedures for the campus-based programs. Public comment has been requested on the NPRM.	No	Tom Butts, Special Assist. to Deputy Commissioner for BSFA, Rm. 4662, ROB-3 7th & D Sts., S.W. Washington, D.C. 20202 (202) 245-0231
NDSL, CWS, & SEOG (FINAL)	Technical	HEA of 1965 (P.L. 94-482)	Need to finalize an Interim Regulation and rewrite in plain English.	The regulations govern the administration of three programs of assistance to students with financial need to achieve the benefits of post-secondary education.	No	Norman Brooks, Acting Chief Policy Section, Campus-Based Branch, BSFA, Rm. 4018, ROB-3 7th & D Sts., S.W. Washington, D.C. 20202 (202) 245-9720

Ethnic Heritage Studies (NPRM)	Technical	The Elementary and Secondary Act of 1965, as amended by the Ed. Amendments of 1972, 1974, and 1978	Technical changes needed in the existing regulations and to simplify and revise the criteria.	This regulation will improve the existing criteria for eligibility and for selection of applicants for grants.	No	Stanley Wilcox, Acting Chief, Ethnic Heritage Studies Branch, U.S. Office of Education Rm. 3913, ROB-3 400 Maryland Ave., S.W. Washington, D.C. 20202 (202) 245-2761
Law School Clinical Experience Program (NPRM)	Policy Significant	Title XI of the HEA of 1965 as amended by P.L. 90-575, 92-318, 94-482	Program was initially authorized for one year (1978). Funds have been appropriated for FY 1979.	This regulation provides rules for establishing and expanding programs in law schools to provide clinical experience to students in the practice of law.	No	Donald Bigelow, Bureau of Higher and Continuing Education, (Rm. 3060) ROB-3, 400 Maryland Ave., S.W., Washington, D.C. 20202 (202) 245-2347
Institutional Eligibility (NPRM)	Policy Significant	HEA of 1965, as amended	To clarify procedures currently used by the Agency to determine the eligibility of post-secondary institutions. These procedures are being used but they have not been published.	This regulation will establish the procedures that the Commissioner of Education uses to determine the eligibility status of postsecondary institutions.	No	John R. Proffitt, Director of Eligibility and Agency Evaluation, BHCE, U.S. Office of Education, Rm. 3030, ROB-3, Washington, D.C. 20202 (202) 245-9873
Criteria for Recognition of National Accrediting Bodies and State Approval Agencies (NPRM)	Policy Significant	Veterans Readjustment Assistance Act of 1952, plus 23 other statutory authorities including P.L. 92-318	Simplify and revise the criteria.	This regulation will establish the Commissioner's procedures for selecting nationally recognized accrediting agencies who are reliable authorities concerning the quality of education or training offered by educational institutions or programs they evaluate.	No	Same as above

Title 1, ESEA Evaluation (FINAL)	Policy Significant	P.L. 93-380 as amended by P.L. 95-561	Law requires Commissioner to mandate evaluation models and standards.	This regulation establishes models and standards for the evaluation of Title I projects.	May Not Decided	Dr. Judith Burnes, OPBE, U.S. Office of Education, Rm. 3049, 400 Maryland Ave., S.W. Washington, D.C. 20202 (202) 245-8364
National Diffusion Network (NPRM)	Policy Significant	Ed. Amendments of 1978 P.L. 95-561	Law requires program changes.	These regulations govern the selection of projects and establish criteria for awards.	No	Dr. Andrew M. Lebby Office of Education Rm. 3616, ROB-3 400 Maryland Ave., S.W. Washington, D.C. 20202 (202) 245-9582
Arts Education (NPRM)	Policy Significant	The Arts Education Act of 1978	Required by law to broaden eligibility requirements.	These regulations govern the selection of all grantees and some contractors establish eligibility requirements, and criteria.	No	Dr. Harold Arberg Office of Education Rm. 3728, Donohoe Bldg. 400 Maryland Ave., S.W. Washington, D.C. 20202 (202) 472-7793
Education Division General Provisions Regulations (NPRM)	Policy Significant	P.L. 92-318 as amended by Ed. Amendments of 1978 - P.L. 95-561	Recodification under Operation Common Sense and to implement Ed. Amendments of 1978.	These regulations govern all fiscal and administrative requirements for the Education Division programs.	No	Dr. Marcel DuVall Office of Education 400 Maryland Ave., S.W. Rm. 508, Reporters Bldg. Washington, D.C. 20202 (202) 472-7773
Women's Educational Equity Act Program (NPRM)	Policy Significant	Women's Educational Equity Act of 1978	Implement the law establishing criteria and priorities.	These regulations will establish criteria and priorities for financial assistance to provide educational equity for women in the U.S.	No	Dr. Mary Jane Smalley Women's Program Staff Office of Education Rm. 2147, FOB-6 400 Maryland Ave., S.W. Washington, D.C. 20202 (202) 245-2181

Law-Related Education (NPRM)	Policy Significant	Education Amendments of 1978, P.L. 95-561	Law requires the Commissioner to award grants and contracts to provide law-related education programs.	Purpose is to encourage SEAs and LEAs and other public and non-profit agencies, organizations, and institutions to provide law-related education programs.	No	Mr. Steven Winnick Office of Education 400 Maryland Ave., S.W. Rm. 4091 Washington, D.C. 20202 (202) 245-8953
Bilingual Education (INTERIM FINAL)	Policy Significant	Education Amendments of 1978, P.L. 95-561	To implement requirements emanating from Pub. L. 95-561.	The interim regulation establish criteria to determine English language proficiency levels of eligible children, provide parental participation, information for provision of training under a basic program, pre-inservice training, and repayment or work criteria to fellowship recipients, and evaluation criteria.	No	Ms. Barbara J. Walls Office of Education 400 Maryland Ave., S.W. Rm. 421, Reporters Bldg. Washington, D.C. 20202 (202) 447-9273
Bilingual Education (NPRM)	Policy Significant	Same as above	To implement the law.	Will establish standards and procedures for eligibility requirements, definitions, program requirements, evaluation procedures, and use of funds.	No	Same as above
Education Hearing Board (NPRM)	Policy Significant	Commissioners policy and The Education Amendments of 1978 P.L. 95-561	Extend the jurisdiction of the Title I ESEA Audit Hearing Board and implement requirements of the law.	These proposed regulations establish an Education Hearing Board to provide imperative administrative procedures for resolution of adverse monetary audit findings for State-administered programs.	No	Dr. David Pollen Office of Education 400 Maryland Ave., S.W. Rm. 4051 Washington, D.C. 20202 (202) 245-7836

SAFA - School Construction-Amendments Sec. 10 (NPRM)	Policy Significant	P.L. 81-815, as amended	A Departmental decision requires regulatory changes to implement new program priorities.	Regulations to determine LEAs ability to provide suitable free public education and change priorities to include major renovation or new construction to meet life safety and accessible to handicapped standards.	No	Dr. William W. Chase Office of Education 400 Maryland Ave., S.W. Rm. 2067 Washington, D.C. 20202 (202) 245-8412
SAFA - Technical Amendments-Maintenance and Operation (FINAL)	Policy Significant	P.L. 81-874, as amended	To incorporate changes recommended by GAO and others to improve administration of the program	These regulations incorporate certain requirements governing the awarding of Federal assistance to school districts enrolling certain categories of children receiving free public education in areas affected by Federal assistance. They will establish uniform determination of eligibility for those who work on Federal property.	No	Mr. William Stormer Office of Education 400 Maryland Ave., S.W. Rm. 2107-A Washington, D.C. 20202 (202) 245-8427
Library Services and Construction Act Amendments (FINAL)	Technical	P.L. 95-123	Required by Law.	Establish rules for matching Federal funds, change base year for maintenance of effort requirements for handicapped; and add emphasis to major urban resource libraries.	No	Mrs. Elizabeth H. Hughey Office of Education 400 Maryland Ave., S.W. Rm. 3119-B, ROB-3 Washington, D.C. 20202 (202) 472-5150
Correction Education (NPRM)	Policy Significant	Correction Education Demonstration Project Act of 1978, Title III, Secs. 371-374 of Part J of the Education Amendments of 1978, P.L. 95-561	Statute is very general. Implementing institutions needed.	These regulations will establish application eligibility and requirements and selection criteria for applicants for support under the Act.	No	James Spillane, U.S. Office of Education Rm. 2047, FOB-6 400 Maryland Ave., S.W. Washington, D.C. 20202 (202) 245-7292

TITLE	CLASSIFICATION	STATUTORY BASE	NEED TO REGULATE	DESCRIPTION	*RA	CONTACT
Educational Improvement, Resources, and Support (NPRM)	Policy Significant	Amendment to Title IV of the Elementary and Secondary Education Act of 1965 (P.L. 95-561)	The statute sets general policy; major important implementing provisions need regulation. Also, the Department has set new policies which require modification of the regulations.	The regulation will establish requirements for State administration of programs for acquisition of instructional materials and school library resources; for the improvement in local educational practices; and for guidance, counseling, and testing.	No	Louise V. Sutherland School Media Resources Branch, Bureau of Elementary and Secondary Education, USOE, 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 245-2488
Indochina Refugee Children Assistance Act (NPRM)	Policy Significant	The Education Amendments of 1978, Title XIII, Part C, Sec. 1331	Provision of educational services to Indochinese refugee children and guidance for SEA program administration	These regulations will establish requirements for LEA's and SEA's regarding educational services for Indochinese refugee children.	No	James H. Lockhart Director, IRTF HEW/OE FOB-6, Rm. 2189 400 Maryland Ave., S.W. Washington, D.C. 20202 (202) 245-3081

TITLE	CLASSIFICATION	STATUTORY BASE	NEED TO REGULATE	DESCRIPTION	RA	CONTACT
Financial Assistance for Environmental Education Projects (NPRM)	Technical	The Environmental Education Act (P.L. 91-516, as amended by P.L. 93-278 and Title III, P.L. 95-561	Law provides general policy, implementing instructions are needed. Department has set a new policy which requires revision of regulations for purposes of simplification.	These regulations will describe the requirements for the award of grants for environmental education projects.	No	Sylvia Wright Program Officer Office of Environmental Education U.S. Office of Education FOB-6, Room 2025 400 Maryland Avenue, S.W. Washington, D.C. 20202 (202) 245-9231
Administration of Education Programs and Duties of the State Educational Agency (ESEA, Title V-A) (NPRM)	Policy Significant	Education Amendments of 1978	Law in general terms implementing instructions needed	This regulation will govern the program for consolidated administration of ESEA Titles I and IV	No	David G.Phillips Division of State Educational Assistance Programs, OE, 400 Maryland Ave.,SW, Washington, DC 20202, (202) 245-2495
Strengthening State Educational Agency Management (ESEA, Title V-B) (NPRM)	Policy Significant	Education AMendments of 1978	Law in general terms, implementing instructions needed	This regulation will govern a grant program to strengthen the leadership and management roles of SEAs	No	

TITLE	CLASSIFICATION	STATUTORY BASE	NEED TO REGULATE	DESCRIPTION	*RA	CONTACT
Emergency School Aid (NPRM)	Policy Significant	The Education Amendments of 1978 (P.L. 95-561)	Law in general terms; implementing instructions needed	This regulation will clarify the status and establish program standards for issuing grant awards	No	L. Ann Benjamin Program Analyst Equal Education Opportunity Program Rm. 2011 400 Maryland Ave. S.W. Washington, D.C. (202) 245-8230
Special Assistance to State Education Agencies (NPRM)	Policy Significant	No Statute	No Law Program Authorized in FY 79 Budget request to Congress	These regulations will set out criteria for awarding SEA grants for FY '79	No	E. F. Jackson Program Analyst Equal Educational Program Rm. 2011 400 Maryland Ave. S.W., Washington, D.C. 20202 (202) 245-8230
Programs for Children With Special Educational Needs (NPRM)	Policy Significant	Title I, Elementary and Secondary Education Act.	Some parts of law are general-others require regulations	These programs provide supplemental financial assistance to: (a) Local educational agencies for projects designed to meet the special educational needs of educationally deprived children in low-income areas; (b) State agencies to meet the special educational needs of handicapped, neglected or delinquent children; and (c) State Education Agencies to meet the special educational needs of migratory children.	No	Dr. John Stackle 400 Md. Ave., S.W (Room 3642 Rob3) Wash. D.C. 20202

TITLE	CLASSIFICATION	STATUTORY BASE	NEED TO REGULATE	DESCRIPTION	*RA	CONTRACT
Follow Through (NPRM)	Policy Significant	The Economic Opportunity Amendments of 1978 (P.L. 95-568	The Department is considering major chaoge in policy and is requesting public comment on proposal	This regulation will establish criteria for a second generation of Follow Through projects and sponsors.	No	Fred Bresnick Program Coordinator Division of Follow Through 400 Maryland Ave., S.W. (ROB#3 - Rm. 3624 Washington, D.C. 20202 (202) 245-2501

TITLE	CLASSIFICATION	BASE	REGULATE	DESCRIPTION	*RA	CONTACT
Biomedical Sciences (NPRM)	Policy Significant	Education Amendments of 1978 (P.L. 95-561)	Law in general terms implementing instructions needed	Program assist target youth to prepare and to pursue a course of study leading to one of the biomedical professions or occupations.	No	Simon McNeely Senior Program Coordination Officer/BESE/SLEP 400 Md. Ave.,SW Washington, D.C. 20202 (202) 245-8407
Health Education Program (NPRM)	Policy Significant	Education Amendments of 1978 (P.L. 95-561)	Law in general terms implementing instructions needed	The proposed regulations would govern the awarding of grants to State and local educational agencies which are designed to establish and support programs of health education in elementary and secondary schools	No	Simon McNeely Senior Program Coordination Officer/BESE/ SLEP 400 Md. Ave.,SW Washington, D.C. 20202 (202) 245-8407

Assistance for Maintenance and Operation and School Construction in Areas Affected by Federal Activities (NPRM)	Policy Significant	Education Amendments of 1978 (P.L. 95-561)	Statute specifically requiring regulations; the statute sets general policy, major important implementing provisions need regulation; the Department has set new policies which require new or modified regulations.	The regulations govern reports, membership, average daily attendance, employment conditions of certain school personnel, nonpublic education of a handicapped child, children who live on Indian lands, elective school boards and payments in States that equalize expenditures among local educational agencies.	Mr. William L. Stormer Director, Division of School Assistance in Federally Affected Areas, Room 2107, 400 Maryland Ave., S.W Washington, D.C. 20202 Telephone (202) 245-8427

TITLE	CLASSIFICATION	STATUTORY BASE	NEED TO REGULATE	DESCRIPTION	ERA	CONTACT
Preschool Partnership Programs (NPRM)	Policy significant.	Education Amendments of 1978	Law in general terms; implementing instructions needed	Regulations will establish requirements for participation in parent/early childhood pilot projects	No	Dr. Ernest A. Crider or Miss Beryl Parke Parent/Early Childhood and Special Programs Staff, DESE, OE Room 2083 400 Md. Avenue, S.W. Wash., D.C. 20202 202/245-8118
Population Education (NPRM)	Policy significant	Education Amendments of 1978	Law in general terms; Implementing instructions needed	Regulations will establish requirements for participation in a program population education in elementary and secondary schools	No	As Above
Special Grants for Safe Schools (NPRM)	Policy Significant	ESEA Title IX, Part D, P.L. 89-10, as amended by The Education Amendments of 1978.	The Statute sets general policy, important implementing provisions need regulations.	The regulations will define terms, establish selection criteria, emphasize program direction, and limit amount of funds for equipment and remodeling.	No	Robert L. Thomas Educatior Program Specialist, Division of State Educational Assistance Program 400 Maryland, Ave. S.W. (Rm.3C10, ROB Washington, D.C. 20202 (202)245-2605

	CLASSIFICATION	BASE	REGULATE	DESCRIPTION	*RA	CONTACT
Title I, ESEA Migrant (MPSM)	Policy Significant	Education Admendments of 1978 (P.L. 95-561)	Statute specifically requires Regulations	These regulations establish State and local advisory councils, adjust summer count of children, coordinate migrant education activities, reorder priority of services for currently pre-migratory children, establish a review procedure for State application standards, establish circumstances under which the Commissioner will bypass or reallocate a State's funds.	NO	John D. Ridgway Education Prog Specialist U.S. Office of Education 7th & D Streets, S.W. Washington, D.C. 20202

SOCIAL SECURITY ADMINISTRATION

Title	Classification	Statutory Base	Need to Regulate	Description	PA	Contact
Reorganization and Updating of Reg. No. 1	Policy Significant	Privacy Act of 1974, (Pub. L. 93-579)	Strong public interest in SSA's rules on disclosing information from its records	Provides for disclosure of information from social security records under the Social Security Act, the Freedom of Information Act, the Privacy Act, and other related statutes.	No	Mr. Armand Esposito Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-5551
Totalization Agreements	Policy Significant	Social Security Amendments of 1977 (Pub. L. 95-216)	Law in general terms, implementing instructions needed.	Implements a provision that authorizes the President to enter into bilateral agreements with other countries to provide for coordination between the social security system of the United States and other countries. Permits each country to establish entitlement to and amount of benefits based on a combination of a person's periods of coverage under social security systems of both countries.	No	Mr. John Mosler. Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7337
New Methods for Computing Benefit Amounts	Technical	Social Security Amendments of 1977 (Pub.L. 95-216)	Required to publish definition of "average of the total wages," and need for complex provisions to be explained in layman's language.	Explains the decoupling provisions of the Social Security Amendments of 1977 whereby a worker's basic benefit amount is computed from his earnings as a ratio of the total earnings of all workers. Explains the amended provisions for computing minimum benefit amounts and cost-of-living increases and recomputing the basic benefit.	No	Mr. Jack Schanberger Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-6785
Reduction of Benefits to Maximum	Technical	Social Security Amendments of 1977 (Pub. L. 95-216)	To complement regulations on "New Methods for Computing Benefit Amounts."	Provides a new formula for determining the maximum monthly benefit that a family can receive.	No	Mr. Jack Schanberger Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-6785

Title	Classification	Statutory Base	Need to Regulate	Description	PA	Contact
Reduced Benefits for Spouses Receiving Government Pensions	Policy Significant	Social Security Amendments of 1977 (Pub. L. 95-216)	To explain to the public a controversial provision of the Social Security Amendments of 1977.	Explains the pension offset provision whereby a spouse's social security benefit will be offset, or reduced by the amount of a public pension to which he or she is eligible. There is an exception—offset does not apply to spouses who are eligible for a public pension anytime before December 1982 and who meet the social security requirements that were in effect in January 1977 (i.e., an applicant for husband's or widower's benefits must have met a one-half support requirement).	No	Mr. Jack Schentenger Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-6705
The Retirement Test; The Elimination of the Monthly Test, and the Age at Which the Retirement Test no Longer Applies	Policy Significant	Social Security Amendments of 1977 (Pub. L. 95-216)	Law does not provide specificity for implementation	Implements a provision which permits payment of monthly benefits because of low earnings in a month only at the time of initial retirement. Thereafter, the right to payments depends on earnings in a year.	No	Ms. Clara [illegible] Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235
Effects of Annual Wage Reporting	Policy Significant	Social Security Amendments of 1977 (Pub. L. 95-216)	The Social Security Amendments of 1977 require that we publish a definition of "the average of the total wages." This definition is used when we determine whether the amount of a person's income subject to social security taxes must be increased.	Reflects a change granting military wage credits for compensation other than cash. Changed from a monthly amount to an annual amount to conform to new annual reporting of wages.	No	Mr. Armand [illegible] Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-5551

Title	Classification	Statutory Base	Need to Regulate	Description	RA	Contact
Recovery of Overpayments; Extension of Recovery Period	Technical	Secs. 204 and 205 of the Social Security Act.	Regulations prepared to preclude statutory amendment proposed by a Senator. Interim regulations published to alleviate public relations problem in State of Oregon	Liberalizes the period for recovery of an overpayment by removing the present 3-year time limitation in which overpayments must be recovered.	No	Mr. Marvel Cater Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7463
Reference Changes to Reflect Transfer and Recodification of Medicare Regulations	Technical	Secs. 205(a), 1102, and 1362 of the Social Security Act.	Cross references to be changed due to reorganization.	Modifying various references to 20 CFR Part 405 to reflect the redesignation of those regulations to 42 CFR Part 405 and which make the Health Care Financing Adm. rulings binding on all SSA components.	No	Mr. Phil Berne Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-59--7-52
State and Local Government Wage Reporting Requirements; Annual Basis	Policy Significant	An Act to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by by establishing uniform review procedures under such titles, and for other purposes (Pub. L. 94-202)	This change will make all wage reports due annually. We currently have different schedules for private and State employers.	These regulations change the States obligation for filing wage reports from one each quarter to one each year. This will reduce SSA's and the States' processing times.	No	Mr. Armand [illegible] Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-5551
State and Local Coverage--Frequency with Which States Should Deposit Social Security Contributions	Policy Significant	Sec. 218(e) of the Social Security Act	This change to the deposit schedule will increase substantially the amount of interest income to the social security trust funds.	These regulations would require States to pay their FICA contributions 15 days after the end of each month rather than 45 days after each quarter. This speedup in collections will add millions of dollars per year to the trust funds.	No	Mr. Armand [illegible] Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-59--5551

Title	Classification	Statutory Base	Need to Regulate	Description	RA	Contact
Guidelines for Adjudicating Disability Claims in Which Vocational Factors Must Be Considered	Policy Significant	Secs. 205, 223, 1102, 1614, and 1631 of the Social Security Act, as amended	Consolidating and incorporating these policies into the regulations will serve to make clearer to claimants and their representatives how disability is determined where vocational factors must be considered.	Expand existing regulations to include additional detailed criteria for the evaluation of claims based on disability (under Titles II and XVI of the Social Security Act) in which a determination of disability cannot be made on medical severity alone or on the ability to do past work. Provides rules for evaluating age, education, and work experience in these kinds of disability claims.	No	Mr. William Ziegler Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7415
Disability Insurance Supplemental Security Programs Substantial Gainful Activity--Guidelines for 1978	Policy Significant	Secs. 223 and 1614 of the Social Security Act	The Social Security Act directs the Secretary to prescribed SGA criteria by regulations.	Increases the dollar amounts for determining whether a person's earnings show the ability to perform SGA for calendar years 1978 and 1979 and later.	No	Mr. James MacDonald Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7319
Revised Medical Criteria for the Determination of Disability	Policy Significant	Secs. 205(a), 1102, & 1614(a) of the Social Security Act.	Update present Listing to reflect medical advances and diagnosis and treatment that have occurred since last published Listing in 1968.	Revises the medical evaluation criteria currently used in the SSI and social security disability programs which describe the level of severity deemed sufficient to prevent a person from engaging in any gainful work activity. Recognizes medical advances both in treatment and in methods used to evaluate severity of particular impairments.	No	Mr. Harry Short Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7455
Eligibility of Individuals Residing in Publicly Operated Community Residences Serving No More Than 16 Residents	Technical	Unemployment Compensation Amendments of 1976 (Pub. L. 94-566)	Rules are needed to define what is and what is not a publicly operated community residence serving 16 or fewer residents.	Provides that the term "public institution" does not include publicly operated community residences which serve no more than 16 residents. Also defines what are and are not publicly operated community residences which serve no more than 16 residents.	No	Mr. Sander Wiseman Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7341

Title	Classification	Statutory Base	Need to Regulate	Description	RA	Contact
Evidence of Permanent Residence in the United States Under Color of Law	Policy Significant	Sec. 1614(a)(1)(B) of the Social Security Act	To provide undocumented aliens another way to establish permanent residence in the United States under color of law.	Provides that aliens who have continuously resided in the United States since before January 1, 1970 will be presumed to be permanently residing in the United States under color of law for purposes of eligibility for SSI payment.	No	Mr. Sander Wiseman Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7341
Filing Date for Applications Based on Oral Inquiry	Policy Significant	Secs. 1102, 1611, and 1631 of the Social Security Act.	Under current regulations persons who make an oral inquiry about their eligibility for SSI benefits and are advised they are ineligible and therefore do not file an application cannot claim retroactive benefits if it is later found they were eligible. These regulations will protect such persons from losing benefits.	Specifies when the date of an oral inquiry is considered the filing date of an application for supplemental security income benefits.	No	Mr. Cliff Carry Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7519
Reductions of SSI Payments to Individuals in Substandard Institutions	Policy Significant	Unemployment Compensation Amendments of 1976 (Pub. L. 94-566)	Regulations will implement sec. 1616(a)(4) of the Social Security Act by setting forth method SSA will use for penalty reduction of SSI payments.	Prescribes the method of reducing SSI benefits payable to persons residing in facilities that do not meet approved State standards.	No	Ms. Virginia Nolan Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-6629

Title	Classification	Statutory Base	Need to Regulate	Description	RA	Contact
Amount of Benefits; Computation of Certain Benefits Under Title XVI; Essential Persons	Technical	Unemployment Compensation Amendments of 1976 (Pub. L. 94-566)	Secretariel decision to delete from regulations all benefit amounts which previously reflected cost-of-living increases.	Deletes tables of increased benefit amounts from existing regulations. Reference is made to basic statutes and to notices in the Federal Register to ascertain current benefit amounts.	No	Mr. Marval Caner Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7463
Unearned Income, One-Third Reduction for Living in Another Person's Household	Policy Significant	Sec. 1612 of the Social Security Act.	Rules are needed to describe when the one-third reduction applies and when it does not apply.	Provides that the standard payment amount for an eligible individual (or couple) who lives in another person's household and receives support and maintenance from such person will be reduced by one-third. The actual value of such support and maintenance is not established.	No	Mr. Sander Wolosan Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7141
Medical and Social Services Which Are Not Income	Policy Significant	Sec. 1612 of the Social Security Act	To fulfill sec. 1612(b)(6) of the Social Security Act.	Excludes from the SSI definition of income certain medical and social services. This means those furnished in conjunction with any governmental or nongovernmental assistance program based on need.	No	Mr. Henry Lerner Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7141
Exception to the One-Third Reduction Provision and Income and Resources Exclusion When An Individual is Affected by a Major Disaster	Policy Significant	Major Disasters Presidentially declared. (Pub. L. 94-331, Pub. L. 94-955, and Pub. L. 95-171)	Required by statute to be reflected in regulations.	Provides additional exclusions in determining countable income and resources for payments of SSI benefits when an individual is affected by a Presidentially declared major disaster.	No	Mr. Henry Lerner Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7141
Replacement of Damaged or Lost Excluded Resources	Policy Significant	Sec. 1613 of the Social Security Act	These regulations apply to non-Presidentially declared disasters and parallel the major disaster statutes.	Excludes from income and resources, assistance received from any source for the repair or replacement of certain damaged, lost, or stolen property.	No	Mr. Henry Lerner Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7141

Title	Classification	Statutory Base	Need to Regulate	Description	RA	Contact
Exclusion from Resources of the Property Essential to Self Support	Policy Significant	Social Security Amendments of 1972 (Pub. L. 92-603) and Internal Revenue Code of 1954--Distilled Spirits Stamp (Pub. L. 94-569)	Current regulations merely provide that property essential to self-support shall be excluded from resources but do not provide value limitations. These regulations provide the necessary guidelines.	Provides guidelines for determining property essential to self-support is excluded from countable resources under the SSI program. Also provides that even if income-producing property is associated with the home, the home (including land appertaining to it and buildings on the land) is excluded as a resource regardless of its value or use.	No	Mr. John Mahler Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7337
Evaluating Resources on the Basis of Equity and Increasing Dollar Limit on Certain Excluded Resources	Policy Significant	Sec. 1613 of the Social Security Act	Secretarial decision to regulate.	Increases the reasonable value of household goods and personal effects from $1,500 to $2,000 and the value of an automobile from $1,200 to $2,000. Values within these amounts will not affect eligibility for SSI payments. Also provides for evaluating resources on the basis of equity in the resource rather than its current market value.	No	Mr. Henry Lerner Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7141
Permitting Individuals Applying for or Receiving SSI to File for Food Stamps in Social Security Offices	Policy Significant	Food and Agriculture Act of 1977 (Pub. L. 95-113)	Food and Agriculture Act of 1977 is in general terms. SSA needs regulations for instructions	Describes SSA's authority (with the concurrence of the Department of Agriculture) to obtain information from individuals solely for food stamp purposes.	No	Ms. Dorothy Tiggs Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7167
Pass Along Provisions of Federal Supplemental Security Income Benefit Cost-of-Living Increases to State Supplementary Recipients with Limitation on State Cost for Hold-Harmless States	Policy Significant	Food Stamp Distribution to AFDC Families (Pub. L. 94-585)	Law is not specific enough to be entirely self-effectuating.	Implement provisions of sec. 1618 of the Social Security Act by interpreting the statute to include those beneficiaries who receive only State supplementation and to provide guidelines for related State agreements.	No	Ms. Clara Powell Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7[illegible]

Title	Classification	Statutory Base	Need to Regulate	Description	RA	Contact
Social Security Number Issuances	Policy Significant	Social Security Amendments of 1972 (Pub. L. 92-603)	These regulations are necessary to protect the integrity of the social security number by exercising all means available to SSA to curtail the abuse and misuse of the social security number.	Requires that all applicants for social security numbers submit documentary evidence of identity, age, and citizenship or alien status. Also requires that all applicants for duplicate social security number cards submit sufficient evidence to establish their identity.	No	Mr. Phil Berre Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7452
Quality Control System; Incentive Adjustment for Quality Control in Federal Financial Participation in the AFDC Program	Policy Significant	Social Security Amendments of 1977 (Pub. L. 95-216)	To provide methods for calculating payments to States to improve quality control system.	Provides for incentive payments to States for reducing their AFDC error rate below 4 percent.	No	Mr. Sean Hurley Office of Family Assistance Rm. 4111 Switzer Bldg. 330 C Street, S.W. Washington, D.C. 20201 202-24[illegible]
Aid to Families with Dependent Children; Fiscal Disallowance for Erroneous Payments	Policy Significant	Sec. 403 of the Social Security Act	Policies will affect all States and must be published in regulations in order to be binding.	Provides States administering AFDC programs with a fiscal incentive for reducing AFDC quality control error rates.	No	Mr. [illegible] Office of Family Assistance Rm. 4111 Switzer Bldg. 330 C Street, S.W. Washington, D.C. 20201 202-24[illegible]
Standards of Personnel Administration (AFDC)	Policy Significant	Sec. 403 of the Social Security Act	To provide personnel standards that States must abide by.	Revise and recodify policies related to financial assistance programs provided under the Social Security Act. It is necessary to recodify those now administered by SSA, formerly administered by the now defunct SRS.	No	Miss [illegible] Office of Family Assistance Rm. 4111 Switzer Bldg. 330 C Street, S.W. Washington, D.C. 20201 202-245-[illegible]

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Title	Classification	Statutory Base	Need to Regulate	Description	RA	Contact
Disregard of Income Earned by Youth (AFDC)	Technical	Youth Employment and Demonstration Act of 1977 (Pub. L. 95-93)	Rules are needed to exclude income provided by this statute.	Beginning August 5, 1977, earnings received by a youth under Part C of the Comprehensive Employment Act of 1973, shall be disregarded in determining the family's eligibility for, and amount of, any benefit based on need and funded by Federal or federally assisted programs.	No	Mrs. Juanita Henderson Office of Family Assistance Rm. 4111 Switzer Bldg. 330 C Street, S.W. Washington, D.C. 20201 202-245-0203
Protective, Vendor, and Two-Party Payments for Dependents (AFDC)	Policy Significant	An Act to extend certain Social Security Act provisions and for other purposes (Pub. L. 95-171)	To implement sec. 3 of Pub. L. 95-171 which increases from 10% to 20% the Federal matching funds available to States for the number of individuals for whom protective, vendor, and two-party payments can be made in any month.	Increases from 10 to 20 percent the Federal matching of funds for protective and two-party payments in State AFDC cases. Two-party payment checks require endorsement by the individual and the provider of care.	No	Mr. Clifford Wooldridge Office of Family Assistance Rm. 4111 Switzer Bldg. 330 C Street, S.W. Washington, D.C. 20201 202-245-8[illegible]7
Section 1115(b) Demonstration Projects	Policy Significant	Social Security Amendments of 1977 (Pub. L. 95-216)	Regulations will provide policy information needed by States in developing projects and will inform AFDC recipients and the organizations that represent them of requirements to be met by States and Federal government.	Provide necessary details, instructions, and policy for State implementation of experimental pilot and demonstration projects administered by SSA. The purpose is to improve methods and techniques of providing AFDC payments and to promote work incentive.	No	Ms. Virginia Rohan Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-[illegible]

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Title	Classification	Statutory Base	Need to Regulate	Description	RA	Contact
Need and Amount of Assistance; Methods for Budgeting Income (AFDC)	Policy Significant	Sec. 402 of the Social Security Act, as amended	To clarify policies for States to measure income of financial assistance applicants.	Provide a clarification of the budgeting methods which States may use in determining financial eligibility for AFDC payments.	No	Mrs. Constance Katz Office of Family Assistance Rm. 4111 Switzer Bldg. 330 C Street, S.W. Washington, D.C. 20201 202-245-0032
Factors Specific to AFDC Continued Absence of Parent-Prisoner	Policy Significant	Secretarial commitment made to Senator Eastland	To revise policy so that certain families can receive AFDC payments.	Where parent-prisoner returns home in evenings, and does uncompensated public work by day, child is deprived of support for AFDC purposes.	No	Miss Joyce Fernandez Office of Family Assistance Rm. 4111 Switzer Bldg. 330 C Street, S.W. Washington, D.C. 20201 202-245-0032
Access to Wage Record Information Under AFDC	Policy Significant	Social Security Amendments of 1977 (Pub. L. 95-216)	These rules state specific requirements to be met by the States in requesting and using wage information.	States must request and use wage information from State unemployment compensation agency or SSA at specified periods; must maintain certain automated files; must maintain certain safeguards; must maintain statistical records.	No	Miss Helen Hamilton Office of Family Assistance Rm. 4111 Switzer Bldg. 330 C Street, S.W. Washington, D.C. 20201 202-245-1671
Old-Age, Disability Dependents' and Survivors' Insurance Benefits	Policy Significant	Secs. 202, 205, 216, and 223 of the Social Security Act	Incorporates pertinent provisions of P.L. 95-216 and recent court decisions affecting interpretation of certain provisions of the Act.	Describes the requirements for becoming entitled to benefits under Title II of the Act.	No	Mr. Ray Worley Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-5744
Filing Date of Applications and Other Forms	Technical	Secs. 205 and 1102 of the Social Security Act	To provide public with clearer regulations and to implement sec. 332 of the Social Security Amendments of 1977.	Recodifies SSA's requirements for filing applications for RSDHI and SSI benefits.	No	Mr. James MacDonald Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7318

Title	Classification	Statutory Base	Need to Regulate	Description	RA	Contact
Maintenance and Revision of Records of Wages and Self-Employment Income	Technical	Secs. 205 and 1112 of the Social Security Act	To provide public with clearer regulations.	Recodifies SSA's rules on earnings records.	No	Mr. James MacDonald Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7318
Employment-Wages-Self-Employment Income	Technical	Title II of the Social Security Act, as amended.	This subpart is being rewritten under "Operation Common Sense."	This regulation will, in simpler terms, define the types of work that are included or excluded for social security purposes.	No	Mr. Dave Smith Office of Policy and Regulations 6401 Security Blvd. Baltimore, MD. 21235 301-594-7991
Rights and Benefits Based on Disability and Determination of Disability or Blindness	Policy Significant	Secs. 205, 223, 1102, 1614, and 1631 of the Social Security as amended.	These regulations are being rewritten to meet the Department's "Operation Common Sense" standards.	These regulations include the rules for determining disability under Title II and determining disability and blindness under Title XVI of the Social Security Act. These regulations are being rewritten to make them clearer and easier to understand, to remove provisions that are obsolete and rarely applicable, and to examine the policies and consider additions, revisions, and clarifications.	No	Mr. William Ziegler Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7415
Procedures, Payments of Benefits, Determinations, Appeals, and Representation of Parties	Policy Significant	Secs. 205,1102 and 1631 of the Social Security Act	These subparts are being rewritten under "Operation Common Sense."	Explains the administrative review process and procedures relating to claimant representation.	No	Mr. Phil Berge Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7452

Title	Classification	Statutory Base	Need to Regulate	Description	RA	Contact
Income and Exclusions; Supplemental Security Income Program	Policy Significant	Sec. 1612 of the Social Security Act.	To provide the public with clearer regulations.	Explains how we consider income under the supplemental security income program and the amount of individual benefits.	No	Mr. Sander Weissman Office of Policy and Regulations 6401 Security Blvd. Baltimore, Md. 21235 301-594-7341
Financial Assistance Programs	Policy Significant	Titles I, IV-A X, XIV, and XVI (AABD) of the Social Security Act	Simplify and reorganize current regulations to reflect 1977 HEW reorganization and related delegations of authority.	Will combine into one Part existing general rules and procedures on administration of financial assistance programs.	No	Mr. Larry Love Office of Family Assistance Rm. 4111 Switzer Bldg. 330 C Street, S.W. Washington, D.C. 20201 202-245-0982
Date When Assistance Begins	Policy Significant	Sec. 206.10(a) (6) of the Social Security Act	The regulation will bring about consistency and increase uniformity among States and equality for applicants because entitlement to assistance will begin at the same time regardless of residence.	This regulation provides that the date of entitlement of assistance must be the first of the month in which the application is received.	No	Miss Alice Stewart Office of Family Assistance Rm. 4111 Switzer Bldg. 330 C Street, S.W. Washington, D.C. 20201 202-245-1634

U.S. PUBLIC HEALTH SERVICE

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Title	Type	Classification	Statutory Base	Need to Regulate	Description	RA 1/	Contact
Grants for Community Mental Health Centers	F	Policy Significant	P.L. 94-63 P.L. 95-83	Required by statute	Establish requirements for grants & applications for grants under the CMHC Act. It includes requirements for the development, submission, and approval of State plans.	No	Lindsley Williams OPDA/NIMH 5600 Fishers Lane Rockville, Md. (301) 443-3175
Formula Grants for Drug Abuse Prevention Functions	F	Policy Significant	P.L. 92-255 Section 409	Required by statute	Authorizes formula grants to States to assist them in the preparation & admin. of plans for planning, establishing, conducting, & coordinating projects for the development of more effective drug abuse prevention functions in carrying out projects under and otherwise implementing the plans; and in evaluating the results of implementation plans.	No	Nancy Soulen OD/NIDA 5600 Fishers Lane Rockville, Md. (301) 443-1644
Grants to States for Alcohol Abuse & Alcoholism Prevention, Treatment & Rehabilitation Services & National Alcohol Research Centers (Interdisciplinary research grants)	IF	Policy Significant	P.L. 95-26 & P.L. 94-371	Required by statute	Authorizes the designation of National Alcohol Research Centers for the purpose of long-term interdisciplinary research into alcoholism & other alcohol problems and to make grants to such Centers (not to exceed $1,000,000 to any one Center in a year).	No	Susan Farrell Legislative Services NIAAA 5600 Fishers Lane Rockville, Md. (301) 443-4375

Grants to States for Alcohol Abuse and Alcoholism Prevention, Treatment, & Rehabilitation Services & National Alcohol Research Centers (Grants for Uniform Alcoholism & Intoxication)	NPRM	Policy Significant	P.L. 94-371 Section 310	Required by statute	Authorizes special grants to States which have adopted the basic provisions of the Uniform Alcoholism & Intoxication Treatment Act. The Uniform Act requires that alcoholism be viewed as an illness to be treated by community health & social service agencies and that public intoxication be approached as a public health problem rather than a crime.	No	Susan Farrell Legislative Service NIAAA 5600 Fishers Lane Rockville, Md. (301) 443-4375

Title	Classification	Statutory Base	Need to Regulate	Description	RA	Contact
Specifications for Medical Examinations of Underground Coal Miners -- Amendments to Transfer Criteria (42 CFR Part 37)(Final)	Technical	Sec. 203 of the Federal Coal Mine Health and Safety Act, as amended by the Federal Mine Safety and Health Act of 1977	To implement new policies on transfer criteria.	Revises the medical conditions under which coal miners will be allowed to transfer to less dusty areas of coal mines.	No	Mr. Harlan Amandus, Chief, Examination Processing Branch, Division of Respiratory Disease Studies, National Institute for Occupational Safety and Health, Center for Disease Control, 944 Chestnut Ridge Rd. Morgantown, West Va. 26505, 304-923-7306.
Grants for Advancement of Health in Coal Mining (42 CFR Part 55); Requests for Health Hazard Evaluations (42 CFR Part 85); and Occupational Safety and Health Investigations of Places of Employment (42 CFR Part 85a)(NPRM)	Technical	Federal Mine Safety and Health Act of 1977	To implement changes in NIOSH research responsibilities under the Federal Mine Safety and Health Act of 1977.	Amends existing regulations to reflect research responsibilities given to the National Institute for Occupational Safety and Health, Center for Disease Control, under the Federal Mine Safety and Health Act of 1977.	No	Ms. Mary Flint Regulations Specialist, National Institute for Safety and Health, Center for Disease Control, 5600 Fishers Lane, Room 8-11, Rockville, Md. 301-443-3745.
Respiratory Protective Devices -- Use of Approved Devices (30 CFR Part 11)(Final)	Technical	Secs. 202 and 204 of the Federal Coal Mine Health and Safety Act, as amended by the Federal Mine Safety and Health Act of 1977	To establish an extended use date for respirators resulting from policy changes.	Extends the period during which use of certain self-contained breathing apparatus approved under the former Bureau of Mines approval program is allowed.	No	Mr. Robert Schutz, Chief, Testing and Certification Branch, Division of Safety Research, National Institute for Occupational Safety and Health, Center for Disease Control, 944 Chestnut Ridge Rd., Morgantown, W. Va. 26505, 304-923-7331.

Title	Classification	Statutory Base	Need to Regulate	Description	RA	Contact
Grants for Disease Control (42 CFR Part 51b)(Final)	Technical	Secs. 317 and 318 of the Public Health Service Act	To implement changes made by several public laws enacted since existing regulation was issued.	Revises requirements for grants to State and local government agencies to assist them in meeting costs of disease control programs.	No	Dr. J. Donald Millar, Director, Bureau of State Services, Center for Disease Control, Atlanta, Ga. 30333, 404-329-3771, or FTS: 236-3771
Grants for the Prevention of Lead-Based Paint Poisoning (42 CFR Part 91) (Final)	Technical	Secs. 101, 504, and 505 of the Lead-Based Paint Poisoning Prevention Act	To implement changes made by several public laws which amended the Lead-Based Paint Poisoning Prevention Act.	Revises requirements for grants to support programs in prevention of lead-based paint poisoning in children.	No	Dr. Vernon N. Houk, Director, Environmental Health Services Division, Center for Disease Control, Atlanta, Ga. 30333, 404-262-6645 or FTS: 236-6645
Disinsecting of Aircraft (42 CFR Part 71) (NPRM)	Technical	Sec. 361 of the Public Health Service Act	To implement improved procedural changes for disinsecting aircraft.	Eliminates the requirement for routine disinsecting of aircraft on certain international flights landing at airports under U.S. control.	No	Mr. Joseph F. Giordano, Director, Quarantine Division, Bureau of Epidemiology, Center for Disease Control, Atlanta, Ga. 30333, 404-326-3674, or FTS: 236-3674

Title	Type	Classification	Statutory Base	Need to Regulate	Description	RA 1/	Contact
Designation of Health Manpower Shortage Areas	F	Policy Significant	P.L. 94-484 Section 332(b)	Required by statute	To establish criteria for the designation of geographic areas, population groups, medical facilities, and other public facilities, in the States, as health manpower shortage areas	No	Richard Lee Bureau of Health Manpower, HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6764
Programs for the Training of Physician Assistants	F	Policy Significant	P.L. 94-484 Section 701(7)	Required by statute	To prescribe requirements for programs for the training of physician assistants	No	Kenneth Moritsugu Bureau of Health Manpower, HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6424
Grants for Physician Assistant Training Programs	F	Policy Significant	P.L. 94-484 Section 783	Required by statute	To govern grants to public or nonprofit private schools of medicine and osteopathy and other public or nonprofit private entities for projects to plan, develop, and operate or maintain programs for the training of physician assistants	No	Kenneth Moritsugu Bureau of Health Manpower, HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6424
Programs for the Training of Expanded Function Dental Auxiliaries	F	Policy Significant	P.L. 94-484 Section 701(8)(b)	Required by statute	To prescribe requirements for programs for the training of expanded function dental auxiliaries	No	Richard Weaver Bureau of Health Manpower, HRA Center Building 3700 East-West Hwy Hyattsville, Md. 20782 (301) 436-6510

1/ RA - Regulatory Analysis

HEALTH RESOURCES ADMINISTRATION
Health Manpower

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Grants for Programs for the Training of Expanded Function Dental Auxiliaries	F	Policy Significant	P.L. 94-484 Section 783(a)(2)	Required by statute	To govern grants to schools of dentistry and other public or nonprofit private entities for projects to plan, develop and operate or maintain programs to train dental students in the organization and management of multiple auxiliary dental team practice	No	Richard Weaver Bureau of Health Manpower, HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6510
Criteria for Payment of Tuition and other Educational Costs	F	Policy Significant	P.L. 94-484 Section 711	Required by statute	To establish criteria to be used in determining allowable increases in tuition and other educational costs for which the Secretary is responsible under the National Health Service Corps Scholarship Program, the Indian Health Scholarship Program, and Scholarships for First-Year Students of Exceptional Financial Need	No	Donald C. Parks Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6560
Health Professions Student Loans	F	Policy Significant	P.L. 94-484 Section 740-744	Required by statute	To implement requirement for health professions schools to be eligible to participate in the health professions student loan program and for individuals to receive repayment of their eligible loans for service in designated health manpower shortage areas.	No	John Belin Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6310
Traineeships for Students in Schools of Public Health & Other Graduate Public Health Programs	F	Policy Significant	P.L. 94-484 Section 748	Required by statute	To set forth requirements for implementing the Secretary's authority to award grants to schools of public health or nonprofit private educational entities to support traineeships for students in the graudate education programs of these entities in public health	No	Merrill DeLong Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6824

Traineeships for Students in Graduate Programs in Health Administration; Hospital Administration or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other than Schools of Public Health	F	Policy Significant	P.L. 94-484 Section 749	Required by statute	To set forth requirements for implementing the Secretary's authority to make grants to public or nonprofit private educational entities (excluding schools of public health) to support traineeships in graduate educational programs of such entities in health admin. hospital admin., or health policy analysis and planning.	No	Merrill DeLong Bureau of Health Manpower Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6824
National Health Service Corps Scholarships	F	Policy Significant	P.L. 94-484 Section 751	Required by statute	The regs are applicable to the award of scholarships under the National Health Service Corps Scholarships Program to students receiving academic training in medicine, osteopathy, dentistry, and other health professions in order to assure an adequate supply of trained health professions to improve the delivery of health services in health manpower shortage areas	No	Gary Wold Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782
Scholarships for First-Year Students of Exceptional Financial Need	F	Policy Significant	P.L. 94-484 Section 758	Required by statute	The regulations given the award of grants to health professions schools to provide scholarships for full-time first-year students of exceptional need	No	John Belin Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6310

Health Professions Capitation Grants	IF	Policy Significant	P.L. 94-484 Section 770-772	Required by statute	The regs implement the award of annual grants to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry for the support of the education programs of those schools	No	John Westcott Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6564
Special Assurances Required of Schools of Medicine Applying for Health Professions Capitation Grants	F	Policy Significant	P.L. 94-484 Section 771(b)(3)	Required by statute	The regs implement certain requirements for schools of medicine to be eligible for capitation grants	No	Dr. Robert Knouss Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6424
Area Health Education Centers	F	Policy Significant	P.L. 94-484 Section 781	Required by Statute	The regs are to establish standards & criteria for the award of contracts and the implementation of the programs The purpose of these programs are: to improve the distribution, supply quality, utilization, and efficiency of health personnel in the health services delivery system and to encourage the regionalization of educational responsibilities of health professions schools	No	Dr. Robert Knouss Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6418
Grants for Dental Team Practice	F	Policy Significant	p.L. 94-484 Section 783(a)(3)	Required by statute	These regs give grants to schools of dentistry and other public or nonprofit private entities for projects to plan, develop, and operate and maintain programs to train dental students in the organization & management of multiple auxiliary dental team practice	No	Richard Weaver Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6510

Grants for Residency Training in General Internal Medicine or General Pediatrics	F	Policy Significant	P.L. 94-484 Section 784	Required by statute	The regs define requirements for grants for residency programs in general internal medicine or general pediatrics	No	Kenneth Moritsugu Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6424
Grants for Training in Family Medicine	F	Policy Significant	P.L. 94-484 Section 786(a)	Required by statute	The regs assure guidelines for grants to assure the institutionalization of family medicine within the schools of medicine & osteopathy, to encourage students, through the context of educational programs and through the contact with role model family physician and to pursue careers in family medicine	No	Dr. Robert Knouss Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6418
Educational Assistance to Individuals from Disadvantaged Backgrounds	F	Policy Significant	P.L. 94-484	Required by statute Sections 787 & 798	To govern grants to provide educational assistance to individuals from disadvantaged backgrounds to undertake training and education to enter the health professions or allied health professions	No	Kinzo Yamamoto Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20783 (301) 436-7230
Grants to Schools of Medicine, Dentistry, Public Health, Osteopathy Optometry, Podiatry, Pharmacy and Veterinary Medicine for Start-Up Assistance	NPRM	Policy Significant	P.L. 94-484 Section 788(a)	Required by statute	To set forth procedures for awarding grants authorized by the Health Professions Educa. Assistance Act of 1976. Specif. grants to provide start-up assistance for initiating new schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy & podiatry	No	John Westcott Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6564

Health Professions Financial Distress Grants	IF	Policy Significant	P.L. 94-484 Section 788(b)	Required by statute	To implement the awarding of grants to assist schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy and public health in meeting their costs of operation, if they are in serious financial distress, or in meeting accreditation requirements, if they have a special need for assistance in meeting these requirements, & to carry out appropriate operational, managerial, and financial reforms	No	Donald C. Parks Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6560
Grants for Training in Emergency Medical Services	F	Policy Significant	P.L. 94-484 Section 789	Required by statute	To set forth requirements for grants for training programs in emergency medical services	No	Daniel Mosica Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6424
Grants for Graduate Programs in Health Administration	F	Policy Significant	P.L. 94-484 Section 791	Required by statute	To implement the Sec.'s authority to make grants to public or nonprofit private educational entities (excluding schools of public health) to support the health admin. and health planning graduate educational programs of such entities	No	Merrill DeLong Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6824

Grants to Develop New Graduate Programs or Expand Existing Programs in Public Health	F	Policy Significant	P.L. 94-484 Section 792	Required by statute	To implement the Sec's authority to make grants to schools of public health & other public or non-profit educational entities for projects to develop new graduate programs or to expand existing programs in biostatistics, epidemiology, health admin., health planning, health policy analysis & planning environmental or occupational health and dietetics & nutrition.	No	Merrill DeLong Bureau of Health Manpower/HRA Center Building 3700 East West Hwy. Hyattsville, Md. 20782 (301) 436-6824
Allied Health Special Project Grants & Contracts	NPRM	Policy Significant	P.L. 94-484 Section 796	Required by statute	To implement the Sec's authority to make grants to a. establish regional or State systems to assure that allied health and nursing personnel needs in the area are met by coordinating & managing allied health & nursing education & training among educational institutions; b. establish or improve recruitment, training and retraining programs for allied health personnel; and c. establish career ladders & advancement programs for practicing allied health personnel.	No	Merrill DeLong Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6824
Traineeships for Advanced Training of Allied Health Personnel	F	Policy Significant	P.L. 94-484 Section 797	Required by statute	To set forth requirements for grants to public or private non-profit institutions to meet the costs of traineeships for the advanced training of allied health personnel to a. teach in allied health training programs, or b. serve in administrative or supervisory capacities.	No	Merrill DeLong Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6824

Capitation Grants to Schools of Nursing	F	Policy Significant	P.L. 93-641 Section 810	Required by statute	To set forth requirements for annual capitation grants to schools of nursing for support of their educational programs	NO	Dr. Mary Hill Bureau of Center Building 3700 East-West Hwy. Hyattsville, Md. 20737 (301) 436-6681
Grants for Nurse Practitioner Traineeship Programs	NPRM	Policy Significant	P.L. 93-64 Section 830	Required by statute	To set forth requirements for grants to schools of nursing medicine, and public health, public or nonprofit private hospitals, and other nonprofit entities to meet the costs of traineeships for the training of nurses who reside in health manpower shortage areas and who sign a commitment to practice in health manpower shortage areas having shortages of primary medical care manpower	No	Dr. Mary Hill Bureau Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6681
Grants for Traineeships for Advanced Training of of Professional Nurses	NPRM	Policy Significant	P.L. 93-64 Section 830	Required by statute	To govern the award of grants to public and non-profit institutions to cover the costs of traineeships for the advanced training of professional nurses	No	Dr. Mary Hill Bureau Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6681
Interdisciplinary Team Training & Curriculum Development for Health Manpower Training		Technical	P.L. 94-484 Health Professions Educational Assistance Act	Statute specifically requires regulation	To establish requirements for grants for interdisciplinary team training among schools in various health disciplines and for curriculum development in various areas related to health manpower.	No	Peggy Washburn Bureau of Health Manpower/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-7458

Title	Type	Classification	Statutory Base	Need to Regulate	Description	RA 1/	Contact
State Medical Facilities Plan §632	NPRM	Policy Significant	National Health Planning Act & Resouces Development Act of 1974 P.L. 93-641	Statute specs requires regs by 1603(a) of PHS Act, Title XVI of the Act	To provide assistance, through grants, loans & loan guarantees with interest subsidies for projects for the 1. modernization of medical facilities; 2. construction of new outpatient medical facilities; 3. instruction of new outpatient medical facilities in areas which have experienced recent rapid population growth and 4. conversion of existing medical facilities to provide new health services	No	Robert Soliz Bureau of Health Planning & Resources Development, HRA Center Bldg. 3700 East-West Hwy Hyattsville, Md. 20782 (301) 436-6870
National Guidelines for Health Planning	NPRM	Policy Significant	National Health Planning & Resource Development Act P.L. 93-641	Statute spec requires reg Sec. 1501 of PHS Act	The guidelines co of National Health Planning goals with respect to health status, health promotion, & disease prevention, and access to services	No	Office of Assistant Administrator on Planning, Evaluation & Legislation, HRA Center Building Room 10-22 3700 East-West Hwy Hyattsville, Md. 20782 (301) 436-7270

1/ RA - Regulatory analysis

Requirements for Provision of Services to Persons Unable to Pay Therefor and Community Service By Assisted Health Care Facilities	NPRM	Policy Significant	Titles VI & XVI of PHS Act	Statute specs require reg	Establishes requirements for health care facilities assisted by DHEW under Title VI & XVI of PHS Act to fulfill certain assurances that they give in their applications for assistance	No	Colin C. Rorrie, Jr. Ph.D Acting Director Bureau of Health Planning & Resources Development/HRA Center Building 3700 East-West Hwy Hyattsville, Md. 20782 (301) 436-6850
Loans & Loan Guarantees for Medical Facility Construction and Modernization	NPRM	Policy Significant	National Health Planning & Resources Development Act of 1974 P.L. 93-641	Statute spec requires reg	To provide direct loans to public or private non-profit entities and to guarantee loans made by non-Federal lenders to nonprofit private entities. The loans may be used to modernize medical facilities, construct new out-patient medical facilities, construct new inpatient medical facilities in areas which have expanded rapid population growth or convert existing medical facilities for the provision of new health services.	No	Colin C. Rorrie, Jr. Ph.D Acting Director Bureau of Health Planning & Resources Development/HRA Center Building 3700 East-West Hwy. Hyattsville, Md. 20782 (301) 436-6850

	Title	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
(F)	MCH Referral & Svcs for Blind & Disabled Children receiving SSI Benefits	Technical	Sec. 1615(b) SSA	Implementation Provisions Needed	Regs will provide requirements for services to and referral of blind and disabled children who are SSI beneficiaries and are referred by the Social Security Adm.	No	James J. Corrigan Director, Division of Policy Development, BCHS Rm. 6-17, Parklawn Bldg. 5600 Fishers Lane Rockville, MD 20857
(N)	Amendments to MCH-CC Svcs Programs Regulations	"	Title V SSA	"	Regs will implement statutory amendments dealing with reasonable costs and will make clarifying administrative changes	"	"
(F)	Projects for training home health personnel	"	Sec. 339(b) PHS Act, P.L. 95-626	"	Regs will provide requirements for projects to train personnel of home health agencies to assure high quality of care	"	"
(F)	Project grants for family planning svcs	"	Title X, PHS Act amended by P.L. 95-613	"	Regs will make changes required by P.L. 95-613 adding infertility svcs and svcs for adolescents	"	"

*RA = Regulatory Analysis (Yes/No)

Health Services Administration

	Title	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
(N)	Health & Nutrition Demonstration Projects/Dept. of Commerce	Technical	Sec. 516 of the Regional Development Act of 1975	Implementation Provisions Needed	Regs will establish requirements for multi-county health & nutrition demonstration projects in economic development regions	NO	James J. Corrigan Director, Division of Policy Development, BCHS Rm. 6-17, Parklawn Bldg. 5600 Fishers Lane Rockville, MD. 20857
(F)	Assignment of NHSC Personnel	"	Sec. 333, PHS Act	"	Regs will establish requirements for assignment of NHSC personnel to health manpower shortage areas	"	"
(F)	Genetic Disease Testing and Counseling Services	"	Title XI of the PHS Act	"	Regs will establish requirements for grants to plan, establish and operate genetic disease testing and counseling programs	"	"

*RA = Regulatory Analysis (Yes/No)

National Institutes of Health

	TITLE	CLASSIFIC.	STATUTORY BASE	NEED TO REGULATE	DESCRIPTION	RA	CONTACT
N	Proposed PHS Regs. for NIH, NIAMDD--Grants for Comprehensive Centers	Policy Significant	Nat'l. Arthritis Act of 1974 (P.L. 93-640) Nat'l. Diabetes Mellitus Research & Educ. Act (P.L. 93-354) Arthritis, Diabetes, & Digestive Diseases Amend. of 1976 (P.L. 94-562)	The statute sets general policy, major important implementing provisions need regulation.	This reg. covers grants by NIAMDD for the support of (1)comprehensive centers for research, training, & info. dissemination concerning diabetes & (2) comprehensive centers for research, training, & info. dissemination concerning arthritis.	No	[Arthritis] Dr.Hausman, Spec. Asst. to Assoc. Dir., NIAMDD, NIH, Westwood Bldg., Rm. 403, Bethesda, Md. (301) 496-7495 [Diabetes] Dr. Krueger, Spec. Diabetes Proj. Dir., NIAMDD, NIH, Westwood Bldg., Rm. 622, Bethesda, Md. (301) 496-7418
F	Protection of Human Subjects--Regs. on Research Involving Children	Policy Significant	Nat'l Research Act (P.L. 93-348)	Statute specifically requires appropriate admin. action by Sec. Sec. has decided to issue regs.	Regs. provide additional protections for subjects of DHEW conducted or supported research involving children	No	Dr. Duncan OPRR, NIH, Westwood Bldg., Rm. 304, Bethesda, Md. (301) 496-7005
N	Protection of Human Subjects - Compensation of Human Subjects Injured in DHEW Supported Biomedical & Behavioral Research	Policy Significant	Not specifically required by legis., general authority PHS Act Section 301	The Dept. is considering major changes in policy & is requesting public comment on proposal	Regs. would require institut. applying for DHEW grants or contracts in support of research involving human subjects to provide assurances that they have in force mechanisms to provide compensation for indiv. who suffer injury as a result of their participation as subjects.	No	Dr.McCarthy, Dir. OPRR, NIH, Westwood Bldg. Room 304, Bethesda, Md. (301) 496-7005

National Institutes of Health

	TITLE	CLASSIFIC.	STATUTORY BASE	NEED TO REGULATE	DESCRIPTION	RA	CONTACT
N	Protection of Human Subjects - Regs. on Research Involving Those Institu. as Mentally Disabled	Policy Significant	Nat'l. Research Act (P.L. 93-348)	Statute specifically requires appropriate admin. action/protections for by Sec. The Sec. has decided to [illegible] regs.	Regs. provide additional safeguards for subjects of DHEW supported research involving those institu. as mentally disabled.	NO	Dr. Marches, OPRR, NIH, Westwood Bldg, Rm. 304, Bethesda, Md. (031) 496-7005

Office of Health Maintenance Organizations

	Title	Classification	Statutory Base	Need to Regulate	Description	RA 1/	Contact
F	Subpart A - Requirements for a Health Maintenance Organization	Policy Significant	Title XIII of the Public Health Service Act, as amended	Law requires the development of regulations	Defines the health benefits, providers of health services, method of payment, organization and operation of the HMO, and special requirements with respect to titles XVIII & XIX members.	No	H.Earle Belue Regulations Office, OHMO, Park Building, Room 3-32, 12420 Parklawn Drive, Rockville, Md. 20857 301-443-4695
F	Subpart B - Federal Financial Assistance: General	do	do	do	Sets forth requirements for the award of grants, loans & loan guarantees to public or nonprofit private entities or private entities (other than nonprofit private entities) for feasibility surveys, planning and initial development costs, and initial operation costs.	No	do

1/ RA - Regulatory analysis (Yes/No)

	Title	Classification	Statutory Base	Need to Regulate	Description	RA[1/]	Contact
N	Subpart C - Grants for Feasibility Surveys	Policy Significant	Title XIII of the Public Health Service Act, as amended	Law requires the development of regulations	Sets forth requirements for conducting surveys to determine the feasibility of developing and operating or expanding the operation of HMOs.	No	H.Earle Belue Regulations Office, OHMO, Park Building, Room 3-32, 12420 Parklawn Drive, Rockville, Md. 20857 301-443-4695
N	Subpart D - Grants and Loan Guarantees for Planning & for Initial Development Costs	do	do	do	Sets forth requirements for planning and initial development projects or for significant expansion of the membership of, or areas served by qualified HMOs.	No	do
N	Subpart E - Loans & Loan Guarantees for Initial Operating Costs	do	do	do	Sets forth requirements for the award of loans and loan guarantees for initial operating costs of HMOs.	No	do
F	Subpart F - Qualification of Health Maintenance Organizations	do	do	do	Sets forth requirements for determining whether an entity is a qualified HMO.	No	do

1/ RA - Regulatory analysis (Yes/No)

	Title	Classification	Statutory Base	Need to Regulate	Description	RA[1/]	Contact
N	Subpart G - Restrictive State Laws & Practices	Policy Significant	Title XIII of the Public Health Service Act, as amended	Law requires the development of regulations	Sets forth requirements prohibiting States from establishing or enforcing any law which would prevent an entity from doing business as an HMO.	No	H.Earle Belue Regulations Office, OHMO, Park Building, Room 3-32, 12420 Parklawn Drive, Rockville, Md. 20857 301-443-4695
N	Subpart H - Employees' Health Benefits Plans	do	do	do	Sets forth requirements for certain employers and States and political subdivisions of States to include in any health benefits plans offered to their employees the option of membership in qualified HMOs.	No	do
N	Subpart I - Continued Regulation of HMOs and Other Entities	do	do	do	Sets forth continued compliance requirements for qualified HMOs.	No	do

1/ RA - Regulatory analysis (Yes/No)

Health Maintenance Organizations

	Title	Classification	Statutory Base	Need to Regulate	Description	RA[1/]	Contact
N	(New Regulations on training and technical assistance)	Policy Significant	Title XIII of the Public Health Service Act, as amended	Law requires the development of regulations	To set forth requirements for the development of a training and technical assistance program	No	H. Earle Belue Regulations Office, OHMO, Park Building, Room 3-32, 12420 Parklawn Drive, Rockville, Md. 20857 301-443-4695
N	(New Regulations on Construction)	do	do	do	To set forth requirements for the award of loans to public and nonprofit HMOs and for the award of loan guarantees to private HMOs for the acquisition and construction of ambulatory health care facilities	No	do

1/ RA - Regulatory analysis (Yes/No)

HEALTH CARE FINANCING ADMINISTRATION

* RA = Regulatory Analysis (Yes/No)

HCFA RECULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Recodification of Medicare Regulations Dealing with Hospital Insurance Entitlement, Deductible and Coinsurance Requirements.	NPRM	Technical	Secs. 1811, 1812, and 1813 of the Social Security Act.	Department is revising regulations to make them clear, simple, and up-to-date.	This regulation would propose to clarify, simplify, and update existing regulations pertaining to: (1) entitlement to Medicare hospital insurance for certain groups, and (2) the Medicare inpatient hospital coinsurance, the post-hospital extended care coinsurance, and the blood deductible.	No	John B. Russell, Medicare Bureau HCFA, Room [illegible], Low Rise Bldg., 6401 Security Blvd. Baltimore, Md. 21235 301-594-8250.
Prospective Reimbursement for Rural Health Clinics	NPRM	Policy Significant	Secs. 1833(a)(3), 1861(v)(1)(A), and 1902(a)(13) of the Social Security Act.	Department is considering new policy and is requesting public comment on proposals.	This regulation would propose prospective methods for reimbursement of rural health clinics under Medicare and Medicaid.	No	Marty Seelig Medicare Bureau, HCFA Room [illegible] East High Rise [illegible], 6401 Security Blvd., Baltimore, Md. 21235 301-594-9315

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Beneficiary Liability for Items or services excluded from Medicare Coverage.	NPRM	Technical	Sec. 1879 of the Social Security Act.	Department is considering change in policy and is requesting public comments on proposals.	This regulation clarifies that a beneficiary can not be found liable for certain non-covered items or services if he has not been notified in writing that the items or services in question are excluded from medicare coverage.	NO	Mendel S. Kaufman Medicare Bureau 127 East High Rise 6401 Security Blvd Balt. Md. 21235 301-594-9232
Prohibition Against Assignment of Claims	Final	Policy Significant	Secs. 1102, 1814, 1815, 1835, 1870, 1871 of the Social Security Act.	Recent changes in law specifically require regulation.	This regulation specifies criteria and procedures to prohibit providers physicians, and other suppliers, with certain exceptions, from assigning claims for reimbursement of services to other persons for collection. It also inposes administrative sanctions against providers, physicians, and suppliers who violate this prohibition.	No	John J. Russell Medicare Bureau 1-H-5 Low Rise Bldg. 6401 Security Blvd Balt. MD. 21235 301-594-9595

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Payments to Foreign Hospitals for Inpatient Services.	NPRM	Technicel	Secs. 1814(f)(3) and (4) and 1861 (v) of the Social Security Act.	Department is considering changes in policy and is requesting public comment on proposal.	This regulation would propose procedures and criteria for Medicare payments for covered inpatient services furnished to beneficiaries by foreign hospitals.	No	Hugh J.McConville Medicare Bureau 412 East High Rise 6401 Security Blvd. Baltimore, Maryland 21235 - 301-594-9430
Medicare Payments to Indian Health Service (IHS) Hospitals	Final	Policy Significant	Sec. 1880 of the Social Security Act	Law in general terms; implementing instructions needed.	This regulation provide for Medicare payments for services rendered in IHS Hospitals and skilled nursing facilities.	NO	John B. Russell Medicare Bureau 1-H-5 Low Rise Bldg. 6401 Security Blvd. Baltimore, Maryland 301-594-8260
Health Maintenance Organization (HMO) Contracts	Final	Technical	Sec. 1876(a)(1) and (j) of the Social Security Act.	Law specifically requires regulations.	This regulation establishes requirements for contracts between the Secretary and HMO's participating in the Medicare program. It governs contract application procedures, denials, terminations, renewals, effective dates, responsibilities of the the HMO, rights of the Secretary to inspect and audit the HMO, and changes in ownership of the HMO.	NO	Marinos T. Svolos Medicare Bureau, 106 East High Rise 6401 Security Blvd. Baltimore, Md. 21235 301-594-9314
Reimbursement-Prepaid Health Plans	Final with comment.	Policy Significant	Secs. 1802 and 1833(a)(1)(A) of the Act.	Law specifically requires regulations.	This regulation would establish principles of reimbursement for health care prepayment plans similar to those applicable to health maintenance organizations.	No	Marinos T. Svolos Medicare Bureau 106 East High Rise 6401 Security Blvd., Baltimore, Md. 21235 301-594-9314

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Elimination of the Combination Method of Apportionment for Providers.	Final	Technical	Sec. 1861(v)(1)(A) of the Social Security Act	Department is considering changes in policy and has requested public comments on the proposed regulation.	This regulation modifies the methodology used to determine a provider's reimbursable costs for services furnished to beneficiaries	No	Hugh J. McConville Medicare Bureau 412 East High Rise 6401 Security Blvd Baltimore, Md. 21235 301-594-9430
Payment for Injections and Negotiated Rates for Laboratory Services.	NPRM	Policy Significant	Secs. 1833(a)(1)(D) and 1833(h) of the Social Security Act	Law specifically requires regulation.	This regulation sets a reasonable charge for injection services and for certain diagnostic laboratory tests.	No	Paul Riesel Medicare Bureau 190 East High Rise 6401 Security Blvd Balt. Md. 21235 301-594-9595
Reopening Reimbursement Determinations.	NPRM	Technical	Sec. 1861(v)(1)(A)(ii) of the Social Security Act.	Law in general terms; implementing instructions needed.	This regulation would propose criteria for reopening certain provider cost reimbursement determinations.	NO	Mendel S. Kaufman Medicare Bureau 127 East High Rise 6401 Security Blvd Balt, Md. 21235 301-594-9232
Reduction in Grace Period Days Where Payment is Made for Certain Non-reimbursable Expenses	Final	Technical	Secs. 1153(d) and 1879 of the Social Security Act.	Law specifically requires regulation.	This regulation limits reimbursement to only 1 additional day of service after a Medicare beneficiary or provider receives notice that the services are excluded from Medicare coverage. Payments will be made for up to 2 additional days if time is needed to arrange postdischarge care.	No	Mendel S. Kaufman Medicare Bureau 127 East High Rise 6401 Security Blvd Balt, Md. 21235 301-594-9232

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Transactions: Provider Capital Stock.	Final	Policy Significant	Sec.1102 of the Social Security Act.	Department is considering changes in policy and has requested public comments on the proposed regulation	This regulation establishes rules for the treatment of depreciation for purposes of calculating medicare reimbursement, including cases of transfers of corporate stock, mergers and consolidations.	NO	William J.Geller, Medicare Bureau, HCFA, RM-412,EHR., 6401 Security Blvd., Baltimore,MD 21235, 301-594-9820
Collection of Overpayments to Providers	Final	Policy Significant	Secs.1102,1815, 1870, and 1871 of the Social Security Act and Federal Claims Collection Act of 1966.	Department is considering changes in policy and has requested public comments on the proposed regulation.	This regulation authorizes the Secretary or his designee to compromise claims or to suspend or terminate collection action on claims arising from Medicare overpayments.	NO	Raymond M. Sillup, Medicare Bureau, HCFA Rm. B-2 Owen Oak Bldg. 6401 Security Blvd., Baltimore, Md. 21235 301-594-9319
Retroactive Adjustment in Payments to Providers in Case of Erroneous Reimbursement Methods.	Final	Technical	Sec.1861(v)(1)(A)(ii)of the Social Security Act.	Department is considering changes in policy and has requested public comments on the proposed regulation.	This regulation authorizes the Secretary to adjust payment made to Medicare providers under an erroneous method for determining costs.	NO	Lawrence J. Ageloff, Medicare Bureau,HCFA,RM-46 EHR Bldg.,6401 Security Blvd.,Balt,MD.21235 301-594-6719
Allowance for Depreciation Based on Asset Costs.	Final	Policy Significant	Secs.1814(b),1815, and 1861(v)(1) of the Social Security Act.	Law in general terms; implementing instruction needed.	This regulation clarifies and expands existing policy for determining the useful lives of depreciable assets used in the provision of patient care. The regulation also provides for the proper treatment of gains and losses on the disposal of assets.	NO	Hugh H. McConville, Medicare Bureau, HCFA Room 412 East High Rise 6401 Security Blvd. Baltimore, Md. 21235 301-594-9595.

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Definition of Radiological Services.	NPRM	Policy Significant	Sec. 1833(a)(1)(B) of the Social Security Act.	Department is considering a new policy that requires modified regulations and would request public comments on the proposal.	This regulation broadens the scope of the radiology services for which Medicare will be reimburse at 100 pct. of reasonable charges.	No	Paul Riesel, Medicare Bureau, HCFA, Room 412 East High Rise Bldg., Baltimore, Md. 21235 301-594-9595
Reimbursement: Internship and Residency Programs.	NPRM	Policy Significant	Secs. 1102, 1861(b), 1861(v)(1) and 1903 of the Social Security Act.	Department is considering change in policy and is requesting public comment on proposal.	This regulation would propose to eliminate the requirement that a provider's costs be reduced by the amounts of certain grants and donations when calculating the reimbursement allowed under Medicare, Medicaid or the maternal and child health program. These grants and donations are those which support approved internship and residency programs in family practice, general medicine, and general pediatrics.	No	William J. Gosller, Bureau, HCFA, Room 412, East High Rise Bldg., 6401 Security Blvd., Baltimore, Md. 21235 301-594-9820
Payment for Services of Physicians in Teaching Hospitals, for Physician Costs to Hospitals and Medical Schools and for Volunteer Services.	NPRM	Policy Significant	Secs. 1842(b)(3) and 1861(b)(7)(A) of the Social Security Act.	Law specifically requires regulation.	This regulation proposes criteria under which Medicare would pay reasonable charges for physician services in teaching hospitals or would reimburse teaching hospitals for the reasonable costs of physician services. It would also specify the manner and extent to which payments would be made for certain medical school costs and for services of volunteer physicians.	No	Paul Riesel, Medicare Bureau, HCFA, Room 190, East High Rise Bldg., 6401 Security Blvd. Baltimore, Md.21235, 301-594-9595

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
End-Stage Renal Disease Services, Reimbursement for Organ Procurement, Histocompatibility Testing, and Home Dialysis Equipment	Final with comment period	Policy Significant	Sec. 1102, 1814(b), 1833, 1861(v)(1), 1871, and 1881 of the Social Security Act.	Recent changes in law specifically require regulation.	The regulation will provide for 100 percent reimbursement for cost of furnishing and maintaining home dialysis equipment, for services furnished by an organ procurement agency or histocompatibility laboratory to obtain and analyze kidneys for transplantation.	No	Hugh McConville Medicare Bureau, HCFA Room 412 East High Rise Bldg., 6401 Security Blvd., Baltimore, Md. 21235 301-594-9430
End-Stage Renal Disease: Target Rate Reimbursement	NPRM	Policy Significant	Sec. 1881 of the Social Security Act.	Recent changes in law specifically require regulation.	The regulation would establish an optional target rate reimbursement method for providers and facilities approved to furnish home dialysis supplies and equipment, and home self-dialysis support services to Medicare patients.	No	Hugh McConville Medicare Bureau, HCFA Room 412 East High Rise Bldg., 6401 Security Blvd., Baltimore, Md. 21235 301-594-9430
Incentive Reimbursement for End-Stage Renal Disease (ESRD) Services.	NPRM	Policy Significant	Sec. 1881 of the Social Security Act.	Law in general terms, implementing instructions needed.	The regulation would propose methods and procedures for reimbursing providers and facilities for outpatient renal dialysis services provided to ESRD patients.	No	Hugh McConville Medicare Bureau, HCFA Room 412 East High Rise Bldg 6401 Security Blvd., Baltimore, Md. 21235 301-594-9430
Review of Provider Reimbursement Board Decisions	NPRM	Policy Significant	Secs. 1102 and 1878(f)(1) of the Social Security Act.	Law in general terms, implementing instructions needed.	This proposal would specify the criteria and procedures for review of Provider Reimbursement Review Board decisions by the Administrator, HCFA. The amendment is necessary to resolve current confusion concerning the procedures and to comply with the Administrative Procedures Act.	No	Erica L. Gosnell Office of Attorney-Advisor, HCFA Room G-50 Altmeyer Bldg 6401 Security Blvd. Baltimore, Md. 21235 301-594-5132

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Medicare Entitlement Based on End Stage Renal Disease (ESRD)	Revised Final	Technical	Secs.226A and 1881 of the Social Security Act.,	Recent changes in law specifically require regulation.	The regulations will extend Medicare coverage to ESRD patients who are 65 years of age or older permit coverage to begin earlier for patients who receive renal transplants or training in self dealysis and lengthen the duration of Medicare payments following a renal transplant. Comments received in response to publication of final regulation on September 28, 1978, are being considered to determine if revisions are needed.	NO	John Russell Medicare Bureau HCFA,RM-1-H-5, East High Rise Blvd., Baltimore,MD., 21235 301-594-8260
End Stage Renal Disease (ESRD) Services Networks.	NPRM	Policy Significant	Sec. 1881 of the Social Security Act.	Recent changes in law require implementing instructions.	The proposed regulation would require at least one patient representative on each network coordinating council and executive committee. It would also require disclosure of information when network members or thier relatives own or have controlling interest in a renal dialysis facility, or have received compensation in excess of reasonable costs for any services or goods.	No	Cor Denion, Medicare Bureau, HCFA,RM 1-G-3 East Low Rise Bldg. 6401 Security Blvd. Baltimore,MD,21235 301-594-9029

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Cost to Related Organizations	NPRM	Policy Significant	Secs. 1102 and 1861(v)(1)(A) of the Social Security Act.	Department is considering change in policy and is requesting public comments on proposals.	These regulations would clarify existing policy on Medicare reimbursement for services, facilities, and supplies furnished to a provider of services by an organization related to a provider by common ownership or control. They will also codify policy now in program instructions in manuals. This revision supplements the NPRM published on August 17, 1978 on reimbursement to shared services organizations.	No	Bruce Oliver Medicare Bureau, HCFA, Room 440, East High Rise Bldg., 6401 Security Blvd., Baltimore, Md. 21235 301-594-8224
Membership on Carrier Boards	NPRM	Policy Significant	Secs. 1102, 1816 (b), 1842(f)(1), 1871, and 1902 (a)(4) of the Social Security Act.	Department is considering change in policy and is requesting public comments on proposals.	Comments received in response to a notice of intent to limit the number of physicians or other peraons with financial interest on the boards of directors of fiscal intermediaries and carriers, published on June 23, 1978, are being evaluated. The regulation would be designed to eliminate potential conflicts of interest.	No	Marty Kappert Medicare Bureau, HCFA, Room 256, East High Rise Bldg., 6401 Security Blvd., Baltimore, Md. 21235 301-594-9415
Coverage of End-Stage Renal Disease (ESRD) Services.	Revised Final	Policy Significant	Sec. 1881 of the Social Security Act.	Recent changes in law specifically require regulation.	This regulation defines the specific ESRD services that will be covered and the conditions under which these services must be provided to be reimbursed under Medicare. Comments received in response to publication of final regulation on October 24, 1978 are being considered to determine if revisions are necessary.	No	Hugh McConville Medicare Bureau, HCFA, Room 412 East High Rise Bldg., 6401 Security Blvd., Baltimore, Md. 21235 301-594-9430

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Durable Medical Equipment	NPRM	Policy Significant	Sec. 1833(f) of the Social Security Act.	Recent changes in law specifically require regulation.	This regulation would propose criteria for requiring purchase (on a lease purchase or other basis) of an item of durable medical equipment when purchase would be less costly or more practical than rental. Procedures are proposed for waiving the purchase requirement and coinsurance in specific circumstances.	No	Paul Riesel, Medicare Bureau, HCFA, Room 190 East High Rise Bldg., 6401 Security Blvd., Baltimore, Md. 21235 301-594-9595
Amendments-Fiscal Intermediaries.	Final	Policy Significant	Secs. 1816 and 1842 of the Social Security Act.	Recent changes in law specifically require regulation.	This regulation recodifies existing regulations dealing with contracts between the Secretary and Medicare fiscal intermediaries. It also specifies standards, criteria, and procedures for determining the efficiency and effectiveness of those intermediaries and for assigning providers to intermediaries.	No	John W. Jansak, Medicare Bureau, HCFA, Room 209, East High Rise Blvd., 6401 Security Blvd., Baltimore, Md. 21235 301-594-8431
Reopening and Revision Claims Determination Under the Medicare Program.	NPRM	Policy Significant	Secs. 1842(b) (3) and (4) and 1869 of the Social Security Act.	Department is considering change in policy and is requesting public comment on proposals.	This regulation would propose to revise and expand the criteria governing the reopening and revision of Medicare benefit payment determinations.	No	John B. Russell, Medicare Bureau, HCFA, Room 1-H-5, Low Rise Bldg., 6401 Security Blvd., Baltimore, Md. 21235 301-594-8260
Conformance with Professional Standards Review Organization (PSRO) Regulations.	Final with comment period	Technical	Secs. 1152(e), 1154(b), 1155(a)(1), 1158, 1164, and 1165 of the Social Security Act.	Law in general terms; implementing instructions needed.	These regulations will conform Medicare rules to PSRO regulations which govern responsibilities of PSRO's for determining the medical necessity, quality, and appropriateness of health services for which payment may be made under Medicare.	No	Marinos T. Svolos, Medicare Bureau HCFA, Room 106, East High Rise Bldg., 6401 Security Blvd., Baltimore, Md. 21235 301-594-9314.

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Reasonable Charges-Medical Supplies.	Revised Final	Policy Significant	Secs. 1833(g) and 1842(b)(3) of the Social Security Act.	Department has set new policy and has requested public comment on proposals.	This regulation limits reimbursement under the Medicare and Medicaid programs for medical services, supplies, and equipment that do not generally vary significantly in quality from 1 supplier to another. Payments will be based on the lowest charge levels at which the services are widely and consistently available in a locality. Comments are being considered on final regulation published with comment period on July 26, 1978 .	NO	Paul Riesel, Medicare Bureau, HCFA Room 190, East High Rise 6401 Security Blvd. Baltimore, Md. 21235 301-594-9595
Cost to Related Organizations: Shared Services	Final	Policy Significant	Sec. 1861(v)(i)(A) of the Social Security Act	Department is considering new policy and is requesting public comment on proposals.	The regulation would limit the amount a provider may be reimbursed on the basis of charges when it obtains services facilities, and supplies from an organization related to the provider by common ownership or control.		Bruce Oliver Medicare Bureau, HCFA Room 440 East High Rise 6401 Security Blvd. Baltimore, Md.21235 301-594-8224

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Suspension of Physicians and Other Practitioners	Final	Policy Significant	Secs. 1102, 1862, 1866, 1871, and 1902 of the Social Security Act.	Recent changes in law require implementing instructions.	This regulation establishes criteria and proceduras for suspending physicians and other practitioners from the Medicaid or Medicare programs after they have been convicted of a crime related to either program.	No	Irwin Cohen, Office of Program Integrity, HCFA, Room 538 East High Rise Bldg., 6401 Security Blvd., Baltimore, Md. 21235, 301-594-5415
Disclosure of Information and Access to Provider Records (Companion of HDS and PHS regulations)	Final	Policy Significant	Secs. 1124, 1126, 1861, 1866, 1902, 1903, and 2002 of the Social Security Act.	Recent changes in law require implementing instructions.	This regulation specifies criteria and procedures for disclosure by providers of certain information about owners, employees, subcontractors, and suppliers. The regulation also specifies criteria for HEW access to Medicaid provider records.	No	Irwin Cohen, Office of Program Integrity, HCFA, Room 583, East High Rise Bldg., 6401 Security Blvd., Baltimore, Md. 21235, 301-594-5415
Uniform Reporting	NPRM	Policy Significant	Secs. 1121, 1861, and 1902 of the Social Security Act.	Recent changes in law require implementing instructions.	Six regulations propose uniform systems that medical institutions which receive payments under the Medicare and Medicaid programs must use for reporting such items as cost of operation, volume of services, reimbursement rates, capital assets, and discharge and bill data.	*	James M. Kaple, Office of Policy, Planning and Research, HCFA, Room 5074, Switzer Bldg. 330 C St., S.W., Washington, D.C. 20201, 202-245-0697

*Under Consideration

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Requirements for End Stage Renal Disease (ESRD) Self-Dialysis Units and Services	Revised Final	Policy Significant	Sec. 1881 of the Social Security Act.	Recent changes in law require implementing instructions.	The regulations establish requirements that self-dialysis facilities and units must meet to be approved to provide services to ESRD patients under Medicare. Comments received in response to final regulations published on October 19, 1978, are being considered to determine whether revision is needed.	No	Janet Harryman, Health Standards and Quality Bureau Bureau, HCFA Room 301, East High Rise Bldg., 6401 Security Blvd., Baltimore, Md. 21235, 301-594-9712
Conditions for Participation: skilled nursing facilities and intermediate care facilities	NPRM	Policy Significant	Secs. 1102, 1814, 1832, 1833, 1842, 1861, 1862, 1863, 1865, 1866, 1870, and 1871 of the Social Security Act.	Department is considering major changes in policy and is requesting public comment	The proposed regulation would recodify, revise, and consolidate present regulations governing participation of skilled nursing and intermediate care facilities.	No	Janice Caldwell, Health Standards and Quality Bureau, HCFA, Room 12A-41, Parklawn Bldg., 5600 Fishers Lane Rockville, Md. 20857, 301-443-3346.
Sprinkler Systems for Long Term Care Facilities	NPRM	Policy Significant	Sec. 1102 of the Social Security Act	Department is considering changes in policy and is requesting public comments	Comments are being evaluated that were received in response to NOI issued on November 14, 1978, that requested comments on alternatives for requiring fire extinguishment systems in all skilled nursing and intermediate care facilities.	No	Janice Caldwell, Health Standards and Quality Bureau, HCFA, Room 12A46, Parklawn Bldg., Rockville, Md. 20857, 301-443-3346

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Professional Standards Review Organizations (PSRO's) Reconsiderations and Appeals	NPRM	Policy Significant	Sec. 1159(a) of the Social Security Act.	Law in general term; implementing instructions needed.	This regulation would propose procedures for the reconsideration of the determinations of PSRO's and the review of such reconsiderations by statewide professional standards review councils.	No	Tony Tirone, Health Standards and Quality Bureau, HCFA, Room 5323, Switzer Bldg., 330 C Street, S.W., Washington, D.C. 20201; 202-245-2196.
Conditions for Coverage for Renal Transplants	Final	Policy Significant	Secs. 226(g) and 1102 of the Social Security Act.	Department has set new policy which requires modified regulations.	This regulation exempts pediatric hospitals from certain renal transplant center certification requirements. Comments received in response to final regulation published with comment period on Aug. 11, 1978 are being considered to determine whether revision is needed.	No	Janet Harryman, Health Standards and Quality Bureau, HCFA, Room 201, East High Rise Bldg., 6401 Security Blvd, Baltimore, MD 21235 301-594-9712.
Histocompatibility Testing	NPRM	Technical	Sec. 1861(a)(10) of the Social Security Act.	Department is considering changes in policy and is requesting public comments on proposals.	These regulations would clarify definitions and techniques for histocompatibility testing carried out under the Medicare program for individuals with end-stage renal disease to determine if a donor kidney will be compatible with recipient.	No	Charlotte Conaway, Health Standards and Quality Bureau, HCFA, Room 324, East High Rise Bldg., 6401 Security Blvd., Baltimore, Md. 21235, 301-594-7761.
Revocation of Electrical Requirements	Final	Technical	Sec. 226(g) of the Social Security Act.	Department has set new policy that requires modified regulations.	This regulation revokes requirements for emergency generators and ground fault interrupters in freestanding end-stage renal disease centers because they have proven unnecessary	No	Robert Moore, Health Standards and Quality Bureau, HCFA, Room 301, East High Rise Bldg., 6401 Security Blvd., Baltimore, Md. 21235, 301-594-9731.

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Chiropractors, Physical Therapists, and Speech Pathologist Technical Amendments.	Final with comment period	Technical	Secs. 1861(r) and 1861(s) of the Social Security Act.	Department is considering new policy and requesting public comment on the regulation	The regulations would conform definitions of physical therapist assistant and speech pathologist to other related regulations; clarify requirements for outpatient physical therapy and speech pathology services provided at a home health agency; and provide independent physical therapists and chiropractors the same appeal procedures currently available to other providers.	No	Stefan Miller, Health Standards and Quality Bureau HCFA, Room 349, East High Rise Bldg., 6401 Security Blvd Baltimore, Md. 21235, 301-594-9746.
Validation of Accreditation Surveys of Hospitals	NPRM	Policy Significant	Secs. 1102, 1861(b), 1864, 1865, and 1871 of the Social Security Act.	Department is considering changes in policy and is requesting public comment on proposals.	The proposed regulation would authorize surveys to validate whether Medicare hospitals that have been accredited by the Joint Commission on Accreditation of Hospitals or the American Osteopathic Association are meeting the specific Medicare statutory and regulatory conditions for participation	No	Janet Harryman, Health Standards and Quality Bureau HCFA, Room 301, East High Rise Bldg., 6401 Security Blvd Baltimore, Md. 21235, 301-594-9712

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
rofessional Standards Review Organization (PSRO) Review of Intermediate Care Facilities	NPRM	Policy Significant	Sec. 1155(a) of the Social Security Act.	Recent changes in law require implementing instructions.	These regulations would propose conditions under which PSRO's would assume responsibility from State Medicaid agencies for reviewing the quality and necessity of health care services provided in intermediate care facilities and intermediate care facilities for the mentally retarded.	No	Jane Tebbutt Health Standards and Quality Bureau HCFA, Room 16A-27 Parklawn Bldg., 5600 Fishers Lane Rockville, Md., 20857, 301-443-4985.
iver of Liability	NPRM	Policy Significant	Sec. 1158 of the Social Security Act.	Law in general terms; implementing instructions needed.	This regulation would propose criteria for determining when a patient or provider would not be held liable for knowing that the services were medically unnecessary or otherwise inappropriate before the services have been disapproved by PSRO's for Medicare and Medicaid payments.	No	Jane Tebbutt, Health Standards and Quality Bureau HCFA, Room 16A-27 Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4985
Redesignation of Professional Standards Review Organization (PSRO) in Illinois	Final	Technical	Secs. 1102 and 1152 of the Social Security Act.	Department has set new policy that requires modified regulations.	This regulation redesignates PSRO areas in Illinois in order to transfer Madison and Clinton Counties (currently in Area VIII) and McConough County (currently in Area V) to Area VII.	No	Steven A. Suerd Health Standards and Quality Bureau, HCFA Room 13A-19 Parklawn Building 5600 Fishers Lane Rockville, Md. 20857 301/443-6477

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Procedures for Hospital Review by Professional Standards Review Organization (PSRO)	Final	Policy Significant	Secs. 1155 and 1156 of the Social Security Act.	Law in general terms; implementing instructions needed.	These regulation would establish procedures for: (1) PSRO review of hospital services for which payment may be made under the Social Security Act; (2) PSRO delegation of review functions to hospitals; and (3) development and use of norms, criteria, and standards for hospital review.	No	Geraldine Ellis, Health Standards and Quality Bureau, HCFA, Room 16A-27, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4654.
Confidentiality and Disclosure of Information of Professional Standards Review Organizations (PSRO's)	NPRM	Policy Significant	Sec. 1166(a) of the Social Security Act.	Law in general terms; implementing instructions needed.	These regulations would propose criteria to govern the acquisition, protection, and disclosure of information obtained or generated by PSRO's.	No	Lois Eberhard, Health Standards and Quality Bureau, HCFA, Room 5121, Switzer Bldg., 330 C St., S. W., Washington, D. C. 20201, 202-245-8712

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Extension of Proficiency Exams for Clinical Laboratory Personnel	Final	Policy Significant	Secs. 1861(s)(11) and 1871 of the Social Security Act.	Department is considering new policy which requires new or modified regulations.	This regulation provides for reopening proficiency examinations for clinical laboratory personnel (technologist, cytotechnologist, and technicians). It eliminates a restriction which prohibited examinations from being given after Dec. 31, 1977.	No	Martha Chester, Health Standards and Quality Bureau, HCFA, Room 324, East High Rise Bldg. 6401 Security Blvd. Baltimore, Md. 21235, 301-594-7930
Professional Standards Review Organizations (PSRO) Sanctions on Providers and Practitioners	Final	Policy Significant	Sec. 1160 of the Social Security Act.	Law in general terms; implementing instructions needed.	This regulation specifies criteria for invoking sanctions against a health care practitioner or provider who claims payment for services which are medically unnecessary or inappropriate do not meet professionally recognized standards, or are not adequately documented as to medical necessity or quality.	No	Tony Tirone, Health Standards and Quality Bureau, HCFA, Room 5323, Switzer Bldg., 330 C St., S.W. Washington, D.C. 20201, 202-245-2196.
Funding of Hospital Review by Professional Standards Review Organizations (PSRO's)	NPRM	Policy Significant	Sec. 1861(e) of the Social Security Act.	Law in general terms; implementing instructions needed.	This regulation would propose procedures for reimbursing the cost of hospital reviews by PSRO's.	No	Mack Allen, Health Standards and Quality Bureau, HCFA, Room 5321, Switzer Bldg., 330 C St., S.W., Washington, D.C. 20201, 202-245-2196

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Safeguards for Patient Funds	Final	Policy Significant	Sec. 1121(m)(1) of the Social Security Act	Recent changes in law require implementing instructions.	This regulation expands standards for protection of personal funds of Medicare and Medicaid patients in skilled nursing facilities and intermediate care facilities.	No	Benjamin Latt, Health Standards and Quality Bureau, HCFA, Room 12A-46, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2420
Termination of Federal Financial Participation in Long-Term Care Facilities	Final	Policy Significant	Secs. 1102 and 1903 of the Social Security Act.	Department is considering new policy which requires new or modified regulations.	This regulation clarifies the circumstances under which Federal funding will no longer be available to skilled nursing facilities or intermediate care facilities under the Medicaid program. It also covers reconsiderations and administrative hearing provisions in State Medicaid plans for those providers whose certification has been terminated.	No	James Conrad, Health Standards and Quality Bureau, HCFA, Room 305, East High Rise Bldg. 6401 Security Blvd. Baltimore, Md. 21235, 301-594-9743
Conditions of Participation for Hospitals under the Medicare Program	NPRM	Policy Significant	Sec. 1861(e)(9) of the Social Security Act.	Department is considering significant change in policy and is requesting public comment on proposals.	This regulation would propose revised conditions for participation in Medicare for hospitals. It would simplify the language, and update the requirements to reflect changes in legislation and advances in technology.	No	Mike Spodnik, Health Standards and Quality Bureau, HCFA, Room 9A-45, Parklawn Bldg., 5600 Fisher Lane, Rockville, Md. 20857, 301-443-4983

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Utilization Review	NPRM	Policy Significant	Sec. 1903(g)(1)(c) of the Social Security Act.	Law in general terms; implementing instructions needed.	The regulation would propose revised requirements and procedures for utilization review in health care institutions participating in Medicare and Medicaid programs. These regulations would provide for review of the medical necessity of admissions and continued stays, the appropriateness and quality of patient care, and the effectiveness of utilization of facility and health professional services.	No	Jane Tebbutt, Health Standards and Quality Bureau, HCFA, Room 16A-27, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4985
Separate Cost Entities and Distinct Parts	NPRM	Technical	Sec. 1861(a), (f), (g), and (j) of the Social Security Act.	Department is considering major changes in policy and is requesting comments on proposals.	This regulation would propose conditions under which a component which provides typically unskilled care within a hospital may be certified as a provider distinct from the hospital.	No	James Conrad, Health Standards and Quality Bureau, HCFA, Room 305, East High Rise Bldg 6401 Security Blvd. Baltimore, Md. 21235, 301-594-7942

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Public Notice of Changes in the Method or Level of Reimbursement for Health Care Services	Final	Policy Significant	Secs. 1102, 1903(a)(4), and 1902(a)(30) of the Social Security Act.	Department implementing new policy in support of anti-inflation effort.	This regulation requires State Medicaid agencies to give 60 days public notice of any proposed change in the method or level of reimbursement for services produced under the Medicaid program. The intent is to allow the Federal Government in cooperation with the States and the public to evaluate the justification for the changes.	No	Milton Dezube, Medicaid Bureau, HCFA, Room 2631, Switzer Bldg., 330 C St., S.W. Washington, D.C. 20201, 202-245-8990
Intermediate Care Facilities/Skilled Nursing Facilities Reimbursement Revisions	NPRM	Policy Significant	Sec. 1102 of the Social Security Act.	Law in general terms; implementing instructions needed	This regulation would propose to clarify and expand requirements for State methods of payment for skilled nursing and intermediate care facility services under State Medicaid programs.	No	Milton Dezube Medicaid Bureau, HCFA, Room 2631, Switzer Bldg., 330 C St., S.W., Washington, D.C. 20201, 202-245-8990
Redesignation of Medicaid Administrative Requirements	Final with comment period	Technical	Sec. 1102 of the Social Security Act.	Redesignation needed to implement organizational changes.	Certain administrative requirements for the Medicaid program are being rewritten to make them more clear and renumbered to move them from 45 CFR Parts 205, 206, and 208 to 42 CFR Chapter IV, Subchapter C, which contains the other Medicaid regulations.	No	Dan Metzman, Medicaid Bureau, HCFA, Room 2618, Switzer Bldg., 330 C St., S.W., Washington, D.C. 20201, 202-245-0722
Family Planning	Final with comment period	Policy Significant	Secs. 1903(a)(5) and 1905(a)(4)(C) of the Social Security Act.	Department is considering new policy and is requesting public comment on regulation.	This regulation will specifies Federal requirements for provision of family planning services under Medicaid. It will specify the types and ranges of services that may be included by the States.	No	Barbara Stultz Medicaid Bureau, HCFA Room 2618 Switzer Building 330 C Street, S.W. Washington, D.C. 20201 202-245-9263

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Medicaid Utilization Control	Final	Policy Significant	Secs. 1102 and 1903(g) of the Social Security Act	Recent changes in law specifically require regulation.	This regulation specifies requirements for control over the utilization of inpatient institutional services in the Medicaid program. The regulation also specifies requirements States must meet to avoid reduced Federal matching; the content of quarterly reports; and the methods for making reductions of Federal matching.	No	Phil Otto, Medicaid Bureau, HCFA, Room 3513, Switzer Bldg., 330 C St., S.W., Washington, D.C. 20201, 202-245-6557
Timely Claims Processing	Final	Policy Significant	Sec. 1102 of the Social Security Act	Recent changes in law specifically require regulation.	This regulation adds new requirements for timely processing of certain health care providers's claims under Medicaid for payment (90 percent within 30 days of receipt, 99 percent within 90 days). The new requirements are intended to improve program management, increase provider participation in Medicaid, and aid in preventing and detecting fraud.	No	Milton Dezube, Medicaid Bureau, HCFA, Room 2626, Switzer Bldg., 330 C St., S.W., Washington, D.C. 20201, 202-245-8990

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Assignment of Benefits; Collection of Medical Support Payments	Final	Policy Significant	Sec. 1102 of the Social Security Act	Recent changes in law require implementing instructions.	These regulations specify new procedures (1) allowing States to require Medicaid recipients to assign their right to private insurance payments or other medical support to the States; (2) authorizing child support enforcement agencies to assist in collection of medical support; and (3) prohibiting Federal payment to any Medicaid recipient who is covered by a private health insurance policy having a Medicaid exclusion clause.	No	Arthur Muller, Medicaid Bureau, HCFA, Room 2065, Switzer Bldg., 330 C St., S.W., Washington, D.C. 20201, 202-245-0384
Medicaid Quality Control Fiscal Disallowances	Final	Policy Significant	Sec. 1102 of the Social Security Act.	Department has set new policy that requires new or modified regulations.	This regulation provides for a reduction in Federal financial participation for erroneous Medicaid expenditures to insure proper use of Federal and State Medicaid funds.	No	Victor Kugajevsky, Medicaid Bureau, HCFA, Room 3094, 330 C St., S.W., Washington, D.C. 20201, 202-245-3846
Medicaid Quality Control Systems: Expansion of Information Requirements.	Revised Final	Policy Significant	Secs. 1102 and 1902(a)(4) of the Social Security Act.	Department has set new policy that requires new or modified regulations.	These regulations expand the Medicaid quality control system for eligibility review to include the extent to which payments for Medicaid services: (a) took account of available medical insurance; and (b) were based on complete and accurate claims. Comments received in response to regulation published on March 31, 1978 are being considered to determine whether a revised regulation should be published.	No	Victor Kugajevsky, Medicaid Bureau, HCFA, Room 3094, 330 C St., S.W., Washington, D.C. 20201, 202-245-3846.

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
State Residency Requirements for Medicaid	Final	Policy Significant	Sec. 1102 of the Social Security Act.	Department is considering changes in policy and has requested public comments on proposal.	This regulation establishes new criteria for determining State residency of applicants for Medicaid benefits.	No	Elizabeth Barnes, Medicaid Bureau, HCFA, Room 2625, Switzer Bldg., 330 C St., S.W., Washington, D.C. 20201, 202-245-0384.
Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Penalty	Final	Policy Significant	Sec. 403(g) of the Social Security Act.	Law in general terms; implementing instructions needed.	This regulation specifies standards States are required to meet to insure that EPSDT services are provided to Medicaid eligible individuals under 21. A 1-percent penalty reduction in Federal funding for the aid to families with dependent children program is required if States do not meet the standards.	No	Senora Simpson, Medicaid Bureau, HCFA, Room 4621, Switzer Bldg., 330 C St., S.W., Washington, D.C. 20201, 202-245-0111.
General Contract Requirements for Medicaid	NPRM	Policy Significant	Secs. 1102 and 1902(a)(4) of the Social Security Act.	Law in general terms; implementing instructions needed.	This regulation proposes requirements to strengthen protections against questions on contract practices and possible program abuse and to remedy ambiguities and omissions in existing regulations.	No	Pat McCarthy Medicaid Bureau, HCFA, Room 4314, Switzer Bldg., 330 C St., S.W., Washington, D.C. 20201, 202-245-0786.
Hearing Aid and Eyeglass Reimbursement	NPRM	Policy Significant	Sec. 1102 of the Social Security Act.	Department is considering changes in policy and has requested public comments on proposal.	Comments received in response to a notice of intent that requested suggestions on practical ways to lower the cost and improve the quality of eyeglasses and hearing aids provided to Medicaid recipients.	No	Larry Rima, Medicaid Bureau, HCFA, Room 2613, Switzer Bldg., 330 C St., S.W., Washington, D.C. 20201, 202-245-9264.

* RA = Regulatory Analysis (Yes/No)

HCFA REGULATION AGENDA

Title	Stage of Development	Classification	Statutory Base	Need to Regulate	Description	*RA	Contact
Fraud in the Medical Assistance Program—Verification of Services	NPRM	Policy Significant	Secs. 1861(k), 1902(a)(30), 1903(g)(1)(C), and 1903(i)(4)	Department is considering new policy and is requesting public comment on proposals.	This regulation would require all States to implement a written verification of services program with Medicaid recipients in order to improve the capability to detect and deter fraud and abuse.	NO	Irwin Cohen Office of Program Integrity, HCFA Room 588 East High Rise Baltimore, Md. 21235 301-594-5415
Withholding Payments to Providers of Services and other Suppliers of Services	NPRM	Policy Significant	Secs. 1102 & 1871	The Department is considering new policy and is requesting public comments on proposals.	This regulation would clarify due process procedures that must be followed when payments to providers, physicians, and suppliers of services under the Medicare program are withheld because of suspected fraud or willful misrepresentation.	NO	Anthony Lovecchio Office of Program Integrity, HCFA Room 532 East High Rise Baltimore, Md. 21235 301-594-9588
Procedures for Recovery of Overpayments and Sanctions: Medicaid Services	NPRM	Policy Significant	Secs. 1102, 1902 (a)(4)(A), and 1902(a)(30)	The Department is considering new policy and is requesting public comments on proposals.	This regulation would set forth State plan requirements for States to establish mechanisms for recovery of overpayments in the case of fraud or abuse under the Medicaid program.	NO	Irwin Cohen Office of Program Intregity, HCFA Room 588, East High Ris. Baltimore, Md. 21235 301-594-5415

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

Title of Reg.	Classification	Statutory Base	Need to Regulate	Description	RA	Contact
Evaluation Standards NPRM	Technical	Rehabilitation Act (P.L. 93-112) as amended	P.L. 93-112 requires standards; need for accountability	Will establish standards for State VR agency services and operations	No	Kathaleen Arneson, Gregory March Office of Legislation, Regulations & Congressional Relations, RSA Room 3014 Switzer 330 C St, S.W. Washington, D.C. 20201
Section 622 Business Opportunities for Handicapped Individuals NPRM	Policy signifi-cant	Comprehensive Rehabilitation Services Amendments of 1978	Law requires regulations within 90 days for this new program	Will provide a frame-work for implementation of the new pro-gram	No	"
Child Day Care Standards 45 CFR Parts 71, 220, 223 NPRM	Major	Economic Op-portunity Act of 1968 and Title XX (P.L. 93-647)	Regulate day care	To establish standards for day care purchase at a minimum, with Title XX funds	Un-decided	Preston Bruce Administration of Children, Youth and Families Wash. D.C. 755-7650 Donehue Building
Removal of $5000 limitation on non-expendable personnel property NPRM	Technical changes	Administrative regulations-no specific statutory base	President's in-itiative on transportation	This regulation will remove the $500 limitation on the purchase of motor vehicles when they are used for service delivery or administra-tion of the social services	No	Mrs. Johnnie Brooks, Administra-tion for Public Service, HDS, 245-9415
Changes of WIN sanction period to conform with Court Order Part 224.77 Final	policy significant	402(a)(19)(F) of Soc. Sec. Act	A Court Order changing present regulation	Changes sanction period from stated time to that time individual refuses to participate	No	Sheldon Bloom, Dep. Dir., Office of WIN Pro-gram 601 "D" Street, N.W. Room 5100 Washington, D. C. 20213 (202) 376-6377

Title	Classification	Statutory Base	Need to Regulate	Description	R.A.	Contact
45 CFR Part 1304 Child Abuse and Neglect Prevention and Treatment Program Final	Policy Signifi-cant	PL. 93-247 (88 Stat 4 et seq.) as amended by PL 95-266	Recent amendments require changes in regulation. Also need to recodify to meet requirements of Operation Common Sense.	Contains various changes affecting operation of the Child Abuse and Neglect Treatment and Prevention Programs including new authority for service programs in addition to previously authorized research, demonstration, evaluation, training, technical assistance, and State grants.	No	James Rich, Policy and Program Specialist, Children's Bureau Administration for Children, Youth and Families, 400 6th St., SW Washington, DC 20201 (202) 755-7553

Significant New Regulations Currently Under Development

By The

Food and Drug Administration

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Allergenic Source Material	Rule	PHS Act	To assure safety and identity of source material	This document prescribes additional criteria for source materials used in the manufacture of a final allergenic product. Specific requirements will be required for the propagation and maintenance of molds and certain animals. Inspection and recordkeeping requirements will apply to all manufacturers of Allergenic Products.	No	A. Rothschild Bureau of Biologics, 11400 Rockville, Pike Rockville, Md. 20852 (301) 443-1307
Additional Standards for Insect Venoms	Proposal	PHS Act	To assure safety and identity of source material	This document proposes requirements for source materials used in the manufacture of allergenic products derived from insect venoms.	No	DO
Additional Standards for Source Materials (Pollens)	Proposal	PHS Act	To assure safety and identity of source material	This document proposes requirements for source materials used for manufacture of allergenic products derived from pollens.	No	DO

Significant New Regulations Currently Under Development

By The

Food and Drug Administration

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Error and Accident Reports	Proposal	PHS Act	To better assess the adequacy of existing regulations.	This document proposes to require licensed and unlicensed blood establishments to submit reports to FDA of errors and accidents that are imminent health hazards.	No	DO
Commonality of Blood Labeling	Proposal	PHS Act	To facilitate uniformity in blood labeling.	This document proposes to amend the blood labeling regulations as recommended by the American Blood Commission, Committee for Commonality in Blood Banking Automation.	No	DO
Notification of FDA Regarding Adverse Reactions	Proposal	PHS Act	To increase the FDA's effectiveness in regulating biological products.	This document proposes to require that manufacturers notify FDA of reports of adverse reactions from use of their products.	No	DO

Significant New Regulations Currently Under Development

By The

Food and Drug Administration

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Panel on Review of Bacterial Antigens and Bacterial Vaccines with "No U.S. Standard of Potency"	Rule	PHS Act	To bring products into conformance with current standards of safety and effectiveness.	This document will finalize a proposal, placing the subject products in categories designated as (1) safe and effective and not misbranded, (2) unsafe or ineffective and misbranded, and (3) not within category (1) or (2) above, on the basis that available data are insufficient to classify such products.	No	DO
Panel on Review of Skin Test Antigens	Rule	DO	DO	Do	No	DO
Panel on Review of Allergenic Extracts	Proposal	DO	DO	This document proposes to place the subject products in categories designated as (1) safe and effective and not misbranded, (2) unsafe or ineffective and misbranded, and (3) not within category (1) or (2) above, on the basis that available data are insufficient to classify such products.	No	DO

Significant New Regulations Currently Under Development

By The

Food and Drug Administration

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Panel on Review of Viral Vaccines and Rickettsial Vaccines	Proposal	PHS Act	To bring products into conformance with current standards of safety and effectiveness.	This document proposes to place the subject products in categories designated as (1) safe and effective and not misbranded, (2) unsafe or ineffective and misbranded, and (3) not within category (1) or (2) above, on the basis that available data are insufficient to classify such products.	No	DO
Panel on Review of Blood and Blood Products	Proposal	DO	DO	DO	No	DO
Panel on Review of Bacterial Antigens and Bacterial Vaccines with U.S. Standard of Potency	Proposal	DO	DO	DO	No	DO

Significant New Regulations Currently Under Development

By The

Food and Drug Administration

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Antibiotic Certification; Selective testing	rule	Federal Food, Drug and Cosmetic Act	To provide more efficient utilization of the agency's manpower resources and more efficient certification procedures.	Establishes a procedure whereby FDA can eliminate unnecessary duplicative testing in its laboratories.	No.	Mr. Mary McEniry, Bureau of Drugs, (HFD-30), 5600 Fishers Lane, Rockville, MD 301-443-3640. 20857
Proficiency Testing	proposal	do.	To assure uniformity of results of in vitro dissolution tests among manufacturers.	Requires manufacturers to conduct proficiency testing on their apparatus used in conducting an in vitro dissolution test.	No.	do.
Obligations of Sponsors and Monitors of Clinical Investigations	rule	do.	To provide greater protection of the rights and safety of subjects in clinical investigation and help assure the quality and integrity of the research data used to support the marketing of products regulated by FDA.	Establishes procedures to be followed by a sponsor and a monitor before initiating, and during the course of a clinical investigation involving the use of a drug, medical device, food or color additive, cosmetic, or electronic product.	No.	do.

Significant New Regulations Currently Under Development

By The

Food and Drug Administration

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Obligations of Clinical Investigators	rule	do.	To provide greater protection of the rights and safety of subjects in clinical investigations and help assure the quality and integrity of the research data used to support the marketing of products regulated by FDA.	Clarifies existing regulations governing conduct of persons who conduct clinical investigations on new drug products and extends the regulations to include persons who conduct clinical investigations on medical devices, food or color additives, cosmetics, and electronic products.	No.	do.
Methadone; Revision of Medical Standards	rule	Federal Food, Drug, and Cosmetic Act and Narcotic Addict Treatment Act of 1974.	Experience with methadone program suggests need to revise standards.	Revises the medical standards for methadone treatment programs by allowing the medical director of a program to exercise greater discretion in applying the required basic clinical standards (for example, on staffing patterns, criteria for admission, and frequency of urine testing). To be published jointly with The National Institute of Drug Abuse.	No.	do.

Significant New Regulations Currently Under Development

By The

Food and Drug Administration

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Abbreviated New Drug Applications for Post 1962 Drugs	proposal	Federal Food, Drug, and Cosmetic Act	To reduce unnecessary human testing of drugs.	Proposes to permit the filing of abbreviated new drug applications for post 1962 drugs by establishing criteria for their submission.	No.	do.
CGMP Regulations for Large Volume Parenterals	rule	do.	To assure a high quality of manufacturing for these products, which are used in seriously ill patients.	Establishes current good manufacturing practices of a class of parenteral drug products that can be characterized as terminally sterilized, aqueous solutions of 100 ml or more.	No.	do.

Significant New Regulations Currently Under Development

By The

Food and Drug Administration

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Requirements for designating the manufacturer's name on a drug or drug product's label	rule	do.	To enable interested persons to determine the relationship of the person whose name is on the label to the product.	Specifies the conditions under which a person may be identified on a drug or drug product's label as its manufacturer. This action revokes the agency's "man-in-the-plant" policy, which has been used to determine who may be identified on a drug or drug product's label as a manufacturer. Also specifies the qualifying phrases with which packers and distributors could be identified on a drug or drug product's label.	No.	do.
Prescription Drug Labeling	rule	do.	To improve the quality of physician labeling of prescription drugs.	Specifies the content and format of physician labeling for human prescription drugs. The rule designates a required format and provides detailed standards on the kind of information that must be included under each of the specific section headings of the format.	No.	do.

Significant New Regulations Currently Under Development

By The

Food and Drug Administration

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Oral Hypoglycemic Labeling	rule	do.	To update the physician labeling based on current knowledge about these drugs.	Requires additional statements in the labeling of oral hypoglycemics about increased cardiovascular deaths attributed to their use and directs the physician to discuss these risks and alternative therapy with patient.	No.	do.
Ethylene Oxide	rule	do.	Because of possible adverse effects of residues of ethylene oxide and its major reaction products.	Establishes interim residue limits for ethylene oxide and its two reaction products, ethylene chlorohydrin and ethylene glycol, in human and veterinary drug products and medical devices, and maximum daily levels of exposure for drug products where ethylene oxide is used as a sterilant during the manufacturing process.	No.	do.
Fetal Alcohol Syndrome: Required Warning for Drugs Containing Alcohol	proposal	do.	To inform interested persons of the evidence of a causal relationship between alcohol consumption by pregnant women and deformities in their unborn children.	Proposes to require a warning on physician labeling for oral prescription drugs and oral OTC drugs that contain certain amounts of alcohol.	No.	do.

Significant New Regulations Currently Under Development

By The

Food and Drug Administration

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Oral Hypoglycemic Labeling	rule	do.	To update the physician labeling based on current knowledge about these drugs.	Requires additional statements in the labeling of oral hypoglycemics about increased cardiovascular deaths attributed to their use and directs the physician to discuss these risks and alternative therapy with patient.	No.	do.
Ethylene Oxide	rule	do.	Because of possible adverse effects of residues of ethylene oxide and its major reaction products.	Establishes interim residue limits for ethylene oxide and its two reaction products, ethylene chlorohydrin and ethylene glycol, in human and veterinary drug products and medical devices, and maximum daily levels of exposure for drug products where ethylene oxide is used as a sterilant during the manufacturing process.	No.	do.
Fetal Alcohol Syndrome: Required Warning for Drugs Containing Alcohol	proposal	do.	To inform interested persons of the evidence of a causal relationship between alcohol consumption by pregnant women and deformities in their unborn children.	Proposes to require a warning on physician labeling for oral prescription drugs and oral OTC drugs that contain certain amounts of alcohol.	No.	do.

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
FD&C Yellow No. 5	rule	do.	To inform consumers of the presence of FD&C Yellow No. 5 in drug products.	Requires a label declaration on all foods, drugs, and cosmetics containing FD&C Yellow No. 5.	No.	do.
Revision of Investigational Drug and New Drug Application (IND/NDA) Regulations	proposal	do.	To improve the IND/NDA review process and make the approval of new drugs more efficient.	Proposes to rewrite the IND/NDA regulations to more formally structure the IND phases. This would mean if a drug reaches the NDA stage it should be essentially approvable.	No.	do.

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Legal Status of Approved Labeling	proposal	do.	To clarify agency policy in the use of drugs not in accordance with their labeling	Proposes to distinguish between non-labeled and disapproved uses of prescription drugs and the impact of such use in the practice of medicine and in research.	No.	do.
Public Disclosure of Specifications	rule	do.	To ensure that adequate public specifications are available for all drugs.	Provides for the disclosure of specifications submitted to the agency by the manufacturer, unless the specifications serves no regulatory or compliance purpose, and are exempt as trade secrets, and have not previously been publically disclosed.	No.	do.

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Requirements for Pediatric Drug Studies	proposal	do.	To ensure that drugs administered to children have been shown to be safe and effective for that use.	Proposes rules under which new drugs that are likely to be used in children will be required to be shown to be safe and effective in children.	No.	do.
Subject Follow-up Regulations	proposal	do.	To improve the protection of subjects participating in drug research	Proposes to require investigators to maintain a list of names and addresses of subjects who participate in investigational studies to provide a means of contacting the subjects in the event data are obtained indicating the need to contact the subject.	No.	do.
OTC Labeling Standards	proposal	do.	To improve the quality of OTC labeling	Proposes to establish standards for OTC labeling. Sets priorities for placement of required information on labels and in labeling; establishes a format for the direction for use and warning; limits space used for unrequired information; and sets type-size requirements.	No.	do.

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Advertising Regulations for Prescription Drug Products	proposal	do.	To improve prescription drug advertising and promotional labeling	Proposes to revise the present regulations to provide clear requirements for modern advertising techniques and to clarify and establish additional requirements for promotional labeling.	No	do.
Policy on Patient Labeling for Prescription Drugs	proposal	do.	To inform patients about the prescription drug products prescribed for them.	Proposes the agency's overall policy on patient labeling for prescription drugs. Contains minimum general requirements for the content, printing specifications, and distribution of labeling and would provide for the availability of guideline labeling to meet the proposed requirements.	Not yet determined	do.

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Umbrella Good Manufacturing Practices (GMP).	Proposal.	Federal Food, Drug, and Cosmetic Act.	To ensure safe manufacturing, processing, packing and holding practices for foods.	This proposal would update and expand the good manufacturing practices regulations for human foods.	No	Mr. Bob Lake, Bureau of Foods (HFF-302), 200 C Street, S.W., Washington, D.C. 20204 (202) 245-1254.
Milk, Cream and Cheese Substitutes.	Regulation.	do	To promote honesty and fair dealing in the interest of consumers.	This regulation would establish standards of identity for milk, cream, and cheese substitutes.	No	do
Smoked Fish GMP.	Proposal.	do	To ensure safe manufacturing practices for smoked fish.	This proposal would revise the GMP regulation for the smoked fish industry.	No	do
Emergency Permit Controls for Acidified Foods, Low Acid Food GMP, Acidified Foods GMP.	Final Regulation.	do	To ensure safe manufacturing, processing, and packing procedures for low acid and acidified foods.	This regulation would establish and revise the specific current food manufacturing processes for acidified and low acid foods respectively.	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Standard of Identity for Concentrated Tomato Juice and Concentrated Tomato Products.	Regulation.	do	To promote honesty and fair dealing in the interest of consumers.	This regulation would establish a standard of identity for tomato juice from concentrate and revise the standards of identity for tomato juice and concentrated tomato products.	No	do
Frozen Strawberries Minimum Strawberry Content and Percentage Labeling of Sirup and Dry Sweetener Packs.	Regulation.	do	do	This regulation would establish a minimum strawberry content and percentage labeling of sirup and dry sweetener packs for frozen strawberries.	No	do
Orange Juice with Preservatives Identity.	Final Regulation.	do	do	This final regulation would amend the standard of identity for orange juice with preservatives and concentrated orange juice with preservatives.	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Solid Contents Statement on Canned Fruit and Vegetable Products.	Final Regulation.	do	To promote honesty and fair dealing in the interest of consumers.	This final regulation would provide an alternative to drained weight labeling by proposing filled weight labeling requirements.	No	do
Hair Dyes Containing Animal Carcinogen 2, 4TDA, 2NPPD, 2NPAP, and 4COPD.	Proposal.	do	To inform consumers as to the possible dangers regarding these hair dyes.	This document would propose a warning statement on the label of hair dyes containing animal carcinogen 2, 4TDA, 2NPPD, 2NPAP, and 4COPD, if the National Cancer Institute's report confirms that they are carcinogens.	No	do
Hair Dyes Containing Animal Carcinogen 4MMPD.	Final Regulation.	do	do	This final regulation would require a warning statement on the label of hair dyes containing animal carcinogen 4MMPD.	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Bubble Bath Products Warnings.	Final Regulation.	do	To caution the consumers as to possible problems which may occur while using these products.	On January 28, 1977, a notice was published proposing a required caution statement on labels of cosmetic bubble bath products. The caution statement was proposed in light of many consumer complaints of rashes and genito-urinary tract infactions. The term "bubble bath product" is defined for the purpose of the regulation.	No	do
CTFA Cosmetic Ingredient Dictionary.	Final Regulation.	do	To provide industry with a uniform nomenclature of cosmetic ingredients.	This final regulation would finalize recognition of the CTFA (Cosmetic, Toiletry, and Fragrance Association, Inc.) Cosmetic Ingredient Dictionary, Second Ed., 1976, as petitioned by the CTFA, as a new source of ingredient names adopted for use in cosmetic ingredient labeling. On the initiative of the Commissioner, the document	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
				also lists several supplements and new editions of other currently recognized compendia which are proposed for adoption.		
Labeling of Sodium and Potassium Content of Foods.	Proposal.	do	To give the consumers an opportunity to regulate their intake of sodium acid potassium.	This proposal would amend Section 105.69 ("foods used to regulate sodium-- and potassium-- intake") to change the present mode of declaring sodium content and to add a description of how potassium content is also to be declared. There shall also be a new paragraph in Section 101.17 ("Food labeling warning statements") to provide for warnings regarding potassium content on labels of some salt substitutes.	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Nutritional Quality Guideline for Fruit or Vegetable Type Beverage Products Requiring Vitamin C.	Final Regulation.	do	To provide consistency in added Vitamin C in these beverages and to provide that such additions are nutriently significant.	This final regulation would establish NQG for fruit or vegetable beverage products containing Vitamin C.	No	do
General Principles for the Addition of Nutrients to Food.	Notice.	do	To provide a guideline by which nutrients could be added to foods in a most appropriate pattern and potency.	This notice would clarify a FDA policy concerning the nutrient fortification of food. This policy is expressed as a series of principles which manufacturers are urged to follow if they elect to add nutrients to a particular food or class of foods.	No	do
Label Statements Relating to Infant Foods.	Final Regulation.	do	To give the consumer the opportunity to know the relative proportions or the principal ingredients in foods for infants.	This final regulation would require percentage declaration of ingredients of infant foods.	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
U.S. Recommended Daily Allowance for Manganese.	Proposal.	do	To establish US RDA for manganese so that it can be properly declared as a percentage in foods and supplements.	This proposal would add to the list of US RDA's in Section 101.8(c)(7)(iv) and Section 105.3(b)(1), CFR.	No	do
Revision of Nutrient Specifications for Infant Formulas.	Proposal.	do	To update and clarify the present regulation requirements to reflect current knowledge and, if possible, be consistent with Codex Alimentarius.	This proposal would amend 21 CFR 105.65 ("Infant Foods") to accommodate some changes recommended by the American Academy of Pediatrics in the "standards for (infant) formulas." In this proposal we shall also handle the issue of other nutrients for nutritional adjuncts (e.g., inositol) which are appropriate for addition to infant formulas (and, incidentally, medical foods).	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Specifications for Acceptable Bioavailability of Iron and other nutrients.	Proposal.	do	To assure that iron and other nutrient substances used for nutrient supplement purposes will be nutritionally useful.	The intention of this proposal is to discriminate between acceptable and unacceptable nutrient source compounds or naturally occurring substances on the basis of the nutrient's ability to be absorbed and biologically utilized as a nutrient. Initial action will be to describe the appropriate degree of bioavailability for iron which is to be added to food and the method to determine its bioavailability separately or from a specific food system.	No	do
Upper Limits of Safe Use for Nutritionally Essential Minerals.	Proposal.	do	To provide for safe use of various minerals added to foods and supplements for nutritional purposes.	It is our intention to establish through this proposal upper levels for safe addition of nutritionally essential minerals to foods. Examples of these minerals are chromium, manganese,	No	do

(continued)

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
				molybdenum, nickel, selenium, tin, vanadium, copper and zinc. Safety is partly predicated on the nature of the chemical compound which is the vehicle for the respective mineral. Each can be toxic at amounts which may be used in some foods, especially dietary supplements. Unlimited addition of these substances to foods could lead to chronic toxicity.		
Formulated Food Products Used Under Medical Supervision.	Proposal.	do	To provide assurance that these special foods are adequate and appropriate for their specific intended uses.	It is our intention through this proposal to formally classify these formulated food products as "foods for special dietary use" in Part 105, to provide mandatory as well as optional (but desirable) information in the labeling. This regulation might be designed along	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
				the lines of Section 105.65 CFR ("Infant foods") although a companion regulation in Subpart C (now "reserved") may be important to describe some special features about the composition and professional literature which would be unique for this class of product. Subpart C might then be titled "Guidelines for quality and labeling."		
Upper Limits Generally Recognized As Safe for Vitamins A and D.	Proposal.	do	To provide a realistic and safe limit for the use, in food and supplements, of these two fat-soluble vitamins which, being stored in the body, can accumulate to produce toxic reactions.	It is our intention to establish through this proposal upper levels of Vitamins A and D in dietary supplements that are considered GRAS and require food additive petitions for higher use levels.	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
GRAS-Whey, Whey Products and Hydrogen Peroxide Used in Whey Treatments.	Proposal.	do	To establish safe uses of certain milk proteins.	This proposal would establish common or usual names and affirm the GRAS status for whey and whey products. This is the result of 10 GRAS petitions. These dried whey products have numerous potential uses in food, including sources of milk protein and use as milk solids where not exempted by food standards.	No	do
Use of Chlorine Gas in an Aqueous Solution.	Proposal.	do	To establish safe uses of chlorine as a sanitizing agent.	This proposal would establish GRAS conditions of use for chlorine food sanitizers. This is the result of 12 GRAS petitions for uses of chlorine, hypochlorus acid, and chlorine dioxide as food sanitizing solutions.	No	do
Procedural Regulations for Medical Device Colors.	Proposal.	do	To implement the provisions of the Medical Device Amendments of 1976, as they pertain to color additives.	The Medical Device Amendments were passed in 1976. These proposed regulations for medical devices would amend the color additive regulations to provide for the issuance of regulations	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
				listing colors for use in medical devices.		
Proposed Revision of Temporary Tolerances.	Regulation.	do	To update the temporary tolerances for provisionally listed color additives to be consistent with current scientific data.	Section 81.25 prescribes temporary tolerances for the use of certain provisionally listed color additives pending a decision on their "permanent" listing. These were developed on the basis of early preliminary toxicity data. The proposed revision of this section would change the tolerances for most of the colors in Section 81.25.	No	do
Cholesterol-free Egg Substitute—Petition for Reconsideration.	Proposal.	do	To establish consistency in labeling of cholesterol content of foods.	The broad issue of cholesterol labeling needs to be discussed and a policy established. The issue is one that is undergoing considerable study in the Bureau. This proposal deals with the issue of the term cholesterol-free being used in the name of food products.	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Liquid Protein Products Warning Statement.	Final Regulation.	do	To inform potential consumers of the possible dangers of misuse of liquid protein products.	This tentative final regulation would set forth label warning requirements for protein supplements that may be used in weight reduction or weight maintenance programs.	No	do
Proposal for Common or Usual Name for Diluted Fruit or Vegetable Juice Beverages.	Final Regulation.	do	To provide consistency in the labeling of those beverages especially in respect to juice content.	This final regulation would establish a common or usual name for undiluted fruit or vegetable juice beverages.	No	do
Aflatoxin in Peanuts.	Final Regulation.	do	To prevent avoidable residues of aflatoxins in peanuts and peanut products.	This final regulation would set tolerances for aflatoxin in peanuts.	No	do
Polychlorinated Biphenyles. Proposed Reduction of Tolerance.	Final Regulation.	do	To reduce human exposure to PCB's.	This final regulation will reduce tolerances for PCB's in various foods and feed. It includes proposed reduction of fish tolerance from 5 ppm to 2 ppm.	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Infant Food; Junior Food; Toddler Meal.	Final Regulation.	do	To give the consumer the opportunity to know the relative proportions of the principal ingredients in foods for infants.	This final regulation would require percentage declaration of characterizing ingredients as part of the statement of identity. This issue should be resolved as a distinct but related matter to the label statements relating to infant foods.	No	do
Plant Protein—Common or Usual Names for Foods, Vegetable Protein Products which Resemble and Substitute for Meats, Seafood, Poultry, Eggs, or Cheese.	Final Regulation.	do	To provide consistency in the labeling and in the nutrient content of vegetable protein substitutes for the 5 major protein foods.	This final regulation would establish common or usual names for vegetable protein products and names and definitions of nutritional equivalence for the 5 major protein foods.	No	do
Interstate Conveyance on Board Food Service Operations.	Proposal.	Public Health Service Act.	To protect against insanitary conditions on interstate conveyances which carry food in interstate commerce.	This proposal would establish sanitation requirements for interstate conveyances carrying food in interstate commerce.	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Interstate Conveyance Catering Point Sanitation.	Proposal.	Public Health Service Act.	To protect against insanitary conditions revolving around catering operations involved with interstate conveyances carrying food in interstate commerce.	This proposal would establish sanitation requirements for caterers to interstate conveyances carrying food in interstate commerce.	No	do
Food Labeling: Designation of Ingredients re: Nutritive Sweeteners.	Proposal.	Federal Food, Drug, and Cosmetic Act.	To provide flexibility in the labeling of sweeteners without depriving the consumer of information.	This proposal is the result of several petitions requesting some form of exemption for identification of specific sweetening ingredient. The broad issue of ingredient labeling of sweeteners in foods as it relates to health and nutrition is one designated for considerable study in the Bureau of Foods	No	do
Common or Usual Name for Substitutes for Margarine or Butter.	Final Regulation.	do	To provide consistency in the labeling of substitutes for margarine or butter.	This final regulation would identify a name like vegetable oil spread. —pet. oil. The butter industry has called attention to the FTC Act (continued)	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
				which has requirements for labeling margarine. FDA does not define the low fat products as margarine.		
Tolerance for Mercury in Fish.	Final Regulation.	do	To provide a more appropriate action level to permit maximum use of fish without increasing human exposure to mercury.	This final regulation would terminate a proposed regulation and announce the availability of action levels (administrative guidelines) according to new regulations for poisonous or deleterious substances.	No	do
Areas of Principal Display Panel.	Final Regulation.	do	To provide a more uniform basis for determining size and other labeling requirements.	This proposal, which would have revised the definition for the area of the principal display panel which is used for determining type-size and other labeling requirements, is being reconsiderd and may be withdrawn.	No	do
Fruit Flavored Spreads.	Final Regulation.	do	To provide consistency in the (continued)	This final regulation would establish a common (continued)	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
			labeling of substitutes for jellies and preserves.	or usual name regulation for fruit flavored spreads.		
Use of Sodium Nitrite in Smoked Fish & Sodium Nitrate in Home Curing Pre-mixes.	Proposal.	do	Data indicate use of nitrate is not needed and that additional safety data is needed for nitrite.	Two documents are being prepared for this issue: (1) a notice of withdrawal of the November 3, 1972 proposal to eliminate certain uses of nitrates and nitrites, and (2) a new proposal to revoke the use of nitrates and nitrites in smoked fish and pet food and to interim list use of sodium nitrite in smoked fish.	No	do
Proposed Regulations for Lakes (pigments).	Proposal.	do	To establish listing regulations for the use of color additive Lakes under the color amendments.	In 1965 a document was published which proposed to list the lakes of the colors. Because of deficiencies in this proposal, we are currently preparing documents to revoke it and request more information on lakes which are now provisionally listed.	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
FD&C Red 34.	Proposal.	do	New data indicates the need to prohibit the use of FD&C Red 34.	This document proposes to delist FD&C Red 34 from the permanent list of color additives because of possible contamination by a carcinogen.	No	do
Color Certification— Procedures for Non-conforming Batches.	Proposal.	do	To establish regulations which formalize the procedures used in certification of colors.	This proposal would amend the regulations for the certification of color additives to prescribe procedures for the rejection of samples submitted for certification on the basis of analytical response, when the substance causing the response is unidentified.	No	do
Lead Contamination of Food.	Proposal.	do	To clarify FDA's policy regarding lead contamination of food.	This proposal would be an advance notice of proposed rulemaking which will set out FDA's policy regarding lead contamination of food products.	No	do
Labeling of Yellow No. 5 in Foods and Drugs.	Final Regulation.	do	Scientific data demonstrates the need to establish labeling requirements to (continued)	This final regulation would require the labeling of FD&C Yellow NO. 5 in foods and ingested drugs containing the color (continued)	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
			provide for the safe use of FD&C Yellow No. 5.	because of several documented incidences of allergic-type reactions to FD&C Yellow No. 5		
Use of Food Preservative BHT.	Final Regulation.	do	To re-evaluate the safety of all GRAS food ingredients.	This final regulation would establish an interim food additive level for BHT.	No	do
Annatto Extract, Paprika Oleoresin, and Tumeric Oleoresin.	Final Regulation.	do	New data indicates the need to prohibit the use of the solvent for these color additives.	This final regulation would prohibit use of trichloroethylene as a solvent in these color additives.	No	do
Revocation of Use of Morpholine.	Notice.	do	To expand the scope of a previous proposal.	This notice will withdraw the proposal to revoke the use of morpholine, and a new proposal will issue.	No	do
Chloroform in Contact with Food.	Proposal.	do	New data indicates that the use of this substance should be prohibited.	This proposal would delist certain uses of chloroform in food packaging materials.	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Trichloroethylene.	Final Regulation.	do	New data indicates the need to prohibit the use of the solvent.	This final regulation would prohibit trichloroethylene in human food because it may pose a risk of cancer.	No	do
Safety of Certain Food Ingredients: Sucrose and Corn Sugar.	Proposal.	do	To re-evaluate the safety of all GRAS food ingredients.	Proposal would affirm the GRAS status of sucrose and corn sugars.	No	do
Sensitivity of Method	NPRM	do	To facilitate a determination of the safety of drugs intended for food producing animals	This propdsal would establish criteria and procedures for evaluating assays for carcinogenic residue in animal derived food	Yes	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Premarket Approval Procedures	Proposal	Federal Food, Drug and Cosmetic Act	Required under Section 515(b)(d)	Provides requirements for submission of premarket approval applications, including safety and effectiveness requirements for all class III medical devices.	No	Mr. Joseph Mamana Bureau of Medical Devices, 8757 Georgia Ave., Silver Spring, MD 20910 (301) 427-7114
Classification of Preenactment Devices	Proposal	do	Required under Section 513(c),(d)	Classifies all medical devices marketed prior to May 28, 1976, into three regulatory control categories. The classifications are based on the recommendations of 8 expert advisory panels.	No	do
Performance Standards Procedural Regulation	Final Rule	do	Needed to implement Section 516.	Prescribes procedures by which performance standards will be established, developed, and promulgated for all class II medical devices.	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Banned Device Regulation	Final Rule	do	Needed to implement Section 516.	Provides procedures that FDA can use in banning a medical device that presents a substantial deception or an unreasonable and/or substantial risk of illness or injury.	No	do
Investigational Device Exemptions	Final Rule	do	Required under Section 520(g)(2)(A)	Provides requirements for conducting clinical studies and investigations of medical devices used with human subjects.	No	do
Administrative Restraint Procedures	Final Rule	do	Required under Section 304(g)(1)	Establishes procedures for a 20-30 day administrative detention of medical devices suspected of being adulterated or misbranded.	No	do
Restricted Devices Regulations	Proposal	do	Needed to set forth restricted device standards	Sets forth the criteria for determining which devices are restricted devices	No	do
Mandatory Device Experience Reporting	Proposal	do	To provide FDA with information on devices that are unsafe or ineffective	Sets forth mandatory reporting requirements for manufacturers and distributors for devices that (1) cause or could cause death or injury, or (2) are the subject of a corrective action.	No	do

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
California Application for Exemption from Preemption	Reproposal	do	Response to petition	Responds to California's application for exemption from preemption for its device laws and regulations.	No	do
Applications for Exemption from Preemption for State and Local Hearing Aid Requirements	Final Rule	do	Response to petitions	Responds to 19 State applications for exemption from preemption for hearing aid requirements.	No	do
Procedural Regulation for Medical Device Colors	Proposal	do	Required under Section 706(b)	Amends the color additive regulations to provide for the issuance of regulations listing colors for use in medical devices.	No	Mr. Robert Lake Bureau of Foods 200 C Street, N.W. Washington, D.C. 20204 (202) 245-1254

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Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Recommendations Concerning Mammography Screening	NOI	Public Health Service Act	Guidance on when mammography screening is appropriate	Mammography screening of the general population of asymptomatic women has been recommended by various organizations including the American Cancer Society and the American College of Radiology. Because of the potential cancer risks, NIH recently convened an expert committee to review these issues and to develop guidelines for the mammography screening projects being supported by NCI. A Notice of Intent will be published which will seek to obtain information and opinion concerning such questions as the population to be screened, the usefulness of a base-line mammogram, etc. Interim guidelines will also be proposed as part of the Notice. These will be based primarily on the recommendations made by the NIH expert committee.	No	Mr. Michael S. Terpilak Bureau of Radiological Heal 5600 Fishers Lane Rockville, MD 20857 301/443-3426
Diagnostic Ultrasound	NOI	do	To get public opinion on risks of diagnostic ultrasound and appropriate action program	Diagnostic ultrasound equipment is being used widely with little evidence of the degree to which human exposure levels may be harmful, especially to the developing fetus. This notice will announce the potential development of standards and/or recommendations related to the manufacture and use of these devices. The guidance, which is included in the notice, will encourage manufacturers to employ the lowest power levels practicable and will caution against unnecessary exposure to patients and others.	No	do

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Nuclear Medicine Quality Assurance of Scintillation Cameras	NOI	do	To minimize radiation exposure while obtaining high quality diagnostic information	Quality assurance procedures, which include quality control procedures, are needed broadly in nuclear medicine to assure maximum benefit from nuclear medical techniques, consistent with obtaining high quality images at minimum cost and minimum radiation dose to the patient. Voluntary recommendations, to be based on BRH technical reports, will be developed in cooperation with representatives of professional, public and private groups that have an interest and knowledge in the field. These recommendations, therefore, would represent a consensus of expert opinion upon which individual practitioners and allied health personnel can rely and would be implemented through educational programs and cooperative activities with professional organizations and State health agencies.	No	do
Recommendations for Diagnostic Examinations	NOI	do	To get public opinion on need and type of action program to narrow range of exposures from diagnostic x-ray procedures	There exists a considerable range in the entrance skin exposure and the resulting organ doses for the same X-ray procedure conducted at different medical facilities and often within the same facility. Radiation exposure recommendations are being investigated that will permit radiologists, radiation protection personnel, and others to evaluate exposure values used in a given facility. Following the analysis of the comments generated by the Notice of Intent, a program decision will be made as to the course of action the Bureau will pursue.	No	do

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Recommendation for Routine Chest X-ray Screening for Cardiopulmonary Disease	NOI	do	To get public opinion on need and content of recommendations concerning use of chest x rays in screening programs	The Bureau is evaluating the use of chest X-ray examinations as part of routine screening programs in the detection of cardiopulmonary disease. Numerous studies have shown that routine chest X-ray screening of asymptomatic persons for certain types of pathology is neither efficacious nor cost effective. The Bureau has prepared a preliminary analysis report evaluating the impact of the Department's 1972 Policy Statement on Routine Chest X-ray Screening.	No	do
National Standards for Medical Radiation Technologists	NOI	do	To get public opinion on present credentialing practices and the need for national standards	This Notice of Intent will be published to announce that the Bureau of Radiological Health will be establishing recommended qualifications for medical radiation technologists. The Notice will solicit professional and public input about existing practices of credentialing, the need for uniform national standards, and possible approaches for ensuring that all medical radiation technologists demonstrate a certain level of competence in conducting medical radiation examinations.	No	do
Phototherapy Recommendations	NOI	do	To minimize risks of ultraviolet radiation exposure in treatment of psoriasis	In this Notice, FDA is announcing that radiation safety guidelines are to be developed and proposed for equipment used as a radiation source (in combination with the drug, psoralen) in the photochemotherapy of psoriasis. Psoriasis is a disfiguring, often incapacitating, disease of the skin	No	do

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
				that affects 1 to 3 pct. of the world's population. Derivatives of the drug psoralen are currently being used, along with an ultraviolet radiation source, to treat this disease.		
Recommendation Advocating Use of Improved X-Ray Intensifying Screens	NPRM	do	Reduction of patient exposure by advocating use of high speed x-ray intensifying screens	Recent advances in the manufacture of X-ray intensifying screens offer the opportunity for significant reductions in X-ray exposure to patients for many radiological examinations. The new generation of phosphor materials could enable the performance of many radiological examinations with exposure reductions of one-half or more over previous imaging systems without loss of image quality. It is proposed to develop an FDA radiation protection recommendation designed to encourage rapid adoption of these imaging systems. Such a recommendation, supplemented by performance data on the new intensifying screens, could provide the incentive for facilities to use these newer imaging systems sooner than otherwise would occur.	No	do
Recommendation for Utilization of Skull Radiography Following Trauma	NOI	do	To get public opinion on need and form of action program to eliminate unnecessary skull radiographs	Literature and several clinical studies support the contention that the number of X-ray examinations of the skull for trauma could be reduced by as much as 40 pct. without adversely affecting the quality of health care. The Bureau has prepared a preliminary analysis of the use of skull radiography following trauma, and is supporting a study to survey several clinical facilities to more adequately	No	do

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
				define the problem. Data from this study will lead to the development of questions and concepts for recommendations which are expected to be published in a Notice of Intent. Following analysis of the comments generated by the Notice, the program will be reviewed and a decision made concerning its future.		
Advisory Opinions and Recodification	Final Rule	do	Clarification and updating of performance standard for diagnostic x-ray equipment	These amendments will codify various interpretations and advisory opinions under which the Bureau currently operates. In addition, the section on assembly and reassembly of diagnostic X-ray systems and components will be moved from § 1000.16 to § 1020.30(p) in order in incorporate the provisions into the body of the standard.	No	do
Recommendations for State and Local Agencies Concerning Accidental Radioactive Contamination of Human Food and Animal Feeds	NPRM	do	To define levels of dose commitments which necessitate protective actions after a release of radioactive material	The proposed recommendation would consist of Protective Action Guides (PAGs), defined as the projected radiological dose equivalent or dose commitment in individuals in the general population that warrants protective action following a release of radioactive material. The Department of Health, Education, and Welfare was assigned agency responsibility for this task in the FEDERAL REGISTER of December 24, 1975 (40 FR 59494) by the Federal Preparedness Agency, General Services Administration. Within HEW, this function has been delegated to the Commissioner of Food and Drugs.	No	do

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Regulatory Standard for Mercury Vapor Lamps	Final Rule	do	To reduce risk of ultraviolet radiation exposure from broken mercury vapor lamps	This Agency has decided to develop a regulatory product safety standard for high intensity mercury vapor discharge lamps. A potential radiation hazard associated with the use of such lamps occure when the outer bulb of the lamp is broken while the inner arc tube of the lamp continues to operate. This results in the emission of hazardous short wavelength ultraviolet radiation. The injury reports received by this Agency further indicate an acute radiation hazard from broken mercury vapor lamps. The standard is intended to reduce the possibility of such injuries by requiring that some performance safety feature be incorporated into the lamp for general lighting purposes so that the lamp will cease operation within a short period of time following the breakage of the outer envelope. Lamps without such a safety feature shall be limited to restricted uses only. Further, adequate information for the safe use of both types of lamps is also required to be provided to the user.	No	do
Amendments to the Performance Standard for Laser Products	Final Rule	do	Clarification and updating of performance standard for laser products	Administration of the laser standard since it became effective on August 2, 1976, indicates that some provisions of the standard may need to be clarified. These changes would reduce, in most cases, the burden on affected manufacturers without compromising the public health. Changes would be made in the measurement provisions, more flexibility would be permitted in	No	do

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
				labeling, and allowance would be made for the unlikelihood of a potentially dangerous eye exposure to low-level stationary and rapidly scanning laser radiation.		
Regulatory Standard for Microwave Diathermy	NPRM	do	To reduce unnecessary microwave radiation exposure from microwave diathermy equipment	The purpose of this standard is to provide general requirements for microwave diathermy products to assure that to the extent that safety and performance can be controlled, microwave diathermy products are effective for their intended use, and the risk of injury to patient and attending personnel is minimized. The proposed standard includes provisions on minimum microwave radiation output to achieve therapeutic heating, limits on microwave leakage, product interlocks and controls, product performance, labeling, warnings and user instructions, and test requirements.	No	do
Recommendation for X-ray Exposure of Women of Childbearing Age	NPRM	do	To advise physicians on the advisability and methods of minimizing the exposure of pregnant females to diagnostic radiography	The guideline to be proposed will address and explain three particular points in an effort to reduce this risk. It will advise physicians: (a) To ascertain whether their female patients are or could be pregnant, prior to ordering abdominal radiological examinations; (b) to utilize modified or limited studies when possible for female patients who are likely to be or who are definitely pregnant, as a means of reducing fetal exposure; and (c) to use alternative procedures for radiological examinations when appropriate.	No	do

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Recommendation for Quality Assurance Programs in Diagnostic Radiology Facilities	Final Rule	do	To reduce unnecessary exposure while improving diagnostic information	The purpose of this publication is to encourage diagnostic radiology facilities to establish their own quality assurance programs with the goals of improving diagnostic image quality and reducing unnecessary patient radiation exposure. The recommendation will also suggest elements which should be included in such programs.	No	do
Amendments to the Diagnostic X-ray Equipment Standard	Final Rule	do	Clarification and updating of performance standard for diagnostic x-ray equipment	Certain of these amendments will codify various interpretations and advisory opinions under which the Bureau currently operates or will clarify the Bureau's intent concerning provisions of the standard. Other amendments concerning spot-film and fluoroscopic X-ray field limitation were proposed in a June 11, 1975, FEDERAL REGISTER Notice of proposed rulemaking (40 FR 24909). As a result of comments received, these latter amendments were withdrawn for further study and are now being reproposed in a modified form.	No	do
Amendments to Diagnostic X-ray Standard Beam Limitation	Final Rule	do	Clarification and updating of performance standard for diagnostic x-ray equipment	These amendments to the diagnostic X-ray standard would revise and simplify the requirements for Positive Beam Limitation (PBL) contained in § 1020.31(e)(2). In addition, provisions for overriding automatic X-ray field adjustment systems on fluoroscopic X-ray equipment will be addressed and a warning label required. The changes in the PBL requirements would allow more flexibility in the	No	do

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
				conditions under which PBL is required, and should promote more upgrading of old equipment.		
Recommendations or Regulations for Radiation Therapy Equipment	NPRM	do	To improve the use of ionizing radiation therapy through enhanced accuracy of dose delivery	Initiation of a program of quality assurance in therapeutic radiology, principally related to the development of recommendations concerning accurate dose delivery.	No	do
Beam Quality Amendment for Dental X-ray Systems	NPRM	do	Reduction of unnecessary patient exposure in dental radiography	The beam quality amendment for dental X-ray systems would reduce patient exposure resulting from the use of low kilovoltage dental X-ray systems.	No	do
Amendments to the Diagnostic X-Ray Standard Tomographic Systems	NPRM	do	To amend the standard to account for special features of computerized tomographic x-ray systems	Computerized tomographic (CT) x-ray systems are diagnostic x-ray systems which represent a major new technical break-through, not available when the standard was issued. Although some provisions of the standard are appropriate for CT systems, it is recognized that other requirements may not be appropriate for such complex equipment, and that additional requirements may be necessary to assure adequate public health protection.	No	do
Nuclear Medicine Evaluation of Diseases of Thyroid Gland Recommendations	NPRM	do	To lower patient dose in nuclear medicine evaluation of the thyroid gland	Over the past 20 years, increased attention has been drawn to the association between ionizing radiation and the development of nodules and cancer of the thyroid gland. The Bureau is proposing guidance on the need to formulate voluntary recommendations to encourage techniques in nuclear medicine which lower or eliminate patient radiation dose in	No	do

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
				thyroid studies, without compromising clinical information.		
Suggested State Regulations	Notice of Availability	do	To provide model regulations to State agencies on a wide range of radiation control subjects	State radiation control regulations are essential to effective national protection because they provide protection in areas where Federal agencies have no jurisdiction. The Suggested State Regulations for Control of Radiation was first prepared in 1962 and is periodically updated. A model code, offered through this notice, assists the State in developing their regulation and encourage uniform regulations among States to complement Federal regulations (e.g., in areas beyond certain Federal regulatory authority as in the user area). This is a cooperative project of the Conference of Radiation Control Program Directors (representing the State and local agencies), FDA, and other Federal agencies with responsibilities in radiation control (including the Nuclear Regulatory Commission and the Environmental Protection Agency).	No	do
Regulatory Standard for Sunlamps	Final Rule	do	To minimize ultraviolet radiation exposure related to sunlamps and their use	This standard under development since 1975, is intended to allow continued use of a sunlamp product and yet to minimize the danger of injury. This purpose is achieved through the provisions of safety performance criteria in the standard including the limitation of shorter wavelength emissions, more adequate warnings, requirement of special lamp base and a timer to control the duration of the exposure.	No	do

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Emergency Radiation Dose Limits for Health and Safety of Ambulance Services, Hospital and Other Health Care Personnel	NPRM	do	To provide recommended radiation dose limits for emergency workers	Interagency responsibilities for Radiological Incident Emergency Response Planning, Fixed Facilities and Transportation Accidents published in the FEDERAL REGISTER (FR 59191) stated that HEW is responsible for issuance of guidance on emergency radiation doses related to health and safety of ambulance services, hospital and other health care personnel, in cooperation with EPA. The guidance will establish dose limits for emergency medical personnel for planned and unplanned lifesaving actions during the transportation and treatment of persons contaminated with radioactivity. Recommendations will be based on a review of national and international standards relevant to this matter. They will be consistent with present radiation risk and effects information and based on the principle of avoiding unnecessary radiation exposure when possible and that any radiation exposure should be balanced by commensurate benefit.	No	do
Recommendations for Post-Treatment Dental Radiographs	NPRM	do	To reduce the use of dental radiography for non-diagnostic purposes	A practice which appears to be on the increase is the requirement for post-treatment dental radiographs by third party carriers as evidence of dental treatment. Proper justification for the application of radiation to humans requires that there be some potential benefit to the individual receiving the examination. Post-treatment radiographs, however, are not always needed for patient management. It is likely that this	No	do

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
				project will culminate in recommendations stating that post-treatment radiographs should not be taken merely as evidence of treatment.		
Recommendations on Radioluminous Timepieces	NPRM	do	To reduce radiation exposure from radioluminous timepieces	Over the past several decades, radium has been used extensively as the luminizing activator in the paint used on the hands and dials of timepieces available to the consumer public. More recently, tritium and promethium-147 have also come into use for this purpose. Radium constitutes a source of unnecessary radiation exposure that could be significantly reduced or avoided by the use of radionuclides emitting lower energy radiations. The proposed recommendations are directed to the State's radiation control program directors and include the efficacy of the luminescence, the occupational exposure parameters, the dose commitment to the individual and population, alternatives to the use of radium, and radiation warning labeling. Because of the responsibilities of other Federal agencies in this area, involvement in the review and development of these recommendations would also include the Nuclear Regulatory Commission, Consumer Product Safety Commission, U.S. Customs, and the Department of Transportation.	No	do
Policy on Assembly and Reassembly of Diagnostic	NPRM	do	To minimize undesirable economic effects of present policy without	This amendment would revoke or extend the effective date of 21 CFR 1000.16(d) which presently requires that only certified components be	No	do

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
X-Ray Systems			adversely affecting the public health	installed into diagnostic x-ray systems which are sold and reassembled after August 1, 1979.		
Radiation Therapy Simulators	NPRM	do	Revision of the performance standard for diagnostic x-ray equipment to account for the special features of radiation therapy simulators	These amendments will codify various interpretations, advisory opinions and variance criteria with respect to radiation therapy simulator systems. They will also bring the standard up to date with new equipment and current usage and practices.	No	do
Microwave Ovens	NPRM	do	To codify various compliance policies as part of the performance standard for microwave ovens	The purpose of this amendment is to bring the language of the performance standard for microwave ovens into conformity with current compliance policy. The specific measuring instrument accuracy would be replaced with a requirement to account for all measurement uncertainties in making compliance measurements.	No	do

By The

Food and Drug Administration

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Sterility & Pyrogencity of Animal Drugs	Notice of Intent	Federal Food, Drug and Cosmetic Act	To assure that all parenteral animal drugs are sterile and free of extrinsic pyrogenic material.	Amends the current good manufacturing practice regulations.	Yes	Robert S. Brigham Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 (301-443-6243)
Prohibited Substances; Deodorizer Distillates	Tentative Final Regulation	DO	Deodorizer distillate substances have been found to contain concentrated levels of contaminants which are adulterants when added to animal feed.	The regulation would prohibit the use of deodorizer distillates in animal feed.	No	DO
Vitamin K in Animal Feeds	Proposal	DO	Question of general recognition of safety exists regarding certain sources of Vitamin K.	Would propose that only certain Vitamin K substances are generally recognized as safe.	No	DO
Copper in Animal Feeds	Final Rule	DO	Use of high levels of copper in swine and poultry feed raise environmental and tissue residue questions.	Limit the maximum amount of copper compounds in poultry and swine feeds to nutritional levels.	No	DO
Animal Drugs in Minor Species	Proposal	DO	To assure the availability of new animal drugs for minor species for which there is little demand and thus little or no economic value to drug manufacturers.	Modifies the safety and effectiveness requirements for new animal drug approval.	No	DO

By The

Food and Drug Administration

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Drug Carryover in Animal Feeds	Notice	DO	To assure safety of animal feeds and to assure safety of food for human consumption, while recognizing the trace quantities of drugs carried over from batch to batch during manufacture of medicated feeds.	FDA will publish action levels on drugs remaining in feed manufactured in accord with good manufacturing practice when such drugs are the result of carryover of trace quantities of the drug from one feed batch to the next.	No	DO
Definitions of Food Type Animals and Animal Feed	Final Rule	DO	To clearly define the various types and classes of food animals and animal feed, and conditions of approval of such feeds, to assure safe and efficacious use of medicated feeds.	Defines the various types of food type animals and the various types and classes of animal feeds. Modifies the conditions of approval of animal feeds.	No	DO
Approval of Supplemental Applications	Final Rule	DO	To permit FDA to approve supplemental new animal drug applications expeditiously.	In certain instances FDA will approve supplemental new animal drug applications without a complete reevaluation of all safety and effectiveness data in the parent application.	No	DO

By The

Food and Drug Administration

Title of Regulation	Stage of Development	Statutory Authority	Need to Regulate	Description	Regulatory Analysis	Contact Person
Good Laboratory Practices	Final Rule	DO	To assure that nonclinical laboratories follow correct practices.	Establishes criteria for good laboratory practices in non-clinical laboratory facilities.	No	DO
Refusal to Approve Applications	DO	DO	To set forth the type of data acceptable for establishing safety and efficacy of new animal drugs.	Update regulations regarding adequate and well controlled investigations of animal drugs.	No	DO
Revision of Requirements for Appearance and Hearing.	Proposal	DO	To provide a procedure in handling and acting on hearing concerning new animal drug matters consistent with such matters involving drugs for human use.	Revises the new animal drug regulations to make them consistent with the human drug regulations concerning content of the notices of opportunity for hearing and circumstances under which an opportunity for hearing will be granted.	No	DO

IV. EXISTING REGULATIONS CURRENTLY UNDERGOING REVIEW AND REVISION WITHIN THE DEPARTMENT

Office of the Secretary

Title of Regulation	Stage of Development	Contact Person	Citation	Summary
1. State plan procedural rules for the Medicaid, Child Support Enforcement, Title XX Social Services programs, as well as social services and financial assistance under Titles I, IV-A, X, XIV, and XVI(AABD) of the Social Security Act. (45 CFR Parts 201 and 213; 45 CFR §§ 204.1, 204.2, 205.5(b).).	Final	Mr. Beverly Dennis, III, HEW, Room 716-E, 200 Indep. Ave., S.W. Washington, D.C. 20201 (202)245-6648	Titles I, IV-A, IV-D, X, XIV, XVI(AABD), XIX, and XX of the Social Security Act.	These regulations cover State plan processing requirements for providing medical assistance, social services, enforcement of child support, and financial assistance under the Social Security Act. They cover how to submit or amend a State plan; how a claim for Federal funds is allowed deferred or disallowed; what kinds of Federal reviews are conducted; and various State appeals from Federal decisions.

EXISTING REGULATIONS CURRENTLY UNDERGOING REVIEW AND REVISION WITHIN THE DEPARTMENT

Office of the Secretary

Title of Regulation	Stage of Development	Contact Person	Citation	Summary
1. Federal Interagency Day Care Requirements Regulations.	NPRM	Mr. Ralph Susman, Room 305-F, HEW, 200 Indep. Ave. S.W. Washington, D.C. 20201 (202)472-5243	Sec. 577(b) of the Community Services Act of 1974 and sec. 2002(a)(9)(B) of title XX of the Social Security Act.	These regulations establish day care standards which will apply to day care services provided under titles XX, IV-B, IV-A, and IV-A/WIN programs. They also establish administrative provisions to carry out the new standards.

OFFICE OF EDUCATION

Title of Regulation	Stage of development	Contact Person	Citation	Summary
1. Title III - Strengthening Developing Institutions	Final	Dr. Anita Allen, Room 3058 ROB-3, 7th and D Sts. S.W. Washington, D.C. 20202 245-9754	Sec. 301-306 of title III of the Higher Education Act of 1965 as amended.	Under the authority of title III of Higher Education of 1965, the Commissioner assists certain institutions of higher education to strengthen their academic quality and administrative capacity. These institutions are called developing institutions.
2. General Provisions for Education Programs.	NPRM	Mr. Richard G. Bull Room 5082 ROB-3 7th & D Sts. S.W. Washington, D.C. 20202 245-8882	Not Applicable	These regulations contain general administrative and fiscal requirements for direct project grants, contracts, and State-administered programs. Their revision is related to the Department's general regulations for the administration of grants.
3. Pt. 177-Guaranteed Student Loan Regulation	Final	Mrs. Patricia Hopson Room 4642 ROB-3 400 Maryland Ave. S.W. Washington, D.C. 20202 472-3390	Pub. L. 95-43 (amendments)	These regulations contain requirements for both loan guarantee programs of State and nonprofit agencies and the Federal insured student loan program.
4. Basic Education Opportunity Grant Regulations	Final	Mr. William Moran Room 4923, ROB-3 400 Maryland Ave.S.W. Washington, D.C. 20202 245-1744	Title IV of the Higher Education Act of 1965, as amended.	These regulations contain technical requirements to define more clearly the administration of the program and to implement the requirements mandated by the Education Amendments of 1976.

OFFICE OF EDUCATION

Title of Regulation	Stage of development	Contact Person	Citation	Summary
5. Health Education Assistance Loan Regulations	Final	Mr. David C. Bayer Room 4642, ROB-3 400 Maryland Ave S.W. Washington, D.C. 20202 472-2765	Health Profession Educational Assistance Act of 1976.	These regulations govern a Federal program of insured loans to graduate students in health professional schools.
6. Education Amendments of 1978	NPRM	Mr. Larry Kozlers Room 2129, ROB-6 400 Maryland Ave. S.W. Washington, D.C. 20202 472-7580	Education Amendments of 1978	These regulations govern existing Office of Education programs that are affected by the Education Amendments of 1978. Regulations affected include Title I of the Elementary and Secondary Education Act of 1965 and School Assistance for Federally Affected Areas (SAFA)

FOOD AND DRUG ADMINISTRATION

Title of regulation	Stage of development	Contact person	Citation	Summary
1. Administrative Practices and Procedures Regulations (20 CFR).	NPRM for all parts.	Mr. Ronald J. Wylie, Chairman, FDA Operation Common Sense Task Force, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 443-3480.	Persons desiring specific citations statutory authority should contact Mr. Ronald J. Wylie, Administrative Procedures Act, Public Health Service Act.	These regulations govern practices and procedures applicable to all petitions, formal and informal public hearings, and other administrative proceedings and activities.
(a) Pt. 10—Administrative Practices and Procedures.	do	do	do	Do.
(b) Pt. 12—Formal Evidentiary Public Hearing.	do	do	do	Do.
(c) Pt. 13—Public Hearing before a public board of inquiry.	do	do	do	Do.
(d) Pt. 14—Public Hearing before a public Advisory Committee.	do	do	do	Do.
(e) Pt. 15—Public Hearing before the Commissioner.	do	do	do	Do.
(f) Pt. 16—Regulatory Hearing before the Food and Drug Administration.	do	do	do	Do.
(g) Pt. 19—Standards of Conduct and Conflicts of Interest.	do	do	do	Do.
(h) Pt. 20—Public Information.	do	do	do	Do.
(i) Pt. 21—Protection of Privacy.	do	do	do	Do.
2. Food Labeling Regulations (20 CFR pt. 101).	do	do	Persons desiring specific citations to statutory authority should contact Mr. Ronald J. Wylie, Fair Packaging and Labeling Act, Food and Drug Act.	These regulations contain a variety of key food labeling provisions, including those pertaining to imitation and substitute foods, safe and suitable ingredients, and percentage ingredient labeling.
(a) Subpt. A—General Provisions.	do	do	do	Do.
(b) Subpt. B—Specific Food Labeling Requirements.	do	do	do	Do.

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HEALTH CARE FINANCING ADMINISTRATION

Title of Regulation	Stage of Development	Contact Person	Citation	Summary
. Medicaid Residency	Final	Ms. Elizabeth Barnes Room 2627 330 C Street, S.W. Washington, D.C. 20201 (202)245-0534	Title XIX of the Social Security Act	These regulations govern the determination of the State of Residence for Medicaid applicants and recipients.
. Conditions of Participation for Hospitals	NPRM	Ms. Janet M. Harryman Room 301 East High Rise Building 6401 Security Blvd. Baltimore, Md. 20235 (301)594-9712	Titles XVIII & XIX of the Social Security Act	These regulations specify the health and safety requirements that hospitals must meet to participate in the Medicare & Medicaid programs.
3. Conditions of Participation for Skilled Nursing Facilities (SNFs) & Intermediate Care Facilities (ICFs).	NPRM	Ms. Constance A. Conrad Room 300 East High Rise Bldg. 6401 Security Blvd. Baltimore, Maryland 21235 (301)594-9722	Titles XVIII and XIX of the Social Security Act	These regulations govern the participation of SNFs and ICFs in the Medicare and Medicaid programs.
4. Medicare Entitlement, Deductible & Co-payment Requirements	NPRM	Mr. John B. Russell Room 1-H-5 East Bldg. 6401 Security Blvd. Baltimore, Md. 21235 (301)594-8260	Title XVIII of the Social Security Act	These regulations govern beneficiaries participation for the Medicare program.

HUMAN DEVELOPMENT SERVICES

Title of Regulation	Stage of Development	Contact Person	Citation	Summary
1. Fair Hearing Regulations	NPRM	Mrs. Johnnie Brooks Administrator for Public Services P.O. Box 1923 Washington, D.C. 20013 (202) 245-9415	42 U.S.C. 1302	These regulations provide procedures for hearings for persons who are denied services or benefits.
2. Child Abuse & Neglect Prevention and Treatment	NPRM	Mr. Douglas Besharov National Center on Child Abuse and Neglect/Children's Bureau, ACYF/HDS, P.O. Box 1182 Washington, D.C. 20013 (202) 755-0587	The Child Abuse Prevention & Treatment Act of 1974, as amended	These regulations contain requirements for grants and contracts for demonstration and service programs and projects.

PUBLIC HEALTH SERVICE

Title of regulation	Stage of development	Contact person	Citation	Summary
1. PHS Grants Regulations..	NPRM	Mr. Richard Cummings, Public Health Service Building, 3rd Floor, 5600 Fishers Lane, Rockville, Md. 443-6330	The Public Health Service Act.	These regulations contain provisions for the award of grants under various PHS programs. The Public Health Service is now exploring ways to consolidate all its grants regulations.
(a) Part 51—Grants to States for Comprehensive health planning and public health services, Subpart B.	NPRM	do	do	Do.
(b) Part 51a—Grants for maternal and child health and crippled children services.	NPRM	do	do	Do.
(c) Part 51b—Grants for Communicable Disease Control.	NPRM	do	do	Do.
(d) Part 51c—Project Grants for Health Service development.	NPRM	do	do	Do.
(e) Part 51d—Grants for service projects for cancer and other diseases.	NPRM	do	do	Do.
(f) Part 51e—Grants for home health services.	NPRM	do	do	Do.
(g) Part 52—Grants for research projects.	NPRM	do	do	Do.
(h) Part 52a—National Heart and Lung Institute Grants for National Research and Demonstration Centers.	NPRM	do	do	Do.
(i) Part 52b—National Cancer Institute Construction Grants.	NPRM	do	do	Do.
(j) Part 52c—Minority Biomedical support program.	NPRM	do	do	Do.
(k) Part 52d—National Cancer Institute clinical cancer education program/Minority Biomedical support program.	NPRM	do	do	Do.
(l) Part 52e—National Heart and Lung Institute.	NPRM	do	do	Do.
(m) Part 53—Grants, loans and loan guarantees or construction and modernization of hospitals and medical facilities.	NPRM	do	do	Do.
(n) Part 54—Grants for community mental health centers.	NPRM	do	do	Do.
(o) Part 54a—Grants to States for drug abuse and alcoholism prevention, treatment, and rehabilitation services.	NPRM	do	do	Do.
(p) Part 54b—Grants to States for drug abuse prevention functions.	NPRM	do	do	Do.
(q) Part 55—Grants for advancement of health in coal mining.	NPRM	do	do	Do.
(r) Part 55a—Program grants for coal miners' respiratory clinics.	NPRM	do	do	Do.
(s) Part 56—Grants for emergency medical service systems.	NPRM	do	do	Do.
(t) Part 56a—Grants for emergency medical service systems.	NPRM	do	do	Do.
(u) Part 57—Grants for construction of health research facilities (including mental retardation research facilities), teaching facilities, student loans, education improvement and scholarships, Subparts A-G, I-J, K, M, O-P, R-X and BB.	NPRM	do	do	Do.
(v) Part 59—Grants for family planning services.	NPRM	do	do	Do.
(w) Part 59a—National Library of Medicine grants.	NPRM	do	do	Do.

Mr. George Lewis,
Room 17B-03,
5600 Fishers Lane
Rockville, Md.
20857 (301) 443-6330

SOCIAL SECURITY ADMINISTRATION

Title of Regulation	Stage of development	Contact Person	Citation	Summary
1. Federal Old-Age Survivors and Disability Insurance (20 CFR Part 404)	NPRM	Ms. Eve Hilgenberg 4212 West High Rise Bldg. Room 400 Social Security Administration Baltimore, Md. 21235 (301)934-6695	Title II of the Social Security Act as amended	These regulations implement title II of the Social Security Act. Title II provides benefits to retired or disabled workers, their dependents, and to survivors of workers who have died. The funds to pay these benefits are provided from the Social Security trust funds.
(a) Subpart B - Quarters Coverage and Insured Status	NPRM		do	
(b) Subpart D - Old-Age Disability. Dependents and Survivors Insurance Benefits. Period of Disability	Final		do	
(c) Subpart G - Filing of Applications and other forms	Final		do	
(d) Subpart I - Maintenance and Revision of Records of Wages and Self-Employment Income	Final		do	
(e) Subpart J - Procedures, Payment of Benefits and Representatives of Parties	NPRM		do	

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SOCIAL SECURITY ADMINISTRATION

Title of Regulation	Stage of Development	Contact Person	Citation	Summary
(f) Subpart K-Employment Wages-Self-Employment Self-Employment Income	NPRM	do	do	do
(g) Subpart N-Veterans	NPRM	do	do	do
(h) Subpart P - Rights and Benefits Based on Disability	NPRM	do	do	do
2. Supplemental Security Income for the Aged Blind, and Disabled (20 CFR Part 416)	NPRM	do	Title XVI of the Social Security Act.	These regulations implement title XVI of the Social Security Act. Title XVI provides supplemental security income benefits to aged, blind, and disabled individuals who meet certain income and resources requirements. The funds to pay these benefits come from the general revenues of the U.S. Treasury.
(a) Subpart B-Eligibility	NPRM	do	do	do
(b) Subpart C-Applications	NPRM	do	do	do
(c) Subpart I-Determinations of Disability or Blindness	NPRM	do	do	do
(d) Subpart J-Relationship	NPRM	do	do	do

SOCIAL SECURITY ADMINISTRATION

itle of Regulations	Stage of Development	Contact Person	Citation	Summary
)Subpart K-Income and Exclusions	NPRM	do	do	do
)Subpart N-Determinations, Reconsiderations, Hearings, Appeals and Judicial Review	NPRM	do	do	do
)Subpart O-Representation of Parties	NPRM	do	do	do

V 4 4 / 1 4

Office of Child Support Enforcement

Title of regulation	Stage of development	Contact person	Citation	Summary
1. Child Support Enforcement (45 CFR 232.20 and 45 CFR Chapter III, except for Part 303).	NPRM	Ms. Suzanne Duval, Office of Child Support Enforcement, 330 C St. SW., Washington, D.C. 20201, 472-4510.	Title IV-D of the Social Security Act, as amended.	These regulations implement title IV-D of the Social Security Act. Title IV-D contains provisions for the enforcement of support obligations owed by absent parents to their children, locating parents, establishing paternity and obtaining child support.

[FR Doc. 79-1013 Filed 1-18-79; 8:45 am]

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federal register

FRIDAY, JANUARY 19, 1979
PART VI



DEPARTMENT OF THE INTERIOR

Office of the Secretary

EMPLOYEE RESPONSIBILITIES AND CONDUCT

Final Rules; Revisions and Miscellaneous Amendments

[4310-10-M]

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

PART 20—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Revision and Miscellaneous Amendments

AGENCY: Office of the Secretary of the Interior, U.S. Department of the Interior.

ACTION: Final rules.

SUMMARY: Department of the Interior regulations governing the conduct and responsibilities of regular and special employees of the Department are hereby revised and amended. This revision and amendment involves changes to update organizational position and office titles; deletions to revoke regulations which applied to the Mining Enforcement and Safety Administration; addition of public disclosure requirements imposed by the Outer Continental Shelf Lands Act Amendments (Pub. L. 95-372); addition, by reference, of regulations governing restrictions of financial interests under the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87); and amendments to Appendices B, C, D, E, and F to this part.

EFFECTIVE DATE: January 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. William L. Kendig, Acting Department Ethics Counselor, U.S. Department of the Interior, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

This part is being partially revised and amended to provide Department of the Interior employees with more complete and correct rules for the financial interest statement filings due on February 1, 1979. Later in 1979 this entire part will be completely revised in order to comply with the Ethics in Government Act of 1978 (Pub. L. 95-521). The complete revision of this part will be based on guideline regulations issued by the new Office of Government Ethics under Section 207 of Pub. L. 95-521. Because the guideline regulations will not be ready in time for us to meet our February 1, 1979 annual filing date, and because of new provisions contained in Section 605 of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372) it is necessary for us to partially revise portions of our existing regulations.

II. REVISIONS

Fifteen changes are being made in 43 CFR Part 20. The changes are presented consecutively in Table of Sections order.

Pub. L. 95-372, Section 605, requires the Secretary of the Interior to establish methods for the filing of written financial statements by officers and employees performing functions or duties under the Outer Continental Shelf Lands Act as amended. Changes numbered 3, 6, 9, and 11 satisfy this legislative requirement. Appendix G is added to these regulations to identify bureaus and offices of the Department, or subunits thereof, performing functions or duties under the Outer Continental Shelf Lands Act, as amended, and to list positions within such bureaus, offices and subunits that have been specifically exempted by the Secretary from the public disclosure requirements of the Act because the positions are nonregulatory and nonpolicymaking.

Section 201(f) of the Surface Mining Control and Reclamation Act (Pub. L. 95-87) places financial restrictions on employees performing duties under the Act. Regulations implementing these restrictions were published in the FEDERAL REGISTER as final rules on October 20, 1977 (42 FR 56066-56069). Changes 4 and 9 make these regulations part of our total employee conduct provisions by reference and by statutory citation respectively.

Effective in March 1978 the Mining Enforcement and Safety Administration was transferred from the Department of the Interior to the Department of Labor. Changes 5 and 10 revoke specific prohibitions relating to this office.

Changes 5 also excepts Office of Water Research and Technology employees from specific prohibitions extended by regulation to Office of the Secretary organizations. This exception is adopted because of the specific program functions conducted by the Office and because employees of the Office are not directly responsible for substantially affecting or setting Departmentwide policies.

Change number 8 moves one paragraph of general provisions for clarity of understanding. The remaining changes (1, 2, 7, 12, 13, 14 and 15) update pertinent office names, position titles and lists of positions required to file special financial interest statements.

Because Part 20 consists of rules of agency organization, procedure and practice, adoption of the revised Part 20 through the rulemaking procedure prescribed in 5 U.S.C. 553 is not required and the revised Part 20 is accordingly adopted without resort to that procedure. In accordance with the policy expressed in 5 U.S.C. 553 and the Department's policy on rulemaking procedures, interested persons may, however, submit written comments, suggestions, data or arguments concerning the revised Part 20 to the Inspector General, U.S. Department of the Interior, Washington, D.C. 20240. All such comments received will be given full consideration.

The primary authors of this revision are Gabe Paone and Andrew Fedors of the Department Ethics Counselor's staff in coordination with William Holeman, John Trezise and Paula Goldberg of the Solicitor's Office.

NOTE.—The Department of the Interior has determined that this rule is not a significant rule under E.O. 12044.

Dated: January 15, 1979.

JAMES A. JOSEPH,
Under Secretary of the Interior.

AUTHORITY: The provisions of this revision to Part 20 are issued under E.O. 11222 of May 8, 1965, 30 FR 6469, 3 CFR 1964—1965, Comp.; 5 CFR 735.104; 5 U.S.C. 301; Pub. L. 94-163; Pub. L. 94-429; Pub. L. 94-579; Pub. L. 95-87, Pub. L. 95-372.

43 CFR Part 20 is revised as follows:

1. The Table of Sections to 43 CFR Part 20 is amended by adding reference to recent and new additions as follows:

Sec.

• • • • • •

20.735-17 Specific regulations under the Outer Continental Shelf Lands Act Amendments of 1978

• • • • • •

Appendix B-6 Public Disclosure Statement of Known Financial Interests (Outer Continental Shelf Lands Act Amendments of 1978—Form DI-211C)

• • • • • •

Appendix G—List of Bureaus and Offices, or Subunits Thereof, Performing Functions or Duties Under the Outer Continental Shelf Lands Act Amendments of 1978 and Positions Which the Secretary has Determined to be Exempt From Reporting Requirements of Section 605.

2. The entire 43 CFR Part 20 is amended by changing office and position title references throughout the part as follows:

(1) Assistant Secretary—Administration and Management is revised to read Assistant Secretary—Policy, Budget and Administration.

(2) Director, Office of Audit and Investigation is revised to read Inspector General.

(3) Office of Audit and Investigation is revised to read Office of Inspector General.

(4) In addition, § 20.735-22(c)(2) is amended by revoking the clause:

• • • • •

"the Governor and Secretary of American Samoa; * * *

• • • • •

3. Section 20.735-11 is amended by adding requirements under Section 605 of the Outer Continental Shelf Lands Act Amendments of 1978 as a new paragraph (g) as follows:

§ 20.735-11 Scope of subpart.

• • • • •

(g) Outer Continental Shelf Lands Act Amendments of 1978 requirements. Section 605(a) of the Amendments, 43 U.S.C. 1864, requires each officer or employee of the Department who performs any function or duty under the Outer Continental Shelf Lands Act, as amended, to file annually with the Secretary a written statement disclosing all such interests held during the preceding calendar year. Such statement is subject to examination and is available for copying by the public upon request. Subsection 605(c) provides that specific positions or classes thereof which are nonregulatory and nonpolicymaking may be identified and officers or employees occupying such positions shall be exempted from the requirements of section 605. Subsection 605(d) provides that any officer or employee who is subject to, and knowingly violates section 605(a) shall be fined not more than $2,500 or imprisoned not more than one year, or both. Section 20.735-17 implements the statutory requirements of section 605 of the Outer Continental Shelf Lands Act Amendments of 1978.

4. Section 20.735-12 is amended by adding paragraph (c) as follows:

§ 20.735-12 Statutory prohibitions.

• • • • •

(c) Section 201(f) of the Surface Mining Control and Reclamation Act, Pub. L. 95-87, 91 Stat. 450, requires that: No employee of the Office or any other Federal employee performing any function or duty under this Act shall have a direct or indirect financial interest in underground or surface coal mining operations. Whoever knowingly violates the provisions of the above sentence shall, upon conviction, be punished by a fine of not more than $2,500, or by imprisonment for not more than one year, or both.

For purposes of this Act, "Office" means Office of Surface Mining Reclamation and Enforcement. Provisions implementing Section 201(f), Pub. L. 95-87, are contained in 30 CFR Part 706 and are incorporated here by reference. Therefore, if you are an employee of the Office or a Federal employee who performs any function or duty under the Act, you are required to comply with 30 CFR Part 706. Compliance with the filing requirements established by the Act and 30 CFR Part 706 satisfies the requirements for other confidential financial reporting under 43 CFR 20.735-22.

§ 20.735-13 [Amended]

5. Section 20.735-13 is amended by revoking and reserving paragraph (a) and revising paragraph (c) as follows:

(a) [Reserved]

• • • • •

(c) Office of the Secretary: The statutory restrictions quoted in § 20.735-12(b) shall also apply to the employees of the Office of the Secretary and other organizational entities reporting directly to the Secretarial officer who are required to file a statement of employment and financial interests under § 20.735-22. Employees in the Office of Water Research and Technology are exempted from the statutory prohibitions in § 20.735-12(b). The Secretary of the Interior may authorize other exceptions to this restriction for individual employees or a class of employees for cause.

6. Section 20.735-17 is added as follows:

§ 20.735-17 Specific regulations under the Outer Continental Shelf Lands Act Amendments of 1978.

(a) *Definitions.* (1) "Act as amended" means the Outer Continental Shelf Lands Act, 43 U.S.C. 1331 *et seq.*, 67 Stat. 462, as amended by the Outer Continental Shelf Lands Act Amendments of 1978, Pub. L. 95-372, September 18, 1978.

(2) "Covered employee" means an officer or employee of the Department of the Interior performing a function or duty under the Act as amended, whose position has not been exempted by the Secretary of the Interior from the reporting requirements of section 605 of Pub. L. 95-372.

(3) "Person" means an individual, corporation, partnership, association, consortium, company, firm, society, trust, joint venture, joint stock company, or any entity organized for a common business purpose, wherever situated, domiciled, or doing business.

(4) "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in 43 U.S.C. 1301, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

(5) "Minerals" means oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from "public lands".

(6) "Engaged in business subject to the Act as amended" means the conduct of any business involving the exploration for or the development or production of, minerals of the Outer Continental Shelf. A parent company or holding company is "engaged in business subject to the Act as amended" if one or more of its subsidiaries is "engaged in business subject to the Act as amended". A mutual fund or investment club is within the definition if it specializes in a business or businesses involved in the exploration for or the development or production of, minerals of the Outer Continental Shelf.

(7) "Pecuniary interest" means any monetary or financial interest (whether owned directly by a covered employee or held for the employee's benefit by a trustee), including, but not limited to (i) the ownership of common stock, preferred stock, bonds, debentures, warrants or a partnership share, (ii) a leasehold, rental permit, license, right of way, or contract, or (iii) a pension or retirement plan, shared income or other arrangement as a result of current or prior employment or professional association.

(8) "Known Financial Interest" means any pecuniary interest in any person who you know or could reasonably be expected to know (i) is applying for or has received any permits or leases authorizing exploration for or the development or production of, minerals of the Outer Continental Shelf or (ii) is otherwise engaged in any business subject to the Act as amended.

(b) *Who Shall File.* (1) The Act as amended applies to all officers and employees of the Department who perform functions or duties under it. All such officers and employees must file a public disclosure statement unless they occupy a position which has been specifically exempted by the Secretary of the Interior from reporting requirements of section 605 of the Act as amended or are no longer employed by the Department at the time a filing is due.

(2) Appendix G to this part lists the bureaus and offices of the Department, or subunits thereof, performing functions or duties under the Act as amended and also lists positions which the Secretary has determined are of a nonregulatory and nonpolicymaking nature and has exempted from the reporting requirements of section 605 of the Act as amended.

(3) The head of each affected bureau or office will annually review

and update the related portion of Appendix G to this part. Proposed revisions or a certification that revision is not required shall be submitted to the Department Ethics Counselor by no later than October 31 of each year. The Secretary may revise Appendix G by the addition or deletion of positions at any time he determines such revisions are required to carry out the purpose of the law or the regulations of this part. Additions to, deletions from and other amendments of the list of positions in Appendix G are effective upon notification to the incumbents or publication in the FEDERAL REGISTER.

(c) *When to File.* Each covered employee required to file a public disclosure statement shall file such a statement on form DI-211C (See Appendix B-6). The Ethics Counselor shall notify each such employee, and furnish the form to the employee by December 15 of each year. The employee shall file a completed statement with the appropriate ethics counselor no later than February 1 of each year showing applicable holdings and interests for the previous calendar year.

(d) *Where to File.* The Secretary shall file his statement with the Department Ethics Counselor. All other covered employees shall file their statements as provided in § 20.735-22(c) for form DI-212 (Statement of Employment and Financial Interests).

(e) *What to Report.* (1) Covered employees will report all information required on form DI-211C (Appendix B-6). An employee is not required to report: (i) Holdings owned by his/her spouse or children. (ii) Holdings acquired by trustee for blind trust. Covered employees who are beneficiaries of blind trusts are required to disclose only interests that are initially committed to the blind trust, not of interests thereafter acquired by the trustee of which the employee or officer has no actual knowledge.

(2) Covered employees having no known financial interests to report shall file a Form DI-211C indicating thereon where appropriate, "None".

(f) *Procedure.* (1) Review and analysis of statements. The head of each affected bureau or office will annually review and update Appendix G in accordance with paragraph (b) of this section. After the employee files a statement pursuant to paragraphs (b), (c), (d), and (e) of this section, review and analysis of the statement shall be pursuant to § 20.735-23, insofar as what is provided there is not inconsistent with the provisions of this § 20.735-17.

(2) Procedures for remedial action shall be pursuant to § 20.735-24 insofar as what is provided there is not inconsistent with the provisions of this § 20.735-17.

(3) Appeals procedures shall be pursuant to § 20.735-25, insofar as what is provided there is not inconsistent with the provisions of this § 20.735-17.

(4) The annual report required by section 605(b)(2) of the Act as amended shall be prepared under the supervision of the Department Ethics Counselor for submission to the Congress by June 1.

(g) *Public Access to and Copying of Statements: Fees.* (1) Form DI-211C shall be available for review or copying at those offices where employees are required to file pursuant to § 20.735-22(c). Within 30 days after receipt (by March 1) the DI-211C forms will be available to the public centrally at the Department Library, 18th and C Streets, N.W., Washington, D.C. 20240.

(2) The fee schedule for services performed in obtaining or copying a statement is set forth in 43 CFR Part 2, Appendix A, which is applicable to this regulation.

7. Section 20.735-31 is amended by adding paragraph (b) as follows:

§ 20.735-31 Scope of subpart.

• • • • •

(b) *Actions to be avoided.* An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

8. Section 20.735-32 is amended as follows:

Paragraph (d) is vacated (transferred to § 20.735-31) and reserved.

§ 20.735-32 Gifts, entertainment, and favors.

• • • • •

(d) [Reserved]

• • • • •

9. Section 20.735-51 is amended by adding items (22) and (23) to paragraph (a) as follows:

§ 20.735-51 Miscellaneous statutory provisions and restrictions.

• • • • •

(a) • • •

(22) The requirement that each employee of the Office of Surface Mining Reclamation and Enforcement or any other Federal employee performing any function or duty under Pub. L. 95-87, 91 Stat. 445, file a written statement disclosing any direct or indirect financial interest in underground or surface coal mining operations.

(23) The requirement that each officer or employee of the Department of the Interior performing a function or duty under the Outer Continental Shelf Lands Act, as amended, file a written statement disclosing known financial interest in any person who applies for or receives any permit or lease under, or is otherwise subject to the provisions of that Act.

• • • • •

Appendix A-5 [Reserved]

10. Appendix A to 43 CFR 20.735 is amended by revoking Appendix A-5 as follows:

• • • • •

Appendix A-5 is reserved.

• • • • •

11. Appendix B to 43 CFR 20.735 is amended by adding Appendix B-6 as follows:

• • • • •

[4310-10-C]

Form DI-211C Form DI-211C

UNITED STATES DEPARTMENT OF THE INTERIOR
PUBLIC DISCLOSURE STATEMENT OF KNOWN FINANCIAL INTERESTS
(Outer Continental Shelf Lands Act Amendments of 1978, Sec. 605, P.L. 95-372)

TYPE OR PRINT

1. NAME (Last, First, Initial)	2. TITLE OF POSITION
3. CALENDAR YEAR	4. BUREAU AND OFFICE

KNOWN FINANCIAL INTERESTS:
You must report any pecuniary interest in any person whom you know or could reasonably be expected to know (1) is applying for or has received any permits or leases authorizing exploration for or the development or production of, minerals of the Outer Continental Shelf or (2) is otherwise engaged in any business subject to the Act as amended. You are under an obligation to exercise diligence in determining whether companies or other business entities in which you own interests fall in this category. Include all interests held at any time during the previous calendar year. If as of the reporting date an interest is no longer held, so indicate. If no such interests were held, write "NONE". SEE INSTRUCTIONS AND DEFINITIONS ON REVERSE.

Name and Kind of Business	Address	Nature of Known Financial Interests

Privacy Act Notice:
Subsection 605(a) of P.L. 95-372 provides for filing a statement disclosing all known financial interests. Subsection (d) provides that any officer or employee who is subject to, and knowingly violates subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both.

I am aware of the provisions of the law and regulations which require the filing of this statement and that such statement shall be subject to examination and available for copying by the public upon request and subject to review by the designated Ethics Counselor in accordance with the Departmental conflict of interest regulations (43 CFR 20.735 Subpart B). As such the contents may be routinely disclosed to authorized auditors, the Civil Service Commission, the Department of Justice and to appropriate law enforcement agencies.

I certify that the statements I have made are true, complete, and correct to the best of my knowledge and belief.

19 _____
Signature and Date

Form DI-211C

Form DI-211C

UNITED STATES DEPARTMENT OF THE INTERIOR
PUBLIC DISCLOSURE STATEMENT OF KNOWN FINANCIAL INTERESTS
(Outer Continental Shelf Lands Act Amendments of 1978, Sec. 605, P.L. 95-372)

INSTRUCTIONS

1. TYPE OR PRINT.

2. All "Covered employees" shall complete this form in accordance with 43 CFR 20.735-17.

3. You may exclude from this form any holdings owned solely by your spouse, minor child, or other relative residing in your home. This exclusion applies only to public disclosure statements and not to the regular confidential financial disclosure statements (form DI-212 or DI-212A). You are cautioned that such holdings (spouse, minor children, etc.) are subject to the regular conflict of interest statutes, Executive Order, and Departmental regulations.

4. You may also exclude holdings in mutual funds, holding companies, banks, savings and loan associations, investment clubs or regulated investment companies which do not specialize in any person or business subject to the Act as amended.

5. With respect to a blind trust, you are only required to disclose holdings of which you have actual knowledge; for example, those holdings initially committed to the blind trust, if subject to the provisions of the Act as amended must be disclosed.

6. Signed statements shall be sent to and reviewed by your appropriate Ethics Counselor. Please retain a copy.

DEFINITIONS

"Act as amended" means the Outer Continental Shelf Lands Act 43 U.S.C. 1331 et. seq. 67 Stat. 462 as amended by the Outer Continental Shelf Lands Act Amendments of 1978, Pub. Law 95-372, September 18, 1978.

"Covered employee" means an officer or employee of the Department of the Interior performing a function or duty under the Act as amended whose position has not been exempted by the Secretary of the Interior from the reporting requirements of Section 605 of P.L. 95-372.

"Person" means an individual, corporation, partnership, association, consortium, company, firm, society, trust, joint venture, joint stock company, or any entity organized for a common business purpose, wherever situated, domiciled, or doing business.

"Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in 43 U.S.C. section 1301, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

"Minerals" means oil, gas, sulphur, geopressured - geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from "public lands".

"Engaged in business subject to the Act as amended" means the conduct of any business involving the exploration for or the development or production of, minerals of the Outer Continental Shelf. A parent company or holding company is "engaged in business subject to the Act as amended" if one or more of its subsidiaries is "engaged in business subject to the Act as amended". A mutual fund or investment club is within the definition if it specializes in a business or businesses involved in the exploration for or the development or production of, minerals of the Outer Continental Shelf.

"Pecuniary interest" means any monetary or financial interest (whether owned directly by a covered employee or held for the employee's benefit by a trustee), including, but not limited to (i) the ownership of common stock, preferred stock, bonds, debentures, warrants or a partnership share, (ii) a leasehold, rental, permit, license, right of way, or contract, or (iii) a pension or retirement plan, shared income or other arrangement as a result of current or prior employment or professional association.

12. Appendix C to 43 CFR 20.735 as published in 43 FR 1072-1086—Friday, January 6, 1978, is amended for those bureaus, offices or subunits having changes to update the list of positions in addition to GS-15's and higher, who are required by Executive Order 11222 and by 43 CFR 20.735-22 to file a Confidential Statement of Employment and Financial Interests. Lists of positions for some of the bureaus, offices or subunits having changes are completely revised and others are amended by additions and deletions. Bureau, office, and subunit lists not revised or amended remain the same. The revisions and amendments to Appendix C are as follows:

APPENDIX C—LIST OF EMPLOYEES, IN ADDITION TO GS-15'S AND HIGHER, REQUIRED TO FILE CONFIDENTIAL STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS

ETHICS COUNSELORS

Assistant Department Ethics Counselor, Washington, D.C.
Assistant to the Assistant Department Ethics Counselor, Washington, D.C.
All Deputy Office and Bureau Ethics Counselors.
All Assistant Office and Bureau Ethics Counselors.

SECRETARY'S IMMEDIATE OFFICE

Special Assistants to the Secretary
Confidential Assistants
Staff Assistants
Staff Officer
Desk Officers

OFFICE FOR EQUAL OPPORTUNITY

Division of Minority Business Enterprise

Minority Business Enterprise Specialist, Washington, D.C.

Division of Title VI Compliance

Supervisory Equal Opportunity Specialist (Employment), Washington, D.C.
Equal Opportunity Specialists (Employment), Washington, D.C., GS-9 and above

TERRITORIAL AFFAIRS

Staff Assistant for Political and Legislative Affairs, Washington, D.C.
Systems Accountant, Washington, D.C.
Budget Officer, Washington, D.C.
Budget Analyst, Washington, D.C.

American Samoa Comptroller

Supervisory Auditor, Pago Pago
Auditor, GS-12 and above, Pago Pago

Virgin Islands Comptroller

Supervisory Auditor, St. Thomas
Supervisory Auditor, St. Croix
Auditor, GS-12 and above, St. Croix
Auditor, GS-12 and above, St. Thomas
Management Analyst, St. Thomas
Computer Specialist, St. Thomas

Guam/TTPI/NMI Comptroller

Supervisory Auditor, Agana, Guam
Supervisory Auditor, Saipan, Mariana Islands
Auditor, GS-12 and above, Agana, Guam
Auditor, GS-12 and above, Saipan, Mariana Islands
Systems Accountant, Saipan, Mariana Islands
Systems Accountant, Agana, Guam
Auditor, GS-12 and above, Majuro, Marshall Islands
Auditor, GS-12 and above, Koror Palau

Government of the Trust Territory of the Pacific Islands

Supply Management Officer, Saipan, Mariana Islands
Supply Officer, GS-12, Saipan, Mariana Islands
Agriculturist, GS-12, Saipan, Mariana Islands
Personnel Management Specialist, GS-12, San Francisco, California
Economist, GS—12, Saipan, Mariana Islands
Deputy Director, Resource and Development, GS-12, Saipan, Mariana Islands
Business Organization and Management Advisor, GS-12, Saipan, Mariana Islands
Realty Officer, GS-12, Saipan, Mariana Islands
Liaison Officer, GS-12, Agana, Guam
Administrative Officer, GS-12, Kwajalein, Marshall Islands
Liaison Officer, GS-12, Honolulu, Hawaii
Administrative Officer, GS-12, Majuro, Marshall Islands
District Administrator, GS-12, Kosrae
Agricultural Management Specialist, GS-11, Ponape
Agricultural Management Specialist, GS-10, Truk
Agricultural Management Specialist, GS-11, Palau
Agricultural Management Specialist, GS-11, Kosrae

ENVIRONMENTAL PROJECT REVIEW

Delete:

Environmental Review Officers, GS-11 and above (regardless of official classification title), Washington, D.C.
Chief, Transportation Staff, Washington, D.C.

Add:

Environmental Review Officers, GS-12 and above
General Engineers, GS-14
General Biologists, GS-13

OFFICE OF BUDGET

Budget Analysts, Washington, D.C.

OFFICE OF OUTER CONTINENTAL SHELF PROGRAM COORDINATION

Delete:

Staff Assistant, New York, N.Y.
Economist, Washington, D.C.

Add:

Information Specialist, GS-14

OFFICE OF POLICY ANALYSIS

Program Analysts, Washington, D.C.
Economists

OFFICE OF AUDIT AND INVESTIGATION

Delete:

Office title of Office of Audit and Investigation

Add:

New Office title of Office of Inspector General

OFFICE OF AIRCRAFT SERVICES

Contract Specialist, Boise, Idaho
Chief, Division of Technical Services, Boise, Idaho
Regional Director, Anchorage, Alaska
Chief, Division of Technical Services, Anchorage, Alaska
Contract Specialist, Anchorage, Alaska

OFFICE OF MANPOWER TRAINING AND YOUTH ACTIVITIES

Delete:

Title of Office of Manpower Training and Youth Activities
Chief, Operations Division, GS-14
Chief, Program Planning and Support Division, GS-14

Add:

New office title, Office of Youth Programs
Assistant Director (Job Corps), GS-14
Staff Assistant (State Grant Programs), GS-12
Staff Assistant, GS-11
YACC Program Specialists (All Regions), GS-11's and GS-12's.

OFFICE OF LIBRARY AND INFORMATION SERVICES

Add:

Librarian, GS-12, Acquisitions Branch

OFFICE OF ADMINISTRATIVE SERVICES

Delete:

Procurement and Grants Specialist, Washington, D.C.

Add:

Supervisory Contract Specialist, GS-13

OFFICE OF ADMINISTRATIVE AND MANAGEMENT POLICY

Procurement Analysts
Grants Policy Specialist
Management Analyst
Contract Specialist
Supervisory Civil Engineer
Architect (Management Officer)
Financial Manager

OFFICE OF PERSONNEL MANAGEMENT

Labor Relations Specialist (Training) GS-14
Employee Development Specialist (Supervisory Training) GS-13
Employee Development Specialist (Program Development) GS-13
Employee Development Specialist (Manager, DMDP) GS-13
Employee Development Specialist (Training Center) GS-12

WASHINGTON COMPUTER CENTER DIVISION

Delete:

Administrative Officer

Add:

Financial Manager

OFFICE OF CONGRESSIONAL AND LEGISLATIVE AFFAIRS

Delete:

Staff Assistant

OFFICE OF THE ASSISTANT SECRETARY—FISH, WILDLIFE AND PARKS

Special Assistants, Washington, D.C.

OFFICE OF THE ASSISTANT SECRETARY—LAND AND WATER RESOURCES

Delete:

Delete (2) after Staff Assistants

BUREAU OF INDIAN AFFAIRS

Central Office Headquarters, Washington, D.C.

Delete:

Contract Specialist, Washington, D.C. (4) GS-14 (3); GS-13 (1) and above Rights Protection Officer, Washington, D.C.
Auditor, Report to Washington, D.C. (11) GS-12 (6); GS-11 (5) and above
Contract Specialist, Washington, D.C. (3) GS-11 (1); GS-9 (2) and above
Coordinator of Institutional Enrollment (Business Manager), Haskell Indian Junior College, Lawrence, Kansas

Add:

Contract Specialist, Washington, D.C. (3) GS-14 (3) and above
Auditors, report to Washington D.C. (9) GS-12 (4); GS-11(4); GS-13(1) and above
Contract Specialist, Washington, D.C. (1) GS-11 (1) and above
YCC Administrator, Washington, D.C. (GS-14)
Law Enforcement Specialist, Washington, D.C. (GS-14)
Housing Service Specialist, Washington, D.C. (2); GS-14 (1); GS-13 (1)
Special Projects Officer, Washington, D.C. (GS-14)
Industrial Development Specialist, Washington, D.C. (2); GS-14 (2)
Supervisory Loan Specialist, Washington, D.C. (GS-14)
Loan Specialist, Washington, D.C. (GS-14)
Trust Facilitation Specialist, Washington, D.C. (GS-14)
Natural Resources Specialist, Washington, D.C. (GS-13)
Administrative Officer, Washington, D.C. (GS-13)
Paralegal Specialist, Washington, D.C. (GS-14)
Hunting and Fishing Rights Specialist, Washington, D.C. (GS-14)
Realty Specialist, Washington, D.C. (6); GS-14 (2); GS-13 (4)
Trust Services Specialist, Washington, D.C. (GS-14)
Appraiser, Washington, D.C. (GS-14)
Minerals Officer, Washington, D.C. (GS-14)
Geologist, Washington, D.C. (GS-14)
Research Specialist, Washington, D.C. (2); GS-13 (1); GS-12 (1)
Staff Assistant, Washington, D.C. (GS-12)
Program Analyst, Washington, D.C. (2); GS-14 (1); GS-12 (1)
Staff Assistant, Washington, D.C. (GS-12)
Program Analyst, Washington, D.C. (2); GS-14 (1); GS-12 (1)
Indian Self-Determination Analyst, Washington, D.C. (3); GS-14 (1); GS-13 (2)
Special Assistant (Hunting/Fishing Rights), Washington, D.C. (GS-12)
Special Assistant, Washington, D.C. (GS-12)
Criminal Investigator, report to Washington, D.C. (GS-12)
Supervisory Criminal Investigator, report to Washington, D.C. (2); GS-13 (1) GS-12 (1)
Supervisory Loan Specialist, report to Washington, D.C. (GS-12)
Loan Specialist, report to Washington, D.C. (2); GS-12 (2)
Loan Specialist (General), report to Washington, D.C. (2); GS-14 (1); GS-12 (1)
Education Program Administrator, Haskell Indian Junior College, Lawrence, Kansas (GS-13)

Field Administrative Office, Albuquerque, New Mexico

Delete:

Field Administrator, Administrative Service Center, Albuquerque, New Mexico and above
Supply Management Officer, Administrative Services Center, Albuquerque, New Mexico
Supervisory Civil Engineer, Albuquerque, New Mexico and above
Supervisory Contract Specialist, Albuquerque, New Mexico, (2) GS-13 (1); GS-12 (1) and above
Contract Specialist, Field Administrative Office, Albuquerque, New Mexico (5) GS-12 (1); GS-9 (4) and above
Procurement Agent, Field Administrative Office, Albuquerque, New Mexico (3) GS-11 (1); GS-9 (1); GS-7 (1) and above
Administrator, Indian Education Resource Center, Albuquerque, New Mexico Program Officer, Indian Technical Assistance Center, Denver, Colorado (3) GS-9 (1); GS-7 (1); GS-5 (1) and above

Add:

Field Administrator, Field Administrative Office, Albuquerque, New Mexico, and above
Supervisory Civil Engineer, Division of Facilities Engineering, Albuquerque, New Mexico (2); GS-14 (2) and above
Supervisory Contract Specialist, Field Administrative Office, Albuquerque, New Mexico (GS-12) and above
Contract Specialist, Field Administrative Office, Albuquerque, New Mexico (3); GS-11 (2); GS-9 (1) and above
Procurement Agent, Field Administrative Office, Albuquerque, New Mexico (3); GS-9 (2); GS-7 (1) and above
Contract Specialist, Indian Technical Assistance Center, Denver, Colorado (8); GS-12 (2); GS-11 (2); GS-9 (2); GS-7 and above
Supervisory Contract Specialist, Indian Technical Assistance Center, Denver, Colorado (GS-13)
Supervisory Contract Specialist, Division of Facilities Engineering, Albuquerque, New Mexico (GS-13)
Contract Specialist, Division of Facilities Engineering, Albuquerque, New Mexico (4); GS-12 (1); GS-11 (3)
Contract Industrial Relations Specialist, Field Administrative Office, Albuquerque, New Mexico (GS-11)

Pierre Boarding School

Delete:

Education Program Administrator, Pierre Boarding School, Pierre, South Dakota (GS-12)

Winnebago Agency

Supervisory Police Officer, Winnebago Agency, Winnebago, Nebraska (GS-6)
Resources Development Officer, Winnebago Agency, Winnebago, Nebraska (GS-12)
Agency Credit Officer, Winnebago Agency, Winnebago, Nebraska (GS-11)

Yankton Agency

Delete:

Loan Assistant, Yankton Agency, Wagner, South Dakota (GS-7)

Albuquerque Area Office

Delete:

Assistant Area Director (Administration), Albuquerque Area, Albuquerque, New Mexico and above
Supervisory Contract Specialist, Albuquerque Area, Albuquerque, New Mexico (3) GS-13 (2); GS-12 (1) and above
Contract Specialist, Albuquerque Area, Albuquerque, New Mexico (6) GS-11 (3); GS-9 (1); GS-7 (2) and above
Office Services Manager, Albuquerque Area, Albuquerque, N.M. (GS-11) and above
Area Special Officer, Albuquerque Area, Albuquerque, N.M. (GS-12) and above
Area Credit Officer, Albuquerque Area, Albuquerque, N.M., and above
Area Realty Officer, Albuquerque Area, Albuquerque, N.M., and above
Employment Assistance Officer, Denver Job Placement and Services Unit, Denver, Colorado (GS-11) and above

Add:

Administrative Officer, Albuquerque Area, Albuquerque, N.M., and above
Supervisory Contract Specialist, Albuquerque Area, Albuquerque, N.M., (GS-12) and above
Contract Specialist, Albuquerque Area, Albuquerque, N.M., (10); GS-11 (4); GS-9 (3); GS-7 (3) and above
Office Services Specialist, Albuquerque Area, Albuquerque, N.M., (GS-7) and above
Criminal Investigator, Albuquerque Area, Albuquerque, N.M. (GS-12) and above
Business Program Manager, Albuquerque Area, Albuquerque, N.M. (GS-13) and above
Realty Officer, Albuquerque Area, Albuquerque, N.M. (GS-13) and above
Supervisory Vocational Development Specialist, Denver Job Placement and Services Unit, Denver, Colorado (GS-11) and above
Office Services Manager, Albuquerque Area, Albuquerque, N.M. (GS-11)

Jicarilla Agency

Delete:

Agency Special Officer, Jicarilla Agency, Dulce, N.M. (GS-12) and above
Agency Credit Officer, Jicarilla Agency, Dulce, N.M. (GS-11) and above
Agency Realty Officer, Jicarilla Agency, Dulce, N.M. (GS-11) and above
Agency Program Officer, Jicarilla Agency, Dulce, N.M. (GS-12) and above

Add:

Criminal Investigator, Jicarilla Agency, Dulce, N.M. (GS-11) and above
Loan Specialist, Jicarilla Agency, Dulce, N.M. (GS-11) and above
Realty Specialist, Jicarilla Agency, Dulce, N.M. (GS-11) and above

Tribal Assistance Officer, Jicarilla Agency, Dulce, N.M. (GS-12) and above

Mescalero Agency

Delete:

Administrative Manager, Mescalero Agency, Mescalero, N.M. (GS-9) and above
Agency Special Officer, Mescalero Agency, Mescalero, N.M. (GS-12) and above
Realty Specialist, Mescalero Agency, Mescalero, N.M. (GS-7) and above

Add:

Administrative Officer, Mescalero Agency, Mescalero, N.M. (GS-11) and above
Supervisory Criminal Investigator, Mescalero Agency, Mescalero, N.M. (GS-11)
Realty Specialist, Mescalero Agency, Mescalero, N.M. (GS-9) and above

Northern Pueblos Agency

Delete:

Administrative Manager, Northern Pueblos Agency, Santa Fe, N.M. (GS-12) and above
Agency Special Officer, Northern Pueblos Agency, Santa Fe, N.M. (GS-11) and above
Natural Resource Officer, Northern Pueblos Agency, Santa Fe, N.M., and above
Agency Realty Officer, Northern Pueblos Agency, Santa Fe, N.M. (GS-12) and above
Agency Credit Officer, Northern Pueblos Agency, Santa Fe, N.M. (GS-11) and above

Add:

Administrative Officer, Northern Pueblos Agency, Santa Fe, N.M. (GS-11) and above
Supervisory Criminal Investigator, Northern Pueblos Agency, Pojoaque, N.M. (GS-11) and above
Natural Resource Manager, Northern Pueblos Agency, Santa Fe, N.M. (GS-12) and above
Realty Officer, Northern Pueblos Agency, Santa Fe, N.M. (GS-12) and above
Loan specialist (General), Northern Pueblos Agency, Santa Fe, N.M. (GS-11) and above

Ramah-Navajo Agency

Delete:

Police Officer, Ramah-Navajo Agency, Ramah, N.M. (GS-7) and above
Housing Development Officer, Ramah-Navajo Agency, Ramah, N.M. (GS-12)
Employment Assistance Officer, Ramah-Navajo Agency, Ramah, N.M. (GS-9)
Natural Resource Manager, Ramah-Navajo Agency, Ramah, N.M. (GS-12)

Add:

Supervisory Police Officer, Ramah-Navajo Agency, Ramah, N.M. (GS-6) and above
Supervisory Range Conservationist, Ramah-Navajo Agency, Ramah, N.M. (GS-11)

Southern Pueblos Agency

Delete:

Administrative Officer, Southern Pueblos Agency, Albuquerque, N.M. (GS-11) and above
Vocational Development Specialist, Southern Pueblos Agency, Albuquerque, N.M. (GS-12) and above
Agency Special Officer, Southern Pueblos Agency, Albuquerque, N.M. (GS-12) and above
Agency Credit Officer, Southern Pueblos Agency, Albuquerque, N.M. (GS-12) and above
Agency Realty Officer, Southern Pueblos Agency, Albuquerque, N.M. and above

Add:

Administrative Officer, Southern Pueblos Agency, Albuquerque, N.M. (GS-11) and above
Supervisory Vocational Development Specialist, Southern Pueblos Agency, Albuquerque, N.M. (GS-12) and above
Supervisory Criminal Investigator, Southern Pueblos Agency, Albuquerque, N.M. (GS-12) and above
Loan Specialist (General), Southern Pueblos Agency, Albuquerque, N.M. (GS-12) and above
Realty Officer, Southern Pueblos Agency, Albuquerque, N.M. (GS-12) and above

Southern Ute Agency

Delete:

Agency Credit Officer, Southern Ute Agency, Ignacio, Colorado (GS-12)
Agency Realty Officer, Southern Ute Agency, Ignacio, Colorado (GS-11) and above

Add:

Realty Officer, Southern Ute Agency, Ignacio, Colorado (GS-11) and above
Criminal Investigator, Southern Ute Agency, Ignacio, Colorado (GS-11)

Ute Mountain Ute Agency

Delete:

Agency Special Officer, Ute Mountain Ute Agency, Towaoc, Colorado (GS-11)
Agency Realty Officer, Ute Mountain Ute Agency, Towaoc, Colorado (GS-11) and above
Program Officer, Ute Mountain Ute Agency, Towaoc, Colorado (GS-12) and above

Add:

Realty Officer, Ute Mountain Ute Agency, Towaoc, Colorado (GS-11) and above
Program Analyst, Ute Mountain Ute Agency, Towaoc, Colorado (GS-12) and above

Pueblo of Zuni

Delete:

Field Representative, Pueblo of Zuni, N.M. (GS-13)
Administrative Officer, Pueblo of Zuni, Zuni, N.M. (GS-9)
Natural Resource Manager, Pueblo of Zuni, Zuni, N.M. (GS-12)
Loan Specialist (General), Pueblo of Zuni, Zuni, N.M. (GS-11)

Anadarko Area Office

Delete:

Contract Specialist, Anadarko Area, Anadarko, Oklahoma (3) GS-11 (1); GS-9 (1); GS-7 (1) and above
Appraisers, Anadarko Area, Anadarko, Oklahoma (5) GS-12 (3); GS-11 (2) and above

Add:

Contract Specialist, Anadarko Area, Anadarko, Oklahoma (4); GS-9 (4) and above
Appraiser, Anadarko Area, Anadarko, Oklahoma (GS-12) and above
Supervisory Contract Specialist, Anadarko Area, Anadarko, Oklahoma

Anadarko Agency

Add:

Supervisory Appraiser, Anadarko Agency, Anadarko, Oklahoma (GS-12)
Appraisers, Anadarko Agency, Anadarko, Oklahoma (3); GS-11 (3)

Concho Agency

Add:

Appraiser, Concho Agency, Concho, Oklahoma (GS-12)

Horton Agency

Delete:

Appraiser, Horton Agency, Horton, Kansas (GS-11) and above

Add:

Appraiser, Horton Agency, Horton, Kansas (GS-12) and above

Pawnee Agency

Add:

Appraiser, Pawnee Agency, Pawnee, Oklahoma (GS-12)

Shawnee Agency

Add:

Appraiser, Shawnee Agency, Shawnee, Oklahoma (GS-12)

Billings Area Office

Delete:

Contract Specialist, Billings Area Office, Billings, Montana (2) (GS-9) and (GS-11) and above
Supervisory Appraiser, Billings Area Office, Billings, Montana (2) GS-13 (1); GS-12 (1) and above
Appraiser, Billings Area Office, Billings, Montana (5) GS-11 (5) and above.
Director, Missouri River Basin Investigation Project, Billings Area Office, Billings, Montana

Add:

Contract Specialist, Billings Area Office, Billings, Montana (4); GS-12 (1); GS-11 (3) and above
Supervisory Appraiser, Billings Area Office, Billings, Montana (GS-13) and above
Appraisers, Billings Area Office, Billings, Montana (6); GS-12 (1); GS-11 (5) and above
Natural Resources Planning Officer, Billings Area Office, Billings, Montana (GS-14)

Blackfeet Agency

Delete:

Agency Special Officer, Blackfeet Agency, Browning, Montana (GS-11) and above
Housing Coordinator, Blackfeet Agency, Browning, Montana (GS-12)
Employment Assistance Officer, Blackfeet Agency, Browning, Montana (GS-11) and above
Agency Realty Officer, Blackfeet Agency, Browning, Montana (GS-11) and above
Agency Credit Officer, Blackfeet Agency, Browning, Montana (GS-12)

Add:

Criminal Investigator, Blackfeet Agency, Browning, Montana (GS-11) and above
Vocational Development Specialist, Blackfeet Agency, Browning, Montana (GS-11) and above
Supervisory Realty Specialist, Blackfeet Agency, Browning, Montana (GS-11) and above
Supervisory Civil Engineer Technician, Blackfeet Agency, Browning, Montana (GS-11)

Crow Agency

Delete:

Employment Assistance Officer, Crow Agency, Crow Agency, Montana (GS-11) and above
Agency Special Officer, Crow Agency, Crow Agency, Montana (GS-12) and above
Agency Credit Officer, Crow Agency, Crow Agency, Montana (GS-11) and above

Add:

Vocational Development Specialist, Crow Agency, Crow Agency, Montana (GS-11) and above
Criminal Investigator, Crow Agency, Crow Agency, Montana (GS-12) and above
Loan Specialist (General), Crow Agency, Crow Agency, Montana (GS-11) and above

Flathead Agency

Delete:

Agency Special Officer, Flathead Agency, Ronan, Montana (GS-11) and above
Housing Coordinator, Flathead Agency, Ronan, Montana (GS-11)

Add:

Criminal Investigator, Flathead Agency, Ronan, Montana (GS-9) and above

Flathead Irrigation Project

Delete:

Administrative Officer, Flathead Irrigation Project, St. Ignatius, Montana (GS-12)

Fort Belknap Agency

Delete:

Agency Special Officer, Fort Belknap Agency, Harlem, Montana (GS-11) and above
Housing Coordinator, Fort Belknap Agency, Harlem, Montana (GS-11)
Agency Credit Officer, Fort Belknap Agency, Harlem, Montana (GS-11) and above
Land Operations Officer, Fort Belknap Agency, Harlem, Montana (GS-11) and above
Agency Realty Officer, Fort Belknap Agency, Harlem, Montana (GS-11) and above
Community Services Officer, Fort Belknap Agency, Harlem, Montana (GS-12)

Add:

Criminal Investigator, Fort Belknap Agency, Harlem, Montana (GS-11) and above
Loan Specialist (General), Fort Belknap Agency, Harlem, Montana (GS-11) and above
Natural Resources Officer, Fort Belknap Agency, Harlem, Montana (GS-11) and above
Realty Officer, Fort Belknap Agency, Harlem, Montana (GS-11) and above

Fort Peck Agency

Delete:

Agency Special Officer, Fort Peck Agency, Poplar, Montana (GS-11) and above
Housing Development Officer, Fort Peck Agency, Poplar, Montana (GS-11)
Agency Credit Officer, Fort Peck Agency, Poplar, Montana (GS-11) and above
Natural Resource Manager, Fort Peck Agency, Poplar, Montana (GS-12) and above
Agency Realty Officer, Fort Peck Agency, Poplar, Montana (GS-12) and above

Add:

Supervisory Criminal Investigator, Fort Peck Agency, Poplar, Montana (GS-11) and above
Loan Specialist (General), Fort Peck Agency, Poplar, Montana (GS-11) and above
Natural Resource Officer, Fort Peck Agency, Poplar, Montana (GS-12) and above
Realty Officer, Fort Peck Agency, Poplar, Montana (GS-12) and above

Northern Cheyenne Agency

Delete:

Community Services Officer, Northern Cheyenne Agency, Lame Deer, Montana (GS-11)
Agency Special Officer, Northern Cheyenne Agency, Lame Deer, Montana (GS-11) and above
Housing Coordinator, Northern Cheyenne Agency, Lame Deer, Montana (GS-11)
Agency Realty Officer, Northern Cheyenne Agency, Lame Deer, Montana (GS-11) and above

Add:

Criminal Investigator, Northern Cheyenne Agency, Lame Deer, Montana (GS-11)
Realty Specialist, Northern Cheyenne Agency, Lame Deer, Montana (GS-11) and above

Rocky Boy's Agency

Delete:

Administrative Assistant, Rocky Boy's Agency, Box Elder, Montana (GS-9) and above
Policemen, Rocky Boy's Agency, Box Elder, Montana (GS-7)
Agency Credit Officer, Rocky Boy's Agency, Box Elder, Montana (GS-11) and above
Natural Resource Manager, Rocky Boy's Agency, Box Elder, Montana (GS-11) and above

Add:

Administrative Manager, Rocky Boy's Agency, Box Elder, Montana (GS-9) and above
Loan Specialist (General), Rocky Boy's Agency, Box Elder, Montana (GS-11) and above
Natural Resource Officer, Rocky Boy's Agency, Box Elder, Montana (GS-11) and above

Wind River Agency

Delete:

Agency Specialist Officer, Wind River Agency, Fort Washakie, Wyoming (GS-12)
Agency Credit Officer, Wind River Agency, Fort Washakie, Wyoming (GS-11) and above
Agency Realty Officer, Wind River Agency, Fort Washakie, Wyoming (GS-12) and above

Add:

Criminal Investigator, Wind River Agency, Fort Washakie, Wyoming (GS-12) and above
Loan Specialist (General), Wind River Agency, Fort Washakie, Wyoming (GS-11) and above
Realty Officer, Wind River Agency, Fort Washakie, Wyoming (GS-12) and above

Eastern Area Office

Delete:

Community Services Officer, Eastern Area, Washington, D.C. and above
Employment Assistance Office, Cleveland FEAO, Cleveland, Ohio (GS-12) and above
Employment Assistance Officer, Washington, D.C. (GS-12)

Add:

Community Services Specialist, Eastern Area, Washington, D.C. (GS-13) and above
Vocational Development Officer, Cleveland FEAO, Cleveland, Ohio (GS-12) and above
Self Determination Specialist, Washington, D.C. (GS-12)
Contract Specialist, Washington, D.C. (2); GS-13 (1); GS-11 (1)

Cherokee Agency

Delete:

Employment Assistance Officer, Cherokee Agency, Cherokee, N.C. (GS-11) and above
Forester (Admin.) Cherokee Agency, Cherokee, N.C. (GS-11) and above
Supervisory Engineer Technician, Cherokee Agency (Snowbird), Cherokee, N.C. (GS-12) and above

Add:

Vocational Development Specialist, Cherokee Agency, Cherokee, N.C. (GS-11) and above
Forestry Technician, Cherokee Agency, Cherokee, N.C. (GS-9) and above
Supervisory Engineer Technician, Cherokee Agency, Cherokee, N.C. (GS-12) and above

Choctaw Agency

Delete:

Employment Assistance Officer, Choctaw Agency, Philadelphia, Mississippi (GS-12)

Add:

Loan Specialist (General), Choctaw Agency, Philadelphia, Mississippi (GS-12)
Supervisory Criminal Investigator, Choctaw Agency, Philadelphia, Miss. (GS-12)

Seminole Agency

Delete:

Realty Officer, Seminole Agency, Hollywood, Florida (GS-11) and above
Forester, Seminole Agency, Hollywood, Florida (GS-11) and above

Add:

Realty Officer, Seminole Agency, Hollywood, Florida (GS-12) and above
Forester, Seminole Agency, Hollywood, Florida (GS-12) and above

Juneau Area Office

Add:

Assistant Area Director (Education), Juneau Area, Juneau, Alaska
Assistant Area Director (Program), Juneau Area, Juneau, Alaska
Public Information Officer, Juneau Area, Juneau, Alaska (GS-12)
Indian Law Specialist, Juneau Area, Juneau, Alaska (GS-12)

Anchorage Agency

Add:

Tribal Operations Officer, Anchorage Agency, Anchorage, Alaska (GS-11)

Fairbanks Agency

Delete:

Loan Specialist, Fairbanks Agency, Fairbanks, Alaska (GS-11) (2)
Realty Specialist, Fairbanks Agency, Fairbanks, Alaska (GS-12) (2)

Add:

Tribal Operations Officer, Fairbanks Agency, Fairbanks, Alaska (GS-11)

Seattle Liaison Office

Delete:

Assistant Administrative Officer and Special Representative, Seattle Liaison Office, Seattle, Washington
Supply Officer, Seattle Liaison Office, Seattle, Washington (GS-11)

Miami Agency

Delete:

Realty Specialist, Miami Agency, Miami, Oklahoma (GS-11)
Land Operations Officer, Miami Agency, Miami, Oklahoma (GS-12)

Add:

Natural Resources Specialist, Miami Agency, Miami, Oklahoma (GS-12)

Navajo Area Office

Delete:

Supply Management Officer, Navajo Area, Gallup, N.M. (2) GS-12 (1); GS-11 (1) and above
Procurement Officer, Navajo Area, Gallup, N.M. (GS-12) and above
Supervisory Maintenance Engineer, Navajo Area, Window Rock, Arizona and above
Supervisory Highway Engineer, Navajo Area, Window Rock, Arizona, and above
Supervisory Forester Administration, Navajo Area, Window Rock, Arizona and above
Realty Officer, Navajo Area, Window Rock, Arizona, and above
Contract Specialist, Navajo Area, Gallup, New Mexico (3) GS-11 (2); GS-9 (1) and above
Procurement Agent, Navajo Area, Gallup, N.M. (3) GS-11 (2); GS-9 (1) and above
Safety Manager, Navajo Area, Window Rock, Arizona, and above
Supervisory Social Worker, Navajo Area, Window Rock, Arizona, and above
Supervisory Vocational Development Specialist, Navajo Area, Window Rock, Arizona (GS-12) and above

Add:

Supply Management Officer, Navajo Area, Gallup, N.M. (GS-13) and above
Procurement Officer, Navajo Area, Gallup, N.M. (GS-14) and above
Supervisory Maintenance Engineer, Navajo Area, Window Rock, Arizona (2); GS-14 (1); GS-12 (1) and above
Supervisory Highway Engineer, Navajo Area, Window Rock, Arizona (2); GS-14 (1); GS-13 (1) and above
Forester (Administration), Navajo Area, Window Rock, Arizona (GS-13) and above
Realty Officer, Navajo Area, Window Rock, Arizona (2); GS-13 (1); GS-12 (1) and above
Contract Specialist, Navajo Area, Gallup, N.M. (8); GS-12 (3); GS-11 (3); GS-9 (2) and above
Procurement Agent, Navajo Area, Gallup, N.M. (2); GS-11 (1); GS-9 (1) and above
Safety Manager, Navajo Area, Gallup, N.M. (GS-13) and above
Supervisory Social Worker, Navajo Area, Window Rock, Arizona (2); GS-13 (1); GS-12 (1) and above
Supervisory Vocational Development Specialist, Navajo Area, Window Rock, Arizona (2); GS-13 (1); GS-12 (1) and above
Tribal Operations Specialist, Navajo Area, Window Rock, Arizona (GS-12)
Indian Self-Determination Specialist, Navajo Area, Window Rock, Arizona (GS-12)
Supervisory Procurement Agent, Navajo Area, Gallup, N.M. (GS-12)
Supervisory Supply Management Representative, Navajo Area, Gallup, N.M. (GS-12)
Supervisory Distribution Facilities Specialist, Navajo Area, Gallup, N.M. (GS-11)
Quality Inspection Specialist (Subsistence), Navajo Area, Gallup, N.M. (GS-9)
Accounting Officer, Navajo Area, Gallup, N.M. (2); GS-13 (1); GS-12 (1)
Budget Officer, Navajo Area, Galup, N.M. (GS-13)
Assistant Area Director, Division of Community Services, Navajo Area, Window Rock, Arizona (GS-14)
Loan Specialist, Navajo Area, Window Rock, Arizona (2); GS-12 (2)
Housing Development Specialist, Navajo Area, Window Rock, Arizona (GS-12)
Supervisory Auditor, Navajo Area, Window Rock, Arizona (GS-12)
Auditor, Navajo Area, Window Rock, Arizona (2); GS-11 (2)
Assistant Area Director, Division of Resources Development, Navajo Area, Window Rock, Arizona (GS-14)
Environmental Quality Services Officer, Navajo Area, Window Rock, Arizona (GS-13)
Realty Specialist, Navajo Area, Window Rock, Arizona (2); GS-12 (2)
Assistant Area Director, Division of Education, Navajo Area, Window Rock, Arizona (GS-13)
Deputy Assistant Area Director (Education), Navajo Area, Window Rock, Arizona (GS-14)

Chinle Agency

Delete:

Employment Assistance Officer, Chinle Agency, Chinle, Arizona (GS-12) and above
Supervisory Social Worker, Chinle Agency, Chinle, Arizona (GS-11) and above
Agency Special Officer, Chinle Agency, Chinle, Arizona (GS-11) and above

Add:

Supervisory Vocational Development Specialist, Chinle Agency, Chinle, Arizona (GS-12) and above
Supervisory Social Worker, Chinle Agency, Chinle, Arizona (GS-12) and above
Agency Criminal Investigator, Chinle Agency, Chinle, Arizona (GS-11) and above
Loan Specialist, Chinle Agency, Chinle, Arizona (GS-9)
Supervisory Supply Specialist, Chinle Agency, Chinle, Arizona (GS-9)

Eastern Navajo Agency

Delete:

Agency Special Officer, Eastern Navajo Agency, Crownpoint, N.M. (GS-11) and above
Agency Credit Officer, Eastern Navajo Agency, Crownpoint, N.M. (GS-11) and above

Add:

Agency Criminal Investigator, Eastern Navajo Agency, Crownpoint, M.M. (GS-11) and above
Loan Specialist, Eastern Navajo Agency, Crownpoint, N.M. (GS-11) and above
Supervisory Supply Specialist, Eastern Navajo Agency, Crownpoint, N.M. (GS-9)

Fort Defiance Agency

Delete:

Vocational Development Officer, Fort Defiance Agency, Fort Defiance, Arizona
Supervisory Maintenance Engineer, Fort Defiance Agency, Fort Defiance, Arizona

Add:

Supervisory Vocational Development Officer, Fort Defiance Agency, Fort Defiance, Arizona (GS-12) and above
Supervisory Supply Specialist, Fort Defiance Agency, Fort Defiance, Arizona (GS-9)
Realty Specialist, Fort Defiance Agency, Fort Defiance, Arizona (GS-9)

Navajo Irrigation Project

Delete:

Project Manager, Navajo Irrigation Project, Farmington, N.M. and above
General Engineer, Navajo Irrigation Project, Farmington, N.M. and above
Supervisory Highway Engineer, Navajo Irrigation Project, Farmington, N.M. and above

Add:

Supervisory General Engineer, Navajo Irrigation Project, Farmington, N.M. (GS-14) and above
Civil Engineer, Navajo Irrigation Project, Farmington, N.M. (GS-13) and above
Supervisory Highway Engineer, Navajo Irrigation Project, Farmington, N.M. (2); GS-12 (1); GS-11 (1) and above

Shiprock Agency

Delete:

Vocational Development Officer, Shiprock Agency, Shiprock, N.M. (GS-12) and above
Agency Special Officer, Shiprock Agency, Shiprock, N.M. (GS-11) and above
Agency Credit Officer, Shiprock Agency, Shiprock, N.M. (GS-12) and above

Add:

Supervisory Vocational Development Officer, Shiprock, N.M. (GS-12) and above
Agency Criminal Investigator, Shiprock Agency, Shiprock, N.M. (GS-11) and above
Loan Specialist, Shiprock Agency, Shiprock, N.M. (GS-12) and above

Western Navajo Agency

Delete:

Agency Special Officer, Western Navajo Agency, Tuba City, Arizona (GS-11) and above
Vocational Development Specialist, Western Navajo Agency, Tuba City, Arizona (GS-12) and above
Supervisory Civil Engineer Technician, Western Navajo Agency, Tuba City, Arizona (GS-12)

Add:

Agency Criminal Investigator, Western Navajo Agency, Tuba City, Arizona (GS-11) and above
Supervisory Vocational Development Specialist, Western Navajo Agency, Tuba City, Arizona (GS-12) and above
Supervisory Highway Engineer, Western Navajo Agency, Tuba City, Arizona (GS-12)
Loan Specialist, Western Navajo Agency, Tuba City, Arizona (GS-11)
Realty Specialist, Western Navajo Agency, Tuba City, Arizona (GS-9)

Phoenix Area Office

Delete:

Employment Assistance Officer, Phoenix Area Office, Phoenix, Arizona, and above
Property Management Officer, Phoenix Area Office, Phoenix, Arizona (GS-12) and above

Add:

Vocational Development Officer, Phoenix Area Office, Phoenix, Arizona and above
Property Management Officer, Phoenix Area Office, Phoenix, Arizona (GS-9) and above

Portland Area

Delete:

Area Special Officer, Portland Area, Portland, Oregon

Add:

Accounting Officer, Portland Area, Portland, Oregon (GS-13)
Budget Officer, Portland Area, Portland, Oregon (GS-13)
Property Management Officer, Portland Area, Portland, Oregon (GS-13)
Assistant Area Director (Economic Development), Portland Area, Portland, Oregon (GS-14)
Loan Specialist (General), Portland Area, Portland, Oregon (GS-12)
Supervisory Real Property Officer, Portland Area, Portland, Oregon (GS-13)
Assistant Area Director (Community Services), Portland Area, Portland, Oregon (GS-14)
Tribal Government Services Officer, Portland Area, Portland, Oregon (GS-13)
Criminal Investigator, Portland Area, Portland, Oregon (GS-13)
Supervisory Social Worker, Portland Area, Portland, Oregon (GS-14)

Chemawa School

Delete:

School Superintendent, Chemawa School, Chemawa, Oregon and above
Administrative Manager, Chemawa School, Chemawa, Oregon (GS-11) and above

Add:

Education Program Administrator, Chemawa School, Chemawa, Oregon and above
Administrative Officer, Chemawa School, Chemawa, Oregon (GS-11) and above
Principal, Chemawa School, Chemawa, Oregon, (GS-12)
Supervisory Guidance Counselor, Chemawa School, Chemawa, Oregon (GS-11)

Colville Agency

Delete:

Agency Credit Officer, Colville Agency, Nespelem, Washington (GS-12) and above
Agency Realty Officer, Colville Agency, Nespelem, Washington (GS-12) and above

Add:

Loan Specialist (General), Colville Agency, Nespelem, Washington (GS-12) and above
Realty Property Officer, Colville Agency, Nespelem, Washington (GS-12) and above
Administrative Officer, Colville Agency, Nespelem, Washington (GS-11)
Construction Superintendent, Colville Agency, Nespelem, Washington (GS-11)
Social Worker, Colville Agency, Nespelem, Washington (GS-12)
Natural Resources Officer, Colville Agency, Nespelem, Washington (GS-13)

Fort Hall Agency

Delete:

Agency Special Officer, Fort Hall Agency, Pocatello, Idaho (GS-11) and above

Add:

Criminal Investigator, Fort Hall Agency, Pocatello, Idaho (2); GS-11 (2) and above
Social Worker, Fort Hall Agency, Pocatello, Idaho (GS-12)
Criminal Investigator, Fort Hall Agency, Pocatello, Idaho (GS-11)
Natural Resources Officer, Fort Hall Agency, Pocatello, Idaho (GS-13)
Supervisory Real Property Officer, Fort Hall Agency, Pocatello, Idaho (GS-12)
Highway Engineering Technician, Fort Hall Agency, Pocatello, Idaho (GS-12)
Soil Conservationist, Fort Hall Agency, Pocatello, Idaho (GS-12)
Supervisory Range Conservationist, Fort Hall Agency, Pocatello, Idaho (GS-12)
Housing Development Officer, Fort Hall Agency, Pocatello, Idaho (GS-11)

Northern Hall Agency

Delete:

Agency Credit Officer, Northern Idaho Agency, Lapwai, Idaho (GS-12) and above
Employment Assistance Officer, Northern Idaho Agency, Lapwai, Idaho (GS-12) and above
Supervisory Forester (Admin.), Northern Idaho Agency, Lapwai, Idaho (GS-12) and above
Natural Resource Manager, Northern Idaho Agency, Lapwai, Idaho (GS-12) and above
Agency Realty Manager, Northern Idaho Agency, Lapawai, Idaho (GS-12) and above

Add:

Loan Specialist (General), Northern Idaho Agency, Lapwai Idaho (GS-11) and above
Vocational Development Officer, Northern Idaho Agency, Lapwai, Idaho (GS-12) and above
Forester (Administration), Northern Idaho Agency, Lapwai, Idaho (2); GS-12 (1); GS-11 (1) and above
Natural Resource Officer, Northern Idaho Agency, Lapwai, Idaho (GS-12) and above
Realty Officer, Northern Idaho Agency, Lapwai, Idaho (GS-12) and above
General Supply Specialist, Northern Idaho Agency, Lapwai, Idaho (GS-7)
Engineering Equipment Operator (Roads), Northern Idaho Agency, Lapwai, Idaho (WD-10)
Foreman II, Maintenance, Northern Idaho Agency, Lapwai, Idaho (WD-6)
Social Worker, Northern Idaho Agency, Lapwai, Idaho (GS-12)
Supervisory Criminal Investigator, Northern Idaho Agency, Lapwai, Idaho (GS-12)

Spokane Agency

Delete:

Agency Realty Officer, Spokane Agency, Willpinit, Washington (GS-11) and above

Add:

Realty Officer, Spokane Agency, Willpinit, Washington (GS-11) and above

Umatilla Agency

Delete:

Agency Credit Officer, Umatilla Agency, Pendleton, Oregon (GS-9) and above
Realty Officer, Umatilla Agency, Pendleton, Oregon (GS-11) and above

Add:

Loan Specialist (General), Umatilla Agency, Pendleton, Oregon (GS-9) and above

Realty Specialist, Umatilla Agency, Pendleton, Oregon (GS-11) and above
Social Worker, Umatilla Agency, Pendleton, Oregon (GS-11)
Game Law Enforcement Agent, Umatilla Agency, Pendleton, Oregon (GS-9)

Wapato Irrigation Project

Add:

General Engineer, Wapato Irrigation Project, Wapato, Washington, (GS-13)

Warm Springs Agency

Add:

Criminal Investigator, Warm Springs Agency, Warm Springs, Oregon (GS-12)

Western Washington Agency

Delete:

Employment Assistance Officer, Western Washington Agency, Hoquiam (GS-11) and above
Housing Development Officer, Western Washington Agency, Hoquiam (GS-11) and above
Reservation Programs Officer, Western Washington Agency, Hoquiam (GS-12) and above

Add:

Vocational Development Officer, Western Washington Agency, Hoquiam, Washington (GS-12) and above
Housing Development Officer, Western Washington Agency, Hoquiam, Washington (GS-13) and above
Reservation Programs Officer, Western Washington Agency, Hoquiam, Washington (GS-13) and above
Supervisory Criminal Investigator, Western Washington Agency, Hoquiam, Washington (GS-13)
Supervisory Real Property Management Officer, Western Washington Agency, Hoquiam, Washington (GS-13)
Social Worker, Western Washington Agency, Hoquiam, Washington (GS-12)

Yakima Agency

Delete:

Agency Credit Officer, Yakima Agency, Toppenish, Washington (GS-12) and above
Land Operations Officer, Yakima Agency, Toppenish, Washington (GS-12) and above
Agency Realty Officer, Yakima Agency, Toppenish, Washington and above

Add:

Supervisory Loan Specialist (General), Yakima Agency, Toppenish, Washington (GS-12) and above
Land Operations Officer, Yakima Agency, Toppenish, Washington (GS-13) and above
Realty Officer, Yakima Agency, Toppenish, Washington (GS-13) and above
Supervisory Civil Engineering Technician, Yakima Agency, Toppenish, Washington (GS-12)
Supervisory Criminal Investigator, Yakima Agency, Toppenish, Washington (GS-11)
Social Worker, Yakima Agency, Toppenish, Washington (GS-12)

Sacramento Area Office

Delete:

Area Credit Officer, Sacramento Area, Sacramento, Calif.
Realty Officer, Sacramento Area, Sacramento, Calif. (2) GS-9
Contract Specialist, Sacramento Area, Sacramento, Calif. (2) GS-9
General Supply Specialist, Sacramento Area, Sacramento, Calif. (GS-9)
Appraiser, Sacramento Area, Sacramento, Calif. (5) GS-12 (4); GS-7 (1)
Natural Resources Specialist, Sacramento Area, Sacramento, Calif. (GS-12)
Program Officer, Sacramento Area, Sacramento, Calif. (GS-12)
Administrative Assistance Officer, Los Angeles Field Employment Assistance Office, Los Angeles, Calif., and above.
Employment Assistance Officer, Oakland/San Francisco FEAO, Alameda, Calif., and above.

Add:

Realty Specialist, Sacramento Area, Sacramento, Calif. (GS-11) and above
Vocational Development Officer, Los Angeles Field Employment Assistance Office, Los Angeles, Calif. and above
Vocational Development Officer, Oakland/San Francisco FEAO, Alameda, Calif. and above.
Land Operations Officer, Sacramento Area, Sacramento, Calif. (GS-13)
Field Representative, Sacramento Area, Sacramento, Calif. (GS-12)

GEOLOGICAL SURVEY

OFFICE OF THE DIRECTOR

Program Analysts, Reston, Va.
Economists, Reston, Va.
Congressional Liaison Officer, Reston, Va.
Administrative Operations Officer, Reston, Va. GS-11 (1)

LAND INFORMATION AND ANALYSIS OFFICE

Administrative Officer, Reston, Va.
Operations Research Analyst, Reston, Va.
Physical Scientists, Reston, Va.
Supervisory Physical Scientists, Reston, Va.
Geographers, Reston, Va.
Geologists, Reston, Va.
Hydrologists, Reston, Va.
Environmental Scientists, all specialties, Reston, Va. GS-12 and above
Research Geographer, Reston, Va.
Physical Scientists, Reston, Va.
Administrative Officer, EROS Data Center, Sioux Falls, S. Dak.
Research Forester, Sioux Falls, S. Dak.
Supervisory Remote Sensing Scientists, Sioux Falls, S. Dak.
Remote Sensing Scientist, Sioux Falls, S. Dak.
General Engineer, Sioux Falls, S. Dak.
Principal Remote Sensing Specialist (Geologic Applications), Sioux Falls, S. Dak.
Data Management Officer, Sioux Falls, S. Dak.
Supervisory Computer Specialists, Sioux Falls, S. Dak.
Computer Systems Analysts, Sioux Falls, S. Dak.
Computer Specialists, Sioux Falls, S. Dak.
Photographic Technologists, Sioux Falls, S. Dak.
Physical Scientist, Flagstaff, Ariz.
Geologist, Denver, Colo.

OFFICE OF NATIONAL PETROLEUM RESERVE IN ALASKA

Environmental Specialists, all locations
Physical Scientists, all locations
Geophysicists, all locations
Geologist, all locations—GS-11 and above
Petroleum Engineers, all locations
Civil Engineers, all locations
Industrial Property Management Specialist, Anchorage, Alaska GS-12 (1)
Administrative Officer, Anchorage, Alaska GS-12 (1)

ADMINISTRATIVE DIVISION

Supervisory Contract Specialists, Reston, Va.
Contract Specialists, Reston, Va. GS-11 and above
Procurement Analysts, Reston, Va. GS-9 and above
Contract Price Analysts, Reston, Va. GS-11 and above
Supervisory Contract Specialists, Lakewood, Colo.
Contract Specialists, Lakewood, Colo.
Supervisory Contract Specialists, Menlo Park, Calif.
Contract Specialists, Menlo Park, Calif.
Contract Administrators, Reston, Va., GS-9 and above

CONSERVATION DIVISION

Accountants and Auditors, all locations GS-9 and above
Accounting Assistants (Mineral Royalties, all locations GS-7 and above
Administrative Officers, all locations GS-12 and above
Assistant Oil and Gas Supervisor—Resource Evaluation, Metairie, La.
Assistant Regional Conservation Manager, Anchorage, Alaska
Biological Technicians, all locations GS-9 and above
Biologists, all specialties, all locations GS-9 and above
Chemical Engineers, all locations GS-9 and above
Computer Equipment Analyst, Reston, Va. GS-12 (1)
Computer Programmers, all locations GS-9 and above
Computer Specialists, all locations GS-9 and above
Computer Systems Analysts, all locations GS-9 and above
Contracts Liaison Specialists, Reston, Va.
Digital Computer Systems Administrator, Metairie, La.
Economists, all specialties, all locations GS-12 and above
Electrical Engineers, all locations GS-9 and above
Environmental Analysis Specialists, all locations GS-9 and above
Environmental Scientists, all locations GS-9 and above
Environmental Specialists, all locations GS-9 and above
General Engineers, all locations GS-9 and above
Geologists, all locations GS-9 and above
Geophysicists, all locations GS-9 and above
Hydraulic Engineers, all locations GS-9 and above
Hydrologists, all locations GS-9 and above
Legal Staff Assistants, Reston, Va. GS-12 and above
Manpower Utilization Specialist, Reston, Va.
Mechanical Engineers, all locations GS-9 and above

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Meteorologists, all locations GS-9 and above
Mine Inspectors, all locations GS-9 and above
Mining Engineering Technicians, all locations GS-9 and above
Mining Engineers, all locations GS-9 and above
Oceanographers, all locations GS-9 and above
Operations Research Analysts, all locations GS-12 and above
Petroleum Engineering and Drilling Technicians, all locations GS-9 and above
Petroleum Engineers, all specialties, all locations GS-9 and above
Physical Science Technicians, all locations GS-9 and above
Physical Scientists, all specialties, all locations GS-9 and above
Program Analysis Officer, Reston, Va.
Program Analysts, all locations GS-12 and above
Program Officer, Washington, D.C.
Quality Assurance Specialist, all locations GS-9 and above
Staff Assistant for Programs, Lakewood, Colo.
Statisticians, all specialties, all locations GS-9 and above
Structural Engineers, all locations GS-9 and above
Transportation Specialist, Reston, Va. GS-12 (1)

GEOLOGIC DIVISION

Administrative Officers, Reston, Va. GS-12 (1)
Assistant Deputy Chief Geologist for Program and Budget, Reston, Va.
Deputy Western Regional Geologist, Menlo Park, Calif.
Staff Geologist for Marine and Engineering Geology, Reston, Va.
Staff Geologist for Outer Continental Shelf Environmental Studies, Reston, Va.
Staff Geologist for Onshore Oil and Gas Resources, Reston, Va.
Mining Engineer, Office of Energy Resources, Branch of Uranium and Thorium Resources, Lakewood, Colo.
Deputy Chief for Land Resources, Reston, Va.
Staff Scientist for Grants and Contracts, Reston, Va.
Program Manager for Environmental Overviews, Reston, Va.
Program Manager for Energy Lands, Golden, Colo.
Program Manager for Landslides and Hazard Reduction, Golden, Colo.
Chief, Branch of Astrogeologic Studies, Flagstaff, Ariz.
Staff Geologist for Geochemistry and Geophysics, Reston, Va.
Staff Botanist for Geochmistry and Geophysics, Reston, Va.
Staff Geologist, Alaska Programs, Reston, Va.
Staff Geologist, Office of Mineral Resources, Reston, Va.
Assistant to Office Chief, Office of International Geology, Reston, Va.
International Activities Officer, Reston, Va.
Staff Geologist for Outer Continental Shelf Leasing Activities, Reston, Va.

PUBLICATIONS DIVISION

Chief, Branch of Administrative Services, Reston, Va.
Deputy Assistant Chief (Research and Technical Coordination), Reston, Va.
Printing Liaison Officer, Reston, Va.
Chief, Branch of Distribution, Eastern Region, Reston, Va.
Assistant Chief, Eastern Region, Reston, Va.
Chief, Administrative Services, Eastern Region, Reston, Va. GS-12 (1)
Assistant Chief, Administrative Services, Eastern Region, Reston, Va. GS-11 (1)
Chief, Branch of Technical Editing, Eastern Region, Reston, Va.
Chief, Branch of Exhibits, Eastern Region, Reston, Va.
Chief, Branch of Printing, Eastern Region, Reston, Va.
Chief, Branch of Visual Services, Eastern Region, Reston, Va.
Chief, Branch of Cartography, Eastern Region, Reston, Va.
Chief, Central Region, Lakewood, Colo.
Chief, Branch of Technical Editing, Central Region, Lakewood, Colo.
Chief, Branch of Cartography, Central Region, Lakewood, Colo.
Chief, Branch of Distribution, Central Region, Lakewood, Colo.
Chief, Branch of Exhibits, Central Region, Lakewood, Colo. GS-12 (1)
Chief, Western Region, Menlo Park, Calif.
Chief, Branch of Technical Editing, Western Region, Menlo Park, Calif.
Chief, Branch of Cartography, Western Region, Menlo Park, Calif.
Chief, Branch of Exhibits, Western Region, Menlo Park, Calif.
Chief, Flagstaff Cartographic Section, Western Region, Flagstaff, Ariz.

TOPOGRAPHIC DIVISION

Supervisory Cartographers, Reston, Va.
Cartographers, Reston, Va. GS-12 (1); GS-11 (1); GS-9 (1)
Research Cartographers, Reston, Va.
Mechanical Engineers, Reston, Va.
Electronics Engineers, Reston, Va.
Physical Scientist, Reston, Va.
Photographic Technologist, Reston, Va.

NATIONAL PARK SERVICE

Washington, D.C.

Chief, Budget Division
Chief, Training Division
Chief, General Services Division
Contract Specialist, GS-13
Chief, Maintenance Division
Chief, Ranger Activities and Protection Division
Realty Officers
Realty Specialists, GS-13 and above
Appraisers, GS-13 and above
Chief, Mining and Minerals Division
Engineers, GS-13 and above
Environmental Sanitation Officer
Chief, Safety Management Division
Chief, Concessions Management Division
Concessions Analysts, GS-13 and above
Minority Business Enterprise Coordinator
Chief, Federal State and Liaison Division

HARPERS FERRY CENTER

Harpers Ferry, West Virginia

Administrative Officer
Chief, Division of Museum Services
Chief, Division of Reference Services
Chief, Division of Interpretive Planning
Chief, Branch of Procurement and Property Management

ROCKY MOUNTAIN REGION

Denver, Colorado

Associate Regional Directors
Assistant to Regional Director, Utah
Superintendents, GS-11 and above
Assistant Superintendents
Regional Chief, Division of Contracting and Property Management
Administrative Officers, GS-13 and above
Realty Officer
Chief Appraiser
Appraisers
Chief, Operations Evaluation
Equal Opportunity Officer
Public Information Officer
Chief, Division of Finance
Concession Analysts and Specialists, GS-11 and above
Chief, Contract Administration Division, Denver Service Center
Chief, Quality Control and Compliance Division, Denver Service Center
Chief, Surveys Branch, Denver Service Center
Chief, Graphics Division, Denver Service Center
Chief, Professional Support Division, Denver Service Center
Chief, Branch of Construction Contracts, Denver Service Center
Chief, Branch of Professional Services Contracts, Denver Service Center
Chief, Special Programs Division
Chief, Program Control Division

NORTH ATLANTIC REGION

Boston, Massachusetts

Associate Regional Directors
Regional Chief, Division of Contracting and Property Management
Chief, Contracting Branch
Regional Chief, Division of Programs and Budget
Regional Chief, Division of Finance
Superintendents, GS-13 and above
Equal Opportunity Officer
Assistant Superintendents, GS-13 and above
Realty Officer
Realty Specialist, GS-11
Public Information Officer
Appraiser, GS-13
Regional Scientist
Unit Manager
Administrative Officers, GS-13 and above
Concessions Specialists, GS-9 and above

NATIONAL CAPITAL REGION

Washington, D.C.

Chief, Division of Property Management
Chief, Division of Contracting and Procurement
Equal Opportunity Officer
Superintendents, GS-11 and above
General Managers
Director, Wolf Trap Farm Park
Chief, U.S. Park Police
Assistant Chief, U.S. Park Police

MID-ATLANTIC REGION

Philadelphia, Pennsylvania

Associate Regional Directors
Superintendents, GS-11 and above
Assistant Superintendents, GS-13 and above
Regional Chief, Division of Contracting and Property Management
Regional Chief, Division of Programming and Budget
Equal Opportunity Officer
Administrative Officers, GS-13 and above
Regional Chief, Division of Finance
Appraisers, GS-12 and above
Realty Specialists, GS-12 and above
Supervisory General Supply Specialist

Park Manager
Architect
Park Planner
General Biological Scientist
Public Information Officer
Staff Curator
Supervisory Museum Curator
Archeologist
Supervisory Park Ranger
Program Manager
Paralegal Assistant

MIDWEST REGION

Omaha, Nebraska

Associate Regional Directors
Executive Assistant to Regional Director
Superintendents, GS-13 and above
Assistant Superintendents
Equal Opportunity Officer
Regional Realty Officer
Realty Officer
Realty Specialists
Regional Appraiser
Concessions Management Specialist, GS-12
Regional Contracting and Property Officer
Chief, Midwest Archeological Center

SOUTHEAST REGION

Atlanta, Georgia

Associate Regional Directors
Superintendents, GS-13 and above
Assistant Superintendents
Equal Opportunity Officer
Conservation Center Directors
Supervisory Concessions Analyst
Realty Officers, GS-13 and above
Appraisers, GS-13 and above
Supervisory Archeologist, Southeast Archeological Center
Supervisory Archeologist, Atlanta Archeological Center
Chief, Contracting and Property Management
Assistant General Supply Officer
Accounting Officer
Assistant Accounting Officer

SOUTHWEST REGION

Santa Fe, New Mexico

Associate Regional Directors
Assistant to the Regional Director, Texas
Chief, Operations Evaluation
Chief, Division of Finance
Chief, Division of Programming and Budget
Chief, Concessions
Equal Opportunity Officer
Appraiser, GS-13
Contract Specialist, GS-12
Contract Specialist, GS-11
Chief, Contracting and Property Management
Chief, Land Acquisition
Public Information Officer
Superintendents, GS-13 and above
General Superintendent
Park Ranger (Management Consulting)
Realty Officer, GS-13 and above

WESTERN REGION

San Francisco, California

Superintendents, GS-13 and above
Assistant Superintendents, GS-13 and above
Regional Chief, Division of Contracting and Property Management
Regional Chief, Division of Finance
Equal Opportunity Officer
Administrative Officers, GS-13 and above
Regional Chief, Programming and Budget
Manager, Western Archeological Center
Concessions Analysts and Specialists, GS-13 and above
Realty Officers and Specialists, GS-13 and above
Appraisers, GS-13 and above

PACIFIC NORTHWEST REGION

Seattle, Washington

Associate Regional Directors
Superintendents, GS-13 and above
General Superintendent, Klamath Falls Group
Chief Scientist
Realty Officers
Equal Opportunity Officer
Mining Engineers
Chief, Contracting and Property Management
Area Director, Alaska
Staff Assistant, Alaska
Management Assistant, Alaska
Concessions Analysts
Appraisers

HERITAGE CONSERVATION AND RECREATION SERVICE

All GS-15's and above (31)
General Engineer, Washington, D.C.
Grants Administrator, Washington, D.C.
Office Services Manager, Washington, D.C.
Contracting Officer, Washington, D.C.
Supervisory Historian, Washington, D.C.
Supervisory Architect/Historian, Washington, D.C.
Accounting Officer, Washington, D.C.
Area Director, Alaska
Supervisory Archeologist, San Francisco, California
Supervisory Archeologist, Denver, Colorado
Supervisory Archeologist, Atlanta, Georgia
All Assistant Regional Directors (15)
Regional Supervisory Outdoor Recreation Planner (8)

U.S. FISH AND WILDLIFE SERVICE

(Washington Office)

Deputy Assistant Director—Public Affairs—Washington, D.C.
Chief, Office of Audio Visual Services—Public Affairs—Washington, D.C.
Chief, Office of Current Information—Public Affairs—Washington, D.C.
Chief, Office of Radio & TV Program Coordination—Public Affairs—Washington, D.C.
Contract Specialist—Contracting and General Services—Duty Station—Denver, Colorado
Chief, Branch of Contracting—Washington, D.C.
Staff Biologists—Federal Aid—Washington, D.C.—All GS-13 and above
Assistant Chief—Division of Ecological Services—Washington, D.C.
Leader, Stream Alteration Team—OBS—Washington, D.C.
Leader, Power Plant Team—OBS—Washington, D.C.
Special Agents—Washington, D.C.—All
Program Coordinators—Washington, D.C.
Chief, Office of Wildlife Assistance—Washington, D.C.
Chief, Youth Conservation Programs—Washington, D.C.
Assistant Chief, Division of Engineering—Washington, D.C.
Assistant Chief, Division of Realty—Washington, D.C.
Chief Appraiser—Washington, D.C.
Realty Specialists and Appraisers—GS-13 and above—Washington, D.C.
Assistant Chief, Migratory Bird Management—Laurel, Maryland
Chief, Alaska Native Claims Staff—Washington, D.C.
Energy Manager—Washington, D.C.
Chief, Aircraft Management Staff—Washington, D.C.
Regional Realty Specialists and Appraisers—GS-11 and above—Portland, Oregon; Albuquerque, New Mexico; Twin Cities, Minnesota; Atlanta, Georgia; Boston Massachusetts; Denver, Colorado; Anchorage, Alaska
Regional Manpower Specialists—All regions
Regional Pesticide Specialist—GS-12 and above—Portland, Oregon; Albuquerque, New Mexico; Twin Cities, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado
Regional Chief Engineer—Portland, Oregon; Albuquerque, New Mexico; Twin Cities, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado; Anchorage, Alaska
Coordinator—Indian Programs, Technical Assistance—Seattle, Washington

FIELD LEVEL

Area Managers—All—Various Locations
Unit Leaders, Cooperative Fish and Wildlife Research Units, All—Various locations
Area Supervisors—Division of Ecological Services—All—Various locations
Special Agents—All—Various locations
Project Leaders, National Wildlife Refuges—All—Various locations
Project Leaders, National Fish Hatcheries—All—Various locations
Research Center and Laboratory Directors—All—Various locations
Center Directors, Job Corps Centers—Puxico, Missouri; Indiahoma, Oklahoma
State Supervisors, Animal Damage Control Programs—All—Various locations
Field and Area Level Staff Specialists for Wildlife Assistance—GS-11 and above—Portland, Oregon; Albuquerque, New Mexico; Twin Cities, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado
Chief, Office of Cooperative Units, Research—Washington, D.C.
Regional Staff Biologists—Federal Aid—GS-12 and above——Portland, Oregon; Albuquerque, New Mexico; Twin Cities, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado, Anchorage, Alaska
Deputy Alaska Area Director—Anchorage, Alaska
Chief, Regional Contracting and General Services Officer—GS-12 and above—Portland, Oregon; Albuquerque, New Mexico; Twin Cities, Minnesota; Atlanta, Georgia;

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Boston, Massachusetts; Denver, Colorado, Anchorage, Alaska
Assistant Regional Directors—Portland, Oregon; Albuquerque, New Mexico; Twin Cities, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado
Assistant Alaska Area Director—Anchorage, Alaska
Chiefs, Office of Support Services—Portland, Oregon; Albuquerque, New Mexico; Twin Cities, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado, Anchorage, Alaska
Regional Public Affairs Officer—Portland, Oregon; Albuquerque, New Mexico; Twin Cities, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado, Anchorage, Alaska
Regional Safety Officers—Portland, Oregon; Albuquerque, New Mexico; Twin Cities, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado; Anchorage, Alaska
Regional Activity Leaders and Environmental Specialists—GS-12 and above—Portland, Oregon; Albuquerque, New Mexico; Twin Cities, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado, Anchorage, Alaska
Field and Area Level Staff Specialists for Fisheries Assistance—GS-11 and above—Portland, Oregon; Albuquerque, New Mexico; Twin Cities, Minnesota; Atlanta, Georgia; Boston, Massachusetts; Denver, Colorado
Environmental Specialists—GS-12 and above—All Regions and Alaska
Project Coordinator—Land Acquisition, Albuquerque, New Mexico
Realty Specialists and Appraisers—GS-11 and above—All locations

OFFICE OF HEARINGS AND APPEALS

Office of the Director

Attorney-Adviser (General), Arlington, Virginia, GS-12

Administrative Division

Administrative Officer, Arlington, Virginia GS-12

Board of Contract Appeals

Attorney-Adviser (General) Arlington, Virginia, GS-14

Board of Land Appeals

Attorney-Advisers (General), Washington, D.C. GS-12 and above

Alaska Native Claims Appeal Board

Board Members, Anchorage, Alaska, GS-14's
Attorney-Advisers (General), Anchorage, Alaska, GS-14's

Surface Mining and Reclamation Appeals

Attorney-Advisers (General), Arlington, Virginia, GS-12 and above

Hearings Division.

Attorney-Adviser (General), Arlington, Virginia, GS-12
Attorney-Adviser (General), Salt Lake City, Utah, GS-12

BUREAU OF RECLAMATION

Washington Office

Washington Office Manager, Commissioner's Office, Washington, D.C.
Chief, Supply and Service Branch, Office of the Washington Office Manager, Washington, D.C.
Senior Staff Assistant, Lands and Recreation, Commissioner's Office, Washington, D.C.
Contract and Repayment Specialist, Commissioner's Office, Washington, D.C.
Chief, Division of Youth Conservation Programs, Commissioner's Office, Washington, D.C.
Foreign Activities Staff Director, Commissioner's Office, Washington, D.C.

ENGINEERING AND RESEARCH CENTER

Supervisory General Engineer (7), Denver, Colorado
General Engineer, Denver, Colorado
Supervisory Civil Engineer, Denver, Colorado
Civil Engineers (4), Construction, Denver, Colorado
Environmental Specialist, Denver, Colorado
Supervisory Contract Procurement Officer, Denver, Colorado (GS-12)
Supervisory Procurement Agent, Denver, Colorado (GS-12)
Procurement Officer, Denver, Colorado (2) (GS-14, GS-13)
Supervisory Research Physical Scientists (2), Denver, Colorado
Research Physical Scientist, Denver, Colorado
Supply Management Officer, Denver, Colorado
Supervisory Computer Specialist, Denver, Colorado

PACIFIC NORTHWEST REGIONAL OFFICE

Regional Engineer, Boise, Idaho
Chief, Construction Branch, Boise, Idaho
Chief, Design Branch, Boise, Idaho
Chief, Division of Water, Power and Lands, Boise, Idaho
Chief, Repayment and Statistics Branch, Boise, Idaho
Chief, Lands Branch, Boise, Idaho
Chief, Operations and Maintenance Branch, Boise, Idaho
Supervisory Soil Scientist, Boise, Idaho
Regional Planning Officer, Boise, Idaho
Chief, Engineering and Surveys Branch, Boise, Idaho
Chief, Economics Branch, Boise, Idaho
Chief, Recreation Branch, Boise, Idaho
Regional Procurement and Property Officer, Boise, Idaho
Supervisory Civil Engineer, Oroville-Tonasket Branch, Boise, Idaho
Chief, Resource Utilization Branch, Boise, Idaho
Regional Public Affairs Officer, Boise, Idaho
Chief, Procurement Branch, Boise, Idaho (GS-12)
Contract Specialist, Boise, Idaho (GS-12)
Appraiser, Boise, Idaho (GS-12)
Appraiser, Boise, Idaho (GS-11)
Natural Resource Planner (Study Coord.), Boise, Idaho
Chief, Reports Branch, Boise, Idaho
Chief, Water Resources Branch, Boise, Idaho
Realty Specialists (4), Boise, Idaho (GS-11 and above)
Chief, Technical Services Branch, Boise, Idaho
Chief, Salem Field Branch, Salem, Oregon
Project Superintendent, Central Snake Projects Office, Boise, Idaho
Chief, Lands and Recreation Division, Central Snake Projects Office, Boise, Idaho (GS-12)
Realty Specialist, Central Snake Projects Office, Boise, Idaho (GS-9)
Center Director, Columbia Basin Civilian Conservation Center, Moses Lake, Washington
Project Manager, Columbia Basin Project Office, Ephrata, Washington
Chief, Engineering and Drainage Division, Ephrata, Washington
Chief, General Construction Branch, Ephrata, Washington
Chief, Construction Division, Ephrata, Washington
Chief, Water and Lands Operations Division, Ephrata, Washington
Chief, Realty Section, Ephrata, Washington (GS-12)
Appraiser, Ephrata, Washington (GS-11)
Realty Officer (Chief, Land Management Branch), Ephrata, Washington (GS-12)
Supervisory Civil Engineer (Chief, General Engineering Branch), Ephrata, Washington
Chief, Construction Field Branch, Coulee City, Washington
Project Superintendent, Hungry Horse Project, Hungry Horse, Montana
Project Superintendent, Minidoka Project Office, Burley, Idaho
Realty Specialist, Minidoka Project Office, Burley, Idaho (GS-12)
Center Director, Marsing Civilian Conservation Center, Marsing, Idaho
Resident Engineer, Forest Grove, Oregon
Project Superintendent, Yakima Project Office, Yakima, Washington
Chief, Construction Field Division, Cle Elum, Washington
Field Engineer, Grand Coulee, Washington
Chief, Engineering and Resources Division, Grand Coulee, Washington
Office Engineer, Grand Coulee, Washington
Chief, Maintenance Division, Grand Coulee, Washington
Chief, Operations Division, Grand Coulee, Washington
Project Public Affairs Officer, Grand Coulee, Washington (GS-12)
Chief, Administrative Services, Grand Coulee, Washington
Appraiser, Grand Coulee Project Office, Grand Coulee, Washington (GS-7)
Chief, Teton Claims Officer, Idaho Falls, Idaho
Assistant Claims Officer, Rexburg, Idaho (GS-12)

MID-PACIFIC REGIONAL OFFICE

Assistant Regional Director—Administration, Sacramento, California
Project Construction Engineer, Fresno, California
Chief, Office Engineering Division, Fresno, California
Project Manager, Klamath Falls, Oregon
Conservation Corps Coordinator, Sacramento, California
Chief, Office Engineering Division, Auburn, California
Chief, Right-of-Way Division, Auburn, California
Administrative Officer, Auburn, California
Project Manager, Carson City, Nevada
Regional Loan Engineer, Sacramento, California
Regional Finance Officer, Sacramento, California
Regional Supervisor of Water and Land Operations, Sacramento, California

Chief, Repayment Branch, Division of Water and Land Operations, Sacramento, California
Regional Engineer, Sacramento, California
Chief, Construction Branch, Division of Design and Construction, Sacramento, California
Chief, Design Branch, Division of Design and Construction, Sacramento, California
Regional Planning Officer, Sacramento, California
Project Construction Engineer, Auburn, California
Regional Supply and Services Officer, Sacramento, California
Chief, Procurement Branch, Division of Supply and Services, Sacramento, California
Regional Real Estate Officer, Sacramento, California
Supervisory Appraiser, Division of Real Estate, Sacramento, California
Chief, Acquisition Branch, Division of Real Estate, Sacramento, California
Project Superintendent, Folsom, California
Project Superintendent, Fresno, California
Supervisory Repayment Specialist, Contract Administration Division, Fresno, California
Project Superintendent, Tracy, California
Project Superintendent, Redding, California
Project Construction Engineer, Willows, California
Chief, Office Engineering Division, Willows, California
Project Construction Engineer, Gilroy, California
Recreation Manager, Lake Berryessa, California

LOWER COLORADO REGIONAL OFFICE

Assistant Regional Director (Administration), Boulder City, Nevada
Regional Public Affairs Officer, Boulder City, Nevada
Regional Engineer, Boulder City, Nevada
Regional Supervisor of Water and Land Operations, Boulder City, Nevada
Chief, Land Management Branch, Boulder City, Nevada
Regional Supervisor of Power, Boulder City, Nevada
Assistant Regional Supervisor of Power, Boulder City, Nevada
Regional Supply and Services Officer, Boulder City, Nevada
Chief, Procurement Branch, Boulder City, Nevada
Chief, Contracts and Repayment Branch, Boulder City, Nevada
Regional Planning Officer, Boulder City, Nevada
Regional Loan Program Coordinator, Boulder City, Nevada (GS-12)
Project Manager, Boulder City, Nevada
Assistant Project Manager, Lower Colorado Dams Project Office, Boulder City, Nevada
Project Construction Engineer, Southern Nevada Construction Office, Henderson, Nevada
Office Engineer (SNCO), Henderson, Nevada
Assistant Projects Manager, Arizona Projects Office, Phoenix, Arizona
Chief, Administrative Division, Phoenix, Arizona
Chief, Appraisal Branch, Phoenix, Arizona
Chief, Lands Division, Phoenix, Arizona
Construction Engineer, Phoenix, Arizona
Assistant Project Manager, Yuma Projects Office, Yuma, Arizona
Chief, Lands Branch, Yuma, Arizona
Chief, Property and Procurement Branch, Yuma, Arizona (GS-12)

UPPER COLORADO REGIONAL OFFICE

Assistant Regional Director (Administration), Salt Lake City, Utah
Public Information Officer, Salt Lake City, Utah
Regional Engineer, Salt Lake City, Utah
Regional Finance Officer, Salt Lake City, Utah
Chief, Water and Power Resources Management Division, Salt Lake City, Utah
Chief, Operations and Repayment Branch, Salt Lake City, Utah
Chief, Lands Branch, Salt Lake City, Utah
Appraisers, Salt Lake City, Utah (4) (GS-11 and 12)
Regional Planning Officer, Salt Lake City, Utah
Regional Procurement Officer, Salt Lake City, Utah (GS-12)
Center Director, Colibran Job Corps Civilian Conservation Center, Colibran, Utah
Assistant Center Director, Colibran, Colorado (GS-½)
Administrative Officer, Colibran, Colorado (GS-11)
Center Director, Weber Basin Job Corps Civilian Conservation Center, Ogden, Utah
Assistant Center Director, Ogden, Utah (GS-12)
Administrative Officer, Ogden, Utah (GS-11)
Power Operations Manager, Page, Arizona
Administrative Officer, Page, Arizona (GS-12)
Manager, Operations and Maintenance Branch, Page, Arizona
Manager, Flaming Gorge Field Division, Dutch John, Utah
Manager, Curicanti Field Division, Montrose, Colorado
Assistant Project Manager, Central Utah Projects Office, Provo, Utah
Supervisory Civil Engineer, Bonneville Basin Construction Division, Provo, Utah
Supervisory Civil Engineer, Uinta Basin Field Division, Duchesne, Utah
Projects Manager, Grand Junction, Colorado
Project Construction Engineer, Montrose, Colorado
Projects Manager, Durango, Colorado
Project Construction Engineer, Cortez, Colorado
Supervisory Civil Engineer, Lyman Projects Office, Mountain View, Wyoming

SOUTHWEST REGION

Assistant Regional Director—Administration, Amarillo, Texas
Regional Public Affairs Officer, Amarillo, Texas (GS-12)
Regional Engineer, Amarillo, Texas
Regional Planning Officer, Amarillo, Texas
Regional Supervisor of Water, Land, and Power, Amarillo, Texas
Chief, Land Operations, Management, and Recreation Branch, Division of Water, Land, and Power, Amarillo, Texas
Chief, Repayment and Economics Branch, Division of Water, Land, and Power, Amarillo, Texas
Regional Finance Officer, Amarillo, Texas
Regional Supply and Services Officer, Amarillo, Texas
Regional Youth Programs Manager, Amarillo, Texas
Projects Superintendent, Upper Rio Grande Basin Projects Office, Albuquerque, New Mexico
Project Superintendent, Rio Grande Project, El Paso, Texas
Project Construction Engineer, Navajo Indian Irrigation Project, Farmington, New Mexico
Project Manager, Pecos River Projects Office, Carlsbad, New Mexico
Project Construction Engineer, Mountain Park Project, Altus, Oklahoma
Project Construction Engineer, Palmetto Bend Project, Edna, Texas
Project Construction Engineer, Nueces River Project, Three Rivers, Texas
Chief, Right-of-Way Division, Nueces River Project, Three Rivers, Texas
Planning Officer, Albuquerque, New Mexico
Planning Officer, Austin, Texas
Planning Officer, Oklahoma City, Oklahoma
Camp Director, Mondale Young Adult Conservation Corps Camp, Chickasha, Oklahoma
Camp Director, Roadrunner Young Adult Conservation Corps Camp, Albuquerque, New Mexico (GS-11)
Special Government Employee, U.S. Commissioner and Chairman of the Canadian River Commission (Expert), Office of Regional Director, Amarillo, Texas

UPPER MISSOURI REGIONAL OFFICE

Assistant Regional Director—Administration, Billings, Montana
Regional Public Affairs Officer, Billings, Montana
Regional Engineer, Billings, Montana
Regional Supervisor of Water and Land, Billings, Montana
Assistant Regional Supervisor of Water and Land, Billings, Montana
Regional Planning Engineer, Billings, Montana
Regional Procurement and Property Officer, Billings, Montana
Chief, Procurement Branch, Billings, Montana (GS-12)
Chief, Right-of-Way Branch, Billings, Montana
Youth Program Specialist, Billings, Montana (GS-12)
Assistant Project Manager, Bismarck, North Dakota
Chief, Administrative Services Division, Bismarck, North Dakota (GS-12)
Chief, Supply and Services Branch, Bismarck, North Dakota (GS-11)
Chief, Appraisal Branch, Bismarck, North Dakota (GS-12)
Chief, Acquisition Branch, Bismarck, North Dakota (GS-12)
Chief, Right-of-Way Division, Bismarck, North Dakota
Realty Specialist, Bismarck, North Dakota (GS-12)
Public Information Officer, Bismarck, North Dakota (GS-12)
Appraisers (3), Bismarck, North Dakota
Realty Specialists (4), Bismarck, North Dakota
Project Manager, Huron, South Dakota
Realty Specialist, Huron, South Dakota (GS-11)
Project Manager, Great Falls, Montana (GS-12)
Project Manager, Riverton, Wyoming
Administrative Officer, Riverton, Wyoming (GS-9)
Project Superintendent, Canyon Ferry, Montana

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Chief, Administrative Services Division, Canyon Ferry, Montana (GS-7)
Project Superintendent, Fort Smith, Montana
Administrative Officer, Fort Smith, Montana (GS-9)
Project Construction Engineer, Tiber Dam near Chester, Montana
Administrative Officer, Tiber Dam near Chester, Montana (GS-9)

LOWER MISSOURI REGION

Assistant to the Regional Director—Administrative Management, Denver, Colorado
Regional Public Affairs Officer, Denver, Colorado
Public Information Specialist, Denver, Colorado (GS-11)
Regional Engineer, Denver, Colorado
Chief, Construction Coordination and Estimates Branch, Denver, Colorado
Construction Representative, Denver, Colorado
Civil Engineer, Denver, Colorado (GS-12)
Regional Planning Officer, Denver, Colorado
Civil Engineer (Small Loans Officer), Denver, Colorado (GS-12)
Regional Supervisor of Water and Land, Denver, Colorado
Chief, Repayment Branch, Denver, Colorado
Contract and Repayment Specialists (2) Denver, Colorado (GS-11, 12)
Regional Youth Programs Coordinator, Denver, Colorado (GS-12)
Chief, Land Acquisition Branch, Denver, Colorado
Appraisers, (4) Denver, Colorado (GS-9, 11, GS-12
Realty Specialists, (2) Denver, Colorado (GS-9, GS-12)
Regional Supervisor of Power, Denver, Colorado
Regional Finance Officer, Denver, Colorado
Chief, Division of Supply and Services, Denver, Colorado
Procurement Officer, Denver, Colorado (GS-12)
Procurement Agent, Denver, Colorado (GS-11)
Chief, Construction Field Division, Salida, Colorado
Administrative Officer, Pueblo, Colorado
Chief, Engineering-Operations Division, Pueblo Colorado
Realty Specialists, (4) Pueblo, Colorado (GS-9 and above)
Project Manager, Loveland, Colorado
Project Manager, Casper, Wyoming
Project, Manager, McCook, Nebraska
Kansas Reclamation Representative, Topeka, Kansas
Wyoming Reclamation Representative, Cheyenne, Wyoming
Project Manager, Central Nebraska Projects Office, Grand Island, Nebraska
Construction Engineer (Chief, North Loups Construction Field Division) Ord, Nebraska
Chief, Engineering Resources Division, Grand Island, Nebraska
Realty Specialists (2) Grand Island, Nebraska (GS-11 and 12)
Realty Specialist (Narrows Construction Representative) Fort Morgan, Colorado

BUREAU OF LAND MANAGEMENT

Delete:

All authorized Officers' Field Representatives, Branch of Construction, Alaska Pipeline Project, Anchorage, Alaska (11)
All Managers, Outer Continental Shelf Offices, GS-14 (1)

Add:

All Authorized Officers Field Representatives, Branch of Construction, Alaska Pipeline Project, Anchorage, Alaska (9)
Program Issues Coordination Officer
Chief, Office of Equal Employment Opportunity, Washington, D.C.
Chief, Office of Coal Program Development Staff
Environmental Specialist, GS-13, Coal Operations Staff, Washington, D.C.
Natural Resources Specialist, GS-13, Coal Operations Staff, Washington, D.C. (4)
Mineral Leasing Specialists, GS-13, Coal Operations Staff, Washington, D.C. (4)
Industry Economist, GS-12, Coal Operations Staff, Washington, D.C.
Regional Planner, GS-13, Coal Program Development Staff, Washington, D.C. (3)
Program Analyst, GS-13, Coal Program Development Staff, Washington, D.C.
Natural Resource Specialist, GS-13, Coal Program Development Staff, Washington, D.C.
Geographer, GS-13, Coal Program Development Staff, Washington, D.C.
Mining Engineer, GS-13, Coal Program Development Staff, Washington, D.C.
Assistant Chief, Wilderness and Environmental Areas Staff, Washington, D.C.
All Area Managers (196)
Chief, Division of Alaska Native Claims Settlement Operations, Anchorage, Alaska

OFFICE OF WATER RESEARCH AND TECHNOLOGY

Technology Development Specialist (5), Washington, D.C.
Technology and Information Transfer Specialist (4), Washington, D.C.
Staff Assistant, Office of Administrative Manager, Washington, D.C.
Assistant Chief, Contracts and Grants Center, Washington, D.C.
Contracts and Grants Specialists, Contracts and Grants Center, Washington, D.C.
Chief, Management Services Center, Washington, D.C.
Desalting Project Specialist (2), Tel Aviv, Israel
Desalting Project Specialist (3), Jeddah, Saudi Arabia

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Office of the Director

Public Information Officer

Abandoned Mined Lands

Program Analyst
Mining Industry Specialist (Minerals)
Land Use Planners
Engineer (General)
Economist
Mining Industry Analyst
Reclamation Specialist
Realty Specialist
Appraiser
Grants Coordinator, GS -12

Inspection and Enforcement

Chief, State Inspection Officer
Inspector (Training and Qualifications)
Inspection Practices Specialist
Enforcement Specialists
Collection Specialist
Assistant Assessment Officer
Assessors, all grades

State and Federal Programs

Grants Management Specialist, GS-12
State Programs Specialists, GS-9 and above
Federal Lands Specialists, GS-9 and above
Program Specialists, GS-9 and above
Physical Scientists

Technical Services and Research

Land Use Planner
Botanist
Biologists
Chemist
Soil Scientists
Civil Engineers
Agricultural Engineers
Physical Scientist
Mining Engineers
Landscape Architect
Geologist
Agronomist
Air Pollution Analyst
Performance Bond and Insurance Specialist

Management and Budget

Budget Analyst, GS-13
Grants Fiscal Specialists, GS-12 and above
Chief, Property and Procurement
Contract Specialists, GS-13 and above
Space Management Specialist
Chief, Systems Development
Chief, Cataloging and Data Center
Management Analysis Officer
Program Analysts, GS-13 and above
Economists
Land Use Planner
Senior Environmental Scientist
Soil Scientist
Mining Engineers, GS-11 and above
Hydrologist
Recreation Specialist
Regional Offices (Charleston, West Virginia; Knoxville, Tennessee; Indianapolis, Indiana; Kansas City, Missouri; and Denver, Colorado)
Public Affairs Officers, all locations
Chief, Branch of Fee Compliance, GS-12, all locations
Fee Compliance Officers, GS-9 and above, all locations
Chief, State Reclamation Programs, all locations
Chief, Federal Reclamation Programs, all locations
Land Use Specialists, various locations
Chief, Branch of Realty, all locations
Mining Engineers, various locations
Program Management Officers, various locations
Environmental Analysis Specialists, GS-12, all locations
Appraisers, all locations
Realty Specialists, GS-12, various locations
Reclamation Specialists, various locations
Chief Inspectors, various locations
Staff Assistants (Inspection and Enforcement), various locations
Chief, Technical Assistance, various locations
Assistants for Enforcement and Employee Protection, various locations
Conference Officers, GS-12, various locations
State Programs Specialist, GS-9 and above, all locations
Physical Scientists, GS-11 and above, all locations
Tribal Programs Specialists, various locations

Federal Lands Coordinators, various locations
Cooperative Agreement Specialists, GS-11 and above, various locations
Reclamation Specialists, all locations
Resource Planners, various locations
Mining Engineers, all locations
Geologists, all locations
Soils Scientists, all locations
Hydrologists, all locations
Wildlife Biologists, all locations
Agronomists, various locations
Agricultural Engineers, all locations
Economists, various locations
Foresters, various locations
Landscape Architects, various locations
Range Management Scientists, various locations
Civil Engineers, various locations
Environmental Coordinator—Denver, Colorado
Administrative Officers, all locations
District Level
District Managers
Office Services Managers, GS-9
Supervisory Mining Engineers
All Reclamation Specialists
All Inspectors

OFFICE OF THE SOLICITOR

Special Assistants to the Solicitor
Deputy Ethics Counselor
Assistant Ethics Counselor
Confidential Assistant to the Solicitor
Secretarial or Confidential Assistant to the Deputy Solicitor
Secretarial Assistants to the Special Assistants to the Solicitor
Field Solicitors
Attorneys: GS-13 and above
Clerical Assistant/Steno

13. Appendix D to 43 CFR 20.735 as published in 43 FR 1086-1088, January 6, 1978, is amended for those bureaus, offices or subunits having changes, to update the list of Bureaus and Offices, or subunits thereof, performing functions or duties under the Federal Land Policy and Management Act and positions which the Secretary has exempted from the reporting requirements. The lists for some bureaus, offices or subunits are completely revised and others are amended by additions and deletions. Bureau, office and subunit lists not revised or amended remain the same. The revisions and amendments to Appendix D are as follows:

APPENDIX D—LIST OF BUREAUS AND OFFICES, OR SUBUNITS THEREOF, PERFORMING FUNCTIONS OR DUTIES UNDER THE FEDERAL LAND POLICY AND MANAGEMENT ACT AND POSITIONS WHICH THE SECRETARY HAS DETERMINED TO BE EXEMPT FROM REPORTING REQUIREMENTS OF SECTION 313

All employeesa in the following bureaus,. offices, and subunits thereof, are subject to the filing requirements of the Act except for the following positions which do not involve policy-making or regulatory responsibility under the Act.

SECRETARY'S IMMEDIATE OFFICE

Delete:

GS-14, Confidential Assistant, Washington, D.C.
GS-12, Staff Assistant, Washington, D.C.
GS-11, Staff Assistant, Washington, D.C.
GS-11 and below, Correspondence Management Specialist, Washington, D.C.

Add:

GS-14, Staff Assistant
GS-12, Chief, Correspondence Staff
GS-11, Research Assistant
GS-10, Lead Correspondence Analyst

OFFICE OF CONGRESSIONAL AND LEGISLATIVE AFFAIRS

GS-9, Staff Assistant to the Director

Division of Congressional Liaison

GS-13, Congressional Services Specialist
GS-11, Special Assistant to the Director
GS-11, Management Specialist
GS-8 and below, administrative, clerical and secretarial personnel

Division of Legislation

GS-14, Attorney-Advisors
GS-13, Attorney-Advisors
GS-12, Attorney-Advisors
GS-10, Legislative Assistant
GS-9, Legislative Assistant
GS-8 and below, secretaries, clerks, and administrative personnel

OFFICE OF ENVIRONMENTAL PROJECT REVIEW

Add:

GS-12, Staff Assistant

OFFICE OF AUDIT AND INVESTIGATION

Delete:

Office title of Office of Audit and Investigation
GS-12, Administrative Officer

Add:

New office title Office of Inspector General
GS-13, Administrative Officer

OFFICE OF MINERALS POLICY AND RESEARCH ANALYSIS

Delete:

GS-11, Statistician

Add:

GS-13, Economist, (1)—Division of Minerals Data, Forecasting and Analysis

ASSISTANT SECRETARY—ENERGY AND MINERALS

Delete:

GS-15, Industrial Specialist
GS-11, Staff Assistant

ASSISTANT SECRETARY—POLICY, BUDGET AND ADMINISTRATION

Delete:

GS-15, Management Resources Officer
GS-13, Equal Opportunity Officer

Add:

GS-15, Assistant to the Deputy Assistant Secretary
GS-15, Assistant to the Assistant Secretary
GS-14, Equal Opportunity Officer
GS-13, Equal Opportunity Specialist

ASSISTANT SECRETARY—FISH AND WILDLIFE AND PARKS

GS-16, Special Assistant
GS-15, Special Assistants
GS-15, Staff Assistant
GS-15, Fish and Wildlife Biologist
GS-13, Special Assistants
GS-11, Confidential Assistant
GS-9 and below, administrative, clerical and secretarial personnel

ASSISTANT SECRETARY—LAND AND WATER RESOURCES

Delete:

GS-15, Public Information Officer
GS-11, Confidential Assistant

Add:

GS-16, Staff Assistant (Economics)
GS-15, Special Assistant to Assistant Secretary (3)
GS-15, Staff Assistants (2)
GS-9, Confidential Assistant

OFFICE OF THE SOLICITOR

The following subunits of the Solicitor's office perform functions and duties under the Act. In addition to any positions listed under each subunit, all clerical, administrative and paralegal positions in each subunit are also exempt.

Immediate Office of the Solicitor
Administrative Office, All personnel are exempt except the Deputy Ethics Counselor, Assistant Ethics Counselor and 1 Clerical Assistant Steno
Division of General Law, 8 Attorney-Advisers
Division of Conservation and Wildlife, 3 Attorney-Advisers
Division of Energy and Resources, 8 Attorney-Advisers
Salt Lake City Regional Office, 1 Attorney-Adviser
Anchorage Regional Office,
Atlanta Regional Office 7 Attorney-Advisers
Portland Regional Office, 8 Attorney-Advisers
Sacramento Regional Office, 2 Attorney-Advisers
Denver Regional Office, 7 Attorney-Advisers
Amarillo Field Office
Boise Field Office
Santa Fe Field Office
Phoenix Field Office
Billings Field Office
Riverside Field Office

GEOLOGICAL SURVEY

OFFICE OF THE DIRECTOR, RESTON, VIRGINA

Immediate Office

Assistant Director—Program Analysis
Assistant Director—Geologic Engineering
Assistant Director—Eastern Region
Program Analysts
Economists
Physical Scientists
Legislative Specialist
Congressional Liaison Officer
Biological Scientist

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Staff Assistant
Public Information Officer
Public Information Specialist
Operations Research Analyst
Special Assistant for Environmental Analysis
Computer Systems Analyst
Data Base Administrator
Historian
Information Assistant
Program Assistant
Congressional Liaison Assistant
Equal Opportunity Officers
Secretarial, clerical, and administrative personnel

GEOLOGIC DIVISION

IMMEDIATE OFFICE OF THE CHIEF GEOLOGIST

Deputy Chief Geologist for Program and Budget
Administrative Officer
Fiscal Officer
Clerical, secretarial, and other administrative personnel

OFFICE OF MINERAL RESOURCES, IMMEDIATE OFFICE OF CHIEF

Reston, Virginia

Deputy Chief for Mineral Resources Specialist Program
Secretarial and clerical personnel

Denver, Colorado

Secretarial and clerical personnel

Menlo Park, California

Secretarial and clerical personnel

CONSERVATION DIVISION

In addition to the specific exemptions identified below by office, the following groups are exempt in all offices required to file:
All secretarial personnel
All accounting assistants GS-6 and below
All clerical personnel
All cartographic, engineering, and physical science aids
All engineering, geologic, hydrologic, and topographic field assistants
All cartographic, engineering, petroleum engineering, and physical science technicians GS-6 and below

Offices required to file:

Office of the Division Chief
Office of Assistant Division Chief, Operations
Branch of Mining Operations
Branch of Onshore Oil and Gas Operations
Office of Assistant Division Chief, Programs
Office of Assistant Division Chief, Resource Evaluation
Branch of Onshore Evaluation
Branch of Mineral and Water Classification

The following categories of personnel, engaged *only* in matters relating to the Outer Continental Shelf in the offices listed below are exempt:

Engineers, all specialties
Petroleum Engineering Technicians
Environmental Specialists
Oceanographers
Geologists
Geophysicists
Physical Science Technicians
Cartographic Technicians
Accountants GS-7 and above

Offices required to file, in which some personnel are engaged solely in Outer Continental Shelf activities:

Office of the District Geologist, Los Angeles, Calif.
Office of Area Oil and Gas Supervisor, Los Angeles, Calif.
Office of Area Oil and Gas Supervisor, Anchorage, Alaska
Office of Area Geologist, Anchorage, Alaska

BUREAU OF LAND MANAGEMENT

Delete:

GS-160
340 at GS-11 and below
345 at GS-13 and below
401 at GS-12 and below
880
881
1104 at GS-11 and below
1105 a
1170 at GS-11 and below
1301

Add:

GS-099
160 at GS-13 and below
150 at GS-12 and below
230 at GS-11 and below
340 at GS-10 and below
345 at GS-12 and below
399
401 at GS-10 and below
454 at GS-12 and below
499
599
699
880 at GS-11 and below
881 at GS-11 and below
1104 at GS-9 and below
1105 at GS-10 and below
1170 at GS-10 and below
1301 at GS-13 and below
1399

14. Appendix E to 43 CFR 20.735 as published in 43 FR 1088-1090, Friday, January 6, 1978, is amended for those bureaus, offices or subunits having changes, to update the list of Bureaus and Offices, or subunits thereof, performing functions or duties under the Mining in the Parks Act and positions which the Secretary has exempted from the reporting requirements. The lists for some bureaus, offices or subunits are completely revised and others are amended by additions and deletions. Bureau, office and subunit lists not revised or amended remain the same. The revisions and amendments to Appendix E are as follows:

APPENDIX E—LIST OF BUREAUS AND OFFICES, OR SUBUNITS THEREOF, PERFORMING FUNCTIONS OR DUTIES UNDER THE MINING IN THE PARKS ACT AND POSITIONS WHICH THE SECRETARY HAS DETERMINED TO BE EXEMPT FROM REPORTING REQUIREMENTS OF SECTION 13.

All employees in the following bureaus, offices, and subunits thereof, are subject to the filing requirements of the Act except for the following positions which do not involve policy-making or regulatory responsibility under the Act.

SECRETARY'S IMMEDIATE OFFICE

Delete:

GS-11, Staff Assistant, Washington, D.C.
GS-12, Staff Assistant, Washington, D.C.
GS-11 and below, Correspondence Management Specialist, Washington, D.C.

Add:

GS-14, Staff Assistant
GS-11, Research Assistant
GS-11, Chief, Correspondence Staff
GS-10, Lead Correspondence Analyst

OFFICE OF CONGRESSIONAL AND LEGISLATIVE AFFAIRS

GS-9, Staff Assistant to the Director
Division of Congressional Liaison: GS-13, Congressional Services Specialist
GS-11, Special Assistant to the Director
GS-11, Management Specialist
GS-8 and below, administrative, clerical and secretarial personnel
Division of Legislation:
GS-14, Attorney-Advisors
GS-13, Attorney-Advisors
GS-12, Attorney-Advisors
GS-10, Legislative Assistant
GS-9, Legislative Assistant
GS-8 and below, secretaries, clerks, and administrative personnel

OFFICE OF ENVIRONMENTAL PROJECT REVIEW

Delete:

All personnel on the Water Resources Staff

Add:

All personnel on the Water Resources and Transportation Staffs

OFFICE OF AUDIT AND INVESTIGATION

Delete:

Title of Office of Audit and Investigation
GS-12, Administrative Officer

Add:

Title of Office of Inspector General
GS-13, Administrative Officer

ASSISTANT SECRETARY—POLICY, BUDGET AND ADMINISTRATION

Delete:

GS-15, Management Resources Officer
GS-13, Equal Opportunity Officer

Add:

GS-15, Assistant to the Assistant Secretary
GS-15, Assistant to the Deputy Assistant Secretary
GS-14, Equal Opportunity Officer
GS-13, Equal Opportunity Specialist

ASSISTANT SECRETARY—ENERGY AND MINERALS

Delete:

Director, Ocean Resources
GS-15, Industrial Specialist
GS-11, Staff Assistant

ASSISTANT SECRETARY—FISH AND WILDLIFE AND PARKS

GS-16, Special Assistant

GS-15, Special Assistants
GS-15, Staff Assistant
GS-15, Fish and Wildlife Biologist
GS-13, Special Assistants
GS-11, Confidential Assistant
GS-9 and below, administrative, clerical, and secretarial personnel

ASSISTANT SECRETARY—LAND AND WATER RESOURCES

GS-17, Deputy Assistant Secretary
GS-16, Deputy Assistant Secretary
GS-16, Special Assistant (Emergency Water Planning)
GS-16, Staff Assistant (Economics)
GS-16, Director, Office of Coal Leasing, Planning and Coordination
GS-15, Deputy Assistant Secretary (Intergovernmental Affairs)
GS-15, Special Assistant (4)
GS-15, Staff Assistant
GS-15, Special Assistant to Director (Coal Leasing)
GS-15, Construction Representative
GS-14, Deputy Director, Office of Coal Leasing, Planning and Coordination
GS-14, Staff Assistant
GS-9, Confidential Assistant
GS-7, Special Assistant
GS-8, and below, secretarial, stenographic and clerical personnel

GEOLOGICAL SURVEY

OFFICE OF THE DIRECTOR, RESTON, VIRGINIA

Immediate Office

Assistant Directory—Program Analysis
Assistant Director—Geologic Engineering
Assistant Director—Eastern Region
Program Analysts
Economists
Physical Scientists
Legislative Specialist
Congressional Liaison Officer
Biological Scientist
Staff Assistant
Public Information Officer
Public Information Specialist
Operations Research Analyst
Special Assistant for Environmental Analysis
Computer Systems Analyst
Data Base Administrator
Historian
Information Assistant
Program Assistant
Congressional Liaison Assistant
Equal Opportunity Officers
Secretarial, clerical, and administrative personnel

GEOLOGIC DIVISION

IMMEDIATE OFFICE OF THE CHIEF GEOLOGIST

Deputy Chief Geologist for Program and Budget
Administrative Officer
Fiscal Officer
Clerical, secretarial, and other administrative personnel

OFFICE OF MINERAL RESOURCES, IMMEDIATE OFFICE OF CHIEF

Reston, Virginia

Deputy Chief for Mineral Resources Specialist Program
Secretarial and clerical personnel

Denver, Colorado

Secretarial and clerical personnel

Menlo Park, California

Secretarial and clerical personnel

CONSERVATION DIVISION

In addition to the specific exemptions identified below by office, the following groups are exempt in all offices required to file:
All secretarial personnel
All accounting assistants GS-6 and below
All clerical personnel
All cartographic, engineering, and physical science aids.
All engineering, geologic, hydrologic, and topographic field assistants.
All cartographic, engineering, petroleum engineering, and physical science technicians GS-6 and below

OFFICES REQUIRED TO FILE

Office of the Division Chief
Office of Assistant Division Chief, Operations
Branch of Mining Operations
Branch of Onshore Oil and Gas Operations
Office of Assistant Division Chief, Programs
Office of Assistant Division Chief, Resources Evaluation
Branch of Onshore Evaluation
Branch of mineral and Water Classification

The following categories of personnel, engaged *only* in matters relating to the Outer Continental Shelf in the offices listed below are exempt:

Engineers, all specialties
Petroleum Engineering Technicians
Environmental Specialists
Oceanographers
Geologists
Geophysicists
Physical Science Technicians
Cartographic Technicians
Accountants GS-7 and above

OFFICES REQUIRED TO FILE IN WHICH SOME PERSONNEL ARE ENAGED SOLELY IN OUTER CONTINENTAL SHELF ACTIVITIES

Office of the District Geologist, Los Angeles, Calif.
Office of Area Oil and Gas Supervisor, Los Angeles, Calif.
Office of Area Oil and Gas Supervisor, Anchorage, Alaska
Office of Area Geologist, Anchorage Alaska

NATIONAL PARK SERVICE

Delete:

Immediate Office of the Associate Regional Director, Management and Operations (Rocky Mountain Region)
Rockefeller National Parkway
Immediate Office of the Associate Regional Director, Management and Operations (Midwest Region)

Add:

Immediate Office of the Associate Regional Director, Park Operations (Rocky Mountain Region)
John D. Rockefeller Junior Memorial Parkway
Immediate Office of the Associate Regional Director, Operations

OFFICE OF THE SOLICITOR

The following subunits of the Solicitor's Office perform functions and duties under the Act. In addition to any positions listed under each subunit, all clerical, administrative and paralegal positions in each subunit are also exempt.

Immediate Office of the Solicitor
Administrative Office—All personnel are exempt except the Deputy Ethics Counselor, Assistant Ethics Counselor and 1 Clerical Assistant/Steno
Division of General Law—8 Attorney-Advisers
Division of Conservation and Wildlife—5 Attorney-Advisers
Salt Lake City Regional Office—2 Attorney-Advisers
Anchorage Regional Office
Portland Regional Office—7 Attorney-Advisers
Sacramento Regional Office—7 Attorney-Advisers
Denver Regional Office—8 Attorney-Advisers
San Francisco Field Office
Amerillo Field Office
Boise Field Office
Santa Fe Field Office
Phoenix Field Office—4 Attorney-Advisers
Billings Field Office
Riverside Field Office

15. Appendix F to 43 CFR Part 20 as published in 43 FR 1090-1091, Friday, January 6, 1978, is amended for those bureaus, offices or subunits having changes to update the list of Bureaus and Offices or subunits thereof, performing functions or duties under the Energy Policy and Conservation Act and positions which the Secretary has exempted from the reporting requirements. The lists for some bureaus, offices or subunits are completely revised and others are amended by additions and deletions. Bureau, office and subunits lists not revised or amended remain the same. The revisions and amendments to Appendix F are as follows:

APPENDIX F—LIST OF BUREAUS AND OFFICES, OR SUBUNITS THEREOF, PERFORMING FUNCTIONS OR DUTIES UNDER THE ENERGY POLICY AND CONSERVATION ACT AND POSITIONS WHICH THE SECTRETARY HAS DETERMINED TO BE EXEMPT FROM REPORTING REQUIREMENTS OF SECTION 522

All employees in the following bureaus, offices, and subunits thereof, are subject to the filing requirements of the Act except for the following postions which do not involve policy-making or regulatory responsibility under the Act.

SECRETARY'S IMMEDIATE OFFICE

Delete:

GS-14, Confidential Assistant, Washington, D.C.
GS-12, Staff Assistant
GS-11, Staff Assistant
GS-11 and below, Correspondence Management Specialists

Add:

GS-14, Staff Assistant
GS-12, Chief, Correspondence Staff
GS-11, Research Assistant
GS-10, Lead Correspondence Analyst

OFFICE OF CONGRESSIONAL AND LEGISLATIVE AFFAIRS

GS-9, Staff Assistant to the Director
Division of Congressional Liaison:
GS-13, Congressional Services Specialist
GS-11, Special Assistant to the Director
GS-11, Management Specialist
GS-8 and below, administrative, clerical and secretarial personnel
Division of Legislation:
GS-14, Attorney-Advisors
GS-13, Attorney-Advisors
GS-12, Attorney-Advisors
GS-10, Legislative Assistant
GS-9, Legislative Assistant
GS-8 and below, secretaries, clerks, and administrative personnel

OFFICE OF AUDIT AND INVESTIGATION

Delete:

Office title of Office of Audit and Investigation
GS-12, Administrative Officer

Add:

Office title of Office of Inspector General
GS-13, Administrative Officer
Immediate Office of the Regional Audit Manager—Sacramento Regional Office:
GS-9 and below, Secretarial and Administrative personnel
Anchorage Suboffice: No exempt personnel

OFFICE OF MINERALS POLICY AND RESEARCH ANALYSIS

Delete:

GS-11, Statistician

Add:

GS-14, Economist (1)—Division of Minerals Data, Forecasting and Analysis

ASSISTANT SECRETARY—POLICY, BUDGET AND ADMINISTRATION

Delete:

GS-15, Management Resources Officer
GS-13, Equal Opportunity Officer

Add:

GS-15, Assistant to the Assistant Secretary
GS-15, Assistant to the Deputy Assistant Secretary
GS-14, Equal Opportunity Officer
GS-13, Equal Opportunity Specialist

ASSISTANT SECRETARY—ENERGY AND MINERALS

Delete:

GS-11, Staff Assistant

ASSISTANT SECRETARY—LAND AND WATER RESOURCES

Delete:

GS-16, Special Assistant (Emergency Water and Planning)
GS-15, Special Assistant (2)
GS-15, Public Information Officer
GS-14, Staff Assistant (2)
GS-11, Confidential Assistant

Add:

GS-17, Deputy Assistant Secretary
GS-16, Deputy Assistant Secretary
GS-15, Staff Assistants
GS-15, Special Assistant (4)
GS-14, Staff Assistant (1)
GS-9, Confidential Assistant

GEOLOGICAL SURVEY

OFFICE OF THE DIRECTOR, RESTON, VIRGINIA

Immediate Office

Assistant Director—Program Analysis
Assistant Director—Geologic Engineering
Assistant Director—Eastern Region
Program Analysts
Economists
Physical Scientists
Legislative Specialist
Congressional Liaison Officer
Biological Scientist
Staff Assistant
Public Information Officer
Public Information Specialist
Operations Research Analyst
Special Assistant for Environmental Analysis
Computer Systems Analyst
Data Base Administrator
Historian
Information Assistant
Program Assistant
Congressional Liaison Assistant
Equal Opportunity Officers
Secretarial, clerical, and administrative personnel

CONSERVATION DIVISION

IMMEDIATE OFFICE OF THE DIVISION CHIEF

Geololgists
Staff Assistant
Secretarial and clerical personnel

BUREAU OF LAND MANAGEMENT

Delete:

Office of the Director: Personal Assistant
Office of the Associate Director: Staff Assistant
Office of the Assistant Director, Legislation and Plans: Clerk
Division of Mineral Resources, Office of the Division Chief: Administrative Assistant

Add:

Office of the Director: Confidential Assistant
Office of the Associate Director: Clerk-Typist
Office of Coal Management:
Office of the Assistant to the Director:
Secretary
Supervisory clerk
Clerk
Clerk-Typist
Coal Operations Staff:
Technical Writer Editor
Clerk-Typist
Coal Program Development Staff:
Technical Writer Editor
Clerk-Typist
Office of the Special Assistant to the Director:
Office of the Executive Secretary:
Office of Policy Analysis:
Division of Mineral Resources, Office of the Division Chief: Staff Assistant

OFFICE OF THE SOLICITOR

The following subunits of the Solicitor's office perform functions and duties under the Act. In addition to any positions listed under each subunit, all clerical, administrative and paralegal positions in each subunit are also exempt.

Immediate Office of the Solicitor
Administrative Office—All personnel are exempt except the Deputy Ethics Counselor, Assistant Ethics Counselor and 1 Clerical Assistant/Steno
Division of General Law—8 Attorney-Advisers
Salt Lake City Regional Office—4 Attorney Advisers
Anchorage Regional Office
Denver Regional Office—10 Attorney-Advisors
Amarillo Field Office
Boise Field Office
Santa Fe Field Office

16. Appendix G is added to Part 20 to read as follows:

APPENDIX G—LIST OF BUREAUS AND OFFICES, OR SUBUNITS THEREOF, PERFORMING FUNCTIONS OR DUTIES UNDER THE OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978 AND POSITIONS WHICH THE SECRETARY HAS DETERMINED TO BE EXEMPT FROM THE REPORTING REQUIREMENTS OF SECTION 605.

All employees in the following bureaus, offices, and subunits, thereof, are subject to the filing requirements of the Act except for the following positions which do not involve policymaking or regulatory responsibility under the Act.

SECRETARY'S IMMEDIATE OFFICE

All employees are exempt except:

Secretary of the Interior
Under Secretary
Deputy Under Secretary (2)
Executive Assistant to the Secretary
Assistant to the Secretary (State and Federal Relations)

OFFICE OF CONGRESIONAL AND LEGISLATIVE AFFAIRS

All employees are exempt except:

Assistant to the Secretary and Director of Congressional & Legislative Affairs
Deputy Director for House Liaison
Deputy Director for Senate Liaison
Legislative Counsel
Assistant Legislative Counsel
Congressional Liaison Officer

OFFICE OF THE ASSISTANT SECRETARY—POLICY, BUDGET AND ADMINISTRATION

All employees are exempt except:

Assistant Secretary
Deputy Assistant Secretary (2)

OFFICE OF BUDGET

All employees are exempt except:

Director
Deputy Director

OFFICE OF ENVIRONMENTAL PROJECT REVIEW

All employees are exempt except:

Director
Environmental Review Officer (3)
General Engineer (3)
Biologist
Regional Environmental Review Officer (6)

OFFICE OF INSPECTOR GENERAL

All employees are exempt except:

Inspector General
Deputy Inspector General
Assistant Inspectors General
Assistant Departmental Ethics Counselor
Assistant to the Assistant Departmental Ethics Counselor
Program Audit Manager—Indian Affairs
Program Audit Manager—Land and Water
Program Audit Manager—Fish and Wildlife and Parks
Auditors, GS-10 and above

OFFICE OF OUTER CONTINENTAL SHELF PROGRAM COORDINATION

All employees are exempt except:

Director
Program Analyst
Economist (2)
OCS Information Specialist
Staff Assistant

OFFICE OF PERSONNEL MANAGEMENT

All employees are exempt except: Director

OFFICE OF POLICY ANALYSIS

All employees are exempt except:

Director
Assistant Director—Studies Staff
Operations Research Analyst (2)

OFFICE OF THE ASSISTANT SECRETARY—ENERGY AND MINERALS

All employees are exempt except:

Assistant Secretary
Deputy Assistant Secretary (2)
Assistant to the Assistant Secretary (1)
Program Analysis Officer
Staff Assistant (1)

OFFICE OF THE ASSISTANT SECRETARY—FISH AND WILDLIFE AND PARKS

All employees are exempt except:

Assistant Secretary
Deputy Assistant Secretary (1)
Special Assistant (2)

OFFICE OF THE ASSISTANT SECRETARY—LAND AND WATER RESOURCES

All employees are exempt except:

Assistant Secretary
Deputy Assistant Secretary (2)

OFFICE OF HEARINGS AND APPEALS

All employees in the following offices and subunits are subject to the filing requirements of the Act except for the following positions which do not involve policy making or regulatory responsibility under the Act.

DIRECTOR'S OFFICE

GS-12 and below, attorney advisors
All clerical, paralegal, and administrative personnel

HEARINGS DIVISION

GS-12 and below, attorney advisors
All clerical, paralegal, and administrative personnel

INTERIOR BOARD OF LAND APPEALS

GS-12 and below, attorney advisors
All clerical, paralegal and administrative personnel

GEOLOGICAL SURVEY

IMMEDIATE OFFICE

Assistant Director—Geologic Engineering
Assistant Director—Eastern Region
Deputy Assistant Director—Coal Programs
Physical Scientists
Legislative Specialists
Congressional Liaison Officer
Biological Scientist
Staff Assistant
Public Information Officer
Public Information Specialist
Special Assistant for Environmental Analysis
Data Base Administrator
Historian
Geologist
Information Assistant
Program Assistant
Congressional Liaison Assistant
Equal Opportunity Officers
Secretarial, clerical, and adminstrative personnel

LAND INFORMATION AND ANALYSIS OFFICE

Resource and Land Investigations Program (RALI), Reston, Virginia

Community Planners (GS-9 and GS-14)
Computer Aid
Economist
Program Assistant
Secretarial and clerical personnel

Environmental Impact Analysis Program, Reston, Virginia

Biological Technicians
Cartographer
Cartographic Aids
Editorial Assistants
Environmental Scientists
Supervisory Environmental Scientist
Geologists
Hydrologists
Information Assistant
Physical Scientists
Supervisory Physical Scientists
Technical Publications Writer-Editor
Writer-Editor
Secretarial and clerical personnel

OFFICE OF ENERGY RESOURCES, RESTON, VIRGINIA

Office of the Chief

Chief, Office of Energy Resources
Deputy Chief
Deputy Chief for Uranium and Thorium
Secretarial, clerical, and administrative personnel

OFFICE OF MARINE GEOLOGY, RESTON, VIRGINIA

Office of the Chief

Chief, Office of Marine Geology
Secretarial, clerical, and administrative personnel

CONSERVATION DIVISION

In addition to the specific exemptions identified below by office, the following groups are exempt in all offices required to file:
All secretarial personnel
All accounting assistants. GS-6 and below
All clerical personnel
All cartographic, engineering, and physical science aids
All engineering, geologic, hydrologic, and topographic field assistants
All cartographic, engineering, petroleum engineering, and physical science technicians. GS-6 and below.

Offices requires to file:

Office of the Division Chief Legislation, Regulations, Appeals Section
Office of the Assistant Division Chief for Operations
Branch of Marine Oil and Gas Operations
Royalty Accounting Section
Office of the Assistant Division Chief for Programs, Programs, Planning and Budget Section
Environmental Analysis Section
Office of the Assistant Division for Resource Evaluation
Statistical and Economic Analysis Section
Federal Minerals Inventory Section
Branch of Marine Evaluation
Office of Conservation Manager, Eastern Region
Office of Atlantic Area Oil and Gas Supervisor for Resource Evaluation
Office of Atlantic Area Oil and Gas Supervisor for Operations
Office of District Engineer, Mid Atlantic District
Office of District Engineer, South Atlantic District
Office of Conservation Manager, Western Region
Office of District Engineer, Santa Barbara, California
Office of Conservation Manager, Gulf of Mexico Region
Office of Management
Office of Area Supervisor for Resources Evaluation and for Field Operations
Office of District Supervisor, Freeport District
Office of District Supervisor, Lafayette District
Office of District Supervisor, Metairie District
Office of District Supervisor, Lake Charles District
Office of District Supervisor, Houma District
Office of Area Supervisor for Operations Support
Office of Area Supervisor for Reserves and Diligence
Office of Area Supervisor for Accounting

The following categories of personnel, engaged *only* in matters unrelated to the Outer Continental Shelf in the offices listed below are exempt:

Engineers, all specialties
Petroleum Engineering Technicians
Environmental Specialists
Geologists
Geophysicists
Physical Scientists
Physical Science Technicians
Cartographic Technicians

Offices required to file, in which *some* personnel are *not* engaged solely in outer continental shelf activities:

Office of the Area Geologist, Pacific Area, Menlo Park, California
Office of the District Geologist, Los Angeles District, Los Angeles, California
Office of Area Oil and Gas Supervisor, Pacific Area, Los Angeles, California
Office of Area Oil and Gas Supervisor, Alaska Area, Anchorage, Alaska
Office of Area Geologist, Alaska Area, Anchorage, Alaska

BUREAU OF LAND MANAGEMENT

OFFICE OF THE DIRECTOR

Confidential Assistant, GS-301-11
Secretary, GS-318-08

OFFICE OF THE ASSOCIATE DIRECTOR

Secretary, GS-318-09
Clerk, GS-301-5
Clerk-Typist, GS-322-3

OFFICE OF THE SPECIAL ASSISTANT TO THE DIRECTOR

OFFICE OF THE EXECUTIVE SECRETARY

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

Secretary, GS-318-7
All Equal Employment Opportunity Specialists, GS-160-13 and below
Federal Women's Program Coordinator, GS-301-12

OFFICE OF PROGRAM EVALUATION

Secretary, GS-318-7
Clerk, GS-301-5
All Evaluation Specialists, GS-301-13 and below

OFFICE OF POLICY ANALYSIS

OFFICE OF THE ASSISTANT DIRECTOR, LEGISLATION AND PLANS

Secretary, GS-318-9

OFFICE OF LEGISLATION AND REGULATORY MANAGEMENT

Paralegal Specialist, GS-950-9
Secretary, GS-318-7
Clerk, GS-301-5
Clerk-Stenographer, GS-312-5
Clerk-Typist, GS-322-4
All Student Assistants, GS-950-7 (2)

OFFICE OF ENVIRONMENTAL PLANNING AND COORDINATION

Secretary, GS-318-7
Clerk-Typist, GS-322-4 GS-301-4

OFFICE OF COOPERATIVE RELATIONS

Cooperative Specialist (International), GS-301-13
Writer-Editor, GS-1082-9
International Activities Assistant, GS-301-7
Secretary, GS-318-7
Clerk-Typist, GS-322-3

OFFICE OF ENVIRONMENTAL ASSISTANCE

Secretary, GS-318-7
Clerk, (typing) GS-301-6 (2)

OFFICE OF THE ASSISTANT DIRECTOR, TECHNICAL SERVICES

Manpower Development Administrator, GS-142-14
Computer Systems Administrator, GS-330-13
Management Analyst, GS-343-13
Safety Specialist, GS-180-12
Program Analyst, GS-345-12
Secretary, GS-318-9 and below (2)
Clerk, GS-301-6
Clerk-Typist, GS-322-4 and below (2)

DIVISION OF RECORDS SYSTEMS

Incentive Awards Coordinator, GS-301-11
Incentive Awards Assistant, GS-301-9
Secretary, GS-318-6

DIVISION OF CADASTRAL SURVEY

Cartographer, GS-1370-12 and below
Cartographic Technician, GS-1371-11
Secretary, GS-318-7 and below
Clerk, GS-301-7 and below
Clerk-Stenographer, GS-312-5 and below
Student Trainee, GS-099-4 and below

DIVISION OF ENGINEERING

Communications Management Specialist, GS-391-14
Communications Specialist, GS-393-13
Engineer-Highway, GS-810-13
Sign Coordinator, GS-301-11
Illustrator, GS-1020-9 and below
Secretary, GS-318-7

DIVISION OF FIRE AND PROTECTION

Fire Management Specialist, GS-301-15
Secretary, GS-318-7
Statistical Assistant, GS-1531-7
Clerk, GS-301-5

BRANCH OF FIRE MANAGEMENT

Forester, GS-460-13 (3)
Clerk-Typist, GS-322-2

DIVISION OF APPRAISAL

Secretary, GS-318-7

DIVISION OF ACCESS AND TRANSPORTATION RIGHTS-OF-WAY

Realty Specialist, GS-1170-13
Paralegal Specialist,GS-950-7
Secretary, GS-318-7

OFFICE OF ASSISTANT DIRECTOR, ADMINISTRATION

Secretary, GS-318-9

DIVISION OF BUDGET AND PROGRAM DEVELOPMENT

Secretary, GS-318-7
Budget Analyst, GS-560-7

BRANCH OF BUDGET

Budget Analyst, GS-560-12
Secretary, GS-318-6

BRANCH OF PROGRAM DEVELOPMENT

Secretary, GS-318-6

DIVISION OF FINANCE

Systems Accountant, GS-510-13 and below (2)
Staff Accountant, GS-510-12 (2)
Operating Accountant, GS-510-12 and below
Accounting Technician, GS-525-9 and below (2)
Accountant, GS-510-7
Accounting Assistant, GS-501-7
Secretary, GS-318-7
Voucher Examiner, GS-540-6
Clerk-Typing, GS-301-5

DIVISION OF PERSONNEL

Secretary, GS-318-7

BRANCH OF EMPLOYMENT

Staffing Specialist, GS-212-13 and below (3)
Clerk-Typist, GS-322-5 and below (3)

BRANCH OF POSITION AND PAY MANAGEMENT

Clerk-Typist, GS-322-3

BRANCH OF TRAINING

Employee Development Specialist, GS-235-13
Dept. Mgr. Trainee, GS-301-13
Physical Scientist, GS-1301-11
Policy Analyst, GS-301-9
Clerk-Typist, GS-322-4

BRANCH OF PERSONNEL SERVICES

Position Classification Specialist, GS-221-12 and below (2)
Personnel Management Specialist, GS-201-11 (2)
Staffing Specialist, GS-212-9
Personnel Assistant, GS-203-7
Personnel Clerk, GS-203-6
Clerk, GS-301-6
Clerk-Steno, GS-312-4
Clerk-Typist, GS-322-3

DIVISION OF ADMINISTRATIVE SERVICES

Secretary, GS-318-7
Messenger, GS-302

BRANCH OF CONTRACT OPERATIONS

Secretary, GS-318-6
Clerk, GS-301-5

OFFICE OF ASSISTANT DIRECTOR, MINERALS MANAGEMENT

Secretary, GS-318-9

DIVISION OF MINERAL PROGRAM DEVELOPMENT AND ANALYSIS

Secretary, GS-318-9

BRANCH OF MINERAL POLICY DEVELOPMENT ANALYSIS

Mineral Mgmt. Specialist, GS-301-12
Program Analyst, GS-345-12 and below (2)
Secretary, GS-318-6
Clerk, GS-301-5

BRANCH OF MINERALS ECONOMIC ANALYSIS

Economist, GS-110-9
Secretary, GS-318-6
Clerk, GS-301-5

DIVISION OF MINERAL RESOURCES

Staff Assistant, GS-301-9
Secretary, GS-318-7

BRANCH OF UPLAND MINERAL LEASING

Paralegal Specialist, GS-950-12 and below (2)
Secretary, GS-318-6
Clerk, GS-301-5
Clerk-Typist, GS-322-4

BRANCH OF MARINE MINERAL LEASING

Economist, GS-1101-12 (2)
Writer-Editor, GS-1082-11
Clerk, GS-301-5
Clerk-Typist, GS-322-4

BRANCH OF MINING

Paralegal Specialist, GS-950-9
Secretary, GS-318-6

DIVISION OF MINERALS ENVIRONMENTAL ASSESSMENT

Secretary, GS-318-7

BRAND OF MARINE MINERAL ENVIRONMENTAL ASSESSMENT

Environmental Specialist, GS-301-12 (2)
Geographer, GS-150-12
Secretary, GS-318-6
Clerk, GS-301-5
Clerk-Typist, GS-322-4

BRANCH OF ENVIRONMENTAL STUDIES

Oceanographer, GS-1360-12 (2)
Secretary, GS-318-6
Clerk, GS-301-5

NEW ORLEANS OUTER CONTINENTAL SHELF OFFICE

OFFICE OF THE MANAGER

Studies Staff

Procurement Assistant, GS-1106-6

DIVISION OF OPERATIONS

Statistician, GS-1530-11

BRANCH OF ADJUDICATION

Land Law Examiner, GS-965-9 (2)
Legal Clerk, GS-986-6 and below (2)
Clerk-Typist, GS-322-3
Clerk, GS-301-3

BRANCH OF SALES AND SUPPORT

Cartographic Technician, GS-1371-5 (2)
Cartographic Aid, GS-1371-4
Statistical Assistant, GS-1531-6

DIVISION OF ENVIRONMENTAL ASSESSMENT

Technical Publications Editor, GS-1083-9

DIVISION OF MANAGEMENT SERVICES

Clerk (Records), GS-301-5
Clerk, GS-301-5 (3)
Personnel Clerk, GS-203-5
Library Technician, GS-1411-4
Clerk-Typist, GS-322-4 and below (3)
Mail and File Clerk, GS-305-3

PACIFIC OUTER CONTINENTAL SHELF OFFICES

OFFICE OF THE MANAGER

Studies Staff

DIVISION OF OPERATIONS

Cartographic Technician, GS-1371-7 and below (2)

DIVISION OF ENVIRONMENTAL ASSESSMENT

Technical Publications Writer, GS-1083-11
Oceanographer, GS-1360-11
Statistician, GS-1530-7
Biological Technician, GS-404-7

DIVISION OF MANAGEMENT SERVICES

Information Receptionist, GS-340-4
Clerk Dictating Machine Transcriber, GS-316-4 and below (4)
Mail and File Clerk, GS-305-3
Clerk-Typist, GS-322-4 and below (3)

ALASKA OUTER CONTINENTAL SHELF OFFICE

OFFICE OF THE MANAGER

Studies Staff

DIVISION OF OPERATIONS

Clerical Assistant, GS-301-5
Mail and File Clerk, GS-305-4
Clerk-Typist, GS-322-4

DIVISION OF ENVIRONMENTAL ASSESSMENT

Technical Information Specialist, GS-1412-7
Biological Information Specialist, GS-404-5

DIVISION OF MANAGEMENT SERVICES

Clerical Assistant, GS-301-5
Mail and File Clerk, GS-305-4
Clerk-Typist, GS-322-4

NEW YORK OUTER CONTINENTAL SHELF OFFICE

OFFICE OF THE MANAGER

Public Information Officer, GS-1080-12

Studies Staff

DIVISION OF OPERATIONS

Visual Information Specialist, GS-1084-7

DIVISION OF ENVIRONMENTAL ASSESSMENT

DIVISION OF MANAGEMENT SERVICES

Supervisory Clerical Assistant, GS-301-6
Clerk, GS-301-5
Clerk-Typist, GS-322-4 and below (4)
General Clerk, GS-301-3

BRANCH OF UPLAND MINERALS ENVIRONMENTAL ASSESSMENT

Secretary, GS-318-6

OFFICE OF THE SOLICITOR

In addition to any positions listed under each subunit, all clerical, administrative and paralegal positions in each subunit are also exempt.

Immediate Office of the Solicitor
Administrative Division
All personnel are exempt except the Deputy Ethics Counselor, Assistant Ethics Counselor and 1 Clerical Assistant/Steno.
All personnel in the following divisions are exempt except those positions listed:
Division of General Law; 8 Attorneys
Division of Energy & Resources; 6 Attorneys
Sacramento Regional Office; 3 Attorneys

BUREAU OF MINES

OFFICE OF THE DIRECTOR

Personal Assistant—Stenography (1)
Congressional Services Assistant (1)
Professional, administrative, secretarial, and clerical employees GS-9 and below.

OFFICE OF THE ASSOCIATE DIRECTOR—MINERAL AND MATERIALS RESEARCH AND DEVELOPMENT

Writer-Editor (1)
Professional, administrative, secretarial, and clerical employees GS-9 and below

OFFICE OF THE ASSISTANT DIRECTOR—MINING

Program Management Assistant (1)
Professional, administrative, secretarial, and clerical employees GS-9 and below.

OFFICE OF THE CHIEF, DIVISION OF MINE SYSTEMS ENGINEERING

Geologist (1)
Technology Transfer Group Leader (1)
Technology Information Specialist (1)
Staff Assistant (1)
Professional, administrative, secretarial, and clerical employees GS-9 and below.

TWIN CITIES MINING RESEARCH CENTER—OFFICE OF THE RESEARCH DIRECTOR

Staff Engineer (1)
Professional, administrative, secretarial, and clerical employees GS-9 and below.

RESEARCH OPERATIONS, TWIN CITIES MINING RESEARCH CENTER

Mining Engineers (7)
Mechanical Engineers (2)
General Engineers (1)
Geophysicists (3)
Physicists (1)
Professional, administrative, technical, secretarial, and clerical employees GS-11 and below and all wage employees.

IMMEDIATE OFFICE OF THE ASSOCIATE DIRECTOR—MINERAL AND MATERIALS SUPPLY/DEMAND ANALYSIS

Physical Science Administrator (1)
Industrial Specialist (1)
Administrative Officer (1)
Professional, administrative, secretarial, and clerical employees GS-11 and below.

STATE LIAISON PROGRAM OFFICE

All secretarial and Liaison Program Assistants

The positions in the above organizations are exempt because they are non-regulatory and non-policy making positions or because they perform no duties under the Act.

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FRIDAY, JANUARY 19, 1979
PART VII



DEPARTMENT OF ENERGY

Economic Regulatory Administration

ADMINISTRATIVE PROCEDURES AND SANCTIONS; SUBPOENAS, SPECIAL REPORT ORDERS, AND INVESTIGATIONS

Proposed Rulemaking and Public Hearing

V 4 4 / 1 4 A 1 9 7 9 UMI

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Parts 205 and 210]

[Docket No. ERA-R-79-2]

ADMINISTRATIVE PROCEDURES AND SANCTIONS SUBPOENAS, SPECIAL REPORT ORDERS, AND INVESTIGATIONS

Proposed Rulemaking and Public Hearing

AGENCY: Economic Regulatory Administration. Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a proposal to amend provisions of 10 CFR Part 205 concerning subpoenas and investigations. ERA also proposes to modify its regulations concerning special report Orders (SRO) currently found at 10 CFR 210.91 and consolidate them with the subpoena regulations in Part 205. The proposed amendments would be applicable to Parts 207, 209 through 214 of Title 10 of the Code of Federal Regulations. The proposed amendments set forth in detail the law enforcement authority of ERA, which is granted under existing statute and which ERA and its predecessors have exercised. In addition, the proposed amendments are designed to streamline the administrative procedures applicable to the issuance, enforcement. And administrative review of subpoenas and SRO's. ERA believes that the proposed amendments will enable it to carry out more effectively its responsibility to enforce the Emergency Petroleum Allocation Act of 1973 (EPAA) and the Mandatory Petroleum Price and Allocation Regulations issued under EPAA.

DATES: Written comments by March 21, 1979, 4:30 p.m. e.s.t. Requests to speak by January 31, 1979, 4:30 p.m. Public Hearing: February 15, 1979, 9:30 a.m.

ADDRESSES: All comments to Office of Public Hearing Management, Docket No. ERA-R-79-2 Department of Energy, Room, 2313, 2000 M Street, N.W., Washington, D.C. 20461. Public Hearing: Economic Regulatory Administration, Room 2105, 200 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, 2000 M Street, N.W., Room 2214 B, Washington, D.C. 20461, 202-254-5201.

William Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, N.W., Room B110, Washington, D.C. 20461, 202-632-2170.

Kristina Clark, Office of General Counsel, Rm. 5146, 12th & Pennsylvania Ave., N.W., Washington, D.C. 20461, 202-633-8622.

SUPPLEMENTARY INFORMATION:

I. Background
II. Proposed Amendments
A. Subpoenas and SRO's
1. Review
2. Other Amendments
B. Investigations
III. Comment Procedures
IV. Other Matters

I. Background

The procedures which govern the issuance of subpoenas relating to the petroleum price and allocation regulations are found at 10 CFR 205.8; procedures governing the issuance of SRO's are found at 10 CFR 210.91; and procedures relating to ERA investigations are found at 10 CFR 205.201.

The provisions relating to subpoenas and SRO's provide for a complex procedure for administrative review of these documents. An application to quash or modify a subpoena or SRO first is directed to the issuing DOE official. Then, within 10 days of an adverse decision by that official, a second application may be made to the Regional Administrator for the issuing region, or the Assistant Administrator, or the Director of the issuing office in case of a subpoena or SRO issued by the National Office. Finally, if the application to quash or modify the subpoena or SRO is denied in any part by the reviewing official, an application for relief may be filed within 10 days with the Office of Private Grievances and Redress. Further, a subpoena or SRO is reviewable by a United States District Court.

ERA's enforcement experience has led to the tentative conclusion that the existing provisions for review of subpoenas and SRO's are unduly cumbersome and unnecessarily impede ERA's efforts to carry out its enforcement responsibilities under the EPAA. Accordingly, we propose to amend the regulations to streamline the procedures applicable to the issuance and review of subpoenas and SRO's. In addition, since subpoenas and SRO's are related enforcement tools and the procedures as to both have been identical in many respects, it is considered desirable to combine the procedures for both in one regulatory provision.

We have also tentatively concluded that amendments to the rules regarding investigation procedures also are desirable in order to improve DOE's efficiency in carrying out its enforcement responsibilities.

II. Proposed Amendments

A. Subpoenas and SRO's

1. *Review.* The amendments proposed today eliminate some of the procedures for administrative review of subpoenas and SRO's, which are unduly duplicative and impede expeditious judicial review of subpoenas and SRO's under the EPAA and the petroleum price and allocation regulations.

The proposed amendments replace the current three levels of DOE review with a single level of review. There is no administrative appeal of a subpoena or SRO.

Under the proposal, a person served with a subpoena or SRO, may file a request for review of the document with the official who issued the subpoena or SRO prior to the time specified for compliance, but no more than 10 days after the date of service. The issuing official in turn forwards the request to his supervisor. The supervisor is required to inform the person requesting review of receipt of the request. If the SRO or subpoena is not rescinded or modified within 10 days of notification by the supervisor, the subpoena or SRO is effective as issued.

2. *Other amendments.* The proposed amendments set forth the procedures for issuance of subpoenas and SRO's and the authority of issuing officials, and would promote full compliance with subpoenas and SRO's.

Under the proposal, a person who issues a subpoena or SRO is referred to as a "DOE Official." The term includes the Secretary of DOE, the Administrator of ERA, the Administrator of Energy Information Administration, the General Counsel of DOE, the Special Counsel for Compliance, the Director of the Office of Hearings and Appeals, any person authorized to issue a subpoena or SRO under the proposed amendments, or the authorized agent of any of the foregoing, who issued a subpoena or SRO. The term "DOE Official" includes the Administrator of Energy Information Administration since by virtue of Part 207 and existing statutes he is authorized to issue subpoenas under this section. A DOE Official is authorized to sign, issue and serve subpoenas; adminster oaths and affirmations; take sworn testimony; compel attendance of and sequester witnesses; control dissemination of any record of testimony taken pursuant to amended § 205.8; subpoena and reproduce books, papers, correspondence, memoranda, contracts, agreements, or other relevant records or tangible evidence including, but not limited to, information retained in computerized or other automated systems. A DOE Official also is authorized to issue a Special Report Order requiring any person subject to the jurisdiction of the ERA to file a special report, including but not limited to written answers to specific questions. Under the proposed amendments an SRO may be issued in addition to other reports required by DOE.

The proposed amendments set forth detailed procedures for the taking of testimony pursuant to a subpoena. Under the proposal, the DOE Official is authorized and required to take all necessary action to regulate the giving of testimony and to avoid unnecessary delay and prevent or restrain contemptuous or obstructionist conduct or contemptuous language.

Further, the DOE Official determines whether to record testimony and the means for recording testimony. A witness is permitted to obtain a copy of his testimony, if recorded, upon request, unless the DOE Official denied the request for good cause. Upon proper identification, any witness or his attorney has the right to inspect the official transcript of the witness' own testimony.

In addition, the DOE Official is empowered to sequester any person subpoenaed to furnish documents or give testimony. Neither a witness nor his attorney is permitted to be present during the examination of another witness, unless permitted by the DOE Official.

The proposed amendments set forth the manner in which a witness is permitted to be accompanied, represented and advised by his attorney. The witness and his attorney are permitted to confer privately on any question asked. The witness or his attorney is required to state briefly the legal grounds for any refusal to answer a question. However, if the witness refuses to answer a question on the grounds of the constitutional privilege against self-incrimination, the witness is required to assert the privilege personally.

To promote full compliance with subpoenas and SRO's, proposed § 205.8 requires documents produced in response to a subpoena and information furnished in response to an SRO to be accompanied by a sworn certification under penalty of perjury by the person to whom the subpoena or SRO is directed. In the case of a subpoena, the person is required to certify that a diligent search had been made for all responsive documents and that each responsive document is being produced unless withheld on the ground of privilege. A person to whom an SRO is directed, or an authorized agent of the person who actually provides the information is required to certify that a diligent effort had been made to provide all information required by the SRO and that all information furnished was true, complete, and correct unless withheld on the ground of privilege. If any document responsive to a subpoena is not produced or any information required by an SRO is not furnished, the certification is required to include a statement setting forth all reasons for failing to comply with the subpoena or SRO.

The proposed amendments include a provision concerning withholding of documents on the ground of the attorney-client privilege or any other privilege. The person submitting the certification described above is required to submit a written list describing each document or the information withheld, a description of the document, the date of the document, each person shown on the document as having received a copy, each person shown on the document as having prepared or been sent the document, the privilege relied upon as the basis for withholding the document or information, and an identification of the person whose privilege is being asserted.

The proposed amendments provide that, upon written request, any person served with a subpoena or SRO shall be notified as to the general purpose for which any testimony, information or documentary material is sought.

Under the proposed amendment, an action may be commenced in the United States District Court to enforce a subpoena or SRO if any person upon whom the subpoena or SRO was served refuses or fails to comply with any provision of the subpoena or SRO.

Proposed § 205.8 includes provisions with respect to service of subpoenas and SRO's and payment of witness fees and mileage. The proposed provisions are substantially the same as those of the current § 205.8. However, under the proposed amendment, the existing requirement that service of a subpoena must include tendering of one day's witness fees and mileage is omitted.

B. Investigations

We are proposing to amend 10 CFR 205.201 relating to procedures in DOE investigations. The proposed amendments set forth in detail DOE's investigatory procedures as authorized by existing statutes and modify certain procedures to enhance DOE's efficiency in carrying out its enforcement responsibilities.

In accordance with current practice under Part 205, Subpart N, a new provision expressly permits any person to request DOE to initiate an investigation. Under these simplified procedures, however, no particular forms or procedures are required to initiate such a request. A request for an investigation is required only to set forth the subject matter to be investigated as fully as possible and include supporting documentation and information. In light of this new provision, the duplicative and somewhat complex procedures of Subpart N relating to the filing of complaints are proposed for deletion.

Another proposed new provision expressly sets forth the well-established principle that there are no parties, as that term is used in adjudicative proceedings, in a DOE investigation. Similarly, the proposed rule also provides in this regard that no person may intervene or participate in an investigation as a matter of right.

The proposed amendment also includes new provisions which amplify current provisions as to disclosure of information or documents obtained during an investigation. Under the proposed regulation, DOE is not permitted to disclose such information or documents unless: (1) DOE directs or authorizes the public disclosure of the investigation; (2) the information or documents have been made a matter of public record; or (3) disclosure is required by the Freedom of Information Act, 5 U.S.C 552. A request for confidential treatment of information for purposes of that act does not prevent disclosure by DOE if in the public interest and otherwise permitted by law.

The proposed section permits any person to submit any document, statement of facts or memorandum of law for the purpose of explaining the person's position or furnish evidence which the person considers relevant to a matter under investigation. A person is permitted to submit any statement of facts, memorandum of law, and evidence at any time during an investigation.

The proposed amendment modifies existing § 205.201(c) to provide that the DOE, upon written request, shall notify any person who is under investigation by the DOE and who is requested to furnish information or documentary evidence of the general purpose of the investigation.

The proposed amendment clarifies the provision concerning the authority of DOE investigators. The proposed amendment expressly authorizes any duly designated and authorized representative of DOE to take such action as he deems necessary and appropriate to the conduct of an investigation, including any action pursuant to § 205.8.

The proposed amendment deletes the existing provision of § 205.201(a) which expressly declares that DOE encourages voluntary cooperation with its investigations. Although DOE intends to retain its current policy of welcoming voluntary cooperation, it will not permit enforcement proceedings to be overly delayed by prolonged efforts to obtain voluntary cooperation.

III. COMMENT PROCEDURES

A. WRITTEN COMMENTS

You are invited to participate in this proceeding by submitting data, views or arguments with respect to the issues set forth in this Notice. Comments should be submitted to the address indicated in the "ADDRESSES" section of the Notice and should be identified on the outside envelope and on documents submitted with the designation "Subpoenas, SRO's and Investigations, Docket No. ERA-R-79-2". You should submit 15 copies. All comments received will be available for public inspection in the DOE Reading Room GA-152, James Forrestal Building, 1000 Independence Avenue S.W., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. We will consider all comments received by March 21, 1979, 4:30 p.m.

You should identify separately any information or data you consider to be confidential and submit them in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat them according to our determination.

B. PUBLIC HEARING

Although it has been determined that opportunity for public hearing is not required by Section 501 of the Department of Energy Organization Act, a public hearing as described below will be held to facilitate full development of the proposed regulations.

1. *Requesting opportunity for oral statement.* The times and places for the hearing are indicated in the "DATES" and "ADDRESSES" sections of this notice. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the first business day following the date therefor shown above.

You may make a written request for an opportunity to make an oral presentation at the hearing. You should be prepared to describe the interest concerned; if appropriate, to state why you are a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., February 2, 1979, and must submit 100 copies of your statement before 4:30 p.m., February 15, 1979. Statements for the public hearing should be sent to the Office of Public Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-79-2, 2000 M Street N.W., Washington, D.C. 20461.

2. *Conduct of the hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Questions to be asked of any person making a statement at the hearing may be submitted to the Office of Public Hearings Management at the above address before 4:30 p.m., February 14, 1979. You may also submit any questions, in writing, to the presiding officer at the time of the hearing. The ERA or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing, including the transcripts, will be retained and made available for inspection at the DOE Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase copies of the transcripts from the reporters.

IV. OTHER MATTERS

Since the proposed regulation is not a regulation affecting the quality of the environment, the provisions of Section 7(a) (1) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, have been determined to be inapplicable to this proposal.

We have determined that this proposal will not have a major impact as that term is defined in DOE Order 2030 signed December 18, 1978 (44 F.R. 1040) (January 3, 1979) to implement Executive Order 12044, and, therefore, no regulatory analysis pursuant to Executive Order 12044 is required.

Pursuant to the requirements of Section 404 of the Department of Energy Organization Act (Pub. L. 95-91), upon issuance of these proposed amendments, a copy of this Notice will be referred to the Federal Energy Regulatory Commission for a determination, in its discretion, whether these proposed amendments may significantly affect any function within the Commission's jurisdiction pursuant to Section 402(a) (1), (b) and (c) (1) of that Act. The Commission will have until March 21, 1979, the date the public comment period closes, to make this determination.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Supply and Environmental Coordination Act of 1974, Pub. L. 93-319, as amended; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 205 and Part 210 of Chapter II, Title 10 of the Code of Federal Regulations, are proposed to be amended as set forth below.

Issued in Washington, D.C., January 15, 1979.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

1. Section 205.8 is amended to read as follows:

§ 205.8 Subpoenas, special report orders, oaths, witnesses.

(a) In this section the following terms have the definitions indicated unless otherwise provided.

(1) "DOE Official" means the Secretary of the Department of Energy, the Administrator of the Economic Regulatory Administration, the Administrator of Energy Information Administration, the General Counsel of the Department of Energy, the Special Counsel for Compliance, the Director of the Office of Hearings and Appeals, any person authorized to issue a subpoena of SRO under this section, or the authorized delegate agent of any of the foregoing officials, who issues a subpoena or SRO pursuant to this section.

(2) "SRO" means a Special Report Order issued pursuant to Subsection (b) of this section.

(b)(1) In accordance with the provisions of this section and as otherwise authorized by law, a DOE Official may sign, issue and serve subpoenas; administer oaths and affirmations; take sworn testimony; compel attendance of an sequester witnesses; control dissemination of any record of testimony taken pursuant to this section; subpoena and reproduce books, papers, correspondence, memoranda, contracts, agreements, or other relevant records or tangible evidence including, but not limited to, information retained in computerized or other automated systems in possession of the subpoenaed person. Unless otherwise provided by Subpart O, the provisions of this section apply to subpoenas issued by the Office of Hearings and Appeals with respect to matters in proceedings before it.

(2) A DOE Official may issue a Special Report Order requiring any person subject to the jurisdiction of the ERA to file a special report, including but not limited to written answers to specific questions. The SRO may be in addition to any other reports required by this chapter.

(3) The DOE Official who issues a subpoena or SRO pursuant to this section, for good cause shown, may extend the time prescribed for compliance with the subpoena or SRO and negotiate and approve the terms of satisfactory compliance.

(4) Prior to the time specified for compliance, but in no event more than 10 days after the date of service of the subpoena or SRO, the person upon whom the document was served may file a request for review of the subpoena or SRO with the DOE official who issued the document. The DOE Official then shall forward the request to his supervisor who shall provide notice of receipt to the person requesting review. If the subpoena or SRO is not modified or rescinded within 10 days of the notification date, the subpoena or SRO shall be effective as issued.

(5) There is no administrative appeal of a subpoena or SRO.

(c) (1) A subpoena or SRO shall be served upon a person named in the document by delivering a copy of the document to the person named.

(2) Delivery of a copy of the document to a natural person may be made by:

(i) Handing it to the person;

(ii) Leaving it at the person's office with the person in charge of the office;

(iii) Leaving it at the person's dwelling or usual place of abode with a person of suitable age and discretion who resides there;

(iv) Mailing it to the person by registered or certified mail, at his last known address; or

(v) Any method that provides the person with actual notice prior to the return date of the document.

(3) Delivery of a copy of the document to a person who is not a natural person may be made by:

(i) Handing it to a registered agent of the person;

(ii) Handing it to any officer, director, or agent in charge of any office of such person;

(iii) Mailing it to the last known address of any registered agent, officer, director, or agent in charge of any office of the person by registered or certified mail, or

(iv) Any method that provides any registered agent, officer, director, or agent in charge of any office of the person with actual notice of the document prior to the return date of the document.

(d) (1) A witness subpoenaed by the DOE shall be paid the same fees and mileage as paid to a witness in the district courts of the United States.

(2) If in the course of a proceeding conducted pursuant to Subparts M or O, a subpoena is issued at the request of a person other than an officer or agency of the United States, the witness fees and milage shall be paid by the person who requested the subpoena. However, at the request of the person, the witness fees and mileage shall be paid by the DOE if the person shows:

(i) The presence of the subpoenaed witness will materially advance the proceeding; and

(ii) The person who requested that the subpoena be issued would suffer a serious hardship if required to pay the witness fees and mileage.

The DOE Official issuing the subpoena shall make the determination required by this subsection.

(e) If any person upon whom a subpoena or SRO is served pursuant to this section, refuses or fails to comply with any provison of the subpoena or SRO, an action may be commenced in the United States District Court to enforce the subpoena or SRO.

(f) (1) Documents produced in response to a subpoena shall be accompanied by the sworn certification, under penalty of perjury of the person to whom the subpoena was directed that (i) a diligent search has been made for each document responsive to the subpoena, and (ii) each document responsive to the subpoena is being produced unless withheld on the grounds of privilege pursuant to subsection (g).

(2) Any information furnished in response to an SRO shall be accompanied by the sworn certification under penalty of perjury of the person to whom it was directed or his authorized agent who actually provides the information that (i) a diligent effort has been made to provide all information required by the SRO, and (ii) all information furnished is true, complete, and correct unless withheld on grounds of privilege pursuant to subsection (g).

(3) If any document responsive to a subpoena is not produced or any information required by an SRO is not furnished, the certification shall include a statement setting forth every reason for failing to comply with the subpoena or SRO.

(g) If a person to whom a subpoena or SRO is directed withholds any document or information because of a claim of attorney-client or other privilege, the person submitting the certification required by paragraph (f) of this section also shall submit a written list of the documents or the information withheld indicating a description of each document or information, the date of the document, each person shown on the document as having received a copy of the document, each person shown on the document as having prepared or been sent the document, the privilege relied upon as the basis for withholding the document or information, and an identification of the person whose privilege is being asserted.

(h) Upon written request any person served with a subpoena or SRO shall be notified as to the general purpose for which any testimony, information or documentary material is sought.

(i) (1) If testimony is taken pursuant to a subpoena, the DOE Official shall determine whether the testimony shall be recorded and the means by which the testimony is recorded.

(2) A witness whose testimony is recorded may procure a copy of his testimony by making a written request for a copy and paying the appropriate fees. However, the DOE official may deny the request for good cause. Upon proper identification, any witness or his attorney has the right to inspect the official transcript of the witness' own testimony.

(j) The DOE Official may sequester any person subpoenaed to furnish documents or give testimony. Unless permitted by the DOE Official, neither a witness nor his attorney shall be present during the examination of any other witnesses.

(k) (1) Any witness whose testimony is taken may be accompanied, represented and advised by his attorney as follows:

(i) Upon the initiative of the attorney or witness, the attorney may advise his client, in confidence, with respect to the question asked his client, and if the witness refuses to answer any question, the witness or his attorney is required to briefly state the legal grounds for such refusal; and

(ii) If the witness claims a privilege to refuse to answer a question on the grounds of self-incrimination. The witness must assert the privilege personally.

(l) The DOE Official shall take all necessary action to regulate the course of testimony and to avoid delay and prevent or restrain contemptuous or obstructionist conduct or contemtuous language. DOE may take actions as the circumstances may warrant in

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regard to any instances where any attorney refuses to comply with directions or provisions of this section.

2. Section 205.201 is amended to read as follows:

§ 205.201 Investigations.

(a) The DOE may initiate and conduct investigations relating to the scope, nature and extent of compliance by any person with the rules, regulations or statutes of the DOE or any order, court decree or agency action relating thereto.

(b) Any duly designated and authorized representative of DOE has the authority to conduct an investigation and to take such action as he deems necessary and appropriate to the conduct of the investigation including any action pursuant to § 205.8

(c) There are no parties, as that term is used in adjudicative proceedings, in an investigation under this subpart, and no person may intervene or participate as a matter of right in any investigation under this Subpart.

(d) Any person may request the DOE to initiate an investigation pursuant to paragraph (a) of this section. A request for an investigation shall set forth the subject matter to be investigated as fully as possible and include supporting documentation and information. No particular forms or procedures are required.

(e) Any person who is requested or compelled to furnish documentary evidence or testimony in an investigation, upon written request, shall be informed of the general purpose of the investigation.

(f) DOE shall not disclose information or documents that are obtained during any investigation unless (1) DOE directs or authorizes the public disclosure of the investigation; (2) the information or documents are a matter of public record; or (3) disclosure is not precluded by the Freedom of Information Act, 5 U.S.C. 552 and 10 CFR Part 1004. A request for confidential treatment of information Act for purposes of the Freedom of Information shall not prevent disclosure by DOE if disclosure is determined to be in the public interest and otherwise permitted by law.

(g) During the course of an investigation any person may submit at any time any document, statement of facts or memorandum of law for the purpose of explaining the person's position or furnish evidence which the person considers relevant to a matter under investigation.

(h) If facts disclosed by an investigation indicate that further action is unnecessary or unwarranted, the investigative file may be closed without prejudice to further investigation by the DOE at any time that circumstances so warrant.

§ 210.91 [Deleted]

3. Section 210.91 is deleted.

§§ 205.180—205.185 [Deleted]

4. Sections 205.180 through 205.185 are deleted.

[FR Doc 79-1906 Filed 1-18-79; 8:45 am]

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federal register

FRIDAY, JANUARY 19, 1979
PART VIII



ENVIRONMENTAL PROTECTION AGENCY

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FEDERAL PESTICIDE ACT OF 1978

Implementation Plan and Preliminary Solicitation of Views

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1039-4; OPP-00083]

FEDERAL PESTICIDE ACT OF 1978

Implementation Plan and Preliminary Solicitation of Views

AGENCY: Environmental Protection Agency (EPA or Agency), Office of Pesticide Programs.

ACTION: Agency's plan for carrying out the Federal Pesticide Act of 1978, and solicitation of views.

SUMMARY: On September 30, 1978, the President signed into law the Federal Pesticide Act of 1978 (Pub. L. 95-396, 92 Stat. 819) amending the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq. This notice summarizes the changes these new amendments will effect in the FIFRA, and the Agency's general plan and timing for implementing them. Any comments on the Agency's general approach in addressing issues and implementation plans are invited.

DATES: Comments on this notice should be submitted by February 21, 1979.

ADDRESS: Address all comments to Federal Register Section, Program Support Division, (TS-757), Office of Pesticide Programs EPA, 401 M Street, SW., Washington, D.C. 20460. Comments received will be available for public inspection in Room E-401, Waterside Mall East Tower, 401 M Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Ms. Susan H. Sherman, Chief, External Affairs Unit (TS-766), (see mailing address above), telephone 202/775-8020.

SUPPLEMENTARY INFORMATION: The following information describes the legislative history of the Federal Pesticide Act of 1978, the legislation itself, and a section-by-section implementation plan.

LEGISLATIVE HISTORY

In March of 1977, the Administrator of EPA testified before the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry that the pesticide registration and reregistration program was in need of modification and streamlining, requiring statutory amendment as well as administrative changes. The Administration shortly thereafter presented for the Committees' consideration a proposed bill intended to significantly alter the pesticide law. The objectives of the Administration bill were to provide greater flexibility to the Agency in regulating pesticides, eliminate inequitable aspects of the registration process, and provide a framework for a simpler, more focused registration and reregistration program. These issues were explored in testimony by EPA, the States, the pesticide-producing industry, farm and other user organizations, and environmental groups during hearings held in the spring and summer of 1977.

On July 29, 1977, the Senate passed S. 1678, a comprehensive bill designed to remedy the problems identified by the Administration and the other parties who presented views. The House, after holding further hearings, passed H.R. 8681 on October 31, 1977. The House bill contained some of the same basic elements of the Senate bill (although treating some of the issues differently) and added other unique provisions. A Conference Committee convened in April 1978 and issued a Conference Report on September 12, 1978. The Conference bill was adopted by the Senate on Septemberr 18, 1978, by the House on September 19, 1978, and was signed into law on September 30, 1978.

DESCRIPTION OF THE LEGISLATION

The FIFRA has been the primary vehicle for regulating pesticides since 1947. Uniti 1972, the law was focused on the proper labeling of pesticide products shipped in interstate commerce. In 1972, however, Pub. L. 92-516 strengthened the law considerably, changing it from a labeling law to a comprehensive regulatory statute. The 1972 amendments reflected the public concern about potential adverse health impacts of pesticides only then becoming apparent, the need to adequately assess the "reasonableness" of the risks posed by these products and to permit continued sale and use of those products found to not pose unreasonable risks. Pub. L. 92-516 charged EPA with the responsibility not only for requiring adequate premarket data review of new products, but also for reexamining previously registered products, and reregistering those which continue to meet today's safety standards.

The Agency encountered numerous obstacles in attempting to carry out the registration responsibilities imposed by the 1972 law. Registration came to a near standstill due to ongoing litigation over use of one company's data by another, and because for many products data sufficient to meet today's data requirements have not yet been generated. At the same time, however, the law allowed earlier-registered products, identical to those for which registration is now sought, to remain on the market pending reregistration, giving rise to a "double standard" among manufacturers of like products. The new legislation recognizes and remedies the inequities of the present system, and permits some far-reaching changes in the registration program which will simplify the regulation of pesticides in this country.

The new law incorporates several important features considered by the Administration and Congress to be laudable goals of contemporary environmental legislation:

- Regulatory reform—lessening burdens on the private sector and simplifying the regulatory process;
- Decision making in the "sunshine"—making the Agency's information base accessible to the public; and
- Direction of resources to highest priority health and safety questions.

1. *Registration.* Several major provisions of the legislation significantly affect the registration process. These provisions authorize EPA to:

•Issue conditional registrations, to expedite the registration process, and give the Agency and the industry greater flexibility in fulfilling data requirements.

•Develop generic pesticide standards for each pesticide active ingredient encompassing all of its approvable formulations and uses. The Agency in the future will adopt a chemical-by-chemical approach to registration rather than the current product-by-product approach.

•Classify registered pesticides for restricted use by regulation prior to full reregistration.

•Waive the finding of efficacy, reducing data requirements to industry, allowing the marketplace to determine efficacy, and allowing the Agency to devote its limited resources primarily to the assessment of health and safety questions.

The Agency plans to review all pesticides currently on the market chemical-by-chemical over the next 10-15 years, and to develop a generic standard (basically a profile of formulations and uses which the Agency has determined will not pose unreasonable adverse effects on humans or the environment) for each pesticide active ingredient. This process involves the review and validation of all data in EPA files, the identification and filling of data gaps by registrants, and the reregistration of currently registered products which are approvable under the standard. Conditional registration will under sections 3(c)(7) (A) and (B) serve as a bridge to generic standards involving "old" chemicals over a 10-15 year period. In other words, a product will be conditionally registered until the generic standard for its active ingredient is developed, after that time, it will be reregistered unconditionally if it is in compliance with the new

standard. Conditional registration will be used after a standard is developed only when the Administrator imposes a new data requirement in order to allow applicants an appropriate amount of time to meet the new requirement.

Under section 3(c)(7)(C) of the Act EPA is also authorized to issue conditional registrations for new chemicals under certain special circumstances. These include cases where the early registration is in the public interest as a substitute for an RPARed or cancelled pesticide, would provide control for a pest now having no adequate control or would provide other socially beneficial effects.

An important change in thrust of the registration program expressed by the Administration during the legislative process is the rejection of a piecemeal approach to data consideration for individual registration actions, which wastes both Agency resources and applicant effort. This change in philosophy underlies both the generic standards (reregistration) program and the conditional registration program. The Agency will use all relevant data available in establishing generic standards. The standard will not be based on one item of data, or five items of data or any particular pieces or combinations of individual items of data—it will be based on *all* data reviewed by the Agency which is pertinent to a finding of no unreasonable adverse effects. The legislative history provides added incentive to adopt this course by endorsing the Agency's proposal to validate data only once for each chemical rather than on a product-by-product basis.

As the Agency explained in Congressional testimony, it has no intention of examining the existing data base on a chemical in reaching conditional registration decisions, for product uses similar or identical to currently registered products. Comprehensive review of this data base will occur systematically with the establishmentof generic standards. Therefore, EPA will be implicitly relying on what is already known (i.e., the existing decision base) about pesticides now on the market in granting conditional registrations; only new data in support of a new use or a new chemical will be actually reviewed and scientifically assessed.

This approach to data consideration will effect changes in the registration process. In the long run, it will result in simpler, more efficient procedures for registrants who apply for registration under an established generic standard, and increased saving of EPA's time and resources since it will make health and safety decisions once for each chemical rather than hundreds of times over for individual applications. The Agency envisions in the future—after the data base has been validated, data gaps have been filled, and generic standards established—a system under which (in most cases) an applicant will certify that his product is in conformance with the standard, will submit only limited product—specific data, and will certify that he has taken the appropriate steps to comply with the data compensation provisions of the Act. Applicants will need to submit substantial data only when they propose new uses, new chemicals or other deviations from the established standard.

In the short run, this approach means that we expect to change the data citation and compensation procedures (discussed in detail below) which may cause some initial, temporary confusion. Because the Agency is relying on its "institutional knowledge" about pesticides, based on all data already in the files, rather than relying on individual ad hoc review of discrete items of data, we are proposing that applicants for conditional registration must rely on (and offer to pay for) all items of data in Agency files pertinent to the active ingredient contained in the product for which registration is sought, if those data are the kinds of data required under today's criteria to support the *initial* registration of such a product. These procedures are contained in draft conditional registration regulations now out for public review. During the interim three options are available to the registrant which are detailed in PR Notice 78-5, issued on December 8, 1978. In any case, the universe of data for which any registrant must actually pay compensation is limited by three primary factors: (1) The 1970 cut-off date for compensation in the statute; (2) the Agency's waiver of efficacy data requirements for many use patterns; and (3) the separation between data on technical active ingredients and formulated products for compensation purposes. These factors are discussed in the following section and in number 2 below.

2. *Data Sharing and Disclosure.* The degree of control over data any registrant should be allowed to maintain after the data are submitted to EPA to support a pesticide registration was a major issue in developing the new legislation.

The two principal concepts discussed by the Conferees were: (1) Compensation for data (registrants who rely on data submitted by another must pay the submitter compensation for use of that data) and (2) exclusive use of data (data submitter has the right to allow or deny use of data by other registrants, at his discretion). The compromise struck by the Conferees combines part of each of these concepts.

The new law provides for compensation for data for a period of 15 years after submission for active ingredients in already-registered pesticides ("old" chemicals). That provision applies to data already in EPA files, and to new data which will be required by EPA in the future to maintain registrations of "old" active ingredients ("defensive data"). The compensation requirement does not apply to data submitted prior to 1970 (nor did it under the prior law).

The Federal Pesticide Act further provides that data pertaining to a pesticide containing a new active ingredient in a product first registered after September 30, 1978, will be entitled to exclusive use protection for 10 years after the date of initial registration. Any data supporting new uses of such new active ingredients will enjoy whatever period of exclusive use is still in effect from the initial registration. Exclusive use will in no case apply to defensive data.

Any disputes between registrants over the amount of compensation will be resolved by binding arbitration under the rules of the Federal Mediation and Conciliation Service. The old FIFRA provided that the EPA Admin-

istrator would decide such disputes by formal adjudication with opportunity for court review.

A new concept in cost sharing is also introduced by the Federal Pesticide Act of 1978. Some of the data required for registration are generated by tests on the active ingredient or technical product alone, while others are conducted with the pesticide product as formulated. The new cost sharing concept recognizes this fact by assigning costs of data on active (technical) ingredients to registrants of such ingredients and costs of data on formulated products to registrants of formulated products. In other words, compensation will operate horizontally between registrants competing at the same market level, not vertically between registrants at different market levels. The Act specifies that formulators (who purchase registered active ingredient chemicals for use in making end-use products) will not have to pay separate compensation to producers of the active ingredients for data concerning the safety of the active ingredients, beyond that amount of compensation implicit in the price of purchased technical materials. This provision should reduce the administrative and financial problems of formulators who no longer will be obliged to separately compensate producers of active technical ingredients for use of their expensive long term safety testing data submitted to EPA.

The law also clarifies the degree to which data underlying Agency regulatory decisions should be accessible to the public. It reflects the agreement of the Administration and the Congress that most data underlying EPA's decisions on pesticide regulation should be routinely available to the general public, so they can review Agency decisions. Bona fide trade secrets, however, such as confidential formula, manufacturing process, quality control processes, and production and sales data, will not be routinely releasable to the public. (These data can be disclosed in certain circumstances, if procedural safeguards are followed.)

The Act also provides that representatives of multinational pesticide producers will not have access to data otherwise available to the public. This prohibition was introduced because Congress was concerned about the impact of use of data overseas on international competition, when compensation provisions would not pertain. However, data pertaining to a pesticide which is the subject of an intensive public review proceeding (e.g., rebuttable presumption against registration, suspension, or cancellation) will be accessible to multinational companies in order to assure complete public accessibility to the data, and in order to permit such companies to participate in the proceedings.

3. *State responsibilities.* The Federal Pesticide Act provides additional flexibility and authority to States in two areas: State registrations for special local needs, and primary use enforcement authority. The States played a very active role in the legislative process, and the amended Act provides expanded responsibilities for States in permitting uses of pesticides and ensuring their proper use within State boundaries.

4. *Other changes.* The new legislation defines "use inconsistent with the label"; imposes new requirements on exporters of pesticides cancelled or never registered in the United States; mandates the priority reregistration of food use pesticides insofar as practicable; confirms the Agency authority to certify applicators in States without approved plans; directs the Agency to consider restriction of a pesticide as an alternative to cancellation; requires an agricultural impact statement for any regulations promulgated under the Act; directs EPA to work with USDA in developing a list of agricultural pests; requires an annual report on conditional registrations issued over the previous year; and directs the Agency to conduct special studies on ultra-low-volume pesticide applications; minor use pesticides, and the possibility of charging fees for pesticide registrations.

Description of Each Section and Implementation Plan

Most of the provisions of the Federal Pesticide Act of 1978 are immediately effective. Plans to issue regulations to further define Administrative procedures which are not clear under the statute or as required by the statute are noted.

The Administrative Procedure Act, 5 U.S.C. 552-553, requires that Agency rules of general applicability and future effect be published in the Federal Register. Thus, when the Agency determines that in the future it will implement a provision of FIFRA in a certain uniform manner, it will publish an explanation of its intended manner of implementing the Act as a rule or general policy statement, as appropriate. Additionally, various changes in existing Agency regulations will be necessary to conform the regulations to the new provisions of FIFRA. Regulations will be promulgated in accordance with Executive Order 12044, with opportunity provided for public comment and participation.

A description of each section of the Federal Pesticide Act and a discussion of the Agency implementation plans follow.

1. *Definitions* (effective immediately; amendment to § 7 regulations to follow).

Section 1 of the new amendments defines for the first time the phrase, "to use any registered pesticide in a manner inconsistent with its labeling," as meaning any use not permitted by labeling with the exception of four specific use practices as well as any uses otherwise authorized by other sections of the Act, and permits the Administrator to find other uses "consistent" which are not in literal accord with the label. It is the Agency's view that this definition is effective immediately, and does not require implementing regulations. EPA will publish a Federal Register notice formally rescinding those Pesticide Enforcement Policy Statements (PEPS) which were rendered obsolete by the new law. In addition, the Agency plans to develop regulations, to be published in the Federal Register establishing procedures for declaring other uses which are not in literal accord with labeling in the future to be "consistent" with the purposes of the Act.

The new legislation also specifies that an applicator of pesticides who follows label directions and applies registered pesticides as a service to control pests is not a seller or distributor of pesticides, changes the definition of "commercial applicator," and clarifies the term "producer." Because these are but three of several sections affecting certain applicators, a concise description of all changes in this area should be clearer than piecemeal attention. That discussion is found in number 17 below.

Section 1 of the new amendments also amends the definition of "Establishment" in the Act to include "any place where a pesticide or device *or active ingredient used in producing a pesticide*" (new words italicized). This new definition will require a change in the § 7 regulations, "Registration of Establishments."

Two other changes in definitions concern exporters of pesticides and ultra-low-volume pesticide application, which will be discussed in numbers 18 and 27 below respectively.

2. *Use of data* (effective immediately, regulations to follow).

(a) *Compensation and exclusive use.* Section 2 of the new legislation amends § 3(c)(1)(D) of the FIFRA to specify how data submitted by one registrant can be used for registration purposes by subsequent applicants. The general scheme envisioned by the amendments (i.e., 15 years of compensation from the date of submission of data, and 10 years of exclusive use from the date of first registration of future new pesticides containing new active ingredients) has been discussed above.

Draft 3(c)(1)(D) regulations have been publicly available since October 5, 1978, and have been discussed in a public meeting November 6, 7, and 8 in Washington. The Agency plans to issue final regulations by February 1979 in conjunction with the regulations implementing conditional registrations (discussed in number 6 below).

The new procedures dealing with compensation and exclusive use are effective now, and will be clarified in regulations. Thus, for all registrations issued after September 30, 1978, registrants must comply with the compensation and exclusive use portions of the Federal Pesticide Act of 1978. This means that in addition to furnishing to EPA a statement offering to pay reasonable compensation when applicable as in the past, applicants must also write directly to the submitters of data pertinent to their registration, and EPA must be notified by the applicant that the data submitters have been contacted.

In addition, data on a new active ingredient first registered after September 30, 1978, will be entitled to 10 years exclusive use from the date of the original registration, and can be used by subsequent applicants only with the express permission of the data submitter.

The Agency procedures for implementing compensation for data and other changes to the registration process which are applicable between the enactment of the new amendments and the effective date of regulations is explained in detail in PR Notice 78-5, available from the Registration Division, Office of Pesticide Programs (TS-767), EPA, Washington, D.C. 20460.

(b) *Compensation disputes.* The concept of required sharing of data and compensation is not new. The 1972 and 1975 FIFRA amendments provided for reasonable compensation of owners of data submitted in support of product registration when those data were used by subsequent applicants to support additional registrations. Disputes over the appropriate amount of compensation were to be settled by the Administrator, and reviewable in the court.

The new amendments substantially change the procedures for settling disputed compensation issues arising from registrations issued after September 30, 1978. Henceforth, disputes will be resolved by binding arbitration under the auspices of the Federal Mediation and Conciliation Service. The findings and determinations of the arbitrator shall be final and conclusive, and not subject to judicial review except upon verified complaint of fraud, misrepresentation or other misconduct. However, claims resulting from registrations issued prior to enactment of the new amendments will be settled in accordance with the old procedures unless the parties mutually elect to use binding arbitration or otherwise resolve their disputes.

As under the old Act, the law directs that the Agency need not wait until a compensation dispute is resolved to issue a registration to an applicant who has offered to pay compensation. The Act provides that if the Administrator determines that the original data submitter has failed to participate in binding arbitration or failed to honor the terms of the arbitration, the submitter forfeits his rights to compensation. On the other hand, the Act provides that the Administrator shall deny or cancel the registration without any further hearing if the applicant fails to enter into arbitration or fails to honor an arbitration decision. In either case EPA will advise the party of the intended action by certified mail, and will allow 15 days for response before taking action.

3. *Minor uses* (effective immediately; policy statement of current practice; regulations as part of guidelines).

The new legislation directs the Administrator to consider the anticipated extent of use, pattern of use, and the level and degree of potential exposure to the pesticide in determining appropriate data requirements for registration. The Agency will review the regulations governing data requirements in light of this amendment; in the interim, EPA will issue a general policy statement on various aspects of the minor use problem, including the relationship of registration to the tolerance setting procedures of the Federal Food, Drug, and Cosmetic Act (FFDCA), in the Federal Register in the next month. In addition, the Agency will complete a report to Congress by June 30, 1979 (see number 25 below) regarding the minor use problem.

As a result of these analyses, EPA may well find areas where changes in regulations are necessary and appropriate. The most likely examples involve the specification of data requirements in the Registration guidelines. Regulations will be issued to reflect such changes in data requirements as needed.

4. *Simplified registration* (Act mandates regulations within 9 months; exemption for data citation effective immediately).

As noted above, one of the innovations in the new legislation is the concept of limiting direct compensation transactions according to whether safety data are generated on the active ingredient or formulated product. This provision is effective immediately, and is discussed in the data compensation registration regulations which are scheduled to be completed by February 1979.

It was also in the context of this limitation on compensation transactions that the Committees discussed the generic approach to registration. As EPA testimony explained, "* * * it has become increasingly clear that we are spending far too much time on individual end-use formulation applications, and that the whole structure for registration needs to be focused primarily on the chemicals themselves rather than thousands of individual applications for products containing mixtures of chemicals. Section 1 of our bill would facilitate that restructuring. We envision a system in which it is the technical material which becomes the focal point for registration, with the bulk of the safety data obtained from manufacturing-use, rather than end-use, registrations." Section 1 of the administration bill—the "generic pesticides standards" amendment—is embodied in § 4 of the Federal Pesticide Act of 1978. The Agency plans to publish a Federal Register notice within the next month describing how EPA will go about the development of generic standards and the reregistration program.

5. *Efficacy waiver* (effective immediately; waiver to be stated in conditional registration regulations preamble; amendment to § 3 regulations to follow as needed.)

The new legislation allows EPA to waive submission of efficacy data and to register a product without a determination that the pesticide's composition is such as to warrant claims of efficacy. EPA sought this amendment in order to concentrate limited Agency resources in the health and safety area, and because efficacy demonstrations in the laboratory or in field trials do not necessarily remain valid for very long, because of regional climatic situations, crop production technology changes and pest resistance factors. In order to implement the efficacy waiver provision, the Agency will incorporate a new efficacy waiver policy in the conditional registration regulations (see number 6 below). As a general rule, efficacy data will continue to be required in cases in which a human health impact could result from ineffectiveness of the product. The Conference Committee Report also gives EPA the option of waiving review of efficacy data if needed to determine efficacy of a product if the Agency has established data requirements and test protocols for such a product, if the required data are submitted and if the applicant provides a certified summary stating the product meets the efficacy requirements.

Congress, USDA, industry, and user groups have generaly applauded the concept, but some States and other in-

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terested parties believe it will signal an open season to fly-by-night operators who will defraud the public. Since this is a major deregulation action, EPA will consider it an experiment in social policy and EPA, in cooperation with the Experimental Technology Incentives Program of the National Bureau of Standards, will monitor the impacts of the efficacy waiver policy to determine if:

• Consumer fraud increases;

• Consumer fraud is effectively reported and curtailed through existing market institutions including State regulation processes, USDA and the Extension Service, farmers associations, and the marketplace;

• Reductions in data requirements have any impact on innovation in the pesticide industry;

• Expected Agency resource savings (because of reduced data review) are realized.

6. *Registration under special circumstances* (effective immediately; regulations to follow).

The Agency believes that this provision will provide the greatest relief to pesticide formulators and users, and also believes it has a commitment to the Congress to implement this program immediately. Coupled with new data use and trade secret provisions, it will remove the double standard that has existed for three years and has caused the rejection of numerous applications. EPA is therefore planning to issue interim final regulations which specify the basis on which it will grant conditional registrations for products identical or substantially similar to those already on the market, and for new uses of old (already registered) chemicals. The Agency's current schedule calls for the regulations to be issued by February 1979. Regulations regarding the conditional registration of new chemicals will be proposed 6 to 10 months after the promulgation of interim final regulations pertaining to old chemicals. Any application for a conditional registration of a new chemical will be handled on a case-by-case basis until that time.

The Agency desires to reconcile the need for public participation in the rulemaking process. Thus, in the FEDERAL REGISTER of July 25, 1978, EPA announced its intention to issue final regulations governing conditional registration of old and new uses of old chemicals without first formally proposing regulations. This expedited procedure, authorized by § 553(b)(3)(B) of the Administrative Procedure Act, is considered necessary due to the serious hardship being experienced by companies in certain segments of the pesticide producing industry who have been essentially deprived of a mechanism to attain registration since 1975. Public comment was solicited. EPA held three days of public meetings on November 6, 7 and 8, during which the public was invited to express views and ask questions about the proposed approach to conditional registration. A draft of the regulations and preamble has been sent out to all interested parties, and is available upon request from Bob Rose, Registration Division, Office of Pesticide Programs (TS-767), EPA, 401 M Street, SW., Washington, D.C. 20460.

Section 6 of the new law also prohibits the Agency from initiating an interim administrative review process (i.e., a notice of rebuttable presumption against registration) unless it is based on "a validated test or other significant evidence." The Act also directs the Agency to define those terms in the FEDERAL REGISTER.

The Agency will shortly publish a FEDERAL REGISTER notice in compliance with this requirement.

7. *Classification prior to reregistration; change in classification from restricted use to general use* (effective immediately; regulations required; partially issued)

The new amendments authorize classification of pesticides by regulation, prior to full reregistration.

The first 23 pesticide active ingredients having restricted uses were classified in this manner (final regulations were published on February 9, 1978, in the FEDERAL REGISTER (43 FR 5783)) and the Agency published on January 9, 1979, proposed rulemaking in the FEDERAL REGISTER to classify uses of an additional 14 active ingredients.

The Act now provides that a registrant may petition the Agency to change a classification from restricted use to general use. The Agency is directed to act upon such a petition within 60 days after receipt; any denial of such a petition by the Administrator will be subject to judicial review under § 16 of FIFRA. The Agency will modify its current regulations to accommodate the procedures to be used in petitioning for such change.

8. *Priority of food uses in reregistration* (effective immediately).

The new amendments direct EPA to reregister food use pesticides on a priority basis to the extent practicable. The Agency's compliance with this provision will be discussed in the forthcoming generic standards notice which will explain the rationale for and describe the generic standards approach. The notice will be submitted to USDA and the Scientific Advisory Panel for review and comment.

9. *Certification in States without approved plans* (effective immediately; regulations to follow).

The new amendments give the Administrator explicit authority to certify applicators who intend to purchase and use restricted use pesticides in States which do not have approved plans. Although the 1972 FIFRA was silent on the question of the consequences of a State's not having an approved plan for certification purposes, EPA believed all applicators should have the opportunity to come into compliance with the statute. EPA thus decided to provide a program in the absence of State action. Federal programs have been instituted in the States of Nebraska and Colorado, and the procedures followed in those States were consistent with the requirements of the new law, i.e., consultation with the Governor, publication of the plan in the FEDERAL REGISTER, and opportunity for a hearing in the State. The 1978 amendments also provide that EPA may by regulation require record keeping by commercial applicators in those States in which a Federal certification program is conducted. The Agency will amend current regulations as necessary to accomplish this.

10. *Experimental Use Permits* (effective immediately; Act requires final § 5(f) regulations).

The new amendments direct the Agency to review applications for experimental use permits within 120 days, and to issue regulations implementing § 5(f) of the FIFRA authorizing States to issue experimental use periods to support State registrations under § 24(c) of the Act.

The Agency will continue to review applications for experimental use permits as quickly as possible and expects that such review will be completed in less than 120 days in most cases. It would be of great assistance to EPA if applicants would submit applications at regular intervals throughout the year, rather that inundating the Agency with applications shortly before the growing season for which experimental use is sought.

Regarding § 5(f) regulations, proposed regulations were published for comment on September 3, 1975 (40 FR 40545). The Agency is planning to publish final regulations in the FEDERAL REGISTER in the next six months.

11. *Alternative to cancellation* (effective immediately; no regulations required).

The new amendments direct the Agency to consider restriction of a pesticide as an alternative to cancellation. One of the benefits of the restricted use/certified applicator program has always been to retain uses of pesticides which would otherwise have to be cancelled unless used by knowledgeable applicators. For example, the Agency modified an earlier cancellation decision to allow use of sodium cyanide in the M-44 device with additional restrictions on who may use the device, where and in what situations.

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Likewise when the Agency suspended registrations of products containing dibromochloropropane (DBCP), the suspension action did not apply to certain DBCP products if the products' registrations were amended to restrict use to certified applicators and appropriate labeling changes to safeguard applicators were made. The viability of this option will depend on a continuing applicator certification program in the future.

12. *Cancellation of conditional registrations* (effective immediately; regulations to follow with conditional registration regulations).

The amendments provide for an expedited cancellation procedure for conditional registrations if the registrant fails to meet the conditions specified at the time of registration. Any hearing pursuant to such a cancellation will be limited to the issue of whether the condition was or was not met, rather than a full risk/benefit determination for the chemical in question. Cancellation procedures will be included in the conditional registration regulation package scheduled for early 1979 completion.

13. *Establishment registration for manufacturers of active ingredients* (effective immediately; amendment of § 7 regulations to follow).

The new bill amends § 7 of FIFRA to require manufacturers of any "active ingredient used in producing a pesticide subject to this Act" to register their establishments with EPA. The Agency will propose an amendment to the § 7 regulations regarding this provision.

The amendments also provide that the names of pesticides or active ingredients used in producing pesticides produced, sold, or distributed at an establishment which are submitted to EPA in accordance with § 7 are not confidential under § 10 of the FIFRA, and are thus available under the Freedom of Information Act.

14. *Inspection of Books and Records* (effective immediately).

Section 14 of the amendments requires any individual conducting an inspection under § 8 of FIFRA to present his or her credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected, to the owner, operator, or agent in charge of the establishment. The amendment also specifies that inspections shall be completed with reasonable promptness.

These requirements have been spelled out in the Pesticides Inspection Manual, which is the procedural guidebook for EPA inspectors. This manual is available to the public through Freedom of Information Act Procedures. All pesticide enforcement personnel in the EPA Regional Offices were advised by memorandum of August 22, 1978, that these procedures would be required by the amendment to FIFRA § 8.

15. *Trade Secrets* (effective immediately; regulations to follow; Act requires regulations on contractor access to trade secret information).

One of the most important amendments sought by the Agency was a clarification in the statute of what information is to be made generally available to the public, and what is to be released only under specified conditions.

The new amendments provide a clear and detailed answer on this point. The Agency may routinely disclose pesticide effects data, including human, animal and plant hazard evaluation data, efficacy data, and environmental chemistry data, after complying with procedures to safeguard data submitters' legitimate rights. Four categories of data are not routinely disclosable: (1) Data on manufacturing and quality control processes; (2) data on methods for testing, detecting, or measuring deliberately added inert ingredients; (3) data on the identity or percentage quantity of deliberately added inerts; and (4) data on production, distribution, sale and inventories of pesticides. However, the Federal Pesticide Act provides that these data may be released under circumstances in which disclosure is necessary to protect health or the environment. Procedures for such release will be covered in regulations which the Agency will be proposing governing the confidentiality of business information.

The Agency may disclose data entitled to confidential treatment to any contractor with the Federal government who is performing work required by the FIFRA. Such disclosure will be made only when requfred so the contractor can successfully complete his work for the government. However, contractors (and their employees) are required to keep such data in confidence and are subject to penalties of up to $10,000 or one year imprisonment for willful or knowing disclosure of any confidential information. In addition, the Agency will be proposing regulations specifically required by the new amendments to prescribe the proper security precautions a contractor must take in order to ensure confidential treatment of data which are trade secrets.

In addition, the new amendments prohibit the Agency from knowingly disclosing *any* data submitted by an applicant or registrant to foreign or multinational pesticide producers or pesticide exporters without consent of the data owner (except, as explained earlier, if the chemical in question is undergoing an intensive public review). The Agency will be developing procedures for data release, including a statement from the party seeking access to the data that he or she does not intend and will not purposefully or negligently deliver such data to foreign or multinational pesticide producers.

As noted, the Agency plans to amend existing regulations governing confidentiality of business information to reflect the changes of FIFRA § 10. However, because the provisions of the Federal Pesticide Act are effective immediately and because the amendment of the existing regulations will take some time in order to afford appropriate opportunity for review and comment, the Agency published a FEDERAL REGISTER notice on December 19, 1978, detailing interim procedures.

16. *Sale of restricted pesticides to an uncertified applicator* (effective upon promulgation of regulations; regulations to be amended).

The Federal Pesticide Act of 1978 amends § 12(a)(2)(F) of FIFRA so that it shall not be unlawful for an individual to sell a restricted use pesticide to an uncertified applicator for application by a certified applicator as authorized in regulations promulgated by EPA. This provision was added to the law to allow uncertified farmers to continue the traditional practice of purchasing pesticides (some of which will be restricted) in advance of actually contracting with an applicator to apply the products. Often this practice results in substantial economic savings to farmers.

Conditions under which this practice may be continued are described in the Preamble to the classification regulations (43 FR 5783, February 9, 1978). The procedures outlined in that preamble will remain in effect until regulations amending the FIFRA § 4 regulations (40 CFR Part 171) are promulgated.

17. *Penalty provisions* (effective immediately).

Several sections of the Federal Pesticide Act of 1978 affect "for hire" applicators, notably the definitions section (§ 1) and the penalty provisions (§ 17).

The new legislation specifies that "any applicator who holds or applies registered pesticides, or use dilutions of registered pesticides consistent with section 2(ee) of this Act, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served is not deemed to be a seller or distributor of pesticides under this Act." For purposes of brevity these applicators referred to above who provide a service of controlling pests, where that service is in whole or in part their occupation, shall henceforth be referred to as "for hire" applicators. Previously, it had

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been EPA's position that "for hire" applicators "distributed" pesticides as a part of their service when they applied them (policy memorandum of March 25, 1976). As distributors, these applicators were held to a higher standard under the law than other users. For example, their place of business and their books and records were subject to administrative inspection and they were liable for higher penalties for misuse of pesticides.

The new Act treats these applicators somewhat differently. "For hire" applicators are no longer to be considered sellers or distributors except in certain circumstances (for example, if they hold or apply an *unregistered* pesticide, or they deliver any unapplied pesticide to the customer). In situations such as these, the applicator would be considered a seller or distributor for any violation of FIFRA, and subject to the higher penalties set forth in § 14(a)(1) and § 14(b)(1).

Section 1 of the new amendments also changes the definition of the term "Commercial Applicator" in section 2(e)(3) of the FIFRA. Previously, the term "commercial applicator" meant "*a certified* applicator who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than [as a private applicator]" (emphasis added). The new Act reads, "The term 'commercial applicator' means *an applicator* • • • who uses or supervises • • •." (emphasis added). In other words, a commercial applicator is no longer defined as being a *certified* applicator. Thus, *any* applicator (except a certified private applicator) who uses or supervises the use of a restricted use pesticide, whether or not that applicator is certified, is a commercial applicator subject to the higher penalties under § 14(a)(1) and § 14(b)(1) of the Act.

Section 1 of the new amendments also specifies that an individual who dilutes a formulated pesticide for his own use in accordance with the label directions cannot be considered a "producer" under the Act.

Section 17 of the new amendments revises §14(a) of the FIFRA regarding civil penalties for violations of the Act. The new amendments, unlike the 1972 FIFRA, differentiate between restricted use and general use pesticides in terms of the maximum fine that a "for hire" applicator can incur. Any "for hire" applicator who violates any provision of FIFRA while holding or applying a registered *general use or unclassified* pesticide is liable for a maximum fine of $500 for the first offense and $1000 for subsequent offenses; the maximum fine for a violation which occurs with a *restricted use* pesticide is $5,000. Previously, the Agency had considered "for hire" applicators subject to a maximum penalty of $5,000 whether they were using general or restricted pesticides.

The new law also recasts a provision of the 1972 Act which directs the Agency to consider the size of the business of the person charged with the violation, the effect on the person's ability to continue in business and the gravity of the violation in determining the size of a civil penalty. The Agency has the discretion to issue a warning in lieu of assessing a civil penalty in situations where a violation occurred "despite the exercise of due care or did not cause significant harm to health or the environment." This amendment, directed principally at misuse violations governed by §12(a)(2)(G), will be taken into account when determining whether to take action under §14 (civil penalties) or § 9(c)(3) (minor warnings for use of a pesticide in a manner inconsistent with labeling). The agency plans to publish a new chart providing guidance on assessing civil penalties in the FEDERAL REGISTER which will take the legislative changes into account.

18. *Pesticides and devices intended for export* (effective within 180 days after enactment; regulations required).

Exporters of pesticides will be significantly affected by the new legislation. Under the 1972 FIFRA, an exporter did not have to meet any labeling or packaging requirements other than those specified by the foreign purchaser. The new amendments, however, specify that a pesticide intended for export will be misbranded if it does not conform to several provisions of § 2 of FIFRA, meaning that exporters have to conform to certain U.S. labeling requirements for the first time. The new amendments also specify that exporters are subject to § 7, establishment registration, as well as § 8, books and records, of the Act.

In addition, labels of pesticides which are not registered in the U.S. and which are intended for export must bear the following statement: "Not Registered for Use in the United States of America." The foreign purchaser must sign a statement acknowledging that he understands that such pesticides are not registered for use in the U.S. and cannot be sold in the U.S. under FIFRA. A copy of the statement must be transmitted to an appropriate official of the government of the importing country.

The amendment also directs EPA to provide foreign nations with information on alternatives to cancelled pesticides upon request. This provision augments the current requirement that EPA notify foreign governments, via the State Department, of all significant pesticide cancellation actions.

The provisions of modifying section 17 of FIFRA regarding labeling for exports, and related § 7 and § 8 requirements, become effective 180 days after enactment (March 29, 1979). EPA will, within that time, notify pesticide registrants and export firms of the new requirements through the FEDERAL REGISTER. The Agency plans to amend to § 8 regulations to accommodate the additional recordkeeping to which exporters will be subjected and to develop procedures for transmittal of the acknowledgement statements.

19. *Disposal* (effective immediately).

The new amendments direct EPA to provide information on pesticide disposal when action is taken to finally cancel a pesticide. The Agency will do so as cancellations occur in the future. A directive to Agency employees will be included in internal procedural manuals.

20. *IPM & Monitoring* (effective immediately).

In accordance with the new amendments, EPA will continue to coordinate programs in integrated pest management (IPM) with the U.S. Department of Agriculture. The Conference Committee's directives on monitoring humans and environmental media for pesticide exposure will be accommodated in the National Monitoring Plan already being developed under § 20 of the 1972 FIFRA.

21. *State Cooperation, Aid, and Training* (effective FY 1980; EPA general grant regulations to follow).

Section 21 of the new bill provides that EPA may enter into cooperative agreements with States and Indian tribes to assist in enforcement of the Act, and to assist in developing and administering State and Indian programs to train and certify applicators.

The legislation also authorizes to be appropriated such funds as necessary for EPA to provide through cooperative agreements an amount equal to 50 percent of the anticipated costs to each State and Indian tribe. If funds sufficient to pay 50 percent are not appropriated, each State's and tribe's share shall be reduced in a like proportion.

EPA is planning to propose regulations in the next 6 months governing general grant procedures for enforcement and certification and training purposes. Development of proposed regulations was nearing completion when the law was amended, and draft regulations are now being revised accordingly. In addition, the Agency will be working closely with the States and Indian tribes in deciding what costs should be included in the 50/50 sharing plan. EPA will ask each State what proportion of Federal funding supports their certification programs, since estimates were available only on National totals rather than a State by State basis at the time the Conferees considered the funding amendment.

The Agency will report its findings to the States and to the House and Senate agriculture committees before the appropriations hearings next spring.

This amendment is an authorization but not a guarantee of appropriations. Funds for each year will still need to be justified and appropriated through the normal budget process.

22. *State Registration for Special Local Needs* (certain portions effective immediately; remainder upon issuance of regulations).

The new legislation amends §24(c) of FIFRA to provide the States with greater flexibility and independence in issuing registrations for "special local needs." There are certain changes in FIFRA §24(c) which are effective immediately upon enactment of the Federal Pesticide Law of 1978. Most notable of these are:

• States no longer need to submit a program for EPA approval in order to obtain permission to issue local needs registrations;

• EPA cannot disapprove a State registration on the basis of lack of essentiality of a pesticide or if its composition and use patterns are similar to those of a Federally registered pesticide (unless such use has been previously denied, disapproved, or cancelled by the Administer.) EPA can, however, disapprove State registrations within a 90-day period if the use pattern or composition is dissimilar to a Federally registered product (and if EPA determines that such a registration would be harmful to health or the environment.) EPA can immediately disapprove registrations for use of a pesticide on a food crop for which there is no established tolerance under the FFDCA, or if the State registration constitutes an imminent hazard.

• EPA must notify States if it intends to disapprove a State registration and provide time for the State to respond.

• States nay register uses not considered, or considered and approved, by EPA in disapproving, cancelling, or denying registration of other uses of such products. Products containing an ingredient subject to an intensive review of risks and benefits (i.e., rebuttable presumption against registration) are also eligible for State registrations if otherwise acceptable under the new amendment.

Because of these changes, and the obvious need for cooperative guidelines, the Agency in consultation with the States has prepared a policy memorandum which addresses the transition period between enactment of the new amendments and development of new §24(c) regulations. This document is now available to the public. Copies may be obtained by writing to Mr. Ralph Colleli, Operations Division, Office of Pesticide Programs (TS-770), EPA, 401 M Street, SW., Washington, D.C. 20460.

Because the new amendments have significantly affected the State registration provisions of the law, the Agency intends to repropose §24(c) regulations in the FEDERAL REGISTER. EPA will work closely with the States through the State FIFRA Issues Research and Evaluation Group in the development of these regulations.

23. *Agricultural vs. non-agricultural uses, agricultural impact statements, Scientific Advisory Panel* (effective immediately.)

Section 23 of the new amendments directs EPA to consider the differences in environmental risk and the appropriate data for evaluating such risk between agricultural and non-agricultural pesticides. This amendment was developed primarily in response to complaints by registrants of household products that EPA does not properly distinguish between the potential risks their pesticides may pose as compared to pesticides used on crops.

EPA has considered the differences in risk potential of various product types in establishing data requirements. The amendment ensures that the Agency will continue to do so in the future.

In a effort to clarify how the Agency in its regulations distinguishes between crop uses and households uses of pesticides regarding data requirements and hazard evalution, EPA will publish a descriptive paper as a Pesticide Regulation notice in Spring 1979.

Section 23 of the new legislation also directs EPA to analyze the impact of regulations promulgated under FIFRA on the agricultural economy, and to publish that analysis in the FEDERAL REGISTER. The Agency will comply with this requirement during the rulemaking process. The Agency has published on July 11, 1978 (43 FR 29891), a proposed plan for improving environmental regulations which require the Agency to analyze all routine regulations for "insights into the potential effects on the economy and on those who are subject to the regulation." Factors to be taken into consideration in these economic analyses are described in that notice.

Regarding the Scientific Advisory Panel, the new legislation extends the termination date of the Panel to September 30, 1981. It also directs the Panel to consult and coordinate its activities with the Science Advisory Board. In addition, §23 of the new bill directs the EPA Administrator to "solicit from the advisory panel comments, evaluations, and recommendations for operating guidelines to improve the effectiveness and quality of scientific analyses made by personnel of the Environmental Protection Agency • • •" We intend to present questions of scientific policy to the Panel as they arise in the future.

24. *State Enforcement, Pest List, Annual Report* (effective as described below).

The Federal Pesticide Act of 1978 adds two new sections to FIFRA (Sections 26 and 27) which outline conditions under which a State will be judged to have primary authority to enforce FIFRA's prohibitions on the misuse of pesticides and the conditions under which EPA can exercise such enforcement responsibilites.

A State has primary use enforcement authority if EPA determines that it has adequate use laws and regulations, has adequate procedures for the enforcement or those laws and regulations, and will keep records and make reports as the Administrator may require by regulation. The new law further provides that any State which has a cooperative enforcement agreement with EPA "automatically" has primary use enforcement authority. It also directs EPA to review State plans submitted in accordance with §4 of FIFRA within six months of the enactment of the amendments to determine if the laws and regulations in those States meet the criteria to grant them the responsibility for primary use enforcement.

Those States that currently have Cooperative Enforcement Agreements with EPA, and thus have "automatic" primary use enforcement responsibilities, are:

Arizona*	Nevada
Arkansas	New Hampshire
California	New Jersey
Connecticut	New Mexico
Delaware	New York
District of Columbia	North Carolina
Guam	Oklahoma
Hawaii	Oregon
Idaho	Pennsylvania
Indiana	Puerto Rico
Iowa	South Dakota
Kansas	Tennessee
Kentucky	Texas
Louisiana	Vermont
Maryland	Virginia
Michigan	Virgin Islands
Mississippi	Washington
Montana	West Virginia

*EPA has a cooperative enforcement agreement with the State's Structural Pest Control Board only. Primary use enforcement responsibility has therefore been delegated only for the structural pest control area. Primary use enforcement responsibility in the agricultural area is retained by EPA.

Those States with no cooperative enforcement agreement and which therefore do not have automatic primary use enforcement responsibility are:

Alabama**	Nebraska
Alaska**	North Dakota**
Arizona**	Ohio**
Colorado	Rhode Island**
Florida**	Samoa
Georgia	South Carolina**
Illinois	Trust Territories
Maine**	Utah**
Massachusetts	Wisconsin**
Minnesota**	Wyoming**
Missouri**	

** States with fully approved § 4 plans.

The Agency will examine the § 4 State plans for the States with fully approved plans to determine whether their enforcement authorities are appropriate to qualify them for primary use enforcement authority. Failure to review such plans within six months will result in automatic State primary use authority for the the unreviewed States.

For those States without either a cooperative enforcement agreement or fully approved § 4 plan, no primary use enforcement responsibility will be conferred until such time as (a) the State's § 4 plan is given full approval by EPA and its enforcement authorities have been reviewed for adequacy, or (b) the State applies for review of its enforcement authorities and EPA finds they are consistent with FIFRA § 26(a).

In addition, the Agency plans to propose regulations to implement the suspension provisions of the new § 27 concerning a State's failure to carry out its primary use enforcement responsibilities. These regulations will address the procedures for referral of complaints to States, define "appropriate enforcement action" and "significant violation of the pesticide use provisions" of the Act describe when an "emergency condition" exists, and outline procedures for rescinding primary use enforcement responsibility as appropriate. These proposed regulations will be developed with cooperation from the States and other interested groups.

Regarding the provision of § 4 of the Federal Pesticide Act of 1978 directing the EPA Administrator to identify agricultural pests in coordination with the Secretary of Agriculture, the Agency plans to solicit the assistance of USDA in this endeavor. EPA anticipates that a list can be developed in 12 months.

The new Act also directs the Agency to submit an annual report to Congress before February 16 of each year beginning in 1979 describing the conditional registrations issued for the previous year. The Agency will comply with this requirement as specified in the legislation.

25. Studies

Section 27 of the Federal Pesticide Act of 1978 directs the Agency to conduct three studies:

(a) Feasibility of charging fees for Federal registration of pesticide products, in order to reduce taxpayer expense. Statutory deadline: nine months after enactment.

(b) Review of all available scientific information dealing with methods of pesticide application, particularly ultra-low-volume application. Statutory deadline: Six months after enactment.

EPA plans to work with the States, USDA, and concerned private industry and environmental groups and user groups on this study. EPA has published (43 FR 54697) a FEDERAL REGISTER notice soliciting comment on the issues believed by the Agency to be the most important to resolution of the safety questions surrounding ultra-low-volume application. The study to Congress will be followed by a regulation or advisory opinion by March 31, 1979. If the Agency fails to issue any regulation or advisory opinion by that date, ultra-low-volume application becomes "consistent" with the label as defined in FIFRA § 2.

(c) An updated review of the problems of minor uses. The Agency will coordinate with the States, the experiment stations, IR–4, and other interested parties in re-examining the minor use area. Statutory deadline: nine months after enactment.

SUMMARY

The following regulations will be developed by the Agency under the Federal Pesticide Act of 1978. Generally speaking, the Agency anticipates proposing new regulations where appropriate within the next 9–12 months. Better estimates will be provided in Advance Notices of Proposed Rulemaking as developed.

Amend § of FIFRA	Per § of FPA	Purpose and Timing
24(c)	22	Repropose State special local needs registration regulations.
3(c)(1)(D)	2	Final regulations on compensation (by February 1979).
3 (addition to)	6	Interim final conditional regulations (by February 1979).
3 (addition to)	4	Simplified registration: line between data requirements for registration of technical materials & formulations (by February 1979).
3 (addition to)	5	Condition of efficacy waiver; conditional registration regulations.
26 & 27 (new)	24	Proposed primary use enforcement regulations.
10	15	Proposed regulations on disclosure of information to the public and to contractors.
3(d)	7	Procedural regulations have been issued (FR February 1978); additional pesticides proposed (FR January 1979).
4	9	Proposed regulations for record keeping for dealers in States without approved plans.
5(f)	10	Final regulations for state experimental use permit authority.
7	13	Proposed amendment to regulations to add producers of active ingredients.
4	16	Proposed amendment to allow sale to uncertified applicators.
6	18	Proposed amendment to include exporters.
2	1	Propose regulation regarding procedures for finding uses "consistent."

The following additional policy statements, FEDERAL REGISTER notices, Pesticide Registration notices, or other public documents will be prepared.

§ of FIFRA	§ of FPA	Purpose and Timing
2	1	Rescind PEPS (Pesticide Enforcement Policy Statement); FR notice by Spring 1979.
17	16	FR notice describing new export requirements by March 29, 1979.
2	1, 27	FR notice published asking for public comment on ULV (Ultra Low Volume); comment period closed December 22, 1978. Study on advisability of ULV (Ultra Low Volume) by March 31, 1979. Regulation or advisory opinion by March 31, 1979.
3	4	FR notice describing generic standards plans in February 1979.
	27	Minor use policy statement by January 1979; Minor use study to Congress by June 30, 1979. Guidelines and/or registration regulations as needed by September 1979.

§ of FIFRA	§ of FPA	Purpose and Timing
3	6	FR notice defining "validated test" and "other significant evidence" in February 1979.
10	15	FR notice regarding trade secret policy published December 19, 1978.
14	17	New civil penalty schedule in FR by Spring 1979.
24(c)	22	Notice detailing transition policy already issued.
25	23	FR (Pesticide Regulation) notice—agricultural vs. nonagricultural by Spring 1979.
26	24	Publish names of States which have automatic authority/which § 4 plans OK by March 29, 1979.
29 (new)	24	Annual conditional registration report beginning February 15, 1979.
	27	Study to Congress on feasibility of registration fees by June 30, 1979.
28 (new)	24	Pest list by October 1, 1979. Will be published for public comment.

Dated: December 18, 1978.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substance.

Dated: January 10, 1979.

MARVIN B. DURNING,
Assistant Administrator for Enforcement.

[FR Doc. 79-1718 Filed 1-18-79; 8:45 am]

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FRIDAY, JANUARY 19, 1979
PART IX



federal register

DEPARTMENT OF LABOR

Employment and Training Administration

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Proposed Rules for Programs under Titles I, II, VI, and VII of the Act

[4510-30-M]

DEPARTMENT OF LABOR

Employment and Training Administration

[20 CFR Parts 675-679]

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Regulations for Programs Under Titles I, II, VI, and VII of the Act

PROPOSED RULEMAKING

AGENCY: Department of Labor.

ACTION: Proposed rules.

SUMMARY: This document proposes new rules at 20 CFR Parts 675-679, implementing provisions of the Comprehensive Employment and Training Act Amendments of 1978 (Public Law 95-524). The purpose of this publication is to request review and comment on these proposed rules.

DATES: Comments on the proposed rulemaking are due on or before February 19, 1979.

ADDRESSES: Comments should be addressed to the Assistant Secretary for Employment and Training, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213. Attention: Robert Anderson, Administrator, Office of Comprehensive Employment Development.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Anderson, Telephone: (202) 376-6254

SUPPLEMENTARY INFORMATION: The Comprehensive Employment and Training Act Amendments of 1978 (Public Law 95-524) was signed into law on October 27, 1978.

The new statute contains, in Section 4, provisions for transition from the programs in operation under the old law to the programs authorized under the new law. To be effective on October 27, 1978 were new eligibility requirements for participation in public service employment activities, and new language amending the criminal provisions in Title 18 of the United States Code providing for prosecution leading to imprisonment for criminal activity for obstruction of investigations.

The transition provisions further required the implementation within 90 days of enactment (that is January 26, 1979) of the new eligibility criteria for participation in all programs, and the limitations on wages and wage supplementation from other funding sources.

Also, the provisions relating to the prevention of fraud and abuse in the program were to be implemented as soon as possible. Both these provisions and the above 90 day requirements were implemented through transitional regulations (Part 93 of the CFR) published in the FEDERAL REGISTER on December 29, 1978, and effective January 26, 1979. During this transition period, the Secretary has the authority to continue operation under the previously applicable regulations, but the new law must be implemented by April 1, 1979.

To accommodate the April 1, 1979, deadline, these proposed regulations are being published for a 30 day review and comment period. This will allow the Department an opportunity to receive and reconcile comments from a nationwide audience prior to publishing final regulations which must be effective on April 1. This publication schedule also serves to orient the CETA system and the general public to the new law, and provides guidance for planning and modifying existing plans in order to comply with the new law.

The regulations included in this publication will amend Chapter 5 of Title 20 of the Code of Federal Regulations by adding parts 675 through 679. Later publications will contain regulations in parts 680 through 695. The regulations included here generally cover Titles I, II, VI, and VII of the Act.

CETA is a combination of programs which are designed to provide specific employment and training services needed to prepare and place eligible individuals in unsubsidized employment.

These different programs share a common administrative bond in Title I of the Act. Those provisions generally applicable to all CETA activity are stated in the initial title of the law and Part 676 of the regulations. Deviations from this are specifically noted as appropriate in the rest of the Act.

The programs include those under Title II of the Act for the structurally unemployed. Training, services, and public service employment in II. D are all allowable activities, but the activities are to be designed to meet the needs of each participant.

Title VI of the Act is designed to provide short term public service jobs to low income persons who are temporarily out of work because of economic conditions causing a contraction of the job market.

Title VII of the Act authorizes new initiatives in developing private sector opportunities for the economically disadvantaged. This includes the involvement of the business community in CETA, and efforts to increase employment opportunities for participants in the private sector.

The presentation of the regulations is patterned on the sequence of the Titles described above, and is based on a grouping of programs according to operator. The programs under Title II, VI, VII, are administered by units of State and Local governments, and accordingly, federal regulations for such programs are being promulgated together.

The development of the regulations has included significant and regular input from different segments of the CETA system. Meetings have been held in Washington, D.C. in August, November, and December with representatives of public interest groups, organized labor, prime sponsors, private industry groups, federal agencies, community based organization and other groups. Meetings have also been held in each region during December with the prime sponsors and interested organizations. These meetings were to review the regulations development process, and the product in draft form to that date.

By including these groups in the process from the beginning, the Department sought to ensure a final product which would be responsive to the needs of the CETA system, and which could be implemented quickly and effectively.

An implicit goal of the process is the publication of regulations which are as easy to use and understand as possible, considering the requirements of the statute and the management needs of the system. This goal has been realized to an extent with the implementation of a comprehensive administrative Part, reducing, and in many cases eliminating, the need for repetition of generally applicable provisions. To the extent possible, jargon has been reduced or eliminated, and the requirements are written in plain and precise English. Cross references within the regulations and to other laws have been kept to a minimum. Sections dealing with participant eligibility, nondiscrimination, and prevention of fraud and abuse have been consolidated for ease of reference.

In proposing these regulations, the Department has purposely undertaken a series of major objectives which are intended to enhance the effectiveness of CETA programs. These include targeting services to those persons most in need; ensuring comprehensive planning and delivery through coordination of the various employment and training opportunities; focusing on the transition of participants into unsubsidized employment; providing for improved management control to ensure the integrity and efficiency of the program; and initiating new requirements to eliminate fraud and abuse. These provisions are identified and discussed in the following paragraphs.

TARGETING SERVICES TO THOSE PERSONS MOST IN NEED

The eligibility criteria for prime sponsor programs under Titles II, VI, VII, and IV are consolidated in section 675.5 of the regulations. For each program, a person must meet criteria based on both income and employment status. Furthermore, service is to be provided equitably to the significant segments of the eligible population based on age, race, sex, and national origin, according to Section 676.54. Special consideration in enrollment shall be given Vietnam-era and disabled veterans and public assistance recipients as described in Section 676.30(a).

Within the eligible population for each prgram, efforts are to be made to serve those most in need. This will be accomplished not only through enrollment provisions, but also through designing jobs in public service employment programs to accommodate new average wage provisions and limitations on the extent to which wages may be supplemented from non-CETA resources.

COORDINATION OF PLANNING AND DELIVERY OF SERVICES

New requirements for planning provide for a much more extensive involvement within the community of groups and organizations concerned with employment and training activities. This includes private employers, the educational system, organized labor, community based organizations, (CBO's) State employment security agencies (SESA's) and other such groups. All such groups are to be involved in planning, whether included on the planning council or not, as described in Section 676.7.

TRANSITION INTO UNSUBSIDIZED EMPLOYMENT

A number of new provisions provide for a strengthened effort to transition CETA participants into unsubsidized employment. New involvement of the private sector is provided under Title VII, through the establishment of a private industry council not only to enhance planning but also to provide direct involvement by the council in the administration of programs. Such private sector involvement is also intended to enhance the design of programs under other titles.

Particular effort is to be undertaken in Title VI for the transition of public service employment participants into unsubsidized jobs through the designation of 10 percent of funds in FY 1979 and 5 percent in subsequent fiscal years for training, counseling and other services to assist in such transition. Employability plans are required for participants in Title II programs, and are principally intended to assist in guiding participants through activities and into unsubsidized employment in a more effective manner.

IMPROVED PROGRAM MANAGEMENT

Central to improving the effectiveness of CETA programs is the development of a strengthened management capacity. Implementing monitoring and eligibility verification systems is to be the basis for eliminating fraud and abuse and limiting the number of ineligible participants in program. Instituting assessment systems to continually determine program effectiveness is intended to provide the basis for correcting problems and enhancing program planning. Better and more timely systems for handling complaints will serve to make the program more responsive to problems. Enhancing the overall management control of programs will serve to effectively assist participants.

PREVENTION OF FRAUD AND ABUSE

Part 676, subpart E describes on a consolidated basis the requirements to prevent program fraud and abuse. Included are new requirements for prime sponsor systems to eliminate such abuse, including an independent monitoring unit and participant eligibility determination systems. Also included in Part 676, Subpart F are new requirements to improve the consideration of complaints and the provision of hearings. Procedures for disallowance of improper costs or activities and the application of sanctions are described in this subpart.

The Department of Labor has also proposed in these regulations new procedures for on-the-job training. Section 676.25(b), has been revised to streamline the OJT process in order to place as few administrative burdens as possible on participating employers while still satisfying the requirements of the Act. The section reflects comments made at meetings on OJT throughout the country attended by representatives of business, labor, educational agencies, CBO's, recipients, GAO, Congress, and DOL audit and Solicitor staff, as well as over 400 responses to a questionnaire sent to interested parties on the OJT process.

The Department also is examining the provisions of § 676.24 regarding equitable service in CETA programs to the significant segments of the population according to race, age, sex, and national origin. During the past two years, prime sponsors have been required to plan service levels to such segments within 15 percent of their incidence in the eligible population. The new law requires the continuation of the equitable service approach. However, questions have been raised regarding the latitude provided by the 15 percent benchmark. Particular concern has also been indicated regarding the sufficiency of local data on which to base planning. Accordingly, comment is specifically requested on establishing requirements that will afford the effective implementation of this provision in the law. It is the intent of the Department to examine options (such as reducing the benchmark to 10 percent) and consider comments in anticipation of revising the requirements for providing equitable service for FY 1980.

The Department has also undertaken a revision of the administrative cost provisions for Title VII programs. Due to the unique nature of many of the activities anticipated under Title VII, the "services" cost category has been expanded for Part 679 to include activities which are employment generating, but which are not directly related to the immediate training or employment of participants.

Provisions implementing new statutory requirements for the use of CETA funds for retirement benefits are included at § 676.28. Comment is particularly requested for new provisions for retirement benefits included in package arrangements.

The Department has involved both DOL and prime sponsor staff in the development of revised grant procedures, particularly the structure of the Master Plan and Annual Plan. The structure as presented in these regulations is intended to include as many provisions as possible in the Master Plan in order to not require yearly descriptions which do not change. The annual plan has been structured in a manner to eliminate duplicate descriptions among Titles. Full procedures for the development of the comprehensive employment and training plan are to be included in the *Forms Preparation Handbook*.

The *Forms Preparation Handbook* is cited in numerous sections of these regulations as containing more detailed or specific descriptions of requirements. Many organizations have requested an opportunity to also comment on the handbook. We are hereby advising the public of the opportunity to comment by requesting a copy of the draft handbook from Mr. Robert Anderson at the address noted above. Such comment should be provided within the 30 day period from the time when the handbook is generally made available.

Concern has been expressed regarding anticipated changes in the manner in which the CETA program may be charged for its share of administrative costs previously paid by the local jurisdiction. This is normally done according to procedures described in Federal Management Circular 74-4. The possibility of restricting charges to CETA to those additional administrative costs which result only from the CETA program is under consideration. We would welcome comments on this question, particularly as to the

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manner in which this would affect indirect cost computation.

New provisions are included in the Act regarding audit procedures including unified audit arrangements. The Department is undertaking a careful examination of such requirements in order to provide more specific guidance on audit provisions in the final regulations than is included in these proposed regulations. Part of this examination shall include consultation with prime sponsor jurisdictions. Specific comment is requested on such new audit requirements.

Accordingly, Title 20 of the CFR, Parts 675–695, is proposed to be added as follows:

PART 675—INTRODUCTION OF THE REGULATIONS

Sec.

675.1 Scope and Purpose of the Act.
675.2 Format of these Regulations.
675.3 Table of Contents.
675.4 Definitions.
675.5 Eligibility.
675.6 Intake and Assessment.

AUTHORITY: Sec. 126 of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 801 *et seq.*), unless otherwise noted.

§ 675.1 Scope and purpose of the Act.

(a) It is the purpose of this Act to:

(1) Provide training and employment opportunities to increase the earned income of economically disadvantaged, unemployed, or underemployed persons;

(2) Establish a flexible, coordinated and decentralized system of Federal, State, and local programs so that services will lead to maximum employment opportunities and enhance self-sufficiency; and

(3) Provide for the coordination of programs, under CETA with other employment and training related and social service programs, economic development, community development, and related activities, such as vocational education, vocational rehabilitation, public assistance, self-employment training, and social service programs.

(b) *The Act is comprised of eight titles.* (1) Title I sets forth the administrative provisions governing programs under the other titles.

(2) Title II establishes programs administered by State and local prime sponsors to provide comprehensive employment and training services for economically disadvantages persons.

(3) Title III establishes national programs administered by the Secretary:

(i) To provide employment and training services for groups of persons with disadvantages in specific and general labor markets or occupations.

(ii) To provide comprehensive employment and training programs for Indians and Native Americans, and for migrant and seasonal farmworkers;

(iii) To provide research, and technical assistance programs and to evaluate activities under CETA.

(4) Title IV establishes a broad range of coordinated employment and training programs for youth.

(5) Title V establishes a National Commission for Employment Policy to examine issues of development, coordination and administration of employment and training programs, and to advise the President and the Congress on these issues.

(6) Title VI authorizes temporary employment in public service jobs during periods of high unemployment.

(7) Title VII authorizes activities to increase the involvement of the private sector in employment and training activities.

(8) Title VIII establishes a Young Adult Conservation Corps to provide conservation work on public lands and waters and other benefits to youth.

§ 675.2 Format for these regulations.

(a) Regulations promulgated by the Department of Labor to implement the new provisions of the Act and are set forth in Parts 675 through 695 of Title 20 of the Code of Federal Regulations.

(b) Statutory authority for the regulations is found at section 126(a)(1) of the Act. Specific statutory authorities other than section 126(a)(1) are noted throughout the regulations.

§ 675.3 Table of contents.

PART 675—INTRODUCTION OF THE REGULATIONS

Sec.

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PART 676—GENERAL PROVISIONS

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PARTS 680–695 [RESERVED]

§ 675.4 Definitions.

Academic Credit means credit for education, training or work applicable toward a secondary school diploma, a postsecondary degree, or an accredited certificate of completion, consistent with applicable State law and the requirements of an accredited educational agency or institution.

Act means the Comprehensive Employment and Training Act of 1973.

Annual Plan means that part of the Comprehensive Employment and Training Plan which consists of the yearly description of program activities and services to be provided by prime sponsors.

Appropriate Labor Organizations means a local labor organization that has jurisdiction to represent employees in the prime sponsor's area in the same or substantially equivalent jobs as those for which recipients provide, or propose to provide, employment and training under the Act.

Architectural Barriers means physical conditions of a building or facility which reduce the accessibility to or usefulness of such building or facility to the physically handicapped.

Area of Substantial Unemployment (ASU) means an area within a prime sponsor's jurisdiction:

(1) Which has a population of at least 10,000;

(2) In which all the units which comprise the area (census tracts, census divisions, cities, counties, etc.) are contiguous; and

(3)(i) Which has an average unemployment rate of at least 6.5 percent for the most recent twelve-month period, as determined by the Bureau of Labor Statistics (BLS); or

(ii) Which for fiscal year 1979, and for Parts A, B, and C of Title II of the Act for all fiscal years, has an average unemployment rate of at least 6.5 percent for any three consecutive months during the most recent 12-month period as determined by the Bureau of Labor Statistics.

Artificial Barriers to Employment means limitations (such as: age, sex, race, national origin, parental status, credential requirements, criminal record, lack of child care, physical or mental status and absence of part-time or alternative working patterns/schedules) in hiring, firing, promotion, licensing, and conditions of employment which are not directly related to an individual's fitness or ability to perform the tasks required by the job.

Balance of State (BOS) means the area which consists of all areas within a State which are not within the jurisdictions of local prime sponsors and, therefore, are served by the State acting as the prime sponsor.

Capital Improvement means any modification, addition, restoration or other improvement:

(1) Which increases the usefulness, productivity, or serviceable life of an existing building, structure, or major item of equipment;

(2) Which is classified for accounting purposes as a "fixed asset"; and

(3) The cost of which increases the recorded value of the existing building, structure, or major item of equipment and is subject to depreciation.

CETA means the Comprehensive Employment and Training Act.

Community Based Organization (CBO) means a private nonprofit organization which is representative of the community or a significant segment of a community, and which provides employment and training services and/or activities. (Examples include: Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, agencies serving women, neighborhood groups and organizations, community action agencies, community development corporations, vocational rehabilitation organizations, rehabilitation facilities (as defined in Sec. 7(1) of the Rehabilitation Act of 1973), agencies serving youth, union-related organizations, and employer-related nonprofit organization).

Comprehensive Employment and Training Plan (CETP) means the approved plan under which a prime sponsor operates programs under the Act.

Construction means the erection, installation, assembly or painting of a new facility or a major addition, expansion, or extension of an existing facility, and the related site preparation, excavation, filling and landscaping or other land improvements.

Contract means a procurement instrument by which the Department, a recipient, or a subrecipient pays for property, services, supplies, materials or equipment.

Contractor means any person, corporation, partnership, public agency, or other entity which enters into a contract with the DOL, a recipient or a subrecipient under the Act.

Consumer Price Index means the "All Urban Consumer Index" as determined by the Bureau of Labor Statistics (BLS).

Department means the United States Department of Labor (DOL) including its agencies and organizational units.

Dependent means:

(1) Any relative for whom the participant or applicant has assumed a responsibility for support, and who is either:

(i) A member of the immediate household; or

(ii) One of the following relatives:

(A) A parent of the participant;

(B) A child of the participant;

(C) A relative of the participant who is unemployed because of a physical or mental disability; or

(2) Any individual who is currently being supported by the participant, is a member of the participant's immediate household, and during the preceding twelve months earned less than $1,000.

Displaced Homemaker means an individual who:

(1) Has not worked in the labor force for a substantial number of years but has, during those years, worked in the home providing unpaid services for family members; and

(2) (i) Has been dependent on public assistance or on the income of another family member but is no longer supported by that income; or

(ii) Is receiving public assistance on account of dependent children in the home; especially where such assistance will soon be terminated; and

(3) Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

DOL, see *Department*.

Economically Disadvantaged means a person who is either:

(1) A member of a family which receives public assistance;

(2) A member of a family whose income during the previous 6 months on an annualized basis, was such that

(i) The family would have qualified for public assistance, if it had applied for such assistance; or

(ii) It does not exceed the poverty level; or

(iii) It does not exceed 70 percent of the lower living standard income level;

(3) A foster child on whose behalf State or local government payments are made;

(4) A client of a sheltered workshop;

(5) A handicapped individual with a family income of 100 percent or less of the Lower Living Standard Income level.

(6) A person confined to an institution or facility providing 24 hour support such as a prison or hospital; or

(7) A regular out patient of a mental hospital, rehabilitation facility or similar institution.

Employing Agency means any public or private nonprofit employer which employs PSE or work experience participants.

Entry Level means the lowest position in any promotional line, as defined locally by collective bargaining agreements, past practice, or applicable personnel rules.

Family means, except as provided in paragraph (2) or (3):

(1) One or more persons living in a single residence who are related to each other by blood, marriage, or adoption. A step-child or a step-parent shall be considered to be related by marriage.

(2) Except for any person who would be eligible for assistance under Title V of the Older Americans Act of 1965 or a handicapped individual who is 16 years of age or older, any one claimed as a dependent on another person's Federal Income Tax return for the previous year shall be presumed, unless otherwise demonstrated, to be a part of that person's family for the current year.

(3) An individual 18 or older, except as provided in (2) above, who receives less than 50 percent of his/her maintenance from the family, and who is not the head nor the spouse of the head of the household, shall not be considered a member of the family. Such an individual shall be considered a family of one living in group quarters.

Family Income means all income actually received from all sources by all members of the family.

(1) Family income shall include:

(i) Gross wages and salary (before deductions), except wages paid for work experience under the Act, but including wages and salary received by individuals in public service employment or on-the-job training;

(ii) Net self-employment income (gross receipts minus operating expenses);

(iii) Other money income received from sources such as net rents, OASI social security benefits, pensions, allmony, child support, and periodic income from insurance policy annuities, and other sources of income.

(2) Family income shall exclude:

(i) Non-cash income such as food stamps, or compensation received in the form of food or housing;

(ii) Imputed value of owner-occupied property, i.e., rental value;

(iii) Public assistance payments;

(iv) Cash payments received pursuant to a State plan approved under Titles I, IV, X, or XVI of the Social Security Act, or disability insurance payments received under Title II of the Social Security Act;

(v) Federal, State or local unemployment benefits;

(vi) Payments made to participants in employment and training programs, except wages paid for PSE and OJT;

(vii) Capital gains and losses;

(viii) One time, unearned income, such as but not limited to:

(A) Payments received for a limited fixed term under income maintenance programs and supplemental (private) unemployment benefits plans;

(B) One-time or fixed-term scholarship and fellowship grants;

(C) Accident, health, and casualty insurance proceeds;

(D) Disability and death payments, including fixed term (but not lifetime) life insurance annuities and death benefits;

(E) Inheritance, including fixed term annuities;

(G) Fixed term workers' compensation awards;

(H) Terminal leave pay;

(I) Soil bank payments;

(J) Agriculture crop stabilization payments;

(ix) Pay or allowances which were previously received by any veteran while serving on active duty in the Armed Forces; and

(x) Educational assistance and compensation payments to veterans and other eligible persons under Chapters 11, 13, 31, 34, 35, and 36 of Title 38, United States Code.

(xi) Payments received under the Trade Readjustment Act of 1974 and the Redwood Forest Act of 1978.

Federal Reservation means lands as identified by the Bureau of Indian Affairs which have been set aside for Indian tribes and for which the United States is trustee, or non-trust land under the tribal jurisdiction.

Financial Assistance means any grant, loan, or any other arrangement (other than a procurement contract or a contract of insurance or guaranty) by which the Department provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

Governor means the chief executive, or her/his designee, of any State.

Handicapped Individual means any person who has a physical or mental disability which, at the time of enrollment, constitutes in a substantial barrier to employment and the individual

is unemployed as a result of this disability, as determined by the prime sponsor.

Hawaiian Native—means any individual whose ancestors were natives, prior to 1778, of the area which now consists of the Hawaiian Islands.

Indian or Alaskan Entity means an Indian tribe, band, or group, or an Alaskan native village or corporation or a private nonprofit Indian or Alaskan organization.

In-School Youth means a person age 14 to 24 inclusive, who:

(1) Is currently enrolled full-time in, and attending, a secondary, trade, technical, vocational school or community college or is scheduled to attend full-time the next regularly scheduled quarter or semester of any of these schools; or

(2) Has not completed high school and is scheduled to attend a program leading to a secondary school diploma or its equivalent.

Job restructuring means:

(1) The procedure which includes:

(i) Identifying the separate tasks that comprise a job or group or jobs;

(ii) Developing new positions descriptions which retain some of the tasks of the original job; and

(iii) Developing a career ladder which builds upward from the new positions containing the lesser skilled tasks to regular jobs.

(2) A restructured job shall be clearly different from the original one in terms of skills, knowledge, abilities, and experience needed to perform the work. (sec. 432(a)(3)(L)).

Local Education Agency means:

(1) Except for purposes of Youth Employment and Training Programs (YETP) under Part 680, a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or politicial subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program;

(2) For purposes of YETP under Part 680, a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivison of a State, or a combination of such school districts or counties which are recognized in a State as an administrative agency for their public elementary or secondary schools.

Lower Living Standard Income Level means that income level (adjusted for selected Standard Metropolitan Statistical Areas and regional metropolitan and non-metropolitan differences and family size) determined annually by the Secretary based upon the most recent lower living family budget issued by the Bureau of Labor Statistics.

Low Income Housing means:

(1) Those dwellings which are occupied by persons whose family income does not exceed 125 percent of the poverty level, and which are either:

(i) Owned by the occupant;

(ii) Publicly owned; or

(iii) Owned by a private nonprofit organization.

(2) For weatherization or winterization projects funded and approved by the Federal Energy Administration, "Low Income Housing" shall include privately owned rental housing.

Low Income Level means $7,000 with respect to income in 1969, and for any later year means that amount which bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

Master Plan means that part of the Comprehensive Employment and Training Plan (CETP) which serves as the long-term agreement between the Department and a prime sponsor.

Offender means any adult or juvenile who is or has been subject to any stage of the criminal justice process for whom employment and training services may be beneficial or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

Participant means an individual who is eligible for, and takes part in, activities under provisions of the Act or receives services funded under the Act, except for an individual who receives only outreach and intake services. An individual applicant becomes a participant when:

(1) The individual is declared eligible upon intake; and

(2) The individual receives employment, training or services funded under the Act following intake, except for an individual who receives only outreach and/or intake services.

Placement means the act of securing unsubsidized employment for or by a participant.

Poverty Level means that annual income level at, or below, which families are considered to live in poverty, as annually determined by the Office of Management and Budget.

Prime Sponsor A recipient of financial assistance designated pursuant to § 676.5.

Program Agent means:

(1) A unit of general local government with a population of at least 50,000 within the jurisdiction of a single prime sponsor,

(2) A combination of units of general local government (preferably contiguous) with a total population of at least 50,000 within the jurisdiction of a single prime sponsor which possesses:

(i) The legal authority to receive funds and to transact business throughout its jurisdiction in accordance with the Act and regulations; and

(ii) The administrative capability to plan, administer and operate an employment and training program.

Program of Demonstrated Effectiveness means a program which has demonstrated the capacity to achieve planned goals at reasonable costs within acceptable timeframes, and is either; (1) a program which has demonstrated to the prime sponsor that it has performed effectively within the prime sponsor's jurisdiction, or (2) a program which can demonstrate to the prime sponsor that it has carried out effectively a similar program under similar circumstances in other jurisdictions and can carry out such program effectively within the prime sponsor's jurisdiction.

Project means:

(1) For the purpose of public service employment in Parts 677 and 678, a definable task or group of related tasks which will be completed within eighteen months, has a public service objective, will result in a specific product or accomplishment, and would otherwise not be done with existing funds;

(2) For the purposes of Youth Community Conservation and Improvement Projects in Part 680, an activity which provides constructive work, conducted by youth, under the guidance of skilled supervisors, which (1) results in tangible outputs or a specific product; (2) benefits the participants in terms of work habits, skills, and attainment of academic credit where applicable; and (3) will be completed within a definable period of time not to exceed 12 months (sec. 421).

Project Applicants means States and agencies thereof, units of general local government and agencies thereof, combination or associations of such governmental units when the primary purposes of such combinations or associations is to assist such governmental units to provide public service, special purpose political subdivisions having the power to levy taxes and spend funds or serving such special purpose within an area served by one or more units of general local government, local educational agencies, institutions of higher education, community based organizations, nonprofit groups and organizations serving Native Americans, and other private nonprofit organizations or institutions engaged in a public service.

Public Assistance means Federal, State, or local government cash payments for which eligibility is determined by a need or income test.

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Public Service means the type of service normally provided by government and includes, but is not limited to, work (including part-time work) in such fields as environmental quality, child care, health care, education, crime prevention and control, prisoner rehabilitation, transportation, recreation, maintenance of parks, streets and other public facilities, solid waste removal, pollution control, housing and neighborhood improvement, rural development, conservation, beautification, veterans outreach, development of alternative energy technologies, and other fields of human betterment and community improvement.

RA means Regional Administrator of the Employment and Training Administration.

Recipient means State or local government, a Federally recognized Indian tribal government, a public or private institution of higher education, a public or private hospital, an Indian or Native American entity other than a Federally recognized Indian tribal government, or other quasi-public or private profit or nonprofit organization which receives financial assistance directly from DOL, through a grant to perform substantive work under the Act (employment, training, supportive services, etc.). Recipients do not include contractors as defined in this section.

Residence means an individual's permanent dwelling or home. Maintenance of an address is not necessarily the same as residence.

Secretary means the Secretary of Labor.

Significant Segments means the groups of the population identified in terms of the following demographic characteristics: age, sex, race, and national origin.

Special Disabled Veteran means a person who served in the Armed Forces and was discharged or released, with other than a dishonorable discharge, and who had been given a disability rating of 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

State means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Marianas Islands, American Samoa, and the Trust Territory of the Pacific Islands.

State Employment Security Agency (SESA) means the State agency which exercises control over the Unemployment Insurance Service and the Employment Service.

Subrecipient means any person, organization or other entity which receives financial assistance under CETA through a recipient to carry out substantive work (e.g., employment, training, supportive services).

Underemployed person means:

(1) Persons who are working part time but seeking full time work; or

(2) Persons who are working full time but receiving wages, not in excess of, the higher of either:

(i) The poverty level; or

(ii) 70 percent of the lower living standard income level.

Unemployed person means for purposes of determining eligibility:

(1) A person who is without a job for at least seven consecutive days prior to application for participation. A person shall be considered as being without a job if, for seven consecutive days, such person:

(i) Worked no more than 10 hours; and

(ii) Earned no more than $30; and

(iii) Was seeking and available for work; or

(2) A person who is:

(i) A client of a sheltered workshop;

(ii) A prisoner eligible for, or in, a work release program, or

(iii) Institutionalized in a hospital or similar institution; or

(3) A person who is 18 years of age or older whose family receives public assistance, or whose family would be eligible to receive public assistance if both parents were not present in the home; or

(4) A person who is a veteran who has not obtained permanent unsubsidized employment since being released from active duty. Such person shall be considered to meet "unemployed" eligibility requirements regardless of the specific term of unemployment required.

Unit of general local government means any city, municipality, county, town, township, parish, village, or other general purpose political subdivision which has the power to levy taxes and spend funds, as well as general corporate and police powers.

Veteran means a person who:

(1) Served on active duty for more than 180 days, and was released with other than a dishonorable discharge; or

(2) Was discharged or released from active duty for a service connected disability.

Veterans Outreach means the recruitment, counseling, and registration of eligible veterans for participation in appropriate employment and/or training programs provided under the Act and under acts administered by the Veterans Administration.

Vietnam-era Veteran means a veteran under 35 years of age who served on active duty between August 5, 1964, and May 7, 1975 and who was discharged or released within four years preceding application for this part.

§ 675.5 Eligibility requirements to participate in programs under CETA.

(c) All recipients shall establish effective systems to determine participant eligibility in accordance with § 675.75(d). To assist in eligibility determination, a consolidated list of all eligibility requirements for programs administered by prime sponsors under CETA is presented in this section.

(b) Participants shall be limited to citizens of the United States, United States Nationals, permanent resident aliens, or other aliens who have been permitted to accept permanent employment in the United States by the Immigration and Naturalization Service. (sec. 132(e) and 121(p)).

(c) Participants may be transferred from one activity under the Act into another activity under the Act administered by the same prime sponsor only if they met the eligibility requirements for such other activity or title at the time that they were originally determined eligible for their first CETA activity, except that if the second activity has an age limitation, participants shall meet the age limitations upon being transferred into that activity or title.

(d) The following eligibility requirements for each program must be met at the time of enrollment into a program activity, except as provided in paragraph (c) above, or as otherwise provided in this section.

(e)(1) For programs described in Subpart B of Part 677, a person shall be

(i) Economically disadvantaged; and

(ii) Unemployed, underemployed, or an in-school youth. (sec. 213).

(2) For Upgrading programs described in Subpart C of Part 677.

(i) A person must be:

(A) Operating at less than full skill potential, and

(B) Working for at least the prior six months with the same employer in an entry level, unskilled or semi-skilled position, or a position with little or no advancement opportunity in a normal promotional line;

(ii) Priority consideration shall be given to those workers who have been in entry level positions for the longest period of time, and who have potential for upward mobility.

(3) For Retraining programs described in Subpart C of Part 677, a person must (i) Have received a bona fide notice of impending layoff within the last 6 months; and

(ii) Have been determined by the prime sponsor with the assistance of the local Employment Service as having little opportunity to be reemployed in the same or an equivalent occupation or skill level within the labor market area.

(4) For programs under the Special Grants for Governors described in

Subpart D of Part 677, a person must be economically disadvantaged, and unemployed, underemployed or an in-school youth, except for Public Service Employment for which the eligibility requirements are the same as those for Title II D or VI which are described in paragraph (f) or (g) of this section.

(f) For Title II D PSE programs described in Subpart E of Part 677, a person must:

(1) (i) Be economically disadvantaged, be unemployed at the time of enrollment, and have been unemployed during 15 of the 20 weeks immediately prior to enrollment; or

(ii) Be a member of a family which is receiving public assistance (sec. 236(a)); and

(2) Reside within the prime sponsor's jurisdiction except that:

(i) As authorized under the following paragraph, a program agent or a unit of general local government with a population of 100,000 or more which is not a prime sponsor, may not hire persons outside of its jurisdiction nor may their prime sponsors hire persons from their jurisdictions. This does not require the layoff of participants eligible under the residency requirements that were applicable at the time of their selection; and

(ii) A prime sponsor, program agent or unit of general local government with a population of 100,000 or more which is not a prime sponsor may receive additional funds as a subrecipient of another such entity only to enroll residents of such other jurisdictions;

(3) Not have within the immediately prior six months voluntarily terminated, without good cause, his or her last previous full-time employment at a wage rate not less than the Federal minimum wage under Section 6(a)(1) of the Fair Labor Standards Act, or the State or local minimum wage, if higher, (Sec. 122(n)).

(g) For Title VI PSE programs described in Part 678, a person must:

(1) Reside within the prime sponsor's jurisdiction as provided in § 675.5(f); and

(2) (i) (A) Be unemployed at the time of enrollment; and

(B) Have been employed for at least 10 out of 12 weeks immediately prior to enrollment; and

(C) Have a family income as defined in § 675.4 which does not exceed 100 percent of the lower living standard income level based on the three-month period prior to the individual's application for participation, or

(ii) Be a member of a family which has been receiving public assistance for 10 of the last 12 weeks (sec. 236(a)).

(3) The provisions of § 675.5(f)(3) shall apply to the eligibility of persons who voluntarily terminated their last employment (sec. 122(n));

(h) For programs described in Part 679, Private Sector Initiative Program, the eligibility requirements are the same as set forth for Title II B paragraph (e)(1) of this section.

(i) (1) For Youth Employment and Training Program (YETP) programs described in Subpart A of 680, except as provided in paragraph (j) of this section, at the time of enrollment a youth must: (sec. 435)

(i) Be unemployed or underemployed or in school;

(ii) Be 16 through 21 years of age inclusive; and

(iii) Be a member of a family with a total family income at or below 85 percent of the lower living standard income level; and

(2) Preference shall be given to economically disadvantaged youth. Appropriate efforts shall be made to give service to those youth who have severe handicaps in obtaining employment, such as those who lack credentials (such as high school diploma), require substantial basic and remedial skill development, are women or minorities, or veterans, or offenders, or handicapped individuals, or have dependents or those who otherwise demonstrated special needs as determined by the Secretary (sec. 444(a)).

(3) A youth may not be enrolled in full-time employment opportunities if:

(i) The youth has not attained the age with respect to which any requirement of compulsory education ceases to apply, under the laws of the State in which such individuals reside except:

(A) During periods when school is not in session; and

(B) If employment is undertaken in cooperation with school-related programs awarding academic credit for work; or

(ii) The youth has not attained a high school degree or its equivalent and it has been determined, by the prime sponsor that the youth dropped out of high school in order to participate in YETP (sec. 443(f)).

(j) For YETP programs (extraordinary):

(1) Individuals otherwise eligible under paragraph (i) above who are in school, and who are 14 or 15 years old, may participate when the YETP plan specifies a youth development strategy which provides broad career exposure for these youths (sec. 435).

(2) Youth need not meet the income criteria described in paragraph (i)(1)(iii) above, if they participate in a special component, as described in § 680.11(d) (sec. 435), which provides for the participation of youth of various income levels.

(3) Youths, who do not meet the income criteria defined in paragraph (i)(1)(iii) above, and who are not in a special component described in § 680.11(d) may be given only the following services:

(i) Counseling, including occupational information;

(ii) Occupational, education, and training information including information on apprenticeship training;

(iii) Placement services;

(iv) Job referral information through coordinated intake systems; and/or

(v) Assistance in overcoming employment related sex-stereotyping in job development, placement, counseling, and guidance.

(k) (1) For Youth Community Conservation Improvement Projects (YCCIP) described under Subpart B 680; at the time of enrollment a youth must be:

(i) 16 through 19 years of age, inclusive; and

(ii) Unemployed.

(2) Preference shall be given to economically disadvantaged youth.

(3) Appropriate efforts shall be made to serve youths who have severe handicaps in obtaining employment, as described in paragraph (i)(2) above (sec. 444(a)).

(4) A youth may not be enrolled in full-time employment opportunities if:

(i) The youth has not attained the age with respect to which any requirement of compulsory education ceases to apply under the laws of the State in which such individuals reside, except:

(A) During periods when school is not in session; and

(B) If employment is undertaken in cooperation with school-related programs awarding academic credit for work experience; or

(ii) The youth has not attained a high school degree or its equivalent and it has been determined by the prime sponsor that the youth dropped out of high school in order to participate in YCCIP (sec. 443)).

(5) Each participant shall be limited to a maximum enrollment of 12 months with no more than two terminations and reenrollments, provided age eligibility is met at the time of each reenrollment.

(l) For Summer Youth Employment Programs (SYEP) described in Subpart C of Part 680; a youth must be:

(1) At the time of application, economically disadvantaged; and

(2) At the time of enrollment 14 through 21 years of age inclusive (sec. 402)

(m) Eligibility requirements for programs in Parts 680–695 are found in the specific regulations for those programs.

§ 675.6 Intake and assessment.

(a) Each recipient of funds shall, at the time of intake, assess every indi-

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vidual to determine what activities and services are most appropriate for that individual. Recipients shall ensure that every participant is afforded services or activities which will enable him or her, to obtain unsubsidized employment and increase earned income.

(b) Recipients shall establish appropriate mechanisms to ensure that available employment and training activities available under the grant are provided to those most in need (sec. 103(a)(5)(A)).

(c) Recipients shall afford participants an opportunity to participate in the full range of program activities and services available.

(d) Enrollment and referral of participants to activities shall be based on the initial assessment at intake. For example, participants who are structurally unemployed shall be assigned to activities which are designed for the structurally unemployed. In making these determinations, recipients shall plan for the utilization of all available CETA and community resources, such as those from SESA, the prime sponsor's Private Industry Council, area apprenticeship opportunities, CBO's, the educational system, and all other resources. Such assessment does not mandate a central intake system, but does require that recipients provide an opportunity for referral to the full range of services.

(e) In designing programs, all recipients shall develop goals and provide maximum efforts for transitioning participants into unsubsidized employment.

(f) In designing and operating programs recipients and subrecipients shall give special consideration to providing for alternative working arrangements such as flexible hours of work, work-sharing and part-time jobs, particularly for older workers, and those with household obligations including parents of young children (sec. 121(d)(3)).

PART 676—GENERAL PROVISIONS

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AUTHORITY: Sec. 126 of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 801 *et seq.*), unless otherwise noted.

Subpart A—Grant Procedures

§ 676.1 General.

This Subpart specifies the procedures by which prime sponsors may obtain funds to operate programs under the Act.

§ 676.2 Prime sponsor applicants.

The following entities may apply to the prime sponsors: (sec. 101)

(a) A State;

(b) A unit of general local government which has a population of 100,000 or more;

(c) Any consortium of units of general local government which includes a unit of general local government qualifying under paragraph (b) of this section;

(d) Existing Concentrated Employment Program (CEP) prime sponsors.

(e) Any unit of general local government previously designated as a prime sponsor, with a population below 100,000 persons, which the Secretary certifies has demonstrated its effectiveness in, and continues to have the capability for, adequately carrying out programs under the Act.

(f) Any unit of general local government or any consortium of such units with a population below 100,000 which believes:

(1)(i) It has the capacity to serve a substantial portion of a functioning labor market area, or

(ii) It is a rural area having a high level of unemployment; and

(2)(i) It has the capability for adequately carrying our programs under the Act,

(ii) That there is a special need for services within the area to be served, and

(iii) That it will carry out programs and services in the area as effectively as any larger unit of general local government in its jurisdiction or as the State.

§ 676.3 Preapplication for Federal assistance.

(a) The Secretary, through a notice in the FEDERAL REGISTER, shall annually invite all potential prime sponsor applicants to apply for financial assistance by a specified date. The notice may include a list of those potential applicants which the Secretary believes may wish to apply. This, however, shall not preclude other applicants from applying. An applicant interested in being designated as a prime sponsor shall submit a preapplication to the RA, the Governor, and the appropriate State and areawide clearinghouses pursuant to Office of Management and Budget (OMB) Circular A-95, not later than 30 days prior to the submission of its completed CETP to the clearinghouses for formal review. The preapplication shall consist of Standard Form 424 described in 41 CFR 29-70.

(b) Prime sponsors shall comply with State and areawide OMB A-95 clearinghouse review procedures. If the prime sponsor applicant receives no notification as specified in § 676.12, from the A-95 clearinghouse, the prime sponsor applicant may submit its CETP to the RA without submitting it to the A-95 clearinghouses.

(c) All applicants with populations below 100,000 shall include documentation showing that they meet the requirements for such applicants.

§ 676.4 Consortium agreements.

(a) Except as provided in paragraph (b) of this section, each consortium applicant, at a date established by the RA, shall submit to the RA a consortium agreement signed by the chief-elected official or chief executive officer of each consortium member. The agreement shall include the following:

(1) A statement that the agreement has been formed under CETA or that another agreement has been amended to conduct programs under CETA and a statement of the duration of the agreement which shall be at least one fiscal year.

(2) A listing of the units of general local government which are members of the consortium.

(3) A listing of any unit of general local government which is within the area covered by the consortium but has not joined the consortium.

(4) An identification of the geographical area(s) which will be served.

(5) A certification that State and local law permits services under the consortium agreement to be provided within the entire geographical area covered by the agreement.

(6) A letter from each member's chief legal officer assuring that the member has the legal authority to enter into the consortium agreement.

(7) A statement that: (i) The grant shall be signed by the chief-elected official or chief executive officer of each consortium member; or

(ii) As designated in the consortium agreement, the grant shall be signed by the chief-elected official or chief executive officer of one or more consortium members or by the chief executive of the administrative unit.

(8) A certification that, pursuant to State or local law, each consortium member jointly and separately accepts responsibility for the operation of the program.

(9) The agreement shall clearly delineate the division of powers and responsibilities between the consortium members and the administrative unit. It shall describe the powers and responsibilities reserved by the consortium members specifying the process by which decisions will be made, the process by which each member will review and approve the CETP, and the procedure by which chief-elected officials will participate in the planning and operation of the program. It shall also describe the powers and responsibilities which will be delegated to an administrative entity, which may be a consortium member or a separate entity, to operate the program, and the name and organizational structure of that entity. The administrative unit may be delegated the power to enter into contracts, subgrants and other necessary agreements; to receive and expend funds; to employ personnel including participants under the Act for the purposes of administering the program; to organize and train staff; to develop procedures for program planning, operation, assessment and fiscal management; to evaluate program performance and determine resulting need to reallocate resources; and, to modify the grant agreement with the Department. The administrative arm of the consortium should have responsibility for the entire operation of the program, except that the consortium members shall reserve to the consortium the right of evaluation and the decision to reprogram funds.

(b) The chief-elected official or chief executive officer of each consortium member of a consortium which was a prime sponsor in the prior year shall attest in writing that the agreement remains the same or note the specific changes.

(c) Consortia incentive funds. In order to encourage the formation of consortia, that comprise at least 75 percent of labor market areas, the Secretary may use up to 5 percent of the funds available for Title II of the Act to provide additional funding only for such consortia. Prior to making decisions concerning these funds, the RA shall consult with the Governors of the appropriate States and afford them an opportunity to make recommendations.

§ 676.5 Prime Sponsor Designation.

(a) Upon receipt of a completed preapplication and a consortium agreement, if required, the RA shall designate prime sponsor applicants as prime sponsors and shall notify all applicants in writing of the determination. A grant application package (§ 676.10 and § 676.11) shall be sent to each prime sponsor designee.

(b)(1) A State shall not be designated as a prime sponsor for any geographical area within the jurisdiction of any prime sponsor applicant described in § 676.2(b) (c) (d) (e) and (f) unless such prime sponsor applicant has not submitted an approvable CETP for such area (sec. 101(b)(1)).

(2) A larger unit of general local government shall not be designated as a prime sponsor with respect to the jurisdiction within its area of any smaller eligible unit of general local government unless such smaller unit has not submitted an approvable CETP for such area (sec. 101(b)(2)).

(c) The Secretary shall not designate as a prime sponsor any applicant with less than 100,000 population except in exceptional circumstances and unless it has demonstrated that it qualifies pursuant to § 676.2(e) and (f).

§ 676.6 Planning process.

(a) Each prime sponsor shall have a planning process which shall involve a broad spectrum of groups and individuals, in the development of the CETP. This process shall utilize the prime sponsor planning council and shall include community groups insofar as they are not represented on the planning council, local educational agencies, community-based organizations, appropriate labor organizations, organizations serving women, local apprenticeship programs, local advisory councils established under the Vocational Education Act of 1963, the youth and private industry councils, and post-secondary institutions (sec. 103(a) (6) and (14)).

(b) Prime sponsors are specifically encouraged to join or initiate local public/private approaches to the coordinated planning and operation of economic, community and employment development activities to accomplish such objectives as reducing outmigration from an area and encouraging private sector investment in order to enhance existing employment opportunities (sec. 103(a)(20) and 105(b)(5)).

(c) Where employment opportunities already exist, or where there is a reasonable expectation of near term expansion of such employment potential, prime sponsors shall plan to provide, to the extent consistent with the

needs and interests of program participants, employment and training opportunities in the development and use of solar, geothermal, hydroelectric and other alternative energy technologies, and conservation (sec. 121(m)).

(e) Prime sponsors shall contact the Bureau of Apprenticeship and Training (BAT) in establishing arrangements to promote the use of apprenticeship training or other on-the-job training for veterans, under section 1787 of Title 38, United States Code (sec. 121(b)(2)(c)).

§ 676.7 Prime sponsor planning councils.

(a) Each prime sponsor shall establish a planning council (sec. 109(a)).

(b) Each prime sponsor shall appoint to its Planning Council members who are representative of the eligible population (including significant segments thereof), CBO's, the employment service, veterans organizations (a congressionally chartered veterans organization or an organization incorporated as a veteran's service organization under appropriate laws of the State in which they are located), representatives of handicapped individuals, vocational education agencies, public assistance agencies, other education and training agencies and institutions, business (e.g., representatives of a locally-based business firm, the National Alliance of Business, or Chamber of Commerce), organized labor (e.g., representatives of the central labor council, or the principal labor organizations in the areas where employment or training activites are expected or apprenticeship programs), employees who are not represented by organized labor, and, where appropriate, agricultural employers and workers (sec. 109(b)). Staff of State or local government agencies shall not take the place of representatives of the participant communities which their agencies serve.

(c) The prime sponsor shall appoint the members of the planning council, designate a person who is not an elected official of or an employee of the prime sponsor as chairperson and furnish staff to provide professional, technical, and clerical assistance to the council (sec. 109(c)).

(d) The Planning Council shall:

(1) Meet no less than five times per year. The meetings shall be publicly announced, open and accessible to the general public, and a record of the proceedings shall be maintained by the prime sponsor at a location accessible to the public (sec. 109(d));

(2) Actively participate in the development of, and submit recommendations regarding, the prime sponsor's CETP and the basic goals, policies, and procedures of the prime sponsor's program (sec. 109(e));

(3) Consider any comments and recommendations of the Private Industry and Youth Councils (sec. 109(f)); and

(4) Continuously analyze the need for employment, training and related services in the prime sponsor's area, including efforts to reduce and eliminate artificial barriers to employment, and shall monitor and evaluate employment and training programs in the prime sponsor area and make recommendations with respect to them (sec. 109(e)); and

(5) Plan for the coordination and involvement of the local CETA program with the Targeted Jobs Tax program created by the Revenue Act of 1978.

(e) Special consideration shall be given to the recommendations of the planning council, but any final decisions with respect to such recommendations shall be made by the prime sponsor. (sec. 109(e)).

§ 676.8 Area planning bodies.

(a) Balance of State (BOS) prime sponsors, in coordination with units of general local government, shall make arrangements for appropriate area planning bodies to assist in the effective planning and delivery of programs in the BOS (sec. 101(d)).

(b) The BOS shall appoint members of area planning bodies, considering nominations made by local elected officials. The membership shall be composed of groups and individuals which represent a broad cross section of the area to be served and may include the groups and individuals described in § 676.7(b)).

(c) The BOS shall convene the planning bodies at least quarterly to review plans and programs.

(d) Area planning bodies shall be given the opportunity to review and comment upon services to be provided in their area under the CETP.

§ 676.9 Comprehensive employment and training plan (CETP).

(a) Designated prime sponsors shall submit a CETP to apply for financial assistance. The CETP shall consist of two distinct parts, the Master Plan and the Annual Plan.

(1) The Master Plan shall serve as the long-term agreement between the Department and the prime sponsor which describes the established administrative and programmatic arrangements that will govern all programs under the Act operated by the prime sponsor. (sec. 103(a))

(2) The Annual Plan shall be the prime sponsor's yearly plan for providing activities and services to the eligible population.

(3) Detailed instructions for completing the CETP are contained in the *Forms Preparation Handbook.*

(b)(1) The Secretary will, not later than March 31 of the fiscal year preceding the fiscal year for which an Annual Plan is to take effect, establish a date for submission of the Annual Plan. The Secretary will make available to each prime sponsor a complete and final set of all applicable regulations and necessary application materials no later than May 15 preceding the fiscal year for which such plan is to take effect. With respect to funds allocated to prime sponsors under the Act on the basis of a formula, the Secretary will also provide such prime sponsors a preliminary planning estimate. If for any reason the Secretary cannot provide a complete and final set of all applicable regulations and necessary application materials by May 15, the Secretary will extend the date for submittal of such plan to allow the prime sponsor to review such regulations and to complete such materials prior to submittal (sec. 104(e)(1)).

(2) Between May 15 and the date for submittal of the Plan, the Secretary will not issue any regulations or guidelines or interpretations thereof that require any change in the prime sponsor's CETP which is a condition for the Secretary's approval or disapproval of the CETP, unless the Secretary allows at least one fiscal quarter for the prime sponsor to submit such change, except that the prime sponsor, however, may at its own discretion, submit the required change as part of its plan submitted under paragraph (1) (sec. 104(e)(2).

§ 676.10 Master plan.

(a)(1) A prime sponsor applying for financial assistance for the first time shall have approved by the RA a signed copy of the Master Plan prior to the execution of an Annual Plan.

(2) A prime sponsor which has already entered into the Master Plan during a previous year, shall submit to the RA with its Annual Plan a certification that the Master Plan remains the same or a modification reflecting any changes. In submitting the initial Plan and subsequent certification, the prime sponsor shall comply with the comment and publication procedures of Sec. 676.12, and the planning process in Sec. 676.6. The Master Plan shall consist of the Signature Page, Narrative Description of General Information, and Assurances and Certifications.

(b) *Signature Page.* By signing the signature page the prime sponsor agrees that all work performed under its CETP will be in accordance with the Act and the regulations.

(c) *Narrative Description of General Information.* The narrative description of general information shall include:

(1) *Statement of purpose.* (2)(i) A detailed description of the geographic

area to be served and demographic characteristics of the population (with data, if available, indicating the number of potential eligible participants from each significant segment and their income and employment status) (sec. 103(a)(1)(A)).

(ii) A comprehensive analysis of the local labor market and economic conditions, using existing sources such as the Employment Service, which includes identification of the availability of employment and training in the public and private sectors and the potential for job growth in those sectors (sec. 103(a)(1)(B)).

(3) A statement of long-term program goals related to the improvement of the labor market and economic conditions (sec. 103(a)(2)).

(4)(i)(A) A description of arrangements to ensure that employment and training services are provided to those individuals most in need, including low-income persons, handicapped individuals, older workers facing artificial barriers to employment and persons of limited English-speaking ability (sec. 103(a)(5)(A)).

(B) The method used to determine priorities for service based on objective locally established criteria using such factors as employment status, household status, level of employability development, handicap, veteran status, age, race, sex or other criteria established by the prime sponsor (sec. 103(b)(12)).

(ii) A description of the recruitment, intake, and selection methods to be used to identify, and place participants in programs (sec. 103(a)(4)(B) and 103(a)(5)(A)).

(iii) A description of the system for developing participant employability plans, including the methods for determining the appropriate training and services to provide to each participant (sec. 205).

(iv) A description of job development and placement services, and how these services will relate to, and be coordinated with, other area employment and training opportunities not provided under the Act, including any special activities designed to orient participants for their job responsibilities (sec. 103(b)(6).

(v) A description of arrangements to provide participants with job search assistance, counseling and other services (sec. 103(a)(4)(B)).

(vi) A description of methods to insure compliance with personnel procedures and collective bargaining agreements where participants are engaged in employment and training activities (sec. 103(a)(18)).

(5) *Service deliverers.* (i) A description of procedures and criteria used to select service deliverers (sec. 103(a)(3)(B)).

(ii) A description of the criteria used to designate programs of demonstrated effectiveness (sec. 103(a)(4)(A)).

(iii) A description of procedures for giving special consideration to employment and training programs of demonstrated effectiveness which are operated by community-based organizations (sec. 123(1)).

(6) *Coordination.* (i) A description of the methods for coordination between the prime sponsor and local State Employment Security Agencies, as provided in the agreement under § 676.23(g) (sec. 103(a)(15)).

(ii) A summary of the agreement made with State or local educational agencies or post-secondary institutions for the conduct of employment and training programs (sec. 103(b)(16)).

(iii) A description of procedures used to ensure the participation of and consultation with local educational agencies, vocational education agencies, community-based organizations, Federal and State agencies, organized labor, apprenticeship programs, business and other institutions and organizations, including women's organizations, in the conduct of programs (sec. 103(a)(9)).

(iv) A description of methods to coordinate programs with employment and training programs administered by the Secretary (sec. 103(a)(8)(B)).

(v) A description of efforts to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available for veterans under Section 1787 of Title 38 United States Code, and coordination with the local Bureau of Apprenticeship and Training (sec. 103(a)(8)(C)).

(vi) A description of procedures concerning academic credit developed in conjunction with the appropriate local educational agency or institution of higher education and approved by the appropriate State educational agency (sec. 103(a)(16)).

(vii) A description of plans and activities to coordinate, strengthen, and expand employment and training activities with economic development activities in the private sector. (sec. 103(a)(20)).

(viii) A description of arrangements for implementing responsibilities under the Targeted Jobs Tax Credit Program created by the Revenue Act of 1978.

(7) *Prime sponsor planning.* (i) A description of the functions and responsibilities of the prime sponsor Planning Council (secs. 109(e) and 103(a)(10).

(ii) A description of the procedures used to ensure that council meetings are publicly announced, open and accessible to the general public, and that minutes of such meetings are maintained (sec. 109(d)).

(iii) A description of staff support provided by the prime sponsor to the council (sec. 109(c)).

(iv) A list of the groups within the community represented on the council (sec. 109(b)).

(v) A description of procedures used to select members of the council (sec. 103(a)(4)(c)).

(vi) A description of the methods and arrangements for the participation of groups not directly represented on the council as required by § 676.6 (sec. 103(a)(6) and 103(a)(14)).

(vii) A description of efforts to involve the private sector in the design and/or implementation of programs (sec. 103(b)(8)).

(viii) A description of coordination and consultation linkages between the prime sponsor Planning Council, Youth Council, and Private Industry Council (secs. 109(f) and 103(a)(4)(C)).

(8) *Management and Administration.* (i) Organizational Structure and Staffing.

(A) A description of the prime sponsor's organizational structure (sec. 103(a)(4)(A)).

(B) A description of procedures to recruit and select administrative staff (sec. 103(a)(4)(A)).

(C) A description of the Personnel Merit System including any plan for obtaining an acceptable personnel system as required in § 676.43.

(ii) Administrative Controls. A description of arrangements and procedures for:

(A) Management Information System (including accounting, participant tracking system, client record and reporting systems); (sec. 103(a)(11));

(B) Evaluation and monitoring system, including the independent unit responsible for monitoring programs and subrecipients (secs. 103(a)(12) and 121(o)(3));

(C) Fiscal and program auditing, including procedures for auditing subrecipients and bonding (secs. 103(a)(12) and 134);

(D) Supervising deliverers of services (sec. 103(a)(4)(A)).

(E) Determining and verifying eligibility of applicants (sec. 103(a)(11));

(F) Allowance payments system, including waiver provisions (sec. 124);

(G) A description of methods to ensure compliance with the retirement provisions set forth in § 676.28 (sec. 121(j)).

(iii) Grievance procedures. A description of the procedures for resolving any compliants or grievances alleging violation of the Act, regulations, and CETP and CETA participants, contractors, subrecipients and other parties (secs. 106 and 103(a)(4)(A)).

(9)(i) *Nondiscrimination and equal employment opportunity.* A description of the mechanisms which will be

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used to ensure nondiscrimination and the provision of equal employment opportunities (sec. 103(a)(5)(B)).

(ii) *Affirmative action.* A description of plans and procedures concerning affirmative action, as outlined in § 676.53, including a description of:

(A) Efforts and procedures to eliminate artificial barriers to employment and occupational advancement, for CETA participants, including the hiring, licensing and contracting activities of subrecipients and contractors of the prime sponsor (secs. 103(a)(19) and 103(b)(11));

(B) Efforts to remove architectural barriers to employment of the handicapped (sec. 121(a)(5)).

(10) *Public Service Employment.* (i) An explanation of the basis for distributing funds and the basis upon which job allocation to each employing agency will be made.

(ii) A description of the process for selecting project applicants including:

(A) The methods and criteria to be used for soliciting and approving project applicants.

(B) The role of the planning council in the approval process.

(iii) A description of the items required on the project applications including at least the following information:

(A) Description of project;

(B) Goals and objectives;

(C) Number of persons to be served; and

(D) Length of project.

(d) Assurances and Certifications. The Assurances and Certifications form appears in the *Forms Preparation Handbook.* Prime Sponsors shall assure compliance with the Act, the regulations under the Act, and the CETP and for consortia, the approved consortium agreement (sec. 103(a)(21)).

§ 676.11 Annual plan.

(a)(i) The Annual Plan shall be prepared pursuant to provisions in this section and §§ 676.41, 677.15, 677.33, 677.56, 678.6, 679.4, 680.5, 680.107, and 680.207 as appropriate.

(ii) In submitting the Annual Plan for RA approval, prime sponsors shall comply with the comment and publication procedures of § 676.12 and the planning process in § 676.6. The Annual Plan shall consist of an Application for Federal Assistance (SF–424), Narrative Description of Programs, and Program Planning Summaries, Budget Information Summaries and other forms as appropriate.

(b) Application for Federal Assistance shall identify the total amount of funds requested under Parts 677, 678, 679, and 680.

(c) *Narrative description of programs.* The Narrative Description of Programs shall include:

(1) A summary of any evaluation conducted of the program(s) in the previous year and current year to date and a description of use made of such evaluation (sec. 103(b)(14)).

(2) A detailed summary of the expenditures made during the preceding year, and of results achieved and changes made in the Annual Plan for the program year (sec. 103(b)(5)).

(3) A suumary of the extent to which special needs of the handicapped have been met during the previous year, including the number record served, type of training provided and the number placed in unsubsidized employment (sec. 103(b)(15)).

(4) A list of the specific training subgrants and agreements from the current year, including the rate of positive termination for program completers (sec. 103(b)(13)).

(5) *Approach.* (i) A description of specific programs or services, including apprenticeship programs, if any, designed for those segments of the population who are experiencing severe handicaps in obtaining employment, including individuals who lack credentials, require basic and remedial skills development, have limited English-speaking ability, are handicapped, are disabled or Vietnam-era veterans, are offenders, are displaced homemakers, are public assistance recipients, are persons 55 years of age or older, are youth, are single parents, are women or other individuals having particular disadvantages in the labor market (sec. 103(b)(3); sec. 214; sec. 215; and sec. 216).

(ii) A description of services and activities planned to be provided with funds available under the Act which are not allocated by formula, and coordinated with the activities and services described in this Plan (sec. 103(b)(9)).

(iii) A description of the efforts to be undertaken to increase the participation of qualified disabled and Vietnam-era veterans (sec. 121(b)(2)(A)).

(iv) A description of the plans and methods to be used to provide opportunities for minority-owned businesses and small businesses (including those owned by women), to compete for procurement contracts such as through the use of set asides where appropriate. (sec. 121(k)).

(v) A description of activities which will contribute to occupational development, upward mobility, development of new careers and overcoming of sex sterotyping, including procedures which will lead to skill development and job opportunites for participants in occupations tradionally limited to individuals of the opposite sex (sec. 103(a)(5)(C)).

(6) Information specific to each program to be operated under the Act as required by §§ 677.15, 677.33, 677.56, 678.6, 679.4, 680.5, 680.107, and 680.207.

(7)(i) Attach recommendations of the planning council, including minority reports, which were not included in the plan, together with the reasons for the prime sponsor's rejection of them (sec. 103(a)(17)).

(ii) Attach recommendations and comments of the Governor and the State employment and training council.

§ 676.12 Comment and publication procedures relating to submission of the CETP.

(a) Prime sponsors shall make public the provisions of the Plan prior to submission to the RA through such means as public hearings, public notice in newspapers, bulletins, or other media, including publications that primarily serve significantly segments of the eligible population. (sec. 104(a) and 104(a)(3)). At a minimum, each prime sponsor shall comply with paragraphs (b), (c), (d), and (e) of this section.

(b)(1) Each prime sponsor shall publish at a minimum in one issue of a newspaper or newspapers of general circulation in the prime sponsor's area (including minority newspapers, where applicable) a statement indicating the following information:

(i) The source of funds;

(ii) The amount requested;

(iii) A brief summary of the purpose of the proposed program and activities; and

(iv) The location and hours when the CETP and a comparison of performance against the prior year's plan through the most recent quarter, can be reviewed and the address and phone number where questions and comments may be directed.

(2) The prime sponsor shall publish the statement at least 45 days prior to the submission of the CETP to the RA in order to allow at least 30 days of review and comment. In addition, a copy of the newspaper article shall be transmitted to the RA (sec. 104(a)(3)).

(c) Each prime sponsor shall, at least 45 days before submitting its CETP to the RA, provide the Plan for comment to the Governor, the State employment and training council, the prime sponsor planning council, the private industry council, appropriate units of general local government in its area, appropriate Native American recipients, and appropriate labor organizations. Prime sponsors shall allow at least 30 days for review and comment. (sec. 104(a)(1)).

(d) At the same time, each prime sponsor shall provide written notification of the availability of the Plan to each House of the State Legislature for appropriate referral, to appropriate community-based organizations of

demonstrated effectiveness including appropriate women's organizations, and appropriate educational and apprenticeship agencies and institutions (sec. 104(a)). Prime sponsors shall allow at least 30 days for review and comment.

(e) If a State or areawide Clearinghouse notifies a prime sponsor that it wishes to review the complete Plan, the applicant shall also provide a copy of such to the Clearinghouse(s) 45 days prior to its submission to the RA.

(f) When the PSE Occupational Summary has not been finalized at the time the Plan is made available for public comment, the prime sponsor shall make the document available for a 30-day comment period at the time of submission to the RA as described in § 676.12(c). 29341

(g) A prime sponsor shall acknowledge any written comment and shall inform in writing any party submitting a substantive written comment of whether any plan revision will be made in response to the comment and the reasons for the prime sponsor's determination. The prime sponsor shall provide, upon request, copies of all written comments to the Planning Council and the Governor. In addition, copies of the comments and recommendations of the Governor, the State employment and training council and the planning council shall be transmitted to the RA with submission of the Plan, or if the comments are received after the Plan's submission, they may be sent separately to the RA (sec. 104(b)).

(h) If no comments are received from an A–95 Clearinghouse, or if the Clearinghouse has not requested to review the CETP, the prime sponsor applicant shall so note this on Standard Form 424.

§ 676.13 Submission of the CETP.

(a) Each designated prime sponsor shall simultaneously submit to the RA by a date set by the Secretary:

(1) An Annual Plan;

(2) A certification that the Master Plan remains the same or a modification reflecting any changes; and

(3) An Approval Request Letter.

(b) Newly designated prime sponsors shall submit and have the Master Plan approved by the RA prior to the approval of the Annual Plan. An Approval Request Letter shall accompany the submission.

§ 676.14 Review, approval, and disapproval of the CETP.

(a) *Plan review.* The RA shall review each CETP to determine if:

(1) It is complete and meets the requirements of the Act and regulations (sec. 104(c)).

(2) Prime sponsor's performance and placement goals are adequate in light of performance standards which recognize that performance will vary with local conditions and the nature of employment barriers faced by the eligible population to be served (sec. 126(a)(2)).

(3) The Plan is adequately designed to carry out an effective and well-administered program, taking into account such factors as past program performance and the recommendations made by the Governor, the State employment and training council, and the prime sponsor planning council (sec. 104(c)(1)).

(b) If a Clearinghouse has recommended against approval of a Plan because it conflicts with or duplicates another Federal or federally-assisted project, the RA shall consult with the agency assisting the referenced projects prior to taking action on the Plan.

(c) *Plan approval and disapproval.* (1) The RA shall notify a prime sponsor applicant, the Governor, and the A–95 Clearinghouse within 7 days after approving, disapproving, partially or conditionally approving the CETP on the Standard Form 424. In addition, a letter shall be sent to the prime sponsor and Governor. If any party commenting to the RA pursuant to the A–95 Clearinghouse review process has made recommendations, and if the RA, after review of the recommendations, makes a determination contrary to the recommendations, the RA shall inform the party making the comment of the reasons for the determination on the Standard Form 424.

(2) With respect to approved plans, the Department shall issue a Notice of Funding Availability to provide funding authority. When funds are obligated incrementally, a new Notice of Funding Availability shall not require a revision of the Annual Plan, or publication, comment or A–95 clearance procedures.

(3) If the Plan is disapproved fully or partially or conditionally approved, the RA shall notify the prime sponsor and the Governor in the letter required by paragraph (c)(1) of this section:

(i) of the reasons for disapproval;

(ii) of corrective steps needed to remedy the defects within a specified time but not less than 30 days; and

(iii) that failure to comply with the corrective steps within the specified time will result in final disapproval, which shall be subject to the appeal procedures in Subpart F of this Part.

(4) The approval of the Plan shall not preclude DOL from a subsequent determination that the prime sponsor is in violation of the Act or regulations.

§ 676.15 Use of alternative prime sponsors; services by the Secretary.

If a Plan is not filed or is disapproved, or if a Plan is terminated in whole or in part, which results in services not being provided in the area:

(a) The Secretary may allocate the funds to service the area to another prime sponsor or, if this is inappropriate, to the Governor; or

(b) The Secretary may make financial assistance directly to public agencies or private nonprofit organizations as if the Secretary were the prime sponsor for that area (sec. 102).

§ 676.16 Modifications.

(a) The RA may modify the CETP only once each fiscal quarter except as otherwise provided in the regulations.

(b) Modifications of the Master Plan.

(1) The Assurances and Certifications may only be modified by the RA.

(2) Prime sponsors shall obtain prior RA approval of a modification initiated by a prime sponsor which proposes to make a significant change in the Narrative Description of General Information.

(3) Modification requests from prime sponsors shall consist of the following:

(i) Approval Request Letter;

(ii) Revised Narrative Description of General Information and/or revised Assurances and Certifications, if appropriate; and

(iii) A copy of the newspaper announcement required in paragraph (d) of this section, for significant changes to the narrative description.

(c) Modifications to the Annual Plan.

(1) Prior written RA approval is required to modify:

(i) The duration of the Annual Plan or subparts of the Annual Plan.

(ii) The Annual Plan allocation;

(iii) An increase or decrease of 15% or more in the cumulative number of individuals to be served, planned enrollment levels for program activities, planned placements, terminations or individuals to be served within significant segments.

(iv) For Annual Plan Subparts of $100,000 or less, a cumulative transfer of $15,000 among program activities or cost categories.

(v) For Annual Plan Subparts of over $100,000, the cumulative transfer among program activities or cost categories of $50,000 or more or 15 percent of the total plan budget, whichever is greater; or

(vi) Significant changes in program design.

(2) Prime sponsors may not modify their Annual Plan solely to adjust planned performance to meet actual performance.

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(3) Modifications to the Annual Plan requested by prime sponsors shall consist of:

(i) Approval Request Letter;

(ii) Revised Form SF 424 (if required);

(iii) Revised Program Planning Summary and Budget Information Summary for current and future quarters only;

(iv) Description of any conforming changes made in the narrative descriptions.

(v) Revised Occupational Summary and other forms, if appropriate.

(4) A prime sponsor must notify the RA of changes not set out in paragraph (c)(1) within 30 days from the beginning of the quarter in which the changes are effective.

(d) Publication and comment procedures specified in § 676.12 shall apply to modifications for which prior RA approval is necessary except that:

(1) Each prime sponsor shall comply with the comment and publication requirements at least 30 days prior to submission of its modification to the RA.

(2) The required newspaper announcement shall include a notice of the prime sponsor's intent to modify, a brief summary of the nature and purpose of the proposed modification, the location where and hours when the complete modification can be reviewed, and the telephone number to which questions may be directed.

(3)(i) The prime sponsor shall clear modifications through the A-95 Clearinghouses only if:

(A) There is a cumulative increase or decrease in funds equal to or more than 15 percent of the allocation for any Annual Plan Subpart for the current program year; or

(B) The Annual Plan, or any Subpart, is extended for a period of more than 3 calendar months.

(ii) When A-95 clearance is required, the notice from the prime sponsor to the Clearinghouse shall consist of a revised SF 424 and a brief description of the anticipated modification. If within 15 days of the notice, the prime sponsor receives no notice from the A-95 Clearinghouses that it wishes to review the modification, the prime sponsor may submit the modification to the RA without A-95 clearance.

(e) The RA shall approve or disapprove proposed modifications fully or partially within 30 days of receipt, and, within 7 days of such action, notify the prime sponsor and the Governor in writing of the decision. The procedures in § 676.14(b) and (c)(1) shall apply to modifications.

Subpart B—Program Design and Management

§ 676.21 General responsibilities of CETA grantees.

This Part sets out program operation requirements for CETA recipients including program management linkages, coordination, and consultation, allowable activities, participant benefits, and duration of participation provisions.

§ 676.22 Program management systems.

(a) All recipients shall establish management systems to assess all programs. Recipients shall take necessary corrective action to improve underperformance and to plan for more effective programs for subsequent operations (Sec. 104(c)(1), (2), (3)). Prime sponsors must institute and maintain effective systems for the overall management of all titles of their programs, including but not limited to:

(1) Program monitoring systems as described in § 676.75.

(2) Eligibility verification systems as described in § 676.75.

(3) Complaint and Hearing Procedures as described in § 676.83.

(4) Mechanisms for taking immediate corrective action where problems have been identified and for restitution of CETA funds, as noted in Subpart F, for improper expenditures.

(b) All recipients shall establish and maintain financial management and participant tracking systems in accordance with § 676.34. The principal objective of such systems shall be to provide the recipient with systems necessary to effectively manage its program and to provide information necessary to design program activities and delivery mechansims best suited to resolve employment and training problems in the area. (Sec. 104(c)(3))

(c) Each recipient shall establish and use procedures for the continuous, systematic assessment of program performance in relation to the goals contained in its grant. Recipents shall (except for Job Corps and the Young Conservation Corps): (sec. 103(a)(4)(A)).

(1) Establish written quantified goals for each activity and service and for each subrecipient based on the specific program purposes of the service, activity or subgrant.

(2) Establish and use procedures for collecting performance information (including information on the status of individuals subsequent to entering unsubsidized employment) and for assessing such information in terms of the goals contained in its grant.

(3) Establish and use procedures for identifying performance problems and for developing and implementing appropriate remedial actions.

(d) Recipients shall establish and use procedures whereby the information collected and assessments conducted shall be considered in subsequent program planning and in the selection of deliverers. Prime sponsors shall provide program assessments to their Planning Council and, as appropriate, to their Youth and Private Industry councils.

§ 676.23 Program linkages and selection of deliverers.

(a) In designing programs and in the selection of delivery agents, prime sponsors shall follow the procedures as presented in this section.

(b) In determining service deliverers the prime sponsor shall compile and maintain a publicly available inventory of potential deliverers which have expressed an interest in writing (Sec. 103(3)(B)).

(c) In designing programs under the Act and in selecting service deliverers, prime sponsors shall give special consideration in carrying out programs, to community based organizations of demonstrated effectiveness in the delivery of employment and training programs as follows: (Sec. 123(1)).

(1) Community based organizations shall be actively involved in the Prime Sponsors' planning process, as described in §§ 676.5, 676.7, and 676.12.

(2) Prime sponsors shall establish a mechanism for providing special consideration, including at least the following steps:

(i) Written or other public notification which ensures that appropriate CBO's are notified of the availability of funds and a request that all potential deliverers of employment and training services who wish to be placed on the inventory submit to the prime sponsor the following information:

(A) The name of the organization interested in receiving funds;

(B) The types of service and activities the organization is interested in providing; and

(C) The types of services and activities the organization has provided in the past, the number and types of people served, and documentation regarding the effectiveness of these services.

(ii) The prime sponsor shall determine from the inventory of all potential deliverers of service described in paragraph (b) of this section which have demonstrated effectiveness as defined in § 675.4, based on specific objective criteria.

(iii) The prime sponsor shall provide notice to all CBO's of demonstrated effectiveness on the inventory list of the planned activities and services so that they may make application to deliver such activities and services.

(iv) In the selection of service deliverers, prime sponsors shall give special consideration to CBO's of demonstrated effectiveness in the delivery of employment and training services. For example, in competitive procurement procedures, the prime sponsor may afford special consideration through additional points in a rating system.

(v) If the prime sponsor, after considering a CBO of demonstrated effectiveness as a service deliverer does not select such CBO, it shall upon request provide the reasons for non-selection in relation to its criteria for selection to the affected CBO or the RA.

(d) Consideration shall be given to making use of appropriate services currently available in the community, with or without reimbursement, which the prime sponsor has determined to be effective. Agencies which typically provide such services include, but are not limited to the State Employment Security Agency, State Vocational Education and Rehabilitation agencies, State public assistance agencies, area skill centers established under Sec. 231 of the Manpower Development and Training Act of 1962, local education institutions, community based organizations, and other public agencies. The purpose of this consideration shall be to avoid duplication and to obtain such services at a cost saving over establishing another such service or activity (Sec. 103(a)(7) and 121(g)).

(e) Nothing in paragraphs (a) through (d) of this section shall be construed as prohibiting the prime sponsor from utilizing the services and facilities of public or private agencies, institutions or organizations, such as private business, labor organizations and private educational and vocational institutions which the prime sponsor reasonably believes can provide substantially equivalent or better services or facilities, on the basis of such factors as quality of service or cost effectiveness. (sec. 103(a)(7)).

(f) Each prime sponsor shall enter into a written cooperative agreement with the State Employment Security Agency which delineates the responsibilities of each and covers, at a minimum:

(1) Coordination of the employment and training services under the prime sponsor's plan with those funded under the Wagner-Peyser Act;

(2) A description of arrangements for coordination of employer contacts and other activities involving contact with employers;

(3) Allowance payment systems;

(4) Arrangements to coordinate activities including certification, referral, and publicity functions under the Targeted Jobs Tax Credit program of the Revenue Act of 1978; and

(5) Arrangements to provide the SESA with information on available public service employment positions, in order that such information may be provided to unemployment insurance recipients and other applicants for services from the State Employment Security Agency (sec. 122(1)).

(g) A copy of the agreement described in paragraph (f) of this section shall be made available to the RA upon request.

(h) If a prime sponsor plans to provide a service which is available from the SESA at no cost, the prime sponsor shall justify such non-use in its Annual Plan.

(i) Each prime sponsor shall to the maximum extent feasible:

(1) Coordinate the employment and training services provided under its plan with those available under other programs funded through the Department of Labor (sec. 103(a)(8)), and with self-employment training programs;

(2) Coordinate services to veterans provided under this Act with those activities authorized by Chapter 41 of Title 38, United States Code (relating to counseling and employment services to veterans provided by SESA's) and with other similar activities carried out by other public agencies and organizations. Coordinate services with the appropriate Veterans Administration facilities in utilizing the apprenticeship and other on-the-job training activities available under section 1787 of Title 38 U.S. Code (sec. 121(b) and sec. 103(a)(8)).

(3) Notify the appropriate apprenticeship agency of any training activities in apprenticeship occupations.

(j) Prime sponsors shall coordinate services to AFDC recipients with public assistance agencies and the local sponsor of the Work Incentive Program (WIN) if any.

§ 676.24 Labor organization consultation and/or concurrence.

(a) To ensure the most effective development of employment and training opportunities, prime sponsors are to provide for the participation of organized labor in the planning and design of programs and activities, and coordination in the subsequent operation of such programs (sec. 103(a)(9)).

(b) In addition to involving labor organizations in the planning process as specified in (a) above, prime sponsors shall:

(1) Consult with appropriate labor organiations in the design and content of the training, work experience, public service employment, VEP, OJT, and other appropriate activities with respect to job descriptions, wage rates, training arrangements, and occupations planned; and

(2) Obtain written concurrence from the appropriate bargaining agent where a collective bargaining agreement exists with the participating employer covering occupations in which training or subsidized employment is proposed. Such concurrence shall apply to the elements of the proposed activity which may affect the bargaining agreement, such as wages, benefits, and other factors. If no response is received within 30 days, the program may proceed. (sec. 103(a)(18)).

(3) Maintain evidence of the results of such consultation or concurrence.

§ 676.25 Employment and training activities.

Recipients and subrecipients may conduct the following activities:

(a) *Classroom training.* (1) This program activity is any training of the type normally conducted in an institutional setting, including vocational education, and designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs. It may also include training designed to enhance the employability of individuals by upgrading basic skills, through the provision of courses such as remedial education, training in the primary language of persons with limited English-speaking ability, or English-as-a-second-language training.

(2) In designing and operating training programs recipients and subrecipients shall:

(i) Refer a person for occupational training only after determining that there is a reasonable expectation of employment in the occupation in which such person would be trained (sec. 121(f)(4)).

(ii) Not refer a person to an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities for that person available in that occupation (sec. 121(f)(2)).

(iii) Train persons only for jobs which are not in industries nor occupations with lower wages than the average for nondurable goods industries in the area, as set forth in the BLS Handbook of Labor Statistics, except that training is permissible for those jobs for which there exists a training program of a specified length of time designed to teach specific skills, and for which the rate of labor turnover does not exceed substantially the rate of labor turnover in the same area, as noted above. (sec. 123(a)).

(b) *On-the-job-training.* (1) *General.* (i) On-the-job training (OJT) is training in the private or public sector given to a participant, who has been hired first by the employer, while he or she is engaged in productive work which provides knowledge or skills essential to the full and adequate performance of the job. This does not preclude a participant who has been hired by, and received OJT from, one employer from being ultimately placed with another employer.

(ii) OJT may involve individuals at the entry level of employment or be used to upgrade or retrain present employees into occupations requiring higher skills in accordance with Part 677, Subpart C. OJT may be coupled with other CETA employment and training activities as specified in paragraph (g) of this and § 676.26(a)(6). As needed, OJT participants may receive any of the employment and training services and/or supportive services specified in paragraph (e) of this section through the CETA system, through community resources, or through employer resources.

(2) *Participation.* All OJT participants must be eligible for CETA in accordance with the requirements described in Section 675.5 of these OJT regulations. Recipients should establish procedures for the referral of OJT participants utilizing the information available through the Participant Assessment System (see § 675.6). The following guidelines should be considered in determining priorities of service:

(i) Primarily, OJT opportunities should be offered to those most in need, who lack the related education, training, or work experience for the job for which training is offered.

(ii) Recipients may also refer persons to OJT who have related education, training or work experience when no other suitable opportunities exist for such individuals, either in unsubsidized employment or within the CETA system.

(3) *Selection.* From among those referred for OJT opportunities, the employer may make the final selection of participants based on suitability for the training opportunity.

(4) *Length of training.* The length of time for which payments from CETA funds may be made shall not exceed that period of time generally required for acquisition of skills needed for the position within a particular occupation (sec. 121(1)). Recipients shall develop standardized methods for determining the length of training for OJT occupations, and shall describe or identify such methods in the Annual Plan or grant application. The Dictionary of Occupational Titles (D.O.T.) Specific Vocational Preparation (S.V.P.) codes, or other equivalent standardized tools may be used to fulfill this requirement.

(5) *Eligible jobs.* The requirements of § 676.25 of this section shall apply to OJT. In the selection of jobs for which training will be offered, recipients should consider those which provide opportunities not otherwise available, lead to economic self-sufficiency, and provide upward mobility.

(6) *Reimbursement.* (i) *For private sector OJT.* (A) Based upon past experience, DOL has determined that a fixed unit cost method of reimbursement based on 50 percent of the participant's wages represents the difference between the costs of recruiting and training and the costs of lower productivity associated with employing CETA participants who lack the requisite skills to perform the job, and such costs for those otherwise employed (sec. 121(1)).

(B) To maximize limited available resources, recipients may choose to negotiate lower reimbursement levels with employers.

(C) (*1*) Should an employer or recipient feel that special circumstances warrant a reimbursement level higher than the 50 percent limitation, each circumstance, along with the specified level and its rationale, shall be presented in the recipients's Annual Plan or grant application. Recipients may then negotiate OJT agreements under these circumstances at the reimbursement level approved in the plan without any further DOL approval. The circumstances and the reimbursement level in such cases should also be documented in each OJT agreement.

(2) If a circumstance not covered in the annual plan or grant arises which the recipient believes warrants reimbursement at higher than the 50 percent level, a letter specifying the circumstances and the proposed reimbursement level shall be sent to DOL for approval prior to signing the OJT agreement. Once approved, the terms of the approval shall be incorporated into the recipient's Annual Plan or grant, and the recipient may sign the OJT agreement, documenting the approved circumstances and the reimbursement level in the OJT agreement.

(3) Special circumstances are envisioned as those where the characteristics of the participant indicate greater obstacles to employment than those of the normal CETA participant or where the training would provide the participant with unusually high skills. Examples might include the following, among others: handicapped or mentally retarded participants; disabled veterans; ex-offenders; and exceptionally costly programs providing an above-average quality of training.

(D) Recipients may provide OJT reimbursement on a declining ratio to wages over the period of training, as long as the planned average reimbursement does not exceed the specified reimbursement level for the planned period in which the participant is in training. Recipients shall monitor the declining reimbursement provisions of OJT agreements closely. Should abuse occur (i.e., significant numbers of participants leaving after the "high end of the scale" reimbursement period), the arrangements should be immediately curtailed.

(E) In addition to the reimbursement allowed by paragraphs (b)(6)(c)(i) through (4) of this section, the actual costs incurred by a employer for employment and training services and supportive services for OJT participants which are different than or above the level of those normally provided by the employer to regular employees may be paid on a cost reimbursement or fixed cost basis.

(ii) *For public sector OJT.* Costs incurred for public sector OJT may be paid only in accordance with § 676.41(f)(2). Public sector OJT may be used only to provide opportunities for participants deemed to be eligible in accordance with § 676.25(b)(2) above. It may not be used specifically to avoid the wage level and other requirements of public sector employment contained in these regulations, when PSE in fact offers the more suitable opportunity for the participant. Wages for participants in public service OJT shall meet the criteria outlined in § 676.25(b)(6)(i).

(7) *OJT Agreements.* At a minimum the OJT agreement shall contain the elements listed below. Recipients may place additional provisions in the OJT agreement only after a careful assessment is made of the additional burdens imposed on participating employers. Agreements may only be entered into with employers which have not been seriously deficient in their conduct of or participation in any DOL program pursuant to § 676.38(e). (Sec. 121(o)).

(i) Brief training outline, including the length of training and the nature of the training;

(ii) Method and maximum amount of reimbursement; justification if reimbursement amounts exceed 50 percent of participant's wages;

(iii) Number of participants to be trained;

(iv) Job description and participant wage rates;

(v) Reporting requirements;

(vi) An assurance that payroll records, time and attendance records, job duties and documentation of employment and training or supportive services costs for which the employer is being reimbursed will be subject to review;

(vii) A termination clause for nonperformance;

(viii) An assurance that the employer will comply with the Act and regulations.

(8) *Labor Organization Consultation and Concurrence.* Labor organization consultation and concurrence must be obtained as specified in § 676.24.

(c) *Public service employment.* (1) Public service employment is subsidized employment with public and private nonprofit employers who provide public services.

(2) PSE jobs shall be provided, to the extent feasible, in occupational fields which are most likely to expand within the public or private sector. (sec. 122(m)).

(3) Except for Federal agencies PSE jobs shall be developed where the employer has the capacity to provide the best possible employment opportunities. Worksites employers which can provide employment opportunities should do so as an employing agency. However, where the capacity of a worksite to function as an employing agency is limited by such factors as the lack of administrative capability to accommodate additional employees and lack of employment benefits, it may be considered a suitable site for outstationing.

(i) Recipients shall not outstation participants to worksites also operated by a prime sponsor or program agent. Participants who were outstationed to such worksites on or before the effective date of these regulations, however, may remain outstationed for the duration of their CETA participation.

(ii) The administrative arm of a prime sponsor consortium, except for those which are units of general local government, shall not employ any participant except in an administrative capacity.

(iii) Outstationed participants are still to be considered employees of the employing agency and shall have the same working conditions and benefits as received by other similarly employed employees of the employing agency (not of the outstationed worksite). However, maximum efforts should be made by the employing agency to accommodate the outstationed worksite by coordinating work hours and holidays.

(4) When filling teaching positions in Title VI, prime sponsors shall subgrant with the appropriate local educational agencies pursuant to section 678.3(j) of these regulations. (sec. 603(a)).

(5) PSE participants shall not be employed in building and highway construction work (except that that which is normally performed by the recipient or subrecipient) or in any work which primarily benefits a private-for-profit organization.

(6) Except for projects under Part 678, PSE jobs shall be entry level (sec. 232(a)(1) and sec. 605(a)).

(7) To the extent feasible, the public services provided by the jobs should be designed to benefit the residents of the area (sec. 122(a)).

(8) *Participant Compensation for PSE.* Wages shall be paid in accordance with § 676.26(a)(3).

(9) Take into account the household obligation of those persons who it is the purpose of the Act to serve, and give special consideration to provisions for alternative working arrangements such as flexible hours of work, worksharing and part-time jobs, particularly for older workers, and parents of young children (§ 121(d)(3));

(d) *Work experience.* (1) (i) Work experience is a short-term and/or part-time work assignment with a public employer or a private nonprofit employing agency. It is prohibited in the private-for-profit sector. It shall be designed to enhance employability of individuals through the development of good work habits and basic work skills. Work experience shall be limited to persons who need assistance in becoming accustomed to basic work requirements including basic work skills, in order to be able to compete successfully in the labor market. Work experience shall not be used as a substitute for PSE. It is for persons who have either never worked or who have not been working for an extended period of time, such as students, youth in transition from school to employment, youth with no definite employment goals, chronically unemployed, retired persons, handicapped individuals, residents of institutions, and older workers in such programs as Operation Mainstream, who have no alternative job opportunities (sec. 121(i)).

(ii) Persons who do not satisfy the conditions of subparagraph (d)(1)(i) of this subsection may be placed in work experience for no more than 30 days while an appropriate classroom training, OJT, PSE or unsubsidized job is being developed for them. (sec. 211(6)).

(iii) Participation in work experience shall be for a reasonable length of time based on the needs of the participants, and subject to the restrictions set forth in § 676.30(d), (e), and (f).

(iv) The provisions of § 676.25(c)(9) apply.

(2) At least every 60 days, recipients shall review, and document the progress of each work experience participant to determine whether transfer to another activity or placement in unsubsidized employment, is more appropriate, based on whether the work experience has achieved its purpose. However, this shall not apply to a participant in a summer program.

(3) Work experience participants may be outstationed pursuant to paragraph (c)(3) of this section.

(e) *Services to participants.* This program activity is designed to provide participants with supportive services, employment and training services, and post termination services which will lead to maximum employment opportunities and retention of employment or which will facilitate participation in other employment and training program activities funded under this Act or in an other Act, leading to their eventual placement in unsubsidized employment. Such services include, but are not limited to, the following:

(1) Services to applicants:

(i) Outreach;

(ii) Intake: This includes screening for eligibility; the initial determination as to whether the program can benefit the individual; the determination of the employment and training activities and services which would be appropriate for the applicant; the determination of the availability of an appropriate employment and training activity; a decision on selection; and dissemination of information on the program. The appropriate items on the Participant Record found in the *Forms Preparation Handbook* shall be completed for each applicant during the intake process. All such applications should be retained, regardless of eligibility or enrollment of the applicant.

(2) Employment and training services:

(i) Orientation to the world of work;

(ii) Counseling. This includes employment related counseling, and testing;

(iii) Employability Assessment (other than that involved during intake);

(iv) Job Development;

(v) Job Search Assistance. This includes transition services, such as job seeking skills instruction, individualized job search plan, labor market information, and other special activities for transition to unsubsidized employment;

(vi) Job Referral and Placement; and

(vii) Vocational exploration program (VEP). A recipient may conduct a VEP program to expose youth to jobs available in the private sector through observation of such jobs, instruction, and, if appropriate, limited practical experience. (sec. 432).

(A) A detailed curriculum shall be developed prior to enrollment in VEP.

(B) Organizations which participate in VEP through an agreement with a recipient may be reimbursed for the costs incurred in the conduct of the program, except that private-for-profit organizations may be reimbursed only for costs for training which is over and above that normally provided by the organization.

(C) An individual may not be involved in any activity that contributes, or could be expected to contribute, to additional sales or profit, or results in the subsidization of wages, of a private-for-profit organization.

(D) Where a vocational exploration program funded directly by DOL operates in a recipient's area, the recipient shall enter into an agreement with the local representative of the program which contains arrangements for re-

cruitment, selection, referral and eligibility certification.

(3) Supportive Services include:

(i) Health care and medical services;

(ii) Child care. Child care programs shall comply with applicable State and local standards including State licensing requirements;

(iii) Transportation;

(iv) Residential support;

(v) Assistance in securing bonds;

(vi) Family planning services. These shall be made available to a participant only on a voluntary basis and shall not be a prerequisite for participation in, or receipt of, any services or benefits from the program; and

(vii) Legal Services.

(4) Post-termination services. For 30 days following termination from the program, employment and training services and supportive services, as described in paragraphs (e)(2) and (3) of this subsection, may be provided, to participants who have obtained unsubsidized employment to enable them to retain employment.

(f) *Other employment and training activities.* Recipients may conduct activities not described in paragraph (a) through (e) of this section. The approved grant application shall describe the basic design of activities undertaken as "other employment and training activities" and their objectives. These activities may include:

(1) Removal of artificial barriers to employment;

(2) Job restructuring;

(3) Revision or establishment of merit systems; and

(4) Development and implementation of affirmative action plans.

(g) Combined activities:

(1) A participant may be simultaneously or sequentially enrolled in two or more activities.

(2)(i) Reimbursement may be up to 100 percent to employers, including private-for-profit employers, for expenditures for the costs of classroom training, employment and training services or supportive services for participants in combined activities including the costs of participants' wages paid by the employer for time spent in classroom training.

(ii) Reimbursement may be made on a cost reimbursement or fixed cost basis and shall be supported by business receipts, payroll, or other records normally kept by the employer.

(iii) Nothing in this paragraph (3) shall allow reimbursement to private-for-profit employers for the costs of on-the-job training to exceed the amounts allowable in paragraph (b) of this section.

§ 676.26 Compensation for participants.

(a) *Payment of wages. General.* Except as authorized under § 676.25(g), (7) each participant in on-the-job training, work experience, and public service employment shall be paid wages.

(1) *On-the-job training.* (i) Participants in OJT shall be compensated by the employer at such rates, including periodic increases, as are reasonable considering such factors as industry, geographic region, and trainee proficiency. In no event shall the rate be less than the highest of the following: (sec. 124(c)):

(A) The minimum wage rate specified in Section 6(a)(1) of the Fair Labor Standards Act;

(B) The minimum hourly wage rate prescribed by applicable State or local law (sec. 124(c));

(C) The prevailing rates of pay for persons employed in similar occupations by the same employer;

(D) The minimum entrance rate for inexperienced workers in the same occupation in the establishment or, if the occupation is new to the establishment, the prevailing entrance rate for the occupation among other establishments in the area;

(E) The minimum rate required by an applicable collective bargaining agreement; or

(F) The prevailing rate established by the Secretary in accordance with the Davis-Bacon Act, when required by paragraph (a)(7) of this section.

(ii) For hours spent in the production of goods or services, the rate of compensation to be paid to trainees by employers, public or private, shall be specified in a written agreement entered into by the training or employing facility and the prime sponsor.

(2) *Work experience.* Participants in work experience shall be paid at a rate not less than the highest of (sec. 124(d)):

(i) The minimum wage rate specified in Section 6(a)(1) of the Fair Labor Standards Act;

(ii) The minimum wage rate prescribed by applicable State or local law; or

(iii) The prevailing rate established by the Secretary in accordance with the Davis-Bacon Act, when required by paragraph (a)(7) of this section.

(3) *Public service employment.* (i) Participants in PSE shall be paid wages at rates not less than highest of the following (sec. 124(b)):

(A) The minimum wage rate set out in Section 6(a)(1) of the Fair Labor Standards Act;

(B) The minimum wage rate prescribed by applicable State or local law;

(C) The prevailing rate for persons employed in similar public occupations by the same employer (sec. 124(b));

(D) The minimum entrance rate for inexperienced workers in the same occupations in the establishment, or, if the occupation is new to the establishment, the prevailing entrance rate for the occupations among other establishments in the area;

(E) The minimum rate required by an applicable collective bargaining agreement; or

(F) The prevailing rate established by the Secretary in accordance with the Davis-Bacon Act, when required by paragraph (7) of this section.

(ii) The Secretary shall publish annually an area wage adjustment index, which shall include the maximum wage rates for each prime sponsor's area. The wage adjustment index shall be based on the ratio that the annual average wages in regular public and private employment in an area served by a prime sponsor bears to the average of all such areas.

(A) Data on average annual wages shall be derived from information provided by employers to State Employment Security Agencies which are responsible for administering State and Federal unemployment insurance (UI) laws. Each quarter of the year, employers in both the private and public sectors of the economy covered by UI laws are required to submit reports containing data on a complete count of workers during the payroll period including the 12th of each month and the total wages paid to all employees for the calendar quarter. Each covered employer is requested to report employment and wages in the county where workers are employed.

(B) The average annual wage for each county shall be computed as the ratio of total wages paid during the fiscal year to average monthly employment for the year in the respective counties. In cases where CETA areas represent county combinations and portions of counties, the average annual wage is computed as a weighted average of the wages in component counties based on the relative employment in each. In those instances where more than one CETA area is contained entirely within a county, the average annual wage for each prime sponsor is that for the county as a whole, as the basic payroll data are not produced below the county level.

(iii) Wages, including money received for overtime work and time on leave, paid to any public service employment participant from funds under the Act are limited to a full-time rate of $10,000 per year (or the hourly, weekly, or monthly rate which, if annualized, would equal a full-time rate of $10,000 per year), except where this maximum is adjusted upward by the Secretary to the amount set forth in the area wage adjustment index described above in paragraph (ii). This $10,000 shall not be adjusted upward by more than 20 percent, except for Alaska. In Alaska, the amount in the area wage adjustment index shall be computed by adjusting the $10,000 upward by the exact percentage that the area wage index exceeds the national average wage index.

(iv) Fringe benefits to any PSE participants may not exceed those regularly afforded to similarly employed non-CETA workers, and shall never exceed those afforded to non-CETA workers earning an amount equal to the maximum wage.

(v) The average annual wage for public service participants hired on or after the effective date of these regulations, shall not exceed $7,200, adjusted on an area basis in accordance with the area wage adjustment index described in paragraph (a)(3)(ii). Where public service participants are also enrolled in activities other than PSE for which they receive allowances, or where they are participating in a part-time (less than a normal full-time schedule for the occupation) public service position, the average annual wage for these participants shall be computed by annualizing the PSE wages received by these participants.

For fiscal year 1980 and each subsequent year, the average annual wage limitation shall be further adjusted by a percentage equal to the change in the average wage in regular employment not supported under the Act. In no case shall this wage be adjusted downward to a level that is less than 10 percent above the annualized Federal, State, or local minimum wage rate, whichever is highest (sec. 122(i)).

(vi) Except as provided in § 678.7 and in paragraph (a)(3)(vii), no public service employment participant may be provided wages for any public service employment job from sources other than the Act. For participants hired after September 30, 1978 this applies even if a participant is entitled to a promotion, a general salary increase or overtime pay. In such cases, such participants must be transferred to other positions or be terminated (sec. 122(i)(4)(A)).

(vii) Any person in public service employment on September 30, 1978, receiving wages from non-CETA sources may continue to receive such wages, so long as such person remains in the same position. However, the non-CETA portion shall not be reduced if the maximum wage has been adjusted upward above $10,000 after September 30, 1978, as long as the incumbent participant is in this position or until the next prime sponsor budgetary cycle (sec. 122(i)(4)(B)).

(viii) Any person in public service employment on September 30, 1978, who was receiving wages on September 30, 1978, less than $10,000 may have such wages supplemented above $10,000 from non-CETA sources after September 30, 1978, if such increase is a bona fide cost of living increase or a scheduled raise, and the person remains in the same position.

(4) *Services to Participants.* Allowances may be paid to a participant enrolled in employment and training services when such services are combined with another activity or when such services are provided on a regularly scheduled basis.

(5) *Other employment and training activities.* Allowances may be paid to a participant enrolled in other employment and training activities as described in § 676.25(f) when such activities are a component of another activity, or when such activities are provided on a regularly scheduled basis.

(6) *Combined Activities.* (i) Primary activity. A primary activity is one in which a participant is enrolled for more than 50 percent of scheduled time. Participants enrolled in a primary activity for which wages are payable and simultaneously in an activity for which allowances are payable may, at the recipient's option, be paid wages for all hours of participation, except when OJT is the non-primary component. Before placing an individual in such an activity, the recipient shall request a determination from the Internal Revenue Service as to whether income from the non-primary component is taxable. Nothing in this subsection shall authorize compensation at rates less than those required by paragraphs (a) or (b) of this section.

(ii) Employed Participants. Wages may be paid to a participant by the participant's employer for hours spent in classroom training, whether or not such hours constitute a primary component.

(7) Recipients and subrecipients are required to ensure that prevailing wages, as determined by the Secretary pursuant to the Davis-Bacon Act, are paid:

(i) by their contractors and subcontractors to laborers and mechanics, excluding participants, employed in construction (including alteration, repair, painting, decorating, etc.) which is federally assisted under the Act and related to a facility or building which is used primarily for programs under the Act; and

(ii) to laborers and mechanics, including participants, who are employed in construction (including alteration, repair, painting, decorating, etc.) on any project which is funded wholly or partially under a Federal statute, other than CETA, which requires the payment of prevailing wage rates determined in accordance with the Davis-Bacon Act.

(b) *Payment of training allowances. General.* (i) Subject to paragraph (viii) of this section and section 676.25, a basic hourly allowance shall be paid to participants for time spent in classroom training. In addition, allowances may be paid for time spent in employment and training and supportive services only in accordance with § 676.25(e), (sec. 124(a)).

(ii) No participant may receive allowances for classroom training for more than 104 weeks in a 5-year period. However, this shall not prohibit a recipient from paying for books, tuition and related expenses within the limits set forth in section 121(c).

(1) *The allowance payment system.* A standard system for payment of allowances shall be maintained by every recipient to ensure prompt and efficient payment to all participants. (sec. 124(a)). The standard payment system shall consist of a uniform set of procedures, but may be operated by one or more service delievers. It shall include:

(i) Determination of entitlement and computation of amount to be paid;

(ii) Issuance and distribution of payments;

(iii) Maintenance of payment records and preparation of required reports;

(iv) Maintenance of a system to detect and collect overpayments; and

(v) Arrangements with other agencies to obtain information to minimize unauthorized payments, including arrangements with:

(A) The State Employment Security Agency for verifying the receipt of unemployment compensation by participants (sec. 124(a)).

(B) Appropriate agencies for verification of public assistance payments (e.g., local welfare agencies); and

(C) Training facilities for submittal of payment requests and certifications of attendance.

(2) *Selection of delivery agent.* The recipient is required to provide a standard allowance payment system either directly or through an organization or organizations it considers appropriate for its particular circumstances. The recipient, in selecting the delivery agent for the payment of participant allowances should give consideration to the use of existing agencies which have experience in operating an allowance payment system, e.g., the Unemployment Insurance Service.

(3) *Basic allowances.* (i) A basic hourly allowance shall, except as provided in paragraphs (8) and (9) of this section, equal the higher of:

(A) The minimum hourly wage prescribed by State or local law for most employment in the recipient's area, multiplied by the number of hours during which the trainee attends or is absent for good cause; or

(B) The minimum hourly wage specified in Section 6(a)(1) of the Fair Labor Standards Act, multiplied by the number of hours during which the

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trainee attends or is absent for good cause;

(ii) To compute the number of hours of participation the recipient shall count the time spent in classroom training, and may count the time spent in employment and training services or other activities as specified in sec. 676.25 (e) and (f);

(iii) Dependent allowances, incentive allowances, and additional allowances as described in (4), (5) and (7) of this section are not to be included as part of the basic allowance.

(4) *Dependents allowances.* (i) In the case of an individual with dependents, an additional $5 a week shall be provided for each dependent over two (2) up to a maximum of four (4) additional dependents for participants receiving basic allowances or who would be receiving basic allowances were it not for adjustments which are permitted pursuant to paragraph (b)(8)(viii)(A) of this section (sec. 124(a)).

(ii) Dependent allowances shall be reduced prorate for absence without good cause. The methodology for making the reduction shall be described in the prime sponsor's Master Plan or grant application. Except as provided in paragraph (b)(i)(iv) of this section, dependents allowances may not be reduced (sec. 124(a)).

(5) *Incentive allowances for persons receiving public assistance.* (i) Except for trainees receiving allowances under Subparts A, B, and D of Part 680 incentive allowances in the amount of $30 per week, in lieu of basic allowances, shall be paid to participants receiving public assistance or whose needs or income are taken into account in determining such public assistance payments to others (sec. 124(a)(3)).

(ii) Incentive allowances shall be reduced pro rata for absences without good cause. The methodology (e.g., daily or hourly proration) for making the reduction shall be described in the prime sponsor's Master Plan or grant application.

(iii) Incentive allowances shall be disregarded in determining the amount of public assistance payments individuals are entitled to receive under Federal or federally assisted public assistance programs (sec. 124(a)(3).

(6) *Payments to persons in correctional institutions.* For participants who are prisoners, all or part of the allowances, as determined by the recipient and the head of the institution, may be held in reserve by the institution and delivered upon the participant's release from the institution.

(7) *Additional allowances.* Additional reasonable allowances, such as allowances for transportation or subsistence, may be paid to participants to cover extraordinary costs associated with participation in an activity. The circumstances in which additional allowances will be paid shall be described in the Master Plan on the grant application (sec. 124(a)).

(8) *Adjustments in allowances.* (i) The basic allowance shall be reduced on a weekly basis by the amount of any unemployment compensation, received. Where eligible, participants should be encouraged to apply for and claim unemployment compensation benefits, if they are not already receiving such benefits. The basic allowance shall not be reduced because of any unemployment compensation received prior to enrollment. If unemployment compensation is paid on a biweekly basis, it shall be prorated over the two weeks before the allowance is reduced (sec. 124(a)).

(ii) The basic allowance may be adjusted upward if conditions for such increases are described in the approved Master Plan or grant.

(iii) Periodic increases to the basic allowances may be provided as an incentive to participation when such increases are described in the approved Master Plan.

(iv) Where a participant is employed by an employer as part of a training or employment activity under the Act, the basic hourly allowance may equal up to the hourly wage of the position in which the participant is employed.

(v) (A) The basic allowance for a participant may be reduced, at the option of the recipient, on a weekly basis, by the total amount of any Basic Education Opportunity Grant (BEOG) during the period in which he/she is enrolled in classroom training divided by the number of weeks in which the participant is enrolled in the classroom training; and

(B) The recipient may, however, make arrangements with the training institution to apply BEOG payment to tuition, books and related training costs normally funded by the recipient. The recipient should then pay the training institution the difference, if any, between the actual training costs and the BEOG.

(vi) The basic allowance may be reduced by the amount of wages received by classroom training participants who are also enrolled full-time during the same payment period in either work experience, PSE or OJT. The determination or whether the activity is full-time shall be based on the number of hours that constitute full-time employment for regular employees similarly employed at the employing agency or worksite.

(9) *Waivers of allowances.* (i) The payment of all or part of the basic allowance, described in paragraph (3) of this section, may be waived only in accordance with paragraphs (9) (ii) or (iii) of this section under the conditions described in the grant (sec. 123(a)).

(ii) Waivers of basic allowances shall be allowable only when the following conditions have been met and documented, and a statement of understanding has been signed by each participant:

(A) That the waiver will be applied to the total enrollment in a course and will not be imposed on an individual basis, except as provided in paragraph (9)(3) of this section; and

(B) That the waiver will not have the effect of denying participation to individuals who could not participate without receipt of allowances; and

(C) That the waiver will increase the number of participants served or the level of services provided; and

(D) That the waiver will otherwise promote the purposes of the Act; and

(E) That all participants for whom allowances are waived will be so notified in writing; and

(F) That documentation of the waiver signed by the participant will be made a part of the participant's record.

(iii) In exceptional circumstances, individual waivers, when described in the plan may be granted under the following conditions:

(A) The waiver is at the written agreement of the participant; and

(B) Individual waivers may only be granted when all of the funds allocated in the Budget Information Summary for allowances have been obligated and training opportunities are still available and are unfilled.

(iv) The dependent allowances described in paragraph (4) of this section may not be waived except in cases where the entire basic allowance is waived.

(v) Allowance payments may not be waived solely because a participant is a veteran and receives benefits through the Vietnam Era Veteran's Readjustment Assistance Act, as amended.

(vi) Incentive allowances shall not be waived.

(10) *Repayments.* Prime sponsors shall require participants to repay the amount of any overpayment of allowances under this Part, except if the overpayment was made in the absence of fault on the part of the participant. Where the recipient requires repayment, any overpayment not repaid may be set off against any future allowance or other benefits under the Act to which the participant may become entitled, but in no case shall the wage be reduced below the applicable minimum wage.

§ 676.27 General benefits and working conditions for program participants.

(a)(1) Each participant in an on-the-job training, work experience, or public service employment program under the Act shall be assured of workers' compensation at the same level and to the same extent as other employees of the employer who are covered by a State or industry workers' compensation statute. Whether provided through the State's compensation agency or a private insurance carrier, this coverage includes medical and accident insurance as well as income maintenance insurance. (sec. 121(d)(5)).

(2) Where a participant is employed or engaged in any CETA program activity, i.e., work experience, public service employment, on-the-job training, classroom training, services to participants and other activities where others similarly employed or engaged are not covered by an applicable workers' compensation statute, the participant shall be provided with medical and accident insurance coverage. Whether provided through the State's workers compensation agency or a private insurance carrier, the recipient shall provide such participants with coverage which is adequate and comparable to the medical and accident insurance provided under the applicable State workers' compensation statute. However, recipients shall not be required to provide these participants with the income maintenance insurance coverage in the statute (sec. 121(d)(5)).

(b) Each participant in an on-the-job training or public service employment program shall also be provided health insurance, coverage under collective bargaining agreements, unemployment benefits and other benefits and working conditions at the same level and to the same extent as other employee working a similar length of time, doing the same type work, at the same level, and similarly classified with respect to employment status (e.g., temporary, probationary).

(1) Any such classification shall be reasonable and shall include non-federally financed employees. Where only federally subsidized employees work for an employer, classifications may be limited to them.

(2) Classifications shall not be established exclusively for CETA participants nor shall participants be placed in existing or new classifications in order to reduce or deny benefits to which they are entitled.

(3) Within a single classification, a distinction may be made between CETA participants and other employees with respect to retirement systems or plans which provide benefits based on age or service or both pursuant to § 676.28(a) and (c)(1).

(c) Conditions of employment and training shall be appropriate and reasonable, in light of such factors as the type of work, geographical region, and proficiency of the participant, (sec. 124(d)(1)).

(d) Every participant, prior to entering upon employment or training, shall be informed of his or her rights and benefits in connection with such employment or training. This includes the information that family planning services are voluntary. Participants shall be informed of the name of their employer. (sec. 121(a)(3))

(e) No participant will be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to his or her health or safety. Participants employed or trained for inherently dangerous occupations, e.g., fire or police jobs, shall be assigned to work in accordance with reasonable safety practices. (sec. 121(d)(2))

§ 676.28 Retirement benefits for program participants.

(a) CETA participants may be excluded from retirement systems or plans which provide benefits based on age or service or both which cover similarly employed, non-CETA employees. (sec. 122(k))

(b) Except as provided in paragraph (d) of this section, funds may be used for contributions to retirement systems or plans on behalf of CETA participants in on-the-job training in public or private nonprofit agencies, work experience and public service employment only when such contributions bear a reasonable relationship to the cost of providing benefits to participants. The determination of such a reasonable relationship is based on the following contingencies: The participant

(1) obtains unsubsidized employment with the employer, provided the time spent as a CETA participant is accredited service under the employer's retirement plan; or

(2) obtains unsubsidized employment with another employer, provided benefits are transferable or portable; or

(3) obtains vesting. (sec. 121(j)).

(c) Examples of acceptable methods for payment into retirement systems are as follows:

(1) Recipients may use funds for the employer's contribution to a retirement system or plan where the system adopts a "buy-back" or "buy-in" arrangement on behalf of participants who obtain covered unsubsidized employment provided such employment is obtained within 90 days of termination from subsidized participation. Although such individuals are not covered under the appropriate retirement system or plan during their period of CETA participation, that participation period must be creditable under such system or plan. The employer's contribution shall be paid at the rate applicable during the creditable period of CETA participation. Any interest which would have been earned during that period may be paid from CETA funds.

(2) Recipients may establish a separate reserve retirement account for participants. The employer's contribution made with CETA funds contributed on behalf of participants who do not obtain a status described in paragraph (b)(1), (2), or (3) of this section shall be retrievable and the reserve account shall be adjusted quarterly to reflect the turnover of participants and the projected funds needed to cover current participants. Funds set aside in a reserve account may earn interest.

(3) Payments from CETA funds may be made directly into a regular retirement account on behalf of CETA participants, provided the payments are based on the actuarially determined cost of benefits for participants who can expect to obtain a status described in paragraph (b)(1), (2) or (3) of this section.

(d) Except for those recipients which have come into compliance with the provisions of paragraph (b) and (c) this section at an earlier date, funds available for retirement benefits under the Act may be used for contributions on behalf of participants who are enrolled in retirement systems or plans, prior to July 1, 1979, without regard to the provisions set forth in paragraphs (b) and (c) of this section. These contributions may be made on behalf of such individuals for the duration of their CETA participation (sec. 121(j)).

(e)(1)(i) When a recipient intends to use CETA funds for retirement benefits on behalf of participants the method for doing so shall be described in the Annual Plan.

(ii) Recipients may purchase packages of benefits which include retirement and non-retirement benefits. In such cases:

(A) CETA funds may be used to pay for costs reasonably attributable to the non-retirement benefits, and, to the extent allowed by (b) through (d) of this section, to pay costs reasonably attributable to retirement; or

(B) CETA funds may be used to pay for the costs excluding the difference between the total cost of the package (including retirement) and the cost of a similar benefits package for the whole jurisdiction without a retirement component.

(2) Extensions to the provisions in this section may not be granted, except that under very limited circumstances, the RA, with the approval of the Regional Solicitor, may allow an extension until the end of the regular 1979 legislative session under the following circumstances:

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(i) the State has a law prohibiting the implementation of procedures required by this section;

(ii) the State legislature did not have a regular session in Calendar year 1978, and the calendar 1979 session will not end prior to July 1, 1979; and

(iii) the recipient has made efforts to have the State legislature change the law.

(f) Expenditures may be made from program funds for taxes under the Federal Insurance Contributions Act (FICA), 26 U.S.C. 3101 et. seq.

§ 676.29 Non-Federal status of participants.

Except where specifically provided to the contrary, participants in a program under the Act shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those related to hours of work, rates of compensation, leave, umemployment compensation, and Federal employment benefits.

§ 676.30 Termination conditions; participant limitations

(a) Personnel procedures applicable to regular employees shall apply to any participant who is to be terminated by an employer from a position subsidized with CETA funds. Participant recourse shall be the same as that available to any other similarly employed person with the same employer. Except as noted below, termination of employment does not require termination of participation under CETA.

(b) When a suitable job offer or offer of referral to a suitable job is made to and rejected by a participant, this can be acceptable grounds for termination of the participant by the prime sponsor, regardless of how long the individual has been in the program. Suitable job shall mean a job which is: (1) comparable to the participant's CETA job in terms of working conditions and benefits; and (2) the same or equivalent to the participant's CETA job or otherwise commensurate with his/her skill level; and (3) located within a commuting distance of the participant's home comparable to the distance travelled by others in the jurisdiction similarly employed; and (4) not vacant due to a strike, or based on a requirement that an employee must join or resign from a union.

(c) A grantee which has not successfully placed a participant in appropriate unsubsidized employment or training within the established time limits for participation set forth in paragraph (d) and (c) of this section shall provide the participant with written notice of the impending termination and a contact person for questions and further information at least two (2) weeks prior to the effective date. A dated copy of the notice shall be maintained with the participant's file.

(d) Participation in individual program activities shall be limited to a maximum of:

(1) 1000 hours of work experience during any one year and 2000 hours of work experience during the five year period, beginning October 1, 1978, as provided under paragraph (g) of this section. Participants in YCCIP shall not be subject to this limitation.

(2) 78 weeks of public service employment during a five year period beginning October 1, 1978. In computing this 78 weeks, prime sponsors shall include any public service participation from April 1, 1978, to October 1, 1978. (sec. 122(h)(2)).

(e) No participant may receive allowances for classroom training for more than 104 weeks in a 5-year period (sec. 121(c)(1)).

(f) Except as otherwise provided in paragraphs (g) and (h) of this section, recipients shall limit participation in CETA by any person to a maximum of 30 months during a 5 year period beginning October 1, 1978.

(g) The limitation on total participation in CETA set forth in paragraph (d)(1) and (f) of this section: (1) shall not apply to time spent by in-school youth enrolled in a work experience program under the Act (secs. 121(c)(2) and 212(b)); and (2) may be waived by DOL with respect to time spent by other persons enrolled in a work experience program under the Act based on the inclusion in the Annual Plan or grant application of satisfactory evidence that, due to the lack of alternative job opportunities in the area, this limitation is impractical. Depending on the circumstances in the recipient's area the waiver may be granted for all work experience participants or for one or more subgroups, such as older workers. However, the exemption of in-school youth shall end when the youth is no longer an in-school youth. Those individuals exempt from the 30-month limitation, may continue to participate after the 30-month period has elapsed if they continue in a work experience activity (sec. 121(c)(2)).

(h) A temporary waiver of the limitations set forth in paragraph (d)(2) and (f) of this section of not more than 12 months may be granted by DOL for a limited number of PSE participants hired prior to October 1, 1978, for:

(1) A prime sponsor that has faced unusually severe hardships in its efforts to transition public service employment participants to regular public or private employment not supported under the Act; and

(2) Native American entities that operate programs authorized by section 302 (c)(1) of this Act (sec. 122(h)(4)(A)).

(i) A temporary waiver of the limitation in subsection (d)(2) of this section of not more than 12 months may be granted by the RA for PSE participants hired on or after October 1, 1978 in the case of an area which

(1) (i) Is a unit of general local government which qualifies to be a prime sponsor and that has, at the time of the request for extension, an unemployment rate of at least 7 percent; or

(ii) Is a Native American jurisdiction that has, at time of application for the extension, an unemployment

(iii) Is a unit of general local government that is served by a BOS, or that would have been served by the BOS had it not become part of a consortium, and that has, at the time of the request for the extension, an unemployment rate of at least 7 percent; and

(2) Has faced unusually severe hardship in its efforts to transition public service employment participants into regular public or private employment not supported under tha Act (sec. 122(h)(4)(B)).

(j) A prime sponsor desiring an extension under subsection (h) or (i) of this section for itself or for any area within its jurisdiction believed to qualify for such an extension shall make a request to the RA. This request shall be submitted not more than 60 days prior to the scheduled termination date of any participant for whom the extension is being requested. This request shall include:

(1) The name of each participant for whom the extension is being requested;

(2) The date each individual was hired;

(3) The currently required termination date for each participant;

(4) The length of the extension requested and the proposed new date by which the participant will be terminated from public service employment;

(5) The reason the extension is necessary;

(6) The unemployment rate in the area served by the affected recipient;

(7) A general description of the efforts which have been made to place the individuals in unsubsidized employment; and

(8) A description of the additional efforts that will be undertaken if the extension is granted.

(k) DOL shall notify the recipient in writing of the DOL approval or disapproval and reasons for disapproval. When DOL disapproves a prime sponsor's request for an extension under paragraph (h) or (i) of this section, the Department shall include in the written notice of disapproval the specific reasons for such disapproval.

§ 676.30a Procedures for serving specific target groups.

(a) *General.* Recipients shall take appropriate steps to provide for the increased participation of qualified special disabled and Vietnam-era veterans with special emphasis on qualified veterans who served in the Indo-China theater on or after August 5, 1964, and on or before May 7, 1975, through assuring adequate training and employment opportunities for such veterans in their programs. Such steps may include:

(1) Cooperative arrangements and programs with other agencies or programs (such as veterans service organizations, veterans' cost of instruction programs, national and local organizations of business and labor, community and mental health centers, the Veterans Administration and community-based veterans organizations) to provide comprehensive education, employment, training, outreach, job development, veterans' benefits counseling, and personal adjustment counseling.

(2) Creation, maintenance, or expansion of private sector veterans employment and training programs, such as special OJT efforts for veterans, and cooperative programs using supplemental funding for eligible persons pursuing on-the-job training under Chapters 31 and 34, of Title 38, United States Code.

(3) Programs to facilitate effective placement of, and entry by, veterans into readjustment or employment programs.

(4) Other programs or initiatives, such as split-work experience programs, necessary to serve the unique readjustment, rehabilitation and employment needs of veterans (sec. 121(b)(2)).

(5) Providing information on job and training opportunities to veterans organization (sec. 121(b)(2)).

(b) Public service employment programs.

(1) Within a PSE program, preference in enrollment shall be given to those who are the most severely disadvantaged in terms of lenth of unemployment and their prospects for finding unsubsidized employment (sec. 122(b)(1)).

(2)(i) Recipients shall give special consideration in filling public service jobs to qualified public assistance recipients (or persons who would be eligible to receive public assistance according to established criteria if they would apply for such assistance), and special disabled and Vietnam-era veterans (sec. 122(b)).

(ii) Special consideration shall at a minimum consist of the following:

(A) Outreach mechanisms;

(B) Special referral and selection mechanisms, which may include point systems for weighing applications; and

(C) Specific local goals for participation of target groups.

(iii) In providing special consideration, the prime sponsor shall take advantage of community resources to identify and reach specific target groups. The Master Plan shall specify the mechanism for providing special consideration and shall specify the involvement of SESA's and organizations representing the target groups in the design and/or implementation of these procedures.

(3)(i) Recipients shall provide special emphasis to eligible persons who are offenders, persons of limited English language proficiency, handicapped individuals, women, single parents, displaced homemakers, youth, older workers, and individuals who lack educational credentials (sec. 122(b)).

(ii) Such special emphasis shall include, but not be limited to, taking into consideration the needs of these groups when developing program services and activities, establishing outreach procedures to facilitate the participation of such groups and other steps as the recipient determines to be appropriate.

(iii) Special efforts (e.g., newspaper notices) shall be made to acquaint these groups with the services and activities available under the Act and to coordinate those efforts with other programs serving such persons (sec. 122(b) (3) (B)).

Subpart C—Administrative Standards and Procedures

§ 676.31 General.

(a) This section describes Federal requirements relating to the administration of grants by recipients under CETA. Administrative requirements found in this subpart apply to all programs under the Act unless stated to the contrary for any specific program.

(b) As referenced in this subpart the requirements set forth in 41 CFR 29-70, "Administrative Requirements Governing All Grants and Agreements by which Department of Labor Agencies Awards Funds to State and Local Governments, Indian and Native American Entities, Public and Private Institutions of Higher Education and Hospitals, and other Quasi-Public and Private Nonprofit Organizations," shall apply to grants under CETA.

(1) The requirements in 41 CFR 29-70.1 set forth the policies which apply to all basic grants and agreements.

(2) The requirements in 41 CFR 29-70.2 implement OMB Circular Nos. A-102 and A-110, and applies to all CETA grants and agreements.

§ 676.32 Methods of payment to recipients of CETA funds.

Payments will be made to all recipients according to provisions in 41 CFR 29-70.210, "Grant or Agreement Payment Requirements."

§ 676.33 Depositories for CETA funds.

The standards covering the use of banks and other institutions as depositories for CETA funds are found at 41 CFR 29-70.201, "Cash Depositories."

§ 676.34 Management information systems.

(a) All recipients shall establish and maintain a financial management system which meets the standards set forth in 41 CFR 29-70.207, "Standards for Grantee Financial Management Systems." These systems will include audit procedures in conformance with the "Audit Requirements and Responsibilities" in 41 CFR 29-70.207.4 (sec. 103(a)(11), (sec. 133)).

(b) The recipient may be required to participate in a unified audit established by the Secretary which provide for the audit of both the recipient and its subrecipients and contractors. A unified audit is a coordinated audit of a recipient and its subrecipients and contractors performed by the same public or private organization. The recipient may be required to pay from funds available to it for administrative expenses, that portion of the unified audit expenses allocable to the audit of such subrecipients and contractors. When the recipient arranges for the audit, the following conditions apply:

(1) The request for proposal and the bidding evaluation process must be approved by the Division of Audit; and

(2) Each audit agency or public accounting firm selected must be determined by the Division of Audit to be able to provide an independent audit in accordance with procedures established by the Department (sec. 106(j)).

(c) All recipients shall establish and maintain a client tracking system consisting of records on applicants, participants and terminees which will allow for the audit and monitoring of the recipient's programs, particularly with respect to the eligibility of participants and the propriety of participant selection procedures and practices (sec. 103(a)(11)).

(d) Procedures for establishing additional management controls are specified in §§ 676.22 and 676.75.

§ 676.35 Retention of records.

(a) All records, reports, documents and files required under these regulations shall be the responsibility of the recipient. Retention of and access to those records, reports, documents and files shall be as provided for at 41 CFR 29-70.203, "Retention and Custodial

Requirements for Records." (sec. 133(a)(1)).

(b) Notwithstanding paragraph (a), the recipient shall retain necessary information to ensure that the length of CETA participation for any individual does not exceed the limits on duration found at § 676.30(d) through (i).

(c) Financial records relating to public service employment programs and records of the names, addresses, positions and salaries of all persons employed in public service jobs shall be maintained and made available to the public. (sec. 122(g)).

§ 676.36 Program income.

(a) Except as provided in paragraph (b) of this section, all income realized in CETA activities shall be subject to 41 CFR 29-70.205, "Program Income and Interest Earned."

(b) Any income generated or realized in an activity may be retained by the recipient or subrecipient to continue any CETA activity notwithstanding the expiration of financial assistance. The RA may require the recipient or subrecipient to account for expenditure of such income for a period not to exceed 2 years from the expiration date of the annual plan (sec. 123(h)).

§ 676.37 Recipient contracts and subgrants.

(a) *Recipient responsibility.* (1) The recipient is responsible for development, approval and operation of all contracts and subgrants and shall require that its contractors and subrecipients adhere to the requirements of the Act, regulations promulgated under the Act, and other applicable law.

(2) The recipient shall require contractors and subrecipients to maintain effective control and accountability over all funds, property and other assets covered by the contract or subgrant.

(3) The recipient shall ensure that contractors and subrecipients maintain and make available for review by the recipient and the Department of Labor all records pertaining to the operations of programs under such contracts and subgrants, consistent with the maintenance and retention of record requirements.

(4) Each recipient shall take action against its contractors and subrecipients to eliminate violations of these regulations, and to prevent misuse of CETA funds (sec. 123(i)), (sec. 106(d)(1)).

(5) Subrecipients are entitled to funding for administrative costs. The amount of such funding will be determined during the development of subgrants.

(b) In the event an agreement or subgrant is cancelled, in whole or in part, the recipient shall develop procedures for ensuring continuity of service to participants.

(c) Recipients are authorized to enter into contracts or subgrants which extend past the expiration date of the Annual Plan, but such extension shall not exceed 1 year. In such cases, the recipient shall continue to be responsible for the administration of such contracts and subgrants.

§ 676.38 Procurement standards.

(a) Recipients shall comply with the procurement systems and procedures found in 41 CFR 29-70.216, "Procurement Standards."

(b) Small and minority-owned businesses, including small businesses owned by women, within the jurisdiction of the prime sponsor, shall be provided maximum reasonable opportunity to compete for contracts for supplies and services. One means to provide for this is the use of set-asides (sec. 121(k)).

(c) Prime sponsors shall maintain an inventory of potentially available deliverers of services, including their names, addresses and types of services offered, which have expressed an interest in writing, and use this inventory to select such deliverers of services. This inventory shall be available for public review (sec. 103(a)(3)(B)).

(d) Selection of deliverers shall be in accordance with § 676.23 of these regulations.

(e) No funds will be paid to any nongovernmental organization for the conduct of programs (other than under Title VII or on-the-job training) under the Act unless:

(1) It has submitted an acceptable written proposal;

(2) Selection is performed on a merit basis, after thorough review by the prime sponsor, or Secretary as appropriate;

(3) It has not been seriously deficient in its conduct of, or participation in, any Department of Labor program in the past, or is not a successor organization to one that was seriously deficient in the past, unless the Secretary in his/her discretion certifies after a clear, convincing and detailed showing that the deficiencies will be eliminated and performance substantially improved;

(4) A comprehensive monitoring system operated in accordance with § 676.75(c) is in effect;

(5) It has the administrative capability to perform effectively (sec. 121(o)).

(f) No funds will be paid to any nongovernmental organization for the conduct of on-the-job training and Title VII programs under the Act unless:

(1) Payment is supported by a written agreement which has been evaluated and found acceptable against standards established by the recipient;

(2) The organization has not been seriously deficient in its conduct of, or participation in, any Department of Labor program (sec. 121(o)).

§ 676.39 Property management standards.

Recipients shall comply with the property management standards set forth in 41 CFR 29-70.215.

§ 676.40 Allowable costs under CETA.

(a) *General.* To be allowable, a cost must be necessary and reasonable for proper and efficient administration of the program, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out overall responsibility of State or local governments.

(b) *Direct costs.* Direct costs are those that can be identified specifically with a particular cost objective. These costs may be charged directly to grants, contracts or to other programs against which costs are finally lodged. Direct costs may also be charged to cost objectives used for the accumulation of costs pending distribution in due course to grants and other ultimate cost objectives.

(c) *Indirect costs.* Indirect costs are those:

(1) Incurred for a common or joint purpose benefiting more than one cost objective; and

(2) Not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the recipient entity, as well as those incurred by other entities in supplying goods, services, and facilities, to the recipient.

(d) *Restrictions on use of funds.* (1) The amount of funds available for any specific cost category or activity shall be limited as specified in the regulations for the specific programs.

(2) Funds made available through one grant or Annual Plan subpart may not be used to support costs properly chargeable to another grant or Annual Plan subpart with the exception that funds available for administration shall be pooled under a separate subpart and used to cover all allowable administrative costs incurred under the Annual Plan (sec. 123(f)).

(e) *Allowable CETA costs.* Except as modified by these regulations, the cost principles to be used in determining allowable CETA costs are referenced in 41 CFR 29-70.103 "Cost Principles."

(1) CETA funds may be used to satisfy cost sharing or matching requirements where authorized by Federal law, other than CETA, when seeking other Federal funds and shall be subject to the provisions of 41 CFR 29-70.206, "Matching Share."

(2) Funds may be used for construction activities only to:

(i) Pay wages and fringe benefits for participants employed by public or private non-profit agencies;

(ii) Purchase equipment, materials, and supplies for use by participants while on the job and for use in the training of such participants;

(iii) Cover costs of a training program in a construction occupation, including costs such as instructors' salaries, training tools, books, and allowances and wages; (sec. 123(c))

(iv) Cover costs of material and supplies, in Titles IID and VI projects, weatherization activities and Youth Community Conservation and Improvement Projects, which becomes part of the construction.

(3) Costs associated with building repairs, maintenance, and capital improvements of existing facilities used primarily for programs under the Act are allowable.

(4) The costs of home repair and weatherization are allowable when:

(i) The work is performed either:

(A) On dwellings of individuals whose family income is at or below 125 percent of the poverty level and which are privately owned and owner occupied, privately owned by a nonprofit organization or are units of public housing; or

(B) In weatherization projects funded by the Community Services Administration pursuant to section 222(a)(5) of the Economic Opportunity Act of 1964 or the Department of Energy pursuant to Title IV of the Energy Conservation and Production Act of 1976; or

(C) In rehabilitation projects of housing for lower income families as defined in section 8(f)(1) of the United States Housing Act of 1937 as part of community revitalization or stabilization projects (sec. 123(c)(4)).

(ii) Such activities are supervised by an adequate number of supervisory personnel who are adequately trained in the skills needed to carry out such activities and to instruct participants in the skills needed to perform in the work involved (sec. 123(c)).

(5) Recipients shall not use funds under the Act, to assist, including placing participants, in an establishment which has relocated from one area to another, or located new branches, subsidiaries, or affiliates within the past two calendar years, when such relocation or location has resulted in an increase in unemployment in the area of original location or any other area.

(6) Unemployment insurance benefit costs are allowable for administrative staff hired in accordance with the administrative provisions of these regulations, and for participants in other than public service employment. Unemployment insurance benefit costs for public service employment participants including such participants who are also administrative staff, who become eligible for unemployment insurance by reason of their participation in the program shall be paid not from funds under the Act, but from available funds under Part B, Section 220(a) of Pub. L. 94-444. However, administrative costs associated with the recordkeeping requirements necessary to implement Part B, Section 220(a) of Pub. L. 94-444, shall be allowable as an administrative cost under the Act. Each recipient, subrecipient, or contractor shall cooperate with the SESA's in providing data necessary to implement the provisions of Part B of Pub. L. 94-444.

(7) *Administrative costs.* (i) Administrative cost contribution shall not exceed 20 percent of the total planned costs for each Annual Plan Subpart other than Title II D, Title VI and the Youth Community Conservation and Improvement Projects unless the Program Narrative Description sets forth an explanation of how all administration costs have been determined and a detailed documentation to support that amount. The restriction on the use of funds for administration in Title II D and Title VI programs is set forth in § 677.58(a) and § 678.8(a)(3) and (b). The restriction on use of administration funds in the Youth Community Conservation and Improvement Projects is set forth in § 680. Administrative cost limitations for Title VII programs are found in Part 679 and for Special Governor's Grant programs in Part 677 Subpart D.

(ii) No funds made available for administrative costs under any Title of this Act may be used by a prime sponsor for making payments on contracts for legal or other associated services unless the prime sponsor certifies in writing that:

(A) The payments are not unreasonable in relation to the fees charged by other contractors providing similar services; and

(B) the services could not be competently provided through employees of the prime sponsor or other available State or local governmental employees (sec. 123(f)(2)).

(8) *The cost of participant travel and staff travel necessary for the operation or administration of programs under the Act is allowed as provided herein.*(i) Travel costs of governmental officials not part of the Office of the Governor of a State or the chief executive of a political subdivision are allowable if costs specifically relate to programs under the Act. These costs shall be charged to administration.

(ii) Travel costs for CETA administrative staff, including participants in administrative positions, are allowable when the travel is specifically related to the operation of programs under the Act.

(iii) Travel costs for participants using their personal automobiles in the performance of their jobs are allowable if the employing agency normally reimburses its other employees in this manner. These costs shall be charged to fringe benefits.

(iv) Travel costs to enable participants to participate in programs under the Act are allowable. Such travel shall be restricted to the recipient's jurisdiction or within daily commuting distance, except:

(A) To pay for transportation costs at the beginning and end of a training course which is more than daily commuting distance but within the State in which the recipient is located;

(B) As permitted for good cause by the RA, on a case-by-case basis, within the U.S.

§ 676.41 CETA cost allocation.

Allowable costs shall be charged against the following cost categories: Administration; wages; training; fringe benefits; allowances; and services.

(a) Costs are allocable to a particular cost category to the extent that benefits are received by such category.

(b) All recipients are required to plan, control, and report expenditures against the aforementioned cost categories.

(c) All recipients are responsible for insuring that subrecipients and contractors plan, control, and report expenditures against the aforementioned cost categories.

(d) Classification of costs by category. The following principles shall be followed in classifying cost by cost category:

(1) Participants' wages shall be charged to wages. All wages paid to participants receiving on-the-job training in public or private nonprofit organizations, and all wages paid to participants in public service employment and work experience are considered wages. Cost-of-living increases are considered wages.

(2) Participants' fringe benefits shall be charged to fringe benefits. Fringe benefits costs for participants include, but are not limited to, the following: provisions for annual, sick, court and military leave pursuant to an approved leave system; employees' life and health insurance plans, unemployment insurance where applicable, workers' compensation insurance and retirement benefits; and, under public service employment programs, uniforms, tools, or other equipment ordinarily provided by the employer to its regular employees, provided these are for the benefit and ownership of the participants.

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(3) Allowances paid to program participants shall be charged to allowances.

(4) Training costs consisting of goods and services which directly and immediately affect program participants in either a work environment or classroom setting shall be charged to training. Training costs include, but are not limited to, the following: salaries; fringe benefits; equipment and supplies of personnel engaged in providing training; books and other teaching aids; equipment and materials used in providing training to participants; classroom space and utility costs; and that part of tuition and entrance fees which represent instructional costs having a direct and immediate impact on participants. The compensation of individuals who both instruct and supervise other instructors must be prorated among the training and administration cost categories on the basis of time records or other equitable means. Similarly, tuition fees, and the costs of supplies used in the course of both participant instruction and other activities should be prorated among the benefiting uses.

(5) Supportive and employment and training service costs which consist of goods and services which affect program participants shall be charged to services. Services include, but are not limited to, supportive and employment and training services and services to applicants. Services costs include, but are not limited to, salaries and fringe benefit, space, utility, equipment and travel costs, when an integral part of the job of personnel engaged in providing services to participants; and that part of single unit charges for child care, health care and other services which represent only the costs of services directly beneficial to participants. Transportation of participants, as provided § 676.40(e)(8)(iv), is properly chargeable to services.

(6) Administrative costs shall consist of all direct and indirect costs associated with the management of the program. These costs shall include the administrative costs, both direct and indirect, of subrecipients and contractors. Administrative costs shall be limited to those necessary to effectively operate the program.

(i) Indirect administrative costs represent the general management and support functions of an organization as well as secondary management and support functions at the bureau or division level. Included are salaries and fringe benefits of personnel engaged in executive, fiscal, personnel, legal, audit, procurement, data processing, communications, maintenance, and similar functions, related materials, supplies, equipment, office space costs, and staff training.

(ii) Direct administrative costs are comprised of goods and services which neither contribute to the general management and support functions of an organization, nor directly and immediately affect participants (e.g. training costs). Also included are salaries and fringe benefits of direct program administrative positions such as supervisors, program analysts, labor market analysts, and project directors. Additionally, all costs of clerical personnel, materials, supplies, equipment, space, utilities, and travel which are identifiable with these program administration positions shall be charged to administration. Some examples of administrative costs are: the salary of a clerical assistant to a supervisor; that part of an instructor's salary representing time spent supervising other instructors; desk-top supplies used by supervisors; and, in general, office administration, rent, depreciation or maintenance of nonclassroom space; staff training; consultant services under contract not involving direct training or srvices to participants; costs incurred in the establishment and maintenance of a planning or advisory council under CETA, or in publishing a grant application; and costs of monitoring and providing technical assistance to contractors and subrecipients.

(iii) Services normally chargeable to administration shall be charged to wages or fringe benefits, as appropriate, when performed by program participants.

(e)(1) Except under the optional fixed price performance agreement method provided for in paragraph (2) below, when contractors or subrecipients bill the recipient with a single unit charge containing costs which are chargeable to more than one cost category, the recipient will charge these costs to the proper cost categories. For unit charges such as tuition fees for which the necessary detail cannot be provided, an estimate of the breakdown of the single unit charge among cost categories will be obtained, except when such unit charges are normally billed as a single charge and the cumulative amount of such charges does not exceed $25,000 within the Annual Plan year. These exempted charges do not need to be prorated among the benefiting categories but can be charged to the category receiving the most benefit. Any profit or loss should be prorated among all affected cost categories.

(2) This paragraph provides for an optional method, for agreements to be used only for classroom training. Under the method provided for in this paragraph, costs which are billed as a single unit charge do not have to be allocated or prorated among the several cost categories but may be charged entirely to training. This does not preclude the use of other methods for this purpose as long as the cost allocation requirements of this section are followed.

(i) Agreements under this paragraph must:

(A) Be fixed unit price;

(B) Stipulate that full payment for the full unit price will be made only upon the completion of training by a participant and placement of the participant into unsubsidized employment in the occupation trained for and at not less than the wage specified in the agreement; and

(C) Include a payment schedule which sets out that portion, if any, of the full unit price which may be paid for less than full performance. The payment schedule that is to be used must have been approved by the RA.

(ii) No funds under this Act may be used to pay any private-for-profit organization for training of participants under the method provided herein unless:

(A) That organization is part of (including a subsidiary of) an employer; or

(B) Unless written statements of intent to hire participants trained under the contract have been obtained from employer(s).

(3) In the case of multiuse equipment there must be a proration of costs or, if there is a predominant usage relating to one cost category, a charge shall be made to that category.

(4) Any single cost, such as staff salaries and/or fringe benefits, which is properly chargeable to more than one cost category shall be prorated among the affected categories.

(f) The extent to which the cost categories are assignable to specific program activities is set forth below:

(1) *Classroom training.* Cost categories chargeable are: training; allowances; services; wages when paid to participants during classroom training; and fringe benefits (medical and accident insurance for participants only).

(2) *On-the-job training.* Cost categories are: wages and fringe beneifts (attributable to public or private nonprofit employers only); training; and services.

(3) *Public service employment.* Cost categories are: wages; fringe benefits; services; and training.

(4) *Work experience.* Cost categories are: training; services; wages; and fringe benefits.

(5) *Services to participants (not part of another program activity).* Cost categories are: allowances; fringe benefits (medical and accident insurance for participants only); and services.

(6) *Other activities.* Cost categories are: training; allowances; and services.

§ 676.42 Administrative cost Annual Plan Subpart.

(a) All administrative funds from all Annual Plan Subparts shall be contained in a separate Administration Annual Plan Subpart unless specifically exempted by regulations or grant agreement. The amount each subpart contributes to the Administrative Cost Subpart shall not exceed the limits set in § 676.40(e)(7), § 677.58 (a) and (b), § 678.8(a)(3) and (b), and 680 (sec. 123(f)(1)).

(b) The Administrative Cost Subpart to the Annual Plan shall consist of the following:

(1) *Budget Information Summary (BIS).* Provide on the BIS the proposed administrative costs for the program year. This shall include the sum of the contributions from all subparts under the Annual Plan.

(2) *Budget Information Summary Backup.* List separately on this attachment to the BIS each Annual Plan Subpart and the amount it contributed to the administration pool.

(c) When the Administrative Cost Subpart is approved, the funds may be expended for all allowable administrative costs. There is no requirement that administrative costs be allocated back to Title or program activity.

(d) The Administrative Annual Plan Subpart may be modified during the program year. The amount of funds in the subpart may be decreased with the funds going back to the program subparts provided that not program subpart receives back more than it contributed to the Administrative Cost Subpart. The administrative subpart may also be increased up to the percent allowed by the regulations for each program.

(e) At the end of a program year unexpended administrative funds may be carried over into the new subpart or they may be returned to the program subparts. In the new program year the amount of new funds which will go into the Administrative Cost Subpart will be determined by using only the new obligational authority.

§ 676.43 Administrative staff and personnel standards.

(a) *Staffing.* Members of the eligible population shall be provided maximum employment opportunities at all levels of the CETA administration. Recipients shall establish systems to enhance the recruitment and hiring of qualified persons reflecting the significant segments, and to provide opportunities for further occupational training and career advancement (sec. 121(b)(1)(B)).

(b) *Basic personnel standards.* (1) Methods of personnel administration shall be established and maintained by each recipient for its employees, including participants, engaged in the administration or operation of programs under the Act. Such methods shall be in conformity with the Intergovernmental Personnel Act (IPA) Merit Principles, P.L. 91-648, Section 2, administered by the U.S. Office of Personnel Management.

(2)(i) Except as provided in paragraph (3), below, a recipient whose personnel system does not conform to the merit principles of the IPA shall develop a plan outlining steps to be taken for attaining an acceptable system, and a reasonable date within the grant year for implementing the steps in the plan.

(ii) Recipients whose personnel systems have been accepted by the U.S. Civil Service Commission or the U.S. Office of Personnel Management as being in conformity with the Standards for a Merit System of Personnel Administration, 5 CFR Part 900, Subpart F, shall be deemed to be in compliance with this section.

(3) The following are not subject to the requirements of paragraphs (1) and (2) above:

(i) Any nongovernmental recipient;

(ii) A consortium administrative unit which is not a unit of government;

(iii) Employees of the recipient not engaged in the administration or operation of programs under the Act.

(4) Units whose staff are exempt under paragraph (3) of this section shall ensure equal employment opportunity based on objective procedures of recruitment, selection, promotion, classification, compensation, performance evaluation, and employee management relations, and are encouraged to develop procedures reflective of the principles contained in the IPA.

(c) *Bonding.* Every officer, director, agent or employee of a recipient or subrecipient of funds who is authorized to act on behalf of a recipient or subrecipient for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks or other instruments of payment for program costs, shall be bonded to provide protection against loss. The provisions of the bonding arrangements shall be included in the description of the administrative systems in the Master Plan or grant application. Existing bond coverage of recipients or subrecipients shall be considered acceptable. For all others, the amount of coverage shall be the lower of the following:

(1) $100,000; or

(2) the highest advance received through check or drawdown during the preceding grant year, or for new recipients, the highest advance through check or drawdown planned for the present grant year (sec. 134).

§ 676.44 Reporting requirements for prime sponsors.

(a) Each prime sponsor shall submit four periodic reports which will be used by the Secretary to assess its performance in carrying out the objectives of the Act. These four reports are:

(1) The Program Status Summary (sec. 127(d)(1));

(2) The Financial Status Report (sec. 127(d)(3));

(3) The Quarterly Summary of Participant Characteristics (sec. 127 (d)(2)); and

(4) Classroom and On-the-Job Training Report (sec. 313(g)).

Prime sponsors may from time to time be required to prepare and submit additional reports requested by DOL and other Federal agencies for the performance of the legal responsibilities of these agencies, except that such reports will not be required by DOL more than once each fiscal quarter. Detailed descriptions of the four reports are in the *Forms Preparation Handbook.*

(b) The reports required by this section shall be prepared to coincide with the ending dates of Federal fiscal year quarters. These reports shall be sent by the prime sponsor to be received by the RA no later than 30 days after the end of the reporting period.

(c) Separate reports will be required for each Annual Plan Subpart.

§ 676.45 Annual plan subpart settlement procedures.

(a) The settlement of an Annual Plan Subpart is the process by which the Department of Labor determines that all applicable administrative actions and all required work of the Annual Plan Subpart have been completed by the prime sponsor and DOL.

(b) The RA shall determine, from the best information available, for each expiring Annual Plan Subpart:

(1) Total fund availability;

(2) Estimated accrued expenditures;

(3) Estimated carryout.

(c) The RA shall issue a notice of fund availability to transfer estimated carryout from the previous Annual Plan Subpart. A second notice of fund availability shall be issued by the RA to transfer the carryout into the new Annual Plan Subpart.

(d) By a date specified by the RA, each recipient shall submit a final Financial Status Report for each of the previous year's Annual Plan Subparts.

(e) If the final reports are acceptable, the RA shall effect a preliminary settlement by transferring remaining funds into the current year's Annual Plan Subpart. Final settlement of expired Annual Plan Subparts shall not be complete until an audit has been performed, audit findings have been

resolved, and final reports have been submitted.

(f) End of the Master Plan. The Master Plan has no end or termination date. However, under the following conditions the Master Plan shall no longer be in effect:

(1) When all activity under the Annual Plan has been completed or the Annual Plan has been terminated and final settlement of the Annual Plan, including an inventory settlement, has been reached.

(2) When the Master Plan is a multiparty agreement and one or more signatory parties has legally withdrawn from the agreement and an inventory settlement under the Master Plan has been reached.

§ 676.46 Secretary's responsibilities.

(a) As used in this section, the term "assessment" refers to the Federal review of grant applications and performance of individual recipients and the term "evaluation" refers to the Federal study of overall effectiveness and impact of programs and activities under the Act.

(b) The Secretary shall provide for the continuing evaluation of all programs, activities, and research and demonstration projects including their cost effectiveness in achieving the purposes of the Act, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons by age, sex, race, and national origin, and the adequacy of the mechanism for the delivery of services. In conducting evaluations the Secretary shall compare the effectiveness of programs conducted by prime sponsors of the same class and of different classes, and shall compare the effectiveness of programs conducted by prime sponsors with similar programs carried out by the Secretary under the Act. The Secretary shall also arrange for obtaining the opinions of participants about the strengths and weaknesses of the programs (sec. 313(a)).

(c) The Secretary shall assess annually the adequacy of each prime sponsor's proposed performance and placement goals in accordance with performance standards which recognize that performance will vary with local conditions and the nature of employment barriers faced by the eligible population to be served.

§ 676.47 Reallocation of funds based on nonutilization.

(a) The RA may reallocate any amount of any allocation under the Act to the extent that it is determined that a recipient will not be able to use such amount within a reasonable period of time. To the extent that nonutilization is determined, a level of 10% of the annual allocation to a program may be carried over into the subsequent fiscal year without being considered nonutilization. (sec. 108(a)).

(b) When the RA determines that a reallocation from a prime sponsor is appropriate, he shall give the prime sponsor, the general public, and the appropriate Governor notice of proposed action to remove funds from the grant. Such notice shall include specific reasons for the action being taken and shall invite the prime sponsor, the appropriate Governor, and general public to submit comments on the proposed reallocation of funds. These comments shall be submitted to the RA within 30 days from the date of the notice. After considering any comments timely submitted, the RA shall notify the Governor and affected prime sponsors on any decision to reallocate funds and shall have any such decision published in the FEDERAL REGISTER. (sec. 108(b) (1) and (2)).

(c) The procedures set out in this section are in lieu of any other procedures which might otherwise be applicable under the Complaints and Sanctions provisions in Subpart F.

(d) In reallocating such funds, priority shall be given first to other prime sponsors within the same State and then to prime sponsors within other States, taking into consideration the number of unemployed individuals in those areas. (sec. 108(b) (3)).

Subpart D—Equal Employment Opportunity Under CETA

§ 676.51 General.

This subpart sets out the Department of Labor's regulations for insuring that discrimination is specifically prohibited in all CETA programs, and that services are provided on an equitable basis to the significant segments of the eligible population. This subpart covers the various equal opportunity provisions of this Act, and incorporates by reference other equal opportunity statutes, regulations and executive orders to which recipients under CETA are subject, such as those pursuant to Title VI of the Civil Rights Act of 1964, the Age Discrimination and Employment Act of 1967, the Equal Pay Act of 1967, the Rehabilitation Act of 1973, and the Uniform Guidelines on Employee Selection Procedures (1978).

(a) No person shall, on the ground of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief, be discriminated against, or denied employment as a participant or staff person, in connection with any program under the Act.

(b) Recipients shall comply with the Department of Labor's nondiscrimination requirements at 29 CFR Part 31 under Title VI of the Civil Rights Act, which prohibits discrimination by race, or national origin. They shall also comply with the Department of Labor's regulations under Section 504 of the rehabilitation Act, which prohibits discrimination by handicap. The latter regulations will soon be published for comment in the FEDERAL REGISTER.

(c) All programs shall to the maximum extent feasible, contribute to the elimination of sex stereotyping. Prime sponsors shall in planning their program activities:

(1) Recruit for and encourage female entry, through such means as training, in occupations with skill shortages where women represent less than 25 percent.

(2) Recruit for and encourage male entry, through such means as training in occupations with skill shortages where men represent less than 25 percent.

(d) All programs shall contribute to the maximum extent feasible to the elimination of architectural barriers (sec. 121(a)(4) and (5)).

(e) *Artificial barriers.* (1) No person shall be denied training or employment in any program or activity funded in whole or in part with CETA funds because of a qualification requirement which is not directly related to the individual's fitness or ability to perform the duties required by the training or employment position.

(2) Prime sponsors shall analyze and re-evaluate job descriptions and qualification requirements at all levels of employment, including civil service requirements and practices relating thereto, with a view toward removing artificial barriers to public service employment (sec. 122(f)).

(f) Prime sponsors shall establish procedures to ensure against discrimination and foster equal employment opportunity.

(g) Where practicable, the prime sponsor shall assign EEO responsibilities on a full-time basis to an individual or staff; or if this is not practicable, explain why in the Master Plan.

(h) Recipients shall compare the racial, age, handicapped worker, national origin and sex composition of the CETA staff with that of the civilian labor force in the recipient's area and make a determination of the extent of under representation.

§ 676.53 Affirmative action.

(a) Each recipient shall establish an affirmative action plan for outreach to, and training, placement, and advancement of handicapped individuals in employment and training programs under the Act. Such an affirmative action plan shall be described in the annual plan or grant application (sec. 103(b)(15)).

(b) Any recipient which has been determined by DOL or another Federal, State or local agency to have discriminated in its CETA program, shall take Affirmative Action to overcome the effects of that discrimination.

(c) Such plans and procedures required by (a) and (b) above will include as minimum:

(1) The development and implementation of specific steps along with the assignment of management responsibility, to achieve the objectives stated above, within specific timeframes, e.g., special recruitment efforts, test validation, display of EEO posters, review of eligibility and selection standards to determine discriminatory impact, identification of artificial barriers, and development of upward mobility programs.

(2) The establishment of monitoring and evaluation procedures to measure progress in meeting the goals of the affirmative action program within the projected timeframes.

(3) Internal dissemination of the affirmative action policy statement to all CETA management officials, staff, and participants, and external dissemination of the prime sponsor's affirmative action policy statement to community groups, community-based organizations, minority and female organizations, and the general public, in the same procedure as notice is provided for the Master Plan.

(4) Written documentation that subgrantees and contractors are aware of the prime sponsor's affirmative action program and the specific staffing and service goals.

§ 676.54 Equitable provision of services to the significant segments of the eligible population.

(a) CETA recipients shall provide employment and training opportunities available under each title of the Act on an equitable basis to significant demographic segments in the eligible population (sec. 121(b)(1)).

(b) When planning and developing employment and training opportunities, prime sponsors shall set planned service levels on an equitable basis according to age, race, sex, and national origin categories, in relation to the incidence of such groups in eligible population, taking into account the employment and training needs of those groups. The prime sponsor's Annual Plan shall include a description of the proposed levels of participation for each of these groups and shall provide adequate justification where those planned levels of participation very by more than 15% from the group's incidence in the eligible population. The prime sponsor shall serve those most in need and may select specific target groups.

The selection of such groups shall be included in the justification of the variances noted above, and should constitute the principal reason for such variance. Variances for planned male and female service levels may warrant review even within the 15% benchmark.

(c) The recipient shall take positive steps, such as active recruitment, to ensure that the planned levels of participation are realized.

Subpart E—Prevention of Fraud and Program Abuse

§ 676.61 General.

(a) To ensure the integrity of the CETA programs, special efforts are necessary to prevent fraud and other program abuses. Fraud includes deceitful practices and intentional misconduct, such as willful misrepresentation in accounting for the use of program funds. "Abuse" is a general term which encompasses improper conduct which may or may not be fraudulent in nature. While any violation of the Act or regulations may constitute fraud or program abuse, this Subpart E identifies and addressed those specific program problems which were of most concern to the Congress during the reauthorization of CETA.

(b) This Subpart further sets forth specific responsibilities of recipients and subrecipient and of the Secretary to prevent fraud and program abuse in CETA programs.

§ 676.62 Conflict of interest.

(a) No member of any council under the Act shall cast a vote on any matter which has a direct bearing on services to be provided by that member or any organization which such member directly represents or on any matter which would financially benefit such member or any organization such member represents (sec. 121(h)(2)). Members of the PIC may vote on the Title VII Supplement. However, they may not vote on agreements or other matters which would financially benefit themselves or their organization.

(b) Each recipient and subrecipient shall avoid personal and organizational conflict of interest in awarding financial assistance and in the conduct of procurement activities involving funds under the Act in accordance with the code of conduct requirements set forth in 41 CFR 29-70.216-4 (sec. 123(g)).

(c) Neither the Secretary nor any recipient or subrecipient shall pay funds under the Act to any nongovernmental individual, institution or organization to conduct an evaluation of any program under the Act if such individual, institution or organization is associated with that program as a consultant or technical advisor (sec. 121(h)(1)).

§ 676.63 Kickbacks.

No officer, employee or agent of any recipient or subrecipient shall solicit or accept gratuities, favors or anything or monetary value from any actual or potential subrecipient or contractor or supplier (sec. 123(g) and 41 CFR 29-70.214-4).

§ 676.64 Commingling of funds.

Recipients shall comply with the applicable requirements of 41 CFR 29-70.201-2, regarding separate bank accounts (sec. 123g)).

§ 676.65 Charging of fees.

(a) No funds under this Act shall be used for the payment of a fee charged to an individual for the placement of that individual in a training or employment program under the Act.

(b) No person or organization, including private placement agencies, may charge a fee to any individual for the placement or referral of that individual in or to such program.

(c) Any contract requiring the individual to pay such fees therefore, shall not render the individual liable for such fees (sec. 123(j)).

(d) Nothing in this section shall be interpreted as prohibiting the recipient or subrecipient from entering into an agreement for the purpose of obtaining outreach, recruitment and/or intake services, as part of its approved intake system, provided the individuals served are not charged a fee.

676.66 Nepotism.

(a) *Restriction.* No recipient, subrecipient, or employing agency may hire a person in an administrative capacity, staff position, public service employment position, or on-the-job training position funded under the Act if a member of that person's immediate family is engaged in an administrative capacity for that recipient, subrecipient, or employing agency. The extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, such State or local requirement shall be followed (sec. 123(g)).

(b) For purposes of this section:

(1) The term "immediate family" means wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, and stepchild.

(2) The term "person in an administrative capacity" includes those persons who have overall administrative responsibility for a program including all elected and appointed officials who have any responsibility for the obtaining of and/or approval of any grant funded under the Act, as well as other officials who have influence or control over the administration of the pro-

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gram, such as the project director, deputy director and unit chiefs, and persons who have selection, hiring, placement or supervisory responsibilities for public service employment or OJT participants. Persons who are economically disadvantaged and serving on the prime sponsor's planning council, youth council, PIC, or State employment and training council shall not be considered persons in an administrative capacity.

676.67 Child labor.

All recipients and subrecipients shall comply with applicable Federal, State and local child labor laws.

676.68 Political patronage.

(a) No recipient or subrecipient may select, reject, or promote a participant based on that individual's political affiliation or beliefs. The selection or advancement of employees as a reward for political services or as a form of political patronage, whether or not the political service or patronage is partisan in nature, is prohibited.

(b) There shall be no selection of subrecipients or contractors based on political affiliation (sec. 123(g)).

§ 676.69 Political activities.

(a) No program under the Act may involve political activities (sec. 131(a)).

(1) No participant may engage in partisan or nonpartisan political activities during hours for which the participant is paid with CETA funds.

(2) No participant may, at any time, engage in partisan or nonpartisan political activities in which such participant represents himself/herself as a spokesperson for the CETA program.

(3) No participant may be employed or outstationed in the Office of a Member of Congress or a State or local legislator or on any legislative committee or staff.

(4) No participant may be employed or outstationed in the offices of any elected executive official, chief executive officers or officers of a State or a unit of general local government.

(b) Persons governed by Chapter 15 of Title 5, United States Code, the Hatch Act, shall comply with its provision as interpreted by the United States Civil Service Commission. These provisions apply:

(1) to persons (including participants) employed by State and local government in the administration of the CETA program; and

(2) generally to any participant whose principal employment is in connection with an activity financed by other Federal grants or loans (sec. 131(b)).

§ 676.70 Lobbying activities.

No funds provided under the Act may be used in any way:

(a) to attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress (sec. 123(g) and 18 USC 1913); or

(b) for lobbying State or local legislators (sec. 123(g)).

§ 676.71 Sectarian activities.

(a) No funds under the Act may be used in support of any religious activity.

(b) No participant may be employed in the construction, operation, or maintenance of such part of any facility as is used or will be used for sectarian instruction or as a place of religious worship (sec. 121(a)(2)).

(c) Funds may not be used to support any anti-religious activities, such as the preparation or the dissemination of anti-religious materials, whether directed against any particular religion or religions or against the practice of religion in general (sec. 123(g)).

(d) This does not preclude religious organizations from the administration or operation of CETA programs or the use of religious facilities in the operation of such programs.

§ 676.72 Unionization and antiunionization activities/work stoppages.

(a) No funds under the Act shall be used in any way to either promote or oppose unionization (sec. 123(g)).

(b) No individual shall be required to join a union as a condition for enrollment in a program in which only institutional training is provided, unless such institutional training involves individuals employed under a collective bargaining agreement which contains a union security provision (sec. 121(n)(2)).

(c) No participant in work experience or public service employment may be placed into, or remain working in, any position which is affected by labor disputes involving a work stoppage. If such a work stoppage occurs during the grant period, participants in affected positions must either be relocated to positions not affected by the dispute, or be suspended through adminstrative leave or other means. The grantee shall make every effort to relocate participants, who wish to remain working, into suitable positions unaffected by the work stoppage.

(d) No person shall be referred to or placed in an on-the-job training position affected by a labor dispute involving a work stoppage and no payments may be made to employers for the training and employment of participants in on-the-job training during the periods of work stoppage.

§ 676.73 Maintenance of effort.

(a) To ensure maintenance of effort under all programs under the Act,

(1) Recipients and subrecipients shall ensure that such programs:

(i) Result in an increase in employment and training opportunities over those which would otherwise be available (sec. 121(e)(1));

(ii) Not result in the displacement of currently employed workers, including partial displacement, such as reduction in hours of nonovertime work, wages, or employment benefits (sec. 122(e)(2)); and

(iii) Not impair existing contracts for services or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed (sec. 121(e)(3) and (g)(1)), including services normally provided by temporary, part-time or seasonal workers or through contracting such services out.

(2) Funds under this Act shall supplement, and not supplant, the level of funds that would otherwise be made available from non-Federal sources for the planning and administration of programs (sec. 121(g)(1)(c)).

(b) In addition to the requirements of paragraph (a) of this section, for public service employment programs funded under this Act:

(1) Recipients and subrecipients shall ensure that such public service employment positions shall not

(i) Substitute for existing federally assisted jobs (section 122(e)); and

(ii) Be created in any promotional line that will infringe in any way upon promotional opportunities of persons currently in jobs not funded under the Act (sec. 122(d)).

(2) Whenever a promotional freeze affects non-CETA funded employees it shall apply to CETA participants similarly employed.

(3) No participant shall be hired into, or remain working in, any position when:

(i) The same or substantially equivalentposition is vacant due to a hiring freeze, unless the prime sponsor can demonstrate that the freeze resulted from lack of funds to sustain staff levels and was not established in anticipation of the availability of funds under the Act;

(ii) Any other person not supported under the Act or by other Federal funds (other than general revenue sharing) is on lay-off from the same or any substantially equivalent job. The same or equivalent job means any job or classification for which:

(A) Per a personnel code or practice or per a collective bargaining agreement, a recall list is maintained of former employees, who have the first right to any job vacancies occurring within a specific period of time in the classification(s).

(B) If there is no recall list, without other policy, practice or contractual obligation, one or more employees

have been laid off due to a lack of funds or work from a job in the classification any time during the last two operating years of the department or agency (sec. 122(c)(1)).

(4) When termination of CETA participants is imminent due to conditions noted in (3) above, the prime sponsor shall make every feasible attempt to place such participants into other nonaffected positions or otherwise attempt placement into unsubsidized jobs or into Title II B.

(5) No former employees laid off or terminated in anticipation of CETA funding of a position may be rehired under CETA into such a position.

(6) A recipient or subrecipient shall not use CETA funds in any manner which results in a reduction of the customary level of public service provided by itself or another public entity in the area, by allowing PSE participants to be placed with or outstationed to private nonprofit organizations.

(c) Prime sponsors shall notify the RA in writing of any layoff or hiring freeze and of any recall rights of employees on layoff, in a department or agency where public service employment participants are employed. Prime sponsors shall, at the direction of the RA, submit documentation and budgetary expenditure records, revenue statements, and other available information relevant to determination under this Section. RA's shall not approve any plan unless prime sponsors have submitted, when directed by the RA, conclusive evidence that the proposed use of funds fully meets the requirements of this Section.

§ 676.74 Theft or embezzlement from employment and training funds; improper inducement; obstruction of investigations and other criminal provisions.

The criminal provision of 18 U.S.C. 665 states that:

(a) Whoever, being an officer, director, agent or employee of, or connected in any capacity with, any agency receiving financial assistance under the Comprehensive Employment and Training Act knowingly hires an ineligible individual or individuals; embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a grant or contract of assistance pursuant to such Act shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, such person shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

(b) Whoever, by threat of procuring dismissal of any person from employment, or of refusal to renew a contract of employment in connection with a grant or contract of assistance under the Comprehensive Employment and Training Act, induces any persons to give up any money or thing of any value to any person (including such grantee agency) shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.

(c) Any person whoever willfully obstructs or impedes, or endeavors to obstruct or impede, an investigation or inquiry under the Comprehensive Employment and Training Act or the regulations thereunder, shall be punished by a fine of not more than $5,000, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

(d) In addition to the criminal provisions set forth in paragraph (a), (b) and (c) of this section, individuals may be held criminally liable under other Federal laws such as 18 USC sections 600 and 601 if they:

(1) Directly or indirectly, promise any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by funds under the Act, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of, or opposition to, any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office (18 USC 600); or

(2) Directly or indirectly, knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of any employment or benefits funded under the Act (18 USC 601).

§ 676.75 Responsibilities of recipients and subrecipients for preventing fraud and program abuse and for general program management.

(a) Each recipient and subrecipient shall establish and use internal program management procedures sufficient to prevent fraud and program abuse.

(b) Each recipient and subrecipient shall ensure that sufficient, auditable, and otherwise adequate records are maintained which support the expenditure of all funds under the Act. Such records shall be sufficient to allow the Secretary to audit and monitor the recipients' and subrecipients' programs and shall include the maintenance of a management information system in accordance with the requirements of § 676.34 (secs. 103(a)(1) and 123(g)).

(c)(1) Prime sponsors, as part of their internal program management procedures, shall establish a monitoring unit which shall be independent of, and not accountable to, any other unit being monitored. This unit shall report to a level of management, which may include the CETA director or the chief-elected official, which will insure adequate monitoring coverage and appropriate action on findings and recommendations. The organizational location of this unit shall be sufficient to maximize its objectivity, facilitate its access to information necessary to carry out its monitoring responsibilities and to minimize organizational conflict of interest.

(2) The independent monitoring unit shall periodically monitor and review through on-site visits, program data, program administration and management practices supported with funds under the Act in order to insure compliance with the Act, the regulations and the terms of any subagreements entered into under the prime sponsor's grant. Examples of areas of monitoring are:

(i) Review all systems for controlling program administration, particularly systems for determining participant eligibility;

(ii) Review pay records and attendance reports;

(iii) Interview participants to determine job-related problems;

(iv) Examine worksites and work conditions;

(v) Review plans/procedures and subrecipient capability to carry out programs and activities;

(vi) Review of participant progress with subrecipient;

(vii) Insure subrecipient is maintaining records on all expenditures of CETA funds;

(viii) Review affirmative action plans as applicable.

(3) The independent monitoring unit shall:

(i) Make recommendations to the prime sponsor for corrective action whenever it identifies noncompliance with the Act, the contract or these regulations;

(ii) Document its monitoring and review activities, the findings resulting therefrom, and any recommendation made for corrective action;

(iii) Maintain on file the prime sponsor's replies to its monitoring reports pursuant to paragraph (5) below.

(4) The prime sponsor shall ensure that the monitoring unit is adequately staffed and trained to fulfill its responsibilities (sec. 121(q)).

(5) The prime sponsor shall review all monitoring reports submitted to it by the monitoring unit, acknowledge receipt thereto and respond to the

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monitoring unit with respect to the corrective action taken or planned in response to the recommendations made.

(6) The prime sponsor shall further require each subrecipient which has the administrative capability to establish and maintain an independent monitoring unit which shall monitor the subrecipients' program through review of data, observation of operations and examination of records relating to the subrecipient's agreement in order to ensure compliance with:

(i) The Act and the regulations;

(ii) The provisions of its subagreement; and

(iii) The provision of subagreements awarded by it.

(d) Eligibility determination and verification. Except for Job Corps and YACC, each recipient, and any subrecipient(s) delegated responsibility for the determination of eligibility in accordance with subparagraph (e)(2) of this section, shall be responsible for developing and maintaining a system which ensures an accurate determination of eligibility based on the information provided at the time of application and the verification of that information (sec. 104(c)(3)). The system shall, at a minimum, include:

(1) An application form to record all information necessary to determine eligibility which shall include such items as the:

(i) Applicant's age

(ii) Applicant's residence

(iii) Applicant's citizenship or legal residency status

(iv) Size of applicant's family

(v) Amount and sources of family income

(vi) Applicant eligibility for public assistance

(vii) Applicant's employment status and history including:

(A) Applicant's present employment status

(B) Whether applicant was laid off from most recent job or has received a notice of layoff from present job

(C) Length of employment in present position

(D) Skill level of applicant's present job

(E) Opportunity for applicant's reemployment at present skill level

(F) Dates of applicant's employment for the 20-week period preceding application

(G) Reason(s) for applicant's employment termination during the 26 weeks preceding application

(viii) Applicant's handicapped status

(viii) Applicant's status as institutionalized person

(ix) Applicant's school status

(x) Applicant's veteran status including date of separation

(xi) Applicant's previous period of participation within the same or other prime sponsor's programs.

(2) The signature of the applicant on an application form attesting that the information on the application is true to the best of the applicant's knowledge and acknowledging that such information is subject to verification and that falsification of the application shall be grounds for the participant's termination and may subject the applicant to prosecution under law. In the case of an applicant who is a minor, (except minors who are heads of households) the signature of the parent, responsible adult or guardian is also required.

(3) The signature of the intake officer on the application.

(4) Review of all applications within 30 days of the date of enrollment, by someone other than the intake officer, to determine that:

(i) The application is complete;

(ii) The determination based on the information contained on the application was correct; and

(iii) The information on the application is internally consistent and in all other regards reasonable.

(5) Immediate verification of the eligibility of those participants whose applications are determined by the review in paragraph (4) to be deficient or internally inconsistent.

(6) Verification of participant eligibility on a quarterly basis of a statistically significant sample of participants enrolled during the preceding 3 months.

(7) Maintenance of adequate documentation to ensure the credibility of the eligibility determination, which shall at a minimum consist of the following:

(i) A completed application for participation;

(ii) Documentation of the review conducted pursuant to paragraph (d)(4) of this section and the verification conducted pursuant to subparagraphs (5) and (6) of this section; and

(iii) Records of all actions taken to correct deficiencies identified in the eligibility determination procedures.

(8) Immediate termination of any participant determined to be ineligible.

(9) Prime sponsors may delegate the responsibility for determination of eligibility, under reasonable safeguards which include, in addition to the requirements of (d)(1-8) of this section, provision for reimbursement of costs, incurred as a result of erroneous determinations made deliberately or with insufficient care (sec. 123(i)).

§ 676.76 Action required of the Secretary.

The Secretary shall annually assess the effectiveness of the monitoring units established in accordance with the requirements of § 676.75(d)(1) of these regulations (sec. 121(q)).

Subpart F—Complaints, Investigations, and Sanctions

§ 676.81 Scope and purpose.

(a) *General.* This part establishes the procedures adopted by the Secretary to receive, investigate and resolve complaints, and conduct hearings to adjudicate disputes in matters arising under the operation and conduct of programs funded under the Comprehensive Employment and Training Act, as amended, 29 U.S.C. § 801 *et seq.* (CETA). The amendments to CETA enacted by Public Law 95-524, 92 Stat. 1909 (October 27, 1978) substantially increase the federal responsibility for monitoring and correcting deficiencies in CETA funded programs by providing significant new remedies and sanctions that may be invoked by the Secretary to correct deficiencies. Judicial review of final action of the Department after opportunity for an administrative hearing (except as provided for emergency situations described in section 106(e) of the Act) has been exclusively established in the United States Courts of Appeals for the circuits in which the affected parties reside. Accordingly, it is the purpose of this part to establish orderly procedures for receiving complaints, conducting investigations and, where required, invoking sanctions upon notice and hearing as provided in the Act. These regulations govern the practice for adjudicative hearings, the rendering of decisions and final action by the Department of Labor pursuant to the Act.

(b) *Investigations initiated; delegations of authority.* CETA inquiries, investigations and hearings may be originated upon the request of the President, Congress, governmental agencies or the Attorney General; upon referrals by the courts; upon complaint by members of the public; or by the Department of Labor upon its own initiative. The Secretary hereby delegates to the Assistant Secretary for the Employment and Training Administration, the authority to initiate investigations. The Assistant Secretary of Labor for Employment and Training shall establish appropriate procedures for conducting investigations into noncriminal matters.

(c) *Policy.* It is the policy of the Secretary of Labor to receive information concerning alleged violations of the Act, the regulations, or the terms of any grant, cooperative agreement, contract, subgrant, subcontract, or other agreement from any person. It is also the policy of the Secretary to refuse to disclose the identity of any person who has furnished information relating to, or assisting in, and investigation of a possible violation of law relating to a program funded or operated pursuant to the Act in order to effectively accomplish the federal responsibilities for insuring compliance with the Act and regulations; provided however, that where

(1) the identity of the person furnishing the information has already been disclosed, or

(2) disclosure of the person's identity is essential to assure a fair determination of the issues, the Inspector General, or Administrative Law Judge presiding over a hearing in which the matter arises, may disclose upon such conditions as will promote the continued receipt of confidential information by the Department and effectuate the protections and policies stated in paragraph (d) of this section.

(d) *Discriminatory discharge prohibited.* No person, and no recipient under the Act, in connection with the administration of a program, may discharge or in any other manner discriminate or retaliate against any person because such person has filed any complaint or instituted or caused to be instituted any proceeding under or related to the Act, or has testified or is about to testify in any such proceeding or investigation, or unlawfully deny to any person a benefit to which that person is entitled under the provisions of the Act or the regulations in Parts 675-695 of this Chapter.

(e) Whenever any person believes that a prime sponsor or other recipient has violated any provisions of the Act or regulations, and that violation also constitutes a violation of the Federal or a State Constitution, a Federal statute other than CETA, or a State or local law, that person, as to the non-CETA violation may institute a civil action or pursue other remedies authorized under Federal, State, or local law or against the prime sponsor or other recipient without first exhausting the remedies in this subpart. For example, if a subrecipient believes that a prime sponsor has breached the subgrant agreement between the prime sponsor and itself, the subrecipient may institute a civil action for breach of contract in a State court if so authorized by State law. Nothing in this paragraph shall allow any person to join or sue the Secretary except after exhausting the remedies in this subpart. Furthermore, nothing in this paragraph shall allow a person to file a suit which includes a violation of CETA or these regulations without first exhausting the administrative remedies described in this subpart. This paragraph shall not be construed to create a private right of action. (Secs. 106(1) and 132(d).

(f) With the consent and consideration of State agencies charged with the administration of State laws, the Secretary may elect for the purpose of carrying out this subpart and Section 133 of the Act, to utilize the services of State and local agencies and their employees, and notwithstanding any other provision of law, may reimburse, in whole or in part, such State and local agencies and their employees for services rendered for such purposes. (Section 106(h)).

§ 676.82 Non-adjudicative procedures; investigation; compulsory processes.

(a) *Investigational policy.* The Department of Labor encourages voluntary cooperation in its investigations of activities under the Act. Where the public interest requires, however, the Department may, in any matter under investigation, invoke any or all of the compulsory processes authorized by law.

(b) *By whom conducted.* Inquiries and investigations are conducted by Department of Labor Representatives designated and duly authorized for the purpose. Such representatives are authorized to exercise and perform the duties of their office in accordance with the laws of the United States and the regulations of the Department of Labor. Included among such duties is the administration of oaths and affirmations in any matter under investigation by the Department of Labor.

(c) *Notification of purpose.* Any person under investigation compelled or requested to furnish information or documentary evidence is entitled to be advised with respect to the purpose and scope of the investigation upon the request of such person.

(d) *Subpoenas in investigations.* (1) The Assistant Secretary of Labor for Employment and Training, may issue a subpoena directing the person named therein to appear before a designated representative at a designated time and place to testify or to produce documentary evidence, or both, relating to any matter arising under the Act being investigated. The Associate Solicitor for Employment and Training Legal Services and the Regional Solicitors and Regional Attorneys (without power of redelegation) for good cause shown, may extend the time prescribed for compliance with subpoenas issued during the investigation of any matter. Any official who is authorized to issue any subpoena under this paragraph is authorized to consider and approve the terms of satisfactory compliance therewith. The Chief Administrative Law Judge, without power of redelegation, may issue investigational subpoenas for matters involving standards of conduct for attorneys practicing beore an Administrative Law Judge in a proceeding under the Act.

(2) Any motion to limit or quash any investigational subpoena shall be filed with the Chief Administrative Law Judge within ten (10) days after service of the subpoena, or, if the return date is less than ten (10) days after service of the subpoena, within such other time as may be allowed. All motions to limit or quash any investigational subpoenas shall be ruled upon by an Administrative Law Judge.

(3) The timely filing of a motion to limit or quash any investigational subpoena shall stay the requirement of a return on the portion challenged. If the Administrative Law Judge has not ruled upon the motion by the return date, or if the ALJ rules subsequent to the return date, and the ruling denies the motion in whole or in part, the Administrative Law Judge shall either specify a new return date or direct that the office which issued the subpoena do so.

(4) All motions to limit or quash investigational subpoenas, and the investigator's responses thereto, shall be part of the public records of the Office of the Administrative Law Judges except as otherwise provided in these regulations.

(e) *Noncompliance.* (1) In cases of failure to comply with compulsory processes (such as a subpoena or a summons), appropriate action may be initiated by the Attorney General, including actions for enforcement, forfeiture, penalties or criminal actions.

(2) The Solicitor of Labor, with the consent of the Attorney General, is hereby authorized by the Secretary of Labor to institute on behalf of the Secretary an enforcement proceeding.

(i) in connection with the failure or refusal of a person, partnership, corporation, recipient or other entity to comply with or to obey a subpoena if the return date or any extension thereof has passed;

(ii) and to request on behalf of the Secretary the institution of civil actions, as appropriate, if the return date or any extension thereof has passed including seeking civil contempt in cases where a court order enforcing compulsory process has been violated;

(iii) and to request, on behalf of the Secretary, the commencement, when deemed appropriate by the Solicitor, of a civil action in connection with the failure of a person, partnership, corporation, recipient or other entity to timely file any report required by the Act or regulations if the due date or any extension thereof has passed.

§ 676.83 Complaint and hearing procedures at the recipient level.

(a) Each recipient shall establish and maintain a procedure for resolving any complaint alleging a violation of the Act, the regulations under the Act, the terms of the grant, or its subgrants including any complaint arising in connection with programs operated

by its subrecipients. Such complaint procedures must meet the requirements of this section. The complaint procedure shall provide for final resolution of complaints within 60 calendar days after filing the complaint. Where existing complaints or grievance procedures include the elements set forth in this subsection, recipients may adopt such mechanism as, or as part of, their CETA procedure. (Section 106(a)(1)).

(1) When a participant is an employee of a recipient and alleges a violation of the Act, the regulations, or the grant as well as a violation of the terms and conditions of employment under State or local law or a collective bargaining agreement; such participant may pursue either the complaint and hearing procedures set forth in this section or applicable grievance procedures under state or local law or a collective bargaining agreement. Where they choose such other grievance procedures in lieu of the procedures set forth in this section, the time constraints specified in paragraphs (a) and (f) of this section shall not apply.

(i) Nothing in paragraph (1) shall require a private for profit employer to establish a new grievance procedure or to modify an existing procedure as a condition of participating in programs for the training and hiring of participants under the Act. (106(a)(1)).

(ii) Nothing in paragraph (1) shall be construed to deny the availability to any of the elements in the procedure for resolving complaints detailed in paragraphs (e) and (f) of this section.

(2) Complaints which involve activities under the Act but which do not allege violations of the Act, the regulations under the Act or the grant shall not be subject to the procedures set forth in this section. The recipient should endeavor to informally resolve such complaints or refer such complainants to appropriate enforcement agencies or applicable regular complaint or grievance mechanism of the jurisdiction or agency.

(3) Except for issues between the recipient and its subrecipients, issues involving more than one of its subrecipients, or complaints directly involving the operations or responsibilities of the recipient, the recipient may delegate the authority to operate and maintain the complaint and hearing procedure to its subrecipient. Where the procedure is delegated, the recipient may provide for an appeal to itself from the decision of the subrecipient, or the recipient may provide that the subrecipient's decision is the final decision of the recipient. Where the procedure is delegated, the recipient shall assure that the complaint is resolved properly and promptly within 60 days after a complaint is filed.

(4) With the exception of complaints alleging fraud or any criminal activity, the filing of a grievance must be made within one year of the alleged occurrence. (Section 106(a)(1)).

(5) Complaints may be brought by any individual or organization including but not limited to, program participants, subrecipients, contractors, staff of the recipient or subrecipient, applicants for participation or financial assistance, Labor unions, and community-based organizations. (Section 106(a)(1)).

(6) Nothing in this section precludes an individual or an organization from filing a grievance or complaint simultaneously on the same issue with other agencies or under other procedures where applicable, such as filing a grievance under a collective bargaining agreement where there is an alleged violation of the labor agreement as well as a possible violation of the Act.

(b) Participants shall be provided, upon enrollment, a written description of the complaint procedures including notification of their right to file a complaint and instructions on how to do so. Recipients should designate an individual to monitor the operation of the complaint procedures, to asure that complaints and related correspondence are logged and filed, to assure that assistance is available in properly filing complaints to those with complaints, and to assure the availability, coordination, and promptness, of all elements of the procedures. Upon filing a complaint and at each stage thereafter, each complainant should be notified in writing of the next step in the procedure.

(c) Complainants alleging discrimination by race, color, or national origin (violations of Title VI of the Civil Rights Act of 1964) shall be fully apprised of their right to choose whether the complaint be handled pursuant to the procedures set forth in this subpart or pursuant to 29 CFR Part 31 which covers nondiscrimination in federally-assisted programs of the Department of Labor. Such complaints should be logged and filed separately by the recipient. Those complainants electing to have such complaints handled according to the procedures set forth in this subpart, shall exhaust the recipient procedure specified in this section before they may file a complaint at the Federal level. Those electing to resolve the complaint pursuant to 29 CFR Part 31 may file directly with the appropriate RA.

(d) Where local law requires regular employees of a recipient to receive notice and an opportunity for a hearing prior to or subsequent to any adverse action including termination of employment, similarly employed CETA participants shall receive the same benefit period.

(e) The complaints resolution procedure shall include:

(1) Opportunity to file a written complaint. Assistance shall be available to the complainant.

(2) Opportunity for informal resolution of the complaint.

(3) Notification of an opportunity for a hearing when an informal resolution has not been accomplished. The notice shall state the procedures for requesting a hearing and shall describe the elements in the recipient's hearing procedure including those set forth in paragraph (f).

(4) Opportunity to amend the complaint prior to a hearing.

(5) Opportunity for a hearing pursuant to paragraph (f) of this section within 30 days of filing the complaint.

(6) A final written decision of the recipient which shall be made within 60 calendar days of the filing of the complaint (section 106(a)(1)) and shall include:

(i) The reason(s) for the decision;

(ii) A statement that the procedures delineated in this section have been completed; and

(iii) Notice of the right to file a complaint at the Federal level pursuant to section 676.85 of this subpart where any party disagrees with aspects of the recipient's decision.

(f) *Hearing procedure.* A hearing shall be provided to a participant or subrecipient within 30 working days after filing of a complaint. The hearing procedure shall include but shall not be limited to:

(1) Written notice of the date, time and place of the hearing, the manner in which it will be conducted, and the issues to be decided. Other interested parties may apply to the recipient for notice. Such other interested party is a person or organization supporting the position of the complainant, or any person or organizations potentially affected by the outcome of the complaint. The notice to other interested parties shall include the same items as to the complainant shall further state whether such interested parties may participate in the hearing and if applicable, the method by which they may request such participation;

(2) Opportunity to withdraw the request for hearing in writing before the hearing;

(3) Opportunity to request resched>uling of the hearing for good cause;

(4) Opportunity to be represented by an attorney or representative appointed by the complaint;

(5) Opportunity to bring witnesses and/or documentary evidence;

(6) Opportunity to have records or documents relevant to the issues to be decided at the hearing produced by their custodian when such records or documents are kept by or for the recipient or its subrecipient in the ordinary course of business;

(7) Opportunity to question any witnesses or parties;

(8) The right to an impartial hearing officer;

(9) A written decision from the hearing officer to the recipient, complainant(s), and any other interested parties. The written decision shall include synopsis of facts, statement of reason for the decision and statement of remedies to be applied; and

(10) Where a complaint procedure provides for a recipient review of the hearing officer's decision, the recipient shall provide a final written decision to the complainant(s) and any other parties.

§ 676.84 Exhaustion of recipient level procedure.

(a) Except as provided in § 676.83(c), no complainant who is a participant or subrecipient may file a complaint at the Federal level until the recipient level procedure specified in section 676.83(e) of this subpart has been exhausted. Other complainants shall exhaust the procedures specified in section 676.83(g) of this subpart before filing a Federal level complaint.

(b) Complainants who have not exhausted the procedures at the recipient level may file the complaint directly at the Federal level when the grant officer determines that:

(1) The recipient has not acted within the time frames specified in § 676.83;

(2) The recipient's procedures are not in compliance with § 676.83; or

(3) An emergency situation exists.

§ 676.85 Complaints, investigations, and hearing procedures at the Federal level.

(a)(1) *General; Final determination of substantial evidence.* Section 106(b) of the Act requires that a final determination of complaint shall be made within 120 days after receiving a complaint that satisfies the conditions specified in Section 106(a) of the Act (relating to exhaustion of a recipient's complaint procedure as provided in § 676.83 and .84). The non-criminal investigation and the final determination of substantial evidence (either supporting or not supporting the allegations of the complaint or the belief that a recipient is failing to comply with the requirements of the Act or the regulations) and procedures regarding notice, informal resolution or lack of informal resolution and notice of opportunity for hearing contained in section 106(i) of the Act as established in § 676.86 below are part of the "final determination" process. The Grant Officer's resolution pursuant to section 106(i)(1) of the Act constitutes the "final determination" required to be accomplished within the 120 days specified in section 106(b) of the Act.

(2) *Final action distinguished.* Section 107 of the Act provides for judicial review of "final action" with respect to disapproval of a prime sponsor's "comprehensive employment and training plan under section 104 of the Act, or "final action" taken with respect to any recipient in the nature of a sanction under section 106. Such "final action" is not the same as a "final determination" subject to the 120 day time limitation used in section 106(b). Principles of due process as well as the public interest require that persons shall not be prejudiced by the imposition of unduly restrictive or arbitrary time limits on the preparation and presentation of essential evidence relating to a matter in controversy. Because section 106(i)(2) requires that an opportunity for a hearing shall be given prior to imposition of a sanction or disapproval of a comprehensive employment and training plan (except under the emergency conditions specified in section 106(e) of the Act), the Grant Officer's compliance with section 106(i)(1) of the Act within 120 days from the filing of the complaint satisfies the requirements of section 106(b) of the Act. Nevertheless, the rules of procedures for hearings "shall be construed to secure the just, speedy and inexpensive determination of every proceeding."

(b) *Contents of complaints.* Every complaint shall be filed in writing before the commencement of any investigation or corrective action shall be required. The complaint shall be deemed filed after satisfying the provisions of Section 106(a) of the Act, as amended, and §§ 676.83, 676.84 of these regulations and no later than 30 days from the date of the Notice of Final Action by the recipient. The complaint shall contain the following:

(1) The full name, telephone number (if any), and address of the person making the complaint.

(2) The full name and address of the respondent (the recipient or person against whom the complaint is made).

(3) A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation.

(4) Where known, the provisions of the Act, regulations, comprehensive employment and training plan, or other agreement believed to have been violated.

(5) A statement disclosing whether proceedings involving the subject of the complaint have been commenced or concluded before any State or local authority, including the recipient's complaint procedure (see § 676.83) and, if so, the date of such commencement or conclusion and the name and address of the authority.

(6) A statement that the procedures established by the recipient have been followed to completion by the complainant.

(7) A copy of the final decision of the recipient issued pursuant to § 676.83(e)(6) and (g)(3) of this subpart.

(8) A complaint when filed may be withdrawn only with the consent of the Grant Officer. If the complainant fails to cooperate or is unavailable, the complaint may be dismissed upon reasonable notice to the last known address of the complainant.

(c) *Initiation of investigations.* Whenever the Grant Officer receives a complaint filed in accordance with sections (a) and (b) above, the Grant Officer shall investigate the complaint if it alleges that any person or recipient is failing to comply with the requirements of the Act, the regulations or the terms of the Comprehensive Employment and Training Plan, or other agreement. In the absence of a complaint, an investigation may be initiated regarding whether a person or recipient is failing to comply with the requirements of the Act, the regulations or the terms of the Comprehensive Employment and Training Plan or other agreement. Investigations may also be initiated when the Grant Officer has reason to believe, because of an audit, report, onsite review, or otherwise that a recipient is failing to comply with those requirements.

(d) *ETA; Utilization of the Office of Investigation and Compliance.* the Assistant Secretary for Employment and Training may, for purposes of making any investigation, assign a complaint or classes of complaints to the Office of Investigation and Compliance of the Employment and Training Administration, under such conditions as may be appropriate. Such delegation shall not provide any bases for contesting any remedial action or not taken under the Act.

(e) *Reports.* Within 60 days after the filing of a complaint, or such additional time not to exceed 30 days as the Grant Officer may allow, an investigation shall be conducted and a conclusion made pursuant to § 676.86(a).

(1) If there is insufficient evidence to support the allegation informal resolution of the complaint may be undertaken or other action as may be appropriate, including dismissal.

(2) If there is substantial evidence to support the allegation, recommendations shall be made for any corrective action deemed appropriate, including imposition of any sanctions.

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(f) *Criminal investigations.* Notwithstanding any other provision of this subpart, investigation of any matter concerning a potential federal criminal violation shall be conducted as the Inspector General shall direct pursuant to the powers granted by the Inspector General Act of 1978, Pub. L. 95-452, 92 Stat. 1101.

§ 676.86 Grant officer's final determination; request for hearing.

(a) Upon receipt of findings of questioned costs or activities, the grant officer shall review such findings through a specific examination of the regulations regarding the alleged violation to determine the allowability or disallowability of the costs or activity. Where specific mechanisms, management, monitoring, eligibility determination, corrective action or other systems or procedures are in the regulations, the grant officer shall review the manner in which the prime sponsor conformed to or implemented such requirements. Based on the circumstances regarding the questioned activities or costs and the conformance to requirements for implementation of systems, mechanism, or procedures, the grant officer shall initially determine whether to allow or disallow activities or costs. In any case in which the grant officer determines that there is sufficient evidence that funds have been misspent, the grant officer shall disallow the costs, except that costs associated with ineligible participants and public service employment programs may be allowed when:

(1) The activity was not fraudulent and the activity did not take place with the knowledge of the recipient or subrecipient;

(2) Immediate action was taken to remove the ineligible participant;

(3) Eligibility determination or other such systems were properly followed and monitored;

(4) Immediate action was taken to remedy the problem causing the questioned activity or ineligibility; and

(5) The magitude of questioned costs or activities is not substantial.

(b) *Informal resolution.* Except as provided in paragraph (b) of this section, following the initial determination prescribed in paragraph (a) above, the Grant Officer shall immediately give written notice of an opportunity for informal resolution of the matters to the appropriate parties, which should include all interested parties specified by the Grant Officer in the notice. The Grant Officer shall not revoke a prime sponsor's plan, in whole or in part, nor institute corrective action or sanctions against a prime sponsor without first providing the prime sponsor with such written notice of his intended actions and the reasons upon which those intended actions are based, and also providing the prime sponsor with an opportunity to inforall resolve those matters contained in the Grant Officer's notice.

(c) *Impasse.* If all the parties and Grant Officer cannot informally resolve any matter pursuant to paragraph (a), the Grant Officer shall, not later than 120 days after the filing of the complaint provide each party, with a written notice in duplicate by certified mail return receipt requested that (1) indicates that efforts to informally resolve matters contained in the original notice pursuant to paragraph (a) have been unsuccessful, and (2) lists those matters upon which the parties continue to disagree, and (3) lists any sanctions and corrective action, including any other alteration or modification of the plan, grant, agreement or program intended by the Grant Officer, and (4) informs the parties of their opportunity to request a hearing pursuant to these regulations.

(d) *Request for hearing.* Within 10 days of receipt of the Grant Officer's notice under paragraph (c) preceding, any affected prime sponsor, recipient, or complainant may request a hearing by filing a request for hearing with the Office of the Chief Administrative Law Judge of the Department of Labor, Room 700, Vanguard Building, 1111 20th Street, N.W., Washington D.C. 20036. The request for hearing is effective only when mailed by certified mail return receipt requested not later than 10 days after receipt of the Grant Officer's notice and received at the Office of the Chief Administrative Law Judge. The request for hearing shall be accompanied by a copy of the grant officer's notice issued pursuant to paragraph (b) of this section. The request for a hearing shall provide essentially as follows:

UNITED STATES DEPARTMENT OF LABOR,
WASHINGTON, D.C.

In the Matter of (name) ———— CETA
Prime Sponsor. Docket No. ————.

REQUEST FOR HEARING

Notice is hereby given that ———— hereby requests a hearing on the enclosed final determination of the Grant Officer entered on the ——— day of ———, 19—, and that (counsel) (if any) is authorized to represent the undersigned and to receive all further communications concerning this case.

Attorney for Requesting Party: (If any) (name) ———— Address ————. (Requesting Party) ————, Address ————.

(e) *Same; notification of filing.* Upon the receipt of a request for hearing by any person or organization named in the Grant Officer's final determination, the Chief Administrative Law Judge shall by order promptly notify the Grant Officer and each party named in the Grant Officer's final determination by certified mail, return receipt requested, that the request has been filed and the date of filing, that a complaint conforming to the rules contained in § 676.87 of the regulations must be filed by the party requesting the hearing and served upon the parties by a specified date, and of the right of all other parties to answer the complaint within 20 days of service of the complaint and to appear and participate in the proceeding provided they file a notice of intent to participate with the Office of the Chief Administrative Law Judge upon such terms as the Administrative Law Judge hearing the case shall order.

(f) *Automatic participation.* Attorneys employed by the Solicitor of Labor shall represent the Grant Officer. Whenever service is required to be made upon the Grant Officer after the filing of a request for hearing, service upon the Associate Solicitor for Employment and Training Legal Services, Room N-2101, 200 Constitution Avenue N.W., Washington, D.C. 20210, shall be deemed sufficient.

(g) *Discretionary hearing.* An opportunity for a hearing may also be extended when the Secretary determines that fairness and the effective operation of CETA programs would be furthered.

(h) *Emergency sanctions.* In emergency situations as determined by the Assistant Secretary, where it is necessary to protect the integrity of the funds, or insure the proper operation of the program, the Assistant Secretary may immediately terminate or suspend a grantee's authority to obligate funds, in whole or in part and withdraw unexpended funds and make alternative, temporary arrangements to carry out the grant program. Within 30 days after such termination of suspension the Secretary shall notify the grantee of the reason for the action and provide an opportunity to request a hearing. (Section 106(e)).

§ 676.87 Rules of procedure.

(a) *Referral to the Federal Rules of Civil Procedure.* On any procedural question not regulated by this subpart, the Act, or the Administrative Procedure Act, the Administrative Law Judge shall be guided to the extent practicable by any pertinent provision of the Federal Rules of Civil Procedure.

(b) *Filing.* All papers after the request for hearing required to be served on a party shall be filed with the Administrative Law Judge either before service or within a reasonable time thereafter. The filing of pleadings and other papers with the Office of Administrative Law Judges as required by these rules shall be made by filing them with the clerk, except that the

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Administrative Law Judge may permit the papers to be filed with him, in which event, he shall note thereon the filing date and forthwith transmit them to the Clerk.

(c) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with these regulations and the regulations of one or more other federal departments or agencies, the Administrative Law Judge may, by agreement with such other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings conducted in accordance with these rules.

(d) *Amicus curiae.* A brief of an amicus curiae may be filed only if accompanied by written consent of all parties, by leave of the Administrative Law Judge granted or on motion or on the request of the Administrative Law Judge, except that consent or leave shall not be required when the brief is presented by an officer or agency of the United States, or by a state, territory or commonwealth. The brief may be additionally filed with the motion for leave. A motion for leave shall identify the interests of the applicant and shall state the reasons why a brief of an amicus curiae is desirable. The amicus curiae shall file its brief within the time allowed the party whose position the amicus brief will support unless the Administrative Law Judge for cause shown shall grant leave for later filing, in which event the Administrative Law Judge shall specify in what period an opposing party may answer. A motion of an amicus curiae to participate in the oral argument will be granted only for extraordinary reasons, and the amicus curiae shall not partcipate in the conduct of the hearing, including the presentation of evidence and the examination of witnesses.

(e)(1) *Discovery.* The provisions governing discovery as provided in the Rules of Civil Procedure for the United States District Courts, Title V, 28 U.S.C., Rules 26 through 37, may be made applicable in any proceeding conducted under these regulations to the extent that the Administrative Law Judge concludes upon application that their use would contribute to the just, speedy, and inexpensive determination of the proceeding. A subpoena necessary to secure the attendance of a witness at a deposition (including the production of documents or things) shall be obtained and issued as provided in section 676.88(a) of these regulations.

(2) *Prehearing conference.* The Administrative Law Judge may direct the attorneys for the parties to appear before the Administrative Law Judge for a prehearing conference to consider the simplification of the issues and such other matters as may aid in the disposition of the proceeding. The Administrative Law Judge shall make an order which recites the action taken at the conference and the agreements made by the parties as to any of the matters considered and which limits the issues to those not disposed of by admissions or agreements of counsel, and such order when entered controls the subsequent course of the proceeding, unless modified to prevent manifest injustice.

(3) *Prehearing procedures.* Prehearing conferences may be scheduled by the Administrative Law Judge upon reasonable notice in advance of the hearing in order to permit time in which to complete any prehearing stipulation. The purpose of this conference is to make a good faith effort.

(i) Discuss the possibility of settlement;

(ii) Stipulate to as many facts or issues as possible;

(iii) Examine all exhibits or documents and other items of tangible evidence to be offered by any party at the hearing;

(iv) Exchange the names and address of all witnesses; and

(v) prepare a prehearing stipulation in accordance with subsection (4) following.

§ 676.88 Hearings.

(a) *Time and place.* Hearings shall be held at a time and place ordered by the Administrative Law Judge upon reasonable notice to the parties. Due regard shall be given to the convenience of the parties and the witnesses in selecting a place for the hearing. Subpoenas necessary to secure the attendance of witnesses and the production of documents or things shall be obtained from the Office of the Administrative Law Judges and shall be issued pursuant to the authority contained in section 133(a)(3) of the Act incorporating 15 U.S.C. § 49.

(b) *Purpose.* The hearing is directed to receiving factual evidence and expert opinion, and sworn testimony related to the issues in the proceeding. Argument will not be received into evidence and witnesses will not be permitted to read prepared testimony into the record. Brief opening statements of the parties positions and what a party intends to prove may be permitted in the discretion of the Administrative Law Judge.

(c) *Evidence.* Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination, shall be applied where reasonably necessary by the Hearings Officer conducting the hearing. The Hearings Officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(d) *Amendments to conform to the evidence.* When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respect as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made on motion of any party at any time; but failure to so amend does not affect the result of the hearing of these issues. If evidence is objected to at the hearing on the ground that it is not within the issues made by the pleadings, the Administrative Law Judge may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the Administrative Law Judge that the admission of such evidence would prejudice him in maintaining his action or defense upon the merits. The Administrative Law Judge may grant a continuance to enable the objecting party to meet such evidence.

(e) *Non-appearance of parties.* If a party fails to appear at a hearing the Administrative Law Judge may hear the cause on behalf of the remaining parties, or may accide the cause on the briefs or dismiss the cause. If no present party appears, the cause will be decided on the briefs unless the Administrative Law Judge shall otherwise order.

(f) *Record for decision.* The transcript of testimony, exhibits and all papers and requests filed in the proceedings (except the correspondence section of the docket), including rulings and any proposed findings of fact and conclusions of law shall constitute the exclusive record for decision. Letters expressing views or urging action and other unsponsored written material regarding matters in issue in a hearing will be placed in the correspondence section of the docket file for the proceeding. These data are not deemed part of the evidence or record in the hearing.

§ 676.89 Post-hearing procedures.

(a) *Post-hearing briefs; findings and conclusions.* The Administrative Law Judge shall fix the time for filing post hearing briefs, which may contain proposed findings of fact and conclusions

of law and, if permitted, reply briefs. Briefs should include a summary of the evidence relied upon together with references to exhibit numbers and pages of the transcript, with citations of the authorities relied upon.

(b) *Decision.* After the time for submission of post-hearing briefs has expired, the Administrative Law Judge shall render a final decision adjudicating the cause. A copy of the final decision shall be served upon all parties and each amicus curiae, if any, as provided in section 676.86(d).

(c) *Contents of final decisions.* The decision of the Administrative Law Judge on the merits shall adjudicate and may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance in whole or in part, and may contain such terms, corrective action, conditions, sanctions, back pay awards, and other provisions as are consistent with and will effectuate the purposes of the Act and regulations issued thereunder, including provisions designed to insure that no federal financial assistance will thereafter be extended under such program unless and until the prime sponsor or recipient corrects its noncompliance and makes satisfactory assurance that it will fully comply with the Act and regulations.

(d) *Adjustments in payments.* When after a hearing pursuant to this subpart it appears that program funds have been expended in violation of the Act, the regulations or grant, the Administrative Law Judge may direct, in order to prevent further unauthorized expenditures, that unexpended funds be returned or that funds otherwise payable under the Act be withheld in order to recover any amount expended for unauthorized purposes in any fiscal year. When such action is taken the recipient shall neither reduce program operations, nor reduce compensation to any participant, or otherwise expend less than those sums called for in the grant. Any such reduction in expenditures may be deemed sufficient cause for emergency termination.

(e) *Termination of grant.* When the final decision terminates the grant in whole or in part after hearing pursuant to this subpart, the final decision shall specify the extent of termination and the date upon which such termination becomes effective. Upon receipt of this notice, the recipient shall:

(1) Discontinue further commitments of grant funds to the extent that they relate to the terminated portion of the grant;

(2) Promptly cancel all subgrants, agreements and contracts utilizing funds under this grant to the extent that they relate to the terminated portion of the grant;

(3) Settle, with the approval of the Secretary, all outstanding claims arising from such termination;

(4) Submit, with a reasonable period of time, after the receipt of the notice of termination, a termination settlement proposal which shall include a final statement of all unreimbursed costs related to the terminated portion of the grant.

(f) *Reallocation based on noncompliance.* When the final decision after hearing pursuant to this subpart reallocates funds based on a determination of recipient noncompliance with the Act, regulations or grant, the final decision shall specify:

(1) Any revocation of the recipient's grant for the area, in whole or in part;

(2) The extent to which no further payments shall be made under the Act to the recipient; and

(3) The amount of funds which shall be returned from unexpended funds paid to the recipient during that fiscal year.

(4) Any funds that may be reallocated to the State or another recipient to serve the area formerly served by the recipient, including the desirability of providing direct federal service to the area through appropriate means.

§ 676.90 Final action; Judicial review.

(a) The final decision of the Administrative Law Judge constitutes final action within the meaning of the Act and the Administrative Procedure Act, 5 U.S.C. § 704, and shall be deemed accomplished upon the date of service of the final decision by the Office of the Administrative Law Judge in accordance with § 676.86(d).

(d) *Judicial review.* Judicial review of final action as defined in paragraph (a) preceeding shall be in accordance with section 107 of the Comprehensive Employment and Training Act, as amended.

(c) *Savings clause.* Nothing contained in this subpart shall be deemed to prejudice the separate authority of other law enforcement officials to pursue remedies and sanctions available outside the Comprehensive Employment and Training Act, such as 18 U.S.C. § 665 and other provisions of federal, state or local law; and nothing in this subpart shall be deemed to reduce the responsibility and full liability of the prime sponsors and other recipients.

PART 677—PROGRAMS UNDER TITLE II

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AUTHORITY: Sec. 126 of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 801 *et seq.*), unless otherwise noted.

Subpart A—General Provisions

§ 677.1 Purpose.

It is the purpose of this Part to provide employment and training to ease barriers to labor force participation encountered by economically disadvantaged persons, to enable such persons to secure and retain employment at their maximum capacity, and to increase their earned income.

§ 677.2 Participant assessment.

(a) Prime sponsors shall assess each participant upon entry into the program to determine which activities and services would be appropriate. Based on the assessment, the prime sponsor, in conjunction with each participant, shall develop an Employability Development Plan shall identifying the program options and services available and appropriate for the participant.

(b) In establishing such a plan, the prime sponsor shall consider the participant's skills, interest and career objectives, subject to the availability of services, and barriers to employment or advancement faced by the participant (sec. 205(a)).

(c) The Employability Development Plan shall include, but need not be limited to, the following: (sec. 205).

(1) Assessment data showing the participant's employability readiness;

(2) Barriers to employment faced by the participant;

(3) Specific employment and training needs;

(4) Specific services and activities to be developed and provided to meet those needs; and

(5) A specific plan for individualized transition from program activities to placement in unsubsidized employment.

(d) A copy of the plan shall be retained in the permanent record, and a copy given to the participant.

(e) The Employability Development Plan shall be reviewed periodically throughout the duration of participation, and revised accordingly. (sec. 205(b)).

§ 677.3 Agreements with State or local education agencies.

(a) The prime sponsor shall make arrangements through nonfinancial or financial agreements with State or local educational agencies or post-secondary institutions for the provision of employment and training programs. Such programs shall be designed to prepare individuals for employment. Educational agencies in the area shall be notified by the prime sponsor of the opportunity to enter into such agreements.

Specific arrangements for entering into such agreements shall be provided to those which express an interest, and the procedures in (e) shall apply to such agencies. (sec. 203(a)).

(b) In the development of the agreement, the prime sponsor shall carefully examine educational resources, consider use of services available at no cost and, where appropriate, coordinate programs with school systems.

(c) Such programs may consist of:

(1) Vocational training;

(2) Instruction in basic cognitive skills;

(3) Employment of persons in schools controlled by such agencies or in post-secondary institutions; and

(4) Other employment and training activities. (sec. 203(c)(1)).

(d) Each agreement shall contain provisions to assure that funds will not supplant State or local funds expended for the same purpose. (sec. 203(c)(2)).

(e) If a prime sponsor is unable to reach an agreement with the educational agencies or institutions, or if the agencies or institutions are dissatisfied with the utilization of their facilities proposed by the prime sponsor, they may request the RA to review such arrangements. The RA, after affording an opportunity for a hearing, may take appropriate action within 90 days after receiving such a request. (sec. 203(c)(3)).

Subpart B—Training Activities for the Economically Disadvantaged

§ 677.11 Purpose.

This subpart contains the regulations for comprehensive employment and training programs and services authorized under Title II, Part B of the Act. These regulations also implement the administrative provisions found in sections 201 through 216 of the Act.

§ 677.12 Participant eligibility.

Eligibility requirements governing this program may be found in section 675.5.

§ 677.13 Program activities under Title II B.

(a) Programs shall provide comprehensive employment and training services which are needed to enable individuals to obtain unsubsidized employment or to participate in other employment and training program activities leading to their eventual placement in unsubsidized employment.

(1) Services may include: classroom training; OJT; work experience; and services to participants as described in § 676.25. PSE as described in § 676.25 is not an allowable activity under this Subpart.

(2) Job search assistance which shall include transitional services such as job seeking skills instruction, individualized job search plans, and labor market information.

(3) Supported work programs. Supported work is a transitional work experience program directed toward those groups of people who have traditionally had great difficulty in getting or keeping a regular job, i.e., ex-offenders who have recently been released from prison or jail; ex-addicts currently in treatment; young school dropouts; youth with delinquent histories; and women who are long-time recipients of welfare payments under (AFDC) programs. Programs shall be designed to lead to full-time unsubsidized employment (sec. 211(c)).

(4) Training leading to self-employment in small business (sec. (211)(5));

(5) Development of labor market information;

(6) Activities such as job restructuring (sec. 211(1));

(7) Part-time, flexi-time, and other alternative work experience arrangements for individuals, who, because of age, handicap, or other factors are unable to work full-time (sec. 211)(1));

(8) Services to individuals to enable them to retain employment such as post-placement follow-up, counseling, and supportive services not to exceed thirty days (sec. 211(8); and

(9) Any programs or activities authorized by Part A of Title III, Title IV and Title VII of the Act with prior approval of the RA (sec. 211(14)).

(c) *Youth.* (1) Activities and services for youth shall be designed to assist them in overcoming barriers to employment. Such barriers include: lack of basic educational or vocational skills; insufficient preparation for labor force participation; inability to find or successfully apply for employment; financial barriers to labor for labor force participation; and lack of appropriate job opportunities (sec. 214(a)).

(2) Prime sponsors shall coordinate activities with those under Part A of Title IV of this Act, and have plans reviewed by the youth council. To the maximum extent feasible, programs similar to those authorized in Title IV, Part A, Subpart 3, except for public service employment will be utilized to serve youth under this Part (sec. 214(b)).

(d) *Older workers.* (1) Activities and services for older workers shall be designed to assist them in overcoming the particular barriers to employment experienced by older workers, including: skills that are obsolete or no longer needed in the community; physical characteristics associated with aging; employer reluctance to hire older workers; financial barriers to labor force participation; and the lack of appropriate job opportunities (sec. 215(a)).

(2) Prime sponsors shall use activities described in Section 308 of the Act and coordinate activities under this Part with programs and services provided by senior centers, area agencies on aging, and State agencies on aging (as designated under the Older Americans Act) (sec. 215(b)).

(e) *Public assistance recipients.* (1) Activities and services for public assistance recipients shall be designed to assist them in overcoming the particular barriers to employment experienced by such recipients, including: lack of basic education or vocational skills; insufficient preparation for adapting to labor force participation; inability to find or successfully apply for employment; inability to obtain satisfactory child care; and lack of appropriate job opportunities (sec. 216(a)).

(2) Prime sponsors shall coordinate services with other programs under

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the Act, Work Incentive Program (WIN), and services provided by State and local public assistance agencies (sec. 216(b)).

§ 677.14 Allocations of funds.

Allocations shall be provided to States and prime sponsors, pursuant to section 202 of the Act (section 202).

§ 677.15 Annual plan subpart.

(a) *General.* To receive financial assistance under Subparts B and C of Title II, a prime sponsor shall submit the following information, which will become part of the Annual Plan described in § 676.11. This Subpart shall consist of a Narrative Description, Program Planning Summary, and Budget Information Summary specific to Subparts B and C of Title II.

(b) The Narrative Description shall include:

(1) *Objectives and needs for assistance.* A breakout of the eligible population by race, sex, national origin, and age, and the planned level of services to be provided for these significant segments in terms of the percent each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any group varies by more than 15 percent above or below the group's incidence in the eligible population, an explanation must be provided.

(2) *Results and benefits.* Provide a statement on:

(i) Specific quantified performance and placement goals, by program activity;

(ii) Any performance and placement goals, with respect to groups designated to be served (sec. 103(b)(4));

(iii) Explain any variation between the prime sponsor's performance and placement goals and the Secretary's performance standards (sec. 103(b)(4));

(iv) Any non-quantifiable goals or outcomes.

(3) *Approach.* (i) Program Activities and Services.

(A) A description of the program activities and services to be provided.

(B) A description of upgrading and/or training activities including the prime sponsor's system for determining eligibility for participation, the criteria used for selection of occupations and employers, and the length of the training period (sec. 221(a) and (b).

(ii) A description of arrangements to ensure that funds under subparts 2 and 3 of Title IV will not be used to replace opportunities available for eligible youth under Title II (secs. 421 and 431).

(iii) A description of arrangements to ensure that funds under Title VII will not be used to replace on-the-job training opportunities available under Title II (sec. 703(b)(2)).

(iv) A list of the selected service deliverers and the services or facilities to be provided by each (sec. 103(b)(7)).

(c) The prime sponsor shall attach a Program Planning Summary (PPS) which reflects the goals, objectives and activities for the program year.

(d) The prime sponsor shall attach a Budget Information Summary (BIS) containing the proposed budget for programs under Subparts A, B, and C of Title II. If any item of capital equipment which individually costs more than $1,000 is to be purchased, a list, including quantity and prices of items, must be provided.

§ 677.16 Administrative limitations.

(a) Prime sponsors shall not use funds allocated under § 677.14 for public service employment (sec. 212(a)).

(b) Not more than 6.5 percent of each prime sponsor's allocation may be used for programs and activities under Subpart C (Upgrading and Retraining) of this Title (Sec. 203(b)).

(c) (1) At least 80 percent of the funds allocated to a prime sponsor shall be expended for wages, fringe benefits, allowances, training, and services to participants enrolled under subparts B and C of this Part.

(2) The remaining funds may be used for administrative costs incurred by the prime sponsor, program agents, project applicants, or subgrants, or subgrantees or contractors.

(3) The RA may waive the limitations on expenditures in (1) and (2) above when adequate justification is provided in the Annual Plan Subpart.

Subpart C—Upgrading and Retraining

§ 677.21 Purpose.

This part contains the regulations for upgrading and retraining services, under Title II, Part C of the Act. Upgrading and retraining programs offer additional opportunities to those groups, particularly minorities and women, who are frequently locked into low-paying, dead-end jobs.

§ 677.22 Eligibility for participation.

Eligibility requirements governing these programs are found in § 675.5.

§ 677.23 Activities and services.

(a) Classroom training, on-the-job training (OJT), supportive services and employment and training services are the only allowable program activities and services for upgrading and retraining programs. Supportive and employment and training services are the only allowable services to participants (sec. 221(a)).

(b)(1) Prime sponsors may conduct retraining programs directly or through financial assistance to public and private employers.

Upgrading programs may be conducted only through financial assistance to such employers.

(2) Employers may conduct training through other organizations.

(c) Prime sponsors should coordinate upgrade and retraining programs with Private Industry Councils, particularly in developing and conducting upgrading and retraining programs.

(d) *Upgrading programs.* (1) The positions for which participants are being upgraded shall be those:

(i) which would not otherwise have been available to entry-level employees;

(ii) which provide opportunities for upward mobility beyond the occupation for which training is provided; and

(iii) for which adequately trained personnel are not currently available within the employing organization (sec. 221(a)(1)).

(2) The education and skill content of upgrading programs shall provide participants with qualifications for positions of greater skill, responsibility, remuneration or career advancement in the employer's own enterprise (sec. 221(3)).

(3)(i) The upgrade program must clearly qualify trainees to work at a particular occupation, identified prior to the start of training.

(ii) The training period shall be consistent with periods customarily required for comparable training (sec. 221(A)(4)).

(4) The prime sponsor shall make every effort to ensure that participants receive, upon completion, placement in the occupation for which training was provided, and at the prevailing wage rate for the occupation (sec. 221(a)(8)).

(5) Prime sponsors shall first give consideration to those employers who indicate that, for every employee to receive upgrading, at least one new individual is to be hired into unsubidized employment at the entry level:

(i) Under this agreement, the filling of the unsubsidized, vacated or lower-level job should occur by or before the time the participant completes training; and

(ii) Employers shall hire from the prime sponsor's pool of eligible applicants or from those individuals currently enrolled in activities funded under any of the Titles.

(e) *Retraining programs.*

(1) Retraining programs must qualify participants to work at skill levels distinct from those of their previous occupations, and shall be for those occupations in which skill shortages exist (sec. 221(b)(3)).

(2) The skill training shall be for those occupations characterized by high stability which provide a reasonable expectation of continued employment (sec. 221(b)(3)).

(3)(i) Programs are to be operated only if there is a prior commitment from the employer providing the retraining to hire the participant into the position for which the participant has been retrained (sec. 221(B)(3)).

(ii) Where an individual's current employer expresses no interest in retraining programs, the individual may seek retraining services elsewhere in anticipation of securing employment with another employer.

§ 677.24 Agreements with employers.

Prime sponsors shall enter into written agreements with the employers whose employees are to receive upgrading or with the providers of retraining services prior to the start of the programs. Those fulfilling this requirement are not obliged to enter into an OJT agreement provided for in § 676.26. The agreement shall include:

(a) Identification of parties and a signatory page;

(b) Training outline:

(1) Criteria for successful completion of the program;

(2) Occupation and wage rate of participant prior to training;

(3) Identified occupation and wage rate upon completion of training;

(4) Skill level of participant prior to and upon completion of training;

(c) Methodology and maximum amount of reimbursement;

(d) Reporting requirements.

§ 677.25 Compensation and benefits to participants.

(a) Except as provided in paragraph (b), participants in OJT, classroom training, or combined activities and receiving other services, shall receive compensation in accordance with § 676.26, as appropriate.

(b) Participants in upgrade programs shall not be compensated at a rate lower than that received before entering the program.

§ 677.26 Reimbursement to employers.

(a) Reimbursement to employers shall be as provided in § 676.25, except as provided in paragraph (b).

(b) The reimbursement rate for OJT in upgrading programs shall not exceed 40 percent of the participant's wage for the portion of time spent in OJT, except when documented in the manner described in sec. 676.25(b)(6)).

Subpart D—Special Grants to Governors

§ 677.31 Purpose.

(a) This Subpart contains the regulations for programs to be operated under the Special Grant to Governors which are authorized in Section 202(b)(c)(d) and (e) of the Act. These programs address issues of employment and training which are generally beyond the scope of local prime sponsor programs. These regulations also implement the administrative provisions found in sections 105, 110, and 204 of the Act. The regulations found in Part 676 and Subpart (B) and (C) of this part also apply to programs under the Special Grants to Governors except as indicated in this Subpart.

(b) It is the purpose of the programs under the Special Grant to:

(1) Provide supplemental vocational education assistance in areas served by prime sponsors;

(2) Encourage coordination and establish linkages between prime sponsors and appropriate educational agencies and institutions;

(3) Conduct Governors' coordination and special services within the State; and

(4) Provide support to State employment and training councils.

§ 677.32 Allocation of funds.

(a) An amount equal to 6 percent of the funds available for Parts A, B, and C of Title II shall be made available to Governors for supplemental vocational assistance in the State, as described in sec. 202(b) of the Act.

(b) An amount equal to 1 percent of the funds available for Parts A, B, and C of Title II shall be made available to Governors for costs of the State Employment and Training Council provided for in sec. 202(c) of the Act.

(c) An amount equal to 1 percent of the funds available for Parts A, B, C and D of Title II shall be made available to Governors for coordination and establishment of linkages with educational agencies as provided in sec. 202(d) of the Act.

(d) An amount equal to 4 percent of the funds available for Parts A, B, and C of Title II shall be made available to Governors for coordination and special services as provided for in sec. 202(e) of the Act.

§ 677.33 Grant application; annual plan.

(a)(1) Upon notification by the Secretary of the amount of funds available for a special grant to the State, the Governor shall submit a Special Grant Annual Plan to the RA. Copies of all forms and instructions are contained in the *Forms Preparation Handbook.*

(2) The Governor shall comply with the comment and publication requirements specified in S676.12

(3) In addition, the Governor shall 45 days prior to submission of the plan to the RA, provide: (sec. 104(a))

(i) A summary of the Annual Plan to each prime sponsor in the State and to units of general local government within the Balance of State with a population of at least 25,000;

(ii) A summary of the Annual Plan to appropriate Native American program sponsors and to appropriate labor organizations, and

(iii) A description of any programs to be funded within a prime sponsor's area with State coordination and special services funds to the prime sponsor in whose jurisdiction the program is to be funded.

(b)(1) The Master Plan for the Special Grant shall be as described in S676.10, as applicable.

(2) The Governor may elect to use the Master Plan developed for the Balance of State program, in lieu of developing a separate Master Plan for the Special Grant, where there is a statewide BOS by submitting a certification that the Balance of State Master Plan applies except as revised in an attachement which reflects different or unique items in the Special Grant.

(c) The Annual Plan Subpart shall contain the following:

(1) Approval Request Letter.

(2) Application for Federal Assistance, Standard Form 424.

(3) Special Grant Program Planning Summary specifying numbers of participants served by vocational education projects and State Coordination and Special Services and educational linkages.

(4) Special Grant Budget Information Summary specifying funding of vocational education projects, State Employment and Training Councils, State Coordination and Special Services, activities and/or projects, and activities for establishing linkages and services between prime sponsors and educational agencies.

(5) Special Grant Program Narrative as set forth in (d) below.

(d) The Special Grant Program Narrative shall consist of:

(1) *Vocational Education Services Program Narrative.*

(i) A description of the manner in which the Governor will allocate funds to prime sponsor areas and the rationale for the method used;

(ii) A description of the arrangements for conducting the vocational education programs and activities through the State Board for Vocational Education, and for ensuring the accountability of the State Board to the Governor for these funds;

(iii) A description of the statewide activities, training or services that will be developed including, but not limited to:

(A) The utilization of funds under this Act and the Vocational Education Amendments of 1976 to enhance economic growth and development in the State (sec. 204(c)(2)(B));

(B) The extent to which information, curriculum materials, and technical assistance in curriculum and staff development will be provided to prime

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sponsors by State Vocational Education agencies (sec. 204(c)(2)(E)).

(iv) A description of the activities and services provided to, or with, prime sponsors for the prime sponsor areas, including:

(A) How such funds are to be used to coordinate programs under this Act with existing vocational education programs (sec. 204(c)(2)(A));

(B) How linkages between vocational education, education, and training programs under this Act and private sector employers will be developed (sec. 204(c)(2)(C));

(C) How technical assistance will be provided to local vocational education and educational institutions to aid them in making cooperative arrangements with prime sponsors 204(c)(2)(D).

(v) An explanation of any nonfinancial agreements which have been negotiated between a prime sponsor and the State Vocational Education Board, including:

(A) The steps the Governor will use to ensure that agreement will be reached; and

(B) The process for mediating and resolving any disagreements over the provision of training or services under the nonfinancial agreements.

(2) *State Employment and Training Council Program Narrative.*

(i) A list of groups represented on the council;

(ii) A description of the Council's responsibilities pursuant to § 677.36(e).

(3) *State Coordination and Special Services Program Narrative.*

A description of arrangements or planned activities for carrying out each of the activities provided for in § 677.37.

(4) *State Coordination and Establishment of Linkages Between Prime Sponsor and Educational Agencies and Institutions Program Narrative.*

A description of arrangements for carrying out each of the activities provided for § 677.38.

§ 677.34 Governor's distribution of vocational education funds.

Upon notification of the funds available to the State for vocational education, the Governor shall inform in writing the State Vocational Education Board and each prime sponsor of the amount of funds available to be spent in each prime sponsor's area and the methodology used to determine that amount. If a prime sponsor elects not to use all or part of the funds available for its area, it shall notify the Governor, who shall redistribute the funds among other eligible prime sponsors.

§ 677.35 Nonfinancial agreement between prime sponsor and Vocational Education Board.

(a)(1) Upon notificaiton of the funds available for its area, the prime sponsor shall develop, in a non-financial agreement in conjunction with the Vocational Education Board, consisting of a statistical, and narrative plan for the expenditure of the funds from the Governor by the Vocational Education Board in the prime sponsor's area. (sec. 204(a)(1)).

(2) Prior to making any agreement with a prime sponsor, the State Vocational Education Board shall consult with, and obtain, the written advice of the State agencies' committee involved in the formulation of the plan for vocational education required by Section 197(a)(1) of the Vocational Education Amendments of 1976. (sec. 204(a)(2)).

(b) The nonfinancial agreement shall consist of:

(1) Prime sponsor's vocational education nonfinancial agreement signature sheet;

(2) Part I of the Special Grant Program Planning Summary;

(3) Appropriate columns of the Special Grant Budget Information Summary; and

(4) Vocational educational program narrative, including the identification of the potential recipient(s) of the funds for program administration.

(c) After the agreement is signed, a copy shall be sent by the Vocational Education Board to the Governor for review and approval.

(d) The Governor shall develop procedures for modifying the nonfinancial agreement.

(e) The Governor shall ensure that the Vocational Education Board provides services consistent with the Governor's Special Grant plan for vocational education services and the nonfinancial agreements.

(f) If, within 90 days after the notification of available funds for the area, the prime sponsor and the Board are unable to reach an agreement, the Governor shall mediate the dispute, so that the local vocational needs of the prime sponsor's area are met. If mediation by the Governor does not result in a solution acceptable to both parties within 120 days after the notification of available funds, the RA shall arbitrate the dispute.

§ 677.36 State Employment and Training Council.

(a) The Governor shall establish a State Employment and Training Council (SETC) which shall be in addition to the Balance of State planning council, and representative of the geographic area to be served. The SETC function is advisory and does not relieve the State of its final decisionmaking responsibilities under the Act.

(b) The Governor shall appoint Council members, as follows;

(1) At least one quarter of the membership of the Council shall be representatives of units or combinations of units of general local government, including those which are prime sponsors, who have been nominated their chief executive officers. (sec. 110(a)(3)(A))

(2) One quarter of the membership of the council shall be representatives from organized labor, business and agricultural employers and workers. (sec. 110(a)(3)(B)).

(3) One quarter of the council shall be representatives of the eligible population to be served under the Act (including significant segments) and of the general public (sec. 110(a)(3)(c)). At least one half of such representatives should be economically disadvantaged at the time of appointment.

(4) Not more than one quarter of the council shall be representatives of service deliverers, including:

(i) One representative from each of the following: the State Public Employment Service; the State Advisory Council on Vocational Education; the State Board of Vocational Education; the State public assistance agency; any State agency the Governor believes has an interest in employment and training and human resource utilization within the State.

(ii) Representatives of community-based organizations, veterans organizations, and organizations representative of handicapped individuals (sec. 110(a)(3)(d)).

(c) The Governor shall, provide the Council with professional, technical, and clerical staff and other necessary support services. (sec. 110(a)(2)).

(d) The Governor shall appoint someone other than an elected official or an employee of the prime sponsor as chairperson of the Council. The Council shall meet as it deems necessary, but not less than five times annually. All meetings shall be announced in advance, and shall be open and accessible to the general public. (sec. 110(a)(2)(B)(4)).

(e) Funds not needed for the State Employment and Training Council may be used for State Coordination and special services. (sec. 202(c)).

(f) The Council shall:

(1) Review continuously (i) the operation of programs conducted by prime sponsors in the State and (ii) the availability responsiveness, and adequacy of State services provided by all employment-related agencies. The reviews conducted by SETC's shall include an emphasis upon the following: statewide and inter-prime sponsor issues of utilization and coordination; employment and training resources of

State agencies, and the coordination of plans and operations in continguous areas. The procedures for monitoring prime sponsors and State agencies must be publicized to all prime sponsors and affected State agencies prior to being implemented;

(2) Submit a public Annual Report to the Governor no later than February of each year, with copies to the State Advisory Council on Vocational Education and the RA, and issue such other studies, reports or documents to the Governor and prime sponsors as the SETC believes necessary to effectively carry out the Act. The Annual Report shall analyze the coordination of employment and training programs during the previous fiscal year, and recommend improvements. It shall also describe any special programs or linkages.

(3) Consult with the State Advisory Council on Vocational Education to identify employment, training, and vocational education needs of the State and to assess the extent of coordination among employment and training, vocational education, vocational rehabilitation, public assistance and other programs.

(4) Comment at least once annually on the reports of the State Advisory Council on Vocational Education which shall incorporate such comments in the annual report it submits pursuant to Section 105 of the Vocational Education Amendments of 1976.

(5) Review proposed CETP modifications, and comment thereon, particularly with respect to non-utilization or duplication of existing services.

(6) Review plans of State agencies providing employment, training and related services. Provide comments and recommendations to the Governor, appropriate State agencies, prime sponsors, the general public and the appropriate Federal agencies on the relevancy and effectiveness of employment, training and related service delivery systems in the State and on means of improving effectiveness.

(7) Participate in the development of the Governor's coordination and special services plan.

(8) No later than May 15, to the maximum extent feasible, the council shall share with prime sponsors information on economic development, vocational rehabilitation, SESA activities, occupational demands and labor market demands.

(g) *Combined planning and services councils.* In any State where the State is the only prime sponsor, the prime sponsor planning council may also serve as of the State Employment and Training Council. In such instances, the membership of the prime sponsor's planning council shall reflect the membership requirements of the State Employment and Training Council, in addition to meeting the membership requirements of a prime sponsor planning council, except that paragraphg (b)(1) of this section is not applicable.

§ 677.37 Governor's coordination and special services.

(a) Funds provided under § 677.32 (d) of these regulations shall be used for the following activities (sec. 105(b)):

(1) Coordination of all employment, training, education and related services provided by the State, by prime sponsors, by State education agencies and other appropriate institutions of vocational and higher education, by State and local public assistance agencies by apprenticeship programs and by other providers of such services (sec. 105(b)(1));

(2) Coordination of programs financed unde the Wagner-Peyser Act and this Act, including assisting in the negotiation of any agreement (including partnership arrangements described in section 307) between prime sponsors and State employment security agencies (sec. 105(b)(2));

(3) Minimizing the duplication of services (sec. 105(b)(3));

(4) Assistance to the Secretary in enforcing the requirements for Federal contractors and subcontractors to list all suitable employment openings with local offices of the State employment service agencies and to take affirmative action, as required in Section 2012(a) of Title 38, United States Code (sec. 105(b)(4));

(5) Promotion of prime sponsor planning that takes into account conditions prevailing in labor market areas covering more than one prime sponsor area, as well as related activities such as community development, economic development, vocational education, vocational rehabilitation, and social services (sec. 105(b)(5));

(6) Exchange of information between Statcs and prime sponsors with respect to State, interstate and regional planning for economic development, human resources development, education and other subjects relevant to employment and training planning (sec. 105(b)(6));

(7) Development and provision to prime sponsors of information on a State and local area basis regarding economic, industrial and labor market conditions (sec. 105(b)(7));

(8) Provision to prime sponsors, upon request, appropriate information and technical assistance to assist them in develping and implementing their programs (sec. 105(b)(8));

(9) Conduct of special model training and employment programs and related services which may include programs for offenders (sec. 105(b)(9));

(10) Provision of financial assistance for special programs and services designed to meet the needs of rural areas outside major labor market areas (sec. 105(b)(11));

(11) Provision of labor market and occupational information to prime sponsors and appropriate educational agencies and institutions without reimbursement (sec. 105(b)(11));

(12) Facilitating and fostering the activities of the State Occupational Information Coordination Committee established with special emphasis on the systematic use of occupational information for prime sponsor planning as well as assisting and encouraging the development and use of career outlook information for individuals who are receiving rehabilitation services, students in local schools and individuals using the services of prime sponsors and local offices of State employment security agencies (sec. 105(b)(11));

(13) Assistance to or support of local activities under the Targeted Jobs Tax Credit program of the Revenue Act of 1978.

(c) When using funds provided under § 677.32(d) for employment and training activities (e.g., work experience, classroom training), the requirements of § 676.39, as appropriate apply.

(d) PSE may be funded only as a model or demonstration program with the approval of the RA.

§ 677.38 Coordination and establishment of linkages with education agencies.

(a) Funds provided under § 677.32(d) shall be available for encouraging coordination and establishing linkages between prime sponsors and applicable educational agencies and institutions, and institutions providing training programs approved by the Secretary such as State apprenticeship councils. Funds may be used for activities such as:

(1) Providing assistance to prime sponsors or education institutions in the development of agreements between prime sponsors and State Boards of Vocational Education and State or local educational agencies or post-secondary educational institutions as required under secs. 203(c), 433(d)(2), and 436(c) of the Act;

(2) Establishing mechanisms to increase information exchange between prime sponsors and educational agencies and institutions;

(3) Developing and disseminating models of linkages which can be shared with all prime sponsors in the State;

(4) Providing technical assistance to prime sponsors and educational agencies in the extension of educational offerings to prime sponsor jurisdictions which lack access to various education opportunities;

(5) Providing information, curriculum materials and technical assistance

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in curriculum development and staff development to prime sponsors;

(6) Providing assistance in development of systems for assessment and testing of educational attainment of participants in prime sponsor programs;

(7) Providing assistance to eliminate barriers in the educational system which hamper employment and training activities, such as development of open entry/open exit courses and academic credit for CETA training.

(b) Funds for services to eligible participants shall be used for the purposes of encouraging and supporting training activities which are jointly delivered by employment and training agencies and appropriate educational agencies and institutions including apprenticeship councils, or hometown plans. Funds may be used to:

(1) Expand the size of jointly delivered programs;

(2) Enhance training and services available to participants in jointly delivered programs;

(3) Assist in the planning, development and evaluation of jointly delivered programs.

§ 677.39 Vocational education activities.

(a) The Governor shall provide vocational education funds received by special grant to the State Vocational Education Board as described in § 677.34 of this Subpart D and approve the plans for expenditure of those funds.

(b)(1) The State Vocational Education Board representatives will provide the training and services detailed in a nonfinancial agreement with the prime sponsor as described in § 677.35 of this Subpart D.

(2) If no Vocational Education Board exists within a State, the Governor may provide financial assistance to an alternate agency which serves the same purpose as a State Vocational Education Board. If the Vocational Education Board refuses to participate in this program the Governor shall make alternative arrangements to provide these services.

(c) Vocational education services which may be provided by a State Vocational Education Board include, but are not limited to, basic or general education, educational programs conducted for offenders, institutional training, and supportive services. Vocational education funds under the Act may be used for the payment of allowances to participants in vocational education training and for administrative costs incurred for the vocational education programs funded under the Act.

(d) When funds for vocational education services are used for the payment of allowances to participants, the method of payment utilized must be that of the prime sponsor whose participants are receiving such allowances.

(1) Where the prime sponsor has an established delivery system for the payment of allowances pursuant to § 676.26, the State Vocational Education Board shall utilize the agency or agencies administering that system.

(2) Where the prime sponsor has no allowances payment delivery system, the method of payments shall be developed between the prime sponsor and the State Vocational Education Board subject to the requirements of § 676.26

(e) For funds for vocational education assistance, not less than 85 percent shall be used only for providing vocational education services to prime sponsor's participants in programs under the Act.

(1) Of this amount, not more than 20 percent of the funds used for such education and services may be used for administration.

(2) At least fifty percent (50%) of the vocational education funds allocated to administration shall be made available to local prime sponsor areas unless adequate justification for not doing so is provided to the RA by the Governor.

(f) Subject to the limitations specified in § 676.39 and (e) above, the remaining funds may also be used for the following activities:

(1) To coordinate programs under this Act with existing vocational education programs;

(2) To coordinate the utilization of funds under this Act with the Vocational Education Amendments of 1976 to enhance economic growth and development in the State;

(3) To develop linkages between vocational education and training programs under this Act with private sector employers;

(4) To provide technical assistance to vocational education agencies to aid them in making cooperative arrangements with appropriate prime sponsors;

(5) To provide information, curriculum materials and technical assistance in curriculum development and staff development to prime sponsors.

(g) Of the total amount provided for vocational education assistance the Governor may retain the minimum funds necessary as provided in Sec. 677.39(e)(1) or (f) to carry out his/her responsibilities under § 677.39

§ 677.40 Funding; grant administration.

(a) *Funding.* Special grants will be funded in the same way as basic grants under this Part.

(b) *Grant administration.* The requirements related to grant administration contained in Part 676 are applicable to special grants to Governors, except as provided in this Subpart. The overall 20 percent limitation on funds used for administration as set out in § 676.39 shall not apply to the special grant.

§ 677.41 Reporting.

(a) Financial and statistical reports, as described in the *Forms Preparation Handbook*, shall be submitted quarterly. In addition, an end of year narrative report will be submitted which describes achievement during the year.

(b) The following financial and statistical reports are required:

(1) A Special Grant Program Status Summary;

(2) A Special Grant Financial Status Report; and

(3) A Quarterly Summary of Participant Characteristics (QSPC). The QSPC shall be required only for participants where the State coordination and special services or educational linkages funds are utilized to fund training and employment opportunities. A QSPC shall not be required for vocational education services since all participants will be involved in a prime sponsor program and will be reported through regular quarterly reports.

(c) The Governor shall supply to each prime sponsor to which vocational education services are provided, a Special Grant Program Status Summary and a Special Grant Financial Status Report for funds expended in the prime sponsor's area and shall submit a summary Special Grant Program Status Summary and a Special Grant Financial Status Report to the RA.

(d) Each of the three reports in (b) above shall be submitted to the RA no later than 30 days after the end of the reporting period. The narrative report required under paragraph (a) shall be submitted no later than 30 days after the end of the fiscal year. Instructions for completion of these reports are in the *Forms Preparation Handbook.*

§ 677.42 Coordination with prime sponsor.

(a) The financial and statistical information from the approved Nonfinancial Agreement Program Planning Summary and Budget Information Summary shall be entered into the relevant columns of the Governor's Special Grant Program Planning Summary and Budget Information Summary. If the Governor's Special Grant Annual Plan has been signed prior to final approval of the Vocational Education Agreement, a modified Special Grant Program Summary and Budget Information Summary shall be submitted.

(b) The prime sponsor shall provide to the State Vocational Education Board a list of the participants enrolled in classroom training under the nonfinancial agreement quarterly. The list shall include names, social security numbers, date of birth and Title under which enrolled. The State Vocational Education Board shall prepare the Vocational Education Program Status Summary and submit the report to the Governor for submittal to the RA.

(c) The prime sponsor need not report the participant or financial information on the Program Status Summary or their Financial Status Report unless prime sponsor funds are also expended.

Subpart E—Transitional Employment Opportunities for the Economically Disadvantaged

§ 677.51 Purpose.

This subpart contains the regulations for transitional employment opportunities for economically disadvantaged persons under Title II, Part D of the Act. This program provides public service employment only for unemployed, economically disadvantaged persons and provides related training and services to these individuals to enable them to move into employment or training not supported under the Act. This program targets resources to those structurally unemployed persons who lack the necessary skills and/or employment experience to enable them to successfully compete in the labor market and obtain meaningful skill-developing jobs. The program combines public service employment with other employment and training activities including employability counseling and job search assistance (sec. 231).

§ 677.52 Participant eligibility.

Eligibility requirements governing this program may be found in § 675.5

§ 677.53 Activities and services.

(a) Subject to § 677.58, prime sponsors shall use funds for entry-level public service employment, including projects carried out by project applicants, or for activities authorized under § 677.13 (secs. 232(a)(1) and 234).

(b) Prime sponsors shall periodically assess each participant in relation to that participant's employability plan to determine if the participant needs additional training or services (sec. 205(b)).

(c) (1) All public service employment participants shall be given appropriate training and services, when such training and services are available from the prime sponsor or other sources in the area (sec. 232(a)(2)).

(2) Prime sponsors should combine public service employment with training and services. However, training and services may be offered before, during, or after the public service employment to which they are related.

(3) (i) Such training shall be in the form of classroom training or individualized instruction which:

(A) provides technical skills and information required to perform a specific job or group of jobs;

(B) is designed to enhance the employability of the participant in terms of upgrading basic skills (e.g., remedial education); or

(C) provides skills in job-search techniques.

(ii) Training for public service employment participants shall not be in the form of on-the-job training.

(d) Training and services conducted by program agents shall be coordinated with those conducted by the prime sponsor.

(e) Prime sponsors should work with the Bureau of Apprenticeship and Training to develop public-sector apprenticeship programs that provide training applicable to the private sector.

(f) In carrying out PSE activities, the provisions of § 676.73, relating to maintenance of effort, shall apply.

§ 677.54 Eligibility for funds.

(a) The Secretary shall provide funds only to:

(1) Prime sponsors, and

(2) Native American recipients qualified under Section 302(c)(1)(A) of the Act (sec. 606(a)).

(b)(1) Prime sponsors shall subgrant to program agents those funds allocated to the prime sponsors for use within the program agents' jurisdictions (sec. 606(b)(1)). If a program agent declines to operate a program under Title II, Part D of the Act, the prime sponsor, with the review and concurrence of the RA, shall make other arrangements to serve that jurisdiction.

(2) Program agents shall have administrative responsibility for developing, funding, overseeing, and monitoring programs within their areas, consistent with the comprehensive employment and training plan. The subgrant shall be jointly developed by the prime sponsor and the program agent (sec. 606(b)(2)).

(3) If a program agent fails to comply with paragraph (b)(2) of this section, the prime sponsor, after review and concurrence of the RA, shall ensure compliance by such action as reallocating funds to an alternative program agent to serve the area, or serving the area itself.

(4) When two or more units of general local government qualify as program agents with respect to the same area qualifying for assistance, the provisions in § 676.5(b)(2) shall apply (sec. 606(b)).

§ 677.55 Allocation of funds.

Funds shall be allocated by the Secretary in accordance with Section 233 of the Act.

§ 677.56 Annual plan subpart.

(a) *General.* To receive financial assistance under Part D of Title II of the Act, a prime sponsor shall submit the following information, which will become part of its Annual Plan.

The subpart shall consist of a Narrative Description, Program Planning Summary, Budget Information Summary, Monthly Schedule, and PSE Occupational Summary.

(b) *Narrative description.* The narrative description shall include:

(1) Objectives and needs for assistance. A breakout of the eligible population by race, sex, national origin, and age, and the planned level of services to be provided these groups in terms of the percentage each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any group varies by 15 percent above or below the group's incidence in the eligible population, an explanation must be provided.

(2) *Results and benefits.* (i) Specific quantifiable performance and placement goals by program activity.

(ii) Performance and placement goals with respect to groups designated to be served (sec. 103(b)(4)).

(iii) The relationship between the prime sponsor's performance and placement goals and the Secretary's performance standards (sec. 103(b)(4)).

(iv) Non-quantifiable goals which the prime sponsor intends to achieve.

(3) *Approach.* (i) Program Activities and Services. Program activities and services to be provided, including a description of the arrangements for the provision of training and services that will assist participants in obtaining unsubsidized employment.

(ii) How the prime sponsor will provide for an orderly transition from the number of jobs funded in the current fiscal year to the number of jobs that will be funded with the allocation for the next fiscal year (sec. 602(c)).

(iii) The wages or salaries and fringe benefits for public service employment participants and a comparison of these with the wages or salaries and fringe benefits paid to persons in similar public occupations by the same employer; levels of employment not supported under the Act; layoffs, and hiring and promotional freezes in each employing agency (sec. 103(b)(10)).

(iv) The methods to be used to ensure that, at the end of the fiscal year, the annual average wage rate meets the area's required annual average wage rate, described in § 676.26.

(v) The methods to be used to determine wage rates if wage rates for com-

parable jobs have not been established.

(vi) How the public service employment program is integrated with other programs under the Act.

(4) *Delivery Agents.* A list of the selected service deliverers and the services or facilities to be provided by each (sec. 103(b)(7)).

(c) *Program Planning Summary (PPS).* A PPS reflecting the goals and activities for the program year.

(d) *Budget Information Summary (BIS).* A BIS containing the proposed budget and a list specifying the quantity and price of each piece of capital equipment exceeding $1,000 to be purchased during the fiscal year.

(e) *Monthly schedule.* A monthly schedule which contains an estimate of the total number of participants who will be enrolled in Title II, Part D programs at the end of each month and the total cumulative expenditures expected to have been incurred by the end of each month.

(f) *Public Service Employment Occupational Summary.* A Public Service Employment Occupational Summary which includes a listing, by employing agency, of proposed public service employment positions and wages and a comparison of such wages with those paid persons in similar unsubsidized jobs.

(g) *Project Data Summary.* Where PSE in projects is to be undertaken, the Project Data Summary, which provides a description of each project funded, shall be submitted to the RA within 30 days of the commencement of a project.

§ 677.57 Wages and wage supplementation.

Wages paid to public service employment participants and the supplementation of such wages shall be in accordance with § 676.26(a)(3) (sec. 237(a)).

§ 677.58 Special cost provisions.

(a) The following cost restrictions shall apply to the funds utilized by prime sponsors for project and non-project public service employment:

(1) Not more than 10 percent of the funds may be contributed to the administrative cost pool and used for administrative costs (sec. 232(b)(1)).

(2)(i) Prime sponsors shall use only for training for PSE participants not less than:

(A) 10 percent of such funds for fiscal year 1979;

(B) 15 percent of such funds for fiscal year 1980;

(C) 20 percent of such funds for fiscal year 1981;

(D) 22 percent of such funds for fiscal year 1982 (sec. 232(b)(2)).

(ii) Wages and/or allowances paid to PSE participants during the period of training in conjunction with their employment may be counted towards the percentage amounts that are required to be used for such training. Records of the wages shall be maintained separately by the prime sponsor and available for audit when the percentage amount expended for training for PSE participants is being confirmed.

(3) The remaining funds may be expended only for wages, fringe benefits, training and services to persons employed in public service employment (sec. 232(b)(3)).

(b) In addition to PSE, funds under this title may be utilized by prime sponsors for other activities as set forth in § 677.13 (sec. 234). Not more than 20 percent of the funds utilized for such activities may be contributed to the administrative cost pool and used for administrative costs.

PART 678—PUBLIC SERVICE EMPLOYMENT PROGRAMS UNDER TITLE VI

Sec.
678.1 Purpose.
678.2 Participant eligibility.
678.3 Activities and services.
678.4 Eligibility for funds.
678.5 Allocation of funds.
678.6 Annual Plan Subpart.
678.7 Wages and wage supplementation.
678.8 Special cost provisions.

AUTHORITY: Sec. 126 of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 801 *et seq.*), unless otherwise noted.

§ 678.1 Purpose.

This Part contains the regulations for countercyclical public service employment under Title VI of the Act. This program provides temporary employment during periods of high unemployment when the national rate of unemployment is in excess of 4 percent. It is intended that the number of jobs funded shall be sufficient to provide jobs for 20 percent of the number of unemployed in excess of 4 percent, and, when the national rate of unemployment is in excess of 7 percent, to provide jobs for 25 percent of the number of unemployed in excess of 4 percent (sec. 601).

§ 678.2 Participant eligibility.

Eligibility requirements governing this program may be found in § 675.5.

§ 678.3 Activities and services.

(a) Prime sponsors shall use at least fifty percent of the funds received under this Part available for new hires between April 1, 1979, and September 30, 1979, for public service jobs in projects, except where the prime sponsor is, on April 1, 1979, utilizing at least fifty percent of the funds received under this Part for PSE jobs in projects and maintains a fifty percent level in projects for the remainder of the fiscal year. After September 30, 1979, prime sponsors shall use fifty percent of the funds received under this Part for PSE jobs in projects. Public service jobs in projects are not limited to entry level positions (sec. 605(a)). To the extent feasible, all public service jobs shall be provided in occupational fields which are most likely to expand (sec. 122(m)).

(b) Each prime sponsor shall establish procedures for its own use and the use of its program agents:

(1) For notifying potential project applicants of the application process and cut-off date for acceptance of project applications;

(2) For submitting, upon receipt, a copy of each project application to the prime sponsor's planning council to allow the council to submit comments and recommendations with respect to the project application.

(c) Prime sponsors and programs agents shall consider providing a substantial portion of the project funds to project applicants that are nonprofit organizations.

(d) All projects shall be planned not to exceed eighteen months from their commencement. Projects may be extended, in increments of up to 18 months, if, after a documented review of the project, the prime sponsor determines that the project has been effective. Projects may be extended for reasons such as:

(1) Expanding the geographic area of the project; or

(2) Expanding the project to serve additional persons; or

(30) Expanding the scope and design of the original project; or

(4) Continuing weatherization projects, as described in § 676.25.

(e) In addition to providing public service employment in projects, prime sponsors may utilize funds under this Part for entry-level PSE not in such projects, in accordance with § 678.8.

(f) Prime sponsors shall periodically assess each public service employment participant to determine whether the participant needs additional training, employability counseling or other services, in order to obtain unsubsidized employment. Prime sponsors shall utilize funds in accordance with § 678.8(a)(2) to provide services, such as employability counseling, including job search techniques, intensified job development, and training for public service employment participants to enable them to obtain unsubsidized employment. Such training or services provided by program agents shall be coordinated with those provided by the prime sponsor.

(g) Activities other than PSE authorized under Title II, Part A of Title III, Title IV, and Title VII may be provided in accordance with § 678.8(b) (sec. 610).

(h) Prime sponsors should work with the Bureau of Apprenticeship and Training to develop public-sector apprenticeship programs which provide training applicable to the private sector.

(i) In carrying out public service employment activities, the provisions of § 676.4 relating to maintenance of effort shall apply.

§ 678.4 Eligibility for funds.

(a) The Secretary shall provide funds only to:

(1) Prime sponsors, and

(2) Native American recipients qualified under Section 302(c)(1)(A) of the Act (sec. 606(a)).

(b)(1) Prime sponsors shall subgrant to program agents those funds allocated to the prime sponsors for use within the program agents' jurisdications (sec. 606(b)(1)). If a program agent declines to operate a program under Title VI of the Act, the prime sponsor, with the review and concurrence of the RA, shall make other arrangements to serve that jurisdication.

(2) Program agents shall have administrative responsibility for developing, funding, overseeing, and monitoring programs within their areas consistent with the comprehensive employment and training plan. The subgrant shall be jointly developed by the prime sponsor and the program agent (sec. 606(b)(2).

(3) If a program agent fails to comply with paragraph (b)(2) of this section, the prime sponsor, after review and concurrence of the RA, shall ensure compliance by such action as reallocating funds to an alternative program agent to serve the area, or serving the area itself.

(4) When two or more units of general local government qualify as program agents with respect to the same area qualifying for assistance, the provisions in § 676.5(b)(2) shall apply (sec. 606(b)(3)).

§ 678.5 Allocation of funds.

Funds shall be allocated by the Secretary in accordance with Section 604 of the Act.

§ 678.6 Annual plan subpart.

(a) *General.* To receive financial assistance under Title VI of the Act, a prime sponsor shall submit the following information which will become part of its Annual Plan. The subpart shall consist of a Narrative Description, Program Planning Summary, Budget Information Summary, Monthly Schedule, PSE Occupational Summary, and Project Data Summary.

(b) *Narrative Description.* The narrative description shall include:

(1) Objectives and needs for assistance. A breakout of the eligible population by race, sex, national origin and age, and the planned level of services to be provided these groups in terms of the percentage each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any group varies by 15 percent above or below the group's incidence in the eligible population, an explanation must be provided.

(2) *Results and benefits.* (i) Specific quantifiable performance and placement goals by program activity.

(ii) Performance and placement goals, with respect to groups designated to be served (sec 103(b)(4)).

(iii) The relationship between the prime sponsor's performance and placement goals and the Secretary's performance standards (sec. 103(b)(4)).

(iv) Any non-quantifiable goals which the prime sponsor intends to achieve.

(3) *Approach.* (i) Program Activities and Services. Program actvities and services to be provided, including a description of the arrangements for the provision of training and services that will assist participants in obtaining unsubsidized employment.

(ii) How the prime sponsor will provide for an orderly transition from the number of jobs funded in the current fiscal year to the number of jobs which will be funded with the allocation for the next fiscal year (sec. 602(c)).

(iii) The extent to which the prime sponsor will supplement wages of persons other than those who were in the program on September 30, 1978, including:

(A) The maximum amounts of funds used to supplement any one particular job funded under this Part; and

(B) The total amount of funds used to supplement all jobs funded under this Part.

(iv) The wage rates or salaries and fringe benefits for public service employment participants and a comparison of these with the wages or salaries and fringe benefits paid to persons in similar public occupations by the same employer; levels of employment not supported under the Act; layoffs, and hiring and promotional freezes in each employing agency (sec. 103(b)(10)).

(v) The methods to be used to ensure that, at the end of the fiscal year, the annual average wage rate meets the area's required annual average wage rate, described in § 676.26

(vi) The methods to be used to determine wage rates if wage rates for comparable jobs have not been established.

(vii) How the public service employment program is integrated with other programs under the Act.

(4) *Delivery agents.* A list of the selected service deliverers and the services or facilities to be provided by each (sec. 103(b)(7)).

(c) *Program Planning Summary (PPS). A PPS reflecting the goals and activities for the program year.*

(d) *Budget Information Summary (BIS).* A BIS containing the proposed budget and a list specifying the quantity and price of each piece of capital equipment exceeding $1,000 to be purchased during the fiscal year.

(e) *Monthly schedule.* A monthly schedule which contains an estimate of the total number of participants who will be enrolled in Title VI programs at the end of each month, and the total cumulative expenditures expected to have been incurred by the end of each month.

(f) *Public Service Employment Occupational Summary.* A Public Service Employment Occupational Summary which includes a listing by employing agency of proposed public service employment positions and wages and a comparison of such wages with those paid persons in similar unsubsidized jobs.

(g) *Project Data Summary.* The project Data Summary provides a description of each project funded by the prime sponsor, and shall be submitted to the RA within 30 days of the commencement of a project.

§ 678.7 Wages and wage supplementation.

(a) Wages paid to public service employment participants and the supplementation of such wages shall be in accordance with § 676.26(a)(3) (sec. 608).

(b) Wages paid to public service employee hired on or after January 26, 1979, under this Title may be supplemented by additional wages from non-CETA sources only if:

(1) The total amount of funds used in any fiscal year to provide such supplemented wages does not exceed an amount equal to 10 percent of the prime sponsor's Title VI allocation for such fiscal year; and

(2) The wage supplementation to any public service employee does not exceed:

(i) ten percent of the maximum wage applicable for the prime sponsor's area; or

(ii) twenty percent of the maximum wage applicable for the prime sponsor's area in any area where the average wage (during the fiscal year preceding the beginning of the applicable fiscal year) in employment covered under Federal or State unemployment compensation laws (without regard to any limitation on the amount of such wages subject to contribution under such law) exceeds 125 percent, but does not exceed 150 percent, of the na-

tional average wage in such employment.

(c) Any public service employee hired between September 30, 1978, and January 26, 1979, receiving wages supplemented from non-CETA sources may continue to receive such wages after January 26, 1979, only if such supplementation is in accordance with the provisions in paragraph (b) above.

(d) Any person in public service employment position on September 30, 1978, receiving wages from non-CETA sources may continue to receive such wages, so long as such person remains in the same position. These wages are not subject to the limitations of paragraph (b) of this section. However, the non-CETA portion shall not be reduced if the maximum wage has been adjusted above $10,000 after September 30, 1978, as long as the incumbent participant is in this position or until the next prime sponsor budgetary cycle. (sec. 122(i)(4)(B)).

(e) Any person in public service employment on September 30, 1978, who was receiving wages on September 30, 1978, less than $10,000 may have such wages supplemented above the $10,000 from non-CETA sources after September 30, 1978, if such increase is the result of a bona-fide cost of living increase or a scheduled raise, and the person remains in the same position. These wages are not subject to the limitations of paragraph (b) above.

(f) When a public service employment participant, hired after September 30, 1978, is eligible for a promotion, a general salary increase or overtime pay, the employer shall pay from non-CETA funding sources that amount in excess of the maximum amount payable from CETA funds as well as a pro-rata share of the increased fringe benefits, unless such payments would be in violation of the limitations on public service wage supplementation contained in paragraphs 2(i) and (ii) above. If such payment would be in violation, then the participants affected must be transferred to other positions or be terminated.

§ 678.8 Special cost provisions.

(a) The following cost restrictions shall apply to the funds utilized by prime sponsors for project and non-project public service employment:

(1) At least 80 percent of such funds shall be expended for wages and fringe benefits (sec. 603(a)).

(2) At least 10 percent of such funds for fiscal year 1979, and at least 5 percent of such funds for all subsequent fiscal years, shall be expended for training and services to PSE participants employed in public service jobs under this Part (sec. 603(d)).

(3) Not more than 10 percent of such funds for fiscal year 1979, and not more than 15 percent for subsequent fiscal years, may be contributed to the administrative cost pool and used for administrative costs.

(b) The remaining funds may be used for activities authorized under Title II, Part A of Title III, Title IV and Title VII (sec. 616) not more than 20 percent of the funds utilized for such activities may be contributed to the administrative cost pool and used for administrative costs.

PART 679—PRIVATE SECTOR INITIATIVE PROGRAM

Sec.
679.1 Scope and Purpose.
679.2 Private Industry Councils.
679.3 Allocation of Funds.
679.4 Annual Plan Subpart.
679.5 Administrative Standards and Procedures.
679.6 Program Operations.

AUTHORITY: Sec. 126 of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 801 *et seq.*), unless otherwise noted.

§ 679.1 Scope and purpose.

This Part contains the regulations for activities under Title VII of the Act, known as the Private Sector Initiative Program.

(a) Title VII of the Act is a demonstration title. It authorizes a variety of approaches to increase the involvement of the business community in employment and training activities under the Act.

(b) Title VII is designed to increase private sector employment and training opportunities for persons eligible under this Part.

(c) As a primary vehicle to assist prime sponsors in meeting these goals, Title VII provides for the establishment of Private Industry Councils (PIC's) which are to participate jointly with the prime sponsor in the local development and implementation of programs under this Part, and to consult with the prime sponsor on other employment and training activities.

(d) The ultimate goal of Title VII is to increase private sector employment and training opportunities under all Titles of the Act, commensurate with reduced emphasis on public and private nonprofit subsidized employment. Title VII, then, is a shift in emphasis in CETA programs from subsidized public service employment to unsubsidized private sector jobs.

(e) An important thrust of the Act is to provide for maximum feasible coordination of programs under the Act with related functions supported by the Department and by other Federal, State and local agencies. Accordingly, prime sponsors and PIC's are encouraged to work together with State and local counterparts involved in planning and operating programs through Job Service Improvement Program (JSIP) employer committees and the Bureau of Apprenticeship and Training, as well as the Economic Development Administration, Small Business Administration, Community Services Administration, and U.S. Department of Housing and Urban Development, among others, in order to increase the effectiveness of programs under this Part and under the Act in securing employment for economically disadvantaged persons (sec. 701).

(f) This Part, in conjunction with Parts 675 through 677, Subpart B, comprise the regulations for Title VII of the Act.

§ 679.2 Private Industry Councils (PIC's).

(a) *Purpose.* (1) To receive financial assistance under this Part, each prime sponsor shall establish a Private Industry Council (PIC). Its purpose shall be to increase the involvement of the business community, including small business, minority business enterprises, and labor organizations, in employment and training activities under the Act, and to increase private sector employment opportunities for economically disadvantaged persons (secs. 701 and 704(a)(1)).

(2) Given the diversity of local circumstances and the differing environments in which PIC's will operate, the structure, level of activity, and composition of PIC's may vary considerably from one prime sponsor jurisdiction to another. Title VII of the Act is designed to encourage the formulation of a local partnership between the private sector and the prime sponsor that will most effectively satisfy the labor demand needs of the business community and enhance the economic well-being of the community.

(b) *Appointment of PIC members.* Each prime sponsor shall appoint the members of the PIC. (sec. 704).

(1) *General.* (i) A majority of the PIC membership shall be representatives of industry and business (sec. 704(a)).

(ii) Ultimate decisions regarding the establishment of the PIC rest with the prime sponsor. In making such decisions, the prime sponsor shall solicit and consider the recommendations of the business and industrial community (sec. 704(a)).

(iii) Existing local councils or committees may be designated or adapted to serve as the PIC (sec. 704(a)).

(iv) In establishing a PIC, the prime sponsor should consult with business and industry, labor organizations, community-based organizations, educational agencies and institutions, the apprenticeship community, and existing councils and committees.

(v) In prime sponsor jurisdictions in which a National Alliance of Business (NAB) metro organization exists, it should be given consideration in the establishment of the PIC.

(vi) Nothing in this section is meant to give a presumptive role to any particular organization in the establishment of the PIC (sec. 704(2)(d)).

(2) *Business and industry members.* (i) The business and industry membership of the PIC shall be representative of the private for profit employment community in terms of the types of business represented (sec. 704(a)(1)).

(ii) Where possible, at least half of the industry and business representatives shall be representatives from small business. For purposes of this Part, "small business" means any private for profit enterprise employing five hundred or fewer employees (secs. 704(a)(1) and (2)).

(iii) Minority business enterprises shall be represented on the PIC, at least consistent with their representation in the business community (sec. 704(a)(1)).

(3) *Other required members.* The PIC membership shall include representation from the following:

(i) Organized labor. In appointing members from organized labor, the prime sponsor should consult State or central labor bodies, the Human Resources Development Institute (HRDI) and unions representing major occupations in the area.

(ii) Community-based organizations that have demonstrated a record of effectiveness in their relationships with the business community.

(iii) Educational agencies and institutions that provide education or vocational training oriented towards the needs of the business community.

(4) *Other members.* Prime sponsors may also appoint to the PIC other members such as representatives of persons eligible to participate in activities under this Part (sec. 704(a)(1)).

(c) *Chairperson.* (1) Prime sponsors should appoint a chairperson pro tem who shall be from the business and industrial community and who shall assist in identifying potential members and in establishment of the PIC.

(2) Once established, the PIC shall have a chairperson who shall be selected by the members of the PIC, from among the representatives of business and industry discussed in Section 679.2(b)(2) above.

(d) *Organizational position.* (1)(i) The organizational position occupied by the PIC within the overall employment and training delivery system shall be determined by the prime sponsor in consultation with the PIC.

(ii) Such position and relationship shall be designed to enable the PIC to carry out its responsibilities.

(2) To carry out its duties, the PIC should meet regularly, should appoint subcommittees to deal with particular areas of concern, and should secure either through its staff or other means, the expertise of persons in the private sector having knowledge of business practices and policies (sec. 704(c)).

(3) *PIC relationship to the prime sponsor's planning council.* (i) The activities of the PIC shall be coordinated by the prime sponsor with those of the prime sponsor's planning council, and area planning bodies in the case of State prime sponsors. The planning council shall review and comment on the Title VII plan, and otherwise operate with respect to the Title VII program in the same manner as with other prime sponsor programs.

(ii) For purposes of Title VII, the PIC shall not be subordinate in its authority to the prime sponsor's planning council.

(iii) The PIC chairperson (or designee) shall, at a minimum, serve as an ex-officio, nonvoting member of the prime sponsor's planning council, and the chairperson of the prime sponsor's planning council (or designee) shall, at a minimum, serve as an ex-officio, nonvoting member of the PIC. However, this does not preclude assigning either chairperson the status of a full voting member on the respective councils (secs. 704(a)(1) and 704(b)).

(e) *Staff.* The PIC shall be appropriately staffed. It should select or hire staff commensurate with its responsibilities. The staffing composition of the PIC shall be determined through mutual agreement between the PIC and the prime sponsor.

(1) When the PIC is a subgrantee or contractor of the prime sponsor it shall hire its own staff in a manner consistent with that status and with the terms of the subgrant or contract.

(2) If the PIC is other than a subgrantee or contractor, it shall be consulted by the prime sponsor on the matter of its staffing. To the extent possible, consistent with applicable personnel rules, the PIC should be party to decisions on staff selection or hiring.

(f) *PIC's that serve more than one prime sponsor area.* Because business and industry typically draw upon the labor supply of a broad geographical area without regard to jurisdictional boundaries, prime sponsors are encouraged to join together to form PIC's that serve labor market areas. Additionally, an established PIC serving one prime sponsor jurisdiction may extend its functions to cover additional prime sponsor areas, pursuant to arrangements and agreements between the prime sponsors involved and the PIC. Such arrangements will serve to lessen the degree of duplication of activity in developing and utilizing labor market information, in soliciting participation in training programs, and in job development activities. Accordingly, financial incentives may be provided to prime sponsors that make such arrangements, as discussed in Section 679.3(b)(2) (sec. 704(a)(1)).

(g) *Functions of the PIC.* The prime sponsor and the Private Industry Council shall determine those functions that the PIC will perform, based upon local conditions, the interests of the private sector, and the needs of the community. The PIC shall serve as an intermediary to assist the local employment and training structure to become more responsive to the business community. Those functions include the following, among others:

(1) *General.* (i) the PIC shall be a primary vehicle of the prime sponsor for redirecting employment and training activities under the Act from public and private non-profit subsidized employment of CETA participants to permanent unsubsidized positions in the private sector.

(ii) The PIC shall serve as the business and industry contact point in the local employment and training system, to present the private sector's views and recommendations for making programs more responsive to local employment needs.

(iii) The PIC shall advise and provide direction to the local employment and training system on ways to increase private sector job placements for persons eligible under this Part (secs. 701 and 704(c)).

(2) *Planning and coordination.* (i) The PIC shall, in conjunction with the prime sponsor, design and develop the Title VII program and subpart to the prime sponsor's Annual Plan (sec. 703(b)).

(ii) In designing the plan, and on a continuing basis, the PIC shall analyze private sector job opportunities, including estimates by occupation, industry, and location. The analysis should survey employment demands in the private sector and training possibilities, such as apprenticeship, in order to develop projections of short and long range labor needs, and to refine employment and training programming so that it becomes increasingly responsive to private sector labor needs. In undertaking such analysis, the PIC should assess and utilize information contained in economic development plans for the area and currently available labor market information from sources already in place, such as the State Employment Security Agency (SESA) (sec. 703(b)(3)).

(iii) The PIC should, in conjunction with the prime sponsor, develop specific private sector employment and training projects.

(iv) The PIC should, in conjunction with the prime sponsor, develop standards for the types of occupations to be selected for the expenditure of training funds.

(v) The PIC should, in conjunction with the prime sponsor, develop stand-

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ards and specification for training in particular occupations.

(vi) In designing the plan, the PIC and prime sponsor should, to the extent possible, ensure that the plan is consistent with plans, funding applications and grants for programs related to private sector employment and training which are funded by other Federal agencies. For planning purposes and to coordinate PIC activities with activities under other related Federal programs, the PIC should where possible review and comment on such plans and funding applications (including those of the Economic Development Administration, Department of Housing and Urban Development, Small Business Administration and Community Services Administration) (secs. 103(a)(20), 704(c) and 705(a)(4)).

(vii) The PIC shall have the opportunity to review and comment on other Annual Plan subparts under the Act (sec. 704(c)).

(3) *Operational functions.* (i) The PIC should actively solicit public and private support for and participation in the Private Sector Initiative Program and other programs and activities designed to increase private sector employment and training opportunities for persons who are economically disadvantaged.

(ii) The PIC should market and disseminate information on the Targeted Jobs Tax Credit, created by the Revenue Act of 1978 (P.L. 95-600), and the WIN tax credit.

(iii) The PIC should, pursuant to the provisions of Section 676.23(f), enter into cooperative written agreements with the SESA, JSIP Committees, and other private sector intermediaries in order to carry out its responsibilities.

(iv) The PIC may receive funds to administer and directly operate local private sector employment and training programs. Such an operational function may involve directly marketing on-the-job and other training agreements with private employers, developing training programs, entering into contracts with private firms, community-based organizations, and educational agencies and institutions, and other related activities.

(v) Organizations represented on the PIC may be directly involved in the operation of employment and training programs funded under this Part, consistent with the conflict of interest provisions of Section 679.2(i).

(vi) The PIC may, in consultation with the prime sponsor and in accordance with section 676.37(e), develop criteria for the selection of any nongovernmental organization, association, firm or other entity for the conduct of programs or activities under this Part (secs. 121(o) and 704(c)).

(4) *Monitoring and evaluation.* (i) The PIC shall, in consultation with the prime sponsor, develop standards to monitor activities under this Part. Programs under this Part are also subject to the prime sponsor monitoring responsibilities of Section 676.76 (sec. 704(c)).

(ii) The PIC may, in consultation with the prime sponsor, identify the factors to be addressed in an evaluation or assessment of activities under this Part.

(iii) In consultation with existing groups, such as Job Service Improvement program employer committees and prime sponsor's planning and youth councils, the PIC may examine the performance of the local CETA and SESA delivery system to determine how to better meet the needs of business and industry and increase private sector employment opportunities for the economically disadvantaged, and advise the prime sponsor and the SESA of its observations and recommendations (sec. 704(c)).

(5) Nothing in this section is intended to limit the functions of the PIC, with respect to assisting the prime sponsor to improve the responsiveness of employment and training programs to employment opportunities in the private sector. The business community should be involved in determining the functions of the PIC so that these will be responsive to the needs and interests of business and industry.

(h) *Accountability.* The Department holds the prime sponsor accountable for activities conducted and funds expended under this Part. The PIC, in working with the prime sponsor to develop activities under this Part, must recognize the prime sponsor's ultimate liability for such activities. The PIC and the prime sponsor are thus both responsible for program performance, and the Department will take the PIC's performance of its functions into account in conducting the annual Title VII performance assessment. Additionally, where the PIC is a contractor or subgrantee of the prime sponsor, it is financially liable to the prime sponsor for funds received.

(i) *Conflict of interest.* (1) While the members of the PIC must vote on whether they concur in the overall Title VII Annual Plan Subpart, no member may vote on any portion of the plan or on any contract or subgrant in contravention of Section 676.62(a) (sec. 121(h)(2)).

(2) Prime sponsors may provide broad administrative responsibility to the PIC, including the authority to enter into contracts and subgrants. However, contracts between the PIC and private organizations with which PIC members are associated shall be subject to the final approval of the prime sponsor.

§ 679.3 Allocation of funds.

(a) *Prime sponsor basic allocations.* Ninety-five percent of funds available under Title VII of the Act shall be allocated to prime sponsors as provided in Section 202 of the Act except that:

(1) In order to ensure that every prime sponsor receives an allocation of sufficient size to mount a viable program, a minimum allocation level may be established; and

(2) In the case of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Marianas, these shall be allocated the same percentage of Title VII funds as the percentage of Title II Parts A, B and C funds allocated to them.

(b) *Other allocations.* The remaining five percent of the funds shall be allocated in the following manner:

(1) *Assistance to Native American entities.* No less than two percent of the total funds available under Title VII of the Act will be used to support Title VII programs for Native American entities described in Sections 302(c) (1) (A) and (B) of the Act.

(2) *Assistance to prime sponsors who join together to establish a single Private Industry Council.* Additional funds shall be provided to prime sponsors who join together to establish a single Private Industry Council that serves a substantial portion of a functioning labor market area, as determined by the Secretary. Included may be:

(A) Existing consortia which qualify for incentive funds under Section 676.4(c);

(B) Two or more prime sponsors establishing a PIC that serves at least 75% of a functioning labor market area; and

(C) To the extent that funding is available, other combinations of prime sponsors forming a single PIC, based on the degree of coverage of the functioning labor market area (sec. 702(b)).

(c) Funds may be reallocated pursuant to the provisions of Section 676.47 (sec. 108).

§ 679.4 Annual plan subpart.

(a) *General.* To receive financial assistance under this Part, a prime sponsor shall submit the following information, which will become part of the Annual Plan as described in Section 676.11. This subpart shall consist of a Narrative Description, Program Planning Summary, and Budget Information Summary, specific to Title VII (sec. 103.(b)).

(b) The prime sponsor shall transmit a copy of the Title VII Annual Plan subpart to the prime sponsor's planning council, to appropriate labor organizations, community-based organizations, educational agencies and institutions, Overall Economic Development Program committees and to such other parties as are required by Section 676.12(d). The comment and publication procedures of Section 676.12 apply to this Part (secs. 703 (b) (4) and (5)).

(c) The Annual Plan Subpart shall have the concurrence of both the PIC and the prime sponsor in order to be approved. Therefore, the PIC chairperson as well as the prime sponsor shall sign the Annual Plan Subpart.

(d) *Narrative description.* The Narrative Description shall include:

(1) *Objectives and need for assistance.* (i) State the objectives and need for funding under this Part, including an identification of private sector occupations where there are labor shortages, and discuss how activities will be integrated with other training and placement activities under the Act (sec. 703(a)).

(ii) Analyze the eligible population by race, sex, national origin and age, and present the planned levels of service to be provided these significant segments in terms of the percent each group will constitute of those to be served. Where the planned level of service to any group varies by more than 15 percent below the group's incidence in the eligible population, an explanation must be provided.

(2) *Results and benefits.* Provide a statement on:

(i) Specific quantified performance and placement goals, by program activity.

(ii) Any performance and placement goals with respect to groups designated to be served.

(iii) Explain any variation between such performance and placement goals and the Secretary's performance standards (sec. 103(b)(4)).

(iv) Any nonquantifiable goals or outcomes.

(3) *Approach.* Provide a description of:

(i) The specific activities to be conducted.

(ii) The procedures and standards to be used for the selection of occupations in which training is to be provided.

(iii) The system that will be used to monitor and evaluate the success of activities, including a description of the role of the PIC in monitoring and evaluating.

(4) *Private Industry Council (PIC).* Provide the following:

(i) The responsibilities assumed and the functions to be performed by the Private Industry Council in the planning, operation and review of programs.

(ii) The procedures used to assure that meetings are held on a regular basis, that they are publicly announced, open and accessible to the general public, and that minutes are maintained.

(iii) The procedures used to select members of the PIC.

(iv) A list of the PIC membership indicating representation from among those membership categories identified in § 679.2(b).

(v) Staffing arrangements for support of the PIC agreed upon by the PIC and the prime sponsor.

(vi) A description of procedures established to ensure periodic consultation and coordination of activity between the PIC and the prime sponsor's planning council and other appropriate agencies in the labor market area.

(e) *Program Planning Summary (PPS).* The PPS reflects the goals, objectives and activities planned under Title VII for the program year.

(f) *Budget Information Summary (BIS).* The BIS contains the planned budget under Title VII for the program year.

§ 679.5 Administrative standards and procedures.

(a) *General.* The provisions of section 676 shall apply except as otherwise indicated.

(b) *Prime sponsors who join together to establish a single Private Industry Council.* Special provisions for prime sponsors who join together to establish a single PIC, including reporting requirements, are discussed in the *Forms Preparation Handbook.*

(c) *Allowable costs and cost allocation.* The provisions of §§ 676.40 and 676.41 shall apply to programs under Title VII except as follows:

(1) *Employment generating services.* (i) For Title VII only, costs for activities which are not directly related to the immediate provision of training or employment for participants but which are intended to result in the creation or expansion of employment opportunities for persons eligible under this Part are to be classified as employment generating services and shall be charged to the "Services" cost category. Examples are:

(A) Those items enumerated in paragraphs (b)(2) (i), (ii), (iii), (iv), (vi), (vii), (ix), (x), (xii), (xiii), (xiv), and (xv) of Section 679.6.

(B) The costs for the salaries and fringe benefits of labor market and program analysts, consultants under contract for employment generating services, and the costs for technical assistance to contractors and subgrantees.

(ii) While such activities are allowable and desirable under Title VII, no more than 50 percent of a prime sponsor's Title VII funds may be used for employment generating services.

(iii) The program activity against which the costs for employment generating services are to be allocated is "Other Activities" described in § 676.41(f)(6).

(iv) No costs attributable to the general administration of the Title VII program shall be charged to the "Services" cost category.

(2) *Administrative costs.* (i) For purposes of Title VII, administrative costs are those costs which fall within the category of administration as defined in §§ 676.40(e)(7), 676.41(d)(6), exclusive of employment generating services.

(ii) The total amount of administrative costs incurred by all prime sponsors in carrying out programs under this Part shall not exceed 20 percent of the total cost of carrying out all prime sponsor programs. Each prime sponsor and PIC must make every effort to limit administrative costs to only those that are necessary to assure the effective operation of programs under this Part. If the prime sponsor and PIC determine that more than 20 percent is necessary to operate the planned program, a higher amount may be requested by providing a satisfactory explanation of the need for such amount in the Title VII Annual Plan Subpart. The special needs of urban and rural areas and other relevant factors shall be considered by the RA in reviewing requests for administrative costs in excess of 20% (sec. 705(b)).

(iii) It is recognized that initial startup and implementation of programs under this Part may require administrative expenditures greater than those necessary for the operation of established programs. Thus, it is anticipated that it will subsequently become possible for administrative costs to be reduced such that they are brought to a more appropriate level of 10%. Prime sponsors and PIC's should therefore plan to reduce administrative costs to no more than 10% in subsequent fiscal years.

(3) Payments to private-for-profit employers through methods not specifically authorized under Parts 676 through 677, Subpart B shall not be allowable unless and until the method of payment is explained in advance and authorization for its use is specifically granted. Prime sponsors shall transmit to the RA requests to permit such new payment methods. The RA shall transmit such requests, with comments and recommendations, to the Assistant Secretary for Employment and Training. The final decision shall be made within 60 days after the prime sponsor's submission of a request to the RA. Nothing in this paragraph authorizes wage subsidies (sec. 703(c)).

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§ 679.6 Program operations.

(a) *Eligibility.* Eligibility requirements governing this program may be found in § 675.5.

(b) *Allowable activities.* Funds shall be used to provide employment and training and related activities consistent with the purposes of Title VII including:

(1) Activities authorized in Part 677, Subpart B, and

(2) The following:

(i) Coordinating programs of jobs and training and education enabling individuals to work for a private employer while attending an education or training program;

(ii) Developing a small business intern program to provide a practical training enabling youths and other individuals to work in small business firms to acquire first-hand knowledge and management experience about small business;

(iii) Developing relationships between employment and training programs, educational institutions, and the private sector;

(iv) Developing useful methods for collecting information about Federal Government procurement contracts with private employers, new and planned publicly supported projects such as public works, economic development and community development programs, transportation revitalization, alternative energy technology development, demonstration, and utilization projects, energy conservation projects, and rehabilitation of low income housing as part of a community revitalization or stabilization effort, which provide work through private sector contractors;

(v) Conducting innovative cooperative education programs for youths in secondary and postsecondary schools designed to coordinate educational programs with work in the private sector;

(vi) Developing and marketing model contracts designed to reduce the administrative burden on the employer and model contracts to meet the needs of specific occupations and industries;

(vii) Coordinating programs under this Part with other job development, placement, and employment and training activities carried out by public and private agencies;

(viii) Providing on-the-job training subsidies on a declining ratio to wages over the period of training;

(ix) Providing followup services with employees placed in private employment and employers who hire recipients of services under the Act,

(x) Encouraging employers to develop job skill requirement forecasts and to coordinate such forecasts with prime sponsors;

(xi) Using direct contracts for training and employment programs with private for profit and private nonprofit organizations;

(xii) Developing apprenticeship or comparable high-skill training programs for workers regardless of age in occupations where such programs do not exist presently in the area;

(xiii) Increasing opportunities for upgrading from entry level jobs by providing counseling and other services to employees and employers beyond initial training periods;

(xiv) Providing technical assistance to private employers to reduce the administrative burden of employment and training programs;

(xv) Disseminating information to private employers so that they may more fully utilize programs under the Act; and

(xvi) Other program activities which demonstrate effective approaches to the training and employment of persons eligible to participate in programs under this Part (sec. 705(a)).

Signed at Washington, D.C., the 16th day of January 1979.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 79-1997 Filed 1-18-79; 8:45 am]

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FRIDAY, JANUARY 19, 1979
PART X



DEPARTMENT OF ENERGY

ELECTRIC AND HYBRID VEHICLE RESEARCH DEVELOPMENT AND PRODUCTION

Loan Guaranties

[6450-01-M]

DEPARTMENT OF ENERGY

[10 CFR Part 791]

ELECTRIC AND HYBRID VEHICLES

Research, Development, Demonstration, and Production Loan Guaranties

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy proposes to amend its regulations on Electric and Hybrid Vehicle Research, Development, Demonstration, and Production Loan Guaranties in order to implement certain amendments to the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976 contained in the Department of Energy Act of 1978—Civilian Applications, including the offering of principal as well as interest assistance and the establishment of the Electric and Hybrid Vehicle Development Fund. Written comments will be received and a public hearing will be held with respect to this proposal.

DATES: Written comments must be received by 4:30 p.m. e.s.t. on March 20, 1979. The public hearing will be held on February 20, 1979. Requests to speak at the hearing must be received by 4:30 p.m. e.s.t. on February 14, 1979, and speakers will be notified by February 16, 1979. Written copies of a speaker's statement must be received by 4:30 p.m. e.s.t. on February 19, 1979.

ADDRESSES: Send written comments and requests to speak to Public Hearing Management, Department of Energy, 2000 M Street, N.W., Room 2313, Box VO, Washington, D.C. 20461. Send copies of speaker's statement, as provided below, to Room 1214, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545. The public hearing will be held at 9:30 a.m. e.s.t. on February 20, 1979, in Room 3000A, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Anthony H. Ewing (Program Office), U.S. Department of Energy, Office of Conservation and Solar Applications, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, (202) 376-4747.

Pamela M. Pelcovits (Office of General Counsel), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8788.

Vivian Sande (Media Relations), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-9385.

SUPPLEMENTARY INFORMATION:

I. Background

On May 9, 1978, the Department of Energy (DOE) issued final regulations establishing policies and procedures for loan guaranties by which lenders, as well as borrowers, may participate in accelerating the development and production of electric and hybrid vehicles (43 FR 20476, May 12, 1978). These regulations were intended to provide for the implementation of section 10 ("Loan Guaranties") of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (EHV Act) (Pub. L. 94-413, 15 U.S.C. 2501 *et seq.*).

Section 603 of the Department of Energy Act of 1978—Civilian Applications (DOE Act) (Pub. L. 95-238) has amended section 10 of the EHV Act in several respects. Accordingly, DOE proposes to amend its regulations in order to conform the regulations, as appropriate, to the amendments to section 10.

II. Proposed Amendments

Section 603(a)(1) of the DOE Act amended the EHV Act by adding at the end of section 10(e) provisions establishing the Electric and Hybrid Vehicle Development Fund. This fund is available for carrying out the loan guaranty principal and interest assistance program authorized by the EHV Act, as amended. DOE proposes to amend 10 CFR Part 791 by adding a new section, 791.41A, "Electric and Hybrid Vehicle Development Fund."

Section 603(a)(2) of the DOE Act amended section 10 of the EHV Act by adding a new subsection (j) which pledges the full faith and credit of the United States to the payment of all obligations incurred under section 10. DOE proposes to amend §791.1 in order to reflect this pledge by adding after the words "Federal guaranty" the words "backed by the full faith and credit of the United States."

Section 10(g) of the EHV Act has been amended by section 603(b) of the DOE Act. Section 10(g)(1), as enacted, authorized the Secretary to enter into a contract to pay the lender, on behalf of the borrower, the interest charges which become due and payable on the unpaid balance of any loan guarantied pursuant to section 10 if the Secretary made certain findings. Section 10(g)(2) authorized the Secretary to make payment in the event of a default on a guarantied loan, and authorized the Attorney General to take appropriate action to recover the amount of these payments (including any interest payment under (g)(1)) from certain assets and surety of the borrower. Section 603(b) of the DOE Act amended section 10(g) to authorize the Secretary to enter into a contract to pay the lender principal, as well as interest charges, and to authorize the Attorney General to recover principal, as well as interest payments. DOE proposes to amend §791.10, which provided for the implementation of section 10(g), to conform to the amendments to that section by adding the words "principal and" before the word "interest" in the appropriate places. DOE also proposes to amend §791.11, §791.32, and §791.37 in the same manner so that these sections, which referred to "interest assistance," will now refer to "principal and interest assistance."

Section 603(c) of the DOE Act amended section 10(h) of the EHV Act by extending by two years the date for making loan guaranties or entering into assistance contracts. DOE proposes to amend §791.12 to provide for this extension.

DOE also proposes to amend §791.9, in which the EHV Act is referenced, and the authority for Part 791, in order to make these references reflect the fact that the EHV Act has been amended.

III. Opportunities for Public Comment

A. *Written Comments.* Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the amendments to Part 791 set forth in this notice to: Department of Energy, Public Hearing Management, Room 2313, Box VO, 2000 M Street NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Electric and Hybrid Vehicle Research, Development, Demonstration, and Production Loan Guaranties." Fifteen (15) copies should be submitted. All comments received by DOE by 4:30 p.m. e.s.t. on (60 days from publication), and all other relevant information, will be considered before final action is taken on the proposed amendments.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted on writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. *Public Hearing.* The public hearing will be held at 9:30 a.m. e.s.t., on February 20, 1979, in Room 3000A, 1200 Pennsylvania Avenue NW., Washington, D.C.

Any person who has an interest in this proceeding or who is a representative of a group of persons that has an interest in this proceeding may make a written request for an opportunity to make an oral presentation. Such a request should be directed to DOE at the address given at the beginning of this preamble, and must be received before 4:30 p.m. e.s.t., on February 14, 1979. A request may be hand-delivered between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Requests should be marked as for written comments, with the additional notation "Request To Speak."

The person making the request should briefly describe the interest concerned, if appropriate, state why she or he is a proper representative of a group of persons that has such an interest, and give a concise summary of the proposed oral presentation and a phone number where she or he may be contacted through February 16, 1979. Each person selected to be heard will be notified by DOE before 4:30 p.m. e.s.t., February 16, 1979. Each person selected to be heard must submit 15 copies of her or his statement to the address given above before 4:30 p.m. e.s.t., February 19, 1979. In the event that any person wishing to testify cannot provide 15 copies, alternative arrangements can be made with the hearing coordinator in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling Anthony Ewing at (202) 376-4747.

C. *Conduct of Hearing.* DOE reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked of speakers only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearing will be based on all information available to DOE. At the conclusion of all initial oral statements at the hearing, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked by those conducting the hearing of any person making a statement. Questions should be received at the address given for written comments before 4:30 p.m. e.s.t., February 19, 1978. DOE will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any person making an oral statement who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at DOE Freedom of Information Office, Forrestal Building, Independence Avenue and L'Enfant Plaza SW., Washington, D.C. 20585, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

IV. Significance Review

It has been determined that the proposed amendments are significant, as that term is used in Executive Order (E.O.) 12044 and amplified in the DOE procedures for developing Department of Energy regulations. This determination is based upon the importance of the amendments extending the program for two years and authorizing principal assistance under certain circumstances, and upon an appreciation of the importance of the overall electric and hybrid vehicle program in encouraging the development of alternative means of transportation.

It has been further determined that this regulatory action is not likely to have a major impact, as defined by Executive Order (E.O.) 12044 and the DOE procedures governing the development of regulations; consequently, no regulatory analysis will be prepared in this instance.

(Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976, Pub. L. 94-413, as amended by the Department of Energy Act of 1978—Civilian Applications, Pub. L. 95-238; Energy Reorganization Act of 1974, Pub. L. 93-438; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009 (42 FR 46267); E.O. 12044 (43 FR 12661, 43 FR 18634)).

In consideration of the foregoing, it is proposed to amend Part 791 of Chapter III of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., January 15, 1979.

Omi Walden,
Assistant Secretary, Conservation and Solar Applications.

Chapter III of Title 10, Code of Federal Regulations, Part 791 is amended as follows:

1. §791.1 is revised to read as follows:

§791.1 Purposes.

The purpose of this regulation is to set forth policies and procedures under which lenders may obtain a Federal guaranty backed by the full faith and credit of the United States on loans to qualified borrowers for purposes related to the research, development, demonstration, and commercial production of electric or hybrid vehicles in an environmentally acceptable manner.

2. §791.9 is amended in paragraph (1) to read as follows:

§791.9 Loan guaranty criteria.

* * * * *

(1) The amount of the guaranty on any loan shall not exceed $3,000,000 principal unless the Secretary finds that a higher guaranty level for specific loan guaranties is necessary in order to carry out the purposes of Pub. L. 94-413, as amended by Pub. L. 95-238;

* * * * *

3. §791.10 is revised to read as follows:

§791.10 Principal and interest assistance.

With respect to any loan guarantied pursuant to the regulation, the Secretary may enter into a principal and interest assistance contract with the borrower to pay the lender, on behalf of the borrower, the principal and interest charges which become due and payable on the unpaid balance of any such loan if the Secretary finds:

(a) That the borrower is unable to meet principal and interest payments, and that it is in the public interest to permit the borrower to continue to pursue the purposes of the project, and that the probable net cost to the Federal Government in paying such principal and interest will be less than that which would result in the event of a default;

(b) That the amount of such principal and interest charges which the Secretary is authorized to pay is no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

(c) That the borrower has agreed to repayment of principal and interest charges paid by the Federal Government, to the payment of any deferred user charge as provided in §791.32, "User charge," and to the payment of interest on such principal, interest, and deferred user charges at an annual rate to be set by the Secretary and as stated in the principal and interest assistance contract.

4. §791.11 is revised to read as follows:

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§ 791.11 Default payment.

In the event of default by a borrower, as defined in paragraph (b) of § 791.3, "Definitions," with respect to any loan guaranteed pursuant to this regulation, and except as provided in § 791.10, "Principal and interest assistance," and paragraph (b) of § 791.31, "Loan servicing by lender," the Secretary will, as provided in § 791.37, "Default and demand," make payment of principal and accrued interest in accordance with the terms and conditions of the guaranty contract. Thereupon, the Attorney General of the United States shall take such action as deemed necessary to recover the amounts of such payments including any obligations under paragraph (c) of § 791.10, "Principal and interest assistance," from such assets of the defaulting borrower as are associated with the project or as specified in the guaranty agreement. This includes patent and proprietary rights resulting from the project as provided in § 791.44, "Patent and proprietary rights," or from any other surety, security, collateral, guaranty, asset, or bond included in the terms of the guaranty. Any recovery achieved by the Attorney General, which exceeds the cost of recovery amounts included in paragraph (c) of § 791.10, "Principal and interest assistance," and the amount paid to the lender including principal and interest on any nonguarantied portion, in accordance with the guaranty agreement or principal and interest assistance contract, shall be returned to the borrower, unless the guaranty agreement provides otherwise.

5. § 791.12 is revised to read as follows:

§ 791.12 Period of guaranties and principal and interest assistance.

No loan guaranty agreements will be made, or principal and interest assistance contracts entered into, after September 17, 1983. Guaranty agreements in effect at that time will continue until the term of the loan is completed or until the guarantied portion of the loan is repaid in full with accrued interest, whichever occurs first. Principal and interest assistance contracts in effect on that date will remain in effect thereafter until the contract term expires or the contract is terminated in accordance with its provisions.

6. § 791.32 is revised to read as follows:

§ 791.32 User charge.

User charges imposed on the guaranteed portion of the loan are computed at a rate of one percent per annum on the estimated outstanding balance. Payments of the user charge will be made by the lender at the time each disbursement is made and annually on the anniversary date of closing, or at other intervals to be determined by the Secretary. The user charge will be collected from the lender and used for the purposes of defraying the cost of administration and possible Federal loss associated with the program. The user charge may be passed from the lender to the borrower, and, in such instances, may be included in the aggregate net cost. If principal and interest assistance is in effect, payments of this charge, if passed from the lender to the borrower, may be deferred for the term of the principal and interest assistance contract.

7. § 791.37 is amended in paragraph (a) to read as follows:

§ 791.37 Default and demand.

• • • • •

(a) The Secretary shall, pursuant to the provisions of § 791.10, "Principal and interest assistance," determine whether a principal and interest assistance contract shall be executed. In the event that principal and interest assistance is not warranted, the Secretary shall so notify the borrower and the lender. The lender shall make available without delay such documents and certifications as the Secretary may reasonably require, evidencing the lender's compliance with notification provisions of the guaranty agreement.

• • • • •

8. A new section, § 791.41A, is added to read as follows:

§ 791.41A Electric and hybrid vehicle development fund.

(a) As provided in section 603(a)(1) of Pub. L. 95-238, there is established in the Treasury of the United States an Electric and Hybrid Vehicle Development Fund (hereinafter referred to as the fund), which is available to the Secretary in carrying out the loan guaranty and principal and interest assistance program, including the payment of administrative expenses incurred in connection therewith.

(b) That part of the amounts appropriated pursuant to section 16 of Pub. L. 94-413, as amended by Pub. L. 95-238, as the Secretary deems necessary to carry out the purposes of the program and any amounts which may be returned to the United States pursuant to § 791.11 shall be paid into the fund.

(c) Moneys in the fund not needed for current operations may, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of, or guaranteed by, the United States.

(d) The amounts in the fund shall remain available until expended, except that after September 17, 1983, such amounts in the fund which are not required to secure outstanding guaranty obligations shall be paid into the general fund of the Treasury of the United States.

(e) If at any time the moneys available in the fund are insufficient to enable the Secretary to discharge his responsibilities under the program, he shall issue, to the Secretary of the Treasury, notes or other obligations in such forms and denominations bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation acts. Such authority shall be without fiscal year limitation. Redemption of such notes or obligations shall be made by the Secretary from appropriations or other moneys available for the program. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(f) Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the Secretary annually upon the completion of the appropriate accounting period.

9. The Authority of 10 CFR Part 791 is amended to read as follows:

(Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976, Pub. L. 94-413, as amended by the Department of Energy Act of 1978—Civilian Applications, Pub. L. 95-238; Energy Reorganization Act of 1974, Pub. L. 93-438; and Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009 (42 FR 46267).)

[FR Doc. 79-2014 Filed 1-18-79; 8:45 am]

federal register

FRIDAY, JANUARY 19, 1979
PART XI

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

AFFIRMATIVE ACTION GUIDELINES

Technical Amendments to the Procedural Regulations

[6570-06-M]

Title 29—Labor

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1608—AFFIRMATIVE ACTION APPROPRIATE UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED

Adoption of Interpretative Guidelines

AGENCY: Equal Employment Opportunity Commission.

ACTION: Adoption of final Guidelines on Affirmative Action appropriate under Title VII of the Civil Rights Act of 1964, as amended.

SUMMARY: The Equal Employment Opportunity Commission wishes to encourage voluntary action to eliminate employment discrimination, and hereby publishes its final Guidelines on Affirmative Action. Proposed Guidelines were published on December 28, 1977 (42 FR 64,826) for public comment. The Commission has now analyzed those comments and taken them into consideration in preparing its final Guidelines. The Preamble, below, describes the Commission's purpose for issuing these Guidelines and explains how the issues raised by the comments have been addressed. These Guidelines clarify the kinds of voluntary actions that are appropriate under Federal law. They describe the action the Commission will take when the procedures outlined herein have been followed. By elucidating the standards for voluntary action in these Guidelines, the Commission encourages affirmative action without resort to litigation.

EFFECTIVE DATE: February 20, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter C. Robertson, Director, Office of Policy Implementation, Room 4002A, 2401 E Street, N.W., Washington, D.C. 20506, (202) 254-7469, 634-7060

SUPPLEMENTARY INFORMATION:

An Overview of the Guidelines on Affirmative Action

The Equal Employment Opportunity Commission ("EEOC", "the Commission") enforces Title VII of the Civil Rights Act of 1964, as amended, ("Title VII," "the Act"), which makes it illegal to discriminate in employment on the basis of race, color, religion, sex, or national origin. The Act requires the Commission to investigate complaints and attempt to correct violations it discovers, informally and through conciliation, or, if necessary, through court action. The Act also authorizes private individuals to bring lawsuits if their complaints are not resolved to their satisfaction or within the statutory time period.

Since the enactment of Title VII of the Civil Rights Act of 1964, many employers, labor organizations, and other persons subject to the Act have altered employment systems to implement the purposes of Title VII by improving employment opportunities for previously excluded groups. Because of what Congress has called the "complex and pervasive" nature of systemic discrimination against minorities and women (see H.R. Rep. No. 92-238, 92nd Cong., 2nd Sess. 8 (1972)), these voluntary efforts often involve significant changes in employment relationships. Some of these actions have been challenged under Title VII, as conflicting with statutory language requiring that employment decisions not be based on race, color, religion, sex, or national origin considerations. Accordingly, the Commission believes it is important to announce the legal principles which govern voluntary affirmative action under Title VII and other employment discrimination laws, so that persons subject to the Act have appropriate guidance. These Guidelines constitute the Commission's interpretation of Title VII, harmonizing the need to eliminate and prevent discrimination and to correct the effects of prior discrimination with the need to protect all individuals from discrimination on the basis of race, color, religion, sex, or national origin.

Requests for guidance have been received by the Commission from persons subject to Title VII concerning the relationship between affirmative action and so-called "reverse discrimination." There is no separate concept under Title VII of "reverse discrimination." Discrimination against all individuals because of race, color, religion, sex, or national origin is illegal under Title VII. *McDonald* v. *Sante Fe Trail Transportation Co.*, 427 U.S. 273 (1976).

To clarify the relationship between affirmative action and a countervailing claim of discrimination, a new section 1608.1 of these Guidelines sets forth the historical and legislative foundation for the Commission's interpretation of Title VII. Section 1608.1(b) explains that Congress enacted Title VII in order to overcome the effects of past and present employment practices which are part of a larger pattern of restriction, exclusion, discrimination, segregation and inferior treatment of minorities and women in many areas of life. Congress sought to accomplish this objective by establishing a national policy against discrimination in employment and encouraging voluntary affirmative action to eliminate barriers to equal employment opportunity. It is the Commission's interpretation that appropriate voluntary affirmative action, or affirmative action pursuant to an administrative or judicial requirement, does not constitute unlawful discrimination in violation of the Act.

It is essential to the effective implementation of Title VII that those who take appropriate voluntary affirmative action receive adequate protection against claims that their efforts constitute discrimination. The term affirmative action means those actions appropriate to overcome the effects of past or present practices, policies, or other barriers to equal employment opportunity. Section 1608.3 of these Guidelines identifies circumstances in which voluntary affirmative action is permissible under Title VII. When such circumstances exist, and a plan or program otherwise complies with these Guidelines, the Commission will find that there is no reasonable cause to believe that the affirmative action plan or program violates Title VII. See § 1608.10(a). In addition, § 1608.10(b) provides that where the plan or program is in writing and was adopted in good faith, in conformity with, and in reliance upon these Guidelines, the Commission will provide the protection authorized under section 713(b)(1) of Title VII to the employer, labor organization, or other person taking the action. See *EEOC* v. *AT&T*, 419 F. Supp. 1022, 1055, n. 34 (E.D.Pa. 1976), *aff'd*, 556 F.2d 167 (3rd Cir. 1977), *cert. denied*, 98 S.Ct. 3145 (1978).

On December 28, 1977, at 42 FR 64826 the Commission published proposed "Guidelines on Remedial and/or Affirmative Action" in the FEDERAL REGISTER and invited comments from the public. Comments were received from almost 500 individuals and organizations. The paragraphs below summarize the major issues raised by the comments and indicate the way in which the final Guidelines address the concerns raised by the comments.

On December 11, 1978, the Commission voted to approve the Guidelines in final form. Pursuant to Executive Order 12067, the Guidelines were then distributed to all Federal agencies for their review. Comments received in this process are also reflected in the discussion below.

I. Change of Guidelines' Title

The proposed Guidelines were titled "Proposed Guidelines on Affirmative and/or Remedial Action" and the phrase "remedial and/or affirmative action" was utilized throughout the document. A number of comments questioned the difference, if any, between remedial action and affirmative action. The term "remedial" has been

dropped because of the possible erroneous implication that a violation of the law was required before affirmative action could be taken.

II. The Commission Will Process Complaints Alleging Discrimination Against Any Aggrieved Person

Many of the comments interpreted the Guidelines as indicating a Commission position that whites or males are entitled to less protection against discrimination than minorities or females, and that the Commission would either ignore complaints filed by whites or males, or process them in a different manner from those filed by females and minorities. The Commission maintains its position, articulated prior to *McDonald* v. *Santa Fe Trail Transportation Co.*, 427 U.S. 273 (1976), that discrimination on the basis of race, color, religion, sex, or national origin, is prohibited under Title VII, regardless of the individual or class against whom such discrimination is directed. See, e.g., Commission Decision No. 74-31, 7 FEP Cases 1326, 1328, CCH EEOC Decisions, ¶6404, (1973). The Commission will follow the same procedures in processing complaints filed by all individuals, regardless of their race, color, religion, sex, or national origin.

To avoid any ambiguity on these issues, language in the proposed Guidelines suggesting that complaints filed by whites and males would be "dismissed" under certain circumstances has been amended. Proposed paragraph V stated that the Commission would "issue a notice of dismissal of the charge" when an affirmative action program conformed to the Guidelines' requirements. The word "dismissal" is a term of art used by the Commission in its procedural regulations to refer to all determinations other than "reasonable cause." Because its use was misconstrued in many comments, final sections have been amended by substituting the phrase "a determination of no reasonable cause" where such a finding is justified by the facts of the case.

III. Consideration of Race, Color, Religion, Sex, and National Origin in Employment Decisions

Some commentators objected to the draft Guidelines because of their belief that Title VII requires that all employment decisions be made without consideration of race, color, religion, sex, or national origin, regardless of the circumstances. This conclusion does not comport with United States Supreme Court decisions interpreting Title VII, nor with the recent decision in *Regents of the University of California* v. *Bakke*, 98 S. Ct. 2733 (1978) (discussed infra). In the Title VII cases, the Supreme Court has called upon employers "'* * * to self-examine and to self-evaluate their employment practices and to endeavor to eliminate, so far as possible, the last vestiges of an unfortunate and ignominious page in this country's history.'" *Albemarle Paper Co.* v. *Moody*, 422 U.S. 405, 418 (1975). See also, *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971).

Thus, the Supreme Court recognizes that persons subject to Title VII will consider race, sex and national origin in their analyses and evaluations. In addition, the Court has emphasized the concept of conciliation and voluntary action rather than litigation as the primary method of enforcing Title VII. See *Occidental Life Insurance Co. of California* v. *EEOC*, 432 U.S. 355 (1977). Voluntary action necessarily implies latitude to make a reasonable judgement as to whether action should be taken and the nature of such action.

At the same time, the Commission recognizes that considerations of race, color, religion, sex, and national origin are not permissible in other contexts. For example, in *McDonald* v. *Santa Fe Trail Transportation Co.*, 427 U.S. 273 (1976), the Court held that the anti-discrimination principle of Title VII could be invoked by white employees as well as minority employees. No question of affirmative action was involved. The Court held that disparate treatment violated Title VII, but specifically stated that its decision did not address any issues relating to affirmative action programs. *McDonald, supra*, at 280, n. 8. For the reasons set forth in § 1608.1, the Commission considers that these Guidelines are consistent with the statute, the Congressional intent behind it, and the decisions of the Supreme Court.

IV. Two Different Justifications of Voluntary Action: The Relationship Between Title VII and Executive Order No. 11246, As Amended

A number of comments indicated uncertainty as to the relationship in the proposed Guidelines between the references to Title VII and the references to the Executive Order. These commentators apparently understood the Guidelines to mean that affirmative action required by Executive Order No. 11246, as amended, and its implementing regulations would be lawful under Title VII *only* where the contractor has a reasonable basis for concluding that such action is necessary under Title VII. The structure of the Guidelines has been changed to clarify the Commission's original interpretation that action taken pursuant to, and in conformity with the Executive order, as amended, and its implementing regulations, does not violate Title VII.

The legislative history of the Equal Employment Opportunity Act of 1972 shows that Congress repeatedly rejected limitations on affirmative action under the Executive Order, including the goals and timetables approach that had become by that time a central feature of the implementation of the Order. See, e.g., 118 Cong. Rec. 1385–1386 (1972) (remarks of Sen. Saxbe); 118 Cong. Rec. 1664–1665 (1972) (remarks of Sen. Javits); 118 Cong. Rec. 1676 (1972) (rejecting amendment offered by Sens. Allen and Ervin that would have prohibited requirements for certain types of affirmative action, including the goals approach, under the Executive Order); 118 Cong. Rec. 4918 (1972) (rejecting amendment offered by Sen. Ervin that would have applied section 703(j) of Title VII to the Executive Order).

The Commission concludes that Congress intended to permit the continuation of the Executive Order program which required affirmative action by government contractors. The Congress which acted to allow the Executive Order program to continue would not, in the same measure, invalidate it under Title VII. The statute should be construed to avoid such a contradictory conclusion, especially where such a conclusion would undermine the expressed Congressional purpose of opening employment opportunities to minorities and women who had in the past been denied such opportunities.

In the Equal Employment Opportunity Act of 1972, Congress recognized the contractor's right to rely on affirmative action plans that had been approved under the Executive Order. See section 718 of Title VII. Furthermore, Congress in section 715 established the Equal Employment Opportunity Coordinating Council (composed of the Secretary of Labor, the Chair of the EEOC, the Attorney General, the Chair of the U.S. Civil Service Commission, the Chair of the U.S. Commission on Civil Rights, or their respective delegates) "to minimize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistency among * * * branches of the Federal Government responsible for the implementation and enforcement of equal opportunity legislation, orders, and policies." 42 U.S.C. 2000e-14. This coordination responsibility now rests in the Commission by virtue of 5 U.S.C. 901 et seq., as applied by Reorganization Plan No. 1 (1978), which was implemented by Executive Order 12067 (43 FR 28,967, July 30, 1978). In order to achieve the objectives of section 715 and Executive Order No. 12067, the Commission concludes that it must recognize compliance with the requirements of Executive Order No. 11246, as amended, and

its implementing regulations, as a defense to a charge that the affirmative action compliance program is discriminatory. The Commission concludes that adherence to an affirmative action compliance program approved by an appropriate official of the Department of Labor or its authorized agencies is lawful under Title VII. This interpretation thus insures that government contractors will not be subject to inconsistent standards by the Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs.

Thus, the Commission recognizes that affirmative action by government contractors may be lawful under Title VII for either of two distinct reasons: (a) Such efforts constitute reasonable action to implement the legislative purposes of Title VII, or (b) the action was taken pursuant to, and in conformity with Executive Order No. 11246, as amended, and its implementing regulations. The Guidelines have been revised to reflect these two independent justifications for affirmative action under Title VII. A separate § 1608.5 governs affirmative action under Executive Order No. 11246, as amended.

The three step analytical process required under § 1608.4,, when action is being justified under Title VII, is not necessary under § 1608.5, when action is being justified as undertaken pursuant to an approved program under Executive Order No. 11246, as amended. The circumstances in which such affirmative action is required under the Executive Order and the nature of such affirmative action are established by the Department of Labor.

V. Appropriate Steps for Taking Voluntary Action

A number of comments suggested that the Guidelines did not clearly define the steps the Commission believes are appropriate in taking voluntary affirmative action. A new § 1608.4 has been added to explain the three step process applicable to action justified under Title VII: reasonable self analysis, reasonable basis for concluding that action is appropriate, and reasonable action to correct that situation. The process set forth in § 1608.4 should be utilized to determine whether the circumstances set forth in § 1608.3 are present. Section 1608.5 covers action pursuant to Executive Order No. 11246, as amended.

VI. Reasonable Self Analysis

Some commentators requested further elaboration on the meaning of the term "self analysis." Section 1608.4(a) has been amended to make it clear that there is no single mandatory method of conducting the self analysis, and to refer to the methodology used by government contractors under Revised Order 4 as a model which employers and others may use in conducting a self analysis. Whatever method is used, the primary objective must be to determine whether the employment practices operate as barriers to equal employment opportunity.

Some commentators suggested that the Guidelines may be subject to abuse unless the self analysis is required to be in writing. The Commission believes that the protection from Title VII liability which may be available under section 713(b)(1) should only be recognized where the affirmative action plan or program has been carefully and consciously developed. Accordingly, the section 713(b)(1) defense will be recognized by the Commission only where the analysis and the affirmative action plan or program are in writing and are adopted in good faith, in conformity with, and in reliance upon these Guidelines. See §§ 1608.4(d) and 1608.10.

However, a respondent who has undertaken the analysis, self-evaluation, and development of an affirmative action plan of the type described in the Guidelines, but has not reduced the analysis and plan to writing, may assert these facts as a defense to a charge of discrimination. The analysis and plan need not be in writing because the Commission does not generally require that employer defenses be based on written documents. However, employers are encouraged to have written documentation since such written evidence would make it easier to establish that an analysis was conducted and that a plan or program exists. See § 1608.4(d)(2).

In response to comments which expressed concern that adoption of a plan or program might constitute an admission of discrimination, § 1608.4(d)(1) makes it clear that it is not necessary to state in writing the conclusion that a Title VII violation exists.

VII. The Guidelines Do Not Approve Inadequate Remedies

A number of commentators were concerned that violators of the Act could use the Guidelines and the section 713(b)(1) defense to shield themselves from liability for the underlying discrimination inadequately addressed by an affirmative action plan or program. The Guidelines do not lend themselves to this interpretation.

The proposed Guidelines stated in paragraph VII that the Guidelines were not intended to provide standards for determining whether voluntary action had fully remedied discrimination. The analysis and plan contemplated by these Guidelines will not establish whether discrimination existed before the plan was adopted. Furthermore, the plan cannot determine whether discrimination might take place subsequent to its adoption. In addition, the judgment as to whether affirmative action is sufficient to eliminate discrimination is a complex one which may take into account circumstances that may not have been included in the analysis which underlies the affirmative action plan. For these reasons the existence of the plan cannot provide the basis for determining whether discrimination existed, or whether the plan itself provided an adequate remedy for such discrimination. Therefore, the Guidelines state that they do not apply to a determination of the adequacy of an affirmative action plan to eliminate discrimination against previously excluded groups. Furthermore, the section 713(b)(1) defense is not involved in a determination of the adequacy of such a plan or program. Section 1608.11(a) is intended to make it clear that employers, labor organizations, or other persons who take affirmative action may still be liable under Title VII if the plan or program does not adequately remedy illegal discrimination.

VIII. No Admission of Discrimination Required

Another group of comments stated that, because the Guidelines do not require an admission or finding of discrimination, the Commission may thereby approve affirmative action which might constitute unlawful discrimination prohibited by Title VII. This interpretation is incorrect.

The proposed Guidelines stated in paragraph II that the lawfulness of affirmative action was not "dependent upon an admission, or a finding, or evidence sufficient to prove" that the person taking such action had actually violated Title VII. After careful analysis and consideration, the Commission is of the opinion that the statement, as amended, appearing in § 1608.4(b), represents an appropriate interpretation of Federal law and policy for the reasons set forth in § 1608.1(c).

These Guidelines provide a sufficient basis to determine whether affirmative action is appropriate. Persons subject to the Act should not, by taking reasonable affirmative action, be exposed to liability under the very Act they are seeking to implement. Similarly, the law should not force the employer or other person to speculate whether an arguable defense to a Title VII charge would be recognized by a court before taking affirmative action. Section 1608.4(b) makes it clear that this reasonable basis exists without regard to arguable defenses to a Title VII action.

IX. The Scope of Appropriate Voluntary Action

Several comments raised questions concerning the appropriate scope of voluntary affirmative action intended by the Guidelines. Some perceive the Commission's use of the words "ratios and other numerical remedies" in proposed Paragraph IV, in addition to the words "goals and timetables", as indicating that the Commission was endorsing "absolute quotas" or "fixed quotas" without regard to qualifications or the circumstances in which they were used. The words "ratios and other numerical remedies" have been omitted from these Guidelines in order to avoid ambiguity and to make it clear that any numerical objective is subject to the availability of sufficient applicants who are qualified by proper, validated standards.

Affirmative Action under these Guidelines must be reasonable and must be related to the problems disclosed by the self-analysis. A new § 1608.4(c) has been added to make this clear. Affirmative action under these Guidelines may include interim goals or targets. Such interim goals or targets for previously excluded groups may be higher than the percentage of their availability in the workforce so that the long term goal may be met in a reasonable period of time. In order to achieve such interim goals or targets, an employer may consider race, sex, and/or national origin in making selections from among qualified or qualifiable applicants. Courts have ordered actions of this kind in litigated cases and in consent decrees. *Carter* v. *Gallagher*, 452 F.2d 315 (8th Cir. 1972), *en banc, cert. denied* (98 S. Ct. 3145 (1978); *U.S.* v. *Allegheny-Ludlum Industries, Inc.*, 517 F.2d 826 (5th Cir. 1975), *cert. denied*, 425 U.S. 944 (1976).

X. Relevance of Certain Court Cases

A number of comments indicated that there were court decisions rendering inappropriate the approach taken by the Commission in these Guidelines. Because the proposed Guidelines were issued for comment prior to the decision of the United States Supreme Court in the case of *Regents of University of California* v. *Bakke*, 98 S. Ct. 2733 (1978), a number of commentators suggested that either the Guidelines were inappropriate in light of the decision of the California Supreme Court in that case, or that the Commission should wait until the U.S. Supreme Court had issued its opinion. As recommended, the Commission awaited the action of the Supreme Court in that case before promulgating these Guidelines. The Commission has reviewed these Guidelines in light of the opinions of the Justices of the Supreme Court in *Bakke*. The Commission concludes that these Guidelines are consistent with the action of the Supreme Court in that case.

In the *Bakke* case the university did not assert reliance on any detailed guidance and procedures for crafting an affirmative action plan. These Guidelines seek to provide such guidance and thereby to establish an appropriate legal foundation for voluntary action under Title VII.

Perhaps the case most frequently cited by the commentators as conflicting with the principles articulated in the proposed Guidelines was a split decision in *Weber* v. *Kaiser Aluminum Corp.*, 563 F.2d 216 (5th Cir. 1977), *cert. granted*, —— U.S. ——. *Weber*, however, was decided prior to *Bakke*, and therefore did not take into account the opinions in that case. In addition, it is fundamentally unfair to expose those subject to Executive Order No. 11246 to risks of liability under Title VII when they act in compliance with government requirements or when they act voluntarily and appropriately to achieve statutory objectives. Furthermore, the clarification provided by these Guidelines is necessary because the *Weber* decision may be interpreted to unduly interfere with the range of affirmative action which Congress intended to permit under Title VII.[1]

The Commission has examined all the decisions brought to its attention in the comments and other recent decisions of the United States Supreme Court and concludes that none of these decisions affect its interpretation of the circumstances in which affirmative action is lawful under Title VII.

By virtue of the authority vested in it by section 713 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-12, 78 Stat. 265, and after due consideration of all comments received, the Equal Employment Opportunity Commission hereby issues as new Part 1608 of Title 29 of the Code of Federal Regulations its "Guidelines on Affirmative Action Appropriate Under Title VII of the Civil Rights Act of 1964, as Amended" as set forth below.

Signed at Washington, D.C., this 16th day of January 1979.

For the Commission.

ELEANOR HOLMES NORTON,
Chair.

Sec.
1608.1 Statement of purpose.
1608.2 Written interpretation and opinion.
1608.3 Circumstances under which voluntary affirmative action is appropriate.
1608.4 Establishing affirmative action plans.
1608.5 Affirmative action compliance programs under executive order No. 11246, as amended.
1608.6 Affirmative action plans which are part of commission conciliation or settlement agreements.
1608.7 Affirmative action plans or programs under State or local law.
1608.8 Adherence to court order.
1608.9 Reliance on directions of other government agencies.
1608.10 Standard of review.
1608.11 Limitations on the application of these guidelines.
1608.12 Equal employment opportunity plans adopted pursuant to section 717 of title VII.

AUTHORITY: Sec. 713 of title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-12, 78 Stat. 265.

§ 1608.1 Statement of Purpose.

(a) *Need for Guidelines.* Since the passage of Title VII in 1964, many employers, labor organizations, and other persons subject to Title VII have changed their employment practices and systems to improve employment opportunities for minorities and women, and this must continue. These changes have been undertaken either on the initiative of the employer, labor organization, or other person subject to Title VII, or as a result of conciliation efforts under Title VII, action under Executive Order No. 11246, as amended, or under other Federal, state, or local laws, or litigation. Many decisions taken pursuant to affirmative action plans or programs have been race, sex, or national origin conscious in order to achieve the Congressional purpose of providing equal employment opportunity. Occasionally, these actions have been challenged as inconsistent with Title VII, because they took into account race, sex, or national origin. This is the so-called "reverse discrimination" claim. In such a situation, both the affirmative action undertaken to improve the conditions of minorities and women, and the objection to that action, are based upon the principles of Title VII. Any uncertainty as to the meaning and application of Title VII in such situations threatens the accomplishment of the clear Congressional intent to encourage voluntary affirmative action. The Commission believes that by the enactment of Title VII Congress did not intend to expose those who comply with the Act to charges that they are violating the very statute they are seeking to implement. Such a result would immobilize or reduce the efforts of many who would otherwise take action to improve the opportunities of minorities and women without litigation, thus frustrating the Congressional intent to encourage voluntary action and increasing the prospect of Title VII litigation. The Commission

[1] The Commission has taken the position that the decision of the Court of Appeals is incorrect and that the affirmative action program there was lawful. The Solicitor General has taken the same position, and the Supreme Court has now granted petitions for a writ of certiorari.

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believes that it is now necessary to clarify and harmonize the principles of Title VII in order to achieve these Congressional objectives and protect those employers, labor organizations, and other persons who comply with the principles of Title VII.

(b) *Purposes of Title VII.* Congress enacted Title VII in order to improve the economic and social conditions of minorities and women by providing equality of opportunity in the work place. These conditions were part of a larger pattern of restriction, exclusion, discrimination, segregation, and inferior treatment of minorities and women in many areas of life.[3] The Legislative Histories of Title VII, the Equal Pay Act, and the Equal Employment Opportunity Act of 1972 contain extensive analyses of the higher unemployment rate, the lesser occupational status, and the consequent lower income levels of minorities and women.[3] The purpose of Executive Order No. 11246, as amended, is similar to the purpose of Title VII. In response to these economic and social conditions, Congress, by passage of Title VII, established a national policy against discrimination in employment on grounds of race, color, religion, sex, and national origin. In addition, Congress strongly encouraged employers, labor organizations, and other persons subject to Title VII (hereinafter referred to as "persons," see section 701(a) of the Act) to act on a voluntary basis to modify employment practices and systems which constituted barriers to equal employment opportunity, without awaiting litigation or formal government action. Conference, conciliation, and persuasion were the primary processes adopted by Congress in 1964, and reaffirmed in 1972, to achieve these objectives, with enforcement action through the courts or agencies as a supporting procedure where voluntary action did not take place and conciliation failed. See § 706 of Title VII.

(c) *Interpretation in furtherance of legislative purpose.* The principle of nondiscrimination in employment because of race, color, religion, sex, or national origin, and the principle that each person subject to Title VII should take voluntary action to correct the effects of past discrimination and to prevent present and future discrimination without awaiting litigation, are mutually consistent and interdependent methods of addressing social and economic conditions which precipitated the enactment of Title VII. Voluntary affirmative action to improve opportunities for minorities and women must be encouraged and protected in order to carry out the Congressional intent embodied in Title VII.[4] Affirmative action under these principles means those actions appropriate to overcome the effects of past or present practices, policies, or other barriers to equal employment opportunity. Such voluntary affirmative action cannot be measured by the standard of whether it would have been required had there been litigation, for this standard would undermine the legislative purpose of first encouraging voluntary action without litigation. Rather, persons subject to Title VII must be allowed flexibility in modifying employment systems and practices to comport with the purposes of Title VII. Correspondingly, Title VII must be construed to permit such voluntary action, and those taking such action should be afforded the protection against Title VII liability which the Commission is authorized to provide under section 713(b)(1).

(d) *Guidelines interpret Title VII and authorize use of Section 713(b)(1).* These Guidelines describe the circumstances in which persons subject to Title VII may take or agree upon action to improve employment opportunities of minorities and women, and describe the kinds of actions they may take which are consistent with Title VII. These Guidelines constitute the Commission's interpretation of Title VII and will be applied in the processing of claims of discrimination which involve voluntary affirmative action plans and programs. In addition, these Guidelines state the circumstances under which the Commission will recognize that a person subject to Title VII is entitled to assert that actions were taken "in good faith, in conformity with, and in reliance upon a written interpretation or opinion of the Commission," including reliance upon the interpretation and opinion contained in these Guidelines, and thereby invoke the protection of section 713(b)(1) of Title VII.

(e) *Review of existing plans recommended.* Only affirmative action plans or programs adopted in good faith, in conformity with, and in reliance upon these Guidelines can receive the full protection of these Guidelines, including the section 713(b)(1) defense. See § 1608.10. Therefore, persons subject to Title VII who have existing affirmative action plans, programs, or agreements are encouraged to review them in light of these Guidelines, to modify them to the extent necessary to comply with these Guidelines, and to readopt or reaffirm them.

§ 1608.2 Written interpretation and opinion.

These Guidelines constitute "a written interpretation and opinion" of the Equal Employment Opportunity Commission as that term is used in section 713(b)(1) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-12(b)(1), and section 1601.33 of the Procedural Regulations of the Equal Employment Opportunity Commission (29 CFR 1601.30; 42 FR 55,394 (October 14, 1977)). Section 713(b)(1) provides:

> In any action or proceeding based on any alleged unlawful employment practice, no person shall be subject to any liability or punishment for or on account of (1) the commission by such person of an unlawful employment practice if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission * * *. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that * * * after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect * * *.

The applicability of these Guidelines is subject to the limitations on use set forth in § 1608.11.

§ 1608.3 Circumstances under which voluntary affirmative action is appropriate.

(a) *Adverse effect.* Title VII prohibits practices, procedures, or policies which have an adverse impact unless they are justified by business necessity. In addition, Title VII proscribes practices which "tend to deprive" persons of equal employment opportunities. Employers, labor organizations and other persons subject to Title VII may take affirmative action based on an analysis which reveals facts constituting actual or potential adverse impact, if such adverse impact is likely to result from existing or contemplated practices.

(b) *Effects of prior discriminatory practices.* Employers, labor organizations, or other persons subject to Title VII may also take affirmative action to correct the effects of prior discriminatory practices. The effects of prior discriminatory practices can be initially identified by a comparison between the employer's work force, or a part thereof, and an appropriate segment of the labor force.

(c) *Limited labor pool.* Because of historic restrictions by employers, labor organizations, and others, there are circumstances in which the available pool, particularly of qualified minorities and women, for employment or promotional opportunities is artificially limited. Employers, labor organizations, and other persons subject to Title VII may, and are encouraged to take affirmative action in such circumstances, including, but not limited to, the following:

(1) Training plans and programs, including on-the-job training, which emphasize providing minorities and women with the opportunity, skill, and experience necessary to perform the functions of skilled trades, crafts, or professions;

(2) Extensive and focused recruiting activity;

(3) Elimination of the adverse impact caused by unvalidated selection criteria (see sections 3 and 6, Uniform Guidelines on Employee Selection Procedures (1978), 43 FR 30,290; 38,297; 38,299 (August 25, 1978));

(4) Modification through collective bargaining where a labor organization represents employees, or unilaterally where one does not, of promotion and layoff procedures.

§ 1608.4 Establishing affirmative action plans.

An affirmative action plan or program under this section shall contain three elements: a reasonable self analysis; a reasonable basis for concluding action is appropriate; and reasonable action.

(a) *Reasonable self analysis.* The objective of a self analysis is to determine whether employment practices do, or tend to, exclude, disadvantage, restrict, or result in adverse impact or disparate treatment of previously excluded or restricted groups or leave uncorrected the effects of prior discrimination, and if so, to attempt to determine why. There is no mandatory method of conducting a self analysis. The employer may utilize techniques used in order to comply with Executive Order No. 11246, as amended, and its implementing regulations, including 41 CFR Part 60-2 (known as Revised Order 4), or related orders issued by the Office of Federal Contract Compliance Programs or its authorized agencies, or may use an analysis similar to that required under other Federal, state, or local laws or regulations prohibiting employment discrimination. In conducting a self analysis, the employer, labor organization, or other person subject to Title VII should be concerned with the effect on its employment practices of circumstances which may be the result of discrimination by other persons or institutions. See *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971).

(b) *Reasonable basis.* If the self analysis shows that one or more employment practices: (1) Have or tend to have an adverse effect on employment opportunities of members of previously excluded groups, or groups whose employment or promotional opportunities have been artificially limited, (2) leave uncorrected the effects of prior discrimination, or (3) result in disparate treatment, the person making the self analysis has a reasonable basis for concluding that action is appropriate. It is not necessary that the self analysis establish a violation of Title VII. This reasonable basis exists without any admission or formal finding that the person has violated Title VII, and without regard to whether there exists arguable defenses to a Title VII action.

(c) *Reasonable action.* The action taken pursuant to an affirmative action plan or program must be reasonable in relation to the problems disclosed by the self analysis. Such reasonable action may include goals and timetables or other appropriate employment tools which recognize the race, sex, or national origin of applicants or employees. It may include the adoption of practices which will eliminate the actual or potential adverse impact, disparate treatment, or effect or past discrimination by providing opportunities for members of groups which have been excluded, regardless of whether the persons benefited were themselves the victims of prior policies or procedures which produced the adverse impact or disparate treatment or which perpetuated past discrimination.

(1) *Illustrations of appropriate affirmative action.* Affirmative action plans or programs may include, but are not limited to, those described in the Equal Employment Opportunity Coordinating Council "Policy Statement on Affirmative Action Programs for State and Local Government Agencies," 41 FR 38,814 (September 13, 1976), reaffirmed and extended to all persons subject to Federal equal employment opportunity laws and orders, in the Uniform Guidelines on Employee Selection Procedures (1978) 43 FR 38,290; 38,300 (Aug. 25, 1978). That statement reads, in relevant part:

> When an employer has reason to believe that its selection procedures have * * * exclusionary effect * * *, it should initiate affirmative steps to remedy the situation. Such steps, which in design and execution may be race, color, sex or ethnic 'conscious,' include, but are not limited to, the following:
>
> The establishment of a long term goal and short range, interim goals and timetables for the specific job classifications, all of which should take into account the availability of basically qualified persons in the relevant job market;
>
> A recruitment program designed to attract qualified members of the group in question;
>
> A systematic effort to organize work and re-design jobs in ways that provide opportunities for persons lacking 'journeyman' level knowledge or skills to enter and, with appropriate training, to progress in a career field;
>
> Revamping selection instruments or procedures which have not yet been validated in order to reduce or eliminate exclusionary effects on particular groups in particular job classifications;
>
> The initiation of measures designed to assure that members of the affected group who are qualified to perform the job are included within the pool of persons from which the selecting official makes the selection;
>
> A systematic effort to provide career advancement training, both classroom and on-the-job, to employees locked into dead end jobs; and
>
> The establishment of a system for regularly monitoring the effectiveness of the particular affirmative action program, and procedures for making timely adjustments in this program where effectiveness is not demonstrated.

(2) *Standards of reasonable action.* In considering the reasonableness of a particular affirmative action plan or program, the Commission will generally apply the following standards:

(i) The plan should be tailored to solve the problems which were identified in the self analysis, see § 1608.4(a), supra, and to ensure that employment systems operate fairly in the future, while avoiding unnecessary restrictions on opportunities for the workforce as a whole. The race, sex, and national origin conscious provisions of the plan or program should be maintained only so long as is necessary to achieve these objectives.

(ii) Goals and timetables should be reasonably related to such considerations as the effects of past discrimination, the need for prompt elimination of adverse impact or disparate treatment, the availability of basically qualified or qualifiable applicants, and the number of employment opportunities expected to be available.

(d) *Written or unwritten plans or programs—(1) Written plans required for 713(b)(1) Protection.* The protection of section 713(b) of Title VII will

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[3] Congress has also addressed these conditions in other laws, including the Equal Pay Act of 1963, Pub. L. 88-38, 77 Stat. 56 (1963), as amended; the other Titles of the Civil Rights Act of 1964, Pub. L. 88-352, 78 Stat. 241 (1964), as amended; the Voting Rights Act of 1965, Pub. L. 89-110, 79 Stat. 437 (1965), as amended; the Fair Housing Act of 1968, Pub. L. 90-284, Title VII, 82 Stat. 73, 81 (1968), as amended; the Educational Opportunity Act (Title IX), Pub. L. 92-318, 86 Stat. 373 (1972), as amended; and the Equal Employment Opportunity Act of 972, Pub. L. 92-261, 86 Stat. 103 (1972), as amended.

[3] Equal Pay Act of 1963: S. Rep. No. 176, 88th Cong., 1st Sess., 1-2 (1963). Civil Rights Act of 1964: H.R. Rep. No. 914, pt. 2, 88th Cong., 1st Sess. (1971). Equal Employment Opportunity Act of 1972: H.R. Rep. No. 92-238, 92d Cong., 1st Sess. (1971); S. Rep. No. 92-415, 92d Cong., 1st Sess. (1971). See also, Equal Employment Opportunity Commission, *Equal Employment Opportunity Report—1975, Job Patterns for Women in Private Industry* (1977); Equal Employment Opportunity Commission, *Minorities and Women in State and Local Government—1975* (1977); United States Commission on Civil Rights, *Social Indicators of Equality for Minorities and Women* (1978).

[4] Affirmative action often improves opportunities for all members of the workforce, as where affirmative action includes the posting of notices of job vacancies. Similarly, the integration of previously segregated jobs means that all workers will be provided opportunities to enter jobs previously restricted. See, e.g., *EEOC* v. *AT&T*, 419 F. Supp. 1022 (E.D.Pa. 1976), *aff'd*, 556 F. 2d 167 (3rd Cir. 1977), *cert. denied*, 98 S.Ct. 3145 (1978).

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be accorded by the Commission to a person subject to Title VII only if the self analysis and the affirmative action plan are dated and in writing, and the plan otherwise meets the requirements of Section 713(b)(1). The Commission will not require that there be any written statement concluding that a Title VII violation exists.

(2) *Reasonable cause determinations.* Where an affirmative action plan or program is alleged to violate Title VII, or is asserted as a defense to a charge of discrimination, the Commission will investigate the charge in accordance with its usual procedures and pursuant to the standards set forth in these Guidelines, whether or not the analysis and plan are in writing. However, the absence of a written self analysis and a written affirmative action plan or program may make it more difficult to provide credible evidence that the analysis was conducted, and that action was taken pursuant to a plan or program based on the analysis. Therefore, the Commission recommends that such analyses and plans be in writing.

§ 1608.5 Affirmative action compliance programs under Executive Order No. 11246, as amended.

Under Title VII, affirmative action compliance programs adopted pursuant to Executive Order No. 11246, as amended, and its implementing regulations, including 41 CFR Part 60-2 (Revised Order 4), will be considered by the Commission in light of the similar purposes of Title VII and the Executive Order, and the Commission's responsibility under Executive Order No. 12067 to avoid potential conflict among Federal equal employment opportunity programs. Accordingly, the Commission will process Title VII complaints involving such affirmative action compliance programs under this section.

(a) *Procedures for review of Affirmative Action Compliance Programs.* If adherence to an affirmative action compliance program adopted pursuant to Executive Order No. 11246, as amended, and its implementing regulations, is the basis of a complaint filed under Title VII, or is alleged to be the justification for an action which is challenged under Title VII, the Commission will investigate to determine: (1) Whether the affirmative action compliance program was adopted by a person subject to the Order and pursuant to the Order, and (2) whether adherence to the program was the basis of the complaint or the justification.

(1) *Programs previously approved.* If the Commission makes the determination described in paragraph (a) of this section and also finds that the affirmative action program has been approved by an appropriate official of the Department of Labor or its authorized agencies, or is part of a conciliation or settlement agreement or an order of an administrative agency, whether entered by consent or after contested proceedings brought to enforce Executive Order No. 11246, as amended, the Commission will issue a determination of no reasonable cause.

(2) *Program not previously approved.* If the Commission makes the determination described in paragraph (a), of this section but the program has not been approved by an appropriate official of the Department of Labor or its authorized agencies, the Commission will: (i) Follow the procedure in § 1608.10(a) and review the program, or (ii) refer the plan to the Department of Labor for a determination of whether it is to be approved under Executive Order No. 11246, as amended, and its implementing regulations. If, the Commission finds that the program does conform to these Guidelines, or the Department of Labor approves the affirmative action compliance program, the Commission will issue a determination of no reasonable cause under § 1608.10(a).

(b) *Reliance on these guidelines.* In addition, if the affirmative action compliance program has been adopted in good faith reliance on these Guidelines, the provisions of section 713(b)(1) of Title VII and of § 1608.10(b), below, may be asserted by the contractor.

§ 1608.6 Affirmative action plans which are part of Commission conciliation or settlement agreements.

(a) *Procedures for review of plans.* If adherence to a conciliation or settlement agreement executed under Title VII and approved by a responsible official of the EEOC is the basis of a complaint filed under Title VII, or is alleged to be the justification for an action challenged under Title VII, the Commission will investigate to determine: (1) Whether the conciliation agreement or settlement agreement was approved by a responsible official of the EEOC, and (2) whether adherence to the agreement was the basis for the complaint or justification. If the Commission so finds, it will make a determination of no reasonable cause under § 1608.10(a) and will advise the respondent of its right under section 713(b)(1) of Title VII to rely on the conciliation agreement.

(b) *Reliance on these guidelines.* In addition, if the affirmative action plan or program has been adopted in good faith reliance on these Guidelines, the provisions of section 713(b)(1) of Title VII and of § 1608.10(b), below, may be asserted by the respondent.

§ 1608.7 Affirmative action plans or programs under State or local law.

Affirmative action plans or programs executed by agreement with state or local government agencies, or by order of state or local government agencies, whether entered by consent or after contested proceedings, under statutes or ordinances described in Title VII, will be reviewed by the Commission in light of the similar purposes of Title VII and such statutes and ordinances. Accordingly, the Commission will process Title VII complaints involving such affirmative action plans or programs under this section.

(a) *Procedures for review of plans or programs.* If adherence to an affirmative action plan or program executed pursuant to a state statute or local ordinance described in Title VII is the basis of a complaint filed under Title VII or is alleged to be the justification for an action which is challenged under Title VII, the Commission will investigate to determine: (1) Whether the affirmative action plan or program was executed by an employer, labor organization, or person subject to the statute or ordinance, (2) whether the agreement was approved by an appropriate official of the state or local government, and (3) whether adherence to the plan or program was the basis of the complaint or justification.

(1) *Previously Approved Plans or Programs.* If the Commission finds the facts described in paragraph (a) of this section, the Commission will, in accordance with the "substantial weight" provisions of section 706 of the Act, find no reasonable cause where appropriate.

(2) *Plans or Programs not previously approved.* If the plan or program has not been approved by an appropriate official of the state or local government, the Commission will follow the procedure of § 1608.10 of these Guidelines. If the Commission finds that the plan or program does conform to these Guidelines, the Commission will make a determination of no reasonable cause as set forth in § 1608.10(a).

(b) *Reliance on these guidelines.* In addition, if the affirmative action plan or program has been adopted in good faith reliance on these Guidelines, the provisions of section 713(b)(1) and § 1608.10(b), below, may be asserted by the respondent.

§ 1608.8 Adherence to court order.

Parties are entitled to rely on orders of courts of competent jurisdiction. If adherence to an Order of a United States District Court or other court of competent jurisdiction, whether entered by consent or after contested litigation, in a case brought to enforce a Federal, state, or local equal employment opportunity law or regulation, is the basis of a complaint filed under Title VII or is alleged to be the justification for an action which is challenged under Title VII, the Commission will investigate to determine: (a) Whether such an Order exists and (b) whether adherence to the affirmative action plan which is part of the Order was the basis of the complaint or justification. If the Commission so finds, it will issue a determination of no reasonable cause. The Commission interprets Title VII to mean that actions taken pursuant to the direction of a Court Order cannot give rise to liability under Title VII.

§ 1608.9 Reliance on directions of other government agencies.

When a charge challenges an affirmative action plan or program, or when such a plan or program is raised as justification for an employment decision, and when the plan or program was developed pursuant to the requirements of a Federal or state law or regulation which in part seeks to ensure equal employment opportunity, the Commission will process the charge in accordance with § 1608.10(a). Other agencies with equal employment opportunity responsibilities may apply the principles of these Guidelines in the exercise of their authority.

§ 1608.10 Standard of review.

(a) *Affirmative action plans or programs not specifically relying on these guidelines.* If, during the investigation of a charge of discrimination filed with the Commission, a respondent asserts that the action complained of was taken pursuant to an in accordance with a plan or program of the type described in these Guidelines, the Commission will determine whether the assertion is true, and if so, whether such a plan or program conforms to the requirements of these guidelines. If the Commission so finds, it will issue a determination of no reasonable cause and, where appropriate, will state that the determination constitutes a written interpretation or opinion of the Commission under section 713(b)(1). This interpretation may be relied upon by the respondent and asserted as a defense in the event that new charges involving similar facts and circumstances are thereafter filed against the respondent, which are based on actions taken pursuant to the affirmative action plan or program. If the Commission does not so find, it will proceed with the investigation in the usual manner.

(b) *Reliance on these guidelines.* If a respondent asserts that the action taken was pursuant to and in accordance with a plan or program which was adopted or implemented in good faith, in conformity with, and in reliance upon these Guidelines, and the self analysis and plan are in writing, the Commission will determine whether such assertion is true. If the Commission so finds, it will so state in the determination of no reasonable cause and will advise the respondent that:

(1) The Commission has found that the respondent is entitled to the protection of section 713(b)(1) of Title VII; and

(2) That the determination is itself an additional written interpretation or opinion of the Commission pursuant to section 713(b)(1).

§ 1608.11 Limitations on the application of these guidelines.

(a) *No determination of adequacy of plan or program.* These Guidelines are applicable only with respect to the circumstances described in § 1608.1(d), above. They do not apply to, and the section 713(b)(1) defense is not available for the purpose of, determining the adequacy of an affirmative action plan or program to eliminate discrimination. Whether an employer who takes such affirmative action has done enough to remedy such discrimination will remain a question of fact in each case.

(b) *Guidelines inapplicable in absence of affirmative action.* Where an affirmative action plan or program does not exist, or where the plan or program is not the basis of the action complained of, these Guidelines are inapplicable.

(c) *Currency of plan or program.* Under section 713(b)(1), persons may rely on the plan or program only during the time when it is current. Currency is related to such factors as progress in correcting the conditions disclosed by the self analysis. The currency of the plan or program is a question of fact to be determined on a case by case basis. Programs developed under Executive Order No. 11246, as amended, will be deemed current in accordance with Department of Labor regulations at 41 CFR Chapter 60, or successor orders or regulations.

§ 1608.12 Equal employment opportunity plans adopted pursuant to section 717 of Title VII.

If adherence to an Equal Employment Opportunity Plan, adopted pursuant to Section 717 of Title VII, and approved by an appropriate official of the U.S. Civil Service Commission, is the basis of a complaint filed under Title VII, or is alleged to be the justification for an action under Title VII, these Guidelines will apply in a manner similar to that set forth in § 1608.5. The Commission will issue regulations setting forth the procedure for processing such complaints.

[FR Doc. 79-2025 Filed 1-18-79; 8:45 am]

[6570-06-M]

PART 1601—PROCEDURAL REGULATIONS

Issuance of Interpretation and Opinion

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Commission is today publishing in final form a set of Guidelines on Affirmative Action (44 FR 4422), to encourage voluntary action to eliminate employment discrimination. Section 1601.33 of the Commission's regulations is being amended to reflect a new method, contemplated by these Guidelines, by which the Commission may issue an "interpretation of opinion" of the Commission within the meaning of Section 713 of Title VII of the Civil Rights Act of 1964, as amended.

EFFECTIVE DATE: February 20, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter C. Robertson, Director, Office of Policy Implementation, 2401 E Street, NW., Room 4002A, Washington, D.C. 20506 (202) 254-7639.

SUPPLEMENTARY INFORMATION: The Commission's new Guidelines on Affirmative Action contemplate that in instances where a charge of discrimination has been filed and the Commission finds that the treatment complained of occurred as a result of affirmative action procedures consistent with its Guidelines on Affirmative Action, the Commission will issue a determination of no reasonable cause. This determination may contain language stating that it is "a written interpretation or opinion of the Commission" within the meaning of Section 713(b)(1) of Title VII of the Civil Rights Act of 1964, as amended. The respondent in such a case may rely upon this determination as a defense to any subsequent complaints of discrimination which involve similar facts and circumstances, if the subsequent actions complained of were also taken by the respondent under its affirmative action procedures.

Such language will also appear in no-cause determinations whenever the Commission finds that the action complained of occurred pursuant to an affirmative action plan adopted in good faith compliance with, and reliance

upon, the Commission's Guidelines on affirmative Action.

The Commission's procedural regulations are accordingly revised to include this specific type of no-cause finding as a type of "written interpretation or opinion of the Commission."

Signed at Washington, D.C. this 16th day of January 1979.

For the Commission.

ELEANOR HOLMES NORTON,
Chair.

Therefore, 29 CFR 1601.33 is amended to read as follows:

§ 1601.33 Issuance of interpretation or opinion.

Only the following may be relied upon as a "written interpretation or opinion of the Commission" within the meaning of Section 713 of Title VII:

(a) A letter entitled "opinion letter" and signed by the General Counsel on behalf of the Commission, or

(b) Matter published and specifically designated as such in the FEDERAL REGISTER, including the Commission's Guidelines on Affirmative Action, or

(c) A Commission determination of no reasonable cause, issued under the circumstances described in § 1608.10 (a) or (b) of the Commission's Guidelines on Affirmative Action 29 CFR Part 1608, when such determination contains a statement that it is a "written interpretation or opinion of the Commission."

[FR Doc. 79-2026 Filed 1-18-79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA//FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

federal register

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-07-M]

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—GENERAL REGULATIONS

SUBCHAPTER I—APPLICATIONS

[FmHA Instruction 1910-B]

PART 1801—RECEIVING AND PROCESSING APPLICATIONS

PART 1910—GENERAL

Subpart B—Credit Reports

Subpart B—Credit Reports (Individual)

AMENDMENT

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to redesignate and expand regulations for ordering credit reports for individual loan applicants and borrowers. The action is taken to update the regulation. The intended effect of the action is to provide procedures for ordering credit reports consistent with recent changes in the contracts with credit reporting companies.

EFFECTIVE DATE: January 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank Colon, (202) 447-4808.

SUPPLEMENTARY INFORMATION: The FmHA amends its regulations to redesignate Subpart B, "Credit Reports," of Part 1801, "Receiving and Processing Applications," of Subchapter A, "General Regulations," as a new Subpart B, "Credit Reports (Individual)," of Part 1910, "General," of Subchapter I, "Applications," Chapter XVIII, Title 7 of the Code of Federal Regulations. The new Subpart B of Part 1910 expands the summary previously published in the FEDERAL REGISTER. It also provides all pertinent information consistent with the current fiscal year contracts for credit reports services for individual loan applicants and borrowers.

It is the policy of this Department that rules pertaining to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This new Subpart B of Part 1910, however, is not published for proposed rulemaking since the purpose of this amendment is to redesignate and expand the regulation and to provide the Agency's field staff with information consistent with the provisions of existing contracts. Exhibit A is not published as the information is extracted from the list of contracts let by the Department of Housing and Urban Development. However, this list of credit report contractors is available in any FmHA office.

Accordingly, Chapter XVIII is amended as follows:

1. Part 1801 and Subpart B are hereby deleted and reserved.

2. A new Subpart B is added to Part 1910 and reads as follows:

Subpart B—Credit Reports (Individual)

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[1] Exhibit A—Credit Report Contractors, Current Prices, and Geographical Coverage, Exhibit B—Request for Factual Data Report, Exhibit C—Factual Data Report on Borrower, Exhibit D—Confidential Report on Computer Form 100, and Exhibit E—Confidential Report on Computer Form 2000 are filed as part of the original document and are available at any FmHA office.

PART 1910—GENERAL

Subpart B—Credit Reports (Individual)

§ 1910.51 Purpose

This Subpart prescribes the policies and procedures for obtaining individual type credit reports. Credit reports will be ordered for servicing existing loans or to determine the eligibility of applicants requesting Farmers Home Administration (FmHA) insured loans.

§ 1910.52 General.

(a) FmHA has joined with other Government agencies in obtaining credit reports from credit reporting companies which are under contract with the Department of Housing and Urban Development (HUD), Federal Housing Administration. HUD issues the invitation for bids and makes contract awards in behalf of HUD, Veterans Administration (VA), and FmHA on a fiscal year basis. While many contracts are let by HUD, not all are used by FmHA, therefore, County Supervisors are cautioned to order only from those firms listed in Exhibit A of this Subpart. Furthermore, special reports, supplemental employment reports, commercial credit reports, and special services, such as authorizing a contractor to obtain credit information by telephone, are not authorized.

(b) Credit reports may be ordered under the provisions of this Subpart only by FmHA employees.

(c) Exhibit A of this Subpart lists the names and addresses of credit bureaus (contractors), selected by FmHA from the HUD list of contractors, to be used for ordering credit reports, the areas covered by each, and the applicable fees.

(d) Regardless of the amount of the fee charged the Government, the cost charged the approved applicant for each credit report is $12. (This figure will not be used in verifying amounts invoiced.)

(e) The Finance Office will furnish each County and State Office with address rosters of the Credit Bureau Re-

ports, Inc., (CBR) affiliate bureaus serving their areas. Addresses of CBR affiliates in other states may be requested from the National Office when needed.

(f) Whenever Exhibit A does not list a contractor for a particular town or area, § 1910.4 of Subpart A of this Part will be followed for investigating the loan application or the County Supervisor may request, through the State Director, that the National Office establish a contract source for that town or area.

(g) Exhibit B is a sample format of an order ticket which is printed by and at the expense of the contractor and supplied to County Offices. CBR order ticket forms are supplied to the County Office through the Finance Office. If additional CBR order tickets are needed, they may be requisitioned from the Finance Office in accordance with Subpart C, Part 2024, Subchapter R of this Chapter (FmHA Instruction 2024-C). Order ticket forms of firms other than CBR may be ordered from the nearest local office of the contractor. Order tickets of one contractor must not be used to order credit reports from another. Only FmHA employees may use these order tickets. They will not be supplied to brokers, lenders, packagers, etc.

(h) Exhibits C, D, and E show the type of credit information that contractors must furnish on manual and computerized forms.

§ 1910.53 Policy.

A credit report will be obtained whenever the County Supervisor determines that credit information from a credit report would be helpful or needed to determine the eligibility of a loan applicant. The need for a credit report will be determined in accordance § 1910.58 of this Subpart, and § 1822.12(d), Subpart A, Part 1822, Subchapter B of this Chapter (paragraph XII D of FmHA Instruction 444.1), concerning a co-signer. Whenever possible, an "individual" credit report will be ordered as opposed to the more costly "joint" report.

§ 1910.54 Definitions.

(a) "Report period" is the 2-year period before the date the credit report is prepared.

(b) "Basic report" is a report that does not include supplemental or antecedent information and which contains all credit and public record information available covering no less than a two year period.

(c) "Supplemental Credit Reference Report" is a report which is required when the applicant lives in the bureau's reporting area but, because of shopping patterns, credit references are located in another bureau's reporting area.

(d) "Antecedent Report" is a previous residence report required when the minimum two year up-to-date credit coverage is not available in the bureau's reporting territory. The report contains information from another bureau located in an area outside of the area covered by the reporting bureau.

(e) "Individual Report" is a report providing information on one person only.

(f) "Joint Report" is a report providing information on both spouses (partners in marriage).

(g) "Order ticket" is the form used for ordering a credit report.

(h) "Special services" are any services which are not included in § 1910.54 (b), (c), and (d) of this Subpart and which will result in additional cost.

(i) For the purpose of this regulation, "Repository" is an entity engaged in gathering, recording, and updating information relative to the credit history of individuals in an area. The area covered may encompass several towns, cities, counties, or parts of counties.

§ 1910.55 Contractor bureau requirements.

(a) Unless the contract states otherwise, the contractor must provide *ALL* credit and public record information available for the report period as defined in § 1910.54(a) of this Subpart.

(b) The contractor must provide all information specified in Exhibit C, D, or E, except that employment information need not be reported.

(c) The contractor must make appropriate certifications regarding check and/or source of public records reporting and credit record history.

(d) The trade or credit history portion of the report must cover a minimum of two years brought up-to-date. Accounts must be rated to indicate past and current payment records and original amount, monthly installment, and unpaid balance of the debt. All additional available account information must be furnished. The contractor must clear bank, savings and loan, and credit union accounts and clear all local references indicating the date the account was cleared. The contractor should contact the applicant for interview purposes to obtain any additional information necessary to provide a quality report.

(e) Public record information must be obtained by special check of public records or, as an equivalent, from accumulated and regularly filed records of a qualified legal reporting service. All items of public record information must be reported except that adverse items are to be excluded as provided under paragraph 605 of the Fair Credit Reporting Act. For purposes of these contracts all adverse items may be excluded which outdate the report by seven years.

(f) Reports which do not require antecedent information shall be delivered by the contractor within eight working days of receipt of the order or twelve working days when antecedent information is required.

§ 1910.56–1910.57 [Reserved]

§ 1910.58 When to order credit reports.

The County Supervisor will determine the need and be responsible for ordering credit reports. Credit reports will be ordered from the contract source serving the area in which the applicant resides *when available information indicates that the applicant will likely be eligible for a loan*, except that reports usually will not be ordered when:

(a) A currently indebted FmHA borrower applies for a loan.

(b) An applicant resides in a remote area from which a credit report would be ineffective.

(c) The applicant's needs can be met with a small loan and the County Supervisor determines on the basis of available information that the applicant likely does not have debts other than those reported on the application.

(d) A current and reliable credit report has been delivered directly to FmHA by the reporting bureau rather than a third party. Packagers of Section 502 Rural Housing (RH) loan applications *will not* be encouraged to provide credit reports. Packagers may, however, at their discretion, order a credit report to be mailed directly to the FmHA office by the credit report source but FmHA will not pay for or collect fees from an applicant to pay for the report ordered by a packager.

(e) Available information indicates that a loan will not be made.

§ 1910.59 Circumstances requiring credit reports.

Pursuant to the Equal Credit Opportunity Act (ECOA), credit bureaus will maintain credit information in three different forms on a married couple: individual accounts on each spouse, joint accounts covering both spouses, and undesignated accounts (those accounts not designated by the credit grantor as either individual or joint accounts). The order ticket therefore, must designate the individual(s) on whom the report is to be prepared.

(a) "Individual" credit report: An "individual" report will be ordered in all cases other than that described in § 1910.59(b) of this Subpart. A separate order ticket will be prepared for each person for whom an "individual" report is requested.

(b) "Joint" credit report: When applicants are husband and wife, a "joint" report will be ordered if the income of both is needed to make a sound loan.

§ 1910.60 Processing order tickets.

Order tickets will be processed as follows:

(a) An original and 2 copies will be prepared, except that an extra copy will be furnished when requested by a credit bureau. The original and copy(ies) will be sent to the credit bureau servicing the place of residence of the applicant and 1 copy will be kept in the applicant's file.

(b) All appropriate entries on the order ticket will be completed. Extra entries for "special services", which would result in additional costs, are prohibited.

(c) The "former names," "address" and "how long residence" blocks must be completed. If an applicant has resided less than two years at the present address, the previous address block must be completed so that the contractor will know where to obtain an antecedent report.

(d) USDA/FmHA should appear on the order ticket with State and County Office Code, applicant's social security number, if available, and loan fund code. Loan fund codes are listed in Exhibit A of FmHA Instruction 450.1 (available in any FmHA Office). If an applicant is to receive more than one type of loan, use the loan fund code for the largest loan.

§ 1910.61 Invoicing and payments.

(a) Optional procedure #1:

(1) Contractor returns a copy of the order ticket (with billing detail block filled in) to the County Office with each credit report.

(2) County Office personnel verify the billing data against the schedule of charges shown in Exhibit A of this Subpart. If the report is acceptable and the billing data correct, the "Receipt" certification block on the order ticket is completed and it is sent to the Finance Office.

(3) The credit report approval date and cost is posted to the order ticket copy kept in the applicant's file.

(4) Contractor sends a monthly statement to the Finance Office with one copy of each order ticket attached. Through a computer process, these order tickets are matched with those certified as received (mentioned in paragraph (a)(2) of this section) and payment is made accordingly.

(b) Optional procedure #2:

(1) Contractor sends a monthly invoice to the County Office with a copy of the order ticket attached to support each credit report charge.

(2) County Office personnel verify the billing data against the schedule of charges shown in Exhibit A of this Subpart. If acceptable, a stamp or hand written certification and signature is placed on the invoice to the effect that services were satisfactorily rendered and that it is approved for payment. The invoice with attachments is then sent to the Finance Office.

(3) The credit report approval date and cost is posted to the order ticket copy kept in the applicant's file.

§ 1910.62 Loan Documentation procedure.

(a) When a loan is approved and a loan check will be issued by the Finance Office, a $12.00 charge will be included in the loan if only one credit report was ordered and received. The "YES" block will be checked in space 12 of Form 440-1, "Request for Obligation of Funds." If two or more credit reports were ordered and received, no funds will be included in the loan for credit reports and the "NO" block will be checked in space 12 of Form FmHA 440-1. In this case the County Supervisor will also indicate in the instructions to the closing official the amount to be collected for credit reports ($12 per credit report) from the applicant at loan closing. The credit report fees collected will be promptly forwarded to the County Supervisor to be remitted to the Finance Office in accordance with § 1910.62(d) of this Subpart. When an applicant receives more than one loan, the County Supervisor will indicate that a credit report was ordered on only the loan fund analysis form that coincides with the type of loan that was indicated on the original order ticket. When Form FmHA 440-41, "Disclosure Statement for Loans Secured by Real Estate," Form FmHA 440-58, "Estimate of Settlement Costs," or Form FmHA 440-59, "Settlement Statement," is required, the County Supervisor will enter the cost of the credit report on these forms in accordance with instructions contained in the appropriate Forms Manual Issue (FMI).

(b) When a loan is approved and a loan check will not be issued by the Finance Office, the cost to the applicant for the credit report ($12.00 per credit report) will be collected at the time of loan closing by the designated loan closing official. In such cases, the credit report fee will be handled in accordance with § 1910.62(d) of this Subpart.

(c) When a loan is not approved, when an approved loan will never be closed, or when a servicing case is involved, the credit report fee will be paid by the Finance Office.

(d) Any funds collected for the payment of credit reports will be handled in accordance with FmHA Instruction 451.2 (available in any FmHA Office). The loan fund code should appear on the "Schedule of Remittances." Loan fund codes are listed in Exhibit A of FmHA Instruction 450.1. Such payments will not reduce the amount due on the borrower's loan indebtedness.

§ 1910.63 Unsatisfactory contractor performance.

Late, incomplete, or inadequate credit reports should be brought to the attention of the Contracting Officer in the Business Services Division of the National Office. If preferred, the County Supervisor may, through the State Office, notify the credit bureau's parent office of any unsatisfactory performance of their local bureau.

§ 1910.64 Confidential handling of credit reports.

Under the terms of current contracts, a credit report shall be furnished to FmHA County Supervisors upon request. The confidential information furnished to FmHA shall be used as an aid in conducting business and is based on information obtained by the credit bureau from sources deemed reliable. Disclosures of information contained in the credit report to the consumer will be made by the credit bureau making the report as required by the Fair Credit Reporting Act, Public Law 91-508, except that FmHA must make credit reports available to the subject of the report in response to a request made under the Privacy Act of 1974. Requests from credit parties, including credit bureaus, concerning information about FmHA borrowers or applicants will be handled in accordance with the provisions of FmHA Instruction 2018-F.

§ 1910.65–1910.100 [Reserved]

NOTE.—Exhibit A—Credit Report Contractors, Current Prices, and Geographical Coverage, Exhibit B—Request for Factual Data Report, Exhibit C—Factual Data Report on Borrower, Exhibit D—Confidential Report on Computer Form 100, and Exhibit E—Confidential Report on Computer Form 2000 are filed as part of the original document and are available at any FmHA office.

This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044.

Pursuant to the National Environmental Policy Act of 1969 (424 SC 4321 et seq.), the Farmers Home Administration has prepared an Environmental Impact Assessment for these amended rules and has determined that they do not constitute a major Federal action significantly affecting the quality of the human environment, and an Environmental Impact Statement is not required.

(7 U.S.C. 1989; 5 U.S.C. 301, delegation of authority by the Secretary of Agriculture, 38 FR 14944-14948, 7 CFR 2.23; delegation of authority by the Secretary for Rural Development, 38 FR 14944-14952, 7 CFR 2.70.)

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Dated: December 14, 1978.

A. JENNINGS ORR,
Acting Administrator,
Farmers Home Administration.

[FR Doc.79-2116 Filed 1-19-79; 8:45 am]

[3410-07-M]

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.5]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart D—Rural Rental Housing Loan Policies, Procedures, and Authorizations

AMENDMENT

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding the obligation of loan funds for Rural Rental Housing loans. The intended effect of this action is to decrease the amount of time involved in obligating loan funds for rental projects. In doing this a more accurate status of obligations will be available for planning purposes. This action is taken as a part of an administrative action regarding loan obligations

EFFECTIVE DATE: January 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Paul R. Conn, (202) 447-7207.

SUPPLEMENTARY INFORMATION: Various sections of Subpart D, Part 1822, Chapter XVIII, Title 7 in the Code of Federal Regulations are amended to use sexually neutral terms, connect references, provide for the FmHA's recent internal reorganization and allow the State Director to telephone the Finance Office Check Request Station and request that loan funds for a particular project be obligated. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. This amendment, however, is being published effective as a final rule. A copy of the Impact Statement prepared by FmHA is available at the FmHA National Office in Washington, DC. Publication for comment is unnecessary because this amendment is revising the internal procedure for the obligation of funds. This determination was made by Russell Gibler, Loan Officer, Room 5336.

Therefore, various §§ of Part 1822, Subpart D are amended as follows:

§ 1822.93 [Amended]

1. In § 1822.93, paragraph (a), line 4, change "Subpart B of Part 1810" to "Part 1901, Subpart A."

2. In § 1822.93, paragraphs (b)(2)(i), (i)(A), (B) and (C) are amended and (b)(2)(i)(D), (E) and (F) are added and read as follows:

§ 1822.93 Loan approval.

* * * * *

(b) *Loan approval action.*

* * * * *

(2) *Approval or disapproval of a loan.*

(i) *Approval.* When a loan is approved:

(A) The approval official will prepare and sign Form FmHA 440-1 in an original and two copies. The State Director or a designee will telephone the Finance Office Check Request Station requesting that loan and/or grant funds for a particular project be obligated.

(B) Immediately after contacting the Finance Office, the requesting official will furnish the requesting office's security identification code. Failure to furnish the security code will result in the rejection of the request for obligation. After the security code is furnished, all information contained on Form FmHA 440-1 will be furnished the Finance Office. Upon receipt of the telephone request for obligation of funds, the Finance Office will record all information necessary to process the request for obligation in addition to the date and time of request.

(C) The individual making the request will record the date and time of request and sign Form FmHA 440-1 in section 37.

(D) The Finance Office will terminally process telephone obligation requests. Those requests for obligation received before 2:30 p.m. Central Time will be processed on the date of the request. Requests received after 2:30 p.m. Central Time to the extent possible will be processed on the date received; however, there may be instances in which a request will be processed on the next working day.

(E) Each working day the Finance will notify the State Office by telephone of all projects for which funds were reserved during the previous night's processing cycle and the date of obligation. If funds cannot be reserved for a project, the Finance Office will notify the State Office that funds are not available within the State allocation. The obligation date will be 6 working days from the date the request for obligation is processed in the Finance Office. The Finance Office will mail to the State Offices Form FmHA 440-57, "Acknowledgment of Obligated Funds/Check Request," confirming the reservation of funds with the obligation date inserted as required by item No. 9 on the FMI for Form FmHA 440-57.

(F) After notification by the Finance Office that the funds have been reserved, the original only of Form FmHA 442-14 will be mailed to the Finance Office. Forms FmHA 440-1 for those obligations requested by telephone *will not* be mailed to the Finance Office. Immediately after notification by telephone of the reservation of funds for not-for-profit organizations and public bodies, the State Director will call the Information Division in the National Office as required by FmHA Instruction 2015-C. Notice of approval to the applicant will be accomplished by mailing the applicant's signed copy of Form 440-1 on the obligation date. The State Director or the State Director's designee will record the actual date of application notification on the original of Form FmHA 440-1 and include the original of the form as a permanent part of the County Office project file with a copy in the State Office file.

3. In § 1822.93, paragraph (b)(2)(ii), lines 6 and 7, change "County Supervisor" to "District Director."

4. In § 1822.93, paragraph (b)(3)(i), lines 2 and 3 delete the phrase "and Form FmHA 440-1, (copy)." and change the comma after "(original)" in line 2 to a period.

5. In § 1822.93, paragraph (b)(3)(iii), line 1, change "County" to "District."

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044.

Dated: January 10, 1979.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 79-2161 Filed 1-19-79; 8:45 am]

[3410-07-M]

[FmHA Instruction 444.8]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart G—Rural Housing Site Loan Policies, Procedures, and Authorizations

AMENDMENT

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding the obligation of loan funds for Rural Housing Site loans. The intended effect of this action is to decrease the amount of time involved in obligating loan funds for rural housing site projects. In doing this a more accurate status of obligations will be available for planning purposes. This action is taken as a result of an administrative improvement to the obligation process.

EFFECTIVE DATE: January 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Paul R. Conn, (202) 447-7207.

SUPPLEMENTARY INFORMATION: §§ 1822.271 and 1822.272 of Subpart G, Part 1822, Chapter XVIII of Title 7 in the Code of Federal Regulations are amended to use sexually neutral terms, connect references, provide for FmHA's internal reorganization and allow the State Director to telephone the Finance Office Check Request Station and request that loan funds for a particular project be obligated and to make other additional changes. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. This amendment, however, is being published effective as a final rule. A copy of the Impact Statement prepared by FmHA is available at the FmHA National Office in Washington, D.C. Publication for comment is unnecessary because this amendment is reviewing the internal procedure for the obligation of funds. This determination was made by Russell Gibler, Loan Officer, Room 5331.

As amended § 1822.271 reads as follows:

§ 1822.271 [Amended]

1. In § 1822.271, paragraph (f), line 4, change the first two words, "County Supervisor's" to "District Director's."

2. In § 1822.271, paragraph (g)(2), lines 9 and 10, delete the words "he may have."

3. In § 1822.271, paragraph (g)(3), line 4, change "County Supervisor with his" to "District Director with any."

4. In § 1822.271, paragraph (g)(4), line 2, change "him" to "The State Director."

5. In § 1822.271, paragraph (g)(5), lines 4 and 5, change "County Supervisor" to "District Director."

6. § 1822.272 is revised to read:

§ 1822.272 Approval or disapproval of a loan.

The provisions of paragraph (b)(2) of § 1822.93 Subpart D of this Part will be followed.

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044.

Dated: January 10, 1979.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 79-2162 Filed 1-19-79; 8:45 am]

[3410-07-M]

SUBCHAPTER E—ACCOUNT SERVICING

[FmHA Instructions 451.3 and 451.5]

PART 1861—ROUTINE

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations regarding the servicing of group type loans. The intended effect of this action is to consolidate and reduce the number of forms required to service loans. This action is taken as a result of an administrative decision.

EFFECTIVE DATE: January 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Lynn L. Pickinpaugh, 202-447-5044.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration amends various sections of Subparts C and F of Part 1861, Chapter XVIII, Title 7 in the Code of Federal Regulations by changing the number and title of an FmHA Form used for servicing loans, and by changing a reference from one Part to another. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This regulation, however, is being published as a final rule. A copy of the Impact Statement prepared by FmHA is available in the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room, 6316, Washington, D.C. 20250.

Publication for comment is unnecessary because the actions taken are simply the substitution of one form number for another and a change in reference from one Part to another. Also, because the change of forms will increase service to the public and decrease the Government's cost of providing this service, any delay in changing program regulations would result in a delay in using the new form which would be contrary to the public interest. This determination was made by Mr. Lynn L. Pickinpaugh, Director, Production Loan Division, Farmers Home Administration. This regulation has not been determined significant under the USDA criteria implementing Executive order 12044.

Therefore, Part 1861 is amended as follows:

§ 1861.46 [Amended]

1. In subpargraph (i) (2) of § 1861.46, line 7, change "460-6, 'Release (UCC States)'" to "462-12, 'Statements of Continuation, Partial Release, Assignment, etc'."

§ 1861.84 [Amended]

2. In paragraph (d)(1) of § 1861.84, line 5, change "§ 1871.8" to "§ 1962.17," in line 10 change "§ 1871.13" to "§ 1962.27" and in lines 13 and 14, change "460-6 'Partial Release (UCC States)' to 462-12, Statements of Continuation, Partial Release, Assignment, etc."

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70; delegation of authority by Director, OEO 29 FR 14764, 33 FR 9850.)

Dated: December 22, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 79-2160 Filed 1-19-79; 8:45 am]

[3410-07-M]

SUBCHAPTER J—REAL PROPERTY

[FmHA Instruction 1933-I]

PART 1933—LOAN AND GRANT PROGRAM (GROUP)

Subpart I—Self-Help Technical Assistance

AGENCY: Farmers Home Administration, USDA.

V 4 4 / 1 5 J A 2 2 7 9 UMI

ACTION: Final Rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding the obligation of grant funds for Self-Help Technical Assistance Grants. The intended effect of this action is to decrease the amount of time involved in obligating grant funds for Technical Assistance grant projects. In doing this a more accurate status of obligations will be available for planning purposes. This action is taken as a result of an administrative improvement in the obligation process.

EFFECTIVE DATE: January 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Paul R. Conn, (202) 447-7207.

SUPPLEMENTARY INFORMATION: §§ 1933.414 and 1933.416 of Subpart J, Part 1933, Chapter XVIII, Title 7 in the Code of Federal Regulations are amended to allow the State Director to telephone the Finance Office Check Request Station and request that grant funds for a particular project be obligated. Changes have also been made to reflect the administrative reorganization. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. This amendment, however, is being published effective as a final rule. A copy of the Impact Statement prepared by FmHA is available at the FmHA National Office in Washington, D.C. Publication for comment is unnecessary because this amendment is revising the internal procedures for the obligation of funds. This determination was made by Russell Gibler, Loan Officer, Room 5331.

Sections 1933.414 and 1933.416, are amended as follows:

§ 1933.414 [Amended]

1. In § 1933.414, paragraph (a), line 5, change "County Supervisor" to "District Director."

2. In § 1933.414, paragraph (b)(1), lines 1 and 2, change "County Supervisor" to "District Director."

3. In § 1933.416, paragraph (b) is amended to read as follows:

§ 1933.416 Approval and closing.

* * * * *

(b) *Approval of grant.*

The provisions of paragraph (b)(2)(i) of § 1822.93 Subpart D of Part 1822 Subchapter B of this chapter will be followed.

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044.

Dated: January 10, 1979.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 79-2166 Filed 1-19-79; 8:45 am]

[3410-07-M]

[FmHA Instructions 1930-A and 1962-A]

CHATTEL SERVICING REGULATIONS

Redesignation and Revision

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule with comments requested.

SUMMARY: The Farmers Home Administration is redesignating and revising its chattel servicing regulations. The intended effect of this action is to simplify the regulations. This action is being taken as a result of an administrative restructuring of its program regulations.

DATES: Effective date: January 22, 1979. However, comments must be received on or before March 23, 1979.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Lynn L. Pickinpaugh, 202-447-5044.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration amends its regulations by deleting Part 1930 Subpart A, establishing a new subpart A Part 1962, in Chapter XVIII, Title 7, in the Code of Federal Regulations and by making corresponding reference changes.

In addition to redesignation, the following changes are made for clarification or to include provisions of the Agricultural credit Act of 1978:

1. Authorize the use of Form FmHA 462-12, "Statement of Continuation, Partial Release, Assignment, etc." in lieu of FmHA Forms 460-7, "Termination Statement"; 460-6, "Release (U.C.C. States)"; 462-7, "Continuation Statement"; and Form FmHA 462-12, "Continuation of Termination Statement."

2. Section 1962.26 authorizes the County Supervisor to use Form FmHA 462-12 to correct minor errors in a Financing Statement.

3. Section 1962.30 (a) authorizes the subordination of chattel liens securing operating loans for any authorized operating loan purposes.

4. Section 1962.30 (c) restricts the approval of a subordination of a chattel lien securing an EM loan to the State Director if the State Director approved the EM loan.

5. Section 1962.34 paragraphs (a) and (b) establish the interest rate for transfers to eligibles and ineligibles at the current interest rate except for applicants eligible for limited resource loans, the interest rate will be 5 percent.

6. Section 1962.34 (c) deletes reference to the effect of wife's signature.

7. Section 1962.49 (a)(2) increases the maximum amount of claim that will not be referred to the OGC from $400 to $600.

8. Section 1962.49 (a)(3)(4) transfers responsibility for accelerating a borrower's account and sending converters' demand letters from the District Director to the County Supervisor.

9. Section 1962.49 (c)(2) emphasizes the need for FmHA to thoroughly investigate and obtain the information necessary to account for security property and the preparation of requests for legal action before requesting the assistance of the Office of Investigation.

10. The requirement for the County Supervisor to report the amount of other credit used by borrowers who do not receive a subsequent OL is deleted.

11. The requirement for the County Committee to certify the amounts of loans to be assumed by an eligible applicant is deleted.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comments notwithstanding the exemption in 5 U.S.C. 533 with respect to such rules. This regulation, however, is being published as a rule, with a request for comments, since the purpose of the change is to restructure existing regulations and incorporate provisions of the Agricultural Credit Act of 1978. Also, due to the demand for loans and the financial condition of farmers, any delay in issuing the regulations would be contrary to the public interest. The only substantive changes are those authorized by the Agricultural Credit Act of 1978. Any other change is the reorganization and redesignation of present regulations.

The Agency is, however, interested in receiving public comments which

should be submitted to the address given above.

Accordingly, Part 1930, Subpart A, is deleted, the new Subpart A of Part 1962 is added, and all cross reference changes are made as follows:

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

PART 1822—RURAL HOUSING LOANS AND GRANTS

1. In Subpart A, Exhibit E, paragraph 8 (b) (2), last line, change "§ 1871.22" to "Part 1962 Subpart A". In paragraph 8 (c) (3) (i), third line, change "§ 1871.22 (c)" to "Part 1962 Subpart A".

SUBCHAPTER E—ACCOUNT SERVICING

PART 1861—ROUTINE

§ 1861.1 [Amended]

2. In § 1861.1 (b) (2), change the reference from "Part 1930, Subpart A" to "§ 1962.48 (b) of Subpart A of Part 1962".

3. In § 1861.8 (a), change the reference from "Part 1930, Subpart A" to "§ 1962.27 of Subpart A of Part 1962".

PART 1864—DEBT SETTLEMENT

§ 1864.2 [Amended]

4. In § 1864.2, paragraphs (d) and (k) change the reference from "Part 1930, Subpart A" to "Part 1962 Subpart A".

§ 1864.17 [Amended]

5. In § 1864.17 (a) (1) change the reference from "Part 1930 Subpart A" to "Part 1962, Subpart A".

PART 1866—FINAL PAYMENT ON LOANS SECURED BY REAL ESTATE

§ 1866.1 [Amended]

6. In § 1866.1 (b) (1), change the reference from "Subpart A of Part 1930" to "Part 1962 Subpart A".

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATIONS

PART 1872—REAL ESTATE SECURITY

§§ 1872.11, 1872.14, 1872.15, 1872.17 and 1872.22 [Amended]

7. In §§ 1872.11 (b), 1872.14, 1872.15 (c), 1872.17 (e) and 1872.22, change the reference from "Subpart A of Part 1930" to "Part 1962 Subpart A".

SUBCHAPTER I—LOAN AND GRANT PROGRAMS (INDIVIDUAL)

PART 1930—BORROWER PROPERTY SECURITY SERVICING (INDIVIDUAL)

Subpart A—[Reserved]

8. Part 1930, Subpart A [Deleted and Reserved].

SUBCHAPTER K—PROPERTY MANAGEMENT

PART 1955—REAL ESTATE AND CHATTEL PROPERTIES

§ 1955.15 [Amended]

9. In § 1955.15 (d) (15) (i) change the reference from "Subpart A of Part 1930" to "§ 1962.49 (e) of Subpart A of Part 1962".

SUBCHAPTER L—LOAN AND GRANT MAKING

PART 1941—OPERATING LOANS

§ 1941.42 [Amended]

10. In § 1941.42, change the reference from "Subpart A of Part 1930" to "Part 1962 Subpart A".

PART 1943—FARM OWNERSHIP AND SOIL AND WATER

§ 1943.19 [Amended]

11. In § 1943.19(c)(5), change the reference from "Subpart A of Part 1930" to "Part 1962 Subpart A".

§ 1943.42 [Amended]

12. In § 1943.42, change the reference from "Subpart A of Part 1930" to "Part 1962 Subpart A".

§ 1943.69 [Amended]

13. In § 1943.69(c)(7), change the reference from "Subpart A of Part 1930" to "Part 1962 Subpart A".

§ 1943.92 [Amended]

14. In § 1943.92, change the reference from "Subpart A of Part 1930" to "Part 1962 Subpart A".

§ 1943.119 [Amended]

15. In § 1943.119(d)(6), change the reference from "Subpart A of Part 1930" to "Part 1962 Subpart A".

§ 1943.142 [Amended]

16. In § 1943.142, change the reference from "Subpart A of Part 1930" to "Part 1962 Subpart A".

SUBCHAPTER N—SECURITY SERVICING

17. Part 1962, "Personal Property", is added to Subchapter N and Subchapter A, "Servicing and Liquidation of Chattel Security" is added and reads as follows:

PART 1962—PERSONAL PROPERTY

Subpart A—Servicing and Liquidation of Chattel Security

Sec.

1962.1 Purpose.
1962.2 Policy.
1962.3 Authorities and responsibilities.
1962.4 Definitions
1962.5 Security instruments.
1962.6 Liens and assignments on chattel property.
1962.7 Securing unpaid balances on unsecured loans.
1962.8 Liens on real estate for additional security.
1962.9 Liens on chattel property as security for a real estate loan.
1962.10-1962.11 [Reserved]
1962.12 Marking ASCS peanut and tobacco marketing cards.
1962.13 Lists of borrowers given to business firms.
1962.14 Account and security information in UCC cases.
1962.15-1962.16 [Reserved]
1962.17 Releasing chattel security.
1962.18 Accounting for security.
1962.19 Claims against Commodity Credit Corporation (CCC).
1962.20-1962.21 [Reserved]
1962.22 Amendments of consents and releases or suspensions of assignments.
1962.23 Releases of liens on wool and mohair marketed by consignment.
1962.24 Notice of termination of security interest to purchasers of farm products under consents or assignments upon payment in full.
1962.25 Release of FmHA's interest in insurance policies.
1962.26 Correcting errors in security instruments.
1962.27 Termination or satisfaction of chattel security instruments.
1962.28 Assignment of notes and security instruments.
1962.29 Payment of fees and insurance premiums.
1962.30 Subordination and waiver of FmHA liens on chattel security.
1962.31-1962.33 [Reserved]
1962.34 Transfer of chattel security and EO property and assumption of debts.
1962.35-1962.39 [Reserved]
1962.40 Liquidation.
1962.41 Sale of chattel security or EO property by borrowers.
1962.42 Repossession, care, and sale of chattel security or EO property by the County Supervisor.
1962.43 Liquidation of chattel security or EO property by other parties.
1962.44 Distribution of liquidation sales proceeds.
1962.45 Reporting sales.
1962.46 Deceased borrowers.
1962.47 Bankruptcy and insolvency.
1962.48 Setoffs.
1962.49 Civil and criminal cases.
1962.50 [Reserved]

Exhibit A—Memorandum of Understanding Between Commodity Credit Corporation and Farmers Home Administration.
Appendix 1—Furnishing Notice or Information to Commodity Credit Corporation.
Exhibit B—Memorandum of Understanding and Blanket Commodity Lien Waiver.

AUTHORITY: 7 U.S.C. 1989; 42 U.S.C. 2942; 5 U.S.C. 301; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850.

Subpart A—Servicing and Liquidation of Chattel Security

§ 1962.1 Purpose.

This subpart delegates authorities and gives procedures for servicing, care, and liquidation of Farmers Home Administration (FmHA) chattel security, Economic Opportunity (EO) loan property, and note only loans.

§ 1962.2 Policy.

(a) Chattel security, EO property and note only loans will be serviced to accomplish the loan objectives and protect to FmHA's financial interest. To accomplish these objectives, security will be serviced in accordance with the security instruments and related agreements, including any authorized modifications: *Provided*, The borrower has reasonable prospects of accomplishing the loan objectives, properly maintains and accounts for the security, and otherwise satisfactorily meets the loan obligations including repayment.

(b) If the objectives of Paragraph (a) of this section cannot be met, or if the chattel security must be liquidated for other reasons, the security will be liquidated promptly to protect FmHA's financial interest. Normally, the borrower will dispose of chattel security and EO property at a public or private sale. However, when this cannot be done, the County Supervisor will take possession of and sell chattel security in accordance with this subpart.

§ 1962.3 Authorities and responsibilities.

(a) *Redelegation of authority.* Authority will be redelegated to the maximum extent possible consistent with program requirements and available resources. The State Director, District Director and County Supervisor are authorized to redelegate, in writing, any authority delegated to them in this subpart to any employee determined by them to be qualified.

(b) *Responsibilities*—(1) *FmHA personnel.* The State Director, District Director and County Supervisor are responsible for carrying out the policies and procedures in this subpart.

(2) *Borrower.* The borrower is responsible for repaying the loans, maintaining, protecting, and accounting to FmHA for all chattel security, and complying with all other requirements specified in promissory notes, security instruments, and related documents.

§ 1962.4 Definitions.

(a) *Abandonment.* Voluntary relinquishment by the borrower of control of security or EO property without providing for its care.

(b) *Acquired chattel property.* Former security or EO property of which FmHA has become the owner (See § 1955.20 of Subpart A of Part 1955 of this chapter).

(c) *Chattel property.* Crops; livestock; fish; farm, business, and recreational equipment; supplies; farm products; other personal property; and fixtures.

(d) *Chattel security.* Chattel property covered by FmHA financing statements and security agreements, chattel mortgages, and other security instruments. As used in this Subpart, the term "security" also means "chattel security" when appropriate.

(e) *Civil action.* Court proceedings to protect FmHA's financial interests such as obtaining possession of property from borrowers or third parties, judgments on indebtedness evidenced by notes or other contracts or judgments for the value of converted property, or judicial foreclosure. Bankruptcy and similar proceedings to impound and distribute the bankrupt's assets to creditors and probate and similar proceedings to settle and distribute estates of incompetents or of decedents under a will, or otherwise, and pay claims of creditors are not included.

(f) *Criminal action.* Prosecution by the United States to exact punishment in the form of fines or imprisonment for alleged violations of criminal statutes. These include but are not limited to violations such as:

(1) Unauthorized sale of security with intent to defraud;

(2) Purchase of security with intent to defraud and without payment of the purchase price to FmHA;

(3) Falsification of assets or liabilities in loan applications;

(4) Application for a loan for an authorized purpose with intent to use and use of loan funds for an unauthorized purpose;

(5) Decision after obtaining a loan to use and using the funds for an unauthorized purpose and then making false statements regarding their use;

(6) By scheme, trick, or other device, covering up or concealing misuse of funds or unauthorized dispositions of security or EO property or other illegal actions; or

(7) Any other false statements or representations relating to FmHA matters. To establish that a criminal act was committed by selling EO property, it is necessary to show that the borrower, at the time the loan agreement, or the check on the supervised bank account was signed, intended to sell the property in violation of the loan agreement. The Federal criminal statute of limitations bars institution of criminal action five years after the date the act was committed. When actions by borrowers represent minor deviations from the policies expressed in FmHA regulations, such actions are not considered criminal violations for the purposes of this Subpart. Examples of such minor deviations are failure of the borrower to account properly for nominal amounts derived from the sale of security or for minor items of security. However repeated, unauthorized disposition of even minor items by the borrower will be considered criminal violations.

(g) *Default.* Failure of the borrower to observe the agreements with FmHA as contained in notes, security instruments, and similar or related instruments. Some examples of default or factors to consider in determining whether a borrower is in default are when a borrower:

(1) Is delinquent, and the borrower's refusal or inability to pay on schedule, or as agreed upon, is due to lack of diligence, lack of sound farming or other operation, or other circumstances within the borrower's control.

(2) Ceases to conduct farming or other operations for which the loan was made or to carry out approved changed operations.

(3) Has disposed of security or EO property without FmHA approval, has not cared properly for such property, has not accounted properly for such property or the proceeds from its sale, or taken some action which resulted in bad faith or other violations in connection with the loan.

(4) Has progressed to the point to be able to obtain credit from other sources, and has agreed in the note or other instrument to do so but refuses to comply with that agreement.

(h) *EO property.* Nonsecurity chattel property purchased, refinanced, or improved with EO loan funds.

(i) *EO property essential for minimum family living needs.* Nonsecurity chattel or real property required to provide food, shelter, or other necessities for the family or to produce income without which the family would not have such necessities. This includes livestock, poultry, or other animals used as food or to produce food for the family or to produce income for minimum essential family living needs; modest amounts of real property needed for family shelter or to produce food or income for minimum essential family living needs, and items such as equipment, tools, and motor vehicles, which are of minimum value and are essential for family living needs or to produce income for that purpose. Any such item of a value in excess of the minimum need may be sold and a portion of the sale proceeds used to purchase a similar item of less value to meet such need. The remainder of the proceeds will be paid on the EO loan.

(j) *FmHA.* The United States of America, acting through the Farmers Home Administration and its predecessor administrative agencies.

(k) *Foreclosure sale.* Act of selling security either under the "Power of Sale" in the security instrument or through court proceedings.

(l) *Liquidation.* The act of selling security or EO property to close the loan when no further assistance will be given; or instituting civil suit against a borrower to recover security or EO property or against third parties to recover security or its value or to recover amounts owed to FmHA; or filing claims in bankruptcy or similar proceedings or in probate or administrative proceedings to close the loan.

(m) *Office of the General counsel (OGC).* The Regional Attorneys, Attorneys-in-Charge, and National Office staff of the Office of the General Counsel of the United States Department of Agriculture.

(n) *Purchase money security interest.* Special type of security interest which, if properly perfected, takes priority over an earlier-perfected security interest. A security interest is a purchase money security interest to the extent that it is taken by the seller of the collateral to secure all or part of its purchase price or by a lender who makes loans or is obligated to make loans or otherwise gives value to enable the debtor to acquire the particular collateral or obtain rights in it. Such value must be given not later than the time the debtor acquires the collateral or obtains rights in it.

(o) *Repossessed property.* Security or EO property in FmHA's custody, but still owned by the borrower.

§ 1962.5 Security instruments.

County Supervisors are responsible for maintaining security instruments that will cover all security, including replacements, increases, and other after-acquired property, and for obtaining additional security as needed. They will execute continuation, extension, or renewal of security instruments as needed to protect FmHA's security interests.

(a) *Financing statement.* An FmHA Financing Statement is effective as notice for 5 years from the date of filing. A new statement needs to be taken and filed only if the debt is to be secured by property not described specifically or by type, or by crops growing or to be grown, or fixtures located or to be located on land not described on the filed statement.

(b) *Continuing the financing statement.* A filed statement must be continued to notify third parties after the original 5-year period. Form FmHA 462-12, "Statements of Continuation, Partial Release, Assignment, Etc." must be filed within 6 months before the end of the original 5-year period. On filing Form FmHA 462-12, the filed Financing Statement is effective for 5 more years after the date to which the original filing was effective. Successive Continuation Statements may be filed to continue the notice to third parties. A lien search is unnecessary provided the Continuation Statement is properly filed. Form FmHA 462-11, "Request for Continuation Statement Filing Fee," may be used to notify the borrowers to continue the Financing Statement and to submit the amount of the filing fee.

(v) *Security agreement.* A new security agreement will be taken when:

(1) Property not covered by specific description or the printed language of the previous security agreement is to serve as security for the debt; or

(2) It is necessary to obtain or maintain a security interest in crops; or

(3) It is necessary to supplement the security agreement to obtain an asset for security. A State supplement will be issued when considered necessary by the State Director and OGC to further explain the situations requiring the taking of an additional security agreement. Such additional security agreement usually will be taken at about the time of the annual inspection of the security required by § 1962.18 of this Subpart; or

(4) An initial Operating (OL) loan or Emergency (EM) loan is made to an applicant, including a paid-in-full OL or EM borrower.

(d) *Chattel mortgage.* In those States which require the use of chattel mortgages, such a mortgage may be extended or renewed by obtaining a new chattel mortgage or by using a form approved for this purpose by OGC. However, it is preferable to renew or extend chattel mortgages by obtaining new ones unless there are intervening liens or other legal reasons. A State supplement will be issued stating the actions to follow to ensure that:

(1) FmHA liens and their priority are maintained by renewing or extending security instruments or by obtaining new instruments.

(2) Lien searches are made as necessary to determine that FmHA will obtain the required priority of liens.

§ 1962.6 Liens and assignments on chattel property.

(a) *Chattel property not covered by FmHA lien.* (1) When additional chattel property not presently covered by an FmHA lien is available and needed to protect FmHA's interest, the County Supervisor will obtain one or more of the following:

(i) A lien on such property.

(ii) An assignment of the proceeds from the sale of agricultural products when such proceeds are not covered by the lien instruments.

(iii) An assignment of other income, including Agricultural Conservation Program payments.

(2) When a current loan is not being made to a borrower, a crop lien will be taken as additional security when the County Supervisor determines in individual cases that it is needed to protect FmHA interests. However, a crop lien will not be taken as additional security for Farm Ownership (FO), Rural Housing (RH), Labor Housing (LH), and Soil and Water (SW) loans. When a new security agreement or chattel mortgage is taken, all existing security items will be described on it.

(b) *Lien search.* When a lien is taken on chattel property not covered by an FmHA lien, a lien search will be made. It will not be needed, however, if crops or other chattel property are covered by a filed FmHA Financing Statement but not by on FmHA security agreement or assignment of income. The search will be made at a time which will assure that FmHA obtains the desired lien on chattel property as set forth by a State supplement.

(c) *Assignment of wheat certificates payments and feed grain payments.* Borrowers may assign Agricultural Stabilization and Conservation Service (ASCS) price support and certificate payments under ASCS wheat and feed grain programs.

(1) *Obtaining assignments.* Assignments will be obtained as follows:

(i) In selected cases in counties agreed to by FmHA State Directors and ASCS State Committees,

(ii) Only when it appears necessary to collect the FmHA operating-type loans,

(iii) Only for the crop year for which FmHA operating-type loans are made, and

(iv) For the full amount of the wheat certificate payment and an advance and/or final feed grain payment.

(2) *Selecting counties.* State Directors will inform ASCS State Committees of the counties in which FmHA desires to obtain assignments from borrowers. When counties have been agreed to by FmHA State Directors and ASCS State Committees, the State Directors will notify the appropriate County Supervisors about obtaining the assignments. The County Supervisors then will:

(i) Determine, at the time of loan processing for indebted borrowers and new applicants, who must give assignments and obtain them not later than loan closing. Special efforts will be made to obtain the bulk of assignments before the sign-up period for enrolling in the annual Feed Grain and Wheat set aside programs.

(ii) Obtain assignments from selected borrowers on Form FmHA 462-8,

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"Wheat and Feed Grain Programs—Assignments."

(3) *Determining payments.* Under the Agricultural Act of 1970, the per bushel rates of payments to participating producers are determined in part by the average market prices for corn, grain sorghums, barley, and wheat during the first 5 months of the respective marketing years. Preliminary payments, at specified rates for corn, grain sorghums, and barley and at 75 percent of the estimated final rate for wheat, will be made promptly after July 1. Final payments, if any, will be made after determining the rates of payment.

(4) *Releasing assignments and handling checks.* (i) The County Supervisor will inform the ASCS County Office that it is releasing its assignment whenever a borrower pays FmHA the amount due for the year on the operating-type loan debt or pays the debt in full.

(ii) Checks obtained as a result of an assignment will be made jointly to the producer and FmHA. Such checks may be endorsed by both parties and scheduled as a payment or payments to FmHA, or endorsed and released, including partial release, to the borrower if the borrower has paid FmHA the amount due for the year on the operating-type loan or has paid the debt in full.

§ 1962.7 Securing unpaid balances on unsecured loans.

The County Supervisor will take a lien on a borrower's chattel property in accordance with § 1962.6 of this Subpart if it is necessary to rely on such property for the collection of the borrower's unsecured indebtedness, or if it will assist in accomplishing loan objectives.

§ 1962.8 Liens on real estate for additional security.

The County Supervisor may take the best lien obtainable on any real estate owned by the borrower, including any real estate which already services as security for another loan. Such liens will be taken only when the existing security is not adequate to protect FmHA interests, and the borrower has substantial equity in the real estate to be mortgaged, and taking such mortgage will not prevent making an FmHA real estate loan, if needed, later.

(a) *Documentation.* Before taking real estate as additional security for an FmHA loan, the following information will be put in the running record:

(1) Facts justifying the real estate lien;

(2) An estimate of the present market value of the real estate to be mortgaged (no appraisal of the property to be mortgaged is needed);

(3) A brief description of any existing liens on the property and the unpaid balance on the debts secured by such existing liens; and

(4) Name of the titleholder and how title of the property is held. (Title evidence is not required.)

(b) *Forms.* Form FmHA 427-1 (State), "Real Estate Mortgage for ———" will be used for each real estate lien taken as additional security unless a State Supplement requires a form of mortgage comparable to that which secures the existing loans. The notes evidencing the FmHA loans for which the additional security will be taken will be described in the same mortgage.

§ 1962.9 Lien on chattel property as security for a real estate loan.

Form FmHA 440-15, "Security Agreement (Insured Loans to Individuals)," and Form FmHA 440A25, "Financing Statement (carbon-interleaved)," or Form FmHA 440-25, "Financing Statement," as appropriate, will be used in Uniform Commercial Code (UCC) States. State supplements may provide for using other forms in Louisiana, Puerto Rico, Guam, American Samoa and the Northern Mariana Islands.

§§ 1962.10–1962.11 [Reserved]

§ 1962.12 Marking ASCS peanut and tobacco marketing cards.

The County Supervisor will mark ASCS marketing cards for all borrowers who have peanut or tobacco crops under lien to FmHA.

(a) *Marking cards.* Just before ASCS prepares the cards, the FmHA County Office will give the appropriate ASCS County Office lists of the names and addresses of FmHA borrowers whose cards are to be marked and inform the office that FmHA will mark the cards of each borrower whose name is on the list before delivery. After FmHA determines that the cards are ready for delivery, the County Supervisor or someone designated by the County Supervisor will go to the ASCS County Office and:

(1) Stamp or insert "FmHA lien" in script in indelible ink on the cards for peanuts and tobacco, except flue-cured and burley tobacco, wherever decided by the FmHA County Supervisor and the ASCS County Office Manager.

(2) Stamp or insert "FmHA lien" in script in indelible ink on borrower's Form MQ 76, "Tobacco Marketing Card," for flue-cured and burley tobacco. The stamp will be placed on the left at the bottom of the signature strip under "Tobacco Marketing Card."

(3) If the borrower satisfies the lien or repays the amount due the current year, stamp "canceled" across "FmHA lien" followed on the same line by the name of the official making the cancellation and the date.

(b) *Notice to borrowers.* The County Supervisor will inform borrowers of marking arrangements, including the requirements for canceling the lien notice on the card.

(c) *Notice to buyers.* Whenever possible, the County Supervisor will explain these arrangements personally to buyers (warehousemen and dealers in the case of tobacco) in the area. The County Supervisor will also explain that the lien notice on the cards is not in place of the notice given by filed or recorded lien instruments but is a courtesy and is to provide them with readily available current information. However, this information may not always be accurate and commodities covered by a card not stamped "FmHA lien" may still be subject to an FmHA lien. If too many buyers are in the area to enable the County Supervisor to make such a personal explanation, the County Supervisor may write them a letter explaining the arrangements.

§ 1962.13 Lists of borrowers given to business firms.

List of borrowers whose chattels or crops are subject to an FmHA lien may be made available to business firms in a trade area, such as salesbarns and warehouses, that buy chattels or crops or sell them for a commission. The County Supervisor will give these lists to any such firm on its request. These lists will exclude those borrowers whose only crops for sale require ASCS marketing cards.

(a) The list will contain the statement: "The crop and chattel liens or financing statements of the Farmers Home Administration are recorded or filed as required by law. This list of borrowers is furnished only as a convenience. It may be incomplete or inaccurate as of any particular date. The fact that a name is not on this list does not necessarily mean that the Farmers Home Administration does not have security interest in or lien on the crops, livestock, and other chattels."

(b) Lists will be sent by Form FmHA 462-3, "List of Farmers Home Administration Borrowers," or the County Supervisor may consider it advisable to personally deliver and explain the form and list to the buyers. The County Supervisor will update all lists that have been distributed by notifying buyers in writing, on Form FmHA 462-14, "Change in List of Farmers Home Administration Borrowers," at least every 3 months, of the names of borrowers to add and to delete.

§ 1962.14 Account and security information in UCC cases.

Within 2 weeks after receipt of a written request from the borrower, FmHA must inform the borrower of the security and the total unpaid balance of the FmHA indebtedness covered by the Financing Statement.

(a) If FmHA fails to provide the information, it may be liable for any loss caused the borrower and, in some States, other parties, and also may lose some of its security rights. The UCC provides that the borrower is entitled to such information once every 6 months without charge, and that FmHA may charge up to $10 for each additional statement. However, FmHA provides them without charge. The requested information goes on Form FmHA 462-10, "Farmers Home Administration's Answer to Request for Information."

(b) Although the UCC only requires FmHA to give information pursuant to the borrower's written request, FmHA will also answer oral requests. Furthermore, the UCC does not prohibit giving this information to others who have a proper need for it, such as a bank or another creditor contemplating advancing additional credit to the borrower.

§§ 1962.15–1962.16 [Reserved]

§ 1962.17 Releasing chattel security.

Chattel security may be released only when release will not be to the financial detriment of FmHA. Borrowers will be strictly accountable to FmHA for the proper use of proceeds from the sale of security. Insurance proceeds derived from the loss of security will be treated the same as sale proceeds. The authority to release security for FmHA loans is different for basic security than for normal income security.

(a) *Basic security.* Basic security is all equipment (including fixtures in UCC States) and foundation herds and flocks securing FmHA loans which serve as a basis for the farming or other operation outlined in Form FmHA 431-2, "Farm and Home Plan," Form FmHA 431-3, "Family Budget," or Form FmHA 431-4, "Business Analysis Nonagricultural Enterprise," and replacement of such property. It also includes animals sold as a result of the normal culling process, unless the borrower has replacements that will keep numbers and production up to planned levels and animals or birds sold when a borrower plans to significantly reduce the basic livestock herd or flocks. County Supervisors may release basic security when the property has been sold or exchanged for its present market value, and the proceeds are used for one or more of the following purposes:

(1) To apply to the debts owed to FmHA which are secured by liens on the property sold.

(2) To purchase from the proceeds of the sale, or to acquire through exchange, property more suitable to the borrower's needs. The new property, together with any proceeds applied to the indebtness, will have security value to FmHA at least equal to that of the lien formerly held by FmHA on the old property and subject to the following:

(i) UCC cases. Under the after-acquired property provisions of the security agreement, the new propety, except fixtures, will be subject to the security interest of FmHA provided the financing statement on file and the security agreement cover the class of property. Therefore, new security instruments will not be needed.

(A) However, if either the financing statement or security agreement does not cover such property, a new instrument will be taken.

(B) Since the after-acquired property clause in the security agreement does not cover fixtures, a new security agreement would have to be taken for them. A new financing statement also will have to be taken and filed unless the existing filed financing statement covers fixtures by class and describes the land on which the new fixtures are or are not to be located.

(ii) Chattel mortgage cases. The new property is made subject to a lien in favor of FmHA by the execution of a new security instrument (or by operation of the "replacement" or "after-acquired property" clauses in lien instruments in accordance with State supplements).

(iii) Time of taking new security instruments. New security instruments are taken at the time of the acquisition of the new property referred to in paragraphs (a) (2) (i) and (ii) of this section. In individual cases, however, County Supervisors may delay as long as 1 year or until new instruments are necessary for other reasons, whichever is earlier, when adequate security will continue to exist. Security is considered adequate it its value, as determined by a chattel appraisal of the borrower's chattel property remaining under lien to FmHA, is substantially greater than the amount of the debt.

(3) To make payments to other creditors having liens on the property sold which are superior to the liens of FmHA. However, any amount remaining after payments to the other creditors will be used in accordance with subparagraphs (a) (1) and (2) of this section.

(4) To pay costs to preserve the security because of an emergency or catastrophe, when the need for funds cannot be met through an FmHA loan, or an FmHA loan cannot be made in time to prevent the borrower or FmHA from suffering a substantial loss.

(b) *Normal income security.* This is all security not considered basic security including crops, livestock, poultry, products, and other property covered by FmHA liens which are sold in operating the farm or other business. County Supervisors may release normal income security when the property has been sold or exchanged for its present market value and the proceeds are used for one or more of the following purposes:

(1) To pay debts owed to FmHA.

(2) To pay farm and home or other operating expenses provided for in tables of Form FmHA 431-2, Form FmHA 431-3, or Form FmHA 431-4.

(3) To pay necessary farm and home or other operating expenses shown as debts in the financial statement on Form FmHA 431-2 or Form FmHA 431-3 and to be paid during the year as shown by the debt payment table, provided these debts were incurred in the production, harvesting, or marketing of crops, livestock, poultry or products sold during the year or were for family subsistence for that year.

(4) To pay an amount not more than the equivalent of 1 year's income taxes and social security taxes.

(5) To make payments to other creditors having liens on the property sold which are superior to FmHA liens.

(6) To pay annual installments on debts owed on essential real estate to creditors other than FmHA. These amounts must be reasonable when related to the normal rental charge for similar real estate in the area, and there should be assurance that the borrower will keep the real estate at least for the next year.

(7) To make reasonable payments on debts owed to other creditors for essential home equipment and passenger automobiles provided for in the debt payment tables of Form FmHA 431-2 or Form FmHA 341-3 or approved revisions. Such debts ordinarily will be considered for payment only after the full amount agreed on for the year has been paid to FmHA. However, reasonable amounts may be paid to other creditors first if failure to make payments to other creditors when due would result in the borrower's losing possession of essential home equipment or passenger automobile, and the loss would require the borrower to replace the property or to go to substantial additional expense to continue the operation.

(8) To make payments on debts on harvesting equipment such as cotton pickers, corn pickers, combines, forage harvesters, and so forth in addition to paying essential harvesting expenses provided an OL or EM loan for the

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crop year did not include funds for the payment of depreciation on such equipment, and the total amount released for such payments and harvesting costs, plus any loan funds advanced for harvesting costs, is not more that the amount that would be required during the crop year on a custom basis to harvest the crops using the harvesting equipment.

(9) To make payments on debts owed to other creditors and to make purchases or to meet expenses not otherwise covered in this section provided:

(i) Debt payments, purchases, or expenses are included in Form FmHA 431-2, Form FmHA 431-3, or Form FmHA 431-4;

(ii) Sufficient income will be available to pay an amount equivalent to that scheduled on the notes to fall due during the year, plus the amount agreed on for any delinquencies, on FmHA debts secured by liens on chattel property; and

(iii) Debt payments, purchases, or expenses are essential for the borrower to obtain or keep necessary equipment or to continue a sound operation.

(10) To pay costs required to preserve the security because of an emergency or catastrophe, when the need for funds cannot be met through an FmHA loan or an FmHA loan cannot be made in time to prevent the borrower or FmHA from suffering a substantial loss.

(11) To permit crops serving as security for FmHA loans to be fed to livestock when the County Supervisor determines that this disposal is preferable to direct marketing of the crops, provided a lien or assignment is obtained on the livestock or livestock products.

(12) When livestock is consumed by the borrower's family for subsistance.

(c) *Distribution of income from normal income security.* On finding that the amount of income originally planned for the year will not be received, the County Supervisor will determine, in consultation with the borrower, how to use income that is available or will become available during the remainder of the planned year as shown on Forms FmHA 431-2 or FmHA 431-4. If other creditors have liens on the property from which the normal income is received, they also must be consulted. Priorities in distributing the income that will be available are as follows:

(1) Pay necessary farm, home, and other expenses planned for payment by cash as incurred.

(2) Prorate repayments on credit advanced for necessary farm, home, and other operating expenses to FmHA and other creditors.

(3) Make planned payments on other debts as shown in Table K of Form FmHA 431-2 or Table H of Form FmHA 431-3. However, minimum payments may be made on such debts along with the payment of cash farm, home, and other operating expenses on credit advanced for such purposes when necessary to enable the borrower to keep essential property.

(d) *Plans as basis for releasing chattel security.* Release of both basic and normal income security will be based on information about the borrower's operations as shown on Form FmHA 431-2, Form FmHA 431-3, or Form FmHA 431-4, as appropriate.

(1) If plans have been developed for the borrower's current crop or business year, the release will be based on them.

(2) If no recent plans have been made with the borrower, the release will be based on the County Supervisor's knowledge of the borrower's current operations, plus inquiry and documentation of the facts about the borrower's present operation in the running case record.

(e) *Release of valueless junior lien.* State Directors may release junior FmHA liens on chattels and crops serving as security for FmHA loans when such property has no present or prospective security value or enforcement of the FmHA lien would be ineffectual or uneconomical. The following information will be documented in the running case record:

(1) The present market value of the chattels or crops, as determined by the County Supervisior, on which FmHA has a valueless junior lien.

(2) The names of the prior lienholders, amount secured by each prior lien, and the present market value of any property which serves as security for the amount. The value of all property serving as security for amounts owed to prior lienholders must be considered to determine whether the junior FmHA lien has any present or prospective value.

(f) *Release of lien because of mutual mistake.* Chattel property serving as security for FmHA loans may be released by the State Director when the lien on such property was obtained through a mutual mistake.

(g) *Release of lien because of no evidence of indebtedness.* The County Supervisor may release the lien on chattel property when there is no evidence of an existing indebtedness secured by the lien in the records of the FmHA County, State, or Finance Office.

(h) *Release of lien on chattel property held as security for a real estate loan.* The State Director may release an interest in chattels acquired in accordance with § 1962.9.

(i) *Release forms.* The County Supervisor may execute releases covering specific items of property. If a security interest under the UCC is involved, Form FmHA 462-12, will be used in accordance with the Forms Manual Insert (FMI) to release such property from that interest. If chattel mortgages are involved, Form FmHA 460-1, "Partial Release," or other approved form will be used. If Forms FmHA 462-12 or FmHA 460-1 are not legally sufficient, other forms approved by OGC will be used. Releases need not be executed unless requested by a borrower or by an interested third party.

§ 1962.18 Accounting for security.

(a) *Accounting by County Supervisor.* The County Supervisor is responsible for maintaining a current record of each borrower's security. When the borrower acquires additional items of chattel property which will be described on subsequent security instruments, descriptions of these items will be recorded on the work copy of the security agreement or the file copy of the chattel mortgage, as appropriate. The original of the security agreement should *not* be altered. Chattel security should be inspected annually for borrowers who are delinquent or who have been indebted for less than 1 full crop year. The County Supervisior will make other inspections as needed to:

(1) Verify the borrower possesses all the security,

(2) Determine security is properly maintained, and

(3) Supplement security instruments.

(b) *Accounting by borrower.* The borrower must account for all security and will be instructed regarding its care, maintenance, and disposition when a loan is made and as often afterward as necessary. When borrowers sell security, the sale will be made subject to the FmHA lien. The property and proceeds will remain subject to the lien until the lien is released or the sale is approved by the County Supervisor and the proceeds are used for one or more of the purposes stated in § 1962.17. Purchasers of security who inquire should be informed that the property is subject to FmHA's lien and will remain subject to it until they deliver any proceeds in cash to the County Supervisor or make checks payable jointly to the borrower and FmHA and the check has cleared. Form FmHA 462-2, "Written Consent to Sell and Statement of Conditions on Which Lien Will be Released," will be used by the County Supervisor to give written consent to sell when borrowers or purchasers request such a statement before the date of sale.

(c) *Recording disposition of security.* Dispositions of basic and normal income security will be recorded on Form FmHA 462-1, "Record of the Disposition of Security Property," as soon as information is available. Security which is disposed of will include items sold, exchanged, or lost through death, theft, destruction, or deterioration and livestock consumed by the family.

(1) For normal income security, the uses made of the sale proceeds will be recorded in sufficient detail to relate them readily to the appropriate tables in Form FmHA 431-2, Form FmHA 431-3, or Form FmHA 431-4. However, these entries are not required on Form FmHA 462-1 when:

(i) The borrower is not delinquent on any FmHA debts and has paid the amount agreed on for the year; or

(ii) Farm products such as milk, eggs, or wool are sold and are accounted for on Form FmHA 441-18, "Consent to Payment of Proceeds from Sale of Farm Products," Form FmHA 441-25, "Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest," Form FmHA 441-8, "Assignment of Proceeds from the Sale of Products," or the farm and home plan shows that no payments are to be made on FmHA debts from the farm product(s) listed on the named forms.

(2) Employees having release authority will approve or disapprove the release on Form FmHA 462-1.

(3) Recording or not recording disposition of security does not release the FmHA lien on the security.

(d) *Reporting improper disposition of security.* When the borrower fails to account properly for security, the County Supervisor will report the facts in writing promptly to the State Office.

§ 1962.19 Claims against Commodity Credit Corporation (CCC).

This section is based on a Memorandum of Understanding between CCC and FmHA (see Exhibit A of this Subpart). The memorandum sets forth the procedure to follow when producers sell or pledge to CCC as loan collateral under the Price Support Program, commodities on which FmHA holds a prior lien, and when the proceeds, or an agreed amount from them, are not remitted to FmHA to apply against the producer's indebtedness to FmHA. In addition to the procedures outlined in Exhibit A, the following apply:

(a) *County Office action.* (1) Claims will not be filed with CCC until it is determined that the amount involved cannot be collected from the borrower. Therefore, after preliminary notice is given of this fact to CCC by the State Director the County Supervisor will make immediate demand on the borrower for the amount of the CCC loan or the portion of it which should have been applied to the borrower's account. If payment is made, the State Director will be notified.

(i) If payment is not made, the County Supervisor will determine whether or not the case should be liquidated in accordance with § 1962.40. Any liquidation action will be taken immediately. If the borrower has no property from which recovery can be made through liquidation or, if after liquidation, an unpaid balance remains on the indebtedness secured by the commodity pledged or sold to CCC, the County Supervisor will make a full report to the State Director on Form FmHA 455-1, "Request for Legal Action," with a recommendation that a claim be filed against CCC. However, if the indebtedness is paid through liquidation action, the State Director will be notified by memorandum.

(ii) If the facts do not warrant liquidation action, the State Director will be notified, and a recommendation will be made that no claim be filed against CCC.

(2) On receiving information from the State Director that CCC has called the borrower's loan, the County Supervisor will act to protect FmHA's interest with respect to the commodity if CCC is repaid.

(b) *State Office action.* (1) The State Director, on receipt of reports and recommendations from the County Supervisor, will:

(i) If in agreement with the County Supervisor's recommendation not to file a claim against CCC or if notice is received that the indebtedness has been paid, forward notice to CCC.

(ii) If in agreement with the County Supervisor's recommendation to file a claim against CCC, refer the case to OGC with a statement of facts.

(iii) If OGC determines that FmHA holds a prior lien on the commodity and the amount due on its loan is not collectible from the borrower, send CCC a copy of the OGC memorandum with a complete statement of facts supporting the claim through the applicable ASCS office or notify CCC if the OGC memorandum does not support FmHA's claim.

(2) The State Director will notify the County Supervisor promptly on receiving information from CCC that the borrower's loan is being called.

(3) If collection cannot be made from the borrower or other party (see paragraph 5 of Exhibit A of this subpart), the State Director will give CCC the reasons. FmHA will then be paid by CCC through the applicable ASCS office.

§§ 1962.20–1962.21 [Reserved]

§ 1962.22 Amendments of consents and releases or suspensions of assignments.

(a) *Amendment of Form FmHA 441-18, "Consent to Payment of Proceeds from Sale of Farm Products."* The County Supervisor may temporarily amend this form to permit borrowers to use all or a part of proceeds from the sale of products in emergencies and in other justifiable circumstances. Such action, however, must not be to the financial detriment of FmHA and the funds must be used for the purposes stated in § 1962.17 (a) and (b). Form FmHA 462-9, "Temporary Amendment of Consent to Payment of Proceeds From Sale of Farm Products," will be used for this purpose. The borrower's file will show the purpose of and justification for the amendment. The County Supervisor will see that payments are made in accordance with the orignial consent when the temporary amendment period expires.

(1) When a Form FmHA 441-18 has been executed and the amount of the payment to FmHA needs to be decreased for other than a temporary period, or increased for any period, a new Form FmHA 441-18 will be executed.

(2) If Form FmHA 441-18 has been executed for a particular product and FmHA is no longer looking to the proceeds from that product for payment on the FmHA indebtedness, the purchaser should be advised by letter as follows: "The Farmers Home Administration (FmHA) is not presently looking to the proceeds from the sale of (name of product) covered by the 'Consent to Payment of Proceeds from the Sale of Farm Products' executed by (name and address of borrower) and accepted by you on (date). Therefore, until further notice, you may discontinue making payments to FmHA for such product."

(3) If Form FmHA 441-18 has not been executed for a particular product becasue FmHA is not expecting payment from the proceeds of such product, but the purchaser of the product inquires about payment, a letter should be written to the purchaser as follows: "The Farmers Home Administration (FmHA) has a security interest in the (name of product) being sold to you by (name and address of borrower), but at the present time is not looking to the proceeds from the sale of that product for payment on the debt owed to this agency. Therefore, until further notice, it will not be necessary for you to make payment to FmHA for such product."

(b) *Assignments.* (1) The County Supervisor may release, reduce, or temporarily suspend assignments including crop insurance assignments and permit borrowers to use such proceeds including those received as checks made payable jointly to the borrower and FmHA. This authority is the same as that provided in paragraph (a) of this section. The County Supervisor will see that suspended, reduced, or released assignments are reinstated, or new assignments are obtained when needed.

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(2) All suspensions, reductions, or releases of assignments will be made on forms approved by OGC. The original will be forwarded directly to the person or firm making the payment against which the assignment is effective, and a copy will be kept in the borrower's case file. In each case, the borrower's file will show the purposes of and justification for the suspension, reduction, or release.

(3) The State Director may in justifiable cases approve requests for suspension, release, or reduction of assignments other than those specified in paragraph (b) (1) of this section, provided such action will not be dertimental to FmHA's interest.

§ 1962.23 Releases of liens on wool and mohair marketed by consignment.

(a) *Conditions.* Liens on wool and mohair may be released when the security is marketed by consignment, provided all the following conditions are met:

(1) The producer assigns to FmHA the proceeds of any advances made, or to be made, on the wool or mohair by the broker, less shipping, handling, processing, and marketing costs.

(2) The producer assigns to FmHA the proceeds of the sale of the wool or mohair, less any remaining costs in shipping, handling, processing, and marketing, and less the amount of any advance (including any interest which may have accrued on the advance) made by the broker against the wool or mohair.

(3) The producer and broker agree that the net proceeds of any advances on, or sale of, the wool or mohair will be paid by checks made payable jointly to the producer and FmHA.

(b) *Authority.* The County Supervisor may execute releases of the Government's lien on wool and mohair on Form FmHA 462-4, "Assignment, Acceptance, and Release." Since Form FmHA 462-4 is not a binding agreement until executed by all parties in interest, including the producer, the broker and the Government, the County Supervisor may execute it before other parties sign it.

§ 1962.24 Notice of termination of security interest to purchasers of farm products under consents or assignments upon payment in full.

County Supervisors will notify purchasers of farm products as soon as the FmHA has received payment in full of indebtedness for collection of which it has accepted assignments or consents to payment of proceeds from the sale of the farm products. When Form FmHA 441-18 is in effect under the UCC, the notice to the purchaser will be made on Form FmHA 460-8, "Notice of Termination of Security Interest in Farm Products." When assignments have been used, the notice to the purchaser will be by letter or by forms prescribed by State supplements.

§ 1962.25 Release of FmHA's interest in insurance policies.

When an FmHA lien on property covered by insurance has been released, the County Supervisor is authorized to notify the insurance company of the release.

§ 1962.26 Correcting errors in security instruments.

The County Supervisor may use Part 7 of Form FmHA 462-12, to correct minor errors in a financing statement when the errors are not serious (i.e., a slightly misspelled name). OGC will be asked to determine whether or not such errors are in fact minor. The County Supervisor may also use Part 7 of Form FmHA 462-12 to add chattel property to the financing statement (i.e., a new type or item of chattel or crops on land not previously described).

§ 1962.27 Termination or satisfaction of chattel security instruments.

(a) *Conditions.* The County Supervisor may terminate financing statements and satisfy chattel mortgages, chattel deeds of trust, assignments, severence agreements, and other security instruments when:

(1) Payment in full of all debts secured by collateral covered by the security instruments has been received; or

(2) All security has been liquidated or released and the proceeds properly accounted for, including collection or settlement of all claims against third party converters of security, even though the secured debts are not paid in full. This includes collection-only and debt settlement cases; or

(3) The U.S. Attorney has accepted a compromise offer in full settlement of the indebtedness and has asked that action be taken to satisfy or terminate such instruments, or

(4) FmHA has a financing statement or other lien instrument which describes the real estate upon which crops are located but neither the borrower nor FmHA has an interest in the crops because the borrower no longer occupies or farms the premises described in the lien instrument. Such action will only relate to the crops.

(b) *Form of payment.* (1) Security instruments may be satisfied or the financing statements may be terminated on receipt of final payment in currency, coin, U.S. Treasury check, cashier's or certified check, bank draft, postal or bank money order, or a check issued by a party known to be financially responsible.

(2) When the final payment is tendered in a form other than those mentioned above, the security instruments will not be satisfied until 15 days after the date of the final payment. However, in UCC States the termination statement will be signed and sent to the borrower within 10 days after receipt of the borrower's written request but not until the 10th day unless it previously has been ascertained that the payment check or other instrument has been paid by the bank on which it was drawn. (See paragraph (c) of this section for the reason for the 10-day requirement.)

(c) *Filing or recording termination statements.* Financing statements will be terminated by use of Form FmHA 462-12 if provided by a State Supplement.

(1) Under UCC provisions if FmHA fails to give a termination statement to the borrower within 10 days after written demand, it will be liable to the borrower for $100 and, in addition, for any loss caused to the borrower by such failure unless otherwise provided by a State supplement. In the absence of demand for a termination statement by the borrower, a termination statement will be delivered to the borrower when the notes have been paid in full.

(2) However, if FmHA has been meeting the borrower's annual operating credit needs in the past and expects to do so the next year, the financing statements need not be terminated in the absence of such demand unless a loan for the succeeding year will not be made or earlier termination is required by a State supplement.

(d) *Filing or recording satisfactions.* Satisfactions of chattel mortgages and similar instruments will be made on Form FmHA 460-4, "Satisfaction," or other form approved by the State Director. The original of the satisfaction form will be delivered to the borrower for recording or filing and the copy will be retained in the borrower's case file. However, if the State supplement based on State law requires recording or filing by the mortgagee, a second copy will be prepared for the borrower and the original will be recorded or filed by the County Supervisor. When State statutes provide that satisfactions may be accomplished by marginal entry on the records of the recording office, or when Form FmHA 460-4 is not legally sufficient because special circumstances require some other form of satisfaction, County Supervisors are authorized to make such satisfactions according to State supplements. In such cases, Form FmHA 460-4 will not be prepared but a notation of the satisfaction will be made on the copy of Form FmHA 451-1, "Acknowledgment of Cash Payment," or Form FmHA 456-3, "Journal Voucher

for Write-Off or Judgment," which will be retained in the borrower's case folder.

(e) *Satisfaction or termination of lien when old loans cannot be identified.* When a request is received for the satisfaction of a crop or chattel lien or for the termination of a financing statement and the status of the account secured by the lien cannot be ascertained from County Office records, the County Supervisor will prepare a letter to the Finance Office reflecting all the pertinent information available in the County Office regarding the account. The letter will request the Finance Office to tell the County Supervisor whether the borrower is still indebted to FmHA and, if so, the status of the account. If the Finance Office reports to the County Supervisor that the account has been paid in full or otherwise satisfied or that there is no record of an indebtedness in the name of the borrower, the County Supervisor is authorized to issue a satisfaction of the security instruments on Form FmHA 460-4 or other approved form or to effect the satisfaction by marginal release, or a termination on Form FmHA 462-12 as appropriate.

§ 1962.28 Assignment of notes and security instruments.

(a) The State Director may accept from third parties payment in full of a borrower's notes held by FmHA and assign the notes to third parties without recourse against FmHA and assign related security instruments including financing statements without warranty by FmHA in the following situations:

(1) The borrower requests or gives written consent to such an assignment.

(2) The borrower has not requested or given written consent to such an assignment but has demonstrated an unwillingness to cooperate voluntarily with FmHA in the servicing and orderly retirement of his/her accounts which otherwise would be liquidated.

(3) An insurer has made full payment of the borrower's indebtedness as stated in Form FmHA 426-2, "Property Insurance Mortgage Clause (Without Contribution)," or other such clause outlined in § 1806.2(g) of Subpart A of Part 1806 of this chapter (FmHA Instruction 426.1, paragraph II G).

(b) The State Director will request OGC's review of the legal matters in each proposed assignment and will request approval of the form of assignment. (See § 1872.22 of Subpart A of Part 1972 of this chapter, FmHA Instruction 465.1, paragraph XXII, for additional provisions of assigning real estate security instruments.) If the insured note is not held in the appropriate insurance fund or county office, the State Director will request the Director, Finance Office, to have the note assigned to the insurance fund and then forwarded to the State Director. Financing statements may be assigned to third parties on Form FmHA 462-12 if authorized by a State supplement.

§ 1962.29 Payment of fees and insurance premiums.

(a) *Fees*—(1) *Security instruments.* Borrowers must pay statutory fees for filing or recording financing statements or other security instruments (including Form FmHA 462-12, or other renewal statements) and any notary fees for executing these instruments. They also must pay costs of obtaining lien search reports needed in properly servicing security as outlined in this subpart. Whenever possible, borrowers should pay these fees directly to the officials giving the service. When cash is accepted by FmHA employees to pay these fees, Form FmHA 440-12, "Acknowledgment of Payment for Recording, Lien Search and Releasing Fees," will be executed. If the borrower cannot pay the fees, or if there are fees referred to in paragraphs (a) (2) and (3) of this section that must be paid by FmHA, the County Supervisor may pay them as a petty purchase or as the bill of a creditor of FmHA in accordance with FmHA Instructions 2024-E and 2075-A, copies of which are available in any FmHA office.

(2) *Satisfactions.* The borrower must pay fees for filing or recording satisfactions or termination statements unless a State supplement based on State law requires FmHA to pay them.

(3) *Notary fees.* FmHA will pay fees for notary service for executing releases, subordinations, and related documents for and on behalf of FmHA if the service cannot be obtained without cost.

(b) *Insurance premiums.* County Supervisors are authorized to approve bills or invoices for payment of insurance premiums on chattel security for FmHA loans when:

(1) A borrower cannot pay the premiums from the borrower's own resources at the time due;

(2) It is not practical to process a loan for that purpose;

(3) It is necessary to protect FmHA's interests; and

(4) The amount advanced can be charged to the borrower under the provisions of the security instrument.

§ 1962.30 Subordination and waiver of FmHA liens on chattel security.

(a) *Purposes.* FmHA chattel liens securing OL, economic emergency (EE) and emergency (EM) loans may be subordinated to a lien of another creditor to permit that creditor to lend for any authorized OL, EE, or EM loan (Subtitle B) purpose, including capital purchases, provided:

(1) The borrower needs the loan to continue farming operations; and

(2) The loan will help the borrower to accomplish the objectives of the FmHA loans; and

(3) FmHA's financial interest will not be adversely affected.

(b) *Limitations.* (1) When a non-FmHA loans is made to pay expenses directly related to particular crops or livestock enterprises, FmHA lien priority should be subordinated to the non-FmHA creditor's lien only so far as crops, livestock increases, feeder livestock or other normal farm income security is concerned. If the non-FmHA lender will not make a loan unless FmHA agrees to subordinate more of its priority, FmHA may subordinate any lien it holds on basic chattel security. FmHA should not give up any more of its priority to basic chattel security than is absolutely necessary to provide the non-FmHA lender with the security it requires.

(2) When an obligation secured by a lien prior to that of FmHA is about to mature or has matured and the prior lienholder desires to extend or renew the obligation, or the obligation can be refinanced, the FmHA lien may be subordinated. However, the relative lien position of FmHA must be maintained.

(3) The subordination will be limited to a specific amount.

(4) A subordination in favor of only one creditor will be outstanding at any one time in connection with the same security. A subordination also may be executed to enable a borrower to obtain necessary crop insurance if the creditor to whom a subordination has been given on that crop consents in writing to payment of the insurance premiums from the crop or insurance proceeds.

(5) When a subordination is executed to enable the borrower to obtain insurance on crops under lien to FmHA, the borrower will assign the insurance proceeds to FmHA or name FmHA in the loss-payable clause of the policy.

(6) Waivers of FmHA lien priority, instead of subordinations, may be executed in favor of a creditor who has made or will make advances to produce, harvest, process, or market crops under written contract to that creditor. Such waivers are limited to the purposes for which a subordination may be made under this Subpart.

(c) *Approval.* Loan approval officials may approve subordinations and waivers of FmHA OL lien priority if the amount of the proposed subordination or waiver, plus the principal balance of existing subordinations or waivers, is not more than their OL approval authority stated in tables which are available from any FmHA office. Loan

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approval officials may approve subordinations and waivers of FmHA EM and EE loans lien priority if the amount of the subordination or waiver plus the unpaid principal balance of existing EM and EE loans and subordinations does not exceed their EM or EE loan approval authority stated in tables which are available from any FmHA Office. When the lien priority for more than one type of loan is subordinated or waived, the total amount of the approval official's authority will be limited to the loan with the lowest approval authority for that official. However, the State Director may approve subordinations or waivers regardless of the amount. State Directors may redelegate their authority for approving subordinations to qualified State Office employees.

(d) *Forms.* (1) Subordinations or lien waivers authorized in this Subpart will be made on Form FmHA 460-2, "Subordination by the Government," or on other forms approved by the State Director with OGC's advice. If Form FmHA 460-2 does not conform to a State's recording requirements, a State supplement may be used, if approved by OGC, to modify the form.

(2) Form FmHA 431-2 will show the subordination or lien waiver and repayment.

(e) *Loans under CCC program.* See Exhibit B of this subpart.

(1) When the ASCS County Office makes CCC loans to the borrower, FmHA will not execute a form of subordination or lien waiver.

(2) When the full value of a CCC loan on cotton is to be advanced to the borrower by a bank, ginner, or warehouseman whom the County Supervisor considers financially responsible, and when a check or draft issued by the bank, ginner, or warehouseman is made payable to FmHA, or jointly to FmHA and the borrower, and is delivered to the County Supervisor, the County Supervisor may then execute the lienholder's waiver on Form CCC Cotton A even though item 2 of that form shows that the CCC loan will be distributed to such a bank, ginner, or warehouseman. Loan approval officials may approve waivers of crop liens in accordance with paragraph (c) of this section.

(3) If the commodity covered by the CCC loan is released by CCC or redeemed by the borrower, the FmHA lien will be restored to the priority it held before the CCC loan was made.

§§ 1962.31-1962.33 [Reserved]

§ 1962.34 Transfer of chattel security and EO property and assumption of debts.

Chattel and EO property may be transferred to eligible or ineligible transferees who agree to assume the outstanding loan, subject to the provisions set out in this Section. A transfer and assumption may also be made when one or more of the borrowers or the former spouse and co-obligor of a divorced borrower withdraws from the operation or dies. The transfer of accounts secured by real estate will be processed in accordance with Subpart A of Part 1872 of this chapter (FmHA Instruction 465.1).

(a) *Transfer to eligibles.* Transfers of chattel security and EO property to a transferee who is eligible for the kind of loan being assumed or who will become eligible after the transfer may be approved, provided:

(1) The transferee assumes the total outstanding balance of the FmHA debts or that portion of the outstanding balance equal to the present market value of the chattel security or EO property, less any prior liens, if the property is worth less than the entire debt.

(2) Generally the debts assumed will be paid in accordance with the rates and terms of the existing notes or assumption agreements. Any delinquency will be scheduled for payment on or before the date the transfer is closed. Form FmHA 460-9, "Assumption Agreement (Same Terms-Eligible Transferee)," will be used. If the existing loan repayment period is extended, the debt being assumed may be rescheduled using Form FmHA 460-5, "Assumption Agreement (New Terms)." The new repayment period may not exceed that for a new loan of the same type. If Form FmHA 460-5 is used, the current interest rate for such loans will be charged to all applicants except those eligible for limited resource loans, who will be charged interest at the rate of 5 percent per year.

(3) The transfer of EM actual loss loans, or EM loans made before September 12, 1975, will be made as provided under paragraph (b) of this section. However, when one or more of the borrowers or jointly obligated partners withdraw from the operation and those remaining desire to assume the total indebtedness and continue the operation, a transfer to the remaining borrowers or partners may be made as an eligible transferee.

(b) *Transfer to ineligibles.* Transfer of the chattel security and EO property to a transferee who is not eligible for the kind of loan being assumed may be approved, provided:

(1) It is in FmHA's financial interest to approve the transfer of security or EO property and assumption of the debts rather than to liquidate the security or EO property immediately.

(2) The transferee assumes the total outstanding balance of the FmHA debt, or an amount substantially more than the present market value of the security or EO property as determined by the County Supervisor, less any prior liens, if the value is less than the entire debts.

(3) FmHA debts assumed will be repaid in amortized installments not to exceed 5 years using Form FmHA 460-5. The transferred property, including EO property, will be subject to any existing FmHA lien. In the absence of an existing FmHA lien, new lien instruments will be executed. Interest rates to the transferee will be as follows:

(i) For OL and EM loans, the current interest rate in effect at the time of approval of the transfer.

(ii) For EO loans, 6 percent.

(4) The transferee can repay the FmHA debt in accordance with the assumption agreement and can legally enter into the contract.

(c) *Effect of signature.* In all cases the purpose and effect of signing an assumption agreement or other evidence of indebtedness is to engage separate and individual personal liability, regardless of any State law to the contrary.

(d) *Release of transferor from liability.* The borrower and any cosigner may be released from personal liability to FmHA when all the chattel security is transferred to an eligible or ineligible applicant and the total outstanding debt or that portion of the debt equal to the present market value of the security is assumed.

(e) *County Committee actions*—(1) *Transfer to eligible applicant.* The County Committee will certify the transferee's eligibility for the types of loans to be assumed on Form FmHA 440-2, "County Committee Certification or Recommendations."

(2) *Transfer to ineligible applicant.* The County Committee will execute a memorandum statement on Form FmHA 440-2 as follows: "In our opinion, the transferee, (name of transferee), will honestly endeavor to make payments in accordance with the assumption agreement, maintain the security, and carry out the other obligations in connection with the loan."

(3) *Release from liability.* If the total outstanding debt is not assumed, the County Committee will execute a memorandum statement on Form FmHA 440-2 when they recommend the transferor be released from personal liability, which will read as follows: "(*Name of transferor and any cosigner*) in our opinion do not have reasonable ability to pay all or a substantial part of the balance of the debt not assumed after considering their assets and income at the time of transfer. Transferors have cooperated in good faith, used due diligence to maintain the security against loss, and otherwise fulfilled the covenants incident to the loan to the best of their ability. Therefore, we recommend that the

transferor and any cosigner be released from personal liability on the transferees' assumption of a portion of the indebtedness at least equal to the present market value of the security." If the total outstanding debt is assumed, the statement is not required.

(f) *Transfer and assumption docket.* The County Supervisor will assemble the following statements and forms for transfer and assumption:

(1) A statement of the current amount of the indebtedness.

(2) A description of the security or EO property to be transferred and a statement about its value.

(3) Form FmHA 410-1, "Application for FmHA Services."

(4) Form FmHA 440-2 for an eligible transferee, with the memorandum statement of the County Committee if the transferor is to be released from liability.

(5) County Committee memorandum statement for ineligible transferee with the additional memorandum statement if the transferor is to be released from liability.

(6) Statement of justification for the transfer, including a plan of repayment, if not otherwise shown in the docket.

(7) Transferee's plan of operation shown on Form FmHA 431-2, or Form FmHA 431-3, or Form FmHA 431-4.

(8) Form FmHA 460-5 or Form FmHA 460-9, as appropriate.

(9) Form FmHA 465-8, "Release from personal Liability," when appropriate.

(10) Form FmHA 440-41A, "Disclosure Statement for Loans Not Secured by Real Estate."

(11) Form FmHA 440-41, "Disclosure Statement for Loans Secured by Real Estate."

(12) Form FmHA 440-1, "Request for Obligation of Funds."

(13) Form FmHA 465-5, "Transfer of Real Estate Security," will be used to transfer real estate security.

(g) *Processing assumption agreements.* Additional security instruments will be obtained in accordance with advice from OGC.

(1) On receipt of Form FmHA 460-5 or Form FmHA 460-9, the Finance Office will establish an account in the name of the assuming transferee and will notify the County Supervisor.

(2) Form FmHA 405-1, "Management System Card—Individual," will be prepared for the transferee, and the loan record cards of the transferor will be attached.

(3) If a collection is received from the transferee after the assumption agreement is approved but before Finance Office notification to the County Office, Form FmHA 451-2, "Schedule of Remittances," will be prepared as follows:

(i) During the period that a transfer is pending in the County Office, payments received by the Finance Office will continue to be applied to the transferor's account, and Form FmHA 451-26, "Transaction Record," or Form FmHA 451-31, "Borrower Transaction Record," will be forwarded to the County Office. This includes any downpayments made in connection with the transfer for reducing the amount of the debt to be assumed. On receiving a payment on the account not included in the latest transaction record or monthly payment account status report, the County Supervisor should deduct such amounts from the total amount of principal and interest calculated from the latest information available before completing the assumption agreement and having it signed.

(ii) When the borrower has made a direct payment to the Finance Office and there is no record of it in the County Office, the account will be assumed based on the latest record in the County Office. The application of the direct payment will be reversed from the account, and the assumption agreement will be processed in the Finance Office. The Director, Finance Office, will contact the County Supervisor to determine how to dispose of the proceeds from the direct payment.

(iii) For payments received on the date of transfer, Form FmHA 451-2 will be prepared to show "Transfer in process for account owed by (borrower's name and case number) to be transferred to (name of transferee and case number, if known)." If the borrower number portion of the case number has not yet been assigned for a transferee, only the State and County portion of the case number will be shown. A statement for the information of the Finance Office will be attached to the assumption agreement showing the date of Form FmHA 451-2 and the amount paid.

(iv) When a payment is due on the assumption agreement shortly after the transfer is completed, it should be collected if possible, at the time of transfer and remitted in the transferee's name.

(h) *Approval.* Loan approval officials are authorized to approve transfer and assumption of FmHA accounts to eligible or ineligible transferees and releases from liability when the debts are within their respective loan approval authorities stated in tables which are available from any FmHA Office (FmHA Instruction 1901-A).

(1) Loan approval officials may also approve transfers and assumptions of EO loans and releases from liability. State Directors may also approve transfers to and assumptions by ineligible transferees and releases from liability regardless of the amount of the outstanding EM loan debt.

(2) The Administrator will review for approval proposed transfers to and assumptions by eligible transferees that exceed the approval authorities of State Directors for EM loans.

§§ 1962.35–1962.39 [Reserved]

§ 1962.40 Liquidation.

FmHA will continue with borrowers if they make payments in accordance with their ability, account properly for security or EO property, and otherwise meet their loan obligations. When liquidation is begun, it is FmHA policy to liquidate all security and EO property except EO property that the County Supervisor determines is essential for minimum family living needs. The present market value of security that may be retained by the borrower for minimum family living needs will not exceed $600. However, only so much of the security and EO property will be liquidated as is necessary to pay the indebtedness. Ordinarily, before beginning liquidation, the facts will be presented to the District Director and the County Committee for recommendations. Liquidation will be undertaken when no further assistance will be given to a borrower and the borrower is in default.

(a) *Approval of liquidation.* The County Supervisor may approve liquidation of chattle security and nonsecurity property. Cases involving legal problems not covered by this Subpart or related State supplements and cases in which real estate serves as security for any FmHA loan will be referred to the State Director for advice before approval. When liquidation is approved without referral to the State Director, a statement of facts with reasons for the action will be recorded in the running case file. Liquidation will be considered approved on the date the County Supervisor:

(1) Executes Form FmHA 455-4, "Agreement for Voluntary Liquidation of Chattel Security", or

(2) Executes Form FmHA 455-3, "Agreement for Public Sale by Borrower", or

(3) Executes Form FmHA 462-2, "Written Consent To Sell and Statement of Conditions on Which Lien will be Released", or

(4) Executes Form FmHA 455-6, "Agreement for Temporary Custody of Property", or

(5) Executes Form FmHA 455-21, "Notice of Acceleration and Demand for Payment", when security is to be liquidated under the "Power of Sale" except when a State supplement requires the use of another form, or

(6) Takes possession of property under a security instrument or EO

Loan Agreement to exercise the power of sale contained in it, or

(7) Requests the borrower or another party in writing to sell EO property under the loan agreement, or

(8) Is notified by the State Director that liquidation is approved in cases submitted to the State Office.

(b) *Lien searches.* Before liquidation is approved, the County Supervisor will obtain a current lien search report to determine the effect that liens of other parties will have on liquidation, the record lienholders to whom notices of sale will be given, and the distribution that will be made of the sale's proceeds. Normally, lien searches should be obtained from the same source as is used when making a loan. If obtaining the searches from third party sources would cause undue delay which would interfere with orderly liquidation, searches may be made by the County Supervisor. If the lien search is made by third parties, the borrower will pay the cost from personal funds or if the borrower refuses, FmHA will pay the cost and charge it to the borrower's account in accordance with the security instrument or EO Loan Agreement. The records to be searched and the period covered by the search will be in accordance with a State supplement.

(c) *Acceleration of unmatured installments.* (1) When liquidation has been approved, the County Supervisor will accelerate all unmatured installments by using Form FmHA 455-21, except as follows:

(i) In cases referred to OGC for civil action, a notice of acceleration is not necessary if the notice has previously been given. However, when security is to be liquidated under the "Power of Sale" in the lien instrument without referral to OGC, the County Supervisor will use Form FmHA 455-21.

(ii) When Form FmHA 455-13, "Report of Sale of Chattel Security," is used, the statement in it declaring unmatured installments immediately due and payable will suffice for loan servicing purposes. However, the County Supervisor may use Form FmHA 455-21 when its use will assist in collecting any remaining indebtedness.

(2) Form FmHA 455-21 will be sent to the last known address of each obligor, with a copy to the Finance Office in those cases referred to OGC for civil action. County Office and Finance Office loan records will be adjusted to mature the entire indebtedness only in such cases.

(d) *Assignment of insured loans.* When liquidation of an insured loan is approved, the State Director will immediately obtain an assignment of the loan to FmHA. If the County Supervisor approves the liquidation, the County Supervisor will immediately refer the case to the State Office with a request to obtain assignment of the loan. Pending the assignment, preliminary steps to effect liquidation should be taken, but civil or other court action will not be started and claims will not be filed in banckruptcy or similar proceedings or in probate or administration proceedings with respect to the insured loan claim, unless essential to protect FmHA's interests and OGC recommends such action. However, other steps need not be held up pending assignment.

(e) *Protective advances.* (1) When liquidation has been approved and security is in danger of loss or deterioration, the State Director will protect FmHA's interest and approve advances in payment of:

(i) Delinquent taxes or assessments that constitute prior liens which would be paid ahead of FmHA under § 1962.44 (a) of this Subpart,

(ii) Premiums on insurance essential to protect FmHA's interest, and

(iii) Other costs including transportation necessary to protect or preserve the security.

(2) However, such advances may not be made unless the amount advanced becomes a part of the debt secured by FmHA's lien, or is for expenses of administration of estates or for litigation. If a case is in the hands of the U.S. Attorney, such advances may not be made without the U.S. Attorney's concurrence. Moreover, such advances may not be made in any case to pay expenses incurred by a U.S. Marshal or other similar official such as a local sheriff. However, if the official seizes the property and delivers it to FmHA for sale by FmHA, costs incurred by FmHA after delivery to FmHA will be paid. Costs provided for in Form FmHA 441-19, "Loan Agreement," also may be paid to protect FmHA's interests in EO property.

(3) The County Supervisor will submit a report on the need for such advances to the State Director, including:

(i) Borrower's County Office case file;

(ii) Current lien search report;

(iii) Statement of the type and value of the property and of the circumstances which may result in the loss or deterioration of such property; and

(iv) A recommendation as to whether or not the advance should be approved.

(4) Costs incurred by FmHA in protecting its interest in security or EO property may be paid by means of Standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal," and may be charged to the borrower's loan account, or paid from proceeds of the sale of security or EO property.

§ 1962.41 Sale of chattel security or EO property by borrowers.

(a) *Public sale.* Because it is in the best interest of the borrower and FmHA, when liquidation has been approved, FmHA usually will encourage the borrower to sell security or EO property at public auction in the borrower's own name. Form FmHA 455-3 will be executed by the borrower, all lienholders, and the clerk of the sale or other person who will receive the sale proceeds before execution by the County Supervisor. When EO property is involved, delete from the Form the reference to the FmHA lien in the first "Whereas" clause, the second sentence in item 5, and all of item 8. No FmHA official is authorized to bid at such sales. The County Supervisor will arrange to promptly receive the proceeds of the sale due FmHA for application on the borrower's indebtedness.

(b) *Private sale.* The borrower may sell chattel security or EO property at a private sale if:

(i) The borrower has ready purchasers and can sell *all* of the property for its present market value; or

(ii) The property is perishable; or

(iii) The property is of a type customarily sold on a recognized market; or

(iv) The property consists of items of small value or a limited number of items which do not justify public sale.

(2) Form FmHA 462-2 may be used to approve liquidation of such security. The County Supervisor will document in the running case record the reasons that a public sale was not justified. If the security is not sold within 30 days after executing Form FmHA 462-2, it will be liquidated in accordance with paragraph (a) of this section or § 1962.42.

§ 1962.42 Repossession, care, and sale of chattel security or EO property by the County Supervisor.

(a) *Repossession.* The County Supervisor will take possession of security or EO property for FmHA when the value of the property, based on appraisal, is substantially more than the estimated sale expenses and the amount of any prior lien, if the prior lienholder does not intend to enforce the lien. The property will not be repossessed if FmHA's estimated recovery will be small in relation to the amount of its claim, or in relation to the amount it must pay on prior liens and sale expenses if it bids on the property in accordance with § 1955.20 of Subpart A of Part 1955 of this chapter.

(1) *Conditions.* The County Supervisor will take possession under any of the following conditions:

(i) When Form FmHA 455-4 has been executed. For EO property this

form will be revised by placing a period after "interest" in the first "Whereas" paragraph and deleting the remainder of that clause; deleting the words "collateral covered by the aforesaid security instruments" in the second "Whereas" paragraph and inserting in lieu thereof "property covered by the debtor's loan agreement which is hereinafter referred to as the collateral."

(ii) When the borrower has abandoned the property.

(iii) When peaceable possession can be obtained, but the borrower has not executed Form FmHA 455-4.

(iv) When the property is delivered to FmHA as a result of court action.

(v) When Form FmHA 455-5, "Agreement of Secured Parties to Sale of Security Property," is executed by all prior lienholders. If prior lienholders will not agree to liquidate the property, their liens may be paid if their notes and liens are assigned to FmHA on forms prepared or approved by OGC. When prior liens are paid, the payment will be made on Standard Form 1034 and charged to the borrower's account.

(vi) When arrangements cannot be made with the borrower or a member of the borrower's family to sell EO property in accordance with the loan agreement.

(2) *Recording.* A list, dated and signed by the County Supervisor, of all security or EO property repossessed except for those items on Form FmHA 455-4, Form FmHA 455-6, or Form FmHA 455-7, "Agreement for Cultivating, Harvesting, and Delivering Crops," will be maintained in the borrower's case file. Whenever the County Supervisor is transferred to another position or leaves FmHA or there is a change in jurisdiction, the District Director will give the succeeding County Supervisor in writing, the names of such borrowers and a list of the property repossessed in the custody of the County Supervisor and caretakers, its location, and the names and addresses of the caretakers.

(b) *Care.* The County Supervisor will arrange for the custody and care of repossessed property as follows:

(1) *Livestock.* Livestock will be delivered to a person who can care for and feed it for compensation agreed on in advance. Whenever practicable, animal products will be computed as a part of all of the caretaker's compensation. Delivery, however, will be made only after Form FmHA 455-6 is executed. Space also may be leased using Form FmHA 455-6. When more time is needed than is indicated in paragraph (c) (4) (i) of this section, the State Director may authorize Form FmHA 455-6 to be amended as appropriate and initialed by the parties or a new agreement may be executed covering the extension. If a more favorable arrangement cannot be obtained, custody agreements may provide that FmHA will supply feed necessary to maintain livestock.

(2) *Machinery, equipment, tools, harvested crops, and other chattels.* Property will be stored and cared for pending sale. Space may be leased for this purpose, if necessary, or property may be stored and cared for by agreement on Form FmHA 455-6. This type of property will not be used by the caretaker but will be held in storage only.

(3) *Crops.* Form FmHA 455-7 will be used for the custody, care, and disposition of growing crops and for unharvested matured crops unless the crops are to be sold in place. The form will be executed by the caretaker and the landlord unless the landlord gives consent otherwise in writing. If the written consent of the landlord cannot be obtained or if the procedures in this Subpart do not cover a situation, the circumstances should be reported to the State Director for advice.

(c) *Sale.* Repossessed property may be sold by FmHA at public or private sale for cash under Form FmHA 455-4, Form FmHA 441-19, the power of sale in security agreements under the UCC or in crop and chattel mortgages and similar instruments if authorized by a State supplement. Also, repossessed property may be sold at private sale when the borrower executes Form FmHA 455-11, "Bill of Sale 'B' (Sale by Private Party)."

(1) *Tests and inspections of livestock.* If required by State law as a condition of sale, livestock will be tested or inspected before sale. A State supplement will be issued for those States.

(2) *Public sales.* Such sales will be made to the highest bidder. They may be held on the borrower's farm or other premises, at public sale barns, pavilions, or at other advantageous sales locations. No FmHA employee will bid on or acquire property at public sales except on behalf of FmHA in accordance with § 1955.20 of Subpart A of Part 1955 of this chapter. The County Supervisor will attend all public sales of repossessed property.

(3) *Private sales.* FmHA will sell perishable property such as fresh fruits and vegetables for the best price obtainable. FmHA will sell staple crops such as wheat, rye, oats, corn, cotton, and tobacco for a price in line with current market quotations for products of similar grade, type, or other recognized classification. Chattel property sold under Form FmHA 455-4, other than perishable property and staple crops, will not be sold for less than the minimum price in the agreement. FmHA will sell other property, including that sold when the borrower executes Form FmHA 455-11, for its present market value.

(4) *Selling period.* Repossessed property will be sold as soon as possible. However, when notice is required by paragraph (c)(5) of this section, the sale will not be held until the notice period has expired.

(i) The sale will be made within 60 days unless a shorter period is indicated by a State supplement because of State law. Crops will be sold when the maximum return can be realized but not later than 60 days after harvesting, or the normal marketing time for such crops. The State Director may extend the sale time within State law limits.

(ii) These requirements do not apply to irrigation or other equipment and fixtures which, together with real estate, serve as security for FmHA real estate loans and will be sold or transferred with the real estate. However, a State Supplement will be issued for any State having a time limit within which such items must be sold along with or as a part of the real estate.

(5) *Notice.* (i) Notice of public or private sale of repossessed property when required will be given to the borrower and to any party who has filed a financing statement or who is known by the County Supervisor to have a security interest in the property, except as set forth below. The notice will be delivered or mailed so that it will reach the borrower and any lienholder at least 5 days (or longer time if specified by a State supplement) before the time of any public sale or the time after which any private sale will be held. Form FmHA 455-8, "Notice of Sale," may be used for public or private sales.

(A) Notice to the borrower of lienholder is not required when the property is sold under Form FmHA 455-4 because the parties are placed on notice when they execute the form. When the sale involves only collateral which is perishable, will decline quickly in value, or is a type customarily sold on a recognized market, notice is not required but may be given if time permits to maintain good public relations.

(B) Notice only to lienholder is required when repossessed property is sold at private sale and the borrower executes Form FmHA 455-11.

(C) If the property is to be sold under a chattel mortgage, the manner of notice will be set forth in a State supplement or on an individual case basis.

(ii) Notice to Internal Revenue Service (IRS). If a Federal tax lien notice has been filed in the local records more than 30 days before the sale of the repossessed security, notice to the District Director of IRS must be given at least 25 days before the sale. It

should be given by sending a copy of Form FmHA 455-8 and a copy of the filed Notice of Federal Tax Lien (Form IRS 668). If the security is perishable, the full 25 days' notice to the District Director is not required, but notice must be given to the District Director by registered or certified mail or by personal service before the sale. Also, the sale proceeds must be held for 30 days after the sale so that they may be claimed by IRS on the basis of its tax lien priority. In such perishable property cases, the proceeds or an amount large enough to pay the IRS tax lien will be forwarded to the Finance Office with a notation "Hold in suspense 30 days because of Federal Tax Lien." OGC will advise the Finance Office about disposing of the funds.

(6) *Advertising.* (i) Private sales and sales at established public auctions will be advertised by FmHA only if required by a State supplement based on State law.

(ii) Other public sales, whether under power of sale in the lien instrument or under Form FmHA 455-4, will be widely publicized to assure large attendance and a fair sale by one or more of the following methods customarily used in the area.

(A) The sale may be advertised by posting or distributing handbills, posting Form FmHA 455-8, or a revision of it approved by OGC to meet State law requirements, or by a combination of these methods. The length of time and place of giving notice will be covered by a State supplement.

(B) Advertising in newspapers or spot advertising on local radio or TV stations may be used depending on the amount of property to be sold and the cost in relation to the value of the property, the customs in the area, and State law requirements. When newspaper advertising is required, a State supplement will indicate the types of newspapers to be used, the number and times of insertions of the advertisement, and the form of notice of sale.

(7) *Payment of costs and prior lienholders.* If expenses must be paid before the sale or if cash proceeds are not available from the sale of the property to pay costs referred to in § 1962.44 (b) of this Subpart or to pay prior lienholders, such costs or prior liens will be paid by voucher on Standard Form 1034 or by Standard form 1143, "Advertising Order," and Standard Form 1143a, "Memorandum Copy" for newspaper or publisher's invoice for newspaper advertising under FmHA Instruction 2024-F a copy of which is available in any FmHA Office.

(i) The amount of the voucher will be charged to the borrower's account, except as limited by State law in a State supplement. No costs in the repossession and sale of security should be incurred unless they can be charged to the borrower's account, and in no event will the Government pay them. However, if costs are not legally chargeable to the borrower, they may be paid as provided in this Subpart, and charged to an account set up for the officials or other persons found responsible for them.

(ii) Each invoice or voucher will be approved by the County Supervisor, signed by the payee or supported by signed invoices, and submitted to the Finance Office for payment. An original and one copy of Form FmHA 455-6 or Form FmHA 455-7 will be attached to invoices or vouchers in payment of such costs as custody, care, storage, harvesting, and marketing.

(8) *Bill of sale or transfer of title.* If a purchaser requests a written conveyance of repossessed property sold by FmHA at public or private sale, the County Supervisor will execute and deliver to the purchaser Form FmHA 455-12, "Bill of Sale 'C' (Sale Through Government as Liquidating Agent)," or other necessary instruments to convey all the rights, title, and interests of the borrower and FmHA. A State supplement will be issued as necessary for conveying title to motor vehicles and boats.

§ 1962.43 Liquidation of chattel security or EO property by other parties.

(a) *Sale by prior lienholders and other parties.* See § 1955.20 of Subpart A of Part 1955 of this chapter for the County Supervisor's authority to bid at such sales.

(b) *Sale by junior lienholders.* On learning through formal notice or otherwise that a junior lienholder has begun foreclosure, the County Supervisor will consider whether FmHA should start liquidation. If the County Supervisor decides on liquidation, the County Supervisor will inform the junior lienholder and arrange for voluntary liquidation. If the junior lienholder has already begun foreclosure action and if voluntary liquidation cannot be effected, FmHA will foreclose its lien so that a single foreclosure sale may be held under both liens. If insufficient time or other reasons prevent holding a joint foreclosure sale, the County Supervisor will inform the foreclosing junior lienholder in writing as to the property on which FmHA holds a prior lien; and that

(1) If the junior lienholder's foreclosure sale is held, the County Supervisor will announce at the sale that FmHA holds a prior lien on each item of such property as security for an indebtedness of $—— (total principal and interest), and that any such property sold will continue to be subject to FmHA's prior lien; and that

(2) The County Supervisor will immediately start foreclosure or other legal action to obtain the full value of each item of this property to apply on its prior lien until its lien is satisfied.

(c) *Retention by other lienholders without sale.* If another lienholder notifies FmHA that it has taken possession of the security after default and proposes to keep it in satisfaction of its secured claim, the County Supervisor should promptly reply in writing that FmHA objects and insists that the property be sold in accordance with law. The County Supervisor will only write the lienholder when FmHA's estimated recovery will be substantially greater than the amount of the claim, prior liens and sale expenses. After such notice, the case will be referred to the State Director for advice.

§ 1962.44 Distribution of liquidation sale proceeds.

This section applies to proceeds of nonjudicial liquidation sales conducted under the power of sale in lien instruments or under Form FmHA 455-4, Form FmHA 455-3, or Form FmHA 462-2.

(a) *Lien priorities.*—(1) *Federal liens.* For Federal income, social security, other Federal tax liens, or liens of other Federal agencies, OGC's advice will be obtained as to lien priorities.

(2) *State and local tax liens.* A State supplement, if considered necessary by the State Director and OGC, will list priorities of these liens or may provide for referral of these cases to the State Office.

(3) *Chattel mortgages and other liens of private parties.* A State supplement, if considered necessary by the State Director and OGC, will list priorities of chattel mortgages, landlord's liens, mechanics and materialmen liens, and other liens of private parties.

(4) *Security interests under UCC.* Liens on the same collateral that are perfected by filing a financing statement under the UCC and that are still effective as constructive notice, unless otherwise provided by a State supplement, will be paid in the order of their perfection. Exceptions to this rule are listed below. A State supplement will be issued whenever necessary to explain any State deviations from these listed exceptions.

(i) A purchase money security interest in personal property will take priority over an earlier perfected security interest if a security agreement is taken and a financing statement is filed before the purchaser receives possession of the collateral or within 10 days thereafter. However:

(A) *Motor vehicles.* For motor vehicles required to be licensed, any action necessary to obtain perfection in the particular State, such as having the security interest noted on the certificate of title, must be taken before the purchaser receives possession of the collateral or within 10 days thereafter. In some States, filing a financing statement to perfect a security interest is not required. A State supplement will be issued as necessary.

(B) *Farm equipment.* A purchase money security interest in farm equipment, other than fixtures or motor vehicles required to be licensed, costing $2,500 or less, will take priority over an earlier perfected security interest if a security agreement is obtained, even though a financing statement is not taken or filed.

(C) *Inventory.* A purchase money security interest in inventory will take priority over an earlier perfected security interest provided a security agreement is taken and a financing statement is filed not later than the time the purchaser receives possession of the property. Also, before the purchaser receives possession, the purchase money creditor will notify the earlier perfected secured party, in writing, that he or she has, or expects to acquire, a purchase money security interest in inventory described by item or type.

(ii) A security interest taken in goods before they become fixtures has priority over real estate interest holders. A security interest taken in goods after they become fixtures is valid against all persons subsequently acquiring an interest in the real estate. It is not valid, however, against persons who had an interest in the real estate when the goods became fixtures, unless they execute a consent disclaimer or subordination agreement.

(iii) A security interest taken in and to finance crops not more than 3 months before they are planted or otherwise become growing crops, has priority over an earlier perfected security interest for obligations that were due more than 6 months before the crops became growing crops.

(b) *Order of payment.*—Sales proceeds will be distributed in the following order of priority.

(1) To pay expenses of sale including advertising, lien searches, tests and inspection of livestock, and transportation, custody, care, storage, harvesting, marketing, and other expenses chargeable to the borrower, including reimbursement of amounts already paid by FmHA and charged to the borrower's account. Bills can be paid, after liquidation has been approved, for essential repairs and parts for machinery and equipment to place it in reasonable condition for sale, provided written agreements from any holders of liens which are prior to those of FmHA state that such bills may be paid from the sales proceeds ahead of their liens.

(i) However, any such expenses incurred by the U.S. Marshal or other similar official such as a local sheriff may not be paid from sale proceeds turned over to FmHA.

(ii) On the other hand, if the U.S. Marshal or other similar official such as a local sheriff has taken possession of the property and delivered it to FmHA for sale, such costs incurred by FmHA after delivery of the property to it may be paid from the proceeds of the sale.

(2) To pay liens which are prior to FmHA liens provided that:

(i) State and local tax liens on security or EO property which are prior to the liens of FmHA will be paid only when demand is made by tax collecting officials before distributing the sale proceeds. The sale proceeds will not be used to pay real estate, income, or other taxes which are not a lien against the security, or to pay substantial amounts of personal property taxes on nonsecurity personal property.

(ii) If action is threatened or taken by the sheriff or other official to collect taxes not authorized in paragraph (b) (2) (i) of this section to be paid out of the security or the sale proceeds, the sale will be postponed unless an arrangement can be made to deposit in escrow with a responsible disinterested party an amount equal to the tax claim, pending determination of priority rights. When the sale is postponed, or an escrow arrangement is made, the matter will be reported promptly to the State Director for referral to OGC.

(iii) If FmHA subordinations have been approved, their intent will be recognized in the use of sale proceeds even though the creditor in whose favor the FmHA lien was subordinated did not obtain a lien. If there are other third party liens on the property, however, the lienholders must agree to the use of the sale proceeds to pay such creditor first.

(3) To pay rent for the current crop year from the sale proceeds of other than basic security or EO property. However, there must be no liens junior to FmHA's other than the landlord's lien, if any, and the borrower must consent in writing to the payment.

(4) To pay debts owed FmHA which are secured by liens on the property sold.

(5) To pay liens junior to those of FmHA in accordance with their priorities on the property sold, including any landlord's liens for rent unless, such liens already have been paid. Junior liens will not be paid unless, on request, the lienholder gives proof of the existence and the amount of his or her lien.

(6) To pay on any EO unsecured debt.

(7) To pay rent for the current crop year if the borrower consents in writing to payment and if such rent has not already been paid as provided in paragraphs (b), (2), (3), or (5) of this section.

(8) To pay on any other FmHA debts, either unsecured or secured by liens on property which is not being sold. However, in justifiable circumstances, the State Director may approve the use of a part or all of the remainder of such sale proceeds by the borrower for other purposes: *Provided*, The other FmHA debts are adequately secured, or the borrower arranges to pay the other debts from income or other sources and these payments can be depended upon.

(9) To pay the remainder to the borrower.

(c) *Receipts.*—Receipts are required for all amounts paid from the sale proceeds and are kept in the borrower's case file. Form FmHA 451-2 will be prepared only for the total amount remitted to FmHA for credit to the borrower's indebtedness.

§ 1962.45 Reporting sales.

(a) Form FmHA 455-13 will be prepared when:

(1) Property is repossessed by FmHA; or

(2) The borrower sells the property under Form FmHA 455-3 or Form FmHA 462-2 and the FmHA debt is not paid in full; or

(3) The property is sold by prior or junior lienholders or other parties. It will not be prepared when the borrower holds the sale using Form FmHA 455-3 or Form FmHA 462-2 and the borrower's FmHA indebtedness is paid in full.

(b) Form FmHA 455-13 will be completed as soon as all the property is sold. In completing Part I of this form, the names of the purchasers need not be shown if there are numerous purchasers and the clerk's report of sale is filed in the borrower's case file, or liquidation is effected by using Form FmHA 462-2.

§ 1962.46 Deceased borrowers.

Immediately on learning of the death of any person liable to FmHA, the County Supervisor will prepare Form FmHA 455-17, "Report on Deceased Borrower," to determine whether any special servicing action is necessary unless the County Supervisor recommends settlement of the indebtedness under Part 1864 of this chapter (FmHA Instruction 456.1). If a survivor will not continue with the loan, it may be necessary to make immediate arrangements with a survivor,

executor, administrator, or other interested parties to complete the year's operations or to otherwise protect or preserve the security.

(a) *Reporting.* The borrower's case files including Form FmHA 455-17 will be forwarded promptly to the State Director for use in deciding the action to take if any of the following conditions exist (When it is necessary to send an incomplete Form FmHA 455-17, any additional information which may affect the State Director's decision will be sent as soon as available on a supplemental Form FmHA 455-17 or in a memorandum.):

(1) Probate or other administration proceedings have been started or are contemplated.

(2) The debts owed to FmHA are inadequately secured and the estate has other assets from which collection could be made.

(3) FmHA's security has a value in excess of the indebtedness it secures and the deceased obligor owes other debts to FmHA which are unsecured or inadequately secured.

(4) The County Supervisor recommends continuation with a survivor who is not liable for the indebtedness or recommends transfer to, and assumption by another party.

(5) The County Supervisor recommends, but does not have authority to approve, liquidation.

(6) The County Supervisor wants advice on servicing the case.

(b) *Probate or administration proceedings.* Generally, probate or administration proceedings are started by relatives or heirs of the deceased or by other creditors. Ordinarily, FmHA will not start these proceedings because of the problems of designating an administrator or other similar official, posting bond, and paying costs. If probate or administration proceedings are started by other parties or at FmHA's request, and any security is to be liquidated by FmHA instead of by the administrator or executor or other similar official, it will be liquidated in accordance with the advice of OGC. The State Director may request OGC to recommend that the U.S. Attorney bring probate or administration proceedings when it appears that:

(1) Such proceedings will not be started by other parties;

(2) FmHA's interests could best be protected by filing a proof of claim in such proceedings, and

(3) Public administrators or other similar officials or private parties, including banks and trust companies, are eligible to, and will serve as administrator or other similar official and will provide the required bond.

(c) *Filing proof of claim.* When a proof of claim is to be filed, it will be prepared on a form approved by OGC, executed by the State Director, and transmitted to OGC. It will be filed by OGC or by an FmHA official as directed by OGC or it will be referred by OGC to the U.S. Attorney for filing if representation of FmHA by counsel may be required. If a judgment claim is involved, the notification to the U.S. Attorney will be the same as for judgment claims in bankruptcy. If an insured loan is involved, the proof of claim will not be prepared until the note has been assigned to the Government. A proof of claim will be filed when probate or administration proceedings are started, unless:

(1) After considering liens and priority rights of FmHA and other parties, costs of administration, and charges against the estate, FmHA cannot reach the assets in the estate except for FmHA's own security and FmHA will liquidate the security by foreclosure or otherwise if necessary to collect its claim, or

(2) Continuation with an individual or transfer to and assumption by another party is approved, and either the debt owed to FmHA is fully secured, or the amount of the debt in excess of the value of the security which could be collected by filing a claim is obtained in cash or additional security, or

(3) The debt owed to FmHA by the estate is settled under Part 1864 of this Chapter (FmHA Instruction 456.1) well ahead of the deadline for filing proof of claim.

(d) *Priority of claims.* (1) Each secured claim will take its relative lien priority to the extent of the value of the property serving as security for it. These claims include those secured by mortgages, deeds of trust, landlord's contractual liens, and other contractual liens or security instruments executed by the borrower on real or personal property. However, tax, judgment, attachment, garnishment, laborer's, mechanic's, materialmen's, landlord's statutory liens, and other noncontractual lien claims may or may not be secured claims. Therefore, if any noncontractual claims are allowed as secured claims and the FmHA claim is not paid in full, the advice of OGC will be obtained as to whether they constitute secured claims and as to their relative priorities.

(2) Unsecured claims will be handled as follows:

(i) The remaining assets of the estate, including any value of security for more than the amount of the secured claims against it, are to be applied first to payment of administration costs and charges against the estate and second to unsecured debts of the deceased.

(ii) If the total of the remaining assets in the estate being administered is not enough to pay all administration costs, charges against the estate, and unsecured debts of the deceased, the Government's unsecured claims against the remaining assets will have priority over all other unsecured claims, except the costs of administration and charges against the estate. Under such circumstances unsecured claims are payable in the following order of priority:

(A) Costs of administration and charges against the estate unless under State law they are payable after the Government's unsecured claims. Such costs and charges include costs of administration of the estate, allowable funeral expenses, allowances of minor children and surviving spouse, and dower and courtesy rights.

(B) The Government's unsecured claims.

(3) A State supplement will be issued as needed taking into consideration the Federal priority statute, lien waivers and subordinations, and notice and other statutory provisions which affect lien priorities.

(e) *Withdrawal of claim.* It may not be necessary to withdraw a claim when it is paid in full by someone other than the estate or when compromised. However, when it is necessary to permit closing of an estate, compromise of a claim, or for other justifiable reasons, the State Director will recommend to OGC that the claim be withdrawn on receipt of cash or security, or both, of a value at least equal to the amount that could be recovered under the claim against the estate. When FmHA keeps existing security, arrangements must be made to assure that withdrawal of the claim will not affect FmHA's rights under the existing notes or security instruments with respect to the retained security. In some cases, with OGC's advice, the claim may be properly handled without filing a formal petition for withdrawal of the claim. However, if the claim has been referred to the U.S. Attorney, or if a formal withdrawal of the claim is necessary, the matter will be referred by OGC to the U.S. Attorney.

(f) *Liquidation of security.* When probate or administration proceedings have not been started and continuation with a survivor or transfer and assumption by another party will not be approved, chattel security and real estate security will be liquidated promptly in accordance with this subpart and Subpart A of Part 1872 of this chapter (FmHA Instruction 465.1), respectively. If the proceeds from the sale of security are insufficient to pay in full the indebtedness owed to FmHA, and other assets are available in the estate or in the hands of heirs from which to collect, the State Director will request OGC to effect collection.

(g) *Continuation of secured debt and transfer of security.* When a surviving member of a deceased borrower's family or other person is interested in continuing the loan and taking over the security for the benefit of all or a part of the deceased borrower's family who were directly dependent on the borrower for their support at the time of the borrower's death, continuation may be approved subject to the following:

(1) Any individual who is liable for the indebtedness of the deceased borrower may continue with the loan provided that individual can comply with the obligations of the notes or other evidence of debt and chattel or real estate security instruments and so long as liquidation is not necessary to protect the interest of FmHA. When an individual who is liable for the indebtedness is to continue with the account, Form FmHA 450-10, "Advice of Borrower's Change of Address or Name," will be sent to the Finance Office to change the account to that individual's name. A new case number will be assigned or, if the continuing individual already has a case number, that number will be used regardless of whether that individual assumed all or a portion of the amount of the debt owed by the estate of the deceased.

(2) When a surviving member of a deceased borrower's family, a relative or other individual who is not liable for the indebtedness desires to continue with the farming or other operations and the loan, the State Director may approve the transfer of chattel or real estate security or both to the individual and the assumption of the debt secured by such property without regard to whether the transferee is eligible for the type of loan being assumed, subject to the following conditions:

(i) The transferee will continue the farming or other operations for the benefit of all or a part of the deceased borrower's family who were directly dependent on the borrower for their support at the time of death.

(ii) The amount to be assumed and the repayment rates and terms will be the same as provided in § 1962.34(a).

(iii) The State Director determines that the continuation will not adversely affect repayment of the loan.

(3) In determining whether to continue with individuals, whether they are already liable or assume the indebtedness, all pertinent factors will be considered including whether:

(i) Probate or administration proceedings have been or will be started and, with OGC's advice, whether the filing of a claim on the debt owed to FmHA in such proceedings is necessary to protect FmHA's interests.

(ii) Arrangements can be made with the heirs, creditors, executors, administrators, and other interested parties to transfer title to the security to the continuing individual and to avoid liquidating the assets so that the individual can continue with the loan on a feasible basis.

(4) If continuation is approved, all reasonable and practical steps, short of foreclosure or other litigation, will be taken to vest title to the security in the joint debtor or transferee.

(5) The deceased borrower's estate may be released from liability for the FmHA indebtedness if title to the security is vested in the joint debtor or transferee, and:

(i) The full amount of the debt is assumed, or

(ii) If only a portion of the debt is assumed, the amount assumed equals the amount as determined by OGC which could be collected from the assets of the estate of the deceased borrower, including the value of any security or EO property, and the County Committee recommends release of liability.

(h) *Special servicing of deceased EO borrower cases.* If the EO loan is secured, all paragraphs in this section will be followed. If the EO loan is unsecured, paragraphs (a), (b), (c), (d), and (e) of this section will be followed along with the following requirements:

(1) An individual who is liable for the indebtedness of the deceased borrower and wishes to continue with the EO debt and the EO property, may do so in accordance with paragraph (g)(1) of this section.

(2) A surviving member of the deceased borrower's family, a joint operator with the deceased borrower, a relative, or other individual who is not liable for the EO debt who desires to continue with the farming or other operation may do so in accordance with paragraph (g)(2) of this section. This individual must execute a loan agreement in addition to the assumption agreement and secure the EO debt with a lien on the remaining EO property when title to the property is vested in the individual and the County Supervisor determines that security is necessary to protect the interests of the deceased borrower's family or FmHA.

(3) If no individual listed in paragraphs (h) (1) and (2) of this section wishes to continue, but a member of the borrower's family turns over to FmHA the EO property in which the estate has an interest and which is not essential for minimum family living needs, the County Supervisor will take possession of EO property and sell it in accordance with § 1962.42. If this cannot be done, or if real property is involved, the case will be referred to OGC. If the property is sold, notice will be delivered to any of the borrower's heirs who are in possession of the property and to any administrator or executor of the borrower's estate.

§ 1962.47 Bankruptcy and insolvency.

If a borrower becomes a debtor in proceedings under any State or Federal Bankruptcy or State insolvency law, the County Supervisor will promptly report the facts and forward the borrower's case file and other pertinent information and documents to the State Director for appropriate handling. The County Supervisor will keep the State Director informed of further developments, but will take no other action unless directed by the State Director or OGC. Under the Federal Bankruptcy law, after payment of fees and costs, unsecured FmHA claims and the amount of any claim in excess of any security with interest to the date of filing the petition in bankruptcy, are entitled to priority of payment over unsecured claims of other creditors. On receipt of the file and related material, the State Director will determine whether the case is a "no asset" or "asset" case or, if uncertain, obtain OGC's advice. A "no asset" case is one in which FmHA has no security for the debt and the debtor has no other assets from which FmHA could make a substantial collection, considering its priority rights. An "asset case" is one in which FmHA has security or the debtor has other assets, or both, from which FmHA could make a substantial collection, considering its priority rights.

(a) *No asset cases.* The file and related material will be returned to the County Office with a memorandum indicating the State Director's determination and advising that a proof of claim will not be filed unless the County Supervisor learns that the debtor has assets not previously known to exist. If assets are found before the time for filing claims has expired (within 6 months from the first date set for the first meeting of creditors), the County Supervisor will resubmit the case to the State Director.

(b) *Asset cases.*—

(1) *Liquidation without filing proof of claim.* (i) If the value of FmHA's security is not more than the amount of its secured debt and the borrower has no other assets from which FmHA can substantially collect considering its priority rights, the security may be liquidated by foreclosure sale in the usual manner without preparing proof of claim if the referee in bankruptcy has no objection to foreclosure by FmHA.

(ii) If FmHA has no security or has security from which full collection cannot be expected, but the borrower has other assets from which FmHA can make a substantial collection considering its priority rights, any secu-

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rity may be liquidated by foreclosure sale under the same conditions as set forth in paragraph (b) (1) (i) of this section if the sale is held in time to file a proof of claim for the deficiency.

(2) *Filing proof of claim.* A proof of claim on an insured loan will not be executed or filed and foreclosure proceedings will not be started unless the note is held by FmHA or has been assigned to it.

(i) The State Director will execute Form FmHA 455-18, "Proof of Claim of the United States of America Entitled to Priority of Payment," or other form approved by OGC covering all indebtedness to FmHA, except any judgments obtained by a U.S. Attorney, and send it to OGC with attachments that are required by a State Supplement. OGC will refer the claim and any necessary petition for abandonment of security to the U.S. Attorney or to the Department of Justice, as appropriate, for handling.

(ii) If the County Supervisor or the State Director knows that a judgment has been obtained by a U.S. Attorney, the State Director will notify OGC even though that judgment has been charged off. OGC will inform the U.S. Attorney so that a proof of claim may be prepared and filed or some other action taken on the judgment.

(iii) The State Director, on OGC's advice, will instruct the County Supervisor about actions to take with respect to meetings of creditors.

(3) *Security released to FmHA.* Ordinarily, when the value of security is not more than the amount of FmHA liens and any prior liens against it plus any homestead or other exemptions that apply to it as specified in a State supplement or as determined by OGC, an effort will be made to get the security released to FmHA. A petition for abandonment may be referred by OGC to the U.S. Attorney or to the Department of Justice, as appropriate, for filing in any such case, with or without filing a proof of claim, as determined by OGC. When the referee orders security released to FmHA, it will be liquidated unless the State Director approves continuation with the borrower.

(i) *Liquidation.* When security is dated, the proceeds, after payment of costs, will be applied first to the interest accrued to the date of filing the petition in bankruptcy and then to the principal of the debt. Additional proceeds will be applied to the interest accrued from the date the petition in bankruptcy was filed to the date of payment. When the payments are sent to the Finance Office, the County Supervisor will give the date the petition in bankruptcy was filed.

(ii) *Continuation with borrower.* If the State Director approves continuing the loan and the borrower is keeping the security, the borrower must execute:

(A) Form FmHA 460-10, "New Promise to Pay," promising to pay all indebtedness to FmHA which is secured by the property released to FmHA in accordance with the existing instrument(s) evidencing such indebtedness; and

(B) Any security or other instruments required by OGC. The new promise and other required instruments will be executed promptly after release of the security to FmHA and the borrower's adjudication in bankruptcy unless, under State law, the new promise to be effective must be made after discharge in bankruptcy.

(c) *Other parties liable.* When a joint obligor has been discharged in bankruptcy and continuation has been disapproved, but other parties remain liable for the debt, the County Supervisor will use Form FmHA 450-10 to notify the Finance Office of the names of the parties remaining liable and the address to which to mail the statement of account.

§1962.48 Setoffs.

Generally, FmHA will request set offs only when all security has been liquidated, when ordinary collection efforts, including assignments, have not been effective and, if the borrower has cooperated with FmHA in the servicing of the loan, the setoff would not cause undue hardship on the borrower and the borrower's family. The filing of a setoff request will not decrease other collection efforts. Debts of nominal amounts and debts discharged in bankruptcy, will not be collected by setoff under this Subpart. Cases will not be referred for civil action until after any possible setoff actions are taken. However, there may be situations in which funds become available against which setoffs might be possible after referring the case for court action. Setoffs will not be requested in cases referred to the U.S. Attorney for collection or in cases where a judgment has been obtained, without prior approval of the U.S Attorney.

(a) *ASCS setoff.* The Secretary's Order on setoffs authorizes the collection of debts owed to FmHA by setoff against amounts approved for payment to the debtor by ASCS committees.

(1) *County Office actions.* (i) FmHA's County Office staff may ask the ASCS County Office staff whether the debtor has shown an intention, with respect to a particular crop year, to participate in one or more of the programs administered by ASCS under which funds might be available for setoff.

(ii) The County Supervisor will forward recommendations for such set offs to the State Director, including information about efforts to collect by other means and any other pertinent information.

(iii) If, after a recommendation for a setoff has been made the borrower pays the indebtedness to FmHA, moves to a new location or the borrower's circumstances change so as to affect the setoff, such information will be sent to the State Director.

(2) *State Office actions.* The State Director will consider a recommendation for a setoff to determine if the setoff is justified and if it complies with this subpart.

(i) The State Director will prepare requests for setoffs in memorandum form. The original and signed copy of the request will be submitted to the ASCS State Office and a copy forwarded to the County Supervisor for the borrower's case file. The request will contain the following information.

(A) Full name, address, and FmHA case number of the debtor.

(B) County and State under which the amount of the indebtedness should be set up on the debt register.

(C) Principal amount of the indebtedness, the accrued interest, the date through which interest was computed, and the daily interest factor to be applied afterwards.

(D) Address of the FmHA County Office for delivery of check.

(E) Identification of any court judgment.

(F) The following certification:

The undersigned hereby certifies that the above-described indebtedness of ———— to the United States (Farmers Home Administration) is subject to setoff under the Secretary's Order.

(Date) ————————————

(Signature of Authorized Representative) ————————————

(Title) ————————————

(ii) The State Director may withdraw a request for setoff by notifying the ASCS State Office at any time before processing a setoff voucher and sending a copy of the request for withdrawal to the County Supervisor. However, setoffs may be withdrawn only if the borrower pays the indebtedness fully or substantially, the debt is settled, or future collections can be made by other methods.

(iii) If the account of the borrower for whom a request for setoff has been submitted is transferred to another FmHA County Office jurisdiction, either within or outside the State, the State Director will notify the ASCS State Office of the address of that FmHA County Office so that any payments may be sent there.

(3) *Check delivery.* Setoffs will be made by checks or sight drafts payable to FmHA and delivered to the County Supervisor. If the claim has been forwarded to OGC, the remittance will be sent to OGC. OGC instructions as to application will be followed.

(4) *Deletion from debt registers.* (i) The names of FmHA borrowers for whom requests for setoffs have been submitted and who have quit farming, or cannot be located in the counties for which the debts were reported, will be deleted by the ASCS County Office from their debt registers without a request from FmHA. Notices of such deletions will be furnished to the FmHA State Office originating the setoff request.

(ii) On receipt of notice, the State Director will inform the appropriate FmHA County Office of the deletions.

(iii) If the borrowers whose names have been deleted resume farming operations or can be located, the County Supervisor may submit to the State Director a recommendation for a new request for setoff.

(b) *Federal employee setoff.* Salary and lump sum payments due borrowers on separation or retirement from Federal Government employment may be set off against debts owed to FmHA. Any sum a borrower has in the Civil Service Commission retirement fund also may be set off.

(1) *County Office actions.* If efforts to collect the debt from current income from Federal employment fail, the County Supervisor will submit the case to the State Director with information necessary to report the case to the National Office.

(2) *State Office actions.* If the facts justify a setoff against the borrower's salary and lump sum payments or Civil Service retirement the State Director will submit the case to the National Office, including:

(i) Full name, address, and FmHA case number of the borrower and, if the borrower is a member of the military establishment or Coast Guard, title and serial number.

(ii) Date of birth of borrower.

(iii) Name and address of the employing agency, military establishment, or Coast Guard.

(iv) Approximate income of borrower and spouse.

(v) Financial circumstances of the borrower documented on Form FmHA 456-1, "Application for Settlement of Indebtedness."

(vi) Number of dependents.

(vii) Information about FmHA efforts to collect.

(viii) Statement of account.

(ix) Identification of any court judgment.

(x) A recommendation if the borrower is retired, based on financial circumstances, as to whether all or part of the monthly annuity check should be set off.

§ 1962.49 Civil and criminal cases.

All cases in which court actions to effect collection or to enforce FmHA rights are recommended, as well as actions relating to apparent violations of Federal criminal statutes, will be handled in accordance with this section.

(a) *Civil action.* Court action or other judicial process will be recommended to OGC when all other reasonable and proper efforts and methods to obtain payment, to remove other defaults, and to protect FmHA's interests have been exhausted. However, if an emergency situation exists or criminal action is to be recommended, the case will be submitted to OGC without taking the actions necessary to report the information required by Part II of Form FmHA 455-22, "Information for Litigation." This is because delay in submitting cases in emergency situations may affect the financial interests of FmHA and making collection efforts may affect the recommended criminal action.

(1) Civil action will be recommended when one or more of the following conditions exists:

(i) There is a need to repossess security or EO property or to foreclose a lien and such action cannot be accomplished by other means authorized in this Subpart.

(ii) There is a need for filing claims against third parties because of a conversion of security or other action.

(iii) Payments due on debts are not made in accordance with the borrower's ability to pay, and the borrower has assets or income from which collection can be made.

(iv) The borrower has progressed to the point that credit can be obtained from other sources, has agreed in the note or other instrument to do so, but refuses to comply with that agreement.

(v) FmHA or its security becomes involved in court action through foreclosure by a third-party lienholder or through some other action.

(vi) Other conditions exist which indicate that court action may be necessary to protect FmHA's interests.

(2) Claims of less than $600 principal will not be referred to OGC for court action unless:

(i) A statement of facts is submitted as to the exact manner in which the interest of FmHA, or other than recovery of the amount involved, would be adversely affected if suit were not filed; and

(ii) Collection of a substantial part of the claim can be made from assets and income that are not exempt under State or Federal law. A State supplement will be issued to set forth such exemptions or a summary of those exemptions with respect to property to which FmHA normally would look for payment such as real estate, livestock, equipment, and income.

(3) If criminal action will not be recommended before civil action is recommended, the following actions will be taken or determinations made:

(i) It must be determined on the basis of reasonably current credit data that there is a reasonable prospect of collection now or in the near future of all the debt or a substantial amount of the debt from assets and income that are not exempt under State or Federal law.

(ii) The debtor must be contacted personally and requested to pay the debt in full, unless one or more such contacts have been made recently without success, or such contact is not feasible considering the distance of the debtor from the County Office or other relevant factors.

(iii) Form FmHA 455-21 will be used to accelerate the borrower's indebtedness, and will state the consequences of failure to make payment as demanded. The borrower will be given at least 15 days, but not more than 30 days, to make payment. However, this form will not be sent to the borrower unless the County Supervisor believes that it would be appropriate to refer the case to the U.S. Attorney if the borrower does not comply with the demand.

(iv) It must be determined that collection cannot be made by ASCS setoff in accordance with the provisions of § 1962.48 (a) of this Subpart, or by setoff or other agreement if the debtor is employed by another Federal agency or has a judgment against the United States.

(v) The current address of the debtor will be determined or efforts will be made to locate the debtor in accordance with § 1864.5 (b) of Part 1864 of this chapter. (FmHA Instruction 456.1 paragraph V B).

(vi) If the debtor advises that the claim cannot be paid in full, and if the County Supervisor believes that this may be the situation and that there has been no fraud or misrepresentation in the case, the County Supervisor will suggest that the debtor submit promptly an application for compromise or adjustment on Form FmHA 456-1, so that it may be considered and the debt disposed of by such debt settlement, if possible.

(4) When a borrower has not properly accounted for the proceeds of the sale of security, it is the general policy to look first to the borrower for restitution rather than to third-part purchasers. In line with this policy the remaining chattel security on which FmHA holds a first lien usually will be liquidated before demand is made or civil action taken to recover from third-party purchasers.

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(i) When the County Supervisor determines that full collection cannot be made from the borrower and that it will be necessary to collect the full value of the security purchased by a converter, a demand (see Guide Letter 1962-A-1, a copy of which is available in all FmHA County Offices) will be sent to the converter at the same time that Form FmHA 455-21 is sent to the borrower.

(ii) When the County Supervisor determines that it is likely that action will have to be taken to collect from third-party purchasers, the County Supervisor will notify such purchasers by letter (see Guide Letter 1962-A-2, a copy of which is available in all FmHA County Offices) that FmHA security has been purchased by them and that they may be called upon to return the property or pay the value thereof in the event restitution is not made by the borrower. If it later becomes necessary to make demand on such third-party purchasers, FmHA will do so unless the case already has been referred to OGC or the U.S. Attorney, in which event the demand will be made by one of those offices.

(iii) When restitution is made by the borrower, or a determination is made, with the advice of OGC, that the facts in the case do not support the claim against the third-party purchaser, the third-party purchaser will be informed by the County Supervisor that FmHA will take no adverse action (see Guide Letter 1962-A-3, a copy of which is available in all FmHA County Offices). Ordinarily, it will not be necessary to inform the third-party purchaser of OGC's decision when OGC determines that the facts support the claim against the third-party purchaser but no substantial part of the claim can be collected. If OGC makes such a determination and the third-party purchaser asks what determination has been made, the County Supervisor will say that no further action is to be taken on the claim "at this time."

(iv) If court action is recommended against a converter, the applicable provisions of subparagraphs (a) (2) and (3) of this section will be followed with respect to such converter the same as with respect to the borrower. In addition, unless personal contacts with the converter or other efforts to collect demonstrate that further demand would be futile, and a satisfactory compromise offer has not been received, a followup letter (see Guide Letter 1962-A-4, a copy of which is available in all FmHA County Offices) will be sent by the State Director as soon as possible after the 15-day period set forth in the demand letter has expired. Unless response to the State Director's followup letter or personal contacts or other efforts indicate that further demand would be futile, an additional followup letter will be sent to the converter by OGC after the case has been referred to that office.

(v) The loan programs administered by FmHA are authorized by law of Congress to carry out national purposes and policies throughout the entire United States and its territories and possessions. Therefore, the liability of an auctioneer for conversion of personal property mortgaged to FmHA shall be determined and enforced in accordance with the applicable Federal law. "Auctioneer" for the purposes of this Subpart includes a commission merchant, market agency, factor, or agent. When there has been a disposition without authorization by FmHA of personal property mortgaged to that agency, any auctioneer involved in that disposition shall be liable to the Government for conversion—notwithstanding any State statute or decisional rule to the contrary.

(b) *Criminal action.* When factual information has been obtained indicating that criminal violations may have been committed and the violations are of such a nature that criminal action will be recommended, the facts will be immediately reported to OGC without taking collection actions necessary to report the information required by Part II of form FmHA 455-22. In all other cases in which it appears that criminal violations may have been committed, but in which criminal action will not be recommended, the factual situation will be reported to OGC as soon as collection action has been completed in accordance with paragraphs (a) (3) and (4) of this section. Minor deviations referred to in § 1962.4 (f) (7) need not be reported.

(c) *Handling civil and criminal cases.* All cases in which court actions to effect collection or to enforce the rights of FmHA are recommended, and actions relating to apparent violations of Federal criminal statutes, will be forwarded to OGC for submission to the appropriate U.S. Attorney.

(1) *County Office actions.* Forms FmHA 455-1, "Request for Legal Action," and FmHA 455-22 will be prepared. Form FmHA 455-2, "Evidence of Conversion," will be prepared for each conversion. The original and two copies of Forms FmHA 455-1, FmHA 455-22, and, when applicable, Form FmHA 455-2, together with the borrower's case file, will be submitted to the State Office. Signed statements should be obtained, if possible, from the borrower, any third party purchasers, or others to support the information contained on Forms FmHA 455-1 and FmHA 455-21. Appropriate recommendations will be made on Forms FmHA 455-1 and FmHA 455-22 against the borrower or others. When a case is referred to the State Office, the County Supervisor will keep that office informed of any future developments in the case.

(2) *State Office actions.* (i) Upon receipt of Form FmHA 455-1 and, when applicable, Form FmHA 455-2, the State Director will analyze each form to determine if all of the necessary information is documented and, if not, whether an appropriate effort was made to obtain the information. If the State Director is not sure whether additional information is needed, the State Director will ask OGC's advice. If all the necessary information is not available, the State Director will return the case and request the County Supervisor to obtain the information to complete Forms FmHA 455-1 and 455-2. The State Director may assign any qualified FmHA employee to help a County Supervisor obtain the information necessary to complete the reports. After diligent efforts, if FmHA employees are unable to obtain the additional information, the State Director will decide if the case will be referred to the Office of Investigation (OI). A case will be referred to the OI for investigation when:

(A) The State Director determines the additional information is needed before the case is referred to the OGC with a recommendation for civil or criminal actions, and

(B) The debtor owes more than $600 principal, and

(C) The Federal Statute of Limitations has not run and is not about to complete running (Cases should be submitted to the OGC for legal action at least 90 days before the statute completes running.), and

(D) The value of the FmHA security is substantially greater than the estimated cost of investigation and litigation, or

(E) The OGC recommends an OI investigation to pursue criminal action.

(ii) After all of the pertinent information available has been obtained, the State Director will refer the case to OGC if referral is required under the policy expressed in this section. If such referral is not required, the State Director will set forth in Item 19 of Form FmHA 455-1 the basis for the determination not to refer the case and instructions for followup servicing action. Cases which have been investigated by the OI will be referred to OGC. Demands on third-party purchasers will be made in accordance with paragraph (a)(4) of this section. In cases referred to OGC, the State Director will make comments and recommendations regarding the civil and criminal aspects of the case on Form FmHA 455-1. With respect to the criminal aspects of the case, the State Director, in making a recommendation, will consider the nature and gravity of the offense, the restitution

made or undertaken, and all other extenuating circumstances.

(A) When cases are referred to OGC, the County Office case file, Form FmHA 455-1, and, when appropriate, Form FmHA 455-2 will be transmitted. In addition, when the institution of court proceedings by FmHA is recommended, the notes, financing statements, security agreements, other security instruments, loan agreements, and other legal instruments and copies thereof as required by OGC, and Form FmHA 451-11, "Statement of Account," or Form FmHA 451-25, "Status of Account," and Form FmHA 455-22 will be submitted to OGC. The State Director, with the advice of OGC, will determine the number of copies of such instruments needed and the information required on the certified statement of account. Each request for a certified statement of account will specify the type of information needed.

(B) Notes, statements of account, files, or other documents and copies thereof needed in referring cases to OGC for court or other action will be obtained from the Finance Office or County Office by the State Director. When the time required for obtaining the above material or documents may jeopardize FmHA's interest by permitting the diversion or dissipation of assets which otherwise could be expected as a source of payment, the Finance Office, upon the request of the State Director, will forward such material or documents directly to OGC or (at the State Director's direction) to the U.S. Attorney.

(d) *Actions on cases referred to OGC.* When a case is referred to OGC, the State Director will notify the County Supervisor and the Finance Office of the referral and will return the County Office case file when it is no longer needed. After notice of the referral is received by the County Supervisor no collection or servicing action will be taken except upon specific instructions from the State Director or OGC. However, when a borrower voluntarily proposes to make a payment on an account, the County Supervisor will accept the collection unless notice has been received that the case has been referred to the U.S. Attorney. The County Supervisor will immediately notify OGC directly by memorandum, with a copy sent to the State Director, of any such collections received. The County Supervisor also will notify the State Director and OGC of any developments which may affect any case which has been referred to OGC.

(e) *Actions on cases referred to the U.S. Attorney and on judgment cases (including third-party judgments).* OGC will notify the State Director, the Finance Office, and the County Supervisor when a case is referred to the U.S. Attorney or is otherwise disposed of. When a case is referred to the U.S. Attorney, the Finance Office will discontinue mailing Forms FmHA 450-1, "Statement of Account," to such borrowers. OGC will also notify the State Director when a judgment (including third-party) is obtained.

(1) When the County Supervisor receives notice from OGC that a judgment (including third-party) has been obtained, the County Supervisor will notify the Finance Office to establish a judgment account by submitting Form FmHA 455-20, "Notice of Judgment."

(2) After notice has been received that a case has been referred to the U.S. Attorney or a judgment has been obtained and has not been returned to FmHA by the U.S. Attorney, no action will be taken by the County Supervisor except upon specific instructions from the State Director, OGC, or the U.S. Attorney. However, the County Supervisor will keep the State Director informed of any developments which may affect the FmHA security interest or and pending court action to enforce collection. If information is obtained indicating that such debtors have assets or income not previously reported by the County Supervisor to the State Director from which collection of such judgment accounts can be obtained, the facts will be reported to the State Director. The State Director immediately will notify OGC of any developments which might have a bearing on cases referred to the U.S. Attorney, including such judgment cases.

(i) If the debtor proposes to make a payment, FmHA employees will not accept such payment but will offer to assist in preparing a letter for the debtor's signature to be used in transmitting the payment to the U.S. Attorney. In such case, the debtor will be advised to make payment by check or money order payable to the Treasurer of the United States.

(ii) Collection items received through the mail from the debtor or from other sources by the County Office to be applied to such accounts will be forwarded by the County Supervisor through OGC to the appropriate U.S. Attorney. Likewise, collections received by the District Director or the State Office will be forwarded through OGC to the appropriate U.S. Attorney. Such items will be forwarded in the form received except that cash will be converted into money orders made payable to the Treasurer of the United States. The money order receipts will remain attached to the money orders. Form FmHA 451-1 will not be issued in any such case. The debtor will be informed in writing by the County Supervisor of the disposition of the amount received.

(3) When the U.S. Attorney has returned a judgment case to FmHA, the County Supervisor is responsible for servicing it as follows:

(i) When the judgment debtor has the ability to make periodic payments, action will be taken by the County Supervisor to make arrangements for the judgment debtor to do so.

(ii) Any payments received from such debtor by FmHA will be handled by issuing Form FmHA 451-1 and converting and transmitting such payments as provided in Part 1862 of this Chapter (FmHA Instruction 451.2). The U.S. Attorney will be informed through OGC of payments received only when the debtor pays a judgment in full.

(iii) At the time of the annual review of collection-only or delinquent and problem cases, the County Supervisor will determine whether such judgment debtors, whose judgments have not been charged off and who are not making regular and satisfactory payments, have assets or income from which the judgment can be collected. If such debtors have either assets or income from which collection can be made and they decline to make satisfactory arrangements for payment, the facts will be reported by the County Supervisor to the State Director. The State Director will notify OGC of developments when it appears that collections can be enforced out of income or assets.

(iv) Such judgments will not be renewed or revived unless there is a reason to believe that substantial assets have or may become subject thereto.

(v) Such judgments may be released only by the U.S. Attorney when they are paid in full or compromised.

(4) In all judgment cases, any proposed compromise or adjustment will be handled in accordance with § 1864.12 of Part 1864 of this chapter (FmHA Instruction 456.1, paragraph XII).

(5) If the debtor requests information as to the amount of outstanding indebtedness, such information, including court costs, should be obtained from the Finance Office if the County Supervisor does not have that information. If questions arise as to the payment of court costs, information as to such costs will be obtained through the State Office from OGC.

§ 1962.50 [Reserved]

ATTACHMENTS: EXHIBITS A AND B

EXHIBIT A

MEMORANDUM OF UNDERSTANDING BETWEEN COMMODITY CREDIT CORPORATION AND FARMERS HOME ADMINISTRATION

IT IS HEREBY AGREED by and between the Farmers Home Administration (hereinafter referred to as "FHA") and the Commodity Credit Corporation (hereinafter referred to as "CCC") that the following procedure will be observed in those cases where producers sell to CCC or pledge to CCC as loan collateral under the Price Support Program, agricultural commodities such as, but not limited to, cotton, tobacco, peanuts, rice, soybeans, grains, on which FHA holds a prior lien and the proceeds from such sales or loans are not remitted to FHA for application against the loan(s) secured by such lien:

1. When an FHA County Supervisor learns that an FHA borrower has obtained a loan from CCC on a commodity or sold a commodity to CCC under such circumstances he shall immediately notify his State Director. The State Director, immediately upon receipt of the notice, shall furnish CCC (see Appendix 1) with the name and address of such borrower, the county of his location at the time the commodity was placed under loan or sold, and the amount of the FHA loan secured by the lien.

2. When CCC receives such a notice from FHA, CCC shall take steps to prevent the making of any further loans on or purchases of the commodity of the borrower. If the CCC loan is still outstanding and CCC calls the loan, CCC shall notify the FHA State director of the demand.

3. If the CCC loan is repaid, whether prior to or after the receipt by CCC of the notice from FHA, the FHA State Director shall be notified immediately, at which time CCC will have discharged its responsibility under this agreement.

4. FHA shall, in each case in which the CCC loan is not repaid or the commodity has been sold to CCC, endeavor to collect from the borrower the amount due on the FHA loan. Such collection efforts shall include the making of demand on the borrower and the following of FHA's normal administrative policies with respect to the collection of debts, but shall not include the making of demand for payment upon the area peanut producer cooperative marketing associations through which CCC makes price support available to producers. If collection efforts are not successful, the FHA County Supervisor shall make a complete report on the matter to his State Director. If the State Director determines that the amount due on the FHA lien is not collectable by administrative action, he shall refer the matter to the appropriate local office of the General Counsel, with a full statement of the facts, for a determination of the validity of the FHA lien. If it is determined by the General Counsel's Office that FHA holds a valid prior lien on the commodity, the State Director shall furnish CCC with a copy of such determination, together with all other pertinent information, and shall request payment to FHA of the lesser of (1) the amount due on its loan, or (2) the value of the commodity at the time the CCC loan or purchase was made (based on the market value of the commodity on the local market nearest to the place where the commodity was stored). The information to be furnished CCC shall include (a) the principal balance plus interest due FHA on the date of the request, (b) the amount due on the FHA loan at the time the CCC loan or purchase was made, and (c) the amount of the CCC loan or purchase proceeds, if any, applied by the producer against the FHA loan. FHA shall continue to make collection efforts and shall notify CCC of any amount collected from the producer or any other party.

5. Upon receipt of evidence, including a copy of the determination of the Office of the General Counsel, from the State Director of FHA that the proceeds from the CCC loan or purchase have not been received by FHA from the borrower, and that collection cannot be made by FHA, CCC will if the CCC loan has not been repaid or if CCC has purchased the commodity, pay FHA the amount specified in paragraph 4 above or deliver the commodity (or warehouse receipts representing the commodity) to FHA: *Provided*, That if CCC has any information indicating that collection may be made by FHA from the borrower or any other party, it may notify FHA and delay payment pending additional collection efforts by FHA.

6. It is the desire of both FHA and CCC that claims to be processed under this agreement receive prompt attention by both parties and be disposed of as soon as possible. Instructions for the implementation of these procedures at the field office level will be developed and issued by the Washington offices of FHA and CCC.

7. Any question with regard to the handling of any claim hereunder shall be reported by the applicable ASCS office to ASCS in Washington and by the FHA State Director to the National Office of FHA.

This Memorandum of Understanding supersedes the agreement entered into between FmHA and CCC on November 5, 1951.

Entered into as of this 29th day of May, 1973.

PARMERS HOME ADMINISTRATION,
FRANK B. ELLIOTT,
Acting Administrator.

COMMODITY CREDIT CORPORATION,
KENNETH E. FRICK,
Executive Vice President.

APPENDIX 1

FURNISHING NOTICE OR INFORMATION TO COMMODITY CREDIT CORPORATION

Commodity:	*Direct to*
Cotton	Prairie Village, Kansas, ASCS Commodity Office
Tobacco	Applicable tobacco association
Peanuts	Applicable peanut association
All other commodities	Applicable State ASCS office

MEMORANDUM OF UNDERSTANDING AND BLANKET—COMMODITY LIEN WAIVER

The Farmers Home Administration (FHA) sometimes makes loans to farmers on the security of agricultural commodities that are eligible for price support under loan and purchase programs conducted by the Commodity Credit Corporation (CCC). FHA and CCC desire that price support be made available to farmers without unnecessarily impairing or undermining the respective security interests of FHA and CCC in and without undue inconvenience to producers and FHA and CCC in securing lien waivers on such commodities.

Now, therefore, it is agreed as follows:

(1) Upon request of an official of an ASCS State Office, the FHA State Director in such State shall furnish designated ASCS County Offices with the names of producers in the trade area from whom FHA holds currently effective liens on commodities with respect to which CCC conducts price support programs. FHA will try to furnish a complete and current list of the names of such producers; however, FHA's liens with respect to any commodity will not be affected by an error in or omission from such lists.

(2) For a loan disbursed by an ASCS County Office, CCC will issue a draft in the amount (less fees and charges due under CCC program regulations) of the loan on, or purchase price of, the commodity payable jointly to FHA and the producer if (a) his name is on the list furnished by FHA, or (b) he names FHA as lienholder. The draft will indicate the commodity covered by the loan or purchase.

(3) On issuance of the draft, the security interest of FHA shall be subordinated to the rights of CCC in the commodity with respect to which the loan or purchase is made. The word "subordinated" means that, in the case of a loan, CCC's security interest in the commodity shall be superior and prior in right to that of FHA and that, on purchase of a commodity by CCC or its acquisition by CCC in satisfaction of a loan, the security interest of FHA in such commodity shall terminate.

(4) Nothing contained in this Memorandum of Understanding shall be construed to affect the rights and obligations of the parties except as specifically provided herein.

(5) This agreement may be terminated by either party on 30 days' written notice to the other party.

H. D. GODFREY,
Executive Vice President, CCC.
JULY 20, 1967.

HOWARD BERTSCH,
Administrator, FmHA.
JULY 14, 1967.

(7 U.S.C. 1989; 42 U.S.C. 2942; 5 U.S.C. 301; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850).

NOTE.—This document has been reviewed in accordance with FmHA Instruction 1901-G "Environmental Impact Statements". It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human enviroment and in accordance with the National Enviromental Policy Act of 1969, Pub. L. 91-190 an Environmental Impact Statement is not required.

Dated: December 9, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration

[FR Doc. 79-2164 Filed 1-19-79; 8:45 am]

[7590-01-M]

Title 10—Energy

CHAPTER 1—NUCLEAR REGULATORY COMMISSION

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

Clarification of Computation of Time Provisions

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Nuclear Regulatory Commission is amending certain provisions of its Rules of Practice to clarify the requirements for computing the time prescribed for replying to a petition for leave to intervene.

EFFECTIVE DATE: January 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Marc R. Staenberg, Regulations Division, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, TEL: (301-492-8689).

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission has become aware that some confusion has arisen in regard to the time allowed for answering a petition for leave to intervene. Prior to this amendment, § 2.714(c), provided that answers to a petition for leave to intervene must be filed within a prescribed period after *filing* of the petition. In § 2.710, Computation of Time, the prescribed period for taking some action, such as filing an answer, runs from *service* of the initiating document.

The Nuclear Regulatory Commission intended § 2.710 to generally govern computation of time, including the provision for additional time for mailing. Therefore, a minor clarifying amendment is being made to § 2.714(c) to make clear that the time for replying to a petition to intervene shall be computed from the date of service of the petition.

Standard practice calls for notices of hearing and notices of proposed action to include the names and addresses of the Commission staff and applicant so that they may be served with copies of intervention petitions. This practice will be continued. If for some reason an intervention petition is not served by the petitioner, then the time for answer may be calculated from the date of service by the Secretary of the Commission.

Because these amendments relate solely to corrections and minor procedural matters, the Commission has found that good cause exists for omitting notice of proposed rulemaking, and public procedure thereon, as unnecessary, and for making the amendments effective on January 22, 1979, without the customary 30 days notice.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter 1, Code of Federal Regulations, Part 2 is published as a document subject to codification.

Section 2.714(c) is revised to read as follows:

§ 2.714 Intervention.

* * * * *

(c) Any party to a proceeding may file an answer to a petition for leave to intervene within ten (10) days after service of the petition, with particular reference to the factors set forth in paragraph (d) of this section. However, the staff may file such an answer within fifteen (15) days after service of the petition.

* * * * *

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841)).

Dated at Bethesda, Maryland, this 12th day of January, 1979.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc. 79-2241 Filed 1-19-79; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 79-CE-1-AD; Amdt. 39-3395]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Models 152 and A152 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to Cessna Models 152 and A152 airplanes. It supersedes existing AD 78-21-01, amendment 39-3318 (43 FR 49298, 49299) and makes the inspections and actions specified therein applicable to all KMR Industries Part Number 1-1000 exhaust systems having heat exchangers with internal baffles. This AD, which is of an emergency nature, is necessary because failures of the components have occurred which allow carbon monoxide to enter the cabin heater air. This condition may cause pilot incapacitation and result in an accident.

EFFECTIVE DATE: January 25, 1979, to all persons except those to whom it has already been made effective by airmail letter from the FAA dated December 1, 1978.

Compliance: As required in the body of the AD.

ADDRESSES: Cessna Single Engine Service Letter SE78-71, dated December 1, 1978, or later revisions, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; Telephone (316) 685-9111. A copy of the service letter cited above is contained in the Rules Docket, Office of the Regional Counsel, room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Donald L. Page, Aerospace Engineer, Engineering and Manufacturing Branch, Federal Aviation administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 374-3146.

SUPPLEMENTARY INFORMATION: The FAA has determined that the problem described in the summary is an unsafe condition which is likely to exist or develop in other airplanes of the same type design. The agency also determined that an emergency situation existed, that immediate corrective action was required, and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplanes affected by the AD by Airmail letters dated December 1, 1978. The AD became effective as to these individuals upon receipt of the letter. Since the unsafe condition described herein still exists on other Cessna Model 152 and A152 airplanes, the AD is being published in the FEDERAL REGISTER as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification. Since the subject matter of this AD is similar to that of AD 78-21-01 (Amendment 39-3318, 43 FR 49298, 49299) and includes all airplanes to which that AD applies, AD 78-21-01 is being superseded by this amendment.

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ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive.

CESSNA: Applies to Cessna Model 152 (Serial Numbers 15279406 through 15282919) and Model A152 (Serial Numbers A1520735 through A1520845) airplanes having Cessna original equipment type exhaust systems installed.

Compliance: Required as indicated unless already accomplished.

To preclude contamination of cabin heater air with carbon monoxide, accomplish the following:

(A) Before next flight, except that the airplane may be flown with the cabin heat in the "OFF" position to a location where this inspection may be accomplished:

1. Unless previously accomplished per AD 78-21-01, visually inspect the clearance between the exhaust pipe and cowl opening. Minimum clearance must be .375 inch in the fore and aft direction and .625 inch in the lateral direction with a smooth transition between. Enlarge cowl opening as required to obtain this clearance.

2. Visually inspect the interior of the heater muffler, through the tailpipe, for the presence of a perforated baffle system using a flashlight or other aid to illuminate the interior of the heater muffler. If no baffle system is present, the heater muffler is acceptable and the further inspections and actions required by paragraph (A)3 of this AD are not required. If an internal baffle system is present, remove the cowling to gain access to the exhaust system. Determine whether the exhaust system is a KMR Industries Part Number 1-1000, or an Alternate Elano Part Number EL099001-060 by examination of the nameplate which is located between the hose connections on the aft side of the heater shroud on the KMR system or comparison of the exhaust system configuration with those depicted in Figures 64 and 65 of the Model 152 and A152 Illustrated Parts Catalog. If the system is the Alternate Elano system, the present heater muffler is acceptable and the further inspections and actions specified in paragraph (A)3 of this AD are not required.

3. If the exhaust system is a KMR Industries assembly:

(a) Prior to further flight, safety wire the cabin heat valve control arm in the closed position by securing it to the engine mount using .032 diameter safety wire.

(b) Within the next 10 hours time-in-service and within each 50 hours time-in-service thereafter:

1. Remove the engine cowling and the KMR Industries heat exchanger shroud.

2. Using a 5-power, or greater, magnifying glass, visually inspect the heater muffler can for any cracks around the tailpipe and along the three lines of spot welds on the surface of the heat exchanger can itself.

3. If the heater muffler can is found cracked, prior to next flight:

(i) Replace it with a heater muffler having a serial number 4000 or above; or

(ii) Repair and reinstall heater mufflers having cracked or completely pulled-through spot welds and/or closed cracks that do not extend under the end plates and do not exceed 3 inches continuous length, by heli-arc welding in accordance with the following:

1. Use rod material compatible with titanium stabilized 321 stainless steel.

2. It is not necessary to reattach the can to the baffle at pulled-through spot welds if the can and baffle are separated. In this case, it is only necessary to close the hole or crack in the can at the spot weld location.

3. Disconnect the hose between the heat exchanger shroud and the firewall cabin heat valve at the cabin heat valve and safety wire it to the engine mount tube so that 1.5 inches of the hose extends below the fuselage through the cowl air exit hole and to the right of the nose gear. Install the hose clamp on the valve end of the hose so that it grips the wire supported section of the hose. Route the safety wire between the clamp and the hose to secure the clamp and hose to the engine mount.

4. After installation of a new KMR Industries heater muffler having a serial number 4000 or above, obliterate the existing exhaust system serial number located on the nameplate attached to the shroud.

(B) Upon installation of a KMR Industries heater muffler can having a serial number 4000 or above and incorporation of a dam in the heat exchanger shroud in accordance with Cessna Service Kit 152-3, the cabin heat system may be reactivated and the inspection required by Paragraph (A)3(b) discontinued.

NOTE—(The serial number will be stamped on a flange of the replacement heat exchanger can.)

(C) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

Cessna Service Letter SE78-71 dated December 1, 1978, or later revisions, pertains to this subject.

This AD supersedes AD 78-21-01 which became effective October 6, 1978 [43 FR 49298, 49299] to all persons except those to whom it had already been made effective by airmail letter from the FAA dated September 18, 1978.

This amendment becomes effective on January 25, 1979 to all persons except those to whom it has already been made effective by an airmail letter from the FAA dated December 1, 1978.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89).)

NOTE—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Missouri, on January 9, 1979.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 79-2169 Filed 1-19-79; 8:45 am]

[4910-13-M]

[Docket No. 79SO-3, Amendment 39-3398]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Models PA-44-180 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires the inspection of certain Piper PA-44-180 airplane fuel supply lines for evidence of chafing damage and requires line replacement, if necessary. This amendment also requires that the lines be repositioned for clearance, if necessary, and the installation of a chafe guard grommet where the line passes through the wing rib. This amendment is necessary to insure that the fuel lines are not damaged by chafing which could result in a fuel leak.

DATES: Effective January 24, 1979. Compliance required within the next 10 hours time in service after the effective date of this AD unless already accomplished.

ADDRESSES: Copies of Piper Service Bulletin 627 may be obtained from Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745. Copies of Piper Service Bulletin 627 are maintained in the AD Docket File and may be examined in Room 275, Federal Aviation Administration, Southern Region, 3400 Whipple Street, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT:

Gil Carter, ASO-214, Propulsion Section, Engineering and Manufacturing Branch, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone: (404) 763-7435.

SUPPLEMENTARY INFORMATION: There have been reports of fuel supply lines chafing on the edge of a wing rib lightening hole. Since this condition is likely to exist or develop in other airplanes of the same type design, this amendment is issued to insure chafe protection for the fuel line. Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulation (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

PIPER AIRCRAFT CORPORATION. Applies to Model PA-44-180, serial numbers 44-7995001 through 44-7995003, 44-7995005 through 44-7995023, 44-7995025 through 44-7995053, 44-7995055 through 44-7995064, 44-7995066, 67, 69, 71, 73, and 74 airplanes certificated in all categories.

Compliance is required within the next 10 hours' time in service after the effective date of this AD unless already accomplished.

To prevent fuel leakage due to a damaged fuel line, accomplish the following:

(a) Remove the inspection plate (or plates) on the underside of the left and right wings, in the area of the electrical fuel boost pump, inboard of the engine nacelle.

(b) Inspect the fuel supply lines part number 86238-03 (Left and Right), where the line passes through the rib lightening hole, for damage due to interference with the hole flange. If a fuel supply line is damaged, replace it with a serviceable line.

(c) Install a caterpillar grommet, part number 63976-34 (MS21266-1N) on the lower half of the rib lightening hole flange in both wings using a suitable cement to retain the grommet in position.

(d) Position the fuel supply line to obtain a minimum clearance of .125 inch from the caterpillar grommet.

(e) Reinstall the inspection plates on the left and right wings.

(f) Make an appropriate maintenance record entry.

(g) An alternate method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

NOTE.—Piper Service Bulletin 627, dated October 24, 1978, pertains to this subject.

This amendment becomes effective January 24, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Issued in East Point, Georgia, on January 10, 1979.

GEORGE R. LACAILLE,
Acting Director.

[FR Doc. 79-2165 Filed 1-19-79; 8:45 am]

[4910-13-M]

[Docket No. 78-SO-14, Amdt. No. 39-3397]

PART 39—AIRWORTHINESS DIRECTIVES

Teledyne Continental Motors Models TSIO-520J and TSIO-520-N Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment amends an existing Airworthiness Directive (A.D.) applicable to Teledyne Continental Motors Series TSIO-520-J and TSIO-520-N engines installed in certain Cessna Model aircraft by requiring the installation of an improved number two (#2) intake manifold tube. The amendment is needed to improve the induction system flexible elbow retention on the intake manifold and thereby eliminating the repetitive inspection imposed by Amendment 39-3153.

DATES: Effective January 24, 1979.

ADDRESSES: The applicable Customer Service Bulletin may be obtained from Teledyne Continental Motors, P.O. Box 90, Mobile, Alabama 36601. A copy of the service Bulletin is contained in Room 275, Engineering and Manufacturing Branch, ASO-210, Southern Region, Federal Aviation Administration, 3400 Whipple Street, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT:

H. D. Roe, Aerospace Engineer, Engineering and Manufacturing Branch, ASO-210, Southern Region, Federal Aviation Administration, 3400 Whipple Street, East Point, Georgia 30344, telephone No. (404) 763-7435.

SUPPLEMENTARY INFORMATION: This A. D. Proposes to further amend Amendment 39-3153, FR 10340, A. D. 78-06-01, as amended by Amendment 39-3193, which currently requires repetitive inspections on Teledyne Continental TSIO-520-J and TSIO-520-N engines installed in certain Cessna and Riley converted Cessna aircraft.

After issuing Amendment 39-3193, the FAA has determined that the longer nipple on improved elbow tube, TCM P/N 642590, provides for improved joint integrity on the critical L.H. flexible elbow and repetitive inspections are no longer required. In addition, it has been determined that the R. H. flexible elbow inspections are no longer necessary. Based on this, a notice was issued in the FEDERAL REGISTER on November 20, 1978, (43 FR 54101) which proposed to amend the existing A. D. by deleting the inspection provisions and requiring the installation of a new #2 intake manifold tube.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Accordingly, the proposal is adopted without change.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment No. 39-3193, A. D. 78-06-01, as follows:

Teledyne Continental Motors. Amendment 39-3153 as amended by Amendment 39-3193 is further amended by amending AD 78-06-01. Applies to model TSIO-520-J and TSIO-520-N engines not previously fitted with improved elbow tube TCM P/N 642590, installed in, but not limited to, Cessna models 340A and 414. Also applies to Cessna model 340 as modified by STC's SA1881SW or SA186NW.

Compliance is required as indicated except that the initial 25-hour inspection specified in paragraph A-2 is not required for Cessna aircraft manufactured after April 1, 1978.

To prevent a separation of flexible elbow TCM P/N 635930 from the left hand (L. H.) No. 2 cylinder intake tube and possible engine malfunctions or stoppage, accomplish the following:

A. 1. Within the next 12 months after the effective date of this amendment, replace induction system intake tube TCM P/N 629138 with new intake tube TCM P/N 642590. After the intake tube has been replaced with the new tube TCM P/N 642590, inspections required by paragraph A.2 do not apply.

2. Within the next 25 hours time in service after the effective date of this A. D., unless already accomplished, and thereafter at each 100 hours time in service, accomplish the following:

(i) Inspect the L. H. elbow installation for full engagement over intake manifold tube and intercooler nipple beads with the hose clamps properly located behind nipple beads.

(ii) Check torque of 30 to 35 inch pounds on left flexible intake manifold clamps (Cessna P/N U-84-270-SH) and intercooler clamps (Cessna P/N U-94-260-SH or B35A-21P). On aircraft which use TCM clamps P/N 631972) at these joints, check for torque of 25 to 30 inch pounds. On Riley conversions which use Riley P/N 631972 clamps on these joints, check for 30 to 35 inch pounds.

(iii) Upon request of the operator, an FAA maintenance inspector may adjust the repetitive inspection interval up to a maximum time between inspections of 125 hours to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

3. The inspections required by paragraph A-2 may be discontinued once the intake tube has been replaced with new tube TCM P/N 642590.

B. Alternate methods of compliance may be acceptable if approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region, Atlanta, Georgia.

C. Appropriate maintenance record must be made in accordance with FAR 43.9.

This amendment becomes effective January 24, 1979.

(Sections 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)).

Issued in East Point, Georgia, on January 10, 1979.

GEORGE R. LACAILLE,
Acting Director,
Southern Region.

[FR Doc. 79-2167 Filed 1-19-79; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-SO-68]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area, Cairo, Ga.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This rule will designate the Cairo, Georgia, Transition Area and will lower the base of controlled airspace in the vicinity of the Cairo-Grady County Airport from 1200 to 700 feet AGL to accommodate Instrument Flight Rule (IFR) operations. A public use instrument approach procedure has been developed for the Cairo-Grady County Airport, and the additional controlled airspace is required to protect aircraft conducting Instrument Flight Rule (IFR) operations.

EFFECTIVE DATE: February 1, 1979.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636 Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P. O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on Monday, December 4, 1978 (43 FR 56680), which proposed the designation of the Cairo, Georgia, transition area. No objections were received from this notice.

ADOPTION OF THE AMENDMENT

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, February 1, 1979, by adding the following:

Cairo, Georgia

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of Cairo-Grady County Airport (latitude 30°53'19"N., longitude 84°09'22"W.); within 3 miles each side of the 137° bearing from the Caldy RBN (latitude 30°53'17"N., longitude 84°09'34"W.), extending from the 6.5 mile radius area to 8.5 miles northwest of the Rbn.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transporation Act (49 U.S.C. 1655 (c)).)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transporation guidelines (43 FR 9582; March 8, 1978).

Issued in East Point, Georgia, on January 12, 1979.

GEORGE R. LACAILLE,
Acting Director, Southern Region.

[FR Doc. 79-2168 Filed 1-19-79; 8:45 am]

[1505-01-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 78-NA 17]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Part 73—SPECIAL USE AIRSPACE

Designation of Temporary Restricted Area

Correction

In FR DOC. 78-33766, appearing on page 56648, in the issue of Monday, December 4, 1978, second column, in the boundary description of "R-2212 Clear Creek, Alaska", sixth line, "64°15'00"N.," should be corrected to read, "64°15'30"N.,".

[3510-13-M]

Title 15—Commerce and Foreign Trade

CHAPTER V—UNITED STATES METRIC BOARD

PART 500—PROCEDURES FOR PUBLIC MEETINGS UNDER THE GOVERNMENT IN THE SUNSHINE ACT

AGENCY: United States Metric Board.

ACTION: Final rule.

SUMMARY: The United States Metric Board adopts procedures for its public meetings in order to implement the Government in the Sunshine Act. Such procedures shall facilitate and encourage public observations of the deliberations and decisions of The United States Metric Board to the maximum extent possible.

EFFECTIVE DATE: December 15, 1978.

FOR FURTHER INFORMATION CONTACT:

John Milo Bryant, Office of General Counsel, United States Metric Board, Suite 301, 1815 N. Lynn Street, Arlington, VA 22209, (703) 235-1933.

SUPPLEMENTARY INFORMATION: On Friday, September 15, 1978 there was published in the FEDERAL REGISTER (43 FR 41230) a notice of proposed rule making by The United States Metric Board which would amend Title 15 of the Code of Federal Regulations by establishing Chapter V entitled "United States Metric Board" consisting of Part 500.

The public was afforded a 60-day period in which to submit written comments, data, and views on the proposal. Five written comments were received all of which were directed at Section 500.5(a), "Procedures for announcing meetings." Respondents indicated that seven days advance notice was insufficient time for interested persons to plan for or attend the meetings, and suggested that the time should be extended to 14 or 21 days. The commenters expressed concern about delays in publishing notices of meeting in the FEDERAL REGISTER, and the fact that public and private newsletters interested in Board activities cannot print Board Meeting hours on such short notice.

The Board appreciates the comments submitted by these five commenters in response to the notice of proposed rule making. After giving such comments careful consideration the Board has determined that proposed rule of *at least* seven days notice remain as the legal requirement. However, the Board has directed the Staff to strive for a longer period of notice whenever practicable and adopted a staff goal of 21 days. Moreover, the Board directs the staff to implement mailing lists so that interested individuals may receive personal notice rather than having to rely exclusively on the FEDERAL REGISTER for information.

FINAL RULE

Accordingly, under the authority of 5 U.S.C. 552(g) the United States Metric Board hereby adopts the procedures for Public Meetings under the Government in the Sunshine Act (15 CFR Part 500) as appearing in the FEDERAL REGISTER on September 15, 1978 (43 FR 41230), by amending Title 15 of the Code of Federal Regulations by establishing Chapter V entitled "United States Metric Board" to consist of Part 500 and to read as follows:

PART 500—PUBLIC MEETING PROCEDURES OF THE UNITED STATES METRIC BOARD

Sec.:
500.1 Purpose and scope.
500.2 Definitions.
500.3 Open meetings.
500.4 Grounds on which meetings may be closed, or information may be withheld.
500.5 Procedure for announcing meetings.
500.6 Procedure for closing meetings.
500.7 Transcripts, recordings, and minutes of meetings.
500.8 Enforcement and review.

AUTHORITY: 5 U.S.C. 552b(g); Pub. L. 94-168, 89 Stat. 1007 (15 U.S.C. 205a-205k).

§ 500.1 Purpose and scope.

It is the policy of the United States Metric Board to provide the public with the fullest practicable information regarding its decision-making processes. It is the purpose of these regulations to provide the public with such information while protecting the rights of individuals and the Board's ability to carry out its responsibilities. Accordingly, these procedures apply to all meetings of the Unites States Metric Board, including committees of the Board. Every portion of every Board meeting will be open to public observation, except as otherwise provided in these regulations.

§ 500.2 Definitions.

As used in this part:

"Board" or "United States Metric Board" means the collegial body that conducts the business of the United States Metric Board, as specified in section 5 of Pub. L. 94-168 (15 U.S.C. 205d), consisting of:

(a) The Chairman, a qualified individual who shall be or has been appointed by the President, by and with the advice and consent of the Senate;

(b) Sixteen members who shall be or have been appointed by the President, by and with the advice and consent of the Senate, on the following basis—

(1) One selected from lists of qualified individuals recommended by engineers and organizations representative of engineering interests;

(2) One selected from lists of qualified individuals recommended by scientists, the scientific and technical community, and organizations representative of scientists and technicians;

(3) One selected from a list of qualified individuals recommended by the National Association of Manufacturers or its successor;

(4) One selected from lists of qualified individuals recommended by the United States Chamber of Commerce, or its successor, retailers, and other commercial organizations;

(5) Two selected from lists of qualified individuals recommended by the American Federation of Labor and Congress of Industrial Organizations or its successor who are representative of workers directly affected by metric conversion, and by other organizations representing labor;

(6) One selected from a list of qualified individuals recommended by the National Governors Conference, the National Council of State Legislatures, and organizations representative of State and local government;

(7) Two selected from lists of qualified individuals recommended by organizations representative of small business;

(8) One selected from lists of qualified individuals representative of the construction industry;

(9) One selected from a list of qualified individuals recommended by the National Conference on Weights and Measures and standards making organizations;

(10) One selected from lists of qualified individuals recommended by educators, the educational community, and organizations representative of educational interests; and

(11) Four at-large members to represent consumers and other interests deemed suitable by the President and who shall be qualified individuals.

"Chairman" means the presiding officer of the Board, appointed in accordance with section 5(b)(1), Pub. L. 94-168 (15 U.S.C. 205d(b)(1)).

"Committee" means any formally designated subdivision of the Board, consisting of at least two Board members, authorized to act on behalf of the Board, including the Board's standing committees and any ad hoc committees appointed by the Board for special purposes.

"Executive Director" means the individual appointed by the Board to serve as the chief executive officer of the Board, in accordance with section 10(a), Pub. L. 94-168 (15 U.S.C. 205i(a)).

"Meeting" means the deliberations of at least the number of individual voting members of the Board required to take action on behalf of the Board, where such deliberations determine or result in the joint conduct or disposition of official business of the Board, but does not include:

(a) Deliberations to open or close a meeting, to establish the time, place, and subject matter of a meeting, or to release or withhold information required or permitted by § 500.5 or § 500.6.

(b) Notation voting or similar consideration of matters whether by circulation of material to members individually in writing, or polling of members individually by telephone, telegraph, or similar mechanism, and

(c) Instances where individual members, authorized to conduct business on behalf of the Board, or to take action on behalf of the Board, meet with members of the public or staff. Conference telephone calls that involve the requisite number of members, and otherwise come within the definition, are included.

"Member" means a member of the Board.

"Staff" includes the employees of the United States Metric Board, other than the members of the Board.

§ 500.3 Open meetings.

(a) Members shall not jointly conduct or dispose of business of the Board other than in accordance with these procedures. Every portion of every meeting of the Board shall be open to public observation subject to the exceptions provided in § 500.4.

(b) Open meetings may be attended by members of the Board, staff, and any other individual(s) or group(s) desiring to observe the meeting: *Provided,* That sufficient room is available to safely accommodate them. The Board shall exert its best efforts to assure that such room is available and therefore requests but does not require that those wishing to attend notify the Board in advance by phoning or writing the contact person identified in the Board's notice of the upcoming meeting.

(c) The public will be invited to observe and listen to the meeting, but not to participate unless specifically invited to do so by the Board and then only in accordance with such reasonable limitations and procedures as the Board shall specify.

§ 500.4 Grounds on which meetings may be closed, or information may be withheld.

Except in a case where the Board or one of its committees finds that the public interest requires otherwise, the open meeting requirement as set forth in the second sentence of § 500.3(a)

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shall not apply to any portion of a Board or committee meeting, and the informational disclosure requirements of §§ 500.5 and 500.6 shall not apply to any information pertaining to such meeting otherwise required by this part to be disclosed to the public, where the Board or committee, as applicable, properly determines that such portion or portions of its meetings or the disclosure of such information is likely to:

(a) Disclosure matters that are (1) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (2) in fact properly classified pursuant to such Executive Order;

(b) Relate solely to the internal personnel rules and practices of the Board and its staff;

(c) Disclose matters specifically exempted from disclosure by statute (other than section 552, Title 5, United States Code): *Provided*, That such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withnoiding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records, compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel;

(h) Disclose information the premature disclosure of which would in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action, except in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(i) Specifically concern the issuance of a subpoena, or the Board's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Board of a particular case of formal Board adjudication pursuant to the procedures in section 554 of Title 5, United States Code, or otherwise involving a determination on the record after opportunity for a hearing.

§ 500.5 Procedure for announcing meetings.

(a) Except to the extent that such information is exempt from disclosure under the provisions of § 500.4, in the case of each Board or committee meeting, the Executive Director, acting at the Direction of the Board, shall submit for publication in the FEDERAL REGISTER, at least seven days before the meeting, the following information:

(1) Time of the meeting,

(2) Place of the meeting,

(3) Subject matter of the meeting,

(4) Whether the meeting or parts of it are to be open or closed to the public, and

(5) The name and phone number of the person designated by the Board or committee to respond to requests for information about the meeting.

(b) The seven-day period for the public announcement required by paragraph (a) of this section may be reduced if a majority of the members of the Board or committee, as applicable, determine by a recorded vote that Board or committee business requires that such expedited meeting be called at an earlier date. In this case the Board or committee shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(c) The time or place of a meeting may be changed following the public announcement required by paragraph (a) of this section only if the Executive Director, acting at the direction of the Board or one of its committees, publicly announces such change at the earliest practicable time. Such change need not be voted on by the members.

(d) The subject matter of a meeting, or the determination of the Board or committee, as applicable, to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by paragraph (a) of this section, only if (1) a majority of the entire voting membership of the Board or committee determines by a recorded vote that Board or committee business so requires and that no earlier announcement of the change was possible, and (2) the Board or committee publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(e) Immediately following each public announcement required by this section, notice of the time, place and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the person designated by the Board or committee to respond to requests for information about the meeting, shall be submitted for publication in the FEDERAL REGISTER.

§ 500.6 Procedure for closing meetings.

(a) Action to close a meeting or a portion thereof, pursuant to the exemptions set forth in § 500.4, shall be taken only when a majority of the entire voting membership of the Board or committee, as applicable, votes to take such action.

(b) A separate vote of the Board or committee members shall be taken with respect to each Board or committee meeting, a portion or portions of which are proposed to be closed to the public pursuant to § 500.4, or with respect to any information which is proposed to be withheld under § 500.4.

(c) A single vote of the Board or committee may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than 30 days after the initial meeting in such series.

(d) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Board or a committee close such portion to the public under any of the exemptions relating to criminal accusation or censure, personal privacy, or law enforcement information, as referred to respectively in paragraphs (e), (f), or (g) of § 500.4, the Board or committee, as applicable, upon request of any one of its members, shall vote by recorded vote, at the earliest practicable time, whether to close such meeting, to delete the relevant subject matter from the meeting agenda, or to delay discussion of the relevant subject matter to a subsequent meeting. Any resulting changes shall be announced in accordance with § 5 of these regulations.

(e) The vote of each member, taken pursuant to paragraph (a), (b), (c) or (d) of this section, shall be recorded, and may be by notation voting, telephone polling, or similar mechanism. Within one day of any such vote, the Board or committee shall make publicly available a written copy of the vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Board or committee shall, within one day of the vote taken, pursuant to paragraph (a), (b), (c), or (d) of this section, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation. The information required by this paragraph shall be disclosed except to the extent it is exempt from disclosure under the provisions of § 500.4.

(f) For every meeting closed pursuant to § 500.4, the Gereral Counsel of the United States Metric Board shall certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Board as part of the transcript, recording or minutes required by § 500.7.

§ 500.7 Transcripts, recordings, and minutes of meetings.

(a) The Board shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting closed to the public pursuant to paragraph (i) of § 500.4, the Board shall maintain either such a transcript or recording, or a set of minutes.

(b) Where minutes are maintained they shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons for such actions, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(c) The Board shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any Board proceeding with respect to which the meeting or portion was held, whichever occurs later.

(d) Public availability of such records shall be as follows:

(1) At the earliest practicable time the Board shall make available to the public, in its offices located at 1815 N. Lynn Street, Arlington, Va. 22209, the transcript electronic recording; or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting except for such item or items of such discussion or testimony as the Board or its General Counsel determines to contain information which may be withheld under § 500.4.

(2) Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be available at the actual cost of duplication or transcription.

(3) The determination of the Board or General Counsel to withhold information pursuant to subparagraph (1) of this paragraph may be appealed to the Board. The Board shall make a final determination to withhold or release the requested information no later than at its next regularly scheduled meeting following the date of receipt of a written request for review. Such a request shall be deemed received by the Board when it has arrived at the offices of the Board in a form that describes in reasonable detail the material sought.

§ 500.8 Enforcement and Review.

In addition to the right of appeal specified in § 500.7(d)(3) of these regulations, any person may bring an action to enforce these regulations and the relevant related provisions of the Government in the Sunshine Act, Pub. L. 94-409, 90 Stat. 1241, 5 U.S.C. 552b, in accordance with the provisions of that Act. Review of Board action related to these regulations may also be had in the same manner.

Dated at Arlington, Va. this 10th day of January 1979.

For United States Metric Board.

MALCOLM E. O'HAGAN,
Executive Director.

[FR Doc. 79-2249 Filed 1-19-79; 8:45 am]

[1505-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2941]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Nelson Bros. Furniture Corp.

Correction

In FR Doc. 79-1485 appearing at page 3259 in the issue for Tuesday, January 16, 1979, in the third column in the ninth line, the final word should be corrected to read "depictions."

[6351-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 166—CUSTOMER PROTECTION RULES

Authorization to Effect Commodity Interest Trades

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rule on discretionary trading to make clear that brokers may execute "good-'til-cancelled" orders for their customers (*i.e.*, orders that do not specify a precise date upon which the order is to be executed but rather remain open until cancelled by the customer) without first obtaining written discretionary trading authorization from the customer.

EFFECTIVE DATE: January 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Frederick L. White, Special Counsel, Office of the Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone (202) 632-5110.

SUPPLEMENTARY INFORMATION: Commission rule 166.2 (17 CFR 166.2) generally provides that no futures commission merchant ("FCM") or associated person ("AP") thereof may effect a commodity interest transaction for a customer unless, before the transaction, the customer (or person designated by the customer to control his account) either "specifically authorized" the FCM or AP to effect the transaction or authorized the FCM or AP in writing to effect transactions for the customer without his specific authorization.[1]

[1] The text of the rule (which was adopted July 24, 1978, 43 *Fed. Reg.* 31886, and became effective October 1, 1978) is as follows:

No futures commission merchant or associated person may directly or indirectly effect a transaction in a commodity interest for the account of any customer unless before the transaction the customer, or person designated by the customer to control the account—

(a) Specifically authorized the futures commission merchant or associated person to effect the transaction (a transaction is "specifically authorized" if the customer

Footnotes continued on next page

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Paragraph (a) of the rule states that a transaction is "specifically authorized" if the customer specifies "(1) the precise commodity interest to be purchased or sold, (2) the exact amount of the commodity interest to be purchased or sold and (3) the date the transaction is to be effected * * *." As explained below, the Commission is amending the rule by revising paragraph (a) as follows (deletions are inside brackets, additions are in italic):

(a) * * * (a transaction is "specifically authorized" if the customer *or person designated by the customer to control the account* specifies (1) the precise commodity interest to be purchased or sold [,] *and* (2) the exact amount of the commodity interest to be purchased or sold [,]). [and (3) the date the transaction is to be effected).]

The central purpose of the rule was to make it expressly unlawful for an FCM or AP to engage in unauthorized trading—*i.e.*, to execute trades for a customer without the customer's authorization. Unauthorized trading has been held to be implicitly prohibited by section 4b of the Commodity Exchange Act (7 U.S.C. 6b),[2] and the Commission considered it advisable to set forth an express prohibition in its rules.

After the rule was adopted, however, a number of FCMs advised the Commission that the rule might be interpreted to prohibit "good-'til-cancelled" orders unless written discretionary trading authorization is obtained from the customer. (A "good-'til-cancelled" order, instead of specifying a date for execution, specifies the price at which the trade is to be effected and remains in effect until the order is executed or until the customer cancels the order.) Since the rule was not intended to have the effect, clause (3) of rule 166.2(a) is being deleted.

Also, the Commission is adding the phrase "or person designated by the customer to control his account," to paragraph (a) of the rule to conform that paragraph to the first paragraph of the rule, where the same phrase is used. This amendment is solely technical.

* * * * *

In revising the rule, the Commission has considered the public interest to be protected by the antitrust laws and has endeavored to take the least anticompetitive means of achieving the objectives, policies and purposes of the Commodity Exchange Act. *See* section 15 of the Act (7 U.S.C. 19).

Rule 166.2 is being changed without notice and opportunity for comment because the Commission finds that those measures would be unnecessary and contrary to the public interest in this matter. The amendment eliminates an unnecessary and possibly costly burden on customers, FCMs and APs that could adversely affect the execution of commodity interest orders. For this reason and because the rule change relieves a restriction, the change is being made effective immediately upon publication.

* * * * *

In consideration of the foregoing, § 166.2 of the Commission's regulations (17 CFR 166.2) is amended to read as follows:

§ 166.2 **Authorization to trade.**

* * * * *

(a) Specifically authorized the futures commission merchant or associated person to effect the transaction (a transaction is "specifically authorized" if the customer or person designated by the customer to control the account specifies (1) the precise commodity interest to be purchased or sold *and* (2) the exact amount of the commodity interest to be purchased or sold.)

* * * * *

(Sec. 4, Pub. L. 74-675, 49 Stat. 1493 (7 U.S.C. 6b and 6c), as amended, Pub. L. 90-258, 82 Stat. 27, Pub. L. 93-463, 88 Stat. 1392, 1412, 1413, Pub. L. 95-405, 92 Stat. 867; sec. 10, Pub. L. 74-675, 49 Stat. 1500 (7 U.S.C. 12a), as amended, Pub. L. 90-258, 82 Stat. 33, Pub. L. 93-463, 88 Stat. 1392, 1404; sec. 23, Pub. L. 95-405, 92 Stat. 876.)

Issued in Washington, D.C. on January 17, 1979.

GARY L. SEEVERS,
Acting Chairman, Commodity Futures Trading Commission.

[FR Doc. 79-2115 Filed 1-19-79; 8:45 am]

[8010-01-M]

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-6014, 34-15489, IC-10551]

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

Revision of Forms, Reports and Regulations

AGENCY: Securities and Exchange Commission.

ACTION: Final forms.

SUMMARY: The Commission has decided not to revise any of the items in new registration statement Forms N-1 and N-2 on which submission of additional comments by the public was invited in Securities Act Release No. 5964, the release adopting an integrated registration and reporting system for management investment companies. In the period since adoption of the new registration statement forms, no information has come to the attention of the Commission which would lead to a conclusion that any of these items should be revised.

EFFECTIVE DATE: January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

Glen Payne, Esq., Special Counsel (202-755-1739) or Dianne E. O'Donnell, Esq. (202-755-1796), Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On August 28, 1978, the Commission issued a release adopting an integrated registration and reporting system for management investment companies. This system is composed of the following forms and rule: revised Form N-8A [17 CFR 274.10], the notification of registration under the Investment Company Act of 1940 ("1940 Act") [15 U.S.C. 80a et seq. as amended by Pub. L. 91-547 (December 14, 1970)]; two new integrated registration statement forms to be used by management investment companies to register their securities under the Securities Act of 1933 ("1933 Act") [15 U.S.C. 77a et seq. as amended by Pub. L. 94-29 (June 4, 1975)], to meet the requirements of filing a registration statement under the 1940 Act, or accomplish both of these objectives—Form N-1 [17 CFR 239.15] for open-end companies and Form N-2 [17 CFR 239.14] for closed-end companies; revised Form N-1R [17 CFR 249.330, 274.101], the annual report form for management investment companies under the 1940 Act and the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq. as amended by Pub. L. 94-29 (June 4, 1975)]; and new Rule 8b-16 [17 CFR 270.8b-16] under the 1940 Act, requiring all investment companies which file Form N-1R to file an annual update of their 1940 Act registration statement within 120 days of the close of the fiscal year.[1] In that release, the Commission invited additional submission of comments by interested persons on ten items of new registration statement Forms N-1 and N-2.[2] The period for filing such additional comments expired on October 16,1978.

No letters of comment were received concerning any of the items in Forms N-1 or N-2 upon which additional public comment was invited. In the period since adoption of the new registration statement forms, no information has come to the attention of the Commission which would lead to a conclusion that any of these items should be revised. Therefore, the Commission has decided not to revise those items in Forms N-1 and N-2 upon which it invited additional public comment.

One letter of comment was received concerning Item 1 of Part I of Form N-1 ("Cover Page"). While this item was not included in those items of Forms N-1 and N-2 upon which additional comment by the public was invited, the Commission believes it appropriate to examine the issue raised by this commentator. The commentator noted that Item 1 in Part I of Form N-1 does not specifically permit a mutual fund to state on the cover page of its prospectus that its shares are sold at no load, and requests that the instructions to the above item be amended to permit mutual funds whose shares are sold without a sales charge to state that fact on the cover page of the prospectus. The Commission is of the view that such an amendment of the instructions to this item is unnecessary for two reasons. First, subpart (e) of the Cover Page item specifically allows "at the discretion of the registrant . . . such legend, logotype, pictures, or other attention-getting devices that are not misleading" to appear on the cover page of a mutual fund's prospectus. The Division of Investment Management interprets the term "attention-getting device" as allowing a registrant to highlight on the cover page of its prospectus any non-misleading description of the entity that it desires, including the fact that its shares are sold without a sales charge. Thus, there is no need to permit specifically such a statement to appear on the cover page.

In addition, as noted in Securities Act Release No. 5964, a new item has been included in Form N-1 to ensure that a synopsis of information concerning the key investment policies, operations and activities of a mutual fund will appear in the forepart of the prospectus. This item (Item 2 of Part I) specifies in subpart (c) thereof that information concerning the maximum sales load, both as a percentage of the net amount invested and as a percentage of the offering price, must appear in the synopsis. Given the fact that the new synopsis section of mutual fund prospectuses will include information concerning the maximum sales charge at which a particular fund's shares are sold, the Commission is of the view that there is no need to require such information to appear on the cover page as well.

OTHER MATTERS

Revised Form N-1R is being put into EDP format by the Office of Data Processing so that the information reported thereon can be readily processed by that Office. Thus, the official text of the form that will be printed and distributed to the public will not appear exactly in the form of the revised Form N-1R that was printed in the *SEC Docket* shortly after its adoption, but any differences that result will relate only to style. The substance of revised Form N-1R will remain the same. For the convenience of registrants, copies of revised Form N-1R will be available after March 1, 1979, at the Commission's Publications Section in Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 11, 1979.

[FR Doc. 79-2098 Filed 1-19-79; 8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[PAP 8H5186/T42; FRL 1042-3]

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Thiabendazole

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This rule establishes a feed additive regulation related to the experimental use of the fungicide thiabendazole in rice hulls. The regulation was requested by Merck & Co. This rule will permit the marketing of rice hulls while further data is collected on the subject pesticide.

EFFECTIVE DATE: Effective on January 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington DC 20460 (202/426-2454).

SUPPLEMENTARY INFORMATION: On July 21, 1978, the EPA announced that Merck & Co., Inc., PO Box 2000, Rahway, NJ 07065, had filed a food additive petition (FAP 8H5186). This petition proposed that 21 CFR 561.380 be amended by the establishment of a regulation permitting residues of the fungicide thiabendazole (2-(4-thiazolyl)benzimidazole) in rice hulls resulting from application of the fungicide to growing rice in a proposed experimental program with a tolerance limitation of 12 parts per million (ppm) in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136). No comments were received by the Agency in response to this notice of filing. (A related document establishing the temporary tolerances for residues of thiabendazole on rice grain and straw appears elsewhere in today's FEDERAL REGISTER.)

The scientific data reported and other relevant material have been evaluated, and it has been determined

Footnotes continued from last page

specifies (1) the precise commodity interest to be purchased or sold, (2) the exact amount of the commodity interest to be purchased or sold, and (3) the date the transaction is to be effected); or

(b) Authorized in writing the futures commission merchant or associated person to effect transactions in commodity interests for the account without the customer's specific authorization.

The term "commodity interest" is defined in CFTC rule 166.1(b) (17 CFR 166.1(b)) as:

(1) Any contract for the purchase or sale of any commodity for future delivery, traded on or subject to the rules of a contract market;

(2) Any agreement or transaction subject to Commission regulation under section 4c(b) of the [Commodity Exchange] Act; or

(3) Any contract or transaction subject to Commission regulation under section 217 of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a).

As a result of the 1978 amendments to the Commodity Exchange Act (Pub. L. 95-405, 92 Stat. 865, 867, 876) the reference in clause (2) of § 166.1(b) to section 4c(b) will be changed to section 4c and the reference in clause (3) to section 217 of the 1974 Act will be changed to section 19 of the Commodity Exchange Act.

[2] *E.g., Jeffrey L. Silverman*, C.F.T.C., No. 75-6 (May 5, 1976), *affirmed, Silverman* v. *C.F.T.C.*, 549 F. 2d 28,33 (7th Cir. 1977).

[1] *See* Securities Act Release No. 5964 [43 FR 39548 (September 5, 1978)].

[2] Submission of additional comments from the public was invited on the following items: Items 8, 12 and 13(c) of Part I and Items 1(b)(14) and 8 of Part II of Form N-1 and Items 10, 14 and 15(c) of Part I and Items 4(b)(15) and 9 of Part II of Form N-2.

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that the pesticide may be safely used in accordance with the provisions of the experimental use permit (618-EUP-9) which is being issued concurrently under FIFRA. It has further been determined that since residues of the pesticide may result in rice hulls from agricultural use provided for on the experimental use permit, the feed additive regulation should be established and should include a tolerance limitation.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the tolerance included two-year rat and dog feeding studies, rat and mouse reproduction studies, and subchronic studies on rats, sheep, and other farm animals. Based on a rat study, the no-observable-effect level (NOEL) is 10 milligrams (mg)/kilogram (kg) of body weight (bw)/day. Using a safety factor of 100, the acceptable daily intake (ADI) is 0.1 mg/kg bw/day and the maximum permissible intake (MPI) is 6 mg/day for a 60-kg human. The previously established tolerances for residues of thiabendazole add up to a theoretical maximal residue contribution (TMRC) in an average daily diet that is far less than the MPI. Tolerances have previously been established for residues of thiabendazole on a variety of raw agricultural commodities at levels ranging from 10 ppm to 0.02 ppm. Feed additive tolerances have been previously established for residues of thiabendazole in a variety of processed feed items at levels ranging from 35 ppm to 3.5 ppm. The previously established tolerances and the proposed tolerance result in a maximum theoretical exposure to humans of 1 mg/day.

The metabolism of thiabendazole is adequately understood, and an adequate analytical method (spectrophotoflurorometry) is available for enforcement purposes. Tolerances are currently pending on wheat and straw. Existing tolerances will be adequate to cover residues that could result in milk and the meat, fat, and meat by-products of cattle, goats, hogs, horses, poultry, and sheep from use of animal feed items bearing tolerance levels. No desirable data are lacking from the petition, nor are there any regulatory actions pending against the continued registration of thiabendazole, nor are any other considerations involved in establishing the proposed tolerance.

The pesticide is considered useful for the purpose for which a tolerance is sought. Therefore the regulation establishing a tolerance of 12 ppm in rice hulls by amending 21 CFR 561.380 is being promulgated as proposed. Accordingly a feed additive regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before February 21, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, 401 M St., SW, Washington 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on January 22, 1979, 21 CFR 561 is amended as set forth below.

Dated: January 15, 1979.

(Section 409(c)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).)

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 561, § 561.380, is revised in its entirety to read as follows:

§ 561.380 Thiabendazole.

(a) Tolerances are established for residues of thiabendazole (2-(4-thiazolyl)benzimidazole) in the following processed feeds when present as a result of the application of this pesticide to growing crops or post-harvest crops:

Feed:	*Parts per million*
Apple pomace, dried (POST-H)	33
Beets, sugar, pulp (dried and/or dehydrated)	3.5
Citrus molasses	20
Citrus pulp, dried (POST-H)	35
Potato processing waste (PRE- & POST-H)	90

(b)(1) a tolerance of 12 parts per million is established for residues of the fungicide thiabendazole (2-(4-thiazolyl)benzimidazole) in rice hulls resulting from application of the fungicide to growing rice. Such residues may be present therein only as result of application of the fungicide in accordance with the provisions of an experimental use permit that expires April 1, 1980.

(2) Residues in rice hulls not in excess of 12 parts per million resulting from the use as described in paragraph (b)(1) of this section remaining after expiration of the experimental use program will not be considered to be actionable if the fungicide is legally applied during the term of and in accordance with the provisions of the experimental use permit and feed additive tolerance.

(3) Merck & Co. shall immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The firm shall also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

[FR Doc. 79-2235 Filed 1-19-79; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-4992]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final Rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: The addresses where flood insurance policies can be obtained are published at 24 CFR 1912.7

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), amended, requires the purchase of flood insurance as a condition of Federal financial assistance of insurable property if such assistance is:

(1) for acquisition and construction purposes as defined in Part 1909 of Title 24 of the Code of Federal Regulations and

(2) for property located in a special flood hazard area identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(a) of the Act unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association (NFIA) servicing company for the State.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community number
Arizona	Gila	Unincorporated Areas	January 2, 1979, Emergency	Nov. 1, 1974 and Apr. 8, 1977	040028-A
Georgia	Bartow	Adairsville, City of	January 5, 1979, Emergency	June 14, 1974 and Jan. 23, 1976.	130235-A
Iowa	Linn	Unincorporated Areas	do	June 3, 1977	190829-A
Texas	Smith	do	do	Jan. 3, 1978	481185
Illinois	Jasper	St. Marie, Village of	January 8, 1979 Emergency	Mar. 21, 1975	170820
Kansas	Marion	Florence, City of	do	Aug. 6, 1976 and Oct. 17, 1978.	200494-A
Do	Geary	Unincorporated Areas	do	Oct. 18, 1977	200579
Michigan	St. Clair	Kimball, Township of	do	Sept. 19, 1975	260594
Tennessee	Jefferson	Dandridge, Town of	do	June 11, 1976	470299
Vermont	Washington	Warren, Town of	September 1, 1972, Emergency, September 1, 1977, Regular, September 15, 1977, Suspended, January 8, 1979, Reinstated.	June 28, 1974 and Oct. 29, 1976.	500121-B
New Hampshire	Belknap	Barnstead, Town of	January 10, 1979, Emergency.	Jan. 3, 1975	330177
Minnesota	Washington	Hugo, City of	June 20, 1974, Emergency, September 29, 1978, Regular, September 29, 1978, Suspended, January 9, 1979, Reinstated.	May 17, 1974 and Dec. 20, 1974.	270504-B

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, (34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2001 Filed 1-19-79; 8:45 am]

[3810-70-M]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER R—CHARTERS

[DoD Directive 5148.2]

PART 364—ASSISTANT TO THE SECRETARY OF DEFENSE (ATOMIC ENERGY)

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule—DoD Charter Directive 5148.2. [1]

SUMMARY: The Secretary of Defense has assigned functions and responsibilities to the Assistant to the Secretary of Defense (Atomic Energy), and has delegated specific authorities. This Directive serves as the instrument that authorizes the Assistant to the Secretary of Defense (Atomic Energy), to carry out the charter.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

EFFECTIVE DATE: August 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Arthur H. Ehlers, Director for Organizational & Management Planning, Office of the Deputy Assistant Secretary of Defense, (Administration), Telephone 202-695-4278.

SUPPLEMENTARY INFORMATION: This information is submitted in compliance with the requirements of section 552(a)(1) of Title 5, United States Code, and Recommendation 76-2 of the Administrative Conference of the United States.

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Accordingly, 32 CFR, Chapter I, is amended by adding a new Part 364, reading as follows:

Sec.
364.1 Purpose.
364.2 Responsibilities and functions.
364.3 Relationships.
364.4 Authorities.

AUTHORITY: 10 U.S.C. Chapter 4.

§ 364.1 Purpose.

Pursuant to the authority vested in the Secretary of Defense under the provisions of title 10, United States Code, the position of Assistant to the Secretary of Defense (Atomic Energy) (hereinafter "the ATSD(AE)"), is hereby established with responsibilities, functions and authorities as prescribed herein. The Chairman of the Military Liaison Committee to the Department of Energy will serve as the ATSD(AE) without additional compensation.

§ 364.2 Responsibilities and functions.

The ATSD(AE), as the principal staff assistant for Department of Defense atomic energy matters, shall:

(a) Develop policies, provide advice, make recommendations, and issue guidance on Defense atomic energy plans and programs.

(b) Develop systems and standards for the administration and management of approved atomic energy plans and programs.

(c) Review and evaluate programs for carrying out approved policies and standards.

(d) Promote coordination, cooperation, and mutual understanding on atomic energy policies, plans, and programs within the Department of Defense, and between the DoD and other Federal agencies.

(e) Participate in those DoD planning, programming and budgeting activities which relate to atomic energy matters.

(f) Develop policies and procedures for the transmission of information to the Senate and House Armed Services Committees, as required by the Atomic Energy Act of 1954, as amended, and coordinate such information with other officials and agencies as appropriate.

(g) Serve on boards, committees, and other groups concerned with atomic energy. Also, represent the Secretary of Defense on atomic energy matters outside the Department of Defense.

(h) Perform such other functions as the Secretary of Defense may assign.

§ 364.3 Relationships.

(a) The ATSD(AE) shall serve under the direction, control, and authority of the Under Secretary of Defense for Research and Engineering.

(b) In the performance of assigned functions, the ATSD(AE) shall:

(1) Coordinate and exchange information with other DoD organizations having collateral or related functions.

(2) Use existing facilities and services, whenever practicable, to achieve maximum efficiency and economy.

(3) Commuicate with other Government agencies, representatives of the legislative branch, and members of the public, as appropriate, in carrying out assigned functions.

(c) The Military Liaison Committee shall advise the ATSD(AE) on such atomic energy matters as the latter deems appropriate and necessary.

(d) All DoD organizations shall coordinate all matters concerning the functions cited in section B. with the ATSD(AE).

§ 364.4 Authorities.

The ATSD(AE) is hereby delegated authority to:

(a) Issue DoD Instructions and one-time directive-type memoranda, which carry out policies approved by the Secretary of Defense, in his assigned fields of responsibility. Instructions to the Military Departments will be issued through the Secretaries of those Departments, or their designees. Instructions to Unified and Specified Commands will be issued through the Joint Chiefs of Staff.

(b) Obtain such reports, information, advice, and assistance consistent with the policies and criteria of DoD Directive 5000.19, "Policies for the Management and Control of Information Requirements," March 12, 1976, as he deems necessary.

(c) Communicate directly with heads of DoD organizations, including the Secretaries of the Military Departments, the Joint Chiefs of Staff, the Commanders of the Unified and Specified Commands, and the Directors of Defense Agencies. Communications of the ATSD(AE) to the Commanders of Unified and Specified Commands shall be coordinated with the Joint Chiefs of Staff.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 16, 1979.

[FR Doc. 79-2232 Filed 1-19-79; 8:45 am]

[3810-70-M]

[DoD Directive 5141.1]

PART 366—ASSISTANT SECRETARY OF DEFENSE (PROGRAM ANALYSIS AND EVALUATION)

AGENCY: Office of the Secretary of Defense.

ACTION: Final Rule—DoD Charter Directive 5141.1.[1]

SUMMARY: The Secretary of Defense has assigned functions and responsibilities to the Assistant Secretary of Defense (Program Analysis and Evaluation), and has delegated specific authorities. This Directive serves as the instrument that authorizes the Assistant Secretary of Defense (Program Analysis and Evaluation), to carry out the charter.

EFFECTIVE DATE: November 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Arthur H. Ehlers, Director for Organizational & Management Planning, Office of the Deputy Assistant Secretary of Defense (Administration), Telephone 202-695-4278.

SUPPLEMENTARY INFORMATION: This information is submitted in compliance with the requirements of section 552(a)(1) of Title 5, United States Code, and Recommendation 76-2 of the Administrative Conference of the United States.

Accordingly, 32 CFR, Chapter I, is amended by adding a new Part 366, reading as follows:

Sec.
366.1 Purpose.
366.2 Responsibilities.
366.3 Functions.
366.4 Relationships.
366.5 Authorities.

AUTHORITY: 10 U.S.C. Chapter 4.

§ 366.1 Purpose.

Pursuant to the authority vested in the Secretary of Defense, under the provisions of title 10, United States Code, one of the positions of Assistant Secretary is designated the Assistant Secretary of Defense (Program Analysis and Evaluation) (hereafter "the ASD (PA&E)"), with responsibilities, functions and authorities as prescribed herein.

§ 366.2 Responsibilities.

The ASD (PA&E) is the principal staff adviser and assistant to the Secretary of Defense for Department of Defense program analysis and evaluation. For each assigned area the ASD (PA&E) shall:

(a) Develop policies, provide advice, make recommendations, and issue planning, fiscal, and materiel support guidance upon which Defense planning and program projections are based.

(b) Perform analyses and evaluations of plans, programs, and budget submissions in relation to projected threats, estimated costs, resource constraints, and U.S. Defense objectives and priorities.

(c) Identify issues and evaluate alternative programs.

(d) Initiate programs, actions and taskings to insure adherence to DoD policies and national security objectives; and to insure that programs are designed to accommodate operational requirements and promote the readiness and efficiency of the forces.

(e) Provide leadership in developing and promoting improved analytical methods for analyzing national security planning and the allocation of resources.

(f) Review, analyze, and evaluate programs for carrying out approved policies and standards.

(g) Serve on boards, committees and other groups pertaining to the ASD(PA&E)'s functional areas. Also, represent the Secretary of Defense on PA&E matters outside the Department of Defense.

(h) Perform such other duties as the Secretary of Defense may from time to time prescribe.

§ 366.3 Functions.

(a) In executing assigned responsibilities, the ASD(PA&E) shall:

Carry out the responsibilities described in § 366.2(a) through (h) for the following functional areas:

(1) Force review of active and reserve components.

(2) Strategic and theater nuclear forces.

(3) Weapon systems and major items of materiel.

(4) Nuclear warhead requirements.

(5) Support systems.

(6) Deployment plans and overseas basing requirements.

(7) Mobility force programs and prepositioning plans.

(8) Materiel support programs and war reserve stocks.

(9) Force readiness and capabilities.

(10) Contingency plans.

(11) Security assistance programs.

(12) Allied and foreign military requirements and capabilities.

(13) Economic analyses and their impact on Defense programs.

(14) Such other areas as the Secretary of Defense may from time to time prescribe.

(b) Perform critical reviews of requirements, performance, and life cycle costs of current and proposed weapon systems.

(c) Provide appropriate leadership and support of the Cost Analyses Investment Group in accordance with DoD Directive 5000.4, "OSD Cost Analysis Improvement Group," June 13, 1973.

§ 366.4 Relationships.

(a) In the performance of the duties, the ASD(PA&E) shall:

(1) Coordinate and exchange information with other DoD organizations having collateral or related functions.

(2) Use existing facilities and services, whenever practicable, to achieve maximum efficiency and economy.

(b) All DoD organizations shall coordinate all matters concerning the functions cited in section C with the ASD(PA&E).

§ 366.5 Authorities.

(a) Issue instructions and one-time directive-type memoranda which carry out policies approved by the Secretary of Defense, in assigned fields of responsibility, as prescribed in DoD Directive 5025.1, "Department of Defense Directives System," November 18, 1977. Instructions to the Military Departments will be issued through the Secretaries of those Departments or their designees. Instructions to Unified and Specified Commands will be issued through the Joint Chiefs of Staff.

(b) Obtain such reports, information, advice, and assistance consistent with the policies and criteria of DoD Directive 5000.19, "Policies for the Management and Control of Information Requirements," March 12, 1976, as the ASD(PA&E) deems necessary.

(c) Communicate directly with the heads of DoD organizations, including the Secretaries of the Military Departments, the Joint Chiefs of Staff, the Directors of Defense Agencies, and, through the Joint Chiefs of Staff, the Commanders of the Unified and Specified Commands.

(d) Establish arrangements for DoD participation in those non-defense governmental programs for which the ASD(PA&E) has been assigned primary cognizance.

(e) Communicate with other Government agencies, representatives of the legislative branch, and members of the public, as appropriate, in carrying out assigned functions.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 17, 1979.

[FR Doc. 79-2233 Filed 1-19-79; 8:45 am]

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

[4110-83-M]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS, AND STUDENT LOANS

Grants for Dental Team Practice Training Programs

AGENCY: Department of Health, Education, and Welfare.

ACTION: Final regulations.

SUMMARY: These regulations set forth the requirements for the award of grants to schools of dentistry and other public or nonprofit private entities for projects to plan, develop, and operate or maintain programs to train dental students in the organization and management of a multiple auxiliary dental team practice. The program is designed to increase the number of dental graduates who are trained to practice with dental auxiliaries, thereby increasing the productivity of the dental care team and improving the efficiency of dental services provided to patients.

EFFECTIVE DATE: These regulations are effective January 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard Weaver, Education Development Branch, Division of Dentistry, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 3-30, 3700 East-West Highway, Hyattsville, Maryland 20782 (301-436-6510).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 16, 1978 (43 FR 26074), the Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, proposed to add a new Subpart N, entitled "Grants for Programs to Train Dental Students in the Organization and Management of Multiple Auxiliary Dental Team Practice," to 42 CFR Part 57. These regulations were proposed to implement section 783(a)(3) of the Public Health Service Act, as added by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484).

Interested persons were invited to participate in the rulemaking process by submitting comments on the proposed regulations not later than July 17, 1978. Three responses were re-

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ceived during the comment period. The comments, the Department's response to the comments, and the revisions in the regulations are indicated below. For clarity, the comments and responses have been arranged according to the section of the regulation to which they pertain. References are to the section numbers and titles as they appeared in the Notice of Proposed Rulemaking.

§ *57.1301 Applicability.* One comment was received suggesting that the applicability section be expanded to include information concerning the improvement that a team mode of practice can have on the effectiveness and goal achievement of the team and team members.

With respect to this suggestion, the Secretary believes that since both the applicability section and the Program Guidelines transmitted to each potential applicant adequately describe the purposes of the team mode of practice, the suggested expansion need not be incorporated into the regulations.

§ *57.1302 Definitions.* One commenter recommended that the regulations include a definition of the term "management" to mean "soliciting, encouraging and achieving performance that results in goal oriented behavior."

This recommended definition has not been incorporated in the regulations because the Secretary believes that it appears to be more an objective of management rather than an effective definition of the term as used in the regulations.

§ *57.1305 Project requirements.* One commenter suggested that the regulations require each team practice project to provide dental student participants with the opportunity to be responsible for a team effort, including having the authority to state objectives, choose employees, assign tasks, delegate authority, evaluate performance, and take, where necessary, corrective action.

While the Secretary recognizes that each dental student participating in the team project must, upon completion of the training, be able to demonstrate a wide variety of skills in the organization and management of a team practice, he nonetheless believes that a grantee must be permitted to exercise flexibility in proposing the specific curricula and methods it will use in carrying out this team project. In the Secretary's view, the project requirements as stated in the Notice of Proposed Rulemaking clearly permit the grantee to exercise this flexibility. The Secretary further believes that within the project requirements listed, it is possible that an applicant can propose methods of training similar to the one suggested by this commenter. Based upon these views, the commenter's suggested requirement has not been incorporated in the regulations.

A second commenter has questioned the relationship between the team mode of practice and the project requirement in § 57.1305(b)(3) that each dental student, upon completion of the team training, "demonstrate • • • skills in preventive dental care, including and understanding of motivation and personal health education."

This project requirement was included to give effect to the congressional intent that the clinical component of the team project "incorporate the provision of preventive care." In addition, since the Secretary believes that an important factor in providing preventive care in the team mode of practice is an understanding of patient motivation in attaining an acceptable level of oral hygiene, the regulations also contain the provision that a dental student completing the team practice training must be able to demonstrate an understanding of patient motivation and personal health education.

It is the Secretary's view that this project requirement is both necessary and appropriate and therefore should not be deleted from the regulations.

A third comment objected to the § 57.1305(c) requirement that each dental student have successfully completed didactic and clinical training in four-handed sit-down dentistry before participating in a team project as being illogical and against the congressional intent in implementing the team program.

In creating the team practice grant program, Congress clearly intended that a dental student have experience in organizing and managing a team practice, including delegating responsibilities and supervising the performance of the auxiliaries. Since the primary objective of the team grant program is to provide training in the organization and management of a team practice, the Secretary believes that rather than require each team project to provide the basic introductory instruction of working with auxiliaries as provided in the four-handed sit-down dentistry training, the regulations should instead provide that each dental student must have successfully completed this basic instruction before he or she undertakes the more complex training procedures and methods involved in learning to organize and manage a team practice. Thus, the regulations have not been changed to reflect this objection.

§ *57.1306 Evaluation of applications.* Two commenters opposed the § 57.1306(f) provision that the Secretary take into consideration as an evaluation factor the ". . . extent to which the expanded function dental auxiliary will be performing advanced skills *such as placing and finishing restorations*" (emphasis added). In opposing the use of this evaluation factor, these commenters interpreted the factor to be a project requirement and stated that this specific listing of the types of advanced skills which the expanded function dental auxiliary will be performing is beyond congressional intent, potentially conflicts with State practice laws, and is biased in favor of a small number of States.

The Secretary intends that team programs be designed to delegate to dental auxiliaries the maximum number of functions permissible under the laws of the various States without specifying any particular functions. It was not the Secretary's intention to require that an expanded function dental auxiliary participating in a team program *must* place and finish restorations, but merely to list illustrative examples of the types of advanced skills which the Secretary *may* take into consideration in evaluating grant applications. Therefore, in light of the confusion generated by the words ". . . such as placing and finishing restorations" in this section, these words have been deleted from the regulations.

§ *57.1307 Grant award.* One commenter suggested that it would be helpful if the regulations included an explanation of the terms "direct and indirect costs." The Secretary has not incorporated the requested explanation in the regulations because these terms are explained in 45 CFR Part 74 (Cost Principles), which are applicable to these grants.

§ *57.1313 Records, audit, and inspection.* It should be noted that this section has been changed in the regulations to provide that in addition to meeting the requirements of 45 CFR Part 74, a grantee must also meet the requirements of section 705 of the Act.

In addition, the Department has made many minor editorial and technical changes in the regulations for clarity. Accordingly, Subpart N is added to 42 CFR Part 57 and adopted as set forth below.

Dated: November 3, 1978.

CHARLES MILLER,
Acting Assistant Secretary for Health.

Approved: January 2, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary.

AUTHORITY: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 783(a)(3) of the Public Health Service Act, 90 Stat. 2314 (42 U.S.C. 295g.3(a)(3)).

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Subpart N—Grants for Dental Team Practice Training Program

§ 57.1301 To what projects do these regulations apply?

The regulations in this subpart are applicable to the award of grants to public or nonprofit private schools of dentistry and other public or nonprofit private entities under section 783(a)(3) of the Public Health Service Act to meet the costs of projects to plan, develop, and operate or maintain a program to train dental students in the organization and management of a multiple auxiliary dental team (referred to as team) practice. In a team practice, dental auxiliaries are used for the purpose of improving the dentist's productivity and the efficiency of dental services provided to patients.

§ 57.1302 Definitions.

For purposes of this subpart:

"Act" means the Public Health Service Act, as amended.

"Budget period" means the interval of time into which the project period is divided for budgetary and reporting purposes, as specified in the grant award document.

"Council" means the National Advisory Council on Health Professions Education established by section 702 of the Act.

"Dental assistant" means an individual who assists the dentist with the clinical, laboratory, or business operation of a dental practice and provides services to patients as may be delegated and supervised by the dentist in accordance with the law or regulations of the State in which the individual is employed.

"Dental auxiliary" means a dental assistant, dental hygienist, or expanded function dental auxiliary.

"Dental hygienist" means an individual who is trained and licensed to function as a member of the dental care team and provide preventive and therapeutic direct care services to patients as may be delegated and supervised by the dentist in accordance with the law or regulations of the State in which the individual is employed.

"Expanded function dental auxiliary" mean a dental assistant or dental hygienist who has received additional training in a program for the training of expanded function dental auxiliaries as defined in section 701(8)(A) of the Act, 42 U.S.C. 292a(8)(A) or in a similar training program, and is qualified to perform under the supervision of a dentist a wide range of clinical functions and direct patient care procedures in accordance with the law or regulations of the State in which the individual is employed.

"Four-handed, sit-down dentistry" means a mode of dental practice which encourages the efficient use of dental assistants and dental hygienists to assist the dentist or operating dental auxiliary in a manner that maximizes patient and operator comfort, saves time, and increases the productivity of the practice while maintaining the quality of dental care. This mode of practice includes, but is not limited to, the following:

(1) Preplanning of patient treatment;

(2) Chair positioning of patient, operator, and dental auxiliary;

(3) Use of prearranged sterilized instrument trays;

(4) Effective hand instrument exchange techniques;

(5) Standardized sequential usage of instruments;

(6) Use of water, air, and oral evacuation equipment to maintain a clear field of operation; and

(7) Preparation and delivery of restorative and other treatment materials required for the procedures.

"Project period" means that total time for which support for a project has been approved, including any extensions thereof.

"School of dentistry" means a school which provides training leading to a degree of doctor of dentistry or an equivalent degree and which is accredited as provided in section 772(b) of the Act (42 U.S.C. 295f-5).

"Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

"State" means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.1303 What entities are eligible to apply for a grant?

Any public or nonprofit private school of dentistry or other public or nonprofit private entity located in a State may apply for a grant under this subpart.

§ 57.1304 How must an entity apply for a grant?

(a) Each eligible applicant desiring a grant under this subpart must submit an application in the form and at the time as the Secretary may require.[2] The application must be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the Act, the regulations of this subpart, and any additional terms and conditions of the award.

(b) In addition to other pertinent information as the Secretary may require, an application for a grant under this subpart must set forth a full description of the project; including the manner in which the applicant proposes to meet the requirements of this subpart, and in particular § 57.1305; the number and type of dental auxiliaries to be utilized in the project; the available resources to conduct the proposed project; and a detailed budget.

§ 57.1305 What requirements must a project meet?

A project supported under this subpart must be conducted in accordance with the following requirements:

(a) The project must be conducted in accordance with section 783(a)(3) of the Act, the regulations of this subpart, the approved application, and the terms and conditions of the award.

(b) Each project must have a didactic and clinical component which has as its objectives the training of dental students who will, upon completion of the training be able to:

(1) Demonstrate the ability to delegate duties commensurate with the skills of their auxiliaries and ensure the quality of their clinical performance and products;

(2) Demonstrate skills in personnel management, including an understanding of human behavior, interpersonal relations, group dynamics and communication;

(3) Demonstrate skills in patient management and preventive dental care including an understanding of

[2] Applications and instructions may be obtained from the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, Center Bldg., Rm. 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782.

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motivation and personal health education as related to team practice.

(4) Demonstrate those skills in dental office management which relate to operating a team practice, including patient scheduling and flow, and cost benefit analysis; and

(5) Demonstrate an understanding of the basic principles of facility and equipment design necessary for operating a team practice in a private practice setting.

(c) Each dental student must have successfully completed didactic and clinical training in four-handed, sit-down dentistry before participating in a project supported under this subpart.

(d) Each dental student participating in a project supported under this subpart must receive training in a team composed, at a minimum, of one dental assistant, one expanded function dental auxiliary and a shared dental hygienist.

(e) Each project must be designed to delegate to dental auxiliaries all functions permitted by the law or regulations of the State in which the project is conducted.

§ 57.1306 What are the criteria for deciding which applications are to be funded?

Within the limits of funds available under section 783(a)(3), the Secretary, after consultation with the Council, may award grants to those applicants whose projects will in his or her judgment best promote the purposes of section 783(a)(3) of the Act, taking into consideration, among other pertinent factors:

(a) The potential effectiveness of the proposed project in carrying out the training purposes of section 783(a)(3) of the Act;

(b) The degree to which the proposed project adequately provides for meeting the project requirements set forth in § 57.1305;

(c) The administrative and managerial capability of the applicant to carry out the proposed project;

(d) The qualifications of the project director, staff and faculty;

(e) The reasonableness of the proposed budget in relation to the proposed project; and

(f) The scope of the expanded functions to be performed by expanded function dental auxiliaries, and, in particular, the extent to which the expanded function dental auxiliary will be performing advanced skills.

§ 57.1307 How will grant awards be made?

(a) General (1) Within the limits of funds available for this purpose, the Secretary may award grants to those applicants whose projects will, in his or her judgment, best promote the purposes of section 783(a)(3) of the Act as determined in accordance with § 57.1306.

(2) All grant awards will be in writing and set forth the amount of funds granted and the period for which grant funds will be available for obligation by the grantee.

(3) Projects receiving grants under this subpart may be approved for an initial period of grant support for up to two years. Additional support may be obtained by submission of a competing extension application.

(4) Neither the approval of any application nor any grant award obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application. For continuation support grantees must make separate application at the time and in the form as the Secretary may require.

(b) The amount of any award will be determined by the Secretary on the basis of his or her estimate of the sum necessary for the cost (including both direct and indirect costs) of projects to plan, develop, and operate or maintain programs for dental team practice training grants.

(c) The Secretary may, within the limits of funds available for this purpose, make a grant award for an additional budget period for any previously approved project if, on the basis of progress and accounting records, the Secretary finds that the project's activities during the current budget period justify continued support of the project for an additional budget period.

§ 57.1308 How will grant payments be made?

The Secretary will from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement.

§ 57.1309 What are the purposes for which grant funds may be spent?

(a) Grant funds must be expended solely for costs of projects to plan, develop, and operate or maintain programs for dental team practice training grants in accordance with the applicable provisions of the Act, these regulations, and the terms and conditions of the award.

(b) Grant funds may not be expended for sectarian instruction or any religious purpose.

(c) Any unobligated funds remaining in the grant account at the close of a budget period may be carried forward and will be available for obligation during subsequent budget periods of the project period. The amount of any subsequent award will take into consideration the amount remaining in the grant account. At the end of the last budget period, any unobligated funds remaining in the grant account must be refunded to the Federal Government.

§ 57.1310 What nondiscrimination requirements apply to grantees?

(a) Recipients of grants under this subpart are advised that in addition to complying with the terms and conditions of these regulations, the following laws and regulations are applicable:

(1) Section 704 of the Act (42 U.S.C. 292d) and 45 CFR Part 83 (prohibiting discrimination on the basis of sex in the admission of individuals to training programs under Title VII of the Act);

(2) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and its implementing regulation, 45 CFR Part 80 (prohibiting discrimination in Federally assisted programs on the grounds of race, color, or national origin);

(3) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination on the basis of sex in Federally assisted education programs); and

(4) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation, 45 CFR Part 84 (prohibiting discrimination in Federally assisted programs on the basis of handicap).

(b) The grantee shall not discriminate on the basis of religion in the admission of individuals to its training programs.

§ 57.1311 How must grantees account for grant funds received?

(a) *Accounting for grant award payments.* The grantee must record all payments made by the Secretary in accounting records separate from the records of all other funds, including funds derived from other grant awards. The grantee must account for the sum total of all amounts paid by making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart.

(b) *Grant closeout.*

(1) *Date of final accounting.* A grantee must submit with respect to each grant under this subpart, a full account, in accordance with this subsection, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* The grantee must pay to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) any amount not accounted for under paragraphs (a) and (b) of this section; and

(ii) any other amounts due in accordance with 45 CFR Part 74 and the terms and conditions of the grant award. This total sum constitutes a debt owed by the grantee to the Federal Government and is recoverable from the grantee or its successors or assignees by setoff or other lawful action.

§ 57.1312 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants under this subpart.

§ 57.1313 What recordkeeping, audit, and inspection requirements apply to grantees?

Each entity that receives a grant must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act concerning recordkeeping, audit and inspection.

§ 57.1314 What additional conditions apply to grantees?

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his or her judgment these conditions are necessary to assure or protect advancement of the grant purposes, the interests of the public health, or the conservation of grant funds.

[FR Doc. 79-1313 Filed 1-19-79; 8:45 am]

[4110-83-M]

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS

Grants for Programs for the Training of Expanded Function Dental Auxiliaries

AGENCY: Public Health Service, HEW.

ACTION: Final regulations.

SUMMARY: These regulations set forth requirements for grants to plan, develop, and operate or maintain programs for the training of expanded function dental auxiliaries. The program is designed to increase the number of dental auxiliaries (dental assistants and dental hygienists) who can perform legally delegated expanded functions, thereby increasing the productivity of the dental care team to provide quality care to more people.

EFFECTIVE DATE: These regulations are effective immediately.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard Weaver, Education Development Branch, Division of Dentistry, Bureau of Health Manpower, Room 3-30, Health Resources Administration, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782 (301-436-6510).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 16, 1978 (43 FR 26071), the Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, proposed to add a new Subpart II entitled "Grants for Programs for the Training of Expanded Function Dental Auxiliaries" to 42 CFR Part 57. These regulations were proposed to implement section 783(a)(2) of the Public Health Service Act, as added by the Health Professions Educational Assistance Act of 1976 (Pub.L. 94-484), on October 12, 1976.

Interested persons were invited to submit comments on the proposed regulations not later than July 17, 1978. Four comments on the proposed regulations were received during the comment period. The comments, the Department's response to the comments, and the revisions made in the regulations are indicated below. For clarity, the comments and responses have been arranged according to the section of the regulations to which they pertain.

Section 57.3403—Eligibility. One comment recommended that the regulations include a provision authorizing a grantee to contract with other entities, including proprietary schools, for services to carry out the program.

The Department did not include a provision regarding contracts by the grantee because this is covered under the Public Health Service grants policy. According to the Public Health Service supplement to the Department of Health, Education, and Welfare Grants Administration Manual, Chapter PHS:1-430, a grantee may contract for routine services, but principal activities of the grant-supported project may only be contracted out to another organization with specific prior approval by the Public Health Service.

Section 57.3405—Project requirements. One comment questioned the necessity of § 57.3405(e)(3), which requires the grantee to collect, evaluate, and make available to the Secretary data on student performance on an individual basis in classroom and preclinical laboratory work and clinical practice.

The Secretary agrees that the information on student performance on an individual basis is not necessary for the administration of the expanded function dental auxiliaries program; therefore, the requirement for this data has been deleted from § 57.3405(e)(3).

Section 57.3406—Evaluation and grant award. The Secretary has deleted former § 57.3406(a)(1)(iv), which stated that in evaluating applications, the Secretary would consider the extent to which the project has plans to provide high quality training at a reasonable cost per student trained. The basis for this action was that this factor could appropriately be considered as part of the criteria for determining the "reasonableness of the proposed budget," in § 57.3406(a)(1)(viii).

One comment stated that the evaluation criteria contained in § 57.3406(a)(1) were too general.

The Department has provided the basic considerations used in evaluation in § 57.3406(a)(1) and will expand them by adding examples and further detail in the guidelines for this program.[1]

Three professional associations filed comments objecting to § 57.3406(a)(2), which provides that in evaluation of grant applications the Secretary will give special consideration to projects designed to: (i) train students in the greatest number of expanded functions;

(ii) provide students with opportunities for training in locations geographically remote from the main site of the teaching facilities of the program; and (iii) provide students with opportunities for interdisciplinary or team training experiences. The objections to this provision were based on the incorrect premise that these factors are *project requirements*, instead of *special considerations* given to projects in evaluation. Thus, the comments criticized the provision as being overly restrictive and contrary to congressional intent.

The Department points out that this provision sets forth factors which are given special consideration in evaluating projects and not project requirements. Special consideration given to particular factors in evaluation is a reasonable and commonly used means of allocating limited funds for greatest effectiveness in a discretionary grant program. Projects are reviewed for factors given special consideration after they have been determined as meeting program requirements and general evaluation criteria.

With respect to § 57.3406(a)(2)(i), the Department intends to encourage training in the maximum number of

[1] Program guidelines may be obtained by request from the Grants Management Office, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-22, 3700 East-West Highway, Hyattsville, Md. 20782.

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functions permissible under the laws of the various States, without specifying any particular functions. As examples, the Department included a list of some specific advanced skills which could be delegated to dental auxiliaries in some States. The professional organizations which commented on this provision misinterpreted these examples as skills which were required to be taught. In order to clarify the Department's intent, this list of examples has been deleted from the final regulations.

With respect to §§ 57.3406(a)(2) (ii) and (iii), the Department believes that remote site and interdisciplinary training improve the educational quality of the programs by providing the trainee with opportunities to work with patients from various population groups with a broad assortment of dental problems in differing practice settings, and with other members of the health professions. The variety of training experience will assist the trainee in making career decisions. It is, therefore, the Department's view that special consideration for these factors is justified, and they have been retained in the final regulations.

In addition, the Department has made many minor editorial and technical changes in the proposed regulations for clarity.

Accordingly, a new subpart II is added to 42 CFR Part 57 and is adopted as set forth below.

Dated: November 3, 1978.

CHARLES MILLER,
Acting Assistant Secretary for Health.

Approved: January 2, 1979.

JOSEPH A. CALIFANO, JR.,
Secretary.

Subpart II—Grants for Programs for the Training of Expanded Function Dental Auxiliaries

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57.3413 What additional conditions apply to grantees?

AUTHORITY: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 783(a)(2) of the Public Health Service Act, 90 Stat. 2314 (42 U.S.C. 295g-3(a)(2)).

Subpart II—Grants for Programs for the Training of Expanded Function Dental Auxiliaries

§ 57.3401 To what projects do these regulations apply?

The regulations in this subpart are applicable to the award of grants to public or nonprofit private schools of dentistry and other public or nonprofit private entities under section 783(a)(2) of the Public Health Service Act (42 U.S.C. 295g-3(a)(2)) to meet the costs of projects to plan, develop, and operate or maintain programs for the training of expanded function dental auxiliaries.

§ 57.3402 Definitions.

For purposes of this subpart:

"Act" means the Public Health Service Act.

"Budget period" means the interval of time into which the project period is divided for budgetary and reporting purposes, as specified in the grant award document.

"Council" means the National Advisory Council on Health Professions Education established by section 702 of the Act.

"Expanded function dental auxiliaries" means dental assistants and dental hygienists who, by successfully completing a training program which meets the requirements of Subpart HH, are qualified to perform, under the supervision of a dentist, a new or wider range of clinical functions and direct patient care procedures.

"Nonprofit" as applied to any school or entity means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures or may lawfully inure to the benefit of any shareholder or individual.

"Project director" means an individual designated by the grantee in the grant application and approved by the Secretary to direct the project being supported under this subpart.

"Project period" means the total time for which support for a project has been approved, including any extensions thereof.

"School of dentistry" means a school which provides training leading to a degree of doctor of dentistry or an equivalent degree and which is accredited as provided by section 772(b) of the Act.

"Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

"State" means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"Supervised clinical practice" means supervised clinical practice as defined in 42 CFR 57.3302(k).

§ 57.3403 What entities are eligible to apply for a grant?

(a) *Eligible applicants.* Any public or nonprofit private school of dentistry or other public or nonprofit private entity located in a State may apply for a grant under this subpart.

(b) *Eligible projects.* The Secretary may make grants under this subpart to eligible applicants for projects to plan, develop, and operate or maintain a program for the training of expanded function dental auxiliaries which meets the requirements of 42 CFR 57.3301-3303.

§ 57.3404 How must an entity apply for a grant?

(a) Each eligible applicant desiring a grant under this subpart must submit an application in the form and at the time as the Secretary may require.[1]

(b) The application must be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations in this subpart.

(c) In addition to other pertinent information as the Secretary may require, an application for a grant under this subpart must contain a detailed description of the proposed project and of the manner in which the applicant intends to conduct the project and carry out the requirements of section 783 of the Act and this subpart, in particular, the requirements of § 57.3405. The application must include a budget for the proposed project and a justification for the amount of funds requested.

§ 57.3405 What requirements must a project meet?

A project supported under this subpart must be conducted in accordance with the following requirements:

(a) The project must conduct its program for the training of expanded function dental auxiliaries in accordance with the requirements in 42 CFR 57.3301-3303.

[1] Applications and instructions may be obtained from the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-22, 3700 East-West Highway, Hyattsville, Md. 20782.

(b) The project must be conducted under the direction of the project director. If the project director becomes unable to function in this capacity, the Secretary must be notified as soon as possible.

(c) In the case of a project to plan, develop, and operate a program for the training of expanded function dental auxiliaries, the planning and developmental activities must be accomplished within the first six months of the project period except that in the case of programs for which model curriculums, course materials, and expertise do not exist, the Secretary may approve a period of up to one year for planning and development.

(d) The project must develop and use appropriate methods for placing graduates of the program in dental assisting or dental hygiene positions for which they have been trained.

(e) In accordance with the plan set forth in its approved application, the project must collect, evaluate, and make available to the Secretary data concerning the program being conducted. This data collection and evaluation must include, at a minimum:

(1) Systematic evaluation by faculty and students of the program curriculum in relation to the purposes, objectives, and conceptual framework of the program;

(2) Evaluation of the effectiveness of the program in relation to its purposes and objectives;

(3) Information concerning the number of student applicants and students enrolled, and student characteristics (such as age, sex, race, educational background, and previous work experience, including type of position, specialty, and work setting); and

(4) Information concerning the number of graduates per class, the attrition rate, characteristics of graduates, and use and performance of graduates (including employer assessment).

(f) At the time and in the manner the Secretary requires, the project must participate in a program conducted by the Secretary to evaluate the overall effectiveness of Federal support for the training of expanded function dental auxiliaries.

§ 57.3406 How will the Secretary evaluate applications and make grant awards?

(a) *General.* (1) Within the limits of funds available for this purpose the Secretary, after consultation with the Council, may award grants to those applicants whose projects will in his or her judgment best promote the purposes of section 783(a)(2) of the Act, taking into consideration:

(i) The degree to which the project plan adequately provides for meeting the requirements in § 57.3405.

(ii) The number of students the project proposes to train in the program.

(iii) The scope and skill level of expanded functions which the project proposes to teach in the program.

(iv) The potential effectiveness of the project in carrying out the training purposes of section 783(a)(2) of the Act.

(v) The administrative and managerial capability of the applicant to carry out the project.

(vi) The adequacy of the facilities and resources available to the applicant to carry out the project.

(vii) The qualifications of the project director and faculty.

(viii) The reasonableness of the proposed budget.

(ix) The potential of the project to continue on a self-sustaining basis after the project period.

(2) The Secretary will give special consideration to:

(i) Projects designed to train students to clinical proficiency in the greatest number of expanded functions which increase the productivity of the dental team, including advanced skills.

(ii) Projects designed to provide students with opportunities for training in locations geographically remote from the main site of the teaching facilities of the program.

(iii) Projects designed to provide students with opportunities for interdisciplinary or team training experiences.

(3) All grant awards will be made in writing and will set forth the amount of funds granted and the period for which funds will be available for obligation by the grantee.

(4) Except as provided in paragraph (a)(5) of this section, projects receiving grants under this subpart may be approved for an initial project period of up to three years. Grantees may apply for up to two years of additional support by submitting a competing extension application.

(5) Projects maintaining programs, for the training of expanded function dental auxiliaries, supported under this subpart and which previously received support under section 774(a) of the Act, as in effect on September 30, 1977, may receive grants to maintain their programs for no more than the period of time which, when added to the period of support under section 774(a), equals five years.

(6) Neither the approval of any project nor the award of any grant commits or obligates the United States in any way to make additional supplemental, continuation, or other awards with respect to any approved project or any portion of an approved project. For continuation support, grantees must make separate application at the time and in the form which the Secretary requires.

(b) The Secretary will determine the amount of an award on the basis of his or her estimate of the sum necessary for the direct and indirect costs of the project. In the case of projects whose periods of support, including any periods of support received under section 774(a) of the Act as in effect on September 30, 1977, exceed three years, however, the amount of the fourth year of support may not exceed 60 percent of the award for the third year of support and the amount of the fifth year of support may not exceed 40 percent of the award for the third year of support.

(c)The Secretary may make a grant award for an additional budget period for any previously approved project on the basis of an application and those progress and accounting records which may be required. If the Secretary finds that the project's activities during the current budget period justify continued support, and the Secretary decides to continue support, the amount of the grant award will be determined in accordance with paragraph (b) of this section.

§ 57.3407 How will grant payments be made?

The Secretary will, from time to time, make payments to a grantee of all or a portion of any grant award either in advance or by way of reimbursement.

§ 57.3408 Purposes for which grant funds may be spent.

(a) Funds granted under this subpart may be expended solely for carrying out the approved project in accordance with section 783(a)(2) of the Act, the regulations of this subpart and the terms and conditions of the award. Funds may not be expended for sectarian instruction or for any religious purposes.

(b) Funds granted under this subpart may be used in accordance with an approved application for the clinical training of dental assistant and dental hygienist faculty members to teach in the program conducted by the project.

(c) The amount of funds granted under this subpart which may be used for alteration and renovation of facilities during the project period may not exceed the lesser of $10,000 or 25 percent of the total funds recommended for direct costs for the project period.

(d) Any unobligated grant funds remaining in the grant account at the close of a budget period may be carried forward and be available for obligation during subsequent budget periods of the project period. The amount of the subsequent award will take into consideration the amount remaining in the grant account.

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(e) Grant funds may not be used for sectarian instruction or for any other religious purpose.

§ 57.3409 What nondiscrimination requirements apply to grantees?

(a) Recipients of grants under this subpart are advised that in addition to complying with the terms and conditions of these regulations, the following laws and regulations are applicable:

(1) Section 704 of the Act (42 U.S.C. 292d) and its implementing regulation, 45 CFR Part 83 (prohibiting discrimination on the basis of sex in the admission of individuals to training programs);

(2) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and its implementing regulations, 45 CFR Part 80 (prohibiting discrimination in federally assisted programs on the ground of race, color, or national origin);

(3) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination on the basis of sex in federally assisted education programs); and

(4) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation, 45 CFR part 84 (prohibiting discrimination in federally assisted programs on the basis of handicap.)

(b) The grantee may not discriminate on the basis of religion in the admission of individuals to its training programs.

§ 57.3410 How must grantees account for grant funds received?

(a) *Accounting for grant award payments.* The grantee must record all payments made by the Secretary in accounting records separate from the records of all other funds, including funds derived from other grant awards. The grantee must account for the sum total of all amounts paid by presenting or otherwise making available, evidence satisfactory to the Secretary of funds spent for costs meeting the requirements of this subpart.

(b) Grant closeout.

(1) Date of final accounting. The grantee must submit, with respect to each grant under this subpart, a full account, in accordance with this subpart, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) Final settlement. The grantee must pay to the Federal Government as final settlement with respect to each grant under this subpart the total sum of (i) any amount not accounted for under paragraphs (a) and (b) of this section and (ii) any other amounts due in accordance with 45 CFR Part 74 and the terms and conditions of the grant award. This total sum constitutes a debt owed by the grantee to the Federal Government and is recoverable from the grantee or its successors or assigns by setoff or other lawful action.

§ 57.3411 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants under this subpart.

§ 57.3412 What recordkeeping, audit, and inspection requirements apply to grantees?

Each school which receives a grant under this subpart must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act, concerning recordkeeping, audit, and inspection.

§ 57.3413 What additional conditions apply to grantees?

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his or her judgment these conditions are necessary to assure or protect the advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc. 79-1314 Filed 1-19-79; 8:45 am]

[4110-83-M]

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS, AND STUDENT LOANS

Programs for the Training of Expanded Function Dental Auxiliaries

AGENCY: Public Health Service, HEW.

ACTION: Final regulations.

SUMMARY: These regulations set forth requirements for programs for the training of expanded function dental auxiliaries under the Public Health Service Act. The program is designed to increase the number of dental auxiliaries (dental assistants and dental hygienists) who can perform legally delegated expanded functions, thereby increasing the productivity of the dental care team to provide quality care to more people.

EFFECTIVE DATE: These regulations are effective immediately.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard Weaver, Education Development Branch, Division of Dentistry, Bureau of Health Manpower, Room 3-30, Health Resources Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782 (301-436-6510).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 16, 1978 (43 FR 26012), the Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, added a new Subpart HH entitled "Programs for the training of Expanded Function Dental Auxiliaries" to 42 CFR Part 57. These regulations implemented section 701(8)(B) of the Public Health Service Act, as added by the Health Professions Educational Assistance Act of 1976 (P.L. 94-484), on October 12, 1976.

Due to the need to give entities which are eligible for grants under section 783(a)(2) of the Act adequate time to structure their programs in accordance with this subpart, these regulations were promulgated as interim-final regulations, without benefit of proposed rulemaking procedures. Notwithstanding the omission of these rulemaking procedures, interested persons were invited to submit comments not later than August 15, 1977. Following the close of the comment period, the regulations were to be revised as warranted by public comments received. Three comments on the interim-final regulations were received during the comment period. The comments, the Department's response to the comments, and the revisions made in the regulations are indicated below. For clarity, the comments and responses have been arranged according to the section of the interim-final regulations to which they pertain.

(1) Two comments from professional organizations addressed the provision of section 701(8)(B), which requires the Secretary to consult with appropriate professional organizations before prescribing regulations for programs for the training of expanded function dental auxiliaries. These comments stated that the Secretary had failed to meet this requirement for meaningful consultation and recommended that the Secretary hold a meeting with dental and dental auxiliary organizations to discuss revisions to these regulations before publishing final regulations.

For the following reasons, the Secretary believes that these comments lack support. The Department has consulted with various dental organizations from the early development of the program for the training of expanded function dental auxiliaries. When developing the program guidelines, which provided direction to the program through 1976 and formed the foundation for these regulations, the Division of Dentistry of the Bureau of Health Manpower had several meetings with representatives and members of the American Dental Association, American Dental Hygienists' Association, American Dental Assistants' Association, American Association of Dental Schools, and the American Association of Dental Examiners to share ideas and concerns about the program.

In December 1976, after the enactment of the Health Professions Educational Assistance Act of 1976 (P.L. 94-484), the Secretary invited the above-listed organizations to submit comments on the interpretation of this amendment to the Act providing support for programs for the training of expanded function dental auxiliaries and their ideas on the objectives of the program. Their responses were supportive of the existing guidelines, so the Department used them as the basis for the regulations implementing the revised program.

In addition, the Secretary published for public comment a Notice of Intent to publish regulations for programs for the training of expanded function dental auxiliaries in the FEDERAL REGISTER on March 22, 1977 (42 FR 15433), and also requested advice on program development in the "Health Resources News" of March, 1976 (vol. 4, No. 8). In response, the Secretary received numerous comments from professional organizations, as well as institutions, agencies, and individuals, which were considered in drafting program specifications. Furthermore, a draft of the program specifications was made available at the June 7, 1977, meeting of the National Advisory Council on Health Professions Education, and members of the Department met with representatives and individuals of dental organizations to discuss the specifications.

In sum, the Secretary believes that the Department fulfilled the statutory requirement of consulting with professional organizations in the development of regulations for programs for the training of expanded function dental auxiliaries, and is therefore publishing them as final regulations.

(2) One comment objected to § 57.3303(a) of the regulations, which requires that an entity which conducts an expanded function dental auxiliaries training program be accredited by the Commission on Accreditation of Dental and Dental Auxiliary Educational Programs. The basis of this objection was that section 701(8), the authorizing statute, does not place this limitation on eligibility, and that there is no evidence that programs which do not have this accreditation do not merit grant support.

The Secretary is unable to accept this comment because it is his view that this restriction on eligibility is justified in this discretionary grant program to assure the quality of the programs supported under this authority. The Commission on Accreditation of Dental and Dental Auxiliary Education Programs is the body recognized by the Commissioner of Education, Department of Health, Education, and Welfare, for accrediting programs for training dental auxiliaries; therefore, the Secretary believes that this requirement is a reasonable means of establishing the educational standards of programs.

(3) Another comment objected to § 57.3303(n), which sets forth minimum curriculum requirements for programs for the training of expanded function dental auxiliaries, as related to functions permissible under State law or authorized by the Board of Dentistry of the State in which the program is located. The objection was based on the concern that this requirement may create the appearance of Federal endorsement of restrictive State laws.

It is the Department's position that § 57.3303(n) establishes minimum curriculum requirements for programs for the training of expanded function dental auxiliaries but neither supports nor opposes State laws regarding dental functions that may be delegated to dental auxiliaries. It is reasonable to state this provision in terms of functions permissible under State law in order to require training in useful skills because State law governs the scope of functions that may be delegated to dental auxiliaries. To clarify the intent of this provision, the Department has added the words "At a minimum" to § 57.3303(n)(1) of the final regulations.

In addition, the Department has made many minor editorial and technical changes in the regulations for clarity.

Accordingly, a new Subpart HH is added to 42 CFR Part 57 and is adopted as set forth below.

Dated: November 3, 1978.

CHARLES MILLER,
Acting Assistant Secretary for Health.

Approved: January 2, 1979.

Joseph A. Califano, Jr.,
Secretary.

Subpart HH—Programs for the Training of Expanded Function Dental Auxiliaries

Sec.
57.3301 Purpose.
57.3302 Definitions.
57.3303 Requirements.

AUTHORITY: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 701(8) of the Public Health Service Act, 90 Stat. 2247 (42 U.S.C. 292a(8)).

Subpart HH—Programs for the Training of Expanded Function Dental Auxiliaries

§ 57.3301 Purpose.

Section 701(8)(B) of the Public Health Service Act (42 U.S.C. 292a(8)(B)) requires the Secretary of Health, Education, and Welfare to prescribe regulations for programs for the training of expanded function dental auxiliaries. The purpose of this subpart is to comply with this requirement.

§ 57.3302 Definitions.

For purposes of this subpart:

"Academic year" means the approximately 9-12 month period of time during which the program is in session.

"Basic education program" means a dental assisting or dental hygiene education program accredited by the Commission on Accreditation of Dental and Dental Auxiliary Education Programs in which the existing course of study is modified to include additional preparation in expanded functions, preventive dentistry, and techniques to modify patient behavior.

"Dental assistant" means an individual who assists the dentist with the clinical, laboratory, or business operation of a dental practice and provides services to patients as may be delegated and supervised by the dentist in accordance with the law of the State in which the individual is employed.

"Dental auxiliary" means a dental assistant or dental hygienist.

"Dental hygienist" means an individual who is trained and licensed to provide preventive and therapeutic direct patient care services as may be delegated and supervised by the dentist in accordance with the law of the State in which the individual is employed.

"Expanded function dental auxiliaries" means dental assistants and dental hygienists who, by successfully completing a training program which meets the requirements of this subpart, are qualified to perform, under the supervision of a dentist, a new or wider range of clinical functions and direct patient care procedures.

"Four-handed, sit-down dentistry" means a mode of dental practice which encourages the efficient use of dental assistants and dental hygienists to assist the dentist or operating dental auxiliary in a manner that maximizes patient and operator comfort, saves time, and increases the potential productivity of the practice while maintaining the quality of dental care. This chairside assistance includes, but is not limited to, the following:

(1) Preparation for patient treatment;

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(2) Chair positioning of patient, operator, and dental auxiliary;
(3) Use of prearranged sterilized instrument trays;
(4) Effective hand instrument exchange techniques;
(5) Standardized sequential usage of instruments;
(6) Use of water, air, and oral evacuation equipment to maintain a clear field of operations; and
(7) Preparation and delivery of restorative and other treatment materials required for the procedures.

"Full-time student" means a student who is enrolled in a program for the training of expanded function dental auxiliaries and pursuing a course of study which constitutes a full-time academic workload, as determined by the program.

"Preventive dentistry" means a method of practice and patient management that included a series of diagnostic, corrective, and disease preventive procedures, including patient education and motivation, that results in the establishment and maintenance of oral health in patients.

"Program director" means the individual responsible for providing competent direction of the program

"Supervised clinical practice" means direct participation by students in patient care by observation, examination, and performance of procedures as are appropriate for the assigned role of the student for the purposes of instruction, under the direction and responsibility of a licensed dentist who holds a faculty appointment at the institution conducting the program.

"Supplemental education program" means a program which provides training designed to extend the knowledge and skills of practicing dental auxiliaries so that they achieve clinical proficiency in expanded funtions, preventive dentistry, and techniques to modify patient behavior.

§ 57.3303 Requirements.

An education program which trains expanded function dental auxiliaries must:

(a) Be conducted by a school of dentistry or other public or nonprofit private entity accredited by the Commission on Accreditation of Dental and Dental Auxiliary Education Programs;
(b) Offer expanded function training in a basic education program or a supplemental education program, or both;
(c) Have an enrollment of not less than eight full-time students in each class;
(d) Be a minimum of one academic year in length;
(e) Consist of supervised clinical practice and at least four months (in the aggregate) of classroom instruction;
(f) Have a project director who is a full-time faculty member at the institution conducting the program;
(g) Have faculty who are qualified, through academic preparation and experience, to teach the subjects assigned and who are experienced in four-handed, sit-down dentistry;
(h) Have faculty for laboratory and clinical instruction who are competent in laboratory procedures and experienced in clinical practice;
(i) Have, in the supervised clinical practice sessions, a faculty-to-student ratio of one faculty member to no more than six students;
(j) Have adequate teaching facilities with sufficient space for instruction and practice in four-handed, sit-down dentistry techniques and expanded function procedures and be adequately equipped with functioning modern equipment;
(k) Have appropriate settings for the supervised clinical practice sessions which must be provided by the institution conducting the program or through written agreements with other institutions, agencies or organizations;
(l) Have adequate library, audiovisual, and other instructional resources;
(m) Before providing training in expanded functions, (1) require students to demonstrate clinical proficiency in the techniques of four-handed, sit-down dentistry or (2) train students to clinical proficiency in these techniques;
(n) Have a curriculum which provides for classroom instruction, preclinical laboratory instruction, and supervised clinical practice designed to train students to clinical proficiency in the performance of:
(1) At a minimum, all dental functions that may be delegated to dental auxiliaries under the law of the State in which the program is located; or
(2) In addition to the functions described in paragraph (n)(1) of this section, the expanded functions that may be taught by the program with the written concurrence of the Board of Dentistry of the State in which the program is located, for purposes such as preparing students for employment in other States or for national, regional, or other State credentialing.
(o) If is a supplemental education program, have entrance requirements for students, such as current certification or licensure, or require students to pass an entrance examination designed to determine whether they have the knowledge and skills necessary for achieving clinical proficiency in the performance of expanded functions;
(p) Have a plan and methodology for evaluating student performance, including:
(1) Standards for preclinical performance which students must meet before receiving clinical training; and
(2) Standards for evaluating the performance of expanded functions which are comparable to the standards used to evaluate the performance of the same skills by dental students; and
(q) Award a degree, diploma, or certificate of completion to individuals who have successfully completed the program.

[FR Doc. 79-1315 Filed 1-19-79; 8:45 am]

[6315-01-M]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

PART 1061—EMERGENCY ENERGY CONSERVATION PROGRAM

Subpart—FY79 Crisis Intervention Program

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is revising the rule on its FY 79 Crisis Intervention Program. The rule is being revised to reflect comments received from the public. In general the amendments provide for modification of the conditions under which individuals can be served and expansion of the types of situations which can trigger a request for funds under this Program.

DATE: This rule is effective January 22, 1979.

FOR FURTHER INFORMATION CONTACT:

CSA grantees and program beneficiaries: Appropriate CSA Regional Office; Others: Mr. David Robbins or Mr. J. Brian Hannigan, Community Services Administration, Office of Community Action, 1200 19th Street NW., Washington, D.C. 20506. Telephone: (202) 254-6310 or (202) 632-6503; Teletypewriter: (202) 254-6218.

SUPPLEMENTARY INFORMATION: On December 28, 1978, CSA published in the FEDERAL REGISTER (43 FR 60466) a final rule on its FY 79 Crisis Intervention Program with a notation that, although it was effective immediately due to the emergency nature of the Program, CSA welcomed comments and that the rule would be changed to reflect comments if warranted.

A number of comments have been received from the public which CSA believes are important enough to warrant revision of the rule. Subpart 1061.52 is being reprinted in its entirety for the convenience of the public and supersedes the December 28, 1978, regulation. It includes the substantive changes which follow:

SECTIONS 1061.52-2 POLICY AND 106152-10(b)(3) (FORMERLY 1061.52-7(b)(3)) PROGRAM ELIGIBILITY

The rule published December 28, 1978, stated that "• • • the primary intent of the program is to make available to grantees funds which will enable them to respond to winter-related energy crisis which endanger the health and survival of eligible low-income households, *and* result in substantially increased energy costs." (Emphasis added.) This has been changed to read "• • • households *and/or* result in substantially increased energy costs." (Emphasis added.)

This change has been made since we can forsee many situations where an energy crisis could result in life or health threatening situations but would not necessarily bring with substantially increased energy costs. Example: A low-income person, forced to leave home because of a winter emergency such as a non-operating furnace, would require assistance in transportation, clothing, blankets, alternative lodging, etc., but would not be faced with any increase in energy costs.

SECTION 1061.52-8(a)(2) (FORMERLY § 1061.52-5(f)) SUPPLEMENTAL CRISIS INTERVENTION PROGRAM.

This section includes a new subsection (iv), to indicate that a partial-state emergency will be deemed to exist when the Governor determines that a specified area within a state has experienced daily temperatures for fourteen (14) consecutive days which compute to an average of twenty-five (25) degrees Fahrenheit or less. This subsection has been added to make eligible colder sub-state areas, for which degree day data may not be available, in those states which as a whole do not qualify for supplemental assistance.

The following additional supplementary information is reprinted from the original announcement of the rule: Section 222(a)(5), the "Emergency Energy Conservation Services" program describes programs and activities for which the Director may provide financial assistance to "• • • lessen the impact of the high cost of energy on (low income individuals and families, including the elderly and the near poor) and to reduce individual and family consumption." Included are activities related to crisis intervention, that is, intervention to prevent or alleviate hardship or danger due to a winter energy crisis. Activities initiated under this section of the Act are also governed by the basic purpose of Title II which is to "• • • stimulate a better focusing of all available local, state, private, and federal resources upon the goal of enabling low-income families, and low-income individuals of all ages, in rural and urban areas to attain the skills, knowledge, and motivations and secure the opportunities for them to become fully self-sufficient." These legislative goals were used by CSA as the major guideline in developing the rule which will govern its FY79 program to address poor people's winter-related energy emergencies.

CSA is not, and was not created to be, a Federal agency administering income transfer programs, nor is the intent of its authorizing legislation that any of its programs be such. The program outlined in this rule is in keeping with the intent and spirit of the Economic Opportunity Act of 1964, as amended. This final rule is effective immediately as a thirty day waiting period would be impractical and contrary to the public interest since winter weather now exists and energy-related emergencies may occur at any time • • •.

WILLIAM W. ALLISON,
Acting Director.

45 CFR 1061.52 is revised to read as follows:

Sec.
1061.52-1 Applicability.
1061.52-2 Policy.
1061.52-3 What these funds can be used for.
1061.52-4 Duration of Program.
1061.52-5 Availability and distribution of funds.
1061.52-6 Organizations eligible for funding under this program.
1061.52-7 Regular Crisis Intervention Program.
1061.52-8 Supplemental Crisis Intervention Program.
1061.52-9 Winter-Related Disaster Relief Program.
1061.52-10 Who can be served by this program.
1061.52-11 Reporting requirements for all grants made under this program.
1061.52-12 Appeal for denial of assistance.
1061.52-13 Non-federal share requirement.
1061.52-14 Clearinghouse review procedures (A-95).
1061.52-15 Limitation of project expenditures.
1061.52-16 Maintenance of effort.
1061.52-17 Delegation of Authority.

AUTHORITY: Sec. 602, 78 Stat. 530 (42 U.S.C. 2942).

§ 1061.52-1 Applicability.

This subpart is applicable to grants funded under section 222(a)(5) of the Economic Opportunity Act of 1964, as amended, if the assistance is administered by the Community Services Administration.

§ 1061.52-2 Policy.

CSA's FY79 Crisis Intervention Program is not intended to be an income transfer program; nor does it entitle any person or household to a certain amount and/or form of assistance. Rather, the primary intent of the program is to make available to grantees funds which will enable them to respond to winter-related energy crises which endanger the health and survival of eligible low-income households, and/or result in substantially increased energy costs.

§ 1061.52-3 What these funds can be used for.

(a) Funds made available under this program shall be used only to assist low-income families who experience substantially increased energy costs and/or face life or health threatening situations caused by winter-related energy emergencies.

(b) Funds shall be used to cover such items as blankets and warm clothing, temporary loan of space heaters, emergency furnace repairs, emergency firewood and fuel deliveries, temporary shelter, food and other supportive services, emergency replacement of broken window panes, and temporary/emergency repairs to housing otherwise unfit for habitation.

(c) During FY 1979, payment of outstanding bills of regulated utilities is allowable only in those areas where shutoffs are not legally prohibited and where the applicant for assistance can produce a notice to disconnect. Payment of other outstanding fuel bills is allowable only where: (a) The applicant has less than one (1) week's supply of fuel; (2) the fuel cost or usage is significantly higher for the applicant; (3) the local administering agency certifies that it has been unable to arrange for further fuel delivery without payment; and (4) the applicant establishes an inability to pay for the fuel. However, in life or health threatening situations, the local administering agency may waive, in writing, criterion (2) above, concerning fuel cost or usage.

(d) Fuel and utility bills shall include, but not be limited to, those for operating cooking stoves, furnaces, space heaters, and wood-burning stoves. Telephone, Cable-TV, and other non-energy bills are not eligible for payment. Grantees and local administering agencies shall not exclude any energy-related or fuel expense from coverage under this program except as provided above.

(e) Money assistance will be limited to voucher payments and payments made directly to suppliers of fuel or other assistance.

(f) No funds made available under this program shall be used to reimburse States for assistance provided to

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low-income households in response to winter-related emergencies.

(g) The restrictions of paragraph (c) of this section apply only to payment of outstanding fuel and utility bills. Where a local administering agency determines that an income-eligible household is experiencing an energy-related crisis which is endangering life or health, assistance as outlined in paragraph (b) of this section *other than* the payment of outstanding fuel and utility bills, shall be allowable in response to the household crisis.

§ 1061.52-4 Duration of program.

(a) Grants will be effective January 1, 1979.

(b) No grant funds may be committed by grantees to provide assistance to certified households after May 31, 1979. Administrative funds may be committed until June 30, 1979.

(c) All grants will have a termination date of June 30, 1979.

(d) Grant funds which remain uncommitted by the grantee after June 30, 1979 shall be deobligated and returned by check to CSA for refund to the U.S. Treasury.

§ 1061.52-5 Availability and distribution of funds.

(a) Since funds for this program are available near the beginning of the heating season, it has been possible this year for CSA to design, and the grantees to put in place, a program which can stress preventive activities in addition to those which deal with crisis and disaster situations.

(b) Under certain circumstances, there are areas of the country whose normal winter weather may be severe enough to cause severe energy-related winter emergencies which cause hardships for poor people. In addition there are conditions which seriously aggravate such hardships, such as unusually cold weather or precipitous increases in fuel or utility prices. Finally, there are unforeseen winter emergencies which result in low-income people needing immediate attention and assistance, such as a Federally-declared winter-related disaster or unusually cold weather which leaves eligible households without access to food, fuel, or utilities.

(c) To deal with all of these situations—the foreseen and the unforeseen—CSA will make funds available immediately for use at the local level and create a Director's national contingency fund to be available for demonstrated need in both those areas receiving initial funding and in other areas. Following are the procedures for applying for and distributing funds, and the criteria for funding.

§ 1061.52-6 Organizations eligible for funding under this program.

(a) CSA intends these funds to be used by Community Action Agencies to carry out activities under this program. The only anticipated exceptions will be agencies identified by CSA to serve non-CAA covered areas, Migrant and Seasonal Farmworkers or Native Americans. Grantees may enter into delegate agency agreements with other agencies to carry out part or all of the work program.

(b) There may be a number of States and Territories which will not receive funds under the distribution of crisis intervention funds under § 1061.52-7 below, which may be eligible to apply for funds under §§ 1061.52-8 and 1061.52-9. Therefore, to assist Governors with information and data which will make it possible to respond quickly to emergencies or needs which may arise, CSA is requesting that SEOOs assist Regional Directors in developing within-State allocation percentages, in identifying agencies which would serve areas not served by a CAA, and in developing baseline data that will assist in the analysis of winter-related energy needs.

§ 1061.52-7 Regular Crisis Intervention Program.

(a) *Allocation and Purpose.* (1) CSA will allocate on a one-time basis for crisis intervention activities $15 million by formula to States or areas within States having population-weighted average (normal) annual heating degree days of three thousand (3,000) or more. (For listing of population-weighted annual heating degree days, by state, see Appendix B.) These funds are in addition to any provided by other CSA programs for crisis intervention assistance.

(2) The Governor in each of these states will be requested CSA Regional Directors in developing a within-state allocation plan, and to recommend agencies which can provide assistance in those areas not covered by a Community Action Agency and where a CAA is not able to do so. Governors also will be requested to waive the thirty day review and disapproval period set out in Section 242 of the Economic Opportunity Act of 1964 as amended.

(3) The total one-time grant will also include the greater of an additional $8,000 per grantee, or an amount equal to fifteen percent (15%) of the crisis intervention funds, for administrative costs.

(b) *Application Process.* (1) Based on the results of the within-state allocation process described above, CSA Regional Directors will review and approve Form 314, Statement of CSA Grant.

(2) Special conditions will be attached to all grants, requiring submission, within 30 days of the obligation date of the grant, of a CSA Form 419, Summary of Work Programs and Budget.

§ 1061.52-8 Supplemental Crisis Intervention Program.

(a) *Purpose.* Realizing that some areas of states will have needs greater than those which can be met with the resources available through the regular crisis intervention grants, CSA will make available, *on a one-time basis* unless waived by the Director, additional crisis intervention funds to States and localities which can demonstrate the presence of a winter-related energy need. Such a winter-related energy need will be deemed to exist when the Govenor of a State:

(1) Has declared that a winter-related energy emergency exists, and as a result of such declaration substantial state funds are made available to provide energy emergency assistance to low-income households; *or*

(2) Determines that the emergency exists because:

(i) There is within the State a shortage or unavailability of normal fuels on a temporary or permanent basis to low-income households, causing extraordinary expense—because of the necessity for purchase and delivery of fuel on an emergency basis, or substitution of alternative fuels; *or*

(ii) There has been within the State or an area within the State an increase of twenty percent (20%) or more in the price of a major fuel or utility service since May 1, 1978; *or*

(iii) The State or an area within the State is experiencing excessively cold weather that represents, any time after January 1, 1979, *both* a cumulative total of population-weighted heating degree days for the year beginning July 1, 1978, which is at least three hundred (300) heating degree days higher than the normal cumulative total for that date, *and* at least six hundred (600) heating degree days for the month or four-week period for which assistance is requested; *or*

(iv) A specified area within a state is experiencing daily temperatures for fourteen (14) consecutive days which compute to an average of twenty-five (25) degrees Fahrenheit or less. This subsection qualifies a specific portion of a state for supplemental assistance, *not* the entire state.

(b) *Limitation on Grants.* Once the existence of a winter-related energy need has been determined by the Director of CSA, grants will be made in amounts calculated by CSA to best meet that need in an equitable manner, taking into consideration the existing or potential needs in other areas. Grantees must recognize that

no additional funds for winter-related energy needs will likely be available to them for the balance of the winter season, and that they should plan the use of these resources accordingly. The only anticipated exception would be in the case of funds for Winter-Related Disaster Relief under § 1061.52-9, funds for which are severely limited, and would only be made available after a finding that a disaster has in fact occurred.

(c) *Application Process.* (1) Eligible grantees will ask the Governors of their States to make a determination that a winter-related energy need exists in their area, and to request the Director of CSA to provide funds to meet the needs. (Governors will initiate requests for areas not served by a CAA.) The request will include a description of the extent of the need, a description of the basis for the determination that the need exists, a finding that there is a lack of readily available resources to meet that need, the amount and type of funding committed by the State for energy emergency assistance, and identification of areas within the State in which the need exists. The SEOO will advise the Governor of the accuracy of the data on which the request is based.

(2) The Governor of any State may, without a request from any eligible grantee within the State, initiate a request to the Director of CSA for assistance to the entire State or any area within the State on the basis of a determination of need as set forth in paragraphs (a) (1) and (2), of this section. Such requests shall include the elements described in subparagraph (1) of this paragraph.

(3) Upon the approval of a Governor's request by the Director of CSA, CSA Regional Directors will be immediately requested to supplement the grants of existing CSA Crisis Intervention grantees in the area covered by the request. In the case of requests from Governors of States which have not previously received funds under this program, CSA regional offices may make new grants to Community Action Agencies in the affected area (or in the case of an area not served by a CAA, to other eligible grantees recommended by the Governor of the State). CSA Regional Directors may authorize existing CSA grantees to transfer needed funds from other program accounts, pending receipt of grant funds. Such authority will be limited by CSA Regional Directors to transfer of an amount no greater than the amount of the anticipated grant. If the grant is finally approved, funds thus transferred will be reimbursable with grant funds.

(4) Grantees may expend up to ten percent (10%) of grant funds for administrative and program support costs. In the case of grantees not previously having received funds under § 1061.52-7, Regular Crisis Intervention Program, the provisions of § 1061.52-7(a)(3) apply.

§ 1061.52-9 Winter-related disaster relief program.

(a) *Purpose.* Funds will be available to deal with situations which arise from winter-related disasters creating energy emergencies in any section of the country to assure that low-income needs are met pending receipt of other disaster resources. This is seen as short-term, gap-filling assistance, designed to meet the immediate disaster-related energy needs of the poor and the elderly. These funds may be used for all activities outlined in § 1061.52-3, including payment of utility and fuel bills during the disaster period, *if there is no other way of meeting the needs of eligible households.*

(b) *Application Process.* (1) When a Governor requests the declaration of a winter-related disaster by the Federal government, that request may also be used as the basis for a request for aid from CSA to assure that low-income people facing life and health threatening conditions in the affected State will receive immediate assistance. Such a request shall be made to the appropriate CSA Regional Director for transmittal to the Director of CSA. The request shall indicate the extent of the need, the agencies which are to receive the funds, and the views of the State.

(2) If, after consultation with the Federal Disaster Assistance Administration (or its successor), the Director determines that a winter-related disaster has created conditions which will endanger the health of and/or cause severe hardship to eligible low-income individuals and households, CSA will immediately inform by telegram the Governor and the appropriate CSA Regional Office of the amount of funds available for the affected disaster area. CSA Regional Directors will be requested to supplement grants of existing CSA Crisis Intervention Grantees in the disaster affected area. In states or areas of states which have not previously received funds under this program, CSA Regional Offices will make new grants to Community Action Agencies in the disaster affected area or, in the case of an area not served by a CAA, to other eligible grantees recommended by the Governor of the State. CSA Regional Directors may authorize existing CSA grantees to transfer needed funds from other program accounts, pending receipt of grant funds. Such authority will be limited by CSA Regional Directors to transfer of an amount no greater than the amount of the anticipated grant. If the grant is finally approved, funds thus transferred will be reimbursable with grant funds.

(3) Grantees may expend up to ten percent (10%) of their Disaster Relief Grant funds for administrative and program support costs.

§ 1061.52-10 Who can be served by this program.

(a) Applicants for assistance who have access to direct assistance through other supportive service networks such as welfare may only receive assistance under this program where the grantee or local administering agency has determined that such other service networks cannot respond in a timely and effective manner.

(b) All households assisted by this program must meet both income and program eligibility requirements.

(1) *Income eligibility.* (i) Individuals and households whose income is no higher than 125% of the CSA poverty guidelines. (See Appendix A for income chart);

(ii) Individuals of age 60 and above, whose income does not exceed 125% of the CSA poverty guidelines and/or elderly individuals and couples (age 60 and over) who receive Supplementary Security Income (SSI). (See Appendix A for income chart).

(2) *Determination of income eligibility required of grantees.* Proof of income eligibility is required. The period for determining eligibility will be not more than 12 months nor less than the 90 day period preceding the request for assistance. If proof of income eligibility is unobtainable by the local administering agency, applicants may qualify for *other than money assistance in the paying of outstanding bills* by signing a certification of income eligibility; but no payment of outstanding bills shall be allowable without proof of income. In cases where income eligibility is based on a certification, grantees must make a reasonable number of recorded spot checks to verify income eligibility and so advise applicants in advance by printing such a notice on the application, together with reference to 18 U.S.C. 1001.

(3) *Program eligibility.* If a household meets income eligibility guidelines, program eligibility must be established before the household is eligible to receive assistance under this program. That is, the household must be experiencing an energy-related crisis which is endangering life or health and/or results in substantially increased energy costs.

(i) As noted in paragraph (a) of this section, applicants for assistance who have access to direct assistance through other supportive service networks such as welfare may only receive assistance under this program where the grantee or local administer-

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ing agency has determined that such other service networks cannot respond in a timely and effective manner. As part of this determination, local administering agencies have an affirmative responsibility to assure that applicants have received the full measure of support that is due them from the supportive networks noted in paragraph (a) of this section before providing assistance under this program.

(ii) There are, in effect, two levels of program eligibility under this program, depending on the type of assistance provided. As noted in § 1061.52-3, to be eligible for assistance in payment of an outstanding utility or fuel bill, the applicant must have received a notice of shut-off, or, in the case of non-regulated fuel, have less than one week's supply of fuel on hand. In the latter case the local administering agency must certify that it has been unable to arrange for further fuel delivery without at least partial payment of the outstanding bill. In addition, local administering agencies must either verify the applicant's existing supply of fuel through on-site inspection or contact with the applicant's fuel dealer, or obtain a statement from the applicant as to the supply. In the latter case the agency must spot-check through on-site inspection a reasonable number of such statements.

(iii) The above restrictions are not applicable with regard to the provision of assistance *other than* the payment of outstanding fuel and utility bills. At the same time, if income-eligible families have ample supplies of fuel, and are *not* faced with another type of crisis such as an inoperative furnace or broken water pipes, they are not eligible for assistance under this program *just because* they have large energy bills outstanding. If, on the other hand, a family has paid at great sacrifice a large energy bill and as a result has insufficient money to buy needed food or other necessities, then they would be eligible for assistance.

(4) *Priorities.* Priority shall be given to persons facing life threatening situations and to elderly persons (age 60 and over) who meet all eligibility requirements.

(5) *Income disregard.* No payment made under this program shall be considered income for the purpose of determining eligibility for benefits or level of benefits under another program of assistance, including, but not limited to, public assistance, veterans benefits, food stamps, Supplemental Security Income, Medicaid-only, Indo-China Relief, or The WIC Program.

§ 1061.52-11 Reporting requirements for all grants made under this program.

(a) *Financial reporting.* Activities carried out under this program shall be reported as part of grantee's regular SF-269. Grantees shall follow normal procedures for submission of the SF-269, i.e., one copy to the appropriate CSA Regional Office and one copy to Grants Accounting Branch, Finance and Grants Management Division, CSA Headquarters, 1200 19th Street NW., Washington, D.C. 20506.

(b) *Project progress review reports.* Grantees will be required to submit Project Progress Review Reports covering grant activities under this program (CSA Form 440) to the appropriate CSA Regional Office with a copy forwarded to CSA Headquarters, Attention: Energy Progams. Reports will cover activities undertaken during the entire grant period, and will contain a separate narrative account of any assistance provided pursuant to a disaster declared under § 1061.52-5, above. These reports will be due July 1, 1979. The following activities completed during the reporting period shall be addressed in section 1A of the submission:

(1) Total number of households which were assisted under all of the eligible activities of this program. This should be a nonduplicative count, and of this number:

(i) Number of elderly individuals assisted whose income is 125% or less;

(ii) Total number of households whose outstanding utility/fuel bills were paid in whole or in part, and total dollar amount obligated for this purpose; and of that number of households, total number whose outstanding utility/fuel bills exceeded $250;

(iii) Total number of households which received other forms of emergency energy assistance under this program and total amount obligated for this purpose;

(2) Total number of individuals residing in households served as accounted for in subparagraph (1) of this paragraph.

(3) Number of reviews of denials of assistance requested and the results thereof.

§ 1061.52-12 Appeal from denial of assistance.

(a) Each local program operator shall establish and make known to all applicants procedures for review of the denial of assistance under this program to any household or person, which shall include at a minimum:

(1) Written application forms;

(2) Notification in writing of the reasons for denial of assistance, and of the opportunity to submit additional written information which the applicant believes would warrant favorable determination of eligibility;

(3) Provision for review of a denial of an application for assistance by the program operator's executive officer, or his/her designee; and an opportunity for provision of any additional information by the applicant; and

(4) Notice in writing of the program operator's final decision on review.

(b) A written description of these review procedures shall be maintained on file by the program operator and available for public inspection.

§ 1061.52-13 Non-Federal share requirement.

The non-Federal share requirements are waived for all Crisis Intervention activities under Program Account 80.

§ 1061.52-14 Clearinghouse review procedures (A-95).

CSA has requested and received on January 8, 1979, from the Office of Management and Budget (OMB), a waiver of the clearinghouse review procedures required under OMB Circular A-95. However, grantees are required to submit an information copy of all application(s) required under § 1061.52 to the appropriate clearinghouse(s).

§ 1061.52-15 Limitation of project expenditures.

(a) *Limitation on payments to any eligible household.* The sum of all forms of assistance made to and/or on behalf of any eligible household during this program may not exceed $250 in any fiscal year.

(b) *Recovery of unobligated funds.* CSA retains the authority to recover grant funds at any time sums remain uncommitted to eligible households.

(c) Prohibition against transfer to another grant. Funds remaining unobligated may not be transferred by the grantee to another grant.

(d) *Overexpenditures.* If the grantee incurs expenditures in excess of the total amount of the approved grant, the amount of the overexpenditure must be absorbed by the grantee.

(e) *Procurement.* In accordance with OMB Circulars A-110 and A-102 all proposed sole source contracts where only one bid or proposal is received in which the aggregate expenditure is expected to exceed $5,000 must receive prior approval by the appropriate CSA Regional Office.

§ 1061.52-16 Maintenance of effort.

Services provided with funds made available under this program shall be in addition to and not in substitution for services previously provided without Economic Opportunity Act assistance.

§ 1061.52-17 Delegations of Authority to Regional Directors.

This section provides for the immediate delegation to CSA Regional Directors of authority for final approval of grants under this program. When Section 601(c) was added to the Economic Opportunity Act, its last sentence prohibited the delegation of final approval of grants and contracts to any regional offical after June 15, 1975. In the Economic Opportunity Amendments of 1978, this provision, which had proved to be administratively burdensome, was repealed and a requirement to promulgate rules and regulations for final approval of grants and contracts was substituted. The Community Services Administration fully intends to issue comprehensive regulations on this subject in the near future. However, in view of the fact that activities under this program will be undertaken to deal with winter-related energy *emergencies*, maximum efficiency in the processing of grants is immediately required. To achieve this administrative efficiency, it is necessary to return final grant-making power to Regional Directors for this program effective immediately.

APPENDIX A.—COMMUNITY SERVICES ADMINISTRATION

CSA POVERTY INCOME GUIDELINES FOR ALL STATES EXCEPT ALASKA AND HAWAII

Size of family unit	Non-farm family (125%)	Farm family (125%)
1	$3,925	$3,363
2	5,200	4,438
3	6,475	5,513
4	7,750	6,588
5	9,025	7,663
6	10,300	8,738

(For family units with more than 6 members, add $1,275 for each additional member in a nonfarm family and $1,075 for each additional member in a farm family.)

CSA POVERTY GUIDELINES FOR ALASKA

Size of family unit	Non-farm family (125%)	Farm family (125%)
1	$4,925	$4,225
2	6,513	5,563
3	8,100	6,900
4	9,687	8,238
5	11,275	9,575
6	12,863	10,913

(For family units with more than 6 members, add $1,588 for each additional member in a nonfarm family and $1,338 for each additional member in a farm family.)

CSA POVERTY GUIDELINES FOR HAWAII

Size of family unit	Non-farm family (125%)	Farm family (125%)
1	$4,525	$3,913
2	5,987	5,138
3	7,450	6,363

CSA POVERTY GUIDELINES FOR HAWAII—Continued

Size of family unit	Non-farm family (125%)	Farm family (125%)
4	8,913	7,588
5	10,375	8,813
6	11,838	10,038

(For family units with more than 6 members, add $1,463 for each additional member in a nonfarm family and $1,225 for each additional member in a farm family.)

APPENDIX B.—*Population-Weighted Normal Annual Heating Degree-Days by State* [1]

FIPS Code No.	Name of State	
	Region I—(Boston)	
09	Connecticut	6,122
23	Maine	8,034
25	Massachusetts	6,264
33	New Hampshire	7,550
44	Rhode Island	5,913
50	Vermont	7,900
	Region II—(New York)	
34	New Jersey	5,493
36	New York	5,925
73	Puerto Rico	
78	Virgin Islands	0
	Region III—(Philadelphia)	
10	Delaware	4,758
11	District of Columbia	[2]4,211
24	Maryland	4,779
42	Pennsylvania	5,747
51	Virginia	4,284
54	West Virginia	5,085
	Region IV—(Atlanta)	
01	Alabama	2,658
12	Florida	689
13	Georgia	2,649
21	Kentucky	4,383
28	Mississippi	2,375
37	North Carolina	3,351
45	South Carolina	2,654
47	Tennessee	3,776
	Region V—(Chicago)	
17	Illinois	6,066
18	Indiana	5,708
26	Michigan	6,763
27	Minnesota	8,743
39	Ohio	5,787
55	Wisconsin	7,559
	Region VI—(Dallas-Fort Worth)	
05	Arkansas	3,168
22	Louisiana	1,675
35	New Mexico	4,761
40	Oklahoma	3,492
48	Texas	2,008
	Region VII—(Kansas City)	
19	Iowa	6,832
20	Kansas	4,881
29	Missouri	5,028
31	Nebraska	6,328
	Region VIII—(Denver)	
08	Colorado	7,009
30	Montana	8,224
38	North Dakota	9,468
46	South Dakota	7,648
49	Utah	6,562
56	Wyoming	7,898
	Region IX—(San Francisco)	
04	Arizona	2,303
06	California	2,701
15	Hawaii	
32	Nevada	4,353
75	Trusts	
	Region X—(Seattle)	
02	Alaska	[3]11,492
16	Idaho	6,891
41	Oregon	5,217
53	Washington	5,725

[1] Source: *State, Regional & National Monthly and Seasonal Heating Degree Days Weighted by Population, July, 1931-June, 1978*, National Oceanic and Atmospheric Administration, Environmental Data and Information Service, U.S. Department of Commerce, September, 1978.

[2] Source: U.S. Department of Energy. Heating Degree Days is the total by which the average temperature for a day is less than 65 degrees Fahrenheit. Annual Heating Degree Days is the sum of all Heating Degree Days during a calendar year. Normal Annual heating Degree Days is the average of Annual Heating Degree Days from July, 1931, to June, 1978.

[FR Doc. 79-2244 Filed 1-19-79; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 79-14]

PART 0—COMMISSION ORGANIZATION

Change in Name of Office of Chief Engineer to Office of Science and Technology

AGENCY: Federal Communications Commission.

ACTION: Amendment of rules.

SUMMARY: This amendment changes the rules to reflect the Commission's decision to change the name of the "Office of Chief Engineer" to "Office of Science and Technology." The Commission has also determined that the head of this Office should be designated as the FCC's "Chief Scientist."

EFFECTIVE DATE: May 1, 1979.

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ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Bernard I. Kahn, Office of Executive Director, 632-7513.

SUPPLEMENTARY INFORMATION:

Adopted: January 12, 1979.

Released: January 19, 1979.

Order. In the matter of Amendment of the Commission's rules and regulations to reflect a change in the name of the Office of Chief Engineer to the Office of Science and Technology.

1. In response to the rapid and profound changes in technology experienced in recent years and expected to continue during the next decade, the Commission has determined that the name of the "Office of Chief Engineer" should be changed to the "Office of Science and Technology" and that the head of this office should be designated as the FCC's "Chief Scientist" rather than the FCC's "Chief Engineer." This change in name reflects the Commission's recognition that present and future developments in the broad field of communications require intensive study of applied and basic science and technology. The change will help to promote mutually supportive efforts in several fields of study, the physical sciences as well as engineering and electronics.

2. This change in the title of the unit primarily responsible for the Commission's research and engineering activity signifies the Commission's commitment to scientific and technical studies in all phases of communications. Implementation of this change requires the amendment of several portions of the FCC rules and regulations, most notably §§ 0.5(a)(2), 0.5(b)(2), 0.31, 0.32, 0.33, 0.241, and 0.243. All references in these sections to "Office of Chief Engineer" are hereby changed to read "Office of Science and Technology." Similarly, all references to "Chief Engineer" are changed to read "Chief Scientist." Editorial changes will also be necessary in other parts of the Commission's rules and regulations to complete the transition to Office of Science and Technology. These additional changes will be addressed in another order to be released in the near future.

3. The amendments adopted herein pertain to agency organization. The prior notice, procedure, and effective date provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, are therefore inapplicable. Authority for the amendment being adopted is contained in sections 4(i) and 5(b) of the Communications Act of 1934, as amended.

4. In view of the foregoing: *It is ordered*, Effective May 1, 1979, that Part 0 of the rules and regulations is amended as set forth below.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303).)

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is hereby amended as indicated below:

In §§ 0.5(a)(2), 0.5(b)(2), 0.31, 0.32, 0.33, 0.241, and 0.243, all references to "Office of Chief Engineer" are changed to read "Office of Science and Technology" and all references to "Chief Engineer" are changed to read "Chief Scientist."

[FR Doc. 79-2217 Filed 1-19-79; 8:45 am]

[6712-01-M]

[BC Docket No. 78-129; RM-3006; RM-3009; RM-3143]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Yermo and Mountain Pass, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order and Memorandum Opinion and Order.

SUMMARY: This action assigns Class B channels to Mountain Pass, California and to Yermo, California, to provide for a first local service to each. The assignments will also permit service to be provided to large unserved and underserved areas. In addition, an estimated eight million travelers along Interstate 15 will receive service from the proposed stations.

EFFECTIVE DATE: February 26, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION: A petition to assign Channel 258 to North Las Vegas, Nevada, has been dismissed.

REPORT AND ORDER AND MEMORANDUM OPINION AND ORDER—PROCEEDING TERMINATED

Adopted: January 12, 1979.

Released: January 17, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Yermo and Mountain Pass, California), BC Docket No. 78-129, RM-3008, RM-3009, RM-3143.

1. The Commission has before it the revised *Notice of Proposed Rulemaking*, 43 FR 17979, adopted April 28, 1978, proposing the assignments of FM Channel 251 to Yermo, California, and FM Channel 258 to Mountain Pass, California. Comment and reply comments were submitted by petitioner, KIXV, Inc.[1] Opposing comments and reply comments were received from Mojave Valley Broadcasting, Inc., licensee of Station KWTC(AM) and permittee of Station KWTC-FM, Barstow, California.[2]

2. In the *Notice*, we acknowledged that the instant proposals did not conform to our policy of assigning Class B channels to large communities, but that a showing of service to unserved and underserved areas might justify the assignments. Thus petitioner was asked to revise its showings to support the proposals. In addition, data was requested as to the availability of FM channels to precluded communities. As for Mountain Pass more information was requested on its status as a community.

3. Yermo (pop. 1,304),[3] is located in San Bernardino County (pop. 682,233), approximately 18 kilometers (11 miles) east of Barstow, and approximately 144 kilometers (90 miles) west of the California-Nevada border on Interstate Highway 15. It has no local aural service.

4. Mountain Pass (pop. est. 250-260)[4] is also located in San Bernardino County, approximately 16 kilometers (10 miles) west of the California/Nevada border on Interstate Highway 15. It also has no local aural service.

5. Petitioner states that the purpose of the Yermo and Mountain Pass proposals is to provide a first aural service to a 150-mile stretch of highway (Interstate 15) between Barstow, California and Las Vegas, Nevada. Petitioner has estimated that an estimated eight million people travel along the highway each year. As for Mountain Pass, petitioner indicates that it is essentially a mining town, with the principal employer being Molycorp, which is engaged in mining Molybdenum. The permanent population is said to be 250-260 persons and services are provided to those residents by the county and by Molycorp. Petitioner also notes that Mountain Pass has its own post office and zip code (92366), a 15-man volunteer fire department and is part of the Baker-Mountain Pass school district. A road sign on Interstate 15 identifies the community as "MOUNTAIN PASS; ELEVATION 4,721 FEET, POPULATION 250," according to petitioner. With respect to the need for a radio station, we are told that Mountain Pass receives no broadcast services during the day from any California stations, that there is no newspaper delivery, and cable television carries only Las Vegas stations. Petitioner relates that an FM station at Mountain Pass operating with maximum Class B facilities would provide the following services:

	Pop.	Approximate area Sq. Km.	Sq. Mi.
1st FM	671	6,055	2,329
2nd FM	91	517	199
1st nighttime aural	427	3,367	1,295
2nd nighttime aural	288	2,688	1,034

As for preclusion petitioner states that the only affected community without local service is Eagle Mountain to which Channel 249A is available for assignment.

6. Regarding Yermo, the need for service is again expressed by petitioner in terms of the absence of local service to residents and service to travelers on Interstate 15. A wide-area coverage channel is requested for Yermo to provide the following services (again assuming maximum facilities):

	Pop.	Approximate area Sq. Km.	Sq. Mi.
1st FM	2,416	6,282	2,416
2nd FM	25,764	1,812	697
1st nighttime aural			
2nd nighttime aural	6,826	5,764	2,217

Petitioner has shown that other FM channels are available to communities over 1,000 population and without local service which would be precluded by the Yermo assignment.[5]

7. In opposition, Mojave Valley contends that a Class B channel should not be assigned to either Yermo or Mountain Pass since neither community is large enough to qualify for a wide-area coverage station under § 73.206(b)(2).[6] In this regard, it argues that the instant proposals are not intended to serve the requested communities but instead seek to serve a portion of the general public traveling along a highway. Moreover, Mojave Valley suggests that the Yermo request is intended to attract advertising from Barstow businesses away from existing Barstow stations. Mojave Valley also notes that the two requests, even if granted with maximum facilities, would leave a 15-mile stretch of highway unserved by the 1 mV/m contour of either station. It is asserted that several Class A stations if prudently located could provide better service to the travelers. Finally, it argues that the assignments should not be granted on the basis of serving a transient population because their needs could not be meaningfully ascertained.

8. In reply comments, petitioner confirms that it will apply to operate both stations with maximum facilities so as to provide optimum service to the Interstate 15 travelers. The 15-mile stretch of highway that would extend beyond the 1 mV/m contour of both stations would receive a minimum of 300 uV/m service, we are told by petitioner. Petitioner reaffirms that its primary interest is the mobile population along Interstate 15 but gives assurance that it will serve the needs of the residents of Yermo and Mountain Pass.

9. The Commission finds that petitioner has demonstrated that an adequate need exists for Class B assignments to Yermo and Mountain Pass. First, as to Mountain Pass, the nature of this place as a mining town provides the commonality of purpose which, as reflected in the services locally provided to the residents and employees, qualifies this place as a community. As such, the town is identified by a road sign and a community post office is assigned to it with a separate zip code number. In terms of need, the population of both communities Yermo and Mountain Pass, is extremely small for a Class B assignment. However, this portion of California near the Nevada border in which they are located is sparsely populated with few significant towns. More important the proposed stations would provide a first and second FM and nighttime aural service. In addition we recognize that the transient population on Interstate 15 also has a need for radio service though this need may well be unrelated to the needs of either Yermo or Mountain Pass. Petitioner admits that the programing of both stations will be primarily directed to the large number of travelers along Interstate 15.[7] Nevertheless, we believe that such a station can also provide an adequate portion of its programing to the community which it is licensed to serve as required by Commission policy. As to opponent's contention that the Yermo proposal will seek advertising from Barstow and become a Barstow station, we do not agree with that assessment. The Yermo request is part of a plan to provide much needed service to a large transient population and the location of Yermo appears to have been selected for this purpose. Thus, there is much public benefit from the proposal and the fact that Barstow will be served should not serve as an impediment.

10. In order to provide optimum service to large unserved and underserved areas, we are conditioning the assignments of Channels 251 and 258 to Yermo and Mountain Pass to the use of maximum facilities. In addition the transmitter site for the Yermo station must be located at least approximately 10 kilometers (6 miles) north-northeast of Yermo to comply with mileage separation requirements.

11. Mexican concurrence in the proposals has been obtained.

12. *Accordingly, it is ordered*, That pursuant to Sections 4(i), 5 (d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, the FM Table of Assignments (§ 73.202(b) of the Commission's rules) is amended, effective February 26, 1979, with respect to the cities listed below:

[1] The petitioner was identified in the *Notice* as Howard Anderson. Mr. Anderson has formed KIXV, Inc. for purposes of these FM channel assignments. See also 43 FR 31165, July 20, 1978.

[2] In addition, a counterproposal filed by D. Garry Munson and John Charles Larsh, proposing the assignment of FM Channel 258 to North Las Vegas, Nevada, conflicted with the Mountain Pass proposal and was made a part of this proceeding (RM-3143). However, that proposal was later withdrawn and amended to specify a different frequency for North Las Vegas, eliminating the conflict. By a separate letter Munson and Larsh have been advised that this latter proposal has been found unacceptable for filing for failure to comply with the Commission's minimum mileage separation requirements. Since the Channel 258 proposal was withdrawn and not later pursued, we have dismissed the proposal in paragraph 12, *infra*.

[3] Population data is taken from the 1970 U.S. Census.

[4] Population estimate is provided by petitioner in its comments.

[5] Those communities (with the available channels noted) are as follows: China Lake (244A); Fort Irwin (221A); Searles Valley (228A); Nebo Center (257A); Kerwood (261A); California City (237A).

[6] Section 73.206(b)(2) states that a Class B station "* * * is designed to render service to a sizeable community * * * or to the surrounding area."

[7] Although a 15-mile segment of Interstate 15 will not be provided 1 mV/m service, the signal intensity will reach a minimum of 300 uV/m in this area which is a level of service recognized by the Commission as adequate in rural areas, in the absence of interference from other stations, as is the case here.

City and Channel No.

Mountain Pass, California, 258,[1]
Yermo, California, 251.[1]

13. *It is further ordered,* That the proposal of Munson and Larsh to assign Channel 258 to North Las Vegas, Nevada (RM-3143) is dismissed.

14. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307))

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 79-2218 Filed 1-19-79; 8:45 am]

[6712-01-M]

[SS Docket No. 78-146; FCC 79-5]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Permitting of Ship Radiotelegraph Stations To Communicate With Amateur Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document deletes certain sections of the Commission's rules and regulations relating to the granting of licenses, modification of licenses, renewal of licenses, or special temporary authorizations permitting ship radiotelegraph stations to communicate with amateur stations. These rules no longer serve any useful purpose in the present regulatory scheme, consequently, the Commission is deleting them.

EFFECTIVE DATE: February 23, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John C. K. Hays, Safety and Special Radio Services Bureau, (202-632-7197).

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—(PROCEEDING TERMINATED)

Adopted: January 8, 1979.

Released: January 18, 1979.

In the matter of amendment of Part 83 of the Commission's rules to delete §§ 83.50 and 83.70 which permit ship radiotelegraph stations to communicate with amateur stations, SS Docket No. 78-146.

1. The Commission released a Notice of Proposed Rule Making (43 FR 20249) on May 9, 1978, to delete §§ 83.50 and 83.70 from its rules. Under these sections, the Commission may authorize a ship station on board a vessel used, or intended to be used, for scientific research or expedition, or a vessel not engaged in commerce to communicate by radiotelegraphy directly with licensed amateur stations on land. This authorization may only be granted upon a showing that: (1) Unusual circumstances make direct communications with amateur stations extremely beneficial to persons on board or to persons responsible for the scientific expedition, (2) messages will not relate to commercial communications and (3) no harmful interference will result to stations in the maritime mobile service nor to stations in the radiolocation service.

2. The Commission now believes that these rule sections, which were adopted in 1939, serve no useful purpose under the present regulatory scheme. A review of our license file disclosed that no ship station is presently authorized under these sections to communicate with amateur stations. Moreover, if communications between a vessel and amateur stations are desired, an amateur mobile station, which is a radio installation separate from the ship station, can be operated aboard the vessel: *Provided,* The operator is a licensed amateur and the requirements of §§ 97.101 and 97.114 of the Amateur Rules are observed.

3. Mr. Benjamin Clark of Moncks Corner, South Carolina filed the only comments in this proceeding. In his comments Mr. Clark suggests that the Commission will be reconsidering the subject matter of this proceeding in ten years or less to determine whether amateurs should be permitted to use the Maritime Mobile Service frequencies on a secondary basis. According to Mr. Clark, the Amateur and Maritime Mobile Services are the only two remaining services making extensive use of manual radiotelegraphy, and both services use similar procedures. Within ten years Mr. Clark estimates that there will be over a million amateurs located in all parts of the world, most of whom are skilled and reliable operators. Mr. Clark believes that the use of Maritime Mobile Service bands in the high frequency (HF) part of the spectrum will decrease as ship stations shift their communications to satellites for economic reasons. Mr. Clark suggests that, as coast stations handling HF communications are phased out because of dwindling traffic, it may be wise to allow amateurs to use the Maritime Mobile frequencies on a secondary basis to insure their availability for use by ship stations needing communications and unable to communicate by satellite. Mr. Clark further suggests that it might even be well at this time to include in Amateur Radio Operator Examinations questions from Element 6 of the Commercial examination relative to handling of maritime distress communications to insure that amateurs will know what to do if and when they become a recognized part of the Maritime Mobile Service.

4. After reviewing Mr. Clark's suggestions, we have concluded that they would not benefit either the Maritime Mobile Service or the Amateur Radio Service. One objective of the Commission has been to minimize the possibility of congestion and interference on the maritime frequencies, especially on the medium and high frequencies. While use of manual telegraphy may diminish in the years ahead, we anticipate an increased use of automatic printing equipment on the high frequencies. A significant number of ships will continue to use these frequencies for their long distance communications in lieu of satellites. To allow over a million amateur stations to transmit on the maritime frequencies would result in an enormous amount of congestion and interference, especially on the medium and high frequencies, and would be contrary to this objective of the Commission to reduce congestion and interference on the maritime frequencies. Moreover, we do not believe that amateurs should be required to assume the responsibility of rendering what is essentially a common carrier service to ship stations. Consequently, we will not adopt Mr. Clark's suggestions.

5. For further information on this proceeding, contact John Hays at 202-632-7197.

6. *Accordingly, it is ordered,* That, pursuant to authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 83 of the Commission's rules is amended effective February 23, 1979, as set forth below.

7. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Part 83—Stations on Shipboard in the Maritime Services.

§ 83.50 [Amended]

1. Section 83.50 is deleted and designated as [Reserved].

§ 83.70 [Amended]

2. Section 83.70 is deleted and designated as [Reserved].

[FR Doc. 79-2220 Filed 1-19-79; 8:45 am]

[1] Any application for this channel must specify maximum power and antenna height or equivalent.

[6712-01-M]

[RM-2134; FCC 79-7]

PART 87—AVIATION SERVICES

Permitting the Use of F2 Emissions by Civil Air Patrol Stations on the Frequencies 143.9 and 148.15 MHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action permits Civil Air Patrol stations to use frequency modulated telegraphy signals on two frequencies used only by the Civil Air Patrol. This action was taken at the request of the Civil Air Patrol. As a result of this change the CAP expects to improve its radiocommunications capabilities for the conduct of emergency and training missions.

EFFECTIVE DATE: February 23, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT:

Robert McNamara, Safety and Special Radio Services Bureau, (202) 632-7197.

SUPPLEMENTARY INFORMATION:

ORDER—PROCEEDING TERMINATED

Adopted: January 8, 1979.

Released: January 18, 1979.

In the matter of amendment of Part 87 of the rules to permit the use of F2 emissions by Civil Air Patrol stations on the frequencies 143.9 and 148.15 MHz, RM 2134.

BACKGROUND

1. The Civil Air Patrol (CAP), a civilian auxiliary of the United States Air Force, has requested that the Commission amend the rules (1) to permit the use of F2 emissions [1] on the frequencies 143.9 and 148.15 MHz for teleprinter operations, and (2) to exempt Civil Air Patrol station [2] operators from the provisions of § 87.133(a) which require a third-class or higher operator license to operate aircraft radio stations on certain frequencies.

2. The CAP states that as part of a modernization program it is converting from amplitude modulation (AM) equipment to frequency modulation (FM) equipment for voice communications (F3 emissions) on very high frequency (VHF) channels. The authorization of F2 emissions on 143.9 and 148.15 MHz would permit use of the same type of equipment for VHF teleprinter operations as is used for voice communications. The CAP indicates that this would allow it to discontinue the use of older, obsolete AM equipment and improve radiocommunications capabilities for conducting emergency and search and rescue missions as well as training.

3. In addition, the CAP states that CAP stations, apparently, were unintentionally included within the third-class operator license requirements of § 87.133(a)(1). The CAP, therefore, requests CAP stations be exempted from such requirements.

DISCUSSION

4. The two frequencies on which the CAP desires to use F2 emissions are utilized only by CAP stations. Further, although § 87.513 does not provide for the use of F2 emissions, it does permit CAP stations to employ amplitude modulated telegraphy signals (A1 and A2 emissions). Thus, no interference to other classes of stations or users would result from the requested rule change. It also appears that, for practical purposes, new AM equipment is not available in the frequency range of concern to the CAP.

5. In that such a rule change would likely improve the CAP's communications capability in conducting training, as well as emergency and search and rescue missions, we believe the public interest would be served by amending § 87.513 of the rules as requested.

6. However, the CAP's request for an exemption from the provisions of § 87.133(a)(1) [3] which require operators of certain aircraft stations to have a third-class operator license, is unnecessary. The subject provisions of § 87.133(a)(1) relate only to *aircraft* stations. As mentioned above, CAP stations are licensed as a separate and distinct type of radio station under Subpart O of Part 87 of the rules. Such stations may be located in automobiles, boats or aircraft. The platform the station may be located on is not determinative of its class. For example, a citizens band station installed on board a ship does not become a ship radio station. Therefore, CAP station operators may satisfy the operator license requirement by holding a restricted radiotelephone operator permit.

7. In that the amendment of the rules to permit the CAP to utilize F2 emissions on the two specified frequencies will not affect other users or classes of stations, and the amendment is one in which the public is not particularly interested, we find that the notice and procedure provisions of the Administrative Procedure Act, 5 U.S.C. 553, are unnecessary.

8. Regarding questions on matters covered in this document contact Robert McNamara (202) 632-7197.

9. In view of the foregoing: *It is ordered,* That pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, § 87.513 of the Commission's rules is amended as set forth below, effective February 23, 1979.

10. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 87.513 paragraphs (h) and (i) are amended to read as follows:

§ 87.513 **Frequencies available.**

. . . . . .

(h) 143.9 MHz, A1, A2, A3, F2, F3 emission, 30 watts maximum power.

(i) 148.15 MHz, A2, A3, F2, F3 emission, 50 watts maximum power.

[FR Doc. 79-2221 Filed 1-19-79; 8:45 am]

[6712-01-M]

[SS Docket No. 78-160; FCC 79-4]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

PART 87—AVIATION SERVICES

Authorizing Broadcasts by Aircraft Radio Stations on Certain Frequencies in Accordance With FAA Recommended Traffic Advisory Practices

AGENCY: Federal Communications Commission.

[1] An F2 emission is defined as telegraphy by the on-off keying of a frequency modulating audiofrequency or by the on-off keying of a frequency modulated emission.

[2] A Civil Air Patrol station is a particular type of radio station which is licensed only to units or headquarters of the CAP under Subpart O of Part 87 of the rules.

[3] The applicable provisions of Rule 87.133(a)(1) read as follows:

"§ 87.133 **General operator requirements.**

(a) Except as provided for in §§ 87.135, 87.139 or as limited on the face of the operator license or permit, all stations in the Aviation Services shall be operated by persons holding any class of commercial radio operator license or permit issued by the Commission: Provided, That (1) Only a person holding a third-class or higher operator permit shall operate *aircraft stations* (i) Utilizing frequencies below 30 MHz not exclusively allocated to the aeronautical mobile service, or (ii) Utilizing frequencies above 30 MHz not allocated exclusively to aeronautical mobile services and which are assigned for international use; and * * *" (Emphasis added.)

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ACTION: Final Rule.

SUMMARY: The rules are amended to specifically authorize "broadcasts in the blind" by aircraft radio stations on certain frequencies, in accordance with FAA recommended traffic advisory practices. This action was initiated as a result of a request by the FAA to review its recommended communciations procedures at nontower airports for compliance with the FCC regulations. The rules are intended to clarify any existing uncertainty regarding the compliance of these procedures with the Commission's rules.

EFFECTIVE DATE: February 23, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert H. McNamara, Safety and Special Radio Services Bureau (202-632-7197).

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: January 8, 1979.

Released: January 18, 1979.

BACKGROUND

In the matter of amendment of Part 87 of the rules to specifically authorize broadcasts by aircraft radio stations on certain frequencies in accordance with FAA recommended traffic advisory practices, SS Docket No. 78-160. See 43 FR 25150, June 9, 1978.

1. The Federal Aviation Administration (FAA) requested that we review FAA recommended airport traffic advisory practices at nontower airports for compliance with FCC regulations. These advisory communications practices have been recommended by the FAA since the issuance of Advisory Circular AC No. 90-42 in December 1968, and currently are contained in the "Airman's Information Manual." [1] The FAA indicated that recently a question was raised as to whether there possibly was a conflict between these FAA recommended procedures and FCC rules. In the event it was determined a conflict did exist, we were requested to initiate appropriate rulemaking to provide for the continuation of these recommended advisory procedures.

2. The subject FAA recommended airport traffic advisory procedures involve the transmission of an aircraft's position when it is inbound to or outbound from an airport not served by a control tower and, additionally, the airport has (1) a nonfunctioning FAA flight service station (FSS), or (2) no FSS facility and a nonfunctioning aeronautical advisory station (unicom),[2] or (3) no FSS facility and no unicom. The frequency used in the first instance is the assigned FSS frequency 123.6 MHz, in the second, the unicom frequency 122.8 MHz,[3] and in the third the multicom [4] frequency 122.9 MHz. Essentially, this procedure calls for a pilot of an aircraft inbound to an airfield not having an operating ground station to "broadcast in the blind" (that is, transmit information for the benefit of any monitoring aircraft station in the area) his or her position and intentions five miles from the airport and followup with position reports on the downwind, base and final legs of the landing pattern. When outbound the pilot transmits his or her position and intentions prior to taxiing and before taxiing on to a runway for take off. The FAA also recommends similar traffic advisories to be transmitted on the assigned control tower frequency when an airfield's control tower is not operating. The FAA feels that these communciations procedures reduce aircraft collision potential around airports without operating control towers by augmenting visual alertness with audio alertness.

3. The aviation radio service is primarily designed to provide the communications needs for the safe and expeditious operation of aircraft. The assigned frequencies are shared among users. The traffic advisory transmissions recommended by the FAA have not been considered to be in conflict with FCC regulations. Rather, such "broadcasts in the blind" are viewed as communications necessary to the safe operation of aircraft within the meaning of Rule 87.181. However, the Commission's rules do not specifically provide for these aircraft advisory communications. This apparently has lead to confusion on the part of some members of the flying public and the resulting concern of the FAA.

4. Possibly, some of the uncertainty regarding these FAA recommended advisory communciations may have resulted from a decision of the Review Board [5] which was based on the conclusion that the disclosure and use by third persons of communications between an aeronautical advisory station and aircraft is an "unauthorized interception" of communications within the meaning of Section 605 of the Communications Act. Among other things, Section 605 prohibits persons not so authorized from divulging or using for their own or another's benefit radio communications which they have intercepted. Radio communications which are broadcast or transmitted for the use of the general public are specifically excluded from the applicability of the section. Therefore, Section 605 of the Communications Act does not apply to the type of aeronautical communications which are transmitted for the use of members of the general public in the area who monitor such frequencies as a matter of standard operating procedure. To hold otherwise would lead to absurd results and impair aviation safety.

5. In view of the existence of some confusion and uncertainty as to the legality of aircraft stations "broadcasting in the blind" in accordance with FAA recommended traffic advisory procedures, we proposed to amend the rules to specifically state that these FAA recommended transmissions are permitted.[6]

COMMENTS

6. In response to our Notice of Proposed Rule Making in this docket we received three comments and one reply comment. The Experimental Aircraft Association (an international non-profit organization dedicated to the advancement of aviation education, homebuilt aircraft and sport aviation) and Wisconsin's Department of Transportation, Division of Aeronautics fully support the proposed rule amendment. The Wisconsin Division of Aeronautics further indicated that it believed that the FAA recommended advisory procedures are necessary to avoid confusion and potential collisions between aircraft at airports without radio facilities. The Aircraft Owners and Pilots Association (AOPA) which has a membership of more than 200,000 aircraft owners and pilots, opposes the proposed amendment. The FAA filed reply comments in opposition to AOPA's comments.[7]

[1] The Airman's Information Manual is a publication designed primarily as a pilots' operational and instructional manual for use in the National Airspace System of the United States.

[2] An aeronautical advisory station (unicom) is a non-government air/ground radio communication facility located at certain landing areas, which may provide airport advisory information.

[3] The Report and Order in Docket No. 20123, adopted April 5, 1977, 42 FR 20469, 64 FCC 2d 573, amended the Commission's rules to, among other things, make available additional unicom and multicom frequencies. FAA intends to amend the Airman's Information Manual to reflect these changes in the next printing.

[4] An aeronautical multicom station is a non-government radio facility which may provide, on a temporary, seasonal or emergency basis, communications pertaining to the coordination of aerial activities from the ground or ground activities from the air. Also, under certain conditions, a multicom station may provide airport advisory communications.

[5] *Roberts Flying Service, Inc.*, 30 FCC 2d 823 (1971).

[6] Notice of Proposed Rule Making, SS Docket No. 78-160, adopted May 31, 1978, 43 FR 25150.

[7] The time for filing reply comments ended on July 24, 1978. Although FAA's

Footnotes continued on next page

7. In essence, AOPA opposes our proposed amendment on two grounds. The first is congestion on the unicom frequencies. AOPA argues that these transmissions are a major source of congestion on unicom frequencies which continues despite the two additional frequencies made available at uncontrolled airports by the Commission in Docket No. 20123. As a result, AOPA urges that the subject transmissions not be permitted on unicom frequencies so that "normal" unicom communications can be conducted. The second reason for AOPA's opposition is that it views these "broadcasts in the blind" as a do-it-yourself air traffic control system which should be conducted on air traffic control frequencies.

8. In its reply comments FAA states that the purpose of the recommended transmissions is safety, not air traffic control. FAA points out that these communications procedures are also recommended for use on assigned air traffic control frequencies where a control tower or FSS is not operating at an airfield. FAA further indicates that the use of an air traffic control frequency for these transmissions at airfields where the unicom frequency is now recommended, would require pilots to switch back and forth between the unicom frequency and an air traffic control frequency. Thus, pilots in such an airport terminal area would likely miss transmissions of other aircraft in the same area. FAA, therefore, does not concur with AOPA's suggestion of a separate frequency for such communications at such airfields. In regard to the congestion problem experienced on unicom frequencies at nontower airfields, FAA notes that it was instrumental in the Commission's effort in Docket No. 20123 to provide two additional unicom frequencies for use at uncontrolled airports.

DISCUSSION

9. Essentially, AOPA's objections are limited to the use of the unicom frequencies for the subject transmissions. It does not object to "broadcasting in the blind" in principle or on the other frequencies recommended by FAA. As FAA points out in its reply comments, the object of the recommended calls is the safe operation of aircraft. In order for this "aural alertness" procedure to be effective it is necessary that aircraft approaching and departing nontower airports be on the same frequency. The FAA recommended procedure calls for pilots to transmit their position and other pertinent advisory information, in the blind, on the frequency which would normally be used to contact the particular airport (i.e., the local tower frequency, the FSS frequency, the local unicom frequency, or 122.9 MHz when no ground station is located on the airport).

10. We believe that the subject FAA recommended advisory communications practices are within the scope of the Commission's rules. These communications directly relate to the safe and efficient operation of aircraft and, as such, may be transmitted "in the blind" on the appropriate air traffic control, aeronautical advisory or aeronautical multicom frequency for the benefit and use of other aircraft. In regard to the aeronautical advisory (unicom) frequencies specifically, the FAA recommended transmissions are safety related and primarily advisory in nature and, thus, within the permissible usage of these frequencies. The fact that a unicom frequency may become congested in a given area when a unicom station at a nontower, non-FSS airport, is not operating (the recommended procedure does not apply when the station is operating) does not alter the nature of the communications, nor does it appear to require a substantive change in the Commission's interpretation of its rules. However, because of the apparent confusion as to whether the FAA recommended "broadcasts in the blind" are permitted, we feel it is in the public interest to specifically provide for such transmissions in the rules.

11. Further, in addition to the rule amendments proposed in the Notice of Proposed Rule Making in this proceeding, we are also herein amending footnote US 31 to § 2.106 (Table of Frequency Allocations) and § 87.195. These rule changes will provide for the use of unicom frequencies and the multicom frequency 122.9 MHz by air carrier aircraft for the transmission of advisory communications in accordance with FAA recommended procedures. Although only in rare circumstances do air carrier aircraft operate from airfields with only unicom or no radio facilities, the FAA recommended traffic advisory procedures apply generally to all aircraft (both air carrier and private). FCC regulations presently do not allow for the use of 122.9 MHz by air carrier aircraft. These additional amendments to the rules will eliminate this apparent inconsistency between FAA recommended procedures and FCC rules.

12. Regarding questions on matters covered in this document contact Robert McNamara (202) 632-7197.

13. In view of the above: *It is ordered*, That pursuant to the authority contained in Section 4(i) and 303 (b) and (r) of the Communications Act of 1934, as amended, the Commission's rules are amended as set forth below, effective February 23, 1979.

14. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 stat., as amended. 1066, 1082 (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Parts 2 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

A. Part 2—Frequency Allocations and Radio Treaty Matters; General Rules and Regulations:

In § 2.106 the fourth paragraph of footnote US 31 is amended by adding the frequency 122.9 MHz, to read as follows:

§ 2.106 Table of frequency allocations.

* * * * *

U.S. Footnotes

* * * * *

US 31 * * *

Air carrier aircraft stations may use 122.000 MHz for communication with aeronautical stations of the Federal Aviation Administration and 122.700, 122.800, 123.000 and 122.900 MHz for communications pertaining to safety of flight with and in the vicinity of landing areas not served by a control tower.

* * * * *

B. Part 87—Aviation Services:

1. Section 87.181 is amended by adding a sentence at the end of the paragraph, to read as follows:

§ 87.181 Scope of service.

* * * However, aircraft stations may transmit pertinent advisory information on the appropriate air traffic control, aeronautical advisory or aeronautical multicom frequency for the benefit and use of other stations in the aeronautical mobile service lawfully monitoring these frequencies, in accordance with FAA recommended traffic advisory practices.

2. Section 87.195 is amended by adding a sentence to the end of paragraph (f) and new paragraph (g) to read as follows:

§ 87.195 Frequencies available.

* * * * *

(f) * * * In addition these frequencies are available to air carrier aircraft for the transmission of pertinent advisory information in accordance with FAA recommended traffic advisory procedures, for the benefit and use of other stations lawfully monitoring such frequencies. The recommended transmissions are permitted when in-

Footnotes continued from last page

reply comments were not received within the allotted period, we are considering them in this proceeding.

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bound to or outbound from an airport that does not have an airdrome control station (control tower) or an FAA flight service station, and the aircraft is unable to establish radio contact with the advisory station located at the landing area.

(g) The frequency 122.900 MHz is available to air carrier aircraft for the transmission of pertinent advisory information when inbound to or outbound from an airport with no radio facility, in accordance with FAA recommended traffic advisory procedures.

3. Section 87.201 is amended by adding two sentences after the frequency list in paragraph (c) and to the end of paragraph (d), to read as follows:

§ 87.201 **Frequencies available.**

* * * * *

(c) * * * 122.700, 122.725, 122.750, 122.800, 122.950, 122.975, 123.000, 123.050 and 123.075 MHz.

Private aircraft may utilize these frequencies to transmit pertinent advisory information in accordance with FAA recommended traffic advisory procedures, for the benefit and use of other stations lawfully monitoring such frequencies. The recommended transmissions on these frequencies are permitted when inbound to or outbound from an airport that does not have an airdrome control station (control tower) or an FAA flight service station, and the aircraft is unable to establish radio contact with the advisory station located on the landing area. * * *

(d) * * * In addition, private aircraft stations may utilize the frequency 122.900 MHz to transmit pertinent advisory information in accordance with FAA recommended traffic advisory practices, for the benefit and use of other stations lawfully monitoring such frequencies. The recommended transmissions on this frequency are permitted when inbound to or outbound from an airport that does not have an airdrome control station (control tower), an FAA flight service station or an aeronautical advisory station located at the landing area.

* * * * *

[FR Doc. 79-2222 Filed 1-19-79; 8:45 am]

[6712-01-M]

[Docket No. 20846]

PART 90—LAND MOBILE RADIO SERVICE

Announcement of Effective Date for Reporting Requirements for Interconnected Private Radio Systems

AGENCY: Federal Communications Commission.

ACTION: Public Notice.

SUMMARY: The FCC establishes January 10, 1979, as the effective date for requiring applicants in the private land mobile radio services who seek authorization for communications systems in the 806-821 and 851-866 MHz bands to advise the Commission whether their systems are intended to be interconnected to the public, switched, telephone network and, if so, to describe the equipment or device which the licensee will employ to accomplish interconnection, as provided in § 90.129(1) of the Commission's rules (formerly § 89.951(e)). In August of 1978 the Commission had stated that November 17, 1978, was to be the effective date, but delays in obtaining GAO clearance necessitated postponing this date until January 10, 1979.

EFFECTIVE DATE: The effective date is January 10, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT:

John B. Letterman, Safety and Special Radio Services Bureau (202) 632-6497.

In the Commission's *First Report and Order* in Docket No. 20846 (43 FR 38396 (August 28, 1978), corrected, 43 FR 41987 (September 19, 1978)), it was stated that the reporting requirements in 89.951(e)[1] were subject to clearance by the General Accounting Office (GAO). The rule requirement was to be effective November 17, 1978; however, GAO clearance was not obtained by that date and the effective date of the new rule was postponed. GAO clearance has now been obtained; and the effective date of Section 89.951(e) is January 10, 1979, under GAO Approval No. B-180227 (RO389).

Accordingly, as to all proposals for interconnected service applicants should furnish the information and data required by Section 89.951(e). This information should include a statement that the applicant intends to interconnect his or her radio facilities with the facilities of the public, switched, telephone network. Further, a description of the equipment or devices to be used to accomplish interconnection should be furnished. This may be done by a simple block diagram of the system indicating where and how interconnection is to be accomplished. In this regard, the applicant should specify which of the three options for interconnected service is to be employed, that is, manually, under Section 89.954(a); or automatically under supervision of the licensee's control operator, as provided at Section 89.954(b); or automatically under the supervision of the licensee's mobile operator, as provided for at Section 89.954(c).[2] This information should be attached to FCC Form 400.

In connection with the filing of the application, attention is called to the requirement (set out in FCC Form 400) that the applicant have a current copy of the Commission's Rules governing the radio service in which his or her radio facilities are to be licensed.

FEDERAL COMMUNICATIONS COMMISSION
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-1497 Filed 1-19-79; 8:45 am]

[1] Section 89.951(e) has been redesignated as § 90.129(1).

[2] Section 89.954 has been redesignated as § 90.483.

[4910-59-M]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. FE 77-05; Notice 7]

PART 523—VEHICLE CLASSIFICATION

Technical Amendment

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Technical amendment.

SUMMARY: This notice amends the definition of the term "automobile" as it appears in the agency's fuel economy vehicle classification regulations. The amendment is intended to clarify the applicability of the light truck fuel economy standards for model year 1980 and thereafter.

DATE: This amendment is effective January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Francis J. Turpin, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, (202-472-6902).

SUPPLEMENTARY INFORMATION: Section 501(1) of the Motor Vehicle Information and Cost Savings Act ("the Act"), 15 U.S.C. 2001(1), defines the term "automobile" for purposes of establishing the applicability of automotive fuel economy standards and other fuel economy-related requirements. That definition includes within the scope of that term any "4-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, and highways (except for any vehicle operated exclusively on a rail or rails), and which is rated at 6000 pounds gross vehicle weight or less." That section also authorizes the Secretary of Transportation to expand the "automobile" category and thereby regulate additional vehicles if certain findings are made. These findings relate to the feasibility of standards for such vehicles, the energy savings potential associated with regulating the vehicles, and the usage of the vehicles.

On March 23, 1978, in 43 FR 11995, the National Highway Traffic Safety Administration (NHTSA) published the required findings with respect to certain vehicles (called "light trucks") with gross vehicle weight ratings between 6001 and 8500 pounds. The vehicles in the 6001 to 8500 pound GVWR range which were excluded from the expanded automobile category were a relatively small number of vehicles with either curb weights in excess of 6000 pounds or with frontal areas of more than 46 square feet (principally step-vans), or both. These vehicles were excluded because of design features which would largely preclude personal use thus making regulation as heavy duty vehicles proper (41 FR 56316).

The Environmental Protection Agency (EPA), which conducts fuel economy testing under the Act, has recently informed NHTSA of an error encountered in measuring the frontal area of some of the step-vans. It appears that in order to exclude the intended larger-frontal area vehicles, the regulatory dividing line must be reduced from 46 to 45 square feet. The number of vehicles affected by this change is extremely small in relation to the number of light trucks in the 6001 to 8500 pound GVWR range. Therefore, NHTSA is amending the appropriate regulatory language to correct this error.

Since this amendment is in the nature of a technical correction and affects such a small number of vehicles, it is determined that a notice of proposed rulemaking is unnecessary and contrary to the public interest, within the meaning of 5 U.S.C. 553(b). Therefore, this notice will be issued as a final rule.

NHTSA has also determined that this document does not contain a significant regulation requiring a regulatory analysis under Executive Order 12044. Further, this action does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.).

This amendment is effective immediately, since its effect is to relieve a restriction. See 5 U.S.C. 553(d)(1).

In consideration of the foregoing, 49 CFR, Chapter V, is amended as follows:

1. By changing the number "46" to the number "45" in section 523.3(b)(2)(i).

AUTHORITY: Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976, and 43 FR 8525, March 2, 1978.

Issued on January 15, 1979.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 79-2080 Filed 1-19-79; 8:45 am]

[4910-57-M]

CHAPTER VI—URBAN MASS TRANSPORTATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-A]

PART 630—UNIFORM SYSTEM OF ACCOUNTS AND RECORDS AND REPORTING SYSTEM

Reporting Requirements for Urbanized Areas—UMTA Circular 2710

Correction

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Correction.

SUMMARY: In FR Doc. 78-34826 appearing at pages 58928-58934 in the FEDERAL REGISTER of December 18, 1978, one paragraph concerning the scope of the regulations dealing with apportionment factors, and the section of Appendix B concerned with Bus Revenue Seat Miles were incorrectly stated. This document republishes the two incorrect sections in their proper form.

FOR FURTHER INFORMATION CONTACT:

John Barber, Office of Program Analysis, Urban Mass Transportation Administration, 400 7th Street, S.W., Washington, D.C. 20590. Phone (202) 472-7100.

SUPPLEMENTARY INFORMATION: The regulation stating the reporting requirements for an urbanized area containing both a fixed guideway system and a bus system inadvertently omitted the requirement for a metropolitan planning organization to comply.

In the Appendix dealing with reporting requirements for bus systems, the section concerning bus revenue seat miles was incomplete and thus misleading and confusing.

Accordingly, the following corrections are made:

1. In the third column of page 58928, § 630.31(c) should read as follows:

§ 630.31 **Scope.**

* * * * *

(c) If an urbanized area contains both a fixed guideway system and a bus system, then the designated recipient and/or metropolitan planning organizations must comply with the reporting requirements of both §§ 630.32 and 630.33.

2. In the third column of page 58932, the second paragraph of the section dealing with Bus Revenue Seat Miles (section IIIA3) should read as follows:

APPENDIX B—REPORTING REQUIREMENTS FOR BUS SYSTEM

* * * * *

3. Bus Revenue Seat Miles.

* * * * *

In cases where a particular transit service traverses two urbanized areas, the bus revenue seat mileage attributable to each is calculated in the same manner as described above in subparagraph 2 "Bus Revenue Vehicle Miles". Vehicle revenue seat mileages for all buses over twenty-two feet in length, including trolleybuses, must be included in the data submitted. Data need not be disaggregated by individual bus or by category or type of bus, however. Only a single total value for the urbanized area, or for each state part of a multi-state urbanized area, is required.

* * * * *

Dated: January 15, 1979.

RICHARD S. PAGE,
Urban Mass Transportation Administrator.

[FR Doc. 79-2234 Filed 1-19-79; 8:45 am]

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[3510-22-M]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER F—AID TO FISHERIES

PART 251—FINANCIAL AID PROGRAM PROCEDURES—FISHERY FOR ATLANTIC GROUNDFISH

Subpart B—Conditional Fisheries

AGENCY: National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Department of Commerce.

ACTION: Final rulemaking.

SUMMARY: This document incorporates in Subpart B of Part 251 a new section to adopt the "fishery for Atlantic groundfish" as a conditional fishery so that application of the National Marine Fisheries Service (NMFS) financial assistance in that fishery will be limited to that which does not add vessels to this fishery. It has been determined that there exists sufficient fleet capacity to harvest Atlantic groundfish (cod, haddock, and yellowtail flounder). The intended effect of this action is that NMFS financial assistance activities will be consistent with the wise use of the Atlantic groundfish resource and with its development, advancement, management, conservation, and protection.

DATES: Effective January 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235, 202-634-7496.

SUPPLEMENTARY INFORMATION: On August 2, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 33946) stating that the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration (Assistant Administrator), was considering an amendment to Financial Aid program Procedures (50 CFR Part 251) to incorporate in Subpart B of Part 251 a new section to adopt the "fishery for Atlantic groundfish" as a conditional fishery. For purposes of this regulation, the "fishery for Atlantic groundfish" was defined to include all U.S. commercial fishing vessels that are subject to regulations implementing the fishery management plan for Atlantic groundfish (FMP), developed by the New England Fishery Management Council (NEFMC) and implemented, with amendments, by the Secretary of Commerce.

Subpart A of CFR Part 251 sets forth the general policy under which financial assistance programs for the commercial fisheries will be administered, and establishes the procedure to be used in proposing and adopting a fishery as a conditional fishery. Each fishery adopted as a conditional fishery is enumerated under Subpart B of 50 CFR Part 251. The terms under which financial assistance related to a conditional fishery may be approved are set forth in the regulations on procedures and administration of the fishing vessel obligation guarantee program (50 CFR Part 255) and the fishing vessel capital construction fund program (50 CFR Part 259).

Several comments were received in response to the proposed rulemaking; some objecting to the proposed designation. The objections primarily refer to the impact of this action on those who are participating in the fishing vessel capital construction fund program and have objectives of acquiring additional vessels to operate for Atlantic groundfish. Reasons given for objecting were that the proposed designation: (1) Was based on incomplete scientific data which is at odds with information available to captains and vessel owners; (2) does not apply to Canadian vessels and strengthens the Canadian hand by reducing the U.S. presence and extractive efficiency; (3) seems inappropriate because other management tools are available; (4) will not help owners and processors to exploit potential export markets for fish; (5) will prevent upgrading of the fleet and discourage building of multipurpose vessels which might engage in this fishery for certain periods of the year and for various underutilized species during the balance of the year; and (6) will cause significant hardship to boat owners who have existing capital construction fund agreements by preventing them from replacing older vessels in four or five years as planned.

These comments set forth matters for consideration by the NEFMC in formulating amendments to the FMP and in developing a long-term fishery management plan for groundfish. The real issue, however, which this regulation addresses is whether or not application of NMFS financial assistance programs to add vessels to the fishery for Atlantic groundfish would be consistent with the wise use of that fishery and with its advancement, development, management, conservation, and protection.

Since August 2, the situation described in the notice of proposed rulemaking has deteriorated further, and as a result the fishery in the Gulf of Maine was closed on August 5, 1978, for trawlers in the 61-125 gross registered tons (GRT) vessel class and for vessels fishing fixed gear. The cod fishery in the Gulf of Maine was also closed on August 16, 1978, to vessels in the 0-60 GRT class and to vessels over 125 tons. On October 4, 1978, the National Marine Fisheries Service, by emergency regulation and proposed rulemaking, approved amendments to the FMP which (a) reinstated the optimum yields and quotas adopted by the New England Fishery Management Council in March of 1978 and (b) prescribed a fishing year which begins on October 1, and runs through September 30. On November 19, the cod fishery in the Gulf of Maine was closed to vessels over 125 GRT; the haddock fishery in the Gulf of Maine was closed to all but vessels fishing fixed gear; the haddock fishery on Georges Bank and South was closed to vessels in the 0-60 class and to vessels over 125 GRT; trip limit reductions were imposed on vessels in the 61-125 GRT class fishing for cod in the Gulf of Maine and Georges Bank as well as haddock on Georges Bank and South. An additional five closures became effective December 17; so that of a potential 18 defined fisheries, 11 were closed. This experience has demonstrated that the fishery is more difficult to manage than originally believed. Increased harvesting capacity in this fishery has affected the determination of optimum yield and repeatedly caused emergency closures of the fishery. While socioeconomic impacts of the management of this fishery have been more severe than anticipated, there is no clear evidence that the proposed designation will adversely affect vessel owners and processors with respect to export markets for fish. There is, on the other hand, evidence that there are substantial export market opportunities for currently underutilized species, which are readily available to existing underemployed groundfish vessels currently in the fleet. Moreover, this action does not prevent the use of the NMFS financial assistance programs for upgrading the existing fleet, or prevent vessel owners, who are participating in the fishing vessel capital construction fund program, from changing objectives so as to qualify for program benefits. Any hardship that this may cause has been considered.

Because of the unique issues surrounding multi-purpose vessels, which can be used to fish for underutilized species during a portion of the year, a special task group within the National Marine Fisheries Service is evaluating the conditional fisheries concept from the standpoint of combined fishing operations. The task group's report should be available soon.

The conditional fisheries regulatory mechanism is intended to ensure that NMFS financial assistance activities will be consistent with the wise use of the fisheries resources and with their development, advancement, management, conservation, and protection. When, upon review and evaluation of situations and conditions in a fishery, it is determined that certain fisheries demonstrably do not need additional harvesting capacity to meet management needs and objectives, those fisheries may be designated as conditional fisheries.

Fisheries designated as conditional fisheries are those in which application of NMFS financial assistance activities is controlled in a manner which, on balance, will be consistent with the needs and objectives of management. The New England Fishery Management Council has determined that a need for managing this fishery does in fact exist and has chosen to implement the optimum yield by vessel classes.

The recent events described above, as well as those described in the August 2, 1978, notice of proposed rulemaking clearly demonstrate that this fishery does not need additional harvesting capacity to meet management needs and objectives.

This regulation is not deemed to be significant pursuant to the provisions of Executive Order 12044, or a major federal action which may significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act.

After due consideration, the Assistant Administrator concludes that the proposal to amend Part 251 of this Chapter, Subpart B—Conditional Fisheries, to add a new § 251.26 is hereby adopted as set forth below.

Subpart B—Conditional Fisheries

§ 251.26 Fishery for Atlantic Groundfish (cod, haddock, and yellowtail flounder).

Dated: January 15, 1979.

TERRY LEITZELL,
Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 79-2270 Filed 1-19-79; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6820-99-M]

PRESIDENT'S COMMISSION ON PENSION POLICY

[1 CFR Part 470]

PRIVACY ACT OF 1974

Proposed Regulations for Implementation

AGENCY: President's Commission on Pension Policy.

ACTION: Proposed Rule.

SUMMARY: The following proposed regulations drafted in accordance with section (f) of 5 U.S.C. 552a, the Privacy Act of 1974, are hereby offered for public comment. The purposes of these regulations are to establish procedures by which an individual can determine if the Commission maintains a system of records which included a record pertaining to that individual and also to establish procedures for purposes of review, amendment and/or correction.

DATE: Comments are due on or before February 21, 1979.

ADDRESS: Send comments to the Executive Director, President's Commission on Pension Policy, 736 Jackson Place NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Robert Roeder, (202) 395-5132.

Signed this 16th day of January 1979.

THOMAS C. WOODRUFF,
Executive Director.

It is proposed to add the following Part 470 to Title 1 of the CFR.

PART 470—PRIVACY ACT IMPLEMENTATION

Sec.
470.1 Purpose and scope.
470.2 Definitions.
470.3 Procedures for requests pertaining to individual records in a records system.
470.4 Times, places, and requirements for the indentification of the individual making a request.
470.5 Disclosure of the requested information to the individual.
470.6 Request for correction or amendment to the record.
470.7 Agency review of request for correction or amendment of the record.
470.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
470.9 Disclosure of record to a person other than the individual to whom the record pertains.
470.10 Fees.

AUTHORITY: 5 U.S.C. 552a: Pub. L. 93-5 79.

§ 470.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the President's Commission on Pension Policy hereafter known as the Commission maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 470.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number;

(d) The term "system of records" means a group of any records under control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 470.3 Procedures for requests pertaining to individual records in a records system.

An individual shall submit a request to the Administrative Officer to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a request to the Executive Director of the Commission which states the individual's desire to review his or her record.

§ 470.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Administrative Officer pursuant to § 470.3 shall present the request at the Commission offices, 736 Jackson Place, N.W., Washington, D.C. 20006, on any business day between the hours of 9 a.m. and 5 p.m. The individual submitting the request should present himself or herself at the Commission's offices with a form of identification which will permit the Commission to verify that the individual is the same individual as contained in the record requested.

§ 470.5 Access to requested information to the individual.

Upon verification of identify the Commission shall disclose to the individual the information contained in the record which pertains to that individual.

§ 470.6 Request for correction or amendment to the record.

The individual should submit a request to the Administrative Officer which states the individual's desire to correct or to amend his or her record. This request is to be made in accord with provisions of § 470.4.

§ 470.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Administrative Officer will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or to amend the record in accordance with the request, and the procedures established by the Commission for the individual to request a review of that refusal.

§ 470.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the Administrative Officer

to correct or to amend his or her record may submit a request for a review of such refusal to the Executive Director, President's Commission on Pension Policy, 736 Jackson Place, N.W., Washington, D.C. 20006. The Executive Director will, not later than thirty working days from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the Executive Director extends such thirty day period. If, after his or her review, the Executive Director also refuses to correct or amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his or her disagreement with the refusal of the Commission and may seek judicial review of the Executive Director's determination under 5 U.S.C. 552a(g)(1)(A).

§ 470.9 Disclosure of record to a person other than the individual to whom the record pertains.

The Commission will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure has been listed as a "routine use" in the Commission's notices of its system of records, or falls within one of the special disclosure situations listed in the Privacy Act of 1974 (5 U.S.C. 552a(b).)

§ 470.10 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for review of the record, in advance of receipt of the pages.

[FR Doc. 79-2174 Filed 1-19-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[Docket C-2940]

ALDENS, INC.

Correction

AGENCY: Federal Trade Commission.

ACTION: Correction

SUMMARY: This document corrects a Commission document previously published in the FEDERAL REGISTER on Thursday, December 21, 1978. It was incorrectly reported under "SUPPLEMENTARY INFORMATION" that no comments were received.

DATE: The correction is effective January 22, 1979.

FOR FURTHER INFORMATION CONTACT:

FTC/SSR, Gregory E. Hales, Washington, D.C. 20580. (202) 724-1184.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-35495, appearing in FEDERAL REGISTER issue for Thursday, December 21, 1978, 43 FR 59478, in the "SUPPLEMENTARY INFORMATION", the second paragraph has been changed to read as follows:

"Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding."

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-2114 Filed 1-19-79; 8:45 am]

[6750-01-M]

[16 CFR Part 13]

[File No. 721 0069]

FEDERATED DEPARTMENT STORES, INC.

Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Cincinnati, Ohio operator of retail department stores to cease entering into or enforcing agreements which grant the firm the right to exclude certain tenants from shopping certers; control tenants' advertising, goods and prices; or otherwise restrict competition.

DATE: Comments must be received on or before March 23, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

William M. Gibson, Director, 2R, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Rm. 1301, Boston, Mass. 02114. (617) 223-6621.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the Matter of FEDERATED DEPARTMENT STORES, INC., a corporation, File No. 721 0069.

The agreement herein, by and between Federated Department Stores, Inc., (hereinafter referred to as "Federated") a corporation, the respondent in the above-captioned proceeding, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rule governing consent order procedure. In accordance therewith the parties hereby agree that:

1. Federated is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 222 West Seventh Street, Cincinnati, Ohio.

2. Federated admits all the jurisdictional facts set forth in the draft of complaint attached hereto.

3. Federated waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of this proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of 60 days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if, within 30 days after the 60 day period, comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate. The Commission may, at any time pending final acceptance of this order, require hearings on the relief requirements provided by this order.

5. This agreement has been executed by Federated for settlement purposes only and does not constitute, nor shall it be deemed, an admission by Federated that the law has been violated as alleged in the draft of complaint attached hereto.

6. This agreement contemplated that, if it is accepted by the Commission and if such acceptance is not subsequently withdrawn

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by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to Federated, (1) issue its complaint corresponding in form and substance with the draft of complaint attached hereto and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to respondent's address as stated in this agreement shall constitute service. Respondent waives any right it may have to any other manner of services. The complaint may be used in construing the terms of the order, but no agreement, understanding, representation, or interpretation not contained in the order or this agreement may be used to vary or contradict the terms of the order.

7. Federated has read the order contemplated hereby and understands that once this order has been issued, Federated will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

ORDER

I.

For the purposes of this Order the following definitions shall apply:

(a) The term "respondent" refers to Federated and its operating divisions, officers, agents, representatives, employees, successors, and assigns.

(b) The term "shopping center" refers to a planned development of retail outlets in the United States of America, developed and managed as a unit in relation to a trade area which the development is intended to serve and containing (1) a total floor area designed for retail occupancy of 250,000 square feet or more, of which at least 50,000 square feet is for occupancy by tenants other than respondent, (2) at least two tenants other than respondent, (3) at least one major tenant, and (4) on-site parking.

(c) The term "tenant" refers to any occupant or potential occupant of retail space in a shopping center, which occupancy is for the sale of merchandise or services to the public, whether said occupant leases or owns said space, but the term does not refer to any occupant or potential occupant of space within respondent's store or other areas operated by respondent, which occupant is to operate a department for respondent pursuant to a lease or license from respondent.

(d) The term "major tenant" refers to a tenant providing primary drawing power in a shopping center. A tenant occupying 50,000 square feet or more shall be presumed to provide primary drawing power.

II.

IT IS ORDERED that respondent, in its capacity as a tenant in a shopping center, cease and desist from obtaining, making, carrying out or enforcing, directly or indirectly, any agreement or provision of an agreement which:

1. Grants respondent the right to approve or disapprove the entry into a shopping center of any other tenant;

2. Prohibits the admission into a shopping center of any particular tenant or class of tenants, including, without limitation, for purposes of illustration:

(a) other department stores;

(b) junior department stores;

(c) discount stores; or

(d) catalogue stores;

3. Limits the types or brands of merchandise or services which any other tenant in a shopping center may offer for sale;

4. Specifies that any other tenant in a shopping center shall or shall not sell its merchandise or services at any particular price or within any range of prices;

5. Grants respondent the right to approve or disapprove the location in a shopping center of any other tenant;

6. Specifies or prohibits the content of any advertising by any other tenant or grants respondent the right to approve or disapprove the content of any advertising by any other tenant;

7. Grants respondent the right to approve or disapprove the amount of floor space that any other tenant may occupy in a shopping center; or

8. Prohibits the owner or occupant of real property adjoining, abutting or adjacent to a shopping center in which respondent is a tenant from using such property for the sale of merchandise or services similar or identical to the merchandise or services sold in the shopping center; provided, however, that nothing in this paragraph shall apply to an agreement or provision thereof which affirmatively prescribes particular land uses or zoning for any real property.

III.

A. IT IS FURTHER ORDERED that this Order shall not prohibit respondent from negotiating to include, including, carrying out or enforcing any agreement or provision in any agreement relating to respondent's occupancy, or proposed occupancy, of space in a shopping center, which (1) identify in designated buildings respondent and those major tenants which have entered, or which are to contemporaneously enter, or which the developer or landlord represents in writing have stated an intention to enter, into agreements for occupying space in the shopping center, (2) recite that respondent and such major tenants have contracted or shall contract with the developer or landlord to maintain and operate their stores for a specified term, not to exceed 25 years, in such designated buildings, and (3) provide for respondent's right to cancel, terminate or modify its agreement for occupancy if such major tenants do not occupy such designated buildings or do not maintain and operate their stores for the specified term.

B. IT IS FURTHER ORDERED that this Order shall not prohibit respondent from negotiating to include, including, carrying out or enforcing an agreement or provision in any agreement which:

1. Requires that in selecting other tenants in a shopping center the developer shall select businesses which are financially sound and which will in the aggregate provide a balanced and diversified grouping of retail stores, merchandise and services in the shopping center;

2. Requires that specified standards of appearance, signs, maintenance, heating, air conditioning, lighting and housekeeping be maintained in a shopping center;

3. Establishes a layout of a shopping center which layout may designate: (a) respondent's store and stores which are to be occupied by other major tenants; (b) the location, size and height of all structures (including any structure that is to be occupied by only one tenant) but not the amount of floor space that any other tenant may occupy in the shopping center; (c) the minimum floor space to be occupied by respondent and by major tenants; (d) uses of all structures to be used for purposes other than the retail sale of merchandise or services to the public; (e) parking ratios, parking areas (including stall sizes and arangement), roadways, utilities, entrances, exits, walkways, malls, landscaped areas and other common areas; and (f) expansion areas and may within such areas establish a layout incorporating items (a) through (e) of this subsection 3;

4. Requires that any change or expansion of a shopping center not provided for in the initial layout:

(a) shall not interfere with efficient automobile and pedestrian traffic flow into and out of the shopping center and between respondent's store and perimeter and access roads, parking areas, malls and other common areas of the shopping center;

(b) shall not interfere with the efficient operation of respondent's store, including its utilities, and shall not interfere with the visibility of its signs from within the shopping center or from public highways adjacent thereto;

(c) shall not result in a change of (i) the shopping center's parking ratio, (ii) the location of a number of parking spaces reasonably accessible to respondent's store, (iii) the entrances and exits to and from respondent's store and any malls, and (iv) those parking area mall entrances and exits which substantially serve respondent's store; or

(d) shall be accomplished only after any and all covenants, obligations and standards (for example, construction, architecture, operation, maintenance, repair, alteration, parking ratio, and easements) of the shopping center, exclusive of the expansion area and (i) shall be made applicable to the expansion area and (ii) shall be made prior in right to any and all mortgages, deeds of trust, liens, encumbrances, and restrictions applicable to the expansion area, and (iii) shall be made prior in right to any and all other covenants, obligations and standards applicable to the expansion area;

5. Prohibits occupancy of space in a shopping center by types of tenants that create undue noise, litter or odor;

6. Permits respondent to establish reasonable categories of tenants from which the developer or landlord of a shopping center may select tenants to be located in the areas immediately proximate to respondent's store; provided that such categories shall not include specifications of (a) trade names, (b) store names, (c) trademarks, brands or particular lines of merchandise, or (d) identity of particular retailers, including the listing of particular retailers as examples of a category; provided that such area shall not exceed the greater of (i) 150 lineal feet from respondent's store on each level of the center, or (ii) 20% off the total lineal mall front footage, exclusive of respondent's store, on each level of the center;

7. Prohibits occupancy of space in a shopping center by clearly objectionable types of tenants, including, for purposes of illustration, establishments selling or exhibiting pornographic materials;

8. Requires that any space designated for occupancy by a major tenant in the initial layout of the shopping center not be leased for occupancy by other than a major tenant, that any sub-division of such space for occupancy by more than one tenant not result in any tenant occupying less than 50,000 square feet of such space or that each successive occupancy of such space be for the sale of merchandise or services to the public;

9. Prohibits or establishes limitations on the location in the shopping center of commercial office buildings, hotels, motor inns, new and used automobile dealers or funeral parlors; or

10. Establishes reasonable limitations on the location in the shopping center of fast food outlets, grocery supermarkets or movie theaters.

IV.

IT IS FURTHER ORDERED that respondent shall:

A. Within thirty (30) days after service of this Order upon respondent, distribute a copy of this Order to each of its directors, officers, and to each of its operating divisions;

B. Within thirty (30) days after service of this Order upon respondent, notify each landlord of a shopping center in which respondent is a tenant, of this Order by providing each landlord with a copy thereof by certified mail;

C. Within ninety (90) days after service of this Order upon respondent, file with the Commission a report showing the manner and form in which it has complied and is complying with each and every specific provision of this Order; and

D. Notify the Commission at least thirty days (30) days prior to any proposed change in the respondent such a dissolution, assignment or sale resulting in the emergence of a successor, corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which would affect compliance obligations arising out of the Order.

FEDERATED DEPARTMENT STORES, INC.

[File No. 721 0069]

ANALYSIS OF PROPOSED CONSENT ORDER TO AID IN PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement containing a proposed consent order from Federated Department Stores, Inc. which owns and operates over 150 department or specialty stores nationally, through 15 of its operating divisions.

The proposed consent order and complaint described in this analysis have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint alleges that the respondent violated the Federal Trade Commission Act, as amended, through various acts and practices in its capacity as a tenant in shopping centers throughout the country. The acts and practices alleged in the Commission's complaint are based upon Federated's agreements with developers and major tenants in numerous shopping centers in which it operates retail department or specialty stores. These shopping center agreements contain various kinds of restrictive convenants which have allegedly enable Federated to protect itself from certain kinds of competition by excluding other tenants or potential tenants from shopping centers.

The complaint further alleges that Federated has enforced or caused the enforcement of restrictive provisions in these shopping center agreements. The alleged effects of Federated's acts and practices have been to lessen and prevent competition in the retail sale of goods and services by allowing Federated to choose its competitors, hinder discount operations and to restrict developers in their choice of tenants in shopping centers.

The proposed order is designed to eliminate the restrictive acts and practices alleged in the complaint by prohibiting Federated from enforcing existing restrictive provisions in shopping center agreements or entering into any future agreements in shopping centers which contain similar or identical provisions granting Federated certain restrictive powers.

Section II. of the proposed order prohibits Federated from: excluding department, junior deparment, discount or catalogue stores form shopping centers; limiting the types or brands of merchandise which other tenants may sell; disapproving the location of certain tenants in the shopping center; prohibiting the content of other tenants' advertising; disapproving the amount of floor space other tenants may occupy; and, prohibiting property adjoining, abutting, or adjacent to a shopping center in which Federated is a tenant from being used for the sale of merchandise or services which compete with the merchandise or services sold in the shopping center in which Federated is located.

Sections III. A. and B. set forth acts and practices which Federated may engage in without violating the proposed order. Under these sections Federated may agree with the shopping center developer that the center conform to a mutually agreed upon layout and that the center as a whole will offer a balanced grouping of merchandise and services by tenants who shall observe reasonable standards of appearance and who shall refrain from creating to much noise, litter or odor. Section III. B. of the proposed order also contains provisions which permit Federated to agree with the developer that any expansion of the shopping center shall not interfere with or adversely affect respondent's store.

Section IV. of the proposed order requires Federated to send the landlord of each shopping center in which Federated is a tenant a copy of the proposed order. Federated must also send a copy of the proposed order to each of its directors, officers and to each of its operating divisions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify their terms in any way.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-2247 Filed 1-19-79; 8:45 am]

[6750-01-M]

[16 CFR Part 456]

SALE OF USED MOTOR VEHICLES

Availability of Economics Articles Through the Public Reference Branch

AGENCY: Federal Trade Commission.

ACTION: Additional documents made available through the Public Reference Branch.

SUMMARY: To insure public access to two theoretical economic papers which may be useful in understanding the record of this proceeding, the Commission has determined to make these documents available through its Public Reference Branch as a part of Public Record No. 215-54. (44 FR 914, January 3, 1979.)

These articles are S. Salop, "Parables of Information Transmission in Markets," in *The Effects of Information on Consumer Market Behavior* (A. Mitchell ed., 1978) and G. Akerloff, *The Market for "Lemons": Quality Uncertainty and the Market Mechanism*, 84 Q.J. of Econ. 488 (1970).

DATE: The close of the comment period in this proceeding remains February 13, 1979.

ADDRESSES: Comments should be directed to: Office of the Secretary, Federal Trade Commission, Washington, D.C. 20580.

Requests for copies of either article should be sent to: Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, telephone 202-523-3667.

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FOR FURTHER INFORMATION CONTACT:

Bernard J. Phillips, Attorney, Federal Trade Commission, Washington, D.C. 20580, telephone 202-523-1642.

SUPPLEMENTARY INFORMATION: Comments at this stage of the proceeding are received pursuant to § 1.13(h) of the Commission's Rules of Practice. Accordingly, comments must be confined to information already in the record, new evidence will not be accepted.

Comments should be submitted, when feasible in four copies.

These articles have not been reviewed or adopted by the Commission, and their availability should not be interpreted as reflecting the views of the Commission or any individual member thereof.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-2250 Filed 1-19-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Part 285]

[Docket No. RM79-10]

POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

Proposed Criteria for Powerplant's Design Capacity

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Proposed Rule.

SUMMARY: The Powerplant and Industrial Fuel Use Act of 1978 requires the Commission to promulgate rules under which a powerplant's design capacity may be determined. Determination of a powerplant's capacity is necessary because it is an element of various statutory definitions in the Act. By this notice, the Commission has established certain criteria for the design rating and requests comments on how well the proposed rules support the criteria established by the Commission.

DATES: Comments due on or before January 30, 1979.

ADDRESS: Comments referencing Docket No. RM79-10 should be sent to: Kenneth F. Plum, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plum, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, 202-275-4166.

SUPPLEMENTARY INFORMATION: Section 103(a)(18)(D) of the Powerplant and Industrial Fuel Use Act of 1978 (Act) Pub. L. 95-1749, requires the Federal Energy Regulatory Commission (Commission) to promulgate rules under which a powerplant's design capacity may be determined. The determination of a powerplant's design capacity is necessary because it is an element of each of the statutory definitions of the terms"peakload powerplant", "intermediate load powerplant", and "base load powerplant" as provided in section 103(a)(18) of the Act. The definitions of those terms will be used to determine the applicability of certain temporary and permanent exemptions from sections 201 and 202 of the Act, which proscribe the use of natural gas or petroleum as a primary energy source in new electric powerplants, under sections 212(g) and 212(h). The definitions are also to be used to determine the applicability of certain temporary and permanent exemptions from sections 301 and 302 of the Act, relating to existing electric powerplants, under sections 311(f), 312(f), and 312(g) of the Act. Finally, determinations regarding design capacity are necessary under section 501 of the Act, Electric Utility System Compliance Option, in order to determine if existing electric utilities are in compliance with Title III of the Act.

DISCUSSION

The Commission proposes that the rules contained herein be used to determine a powerplant's design capacity. There are a number of powerplant capacity ratings used by the electric power industry. However, these are used principally for operational purposes, reflecting seasonal weather conditions, degradation of a powerplant, or other factors, and may be substantially different from a powerplant's design capacity. The Commission has established criteria that the design rating should be (1) determinable unequivocably from the manufacturer's data and ordinarily not change during a powerplant's physical life, unless there is substantial modification of the unit; (2) a familiar and recognizable quantity throughout the electric power industry; and (3) a published value readily available to any party interested in obtaining it. These criteria and the proposed rules evolving therefrom were developed in consultation with the Staff of the Secretary of Energy. The proposed rules are summarized below:

(1) The design capacity of a steam-electric generating unit shall be its maximum generator nameplate rating which has been reported to the Energy Information Administration on EIA Form —— (formerly FPC Form 12).

(2) The design capacity of a combustion turbine shall be its peak load rating as defined by both the American National Standards Institute (ANSI) and by the International Standards Organization (ISO). This peak load rating, which applies to units operating for peaking service with a maximum of 2,000 hours per year operation, is based on an ambient temperature of 59 degrees Fahrenheit (15 degrees Celcius) and a pressure of 14.696 psia (sea level). This should be the capacity rating reported to the Energy Information Administration on EIA Form —— (formerly FPC Form 12). If those reported ratings are based on different conditions, they will be adjusted to ISO standard conditions for the purposes of the Powerplant and Industrial Fuel Use Act.

(3) The design capacity of a combined cycle unit shall be the sum of its combustion turbine peak load rating, based on ANSI/ISO standard conditions, and the maximum generator nameplate rating of the steam turbine portion of the unit.

(4) The design capacity of an internal combustion engine shall be the capacity rating which has been reported to the Energy Information Administration on EIA Form —— (formerly FPC Form 12).

The Commission solicits comments from interested parties concerning how well the proposed rules support the criteria established by the Commission. Also, the Commission is interested in any problems or concerns regarding the applicability of the proposed rules in meeting the requirements of the Act.

PUBLIC COMMENT PROCEDURES

Interested persons may participate in this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 30, 1979. Each person submitting a comment should include his name and address, identify the notice (Docket No. RM79-10), and give reasons for any recommendations. An original and 14 conformed copies should be filed with the Secretary of the Commission.

Comments should indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours.

(Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 F.R. 46267, Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-1749)

In consideration of the foregoing, the Commission proposes to amend Chapter I of Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

Chapter I of Title 18 is amended by adding a new Subchapter J, Part 285 Consisting of § 285.101 to read as follows:

SUBCHAPTER J—REGULATIONS UNDER THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

PART 285—RULES GENERALLY APPLICABLE TO POWERPLANT AND INDUSTRIAL FUEL USE

§ 285.101 Determination of powerplant design capacity.

For purposes of this subchapter, a powerplant's design capacity shall be determined as follows:

(a) *Steam-electric generating unit.* The design capacity of a steam-electric generating unit shall be taken as the maximum generator nameplate rating which has been reported to the Energy Information Administration on EIA Form —— (formerly FPC Form 12).

(b) *Combustion turbine.* The design capacity of a combustion turbine shall be taken as its peak load rating as defined by both the American National Standards Institute (ANSI) and by the International Standards Organization (ISO). This peak load rating, which applies to units operating for peaking service with a maximum of 2,000 hours per year operation, is based on an ambient temperature of 59 degrees Fahrenheit (15 degrees Celcius) and a pressure of 14.696 psia (sea level). If capacity ratings as reported to Energy Information Administration on EIA Form —— (formerly FPC Form 12) are based on different conditions, these reported ratings will be adjusted to ISO standard conditions.

(c) *Combined cycle unit.* The design capacity of a combined cycle unit shall be taken as the sum of its combustion turbine peak load rating, based on ANSI/ISO standard conditions, and the maximum generator nameplate rating of the steam turbine portion of the unit.

(d) *Internal combustion engine.* The design capacity of an internal combustion engine shall be taken as the capacity rating which has been reported to the Energy Information Administration on EIA Form —— (formerly FPC Form 12).

[FR Doc. 79-2312 Filed 1-19-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 8370]

USE AUTHORIZATIONS

Special Recreation Permits—Allocations and Transfers; Extension of Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Extension of Comment period.

SUMMARY: The Bureau of Land Management extends the time for filing comments on its notice of intent regarding use authorizations for river areas requiring limited use or river areas of scarce recreation resources.

DATE: The comment period is extended to February 23, 1979.

ADDRESS: Send comments to: Mr. William Brown, Bureau of Land Management (D-370), Denver Federal Center, Building 50, Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT:

Mr. William Brown, Bureau of Land Management, 303-234-5094 or Mr. Larry R. Young, Bureau of Land Management, 202-343-9353.

SUPPLEMENTARY INFORMATION: In a notice of intent to develop proposed rulemaking published in the FEDERAL REGISTER on December 6, 1978 (43 CFR 57167), the Bureau of Land Management gave notice of its intention concerning special recreation permit allocations and transfers in river areas of the public lands adminsitered by the Bureau of Land Management.

In the notice comments were requested by February 8, 1979. It has now been determined to extend the comment period by 15 days. Comments received on or before February 23, 1979, will be considered before action is taken to develop the proposed rulemaking.

ARNOLD E. PETTY,
Acting Associate Director.

JANUARY 15, 1979.

[FR Doc. 79-2156 Filed 1-19-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR-Part 73]

[BC Docket No. 78-313; RM-3052]

TELEVISION BROADCAST STATION IN SAN DIEGO, CALIFORNIA

Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding involving the proposed assignment of a television channel to San Diego, California. Petitioner, Center City Complex, Inc., states that the additional time is needed for review of comments filed in the proceeding.

DATE: Reply comments must be filed on or before February 16, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (San Diego, California); Order extending time for filing reply comments. See 43 FR 59404, December 20, 1978.

Adopted: January 12, 1979.

Released: January 15, 1979.

By the Chief, Broadcast Bureau:

1. On September 22, 1978, the Commission adopted a *Notice of Proposed Rule Making*, 43 FR 46049, concerning the above-entitled proceeding. The date for filing comments has expired and the date for filing reply comments is presently January 12, 1979.

2. On January 5, 1979, counsel for Center City Complex, Inc., filed a timely request seeking an extension of time for filing reply comments to and including February 16, 1979. Counsel states that the additional time is needed to analyze the whole allocation situation in the San Diego-Mexico border area, taking into account such matters as existing U.S. and Mexican assignments. Counsel adds that the Land Mobile and Translator objections also require legal review and analysis in close conjunction with the engineering facets developed by the consulting engineers.

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3. We are of the view that the public interest would be served by this extension so that Center City Complex, Inc., may file any information which might be helpful to the Commission in reaching a decision in this proceeding.

4. Accordingly, *it is ordered*, that the date for filing reply comments in BC Docket No. 78-313 is extended to and including February 16, 1979.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION.
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 79-2097 Filed 1-19-79; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

[Docket No. 20642; FCC 78-863]

CLEAR CHANNEL BROADCASTING IN THE STANDARD BROADCAST BAND

Further Notice of Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Further Notice of Proposed Rulemaking.

SUMMARY: FCC proposes to reject requests that it increase the permissible power of the dominant station on each of the 25 Class I-A AM clear channels, it appearing preferable to retain the longstanding 50 KW maximum power in order to maximize the opportunities for the assignment of additional unlimited-time AM stations to those channels.

Additional stations made possible by proposed rule revisions would serve such purposes as providing first aural nighttime primary service to persons lacking it, establishing a first or second local radio outlet in places where FM channels are not available, and enhancing the number of minority-owned stations.

Licensees of daytime-only stations would be able to apply for authorization to operate unlimited-time on Class I-A channels wherever they can comply with the proposed conditions of § 73.37(e)(2) of FCC's rules, or show good cause for waiver of those conditions.

DATES: Comments must be received on or before April 9, 1979, and reply comments on or before May 9, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Louis C. Stephens, Broadcast Bureau (202-632-6302), or Gary L. Stanford, Broadcast Bureau (202-632-9660).

SUPPLEMENTARY INFORMATION:

Adopted: December 19, 1978.

Released: January 15, 1979.

In the matter of Clear Channel Broadcasting in the AM Broadcast Band, Docket No. 20642. See also 42 FR 21629, April 28, 1977.

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ATTACHMENTS

1. Map of Nationwide Aural Broadcast (AM and FM) Nighttime Primary Services.
2. Summary of Comments by the Parties.

FURTHER NOTICE OF PROPOSED RULE MAKING

I SUMMARY

(A) The Essential Issue

1. The basic issue has not changed in half a century: should the reach of 25 dominant Class I-A AM stations on the 25 Class I-A clear channels, many hundreds of miles from their transmitters, be preserved and extended, or should it be limited in order to make room for more radio stations serving nearby listeners? On balance, we think the latter, and invite comment on methods proposed for accomplishing that result.

2. The nighttime propagation of radio signals by "skywave", which carries both the service and interference potential of AM stations much farther at night than during the daytime, necessitates making the basic choice between maximizing the protected *reach* of the wide-area service stations, or increasing the *numbers* of stations on the channel.

3. We think the public's needs will be optimally served by enlarging the possibilities for additional stations on the Class I-A clear channels beyond the initial steps we took in this direction in 1961, 31 FCC 565. We base this on our fresh evaluation of the circumstances affecting the public's needs today. These circumstances have undergone notable changes, including the continuing growth of FM as a fully recognized part of the U.S. radio service, the growth of television broadcasting and the growth of cable TV, with consequent reduction of the need to rely on far-distant AM stations at night.

4. Dependence on distant stations, when it applied to many more millions of people and to a far larger proportion of the population than today, provided justification for permitting each of the 25 Class I-A clear channel stations the exclusive use of an AM channel at night. Later, nighttime sharing of some Class I-A frequencies was permitted, but only on a narrowly restricted basis because many millions were still considered to be dependent on distant stations at night.

5. Now, recognizing the lessening of that dependence, we propose changes in the use of Class I-A clear channels which we think optimally balance present day competing needs.

(B) FCC's Basic Proposals

6. In opening the way to additional station assignments on the Class I-A clear channels we propose we propose to: (1) Settle the old issue of higher power for the dominant stations by maintaining the present ceiling of 50 kW; and (2) look to additional AM and FM stations as the preferable means of providing for today's radio service needs, among the most prominent of which is enhancement of opportunities for minority ownership and operation of stations.

II THE RECORD

7. We do not here minutely retrace the long and involved course of clear channel inquiry and rulemaking proceedings which started with the inauguration of the predecessor Docket No. 6741 in 1945. That is already set out at length elsewhere, primarily in:

Our 1961 *Report and Order* in Docket 6741, 31 FCC 565
Our *Memorandum Opinion and Order* denying reconsideration, 45 FCC 400, and
The 1975 *Notice of Inquiry and Notice of Proposed Rulemaking* adopted in this Docket 20642, 40 FR 58467, December 17, 1975.

By way of introduction we pause only to note the basic circumstances and developments which form the context of the continuing tug of war over AM clear channel spectrum space.

(A) Original Clear Channel Objectives

8. Recognizing the inherent conflict between maximizing the service range or the numbers of stations assigned to any AM broadcast frequency, the Federal Radio Commission in 1928 adopted the practice, continued by this Commission, of establishing differing conditions for the use of different groups of AM frequencies. The group which came to be known as the "Clear Channels" was set aside primarily for use by stations so protected from interference as to enable them to provide services at long distances by day and considerably greater distances at night, when reflection from the ionosphere carries nighttime AM transmissions may hundreds of miles farther out from the transmitter than during the daytime. When protected from interference from other stations, this skywave service from existing Class I-AQ stations is generally usable, although varyingly intermittent, at distances up to about 750 miles from the transmitter.

9. Under some conditions, skywave reception occurs even farther out, although more intermittently. Given this, and the early paucity of the more steady but less far-ranging groundwave AM signals, Class I-A clear channels were set aside for the exclusive use of a single station operating during the nighttime hours.

10. Subject to a few limited exceptions, this nighttime exclusivity continued until 1961 for the 25 Class I-A unlimited time stations assigned—one each—to the 25 Class I-A Class I-A frequencies, the reallocation of which is under consideration in this proceeding.

(B) Previous Reallocations

11. Between 1945 and 1961 the Commission in a major predecessor proceeding—Docket 6741—examined numerous possible modification of the rules governing the use of the AM clear channels. Confining their use to a single station operating at night on each such channel with 50 kW power was recognized as questionable. This exclusivity protected the Class I-A stations far beyond any areas where they could provide a reliable signal.

12. In Docket 6741 the Commission considered many alternative plans which reflect two essentially opposed views. One was that the 25 Class I-A stations should continue to enjoy exclusive nighttime occupancy of their respective channels while their permissible maximum power would be raised to 500 kW or 750 kW. (For several years during the 1930's experimental operations had been conducted Class I-A station WLW at Cincinnati, using 500 kW).

13. The opposing view was then, as it now remains, that the 50 kW maximum should be retained, and that the sole Class I-A station on each channel should be required to share the use of the channel with other unlimited time stations.

14. In 1961 the Commission decided to permit one additional unlimited time Class II-A station on each of 11 (now 12) Class I-A channels[1] for the primary purpose of providing nighttime groundwave AM service to places which had none. These 12 Class II-A stations have brought a first nighttime AM primary service to approximately 400,000 persons in the western half of the country. Each is required to protect the 0.5 mV/m 50 percent skywave contour of the co-channel Class I-A station, a radial distance of about 750 miles. Four other unlimited-time Class II stations have been authorized to operate on Class I-A channels, two of them on channels used by Class II-A stations.

15. When it marked 12 Class I-A channels for shared use by Class II-A stations the Commission reserved for future decision the options to be exercised regarding the 13 remaining Class I-A channels. The generally exclusive nighttime use by Class I-A stations of the remaining Class I-A channels was meanwhile continued, and the use of adjacent channels was so restricted as to avoid significant preclusions of the potential use of the reserved Class I-A channels either for additioinal Class II-A stations or for higher power operation by the Class I-A stations.

[1] 670, 720, 770, 780, 880, 890, 1020, 1030, 1100, 1120, 1180, and 1210 kHz.

(C) Questions Now Pending

16. In our Notice inaugurating this proceeding we noted the results of our 1961 action, inaugurated formal inquiry into a number of matters bearing on the use of Class I-A clear channels under present day conditions, and invited comment also on desirability of:

"(1) Amendment of the rules to permit the authorization of power in excess of 50 kilowatts for selected Class I-A stations.

"(2) Amendment of the rules to permit additional unlimited-time Class II stations on the 'duplicated' Class I-A channels, either in limited number and in designated areas (the present 'II-A' plan), or to permit the addition of new stations in all instances where adequate protection for the clear channel station's secondary service and for other stations is afforded.

"(3) Amendment of the rules to permit the assignment of unlimited-time Class II stations to those I-A channels which are presently unduplicated, either on a designated basis, or generally, with protection, in each instance, afforded the I-A station's secondary service.

"(4) Amendment of the rules to permit the employment of some or all of the present I-A channels by a multiplicity of stations which are intended to render only local or regional groundwave service."

Recognizing the variety of possible actions under these alternatives, and reserving the possibility of proposing still other kinds of actions, we announced our expectation that, after review of the responses filed to the questions propounded in the Inquiry portion of the Notice, we would proceed with a Further Notice of Proposed Rule Making defining more specifically those particular modes of amending the clear channel rules on which it appeared desirable to focus our further consideration.

17. The subjects of our Inquiry, which were set out and explained at some length in the text of the 1975 Notice, encompassed:

—The service potential of FM;
—The economic and social effects of higher power;
—Power levels at which licensees desiring higher power would propose to operate;
—Sources and levels of interference on the Class I-A channels;
—Effects of using standard radiation patterns; and
—The use of secondary (skywave) service from clear channel stations in areas without nighttime primary service.

(D) Urgings by the Parties[2]

(1) *Higher Power*—(a) *The Proposals:*

18. The 17 licensees of the 25 Class I-A stations took the following positions on possible raising of the 50 kW power maximum:

—9 licensees stated their intent, if permitted, to increase the power of their 11 Class I-A stations to:

[2] Attachment 2 is a fuller summary of the comments.

100 kW at 1 station
200 " " 1 station
250 " " 5 stations
300 " " 1 station
450 " " 1 station
500 " " 2 stations

—3 licensees of 3 other stations indicated they were exploring or considering the possible use of higher power at their stations if permitted, but were not committing themselves to do so.
—CBS, licensee of 4 Class I-A stations, did not object to permitting higher power, but would not use it for CBS stations.
—NBC and ABC, each licensee of 2 Class I-A clear channel stations, opposed authorizing the use of higher power.
—The two licensees of the remaining 3 Class I-A stations filed no comment.

19. The Clear Channel Broadcasting Service (CCBS), an organization of which 12 licensees of 16 Class I-A stations are members, strongly urged increase of the 50 kW power limit, and supported their position with voluminous data and argument. In their individual comments, only 9 of the 12 CCBS members stated a clear intention to use higher power at their 10 Class I-A stations.

20. Among other supporters of higher power were a number of farm organizations, consulting engineers and othe individuals. There are possible benefits from exceptional and narrowly limited use of higher power for certain specific and highly limited purposes which the National Black Media Coalition and the Corporation for Public Broadcasting thought might merit consideration.

21. We next note the principal contentions for and against higher power, which we will evaluate in later sections of this Further Notice.

(b) *Service Potential:*

22. The prime justification advanced for higher power is that it would provide new and improved service to underserved areas and populations. The proponents put forward CCBS studies showing that at night over half the land area of the United States and 26 million people lack primary (ground wave) AM service, and they discount the showings, in studies conducted by the former Office of Telecommunications,[3] of extensive FM radio services to much of those areas.

23. Higher power, coupled with the prohibition of additional unlimited time co-channel stations on the Class I-A could, say the proponents, provide much needed increments of first or additional groundwave services. They also claim that higher power would provide extended and improved skywave services to allegedly large numbers of people who they say cannot be otherwise provided with needed radio service. Only limited attempts were made, however, even to approximate the numbers of people lacking AM nighttime primary service, or an FM signal with a field strength of at least 1 mV/m, who would gain a first nighttime primary service free both from objectionable interference from other stations and from distortion through interaction between the stations' own skywave and groundwave signals.

24. Some of the licensees proposing higher power did offer figures indicating the numbers of people who would receive the station's skywave signals for the first time, or would receive an improved skywave signal, if the station were permitted higher power.

25. Proponents also argued that higher power is needed to offset interference received within the United States from stations in other countries.

(c) *Economic effects:*

26. As in earlier clear channel proceedings, parties who oppose higher power argued adverse competitive impact on other stations within the service areas of Class I-A stations using power in excess of 50 kW. Proponents either rejected such claims or felt that they should be adjudicated only on the explicit facts of individual proposals under established *Carroll* principles and procedures.

(d) *Technical effects:*

27. Opponents also challenged higher power on technical grounds which proponents debated with counter-arguments:

(i) *Blanketing.* 28. The question here was whether stations operating with powers in excess of 50 kW can reasonably overcome certain potentially adverse effects which could occur near the transmitting system, such as:

—Overloading the input of receivers, thereby blocking reception of other stations serving the area;
—The electrical charging of metallic objects—such as wire fences—by the higher power radiations;
—Interference to the operation of such equipment as electronic switches at telephone central offices;
—The possible exposure of human beings to harmful levels of radiation.

(ii) *Ionospheric Cross-Modulation.* 29. On this point, the parties argued for and against the likelihood that AM signals transmitted at higher power would significantly induce cross-modulations of other radio signals in the ionosphere, thus superimposing the broadcast programs on other radio transmissions, both broadcast and non-broadcast.

(iii) *Other Ionospheric Effects.* 30. Additionally, the parties offered conjectural argument as to the possibility that higher powered transmissions would deteriorate the functioning of the ionosphere as a reflector used for skywave transmissions of both broadcast and some non-broadcast signals.

31. We discuss these opposed technical contentions in section IV.

(e) *Diversification of Program Sources:*

32. Some parties charged that Class I-A stations operating with higher power would become so dominant that undue concentration of media control would result. The proponents of higher power felt the multiplicity of other broadcast services and non-broadcast media would preclude this potentially damaging effect. Some cited the Fairness Doctrine and other requirements broadcasters must meet.

(f) *Programming and Listening:*

33. The parties debated at length the value of program services to distant listeners and drew supportive, but contradictory, inferences from listener data. The latter included data compiled from a national radio listening survey conducted by Arbitron in 1975, telephone and mail responses to 25 listener surveys conducted between 1969 and 1976 by the licensees of 10 Class I-A stations, and a number of surveys of farm listening to radio stations in Iowa and nearby states conducted in 1976 by Doane Agricultural Service, Inc. Some of the surveys by the broadcast stations were directed to listening by automobile and truck travelers.

34. We discuss in Section IV the factual submissions and the opposed contentions as to the value of clear channel and local radio services—a prime question bearing on the choices we have to make.

(2) *"Duplication"*—

35. Many parties commented in support of action to end the exclusive nighttime occupancy of any Class I-A channel by a single dominant station, and advocated opening all 25 of them to unlimited-time use by additional stations. More than one station on a channel is referred to as "duplication."

36. Some parties would curtail the degree of protection generally afforded to Class I stations by other Class II co-channel stations. Class II-A stations thus far authorized to operate on each of the 12 Class I-A channels afford nighttime protection to the 0.5 mV/m 50% skywave contour of the dominant Class I-A co-channel stations. This conforms with the long-established general norm for nighttime protection to the Class I-B clear channel stations.

37. Some parties would confine protection solely to the groundwave (primary) service areas of the Class I stations. This would subject to destructive interference all of the skywave service rendered by the Class I stations. If, as proposed by some, this were applied to Class I-B stations as

[3]Now part of the National Telecommunications and Information Administration.

well, AM skywave service would be destroyed altogether. Whatever deprivation that would represent to users of skywave service who are within the primary service areas of other stations, it would fall most heavily on those who live or travel in places which receive no AM or FM primary service.

38. Although differing as to the degree of protection Class I stations should have, the parties advocating duplication all join in urging that the value of broadcast services originating from distant stations has become enormously reduced since the days when AM was the only radio service and distant clear channel stations were the only source of broadcast programming to many millions more than today. They contend that, given the enormous increase in the numbers of AM stations, the establishment, growth and wider availability of FM, the establishment of television broadcasting, and its emergence as the dominant broadcast service whose viewing peaks during the nighttime hours when radio listening has fallen off, there is far less dependence on transmissions by distant clear channel stations than in the days when the protection standards were developed to enable them to render service free from other-station interference at extreme distances from their transmitters.

39. While extolling the superior values of originations from stations close to listeners, the supporters of duplication seek differing kinds of benefits from the multiplications of new unlimited time stations on the clear channels.

40. The Corporation for Public Broadcasting (CPB), joined by National Public Radio (NPR), proposes a grid of non-commercial educational AM stations for which clear channel spectrum space would be reserved. They specify three sources: space made available by authorizing duplicating station assignment on the clear channels; reduction of the "separation" between AM frequencies from the present 10 to 8 or 9 kHz; and the allocation of AM broadcasting on frequencies below and above the present 545 to 1605 kHz AM band.

41. The National Black Media Coalition (NBMC) stresses the desirability of using at least part of any clear channel spectrum space which may be made available, to enhance the numbers of minority-owned and operated stations. The Daytime Broadcasters Association (DBA) and the licensees of numbers of daytime-only stations see the clear channels as a spectrum resource for enabling stations now limited to daytime hours, to operate unlimited time.

42. The common contention of all the various proposals favoring duplication is greater value to listeners of radio programming originating from nearby stations, as compared with the value of programs from distant stations. Weather, farm market reports, local news and local public affairs programming were particularly singled out in this respect.

43. The CCBS and licensees of Class I-A clear channel stations generally opposed duplication, and made arguments conforming with some of the arguments they used to support higher power, stressing importance of preserving, if not extending, the range of service available from Class I-A stations under the present rules.

44. The Association for Broadcast Engineering Standards (ABES) submitted detailed illustrative studies showing possible distributions of new 1-kW unlimited-time stations. They estimated 78 such stations on the unduplicated Class I-A channels.

III. EXTENT OF EXISTING NIGHTTIME PRIMARY SERVICE

45. The starting point in considering how best to use the spectrum space on the Class I-A channels is the extent to which a major allocations objective—some service to all of the people of the United States—remains to be achieved. This question is particularly pertinent during nighttime hours when skywave propagation by unlimited time AM stations causes much mutual interference.

46. In 1961 when we last made significant changes in the clear channel allocations rules we again assessed the extent of existing radio service on the basis of the areas and populations with interference-free AM groundwave service, and estimated the numbers of those lacking it and therefore considered dependent on the inherently less satisfactory skywave signals from Class I stations. Then, as now, studies and maps of nationwide AM service indicated that over half the land area and about 26 million persons lacked interference-free groundwave AM service during the nighttime hours.

47. Since 1961, however, FM broadcasting has undergone widespread growth and acceptance, and we have for some time based our approach to radio licensing on recognition of the fact that AM and FM are contributing elements to a single aural broadcast service. Thus, as we pointed out in the Notice inaugurating this proceeding, it is no longer appropriate to consider AM service—its existence or its lack—independently of FM service, the other component of the nation's aural broadcast service. For this reason, the nationwide depiction of AM groundwave service at night prepared by and recently updated by CCBS no longer provides a useful indication of those areas dependent for radio service upon the skywave transmissions of distant Class I stations.

48. Studies prepared by the Office of Telecommunications and submitted as part of the record of this proceeding show the extent of existing FM service. This was shown on two bases. One showing depicted the area served by FM signals with a field strength of at least 50 uV/m. Another showing depicted nationwide FM service with a field strength of at least 1 mV/m.

49. For our purpose here—establishment of the nationwide picture of where primary aural broadcast service exists and where it is lacking—we find it appropriate to use OT's depiction of FM service of 1 mV/m or greater. While our rules recognize that in some circumstances an FM signal of at least 50 uV/m is sufficient for usable service, we have customarily (as in § 73.37(e) of the rules) used 1 mV/m as the minimum level of FM signal whose presence or absence is treated as significant in establishing the number of FM services available at a particular place or area. This criterion has been used, for example, in determining the extent to which the proposals of individual applicants for a new AM station would provide a first radio service in the sense that the area or population to be served presently has neither interference-free AM groundwave service nor FM service of a least 1 mV/m field strength.

50. Some parties presented technical arguments against relying on OT's depiction of areas served with FM signals of at least 1 mV/m, but we find in them no adequate reason to reject the use of OT's depiction of such service in assembling a broad nationwide picture which, for the spectrum allocation purposes of this proceeding, sufficiently approximates the extent and locations of nighttime aural primary service. This depiction furnishes useful guidance in determining service needs and in considering how clear channel spectrum space may best be used to meet them. CCBS's depictions of AM nighttime primary service are open to some question and adjustment because of departures from the conventional methods of ascertaining the existence of interference-free AM service. However, as in the case of the FM service depictions by OT, for purposes of assembling a nationwide picture of AM nighttime groundwave service, we may satisfactorily use the showings made by CCBS in its updated depictions on this record of what it calls "Type B" nighttime primary AM service. We think it clear that further refinement of either the AM or FM showing would not be useful because it could not be expected to result in a substantial or significant difference in the nationwide measure of the area or

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count of the population lacking nighttime primary aural radio service.

51. Consolidating CCBS's mapped depictions of nighttime primary service with OT's depictions of FM signals of at least 1 mV/m, we developed a map which, on a reduced scale, is associated herewith as Attachment 1. It shows that only about one-third of the land area of the contiguous 48 States lacks a nighttime primary aural broadcast service, as contrasted with the more than half of such area depicted as unserved on CCBS' AM maps. According to a population count derived from the 1970 U.S. Census map, fewer than 3¾ million people out of the 200 million who reside in the contiguous 48 States lack nighttime primary aural service as defined. This compares with the 26 million persons estimated by CCBS to lack nighttime AM primary service.

52. Our count of 3,750,000 lacking nighttime primary service is conservatively high for two reasons: We counted as unserved the entire population of all towns located on the borderline of the served area; and we treated FM translators as serving no one outside small towns in which they are located.

53. It must also be recognized that uncounted but substantial numbers of people who live where there are FM signals with a field strength of less than 1 mV/m but at least 50 uV/m are in fact provided with satisfactory FM service. A count by the Columbia Broadcasting System indicates that only about 1¼ million persons who lack AM nighttime groundwave service in the 48 contiguous states also lack FM signals with a field strength of at least 50 microvolts per meter (50 uV/m). On this reckoning, approximately 2½ million people (the difference between 3¾ million and 1¼ million) who lack AM nighttime primary service have FM signals with field strengths ranging from 50 uV/m up to 1 mV/m. Making generous allowance for the effects of conditions which CCBS argues will preclude satisfactory reception of FM signals in that range, it would gressly underestimate the probabilities not to recognize that a substantial number of the foregoing 2½ million people have satisfactory FM service, although of a field strength under the 1 mV/m level denoted as the lower limit of primary FM service. Even making the implausible assumption that only a third of that 2½ million persons (830,000) have satisfactory FM service, deducting 830,000 from our count of 3,750,000 lacking primary service at night, it can be conservatively estimated that fewer than 3 million persons have neither AM primary service nor a satisfactorily usable FM service at night. But we place no reliance on this since, even were the actual number of unserved persons to be assumed—most implausibly—to be as much as a million higher than our 3¾ million figure, that would still indicate the substantially similar result of nighttime primary aural service being available to about 97.5% of the 200,000,000 inhabitants of the 48 contiguous states instead of the 98.2% who are served according to our count. Such a difference is not significant for purposes of establishing or revising nationwide allocations policy.

54. The essential point here is that the future use of clear channel spectrum space must now be determined in recognition of the fact that today all but about 2% of the population in the 48 contiguous states have nighttime aural primary broadcast service. This is far smaller than the proportion lacking nighttime *AM* primary service, on which CCBS and the station licensees seeking higher power heavily rely.

IV. ACTIONS NOW PROPOSED BY FCC

55. The basic pattern of Class I-A channel usage was established over 50 years ago and remains essentially unchanged except for the addition of a single unlimited-time Class II-A station on each of 12 channels.

56. We here set out those conditions for the future use of the 25 Class I-A clear channels which, after considering the comments so far filed, we think would optimally serve recognized allocations objectives under the much changed conditions of today.

57. We reserve our final decision on all the questions arising in this proceeding until we have the benefit of further comment directed to the specific proposals here announced. We accordingly limit our discussion in this Further Notice to the more basic circumstances and considerations which at this stage make the actions we propose appear preferable to the numerous alternatives. We thus endeavor to facilitate further comment by the parties by stating the controlling considerations which have led us to the present proposals, and the purposes to which they are directed.

(A) Preservation of the 50 kW Power Maximum

58. For the reasons which follow, we propose to retain the present 50 kW maximum power for Class I-A stations.

(1) *Balancing Public Benefits—*

59. Much has been said for and against authorizing Class I-A stations to operate at powers greater than the present 50 kW maximum. The question is not whether higher power could yield some public benefit, but whether, on balance, the public interest would be better served by the use of higher power or by retaining the present 50 kW ceiling, thereby opening wider possibilities for a large number of additional stations serving audiences in their local communities and nearby areas.

(2) *Potential For Expanded Services—*

60. The provision of a first nighttime aural primary service to persons now without AM groundwave or FM service is the most significant kind of gain which could be invoked in support of higher power. Yet only 4 Class I-A stations provided estimates of the numbers of people who would acquire their first nighttime aural primary service if they increased power. Those figures, rounded, indicate that 2 of the stations would each provide a first aural nighttime primary service to about 15,000 people. Another claimed 59,000, and the remaining station claimed 180,000.

61. It does not appear, however, that, in arriving at the foregoing figures, the parties took account of limitations imposed on the radius of useful groundwave service by the station's own skywave signals. This is caused by differences in the path traveled by a station's groundwave and skywave signals to points where both are received. The skywave signal travels upward and outward to the ionosphere, which reflects it back over another path down to a place of reception on the earth's surface which the station's groundwave signals have previously reached over the more direct and therefore shorter path which groundwave signals follow along the earth's surface.

62. The resultant time interval between the reception of a station's groundwave and skywave signals and phasing changes cause distortion or fading which interferes with satisfactory reception. This is considered to occur noticeably in the so-called "distortion zone" where the field strength of the station's skywave signal is in the range of half to twice the field strength of its groundwave signal. This distortion zone often ocurs geographically where its effect is to shorten the range of a station's satisfactory groundwave service at night to something less than the distance to the 0.5 mV/m groundwave contour.

63. At higher power, with the present antenna system, the field strengths of both the skywave and groundwave signals of a station at any point of reception would increase by the same ratio. Since their relative values would therefore not change, the distortion zone would not shift geographically with the use of increased power, and the range of satisfactory groundwave service rendered by the station would consequently remain essentially unchanged, unless there were modifications to the antenna which resulted in an appropriate change of the radiation angle. The results of doing this would vary considerably, however, depending on numbers of factors including the frequency, the pertinent soil conductivities, and the amount of the power increase. Calculations by A. Earl Cullum, Jr. and Associates submitted on behalf of the licensee of WCCO, a Class I-A station at Minneapolis, show that, under differing combinations of the foregoing controlling variables, the potential for primary service gains through power increases is restricted in varying degrees. The estimates of primary service gains which have been submitted on this record do not appear to reflect the distortion zone. They therefore cannot be accepted as realistically reflecting the meaningful primary service gains which could be reliably expected to be realized if the stations in question used higher power.

64. Estimates were submitted for two other stations indicating the numbers of persons to whom higher power would bring a first *AM* primary service. Such figures do not, however, bear significantly on the questions before us since—as we announced in the Notice inaugurating this proceeding—we will evaluate the extent of and the need for service by treating AM and FM not as separate services, but as component parts of the nation's aural broadcast service. Persons who receive FM service with a field strength of a least 1 mV/m cannot be treated as unserved for the purpose of establishing meaningful figures showing the potential of higher power for creating a first nighttime primary aural service.

65. Certain other kinds of potential service gains quantified by several Class I-A station licensees similarly offer little of controlling significance in evaluating the pros and cons of higher power. This applies, for example, to counts of people who would, as a result of higher power, receive a stronger skywave signal where the station already provides at least the recognized minimum standard of secondary service—i.e., 0.5 mV/m 50% skywave signal. We are unable to find convincing support for higher power in estimates of the numbers of people who would gain a new or improved skywave service which take no account of the numbers of persons in such gain areas who already have primary service. Some skywave service is already available everywhere in the contiguous 48 states, and most of the population can receive four or more skywave signals. Ten or more skywave services of at least the long recognized standard (0.5 mV/m 50% skywave signals) are available in much of the country. Considering the long distances, ranging into hundreds of miles, between transmitting stations and their outer skywave service areas, as well as the limited extent of listening to distant stations, we cannot find that improved or extended skywave service would sufficiently offset the disadvantages of higher power even with respect to the scattered and relatively few persons who lack nighttime primary service.

66. Nor does higher power appear to promise the provision of a first primary service to enough persons to justify authorizing it at the expense of reducing the numbers of new stations which could otherwise be authorized to provide for needed services to much closer audiences. In any case, whatever numbers of people might be shown to gain a first primary aural broadcast service at night through power increases of Class I-A stations, we believe, for reasons discussed later, that the value of programming services transmitted by stations located relatively distant from the listener cannot be equated with, or even considered as approaching, the presumptive value of service which could otherwise be provided by new stations located much closer to the listeners if power continues to be limited to a 50 kW maximum.

(3) *Program Service—*

67. The argumentation among the proponents and opponents of higher power focuses in part on the value of radio programming to persons living many miles away from the station. The licensees of the stations seeking high power, the Clear Channel Broadcasting Service (CCBS), a number of farm and other organizations, and some individual persons strongly assert that the programming of clear channel stations is beneficial both to rural residents and nighttime highway travelers. They base their statements chiefly on the following grounds:

—That the larger stations are able, with their greater resources, to provide useful national and world agricultural market information and other agricultural news and program services of interest over wide areas; and that smaller stations lack the resources to provide programming of this kind or quality.

—That the general programming of clear channel stations, as well as their specialized farm programming, is of interest to both residential and mobile audiences far from the stations, citing listener surveys which we briefly note in the next section of this Further Notice.

68. Those who oppose higher power challenge the value of the programming of Class I-A stations to distant listeners on numbers of grounds. They find in the differences in crops and agricultural pursuits circumstances which preclude Class I-A stations from being responsive to particular local needs for information about local weather, local market conditions, local pest and disease problems, local calendars of farm organizations and local news and public affairs programming focused on local community problems. The opponents of higher power also stress the extent to which television provides programming of general nationwide interest, and the presentation of national and international news over the facilities of FM stations and smaller AM stations as well.

69. We think the truth lies between the extremities of the positions argued by the contenders, but that stations serving their own and nearby communities generally are in a decidedly better position to provide aural broadcast services which are meaningful and informative and beneficial to their listeners. It is a subject endlessly debated, on which some data take the form of listener surveys, which we turn to next. The Class I-A stations differ considerably in the extent to which they devote staff resources and broadcast time to the provision of programming of the kind which has traditionally been invoked as a prime justification for preserving the long reach of Class I-A clear channel stations with distant rural areas: their farm and agricultural programming. Of the 25 Class I-A clear channel stations, 8 reported that they retain the services of at least one fulltime farm service director. They vary considerably in the amount of time devoted to the broadcast of farm news, farm market reports and other programming primarily of agricultural interest. Several of them reported no such programming. It amounted to at least one hour per week day in only three cases. There was much variation in the performance of stations with respect to programming of particular interest to farm populations in the areas lacking nighttime groundwave service.

70. Among the more concrete indications of the value of radio programming from distant sources are the data which we next note reflecting the patterns and extent of listening to the Class I-A stations.

(4) *Listener Surveys*—(a) *Arbitron.*

71. Some indication of the extent of listening to clear channel stations in areas lacking primary service may be gleaned from data on this record compiled from Arbitron's 1975 nationwide radio survey.

72. At FCC's request, Arbitron compiled, from its national survey, data on 159 of the counties we had preliminarily designated as lacking FM signals with a field strength of at least 1 mV/m. Arbitron had received usable listener diaries from those 159 counties but not from other counties we had additionally named.

73. One of the compilations prepared by Arbitron is entitled "Nighttime Radio Use in Pre-Selected Counties." After eliminating 33 of the 159 counties in that report, which our subse-

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quent studies show as having AM groundwave service at night, we note the following data on listening to Class I-A clear channel stations in the remaining 126 counties, all or the larger parts of which lack nighttime primary service.

74. As Arbitron itself acknowledged, and some parties point out, too few diaries came from many of the individual counties to permit reliable conclusions as to listening habits within those counties individually. We think, however, that enough diaries were received in the aggregate to throw useful light on questions pertinent to the basic allocations issues before us in this proceeding.

75. Arbitron received 888 usable diaries from the 126 underserved counties in our study. Only 352 (39.6%) of those 888 diaries indicated any nighttime radio listening at all. Among those 352, only 37 diaries reported listening to one or more Class I-A stations. Those 37 diaries constituted 4.1% of the 888 usable diaries from the 126 counties.

76. The 352 *diaries* had collectively made 525 separate *mentions* of particular radio stations listened to at night. Of those 525 mentions, 47 (fewer than 1 out of 10) were mentions of Class I-A stations. Only 8 of those 47 mentions were made by diarists located more than 750 miles from the Class I-A station mentioned.

77. In all 7 counties where diarists made 8 mentions of listening to distant Class I-A clear channel stations, there were mentions of listening to 1 or more (up to 7) other stations as well.

78. It is possible that a survey based on a larger sampling (i.e., more diarists) might reflect more listening to clear channel skywave signals than this Arbitron survey indicates. There is, however, no rational basis for expecting the figures reflecting listening to attain the magnitude which would be necessary to offset the clear showing of relative disinterest in nighttime listening to distant Class I-A stations or the advantage of radio programming from nearby sources over that produced far away.

(b) *Listener Surveys by Stations:*

79. Reports (and in some instances copies) of communications received by mail and telephone from listeners to 11 of the Class I-A clear channel stations showed some scattered listening on home or vehicle radios far from the stations. But the 20 such surveys on this record which appear to provide at least minimally usable data indicated that, generally, an overwhelming preponderance of listeners were located within a 750-mile radius of the stations. A substantial portion of them are located considerably closer to the station than that.

80. While fully recognizing the indications in the station surveys that some persons living or traveling at greater distances do listen to far away Class I-A stations, we have been unable to find merit in further extending the outer reach of Class I-A stations by permitting them to operate at powers exceeding 50 kW, particularly at the cost of diminishing the potential for adding new co-channel and adjacent channel stations able to serve people living much closer to the principal communities served.

81. We recognize that listening to Class I-A stations may increase to some extent in areas where higher power would provide additional skywave signals or improve existing ones by increasing their field strength and making them less subject to intermittent fading. But again, such listening would have to increase to levels far beyond any reasonable expectancy to offset the enormous qualitative preference we think clearly attaches, under today's conditions, to creating the opportunities for large numbers of new stations serving nearby listeners. This objective is best served by retaining the present 50 kW maximum power.

82. The preferability of optimizing the potential for new stations by holding the power maximum at 50 kW is not offset by such figures as CCBS gleans from Arbitron. Certain of these data indicate that the few diarists in underserved counties who did listen to clear channel stations reported doing so an average of 17 partial or full quarter hours between 9:00 pm and 4:45 am—almost as much as the 19 quarter hours similarly reported for greater numbers of listeners in the home markets of those stations. Nor do we think the case of higher power is significantly strengthened by CCBS's derivation from Arbitron data of a showing that 43% of the clear channel listeners in the underserved counties listened to Class I-A stations at least 3 nights per week, 28% on 4 or more nights, and 10% on six or more nights.

(c) *Doane Farm Broadcast Studies:*

83. Among the listener surveys submitted were a number prepared under the auspices of the National Association of Farm Broadcasters. Conducted for the most part in 1976 and entitled "Doane Farm Broadcast Study" for particular stations, each of these surveys compiled data indicating listening by farmers to a particular radio station and to other radio stations within that station's principal service area.

84. One such study was prepared for WHO, the Class I-A clear channel station operating on 1040 kHz, at Des Moines. That survey covers 69 central Iowa counties and 5 contiguous counties in northern Missouri. These counties appear to lie within the 0.5 mV/m ground service contour of WHO as indicated on Figure 1 attached to the engineering exhibit accompanying the comments filed in this proceeding by Palmer Broadcasting Company, licensee of WHO. As might be expected, WHO led all other radio stations in the percentages of farmers in the survey area listening during 9 half-hour periods (5 morning, 3 mid-day and 1 early evening). Listening in those periods to WHO was reported by 42.9% to 67.7% of the farm homes surveyed. WHO was named by 44.2% of the farmers surveyed as the radio station they feel "provides the most useful and reliable programs and information on weather, farm markets and farm news and information"—over 3 times the percentage for the next most popular station in that respect.

85. Doane farm broadcast studies prepared for other stations in Iowa indicate that WHO commands substantially less of an audience than other stations in numbers of counties within WHO's primary service area. For example, a Doane survey conducted in 28 eastern Iowa counties indicates that WMT, a 5 kW station at Cedar Rapids, Iowa was named by 41.1% of the listening farmers as the most useful and reliable for farm program services, while 17% named WHO. It is significant that 22 of those 28 counties lie wholly within WHO's 0.5 mV/m groundwave (primary service) contour, while substantial parts of the remaining 6 counties also fall within that contour.

86. During 4 morning, 3 mid-day and 2 early evening half-hour periods, between 36.0% and 58.4% of the farms surveyed listened to WMT, while 9.1% to 24.8% of them listened to WHO. These figures give some indication of the extent to which, even within the primary service area of a major clear channel station which devotes considerable staff and programming to farm needs, the farm listeners tend to patronize a closer station.

87. Another instance of this is reflected in a Doane survey prepared for station KMA, a 5 kW AM station at Shenandoah, Iowa. It was named by 44.9% of the farmers surveyed as the most useful and reliable source of programming of interest to farmers—nearly 4 times the nearest competitor. KMA's farm audience shares were higher than those of the other stations surveyed, and ranged from 27% to 54.8%, while WHO's shares for the same periods ranged from 6.8% to 23.9%. WHO's listening exceeded KMA in 2 of the 10 periods while in 8 it ranged from 13% to 49% of KMA's share. Every county in KMA's listening area surveyed is within the .5 mV/m groundwave contour of WHO.

88. Another Doane survey indicates that even a small Class IV station at Burlington, Iowa (KBUR) could, during some periods, attract larger audiences than WHO, whose groundwave service covers all of the 4 southern Iowa counties and 1 contiguous Illinois county included in the KBUR listener survey. While KBUR was reported to have a sharply lower farm audience share than WHO during 2 half hours KBUR was moderately lower than or tied with WHO in 3 other periods and exceeded WHO in 2 periods.

89. Doane surveys thus show that closer by stations can exert a highly significant draw on listeners even within the primary service area of Class I-A stations.

90. To sum up, the several sources of listener data in the record of this proceeding indicate the relative lack of value of distant signals, especially distant skywave signals, as compared with the much more heavily patronized program service provided by nearby stations. This illustrates the waste of spectrum space which would result from permitting Class I-A stations to use higher power, as a means of further extending the already long reach of their usable groundwave signals, or of extending the range—already counted in hundreds of miles—of their usable skywave signals. These listening data underscore the preferability of retaining the 50 kW power maximum in order to maximize the numbers of stations able to provide the more useful, and more used, programming services nearby stations can offer.

(5) *Interference from Foreign Stations—*

91. Some proponents argued that higher power would help to overcome interference received within the United States from stations outside this country.

92. A report of monitoring conducted by FCC's Field Operations Bureau on May 20 and May 22, 1976 at twelve locations distributed throughout the 48 contiguous states records 197 instances of interference detected from stations outside the United States. Only 21 of those 197 instances were monitored at locations within the 750-mile radius of the US Class I-A station's transmitter—the general range of skywave service of the standard of 0.5 mV/m 50% skywave signal or better.

93. Of the 21 instances, 7 were on the channels occupied by Class I-A stations which did not state any clear intention to adopt higher power even if permitted. All of the remaining 14 instances were monitored from locations about 600 miles or more from the Class I-A stations concerned. That is to say, the only 21 instances reported at locations within the 0.5 mV/m 50% skywave contours of the U.S. Class I-A stations were nevertheless detected so far away from the Class I-A station that improvement achieved by the use of higher power could only serve to bring programming in more clearly from very distant stations at the cost of reducing the numbers of new stations which could otherwise be assigned to the Class I-A channels concerned.

94. Studies indicating interference from foreign sources to the service areas of three Class I-A stations (WSM at Nashville, WGN at Chicago and WWL at New Orleans) were submitted as part of an engineering statement submitted on behalf of the CCBS. In the case of WSM the interference was indicated to occur in areas extending from about 250 to 750 miles from the station. A similar showing was made for WGN. In the case of WWL the interference calculated from a station in Havana, Cuba was indicated on a map as interfering with reception in a wide area which included all of the primary (groundwave) service area of the station. This depiction appears to be based on skywave-to-skywave interference, and does not reflect interference-free groundwave service which is rendered by WWL.

95. Primary service, not indicated on CCBS' submission, is available from other stations throughout most of the areas in which foreign interference to the three foregoing stations is depicted. Multiple shywave services numbering for the most part 5 or more are available throughout those interference areas.

96. Neither these nor other pertinent submissions have demonstrated that higher power—at the cost of reducing or eliminating the potential for new stations—could be justified as a means of overcoming interference from foreign stations. In so evaluating the data and argument on this subject, we do not rely on speculation advanced by some parties that if U.S. Class I-A stations were to increase power, others (who are in violation of NARBA in some cases, or who in other cases are not NARBA signatories) would make offsetting power increases which would nullify the effect of power increases by U.S. Stations.

(6) *Other Considerations Affecting Higher Power—*

97. Opponents additionally object to higher power on economic, social, and technical grounds: Excessive competitive advantage, excessive concentration of control and excessive radiation.

(a) *Competitive Impact:*

98. The contention that the use of higher power by Class I-A stations would inflict intolerable economic injury on competing stations, to the detriment of their capacity to serve the public, was urged by the licensees of 17 AM stations, the National Radio Broadcasters Association (representing over 700 AM and FM stations), several state and local broadcasters' associations and others. The 17 included licensees of 2 Class I-B stations operating at 50 kW power in the same city as the pertinent Class I-A station. The remaining 15 included 4 Class II stations, 8 Class III stations and 3 Class IV stations. Of the 17, 5 (including the two Class I-B stations already mentioned) are located in the same city as the Class I-A station whose power increase they object to, and 12 were located outside those cities. The 17 included 14 unlimited-time stations, 2 daytime only stations and one limited time station.

99. Some of the objectors offered only unsupported assertions such as that higher power would "injure thousands of local stations financially" or would cause "economic devastation" or "irreparable financial harm" to smaller stations in the area. Others rationalized their objections with argument that, with higher power, Class I-A stations would siphon or fractionalize audiences of the smaller local stations, and would capture or divert undue shares of the advertising dollars previously available to the smaller stations. Supporting data were not furnished.

100. Counter arguments by CCBS and the Class I-A stations seeking higher power included contentions that:

- —The claims of economic injury were unsupported;
- —The proponents of higher power should not be called upon to prove a negative;
- —Questions about economic injury were more suitable for resolution in adjudicatory hearing on specific applications for higher power.

101. A study prepared by Professor Edward J. Mitchell of the University of Michigan's Graduate School of Business Administration indicates that an additional signal may be expected to reduce the audiences and revenues of existing stations only by very small amounts.

102. We are unable to find that a convincing case has been made for the proposition that higher power may generally be expected to exert competitive impact adverse to the public interest. We agree with those who contend that the question of economic injury here, as in other instances, is better suited to evaluation and decision in *ad hoc* adjudications based on the facts of particular cases.

103. We do not pause to discuss the pros and cons of the comments on economic injury in more detail because the preference for maintaining the present power limit—which we believe is clearly demonstrated on other grounds—moots this issue. In making this assessment, we have not relied on the contraverted and thinly supported

contention about the potential of higher power to inflict economic injury.

(b) *Concentration of Control:*

104. Opponents of higher power argue that permitting it would disserve the objectives of diversification of control over mass media, and would unduly concentrate in a few stations an objectionable degree of mass media control.

105. Energetic pumping may be needed to keep this contention afloat in the sea of broadcast signals flooding places where the American populace predominantly lives, with multiple waves of broadcast programming transmitted by 8,500 AM and FM radio stations, nearly 1,000 TV stations, and further disseminated by additional thousands of FM an TV translators and cable television systems.

106. In noting that most Americans are thus assured multiple broadcast services from diverse—and for most part, numerous—sources, we neither intimate that we think the goal of diversification of broadcast programming has been fully attained nor discount the importance of continuing efforts to enhance the degree to which it has so far been achieved. Nor do we mean to suggest that we see the enlargement of what are already the most extensive service areas of any class of station as devoid of any potential of undue media concentration.

107. It is noteworthy, however, that it was not in derogation of the importance of diversification that the Class I-A stations have always been afforded protection from interference greater than that provided to any other AM stations. Class I-A stations have thereby been afforded wider reach for the explicit purpose of enabling them to provide usable skywave signals to people living in more sparsely settled areas where primary service is not available from stations closer by.

108. As a result of being enabled to place interference-free signals far out from their transmitters, Class I-A stations typically place serviceable signals over areas encompassing tens of millions of persons. Service needs as they existed in the past justified—if not commanded—the establishment of such vast service areas and such potentially vast audiences for clear channel stations, which are unavoidably limited in numbers by the relentless imperatives of nighttime propagation conditions in the AM band.

109. As we now re-examine Class I-A clear channel allocations, we believe we should similarly give controlling weight to service needs as we find them today. Accordingly, in choosing between divergent courses of allowing higher power or of opening the way to more new co-channel and adjacent-channel stations than could be attained if higher power were permitted, we have been impelled to our preference for the latter not because we can perceive in higher power a demonstrably damaging diminution of media diversity or realistic opportunity for Class I-A stations to exert dominating "concentration of control". Rather, we have found under today's conditions that the need for more stations able to serve the public in and relatively near their principal communities has been convincingly shown to be greater than the need for augmenting the capacity of clear channel stations to extend the reach of their signals through the use of higher power. In so finding we have not placed reliance on the questionable claim that Class I-A stations with higher power would become devouring mass media monsters. Such a contention es hardly borne out by fifty years of experience with the operation of Class I-A stations protected, either totally, or to a degree greater than any other class of station, against interference from co-channel operations at night.

(c) *Technical Effects:*

110. Opponents objected to higher power for several alleged terrestrial and ionospheric effects. We discuss them only briefly because, for the below-stated reasons, none of the technical arguments has been accorded controlling weight in arriving at our proposal to reject higher power.

111. (i) *Blanketing.* We do not question the arguments presented that blanketing problems would occur with the use of power greater than 50 kW. With field strength running extremely high out as far as five or more miles from the transmitter site, there would be problems involving receiver overloading, electrical charging of objects, interference to the operation of telephone office equipment, internal and external cross-modulation, and others. However, these anticipated problems are not of such magnitude as to be beyond state-of-the-art techniques for resolving them.

112. We would expect and require, if higher power were authorized, that transmitter sites be selected in areas where the least number of potential problems would be incurred; and our rules (see § 73.88) require a licensee "to satisfy all reasonable complaints of blanketing interference within the 1V/m contour." Objects which might be electrically charged could be grounded or detuned. Also, interference to the operation of nearby telephone equipment could be corrected through the use of shielding or other devices. The principal contention of AT&T appears to be that its subsidiary operating companies should be spared the cost of such needed corrections, not that such correction could not be made.

113. A question has been raised as to the potential biological effects that might result from the use of higher power. At the present time there are no meaningful standards for determining what levels of radiation at the subject frequencies could be expected to be biologically harmful. In light of our proposal to retain a 50 kW maximum power level, we need not defer acting on clear channel reallocations until such indefinite future time as adequate data and reliable standards have been developed.

114. (ii) *Interference to Adjacent Channel Stations.* Another ground of objection advanced against higher power is resultant interference to adjacent channel stations. The remedy of a low pass audio filter has been plausibly suggested; but we do not, in any event, propose to authorize higher power.

115. (iii) *Ionospheric Effects.* Objections that signals transimitted at powers in excess of 50 kW would induce interfering cross-modulation with other signals reaching the ionosphere, or would appreciably deteriorate the capacity of the ionosphere to function as a reflector of radio signals, were neither supported nor refuted conclusively. The Office of Telecommunications advised that additional testing programs would be needed to evaluate the merits of so-far insufficiently supported claims. It is unnecessary, however, to incur either added cost or delay for such testing since, on the entirely independent grounds of service needs, we in any event propose to retain the present 50 kW power maximum.

(7) *Across-The-Board 9-Times Power Increase—*

116. The licensee of Class I-A station WCCO at Minneapolis proposed that all AM broadcast stations of all classes operating on all channels be authorized to increase power to 9 times the present levels. On this basis, WCCO proposed to increase its own power 9 times to 450 kW. Two additional licensees support this approach.

117. This proposal is beyond the scope of Docket 20642, which encompasses only the Class I-A channels. Apart from the fact that this proposal involves all AM broadcast channels, it would necessitate prior negotiation and agreement with the neighboring countries whose use of AM frequencies is governed by international agreements.

118. Also, this proposal would call for large outlays for transmitting equipment which may be beyond the means of many stations whose service areas would be much reduced if the increased field strength of interfering signals were not offset by corresponding power increases of their own.

119. These, in any event, are not questions which we could appropriately attempt to deal with in this proceeding.

(8) *The Decisive Factor: Service—*

120. The fulcrum on which the arguments for and against higher power balance most decisively is potential service gain. We have therefore sought to weigh carefully the service gains realizeable with higher power against others best attainable if power continued to be restricted to the present 50 kW maximum.

121. In comparing service gains foreseeable with and without higher power, mere head counts of the numbers of persons standing to benefit in some fashion or other cannot be permitted to dictate the choice. When dealing, as we do here, with basic spectrum allocations, some qualitative differences among various kinds of service gains bear much more significantly on the legislated goal of a "fair, efficient and equitable distribution of radio service" than mere comparative enumerations of populations in gain areas.

122. We do not overlook the enthusiasm for distant stations displayed in some testimonials filed on behalf of higher power when we recognize the predominant—in some cases the virtually exclusive—orientation of radio stations to their own and relatively nearby communities. With the shift of most broadcast programming of national interest to television, the predominant fare of aural broadcasting has become a combination of recorded programming and locally oriented live program services. Because of this, the value of adding even primary service out at the periphery of the groundwave service area of Class I-A stations—which is usually up to 100 or more miles from the transmitter—does not weigh comparably, under today's very much changed patterns of broadcast programming and listening, with the patent benefit which a first primary service, (or the fulfillment of some other kinds of needs noted later) can provide to audiences living much closer to a station. We accordingly believe that mere comparative counts of populations in primary gain areas cannot govern our election between higher power and the maximization of the potential for new stations able to serve listeners who live closer by, although they may aggregate smaller numbers.

123. In sum, under today's conditions the preferability of aural broadcast service from a closer source, as compared with far-distant sources, is so marked that it decisively impels us to favor retaining the present 50 kW maximum power in order to maximize the opportunities for providing additional services.

(B) *Shared Use of Class I-A Clear Channels*

(1) *Protected Class I-A Service Areas—*

124. Some parties urge that, whether or not we authorize higher power, we should in any event permit no further duplication of station assignments on the Class I—A clear channels. This is proposed on the essential basis that there should be no curtailment—by interference from added cochannel stations—of the service Class I-A stations can render if further channel sharing is barred at night within the 48 contiguous states. We are asked to maintain such a barrier alike for the 11 channels now occupied exclusively by a single Class I-A station, the 12 on which one additional station now operates, and the remaining two, the use of which the Class I-A station now shares with two other unlimited time stations located in the 48 contiguous states.

125. This position is extreme. Even in 1961, when we still counted persons lacking nighttime primary service as numbering over 25 million, we recognized that it would not be appropriate to continue indefinitely to confine the nighttime use of 25 AM clear channels to a single station operating at 50 kW. That evaluation is strongly reinforced with the recognition, today, that fewer than 4 million persons lack nighttime primary radio service, and by the fact that—making generous allowance for the imprecision of available listener data—there is scant listening on any regular basis to 50 kW stations located more than 750 miles away. The showings that a relatively few more distant residents or travelers do listen to far away Class I-A stations do not justify the preservation of the possibility of such reception at the cost of barring additional stations needed for the far more useful purpose of providing local service to relatively nearby audiences.

126. We are thus unable to see merit in the status quo, which would amount to the perpetuation of a now outmoded barrier to placing any additional stations on Class I-A clear channels.

127. On the other hand, we are urged to end protection to any skywave service provided by Class I-A stations. Some would go even further and permit new stations to place interfering signals even within the present primary (groundwave) service areas of the Class I-A stations. One proponent advocated establishing the 2.5 mV/m groundwave service contour as the protected service contour. Others would have us reduce substantially the maximum power now permitted for Class I-A stations, thus effectively reducing their status and curtailing their capacity to serve their metropolitan areas which, in some instances, are extensive.

128. Proposals such as the last-mentioned one go, we think, to unwarranted extremes, and depart excessively from the previously established nighttime protection standard for duplicated clear channel Class I stations; i.e., protection by co-channel Class II stations to the 0.5 mV/m 50% skywave contour of the Class I station. This standard applies to already duplicated Class I-A channels and conforms with the even longer established degree of protection accorded to Class I-B clear channel stations. It protects from objectionable interference areas where the Class I station provides reasonably usable signals. It permits interference to areas—generally more than 750 miles or so from the station—where intermittence, fading, and weakness of signal preclude generally satisfactory service and permit only random or sporadic reception. Always of questionable value, such servicé cannot on any reasonable basis be viewed today as warranting preservation at the cost of barring the addition of needed stations on the least crowded portion of the AM spectrum.

129. We accordingly propose, as one alternative, to establish the 0.5 mV/m 50% skywave contour of the Class I-A stations as defining the areas which new stations must individually preserve from objectionable interference. Any lesser standard of protection to Class I-A stations would remove some usable signals now available to some places dependent on skywave services.

130. In referring to the location of a protected 0.5 mV/m 50% skywave contour as 750 miles or so from the transmitter, we have for convenience used an approximation from which departures occur in practice. First, the precise location will vary by some tens of miles with differences in antenna systems. Also, numbers of co-channel Class II stations, each individually protecting the 0.5 mV/m 50% skywave contour, may be expected—because of cumulative effects—to create some additional interference within that contour. There is no rational basis, however, on which to expect shrinkage of the service area within that contour to be large enough to upset the balance of basic considerations underlying our present proposals. That balance does not teter precariously on the 0.5 mV/m 50% skywave contour, and it remains unaffected by cumulative interfering effects such as those now experienced, and permitted, in the case of Class II stations on Class I-B clear channels.

131. We also invite comments on and will consider the alternative of ending protection for skywave services areas of some or all of the Class I-A stations, particularly those located east of the Mississippi River, where AM and FM primary service is more plenti-

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ful than in the West. Nighttime protection would, instead, be afforded to the 0.5 mV/m groundwave contour of the Class I-A station. Proponents of this protection standard should submit showing as to the additional numbers of new stations which this step would make possible and comparisons of the needs they could serve with the value of the skywave services so eliminated.

132. Although, as stated in Section IV(B)(4)(b), we propose initially to defer acceptance of applications for new daytime-only Class II stations on the Class I-A channels, we invite comment at this time on the question of whether protection to the Class I-A stations should be changed from their 0.1 mV/m contour to their 0.5 mV/m contour.

133. Having reviewed the sparse comments in this docket on standard radiation patterns, we see no reason not to require their use by new Class II stations on the Class I-A clear channels.

2. *Objectives—*

134. We propose to provide for acceptance of applications for unlimited-time facilities on the 25 Class I-A clear channels which would either serve one of the purposes set out in Rule § 73.37(e)(2), or merit waiver of those threshold requirements because they would help to remedy the dearth of minority-owned stations, or present other sufficiently meritorious grounds for waivers.

135. The application of § 73.37(e)(2) would permit the filing of applications which assure:

(i) That at least 25 percent of the area or population which would receive interference-free primary service at night from the proposed station does not receive such service from an authorized AM broadcast station or service from an authorized FM broadcast station with a signal strength of 1 mV/m, or greater, or,

(ii) That the proposed station would provide the community designated in the application with a first or second authorized nighttime aural transmission service, and no FM channel is available for use in the community, or,

(iii) That at least 20 percent of the area or population of the community designated in the application receives fewer than two aural services at night from authorized stations, and that no FM channel is available for use in the community.

These purposes, well established for AM stations on other channels, are similarly suitable for new unlimited-time stations or nighttime facilities for authorized daytime-only stations on the Class I-A channels; and we propose to permit use of the full range of operating powers which are permissible for Class II stations generally: from 0.25 to 50 kW. Geographic limitations such as for Class II-A stations would not be useful under our present proposals.

(3) *Opportunities for More Minority-Owned Stations—*

136. The Commission, the Executive Branch, and the Courts, noting the marked dearth of minority-owned broadcast stations, have recently expressed increasing recognition of the deficiency this represents in fulfilling the public interest objectives of the nation's broadcast service.[4] It will accordingly be our policy to give attentive consideration to the possible merit of granting waivers of the above-noted rules to minority applicants. We do this in recognition of the large unsatisfied need for minority-owned stations which exists in numbers of large multiple-stations communities where large numbers of minority persons live, and where new stations could not meet the stated threshold requirements of the rules. It may be easier to meet such requirements in the case of stations serving minorities living on Indian reservations, but we would of course consider waiver requests, where needed, for them also.

137. We believe this waiver process is the method most conducive to advancing the goal of enhanced minority ownership and operation of broadcast stations, while avoiding exclusions of non-minority applicants or the preclusion of opportunities, either under the rules or under rule waivers, for new stations on the Class I-A clear channels which would serve other purposes. In according due recognition to the dearth of minority ownership of broadcast stations and the public purposes which could be served by enlarging such participation by minorities in this broadcast service, we establish no quotas or automatic exclusions or inclusions, but leave the way open to consider, on the facts of each case, the public benefits promised by minority applicants, as against the public benefits which may be expected to flow from use of the spectrum by any others, either for purposes recognized in the rules or for any other purpose for which rule waivers may be shown to be meritorious.

(4) *Daytime-Only Stations—T1(a) Extended Hours of Operation:*

138. The Daytime Broadcasters Association and numbers of station licensees urged that Class I-A clear channels be used to accommodate unlimited-time operations (or extended hours) for daytime-only and limited-time stations.

139. To the extent that they could meet proposed requirements set out in Sections IV-B(1), (2) and (3), the licensees of existing daytime-only and limited-time stations would be able to apply for authorization to operate unlimited-time on Class I-A clear channels.

140. Some licensees, who may be unable to meet the foregoing requirements, have urged special considerations such as that extended hours of operation would enable them to provide agricultural programs, in which they specialize, at convenient morning hours to much larger numbers of farm listeners located over a much wider area. The appropriate way to obtain consideration of proposals believed to have special merit, but which doe not comply with general requirements, or the rules, would be to submit duly supported requests for waivers of such requirements. We cannot appropriately act upon such *ad hoc* proposals in this broad, nationwide allocations proceeding.

(b) *New Daytime-Only Stations:*

141. We propose to defer accepting applications for new daytime-only stations on the Class I-A clear channels until we find such deferral no longer necessary to avoid preclusion by daytime-only stations of potential for needed services gains realizable from unlimited-time Class II stations.

5. *Noncommercial Broadcasting—*

142. The Corporation for Public Broadcasting (CPR), in comments supported by National Public Radio (NPR), which were accompanied by much impressively detailed supporting data, analysis and documentation, proposed three methods for making possible the assignment of considerable numbers of additional noncommercial AM radio broadcast stations.

143. Two of those methods—use for AM broadcasting of frequencies below and above the present AM band, and the reduction of AM channel separations from the present 10 kHz to eight or nine kHz—are beyond the scope of this proceeding, and would require international concurrence.

144. We have been unable to evaluate the third proposal—reservation of clear channel spectrum space for noncommercial educational use—as commanding a preference over the other needs we have noted in this Further Notice, only a part of which could in any event be met with the Class I-A spectrum space we are able to make available. In these circumstances, while recognizing the worthwhile nature of the purposes for which CPB and NPR seek a reservation of AM spectrum space for noncommercial use, we must regretfully decline to adopt their proposals to add a substantial reservation of AM spectrum space to the existing provisions for exlusive noncommercial use of 20 FM channels.

[4] *TV 9, Inc.* v. *FCC*, 495 F. 2d 929 (1973), cert. denied 418 U.S. 986. *Garrett* v. *FCC*, 513 F. 2d 1056 (1975).

FCC Statement of Policy on Minority Ownership of Broadcasting Facilities, FCC 78-322, May 25, 1978.

Office of Telecommunications Policy (OTP) Petition for Issuance of Policy Statement, filed with FCC, January 31, 1978.

6. *Other Demands for Clear Channel Spectrum.*—(a) *KOB and 770 kHz:*

145. The licensee of KOB, authorized to operate at Albuquerque, New Mexico as a Class II-A station on Class I-A channel 770 kHz, recurs in this proceeding to a long-standing request for authorization to operate in the manner of a Class I-B station, mutually protecting and receiving directionalized protection from the dominant Class I-A co-channel station, WABC at New York City. WABC, wishing to continue omni-directional operation, objects.

146. Questions about the appropriate mode of KOB operation on 770 kHz have been before us for 37 years, since November, 1941, when its operation was shifted to 770 kHz as necessitated by international agreement on the use of AM channels in North America. No other station assignment among the thousands so far established has approached this one in the length, complexity, and thoroughness of the consideration that has been accorded in adjudicatory and rulemaking proceedings before the Commission, and in repeated judicial reviews. It required five pages of the Report and Order we adopted in 1976 on this matter in Docket 6741, 59 FCC 2d 32-36, even to outline the major developments affecting KOB's use of 770 kHz since 1941. We concluded in that proceeding that KOB should function as a Class II-A station directionalized to protect the 0.5 mV/m 50 percent skywave contour of co-channel Class I-A station WABC at New York City operating omni-directionally. This decision was affirmed by the Court of Appeals of the District of Columbia, *Hubbard Broadcasting, Inc.* v. *FCC*, ——— F. 2d ——— (1978). The United States Supreme Court denied certiorari, ——— U.S. ——— (1978).

147. In comments filed in this proceeding, KOB would have us conduct still further proceedings through which it persists in seeking what we considered and rejected in the above-cited Report and Order (authorization to operate on 770 kHz in the manner of a Class I-B station at Albuquerque, mutually protecting and receiving mutual protection from WABC, which would be obliged to be directionalized in the manner of a Class I-B station). The specific question of whether to provide for the Class I-B mode of operation on 770 kHz has been before us since 1944, when we instituted an adjudicatory proceeding in Docket 6584 to consider it and other possible modes of operation by KOB. In 1958, we concluded in favor of Class I-B type operations by KOB and WABC sharing 770 kHz. The Court of Appeals of the District of Columbia, when it affirmed this decision, *American Broadcasting-Paramount Theatres, Inc.*, 280 F. 2d 631 (1960), noted and characterized as an "inequity" the fact that WABC was being required to directionalize its operation while the other two network "flagship" stations, WCBS on 880 kHz and WNBC on 660 kHz, would be permitted to continue to operate omni-directionally. The court indicated its expectation that the Commission would provide opportunity in appropriate proceedings to deal with this disparity, which the court considered objectionable.

148. In 1961, in our decision in the general Clear Channel rulemaking proceeding in Docket 6741, we rejected, as undesirable, the general pairing of Class I-A stations with another Class I co-channel station, and adopted, instead, reallocation plans in conformance with which WCBS and WNBC were permitted to continue omni-directional operation. Pursuant to the above-noted 1960 mandate of the Court, we proceeded then to consider (in further adjudicatory proceedings in Docket No. 6584) whether, taking into account all the relevant circumstances, the disparity in requiring WABC to directionalize while WCBS and WNBC remained omni-directional was justified. We concluded that it was. 35 FCC 36 (1963).

149. Upon review, the Court of Appeals for the District of Columbia reversed, *American Broadcasting-Paramount Theatres, Inc.* v. *FCC*, 345 F. 2d 954 (1965), and directed the Commission to conduct still further proceedings to remedy what the Court found to be unacceptable distinctions in the treatment of the three New York network-owned AM stations. For that purpose, we reopened the Clear Channel Docket 6741 to consider how KOB could best be authorized to operate on 770 kHz while meeting the Court's requirements with respect to equivalent treatment of the network-owned "flagship" stations. On April 21, 1976, after considering detailed submissions by the licensees of KOB, WABC and other interested stations, we adopted our above-cited Report and Order definitively establishing KOB's status as a Class II-A station obliged to protect WABC operating omni-directionally as the Class I-A station on the channel, at New York City.

150. In the present proceeding, KOB asks that we issue a supplementary notice of proposed rulemaking looking toward permitting applications for a second Class I station operating in a Class I-B mode which would mutually protect and receive protection from the present Class I-A station operating on 13 of the Class I-A clear channels: 660, 670, 720, 770, 780, 880, 890, 1020, 1030, 1100, 1120, 1180, and 1210 kHz. This proposal is similar to, but much more sweeping than the proposal on which we invited comments in our 1958 Further Notice of Proposed Rulemaking in Docket 6741, in which we proposed I-B type pairing of two Class I stations on five of the Class I-A clear channels. After considering responsive comments, we subsequently rejected Class I-B pairing as an undesirable general method of reallocating the use of the Class I-A clear channels for reasons stated in our 1961 Report and Order in Docket 6741, 31 FCC 565, 570.

151. We have again, in the instant proceeding in Docket 20642, considered this general mode of clear channel reallocation under the changed conditions of today. Again, we find it undesirable. The delays and problems in accommodating new directional antennas which in crowded metropolitan areas would meet zoning, environmental, aircraft safety and other requirements, contribute to the undesirability of ordering directionalization of Class I-A stations. That is in any event undesirable because service gains from a second co-channel Class I station could be achieved only at the excessive cost of uprooting patterns of service to metropolitan areas and in some cases, virtually throughout the home state of the present Class I-A station, on which the public has come to rely over a period of decades.

152. The service gains which directionalizing the Class I-A station would make it possible for a co-channel station to provide would occur beyond the outer reach of the interference-free signal a Class II station can provide with the Class I-A continuing undisturbed omni-directional operation. Thus, the gains achieved at the cost of dislocating longstanding service by the Class I-A station would generally fail to achieve today's goal of service from radio stations able to orient their broadcasts to the needs of persons living relatively nearby.

153. A general program of I-B type pairing on Class I-A channels would be subject to the additional disadvantage that it would trade primary service gains in some areas for primary services losses in others. This would be especially objectionable for persons who would thereby lose their only nighttime primary service. The extent of such losses would vary from channel to channel, but they would be objectionable wherever they occur. KOB has presented data in this preceding going to the relative gains and losses which directionalizing the three New York Class I-A stations would provide. In doing so, KOB would have us once again entertain its *ad hoc* proposal which has been litigated and relitigated all the way to the Supreme Court in the most prolonged proceedings in the history of this Commission.

154. Having again considered Class I-B pairing on a general, nationwide

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scale, and still believing it to be undesirable—and clearly less desirable under today's conditions than the alternative nationwide reallocations we propose in this Further Notice—we do not now reopen or re-evaluate the merits of the exceptional, *ad hoc* Class I-B type pairing which KOB again proposes for 660 kHz, 770 kHz and 880 kHz.

155. Nor do we relitigate the question on which the Court of Appeals has spoken twice: whether 770 kHz alone might be I-B paired while the CBS and NBC "flagship" stations are left omni-directional.

(b) *Use of AM Clear Channels in Alaska:*

156. Three licensees of AM stations in Alaska propose revision of the present method of calculating the field strength of the skywave signal which Alaskan stations lay down at night within the lower 48 states. By Section 73.25(a)(4) of the Rules, Class II stations operating in Alaska on the Class I-A channels are forbidden to place a signal within the 48 states greater than 0.025 mV/m-10 percent skywave.

157. Essentially, the Alaskan stations claim that the curves which the rules now oblige Alaskan stations to use neglect the effect of high latitudes of the transmission path between Alaska and the 48 contiguous states, and that due cognizance of those latitude effects would indicate a much lower field strength for their signals within the 48 states. It is accordingly requested that Alaskan stations be permitted to use a different curve that would reduce the indicated interfering potential of their signals within the 48 states enough to enable them to use higher nighttime powers, thereby bringing service to needful areas in Alaska. This is opposed by the licensees of stations in the lower 48 states, who offer counter arguments.

158. Lacking adequate factual basis for doing so, we do not endeavor to resolve this matter in this proceeding. We have, however, taken steps to set up a program for securing field strength measurements needed for the evaluation and resolution of this question. If the data we obtain adequately support revision of the present curves, we would proceed by way of a separate proceeding appropriate for that purpose.

159. It is useful that this matter has been raised, and we regret our inability to deal with it in this proceeding on the basis of the information so far available to us. In pursuing this matter separately we remain mindful of the desirability of expanding the services available in Alaska.

160. We propose, in any event, that Class II stations operating on Class I-A channels in Alaska no longer be required to provide border protection to the 48 contiguous states, but that they be expected to meet the same standards of protection to Class I-A stations and other stations as apply to Class II stations located within the 48 contiguous states.

(c) *Additional Facilities on Adjacent Channels:*

161. We also propose that, upon the adoption of new rules governing the use of the Class I-A clear channels, the limitations, in § 1.569 of the rules, on adjacent channels be rescinded.

(D) Applications Processing

162. Our proposals for opening up spectrum space on the 25 Class I-A clear channels and adjacent channels may be expected to attract the filing of numerous applications, many of which may be mutually exclusive with numbers of others. The Commission is considering means by which the delays and costs of long, complicated comparative hearings may be reduced.

163. For one thing, we are studying possibilities for assisting with the resolution of conflicts without hearings by facilitating negotiations leading toward the voluntary adjustment of station proposals so as to eliminate mutual exclusivities wherever the parties may find it feasible and in their interests to do so.

164. We also believe it worthwhile to inquire into the possibilities for resolving remaining conflicts by other means, such as by using lotteries or auctions—methods which are now under consideration as possible alternatives to time-consuming hearings which are financially exhausting for some applicants, prohibitive for others, and unduly burdensome to the public.

165. Comment is invited on how alternative means, such as the foregoing, of resolving mutual exclusivities without hearings may be feasibly employed.

V. INVITATION TO COMMENT

166. Accordingly, pursuant to authority under Sections 1, 4 (i) and (o), and 303 (a) through (d), (f), (g), (h), and (r) of the Communication Act of 1934, as amended, it is proposed to amend the rules governing the use of the AM Class I—A clear channels and of adjacent AM channels so as to permit their use, and impose associated requirements, substantially as basically proposed in this *Further Notice of Proposed Rule Making*, or in accordance with such variants, modifications or alternatives within the scope of the issues of this proceeding as we may find preferable after considering the entire record.

167. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested parties may file comments on or before April 9, 1979, and reply comments on or before May 9, 1979.

168. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all comments, replies or other documents filed in this proceeding shall be furnished to the Commission. Participants filng the required copies who also desire that each Commissioner receive a copy of the comments may file an additional 6 copies. Members of the general public who wish to participate informally may submit one copy of their comments, specifying the docket number. Responses will be made available for public inspection during regular business hours in the Commission's Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

169. For further information concerning this proceeding contact:

Louis C. Stephens, Staff Attorney (202) 632-6302, or

Gary L. Stanford, Staff Engineer (202) 632-9660.

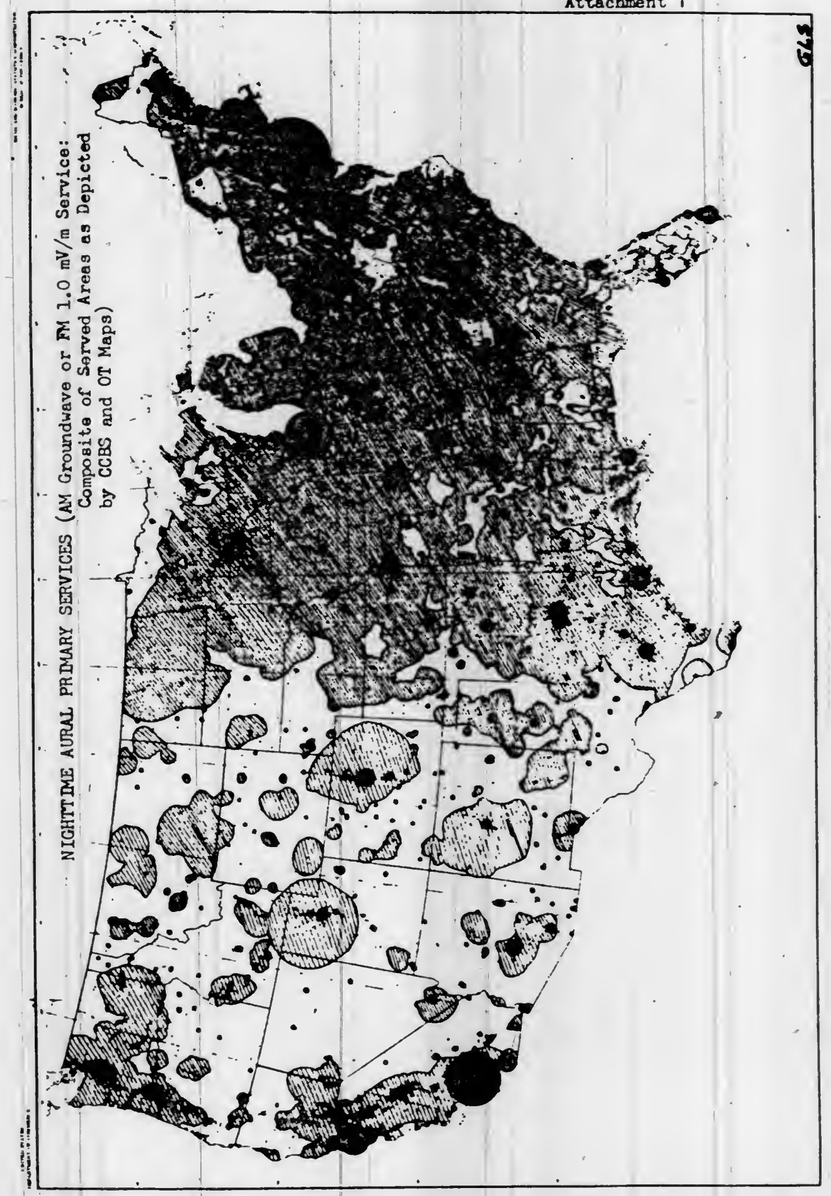
Members of the public should note, however, that from the time a notice of proposed rule making is issued, and until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings such as this one, which involves present and future AM station assignments and channel utilization. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

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* Copies of Attachment 2 to this Further Notice of Proposed Rule Making may be obtained by writing to the Federal Communications Commission, Public Information Office, Room 202, 1919 M Street NW., Wash., D.C. 20554 or may be seen in the FCC Docket Reference Room.

Attachment 1



[6712-01-C]

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[6712-01-M]

[47 CFR Part 97]

[Docket No. 20672; FCC 79-8]

AMATEUR RADIO SERVICE

Modifying Procedures for Renewal and Modification of Licenses

AGENCY: Federal Communications Commission.

ACTION: Termination of Docket 20672.

SUMMARY: The Commission is terminating Docket 20672 that proposed to require amateur licenses to submit their original license document upon application for renewal or modification of that license.

EFFECTIVE DATE: Non-Applicable.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Ms. Stephanie Spernak, Personal Radio Division, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—(PROCEEDING TERMINATED)

Adopted: January 8, 1979.

Released: January 18, 1979.

In the matter of amendment of Part 97 of the Commission's rules modifying procedures for renewal and modification of licenses in the Amateur Radio Service. (Docket 20672): See 40 FR 59453.

By the Commission: 1. On December 16, 1975 the Commission released a Notice of Proposed rulemaking (40 FR 59453) to change slightly the application procedure for renewal and modification of Amateur Radio Service operator and station licenses. Under current procedure, a licensee may submit either the original license, or photocopy, with a renewal or modification application. The Commission found that some amateurs abused this option by altering the original license, photocopying it, and sending the photocopy with the application. Invariably, such alteration was done in order to obtain operating privileges or examination credit for which the licensee did not qualify. The majority of forgeries were by Technician Class operators who had been examined by volunteers and then altered their licenses to resemble those issued to Commission examined Technicians, thereby gaining credit for the examination elements passed.

2. To insure a reliable and fair procedure for license renewal and modification, the Commission proposed to amend rule Sections 97.13 and 97.47 to require a licensee to submit the original license with the FCC Form 610. The Commission proposed to amend rule Section 97.83 to exempt a licensee who is renewing or modifying a license from the requirement that the original license be in his or her possession at all times.

3. The Commission received eight comments on these proposed amendments. Seven comments expressed disapproval of the proposed changes. One commentator "reluctantly" agreed with the Commission's need to require the original license. In general, the comments suggested the Commission change its administrative and processing procedure to detect the few alteration attempts rather than penalize the bulk of the licensees by requiring submission of the original license, a document cherished by most amateurs.

4. After proposing these amendments, the Commission changed the type of license document (FCC Form 660) issued to amateur service operators. These licenses are printed on paper that readily shows any attempt to alter them. Further, in Docket 20282, the Commission granted examination credit to Technician Class licensees who were examined by volunteers. On the basis of these changes and negative public reaction from the amateur community, the Commission believes that the public interest, convenience and necessity is best served by termination of this proceeding. For further information, contact Stephanie Spernak, Personal Radio Division, FCC, 1919 "M" St. NW., Washington, D.C. 20554 (202-634-6619).

5. Accordingly, pursuant to authority contained in Sections 4(i), 303 of the Communications Act of 1934, as amended, IT IS ORDERED that this proceeding is TERMINATED.

WILLIAM J. TRICARICO,
FEDERAL COMMUNICATIONS COMMISSION,
Secretary.

[FR Doc. 79-2219 Filed 1-19-79; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

COWTOWN HORSE AUCTION TURLOCK, CALIFORNIA, ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. *et seq.*), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility No., Name, and Location of Stockyard and Date of Posting:

California

CA—173 Cowtown Horse Auction, Turlock—Dec. 1, 1978.

Georgia

GA-185 Deep South Horse Action (Formerly: South Georgia Horse Auction, Inc., Quitman—Dec. 5, 1978.

Michigan

MI-144 St. Johns Horse Auction, Ashley—Jan. 5, 1979.
MI-143 Fenton Horse Sales, Inc., Fenton—Jan. 3, 1979.

Oklahoma

OK-198 Erin Springs Livestock Auction, Erin Springs—Nov. 25, 1978.

Texas

TX-316 San Saba Cattle Auction, Inc., San Saba—Dec. 1, 1978.

Virginia

VA-152 Farmers Livestock Market, Rose Hill—Nov. 30, 1978.

Done at Washington, D.C. this 15th day of January, 1979.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc. 79-2157 Filed 1-19-79; 8:45 am]

[3410-07-M]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

COOPERATIVE AGREEMENT WITH NATIONAL SOCIETY OF PUBLIC ACCOUNTANTS

Gratuitous Services for Applicants and Borrowers/Grantees

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) gives notice that it has entered into a Cooperative Agreement with the National Society of Public Accountants (NSPA) who will provide gratuitous services, upon request from FmHA applicants and borrowers/grantees in the areas of management assistance, recordkeeping, reporting, and preparation of financial statements.

FOR FURTHER INFORMATION, CONTACT:

Harry Puffenberger, 202-447-3394.

The Cooperative Agreement between FmHA and NSPA reads as follows:

Cooperative Agreement Between the U.S. Department of Agriculture, Farmers Home Administration (FmHA) and the National Society of Public Accountants (NSPA)

PREAMBLE

This joint agreement affirms the mutual desire of the Farmers Home Administration (FmHA) and the National Society of Public Accountants (NSPA) to cooperate in the establishment of their respective policies and procedures, to complement the activities of each other and for the NSPA to provide voluntary, technical and management assistance to FmHA applicants, borrowers and/or grantees.

I. PRIORITY

Both FmHA and NSPA place a high priority on providing sound financial advice and guidance to FmHA applicants, borrowers and/or grantees in areas of management assistance, recordkeeping, and preparation of financial reports and statements.

Realizing that such assistance is available and desirable, it is therefore, appropriate for FmHA and the NSPA to enter into this agreement.

II. GENERAL GUIDELINES

A. The FmHA administers its loan and grant programs through its State and County Offices. The NSPA will administer this program through the use of its local (chapter director) State affiliate president.

B. The FmHA State Directors and the NSPA (chapter directors) State affiliate presidents, or their designees, and appropriate officials at the National level will establish a liaison and periodically coordinate their activities to:

1. Assure that intended recipients receive the services needed and requested.
2. Define areas of mutual cooperation.
3. Provide maximum public benefit from the use of their respective resources.

III. AGREEMENT

A. The NSPA agrees to participate either independently or in conjunction with FmHA in educational programs, management counseling, training meetings, and other assistance in the areas of, but not limited to, recordkeeping, reporting and preparation of financial statements as requested by FmHA.

B. Upon request for assistance by the applicant, borrower/grantee the FmHA State Director will notify the NSPA who will designate an appropriate member at the local (chapter) level to provide the requested service.

C. The FmHA State Director's request will be forwarded directly to the appropriate (chapter director) State affiliate president as designated by the NSPA.

D. Upon completion of any counseling to applicants, borrowers and/or grantees and at monthly intervals during extended counseling cases, the local NSPA member through the (chapter director) State affiliate president will provide the FmHA State Director with a report of assistance rendered.

E. It is understood that such counseling or other assistance shall be performed by the NSPA members free of charge.

F. All information received and developed in the course of counseling by the NSPA member shall be kept in strict confidence. During the period of counseling the members will not:

1. solicit or accept compensation for any services to clients assigned to them;
2. recommend the purchase of goods or services from sources in which NSPA members have an interest or represent;
3. request or accept fees or commission from third parties who have supplied goods or services to a client upon NSPA members' recommendation; and
4. concurrently serve competing clients without full disclosure to all parties.

G. Upon completion of NSPA member services rendered voluntarily in accordance with the provisions of this agreement and the agreement between NSPA and the client, said members shall not be precluded from performing such services for compensation as requested by the client.

H. Since NSPA member's services are given voluntarily and gratuitously, it is understood and agreed that neither the NSPA nor any of its members will assert any claim for compensation for such services against FmHA, it's officials or employees prospec-

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tive or existing, or the business-person counseled pursuant to this agreement. It is further understood and agreed that FmHA cannot assume any liability for any expense including, but not limited to, transportation and subsistence expenses incurred in providing services under this agreement. The NSPA reserves the right to accept or decline assignment and any member may withdraw from assignment and/or as volunteer at any time upon written notice to the FmHA and the client.

This Cooperative Agreement shall take effect upon the date of its execution, may be amended at any time by agreement of both parties, and shall remain in force until it is expressly abrogated by either of the parties.

For the United States Department of Agriculture, Farmers Home Administration.

Dated: September 22, 1978.

GORDON CAVANAUGH,
Administrator.

For the National Society of Public Accountants.

Dated: January 2, 1979.

MINOR S. SHIRK,
President.

[FR Doc. 79-2248 Filed 1-19-79; 8:45 am]

[6310-02-M]

CENTRAL INTELLIGENCE AGENCY

PRIVACY ACT OF 1974

New and Amended Records Systems

AGENCY: Central Intelligence Agency.

ACTION: Proposed New and Amended Record Systems.

SUMMARY: The Central Intelligence Agency proposes to add seven new records systems to the existing records systems subject to the Privacy Act of 1974, 5 U.S.C. 552(a), Pub. L. 93-579. Also proposed is the amendment of two records systems previously promulgated in the FEDERAL REGISTER. The Agency's systems of records were most recently published in the FEDERAL REGISTER at Vol. 42, No. 184, pp. 48050-48074, 22 September 1977.

DATES: All written comments received by the Central Intelligence Agency will be considered before final notice is promulgated in the FEDERAL REGISTER. These must be received by 19 March 1979.

ADDRESS: Interested persons are invited to participate in the formation of these systems by submitting such written data, views, or comments as they may desire to: Chief, Information and Privacy Staff, Central Intelligence Agency, Washington, D.C. 20505

FOR FURTHER INFORMATION CONTACT:

Mr. George W. Owens, Chief, Information and Privacy Staff, Central Intelligence Agency, Washington, D.C. 20505; phone 703-351-7486.

SUPPLEMENTARY INFORMATION: With the adoption of the proposed new systems of records, the Central Intelligence Agency would be permitted, in the case of: CIA—62, Office of Data Processing Security Clearance Records, to maintain current information on the clearance status of contractors, vendors, persons in the private sector and individuals in other government agencies that are associated with the Office of Data Processing; CIA—63, Security Access Records, to monitor accessing of Agency buildings by badged individuals and aid in the effective assignment of security personnel by the Office of Security; CIA—64, Inquiries from Private Individuals About CIA and its Mission, to ensure that inquiries from the general public were properly answered; CIA—65, Contact with the News Media and Index, to prepare a daily memorandum for the Director of Central Intelligence apprising him of the substance of telephone conversations with members of the various news media, which information is maintained on index cards; CIA—66, Manuscript Review, to maintain a record of what information proposed for release to the general public through speeches and published works of present and former Agency employees; CIA—67, Publishing and Speaking Engagement Clearances, to record clearance data for external speaking and publishing activities of present and former employees and permit awareness of what information was released to the public; and, CIA—68, CIA Personnel in Contact with Press, to maintain index cards on present and former employees who have had contact with the media. The amendment of CIA—20, Logistics Security Clearance Records, would permit its more efficient use through computer support. With the designation of CIA—64 through CIA—68 as records systems, certain changes were necessary in the description of CIA—39. Among other changes, the system name has been changed to read, "Publicity."

JOHN F. BLAKE,
Deputy Director for Administration.

CIA—62

System name:

Office of Data Processing Security Clearance Records.

System location:

Central Intelligence Agency, Washington, D.C. 20505.

Categories of individuals covered by the system:

Commercial contractors and vendors, persons in the private sector associated with the Agency, and individuals in other government agencies contacted for liaison purposes.

Categories of records in the system:

Biographic data (name, date and place of birth, Social Security Account Number), company name and security clearances held.

Authority for maintenance of the system:

National Security Act of 1947, as Amended-Pub. L. 80-253.

Central Intelligence Agency Act of 1949, as Amended-Pub. L. 81-110.

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by Staff employees in conducting Agency business with the commercial sector and liaison with other government agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic disc. Paper product is stored in combination lock safes or vaulted areas.

Retrievability:

By individual or company name, and Social Security Account Number.

Safeguards:

Access is limited to staff employees having a need-to-know and a coded password identifier.

Retention and disposal:

Records destroyed by degaussing or pulping upon expiration of clearance. Clearances may be revalidated three years after initial approval.

System manager(s) and address:

Director, Office of Data Processing, Central Intelligence Agency, Washington, D.C. 20505.

Notification procedure:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the FEDERAL REGISTER (32 CFR Sec. 1901.13). Individuals must comply with these rules.

Record access procedures:

Request from individuals should be addressed as indicated in the notification section above.

Contesting record procedures:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contests thereof, and for appealing an initial determination by CIA concerning access to or correction of records, are promulgated in the CIA rules section of the FEDERAL REGISTER.

Record source categories:

Information obtained from individual concerned and certification of clearance from Office of Security.

CIA—63

System name:

Security Access Records.

System location:

Central Intelligence Agency, Washington, D.C. 20505.

Categories of individuals covered by the system:

Agency employees and other badged individuals accessing Agency buildings.

Categories of records in the system:

Badge number, building/entrance, year, Julian day, hour, entry or exit code.

Authority for maintenance of the system:

National Security Act of 1947, as Amended-Pub. L. 80-253.

Central Intelligence Agency Act of 1949, as Amended Pub. L. 81-110.

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For routine administrative, managerial and security purposes in order to: a. Determine the frequency of access to Agency buildings of certain badged individuals to facilitate administration of badge reissuance criteria; b. Provide selected Agency managers with statistical data on building access patterns for resource planning purposes; c. Ascertain whether a give badged individual has accessed a specific Agency building entrance, including the date and time of such access.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper and magnetic media.

Retrievability:

Badge number, Julian date, time (hours/minutes), building/entrance, and entry or exit code.

Safeguards:

Records are maintained in a vault or combination lock safes. Access by Agency employees having a need-to-know and a coded password identifier.

Retention and disposal:

Records on individuals are retained for a maximum of six years after date of access. Records are destroyed by degaussing, pulping or burning.

System manager(s) and address:

Director of Security Central Intelligency Agency, Washington, D.C. 20505.

Notification procedure:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Indentification requirements are specified in the CIA rules published in the FEDERAL REGISTER (32 CFR Sec. 1901.13). Individuals must comply with these rules.

Record access procedures:

Request from individuals should be addressed as indicated in the notification section above.

Contesting record procedures:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents therof, and for appealing an initial determination by CIA concerning access to or correction of records, are promulgated in the CIA rules section of the FEDERAL REGISTER.

Records source categories:

Agency's magnetically encoded badge system, after-hours building log and "Visitor-No-Escort" badge record cards.

CIA—64

System name:

Inquiries from Private Individuals about CIA and its Mission.

System location:

Central Intelligence Agency, Washington, D.C. 20505.

Categories of individuals covered by the system:

Members of the general public who have written to CIA on matters of interest to the Office of Public Affairs.

Categories of records in the system:

Correspondence from the general public and the Agency's letter of response.

Authority for maintenance of the system:

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To ensure responsiveness to legitimate public concerns about the mission and function of CIA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper.

Retrievability:

By name.

Safeguarads:

Files are stored in vaulted room or in combination lock safes; access is on a need-to-know basis.

Retention and disposal:

Destroyed by pulping after two years.

System manager(s) and address:

Office of Public Affairs, Central Intelligence Agency, Washington, D.C. 20505.

Notification procedure:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the FEDERAL REGISTER (32 CFR Sec. 1901.13). Individuals must comply with these rules.

Record access procedures:

Request from individuals should be addressed as indicated in the notification section above.

Contesting record procedures:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or corrections of records, are promulgated in the CIA rules section of the FEDERAL REGISTER.

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Record source categories:

Correspondence from the general public for the Office of Public Affairs.

CIA—65

System name:

Contact with the News Media and Index.

System location:

Central Intelligence Agency, Washington, D.C. 20505.

Categories of individuals covered by the system:

Media representatives.

Categories of records in the system:

Written record of telephonic discussions with members of the press, radio, television or other news media. Includes daily memoranda to Director Central Intelligence—"Contacts with the Press." Cards 5" × 8" contain name and date of telephone call and index the written record of discussion.

Authority for maintenance of the system:

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by Agency officials to record the interests of journalists and to account for Agency information provided to them.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper.

Retrievability:

By name.

Safeguards:

Files stored in a vaulted room or combination lock safes; access upon request on a need-to-know basis.

Retention and disposal:

Permanent.

System manager(s) and address:

Office of Public Affairs, Central Intelligence Agency, Washington, D.C. 20505.

Notification procedure:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the FEDERAL REGISTER (32 CFR Sec. 1901.13). Individuals must comply with these rules.

Record access procedures:

Requests from individuals should be addressed as indicated in the notification section above.

Contesting record procedures:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or corrections of records, are promulgated in the CIA rules section of the FEDERAL REGISTER.

Record source categories:

Telephone inquiries from news media representatives and response.

CIA—66

System name:

Manuscript Review

System location:

Central Intelligence Agency, Washington, D.C. 20505.

Categories of individuals covered by the system:

Present and former employees.

Categories of records in the system:

Manuscripts submitted for review.

Authority for maintenance of the system:

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Review manuscripts of proposed publications or speeches authored or given by present or former employees to prevent unauthorized disclosure of classified information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper

Retrievability:

By name.

Safeguards:

Files are stored in a vaulted room or combination lock safes; access is on a need-to-know basis.

Retention and disposal:

Permanent.

System manager(s) and address:

Office of Public Affairs, Central Intelligence Agency, Washington, D.C. 20505.

Notification procedure:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the FEDERAL REGISTER (32 CFR Sec. 1901.13). Individuals must comply with these rules.

Record access procedures:

Requests from individuals should be addressed as indicated in the notification section above.

Contesting record procedures:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or corrections of records, are promulgated in the CIA rules section of the FEDERAL REGISTER.

Record source categories:

Present and former employees.

CIA—67

System name:

Publishing and Speaking Engagement Clearances

System location:

Central Intelligence Agency, Washington, D.C. 20505.

Categories of individuals covered in the system:

Present and former employees.

Categories of records in the system:

Clearances for speeches and published works proposed for or in the public domain.

Authority for maintenance of the system:

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Used by Agency officials to review and provide clearance for external speaking and publishing activities and to be aware of information released into the public domain.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper.

Retrievability:

By name.

Safeguards:

Files are stored in a vaulted room or combination lock safes; access is on a need-to-know basis.

Retention and disposal:

Destroyed by pulping after three years.

System manager(s) and address:

Office of Public Affairs, Central Intelligence Agency, Washington, D.C. 20505.

Notification procedure:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the FEDERAL REGISTER (32 CFR 1901.13). Individuals must comply with these rules.

Record access procedures:

Request from individuals should be addressed as indicated in the notification section above.

Contesting record procedures:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or corrections of records, are promulgated in the CIA rules section of the FEDERAL REGISTER.

Record source categories:

Current and former CIA employees.

CIA—68

System name:

CIA Personnel in Contact with Press

System location:

Central Intelligence Agency, Washington, D.C. 20505.

Categories of individuals covered by the system:

Present and former CIA employees.

Categories of records in the system:

Card index of CIA employees who have reported a media contact.

Authority for maintenance of the system:

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To maintain a record of employee press contacts.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper.

Retrievability:

By name.

Safeguards:

Files are stored in a vaulted room; access upon request on a need-to-know basis.

Retention and disposal:

Permanent.

System manager(s) and address:

Office of Public Affairs, Central Intelligence Agency, Washington, D.C. 20505.

Notification procedure:

Individuals seeking to learn if this system of records contains information about them should direct inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the FEDERAL REGISTER (32 CFR Sec. 1901.13). Individual must comply with these rules.

Record access procedures:

Request from individuals should be addressed as indicated in the notification section above.

Contesting record procedures:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or corrections of records, are promulgated in the CIA rules section of the FEDERAL REGISTER.

Record source categories:

Present and former employees.

CIA—20

System name:

Logistics Security Clearance Records.

System location:

Central Intelligence Agency, Washington, D.C. 20505.

Categories of individuals covered by the system:

Commercial contractors and vendors, persons in the private sector associated with the Agency, and individuals in other government agencies contacted for liaison purposes.

Categories of records in the system:

Biographic data including name, address, position, *Social Security Account Number*, and security clearance held.

Authority for maintenance of the system:

National Security Act of 1947, as Amended—Pub. L. 80-253.

Central Intelligence Agency Act of 1949, as Amended—Pub. L. 81-110.

Section 506(a), Federal Records Act of 1950 (44 U.S.C., Section 3101).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by staff employees in conducting Agency business with the commercial sector and liaison with other government agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper, *magnetic disk.*

Retrievability:

By individual or company name, *and Social Security Account Number.*

Safeguards:

Paper product is stored in vaulted area or in combination lock sages. Access is on a need-to-know basis and coded password identifier.

Retention and disposal:

Records destroyed *by degaussing or pulping* upon expiration of clearance. Clearances may be revalidated three years after initial approval.

System manager(s) and address:

Director, Office of Logistics, Central Intelligence Agency, Washington, D.C. 20505.

Notification procedure:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the

FEDERAL REGISTER (32 CFR Sec. 1901.13). Individuals must comply with these rules.

Record access procedures:

Request from individuals should be addressed as indicated in the notification section above.

Contesting record procedures:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or correction of records, are promulgated in the CIA rules section of the FEDERAL REGISTER.

Record source categories:

Information obtained from individual concerned and certification of clearance from Office of Security.

CIA—39

System name:

Publicity.

System location:

Central Intelligence Agency, Washington, D.C. 20505.

Categories of individuals covered by the system:

Authors of *articles,* CIA employees, and other individuals mentioned in newspaper articles about CIA.

Categories of records in the system:

Newspaper articles:
By-lined articles mentioning CIA. Articles mentioning CIA. Correspondence *between media personalities and the Office of Public Affairs.*

Authority for maintenance of the system:

Section 506(a); Federal Records Act of 1950 (44 U.S.C., Section 3101).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by Agency officials researching articles on the CIA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper.

Retrievability:

By name.

Safeguards:

Files are stored in a vaulted room; access upon request on a need-to-know basis.

Retention and disposal:

Permanent.

System manager(s) and address:

Office of Public Affairs, Central Intelligence Agency, Washington, D.C. 20505.

Notification procedure:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to:

Information and Privacy Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

Identification requirements are specified in the CIA rules published in the FEDERAL REGISTER (32 CFR Sec. 1901.13). Individuals must comply with these rules.

Record access procedures:

Request from individuals should be addressed as indicated in the notification section above.

Contesting record procedures:

The Central Intelligence Agency's regulations for access to individual records, for disputing the contents thereof, and for appealing an initial determination by CIA concerning access to or corrections of records, are promulgated in the CIA rules section of the FEDERAL REGISTER.

Record source categories:

Newspaper articles and correspondence.

[FR Doc. 79-2076 Filed 1-19-79; 8:45 am]

[3510-24-M]

DEPARTMENT OF COMMERCE

Economic Development Administration

BELL HANDBAGS, INC.

Petition for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from seven firms: (1) Bell Handbags, Inc., 27 West 20th Street, New York, New York 10011, a producer of handbags (accepted January 9, 1979); (2) Tag-A-Long Handbags & Accessories, 650 Coe Avenue, East Haven Connecticut 06512, a producer of handbags (accepted January 9, 1979); (3) Peters Sportswear Company, Inc., 2243 West Allegheny Avenue, Philadelphia, Pennsylvania 19132, a producer of men's and boys' jackets, coats and suits (accepted January 9, 1979); (4) M & G Sportswear, Inc., 73 Martine Street, Fall River, Massachusetts 02723, a producer of boys' suits and jackets (accepted January 11, 1979); (5) Bedford Knitting Mills, 2961 Atlantic Avenue, Brooklyn, New York 11208, a producer of women's and girls' sweaters (accepted January 15, 1979); (6) Honey Bag Company, Inc., 270 Rider Avenue, Bronx, New York 10451, a producer of handbags (accepted January 16, 1979); and (7) H. Hertzberg & Son, Inc., 366 Highland Avenue, Middletown, New York 10940, a producer of brushes, brooms and mops (accepted January 16, 1979).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (P.L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 79-2170 Filed 1-19-79; 8:45 am]

[1505-01-M]

Industry and Trade Administration

UNIVERSITY OF ILLINOIS, URBANA-CHAMPAIGN CAMPUS, ET AL.

Applications for Duty Free Entry of Scientific Articles

Corrections

In FR Doc. 79-1076 appearing at page 2663 in the issue for Friday, January 12, 1979, make the following changes:

(1) On page 2664, first column, last paragraph, the first line should read "ARTICLE: JEM 100S Electron Mi-".

(2) On page 2664, third column, ninth line of the first full paragraph, "2127-0011" should read "2127-001"; and the file line should read:

"[FR Doc. 79-1076 Filed 1-11-79; 8:45 am]".

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Levels

CERTAIN WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS FOR THE SOCIALIST REPUBLIC OF ROMANIA

Correction

JANUARY 18, 1979.

On January 3, 1979, there was published in the FEDERAL REGISTER (44 F.R. 934) a letter dated December 28, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs establishing the import restraint levels for certain wool and man-made fiber textile products, produced or manufactured in the Socialist Republic of Romania, and exported to the United States during the twelve-month period beginning on January 1, 1979. The level of restraint set forth for Category 638/639 should have been 2,862,250 square yards equivalent. The units indicated for Category 433/434 should also read "square yards equivalent."

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-2286 Filed 1-19-79; 8:45 am]

[3910-01-M]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

JANUARY 15, 1979.

The USAF Scientific Advisory Board Research and Geophysics Panel will meet on February 12 and 13, 1979 at Bolling Air Force Base, Washington, D.C. The purpose of the meeting is to review the basic research and plans for the Air Force. The Panel will meet from 9:00 a.m. to 4:30 p.m. each day.

This meeting will be open to the public. For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

[FR Doc. 79-2171 Filed 1-19-79; 8:45 am]

[3810-70-M]

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92-463, as amended by Section 5 of Public Law 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee will be held as follows:

Wednesday, 28 February 1979, Pomponio Plaza, Rosslyn, VA.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on the intelligence data base required for intelligence assessments.

Dated: January 17, 1979.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-2214 Filed 1-19-79; 8:45 am]

[3810-70-M]

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-436, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, March 6, 1979; Tuesday, March 13, 1979; Tuesday, March 20, 1979; and Tuesday, March 27, 1979 at 10:00 a.m. in Room 1D-670, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b. (c)(2)), and the detailed wage data considered by the Committee during it meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b (4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chariman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D—281, The Pentagon, Washington, D.C.

Dated: January 17, 1979.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-2213 Filed 1-19-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

NATIONAL PETROLEUM COUNCIL; REFINERY CAPABILITY TASK GROUP OF THE COMMITTEE ON REFINERY FLEXIBILITY

Meetings

Notice is hereby given that the Refinery Capability Task Group of the National Petroleum Council's Committee on Refinery Flexibility will meet at the National Petroleum Council (NPC) Headquarters, 1625 K Street, NW, Washington, DC, on February 6 and February 23, 1979.

The National Petroleum Council provides technical advice and information to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries. Accordingly, the Committee on Refinery Flexibility has been requested by the Secretary to undertake an analysis of the factors affecting crude oil quality and availability and the ability of the refining industry to process such crudes into marketable products. This analysis will be based on information and data

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to be gathered by the Oil Supply, Demand, and Logistics Task Group and the Refinery Capability Task Group, whose efforts will be coordinated by the Coordinating Subcommittee.

The tentative agendas of both the Task Group sessions are indicated below. Meetings will begin at 9:00 a.m.

Agenda for the February 6, 1979 meeting of the Refinery Capability Task Group:

1. Review and approve summary/minutes of the January 10, 1979 meeting of the Task Group.
2. Review business conducted at the January 15, 1979 meeting of the Coordinating Subcommittee.
3. Discuss progress of the survey of U.S. refineries and the tabulation of output data.
4. Discuss second phase of the Task Group assignment.
5. Discuss other pertinent matters relating to the overall assignment of the Task Group.

Agenda for the February 23, 1979 meeting of the Task Group:

1. Review and approve summary/minutes of the February 6, 1979 meeting of the Task Group.
2. Review and discuss output of the survey of U.S. refineries and the preparation of a report to the Coordinating Subcommittee.
3. Discuss future work plans.
4. Discuss other matters pertinent to the overall assignment of the Task Group.

All meetings are open to the public. The Chairmen of the Task Group are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file written statement with either the Task Group or the Coordinating Subcommittee will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements should inform Mr. Gene Peer, U.S. Department of Energy, (202) 633-9179, prior to the meetings, and reasonable provision will be made for their appearance on the agenda. Summary/minutes of the Task Group meetings will be available for public review at the Freedom of Information Public Reading Room, Room GA-152, Department of Energy, Forrestal Bldg., 1000 Independence Avenue, SW, Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on January 15, 1979.

ALVIN L. ALM,
Assistant Secretary, Policy and Evaluation.

[FR Doc. 79-2246 Filed 1-19-79; 8:45 am]

[6450-01-M]

Federal Energy Regulatory Commission

[Project No. 82]

ALABAMA POWER CO.

Land Withdrawal (Additional, Alabama)

JANUARY 12, 1979.

On February 7, 1977, the Alabama Power Company filed provisional map Exhibit K (FPC No. 82-96), in accordance with Article 41 of the license issued for the Mitchell Project, designated as Project No. 82, which, in part, required the Licensee to "include within the project boundary all islands in the project reservoir that are lands of the United States."

Therefore, in accordance with the provisions of Section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the lands hereinafter described, insofar as title thereto remains in the United States, are from the date of February 7, 1977, reserved from entry, location or other disposal until otherwise directed by this Commission or by Congress:

ST. STEPHENS MERIDIAN, ALABAMA

T. 22 N., R., 16 E.,
Sec. 5, lots 1, 2, 3, 4, 5;
Sec. 8, lot 1.
T. 23 N., R. 16 E.,
Sec. 32, fractional C.

The area of United States lands reserved by this filing is approximately 23.75 acres. Portions of the above-described lands have been previously withdrawn by the filing of an application for license by the Licensee on November 3, 1920.

Copies of the aforementioned map exhibit have been transmitted to the U.S. Geological Survey and the Bureau of Land Management, Department of the Interior.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2099 Filed 1-19-79; 8:45 am]

[6450-01-M]

[Docket No. RP72-89, et al.]

COLUMBIA GAS TRANSMISSION CORP., ET AL.

Order Construing Applications for Rehearing as Motions to Continue Curtailment Proceedings, Referring Such Motions to Presiding Administrative Law Judges, and Modifying Previous Order

JANUARY 12, 1979.

In the matter of Columbia Gas Transmission Corporation (Docket No. RP72-89), El Paso Natural Gas Company (Docket No. RP72-6 (Ignition and Flame Stabilization)), Mississippi River Transmission Company (Docket No. RP73-6), Montana Dakota Utilities Company (Docket No. RP76-91), Texas Eastern Transmission Corporation (Docket No. RP71-130, *et al.*), Cities Service Gas Company (Docket No. RP75-62), El Paso Natural Gas Company (Docket No. RP72-6), Kansas-Nebraska Pipeline Company (Docket No. RP76-90), Lehigh Portland Cement Company (Docket No. RP75-79) v. Florida Gas Transmission Company and Northern Natural Gas Company (Docket No. RP76-52, *et al.*)

Elizabethtown Gas Company (Elizabethtown), the Brooklyn Union Gas Company (BUG), and General Motors Corporation (GM) have applied for rehearing of the Commission's November 17, 1978, "Order Temporarily Suspending Curtailment Proceedings and Directing, the Convening of Conferences."[1] The applications of BUG and Elizabethtown concern the Texas Eastern Transmission Corporation (TETCO) curtailment proceeding, Docket No. RP71-130 *et al.* The GM application concerns the Cities Service Gas Company (Cities) curtailment proceeding, Docket No. RP75-62.

GM alleges that the Commission's order is arbitrary and capricious because it unnecessarily and injustifiably suspends the proceedings in the Cities case. The hearings in that case have been completed, briefs have been filed, and the proceeding is awaiting decision by the Administrative Law Judge. In our November 17th order we concluded that there might be issues in individual cases which were not affected by the Natural Gas Policy Act of 1978 (NGPA). In order to avoid unnecessary delay in the decision of those issues the Commission made provision for the Presiding Administrative Law Judge to determine whether or not the case should go forward on such issues. Essentially, GM is arguing that the Cities case should be permitted to go forward because it is not affected by NGPA. GM's filing of an application for rehearing is inappropriate. The November 17 order specifically provides a mechanism pursuant to which suspended cases may continue. GM's pleading before the Commission is, therefore, premature. As hereinafter provided, it shall be referred to the Presiding Judge for his consideration.

Both Elizabethtown and BUG urge the Commission to go forward with its decision in the TETCO curtailment proceeding. They point out that an initial decision in this proceeding was issued on August 10, 1978, and that briefs have now been filed with the Commission. BUG points out that while the Commission provided a

[1] This order was issued in numerous curtailment dockets with the lead docket being Columbia Gas Transmission Corporation, Docket No. RP72-89.

mechanism to permit cases before Administrative Law Judges to go forward on issues not relating to NGPA, it did not provide a similar mechanism for those cases pending before the Commission. Our November 17th order remanded cases pending before the Commission to the Presiding Administrative Law Judges solely for the purpose of preparing reports on the impact of the NGPA on the individual curtailment proceedings. The timing of those reports was made contingent upon the adoption of a rule under Section 401 of the Natural Gas Policy Act. BUG and Elizabethtown argue that this delay is unwarranted in the TETCO curtailment case due to the nature of the issues still pending.

In response to the applications of BUG and Elizabethtown we will modify the provisions of our previous order and provide a procedure for the continued adjudication of those cases pending before the Commission. Where the parties to those proceedings contend that NGPA will not have an effect on the issues remaining to be decided thay may petition the Presiding administrative Law Judge to prepare a report to that effect based on the parties and the Administrative Law Judge's evaluation of the case. Such report shall state whether or not the case should go forward and whether or not the parties' contentions that NGPA does not affect this case are correct. It may be filed with the Commission at any time.[2]

In order to avoid a duplication of filings in this instance, however, we will treat the applications for rehearing filed in this proceeding by Elizabethtown, Brooklyn Union, and General Motors as applications to have certain proceedings continue notwithstanding our November 17 order. accordingly, they will be referred to the Presiding Administrative Law Judge in each case for any action deemed appropriate in light of our orders.

In our November 17, 1978, order we neglected to formally remand *El Paso Natural Gas Company*, Docket No. RP72-6 (Ignition and Flame Stabilization) from the Commission to the Presiding Administrative Law Judge. This shall be done herein.

The Commission orders:

(A) The petitions for rehearing filed by BUG, Elizabethtown, and GM shall be treated as applications for the continuation of curtailment proceedings.

(B) Such applications are hereby referred to the Presiding Judges in each case for consideration.

(C) The November 17, 1978, order in *Columbia Gas Transmission Corporation, et al.*, Docket Nos. RP72-89, *et al.*, is hereby modified to provide for a mechanism for the continuation of cases pending before the Commission, as hereinbefore discussed.

(D) Ordering paragraph (B) of the November 17, 1978, order in *Columbia Gas Transmission Corporation, et al.*, Docket Nos. RP72-89, *et al.* is hereby modified to include the remand of *El Paso Natural Gas Company*, Docket No. RP72-6 (Ignition and Flame Stabilization), as hereinbefore discussed.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2100 Filed 1-19-79; 8:45 am]

[6450-01-M]

[Docket No. RP79-16]

FLORIDA GAS TRANSMISSION CO.

Pipeline Rates: Suspension; Order Accepting for Filing and Suspending Certain Proposed Tariff Sheets, Subject to Conditions, Rejecting Other Proposed Tariff Sheet, Granting Waiver, and Establishing Procedures

JANUARY 10, 1979.

On December 11, 1978, Florida Gas Transmission Company (Florida Gas) tendered for filing proposed changes in its FERC Gas Tariff, Original Volumes Nos. 1, 2 and 3.[1] The proposed rate changes would be effective January 12, 1979, and reflect an increase in revenues of $18,479,200, or approximately 10.6%, from jurisdictional sales and service under Rate Schedules G, I, T-3 and X-6.

Public notice of Florida Gas' filing was issued on January 5, 1979, providing for protests or petitions to intervene to be filed on or before January 18, 1979.

Florida Gas proposes an overall rate of return of 11.89%, and states that the need for higher rates is attributable to two principal factors: the termination of its original transportation services under Rate Schedules T-1 and T-2, and a general increase in all its operating costs. Florida Gas' proposed rates[2] also include the cost impact of the Louisiana First Use Tax, which becomes effective April 1, 1979, prior to the end of the test period. Further, Florida Gas proposes to change the minimum annual bill provisions contained in Rate Schedule G,[3] to update the payment provision for make-up gas.

In addition, Florida Gas requests waiver of Section 154.63(e)(2)(ii), to permit the inclusion in its proposed rates of costs of gas purchased facilities which have not been certificated. It also seeks waiver of Sections 154.22, 154.51 and 154.64 of the Commission's Regulations to permit the filing of cancellation notices for Rate Schedules T-1 and T-2 more than 60 days prior to the effective date of such cancellations.

Florida Gas requests that, in the event the Commission suspends the proposed rates, such suspension be for a period of four months and twenty days, until June 2, 1979, rather than the statutory five month period. In support of this request, Florida Gas states that, with the termination of Rate Schedules T-1 and T-2 on June 1, 1979 and June 11, 1979, respectively, there would be no protection for the unit cost increase caused by the termination during the period of June 2, 1979 to June 12, 1979. Without the shorter suspension period, Florida Gas estimates it would lose approximately $165,000 in revenues over the ten day transitional period. We believe Florida Gas has shown good cuase for this request.

Based upon a review of Florida Gas' filing, the Commission finds that the proposed rate increase has not been shown to be just and reasonable, and may be unjust, unreasonable, and unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will accept the tariff sheets noted below, suspend their use for four months and twenty days until June 2, 1979, subject to refund and the conditions set forth below, and will set the matter for hearing. This acceptance is conditioned upon Florida Gas' reflecting the effective GRI Funding Unit on the effective date of the increased rates, as well as any resulting reductions in R&D costs, as per FERC Opinion No. 30.

We will reject proposed Twenty-first Revised Sheet No. 3-A to Florida Gas' FERC Gas Tariff, Original Volume No. 1. This proposed tariff sheet includes costs associated with the Louisiana First Use Tax. Order No. 10-A, issued December 20, 1978, prohibits the inclusion of the cost impact of this tax in Section 4 rate cases until the

[2] In this regard, the Presiding Judge is free to determine the appropriate procedure to be followed in each instance. For example, it may not be necessary to convene an all parties conference to consider the arguments of one or more of the parties that a case before the Commission should go forward. Similarly, the Presiding Judge may determine whether an opportunity to file responsive pleadings is necessary or appropriate in the circumstances.

[1] Proposed revisions to FERC Gas Tariff, Original Volume No. 1 are as follows: Twenty-first Revised Sheet No. 3-A, Alternate Twenty-first Revised Sheet No. 3-A, Fourth Revised Sheet No. 5, and First Revised Sheet No. 17. Proposed revisions to FERC Gas Tariff, Original Volume No. 2 are contained in: Twelfth Revised Sheet No. 128, First Revised Sheet No. 2 and First Revised No. 43. Finally, revisions to Original Volume No. 3 are set forth in proposed First Revised Sheet No. 126.

[2] Twenty-first Revised Sheet No. 3-A to FERC Gas Tariff, Original Volume No. 1.

[3] Fourth Revised Sheet No. 5 to FERC Gas Tariff, Original Volume No. 1.

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tax is determined to be valid and constitutional by a valid and non-appealable court order. Accordingly, we will reject this tariff sheet and accept for filing the proposed alternate tariff sheet which eliminates these costs, Alternate Twenty-first Revised Sheet No. 3-A. This rejection is without prejudice to Florida Gas' right to file tariff sheets in accordance with the provisions of Order No. 10-A.

Florida Gas' filing includes costs associated with facilities which are uncertificated and not in service, and accordingly, seeks waiver of § 154.63(e)(2)(ii) of the Commission's Regulations. The Commission will grant such waiver, on condition that on or before June 2, 1979, Florida Gas file revised tariff sheets to reflect the elimination of costs associated with facilities not in service on or before that date and upon the further condition that Florida Gas shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing, except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those adjustments required by other Commission orders.

The Commission will also grant the requested waiver of §§ 154.22, 154.51, and 154.64 of the Commission's Regulations, to permit the filing of notices of cancellation [4] of Rate Schedules T-1 and T-2 more than 60 days prior to cancellation. Florida Gas currently renders transportation services to Florida Power Corporation and Florida Power & Light Company under these rate schedules. These rate schedules will terminate by their own terms on June 1, 1979 and June 11, 1979, respectively. This waiver does not, of course, relieve Florida Gas of its obligation to file an application for abandonment under Section 7(b) of the Natural Gas Act, and acceptance for filing of the notices of cancellation is subject to Florida Gas' filing an application for abandonment.

Florida Gas' filing contains certain miscellaneous tariff changes. The first [5] is a proposal to change the minimum billing provision in Rate Schedule G to update the payment provision for makeup gas. The proposal would change the provision to require payment for makeup gas at the price difference during the time the make-up right was incurred and the time the gas is delivered. The second proposed change in tariff [6] would change the billing and payment provision of the General Terms and Conditions to require payment by the twentieth rather than the fifteenth, and would increase the interest rate on overdue payments from six per cent to twelve per cent. We will accept these tariff sheets for filing, and suspend their use for a period of four months and twenty days, until June 2, 1979, after which time they will be in operation subject to refund.

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Florida Gas.

(B) Pending hearing and decision, and subject to the conditions enumerated in the body of this order and Ordering Paragraph (C), below, Florida Gas' Alternate Twenty-first Revised Sheet No. 3-A to FERC Gas Tariff, Original Volume No. 1, Twelfth Revised Sheet No. 128 to FERC Gas Tariff, Original Volume No. 2, First Revised Sheet No. 126 to FERC Gas Tariff, Original Volume No. 3, Fourth Revised Sheet No. 5 to FERC Gas Tariff, Original Volume No. 1, and First Revised Sheet No. 17 to FERC Gas Tariff, Original Volume No. 1 are accepted for filing and suspended for four months and twenty days, until June 2, 1979, when they may become effective subject to refund, in the manner prescribed by the Natural Gas Act.

(C) Acceptance for filing of the tariff sheets enumerated in Ordering Paragraph (B) is conditioned upon Florida Gas' reflecting the effective GRI Funding Unit on the effective date of the increased rates and any resulting reduction in costs, as per Opinion No. 30.

(D) Waiver of § 154.63(2)(ii) is granted upon condition that Florida Gas file substitute revised tariff sheets reflecting the elimination of costs associated with facilities not in service on or before June 2, 1979, and upon the further condition that Florida Gas shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing, except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those adjustments required by other Commission orders.

(E) Twenty-first Revised Sheet No. 3-A to FERC Gas Tariff, Original Volume No. 1, which includes the cost impact of the Louisiana First Use Tax, is rejected without prejudice to Florida Gas' right to file tariff sheets in accordance with the provisions of Order No. 10-A.

(F) Waiver of §§ 154.22, 154.51 and 154.64 is granted, and the notices of cancellation of Rate Schedules T-1 and T-2 contained in First Revised Sheet No. 2 to FERC Gas Tariff, Original Volume No. 2 and First Revised Sheet No. 43 to Original Volume No. 2 are accepted for filing, conditioned upon Florida Gas' filing an appropriate application for abandonment pursuant to Section 7(b) of the Natural Gas Act.

(G) The Commission Staff shall prepare and serve top sheets on all parties on or before May 13, 1979.

(H) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 79-2101 Filed 1-19-79; 8:45 am]

[4] First Revised Sheet No. 2 to FERC Gas Tariff, Original Volume No. 2; First Revised Sheet No. 43 to FERC Gas Tariff, Original Volume No. 2.

[5] Fourth Revised Sheet No. 5 to FERC Gas Tariff, Original Volume No. 1.

[6] First Revised Sheet No. 17 to FERC Gas Tariff, Original Volume No. 1. 110*The Commission orders:*

[6450-01-M]

[Docket Nos. ER78-166, ER79-22, EL78-40, and EL78-42]

GEORGIA POWER CO.

Filing of Proposed Settlement Agreements

JANUARY 12, 1979.

Take notice that on January 5, 1979, the Georgia Power Company filed a proposed Settlement Agreement concerning settlement of the issues raised in its proposed Partial Requirements—3 wholesale rate increase in Docket No. ER78-166; the respective complaints filed in Docket Nos. EL78-40 and EL78-42; as well as the Company's amendment to its filing in Docket No. ER79-22. The Company also filed on the same date an Offer Of Settlement concerning the proposed wholesale rate increase for its Full Requirements—1 rate in Docket No. ER78-166. These proposed settlements were filed with the Presiding Administrative Law Judge.

On January 9, 1979, the Presiding Administrative Law Judge certified these instruments to the Commission for its consideration and determination.

The proposed Settlement Agreement for the PR-3 rate would revise downward the tariff originally filed in this proceeding by changing therein the "Schedule of Monthly Charges for Capacity" to the following:

Type of Service and Monthly Charge

Unreserved base capacity, $4.93 per kW.
Unreserved intermediate capacity, 2.79 per kW.
Unreserved peaking capacity, 2.70 per kW.
Reserve capacity, 3.37 per kW.

A 13.50% alllowance was utilized for the return on common equity in the Settlement proposal. The Settlement Ageement would also revise the Determination of the Unit Energy Charges as well as the Determination of the Monthly Energy Charges.

The Offer Of Settlement by the Company concerning the FR-1 rate would lower that proposed rate increase. Specifically, the Offer would charge the City of Hampton an annual demand charge of $170,705 and an annual energy charge of $117,130 totaling $287,835. The City of Acworth would be charged an annual demand charge of $369,074 and an annual energy charge of $350,961 totaling $720,035. The total increased revenues would be $1,007,870 compared to the filed rate increase revenues of approximately $1,065,000.

Any person wishing to do so may submit comments in writing concerning the proposed Settlement Agreement and the Offer Of Settlement to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 on or before January 26, 1979. The proposed settlements are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2102 Filed 1-19-79; 8:45 am]

[6450-0-M]

[Docket No. ER79-58]

METROPOLITAN EDISON CO.

Order Accepting For Filing and Suspending Proposed Rate Increase, Denying Motion, Granting Intervention, Providing for Hearing, and Establishing Price Squeeze Procedures

JANUARY 12, 1979.

On November 13, 1978, Metropolitan Edision Company (Met Ed) tendered for filing a proposed rate increase for five full requirements and one partial requirements customer.[1] The proposed rate would result in increased revenues of approximately $3,637,944 (39.59%) for the full requirements customers and $1,134,552 (37.0%) for the partial requirements customer. This total $4,772,496 increase (38.9%) is based on the twelve month test period ending December 31, 1979. Met Ed requests an effective date of January 12, 1979, 60 days after filing.

Notice of the instant filing was issued on November 24, 1978, with protests or petitions to intervene due on or before December 18, 1978. Four such petitions have been submitted.

Allegheny Electric Cooperative, Inc. (Allegheny) and the Borough of Goldsboro (Goldsboro) protest the proposed rate as excessive.[2] In addition, their petition sets forth a number of specific objections to Met Ed's cost of service and cost allocations, including the use of the superseded 48% federal income tax rate and the inclusion of a tax adjustment clause in the proposed rate schedule for Allegheny, which the petition states should be rejected.

The petition requests that the Commission suspend the proposed rates for the full five month statutory period, set the matter for hearing and grant the parties intervention in the proceeding.

The Borough of Kutztown (Kutztown) filed a protest and petition to intervene,[3] claiming that the proposed return on common equity is excessive and that the cost of service is substantially overstated. Furthermore, the petition alleges that the proposed increase will create an illegal price squeeze. Kutztown also asserts that the proposed increase exceeds the President's recently announced wage/price guidelines. The petition urges the Commission to suspend Met Ed's proposed rate schedules for five months and grant Kutztown leave to intervene in the proceeding.

On December 19, 1978, Hershey Electric Company (Hershey Electric) filed an untimely petition to intervene. The petition states that Hershey Electric is a customer of Met Ed whose interests would not be adequately represented by any other party. Hershey Electric also petitions the Commission to exercise its discretion to suspend the proposed rates for five months.

On December 18, 1978, Hershey Foods Corporation (Hershey) filed a protest and petition to intervene. In support of its petition, Hershey asserts that it is a retail customer of Hershey Electric and that any increase in the rates Met Ed charges Hershey Electric will be passed through to Hershey.

Our review indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. In light of this review and our determination that the allegations presented in the submitted petitions present questions of law and fact more appropriately considered at hearing, the Commission shall accept the submittal for filing and suspend the rates for five months, to become effective June 13, 1979, subject to refund.

With respect to the tax adjustment clause included in the proposed rate schedule for Allegheny, we note that any adjustment the Company may wish to make in its rate schedule to implement this clause shall be treated as a proposed rate change under Section 35.13 of our Rules; it must be tendered for filing with appropriate cost support and is subject to Commission approval. However, the request for rejection of this clause shall be denied.

We also note the Company's use of a 48% federal income tax rate rather than the current 46% rate. The 46% figure is the appropriate one and Met Ed shall be required to file within 60 days revised rates and accompanying cost support incorporating the 46% tax rate. Although we are mindful that this refiling will place some burden on the Company, this burden is outweighed by the fact that the cost of refiling is far less than that amount of excess revenue which would be generated through the use of the 48% tax rate.

Pursuant to the policy set forth in Order No. 563, and in Section 2.17 of our Regulations, we find it is appropriate that price squeeze procedures be initiated in this case.

The Commission finds that participation in this proceeding by Allegheny, Goldsboro, Kutztown, Hershey Electric and Hershey may be in the public interest.[4]

The Commission orders:

(A) The rates proposed by Metropolitan Edison Company are hereby accepted for filing and suspended for five months, to become effective as of June 13, 1979, subject to refund.

(B) Pursuant to Section 2.17 of the Commission's Regulations, we hereby order initiation of price squeeze procedures.

(C) The petitioners, Allegheny Electric Cooperative, Inc., the Borough of Goldsboro, the Borough of Kutztown, Hershey Electric Company and Hershey Foods Corporation, are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, However,* that participation by such intervenors shall be limited to the matters set forth in their petitions to

[1] See Attachment A.

[2] In support of their petition, filed December 18, 1978, the parties state that they are customers of Met Ed whose interests will be directly affected by Commission action and are not adequately represented by any other parties.

[3] Filed December 18, 1978. Kutztown states that, as a customer of Met Ed, it has a substantial interest in Commission action in this Docket.

[4] Despite Hershey Electric's untimely filing, the Commission finds that, since participation by Hershey Electric may be in the public interest, it is appropriate to grant it leave to intervene.

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intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(D) The motion to reject the proposed tax adjustment clause is herby denied.

(E) Metropolitan Edison is hereby ordered to refile within 60 days of the issuance of this order new rates and cost support incorporating the 46% federal income tax rate.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by the Metropolitan Edison Company.

(G) The Staff shall serve top sheets in this proceeding on or before June 17, 1979.

(H) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge shall convene a conference in this proceeding to be held within ten (10) days of the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D. C. 20426. The designated Law Judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure. The Presiding Administrative Law Judge shall convene a prehearing conference with fifteen (15) days of the issuance of this order for the purpose of hearing intervenors' requests for data required to present their case, including *prime facie* showing, on price squeeze issues.

(I) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A.—METROPOLITAN EDISON COMPANY TARIFF AND RATE SCHEDULE DESIGNATIONS

Designation and Description

Met Ed Electric Tariff; Original Volume No. 1.

Fourth Revised Sheet No. 13 (Supersedes Third Revised Sheet No. 13) Third Revised Sheet No. 14 (Supersedes Second Revised Sheet No. 14); Rate RP.

Fourth Revised Sheet No. 15 (Supersedes Third Revised Sheet No. 15) Fourth Revised Sheet No. 16 (Supersedes Third Revised Sheet No. 16); Rate RT.

Fifth Revised Sheet No. 17 (Supersedes Fourth Revised Sheet No. 17); Fuel Clause.

Supplements for Service to Allegheny Electric Cooperative:

Supplement No. 16 to Rate Schedule FPC No. 43; Supplemental Power and Energy.

Supplement No. 17 to Rate Schedule FPC No. 43; Fuel Clause.

Supplement No. 18 to Rate Schedule FPC No. 43; Wheeling of Authority Power.

Full Requirements and Partial Requirements

Boroughs of Goldsboro, Lewisberry, Royalton, and Kutztown and the Hershey Electric Company; Allegheny Electric Cooperative, Inc.

[FR Doc. 79-2103 Filed 1-19-79; 8:45 am]

[6450-01-M]

[Docket Nos. CP78-237 and CP66-110]

NORTHERN NATURAL GAS CO. AND GREAT LAKES GAS TRANSMISSION CO.

Order Consolidating Applications, Granting Certain Interventions, Denying Certain Late Interventions, and Providing for Formal Hearing Upon Approval of Import Authorization by the Economic Regulatory Administration

JANUARY 12, 1979.

On March 17, 1978, as supplemented on November 16, 1978, Northern Natural Gas Company (Northern) filed in Docket No. CP78-237 an application pursuant to Sections 3 and 7 of the Natural Gas Act for authorization to import synthetic natural gas (SNG) from Canada by displacement and for a certificate of public convenience and necessity authorizing Northern to receive and transport the imported volumes through its transmission system and for an order approving certain rate treatment. In conjunction with Northern's application, Great Lakes Gas Transmission Company (Great Lakes) on April 20, 1978, filed a petition to amend its authorizations in Docket Nos. CP66-110, *et al.*, to permit deliveries by means of displacement of the gas which Northern is proposing to import in Docket No. CP78-237. Northern's and Great Lakes' proposals are more fully set forth in their respective applications, as supplemented.

Northern and Great Lakes have also filed applications with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for import authorizations pursuant to Section 3 of the Natural Gas Act. These applications were consolidated by ERA by order of June 29, 1978, in ERA Docket No. 78-002 NG, *et al.* The Administrator of ERA has been authorized to determine whether the proposed import will not be inconsistent with the public interest by Sections 301 and 402(f) of the Department of Energy Organization Act, Pub. L. 95-91, and DOE Delegation Order Nos. 0204-4 (42 FR 60726, November 29, 1977) and 0204-25 (43 FR 47772). Pursuant to Sections 3, 4, and 7 of the Natural Gas Act, Subsections 402(e) and (f) and Section 642 of the DOE Act, and DOE Delegation Order No. 0204-26 (October 17, 1978, 43 FR 47772), the Commission has jurisdiction over certain aspects of Northern's and Great Lakes' applications. As of the date of this order, neither ERA nor the Commission has rendered a decision on the subject applications.

Northern seeks authorization to import from Canada and to receive and transport in its system up to 75,000 Mcf of gas per day for five winter seasons (November 1 through March 31) with annual volumes not to exceed 10 Bcf. Deliveries would commence after receipt of all necessary regulatory approvals. Northern proposes to purchase this gas from Union Gas Limited (Union) of Chatham, Ontario, pursuant to a contract dated December 21, 1977. The gas Northern would purchase from Union would be the equivalent on an aggregate Btu basis of synthetic natural gas (SNG) which Union has contracted for and would receive from Petrosar Limited (Petrosar) at Corunna, Ontario, pursuant to a contract between Union and Petrosar dated November 20, 1974. The SNG is produced in a plant located near Sarnia, Ontario, using western Canadian crude oil as feedstock. The plant's capacity is 33,000 Mcf per day.

It is proposed that from April 1 through November 1 of each contract year, Union would store for Northern's account the total output of the Petrosar plant. During the winter period, Northern would nominate deliveries from Union of up to 75,000 Mcf per day, which would come from Petrosar's daily output and from SNG placed in storage. Northern would use these supplies to meet peak day requirements.

Union's gas would be delivered to Northern through arrangements with TransCanada PipeLines Limited (TransCanada) and Great Lakes. Great Lakes has an existing arrangement with TransCanada whereby TransCanada delivers gas to Great Lakes at the Minnesota-Manitoba border near Emerson, Manitoba, and Great Lakes transports the gas and redelivers it to TransCanada at the Michigan-Ontario border near St. Clair, Michigan. TransCanada transports and sells a portion of these redelivered volumes to Union at Dawn, Ontario. Great Lakes also transports gas for the account of Northern from the Emerson import point to interconnecting points with Northern at Carlton and Grand Rapids, Minnesota and Wakefield, Michigan. On days when Northern requests gas from Union, Great Lakes would reduce its deliveries to Union by an equivalent volume. Union would reduce the volumes of SNG held in storage for Northern's account, and would use this gas to serve its own market. Great Lakes would then deliver the additional volumes received from TransCanada (attributable to the SNG volumes) and deliver this gas to Northern at the three interconnection points with Northern, with Carlton as the primary delivery point.

Great Lakes has entered into an agreement with TransCanada whereby gas delivered to Northern under the Northern-Union agreement would for billing purposes be included as gas delivered by Great Lakes to TransCanada at St. Clair, Michigan under the transportation contract between Great Lakes and TransCanada dated September 12, 1967. Northern would not be charged by Great Lakes for the transportation service provided.

Pursuant to the contract between Northern and Union, Northern would pay Union a contract price which is based on a formula which does not have a cost of service derivation. The price for the SNG is related to the value of the various petrochemical products created by Petrosar at its plant and the plant's feedstock costs which, in turn, are related to the price of crude oil in Alberta. Northern would also pay a monthly demand charge and a commodity charge for the storage service.

Northern says that the total average incremental cost per Mcf of the subject gas (including storage) would be $3.86 in 1978-79, and would increase to $5.33 in 1982-83. On a rolled-in basis, the effect on Northern's annual system cost per Mcf of sales would be 4.26 cents in 1978-79, and would increase to 8.47 cents in 1982-83.

Northern contends that it needs the SNG to serve high-priority customers on its system. Northern asserts that without the SNG, it will need to curtail into priority categories 1, 2B, 2C, and 3 of its curtailment plan.[1]

Northern requests that it be permitted to recover the cost of the purchase of SNG on a rolled-in basis. In addition, Northern's proposed tariff provides that the costs of SNG may be included in its annual Purchased Gas Adjustment (PGA) filings. In its March 17, 1978, application, Northern also sought authority to include a surcharge in its 1978 PGA rate filing to be effective only during the year 1979 to recover the estimated cost of SNG to be incurred during November and December 1978. Northern asserted that the surcharge is required in order to avoid deferring until 1980 collection of an estimated $12.8 million in purchased gas costs.

In August 1978, the National Energy Board of Canada issued an export license to Union

Northern's application and Great Lakes' petition to amend are companion filings for one project. We find that the expeditious management of these applications would be best served by consolidating them, and we so order.

In Docket No. CP78-237, timely notices of intervention or petitions to intervene were filed by the following:

(1) Iowa Public Service Company
(2) Iowa Electric Light and Power Company
(3) Northwestern Public Service Company
(4) Northern Illinois Gas Company
(5) Terra Chemicals International, Inc.
(6) Northern Municipal Defense Group and Minnesota Municipal Utilities Association
(7) Iowa Power and Light Company
(8) Union Gas Limited
(9) Wisconsin Power and Light Company
(10) Wisconsin Gas Company
(11) Metropolitan Utilities District of Omaha
(12) Iowa-Illinois Gas and Electric Company
(13) Greeley Gas Company
(14) Nebraska Natural Gas Company

Untimely notices of intervention or petitions to intervene were filed by the following:

(1) Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
(2) TransCanada PipeLines Limited
(3) Michigan Public Service Commission
(4) Minnesota Gas Company
(5) Public Service Commission of Wisconsin
(6) Kansas-Nebraska Natural Gas Company, Inc.
(7) Northern Central Public Service Company, Division of Donovan Companies, Inc.
(8) North Central Public Service Corporation
(9) Iowa Southern Utilities Company
(10) Columbia LNG Corporation

In Docket Nos. CP66-110, *et al.*, Union, TransCanada, and Wisconsin Gas Company filed timely petitions for leave to intervene.

Those interveners who filed timely petitions are granted leave to intervene. Of those interveners who filed petitions to intervene out-of-time, only Columbia LNG Corporation and TransCanada stated any justification for their late filings. Columbia LNG Corporation's and TransCanada's petitions to intervene, therefore, shall be granted; the others shall be denied. See *Trunkline Gas Co., et al.*, Docket No. CP78-386, order issued November 15, 1978. The notices of intervention of the Michigan Public Service Commission and the Public Service Commission of Wisconsin are also granted.

In Docket No. CP78-237, the Metropolitan Utilities District of Omaha (Omaha) filed a timely request for a formal hearing. On the basis of Northern's and Great Lakes' applications, Northern's responses to Staff deficiency letters, and Omaha's request for a formal hearing, we believe that the subject application should be set for formal hearing on the following general issues:

(1) Do Northern's winter market requirements necessitate the purchase of this SNG?
(2) Are there less expensive sources of supply available to Northern to meet Northern's winter requirements?
(3) Should Northern receive PGA rate treatment for the cost of the SNG?

These issues are one which the Commission normally addresses in determining whether to grant a certificate of public convenience and necessity under Section 7 of the Natural Gas Act. DOE Delegation Order No. 0204-26 specifies that all functions under Sections 4, 5, and 7 of the Natural Gas Act are to be exercised by the FERC, as well as certain other functions within the purview of Section 3 of the Natural Gas Act. Delegation Order No. 0204-25 delegates to the Administrator of the ERA the authority to determine whether the importation is not inconsistent with the public interest under Section 3 of the Natural Gas Act on the basis of the following considerations:

(1) The security of supply and effect on U.S. balance of payments;
(2) The price proposed to be charged at the point of importation;
(3) Consistency with duly promulgated and published regulations or statements of policy of the Department of Energy specifically applicable to imports of natural gas;
(4) National need for the natural gas to be imported;
(5) Such other matters within the scope of Section 3 of the Natural Gas Act as the Administrator shall find in the circumstances of a particular case to be appropriate for his determination, including;
(A) Regional needs for the natural gas to be imported;
(B) The eligibility of purchasers and participants and their respective shares.

In general, the delegation orders provide that ERA is to determine whether the proposed import is consistent with the national interest and the national and regional need for gas. The Commission is to determine

[1] Northern's curtailment plan consists of the following priority categories:
Priority 1: Residential, small commercial and industrial requirements.
Priority 2: (a) Customer storage injection requirements; (b) Firm industrial requirements for plant protection, feedstock and process needs; and (c) Commercial and industrial requirements 300 to 499 per day or less than 50,000 Mcf annually.
Priority 3: All commercial requirements 500 Mcf to 1499 Mcf per day and all industrial not specified in Priorities 1 through 10.
Priorities 4-11: Industrial requirements with alternate fuel capabilities.

whether the proposal serves the public convenience and necessity of the pipeline applicants, their customers, and the ultimate consumers of the proposed gas supply.

The delegation orders appear to contemplate that ERA would act on an import application prior to the commencement of any formal proceedings before the Commission. However, no specific procedures have been developed between the ERA staff and the FERC staff to process expeditiously matters within the scope of the delegation orders. In the matter before us, the Applicant filed simultaneously applications before ERA and the Commission almost nine months ago. As of the date of this order, neither ERA nor this Commission has taken formal action on the subject applications. The applications before us involve matters which, we now believe, will have to be set for formal hearing at this Commission if ERA approves the related applications presently before it. In order to put the parties to this proceeding, including the Commission staff, on notice that a formal hearing will, in all likelihood, be required on the subject applications if ERA approves the related import authorizations, the Commission hereby announces that it intends to issue an order specifying the issues to be set for hearing and the procedures to be followed, following any ERA approval in this matter. The Commission believes that this order will assist the parties in preparing for future Commission proceedings in the subject dockets and will expedite consideration of these matters by the Commission.

At this time, however, we can not set forth in a definitive fashion all the issues which may be the subject of a formal hearing. That can not be done until the Adminstrator of ERA issues his order, with any terms and conditions which he may attach. Under Delegation Order No. 0204-26, the Commission has the authority to issue orders granting import and certificate authorizations in a manner necessary or appropriate to implement the determinations made by the Administrator of ERA pursuant to Delegation Order No. 0204-25. The Commission may grant its import authorization only if it adopts the terms and conditions attached by the Administrator in his order granting import authorization. The Commission, however, may deny any application if the Commission determines that the application, as conditioned by the Administrator, is inconsistent with Sections 4, 5, or 7 of the Natural Gas Act or those portions of Section 3 which have delegated to the Commission by Delegation Order No. 0204-26.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that notice be given of the Commission's present intent to hold a public hearing on the matters involved and the issues presented as hereinbefore described and limited, as well as any other matters and issues which the Commission determines shall be the subject of public hearing in any future order following any approval by the Economic Regulatory Administration of the related application of Northern and Great Lakes presently before it.

(2) Participation in these proceedings by the listed timely intervenors may be in the public interest and permitting the filing of TransCanada's and Columbia LNG Corporation's late petitions to intervene and accepting the late-filed notices of intervention will not delay the proceedings and may be in the public interest.

(3) The public convenience and necessity as well as the expeditious management of these proceedings require the consolidation of Northern's application and Great Lakes' petition to amend.

The Commission orders:

(A) The application filed in Docket No. CP78-237 by Northern and the petition to amend filed by Great Lakes in Docket Nos. CP66-110, *et al.*, are hereby consolidated and shall be set for public hearing if ERA approves the related import applications in ERA Docket No. 78-002 NG, *et al.*, and if the Commission at that time believes a hearing is required.

(B) TransCanada, Columbia LNG Corporation, and those persons filing notices of intervention or timely petitions to intervene are permitted to intervene subject to the rules and regulations of the Commission: *Provided, however,* that participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided, further,* that the admission of such interveners shall not be considered as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

(C) Those persons filing untimely petitions to intervene who offered no justification for their late filing are hereby denied leave to intervene.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2104 Filed 1-19-79; 8:45 am]

[6450-01-M]

[Project No. 108]

NORTHERN STATES POWER CO.

Application for Change in Land Rights

JANUARY 9, 1979.

Public notice is hereby given that on October 27, 1978, an application for approval of a change in land rights was filed by the Northern States Power Company for the Chippewa Reservoir Project No. 108. The project is located on the Chippewa River in Sawyer County, Wisconsin. Correspondence regarding the application should be sent to: Mr. John L. Carrol, President, Northern States Power Company, 100 North Barstow Street, Eau Claire, Wisconsin 54701.

The Applicant, Licensee for Project No. 108, requests Commission approval to authorize the issuance of an easement to the Sawyer County Highway Commission which would permit the improvement of an existing road identified as "Sawyer County Trunk Highway B." Highway B runs along the northern periphery of the boundary of Project No. 108 and does not affect the project reservoir.

The easment sought covers approximately 3.88 acres of project lands located in the following U.S. government survey lots: Township 40 North, Range 7 West, Sections 1 and 2; Township 41 North, Range 7 West, Section 36; and Township 41 North, Range 6 West, Section 31. The Ranges designated are west of the 4th Principal Meridian, Sawyer County, Wisconsin. The purpose of the easement is to permit widening and resurfacing and to improve horizontal and vertical alignment of the road.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before March 9, 1979. The Commission's address is: 825 N. Capitol Street, NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2105 Filed 1-19-79; 8:45 am]

[6450-01-M]

[Docket No. CP-78-435]

NORTHWEST PIPELINE CORP.

Findings and Order After Statutory Hearing Issuing Certificate of Public Convenience and Necessity and Permitting and Approving Abandonment

JANUARY 15, 1979

On July 19, 1978, Northwest Pipeline Corporation (Applicant),[1] filed in Docket No. CP78-435 an application pursuant to Section 7 of the Natural Gas Act, as implemented by Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)), for a certificate of public convenience and necessity authorizing the construction, removal and relocation and for permission for and approval of the abandonment, during the calendar year 1979, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application.

The purpose of this budget-type authorization is to enable Applicant to act with reasonable dispatch in the construction and abandonment of facilities which will not result in changing Applicant's system salable capacity, or service from that which was authorized prior to the filing of the instant application.

Applicant proposes a total cost not to exceed $3,000,000 for the construction, relocation, removal, or abandonment of field compression facilities proposed, with no single project cost to exceed $1,000,000; and such costs to be financed from working capital. Applicant requests a waiver of the single project cost limitation imposed by Section 157.7(g)(ii) of the Commission's Regulations to permit the single project cost to be increased from $500,000 to $1,000,000.

According to the *Handy-Whitman Index of Public Utility Construction Costs,* (Baltimore: Whitman, Reguardt and Associates, 1978) Bulletin No. 107, Table G-5 pp. 26-29, the direct cost of constructing and installing field gas compression facilities has increased 73.2 percent in the Plateau Region during the period from July 1, 1973 to January 1, 1978. Commission Order No. 474, issued May 9, 1973 in Docket No. R-442 established the present cost limitations contained in Section 157.7(g) of the Commission's Regulations. (18 CFR 157.7(g)) According to the Handy-Whitman Index, the single project cost limitation of $500,000 established in 1973 due to inflation is equivalent to approximately $866,000 in 1978. For that reason the waiver of the single project cost limitation will be granted. Since the work to be performed pursuant to this budget authorization will be performed during calendar year 1979, Applicant will be authorized to expend, up to an amount equal to the $500,000 limit established in 1973 adjusted for inflation according to the Handy-Whitman Index for 1979.

The facilities to be constructed or abandoned as hereinbefore described and as more fully descibed in the application in this proceeding, are proposed to be used or are used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, and the construction and abandonment thereof by Applicant are subject to the requirements of Subsections (c) and (e) and Subsection (b) of Section 7 of the Natural Gas Act, respectively.

After due notice by publication in the FEDERAL REGISTER on August 10, 1978 (43 FR 35531), no petitions to intervene, notices of intervention, or protest to the granting of the application have been filed.

At a hearing held on December 7, 1978, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(2) The construction and operation of the proposed facilities by Applicant are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(3) The abandonments proposed by Applicant are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(4) The total expenditure proposed herein is within the limit prescribed by Section 157.7(g) of the Regulations under the Natural Gas Act.

(5) Good cause has been shown to waive the single project cost limitation prescribed by Section 157.7(g) of the Regulations under the Natural Gas Act subject to the new limitation as hereinbefore described and as hereinafter ordered.

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Applicant, Northwest Pipeline Corporation, to construct under Section 157.7(g) of the Regulations, during the calendar year 1979, the proposed facilities as hereinbefore described, and as more fully described in the application, and to operate such facilities only to transport natural gas from existing sources of supply.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon Applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraph (g) of Section 157.7 and in paragraphs (a), (e), and (f) of Section 157.20 of such Regulations.

(C) Applicant shall submit within 60 days after the expiration of the authorization granted by paragraph (A) above and (D) below statements in compliance with Section 157.7(g)(iv) of the Commission's Regulations under the Natural Gas Act, as applicable.

(D) Upon the terms and conditions of this order, permission for and approval of the abandonment by Applicant of the facilities hereinbefore described, all as more fully described in the application, are granted.

(E) The permission for and approval of the abandonment granted by paragraph (D) above are conditioned upon Applicant's compliance with Section 157.7(g) of the Regulations under the Natural Gas Act and are limited to the calendar year 1979.

(F) The total cost of constructing the new or additional field compression and related metering and appurtenant facilities and the total out-of-pocket cost of abandoning, removing, and relocating existing compression and related metering and appurtenant facilities shall not exceed $3,000,000.

(G) The total cost of any single project shall not exceed the $500,000 limitation established in 1973 adjusted for inflation according to the Handy-Whitman Index for 1979. (*Handy-Whitman Index of Public Utility Construction Costs,* Baltimore: Whiteman, Reguardt and Associates.)

(H) The grant of the certificate herein is conditioned upon Applicant's certifying to the Commission within 60 days after all construction is completed under the instant authorization that it has fully complied with the provisions of Section 2.69 of the Commission's General Policy and Interpretations.

[1] Applicant, a Delaware corporation having its principal place of business in Salt Lake City, Utah, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by order of September 21, 1973 in Docket No. CP 73-331 (50 FPC 825).

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By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 79-2106 Filed 1-19-79; 8:45 am]

[6450-01-M]

[Docket Nos. RP79-3, *et al.*]

SOUTHERN NATURAL GAS CO.

Pipeline Refund Reports and Refund Plans

JANUARY 11, 1979.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 24, 1979. Copies of the respective filings are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
12/18/78	Southern Natural	RP79-3	Report
12/27/78	Transco	RP76-136 & RP77-108	Report

[FR Doc. 79-2107 Filed 1-19-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-131]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

JANUARY 11, 1979.

Take notice that on December 19, 1978, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed an application in Docket No. CP79-131 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate certain facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has the right to purchase natural gas produced in Blocks 56 and 57, East Cameron Area, offshore Louisiana (Blocks 56 and 57) and that in order to receive these volumes, it must construct and operate a 12-inch, 10.32-mile pipeline, costing $5,000,000, with a maximum capacity of approximately 70,000 Mcf a day, from Block 57 to Block 22, Vermilion Area, offshore Louisiana, where Applicant has arranged to have the gas transported ashore to its central Louisiana gathering system through a 24-inch pipeline owned jointly by itself, Florida Gas Transmission Company and Sea Robin Pipeline Company.

Applicant states that the cost of constructing the proposed facilities would be financed initially with funds on hand or from short-term loans, with permanent financing being arranged later as part of its long-term financing program.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10 and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.79-2108 Filed 1-19-79; 8:45 am]

[6450-01-M]

[Project No. 906]

VIRGINIA ELECTRIC & POWER CO.

Application for new Major License

JANUARY 12, 1979.

Public notice is hereby given that an application for new major license was filed on August 5, 1977, under the Federal Power Act (16 U.S.C. §§ 791a-825r) by Virginia Electric and Power Company (Applicant) for the Cushaw Project, FERC Project, FERC Project No. 906. The project is located on the James River in Amherst County, Virginia and affects U.S. Forest Service lands in the George Washington and Jefferson National Forests. Correspondence should be sent to: Mr. W. L. Proffitt, Senior Vice President, Virginia Electric and Power Company, P.O. Box 26666, Richmond, Virginia 23261; and copy to: Arnold H. Quint, Esquire, Hunton & Williams, 1730 Pennsylvania Avenue, N.W., Suite 1060, Washington, D.C. 20006.

The Cushaw Project consists of: (1) a 1,500 foot long and 27 feet high reinforced concrete dam extending diagonally across the river; (2) a 138 acre reservoir with a storage capacity of approximately 380 acre-feet at the normal full pond elevation of 656 feet m.s.l.; (3) a powerhouse containing five generators with an aggregate capacity of 7,500 kW; and (4) all other facilities and interests appurtenant to the operation of the project. The Cushaw Project is part of Virginia Electric and Power Company's generating system supplying electric utility service in Virginia.

According to the application filed, primary recreational use of project lands and waters is by local fishermen. Access to the project waters is provided by a gravel boat ramp. Applicant proposes no future recreational development.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before March 26, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 2109 Filed 1-19-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1042-8]

AVAILABILITY OF ENVIRONMENTAL IMPACT STATEMENTS

AGENCY: Office of Federal Activities, Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of January 8 to 12, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from January 19, 1979 and will end on March 5, 1979. The 30-day wait period for final EIS's will be computed from the date of receipt by EPA and commenting parties.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Federal Activities, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT:

Kathi Weaver Wilson, Office of Federal Activities, A-104, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, (202) 755-0780

SUMMARY OF NOTICE: Appendix I sets forth a list of EIS's filed with EPA during the week of January 8 to 12, 1979, the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: January 17, 1979.

WILLIAM N. HEDEMAN, Jr.,
Director,
Office of Federal Activities.

APPENDIX I—EIS'S FILED WITH EPA DURING THE WEEK OF JANUARY 8 TO 12, 1979

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, room 359A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Final

Medicine Lake planning unit, Modoc and Siskiyou Counties, Calif. January 8: This action involves proposals for a new general management plan for forest lands within the Medicine Lake planning unit. This unit is an area of 294,000 acres, including portions of the Modoc, Shasta-Trinity and Klamath National Forests located in Modoc and Siskiyou Counties, Calif. The purpose of this action is to provide long-range and coordinated management of forest lands, assure compliance with regulations and policies, and resolution of conflicts concerning land use and capability. The plan selected will also provide for a system of balanced management and use and utilization of renewable resources. (USDA-FS-R5-DES (ADM) 05-09-78-05.) Comments made by: AHP, DLAR, DOE, COE, USDA, DOI, State and local agencies, groups, individuals, and business (EIS Order No. 90034).

Draft supplement

1979 cooperative spruce budworm suppression, several counties in Maine. January 11: Proposed is the application of insecticides to 3.5 million acres of spruce-fir forest in 1979 in the State of Maine, to suppress an outbreak of the eastern spruce budworm. No action, salvage cutting, pre-salvage cutting, accelerated logging, silvicultural treatments, and a combination of these were considered as alternatives. The affected counties are Aroostook, Somerset, Penobscot, Piscataquis, Washington, Franklin, and Hancock. (DES-NA-19-01-A) (EIS Order No. 90047).

RURAL ELECTRIFICATION ADMINISTRATION

Final

Nebraska public power district transmission facility, several counties in Nebraska. January 11: This proposal concerns the approval of funding by REA for a portion of the proposed 329 miles of 345 KV transmission facilities. The facilities, as proposed, will be constructed in the counties of Cheyenne, Deurel, Keith, Lincoln, Custer, Sherman, Buffalo, Frontier and Red Willow. The new substations, Keystone, Sweetwater, and Red Willow will connect with several existing facilities, modified by construction. Four alternatives are under consideration. (USDA-REA-EIS (ADM) 78-10-F.) Comments made by: USDA, AHP, DOI, COE, EPA, HEW, State and local agencies (EIS Order No. 90050).

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attention: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Clear Creek, local flood protection, Franklin, Warren County, Ohio. January 10: Proposed is the construction of a new channel between Beam Ditch and Main Street on Clear Creek in Franklin, Warren County, Ohio. The main features of the plan will include: (1) Channel realinement and widening of Clear Creek in the vicinity of Main Street to OH-123, (2) preservation of 1,200 feet of existing stream as a lowflow channel,

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(3) pool and riffle system in a new lowflow channel, (4) levee setback and crest wall improvements, and (5) recreation facility consisting of a 1-mile bike trail. (Louisville district) (EIS Order No. 90039).

Strube Lake and Cougar additional unit, Blue River, Lane County, Oreg. January 8: Proposed is the modification of the existing powerhouse at Cougar Dam located in Lane County, Oreg., to accomodate a third generating unit of 35,000 kw capacity, making a combined total capacity of 60,000 kw. Cougar generating facilities would be operated for peaking, rather than current baseload power generation. To re-regulate flows from Cougar, Stube Dam would be constructed about 1.9 miles downstream. A 4,600 kw generating unit would be included in the Strube powerplant. (Portland district) (EIS Order No. 90032).

Bonneville lock and dam, navigation, Sramania and Washington Counties, Oreg. January 9: Proposed is the construction and subsequent operation of a new navigation lock at Bonneville Dam on the Oregon shore, south of the existing lock and powerhouse. The new lock chamber would have horizontal dimensions of 86 feet by 675 feet, matching the dimensions of the seven other locks on the Columbia-Snake River navigation system. Both an up-stream and downstream approach channel would be constructed having vertical concrete guidewalls. The COE filed a draft EIS No. 61098, dated June 27, 1976, which is replaced by this revised draft. (Portland district) (EIS Order No. 90038).

Final

Norfork Lake highway bridges, U.S. 62 and Arkansas 101, Baxter County, Ark. January 11: The purpose of this proposed project is to connect two segments of U.S. highway 101, which are presently separated by Norfork Lake, located in Township 19 north, range 12 west, Baxter County, Ark. The project consists of the construction of two highlevel, 2-land, fixed bridges referred to as U.S. 62 and Arkansas 101 and the necessary bridge approaches. The U.S. 62 bridge would span 3,460 feet long and Arkansas 101 would be 2,880 feet long. Eight alternatives are considered. (Little Rock district) Comments made by: EPA, USDA, AMP, HUD, DOI, DOT, State agencies, groups and individuals (EIS Order No. 90046).

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Draft

Alaska coastal zone management program, Alaska. January 12: Proposed is a coastal zone management plan for the State of Alaska. The program will develop new coastal policies, rules, responsibilities, obligations and relationships with an established approach of shared local and State coastal management responsibility. Some features of the program include: (1) Protection of coastal lands and water habitats; (2) a common basis for coastal decisions; (3) definition of division of responsibility; (4) specific management for areas of extraordinary coastal values; and (5) overall attention for energy, timber, mining, and commerce resources. (EIS Order No. 90056).

Draft supplement

Bowhead Whale, deletion of native exemption, Alaska. January 12: Proposed is the implementation of an amendment to the convention to regulate whaling, 1946 by amending regulations governing the taking of Bowhead whales by Indians, Aleuts or Eskimos for subsistence purposes which allocated the 1979 quota to 18 whales landed or 27 struck, whichever occurs first. The alternatives considered are: (1) Federal regulations establishing a fixed village by village quota allocation, (2) no quota allocation by village, allowing competition until the 1979 quota is reached, and (3) determination by quota by the Alaskan Eskimo Whaling Commission. (EIS Order No. 90057).

Final supplement

Squid fisheries, Northwest Atlantic, FMP. January 8: This statement supplements a February 1977 final EIS. Changes are proposed in the subject preliminary fishery management plan for the 1978 foreign fishing season. Some of these changes include: (1) modifications of the areas and seasons where foreign nationals can conduct directed squid fishery operations, (2) assessment and reconsideration by the United States of its projected capacity annually, (3) required permit or registration, (4) gear restrictions, and (5) periodic catch reports. Comments made by: STAT, EPA, USCG, groups, individuals, and businesses (EPA Order No. 90033).

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Paul A. J. Wilson, Mobile Source Air Pollution Control Office, ANR-455, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0596.

Draft

Light-duty diesel particulate regulation, regulatory. January 10: Proposed are Federal light-duty diesel particulate emission standards for 1981 and later model year vehicles. The changes to the existing regulations include: (1) the addition of a dilution tunnel and other equipment to measure particulate emissions, and (2) the implementation of exhaust emissions standards for particulate matter from light-duty diesels of 0.37 G/KM (0.6 G/MI) in 1981 and 0.12 G/KM (0.2 G/MI) in 1983. (EIS Order No. 90045).

Contact: Mr. Wallace Stickney, Region I, Environmental Protection Agency, John F. Kennedy Federal Building, Room 2203, Boston, Mass. 02203, 617-223-4635.

Final

Duwamish 201 facility, metro Seattle, King County, Wash. January 10: Proposed is a wastewater configuration and metro CSO control program for nine areas in King County, Wash. The plan will reduce the service area and flow to the west point plant, abandon the Alki and Carkeek park plants and restore the sites for other uses. A new plant would be constructed in the Duwamish industrial area. This EIS finalizes three draft EIS's, Nos. 71143, 71160, and 71161, all filed September 16, 1977, which individually addressed the three existing plants noted above. (EPA-910/9-77-043) Comments made by: AHP, USDA, DOC, CDE, HUD, DOI, State and local agencies, groups (EIS Order No. 90040).

Contact: Mr. Alexandria Smith, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Wash. 98101, 206-442-1285.

Final

Upper Housatonic River, water quality management, Berkshire County, Mass. January 8: proposed is the water quality management plan for the Upper Housatonic River located in Berkshire County, Mass. The proposed plan recommends a six-point water quality management program for a 20-year planning period. The study area involves 262 square miles and 9 municipalities. The area is the western-must part of the State and is characterized by a narrow river valley and such hilly terrain. Comments made by: EPA, HUD, DOT, USDA, DOI, State and local agencies, individuals (EIS Order No. 90037).

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broon, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-6308.

Final

Westlake forest subdivision, Harris County, Tex., January 12: The proposed action is for the Department of HUD to accept for home mortgage insurance the proposed Westlake forest subdivision located in Harris County, Tex. It is proposed that this 470 acre tract of land redeveloped into a subdivision consisting of approximately 2,125 single-family dwelling units with some commercial reserves. Construction of the project will begin around January of 1979, and when completed, will house approximately 7,500 people. (HUD-R06-EIS-78-40F) Comments made by: EPA, CUE, AHP, DOT, DOI, USDA, State agencies (EIS Order No. 90053).

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, room 4256, Interior Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Draft

Crude oil transport system, Washington/Minnesota, January 11: Proposed is the construction and operation of a common-carrier crude oil transportation system. Port Angeles, Wash. will be the location of two tanker unloading facilities with two submarine pipelines connecting the unloading berths to an onshore storage facility, and the beginning of the pipeline. The pipeline will extend for approximately 1,557 miles across the States of Washington, Idaho, Montana, North Dakota, and end at Clearbook, Minn. at which delivery facilities would be located. There would be intermediate delivery facilities at three locations in Montana and North Dakota where the proposed pipeline will cross the existing pipeline. (EIS Order No. 90049).

U.S. NUCLEAR REGULATORY COMMISSION

Contact: Mr. Richard E. Cunningham, Director, Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Mail 396-SS, 301-427-4142.

Draft

Gas Hills uranium project, Natrona and Fremont Counties, Wyo., January 12: Proposed is the issuance of a source material license to be issued to Union Carbide Corp. for the operation of the Gas Hills uranium project in Natrona and Fremont Counties, Wyo. The project will involve: (1) the operation of an acid leach, ion-exchange and solvent-extraction uranium ore processing mill, and (2) the construction and operation of two heap leach facilities, one in Natrona County. Five alternatives are considered. (NUREG-0441) (EPA Order No. 90054).

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, P-518, Washington, D.C. 20555, 301-492-8446.

Final supplement

Floating nuclear power plants, part III, (S-1), Florida, January 10: This EIS supplements a draft filed with CEQ in October 1976. Proposed is the issuance of a manufacturing license to offshore power systems for the startup and operation of a manufacturing facility located at Blout Island, Jacksonville, Fla., for the construction of no more than eight floating nuclear plants of standardized design. This document examines the effects of postulated nuclear accidents and the overall risks and consequences between floating and land-based nuclear power plants regarding the accidental releases of radioactive materials to the environment. (NUREG-0502) Comments made by: USDA, COE, DOC, DOE, DOI, EPA, DRBC, State agencies, businesses (EPA Order No. 90041).

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.

FEDERAL AVIATION ADMINISTRATION

Final

Kosrae Island Airport and Harbor Project, U.S. Territory, January 12: The proposed action involves the development of a new airport consisting of an ultimately paved 150' x 7,000' runway, runway safety areas on each end, a paved aircraft parking apron, lighting, fencing, access road, auto parking area, radio navaids, and a harbor complex with a paved 300' x 600' loading ramp with associated warehouse and dock loading area. Five alternatives are considered. Since the preparation of the draft EIS, the name of Kosrae has been adopted for the district formerly known as Kusaie. Comments made by: DOI, USN, USCG, DOT, COE, HEW, DOC, EPA, HUD, AHP, USDA. (EIS Order No. 90055.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Loop 340, From U.S. 77 to TX-6, Waco and Robinson, McLennan County, Tex. January 8: Proposed is the construction of a four land divided highway consisting of two 24-foot roadways with paved shoulders and interchange structures to be known as loop 340 in the cities of Waco and Robinson, McLennan County, Texas. The project will begin at U.S. 77 south of Waco and extend northwest for approximately 5 miles ending at TX-6. The alternatives (include three alternate routes and no-build. (FHWA-TEX-EIS-78-01-D.) (EIS Order No. 90035.)

East Loop 363, From U.S. 190 to I-35, Temple City, Bell County, Tex., January 8: Proposed is construction of a two-lane highway with a 24-foot roadway with paved shoulders and interchange structures known as east loop 363 located near Temple City, Bell County, Texas. The project will begin at U.S. 190 south of Temple and extend approximately 6.7 miles to I-35 north of Temple. The alternatives include alternate routes and no build. (FHWA-TEX-EIS-76-03-D.) (EIS Order No. 90036.)

Final

U.S. 119, Pikeville-Williamson Road, Pike County, Ky. January 10: The proposed highway project consists of improvement of 16.55 miles of U.S. 119 in Pike County to a 4-lane distance highway with a raised, mountable median normally 20 feet in width. The right-of-way width will vary considerably being dictated by the terrain constraints with a minimum of 150 feet. Access to the facility will be partial control. (FHWA-KY-EIS-74-09-P.) Comments made by: USDA, DOI, EPA, DOC, HEW, DOT, State agencies (EIS Order No. 90042).

Relocated Maryland Route 24, U.S. 1 to I-95, Hartford County, Md. January 12: Proposed is the relocation of Maryland 24 from U.S. 1 (Bel Air bypass), southwest of Bel Air to I-95, a distance of approximately 6.7 miles, in Hartford County, Md. The selected alternative would begin at U.S. 1 to a point north of Plumtree Road and then take a new alinement south to I-95. (FHWA-MD-EIS-02-P.) Comments made by: USDA, DOI, DOT, EPA, DOE, State and local agencies (EIS Order No. 90052).

Final

Reconstruction of Michigan 153, Ford Road, Wayne County, Mich. January 10: Proposed is the reconstruction of a 6.1 kilometer, 3.8 mile segment of M-153 (Ford Road) between I-275 on the west and Vency Road on the east. This segment of M-153 is located in Canton Township, Westland, and Garden City, Wayne County, Mich. This segment M-153 is now a free-access two-lane roadway, with turning lanes at some major intersections. The proposed project involves the widening of this segment of M-153 to either five lanes with turning lanes at major intersections. (FHWA-MICH-EIS-78-01-F.) (EPA Order No. 90044).

Draft supplement

U.S. 23-119, Jenkins to Dorion Road, Pike County, Ky. January 10: This statement supplements a final EIS filed in July 1972. Proposed is the construction of a section of highway to connect the communities of Brusky Fork and Denton located in Pike County, Ky. The project would extend for 3.1 miles if the Myra alternate is utilized or 2.6 miles if the Orward branch alternate is constructed. The highway will be four-lanes with partial controlled access. The no-build alternative is also considered. (FHWA-KY-EIS-72-08-DS.) (EIS Order No. 90043).

VETERANS ADMINISTRATION

Contact: Mr. Willard Sitler, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, Washington D.C. 20420, 202-389-2526.

Final

Quantico National Cemetery, Prince Williams County, Va. January 12: Proposed is the development of a national cemetery in Quantico, Prince Williams County, Va. The 726.58-acre site is located on land accessed by the Department of Navy, Quantico Marine Corps Base. The cemetery will accommodate 300,000 veterans and their dependents with a variety of interment types. Alternatives considered included sites and alternate land usages. The draft statement was entitled the District of Columbia area National Cemetery. Comments made by: AHP, DOT, USN, DOC, DOI, USDA, State and local agencies (FIS Order No. 80051).

APPENDIX II—EIS'S WHICH AGENCIES HAVE GRANTED REVIEW PERIODS OTHER THAN THOSE PRESCRIBED BY EPA

Section A. Waivers of Review Period: None.

Section B. Extension of review period:

Federal agency: U.S. Department of Interior, Fish and Wildlife Service.

Federal agency contact: Mr. Bruce Blanchard, Director, Environmental Project Review, room 4256, Interior Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

Title of EIS: Draft—Mammalian predator damage management, livestock (EIS Order No. 81248).

Date availability noticed in FEDERAL REGISTER: December 4, 1978.

Extended date for review: February 12, 1979.

* * * * *

Federal agency: Department of Energy.

Federal agency contact: Mr. Robert Stern, Division of NEPA Affairs, Department of Energy, Federal Building, room 7119, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461, 202-376-5998.

Title of EIS: Draft—Fuel Use Act (EIS Order No. 81219).

Date availability noticed in FEDERAL REGISTER: November 27, 1978.

Extended date for review: February 9, 1979.

APPENDIX III—EIS'S WHICH HAVE BEEN WITHDRAWN BY FEDERAL AGENCIES

None.

APPENDIX IV—OFFICIAL RETRACTIONS

None.

APPENDIX V—LIST OF REPORTS/ADDITIONAL INFORMATION RELATING TO PREVIOUSLY FILED EIS'S

Agency: U.S. Department of Agriculture, Rural Electrification Administration.

Contact: Barry Flamm.

Title of report: Missouri Basin power project wheatland generating station units 1, 2, and 3 and associated transmission and Grayrocks reservoir—summary and conclusions concerning additional information on the MBPP transmission facilities.

Date EPA received: January 11, 1979 (EIS Order No. 90048).

APPENDIX VI—OFFICIAL CORRECTIONS

None.

[FR Doc. 79-2238 Filed 1-19-79; 8:45 am]

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[6560-01-M]

[OPP-42055; FRL 1042-6]

MASSACHUSETTS

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975 and 1978 (92 Stat. 819; 7 U.S.C. 136 et. seq.) and 40 CFR Part 171, the Honorable Michael S. Dukakis, former Governor of the Commonwealth of Massachusetts, submitted a State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis. Contingency approval is requested pending promulgation of regulations for the recently enacted Massachusetts Pesticide Control Act, Chapter 132B, General Laws of Massachusetts, inserted as Chapter 3 of Acts of 1978.

Notice is hereby given of the intention of the Regional Administrator, EPA, Region I to grant approval of this plan on one of the following bases. Final approval will be granted if regulations, now proposed (Appendix E of the Plan), are fully promulgated before March 15, 1979 whereas contingent approval will be granted in the event promulgation of regulations is likely to be delayed beyond March 14, 1979. A summary of this plan follows. The entire plan, together with all attached appendices (except for sample examinations) may be examined during normal business hours at the following locations:

Commonwealth of Massachusetts, Department of Food & Agriculture, 100 Cambridge Street, Boston, Massachusetts 02202.

U.S. EPA, Region I, Room 1907, JFK Federal Building, Government Center, Boston, Massachusetts 02203.

Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, Waterside Mall, 401 M Street, SW, Washington, D.C. 20460.

SUMMARY OF MASSACHUSETTS STATE PLAN

The Massachusetts Department of Food and Agriculture (MDFA) has been designated the State Lead Agency responsible for the regulation of pesticides, including certification of those who use or apply restricted use pesticides. Within the MDFA the Massachusetts Pesticide Board (MPB) is responsible for advising the Commissioner, MDFA, on implementation and administration of the Pesticide Control Act, approving prepared regulations, and hearing appeals on actions. Other responsibilities of MDFA include coordination of training and certification activities, licensing of pesticide dealers, issuance of special permits for use of pesticides futher restricted by the State and the coordination of field, laboratory and office activities relating to pesticide regulation.

The Massachusetts Cooperative Extension Service (MCES) of the University of Massachusetts is designated as a cooperating Agency and is responsible for the organization and operation of the pesticide applicator training program. Training will be offered to applicators seeking either certification or recertification to assist in implementing or maintaining the State Plan.

Legal authority for the regulation of pesticides and their use in Massachusetts is contained in the following legislation: Massachusetts Pesticide Control Act (MPCA), Chapter 132B, General Laws of the Commonwealth of Massachusetts.

The plan indicates that the State Lead Agency will have qualified personnel and funds necessary to carry out the proposed certification programs with $50,000 appropriated by the State for the fiscal year 1979. Massachusetts estimates 4830 commercial applicators and 3500 private applicators will need to be certified to use restricted use pesticides. A certificate, issued to each certified applicator, will indicate the class and category(s) and/or subcategory(s) of certification as may be appropriate and any additional restrictions placed on the applicator. The Commonwealth plans to issue pocket-sized credentials at a later date to identify a certified applicator to pesticide dealers and to authorize purchase of restricted use pesticides.

The Massachusetts Plan contains new rules and regulations, as Appendix E, that the State will promulgate as required to implement the MPCA and to meet requirements of 40 CFR 171.

The Massachusetts Department of Food and Agriculture agrees to furnish the Administrator a detailed annual report by October 1 of each year and will provide other reports as requested in conformity to 40 CFR 171.7(d).

Massachusetts intends to adopt all ten categories of commercial applicators as listed in 40 CFR 171.3. Further, Massachusetts intends to utilize subcategories within three categories as designated below:

3. Ornamental and Turf Pest Control:
   a. Shade Trees and Ornamentals.
   b. Turf.
7. Industrial, Institutional, Structural and Health-Related Pest Control:
   a. General.
   b. Fumigation.
   c. Site Sanitation.
   d. Termite and Structural Pest Control.
   e. Food Processing Pest Control.
   f. Vertebrate Pest Control.
   g. Wide Area Nuisance Arthropod Control.
9. Public Health Pest and Nuisance Control:
   a. General.
   b. Mosquito and Biting Flies.

Any applicant for certification as either a private or a commercial applicator, including any person currently holding a pesticide applicator license, who desires certification to use or supervise the use of a restricted use pesticide must be determined to be competent by passing the appropriate written examinations. Aerial applicators will be required to pass an additional examination covering aerial techniques and related knowledge prior to certification in the appropriate class and/or category. Performance testing by applicator demonstration may be further required where it is determined that the potential for unusual hazard to persons or the environment could occur.

Private applicators will be required to pass a written two-part examination covering the standards required of a private applicator and practical knowledge of at least one principal commodity area. An applicant must correctly answer 70 percent of the questions on the examination to be determined competent. Applicators unable to read will not be certified.

Core level training conducted by MCES will be offered applicants preparing to qualify as private or commercial class applicators. In addition to general pesticide use information, training will also be offered in commodity areas for private applicators and category and subcategory specific areas for commercial applicators.

A copy or a representative sample of the private applicator and commercial applicator-general standards examination has been submitted with the plan for review. The specific standards examinations for commercial applicators that were not submitted with the plan are in final stages of development and will be submitted to the Agency for review before the plan is fully approved.

To preserve the confidentiality of the examinations the Commonwealth of Massachusetts has requested the examinations not be made available for public inspection. The Agency agrees with this request and has removed the examinations from copies of the plan held for public inspection.

Authority to require payment of fees for examination and for issuance of applicator certification is provided by MPCA and the rate is established by regulation.

The Massachusetts plan does not contain specific provisions for the Government Agency Plan. However, Federal employees who have been certified by a Federal agency whose standards for certification are determined to be no less stringent than those of the Commonwealth may be issued appropriate certificates as commercial applicators. Familiarity with Massachusetts rules and regulations governing pesticide use will, however, be required of all Federal employees certified.

Massachusetts has no Indian Governing Body subject to the jurisdiction of the United States. Therefore, provisions of 40 CFR 171.10 are not applicable.

At present, no recognized formal agreements on reciprocity with other States involving pesticide applicator certification are indicated in the plan. However, Massachusetts will consider reciprocity with other States and copies of such agreements will be furnished EPA.

Other regulatory authorities contained in the newly enacted legislation useful to implementation of the plan include further restrictions or limitations on pesticide uses; a requirement for licensing of dealers distributing restricted use pesticides; licensing of commercial applicators using only general use pesticides; monitoring and inspection of pesticide use activities; and the regulation of pesticide storage and disposal. A subcommittee of the MPB is responsible for pesticide registration and classification and for issuance of experimental use permits.

Maintenance of the State Plan will be carried out in two manners. MDFA inspectors will conduct spot checks of applicators and field operations to determine compliance with certification and pesticide use requirements. To assure maintenance of a high level of competency among certified commercial and private applicators additional training, approved by MDFA, will be offered on a timely basis. An applicator's certification will be renewed annually for up to five (5) years after which recertification will be required. The requirements for recertification may be met by choosing one of two options: attending and actively participating in an MDFA approved training program applicable to the applicant's class and categories of certification within the five-year period; or successfully passing appropriate examinations required for recertification.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the Commonwealth of Massachusetts to the Chief, Pesticides Branch, Region I, Environmental Protection Agency, Room 1907, JFK Federal Building, Boston, Massachusetts 02203. The comments must be received on or before Feb. 21, 1979, and should bear the identifying notation (OPP-42055). All written comments filed pursuant to this notice will be available for public inspection at the above location from 9:00 a.m. to 4:00 p.m., Monday through Friday.

Dated: January 10, 1979.

WILLIAM R. ADAMS, Jr.,
Regional Administrator,
Region I.

[FR Doc. 79-2237 Filed 1-19-79; 8:45 am]

[6560-01-M]

[OPP-30159; FRL 1042-4]

PESTICIDE PROGRAMS

Receipt of Application To Register Product Containing New Active Ingredient

Abbott Laboratories, Abbott Park, D-495, North Chicago, IL 60064, has submitted to the Environmental Protection Agency (EPA) and application to register the pesticide product N-MALEIMIDE (EPA File Symbol 275-GU), containing 97% of the active ingredient *N*-(2-methyl-1-naphthyl)maleimide which has not been included in any previously registered pesticide product. The application proposes that the pesticide be classified for general use as a technical chemical to be used as a preservative for polymeric systems. This application is made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) and the regulations therunder (40 CFR 162).

Notice of receipt of this application does not indicate a decision by the Agency on the application. Interested persons are invited to submit written comments on this application to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St., SW, Washington DC 20460. The comments must be received by February 21, 1979, and should bear a notation indicating the EPA File Symbol "275-GU". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application and the data submitted should be directed to Product Manager (PM) 21, Registration Division (TS-767), Office of Pesticide Programs, at the above address or by telephone at 202/755-2563. The label furnished by Abbott Laboratories, as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Notice of approval or denial of this application to register N-MALEIMIDE will be announced in the FEDERAL REGISTER. Except for such material protected by Section 10 of FIFRA, the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: January 12, 1979.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 79-2236 Filed 1-19-79; 8:45 am]

[6560-01-M]

[PP 8G2078/T179; FRL 1042-4]

PESTICIDE PROGRAMS; THIABENDAZOLE

Establishment of Temporary Tolerances

Merck & Co., Inc., PO Box 2000, Rahway, NJ 07065, has submitted a pesticide petition (PP 8G2078) to the Environmental Protection Agency (EPA). This petition requests that temporary tolerances be established for residues of the fungicide thiabendazole (2-(4-thiazolyl)benzimidazole) in or on the raw agricultural commodities rice grain at 1 part per million (ppm) and rice straw at 20 ppm. (A related document establishing a feed additive regulation for residues of thiabendazole appears elsewhere in today's FEDERAL REGISTER.)

Establishment of these temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C 136).

An evaluation of the scientific data reported and other relevant material has shown that the requested tolerances are adequate to cover residues resulting from the proposed experimental use (618-EUP-9), and it has been determined that the temporary tolerances will protect the public health. The temporary tolerances are being established for the pesticide, therefore, with the following provisions:

V 4 4 / 1 5 J A 2 2 7 9 UMI

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Merck & Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire April 1, 1980. Residues not in excess of 1 ppm remaining in or on rice grain and 20 ppm remaining in or on rice straw after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may directed to Mr. Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767), Office of Pesticide Programs, East Tower, 401 M St., SW, Washington, DC 20460 (202/426-2454).

(Section 408(j) of the Food, Drug and Cosmetic Act [21 U.S.C. 346a(j)]).

Dated: January 11, 1979.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 79-2230 Filed 1-19-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[SS Docket Nos. 78-389 and 78-390; File Nos. 116-A-RL-78 and 117-A-L-78]

AERONAUTICS, INC. AND AIR WILMINGTON, INC.

Application for an Aeronautical Advisory Station To Serve New Hanover County Airport, Wilmington, N.C. Designation Order

Adopted: December 19, 1978.

Released: December 27, 1978.

1. Aeronautics, Inc. (hereinafter called Aeronautics), Wilmington, N.C., and Air Wilmington, Inc. (hereinafter called Wilmington), Wilmington N.C., have filed an application for authority to operate an aeronautical advisory station at the same airport. Aeronautics seeks renewal of its current station license (WRO7) while Wilmington filed for a new station authorization. In that § 87.251(a) of the Commission's rules provides that only one areonautical advisory station may be authorized at a landing area, the above-captioned applications are mutually exclusive. Accordingly, it is necessary to designate these applications for comparative hearing in order to determine which, if any, should be granted.

2. Wilmington alleged that the present licensee (Aeronautics) may have violated § 87.257(b) of the rules by not providing impartial information to aircraft concerning available ground service.

3. Aeronautics alleged that Wilmington has operated an unlincensed aeronautical advisory station on 122.95 MHz in violation of section 301 of the Communications Act of 1934, as amended.

4. In view of the foregoing, *it is ordered,* That pursuant to the provisions of Section 309(e) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following comparative issues:

(a) To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications, including but not limited to operation of stations in the Aviation Services (Part 87) that may be or have been authorized to the applicant;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points;

(b) To determine the manner in which Aeronautics has operated aeronautical advisory station WRO7 and whether such operation was in violation of § 87.257(b) of the rules by not providing impartial information concerning available ground services;

(c) To determine whether Wilmington has operated an unlicensed aeronautical advisory station at New Hanover County Airport in violation of Section 301 of the Communications Act of 1934, as amended;

(d) To determine the manner in which Wilmington has operated Aviation Instructional station WLJ 2 and whether such operation was consistent with the rules governing this class of station; and

(e) To determine in light of the evidence adduced on the foregoing issues which, if any, application should be granted.

It is further ordered:

(a) That the burden of proceeding with the introduction of evidence on issue 4(b) is on Wilmington and the burden of proof on issue 4(b) is on Aeronautics;

(b) That the burden of proceeding with the introduction of evidence and the burden of proof on issue 4(c) is on Aeronautics and on issue 4(d) the burdens are on Wilmington; and

(c) On all other issues the burdens are on each applicant except for issue 4(e) which is conclusory.

6. *It is further ordered,* That to avail themselves of an opportunity to be heard, Aeronautics and Wilmington, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

CARLOS V. ROBERTS,
Chief, Safety and Special
Radio Services Bureau.

[FR Doc. 79-2090 Filed 1-19-79; 8:45 am]

[6712-10-M]

[SS Docket No. 79-2]

EUGENE H. CRONE

Application for Novice Class Amateur Radio Service License; Designation Order

Adopted: January 3, 1979.

Released: January 10, 1979.

The Chief, Safety and Special Radio Services Bureau, pursuant to delegated authority, has under consideration the application of Eugene H. Crone of 124 Hillside Avenue, Teaneck, New Jersey 07666, for a Novice Class license in the Amateur Radio Service.

1. By Order of Revocation (SS-321-78) issued September 1, 1978, Eugene H. Crone's license for Citizens Band radio station KDL-6254 was revoked, effective October 6, 1978. The Order of Revocation concluded that on September 10, 1977, Citizens Band radio station KDL-6254 was operated on a frequency not assigned to the CB Radio Service, in violation of § 95.455(a) of the Commission's Rules.[1] It was also concluded that Crone's station was not identified by call sign, in violation of § 95.471(c) of the Commission's Rules.

2. The Order of Revocation found that Crone's station was identified by the term "3W575" and that he was a member of a "Whiskey" club. The Order found that those clubs were composed of radio operators who transmit on unauthorized frequencies and, in addition to interference to legitimate users of those frequencies, such radio operation caused interference to ambulance, police and other emergency radio services and to neighborhood television reception. The Order found that the participants in these clubs used club identification numbers instead of Commission call signs to enable the operators to identify each other over the air while concealing their identity from the Commission.

3. The Order of Revocation also concluded that on September 10, 1977, Crone's station was operated in violation of §§ 95.469(c) (communications in excess of five minutes), 95.613 (excessive power) and 95.641(c)(4) (use of transmitting equipment capable of operation on non-CB frequencies). The Order concluded that Crone's conduct reflected a disregard for the Commission's authority and the rights of other licensees, and concluded that his license should be revoked.

4. In view of the above, the Commission is unable to find that Crone possesses the requisite qualifications to again become a license of the the Commission. In light of his operating violations while licensed as KDL-6254 and his scheme to operate transmitting equipment without detection by the Commission, it appears that Crone may not be relied upon to abide by the Commission's Rules. His conduct may reflect adversely upon his qualifications to be a Commission licensee by revealing a disregard for the Commission's statutory authority to license and regulate radio stations and operators. It is therefore necessary to designate Crone's application for hearing. The factual matter adjudicated in the Revocation proceeding shall not be relitigated in this proceeding, pursuant to the doctrine of collateral estoppel.

5. Accordingly, *it is ordered,* That pursuant to Section 309(e) of the Communications Act and 1.973(b) and 0.331 of the Rules, Crone's application for a Novice Class Amateur Radio license is designated for hearing, at a time and place to be specified by a subsequent Order, upon the following issues:

(a) To determine the effect of the Order of Revocation (SS-321-78) upon Crone's qualifications to be a licensee of the Commission.

(b) Whether, in light of the evidence adduced pursuant to Issue (a), Eugene H. Crone possesses the requisite qualifications to become a Commission licensee.

(c) Whether, in light of the evidence adduced under the above issues, the public interest, convenience and necessity would be served by the grant of a Novice Class Amateur Radio Service license to Eugene H. Crone.

6. *It is further ordered,* That in order to obtain a hearing on the application, Crone, in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission a written appearance stating an intent to appear on a date fixed for hearing to present evidence on the Issues specified in the foregoing paragraph. Failure to file a written apperance within the time specified will result in the dismissal of the application with prejudice.

7. *It is further ordered,* That a copy of this order shall be sent by regular United States Mail to Eugene H. Crone at his address as shown in the caption.

Chief, Safety and Special Radio Services Bureau.

GERALD M. ZUCKERMAN,
Chief, Legal, Advisory and
Enforcement Division.

REPLY TO ORDER DESIGNATING AMATEUR RADIO SERVICE APPLICATION FOR HEARING

In this matter, Respondent takes the action indicated below:

- 1. Respondent will appear at a hearing and present evidence on the issues specified in the order of designation.
- 2. Respondent will not present evidence on the issues specified in the order of designation and understands that as a result his application will be dismissed with prejudice.

Date:————1978.

Eugene H. Crone, Respondent.

[FR Doc. 79-2091 Filed 1-19-79; 8:45 am]

[6712-01-M]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 70 "Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment": Notice of 14th Meeting, Tuesday, February 6, 1979, Conference Room 7200, Nassif (DOT) Building, 400 Seventh Street SW., (at D Street), Washington, D.C.

AGENDA

1. Call to Order.
2. Old Business.
3. New Business.
4. Administrative Matters.

Captain Alfred E. Fiore, Chairman, SC-70, U.S. Merchant Marine Academy, Kings Point, N.Y. 11024, Phone: (516) 482-8200.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

FEDERAL COMMUNICATIONS COMMISSION.
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-2088 Filed 1-19-79; 8:45 am]

[6712-01-M]

TELEVISION TRANSLATOR APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: January 9, 1979.

Released: January 15, 1979.

By the Acting Chief, Broadcast Facilities Division:

Notice is hereby given pursuant to § 1.572(c) of the Commission's Rules, that on March 2, 1979, the television translator application listed below will considered ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.59(b) of the Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on March 1, 1979, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on March 1, 1979.

Any party in interest desiring to file pleadings concerning any pending television translator application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Rules, which specifies the time for filing and other requriements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION.
WILLIAM J. TRICARICO,
Secretary.

[1] Effective August 1, 1978, the CB Rules were revised and renumbered. The sections cited are those in effect at the time of the violations.

V 4 4 / 1 5 JA A 2 2 7 9 UMI

VHF TV TRANSLATOR APPLICATIONS

BPTTV-780725JA (K10AT). Circle, Sheep Mountain, Brockway & Mountain School, Montana, Circle TV Booster Club, Inc. Req: Change principal community to Circle & Brockway, Montana.

BPTTV-780821IN (K10FP). Brownlee Power Plant & Brownlee Creek, Farming Area, Idaho & Halfway, Oregon, Eugene Television, Inc. Req: Change frequency to Channel 11, 198-204 MHz, increase output power to 5 watts.

BPTTV-780821IO (K12FW). Brownlee Power Plant, Idaho & Halfway, Oregon, KTVB, Inc. Req: Change frequency to Channel 13, 210-216 MHz, increase output power to 5 watts.

BPTTV-780821IP (new). Oxbow, Oregon, Idaho Power Company. Req: Channel 2, 54-60 MHz, 1 watt Primary: KIVI-TV, Nampa, Idaho.

BPTTV-780821IQ (new). Brownlee & Halfway, Oregon, Idaho Power Company. Req: Channel 9, 186-192 MHz, 5 watts Primary: KIVI-TV, Nampa, Idaho.

BPTTV-780825IT (new). Plains & Paradise, Montana, Plains-Paradise TV District. Req: Channel 5, 76-82 MHz, 1 watt. Primary: KPAX-TV, Missoula, Montana.

BPTTV-780901IB (new). Tecopa Hot Springs & Shoshone, California, County of Inyo. Req: Channel 9, 186-192 MHz, 10 watts. Primary: KORE-TV, Las Vegas, Nevada.

BPTTV-780901IC (new). Tecopa Hot Springs & Shoshone, California, County of Inyo. Req: Channel 11, 198-204 MHz, 10 watts. Primary: KLAS-TV, Las Vegas, Nevada.

BPTTV-780901ID (new). Tecopa Hot Springs & Shoshone, California, County of Inyo. Req: Channel 13, 204-210 MHz, 10 watts. Primary: KSHO-TV, Las Vegas, Nevada.

VHF TV TRANSLATOR APPLICATIONS

BPTTV-780828IS (K04AY). Silver Lake, Oregon, Silver Lake Community Television Association. Req: Change Primary TV station to KOIN-TV, Channel 6, Portland, Oregon.

BPTTV-780831IJ (new). Litchfield, California, Honey Lake Community TV Corporation. Req: Channel 10, 192-198 MHz, 10 watts. Primary: KHSL-TV, Chico, California.

UHG TV TRANSLATOR APPLICATIONS

BMPTT-780725IO (K67BE). Silt & Rural Areas & Four Mile Creek, Colorado, Garfield County. Req: Change frequency to Channel 52, 698-704 MHz.

BPTT-780821IR (new). Port Orford, Oregon, State Of Oregon Acting By And Through The State Board Of Higher Education. Req: Channel 55, 716-722 MHz, 100 watts. Primary: KOAP-TV, Portland, Oregon.

BPTT-780821IS (new). Gold Beach, Oregon, State Of Oregon Acting By And Through The State Board Of Higher Education. Req: Channel 61, 752-758 MHz, 100 watts. Primary: KOAP-TV, Portland Oregon.

BPTT-780906IC (new). Brainerd, Minnesota, Hubbard Broadcasting, Inc. Req: Channel 22, 518-524 MHz, 1000 watts. Primary: KSTP-TV, Minneapolis/St. Paul, Minnesota.

BPTT-781016IB (new). Willmar, Minnesota, Hubbard Broadcasting, Inc. Req: Channel 14, 470-476 MHz, 1000 watts. Primary: KSTP-TV, St. Paul, Minnesota.

UHF TV TRANSLATOR APPLICATIONS

BMPTT-780807IC (K61BB). Kilauea Military Camp Area, Hawaii, Hawaii Public Broadcasting Authority. Req: Change frequency to Channel 56, 722-728 MHz.

BMPTT-780807ID (K63BB). Naalehu, Hawaii, Hawaii Public Broadcasting Authority. Req: Add Pahala, Hawaii to present principal community.

BPTT-780710IG (new). Frederick, Maryland, Maryland Public Broadcasting Commission. Req: Channel 62, 758-764 MHz, 1000 watts. Primary: WAPB-TV, Annapolis, Maryland.

BPTT-780803IB (K81BR). Ellensburg & Kittitas Valley, Washington, Kittitas County Television Reception, Improvement District No. 1. Req: Change frequency to Channel 65, 776-782 MHz.

BPTT-780816IB (new). Valmy & Redhouse Area, Nevada, Humboldt County, Req: Channel 63, 764-770 MHz, 100 watts. Primary: KTVB-TV, Boise, Idaho.

BPTT-780816IC (new). Valmy & Redhouse Area, Nevada, Humboldt County, Req: Channel 65, 776-782 MHz, 100 watts. Primary: KOLO-TV, Reno, Nevada.

BPTT-780816ID (new). Valmy & Redhouse Area, Nevada, Humboldt County, Req: Channel 69, 800-806 MHz, 100 watts. Primary: KTVN-TV, Reno, Nevada.

BPTT-781002IP (new). Seaford, Delaware, Delaware Citizens' Committee, Inc. Req: Channel 64, 770-776 MHz, 100 watts. Primary: WHYY-TV, Wilmington, Delaware.

BPTT-781120IA (new). Twentynine Palms & Twentynine Palms Marine Base, California, Morongo Basin TV Club, Incorporated. Req: Channel 54, 710-716 MHz, 20 watts. Primary: KTIA-TV, Los Angeles, California.

[FR Doc. 79-2089 Filed 1-19-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (19 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, by February 12, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreements Nos.: 50-36, 10265-2 and 10252-1.

Filing Party: Eliot J. Halperin, Esq., Graham & James, 1050 17th Street, N.W., Washington, D.C. 20036.

Summary: Agreements Nos. 50-36, 10265-2 and 10252-1 would amend the self-policing provisions of, respectively, the Pacific Coast/Australasian Tariff Bureau, the South Sea Islands Rate Agreement, and the New Zealand-Pacific Coast Rate Agreement to conform them to the requirements of the Commission's new self-policing rules as embodied in revised General Order 7 (46 CFR, Part 528, effective January 1, 1979). At the same time, the subject rate agreements are withdrawing their pending petitions for exemption to allow officers or employees thereof to serve as the policing authority.

Agreement No.: 2846-41.

Filing Party: Marc J. Fink, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 2846-41 modifies the basic agreement of the WINAC Conference to conform to the requirements of General Order 7, revised.

Agreements Nos.: 4610-27, 6080-26, 6190-32, 6870-20, 7540-31 and 8120-21.

Filing Party: Seymour H. Kligler, Esq., Brauner Baron Rosenzweig Kligler & Sparber, Attorneys at Law, 120 Broadway, New York New York 10005.

Summary: Agreements Nos. 4610-27, 6080-26, 6190-32, 687020, 7540-31 and 8120-21 would amend the self-policing provisions of the United States Atlantic & Gulf/Jamaica Conference, the United States Atlantic & Gulf/Santo Domingo Conference, the United States Atlantic & Gulf/Venezuela and Netherlands Antilles Conference, the United States Atlantic & Gulf/Venezuela and Netherlands Antiles Conference (Oil Agreement), the Leeward and Windward Islands and Guianas Conference and the United States Atlantic & Gulf/Haiti Conference, respectively, to conform them to the requirements of the Commission's new self-policing rules as embodied in revised General Order 7 (46 CFR, Part 528, effective January 1, 1979).

Agreement No.: 5660-27.

Filing Party: Marc J. Fink, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 5600-27 modifies the basic agreement of the Marseilles/North Atlantic U.S.A. Freight Conference to conform to the requirements of General Order 7, revised.

Agreement No.: 8090-17.

Filing Party: Marc J. Fink, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 8090-17 modifies the basic agreement of the Mediterranean/North Pacific Coast Freight Conference to conform to the requirements of General Order 7, revised.

Agreement No.: 9522-38.

Filing Party: Marc J. Fink, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 9522-38 modifies the basic agreement of the Med-Gulf Conference to conform to the requirements of General Order 7, revised.

Agreement No.: 9925-2.

Filing Party: John R. Mahoney, Esq., Burlingham Underwood & Lord, One Battery Park Plaza, New York, New York 10004.

Summary: Agreement No. 9925-2 between Associated Container Transportation (Australia) Limited and the Australian Shipping Commission (trading as The Australian National Line) would amend the preamble of the service agreement known as Pacific America Container Express Line (PACE) by the addition of the following language thereto:

"Vessels operated under this agreement may transport intermodal shipments (whether or not under through documentation) moving through any port which such vessels are authorized to serve, and in addition shall have the full intermodal priviliges of any conference under whose jurisdiction they operate."

The PACE agreement is presently port-to-port in scope and encompasses the trade between Australia, New Zealand and various South Pacific islands and U.S. Atlantic and Gulf Coast ports, Puerto Rico, the Virgin Islands and the Panama Canal.

Agreement No.: 10116-3.

Filing Party: Charles F. Warren, Esquire, Warren & Associates, P.C., 1100 Connecticut Avenue, N.W., Washington, D.C. 20036.

Summary: Agreement No. 10116-3 modifies the basic agreement of the U.S. Pacific Coast/Japan Revenue Pooling Agreement to extend the duration of the agreement through Mrach 31, 1982.

Agreement No.: T-3761.

Filing Party: Milton A. Mowat, Manager, Traffic and Regulatory Affairs, Port of Portland, Box 3529, Portland, Oregon 97208.

Summary: Agreement No. T-3761, between Matson Terminals, Inc. (Matson) and Port of Portland (Port), provides for the 22-month lease (with a one-year renewal option) of certain terminal facilities at Pier 2, Terminal 4, Portland, Oregon. All cargo moving over the premises will be subject to the Port's then current tariff. Matson guarantees payment of a basic minimum sum of $208,333 for the first 10 months and $250,000 for the next 12 months. Revenue from the collection of charges above the minimum guarantee will be divided between the parties as set forth in the agreement. Agreement No. T-3761 will supersede Agreement No. T-1806 between the same parties.

Agreements Nos.: T-3762, T-3763, T-3764, T-3765, T-3766, T-3767 and T-3768.

Filing Party: Mr. Richard A. Earle, Patton, Boggs and Blow, 2550 M Street NW., Washington, D.C. 20037.

Summary: Agreement No. T-3762, between the Indiana Port Commission (Port) and Lakes and Rivers Transfer Corporation (LRTC), is a Settlement Agreement whereby in consideration for LRTC's withdrawal of the complaint filed in Docket No. 76-22, and LRTC's withdrawal of protests of Agreements Nos. T-3310 and T-3311, in Docket No. 76-59, LRTC shall be granted certain privileges concerning the use of land and dock facilities at Burns Waterway Harbor, Portage, Indiana. LRTC is granted preferential use of Berth No. 6 at the East Harbor Arm of Burns Waterway Harbor, for vessels in excess of 360 feet in length to be stevedored by LRTC. In addition, the Port shall lease to LRTC four acres more or less, and described as Outside Storage Area No. 2, at the rate of $2,000 per month. The Port shall grant Ceres Marine Terminals, Inc., (Ceres) exclusive use of that area styled as the New Dock on the East Harbor Arm, 644 feet of dock space to the north of Berth No. 6 and described as Outside Storage Area No. 3, with the provisions that Ceres shall be subject to the stevedoring needs of the Levy Corporation and the Mortex Corporation, or whichever firm is handling the liquid fertilizer operation at Burns Waterway Harbor. The Port shall permit LRTC to rent 10 acres of land across the road and immediately west of the present storage and distribution area leased to LRTC by Port at an annual rental of $35,890 per annum, for five years. In addition, LRTC is granted the right of first refusal to rent for a period of five years, another 10 acres adjacent to the above-mentioned area, at the same rental offered by another prospective tenant. LRTC shall collect and pay to the Port dockage, wharfage and service charges assessed according to the Port's tariff.

Agreement No. T-3763, between the Port and LRTC, provides for the Port's approximately three-year lease (with a five-year renewal option) to LRTC of Outside Storage Area No. 2, consisting of 4.36 acres at the East Harbor Arm of Burns Waterway Harbor, together with the preferential use of the berth, wharfage and trucking concourse adjacent to the leased area; the preferential use being restricted to vessels in excess of 360 feet in length to be stevedored by LRTC. The facility is to be operated as a ship, barge, railroad, and truck terminal and storage facility. As compensation, LRTC shall pay Port $20,000 annually. LRTC is also required to collect and pay to Port all dockage and wharfage charges and harbor dues as set forth in the Port's tariff. This agreement is subject to a right of the Levy Company, Inc., (Levy) to use a portion of the leased premises when Levy cannot use the premises leased to Ceres on the East Harbor Arm of Burns Waterway Harbor.

Agreement No. T-3764, between the Port and LRTC, provides for the Port's approximately three-year lease (with a five-year renewal option) to LRTC of 6.36 acres of land at Burns Waterway Harbor, to be occupied for the purpose of installing and operating a storage, processing and distribution facility for bulk cargoes. As compensation, LRTC shall pay Port $22,635.60 per annum. In addition, LRTC shall pay Port all Port tariff charges, subject to a minimum of $6,306.00 pr annum.

Agreement No. T-3765, between the Port and Ceres Marine Terminals, Inc., (Ceres), provides for the Port's approximately four-year lease (with renewal options) of Outside Storage Area No. 3, consisting of 4.36 acres at the East Harbor Arm of Burns Waterway Harbor, together with the exclusive use of the wharfage and trucking concourse area and Berth No. 7 adjacent to the leased area. The facility is to be operated as a ship, barge, railroad, and truck terminal and storage facility. As compensation, Ceres shall pay Port $20,000 annually. Ceres is also required to collect and pay to Port all dockage and wharfage charges and harbor dues as set forth in the Port's tariff.

Agreement No. T-3766, between the Port and Ceres, provides for the Port's approximately four-year lease (with renewal options) to Ceres to Transit Shed No. 2 at the West Harbor Arm of Burns Waterway Harbor, together with the exclusive use of the wharfage and trucking concourse area and Berth No. 2 adjacent to the leased area: The facility is to be operated as ship, barge, railroad, and truck terminal and warehouse facility. As compensation, Ceres shall pay Port $100,000 annually. Ceres is also required to collect any pay the Port all dockage and wharfage charges and harbor dues as set forth in the Port's tariff.

Agreement No. T-3767, between the Port and Ceres, provides for the Port's approximately four-year lease (with renewal options) to Ceres of Tansit Shed No. 1 and Outside Storage Area No. 1 at the West Harbor Arm of Burns Waterway Harbor, together with the exclusive use of the wharfage and trucking concourse area and Berths Nos. 3 and 4 adjacent to Transit Shed No. 1 The facility is to be operated as a ship, barge, railroad and truck terminal and warehouse facility. As compensation, Ceres shall pay Port $124,168.80 annually. Ceres is also required to collect and pay to Port all dockage and wharfage charges and harbor dues as set forth in the Port's tariff.

Agreement No. T-3768, between the Port and Ceres, provides for the Port's lease to Ceres of a freezer facility attached to Transit Shed No. 1 at the West Harbor Arm of Burns Waterway Harbor, to be used as a facility for the storing and handling of frozen or refrigerated foods merchandise. As compensation, Ceres shall pay Port a basic monthly rental of 1/240 of the certified cost of constructing the facility, not to exceed a total of $300,000. In addition, Ceres shall pay additional rent as specified in the agreement. Ceres is also required to collect and pay to Port all dockage and wharfage charges and harbor dues as set forth in the Port's tariff.

By Order of the Federal Maritime Commission.

Dated: January 17, 1979.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-2172 Filed 1-19-79; 8:45 am]

[4110-92-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

MODEL ADOPTION LEGISLATION AND PROCEDURES ADVISORY PANEL

Meeting

The Model Adoption Legislation and Procedures Advisory Panel was established by the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (Public Law 95-266, Title

II, Section 202) to advise and assist the Secretary of HEW in the review of current conditions, practices, and laws relating to adoption, with special reference to their effort on facilitating or impeding the location of suitable adoptive homes for children who would benefit by adoption and the completion of suitable adoptions for such children. The Panel will propose to the Secretary model adoption legislation and procedures not later than twelve months after its appointment.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Public Law 95-463, 5 U.S.C. app. 1, sec. 10, 1976) that the Panel will hold a meeting on February 5, 6 and 7, 1979 from 9:00 a.m. to 5:00 p.m., Room 5549, Donohoe Building, 400 6th Street, S.W., Washington, D.C.

At this meeting, the Panel will consider and approve an agenda for the three day meeting. The Panel will discuss the first draft of the model adoption legislation and recommend items to be included in the first draft of model adoption procedures. The Panel will meet in plenary session throughout the three day meeting.

Further information on the Panel may be obtained from Mrs. Diane D. Broadhurst, Executive Secretary, Model Adoption Legislation and Procedures Advisory Panel, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013, telephone (202) 755-7730. Model Adoption Legislation and Procedures Advisory Panel meetings are open for public observation.

ARNOLD SAMPSON,
HDS Committee Management Officer.

JANUARY 11, 1979.

[FR Doc. 79-2240 Filed 1-19-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

RELOCATION OF ALASKA STATE OFFICE

Anchorage, Alaska

The anchorage, Alaska, Bureau of Land Management State Office will relocate all of its present office personnel, equipment and functions from its present location 555 Cordova Street to the Federal Building U.S. Courthouse located at 701 C Street, Anchorage, Alaska.

This move will commence 7:30 a.m., February 3, 1979, and be completed by 7:30 a.m., February 12, 1979. the relocation involves the move of the Land Office which will close for business at 4:00 p.m. on February 2, 1979, and open for business at 10:00 a.m. on February 5, 1979. The mailing address and telephone number for the new location will be: Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska, 99513, telephone 907-271-5960.

A Public Information Office, including land office information, will be maintained at the Anchorage Federal Office Building, 701 C Street, Room D-137.

CLAIR M. WHITLOCK
Acting State Director.

[FR Doc. 79-2173 Filed 1-19-79; 8:45 am]

[7070-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-63]

CERTAIN PRECISION RESISTOR CHIPS

Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this Order upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued: January 16, 1979.

DONALD K. DUVALL,
Chief Administrative Law Judge.

[FR Doc. 79-2245 Filed 1-19-79; 8:45 am]

[4410-09-M]

DEPARTMENT OF JUSTICE

Office of the Attorney General

[AAG/A Order No. 22-79]

PRIVACY ACT OF 1974

New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. § 552a), notice is hereby given that the Department of Justice proposes to establish a new system of records to be maintained by the Drug Enforcement Administration (DEA).

The Essential Chemical Reporting System (JUSTICE/DEA-020) is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. § 552a(e)(4) has been published in the FEDERAL REGISTER.

5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment; the Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 60-day period in which to review the system before it is implemented. Therefore, the public, OMB, and the Congress are invited to submit written comments on this system. Comments should be addressed to the Administrative Counsel, Office of management and Finance, Room 1118, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. If no comments are received from either the public, OMB, or the Congress on or before March 23, 1979, the system will be implemented without further notice in the FEDERAL REGISTER. No oral hearings are contemplated.

A report of the proposed system has been provided to the Director, OMB; to the President of the Senate; and to the Speaker ot the House of Representatives.

KEVEIN D. ROONEY,
Assistant Attorney General for Administration.

JANUARY 10, 1979.

JUSTICE/DEA-020

System name:

Essential Chemical Reporting System.

System location:

Drug Enforcement Administration (DEA), 1405 I Street, N.W., Washington, D.C. 20537. Also, DEA Field Offices. See Appendix 1 for list of addresses.[1]

Categories of individuals covered by the system:

A. Individuals who submit reports concerning the sale, loss, or theft of piperidine or other chemical essential to the manufacture of controlled substances.

B. Individuals who are reported as the purchaser, importer, or individual suffering the loss or theft of piperidine or other chemical essential to the manufacture of controlled substances.

C. Individuals who are reported as the person placing an order for piperidine or other chemical essential to the manufacture of controlled substances.

D. Individuals who are reported as being involved in or having knowledge of the details relative to the loss or theft of piperidine or other chemical essential to the manufacture of controlled substances:

Categories of records in the system:

The system contains: (1) Piperidine reports submitted to DEA pursuant to Pub. L. No. 95-633. (2) Information extracted from piperidine reports and maintained on magnetic tape. (3) reports submitted voluntarily to DEA concerning chemicals essential to the manufacture of controlled substances.

Authority for maintenance of the system:

This system of records is maintained pursuant to the reporting requirements contained in Pub. L. No. 95-633.

[1] Most recently published at 43 FR 44718 on September 28, 1978.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information contained in this system is provided to the following categories of users for the purposes stated:

(A) Other Federal law enforcement and regulatory agencies for law enforcement or regulatory purposes.

(B) State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes.

(C) Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(D) Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

(E) Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system.

Storage:

Essential chemical report documents will be maintained in manual file folders. Information extracted from these documents will be maintained on magnetic tape.

Retrievability:

The information maintained on magnetic tape will be retrievable by the name of any individual mentioned in the report.

Safeguards:

The proposed system of records will be maintained in DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Manual files will be maintained in the DEA central files and access to these documents will be restricted to DEA employees on a need-to-know basis. Access to information maintained on magnetic tape will require a specific computer program to extract information. Access to information through ADP terminals will require a user identification code which will be issued to authorized DEA employees on a strict need-to-know basis.

Retention and disposal:

Until DEA gains experience to establish the useful life of the records in this system, the records will be maintained indefinitely.

System manager(s) and address:

Assistant administrator for Enforcement, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537.

Notification procedure:

Inquiries should be addressed to Freedom of Information Division, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537.

Access and contest:

Same as above.

Record source categories:

Individuals required to submit piperidine reports pursuant to Pub. L. No. 95-633, and individuals who voluntarily submit reports concerning the sale, distribution or importation of chemicals essential to the manufacture of controlled substances.

Systems exempted from certain provisions of the act:

None.

[FR Doc. 79-2075 Filed 1-19-79; 8:45 am]

[4410-01-M]

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION, EIGHTH CIRCUIT PANEL

Meeting

The Eighth Circuit Panel (Chairman: Lawrence J. Hayes) of the United States Circuit Judge Nominating Commission will hold its next meeting at the Marquette Inn, 710 Marquette Avenue South, Minneapolis, Minnesota 55402, on Saturday, February 17, 1979, and March 9, 10, and 11, 1979, at 8:30 a.m.

The purpose of these meetings is to review applicants for the vacancy and conduct interviews. The meetings will be closed to the public pursuant to P.L. 92-463, Section 10(D) as amended. (CF 5 U.S.C. 552b (c)(6).)

Dated: January 15, 1979.

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

[FR Doc. 79-2216 Filed 1-19-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

ARKANSAS POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. DPR-51, issued to Arkansas Power & Light Company (AP&L) or the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit No. 1 (ANO-1 or the facility) located in Pope County, Arkansas. The amendment is effective as of the date of issuance.

This amendment authorizes deletion of sodium thiosulfate from the Reactor Building Spray System, allows the installation of an orifice in the line between the Sodium Hydroxide Tank (SHT) and the Borated Water Storage Tank (BWST) and changes to the Technical Specifications on the operating limits for the SHT and BWST water levels and chemical concentrations.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's applications for amendment dated July 5, 1977, and December 6, 1977, as supplemented December 13, 1978, (2) Amendment No. 39 to License No. DPR-51, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at

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the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 12th day of January 1979.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-2095 Filed 1-19-79; 8:45 am]

[7590-01-M]

[Docket No. 50-313]

ARKANSAS POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Facility Operating License No. DPR-51, issued to Arkansas Power and light Company (the licensee), which revised the license and its appended Technical Specifications for operation of the Arkansas Nuclear One, Unit No. 1 (the facility) located in Pope County, Arkansas. The amendment is effective as of its date of issuance.

The amendment changes the license and Technical Specifications relating to the receipt, possession, and use of byproduct, source and special nuclear material.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) and environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 16, 1978, as supplemented December 6, 1978, (2) Amendment No. 38 to License No. DPR-51, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Arkansas Polytechnic College, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of January 1979.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch #4, Division of Operating Reactors.

[FR Doc. 79-2094 Filed 1-19-79; 8:45 am]

[7590-01-M]

[DOCKET NO. 50-305]

WISCONSIN PUBLIC SERVICE CORP.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 24 to Facility Operating License No. DPR-43 issued to Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company which revises Technical Specifications for operation of the Kewaunee Nuclear Power Plant located in Kewaunee, Wisconsin. The amendment will become effective as of the date of issuance.

The amendment revised the Technical Specifications to include a change in inlet temperature to take into account the fuel rod bow penalty.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 12, 1977, (2) Amendment No. 24 to Facility Operating License No. DPR-43, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555; and at the Kewaunee Public Library, 314 Milwaukee Street, Kewaunee, Wisconsin 54216. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention, Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 15th day of January 1979.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactor Branch #1, Division of Operating Reactors.

[FR Doc. 79-2096 Filed 1-19-79; 8:45 am]

[7715-01-M]

[Docket No. MC78-1]

PARCEL POST PROPOSAL, 1978

Suspension of hearing

JANUARY 17, 1979.

Notice is hereby given that pursuant to the "Presiding Officer's Order Suspending Procedural Schedule And Notice Of Prehearing Conference", dated January 17, 1979, the "Hearing Schedule For Remainder Of Proceedings—Docket No. MC78-1" (attached as an Appendix to the Presiding Officer's Order, dated January 9, 1979), is hereby suspended.

In order to discuss a new schedule due to recent developments, a Prehearing Conference is hereby scheduled to be held on January 30, 1979, at 9:30 a.m., Hearing Room, Postal Rate Commission, 2000 L Street, N.W., Suite 500, Washington, D.C.

A copy of the Presiding Officer's "Order Suspending Procedural Schedule And Notice Of Prehearing Conference" is available to all interested parties in the Commission's Docket Room at the above-listed address or by calling the Docket Room, at Area Code 202-254-3800.

DAVID F. HARRIS,
Secretary.

[FR Doc. 79-2215 Filed 1-19-79; 8:45 am]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

REAR END MARKING DEVICES

Petitions for Waiver of Rules

As required by 45 U.S.C. 431(c) and in accordance with 49 CFR 211.41 and 211.9, notice is hereby given that five railroads have submitted waiver petitions to the Federal Railroad Administration (FRA) requesting temporary or permanent waivers of compliance with 49 CFR Part 221 (Rear End Marking Devices—Passenger, Commuter, and Freight Trains). That part requires that certain passenger, commuter and freight trains be equipped with highly visible marking devices located on the trailing end of the rear car of the train.

Part 221 was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2321), and became effective on February 15, 1977. Compliance with the provisions of that part became mandatory on July 1, 1978 (42 FR 62002).

Each of the railroads seeking a waiver is identified below. A brief discussion of each request for waiver is provided.

Interested persons are invited to participate in these proceedings by submitting written data, views or comments. The FRA does not anticipate scheduling a public hearing in connection with the aforemetioned petitions since the facts do not appear to warrant a hearing. However, a public hearing will be scheduled if requested by an interested person before January 31, 1979.

All communications concerning these petitions must identify the appropriate docket number (e.g. FRA Waiver Petition No. RSRM-78-20) and should be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 2100 Second Street, S.W., Washington, D.C. 20590. Communications received before February 23, 1979 will be considered by the FRA before final action is taken. Comments received after that date will be considered to the extent practicable.

Detailed information concerning each petition is on file with the docket clerk. Any comments received will also be on file. This material is available for examination by the public during regular business hours in Room 4406, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590.

FRA WAIVER PETITION DOCKET NO. RSRM-78-19

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD

The Chicago, Rock Island and Pacific Railroad (CRI&P) seeks a temporary waiver of compliance with the provisions of 49 CFR Part 221 which require that trains be equipped with highly visible marking devices.

The CRI&P notes that although the regulation requires that the marking devices be in service beginning in July of 1978, it has not been possible to equip all of its trains by that date. The CRI&P notes that it is in the process of obtaining and installing approved devices. However, production delays have prevented CRI&P from meeting the July 1, 1978 deadline for installation provided for in the regulation.

The CRI&P notes that the process of equipping all of its passenger and commuter trains was completed during October of 1978 when new passenger cars were received. However, the process of installing approved devices for freight trains will require additional time in CRI&P's judgement. CRI&P states that it expects to complete the installation of approved devices for its cabooses during June of 1979. The CRI&P seeks a temporary waiver of compliance until June 30, 1979 in order to complete the installation effort.

FRA WAIVER PETITION DOCKET NO. RSRM-78-20

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD

The Chicago, Milwaukee, St. Paul and Pacific Railroad (Milwaukee) seeks a temporary waiver of compliance with the provisions of 49 CFR Part 221 which require that trains be equipped with highly visible marking devices.

The Milwaukee notes that it has brought all of its passenger and commuter trains into compliance with the regulation. This has been accomplished in part by using the locomotive headlight as provided by the regulation. As of March 30, 1979 the Milwaukee will complete the installation of marker devices and will eliminate the use of headlights, as passenger trains marker devices, on that date.

The Milwaukee states that it is also in the process of equipping its cabooses with approved marking devices. This effort involves approximately 400 cabooses and includes 358 cabooses used primarily in road service. The effort to equip the cabooses has been hampered by the fact that only 126 cabooses are known to be equipped with electrical capability and that a large number of these electrical systems do not have the capacity to support the currently available marking devices.

The need to equip cabooses with axle generators and the limited deliveries of approved devices when combined with the fact that the Milwaukee has filed for bankruptcy has prompted the Milwaukee to seek a waiver of compliance until December 31, 1980 for the completion of its installation effort.

FRA WAIVER PETITION DOCKET NO. RSRM-78-21

MAINE CENTRAL RAILROAD

The Maine Central Railroad (MEC) seeks a temporary waiver of compliance with the provisions of 49 CFR Part 221 which require that trains be equipped with highly visible marking devices.

The MEC states that it operates approximately 46 cabooses and that none of these cabooses are equipped with electrical capability. Therefore, the MEC had originally intended to use non-electrical marking devices. MEC now intends to use lighted devices and has obtained FRA approval of the devices but delays have occurred which prevented the manufacturer from making rapid delivery of the devices.

The devices selected by the MEC will require that each caboose be brought to the shop facility at Waterville, Maine for the installation work. The MEC states that the scheduling of cabooses to reach this facility is restricted by the railroad's labor agreements which provide for the assigning of specific cabooses to specific train crews. Consequently, the MEC states that it will need until July 1, 1979 in order to complete the installation of the marker devices without severely disrupting train service. The MEC seeks a waiver of compliance until July 1, 1979 so that it can complete this installation effort.

FRA WAIVER PETITION DOCKET NO. RSRM-78-23

ST. LOUIS-SAN FRANCISCO RAILWAY

The St. Louis-San Francisco Railway (Frisco) seeks a temporary waiver of compliance with the provisions of 49 CFR 221 which require that trains be equipped with highly visible marking devices.

The Frisco notes that it operates approximately 195 cabooses. This caboose fleet includes 118 cabooses used in "pool" service, 70 cabooses used in local service and 7 cabooses used for terminal operations. The Frisco intends to equip these cabooses with approved marking devices in a two stage process.

The first step in this process will be to equip the 118 "pool" cabooses since these units are already equipped with electrical capability. The effort to

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equip these cabooses should be completed during April of 1979. The second step in this process will be to equip the non-electrified cabooses. The Frisco indicates that it has been unable to find an acceptable device for these units. Several potential solutions are being considered at the present time including the use of solar powered devices. However, the Frisco does not anticipate being able to select a device, field test that device and complete installation on the 77 local and terminal cabooses before December 31, 1980. Consequently, the Frisco seeks a waiver of compliance until December 31, 1980 for completion of the installation of these devices.

FRA WAIVER PETITION DOCKET NO. RSRM-78-24

BANGOR AND AROOSTOOK RAILROAD

The Bangor and Aroostook Railroad (BAR) seeks a permanent waiver of compliance with the provisions of 49 CFR Part 221 which require that trains be equipped with highly visible marking devices.

The BAR notes that it operates over approximately 500 miles of track and that approximately 300 miles of that trackage is main line track. The BAR operations are limited to freight trains and normally involve only 16 road freight trains on an average day.

The method of operation used by the BAR provides that each train is given sole and exclusive right to occupy a portion of main track by train order. This method of operation is commonly called an absolute block system. In view of this absolute block system the BAR indicates that the marking devices required by the regulation will not improve the safety of train operations. Consequently, the BAR seeks a permanent waiver of compliance with the regulation provided that this absolute block system is utilized.

(Sec. 202, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431); Sec. 1.49(n), Regulations of the Office of the Secretary of Transportation (49 CFR 1.49(n)).

Issued in Washington, D.C. on January 15, 1979.

ROBERT H. WRIGHT,
Acting Chairman,
Railroad Safety Board.

[FR Doc. 79-2243 Filed 1-19-79; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

FIAT 850 AND 124 MODELS FOR MODEL YEARS 1970-1974 IMPORTED BY FIAT MOTORS OF NORTH AMERICA, INC.

Public Proceeding

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966 as amended (Pub. L. 93-492, 88 Stat. 1470; October 27, 1974, 15 U.S.C. 1412), I have made an initial determination that a defect relating to motor vehicle safety exists in the frame and underbody of the 124 and 850 models of the Fiat automobile for model years 1970 through 1974 because these critical vehicle components are susceptible to weakening and failure due to excessive rust or corrosion which can result in accidents, injuries, deaths and property damage.

A public meeting will be held at 10 a.m. on February 21, 1979, in room 6332, Department of Transportation Headquarters, 400 Seventh Street, S.W., Washington, D.C. 20590, at which Fiat Motors of North America, Inc. will be afforded an opportunity to present data, views and arguments to establish that the alleged defect does not exist or does not affect motor vehicle safety.

Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify Mrs. Joan Murianka, Office of Defects Investigation, National Highway Traffic Safety Administration, Washington, D.C. 20590, telephone 202-426-2850, before the close of business on February 16, 1979. A transcript will be kept and exhibits may be accepted. There will be no cross-examination of witnesses.

The agency's investigative file in this matter is available for public inspection during regular working hours (7:45 a.m. to 4:15 p.m.) in the Technical Reference Division, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on January 16, 1979.

FRANK BERNDT,
Associate Administrator
for Enforcement.

[FR Doc. 79-2037 Filed 1-19-79; 8:45 am]

[4910-59-M]

[Docket No. IP77-9; Notice 2]

VESPA OF AMERICA CORP.

Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Vespa of America Corp. of San Francisco, California, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.123 Motor Vehicle Safety Standard No. 123, *Motorcycle Controls and Displays.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on July 21, 1977, and an opportunity afforded for comment (42 FR 37467).

Petition is an importer of motor scooters which are defined as "motorcycles" under the Federal motor vehicle safety standards. Pursuant to Table 3 of Standard No. 123 a motorcycle speedometer is required to be identified as follows: "Major graduations and numerals appears at 10 m.p.h. intervals. Minor graduations at the 5 m.p.h. intervals." Vespa has imported approximately 2,800 vehicles between April 1975 and May 1977 with speedometer face calibrations beginning at 10 m.p.h. instead of zero, and which omit a minor graduation at the 5 m.p.h. increment. Petitioners argues that the nonconformance is inconsequential because "as the products involved are intended for street and highway use at speeds up to legal limits, the probability that vehicles will be operated in situations requiring speed less than 10 MPH is remote."

No comments were received on the petition.

The National Highway Traffic Safety Administration concurs in Vespa's assessment of the failure to comply with Standard No. 123. Its failure to provide the minor graduation to indicate the 5 mph speed ought to have no discernible effect upon safety. There are few if any jurisdictions that impose a 5 mph speed limit that would require the operator of a motor driven cycle to refer to the speedometer. Accordingly the NHTSA hereby grants the petition by Vespa of America Corp. that the noncompliance of Standard No. 123 herein described be deemed inconsequential as it relates to motor vehicle safety.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on January 15, 1979.

MICHAEL M. FINKELSTEIN,
Associate Administrator
for Rulemaking.

[FR Doc. 79-2036 Filed 1-19-79; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

[Docket No. FE 78-02, Notice 2]

AUTOMOTIVE FUEL ECONOMY PROGRAM REPORT TO CONGRESS

Extension of Comment Deadline; Invitation of Financial Assistance Applications; Cancellation of Public Meeting

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Extension of deadline for submission of written comments, invitation of financial assistance applications, and cancellation of public meeting.

SUMMARY: This notice extends the deadline (originally established as February 16, 1979, in 43 FR 59577) for submission of written comments on the agency's annual report to Congress on the automotive fuel economy program. This notice also invites applications for financial assistance from individuals or organizations which desire to participate in the review of the report and the recommendation of future rulemaking activities resulting from the report, but which are financially unable to do so (see eligibility criteria and application procedures in 42 FR 2864, January 13, 1977). These actions are taken to facilitate increased public comment on the report. Because of this opportunity for increased written comment and because submission of views in written form is considered by the agency to be more appropriate than oral comment, given the technical nature of the issues involved, the public meeting originally scheduled for February 15 and 16 in Washington, D.C., is cancelled.

DATES: Written comments on the report to Congress must be submitted by March 23, 1979. Applications for financial assistance must be submitted by February 6, 1979.

ADDRESSES: Comments should refer to Docket No. FE 78-02 and be submitted in writing (preferably in 10 copies) to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. Applications for financial assistance must be submitted to Ms. Jeannette Feldman, Special Assistant to the Evaluation Board, National Highway Traffic Safety Administration, Room 5232, 400 Seventh Street, S.W., Washington, D.C. 20590. Copies of the annual report may be obtained from Mr. William Devereaux, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-755-9384).

FOR FURTHER INFORMATION CONTACT:

Mr. William Devereaux, at the above address.

Issued on January 19, 1979.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 79-2403 Filed 1-19-79; 11:47 am]

[4910-59-M]

ADVANCED AUTOMOTIVE TECHNOLOGY

Public Meeting

On December 5, 1978, the Secretary of Transportation delivered a challenge to the U.S. motor vehicle industry to create new, superior vehicles. He noted that further incremental increases in fuel economy beyond 1985 may be insufficient to offset increases in consumption in the 1990's, and that to hold the use of motor fuels to tolerable levels may require a virtual redoubling of the fleet fuel economy average before the turn of the century. The conference will focus on basic research to support further improvement in motor vehicles.

The Secretary has asked the Transportation Systems Center, in cooperation with the National Highway Traffic Safety Administration, to hold a conference on basic research directions for advanced automotive technology on February 13 and 14, 1979, at the Sheraton-Boston Hotel, 39 Prudential Center, Boston, Massachusetts. The conference will convene at 9 a.m. on the first day. The objective of this conference is to obtain views from a variety of knowledgeable and interested people from many fields and institutions on the basic research objectives and priorities that would address automotive transportation needs for the 1990's and beyond.

The conference agenda will include three panel discussion areas: engines; fuel and powertrain systems; and vehicle structures and materials. It is planned to stimulate discussion by the panelists on the basic research requirements for establishing and expanding the limits of automotive technology for the long term future. All discussions and meetings of the panel will be open to the public. Questions and comments from the audience will be entertained at certain points in the panel discussions.

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Questions about the meeting may be directed to Ms. Susan Swain, of the Transportation Systems Center, Kendall Square, Cambridge, Massachusetts, at 617-494-2392.

Issued on January 19, 1979.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 79-2404 Filed 1-19-79; 11:47 am]

[4810-40-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular Public Debt Series—No. 1-79]

TREASURY NOTES FOR JANUARY 31, 1981

Series P-1981

JANUARY 18, 1979.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,700,000,000 of United States Securities, designated Treasury Notes of January 31, 1981, Series P-1981 (CUSIP No. 912827 JJ 2). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated January 31, 1979, and will bear interest from that date, payable on a semiannual basis on July 31, 1979, and each subsequent 6 months on January 31 and July 31, until the principal becomes payable. They will mature January 31, 1981, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be included at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Tuesday, January 23, 1979. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, January 22, 1979.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; federally insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yield, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Wednesday, January 31, 1979, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Monday, January 29, 1979, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Friday, January 26, 1979, if the check is drawn on bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

SUPPLEMENTARY STATEMENT

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

[FR Doc. 79-2293 Filed 1-18-79; 2:42 pm]

[1505-01-M]

INTERSTATE COMMERCE COMMISSION

[Decisions Volume No. 47]

DECISION-NOTICE

Correction

In FR Doc. 78-33285, appearing at page 55513, in the issue for Tuesday, November 28, 1978, make the following corrections:

1. On page 55516, in the third column, in the paragraph beginning "MC 109397 (Sub-427F)", in the thirteenth line, "NM" should be corrected to read "MN".

2. On page 55520, in the second column, the paragraph beginnig "MC 127042 (Sub-22F)" should be corrected to begin "MC 127042 (Sub-225F)".

[1505-01-M]

[Decisions Volume No. 49]

DECISION-NOTICE

Correction

In FR Doc. 78-33286, appearing at page 55526, in the issue for Tuesday, November 28, 1978, on page 55538, in the second column, in the paragraph beginning "MC 144692 (Sub-1F)", in the second line "MAN" should be corrected to read "MANN".

[1505-01-M]

[Notice No. 222]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-33171, appearing at page 55550, in the issue for Tuesday, November 28, 1978, on page 55552, in the first column, the paragraph beignning "MC 12885 (Sub-1TA)" should be corrected to read "MC 128850 (Sub-1TA)".

[7035-01-M]

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 17, 1979.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before February 6, 1979.

FSA NO. 43652, Southwestern Freight Bureau, Agent's No. B-793, rates on carbolic acid (phenol), from stations in Southwestern Territory to stations in New Jersey, in Supplements 36 and 25 to its Tariffs 38-E and 355-D, ICC 5338 and 5336, respectively, to become effective February 12, 1979. Grounds for relief-market competition.

FSA NO. 43653, Burlington Northern Inc., No. 5, unit train rates on potash, from Northgate, N.D. to specified points in the Midwest, in supp. 10 to its Tariff 13-F, ICC 452, to become effective March 5, 1979. Grounds for relief—Market competition and rate relationship.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2227 Filed 1-19-79; 8:45 am]

[7035-01-M]

[Notice No. 11]

ASSIGNMENT OF HEARINGS

JANUARY 17, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 126822 (Sub-48F), Westport Trucking Company, a Corporation, now assigned January 8, 1979, Washington, D.C. is cancelled transfered to Modified Procedure.

MC 113908 (Sub-443F), Erickson Transport Corporation, now assigned January 31, 1979, at Washington, D.C. is cancelled transfered to Modified Procedure.

MC 135237 (Sub-3F), East Penn Trucking Company, a Corporation, now assigned January 24, 179, at Washington, D.C. is cancelled transfered to Modified Procedure.

MC 120257 (Sub-42), K. L. Breeden & Sons, Inc., now assigned January 9, 1979, at Birmingham, Alabama is cancelled transfered to Modified Procedure.

MC 119777 (Sub-350F), Ligon Specialized Hauler, Inc., now assigned January 15, 1979, at Birmingham, Alabama is cancelled transfered to Modified Procedure.

MC 136828 (Sub-26F), Cook Transports, Inc., now assigned January 29, 1979, at Birmingham, Ala., is postponed to March 13, 1979, (4 days), at Birmingham, Ala., in a hearing room to be later designated.

MC-1745 (Sub-8F), Interstate Van Lines, Inc., now assigned for continued hearing on January 16, 1979, at the Interstate Commerce Commission, Washington, D.C.

MC 4405 (Sub-585F), Dealers Transit, Inc. & MC 4810 (Sub-5F), Rocky Mountain Trucking Company & MC 23618 (Sub-39F), McAlister Trucking Co., DBA Mateo, & MC 25518 (Sub-20), John Bunning Transfer Co. Inc., & MC 43867 A. L. McAlister Trucking Company, & MC 95350 (Sub-8F), R. W. Jones Trucking Co., & MC 105006 (Sub-7F), L. L. Smith Trucking & MC 105006 (Sub-9F), L. L. Smith Trucking & MC 105984 (Sub-21F), John B. Barbour Trucking Company, & MC 110817 (Sub-25F), E. L. Farmer & Company & MC 113531 (Sub-2F), B & M Service, Inc., & MC 113822 (Sub-6F), Dalgarno Transportation, Inc., & MC 113822 (Sub-8f), Dalgarno Transportation, Inc., & MC 114761 (Sub-13), Getter Trucking Incorporated, & MC 119774 (Sub-96F), Eagel Trucking Company & MC 125433 (Sub-170F), F-B Truck Line Company & MC 135705 (Sub-11F), Melrose Trucking Co., Inc., & MC 143446 (Sub-1F), Gary L. McCallister & Monte A. McCallister DBA McCallister Brothers & MC 143446 (Sub-3F), Gary L. McCallister & Monte A. McCallister DBA McCallister Brothers, & MC 144961 (Sub-1F), Reed Transportation, & MC 145568F, Pollard Transportation now assigned for continued hearing on March 27, 1979 (4 days), at Casper, Wyoming and will be held at Ramada Inn 123 West E St., and will be continued April 2, 1979 (2 weeks), at Denver, Colorado and will be held at Executive Plaza Inn 1405 Curtis St.

MC 51146 (Sub-611F), Schneider Transport, Inc., now assigned January 25, 1979, at Chicago, Illinois is cancelled transfered to Modified Procedures.

MC 124920 (Sub-14), LaBar's Inc., and MC 124821 Sub 26, William Gilchrist, now assigned February 5, 1979, at Philadelphia, Pa., is postponed to March 15, 1979, (2 days), at Philadelphia, Pa., in a hearing room to be later designated.

MC 141912 (Sub-9F), Tollie Freightways, Inc., now assigned January 23, 1979, at Kansas City, Missouri is cancelled transfered to Modified Procedure.

MC 52861 (Sub-42F), Wills Trucking, Inc., now assigned March 1, 1979, at Columbus, Ohio is cancelled transfered to Modified Procedure.

MC 119493 (Sub-2220F), Monkem Company, Inc., is transfered to Modified Procedure.

MC 144374F, Mason Travel Service, Inc., now assigned for hearing on February 21, 1979, at Indianapolis, Indiana and will be held in Room 288, Federal Building & Courthouse.

MC-F 13622, Paris Motor Freight, Inc.—Purchase (Portion)—Rock Island Transit Company, MC-F 13663 Murphy Motor, Freight Lines, Inc.—Purchase (Portion)—The Rock Island, Motor Transit Company, MC-F 13668, Garrison Motor Freight, Inc.—Purchase (Portion)—The Rock Island Motor Transit Company, MC-F 13670, Winters Truck Lines, Inc.—Purchase (Portion)—Rock Island Motor Transit Company, now assigned for hearing on March 6, 1979, at the Offices of Interstate Commerce Commission, Washington, DC.

MC-F 13606, Crouse Cartage Company—Purchase—(Portion)—The Rock Island Motor Transit Company, MC-F 13631, Witte Transportation Company—Purchase (Portion)—The Rock Island Motor Transit Company, MC-F 13649, Ideal Truck Lines, Inc.—Purchase (Portion)—The Rock Island Motor Freight Co., MC-F 13657, Century-Mercury Motor Freight, Inc.—Purchase (Portion)—The Rock Island Motor Transit Company, MC-F 13691F, Jerry Simpson DBA Thornton Transfer—Purchase (Portion)—The Rock Island Motor Transit Company, are transfered to Modified, Procedure.

MC 128273 (Sub-301F), Midwestern Distribution, Inc., now assigned for hearing on February 26, 1979, at Cincinnatti, Ohio and will be held in Room 8017, Federal Office Building.

MC 144537F, Marvin Y. Neely and Nancy B. Neely, A Partnership, DBA Shun Pike Tours, now assigned for hearing on February 7, 1979, at Philadelphia, Pennsylvania and will be held in U.S. Customs Courtroom, Third Floor, U.S. Customs House Building.

MC 114457 (Sub-401F), Dart Transit Company, a Corp., now assigned for hearing on February 5, 1979, at New York City, New York and will be held in Room R-2222, Federal Building. No. MC 89369 (Sub-20F), Joart Trucking Company, now assigned for hearing on February 8, 1979, at New York City, New York and will be held in Room E-2222, Federal Building. No. MC 95540 (Sub-1038F), Watkins Motor Lines, Inc., now assigned for hearing on February 6, 1979, at New York City, New York and will be held in Room E-2222, Federal Building.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2227 Filed 1-19-79; 8:45 am]

[7035-01-M]

[Notice No. 10]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Important Notice: The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it applies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

W-377 (Sub-16 TA). By decision entered the Motor Carrier Board granted Dixie Carriers, Inc., 1717 St. James Place, Houston, TX 77027, 180 days temporary authority to engage in the business of transportation by water vessel, in interstate commerce, by self propelled vessels iron and steel articles (H-beam pilings), from Baton Rouge, LA and Natchez, MS on the Mississippi River to its confluence with the Red River, then along Red River to Red River lock and Dam #1 job site located at or near mile 51 on the Red River in Louisiana, restricted to shipments having a prior movement from Conway, PA to Baton Rouge, LA.

Alan F. Wohlstetter, 1700 K Street, NW, Washington, D.C. 20006 representative for applicant. Any interested person may file a petition for reconsideration on or before February 12, 1979. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

H. G. HOMMME, Jr.,
Secretary.

[FR Doc. 79-2226 Filed 1-19-79; 8:45 am]

[7035-02-M]

[Notice No. 149]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission on or before February 21, 1979. Failure seasonably to file a protest will be construed as a waiver of opposition and participation of the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77832, filed August 28, 1978. Transferee: JOHN F. MOWRY, JR. and DEAN E. STILES doing business as ESCORT MOVING & STORAGE, 525 Harvester Drive, Windber, PA 15963. Transferor: Robert E. Weaver, doing business as Morrellville Transit Company, P.O. Box 215, Windber, PA 15963. Representative: John M. Musselman, Rhoads, Sinon & Hendershot, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-61316 and Subs 2, and 3, issued August 3, 1965, August 2, 1967, and July 16, 1968, respectively, as follows: Household goods, between Johnstown, PA, and points within 15 miles thereof, on the one hand, and, on the other, points in NY, NJ, MD, VA, WV, and DC; between Ebensburg, PA, and points within 10 miles, on the one hand, and, on the other, points in NY, WV, MD and DC; and between points in Allegheny County, PA, on the one hand, and, on the other, points in NY, MD, WV, NJ, OH, IN, IL, MI, KY, TN and DC. Transferee presently holds no authority from this Commission. Applicant has filed for temporary authority under Section 210a(b).

MC-FC-77842, filed August 31, 1978. Transferee: HAZEL F. KERSTING, Martinsburg, MO 65264. Transferor: Keith Botkins Trucking, Inc., 112 West Rollins Street, Moberly, MO 65270. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65101. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 142358 Sub 3, issued March 23, 1978, as follows: Coal, in bulk, in dump vehicles, from points in MO to points in IL and IA, under contract with Universal Coal and Energy Company, Inc., Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77855, filed September 15, 1978. Transferee: KEN ROSE TRANSPORT LTD., St. Lawrence Street E., Madoc, Ontario, Canada KOK 2KO. Transferor: Ross Clark Freightways Limited, St. Lawrence Street E., Madoc, Ontario, Canada KOK 2KO. Representative: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, NY 14202. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 136925 Sub 2, issued August 27, 1975, as follows: Terrazzo chips, marble dust, talc and dolomite, from port of entry in NY and MI to points in CT, DE, IL, IN, KY, MA, ME, MD, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI and DC. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77908, filed October 23, 1978. Transferee: ELMO C. POTTS, DBA JOHN LAWRENCE TRAILER TOWING, 2826 Parsons, Merced, CA 95340. Transferor: John Lawrence, DBA John Lawrence Trailer Towing, Route 1, Box 17B, Aspermont, TX 79502. Representative: Michael P. Groom, Miller, Morton, Caillat & Nevis, 777 North First St., Suite 500, San Jose, CA 95112. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 10731 Sub 2, issued July 13, 1978, as follows: Travel trailers, from points in Merced Cty., CA, to points in AZ, ID, NV, OR, UT, and WA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77942, filed November 26, 1978. Transferee: Edward Schmidt, DBA SCHMIDT MOVING CO., Second and Redbank Avenues, Thorofare, NJ. Transferor: Park Storage Warehouse Co., Inc., 1021 Pine Street, Camden, NJ. Representative: Thomas F.X. Foley, State Highway 34, Colts Neck, NJ 07722. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate No. MC 8741, issued August 30, 1940, as follows: Household goods, between Camden, NJ and points in NJ and PA within 35 miles thereof, on the

one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, PA, VA and DC. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77951, filed December 7, 1978. Transferee: L. B. SHAKE TRUCKING, INC., 3490 Industrial, P.O. Box 719, Springfield, OR 97477. Transferor: Goshen Transport, Inc., P.O. Box 76, Goshen, OR 97401. Representative: Lonnie R. Bagwell, Jr., P.O. Box 719, Springfield, OR 97477. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in permit No. MC 138372 Sub 2, issued May 3, 1974, as follows: Roofing granules, from Corona, CA, to Portland, OR and asphalt, in containers, from Southgate, CA, to Portland, OR, under contract with Herbert Malarkey Roofing Company of Portland; Wooden shakes and shingles and shake felt, from points in OR and WA on and west of U.S. Hwy. 97 to points in CA and AZ, under contract with Wesco Cedar, Inc. of Eugene. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2223 Filed 1-19-79; 8:45 am]

[7035-01-M]

[Finance Docket No. 28929F]

CHICAGO, SOUTH SHORE AND SOUTH BEND RAILROAD

Trackage Rights Over the Baltimore and Ohio Chicago Terminal Railroad and the Baltimore and Ohio Railroad Co. in Lake County, IN

CHICAGO SOUTH SHORE AND SOUTH BEND RAILROAD (South Shore), North Carroll Avenue, Michigan City, IN 46360, represented by Alan A. Rudnick, Attorney, Terminal Tower, P.O. Box 6419, Cleveland, OH 44101, hereby give notice that on the 29th day of December, 1978, it filed with the Interstate Commerce Commission at Washington, DC, an application under Section 11343 of the Interstate Commerce Act (formerly Section 5(2)) for a decision approving and authorizing the acquisition of trackage rights over tracks of THE BALTIMORE AND OHIO CHICAGO TERMINAL RAILROAD (B&OCT) and THE BALTIMORE AND OHIO RAILROAD COMPANY (B&O) for a total distance of 13.67 miles. The trackage rights sought over the B&OCT extend from Valuation Station 1554 + 20 at its East Chicago, IN, yard to Valuation Station 1783 + 14, to point of intersection with the tracks of the B&O at Pine Junction, IN, a distance of approximately 4.34 miles. The trackage rights sought over the B&O extend from Valuation Station 13147 + 84 at Pine Junction to Valuation Station 12655 + 22, a point east of Miller, IN, a distance of 9.33 miles, for a total distance of 13.67 miles, located within Lake County, IN.

The proposed transaction will improve rail and other transportation services to the public. South Shore operates a commuter passenger service between points in Indiana and downtown Chicago. The greatest number of commuter stations are located west of Miller Station. The proposed transaction will permit the Applicant to move freight trains along tracks other than those used by it for its passenger operations, thus resulting in fewer delays to passenger trains. Also, the proposed transaction will permit the Applicant to move freight trains over fewer grade crossings at public roads. It will be possible for Applicant to move its trains with less delay, thus helping to assure that public grade crossings will not be blocked for unreasonable lengths of time.

In the opinion of the Applicant, South Shore, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra*, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28929F and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20423, not later than 45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General".

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2225 Filed 1-19-79; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

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[6355-01-M]

1

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: 9:30 a.m., Commission briefing, Wednesday, January 24, 1979.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Part open, part closed.

A. OPEN TO THE PUBLIC

1. *Briefing on Children's Sleepwear Enforcement Policy*—The staff will brief the Commission on issues related to a possible CPSC policy on what children's garments are considered sleepwear subject to the Standards for the Flammability of Children's Sleepwear.

2. *Briefing on Section 15 Procedures and Delegation*—The staff will brief the Commission on procedures it follows for handling possible substantial product hazards under section 15 of the Consumer Product Safety Act. The staff has recommended that it be allowed more authority to close routine cases, and has suggested changes in the procedures so that it can present industry-proposed corrective action plans to the Commission in a more timely manner.

B. CLOSED TO THE PUBLIC

3. *TRIS Enforcement*—The staff will brief the Commission in issues related to the flame-retardant chemical TRIS. (Closed under exemption 9: Possible significant frustration of agency action.)

FOR ADDITIONAL INFORMATION:

Sheldon Butts, Assistant Secretary, suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-134-79 Filed 1-18-79; 10:51 am]

[6355-01-M]

2

CONSUMER PROJECT SAFETY COMMISSION.

DATE AND TIME: 9:30 a.m. Commission meeting, Thursday, January 25, 1979.

LOCATION: Third floor hearing room, 1111 18th Street, NW., Washington, D.C.

STATUS: Part open, part closed.

A. OPEN TO THE PUBLIC

1. *Possible Substantial Product Hazard: Chance Manufacturing Co., Yo-Yo Amusement Ride, ID 78-4*—The staff has recommended that the Commission accept the corrective action plan which Chance has implemented, and close this matter.

2. *Petition on Coal- and Wood Burning Stoves, AP 77-2*—The Commission will consider a petition in which Adam Paul Banner, of Midland, Michigan, asks the Commission to issue a labeling rule for coal- and wood-burning appliances, stoves, and free-standing fireplaces. The labels would show the minimum clearances from "combustibles," and the type of chimney required for installation. The Commission previously considered, and deferred action on this petition in February 1978.

3. *Power Lawn Mowers*—The Commission will consider possible actions on a safety standard for power lawn mowers. The staff briefed the Commission on power mowers at the January 17 Briefing. The Commission proposed a standard for power mowers in May, 1977.

B. CLOSED TO THE PUBLIC

4. *Architectural Glazing Case* (OS 634)—The Commission will consider staff recommendations on a possible enforcement case under the Consumer Product Safety Act involving architectural glazing (Closed under exemption 10: possible adjudication.)

FOR ADDITIONAL INFORMATION:

Sheldon Butts, Assistant Secretary, suite 300, 1111 18th Street, N.W., Washington, D.C. 20207, telephone 202-634-7700.

[S-135-79 Filed 1-18-79; 10:51 am]

[6570-06-M]

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, January 23, 1979.

PLACE: Commission conference room No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

OPEN TO THE PUBLIC

1. Freedom of Information Act Appeal No. 78-7-FOIA-171, concerning a request for information included in a national charge investigative file.

2. Freedom of Information Act Appeal No. 78-11-FOIA-274, concerning a request for the number of race discrimination charges filed against a specific employer.

3. Final designation of two State agencies as 706 Agencies.

4. Allocation of fiscal year 1979 funds to the Puerto Rico anti-discrimination unit.

5. Report on Commission operations by the Executive Director.

CLOSED TO THE PUBLIC

Litigation authorization; General Counsel recommendations: Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This Notice Issued January 16, 1979.

[S-131-79 Filed 1-18-79; 9:05 am]

[6714-01-M]

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 4 p.m., Wednesday, January 24, 1979.

PLACE: Board Room six floor, FDIC Building, 550 17th Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for a report on the competitive factors involved in the proposed merger of

V 4 4 / 1 5 JAN 22 79 UMI

First National State Bank of Central Jersey, Trenton, N.J., with First National Bank of South Jersey, Egg Harbor Township (P.O. Pleasantville), N.J.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, Calif.

Kaye, Scholer, Fierman, Hays & Handler, New York, N.Y., in connection with the liquidation of Franklin National Bank, New York, N.Y.

Taback & Hyans, Jericho, N.Y., in connection with the liquidation of Franklin Nation Bank, New York, N.Y.

Recommendations with respect to the amendment of corporation rules and regulations:

Memorandum and resolution proposing adoption of an amendment to Part 336 of the Corporation's rule and regulations, entitled "Employee Responsibilities and Conduct."

Memorandum and resolution proposing the publication for comment of a new Part 347 of the Corporation's rules and regulations, to be entitled, "Foreign Activities of Insured State Nonmember Banks."

Memorandum and resolution proposing the publication for comment of a new Part 384 of the Corporation's rules and regulations, to be entitled "Management Official Interlocks."

Memorandum and resolution proposing the adoption of a policy statement, and the publication for comment of proposed regulations, implementing title VI (the "Change in Bank Control Act of 1978") of the "Financial Institutions Regulatory and Interest Rate Control Act of 1978."

Memorandum and resolution proposing the adoption of a Joint Statement, revised, regarding the classification of assets, the appraisal of bonds and the treatment of securities profits in bank examinations.

Memorandum proposing that the Corporation subscribe to the Macroeconomic Forecasting Service and the Banking Service of Data Resources, Inc.

Memorandum proposing the approval of an amendment to the Corporation's lease for space occupied by the Philadelphia, Pa., Regional Office.

Memorandum proposing a revision of corporation policy regarding the retention and distribution of publications.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or request approved by him and the various Regional Directors pursuant authority delegated by the board of Directors.

Report of the controller on the termination of the liquidation of Bank of Whitesville, Whitesville, Ky.

Report of the Controller on the termination of the liquidation of the State National Bank of Lovelady, Lovelady, Texas.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-137-79 Filed 1-18-79; 2:06 pm]

[6714-01-M]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 4:30 p.m., Wednesday, January 24, 1979.

PLACE: Board room sixth floor, FDIC Building, 550 17th Street N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Commerce Bank, a proposed new bank to be located at 4525 MacArthur Boulevard, Newport Beach, Calif., for Federal deposit insurance.

Torrey Pines Bank, a proposed new bank to be located on Lomas Santa Fe Drive between Santa Helena Drive and the northeast on-ramp of Interstate Highway 5, Solana Beach (unincorporated), Calif., for Federal deposit insurance.

Platteville State Bank, a proposed new bank to be located at 309 Justin Avenue, Platteville, Colo., for Federal deposit insurance.

Southwest Missouri Bank, a proposed new bank to be located at 306 West Third Street, Carthage, Mo., for Federal deposit insurance.

American State Bank, a proposed new bank to be located at 608 West B Street, McCook, Nebr., for Federal deposit insurance.

Heritage Bank, a proposed new bank to be located at 250 Pioneer Street, Ashland, Oreg., for Federal deposit insurance.

Wasatch Bank of Lehi a proposed new bank to be located at 620 East Main Street, Lehi, Utah, for Federal deposit insurance.

Application for Federal deposit insurance and for consent to establish a facility (branch):

The Bank of San Diego, a proposed new bank to be located at 225 Broadway, for Federal deposit insurance and for consent to establish a facility on G Street between 10th and 11th Avenues, both locations within San Diego, Calif.

Application for consent to establish a branch:

Tri-City Bank & Trust Co., Blountville, Tenn, for consent to establish a branch at Highway 126, Indian Springs, Tenn.

Applications for consent to merge and establish branches:

The Equitable Trust Co., Baltimore, Md., an insured State nonmember bank for consent to merge under the charter and title of "The Equitable Trust Company" with the University National Bank, Rockville, Md., and for consent to establish the 16 existing offices of University National Bank as branches of the resultant bank.

Bank of Vicksburg, Vicksburg, Miss., an insured State nonmember bank, for consent to merge, under the charter of Bank of Vicksburg and with the title of "The American Bank," with the American Bank, Clinton, Miss., and for consent to establish the three offices of the American Bank as branches of the resulting bank.

Applications for consent to merge, establish branches, and redesignate the main office location:

The Hongkong Bank of California, San Francisco, Calif., an insured State nonmember bank, for consent to merge, under its charter, and with the title of "Central Bank," with Central Bank, Oakland, Calif., also an insured State nonmember bank; for consent to establish the 41 offices of Central Bank as branches of the resultant bank; and for consent to redesignate the main office of the resultant bank to the present main office location of Central Bank.

Barnett Bank of Daytona Beach, Daytona Beach, Fla., an insured State nonmember bank, for consent to merge, under its charter, and with the title of "Barnett Bank of Volusia County," with Barnett Bank of Deland, National Association, Deland, Fla. for consent to establish the sole office of Barnett Bank of Deland, National Association, as a branch of the resultant bank; and for consent to redesignate the main office location of the resultant bank to the present main office location of Barnett Bank of Deland, National Association.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,771-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.
Case No. 43,775-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.
Case No. 43,779-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.
Case No. 43,761-L—International City Bank & Trust Co., New Orleans, La.
Case No. 43,784-L—Reserves for losses and allotments for insurance expenses.
Case No. 43,787-L—Franklin National Bank, New York, N.Y.
Memorandum re the Drovers National Bank of Chicago, Chicago, Ill.
Memorandum re Republic National Bank of Louisiana, New Orleans, La.
Memorandum re American City Bank & Trust Co., National Association, Milwaukee, Wis.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii)) of the "Government in the Sunshine Act" (5 U.S.C. 552(b) (c)(6), (c)(8), and (c)(9)(A)(ii))

Appeal, pursuant to the Freedom of Information Act, from the Corporation's earlier denial of a request for records.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

S-138-79 Filed 1-18-79; 2:06 pm]

[6715-01-M]

6

FEDERAL ELECTION COMMISSION.

DATE AND TIME: 10 a.m., Thursday, January 25, 1979.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC

Setting of dates for future meetings. Correction and approval of minutes.
Approval to add two minority language representatives to the clearinghouse advisory panel.
Appropriations and budget.
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.
Classification actions.
Routine administrative matters.

PORTIONS CLOSED TO THE PUBLIC—FOLLOWING OPEN SESSION

Audits and audit policy, compliance, and personnel.

PERSONS TO CONTACT FOR INFORMATION:

Mr. Fred S. Eiland, Public Information Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-143-79 Filed 1-18-79; 3:57 pm]

[6715-01-M]

7

FEDERAL ELECTION COMMISSION.

"FEDERAL REGISTER" NO. FR-S-73.

PREVIOUSLY ANNOUNCED DATE AND TIME: 10 a.m., Thursday, January 18, 1979.

CHANGE IN MEETING: The following subject was added to the executive session (closed portion of the meeting): Litigation.

PERSONS TO CONTACT FOR INFORMATION:

Mr. Fred S. Eiland, Public Information Officer, telephone: 202-523-4065.

MARJORIE W. EMMONS
Secretary to the Commission.

[S-142-79 Filed 1-18-79; 3:47 pm]

[6720-01-M]

8

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: At the conclusion of the open meeting to be held at 9:30 a.m., January 24, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED: Consideration of Audit Report.

No. 212, January 17, 1979.

[S-130-79 Filed 1-18-79; 9:05 am]

[6750-01-M]

9

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, January 24, 1979.

PLACE: Room 432, Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open,

MATTERS TO BE CONSIDERED: Consideration of revisions to R-value rule.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information, 202-523-3830; recorded message: 202-523-3806.

[S-136-79 Filed 1-18-79; 11:36 am]

[6820-35-M]

10

LEGAL SERVICES CORPORATION.

Meeting of the Board of Directors.

TIME AND DATE: 9:30 a.m., Friday, January 26 and Saturday, January 27, 1979.

PLACE: East Room, Airlie House, Airlie, Va.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED: General discussion of a broad range of issues concerning the Legal Services Corporation and its activities.

CONTACT PERSON FOR MORE INFORMATION:

Dellanor Young, Office of the President, telephone 202-376-5100.

Issued: January 18, 1979.

THOMAS EHRLICH,
President.

[S-141-79 Filed 1-18-79; 3:21 pm]

[7590-01-M]

11

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: January 3, 1979.

PLACE: Chairman's conference room, 1717 H Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 5:30 p.m., *Wednesday, January 3*—1. Briefing by Executive Branch on export-related matter (approximately 1 hour), (closed—Exemption 1).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

JANUARY 3, 1979.

[S-132-79 Filed 1-18-79; 10:51 am]

[7590-01-M]

12

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 3361.

TIME AND DATE: Thursday, January 18, 1979.

PLACE: Commissioners conference room 1717 H Street NW., Washington, D.C.

STATUS: Cancellations.

CHANGES IN THE MEETING: Thursday, January 18:

9:30 a.m.—1. The meeting titled "Discussion of Revision of NRC Regulations Governing the Ownership of Stocks, Bonds and Other Security Interests by NRC Employees" (approximately 1 hour, public meeting) is *Cancelled.*

1:30 p.m.—3. Affirmation session (approximately 10 minutes, public meeting).

Item c.—Time periods for issuance of initial decisions is *Cancelled.*

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

JANUARY 17, 1979.

[S-133-79 Filed 1-18-79; 10:51 am]

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[7905-01-M]

13

UNITED STATES RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9:30 a.m., January 30, 1979.

PLACE: Board's meeting room, eighth floor of its headquarters building at 844 Rush Street, Chicago, Ill. 60611.

STATUS: The entire meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Appeal from referee's denial of annuity application, Mildred G. Bledsoe.
2. Appeal from referee's denial of disability annuity application, Joseph P Szymkowiak.
3. Appeal from referee's denial of disability annuity aplication, Bennie A. Carter.
4. Appeal from referee's denial of disability annuity application, William J. Hutchinson.
5. Appeal from referee's denial of disabled child's insurance annuity, Mary Ann Kelly.
6. Appeal from referee's denial of disabled widow's insurance annuity, Ruby Hoskins.

CONTACT PERSON FOR MORE INFORMATION:

R. F. Butler, Secretary of the Board, COM No. 312-751-4920, FTS No. 387-4920.

[S-139-79 Filed 1-18-79; 2:11 pm]

[6820-AC-M]

14

NATIONAL COMMISSION ON SOCIAL SECURITY.

NOTICE OF MEETING

The National Commission on Social Security will meet at 1:30 p.m. on January 19, 1979, and again on January 20, 1979, at 9:30 a.m. Each meeting will be held in room 424 Russell Senate Office Building and shall continue until committee business is completed.

The meeting on January 19, will not be open to the public because the discussions will be limited to internal personnel rules and practices, matters covered by section 552b(c)(1) of title 5, United States Code.

The meeting on January 20, will be open to the public and will consist of a briefing on social security issues by officials of the Social Security Administration.

An earlier notice of this meeting was not possible because the Commission was not constituted until January 11, 1979, when the President appointed the Chairman and three other members.

Inquiries regarding the meetings may be addressed to the Commission c/o Room G-340, GSA Building, 18th and F Streets NW., Washington D.C. 20405.

MILTON GWIRTZMAN,
Chairman, National Commission on Social Security.

JANUARY 16, 1979.

[S-140-79 Filed 1-18-79; 2:29 pm]

federal register

MONDAY, JANUARY 22, 1979
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

DEPARTMENT OF ENERGY

State Energy Conservation Plans

NOTICE OF PROPOSED RULEMAKING AND PUBLIC HEARING

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[6450-01-M]

DEPARTMENT OF ENERGY

[10 CFR Part 420]

STATE ENERGY CONSERVATION PLANS

Notice of Proposed Rulemaking and Public Hearing

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy proposes to amend its guidelines for its program for State energy conservation plans, 10 CFR Part 420, in order to consolidate and simplify the guidelines. The Department also proposes to change the requirements relating to a right turn at a red traffic light and to make certain other substantive changes. The proposed changes to the program are based upon experience gained during the first 2 years of program implementation and are intended to reduce the administrative burden upon States and facilitate the conservation of energy.

DATES: A public hearing will be held on February 14, 1979, 9 a.m., e.s.t., in Washington, D.C.

Written comments must be received by February 21, 1979, 4:30 p.m., e.s.t.; requests to speak at the national hearing February 7, 1979, 4:30 p.m., e.s.t.; written statements of speakers by February 13, 1979.

ADDRESSES: A public hearing will be held in Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C.

Send comments and requests to speak to Margaret Sibley, Office of Conservation and Solar Applications, Department of Energy, Docket Number CAS-RM-79-501, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

William J. Raup, State Grant Programs, Department of Energy, Room 4113, 20 Massachusetts Avenue NW., Washington, D.C. 20545, 202-376-9052

Richard F. Kessler, Office of General Counsel, Department of Energy, Room 5117, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461, 202-633-9380

SUPPLEMENTARY INFORMATION:

I. Background.
II. Traffic law or regulation permitting right-turn-on-red (RTOR).
III. Extensions.
IV. Consolidation and simplification of existing procedures.
V. Nondiscrimination.
VI. Opportunity for public comment.
VII. Consultation with other Federal agencies, environmental and urban reviews and regulatory analysis.

I. Background

When first enacted, Part C of Title III of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. 6321 *et seq.*, provided financial assistance to develop, modify or implement State energy conservation plans ("plans"). Part C was subsequently amended by Part B of Title IV of the Energy Conservation and Production Act (ECPA) which provided financial assistance to develop, modify or implement supplemental State energy conservation plans ("supplemental plans"). Together, the EPCA provisions regarding plans and the ECPA provisions regarding supplemental plans constitute the program for State energy conservation plans ("program"). The program currently is authorized through fiscal year 1979.

Regulations for the program, 10 CFR Part 420, were promulgated by the Federal Energy Administration ("FEA") on February 20, 1976 (41 FR 8335, February 26, 1976); October 28, 1976 (41 FR 48325, November 3, 1976); and May 13, 1977 (42 FR 26413, May 24, 1977).

The proposal would reorganize Part 420, Subparts A through E and simplify program requirements such as those relating to the contents of applications, plans and supplemental plans. It would also modify the program requirements for a traffic law or regulation which permits the operator of a motor vehicle to make a right turn at a red light after stopping, frequently referred to as "right-turn-on-red" ("RTOR") law or regulation, and make certain other substantive changes, as discussed below.

II. Traffic Law or Regulation Permitting Right-Turn-On-Red.

Proposed § 420.7(e) amends the minimum criteria for RTOR to require that all States participating in the program adopt a traffic law or regulation which would permit the operator of a motor vehicle to make a right turn (left turn with respect to the Virgin Islands) at a red traffic light after stopping, except where specifically prohibited by a traffic sign (Such law or regulation is hereinafter referred to as the "Western Rule."). The proposed revision would no longer accept as a measure of full program compliance a State law or regulation which would permit a right turn only where specifically authorized by a traffic sign (Such law or regulation is hereinafter referred to as the "Eastern Rule.").

The current provision allowing for the Eastern Rule was a result of FEA's consideration of comments received in response to publication of the proposed guidelines in the Federal Register (41 FR 24410, June 16, 1976).

At that time, the Federal Highway Administration ("FHWA") was in the process of adopting—but had not yet adopted—an interim national policy regarding RTOR, (23 CFR 655.801-805, 41 FR 28477, July 12, 1976). This policy, published during the comment period on FEA's regulation, while recommending uniform adoption of the Western rule in all jurisdictions, noted without comment that 12 States had an Eastern Rule in place at that time. The FHWA interim national policy contained recommended criteria for determining those intersections at which RTOR should not be permitted.

Several States, at that time, indicated that they were opposed to the Western Rule for safety reasons and were prepared to provide the FEA with safety information which would demonstrate that the Eastern Rule in their jurisdictions was more appropriate than the Western Rule. Because there was no program experience against which to judge these objections and because FHWA had not yet published final provisions on RTOR, FEA modified its original proposal, the Western Rule, by permitting a plan to incorporate the Eastern Rule. Under the final guidelines governing RTOR, 10 CFR 420.35(e), 41 FR 48325, November 3, 1976, a State could use the Eastern Rule as an alternative to the Western Rule provided the State demonstrated that, with respect to its jurisdiction, the Eastern Rule permitted RTOR to the maximum extent practicable consistent with safety. At that time, FEA pointed out that its guidelines did not preclude adoption of FHWA's interim national policy by all the states. Further FEA encouraged all States to bring practices within their jurisdictions into full compliance with the interim national policy or to work with FHWA to modify the policy in the manner the State deemed advisable.

Subsequently, and in response to public comment on its interim national policy, FHWA published final provisions on RTOR which were incorporated into the Manual on Uniform Traffic Control Devices ("MUTCD") by FHWA Bulletin HTO 21, October 20, 1977. Notice of this action was published in the Federal Register, 42 FR 41633, August 18, 1977. In comparison to the interim national policy, these provisions reemphasize the recommendation of uniform adoption of the Western Rule and reduce the number of conditions under which a no turn on red sign should be considered.

In the period since the enactment of EPCA, 21 States and Territories have adopted the Western Rule. The total number of jurisdictions having adopted the Western Rule is now 49 States and 3 Territories. The Commonwealth of Massachusetts and the District of Columbia have enacted the Eastern Rule. New York City has also adopted the Eastern Rule, having been exempted by State law from New York's Western Rule. Each has provided the Department of Energy ("DOE") with documentation of the reasons why it has not chosen the Western rule. These documents are available for public review in Room 6434, Federal Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461. American Samoa has been granted a waiver, under § 420.36(a) of the current guidelines, because that jurisdiction has no signalized intersections.

DOE has enlisted the assistance of FHWA to review studies prepared by these jurisdictions to justify their Eastern Rules and to provide an opinion of each study. The FHWA view, in each case, was that the jurisdiction had not demonstrated that its implementation of the Eastern Rule would provide for RTOR to the maximum extent practicable consistent with safety. DOE agrees with these findings. The FHWA documents also are available for public review in Room 6434, Federal Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Moreover because of the large number of States which have successfully adopted the Western Rule, it is unlikely that a jurisdiction would be able to demonstrate unique circumstances which justify adoption of the Eastern Rule. Finally, the continuance of the Eastern Rule in only two States and one large city might prove confusing to interstate motorists.

With respect to the applicability of the Western Rule in urban "enclaves", or central-city districts, the current FHWA policy has no special provisions for RTOR in such enclaves. FHWA policy advocates the uniform adoption of the Western rule. Consistent both with the experience of the program to date with the operation of the Western Rule in many major cities and with FHWA's current policy, the proposed rule does not provide for special consideration of urban enclaves. The proposal would require the uniform adoption of the Western rule.

Since today's proposal on RTOR, if made final, will alter provisions in the existing rules with which Massachusetts, the District of Columbia and New York with respect to New York City have been attempting to comply, these three jurisdictions would be given until December 31, 1979, to have the Western Rule in place and ready for implementation. State applications which cover these three jurisdictions will have to demonstrate how this deadline will be met. At this time, DOE does not plan to provide any extension of time for compliance after December 31, 1979. Proposed § 420.7(e)(1) would require that the States which have already adopted the Western Rule will continue to implement it.

III. Extensions

The current regulations, § 420.41(b), provide opportunity, in appropriate circumstances, for an extension of time by which a required program measure in a State's plan must be in place and ready for implementation. The current regulations provide no extensions for a supplemental plan. Experience with program operation indicates no need for a change, and none is proposed.

On July 20, 1978, further guidance was provided to the States regarding the conditions under which an extension could be granted. In substance, this guidance prescribed procedures for the granting of further extensions for compliance with minimum criteria for required program measures.

DOE intends to continue these procedures, and proposed § 420.9 incorporates this guidance into the regulations with respect to plans. Any extensions previously granted in accordance with this guidance will remain in effect.

This proposal introduces the concept of an annual application for financial assistance for a plan or supplemental plan or both, in accordance with proposed § 420.4. Proposed § 420.4(b) (2) (ii) (E) requires an explanation of how the minimum criteria for required program measures shall be satisfied. Upon annual application, DOE expects States to demonstrate satisfactory compliance with the minimum criteria to be eligible to receive financial assistance.

The guidance concerning extensions specified that the appropriateness of granting another extension for the 1979 calendar year for a plan would be assessed at the time a State makes its annual application for 1979 funding. Moreover, a further extension for a required program measure would be given only if warranted by satisfactory achievement of program milestones under the action plan. In addition no extension would be granted if satisfactory achievement of program milestones for all other measures included in the State plan have not been met. DOE intends to continue to apply this guidance.

A new deadline is provided in proposed § 420.7(e) (3) to enable the three jurisdictions not already in compliance to adopt the Western Rule so that no further extension of time for compliance with the Western Rule is required in proposed § 420.9.

Except as noted above, DOE expects that few circumstances will justify a further extension for compliance with the minimum criteria for required program measures specified in proposed § 420.7.

IV. Consolidation and Simplification of Existing Procedures

The proposed rule consolidates and simplifies existing procedures applicable to plans and supplemental plans. The proposal generally follows the procedures for the comprehensive energy extension service ("EES"), 10 CFR Part 465, a related grant program, varying only where the needs of the two programs or statutory authorities differ.

Several revisions from the current guidelines should be noted. Because all participating jurisdictions have submitted plans or supplemental plans which have been approved, provisions pertaining to the development and submission of a plan or supplemental plan have been eliminated from the proposed rule. To continue to participate, a State would submit an annual application in accordance with the requirements of proposed § 420.4.

DOE proposes to consolidate into one document, DOE Form CS-1, the application for financial assistance for plans and supplemental plans. A State may still elect to participate in the program for a plan, supplemental plan or both. To date, no State has chosen to participate in one part of the program but not the other. Similar to present requirements, the application includes a description of proposed modifications, including new and amended program measures, a budget listed by program measure and by object class category, estimates of energy savings related to program measures, and a description of milestones by calendar quarter. The application would also require an explanation of how the minimum criteria for all required program measures will be satisfied.

To be eligible for financial assistance, the State must submit an application on or before the last day of the calendar year. The Governor may request an extension of the annual submission date by making a request in writing as provided in proposed § 420.4(d).

Proposed § 420.3 prescribes the formulas for the allocation of financial assistance among the States for the program. The formulas for plans and supplemental plans, respectively, are identical to the FY 1978 formulas.

Proposed § 420.5 sets forth the procedure for the review and approval of annual applications and State plans. This process does not differ significantly from the review and approval process employed under current pro-

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gram regulations. In addition, the proposed program measures must be consistent with achievement of a State's energy conservation goal or interim goal if any.

Proposed § 420.6 consolidates current program requirements regarding energy conservation goals. An energy conservation goal for 1980 has been set for each State. While there is also an authority to set interim goals, DOE has no present plans to exercise this authority.

In order to receive financial assistance, the application must demonstrate compliance with minimum criteria for required program measures prescribed in proposed § 420.7 and proposed § 420.8. With the exception of RTOR, discussed above, the minimum criteria currently applicable to plans and supplemental plans remain unchanged. Continued funding will continue to require timely compliance with and satisfactory implementation of required program measures which satisfy the minimum criteria.

Proposed § 420.10 introduces certain minor revisions to the administrative review process so that it more closely follows the review process untilized in the comprehensive energy entension service program. These procedures continue to provide administrative review of DOE determinations to deny applications, as provided in proposed § 420.10(a), but, in addition, now also provide review of DOE determinations to suspend or terminate financial assistance for failure to meet program requirements, as provided in proposed § 420.10(b).

The proposal includes new or revised definitions of "DOE," "Energy Conservation," "Governor," "Grantee," "Regional Representative," "Secretary," and "State." Technical corrections were made to the determinations of "Major building type", "Metropolitan Planning Organization", "Preferential traffic control", "Public building" and "Transit level of service." Several definitions have been deleted as unnecessary.

The proposed definition of energy conservation incorporates not only the efficient utilization of energy resources but now also incorporates the utilization of renewable energy resources where such action would result in energy savings based on a net reduction in the use of non-renewable energy resources.

The current guidelines did not include utilization of renewable resources as substitutes for depletable fuels because program measures were "expected to contribute to energy savings in a State's total energy consumption and not merely to shift usage from one energy source to another, as desirable as such shifting can be in appropriate circumstances" (41 FR 48326, November 3, 1976). After two years of further program experience, DOE has determined this perception to be overly restrictive. A shift from a depletable to non-depletable fuel source may not decrease the use of BTUs but it does carry out the intent of the National Energy Plan and DOE's present energy conservation objectives to decrease reliance upon depletable fuel sources. Moreover, DOE seeks to encourage the appropriate use of solar energy and other new technologies to harness renewable resources.

The definition of "energy conservation" has been modified both generally to track the definition used in the regulations of the EES and to clarify a point of program operation with respect to program measures dealing with renewable energy resources. As proposed, the definition includes utilization of renewable energy resources provided it results in energy savings based on a net reduction in the use of non-renewable energy resources. This addition is intended to clarify that any program measures dealing with renewable energy resources, if they are to be eligible for funding consideration, must result in energy savings.

With respect to only such measures, under the program methodology for determining energy savings, the BTU's from the renewable energy resources are not counted. For example, State X proposes in its annual application a new program measure as a modification to its plan, which measure would save 100 million BTU's from oil by utilizing both 100 million BTU's from wind and 50 million BTU's from various non-renewable energy resources. Under the program methodology, the savings would be 50 million BTU's (100 from oil minus 50 from the various non-renewable energy resources, but not subtracting the 100 from wind) and thus the program measures would be eligible for funding consideration.

The proposed change will enable States to consider program measures which encourage the use of renewable resources. However, States will still be expected to develop and implement a combination of program measures for a plan which are consistent with the State's achievement of its energy conservation goal and interim goals, if any, for a plan or supplemental plan as required by proposed § 420.5(a)(2).

V. Nondiscrimination

DOE published, on November 16, 1978, a proposed rulemaking in the Federal Register entitled, "Nondiscrimination in Federally Assisted Programs" (43 FR 53658, *et seq.*). Grantees will be responsible for compliance with the provisions of this regulation upon its final publication.

VI. Opportunity for Public Comment

A. Written comment procedures

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposal set forth in this notice to Margaret Sibley, Office of Conservation and Solar Applications, Department of Energy, Docket Number CAS-RM-79-501, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545.

Comments should be identified on the outside of the envelope and on documents with the designation "State Energy Conservation Plan Guidelines." Ten copies should be submitted. All comments received by February 21, 1979, before 4:30 p.m., e.s.t., and all other relevant information, will be considered by DOE before final action is taken regarding the proposed guidelines.

Any information or data considered by the person furnishing it to be confidential must be so identified on one copy submitted in writing. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. Public hearing

DOE had determined to have one, national public hearing on this proposal. It will be held at 9:00 a.m., e.s.t., on February 14, 1979, in room 3000A, 12th and Pennsylvania Avenue, N.W., Washington, D.C.

Any person who has an interest in this proceeding or who is a representative of a group of persons that has an interest in this proceeding may make a written request for an opportunity to make an oral presentation. Such a request should be directed to DOE at the address given at the beginning of this preamble, and must be received before 4:30 p.m., February 7, 1979. A request may be hand delivered between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday. Requests should be marked, as for written comments, with the additional notation "Request to Speak."

The person making the request should briefly describe the interest concerned, if appropriate, state why she or he is a proper representative of a group of persons that has such an interest, and give a concise summary of the proposed oral presentation and a phone number where she or he may be contacted through February 13, 1979. Each person selected to be heard will be notified by DOE before 4:30 p.m., local time, February 8, 1979. Each person selected to be heard must submit 15 copies of her or his statement to the address given for written comments before 4:30 p.m., e.s.t. February 13, 1979. In the event any person wishing to testify cannot provide 15 copies, alternative arrangements can be made in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling Ms. Margaret Sibley at 202-376-4802.

C. Conduct of hearing

DOE reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial or evidentiary type hearing. Questions may be asked of speakers only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearing will be based on all information available to DOE. At the conclusion of all initial oral statements at the hearing, each person who has made an oral statement will be given the opportunity if she of he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked, by those conducting the hearing, of any person making a statement. Questions should be sent to the address given for written comments before 4:30 p.m., February 8, 1979. DOE will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any person making an oral statement who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Public Reading Room, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

VII. Consultation With Other Federal Agencies, Environmental and Urban Reviews and Regulatory Analysis

In preparing this proposed rulemaking, representatives of the Secretary of Transportation were consulted.

Pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4321 *et seq.*, DOE completed an environmental assessment of the original program under EPCA. A subsequent environmental assessment of the ECPA amendments to the program was completed prior to issuance of the guidelines applicable to the supplemental plans. Notice of these assessments were published with the notices of proposed rulemaking (41 FR 24410, 24412-13, June 16, 1976, and 42 FR 16150, 16151, March 25, 1977).

Each plan and supplemental plan was required to include a detailed description of the increase or decrease in environmental residuals expected from the implementation of the subject plan and an indication of how these environmental factors were considered in the selection of program measures. Environmental impact determinations were considered and published for each plan prior to funding. Applications for financial assistance submitted in accordance with the proposed regulation will be subject to NEPA review, as appropriate, prior to approval in a manner similar to the treatment of applications filed under existing regulations.

The proposed regulation permits the inclusion of renewable resource program measures which had been excluded by the original plan guidelines. DOE does not believe that the substitution of renewable for non-renewable energy resources will have a significant adverse environmental impact, and the reduced consumption of fossil fuels is expected to have beneficial, although insignificant impacts. Therefore, an environmental assessment dealing with this shift in policy has not been prepared at this time.

DOE will, however, require that an environmental discussion accompany a State application. Should DOE, in its review of a State's submittal, find reason to reconsider its initial judgment regarding the insignificance of the impacts associated with the use of renewable resources, DOE will prepare an EA to support its consideration of the State's submittal.

The proposed rulemaking has been reviewed in accordance with DOE procedures for implementing Executive Order 12044, 43 FR 12661, May 1, 1978. Under these procedures, DOE has determined that the proposed rulemaking is "significant" but not "major" and therefore does not require regulatory analysis. The anticipated effects of the proposal, if made final, would be primarily to simplify program procedures. Virtually the only substantive change would be the revision of RTOR requirements which affects two States and one city. A comment period of 30 days is provided on today's proposal. The Deputy Secretary has waived the requirement for a 60-day comment period, because it would be in the public interest to simplify program guidelines at the earliest date practicable.

The proposed rulemaking has also been reviewed in accordance with OMB Circular A-116 to assess the impacts on urban centers and communities. DOE has found that the proposed rule does not constitute a major proposal under Circular A-116 which would require formal analysis.

Pursuant to Section 7(a)(1) of the Federal Energy Administration Act of 1974, as amended, 15 U.S.C. 766(a), a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency (EPA) for comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

In consideration of the foregoing, the Department of Energy proposes to revise Part 420 of Chapter II of Title 10 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., January 17, 1979.

Omi Walden,
Assistant Secretary, Conservation and Solar Applications.

PART 420—STATE ENERGY CONSERVATION PLANS

Sec.

420.1 Purpose and scope.
420.2 Definitions.
420.3 Financial assistance.
420.4 Annual State applications
420.5 Review and approval of annual State applications and State plans
420.6 Energy conservation goals.
420.7 Minimum criteria for required program measures for plans.
420.8 Minimum criteria for required program measures for supplemental plans.
420.9 Extensions for compliance with required program measures.
420.10 Administrative review.
420.11 Technical assistance.
420.12 Recordkeeping.
420.13 Reports.
420.14 Prohibited expenditures.
420.15 Administration of financial assistance.

Authority: Title III, Part C, as amended, of the Energy Policy and Conservation Act, 42 U.S.C. 6321 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*

§ 420.1 Purpose and scope.

(a) This part prescribes requirements for program measures included in plans and supplemental plans, and

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guidelines for the development, modification and funding of plans and supplemental plans. It is the purpose of this part to promote the conservation of energy and to reduce the rate of growth of energy demand through the development and implementation of a comprehensive State energy conservation plans program and the provision of Federal financial and technical assistance to States in support of such program.

(b) DOE has the responsibility to foster and promote comprehensive State energy conservation plans by providing technical and financial assistance for specific State initiatives to conserve and improve efficiency in the use of energy and to encourage the use of renewable resources. Because of the diversity of conditions among the various States and regions of the Nation, a wholly Federally administered program would not be as effective as one which is tailored to meet local requirements and to respond to local opportunities.

§ 420.2 Definitions.

As used in this part—

"Act" means Title III, Part C, as amended, of the Energy Policy and Conservation Act, 42 U.S.C. 6321 *et seq.*

"ASHRAE 90-75" means those designated standards developed by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Incorporated, as approved by its Board of Directors on August 11, 1975, to provide design requirements for improvements of energy utilization in new buildings.

"Btu" means British thermal unit.

"British thermal unit" means the quantity of heat necessary to raise the temperature of one pound of water one degree fahrenheit at 39.2 degrees Fahrenheit and one atmosphere of pressure.

"Building" means any structure which includes provision for a heating or cooling system, or both, or for a hot water system.

"Carpool" means the sharing of a ride by two or more people in an automobile.

"Carpool matching and promotion campaign" means a campaign to coordinate riders with drivers to form carpools and/or vanpools.

"Commercial building" means any building other than a residental building, including any building constructed for industrial or public purposes.

"DOE" means the Department of Energy.

"Energy audit" means a survey of a building or buildings that is conducted in accordance with §420.7(b)(3) and Subpart B of 10 CFR part 450 and which—

(1) identifies the type, size, energy use level and the major energy using systems of such building or buildings;

(2) determines appropriate energy conservation maintenance and operating procedures; and

(3) indicates the need, if any, for the acquisition and installation of energy-conservation measures.

"Energy conservation" means energy conservation, efficient energy use or the utilization of renewable energy resources which results in energy savings based upon a net reduction in the use of non-renewable energy resources.

"Energy conservation measure" means a measure which is identified as an energy conservation measure in accordance with Subpart D of 10 CFR Part 450.

"Energy measure" means an energy conservation measure or a renewable-resource energy measure as prescribed in Subpart D of 10 CFR Part 450.

"Environmental residual" means any pollutant or pollution causing factor which results from any activity.

"Exempted building" means—

(a) any building whose peak design rate of energy usage for all purposes is less than one watt (3.4 Btu's per hour) per square foot of floor area for all purposes;

(b) any building with neither a heating nor cooling system;

(c) any mobile home; or

(d) any building owned or leased in whole or in part by the United States.

"Exterior envelope physical characteristics" means the physical nature of those elements of a building which enclose conditioned spaces through which thermal energy may be transferred to or from the exterior.

"Governor" means the chief executive officer of a State and the Major of the District of Columbia, or a person duly designated in writing by the Governor to act upon his or her behalf.

"Grantee" means the State or other entity named in the Notice of Grant Award as the recipient.

"HVAC" means heating, ventilating and air conditioning.

"Heating, ventilating and air conditioning" means a system that provides heating, ventilation and/or air conditioning within or associated with a building.

"HUD minimum property standard" means any of the rules and regulations adopted by the Department of Housing and Urban Development establishing minimum acceptable levels of site design, site preparation, exterior and interior appurtenances which standard is applied to single or multifamily housing units which seek assistance under one or more programs administered by the Assistant Secretary for Housing and Mortgage Credit of the Department of Housing and Urban Development.

"Industrial plant" means any fixed equipment or facility which is used in connection with, or as part of, any process or system for industrial production or output.

"Major building type" means a class of buildings within which similar functions occur such as hospitals, restaurants, hotels and supermarkets.

"Metropolitan Planning Organization" means that organization required by the Department of Transportation, and designated by the Governor as being responsible for coordination within the State, to carry out transportation planning provisions in a Standard Metropolitan Statistical Area.

"National energy conservation program" means a program which is authorized by Federal statute and is wholly implemented by the Federal Government, without the active participation of a State or local government, other than for usual coordination or acknowledgement.

"Park-and-ride lot" means a parking facility generally located at or near the trip origin of carpools, vanpools, and/or mass transit.

"Plan" means a State energy conservation plan including required program measures in accordance with §420.7 and otherwise meeting the applicable provisions of this part.

"Political subdivision" means a unit of government within a State, including a county, municipality, city, town, township, parish, village, local public authority, school district, special district, council of governments, or any other regional or intrastate governmental entity or instrumentality of a local government exclusive of institutions of higher learning and hospitals.

"Preferential traffic control" means any one of a variety of traffic control techniques used to give carpools, vanpools and public transportation vehicles priority treatment over single occupant vehicles other than bicycles and other two-wheeled motorized vehicles.

"Program measure" means one or more State actions, in a particular area, designed to effect energy conservation, excluding actions in areas specifically covered by national energy conservation programs.

"Public building" means any building which is open to the public during normal business hours, except exempted buildings, including—

(a) any building which provides facilities or shelter for public assembly, or which is used for educational, office or institutional purposes;

(b) any inn, hotel, motel, sports arena, supermarket, transportation terminal, retail store, restaurant, or other commercial establishment which

provides services or retail merchandise;

(c) any portion of an industrial plant building used primarily as office space; or

(d) any building owned by a State or political subdivision thereof, including libraries, museums, schools, hospitals, auditoriums, sport arenas, and university buildings.

"Public transportation" means any scheduled or nonscheduled transportation service for public use.

"Regional Representative" means the Regional Representative of the Secretary.

"Renewable-resource energy measure" means a measure which is identified as a renewable resource energy measure in accordance with Subpart D of 10 CFR Part 450.

"Residential building" means any structure which is constructed for residential occupany.

"Secretary" means the Secretary of DOE.

"State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

"Supplemental plan" means a supplemental State energy conservation plan including required program measures in accordance with §420.8 and otherwise meeting the applicable provisions of this part.

"Transit level of service" means characteristics of transit service provided which indicate its quantity, geographic area of coverage, frequency and quality (comfort, travel, time, fare and image).

"Urban area traffic restriction" means a setting aside of certain portions of an urban area as restricted zones where varying degrees of limitation are placed on general traffic usage and/or parking.

"Vanpool" means a group of riders using a vehicle, with a seating capacity of not less than eight individuals and not more than fifteen individuals, for transportation to and from their residences or other designated locations and their place of employment, provided the vehicle is driven by one of the pool members.

"Variable working schedule" means a flexible working schedule to facilitate carpool, vanpool and/or public transportation usage.

§ 420.3 Financial assistance.

(a) The Regional Representative shall provide financial assistance to develop, modify or implement a plan, a supplemental plan, or both, on a calendar year basis, from funds available for any fiscal year, to each State having an approved annual application.

(b) Financial assistance to develop, implement or modify plans shall be allocated among the States from funds available for any fiscal year, based on the following formula—

(1) forty percent of available funds will be divided on the basis of the resident population of the participating States as of July, 1976, as reported by the Department of Commerce, Bureau of Census, in their most recent publication of "Current Population Reports;"

(2) twenty-five percent of available funds will be divided among the prticipating States equally; and

(3) thirty-five percent of available funds will be divided on the basis of estimated energy savings in calendar year 1980 resulting from the implementation of State energy conservation plans; provided, however, that no State shall receive more than twenty percent of the funds available to be divided on the basis of the estimated energy savings in calendar year 1980; and

(c) Financial assistance to develop, implement or modify supplemental plans shall be allocated among the States from funds available for any fiscal year, based on he following formula—

(1) seventy-fie percent of available funds will be divided on the basis of the resident poulation of the prticipating States as of July, 1976, as reported by the Department of Commerce, Bureau of Census, in their most recent publication of "Current Population Reports;" and

(2) twenty-five percent of available funds will be divided among the participating States equally.

§ 420.4 Annual State applications.

(a) To be eligible for financial assistance under this part, a State on or before the last day of the calendar year shall submit an original and two copies to the Regional Representative of an annual application, executed by the Governor. The annual application shall be submitted in accordance with DOE Form CS-1 and shall request financial assistance for either a plan or a supplemental plan or for both.

(b) An application shall include—

(1) the name and address of the grantee;

(2) with respect to either a plan or supplemental plan or both—

(i) a description of proposed modifications, including new and amended program measures;

(ii) for the year in which financial assistance will be provided—

(A) a budget listed by program measure and by object class category;

(B) a narrative statement detailing the nature of amendments and of new program measures;

(C) a listing of milestones by calendar quarter; and

(D) a description of the source and amount of funding, if any, other than financial assistance provided under this part, which is expected to be available to the State;

(E) an explanation of how the minimum criteria for required program measures prescribed in §420.7 for plans and §420.8 for supplemental plans shall be satisfied.

(iii) a detailed description of the estimated energy savings and the estimated cost of implementation for each program measure described in the application; and

(3) a detailed description of the increase or decrease in environmental residuals expected from implementation of either a plan or supplemental plan, or both, defined insofar as possible through the use of information to be provided by DOE, and an indication of how these environmental factors were consideed in the selection of program measures.

(c) The detailed description of estimated energy savings for a plan, specified in subparagraph (b)(2)(iii) of this section, shall include—

(1) the estimated energy savings in Btu's expected as a result of the implementation of the program measure for calendar year 1980, and beyond;

(2) the sources of numerical data, any assumptions, and the actual calculations used by the state to estimate the energy savings;

(3) for those program measures for which DOE has not made available a methodology for estimating the energy savings, the methodology used to estimate the energy savings; and

(4) the manner in which the State will assess actual energy savings under the program measure.

(d) The Governor may request an extension of the annual submission date by submitting a written request to the Regional Representative on or before December 15. The extension shall only be granted, for a period not to exceed three months, if, in the Regional Representative's judgment, acceptable and substantial justification is shown, and the Regional Representative determines that prticipation by the State submitting the request is likely to result in significant progress toward achieving the purposes of this part

§ 420.5 Review and approval of annual State applications and State plans.

(a) The Regional Representative shall review each timely annual application and provide financial assistance if he or she determines that—

(1) the application conforms to the requirements of this part;

(2) the proposed program measures are consistent with a State's achievement of its energy conservation goal

and interim goals, if any, in accordance with § 420.6;

(3) the provisions of the application regarding program measures satisfy the minimum program requirements prescribed by § 420.7.

If the annual application is not approved according to paragraph (a) of this section, the Regional Representative shall return it to the State together with a written statement describing why the annual State application fails to meet the requirements of this part. The State will be given a reasonable period of time, as determined by the Regional Representative, to amend its annual application and submit it for reconsideration according to paragraph (a) of this section.

§ 420.6 Energy conservation goals.

(a) DOE shall set an energy conservation goal for each State for calendar year 1980 pursuant to § 364 of the Act.

(b) DOE may set interim goals for the States pursuant to § 364 of the Act.

(c) With regard to interim goals prescribed in accordance with paragraph (b) of this section, DOE shall specify the assumptions used in the determination of the projected energy consumption in each State, taking into account population trends, economic growth, and the effects of national energy conservation programs.

§ 420.7 Minimum criteria for required program measures for plans.

A plan shall satisfy all of the following minimum criteria for required program measures.

(a) Mandatory lighting efficiency standards for public buildings shall—

(1) be under implementation throughout all political subdivisions of the State;

(2) apply to all public buildings above a certain size, as determined by the State;

(3) for new public buildings, be no less stringent than provisions of section 9 of ASHRAE 90-75; and

(4) for existing public buildings, contain the elements deemed appropriate by the State.

(b) Program measures to promote the availability and use of carpools, vanpools and public transportation shall—

(1) have at least one of the following actions under implementation in at least one urbanized area with a population of 50,000 or more within the State or in the largest urbanized area within the State if that State does not have an urbanized area with a population of 50,000 or more—

(i) a carpool/vanpool matching and promotion campaign;

(ii) park-and-ride lots;

(iii) preferential traffic control for carpoolers and public transportation patrons;

(iv) preferential parking for carpools and vanpools;

(v) variable working schedules;

(vi) improvements in transit level of service for public transportation;

(vii) exemption of carpools and vanpools from regulated carrier status;

(viii) parking taxes, parking fee regulations or surcharge on parking costs;

(ix) full-cost parking fees for State and/or local government employees;

(x) urban area traffic restrictions;

(xi) geographical or time restrictions on automobile use; or

(xii) area or facility tolls; and

(2) be coordinated with the relevant Metropolitan Planning Organization, unless no Metropolitan Planning Organization exists in the urbanized area, and not be inconsistent with any applicable Federal requirements.

(c) Mandatory standards and policies affecting the procurement practices of the State and its political subdivisions to improve energy efficiency shall—

(1) with respect to all State procurement and with respect to procurement of political subdivisions to the extent determined feasible by the State, be under implementation; and

(2) contain the elements deemed appropriate by the State to improve energy efficiency through the procurement practices of the State and its political subdivisions.

(d) Mandatory thermal efficiency standards for new and renovated buildings shall—

(1) be under implementation, with respect to all buildings other than exempted buildings, throughout all political subdivisions of the State;

(2) take into account the exterior envelope physical characteristics, HVAC system selection and configuration, HVAC equipment performance and service water heating design and equipment selection;

(3) for all new commercial buildings, be no less stringent than a standard consistent with provisions of sections 4-9 of ASHRAE 90-75;

(4) for all new residential buildings, be no less stringent than either the HUD minimum property standards or a standard consistent with the provisions of sections 4-9 of ASHRAE 90-75; and

(5) for renovated buildings—

(i) apply to those buildings determined by the State to be renovated buildings; and

(ii) contain the elements deemed appropriate by the State regarding thermal efficiency standards for renovated buildings.

(e) A traffic law or regulation which permis the operator of a motor vehicle to make a right turn at a red light after stopping shall—

(1) be in a State's motor vehicle code and under implementation thoughout all political subdivisions of the State, except as provided in paragraph (e)(3) of this section;

(2) permit the operator of a motor vehicle to make a right turn (left turn with respect to the Virgin Islands) at a red traffic light after stopping except where specifically prohibited by a traffic sign for reasons of safety; and

(3) for any State without such traffic law or regulation in effect before December 31, 1978, be ready for implementation by December 31, 1978, be ready for implementation by December 31, 1979 and fully meet the requirements of paragraphs (e)(1) and (2) of this section thereafter.

§ 420. Minimum criteria for required program measures for supplemental plans:

A supplemental plan shall satisfy all of the following minimum criteria for required program measures.

(a) Procedures for carrying out a continuing public education effort to increase significantly public awareness of the energy and cost savings which are likely to result from the implementation, including implementation through group efforts, of energy measures shall—

(1) be under implementation; and

(2) provide a public awareness program regarding energy audits with respect to buildings and industrial plants which at least includes a campaign publicizing the availability of energy audits in at least one urbanized area with a population greater than 50,000 or in the largest urbanized area within a State if the State does not have an urbanized area with a population of 50,000 or more. The campaign must make clear reference to the range of technical assistance available to the owner or occupant of the building or industrial plant and provide a point of contact with the organization administering the energy audits, including a telephone number;

(b) Procedures for carrying out a continuing public education effort to increase significantly public awareness of information and other assistance, including information as to available technical assistance, which is or may be available with respect to the planning, financing, installing, and monitoring the effectiveness of measures likely to conserve, or to impove efficiency in the use of energy, including energy measures shall—

(1) be in place and under implementation; and

(2) contain the elements considered appropriate by a State.

(c) Procedures for ensuring that effective coordination exists among various local, State and Federal energy conservation programs within and affecting such State, including the comprehensive energy extension service program, under 10 CFR Part 460, shall—

(1) be in place and under implementation; and

(2) contain provisions for activities considered appropriate by a State such as coordinating local and State agencies to prevent duplication of energy conservation activities or conducting public hearings to ensure that individuals and groups concerned with program measures to be incorporated in a plan or supplemental plan and all other energy conservation programs in the State, shall be afforded the opportunity to participate in their development, implementation, and modification.

(d) Procedures for encouraging and for carrying out energy audits with respect to buildings and industrial plants shall—

(1) be under implementation throughout all political subdivisions of the State;

(2) be in accordance with subpart B of 10 CFR part 450; and

(3) provide and make available, to the extent feasible, Class A energy audits in at least one political subdivision for the buildings or industrial plants in at least one of the following categories and as many Class C energy audits as are practicable within the State in the remaining categories—

(i) apartment buildings;
(ii) educational institutions;
(iii) hospitals;
(iv) hotels and motels;
(v) industrial plants;
(vi) office buildings;
(vii) restaurants;
(viii) retail stores;
(ix) transportation terminals; and
(x) warehouses and storage facilities; and

(4) make available Class B or C audits to all individuals, as requested by such individuals, who are occupants of residential dwelling units in a State at no direct cost to those persons.

§ 420.9 Extensions for compliance with required program measures.

The Governor may request an extension of time, not to exceed December 31, 1979, by which a required measure meeting the minimum criteria of § 420.7 must be under implementation by submitting a written request to the Regional Representative supported by documentation that—

(a) the program measure—

(1) is in place and ready for implementation within not less than one political subdivision within the State; or

(2) is partially implemented upon a statewide basis; and

(b) the State is prepared to carry out an action plan submitted to the Regional Representative with specific quarterly milestones for full implementation of the program measure throughout the State in the shortest practicable period, but in no event later than December 31, 1979.

§ 420.10 Administrative review.

(a) If the Regional Representative intends to deny an annual State application resubmitted by the Governor according to § 420.5(b) or refuses to accept an annual State application resubmitted by the Governor after the time period referred to in § 420.5(b) has expired, the Regional Representative shall give notice to the Governor.

(b) If the Regional Representative determines that implementation of a State plan approved according to § 420.5 fails to meet the requirements of this part, the Secretary shall give notice to the Governor of his or her intent to terminate or suspend financial assistance to the grantee.

(c) The notice required by paragraphs (a) or (b) of this section shall be issued in writing by registered mail with return receipt requested and include—

(1) a statement of the reasons for the intended denial, termination or suspension of financial assistance;

(2) the date, place and time of a public hearing to be held by a review panel concerning the intended denial, termination or suspension of financial assistance, the hearing to be held within 15 working days after the date of receipt by the Governor of the notice; and

(3) the manner in which views may be presented.

(d) The Governor may submit written views with supporting data to the Regional Representative on or prior to the date of the public hearing and shall be offered an opportunity to make an oral presentation at the public hearing.

(e) The review panel shall be appointed by the Regional Representative and shall consist of three disinterested members.

(f) The review panel shall consider all relevant views and data submitted on or prior to the date of the public hearing. The review panel shall submit a written report containing its findings and recommendations to the Regional Representative within 10 working days after the date of the public hearing.

(g) The Regional Representative shall submit the report, together with his or her recommendations, to the Secretary within 5 working days after receipt of the report.

(h) The Secretary shall issue a final determination, accompanied by a statement of the reasons for the actions taken, within 10 working days after receipt of the submission from the Regional Representative.

(i) Upon issuance of the notice referred to in paragraphs (a) or (b) of this section, the Secretary may suspend financial assistance to the grantee pending a final determination. If the Secretary makes a final determination adverse to the grantee, the Regional Representative shall terminate financial assistance to the grantee.

§ 420.11 Technical assistance.

At the request of the Governor of any State to DOE and subject to the availability of personnel and funds, DOE will provide information and technical assistance to the State in connection with effectuating the purposes of this part.

§ 420.12 Recordkeeping.

Each State or other entity within a State receiving financial assistance under this part shall make and retain records required by the Secretary, including records which fully disclose the amount and disposition of financial assistance received; the cost of administration; the total cost of all activities for which assistance is given or used; the source and amount of any funds not supplied by the Secretary; and any data and information which the Secretary determines are necessary to protect the interests of the United States and to facilitate an effective financial audit and performance evaluation. The Secretary, or any of his or her duly authorized representatives, shall have access, until three years after the completion of the activities involved, to any books, documents, records or receipts which the Secretary determines are related or pertinent, either directly or indirectly, to financial assistance provided under this part.

§ 420.13 Reports.

Each State receiving financial assistance under this part shall submit to the Regional Representative a quarterly program performance report and a quarterly financial status report. The report shall contain such information as the Secretary may prescribe in order to monitor effectively the implementation of a plan or supplemental plan. The reports shall be submitted to the Regional Representative within 30 days following the end of each calendar quarter.

§ 420.14 Prohibited expenditures.

Grants awarded under this part shall not be used directly or indirectly—

(a) to purchase equipment, other than office equipment, such as weatherization materials and law enforcement equipment;

(b) for construction, such as construction of mass transit systems and exclusive bus lanes;

(c) to subsidize fares for public transportation; or

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(d) for subsidies for utility rate demonstrations or State insulation tax credits.

§ 420.15 Administration of financial assistance.

Grants provided under this part shall comply with the requirements of—

(a) Office of Management and Budget Circular A-102, entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments;"

(b) Office of Management and Budget Circular A-95, entitled "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects;"

(c) Federal Management Circular 73-2 (34 CFR 251), entitled "Audit on Federal Operations and Programs by Executive Branch Agencies;"

(d) Federal Management Circular 74-4 (34 CFR 255), entitled "Cost Principles Applicable to Grants and Contracts with State and Local Governments;"

(e) Office of Management and Budget Circular A-97, entitled "Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title III of the Intergovernmental Coordination Act of 1968;"

(f) Treasury Circular 1082 Revised, entitled "Notification to States of Grant-in-Aid Information;"

(g) Treasury Circular 1075, entitled "Treasury Fiscal Requirements Manual;" and

(h) Other procedures which DOE may from time to time prescribe for the administration of financial assistance provided under this part.

[FR Doc. 79-2292 Filed 1-18-79; 2:28 pm]

federal register

MONDAY, JANUARY 22, 1979
PART III



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

GENERAL OPERATING AND FLIGHT RULES

Proposed Revision Pursuant to Petition by Aircraft Owners and Pilots Association

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[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 91]

[Docket No. 18334; Notice No. 79-2]

GENERAL OPERATING AND FLIGHT RULES

Revision of Part 91

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance notice of proposed rule making.

SUMMARY: This notice sets forth the petition of the Aircraft Owners and Pilots Association, on behalf of its members, for revision of that Part of the Federal Aviation Regulations which contains the general operating and flight rules.

DATES: Comments must be received on or before April 23, 1979.

ADDRESS: Send written comments in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24), Docket No. 18334 800 Independence Ave., S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Comments Invited

This advance notice of proposed rule making is issued to invite public participation in the identification and selection of a course or alternate courses of action with respect to a particular rule making problem. Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24), Docket No. 18334, 800 Independence Avenue, S.W., Washington, D.C. 20591. All comments submitted will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested persons. If it is determined to proceed further, after consideration of the available data and the comments received in response to this notice, a notice of proposed rule making will be issued and will be filed in the public docket.

Availability of ANPRM

Any person may obtain a copy of this advance notice of proposed rule making (ANPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Ave., S.W., Washington, D.C. 20591, or by calling (202) 426,8058. Communication must identify the notice number of this ANPRM. Persons interested in being placed on a mailing list for future ANPRM's and NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Background

By petition dated August 9, 1978, the Aircraft Owners and Pilots Association (AOPA) petitioned the Federal Aviation Administration to revise Part 91 of the Federal Aviation Regulations (14 CFR Part 91).

The FAA believes the petition discloses adequate reasons to publish it in the form of an advance notice of proposed rule making for the purpose of obtaining public comments on it.

Although this advance notice sets forth the contents of the petition without substantive changes, it should be understood that its publication does not represent an FAA position, or otherwise commit the Agency, on the merits of any particular amendment proposed. The Agency intends to reach a conclusion on the merits of the individual proposals only after it has had an opportunity to carefully evaluate them in the light of all comments received. Thereafter, if the FAA determines that it should proceed further, a notice of proposed rule making will be issued which reflects the FAA evaluation of the proposals.

AOPA Petition

PETITION FOR RULEMAKING

Proposed Revision of Part 91 of the Federal Aviation Regulations

The Aircraft Owners and Pilots Association, on behalf of more than 210,000 members petitions the Federal Aviation Administration to revise Part 91 of the Federal Aviation Regulations to make the regulations simpler and more comprehensible.

Present Part 91 reflects the ever increasing volume of air traffic and changes in aviation technology since the first set of regulations were promulgated almost fifty years ago. New regulations are regularly added and old ones revised, with very few being deleted. Where sections have been amended several times in attempts to make them more explicit, or to reflect changes in other regulations, they have become convoluted with much of the language superfluous.

Under the codification system used, it has been difficult to keep the regulations in any kind of logical order. The only provision for adding new regulations has been to leave blanks between the section numbers, but these blanks are soon exhausted resulting in a rather random listing of regulations. The best solution to this problem is a new numbering system such as that employed by ICAO. This has not been done in this proposal because to do so might obscure the basic purpose of simplifying the regulations and format in Part 91, and raise additional problems in having the proposal adopted.

We believe Part 91 should contain only those regulations a pilot needs to know in order to operate legally and, hopefully, safely. The regulations should be as short and uncomplicated as possible, and understandable to all pilots. Material which may state good operating procedures but is extraneous to a basic regulation should be deleted and placed in Advisory Circulars, training manuals and other publications.

The Accompanying proposal contains four areas of change from present Part 91: I Reorganization; II Simplification; III Deletion; and IV Addition.

I. REORGANIZATION

The regulations are organized into seven subparts, with the sections in each subpart assigned the odd numbers in series of 100; i.e., §§ 91.15, 91.115, 91.215, etc.

Subpart A. General Regulations, and Subpart B, Basic Flight Rules, are applicable to all operations. These two subparts contain all the regulations pertinent to the non-instrument rated pilot flying small aircraft in ordinary not-for-hire operations.

Subpart C contains the Instrument Flight Rules, including those governing Category II operations.

Subpart D, Special Flight Operations, governs aerobatic flight, aircraft flight test areas, flight instruction, simulated instrument flight, parachuting (general and reference to part 105), and towing (gliders and others).

Subpart E contains Additional Regulations for Commercial Operators and Operations for Hire. These regulations are retained in Part 91 because some for-hire operations and some operations by commercial operators are governed only by Part 91.

Subpart F, Operation of Certain Aircraft, contains regulations from Present Part 91 applicable to experimental, limited, provisional restricted, and transport category aircraft; turbojet-powered airplanes; sonic boom; and increased weights for certain airplanes in Alaska.

Subpart G contains the aircraft maintenance regulations from Subpart C of present part 91.

This proposal does not include present Subpart D, Large and Turbine Powered Multi-Engine Airplanes; or Subpart E, Operating Noise Levels. These could remain as additional subparts to Part 91 or, more appropriately, could be published as new parts to the Federal Aviation Regulations.

II. SIMPLIFICATION

For purposes of achieving clarity and simplicity, much of the language has been changed. Regulations of little or no concern to most general aviation pilots have been unchanged in this proposed revision.

The removal from Part 91 of several tables, complicated appliance approval standards, and specifics adequately covered by a basic regulation is intended to simplify many regulations without altering their applicability. Material which has been removed will be noted under *Changes* in each specific proposal. Some examples are:

A. Reference to TSOs or other approval standards for appliances. [Present §§ 91.24, 91.33, 91.36, and 91.52].

Throughout, we have deleted from Part 91 most references to TSO or other approval standards for appliances. We are not suggesting that appliances need not meet stated standards where approval is presently required. We are recommending that requirements for such approval be placed in other Parts of the FARs (Parts 21, 37, 43, or the various airworthiness Parts), or that a new Part containing all approval requirements be established.

The extent to which the regulations succeed in providing a safe flight environment is predicated to a very large degree on how well pilots understand them and the reasonableness of requiring compliance. It is reasonable to require a pilot to ascertain the airworthiness of an aircraft by looking at the airworthiness certificate, checking the aircraft logbooks to determine the date of the most recent required inspection, and giving the aircraft a thorough preflight inspection. It is unreasonable to expect a pilot to determine whether all appliances meet technical approval standards which may be in effect. Three examples should adequately illustrate this:

1. Transponders are required to meet one of four TSOs, two of which are unacceptable unless the transponder has been upgraded to meet one of the other TSOs. The manufacturer may indicate on the face of the transponder that it is TSO'd, but the pilot cannot tell which TSO it meets.

2. Anticollision light systems must meet standards prescribed in various airworthiness Parts of the regulations. These systems are not marked in any way to indicate to the pilot that they meet the required standards.

3. Emergency locator transmitters must be TSO'd, but many of them are installed in aircraft in such a way as to be inaccessable to a pilot making a conscientious preflight inspection.

In most cases, examination of aircraft equipment lists or maintenance records does not reveal whether the items meet required standards. Usually, only the type (and occasionally a brand name) of item is listed. Even knowing the name of the manufacturer and model number would not tell the pilot whether it was approved, unless he had a complete list of all items which meet all required standards. It is obviously impractical to expect pilots to keep, or even use such a list.

We realize that a prohibition against the use of unapproved appliances should remain in Part 91, and we have provided this in proposed § 91.17.

B. Specific information required under Preflight Action. [Present § 91.5(a) and (b)]. Deleting the specific items in paragraphs (a) and (b) does not lessen a pilot's responsiblity for including them in the information considered pertinent to the safe operation of a flight. This is the type of information that comes under good operating procedures and belongs in other publications.

C. Tables for determining flight levels based on atmospheric pressure and converting minimum altitude to minimum flight level. [Present § 91.91]. This, too, belongs in manuals, not Part 91.

III DELETION

Several sections and large portions of present Part 91 have been deleted, but, for the most part, this does not result in any change to present operating practices nor lowering of safety standards. The major deletions are:

A. Section 91.4, Pilot in Command of Aircraft Requiring More than One Required Pilot.

This regulation belongs in Part 61. If § 61.58 does not state the requirement contained in § 91.4, it should be amended to do so. There appears to be no more reason to retain this cross reference than to have similar references in Part 91 to requirements for instrument ratings to operate IFR, type ratings for large aircraft, etc.

B. Section 91.12, Carriage of Narcotic Drugs, Marihuana, and Depressant or Stimulant Drugs or Substances.

Our sole consideration in deleting this regulation is an attempt to eliminate from Part 91 regulations unnecesary for safe flight operations, and the deletion should not be construed in any way as our condoning the use of aircraft for any illicit purpose. We have reread the preambles which accompanied this regulation when it was adopted and the subsequent amendments to it and find the arguments offered in justification could be used to justify regulations against the use of aircraft for just about any illicit act: fleeing from a crime, kidnapping, aircraft theft, etc.

If aircraft carrying drugs engages in any unsafe flight operation, FAA retains enforcement authority under at least one remaining regulation if present § 91.12 is deleted; and other Federal and State statutes remain to outlaw the illegal possession and carriage of drugs.

If a regulation against the carriage of drugs in aircraft is retained, it should appear in another Part of the FARs because it is too remote from flight safety considerations to remain in Part 91.

C. Sections 91.24(b)(3) and 91.90(c), Group III Terminal Control Area.

Regulations for Group III TCAs have been deleted because there aren't any and, hopefully, there won't be any, at least not for some time to come. If Group III TCAs are established at some future date, Part 91 can be amended accordingly. In the meantime, references to them in Part 91 constitute needless clutter.

D. Section 91.27(b), Display of Airworthiness Certificate.

The requirement to dsiplay the airworthiness certificate so that it is legible to passengers and crew is deleted because, in most cases, the airworthiness certificate is meaningless without reference to the aircraft maintenance records. It may be valid to require prominent display of nonstandard airworthiness certificates, such as ferry permits and experimental certificates.

E. Section 91.36, Data Correspondence Between Automatically Reported Pressure Altitude Data and the Pilot's Altitude Reference.

Paragraph (a)—No person may operate any automatic pressure altitude reporting equipment assoicated with a radar beacon transponder when deactiviation of that equipment is directed by ATC.

This paragraph is deleted because it appears to be covered by the prohibition against operating an aircraft contrary to an ATC instruction. (Present § 91.75(b) and proposed § 91.125(b).) If FAA considers present § 91.75(b) not to apply to the operation of equipment aboard an aircraft, we have no objection to retaining present § 91.36(a), but recommend that it be included as a paragraph under proposed § 91.125, Compliance with ATC Clearances and Instructions.

Paragraph (b) and (c)—Test and calibration and TSO requirements for automatic pressure altitude reporting equipment. These requirements

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should be placed on the owner and/or the person who installs the equipment, not on the pilot. (See example A under Simplification, removing references to TSO or other approval standards for appliances.)

F. Section 91.54, Truth in Leasing Clause Requirement in Leases and Conditional Sales Contracts.

This section belongs in Part 49 if it belongs anywhere in the FARs. The requirements to carry a copy of a lease or contract in the aircraft and to notify the nearest FAA office prior to a flight might be retained in Part 91.

G. Sections 91.70(b); 91.85(b), (c) and (d); and Part 1, Airport Traffic Areas.

This is the only deletion which results in what may be considered a potentially significant change in operating practices.

1. Aircraft may be operated below 3,000 feet MSL closer than 5 miles to a tower controlled airport for purposes other than landing or taking off, and without communicating with the tower, as long a they avoid the traffic pattern.

2. Communication with a tower not operated by the U.S. is not mandatory.

Many of the busiest airports are now within TCAs, making airport traffic areas unnecessary for them; and requiring clearances for operations within traffic patterns at other airports with control towers provides a necessary level of safety. It may be pertinent to point out that under present regulations aircraft may operate within airport traffic areas without clearances if they are taking off or landing at a nontower airport within the area.

H. Section 91.101, Operations to, or over Cuba. This regulation is political in nature rather than related to aviation safety and, as such, it should come under the Department of State, not the FAA.

IV. ADDITIONS AND CHANGES

Regulations which have been added or changed mainly expand or clarify a privilege or an exception contained in present regulations, or acknowledge present good operating procedures. There are two major (or significant) changes:

A. Proposed § 91.17 imposes prohibitions against the installation of any appliance which does not meet approval standards when approval is required, and against the use of appliances which the pilot determines do not meet required approval standards. These prohibitions take up the slack left by deleting from Part 91 specific approval standards.

B. Proposed § 91.307 permits flight instruction and simulated instrument flight in aircraft without dual controls provided the pilot manipulating the controls meets certain qualifications.

NOTES

(1) On the Contents pages for the proposed new part, the numbers of corresponding sections in present Part 91 appear to the right of section titles.

(2) The sections in each Subpart of the proposal have been assigned the odd numbers from a different series of 100; i.e., 91.15, 91.115, 91.215, etc.

*(3) A copy of the present regulations, on white paper, faces each corresponding proposed section which is on yellow paper, for easy comparison.

*(4) On the reverse side of each white sheet, two numbers are in the upper right-hand corner. The top number is the number of the proposed section, and below it is the number of the corresponding present section in parenthesis.

(5) Throughout the proposal, we have tried to consistently change the word "may" to "shall" when it is used in the negative ("no person *shall*"). "May" is still used in a permissive sense to state authority or permission to do the act prescribed.

(6) In Subpart G, Aircraft Maintenance, Inspections, Preventive Maintenance, Alterations, and Equipment Tests, the word "inspection" is used separately from "maintenance" (which presently includes inspection as part of its definition). It is intended that "maintenance" be redefined accordingly, and that a definition of "inspection" be inserted in Part 1.

PART 91—OPERATING AND FLIGHT RULES

Subpart A—General

Sec.		Corresponding present regulation
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91.5	Responsibility and Authority of the Pilot in Command	91.3
91.7	Careless or Reckless Operation	91.9 & 91.10
91.9	Aircraft: Required Certification	91.27(a)
91.11	Aircraft Airworthiness	91.29
91.13	Civil Aircraft Operating Limitations	91.31
91.15	Aircraft Instrument and Equipment Requirements	91.24, 91.32, 91.33, 91.52 & New
91.17	Prohibition Against Certain Appliances and Portable Electronic Devices	91.19 & New
91.19	Liquor and Drugs	91.11
91.21	Carriage of Narcotic Drugs, Marihuana, and Depressant or Stimulant Drugs or Substances.	91.12
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Subpart B—Basic Flight Rules

91.101	Applicability	91.61
91.103	Flight Crewmembers at Station	91.7
91.105	Use of Seatbelts and Shoulder Harnesses	91.14
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91.109	Right-of-Way Rules, Except Operations on Water	91.67
91.111	Right-of-Way: Operations on Water	91.69
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91.115	Aircraft Speed	91.70
91.117	Weather Minimums: Visual Flight Rules	91.105
91.119	Special Weather Minimums in Control Zones	91.107
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91.123	Cruising Altitudes: Visual Flight Rules	91.109
91.125	Altimeter Settings	91.81 & New
91.127	Dropping Objects	91.13
91.129	Compliance with ATC Clearances and Instructions	91.65(d), 91.75 & New
91.131	ATC Light Gun Signals	91.77
91.133	Flight Plans: General	91.83(a) & (d)
91.135	Flight Plans: Flights Between Mexico and Canada and the United States.	91.84
91.137	Operating on or in the Vicinity of an Airport: General	91.85(a) & 91.89
91.139	Operations at Airports with Operating Control Towers	91.87(a), (b), (d), (e), (f), (g), & (h)
91.141	Terminal Control Areas	91.90(a) & (b), & 91.24(b) & (c)
91.143	Operation in Specially Designated Areas	91.95 & 91.97
91.145	Temporary Flight Restrictions	91.91, 91.102 & 91.104

Subpart C—Instrument Flight Rules (IFR)

91.201	Applicability	New
91.203	Flight Plan and ATC Clearance Requirements	91.115
91.205	Equipment Requirements	91.33(a), (d), & (e)
91.207	VOR Equipment Check for IFR Operation	91.25
91.209	Fuel Requirements	91.23
91.211	Alternate Airport	91.83(a)(9), (b) & (c)
91.213	Minimum Altitudes	91.119(a)
91.215	Cruising Altitude or Flight Level	91.121
91.217	Course to be Flown	91.123
91.219	Climb Enroute	91.119(b)
91.221	Instrument Approach Procedures at Civil Airports	91.116(a), (f), (g), (h) & 91.117(c)

PART 91—OPERATING AND FLIGHT RULES

Subpart C—Instrument Flight Rules (IFR) —Continued

Sec.		Corresponding present regulation
91.223	Descent Below MDA or DH; and IFR Landing Minimums at Civil Airports.	91.116(b) & (e), & 91.117(a) & (b)
91.225	Military Airports; Takeoff and Landing under IFR	91.116(d)
91.227	Radio Communications	91.125
91.229	Two-Way Radio Communications Failure	91.127
91.231	Radio Malfunction Reports	91.129 & New
91.233	Category II Operations	91.2, 91.6, 91.33(f) & 91.34

Subpart D—Special Flight Operations

91.301	Applicability	New
91.303	Aerobatic Flight	91.15(c), (d), (e); 91.71
91.305	Aircraft Flight Test Areas	91.93
91.307	Flight Instruction, Simulated Instrument Flight, and Certain Pilot Flight Tests.	91.21
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91.311	Towing: Gliders	91.17
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Subpart E—Additional Regulations for Commercial Operators, and Operations for Hire

91.401	Applicability	New
91.403	Emergency Exits for Airplanes Carrying Passengers for Hire	91.47
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91.407	Over-Water Operations	91.33(a) and (b)(11)
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91.411	Formation Flights with Passengers for Hire	91.65(c)

Subpart F—Operation of Certain Aircraft

91.501	Applicability	New
91.503	Experimental Aircraft	91.42
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91.513	Transport Category Airplanes: Aural Speed Warning Device	91.49
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Subpart G—Aircraft Maintenance, Inspections, Preventive Maintenance, Alterations, and Equipment Tests

91.601	Applicability	91.161
91.603	General	91.163(a); 91.165
91.605	Maintenance and Inspections: Who May Perform	91.163(b); 43.3(h)
91.607	Maintenance Required	91.163(c); 91.165
91.609	Inspections Required	91.169
91.611	Progressive Inspections	91.171
91.613	Altimeter System Tests and Inspections	91.170
91.615	ATC Transponder Tests and Inspections	91.177
91.617	Carrying persons After Repairs or Alterations	91.167
91.619	Maintenance Records	91.173
91.621	Rebuilt-Engine Maintenance Records	91.175
91.623	Transfer of Maintenance Records	91.174

Subpart A—General

NOTE.—This Subpart is basically the same as Subpart A of present Part 91 except that many of the regulations in the present Subpart have been moved to other Subparts in the proposal. For instance, all of the regulations pertaining to instrument flight or Category II operations have been moved to proposed Subpart C; and the regulations relating to operation of experimental, limited, restricted, etc., category aircraft are in proposed Subpart F. A few regulations from Subpart B of present Part 91 have been moved to this Subpart, and some material has been added.

§ 91.1 Applicability.

(a) This Part prescribes rules governing the operation of aircraft within the United States. Paragraph (b) of this section governs the operation of United States registered civil aircraft outside the United States. This Part does not govern operations of moored balloons, kites, unmanned rockets, and unmanned free balloons.

(b) Each operator of a United States registered civil aircraft operating outside the United States shall:

(1) When over the high seas, comply with Annex 2 (Rules of the Air) to the Convention on International Civil Aviation, and with the regulations of this Part to the extent that they are not inconsistent with Annex 2;

(2) When over the North Atlantic Ocean (NAT) within Minimum Navigation Performance Specifications (MNPS) air space, comply with Appendix C of this Part;

(3) When within a foreign country, comply with the rules of that country governing the flight and maneuvering of aircraft, and with the regulations of this Part to the extent that they are not inconsistent with applicable foreign rules.

Origin: §§ 91.1; 91.20
Changes:
1. Present § 91.1(b) (4) and § 91.20 have been combined in proposed § 91.1(b) (2).
2. Present § 91.1(c) has been deleted because it is superfluous. Annex 2 is already incorporated by reference in § 91.1(b).
3. Some language changes with no substantive changes intended.

§ 91.3 Airmen: required certification.

No person shall serve as pilot or other required flight crewmember on a United States registered civil aircraft within the United States unless he has in his personal possession:

(a) A valid and appropriate airman certificate issued under FAR Part 61; and

(b) A valid and appropriate medical certificate as specified in FAR 61.3(c).

Origin: NEW
Changes:
1. This brings the requirement for a pilot certificate into the operation rules, in addition to having it in a certification Part. Just as the requirements for various aircraft certificates are laid out in Part 91, it seems appropriate to include mention of the airman certificate requirements for those who use Part 91 as their basis for knowing the regulations.
2. Pilot certification requirements for operation of foreign civil aircraft within the United States are in § 91.27, Special Rules for Foreign Civil Aircraft.

§ 91.5 Responsibility and authority of the pilot in command.

(a) The pilot in command of an aircraft is directly responsible for, and is the final authority as to, the operation of that aircraft.

(b) In an emergency requiring immediate action, the pilot in command may deviate from any rule of this Part to the extent required to meet that emergency.

(c) A pilot in command who deviates from a rule under paragraph (b) of this section shall, if requested by the Administrator, provide a written report of that deviation.

Origin: § 91.3
Changes:
1. Emergency deviation may include any rule of this Part. This change merely places the maintenance regulations under the provisions of this paragraph. It is not anticipated that this will provoke unnecessary deviations by pilots because what constitutes an emergency is still subject to review and interpretation in an enforcement case arising out of any suspected abuses of this authority.
2. Minor changes in language with no substantive changes intended.

§ 91.7 Careless or reckless operation.

(a) No person shall operate an aircraft for the purpose of air navigation in a careless or reckless manner so as to endanger the life or property of another.

(b) No person shall operate an aircraft for purposes other than air navigation on the surface of an airport used by aircraft for air commerce in a careless or reckless manner so as to endanger the life or property of another.

Origin: §§ 91.9; 91.10
Changes:
1. Present §§ 91.9 and 91.10 are combined in one proposed section.
2. The phrase, "For the purpose of air navigation," is inserted in proposed paragraph (a) to clarify the distinction between paragraphs (a) and (b) for those not cognizant of the definition of "operate."
3. Minor changes in language with no substantive changes intended.

§ 91.9 Aircraft: required certification.

(a) No person shall operate a United States registered civil aircraft unless it has within it a valid registration certificate issued under FAR Part 47.

(b) No person shall operate a civil aircraft unless it has within it an appropriate and current airworthiness certificate.

Origin: § 91.27(a)
Changes:
1. The requirement for the airworthiness certificate to be displayed at the cabin or cockpit entrance so that it is legible to passengers or crew is deleted because displaying the airworthiness certificate is meaningless without reference to the aircraft maintenance records.
2. Some changes in language with no substantive changes intended. All of the verbage in the present regulation concerning the need for a registration number on the airworthiness certificate, or exceptions to the need, is covered by the word "appropriate." Parts 21, 45, and/or 47 should specify what constitutes an appropriate airworthiness certificate and the necessity for a registration number on it.
3. Certificates and authorizations for foreign civil aircraft are contained in proposed § 91.27.

§ 91.11 Civil aircraft airworthiness.

(a) No person shall operate a civil aircraft unless it is in an airworthy condition.

(b) The pilot in command of a civil aircraft is responsible for determining whether an aircraft is in condition for safe flight.

(c) The pilot in command shall discontinue a flight when he detects evidence of any unsafe mechanical or structural condition.

Origin: § 91.29
Changes:
1. Minor changes in language with no substantive changes intended.

§ 91.13 Civil aircraft operating limitations.

(a) *Compliance Required.* Each person operating a civil aircraft shall comply with the operating limitations prescribed for that aircraft by the certificating authority of the country of registry.

(b) *Limitations.* No person shall operate a United States registered civil aircraft unless limitation prescribed by the Administrator for that aircraft is available in the aircraft. These limitations must be available in—

(1) A current approved Airplane or Rotorcraft Flight Manual if a manual is required by FAR § 21.5, or the manual provided for in FAR § 121.141(b); or

(2) A current approved Airplane or Rotorcraft Flight Manual (if one is available although not required by § 21.5), approved manual material, markings, and placards, or any combination thereof.

Origin: § 91.31
Changes:
1. The list of specific items which must be contained in the operating limitations is deleted. The list is overly specific without being all inclusive while, at the same time, it contains some items which don't apply to all aircraft. This change shouldn't alter the regulatory effectiveness.
2. Minor changes in language with no substantive changes intended.
3. Present § 91.31(c) is deleted because it merely restates a requirement adequately covered by Part 45.
4. Present § 91.31(d) is deleted because the exception for complying with the helicopter height-speed envelope properly belongs in the Flight Manual.

§ 91.15 Aircraft instrument and equipment requirements.

(a) *General.* No person shall operate an aircraft unless the instruments and equipment required by this section for the kind of operations conducted are installed and operable in that aircraft.

(b) *Basic Instruments and Equipment.* U.S. registered heavier-than-air aircraft certificated by FAA in the standard category must contain at least the following instruments and equipment (or FAA-approved equivalents):

(1) *Visual Flight Rules, Day.* For flights between sunrise and sunset—

(i) Airspeed indicator,

(ii) Altimeter,

(iii) Magnetic direction indicator (compass),

(iv) Tachometer for each engine, and for the main rotor system if the aircraft is a helicopter,

(v) Oil pressure gauge for each engine with pressure lubrication,

(vi) Temperature gauge for each liquid-cooled engine,

(vii) Oil temperature gauge for each air-cooled engine,

(viii) Manifold pressure gauge for each engine with a controllable propeller or a supercharger,

(ix) Fuel quantity gauge for each fuel tank,

(x) Landing gear position indicator, if aircraft has a retractable gear,

(xi) An approved safety belt for each occupant more than two years of age. More than one occupant may use one belt provided the belt is properly secured about them, and

(xii) An approved shoulder harness for each front seat of a small airplane manufactured after July 18, 1978. For the purposes of this paragraph, the date of manufacture is the date the airplane is completed and its first Airworthiness Certificate is issued, and a front seat is a seat located at a pilot station and any seat alongside that seat.

(2) *Visual Flight Rules, Night.* For flight between sunset and sunrise—

(i) Instruments and equipment specified in subparagraph (1),

(ii) Aircraft position lights,

(iii) An anticollision light system. Anticollision light systems installed after August 11, 1971, on aircraft type certificated before that date must meet the standards in effect on August 10, 1971, except that the color may be either aviation red or white. In the event of the failure of all or part of an anticollision light system, flight may be continued to a stop where repairs or replacements can be made,

(iv) An adequate source of electrical energy for all installed electrical equipment, and

(v) Resetable circuit breakers for all major electrical circuits, or either a set of spare fuses or three spare fuses of each kind.

(3) *Instrument Flight Rules.* The minimum instrument and equipment requirements for flight under instrument flight rules, or for night flight in a control zone under the special weather minimums provision of § 91.119, are prescribed in § 91.205.

(c) *Emergency Locator Transmitter.* (1) A personal type or automatic type emergency locator transmitter must be attached to any U.S. registered civil airplane, except as provided in subparagraph (4) below. An emergency locator transmitter required for an airplane operated under FAR Parts 121, 123, or 135 must be of the automatic type.

(2) Each emergency locator transmitter required by subparagraph (1), above, must be attached to the airplane firmly in such a manner that probability of damage to the transmitter is minimized.

(3) Batteries used in required emergency locator transmitters must be replaced (or recharged, if the battery is rechargeable)—

(i) When the transmitter has been in use for more than one cumulative hour; or

(ii) When 50 percent of their useful life (or, for rechargeable batteries, 50 percent of their useful life of charge), as established by the transmitter manufacturer, has expired.

The new expiration date for the replacement (or recharge) of the battery must be legibly marked on the outside of the transmitter and entered in the aircraft logbook. Subparagraph (ii) does not apply to batteries (such as water-activated batteries) that are essentially unaffected during probable storage intervals.

(4) Emergency locator transmitters are not required for the following:

(i) Turbojet powered airplanes;

(ii) Airplanes engaged in scheduled flights by scheduled air carriers certificated by the Civil Aeronautics Board;

(iii) Airplanes engaged in local training operations conducted entirely within a 50-mile radius of the airport from which the flight originated;

(iv) Airplanes engaged in flight operations incident to design and testing;

(v) New airplanes engaged in flight operations incident to their manufacture, preparation, and delivery;

(vi) Airplanes engaged in flight operations incident to the aerial application of chemicals or other substances for agricultural and pest control purposes;

(vii) Airplanes certificated by the Administrator for research and development purposes;

(viii) Airplanes used for showing compliance with regulations, crew training, exhibition, air racing, or market surveys;

(ix) Airplanes equipped to carry not more than one person; and

(x) An aircraft during any period for which the transmitter has been temporarily removed for inspection, repair, modification or replacement, subject to the following:

(A) No person may operate the aircraft unless the aircraft records contain an entry which includes the date of initial removal, the make, model, serial number and reason for removal of the transmitter, and a placard is located in view of the pilot to show "ELT not installed."

(B) No person may operate the aircraft more than 90 days after the ELT is initially removed from the aircraft.

(5) Notwithstanding subparagraph (1), above, a pilot may ferry without passengers—

(i) A newly-acquired airplane to a place where an emergency locator transmitter is to be installed, or

(ii) An airplane with an inoperative emergency locator transmitter to a

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place where repairs or replacements can be made.

(d) *Transponder Equipment.* (1) *Transponder Required.* No person shall operate an aircraft in controlled airspace above 12,500 feet MSL, unless that aircraft is equipped with a functioning radar beacon transponder capable of responding to ATC interrogation with the code specified by ATC, and which has automatic pressure altitude reporting capability, subject to the following:

(i) Transponder equipment is not required at or below 2,500 feet above ground level, except in Terminal Control Areas;

(ii) Transponder equipment is not required in a glider above 12,500 feet MSL but below the floor of the positive control area.

(2) *ATC Authorized Deviations.* ATC may authorize deviations from the above requirements—

(i) Immediately, to allow an aircraft with an inoperable transponder to continue to the airport of ultimate destination, including any intermediate stops, or proceed to a place where suitable repairs can be made, or both;

(ii) Immediately, for operations of an aircraft with an operating transponder, but without operating altitude reporting equipment; or

(iii) On a continuing basis or for individual flights for operations of an aircraft without a transponder, in which cases the request for a deviation must be submitted to the ATC facility having jurisdiction over the airspace concerned at least two hours before the proposed operation.

Supplemental Oxygen. (1) *General.* No person shall operate a U.S. registered civil aircraft—

(i) At cabin pressure altitudes above 12,500 feet MSL up to and including 14,000 MSL unless the required minimum flight crew has available and uses supplemental oxygen for that part of the flight at those altitudes which is of more than 30 minutes duration;

(ii) At cabin pressure altitudes above 14,000 feet MSL unless the required minimum flight crew has available and uses supplemental oxygen during the entire flight time at those altitudes; and

(iii) At cabin pressure altitudes above 15,000 feet MSL unless each occupant of the aircraft is provided with supplemental oxygen.

(2) *Pressurized Cabin Aircraft.* No person may operate a U.S. registered civil aircraft which has a pressurized cabin—

(i) At flight altitudes above flight level 250 unless at least a 10-minute supply of supplemental oxygen in addition to any oxygen required to satisfy subparagraph (1), above, is available for each occupant of the aircraft.

At flight altitudes above flight level 350 unless one pilot at the controls is wearing and using an oxygen mask which is secured and sealed, and which either supplies oxygen at all times or automatically supplies oxygen when the cabin pressure exceeds 14,000 feet MSL, except that neither pilot is required to wear an oxygen mask while at or below flight level 410 if there are two pilots at the controls and each pilot has a quick-donning type of oxygen mask which can be placed on the face with one hand from ready position within five seconds, supplying oxygen and properly secured and sealed.

(iii) Notwithstanding subparagraph (ii), above, if for any reason it is necessary for one pilot to leave his station at the controls of an aircraft when operating at flight altitudes above flight level 350, the pilot remaining at the controls shall put on and use his oxygen mask until the other pilot has returned to his station.

(f) *Additional Instrument and Equipment Requirements.* Subparts B (Basic Flight Rules), C (Instrument Flight Rules), D (Special Flight Operations), E (Commercial Operations), and F (Operation of Certain Aircraft) of this Part impose instrument and equipment requirements in addition to those required by this section.

Origin: §§ 91.24, 91.32, 91.33, 91.52, NEW:
Comments: In trying to keep the regulations compact and in reasonable order, most of the required intruments and appliances have been placed in this one section: Basic Instruments and Equipment, ELTs, Oxygen Equipment, etc. In so doing, this section has become very long. Some equipment requirements have been placed in other subparts because they are the logical places for pilots to look for them: Radio and transponder are listed as required equipment under the section on TCA's; Instruments and Equipment for IFR are in Subpart C, Instrument Flight Rules; requirements for parachutes are in Subpart D, Special Flight Operations; requirements for certain survival gear for over-water operations and landing lights are in Subpart E, Special Regualtions for Commercial Operations; etc. Pilots are alerted to these additional requirements by paragraph (f) of this section (§ 91.15).
Changes:
1. Equipment and instrument requirements which are in several separate sections in the present regulations are incorporated as paragraphs under one section in this proposal.

The word, "aproved," and the basis for approval of instruments and equipment have been deleted in most places because, in many cases, the pilot has no way of determining the approved status of equipment. Under this section, the pilot is responsible for determining that instruments and equipment are operable, and under proposed § 91.17 he can't use or permit the use of, anything he determines causes harmful interference with any other piece of required equipment.

3. Instruments and equipment requirements for IFR and Category II operations are moved to Subpart C, Instrument Flight Rules.

4. Requirements for flotation gear and a landing light when operating for hire are moved to Subpart E, Special Regulations for Commercial Operators and Operations for Hire.

5. The requirement for DME above 24,000 feet MSL is moved to Subpart C.

6. The requirement for attaching ELTs as far aft as possible is deleted.

7. The lead time for submitting requests for deviations on a continuing basis from the transponder requirement is reduced form 4 to 2 hours.

8. The exception from the transponder requirement for helicopters operated at or below 1,000 feet AGL in terminal control areas under the terms of a letter of agreement (present § 91.24(b)) is deleted because it appears that this is adequately covered by proposed § 91.15 (d)(2)(iii), ATC authorized deviations on a continuing basis.

9. Paragraph (f) is added to alert operators to additional requirements for more sophisticated operations.

10. Some other changes in language with no substantive changes intended.

§ 91.17 Prohibition against certain appliances and portable electronic devices.

(a) No person shall install in a United States registered civil aircraft operated in air commerce any appliance which does not meet FAA required approval standards or causes harmful interference with the operation of any required appliance in an aircraft.

(b) No person shall operate, nor shall any operator or pilot in command permit the operation of, any appliance or portable electronic device aboard an aircraft which the operator or pilot in command has determined causes harmful interference with the operation of any required appliance of an aircraft.

Origin: FAR 91.19; New
Changes:
1. A prohibition against the installation of any appliance which does not meet approval standards when approval is required or which causes harmful interference with required appliances is added in proposed Part 91. This places the responsibility for determining whether such appliances are satisfactory ("approved", when necessary) on the person installing the equipment rather than the pilot. It is impractical to expect the pilot (particularly when the pilot isn't the owner) to know whether appliances are approved or not. In many cases, he has no way of telling.

2. The pilot retains the responsibility for not using appliances or portable electronic devices which he has determined cause harmful interference.

3. Deleted from present § 91.19 is the list of portable electronic devices exempt from the regulation and the specification of who determines whether or not a portable electronic device does or does not cause interference. These seem overly specific and the dangers invisioned are adequately guarded against in the proposal.

§ 91.19 Liquor and drugs.

(a) Crewmembers. No person shall act as a crewmember of an aircraft—

(1) Within eight hours after the consumption of any alcoholic beverage;

(2) While under the influence of alcohol; or

(3) While under the influence of, or using any drug which affects his faculties in any way contrary to safety.

(b) Passengers. No pilot shall knowingly allow a person who is obviously under the influence of intoxicating liquor or drugs to be carried in an aircraft unless such person is under proper care.

Origin: § 91.11
Changes:
1. A person obviously under the influence of intoxicating liquor but under proper care may be carried as a passenger.
2. Some changes in language with no substantive changes intended.

§ 91.21 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

(a) Except as provided in paragraph (b) of this section, no person shall operate a civil aircraft within the United States with knowledge that narcotic drugs, marihuana, and depressant or stimulant drugs or substances as defined in Federal or State statutes are carried in the aircraft.

(b) Paragraph (a) of this section does not apply to any carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances authorized by or under any Federal or State statute or by any Federal or State agency.

Origin: § 91.12
Changes: None

§ 91.23 Preflight action.

Before beginning any flight, the pilot in command shall familiarize himself with all available information pertinent to the safe operation of that flight.

Origin: § 91.5
Changes:
1. The phrase, "pertinent to the safe operation of," has been substituted for the word, "concerning", which is used in the present regulation.
2. The list of specific items to be checked by the pilot has been deleted. This does not lessen the pilot's responsibility for including those items in the information considered pertinent to the safe operation of a flight.

§ 91.91 Waivers.

(a) The Administrator may issue a certificate of waiver authorizing the operation of aircraft in deviation of a rule of this Part if he finds that the proposed operation can be safely conducted under the terms of that certificate of waiver.

(b) An application for a certificate of waiver under this section is made on a form and in a manner prescribed by the Administrator and may be submitted to any FAA office.

(c) A certificate of waiver is effective as specified in that certificate.

Origin: § 91.63
Changes:
1. Waivers may be issued for any rule of proposed Part 91 rather than just Subpart B as in the present regulations. This change is proposed more for purposes of simplifying the regulation than for expanding the number of rules which may be waived. It is anticipated that FAA offices responsible for issuing waivers will receive proper and uniform guidance from FAA headquarters on rules which should not be waived.

§ 91.27 Prohibition against interference with crewmembers.

No person may assault, threaten, intimidate, or interfere with a crewmember in the performance of the crewmember's duties aboard an aircraft being operated.

Origin: § 91.8
Changes: None.

§ 91.29 Special flight rules for foreign civil aircraft.

Each person operating a foreign civil aircraft within the United States shall comply with the pertinent requirements of this section, in addition to other applicable regulations of this Chapter (the Federal Aviation Regulations).

(a) *Aircraft Certificates.* No person shall operate a foreign civil aircraft within the United States unless it contains a registration certificate issued to its owner and an airworthiness certificate issued or validated by the country in which it is registered or a special flight authorization issued under paragraph (g) below.

(b) *Air Crewman Certificates.* No person shall serve as a pilot or other required flight crewmember on a foreign civil aircraft within the United States unless he has in his personal possession valid and appropriate airman and medical certificates issued or validated by the country of registry, or valid United States airman and medical certificates appropriate to the aircraft and flight operations conducted.

(c) *Visual Flight Rules.* No person may conduct VFR operations which require two-way radio communications under this part, unless at least one crewmember of that aircraft is able to conduct two-way radio communications in the English language and is on duty during that operation.

(d) *Instrument Flight Rules.* No person shall operate a foreign civil aircraft under instrument flight rules unless—(1) That aircraft is equipped with:

(i) Radio equipment allowing two-way radio communications with ATC facilities controlling the flight;

(ii) Radio naviagational equipment appropriate to the navigational facilities to be used; and

(iii) If VOR navigation equipment is required under paragraph (c) (1) (ii) of this section, no person may operate a foreign civil aircraft within the 50 states and the District of Columbia at or above 24,000 feet MSL, unless the aircraft is equipped with distance measuring equipment (DME) capable of receiving and indicating distance information from the VORTAC facilities to be used. When DME required by this paragraph fails at and above 24,000 feet MSL, the pilot in command of the aircraft shall notify ATC immediately, and may then continue operations at and above 24,000 feet MSL to the next airport of intended landing at which repairs or replacement of the equipment can be made. However, DME is not required on foreign civil aircraft when operated for the following purposes, and if ATC is notified prior to each takeoff:

(A) Ferry flights to and from a place in the United States where repairs or alterations are to be made;

(B) Ferry flights to a new country of registry;

(C) Flight of a new aircraft of U.S. manufacture for the purpose of—

(I) Flight testing the aircraft;

(II) Training foreign flight crews in the operation of the aircraft; or

(III) Ferrying the aircraft for export delivery outside the United States.

(D) Ferry, demonstration, and test flights of an aircraft brought to the United States for the purpose of demonstration or testing the whole or any part thereof.

(2) Each required pilot of the aircraft—

(i) Is authorized by his foreign pilot certificate to operate as an instrument pilot under IFR, or holds a current United States instrument rating; and

(ii) Is thoroughly familiar with the United States departure, enroute, holding and approach procedures; and

(iii) At least one crewmember is competent to conduct two-way radio voice communications in the English language, and that crewmember is on duty when the aircraft is approaching, operating within, or departing from the United States.

(e) *Over water.* Each person operating a foreign civil aircraft over water off the coast of the United States shall give flight notification or file a flight plan, in accordance with the Supplementary Procedures for the ICAO Region concerned.

(f) *Civil Aircraft of Cuban Registry.* No person shall operate an aircraft of Cuban registry within the United States except in controlled airspace, and in accordance with air traffic clearances or air traffic control instructions which may require the

use of specific airways, routes, and airports.

(g) *Special Flight Authorization for Foreign Aircraft.* (1) A foreign civil aircraft may be operated in the United States without the airworthiness certificate required by paragraph (a) of this section if a special flight authorization is issued under this paragraph. Application for a special flight authorization must be made to the Regional Director of the FAA Region in which the aircraft is located. Application for a special flight authorization under subparagraph (2)(vi), below, should be made to the Regional Director of the FAA Region in which the demonstrations or show will take place.

(2) The Administrator may issue a special flight authorization, subject to any conditions and limitations he considers necessary for safety, for any of the following operations:

(i) The flight of a damaged aircraft to a place where repairs or alterations are to be made, if the regulations of the country of registry indicate that the aircraft has been damaged to the extent that its airworthiness certificate is invalid.

(ii) The flight of an aircraft to a new country of registry, if the airworthiness certificate has been invalidated by the former country of registry because of a change in ownership.

(iii) The flight of an aircraft of United States manufacture for flight testing, or training a foreign buyer or his representatives in the operation of the aircraft, or for the purpose of ferrying the aircraft outside of the United States when title has passed to a foreign buyer and there is no airworthiness certificate for it. An authorization may be issued for this purpose even though no registration certificate has been issued by the country of the foreign buyer, provided the aircraft bears identification markings issued by the country of intended registry.

(iv) The flight of an aircraft for the purpose stated in subparagraph (iii), above, in the case of a foreign civil aircraft which has undergone modifications in the United States which invalidated its airworthiness certificate.

(v) The flight of a foreign civil aircraft without a standard airworthiness certificate brought to the United States for demonstrations in connection with market sales or surveys, or for testing the whole aircraft or any part thereof. For market sales or surveys, the applicant must show at least that:

(A) The applicant is the manufacturer of the aircraft;

(B) The applicant has applied for a United States type certificate or supplement type certificate;

(C) The aircraft has flown for 50 hours, or at least 5 hours if it is a U.S. type certificated aircraft which has been modified;

(D) The applicant has established operating limitations in an appropriate document, and certifies that the aircraft will be operated within such limitations; and

(E) The applicant has established an inspection and maintenance program for the continuing airworthiness of the aircraft.

(vi) The flight of foreign registered amateur-built experimental aircraft, brought to the United States for the purpose of demonstration at an air meet within the United States.

Origin: §§ 91.28; 91.27; 91.43 and 91.103
Changes:

1. Three present sections have been combined in one proposed section.
2. Foreign registered amateur-built experimental aircraft may operate at air meets in the U.S. Present regulation restricts it to Canadian only.
3. Some minor changes in language and format with no substantive changes intended.

Subpart B—Basic Flight Rules

NOTE.—This Subpart contains most of what is contained in present Subpart B of Part 91, except those regulations pertaining to instrument flight which have been moved to proposed Subpart C.

§ 91.101 Applicability.

This subpart prescribes the basic flight rules for aircraft operating within the United States.

Origin: § 91.61
Changes:
1. Minor changes in language with no substantive change intended.

§ 91.103 Flight crewmembers at stations.

(a) During takeoff and landing, and while enroute, each required flight crewmember shall be at his station with his seat belt fastened unless his absence is necessary in the performance of his duties or in connection with his physiological needs.

(b) Each required crewmember of a U.S. registered civil airplane shall, during takeoff and landing, keep the shoulder harness fastened while at his station, if the station is equipped with a shoulder harness. This paragraph does not apply if the crewmember would be unable to perform his required duties with the shoulder harness fastened.

Origin: § 91.7
Changes:
1. Minor changes in language with no substantive changes intended.

§ 91.105 Use of seat belts and shoulder harnesses.

(Not applicable to airships, free balloons nor operations conducted under FAR Parts 121, 123, or 127.)

(a) Unless otherwise authorized by the Administrator—

(1) No pilot may take off or land a U.S. registered civil aircraft unless the pilot in command of that aircraft ensures that each person on board has been notified to fasten his safety belt.

(2) During the takeoff and landing of U.S. registered civil aircraft, each person on board that aircraft must occupy a seat or berth with a safety belt properly secured about him (separate seats and separate safety belts are not required). However, a child less than two years of age may be held by an adult who is occupying a seat or berth, and a person on board for the purpose of engaging in sport parachuting may use the floor of the aircraft as a seat.

(b) Paragraph (a)(2) of this section does not apply to persons subject to § 91.103.

Origin: § 91.14
Changes:
1. Some changes in language with no substantive changes intended.

§ 91.107 Operating near other aircraft.

(a) No person shall operate an aircraft so close to another aircraft as to create a collision hazard.

(b) *Formation Flights.* No person shall operate an aircraft in a formation flight except by arrangement with the pilot in command of each aircraft in the formation.

Origin: § 91.65(a) and (b)
Changes:
1. The rule prohibiting a pilot from operating in accordance with a clearance or vectors issued to another pilot has been placed in § 91.129, Compliance with ATC Clearances and Instructions.
2. The rule prohibiting formation flight if an aircraft is carrying passengers for hire has been placed in Subpart E, Additional Regulations for Commercial Operators and Operations for Hire.
3. No substantive change in the rules is intended by changes 1 and 2.

§ 91.109 Right of way in flight.

(a) *General.* When weather conditions permit, regardless of whether an operation is conducted under the Instrument Flight Rules of Subpart C of this Part or the rules of this Subpart, vigilance shall be maintained by each person operating an aircraft to see and to avoid other aircraft in compliance with this section. When the rules of this section give another aircraft the right of way, a pilot shall give way to that aircraft, and shall not pass over, under, or ahead of it unless well clear.

(b) *Aircraft in Distress.* An aircraft in distress has the right of way over all other air traffic.

(c) *Converging Aircraft.* When aircraft of the same category are converging at approximately the same altitude (except head-on or nearly so), the aircraft to another's right has the right of way. If the aircraft are of different categories—

(1) A free balloon has the right of way over any other category of aircraft;

(2) A glider has the right of way over an airship, airplane, or rotorcraft; and

(3) An airship has the right of way over an airplane or rotorcraft.

However, an aircraft which has another aircraft in tow, or is in the process of refueling another aircraft has the right of way over all other powered aircraft.

(d) *Approaching Head-On.* When aircraft are approaching each other head-on, or nearly so, the pilot of each aircraft shall alter course to the right.

(e) *Overtaking.* An aircraft which is being overtaken has the right of way, and the pilot of each overtaking aircraft shall alter course to the right so as to pass well clear.

(f) *Landing.* Aircraft on final approach or landing have the right of way over other aircraft in flight or operating on the surface. When two or more aircraft are approaching an airport for a landing, the aircraft at the lower altitude has the right of way, but a pilot shall not take advantage of this rule to cut in front of another aircraft which is on final approach to land, nor to overtake that aircraft.

(g) *Inapplicability.* This section does not apply to the operation of an aircraft on water.

Origin: § 91.67
Changes:

1. Minor changes in language with no substantive changes intended.

§ 91.111 Right-of-way rules; operations on water.

(a) *General.* Each person operating an aircraft on the water shall, insofar as possible, keep clear of all vessels and avoid impeding their navigation, and shall give way to any vessel or other aircraft that is given the right-of-way by any rule of this section.

(b) *Crossing.* When aircraft, or an aircraft and a vessel are on crossing courses, the aircraft or vessel to the other's right has the right-of-way.

(c) *Approaching Head-On.* When aircraft, or an aircraft and a vessel, are approaching head-on or nearly so, each shall alter its course to the right to keep well clear.

(d) *Overtaking.* Each aircraft or vessel that is being overtaken has the right-of-way, and the one overtaking shall alter course to keep well clear.

(e) *Special Circumstances.* When aircraft, or an aircraft and a vessel, approach so as to involve risk of collision, each aircraft or vessel shall proceed with careful regard to existing circumstances, including the limitations of the respective craft.

Origin: § 91.69

Changes: No change.

§ 91.113 Use of aircraft position lights.

Origin: § 91.73
Changes: None

§ 91.115 Aircraft speed.

(a) No person shall operate an aircraft below 10,000 feet MSL at an indicated airspeed of more than 250 knot (288MPH), unless otherwise authorized by the Administrator.

(b) Unless otherwise authorized or required by ATC, no person shall operate an aircraft within an airport traffic area at an indicated airspeed of more than 200 knots (230MPH). This paragraph does not apply to any operations within a Terminal Control Area. Such operations shall comply with paragraph (a) of this section.

(c) No person shall operate an aircraft in the airspace underlying a Terminal Control Area, or in a VFR corridor designated through a Terminal Control Area, at an indicated airspeed of more than 200 knots (230MPH). However, if the minimum safe airspeed for any particular operation is greater than the maximum speed prescribed in this section, the aircraft may be operated at that minimum speed.

Origin: 91.70
Changes:
1. In paragraph (b), different speed limits for aircraft with reciprocating engines and turbine engines are changed to one speed limit, the one which presently applies to turbines. An aircraft powered by a reciprocating engine traveling at 200 knots presents no greater hazard than one powered by a turbine engine, so it appears unnecessary to complicate this regulation by having different speed limits apply to different kinds of aircraft.

§ 91.117 Weather minimums: visual flight rules (VFR).

(a) *General.* Except as provided in § 91.119 (Special Weather Minimums in a Control Zone) and in Subpart C (Instrument Flight Rules), no person shall operate an aircraft when the flight visibility is less, or at a distance from clouds which is less, than the minimums prescribed in the following table, nor within a control zone when the ceiling or visibility is less than specified in paragraph (c), below.

Altitude	Flight visibility	Distance from clouds
1,200 feet or less above the surface, regardless of MSL altitude:		
Within controlled airspace	3 statute miles	500 feet below 1,000 feet above 2,000 feet horizontally
Outside controlled airspace	1 statute mile (except helicopters)	Clear of clouds
More than 1,200 feet above the surface, but less than 10,000 feet MSL:		
Within controlled airspace	3 statute miles	500 feet below 1,000 feet above 2,000 feet horizontally
Outside controlled airspace	1 statute mile	1,000 feet below 1,000 feet above 1 mile horizontally
At and above 10,000 feet MSL and more than 1,200 feet above the surface.	5 statute miles	1,000 feet below 1,000 feet above 1 mile horizontally

(b) *Helicopter Visibility.* A helicopter may be operated outside controlled airspace at 1,200 feet or less above the surface when the visibility is less than one mile, provided it is operated at a speed which allows the pilot adequate opportunity to see any air traffic or obstruction in time to avoid a collision.

(c) *VFR Flight Within a Control Zone.* (Except as provided in § 91.119.)

(1) No person shall operate an aircraft within a control zone beneath the ceiling when the ceiling is less than 1,000 feet.

(2) No person shall take off or land an aircraft or enter the traffic pattern of an airport within a control zone under visual flight rules unless the ground visibility is at least 3 statute miles, or if ground visibility is not reported at that airport, unless the flight visibility on takeoff or landing or when operating in the traffic pattern is at least 3 statute miles.

(d) *Aircraft at the Base of a Transition or Control Area.* For the purpose of this section, an aircraft operating at the base altitude of a transition area or a control area is considered to be within the airspace directly below that area.

Origin: § 91.105
Changes: Minor changes in language with no substantive changes intended.

§ 91.119 Special weather minimums in control zones.

When a person has received a Special VFR Clearance from ATC for a flight in a control zone, the following special rules apply to that portion of

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the flight which is within the control zone:

(a) *Special Weather Minimums:*

(1) Ceiling—The aircraft must remain clear of all clouds;

(2) Visibility—(other than helicopters)

(i) Ground visibility of one statute mile; or

(ii) If the ground visibility is not reported at that airport, the flight visibility during takeoff and landing must be at least one statute mile.

(b) *Special VFR Night Flight.* No person shall operate an aircraft (except a helicopter) at night (or in Alaska when the sun is more than six degrees below the horizon) under a Special VFR clearance unless he meets the requirements for instrument flight under FAR Part 61 and the aircraft is equipped for IFR flight.

Origin: § 91.107
Changes:
1. Reference to Part 93 is deleted. Sectional charts and other publications identify airports where Special VFR is not permitted.
2. Some changes in language with no substantive changes intended.

§ 91.121 Minimum safe altitudes.

Except when necessary for take-off and landing, no person shall operate an aircraft below the following altitudes:

(a) *Anywhere.* An altitude allowing, in the event of a power failure, an emergency landing without undue hazard to persons or property on the surface.

(b) *Over Congested Areas.* Over any congested area of a city, town, or settlement, or over any open air assembly of persons, an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet from the aircraft.

(c) *Over other than Congested Areas.* An altitude of 500 feet above the surface, except over open water or sparsely populated areas. In that case, the aircraft shall not be operated closer than 500 feet to any person, vessel, vehicle or structure.

(d) *Helicopters.* Helicopters may be operated at less than the minimums in (b) and (c), above, if the operation is conducted without hazard to persons or property on the surface. In addition, each person operating a helicopter shall comply with special routes and altitudes specifically prescribed by the Administrator.

Origin: § 91.79
Changes: No change

§ 91.123 Cruising Altitudes: VFR.

Each person operating an aircraft under VFR in level cruising flight at an altitude more than 3,000 feet above the surface shall maintain the appropriate cruising altitude or flight level prescribed below, except while turning, or unless otherwise authorized by ATC.

(a) When operating below 18,000 MSL and—

(1) On a magnetic course of zero degrees through 179 degrees, any odd thousand foot MSL altitude + 500 feet (such as 3,500, 5,500 or 7,500); or

(2) On a magnetic course of 180 degrees through 359 degrees, any even thousand foot MSL altitude + 500 feet (such as 4,500, 6,500 or 8,500).

(b) When operating above 18,000 feet MSL to flight level 290 (inclusive), and—

(1) On a magnetic course of zero degrees through 179 degrees, any odd flight level + 500 feet (such as 195, 215, or 235); or

(2) On a magnetic course of 180 degrees through 359 degrees, any even flight level + 500 feet (such as 185, 205 or 225).

(c) When operating above flight level 290 and—

(1) On a magnetic course of zero degrees through 179 degrees, any flight level, at 4,000-foot intervals, beginning at and including flight level 300 (such as flight level 300, 340, or 380); or

(2) On a magnetic course of 180 degrees through 359 degrees, any flight level, at 4,000-foot intervals, beginning at and including flight level 320 (such as flight level 320, 360 or 400).

Origin: § 91.109
Changes:
1. The phrase, "or in holding pattern of 2 minutes or less," is deleted because it appears to be adequately covered under "otherwise authorized by ATC."
2. Some changes in language with no substantive changes intended.

§ 91.125 Altimeter settings.

(a) Each person operating an aircraft shall maintain his cruising altitude by reference to an altimeter which is set:

(1) When operating below 18,000 feet MSL, to:

(i) The currently reported altimeter setting to a station along his route and within 100 nautical miles of the aircraft; or

(ii) If there is no reporting station within the area prescribed in (i) above, the most appropriate available altimeter setting; or

(iii) In the case of an aircraft without radio, the elevation of the departure airport or an appropriate altimeter setting available before takeoff.

(2) To 29.92" Hg when operating above 18,000 feet MSL. Minimum usable flight levels and safe obstacle clearance altitudes shall be determined by reference to published tables.

(b) A glider engaged in local flights, or an aerial applicator aircraft while dispensing agricultural chemicals or other substances may be operated with its altimeter set to zero before takeoff.

Origin: § 91.81; New.
Changes:
1. Subparagraph (b) is added to legalize a common practice with aerial applicators and glider operators.
2. The tables for pressure corrections for flight at preset altimeter setting 29.92" Hg have been omitted as more appropriate to technical manuals and aids than as a part of the regulations.
3. Some changes in language with no substantive change intended.

§ 91.127 Dropping objects.

No pilot in command of a civil aircraft may allow any object or substance to be dropped from that aircraft which creates a hazard to persons or property. This section does not prohibit the dropping of any object if reasonable precautions are taken to avoid injury or damage to persons or property.

Origin: § 91.13
Changes: Minor changes in language with no substantive changes intended.

§ 91.129 Compliance with ATC clearances and instructions.

(a) No pilot shall deviate from an ATC clearance after it has been accepted, except in an emergency, until he obtains an amended clearance. This does not prohibit him from cancelling an IFR flight plan, except in positive controlled airspace, if he is operating in VFR conditions. If a pilot is uncertain of the meaning of an ATC clearance, he shall immediately request a clarification.

(b) No person shall operate an aircraft contrary to an ATC instruction (including light gun signals) in an area where air traffic control is exercised, except in an emergency.

(c) Unless otherwise authorized by ATC, no person shall operate an aircraft in accordance with any clearance or instruction which has been issued to the pilot of another aircraft for radar air traffic control purposes.

(d) Each pilot in command who deviates, in an emergency, from an ATC clearance or instruction shall notify ATC of that deviation as soon as possible.

(e) Every pilot in command who is given priority by ATC in an emergency shall, if requested by ATC, submit a detailed report of that emergency within 48 hours to the chief of the ATC facility involved, even though he has not deviated from a rule of this part.

Origin: FAR 91.75; 91.65(d)
Changes:
1. The prohibition against operating in accordance with a clearance issued to another pilot is included in this section.
2. Some changes in language with no substantive changes intended.

§ 91.131 ATC light gun signals.

Origin: § 91.77
Changes: None

§ 91.133 Flight plans: general.

(a) Each person filing a flight plan shall include in it the information ATC believes is necessary for ATC purposes and the information the pilot in command believes is necessary for search and rescue purposes.

(b) Upon completion or cancellation of a flight for which a flight plan has been activated, the pilot shall promptly notify an FAA Flight Service Station or ATC facility.

Origin: § 91.83 (a) and (d).
Changes:
1. The list of items included on the flight plan form has been omitted as unnecessary. In actual practice, some of the items are not used or are abridged. The present regulation allows ATC to authorize something less than the items listed, and allows a pilot or ATC to provide more than what is listed. Publications containing good operating procedures (such as the Airman's Information Manual) are the proper places to alert pilots to what may be expected of them.
2. Requirements for listing an alternate airport on an IFR flight plan are contained in Subpart C, Instrument Flight Rules.

§ 91.135 Flights between Mexico and Canada and the United States.

Unless otherwise authorized by ATC, no person may operate a civil aircraft between Mexico or Canada and the United States without filing an IFR or VFR flight plan, as appropriate.

Origin: § 91.84
Changes: None

§ 91.137 Operating on or in the vicinity of an airport: generally.

(a) Each person operating an aircraft on or in the vicinity of an airport shall comply with the requirements of this section, or when appropriate, § 91.139 (Airports with Control Towers) and § 91.141 (Terminal Control Areas); or the special rules for those airports governed by FAR Part 93.

(b) Each person operating an aircraft to or from an airport shall comply with the following, unless otherwise authorized or required by ATC:

(1) Airplanes approaching to land shall make all turns to the left, unless the airport displays lights or visual markings to indicate that turns should be made to the right;

(2) Helicopters approaching to land shall avoid the flow of fixed wing traffic; and

(3) Aircraft departing the airport shall comply with any departure procedures established for that airport by the FAA.

Origin: §§ 91.85(a); 91.89
Changes:
1. Minor changes in language with no substantive change intended.

§ 91.139 Operations at airports with operating control towers.

Each pilot operating an aircraft to, from, or on an airport with an operating control tower shall comply with the applicable requirements of this section, unless otherwise authorized or required by ATC.

(a) *Communications with Control Towers Operated by the United States.* No pilot shall, within an airport traffic area operate an aircraft to, from, or on an airport with a control tower operated by the United States government unless he first establishes and maintains two-way communications with that tower. However, if the radio fails in flight, he may continue to operate that aircraft and land, provided the weather conditions are at or above basic VFR minimums and he maintains visual contact with the tower and receives a clearance to land by radio or light signals. If the radio fails in flight under instrument flight rules, the pilot shall proceed as prescribed in § 91.229.

(b) *Clearances Required.* No pilot shall, at an airport with an operating control tower, taxi an aircraft on a runway or taxiway, nor take off, land, nor operate an aircraft within the traffic pattern of that airport unless he has received an appropriate clearance from the tower. A clearance to "taxi to" the takeoff runway assigned to the aircraft is not a clearance to cross that assigned takeoff runway, or to taxi on that runway at any point, but is a clearance to cross other runways that intersect the taxi route to that assigned takeoff runway. A clearance to "taxi to" any point other than an assigned takeoff runway is a clearance to cross all runways that intersect the taxi route to that point.

(c) *Approaches.* The pilot of an airplane shall approach an airport with an operating control tower so as to circle to the left. The pilot of a helicopter shall plan his approach to avoid the flow of fixed wing traffic.

(d) *Departures.* The pilot of a departing aircraft shall comply with any departure procedures established for that airport by the FAA.

(e) *Visual Approach Slope Indicators.* The pilot of an airplane approaching to land on a runway served by a visual approach slope indicator shall maintain an altitude above the indicated approach slope until a lower altitude is necessary for a safe landing. However, this requirement does not prohibit normal bracketing above and below the approach slope for the purpose of staying on the indicated approach slope.

(f) *Special Rules for Turbine-Powered and Large Airplanes.* When operating at an airport with an operating control tower, each pilot of any turbine-powered airplane or other large airplane shall:

(1) Unless prevented by distance from cloud criteria, when within five statute miles of the airport, maintain an altitude of at least 1,500 feet above the surface of the airport, until further descent is necessary for a safe landing;

(2) When approaching to land on a runway served by an ILS system, if the airplane is ILS equipped, fly that airplane at an altitude on or above the glide slope between the outer marker, or a point of interception closer in if required by cloud separation criteria, and the middle marker. However, this rule does not prohibit normal bracketing maneuvers above and below the glide slope for the purpose of remaining on the glide slope;

(3) When departing after takoff, climb to an altitude of 1,500 feet above the surface as rapidly as is feasible, unless otherwise required by established departure procedures or cloud separation criteria; and

(4) when landing on or taking off from an airport for which a formal runway use program has been established by the FAA, use the runway assigned by ATC for noise abatement purposes. However, the pilot has final authority and responsibility for the safe operation of his airplane, and if he determines that in the interest of safety another runway should be used, ATC will assign that runway, if air traffic and other conditions permit.

Origin: § 91.87 (except paragraph (c) which is deleted)
Changes:
1. The requirement for radio communications with control towers not operated by the U.S. is deleted. Such communications should be a recommended practice by not a regulation. It seems wrong that someone operating an aircraft without a radio can go in and out of these airports and not be subject to a violation while another pilot operating an aircraft containing a radio is subject to a violation if he doesn't use it. Clearances are still required at all airports with operating control towers regardless who the operator is.

§ 91.141 Terminal control areas.

(a) *Group I Terminal Control Areas.* (1) *Operating Rules.* (i) No person shall operate an aircraft within a Group I Terminal Control Area unless he has received an appropriate authorization from ATC prior to the operation of that aircraft in that area; and unless two-way radio communications are maintained within that area, between the aircraft and the ATC facility.

(ii) Each person operating a large turbine-powered airplane to or from a primary airport shall, unless otherwise authorized by ATC, operate at or

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above the designated floors while within the lateral limits of the terminal control area.

(2) *Pilot Requirements.* The pilot in command of a civil aircraft shall not land or take off that aircraft from an airport within a Group I Terminal Control Area unless he holds at least a private pilot certificate.

(3) *Equipment Requirements.* Unless otherwise authorized by ATC, no person shall operate an aircraft within a Group I Terminal Control Area unless that aircraft is equipped with:

(i) An operable VOR or TACAN receiver (except in the case of helicopters);

(ii) An operable two-way radio capable of communicating with ATC on appropriate frequencies for that Terminal Control Area; and

(iii) An operable transponder capable of replying to ATC interrogation with the code specified by ATC, and equipped with automatic pressure altitude reporting equipment.

(b) *Group II Terminal Control Areas.* (1) *Operating Rules.* (i) No person shall operate an aircraft within a Group II Terminal Control Areas unless he has received an appropriate authorization from ATC prior to the operation of that aircraft in that area; and unless two-way radio communications are maintained, within that area, between that aircraft and the ATC facility.

(ii) Unless otherwise authorized by ATC, each person operating a large turbine-powered airplane to or from a primary airport shall operate at or above the designated floors while within the lateral limits of the Terminal Control Area.

(2) *Equipment Requirements.* Unless otherwise authorized by ATC, no person shall operate an aircraft within a Group II Terminal Control Area unless that aircraft is equipped with:

(i) An operable VOR or TACAN receiver (except in the case of helicopters);

(ii) An operable two-way radio capable of communicating with ATC on the appropriate frequencies for that terminal control area; and

(iii) An operable transponder capable of replying to ATC interrogation with the code specified by ATC, and except that a transponder is not required for IFR flights operating to or from an airport outside, but in close proximity to the Terminal Control Area when the commonly used transition, approach, or departure procedures to such airport require flight within the terminal control area.

(c) *ATC Authorized Deviations.* ATC may authorize deviations from equipment requirements of this section:

(1) Immediately, in the case of in-flight VOR, TACAN, or two-way radio failure;

(2) Immediately, in the case of a transponder or automatic pressure altitude reporting equipment failure occurring at any time; or

(3) On a continuing basis, or for individual flights, in which case the request for a deviation must be submitted to the ATC facility having jurisdiction over the airspace concerned at least two hours before the proposed operation.

Origin: §§ 91.90, 91.24(c)
Changes:
1. Regulations pretaining to Group III TCAs are deleted because there aren't any Group III TCAs, and it doesn't appear likely that there will be any.
2. The cross reference to another section for transponder and automatic pressure altitude reporting equipment requirements has been changed to a statement of the requirement.
3. The authorized deviations from the equipment requirements has been expanded slightly by allowing ATC to authorize deviations from all of the equipment requirements (instead of just transponders) on a continuing basis or for individual flights.
4. The lead time for submitting a request for deviations has been dropped from four hours to two hours.
5. A regulation has been added for Group I TCAs in paragraph (a)(1). The requirement for maintaining two-way radio communications within Group I TCAs is omitted in present section 91.90. The omission was probably an oversight because the requirement is in the present operating rules for Group II TCAs.

§ 91.143 Operations in specially designated areas.

(a) *Restricted and Prohibited Areas.* (1) No person shall operate an aircraft within a Restricted Area designated in FAR Part 73 contrary to the restrictions imposed, or within a Prohibited Area, unless he has the permission of the using or controlling agency, as appropriate.

(2) Each person conducting, within a Restricted Area, an aircraft operation (approved by the using agency) that creates the same hazards as the operations for which the Restricted Area was designated, may deviate from the rules of this subpart that are not compatible with his operation of the aircraft.

(b) *Positive Control Areas and Route Segments.* (1) No person shall operate an aircraft within a Positive Control Area, or Positive Control Route Segment designated in FAR Part 71, unless that aircraft is:

(i) Operated under IFR at a specified flight level assigned by ATC;

(ii) Equipped with the instruments and equipment required for IFR flight;

(iii) Flown by a pilot rated for instrument flight;

(iv) Equipped with an operable transponder capable of replying to ATC interrogation with the code specified by ATC, and with automatic pressure altitude reporting equipment; and

(v) Two-way radio capable of providing communications on frequencies specified by ATC.

(2) ATC may authorize deviations from subparagraph (1), above, immediately in the case of in-flight equipment failure. In cases of other requests for deviations, written requests must be submitted at least 24 hours before the proposed operation to the ATC Center having jurisdiction over the airspace concerned. ATC may authorize a deviation on a continuing basis or for an individual flight, as appropriate.

Origin: §§ 91.95, 91.97
Changes:
1. The rules now in § 91.95 and § 91.97 have been combined in a single section.
2. Deviations in the case of any kind of in-flight equipment failure may be authorized immediately.
3. Some changes in language with no substantive change intended.

§ 91.145 Temporary flight restrictions.

(a) *General.* The Administrator may, when he finds it necessary because of a particular incident or event, issue a Notice to Airmen (NOTAM) designating an area within which temporary flight restrictions apply for the safety of air traffic, the security and safety of persons on the surface, or to expedite the conduct of emergency or special flight operations. When a NOTAM has been issued under this section, each person operating an aircraft within the designated area shall comply with paragraph (b), (c) or (d) of this section, as appropriate.

(b) *Flight Restrictions in the Proximity of Space Flight Recovery Operations.* No person may operate any aircraft of United States registry, or pilot any aircraft under the authority of an airman certificate issued by the Federal Aviation Administration within areas designated in a Notice to Airmen (NOTAM) for space flight recovery operations except when authorized by ATC, or operated under the control of the Department of Defense Manager for Manned Space Flight Support Operations.

(c) *Flight Restrictions in the Proximity of Presidential and Other Parties.* No person may operate an aircraft over or in the vicinity of any area to be visited or traveled by the President, the Vice President, or other public figures contrary to the restrictions established by the Administrator and published in a Notice to Airmen (NOTAM).

(d) *Flight Restrictions for Other Incidents or Events.* When a NOTAM has been issued for reasons not covered by paragraph (b) or (c) of this section, no person shall operate an aircraft within the designated area unless:

(1) That aircraft is participating in activities connected with the incident or event under the direction of the responsible agency specified in the NOTAM;

(2) That aircraft is being operated directly to or from an airport located within the area, and is operated so as not to hamper or endanger other authorized activities;

(3) That flight is specifically authorized under a clearance from ATC;

(4) Enroute operation is conducted through the area because VFR flight around or above the area is impracticable because of weather, terrain, or other considerations, and prior notice has been given to the ATC facility specified in the NOTAM; or

(5) That aircraft is carrying properly accredited news media representatives, or persons officially concerned with the incident or event which generated the NOTAM, the flight is conducted in accordance with the minimum safe altitudes in § 91.121 and above the altitudes being used by aircraft directly involved in the incident or event unless otherwise authorized by the responsible agency, and the operator has filed with the ATC facility specified in the NOTAM a flight plan which includes at least:

(i) The aircraft identification, type and color;

(ii) Radio communication frequencies to be used;

(iii) Proposed time of entry and departure from the designated area;

(iv) Name of the news media or purpose of the flight;

(v) Any other perinent information requested by ATC.

Origin: FAR 91.91, 91.102 and 91.104
Changes:
1. Three related sections have been combined into one.
2. In proposed § 91.145(d)(3), the allowance for operations in flight restricted areas if on an IFR clearance (present § 91.91(b)(3)) is changed to allow any flight authorized under an ATC clearance.
3. Changes in language with no substantive changes intended.

Subpart C—Instrument Flight Rules

NOTE.—This Subpart incorporates all of the regulations relating to instrument flight (including Category II operations) which are scattered throughout present Part 91.

§ 91.201 Applicability.

This Subpart prescribes rules, in addition to the rules in Subparts A and B, for persons operating aircraft in less than VFR weather conditions or on an IFR flight plan with an appropriate ATC clearance.

Origin: NEW

§ 91.203 ATC clearance and flight plan required.

No person shall operate an aircraft in controlled airspace under IFR unless:

(a) He has filed an IFR flight plan; and

(b) He has received an appropriate ATC clearance.

Origin: § 91.115
Comment: This section is not a restatement of proposed § 91.201. Proposed § 91.201 states that a person must abide by Subpart C when operating on an IFR flight plan and an appropriate ATC clearance. This section sets forth the requirement for a flight plan and clearance to operate under IFR in controlled airspace.
Changes: None

§ 91.205 Equipment requirements.

No person shall operate a powered civil aircraft with a standard category U.S. airworthiness certificate under IFR unless it contains, in addition to the instruments and equipment required by § 91.15, the following operable instruments and equipment:

(a) A two-way radio communication system appropriate to the ATC facilities with which contact must be maintained;

(b) Radio navigation equipment appropriate to the radio navigational facilities to be used;

(c) Gyroscopic rate-of-turn indicator, except on the following aircraft:

(1) Large airplanes with a third attitude instrument system usable through flight attitudes of 360 degrees of pitch and roll and installed in accordance with § 121.305(j) of this Chapter; and

(2) Rotorcraft, type cetificated under Part 29 of this Chapter, with a third attitude instrument system usable through flight attitudes of †80 degrees of pitch and ¢†120 degrees of roll and installed in accordance with section 29.1303(g) of this Chapter.

(d) A slip-skid indicator;

(e) A sensitive altimeter adjustable for barometric pressure;

(f) A digital clock with hour, minute, and second displays, or a clock with a sweep-second hand;

(g) A generator or alternator of adequate capacity;

(h) A gyroscopic attitude indicator (artificial horizon);

(i) A gyroscopic direction indicator (Directional gyro or equivalent); and

(j) If VOR navigational equipment is required under paragraph (b) of this section, aircraft operating within the 50 states or the District of Columbia, at or above 24,000 feet MSL, must be equipped with an approved distance measuring equipment (DME). When DME required by this paragraph fails at and above 24,000 feet MSL, the pilot in command of the aircraft shall notify ATC immediately, and may then continue operations at and above 24,000 feet MSL to the next airport of intended landing at which repairs or replacement of the equipment can be made.

Origin: §91.33(d) and (e)
Changes:
1. The IFR instrument and equipment listing has been separated from the basic equipment listing in Subpart A.
2. The communications radio and navigational radio requirements have been separated.
3. The term "bank and pitch indicator" has been changed to "attitude indicator."
4. The acceptability of an alternator in lieu of a generator is incorporated.

§ 91.207 VOR equipment check for IFR operations.

(a) No person shall operate a civil aircraft under IFR using the VOR system of radio navigation unless the VOR equipment of that aircraft—

(1) Is maintained, checked, and inspected under an approved procedure; or

(2) Has been operationally checked within 30 days before flight in accordance with one of the procedures specified in paragraphs (b) through (f) of this section and found to be within the stated permissible bearing error.

(b) If dual system VOR (units independent of each other except for the antenna) is installed in the aircraft, the person checking the equipment may check one system against the other. He shall tune both systems to the same VOR ground facility and note the indicated bearings to that station. The maximum permissible variation between the two indicated bearings is 4 degrees.

(c) An FAA operated or approved test signal or a test signal radiated by a certificated and appropriately rated radio repair station or, outside the United States, a test signal operated or approved by appropriate authority may be used to check the VOR equipment (the maximum permissible bearing error is plus or minus 4 degrees).

(d) A point on an airport surface designated as a VOR system checkpoint by the Administrator or, outside the United States, by appropriate authority may be used for the required check (the maximum permissible bearing error is plus or minus 4 degrees).

(e) An airborne checkpoint designated by the Administrator or, outside the United States, by appropriate authority may be used for the required check (the maximum permissible bearing error is plus or minus 4 degrees).

(f) The required operational check may be performed in flight in the following manner—

(1) Select a VOR radial that lies along the centerline of an established VOR airway;

(2) Select a prominent ground point along the selected radial preferably

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more than 20 miles from the VOR ground facility and maneuver the aircraft directly over the point at a reasonably low altitude; and

(3) Note the VOR bearing indicated by the receiver when over the ground point (the maximum permissible variation between the published radial and the indicated bearing is 6 degrees).

(g) Each person making the VOR operational check shall enter the date, place, bearing error, and his signature in the aircraft log or other permanent record. In addition, if a test signal radiated by a repair station, as specified in paragraph (c) of this section, is used, an entry must be made in the aircraft log or other permanent record by the repair station certificate holder or his representative certifying to the bearing transmitted by the repair station for the check and the date of transmission.

Origin: § 91.25
Changes:
1. The requirement for checking VOR equipment accuracy is extended from ten days to 30 days, with the checks within the preceding ten hours of flight time deleted. This change is justified for the following reasons: (1) The quality of VOR equipment has improved considerably since this regulation was adopted (many sets now meet or exceed TSOs); (2) Most aircraft operated under IFR are, a good part of the time, in a radar environment wherein ATC can advise the pilot of deviations indicative of dangerous bearing errors in VOR equipment; and (3) Pilots routinely check VOR equipment accuracy on a flight-by-flight basis without even thinking about it.
2. The listing on a priority basis of acceptable methods for making the required check under present paragraph 91.25(b) has been eliminated. Under proposed section 91.207, each method is equally acceptable.

§ 91.209 Fuel requirements.

No person shall operate a civil aircraft in IFR conditions unless it carries enough fuel (considering weather reports and forecasts, and weather conditions observed by the pilot in command) to—

(a) Complete the flight to the first airport of intended landing;

(b) Fly from that airport to the alternate airport, if an alternate airport is required by § 91.211; and

(c) Fly thereafter for 45 minutes at normal cruising speed.

Origin: § 91.23
Changes:
1. The provision relieving a pilot from carrying fuel to allow cruising to the alternate if certain weather minimums exist at the original destination has been placed in proposed § 91.211, Alternate Airport. Paragraph (b) above carries out this change.
2. Minor changes in language with no substantive change intended.

§ 91.211 Alternate airport.

(a) *Alternate Airport Requirement.* An alternate airport must be specified in an IFR flight plan unless:

(1) FAR Part 97 prescribes a standard instrument approach for the airport of first intended landing; and

(2) The weather conditions at that airport from two hours before until two hours after the estimated time of arrival are forecast to be—

(i) Ceiling at least 3,000 feet; and

(ii) Visibility at least three miles, or two miles more than the lowest authorized landing minimum visibility, whichever is greater.

(b) *Alternate Airport Weather Minimums.* Unless otherwise authorized by the Administrator, an airport may not be specified as an alternate airport in an IFR flight plan unless current weather forecasts indicate that, at the estimated time of arrival at that airport, the ceiling and visibility at that airport will be at or above the following:

(1) If an instrument approach procedure has been published in FAR Part 97 for that airport, the alternate airport minimums specified in that procedure shall apply. If none are so specified, the following shall apply:

(i) For a precision approach—ceiling 600 feet and visibility 2 statute miles; and

(ii) For a non-precision approach—ceiling 800 feet and visibility 2 statute miles.

(2) If no instrument approach procedure has been published in FAR Part 97 for that airport, the ceiling and visibility minimums are those allowing descent from the MEA, approach, and landing under basic VFR.

Origin: § 91.83(a)(9), (b) and (c)
Changes:
1. The alternate airport rules have been separated from the flight plan section, and brough to this new section.
2. The weather conditions which must prevail in order not to need an alternate airport have been simplified. By changing from a ceiling of at least 1,000 feet above the lowest MEA, MOCA, or altitude prescribed for the initial approach segment to a ceiling of at least 3,000 feet, the new regulation may require a little better weather in a few cases and permit a little worse in a few others, but it is much easier to understand.

§ 91.213 Minimum altitudes.

Except as necessary for takeoff and landing, or unless otherwise authorized by the Administrator, no person shall operate an aircraft under IFR below:

(a) The applicable minimum altitude prescribed in FAR Parts 95 and 97. However, if both a MEA and a MOCA are prescribed for a route or route segment, a pilot may operate an aircraft below the MEA down to, but not below, the MOCA when within 25 statute miles of the VOR concerned (based on the pilot's reasonable estimate of that distance).

(b) If no applicable minimum altitude is prescribed in those Parts—

(1) In the case of operations over an area designated as a mountainous area in FAR 95, an altitude of 2,000 feet above the highest obstacle within a horizontal distance of 5 statute miles from the course to be flown; or

(2) In any other case, an altitude of 1,000 feet above the highest obstacle within a horizontal distance of five statute miles from the course to be flown.

Origin: § 91.119(a)
Changes:
1. Minor changes in language and organization with no substantive changes intended.

§ 91.215 Cruising altitude or flight level

Origin: § 91.121
Changes: None

§ 91.217 Course to be flown.

Unless otherwise authorized by ATC, no person shall operate an aircraft within controlled airspace, under IFR, except as follows:

(a) On a Federal airway, along the centerline of that airway.

(b) On any other route, along the direct course between the navigational aids or fixes defining that route.

However, this section does not prohibit maneuvering the aircraft to pass well clear of other air traffic or the maneuvering of the aircraft, in VFR conditions, to clear the intended flight path both before and during climb or descent.

Origin: § 91.123
Changes: None

§ 91.219 Climb enroute.

Climb to a higher minimum IFR altitude shall begin immediately after passing the point beyond which that minimum altitude applies, except that, when ground obstructions intervene, the point beyond which the higher minimum altitude applies shall be crossed at or above the MCA.

Origin: § 91.119(b)
Changes: None

§ 91.221 Instrument approach procedures for civil airports (Not applicable to Category II operations.)

(a) *Standard Instrument Approaches.* When an instrument letdown to an airport is necessary, each person operating an aircraft under IFR shall use a standard instrument approach procedure perscribed for that airport by FAR Part 97, ulness otherwise authorized by the Administrator (including ATC).

(b) *Use of Radar and Operation on Unpublished Routes.* (1) A pilot is authorized to use radar (where it is approved for ATC purposes) not only for surveillance and precision radar approaches, but also for instrument approaches predicated on other types of

radio navigational aids. Radar vectors may be authorized to provide course guidance through the segments of an approach procedure to the final approach fix or position.

(2) When an approach clearance is received, a pilot operating on an unpublished route or being radar vectored shall, in addition to complying with the minimum altitudes in § 91.213, maintain his last assigned altitude unless a different altitude is assigned by ATC or until the aircraft is established on a segment of an instrument approach procedure or published route. After the aircraft is so established, published altitudes apply to descent within each succeeding route or approach segment unless a different altitude is assigned by ATC. Upon reaching the final approach fix or position, the pilot may either complete his instrument approach in accordance with the procedure approved for the facility, or may continue a surveillance or precision radar approach to a landing.

(c) *ILS Approaches with Inoperative or Unused Components.* A pilot is authorized by FAR Part 97 to make an ILS approach when a certain component or components of the ILS system is inoperative, unusable, or not utilized. When an approcah is made under these circumstances, the straight-in minimums shall be raised in accordance with the appropriate table in Part 97. If more than one component or aid is not utilized, each prescribed minimum is raised to the highest minimum specified for the absence of any one of the aids not utilized.

(d) *Limitations on Procedure Turns.* In the case of a radar initial approach to a final approach fix or position, or a timed approach from a holding fix, or where the procedure specifies "NOPT" or "FINAL," no pilot may make a procedure turn unless, when he received his final approach clearance, he so advises ATC.

Origin: § 91.116(a), (f), (g) and (h); § 91.117(a) and (c).
Changes:
1. The conversion tables describing changes in landing minimums if ILS ground components are inoperative or unused have been deleted. We recommend these tables be placed in Part 97 and made available in other published material, as is done presently for helicopters.
2. Reference to use of radio ranges for ADF procedures is deleted.
3. Some changes in language with no substantive changes intended.

§ 91.223 Descent below minimum descent altitude (MDA) and decision height (DH); and IFR landing minimums at civil airports (Not applicable to Category II operations).

(a) Unless otherwise authorized by the Administrator, no person shall operate an aircraft using an instrument approach procedure prescribed in FAR Part 97 below the minimum descent altitude or continue an approach below the decision height unless:

(1) The aircraft is in a position from which a normal approach to the runway of intended landing can be made; and

(2) The approach threshold of that runway, or approach lights or other markings identifiable with the approach end of the runway are clearly visible to the pilot.

If, upon arrival at the missed approach point or decision height, or at any time thereafter, any of the above requirements are not met, the pilot shall immediately execute the prescribed missed approach procedure.

(b) No person operating an aircraft (except a military aircraft of the United States) in accordance with a standard instrument approach procedure prescribed in FAR Part 97 shall land that aircraft unless the flight visibility is at or above the landing minimum prescribed in that Part for the procedure used, unless otherwise authorized by the Administrator.

(c) *Comparable Values of RVR and Ground Visibility.* If RVR minimums are prescribed in an instrument approach procedure, but RVR is not reported for the runway of intended operation, the RVR minimum shall be converted to flight visibility using published tables, and observed as the applicable minimum visibility for landing.

Origin: §§ 91.116 (b) and (e), 91.117 (a) and (b)
Changes:
1. The adjective "flight" has been added to the visibility requirements. A pilot cannot legally land unless the *flight* visibility is at or above the landing minimum prescribed, and if RVR minimums are prescribed but RVR is not reported for the runway of intended operation, the RVR minimum is converted to *flight* visibility "in accordance with published tables and observed as the applicable visibility minimum . . .". Except in the case of converting RVR minimums, specifying flight visibility is not a significant change because decisions in several enforcement cases indicate that flight visibility, rather than ground visibility, is intended in the present regulations. In the case of converting RVR minimums, the regulation is specific in stating that it shall be converted to *ground* visibility. Changing this to flight visibility is a significant change.
2. Reference to landing minimums stated in terms of ceiling and visibility is deleted.
3. The conversion chart from RVR to miles has been omitted, with the recommendation that it be inserted in FAR 97 and made available to pilots in other printed material.
4. Some changes in language with no substantive changes intended.

§ 91.225 Military airports: takeoff and landing under IFR.

Unless otherwise prescribed by the Administrator, each person operating a civil aircraft under IFR into, or out of, a military airport shall comply with the instrument approach procedures and the takeoff and landing minimums prescribed by the military authority having jurisdiction on that airport.

Origin: § 91.116(d)
Changes: None

§ 91.227 Radio communications.

The pilot in command of each aircraft operated under IFR in controlled airspace shall have a continuous watch maintained on the appropriate frequency and shall report by radio as soon as possible.

(a) The time and altitude of passing each designated reporting point, or the reporting points specified by ATC, except that while the aircraft is under radar control, only the passing of those reporting points specifically requested by ATC need be reported;

(b) Any unforecast weather conditions encountered; and

(c) Any other information relating to the safety of flight.

Origin: § 91.125
Changes: None

§ 91.229 Two-way radio communications failure.

Each pilot who experiences a two-way radio communications failure while in flight under IFR shall comply with the rules of this section.

(a) *VFR Conditions.* If the failure occurs in VFR conditions, or if VFR conditions are encountered after the failure, the pilot shall continue flight under VFR and land as soon as is practicable.

(b) *IFR Conditions.* If the failure occurs in IFR conditions, or if paragraph (a) of this section cannot be complied with, the pilot shall continue flight according to the following:

(1) *Route.* (i) By the route assigned in the last ATC clearance received and acknowledged;

(ii) If being radar vectored, by the direct route from the point of radio failure to the fix, route, or airway specified in the vector clearance;

(iii) In the absence of an assigned route, by the route that ATC has advised may be expected in a further clearance; or

(iv) In the absence of an assigned rout or route which ATC has advised may be expected, by the route filed in the flight plan.

(2) *Altitude.* At the highest of the following altitudes or flight levels for the route segment being flown:

(i) The altitude or flight level assigned in the last ATC clearance received and acknowledge;

(ii) The minimum altitude as prescribed in § 91.211 for IFR operations

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(converted, if appropriate, to minimum flight level); or

(iii) The altitude or flight level ATC has advised may be expected in a further clearance.

(3) *Leaving a Holding Fix.* If holding instructions have been received, the pilot shall leave that holding fix at the expect-further-clearance time received, or, if an expected approach clearance time has been received he shall leave the holding fix in time to arrive over the fix from which the approach begins as close as possible to the expected approach clearance time.

(4) *Descent for Approach.* The pilot shall begin descent from the enroute altitude or flight level upon reaching the fix from which the approach begins, but not before:

(i) The expect-approach-clearance time (if received); or

(ii) If no expect-approach-clearance time has been received, at the estimated time of arrival shown on the flight plan, as amended by ATC.

Origin: § 91.127
Changes:
1. Minor changes in language with no substantive change intended.

§ 91.231 Radio malfunction reports.

(a) The pilot in command of each aircraft operated in controlled airspace under IFR shall report immediately to ATC any of the following malfunctions of equipment occurring in flight:

(1) The loss of VOR, TACAN, ADF, RNAV equipment, or low frequency navigation receiver capability.

(2) Complete or partial loss of ILS receiver capability.

(3) Impairment of air/ground communications capability.

(b) In each report required by paragraph (a) of this section, the pilot in command shall include the—

(1) Aircraft identification;

(2) Equipment affected;

(3) Degree to which the capability of the pilot to operate under IFR in the ATC system is impaired; and

(4) Nature and extent of assistance he desires from ATC.

Origin: § 91.129
Changes:
1. RNAV has been added to reportable equipment.

§ 91.233 Category II operations.

(a) *General Operating Rules*

(1) No person shall operate a civil aircraft in a Category II operation unless:

(i) The pilot flight crew of the aircraft consists of a pilot in command and a second in command who hold the appropriate authorization and ratings prescribed in § 61.3 of FAR Part 61;

(ii) Each flight crew member has adequate knowledge of and familiarity with the aircraft and the procedures to be used by him; and

(iii) The instrument panel in front of the pilot who is controlling the aircraft has appropriate instrumentation for the type of flight control guidance system which is used.

(2) No person shall conduct a Category II operation in a civil aircraft unless each ground component required for that operation and the related airborne equipment is installed and operating, unless otherwise authorized by the Administrator. The ground components are localizer, glide slope, outer marker, middle marker, inner marker, approach lights, high intensity runway lights, touchdown zone lights, centerline lighting and marking, and a runway visual range system for the touchdown zone. A compass locator or precision radar may be substituted for the outer or middle marker. The inner marker is not required if the height above touchdown (HAT) is to be 150 feet or greater, or if the airplane has an approved radio altimeter as provided in Appendix A or this Part.

(3) No person may operate an aircraft in a Category II operation below the authorized decision height unless:

(i) The aircraft is in a position from which a normal approach to the runway of intended landing can be made; and

(ii) The approach threshold of that runway, or the approach lights or other markings identifiable with the approach end of the runway are clearly visible to the pilot.

If upon arrival at the authorized decision height, or at any time thereafter, any of the above requirements are not met, the pilot shall immediately execute the appropriate missed approach procedure. For the purposes of this paragraph, the authorized decision height is the decision height prescribed for the approach, authorized for the pilot in command, or for which the aircraft is equipped, whichever is higher.

(4) No person shall operate a civil aircraft in a Category II operation conducted by the holder of a certificate issued under FAR Part 121 unless the operation is conducted in accordance with that certificate holder's operations specifications.

(b) *Category II Manual.* (1) No person shall operate a civil aircraft of United States registry in a Category II operation unless:

(i) There is available in the aircraft a current approved Category II manual for that aircraft which meets the requirements in Appendix A of this Part; (ii) The operation is conducted in accordance with the procedures, instructions, and limitations in that manual; and

(iii) The instruments and equipment listed in the manual which are required for particular Category II operation have been inspected and maintained in accordance with the maintenance program contained in that manual.

(2) Each operator shall keep a current copy of the approved manual at its principal base of operations, and shall make it available for inspection upon request of the Administrator.

(c) *Category II Instruments and Equipment.* For Category II operations, the instruments and equipment specified in § 91.205 and Appendix A of this Part are required.

(d) *Authorization of Certain Category II Operations.* The Administrator may issue a certificate of authorization permitting deviations from the requirements of paragraphs (a), (b) and (c) of this section for the operation of small airplanes, identified as Category A aircraft in FAR part 97 (§97.3), in Category II operations, if he finds that the proposed operation can be safely conducted under the terms of that certificate. Such authorization does not permit the operation of aircraft carrying persons or property for compensation or hire.

(e) Except for paragraph (a)(4), this section does not apply to operations conducted by the holder of a certificate issued under FAR Part 121.

Origin: §§ 91.2, 91.6, 91.33 *(f), and* 91.34
Changes:
1. In proposed 91.233(a)(2) [present §91.6(b)], the term "height above touchdown (HAT)", is used instead of "decision height."
2. Minor changes in language with no substantive changes intended.

Subpart D—Special Flight Operations

NOTE.—This is a new Subpart D, not to be confused with present Subpart D, Operations of Large and Turbine-Powered Multi-Engine Airplanes.

Proposed Subpart D incorporates regulations in present Part 91 governing operations which go beyond the common, everyday kind of aircraft use. Aerobatic flight; aircraft flight test; flight instruction, simulated instrument flight, and certain pilot flight tests; towing gliders; and towing other than gliders are included in this Subpart.

§91.301 Applicability.

This Subpart prescribes rules in addition to those in Subparts A and B of this part for certain kinds of flight operations.

Origin: New

§ 91.303 Aerobatic flight.

(a) No person shall operate an aircraft in aerobatic flight—

(1) Over any congested area of a city, town or settlement;

(2) Over any open air assembly of persons;

(3) Within a control zone or a Federal Airway, except as specifically authorized by the Administrator;

(4) Below an altitude of 1,500 feet above the surface; or

(5) When the flight visibility is less than three miles.

(b) No person shall operate an aircraft carrying any person (other than a crew member) in aerobatic flight unless each occupant is wearing an approved parachute.

(c) Paragraph (b) does not apply to:

(1) Flight tests for pilot certificates or ratings; or

(2) Spins, or other flight maneuvers required by the regulations for any pilot certificate or rating, when given by—

(i) A certificated flight instructor, or

(ii) An airline transport pilot instructing in accordance with FAR 61.169.

(d) For the purposes of this section, "approved parachute" means—

(1) A parachute manufactured under a type certificate or a technical standard order (C-23 series); or

(2) A personnel-carrying military parachute identified by a military designation or specification number.

Origin: § 91.15(c), *(d) and (e);* § 91.71
Changes:
1. The word "acrobatic" is changed to "aerobatic".
2. The rules covering aerobatic flight in §§ 91.15 and 91.71 have been combined in one section.
3. The two (different) definitions of aerobatic flight in present §§ 91.15 and 91.71 have been omitted, with the recommendation that the definition is present § 91.15(c) be inserted in FAR Part 1 as the more specific of the two.

§ 91.305 Aircraft flight test areas.

No person shall flight test an aircraft except over open water or sparsely populated areas having light air traffic.

Origin: § 91.93
Changes: None

§ 91.307 Flight instruction, simulated instrument flight, and certain pilot flight tests.

(a) *Dual Controls.* No person shall operate a civil aircraft for flight instruction unless that aircraft is equipped with functioning dual flight controls, unless the person receiving instruction holds at least a Private Pilot Certificate with category, class, and, if appropriate, type ratings for that aircraft.

(b) *Simulated Instrument Flight.* No person shall operate a civil aircraft in simulated instrument flight unless:

(1) An appropriately rated pilot occupies the other control seat as safety pilot;

(2) The safety pilot has adequate vision forward and to each side, or a competent observer in the aircraft adequately supplements the vision of the safety pilot; and

(3) That aircraft is equipped with functioning dual controls, unless the pilot manipulating the controls is fully qualified to act as pilot in command of that aircraft.

(c) *Lighter-than-air Aircraft.* The dual control requirement in paragraphs (a) and (b), above, do not apply to airships and free balloons.

(d) *Airline Transport Pilot Tests and Instruction.* No person shall operate a civil aircraft for a flight test for an Airline Transport Pilot certificate or class or type rating, or an FAR Part 121 proficiency flight check unless the pilot sitting at the controls, other than the pilot being tested, is fully qualified to act as pilot in command of that aircraft.

Origin: § 91.21
Changes:
1. Dual controls would not be needed if the person receiving instruction holds at least a private pilot certificate with category and class (type, if appropriate) ratings appropriate to the aircraft being used.
2. Dual controls would not be needed for simulated instrument flight if the person operating the aircraft is qualified to act as pilot in command of the aircraft being used.

§ 91.309 Parachuting.

(a) *Parachute Jumps.* Except in an emergency, no pilot in command shall allow, and no person shall make a parachute jump from an aircraft within the United States, except in accordance with FAR Part 105.

(b) *Parachutes.* No pilot of a civil aircraft may allow a parachute that is available for emergency use to be carried in that aircraft unless it is an approved type and—

(1) If a chair type (canopy in back), it has been packed by a certificated and appropriately rated parachute rigger within the preceding 120 days; or

(2) If any other type, it has been packed by a certificated and appropriately rated parachute rigger—

(i) Within the preceding 120 days, if its canopy, shrouds, and harness are composed exclusively of nylon, rayon, or other similar synthetic fiber or materials that are substantially resistant to damage from mold, mildew, or other fungi and other rotting agents propagated in a moist environment; or

(ii) Within the preceding 60 days, if any part of the parachute is composed of silk, pongee, or other natural fiber, or materials not specified in subdivision (i) of this paragraph.

Origin: § 91.15 (a) and (b)
Changes:
1. The regulation is amended to require that a parachute available for emergency use be "certified" by the packer who has repacked it within 60 days. This is common practice, and is important to the condition of the chute.
2. The provision for longer packing periods for chair-type chutes is continued, although we are skeptical that any have been installed in airplanes for the past 30 years.

§ 91.311 Towing: Gliders.

Origin: § 91.17
Changes: None

§ 91.313 Towing: Other than gliders.

(a) No pilot of a civil aircraft shall tow anything with that aircraft (other than under § 91.311) except in accordance with the terms of a certificate of waiver issued by the Administrator.

(b) An application for a certificate of waiver under this section is made on a form and in a manner prescribed by the Administrator, and must be submitted to the FAA Flight Standards District Office having jurisdiction over the area where the towing operation will take place.

Origin: § 91.18
Changes:
1. The application for a waiver is submitted to the FAA office having jurisdiction over the area where the towing operation will take place, rather than the "nearest" office as in present § 91.18. It is unclear in the present regulation what the FAA office must be "nearest" to.

Subpart E—Special Regulations for Commerical Operations

NOTE.—This is a new Subpart E, not to be confused with present Subpart E, Operating Noise Limits.

This Subpart incorporates several regulations in present Part 91 with very few changes. The regulations in this Subpart are retained in Part 91 because some commerical operations are not covered by other parts of the regulations, for example, local sight-seeing flights. Therefore, the regulations regarding emergency exits, over-water operations, and landing lights for aircraft carrying passengers for hire must remain in Part 91. Also, air carrier aircraft occasionally engage in Part 91 operations, so the requirement for flight and cockpit voice recorders belongs in this Part rather than in Part 121.

§ 91.401 Applicability.

This Subpart prescribes regulations in addition to other applicable regulations of this Part and Parts 121, 123, 127 and 135 for holders of air carrier or commerical operator certificates, and for other person operating aircraft in passenger-carrying operations for hire.

Origin: New

§ 91.403 Emergency exits for airplanes carrying passengers for hire.

Origin: § 91.47
Changes: None

§ 91.405 Flight recorders and cockpit voice recorders.

Origin: § 91.35
Changes: None

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§ 91.407 Over-water operations.

Except as necessary for takeoff and landing, no one shall operate a powered civil aircraft with a standard category U.S. airworthiness certificate for hire over water beyond, poweroff gliding distance from shore without approved flotation gear readily available to each occupant, and at least one pyrotechnic signalling device.

Origin: § 91.33 (a) and (b)(11)
Changes:
1. An exception is inserted for airports where takeoffs and landings over water are a necessity on some runways.

§ 91.409 Night operations.

No person shall operate a powered civil aircraft with a standard category U.S. airworthiness certificate at night for hire unless it has installed at least one electric landing light.

Origin: § 91.33 (a) and (c)(4)
Changes: None
Comment: This is an excellent example of an archaic rule left over from the 1920's, when an electric landing light was really something, and there were few lighted airports. Maybe it is the sort of thing which should be pulled out on "zero-based" rulemaking, even though electric landing lights are nice. They are rather common today, and it would be very unusual to buy a new or recently manufactured airplane (which is to be used to carry persons for hire) without at least one.

§ 91.411 Formation flights with passengers for hire.

No person shall operate an aircraft, carrying passengers for hire, in formation flight.

Origin: § 91.65(c)
Comments: While this is a worthwhile regulation, a clarification is needed of what constitutes "formation flight." It is not uncommon for two or more aircraft carrying a large charter group to cruise in sight of each other.
Changes: None

Subpart F—Operation of Certain Aircraft

NOTE.—This Subpart incorporates the regulations in present Part 91 which relate only to the operation of some kinds of aircraft which the "average" pilot isn't concerned with. Unfortunately, or mabye unavoidably, reorganizing Part 91 with respect to the regulations placed in this Subpart is somewhat lacking in consistancy. For instance, the regualtion regarding operations of aircraft on water might logically be included in this Subpart, but it is in Subpart A. Also, all regulations relating specifically to helicopters might be included in this Subpart, but they aren't.

§ 91.501 Applicability.

This Subpart prescribes rules in addition to other rules of this Part for operators of non-standard category aircraft, transport category aircraft, turbo-jet powered airplanes, and certain other civil aircraft.

Origin: New

§ 91.503 Experimental aircraft.

Origin: § 91.42
Changes: None

§ 91.505 Limited category aircraft.

No person shall operate a limited category civil aircraft carrying persons or property for compensation or hire.

Origin: § 91.40
Changes: None

§ 91.507 Provisionally certificated civil aircraft.

Origin: § 91.41
Changes: None

§ 91.509 Restricted category civil aircraft.

Origin: § 91.39
Changes: None, except the date in present § 91.39(f) should be deleted.

§ 91.511 Transport category civil airplanes: weight limitations.

Origin: § 91.37
Changes: None

§ 91.513 Transport category airplanes: aural speed warning device.

No person shall operate a transport category airplane in air commerce unless it is equipped with an aural speed warning device which complies with FAR 25.1303(c)(1).

Origin: § 91.49
Changes:
1. Minor changes in the heading and language with no substantive change intended.

§ 91.515 Transport category airplanes: pilot heat indication system.

Origin: § 91.50
Changes: None

§ 91.517 Turbojet-powered civil airplanes: altitiude alerting system or device.

Origin: § 91.51
Changes: None

§ 91.519 Turbojet-powered civil airplanes: use of flaps.

Except when necessary for training or certification, the pilot in command of a civil turbojet-powered airplane shall use, as a final flap setting, the minimum certificated landing flap setting set forth in the approved performance information in the Airplane Flight manual for the applicable conditions. However, each pilot in command has the final authority and responsibility for the safe operation of his airplane, and he may use a different flap setting approved for that airplane if he determines that it is necessary in the interest of safety.

Origin: § 91.85(c)
Changes:
1. Deletion of an expired deadline date.

§ 91.521 Authorization for ferry with one engine inoperative.

(a) *General.* An air carrier, commercial operator of large aircraft, or a person operating a large aircraft under Subpart D of this Part [This references Subpart D of present Part 91, not proposed Subpart D] may conduct a ferry flight of a four-engine airplane, or a turbine engine powered airplane equipped with three engines, with one engine inoperative to a base for the purpose of repairing that engine subject to the following:

(The rest is the same as present § 91.45 beginning with § 91.45(a)(1).)

Origin: § 91.45
Changes:
1. Those operators governed by present Subpart D are included in this privilege.

§ 91.523 Sonic boom.

Origin: § 91.55
Changes: None

§ 91.525 Increased maximum certificated weights for certain airplanes operated in Alaska.

Origin: § 91.38
Changes: None

Subpart G—Aircraft Maintenance, Inspections, Preventive Maintenance, Alterations, and Equipment Tests

NOTE.—This Subpart incorporates all of the regulations in present Subpart C without substantive changes. The order has been rearranged a little. Also, the provision in present Part 43 that the holder of a private pilot certificate may perform preventive maintenance has been put in this Subpart.

§ 91.601 Applicability.

(a) This Subpart prescribes rules governing specific equipment tests, and the maintenance, inspection, preventive maintenance, and alteration of United States registered civil aircraft operating anywhere.

(b) Sections 91.607(a), 91.609, 91.611, 91.613, 91.619, and 91.623 do not apply to an aircraft maintained in accordance with a continuous airworthiness maintenance program as provided in FAR Parts 121, 127 and 135.

Origin: § 91.161
Changes:
1. The term "inspection" is removed from the overall definition of "maintenance." Parts 1 and 43 should be amended accordingly.
2. "Equipment Tests" has been added to the title and in the text of paragraph (a).
3. Minor changes in language with no substantive changes intended.

§ 91.603 General.

The owner or operator of an aircraft has the primary responsibility for ensuring that the aircraft is maintained in an airworthy condition, including compliance with required inspections and with the Airworthiness Directives prescribed in FAR Part 39. In addition, he shall ensure that maintenance personnel make appropriate entries in the aircraft and maintenance records indicating the aircraft has been approved for return to service.

Origin: §§ 91.163(a) and 91.165
Changes:
1. Minor changes in language with no substantive changes intended.

§ 91.605 Maintenance and inspections: who may perform.

(a) No person shall perform maintenance, inspections, preventive maintenance, or alterations on an aircraft other than as prescribed in this Subpart and other applicable FAR's including Part 43.

(b) The holder of a pilot certificate issued under FAR Part 61 may perform preventive maintenance on an aircraft he owns or operates which is not used in air carrier service. The items classified as preventive maintenance are listed in Appendix —— of this Part.

Origin: § 91.163(b) and FAR 43.3(h)
Changes:
1. The authority for a pilot to perform preventive maintenance is brought to Part 91.
2. List of items classified as preventive maintenance is to be added as an appendix to Part 91.
3. Minor changes in language with no substantive changes intended.

§ 91.607 Maintenance required.

(a) *Repair, Replacement or Overhaul.* The aircraft owner or operator shall ensure that known unairworthy conditions of that aircraft (including appliances) have been corrected as prescribed in FAR Part 43 before operating, or knowingly permitting any person to operate, that aircraft.

(b) *Rotorcraft Maintenance Manual.* No person shall operate a rotorcraft for which a Rotorcraft Maintenance Manual containing an "Airworthiness Limitations" section has been issued, unless the replacement times, inspection intervals, and related procedures prescribed in that section of the manual are complied with.

Origin: §§ 91.165 and 91.163 (c)
Changes:
1. The material in paragraph (a) has been reslanted toward maintenance and repair, rather than inspections. Inspection requirements are in proposed §§ 91.603 and 91.609.

§ 91.609 Inspections required.

Origin: § 91.169
Changes: None

§ 91.611 Progressive inspections.

Origin: § 91.171
Changes: None

§ 91.613 Altimeter system tests and inspections.

Origin: § 91.170
Changes: None, except revoked paragraph (b) should be deleted and paragraph (c) designated (b).

§ 91.615 ATC transponder tests and inspections.

(a) *Tests Required.* No person shall use an ATC transponder in a United States registered civil aircraft unless, within the preceding 24 calendar months, it has been tested and inspected and found to comply with Appendix F of FAR Part 43.

(b) *Who may Test and Inspect Transponders.*

[The remainder of this section is the same as present § 91.177(b).]

Origin: § 91.177
Changes:
1. A past deadline is deleted.
2. Reference to transponders "specified in §§ 91.24(a), 121.345(c), 127.123(b) or 135.143(c)" is deleted because present § 91.24 now encompasses all transponders in U.S. registered aircraft.
3. Minor changes in language with no substantive change intended.

§ 91.617 Carrying persons after repairs or alterations.

Origin: § 91.167
Changes: None

§ 91.619 Maintenance records.

Origin: § 91.173
Changes: None

§ 91.621 Rebuilt-engine maintenance records.

Origin: § 91.175
Changes: None

§ 91.623 Transfer of maintenance records.

Origin: § 91.174
Changes: None

CROSS REFERENCE

PRESENT PART 91 TO PROPOSED PART 91

Present	Proposed
91.1(a) & (b)	91.1
91.1(c)	Deleted
91.2	91.233(d)
91.3	91.5
91.4	Deleted
91.5 (Introductory Sentence).	91.21
91.5(a) & (b)	Deleted
91.6	91.233(a)
91.7	91.103
91.8	91.25
91.9	91.7(a)
91.10	91.7(b)
91.11	91.19
91.12	Deleted
91.13	91.127
91.14	91.105
91.15(a) & (b)	91.309
91.15(c), (d) & (e)	91.303(b), (c) & (d)
91.17	91.311
91.18	91.313
91.19	91.17(b)
91.20	91.1(b)(2)
91.21	91.307
91.23	91.209
91.24(a)	Deleted
91.24(b) & (c)	91.15(d) & 91.141
91.24(b)(3)	Deleted
91.25	91.207
91.27(a)	91.9 & 91.27(a)

CROSS REFERENCE—Continued

Present	Proposed
91.27(b)	Deleted
91.28	91.27(g)
91.29	91.11
91.31(a), (b) & (e)	91.13
91.31(c) & (d)	Deleted
91.32	91.15(e)
91.33(a)	91.15(a) & (b), 91.205, 91.407 & 91.409
91.33(b) & (c)	91.15(b)
91.33(b)(11)	91.407
91.33(c)(4)	91.409
91.33(d)	91.15(b)(3) & 91.205
91.33(e)	91.205(j)
91.33(f)	91.233(c)
91.34	91.233(b)
91.35	91.405
91.36	Deleted
91.37	91.511
91.38	91.525
91.39	91.509
91.40	91.505
91.41	91.507
91.42	91.503
91.43	91.27(b), (c) & (d)
91.45	91.521
91.47	91.403
91.49	91.513
91.50	91.515
91.51	91.517
91.52	91.15(c)
91.54	Deleted
91.55	91.523
91.61	91.101
91.63	91.23
91.65(a) & (b)	91.107
91.65(c)	91.411
91.65(d)	91.129(c)
91.67	91.109
91.69	91.111
91.70	91.115
91.71	91.303
91.73	91.113
91.75	91.129
91.77	91.131
91.79	91.121
91.81	91.125
91.83(a) & (d)	91.133
91.83(b) & (c)	91.211
91.84	91.135
91.85(a)	91.137
91.85(b)	Deleted
91.85(c)	91.519
91.87[except (c)]	91.139
91.87(c)	Deleted
91.89	91.137
91.90(a) & (b)	91.141
91.90(c)	Deleted
91.91	91.145(a) & (d)
91.93	91.305
91.95	91.143(a)
91.97	91.143(b)
91.101	Deleted
91.102	91.145(b)
91.103	91.27(e)
91.104	91.145(c)
91.105	91.117
91.107	91.119
91.109	91.123
91.115	91.203
91.116(a), (f), (g) & (h)	91.221(a), (b), (d) & (e)
91.116(b) & (e)(1)	91.223(b) & (c)
91.116(c) & (e)(2)	Deleted
91.116(d)	91.225
91.117(a)	91.221 & 91.223
91.117(b)	91.223(a)
91.117(c)	91.221(c)
91.117(c)(1) through (5)	Deleted
91.119(a)	91.213
91.119(b)	91.219
91.121	91.215
91.123	91.217
91.125	91.227
91.127	91.229
91.129	91.231
91.161	91.601
91.163(a)	91.603
91.163(b)	91.605(a)
91.163(c)	91.607(b)
91.165	91.603 & 91.607(a)
91.167	91.617

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CROSS REFERENCE—Continued

Present	Proposed
91.169	91.609
91.170	91.613
91.171	91.611
91.173	91.619
91.174	91.623
91.175	91.621
91.177	91.615
91.161 through 91.219 [Subpart D].	Not included in this proposal
91.301 through 91.307 [Subpart E].	Not included in this proposal

PROPOSED PART 91 TO PRESENT PART 91

Proposed	Present
91.1(a), (b)(1) & (3)	91.1(a) & (b)
91.1(b)(2)	91.20
91.3	New
91.5	91.3
91.7	91.9 & 91.10
91.9	91.27(a)
91.11	91.29 & New
91.13	91.31(a), (b) & (e)
91.15(a) & (b)	91.33(a), (b) & (c)
91.15(c)	91.52
91.15(d)	91.24
91.15(e)	91.32
91.15(f)	New
91.17	91.19 & New
91.19	91.11
91.21	91.5
91.23	91.63
91.25	91.6
91.27	91.27, 91.28, 91.43 & 91.103
91.101	91.61
91.103	91.7
91.105	91.14
91.107	91.65(a) & (b)
91.109	91.67
91.111	91.69
91.113	91.73
91.115	91.70
91.117	91.105
91.119	91.107
91.121	91.79
91.123	91.109
91.125(a)	91.81
91.125(b)	New
91.127	91.13
91.129(a), (b), (d) & (e)	91.75 & New
91.129(c)	91.65(d)
91.131	91.77
91.133	91.83(a) & (d)
91.135	91.84
91.137(a)	91.85(a)
91.137(b)	91.89
91.139	91.87
91.141	91.90(a) & (b), 91.24(b) & (c)
91.143	91.95 & 91.97
91.145	91.91, 91.102 & 91.104
91.201	New
91.203	91.115
91.205	91.33(d) & (e)
91.207	91.25
91.209	91.23
91.211	91.83(a)(9), (b)

PROPOSED PART 91 TO PRESENT PART 91—Continued

Proposed	Present
91.213	91.119(a)
91.215	91.121
91.217	91.123
91.219	91.119(b)
91.221(a), (b), (d) & (e)	91.116(a), (f), (g) & (h)
91.221(c)	91.117(a) & (e)
91.223	91.116(b) & (e)(1), & 91.117(a) & (b)
91.225	91.116(d)
91.227	91.125
91.229	91.127
91.231	91.129
91.233	91.2, 91.6, 91.33(f) & 91.34
91.301	New
91.303	91.15(c), (d) & (e), & 91.71
91.305	91.93
91.307	91.21
91.309	91.15(a) & (b)
91.311	91.17
91.313	91.18
91.401	New
91.403	91.47
91.405	91.35
91.407	91.33(a) & (b)(11)
91.409	91.33(a) & (c)(4)
91.411	91.65(c)
91.501	New
91.503	91.42
91.505	91.40
91.507	91.41
91.509	91.39
91.511	91.37
91.513	91.49
91.515	91.50
91.517	91.51
91.519	91.85(c)
91.521	91.45
91.523	91.55
91.525	91.38
91.601	91.161
91.603	91.163(a) & 91.165
91.605	91.163(b) & 43.3(h)
91.607	91.163(c) & 91.165
91.609	91.169
91.611	91.171
91.613	91.170
91.615	91.177
91.617	91.167
91.619	91.173
91.621	91.175
91.623	91.174

(Secs. 307, 313(a), 601, 602, 603, 902, 1110 and 1202, Federal Aviation Act of 1958. (49 U.S.C. 1348, 1354(a), 1421, 1422, 1423, 1472, 1510, 1522; sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)).)

Issued in Washington, D.C. on January 11, 1979.

J.A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 79-1728 Filed 1-19-79; 8:45 am]

federal register

MONDAY, JANUARY 22, 1979
PART IV

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF DEFENSE

Engineers Corps

WATER RESOURCE POLICIES AND AUTHORITIES

Federal Participation in Shore, Hurricane, Tidal and Lake Flood Protection

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Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1165-2-130]

PART 282—WATER RESOURCE POLICIES & AUTHORITIES FEDERAL PARTICIPATION IN SHORE, HURRICANE, TIDAL AND LAKE FLOOD PROTECTION

AGENCY: U.S. Army Corps of Engineers.

ACTION: Final Rule.

SUMMARY: This regulation provides policies to U.S. Army Corps of Engineers Offices describing the extent of Federal involvement in projects which provide shore, hurricane, tidal and lake flood protection. The regulation is needed to update previous regulations on the subject to reflect recent changes in legislation and policy.

EFFECTIVE DATE: January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert Kaighn, Department of the Army, Corps of Engineers, Wash., D.C. 20314, ATTN: DAEN-CWR-R (202-693-6807).

SUPPLEMENTARY INFORMATION: On January 20, 1978, there was published in the FEDERAL REGISTER (43 FR 3048) a proposed regulation prescribing the policies to be followed by the U.S. Army Corps of Engineers in determining the extent of Federal participation in shore, hurricane, and tidal and lake flood protection projects. Full and careful consideration was given to all comments received and the regulation has been revised accordingly.

Several commentors indicated that the regulation was lacking in environmental policies which guide the selection of projects to be recommended. The purpose of this regulation was not to define the requirements of the planning process or environmental legislation. However, it was revised to indicate that plans selected must best serve the public interest and consider environmental and social impacts as well as economic impacts. The regulation was also revised to indicate that project proposals must be consistent, to the maximum practicable extent, with approved State Coastal Zone Management Programs. Other comments indicated that too much emphasis was placed on intensive recreation use of beaches and on continued use of automobiles by beach users. The regulation has been revised to allow for low intensity recreational uses. In addition, it recognizes the problems associated with continued use of automobiles and allows for use of public transportation as an alternative for parking facilities for privately operated automobiles.

Dated: January 2, 1979.

THORWALD R. PETERSON,
Colonel, Corps of Engineers,
Executive Director, Engineer Staff.

33 CFR is amended by adding Part 282 to read as follows:

PART 282—WATER RESOURCE POLICIES AND AUTHORITIES: FEDERAL PARTICIPATION IN SHORE, HURRICANE, TIDAL AND LAKE FLOOD PROTECTION

Sec
282.1 Purpose.
282.2 Applicability.
282.3 References.
282.4 Definitions.
282.5 Synopsis of program legislation.
282.6 Program policies.
282.7 Federal role in project development.
282.8 Plan formulation and evaluation.
282.9 Cost sharing.
282.10 Local cooperation requirements.
282.11 Effective date.
Appendix A—Computation of federal costs for shore protection plans.
Appendix B—Example computations for cost sharing on shore protection plans.

AUTHORITY: Pub. L. 84-826, 70 Stat. 702 (33 U.S.C. 426e-426h).

§ 282.1 Purpose.

This regulation provides policies and guidelines for determining the extent of Federal participation in potential Federal projects for shore erosion control, and hurricane, abnormal tidal and lake flood protection.

§ 282.2 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities. The policies and guidelines set forth in this regulation are applicable to all preconstruction studies (level C and Phase I GDM) including small project studies conducted under the authority of Section 103, Pub. L. 87-874.

§ 282.3 References.

(a) Section 2, Pub. L. 71-520, 3 July 1930, as amended by § 103, Pub. L. 86-645, 14 July 1960.
(b) Pub. L. 79-727, 13 August 1946, as amended.
(c) Pub. L. 84-71, 15 June 1955.
(d) Pub. L. 84-826, 28 July 1956, as amended.
(e) Pub. L. 86-645, 14 July 1960.
(f) Pub. L. 87-874, 23 October 1962.
(g) Pub. L. 88-172, 7 November 1963.
(h) Pub. L. 88-352, 2 July 1968.
(i) Pub. L. 90-483, 13 August 1968.
(j) Pub. L. 91-611, 31 December 1970.
(k) Pub. L. 91-646, 2 January 1971.
(l) Pub. L. 93-251, 7 March 1974.
(m) Executive Order 11988, Floodplain Management, 24 March 1977.
(n) Executive Order 11990, Protection of Wetlands, 24 March 1977.
(o) ER 1105-2-50 (33 CFR 263).
(p) ER 1105-2-200 (33 CFR 290).
(q) ER 1165-2-18 (33 CFR § 209.345).
(r) EM 1160-2-101.

§ 282.4 Definitions.

As used in these regulations:
(a) "Construction costs"—the project first costs associated with initial construction or periodic nourishment (section 282.7(d)) less the cost of the lands, easements, rights-of-way and relocations, but including engineering and design and supervision and administration (E&D and S&A).
(b) "Historical shoreline"—the most seaward position of the mean high water/mean higher high water position recorded by previous surveys or interpreted from previous photographs, other historical records, or other sufficiently reliable sources to permit comparison with the present position.
(c) "Hurricane and abnormal tidal flooding"—inundation from *abnormal* rises in water levels due to hurricanes, storms and tsunami waves.
(d) "Lake flooding"—storm-induced inundation superimposed on the ordinary fluctuations of the lake level.
(e) "Periodic nourishment"—placement of sand fill at intervals of time to replenish a beach erosion control project which is eligible for Federal participation as deferred construction. (§ 282.7(d)).
(f) "Investment costs"—the total costs of intitially constructing a project including E&D and S&A, interest during construction, and the costs of lands, easements, rights-of-way, and relocations. Interest during construction is not included when benefits accrue as the project is constructed or when project construction is two years or less.
(g) "Public use"—available for use by any and all of the general public on equal terms.
(h) "Publicly owned"—ownership by a State, municipality, or other political subdivision. Federal ownership is not included within this definition.
(i) "Shore restoration and protection"—works provided to restore the shore and prevent or reduce damages caused by erosion. The terms "beach erosion control" and "shore restoration and protection" are used interchangeably. Protection of bluffs and dunes as well as beaches is included.
(j) "Public benefits"—benefits resulting from public recreational use and the prevention of damage to publicly-owned facilities such as highways, buildings, parks, boardwalks, etc.

§ 282.5 Synopsis of program legislation.

(a) *Shore Protection.*
(1) Section 2 of Pub. L. 71-520 as amended by Section 103, Pub. L. 86-645, authorized the Chief of Engineers to conduct shore erosion control studies in cooperation with appropriate agencies of various cities, counties, or States.
(2) Pub. L. 79-727 expanded the Federal role by providing for Federal aid in the construction, but not maintenance, of works for the improvement and protection of publicly-owned shores of the United States.
(3) Pub. L. 84-826, enacted in 1956, further expanded the Federal role by authorizing Federal participation in the cost of works for protection and restoration of the shores of the U.S. including private property if such protection was incidental to the protection of publicly-owned shores or if such protection would result in public benefits. It also provided for Federal assistance for periodic nourishment on the same basis as new construction, for a period to be specified by the Chief of Engineers, when it would be the most suitable and economical remedial measure. Section 156 of Pub. L. 94-587 allows the Secretary of the Army, acting through the Chief of Engineers, to extend that period to 15 years after the date of the initiation of construction if desirable.
(4) Pub. L. 87-874 increased the proportion of construction costs borne by the Federal Government and made the total cost of preauthorization studies a Federal responsibility. In addition, it provides the Secretary of the Army, acting through the Chief of Engineers, with the authority for planning and constructing small beach erosion control projects within certain limits without specific Congressional authorization. Implementing policies and procedures for this authority may be found in ER 1105-2-50.
(5) Section 111 of Pub. L. 90-483 provides the Secretary of the Army, acting through the Chief of Engineers, the authority to study, construct, and maintain projects for the mitigation of erosion damages attributable to Federal navigation works. Projects for which the Federal cost does not exceed one million dollars do not require specific Congressional authorization. This authority applies to both public and privately-owned shores along the coastal and Great Lakes shorelines. Implementing policies and procedures for this authority may be found in ER 1105-2-50. Section 215 of Pub. L. 90-483 provides authority for the Secretary of the Army acting through the Chief of Engineers, to enter into agreements providing for reimbursement to States or political subdivisions for work to be performed by them at authorized projects. The amount of reimbursement is limited to $1,000,000. Unless specifically authorized by Congress, reimbursement for work commenced by local interests subsequent to 13 August 1969 may be made only in accordance with this authority. Implementing policies and procedures may be found in ER 1165-2-18.
(6) Section 55 of Pub. L. 93-251 authorizes the provision of *technical and engineering assistance* to non-Federal public interests in developing structural and nonstructural methods of preventing damages attributable to beach erosion.
(b) *Hurricane, Abnormal Tidal and Lake Flood Protection.* The Federal interest in projects to protect against hurricane, abnormal tidal and Great Lakes flood damage is not explicitly defined by legislation. Pub. L. 84-71 enacted 15 June 1955, authorized the Secretary of the Army, in cooperation with the Secretary of Commerce and other Federal agencies concerned with hurricanes, to make studies of the Atlantic and Gulf coasts of the United States to secure data on the behavior and frequency of hurricanes and to determine means of preventing loss of life and damages to property. It did not specify the degree of Federal cost sharing for construction of protective works. However, in authorizing projects proposed in the first three of these studies, the 1958 Flood Control Act established a precedent of limiting the Federal share of investment cost to a maximum of 70 percent. In June 1978 the President proposed that cost sharing for this type project be modified to require a cash or in-kind contribution equal to 20 percent of the project investment costs.
(c) *Multiple-Purpose Projects.* Pub. L. 87-874 introduced the multiple purpose concept in shore erosion control studies by providing for surveys of coastal areas of the United States and its possessions, including the shores of the Great Lakes, in the interest of shore erosion control, hurricane protection and related purposes. Generally, costs associated with each purpose are apportioned in accordance with applicable laws and policies. However, Section 208 of the Flood Control Act of 1970 provides discretionary authority for a Federal share up to 70 percent of the construction costs for combined hurricane protection and shore erosion control projects.

§ 282.6 Program policies.

(a) *General.* It is the policy of the Corps of Engineers to undertake projects to prevent erosion and flooding of the coastal areas when those projects best serve the public interest. Selection of the plan which best serves the public interest requires the evaluation of a wide range of alternatives. Plans will be developed, evaluated and selected in accordance with the multiobjective planning framework required by ER 1105-2-200. This framework provides that planning be directed to achieve National Economic Development (NED) and Environmental Quality (EQ) as equal national objectives. Using this planning process, the EQ objective is interpreted as being the same as the definition of environmental quality contained in the National Environmental Policy Act of 1969. Thus, plans to achieve the EQ objective shoud address the broadest scope of concerns pertaining to the natural and cultural environment. The degree of Federal participation in the selected plan will be based upon the policies and requirements given in the following paragraphs.
(b) *Geographic Applicability.* Shore erosion control, hurricane, and abnormal tidal flooding authorities are applicable to the shores of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, estuaries, and bays directly connected therewith of each of the States, the Commonwealth of Puerto Rico, and the possessions of the United States. Authority for shore erosion control activites extend only the distance up tributary streams where it can be demonstrated that the dominant causes of erosion and damage are ocean tidal action (or Gulf of Mexico and Great Lakes water motion) and wind-generated waves. They will not address erosion at upstream locations caused by stream-flows or vessels. Lake flood protection activities are generally limited to the Great Lakes.
(c) *Coastal Zone Management Plans.* Project proposals shall be consistent to the maximum practicable extent, with approved State Coastal Zone Management Programs developed under the authority of the Coastal Zone Management Act of 1972, as amended.
(d) *Beach Creation.* Existing shore erosion control authority provides for "restoration" and "protection." It does not provide for Federal cost sharing in extending a beach beyond its historic shoreline unless the extension is needed for engineering reasons to provide protection from erosion.
(e) *Shore Categories.* Five general categories of shore, based on ownership and use, and incidence and type of benefits, must be considered in determining Federal aid toward the cost of shore restoration and erosion protection. These categories, and the levels of Federal aid applicable thereto, are listed in Table 1. There are no restrictions regarding shoreline categories for hurricane, tidal, and lake flooding.

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TABLE 1.—*Categories of Shore and Levels of Federal Aid*

Shore category [1]	Maximum level of Federal aid	
	Construction	Maintenance
I. Federally owned	100%	100%
II. Publicly owned parks and conservation areas [2]	[4] 70%	[3] None
III. Publicly owned other than parks and conservation areas	[4] 50%	[3] None
IV. Privately owned, protection will result in public benefits [3] [4]	[4] [7] 50%	[3] None
V. Privately owned, protection will not result in public benefits susceptible of evaluation [4]	None	None

[1] See § 282.9(a)(2) below.
[2] See § 282.7(d) below, concerning periodic beach nourishment.
[3] Privately owned shores under public control, as through a sufficiently long-term lease assuring realization of public benefits throughout the economic life of the project, may be treated as Category III shores in determining Federal aid.
[4] See § 282.9(a)(6) below, concerning incidental protection of privately owned shores.
[5] Indian shores do not usually fall within categories of shore provided. The status of such lands will depend upon the particular treaty provisions pertaining to the lands under consideration and will need to be examined in each instance. Specific cases should be referred to HQDA (DAEN-CWP-E, C or W) WASH DC 20314 for guidance.
[6] Cost-sharing percentages do not apply to lands, easements and rights-of-way.
[7] Multiplied by the ratio of public benefits along Cat. IV shore to total benefits along Cat. IV shore.

(f) *Public Use.* Public use is not a condition for Federal participation in hurricane, abnormal tidal or lake flood protection projects. However, current shore erosion control law provides that "Shores other than public (i.e., privately owned) will be eligible for Federal assistance if there is a benefit such as that arising from public use. . . ." In the case of beaches used for recreation, public use means use by all on equal terms. This means that project beaches will not be limited to a segment of the public. Unless the protection of privately-owned beaches is incidental to protection of public beaches (§ 282.9(a)(6)), they must be open to all visitors regardless of origin or home area or provide protection to nearby public property to be eligible for Federal aid. Items affecting public use are discussed below.

(1) *User Fees.* A reasonable beach fee, uniformly applied to all, for use in payment of the local share of project costs is allowable. Normal charges made by concessionaires and municipalities for use of facilities such as bridges, parking areas, bathhouses and umbrellas are not construed as a charge for the use of the Federal beach project, if they are commensurate with the value of the service they provide and return only a reasonable profit. Fees for such services must be applied uniformly to all concerned and not as a prerequisite to beach use.

(2) *Parking.* Lack of sufficient parking facilities for the general public (including non-resident users) located reasonably near and accessible to the project beaches may constitute a *de facto* restriction on public access and use of such beaches, thereby precluding eligibility for Federal assistance. Generally, parking on free or reasonable terms should be available within a reasonable walking distance of the beach. Street parking is not considered acceptable in lieu of parking lots unless curbside capacity will accommodate existing and new demands. Parking should be sufficient to accommodate the lesser of the peak hour demand or the beach capacity. In some instances State and local plans may call for a reduction in automobile pollutants by encouraging public transportation. Thus, public transportation facilities may substitute for or complement parking facilities. However, reports which consider public transportation in this manner must indicate how the public transportation system would be adequate for the needs of projected beach users. In computing the public parking accommodations required, the beach users not requiring parking should be deducted from the design figure.

(3) *Access.* Reasonable public access must be provided in accordance with the recreational use objectives of the particular area.

(4) *Beach Use by Private Organizations.* Federal aid to private shores owned by beach clubs and hotels is incompatible with the intent of P.L. 84-826 if the beaches are limited to use by members or paying guests.

(5) *Public Shores With Limitations.* Publicly-owned beaches which are limited to use by residents of the community or a group of communities are not considered to be open to the general public and will be treated as private beaches (Category V, Table 1).

(g) *Improvements for Recreation.* Improvements to enhance the recreational value of shore erosion control projects such as bathhouses, access roads, toilet facilities and parking areas are a local responsibility. Provision of those facilities is not eligible for Federal aid through the Corps of Engineers programs. Costs for those facilities are considered self-liquidating and should not be included as project costs.

§ 282.7 Federal role in project development.

(a) *Preauthorization Studies.* The Corps of Engineers may undertake specific studies relating to shore erosion and hurricane, abnormal tidal and lake flood problems with the authorization of Congress, either in response to resolutions adopted by the Committee on Environment and Public Works of the United States Senate or the Committee on Public Works and Transportation of the House of Representatives, or by an Act of Congress. Studies for small projects may be initiated without specific Congressional authorization under the authority of Section 103 of Pub. L. 87-874 and Section 111 of Pub. L. 90-483. Studies are 100 percent Federally funded.

(b) *Construction.* Construction of authorized projects is a responsibility of the Corps of Engineers. However, local interests may construct portions of projects, after they are authorized by Congress, and be reimbursed by the Federal Government within a one million dollar limitation if prior approval is obtained from the Chief of Engineers (reference ER 1165-2-18 for approval of procedures and policies). If local interests desire to proceed with construction of the project, they may do so with the understanding that:

(1) Federal participation would be limited to the Federal shares of the costs of the elements constructed which are in accordance with the authorized plan,

(2) Reimbursement will be subject to future appropriation of funds applicable to the project and shall not take precedence over other pending projects of higher priority, and

(3) Local interests provide assurances that they will bear any increased costs of measures which may result from advance work, unless there are extenuating circumstances which warrant omission of this condition.

(c) *Maintenance.* Maintenance is generally a non-Federal responsibility. However, if a portion of the benefited area is in Federal ownership the Federal maintenance responsibility shall be established as the same portion as the length of Federal shoreline is to the length of total shoreline. In the case of multipurpose projects providing for navigation, particularly those which involve complex operating procedures, operation and maintenance responsibility for the entire project might best be vested in the Federal Government. In such cases, non-Federal interests should be obligated to contribute their share of costs to the Federal Government on a scheduled basis throughout the project life or to make a cash contribution of the capitalized value of the non-Federal share of the maintenance cost. Future maintenance costs are to be capitalized using the authorized discount rate.

(d) *Periodic Nourishment.* Periodic nourishment is considered "construction" for cost-sharing purposes when in the opinion of the Chief of Engineers, such periodic nourishment is found to be a more economical erosion protection measure than retaining structures such as groins or when the nourishment is expected to be of benefit to shores beyond the project limits. Thus, projects recommending periodic nourishment should not include structures which materially reduce littoral drift from reaching downdrift shores. When sand replacement is proposed as a maintenance measure, as for example when it would serve to maintain protection accompanied by structures intended to confine the benefits of the sand within a beach compartment rather than serving as a full or partial alternative to such structures, Federal aid toward its cost should not be recommended, except to the extent warranted in § 282.7(c), above. Projects with short low-profile groins included to maintain a shore alignment, but not to materially prevent, littoral drift from nourishing downdrift beaches are eligible for periodic nourishment. Federal aid for periodic nourishment may continue throughout the economic life of the project, but a specified period of time, usually the economic life of the project, must be recommended in planning reports. If there is reason to doubt the technical viability of periodic nourishment for such a period of time, a shorter period may be recommended. After that period, the project should be reexamined to determine if Federal participation in periodic nourishment is the most efficient and economic solution. Continuation of such Federal participation or other modification of the project requires additional authorization.

(e) *Work for Another Federal Agency.* Work to protect lands under the jurisdiction of another Federal agency shall be accomplished by the Corps only on a reimbursable basis, upon request from the responsible agency. Protection of Army lands used for military purposes will be accomplished with military funds, not Civil Works funds.

§ 282.8 Plan formulation and evaluation.

(a) Projects shall be formulated in accordance with policies and procedures contained in ER 1105-2-200 and related regulation describing the planning process developed to implement the principles and standards, the National Environmental Policy Act, EO 11988, EO 11990 and other requirements. Consideration shall be given to both structural and nonstructural solutions. Plan formulation should be accomplished to arrive at the best solution, considering all factors, including engineering, economic, environmental, and social.

(b) As required by ER 1105-2-200, impacts will be determined to evaluate the alternative in terms of the planning objectives. Impacts normally associated with beach erosion control and hurricane, abnormal tidal, and lake flood protection projects are:

(1) Prevention of land loss and other physical damages,

(2) Reduction in maintenance costs of existing protection works,

(3) Reduction of emergency costs to residences, businesses, and governmental entities,

(4) Increased recreational usage, and where appropriate, relief of overcrowding for existing recreational usage,

(5) Changes in maintenance costs associated with navigation projects,

(6) Employment of unemployed or underemployed labor resources,

(7) Prevention of loss of historic and scenic aspects of the environment,

(8) Changes in shore processes and equilibrium conditions,

(9) Erosion along downdrift shores,

(10) Changes in floodplain development,

(11) Changes in the extent and quantity of wetlands, and

(12) Changes in water quality and ecology in the vicinity of construction activities.

§ 282.9 Cost sharing.

(a) *Beach Erosion Control.* Federal participation in the costs of beach erosion control projects is based on shore ownership, use, type and incidence of benefits as discussed below and summarized in Table 1.

(1) *Federally-Owned Lands* are protected at Federal expense. All costs allocated to restoration and protection are to be borne fully by the Federal Government.

(2) *Publicly-Owned Shore Park and Conservation Areas* are eligible for Federal cost sharing up to 70 percent of the construction cost if *all* the following conditions are met:

(i) It is publicly owned.

(ii) It includes a zone extending landward from the mean low water line which excludes all permanent human habitation, including summer residences but not including the residences of park administrative and maintenance personnel. This zone is construed to mean any segment of the park landward of the mean low water line subject to flooding by storm tides in which destruction of natural protective features of the shore area by development is prevented, and from which development for human habitation is excluded. The purpose of this requirement is to prevent development which would be vulnerable to damage by ocean or lake waters and to eliminate hazards to human life and property.

(iii) It includes a beach suitable for recreational use.

(iv) It provides for preservation, conservation and development of the natural resources of the environment. In accordance with the overall mission or purpose of the park, the areas must be developed, operated, and maintained in a manner which preserves the desirable features and the natural resources of the locale. These resources may include areas or features in their natural condition, game preserves, natural scenic beauty, or other natural aspects which are peculiar to the environment or locale. The character of these parks may vary from extreme wilderness areas with minimum development for use by naturalists or campers to areas of intensified recreational use with full comfort, convenience, safety, and recreational facilities.

(v) It extends landward a sufficient distance to include where appropriate protective dunes, bluffs or other natural features such as swamps or low-lying areas, all of which must absorb and dissipate wave energy and flooding effects of storm tides. The landward width must be sufficient to protect development or potential development of the uplands from damage during storms of severe magnitude. Park facilities, such as roads, parking areas, bathhouses, and picnicking areas, in the park area and subjected to occasional flooding, may be permitted. The purpose of this requirement is to provide a protective buffer zone between the sea or lake and the uplands which would prevent damage of upland property and development. The buffer zone may be developed and used for recreational purposes, provided that the natural protective features of the shore area within the zone are not impaired.

(vi) It provides essentially full park facilities for appropriate public use. The meaning of essentially full park facilities would depend upon the intended conservation and recreational

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mission of the area. In the case of recreational beach parks intended for mass usage, full park facilities must include suitable access and bathhouse, comfort, parking, and recreational facilities adequate to insure realization of anticipated recreational benefits. In the case of park areas intended for other types of recreational use such as hunting, fishing, picnicking, camping, or nature study, park facilities as a minimum should provide suitable access and parking. Some part of the park frontage must, however, include a recreational beach to meet the requirements of the Act.

(3) An area which meets the above criteria for one portion of the frontage, but not for the entire frontage, will be divided into separate sections for cost sharing. The Federal share will be computed separately for each portion as appropriate, and a composite percentage will finally be computed for the entire park.

(4) *Publicly-owned shores* are eligible for Federal participation up to 50 percent of the construction cost.

(5) *Privately-owned shores* may be eligible for Federal cost sharing of up to 50 percent if there would be significant public benefits arising from public use or from direct protection of nearby public facilities. Federal participation is adjusted in accordance with the ratio of public benefits to total benefits. Recreation benefits resulting from beaches not open for public use are considered to be private benefits for cost apportionment purposes.

(6) *Benefits to private shores beyond project limits* of shore protection works, if trivial in amount, may be considered as incidental and not involved in cost-sharing considerations.

(7) Any statement in a beach erosion control report as to the percentage of construction costs to be borne by local interests or the Federal Government must be qualified as tentative since the final apportionment will be based on the extent of shore in public ownership or use at the time of construction, or subsequent nourishment.

(b) *Hurricane, Tidal and Lake Flood Control.* For hurricane, tidal, and lake flood control protection projects, the Federal share of the project investment costs is limited to 80 percent. When the normal local costs of lands, easements, rights-of-way, and relocations amount to less than 20 percent of total first costs, the difference is required as a local cash contribution.

(c) *Multiple-Purpose Projects.* For multiple-purpose hurricane protection and beach erosion control projects, the Secretary of the Army acting through the Chief of Engineers, has discretionary authority to authorize a Federal share up to 70 percent of the construction costs. This discretionary authority will not be used unless normal cost allocation procedures produce inadvertent inequities in specific cases. Cases possibly warranting such adjustments are to be submitted to HQDA—(DAEN-CWP) WASH DC 20314 for consideration. If this discretionary authority is not used, the costs of the beach erosion control features required to stabilize the shore against wave action are considered to be joint costs and allocated between the hurricane and beach erosion control functions by the Separable Costs Remaining Benefits (SCRB) method (EM 1160-2-101).

§ 282.10 Local cooperation requirements.

Reporting officers must obtain a letter of intent from a public agency, authorized under State law, to fulfill the non-Federal obligations of water resource projects recommended for Federal participation. The letter will indicate that prior to construction, the sponsor will enter into a written agreement, as required by Section 221 of Pub. L. 91-611, to provide assurances of local cooperation satisfactory to the Secretary of the Army. Such assurances include the contributions computed from the policies given in § 282.9 and the following non-Federal responsibilities:

(a) Provide without cost to the United States all necessary lands, easements, rights-of-way and relocations required for construction of the project, including that required for periodic nourishment.

(b) Hold and save the United States free from claims for damages which may result from construction and subsequent maintenance of the project, except damages due to the fault or negligence of the United States or its contractors.

(c) Assure continued conditions of public ownership and use of the shore upon which the amount of Federal participation is based during the economic life of the project (normally 50 years).

(d) Assure maintenance and repair, and local share of periodic beach nourishment, where applicable, during the economic life of the project as required to serve the intended purposes.

(e) Provide and maintain necessary access roads, parking areas, and other public use facilities, open and available to all on equal terms.

(f) Specific cases may also warrant assigning other additional local responsibilities, such as providing appurtenant facilities required for realization of recreational benefits.

(g) Comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646).

(h) Comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352).

(i) In the case of single-purpose hurricane, tidal, or lake flood protection projects, the requirements of local cooperation will normally consist of §§ 282.10(a), 282.10(b), 282.10(d), 282.10(f) 282.10(g) and 282.10(h) in addition to the contributions required by § 282.9.

(j) The wording given in §§ 282.10(a) through 282.10(h) should be considered standard for all recommended plans which include shore protection as a plan purpose. Deviations from such wording should not be made unless the reporting officer has justifiable circumstances warranting such action.

(k) In addition to the above, all reports to Congress proposing Federal projects will include a requirement for an additional State contribution of five percent of the construction cost. Such contribution may be in cash or an in-kind contribution. Additional guidance regarding this item will be published at a future date. In the interim, this item should be coordinated with HQDA (DAEN-CWP-E, C or W) WASH DC 20314.

§ 282.11 Effective Date.

This regulation is effective 15 January 1979.

APPENDIX A

COMPUTATION OF FEDERAL COSTS FOR SHORE PROTECTION PLANS

A-1. *Projects Benefiting Only One Category of Shore.* The Federal share of the cost of construction of a project which will benefit only one category of shore, see § 282.6(e), if any, may be computed by multiplying the cost of construction by the appropriate percentage of Federal participation from § 282.9

A-2. *Projects Benefiting Several Categories of Shore.* The Federal share of the cost of construction of a project which will benefit more than one category of shore, defined in § 282.6(e), may be computed by assigning proportionate shares of the total construction cost to each shore category involved, multiplying the costs thus assigned by the appropriate percentage of Federal participation from § 282.9 and summing the products thus obtained.

a. When the cost of construction per unit of benefited shore length is reasonably uniform for the entire project area, the total Federal cost of construction may be computed as a percentage of the total construction cost by the following formula:

Federal share of total construction cost, in percent =

$$\left\{\left[\frac{\text{Category I shore}}{\text{Total shore}}\right] + \left[\frac{\text{Category II shore}}{\text{Total shore}} \times 0.7\right] + \left[\left(\frac{\text{Category III shore}}{\text{Total shore}}\right) + \left(\frac{\text{Category IV shore}}{\text{Total shore}}\right) \times \frac{\text{Public benefits along Category IV shore}}{\text{Total benefits along Category IV shore}}\right] \times 0.5\right\} \times 100$$

b. When the cost of construction per unit of benefited shore length is not reasonably uniform for the entire project area, the project should be subdivided into compartments within which this condition is met. For each such compartment, the Federal cost of construction may be computed as a percentage of the total construction cost for the compartment by application of the formula in paragraph A-2a, using ownership figures for the compartment rather than the project as a whole. The cost of construction for individual project compartments should be developed on a physical occurence basis, insofar as possible, by first assigning costs which are specific to individual compartments and then distributing costs applicable to more than one compartment on an ownership basis. The total Federal cost of construction is obtained by adding the Federal costs computed for individual compartments.

c. When the cost of construction per unit of benefited shore length is not reasonably uniform for the entire project area, and division into relatively few substantial compartments within which this condition is met is not practicable, it will be necessary to compute the Federal share of construction cost on a section-by-section basis for all or part of the benefited shore length. When applying this method in extreme cases, it may be necessary to treat each individual parcel of benefited shore in a given category as a separate section. The net effect is the same as division of the benefited shore length into a large number of compartments and the procedure outlined in paragraph A-2b is applicable.

A-3. *Projects Including Periodic Nourishment as a Construction Measure* are discussed in § 282.7(d). Periodic beach nourishment may be recommended as a construction measure. In the case of the projects for which the costs of initial work (beach restoration or structures) and of periodic nourishment are uniformly distributed over the shore, the formula given in paragraph A-2a will be applied and the percentage of Federal participation will be the same for both initial work and periodic nourishment. In cases of nonuniform cost distribution for either the initial construction or the periodic nourishment, or both, the level of Federal participation will be computed in accordance with paragraphs A-2b and A-2c, and will not necessarily be the same for initial construction and periodic nourishment.

A-4 *Projects Providing Minor or Indefinite Incidental Benefits to Privately Owned Shores.*

a. When the cost of works designed to benefit only publicly-owned shores would equal or exceed the cost of works which would in addition, benefit adjoining privately-owned shores, the benefits to the privately-owned shores, if trivial in amount, may be considered as incidental and the Federal share of construction costs may be computed by the following formula:

Federal share of total construction cost, in percent=

$$\left\{\left[\frac{\text{Category I frontage}}{\text{Total frontage}}\right] + \left[\frac{\text{Category II frontage}}{\text{Total frontage}} \times 0.7\right] + \left[\left(\frac{\text{All other frontage}}{\text{Total frontage}}\right) \times 0.5\right]\right\} 100$$

b. When, as may occur in the case of periodic beach nourishment, private shores beyond projects limits ultimately may receive benefits of indefinite nature and amount from the project, such benefits will be classed as incidental and these benefits and the shores involved will not be considered in determining the Federal share of project costs.

A-5 *Projects Which Reduce Federal Cost of Maintaining Authorized Navigation Projects.* Federal aid may be recommended for that portion of the project cost allocated to navigation, in addition to the aid determined pursuant to paragraphs A-1 through A-4. For purposes of this computation allocations will be made on a proportionate benefit basis with benefits limited to the alternative costs. The total Federal share of costs expressed as percentage (T) for the feature which results in the navigation benefits may be computed as a percentage of the total first cost for that feature by application of the following formula:

$$T = \left[\frac{N}{N + B} \times 100\right] + \left[\frac{B}{N + B} \times T_e\right]$$

where: N=Navigation benefits of feature, limited to alternative costs of dredging;

B=Beach erosion control benefits, limited to the cost of the alternative to provide the same beach protection benefits.

T_e=Federal share of cost of the shore protection features which results in navigation benefits, in percent, computed in accordance with paragraphs A-1 through A-4.

A-6. *Multiple Purpose Projects.* In the case of multiple purpose projects, such as those for shore protection and other purposes as hurricane protection and navigation (where new navigation features are involved rather than maintenance of an existing Federal project), the procedures outlined in paragraph A-1 through A-4 will be applied only to the portion of the total construction costs allocated to shore protection. Allocation of costs between functions will normally be made by the Separable Costs-Remaining Benefits (SCRB) method (see EM 1160-2-101).

APPENDIX B

EXAMPLE COMPUTATIONS FOR COST SHARING ON SHORE PROTECTION PLANS

B-1. *Example 1.* The following is a simplified example of cost apportionment between Federal and local interests for an economically justified shore protection project where shores in both public and private ownership are involved and significant public benefits are generated through protection of private shores. It is assumed that a coordinated plan is proposed, that no section can be omitted, that the benefits to private shores are not incidental, that public benefits can be associated with only a portion of the private shores protected, and that the cost of protection per unit of benefitted shore length is reasonably uniform for the entire project area. If periodic nourishment is involved in this case, cost apportionment therefor would be on the same basis.

Item	Shore Capacity I	II	III	IV	V	Total
Length, feet	500	10,000	3,000	4,500	2,000	20,000
Ownership	Federal	Public non-Fed (Conserv Area)	Public non-Fed	Private	Private	
Benefits (av.ann.$)						
Public	5,000	75,000	30,000	50,000	-	160,000
Private	-	-	-	25,000	40,000	65,000
Total	5,000	75,000	30,000	75,000	40,000	225,000
Computation of Federal share of construction cost	The formula given in paragraph A-2a is applicable. The Federal share expressed as a percent of the total first cost would be:					

$$\left\{\left[\frac{500}{20,000}\right] + \left[\frac{10,000}{20,000} \times 0.7\right] + \left[\left(\frac{3,000}{20,000}\right) + \left(\frac{4,500}{20,000} \times \frac{50,000}{75,000}\right)\right] \times 0.5\right\} 100 =$$

$$\{[0.025] + [0.35] + [0.15 + 0.15]\ 0.5\}\ 100 = 52.5 \text{ percent}$$

B-2. *Example 2* is substantially the same as Example 1, except that the cost of protection per unit of shore length is not reasonably uniform and division into two compartments is necessary. For simplicity, shore categories in each of these compartments have been limited to four. In actual cases shores in all five categories might be found in all compartments.

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Item	Reach of Shore Compartment 1		Compartment 2		Total	
Length, feet	15,000		5,000		20,000	
Construction cost, $:						
Total	750,000		625,000		1,375,000	
Per foot of shore	50.00		125.00		68.75	
Shore length by shore categories, feet:						
I	500		-		500	
II	9,000		1,000		10,000	
III	2,000		1,000		3,000	
IV	3,500		1,000		4,500	
V	-		2,000		2,000	
Total	15,000		5,000		20,000	
Benefits by shore categories, av. ann. $1,000:	Public	Private	Public	Private	Public	Private
I	5	-	-	-	5	-
II	60	-	15	-	75	-
III	15	-	15	-	30	-
IV	20	10	30	15	50	25
V	-	-	-	40	-	40
Total	100	10	60	55	160	65

Computation of Federal share of construction cost

The formula given in paragraph A-2a is applicable and is applied separately for each compartment.

Compartment 1

Federal share of construction cost for compartment, in percent =

$$\left\{\left[\frac{500}{15,000}\right] + \left[\frac{9,000}{15,000} \times 0.7\right] + \left[\left(\frac{2,000}{15,000}\right) + \left(\frac{3,500}{15,000}\right) \left(\frac{20}{30}\right) 0.5\right\}\ 100 = 59.7 \text{ percent}$$

Compartment 2

$$\left\{\left[\frac{1,000}{5,000} \times 0.7\right] + \left[\left(\frac{1,000}{5,000}\right) + \left(\frac{1,000}{5,000} \times \frac{30}{45}\right)\right] \times 0.5\right\}\ 100 = 30.7 \text{ percent}$$

Total Project

Compartment	Construction Cost, $	Federal share of Construction Cost %	$
1	750,000	59.7	448,000
2	625,000	30.7	192,000
Total Project	1,375,000	46.5	640,000

B-3. *Example 3* is substantially the same as Example 1 except that it is assumed that certain features of the project involved would reduce Federal costs of maintaining an authorized Federal navigation project by $10,000 annually. This benefit is in addition to those shore protection benefits shown in Example 1. The proportionate share of shore protection benefits also accruing from those same features is assumed to be $70,000. Average annual benefits for those project features thus would be:

Shore protection	$70,000
Navigation	10,000
Total	$80,000

The Federal share of construction costs of those project features which do not contribute to the navigation benefit would be 52.5 percent, as computed in Example 1. The Federal share of construction costs for the project features contributing the navigation benefit, computed in accordance with formula given in paragraph A-5 and expressed as a percent of total construction cost for those features, would be:

$$\left(\frac{10,000}{80,000} \times 100\right) + \left(52.5 \times \frac{70,000}{80,000}\right) = 58.5 \text{ percent}$$

B-4. *Example 4* is similar to Example 2, except that the construction plan includes provision for periodic beach nourishment at an estimated average annual cost of $100,000 which would benefit the entire project frontage.

Item	Reach of Shore		
	Compartment 1	Compartment 2	Total
Length, feet	15,000	5,000	20,000
Construction cost, $			
Initial measures:			
Total	545,000	455,000	1,000,000
Per feet of shore	36.33	91.00	50.00
Periodic nourishment:(*)			
Total (Av. Ann.)	75,000	25,000	100,000
Per feet of shore (Av. Ann.)	5.00	5.00	5.00

(*) Total cost of periodic nourishment distributed between compartments on a frontage basis.

Shore length by shore categories, feet:	Same as Example 2	Same as Example 2	Same as Example 2
Benefits by shore categories, Av. Ann. $1,000	Same as Example 2	Same as Example 2	Same as Example 2
Computation of Federal share of construction cost	The formula given in paragraph A-2a is applicable and is applied separately for each compartment. The Federal aid percentages are as in Example 2:		
	Compartment 1	59.7 percent	
	Compartment 2	30.7 percent	

Federal aid for the project as a whole is computed as follows:

Initial Measures

Compartment	Construction Cost, $	Federal Share of Construction Cost	
		%	$
1	545,000	59.7	325,000
2	455,000	30.7	140,000
Total	1,000,000	46.5(*)	465,000

(*) This figure is the same as the result for Example 2 because the lengths and benefits by shore categories, and the relative compartment costs, are the same as for Example 2.

Periodic Nourishment

Compartment	Periodic Nourishment Cost Av. Ann. $	Federal Share of Cost for Periodic Nourishment for Period to be Specified	
		%	Av. Ann. $
1	75,000	59.7	44,800
2	25,000	30.7	7,700
Total	100,000	52.5(*)	52,500

(*) Note that the Federal share of periodic nourishment costs for the project as a whole is not the same as the Federal share of other construction costs. (Paragraph A-3.)

B-5. *Comment on Examples.* The foregoing examples have been simplified for purposes of illustration, particularly in regard to the matter of uniformity of cost. In typical project cases, shore categories may be extensively intermixed and there may be a wide range of unit costs of protection in each category. Choice of the method for computation of Federal costs must be made on the basis of the conditions encountered in individual cases. The principal alternatives available are between computation on the basis of the project as a whole as opposed to computation on a compartment-by-compartment or section-by-section basis. Reports should contain sufficient detail on costs, benefit occurrence, and alternative costs to support selection of the method of computation used.

[FR Doc. 79-2112 Filed 1-19-79; 8:45 am]

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MONDAY, JANUARY 22, 1979
PART V



INTERSTATE COMMERCE COMMISSION

CANONS OF CONDUCT GOVERNING THE BEHAVIOR OF MEMBERS AND EMPLOYEES

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[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

PART 1000—THE COMMISSION

Canons of Conduct; Revision

AGENCY: Interstate Commerce Commission.

ACTION: Final Rules.

SUMMARY: The Commission has adopted revised Canons of Conduct governing the behavior of members and employees. The new Canons, which have been approved by the Civil Service Commission and become effective on publication of this notice, reflect the Commission's analysis of public response to the proposed revised Canons published for comment in the FEDERAL REGISTER on May 10, 1978 (43 FR 20208). The new rules simplify, clarify, and update the agency's previous Canons. They set forth explanatory guidelines for each Canon and add supplemental Canons that apply only to members of the Commission.

EFFECTIVE DATE: January 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Frederick W. Read, III, 202-275-1857.

SUPPLEMENTARY INFORMATION: In response to the FEDERAL REGISTER notice soliciting public comment on the proposed revised Canons of Conduct, the Commission received written submissions from 23 persons, all of whom are employees of the agency. Some of the comments suggested language intended to eliminate alleged ambiguities, while others proposed substantive changes. We have carefully considered those comments in drafting the final revised Canons.

The final Canons and Guidelines differ in a number of respects from the revised Canons originally proposed. The following paragraphs describe those Canons and Guidelines which have been significantly modified and explain the reasons for the changes made. It should be noted that proposed Canon 22 has been deleted, necessitating the renumbering of Canons 23-31 as 22-30.

These revised Canons and Guidelines were approved by the Office of Personnel Management on January 4, 1979, and are effective January 22, 1979.

Canon 11: As the introductory statement to the Commission's Canons of Conduct, Canon 11 articulates the general standard of conduct by which Commission members and employees must abide. As originally proposed, Canon 11 represented no change from the "standard of conduct" statement in the Commission's former canons. We now believe, however, that the language of Canon 11 should be expanded to emphasize the special public trust and responsibility borne by those in government service. This expanded focus will enhance Canon 11's function as a statement of the "general standard of conduct" for Commission members and employees. The new language is inspired by Section 101 of Executive Order 11222 and § 735.101 of the Civil Service Commission regulations, as well as by the Commission's former "standard of conduct" statement.

Canon 13: This canon prohibits Commission members and employees from having "any direct interest in any for-hire transportation company whether or not subject to the Interstate Commerce Act." It also delineates certain forbidden indirect interests in transportation enterprises.

Some comments criticized Canon 13 as overly stringent. One comment argued that the canon should not prohibit financial interests in non-ICC regulated transportation companies. In that same vein, another comment stated that the prohibition should not apply to transportation companies having an extremely attenuated or nonexistent connection with Commission regulation. It should be recognized, however, that these criticized aspects of Canon 13 represent no change from our old canons and are merely a continuation of established Commission policy.

The prohibition of Canon 13 is, in essence, an agency-wide application of the Congressional policy reflected in 49 U.S.C. 10301(d), 10306(e), and 10344(e) (formerly Section 205(i) of the Interstate Commerce Act, 49 U.S.C. 305(i)), which provide that no Commission member, administrative law judge, employee board member, or joint board member may own securities of a carrier providing transportation by any mode.

Of course, any broad or absolute prohibition can lead to absurd results in isolated instances. For example, one comment observed that the Canon 13 proscription would reach interests in a local taxi service, a bush airline in Canada, or a jitney in Manila. But we are not aware of any significant problems caused by the agency-wide application of this prohibition in the past. The guidelines accompanying Canon 13 contain a provision permitting the Ethics Counselor to grant waivers in exceptional cases "based on serious financial hardships." In order to avoid the possibility of absurd results under the absolute prohibition of the canon, we have now added a "remoteness of interest" factor to the guidelines for the Ethics Counselor to consider in determining whether to grant a waiver.

One comment was critical of the two percent limitation in Canon 13(b)(2). The thrust of the comment was that it is unreasonable to expect members or employees to keep track of the various interests and holdings of conglomerates, especially when the conglomerates themselves are not required to report individual investments that account for less than 10 percent of their assets or income.

While this aspect of Canon 13 may ultimately need further refinement, we have not altered the proposed canon at this time. An assessment of where workable lines should be drawn can be made as we gain experience under this canon. In any event, the two-part nature of the test in Canon 13(b) should limit the applicability of the two percent standard.

Canon 13(c) prohibits the holding of any interest in a mutual fund or other enterprise which has "more than ten percent of its assets invested in or derives more than ten percent of its income from any for-hire transportation *company* • • •." The use of "company" in the singular may suggest that a mutual fund, to be covered by the prohibition, must have more than 10 percent of its assets invested in a *single* for-hire transportation company. In other words, it could be contended that an employee could own a mutual fund that has as much as 50 percent of its assets invested in transportation companies, so long as no more than 10 percent is invested in any single company. We intend, however, to reach all mutual funds or other enterprises that have more than 10 percent of their assets cumulatively invested in transportation entities. Accordingly, we have changed "company" to the plural "companies."

One comment suggested that Canon 13's prohibitions should be extended to include financial interests in private carriers. Of course, Commission decisions can in some instances affect companies that operate private fleets. But the same can be said of *any* company that uses transportation services, whether private or for-hire. Following such logic would effectively foreclose Commission personnel from holding a financial interest in almost *any* enterprise.

We do not believe that such a harsh result is either necessary or desirable. The for-hire/private distinction was also in the old canons, and we are not aware that it has led to any problems or abuse. Since the prohibition of Canon 13 applies to all for-hire transportation companies, the canon encompasses every firm regulated by this agency plus some not subject to our regulation. This provision thus goes

further than similar rules of other agencies.

Defining the scope of financial ownership prohibitions necessarily entails some difficult line-drawing. Certain limitations are inherent in the process. One can easily argue that, in a specific factual setting, the prohibition is too broad or too narrow. Nonetheless, we believe that Canon 13 draws the line in the right place. To the extent that the prohibition goes too far, the waiver mechanism may serve to mitigate its effects. Where the prohibition does not reach a possible conflict, other provisions of the canons, including Canon 14 (disqualifying interests) and Canon 15(b) (the catch-all provision), furnish adequate safeguards against abuse.

Subparts (b) and (c) of Canon 13 prohibit certain types of indirect ownership in transportation companies. The guidelines provide that, in determining the propriety of their financial holdings, "members and employees may rely on the most recent financial statement issued by the enterprise."

One comment noted that this language could be construed to require employees to be aware of financial statements that ordinarily are unavailable to security holders. For example, critical information might be contained in documents filed with federal or state regulatory bodies and not easily accessible to security holders.

We do not intend to hold employees accountable for information in financial statements that are ordinarily unavailable to them. Consequently, for the sake of clarity, we have added the phrase "to security holders" after the word "enterprises" in the above-quoted language from the guidelines.

Canon 14: Members and employees may not participate in any matter in which they have a substantial pecuniary interest or in which their impartiality could be questioned. The guidelines indicate that this canon also applies to the interests and business relationships of parents, spouses, or children of Commission members and employees.

One comment urged that the guidelines be expanded by including the financial interests and relationships of grandparents, siblings, grandchildren, and in-laws of Commission members and employees. We have not adopted this suggestion. It is doubtful that a relative outside the immediate family or household would be in any better position to influence a member's or employee's participation in a proceeding than a close friend. To require disqualification in all cases that in some way might affect a relative outside the immediate family or household would be overly broad and impractical. The number of such relatives could be large, and they might be geographically dispersed. This could make it extremely difficult for a member or employee to stay informed of the current financial interests and business relationships of these relatives.

However, we have added "other relatives (including in-laws) residing in the immediate household" to the class of relatives described in the guidelines. This change tightens the canons by covering additional situations in which there may be a potential conflict or an appearance of a conflict. The revision should not pose an unwarranted burden, because a member or employee should be able to keep track of the financial interests and business relationships of relatives residing within his or her immediate household. Moreover, such an approach corresponds to the practice of the Civil Service Commission, which, in interpreting an analogous provision of its own rules, has extended the class of relatives whose financial interests must be *reported* (see discussion of Canon 26, *infra*) to include in-laws residing in the employee's immediate household.

Canon 15: As originally proposed, Canon 15 (like former Canon 14) prohibited members and employees from soliciting or accepting any gift, entertainment, or favor "which might reasonably be interpreted as being of such a nature that it could affect their impartiality." The quoted clause has been criticized on the ground that it could be used as a loophole to justify acceptance of improper gifts or entertainment. Specifically, a person might argue that his or her acceptance of excessive gifts should be excused because they could not reasonably be interpreted as affecting his or her impartiality. We believe this criticism has merit and accordingly have deleted the phrase.

On the other hand, we have added an exception to proposed Canon 15(a) to make it clear that the prohibition against acceptance of things of monetary value does not preclude a member or employee from accepting a loan from a financial institution on customary terms. The new language is taken from the Civil Service Commission's rules.

The third paragraph of the proposed guidelines to Canon 15 specified that regulated entities, associations of same, or firms who represent regulated entities to a substantial extent are included among the entities from whom gifts may not be accepted. We have now added the word "individuals" before "firms" in the guidelines to make it clear that persons who represent regulated entities are also covered by the prohibition.

Several comments criticized exception (ii) of Canon 15(a), which permits "acceptance of food or refreshments of *nominal value* on *infrequent* occasions in the course of a luncheon, dinner, or other meeting or an inspection tour where a member or employee may properly be in attendance." They contended that the underlined terms were subject to varying interpretations and did not give employees a clear standard to follow. For example, one employee wondered whether six or eight lunches per year would be considered "infrequent" and whether numerous lunches worth only a few dollars each and received from different regulated entities would be viewed cumulatively and thus as of more than "nominal value."

Although the language in question is taken verbatim from Executive Order 11222 and Civil Service Commission regulations, we agree that additional clarification is appropriate. Therefore, we have amplified the guidelines by adding three paragraphs dealing with the scope of exception (ii).

In addition, a number of employees requested clarification concerning what types of industry-related events they may properly attend. We have modified the first sentence of paragraph 3 under section (4) of the guidelines to Canon 15 to clarify this matter by drawing a distinction between working sessions and primarily social events. Bureau and Office heads are responsible for approving attendance at working sessions but approval by the Chairman or the Ethics Counselor is needed where primarily social events are involved.

A related question raised by the comments is whether Commission personnel authorized to attend a working industry-related meeting—for example, to address a luncheon meeting of an industry association or to participate in a seminar sponsored by such an association—may properly attend a social hour or dinner connected with the authorized event but preceding or following the actual working session. For example, an association will commonly sponsor a dinner or cocktail party the evening before or the evening after a seminar or conference. Such dinners or parties are frequently complimentary (paid for by the sponsor) or included in the cost of registration.

We believe that valuable business-related discussions may take place at these kinds of events and that attendance at them may further the very purposes sought to be served by the employee's participation in the working portion of the conference by allowing the employee to hear in an informal setting the views of a segment of the public affected by the Commission's regulatory activity. However, some limitations on attendance at such events are necessary in order to avoid an appearance of impropriety. The guidelines have been revised to in-

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dicate that such attendance will be considered proper if the event is not at a time significantly removed from the business meeting and is not of a lavish nature.

A collateral issue suggested by the comments is whether an employee's spouse may properly attend events that the employee is authorized to attend. For example, when an employee is addressing a luncheon meeting, may his or her spouse attend and accept the lunch?

Although the issue is not easy to resolve, we believe that a spouse should be allowed to accompany an employee to an authorized event (and accept any food or refreshments the employee may accept), if the circumstances suggest that spouses are expected to attend and if the couple pays any travel and lodging expenses that may be occasioned by the spouse's attendance.

Several comments objected to the provision in the proposed guidelines under Canon 15 that the Chairman had to approve any annual leave taken to extend an out-of-town business trip for personal purposes. We are now convinced that a better way to ensure proper use of official travel is to monitor it closely at the immediate supervisory level. If the employee's supervisor determines that he or she can be spared for a further period on annual leave, there is no good reason why this should be forbidden. The purpose of the official portions of trips and their benefit to the Commission should be the relevant factors used to determine whether approval is justified. The revised guideline implements this approach.

The second paragraph of section (1) of the Canon 15 guidelines explains that free transportation is included within the phrase "gift, gratuity, entertainment, favor, loan, or any other thing of monetary value," as used in the canon. This canon prohibits acceptance of valuable free trips, such as intercity air, bus, or rail travel, but is not intended to prohibit acceptance of free incidental ground transportation except when it is feasible to identify the employee's fare for the transportation. For example, it would be proper for an employee to accept a ride in a host organization's courtesy bus or the private automobile of an officer of the organization; it would not be appropriate, however, to accept reimbursement from an organization for the cost of a taxi or airport bus.

Site inspections performed by Commission staff may involve travel between various sites in vehicles operated by regulated entities. We believe that such transportation may properly be accepted because it is for a valid business purpose and not of any personal benefit to the employee or of significant monetary value. An employee should not accept such transportation, however, if it would involve significant expense to the regulated entity. Doubts should be resolved by contacting the Ethics Counselor or a Deputy Ethics Counselor.

Acceptance by employees of unsolicited advertising or promotional material of nominal value, such as pens, note pads, and calendars, is allowed primarily to avoid burdening employees with a duty to return such unsolicited items. However, we do not encourage the use or display of such items in Commission offices and the guidelines have been expanded to remind employees to exercise discretion so that an appearance of impropriety is not created.

Section (2) of the proposed guidelines for Canon 15 would have required members and employees to pay their own travel and subsistence expenses in connection with their consideration of proposals for future employment with any person or group in the proscribed category. Various comments argued that such a guideline would be more restrictive than the general practice in private industry and government, would work an unnecessary hardship on Commission employees, and would effectively reduce employment opportunities in cities other than where an employee currently works. We were urged instead to permit an employee to accept reimbursement for reasonable travel and living expenses if the employment negotiations are undertaken in good faith.

We generally agree with that suggestion. Reimbursement for travel expenses incurred in connection with out-of-town employment interviews is a common and accepted practice in many professions. Even the government provides such reimbursement in certain circumstances to persons being considered for employment. The evil addressed by the guideline is that a regulated carrier (or its representative) might seek to influence an employee by providing free travel and living expenses under the guise of negotiations for future employment. That is, of course, a valid concern, and the proposed guideline would have largely eliminated the possibility of such a ruse. However, it would also have barred reimbursement even where there is a genuine prospect of future employment. This could prove to be a rather severe restriction on Commission employees who seek jobs in the private sector.

Civil Service Commission regulations expressly permit acceptance of reimbursement for reasonable travel and living expenses in connection with good faith employment negotiations. They provide that the prohibition against accepting gifts and entertainment does not preclude "an employee from receipt of *bona fide* reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made." 5 CFR 735.202(f). The regulation makes clear, however, that this should not be interpreted to permit an employee to receive payment for "excessive personal living expenses, gifts, entertainment, or other personal benefits."

In our judgment, there is no compelling reason to depart substantially from the policy reflected in this Civil Service Commission regulation. Reimbursement for reasonable travel and subsistence expenses incurred during employment negotiations with a regulated entity or its representative should not ordinarily create an appearance of a conflict of interest so long as the negotiations are in good faith and the employee refrains from participating in any matter in which the prospective employer is involved (see Canon 18). An employee accepting such reimbursement receives no real financial gain, because it merely covers reasonable expenses actually incurred. Although the employee benefits from the opportunity to discuss prospective employment, it is equally for the convenience of the prospective employer that the expenses are incurred. Viewed in this light, it seems appropriate to permit reimbursement for reasonable expenses. Of course, reimbursement for lavish or excessive outlays will not be permitted.

We recognize, however, that there may be potential for abuse in a system that does not provide any monitoring of such reimbursement. And there is always the possibility that an employee will feel, or appear to feel, a subtle gratitude to a company that paid his or her way to travel for an out-of-town interview. To alleviate these concerns, we have adopted the following approach.

First, to insure that there is a mechanism for monitoring such reimbursement for possible abuse, we have instituted a confidential reporting requirement. Reimbursement may be accepted only if relevant details are reported promptly to the Director of Personnel who will treat the reports as strictly confidential. Some employees may be reluctant to tell persons within the Commission that they are considering employment elsewhere. But since the reports will be maintained in confidence, we believe that limited disclosure is a reasonable price to pay for the freedom to accept travel reimbursement.

Second, to minimize any possibility of an appearance of impropriety, we have amended Canon 18, which requires an employee to avoid participating in any matter involving a regulated entity (or its representative) with which he or she is negotiating for employment, by extending the disqualification for a period of six months following the termination of such negotiations. This change will provide a reasonable cooling-off period. The prohibition will apply regardless of whether the employee receives any reimbursement.

Canon 16: One comment focused on the provision in the guidelines to Canon 16 that allows the Chairman to authorize disclosure of confidential or official information prior to the official release date. The writer of the comment interpreted the guidelines to permit the Chairman to release the information prematurely to selected parties and suggested that such a practice would amount to a denial of due process.

We agree that release of confidential or official information to only selected parties is improper. However, the guideline does not contemplate such a practice. Rather, it should be interpreted as permitting the Chairman to authorize advance release in appropriate cases only if all parties receive the information at the same time. Early release can be desirable when Congress, the courts, or other government agencies need speedy notification of a particular Commission action. Early release is most likely to be appropriate with respect to actions of a broad public interest nature such as car service orders, enforcement actions against carriers or shippers, policy statements, or directed railroad service. In such cases, the procedures are often informal and there are no "parties" as such.

Canon 17: One comment criticized as vague and overly broad the language of Canon 17(a)(3), which bars any outside activity that might "bring discredit upon, or cause unfavorable criticism of, the Commission."

We agree with the comment and have deleted subsection (a)(3). The stricken language is similar to that of the old Canon 22 ("immoral or notoriously disgraceful conduct"), which has been completely revised in the new Canon 23. We believe that new Canon 23 serves the same purpose as subsection (a)(3) and is distinctly better worded. Since subsection (a)(3) is superfluous, we have eliminated it.

Another comment suggested that advance authorization to engage in outside employment or activities should not be required and that, in any event, the particular section chief rather than the Director of Personnel should be the authorizing official.

We disagree and have made no change in proposed Canon 17 or the accompanying guidelines. Advance authorization is clearly required if the agency is to maintain any check on outside activities. In order to assure a uniform policy on outside activities, the Director of Personnel should make the final decision after considering the recommendations of the employee's supervisors.

It was further suggested that our Canons should incorporate an Executive Order provision that prohibits any Presidential appointee from accepting compensation for any consultation, lecture, writing, or appearance that involves subject matter within the responsibility of that appointee's agency or that draws substantially upon data or ideas that have not become part of the body of public information. See 5 CFR 735.203(c).

We have adopted this proposal by adding a new subsection (c) to Canon 17. The provision applies, of course, only to members of the Commission and will simply serve to remind them of the limitation in question.

Canon 18: For the reasons discussed under Canon 15, we have amended Canon 18 by extending the disqualification for a period of six months following the termination of employment negotiations.

Canon 21: One comment suggested that Canon 21 should be revised to refer specifically to drugs. Although we intended to include drugs under the term "intoxicants" in the Canon as originally proposed, we have reworded Canon 21 in accordance with this suggestion to remove any possible ambiguity.

We emphasize that this canon does not condone the use of *illegal* drugs even if such use does *not* impair an employee's ability to function on the job. Any use of such substances is clearly barred by proposed Canon 23 (now renumbered Canon 22).

Proposed Canon 22: We have eliminated this canon, which dealt with employee indebtedness and was opposed by a number of comments as an unwarranted invasion of personal privacy. Although this provision was contained in our previous Canons and based on Civil Service Commission regulations, existing personnel procedures are adequate to deal with any problems posed by employee indebtedness. We see no reason to touch on this matter in the Canons. Accordingly, we have eliminated this canon and renumbered the remaining canons.

Canon 25: We have substantially expanded Appendix II, referred to in Canon 25, to give a more complete description of statutory ethical provisions applicable to all government employees. We believe that the previous descriptions were too brief to give employees useful information regarding the statutory provisions.

Because Congress may change these statutory provisions from time to time and the summaries provided are necessarily abbreviated, employees are cautioned not to rely solely on the descriptions in Appendix II but to consult the statutes or seek the advice of the Ethics Counselor to resolve particular questions.

Canon 26: The proposed guidelines explained that an employee's financial statement should include the interests of a spouse, minor child, or any "blood relation" living in the employee's immediate household. The Civil Service Commission's current view is that "blood relation" should include in-laws. In order to remove any ambiguity, we have changed the guideline to refer to "any relative (including in-laws)" residing in the employee's immediate household. This change does not require an employee to report the interests of relatives such as grandparents, siblings, and grandchildren who do not live in the employee's immediate household, because a general reporting requirement with respect to the financial interests of such persons would be too burdensome. It would be unduly onerous to require employees to keep informed of the financial holdings of relatives residing elsewhere. See the discussion under Canon 14, *supra.*

Several comments focused on the positions to be included in Appendix I, which lists those positions whose incumbents must file confidential financial statements. The comments disagreed on which positions are sensitive enough to warrant requiring the incumbents to file a statement. Rather than delay adoption of these Canons while we review which positions should be included, we will address this matter more fully at a later time. Meanwhile, we point out that Canon 26 establishes procedures by which employees may request a review if they believe their positions have been improperly designated as requiring submission of a financial statement.

The proposed Canon and guidelines omitted any reference to employees serving in an "acting" status in the positions listed in Appendix I. We believe that an employee serving in an "acting" status for more than 30 days should file a financial statement, and we have added a provision to that effect to the guidelines.

To simplify changes to the list of positions requiring submission of financial statements, Appendix I contains a prefatory statement that the list is subject to change by the Chairman without FEDERAL REGISTER notice. This will also make it unnecessary to obtain Civil Service Commission approval for routine changes in the list. With respect to changes in position titles, the "Chairman" means the Director of

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Personnel under delegation of authority.

We have made no effort in connection with Canon 26 to take account of the new financial disclosure provisions of the Ethics in Government Act of 1978, Pub. L. 95-521. We will make any appropriate changes at the proper time in light of Civil Service Commission guidance.

Canon 27: One comment suggested that the Chief Administrative Law Judge review the financial statements of all ALJ's to avoid potential conflicts of interest in the assignment of cases. This suggestion is based on a recent recommendation by the Comptroller General that the agencies institute such a procedure. We agree with this proposal and, accordingly, have added a new subsection (c) to Cannon 27 incorporating the suggested provision.

Canon 28: Some modification of the proposed canon, which deals with employment disclosure requirements for employee relatives, is appropriate. Specifically, we adopt the approach followed in Canons 14 and 26 and have added "any relatives (including in-laws) residing in the immediate household" to the class of persons subject to the employment disclosure requirements. Including relatives living within the same household should encompass those having interests in common and having the opportunity to engage in communications which may result in premature disclosure of agency information. A reporting requirement limited to those within the same household should not cause an undue burden.

Canon 28 imposes a new reporting requirement and takes effect 30 days after publication of the revised Cannons. At that time Commission members and employees must be in compliance with this family employment disclosure provision.

Canon 30: One comment suggested that the guidelines should contain, at least in general terms, an enumeration of the disciplinary or remedial actions that might be taken for specific offenses.

We have not adopted this suggestion. It is impractical to formulate a schedule of offenses and corresponding punishments. Determining appropriate punishments is a delicate matter, requiring the utmost flexibility. Each case must depend on its own facts and circumstances. A "scorecard" approach is simply not appropriate.

Additional Canons of Conduct for Members: In the course of our evaluation of the proposed canons, we have also scrutinized the additional canons that apply to Commission members only. Generally, we believe that they should be adopted as proposed. However, certain modifications of proposed Canon 3(a) are in order.

Several aspects of the proposed canon could cause confusion. Although the second sentence of proposed Canon 3(a) prohibits *ex parte* communications with respect to adjudicatory proceedings, the third sentence states that, in the context of rulemaking, members "have a duty to solicit the views of interested persons." The juxtaposition of these two statements, and the language used, could, contrary to our intention, be read as encouraging "off-the-record" contacts in rulemaking proceedings.

The unintended thrust of this language could conflict with the prohibition against *ex parte* contacts in formal rulemaking (see 5 U.S.C. 557(d)), and the caution required of an agency in informal rulemakings in light of *Home Box Office* v. *FCC*, 567 F. 2d 9 (D.C. Cir. 1977). Consequently, we have deleted the second and third sentences of proposed Canon 3(a). The Commission already has rules governing *ex parte* communications (see 49 CFR Part 1100, App. C), and deletion of these two sentences should eliminate possible confusion and resulting legal problems. Moreover, the policy underlying the third sentence, *i.e.*, the need for members to communicate with those affected by regulation, is addressed in the last sentence of Canon 3(a). Additionally, we have deleted as superfluous the phrase "rulemaking and administrative" in the last sentence.

We have also deleted "unreasonable hospitality" from the last sentence of Canon 3(a). The implication that "reasonable hospitality" is proper could have run counter, in certain circumstances, to the strictures of Canon 15 of the general canons. Since Canon 1 of Subpart C commits the members to observing "the standards of personal conduct in the Canons of Conduct for Members and Employees," Canon 15 governs the acceptance by members of gifts, entertainment, and favors (*i.e.*, hospitality). Therefore, the "unreasonable hospitality" language of Canon 3(a) served no useful purpose and might have been misleading in some instances.

Miscellaneous: The revised Canons and guidelines impose several new reporting or disclosure requirements. As with the new reporting requirement under Canon 28, these will take effect 30 days after publication of the revised Canons. The Ethics Counselor is authorized to extend the effective date for a reasonable time for good cause upon request of an individual employee.

In addition to the changes discussed above, we have made several minor technical changes in the Canons and guidelines that do not require discussion.

Subpart B—Canons of Conduct

Sec.

1000.735-11 General standard of conduct.
1000.735-12 Interpretation and advisory service.
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1000.735-25 Miscellaneous statutory provisions.
1000.735-26 Statements of employment and financial interests.
1000.735-27 Review of statements of employment and financial interests.
1000.735-28 Disclosure of employment of parent, spouse, child, or other relative.
1000.735-29 Specific provisions governing special Government employees.
1000.735-30 Disciplinary and other remedial action.

AUTHORITY: Sec. 6, 36 Stat. 915, as amended, secs. 12, 20, 24 Stat. 383, as amended, 386 as amended, sec. 25, 41 Stat. 498, as amended, sec 220, 49 Stat. 563 as amended, sec. 313, 54 Stat. 944, as amended, sec. 412, 56 Stat. 294, as amended; 45 U.S.C. 29, 49 U.S.C. 12, 20, 26, 320, 913, 1012, 5 CFR Part 735.

Subpart B—Canons of Conduct

§ 1000.735-11 General standard of conduct.

Members and employees of the Commission hold a public trust. To honor that trust, they must maintain unusually high standards of honesty, integrity, and impartiality in all aspects of their official conduct. They shall perform their duties fairly and expeditiously and with a view to carrying out the national transportation policy. They shall be courteous and prompt in serving the public.

§ 1000.735-12 Interpretation and advisory service.

(a) The Commission's General Counsel shall be the Ethics Counselor. The Director of Personnel shall be the principal Deputy Ethics Counselor. The Ethics Counselor, with the approval of the Chairman, shall designate additional Deputy Ethics Counselors as he or she deems necessary or appropriate to carry out his or her responsibilities under these Canons.

(b) On January 1 and June 30 of each year, the Ethics Counselor shall report to the Commission on the operation of the Canons and guidelines with any recommendations the Ethics Counselor deems advisable.

(c) The Director of Personnel shall furnish copies of the Canons of Conduct and guidelines to each new member and new employee upon his or her entrance on duty. The Ethics Counselor shall annually, or as circumstances may warrant, bring to the attention of each member or employee the Canons of Conduct and guidelines. The Ethics Counselor shall inform all members and employees of the names of the Deputy Ethics Counselors and of the procedures for seeking advice concerning the interpretation and application of these Canons.

§ 1000.735-13 Prohibited financial interests.

Members and employees shall not be employed by, or hold any official relation to, or own any securities of, or be in any manner pecuniarily interested in carriers to the extent prohibited by the Interstate Commerce Act. This Canon prohibits (a) any direct interest in any for-hire transportation company whether or not subject to the Interstate Commerce Act, (b) any interest in any company that (1) owns or controls and (2) has more than two percent of its assets invested in or derives more than two percent of its income from a for-hire transportation company whether or not subject to the Interstate Commerce Act, and (c) any interest in any company, mutual fund, or other enterprise which in turn has an interest of more than ten percent of its assets invested in or derives more than ten percent of its income from for-hire transportation companies whether or not subject to the Interstate Commerce Act.

GUIDELINES

The two-percent and ten-percent limitations of (b) and (c) should be interpreted as applying only to direct holdings of a company, mutual fund, or other enterprise, and not to indirect holdings. In determining whether these limitations are applicable, members and employees may rely on the most recent financial statement issued by the enterprise to security holders.

Where a previously-proper holding of a member or employee becomes prohibited because of the enterprise's acquisition of an interest in a for-hire transportation company, the holding must be disposed of within nine months.

The financial interests prohibited by this section are absolute unless a waiver, based on serious financial hardship or remoteness of interest, is obtained from the Ethics Counselor.

§ 1000.735-14 Disqualifying interests.

(a) Members and employees shall not participate in any matter in which they have a substantial pecuniary interest or in which their impartiality might reasonably be questioned.

(b) Once members or employees have been disqualified from participating in any matter, they shall not engage in any discussion or be present during any action relating to the matter.

GUIDELINES

Members and employees should disqualify themselves whenever, in their own judgment, a disqualifying interest exists. If an employee's disqualification to participate in a matter is questioned by someone else and the employee declines to disqualify himself or herself, the final determination as to whether the employee should be disqualified will be made by the Chairman. A member is the sole judge of his or her own disqualification.

A "substantial pecuniary interest" should be interpreted to include any situation in which members or employees, or their parents, spouses, children, or other relatives (including in-laws) residing in the same household, have a direct or indirect financial interest that could be materially affected.

Matters in which members or employees' "impartiality might reasonably be questioned" should be interpreted to include, among other things, any matter in which they or their parents, spouses, children, or other relatives (including in-laws) residing in the same household have a past or present association with a party or a representative of a party affected by the matter which reasonably appears to affect their decision.

§ 1000.735-15 Gifts, entertainment, and favors.

(a) Members and employees of the Commission shall not solicit or accept, directly or indirectly, any gift, gratuity, entertainment, favor, loan, or any other thing of monetary value, from any person, association, or group, that (1) has, or is seeking to obtain, contractual or other business or financial relationships with the Commission; or (2) conducts operations or activities that are subject to regulation by the Commission; or (3) has interests which may be substantially affected by the member's or employee's performance or nonperformance of his or her official duty; or (4) is in any way attempting to affect the member's or employee's official actions. The requirements of this subparagraph do not apply to (i) obvious family or personal relationships when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors; (ii) acceptance of food or refreshments of nominal value on infrequent occasions in the course of a luncheon, dinner, or other meeting or an inspection tour where a member or employee may properly be in attendance; (iii) acceptance of unsolicited advertising or promotional material of nominal intrinsic value, such as pens, pencils, note pads, calendars, and other similar items; or (iv) acceptance of loans from banks or other financial institutions on customary terms of finance for proper and usual activities of members or employees, such as home mortgage loans.

(b) Members and employees shall avoid any action, whether or not specifically prohibited, which might result in, or create the appearance of: (1) Using public office for private gain; (2) giving preferential treatment to any person; (3) impeding Commission efficiency or economy; (4) losing complete independence or impartiality; (5) making a Commission decision outside official channels; or (6) affecting adversely the confidence of the public in the integrity of the Commission.

(c) Members and employees shall not solicit a contribution from any other member or employee, or make a donation for a gift to a member or employee in a superior official position, or accept gifts from members or employees receiving less salary than themselves. This subparagraph does not prohibit a voluntary gift or donation of nominal value made on a special occasion such as marriage, illness, or retirement.

(d) Members and employees shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

GUIDELINES

(1) This canon is designed to prohibit conduct which gives the appearance of or creates an actual conflict of interest for members or employees.

The term "gift, gratuity, entertainment, favor, loan, or any other thing of monetary value" includes such things as invitations to lunches, dinners, parties, or other social events; tickets to cultural or sporting events; free use of facilities such as hotels or other accommodations; free transportation; free use of club privileges or similar facilities.

The persons, associations, and groups from whom gifts and other things of value may not be accepted include, but are not limited to, regulated entities, associations of regulated entities, and individuals or firms whose work involves to a substantial extent the representation of regulated entities.

A policy favoring the prohibitions of this canon rather than stretching the exceptions is intended.

(2) Members and employees considering possible proposals for future employment with persons, associations, or groups described in the canon and these guidelines may accept reimbursement for reasonable travel and subsistence expenses actually incurred during employment negotiations provided they promptly report the relevant details concerning the reimbursement to the Director of Personnel, who shall treat the reports as strictly confidential. At a minimum, the following information should be reported: name and address of prospective employer; dates of any travel and hotel accommodations; statement of amount reimbursed, itemized to show travel, lodging, and meals. These reports will be kept strictly confidential and will not be considered in any personnel actions affecting the persons filing them, unless they show evidence of improper conduct.

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While this guideline permits members and employees to accept reimbursement for reasonable expenses related to *bona fide* employment negotiations, it should not under any circumstances be interpreted to permit reimbursement for lavish or excessive personal expenses. Members and employees are also reminded of the requirements of Canon 18 governing withdrawal from participation in matters affecting a prospective employer both during and after negotiations.

(3) The "obvious family or personal relationship" exception permits the exchange of gifts and entertainment where it is clear that the offering is prompted by the personal of family relationship. If the donor's business interests might be the motivating factor behind the gift or entertainment, the member or employee should carefully consider the circumstances surrounding the offer before accepting. The purpose of this exception is to avoid interfering with a member's or employee's personal relationships which unrelated to his or her job.

A gift or entertainment from a relative is normally permissible, unless it appears that it is motivated by the relative's business interests. In the case of personal friends who would otherwise be forbidden donors, members and employees should carefully consider the circumstances surrounding gifts and entertainment and should take reasonable steps to avoid the appearance of a conflict of interest. For example, members and employees are free to meet such personal friends for lunch or dinner but to avoid the appearance of a conflict of interest should pay their own checks. Similarly, members and employees may accept gifts from such personal friends on a special occasion, such as a birthday, wedding, or Christmas, if such gifts are normally exchanged by them. But members and employees should consider whether the donor would have offered the item of value if he or she were in a different business and if the recipient were not a Commission employee. If there is doubt concerning the application of the exception, the gift should not be accepted.

(4) Exception (ii) applies to those events at which members and employees may properly be in attendance.

Members may attend any event which in their own opinion will benefit the Commission and assist in performing their official duties, as long as attendance will not reflect adversely on their impartiality. In deciding whether to attend an event members should carefully consider (1) the identity of the sponsor, (2) the location, (3) the duration, (4) the purpose, and (5) the persons expected to attend.

Employees may properly attend events sponsored by a person or entity subject to Commission regulation if the event can reasonably be classified as a business meeting involving a formal program designed to be informative or educational. Attendance at events of this nature is subject to approval by the head of the Bureau or Office involved. Where an event is primarily social in character, employees may attend only where their attendance is ruled to be proper by the Chairman or the Ethics Counselor. Attendance will be authorized only if it will further the interests of and provide benefits to the Commission, in light of the employee's job duties and level of responsibility.

Attendance at primarily social events sponsored by a broadly-based group with members from many different organizations or companies, such as the ICC Practitioners, and attended by large numbers of persons in addition to Commission members or employees, will normally be authorized, unless the circumstances create an appearance of impropriety. Attendance at events sponsored by one or a few companies, or by other narrowly-based groups, or at events to which only Commission members and employees are invited, will be closely scrutinized; attendance will be authorized only if there is a clear benefit to the Commission and the public interest.

When authorizing an employee to attend an event which is sponsored by a person or entity subject to Commission regulation and which is to last more than one day, the approving official will designate the period of time the employee may be in attendance, based on his or her judgment as to which segments of the event are relevant to the employee's responsibilities. An employee authorized to attend an out-of-town event may remain at the event for a longer period only upon the express approval of his or her Bureau or Office head. An employee's time away from the office beyond that spent attending that portion of an event which is relevant to the employee's responsibilities will be charged to annual leave.

When attending a meeting or other event, members and employees may accept a plaque or similar memento in honor of their appearance and any item of nominal value given to all participants.

(5) The phrase "luncheon, dinner, or other meeting," as used in exception (ii), refers primarily to working sessions that are integrated with a lunch, dinner, or refreshments. For example, an employee in attendance at a day-long seminar that includes a luncheon or dinner as part of the program, or an employee speaking to a luncheon or dinner gathering, may accept the accompanying meal.

The exception also extends to a social hour or dinner event connected with an authorized working session if the social hour or meal is not significantly removed in time from the working session and would not be considered lavish entertainment. For example, an employee scheduled to address a convention meeting or to participate in a panel discussion ordinarily may attend a related social hour sponsored by the host organization on the evening before or the evening after the working meeting, if it is reasonable to expect that attendance may lead to business-related discussions that will further the purposes sought to be served by the employee's participation in the working portion of the conference.

Employees may not otherwise accept invitations to primarily social gatherings sponsored by entities within the class identified in the canon unless authorized to do so by the Chairman or the Ethics Counselor.

The phrase "nominal value," as used in exception (ii), does not lend itself to precise quantification. It may have a different meaning in different situations. In some circumstances, food and refreshments served as part of a working lunch may properly be viewed as of nominal value if the cost is less than ten dollars. The nominal value limitation in that context is designed to preclude lavish meals or entertainment. In connection with an inspection tour, by contrast, only refreshments worth about one dollar or less—the equivalent, for example, of coffee and a doughnut—may ordinarily be viewed as of nominal value. The purpose of the nominal value limitation in the inspection tour context is to allow an employee to accept normal social courtesies but not to accept more substantial food or refreshment that is unwarranted in light of the circumstances.

(6) The "advertising or promotional material" exception is intended to include only inexpensive items that businesses commonly distribute to large numbers of persons. While acceptance of such items is permitted, their display in Commission offices is not encouraged, and discretion should be exercised so that an appearance of impropriety is not created. Candy, fruit, alcoholic beverages, and similar items do not ordinarily fall within this exception.

(7) Although the canon allows members and employees to accept some gifts, it does not *require* acceptance of anything. Members and employees may always decline gifts that the canon permits them to accept.

(8) Subsection (c) does not prohibit the voluntary exchange of inexpensive gifts on occasions such as birthdays or holidays.

§ 1000.735–16 Disclosure and misuse of information.

Members and employees of the Commission shall not use for personal gain or disclose to unauthorized persons confidential information not available to the general public. They shall not disclose or release official information prior to the time authorized for its release.

GUIDELINES

"Confidential information not available to the general public" includes proprietary information submitted to the Commission with the reasonable expectation that it will be treated confidentially. "Official information" includes decisional orders and other agency actions that have not yet been served or otherwise officially released to the public.

This canon prohibits disclosure or release of information in either category to persons not employed by the Commission or employees whose official responsibilities do not require access to the information. The Chairman of the Commission may authorize disclosure or release of confidential information or official information prior to the official release date if he or she determines, in individual cases or in an appropriate class of cases, that such disclosure or release would further important interests of the Commission or the public and would neither significantly compromise the rights of any person nor allow any person improperly to use such information for private financial gain.

§ 1000.735–17 Outside employment and other activity.

(a) Members and employees shall not engage in any outside employment or other outside activity, including teaching, lecturing, writing, consultation, discussion, or appearance, with or without compensation, in circumstances which might (1) reasonably result in a conflict of interest or an apparent conflict of interest between their private interests and their official Government duties and responsibilities, or (2) interfere with the efficient performance of their official duties.

(b) Advance authorization for employees to engage in outside employment or other outside activity described in paragraph (a) of this section shall, in any event, be obtained from the Director of Personnel, via supervising channels. See Manual—Administration 22-781 and 24-311.

(c) Members shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Commission, or which draws substantially on official data or ideas that have not become part of the body of public information.

GUIDELINES

Outside employment will not be authorized unless it is confined strictly to nonworking hours and will not interfere with employees' performance of their official duties.

§ 1000.735–18 Future employment.

If a member or employee of the Commission entertains a proposal for future employment by any entity subject to regulation by the Commission or by associations or representatives of such entities, the member or employee must refrain from participating in the decision or disposition of any matter in which the person, association, or representative is known to have a direct or substantial interest both during such negotiations and for a period of six months after termination of negotiations. If employment is accepted, the member or employee must continue to refrain from participating in such matters until he or she severs the connection with the Commission.

§ 1000.735–19 Ex parte communication.

Members and employees of the Commission must conform to the standards adopted by the Commission reprinted in Appendix C of the Rules of Practice of the Commission (Part 1100 of this chapter).

§ 1000.735–20 Use of Federal property.

Members and employees of the Commission shall not directly or indirectly use, or allow the use of, Federal property of any kind, including property leased to the Government, for other than officially approved activities. They also have a positive duty and responsibility to protect and conserve all Federal property, which is entrusted or issued to them.

§ 1000.735.–21 Use of intoxicants.

Members and employees of the Commission shall not use alcohol, drugs, or other intoxicants so as to impede the discharge of their official duties.

§ 1000.735–22 Prohibited conduct.

Members and employees shall not engage in criminal or dishonest conduct, conduct that significantly interferes with their effective performance of official responsibilities, or conduct that is materially incompatible with their official position.

GUIDELINES

This canon is intended to prohibit unlawful or dishonest conduct. It will not be construed to prohibit legitimate private conduct or to prevent members or employees from exercising rights guaranteed by the laws and Constitution of the United States.

§ 1000.735–23 Intermediaries.

Members and employees of the Commission shall not recommend or suggest the use of any nongovernment intermediary (individual, firm, corporation, or other entity) offering any service as consultant, agency representative, attorney, expeditor, or specialist for the purpose of assisting in any negotiations, transactions, or other business with or before this Commission. However, making available general reference lists of non-governmental intermediaries, the use of which is authorized by the Secretary of the Commission, will not be deemed to violate this section.

GUIDELINES

"General reference lists" refers only to such lists of licensed attorneys and registered practitioners as may be compiled and maintained by a state or local bar association, the ICC Practitioners Association, the Motor Carrier Lawyers Association, and similar organizations. Lists compiled by employees on the basis of their own knowledge or experience are not "general reference lists" within the meaning of the Canon.

§ 1000.735–24 Gambling, betting, and lotteries.

Members and employees shall not participate, while on federally owned or leased property or while on duty for the Commission, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip, ticket, chance, voice, share, or any similar item.

§ 1000.735–25 Miscellaneous statutory provisions.

Members and employees shall acquaint themselves with the statutory provisions described in Appendix II to this subpart, which relate to ethical and other conduct as a member and employee of the Commission and the Government.

§ 1000.735–26 Statements of employment and financial interests.

(a) All employees in the positions specified in Appendix I to this subpart shall submit to the Director of Personnel within 30 days after their entrance on duty a confidential statement of employment and financial interests on ICC Form No. 1164. Pursuant to the grievance procedures enumerated in the Manual-Administration 22–725, employees so specified may file and have reviewed a complaint that the positions have been improperly designated as requiring the submission of a statement of employment and financial interests.

(b) Any changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year. Where no changes or additions occur, a negative report is required.

GUIDELINES

The financial statements required by this section are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of financial statements by employees does not permit them or any other person to participate in matters in which participation is prohibited by law, order, or regulation. Notwithstanding the filing of these statement, employees shall at all times avoid acquiring financial interests or taking other actions that would result in a violation of the conflict-of-interest provisions of 18 U.S.C. 208 or these Canons of Conduct.

In the event that any required information, including holdings placed in trust, is not known to the employee but is known to another person, the employee should request that other person to submit the information on his or her behalf and should report the request in Part IV of ICC Form 1164.

The interest, if any, of a spouse, minor child, or any relative (including in-laws) residing in an employee's immediate household shall be reported as his or her interest. If that information is to be supplied by others, this should be indicated in Part IV of ICC Form 1164. Information will not be required if the reporting individual certifies that he or she has no knowledge of the required information, has made every reasonable effort to obtain it, and neither derives nor expects to derive any benefit from the financial interests involved.

Employees are not required to submit any information relating to their connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civil, or political organization or any similar organization not conducted as a business enterprise or engaged in the ownership or operation of a business enterprise. Educational and other institutions doing research and development or related work involving grants of money from contracts with the Government are deemed "business enterprises" for reporting purposes and should be included.

Any person designated to serve in an "acting" status in one of the positions listed

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in Appendix I shall file a financial statement in accordance with this canon within 30 days after serving in an "acting" capacity for 30 days.

§ 1000.735–27 Review of statements of employment and financial interests.

(a) The Director of Personnel shall review employees' annual statements and supplementary statements of employment and financial interests to ascertain conflicts of interest or the appearance of conflicts of interest.

(b) Financial statements shall be kept confidential. The Director of Personnel is responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, these statements except as provided by law or regulation.

(c) The Chief Administrative Law Judge shall review the financial statements of all Administrative Law Judges to avoid conflicts of interest in the assignment of cases. This review shall be in addition to the review by the Director of Personnel.

GUIDELINES

Whenever, following review of the annual and supplementary statements of employment and financial interests, a conflict of interest may exist or appear to exist, the Director of Personnel shall notify the employee concerned, who shall promptly submit an explanation to the Director of Personnel regarding the existence or the appearance of a conflict of interest.

If, after reviewing the employee's explanation and after consulting with the Ethics Counselor, the Director of Personnel concludes that the conflict or appearance of a conflict of interest does exist, the Director of Personnel shall advise the employee of the steps necessary to remedy the situation.

§ 1000.735–28 Disclosure of employment of parent, spouse, child, or other relative.

Each employee whose parent, spouse, or child, or any other relative (including in-laws) residing in the immediate household, is employed by an entity subject to regulation by the Commission shall promptly notify the Director of Personnel of the relative's employment and furnish a detailed statement of the relative's job duties and responsibilities. The employee shall promptly notify the Director of Personnel of any change in the relative's employment, including a change in job duties or responsibilities.

GUIDELINES

The term "employed by an entity subject to regulation by the Commission" includes those who represent and perform a majority of their services for such an entity, as well as those directly employed by such an entity.

Each notification furnished under subparagraph (a) will be reviewed by the Director of Personnel to determine whether the situation presents a conflict of interest or appearance of a conflict of interest.

Whenever, in the opinion of the Director of Personnel, the situation may present a conflict of interest or appearance of a conflict of interest, the Director of Personnel shall notify the employee, who shall promptly submit an explanation regarding the existence or the appearance of a conflict of interest, together with any additional information requested by the Director of Personnel.

If, after reviewing the submitted explanation and information and after consulting with the Ethics Counselor, the Director of Personnel concludes that the situation does present a conflict of interest or an appearance of a conflict of interest, the Director of Personnel shall advise the employee of the necessary steps to remedy the situation. The Director of Personnel may, after consulting with the employee and the employee's Bureau or Office Head, take any personnel action that may be appropriate to eliminate the conflict of interest or appearance of a conflict of interest.

§ 1000.735–29 Specific provisions governing special Government employees.

(a) Special Government employees, as defined in 18 U.S.C. 202, shall not use (1) their Government employment for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or another person, particularly one with whom they have family, business, or financial ties; (2) any inside information obtained as a result of Government employment for private gain for themselves or another person either by direct action on their part or by counsel, recommendation, or suggestion to another person, particularly one with whom they have family, business, or financial ties; (3) the Government to coerce, or give the appearance of coercing, a person to provide financial benefit to themselves, or another person, particularly one with whom they have family, business, or financial ties.

(b) Special Government employees shall adhere to all Canons of Conduct specified in this subpart except §§ 1000.735-17(b) and 1000.735-26. In lieu thereof, each special Government employee shall submit a statement of his or her employment and financial interest on ICC Form No. 1163 to the Director of Personnel at the time of his or her employment and shall keep the statement current throughout employment by submitting supplementary statements whenever any change in or addition to the information contained in the statement occurs.

§ 1000.735–30 Disciplinary and other remedial action.

Any violation of these Canons of Conduct by an employee shall be cause for appropriate disciplinary or other remedial action as provided in the Manual—Administration 22-751, which may be in addition to any penalty prescribed by law.

APPENDIX I—EMPLOYEES REQUIRED TO SUBMIT PERIODIC DISCLOSURE STATEMENTS (49 CFR 1000.735–26)

The following list of positions required to file financial statements is subject to change by the Chairman without publication in the FEDERAL REGISTER. The Commission's Director of Personnel maintains at all times a current list of such positions.

OFFICE OF THE CHAIRMAN

1. Attorneys (or other professional staff).
2. Confidential Assistant to the Chairman.
3. Writer Editor (Assistant to the Chairman).
4. Public Information Officer.
5. Director, Policy Review Office.
6. Small Business Assistance Officer.
7. Congressional Relations Officer.
8. Deputy Congressional Relations Officer.
9. Chief, Clearance Unit.

COMMISSIONERS' OFFICES

1. Attorneys (or other professional staff).
2. Confidential Assistants to the Commissioners.

OFFICE OF THE MANAGING DIRECTOR

1. Managing Director.
2. Assistant Managing Director.
3. Assistant Managing Director (Operations and Assessment).
4. Assistant to the Managing Director (Field Operations).
5. Attorney-Adviser (General).
6. Director of Personnel.
7. Chief, Budget and Fiscal Office.
8. Assistant Chief, Budget and Fiscal Office.
9. Section Chiefs.
10. Chief, Procurement and Property Management Branch, Section of Administrative Services.

OFFICE OF THE REGIONAL MANAGING DIRECTORS (FIELD)

1. Regional Managing Directors.
2. Assistant Regional Managing Directors.
3. Regional Auditors.
4. Assistant Regional Auditors.
5. Regional Counsels.
6. Assistant Regional Counsels.
7. Regional Operations Directors.
8. Assistant Regional Operations Directors.
9. Chief Special Agents.
10. Officers in Charge, all offices.

OFFICE OF THE SECRETARY

1. Secretary.
2. Assistant Secretary.
3. Chief, Section of Dockets and Service.

OFFICE OF THE GENERAL COUNSEL

1. General Counsel.
2. Deputy General Counsel.
3. Associate General Counsels.

RAIL SERVICES PLANNING OFFICE

1. Director.
2. Section Chiefs.
3. Branch Chiefs.

OFFICE OF HEARINGS

1. Chief Administrative Law Judge.
2. Assistant Chief Administrative Law Judges.
3. Administrative Law Judges.

OFFICE OF PROCEEDINGS

1. Director.
2. Associate Director.
3. Deputy Directors.
4. Assistant Deputy Directors.
5. Chief, Section of Case Control and Information.
6. Chief, Section of Energy and Environment.
7. Branch Chiefs, Section of Finance.
8. Branch Chiefs, Section of Rates.
9. Branch Chiefs, Section of Operating Rights.
10. Chairmen and Members of Employee Boards.

BUREAU OF ACCOUNTS

1. Director.
2. Assistant Director.
3. Assistant to the Director.
4. Section Chiefs.
5. Assistant Section Chiefs.
6. Branch Chiefs.

BUREAU OF ECONOMICS

1. Director.
2. Assistant Director.
3. Assistant to the Director.
4. Section Chiefs.

BUREAU OF INVESTIGATIONS AND ENFORCEMENT

1. Director.
2. Assistant Director.
3. Assistant to the Director.
4. Section Chiefs.

BUREAU OF OPERATIONS

1. Director.
2. Assistant Director.
3. Assistant to the Director.
4. Section Chiefs.
5. Assistant Section Chiefs.
6. Branch Chiefs.
7. Chairmen and Members of Employee Boards.

BUREAU OF TRAFFIC

1. Director.
2. Assistant Director.
3. Section Chiefs.
4. Branch Chiefs.
5. Chairmen and Members of Employee Boards.

APPENDIX II—MISCELLANEOUS STATUTORY PROVISIONS

Members and employees have an affirmative duty to acquaint themselves with all statutory provisions relating to the lawfulness and propriety of their official conduct. The following provisions, most of which apply to federal employees and officials in general, are presented in summary form. The actual text should be consulted for the particulars of prohibited conduct, as well as for specific exceptions and exemptions.

1. *Code of Ethics for Government Service*

All members and employees shall observe those fundamental principles of conduct in public service declared in House Concurrent Resolution 175, Code of Ethics for Government Service, which states in general terms those concepts of high obligations and responsibilities, as well as rights and privileges, attendant upon service for our Government. (72 Stat. B 12).

2. *Compensation to public officials for claims, contracts, etc.* (18 U.S.C. 203)

No public official shall directly or indirectly receive or solicit compensation for services rendered by himself or herself, or another, in relation to any application, contract, claim, controversy, or other matter in which the United States has a direct and substantial interest.

No person shall knowingly directly or indirectly give, promise, or offer any compensation to a public official for services rendered.

Violation of these prohibitions is punishable by a maximum fine of $10,000, or imprisonment for not more than two years, or both; and removal.

3. *Prosecution of claims against and other matters affecting the Government by officers and employees* (18 U.S.C. 205)

No officer or employee of the United States shall act as agent or attorney, or receive any gratuity, for the prosecution or assistance in the prosecution of any claim against the United States.

No officer or employee of the United States shall act as agent or attorney for anyone in connection with any proceeding, application, contract, controversy or other matter in which the United States has a direct and substantial interest.

Violation of these prohibitions is punishable by a maximum fine of $10,000, or imprisonment for not more than two years, or both.

4. *Post employment conflict of interest* (18 U.S.C. 207)

No officer or employee of the United States Government, after his or her employment has ceased, shall knowingly act as attorney, or otherwise represent any other person, or make any written oral communication with the intent to influence, on behalf of any other person, in connection with any judicial or other proceeding, application, contract, claim, controversy, charge, or other matter in which the United States has a direct and substantial interest and in which he or she participated personally and substantially as an officer or employee.

No Government officer or employee, within two years after his or her employment has ceased, shall knowingly act as attorney or otherwise represent any other person in connection with any judicial or other proceeding, application, contract, claim, controversy, charge or other matter in which the United States has a direct and substantial interest and which was actually pending under his or her official responsibility within a period of one year prior to the termination of such responsibility, and in which he or she participated personally and substantially as an officer or employee.

No officer or employee who has been employed in a position for which the basic rate of pay is GS-17 or greater and who has had significant decision-making or supervisory responsibility, within one year after such employment has ceased, shall knowingly act as attorney, or otherwise represent anyone other than the United States, or make any oral or written communication with the intent to influence, to the agency in which he or she served as an officer or employee, in connection with any judicial or other proceeding, application, contract, claim, controversy, charge, or other matter, which is pending before such agency or in which such agency has a direct and substantial interest.

Violation of these prohibitions is punishable by a maximum fine of $10,000, or imprisonment for not more than two years, or both.

No partner of an officer or employee of the United States Government shall act as agent or attorney for anyone other than the United States in connection with any judicial or other proceeding, application, contract, claim, controversy, charge, or other matter in which the United States has a direct and substantial interest, and in which such officer or employee has personally and substantially participated.

Violation of this prohibition is punishable by a maximum fine of $5,000, or imprisonment for not more than one year, or both.

5. *Annual public financial disclosure requirements* (Sections 201–211 of the Ethics in Government Act of 1978)

Each Government officer or employee, whose position is classified at GS-16 or above, shall file with the designated agency official at the agency by which he or she is employed, on or before May 15 of each year, a report containing the following information concerning the preceding calendar year:

(1) The source, type, and amount of earned income from any source other than current employment by the United States Government;

(2) The source, date, and amount of honoraria earned, aggregating $100 or more in value;

(3) The source and type of unearned income received exceeding $100 in amount or value, that amount or value to be listed by category, for example, "not more than $1,000";

(4) The source and a brief description of any gifts of transportation, lodging, food, or entertainment, aggregating $250 or more in value received from any source other than a relative. Items received as personal hospitality or with a fair market value of $35 or less need not be aggregated;

(5) The source and brief description of all other gifts aggregating $100 or more in value. Gifts received from a relative or with a fair market value of $35 or less need not be aggregated;

(6) The source and a brief description of reimbursements received from any source aggregating $250 or more in value;

(7) The identity and category of value of any interest in property held in a business, or for investment or the production of income, which has a fair market value exceeding $1,000;

(8) The identity and category of value of the total liabilities owed to any creditor, other than a relative, which exceeds $10,000 at any time during the preceding year, excluding any mortgage secured by the reporting individual's personal residence, or motor vehicle loan;

(9) The date, category of value, and a brief description of any purchase, sale, or exchange in real property (other than a personal residence), stocks, bonds, and other forms of securities, which exceeds $1,000;

(10) The identity of all positions held with any business enterprise, non-profit organization, labor organization, and educational or other institution. Positions held with any religious, social, or political entity, or of an honorary nature need not be reported;

(11) A description of the date, parties, and terms of any agreement with respect to future employment, leave of absence, continuation of payments by a former employer, and continuing participation in an employee benefit plan;

(12) Required information described in numbers 1 through 9 of this provision shall be included in each report with respect to the spouse and dependent children of the

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reporting individual, with certain modifications;

(13) A description of holdings of an income from a trust or other financial arrangement. Holdings of or the source of income from any qualified blind trust, as defined in this section, need not be reported, but the individual shall report the category of the amount of income received;

Any report filed under this provision will be available to the public upon request.

Any individual who knowingly and willfully falsifies or fails to file or report required information shall be liable to a maximum civil penalty of $5,000, and personnel or other action in accordance with applicable law or regulation.

6. *Acts affecting a personal financial interest* (18 U.S.C. 208)

No officer or employee of the United States shall participate personally and substantially, through decision, in relation to any judicial or other proceeding, application, contract, claim, controversy, or other matter in which he or she has a direct or indirect financial interest.

Prior full disclosure of financial interest and written determination that such interest is not substantial may permit such participation.

Violation of this prohibition is punishable by a maximum fine of $10,000, or imprisonment for not more than two years, or both.

7. *Unathorized use of documents relating to claims* (18 U.S.C. 285)

No one, without authority, shall remove or use any document prepared, or intended to be used, to procure the payment of any claim against the United States.

Violation of this prohibitions is punishable by a maximum fine of $5,000, or imprisonment for not more than five years, or both.

8. *Salary of government officials and employees payable only by United States* (18 U.S.C. 209)

No official or employee of the United States shall receive compensation for services as an officer or employee of the Government from any source other than the Government of the United States.

No individual or entity shall pay or supplement the salary of any such officer or employee for services as an officer or employee of the United States.

Violation of these prohibition is punishable by a maximum fine of $5,000, or imprisonment for more than one year, or both.

9. *Bribery of public officials* (18 U.S.C. 201)

No person or entity shall directly or indirectly give, offer, or promise anything of value to a public official with intent to: (a) Influence any official act, (b) influence such public official to commit or allow the commission of any fraud on the United States, or (c) induce such public official to act in violation of his or her lawful duty.

No public official shall directly or indirectly solicit, accept, or agree to receive anything of value for himself or herself, or another, in return for: (a) Being influenced in the performance of any official act, (b) being influenced to commit or allow the commission of any fraud on the United States, or (c) being induced to act in violation of his or her official duty.

Violation of these prohibitions is punishable by a fine of not more than $20,000 or three times the monetary equivalent of the thing of value, whichever is greater, or a maximum of 15 years' imprisonment, or both; and removal.

10. *Acceptance or solicitation to obtain appointive public office* (18 U.S.C. 211)

No one shall solicit or receive money or anything of value in consideration for assistance in obtaining for any person appointive office or employment with the United States.

Violation of this prohibition is punishable by a maximum fine of $1,000, or imprisonment for not more than one year, or both.

11. *Gifts to superior* (5 U.S.C. 7351)

No employee shall (a) solicit a contribution from another employee for a gift to a superior, (b) make a donation as a gift to a superior, or (c) accept a gift from one to whom he or she is an official superior.

Violation of these prohibitions is punishable by a maximum penalty of removal.

12. *Lobbying with appropriated funds* (18 U.S.C. 1913)

No officer or employee of the United States, in the absence of express authorization by Congress, shall use, directly or indirectly, money appropriated by Congress to pay for any personal service, written matter, or other device intended to influence a Member of Congress to favor or oppose any legislation or appropriation by Congress.

Violation of this prohibition is punishable by a maximum fine of $500, or imprisonment for not more than one year, or both; and removal.

13. *Disclosure of confidential information* (18 U.S.C. 1905)

No officer or employee of the United States shall publish, disclose, or make known in any manner or to any extent not authorized by law, any confidential information made known to him or her in the course of his or her employment or official duties.

Violation of this prohibition is punishable by a maximum fine of $1,000, or imprisonment for not more than one year, or both; and removal.

14. *Disclosure of classified information* (18 U.S.C. 798)

No one shall knowingly and willfully communicate or otherwise make available to an unauthorized person, or publish or use in any manner prejudicial to the interest of the United States, any classified information.

Violation of this prohibition is punishable by a maximum fine of $10,000, or imprisonment for not more than ten years, or both.

15. *Excessive and habitual use of intoxicants* (5 U.S.C. 7352)

No individual shall habitually use intoxicating beverages to excess.

Violation of this prohibition is punishable by removal.

16. *Misuse of franking privilege* (18 U.S.C. 1719)

No one shall make use of any official envelope, label, or endorsement authorized by law, to avoid the payment of postage on private letters, packages, or other matters in the mail.

Violation of this prohibition is punishable by a maximum fine of $300.

17. *Interference with Civil Service Examinations* (18 U.S.C. 1917)

No member or employee of the United States Civil Service Commission or an individual in the public service shall willfully and corruptly obstruct an individual in respect of his or her right of examination for competitive service, or falsely grade or report on the examination or proper standing of an individual examined; or make a false representation concerning the examination grade or proper standing of an individual examined; or furnish to an individual any special information for the purpose of improving or harming the prospects of an individual examined, being employed, or promoted.

Violation of these prohibitions is punishable, for each offense, by a maximum fine of $1,000, or imprisonment for not more than one year, or both.

18. *Fraud and false statements* (18 U.S.C. 1001)

No one, concerning any matter within the jurisdiction of the United States, shall knowingly and willfully falsify or conceal a material fact, or make any false, fictitious, or fraudulent statements, or make or use any document knowing such document to contain any false, fictitious, or fraudulent statement.

Violation of these prohibitions is punishable by a maximum fine of $10,000, or imprisonment for not more than five years, or both.

19. *Concealment, mutilation, or destruction of Government documents* (18 U.S.C. 2071)

No one shall willfully and unlawfully conceal, remove, mutilate, falsify, destroy, or intentionally carry away any Government document.

Violation of this prohibition is punishable by a maximum fine of $2,000, or imprisonment for not more than three years, or both. Violation by one having custody of such document shall result in the custodian's removal from office.

20. *Forgery of Government transportation requests* (18 U.S.C. 508)

No one shall forge or counterfeit, knowingly alter, use, or sell any form or request provided by the Government for transportation by common carrier.

Violation of this prohibition is punishable by a maximum fine of $5,000, or imprisonment for not more than ten years, or both.

21. *Misuse of Government vehicles* (31 U.S.C. 638a(c))

No officer or employee of the Government shall willfully use or authorize the use of any Government-owned or leased passenger motor vehicle or aircraft for other than official purposes.

Violation of this prohibition is punishable by a maximum penalty of removal.

22. *Accounting for public money* (18 U.S.C. 643)

An officer or employee of the United States who receives public money which he or she is not authorized to retain as salary must render an account of such money as provided by law.

An officer or employee who fails to render such an account is guilty of embezzlement, and shall be fined a sum equal to the amount of money embezzled, or imprisoned for not more than ten years, or both.

23. *Theft of Government money or property* (18 U.S.C. 641)

No one shall embezzle, steal, or knowingly convert, or, without authority, sell or convey documents, money, or things of value of the United States.

No one shall receive or retain such items knowing them to be embezzled, stolen or converted.

Violation of these prohibitions is punishable by a maximum fine of $10,000, and imprisonment for not more than ten years, or both.

24. *Wrongful conversion of property of another* (18 U.S.C. 654)

No officer or employee of the United States shall embezzle or wrongfully convert to his or her own use money or property of another which comes into his or her control in the execution of such employment of office.

Violation of this prohibition is punishable by a fine of not more than the value of the money or property thus converted, or imprisonment for not more than ten years, or both.

25. *Restrictions on political activities* (5 U.S.C. 7321-7327)

No federal employee shall use his or her official authority or influence for the purpose of interfering with or affecting the result of an election; or shall take an active part in political management, or in political campaigns (5 U.S.C. 7324).

Violation of these prohibitions is punishable by a maximum penalty of removal.

26. *Solicitation of political contributions* (18 U.S.C. 602)

No public official or employee of the United States shall directly or indirectly solicit or receive contributions for any political purpose whatever from any other such officer or employee.

Violation of this prohibition is punishable by a maximum fine of $5,000, or imprisonment for not more than three years, or both.

27. *Solicitation of political contributions in federal buildings* (18 U.S.C. 603)

No one shall solicit or receive any contribution of money or other thing of value for any political purpose in any Federal building.

Violation of this prohibition is punishable by a maximum fine of $5,000, or imprisonment for not more than three years, or both.

28. *Pecuniary interest in regulated carrier* (49 U.S.C. 10301(d), 10306(e), and 10344(e))

No Commission member, administrative law judge, employee board member, or joint board member may have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode.

29. *Members' outside employment* (49 U.S.C. 10301(d))

A member of the Commission may not engage in another business, vocation, or employment.

30. *Officers and employees acting as agents of foreign principals* (18 U.S.C. 219)

No officer or employee of the United States shall act as an agent of a foreign principal registered under the Foreign Agents Registration Act of 1938, as amended. (22 U.S.C. 611 *et seq.*)

Violation of this prohibition is punishable by a maximum fine of $10,000, or imprisonment for not more than two years, or both.

31. *Striking against the Government* (15 U.S.C. 7311(3), 18 U.S.C. 1918(3))

An individual shall not accept or hold a position in the Government of the United States, if he or she participates in a strike against the Government.

Violation of this prohibition is punishable by a maximum fine of $1,000, or imprisonment for not more than one year and a day, or both.

Subpart C—Additional Canons of Conduct for Members

Sec.
1000.736-1 General policy.
1000.736-2 Maintaining independence.
1000.736-3 Official duties.
1000.736-4 Extra-official activities.
1000.736-5 Qualification to participate.

AUTHORITY: Sec. 6, 36 Stat. 915, as amended, secs. 12, 20, 24 Stat. 383, as amended, 386, as amended, sec. 25, 41 Stat. 498, as amended, sec. 220, 49 Stat. 563 as amended, sec. 313, 54 Stat. 944, as amended, sec. 412, 56 Stat. 294, as amended; 45 U.S.C. 29, 49 U.S.C. 12, 20, 26, 320, 913, 1012, 5 CFR Part 735.

§ 1000.736-1 General policy.

Members of the Interstate Commerce Commission should participate in establishing, maintaining, and enforcing, and should themselves observe, high standards of conduct so that the integrity and independence of the Commission may be preserved. The provisions of these canons should be construed and applied to further that objective. Members of the Commission shall observe the standards of personal conduct in the Canons of Conduct for Members and Employees as set forth in Subpart B of this part.

§ 1000.736-2 Maintaining independence.

Members should not allow their family, social, or other relationships to influence their official conduct or judgment. They should not lend the prestige of their office to advance the private interests of others; nor should members convey the impression that they are subject to influence by others. Members should not change or tailor their views to appease any particular interest or group.

§ 1000.736-3 Official duties.

(a) Official duties, both administative and adjudicative, should be carried out diligently and impartially. Insofar as it is consistent with the dignity and responsibilities of their official positions, members should maintain contact with the persons outside the agency who may be affected by their functions.

(b) Members have the obligation to urge the Congress, whenever necessary, to amend, modify, or repeal particular parts of the statutes they administer.

(c) The members' decision to investigate should be based only on the facts known to them and the reasonable inferences from those facts. A member should never suggest, vote for, or participate in an investigation for reasons of animus, prejudice, or vindictiveness.

(d) Members have the obligation to adopt rules necessary to carry out the national transportation policy. The rules should not be burdensome; on the other hand, necessary rules should be adopted, modified, or repealed as changing requirements demand.

§ 1000.736-4 Extra-official activities.

Members must not engage in any business, employment, or vocation while in office, nor may they use the power of their offices or the influence of their names to promote the business interests of others. Members may participate in nonbusiness endeavors, such as civic and charitable activities, that do not reflect adversely upon their impartiality or interfere with the performance of official duties.

§ 1000.736-5 Qualification to participate.

Members should disqualify themselves in any matter in which their impartiality might reasonably be questioned. They should weigh carefully the question of their qualification in any matter where they or their relatives or former business associates or clients are involved. If an interested person suggests that a member should disqualify himself or herself in a particular matter because of bias or prejudice, the member shall be the sole judge of his or her own qualification.

* * * * * *

Decided December 20, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2113 Filed 1-19-79; 8:45 am]

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federal register

MONDAY, JANUARY 22, 1979
PART VI



DEPARTMENT OF AGRICULTURE

Office of the Secretary

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NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

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[3410-01-M]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[7 CFR Part 15b]

PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Nondiscrimination on the Basis of Handicap

AGENCY: Department of Agriculture.

ACTION: Proposed rules.

SUMMARY: The Department of Agriculture proposes to add a new Part 15b to its rules and regulations contained in Title 7 of the Code of Federal Regulations. These rules are intended to implement section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 706, which provides that "no otherwise qualified individual • • • shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program receiving Federal financial assistance". The regulation defines and forbids acts of discrimination against qualified handicapped persons in employment and in operation of programs and activities receiving assistance from the Department. This rule is issued in accordance with the procedures, standards and guidelines, 45 CFR Part 85, effective January 13, 1978, implementing Executive Order 11914, "Nondiscrimination with Respect to the Handicapped in Federally Assisted Programs".

DATES: Comments must be received on or before April 23, 1979.

ADDRESS: Comments must be submitted to James Frazier, Director, Office of Equal Opportunity, U.S. Department of Agriculture, Washington, D.C. 20250, Phone: 202-447-4256.

Comments are available for public inspection in the Office of Equal Opportunity, Civil Rights Division, Room 4119, Auditor's Building, 201 14th Street, SW., Washington, D.C. 20250, Monday-Friday, 8:30 a.m. to 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

William C. Payne, Jr., Civil Rights Division, Office of Equal Opportunity, Washington, D.C. 20250, Phone: 202-447-7328 (Teletypewriter available).

SUPPLEMENTARY INFORMATION: Section 504 of the Rehabilitation Act of 1973 provides that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. On April 26, 1976, the president issued Executive Order 11914, under which the Department of Health, Education, and Welfare is required to coordinated governmentwide enforcement of section 504. As lead agency, HEW published its final regulation implementing section 504 on May 4, 1977. See 45 CFR Part 84. In accordance with Executive Order 11914, HEW issued on January 13, 1978, final standards, procedures and guidelines to be followed by each Federal agency in issuing section 504 regulations. See 45 CFR Part 85.

The rules proposed by this Department are intended to be consistent with the HEW standards and guidelines. Because the Department has many common recipients of Federal financial assistance with HEW, the proposed rules incorporate most of the HEW section 504 regulations.

The differences between the HEW regulations and the proposed rules are minor. The definition for "Secretary" and "Department" have been changed to reflect the Department of Agriculture. Throughout the rules, "Secretary" has been substituted for "Director".

The definition of "section 504," § 15b.3(c), the definition of "handicapped person," § 15d.3(k), and the sections on discrimination prohibited, § 15b.4(b)(iii), § 15b.4(b) and § 15b.4(e) reflect wording found in the more recent HEW guidelines. See 45 CFR Part 85.

Section 15b.6(C)(2) requires all recipients to keep records of their self-evaluation. the HEW regulations, on the other hand, require only recipients with 15 or more employees to keep such records. Since all recipients are required to complete a self-evaluation, we believe that all recipients should be required to maintain such records.

Consistent with the HEW regulations, on the other hand, require only recipients with 15 or more employees to keep such records. Since all recipients are required to complete a self-evaluation, we believe that all recipients should be required to maintain such records.

Consistent with the HEW guidelines, § 15b.8 impose a notification requirement on all recipients, § 15b.10 requires coordination of sections 502 and 503 of the Act and § 15b.11 requires interagency cooperation.

Except to the extent noted above, these regulations follow the language in HEW's regulations at 45 CFR Part 84.

A draft impact analysis which addresses regulatory options for implementing Section 504 of the Rehabilitation Act of 1973 is available upon request.

Copies of the regulations are also available on tape or in braille and will be provided upon request.

In consideration of the above, it is proposed that Part 15b be added to Title 7 of the Code of Federal Regulations to read as set forth below.

Dated: January 16, 1979.

BOB BERGLAND
Secretary.

PART 15b—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Subpart A—General Provisions

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Subpart A—General Provisions

§ 15b.1 Purpose.

The purpose of this part is to effectuate section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

§ 15b.2 Application.

This part applies to each recipient of Federal financial assistance from the Department of Agriculture and to each program or activity that receives or benefits from such assistance.

§ 15b.3 Definitions.

As used in this part, the term:

(a) "Executive Order" means Executive Order 11914, titled "Nondiscrimination with Respect to the Handicapped in Federally Assisted Programs," issued on April 28, 1976.

(b) "The Act" means the Rehabilitation Act of 1973, Pub. L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 29 U.S.C. 794.

(c) "Section 504" means section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 29 U.S.C. 794.

(d) "Education of the Handicapped Act" means that statute as amended by the Education for all Handicapped Children Act of 1975, Pub. L. 94-142, 20 U.S.C. 1401 et seq.

(e) "Department" means the Department of Agriculture and includes each of its operating agencies and other organizational units.

(f) "Secretary" means the Secretary of Agriculture or any officer or employee of the Department to whom the Secretary has heretofore delegated, or to whom the Secretary may hereafter delegate, the authority to act under the regulations in this part.

(g) "Recipient" means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(h) "Applicant for assistance" means one who submits an application, request, or plan required to be approved by a Department offical or by a recipient as a condition of becoming a recipient.

(i) "Federal financial assistance" means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), cooperative agreement, or any other arrangement by which the Department provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(j) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(k) "Handicapped Person." (1) "Handicapped persons" means any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.

(2) As used in paragraph (k)(1) of this section, the phrase:

(i) "Physical or mental impairment" means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness and drug addiction and alcoholism.

(ii) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(iii) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(iv) "Is regarded as having an impairment" means (A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairments, or (C) has none of the impairments defined in paragraph (k)(2)(i) of this section but is treated by a recipient as having such an impairment.

(l) "Qualified handicapped person" means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question;

(2) With respect to public preschool, elementary, secondary, or adult educational services, a handicapped person, (i) of an age during which nonhandicapped persons are provided such services, (ii) of any age during which it is mandatory under State law to provide such services to handicapped persons, or (iii) to whom a State is required to provide a free appropriate public education under section 612 of the Education of the Handicapped Act; and

(3) With respect to postsecondary and vocational education services, a handicapped person who meets the academic and technical standard requisite to admission or participation in the recipient's education program or activity;

(4) With respect to other services, a handicapped person who meets the essential eligibility requirements for the recipient of such services.

(m) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (k) of this section.

§ 15b.4 Discrimination prohibited.

(a) General. No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

(b) Discriminatory actions prohibited. (1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provides a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain

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the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped person unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipients program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(2) For purposes of this part, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.

(3) Despite the existence of separate or different programs or activities provided in accordance with this part, a recipient may not deny a qualified handicapped person the opportunity to participate in such programs or activities that are not separate or different.

(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(5) In determining the site or location of a facility, an applicant for assistance or a recipient may not make selections (i) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(6) As used in this section, the aid, benefit, or service provided under a program or activity receiving or benefiting from Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance.

(c) Programs limited by Federal law. The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

(d) Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

(e) Recipients shall take appropriate steps to ensure communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

§ 15b.5 Assurances required.

(a) *Assurances.* An applicant for Federal financial assistance for a program or activity to which this part applies shall submit an assurance, on a form specified by the Secretary, that the program will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to the Department.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases, the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Covenants.* (1) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (b)(2) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the covenant shall also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on the property for the purposes for which the property was transferred, the Secretary may, upon request of the transferee and if necessary to accomplish such financing and upon such conditions as the Secretary deems appropriate, agree to forebear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

§ 15b.6 Remedial action, voluntary action, and self-evaluation.

(a) *Remedial action.* (1) If the Secretary finds that a recipient has discriminated against persons on the basis of handicap in violation of section 504 of this part, the recipient shall take such remedial action as the Secretary deems necessary to overcome the effects of the discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of section 504 or this part and where another recipient exercises control over the recipient that has discriminated, the Secretary, where appropriate, may require either or both recipients to take remedial action.

(3) The Secretary may, where necessary to overcome the effects of discrimination in violation of section 504 or this part, require a recipient to take remedial action (i) with respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred or (ii) with respect to handicapped persons who would have been participants in the program had the discrimination not occurred.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped persons.

(c) *Self-evaluation.* (1) A recipient shall, within one year of the effective date of this part:

(i) Evaluate, with the assistance of interested persons, including handicapped or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this part;

(ii) Modify, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, any policies and practices that do not meet the requirements of this part; and

(iii) Take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Secretary upon request: (i) A list of the interested persons consulted, (ii) a description of areas examined and any problems identified, and (iii) a description of any modifications made and of any remedial steps taken.

§ 15b.7 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* A recipient that employs fifteen or more persons shall designate at least one person to coordinate its efforts to comply with this part.

(b) *Adoption of grievance procedures.* A recipient that employs fifteen or more persons shall adopt grievance procedures that incorporate appropriate due process for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to postsecondary educational institutions.

§ 15b.8 Notice.

(a) A recipient shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 or this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its programs and activities. The notification shall also include an identification of the responsible employee designated pursuant to § 15b.7(a). A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this part. Methods of initial and continuing notification may include but are not limited to the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publications, and distribution of memoranda or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of the paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

§ 15b.9 Administrative requirements for small recipients.

The Secretary may require any recipient with fewer than fifteen employees, or any class of such recipients, to comply with § 15b.7, in whole or in part, when the Secretary finds a violation of this part or finds that such compliance will not significantly impair the ability of the recipient or class of recipients to provide benefits or services.

§ 15b.10 Coordination with sections 502 and 503.

(a) Agencies and other organizational units within the Department shall consult with Architectural and Transportation Barriers Compliance Board in developing requirements for the accessibility of new facilities and alterations, as required in § 15b.19, and in enforcing such requirements with respect to facilities that are subject to section 502 of the Rehabilitation Act of 1973, as amended, as well as section 504.

(b) Agencies and other organizational units within the Department shall consult and coordinate with the Department of Labor in enforcing requirements concerning employment discrimination with respect to recipients that are also Federal contractors subject to section 503 of the Rehabilitation Act of 1973, as amended.

§ 15b.11 Interagency cooperation.

(a) Where each of a substantial number of recipients is receiving assistance for similar or related purposes from two or more agencies or where two or more agencies cooperate in administering assistance for a given class of recipients, the agencies shall (1) coordinate compliance with section 504 and (2) designate one of the agencies as the primary agency for section 504 compliance purposes.

(b) Any agency conducting a compliance review or investigating a complaint of an alleged section 504 violation shall notify any other affected agency upon discovery of its jurisdiction and shall inform it of the findings made. Reviews or investigations may be made on a joint basis.

§ 15b.12 Effect of State or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this part is not obviated or alleviated by the existence of any State or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

Subpart B—Employment Practices

§ 15b.13 Discrimination prohibited.

(a) General.

(1) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity receiving Federal financial assistance.

(2) A recipient that receives assistance under the Education of the Handicapped Act shall take positive steps to employ and advance in employment qualified handicapped persons in programs assisted under that Act.

(3) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that ad-

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versely affects their opportunities or status because of handicap.

(4) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. This includes relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(b) Specific activities. The provisions of this subpart apply to:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right to return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other condition, or privilege of employment.

(c) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

§ 15b.14 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include: (1) Making facilities used by employees readily accessible to and usable by handicapped persons, and (2) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(c) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physcial or mental limitations of the employee or applicant.

§ 15b.15 Employment criteria.

(a) A recipient may not make use of any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons unless:

(1) The test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question, and (2) alternative job-related tests or criteria that do not screen out or tend to screen out as many handicapped persons are not shown by the Secretary to be available.

(b) A recipient shall select and administer tests concerning employment so as best to ensure that when administered to an aplicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

§ 15b.16 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section. A recipient may not conduct a preemployment medical examination or may not make preemployment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to person job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 15b.6(a), when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 15b.6(b), or when a recipient is taking affirmative action pursuant to section 503 of the Act, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped *Provided,* That:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty. *Provided,* That: (1) All entering employees are subjected to such an examination regardless of handicap, and (2) the results of such an examination are used only in acccordance with the requirements of this part.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodation;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act shall be provided relevant information upon request.

Subpart C—Program Accessibility

§ 15b.17 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.

§ 15b.18 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each program or activity to which this part applies so that the program or activity when viewed in its entirety is readily accessible to and usable by handicapped persons. This paragraph does not necessarily require a recipient to make each of its existing facilities or every part of an existing facility accessible to and usable by handicapped persons.

(b) *Methods.* A recipient may comply with the requirement of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirement of § 15b.19, or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate.

(c) *Small health, welfare, or other social service providers.* If a recipient with fewer than fifteen employees that provides health, welfare, or other social services finds, after consultation with a handicapped person seeking its services, that there is no method of complying with paragraph (a) of this section other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible.

(d) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within sixty days of the effective date of this part except that where structural changes in facilities are necessary, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(e) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(f) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

§ 15b.19 New construction.

(a) *Design and construction.* Each facility or part of the facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by handicapped persons, if the construction was commenced after the effective date of this part.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) *American National Standards Institute accessibility standards.* Design, construction, or alteration of facilities in conformance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A117.1–1961)(R1971)),[1] which is incorporated by reference in this part, shall constitute compliance with paragraphs (a) and (b) of this section. Departures from particular requirements of those standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

Subpart D—Preschool, Elementary, and Secondary Education

§ 15b.20 Application of this subpart.

This subpart applies to preschool, elementary, secondary, and adult education programs and activities that receive or benefit from Federal financial assistance and to recipients that operate, or that receive or benefit from Federal financial assistance for the operation of, such programs or activities.

§ 15b.21 Location and notification.

A recipient that operates a public elementary or secondary education program shall annually:

(a) Undertake to identify and locate every qualified handicapped person residing in the recipient's jurisdiction who is not receiving a public education; and

(b) Take appropriate steps to notify handicapped persons and their parents or guardians of the recipient's duty under this subpart.

§ 15b.22 Free appropriate public education.

(a) General. A recipient that operates a public elementary or secondary education program shall provide a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction, regardless of the nature or severity of the persons's handicap.

(b) Appropriate education. (1) For the purpose of this subpart, the provision of an appropriate education is the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met and (ii) are based upon adherence to procedures that satisfy the requirements of § 15b.23, § 15b.24, and § 15b.25.

(2) Implementation of an individualized education program developed in accordance with the Education of the Handicapped Act is one means of meeting the standard established in paragraph (b)(1)(i) of this section.

(3) A recipient may place a handicapped person in or refer such person to a program other than the one that it operates as its means of carrying out the requirements of this subpart. If so, the recipient remains responsible for ensuring that the requirements of this subpart are met with respect to any handicapped person so placed or referred.

(c) *Free education*—(1) *General.* For the purpose of this section, the provision of a free education is the provision of educational and related services without cost to handicapped persons or their parents or guardians, except for those fees that are imposed on nonhandicapped persons or their parents or guardians. It may consist either of the provision of free services or, if a recipient places a handicapped person in or refers such person to a program not operated by the recipient as its means of carrying out the re-

[1] Copies obtainable from American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

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quirements of this subpart, or payment of the costs of the program. Funds available from any public or private agency may be used to meet the requirements of this subpart. Nothing in this section shall be construed to relieve an insurer or similar third party from an otherwise valid obligation to provide or pay for services provided to a handicapped person.

(2) *Transportation.* If a recipient places handicapped persons in or refers such persons to a program not operated by the recipient as its means of carrying out the requirements of this subpart, the recipient shall ensure that adequate transportation to and from the program is provided at no greater cost than would be incurred by the persons or their parents or guardians if the persons were placed in the program operated by the recipient.

(3) *Residential placement.* If placement in a public or private residential program is necessary to provide a free appropriate public education to handicapped persons because of their handicap, the program, including nonmedical care and room and board, shall be provided at no cost to the persons or their parents or guardians.

(4) *Placement of handicapped persons by parents.* If a recipient has made available in conformance with the requirements of this section and § 15b.23, a free appropriate public education to a handicapped person and the person's parents or guardian choose to place the person in a private school, the recipient is not required to pay for the person's education in the private school. Disagreements between a parent or guardian and a recipient regarding whether the recipient has made such a program available or otherwise regarding the question of financial responsibility are subject to the due process procedures of § 15b.25

(d) *Compliance.* A recipient may not exclude any qualified handicapped person from a public elementary or secondary education after the effective date of this part.

§ 15b.23 Educational setting.

(a) *Academic setting.* A recipient to which this subpart applies shall educate, or shall provide for the education of each qualified handicapped person in its jurisdiction with persons who are not handicapped to the maximum extent appropriate to the needs of the handicapped person. A recipient shall place a handicapped person in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Whenever a recipient places a person in a setting other than the regular educational environment pursuant to this paragraph, it shall take into account the proximity of the alternate setting to the person's home.

(b) *Nonacademic setting.* In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in § 15b.26(a)(2), a recipient shall ensure that handicapped persons participate with nonhandicapped persons in such activities and services to the maximum extent appropriate to the needs of the handicapped person in question.

(c) *Comparable facilities.* If a recipient, in compliance with paragraph (a) of this section, operates a facility that is identifiable as being for handicapped persons, the recipient shall ensure that the facility and the services and activities provided therein are comparable to the other facilities, services, and activities of the recipient.

§ 15b.24 Evaluation and placement.

(a) *Placement evaluation.* A recipient that operates a public elementary or secondary education program shall conduct an evaluation in accordance with the requirements of paragraph (b) of this seciton of any person who, because of handicap, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in a regular or special education program and any subsequent significant change in placement.

(b) *Evaluation procedures.* A recipient to which this subpart applies shall establish standards and procedures for the evaluations and placement of persons who, because of handicap, need or are believed to need special education or related services which ensure that:

(1) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;

(2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and

(3) Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

(c) *Placement procedures.* In interpreting evaluation data and in making placement decisions, a recipient shall (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and (4) ensure that the placement decision is made in conformity with § 15b.23.

(d) *Reevaluation.* A recipient to which this section applies shall establish procedures, in accordance with paragraph (b) of this section, for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act is one means of meeting this requirement.

§ 15b.25 Procedural safeguards.

A recipient that operates a public elementary or secondary education program shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of seciton 615 of the Education of the Handicapped Act is one means of meeting this requirement.

§ 15b.26 Nonacademic services.

(a) *General.* (1) A recipient to which this subpart applies shall provide nonacademic and extracurricular services and activities in such manner as is necessary to afford handicapped students an equal opportunity for participation in such services and activities.

(2) Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipient, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance in making available outside employment.

(b) *Counseling services.* A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities.

(c) *Physical education and athletics.* (1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors interscholastic, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation in these activities.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different from those offered to nonhandicapped students only if separation of differentiation is consistent with the requirements of § 15b.23 and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate of different.

§ 15b.27 Preschool and adult education programs.

A recipient to which this subpart applies that operates a preschool education or day care program or activity or an adult education program or activity may not, on the basis of handicap, exclude qualified handicapped persons from the program or activity and shall take into account the needs of such persons in determining the aid, benefits, or services to be provided under the program or activity.

§ 15b.28 Private education programs.

(a) A recipient that operates a private elementary or secondary education program may not, on the basis of handicap, exclude a qualified handicapped person from such program if the person can, with minor adjustments, be provided an appropriate education, as defined in § 15b.22(b)(1), within the recipient's program.

(b) A recipient to which this section applies may not charge more for the provision of an appropriate education to handicapped persons than to nonhandicapped persons except to the extent that any additional charge is justified by a substantial increase in cost to the recipient.

(c) A recipient to which this section applies that operates special education programs shall operate such programs in accordance with the provisions of § 15b.24 and § 15b.25. Each recipient to which this section applies is subject to the provisions of §§ 15b.23, 15b.26 and 15b.27.

Subpart E—Postsecondary Education

§ 15b.29 Application of this subpart.

This Subpart E applies to postsecondary education programs and activities, including postsecondary vocational education programs and activities, that receive or benefit from Federal financial assistance and to recipients that operate, or that receive or benefit from Federal financial assistance for the operation of, such programs or activities.

§ 15b.30 Admissions and recruitment.

(a) *General.* Qualified handicapped persons may not, on the basis of handicap, be denied admission or be subjected to discrimination in admission or recruitment by a recipient to which this subpart applies.

(b) *Admissions.* In administering its admission policies, a recipient to which this subpart applies:

(1) May not apply limitations upon the number or proportion of handicapped persons who may be admitted;

(2) May not make use of any test or criterion for admission that has a disproportionate, adverse effect on handicapped persons or any class of handicapped persons unless (i) the test or criterion, as used by the recipient, has been validated as a predictor of success in the education program or activity in question and (ii) alternate tests or criteria that have a less disproportionate, adverse effect are not shown by the Secretary to be available;

(3) Shall assure itself that (i) admissions tests are selected and administered so as best to ensure that, when a test is administered to an applicant who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the applicant's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure); (ii) admissions tests that are designed for persons with impaired sensory, manual, or speaking skills are offered as often and in as timely a manner as are other admissions tests; and (iii) admissions tests are administered in facilities that, on the whole, are accessible to handicapped persons; and

(4) Except as provided in paragraph (c) of this section, may not make preadmission inquiry as to whether an applicant for admission is a handicapped person but, after admission, may make inquiries on a confidential basis as to handicaps that may require accommodation.

(c) *Preadmission inquiry exception.* When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 15b.6(a) or when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 15b.6(b), the recipient may invite applicants for admissions to indicate whether and to what extent they are handicapped; *Provided,* That:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will be used only in accordance with this part.

(d) *Validity studies.* For the purpose of paragraph (c)(2) of this section, a recipient may base prediction equations on first year grades, but shall conduct periodic validity studies against the criterion of overall success in the education program or activity in question in order to monitor the general validity of the test scores.

§ 15b.31 Treatment of students; general.

(a) No qualified handicapped student shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, research, occupational training, housing, health, insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, or other postsecondary education program or activity to which this subpart applies.

(b) A recipient to which this subpart applies that considers participation by students in education program or activities not operated wholly by the recipient as part of, or equivalent to, an education program or activity operated by the recipient shall assure itself that the other education program or activity, as a whole, provides an equal opportunity for the participation of qualified handicapped persons.

(c) A recipient to which this subpart applies may not, on the basis of handicap, exclude any qualified handi-

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capped student from any course of study, or other part of its education program or activity.

(d) A recipient to which this subpart applies shall operate its programs and activities in the most integrated setting appropriate.

§ 15b.32 Academic adjustments.

(a) *Academic requirements.* A recipient to which this subpart applies shall make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of handicap, against a qualified handicapped applicant or student. Academic requirements that the recipient can demonstrate are essential to the program of instruction being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this section. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted.

(b) *Other rules.* A recipient to which this subpart applies may not impose upon handicapped students other rules, such as the prohibition of tape recorders in classrooms or of dog guides in campus buildings, that have the effect of limiting the participation of handicapped students in the recipient's education program or activity.

(c) *Course examinations.* In its examinations or other procedures for evaluating students' academic achievement in its program, a recipient to which this subpart applies shall provide such methods for evaluating the achievement of students who have a handicap that impairs sensory, manual, or speaking skills as will best ensure that the results of the evaluation represents the student's achievement in the course, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where such skills are the factors that the test purports to measure).

(d) *Auxiliary aids.* (1) A recipient to which this subpart applies shall take such steps as are necessary to ensure that no handicapped student is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the education program or activity operated by the recipient because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

(2) Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted by use by students with manual impairments, and other similar services and actions. Recipients need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

§ 15b.33 Housing.

(a) Housing providing by the recipient. A recipient that provides housing to its nonhandicapped students shall provide comparable, convenient, and accessible housing to handicapped students at the same cost as to others. At the end of the transition period provided for in Subpart C of this part, such housing shall be available in sufficient quantity and variety so that the scope of handicapped students' choice of living accommodation is, as a whole, comparable to that of nonhandicapped students.

(b) *Other housing.* A recipient that assists any agency, organization, or person in making housing available to any of its students shall take such action as may be necessary to assure itself that such housing is, as a whole, made available in a manner that does not result in discrimination on the basis of handicap.

§ 15b.34 Financial and employment assistance to students.

(a) *Provision of financial assistance.* (1) In providing financial assistance of qualified handicapped persons, a recipient to which this subpart applies may not (i), on the basis of handicap, provide less assistance than is provided to nonhandicapped persons, limit eligibility for assistance, or otherwise discriminate or (ii) assist any entity or person that provides assistance to any of the recipient's students in a manner that discriminates against qualified handicapped persons on the basis of handicap.

(2) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established under wills, trusts, bequests, or similar legal instruments that require awards to be made on the basis of factors that discriminate or have the effect of discriminating on the basis of handicap only if the overall effect of the award of scholarships, fellowships, and other forms of financial assistance is not discriminatory on the basis of handicap.

(b) *Assistance in making available outside employment.* A recipient that assists any agency, organization, or person in providing employment opportunities to any of its students shall assure itself that such employment opportunities, as a whole, are made available in a manner that would not violate Subpart B if they were provided by the recipient.

(c) *Employment of students by recipients.* A recipient that employs any of its students may not do so in a manner that violates Subpart B.

§ 15b.35 Nonacademic services.

(a) *Physical education and athletics.* (1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors intercollegiate, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation in these activities.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different only if separation or diffferentiation is consistent with the requirements of § 15b.31(d) and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

(b) *Counseling and placement services.* A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities. This requirement does not preclude a recipient from providing factual information about licensing and certification requirements that may present obstacles to handicapped persons in their pursuit of particular careers.

(c) *Social organizations.* A recipient that provides significant assistance to fraternities, sororities, or similar organizations shall assure itself that the membership practices of such organizations do not permit discrimination otherwise prohibited by this subpart.

Subpart F—Health, Welfare, Social and Other Services

§ 15b.36 Application of this subpart.

This Subpart F applies to health, welfare, social and other programs and activities that receive or benefit from Federal financial assistance and to recipients that operate, or that receive or benefit from Federal financial assistance for the operation of such programs or activities.

§ 15b.37 Health, Welfare, Social and Other Services.

(a) *General.* In providing health, welfare, social and other services or benefits, a recipient may not, on the basis of handicap:

(1) Deny a qualified handicapped person these benefits or services;

(2) Afford a qualified handicapped person an opportunity to receive benefits or services that is not equal to that offered nonhandicapped persons;

(3) Provide a qualified handicapped person with benefits or services that are not as effective (as defined in § 15b.4(b)) as the benefits or services provided to others;

(4) Provide benefits or services in a manner that limits or has the effect of limiting the participation of qualified handicapped persons; or

(5) Provide different or separate benefits or services to handicapped persons except where necessary to provide qualified handicapped persons with benefits and services that are as effective as those provided to others.

(b) *Notice.* A recipient that provides notice concerning benefits or services or written material concerning waivers of rights or consent to treatment shall take such steps as are necessary to ensure that qualified handicapped persons, including those with impaired sensory or speaking skills, are not denied effective notice because of their handicap.

(c) *Emergency treatment for the hearing impaired.* A recipient hospital that provides health services or benefits shall establish a procedure for effective communication with persons with impaired hearing for the purpose of providing emergency health care.

(d) *Auxiliary aids.* (1) A recipient to which this subpart applies that employs fifteen or more persons shall provide appropriate auxiliary aids to persons with impaired sensory, manual, or speaking skills, where necessary to afford such persons an equal opportunity to benefit from the service in question.

(2) The Secretary may require recipients with fewer than fifteen employees to provide auxiliary aids where the provision of aids would not significantly impair the ability of the recipient to provide its benefits or services.

(3) For the purpose of this paragraph, auxiliary aids may include brailled and taped material, interpreters, and other aids for persons with impaired hearing or vision.

§ 15b.38 Drug and alcohol addicts.

A recipient to which this subpart applies that operates a general hospital or outpatient facility may not discriminate in admission or treatment against a drug or alcohol abuser or alcoholic who is suffering from a medical condition, because of the person's drug or alcohol abuse or alcoholism.

§ 15b.39 Education of institutionalized persons.

A recipient to which this subpart applies and that operates or supervises a program or activity for persons who are institutionalized because of handicap shall ensure that each qualified handicapped person, as defined in § 15b.3(k)(2), in its program, or activity is provided an appropriate education, as defined in § 15b.22(b). Nothing in this section shall be interpreted as altering in any way the obligations of recipients under Subpart D of this part.

Subpart G—Procedures

§ 15b.40 Procedures.

The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in 7 CFR 15.5—15.11 and 7 CFR 15.60 et seq.

[FR Doc. 79-2158 Filed 1-19-79; 8:45 am]

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federal register

MONDAY, JANUARY 22, 1979
PART VII



DEPARTMENT OF ENERGY

Office of Energy Research

UNIVERSITY COAL RESEARCH LABORATORIES PROGRAM

Proposed Rulemaking and Public Hearing Regarding Policies and Procedures

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[6450-01-M]

DEPARTMENT OF ENERGY

Office of Energy Research

[10 CFR Part 320]

UNIVERSITY COAL RESEARCH LABORATORIES PROGRAM

Proposed Rulemaking and Public Hearing Regarding Policies and Procedures for the University Coal Research Laboratories Program

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy proposes to establish the policies and procedures to be followed in the selection and designation of thirteen university coal research laboratories as authorized by Title VIII of Pub. L. 95-87, the Surface Mining Control and Reclamation Act of 1977, as amended by Title VI, Section 604 of Pub. L. 95-617, the Public Utilities Regulatory Policies Act of 1978. The university coal research laboratories are established for the purpose of carrying out advanced research and training related to one or more problems of coal energy resources and conversion. At least one of the coal laboratories so designated must be located within each of the major coal provinces of the United States, including Alaska, but no more than one per state. Ten of the thirteen laboratories authorized must be located in states with abundant coal reserves and all the laboratories must be administered by institutions of higher education with experience and expertise in coal research and with the capacity to establish and operate the coal laboratory. The proposed regulation includes definitions and interpretations of terms included in the authorizing legislation, discussion of proposed eligibility, selection, and evaluation criteria, funding and administrative information necessary for the preparation and submission of proposals for grants for the establishment of university coal research laboratories.

DATES: Comments must be received by March 19, 1979, 5:00 p.m., E.S.T.; The proposed effective date of the regulation would be 30 days after publication of the final regulation. The national hearing shall be held on February 23, 1979, 9:30 a.m., E.S.T., in Room 3000A, Federal Building, 12th and Pensylvania Avenue, N.W. Washington, D.C.

ADDRESSES: Send comments and requests to speak to the University Coal Research Laboratories Program, Office of Field Operations Management, Office of Energy Research, Department of Energy, 400 First Street, N.W., Room 501, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

Richard E. Stephens, Director, Division of Institutional Programs, Office of Field Operations Management, Office of Energy Research, Department of Energy, 400 First Street, N.W., Room 501, Washington, D.C. 20545, 202-376-9387 or 376-9188.

SUPPLEMENTARY INFORMATION:

I. Introduction

This regulation proposes to add a new part 320 to Subchapter B, Chapter II of Title 10 of the Code of Federal Regulations.

Title VIII of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87, as amended by Section 604 of the Public Utilities Regulatory Policies Act of 1978, Pub. L. 95-617, (hereafter referred to as the Act) authorizes the Administrator of the Energy Research and Development Administration (ERDA) to designate thirteen institutions of higher education at which university coal research laboratories will be established and operated. Section 301 of the Department of Energy Organization Act, Pub. L. 95-91 transferred to the Secretary of Energy all functions of the Administrator of ERDA with respect to the University Coal Research Laboratories Program.

The Congress in passing Title VIII of Pub. L. 95-87 recognized that the increased utilization of coal as an alternative energy source to petroleum and natural gas was to be of critical importance in assuring adequate future energy supplies for the Nation. The increase in coal utilization is dependent in part on increased scientific and technical understanding of various problems associated with the mining, processing and conversion of coal for energy purposes and the related need to assure an adequate supply of highly trained professional manpower for future energy-related programs in the public and private sectors. The Congress determined that these could be met in part through the increased participation and involvement of institutions of higher education in coal-related research and manpower development.

The University Coal Research Laboratories Program, as authorized in the Act, is designed to expand opportunities for coal research at institutions of higher education and through participation in such research, to develop new professional manpower for future energy-related programs.

In order to carry out these purposes, thirteen institutions of higher education are to be designated by the Department of Energy (DOE) as locations for the establishment and operation of university coal research laboratories. These laboratories are to conduct advanced research on selected problems in the extraction and utilization of coal resources. This research may involve the combined efforts of specialists from different academic disciplines and expertise and be directed at one or more specific coal research problems. Each designated laboratory is to be responsible for developing close and productive relationships with the private sector, other academic institutions, state and local government, and public groups to insure the exchange of information on the results of their laboratory research. Test facilities for the characterization of coal are also to be established at each laboratory to work in close cooperation with private industry. In addition, each laboratory is to develop programs for the training of students engaged in advanced study in disciplines related to coal as a source of energy.

II. General Comments

In implementing the provisions of this legislation, DOE has considered the potential roles of the university coal research laboratories in relation to other ongoing coal research supported by DOE with academic institutions, the DOE laboratories and private industry. DOE's extensive current coal research program is focused on numerous scientific and technical problems related to coal utilization. Recognizing that full public participation in the preliminary planning for the university coal research laboratories program will improve the ultimate quality and substance of this program, the DOE has consulted extensively with university scientists and administrators, representatives of the coal producing and user industry, and others interested in the proposed program. Five public meetings were held across the country in FY 1978 at which numerous suggestions and recommendations were made on the future development of this program. These recommendations have been carefully considered in the preparation of these proposed regulations.

In addition, DOE has received significant assistance in preparing these proposed regulations from the National Academy of Engineering. At the request of DOE, the Academy established a special committee of coal research experts from universities, industry and other Federal agencies to advise DOE on the prospective role of the university coal research laboratories and the criteria to be used by DOE in the selection and designation of these laboratories. The preliminary deliberations from this Academy Committee have been useful to DOE in the preparation of the proposed regulations and the final report of the Committee will provide further guidance to DOE in the implementation of the UCL Program.

Development of the University Coal Research Laboratories Program has involved the planning and preparation of program regulations governing the designation of the university coal research laboratories and the ultimate awarding of grants to implement these laboratory activities. Appropriations for the Program were not requested in FY 1979 since the time required for orderly development of the regulations would preclude grant awards before FY 1980. The next key milestones in the futher development of the program will include the issuance of the final regulations after receiving public comments and the publication of a Program Announcement to solicit proposals from institutions of higher education interested in and capable of operating coal research laboratories. Following the review and evaluation of these proposals, DOE will designate thirteen institutions of higher education at which University coal research laboratories will be established and operated. DOE funding of the designated laboratories will be subject to the availability of appropriations to the program in the FY 1980 budget and in subsequent years.

III. The Proposed Regulation

The proposed regulation describes the purpose and scope of the University Coal Research Laboratories Program, the eligibility requirements, proposed evaluation and selection criteria, the contents of and review procedures for proposals, and plans for continuing operation of the program.

Section 320.2 provides definitions for key terms in the University Coal Research Laboratories Program. Particular attention should be paid to the definitions of abundant coal reserves, major coal provinces, and institutions of higher education. For further reference and guidance, it is also suggested that interested parties consult the following technical references:

Demonstrate Coal Reserve Base of the United States on January 1, 1976. Table 2, U.S. Bureau of Mines, Division of Coal, August 1977.

PACER—Data Entry, Retrieval and Update for the National Coal Resource Data System, Phase I, Figure 2, Coal Provinces of the Coterminous United States. U.S. Geological Survey Professional Paper 978, 1978.

The eligibility requirements for the program are included in Section 320.7. The definition of the term "institution of higher educatrion" is significant to this section as is the requirement to certify sources, availability and commitment of cost-sharing funds to meet requirements stipulated in Sections 802(b) and 804(b) of the Act. Information is also presented on the acceptability of consortium proposals.

Sections 320.8 and 320.9 provide requirements for proposal content and application procedures for the submission of proposals by eligible insitutions of higher education following the issuance of a Program Announcement by DOE. The Act specifies that 90 days shall be available for the preparation and submission of these proposals. Information is presented on the evaluation and selection procedures to be followed by the Department upon receipt of proposals. All eligible proposals will be reviewed, evaluated, and ranked by a technical review panel in accordance with the evaluation criteria of Section 320.11. Following the completion of the review and evaluation process and the consideration of programmatic factors (Section 320.12), DOE will designate the thirteen institutions at which university coal research laboratories will be established and operated (Section 320.10). These designations will be made within 90 days from the submission of porposals.

Section 320.11 lists the evaluation criteria against which the proposals will be reviewed and ranked. These criteria shall include but not necessarily be limited to: (a) Understanding of the Objectives of the UCL Program and Functions of the UCL; (b) Qualifications of the Eligible Institution; (c) Scientific and Technical Merit of the Proposed Program; (d) Program Management Plans; and (e) Fiscal Management.

Following the designation of the thirteen laboratories and subject to the availability of funds, DOE will initiate the grant award process. As described in Section 320.13, specific funding to be provided each laboratory will depend on such factors as the availability of appropriated funds, the nature and proposed costs of each designated laboratory's program and DOE administrative judgment. Awards will be made as grants following the procedures developed in the DOE *Federal Assistance Regulation*. The proposed DOE *Federal Assistance Regulation* was published in 43 FR 36962 on August 4, 1978.

Proposed Section 320.14 lists the limitations on the funding any coal research laboratory may receive as specified by the Act. Depending on the level of appropriated funds, DOE allocation of funds to the UCL's will be in accordance with the following priorities: (a) research operating expenses; (b) movable research equipment; and (c) construction of facilities and related acquisition of fixed equipment and startup costs.

Procedures for continuation awards are included in proposed Section 320.15. Tentative budget levels for subsequent year operations of the designated laboratories will be agreed to for planning purposes by DOE and the individual laboratories at the outset of the program. Specific funding levels for each coal laboratory in subsequent years will depend on program performance, proposed research and program plans for the next program year and the availability of approrpriated funds.

DOE's interpretation of the Act's cost sharing requirements is included in proposed Section 320.16. Specifically, 50 percent cost sharing is required for the operating expenses portion of each laboratory's program. Such cost-sharing must be in cash, in property, or in service of equivalent value. Proposers must certify as to the source, availability, and commitment of cost-sharing funds.

Subsequent sections of the proposed regulation provide for the allocation of invention and patent rights under the program. The preparation of reports and dissemination of information and the termination of the overall program if the present authorization is not extended beyond FY 1984.

IV. Opportunity for Public Comment

Interested individuals and groups are invited to submit written comments with respect to the proposed regulation to the University Coal Research Laboratories Program, Office of Field Operations Management, Office of Energy Research, Department of Energy, 400 First Street, Rm. 501, Washington, D.C. 20545. All comments and related information should be received by March 19, 1979, in order to ensure consideration.

A public hearing on the proposed regulation will be held at 9:30 a.m. on February 23, 1979, in Room 3000A, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., to receive oral presentations from interested persons. Any person who has an interest in the proposed regulation may make a written request for an opportunity to make an oral presentation or to ask specific questions about this proposed regulation. Such a request must be received not later than three days prior to the public hearing.

Conduct of Hearings. DOE reserves the right to arrange the schedule of presentations to be heard at the public hearing and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated as presiding officer to chair the hearing. This will not be a judicial or evidentiary-type hearing. Any participant who wishes to ask a question at the

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hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and material, and whether the time limitations permit it to be presented for answer. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, NW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In accordance with DOE's obligations under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., an evaluation of the potential environmental impacts of the proposed regulation has been prepared by DOE. Based on an environmental assessment of the proposed regulation, DOE has determined that this regulation will not constitute a major Federal action having a significant effect on the quality of the human environment. Accordingly, an environmental impact statement will not be prepared. However, DOE has an obligation to review specific programs proposed for funding under this regulation and determine whether a site-specific environmental review is required.

In accordance with its plans for implementing Executive Order 12044, Improving Government Regulations (43 FR 18634, May 1, 1978) DOE has determined that this proposed regulation is significant because Congress and the DOE regard expanded utilization of coal to be of widespread concern and that the proposed University Coal Research Laboratories can make important contributions to this national objective. DOE has also determined that this proposed regulation will have no major economic impacts, as defined in DOE Order 2030.1, December 12, 1978, and that a regulatory analysis of this program is not required.

V. Text of the Authorizing Legislation

For convenience, the texts of the provisions of Title VIII of the Surface Mining Control and Reclamation Act and the amending legislation authorizing the University Coal Research Laboratories Program are reprinted below.

SURFACE MINING ACT—TITLE VIII—UNIVERSITY COAL RESEARCH LABORATORIES

Establishment of University Coal Research Laboratories

Section 801(a). The Administrator, Energy Research and Develop Administration (hereafter referred to as "Administrator" in this title), after consultation with the National Academy of Engineering, is authorized and directed to designate ten institutions of higher education at which university coal research laboratories will be established and operated.

(b) In making designations under this section, the Administrator shall consider the following criteria:

(1) The institution of higher education shall be located in a State with abundant coal reserves.

(2) The institution of higher education shall have experience in coal research, expertise in several areas of coal research, and potential or currently active, outstanding programs in coal research.

(3) The institution of higher education has the capacity to establish and operate the coal laboratories to be assisted under this title.

(c) Not more than one coal laboratory established pursuant to this title shall be located in a single State and at least one coal laboratory shall be established within each of the major coal provinces recognized by the Bureau of Mines, including Alaska.

(d) The Administrator shall establish a period, not in excess of ninety days after the date of enactment of this Act, for the submission of applications for designation under this section. Any institution of higher education desiring to be designated under this title shall submit an application to the Administrator in such form, at such time, and containing or accompanied by such information as the Administrator may reasonably require. Each application shall—

(1) describe the facilities to be established for coal energy resources and conversion research and research on related environmental problems including facilities for interdisciplinary academic research projects by the combined efforts of specialists such as mining engineers, mineral engineers, geochemists, mineralogists, mineral economists, fuel scientists, combustion engineers, mineral preparation engineers, coal petrographers, geologists, chemical engineers, civil engineers, mechanical engineers, and ecologists;

(2) set forth a program for the establishment of a test laboratory for coal characterization which, in addition, may be used as a site for the exchange of coal research activities by representatives of private industry engaged in coal research and characterization;

(3) set forth a program for providing research and development activities for students engaged in advanced study in any discipline which is related to the development of adequate energy supplies in the United States. The research laboratory shall be associated with an ongoing educational and research program on extraction and utilization of coal.

(e) The Administrator shall designate the ten institutions of higher education under this section not later than ninety days after the date on which such applications are to be submitted.

FINANCIAL ASSISTANCE

Sec. 802(a) The Administrator is authorized to make grants to any institution of higher education designated under section 801 to pay the Federal share of the cost of establishing (including the construction of such facilities as may be necessary) and maintaining a coal laboratory.

(b) Each institution of higher education designated pursuant to section 801 shall submit an application to the Administrator. Each such applicant shall—

(1) set forth the program to be conducted at the coal laboratory which includes the purposes set forth in § 801(d);

(2) provide assurances that the university will pay from non-Federal sources the remaining costs of carrying out the program set forth;

(3) provide such fiscal control and funds accounting procedures as may be necessary to assure the proper disbursement of an accounting for Federal funds received under this title;

(4) provide for making an annual report which shall include a description of the activities conducted at the coal laboratory and an evaluation of the success of such activities, and such other necessary reports in such form and containing such information as the Administrator may require, and for keeping such records and affording such access thereto as may be necessary to assure the correctness and verification of such reports; and

(5) set forth such policies and procedures as will insure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available for the purposes of the activities described in subsections 801(d)(1), (2), and (3), and in no case supplant such funds.

Limitation of Payments

Sec. 803(a) No institutions of higher education may receive more than $4,000,000 for the construction of its coal research laboratory, including initially installed fixed equipment, nor may it receive more than $1,5,000,000 for initially installed movable equipment, nor may it receive more than $500,000 for new program startup expenses.

(b) No institution of higher education may receive more than $1,500,000 per year from the Federal Government for operating expenses.

Payments

Sec. 804(a) From amounts appropriated pursuant to section 806, the Administrators shall pay to each institution of higher education having an application approved under this title an amount equal to the Federal share of the cost of carrying out that application. Such payments may be in installments, by way of reimbursement, or by way of advance with necessary adjustments on account of underpayments or overpayments.

(b) The Federal share of operating expenses for any fiscal year shall not exceed 50 per centum of the cost of the operation of a coal research laboratory.

Advisory Council on Coal Research

Sec. 805 (a) There is established an Advisory Council on Coal Research which shall be composed of

(1) The Administrator ERDA, Who shall be Chairman;

(2) The Director of the Bureau of Mines of the Department of the Interior;

(3) The President of the National Academy of Sciences;

(4) The President of the National Academy of Engineering;

(5) The Director of the United States Geological Survey; and

(6) Six members appointed by the Administrator from among individuals who, by virtue of experience or training, are knowledgeable in the field of coal research and mining, and who are representatives of institutions of higher education, industrial users of coal and coal-derived fuels, the coal industry, mine workers, non-industrial consumer groups, and institutions concerned with the preservation of the environment.

(b) The Advisory Council shall advise the Administrator with respect to the general administration of this title, and furnish such additional advice as he may request.

(c) The Advisory Council shall make an annual report of its findings and recommendations (including recommendations for changes in the provisions of this title) to the President not later than December 31 of each calendar year. The President shall transmit each such report to the Congress.

(d)(1) Members of the Council who are not regular officers or employees of the United States Government shall, while serving on business of the Council, be entitled to receive compensation at rates fixed by the Administrator but not exceeding the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) Members of the Council who are officers or employees of the Government shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties on the Council.

(e) Whenever a member of the Council appointed under clauses (1) through (5) is unable to attend a meeting, that member shall appoint an appropriate alternate to represent him for that meeting.

Authorization of Appropriations

Sec. 806. There are authorized to be appropriated not to exceed $30,000,000 for the fiscal year ending September 30, 1979 (including the cost of construction, equipment, and startup expenses), and $7,500,000 beginning with the fiscal year 1980 each fiscal year thereafter through the fiscal year ending June 30, 1983, to carry out the provisions of this title.

PUBLIC UTILITY REGULATORY POLICIES ACT

Section 604. Coal Research Laboratories

(a) Designation—So much of section 801 of the Surface Mining Control and Reclamation Act of 1977 as precedes subsection (b) of paragraph (2) thereof is amended to read as follows: "Establishment of University Coal Research Laboratories"

"Sec. 801(a) The Secretary of Energy, after consultation with the National Academy of Engineering, shall designate thirteen institutions of higher education at which university coal research laboratories will be established and operated. Ten such designations shall be made as provided in subsection (e) and the remaining three shall be made in fiscal year 1980.

"(b) In making designations under this section, the Administrator shall consider the following criteria:

"(1) Those ten institutions of higher education designated as provided in subsection (e) shall be located in a State with abundant coal reserves."

(b) Authorization of Appropriations—Section 806 of such Act is amended to read as follows:

Authorization of Appropriations

Sec. 806(a) For the ten institutions referred to in the last sentence of section 801(a), there are authorized to be appropriated not to exceed $30,000,000 for the fiscal year ending September 30, 1979 (including the cost of construction, equipment, and startup expenses), and not to exceed $7,500,000 for the fiscal year 1980 and for each fiscal year thereafter through the fiscal year ending before October 1, 1984, to carry out the provisions of this title.

(b) For the three remaining institutions referred to in the last sentence of section 801(a), there are authorized to be appropriated not to exceed $6,500,000 for the fiscal year 1980 (including the cost of construction, equipment, and startup expenses), and not to exceed $2,000,000 for each fiscal year after fiscal year 1980 ending before October 1, 1984, to carry out the provisions of this title.

(c) Conforming Amendment—Title VIII of such Act is amended by striking out the terms "Administrator" and "Administrator, ERDA" in each place they appear and substituting "Secretary of Energy" in each such place.

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10 of the Code of Federal Regulations by establishing Part 320 as set forth below.

Issued in Washington, D.C., January 17, 1979.

JOHN M. DEUTCH,
Director of Energy Research.

Subchapter B, Chapter II of Title 10 is amended by establishing Part 320 as follows:

PART 320—UNIVERSITY COAL RESEARCH LABORATORIES PROGRAM

Sec.

320.1 Purpose and scope.
320.2 Definitions.
320.3 Establishment of the program.
320.4 Program objectives.
320.5 Functions of a university coal research laboratory.
320.6. Management.
320.7 Eligibility requirements.
320.8 Content of application.
320.9 Application Procedures.
320.10 Evaluation and selection Procedures.
320.11 Evaluation criteria.
320.12 Programmatic factors.
320.13 Program implementation.
320.14 Limitations on the use of funds.
320.15 Program continuation.
320.16 Cost sharing.
320.17 General requirements.
320.18 Inventions and patents.
320.19 Reporting and dissemination of information.
320.20 Proposal information.
320.21 UCL program termination.

AUTHORITY: Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87, Title VIII, as amended by the Public Utili-

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ties Regulatory Policies Act of 1978, Pub. L. 95-617, Titie VI, Sec. 604, Department of Energy Organization Act, Pub. L. 95-91, Section 644, et seq.

§ 320.1 Purpose and scope.

This part contains the requirements for the conduct of a University Coal Research Laboratories Program, the selection of thirteen institutions of higher education at which the laboratories are to be located and grant awards to establish the laboratories as authorized by Title VIII, Section 801 of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87) as amended.

§ 320.2 Definitions.

As used in this chapter, the term—

(a) "Abundant Coal Reserves" means a state with a demonstrated coal reserve base in excess of 1.5 billion tons.

(b) "Act" means the Surface Mining Control and Reclamation Act of 1977, as amended by the Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, Title VI, Sec. 604, Coal Research Laboratories.

(c) "Coal Research" means research that will advance efforts to expand the use of coal as a source of energy. The research may include, but not necessarily be restricted to, investigations relating to resource development, mining, beneficiation, direct utilization, conversion, environmental and health effects, transportation, and institutional impacts. The research may relate to coal of any rank and grade.

(d) "DOE" means the Department of Energy.

(e) "DOE Selection Official" means the Secretary of Energy or his designee vested with the final authority and responsibility to select and designate the University Coal Research Laboratories.

(f) "Institution of Higher Education" means a four-year university or college with established programs in several areas of coal research and related educational activities and accredited master's and/or doctoral degree programs in disciplines related to coal research. An institution of higher education for purposes of eligibility includes single institutions meeting the above qualifications, or a consortium or partnership of institutions which are collectively qualified. A consortium or partnership of institutions must clearly designate a lead institution for fiscal and reporting purposes. The location of the lead institution shall be considered the "home state" for purposes of meeting limitations of the Act.

(g) "Major Coal Provinces" means the division of the coal fields of the United States into coal provinces as determined by the U.S. Geological Survey (USGS). The USGS has determined the following coal provinces: (1) Alaska, (2) Eastern, (3) Gulf, (4) Interior, (5) Northern Great Plains, (6) Pacific, and (7) Rocky Mountains.

The following table further defines the "Major Coal Provinces" by listing all of the states which fall within each province regardless of the abundance of coal reserves. States meeting the abundant coal reserve criteria (in excess of 1.5 billion tons) are italicized:

(1) Alaska Province
Alaska
(2) Eastern Province
Alabama
Connecticut
Florida
Georgia
Kentucky
Maine
Maryland
Massachusetts
Mississippi
New Jersey
New Hampshire
New York
North Carolina
Ohio
Pennsylvania
Rhode Island
South Carolina
Tennessee
Vermont
Virginia
West Virginia
(3) Gulf Province
Georgia
Florida
Kentucky
Louisiana
Mississippi
Missouri
Tennessee
Texas
(4) Interior Province
Arkansas
Illinois
Indiana
Iowa
Kansas
Kentucky
Michigan
Minnesota
Missouri
Nebraska
New Mexico
North Dakota
Ohio
Oklahoma
South Dakota
Texas
Wisconsin
(5) Northern Great Plains Province
Colorado
Kansas
Montana
Nebraska
North Dakota
South Dakota
Wyoming
(6) Pacific Province
Arizona
Colorado
Idaho
Montana
Nevada
New Mexico
Oregon
Texas
Utah
Washington
Wyoming

(h) "Operating expenses" includes such costs associated with the development and operation of an ongoing research and related education program as salaries and wages, fringe benefits, travel, publication, computer supplies, research equipment up to $500 in value and other direct and indirect costs associated with the operation of a coal research laboratory. This item does not include costs associated with the construction of laboratory facilities and buildings or the acquisition and installation of major equipment.

(i) "State" means the states of the United States.

§ 320.3 Establishment of program.

There is established a University Coal Research Laboratories Program under the direction of the Office of Energy Research of DOE for the purposes of expanding research on coal and the training of advanced students and others through participation in such research.

This program shall consist of thirteen coal research laboratories located at institutions of higher education which have the potential for and are capable of establishing and operating such a facility. At least ten of the network of thirteen authorized coal research laboratories will be located in states with abundant coal reserves. There will be at least one University Coal Research Laboratory designated in each of the coal provinces but not more than one in any state. The University Coal Research Laboratories Program will build upon and strengthen existing coal-related research capabilities at the selected universities.

§ 320.4 Program objectives.

The broad objectives of the University Coal Research Laboratories Program (hereafter referred to as the UCL Program) are as follows:

(a) The establishment of a network of coal research laboratories at institutions of higher education which are committed to conducting coal research;

(b) The stimulation of coal research in institutions of higher education;

(c) The training of advanced students and others through participation in coal-related research;

(d) The establishment of test laboratories for the characterization of coal in support of UCL research efforts; and

(e) The promotion of exchange of coal research information.

§ 320.5 Functions of a university coal research laboratory.

Within the scope of the UCL Program objectives, each UCL shall conduct a research program which addresses significant coal-related research problems and which provides coal research experience to advanced students and others. The coal research program shall build on existing or potential institutional capabilities and resources and focus a majority of the research effort in one or more programmatic research areas reflecting these institutional strengths. Each UCL coal research program shall represent a balance between research and training and, within institutional capabilities, shall address coal research problems of general and/or regional nature. To bring the broadest range of capabilities to bear on its research problems, each UCL shall engage in collaborative research where appropriate through cooperative arrangements with other academic institutions, laboratories, industry or other organizations. Each UCL shall propose a program for a test laboratory for coal characterization to perform in support of its research activities. This test laboratory may be used as a site for the exchange of coal research activities by representatives of private industry engaged in coal research and characterization but shall not provide services in competition with commercial laboratories capable of offering these services. Each UCL shall establish and maintain regular communication with the public and private sectors, including state and local governments, the coal producing industry, coal users, the general public and other institutions and organizations concerned with the problems and issues of research on coal as a source of energy. Through such interactions, each UCL shall disseminate information on its research accomplishments and seek inputs concerning research needs and problems.

§ 320.6 Management.

(a) The UCL Program shall be managed by a Program Director, University Coal Research Laboratories Program, located within the Office of Energy Research, DOE.

(b) Each UCL shall be managed by a director selected by the institution.

§ 320.7 Eligibility requirements.

(a) To be eligible to be designated for participation in the UCL Program, the applicant must be an institution of higher education and have accredited masters and/or doctoral degree programs in disciplines related to ongoing and proposed areas of coal research and education. The institution must have experience in coal research, and expertise in several areas of coal research and the potential for, or currently active, outstanding programs in coal research. The institution must have the demonstrated capacity to establish and operate a coal research laboratory.

(b) To be eligible, an institution shall have or propose to establish such policies and procedures as will insure that the Federal share of funds made available under the UCL Program will be used to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available for the purposes of the activities proposed for the UCL and in no case supplant such funds.

(c) As a condition of eligibility, an applicant must submit a certification of the source, availability and commitment of non-Federal funds to meet cost-sharing requirements.

(d) Only one proposal will be accepted from a single institution. An institution which is part of a consortium or partnership shall be subject to this restriction if that institution has been designated as the lead institution in a consortium or partnership proposal.

§ 320.8 Content of application.

(a) Institutions of higher education meeting the eligibility requirements as set forth in § 320.7, may submit an application prepared in compliance with this regulation and the UCL Program Announcement to compete for designation and Federal assistance as a university coal research laboratory. Ten copies of the application proposal must be submitted to the Program Director, University Coal Research Laboratories Program, Office of Energy Research, DOE.

(b) The application proposal shall contain, but not necessarily be limited to the following information;

(1) A summary statement of institutional eligibility for application to the UCL Program.

(2) A summary of scope, quality and history of established coal research and education activities including ongoing coal research and education programs, faculty involvement, student participation, publications, facilities and equipment.

(3) A statement of goals and objectives of the proposed UCL.

(4) A description of the organizational structure and management proposed for the UCL.

(5) A summary of the general plan for research and education activities proposed for the UCL through FY 1984, including a summary of technical projects to be undertaken, investigators and facilities to be committed, involvement of advanced students, a program for a test laboratory for coal characterization, facility and equipment needs, levels and man-years of effort and projected budget requirements.

(6) Detailed project proposals for each individual program activity proposed in the summary general plan to permit separate peer review and evaluation of these projects.

(7) Institutional certification of the source, availability and commitment of proposed non-Federal funds to meet cost participation requirements.

(c) The contents of the application proposal described under (b), above, shall be approximately sixty pages in length, exclusive of appendices which shall include specific project proposals (Subsection 6, above), supportive information concerning ongoing coal-related research and education activities and other relevant information.

(d) Additional information on the format and content for application proposals are contained in a University Coal Research Laboratories Program Announcement, notice of which shall be published in the FEDERAL REGISTER.

§ 320.9 Application procedures.

An eligible institution of higher education may submit a proposal to DOE in response to the UCL Program Announcement. This Program Announcement will specify the closing date for the submission of proposals. No more than 90 days will be provided for the preparation and submission of proposals.

§ 320.10 Evaluation and selection procedures.

(a) Proposals submitted in response to the UCL Program Announcement will be reviewed and evaluated in accordance with the following procedures:

(1) An initial review will be conducted by the UCL Program Office to determine if the proposing institution meets the eligibility requirements contained in Sec. 320.7 and to determine if the proposal is complete as required by this regulation and the Program Announcement.

(2) Applications from institutions that do not meet the eligibility requirements shall be rejected.

(3) Proposals from institutions meeting the conditions of eligibility shall be reviewed, evaluated, and ranked in accordance with the evaluation criteria (§ 320.11) by Technical Reviewers appointed by the Director, Office of Energy Research, from among qualified technical experts in areas related to coal research.

(4) Subsequent to the review, evaluation, and ranking of all proposals by the Technical Reviewers, a further analysis of programmatic factors

(§ 320.12) will be carried out in the selection process by a DOE Selection Panel appointed by the Director, Office of Energy Research.

(5) The DOE Selection Official, assisted by the DOE Selection Panel and based on the evaluation of selection criteria and programmatic factors, will designate thirteen institutions which individually and collectively are considered to have the greatest potentiality for meeting the objectives of a balanced national UCL Program of coal research and research-related training.

(6) At the discretion of the DOE Selection Official, ten UCL institutions in states with abundant coal reserves may be designated initially in the selection process and three additional institutions may be designated subsequently without regard to the abundance of state coal reserves.

(7) After designation of the UCL's, the UCL Program Office will enter into negotiations with such proposer to select and establish support levels for those program activities to be included in the grant award. Projects to be supported will be subject to the level of appropriated funds and UCL programmatic considerations.

(b) The DOE Selection Official shall announce the designated institutions at which University Coal Research Laboratories will be established and operated within 90 days of the closing date for the submission of proposals.

§ 320.11 Evaluation criteria.

(a) Proposals from institutions which meet the requirements of eligibility (§ 320.7) will be evaluated and ranked by DOE using criteria which may include, but not necessarily be limited to the following:

(1) Understanding of Objectives of UCL Program and Functions of the UCL.

(i) Perceptions of coal related needs, problems and issues to be met through research and training.

(ii) Awareness of the state-of-the-art in the principal areas of coal research proposed for the UCL.

(iii) The relationship of the proposed research to and the differences from current work in the same field(s).

(iv) Institutional rationale for participation in the UCL Program including relevance to the various programs and missions of the institution.

(v) Relationship of proposed plan to the functions of a UCL as set forth in § 320.5.

(2) Qualifications of Eligible Institution

(i) Scope, quality, and history of established coal research and education programs such as ongoing research and education programs, faculty involvement, student participation, publications, facilities and equipment.

(ii) Potential for attracting qualified advanced students.

(iii) Qualifications of the investigators committed to the UCL Program.

(iv) Role and qualifications of UCL Director.

(v) Existing facilities and equipment to be committed to UCL programs.

(3) Scientific and Technical Merit of the Proposed Program

(i) The quality of the proposed research.

(ii) The role of proposed research in the training of advanced students.

(iii) The degree to which the proposed research will advance scientific and technical understanding of the coal-related problem(s) under study.

(iv) The role of the test laboratory for coal characterization in support of proposed UCL research and education activities.

(v) Provisions for communicating research results and for interaction with various segments of the public and private sectors concerning UCL activities.

(4) Program Management Plans

(i) Program management plan proposed for UCL.

(ii) Plans for managing research and training activities carried on in collaboration with other organizations and institutions.

(iii) Reasonableness and appropriateness of the proposed cost plan specifically for UCL program administration.

(iv) Nature of institutional commitment to the UCL Program, including provisions for institutional support, cost-sharing, program continuity and the relationship of the UCL to the overall academic mission of the institution.

(v) Provisions for coordination between the UCL and, if present, a Mining and Mineral Resources Research Institute established and funded under provisions of Title III, Pub. L. 95-87, including program planning, organization, management, and avoidance of program duplication.

(5) Fiscal Management.

(i) The reasonableness and appropriateness of the total costs proposed for the UCL program including research, program operations, facilities, and equipment.

(ii) The justification presented for the major cost categories proposed (operating expenses, facilities, major equipment, etc.) with reference to § 320.14, Limitations on the Use of Funds.

(iii) Documentation of cost-sharing to meet the specific requirements on laboratory operating expenses and such cost-sharing as may be appropriate to facilities and equipment requests.

(b) All eligible UCL proposals will be reviewed and evaluated technically with respect to the above-listed evaluation criteria.

§ 320.12 Programmatic factors.

In making the final selection of the institutions to be designated as the site of a UCL, the following programmatic factors will be considered by the DOE Selection Panel:

(a) The ranking of proposals with respect to the evaluation criteria.

(b) The relative need for research on coals of different types and qualities distributed within the various coal provinces.

(c) Geographic distribution of the applicants with respect to coal provinces, coal reserves, and coal utilization.

(d) The best overall mix of research specialities, educational potential, and geographic distribution as determined by DOE of coal research programs among those proposed by the designated UCL institutions.

§ 320.13 UCL program implementation.

Subsequent to the designation of the UCL institutions and subject to the availability of UCL Program funds, the UCL Program Office shall initiate the grant award process. Funding of designated UCL's will depend on the funding requested and the nature of the proposed program by each UCL, the best mix of research and educational activities among the UCL's and the availability of appropriated funds to the UCL Program with the amount of the grant being determined through negotiation as cited above in Section 320.10. All awards will be subject to the availability of appropriated funds.

§ 320.14 Limitations on the use of funds.

(a) No UCL may receive more than the following total amount of Federal funds:

	Limit
Construction and fixed equipment.	$4.0 million
Movable equipment	$1.5 million
Start-up expenses	$0.5 million
Program operations (annual)	[1] $1.5 million

[1] Federal share shall not exceed 50 percent of the total operating costs for any fiscal year.

(b) The Director of the UCL Program will determine the amount of funds to be advanced to each designated UCL for the initial grant year based on estimates of amounts required to conduct all or parts of the proposed program as agreed to through negotiation with the UCL. Depending on levels of appropriation, the following priorities may apply in the allocation of UCL funds: (1) research program operating expenses; (2) acquisition of movable equipment; and (3) construction of facilities, acquisition of related fixed equipment and start-up costs.

§ 320.15 Program continuation.

(a) The budget levels for subsequent year funding of a UCL beyond the initial year will be agreed to for planning purposes during the negotiation of the initial UCL grant. Specific funding levels for subsequent years will be contingent upon (1) technical performance, (2) proposed continuation program plans and (3) availability of appropriations to the UCL Program. Renewable proposals will be required of each UCL at a time and in a format mutually agreed to between DOE and the UCL.

(b) Technical performance and technical program plans of each UCL will be reviewed by qualified review panels at intervals to be specified by the UCL Program Office.

(c) The UCL Program Office will determine the scope and level of continued support to each UCL based on program reviews and the allocation of available UCL Program funds.

(d) Subsequent year support to a UCL may be refused at the discretion of the DOE UCL Program Office based, for example, on past performance; failure to agree on a mutually acceptable continuation program plan; or the level of available UCL Program funds. In such instances, terminal funding at a reduced level for one (1) year may be authorized by the UCL Program Office.

§ 320.16 Cost sharing.

(a) DOE is authorized to make grants to pay a Federal share of the costs of establishing and maintaining a UCL, including construction of such facilities as may be necessary, to those institutions of higher education designated in the UCL Program.

(b) The Federal share of UCL operating expenses for any fiscal year shall not exceed 50 per centum of the cost of operation of a UCL.

(c) Cost sharing stipulated by the Act will be governed in accordance with prevailing OMB regulations, FMC 73-3, "Cost Sharing on Federal Research" and Circular A-110 "Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organization." Cost sharing may vary in amount from project to project but the aggregate of cost sharing for the operating expenses portion of the UCL program must be of equivalent value and match or exceed expenditures of DOE funds in any given grant period. The grantee contributions to the costs of operating the UCL may be in any form, including cash or in-kind contributrions (the value of which is determined by DOE), from the institution or third parties, and for any category costs, direct or indirect, provided they are non-Federal and are not otherwise counted as cost sharing on other Federal projects. Institutions or organizations participating in collaborative projects of the UCL under a subgrant may make cost-sharing contributions which meet the cost-sharing requirement. Grantees must maintain adequate cost-sharing records as well as records of all expenditures.

§ 320.17 General requirements.

(a) Applicants for participation in the Program are required to comply with the provisions of the DOE Assistance Regulations applicable to grants awarded to institutions of higher education, and, as applicable, such other procedures applicable to grants under the program as DOE may from time to time to prescribe, and any Federal requirements applicable to grants awarded under the UCL program.

(b) Each grant under this part shall require that a recipient of support under the UCL program submit a final written report of activities supported in whole or in part by Federal funds made available under the program.

§ 320.18 Inventions and patents.

Each grant under the program shall be governed by the provisions of Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974, 42 U.S.C. 5908, and any agreements by DOE to waive title to inventions that may be made under the program shall be pursuant to the policies and procedures of the applicable provisions of the DOE Assistance Regulations.

§ 320.19 Reporting and dissemination of information.

(a) Each designated UCL shall submit semiannual and annual program performance reports to the DOE UCL Program Office. The annual report shall be submitted concurrent with the renewal proposal and shall include a description of the activities and such other information as may be required by DOE.

(b) The UCL institutions and DOE shall disseminate to the public in an appropriate manner information on coal research findings resulting from program activities of the UCL program. Prompt dissemination of UCL research results to the scientific and technical community shall be encouraged.

§ 320.20 Proposal information.

Information contained in proposals submitted in response to the subsequent UCL program solicitation shall be treated, handled, and disclosed, and information shall be provided to unsuccessful proposers, in accordance with the policies and procedures set forth in applicable DOE Assistance Regulations and the UCL Program Announcement.

§ 320.21 UCL Program termination.

The UCL Program is authorized to continue until the end of FY 1984. Continuation of the program will depend on the extension of the authorizing legislation and the availability of appropriated funds.

[FR Doc. 79-2231 Filed 1-19-79; 8:45 am]

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MONDAY, JANUARY 22, 1979
PART VIII



DEPARTMENT OF TRANSPORTATION

Coast Guard

WATERFRONT FACILITIES REGULATIONS UPDATE

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[4910-14-M]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 78-023]

PART 126—HANDLING OF EXPLOSIVES OR OTHER DANGEROUS CARGOES WITHIN OR CONTIGUOUS TO WATERFRONT FACILITIES

Waterfront Facilities Regulations Update

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This amendment corrects regulations governing waterfront facilities which handle dangerous cargoes. Certain citations and definitions in the current regulations became outdated when parts of the code of Federal Regulations referred to in the current regulations were changed or relocated. This amendment updates the regulations to reflect these changes without changing the substantive content.

EFFECTIVE DATE: January 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Lieutenant (Junior Grade) David G. Dickman, Port Safety and Law Enforcement Division (G-WLE-1/73), Room 7319, Department of Transportation, NASSIF Building, 400 Seventh Street S.W., Washington, DC 20590 (202-426-1927).

SUPPLEMENTARY INFORMATION: No notice of proposed rulemaking is being published because this rule is an editorial correction to current regulations and does not change the substantive content of these regulations. Therefore, public comment is impracticable and unnecessary. 5 U.S.C. 553(b)(3)(B).

Drafting Information

The principal persons involved in drafting this rule are: Lieutenant (Junior Grade) David G. Dickman, USCG, Project Manager, Office of Marine Environment and Systems, and Mr. Stephen Barber, Project Attorney, Office of the Chief Counsel.

Discussion of the New Regulations

In a separate rulemaking proceeding, the Coast Guard is currently involved in revising waterfront facilities regulations to reflect new initiatives under the Ports and Waterways Safety Act (33 U.S.C. §§ 1221-1227). As a part of this revision project an Advance Notice of Proposed Rulemaking for waterfront facilities was published on April 10, 1978 (43 FR 15107-15116). It is anticipated that this project will be completed in approximately two years. In the interim, this amendment corrects outdated references in the current waterfront facilities regulations pending publication of the revised regulations. No changes in the substantive content of the current regulations are made by these amendments.

The old 46 CFR Part 146 referred to in the current 33 CFR Part 126 has been split up into the following: 46 CFR Parts 146 and 148 covering shipment of dangerous cargoes by water; and 49 CFR Parts 170-179 covering shipment of "hazardous materials". References to the old 46 Part 146 are changed by this amendment to references to the current regulations. It should be noted that the current regulations include some cargoes not covered by the old 46 CFR Part 146. Only those cargoes in 49 CFR 172.101 classified as dangerous for transportation by vessel are covered under this amendment. This is done by excluding from regulation those materials preceded by an "A" in the Hazardous Materials Table, 49 CFR 172.101. These materials are subject to the provisions of 49 CFR 170-179 only for transportation by air; all other materials in the Table are classified as dangerous for transportation by vessel.

As a result of the new regulations pertaining to dangerous cargoes, several terms and definitions have also changed. In order to maintain consistency throughout the regulations pertaining to dangerous cargoes, definitions and terms used in 33 CFR Part 126 are amended to reflect these changes. Also, certain definitions formerly referred to by citation are now set forth in full in this amendment.

The regulation entitled "Captain of the Port Authority Update" (42 FR 48022) of 22 September 1977 changed the authority for 33 CFR Part 126 to the Ports and Waterways Safety Act of 1972. That Act has been superseded by the Ports and Waterways Safety Act (Pub. L. 95-474, October 17, 1978). The authority citation is amended to reflect this change. The Ports and Waterways Safety Act provides for the assessment of civil or criminal penalties for violations of regulations issued under its authority. It also authorizes regulations to promote safety and protect the marine environment. Thus, 33 CFR Part 126 now covers not only security concerns, but also safety concerns. Editorial changes are included in this amendment to reflect the new penalty provisions and the new safety concerns.

This final regulation has been evaluated under the Department of Transportation Policies for Improving Government Regulations published on March 8, 1978 (43 FR 9582). The final evaluation is available for public review at the above address. In consideration of the foregoing, 33 CFR Part 126 is amended as follows:

1. By revising the "Authority" heading in the table of contents to read:

AUTHORITY: 92 Stat. 1475 (Ports and Waterways Safety Act, as amended, 33 USC 1225); 49 CFR 1.46(n)(4).

2. By revising § 126.01 to read as follows:

§ 126.01 General definitions.

"Commandant" means the Commandant of the United States Coast Guard.

"Captain of the Port (COTP)" means the officer of the Coast Guard, under the command of a District Commander, so designated by the Commandant for the purpose of giving immediate direction to Coast Guard law enforcement activities within an assigned area.

"District Commander" means the officer of the Coast Guard designated by the Commandant to command a Coast Guard District.

"Net tons" means the net weight of a materials in tons.

"Net weight" means a measure of weight referring only to the contents of a package, tank or container and does not include the weight of any packaging material, or containing devices.

"Waterfront facility" means all piers, wharves, docks, and similar structures to which a vessel may be secured; areas of land, water, or land and water under and in immediate proximity to them; buildings on such structures or contiguous to them and equipment and materials on such structures or in such buildings. This term does not include facilities directly operated by the Department of Defense.

3. By revising § 126.05 to reads as follows:

§ 126.05 Designated waterfront facility.

(a) Designated waterfront facility. The term "designated waterfront facility" means a waterfront facility designated by § 126.13 for the handling and storage of, and for vessel loading and discharging of: any flammable or combustible liquid in bulk (46 CFR Parts 30-38); any hazardous material subject to the Dangerous Cargoes Regulations in 46 CFR Parts 146 and 148; and any hazardous material subject to the Hazardous Materials Regulations (49 CFR Parts 170-179), except for those materials preceded by an "A" in the Hazardous Materials Table, 49 CFR Part 172.101.

(b) Facility of particular hazard. The term "facility of particular hazard" means a designated waterfront facility which is authorized to handle in bulk quantities any of the commodities listed in Section 124.14(b) or any commodity for which a permit or written permission is required by 46 CFR 146.29-100; 49 CFR 176.100; or 49 CFR 176.415.

4. By revising § 126.07 to read as follows:

§ 126.07 Dangerous cargo.

The term "dangerous cargo" means all explosives and other hazardous materials or cargo covered by—

(a) Dangerous Cargoes, 46 CFR Parts 146 and 148;

(b) Tank Vessels, 46 CFR Parts 30-38; or

(c) Hazardous Materials, 49 CFR Parts 170-179, except for those materials preceded by an "A" in the hazardous Materials Table, 49 CFR 172.101.

5. By revising § 126.09 to read as follows:

§ 126.09 Designated dangerous cargo.

The term "designated dangerous cargo" means Explosives (commerical or military), Class A, as classified in 46 CFR Part 146 and 49 CFR Part 172.

6. By revising the text of § 126.11, and deleting the authority citation to the Dangerous Cargo Act (R.S. 4472, as amended, 46 U.S.C. 170) at the end of the section as follows:

§ 126.11 Waiver authority based on local or unusual conditions.

Whenever the Commandant, the District Commander, or the Captain of the Port finds that the application of any provisions contained in Sections 126.15 and 126.16 is not necessary to the safety or security of the port and vessels and waterfront facilities therein, or that its application is not practical because of local conditions or because the materials or personnel required for compliance are not available, or because the requirements of the national defense justify a departure from such provision, the Commandant, the District Commander, or the Captain of the Port may waive compliance with such provision, to the extent and under such requirements as they determine.

7. By revising § 126.13(b) to read as follows:

§ 126.13 Designation of waterfront facilities.

* * * * *

(b) Handling, storing, stowing, loading, discharging, or transporting dangerous cargo at any waterfront facility other than one designated by this section in hereby prohibited, and violation of this prohibition will subject the violator to the civil or criminal penalties provided in Section 13 of the Ports and Waterways Safety Act (33 U.S.C. § 1232).

8. By revising the text of § 126.15(g), (o)(2)(i) and (vii), and by deleting the authority citation to the Dangerous Cargo Act (R.S. 4472, as amended, 46 U.S.C. 170) at the end of the section as follows:

§ 126.15 Conditions for designation as designated waterfront facility.

* * * * *

(g) Maintenance stores and supplies. That supplies classified as dangerous by the provisions of the Hazardous Materials Regulations (49 CFR 170-179) except those materials preceded by an "A" in the Hazardous Materials Table, 49 CFR 172.101, to be used in connection with operation or maintenance of the property or facility, are not stored on any pier or wharf within the waterfront facility and are not stored elsewhere on the waterfront facility except in amounts necessary for normal current operating conditions; that these supplies are stored in a compartment remote from combustible material, constructed so as to be readily accessible and provide safe storage; that storage compartments are kept clean and maintained free of scrap materials, empty containers, soiled wiping rags, waste, and other debris; that covered metal containers are provided for disposal of used wiping cloths and are emptied at the end of each working day; and that clothing lockers are maintained clean and orderly and properly ventilated.

* * * * *

(o) * * *

(2) * * *

(i) Warning signs are displayed on the facility at the point of transfer facing shoreline and facing each way along the shoreline without obstruction, at all times during the coupling, transfer operation, and uncoupling. The warning signs chall conform to 46 CFR 151.45-2(e)(1) or 46 CFR 153.955.

* * * * *

(vii) Has in his possession a cargo information card for the specific cargo to be transferred. The information card shall conform to the specifications of 46 CFR 151.45-2(e)(3) (unmanned barges) or 46 CFR 153.907 (self-propelled vessels) and shall list all of the following items:

(A) Cargo identification characteristics.

(B) Emergency procedures.

(C) Firefighting procedures.

* * * * *

9. By revising § 126.25 to read as follows:

§ 126.25 Penalties for handling designated dangerous cargo without permit.

Handling, loading, discharging, or transporting any designated dangerous cargo without a permit, as provided under § 126.17, being in force, will subject persons responsible therefore to the civil or criminal penalties provided in Section 13 of the Ports and Waterways Safety Act, as amended (33 U.S.C. § 1232).

10. By revising the text of § 126.27, and by deleting the authority citation to the Dangerous Cargo Act (R.S. 4472, as amended, 46 U.S.C. 170) at the end of the section as follows:

§ 126.27 General permit for handling dangerous cargo.

A general permit is hereby issued for the handling, storing, stowing, loading, discharging or transporting of dangerous cargo (other than designated dangerous cargo) in bulk, portable tanks, containers, or packagings, at designated waterfront facilities, conditioned upon the observance and fulfillment of the following:

(a) The conditions set forth in § 126.15 shall at all times be strictly observed.

(b) The following classes of hazardous materials classified as dangerous for transportation by vessel as listed in the Hazardous Materials Regulations Table (49 CFR 172.101), in the amounts specified, shall not be handled, stored, stowed, loaded, discharged, or transported, except when contained within railroad or high vehicles being transported across or on waterfront facilities used primarily for the transfer of railroad or highway vehicles to or from a railroad car ferry or highway vehicle ferry, or carfloats, without prior notification to the Captain of the Port:

(1) Explosives, Class B, in excess of 1 net ton at any one time.

(2) Explosives, Class C, in excess of 10 net tons at any one time.

(3) Flammable liquids, in excess of 10 net tons at any one time.

(4) Flammable solids or oxidizers, in excess of 100 net tons at any one time.

(5) Flammable gases, in excess of 10 net tons at any one time.

(6) Poisons (Class A).

(7) Large quantities of radioactive materials as defined in 49 CFR 173.389(b) and Fissile Class III radioactive materials as defined in 49 CFR 173.389(a)(3).

(8) Bulk shipments of dangerous cargo considered to involve a particular hazard. A specific list of such commodities which by virtue of their properties would create unusual hazard if released, is found in § 124.14(b)(1) of this chapter.

(c) Explosives or other dangerous cargo prohibited from or not permitted for transportation by 46 CFR Parts 146 and 148 or 49 CFR Parts 170-179 shall not be present on the waterfront facility.

(d) Flammable liquids and compressed gases shall be so handled and stored as to provide maximum separation from acids, corrosive liquids, or combustible materials. Storage for flammable solids or oxidizers shall be so arranged as to prevent moisture coming in contact therewith.

(e) Acids and corrosive liquids shall be so handled and stored as to prevent such acids and liquids, in event of leakage, from contacting any organic materials.

(f) Poisonous gases, poisonous liquids, and poisonous solids shall be so handled and stored as to prevent their contact with acids, corrosive liquids, flammable liquids or flammable solids.

(g) Dangerous cargo which may be stored on the waterfront facility shall be arranged in such manner as to retard the spread of fire. This may be accomplished by interspersing dangerous cargo with inert or less combustible materials.

(h) All dangerous cargo stored on the waterfront facility shall be packaged, marked, and labled in accordance with 49 CFR Parts 170-179.

(i) Storage of all radioactive materials shall be so arranged as to preclude a gamma radiation in excess of 200 milliroentgens per hour or physical equivalent at any readily accessible surface.

11. By revising § 126.28 to read as follows:

§ 126.28 Ammonium nitrate, ammonium nitrate fertilizers, fertilizer mixtures, or nitro carbo nitrate; general provisions.

(a) When any item of ammonium nitrate, ammonium nitrate fertilizers, fertilizer mixtures, or nitro carbo nitrate, described and defined as an oxidizer by the regulations of 49 CFR Part 173 is handled, stored, stowed, loaded, discharged or transported on a waterfront facility, the following provisions shall apply:

(1) All outside containers shall be marked with the proper shipping name of the nitrate packed within the container.

(2) The building on a waterfront facility used for storage of any of these materials shall be of such construction as to afford good ventilation.

(3) Storage of any of these materials shall be at a safe distance from electric wiring, steam pipes, radiators or any heating mechanism.

(4) These materials shall be separated by a fire resistant wall or by a distance of at least 30 feet from organic materials or other chemicals and substances which could cause contamination such as flammable liquids, combustible liquids, corrosive liquids, chlorates, permanganates, finely divided metals, caustic soda, charcoal, sulfur, cotton, coal, fats, fish oils or vegetable oils.

(5) Storage of any of these materials shall be in a clean area upon clean wood dunnage, or on pallets over a clean floor. In the case of a concrete floor, storage may be made directly on the floor if it is first covered with a moisture barrier such as a polyethylene sheet or asphaltic laminated paper.

(6) Any spilled material shall be promptly and thoroughly cleaned up and removed from the waterfront facility. If any spilled material has remained in contact with a wooden floor for any length of time the floor shall be scrubbed with water and all spilled material shall be thoroughly dissolved and flushed away.

(7) An abundance of water for firefighting shall be readily available.

(8) Open drains, traps, pits or pockets which could be filled with molten ammonium nitrate if a fire occurred (and thus become potential detonators for the storage piles) must be eliminated or plugged.

NOTE.—See 49 CFR 176.415 for permit requirements for nitro carbo nitrate and certain ammonium nitrates.

§ 126.29 and § 126.31 [Amended].

12. The authority citations to the Dangerous Cargo Act (R.S. 4472, as amended, 46 U.S.C. 170) following § 126.29 and § 126.31 are deleted.

13. By revising § 126.33 to read as follows:

§ 126.33 Penalties for handling dangerous cargo without permit.

Handling, storing, stowing, loading, discharging, or transporting any dangerous cargo covered by § 126.27 under circumstances not covered by the general permit granted in § 126.27 or when such general permit is not in force will subject persons responsible therefor to the civil or criminal penalties provided in Section 13 of the Ports and Waterways Safety Act, as amended (33 U.S.C. § 1232).

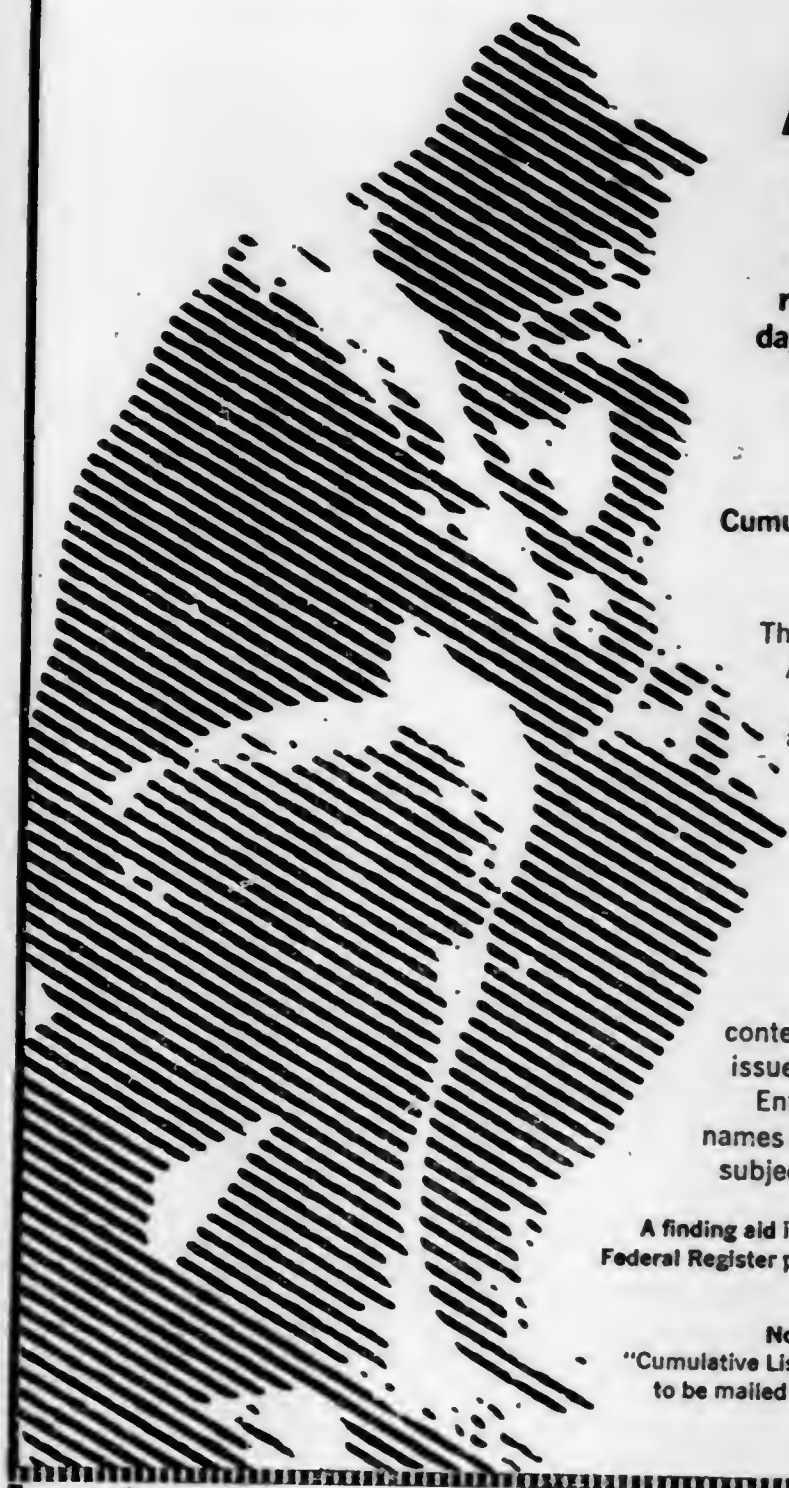
(92 Stat. 1475 (Ports and Waterways Safety Act, as amended, 33 USC 1225); 49 CFR 1.46(n)(4)).

Dated: January 15, 1979.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 79-2239 Filed 1-19-79; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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Title 3—
The President

Executive Order 12115 of January 19, 1979

Permanent American Cemetery in the Republic of Panama

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Section 10 of the Act of March 4, 1923 (42 Stat. 1509), as amended (36 U.S.C. 132), and to implement the intent of the United States Senate (124 Cong. Rec. S 3857 of March 16, 1978) as set forth by Reservations (1) and (3) to the Resolution of Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, it is hereby ordered as follows:

1–101. The Secretary of State shall take all appropriate steps to complete, prior to the date of entry into force of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, hereinafter referred to as the Neutrality Treaty, the negotiations which have begun with the Republic of Panama for an agreement under which the United States of America would, upon the date of entry into force of such agreement and thereafter, administer as a permanent American cemetery such part of Corozal Cemetery as encompasses the remains of citizens of the United States of America.

1–102. Subject to the conclusion of the agreement referred to in Section 1–101 of this Order, the American Battle Monuments Commission shall administer that part of Corozal Cemetery which encompasses the remains of citizens of the United States of America, in accordance with the terms of the agreement with the Republic of Panama.

1–103. The Governor of the Canal Zone shall, to the extent funds are available, disinter from Mount Hope Cemetery, before entry into force of the Neutrality Treaty, and reinter in Corozal Cemetery the remains of United States citizens, and the remains of members of their immediate family that are buried with them. The Governor shall not remove from Mount Hope Cemetery the remains of any such person whose next of kin timely requests in writing that such remains not be disinterred. The Governor shall transport to the United States for reinterment the remains of any such person whose next of kin timely requests in writing that such remains be transported to the United States for reinterment.

1–104. The Secretary of Defense shall, to the extent funds are available, disinter from Corozal Cemetery and transport to the United States for reinterment the remains of United States citizens, and the remains of members of their immediate family buried with them, whose next of kin requests in writing by April 1, 1982, that such remains be transported to the United States for reinterment.

1–105. Subject to the availability of funds, all the costs incurred in the disinterment, reinterment in Corozal Cemetery, and transportation of remains required by this Order, including the costs of preparation, cremation if requested, and a casket or urn, shall be borne by the United States of America. The costs of reinterment in the United States, including any costs for funeral home services, vaults, plots, or crypts, will be the responsibility of the next of kin making the request, except to the extent otherwise provided by law, including any unused specific entitlements available pursuant to statute.

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1-106. (a) The Governor of the Canal Zone shall identify, to the extent feasible, the closest surviving next of kin of each deceased United States citizen buried in the Mount Hope and Corozal Cemeteries, and of such next of kin of each member of the immediate family that is buried with such United States citizen.

(b) The Governor shall provide notice to the next of kin of such deceased buried in Mount Hope Cemetery that the Government plans to remove the deceased to Corozal Cemetery unless the next of kin requests in writing, not later than three months after the first issuance of such notification, either that the remains not be removed from Mount Hope Cemetery, or that the remains be moved to, and reinterred in, the United States in a cemetery or other burial site designated by the next of kin.

(c) The Governor shall also provide notice to the next of kin of such deceased who are buried in Corozal Cemetery that the Government will disinter and transport such deceased to the United States for reinterment in a cemetery or other burial site designated by the next of kin, if the next of kin so requests in writing not later than April 1, 1982.

(d) The Governor shall publish the notices provided for in subsections (b) and (c) of this Section in appropriate newspapers, magazines and other periodicals, and utilize such other means of communicating with the next of kin that he finds to be practical and effective.

1-107. The Governor of the Canal Zone shall, before the entry into force of the Neutrality Treaty, fully advise the next of kin of all available options, and their implications, in those cases where a request has been made that remains not be removed from Mount Hope Cemetery.

1-108. The Secretary of the Army shall supervise the planned removal of the remains from Mount Hope Cemetery to Corozal Cemetery and shall ensure compliance with the wishes of any next of kin who, within the time specified in clause B(i) to the Third Reservation to the Neutrality Treaty, objects to such removal.

1-109. As used in this Order:

(a) "Next of kin" means the person whom the Governor of the Canal Zone determines to be the nearest living relative, by consanguinity or affinity, of a person buried at Mount Hope Cemetery or Corozal Cemetery.

(b) "Members of their immediate family" means the spouse, children, mother or father of the deceased United States citizen.

Jimmy Carter

THE WHITE HOUSE,
January 19, 1979.

[FR Doc. 79-2569
Filed 1-22-79; 11:08 am]

Billing code 3195-01-M

Executive Order 12116 of January 19, 1979

Issuance of Food Stamps by the Postal Service

By the authority vested in me as President of the United States of America by Section 11(k) of the Food Stamp Act of 1977 (91 Stat. 974; 7 U.S.C. 2020(k)), the United States Postal Service is hereby granted approval for post offices in all or part of any State to issue food stamps to eligible households, upon request by the appropriate State agency, as defined in Section 3(n) of the Food Stamp Act of 1977 (91 Stat. 960; 7 U.S.C. 2012(n)).

Jimmy Carter

THE WHITE HOUSE,
January 19, 1979.

[FR Doc. 79-2570
Filed 1-22-79; 11:04 am]

Billing code 3195-01-M

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—OFFICE OF PERSONNEL MANAGEMENT

CAREER AND CAREER-CONDITIONAL EMPLOYMENT, TEMPORARY AND TERM EMPLOYMENT, TRAINING, PAY ADMINISTRATION (GENERAL), AND RETIREMENT

Interim Regulations

AGENCY: Office of Personnel Management,

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: New regulations: (1) Implement section 3112 of title 5, as added by section 307 of the Civil Service Reform Act of 1978 by permitting noncompetitive conversion of veterans having a compensable service-connected disability of 30 percent or more to career or career-conditional appointment from any temporary appointment not limited to 60 days or less, and by permitting such veterans to be given temporary appointments noncompetitively; (2) implement section 4103 of title 5, as amended by section 304 of the Civil Service Reform Act of 1978 by permitting agencies to train employees for placement in other agencies in lieu of separation under conditions which would entitle the employees to severance pay; (3) implement section 5532 of title 5, as amended by section 308 of the Civil Service Reform Act of 1978 by permitting the Office of Personnel Management to make exceptions to the reduction in retired pay of regular military officers only if they retired before January 11, 1979, or were employed in a civilian position on October 13, 1978, and would have been eligible for retired or retainer pay but for age; by permitting the Office to make exceptions to the ceiling on combined income from retired or retainer pay and civilian salary of the retired members of the uniformed services for medical officer positions; and by making agencies responsible for notifying DOD military finance centers of Federal civilian pay changes of retired military personnel; and (4) implement section 306 of the Civil Service Reform Act of 1978 by adding major reorganization and major transfers of function as conditions permitting the Office to authorize early optional retirement.

DATES: Effective date: January 11, 1979, and until final regulations are issued. Comment date: Written comments will be considered if received no later than March 26, 1979.

ADDRESS: Send written comments to Office of the Associate Director for Staffing Services, Office of Personnel Management, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

Accordingly, 5 CFR is amended as follows: (1) Part 315 is amended by adding a new § 315.703d, as follows:

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

§ 315.703d Disabled veterans.

(a) Subject to requirements concerning qualifications and probationary period published by the Office in the Federal Personnel Manual, an agency may convert the employment of a disabled veteran who has a compensable service-connected disability of 30 percent or more to career or career-conditional employment from a temporary limited appointment of more than 60 days.

(b) *Tenure on conversion.* (1) Except as provided in subparagraph (2) of this paragraph, a person converted under paragraph (a) of this section becomes a career-conditional employee.

(2) A person appointed under paragraph (a) of this section becomes a career employee if excepted from the service requirement for career tenure by § 315.201(c).

(c) *Acquisition of competitive status.* A person converted under paragraph (a) of this section acquires a competitive status automatically on completion of probation.

(5 U.S.C. 3112)

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(2) Part 316 is amended by amending subparagraph (4) and adding subparagraph (5) to § 316.402(b), as follows:

PART 316—TEMPORARY AND TERM EMPLOYMENT

§ 316.402 Authorities for temporary appointments.

(a) *General rule.* An agency may make and extend a temporary limited appointment only with specific authorization from the Office, except under the conditions published by the Office in the Federal Personnel Manual or as provided in paragraph (b) of this section.

(b) *Noncompetitive temporary limited appointments.* An agency may give a temporary limited appointment, without regard to the existence of an appropriate register, to:

(1) A person with eligibility for reinstatement;

(2) A person eligible for career or career-conditional appointment under §§ 315.601, 315.605, or 315.606 of this chapter;

(3) A former temporary employee of the agency who was originally appointed from a register, subject to the conditions published in the Federal Personnel Manual;

(4) A veteran or disabled veteran as defined in section 2011(2)(A) of title 38, United States Code, who:

(i) Served on active duty in the armed forces of the United States between August 5, 1964, and May 7, 1975;

(ii) Completed not more than 14 years of education, unless compensably disabled or discharged because of service-connected disabilities, in which case the 14-year educational requirement does not apply; and

(iii) Is qualified to perform the duties of the position. An appointment under this subparagraph may be made only to a position at GS-7 or below, or the equivalent in another pay system, without time limitation after separation from the military service, and not later than September 30, 1981. A veteran who is an applicant for a position at GS-3 and below under this subparagraph is considered to be qualified to perform the duties of the position on

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the basis of his or her total military experience; or

(5) A disabled veteran who has a compensable service-connected disability of 30 percent or more.

(5 U.S.C. 3112)

PART 410—TRAINING

(3) Part 410 is amended by adding a new paragraph (d) to § 410.301, as follows:

§ 410.301 Scope and general conduct of training programs.

(a) The head of an agency shall determine the policies which are to govern the training of employees of the agency. These policies shall be set forth in writing and include a statement of the broad purposes for which training will be given and of the assignment of responsibilities for seeing that these purposes are achieved.

(b) The head of an agency also shall take such administrative action as is necessary to assure that:

(1) Plans and programs are developed to meet the short- and long-range training needs of the agency;

(2) Priorities are established for the training programs of the agency;

(3) Provision is made for the use of funds and man-hours, in accordance with established priorities, for the training programs of the agency;

(4) Employee self-development is fostered through a work environment in which self-development is encouraged, self-study materials are reasonably available, and self-initiated improvement in performance is recognized; and

(5) Information with respect to the general conduct of the training program of the agency is available to enable the Office, the President, and Congress to discharge their respective responsibilities under chapter 41 of title 5, United States Code.

(c) Training programs established by the agencies under chapter 41 of title 5, United States Code, shall, to the maximum extent feasible:

(1) Be based on short- or long-range needs, existing or reasonably foreseeable;

(2) Meet as many of these needs as possible, priority considered;

(3) Use work-assignment flexibility to provide experience to promote employee growth for the purpose of increasing the quality and quantity of work produced; and

(4) Be integrated with other personnel management and operating activities.

(d) As provided in subsection (b) of section 4103 of title 5, United States Code, an agency may train any employee of the agency to prepare the employee for placement in another agency when the following conditions are met:

(1) The head of the agency must determine that the employee will otherwise be separated under conditions which would entitle the employee to severance pay under section 5595 of title 5, United States Code;

(2) Before undertaking any training under this section, the head of the agency shall obtain verification from the Office of Personnel Management that there exists a reasonable expectation of placement in another agency;

(3) In selecting an employee for training under this section, the head of the agency shall consider:

(i) The extent to which the current skills, knowledge, and abilities of the employee may be utilized in the new position;

(ii) The employee's capability to learn skills and acquire knowledge and abilities needed in the new position; and

(iii) The benefits to the Government which would result from retaining the employee in the Federal service.

(5 U.S.C 4103)

PART 550—PAY ADMINISTRATION (GENERAL)

(4) Part 550 is amended by amending § 550.603 and adding § 550.604, as follows:

§ 550.603 Exceptions to reduction in retired or retainer pay.

(a) The Office may authorize exception to the restrictions in 5 U.S.C. 5532(b), without regard to the provisions of 5 U.S.C. 5532 (c) and (e), when the exception is warranted because of special or emergency employment needs of an agency in the executive branch or the government of the District of Columbia which otherwise cannot be readily met. This subsection applies only to:

(i) Any retired officer of a regular component of the uniformed services who was receiving retired pay on or before January 11, 1979; or

(ii) Any individual employed in a position on October 13, 1978, so long as the individual continues to hold any such position (disregarding any break in service of 3 days or less) if the individual, on that date, would have been entitled to retired or retainer pay but for the fact that the individual did not satisfy any applicable age requirement.

(b) Except as otherwise provided in subsection (a), the Office may, during the period until January 11, 1984, authorize exceptions to the restrictions in 5 U.S.C. 5532 (a), (b), and (c) only when necessary to meet special or emergency employment needs which result from a severe shortage of well qualified candidates in positions of medical officers which otherwise cannot be readily met. Such exception granted by the Office with respect to any individual shall terminate upon a break in service of 3 days or more.

§ 550.604 Responsibilities of military pay centers.

The Department of Defense military pay centers are responsible for determining the amount of military retired or retainer pay to be withheld. Federal agencies are responsible for notifying the Department of Defense concerning the Federal civilian pay of retired military personnel according to instructions provided in the Federal Personnel Manual.

(5 U.S.C. 5532)

PART 831—RETIREMENT

(5) Part 831 is amended by amending § 831.109, as follows:

§ 831.109 Major Reorganization, reduction in force, or transfer of function.

Determinations of major reorganization, major reduction in force, or major transfer of function for purposes of early optional retirement under section 8336(d)(2) of title 5, United States Code, as amended, will be made by the Office of Personnel Management only after receipt of written request to make the determinations from the agency head, or his designee.

(5 U.S.C. 8336(d)(2))

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-2381 Filed 1-22-79; 8:45 am]

[3410-02-M]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 180—REGULATIONS AND RULES OF PRACTICE UNDER THE PLANT VARIETY PROTECTION ACT

CORRECTION OF RULES

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notification of authority citation.

SUMMARY: The agency adopted final rules at 43 FR 9782 (March 10, 1978) relating to limits of reciprocity for Israeli nationals applying for plant variety protection on asexually-reproduced plants in the United States. This document adds the authority citation under which those rules were issued.

DATE: March 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Bernard M. Leese (301) 344-2518.

SUPPLEMENTARY INFORMATION: The proper authority citation for the rule documents published at 43 FR 9782 is as follows:

(Section 6, 84 Stat. 1542, 7 U.S.C. 2326).

Dated: January 17, 1979.

JAMES E. SPRINGFIELD,
Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-2281 Filed 1-22-79; 8:45 am]

[3410-02-M]

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS: MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

PART 1270—WOOL AND MOHAIR ADVERTISING AND PROMOTION

Subpart—Procedure for the Conduct of Referendums

APPENDIX I—AGREEMENT BETWEEN THE AMERICAN SHEEP PRODUCERS COUNCIL, INC., AND THE U.S. DEPARTMENT OF AGRICULTURE

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of Effective Date.

SUMMARY: This document announces that the requisite number of sheep and wool producers voting in a referendum have approved a new agreement between the U.S. Department of Agriculture (USDA) and the American Sheep Producers Council, Inc., (ASPC). The agreement has been signed by the appropriate officials of ASPC and USDA and is now effective. The agreement authorizes USDA to make deductions from the incentive payments made to producers under the National Wool Act of 1954, as amended, on shorn wool and unshorn lambs marketed during the years 1978 through 1981. Amounts so deducted are to be used by ASPC for advertising and sales promotion programs and programs for the dissemination of information on product quality, production management, and marketing improvement for wool, sheep, or the products thereof.

EFFECTIVE DATE: December 18, 1978.

FOR FURTHER INFORMATION, CONTACT:

Ralph L. Tapp, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, D.C., 20250, 202-447-3970.

SUPPLEMENTARY INFORMATION: Pursuant to Section 708 of the National Wool Act of 1954, as amended (7 U.S.C. 1787), a referendum was held among sheep and wool producers in the United States on August 21-September 1, 1978, to determine whether they approved a proposed new agreement between USDA and the American Sheep Producers Council, Inc. In the referendum, 24,692 producers, constituting 75.3 percent of the voting producers, voted in favor of the agreement and 8,105 producers or 24.7 percent voted against it. The producers voting in favor owned 5,137,091 sheep or 83.4 percent of the sheep or lambs owned by all the voting producers. Producers owning 1,023,530 sheep or 16.6 percent opposed the agreement. Anyone who owned sheep or lambs 6 months of age or older in the United States, continuously, for a period of at least 30 days during the calendar year 1977 was eligible to vote.

Under the new agreement, deductions will be made from payments on 1978 marketings at the rate of 2½ cents per pound of shorn wool marketed, and at a comparable rate, as determined by the Administrator, AMS, on unshorn lambs and yearlings (pulled wool) marketed; thereafter, the deductions shall be at such rates as the Administrator, AMS, and the ASPC may agree upon, but in no event shall the rates be in excess of the rates specified for calendar year 1978. Amounts so deducted are to be used by ASPC for advertising and sales promotion programs and programs for the dissemination of information on product quality, production management, and marketing improvement for wool, sheep, or the products thereof.

Under authority delegated to me (38 FR 22955, August 28, 1973; 30 FR 23076, June 26, 1974), I have determined that the agreement has the approval of the number of producers required by Section 708 of the National Wool Act of 1954, as amended, since more than two-thirds of the total number of producers, and producers of more than two-thirds of the total volume of production represented in the referendum, indicated approval of the agreement. The text of the agreement was published as Appendix I—Agreement between the American Sheep Producers Council, Inc., and the U.S. Department of Agriculture to Part 1270 and adopted July 25, 1978 (43 FR 32121).

The agreement was signed and became effective on December 18, 1978.

(Sec. 708, 68 Stat. 912, as amended, (7 U.S.C. 1787).)

Dated: January 17, 1979.

JAMES E. SPRINGFIELD,
Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-2280 Filed 1-22-79; 8:45 am]

[4410-10-M]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

NOTIFICATION TO ALIENS OF THE AVAILABILITY OF FREE LEGAL SERVICES PROGRAMS

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final Rule.

SUMMARY: This final rulemaking order amends the regulations of the Immigration and Naturalization Service to provide that aliens under exclusion and deportation proceedings must be advised of the availability of free legal services programs, and organizations recognized pursuant to 8 CFR 292.2. The regulation also establishes procedures and criteria under which organizations offering free legal services may qualify for appearance on the Service listing of such organizations which is to be furnished to the aliens. The regulations also provide that the alien be furnished with a Notice advising him of his appeal rights. These final rules are necessary and intended to establish procedures for informing aliens of the availability of free legal services programs in order to afford them full opportunity to obtain legal representation when involved in deportation or exclusion proceedings before this Service.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service. Telephone: (202) 633-3048

SUPPLEMENTARY INFORMATION: On September 27, 1978, the Service published a notice of proposed rulemaking at 43 FR 43721 which proposed amendments to 8 CFR 235.6(a), 236.2(a), 242.1(c), 242.2(a), 242.16(a), and 287.3, and proposed addition of a new Part 292a. The proposed amendments to the above cited sections of

the regulations provided that when the Service advises an alien of his right to counsel in proceedings before this Service, it will also advise him of the availability of free legal services programs located within the district in which the proceedings are to be held and also provide him with a list of such free legal services programs and a list of organizations recognized under 8 CFR 292.2 which are available in that district. In addition, at the time the alien is advised of his right to counsel and the availability of free legal services, he is to be provided with a copy of Form I-618, Written notice of Appeal Rights. New 8 CFR Part 292a which was proposed in the above referenced notice of proposed rulemaking sets forth the procedure and criteria under which organizations providing free legal services would apply to the Service to be place on the list required to be maintained in the various Service districts.

In response to this notice of proposed rulemaking, the Service received over 60 responses from legal aid societies, charitable organizations and other organizations which represent the interest of aliens in the United States, practicing attorneys and concerned individuals with respect to these proposed rules. The Service also received three petitions signed by numerous individuals and over 100 postal cards objecting to the proposed language of 8 CFR 287.3. A description of the major responses received in connection with this notice of proposed rulemaking, along with the response of the Service, follows.

The most vociferous criticism of the proposed rule was of the proposed amendment to 8 CFR 287.3. 8 CFR 287.3 deals generally with the manner in which the Service is to process aliens arrested without a warrant. The Service proposed to amend this section by providing that after the examining officer determines that formal proceedings will be instituted the alien arrested without a warrant shall be advised of the reason for his arrest, of his right to be represented by counsel of his own choice at no expense to the Government and that he shall be provided with a list of available free legal services programs and organizations recognized pursuant to 8 CFR 292.2 located in the district where his deportation hearing will be held. The responses criticized the timing of the advice to the alien of his right to counsel and of the availability of free legal services. The representations and petitions addressed to this point urged that the Service advise an alien arrested without a warrant of his right to counsel and of the availability of free legal services programs immediately upon his arrest prior to the commencement of any interrogation by immigration officers. They argue that to do otherwise is contrary to the alien's due process right and that to fail to provide the advice as to right to counsel prior to any interrogation renders the right to counsel meaningless. It is also contended that unless counsel is provided prior to interrogation, the alien will be unable to make knowing and intelligent waivers of any of his rights and will have already admitted deportability or made other damaging statements or have signed a request for voluntary return, thus, rendering any legal advice subsequently provided meaningless.

There is no statutory or constitutional mandate that advice be given to an alien during his interrogation. To safeguard the alien's procedural due process right, the advice concerning his right to counsel, including free legal services will be given to the alien at that stage in the interrogation when the immigration officer has determined that formal proceedings will be instituted.

Other representations which were submitted urged that the Immigration and Naturalization Service establish in this regulation criteria for determining indigency so these services would be provided on a uniform basis throughout the country and to insure that aliens not receive free legal services from a legal services organization in one part of the country, while under the same circumstances he may not receive such representation in another part of the country. The Service does not feel that it is appropriate to establish in these regulations standards for indigency which must be met before a legal services agency may accept a case of an alien based on indigency. The charters, regulations and statutory framework under which organizations funded by the Legal Services Corporation and other organizations which provide legal services to indigent persons operate, have their own standards for determining whether or not a person is or should be permitted to take advantage of those services based on indigency. The Service does not feel it would be appropriate to attempt to establish criteria for indigency in such a manner as to tell the various organizations providing legal services how to go about determining who will qualify. It is our view that the various organizations are responsible and should be permitted to establish criteria under which they will accept cases and that the Service has no place being involved in that determination.

In a number of representations, the criticism was raised that there was no provision to advise the alien of the availability of free legal services in writing, in English and in his own language, and that the written notice of appeal rights was printed only in English. With regard to notification to the alien in his own language, it has been the practice to provide interpreters if necessary. The Service will continue this practice and the rule will not be amended. The Form I-618, Written Notice of Appeal Rights, has been published in the Spanish language. Publication in other languages will be considered as the need arises.

A small number of individuals submitting representations complained that the Service was without authority to issue these regulations because they were contrary to the provisions of section 292 of the Immigration and Nationality Act. They base their argument on the fact that a number of the legal services organizations are funded by the Federal Legal Services Corporation; therefore, the money which they receive is Government money; and, as a result, an individual represented by a legal services corporation funded organization is being represented at the expense of the Government.

The Service finds no conflict between the limitation in section 292 of the Act and the availability of free legal services rendered by those organizations which are recipients of funds provided by certain Federal agencies or the Legal Service Corporation.

Several representations objected to vesting in the district directors and officers-in-charge final authority to grant applications by organizations to have their names appear on the Service list and suggested that the Board of Immigration Appeals be authorized to entertain appeals from such determinations. The proposed regulation will be redrafted to limit the grounds for denial of applications or removal from the list to the failure of the applicant organization to meet the qualifications set forth in new 8 CFR 292a.2. Provision will also be made for organizations to appeal decisions denying applications or removing an organization from the list to the Regional Commissioner. The proposed regulation will also be redrafted to allow an organization whose name appears on the list to apply for removal from the list to the district director of officer-in-charge.

A few representations suggested that there be included in the Service list the names of private attorneys and social services organizations who do not have attorneys on their staff. Private attorneys who are available to provide free legal services to aliens in deportation or exclusion proceedings can accomplish this objective by having their names appear on the bar association list under their referral system. Also, the proposal will be amended to provide that an organization may be listed if it retains, at no expense to the alien, attorneys to provide representation in exclusion or deportation proceedings.

One legal services organization suggested that no application form be required of them since the Legal Services Corporation could provide a list of the legal services organizations in the given area and that to require submission of applications would only consume time and paper. The application is only used as a medium to convey to the Service the desire, willingness and ability of the organization to provide free legal services in accordance with this regulation. Without the application the Service will not know which agencies are willing and available to provide free legal services for aliens in proceedings before the Service.

Another organization suggested that proposed 8 CFR 292a be modified to state that referral should be made to representatives, as well as attorneys. This would enable paralegals, law students and the like to engage in this work. The Service cannot amend the rule as recommended because under 8 CFR 292.2, only the Board of Immigration Appeals has authority to permit individuals who are not attorneys, to represent aliens. These individuals must be sponsored by the organization recognized under 8 CFR 292.2(b).

Accordingly, the following amendments will be made to the proposed rules:

1. A new subparagraph will be added to 8 CFR 103.1(m) relating to the appellate jurisdiction of Regional Commissioners to provide them jurisdiction in appeals of decisions dealing with application for or removal from, the listing of free legal services.

2. Proposed 8 CFR 292a.2 will be amended to provide that an organization may also be included on the Service list if it retains, at no expense to the alien, attorneys as defined in 8 CFR 1.1(f) who are available to render free legal services by representation in exclusion or deportation proceedings.

3. Proposed 8 CFR 292a.4 will be revised to provide that denial of an application to appear on the Service list must be based on the failure of the organization to meet the qualifications specified in 8 CFR 292a.2, and that the organization shall be advised of its right to appeal to the Regional Commissioner in accordance with 8 CFR 103.1 and 103.3.

4. Proposed 8 CFR 292a.5 will be amended to provide that removal of an organization from the list shall be based on the failure of the organization to meet the qualifications specified in 8 CFR 292a.2 and that such removal may be appealed to the Regional Commissioner in accordance with 8 CFR 103.1 and 103.3. In addition, this section will be amended to provide that a request for an organization to have its name removed from the list shall be honored by the District Director or Officer-in-Charge.

In the light of the foregoing, the following amendments are hereby made to Chapter I of Title 8 of the Code of Federal Regulations:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. In Part 103, § 103.1(m) is amended by adding a new subparagraph (22) to read as follows:

§ 103.1 Delegations of authority.

* * * * * *

(m) *Regional Commissioners.* * * *

* * * * * *

(22) Decisions on applications by organizations to be listed on the Service listing of free legal services programs and decisions to remove organizations from such list. See Part 292a of this chapter.

* * * * * *

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

2. In Part 235, the title of § 235.6 is revised and the text of § 235.6(a) is revised as set forth below:

§ 235.6 Referral to immigration judge.

(a) *Notice.* If, in accordance with the provisions of section 235(b) of the Act, the examining immigration officer detains an alien for further inquiry before an immigration judge, he shall immediately sign and deliver to the alien a Notice to Alien Detained for Hearing by an Immigration Judge (Form I-122). If the alien is unable to read or understand the notice, it shall be read and explained to him by an employee of the Service, through an interpreter, if necessary, prior to such further inquiry. In addition, the alien shall be advised of his right to representation by counsel of his choice at no expense to the Government, and of the availability of free legal services programs qualified under Part 292a of this chapter and organizations recognized pursuant to § 292.2 of this chapter, located in the district where the alien is being detained. He shall, also be furnished with a list of such programs.

* * * * * *

PART 236—EXCLUSION OF ALIENS

3. § 236.2(a) is amended by revising the third sentence to read as follows:

§ 236.2 Hearing.

(a) *Opening.* * * * The Immigration Judge shall ascertain whether the applicant for admission is the person to whom Form I-122 was previously delivered by the examining immigration officer as provided in Part 235 of this chapter; enter a copy of such form in evidence as an exhibit in the case; inform the applicant of the nature and purpose of the hearing; advise him of the privilege of being represented by an attorney of his own choice at no expense to the Government, and of the availability of free legal services programs qualified under Part 292a of this chapter and organizations recognized pursuant to § 292.2, of this chapter located in the district where his exclusion hearing is to be held; and shall ascertain that the applicant has received a list of such programs; and request him to ascertain then and there whether he desires representation; advise him that he will have a reasonable opportunity to present evidence in his own behalf, to examine and object to evidence against him, and to cross-examine witnesses presented by the Government; and place the applicant under oath.

* * * * * *

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

4. § 242.1(c) is revised by adding three new sentences to the end thereof. As revised, § 242.1(c) reads as follows:

§ 242.1 Order to show cause and notice of hearing.

* * * * * *

(c) *Service.* Service of the order to show cause may be accomplished either by personal service or by routine service; however, when routine service is used and the respondent does not appear for hearing or acknowledge in writing that he has received the order to show cause, it shall be reserved by personal service. When personal delivery of an order to show cause is made by an immigration officer, the contents of the order to show cause shall be explained and the respondent shall be advised that any statement he makes may be used against him. He shall also be advised of his right to representation by coun-

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sel of his own choice at no expense to the Government. He shall also be advised of the availability of free legal services programs qualified under Part 292a of this chapter and organizations recognized pursuant to § 292.2 of this chapter, located in the district where his deportation hearing will be held. He shall be furnished with a list of such programs, and a copy of Form I-618, Written Notice of Appeal Rights, regardless of the manner in which the service of the order to show cause was accomplished. Service of these documents shall be noted on Form I-213.

• • • • •

5. Section 242.2(a) is amended by changing the term "special inquiry officer" to "immigration judge" wherever it appears. Section 242.2(a) is further amended by adding three new sentences between the existing fourth and fifth sentences respecting advice to aliens concerning free legal services programs. The three sentences which are added read as follows:

§ 242.2 Apprehension, custody, and detention.

(a) *Warrant of arrest.* • • • He shall also be advised of the availability of free legal services programs qualified under Part 292a of this chapter and organizations recognized pursuant to § 292.2 of this chapter, located in the district where his deportation hearing will be held. He shall be furnished with a list of such programs, and a copy of Form I-618, Written Notice of Appeal Rights. Service of these documents shall be noted on Form I-213. • • •

6. Section 242.2(b) is amended by revising the title thereof as set forth below, and by changing the term "special inquiry officer" to "immigration judge" wherever it appears. Section 242.2(b) is further amended by adding four new sentences between the existing fifth and sixth sentences which pertain to notification of aliens of the availability of free legal services and appeal rights. The four sentences which are added read as follows:

• • • • •

(b) *Authority of immigration judge; appeals.* • • • In connection with such application the immigration judge shall advise the respondent of his right to be represented by counsel of his own choice at no expense to the Government. He shall also be advised of the availability of free legal services programs qualified under Part 292a of this chapter and organizations recognized pursuant to § 292.2 of this chapter, located in the district where his application is to be heard. The Immigration Judge shall ascertain that the respondent has received a list of such programs, and the receipt by the respondent of a copy of Form I-618, Written Notice of Appeal Rights. Upon rendering a decision on an application under this section, the Immigration Judge (or district director if he renders the decision) shall advise the alien of his appeal rights under this section. • • •

• • • • •

7. Section 242.16(a) is revised to read as follows:

§ 242.16 Hearing.

(a) *Opening.* The Immigration Judge shall advise the respondent of his right to representation, at no expense to the Government, by counsel of his own choice authorized to practice in the proceedings and require him to state then and there whether he desires representation; advise the respondent of the availability of free legal services programs qualified under Part 292a of this chapter and organizations recognized pursuant to § 292.2 of this chapter, located in the district where the deportation hearing is being held; ascertain that the respondent has received a list of such programs, and a copy of Form I—618, Written Notice of Appeal Rights; advise the respondent that he will have a reasonable opportunity to examine and object to the evidence against him, to present evidence in his own behalf and to cross-examine witnesses presented by the Government; place the respondent under oath; read the factual allegations and the charges in the order to show cause to the respondent and explain them in nontechnical language, and enter the order to show cause as an exhibit in the record. Deportation hearings shall be open to the public, except that the Immigration Judge may, in his discretion and for the purpose of protecting witnesses, respondents, or the public interest, direct that the general public or particular individuals shall be excluded from the hearing in any specific case. Depending upon physical facilities, reasonable limitation may be placed upon the number in attendance at any one time, with priority being given to the press over the general public.

• • • • •

PART 287—FIELD OFFICERS; POWERS AND DUTIES

8. Section 287.3 is amended by changing the term "special inquiry officer" to "immigration judge" wherever it appears. Section 287.3 is further amended by revising the fourth sentence and adding two new sentences, immediately preceding the existing fifth sentence. The amendments read as follows:

§ 287.3 Disposition of aliens arrested without warrant.

• • • After the examining officer has determined that formal proceedings under sections 236, 237, or 242 of the Act, will be instituted, an alien arrested without warrant of arrest shall be advised of the reason of his arrest and his right to be represented by counsel of his own choice, at no expense to the Government. He shall also be provided with a list of the available free legal services programs qualified under Part 292a of this chapter and organizations recognized pursuant to § 292.2 of this chapter, located in the district where his deportation hearing will be held. It shall be noted on Form I-213 that such a list was provided to the alien. • • •

• • • • •

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9. A new Part 292a which reads as follows is hereby added:

PART 292a—LISTING OF FREE LEGAL SERVICES PROGRAMS

Sec.
292a.1 Listing.
292a.2 Qualifications.
292a.3 Applications.
292a.4 Approval and denial of applications.
292a.5 Removal of an organization from list.

AUTHORITY: Sec. 103; 8 U.S.C. 1103, Interpret or apply secs. 242 and 292 (8 U.S.C. 1252 and 1362).

§ 292a.1 Listing.

District directors and officers-in-charge shall maintain a current list of organizations qualified under this Part and organizations accredited under § 292.2 of this chapter within their respective jurisdictions for the purpose of providing aliens in deportation or exclusion proceedings with a list of such organizations as prescribed in this chapter.

§ 292a.2 Qualifications.

An organization which seeks to have its name appear on the Service list described in § 292a.1 must show that it is established in the United States, provides free legal services to indigent aliens, has on its staff attorneys as defined in § 1.1(f) of this chapter or retains, at no expense to the alien, attorneys as defined in § 1.1(f) of this chapter, who are available to render such free legal services by representation in deportation or exclusion proceedings. Bar associations which provide a referral service of attorneys who render pro bono assistance to aliens in deportation or exclusion proceedings may also qualify to have their names appear on the Service list. Listing of an organization qualified under this part is not equivalent to recognition under § 292.2 of this chapter.

§ 292a.3 Applications.

Applications by organizations to qualify for listing under this Part shall be submitted to the district director or officer-in-charge having jurisdiction over each area in which free legal services are being provided by the organization. The application shall be supported by a declaration signed by an authorized officer of the organization that the organization complies with all the qualifications set out in § 292a.2.

§ 292a.4 Approval and denial of applications.

District directors or officers-in-charge shall have the authority to grant or deny an application submitted by an organization under this Part, within their respective jurisdiction. If an application is denied, the applicant shall be notified of the decision in writing giving the grounds for such denial. Denial must be based on the failure of the organization to meet the qualifications specified in § 292a.2. The organization shall be advised of its right to appeal to the Regional Commissioner in accordance with §§ 103.1 and 103.3 of this chapter.

§ 292a.5 Removal of an organization from list.

If the district director or officer-in-charge is satisfied that an organization listed under § 292a. does not meet the qualifications as set out in § 292a.2, he shall notify the organization concerned, in writing, of his intention to remove its name from the Service list. The organization may submit an answer within 30 days from the date the notice was served. If, after considering the answer by the organization, in the event an answer is submitted, the district director or officer-in-charge determine that the organization does not qualify under § 292a.2, he shall remove its name from the list. Removal must be based on the failure of the organization to meet the qualifications specified in § 292a.2 of this chapter. The organization shall be advised of its right to appeal to the Regional Commissioner in accordance with §§ 103.1 and 103.3 of this chapter. If an organization applies to the district director or officer-in-charge to have its name removed from the Service list, that request shall be honored.

(Sec. 103; 8 U.S.C. 1103, Interpret or apply secs. 242 and 292 (8 U.S.C. 1252 and 1362).)

Effective date: The amendments contained in this order become effective on February 22, 1979.

Dated: January 18, 1979.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 79-2294 Filed 1-22-79; 8:45 am]

[1505-01-M]

Title 9—Animals and Animal Products

CHAPTER III—FOOD SAFETY AND QUALITY SERVICE, MEAT AND POULTRY INSPECTION, DEPARTMENT OF AGRICULTURE

PART 319—MEAT SPECIALITIES, PUDDINGS AND NONSPECIFIC LOAVES

CFR Correction

In § 319.280 appearing on page 629 of Title 9 of the Code of Federal Regulations revised as of January 1, 1978, a word appeared in error. For the convenience of the user the correct § 319.280 is set forth below:

§ 319.280 Scrapple.

"Scrapple" shall contain not less than 40 percent meat and/or meat byproducts computed on the basis of the fresh weight, exclusive of bone. The meal or flour used may be derived from grain and/or soybeans.

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Regulation PR-192, Amdt. No. 2; Docket 34512]

PART 300—RULES OF CONDUCT IN BOARD PROCEEDINGS

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., January 18, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: The Board, on its own initiative, is modifying its present *ex parte* rule to permit Board employees in non-hearing cases to consult with other federal agencies and in certain small community air service cases to consult with any interested persons. A written summary of any such communication would have to be placed in the docket for the case. In addition, the amendment will conform the definition of the class of communications barred by the rule to match the definition given in the Administrative Procedure Act, 5 U.S.C. 557(d), of proscribed *ex parte* communications.

DATES: Effective: January 18, 1979. Adopted: January 18, 1979.

FOR FURTHER INFORMATION CONTACT:

Thomas L. Ray, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5424.

SUPPLEMENTAL INFORMATION: The Board's present rule on *ex parte* communications, 14 CFR 300.2, 300.3, was adopted in 1977 to substantially strengthen the earlier prohibition against *ex parte* communications. PR-166, adopted March 29, 1977, 42 FR 17436 (April 1, 1977). As a result of that strengthening, our rule is considerably stricter than the *ex parte* rule in the Administrative Procedure Act (APA), 5 U.S.C. 557(d), added by the Government in the Sunshine Act, Pub. L. 94-409, 90 Stat. 1241 (September 13, 1976). The principal difference is our own rule's coverage of more kinds of proceedings than are covered by the APA. The APA *ex parte* prohibition applies only to proceedings in which a hearing is required. We have found that the broader coverage of our rule is beneficial and, for the most part, requires no changes.

Our experience with the rule, however, has shown a need to modify it in some respects. First, there are communications in two kinds of non-hearing cases which need to be exempted from the bar against *ex parte* communications in order for us to properly carry out our duties. The first kind concerns the Board's responsibility under Section 419 of the Federal Aviation Act, 49 U.S.C. 1389, added by Section 33(a) of the Airline Deregulation Act of 1978 (Pub. L. 95-504) to arrange for the provision of essential air service to the small communities entitled to it. In determining the air service needs of the eligible communities, we are expressly directed by the legislation to consult with the communities and the appropriate state agencies. The Board, moreover, will probably need to discuss with the incumbent and applicant carriers how best to meet the service needs of these communities. Under our present rule, the *ex parte* prohibition would not begin to apply to a Section 419 proceeding until it became a "public proceeding" within the meaning of the rule. Nonetheless, even after institution of such a proceeding, we believe it likely that we will have discussions with the communities, states, and the carriers. To avoid cutting off these discussions, we have decided to amend the *ex parte* rule to exempt them from the prohibition against *ex parte* communications, so long as the proceeding has not been set for hear-

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ing. To preserve the fairness of our decision of such cases, however, we will require that a written summary be filed in the docket under Section 300.3 of our rules.

In addition, we have found from experience that the Board's duties from time to time require our staff to discuss with other federal agencies matters which are at issue in public proceedings. Such discussions are permitted by the APA in non-hearing cases, but not now by our own rule. We recently determined to waive the *ex parte* prohibition in two Board proceedings because we found it necessary for our staff to hold discussions with the Federal Aviation Administration and Department of Transportation. Orders 78-11-67 (November 16, 1978) and 78-11-68 (November 16, 1978). To avoid the need for such waivers in the future, we are amending our *ex parte* rule to permit discussions between our staff and other federal agencies in non-hearing cases. Like the discussions in Section 419 proceedings, however, a summary of such discussions with other agencies will have to be made publicly available. Communications concerning national defense and foreign policy matters, which are already exempted by paragraph (e), will retain that exemption and will not be subject to the requirement that a summary be made publicly available.

Secondly, the present rule was adopted shortly after Congress added a comprehensive *ex parte* prohibition to the Administrative Procedure Act (APA). The Board's rule, however, uses somewhat different language than the APA in defining the kind of communications considered to be *ex parte*. While the APA speaks of communications "relevant to the merits of the proceeding" from "interested persons," the Board's rule bans "any • • • statement that could influence a decision on any significant issue, of procedure or on the merits, in a public proceeding." We see no reason for preserving these differences in language, which can cause confusion without providing any benefit.[1] Accordingly, we will conform to the Board rule's description of the kind of communications prohibited by it to that of the APA.

Finally, our present rule's definition of "public proceeding" does not cover proceedings instituted by a show-cause order issued on the Board's own motion, rather than in response to a docket filing, *e. g.* the Board's reexamination through a show-cause proceeding of the International Air Transport Association (IATA) traffic conference machinery, Order 78-6-78 (June 9, 1978). When such cases are contested, they should be protected by the *ex parte* rule as soon as a document opposing the order's tentative findings is filed in the docket. This amendment of the rule therefore expands the definition of "public proceeding" so that it includes such show-cause proceedings.

The Board finds that the public interest requires that this amendment take effect immediately, since it will enable the Board to better carry out its responsibilities. In particular, the Board's staff, under a statutorily imposed timetable, has already begun work on the new small community service program mandated by Section 419 of the Act, and the Board is already taking action under that section. Furthermore, this amendment essentially concerns matters of agency procedure and practice which will not prejudice any party in a Board proceeding. We therefore find that notice and public procedure are contrary to the public interest, which requires that this amendment become effective immediately. We also find there is good cause for omitting the 30 days' advance notice ordinarily required for rulemaking.

While we have found a need to make this amendment effective immediately, we do wish to give the public an opportunity to comment on these rules. We are therefore issuing simultaneously a notice of proposed rulemaking in order to provide the public that opportunity.

Accordingly, effective January 18, 1979, the Board hereby amends Part 300, *Rules of Conduct in Board Proceedings* (14 CFR Part 300), as follows:

1. Paragraphs (a), (b)(1), (b)(3), and (c) of § 300.2 are amended to read as follows:

§ 300.2 Prohibited communications.

(a) *Basic requirement.* Except as provided in paragraphs (c), (d), and (e), there shall be no substantive communication in either direction between any concerned Board employee and any interested person outside the Board, concerning a public proceeding, until after final disposition of the proceeding, other than as provided by Federal statute or published Board rule or order.

(b) *Definitions.* For purposes of this part:

(1) A "substantive communication" is any written or oral communication relevant to the merits of the proceeding.

• • • • • •

(3) A "public proceeding" is one of the following:

(i) A proceeding for which a Federal statute requires a hearing, after the filing of the document initiating the proceeding, or a matter on which the Board has ordered a hearing at which an employee presides at the taking of evidence, after the issuance of the order (such a proceeding is referred to as a "hearing case," with any other proceeding sometimes referred to as a "nonhearing case").

(ii) A rulemaking proceeding, after the issuance by the Board of a notice requesting public comment.

(iii) A tariff filing after the Board has ordered an investigation or a complaint has been filed or docketed.

(iv) A proceeding initiated by a Board show-cause order, after the filing in the docket of an identifiable written opposition to the order's tentative findings.

(v) Any other proceeding initiated by a docket filing, after the filing in the docket of an identifiable written opposition to the initiating document.

(c) *General exceptions.* Paragraph (a) of this section shall not apply to the following:

(1) Informal communications • • •.

• • • • • •

(7) Nonhearing cases • • •.

(8) Nonhearing cases arising under Section 419 of the Federal Aviation Act, 49 U.S.C. 1389.

(9) In nonhearing cases, communications with other Federal agencies not exempted by paragraph (e) of this section.

2. § 300.3(a) is amended by adding the following new paragraphs (5) and (6):

§ 300.3 Reporting of communications.

(a) • • •

(5) Communications in nonhearing cases arising under Section 419 of the Federal Aviation Act, 49 U.S.C. 1389, made under § 300.2(c)(8).

(6) Communications in nonhearing cases with other agencies of the Federal government under § 300.2(c)(9).

• • • • • •

(Sections 204 and 1001 of the Federal Aviation Act of 1958 as amended, 72 Stat. 743, 788, 49 U.S.C. 1324, 1481).

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-2341 Filed 1-23-79; 8:45 am]

[1] We note that the APA rule does not expressly proscribe communications involving a significant procedural issue. We assume, however, that a communication on a significant procedural issue relevant to a case's merits could be held barred by the APA rule.

[6320-01-M]

[Regulation PR-190; Amdt. No. 50; Docket 34304]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. January 17, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: In PR-191, also adopted today, the Board established new rules governing unused authority under the Airline Deregulation Act of 1978. This rule makes ancillary changes to the Board's Rules of Practice.

DATES: Adopted: January 17, 1979. Effective: January 17, 1979.

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, Washington, D.C. 20428 (202) 673-5442.

SUPPLEMENTARY INFORMATION: New rules governing unused authority appear in Part 321. This amendment of Part 302 revokes the old rules, which were in Subpart R. Conforming changes are also made in Subpart I. Supplementary information about these rules appears in PR-191, also adopted today.

Accordingly, the Civil Aeronautics Board amends Part 302, *Rules of Practice in Economic Proceedings* (14 CFR Part 302) as follows:

1. Section 302.901 is revised to read:

§ 302.901 Applicability.

This subpart sets forth the special rules applicable to proceedings for conferment and/or modification of route authority under sections 401 and 402 of the Federal Aviation Act of 1958. However, this subpart does not apply to applications for unused authority under section 401(d)(5) of the Act and Part 321 of this chapter or applications for automatic market entry under section 401(d)(7) and Part 322 of this chapter. For information as to other applicable rules, reference should be made to Subpart A of this part, to the Federal Aviation Act, and to the substantive rules (Parts 201 and 211 for the form of applications) and orders of the Board.

2. In § 302.908, paragraph (a) is revised to read:

§ 302.908 Applications for new or modified certificated route authority.

(a) This section applies to all applications filed under this part for new or modified certificated route authority except those filed under Subpart M or N and those filed in response to, and conforming to, an order instituting a route investigation. Except as modified by this section, the rules in Subpart A of this part continue to apply.

• • • • • •

Subpart R—[Revoked]

3. Subpart R—*Rules Applicable to Unused Authority Proceedings*, is revoked.

4. The Table of Contents is amended by deleting Subpart R.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-2337 Filed 1-22-79; 8:45 am]

[6320-01-M]

[Reg. PR-191; Issuance of Part 321]

PART 321—UNUSED AUTHORITY PROCEDURES

Final Rule

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., January 17, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: The CAB is revising the rules governing unused authority under the Airline Deregulation Act of 1978. The changes include (1) new format requirements and filing deadlines for certain existing types of documents; (2) new types of documents; (3) a drawing to establish priorities among applications and incumbent carriers' notices of intent to begin service that are filed on the same day; (4) procedures for disposition of these filings, and (5) interpretations of some provisions of the Act.

DATES: Adopted: January 17, 1979. Effective: January 17, 1979, except that the requirements in § 321.4 for notices of completion of 13 weeks of service, and for notices by incumbents (but not applicants) of inauguration of service are effective March 6, 1979.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION: The unused or "dormant" authority provision of the Federal Aviation Act, section 401(d)(5), was added by the Airline Deregulation Act of 1978, Pub. L. 95-504. In anticipation of applications and incumbent carriers' notices of intent to begin service, to be filed upon the signing of the Deregulation Act, we established rules governing unused authority proceedings. These rules are found in Subpart R of 14 CFR Part 302, *Rules of Practice in Economic Proceedings*. (PR-180, October 18 1978; 43 FR 49529, October 24, 1978.) We later amended Subpart R to allow applications to include page citations instead of actual copies of Official Airline Guide pages used to demonstrate dormancy. (PR-183, November 2, 1978; 43 FR 52021, November 8, 1978.)

In PDR-59, we proposed substantial revisions of the unused authority rules (December 21, 1978; 43 FR 60283, December 27, 1978). In connection with these revisions, it was also proposed to transfer the rules from Subpart R to a new Part 321. The proposed changes included new names, format requirements, and filing deadlines for certain existing types of documents; new types of documents, with corresponding deadlines and service requirements; a drawing or computer lottery to establish priorities among applications and incumbents' notices filed on the same day; procedures for disposition of these filings; and interpretations of some provisions of the Act.

Eight air carriers, the Airport Operators Council International (AOCI), and the Port Authority of New York and New Jersey filed comments. After considering these comments, the Board is adopting Part 321 as proposed, except for the changes discussed below. We have decided to use a drawing rather than a computer-based lottery for establishing priorities among applications and incumbents' notices of intent to begin service that are filed on the same day. PR-190, also issued today, adopts the ancillary amendments to Part 302, *Rules of Practice in Economic Proceedings*, that were also proposed in PDR-59.

INTERPRETATIONS

"Commence service." Section 401(d)(5)(H) directs carriers awarded new authority on the basis of unused authority to "commence service" within 45 days after the award, with a corresponding requirement where the authority is seasonal. Otherwise, the Board is required to revoke the new authority. PDR-59 proposed interpreting this provision as though Congress had included wording in subparagraph (H) similar to that of subparagraph (G), where successful incumbents are explicitly directed to begin service and continue it at the minimum of five round-trips per week for 13 consecutive weeks (or for at least half the season).

Allegheny Airlines, Continental Airlines, and AOCI supported this proposed interpretation, while Trans World Airlines opposed it. Air Florida urged a delayed effective date.

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Supporters of the interpretation generally argued that it comports with Congress' intent to encourage real rather than token new service in markets that have unused authority. TWA argued that the Congressional remedy for failure of a new entrant to provide minimum service is the eligibility of that authority for further entry when it becomes dormant after 26 weeks, rather than loss of the new entrant's certificate. Section 401(d)(5)(H), however, directs the Board to revoke a new certificate if the carrier does not commence service within 45 days. If TWA's argument were valid, a carrier could, by performing a single flight on the 45th day, retain its new authority and block any new competition while providing no further service for 13 weeks, as long as it then finally began to perform five round-trips per week for the next 13 weeks. We do not believe that Congress intended "commence service" to mean so little. Moreover, TWA has not shown that the proposed interpretation is unreasonable. Accordingly, we are adopting the interpretation essentially as proposed.

Allegheny pointed out that the proposed interpretation, by keying the 13-week period of five-flights-per-week service to the day that the carrier actually begins service, would penalize carriers that begin immediately with limited service and intend to upgrade it to five flights per week by the 45th day. Such a carrier would not satisfy the proposed interpretation, since the minimum level of service would not have been provided for the "first 13 full calendar weeks after the day that it begins service." We did not intend this result, and the interpretation has been redrafted accordingly.

Air Florida argued that the interpretation of "commence service" should be given prospective effect only. It stated that carriers that were awarded authority long ago and in good faith developed operating plans based on their own less stringent but nonetheless reasonable interpretations should not be required to change those plans abruptly. It suggested that the interpretation be limited to awards of authority made after December 21, 1978 (the date the interpretation was proposed); for earlier awards, a carrier would need only to avoid creating a new dormancy by providing at least 13 weeks of minimum-level service during the first 26 weeks. We agree with Air Florida's argument that the interpretation should be given prospective effect only, but not with its suggested way of doing it. If carriers that received awards before the effective date of the interpretation were not subject to it at all, the "commence service" requirement could be made meaningless for those awards, as explained above in response to TWA's argument. Instead we are establishing March 4, 1979, as the critical date in the following manner: if the authority was awarded before January 20, 1979, the carrier need only begin to provide some service within 45 days of the award, but by March 4 it must begin to provide at least five round-trips per week and continue service of at least that level for 13 full calendar weeks. This approach provides as much lead time for old awards as it does for new ones.

Northwest Airlines asked whether, if the day on which a carrier is required to begin service falls on a Saturday, it may comply by having a schedule that, while effective on that Saturday, would not involve any flights until the following Monday since the schedule consisted solely of weekday service. We interpret the requirement as being satisfied by such a schedule, since it would be unnecessarily burdensome to require an anomalous weekend flight.

"Week" means calendar week. PDR-59 proposed to simplify the computation of dormancy periods by interpreting the term "week" to mean a calendar week running from Sunday through the following Saturday. TWA suggested that weeks be considered as running from Monday through Sunday, to conform with the Official Airline Guide's practice of numbering the days of the week in that order. Since no other commenter suggested the change, the OAG practice is a very minor consideration and is contrary to the conventional view of a week, and some expense would be involved in reprogramming the Board's computer, this suggestion is not being adopted.

Documents

Labeling. The proposed rule prescribed titles for all types of documents and specified that the governing subparagraph of section 401(d)(5) be indicated on the cover page. The rule has been redrafted to require the subparagraph to be included as part of the title.

Identification of Points. PDR-59 proposed that points be identified in applications by the Official Airline Guide's *city* codes instead of airport codes, with special provisions for cities served by multiple airports. The Port Authority of New York and New Jersey pointed out that Newark, which is often designated in certificates as a point distinct from New York, could not be properly identified under the proposed scheme because it does not have its own city code. The final rule accommodates this situation by specifying that when an airport is named in a certificate as a separate, non-hyphenated point, it shall be identified by airport code in parentheses after the city code for the area. Thus Newark would be identified as NYC(EWR).

Service of Documents. Delta suggested that applications should be required to be served on all carriers operating at each point named in the application, instead of merely on those carriers that operated in the named markets. This suggestion is not being adopted, since the general interest that a carrier has in markets involving the points it serves does not appear significant enough to warrant such an expansion of the service requirements. We are, however, adding a requirement that the mayor or other chief executive of each named point be served with applications and other documents. Since this requirement will facilitate participation by communities that have an important interest in unused authority proceedings and imposes no significant additional burden, we find that notice of proposed rulemaking on this point is unnecessary and not in the public interest.

Aircraft Information To Be Included in Applications. PDR-59 proposed that applications be required to include a minimal amount of additional information so that the Board could verify the certification that the applicant's aircraft meet FAA specifications. The proposal suggested the aircraft description set forth in proposed § 321.12 for applications requesting suspension of incumbents' authority, or some similar data. No comments addressed this subject. We are adopting this approach. Applicants must submit either a plan for obtaining aircraft, identified by type, that can be verified within 15 days by the Board's staff, or a list of aircraft identified by FAA registration number. However, for carriers that have not yet been found fit, willing, and able to provide scheduled service this plan or list is not limited to those aircraft that the applicant contemplates using in the market where it seeks authority, since section 401(d)(5) appears to contemplate a certification by the applicant that all its aircraft comply with applicable FAA requirements. Applicants that have already been found fit, willing, and able to provide scheduled service need only cite the most recent Board order establishing that finding and provide the plan or list for aircraft that they intend to use in the market applied for.

Schedule Information. In markets governed by subparagraph (D) or (E) of section 401(d)(5), the Board must issue a certificate to the first applicant not blocked by an incumbent's notice unless it finds that the issuance would be inconsistent with the public convenience and necessity. PDR-59 proposed in § 321.14 a special requirement for replies to answers to applications

in these markets when the answer alleges that issuance of a certificate would be inconsistent with the public convenience and necessity: the reply would have to indicate, by frequency and equipment type, what service the applicant would provide and what service (if any) it would discontinue in order to make aircraft available for the new service. Southern Airways argued that this information should be required in all applications because the reply stage is too late, while Delta argued that it should not be required even in replies. We reject these arguments, adopting the schedule information requirement as proposed.

Southern's argument is based on the incorrect assumption that replies would not be due until 42 days after an application. However, the schedule is as follows: Answers to the application are due 14 days after the application; replies by the applicant, 28 days after; and responses 42 days after. Therefore, opponents will have 14 days after the reply stage to prepare response based on the schedule information included in the reply. This is as much time as opponents would have if the information were required in all applications, because in that case the responses stage would be eliminated entirely.

Moreover, imposing the schedule information requirement on all applications would be unnecessarily burdensome, since most will probably not be opposed on public convenience and necessity grounds and some will be blocked by earlier-filed incumbents' notices or applications.

Delta likened unused authority proceedings under section 401(d)(5) to route proceedings under section 401(d)(1) that contemplate multiple permissive authority. It argued that the schedule information requirement is burdensome at any stage, and in the alternative that at most an illustrative service proposal should be required in replies. This argument lacks merit. The crucial distinction between these two types of route authority is that successful applicants under the unused authority provisions are required to begin service within a specified time. Providing the proposed schedule information in replies therefore is not excessively burdensome, because an applicant carrier will by reply time have some plans as to what its schedules will be.

Procedures

Drawing. Applications and incumbents' notices that are filed on the same day are considered essentially simultaneous. PDR-59 proposed alternative methods for randomly establishing the order in which such documents would be treated as having been filed. The first possibility, a conventional blind drawing, was a continuation of the method already being used on an interim basis. The alternative proposal was a computer-based lottery using random numbers, with seed numbers derived from documents' docket numbers and a rapid-advance digital clock that would be available in the Docket Section. American Airlines suggested that the drawing is straightforward and easily understood, while the computer approach is unnecessarily complicated. Delta also preferred a drawing, but suggested that if the computer approach is used, seed numbers be taken directly from the computer's real-time clock instead of the more complicated method that was proposed. Air Florida also preferred the drawing to a lottery, but stated that its first choice would be a professional sports-type draft system with rounds, as a more equitable method of distributing unused authority.

We have decided to adopt the drawing method in view of its established adequacy and the commenters' preference for it. The computer lottery appears not to inspire public confidence. Air Florida's suggestion of a sports-type draft, which is actually independent of the choice between a drawing and a computer lottery, is not being adopted. It is needlessly complicated in light of the small number of markets likely to be simultaneously receiving multiple applications and the varying groupings of carriers filing for those markets.

Five Days to File a New Application After a Retraction or Relinquishment.—To open markets earlier to new applicants, PDR-59 proposed a procedure whereby incumbents could retract (referred to in the proposal as "waive") their incumbents' notices, and winning applicants could relinquish their new authority before the deadline for beginning service. Proposed §§ 321.32 and 321.33 stated that new applications would be accepted on the first business day after the retraction or relinquishment was filed. Continental pointed out that this practice would provide virtually no notice of the market's new availability to prospective applicants. Unlike the other events that create an opportunity to apply, *i.e.*, the existence of a dormancy or a failure to begin service, there is no advance warning of the possibility of filing new applications. The proposed procedure would thus give an unfair advantage to carriers that can afford to have representatives check the Docket Section in Washington every day. Continental suggested that applications therefore not be accepted until the fifth business day after the retraction or relinquishment is filed. Continental's argument has merit. To minimize confusion in the Docket Section, however, we will accept new applications on the first through the fifth business day and treat them as if they were all filed on the fifth. In this special situation, five days' filings would be consolidated in a single drawing.

No Waiver Provision. TWA and Air Florida suggested that the rule include a waiver provision so that carriers could be relieved from requirements that are burdensome in special situations, particularly the "commence service" interpretation when circumstances beyond the carrier's control make compliance impossible. There is no need for such a waiver provision, however, since the Board's Section 416 exemption power (as liberalized by the Deregulation Act) is adequate to handle these situations.

Editorial Changes

The proposed definition of "minimum level" and "minimum level of service" merely incorporated by reference the service levels specified in Section 401(d)(5) of the Act. It has been redrafted to state these levels explicitly. Proposed § 321.6 addressed the separation of functions rule, 14 CFR 300.4. It has been redrafted to state more clearly that actions taken by the Bureau of Pricing and Domestic Aviation in administering Section 401(d)(5) will not be considered as creating a conflict with the separation of functions rule in any proceeding.

Federal Reports Act

This rule requires applicants and other participants in unused authority proceedings to provide the Board with certain information. By publishing this final rule, the Board has determined that this information is necessary and must be prepared and submitted. Accordingly, the following requirements are adopted subject only to review by the General Accounting Office pursuant to 44 U.S.C. 3512: The application requirements found in §§ 321.10 through 321.12; the requirements for incumbents' notices in §§321.20 and 321.21; the related requirements for responsive documents in §§ 321.13 through 321.15, 321.22, and 321.23; and the requirements for relinquishments and retractions in §§ 321.32 and 321.33. These specific requirements will be effective immediately, along with the rest of Part 321 (other than portions of § 321.4, as noted below). Interested persons are not precluded from applying for new routes or otherwise participating in unused authority proceedings. However, GAO will conduct its clearance review to ensure that a minimum burden is imposed upon these participants and that the information required is otherwise consistent with the Federal Reports Act. The Board will publish a notice of GAO's decision.

This rule also contains reporting requirements in § 321.4 that will be submitted to the General Accounting Office for review under the Federal Reports Act. The effective date of the requirements for notices of completion of 13 weeks of service, and for notices by incumbents (but not applicants) of inauguration of service, unless the Board hereafter indicates otherwise, is March 6, 1979, which reflects the inclusion of a 45-day period that that statute allows for such review (44 U.S.C. 3512(c)(2)).

THE RULE

Accordingly, the Civil Aeronautics Board adds a new Part 321 to Chapter II of Title 14, Code of Federal Regulations, to read:

PART 321—UNUSED AUTHORITY PROCEDURES

Subpart A—General

Sec.
321.1 Applicability.
321.2 Conformity with Subpart A of Part 302.
321.3 Definition.
321.4 Notices of inauguration and completion of 13 weeks of service.
321.5 Environmental evaluations and energy information not required.
321.6 No conflict with separation of functions rule.

Subpart B—Applications for Unused Authority and Related Documents.

321.10 General requirements for applications.
321.11 Contents of applications.
321.12 Additional requirements for applications that request suspension of unused authority.
321.13 Answers to applications.
321.14 Replies to answers to applications.
321.15 Responses to replies.

Subpart C—Incumbent Carriers' Notices of Intent To Begin Service and Related Documents

321.20 General requirements for incumbent carriers' notices of intent to begin service.
321.21 Contents of incumbents' notices.
321.22 Answers to incumbents' notices.
321.23 Replies to answers to incumbents' notices.

Subpart D—Processing of Documents

321.30 Simultaneous filings.
321.31 Disposition of applications and incumbents' notices.
321.32 Successful applicant's failure to commence service.
321.33 Successful incumbent carrier's failure to begin service.
321.34 Drawing.

Subpart E—Interpretations of the Act's Unused Authority Provisions

321.40 "Commence service".
321.41 "Week" means calendar week.

AUTHORITY: Secs. 204, 401, and 1001 of the Federal Aviation Act of 1958, as amended by Pub. L. 95-504, 72 Stat. 743, 754, and 788, 92 Stat. 1713; (49 U.S.C. 1324, 1371, and 1481).

Subpart A—General

§ 321.1 Applicability.

This part applies to applications for nonstop route authority where unused authority exists, filed under sections 401(d)(5)(A), (5)(B), (5)(D), and (5)(E), and to notices of incumbents' intent to begin service that are filed under section 401(d)(5)(G).

§ 321.2 Conformity with Subpart A of Part 302.

Except where they are inconsistent with this part, the provisions of Subpart A of Part 302 of this chapter shall apply to proceedings under this part.

§ 321.3. Definitions.

As used in this part:

"Application" means an application for nonstop route authority, on the basis of unused authority, under sections 401(d)(5)(A), (5)(B), (5)(D), or (5)(E).

"Applicant" means a person who files an application under this part.

"Minimum level" and "minimum level of service" mean service, pursuant to published flight schedules, of at least five round-trips per week for at least 13 weeks during a 26-week period for year-round certificates (section 401(d)(5)(A) and (5)(D)), and service, pursuant to published flight schedules, of at least five round-trips per week for at least half the weeks of a season for seasonal certificates (section 401(d)(5)(B) and (5)(E)).

"Section 41(d)(5)" refers to the unused authority program of the Act, 49 U.S.C. 1371(d)(5).

§ 321.4 Notices of inauguration and completion of 13 weeks of service.

(a) Every applicant that is awarded new authority and every carrier that files an incumbent's notice shall file a notice (1) within 7 days after inaugurating service between any pair of points covered by the award or incumbent's notice, and (2) within 7 days after completing 13 consecutive weeks of service of at least five nonstop nd trips per week. However, if an incumbent's notice states that service has already begun, the incumbent need not give the inauguration notice required by paragraph (a)(1) of this section.

(b) Notices required by paragraph (a) of this section shall be titled "Notice of Inauguration of Service ...der Subparagraph ——" or "Notice Completion of 13 Weeks of Service ...der Subparagraph ——," as applicable, indicating the subparagraph of section 401(d)(5) that governs the market or markets involved. They shall identify the pairs of points between which service has been inaugurated or carried on for 13 weeks.

(c) Notices described in paragraph (a) of this section shall be filed in the Docket Section in five copies, marked for the attention of the Director, Bureau of Pricing and Domestic Aviation.

(d) A copy of each notice described in paragraph (a) of this section shall be served on the U.S. Postal Service Headquarters, Law Department, Transportation Division, Washington, D.C. 20260.

§ 321.5 Environmental evaluations and energy information not required.

Notwithstanding any provision of Part 312 or Part 313 of this title, a person filing an application under this part is not required to file an environmental evaluation or energy information with the application.

§ 321.6 No conflict with separation of functions rule.

Actions taken by the Bureau of Pricing and Domestic Aviation to administer section 401(d)(5) will not be considered as creating a conflict with the Board's separation of functions rule, § 300.4 of this chapter, in this or any other Board proceeding.

Subpart B—Applications for Unused Authority and Related Documents

§ 321.10 General requirements for applications.

(a) Each application shall be titled "Application for Unused Authority under Subparagraph ——," indicating the subparagraph of section 401(d)(5) that governs it.

(b) An application may request nonstop authority in more than one market. However, applications shall not include requests for authority under more than one subparagraph of section 401(d)(5).

(c) An application may be amended after filing at any time before it is granted or dismissed to eliminate markets or correct errors, but not to add markets. Markets to be eliminated shall be listed by line number from the original application and city or airport codes as set forth in § 321.11(a)(1). Corrections shall be shown by setting forth the entire line from the table described in § 321.11(a) or (b), as applicable, with the corrected items underlined. Any necessary explanation of the correction shall be included in text or footnotes.

(d) Applications and amendments of applications shall be served on:

(1) All air carriers named in the application in accordance with § 321.11(a)(3) or (4).

(2) The airport authority of each airport the applicant proposes to use.

(3) The mayor or other chief executive of each point named in the application.

(4) The Federal Aviation Administration.

§ 321.11 Contents of applications.

Each application shall:

(a) Include a table with a separate, numbered line for each pair of points between which the applicant seeks nonstop route authority. The lines shall be alphabetized by the points named in them. Each line shall include the following information, with the columns of the table labeled accordingly:

(1) *Market.* The pair of points as specified in the inactive carrier's certificate, with each point identified by the Official Airline Guide's 3-letter city code. Where the inactive carrier only has authority to serve a point through a named airport or an airport is named in the certificate as a separate, non-hyphenated point, this situation shall be shown by adding the 3-letter airport code for the airport in parenthesis after the city code. (EXAMPLES: "WAS(IAD)" for Washington, to be served through Dulles International Airport, "NYC(EWR)" for Newark designated as a separate point.) Where a point is hyphenated in all or substantially all carriers' certificates, its single 3-letter code shall be used. (EXAMPLE: "MSP" for Minneapolis-St. Paul.) At points that are sometimes hyphenated and sometimes listed separately in certificates, the authority of the inactive carrier or carriers shall be shown by listing the city codes of the hyphenated cities in the order shown in each inactive carrier's certificate. (EXAMPLE: "SFO/OAK/SJC" for San Francisco-Oakland-San Jose.)

(2) *Period or season.* The beginning and ending dates of the 26-week period or season, as applicable, upon which the request for authority is based. If the dates differ for different inactive carriers, each set of dates shall be included. If a split period is relied on because of a strike, the computation shall be explained elsewhere in the application.

(3) *Active carriers.* The Official Airline guide's 2-letter carrier code for each air carrier, certificated or not, that has provided the minimum level of service between the points during the period or season described in paragraph (a)(2) of this section.

(4) *Inactive carriers.* The Official Airline Guide's 2-letter carrier code for each air carrier having certificate authority to provide nonstop round-trip service between the points that has not provided the minimum level of service during the time described in paragraph (a)(2) of this section.

(5) *Inactive period.* For each carrier named in paragraph (a)(4) of this section, the beginning and ending dates of below-minimum service during the period or season described in paragraph (a)(2) upon which the request for authority is based.

(6) *Suspension requested.* For applications governed by section 401(d)(5)(A) only: Whether or not the applicant requests suspension of the unused authority of incumbent air carriers.

(b) Include a table that lists, for each pair or points named in the application, the Official Airline Guide pages covering service for the entire 26-week period or season upon which the request for authority is based. There shall be a separate line for service in each direction. The page citations shall be to successive monthly issues of the Official Airline Guide, using consistently the editions of the 1st or the 15th of the month. The table shall be in the format shown in the following fictitious example:

	OAG EDITION OF—						
	5/1/78	6/1/78	7/1/78	8/1/78	9/1/78	10/1/78	11/1/78
ATL-DEN	140	143-4	151	146	137	142	145
DEN-ATL	311	315	329	317-8	304	313	316
•	•			•		•	
•							
•							

(c) Certify that the applicant's aircraft meet all applicable requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce.

(d) For applicants not yet found by the Board to be fit, willing, and able to provide scheduled service: Describe the applicant's aircraft. The description shall consist of either a plan for obtaining aircraft, identified by type, that can be verified within 15 days by the Board's staff, or a list of aircraft identified by FAA registration number.

(e) For applicants already found by the Board to be fit, willing, and able to provide scheduled service: Cite the most recent Board order establishing that finding and describe, in the manner set forth in paragraph (d) of this section, any aircraft acquired or to be acquired since that finding that the applicant intends to use in exercising the authority sought.

(f) Certify that the applicant will obtain any necessary operating authority from the Federal Aviation Administration in time to begin exercising the nonstop route authority sought under this part within the time set forth in subparagraph (H)(I) or (H)(ii) of section 401(d)(5), as applicable.

(g) Certify that the applicant is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to the Act.

§ 321.12 Additional requirements for applications that request suspension of unused route authority.

(a) If an applicant for authority under section 410(d)(5)(A) wants the Board to suspend the unused authority of incumbent carriers as set forth in section 401(d)(5)(J), its application shall at a minimum include, in addition to the information set forth in § 321.11, the following:

(1) Information specific to each pair of points showing why suspension is necessary to encourage continued service between those points by the applicant;

(2) A list, by filing date and points, of all other applications filed or to be filed on the same day and within the preceding 45 days; and

(3) A description of the aircraft that the applicant intends to use in exercising the authority sought in the current application and all applications filed or to be filed on the same day and within the preceding 45 days. The description shall consist of either a plan for obtaining aircraft, identified by type, that can be verified with 15 days by the Board's staff, or a list of aircraft identified by FAA registration number.

(b) If the Board grants an application that does not include the information set forth in paragraph (a) of this section, the Board will not suspend the unused authority of incumbent carriers.

§ 321.13 Answers to applications.

(a) Any person may file an answer to an application. If the application is governed by subparagraph (A) or (B)

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of section 401(d)(5), the answer shall be filed within 7 calendar days after the application is filed. If the application is governed by subparagraph (D) or (E), the answer shall be filed within 14 days after the application is filed.

(b) Answers filed under this section shall be entitled "Answer to Application for Unused Route Authority under Subparagraph ——," indicating the subparagraph of section 401(d)(5) that governs the application.

(c) Each answer filed under this section shall include a table that, except as set forth in paragraph (d) of this section, repeats the lines included in the application in accordance with § 321.11(a) that are being answered. The items that the answer challenges in each line shall be underlined.

(d) The table required by paragraph (c) of this section shall also include the following three columns:

(1) After the column showing the market (§ 321.11(a)(1)): A column showing the applicant, identified by 2-letter carrier code.

(2) After the applicant column described in paragraph (d)(1) of this section: A column showing the docket number of application.

(3) After the last column: A column showing the type or types of objection that the answer raises, using the code numbers set out in paragraph (e) of this section. Each objection shall be explained to the extent necessary in the text of the answer.

(e) Objections shall be identified by the following code numbers:

(1) The application was filed under the wrong subparagraph of section 401(d)(5).

(2) The allegedly inactive carrier does not have certificate authority to provide nonstop service in the market.

(3) The allegedly inactive carrier has certificated nonstop authority, but did not have it throughout the 26-week period or season relied on.

(4) The authority of the allegedly inactive carrier has been suspended by the Board under section 401(g) of the Act, or under section 401(j) by an order that requires the carrier to obtain Board approval before resuming service.

(5) The 26-week period or season relied on includes more than 6 weeks of a labor dispute that interrupted the service of the allegedly inactive carrier.

(6) The authority in question was not unused because the allegedly inactive carrier served the point or points through at least one airport and was not required to serve through more than one airport.

(7) The allegedly inactive carrier in fact provided the minimum level of service.

(8) The unused authority relied on has already been the basis of an award that has not been revoked.

(9) For applications governed by section 401(d)(5)(D) or (5)(E) only: Award of the authority sought would not be consistent with the public convenience and necessity.

(0) Any other objection.

NOTE: This code is "0" and not "10."

(f) Answers filed under this section shall be served on the persons whose applications are being answered and on the persons listed in § 321.10(d).

§ 321.14 Replies to answers to applications.

(a) Any person may file a reply to an answer to an application.

(b) Replies filed under this section shall be titled "Reply to Answer to Application for Unused Authority under Subparagraph ——," indicating the subparagraph of section 401(d)(5) that governs the application.

(c) For applications governed by subparagraph (A) or (B) of section 401(d)(5): Replies shall be filed within 10 calendar days after the application is filed, and will be considered by the Board only to the extent practicable.

(d) For applications governed by subparagraph (D) or (E) of section 401(d)(5):

(1) Replies shall be filed within 28 calendar days after the application is filed.

(2) If an answer alleges that grant of the application would be inconsistent with the public convenience and necessity, the applicant's reply shall at a minimum indicate, by frequency and equipment type, what service it will provide and what service (if any) it will discontinue to make aircraft available for the new service.

(e) Replies filed under this section shall be served on the person that filed the answer and on all persons who were required to be served with the answer.

§ 321.15 Responses to replies.

(a) In the case of an application that is governed by subparagraph (D) or (E) of section 401(d)(5), any person may file a response to a reply filed under § 321.14.

(b) Responses shall be titled "Response to Application for Unused Authority under Subparagraph ——," indicating the subparagraph of section 401(d)(5) that governs the application.

(c) Responses shall be filed within 42 calendar days after the application is filed.

(d) Responses shall be served on the person that filed the reply and on all persons who were required to be served with the reply.

Subpart C—Incumbent Carriers' Notices of Intent To Begin Service and Related Documents

§ 321.20 General requirements for incumbent carriers' notices of intent to begin service.

(a) A carrier holding unused authority in a given market that intends to resume nonstop service such as to preclude a grant of authority to another carrier under section 401(d)(5) shall file a notice titled "Incumbent's Notice of Intent to Exercise Unused Authority under Subparagraph ——," indicating the subparagraph of section 401(d)(5) [(A), (B), (D), or (E)] that governs the authority addressed by the notice (hereafter called "incumbent's notice").

(b) An incumbent's notice may address service in more than one market. However, notices shall not address authority covered by more than one subparagraph of section 401(d)(5).

(c) An incumbent's notice may be amended in the manner set forth in § 321.10(c) for applications at any time before the Board announces by order that it is successful.

(d) An incumbent's notice shall be served on those persons whom the incumbent would be required by § 321.10(d) to serve if it were an applicant for unused authority.

§ 321.21 Contents of incumbent's notice.

Each incumbent's notice shall include a table with a separate, numbered line for each pair of points between which the carrier filing the notice intends to begin service within the time set forth in section 401(d)(5)(G)(i) or (G)(ii), as applicable. The lines shall be alphabetized by the points named in them. Each line shall include the following information:

(a) *Market.* The pair of points, identified as set forth in § 321.11(a)(1).

(b) *Period or season.* The beginning and ending dates of the 26-week period or season, as applicable, upon which the notice is based.

(c) *Date.* The date (not more than 30 days after the date of filing) on or before which the carrier intends to begin service between those points.

§ 321.22 Answers to incumbent's notices.

(a) Any person may file an answer to an incumbent's notice. The answer shall be filed within the time set forth in § 321.13(a) for answers to applications.

(b) Answers filed under this section shall be titled "Answer to Incumbent's Notice under Subparagraph ——," indicating the subparagraph of section 401(d)(5) that governs the authority addressed by the notice.

(c) Each answer filed under this section shall include a table that repeats

the lines included in the notice in accordance with § 321.21 with the air carrier that filed the notice and the basis or bases for the objection to the notice listed at the end of each line. The filer of the notice shall be identified by 2-letter air carrier code. The objections shall be listed by the following 2-letter codes and explained to the extent necessary in the text of the answer:

(1) "NX": That the notice does not comply with the requirements of section 401(d)(5).

(2) "NE": That the filer of the notice has previously filed a similar notice in the same market.

(3) "NA": That a valid application for the filer's unused authority was filed before the notice.

(4) "NR": Any other objection.

(d) Answers filed under this section shall be served as if they were answers filed under § 321.13 to applications.

§ 321.23 Replies to answers to incumbent's notices.

(a) Any person may file a reply to an answer to an incumbent's notice. The reply shall be filed within the time set forth in § 321.14 (c) or (d), as applicable, for replies to answers to applications.

(b) Replies filed this section shall be titled "Reply to Answer to Incumbent's Notice under Subparagraph —— ," indicating the subparagraph of section 401(d)(5) that governs the authority addressed by the notice.

(c) Replies filed under this section shall be served as if they were replies filed under § 321.14 to answers to applications.

Subpart D—Processing of Documents

§ 321.30 Simultaneous filings.

Applications and incumbents' notices that are filed on the same day will be considered essentially simultaneous. Each application and notice will be treated as a separate filing for each pair of points that it names. These filings will be treated for the purposes of section 401(d)(5) as if they were made in the order established in accordance with § 321.34.

§ 321.31 Disposition of applications and incumbents' notices.

For each pair of points named in a document filed under this part:

(a) If no air carrier had unused authority within the meaning of section 401(d)(5), the Board will deny all applications.

(b) If the earliest filed valid document that has not been amended to delete those points is an incumbent's notice, the Board will by order announce that the notice is successful and dismiss all applications for authority between those points.

(c) If the earliest filed valid document that has not been amended to delete those points is an application, the Board will dismiss all other applications for authority between those points and, except as set forth in paragraph (d) of this section, grant that application.

(d) If the application is governed by subparagraph (D) or (E) of section 401(d)(5) and the Board finds that issuance of a certificate is inconsistent with the public convenience and necessity, the Board will deny the application.

(e) Unsuccessful incumbents' notices will not be dismissed and may become successful as set forth in § 321.32(c).

(f) If more than one air carrier holds unused authority to provide round-trip nonstop service between those points, the Board will not dismiss any applications in accordance with paragraph (a) or (b) of this section until it has, with respect to each carrier holding unused authority, announced that a notice is successful, granted an application, or denied an application on the ground of inconsistency with the public convenience and necessity.

§ 321.32 Successful applicant's failure to commence service.

For each award to a person of new certificate authority between a pair of points under section 401(d)(5):

(a) Except as set forth in paragraphs (b) and (c) of this section, if that person does not "commence service" within the meaning of section 401(d)(5)(H) as defined in § 321.40, the Board will accept new applications for authority between those points on the first business day after the first day that the person is not in compliance with section 401(d)(5)(H),

(b) Except as set forth in paragraph (c) of this section, if that person, before being required by section 401(d)(5)(H) to "commence service" files and serves a "Relinquishment of Newly Awarded Authority" in the manner described in § 321.33(c) for retractions of incumbents' notices, the Board will accept new applications on the first business day after the day that the relinquishment is filed. All applications filed from the first through the fifth business day after the relinquishment is filed will be considered as if they were filed on the fifth business day.

(c) If, upon the noncompliance described in paragraph (a) of this section or the filing of a relinquishment described in paragraph (b), there is an outstanding valid incumbent's notice that has not been vitiated by the incumbent carrier's failure to exercise its unused authority, the Board will by order announce that the notice has become successful. Further unused authority proceedings for the pair of points will be governed by § 321.33.

(d) If the Board accepts new applications in accordance with paragraph (a) or (b) of this section or announces in accordance with paragraph (c) that an outstanding incumbent's notice has become successful, it will revoke the previously awarded new certificate authority.

§ 321.33 Successful incumbent carrier's failure to begin service.

For each pair of points for which the Board has announced that an incumbent's notice is successful:

(a) Except as set forth in paragraphs (b) and (c) of this section, if the incumbent carrier does not begin and maintain service in accordance with section 401(d)(5)(G)(i) or (G)(ii), as applicable, the Board will accept new applications for authority between those points on the first business day after the first day that the incumbent is not in compliance with section 401(d)(5)(G).

(b) If the incumbent carrier, before it is required by section 401(d)(5)(G) to begin service, files a retraction in accordance with paragraph (c) of this section, the Board will accept new applications on the first business day after the day that the retraction is filed. All applications filed from the first through the fifth business day after the retraction is filed will be considered as if they were filed on the fifth business day.

(c) Air carriers that decide not to begin service in accordance with their successful notices are encouraged to file, in the same docket, a document titled "Retraction of Incumbent's Notice under Subparagraph ——," indicating the subparagraph of section 401(d)(5) that governs the authority addressed by the notice. These documents shall:

(1) Identify the pair or pairs of points for which the notice is retracted;

(2) Identify the Board order announcing that the notices are successful; and

(3) Be served on all certificated air carriers and all persons required by § 321.20(d) to be served with incumbents' notices.

§ 321.34 Drawing.

(a) For each day on which one or more pairs of points receive essentially simultaneous filings, a drawing will be conducted for each such pair of points as follows: For each person who filed an application or incumbent's notice, a card bearing that person's name will be placed in an opaque container. The cards will be otherwise identical. The container will be covered and shaken thoroughly. A Board staff member will reach into the container and,

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without being able to see the cards, draw them out successively until all have been drawn.

(b) The order in which the cards are drawn will be the order in which the documents are considered to have been filed.

(c) Drawings will take place on the first Wednesday after the day that the essentially simultaneous documents are filed, unless the filers of those documents are notified otherwise. It will be open to the public. Information about the time and location can be obtained from the Office of the Secretary, Civil Aeronautics Board.

(d) The drawing process will not interfere with the filing of answers in accordance with §§ 321.13 and 321.22. In general, questions about the validity of applications and incumbents' notices will be resolved after the drawing.

(e) If (1) there is a dispute about the precise date on which authority can be applied for or protected by an incumbent's notice, and (2) documents for that authority are filed on more than one day, then a separate drawing will be conducted for each day's documents. When the correct date is determined, filings before that date will be disregarded. The drawings for filings on and after that date, ordered by day of filing, will establish the order in which the documents are considered to have been filed.

Subpart E—Interpretations of the Act's Unused Authority Provisions

§ 321.40 "Commence Service".

(a) The Board interprets the requirement of subparagraph (H)(i) of section 401(d)(5) that air carriers issued certificates under subparagraph (A) or (D) "commence service pursuant to such certificate within forty-five days of such issuance" as follows: Within 45 days after being granted authority, the air carrier shall begin service of at least five round-trips per week and shall continue to provide service of at least that level for 13 full calendar weeks. EXCEPTION: If the air carrier was granted authority before January 20, 1979, it shall begin to provide some service within 45 days, shall begin to provide service of at least five round-trips per week on or before March 4, 1979, and shall continue to provide service of at least that level for 13 full calendar weeks.

(b) The Board interprets the requirement of subparagraph (H)(ii) to "commence service pursuant to such [seasonal] certificate within fifteen days after the beginning of the first such season which begins on or after the date of such issuance" as follows: The air carrier shall begin to provide service within 15 days after the beginning of the season and provide a minimum of five round-trips per week for the first half of the season.

§ 321.41 "Week" means calendar week.

(a) Except as provided in paragraph (b) of this section, the Board considers the term "week", as used in this part and section 401(d)(5), to mean a 7-day period that begins on a Sunday and ends on the following Saturday.

(b) For the determination of 26-week periods or seasons that end before January 20, 1979, or the computation of inactive service within those intervals, the Board considers the term "week" to mean any 7-day period.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-2339 Filed 1-22-79; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2947]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Advertising Checking Bureau, Inc.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a New York City administrator and auditor of cooperative advertising programs to cease designing or implementing cooperative advertising programs for their client which limit or restrict the rights of dealers to obtain cooperative advertising allowances for merchandise they have advertised or sold at other than regular or suggested retail prices.

DATES: Complaint and order issued January 4, 1979.[1]

FOR FURTHER INFORMATION CONTACT:

William A. Arbitman, Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102. (415) 566-1270.

SUPPLEMENTARY INFORMATION: On Tuesday, August 8, 1978, there was published in the FEDERAL REGISTER, 43 FR 35054, a proposed consent agreement with analysis In the Matter of The Advertising Checking Bureau, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.425 To enforce or bring about resale price maintenance; § 13.470 To restrain or monopolize trade. Subpart-Cutting Off Access To Customers Or Market: § 13.560 Interfering with distributive outlets. Subpart-Cutting Off Supplies Or Service: § 13.610 Cutting off supplies or service. Subpart-Maintaining Resale Prices: § 13.1145 Discrimination; § 13.1145-5 Against price cutters.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-2303 Filed 1-22-79; 8:45 am]

[6750-01-M]

[Docket No. C-2944]

PART 13— PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

McDonnell Douglas Corp.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a St. Louis, Co., Mo., aircraft manufacturer and its subsidiaries to cease offering or making payments to influential foreign entities for the purpose of preventing competition in the sale of their aircraft abroad; and to keep adequate documentation for all payments, brokerage fees, commissions, or political campaign contributions paid to any one foreign party which total annually in excess of $100,000. The firms would additionally be required to report to the Commission, within ten days, any corporate policy change which relates to foreign sales activities.

DATES: Complaint and order issued December 21, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

FTC/C, Jaime Taronji, Jr., Washington, D.C., 20580. (202) 376-2894.

SUPPLEMENTARY INFORMATION: On Monday, August 21, 1978, there was published in the FEDERAL REGISTER, 43 FR 36973, a proposed consent agreement with analysis In the Matter of McDonnell Douglas Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Combining or Conspiring: § 13.410 To eliminate competition in conspirators' goods; § 13.470 To restrain or monopolize trade. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-45 Maintain records. Subpart-Discriminating In Price Under Section 2, Clayton Act—Payment Or Acceptance Of Commission, Brokerage Or Other Compensation Under 2(c): § 13.810 Buyers' corporate or other agent.

(Sec. 6,38 Stat. 721; 15 U.S.C. Interpret or apply sec. 5, 38 Stat. 719, as amended; Sec. 2, 49 Stat. 1526; (15 U.S.C. 45, 13).)

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-2321 Filed 1-22-79; 8:45 am]

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-6016; 34-15502; 35-20891; 39-522; IC-10563; and IA-660]

AGENCY RULES RELATING TO CERTAIN FORMAL REQUIREMENTS FOR FILING OF DOCUMENTS

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending various rules under the federal securities laws to require that each page of all documents filed under those laws be numbered sequentially from the facing page of the filing form through the last page of that document, including any exhibits or attachments thereto. These amendments are designed to conform all filings received by the Commission to the requirements for implementation of the Commission's Micrographic Conversion Program.

EFFECTIVE DATE: March 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Roderic L. Woodson, Special Counsel, Office of Reports and Information Services, Securities and Exchange Commission, Washington, D.C. 20549 (202-523-5530).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption of certain amendments to Rule 403 (17 CFR 230.403) under the Securities Act of 1933 (15 U.S.C. 77a et seq.); Rule 240.0-3 (17 CFR 240.0-3) under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); Rule 22 (17 CFR 250.22) under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.); Part 260 (17 CFR 260) under the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.); Rule 0-2 (17 CFR 270.0-2) under the Investment Company Act of 1940 (15 U.S.C. 80a et seq.); and Rule 0-4 (17 CFR 275.0-4) under the Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.). The amendments are designed to conform all filings received by the Commission to the requirements for implementation of the Commission's Micrographic Conversion Program ("Micrographics Program" or "Program".) As developed, the Micrographics Program involves the conversion of all hard-copy filings received by the Commission under the Federal Securities laws to microform storage mediums. Upon completion of the Program, the Commission will maintain its official documents on film and dispose of all hard-copy documents after a period of time. In order to fully implement the Program, sequential page numbering of all documents filed is necessary to ensure the page and image verification procedures established under the Program. In the absence of an adequate verification procedure, the Commission's ability to authenticate documents in its possession may be substantially impaired. It should be noted, however, that the sequential numbering of filings required by these amendments are supplemental to internal numbering of any particular exhibit or attachment contained in a specific filing. The amendments require only the original document to be numbered sequentially. It is not necessary to number duplicate originals or conformed copies.

Although no particular numbering process is required, it will facilitate the implementation of the Micrographics Program if legible handwritten, typed, stamped, or printed sequential numbering systems are utilized. The insertion of pages with subnumbering systems (for example, pages 10a 10b, and 10c) should be avoided. The numbering in each filed document and the exhibits and attachments thereto need not correspond to the numbering in any subsequently filed document. Thus, for example, the numbering in a final prospectus need not be the same as that in a preliminary prospectus.

Prior public notice and comment are not required under the Administrative Procedure Act (5 U.S.C. 553) as these rules are amendments to the Commission's rules of procedure and practice. *See*, 5 U.S.C. 553(b)(A). However, because the nature of this rule-making will require some measure of preparation by registrants, the effective date of the rule will be postponed for a period of forty-five (45) days.

Accordingly, the Commission adopts the following amendments effective on March 9, 1979, pursuant to 15 U.S.C. 77s (48 Stat. 85); 15 U.S.C. 78w (48 Stat. 901); 15 U.S.C. 79c and 79t (49 Stat. 810, 833); 15 U.S.C. 77eee, 77ggg, 77nnn, 77sss (53 Stat. 1154, 1156, 1167, 1173); 15 U.S.C. 80w-37, 30c-39 (54 Stat. 841, 342); 15 U.S.C. 80b-3, 80b-4, 80b-11 (54 Stat. 850, 852, 855).

TEXT OF AMENDMENTS

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Section 230.403 is amended by adding paragraph (d) to read as follows:

§ 230.403 Requirements as to paper, printing, and language.

* * * * *

(d) The manually signed original (or in the case of duplicate originals, one duplicate original) of all registrations, applications, statements, reports, or other documents filed under the Securities Act of 1933, as amended, shall be numbered sequentially (in addition to any internal numbering which otherwise may be present) by handwritten, typed, printed, or other legible form of notation from the facing page of the document through the last page of that document and any exhibits or attachments thereto. Further, the total number of pages contained in a num

[1] Copies of the Complaint and Decision and Order filed with the original document.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

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bered original shall be set forth on the first page of the document.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Section 240.0-3 is amended by designating the existing paragraph as (a) and adding paragraph (b) to read as follows:

§ 240.0-3 Filing of material with the Commission.

. . . . . .

(a) All papers required to be filed with the Commission pursuant to the Act or the rules and regulations thereunder shall be filed at the principal office in Washington, D.C. Material may be filed by delivery to the Commission, through the mails or otherwise. The date on which papers are actually received by the Commission shall be the date of filing thereof if all of the requirements with respect to the filing have been complied with, except that if the last day on which papers can be accepted as timely filed falls on a Saturday, Sunday or holiday, such papers may be filed on the first business day following.

(b) The manually signed original (or in the case of duplicate originals, one duplicate original) of all registrations, applications, statements, reports, or other documents filed under the Securities Exchange Act of 1934, as amended, shall be numbered sequentially (in addition to any internal numbering which otherwise may be present) by handwritten, typed, printed, or other legible form of notation from the facing page of the document through the last page of that document and any exhibits or attachments thereto. Further, the total number of pages contained in a numbered original shall be set forth on the first page of the document.

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Section 250.22 is amended by adding paragraph (e) to read as follows:

§ 250.22 Applications and declarations.

. . . . . .

(e) The manually signed original (or in the case of duplicate originals, one duplicate original) of all registrations, applications, statements, reports, or other documents filed under the Public Utility Holding Company Act of 1935, as amended, shall be numbered sequentially (in addition to any internal numbering which otherwise may be present) by handwritten, typed, printed, or other legible form of notation from the facing page of the document through the last page of that document and any exhibits or attachments thereto. Further, the total number of pages contained in a numbered original shall be set forth on the first page of the document.

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

Part 260 is amended by adding a new section to read as follows:

§ 260.0-4 Sequential numbering of documents filed with the Commission.

The manually signed original (or in the case of duplicate originals, one duplicate original) of all registrations, applications, statements, reports, or other documents filed under the Trust Indenture Act of 1939 shall be numbered sequentially (in addition to any internal numbering which otherwise may be present) by handwritten, typed, printed, or other legible form of notation from the facing page of the document through the last page of that document and any exhibits or attachments thereto. Further, the total number of pages contained in a numbered original shall be set forth on the first page of the document.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1970

Section 270.0-2 is amended by adding paragraph (h) to read as follows:

§ 270.0-2 General requirements of papers and applications.

. . . . . .

(h) The manually signed original (or in the case of duplicate originals, one duplicate original) of all registrations, applications, statements, reports, or other documents filed under the Investment Company Act of 1940, as amended, shall be numbered sequentially (in addition to any internal numbering which otherwise may be present) by handwritten, typed, printed, or other legible form of notation from the facing page of the document through the last page of that document and any exhibits or attachments thereto. Further, the total number of pages contained in a numbered original shall be set forth on the first page of the document.

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

Section 275.0-4 is amended by adding paragraph (i) to read as follows:

§ 275.0-4 General requirements of papers and application.

. . . . . .

(i) The manually signed original (or in the case of duplicate original) one duplicate originals of all registrations, applications, statements, reports, or other documents filed under the Investment Advisers Act of 1940, as amended, shall be numbered sequentially (in addition to any internal numbering which otherwise may be present) by handwritten, typed, printed, or other legible form of notation from the facing page of the document through the last page of that document and any exhibits or attachments thereto. Further, the total number of pages contained in a numbered original shall be set forth on the first page of the document.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 17, 1979.

[FR Doc. 79-2262 Filed 1-22-79; 8:45 am]

[4510-30-M]

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PART 620—TEMPORARY HOUSING FOR AGRICULTURAL WORKERS

Extension of Cutoff Date for Housing Standards

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor is amending its December 9, 1977 deletion of rules (42 FR 62133) by extending the January 1, 1979 cutoff date for the Employment and Training Administration (ETA) housing standards in 20 CFR Part 620. This extension will be in effect until the Department completes its related proposed rulemaking of September 1, 1978 (43 FR 39124) and will permit employers whose housing met the ETA standards at the time of their deletion to continue to follow those standards until a final rule is promulgated.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Edward A. Scheopner, Division of Labor Certification, U.S. Department of Labor, 601 "D" Street, N.W., Room 8408, Washington, D.C. 20213. Telephone: (202) 376-6525).

SUPPLEMENTARY INFORMATION: On December 9, 1977, at 42 FR 62133, the Employment and Training Administration of the Department of Labor (ETA) rescinded its regulations at 20 CFR Part 620 and adopted the temporary housing standards of the Occupational Safety and Health Administration of the Department of Labor (OSHA) at 29 CFR 1910.142. The purpose of rescinding the ETA regulations was to achieve a single set of housing standards for all temporary housing. In the preamble at 42 FR 62133 the Department explained that employers whose housing met ETA standards at the time of their deletion would be given until January 1, 1979 to bring their housing into compliance with the OSHA standards.

The Department received a number of comments requesting clarification and extension of the cutoff provision. In response to these comments, on September 1, 1978, ETA published a notice of proposed rulemaking which would allow for the modified application of the ETA housing standards in 20 CFR Part 620, past their January 1, 1979 expiration date, 43 FR 39124.

ETA received a substantial number of comments on its September 1, 1978 proposal which are currently under review in the process of reaching a final determination. It appears, however, that a final rule will not be promulgated prior to the January 1, 1979 expiration date for the ETA standards.

Accordingly, ETA hereby amends its final rule of December 9, 1977 by extending the regulation's cutoff date beyond January 1, 1979. The Department of Labor will continue to maintain the ETA standards, as currently applicable, until such time as the September 1, 1978 rulemaking procedure is concluded and a final rule promulgated.

In addition, notice is hereby given that ETA will maintain its current administrative practice of inspecting housing offered in interstate job orders for agricultural workers until such time as the September 1, 1978 rulemaking procedure is concluded and a final rule promulgated.

Signed at Washington, D.C., this 18th day of January 1979.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 79-2344 Filed 1-22-79; 8:45 am]

[4310-02-M]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER F—ENROLLMENT

PART 41—PREPARATION OF ROLLS OF INDIANS

Qualifications for Enrollment and Deadline for filing

JANUARY 10, 1979.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Amendment to Final Rule.

SUMMARY: The deadline for filing applications for enrollment to share in the distribution of judgment funds to the Saginaw, Swan Creek and Black River Bands of Chippewa Indians is being extended to insure that interested persons have adequate time in which to apply for enrollment.

EFFECTIVE DATE: January 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Ms. Janet L. Parks, Chief, Branch of Tribal Enrollment Services, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, telephone 703-235-8275.

SUPPLEMENTARY INFORMATION: On page 41388 of the September 18, 1978, FEDERAL REGISTER there was published a notice of final rulemaking which amended Title 25 of the Code of Federal Regulations, Part 41, § 41.3 by adding a new paragraph (cc).

The amendment included in the regulations requirements for enrollment and a deadline for applying for enrollment to share in funds derived from a judgment awarded the Saginaw, Swan Creek and Black River Bands of Chippewa Indians by the Indian Claims Commission. The period for filing applications has been determined to be too short to insure that all interested persons have sufficient time in which to file applications. The deadline is, therefore, extended to April 1, 1979.

Since these regulations govern preparation of a roll to distribute judgment funds, the 30-day deferred effective date would serve no purpose and waiver of the deferred effective date would be to the advantage of potential applicants. The 30-day deferred effective date is dispensed with under the exception provided in subsection (d)(3) of 5 U.S.C. 553 (1970). Accordingly, this amendment will become effective January 23, 1979.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

No further changes are made in the text of Part 41.

The principal author of this amendment is Janet L. Parks, Bureau of Indian Affairs.

Section 41.3(cc)(3) of Subchapter F, Chapter I, Title 25 of the Code of Federal Regulations is hereby amended to read as follows:

§ 41.3 Qualifications for enrollment and the deadline for filing.

. . . . . .

(cc) Saginaw, Swan Creek, and Black River Bands of Chippewa Indians.

. . . . . .

(3) Applications must be filed with the Superintendent, Michigan Agency, Bureau of Indian Affairs, P.O. Box 884, Sault Ste. Marie, Michigan 49783, on forms provided for that purpose. Applications for enrollment must be received by the Superintendent no later than the close of business, April 1, 1979.

FORREST J. GERRARD,
Assistant Secretary—Indian Affairs.

[FR Doc. 79-2343 Filed 1-22-79; 8:45 am]

[6570-06-M]

Title 29—Labor

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1601—PROCEDURAL REGULATIONS

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final Rule.

SUMMARY: On September 23, 1977, the Equal Employment Opportunity Commission published amendments to its procedural regulations (42 FR 47828) to reflect a comprehensive reorganization of its enforcement procedures and on October 14, 1977, published amendments (42 FR 55388) effectuating a reorganization of its headquarters offices. Subsequently, on July 18, 1978, the Commission amended these regulations (43 FR 30798) to provide for more specific instructions for its Office of Systemic Programs. Thereafter, the Commission adopted a reorganization of its field offices effective January 29, 1979. As a result of the field office reorganization, the Commission is further amending its procedural regulations.

EFFECTIVE DATE: January 29, 1979.

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FOR FURTHER INFORMATION CONTACT:

Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, EEOC, 2401 E Street, N.W., Washington, D.C. 20506, (202) 634-6595.

SUPPLEMENTARY INFORMATION: On July 20, 1977, the Equal Employment Opportunity Commission adopted a resolution revising its overall programs to improve its capacity to carry out the mission of the agency. Proposed procedural regulations were published on August 19, 1977, (42 FR 42022) explaining the changes the Commission sought to accomplish in its enforcement procedures. Those proposed regulations were adopted in final form on September 22, 1977, (42 FR 47828) and have been amended on two occasions, as noted above.

As the final step in the implementation of the Commission's July 20, 1977, resolution, the Commission adopted a comprehensive reorganization of its field office structure effective January 29, 1979. The major features of the new field office structure are the establishment of 22 full-service district offices and 37 area offices, which will serve as sub-units of the district offices, and the abolition of the 7 regional offices of the Commission and the 5 regional offices of the General Counsel. Programmatically, the 22 full-service district offices will perform the functions previously performed by regional offices of General Counsel, regional offices of the Commission and district offices. The major features of the charge-processing system of the new district offices are contained in the resolution adopted by the Commission on July 20, 1977, and published as Appendix A to the proposed procedural regulations on August 19, 1977 (42 FR 42022, 42034).

In September 1977, the Commission established three model district offices in Baltimore, Chicago and Dallas (42 FR 47863). At this time the Commission is eliminating the model district office/district office distinction and based on the experience of the model offices, is now establishing 22 full-service district offices and 37 area offices, which will serve as subunits of the district offices, as listed below:

1. The Atlanta District Office: the Greenville and Savannah Area Offices.
2. The Baltimore District Office: the Norfolk, Richmond and Washington, D.C. Area Offices.
3. The Birmingham District Office: the Jackson and Mobile Area Offices.
4. The Charlotte District Office: the Greensboro and Raleigh Area Offices.
5. The Chicago District Office.
6. The Cleveland District Office: the Cincinnati, Columbus, Dayton and Toledo Area Offices.
7. The Dallas District Office: the El Paso, Oklahoma City and Tulsa Area Offices.
8. The Denver District Office.
9. The Detroit District Office.
10. The Houston District Office: the San Antonio Area Office.
11. The Indianapolis District Office.
12. The Los Angeles District Office: the Bakersfield, Long Beach and San Diego Area Offices.
13. The Memphis District Office: the Louisville and Nashville Area Offices.
14. The Miami District Office: the Jacksonville and Tampa Area Offices.
15. The Milwaukee District Office: the Minneapolis Area Office.
16. The New Orleans District Office: the Little Rock Area Office.
17. The New York District Office: the Boston, Buffalo and Newark Area Offices.
18. The Philadelphia District Office: the Pittsburgh and Trenton Area Offices.
19. The Phoenix District Office: the Albuquerque Area Office.
20. The St. Louis District Office: the Kansas City Area Office.
21. The San Francisco District Office: the Fresno, Oakland, Sacramento and San Jose Area Offices.
22. The Seattle District Office.

The delegations of authority to the General Counsel to process charges under Section 707 of Title VII in Subpart G of this Part (§§ 1601.50 through 1601.59) are rescinded. In the future, 707 charges will be processed under the procedures set forth in Subpart B of this Part by the Office of Systemic Programs and the systemic units in the district offices.

Section 1601.5 is amended to reflect the supervisory structure among headquarters, district and area offices and to delineate the supervisory authority of the superior over the subordinate.

Delegations of authority to area directors are included in §§ 1601.10, 1601.14, 1601.19(g), 1601.20 and 1601.28(a) (2) and (c) in order to provide for the efficient processing of charges by area offices and to inform the public of the authority to be exercised at the area office level. Section 1601.8 is amended to substitute area offices for regional offices as appropriate places where charges can be filed.

The reference to directors of model offices in § 1601.16(b) is changed to district directors since all district directors will make the initial determination on a petition to revoke or modify a subpoena.

Previous printing errors in §§ 1601.2 and 1601.34 are corrected. In § 1601.2 region should have been religion. The section number for § 1601.34 was incorrectly printed as § 1601.134.

These regulations have been reviewed in accordance with Executive Order 12044. These regulations are not "substantial regulations" under section 2(e) of that Order nor do they require regulatory analysis under section 3 of that Order.

By virtue of the authority vested in the Commission under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, the Equal Employment Opportunity Commission hereby publishes the following amendments to its procedural regulations, to be effective January 29, 1979.

Signed at Washington, D.C. this 18th day of January, 1979. For the Commission.

ELEANOR HOLMES NORTON,
Chair.

§§ 1601.50—1601.59 [Revoked]

1. Subpart G of this Part 1601, 29 CFR 1601.50 through 29 CFR 1601.59, is hereby rescinded.

2. 29 CFR 1601.2 is revised to read as follows:

§ 1601.2 Terms defined in Title VII of the Civil Rights Act of 1964, as amended.

The terms "person," "employer," "employment agency," "labor organization," "employee," "commerce," "industry affecting commerce," "State" and "religion" as used herein shall have the meanings set forth in section 701 of Title VII of the Civil Rights Act of 1964, as amended.

3. 29 CFR 1601.5 is revised to read as follows.

§ 1601.5 District; area; supervisory authority.

The term "district" as used herein shall mean that part of the United States or any territory thereof fixed by the Commission as a particular district. The term "district director" shall refer to that person designated as the Commission's chief officer in each district. The term "area" shall mean that part of the United States within a district fixed by the Commission as a particular sub-unit of a district. The term "area director" shall refer to that person designated as the Commission's chief officer in each area. Each district office will operate under the supervision of the Executive Director, through the Director of the Office of Field Services, and the General Counsel. Each area office will operate under the supervision of the district director. Any or all delegations, or actions taken, as provided by this Part may be revoked and/or exercised by the supervisor in keeping with the supervisory structure described in this section.

4. 29 CFR 1601.8 is revised to read as follows:

§ 1601.8 Where to make a charge.

A charge may be made in person or by mail at the offices of the Commission in Washington, D.C., or any of its district or area offices or with any designated representative of the Commission. The addresses of the Commission's district offices appear in § 1610.4.

5. 29 CFR 1601.10 is revised to read as follows:

§ 1601.10 Withdrawal of a charge by a person claiming to be aggrieved.

A charge filed by or on behalf of a person claiming to be aggrieved may be withdrawn only by the person claiming to be aggrieved and only with the consent of the Commission. The Commission hereby delegates authority to District Directors, Area Directors, the Director of the Office of Field Services and the Director of the Office of Systemic Programs, or their designees, to grant consent to a request to withdraw a charge, other than a Commissioner charge, where the withdrawal of the charge will not defeat the purposes of Title VII.

6. 29 CFR 1601.14 is revised to read as follows:

§ 1601.14 Service of charge or notice of charge.

(a) Within ten days after the filing of a charge in the appropriate Commission office, the Commission shall serve respondent a copy of the charge, by mail or in person, except when it is determined that providing a copy of the charge would impede the law enforcement functions of the Commission. Where a copy of the charge is not provided, the respondent will be served with a notice of the charge within ten days after the filing of the charge (including the date, place, circumstances and identity of the person filing the charge, or, in the case of a charge filed on behalf of any individual, the identity of the person or organization so filing).

(b) The District Directors, the Area Directors, the Director of the Office of Field Services and the Director of the Office of Systemic Programs, or their designees, are hereby delegated the authority to issue the notice described in paragraph (a) of this section.

7. 29 CFR 1601.16(b) is revised to read as follows:

§ 1601.16 Access to and production of evidence; testimony of witnesses; procedure and authority.

• • • • • •

(b) Any person served with a subpoena who intends not to comply therewith shall within five days (excluding Saturdays, Sundays and Federal legal holidays) after the date of service of the subpoena upon him or her, petition the General Counsel by mail to revoke or modify the subpoena. Such petition shall be mailed to 2401 E Street, N.W., Washington, D.C. 20506, and a copy thereof shall be served on the person who issued the subpoena. The petition shall separately identify each portion of the subpoena with which the petitioner does not intend to comply and shall state, with respect to each such portion, the grounds upon which the petitioner relies. A copy of the subpoena shall be attached to the petition and shall be designated "Attachment A." Within 8 days after receipt thereof or as soon thereafter as practicable, the General Counsel shall make a determination upon the petition, stating reasons, and shall submit the petition and determination to the Commission for its review. The Commission shall review the petition and make a final determination. A Commissioner who has issued a subpoena shall abstain from reviewing any petition to modify or revoke the subpoena. The Commission shall serve a copy of the final determination of the petition upon the petitioner. For purposes of this section, service shall be made and proof thereof established pursuant to section 11(4) of the National Labor Relations Act, as amended, 29 U.S.C. 161(4), as made applicable to Commission hearings and investigations by section 710 of Title VII: Provided, however, that, whenever the subpoena was issued by a District Director or the Director of the Office of Systemic Programs, the petition to revoke or modify the subpoena shall be mailed to the Director, within the 5 day period specified above, who will make a determination on the petition. Any petitioner who wishes to appeal the determination of the Director shall do so by following the standard procedures specified above. Such appeal shall, in addition, be clearly labeled as "Appeal of Petition to Revoke or Modify Subpoena," and shall attach the initial petition and determination, designated as "Attachments B and C." No argument not presented to the District Director or the Director of the Office of Systemic Programs will be considered by the Commission.

8. 29 CFR 1601.19(g) is revised to read as follows:

§ 1601.19 Dismissal: Procedure and authority.

• • • • • •

(g) The Commission hereby delegates authority to District Directors, the Director of the Office of Field Services and the Director of the Office of Systemic Programs, as appropriate, to dismiss charges[1] as limited by § 1601.21(d). The Commission hereby delegates authority to Area Directors to dismiss charges pursuant to paragraphs (a), (c), and (d) of this section, as limited by § 1601.21(d). The authority of the Commission to reconsider decisions and determinations as set forth in § 1601.21 (b) and (d) shall be applicable to this section.

9. 29 CFR 1601.20 is revised to read as follows:

§ 1601.20 Negotiated settlement.

(a) Prior to the issuance of a determination as to reasonable cause the Commission may encourage the parties to settle the charge on terms that are mutually agreeable. District Directors, Area Directors, the Director of the Office of Field Services and the Director of the Office of Systemic Programs, or their designees, shall have the authority to sign any settlement agreement which is agreeable to both parties. The Commission shall limit its undertaking in such settlements to an agreement not to process that charge further. Such settlements shall note that the Commission has made no judgment on the merits of the charge. Such an agreement shall not affect the processing of any other charge, including, but not limited to, a Commissioner charge or a charge the allegations of which are like or related to the individual allegations settled.

(b) In the alternative, the Commission may facilitate a settlement between the person claiming to be aggrieved and the respondent by permitting withdrawal of the charge pursuant to § 1601.10.

10. 29 CFR 1601.28(a)(2) and (c) are revised to read as follows:

§ 1601.28 Notice of right to sue: Procedure and authority.

(a) • • •

(2) When a person claiming to be aggrieved requests, in writing, that a notice of right to sue be issued, and the charge to which the request relates is filed against a respondent other than a government, governmental agency or political subdivision, the Commission may issue such notice as described in § 1601.28(e) with copies to all parties, at any time prior to the expiration of 180 days from the date of filing the charge with the Commission; provided, that the District Director, the Area Director, the Director of the Office of Field Services or the Director of the Office of Systemic Programs has determined that it is probable that the Commission will be unable to complete its administrative processing of the charge within 180 days from the filing of the charge and has attached a written certificate to that effect.

• • • • • •

(c) The Commission hereby delegates authority to District Directors, Area Directors, the Director of the Office of Field Services and the Director of the Office of Systemic Programs, or their designees, to issue notices of right to sue, in accordance with this section, on behalf of the Commission.[1]

[1]Formal Ratification-Notice is hereby given that the EEOC at a Commission meet-

Footnotes continued on next page

V 4 4 - 1 6 J A 2 3 7 9 UMI

11. 29 CFR 1601.34 is revised to read as follows:

§ 1601.34 Rules to be liberally construed.

These rules and regulations shall be liberally construed to effectuate the purpose and provisions of Title VII.

[FR Doc. 79-2318 Filed 1-22-79; 8:45 am]

[4810-35-190]

Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

PART 215—WITHHOLDING OF DISTRICT OF COLUMBIA, STATE, CITY AND COUNTY INCOME OR EMPLOYMENT TAXES BY FEDERAL AGENCIES

Amendments to City and County Tax Withholding Agreements

AGENCY: Fiscal Service, Treasury.

ACTION: Final Rule: Amendments.

SUMMARY: The Fiscal Service amends its regulations relating to withholding by Federal agencies of certain taxes of Federal employees. Recent legislation provides for the application of a city or county tax withholding agreement to Federal employees who are subject to the tax and are residents of the city or county, but are employed outside the city or county. The legislation prohibits mandatory withholding for Federal employees whose regular place of employment is not within the State in which the taxing city or county is located, unless the employee specifically consents to the withholding. This document amends the standard agreement provisions to implement the recent legislation.

EFFECTIVE DATE: December 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Paula Pickens, Government Accounting Systems Staff, Bureau of Government Financial Operations, Room 412, Annex No. 1, Department of the Treasury, Washington, D.C. 20226, (202-566-8374).

SUPPLEMENTARY INFORMATION: Because these amendments merely reflect changes in the law, they do not require prior notice or public comment. This document does not meet Treasury's criteria for a significant regulation.

AUTHORITY: Pub. L. 95-365, 92 Stat. 599 (5 U.S.C. 5520).

Accordingly, 31 CFR 215 is amended by revising Subpart C—Standard Agreement as follows:

In 31 CFR 215.8 paragraph (b) is revised to read as follows:

§ 215.8 Compliance by agencies.

* * * * *

(b) In the case of an agreement with a city or county, the head of each agency is required to withhold city or county income or employment taxes from the compensation of any employee of the agency who is subject to the tax, and

(1) Whose regular place of Federal employment is within the city or county, or

(2) Is a resident of the city or county.

* * * * *

In 31 CFR 215.12 paragraph (d) is revised to read as follows:

§ 215.12 Miscellaneous provisions.

Nothing in this agreement shall be deemed:

* * * * *

(d) To permit withholding of a city or county tax from the pay of a Federal employee who is not a resident of, or whose regular place of Federal employment is not within, the State in which the city or county is located, unless the employee consents to the withholding, or

* * * * *

These amendments are effective December 14, 1978.

Issued in Washington, D.C., January 15, 1979.

D. A. PAGLIAI,
Commissioner.

[FR Doc. 79-2069 Filed 1-22-79; 8:45 am]

[3810-70-M]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER R—CHARTERS

[DoD Directive 3030.1]

PART 365—OFFICE OF ECONOMIC ADJUSTMENT

AGENCY: Office of the Secretary of Defense.

ACTION: Final Rule—DoD Charter Directive 3030.1 [1]

SUMMARY: The Secretary of Defense has assigned functions and responsibilities to the Office of Economic Adjustment (OEA), and has delegated specific authorities. This Directive serves as the instrument that authorizes the OEA to carry out the charter.

EFFECTIVE DATE: November 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Howard G. Becker, Office of the Director for Organizational & Management Planning, Office of the Deputy Assistant Secretary of Defense (Administration), Washington, D.C. 20301, Telephone 202-697-0709.

SUPPLEMENTARY INFORMATION: This information is submitted in compliance with the requirements of section 552(a)(1) of Title 5, United States Code, and Recommendation 76-2 of the Administrative Conference of the United States.

Accordingly, 32 CFR, Chapter I, is amended by adding a new Part 365, reading as follows:

PART 365—OFFICE OF ECONOMIC ADJUSTMENT

Sec.
365.1 Purpose.
365.2 Mission.
365.3 Organization and Management.
365.4 Responsibilities and Functions.
365.5 Relationships.
365.6 Authority.
365.7 Administration.
365.8 Delegation of Authorities.

AUTHORITY: The provisions of this Part 365 are issued under 10 U.S.C. Chapter 4.

§ 365.1 Purpose.

(a) Pursuant to the authority vested in the Secretary of Defense under the provisions of title 10, United States Code, this Part establishes the Office of Economic Adjustment (hereafter referred to as the "OEA") with responsibilities, functions, authorities, and relationships as stated below.

(b) "Economic Adjustment" as used in this Part refers to responsibilities of the Secretary of Defense under Executive Order 12049, "Defense Economic Adjustment Programs," March 27, 1978, and related responsibilities stated in DoD Directive 5410.12,[1] "Economic Adjustment Assistance to Defense-Impacted Communities," April 21, 1973.

§ 365.2 Mission.

The OEA shall:

(a) Plan, direct, coordinate, and manage economic adjustment programs to alleviate serious social and economic impacts that may result from major changes in DoD activities.

(b) In cooperation with DoD Components, identify proposed changes that could result in adverse local impacts, and encourage local officials to initiate early economic adjustment planning on a contingency basis.

(c) Upon request, and in coordination with appropriate local, State and Federal agencies, assist community officials to develop and implement feasible adjustment plans that will alleviate the impact of DoD actions.

(d) Support the Secretary of Defense as chairperson of the Economic Adjustment Committee (EAC), Executive Order 12049, and serve as the permanent staff for the community assistance activities of the EAC. In this capacity, arrange meetings, conduct studies, develop recommendations, prepare reports, and initiate other appropriate staff actions.

§ 365.3 Organization and management.

(a) The OEA is established as a field activity of the Office of the Secretary of Defense, under the authority, direction and control of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (hereafter referred to as the "ASD(MRA&L))". It shall consist of a Director and subordinate organizational elements established by the Director within resources authorized by the Secretary of Defense.

(b) The Director, OEA, is also designated as the Assistant to the ASD(MRA&L) for Economic Adjustment, and as Executive Director of the Economic Adjustment Committee.

§ 365.4 Responsibilities and functions.

(a) The Director, OEA, shall:

(1) Serve as the principal staff adviser to the ASD(MRA&L) on economic adjustment program matters.

(2) Organize, direct, and manage the OEA and all resources assigned to the OEA.

(3) Design, establish, and manage a Defense Economic Adjustment Program to achieve the objectives and implement the provisions of Executive Order 12049 and DoD Directive 5410.12, "Economic Adjustment Assistance to Defense-Impacted Communities," April 21, 1973.

(4) Monitor program change activities of DoD Components and, as required, assist in the evaluation of possible impacts and the identification of adjustment actions that could alleviate such impacts.

(5) Develop and recommend strategies and action plans to lessen serious local impacts of DoD realinements, e.g., base closures, conversion of in-house activities to contract, major personnel reductions, and procurement cutbacks.

(6) Provide information and advice regarding the Economic Adjustment Program and the resources available to meet community economic adjustment needs.

(7) Plan, organize, coordinate, and administer economic adjustment assistance projects for communities, areas, and States adversely affected by DoD realinement actions.

(8) Assist local communities, areas, or States in expanding public service facilities to meet requirements generated by major expansions or the establishment of new DoD installations.

(9) Provide technical advice and assistance to Defense-dependent communities in efforts to diversify their economic base, reduce their vulnerability to change, and minimize the possible impact of future cutbacks.

(10) Evaluate DoD Economic Adjustment Program effectiveness.

(11) Develop, propose, and implement program improvements.

(12) Perform such other economic adjustment functions as may be assigned by the ASD(MRA&L).

(b) The ASD(MRA&L) shall:

(1) Recommend to the Secretary of Defense policies for the administration of economic adjustment programs.

(2) Provide policy guidance and management direction to the Director, OEA.

§ 365.5 Relationships.

(a) In the performance of assigned functions, the Director, OEA, shall:

(1) Establish and maintain effective liaison with DoD Components (and, after appropriate notification, with subordinate commands and installations, as required) for the timely exchange of information, and the coordination of realinements and economic adjustment plans and actions.

(2) Establish and maintain effective liaison with Federal domestic agency members of the EAC at headquarters and regional levels for timely exchange of information and the development, coordination, and support of economic adjustment assistance plans and actions.

(3) Use established facilities and services in the DoD and other governmental agencies whenever practical to achieve maximum efficiency and economy.

(b) Heads of DoD Components shall provide timely information and technical support to the Director, OEA, on matters within their respective fields of responsibilities and as may be necessary to carry out effectively the assigned responsibilities and functions of OEA.

§ 365.6 Authority.

The Director, OEA, is specifically authorized to:

(a) Obtain such information, advice, and assistance from other DoD Components as considered necessary, consistent with the policies and criteria of DoD Directive 5000.19, "Policies for the Management and Control of Information Requirements," March 12, 1976.

(b) Communicate directly with appropriate personnel in the Military Departments and other DoD Components on matters related to OEA responsibilities and functions.

(c) Exercise the administrative authorities contained in § 365.8 of the Part.

§ 365.7 Administration.

(a) The Director, OEA, shall be designated by the ASD(MRA&L).

(b) The OEA shall be authorized such personnel, facilities, funds, and other administrative support as the Secretary of Defense considers necessary.

(c) The Secretaries of Military Departments shall assign military personnel to the OEA within approved authorizations, and in accordance with established procedures for assignment to joint duty.

(d) Administrative support required for the OEA will be provided, through support and service agreements, by other DoD Components.

§ 365.8 Delegation of authorities.

Pursuant to the authority vested in the Secretary of Defense, and subject to his/her direction, authority and control, and in accordance with DoD policies, directives and instructions, the Director, OEA, or, in the absence of the Director, the person acting for him/her, is hereby delegated authority, as required in the administration and operation of OEA, to:

(a) Perform the following functions in accordance with the provisions of 5 U.S.C. 7532 (1976); Executive Order 10450, as amended, 3 CFR 936 (1949-1953 Compilation), reprinted at 5 U.S.C. 7311 (1976); and the DoD Directive 5210.7, "Department of Defense Civilian Applicant and Employee Security Program," September 2, 1966:

(1) Designate any position in OEA as a "sensitive" position;

Footnotes continued from last page

ing on March 12, 1974, formally ratified the acts of the District Directors of EEOC District Offices in issuing notices of right to sue pursuant to Commission practice instituted on October 15, 1969, and continued through March 18, 1974. 39 FR 10178 (March 18, 1974).

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA. 19120 Attention: Code 301.

(2) Authorize, in case of an emergency, the appointment of a person to a sensitive position in OEA for a limited period of time for whom a full field investigation or other appropriate investigation, including the National Security Check, has not been completed; and

(3) Authorize the suspension, but not including termination of the services of an employee in the interest of national security in positions within OEA.

(b) Authorize and approve overtime work for OEA civilian employees in accordance with the provisions of the Federal Personnel Manual Supplement 990-1, § 550.111 (5 CFR 550.111 (1978)).

(c) Develop, establish and maintain an active and continuing Records Management Program, pursuant to 44 U.S.C.A. 3102 (Supp. 1978).

(d) Authorize the publication of advertisements, notices, or proposals in public periodicals, as required for the effective administration of OEA pursuant to 44 U.S.C. 3702 (1970).

(e) Establish and maintain, for the functions assigned, an appropriate publications system for the promulgation of regulations, instructions and reference documents, and changes thereto, pursuant to the policies and procedures prescribed in DoD Directive 5205.1, "Department of Defense Directives System," November 18, 1977.

(f) In coordination with the DASD (Administration), enter into support and services agreements with the Military Departments, other DoD Components or other Government agencies, as required for the effective and efficient performance of responsibilities and functions assigned to OEA.

(g) Enter into and administer contracts through the DASD (Administration) or with his/her approval, directly or through a Military Department, a DoD contract administration services component, or other Government department or agency, as appropriate, for supplies, equipment and services required to accomplish the mission of OEA. To the extent that any law or executive order specifically limits the exercise of such authority to persons at the Secretarial level of a Military Department, such authority will be exercised by the appropriate Under Secretary or Assistant Secretary of Defense.

The Director, OEA, may redelegate these authorities, as appropriate and in writing, except as otherwise specifically indicated above or as otherwise provided by law or regulation.

This delegation of authorities is effective immediately.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 18, 1979.

[FR Doc. 79-2271 Filed 1-22-79; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Cleveland Electric Illuminating Co., Eastlake, Ashtabula, Avon Lake and Cleveland, Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Cleveland Electric Illuminating Company (CEI). The Order requires the Company to bring air emissions from many of its fossil fuel-fired steam generating units at its Eastlake, Ashtabula, Avon Lake and Cleveland (Lake Shore) plants into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). CEI's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect January 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter Kelly, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On August 14, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 35960) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for CEI. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. A public hearing was held on September 8, 1978, at Cleveland, Ohio.

Therefore, a Delayed Compliance Order effective this date is issued to CEI by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places CEI on a schedule to bring several of its fossil fuel-fired steam generating units at its Eastlake, Ashtabula, Avon Lake and Cleveland, Ohio, plants into compliance as expeditiously as practicable with Regulations AP-3-07 and AP-3-11, a part of the federally approved Ohio State Implementation Plan. CEI is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit CEI to delay compliance with the SIP regulations covered by the Order until April 15, 1980.

Compliance with the Order by CEI will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that CEI is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place CEI on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: January 17, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

I. By amending § 65.400 to read as follows:

§ 65.400 Federal Delayed Compliance Orders issued under Section 113(d)(1), (3), and (4) of the Act.

Source	Location	Order No.	Date or FR Proposal	SIP Regulation Involved	Final Compliance Date
Cleveland Electric Illuminating Company.	Eastlake, Ohio ...	EPA-5-79-A-9.....	Aug. 14, 1978.	AP-3-11.....	Apr. 15, 1980
	Ashtabula, Ohio.	EPA-5-79-A-10...		AP-3-07.....	
	Avon Lake, Ohio.	EPA-5-79-A-11...			
	Cleveland, Ohio..	EPA-5-79-A-12...			

[FR Doc. 79-2342 Filed 1-22-79; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Gen. Docket No. 78-290; FCC 79-3]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Implementing changes in the Technical Regulations annexed to the Agreement between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973

AGENCY: Federal Communications Commission.

ACTION: Final Order.

SUMMARY: The FCC is amending its regulations on the 1973 agreement between the United States and Canada concerning the Promotion of Safety on the Great Lakes by Means of Radio, to implement amendments to the technical regulations which are annexed to the Agreement.

EFFECTIVE DATE: February 1, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Nicholas G. Bagnato, Safety and Special Radio Services Bureau (202-632-7197).

SUPPLEMENTARY INFORMATION: *Report and Order* (Proceeding Terminated). In the Matter of Amendment of Part 83 of the rules to implement changes in the Technical Regulations annexed to the Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973; Gen Docket No. 78-290.

Adopted: January 8, 1979.

Released: January 18, 1979.

BACKGROUND

1. On September 20, 1978, the Commission released a Notice of Proposed Rule Making which would amend Part 83 of the rules to implement changes to the Technical Regulations annexed to the Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973 (GLA). At the time of the release of the Notice, amendment of the GLA had not yet been completed.

2. This rulemaking was initiated as a result of meetings and exchange of correspondence with Canada to amend the Technical Regulations. The procedure for amending the Technical Regulations is by an exchange of diplomatic notes. The exchange of diplomatic notes has been accomplished and the amendments will be effective February 1, 1979.

3. The general substance of the rule amendments in the Appendix is as follows:

a. An additional requirement for all ships over 38 meters (124 feet) in length to be equipped with a second VHF installation which fully complies with the rules has been established.

b. The required frequencies are amended to allow the ship to install the necessary ship movement frequencies for the ship's area of operation.

c. Regulation 15 (bis) (c), Chapter IV of the Safety Convention establishes a 10 watt RF carrier power minimum power requirement applicable to foreign ships. This 10 watt minimum requirement is now made applicable to ships subject to the GLA.

d. The definition of the Great Lakes has been amended to reflect the connecting and tributary waters contained in the new Regulation 8.

COMMENTS AND COMMENTERS

4. Comments were submitted by the Lake Carriers Association (LCA), Lorain Electronics Corporation (LORAIN) and the Great Lakes Towing Company (GLT). No reply comments were submitted.

5. All of the commenters supported the amendments. However, several suggested some minor clarification and wording changes as follows:

a. LORAIN has made the following comments:

(1) Suggested that the wording of Section 83.539(b) might be misconstrued as limiting the number of VHF radiotelephones to two installations only and suggested the following wording "shall be fitted with at least two VHF radiotelephone installations • • •";

(2) The required channelization proposed in Section 83.539(c) is not clear and suggested the following;

"(c) The term "radiotelephone installation" for the purpose of the Great Lakes Agreement, means a ship radio station (including the source of energy necessary to energize the apparatus) of which each of the VHF installations in (b) above are capable of transmitting and receiving speech on at least the following VHF channels;

Channel 16—156.8 MHz—Distress, Safety and Calling.

Channel 6—156.3 MHz—Primary intership.

In addition the station shall be equipped with those of the following vessel traffic channels appropriate • • • etc."; and

(3) While Section 83.547(a) was not included in the proposal, LORAIN was concerned that certain vessels had the operating controls on the bridge, but not at the conning position, and suggested that dial lights only be required at the principal operating position.

b. LCA associated its comments with those of LORAIN.

c. GLT is concerned with the requirement for any public correspondence frequencies on their harbor tugs. These tugs operate within the confines of the harbor and their operation is under the control of the GLT limited coast station.

DISCUSSION

6. With respect to the comments, we make the following observations:

a. We agree with LORAIN regarding the required channelization. We did not intend that each radiotelephone have all of the proposed channels installed as long as the radiotelephone station has the required channels and each radiotelephone is capable of operation on Channels 6 and 16.

b. With respect to LORAIN's concern that there is any implication that two radiotelephones is the maximum number permitted, we are amending our rules to make this clear. It should be noted, however, that the Commission specifies the minimum requirements for compliance with the various acts or agreements but does not re-

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strict the licensee from installing any additional equipment deemed necessary for its efficient operation.

c. LORAIN's suggestion concerning dial lights was not a part of this proceeding. The rules now make provisions for an alternate means of lighting the operating controls and no further consideration is necessary.

d. Concerning the GLT comment on the requirement for a public correspondence frequency on harbor tugs, we believe that this comment is not generally applicable to the operations on the Great Lakes. However, in consideration of the number of channels installed for ship movement, ship service and the automated VHF system on the Great Lakes, the necessity for a public correspondence channel is minimized. Therefore, we are deleting this requirement.

7. Pursuant to Article XVIII of the Great Lakes Agreement amendment to the technical regulations, which the subject rules implement, shall enter into force on February 1, 1979. Orderly administration dictates that our rules shall be in effect on the same date. Accordingly, good cause is found to make the rules effective on February 1, 1979, less than the 30 days specified in 5 USCA 553(d).

8. Regarding questions on matters covered in this document, contact Nicholas G. Bagnato, telephone (202) 632-7197.

CONCLUSION

9. Accordingly, IT IS ORDERED, THAT, pursuant to the authority contained in Section 4(i) and 303(c), (e) and (r) of the Communications Act of 1934, as amended, the Commission's rules ARE AMENDED, as set forth in the attached Appendix, effective February 1, 1979.

10. *It is further ordered*, That this proceeding IS TERMINATED.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION
WILLIAM J. TRICARICO,
Secretary.

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICE.

1. The introductory portion of § 83.536 which precedes paragraph (a) is amended to define applicable waters of the Great Lakes and paragraphs (a) and (b) are amended to reflect the length in meters as follows:

§ 83.536 Applicability to vessels.

The Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973, applies to vessels of all countries when navigated on the Great Lakes. The Great Lakes Agreement defines the Great Lakes as "all waters of Lakes Ontario, Erie, Huron (including Georgian Bay), Michigan, Superior, their connecting and tributary waters and the River St. Lawrence as far east as the lower exit of the St. Lambert Lock at Montreal in the Province of Quebec, Canada, but shall not include such of the connecting and tributary waters as may be specified in the Technical Regulations." The Technical Regulations do not include any connecting and tributary waters except the St. Mary's River, the St. Clair River, Lake St. Clair, the Detroit River and the Welland Canal. A vessel to which the Great Lakes Agreement applies and which falls into the specific categories by paragraphs (a), (b) or (c) of this section and not excepted by paragraphs (d) or (e) of this section shall comply with this subpart while navigated on the Great Lakes.

(a) Every vessel of 20 meters (65 feet) or over in length (measured from end to end over the deck, exclusive of sheer).

(b) Every vessel engaged in towing another towing vessel or floating object, except:

(1) where the minimum length of the towing vessel, measured from end to end over the deck exclusive of sheer, is less than 8 meters (26 feet) and the length or breadth of the tow, exclusive of the towing line is less than 20 meters (65 feet);

(2) where the vessel towed complies with this subpart;

(3) where the towing vessel and tow are located within a booming ground (an area in which logs are confined); or

(4) where the tow has been undertaken in an emergency and neither the towing vessel nor the tow can comply with this part.

* * * * *

(2) Section 83.539 is amended by amending paragraph (a), adding a new paragraph (b), amending existing paragraph (b) and redesignating as (c), and redesignating existing paragraph (c) as (d) to read as follows:

§ 83.539 Radiotelephone installation.

(a) Each vessel of the United States of less than 38 meters (124 feet) registered length while subject to the requirements of the Great Lakes Radio Agreement shall be fitted with a radiotelephone in effective operating condition meeting the provisions of this subpart in addition to the provisions of such other rules in this part, governing ship stations using telephony, as are applicable.

(b) Each vessel of the United States of 38 meters (124 feet) or more while subject to the requirements of the Great Lakes Radio Agreement shall be fitted with a minimum of two VHF radiotelephone installations in effective operating condition meeting the provisions of this subpart in addition to the provisions of such other rules in this part, governing ship stations using telephony, as are applicable. The second VHF installation shall be electrically separate from the first VHF installation; however, both may be connected to the main source of energy provided one installation can be operated from a separate source of energy located as high as practicable on the vessel.

(c) The term "radiotelephone installation", for the purpose of the Great Lakes Agreement, means a ship radio station (including the source of power necessary to energize the apparatus) capable of transmitting and receiving F3 emission as follows:

(1) Each VHF radiotelephone installation.

(i) Channel 16—156.8 MHz—Distress, Safety and Calling.

(ii) Channel 6—156.3 MHz—Primary intership.

(2) The radiotelephone station shall have additional frequencies as follows:

(i) Those ship movement frequencies appropriate to the vessel's area of operation: Channel 11—156.55 MHz, Channel 12—156.60 MHz, Channel 13—156.65 MHz or Channel 14—156.7 MHz.

(ii) Such other frequencies as required for the vessel's service.

(iii) One channel for receiving marine navigational warnings for the area of operation.

(3) Nothing contained in this paragraph shall be construed to require or prohibit the availability of other frequencies for use by the same "radiotelephone installation" for communication authorized by this part on other frequencies.

(d) Every radiotelephone station shall include one or more transmitters, one or more receivers, one or more sources of electrical energy; and associated antennas and control equipment. The radiotelephone station, exclusive of the antennas and source of electrical energy, shall be located as high as practicable on the vessel, preferably on the bridge, and suitably protected from the harmful effects of water, temperature, electrical and mechanical noise.

3. Section 83.542(b) is amended to reduce the minimum power requirement as follows:

§ 83.542 Radiotelephone transmitter.

* * * * *

(b) The transmitter shall be of a type which has been demonstrated in the process of type acceptance as being capable of delivering a carrier power of at least 10 watts, but not more than 25 watts, on each of the frequencies 156.8 MHz and 156.3 MHz into 50 ohms effective resistance, when operated with its applied primary supply voltage. The transmitter shall be capable of readily reducing the carrier power to one watt or less.

* * * * *

[FR Doc. 79-2261 Filed 1-22-79; 8:45 am]

[4910-62-M]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 48; Amdt. 2]

PART 5—RULEMAKING PROCEDURES

Revision of Regulations Governing National Highway Traffic Safety Administration Financial Assistance Program

AGENCY: Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The Department of Transportation revises its regulations governing the administration of a program of financial assistance to qualified participants in rulemaking proceedings of the National Highway Traffic Safety Administration (NHTSA). The revisions are intended to improve administration of the Department's public participation program to be conducted through NHTSA rulemaking, while the consideration of permanent regulations for the entire Department continues.

DATES: The amendments to the existing regulations are effective January 23, 1979. Comments should be received on or before April 2, 1979.

ADDRESSES: Comments should be addressed to: Docket Clerk; OST Docket No. 48, Amendment 2; Office of the General Counsel; Department of Transportation; Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard M. Lorr, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590 (202) 426-4710.

SUPPLEMENTARY INFORMATION: DOT promulgated regulations in 1977 (42 FR 2864; January 13, 1977) establishing a one-year initial program to test the value of providing financial assistance to potential participants in DOT rulemaking whose viewpoints were not being represented or were being underrepresented because they were unable to bear the costs of effective participation. Based on a favorable finding by NHTSA, whose rulemakings were used for the one-year initial program, the Department extended the initial program until a decision on issuance of final departmental regulations was reached (43 FR 10918; March 16, 1978). Subsequently, the Appropriations Committees of Congress directed that the Secretary conduct a specifically funded public participation demonstration program in NHTSA rulemaking during FY 1979, with a final report on the project to be submitted to Congress (H. Rep. 95-1329, at 10). Congress directed that $125,000 be made available during FY 1979 for this one-year demonstration program of citizen participation.

While the Department continues to consider the appropriate scope and nature of a permanent regulation governing public participation for the Department as a whole, it has decided the NHTSA's experience to date with public participation justifies revisions in the present regulations. These revisions are based largely on NHTSA's evaluation and recommendations submitted to the Secretary upon the conclusion of the first year of the demonstration program. It is believed that these revisions will enable the Department to fulfill the Congressional direction properly. Although public comment has been solicited and received on the promulgation of permanent regulations, the procedural nature of these revisions justifies the immediate amendment of the existing program regulations, and is published without general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b)(A). Final action is particularly important because less than 9 months of the FY 1979 program remain and several impending rulemaking proceedings may be candidates for funding.

The following paragraphs set forth an explanation of the more important revisions from the earlier regulation.

SCOPE OF THE PROGRAM

Consonant with the direction from Congress, the "Purpose" section of the regulation is revised to permit funding only of rulemaking proceedings rather than all administrative proceedings. It is clarified that no new right of intervention or participation is created by the financial participation program.

Some definitions have been revised for clarity. The rule now clearly defines "rulemaking proceeding" to mean any phase of a rulemaking process of NHTSA that is open to public participation, so long as it is commenced by publication of a notice in the FEDERAL REGISTER requesting comment. Previously, the definition of a "proceeding" might have been construed as only involving actual rulemakings under specific statutes administered by the NHTSA or defect determination hearings under the National Traffic and Motor Vehicle Safety Act of 1966. The definition of an Evaluation Board now clearly indicates it is an independent panel not subject to the authority of other officials in the evaluation of applications. Under the new regulations, it is also made clear that local, State, or Federal agencies are not considered eligible applicants. Other definitions have been streamlined in a similar fashion, and necessary new definitions have been added.

NOTICE OF AVAILABILITY OF COMPENSATION

Section 6 of the previous regulation has been expanded (in the new §§ 5.47 and 5.51) to improve notice of the availability of compensation and increase the time available for applying, consideration of the application, and opportunity to prepare comments when funded. A serious deficiency in the agency's one-year initial program was the limited time available in the normal course of rulemaking (1) to alert potential participants, particularly individuals who do not normally deal with Federal rulemaking proceedings, of the availability of compensation, (2) to prepare applications, (3) to evaluate applications, (4) and to prepare and deliver comments when funding is provided. This schedule was particularly tight when a public meeting occurred midway through a 45-day comment period.

With this in mind, the regulations establish that the notice of the availability of financial assistance in a particular proceeding must (with limited exceptions) appear in the rulemaking notice, with a minimum 30-day period for filing applications and a 90-day comment period for the notice itself. Copies of the notice will be mailed directly to any parties that request to be put on NHTSA's mailing list or who are identified by the NHTSA Office of Consumer Participation as persons or organizations particularly affected by a particular proceeding. To assure complete consideration of all applications received by the stated deadline, the period for agency consideration of applications has been extended to 15 days.

The new § 5.47 also contains the criteria by which the choice of funded proceedings is made. In this regard, interested persons are advised that the NHTSA has published a tentative list of those rulemakings in which it may offer compensation during the FY 1979 program (43 FR 53522; November 16, 1978). Under the new regulations, the Department's Semi-Annual Regu-

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lations Agenda may be used as a substitute means of calling attention to proceedings in which funding may be made available. Members of the public need not wait for the announcement of a specific proceeding in the FEDERAL REGISTER, but are encouraged to apply in response to the announcements of anticipated proceedings in the Semi-Annual Regulations Agenda.

CONTENT OF APPLICATIONS

The provisions governing the content of applications have been improved most significantly by more clearly specifying the type of information that is helpful in determining an applicant's financial situation. At the same time, redundant submissions of financial information are largely eliminated by providing that such information need be submitted only once in six months, except for material changes in the data that occur sooner.

The regulation now requires a listing of current and long-term assets and liabilities (as of the close of the preceding fiscal year and as of the date of the application) along with an explanation of why net assets will not be used for participation; a revenue and expense statement for the preceding fiscal year and current fiscal year, including, in the case of a group, association, partnership or corporation, a list of planned projects and the amounts to be expended on each. Individuals applying only for funds for travel, subsistence, and miscellaneous expenses are not required to supply financial data, as a determination regarding the individual's financial resources is not required for this type of assistance.

The new regulations also require an applicant to provide more specific information regarding the positions it plans to take at the proceeding, including how the applicant plans to address relevant issues, and a description of the evidence, studies, methodologies, and information to be developed and presented. Failure to provide this, and other required information, may result in disqualification of the application.

In addition to dropping certain duplicative or unessential items from the application, the regulation now makes more specific the requirements for information on the economic interest of applicants in the outcome of the proceeding. Copies of applications will be available for public inspection at NHTSA's Washington office.

SELECTION CRITERIA

Although an applicant must generally demonstrate to the satisfaction of the Evaluation Board that it does not have sufficient resources to participate effectively without financial assistance, such a determination is no longer a prerequisite with respect to an application by an individual solely for reimbursement of travel, subsistence and related expenses (See DOT Order 1500.6).

Another substantive change of importance permits the funding of more than one applicant representing the same interest, without a showing of significant differences in viewpoint or proposals, if participation by additional funded applicants would promote the presentation of a fair balance of views in the proceeding. The need to redress an imbalance of views at a proceeding arises when it is apparent that the presentations of many participants, representing one or two points of view, by sheer repetition could obscure appropriate consideration of the views of a single funded participant. At the same time, to assure that as wide as possible a range of viewpoints are presented, no single group will be permitted to receive more than 20% of the funds awarded during the fiscal year.

RECOVERABLE COSTS

An important area of the regulations in which important modifications have been made is the description of costs for which reimbursement may be claimed. In accordance with General Accounting Office policy, reimbursable expenses including salaries remain limited to actual and reasonable costs (See, Decision of the Comptroller General, B-139703, July 30, 1978, Attorney Fees-Federal Trade Commission). Participant's contractors may be paid at prevailing market rates. However, such compensation may not exceed rates paid to comparable DOT employees. Compensation for staff services, paid by participating groups and organizations is limited to rates of reimbursements normally paid by the organization and, also, may not exceed rates paid to comparable DOT employees. Travel, subsistence and related miscellaneous expenses must conform to the types and rates prescribed by the DOT "Travel Manual," (See DOT Order 1500.6).

Of major importance, however, is the deletion of the restrictions on reimbursement for staff time expended on an organization's own behalf (Sec. 7(b)(2)(i)) and for hiring outside personnel (Sec. 7(b)(2)(ii)). These provisions had proven to be confusing and difficult to apply in practice.

Due to restrictions imposed by the Federal Reports Act on the use of Federal funds to conduct surveys, surveys were deleted from the list of recoverable expenses. In order to assure that limited program funds are allocated as productively as possible, expenses incurred in preparation of applications, with the exception of first time applications, are no longer reimbursable, nor are costs incurred in answering inquiries, or conducting negotiations relating to claims for compensation.

Interested parties should also note that claims for compensation under the new regulation must be submitted to NHTSA within 90 days following the completion of the applicant's participation in the subject proceeding. Payment of compensable expenses will be made by NHTSA within 90 days of the applicant's submission of a completed claim, unless NHTSA determines that the claim, or some portion, will be audited within 90 days of the submission of the claim. In that event, payment of claims may be delayed until completion of the audit. In conformance with Departmental policy concerning grants and contracts, the Secretary, Administrator, or other appropriate Federal officals may conduct audits of awards of financial assistance for a period of three years after receipt of compensation. For that reason, applicants are required to retain all pertinent records for a period of three years after receipt of compensation.

Further guidelines relating to allowable costs, financial statements, accounting, and recordkeeping may be established by the Department.

SUPPLEMENTARY COMPENSATION

NHTSA has from time to time accepted supplementary applications when it became apparent that initial awards were inadequate to cover applicants' expenses of participation, although the regulations contained no mention of supplementary applications and some participants may not have been aware that supplemental funds could be requested. Supplementary compensation is not provided for work performed or costs incurred by an applicant or its contractors in advance of the Board's decision to provide supplementary compensation. Section 5.55 of the new regulations lists the circumstances under which supplementary compensation may be available.

Although this notice is in the form of a final rule, DOT seeks public comment on the regulations as amended to assist in future revisions and to aid in consideration of Department-wide public participation regulations. All comments should be addressed to the DOT Docket Clerk at the address noted above and should be received before the close of business on the comment closing date indicated.

The lawyer principally responsible for the development of this rulemaking document is Richard Lorr, Office of the General Counsel.

In consideration of the foregoing, title 49, Subtitle B, Chapter V of the Code of Federal Regulations is amended by deletion of the appendix *Financial Assistance to Participants in Administrative Proceedings* and Title 49, Subtitle A, Part 5 is amended by addition of a Subpart D as set forth below, effective January 23, 1979.

BROCK ADAMS,
Secretary of Transportation.

Subpart D—Financial Assistance to Participants in Rulemaking Proceedings

Sec.
5.41 Purpose.
5.43 Applicability.
5.45 Definitions.
5.47 Notice of the availability of compensation.
5.49 Contents of the application.
5.51 Processing applications.
5.53 Recoverable costs.
5.55 Supplementary compensation.
5.57 Payments to applicants.
5.58 Audits.
5.59 Guidelines.

AUTHORITY: Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407; secs. 102, 201, 408, 501, et seq., Pub. L. 92-513, 86 Stat. 949 (15 U.S.C. 1912, 1941, 1988, 2001, et seq.); Pub. L. 89-554, 80 Stat. 499 (5 U.S.C. 5703); Pub. L. 95-335, 92 Stat. 435)

Subpart D—Financial Assistance to Participants in Rulemaking Proceedings

§ 5.41 Purpose.

This part establishes procedures governing the compensation of participants in Department of Transportation (DOT) rulemaking proceedings in the National Highway Traffic Safety Administration (NHTSA).

§ 5.43 Applicability.

This part applies to any individual, group, association, partnership, or corporation seeking financial assistance for participation in a rulemaking proceeding of NHTSA. This part does not, however, create any new right to intervene or otherwise participate in any proceeding.

§ 5.45 Definitions.

As used herein—

(a) "Administrator" means the Administrator of NHTSA or his or her delegate.

(b) "Applicant" means any individual, or any profit or nonprofit group, association, partnership, or corporation seeking compensation under this part, but does not include a local, state, or Federal agency.

(c) "Application" means a document or proposal that complies with § 5.49 and is submitted to the Evaluation Board.

(d) "Evaluation Board"—means an independent panel which is not subject to the authority of other officials when evaluating applications under this part, and is composed of the Assistant Director for Consumer Affairs, the Associate Administrator for Plans and Programs of NHTSA, and the Chief Counsel of NHTSA, or their respective delegates.

(e) "Qualified applicant" means an applicant the Evaluation Board has determined is eligible under the criteria of § 5.51(b).

(f) "Rulemaking" has the meaning given in 5 U.S.C. 551.

(g) "Rulemaking proceeding" ("proceeding") means any phase of a NHTSA rulemaking process that is open to public participation, including any advance notice or notice of proposed rulemaking, or any meeting, hearing, or solicitation of comments in contemplation of rulemaking. A proceeding is commenced by publication of a notice in the FEDERAL REGISTER announcing that NHTSA is soliciting comment for a proceeding.

(h) "Secretary" means the Secretary of Transportation or his or her delegate.

§ 5.47 Notice of the Availability of Compensation.

(a) The Administrator determines which proceedings will be funded upon an evaluation of their (1) contribution to fulfilling agency goals; (2) costliness or controversiality to consumers, regulated parties, and other affected parties; (3) the availability of funds; (4) the time available to complete the proceeding; and (5) the likelihood that funds would enhance effective public participation. When feasible, the public's views are considered regarding which proceedings should be funded.

(b) When the Administrator determines that compensation will be available for participation in a proceeding, he or she directs that notice of the availability of compensation be published in the FEDERAL REGISTER as part of the notice commencing the proceeding. The NHTSA Office of Consumer Participation maintains a list of groups and individuals to be directly notified of the proceeding. This list is composed of those who have requested notice of the proposed proceeding or who have been identified by the Office as being particularly affected by the proceeding. The Office mails the notice directly to all persons on the list, once the notice has been posted by the FEDERAL REGISTER.

(c) Except in the case of a proceeding held to meet a congressional or judicial deadline or resolve exigent problems, the notice of the availability of compensation sets a deadline for submission of applications of not less than 30 days following publication of the notice and indicates to whom applications are submitted. In the case of a proceeding held to meet a congressional or judicial deadline or resolve exigent problems, when a deadline of 30 days or more is not feasible, the notice of the availability of compensation sets a deadline of not less than 15 days.

(d) Except in the case of a proceeding held to meet a congressional or judicial deadline or resolve exigent problems, the comment period for a proceeding in which compensation is made available is not less than 90 days. In the case of a proceeding held to meet a congressional or judicial deadline or resolve exigent problems, when it is not feasible to set the comment period at not less than 90 days, the comment period is extended by the number of days between the deadline for submission of applications and the decision of the Evaluation Board on all of the timely received applications.

(e) The Secretary indicates in the Department's Semi-Annual Regulations Report, published in the FEDERAL REGISTER, pursuant to Executive Order 12044, the proceedings in which funding under this part is contemplated. the Administrator mails copies of this report to all persons on the list maintained pursuant to paragraph (b) of this section.

(f) The minimum period required under paragraph (c) of this section need not be provided if:

(1) The Semi-Annual Regulations Agenda is published at least 30 days or, in the case of a proceeding held to meet a congressional or judicial deadline or resolve exigent problems, at least 15 days prior to the commencement of the proceeding;

(2) The Agenda describes the issues of these proceedings with reasonable accuracy and completeness;

(3) Invitations have been mailed to the interested public; and

(4) At least three qualified applicants have responded, and the Evaluation Board will approve or deny these applicants before the commencement of the proceeding.

§ 5.49 Contents of the application.

Each application shall contain, in a sworn statement, the information requested below, in the order specified. Failure to include the requested information may result in a delay in the Evaluation Board's consideration of the application and may also result in disqualification of the application. Applications shall be directed to the NHTSA Office of Consumer Participation.

(a) The applicant's name and address, and in the case of an organization, the names, addresses, and titles of the members of its governing body and a description of the organization's general purpose, structure, and Federal income tax status.

(b) An identification of the proceeding for which funds are requested.

(c) A description of the applicant's economic, social and other interests in

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the outcome of the proceeding, including any effect the outcome of the proceeding may have on the income of the applicant or the applicant's members.

(d) A description of any contracting, consulting or other income producing relationship of the applicant with an organization having an economic interest in the regulation which is the subject of the proceeding.

(e) A discussion of the reasons why the applicant is an appropriate representative of those interests, including the expertise and experience of the applicant, and any consultants it intends to employ, in the matters involved in the proceeding, and evidence of the applicant's prior general performance and the applicant's relation to the interest it seeks to protect or represent.

(f) A description and explanation of the position(s) the applicant proposes to present at the proceeding, including a description of the evidence, studies, viewpoints, methodologies, and information to be developed or used in supporting the applicant's position(s). The applicant should describe the issues it plans to address, how the applicant plans to resolve these issues, and how the issues affect the applicant's interest in the proceeding. This discussion should explain which ideas or viewpoints the applicant believes are novel or significant, and why the applicant believes that the presentation of these ideas and viewpoints would contribute to a full and fair determination of the issues involved in the proceeding.

(g) An itemized statement of the total amount of funds requested, which shall clearly state for each task: the identity of persons performing the task and their hourly rates of pay, the total cost of the task, and the total hours required to perform the task.

(h) Except for individuals applying for funds only for travel, subsistence, and related miscellaneous expenses—

(1) A listing of the applicants' current and long term assets and liabilities as of the close of the preceding fiscal year, and as of the date of application, with an explanation of why the applicant cannot use any excess of assets over liabilities in order to participate in the proceeding.

(2) A statement of the applicants' revenues and expenses for the preceding fiscal year, and an estimate of the applicant's anticipated revenues and expenses for the current fiscal year, including, in the case of a group, association, partnership or corporation, a list of planned projects and the amounts to be expended on each.

(3) Where an applicant has previously submitted an application for financial assistance under this program during the preceding six months of the current fiscal year, the applicant need only inform the agency of any material changes in the financial data previously submitted.

(i) A list of all proceedings of the Federal Government in which the applicant has participated during the past year (including the interest represented and the contribution made) any amount of financial assistance received from any agency of the Federal Government in connection with these proceedings.

§ 5.51 Processing applications.

(a) The Evaluation Board accepts applications from the time notice is published until the time for public participation in a proceeding has ended; however, applications received after the specified deadline are not assured full consideration. The Board may request applicants to provide additional written or oral information necessary to full consideration of the application. Such additional written information, summaries of such oral information, and copies of each application are available for public inspection at NHTSA's Washington office.

(b) Within 15 working days following the deadline for receipt of applications, the Evaluation Board receives any technical comments from the official most directly responsible for the development of NHTSA's position on the substantive issues of the proceeding, and the Evaluation Board then approves or denies, in whole or in part, each application submitted. If the Board requests an applicant to provide additional information, the time period for Board action on the application is suspended for the period of time specified by the Board for receipt of the additional information. The Evaluation Board may approve an application, if it finds that:

(1) The applicant's participation would contribute or could reasonably be expected to, contribute substantially to a full and fair determination of the issues involved in the proceeding, taking into consideration the novelty, complexity, and significance of the ideas advanced by the applicant, and taking into account the ability of the applicant to represent the interests it espouses competently, when assessed under the following criteria:

(i) The applicant's, or its consultant's or attorney's, experience and expertise in the substantive area at issue in the proceeding;

(ii) The applicant's, or its consultant's or attorney's, prior general performance and competence; and

(iii) Evidence of the applicant's relationship to the interest it seeks to protect or represent.

(2) The applicant has demonstrated that it does not have sufficient resources available to participate effectively in the proceeding in the absence of an award under this part. If an individual applies for reimbursement only for reasonable travel, subsistence, and permitted miscellaneous expenses to participate in the proceeding, the Board does not make the finding otherwise required by this subparagraph.

(c) (1) When two or more qualified applicants seek to represent the same or similar interest but would present significant differences in viewpoint or proposals, the Evaluation Board may partially or completely grant funds to one or more of them.

(2) When two or more qualified applicants seek to represent the same or similar interest without significant differences in viewpoint or proposals, the Evaluation Board may select all or some of these qualified applicants if the Board determines their selection would promote the presentation of a fair balance of views at the proceeding.

(3) To preclude duplicative presentations, other than those qualifying under § 5.51(c)(2), the Evaluation Board selects the qualified applicant it considers most competent under the criteria of § 5.51(b)(1), and whose proposals are the most specific, significant, and novel.

(d) The Evaluation Board is not required to select a qualified applicant if the Board determines that selection of an otherwise qualified applicant would be impracticable or unreasonable. In deciding to deny an otherwise qualified applicant, the Board may consider the following and other factors:

(1) Whether an applicant's proposal can be reasonably developed and presented within the time allotted for the rulemaking proceeding;

(2) The availability of funding under this part;

(3) The significance of the proceeding in question and the amount of funds needed by the applicant; and

(4) The reasonableness of the sums requested.

(e) No applicant may be awarded more than 20% of the total amount of funds to be allocated by NHTSA for public participation for a Fiscal Year.

(f) A written decision of the Evaluation Board, stating why assistance has either been granted or denied in light of the criteria in paragraphs (b) through (e) of this section mailed to each applicant. Copies of each decision of the Board are *available for public inspection at NHTSA's Washington office.*

(g) Upon good cause timely shown by an applicant, the decision of the Evaluation Board regarding its application may be reconsidered by the Board.

§ 5.53 Recoverable costs.

(a) Expenses compensable under this regulation include but are not limited to reasonable attorneys' fees; expert witness fees; the expenses of clerical services, travel, subsistence, studies, demonstrations and other reasonable costs of participation actually incurred.

(b) Compensation of an applicant is limited to the actual and reasonable costs of its participation. Compensation paid to the staff of any participating group or organization is limited to the rate of reimbursement normally paid by the participant for staff services and may not exceed the rates paid to DOT employees for providing comparable services. Compensation of a participant's contractor may be valued at the prevailing market rates for the kind and quality of service provided, but may not exceed the rates paid to DOT employees for providing comparable services.

(c) Reimbursement for travel, subsistence, and miscellaneous expenses must conform to the types and rates prescribed by the DOT "Travel Manual," (DOT Order 1500.6).

(d) Except as otherwise noted in this paragraph, compensation is not provided for work performed or costs incurred prior to approval of an application by the Evaluation Board. Compensation is not provided for negotiating claims, answering NHTSA inquiries, or preparing an application, other than a participant's first approved application.

§ 5.55 Supplementary compensation.

(a) Applicants may apply to the Evaluation Board for supplementary compensation if the initial award is insufficient to permit the applicant to complete its proposal and if:

(1) The Board requested the applicant to perform work in addition to that contained in the approved proposal, or

(2) The applicant demonstrates it has been subject to an unforeseeable and material change in its circumstances, or

(3) The applicant or the Board substantially underestimated the probable cost of participation.

(b) Compensation is not provided for work performed or costs incurred by an applicant or its contractors in advance of the Board's decision to provide supplementary compensation.

(c) The Board provides supplementary compensation under the criteria of § 5.51 and paragraphs (a) and (b) of this section.

§ 5.57 Payments to applicants.

An applicant shall submit a claim for compensation to NHTSA's Office of Consumer Participation within 90 days of the applicant's completion of participation in the proceeding. Such claims shall include bills, receipts, or other proofs of costs incurred. Within 60 days of receipt of a completed claim, NHTSA's Office of Consumer Participation, after consultation with NHTSA's Office of Financial Management, directs the Office of Financial Management to make payment for compensable expenses. For good cause shown, payment to an applicant may be expedited, and requests for partial payment may be submitted for compensation of part performance. Payment of claims is delayed, or relevant portions withheld, if it is determined that a claim or any portion of a claim will be audited within 90 days of the submission of the claim.

§ 5.58 Audits.

For the purpose of conducting an audit, the Secretary, the Administrator, or other appropriate Federal official shall have access to any relevant records of a participant awarded compensation under this part. Applicants shall retain all records, books of account, bills, receipts, and any other relevant records supporting a claim for compensation for a period of three years after receipt of such compensation.

§ 5.59 Guidelines.

The Secretary establishes guidelines to explain further the criteria to be used by the Evaluation Board in assessing financial data under § 5.51(b)(2) and for determining reasonable allowable costs under § 5.53. The Secretary may establish additional guidelines governing applicants' accounting and recordkeeping procedures.

[FR Doc. 79-2290 Filed 1-22-79; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 342]

PART 1008—PROCEDURES GOVERNING THE PROCESSING, INVESTIGATION AND DISPOSITION OF OVERCHARGE, DUPLICATE PAYMENT, OR OVERCOLLECTION CLAIMS

AGENCY: Interstate Commerce Commission.

ACTION: Modification of Final Rules; Proceeding held open for further comment on one aspect of proposed rules.

SUMMARY: Regulations adopted in 358 I.C.C. 114 are clarified on appeal. The regulation, as modified, will improve carrier practices by providing uniform procedures for the efficient processing, investigation and timely disposition of overcharge, duplicate payment and overcollection claims by motor common carriers and freight forwarders. Rule 1008.9(a) providing for disposition of unidentified payments is stayed, pending additional proceedings.

DATES: 1. Regulations published September 14, 1978, 43 FR 41040, as modified, shall be effective February 22, 1979.

2. Further comments on Rule 1008.9(a) due March 9, 1979; reply comments due April 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak (202) 275-7693 or Harvey Gobetz (202) 275-7656.

SUPPLEMENTARY INFORMATION: In our prior decision, 358 I.C.C. 114, served September 1, 1978, the Commission adopted regulations providing uniform procedures for the expeditious processing and disposition by motor carriers and freight forwarders of claims for overcharge duplicate payment, and overcollection. By subsequent decision served October 11, 1978, the effective date of those regulations was stayed pending completion of administrative review.

It is evident from the limited number of appeals[1] that the rules have been favorably received by most shippers and carriers. However, there is merit in two requests for minor modification. Accordingly, the regulations as published at 43 F.R. 41040 are amended as follows.

§ 1008.4 [Amended]

Section 1008.4(e) is modified to read as follows:

. . . . . .

(e) A carrier shall accept copies instead of the original documents required to be submitted in this section where the carrier is furnished with an agreement entered into by the claimant which indemnifies the carrier for subsequent duplicate claims which might be filed and supported by the original documents.

. . . . . .

§ 1008.9 [Amended]

To avoid ambiguity, § 1008.9(b) is modified to read as follows:

. . . . . .

[1] 5 petitions for administrative review and 3 replies were filed.

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(b) When a carrier which participate in a transportation movement, but did not collect the transportation charges, finds that an overpayment has been made, that carrier shall immediately notify the collecting carrier. When the collecting carrier (whether single or joint line haul) discovers or is notified by such a participating carrier that an overcharge, duplicate payment, or overcollection exists for any transportation charge which has not been the subject of a claim, the carrier shall create a file as if a claim had been submitted and shall record in the file the date it discovered or was notified of the overpayment. The carrier that collected the charges shall then refund the amount of the overpayment to the person who paid the transportation charges or to the person that made duplicate payment within 30 days from the date of such discovery or notification.

. . . . .

Several petitioners object to the procedures provided for handling unidentified payments, and characterize the requirement of a single notification and request for information as inadequate and lacking in specificity. They argue that § 1008.9(a) would create a windfall for the carriers and place the burden on the shipper to establish that the carrier is not entitled to keep an unidentified payment. They suggest that § 1008.9(a) goes beyond establishing standardized procedures, and into the area where the Commission found jurisdiction lacking "to settle or adjudicate these claims." 358 I.C.C. 114 at page 117. While they support all uniform procedures designed to elicit information which is necessary to resolve unidentified payments, they object to what they perceive as an ulitmate disposition on the merits in favor of the carrier. If the Commission permits the retention of such funds and their use in overall carrier operations, National Industrial Traffic League (NITL) suggests that, at a minimum, the total dollar amount of those funds should be treated as non-investor supplied capital, or deducted from any property investment base.

The rule places the initial burden upon the carrier for notification and verification of an unidentified payment. When such notification does not elicit the requested information, the carrier may conditionally retain the unidentified payment as payment of freight charges owing to it, subject to refund under normal claims procedures. Shippers are afforded ample protection by the provision for application of regular claims procedures following the 90-day period.

Although we are satisfied as to our jurisdiction in this area, we feel that a limited reopening of the record on the subject of unidentified payments is desirable. This subject was not addressed in the proposed rules nor was it originally contemplated at the time this proceeding was instituted. We believe that a more comprehensive analysis is necessary to ascertain the scope and significance of this complex and controversial area. Additionally, we feel that the proposal advanced by NITL is entitled to further consideration by the parties.

Parties and other interested persons are requested to file with the Commission information concerning the nature, handling, and disposition of unidentified payments. Participant's comments should address the following

(1) Their frequency and volume.
(2) Their origin and nature.
(3) Types of shippers, carriers, and clearinghouses experiencing them.
(4) Existing carrier practices.
(5) The party who should bear the burden of identification.
(6) Suggested procedures for disposition, including the NITL recommendation.
(7) Refinement of the definition of unidentified payments.
(8) Other relevant data.

Dated: December 20, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2314 Filed 1-22-79; 8:45 am]

[7035-01-M]

[Ex Parte No. MC-43 (Sub-No. 7)]

PART 1057—LEASE AND INTERCHANGE OF VEHICLES

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The regulations promote full disclosure between the carrier and owner-operator in the leasing contract, promote the stability and economic welfare of the independent trucker segment of the motor carrier industry, and eliminate or reduce the opportunity for skimming and other illegal practices. The existing lease and interchange regulations have been rewritten so as to be simpler and easier to understand.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Bruce Kasson (202) 275-7723.

SUPPLEMENTARY INFORMATION: By notice of proposed rulemaking published in the FEDERAL REGISTER on November 23, 1977, 42 FR 59984, this proceeding was instituted to revise and rewrite the Commission's leasing regulations in Title 49 of the Code of Federal Regulations, Chapter X, Part 1057—Lease and Interchange of Vehicles (49 CFR Part 1057). Because the initial notice did not include formal rules, but rather discussed the proposals generally, a second notice consisting of proposed rules was published in the FEDERAL REGISTER on July 11, 1978, 43 FR 29812.

The final rules provide that the cost of various operating expenses such as fuel, permits, tolls, and licenses must be allocated in the lease. The lease must also identify all items that may be charged-back to the lessor, clearly state the insurance costs and responsibilities of each party, and specify the terms of any equipment purchase plan or rental contract that gives the carrier the right to make deductions from the lessor's compensation. These provisions promote a "truth in leasing concept" and will ensure that the carrier and owner-operator fully disclose the obligations and responsibilities of each party.

Because the rules require that (1) the compensation due the owner-operator be stated on the face of the lease, or in an addendum, and (2) the owner-operator be provided a copy of the freight bill, owner-operators will be able to have an accurate and complete accounting of the monies earned under leasing arrangements. Payment of compensation to lessors within 15 days of submission of paperwork, as required by the rules, assures carriers that necessary paperwork will be submitted, and, at the same time, assures owner-operators that compensation will be timely if the paperwork is submitted.

Provisions have also been added relating to the handling and return of any escrow funds held by the carrier. Interest must be paid on escrow funds, the funds must be returned within 45 days, and the owner-operator must receive a full accounting of escrow fund transactions and deductions.

The rules set forth in Appendix A are adopted under authority of 49 U.S.C. 304 (e) and (f), and 5 U.S.C. 552, 553, and 559.

Dated: January 9, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian. Commissioner Stafford would not require the carrier to pay interest on the escrow account

(§ 1057.12(e)(5)), and he would delete § 1057.12(j)).

H. G. HOMME, Jr.,
Secretary.

APPENDIX A

Part 1057 is revised and reorganized to read as follows:

Part 1057—Lease and Interchange of Vehicles

Subpart A—General Applicability and Definitions.

Sec.
1057.1 Applicability.
1057.2 Definitions.

Subpart B—Leasing Regulations

1057.11 General leasing requirements.
1057.12 Written lease requirements.

Subpart C—Exemptions for the Leasing Regulations

1057.21 General exemptions.
1057.22 Exemption for trip leasing between authorized carriers.
1057.23 Exemption for trip leasing specialized equipment.
1057.24 Exemption for trip leasing equipment used in agricultural operations.
1057.25 Recordkeeping for agricultural exemption.
1057.26 Exemption from requirement of exclusive possession and control.

Subpart D—Interchange Regulations

1057.31 Interchange of equipment.

Subpart E—Private Carriers and Shippers

1057.41 Rental of equipment to private carriers and shippers.

AUTHORITY: 49 U.S.C. 304(e) and (f) and 5 U.S.C. 552, 553, and 559.

Subpart A—General Applicability and Definitions

§ 1057.1 Applicability.

The regulations in this part apply to the following actions by motor carriers holding permanent or temporary operating authority from the Commission to transport property:

(a) The leasing of equipment with which to perform transportation regulated by the Commission.

(b) The leasing of equipment to motor private carrier or shippers.

(c) The interchange of equipment between motor common carriers in the performance of transportation regulated by the Commission.

§ 1057.2 Definitions.

(a) *Authorized carrier.*—A person or persons authorized to engage in the transportation of property as a common or contract carrier under the provisions of 49 U.S.C. 10921, 10922, 10923, 10928, 10931, or 10932.

(b) *Equipment.*—A motor vehicle, straight truck, tractor, semitrailer, full trailer, any combination of these and any other type of equipment used by authorized carriers in the transportation of property for hire.

(c) *Interchange.*—The receipt of equipment by one motor common carrier of property from another such carrier, at a point which both carriers are authorized to serve, with which to continue a through movement.

(d) *Owner.*—A person (1) to whom title to equipment has been issued, or (2) who, without title, has the right to exclusive use of equipment for a period longer than 30 days, or (3) who has lawful possession of equipment, registered and licensed in any State in the name of that person.

(e) *Lease.*—A contract or arrangement in which the owner grants the use of equipment, with or without driver, for a specified period to an authorized carrier for use in the regulated transportation of property, in exchange for compensation.

(f) *Permanent lease.*—A lease in which the authorized carrier acquires the use of equipment, with or without driver, from an owner for a period of 30 days or more.

(g) *Trip lease.*—A lease in which an authorized carrier acquires the use of equipment, with or without driver, from an owner for a period of time less than 30 days.

(h) *Lessor.*—In a lease, the party granting the use of equipment, with or without driver, to another.

(i) *Lessee.*—In a lease, the party acquiring the use of equipment with or without driver, from another.

(j) *Sublease.*—A written contract in which the lessee grants the use of leased equipment, with or without driver, to another.

(k) *Addendum.*—A supplement to an existing lease which is not effective until signed by the lessor and lessee.

(l) *Private carrier.*—A person, other than a motor carrier, transporting property by motor vehicle in interstate or foreign commerce when (1) the person is the owner, lessee, or bailee of the property being transported; and (2) the property is being transported for sale, lease, rent, or bailment, or to further a commercial enterprise.

(m) *Shipper.*—A person who sends or receives property which is transported in interstate or foreign commerce.

(n) *Escrow fund.*—Money deposited by the lessor with either a third party or the lessee to guarantee performance, to repay advances, to cover repair expenses, to handle claims, to handle license and State permit costs, and for any other purposes mutually agreed upon by the lessor and lessee.

(o) *Detention.*—The holding by a consignor or consignee of a trailer, with or without power unit and driver, beyond the free time allocated for the shipment, under circumstances not attributable to the performance of the carrier.

Subpart B—Leasing Regulations

§ 1057.11 General leasing requirements.

Other than through the interchange of equipment as set forth in § 1057.31, and under the exemptions set forth in subpart C of these regulations, the authorized carrier may perform authorized transportation in equipment it does not own only under the following conditions:

(a) *Lease.*—There shall be a written lease granting the use of the equipment and meeting the requirements contained in § 1057.12.

(b) *Receipts for equipment.*—Receipts, specifically identifying the equipment to be leased and stating the date and time of day possession is transferred, shall be given as follows:

(1) When possession of the equipment is taken by the authorized carrier, it shall give the owner of the equipment a receipt.

(2) When possession of the equipment by the authorized carrier ends, it shall obtain a receipt from the owner.

(3) Authorized representatives of the carrier and the owner may take possession of leased equipment and give and receive the receipts required under this subsection.

(c) *Identification of equipment.*—The authorized carrier acquiring the use of equipment under this section shall identify the equipment as being in its service as follows:

(1) During the period of the lease, the carrier shall identify the equipment in accordance with the Commission's requirements in Part 1058 of this chapter (Identificaiton of Vehicles). Upon termination of the lease, the authorized carrier shall remove all identification showing it as the operating carrier before giving up possession of the equipment.

(2) Unless a copy of the lease is carried on the equipment, the authorized carrier shall keep a statement with the equipment during the period of the lease certifying that the equipment is being operated by it. The statement shall also specify the name of the owner, the date and length of the lease, any restrictions in the lease relative to the commodities to be transported, and the address at which the original lease is kept by the authorized carrier. This statement shall be prepared by the authorized carrier or its authorized representative.

(d) *Records of equipment.*—The authorized carrier using equipment leased under this section shall keep records of the equipment as follows:

(1) If the equipment is being leased for periods of less than 30 days, the authorized carrier shall prepare and keep documents covering each trip for

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which the equipment is used in its service. These documents shall contain the name and address of the owner of the equipment, the point of origin, the time and date of departure, and the point of final destination. Also, the authorized carrier shall carry papers with the leased equipment during its operation containing this information and identifying the lading and clearly indicating that the transportation is under its responsibility. These papers shall be preserved by the authorized carrier as part of its transportation records. Trip leases which contain the information required by the provisions in this paragraph may be used and retained instead of such documents or papers.

(2) If the equipment is being leased for periods of 30 days or more, the authorized carrier shall comply with the provisions of paragraphs (d)(1) of this section, but it may keep the required information at its terminals or principal office as part of its records rather than with the leased equipment.

§ 1057.12 Written lease requirements.

Except as provided in the exemptions set forth in Subpart C of these regulations, the written lease required under § 1057.11(a) shall contain the following provisions:

(a) *Parties.*—The lease shall be made between the authorized carrier and the owner of the equipment. The lease shall be signed by these parties or by their authorized representatives.

(b) *Duration to be specific.*—The lease shall specify the time and date or the circumstances on which the lease begins and ends. These times or circumstances shall coincide with the times for the giving of receipts required by § 1057.11(b).

(c) *Minimum duration of 30 days when operated by owner.*—The period for which the lease applies shall be for 30 days or more when the equipment is to be operated for the authorized carrier by the owner or an employee of the owner.

(d) *Exclusive possession and responsibilities.*—The lease shall provide that the authorized carrier lessee shall have exclusive possession, control, and use of the equipment for the duration of the lease. The lease shall further provide that the authorized carrier lessee shall assume complete responsibility for the operation of the equipment for the duration of the lease.

(e) *Compensation to be specified.*—The amount to be paid by the authorized carrier for equipment and driver's services shall be clearly stated on the face of the lease or in an addendum which is attached to the lease. Such lease or addendum shall be delivered to the lessor prior to the commencement of any trip in the service of the authorized carrier. An authorized representative of the lessor may accept these documents. The amount to be paid may be expressed as a percentage of gross revenue, a flat rate per mile, a variable rate depending on the direction traveled or the type of commodity transported, of by any other method of compensation mutually agreed upon by the parties to the lease. The compensation stated on the lease or in the attached addendum may apply to equipment and driver's services either separately or as a combined amount.

(f) *Items specified in lease.*—The lease shall clearly specify the responsibility of each party with respect to the cost of fuel, fuel taxes, empty mileage, permits of all types, tolls, ferries, detention and accessorial services, base plates and licenses, and any unused portions of such items.

(g) *Payment period.*—The lease shall specify that payment to the lessor under permanent or trip lease to the authorized carrier shall be made within 15 days after submission of the necessary delivery documents and other paperwork concerning a trip in the service of the authorized carrier. The lease shall clearly specify the delivery documents and other paperwork that must be submitted before the lessor can receive payment.

(h) *Copies of freight bill.*—Subject to the right of the authorized carrier to delete the names of shippers and consignees shown on the freight bill, the lease shall specify that the authorized carrier shall give a copy of the rated freight bill before or at the time of settlement to those lessors whose revenue is based on a percentage of the gross revenue for a shipment. The lease shall clearly specify the right of the lessor, regardless of method of compensation, to examine copies of the carrier's tariff.

(i) *Charge-back items.*—The lease shall clearly specify all items that may be initially paid for by the authorized carrier, but ultimately deducted from the lessor's compensation at time of payment or settlement.

(j) *Products, equipment, or services from authorized carrier.*—The lease shall specify that the lessor is not required to purchase or rent any products, equipment, or services from the authorized carrier as a condition of entering into the lease arrangement. The lease shall specify the terms of any agreement in which the lessor is a party to an equipment purchase or rental contract which gives the authorized carrier the right to make deductions from the lessor's compensation for purchase or rental payments.

(k) *Insurance.*—(1) The lease shall clearly specify the legal obligation of the authorized carrier to maintain insurance coverage for the protection of the public pursuant to Commission regulations under 49 U.S.C. 10927. The lease shall further specify who is responsible for providing any other insurance coverage for the operation of the leased equipment, such as bobtail insurance. If the authorized carrier will make a charge back to the lessor for any of this insurance, the lease shall specify the amount which will be charged-back to the lessor.

(2) If the lessor purchases any insurance coverage for the operation of the leased equipment from or through the authorized carrier, the lease shall specify that the authorized carrier will provide the lessor with a copy of each policy upon the request of the lessor. Also, where the lessor purchases such insurance in this manner, the lease shall specify that the authorized carrier will provide the lessor with a certificate of insurance for each such policy. Each certificate of insurance shall include the name of the insurer, the policy number, the effective dates of the policy, the amounts and types of coverage, the cost to the lessor for each type of coverage, and the deductible amount for each type of coverage for which the lessor may be liable.

(3) The lease shall clearly specify the conditions under which deductions for cargo or property damage may be made from the lessor's settlements. The lease shall further specify that the authorized carrier must provide the lessor with a written explanation and itemization of any deductions for cargo or property damage made from any compensation of money owed to the lessor. The written explanation and itemization must be delivered to the lessor before any deductions are made.

(l) *Escrow funds.*—If escrow funds are required, the lease shall specify:

(1) The amount of any escrow fund or performance bond required to be paid by the lessor to the authorized carrier or to a third party.

(2) The specific items to which the escrow fund can be applied.

(3) That while the escrow fund is under the control of the authorized carrier, the authorized carrier shall provide an accounting to the lessor of any transactions involving such fund. The carrier shall perform this accounting in one of the following ways:

(i) By clearly indicating in individual settlement sheets the amount and description of any deduction or addition made to the escrow fund; or

(ii) By providing a separate accounting to the lessor of any transactions involving the escrow fund. This separate accounting shall be done on a monthly basis.

(4) The right of the lessor to demand to have an accounting for transactions involving the escrow fund at any time.

(5) That while the escrow fund is under the control of the carrier, the carrier shall pay interest on the escrow fund on at least a quarterly basis. For purposes of calculating the balance of the escrow fund on which interest must be paid, the carrier may deduct a sum equal to the average advance made to the individual lessor during the period of time for which interest is paid. The interest rate shall be established on the date the interest period begins and shall be at least equal to the average yield or equivalent coupon issue yield on 91-day, 13-week Treasury bills as established in the weekly auction by the Department of Treasury.

(6) The conditions the lessor must fulfill in order to have the escrow fund returned. At the time of the return of the escrow fund, the authorized carrier may deduct monies for those obligations incurred by the lessor which have been previously specified in the lease, and shall provide a final accounting to the lessor or all such final deductions made to the escrow fund. The lease shall further specify that in no event shall the escrow fund be returned later than 45 days from the date of termination.

(m) *Copies of the lease.*—An original and two copies of each lease shall be signed by the parties. The authorized carrier shall keep the original and shall place a copy of the lease on the equipment during the period of the lease unless a statement as provided for in § 1057.11(c)(2) is carried on the equipment instead. The owner of the equipment shall keep the other copy of the lease.

Subpart C—Exemptions for the Leasing Regulations

§ 1057.21 General exemptions.

Except for § 1057.11(c) which requires the identification of equipment, the leasing regulations in this part shall not apply to:

(a) Equipment used in substituted motor-for-rail transportation of railroad freight moving between points that are railroad stations and on railroad billing.

(b) Equipment used in transportation performed exclusively within any commercial zone as defined by the Commission.

(c) Equipment leased without drivers from a person who is principally engaged in such a business.

(d) Any type of trailer not drawn by a power unit leased from the same lessor.

§ 1057.22 Exemption for trip leasing between authorized carriers.

Regardless of the leasing regulations set forth in this part, an authorized carrier may lease equipment to or from another authorized carrier under the following conditions:

(a) The identification of equipment requirements in § 1057.11(c) must be complied with.

(b) The lessor must own the equipment or hold it under a lease of 30 days or more.

(c) The lessor must regularly use the equipment in the service it is authorized by the Commission to perform.

(d) The equipment must be leased for transportation in the direction of a point which the lessor is authorized to serve.

(e) There must by a written agreement between the authorized carriers concerning the equipment as follows:

(1) It must be signed by the parties or their authorized representatives.

(2) It must provide that control and responsibility for the operation of the equipment shall be that of the lessee from the time possession is taken by the lessee and the receipt required under § 1057.11(b) is given to the lessor until: (i) Possession of the equipment is returned to the lessor and the receipt required under § 1057.11(b) is received by the authorized carrier; or (ii) Possession of the equipment is returned to the lessor or given to another authorized carrier in an interchange of equipment.

(3) A copy of the agreement must be carried in the equipment while it is in the possession of the lessee.

§ 1057.23 Exemption for trip leasing specialized equipment.

The requirement in § 1057.12(c) concerning the minimum duration of a lease for equipment with driver, does not apply where:

(a) The equipment is owned by an authorized automobile carrier and is leased or subleased to another authorized automobile carrier for use in transporting motor vehicles.

(b) The equipment is owned by an authorized tank truck carrier and is leased or subleased to another authorized tank truck carrier for use in transporting commodities in bulk.

(c) The equipment is dump equipment leased or subleased for use in transporting salt and calcium chloride, in bulk, for ice and snow control purposes during the period from November 1 through April 30 of each year.

§ 1057.24 Exemption for trip leasing equipment used in agricultural operations.

The requirement in § 1057.12(c) concerning the minimum duration of a lease for equipment with driver, does not apply where the authorized carrier complies with the provisions of § 1057.25 and where:

(a) A farmer or a cooperative association or federation of cooperative associations under 49 U.S.C. 10526(a)(4) or (5).

(b) A private carrier and the equipment is used regularly in the transportation of (1) property referred to in 49 U.S.C. 10526(a)(6), or (2) perishable products manufactured from perishable property referred to in that section.

(c) The equipment has completed a movement covered by 49 U.S.C. 10526(a)(6) and is leased to the authorized carrier for use next in one of the following:

(1) A loaded movement in any direction.

(2) One or more of a series of movements, loaded or empty, in the general direction of the place where the equipment is based.

(3) A movement described in paragraph (1) of this section and then a movement described in paragraph (2) of this section.

§ 1057.25 Recordkeeping for agricultural exemption.

To qualify for the exemption in § 1057.24, prior to leasing the equipment, the authorized carrier shall receive and retain a statement signed by the owner, or authorized representative of the owner, which includes:

(a) Authorization for the driver to lease the equipment for such movements.

(b) Certification that the equipment meets the qualifications in paragraph (a) or (b) of § 1057.24.

(c) Specification of the origin, destination, and the time of beginning and ending of the last movement which brought the equipment within the exemption of § 1057.24.

§ 1057.26 Exemption from requirement of exclusive possession and control.

The requirements in § 1057.12(d) concerning exclusive possession and control of leased equipment by the authorized carrier lessee do not apply where:

(a) The parties provide in the lease that the authorized carrier lessee be considered the owner of the equipment for the purpose of subleasing the equipment to other authorized carriers under the regulations in this part during the length of the lease.

(b) An authorized carrier of household goods has leased equipment for the transportation of household goods, as defined by the Commission, and the equipment is not being operated by or for the authorized carrier lessee at that time.

Subpart D—Interchange Regulations

§ 1057.31 Interchange of equipment.

Authorized common carriers may interchange equipment under the following conditions:

(a) *Interchange agreement.*—There shall be a written contract, lease, or

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other arrangement providing for the interchange and specifically describing the equipment to be interchanged. This written agreement shall set forth the specific points of interchange, how the equipment is to be used, and the compensation for such use. The interchange agreement shall be signed by the parties or by their authorized representatives.

(b) *Operating authority.*—The carriers participating in the interchange shall hold certificates of public convenience and necessity which authorize the transportation of the commodities at the point where the physical exchange occurs.

(c) *Through bills of lading.*—The traffic transported in interchange service must move on through bills of lading issued by the originating carrier. The rates charged and the revenues collected must be accounted for in the same manner as if there had been no interchange. Charges for the use of the interchanged equipment shall be kept separate from divisions of the joint rates or the proportions of such rates accruing to the carriers by the application of local or proportional rates.

(d) *Identification of equipment.*—The authorized common carrier receiving the equipment shall identify equipment operated by it in interchange service as follows:

(1) The authorized common carrier shall identify power units in accordance with the Commission's requirements in Part 1058 of this chapter (Identification of Vehicles). Before giving up possession of the equipment, the carrier shall remove all identification showing it as the operating carrier.

(2) Unless a copy of the interchange agreement is carried on the equipment, the authorized common carrier shall carry a statement with each vehicle during interchange service certifying that it is operating the equipment. The statement shall also identify the equipment by company or State registration number and shall show the specific point of interchange, the date and time it assumes responsibility for the equipment, and the use to be made of the equipment. This statement shall be signed by the parties to the interchange agreement or their authorized representatives. The requirements of this paragraph shall not apply where the equipment to be operated in interchange service consists only of trailers or semitrailers.

(e) *Connecting carriers considered as owner.*—An authorized carrier receiving equipment in connection with a through movement shall be considered to the owner of the equipment for the purpose of leasing the equipment to other authorized carriers in furtherance of the movement to destination or the return of the equipment after the movement is completed.

Subpart E—Private Carriers and Shippers

§ 1057.41 Rental of equipment to private carriers and shippers

Authorized carriers may rent equipment to private carriers and shippers only as follows:

(a) Authorized carriers may rent equipment, with or without drivers, to private carriers or shippers where the vehicles are to be used for transportation which is exempt under 49 U.S.C. 10526 (a)(7) or (b)(1).

(b) Authorized carriers may rent equipment with drivers to private carriers or shippers where their operating authorities specifically allow such service.

(c) Authorized carriers may rent equipment without drivers to private carriers or shippers where the authorized carriers are transporting property wholly for and on the billing of railroads.

(d) Authorized contract carriers may rent equipment without drivers to private carriers and shippers where approval of the rental contracts has been obtained from the Commission.

[FR Doc. 79-2304 Filed 1-22-79; 8:45 am]

[3510-22-M]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

PART 672—GROUNDFISH OF THE GULF OF ALASKA

Apportionment of Reserve Amounts

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Final Regulations.

SUMMARY: These regulations make additional amounts of fish available to foreign fishing in accordance with the provisions of the fishery management plan (FMP) for Groundfish of the Gulf of Alaska and the regulations implementing this FMP (see 50 CFR 672.20(c) (43 FR 56238), and 50 CFR 611.92(b)(1)(ii) (43 FR 59322)). These regulations apply to vessels of foreign nations fishing for groundfish in the Gulf of Alaska.

EFFECTIVE DATE: January 17, 1979.

FOR FURTHER INFORMATION CONTACT:

Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION:

I. Background

Because of uncertainties about specifications of U.S. capacity, particularly the extent to which U.S. catcher vessels delivering fish to foreign processors at sea would harvest groundfish, the FMP established a reserve of fish which could be released during the season to foreign harvesting vessels if U.S. vessels did not harvest at anticipated levels.

On August 23, 1978, the North Pacific Fishery Management Council (the Council) adopted an amendment to the FMP for groundfish which increased the reserve of pollock to 133,800 metric tons and added to reserves appropriate amounts of species taken incidental to fishing for pollock. The purpose of this reserve amount of fish was to assure that an adequate supply of fish was available to U.S. vessels wishing to sell U.S.-caught fish to foreign processing vessels at sea. The amendment was approved by the Assistant Administrator for Fisheries on September 22, 1978 (43 FR 46349).

Final regulations were published on December 1, 1978 (43 FR 56233). The final regulations established the criteria and timing of any reserve release. The final regulations also established a procedure for public comment on the extent to which vessels of the United States would harvest reserve amounts during the remainder of the fishing year.

II. Determination of Amount of Reserve Release

In accordance with the requirements of 50 CFR 672.20(c) and 50 CFR 611.92(b)(1)(ii), the Regional Director has determined that U.S. vessels will not harvest any of the twenty-five percent reserve for all species except sablefish scheduled to be released on or as soon as possible after January 2, 1979, for the following reasons:

1. The domestic annual harvests (DAHs) specified by the FMP are sufficient to provide for U.S. catches expected to be delivered to U.S. processors.

2. The reserves remaining after this release are sufficient to provide for U.S. catches expected to be delivered to foreign processing vessels (joint venture catches).

During the public comment period, no testimony was received indicating that the capacity and intended activities of the U.S. fishing fleet and U.S. processors are greater than those originally declared when DAH was established. Further, no testimony substantiated future expansion of the U.S. fishing fleet and U.S. processing facilities beyond that originally declared when DAH was established. It is, therefore, determined that the DAHs will not be exceeded by U.S. catches delivered to U.S. processors and that the DAHs will not need to be supplemented by the reserves.

The reserves originally established by the FMP were equal to twenty (20) percent of the Optimum Yields (OYs). The reserves were subsequently increased from 65,100 metric tons to 180,200 metric tons to provide for joint venture catches. Such catches to date have been minor and fishing has temporarily ceased. From the record, it is determined that the joint venture catches will not exceed the reserve balance (136,175 metric tons) remaining after this release. Action with respect to release of sablefish reserves is being delayed until after the January 1979, North Pacific Fishery Management Council meeting. There is pending action by the Council with respect to the sablefish OY which may change the sablefish reserve, making it inappropriate to release any of that reserve at this time.

In making this determination, the Regional Director considered the factors set out in 50 CFR 611.92(b)(1)(ii) and the comments received on the proposed action.

III. Response to Public Comments

Only one comment was received during the comment period on the action. This comment is summarized and is responded to below:

Comment; Request that the entire Pacific cod apportionment authorized for release on January 2, 1979 (25 percent of the total Pacific cod reserve), be made as scheduled.

Response: It has been deemed appropriate for the reasons stated above to release 25 percent of the Pacific cod reserves.

IV. Other Matters

An environmental impact statement was prepared for the FMP for Groundfish of the Gulf of Alaska and is on file with the Environmental Protection Agency. A negative assessment of environmental impact prepared for the reserve release provisions of the groundfish FMP is also on file with the Environmental Protection Agency.

The Regional Director has determined that these regulations should be effective immediately for the following reasons:

A. The regulations implementing the FMP provide adequate advance notice and invite public comment on this action;

B. No regulatory restrictions are imposed on any person as a result of this action;

C. This action relates to the extension of a benefit; and

D. Immediate implementation is required to achieve full utilization of the fishery resources concerned.

Signed at Washington, D.C. this 16th day of January, 1979.

(16 U.S.C. Section 1801 *et seq.*)

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

§ 611.20 [Amended]

1. 50 CFR 611.20 is amended by amending Table I as follows:

Change all entries under Gulf of Alaska Groundfish to read as follows:

Fishery	Species	Species Code	TALFF (Metric tons)
Gulf of Alaska Groundfish	Cod, Pacific	702	[1]11,802
Do	Flounders, including yellowfin sole	129	[1]19,025
Do	Mackerel, Atka	207	[1]20,675
Do	Perch, Pacific Ocean (POP)	780	[1]17,975
Do	Pollock	701	[1]54,250
Do	Rockfishes, other than POP	849	[1]2,975
Do	Sablefish	703	[1]4,900
Do	Squid	509	[1]1,250
Do	Other species	499	[1]12,175

2. 50 CFR 611.92 is amended by replacing Table I—GULF OF ALASKA GROUNDFISH FISHERY: TALFF AND RESERVE BY SPECIES AND FISHING AREA FOR 1978/1979 with the following:

§ 611.92 Gulf of Alaska Groundfish fishery.

. . . . . .

(b) • • •
(1) • • •

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TABLE I.—*Gulf of Alaska Groundfish Fishery: TALFF and Reserve [1] by Species and Fishing Area for 1978/1978*

[Metric tons]

Species		Shumagin	Chirikof	Kodiak	Yakutat	Southeast	Total
	FISHING AREAS [2]						
Pollock	TALFF	18,300	17,475	13,100	3,975	1,400	54,250
	Reserve	33,900	32,325	24,300	7,425	2,400	100,350
Pacific Cod [3]	TALFF	3,253	1,438	5,185	1,448	478	11,802
	Reserve	2,047	862	3,315	952	322	7,498
Flounders	TALFF	5,950	1,500	6,775	3,650	1,150	19,025
	Reserve	2,250	600	2,625	1,350	450	7,275
Pacific Ocean Perch (POP)	TALFF	1,925	1,925	3,800	5,825	4,700	17,975
	Reserve	675	675	1,200	1,875	1,500	5,925
Other Rockfishes [4]	TALFF	125	125	175	1,300	1,250	2,975
	Reserve	75	75	225	1,200	1,050	2,625
Sablefish	TALFF	1,300	800	1,400	1,400	0	4,900
	Reserve	700	600	900	1,200	700	4,100
Atka Mackerel	TALFF	3,650	3,000	13,175	850	0	20,675
	Reserve	750	600	2,625	150	0	4,125
Squid	TALFF	250	250	250	250	250	1,250
	Reserve	150	150	150	150	150	750
Other Species [5]	TALFF	3,325	2,750	3,675	1,550	875	12,175
	Reserve	975	750	1,125	450	225	3,525

[1] The TALFF's specified in this table may be modified during the year if reserves are apportioned to TALFF.
[2] See Figure 3 of Appendix II to Section 611.9 for description of fishing areas.
[3] Of the total Pacific Cod TALFF, only 4,691 metric tons may be caught west of 157° W. longitude.
[4] The category "other rockfishes" includes all rockfishes other than Pacific ocean perch.
[5] The category "other species" includes all species of fish except (A) the other fish listed in the table; and (B) shrimp, scallops, salmon, steelhead trout, Pacific halibut, herring, and Continental Shelf fishery resources.

3. 50 CFR 672.20 is amended by replacing Table I—OPTIMUM YIELD AND RESERVES with the following:

§ 672.20 General limitations.

(a) * * *

TABLE I.—*Optimum Yield and Reserves*

[Metric tons]

Species		Shumagin	Chirikof	Kodiak	Yakutat	Southeast	Total
	FISHING AREAS						
Pollock	OY	57,090	54,400	40,800	12,500	4,100	168,800
	Reserve	33,900	32,325	24,300	7,425	2,400	100,350
Pacific Cod	OY	9,600	4,100	15,300	4,300	1,500	34,800
	Reserve	2,047	862	3,315	952	322	7,498
Flounder	OY	10,400	2,700	12,000	6,400	2,000	33,500
	Reserve	2,250	600	2,625	1,350	450	7,275
Pacific Ocean Perch (POP)	OY	2,700	2,700	5,200	7,900	6,500	25,000
	Reserve	675	675	1,200	1,875	1,500	5,925
Other Rockfish	OY	300	200	600	3,400	3,100	7,600
	Reserve	75	75	225	1,200	1,050	2,625
Sablefish	OY	2,100	1,400	2,400	3,400	3,700	13,000
	Reserve	700	600	900	1,200	700	4,100
Atka Mackerel	OY	4,400	3,600	15,800	1,000	0	34,800
	Reserve	750	600	2,625	150	0	4,125
Squid	OY	400	400	400	400	400	2,000
	Reserve	150	150	150	150	150	750
Other Species *	OY	4,400	3,600	5,000	2,100	1,100	16,200
	Reserve	975	750	1,125	450	225	3,525

* Includes all stocks of finfish except: (1) those listed above; and (2) salmon, steelhead trout, and Pacific halibut.

[FR Doc. 79-2159 Filed 1-22-79; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-08-M]

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[7 CFR Part 418]

PROPOSED WHEAT CROP INSURANCE REGULATIONS

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: This notice proposes regulations to prescribe procedures for insuring wheat effective with the 1980 crop year. In addition, the Commission has combined all previous regulations for insuring wheat in a shorter, clearer, and more simplified document. These regulations include several changes which will make the program more effective administratively and relieve some restrictions on policyholders. These regulations are proposed under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than February 22, 1979, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), it is proposed that there be hereby established a new Part 418 of Chapter IV in Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 418, Wheat Crop Insurance. This part is entirely new and is issued by the Federal Crop Insurance Corporation to provide the regulations for insuring wheat effective with the 1980 crop year. This part is subject to amendment from time to time in the light of insuring experience under the authority contained in the Federal Crop Insurance Act, as amended. Any such amendment will be published in the FEDERAL REGISTER and codified in Title 7 of the Code of Federal Regulations.

The proposed part 418 Wheat Crop Insurance outlined below will supersede all previous regulations applicable to insuring wheat as found in 7 CFR § 401.126 (33 FR 2376, January 31, 1968), as amended (41 FR 23387-23388, June 10, 1976), and as found in 7 CFR § 401.153 (41 FR 23388-23389, June 10, 1976), effective as to the 1980 and subsequent crops.

The Corporation has determined that combining all previous regulations for insuring wheat would result in a program that is more effective administratively with shortened, simplified, and clarified regulations. In addition, the proposed Part 418 would eliminate the large acreage discount provision, which benefits producers with acreages over 200 acres by permitting discounts up to 20 percent on such acreage insured, while charging the grower with smaller acreages on a higher premium in order to provide a discount for the larger acreage insured. This practice could only be justified from an insurance concept if it could be shown that larger acreage units were better risks. This is not the case. Experience has shown that in states where the premium is discounted the most for large acreage, the insuring experience is significantly worse than average.

The bushel reserve provision, which provides for a 50 percent discount when the accumulated balance (expressed in bushels) of premium over indemnities on consecutively insured wheat crops exceeds the guarantee, is also being deleted from the proposed regulations. This provision is complex, confusing, inequitable, and in some areas, a deterrent to participation. It is not uncommon for an insured with a large premium deficit (indemnities have exceeded premium) to receive a 50 percent premium discount. It is possible, in some high rate areas, for an insured to have several years of loss followed by three or four good years and obtain the discount while the total insuring experience is in a substantial deficit. An insured is also subject to having or not having the bushel reserve discount due to acreage, share, or guarantee changes. When acreage increases, many insureds no longer qualify for the 50 percent discount even though they may not have had a loss. Again the premium rate must be weighted to make allowance for the expected discount. Discounts for good experience, from 5 to 25 percent, are currently provided based on years of "no loss". The 20 and 25 percent discounts are given after six or seven years of the no loss experience. It is possible for insureds who had received more in indemnities than they have paid in premiums to have a discount for good experience of 20 or 25 percent.

The proposed regulations provide a rate adjustment table which adjusts premiums based on the actual individual insuring experience (loss ratio, years insured, and number of losses). It is possible to earn up to 50 percent premium discount for good experience under this table. This method more accurately reflects the premium rate for the individual insured as it is based on the insured's actual insuring experience.

Other proposed changes in the regulations for insuring wheat under the provisions of the proposed 7 CFR Part 418 include: (1) The termination date for indebtedness in the winter wheat areas will now be a date in the current calendar year after the end of the normal harvest period for the State and County; (2) An increase by 9 percent of any premium not paid by the termination date for indebtedness and a 9 percent interest charge on any unpaid premium balances yearly thereafter; (3) An extension of the time period for submitting the notice of damage or loss from 15 days to 30 days which will provide the insured with additional time to notify the Corporation of such damage or loss; (4) The production guarantee being shown on the actuarial table on a harvested basis with a reduction of the lesser of 3 bushels or 20 percent of the guarantee for any acreage which is unharvested instead of the current provision increasing the guarantee by 1.5 bushels on acreage on which 1.5 or more bushels were harvested; (5) Increasing the limitation from $5,000 to $20,000 in those cases involving good faith reliance on misrepresentation (as found in 7 CFR Part 418.6 of the proposed regulations) wherein the Manager of the Corporation is authorized to take action to grant relief without such case being approved by the Board of Directors of the Corporation. This increase reflects the trend toward larger acreages of the modern farms

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which could result in cases in excess of $5,000.

Editorial changes have been made in the proposed Wheat Crop Insurance Regulations (7 CFR Part 418) to combine and simplify the documents held by the insured. This has been accomplished by combining the application and policy, formerly separate items, and transferring several less used items to an Appendix to the policy, which results in shortening the basic policy.

The cancellation date for all current wheat endorsements in Colorado, Kansas, Oklahoma, Nebraska, New Mexico, Texas, and Wyoming is March 15. Such regulations as are contained in this part, and any amendments thereto, must be placed on file in the Corporation's office for the county by not later than 15 days prior to March 15 in order to be effective for the crop year. Effective with the 1980 and succeeding crop years, the cancellation date for the above mentioned States shall be April 30, as indicated in the date table found in 7 CFR 418.12(15(c) below.

The Federal Crop Insurance Corporation, in accordance with the provisions of the Administrative Procedure Act (7 U.S.C., 553(b) and (c)), relative to notice and public participation, has determined that such regulations as are printed below in the proposed new 7 CFR Part 418 shall be published in the FEDERAL REGISTER as a notice of proposed rulemaking; however, in view of the fact that such regulations are required to be placed on file in the Corporation's office for the county in wheat crop insurance counties, in order to be applicable to 1980 crop wheat, it will not be possible to provide the required 60 days for public comment and still meet the deadline for filing. In this case, the Corporation is allowing 30 days in which the public is invited to submit written comments, data, or views for consideration in connection with the proposed Wheat Crop Insurance Regulations in the proposed Part 418. Such written submissions must be delivered or postmarked by not later than February 22, 1979, to be sure of consideration and must be submitted to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

All written submissions made pursuant to this notice will be available for public inspection at the Office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday (7 CFR 1.27(b)).

PROPOSED RULE

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended, (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation proposes to delete and reserve 7 CFR §§ 401.126 and 401.153, and to issue a new Part 418 in Chapter IV of Title 7 of the Code of Federal Regulations effective with the 1980 and subsequent crops of wheat to read as follows:

PART 418—WHEAT CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

418.1 Availability of Wheat Insurance
418.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed
418.3 Public notice of indemnities paid
418.4 Creditors
418.5 Good faith reliance on misrepresentation
418.6 The contract
418. The application and policy

AUTHORITY: (Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506,1516))

§ 418.1 Availability of wheat insurance.

Insurance shall be offered under the provisions of this subpart on wheat in counties within limits prescribed by and in accordance with the provisions of the Federal Corp Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which wheat insurance will be offered.

§ 418.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for wheat. Such premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price election at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 418.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 418.4 Creditors

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 418.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the wheat insurance contract, whenever a person insured under these regulations who is indebted to the Corporation or who has suffered a loss to a crop which is not insured, or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, because of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation and the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000.00, finds (a) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (b) that said insured person relied thereon in good faith, and (c) that to require payment of indebtedness or to deny said insured's claim for indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 418.6 The contract

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the wheat crop as provided in the policy. The contract shall consist of the application, the policy, the accompanying appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and applicable dates. Any changes made in the contract shall not affect the continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 418.7 The application and policy

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the wheat crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the

office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for acceptance of applications or contract changes in any county, by placing the extended date on file in the office for the county and publish a notice in the FEDERAL REGISTER upon his determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) A contract in the form provided for under this subpart, without the filing of a new application, as a continuation of a continuous contract issued under Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years, shall come into effect in accordance with the provisions governing changes in the contract of the applicable policies issued under said 1969 regulations.

(d) The provisions of the application and Wheat Insurance Policy for the 1980 and Succeeding Crop Years, and the Appendix to the Wheat Insurance Policy are as follows:

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[3410-08-C]

UNITED STATES DEPARTMENT OF AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

APPLICATION FOR 19__ AND SUCCEEDING CROP YEARS

WHEAT

CROP INSURANCE CONTRACT

_____ _____

_____ _____
(IDENTIFICATION NUMBER)

_____ _____ _____ _____
(NAME AND ADDRESS) (ZIP CODE) (COUNTY) (STATE)

TYPE OF ENTITY_____ APPLICANT IS OVER 18 YES__ NO__

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), applies to the Corporation for insurance on the applicant's share in the wheat planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. THE PREMIUM RATES AND PRODUCTION GUARANTEES SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.

LEVEL ELECTION_____ PRICE ELECTION_____

EXAMPLE: FOR THE 19__ CROP YEAR ONLY (100% SHARE)

LOCATION FARM NO.	GUARANTEE PER ACRE	PREMIUM PER ACRE	PRACTICE	
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

B. UPON ACCEPTANCE OF THIS APPLICATION BY THE CORPORATION, the contract shall be in effect for the first crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the following wheat insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and applicable dates, shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

_____ _____ _____,19__
(CODE NO./WITNESS TO SIGNATURE) (SIGNATURE OF APPLICANT) (DATE)

ADDRESS OF OFFICE FOR COUNTY:

_____

PHONE_____

LOCATION OF FARM HEADQUARTERS

_____

PHONE_____

WHEAT CROP INSURANCE POLICY

TERMS AND CONDITIONS

Subject to the provisions in the attached appendix:

1. *Causes of loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period subject to any exceptions, exclusions or limitations with causes of loss that are shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production due to (1) the neglect or malfeasance of the insured, any member of his household, his tenants, or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop and acreage insured.* (a) Upon acceptance of an application for insurance, the crop insured shall be wheat which is seeded for harvest as grain and for which the actuarial table shows a guarantee and premium rate per acre.

(b) The acreage insured for each crop year shall be that acreage seeded to wheat on insurable acreage, as shown on the actuarial table and as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, in which the insured has a share: *Provided,* That insurance shall not attach or be considered to have attached as determined by the Corporation to any acreage (1) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (2) not reported for insurance as provided in section 4 if such acreage is irrigated and an irrigated practice is not provided for such acreage on the actuarial table, (3) which is destroyed and after such destruction it was practical to replant to wheat and such acreage was not replanted, (4) initially planted after the date established by the Corporation and placed on file in the office for the county as being too late to initially plant and expect a normal crop to be produced, (5) of volunteer wheat, (6) seeded to a type or variety of wheat not established as adapted to the area or shown as noninsurable on the actuarial table, or (7) seeded with another crop.

(c) Insurance may attach only by written agreement with the Corporation on acreage which is seeded for the development or production of hybrid seed or for experimental purposes.

3. *Responsibility of insured to report acreage and share.* The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing all acreage of wheat seeded in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and the insured's share therein at the time of seeding. Such report shall be submitted each year not later than a date on file in the office for the county.

4. *Production guarantees, coverage levels and prices for computing indemnities.* (a) For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre shall be reduced by the lesser of 3 bushels or 20 percent for any unharvested acreage.

5. *Annual premium.* (a) The annual premium is earned and payable at the time of seeding and shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of seeding, times the premium adjustment percentage in paragraph (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

[3410-08-C]

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE:

Loss Ratio 1/ Through Previous Crop Year	Number of Years Continuous Experience Through Previous Year: 0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage Adjustment Factor For Current Crop Year															
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE:

Loss Ratio 1/ Through Previous Crop Year	Number of Loss Years Through Previous Year*: 0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage Adjustment Factor For Current Crop Year															
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

*Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year)

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

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(d) If any premium for any crop year is not paid on or before the termination date for indebtedness for such crop year, such unpaid premium balance shall be increased by an interest rate of 9 percent; *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of the policy and if the Corporation has approved a claim for loss between 20 days before the termination date and any time after the date of termination, the 9 percent increase for unpaid premium balance shall not apply until 30 days after the date of such approval by the Corporation; and, if any premium is not paid within the twelve months immediately following the termination date, interest charges of 9 percent per year will attach each year thereafter to any unpaid balance. Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance period.* Insurance on insured acreage shall attach at the time the wheat is seeded and shall cease upon the earlier of (1) final adjustment of a loss, (2) combining, threshing, or removal of the wheat from the field, (3) October 31 of the calendar year in which wheat is normally harvested, or (4) total destruction of the insured wheat crop.

7. *Notice of damage or loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the wheat on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late to replant the wheat. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in paragraph (b) of this section, if a loss is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 DAYS* after the earlier of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire wheat crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested shall be left intact until the Corporation makes an inspection.

8. *Claim for indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of wheat on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information required regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of wheat on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of wheat to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, (4) multiplying the result obtained in step (3) by the insured share: *Provided,* That if the premium computed on the determine acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the determined acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production from acreage seeded for harvest as grain and any *harvested* production from acreage initially seeded for purposes other than grain.

(1) Mature production which grades No. 4 or better shall be reduced .12 percent for each .1 percent point of moisture in excess of 13.5 percent, and if, due to insurable causes any wheat does not grade No. 4 or better, or is graded smutty, garlicky, or ergoty, in accordance with the Official U.S. Grain Standards, the production shall be adjusted by dividing the value per bushel of the damaged wheat (as determined by the Corporation) by the price per bushel of U.S. No. 2 wheat and multiplying the result by the number of bushels of such wheat. The applicable price for No. 2 wheat shall be the local market price on the earlier of: the day the loss is adjusted or the day the damaged wheat was sold.

(2) Any harvested production from volunteer crops growing with the seeded wheat crop or small grains seeded in the growing wheat crop on acreage which the Corporation has not given consent to be put to another use shall be counted as wheat on a weight basis.

(3) Appraised production shall include: (i) the greater of the appraised production or 50 percent of the applicable guarantee for any acreage which, with the consent of the Corporation, is seeded before wheat harvest becomes general in the current crop year to any other crop insurable on such acreage (excluding small grains maturing for harvest in the following calendar year), (ii) any appraisals by the Corporation for potential production on harvested acreage and for poor farming practices, (iii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iv) only the appraisal in excess of the lesser of 3 bushels or 20 percent of the production guarantee for all other unharvested acreage.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. However, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of wheat becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

9. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of insured share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. *Records and access to farm.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments sale or other disposition of all wheat produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. *Life of contract: Cancellation and termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) The contract will terminate as to any crop year if any amount due the Corporation is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1) deducted from an indemnity claim shall be the date the insured signs such claim or (2) deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

State and County	Cancellation Date	Termination Date for Indebtedness
Colorado, Kansas, Nebraska, New Mexico, Oklahoma, Texas, and Wyoming.	Apr. 30	Aug. 31
Idaho, Montana, Oregon, and Washington	Jun. 30	Nov. 30
Minnesota, North Dakota, and Spring Wheat only counties in South Dakota.	Dec. 31	Mar. 31
All other States and counties	Jun. 30	Oct. 10

(k) "Unit" means all insurable acreage of wheat in the county on the date of seeding for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the wheat crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, the contract shall continue in force for each succeeding crop year.

Appendix to the Wheat Insurance Policy

(Additional Terms and Conditions)

1. *Meaning of Terms.* For the purposes of wheat crop insurance, including this appendix and the policy which this appendix is accompanying (hereinafter called "the policy"), and the application for the policy:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding wheat insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the wheat crop is normally grown and shall be designated by the calendar year in which the wheat crop is normally harvested.

(d) "Harvest" means the severance of matured wheat from the land for combining or threshing.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured wheat crop at the time of seeding as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earlier of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Tenant" means a person who rents land from another person for a share of the wheat crop or proceeds therefrom.

2. *Acreage Insured.* (a) The Corporation reserves the right to limit the insured acreage of wheat to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the seeding of wheat.

(b) If the insured does not submit an acreage report on or before the date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, he shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval by the Corporation.

3. *Irrigated Acreage.* (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of seeding.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of seeding, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. *Annual Premium.* (a) If there is no break in the continuity of participation, any premium-adjustment applicable under subsection (c) of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under subsection (c) of this section shall not thereafter apply; however, any previous premium percentage adjustment factor(s) for unfavorable insurance experience shall apply following a break in continuity.

5. *Claim for and Payment of Indemnity.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured wheat acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. However, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the wheat is seeded for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for loss if any of the requirements of this section are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. *Termination of the Contract.* (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; however, if such event occurs after insurance attaches for any corp year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. *Coverage Level and Indemnity Price.* (a) If the insured has not elected on the application a coverage level and price election at which indemnities shall be computed from among those shown on the actuarial table, the applicable coverage level and price which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and/or price election for any crop year on or before the closing date for submitting applications for that crop year.

9. *Collateral Assignment.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. *Contract Changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12.

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. 840.

Approved by the Board of Directors on December 20, 1978.

Dated: December 20, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Approved by:

JAMES D. DEAL,
Manager, Federal Crop Insurance Corporation.

Dated: December 20, 1978.

[FR Doc. 79-2405 Filed 1-22-79; 8:45 am]

[3410-02-M]

Agricultural Marketing Service

[7 CFR Part 1011]

[Docket No. AO-251-A21]

MILK IN THE TENNESSEE VALLEY MARKETING AREA

Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and To Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends certain changes in the order provisions pertaining to pooling standards for supply plants based on industry proposals considered at a public hearing held September 13, 1978. The recommended amendments would allow a pool supply plant to meet its shipping requirements through both transfers and diversions of milk from the supply plant to pool distributing plants, rather than just through transfers. However, no more than half of the required shipments could be by diversions. The changes would permit milk to be moved more efficiently from farms to distributing plants for fluid use.

DATE: Comments are due on or before February 12, 1979.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-4829.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued August 23, 1978; published August 28, 1978 (43 FR 38412).

PRELIMINARY STATEMENT

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Tennessee Valley marketing area, and of the opportunity to file written exceptions thereto. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C., 20250, by the 20th day after publication of this decision in the FEDERAL REGISTER. Four copies are required. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Knoxville, Tennessee, on September 13, 1978, pursuant to notice thereof.

The material issues on the record of the hearing relate to:

1. Pooling standards for supply plants.
2. Diversions of producer milk.
   (a) Diversions between pool plants.
   (b) Diversions to nonpool plants.
   (c) Identification of overdiverted milk.
3. Conforming changes.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pooling standards for supply plants.* The order should provide that a supply plant may qualify for pool status on the basis of both transfers and diversions of milk from the supply plant to pool distributing plants. However, such qualification credit for diversions should be limited to not more than one-half of the total required shipments.

The order currently affords pool status to any plant that transfers to pool distributing plants not less than 50 percent of its milk receipts from dairy farmers and cooperative association bulk tank handlers. A plant that so qualifies each month during August through March may retain pool status during the following months of April through July without shipping any milk to pool distributing plants.

Kraft, Inc., a proprietary handler, proposed that milk moved directly from producers' farms to pool distributing plants by a supply plant operator be considered as qualifying shipments in determining pool status for such supply plant. As part of a package of proposals to provide for this, Kraft proposed amending the order to allow unlimited diversions between pool plants. A discussion of this proposal appears elsewhere in this decision. Proponent also proposed certain other conforming changes in order provisions.

A witness for proponent testified that Kraft operates a pool supply plant located at Greeneville, Tennessee, that receives milk from farms located in nine Tennessee counties. The milk is then reloaded and transferred from the supply plant to a pool distributing plant at Knoxville, Tennessee. According to the Kraft spokesman, approximately 50 percent of the supply plant's milk is obtained from farms located such that the milk could move more economically directly from the farms to the Knoxville plant. He noted, however, that under current order provisions Kraft cannot be the handler on milk that is direct-shipped to another handler's pool plant.

The spokesman testified that Kraft has an agreement to supply milk to the Knoxville plant. He stated that it was Kraft's intent ot utilize in its nonpool cheese manufacturing plant, also located in Greeneville, Tennessee, any milk produced by the supply plant's regular producers that is not needed for fluid use at the Knoxville distributing plant. Thus, Kraft wishes to be the handler on the milk associated with its supply plant operation in

order to maintain the payrolling function on its milk, even when delivered directly from farms to the Knoxville distributing plant. The witness testified that allowing milk to be diverted to the Knoxville distributing plant would eliminate about 2,400 truck miles weekly, thus improving the overall efficiency of the supply plant operation. He also claimed that the elimination of unnecessary pumping would help maintain the quality of the milk.

Dairymen, Inc. (DI), a dairy farmer cooperative whose members supply more then 85 percent of the producer milk on the market, opposed the adoption of the Kraft proposals. The cooperative's spokesman contended that marketing conditions do not warrant the order changes proposed by Kraft. He maintained that adoption of the proposals would merely make it easier for Kraft to pool a Grade A milk supply for its cheese plant.

DI's witness expressed the view that marketing efficiency was not the major concern here. To support this, he maintained that conditions in this market do not require milk to move through a supply plant in order to be delivered to a distributing plant. He held that milk supplies can move directly from the farm to plants located in, or near, the Tennessee Valley marketing area. He stated that "the operation of a supply plant in conjunction with a manufacturing grade milk plant is not a necessary or an efficient procedure for supplying milk to handlers." The DI spokesman maintained that if a distributing plant operator wants a supply of milk from producers who are not members of a cooperative the distributor should be the responsible handler for the milk rather than a supply plant operator and the milk should be received directly from farms.

DI's witness contended that adoption of the proposals would permit the operator of a supply plant to pool its milk in effect on the same basis as now provided for pooling a balancing plant of a cooperative association, i.e., on the basis of the total performance of the handler rather than just on the performance of the handler's plant. He noted, however, that under the proposed provisions a cooperative would be able to pool its balancing plant as a supply plant under the less stringent pooling standards proposed for supply plants. He opposed this on the basis that current marketing conditions do not warrant a reduction in the present order requirements for qualifying a balancing plant as a pool plant. In addition, how noted that a balancing plant must be located in the marketing area in order to be a pool plant. He pointed out that this requirement would not apply to a supply plant under the Kraft proposals. The cooperative's witness expressed concern that the proponent, as well as other handlers, including DI, thus could "ride the pool" by pooling plants that otherwise would have no association with the Tennessee Valley market.

It may be, as DI contends, that moving milk directly from farms to distributing plants is the most efficient way to handle producer milk associated with the Tennessee Valley order. Nevertheless, the order provides for the pooling of supply plants and Kraft is operating a supply plant that meets the pooling standards of the order. The present pooling standards require a supply plant operator to transfer at least 50 percent of his receipts at the supply plant to pool distributing plants. Stated another way, 50 percent of the supply plant's milk must be made available to meet the fluid milk needs of the market. Once this requirement is met, the supply plant's total supply of milk has pool status, and the supply plant operator may dispose of the remaining 50 percent in whatever way he desires. Whether this kind of pooling standard is inappropriate for this market was not an issue at this hearing.

The Kraft supply plant first became a pool plant in September 1977 and at the time of the hearing had been a pool plant for one year. During that time, the plant's total supply of Grade A milk was received at the supply plant and then transferred to the distributing plant at Knoxville. A number of the farms that deliver milk to the supply plant are located between Greeneville and Knoxville. Many are closer to the distributing plant than they are to the supply plant. One such farm is approximately three miles from the distributing plant, and about 75-80 miles from the supply plant.

At the time of the hearing, Kraft was obtaining Grade A milk from farms located in nine Tennessee counties, which include territory around Greeneville and also between Geeneville and Knoxville. Kraft indicated that if its proposals were adopted, milk from farms in Greene, Hawkins and Washington Counties would continue to be moved to the supply plant, and then be shipped to Knoxville when needed. Milk produced on farms in Claiborne, Cocke, Hamblen, Jefferson, Knox and Sevier Counties, on the other hand, would then be moved directly to the Knoxville distributing plant. The milk from these six counties approximates 50 percent of the total Grade A supply currently pooled by Kraft. when not needed in Knoxville for fluid use, Kraft indicated that this latter milk would be moved to either the supply plant or the manufacturing plant at Greeneville.

The order should promote efficient milk handling practices by permitting a supply plant operator to move part of his milk supplies directly from farms to distributing plants and count them as part of his supply plant shipments. There are obvious savings in hauling costs that could be achieved in this market under such an arrangement. In addition, extra pumping of milk in reloading operations could be avoided, which would help preserve the high quality of the milk that distributors demand.

Adoption of this provision should not lessen in any way the effectiveness of the pooling standards. A supply plant operator would still have to make available to pool distributing plants not less than 50 percent of his Grade A milk that is associated with the supply plant.

Although the order should recognize a supply plant operator's deliveries of milk directly from producers' farms to pool distributing plants, a supply plant should not be able to qualify for pooling solely on the basis of such deliveries. Otherwise, there would be little discernible difference from an operational standpoint between a supply plant and a cooperative association balancing plant. Yet, the pooling standards for the two types of plants would be different.

Adoption of Kraft's proposal without any limitation on diversions would enable a supply plant to qualify as a pool plant without being required to transfer any milk from the supply plant to distributing plants. Pooling status could be achieved as long as the plant operator delivered at least half of his milk supply to pool distributing plants, which could be entirely by deliveries directly from farms. A similar method of pooling is now available to a cooperative association in the case of its balancing plant. However, the plant must be located in the marketing area and the cooperative must deliver at least 60 percent of its members' milk to pool distributing plants during each month of the year. No automatic pooling status is provided during the heavy production months, as is the case for supply plants.

Since there presumably would be little difference in the supply arrangements of the two types of handlers, the question arises as to whether any difference in the pool plant performance standards for a cooperative's balancing plant and for a handler's supply plant can be justified. The record does not support the pooling of a balancing plant under the pool standards now applicable to supply plants. On the other hand, it must be presumed that Kraft did not contemplate for its supply plant the establishment of the higher or more stringent

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performance level that now applies to balancing plants.

When a cooperative has a high overall level of performance in supplying and balancing the fluid milk needs of handlers, its balancing plant may have pool status without meeting specific plant performance criteria. This recognizes that a balancing plant provides an efficient means whereby handlers buying milk from the cooperative may adjust their receipts from day-to-day to fit their bottling needs and at the same time have assurance through arrangements with the cooperative that milk will always be available for fluid use as needed.

Accordingly, to maintain some distinction between the two types of plants, the order should not permit more than one-half of the milk movements by a supply plant operator to be in the form of diversions to distributing plants. Under the current operating situation, this should still basically accommodate the needs of Kraft. At the same time, the order would continue to base a supply plant's eligibility for pooling to a significant degree on transfers of milk from the supply plant to distributing plants.

2. *Diversions of producer milk.* In connection with its proposal to change the supply plant pooling standards, Kraft proposed that the order be amended to (a) permit a pool plant operator to divert milk from such plant to other pool plants on a unlimited basis, (b) increase the amount of milk a handler may divert to nonpool plants, and (c) provide a procedure for determining which milk shall not be pooled under the order when a handler overdiverts milk to nonpool plants.

a. *Diversions between pool plants.* The order should be amended to allow the operator of a pool plant to divert milk from such plant to another pool plant on any number of days during the month.

At the hearing, Kraft's witness testified that under the current order provisions Kraft must physically receive the milk of a producer at its pool supply plant in Greeneville, Tennessee, and then transfer the milk to a pool distributing plant in Knoxville, Tennessee, in order to maintain the payroll responsibility and accountability for such milk. Kraft contended that this method of operation has resulted in additional expense for the handler since the farms of some producers are closer to Knoxville than Greeneville. Kraft proposed, therefore, that the order be amended so that milk of producers associated with the Greeneville supply plant could be diverted from such plant to the Knoxville distributing plant as needed. Thus, Kraft could be the handler, even though the milk moved directly from the farm to another pool plant.

The order should promote the efficient handling of milk by permitting diversions between pool plants. This change will implement the supply plant modification adopted in this decision, as described earlier. It also will facilitate simplified accounting procedures with respect to producer milk weights, butterfat tests and payrolling. Under this procedure, the diverting handler may retain payroll responsibility for a producer's total monthly milk production, irrespective of the plant to which the milk may actually be delivered. This additional operating flexibility will permit a pool plant operator to avoid uneconomic movements of milk for the purpose of being the accountable handler and paying the producer for all of his milk deliveries during the month.

Diversions to pool plants should be distinguished from diversions to nonpool plants in that when milk is diverted to another pool plant there is no question about its eligibility for pooling. Thus, no purpose would be served by placing a limitation on diversions of milk between pool plants and none is provided.

The pricing point for milk diverted from a pool plant to another pool plant should be the same as currently provided under the order for milk diverted to a nonpool plant, as was proposed by Kraft. Hence, the milk would be priced at the location of the plant to which it is diverted.

The order now excludes milk received at a supply plant by diversion from plants regulated under other orders and by transfer from other plants in determining how much of a pool supply plant's receipts must be shipped to distributing plants. Thus, a supply plant that is a manufacturing plant may receive surplus milk from other plants without affecting its qualification as a pool plant under the order. For the same reason, milk received at a supply plant by diversion from other pool plants should be excluded as a receipt for determining the pool status of the supply plant.

(b) *Diversions to nonpool plants.* A proposal to base allowable diversions to nonpool plants by pool plant operators and cooperatives on a handler's total producer milk supply, thereby increasing the limit on such diversions, should not be adopted. However, in conjunction with the change described earlier that would permit diversions between pool plants, such diversions by a pool plant operator should be counted along with the producer milk that he physically receives at his pool plant in determining how much milk he can divert to nonpool plants.

The current order provides that the total quantity of milk diverted to nonpool plants by a cooperative may not exceed one-third of the producer milk that the cooperative caused to be delivered to pool plants during the month. The operator of a pool plant may divert an amount of milk equal to not more than one-third of the producer milk that is physically received during the month at such plant that is eligible for diversion by the plant operator.

Kraft, Inc., proposed that a cooperative association be permitted to divert to nonpool plants up to one-third of the producer milk it caused to be delivered to or diverted from pool plants during the month. Also, a pool plant operator would be permitted to so divert up to one-third of his total producer milk supply, i.e., milk physically received at such plant plus diversions from the plant to pool and nonpool plants.

In supporting the adoption of the proposal, Kraft's witness testified that at the present time all of the producer milk associated with the Greeneville supply plant is needed to supply the distributing plant in Knoxville. He indicated, however, that Kraft expected to divert milk off the market in the near future as its Grade A supplies increase, and eventually in quantities greater than could be accommodated under the present provisions. This anticipation was the basis for the proposal to increase allowable diversions to nonpool plants.

Dairymen, Inc. (DI), opposed the adoption of the proposal on the basis that it would increase allowable diversions to nonpool plants. A witness for the association testified that an increase is not needed since such diversions generally have been far below the level currently permissible under the order.

Kraft's operation has been such that up to the time of the hearing, no milk had been diverted from the supply plant. Any increase in the diversion limits should be based on actual operating experience. Only in this way can there be a proper assessment of whether such a change is in fact needed.

It is noted that other information on the record does not suggest a need for increasing the diversion limits. An exhibit entered by DI set forth the quantity of the association's diversions to nonpool plants each month since the merged order became effective on October 1, 1976. During such months when diversions were limited (October 1976–March 1977 and August 1977–March 1978), DI's diversions averaged only 16 percent of its deliveries to pool plants. During those same months, the market's Class I utilization averaged 77 percent. Since DI supplies over 85 percent of the milk pooled under the order, it is evident that the present limit on allowable diversions is accommodating the handling of a very large proportion of the milk on the market. Therefore, current marketing conditions do not indicate that an increase in the base for computing allowable diversions to nonpool plants is warranted. Accordingly, the Kraft proposal is denied.

With the adopted change that would permit diversions between pool plants, a pool plant operator's "base" for computing allowable diversions to nonpool plants would be reduced by the quantity of producer milk diverted to other pool plants in the absence of any corollary change in what the base should include. In recognition of this, the base for determining allowable diversions to nonpool plants should include all of the pool plant operator's producer milk that is received at pool plants, i.e., physical receipts at the plant plus diversions from such plant to other pool plants. This is consistent with present order provisions that permit a cooperative to divert milk to nonpool plants based on its total producer milk deliveries that are physically received at pool plants.

Since a pool plant operator that diverts milk to another pool plant would be accountable to the pool for such milk, the operator should get credit for such milk as a basis for diversions to nonpool plants. Conversely, the operator of the pool plant where the milk is physically received should not be eligible to divert milk on the basis of such receipts of milk.

Assuming a given amount of producer milk, this change would not allow a handler to divert any more milk to nonpool plants under the proposed amended order than may be so diverted under the present order provisions. It would, however, maintain the present level of allowable diversions to nonpool plants, which the record demonstrates is adequate to efficiently dispose of the market's reserve milk supplies. For the foregoing reasons, this modification should be adopted.

(c) *Identification of overdiverted milk.* The order should be amended to provide a procedure for identifying the milk that would lose pool status if a handler overdiverts milk to nonpool plants. As provided herein, the quantity of milk diverted in excess of the diversion allowance would not be producer milk. Also, if the diverting handler fails to designate the dairy farmers' deliveries that are not producer milk, no milk diverted to nonpool plants by the handler would be producer milk.

The current order does not specify which milk shall be depooled in the event a handler's total diversions to nonpool plants exceed the maximum allowance specified in the order. The order now covers only the situation where diversions by a cooperative from a pool plant of another handler would cause such plant to be a nonpool plant. In such cases, the order provides that the cooperative shall designate the dairy farmer deliveries that are not producer milk. If the cooperative fails to make such designation, no milk diverted by the handler to nonpool plants shall be producer milk.

Kraft, Inc., proposed that if total diversions exceed the allowance, then the diverting handler may designate the dairy farmers whose diverted milk will not be considered producer milk. If a handler fails to make such designation, the milk last diverted—in lots of an entire day's production—would be excluded first in determining which milk should not be producer milk.

Dairymen, Inc., supported the current order provisions. A spokesman for the cooperative pointed out that Kraft's proposal would not provide a procedure for identifying which milk would lose pool status when diversions by a cooperative from a pool plant of another handler would result in nonpool status for such plant. He also maintained that no marketing conditions exist or are expected to occur that would justify such a change.

The order should continue to provide the present method of determining which producers' milk should not be qualified as producer milk when a cooperative's diversions to nonpool plants would cause a plant to lose pool status. This procedure apparently has served the market well and should be retained. The same procedure should be adopted for determining which milk will not be producer milk in the case of any handler—proprietary or cooperative—that overdiverts milk to nonpool plants, i.e., the diverting handler should be responsible for specifying which dairy farmers' milk shall not be producer milk. The diverting handler is accountable to the pool for the producers' milk and therefore is in the best position to select the producer deliveries which should not be producer milk.

If the diverting handler fails to designate the dairy farmers' deliveries that are to be excluded as producer milk, no milk diverted by the handler to nonpool plants should be producer milk. This procedure is consistent with present provisions and would adequately provide a means for disqualifying milk when over-diversions occur. It represents a feasible alternative to the procedure that Kraft proposed.

3. *Conforming changes.* The current order does not provide for diversions between pool plants, and thus the classification and shrinkage provisions do not cover this type of milk movement. Since such diversions are provided in this decision, certain corollary changes in the classification and shrinkage provisions, as proposed by Kraft, are warranted and the order is appropriately revised to reflect these considerations.

Kraft proposed a conforming change in a paragraph dealing with the classification of transfers to producer-handlers and transfers and diversions to governmental agency plants (§ 1011.42(c)(1)). The order changes adopted in this decision would in no way change the application of that paragraph. For this reason, no change appears to be warranted.

The present order provides that a cooperative may qualify a balancing plant for pooling on the basis of shipments directly from the farm to pool distributing plants. This decision would also permit a supply plant to count such shipments for qualification purposes. Since a cooperative could operate both a balancing plant and a supply plant, it is necessary to provide that the same shipments not be used to qualify two plants of the cooperative for pooling. The changes in the balancing plant definition provided herein will assure this.

A change should be made in the definition of a handler with respect to a cooperative association as a handler for bulk tank milk delivered to pool plants of other handlers (§ 1011.9(c)). Since a cooperative may choose to utilize diversions to pool plants for qualifying a supply plant that it operates, the paragraph specified above is revised to exclude such milk. Also, the handler definition with respect to a cooperative association as a handler on milk diverted for its account to nonpool plants (§ 1011.9(b)) is revised to exclude milk that the cooperative diverts to a nonpool plant from a pool plant operated by the cooperative. These changes are necessary to make it clear that milk diverted to any other plant from a pool plant operated by the cooperative should be reported as a receipt and a disposition from the pool plant, and not on a report otherwise filed by the cooperative in any other capacity as a handler.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth below.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Tennessee Valley marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1011.7, paragraphs (b) and (d) are revised to read as follows:

§ 1011.7 **Pool plant.**

* * * * *

(b) A plant, other than a plant described in paragraph (a) of this section, from which not less than 50 percent of the total quantity of milk approved by a duly constituted regulatory agency for fluid consumption that is physically received from dairy farmers (except by diversion from other plants) and handlers described in § 1011.9(c) at such plant or diverted therefrom pursuant to § 1011.13 during the month is shipped from such plant as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section. The operator of such a plant may include milk diverted pursuant to § 1011.13(c) from such plant to plants described in paragraph (a) of this section as qualifying shipments in meeting up to one-half of the shipping percentage specified in this paragraph.

* * * * *

(d) A plant located in the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and during the month 60 percent or more of the producer milk of members of such cooperative association, excluding such milk that is received at or diverted from pool plants described in paragraph (b) of this section but including milk delivered by such cooperative as a handler described in § 1011.9(c), is delivered directly from their farms to pool plants described in paragraph (a) of this section or is transferred to such plants as a bulk fluid milk product from the plant of the cooperative association, subject to the following conditions:

(1) The plant does not qualify as a pool plant under paragraph (a), (b) or (c) of this section or under the provisions of another Federal order applicable to a distributing plant or a supply plant; and

(2) The plant is approved by a duly constituted regulatory agency to handle milk for fluid consumption.

* * * * *

2. In § 1011.9, paragraphs (b) and (c) are revised to read as follows:

§ 1011.9 **Handler.**

* * * * *

(b) A cooperative association with respect to milk of producers diverted to nonpool plants for the account of such association pursuant to § 1011.13, excluding the milk of producers diverted by the association as a handler pursuant to paragraph (a) of this section;

(c) Any cooperative association with respect to milk, excluding the milk of producers diverted to pool plants by the association as a handler pursuant to paragraph (a) of this section, that it receives for its account from the farm of a producer for delivery to a pool plant of another handler, in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler of such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative association at the location of the pool plant to which such milk is delivered;

* * * * *

3. Section 1011.13 is revised to read as follows:

§ 1011.13 **Producer milk.**

"Producer milk" means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant, excluding such milk that is diverted from another pool plant;

(b) Received by a handler described in § 1011.9(c); or

(c) Diverted from a pool plant for the account of the handler operating such plant to another pool plant or diverted from a pool plant to a nonpool plant (other than a producer-handler plant) for the account of the handler operating such pool plant or for the account of a handler described in § 1011.9(b), subject to the following conditions:

(1) A producer's milk may be diverted to another pool plant without limit in any month, and may be diverted to a nonpool plant without limit during any month of April through July;

(2) In any month of August through March, a producer's milk shall not be eligible for diversion to a nonpool plant unless at least two days' production from such producer is physically received at a pool plant during the month;

(3) In any month of August through March, the total quantity of milk diverted to nonpool plants during the month by a cooperative association shall not exceed one-third of the producer milk that the cooperative association caused to be delivered to, and is physically received at, pool plants during the month;

(4) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (c)(3) of this section. In any month of August through March, the total quantity of milk so diverted to nonpool plants shall not exceed one-third of the milk that is physically received at pool plants as producer milk for which the plant operator is the handler;

(5) Any milk diverted to nonpool plants in excess of the limits prescribed in paragraph (c) (3) and (4) of this section shall not be producer milk. The diverting handler shall designate the dairy farmer deliveries that will not be producer milk pursuant to paragraph (c) (3) or (4) of this section. If the handler fails to make such designation, no milk diverted by such handler to a nonpool plant shall be producer milk;

(6) To the extent that it would result in nonpool status for the pool plant from which diverted, milk diverted for the account of a cooperative association to nonpool plants from the pool plant of another handler shall not be producer milk;

(7) The cooperative association shall designate the dairy farmer deliveries that are not producer milk pursuant to paragraph (c)(6) of this section. If the cooperative association fails to make such designation, no milk diverted by it to a nonpool plant shall be producer milk; and

(8) Diverted milk shall be priced at the location of the plant to which diverted.

4. In § 1011.41, paragraph (b)(2) is revised to read as follows:

§ 1011.41 **Shrinkage.**

* * * * *

(b) * * *

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1011.9(c) and in milk diverted to such plant from another pool plant, except that in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be two percent;

* * * * *

5. In § 1011.42, paragraph (a) is revised to read as follows:

§ 1011.42 **Classification of transfers and diversions.**

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1011.44(a)(12) and the corresponding step of § 1011.44(b).

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1011.44(a)(7) or the corresponding step of § 1011.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1011.44(a)(11) or (12) or the corresponding steps of § 1011.44(b) the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

* * * * *

(This recommended decision constitutes the Department's Draft Impact Analysis Statement for this proceeding.)

Signed at Washington, D.C., on January 18, 1979.

JAMES E. SPRINGFIELD,
Acting Deputy Administrator,
Marketing Program Operations.

[FR Doc. 79-2322 Filed 1-22-79; 8:45 am]

[1505-01-M]

[7 CFR Ch. IX]

[Docket No. AO-382]

MELONS GROWN IN SOUTH TEXAS

Hearing on Proposed Marketing Agreement and Order

Correction

In FR Doc. 78-30729, appearing at page 50685 in the issue of Tuesday, October 31, 1978, on page 50690, in the first column the first paragraph designated as paragraph "(3)", insert in the first line the following words "of the inspection" between the words "Identification" and "certificates".

[6320-01-M]

CIVIL AERONAUTICS BOARD

[14 CFR Part 300]

[PDR-60, Docket 34512, Dated January 18, 1979]

RULES OF CONDUCT IN BOARD PROCEEDINGS

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Board, on its own initiative, is inviting public comment on an amendment to the Board's *ex parte* rules, which appears in this issue of the FEDERAL REGISTER. The amendment permits Board employees in nonhearing cases to consult with other federal agencies and in certain small community air service cases to consult with interested persons. A written summary of any such communication will have to be placed in the docket for the case. In addition, the amendment would conform the definition of the class of communications barred by the rule to match the definition given in the Administrative Procedure Act of proscribed *ex parte* communications.

DATES: Comments by February 23, 1979. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 34512, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Thomas L. Ray, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., 20428, 202-673-5424.

(Sections 204 and 1001 of the Federal Aviation Act of 1958 as amended, 72 Stat. 743, 788, 49 U.S.C. 1324, 1481).

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-2340 Filed 1-22-79; 8:45 am]

[3510-13-M]

DEPARTMENT OF COMMERCE

National Bureau of Standards

[15 CFR Parts 200, 275]

APPEARANCE OF NBS EMPLOYEES AS WITNESSES IN PRIVATE LITIGATION

Proposed Policies and Procedures

AGENCY: National Bureau of Standards, Department of Commerce.

ACTION: Proposed rulemaking.

SUMMARY: These proposed rules would prescribe NBS policy governing the appearance of NBS employees as witnesses in private litigation. The

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rules would establish the general principle against the appearance of NBS employees in such litigation, and would prescribe procedures to be followed by private litigants in seeking appearances by NBS employees and procedures for considering and responding to requests or orders for their appearance. The purpose of these rules is to maintain NBS' neutrality among private litigants and to ensure that NBS employees adhere to the performance of their official duties.

DATE: Comments must be received on or before March 9, 1979.

ADDRESS: Send comments to Allen J. Farrar, Office of the Legal Adviser, National Bureau of Standards, Washington, D.C. 20234.

FOR FURTHER INFORMATION CONTACT:

Allen J. Farrar, Office of the Legal Adviser, National Bureau of Standards, Washington, D.C. 20234, telephone 301-921-2425.

SUPPLEMENTARY INFORMATION: This proposed rulemaking would amend title 15 of the Code of Federal Regulations by adding a new Subchapter H and a new Part 275 prescribing policies and procedures governing the appearance of NBS employees as witnesses in private litigation, and by making a conforming amendment to Part 200.

While these rules relate to agency personnel practices and, as such, are not subject to the notice-and-comment requirements of the Administrative Procedure Act or the procedures of Executive Order 12044, the impact of these rules on persons outside NBS is recognized. Accordingly, interested persons are invited to participate in the proposed rulemaking by submitting comments in accordance with the foregoing information.

Dated: January 17, 1979.

ERNEST AMBLER,
Director.

The following proposals are under consideration:

PART 200—POLICIES, SERVICES, PROCEDURES AND FEES

1. Amending 15 CFR Part 200 by revising paragraph (a) of § 200.104 to read as follows:

§ 200.104 Consulting and advisory services.

(a) In areas of its special competence, the National Bureau of Standards offers consulting and advisory services on various problems related to measurement, e.g., details of design and construction, operational aspects, unusual or extreme conditions, methods of statistical control of the measurement process, automated acquisition of laboratory data, and data reduction and analysis by computer. Brief consultation may be obtained at no charge; the fee for extended effort will be based upon actual costs incurred. The services outlined in this paragraph do not include services in connection with legal proceedings not involving the United States as a named party, nor to testimony or the production of data, information or records in such legal proceedings, which is governed by the policies and procedures set forth in Part 275 of this title.

• • • • •

2. Amending Chapter II of 15 CFR by adding a new Subchapter H and a new Part 275, reading as follows:

SUBCHAPTER H—REGULATIONS GOVERNING APPEARANCE OF NBS EMPLOYEES IN PRIVATE LITIGATION

PART 275—POLICIES AND PROCEDURES GOVERNING THE APPEARANCE OF NBS EMPLOYEES AS WITNESSES IN PRIVATE LITIGATION

Sec.
275.1 Purpose and policy.
275.2 Testimony or production of records by NBS employees in legal proceedings not involving the United States as a named party.
275.3 Certification of records.
275.4 Request or order for testimony or production of records.
275.5 Response to request or order for testimony or production of records.

AUTHORITY: The provisions of this Part 275 issued under sec. 9, 31 Stat. 1450, as amended; 15 U.S.C. 277.

§ 275.1 Purpose and policy.

(a) This part prescribes the policies and procedures of the National Bureau of Standards (NBS) with respect to testimony by NBS employees and production of data, information and records, in legal proceedings not involving the United States as a named party.

(b) NBS is the Federal agency responsible for the custody, maintenance, and development of the national standards of measurement, and the impartial development and application of measurement technologies upon which the flow of interstate and foreign commerce must necessarily depend (15 U.S.C. 272).

(c) To carry out its statutory mission effectively, NBS must apply the expertise of the many scientific and technical experts it employs exclusively to the performance of its official duties, including providing scientific and technical advisory services to other Federal agencies. It is essential that NBS also maintain a policy of strict impartiality among private litigants, and that it ensure that its employees adhere to the responsibilities for which they were employed. To these ends, it is the policy of NBS that its employees shall not testify nor otherwise appear in legal proceedings not involving the United States or its officers or employees in their official capacity as a named party in order to produce data, information, or records which concern matters related to official duties of NBS employees or the functions of NBS.

(d) For purposes of this part, "legal proceeding" includes any civil or criminal proceeding before a court of law, administrative board or commission, hearing officer, or other body conducting a legal or administrative proceeding, or any discovery proceeding in support thereof, including depositions and interrogatories.

§ 275.2 Testimony or production of records by NBS employees in legal proceedings not involving the United States as a named party.

No NBS employee shall give testimony in any legal proceeding in which the United States Government or an agency or department in the Executive Branch is not a named party, concerning official duties of an NBS employee or any function of NBS, nor produce any data, information, or record created or acquired by NBS as a result of the discharge of its official duties, without the prior written authorization of the NBS Legal Adviser.

§ 275.3 Certification of records.

Certified copies of NBS records will be provided upon request and payment of the applicable fees. Requests for certification should be addressed to the NBS Legal Adviser, National Bureau of Standards, Washington, D.C. 20234. The applicable fees include charges for certification and reproduction, the amounts of which are set out in § 4.9(a) (3) and (5) of title 15 of the Code of Federal Regulations. Other reproduction costs and postage fees, as appropriate, will also be borne by the requester.

§ 275.4 Request or order for testimony or production of records.

(a) A request or order for testimony of, or the production of data, information, or records by, an NBS employee in a legal proceeding not involving the United States as a named party shall be addressed to the NBS Legal Adviser, National Bureau of Standards, Washington, D.C. 20234. A request or order for testimony shall be accompanied by an affidavit or, if that is not feasible, a statement setting forth the title of the case, the forum, the party's interest in the case, a recitation of the reasons for desiring and the intended use of the testimony, a general summary of the testimony desired, and a showing that (1) the desired testimony is not reasonably available from other sources (including an explanation of such circumstances), and (2) no NBS record in certified form provided under § 275.3 could be introduced in evidence in lieu of the testimony or other appearance requested.

(b) Any employee of NBS who is served with a supoena or other order for or who receives a request for, testimony or the production of data, information, or records shall immediately report the service or request to the NBS Legal Adviser.

§ 275.5 Response to request or order for testimony or production of records.

(a) Except for the production of payroll, leave, or similar administrative records that may be involved in legal proceedings involving an employee of NBS in other than that employee's official capacity, testimony or the production of data, information, or records in a legal proceeding not involving the United States shall be authorized only as a rare exception. Such exception shall be based only upon a determination by the NBS Legal Adviser that NBS has a significant interest in the legal proceeding and that the outcome may affect the implementation of present policies, or where other circumstances or conditions (including the showing required in paragraph (a) of § 275.4) make it necessary to provide the data, information, or records in the public interest.

(b) When an NBS employee receives a request or order for testimony or the production of data, information, or records, the NBS Legal Adviser shall determine whether such request or order is legally binding on the employee and whether compliance with such request or order is authorized. Upon making such determination, the NBS Legal Adviser shall accordingly instruct the employee who received such request or order.

(c) Unless otherwise expressly authorized by the NBS Legal Adviser, an employee who is requested or ordered to testify or produce data, information, or records in a legal proceeding not involving the United States as a named party shall respectfully decline to comply on the ground of the prohibition against compliance contained in this part. If a subpoena or other order is involved, the employee shall decline by appearing at the time and place specified (unless the NBS Legal Adviser determines, in consultation with the party seeking the testimony or other appearance, or the authority conducting the legal proceeding, as appropriate, that a written submission will be sufficient), accompanied by a representative of the Office of the NBS Legal Adviser, the United States Attorney's office, or the Department of Justice, as appropriate, and explaining to the authority conducting the legal proceeding that this part prohibits the employee from complying.

(d) If an employee who follows the procedure in paragraph (c) of this section is ordered to show cause why he or she should not be cited for contempt, the NBS Legal Adviser shall request the Department of Justice to represent the employee.

(e) If the NBS Legal Adviser authorizes the testimony of an NBS employee, the Legal Adviser may arrange for the taking of the testimony by methods that are less disruptive of official activities of the employee than providing testimony in court or at a hearing. Testimony may, for example, be provided by affidavits, answers to interrogatories, written depositions, or depositions transcribed, recorded, or preserved by any other method allowable by law. Costs of providing testimony, including transcripts, will be borne by the party requesting the testimony.

[FR Doc. 79-2255 Filed 1-22-79; 8:45 am]

[3510-25-M]

Industry and Trade Administration

[15 CFR Parts 370, 371, 385, 390, and 399]

EMBARGO OF UGANDA

Extension of Date for Commenting on Proposed Implementation Rules

AGENCY: Industry and Trade Administration, Department of Commerce.

ACTION: Extension of comment period.

SUMMARY: On December 15, 1978 (43 FR 58571), the Department issued proposed regulations to implement the embargo on export trade with Uganda contained in Public Law 95-435 (which added section 4(m) to the Export Administration Act of 1969, as amended) and invited comments to be submitted through January 15, 1978. Because of the significant issues addressed in the proposed regulations, the Department is amending its former deadline to permit submission of comments through February 5, 1979. Comments are especially invited on the proposed definition of "person subject to the jurisdiction of the United States," both in the context of the Uganda embargo contained in section 4(m) of the Export Administration Act, as well as the general discretionary export control authority contained in section 4(b)(1) of that Act.

DATE: Comments must be received on or before February 5, 1979.

ADDRESSES: Written comments (six copies when possible) should be sent to Stanley J. Marcuss, Deputy Assistant Secretary, for Trade Regulation, U.S. Department of Commerce, Post Office Box 7138, Ben Franklin Station, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT:

Oral communications or requests for further information should be directed to: Seymour Goodman, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4351.

NOTE.—Written public comments which are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the regulations.

All public comments to be considered in the development of these regulations will be a matter of public record and will be available for public inspection and copying in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. This procedure shall not, however, apply to communications from agencies of the United States or foreign governments.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; sec. 5(d), Pub. L. 95-435, 92 Stat. 1501; E. O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 79-2338 Filed 1-22-79; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[10 CFR Part 240]

[Release No. 34-15503; File No. S7-769]

OPTIONS TRADING BY USE OF THE FACILITIES OF A NATIONAL SECURITIES EXCHANGE

Notice of Proposed Rules

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is publishing for comment two rule proposals which, if each is adopted, would: (1) Prohibit trading rotations in exchange-traded options from being conducted in a manner which the Commission believes may be unfair to the public, and (2) prohibit exchange options trading past a specified hour. The second rule proposal includes two alternative proposals addressing the

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Commission's concerns about closing hours for options exchanges. These rules are being proposed, in part, to prevent unfair discrimination against public options orders during trading rotations and to promote fair and orderly markets in both exchange-traded options and their underlying securities.

DATE: Comments must be received on or before February 21, 1979.

ADDRESS: All comments should refer to File No. S7-769 and should be sent in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All submissions will be made available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Beverly Jones or Janet Zimmer, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 755-7527 or 755-7718.

SUPPLEMENTARY INFORMATION: This release invites public comment concerning the following rules proposed under the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq., as amended by Pub. L. 94-29 (June 4, 1975)]: (1) proposed Exchange Act Rule 9b-3 [17 CFR 240.9b-3] which, if adopted, would prohibit any national securities exchange from conducting or employing any trading rotation in an option class if, during the rotation, new options orders could not be placed on the limit order book or existing limit orders could not be cancelled, adjusted or replaced; and (2) two alternative rule proposals concerning options exchange closing hours as follows: (i) proposed Exchange Act Rule 9b-4(A) [17 CFR 240.9b-4(A)] which, if adopted, would prohibit exchange trading in options past 4 p.m. New York time; or (ii) proposed Exchange Act Rule 9b-4(B) [17 CFR 240.9b-4(B)] which, if adopted, would prohibit exchange trading in options past 4:10 p.m. New York time.

On October 18, 1978, the Commission invited comment on several related issues concerning daily options closing procedures and trading hours of the five national securities exchanges which list and trade standardized options (the "options exchanges").[1] The Commission also announced the experimental implementation of uniform daily closing procedures and uniform closing times among the options exchanges.

The Commission approved this experimental program, in part, because of its concern about the manner in which daily closing rotations in non-expiring options[2] were conducted by some of the options exchanges. The Commission was also concerned about the problems created by the disparity in options exchange trading hours resulting from the use of closing rotations by some of those exchanges after the close of regular options trading. Since use of daily after-hours closing rotations could be resumed after the uniform closing trial period, the Commission announced that, during that four-month period, it might initiate steps to eliminate closing rotations through the exercise of its broad rule-making authority under the Exchange Act (particularly Section 9 thereof, 15 U.S.C. 78i) to mandate a uniform closing time and/or uniform closing procedures for all options exchanges.

Although proposed Rules 9b-4(A) and 9b-4(B) contained herein would, in effect, establish uniform closing hours for the options exchanges, none of the rule proposals would prohibit the use of closing rotations. Instead, the proposed rules would only prohibit the exchanges from conducting closing rotations or any other trading rotations in options in a manner which the Commission believes may be inimical to the public interest or otherwise inconsistent with the protection of investors.

These rules are being proposed pursuant to the Exchange Act and particularly Sections 2, 6(b), 9(b), 10(b), 11A, 15(c), and 23(a) thereof.[3]

Background and Purpose

A trading rotation is a procedure by which bids and offers are made and orders are executed in one option series at a time. During a rotation, the board broker (CBOE), order book official (MSE, CBOE and PSE), or specialist (Amex and Phlx) calls for bids and offers from the trading crowd for each options series in his assigned classes, one series at a time. Once a market is established in that series, any orders on the limit order book (the "book")[4] at that price are executed, either by crossing the book orders or by trading with market participants on the floor. Until the rotation of a class is completed, usually only one options series at a time in that class is traded.

All of the exchanges currently conduct rotations to open options trading each day promptly after trading in the underlying security begins (hereinafter referred to as "opening rotations"). The exchanges conduct similar opening rotations to re-open trading in a particular options class after a trading halt or suspension of trading. Under unusual circumstances, generally involving a large influx of orders, the exchanges occasionally employ additional trading rotations in one or more options classes. In addition, commencing one hour before the close of regular options trading, all of the exchanges except for the Phlx conduct closing rotations in expiring options[5] series on the third Friday of each month, the day preceding the expiration date of the options (hereinafter referred to as "expiration Friday closing rotations"). Finally, prior to the uniform closing hour experiment, the CBOE, MSE and PSE conducted daily closing rotations after the close of regular options trading at 4:00 p.m. New York time.[6]

[1] See Securities Exchange Act Release No. 15241 (October 18, 1978), 43 FR 49867 (October 25, 1978). The options exchanges are the American Stock Exchange, Inc. ("Amex"); Chicago Board Options Exchange, Incorporated ("CBOE"); Midwest Stock Exchange, Incorporated ("MSE"); Philadelphia Stock Exchange, Inc. ("Phlx"); and the Pacific Stock Exchange Incorporated ("PSE"). *See* File Nos. SR-Amex-78-22, SR-CBOE-78-30, SR-MSE-78-26, SR-PSE-78-17 and SR-Phlx-78-18.

[2] A closing rotation is a procedure by which a board broker (CBOE) or order book official (MSE, CBOE and PSE) calls for bids and offers from the crowd for each option series in his or her assigned classes, one series at a time, after the close of regular options trading. (The CBOE will initiate the use of order book officials in the near future. *See* Securities Exchange Act Release No. 15490, (January 11, 1979)) A "daily closing rotation" is a closing rotation conducted on a daily basis in non-expiring options (all options contracts which do not expire the following day).

[3] 15 U.S.C. 78b, 78f(b), 78i(b), 78j(b), 78k-1, 78o(c) and 78w(a).

[4] A "limit order book" contains all limited price orders entrusted for execution to the board broker (CBOE), order book official (MSE, CBOE and PSE), or specialist (Amex and Phlx). This procedure enables on-floor market participants to place on the book public or principal limit orders which are away from the market for execution at a later time. Some of the exchanges permit only public orders to be placed on the book, while others also permit orders of securities professionals on the book.

[5] Expiring options consist of all options contracts expiring the following day.

[6] The rules of CBOE, MSE and PSE state that closing rotations shall commence at the close of trading hours (CBOE Rule 6.2.01(b); MSE Article XLII, Rule 1.01(b); and PSE Rule VI, Section 36). These rules have been suspended during the trial period. Daily closing rotations generally last for only a few minutes; in some instances, however, they have lasted for as long as 40 minutes after the close of regular options trading.

Amex and Phlx also filed, pursuant to Section 19(b)(1) of the Exchange Act [15 U.S.C. 78s(b)(1)], and Rule 19b-4 thereunder [17 CFR 240.19b-4], rule proposals (SR-Amex-78-6 and SR-Phlx-78-6) to adopt daily closing rotation procedures. Phlx has withdrawn its proposal pending the outcome of the extended trading hours experiment. Notice of SR—Amex-78-6 was given by publication of a Commission release (Securities Exchange Act Release No. 14550

Footnotes continued on next page

During each of the above trading rotations, some of the exchanges have not permitted new options orders to be placed on the book or existing book orders to be cancelled, adjusted or replaced. Exchange members on the trading floor, however, have been permitted to trade against customer orders already on the book. The Commission is concerned that this practice may not be in the public interest or consistent with the protection of investors.[7]

The Commission also is concerned about the problems created by the disparity in options exchange trading hours resulting from the use of after-hours closing rotations by some of the exchanges and not by others. Prior to the uniform closing hours experiment, the Amex and Phlx did not conduct daily closing rotations, but instead ceased all options trading at 4:00 p.m. New York time. In contrast, options trading on the CBOE, PSE and MSE continued throughout the closing rotations conducted by these exchanges after 4:00 p.m. The Commission is concerned that this situation might not be consistent with the maintenance of fair and orderly markets in exchange-listed options or in the securities underlying such options.[8]

On October 18, 1978, as an interim solution to some of these concerns, the Commission published notice of filing and announced the approval of rule proposals by the five options exchanges to extend, on an experimental basis, the regular trading hours for non-expiring options by ten minutes until 4:10 p.m. (E.S.T.) and also to suspend the use of daily closing rotations.[9] The four-month trial period for this experiment started on October 23, 1978 and will terminate on February 28, 1979.

In addition, the Commission announced that, during the trial period, it intended to explore the issues underlying its concerns in order to determine what closing procedures on options exchanges would best serve the public interest and ensure the maintenance of fair and orderly markets. The Commission, therefore, invited comment upon certain issues relating to options closing procedures.[10] The Commission again invites comment on these issues.

The Commission today also invites public comment upon proposed Exchange Act Rules 9b-3, 9b-4(A) and 9b-4(B). The proposed rules are intended to promote a uniform closing time for exchange options trading [11] and to eliminate certain discriminatory practices which seem to occur during daily closing rotations and other trading rotations conducted on options exchanges. After the termination of the uniform closing hours experiment, therefore, options exchanges would be permitted to resume the use of daily closing rotations on a basis which the Commission believes would further the purposes of the Exchange Act.

Discussion of the Proposed Rules

A. Proposed Exchange Act Rule 9b-3

Proposed Exchange Act Rule 9b-3 would prohibit an exchange from conducting or permitting to be conducted any trading rotation in options if, during such rotation, new orders could not be placed on the limit order book or existing book orders could not be cancelled, replaced or adjusted. During the rotation, however, an exchange would be permitted to preclude the entry of new book orders, or the cancellation or replacement of existing book orders, in any options series for which bids and offers had already been called in the rotation or which was in the process of being traded in the rotation.

The rule is designed to prevent options exchanges from conducting trading rotations in a manner which the Commission believes is unfair and discriminatory to the public. As discussed above, some of the options exchanges do not permit outstanding customer orders on the book at the commencement of a trading rotation to be replaced, cancelled or adjusted during the rotation;[12] at the same time, exchange members on the floor participating in the rotation may trade against those orders.[13] The Commission believes that customers whose orders are "locked" into the book under these circumstances may be unfairly disadvantaged.

During closing rotations, for instance, exchange members on the floor could adjust their options orders after the close to reflect their assessment of last sale information in the underlying securities and of corporate or other news announced between 4:00 p.m. New York time and completion of the closing rotation. Customers, however, could not similarly change their orders on the book in response to this information. Therefore, professionals on the floor could trade against those customer orders under circumstances especially favorable to the professionals.

In addition, opening rotations, rotations during unusual circumstances, and expiration Friday closing rotations are conducted while the markets in the underlying securities are open. Thus, customer orders on the book during such rotations are exposed to the risk of execution at a time when the market may move against the customer.

During trading rotations, some exchanges also preclude new options orders from being placed on the book. A customer can participate to a limited extent in a trading rotation in options by submitting an order to be placed on the book prior to the rotation or by submitting a new order to be represented in the trading crowd during the rotation.[14] The Commission does not believe, however, that the present means by which customers may participate in trading rotations mitigate the basic unfairness of permitting exchange members on the floor to adjust their orders and to trade against public orders "locked" into the book during trading rotations.

Footnotes continued from last page
(March 10, 1978)) and by a statement of the terms of substance in the Federal Register (43 FR 11625 (March 20, 1978)). Notice of SR-Phlx-78-6 was given by publication of a Commission release (Securities Exchange Act Release No. 14789 (May 22, 1978)) and by a statement of the terms of substance in the Federal Register (43 FR 23067 (May 30, 1978)). No comments were received on either rule filing.

[7] *See* discussion of proposed Rule 9b-3, *infra*.

[8] *See* discussion of proposed Rules 9b-4(A) and 9b-4(B), *infra*.

[9] *See* Exchange Act Release No. 15241.

[10] These issues are as follows:

(1) Whether daily closing rotations as conducted on the CBOE, MSE and PSE were in the public interest and consistent with the protection of investors;

(2) Whether there is a legitimate public interest to be served by permanently extending options trading hours beyond the close of the principal exchange markets in the underlying securities (4:00 p.m. (E.S.T.)); and

(3) Whether the purposes of the [Exchange] Act, and in particular the goal of maintaining fair and orderly markets in options and their underlying securities, would best be served by a uniform 4:00 p.m. (E.S.T.) close of options trading.

See Exchange Act Release No. 15241. No comments have been recieved on these issues.

[11] While the proposed rules would not prevent the options exchanges from establishing closing hours earlier than those provided by the rules, it is likely that the business interests of the exchanges would encourage them to uniformly adopt the specified closing hour.

[12] This practice is a matter of exchange policy and is not contained in the rules of the options exchanges; except that, the rules of the CBOE, MSE and PSE provide a cut-off time for entry of orders onto the book prior to an opening rotation. Rule 7.4.02, CBOE Guide (CCH) ¶2224; Art. XLV, Rule 2.02, MSE Guide (CCH) ¶2082; Rule VI, Sec. 66(b) .02, PSE Guide (CCH) ¶4265.

[13] Such persons may be trading as principal or as an agent for a customer.

[14] Some of the exchanges permit customers to participate in opening and closing rotations through means of opening rotation orders or market-on-close orders. An "opening rotation order" is a market order which is to be executed in whole or in part during the opening rotation of an options series or not at all. *See* e.g., Rule 6.53 (K), CBOE Guide (CCH) ¶2183. A market-on-close order is a market or limit order which is to be executed as close as possible to the closing bell or during the closing rotation. *See* e.g., Rule 6.53(c)(ii), CBOE Guide (CCH) ¶2183.

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The Commission recognizes that there may be overriding practical considerations which require the establishment of a cut-off time for the entry of new orders on the book or for the cancellation or adjustment of existing book orders. The exchanges which do maintain such a cut-off time before a trading rotation argue that this procedure is necessary in order to process and accommodate options orders in a fair and orderly manner. They assert that it is difficult for the book official to determine accurately a market in a particular options series if new orders are continuously coming in or if existing orders are rapidly being cancelled or replaced. The Commission, therefore, invites comment as to what practical problems proposed Rule 9b-3, if adopted, would create. In particular, the Commission is interested in whether there are special circumstances which would necessitate distinguishing between the entry of new orders and the cancellation, adjustment or replacement of existing book orders during trading rotations.

B. PROPOSED RULES 9b-4(A) AND 9b-4(B)

As noted previously, the Commission approved the experimental extension of trading hours, in part, because of its concern that the disparity in daily closing hours which existed among the options exchanges might not be consistent with the maintenance of fair and orderly markets in exchange listed options or in the underlying securities

The Commission believes that uniformity in closing hours might help lessen closing price disparities in options dually traded on exchanges with different trading hours. Price disparities could result, for example, if significant news developments were announced after the close of trading on one exchange but before the close on the other. Uniform closing times also might prevent confusion with respect to trading hours by providing investors and members of the securities industry with a definite cut-off time for all options trading.

A closing hour of 4:10 p.m. New York time was selected for the extended trading hours experiment because some of the options exchanges maintained that, in view of the derivative nature of exchange-traded options, it was desirable to trade options beyond the close of the principal markets in the underlying stocks. This, they asserted, would permit options market participants to adjust their options positions to accurately reflect closing sale prices in the underlying stock.[15] The Commission was concerned, however, that, after the close of trading in the underlying securities, options could lose their derivative character if options trading continued after the close of the primary markets for the underlying securities.[16]

Accordingly, in its order approving the extended trading hours experiment, the Commission invited comment on whether there is any public interest to be served by permitting options trading to continue beyond the close of the primary exchange markets in the underlying securities, or whether the purposes of the Exchange Act would best be served by a uniform 4:00 p.m. (E.S.T.) closing of options trading.[17] The Commission again invites comment on these issues.

Proposed Securities Exchange Act Rules 9b-4(A) and 9b-4(B) present alternative methods of adressing the above concerns about options, closing hours. Although either proposed rule, if adopted, would promote a uniform closing hour for options trading, one rule would permit options trading after the close of trading on the primary markets for the underlying security while the other rule would not.

Various arguments have been raised in support of each approach taken by these rules. The Commission has not determined which of these approaches, if either, would best serve the purposes of the Exchange Act and, therefore, invites public comment not only on both rule proposals but also on whether, in lieu of a Commission rule, each of the exchanges should be permitted to determine independently their own closing hours.

Proposed Exchange Act Rule 9b-4(A) would require that no options trading take place through the facilities of a national securities exchange after 4:00 p.m. New York time, the time trading closes on the principal exchanges on which securities underlying options are traded.

A 4:00 p.m. closing hour for options trading might minimize the advantages which exchange members on the floor have over customers. To a degree, the exchange member on the floor always has an inherent advantage over the public customer because he can react to price information or other significant news almost immediately and adjust his positions in response to such information. this advantage might be accentuated to an unacceptable degree if professionals on exchange floors are permitted to trade in options with certainty as to the closing prices in underlying stocks while members of the public cannot. This would seem to be particularly true when customers with existing limit orders on the book cannot cancel or adjust those orders in response to closing stock prices.

A closing time of 4:00 p.m. New York time for options trading would result, in most cases, in the termination of options trading prior to the reporting of closing prices in the underlying stocks. this would appear to minimize the floor members' advantage over customers with regard to last sale price information. The Commission solicits comments on the merits of this approach in reducing the advantage which floor professionals have over customers at the close of options trading.

Proposed Rule 9b-4(B) would require that no options trading take place through the facilities of a national securities exchange after 4:10 p.m. New York time. Like proposed rule 9b-4(A), this rule would provide a uniform closing time for exchange trading in options. Unlike proposed rule 9b-4(A), however, this rule would permit options market participants to adjust their options positions in response to last sale price information in the primary market for the underlying securities. Since public investors may not be able to use the final ten minutes of trading to adjust their options positions in response to last sale information, however, this approach may not be appropriate in light of the purposes of the Exchange Act.

The Commission, therefore, wishes to receive comment on whether it is necessary or appropriate to the goals of the Exchange Act to provide a trading period for the adjustment of options positions in response to closing stock prices, notwithstanding the possible accentuation of the advantages floor professionals have over the public.

TEXT OF THE PROPOSED RULES

The text of proposed Exchange Act Rules 9b-3, 9b-4(A) and 9b-4(B) is set forth below.

17 CFR Part 240 is proposed to be amended by adding new §§ 240.9b-3 and 240.9b-4 to read as follows:

OPTIONS TRADING ON EXCHANGES

§ 240.9b-3 Options trading rotations.

It shall be unlawful for any national securities exchange to conduct or permit to be conducted any trading rotation in any class of options if, during the rotation, new limit orders in an options series in that class, and for which bids and offers in such series have not yet been called, are precluded by rule, policy or practice from being entrusted for execution to the exchange board broker, order book official, specialist, or any other person designated by the exchange to be responsible for the limit order book; or if orders in such options series which have previously been entrusted to such persons for execution are similarly precluded from being cancelled, adjusted or replaced. For the purposes of this rule, a "trading rotation" shall mean any procedures by which bids, offers and transactions in options contracts of the same class are permitted to occur in only one options series at a time.

§ 240.9b-4(A) Options Trading Hours

No options trading shall take place through the facilities of a national securities exchange after 4:00 p.m. New York time.

§ 240.9b-4(B) Options trading hours.

No options trading shall take place through the facilities of a national securities exchange after 4:10 p.m., New York time.

(Secs. 6(b), 11A, 15(c) and 23(a), 89 Stat. 104-105, 111, 125-126, 156 (15 U.S.C. 78f(b), 78k-1, 78o(c), 78w(a)); Secs. 2, 9(b), 10(b), 48 Stat. 881, 889, 891 (15 U.S.C. 78b, 78i(b), 78j(b).)

STATUTORY AUTHORITY FOR PROPOSED RULES

Rules 9b-3, 9b-4(A) and 9b-4(B) are being proposed by the Commission pursuant to the Exchange Act, particularly Sections 2, 6(b), 9(b), 10(b), 11A, 15(c) and 23(a) thereof.

SPECIFIC INQUIRIES

Pursuant to Section 23(a) of the Exchange Act, the Commission has considered the effect that the proposals would have on competition and is not aware, at this time, of any burdens that the proposals, if adopted, would impose on competition not necessary or appropriate in furtherance of the purposes of that Act. However, the Commission specifically invites comment as to the anti-competitive effects, if any, that the proposals would likely engender.

In addition, the Commission specifically invites comment on the following issues:

(1) Whether options trading rotations are in the public interest and consistent with the maintenance of fair and orderly markets or whether they should be prohibited as inconsistent with these goals of the Exchange Act;

(2) Whether, for the purposes of the above determination or of proposed Exchange Act Rule 9b-3, there are special circumstances which necessitate distinguishing among opening rotations, daily closing rotations, expiration Friday closing rotations, and rotations conducted during unusual market conditions;

(3) Whether proposed Rule 9b-3 should differentiate between the entry of new options orders and the cancellation, adjustment or replacement of existing options orders on the limit order book;

(4) Whether permanently extending options trading hours beyond 4:00 p.m. New York time is in the public interest and consistent with the maintenance of fair and orderly markets; and, if so, whether these goals are better served by establishing a uniform closing hour among the options exchanges or by permitting each exchange to determine independently its own trading hours; and

(5) Whether, if a uniform closing hour after 4:00 p.m. New York time is desirable, a specified time later than 4:10 p.m. (such as 4:15 p.m., 4:20 p.m., etc.), would better serve the public interest by, among other things, providing the public with additional time in which to react to last sale price information in the primary market for the underlying securities.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 17, 1979.

[FR Doc. 79-2276 Filed 1-22-79; 8:45 am]

[15] Closing sale prices in the underlying securities are available promptly to persons using interrogation devices; however, such prices often are not reported on moving ticker displays until a few minutes after 4:00 p.m. New York time.

[16] In order to mitigate this possibility during the trading hours experiment, the Commission requested the Board of Governors of the Federal Reserve System to delay its major news announcements normally made at 4:00 p.m. until 4:10 p.m. (E.S.T.). The Commission also requested the New York Stock Exchange to advise the issuers of underlying securities listed on that exchange to refrain from making major news announcements normally delayed until 4:00 p.m. until 4:10 p.m. (E.S.T.)

[17] *See* Release No. 15241. No comments have been received.

To assist the Commission in making these determinations, the options exchanges agreed to monitor the ten-minute extension of trading to determine, among other things: (1) the extent to which options trading after the close of the principal exchange markets in underlying securities enables the last quotation and/or last sale in the options market to reflect the last sale in the underlying stock; and (2) the extent to which having the last sale and/or the last quotation in the options reflect last sale information in the underlying securities serves the public interest and to maintain fair and orderly markets in both options and their underlying securities.

Other factors which the options exchanges are considering in monitoring the extension or trading hours include: (1) the extent to which firms are permitting the entry of customers' orders after 4:00 p.m. (E.S.T.); (2) the extent to which public news announcements made at or after 4:00 p.m. (E.S.T.) have affected the options markets; (3) the extent to which agency orders and principal orders for options are affected during the last ten minutes of trading; and (4) the volume of options transactions executed in the last ten minutes of trading.

The results of these monitoring efforts have not yet been furnished to the Commission. The Commission will consider this information, however, when determining what action to take on proposed Rules 9b-3, 9b-4(A) and 9b-4(B).

[1505-01-M]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 101]

GENERAL PROVISIONS

Proposed Changes in the Field Organization of the Customs Service

Correction

In FR Doc. 78-34808, appearing at page 58383, in the issue Thursday, December 14, 1978, make the following corrections:

(1) On page, 58383 in the middle column, in the last paragraph, the fifteenth line down, correct "aling" to read "along".

(2) On page 58384, in the first column, in the fifth full paragraph the eleventh line down, correct "availbale" to read "available".

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 680]

[Docket No. 78N-0235]

CRITERIA FOR SOURCE MATERIAL OF ALLERGENIC PRODUCTS

Extension of Comment Period and Notice of Public Meeting

AGENCY: Food and Drug Administration.

ACTION: Extension of Comment Period on Proposed Rule.

SUMMARY: This document extends the period for submitting comments on proposed additional criteria for source material of Allergenic Products and announces that a public meeting will be held to give interested persons an opportunity to participate in a discussion of the proposed criteria. The action is being taken in response to a request by several licensed manufacturers of Allergenic Products.

DATES: Written comments by March 8, 1979; the meeting will be held Tuesday, February 6, 1979, and interested persons may submit in writing, by January 31, 1979, topics for inclusion in the agenda of the meeting.

ADDRESSES: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65,

V 4 4 / 1 6 J A 2 3 7 9 UMI

5600 Fishers Lane, Rockville, MD 20857; the meeting will be held in Rm. 115, Bldg. 29, Bureau of Biologics, 8800 Rockville Pike, Bethesda, MD 20014; meeting agenda topics should be submitted to Steven F. Falter at the address below.

FOR FURTHER INFORMATION CONTACT:

Steven F. Falter, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014, 301-443-1306.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of September 26, 1978 (43 FR 43472) the Commissioner of Food and Drugs proposed to establish additional criteria for source material used in the manufacture of licensed Allergenic Products.

Interested persons were given until November 26, 1978, to submit written comments on the proposal. In response to a request by several licensed manufacturers of Allergenic Products, the Bureau of Biologics will hold a public meeting to discuss the proposed rule. Interested persons are invited to submit specific topics concerning the proposal for possible inclusion in the agenda of the meeting. In anticipation that the results of this meeting may generate additional comments to the subject document, the Commissioner is extending the comment period to March 8, 1979.

Persons planning to attend or to submit topics for the agenda should contact Steven Falter by January 31, 1979. The meeting will begin at 9 a.m. on February 6, 1979, in Rm. 115, Bldg. 29, Bureau of Biologics, 8800 Rockville Pike, Bethesda, MD 20014.

Therefore, under the Public Health Service Act (sec 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to him (21 CFR 5.1), the Commissioner extends the comment period on the proposed additional criteria for source material of Allergenic Products to March 8, 1979.

Interested persons may, on or before March 8, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 18, 1979.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-2408 Filed 1-22-79; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4937]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Unincorporated Areas of Marion County, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Unincorporated Areas of Marion County, Ala. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the County Clerk's Office, Marion County Courthouse, Hamilton, Ala. Send comments to: Mr. C. S. Pidwell, Chairman, County Commission, P.O. Box 460 or Mr. E. L. Pearce, County Engineer, P.O. Box 160, Hamilton, Ala. 35570.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Unincorporated areas of Marion County, Ala., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Luxapallila Creek near Winfield.	Just upstream of third Avenue North.	464
	Just downstream of Ninth Avenue North.	468
Luxapallila Creek near Twin.	Just upstream of Alabama Highway 253.	528
	Just downstream of Alabama Highway 44.	548
Cooper Creek	Just upstream of Alabama Highway 44.	531
	Just downstream of County Road No..	534
Buttahatchee River.	Just downstream of County Road 35.	384
	Just upstream of U.S. Highway 78.	394

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1933 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4938]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Moulton, Lawrence County, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Moulton, Lawrence County, Ala. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the City Clerk, City Hall, 202 West Street, Moulton, Ala. 35650. Send comments to: Honorable H. A. Alexander, Mayor of Athens or Ms. Barbra Coffey, City Clerk, City Hall, 202 West Street, Moulton, Ala. 35650.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Moulton, Lawrence County, Ala., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a). These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Almon Branch	Just upstream of Court Street (Alabama Hwy. 24).	626
	Just upstream of Byler Road.	630
Crow Branch	Benson Street (Extended).	620
	Just upstream of Court Street.	627
	Just upstream of College Street.	629
Lateral No. 8-14	Just upstream of Main Street.	625
	Just upstream of East Street.	634
	Just upstream of Court Street (Alabama Hwy. 24).	640
Lateral No. 12	Approximately 530 feet upstream of confluence with lateral No. 8-14.	629
	Just upstream of Betty Street.	644
Lateral No. 11	Just upstream of Main Street.	627

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1934 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4972]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Winfield, Marion County, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Winfield, Marion County, Alabama. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Mayor's Office, Winfield City Hall, P.O. Box 579, Winfield, Alabama 35594. Send comments to: Mayor Joe R. Carothers, or Ms. Edrell S. Reed, City Clerk, City Hall, P.O. Box 579, Winfield, Alabama 35594.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Winfield, Marion County, Alabama in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
East Branch	Southern corporate limits.	444
	Confluence of Tributary 1.	450
	First Street West	451
	U.S. Highway 43	452
	Trull Drive	457
	Confluence of Tributary 2.	463
	Confluence of Tributary 8.	483
	Northern corporate limits.	483
Tributary 1	Confluence with East Branch.	450
	First Avenue South	462
	Just upstream of Third Avenue North.	485
	Just downstream of Fourth Avenue North.	491
Tributary 2	Confluence with East Branch.	463
	Northern corporate limits.	467
Tributary 8	Confluence with East Branch.	463
	Just upstream of St. Louis San Francisco Railway.	471

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1932 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4939]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Marianna, Lee County, Ark.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Marianna, Lee County, Arkansas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Building Inspector, Marianna City Hall. Send comments to: Honorable John Oxder, Mayor of the City of Marianna or Mr. A. Haskell, Code Enforcement Officer, City Hall, Marianna, Arkansas.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Marianna, Lee County, Arkansas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
L'Anguille River (backwater from the Mississippi River).	Chestnut Street extended.	202
Chestnut Street (backwater from the Mississippi River).	Just downstream of the Missouri Pacific Railroad.	202

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1935 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4365]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Naugatuck, New Haven County, Conn.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 35496 of the FEDERAL REGISTER of August 10, 1978.

EFFECTIVE DATE: August 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The following location:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Naugatuck River	Just Downstream of Dam located 400 feet Downstream of State Route 63.	185

Should be corrected to read:

Naugatuck River	Just Upstream of Dam located 400 feet Downstream of State Route 63.	185

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1936 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4940]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for The City of Waterbury, New Haven County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Waterbury, New Haven County, Connecticut. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Building Official, Waterbury, Connecticut. Send comments to: Mr. Nicholas Tetrault, Administrative Aide to the Mayor, Waterbury City Hall, 235 Grant Street, Waterbury, Connecticut 06702

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Waterbury, New Haven County, Connecticut in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Naugatuck River	Upstream Bristol Street.	219
	Upstream Platt Brothers Dam.	229
	South Leonard Street	242
	Eagle Street	247
	Washington Avenue	254
	Freight Street	281
	West Main Street	284
	Huntingdon Avenue	279
	Chase Brass Drive	293
Hopeville Pond Brook.	South Main Street	238
	Upstream Baldwin Street.	283
	Upstream Jersey Street	338
	Spring Lake Road	378
Mad River	Washinton Avenue	261
	Upstream East Liberty Street.	278
	Upstream Hamilton Avenue.	303
	Upstream Silver Street	327
	Interstate Route 84	352
	Downstream Century Dam.	360
	Upstream Century Dam.	377
	East Main Street	391
	Downstream Homestead Dam.	429
	Upstream Homestead Dam.	451
	Frost Road	459
	Sharon Road	462
Beaver Pond Brook.	Harpes Ferry Road	378
	(700 feet upstream Harpers Ferry Road) Upstream Interstate Route 84.	382
	Interstate Route 84 (2,980 feet upstream Harpes Ferry Road).	421
	Upstream Scott Road	448
	Upstream Mulloy Road	463
	Austin Road	484
Steel Brook	East Aurora Street	273
	Upstream Huntingdon Avenue.	286
	Falls Avenue	332
Hancock Brook	230 feet upstream of confluence with Naugatuck River.	276
	Huntingdon Avenue	285
	Thomaston Avenue	286
	Sheffield Street	312
Wooster Brook	545 feet upstream Corporate Limits.	436
	Upstream State Route 64.	468
	Mason Avenue	497
	Wooster Avenue	530
	1,000 feet upstream Wooster Avenue.	555
	2,000 feet upstream Wooster Avenue.	591
	Park Road	598

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the department of HUD Act, section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1937 Filed 1-22-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4973]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for The Borough of Stonington, new London County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Stonington, New London County, Connecticut. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall, Stonington, Connecticut. Send comments to: Mr. Robert McGivern Borough Warden of Stonington Stonington Borough Hall Stonington, Connecticut 06378

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Stonington, New London County, Connecticut in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fishers Island Sound.	Church Street and Water Street.	12
	Hancock Street and Trumbull Street.	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Statute 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1931 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4941]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Cocoa, Brevard County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in The City of Cocoa, Brevard County, Florida. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Office of the City Manager Cocoa City Hall, P.O. Box 1750, Cocoa, Florida. Send comments to: Honorable Ray Debard, Mayor of the City of Cocoa or Mr. E.W. Brockenbrough, City Manager, Cocoa City Hall, P.O. 1750, Cocoa, Florida.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Strect SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for The City of Cocoa, Brevard County, Florida, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Indian River	Entire Shoreline	4
Big Mud Lake	Entire Shoreline	22
Big Mud Lake North.	Entire Shoreline	23
Big Mud Lake South.	Entire Shoreline	21
Little Mud Lake	Entire Shoreline	23
Little Mud Lake South.	Entire Shoreline	21
Clear Lake	Entire Shoreline	27
Braco Pond	Entire Shoreline	19
Unnamed Slough	Entire Shoreline	30

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1938 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4942]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Malabar, Brevard County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Malabar, Brevard County, Florida. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the City Clerk, City Hall, P.O. Box 245, Malabar, Florida 32950. Send comments to: Honorable John E. Yust or Mr. John Kenyon, Town Planner, City Hall, P.O. Box 245, Malabar, Florida 32950.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Malabar, Brevard County, Florida, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Channel A	Just upstream of U.S. 1	7
	Just upstream of Florida East Coast Railroad.	16
Channel B	Approximately 200 feet upstream of Malabar Road.	19
	Just upstream of Corey Road.	19
Channel C	Approximately 100 feet upstream of Malabar Road.	20
Channel D	Just downstream of Malabar Road.	17
Channel E	Approximately 100 feet downstream of Malabar Road.	20
Indian River	Just upstream of Malabar Road.	7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1939 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4943]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Melbourne, Brevard County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Melbourne, Brevard County, Florida. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the City Clerk, 900 E. Strawbridge Avenue, Melbourne, Florida 32901. Send comments to: Honorable Vernon Dicks, Mayor of the City of Melbourne, or the Office of the City Clerk, 900 E. Strawbridge Avenue, Melbourne, Florida.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insur-

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ance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Melbourne, Brevard County, Florida, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Crane Creek	Approximately 100 feet upstream of Babcock Street.	14
	Approximately 100 feet upstream of Dubber Road.	17
	Approximately 100 feet upstream of New Haven Avenue.	18
Channel A	Just upstream of Espanola Way.	21
	Just downstream of Eddie Allen Road.	22
Channel B	Just upstream of Vassar Street.	16
	Approximately 200 feet upstream of South Fairway Drive.	17
	Just downstream of Dairy Road.	26
Channel B-1	Approximately 100 feet downstream of Dairy Road.	23
Channel C	Just downstream of Walker Street (Extended).	11
Channel D	Just downstream of Sherwood Boulevard.	24
Eau Gallie River	Just upstream of Eau Gallie Boulevard.	11
	Approximately 200 feet downstream of Wickham Road.	19
Elbow Creek	Just downstream of U.S. 1.	6
Horse Creek	Just upstream of Florida East Coast Railroad.	9
	Just upstream of Croton Road.	16
	Just downstream of Parkway Drive.	19
Atlantic Ocean	At Florida State Highway 518.	8
Indian River	Just upstream of Parkway Drive.	6
	Just upstream of U.S. 192.	7
St. John's River	Just upstream of Sarno Road.	22
Channel E	Just upstream of Mill Street.	18
Channel F	At Fairview Drive (Extended).	21

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1940 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4944]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Oviedo, Brevard County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Oviedo, Brevard County, Florida. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the City Clerk, City Hall, P.O. Box 297, Oviedo, Florida. Send comments to: Honorable Ben Beasley, Mayor of the City of Oviedo or Richard T. Stacey, City Planner, P.O. Box 297, Oviedo, Florida.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Oviedo, Brevard County, Florida, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Charm	Entire Shoreline	48
Round Lake	Entire Shoreline	48
Long Lake	Entire Shoreline	47
Sweetwater Creek	Approximately 300 feet downstream of Magnolia Drive.	27
	Just downstream of Franklin Street.	33
	Just upstream of SR 419 (Chapel Street).	39

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1941 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4964]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Peoria Heights, Peoria County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Peoria Heights, Peoria County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Hall, 4901 North Prospect Road, Peoria Heights, Illinois. Send comments to: Mr. Raymond L. Picl, Village President, Village of Peoria Heights, Village Hall, 4901 North Prospect Road, Peoria Heights, Illinois 61614.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Peoria Heights, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Illinois River	Southern corporate limit.	460
	Northern corporate limit.	460
East Branch Dry Run Creek	West corporate limit, about 100 feet north of Glen Avenue.	704

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comments.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1942 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4974]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Pontiac, Livingston County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Pontiac, Livingston County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Pontiac City Hall, 321 North Main Street, Pontiac, Illinois. Send comments to: Honorable Joseph S. Trainor, Mayor of Pontiac, 321 North Main Street, Pontiac, Illinois 61764.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Pontiac, Livingston County, Illinois in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Vermilion River.....	Pontiac Corporate Limits.	642
	Norfolk and Western Railway.	642
	Footbridge along Riverview Drive.	641
	Dam near Mill Street.....	640
	Vermilion Street.....	640
	Illinois Central Gulf Railroad.	639
	Ladd Street.....	638
	Dam near Ladd Street....	638
	U.S. Route 66.....	638
	Pontiac Corporate Limits.	636
	Illinois Central Gulf Railroad.	635
	Pontiac Corporate Limits.	634

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Statute 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1930 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4945]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Unincorporated Areas of Elkhart County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Elkhart County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Elkhart County Planning Commissioners Office, Elkhart County Courthouse, Elkhart, Indiana. Send comments to: Mr. Tom Romburger, President of the Elkhart County Commissioners or Mr. Dennis Harney, Elkhart County Planning Director, Elkhart County Court House, Goshen, Indiana.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporate areas of Elkhart County, Indiana, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
St. Joseph River....	Confluence of Cobus Creek.	719
	Confluence of Trout Creek.	760
Elkhart River	Just upstream of Hively Avenue.	750
	Just upstream of County Road 17.	767
	Just upstream of County Road 142.	801
	Just upstream of U.S. 33	828
Little Elkhart River.	Approximately 200 feet upstream TU-CO Campground Bridge.	764
	Just downstream of County Road 16.	820
Baugo Creek	Just upstream of County Road 1.	747
	Just upstream of County Road 11.	772
Berlin Court Ditch.	Just upstream of County Road 19.	833
	Just upstream of State Road 19.	857
Christiana Creek...	Just upsteam of County Road 6.	763
Cobus Creek.....	Just downstream of U.S. 20.	733
	Approximately 100 feet upsteam of County Road 8.	756
Pine Creek.....	Just upstream of County Road 17.	762
	Just upstream of County Road 18.	778
	Just downstream of State Road 19.	807
Puterbaugh Creek	Just upstream of Indiana East-West Bound Toll Bridges.	765
Rock Run Creek....	Just downstream of County Road 34.	809
	Just upstream of County Road 34.	812
Turkey Creek.....	Just upstream of County Road 142.	800
Yellow Creek	Approximately 300 feet upstream of Hammond Street.	757
	Just downstream of County Road 28.	782

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1943 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4975]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Hobart, Lake County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Hobart, Lake County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Hobart City Hall, 414 Main Street, Hobart, Indiana 46342. Send comments to: Honorable Calvin Green, Mayor of Hobart, 414 Main Street, Hobart, Indiana 46342.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Hobart, Lake County, Indiana in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deep River.....	Downstream Corporate Limits.	603
	39th Avenue (Upstream Side).	604
	ConRail (Upstream Side).	610
	Hobart Dam (Upstream Side).	610
	3rd Street (Upstream Side).	612
	Norfolk and Western Railway (Upstream Side).	613
	Wisconsin Street.....	613
	Elgin, Joliet and Eastern Railway (Upstream Side).	613
	Decatur Street	613
	Bracken Road	614
	Upstream Corporate Limits.	614
Duck Creek	Front Street	610
	Elgin, Joliet and Eastern Railway.	610
	10th Street (Upstream Side).	611
	County Line Road	612
Turkey Creek.....	Confluence with Deep River.	613
	Liverpool Road	613
	Corporate Limits	613

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Statute 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1929 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4976]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of New Chicago, Lake County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of New Chicago, Lake County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at New Chicago Town Hall, New Chicago, Indiana. Send comments to: Mr. Maxie Morris, President of the Board of New Chicago, 122 Huber Boulevard, New Chicago, Indiana 46342.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of New Chicago, Lake County, Indiana in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deep River	Grand Boulevard	599
	Michigan Street Bridge	599

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1928 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4946]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of West Des Moines, Polk County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of West Des Moines, Polk County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 318 5th Street, West Des Moines, Iowa. Send comments to: Mr. Elmer P. True, City Administrator, City of West Des Moines, City Hall, 318 5th Street, Des Moines, Iowa 50265.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of West Des Moines, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Raccoon River	At 63rd Street	814
	Just upstream of Interstate 35.	827
	Approximately 8,800 feet upstream from Interstate 35, at county boundary.	831
Walnut Creek	Approximately 1,600 feet downstream from Grand Avenue.	814
	Just upstream from Chicago, Milwaukee and St. Paul Railroad.	819
	Just upstream from 63rd Street.	821
	Approximately 500 feet upstream from Center Street.	825
	Just upstream from 73rd Street.	833
	Approximately 1,600 feet upstream from Chicago, Milwaukee and St. Paul Railroad.	836
	Just upstream from 22nd Street.	840

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1944 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4947]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Easton, Leavenworth County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Easton, Leavenworth County, Kansas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Easton, Kansas. Send comments to: The Honorable Harry Moulden, Mayor, City of Easton, City Hall, Easton, Kansas 66021

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Easton, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dawson Creek	450 feet Downstream of 3rd Street.	903
	Just Upstream of Kickapoo Street.	904
	900 feet Upstream of Kickapoo Street.	906

remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Easton, Kansas. Send comments to: The Honorable Harry Moulden, Mayor, City of Easton, City Hall, Easton, Kansas 66021

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Easton, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stranger Creek	1,500 feet Downstream of State Highway 192.	903
	650 feet Upstream of State Highway 192.	905

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendment of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1945 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4948]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Hesston, Harvey County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Hesston, Harvey County, Kansas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Hesston City Hall, P.O. Box 100, Hesston, Kansas. Send comments to: The Honorable Milton R. Miller, Mayor, City of Hesston, Hesston City Hall, P.O. Box 100, Hesston, Kansas 67062.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Hesston, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Middle Emma Creek	Just upstream of Hickory Street.	1451
	Approximately 525 feet upstream of Hickory Street.	1453
	Approximately 2430 feet downstream of Interstate 135.	1454
	Just upstream of Interstate 135.	1456
	Approximately 1270 feet upstream of Interstate 135.	1458
	Just downstream of Lincoln Bolevard.	1459
Dry Creek	Just upstream of Hickory Street.	1460
	Approximately 260 feet downstream of Weaver Street.	1463
	Approximately 150 feet upstream of Pine Street.	1465
	Just upstream of Academy Street.	1467
	Approximately 80 feet downstream of U.S. 81.	1469

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just upstream of U.S. 81	1474
	Just upstream of Missouri Pacific Railroad.	1476

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1946 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4949]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Riley, Riley County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Riley, Riley County, Kansas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the home of Phil Pheifley, City Clerk, Riley Kansas. Send comments to: The Honorable Leland Heikas Mayor, City of Riley, City Hall, Riley, Kansas 66531.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Riley, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Wildcat Creek Tributary.	Downstream corporate limits approximately 1,850 feet above mouth.	1,268
	Upstream side of Chestnut Street.	1,270
	Upstream side of Cedar St.	1,274
	Upstream side of Kansas Avenue.	1,276
	Approximately 1,200 feet above Kansas Avenue.	1,278
	Upstream corporate limits.	1,283

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1947 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4950]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Taylor Mill, Kenton County, Ky.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Taylor Mill, Kenton County, Kentucky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, 5225 Taylor Mill Road, Taylor Mill, Kentucky 41015. Send comments to: Honorable Afton H. Kordenbrock, Mayor or Mr. Ray Rucker, City Coordinator Municipal Building, 5225 Taylor Mill Road, Taylor Mill, Kentucky 41015.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Taylor Mill, Kenton County, Kentucky, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Banklick Creek (backwater effects of Licking River).	Just upstream of Kentucky Highway 18.	503
Licking River	Just downstream of western corporate limits.	503
Holds Branch	Just upstream of western corporate limits.	545
	Just downstream of Private Bridge.	546
	Just upstream of Private Bridge.	547

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Statute 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1948 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4951]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for The Town of Clinton, East Feliciana Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Clinton, East Feliciana Parish, La. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Town Clerk, P.O. Box 513—Town Hall, Clinton, Louisiana 70722. Send comments to: Honorable R. C. Graham, Mayor of the Town of Clinton or Ms. Emily Bentley, Town Clerk, town Hall—P.O. Box 513, Clinton, Louisiana.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Clinton, East Feliciana Parish, Louisiana, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pretty Creek	Louisiana Highway 10	183
	Just upstream Woodville Street.	185
Lewis Creek	Just upstream Bank Street.	188
	Just upstream Louisiana Highway 67 (Bridge Plank Road).	209

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposd rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1949 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4952]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Franklinton, Washington Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Franklinton, Washington Parish, Louisiana. These base (100-year) flood elevations are the basis for the flood plain management measures

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that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Franklinton City Hall, 301 11th Avenue, Franklinton, Louisiana. Send comments to: Honorable Warren P. Greer, Mayor of the Town of Franklinton, or Mr. H. G. Minairk, Town Superintendant, 301 11th Avenue, P.O. Box 584, Franklinton, Louisiana.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Franklinton, Washington Parish, Louisiana, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bouge Chitto River.	Southern Corporate Limits.	144
	Just downstream of State Highway 10.	147
Mile Branch	Approximately 100 feet downstream of Main Street.	153
	Just downstream of State Highway 430.	159
	Sixteenth Avenue	168
Jones Branch	Approximately 80 feet upstream Lee Street Bridge.	150
	Just downstream of 15th Avenue.	155

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1950 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4977]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Milo, Piscataquis County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Milo, Piscataquis County, Maine. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Milo Town Hall, Milo, Maine. Send comments to: Mr. Steve Law, Manager of the Town of Milo, Milo Town Office, Milo, Maine 04463.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Milo, Piscataquis County, Maine, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Piscataquis River	Corporate Limits	278
	Confluence of Stinking Brook.	279
	Route 16	283
	Railroad Bridge	287
	Ferry Road	287
	Confluence of Morrison Brook.	289
	Milo and Sebec Townline.	290
Pleasant River	Corporate Limits Downstream.	278
	Howland-Medford Road (Pleasant Street).	285
	Gaging Station	307
	Corporate Limits	328

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sebec River	Confluence with Piscataquis River.	285
	Route 16	288
	Bangor and Aroostook Railroad.	290
	Corporate Limits	292

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Statute 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1927 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4978]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Greensboro, Caroline County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Greensboro, Caroline County, Maryland. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, North Main Street, Greensboro, Maryland. Send comments to: Honorable Irving Ober, Mayor of Greensboro, P.O. Box 130, Greensboro, Maryland 21639.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Greensboro, Caroline County, Maryland in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Choptank River	Downstream Corporate Limits.	12
	State Route 314 Bridge	12
	Upstream Corporate Limits.	13

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Statute 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1926 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4953]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Mundy, Genesee County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Mundy, Genesee County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Hall, 3478 Mundy Avenue, Swartz Creek, Michigan. Send comments to: The Honorable Edward Morey, Township Supervisor, Township of Mundy, 3478 Mundy Avenue, Swartz Creek, Michigan 48473.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Mundy, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title

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XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Swartz Creek	Downstream corporate limits.	782
	Just upstream of Jennings Road.	768
	Just upstream of Hill Road.	775
	At confluence of Johnson Branch.	782
	Just upstream of Torrey Road.	790
	Just upstream of confluence of Brewer Drain.	797
	Just upstream of Grand Blanc Road.	803
	Approximately 1,000 feet downstream of confluence of Indian Creek.	808
	Just upstream of Cook Road.	823
	Just upstream of Baldwin Road.	834
	Upstream corporate limits.	846
Seaver Drain	Mouth at Swartz Creek	822
	Upstream corporate limits.	824

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1951 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4979]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of South Amboy, Middlesex County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of South Amboy, Middlesex County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the South Amboy City Hall, South Amboy, New Jersey. Send comments to: Honorable J. Thomas Cross, Mayor of South Amboy, 140 North Broadway, South Amboy, New Jersey 08879.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of South Amboy, Middlesex County, New Jersey in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Raritan Bay	Shoreline	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Statute 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1925 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4980]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Greece, Monroe County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Greece, Monroe County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt

or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Greece, New York. Send comments to: Mr. Donald J. Riley, Town Supervisor of Greece, 2505 Ridge Road, West Greece, New York 14626

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Greece, Monroe County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Buttonwood Creek	Downstream Corporate Limits.	249
	Frisbee Hill Road	257
Larkin Creek	Downstream Corporate Limits.	251
	Long Pond Road Downstream.	255
	Long Pond Road Upstream.	260
	Conrail Bridge Upstream.	266
	English Road Downstream.	340
	English Road Upstream	345
	Mill Road Upstream	373
East Branch Larkin Creek.	Private Road Upstream	378
	Upsteam Dam	389
	Strollis Road Upstream	405
	Ridge Road Upstream	417
	Private Drive Upstream	419
	Upstream Dam	426
	Elmgrove Road Upstream.	435
	Old Meadow Road Upstream.	451
	St. Andrews Road Upstream.	453
Northrup Creek	Lake Ontario Parkway	249
	North Greece Road Upstream.	258
	Conrail Bridge Upstream.	266
	Private Drive	291
	Downstream Corporate Limits Manitou Road.	328
Round Pond Creek.	Edgemere Drive	249
	Cottage Island Road Upstream.	256
	Wye Bridge Drive Downstream.	282
	Wye Bridge Drive Upstream.	287
	English Road Downstream.	328
	English Road Upstream	334
	Private Drive Downstream.	362
	Private Drive Upstream	371
	School Drive Downstream.	392
	School Drive Upstream	397
	Long Pond Road Downstream.	398
	Long Pond Road Upstream.	403
	Ridge Road Downstream.	414
	Ridge Road Upstream	422
	Doerun Drive Downstream.	430
	Doerun Drive Upstream.	435
	Straub Road	445
Salmon Creek	Lake Ontario State Parkway.	249
	Payne Beach Road	252
Slater Creek	Edgemere Drive	250
	Conrail Bridge Downstream.	254
	Conrail Bridge Upstream.	260
	Lake Ontario State Parkway.	260

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Statute 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1924 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4981]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Belmont, Gaston County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Belmont, Gaston County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Belmont City Hall, 115 North Main Street, Belmont, North Carolina 28012. Send comments to: Mayor Billy Joye, Jr., or Carl W. Howie, City Manager City Hall, P.O. Box 431, Belmont, North Carolina 28012.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Belmont, Gaston County, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance

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Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Abbey Creek	Just downstream of Neely Chevrolet Drive.	627
	Just downstream of Hawley Avenue.	637
	Just upstream of Hawley Avenue.	647
Stowe Branch	Just upstream of confluence with Catawba River.	573
	Just downstream of Vine Street.	611
	Just upstream of Vine Street.	619
	Just downstream of Hawthorne Street.	641

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1923 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4982]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of High Point, Guilford County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of High Point, Guilford County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the City Clerk, 211 South Hamilton Street, High Point, North Carolina 27261. Send comments to: Mr. Cyrus L. Brooks, City Manager, P.O. Box 230, High Point, North Carolina 27261.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of High Point, Guilford County, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deep River	Just upstream of the confluence of Stream No. 26.	734
	Just downstream of Southern Railroad.	735
Stream No. 26	Approximately 100 feet downstream of North Scientific Street.	770
	Just upstream of confluence of Stream No. 27.	773
Stream No. 27	Just upstream of Southern Railroad.	787
	Just downstream of Rosecrest Drive.	810
West Fork Deep River.	Just upstream of High Point Dam.	761
	Just downstream of Deep River Road.	777
Stream No. 18	Just downstream of Willard Road.	801
	Just upstream of Willard Road.	806
Boulding Branch	Approximately 200 feet upstream of Lexington Avenue.	816
	Approximately 100 feet downstream of Montilieu Avenue.	822
Stream No. 20	Just downstream of Terrell Drive.	819
	Just upstream of East College Drive.	829
	Just downstream of North Centennial Street.	842
Stream No 13	Just upstream of confluence of Oak Hollow Lake.	807
Hiatt Branch	Just downstream of Hillside Drive.	810
Horney Branch	Just upstream of Aberdeen Road.	811
	Approximately 150 feet upstream of Fairlane Street.	817
	Just downstream of Old Mill Road.	834
	Just upstream of Old Mill Road.	840
Richland Creek	Approximately 200 feet upstream of Kersey Valley Road.	704
	Approximately 200 feet upstream of Jackson Lake Road.	710
	Just upstream of Baker Road.	729
	Just upstream of Brentwood Street.	782
	Just upstream of West Linden Avenue.	831
	Just upstream of South Elm Street.	837
Mile Branch	Approximately 150 feet downstream of Jackson Lake Road.	740

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stream No. 34	Approximately 100 feet upstream of U.S. 29 and 70.	746
	Just upstream of East Green Drive.	784
	Approximately 100 feet downstream of Habersham Road.	817
Stream No. 33	Approximately 150 feet upstream of Nathan Hunt Drive.	789
	Just downstream of Wise Avenue.	808
Stream No. 31	Just upstream of Carolina and Northwestern Railroad.	841
	Approximately 100 feet downstream of West Ward Avenue.	850
	Just downstream of Vail Avenue.	855
Stream No. 99	Just downstream of Westchester Drive.	825
Stream No. 97	Approximately 100 feet downstream of Nottingham Road.	800
	Just upstream of Nottingham Road.	808
Stream No. 95	Approximately 150 feet upstream of Sweetbriar Road.	789
	Just downstream of Westchester Drive.	799
	Just upstream of Westchester Drive.	809
	Approximately 200 feet upstream of Rockford Road.	816
Stream No. 92	Just upstream of the Western Guilford County Line.	781
	Approximately 200 feet downstream of the confluence of stream No. 93.	790
Stream No. 29A	Just upstream of Bales Chapel Road.	725
Stream No. 93	Just upstream of Cherokee Avenue.	822
	Just downstream of Westchester Drive.	823
	Just upstream of Westchester Drive.	833

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1922 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4983]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Lexington, Davidson County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Lexington, Davidson County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Engineer's Office, 907 Talbert Boulevard, Lexington, North Carolina 27292. Send comments to: Mayor Dwight D. Hinkle or Mr. Wade Gibbs, City Engineer, City Hall, 28 West Center Street, Lexington, North Carolina 27292.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Lexington, Davidson County, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rat Spring Branch	Just upstream of confluence of Walltown Branch.	705
	Upstream of intersection of Foyell Street and Pennington Avenue.	714
	Upsteam of Menoonta Avenue.	731
Walltown Branch	Downstream of Linwood Road.	707
Yarborough Drain	Upstream of Cotton Grove Road.	723
	Hoover Drive Extended	739
Walltown Drain	Just east of Cotton Grove Road at corporate limits.	752
Michael Branch	Downstream of Fifth Avenue.	704
	Approximately 100 feet downstream of confluence of Royal Park Branch.	710
	Upstream of West Center exit.	722
	Downstream of Biesecker Road.	752
	Upstream of Biesecker Road.	757
	Upstream of Price Road.	768
Wennonah Mill Draw	Just downstream of Winston-Salem Southbound Railroad.	721
Royal Park Branch	Downstream of Spruce Street.	712
	Downstream of Burler Street.	715
	Winston-Salem Southbound Railroad.	718
	Williams Street (extended).	735
Royal Park Drain	Upstream of Westside Drive.	722
	Approximately 100 feet downstream of Payne Street.	734
	Just downstream of Williams Circle.	745
Erlanger Branch	Upstream of Swing Dairy Road.	724
	Upstream of Winston-Salem Southbound Railroad.	749
	Upstream of Hames Street.	758
Shoaf Branch	Approximately 400 feet upstream of confluence with Michael Branch.	712
	Upstream of Royal Avenue.	728
	Corporate Limits	734

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Woodcrest Drain...	Approximately 180 feet upstream of confluence with Michael Branch.	726
	Downstream of Woodhaven Drive.	743
Biesecker Creek.....	Just upstream of downstream corporate limits.	736
Swearing Creek.....	Upstream corporate limits.	716
Northside.....	Approximately 1,000 feet upstream of confience with Swearing Creek.	719
Northside Branch.	Confluence with Northside Creek.	728
Jefferson Village Branch.	Corporate limits	672
	Upstream of Ninth Street extension.	748
Jefferson Village Tributary.	Approximately 100 feet upstream of confluence with Jefferson Village Branch.	675
Northview Heights Branch.	Approximately 800 feet upstream of confluence with Jefferson Village Branch.	686
	Downstream of White Street.	727
	Upstream of White Street.	735
Swingsdairy Branch.	Upstream of North Main St..	748
	Downstream of Greensboro St..	750
Darr Branch	Just Upstream of Converse Dr..	654
	Downstream of Center Street.	664
	Upstream of Center Street.	694
	Upstream of Third Avenue.	701
	Upstream of Tanyard Street.	724
Darr Draw.....	Approximately 160 feet upstream of Young Drive.	661
Nokomis Branch ...	Upstream of Talbert Boulevard.	678
	Approximately 100 feet downstream of Church Street.	698
	Approximately 100 feet upsiream of Church Street.	715
	Pine Street.....	738
Lakewood Hills Branch.	Approximately 100 feet downstream of Dalewood Drive.	679
	Approximately 200 feet upstream of Dalewood Drive.	696
Lakewood Hills Drain.	Corporate limits	672
Twin Creek Tributary.	Upstream of Twin Acres Drive.	674
Golf Course Drain	Approximately 70 feet upstream of corporate limits.	750
Fern Valley Branch.	Proposed Interstate 85 ...	636
	Approximately 80 feet downstream of confluence of Number 9 Golf Course Drain.	666
Number 9 Golf Course Drain.	County Club Drive.....	678
	Corporate limits	732
Abbotts Creek.....	Twin Acres Drive (extended).	636

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1921 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4984]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Monaca, Beaver County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Monaca, Beaver County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Building, 928 Pennsylvania Avenue, Monaca, Pennsylvania. Send comments to: Mr. Thomas Stoner Manager of the Borough of Monaca, 928 Pennsylvania Avenue Monaca, Pennsylvania 15061.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Monaca, Beaver County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Pittsburgh and Lake Erie Railroad Bridge.	703
	Monaca-Rochester Bridge.	704
	Monaca-East Rochester Bridge.	705

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1920 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4985]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Penn, Perry County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Penn, Perry County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Municipal Building, Duncannon, Pennsylvania. Send comments to: Mr. Clifford Taylor, Chairman of the Board of Supervisors of Penn, R. D. 1, Faculty Road, Box 1239, Duncannon, Pennsylvania 17020.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Penn, Perry County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Juniata.....	Conrail Corporation.....	
	P.A. Route	354
	High Street.....	354
Juniata River.....	State Route 274.....	359
	U. S. Route 11 (15).....	362
Susquehanna River.	Confluence of Clark Creek.	339
	T 518 (School House Lane) (Extended).	344
	Confluence of Cove Creek.	349
	Confluence of Sherman Creek.	353
	Confluence of Juniata River.	359

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Statute 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1919 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4986]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for The Township of Peters, Washington County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Peters, Washington County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, 610 East McMurray Road, McMurray, Pennsylvania. Send comments to: Mr. James Ross, Manager of the Township of Peters, 610 East McMurray Road, McMurray, Pennsylvania 15317.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Peters, Washington County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Brush Run	Thompsonville Road	909
	East McMurray Road	961
	Private Drive	996
	Bebout Road	1,013
Chartier Creek	Conrail	862
	Valley Brook	866
	Conrail	871
Peters Creek	Venetia Road	957
	Mingo Road	983
	Lutes Road	1,001
	Private Drive	1,020

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Statute 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1918 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4987]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the township of Reed, Dauphin County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Reed, Dauphin County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Municipal Building, Reed Township, Pennsylvania. Send comments to: Mr. Steve Williams, Sr., Chairman of the Township of Reed, R.D. 2, Duncannon, Pennsylvania 17020.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Reed, Dauphin County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	Confluence of Cove Creek.	349
	Confluence of Sherman Creek.	353
	Clarksbury Road (Route 22/322).	360
	Powell Creek	363
Juniata River	State Route 274	359
	U.S. Route 11/15	362
Powell Creek	Confluence with Susquehanna.	363
	Conrail R.R.	363
	Tributary to Powell Creek 1,200 yards upstream of Conrail.	378
	Shoop Road (Township Route 547).	394

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1917 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4988]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Stockertown, Northampton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Stockertown, Northampton County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Borough Hall, Stokertown, Pennsylvania. Send comments to: Honorable Sherman Metzgar, Mayor of Stockertown, 115 Main Street, Stockertown, Pennsylvania 18083.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Stockerton, Northampton County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bushkill Creek	Downstream Corporate Limit.	335
	Confluence of Little Bushkill Creek.	338
	Bushkill Street	344
	Conrail Bridge Upstream from State Route 33.	351
	West Centre Street (Downstream).	362
	West Centre Street (Upstream).	367
	State Route 191	370
	Upstream Corporate Limit.	373

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1916 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4989]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Tatamy, Northampton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Tatamy, Northampton County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, Tatamy, Pennsylvania. Send comments to: Honorable B. James Williams, Mayor of Tatamy, 107 North 7th Street, Tatamy, Pennsylvania 18085.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Tatamy, Northampton County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bushkill Creek	At downstream corporate limits near L.R. 48021.	312
	Confluence with Little Bushkill Creek.	339

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Statute 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1915 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4990]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the County of Giles, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in

the County of Giles, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the County Administration Building, 120 North Main Street, Pearisburg, Virginia. Send comments to: Mr. Daniel W. Hickey, County Administrator, 120 North Main Street, Pearisburg, Virginia 24134.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the County of Giles, Virginia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
New River	U.S. 460 East Bound	1,523
	U.S. 460	1,563
	State Route 623	1,625
	State Route 730	1,647
Wolf Creek	State Route 671 (Extended).	1,577
	State Route 675	1,680
	State Route 724	1,713
	Private Bridge	1,837
Sinking Creek	U.S. Highway 460	1,744
	State Route 700	1,809
	State Route 621	1,843
	State Route 703	1,937
Stony Creek	Norfolk & Western Railroad.	1,598
	State Route 720	1,700
	State Route 739	1,782
	State Route 635	1,900
Little Stony Creek	State Route 888	1,801
	State Route 824 (Extended).	1,947
Spruce Run	State Route 610	1,722
	State Route 605	1,849
	State Route 605	1,946
	Private Drive	2,093
	Private Drive	2,109
Doe Creek	Private Road	1,770
	State Route 678	1,918
	State Route 615	1,998
Laurel Branch	State Route 635	1,873
	Private Road	2,111
Piney Creek	Norfolk & Western Railroad.	1,554
	Private Drive	1,564
Greenbrier Branch.	State Route 42	1,872
	State Route 796	1,928
	State Route 802	1,986
	State Route 605	1,999

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Statute 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1914 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4674]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination For the Town of Scottsville, Albemarle County, Va; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: The notice published on October 30, 1978, at 43 FR 50458 in the FEDERAL REGISTER, and in the *Charlottesville Daily Progress* October 26, and October 27, 1978, describing the corporate limits upstream listed under the James River in Scottsville, as being 296 feet, should be corrected to read 286 feet.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW. Washington, D.C. 20410 (202) 755-5581 or toll free line (800) 424-8872,.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1913 Filed 1-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4991]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Warroad, Roseau County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Warroad, Roseau County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Warroad, Minnesota. Send comments to: The Honorable Richard Roberts, Mayor, City of Warroad, City Hall, P.O. Box 50, Warroad, Minnesota 56763.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Warroad, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Warroad River	At the confluence with Lake of the Woods.	1,064
	At Canadian National Railroad.	1,064
	1.30 miles upstream of Canadian National Railroad.	1,064

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1912 Filed 1-22-79; 8:45 am]

[6570-06-M]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1601]

706 AGENCIES

Proposed Designations

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed rule.

SUMMARY: The Equal Employment Opportunity Commission proposes to amend its regulations on designation of certain State and local agencies so that they may handle employment discrimination charges filed with the Commission. Proposed are State and local agencies that requested deferral designation as provided under the authority of Title VII of the Civil Rights Act of 1964, as amended. The proposal would authorize the agencies listed to process charges deferred to them by the Commission.

DATES: Comments must be received by February 7, 1979.

ADDRESS: Comments should be sent to: Equal Employment Opportunity Commission, Office of Field Services (State and Local), 2401 E Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Boyce Nolan, Equal Employment Opportunity Commission, Office of Field Services (State and Local), 2401 E Street, N.W., Washington, D.C. 20506, telephone 202/634-6040.

SUPPLEMENTARY INFORMATION: Pursuant to § 1601.71, Title 29, Chapter XIV of the Code of Federal Regulations as revised and published in the FEDERAL REGISTER, 42 FR 55388, October 14, 1977, the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) proposes that each of the agencies listed below be designated as a "706 Agency", § 1601.70(a). Three (3) purposes for such designation are as follows: First, that the agencies receive charges deferred by the Commission pursuant to Section 706 (c) and (d) of Title VII of the Civil Rights Act of 1964, as amended; second, that the Commission accord "substantial weight" to the final findings and orders of the agencies pursuant to Section 706(b) of Title VII of the Civil Rights Act of 1964, as amended; and third, to commence the 15 day period within which any person or organization may file written comments as provided for under § 1601.71(l).

At the expiration of the 15 day period, the Commission may effect designation of the agencies by publishing them as an amendment to § 1601.74(a).

With the limitation set forth in the footnote below, the proposed "706 Agencies" are as follows:

[1]Corpus Christi (Texas) Human Relations Commission, Tennessee Commission for Human Development.

Written comments pursuant to this notice must be filed with the Commission on or before February 7, 1979.

Signed at Washington, D.C. this 18th day of January, 1979.

For the Commission.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 79-2317 Filed 1-22-79; 8:45 am]

[1505-01-M]

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[37 CFR Part 1]

ADVISORY OPINIONS ON VALIDITY OF PATENTS

Proposed Rulemaking

Correction

In FR Doc 78-35321 appearing at page 59401, in the issue of Wednesday, December 20, 1978, make the following corrections.

(1) On page 59401, under the preamble heading of "Supplementary Information", in the first paragraph, the twentieth line down, delete the words "or did not involve the evaluation of all the knowledge of the Office,"

(2) On page 59402, in the middle column, the second full paragraph, in

[1]The Corpus Christi (Texas) Human Relations Commission has been proposed as a 706 Agency with authority extending only to employees within the city's jurisdiction and does not cover State employees.

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the twelfth and fifteenth lines down, correct the word "duplicative" to read "duplicate".

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1041-3]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

New Mexico Regulation 402, Woodwaste Burners

AGENCY: Environmental Protection Agency (EPA)

ACTION: Proposed rule.

SUMMARY: This action proposed to disapprove New Mexico Regulation 402, Woodwaste Burners, as revised by the State on January 10, 1975. The intent of the regulation is to control particulate matter emissions from woodwaste burners through visible emission limits. However, the lack of a definition of opacity and lack of test methods and procedures makes the regulation unenforceable by EPA.

DATES: Interested persons are invited to comment on this proposed rule. Comments must be received on or before February 22, 1979 to be considered by EPA in the final approval/disapproval decision.

ADDRESSES: Comments on this proposed rule should be submitted to the address below.

Environmental Protection Agency, Region 6, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270.

Copies of the State's submittal are available for inspection during normal business hours at the address above and at the following address:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Jerry Stubberfield, Environmental Protection Agency, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, 214-767-2742.

SUPPLEMENTARY INFORMATION: On November 6, 1975, after adequate notice and public hearing, the Governor of New Mexico submitted a revision to Regualtion 402, Regulation to Control Woodwaste Burners.

The revised regulation specifies control requirements in terms of opacity. The degree of control is not changed for normal operation, but a provision is added which permits a less stringent opacity during daily burndown periods. These changes are considered approvable. However, the regulation fails to provide a definition for opacity, and no definition is included in Regulation 100, Definitions. While this deficiency alone may not warrant a disapproval of the regulation, the lack of a definition of opacity in conjunction with the lack of specification of testing methods and procedures prevents a determination of compliance status. Consequently, EPA considers the regulation to be unenforceable.

CURRENT ACTION

This action proposes disapproval of New Mexico Regulation 402, Regulation to Control Woodwaste Burners, as adopted by the Environmental Improvement Board on January 10, 1975 and submitted by the Governor on November 6, 1975.

This rulemaking is issued under the authority of Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410-(a).

Dated: January 5, 1979.

EARL N. KARI,
Deputy Regional Administrator.

It is proposed to amend Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations as follows:

Subpart GG—New Mexico

1. In § 52.1620, paragraph (c) is amended by adding a new paragraph (12) to read as follows:

§ 52.1620 Identification of plan.

* * * * *

(c) * * *

(12) Regulation 402, Regulation to Control Woodwaste Burners, as adopted by the New Mexico Environmental Improvement Board on January 10, 1975, was submitted by the Governor on November 6, 1975 (see § 52.1625).

2. In Subpart GG, § 52.1625 is amended by adding a new paragraph (c) to read as follows:

§ 52.1625 Control strategy and regulations: Particulate matter.

* * * * *

(c) Regulation 402, submitted by the Governor on November 6, 1975, is disapproved since no definition of opacity is provided, and since no compliance testing procedures were specified. These deficiencies make Regulation 402 unenforceable.

[FR Doc. 79-2332 Filed 1-22-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1043-2]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by Ohio Environmental Protection Agency to General Motors Corporation, Delco Products Division

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to approve an Administrative Order issued by the Ohio Environmental Protection Agency to General Motors Corporation, Delco Products Division. The Order requires the company to bring air emissions from its facility in Kettering, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP) by July 1, 1979. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for voilations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on U.S. EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before February 22, 1979.

ADDRESS: Comments should be submitted to Director, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Cynthia Colantoni, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. (312) 353-2082.

SUPPLEMENTARY INFORMATION: General Motors Corporation, Delco Products Division operates a facility at Kettering, Ohio. The Order under consideration addresses emissions from Boiler No. 3 at the facility, which is subject to OAC 3745-17-7 and OAC 3745-17-10. The regulations limit the emissions of particulate matter and visible emissions, and are part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulations by July 1, 1979, through installation of appropriate control equipment on Boiler No. 3 which will control emissions of particulate matter from Delco to a rate of not greater than 0.14 pounds per million Btu input.

Because this Order has been issued to a major source fo particulate matter emissions and visible emissions permits a delay in compliance with the applicable regulations, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Act. U.S. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection.

If the Order is approved by U.S. EPA, source compliance with its terms against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Ohio SIP.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether U.S. EPA may approve the Order. After the public comment period, the Administrator of U.S. EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 U.S.C. Part 65.

(42 U.S.C. 7413, 7601)

Dated: January 11, 1979.

JOHN MCGUIRE,
Regional Administrator, Region V.

[FR Doc. 79-2325 Filed 1-22-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1014-7; Docket No. DCO-78-44]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of Delayed Compliance Order Issued by the North Carolina Environmental Management Commission to Columbus Forest Industries

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the North Carolina Environmental Management Commission to Columbus Forest Industries in Rieglewood, North Carolina. The delayed compliance order requires Columbus Forest Industries to bring air emissions from the wood waste boiler in Rieglewood, North Carolina, into compliance with an applicable regulation contained in the North Carolina State Implementation Plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 22, 1979.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Floyd Ledbetter, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308, Telephone Number: 404-881-4298.

SUPPLEMENTARY INFORMATION: Columbus Forest Industries operates a sawmill and kiln in Rieglewood, Columbus County, North Carolina. The order under consideration addresses emissions from the wood waste boiler, which is subject to North Carolina Administrative Code (NCAC), Title 15, Chapter 2D, Section 0.0504. This regulation limits the particulate emissions from indirect wood burning heat exchangers, and is part of the federally-approved North Carolins State Implementation Plan. The order requires compliance with the regulation by June 30, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

(1) Submit an "Application for Permit to Construct and Operate Air Pollution Abatement Facilities" to the Commission on or before November 1, 1978.

(2) Let purchase orders and contracts for the abatement facilities on or before January 1, 1979.

(3) Begin installation of emission control equipment on or before April 15, 1979.

(4) Complete construction of emission control equipment on or before June 1, 1979.

(5) Achieve and document compliance with Emission Standard 15 NCAC 2D .0504 on or before June 30, 1979.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. As an interim limit, the particulate emissions shall not exceed 0.89 pounds/million BTU's and visible emissions shall not exceed 20% opacity, prior to attainment of the last milestone.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the North Carolina SIP. Compliance with the proposed order will not exempt the company from complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: January 12, 1979.

PAUL TRAINA,
Regional Administrator, Region IV.

[Special Order by Consent, AQ-78-204]

NORTH CAROLINA, COLUMBUS COUNTY

In the matter of unauthorized discharges of air pollutants into the ambient atmos-

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phere by Columbus Forest Industries, Riegelwood, North Carolina, Columbus County.

This order by consent made and entered into pursuant to North Carolina General Statute 143-215.110 and in accordance with the requirements of Section 113 of the Clean Air Act by Columbus Forest Industries, hereinafter referred to as the Company, with the North Carolina Environmental Management Commission, an agency of the State of North Carolina, hereinafter known as the Commission.

Witnesseth:

I. The Commission finds as follows:

A. The Company is now operating a wood-waste-fired boiler equipped with a multicyclone at its facility located at Riegelwood, North Carolina.

B. The Company was issued Permit No. 2248R for the operation of this boiler on April 7, 1978 which stipulated that the unit would be tested for compliance and results submitted to the Commission by August 1, 1978.

C. The Company has tested the boiler and submitted the results of the tests to the Commission on July 27, 1978. The results of the tests indicate that the Company is discharging particulate emissions from the boilers in violation of Emission Standard 15 NCAC 2D .0504 "Particulates from Wood Burning Indirect Heat Exchangers".

II. The Company desiring to comply with the legal requirements of the Commission regarding particulate emissions to the ambient atmosphere and with all pertinent provisions of the law and applicable rules and regulations of the Commission does hereby agree to do and perform the following on or before the dates hereinafter set out:

A. Submit an "Application for Permit to Construct and Operate Air Pollution Abatement Facilities" to the Commission on or before November 1, 1978.

B. Let purchase orders and contracts for the abatement facilities on or before January 1, 1979.

C. Begin installation of emission control equipment on or before April 15, 1979.

D. Complete construction of emission control equipment on or before June 1, 1979.

E. Achieve and document compliance with Emission Standard 15 NCAC 2D .0504 on or before June 30, 1979.

III. The Company shall operate and maintain the boiler utilizing the best available engineering practices so as to minimize the impact of particulate emissions during the period between the date this order is executed by the Company and the date specified in this Order for achieving compliance with 15 NCAC 2D .0504. In no case shall the particulate emissions from the boiler exceed .89 pounds per million BTU input except during start-ups or shut-downs. In no case shall visible emissions exceed 20% opacity as specified in Permit No. 2248R.

IV. On or before June 30, 1979, when particulate emissions due to a malfunction are or may be in excess of the interim emission limit contained in Section III of this Order for more than one continuous hour, the Company shall notify the Director, Division of Environmental Management as promptly as possible but in no case later than eighteen (18) hours following the start of such malfunction. Such notice shall specify the nature and cause of the malfunction, the time when such malfunction was first observed, the expected duration and an estimate of the rate of emission. The term malfunction shall not be construed to include normal start-up or shut-down periods.

V. In the event the Company fails to achieve final compliance with any emission limitation, emission standard, or compliance schedule in this Order or under the North Carolina Implementation Plan by July 1, 1979, the Company will be required to pay a mandatory non-compliance penalty pursuant to Section 120 of the Clean Air Act, 42 U.S.C. Section 7420, or North Carolina General Statute 143-215.114(a), if the Environmental Protection Agency has delegated authority to collect and assess such a penalty to the State of North Carolina. Nothing contained herein shall prevent the United States Environmental Protection Agency from taking enforcement action pursuant to Section 113(b) or the Commission from assessing a civil penalty pursuant to North Carolina General Statute 143-215.114(a) as implemented by 15 NCAC 2J or from taking other enforcement action pursuant to North Carolina General Statute 143-215.114 for violating any term or condition of this Order including failure to achieve any compliance date which is scheduled to be achieved in this Order prior to July 1, 1979.

VI. The Company agrees that this Special Order shall pertain only to that equipment or source described in Section IA of this Order. Unless an applicable Special Order or Permit has been issued by the Commission, any violations of Air Quality Standards, resulting from other sources or equipment for which the Company is responsible shall subject the Company to all sanctions provided by North Carolina General Statute 143-215.114.

VII. The findings of the Commission as set forth above are not admitted or denied by the Company, but the Company does submit to the jurisdiction of the Commission for the purpose of the entry of this Consent order.

VIII. The Company hereby agrees to waive any rights it may have to seek judicial review to challenge this Special Order by Consent, or the Environmental Protection Agency's approval thereof, or to seek a stay of enforcement of this order in connection with any judicial review of the State Implementation Plan. However, it is acknowledged that this waiver does not prohibit the Company from seeking modification of this Order if any regulatory standards upon which the Order is based are changed subsequent to its execution. In such a case the Company may petition that the Order be modified to reflect these regulatory changes.

This the 27th day of September 1978.

Attested by: L. T. Boet.

Colunbus Forest Industries.

R. R. RICHARDSON
Woodlands Vice President.

Approved and accepted by:

H. W. WHITLEY,
Chairman, Environmental Management Commission.

Attested by:

A. F. McRORIE,
Secretary, Environmental Management Commission.

Dated: October 13, 1978.

[FR Doc. 79-2330 Filed 1-22-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1041-5; Docket No. DCO-78-54]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of Delayed Compliance Order Issued by the North Carolina Environmental Management Commission to Duke Power Company

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the North Carolina Environmental Management Commission to Duke Power Company, Belews Creek Steam Station in Walnut Cove, North Carolina. The delayed compliance order requires Duke Power Company, Belews Creek Steam Station, to bring air emissions from the Number 2 coal fired boiler in Walnut Cove, North Carolina, into compliance with an applicable regulation contained in the North Carolina State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite ublic comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 22, 1979.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Floyd Ledbetter, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308, Telephone Number: (404) 881-4298.

SUPPLEMENTARY INFORMATION: Duke Power Company operates an electric generating station (Belews Creek) in Walnut Cove, Stokes County, North Carolina. The order under consideration addresses emissions from the Number 2 coal fired boiler, which are subject to the North Carolina Administrative Code (NCAC), Title 15, Chapter 2d, Section .0503. This regulation limits the emissions of particulate matter from fossil fuel burning boilers, and is part of the federally-approved North Carolina State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

1. Begin construction of devices to implement the control plan on or before March 1, 1979.

2. Complete construction of all devices to implement the control plan on or before May 1, 1979.

3. Show by applicable testing that the Number 2 Unit of Belews Creek Steam Station meets 15 NCAC 2D.0503 and 15 NCAC 2D.0521 emission limits on or before July 1, 1979.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. As an interim limit, the Number 2 coal fired boiler shall not emit more than 1.00 pounds/million BTU's and visible emissions shall not exceed 60% opacity averaged over any continuous six (6) hour period, prior to the attainment of the last milestone.

Because this order has been issued to a major source of particulate matter and visible emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the North Carolina SIP. Compliance with the proposed order will not exempt the company from complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: January 12, 1979.

PAUL TRAINA,
Acting Regional Administrator, Region IV.

SPECIAL ORDER BY CONSENT (AQ-76-173R2)

In the matter of unauthorized discharges of air pollutants to the ambient atmosphere by Duke Power Company, Belews Creek Steam Station, Walnut Cove, Stokes County, North Carolina.

This order by consent made and entered into pursuant to North Carolina General Statute 143-215.110 and in accordance with the requirements of Section 113 of the Clean Air Act by Duke Power Company, hereinafter referred to as the Company, with the North Carolina Environmental Management Commission, and agency of the State of North Carolina, hereinafter known as the Commission.

Witnesseth:

I. The Company does hereby stipulate as follows:

A. The Company has operated and is now operating two (2) coal fired, steam generating boilers (referred to as Unit No. 1 and Unit No. 2) at its facility located near Walnut Cove, North Carolina.

B. The Company has discharged and is now intermittently discharging to the ambient atmosphere particulate and visible emissions from the Unit No. 2 coal fired, steam generating boiler in violation of 15 NCAC 2D .0503, "Control of Particulates from Fuel Burning Sources," and 15 NCAC 2D .0521, "Control of Visible Emission."

C. The Company received on May 14, 1974, Permits No. 1982R and 1983R to construct and operate visible and particulate matter emission control equipment on the two (2) coal fired, steam generating boilers in A. above.

D. The Company performed source tests on the two (2) coal fired, steam generating boilers as specified in Permits No. 1982R and 1983R. The source tests indicated violations of 15 NCAC 2D .0503.

E. The Company has modified the control equipment on Unit No. 1 and achieved compliance with 15 NCAC 2D .0503. Compliance documentation is contained in the results of a source test which was conducted on March 29 and 30, 1978.

F. The Company submitted plans for control equipment modifications on Unit No. 2 on May 31, 1978.

G. The Company let contracts for control equipment modications on Unit No. 2 on February 15, 1978.

II. The Company desiring to comply with the legal requirements of the Commission regarding particulate emissions to the ambient atmosphere and with all pertinent provisions of the low and applicable rules and regulations of the Commission does hereby agree to do and perform all of the following things on or before the dates hereinafter set out:

1. Begin construction of control equipment additions or modifications on Unit No. 2 on or before March 1, 1979.

2. Complete the additions and modifications to the control equipment on Unit No. 2 proposed by the Company in F above on or before May 1, 1979.

3. Achieve compliance and submit a source test documenting compliance with 15 NCAC 2D .0503 and 15 NCAC 2D .0521 for Unit No. 2 on or before July 1, 1979.

III. The Company shall operate and maintain its Unit No. 2 coal fired, steam generating boiler so as to minimize the impact of particulate and visible emissions during the period between the date this Order is executed by the Company and the date specified in this Order for compliance with 15 NCAC 2D .0503, and 15 NCAC 2D .0521. Except during start-ups and shut-downs, the visible emissions from Unit No. 2 shall not exceed sixty percent opacity (corrected to stack exit value) averaged over any continuous six hour period, nor shall particulate emissions from Unit No. 2 exceed 1.00 pounds per million BTU input.

IV. Within 45 days after approval of this order by the Commission the Company shall have continuous monitors for opacity installed on Unit No. 2, and calibrated as specified in 40 CFR 60. Subsequent to this approval, the continuous opacity monitoring charts shall be provided on request by the Commission for use in compliance and non-compliance determinations. Such monitors shall be maintained and recalibrated in accordance with 40 CFR 60 to insure that quality data is being reported. An automatic calibration cycle will be performed at least daily for each monitor.

V. Within 30 days after the period set forth in paragraph IV the Company shall commence reporting any excess emissions as follows: The Company shall notify the Director, Division of Environmental Management of any excess emissions within eighteen (18) hours. The Company shall forward a written report to the Director, Division of Environmental Management within 14 days of such excess emissions setting out the cause, duration, and remedy of such excess emissions. For the purpose of this order "excess emissions" means emissions in excess of 60% opacity (corrected to stack exit value) for six continuous hours. Excess emissions do not include those emissions associated with normal start-up or shut-down periods.

VI. The reported excess emissions shall be based on the following: The opacity on Unit No. 2 shall be measured by four visible emission monitoring instruments which meet the specifications as outlined in 40 CFR Part 60 dated October 6, 1975. The signal from each of the four instruments shall be combined and averaged for the purpose of determining unit opacity. Values shall be corrected to correspond to stack exit values. Periods exceeding 60% opacity will be evaluated by hand to determine if the six hour/60% opacity limit has been exceeded. The six hour averaging period will be a running six hour average.

VII. The Company shall submit no later than five days after the deadline for completing each increment required in Section II, certification to the Director, Division of Environmental Management, whether such increment has been performed. The Company shall submit no later than fifteen days

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after the end of each quarter, commencing with the July 1 to September 30 quarter of 1978, a progress report for achieving compliance with the requirements of this Special Order.

VIII. In the event the Company fails to achieve final compliance with any emission limitation, emission standard, or compliance schedule in this Order or under the North Carolina Implementaion Plan by July 1, 1979, the Company will be required to pay a mandatory noncompliance penalty pursuant to Section 120 of the Clean Air Act, 42 U.S.C. Section 7420, or North Carolina General Statute 143-215.114(a), if the Environmental Protection Agency has delegated authority to collect and assess such a penalty to the State of North Carolina. Nothing contained herein shall prevent the United States Environmental Protection Agency from taking enforcement action pursuant to Section 113 of the Clean Air Act or the Commission from assessing a civil penalty pursuant to North Carolina General Statute 143-215.114(a) as implemented by 15 NCAC 2J or from taking other enforcement action pursuant to North Carolina General Statute 143-215.114 for violating any term or condition of this Order, including failure to achieve any compliance date which is scheduled to be achieved in this Order prior to July 1, 1979.

IX. The Company agrees that this Special Order shall pertain only to that equipment or source described in Section I.B. of this Order. Unless an applicable Special Order or Permit has been issued by the Commission, any violation of Air Quality Standards, resulting from other sources or equipment for which the Company is responsible, shall subject the Company to all sanctions provided by North Carolina General Statute 143-215.114.

X. Failure of the Company to comply with any provisions contained herein, including Section III, or discharges from the two (2) coal fired, steam generating boilers after the applicable compliance dates contained in Section II in excess of applicable standards shall subject the Company to all sanctions provided by North Carolina General Statute 143-215.114.

XI. The Company hereby agrees to waive any rights it may have to seek judicial review to challenge this Special Order by Consent, or the Environmental Protection Agency's approval thereof, or to seek a stay of enforcement of this Order in connection with any judicial review of the State Implementation Plan. However, the Commission acknowledges that this waiver does not prohibit the Company from seeking modification of this Order if any regulatory standards upon which the Order is based are changed subsequent to its execution. In such a case the Company may petition that the Order be modified to reflect these regulatory changes.

This the 12th day of September, 1978.

Attested:

BUDDY E. DAVIS,
Duke Power Company.

By: WILLIAM O. PARKER, Jr.

Approved and accepted:

By: H. W. WHITLEY,
Chairman Environmental Management Commission.

Attested:

By: A. F. MCRORIE,
Secretary, Environmental Management Commission.

Dated: OCTOBER 13, 1978.

[FR Doc. 79-2331 Filed 1-22-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1041-6; Docket No. DCO-78-45]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of Delayed Compliance Order Issued by the North Carolina Environmental Management Commission to Duke Power Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve a delayed compliance order issued by the North Carolina Environmental Management Commission to Duke Power Company, Marshall Steam Station in Terrell, North Carolina. The delayed compliance order requires Duke Power Company, Marshall Steam Station, to bring air emissions from the Number 1 and 2 coal fired boilers in Terrell, North Carolina, into compliance with an applicable regulation contained in the North Carolina State Implementation Plan (SIP) by January 31, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 22, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Floyd Ledbetter, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308, Telephone Number: (404)-881-4298.

SUPPLEMENTARY INFORMATION: Duke Power Company operates an electric generating station (Marshall) in Terrell, Catawba County, North Carolina. The order under consideration addreses emissions from the Number 1 and 2 coal fired boilers, which are subject to the North Carolina Administrative Code (NCAC), Title 15, Chapter 2D, Section .0503. This regulation limits the emissions of particulate matter from fossil fuel burning boilers, and is part of the federally-approved North Carolina State Implementation Plan. The order requires final compliance with the regulation by January 31, 1979, through the implementation of the following schedule for the construction or installation of control equipment.

1. Complete installation and optimization of the Ash Conditioning System for the first unit precipitator on or before November 30, 1978.

2. Achieve compliance and submit source test documenting compliance with 15 NCAC 2D.0503, "Control of Particulates from Fuel Burning Sources," for the first unit before December 31, 1978.

3. Complete installation and optimization of the Ash Conditioning System for the second unit precipitatior on or before December 31, 1978.

4. Achieve compliance and submit source test documenting compliance with 15 NCAC 2D.0503, "Control of Particulates from Fuel Burning Sources," for the second unit on or before January 31, 1979.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. As an interim limit, the Number 1 and 2 coal fired boilers shall not emit more than 0.15 pounds/million BTU's and visible emissions shall not exceed the limits contained in 15 NCAC 2D.0521, prior to the attainment of the last milestone.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the North Carolina SIP. Ccompliance with the proposed order will not exempt the company from complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: January 12, 1979.

PAUL TRAINA,
Acting Regional Administrator, Region IV.

SPECIAL ORDER BY CONSENT (AQ-76-177R)

In the matter of unauthorized discharges of air pollutants to the ambient atmosphere by Duke Power Company, Marshall Steam Station, Terrell, Catawba County, North Carolina.

This order by consent made and entered into pursuant to North Carolina General Statute 143-215.110 and in accordance with the requirements of Section 113 of the Clean Air Act by Duke Power Company, hereinafter referred to as the Company, with the North Carolina Environmental Management Commission, an agency of the State of North Carolina, hereinafter known as the Commission.

Witnesseth:

I. The Company does hereby stipulate as follows:

A. The Company has operated and is now operating two (2) coal fired, steam generating boilers (referred to as Unit 1 and Unit 2) controlled by multicyclones and electrostatic precipitators at its facility located in Terrell, North Carolina.

B. The Company has discharged and is now intermittently discharging to the ambient atmosphere particulate emissions from Unit 1 and Unit 2 coal fired, steam generating boilers in violation of 15 NCAC 2D .0503, "Control of Particulates From Fuel Burning Sources."

C. The Company was issued Special Order by Consent AQ-76-177 on September 8, 1976 which specified that the Company was to achieve and demonstrate compliance by December 31, 1977. Modifications, including ash conditioning, proposed by the Company to attain compliance were completed, however, the required source tests of January 10-12, 1978 for Unit 1 and April 4-11, 1978 for Unit 2 disclosed continued violation of the applicable standard.

D. The Company continued its ash conditioning test program and requested additional time to complete improvements involving installation and optimization of a dual chemical feed system to further enhance the precipitator collection efficiency by modifying the fly ash resistivity and agglomeration tendency.

II. The Company, desiring to comply with the legal requirements of the Commission regarding particulate emissions to the ambient atmosphere and with all pertinent provisions of the law and applicable rules and regulations of the Commission, does hereby agree to do and perform all of the following things on or before the dates hereinafter set out:

A. Complete installation and optimization of the ash conditioning system for the first unit on or before November 30, 1978.

B. Achieve compliance and submit a source test documenting compliance with 15 NCAC 2D .0503, "Control of Particulates From Fuel Burning Sources," for the first unit on or before December 31, 1978.

C. Complete installation and optimization of the ash conditioning system for the second unit on or before December 31, 1978.

D. Achieve compliance and submit a source test documenting compliance with 15 NCAC 2D .0503, "Control of Particulates From Fuel Burning Sources," for the second unit on or before January 31, 1979.

III. The Company shall operate and maintain its Unit 1 and Unit 2 coal fired, steam generating boilers so as to minimize the impact of particulate and visible emissions during the period between the date this Order is executed by the Company and the date specified in this Order for compliance with 15 NCAC 2D .0503, "Control of Particulates From Fuel Burning Sources." Except during start-ups and shut-downs, the visible emissions from the two units shall not exceed those limits contained in 15 NCAC 2D .0521, "Control of Visible Emissions," nor shall particulate emissions from the two units exceed 0.15 pounds per million BTU input.

IV. On or before January 31, 1979 when particulate or visible emissions due to malfunctions are or may be in excess of those interim emission limits specified in Section III of this Order for more than one continuous hour, the Company shall notify the Director, Division of Environmental Management, as promptly as possible but in no case later than eighteen (18) hours following the start of such malfunction. Such notice shall specify the nature and cause of the malfunction, the time when such malfunction was first observed, the expected duration, and an estimate of the rate of emission. The term malfunction shall not be construed to include normal start-up or shut-down periods.

V. The Company shall submit no later than five days after the deadline for completing each increment required in Section II certification to the Director, Division of Environmental Management, whether such increment has been performed. In addition to this, a complete report of progress shall be made on or before October 15, 1978.

VI. On or before October 18, 1978, the Company shall install and commence operation of continuous visible emission monitors on Unit No. 1 and Unit No. 2. Operation, calibration, maintenance, and performance specifications of these monitors shall conform to those contained in 40 CFR Part 51. Excess emissions shall be reported quarterly to the Commission in accordance with 40 CFR Part 51.

VII. In the event the Company fails to achieve final compliance with any emission limitation, emission standard, or compliance schedule in this Order or under the North Carolina Implementation Plan by July 1, 1979, the Company will be required to pay a mandatory noncompliance penalty pursuant to Section 20 of the Clean Air Act, 42 U.S.C. Section 7420, or North Carolina General Statute 143-215.114(a), if the Environmental Protection Agency has delegated authority to collect and assess such a penalty to the State of North Carolina. Nothing contained herein shall prevent the United States Environmental Protection Agency from taking enforcement action pursuant to Section 113 of the Clean Air Act or the Commission from assessing a civil penalty pursuant to North Carolina General Statute 143-215.114(a) as implemented by 15 NCAC 2J or from taking other enforcement action pursuant to North Carolina General Statute 143-215.114 for violating any term or condition of this Order, including failure to achieve any compliance date which is scheduled to be achieved in this Order prior to July 1, 1979.

VIII. The Company agrees that this Special Order shall pertain only to that equipment or source described in Section I.A. of this Order. Unless an applicable Special Order or Permit has been issued by the Commission, any violation of Air Quality Standards, resulting from other sources or equipment for which the Company is responsible, shall subject the Company to all sanctions provided by North Carolina General Statute 143-215.114.

IX. Failure of the Company to comply with any provisions contained herein, including Section III, or discharges from the two (2) coal fired, steam generating boilers after the applicable eipliance dates contained in Section II in excess of applicable standards shall subject the Company to all sanctions provided by North Carolina General Statute 143-215.114.

X. The Company hereby agrees to waive any rights it may have to seek judicial review to challenge this Special Order by Consent, or the Environmental Protection Agency's approval thereof, or to seek a stay of enforcement of this Order in connection with any judicial review of the State Implementation Plan. However, the Commission acknowledges that this waiver does not prohibit the Company from seeking modification of this Order if any regulatory standards upon which the Order is based are changed subsequent to its execution. In such a case the Company may petition that the Order be modified to reflect these regulatory changes.

This the 25th day of September, 1978.

Attested:

By, WILLIAM D. PARKER, Jr.,
Duke Power Company.

Approved and accepted:

By: H. W. WHITLEY,
Chairman, Environmental Management Commission.

Attested:

By: A. F. MCRORIE,
Secretary, Environmental, Management Commission.

Dated: OCTOBER 13, 1978.

[FR Doc. 79-2329 Filed 1-22-79; 8:45 am]

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[6560-01-M]

[40 CFR Part 180]

[FRL 1043-7 PP 7F1911/P99]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerance for the Pesticide Chemical Gibberellins

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the plant growth regulator gibberellins A_1 and A_3. The proposal was submitted by Abbott laboratories. This amendment will establish a maximum permissible level for residues of gibberellins A_1 and A_3 in or on apples.

DATE: Comments must be received by February 22, 1979.

ADDRESS: Address comments to: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW, Washington DC 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency (202/755-7013).

SUPPLEMENTARY INFORMATION: On March 21, 1977, notice was given (42 FR 15361) that Abbott Laboratories, Chemical and Agricultural Products Div., 14th Street and Sheridan Road, N. Chicago, IL 60064, had filed a petition (PP 7F1911) with the EPA. This petition proposed to amend 40 CFR 180.224 by establishing a tolerance for combined residues of the herbicide gibberellin A_4 and gibberell in A^7 in or on the raw agricultural commodity apples at 0.15 part per million (ppm). No comments were received in response to this notice of filing. Subsequently, the petitioner amended the petition by increasing the proposed tolerance from 0.15 ppm to 0.5 ppm. It has also been determined that rather than "herbicide," the term "plant growth regulator" should be used to describe gibberellins A_4 and A_7. Because of the potential increase in exposure of humans to gibberellin residues resulting from the higher tolerance, the tolerance is being proposed at this time to provide an opportunity for public comment.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included at rat oral acute toxicity study with a lethal dose (LD_{50}) in excess of 3.6 grams (g)/kilogram (kg) of body weight (bw). The chief considerations in granting the proposed tolerance are: (1) Gibberellins are naturally found on apples, (2) The use of these compounds will not change the endogenous gibberellin content of the apples, and (3) Since the residue level will not be increased, the risk to the consumer of apples will not be increased.

Tolerances have previously been established for residues of gibberellic acid in or on artichokes, blueberries, citrus fruit, grapes, hops, leafy vegetables, stone fruits, sugarcane and sugarcane fodder and forage at 0.15 ppm (negligible residues). Since the levels of A_4 and A_7 are the same on both sprayed and unsprayed apples, consideration of the acceptable daily intake (ADI) and the maximum permissible intake (MPI) is not relevant to this petition. Also, since there is no discernible difference in the A_4 and A_7 level in treated vs. control samples, there will be no problem with secondary residues in eggs, meat, milk, or poultry.

The metabolism of the gibberellins is adequately understood, and an analytical method (combined TLC/fluorometry) is available for enforcement purposes. No desirable data are lacking, no regulatory actions are pending against continued registration of the plant growth regulator, and no other considerations are involved in establishing the proposed tolerance.

The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the tolerance of 0.5 ppm on apples established by amending 40 CFR 180.224 will protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request by February 22, 1979 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 7F1911/P99". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).

Dated: January 17, 1979.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

It is proposed that Part 180, Subpart C, § 180.224 be revised in its entirety to read as follows:

§ 180.224 Gibberellins; tolerances for residues.

(a) Tolerances are established for negligible residues (N) of the plant growth regulator gibberellin A_3 in or on the following raw agricultural commodities:

Commodity and Parts per million	
Artichokes	0.15 (N)
Blueberries	0.15 (N)
Citrus fruits	0.15 (N)
Grapes	0.15 (N)
Hops	0.15 (N)
Leafy vegetables	0.15 (N)
Stone fruits	0.15 (N)
Sugarcane	0.15 (N)
Sugarcane fodder	0.15 (N)
Sugarcane forage	0.15 (N)

(b) A tolerance is established for combined residues of the plant growth regulator gibberellin A_4 and A_7 in or on the following raw agricultural commodity:

Commodity and parts per million	
Apples	0.5

[FR Doc. 79-2336 Filed 1-22-79; 8:45 am]

[6560-01-M]

[40 CFR Part 180]

[FRL 1043-8; PP 7F1979/P102]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Exemption From Requirement of a Tolerance for the Pesticide Chemical Chlorotoluene

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that an exemption from the requirement of a tolerance be established for the inert ingredient chlorotoluene. The proposal was submitted by Monsanto Co. This regulation would permit the use of chlorotoluene as a solvent or consolvent in pesticide formulations.

DATE: Comments must be received by February 22, 1979.

ADDRESS: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M Street, SW, Washington DC 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. David L. Ritter, Hazard Evaluation Division (TS-767), Office of Pesticide Programs, EPA (202/426-2680).

SUPPLEMENTARY INFORMATION: Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166, and Hooker Chemicals and Plastics Corp., Niagara Falls, NY 14302, have submitted a joint pesticide petition (PP 7F1979) to the EPA. This petition requests that the Administrator propose that 40 CFR 180 be amended by the establishment of an exemption from the requirement of a tolerance for residues of the inert ingredient chlorotoluene, an isomeric mixture predominantly of ortho- and para-monochlorotoluene with up to 6% unreacted toluene and a boiling range of 110 degrees C to 162 degrees C, when used as a solvent or consolvent in pesticide formulations with the following restrictions: (a) not for use after edible parts of the plant begin to form and (b) do not graze livestock in treated areas within 48 hours after application.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to the following types of ingredients (except when they have pesticidal efficacy of their own): Solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed exemption from the requirements of a tolerance included a 90-day rat feeding study with a no-observable-effect level (NOEL) of 6,000 parts per million (ppm) based on systemic effects and a 90-day dog feeding study with an NOEL of 4,000 ppm based on systemic effects. These data satisfy toxicological requiremetns for granting an exemption from a tolerance requirement under Subpart D of 40 CFR 180. A closely related substance, chlorobenzene, is listed in 40 CFR 180.1001(d) with some restrictions on proposed uses.

Since chlorotoluene is an inert ingredient, no tolerances or exemptions from requirement of a tolerance have been previously established for its residues. No data are available to determine whether residues will occur in meat, milk, eggs, or poultry from the proposed uses. Since there is no reasonable expectation of residues on edible parts of crops, potential residues, if any, from the proposed use are not considered to be of toxicological significance.

Based on the 90-day dog feeding study and a 2,000-fold safety factor the acceptable daily intake (ADI) is 0.05 milligram (mg)/kilogram (kg) of body weight (bw)/day. The maximum permissible intake (MPI) is 3 mg/day. The nature of the residue is adequately understood, and an adequate analytical method (gas chromatography) is available for enforcement purposes. No actions are currently pending against chlorotoluene, nor are other considerations involved in establishing this exemption.

Based on the above information, available information on the chemistry of chlorotoluene, and a review of its use, it has been found that when used in accordance with good agricultural practice, chlorotoluene is useful and does not pose a hazard to the environment. It is concluded, therefore, that the proposed amendment to 40 CFR 180 will protect the public health and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before February 22, 1979 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 7F1979/P102". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: January 18, 1979.

HERBERT S. HARRISON,
Acting Director,
Registration Division.

It is proposed that Part 180, Subpart D, be amended by adding the new § 180.1045 to read as follows:

§ 180.1045 Chlorotoluene; exemption from the requirement of a tolorance.

Chlorotoluene, an isomeric mixture predominantly of ortho- and para-monochlorotoluene with up to 6 percent unreacted toluene and a boiling range of 110 degrees C to 162 degrees C, is exempted from the requirement of a tolerance when used as a solvent or cosolvent in pesticide formulations with the following restrictions:

(a) Not for use after edible parts of the plant begin to form.

(b) Do not graze livestock in treated areas within 48 hours after application.

[FR Doc. 79-2335 Filed 1-22-79; 8:45 am]

[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Parts 402, 405 and 433]

UNIFORM REPORTING SYSTEMS FOR HEALTH SERVICES FACILITIES AND ORGANIZATIONS

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This proposal requires all hospitals participating in the Medicare or Medicaid program to report cost-related information in a prescribed uniform manner. It implements certain provisions of section 19 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Pub. L. 95-142). The purpose is to obtain comparable cost and related data on all participating hospitals for reimbursement, effective cost and policy analysis, assessment of alternative reimbursement mechanisms and health planning.

DATES: We will consider written comments or suggestions received by April 23, 1979.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, Post Office Box 2382, Washington, D.C. 20013.

In commenting, please refer to File Code PCO-185-P. Comments will be available for public inspection in Room 5231 of the Department's offices at 330 C Street, SW., Washington, D.C. 20201 on Monday through Friday of each week from 8:30 AM to 5:00 PM. (202-245-0950).

FOR FURTHER INFORMATION CONTACT:

Maurice Click, (301) 594-8544.

SUPPLEMENTARY INFORMATION:

STATUTORY BASIS

Section 19 of Pub. L. 95-142 (Section 1121 of the Social Security Act; 42 U.S.C. 1320(a)) requires the establishment of uniform reporting systems for providers participating in Medicare and Medicaid. The systems are to be established by October 24, 1978, for hospitals, skilled nursing facilities and intermediate care facilities; and by October 24, 1979, for home health agencies, health maintenance organizations, and other types of health serv-

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ices facilities and organizations. The uniform reporting systems must provide information on (1) costs and volume of services; (2) rates; (3) capital assets; (4) discharge data; and (5) billing data.

Section 19 also requires (1) monitoring of the systems; (2) assistance with and support of demonstrations and evaluations of the systems; (3) encouragement to States to adopt the uniform systems for purposes in addition to Medicaid; (4) periodical revison to the systems to make them more effective and less costly; and (5) the provision of information obtained from the reports to appropriate agencies and organizations, including health planning agencies.

The law also requires:

1. Consideration of appropriate variations in applying the uniform systems to different classes of facilities; and

2. Making the system, to the extent practicable, consistent with systems already in effect under section 306(e)(1) of the Public Health Service Act.

Regulatory Implementation

HCFA will be phasing in the required reporting systems as they are developed. The reporting system covered by this proposed rule applies only to hospitals. Moreover, it applies only to those portions of the reporting system dealing with costs and volume of services and with capital assets. The remainder of the system, dealing with rates, discharge data and billing data, will be covered by a subsequent Notice of proposed Rulemaking.

This proposed regulation establishes a System for Hospital Uniform Reporting (SHUR). However, the proposed regulation does not set forth the details of SHUR. It merely sets forth the basic reporting requirements and the provisions for public disclosure of SHUR information. The details of the reporting requirements, including forms and instructions, are contained in the SHUR manual, which is also available for public comment.

Major Provisions

1. REPORTING REQUIREMENTS

This proposed rule would require all Medicare and Medicaid hospitals to report on the costs of their operation and the volume of their services, both in the aggregate and by functional accounts. It would also require them to report their capital assets.

In accordance with section 19, a hospital would be required to file SHUR reports for fiscal years that begin at least 6 months after the effective date of the regulation.

The hospital would be required to submit its report no later than 3 months following the close of its fiscal year. The hospital could, however, obtain a 30-day extension of its reporting deadline for good cause. Based on our previous experience, good cause would be found, for example, if a CPA could not complete his review or if the hospital had to replace lost or destroyed records.

These SHUR reports will incorporate and replace the present cost reports used by Medicare fiscal intermediaries to calculate reimbursement. Although the statute authorizes the reports to be submitted to the Secretary, we have concluded that since they are used by the fiscal intermediaries for cost settlement, they should be sent there directly. Hospitals participating in Medicare (including those participating in both Medicare and Medicaid) would submit the report to their regular fiscal intermediary, or the Medicare Division of Direct Reimbursement. Those hospitals participating only in Medicaid would submit the report to a fiscal intermediary designated by HCFA. We believe that having these Medicaid only reports collected by the fiscal intermediaries will facilitate the analysis and compilation of SHUR data.

2. DISCLOSURE OF SHUR INFORMATION

We are proposing that information contained in the uniform reports, that does not contain patient identifiers, be made available to health systems agencies, state health planning agencies, and upon request, to any other agency or organization. The decision to make this information available to any other agency or organization is predicated on the fact that section 1121(c) of the Act, which was added by Pub. Law 95-142, provides that we make the information available to "appropriate agencies and organizations," including State health planning agencies designated under section 1521 of the Public Health Act (42 U.S.C. 300m). We note, however, that State health planning agencies are required, by section 1522(b)(6)(C) of the Public Health Act, to make their records and data available upon request to the general public. Therefore, since we would be releasing the information to the State health planning agency, and since the public can obtain the information from the State health planning agency upon request, we propose to release the information directly to any requesting agency or organization. We are proposing to interpret "appropriate agencies and organizations" to mean any agency or organization that requests this information.

The issue of whether cost report data should be made available to the public has been the subject of litigation under the Freedom of Information Act. Our regulations, at 20 CFR 422.435, currently make hospital Medicare cost reports available to the general public upon request. Several courts have enjoined the release of these reports, based upon the Freedom of Information Act. However, these cases have been decided prior to the passage and implementation of section 1121(c). In our view, the implementation of section 1121(c) will form a basis for the Department to request that the courts reconsider their prior orders and to oppose successfully future suits.

The information covered by this proposed regulation would be provided by HCFA, or, as a matter of administrative convenience, directly by the fiscal intermediaries. When this regulation is amended to include further reporting requirements concerning rates of payment, discharge and bill data, we will review the question of disclosing that information and will solicit public comment. We would normally require an agency requesting information to pay for the cost of reproducing copies of the information.

The SHUR Manual

The draft SHUR manual sets forth the definitions, principles, and statistics to be used in preparing and submitting reports. It also contains a detailed, functional chart of accounts which must be used to reconcile a hospital's internal books and records in order to file the SHUR report. However, the chart of accounts would not be required as the hospital's day-to-day accounting system.

In order to avoid duplication, and to be consistent with section 1861(v)(1)(F), this draft manual would incorporate the current Federal cost report required for Medicare and Medicaid.

The manual contains special provisions for certain hospitals. We recognize that some hospitals, typically public hospitals, currently maintain a cash basis of accounting. The SHUR system, however, is based on an accrued basis of accounting. To give these hospitals time to convert to an accrual basis, they would be permitted to phase in the new reporting requirements over a 2-year period.

We are also concerned that the full reporting requirements of SHUR might be unnecessarily burdensome on small hospitals. Consequently, we would allow a less detailed report to be submitted by hospitals that, for the 3 accounting periods preceding the reporting period, have had average annual admissions of less than 4,000.

Regulatory Analysis

We have made every effort to minimize the cost and reporting burden associated with this proposed regulation. We estimate that the portion of implementation costs to be borne by the hospital industry will be between $21 million and $45 million. the factors considered in calculating these estimates include: (1) The experience of States which have implemented systems similar to SHUR (based on their experience, we estimate that total implementation costs will range between $35 million and $75 million); and (2) that implementation and operational costs will be considered allowable costs and subject to reimbursement by all third party payors including Medicare and Medicaid. (For FY 1976, Federal programs covered approximately 40 percent of all hospital costs.) These estimates do not take into account any savings that might be realized as a result of combining new and existing requirements.

Nevertheless, because of the possibility that implementation costs may exceed present estimates, we are undertaking a study to establish more precisely the cost of implementing and operating the system. The study will also assess any additional reporting burden placed on the hospital by implementing the proposed system. The study will examine the hospitals' effort to meet existing requirements and the resultant change in burden effort to meet the SHUR requirements. Our staff has worked closely with American Hospital Association and the Blue Cross Association in structuring this study. We believe that it will provide an objective analysis of the cost and burden of complying with this proposed regulation. Based on the results of this study, the Department will decide if a regulatory analysis is needed.

Concurrent with this study and as an ongoing responsibility, HCFA will continue to examine the system and make changes, requiring only pertinent and necessary information to keep the costs and burden associated with the system to a minimum. We are particularly concerned about the extent to which SHUR would impose a new burden on providers. We specifically request suggestions on how to reduce burden in a manner consistent with the legislative requirements in the following areas:

- Level of detail
- Modification, consolidation, or elimination of specific reporting requirements or forms
- Eliminate requirements to directly assign such costs as fringe benefits
- Forms
- Forms design
- Alternatives to hard copy reporting
- Standard Units of Measure
- Modification or identification of alternate standard units of measure

We also welcome comments that identify potential omission or areas in which more detailed reporting is necessary to meet the intention of Pub. L. 95-142.

Prior to issuing final regulations, the proposed system will be evaluated on the basis of study results, HCFA's internal assessment and public comment. Changes will be made to SHUR which reduce burden to the degree possible, within the legislative mandate and the needs of the Department.

Opportunity to Comment

The draft SHUR manual was previously distributed to various hospital professional organizations and to selected State agencies for their views and suggestions. Copies of the draft manual are available for review and may be obtained by writing to:

Chief, Printing and Publications Branch, Division of Administrative Services, OMB, Health Care Financing Administration, DHEW, Room G-215 B, Mary E. Switzer Building, 330 C Street, S.W., Washington, D.C. 20201.

In order to assure that comments are fully considered, they should be submitted on or before April 23, 1979.

As further portions of this system are developed, we will provide a public notice that they are available for comment.

42 CFR Chapter IV is amended as set forth below:

1. The table of contents is amended to read as follows:

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL PROVISIONS

Part
400-401 [Reserved]
402 Uniform Reporting Systems
403-404 [Reserved]

SUBCHAPTER B—MEDICARE PROGRAMS

405 Federal Health Insurance for the Aged and Disabled

. . . . . .

2. A new Part 402 is added, to read as follows:

PART 402—UNIFORM REPORTING SYSTEMS

Subpart A—Hospital Reporting

Sec.
402.1 Definitions.
402.2 Statutory provisions.
402.3 Applicability.
402.8 Reporting requirements.
402.10 Availability of information.

AUTHORITY: Secs. 1121, 1861(v)(1)(F), and 1902(a)(40) of the Social Security Act (42 U.S.C. 1320a, 1395x(v)(1)(F) and 1396a(a)(40)).

§ 402.1 **Definitions.**

"Act" means the Social Security Act.

"HCFA" means the Health Care Financing Administration.

§ 402.2 **Statutory provisions.**

(a) Section 1121(a) of the Act requires that the Secretary establish a uniform system for reporting of:

(1) Costs and volume of health care services;

(2) Rates charged for those services;

(3) Capital assets of health care facilities and organizations;

(4) Discharge data; and

(5) Billing data.

(b) Sections 1861(v)(1)(F) and 1902(a)(40) of the Act require Medicare and Medicaid providers to report in accordance with the system established under section 1121(a) of the Act.

§ 402.3 **Applicability.**

This subpart applies to all hospitals participating in the Medicare or Medicaid program.

§ 402.8 **Reporting requirements.**

The System for Hospital Uniform Reporting (SHUR), established by HCFA, requires hospitals to meet the following requirements:

(a) *Information to be reported.* Hospitals shall report: (1) Costs of operation and volume of services, both in aggregate and by functional accounts; and

(2) Capital assets.

(b) *Manner of reporting.* The hospital shall report in accordance with the forms and instructions prescribed by SHUR.

(c) *Timing and submission of reports.* (1) *Initial report.* The initial report under SHUR shall be for the hospital's first fiscal year that begins more than 6 months after the effective date of these regulations.

(2) *Submittal.* The hospital shall submit SHUR reports no later than the last day of the third month following the close of its fiscal year to:

(i) its Medicare intermediary (or the Medicare Division of Direct Reimbursement); or

(ii) if the hospital is participating only under Medicaid, to the Medicare intermediary designated by HCFA.

(3) *Extension.* The intermediary, after obtaining HCFA's approval, may, for good cause shown by the hospital, grant a 30-day extension for submitting the report.

§ 402.10 **Availability of information.**

HCFA or its agents will, in a timely manner, provide information collected under this subpart to:

(a) health systems agencies and State health planning and development agencies that need it to carry out their functions; and

(b) upon request, to any other agency or organization.

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PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

3. Part 405, Subpart J, is amended by adding a new § 405.1050 to read as follows:

§ 405.1050 Conditions of participation: Uniform reporting.

The hospital complies with the requirements of Part 402, Subpart A, of this chapter, with respect to uniform reporting.

PART 433—STATE FISCAL ADMINISTRATION

4. Part 433 is amended by adding a new § 433.39 to read as follows:

§ 433.39 Uniform reporting: State plan requirements.

A State plan for medical assistance must provide that the State agency will require providers that are specified in Part 402 of this chapter to meet the applicable requirements of Part 402 with respect to uniform reporting.

(Secs. 1121, 1861(v)(1)(F) and 1902(a)(40) of the Social Security Act (42 U.S.C. 1320a, 1395x(v)(1)(F) and 1396a(a)(40)).
(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13.773, Medicare-Hospital Insurance.)

Dated: September 25, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: January 12, 1979.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 79-2074 Filed 1-22-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 0, 5, 21, 23, 25, 73, 74, 78, 81, 87, 89, 91, 93, 94, 95, 97, and 99]

[Gen. Docket No. 78-365]

PROTECTION OF FCC MONITORING STATIONS, FROM RADIO INTERFERENCE

Order Extending Time To File Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order Extending Time to File Comments and Reply Comments.

SUMMARY: Order extending time to file comments from January 22, 1979 to March 22, 1979 and reply comments from February 21, 1979 to April 23, 1979 to the Notice of Proposed Rulemaking proposing Amendments to Parts 0, 5, 21, 23, 25, 73, 74, 78, 81, 87, 89, 91, 93, 94, 95, 97, and 99 of the Commission's Rules Relative to the Protection of FCC Monitoring Stations, from Radio Interference—GEN Docket No. 78-365.

DATES: Comments must be filed on or before March 22, 1979. Reply comments must be filed on or before April 23, 1979.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

William A Luther, Chief, Engineering Division, Field Operations Bureau, Room 738, 1919 M St., NW., Washington, D.C. 20554 (202-632-7593).

SUPPLEMENTARY INFORMATION:

Adopted: January 15, 1979.

Released: January 17, 1979.

In the matter of amendments to Parts 0, 5, 21, 23, 25, 73, 74, 78, 81, 87, 89, 91, 93, 94, 95, 97, and 99 of the Commission's rules relative to the protection of FCC monitoring stations, from radio interference, GEN Docket No. 78-365. See 43 FR 54106, November 20, 1978.

1. The Commission has before it a Petition to Extend the Time for Filing Comments in General Docket No. 78-365[1] in the above captioned matter submitted by The American Radio Relay League, Incorporated, represented about 150,000 full or associate members.

2. The petitioner states that the orginial sixty-seven days provided for submitting comments is insufficent to disseminate the FCC proposals to League membership, and to permit publishing the Notice in the January, 1979 issue of their monthly Journal, *QST*.

3. In review of the fact that the Commission is most interested in securing a widespread base for comments in this rulemaking proceeding so that final determinations could be founded on as complete a record as possible, it appears that an extension of time is warranted.

4. Accordingly, under authority delegated by Section 0.311 of the Commission's Rules, it is ordered that the time for the filing of comments in General Docket No. 78-365 is extended until March 22, 1979, and for reply comments until April 23, 1979.

C. PHYLL HORNE,
Chief, Field Operations Bureau.

[FR Doc. 79-2299 Filed 1-22-79; 8:45 am]

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[1] Notice of Proposed Rulemaking, FCC General Docket No. 78-365; adopted November 6, 1978, 43 FR 54106.

[6712-01-M]

[47 CFR Part 73]

[Docket No. 20576; RM-2467; RM-2468; RM-2578]

FM BROADCAST STATIONS IN FRANKLIN AND KEENE, N.H., AND BENNINGTON AND BRATTLEBORO, VT., ETC.

Order Extending Time For Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding involving FM channel assignments in the states of New Hampshire, Vermont and Maine. The additional time is given so that parties can make a response to the counterproposals to assign channels to Concord, New Hamphire, and Lyndon, Vermont.

DATE: Reply comments must be filed on or before January 25, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

ORDER EXTENDING TIME FOR FILING REPLY COMMENTS

Adopted: January 16, 1979.

Released: January 17, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Franklin and Keene, New Hampshire and Bennington and Brattleboro, Vermont, also Conway, Littleton, Meredith, Plymouth, Rochester, and Wolfeboro, New Hampshire, and Skowhegan, Maine.), Docket No. 20576. RM-2467, RM-2468, RM-2578.

1. On October 27, 1978, the Commission adopted a *Further Notice of Proposed Rule Making and Orders to Show Cause*, 43 FR 51652, concerning the above-entitled proceeding. The date for filing reply comments is presently January 16, 1979.

2. On December 28, 1978, two petitions were filed: (1) Lloyd F. Simon and Edward F. Perry, Jr., requesting the assignment of either Channel 287 or Channel 288A to Concord, New Hampshire; and (2) Lyndon State College requesting the assignment of Channel 288A to Lyndon, Vermont.

3. Public Notice of these conterproposals (Concord, New Hampshire RM-3301, and Lyndon, Vermont RM-3300) was given on January 10, 1979. Since these petitions are entitled to be considered as timely filed counterproposals in this proceeding, we are consolidating them and on our own motion, are extending the time for filing reply comments in order to give all parties an opportunity to prepare a response to these counterproposals.

4. *Accordingly, it is ordered*, That the date for filing reply comments in Docket No. 20576 is extended to and including January 25, 1979.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 79-2302 Filed 1-22-79; 8:45 am]

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Rulemaking To Provide for the Establishment of Manatee Protection Areas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed Rulemaking.

SUMMARY: The Service proposes to provide a means for the Director to establish manatee protection areas. Within these areas certain waterborne activities, such as boating and swimming, would be restricted or prohibited.

Research conducted by the National Fish and Wildlife Laboratory of the U.S. Fish and Wildlife Service and the University of Miami indicate that human activities, such as the operation of motor boats and swimming, in areas where manatees may congregate are a significant cause of manatee injuries and deaths. Any areas established under the proposed rules, if finalized, would reduce the incidence of manatee injuries and deaths by using the provisions of the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973 to lessen the likelihood that manatees will encounter boats and people.

DATES: Public comment on this proposed rulemaking is invited. To be considered, comments must be received by February 22, 1979.

ADDRESSES: Comments should be submitted to the Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036. Comments should include the file number, REG 17-02-76. Comments and materials received will be available for public inspection during normal business hours at the Service's Division of Law Enforcement, Suite 600, 1612 K Street, NW., Washington, D.C. 20006

FOR FURTHER INFORMATION CONTACT:

Mr. Marshall L. Stinnett, Special Agent in Charge, Branch of Regulations and Penalties, Division of Law Enforcement, Fish and Wildlife Service, Suite 600, 1612 K Street, NW., Washington, D.C. 20006, 202-343-9237.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The West Indian manatee, *Trichechus manatus*, is a protected marine mammal which has also been listed as an Endangered species. The only sizeable manatee population in the United States inhabits inland and coastal waters of the State of Florida. During warmer months some of the animals move into coastal waters of neighboring states. Currently available data suggests there is a manatee population in Florida of between 800 and 1,000. Available population estimates have been evaluated in light of the known level of manatee mortality in Florida, based on information gathered by the National Fish and Wildlife Laboratory of the U.S. Fish and Wildlife Service, and the University of Miami. Estimates indicate that the population is undergoing a serious decline. The high rate of mortality could also indicate a larger population than has been assumed. Until better data are available, however, it is prudent to base management policies on the most conservative estimates of population size.

Results of the cooperative manatee salvage and mortality study conducted by the University of Miami and the National Fish and Wildlife Laboratory of the U.S. Fish and Wildlife Service indicate that human activities are by far the greatest identifiable cause of manatee mortality in Florida. More than 50 percent of human-caused deaths investigated during the salvage program were attributed to boat or barge collisions. Furthermore, a high percentage of living manatees bear wounds and deformities caused by propellers. Additional human-related causes of manatee mortality are the tangling of manatees in nets and discarded fishing lines, and the harassment of manatees by apparently well-meaning, as well as vandalous, swimmers and divers. Such harassment will often force manatees away from warm springs and into colder water, where they become stressed and are more prone to disease. Harassment also causes disruption of the relationship between females and their nursing calves.

The major source of the above information is Brownell, Robert L., Jr., Katherine Ralls, and Randal R. Reeves (editors), *Report of the West Indian Manatee Workshop*, Orlando, Florida, March 27-29, 1978, 37 pp.

EFFECT OF THE RULEMAKING

The problem of manatee mortality caused by people and their activity was one of the concerns of Congress when it passed the Marine Mammal Protection Act of 1972. House Report 92-707 states that "• • • H.R. 10420 would provide the Secretary of the Interior with adequate authority to regulate or even to forbid the use of power boats where manatees are found • • •" (H.R. Rep. No. 707, 92d Cong., 2d Sess. 17-18 (1972)).

The proposed regulations are intended to exercise this authority. They would allow the Director to establish areas of water under the jurisdiction of the United States, both inland and coastal, within which certain waterborne activities would be restricted or prohibited. Such restrictions could include limits on the speed of boats, as well as other restrictions on activities such as boating, swimming, fishing, water skiing, and skin and scuba diving. The purpose of the regulations, the protection of manatees, is stated in § 17.100.

Section 17.101, Scope, explains that the subpart applies to the West Indian manatee (*Trichechus manatus*). Section 17.102 defines the terms "manatee sanctuary," "manatee refuge," "manatee protection area," "waterborne activity," and "water vehicle." These terms are all crucial to the establishment of areas within which manatees can be protected from harmful interaction with people and their activities.

Section 17.103 provides for the actual establishment of manatee protection areas. The Director, by regulations, may establish sanctuaries within which all waterborne activities, such as boating and swimming, would be prohibited. The Director may also establish refuges in which only certain activities would be prohibited or restricted. As an example, within a particular area boat speed could be limited or the number of swimmers allowed in the water at one time could be restricted.

Section 17.104 states the prohibitions applicable to the protection areas. It explains that it is uniawful to engage in any waterborne activity within a manatee sanctuary, or to engage in any waterborne activity in a manner contrary to that permitted within a manatee refuge by regulations applicable to that refuge. This

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section also makes it unlawful to engage in any waterborne activity prohibited by or in a manner contrary to that permitted by any State law or regulation the primary purpose of which is the protection of manatees. finally, the section allows an exception to the prohibitions when engaging in any prohibited activity which is reasonably necessary to prevent the loss of life or property due to weather conditions or other reasonably unforseen circumstances.

Section 17.105 provides for the issuance of permits to allow permit holders to engage in activities otherwise prohibited by this subpart.

Emergency establishment of manatee protection areas is provided for in § 17.106. This section would allow the emergency establishment of a protection area if substantial evidence shows there is imminent danger of a taking of one or more manatees.

The final section, § 17.107, is reserved for the listing of designated manatee protection areas.

AUTHORITY

This rulemaking and the establishment of manatee protection areas are authorized by sections 101(a), 102(a)(2), 104, 105, and 112(a) of the Marine Mammal Protection Act of 1972, 86 Stat. 1027 (16 U.S.C. 1371(a), 1372(a)(2), 1374, 1375, and 1382(a)); and by sections 4(d) and (f), 9(a)(1)(G), and 11(a) of the Endangered Species Act of 1973, 87 Stat. 884 (16 U.S.C. §§ 1533(d) and (f), 1538(a)(1)(G), and 1540(a)(1)).

NOTE.—The Service has determined that this roposed rulemaking is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. The Department has determined that this is not a significant rulemaking and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The primary author of this proposal is Kenneth J. Hirsh, Legal Specialist, Division of Law Enforcement, U.S. Fish and Wildlife Service, 202-343-9237.

REGULATION PROMULGATION

Accordingly, it is hereby proposed to amend Title 50, Chapter I, Subchapter B, Part 17 in the following manner:

1. The table of sections for Part 17 is amended by adding the following, after Subpart J:

• • • • •

Subpart J—Manatee Protection Areas

17.100 Purpose.
17.101 Scope.
17.102 Definition.
17.103 Establishment of protection areas.
17.104 Prohibitions.
17.105 Permits.
17.106 Emergency establishment of protection areas.
17.107 List of designated manatee protection areas [RESERVED]

AUTHORITY: Marine Mammal Protection Act of 1972, 86 Stat. 1027, as amended, §§ 101(a), 102(a)(2), 104, 105, and 112(a) [16 U.S.C. §§ 1371(a), 1372(a)(2), 1374, 1375, and 1382(a)]; Endangered Species Act of 1973, 87 Stat. 884, as amended, §§ 4(d) and (f), 9(a)(1)(G), and 11(a)(1) [16 U.S.C. §§ 1533(d) and (f), 1538(a)(1)(G), and 1540(a)(1)].

2. Part 17 is amended by adding the following new subpart immediately after § 17.95:

• • • • •

Subpart J—Manatee Protection Areas

§ 17.100 Purpose.

This subpart provides a means for establishing areas of water under the jurisdiction of the United States within which certain waterborne activities will be restricted or prohibited for the purpose of preventing the taking of manatees.

§ 17.101 Scope.

This subpart applies to the West Indian manatee (*Trichechus manatus*), also known as the Florida manatee and as the sea cow. The provisions of this subpart are in addition to, and not in lieu of other regulations contained in this subchapter B which may require a permit or prescribe additional restrictions on the importation, exportation, transportation, or taking of wildlife, and the regulations contained in Title 33, Code of Federal Regulations, which regulate the use of navigable waters.

§ 17.102 Definitions.

In addition to definitions contained in the Act and in Part 10 of this subchapter, and unless the context otherwise requires, in this subpart: "Manatee sanctuary" means an area in which the Director has determined that any waterborne activity would result in a taking of one or more manatees, including but not limited to a taking by harassment.

"Manatee refuge" means an area in which the Director has determined that certain waterborne activity would result in the taking of one or more manatees, or that certain waterborne activity must be restricted to prevent the taking of one or more manatees, including but not limited to a taking by harassment.

"Manatee protection area" means a manatee refuge or a manatee sanctuary.

"Waterborne activity" includes, but is not limited to, swimming, diving (including skin and scuba diving), snorkeling, water skiing, surfing, fishing, and the use of water vehicles.

"Water vehicle" includes, but is not limited to, boats (whether powered by engine, wind, or other means), ships (whether powered by engine, wind, or other means), barges, surfboards, water skis, or any other device or mechanism the primary or an incidental purpose of which is locomotion on, across, or underneath the surface of the water.

§ 17.103 Establishment of protection areas.

The Director may, by regulation issued in accordance with 5 U.S.C. 553 and 14 CFR Part 14, establish manatee protection areas whenever there is substantial evidence showing such establishment is necessary to prevent the taking of one or more manatees. Any regulation establishing a manatee protection area shall state the following information:

(a) Whether the area is to be a manatee sanctuary or refuge.

(1) If the area is to be a manatee sanctuary, the regulation shall state that all waterborne activities are prohibited.

(2) If the area is to be a manatee refuge, the regulation shall state which, if any, waterborne activities are prohibited, and it shall state the applicable restrictions, if any, on permitted waterborne activities.

(b) a description of the area sufficient enough so that its location and dimensions can be readily ascertained without resort to means other than published maps, natural or man-made physical reference points, and posted signs.

(c) The dates of the year during which the designation as a protection area shall be in effect.

§ 17.104 Prohibitions.

Except pursuant to a permit issued under the provisions of section 17.105 below,

(a) *Manatee sanctuary.* It is unlawful for any person to engage in any waterborne activity within a manatee sanctuary.

(b) *Manatee refuge.* It is unlawful for any person within a particular manatee refuge to engage in any waterborne activity which has been specifically prohibited within that refuge, or to engage in any waterborne activity in a manner contrary to that permitted by regulation within that area.

(c) *State law.* It is unlawful for any person to engage in any waterborne activity prohibited by, or to engage in any waterborne activity in a manner contrary to that permitted by, any State law or regulation the primary purpose of which is the protection of manatees.

(d) *Exceptions.* Any waterborne activity otherwise prohibited by this section may be engaged in if doing so is reasonably necessary to prevent the loss of life due to weather conditions or other reasonably unforeseen circumstances.

§ 17.105 Permits.

The Director may issue permits allowing the permittee to engage in any activity otherwise prohibited by this subpart. Such permits shall be issued in accordance with the provisions of section 17.22 of this Part 17.

§ 17.106 Emergency establishment of protection areas.

(a) The Director may establish manatee protection area under the provisions of subsections (b) and (c) below at any time he determines there is substantial evidence that there is imminent danger of a taking of one or more manatees, and that such establishment is necessary to prevent such a taking.

(b) The establishment of a manatee protection area under this section shall become effective immediately upon completion of the following requirements:

(1) Publication of a notice containing the information required by § 17.103 above in a newspaper of general circulation in each county, if any, in which the protection area lies; and

(2) Posting of the protection area with signs clearly marking its boundaries.

(c) Simultaneously with the publication required by subsection (b) above, the Director shall publish the same notice in the FEDERAL REGISTER. If simultaneous publication is impractical, because of the time involved or the nature of a particular emergency situation, failure to publish notice in the FEDERAL REGISTER simultaneously shall not delay the effective part of the emergency establishment. In such a case, notice shall be published in the FEDERAL REGISTER as soon as possible.

(d) No emergency establishment of a protection area shall be effective for more than 120 days. Termination of an emergency establishment of a protection area shall be accomplished by publishing notice of the termination in the FEDERAL REGISTER and in a newspaper of general circulation in each county, if any, in which the protection area lies.

§ 17.107 List of designated manatee protection areas [Reserved]

Dated: January 17, 1979.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc. 79-2296 Filed 1-22-79: 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-05-M]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 5]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Period June 1, 1978 Through May 31, 1979); Butter

The CCC Monthly Sales List for the period June 1, 1978 through May 31, 1979, published at FR 29819 (July 11, 1978), as amended at 43 FR 35737 (August 11, 1978), at 43 FR 46354 (October 6, 1978), at 43 FR 51693 (November 6, 1978) and at 43 FR 58396 (December 14, 1978) is further amended as follows:

1. Section 28 entitled "Butter—Unrestricted Use Sales (Instore-Carlot Quantities)" is revised to read as follows:

1. U.S. Grade A or higher: Market price, but not less than 11.25 cents per pound over CCC's purchase price at each location is 60 to 68 pound blocks. Sales are made under Announcement PV-DS-2.

2. U.S. Grade B: Market price, but not less than 9.25 cents per pound over CCC's purchase price for U.S. Grade A butter at each location in 60 to 68 pound blocks. Sales are made under Announcement PV-DS-2.

2. The last sentence of section 1(b) entitled "General" is revised to read as follows: Interest at 14 percent will be charged for delinquent payments on all sales.

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); sec. 407, 63 Stat. 1055, as amended (7 U.S.C. 1427))

Effective date: November 30, 1978 2:30 P.M. (EST).

Signed at Washington, D.C. on January 15, 1979.

STEWART N. SMITH,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-2277 Filed 1-22-79; 8:45 am]

[3410-05-M]

[Amdt. 6]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Period June 1, 1978 Through May 31, 1979); Peanuts

The CCC Monthly Sales List for the period June 1, 1978 through May 31, 1979, published at FR 29819 (July 11, 1978), as amended at 43 FR 35737 (August 11, 1978), at 43 FR 46354 (October 6, 1978), at 43 FR 51693 (November 6, 1978), at 43 FR 58396 (December 14, 1978), is further amended as follows:

Section 32 entitled "peanuts farmers stock (additional) crushing or export—oil unrestricted—Segregation 1 lots—FOB origin", is amended to add the following as a second paragraph under paragraph (1):

Carrying charges will accumulate at the rate of $1.20 per ton per week or fraction thereof, Farmers Stock basis, from the first Monday following the date of sale and will extend through the date of delivery of the peanuts to the purchaser.

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); sec. 407, 63 Stat. 1055, as amended (7 U.S.C. 1427))

Effective date: December 29, 1978, 2:30 p.m. (Est.).

Signed at Washington, D.C. on January 15, 1979.

STEWART N. SMITH,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-2278 Filed 1-22-79; 8:45 am]

[3410-11-M]

Forest Service

SUPERIOR NATIONAL FOREST LAND AND RESOURCE MANAGEMENT PLAN, COOK, LAKE AND ST. LOUIS COUNTIES, MINNESOTA

Intent To Prepare an Environmental Statement

The Superior National Forest (Forest Service, Department of Agriculture) will prepare an Environmental Statement for its Land and Resource Management Plan, pursuant to Section 102(2)(c) of the National Environmental Policy Act, Agriculture Department Policy as expressed in proposed CFR 36:219, and Forest Service Manual Section 1952.22a.

The Superior National Forest, located in northeastern Minnesota, is one of the ten forests in the National Forest System chosen to develop a model Land and Resource Management Plan for the other 144 National Forests across the Country. The planning process is outlined in a work plan developed by the Planning Team.

Several problems have been identified as needing attention in the planning process. These have been scrutinized and amplified in a series of Issues Identification workshops which were held between October 24 and November 8, 1978, in Grand Marais, Virginia, Duluth, and St. Paul, Minnesota. In order to arrive at a specific list of issues to be addressed in the Land and Resource Management Plan, the public has been invited to rank the identified issues in order of importance and submit ranked lists by January 26 to the Forest Supervisor, Superior National Forest, P.O. Box 338, Duluth, Minnesota 55801.

It is anticipated that the project will take approximately 18 months. A Draft Environment Statement (DES) is planned for October 1979, with the Land and Resource Management Plan and Final Environmental Statement being published approximately 6 months later.

Steve Yurich, Regional Forester of the Eastern Region, is the responsible official and Robert O. Rehfeld, Forest Supervisor of the Superior National Forest, is the person in charge of the project.

Comments or questions on this Notice of Intent or the planning process should be addressed to: Forest Supervisor, Superior National Forest, P.O. Box 338, Duluth, Minnesota 55801.

STEVE YURICH,
Regional Forester.

JANUARY 5, 1979.

[FR Doc. 79-2301 Filed 1-22-79; 8:45 am]

[3410-15-M]

Rural Electrification Administration

BASIN ELECTRIC POWER COOPERATIVE

Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Draft Environmental Impact Statement (DEIS) with inputs from the Department of Energy (DOE) in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA) in connection with proposed applications from the Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, North Dakota, 58501, to finance, construct, and operate transmission facilities to be located in portions of Burke, Divide, Williams, Mountrail and Ward Counties, North Dakota. Under agreement between REA and DOE, REA has served as lead agency for purposes of complying with the NEPA. DOE has adopted the Environmental Impact Statement to satisfy its responsiblities under NEPA.

This statement examines the impacts of 135 miles of 230 kV transmission line to effect an internation transmission connection with Canada and to help strengthen the existing transmission system. The proposed line would be constructed from Basin Electric's Logan Substation near Minot (Ward County) to the Montana-Dakota Utilitys' substation at Tioga (Williams County) and then to a point in Divide County on the United States-Canadian Border. 45 miles due north of Tioga. This project as planned would provide a 100 MW seasonal interchange of power between Basin Electric Power Cooperative and Saskatchewan Power Corporation as well as improve transmission service in the Tioga area.

Additional information may be secured on request, submitted to the Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, or Mr. James M. Brown, Jr., System Reliability and Emergency Response Branch, Economic Regulatory Administration, Department of Energy, Room 4070, Vanguard Building, Washington, D.C. 20461, telephone number: (202) 634-5620.

Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards and from Federal agencies having jurisidiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Impact Statement have been sent to various Federal, State, and local agencies, as outlined in the Council on Environmental Quality guidelines. The Draft Environmental Impact Statement may be examined during regular business hours at the office of REA in the South Agriculture Building, 12th Street and Independence Avenue, SW., Washington, D.C., Room 1268, or the Department of Energy Public Docket Room B110, 2000 M Street, NW., Washington, D.C., or at the borrower's address indicated above. Copies of the REA DEIS may be obtained upon request to the REA at the above address.

Comments concerning the DEIS should be addressed to the Assistant Administrator-Electric at the address given above. Comments must be received on or before March 26, 1979, to be considered in connection with the proposed action.

Final REA and DOE action with respect to this matter (including any release of funds) will be taken only after REA and DOE have reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 16th day of January 1979.

JOSEPH VELLONE,
Acting Administrator, Rural Electrification Administration.

[FR Doc. 79-2283 Filed 1-22-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket 33712]

TIGER INTERNATIONAL-SEABOARD ACQUISITION CASE

Postponement of Prehearing Conference

Notice is hearby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the prehearing conference in the above-entitled matter, originally scheduled for January 25, 1979, Hearing Room D (44 FR 2187, January 10, 1979), will now be held on February 1 and 2, 1979, at 9:30 a.m. (local time) in Room 1003, Hearing Room A, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned judge.

Dated at Washington, D.C., January 16, 1979.

JOHN J. MATHIAS,
Administrative Law Judge.

[FR Doc. 79-2320 Filed 1-22-79; 8:45 am]

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

ILLINOIS, INDIANA, MICHIGAN, MINNESOTA, OHIO, WISCONSIN

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a press conference of THE Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin Advisory Committees (SACs) of the Commission will convene at 9:30 am and will end at 11:00 am, on February 20, 1979, at the Dirksen Federal Building, 219 South Dearborn, Room 572, Chicago, Illinois 60604.

Persons wishing to attend this press conference should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this conference is to release a report—*Insurance Redlining: Fact, Not Fiction.*

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 18, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-2345 Filed 1-22-79; 8:45 am]

[6335-01-M]

KANSAS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Kansas Advisory Committee (SAC) of the Commission will convene at 1:00 pm, February 15, 1979 and will end at 5:00 pm, February 16, 1979, at the U.S. Post Office and Courthouse, 401 North Market, Second Floor Conference Room, Wichita, Kansas 67201.

Persons wishing to attend this factfinding meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Building, Room 3103, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is to conduct an "open meeting" on the Wichita Police Department and the Sedgwick County Sheriff's Department relative to the use of force and their employment practices.

This meeting will be conducted pursuant to the provisions of the rules and Regulations of the Commission.

Dated at Washington, D.C., January 18, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-2346 Filed 1-22-79; 8:45 am]

[6335-01-M]

MONTANA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil rights, that a press conference of the Montana Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 12:00 noon on February 6, 1979 and will convene again at 7:00 p.m. and will end at 10:00 p.m. on February 7, 1979, at the Federal Building, Room 289, Helena, Montana.

Persons wishing to attend this press conference should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower, 1405 Curtis Street, Suite 1700, Denver, Colorado 80202.

The purpose of this press conference is to release the Montana Advisory Committee Report on Corrections in the State of Montana.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 18, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-2347 Filed 1-22-79; 8:45 am]

[6335-01-M]

PENNSYLVANIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Pennsylvania Advisory Committee (SAC) of the Commission will convene at 10;30 a.m. and will end at 5:00 p.m., on February 15, 1979, at the Federal Building, 600 Arch Street, Room 7306, Philadelphia, Pennsylvania 19106.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington DC 20037.

The purpose of this meeting is to discuss the primary program planning agenda items, which include Lewisburg Prison Study, Mushroom workers report—update, school desegregation in Pittsburgh, briefing on upcoming hearings on police practices in Philadelphia, and orientation of new members will precede meeting.

This meeting will be conducted pursuant to the provision of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 18, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-2348 Filed 1-22-79; 8:45 am]

[6335-01-M]

VIRGINIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Virginia Advisory Committee (SAC) of the Commission will convene at 6:30 p.m. and will end at 9:30 p.m., on February 15, 1979, at City Hall, Fifth Floor, Conference Room, Richmond, Virginia.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington DC 20037.

The purpose of this meeting is to discuss program planning for 1979.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 18, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-2349 Filed 1-22-79; 8:45 am]

[3510-13-M]

DEPARTMENT OF COMMERCE

National Bureau of Standards

ROTATING MASS STORAGE SUBSYSTEMS

Proposed Federal Information Processing Standards

Under the provisions of Public Law 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform automatic data processing (ADP) standards. A single standard is proposed for Federal use which encompasses three distinct classes of rotating mass storage subsystems.

This standard for rotating mass storage subsystems will be used with two other proposed standards. The first of these, the I/O Channel Interface, was originally proposed in a notice published in the FEDERAL REGISTER on December 30, 1976 (41 FR 56877), with subsequent revisions in notices published on August 22, 1977 (42 FR 42242) and on June 19, 1978 (43 FR 26341). The second of these standards, the Channel Level Power Control Interface, was originally proposed in a notice published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12452) with subsequent revisions in notices published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16169) and on June 19, 1978 (43 FR 26341).

The announcement of the two proposed standards for the I/O Channel Interface and the Channel Level Power Control Interface, published in the FEDERAL REGISTER on June 19, 1978 (43 FR 26341) stated: "It is the Government's intent to propose a standard for operational specifications for magnetic disk subsystems within the next 12 months." This proposed standard for rotating mass storage subsystems completes that planned action.

Prior to submission of this proposed standard to the Secretary of Commerce for approval as a Federal Information Processing Standard, it is essential to assure that proper consideration is given to the needs and views of the public, state and local governments, and manufacturers. It is appropriate at this time to solicit such views.

The technical specifications contained in this proposed standard were prepared under the auspices of the American National Standards Institute, Technical Subcommittee X3T9. They consist of four documents. The first of these, ANSI document number X3T9/848, Rev. 2, "Draft Proposed Operational Specification for Rotating Mass Storage Subsystems," defines the overall standard. This document is in turn supplemented by three documents, each of which provides supplemental track format definition and specifies the sense information format and content for three classes of rotating mass storage devices: (1) American National Standards Institute document X3T9/904 Rev. 1, Draft Proposed American National Standard, Class A Rotating Mass Storage Device Specification, (2) American National Standards Institute document X3T9/905 Rev. 1, Draft Proposed American National Standard, Class B Rotating Mass Storage Device Specification, and (3) American National Standards Institute document X3T9/906 Rev. 1, Draft Proposed American National Standard, Class C Rotating Mass Storage Specification.

The proposed Federal Information Processing Standard contains two basic sections: (1) An announcement section which provides information concerning the applicability and implementation of the standard, and (2) a specification section which defines the technical parameters of the standard. Only the announcement section is provided in this notice.

Interested parties may obtain a copy of the specification section of this standard from the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234.

Written comments on this proposed standard should be submitted to the Director, Institute for Computer Sciences and Technology at the above address. Comments to be considered must be received on or before March 30, 1979.

Dated: January 17, 1979.

ERNEST AMBLER,
Director.

FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION

Date ———

ANNOUNCING THE STANDARD FOR OPERATIONAL SPECIFICATIONS FOR ROTATING MASS STORAGE SUBSYSTEMS

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Operational Specifications for Rotating Mass Storage Subsystems (FIPS PUB).

Category of Standard. Interface.

Explanation. This standard defines the peripheral device dependent operational interface specifications for connecting rotating mass storage equipment as a part of automatic data processing (ADP) systems. It is to be used together with FIPS PUB , I/O Channel Interface and FIPS PUB , Channel Level Power Control Interface. This standard, together with these two referenced standards, provides for full plug-to-plug interchangeability of rotating mass storage equipment as a part of ADP systems.

The Government's intent in employing this standard for Operational Specifications for Rotating Mass Storage Subsystems is to reduce the cost of satisfying its data processing requirements through increasing its available alternative sources of supply for computer system components at the time of initial system acquisition, as well as in system replacement augmentation and in system component replacement. This standard is also expected to lead to improved reutilization of system components.

When acquiring ADP systems and system components, Federal agencies shall cite this standard in specifying the interface for connecting rotating mass storage peripheral equipment as a part of ADP systems.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. American National Standards Institute document X3T9/848, Rev. 2, Draft Proposed Operational Specifications for Rotating Mass Storage Subsystems. This operational specification is in turn supplemented by three draft proposed American National Standards, each of which provides supplemental track format definition and specifies the sense information format and content for a particular class of rotating mass storage devices: (1) American National Standards Institute document X3T9/904 Rev. 1, Draft Proposed American National Standard Class A Rotating Mass Storage Device Specification, (2) American National Standards Institute document X3T9/905 Rev. 1, Draft Proposed American National Standard Class B Rotating Mass Storage Device Specification, and (3) American National Standards Institute document X3T9/906 Rev. 1, Draft Proposed American National Standard Class C Rotating Mass Storage Specification.

Applicability. This standard is applicable to the acquisition of all rotating mass storage equipment whenever the use of Federal Information Processing Standard I/O Channel Interface (NBS-FIPS-PUB) is required.

Verification of the correct operation of all interfaces that are required to conform to this standard shall, through demonstration or other means acceptable to the Government, be provided prior to the acceptance of all applicable ADP equipment.

Specifications. This standard incorporates by reference the technical specifications of ANSI documents X3T9/848 Rev. 2, X3T9/904 Rev. 1, X3T9/905 Rev. 1, and X3T9/906 Rev. 1. Either paper of microfiche copies of this Federal Information Processing Standard, including the technical specifications, may be purchased from the National Technical Information Service (NTIS) by ordering Federal Information Processing Standard Publication (NBS-FIPS-PUB-). Operational Specifications for Rotating Mass Storage Subsystems. Ordering information, including prices and delivery alternatives, may be obtained by contacting the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Virginia 22161, Telephone: (703) 557-4630.

Implementation. The provisions of this standard are effective on May 23, 1979. All applicable equipment ordered on or after the effective date, or procurement actions for which solicitation documents have not been issued by that date, must conform to the provisions of this standard unless a waiver has been granted in accordance with the procedure described elsewhere in this publication.

Regulations concerning the specific use of this standard in Federal procurement will be issued by the General Services Administration to be a part of the Federal Property Management Regulations.

This standard shall be reviewed by NBS within three years after its effective date, taking into account technological trends and other factors, to determine whether the standard should be affirmed, revised, or withdrawn.

Waivers. Heads of agencies desiring a waiver from the requirements stated in this publication, so as to acquire ADP equipment that does not conform to this standard, shall submit a request for such a waiver to the Secretary of Commerce for review and approval. Approval will be granted if, in the judgment of the Secretary based on all available information, including that provided in the waiver request, a major adverse economic or operational impact would occur through conformance with this standard.

Requests for waivers shall include: (1) A description of the existing or planned ADP system for which the waiver is being requested, (2) a description of the system configuration, identifying those items for which the waiver is being requested, and including a description of planned expansion of the system configuration at any time during its life cycle, and (3) a justification for the waiver, including a description and discussion of the major adverse economic or operational impact that would result through conformance to this standard as compared to the alternative for which the waiver is requested.

The request for waiver shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for Waiver to a Federal Information Processing Standard. Waiver requests will normally be processed within 45 days of receipt by the Secretary. No action shall be taken to issue solicitation documents or to order equipment for which this standard is applicable and which does not conform to this standard prior to receipt of a waiver approval response from the Secretary.

[FR Doc. 79-2275 Filed 1-22-79; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

WESTERN PACIFIC FISHERY MANAGEMENT COUNCIL, SPINY LOBSTER AND BOTTOMFISH ADVISORY SUBPANEL

Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Western Pacific Fishery Management Council's Spiny Lobster Advisory Subpanel and Bottomfish Advisory Subpanel will conduct public meetings to discuss progress on fishery management plans in the Council's area of concern.

DATE: February 5, 1979.

ADDRESS: The meetings will take place at the Southwest Fisheries Center, Honolulu Laboratory, 2570 Dole Street, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT:

Ms. Kitty Simonds, Executive Secretary, Western Pacific Fishery Management Council, 1164 Bishop Street, Honolulu, Hawaii 96813, Telephone: (808) 523-1368.

SUPPLEMENTARY INFORMATION: The Western Pacific Fishery Management Council was established by the Fishery Conservation and Management Act of 1976 (Public Law 94-265), and the Council has established Advisory Subpanels for Spiny Lobster and Bottomfish to assist the Council in carrying out its responsibilities. These Subpanels will meet to discuss progress in development of fishery management plans for the spiny lobster fishery of the Northwest Hawaiian Islands and for the bottomfish fishery.

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The Bottomfish Advisory Subpanel meeting will convene on Monday, February 5, 1979, at 8:30 a.m. and adjourn at approximately 1:30 p.m. to discuss the bottomfish management plan. The Spiny Lobster Advisory Subpanel meeting will convene on Monday, February 5, 1979, at 1:30 p.m. and adjourn at approximately 5:30 p.m. to discuss the spiny lobster management plan. Both meetings are open to the public.

Dated: January 18, 1979.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

[FR Doc. 79-2319 Filed 1-22-79; 8:45 am]

[6351-01-M]

COMMODITY FUTURES TRADING COMMISSION

SEMIANNUAL AGENDA OF REGULATIONS

AGENCY: Commodity Futures Trading Commission.

ACTION: Publication of Commission agenda.

SUMMARY: The Commodity Futures Trading Commission is providing public notice of the approved Commission calendar for the second quarter of fiscal year 1979. Major rulemaking activities which the Commission currently anticipates have also been included in this notice. In an attempt to broaden public participation in the Commission's rulemaking process, supplementary information is included on the major rulemaking efforts planned for fiscal year 1979.

FOR FURTHER INFORMATION CONTACT:

Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street N.W., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION:

MAJOR REGULATORY INITIATIVES

1. LEVERAGE TRANSACTIONS POLICY

Need/Objective: The Commission has taken action on its previous proposal to adopt a rule establishing a temporary moratorium on the entry of new firms into the business of offering and selling standardized contracts commonly known as leverage contracts after June 1, 1978. In addition the Commission plans to meet the requirements of new Section 19 of the Commodity Exchange Act, by determining whether or not trading leverage contracts in certain commodities should be permitted and, if so, under what conditions.

Legislative Authority: Section 19 of the Commodity Exchange Act, as amended, by the Futures Trading Act of 1978, Pub. L. No. 95-405, section 23, 92 Stat. 876-77.

Agency Contact: David Merrill, Office of General Counsel, 2033 K Street, N.W., Washington, D.C. 20581, 202-254-5387.

Outstanding F.R. Notices. Proposed Rule, 43 F.R. 23729; June 1, 1978, MORATORIUM ON THE OFFER AND SALE OF LEVERAGE CONTRACTS; Offering and Selling Standardized Contracts; Final Rule, 43 FR 56885; December 5, 1978, TEMPORARY MORATORIUM REGARDING GOLD AND SILVER LEVERAGE TRANSACTIONS.

2. TITLE III/STANDARDS FOR SELF REGULATORY ASSOCIATIONS

Need/Objective: With the objective of strengthening self-regulatory efforts within the futures industry, the CFTC has proposed standards to be applied in determining whether to register any applicant futures association(s) under Section 17 of the Commodity Exchange Act.

Legislative Authority: Section 17 of the Commodity Exchange Act, 7 U.S.C. 21 (1976).

Agency Contact: Mark D. Young, Office of General Counsel, 2033 K Street, N.W., Washington, D.C. 20581, 202-254-5716.

Outstanding FR Notice. Proposed Rulemaking, 43 FR 46039; October 5, 1978, REGISTERED FUTURES ASSOCIATIONS; Proposed Standards Governing Commission Review of Applications for Registration As a Futures Association, Form of Registration Statement.

3. FOREIGN TRADER POLICY/REPORTING REQUIREMENTS

Need/Objective: The Commission's objective in developing a foreign trader policy is to insure that parity of treatment is provided for both foreign and domestic market participants. Further consideration will be given to the issues of foreign government participation, foreign omnibus accounts, the publication of data on foreign participation in U.S. markets, and requiring foreign traders to designate U.S. agents for filing information and service of process.

Legislative Authority: Sections 4g(1), 4g(3), 4g(4), 4i, and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 6g(1), 6g(3), 6g(4), 6i and 12a(5) (1976).

Agency Contact: Lamont L. Reese, Economics and Education, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581 202-254-7446.

Outstanding FR Notice. Proposed Revision of Forms and Proposed Rulemaking, 42 FR 62147 (December 9, 1977), GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT; REPORTS BY FUTURES COMMISSION MERCHANTS AND FOREIGN BROKERS; REPORTS BY TRADERS; Proposed Revision of Forms.

4. SPREAD TRADING

Need/Objective: The Commission's objective is to assess the practice of spread trading as well as the procedures under which it takes place to determine whether or not comprehensive regulations are required to insure the integrity and competitiveness of the market place.

Legislative Authority: Sections 4c(a) and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 6c(a) and 12a(5) (1976).

Agency contact: Patricia Gillman, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, 202-254-5200.

Outstanding FR Notice. Advance Notice of Proposed Rulemaking; 43 FR 32092 (July 24, 1978); SPREAD TRADING.

5. COMMODITY OPTIONS PILOT PROGRAM

Need/Objective: The Commission plans to adopt regulations to test, within the context of a limited, rigidly controlled pilot program, the economic benefits provided by commodity option trading and to determine whether or not adequate customer protection can be provided. Several program issues, including criteria for selecting commodities, must be resolved before final regulations are adopted.

Legislative Authority: Sections 2(a)(1), 4c(b) and 8a(5) of the Act, 7 U.S.C. 2, 9, 6c(b) and 12a(5) (1976), as amended by Pub. L. 95-405, section 3, 92 Stat. 867-869 (September 30, 1978).

Agency Contact: Frank Moore, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, 202-632-5110.

Outstanding FR Notice. Proposed Rule Change, 42 FR 55538 (October 17, 1977), GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT; Regulation of Commodity Option Transactions.

6. DEALER OPTIONS

Need/Objective: Congress has directed the Commission to issue regulations permitting grantors and futures commission merchants to grant, offer and sell options on physical commodities subject to certain conditions specified by statute and such other uniform and reasonable requirements as the Commission may prescribe.

Legislative Authority: Sections 2(a)(1), 4c and 8a(5) of the Act, 7 U.S.C. 2, 6c and 12a(5) (1976), as amended by Pub. L. 95-405, section 3, 92 Stat. 867-869 (September 30, 1978).

Agency Contact: Mark Rae, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, 202-254-7285.

Outstanding FR Notice. Proposed Reissuance of and Amendments to Commodity Option Regulations, 43 FR 59396 (December 20, 1978).

COMMODITY FUTURES TRADING COMMISSION CALENDAR

The following calendar represents the current projection of anticipated Commission discussion of specified topics. The final Commission agenda will continue to be published weekly in the FEDERAL REGISTER.

JANUARY CALENDAR

Tuesday, January 16	S & A	Proposed FY 1979 Schedule of Contract Review Calls (Regulation 1.50).
Tuesday, January 23	OGC	Prohibition of Leverage Contracts on Commodities Other Than Gold, Silver bullion and Bulk Coins—Proposed FEDERAL REGISTER Notice.
Tuesday, January 30	OCE	CFTC Foreign Trader Policy Discussion: Parity of treatment for foreign and domestic market participants. Foreign government participation in domestic futures markets. Proposed reporting requirements for foreign traders. Foreign omnibus accounts. Designation of U.S. Agents of foreign participants for the purpose of filing information and service of process.
	OGC	Title III: Review of public comments. Policy discussion.
	OCE	Uniform Reporting of Daily Futures Prices (Part 16).

FEBRUARY CALENDAR

Tuesday, February 6	OPR	Update of Long-Term Planning Projections and Priorities.
	T & M	Commodity Option Pilot Program: Proposed CFTC Management Plan.
Tuesday, February 13	T & M	Spread Trading Policy Discussion: Review of public comments.
	T & M	Regulation 1.31—Availability of FCM and Exchange Books and Records.
	OED	First Quarterly Review.
	OGC	Procedures for Expedited Adjudicatory Proceedings.
Wednesday, February 21	T & M	Proposed Revision of Registration Program and review of refunding fees policy.
Tuesday, February 27	OCE	Aggregation Policy Discussion

MARCH CALENDAR

Tuesday, March 6	OCE	CME—4 Year Notes.
Tuesday, March 13		Open.
Tuesday, March 20	T & M	Review and Discussion of CFTC Rule Enforcement Review Program.
	OGC	Advisory Committee Report on State Jurisdiction.
Tuesday, March 27		Open.

The following issues are regulatory matters scheduled for discussion during the third and fourth quarters of FY 79. More complete calendars will be published prior to April and July 1979. They will include follow-up discussions on many of the topics scheduled for first and second quarter consideration as well as discussions on several internal organizational and administrative matters.

DRAFT CALENDAR, THIRD QUARTER-FISCAL YEAR 1979, APRIL-JUNE

OCE	Research Program: Priorities and Projects.
T & M	Report on Timetable for Review of exchange Rules and Implementation by Exchanges of Disciplinary Rules and Financial Rules.
T & M	Proposed Regulations Relating to Associated Person Registration Program.
OED	Second Quarterly Review.
OCE	Review of CFTC and Exchange Surveillance Programs: Cash market studies. Improved quantitative techniques for market surveillance.

DRAFT CALENDAR, FOURTH QUARTER—FISCAL YEAR 1979, JULY-SEPTEMBER

OCE	Study of Dual Trading and Market Liquidity.
OCE	Research Reports: Market survey of participation: studies on market functions and performance.
T & M	Evaluation and Assessment of Customer Protection Rules.
OED	Third Quarterly Review.
OED	Development and Review of Fiscal Year 1981 Budget and Plan.

Issued in Washington, D.C. on January 18, 1979 by the Commission.

GARY L. SEEVERS,
Acting Chairman,
Commodity Futures Trading Commission.

[FR Doc. 79-2260 Filed 1-22-79; 8:45 am]

[3910-01-M]

DEPARTMENT OF DEFENSE

Department of the Air Force

M-X: MILESTONE II

Supplement to Final Environmental Impact Statement

This notice expands on the January 8, 1979, FEDERAL REGISTER notice announcing the Department of the Air Force's intent to supplement the Final Environmental Impact Statement (EIS), "M-X Milestone II," published on October 6, 1978. This supplement will be an analysis of an air mobile alternative. This notice, a description of proposed actions and alternatives, provides advance information to the public; to federal, state and local agencies and to interested groups on the supplement now in preparation.

Volume IV of the "M-X: Milestone II" Final EIS included two air mobile options which were found to be less suitable than other candidate basing modes for a mobile intercontinental ballistic missile (ICBM) system. Subsequently, a reanalysis of data and new studies indicated that additional consideration should be given to other air mobile options. This has resulted in a delay in the decision on the most suitable basing mode. The planned supplement will add environmental impact information regarding the air mobile alternative to that described in the FEIS for the buried trench, vertical and horizontal shelter and pool alternatives.

The proposed action evaluated in the final EIS and the planned supplement will lead to a full scale engineering development (FSED) decision. FSED includes fabrication of a number of prototype (test) missiles, and the testing of the missiles and basing concepts. FSED does not include selection of deployment areas or bases for the operational missile system nor does it include production of operational missiles, missile carriers or other basing components.

Study of mobile missile concepts is the result of intelligence estimates which show that the present land-based ICBM force is becoming more vulnerable to attack. The introduction of mobility is the means proposed to improve the survivability of the ICBM force. The M-X Milestone II Final EIS described several ground-based, mobile systems which, together with a new missile, offer greater survivability than present ICBM systems. These were called multiple aiming point (MAP) systems and are now known as multiple protective structure (MPS) systems. A description of the air mobile alternative contained in the planned supplement to the Final EIS will be added to the MPS alternatives so that decisionmakers will have a broader choice at the planned late March 1979 date for selection of the preferred basing mode(s).

The air mobile alternative as now envisioned consists of a transport aircraft, a missile similar to those described in the Final EIS and a structure of air bases. The missile could be launched from the aircraft in flight. Three levels of bases might be used. Main operating bases from which the transport/missile force would be logistically supported; perhaps several times as many alert bases, to which two or four aircraft with missiles, crews and minimum support personnel would be rotated from the main operating bases; and possible existing airfields or other locations to which the alert base aircraft would be randomly sent in the event of an actual or expected missile attach on the United States. Other options within this alternative may be studied. The Air Force intends to make maximum use of existing bases and airfields in this concept.

The draft of the supplement to the M-X Milestone II Final EIS will be published and filed with the EPA about mid-February 1979. The public comment period will extend 25 days from the date of the filing. The final supplement to the Final EIS will be filed with the EPA about two weeks after close of the comment period. It will contain the substantive public comments and the Air Force's responses to them. The supplement does not constitute an EIS for the purpose of siting or deployment of M-X. Any comments or questions should be directed to the Deputy for Environment and Safety, Office of the Secretary of the Air Force, Room 4C-885, the Pentagon, Washington, DC. 20330. Telephone: 202/697-9297.

Dated: January 18, 1979.

CAROL M. ROSE,
Air Force Federal Register Liaison Officer.

[FR Doc. 79-2305 Filed 1-22-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1043-6]

AIR QUALITY CRITERIA DOCUMENT FOR OXIDES OF NITROGEN

Extension of Comment Period

The U.S. Environmental Protection Agency will extend the comment period for external review of the Air Quality Criteria Document for Oxides of Nitrogen (43 FR 58117-58118, December 12, 1978) from February 1, 1979, to February 28, 1979.

Direct comments to Mr. Michael A. Berry, Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

STEPHEN J. GAGE,
Assistant Administrator for Research and Development.

[FR Doc. 79-2334 Filed 1-22-79; 8:45 am]

[1505-01-M]

FEDERAL COMMUNICATIONS COMMISSION

MEXICAN STANDARD BROADCAST STATIONS

Notification List

Correction

In FR Doc. 78-34550, appearing at page 58228 in the issue of Wednesday, December 13, 1978, the last entry under the heading "Power kilowatts" in the table on page 58228 now reading "1.000D/.00N" should have read, "1.000D/.100N".

[6210-01-M]

FEDERAL RESERVE SYSTEM

AMERICAN STATE FINANCIAL CORP.

Acquisition of Bank

American State Financial Corporation, Lubbock, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Liberty State Bank, Lubbock, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 9, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 17, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-2264 Filed 1-22-79; 8:45 am]

[6210-01-M]

BANCONAC SHARES, INC.

Acquisition of Bank

Banconac Shares, Inc., Hollywood, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 99.1 per cent or more of the voting shares of The Bank of Dania, Dania, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 8, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 17, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-2265 Filed 1-22-79; 8:45 am]

[6210-01-M]

THIRD NATIONAL CORP.

Proposed Acquisition of Third National Life Insurance Co.

Third National Corporation, Nashville, Tennessee, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Third National Life Insurance Company, Phoenix, Arizona. Notice of the application was published on December 14, 1978 in *The Arizona Republic*, a newspaper circulated in the County of Maricopa, Arizona, and on December 2, 1978 in *The Nashville Banner*, a newspaper circulated in Nashville, Tennessee.

Applicant states that the proposed subsidiary would engage in the activities of underwriting, as reinsurer, credit life and credit accident and health insurance which is directly related to extensions of credit by Third National Bank and Friendly Finance, Inc., both subsidiaries of applicant. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be summitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 16, 1979.

Board of Governors of the Federal Reserve System, January 16, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-2267 Filed 1-22-79; 8:45 am]

[6210-01-M]

NORTHWESTERN FINANCIAL CORP.

Proposed Retention of First Atlantic Corp.

Northwestern Financial Corporation, North Wilkesboro, North Carolina, has applied, pursuant to Section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain voting shares of First Atlantic Corporation, Charlotte, North Carolina. Notice of the application was published in newspapers of general circulation in each of the communities served by the offices of First Atlantic Corporation.

Applicant states that the proposed subsidiary engages in the activities of originating, acquiring, selling and servicing loans secured by mortgages, including construction, development and permanent loans on residential and commercial properties and acting as agent in the sale of credit life and credit accident and health insurance and property and casualty insurance sold in connection with its lending activities. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 16, 1979.

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Board of Governors of the Federal Reserve System, January 16, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-2266 Filed 1-22-79; 8:45 am]

[6210-01-M]

WHITEWATER BANCORP., INC.

Formation of Bank Holding Co.

Whitewater Bancorp., Inc., Whitewater, Wisconsin, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 83.9 percent or more of the voting shares of First Citizens State Bank of Whitewater, Whitewater, Wisconsin. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 6, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 16, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-2268 Filed 1-22-79; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on January 16, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC and ICC requests are invited from all interested persons, organizations, public interest groups, and affected business. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before February 12, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL COMMUNICATIONS COMMISSION

The FCC requests clearance of revisions to Form 701, Application for Additional Time to Construct Radio Station. The FCC is revising Form 701 to include Form 321, Application for Construction Permit to Replace Expired Permit. The revised Form 701 will be titled "Application for Extension of Construction Permit or to Replace Expired Construction Permit" and will be used by broadcaster's to apply for an extension of time in which to construct a station or to apply for a construction permit to replace an expired permit. Form 701 is required by Section 1.534 of the Commission's Rules. The FCC estimates there are approximately 550 applications filed annually and that respondent burden averages 2 hours and 55 minutes per application.

INTERSTATE COMMERCE COMMISSION

The ICC requests an extension without change of Form OP-F-240, Issuance of Securities or Assumption of Obligations, pursuant to the provisions of 4 CFR Part 10. Form OP-F-240 is a special report required to be filed by carriers issuing securities on Commission approval, which shows the disposition made of such securities and the application of the proceeds thereof. Reports are required by Section 11301(e), formerly Section 20a(10) of the Interstate Commerce Act. There has been no revision in form content since the previous clearance. The only change proposed is that which refers to the newly codified section of the Act.

The ICC estimates respondents number approximately 550 and that reporting burden averages 5 hours per report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 79-2315 Filed 1-22-79; 8:45 am]

[4110-88-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Committee Extensions

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the continuance by the Secretary of Health, Education, and Welfare, with the concurrence of the General Services Administration Committee Management Secretariat, of the following public advisory committees until March 1, 1979:

Alcohol Research Review Committee
Alcohol Training Review Committee
Biological Sciences Training Review Committee
Clinical Program—Projects Research Review Committee
Clinical Projects Research Review Committee
Clinical Psychopharmacology Research Review Committee
Community Alcoholism Services Review Committee
Continuing Education Review Committee
Crime and Delinquency Review Committee
Developmental Problems Research Review Committee
Drug Abuse Research Review Committee
Drug Abuse Training Review Committee
Epidemiologic Studies Review Committee
Experimental and Special Training Review Committee
Experimental Psychology Research Review Committee
Mental Health Services Research Review Committee
Mental Health Small Grant Committee
Metropolitan Mental Health Problems Review Committee
Minority Group Mental Health Programs Review Committee
Neuropsychology Research Review Committee
Paraprofessional Manpower Development Review Committee
Personality and Cognition Research Review Committee
Preclinical Psychopharmacology Research Review Committee
Psychiatry Education Review Committee
Psychiatric Nursing Education Review Committee
Psychological Sciences Fellowship Review Committee
Psychology Education Review Committee
Research Scientist Development Review Committee
Social Problems Research Review Committee
Social Sciences Research Review Committee
Social Sciences Training Review Committee
Social Work Education Review Committee

Dated: January 17, 1979.

DAVID F. KEFAUVER,
Acting Deputy Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-2269 Filed 1-22-79; 8:45 am]

[4110-03-M]

Food and Drug Administration

CONSUMER PARTICIPATION

Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces a forthcoming Consumer Exchange Meeting to be chaired by the Commissioner of Food and Drugs.

DATE: The meeting will be held at 1:30 p.m., Wednesday, January 31, 1979.

ADDRESS: The meeting will be held at the HEW North Building, Room 5051, 330 Independence Avenue SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT:

Alexander Grant, Special Assistant to the Commissioner for Consumer Affairs (HF-7), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1547.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to exchange information between Food and Drug Administration (FDA) officials and consumer representatives, by providing an opportunity for consumer representatives to present their views directly to the Commissioner and to top managers of FDA, by seeking solutions to any problems agreed on during this exchange, and by giving the agency an opportunity to discuss and communicate vital health and policy issues to the concerned public.

Dated January 17, 1979.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-2263 Filed 1-22-79; 8:45 am]

[4110-02-M]

Office of Education

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Meeting

Notice is hereby given, pursuant to PL 92-463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on Friday and Saturday, February 23 and 24, 1979. On Friday, the meeting will convene at 9 a.m. and recess at 5 p.m., and on Saturday, the meeting will reconvene at 9 a.m. and adjourn at 12 noon. The two-day meeting will be held at 425 Thirteenth Street, N.W., Suite 1012, Washington, D.C. 20004.

The National Advisory Council on the Education of Disadvantaged Children is established under Section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The meeting is being held in order for members to discuss and review: final drafts of special reports and the draft annual report; annual report section prepared by Council consultant; and, upcoming Council activities.

The entire meeting will be open to the public. Because of limited space, all persons wishing to attend should call for reservations by February 20, 1979, area code 202/724-0114.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children located at 425-13th Street, N.W., Suite 1012, Washington, D.C., 20004.

Signed at Washington, D.C. on January 17, 1979.

ROBERTA LOVEHEIM,
Executive Director.

[FR Doc. 79-2289 Filed 1-22-79; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

INDIAN EDUCATION

Acceptance of Nominations for Membership on the National Advisory Council on Indian Education; Closing Date

1. *Introduction.* In accordance with 20 U.S.C. 1221g, "National Advisory Council on Indian Education", notice is hereby given that nominations of Indians, as defined below, will be accepted by the Commissioner of Education from Indian tribes and organizations in order to make to the President of the United States recommendations of individuals for membership on the National Advisory Council on Indian Education. The Council consists of fifteen (15) members appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and who must represent diverse geographic areas of the country.

(Pub. L. 92-318, section 442(a), 20 U.S.C. 1221g(a))

Nominations submitted to the Commissioner of Education by Indian tribes and organizations must be received no later than March 5, 1979. Nominations are being requested in order to make recommendations for five (5) membership positions, which will begin on September 30, 1979. Each Presidential appointment will be for a term of three years ending September 29, 1982.

(20 U.S.C. 1233b(a)(1))

2. *Definition.* "Indian" means any individual who (a) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (b) is considered by the Secretary of the Interior to be an Indian for any purpose, or (c) is an Eskimo or Aleut or other Alaska Native.

(Pub. L. 92-318, section 453(a), 20 U.S.C. 1221h(a))

3. *Functions of the Council.* The Council is directed to: (a) Submit to the Commissioner of Education a list of nominees for the position of Deputy Commissioner of Indian Education;

(20 U.S.C. 1221f(a))

(b) Advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Pub. L. 81-874) and section 1005 of Title X of the Elementary and Secondary Education Act of 1965 (both as added by Title IV of Pub. L. 92-318 and as amended), and with respect to adequate funding therof;

(c) Review applications for assistance under Title III of the Act of September 30, 1950 (Pub. L. 81-874), section 1005 of Title X of the Elementary and Secondary Education Act of 1965, and section 316 of the Adult Education Act (all as added by Title IV of Pub. L. 92-318 and as amended), and make recommendations to the Commissioner with respect to their approval;

(d) Evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

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(e) Provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(f) Assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950 (Pub. L. 81-874) (as added by Title IV, Part A, of Pub. L. 92-318); and

(g) Submit to the Congress not later than June 30 of each year a report on its activities, including any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children or adults participate, or from which they can benefit, and including a statement of the Council's recommendatons to the Commissioner with respect to the funding of any such programs.

(Pub. L. 92-318, section 442(b); 20 U.S.C. 1221g(b))

4. *Nomination categories.* Nominations submitted to the Commissioner of Education should be made according to the following categories: (a) *Professional educators.* Indians with active experience as professionals in the areas of early childhood, elementary, secondary, higher, special, vocational, and adult education, such as, teachers, professors, administrators, specialists (e.g., curriculum, language, math, etc.), counselors, and researchers.

(b) *Laypersons involved in education.* Indians with active experience as laypersons involved with education such as, school board members, Parent-Teacher Association members, parents of school-age children, or those with other lay involvement.

(c) *Students.* Indians who are college students or who have reached their junior year of high school at the time of nomination.

(d) *Individuals with other than education experience.* Indians who do not have education experience, preferably those individuals who have experience in a field involving Indian affairs.

5. *Nomination review procedure.* The Deputy Commissioner of Indian Education will gather members of the Office of Indian Education staff to screen nominations received and address appropriate criteria including those set out below. A list of recommended individuals will be compiled as a result of this screening and will be forwarded to the Commissioner of education for review. This list will be accompanied by a list of all individuals nominated.

The Commissioner of Education will make recommendations to the Secretary of Health, Education, and Welfare and forward the list of recommended individuals, as well as the complete list of all individuals nominated.

The Secretary of Health, Education, and Welfare will then make recommendations to the President of the United States and forward a list of recommended individuals, as well as the complete list of all individuals nominated, for the President's review and necessary action

6. *Criteria for recommendations.* To maintain a balanced representation on the Council, priority consideration will be given to nominees in categories other than professional educators. Every effort will be made to recommend individuals representing diverse geographic areas of the country, particularly from those areas with large Indian populations. Consideration will also be given to the balance on the Council interms of sex, and urban and rural (reservation and non-reservation) representation during the screening process.

The following factors will be considered in selecting individuals to be recommended for appointment: Indian education experience; general education experience; education expertise in the areas of early childhood, elementary, vocational, special and adult education; education background; previous council or committee experience; honors and awards received; and organizational memberships.

Nominees will also be considered on the basis of their knowledge of and experience with both local community and national issues.

7. *Nomination procedure.* Nominations must be submitted to the Commissioner of Education on Office of Education Form OE-543, which may be obtained by writing or telephoning the Office of Indian Education, U.S. Office of Education, FOB-6, Room 2177, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-8060.

(a) Nominations delivered by mail. A nomination sent by mail must be addressed as above and mailed on or before March 5, 1979. The use of registered or at least first class mail is encouraged. Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Nominating Indian tribes or organizations should check with the local post office before relying on this method.

Each late nominating Indian tribe or organization will be notified that its nomination will not be considered in the current recommendations.

(b) Nominations delivered by hand. A nomination to be hand delivered must be taken to the Office of Indian Education, Room 2177, Federal Office Building Six, 400 Maryland Avenue SW., Washington, D.C. Hand-delivered nominations will be accepted daily between the hours of 7:30 a.m. and 4:00 P.m., Washington, D.C., time, except Saturdays, Sundays, and Federal holidays. Nominations will not be accepted after 4:00 p.m. on March 5, 1979.

8. *Incomplete forms.* Incomplete forms will be returned to the nominating Indian tribe or organization accompanied by a checklist detailing information necessary for completion. Completed forms must be returned to the Office of Indian Education no later than March 5, 1979, or fifteen (15) days aftr the date on the checklist (whichever is later), in order to be considered for recommendation by the Commissioner. Proof of mailing will be the same as stated in paragraph 7 above.

Dated: January 15, 1979.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-2254 Filed 1-22-79; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[FDAA-570-DR; Docket No. NFD-659]

ARIZONA

Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of major disaster declaration for the State of Arizona (FDAA-570-DR), dated December 21, 1978.

DATED: January 7, 1979.

FOR FURTHER INFORMATION CONTACT:

A. C. Reid, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: The Notice of major disaster for the State of Arizona dated December 21, 1978, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 21, 1978.

The County of: Santa Cruz.

(Catalog of Federal Domestic Assistance No. 14,701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 79-2298 Filed 1-22-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[U-41840]

UTAH

Application

JANUARY 15, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the CCCo. has applied for a 2⅞-inch natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 21 S., R. 23 E.,
Sec. 14, NE¼NW¼.

The needed right-of-way is a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

DELL T. WADDOUPS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-2297 Filed 1-22-79; 8:45 am]

[4310-01-M]

[Wyoming 66226]

WYOMING

Application

JANUARY 12, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Powder River Pipeline Corporation of Casper, Wyoming 82602 filed an application for a right-of-way to construct a 4½ inch pipeline for the purpose of transporting crude oil across the following described public lands:

SIXTH PRINCIPAL MERIDIAN WYOMING

T. 45 N., R. 77 W.,
Sec. 22, SW¼.

The pipeline will transport crude oil produced from the Davis-No. 1 American Federal Well located in the NE¼SW¼ sec. 22, to a point in the NW¼SW¼ sec. 22, all in T. 45 N., R. 77 W., 6th P.M. in Johnson County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 951 Union Boulevard, Casper, Wyoming 82601.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-2311 Filed 1-22-79; 8:45 am]

[4310-84-M]

[Wyoming 66327]

WYOMING

Application

JANUARY 12, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado, filed an application for a right-of-way to construct a 4½ inch O.D. pipeline and related facilities for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 19 N., R. 94 W.,
Sec. 22, S½NE¼, N½SW¼, SE¼SW¼, and NW¼SE¼.

The pipeline with related facilities will transport natural gas produced from the Unit 4-22 Well located in the SW¼ of sec. 22, to a point of connection with Colorado Interstate Gas Company's existing pipeline in the SW¼ of sec. 23, all within T. 19 N., R. 94 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P. O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-2310 Filed 1-22-79; 8:45 am]

[4310-84-M]

[Wyoming 65888]

WYOMING

Application

JANUARY 12, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to construct a 4½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 16 N., R. 93 W.,
Sec. 15, S½SW¼, NE¼SW¼;
Sec. 17, S½SW¼, SE¼SE¼;
Sec. 20, N½NE¼, NE¼NW¼.

The proposed pipeline will transport natural gas from a well in the SW¼SW¼ section 17, flowing easterly to tie-in's with an existing gathering system located in the NE¼SW¼, section 15, T. 16 N., R. 93 W., Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P. O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-2309 Filed 1-22-79; 8:45 am]

[4310-84-M]

[Wyoming 65877]

WYOMING

Application

JANUARY 12, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-

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way to construct a 6⅝ inch pipeline and appurtenant facilities for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 98 W.,
Sec. 10, SE¼SE¼;
Sec. 14, NW¼NW¼.

The proposed pipeline will transport natural gas from the Table Rock Unit No. 39 well in the NW¼ of section 14 into an existing natural gas pipeline in the SE¼ section 10, T. 18 N., R. 98 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P. O. Box 1869, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-2300 Filed 1-22-79; 8:45 am]

[4310-03-M]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before January 12, 1979. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the keeper of the National Register, Office of Archeology and Histroic Preservation, U.S. Department of the Interior, Washington, DC 20240. Written comments or a request for additional time to prepare comments should be submitted by February 2, 1979.

CHARLES HERRINGTON,
Acting Keeper of the National Register.

ARIZONA

Pima County

Tucson, *San Agustin del Tucson*, Brickyard Lane and Mission Rd.

IOWA

Scott County

Davenport, *Clifton*, 1533 Clay St.

MARYLAND

Queen Anne's County

Stevensville, *Christ Church*, MD 18.

NEW JERSEY

Middlesex County

Perth Amboy, *Raritan Copper Works*, Elm and Market Sts.

New Mexico

Bernalillo County

Albuquerque, *Barela-Bledsoe House*, 7017 Edith Blvd., NE.
Albuquerque, *First National Bank Building*, 217-233 Central Ave., NW.

San Miguel County

Las Vegas, *Liberty Park Historic District*, Liberty Park and environs.

Santa Fe County

Lamy vicinity, *San Cristobal Archeological District*, S of Lamy.
Taos, *Gaspard, Leon, House*, Raton Rd.

NEW YORK

Essex County

Elizabethtown, *Hand-Hale Historic District*, River and Maple Sts.

Orange County

Vails Gate, *Edmonston House*, NY 94.

Tompkins County

Ithaca, *Strand Theatre*, 310 E. State St.

Washington County

White Creek, *White Creek Historic District*, SR 68, Byars and Niles Rds.

Westchester County

Tarrytown, *North Grove Street Historic District*, 1, 2, 8, 15, and 19 Grove St.

OHIO

Clark County

Springfield, *Main Street Buildings*, 6-14 E. Main St.
Brecksville, *Burt, William, House*, 9525 Brecksville Rd.
Brecksville, *Rich, Charles B., House*, 9367 Brecksville Rd.
Brecksville vicinity, *Station Road Bridge*, E of Brecksville at Cuyahoga River (also in Summit County).
Cleveland Heights, *Alcazar Hotel*, Surrey and Derbyshire Rds.
Gates Mills, *Gates Mills Village District*, OH 174.
Independence, *Packard-Doubler House*, 7834 Riverview Rd.
Valley View, *Knapp, William H., House*, 7101 Canal Rd.
Valley View, *Ulyatt, Abraham, House*, 6579 Canal Rd.

Franklin County

Hilliard vicinity, *Wesley Chapel*, SE of Hilliard at 3299 Dublin Rd.

Hardin County

Kenton, *Hardin County Courthouse*, Courthouse Sq.

Highland County

Hillsboro vicinity, *Eubanks-Tytus House*, SE of Hillsboro on OH 41.

Holmes County

Winesburg vicinity, *Shull-Lugenbuhl Farm*, N of Winesburg on SR 222.

Lake County

Madison vicinity, *Madison Seminary and Home*, N of Madison at 6769 Middle Ridge Rd.

Lorain County

Oberlin, *Burrell-King House*, 317 E. College St.
Oberlin, *Jewett, Frank, House, Little Red Schoolhouse and Shurtleff-Monroe House*, 73 S. Professor St.
Oberlin, *Oberlin Lake Shore and Michigan Southern Station*, Depot Park.

Montgomery County

Dayton, *East Second Street District*, 3-27 E. 2nd St.

Richland County

Lexington, *First Congregational Church and Lexington School*, 47 Delaware St. and 51 W. Church St.

Stark County

Louisville, *St. Louis Church*, 300 N. Chapel St.
Massillon, *St Timothy's Protestant Episcopal Church*, 226 3rd St., SE.

Summit County

Peninsula vicinity, *Brown, Jim, House*, S of Peninsula at 3491 Akron Peninsula Rd.

Tuscarawas County

Port Washington, *Port Washington Town Hall*, Main St.

Warren County

Morrow vicinity, *Trevey Mound*, E of Morrow.

Bexar County

San Antonio vicinity, *Altgelt-Maverick Ranch and Fromme Farm*, NW of San Antonio.

Goliad County

Goliad vicinity, *Peck, Capt. Barton, House*, W of Goliad at Hill Ave. and Post Oak St.

Harris County

Houston vicinity, *Harris County Boys' School Site*, NE of Houston.

Harrison County

Marshall vicinity, *Dial-Williamson House*, 3 mi. (4.8 km) W of Marshall on Old Longview Rd.

WASHINGTON

Ferry County

Curlew, *Ansorge Hotel*, River St. and Railroad Ave.
Danville, *Nelson-Grunwell Store*, Main and Wall Sts.

King County

Seattle, *Ballard-Howe House*, 22 W. Highland Dr.

Pend Oreille County

Metaline Falls, *Larson, Lewis P., House*, 5th and Pend Oreille Blvd.
Metaline Falls, *Washington Hotel*, 5th Ave. and Washington St.

Spokane County

Cheney, *Cheney Interurban Depot*, 505 2nd St.
Spokane vicinity, *Riblet, Royal, House*, E of Spokane on Fruit Hill Rd.

Whatcom County

Bellingham, *Eldridge Avenue Historic District*, roughly bounded by Great Northern RR track, Squalicum Ravine, North and Elm Sts., and Broadway.

Whitman County

Pullman, *Stevens Hall*, Campus and Administration Sts.

[FR Doc. 79-1905 Filed 1-22-79; 8:45 am]

[4310-31-M]

Geological Survey

[Int FES 79-1]

ENVIRONMENTAL IMPACT STATEMENT

Availability of Final Statement Coal Creek Mine, Campbell County, Wyo.

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental impact statement on the proposed Coal Creek surface coal mining operation by the Atlantic Richfield Company in Campbell County, Wyoming. The final statement assesses the environmental impacts of the lessee's plan for the surface mining of federally owned coal and the concurrent reclamation and revegetation of surface lands. The proposed action is on Federal coal lease W-3446, located 25 miles (40km) southeast of Gillette, Wyoming, in Campbell County.

The mine plan contained in this final environmental impact statement was submitted prior to the promulgation of interim regulations by the U.S. Office of Surface Mining, pursuant to the Surface Mining Control and Reclamation Act of 1977. It has not been reviewed for compliance with those requirements. Prior to making any decision on approval of the mining and reclamation plan, the Department will perform a technical review for compliance with the Surface Mining Regulations. Once the mine plan is conformed to meet those regulations, the Department will evaluate whether this final environmental impact statement is adequate for the mine plan approval action or whether a supplemental to this impact statement needs to be prepared and distributed.

Comments received on the draft environmental statement during the comment period were considered in the preparation of the final environmental statement and are reproduced in the appendix.

The proposed mining and reclamation plan assessed in this statement was one of the mining proposals identified in the preparation of the regional analysis (Part I) of the Department's final environmental statement, FES 74-55, entitled "Proposed Development of Coal Resources in the Eastern Powder River Coal Basin in Wyoming," which was filed with the Council on Environmental Quality on October 18, 1974. Public hearings on the draft of the FES 74-55 statement were held as follows: June 24-25, 1974, at Cheyenne, Wyo.; June 26, 1974, at Casper, Wyo.; and June 27-28, 1974, at Gillette, Wyo.

The final environmental impact statement is available for public review in the U.S. Geological Survey Library, 1526 Cole Blvd., Golden, Colo.; the U.S. Geological Survey Library, Room 4A100, National Center, Reston, Va.; the Converse County Library, 300 Walnut St., Douglas, Wyo.; the George Amos Memorial Library, 412 South Gillette Ave., Gillette, Wyo.; the Library of Natrona County, 307 East Second, Casper, Wyo.; and the State Library, State of Wyoming, Supreme Court Bldg., Cheyenne, Wyo. A limited number of copies are available on request from the U.S. Geological Survey, Land Information and Analysis Office, Federal Center, Stop 701, Denver, CO 80225.

Dated: January 18, 1979.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 79-2282 Filed 1-22-79; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION, SEVENTH CIRCUIT PANEL

Meeting

Due to the unforeseen weather conditions, the Seventh Circuit Panel (Chairman: Justin A. Stanley) of the United States Circuit Judge Nominating Commission cancelled its meeting on January 18, 19, 1979.

The Panel will convene on January 27, 28, 29, 1979, in the Concourse Hotel, One West Dayton Street, Madison, Wisconsin 53703.

These meetings will be closed to the public pursuant to Pub. L. 92-463, Section 10(D) as amended. (CF. 5 U.S.C. 552b(c)(6).)

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

JANUARY 18, 1979.

[FR Doc. 79-2272 Filed 1-22-79; 8:45 am]

[4410-18-M]

Law Enforcement Assistance Administration

MULTIJURISDICTIONAL SENTENCING GUIDELINES FIELD TEST

Solicitation for Competitive Research Grant Program

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant program to evaluate the Multijurisdictional Sentencing Guidelines Field Test.

The basis for the test is the Program Test Design, a document with detailed specification of selected program elements. The goals of each field test site (a state) are to determine the effectiveness of these elements or program strategies in multiple settings, and to examine their transferability to other states.

The major objectives of the evaluation are:

To test the effectiveness of guidelines within a state as a method for increasing sentencing consistency;

To assess the feasibility of developing and implementing sentencing guidelines as a policy tool in a multijurisdictional setting;

To examine the impact of guidelines on sentencing practices and on other components of the criminal justice system; and

To provide a descriptive account of the guideline development and implementation process for use by other jurisdictions interested in this process.

The solicitation asks for the submission of draft proposals. A formal application will be requested following a peer review process in accordance with the criteria set forth in the solicitation. In order to be considered all papers must be postmarked no later than April 1, 1979. This grant is planned for award in July, 1979 with funding support not to exceed $400,000 or 30 months in duration.

Further information and copies of the solicitation can be obtained by contacting Rosemary Murphy or Jay Merrill, Office of Program Evaluation, NILECJ, 633 Indiana Avenue, N.W.,

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Washington, D.C. 20531 (301) 492-9085.

BLAIR G. EWING,
Acting Director, NILECJ.

JAY BROZOST,
Attorney-Adviser,
Office of General Counsel.

[FR Doc. 79-2287 Filed 1-22-79; 8:45 am]

[4510-43-M]

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-78-66-M]

CLEGHORN & WASHBURN MINING CO.

Petition for Modification of Application of Mandatory Standard

Cleghorn & Washburn Mining Company, P.O. Box 2604, Grand Junction, Colorado 81501, has filed a petition to modify the application of 30 CFR 57.5-50 (noise) to its Pandora Mine in La Sal, Utah and its Rex Mine and C-LP-22A in Uravan, Colorado. The Petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-194.

The substance of the petition follows:

(1) The petitioner has found that currently available add-on mufflers do not appreciably decrease the noise levels of its rock drills.

(2) In addition, these add-on mufflers are difficult to maintain, cause freezeups, slow drilling operations, and cause poor handling characteristics and loss of drill balance, thereby increasing the probability of an accident to the drill operator.

(3) The petitioner's employees wear both ear plugs and ear muffs while drilling. The petitioner believes that together these types of ear protection provide better protection than that provided by the mufflers.

(4) The petitioner states that if the mufflers were removed, drill performance would improve, thereby decreasing the driller's exposure time to drilling noise.

(5) For these reasons, the petitioner requests relief from the application of the standard to its rock drills until manufacturers can build satisfactory add-on mufflers.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before February 22, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 16, 1979.

ROBERT B. LAGATHER,
Assistant Secretary
for Mine Safety and Health.

[FR Doc. 79-2327 Filed 1-22-79; 8:45 am]

[4510-43-M]

[Docket No. M-78-38]

MID-CONTINENT COAL AND COKE CO.

Final Action Granting a Petition for Modification of Application of Mandatory Safety Standard

The Mine Safety and Health Administration (MSHA) has granted in part the petition (43 FR 8191) of the Mid-Continent Coal and Coke Co. to modify the application of 30 CFR 75.501 to its Dutch Creek No. 1 and L. S. Wood No. 3 Mines located in Pitkin County, Colorado, in accordance with Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164. MSHA has determined that an alternative method exists that will guarantee at all times no less than the same measure of protection given miners of the mine by the standard.

MSHA based its determination on the following findings:

1. The intent of the modification is to provide 480 volt power to the tailgate entry of the longwalls by use of a 1/0 trailing cable in excess of 800 feet, the maximum length allowed by Schedule 2G. Cable length of 1100 feet is needed to span both the 500 foot maximum length from the power center to the head gate and the 550-600 foot face.

2. Inspection of the advancing longwall face of Dutch Creek No. 1 mine showed it to be as described in the petition with but two exceptions. The electrical distribution box described in 6(b) of the petition was not secured to a chock, but was hanging freely by chains. MSHA investigation saw the intended installation at the L. S Wood No. 3 mine, and it appeared adequate for the purpose. A steel shelf was welded to a chock, and the distribution box welded to the shelf. The second exception was that electrical protection proposed in 6(d) of the petition had not been specified or considered. Information was provided to MSHA to permit MSHA to recommend maximum short circuit protection settings.

3. Installation of the advancing longwall in the L. S. Wood No. 3 mine was incomplete at the time of MSHA's investigation. The tailgate chocks were still above ground. Inspection did show the installation to be similar to that of the Dutch Creek No. 1 mine, however, and similar mining problems and need for this petition are expected.

4. Heaving is indeed a problem in the tailgate entries of these advancing longwall sections, and electric power is required to adequately brush the area. Maintenance of ventilation and escapeways would be impractical without such brushing.

5. Equivalent protection to that provided by Section 75.501 will be attained by additional safeguards. Electrical protection can be provided by reduced settings of short circuit protective devices. Physical protection can be provided by routing the 1/0 cable with other suitably protected longwall trailing cables, and by securing the distribution box in a protected area at the tailgate. The less protected cables used in the tailgate entry will no more subject to damage than those used in other normal mining applications.

6. The settings for protection of the 1/0 AWG cables extending from the power center to the distribution box and from the distribution box to the loading or dinting machine have been reduced in accordance with the IEEE paper, "Instantaneous Circuit Breaker Settings for the Short Circuit Protection of Three Phase 480,600 and 1040 Volt Trailing Cables." Settings for protection of the No. 4 and No. 8 AWG cables safely could be raised from the maximum allowed by Schedule 2G, but need not be for the loads expected.

7. MSHA investigators recommended that this petition for modification be approved with the plan and safeguards described in the petition if the following conditions are met:

a. Cable sizes shall be no smaller and lengths no longer than the following for circuits originating at the tailgate distribution box:

(1) the loading machine or dinting machine circuit, 1/0 AWG, 400 feet;

(2) the chain transfer conveyer circuit, No. 4 AWG, 100 feet;

(3) the hydraulic power-pack and circulating pump circuits, No. 8 AWG, 100 feet.

b. These same circuits shall be protected by instantaneous trip circuit breakers set no higher than the following:

(1) the loading machine or dinting machine circuit, 620 amperes;

(2) the 40 hp chain transfer conveyor circuit, 500 amperes;

(3) the 10 hp hydraulic power-pack and 10 hp circulating pump circuits, 200 amperes for each circuit.

Because of these findings, the Administrator for Coal Mine Safety and Health, under authority delegated by the Secretary of Labor, ordered that the petition be granted, conditioned on compliance with the terms stated in the petition and with the recommendations made by MSHA's investigators.

A copy of the decision is available for inspection by the public at the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: January 12, 1979.

ROBERT B. LAGATHER,
Assistant Secretary
for Mine Safety and Health.

[FR Doc. 79-2326 Filed 1-22-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON EVALUATION OF LICENSEE EVENT REPORTS

Meeting

The ACRS Subcommittee on Evaluation of Licensee Event Reports will hold an open meeting on February 7, 1979, in Room 1046, 1717 H Street, N.W., Washington, DC 20555. Notice of this meeting was published on January 19, 1979.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 4, 1978, (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: *Wednesday, February 7, 1979, 8:30 a.m. until the conclusion of business.*

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, representatives of the NRC Staff and the Nuclear Safety Information Center (NSIC), and their consultants, to plan its review of Licensee Event Reports submitted during the period 1976-1978.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Robert L. Wright, Jr., (telephone 202/634-3314) between 8:15 a.m. and 5:00 p.m., EST.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document room, 1717 H Street, N.W., Washington DC 20555.

Dated: January 17, 1979.

JOHN C. HOYLE,
Advisory Committee
Management Officer.

[FR Doc. 79-2092 Filed 1-22-79; 8:45 am]

[7590-01-M]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; SUBCOMMITTEE ON PROCEDURES AND ADMINISTRATION

Meeting

The ACRS Subcommittee on Procedures and Administration will hold a meeting on February 7, 1979, in Room 1046, 1717 H Street, NW., Washington, DC 20555. Notice of this meeting was published January 19, 1979.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 4, 1978, (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: *Wednesday, February 7, 1979, 4:00 p.m. until the conclusion of business.*

The Subcommittee will meet in Executive Session to discuss work assignments of ACRS fellows and appointments of individuals as ACRS fellows.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of discussing the qualifications of candidates for appointments as ACRS fellows. I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that, should such sessions be required, it is necessary to close these sessions to protect information, the release of which would represent an unwarranted invasion of personal privacy, (5 U.S.C. 552(c)(6)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a period telephone call to the Designated Federal Employee for this meeting, Mr. Marvin C. Gaske, (telephone 202/634-3265) between 8:15 a.m. and 5:00 p.m., EST.

Dated: January 17, 1979.

JOHN C. HOYLE,
Advisory Committee
Management Officer.

[FR Doc. 79-2093 Filed 1-22-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 16, 1979 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

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An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

VETERANS ADMINISTRATION

Application for Predischarge Education Program
22-8821P
On occasion
20,000 servicemen or servicewomen
20,000 responses; 5,000 hours
Caywood, D. P., 395-6140

OFFICE OF PERSONNEL MANAGEMENT AUTHORITY

Presidential Management Internship Program Evaluation
OPM 1378
Annually
1,000 nominees to the PMIP
1,000 responses; 500 hours
Marsha Traynham, 395-6140

Personnel Research Questionnaire 79-1
OPM 1377

V 4 4 / 1 6 J A 2 3 7 9 UMI

On occasion
400,000 applicants for Federal employment
400,000 responses; 66,667 hours
Marsha Traynham, 395-6140

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control
Report of illness following vaccination
On occasion
6,300 immunization project grantees
6,300 responses; 3,150 hours
Richard Eisinger, 395-3214

Social Security Administration
Staff Development Expenditures for Financial Assistance and Social Service Programs Under Title I, IV-A, X, XIV, and XVI of the Social Security Act
SSA 4591
Annually
54 State agencies
54 responses; 162 hours
Reese B.F., Budget Review Division, 395-3211

Health Care Financing Adminstration (Medicare)
Early Periodic Screening, Diagnosis, and Treatment
Developmental Review Questionnaires
HCFA 86 & 87
Single-time
1,256 medicaid recipients and health care professionals
1,256 responses; 418 hours
Richard Eisinger, 395-3214

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration
On-the-road fuel economy survey
NHTSA test
On occasion
1,000 DOT owners of passenger cars/light trucks
1,000 responses; 50 hours
Geiger, Susan B., 395-5867

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service
Summer food service program for children
FNS-80
On occasion
State agencies and service institutions (sponsors)
11,788 responses; 23,138 hours
Budget Review Division, 395-4775

DEPARTMENT OF COMMERCE

Bureau of Census,
Shipments of metal cans
MA-34D
Monthly
Manufacturers of metal cans
250 responses; 250 hours
C. Louis Kincannon, 395-3211

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration
Motor vehicle safety regulation defect reports
49 CFR, Part 573
On occasion
Motor vehicle and motor vehicle equipment manufacturers
1,400 responses; 14,000 hours
Geiger, Susan B., 395-5867

EXTENSIONS

VETERANS ADMINISTRATION

Claim for One Sum Payment (Life Insurance)
29-4125
On occasion
Beneficiary
45,000 responses; 7,500 hours
Caywood, D. P., 395-6140

DEPARTMENT OF COMMERCE

Industry and Trade Administration
Aluminum producers and importers (receipts, shipments, and stocks)
DIB-978
Monthly
Aluminum producers and importers
3,600 responses; 1,800 hours
C. Louis Kincannon, 395-3211

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration
Application for a social security number
SS-5
On occasion
Individuals requesting a SSN, revision, or correction
8,000,000 responses; 400,000 hours
Reese B. F., 395-3211

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-2279 Filed 1-22-79; 8:45 am]

[3110-01-M]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by The Office of Management and Budget on January 11, 1979 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

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NEW FORMS

OFFICE OF MANAGEMENT AND BUDGET

Contract Pricing Proposal (Motion Picture)
On occasion
4,000 Motion picture producers, 4,000 responses; 10,000 hours
Richard Eisinger, 395-3214

U.S. CIVIL SERVICE COMMISSION

IPA Mobility Program Participant Survey, Evaluation
Guidelines and Verification of Continuing Education
PM 11
Single-time
2,530 Mobility asignees, program & Govt. Aca. Officials, 2,530 responses; 1,565 hours
Marsha Traynham, 395-6140

DEPARTMENT OF COMMERCE

Economic Development Administration
Preliminary Plan for Data Collection Forms for the
Micro-Economic Evaluation of the Local Public
Works program
ED-447Q
Single-time
3,000 Local government and business officials, 3,000 responses; 1,500 hours
C. Louis Kincannon, 395-3211

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration
In-Home/In-Store Food Package Information Usage Study
Single-time
208 Food shoppers from 38 large PSU's, 208 responses; 248 hours
Richard Eisinger, 395-3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research
Baseline Neighborhood Household Survey for M.F.
Sweat Equity Home Neighborhood
Single-time

600 Hhlds. in Lower East Side of Manhattan & South Bronx, 600 responses; 450 hours
Strasser, A., 395-6132

Government National Mortgage Association
Summary of Guaranty Agreement-Graduated Payment
HUD-1742
On occasion
700 mortgage bankers, 700 responses; 175 hours
Strasser, A., 395-6132

Government National Mortgage Association
Schedule of subscribers
HUD-1705
On occasion
6,000 Mortgage bankers, 6,000 responses; 1,500 hours
Strasser, A., 395-6132

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service
Application for participation and site information
(SFSPFC & SMP)
FNS-81, FNS-81-1
Annually
Service institutions, 11,880 responses; 12,320 hours
Ellett, C. A., 395-6132

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association
Commitment to guaranty mortgage-backed securities
HUD 1704
On occasion
Mortgage bankers, 10,000 responses; 1,666 hours
Strasser, A., 395-6132

DEPARTMENT OF LABOR

Employment and Training Administration
State and National Apprenticeship Data System (SNAPS)
ETA 5125 and 5126
Semi-annually
Federal and State apprenticeship and training reps. 178,000 responses; 52,332 hours
Strasser, A., 395-6132

EXTENSIONS

COMMUNITY SERVICES ADMINISTRATION

Application for Recognition of a CAA-Local Civil Service Agency's Certification
373
On occasion
1,600 grantees, 300 responses; 7,500 hours
Reese B. F., 395-3211

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit
Borower's certificate of actual cost
FHA-2205
On occasion
Project mortgagors, 300 responses; 150 hours
Strasser, A., 395-6132

DEPARTMENT OF THE INTERIOR

Bureau of Land Management
Log scale and disposition of timber removed report
5460-15
On occasion
Timber sale contractors, 750 responses; 375 hours
Ellett, C. A. 395-6132

DEPARTMENT OF THE INTERIOR

Bureau of Land Management
Environmental Education Interests Inventory
6129-A and 6129-2
On occasion
Schools and community organizations, 600 responses; 200 hours
Ellett, C. A., 395-6132

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-2284 Filed 1-22-79; 8:45 am]

[3110-01-M]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 15, 1979 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

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NEW FORMS

PRESIDENT'S COMM. ON FOR. LANG. & INTERN. STUDIES

Questionnaire on Fulbright Experience
Single-Time
5,000 former Fulbright grantees
5,000 responses; 2,400 hours
Laverne V. Collins, 395-3214

DEPARTMENT OF ENERGY

Worker Questionnaire for Plant Scherer
RA-74
On occasion
1,530 workers at plant Scherer
1,530 responses; 255 hours
Hill, Jefferson B., 395-5867

Pretest of Transportation Panel
EIA-141
On occasion
252 households interviewed through the EIA-84
252 responses; 126 hours
Hill, Jefferson B., 395-5867

OFFICE OF PERSONNEL MANAGEMENT AUTHORITY

Financial Disclosure Statement
SF 278
On occasion
500 presidential or vice-presidential candidates
500 responses; 500 hours
Marsha Traynham, 395-6140

COMMUNITY SERVICES ADMINISTRATION

Checkpoint Procedure for Coordination
394
Annually
1,600 grantees
300 responses; 7,500 hours
Reese, B. F., 395-3211

DEPARTMENT OF ENERGY

Survey of Plant Combustible Solid Waste and Existing Combustible Equipment
EIA-58
Single-time
100 industrial plants
100 responses; 100 hours
Hill, Jefferson B., 395-5867

Household Survey for Monroe County, Georgia
RA-78
Single-time
345 households in Monroe County, Georgia
345 responses; 172 hours
Hill, Jefferson B., 395-5867

Commercial Non-Residential Buildings Interim
Energy Survey
EIA-143

Single-time
6,000 commercial establishments
6,000 responses; 3,000 hours
Hill, Jefferson B., 395-5867

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service
Food Stamp Program—Performance Reporting System
FNS 132, & 133
On occasion
State agencies
1,061,646 responses; 564,028 hours
Ellett, C. A., 395-6132

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration
LEEP Assessment Instrument
LEAA 5260, & 5261
Single-time
Educational institutions applying for LEEP funds
1,100 responses; 3,300 hours
Laverne V. Collins, 395-3214

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service
Federal Review of State Agencies' QC System (Food Stamp)
FNS (FS) 306
Annually
Food stamp participants, applicants, & State agencies
7,325 responses; 25,208 hours
Ellett, C. A., 395-6132

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service
OC Statistical Sampling and Reporting of Review Findings (Food Stamp)
FNS 247-1, 247-2, 247-3, 248, & HB 302
Semi-annually
State agencies
2,430 responses; 3,545 hours
Ellett, C. A., 395-6132

Food and Nutrition Service
Quality Control Review Schedule (Food Stamp)
FNS 245, & HB 301
On occasion
Food stamp participants, applicants & State agencies
154,450 responses; 1,053,100 hours
Ellett, C. A., 395-6132

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Ass't Sec'y)
Application for Insurance Benefits and General Assignment
FHA 2777, 2777A, & 2777B
On occasion
FHA approved mortgagees
5,000 responses; 2,500 hours
Strasser, A., 395-6132

Administration (Office of Ass't Sec'y)
Fiscal Data to Support Claim for Insurance Benefits
FHA-2767
On occasion
FHA approved mortgagees
25,000 responses; 12,500 hours
Strasser, A., 395-6132

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-2285 Filed 1-22-79; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0239]

BRENTWOOD CAPITAL CORP.

Application for a License as a Small Business Investment Company

Notice is hereby given concerning the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR Section 107.102(1979)) under the name of Brentwood Capital Corporation, 11661 San Vicente Boulevard, Los Angeles, California 90049, for a license to operate in the State of California as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended

(15 U.S.C. 661 et seq.)

The proposed officers, directors and principal stockholders are:

Timothy M. Pennington III, 1101 North Bundy Drive, Los Angeles, California 90049, President, Treasurer and Director.
Berge K. Hagopian, 11048 Cashmere Street, Los Angeles, California 90049, Vice President, Secretary and Director.
Frederic J. Warren, 12319 19th Helena Drive, Los Angeles, California 90063, Chairman of the Board of Directors.
Brentwood Associates II, 11661 San Vicente Boulevard, Los Angeles, California 90049, 100%.

Brentwood Associates II (the applicant's parent) is a California limited partnership engaged in the business of venture capital investment. The voting securities of Brentwood Associates II are held by its three general partners who will be the three directors of the Applicant and its three officers. These three general partners will also be limited partners.

In addition to the three general partners and limited partners noted above, Brentwood Associates II has 15 other limited partners none of whom takes or is permitted to take any part in the management or control of the affairs or business of Brentwood Associates II. One of the limited partners has more than a ten percent partnership interest. They are: American Express Company, American Express Plaza, New York, New York 10004.

This request for a license also requires approval under § 107.702 (Common control) of the Regulations governing SBICs because Messrs. Hagopian, Pennington and Warren also control another SBIC, namely, Brentwood Associates, Inc., 11661 San Bicente Boulevard, Los Angeles, California 90049, as officers, directors and general partners of a California limited partnership (Brentwood Associates).

The company will begin operations with an initial capitalization of $5,010,000. No concentration in any particular industry is planned. The applicant intends to make investments in small business concerns, with growth potential, located primarily within the State of California

The new partnership with the same management and general partners is being formed because Brentwood Associates will soon be dissolved. The future status of Brentwood Associates, Inc., is undecided.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any interested person may, not later than February 7, 1979, Submit to SBA, in writing, relevant comments on the proposed company. Any communication should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Los Angeles, California

Dated: January 11, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-2252 Filed 1-22-79; 8:45 am]

[8025-01-M]

SMALL BUSINESS CONFERENCE COMMISSION

White House Conference on Small Business

In accordance with Section 10(a) of the Federal Advisory Committee Act (5 USC appendix I), announcement is made of the following national commission meeting.

Small Business Conference Commission, February 13, 1979—9:00 a.m. to 1:00 p.m., New Executive Office Building, Room 2010, 726 Jackson Place, N.W., Washington, D.C. 20506.

OPEN MEETING

Purpose: The Small Business Conference Commission was established by Executive Order to provide advice with respect to the holding of a White House Conference on Small Business in early 1980. In pursuit of the goal of a strong small business community, the Commission shall recommend issues to be considered by the conference including those related to fostering of small business and the expansion of opportunities for entry into small business enterprise. The Commission shall make recommendations for legislative and policy changes primarily based upon the findings of the White House Conference on Small Business.

Agenda: The Commission shall address the above issues in an introductory meeting.

Contact: Cynthia Howar, Commission Liaison, White House Conference on Small Business, 730 Jackson Place, N.W., Washington, D.C. 20506.

Please write before February 6, 1979, if you wish to attend this meeting. Attendance by the public will be limited to space available. Summaries of the transcripts of the meeting will be made available to the public upon request.

Dated: January 16, 1979.

K DREW,
Deputy Advocate for Advisory Councils, U.S. Small Business Administration.

[FR Doc. 79-2253 Filed 1-22-79; 8:45 am]

[4910-62-M]
[4910-01-M]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

DEPARTMENT OF ENERGY

Office of the Secretary

[OST File No. 61; Notice 79-2]

NATIONAL ENERGY TRANSPORTATION STUDY

Public Meeting with Industry

AGENCIES: Department of Transportation (DOT) and Department of Energy (DOE).

ACTION: Notice of public meeting with industry.

SUMMARY: As part of the President's National Energy Plan, DOT and DOE are conducting a joint study to determine if the Nation's transportation system is adequate to accommodate the future energy needs of the United States. A meeting among representatives of DOT, DOE, and the petroleum industry will be held to discuss the capability of this industry to transport the energy materials that will be needed in the period 1985-2000. The public is invited to this meeting.

DATE: Thursday, January 25, 1979, 10 AM to 12 noon eastern time. The meeting will be held at DOT Headquarter (Nassif) Building, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Thomas E. Marchessault, Staff Member, National Energy Transportation Study (NETS), Office of Intermodal Transportation, DOT (202-426-4168). Since available space for the public is limited, those wishing to attend should contact Mr. Marchessault not later than the day before the meeting.

SUPPLEMENTARY INFORMATION: By 1985 and beyond it appears likely that the Nation will experience numerous changes in the historical patterns of energy supply and demand which in turn will require changes in the way energy is transported. The changing energy patterns include dwindling domestic oil and natural gas production, regional shifts in supply and demand, and shifts in national and regional fuel use, including new energy sources.

The joint DOT-DOE study team will look at important aspects of the movement of coal, crude oil and petroleum products, natural gas, nuclear fuel, and electrical power to 1985 and beyond. This will be done to determine what adjustments are needed in the present transportation network.

In the first phase of the study, DOE is to select alternative national energy scenarios based on different assumptions about future energy supply and demand. These scenarios will be broken down into 173 geographical regions for the fuels listed above.

In the second phase of the study, DOT is to determine how energy would be moved from supply areas to energy-consuming areas by all modes of the transportation network. DOT will use the assistance of a computer model to compare the present capacity with future needs and identify potential bottlenecks.

In the third phase of the study, the joint study team is to examine a number of issues that may affect the transportation of energy. While the major emphasis of the study is transportation needs in 1985, the study team will also look at 1990 and 2000.

The final report is expected to identify constraints on the efficient transportation of energy and to recommend any Federal actions that may be necessary.

To gain the widest possible range of information and opinion concerning this undertaking, DOT and DOE have established an "open file" for the submission of comments from interested groups and individuals. (See 43 FR 38795; August 30, 1978.) To provide more detailed information in certain areas, representatives of DOT and DOE will be holding a number of meetings with representatives of industries affected by the study. The one with petroleum industry representatives will be held from 10 AM to 12 noon eastern time Thursday, January 25, 1979, at DOT Headquarters (Nassif) building, 400 Seventh Street, SW., Washington, D.C.

The topic for discussion at this meeting will include the capability of the petroleum industry to transport increased amounts of energy materials.

This meeting will be open to the public on a space available basis. Anyone who wishes to attend should contact the NETS staff member identified above. There will be an opportunity at the conclusion of each meeting for the public to make comments. Minutes of each meeting will be available for public inspection and copying in the NETS open file in the office of the Assistant General Counsel for Regulation and Enforcement, room 10421, Department of Transportation Headquarters (Nassif) Building, 400 Seventh Street, SW, Washington, D.C. 20590 (202-426-4723), from 9 AM to 5:30 PM eastern time, Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on January 16, 1979.

CHESTER DAVENPORT,
Chairman, NETS, Assistant Secretary for Policy and International Affairs, Department of Transportation.

ALVIN ALM,
Deputy Chairman, NETS, Assistant Secretary for Policy and Evaluation, Department of Energy.

[FR Doc. 79-2288 Filed 1-22-79; 8:45 am]

[4810-25-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

NEW AND ADJUSTED TRIGGER PRICES AND EXTRAS FOR IMPORTED STEEL MILL PRODUCTS

I am hereby announcing (1) new trigger base prices and "extras" for a wide variety of stainless steel wire products; (2) more complete coverage and additional "extras" for carbon wire products; and (3) an adjustment to the previously announced trigger price for continuous buttwelded pipe.

Accordingly, a number of pages in the Steel Trigger Price Handbook are being reissued and additional pages added to reflect these actions.

Description of the trigger price mechanism may be found in the

V 4 4 / 1 6 J A 2 3 7 9 UMI

V 4 4 / 1 6 J A 2 3 7 9 UMI

"background" to the final rulemaking which amended regulations to require the filing of a Special Invoice (SSSI) with all entries of imported steel mill products (43 FR 6065).

These base prices, extras, and adjustments are based upon information made available to the Treasury Department by the Japanese Ministry of International Trade and Industry, as well as other information available to the Department.

All of the trigger prices announced here will be used by the Customs Service to collect information at the time of entry on all shipments of the products covered which are exported after the date of publication of this notice. However, the following rules will be applied to entries of these products covered by contracts with fixed price terms concluded before the publication of this notice.

1. Contracts with fixed price terms between unrelated parties. If the exporter documents at or before the time of entry that the shipment is being imported under such a contract with an unrelated party, the entry will not trigger an investigation even if the sales price is below the trigger price, provided that product is exported on or before February 28, 1979. However, failure to initiate an investigation will not diminish the right of affected interested persons to file a complaint with respect to such imports under the established procedures of antidumping cases.

2. Contracts between related parties. If the importer documents at the time of entry that the shipment is to be resold to an unrelated purchaser in the United States under a contract with fixed price terms concluded before the publication of this notice, the entry will not trigger an investigation even if the sales price is below the trigger price, provided the product is exported on or before February 28, 1979.

While these "grace period" sales will not as a rule trigger a self-initiated antidumping investigation, information concerning such sales will be kept as a part of the information in the Customs Service monitoring system and will be available in the event an antidumping petition is filed with respect to such products sold by that producer or the Treasury Department decides to self-initiate an antidumping investigation based in subsequent sales.

Dated: January 16, 1978.

ROBERT H. MUNDHEIM,

General Counsel.

[4110-02-C]

TABLE OF PRODUCT ADDITIONS AND ADJUSTMENTS

AISI Category/T.P. Handbook		Action
14 - 6 Continuous Buttwelded - 7 Standard Pipe		Base price revised upward $22 based on recent Japanese submission including additional producers. Other Outside Diameter Weights and other specifications have been revised, as noted on page 14-7 (updated to First Quarter 1979).
16 - 9 - 10 - 11 - 12 - 13 - 14 - 15,	Stainless Steel Wire " " " " " " " " " " " " " " " A, B, C, D, E, F,"	Complete revision of stainless steel wire trigger prices based on most recent Japanese submissions. Previous pages 16-9 through 16-15 are replaced.
16 - 22	Upholstery spring wire Automatic Coiling and Knotting Type	New Coverage
16 - 23	Mechanical spring wire ASTM A-227 and A-648	New Coverage
16 - 24	Oil tempered spring wire ASTM A-229	New Coverage
16 - 25	Carbon steel valve spring wire ASTM A-230	New Coverage
16 - 26	Automotive tire bead wire	New Coverage
16 - 27	Galvanized core wire for A.S.C.R. ASTM B-498 Class "A"	New Coverage
16 - 28	Field Fence ASTM A-116	New Coverage

14-6
REV. JAN 1979

Continuous Butt Welded Standard Pipe
2 3/8" P.E. Base

Category AISI 14

Tariff Schedule Number (s) 610.32 0.3¢/lb.

Base Price per Metric Ton $350 1st Quarter

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight	$7	$ 6
Gulf Coast	Table	5	8
Atlantic Coast		4	8
Great Lakes		4	10

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter/Wall Thickness, including Black or Galvanized, Threaded and Coupled or Plain End.

Revised Jan, 1978
1st Quarter
14-7

BASE PRICE, INCLUDING O.D./WT., GALVANIZING, THREADED AND COUPLED EXTRAS

CONTINUOUS BUTT WELDED PIPE

AISI 14 TSUSA 610.32

DESCRIPTION	NOM. (INCHES)					O.D. (INCHES)				
	1/2	3/4	1	1¼	1½	2 3/8	2 7/8	3½	4	4½
STD WEIGHT, BLK, PLAIN END	377	367	360	358	358	350	350	350	358	358
EX STRONG, BLK, PLAIN END	377	377	359	366	366	360	360	360	366	366
STD WEIGHT, GALV, PLAIN END	479	463	451	444	444	444	438	438	444	444
EX STRONG, GALV, PLAIN END	492	475	464	455	455	451	451	451	455	455
STD WEIGHT, BLK T AND C	418	405	390	387	387	380	380	380	392	392
EX STRONG, BLK T AND C	429	415	401	397	397	390	390	390	405	405
STD WEIGHT, GALV, T AND C	521	500	481	473	473	468	468	468	480	480
EX STRONG, GALV, T AND C	536	514	494	488	488	481	481	481	493	493
SPRINKLER PIPE (SCH. 10)	393	394	377	374	374	368	368	368	374	374

NOTICES

STAINLESS STEEL WIRE T.P. SCHEDULES

CATEGORY A.I.S.I. 16

Tariff Schedule Numbers 609-4510 and 609-4540
10 1/2% + Additional Duties (See Headnote 4, T.S.U.S.)

Sequence Guide

1. Annealed Wire - Group I
   A. Grades and Base
   B. Size Extras by Grade Group
2. Hard/Spring Wire - Group II
   A. Grades and Base
   B. Size Extras by Grade Group
3. Soft/Intermediate Wire - Group III
   A. Grades and Base
   B. Size Extras by Grade Group
4. Coating Extras
5. Finish Extras
   A. Centerless Ground
   B. Centerless Ground and Polished
6. Tolerance Extras
7. Straightening and Cut to Length Extras
8. Packaging Extras
9. Schedule for ocean freight, handling, interest, and insurance.

These pages replace 16-9 through 16-15 plus additional pages - 16-15A through 16-15D

NOTE: All Stainless Steel Wire product trigger prices on p. 16-9 through 16-15F are 1st Quarter 1979 prices.

GROUP I - ANNEALED WIRE

Annealed: The condition of soft wire in which there is no further cold drawing after the last annealing treatment. Wire of this temper is made by annealing in open fired furnaces or molten salt followed by pickling, which produces a clean gray matte finish. It is also made with a bright finish by annealing wet, oil or grease drawn wire in a protective atmosphere, and is sometimes described as bright annealed wire.

Grades	Dollar per MT Size Extras
301	2073
302	2018
303	2128
304	2073
305	2266
310	4057
314	4829
316	2734
316-L	2927
317	3286
317-L	3479
304-L	2266
17-4PH *	2431
308	2238
308-L	2431
309	2845
309-L	3038
321	2431
312	Not Available
302 HQ(18-19LW) **	2211
347	2789
384	2734
15-5PH ***	Not Available
409	1588
410	1257
416	1224
420	1312
430	1312
430-F	1533
434	1422
434-A	1422
446	1918

NOTICES

* May also be designated as type 630 or as UNS 17400

** May also be designated as type 302 CU and as 306

*** May also be designated as type XM12 and UNS 15500

GROUP I - ANNEALED WIRE (Continued)

Size*	Dollar per MT Size Extras 300 Series & 17-7PH	400 Series	17-4PH 15-5PH
.703"-.574"	204	523	204
.693"-.501"	204	523	204
.500"	221	523	221
.499"-.375"	239	523	239
.3125"-.374"	256	523	256
.250"-.312"	343	523	343
.234"-.249"	389	523	389
.216"-.233"	442	563	442
.200"-.215"	610	610	610
.185"-.199"	627	639	627
.170"-.184"	644	668	644
.155"-.169"	656	697	656
.142"-.154"	674	825	674
.128"-.141"	703	953	703
.113"-.127"	784	1051	697
.099"-.112"	906	1144	731
.086"-.098"	993	1214	761
.076"-.085"	1051	1283	796
.067"-.075"	1109	1347	964
.058"-.066"	1214	1394	1126
.051"-.057"	1266	1440	1179
.044"-.050"	1318	1487	1231
.038"-.043"	1434	1533	1347
.033"-.037"	1556	1707	1469
.030"-.032"	1620	1823	1620
.027"-.029"	1777	Not Available	1957
.024"-.026"	1928	"	1928
.021"-.023"	2079	"	2084
.019"-.020"	2230	"	2230
.018"	2375	"	2375
.017"	2410	"	2410
.016"	2450	"	2450
.015"	2566	"	2566

*All intermediate sizes to take next higher price.

GROUP I - ANNEALED WIRE (Continued)

Size*	Dollar per MT Size Extras 300 Series & 17-7PH	400 Series	17-4PH 15-5PH
.014"	2699	Not Available	2699
.013"	2815	"	2815
.012"	2937	"	2937
.011"	3053	"	3053
.010"	3332	"	3332
.009"	3460	"	3460
.008"	3617	"	3617
.0075"	3779	"	3779
.007"	3953	"	3953
.0065"	4360	"	4360
.006"	4824	"	4824
.00575"	5288	"	5288
.0055"	5753	"	5753
.00525"	6682	"	6682
.005"	6856	"	6856
.00475"	6972	"	6972
.0045"	7204	"	7204
.00425"	7843	"	7843
.004"	8423	"	8423
.00375"	17711	"	17711
.0035"	21136	"	21136
.00325"	24155	"	24155
.003"	27173	"	27173
.0027"	28161	"	28161
.0025"	29322	"	29322
.002"	38029	"	38029

*All intermediate sizes to take next higher price.

GROUP II - HARD/SPRING WIRE

Hard/Spring: A condition of wire drawn several drafts as required to produce the high tensile strengths required for such products as spring wire.

Grades	Dollar per MT Wire Base Price
301	2073
302	2018
303	2128
304	2073
305	2266
310	4057
314	4829
316	2734
316-L	2927
317	3286
317-L	3662
321	2431
17-4PH *	2431
17-7PH ****	3175
330	Not Available
308	2238
308-L	2431
309	2845
309-L	3038
312	Not Available
302 HQ(18-9LW)**	2211
347	2789
384	2734
15-5PH ***	Not Available
409	1588
410	1257
416	1224
420	1312
430	1312
430-F	1533
434	1422
434-A	1422
446	1918

* May also be designated as Type 630 or as UNS 17400

** May also be designated as Type 302 CU and 306

*** May also be designated as Type XM-12 and UNS 15500

**** May also be designated as Type 631 and UNS-17700

GROUP II - HARD/SPRING WIRE (Continued)

Size*	Dollar per MT Size Extras 300 Series & 17-7PH	400 Series
Over .375"	679	Not Available
.3125"-.374"	679	"
.250"-.312"	679	"
.234"-.249"	679	"
.216"-.233"	679	"
.200"-.215"	679	"
.185"-.199"	679	"
.170"-.184"	679	"
.155"-.169"	679	"
.142"-.154"	656	"
.128"-.141"	656	"
.113"-.127"	656	"
.099"-.112"	691	"
.086"-.098"	766	"
.076"-.085"	824	"
.067"-.075"	894	"
.058"-.066"	993	"
.051"-.057"	1196	"
.044"-.050"	1376	"
.038"-.043"	1451	"
.033"-.037"	1591	"
.030"-.032"	1666	"
.027"-.029"	2009	"
.024"-.026"	2194	"
.021"-.023"	2415	"
.019"-.020"	2705	"
.018"	3268	"
.017"	3559	"
.016"	3646	"
.015"	3733	"
.014"	3907	"
.013"	4052	"
.012"	4342	"

*All intermediate sizes to take next higher price.

GROUP II - HARD/SPRING WIRE (Continued)

Size*	Dollar per MT Size Extras 300 Series & 17-7PH	400 Series
.011"	5556	Not Available
.010"	5701	"
.009"	5933	"
.008"	6130	"
.007"	Under Review	"
.0065"	"	"
.006"	"	"
.00575"	"	"
.0055"	"	"
.00525"	"	"
.005"	"	"
.00475"	"	"
.0045"	"	"
.00425"	"	"
.004"	"	"
.00375"	"	"
.0035"	"	"
.00325"	"	"
.003"	"	"
.0027"	Not Available	"
.0025"	"	"
.002"	"	"

*All intermediate sizes to take next higher price.

GROUP III - SOFT/INTERMEDIATE WIRE

Soft/Intermediate: A condition of wire drawn one or more drafts after annealing as required to produce minimum strength or hardness. The properties of such wire can be varied between those of soft temper and those approaching spring temper wire. Wire in this temper is usually produced in a variety of dry drawn tempers. Cold heading wire, by example, belongs in this group.

Grades	Dollar per MT Wire Base Price
301	2073
302	2018
302(302HQ,18-9LW)	2211
303	2128
304	2073
305	2266
310	4057
314	4829
316	2734
316-L	2927
317	3286
317-L	3479
321	2431
17-4PH *	2431
330	Not Available
308	2238
308-L	2431
309	2845
309-L	3038
312	Not Available
347	2789
384	2734
15-5PH **	Not Available
409	1588
410	1257
416	1224
420	1312
430	1312
430-F	1533
434	1422
434-A	1422
446	1918

* May also be designated as Type 630 or as UNS 17400

** May also be designated as Type XM12 or as UNS 15500

GROUP III - SOFT/INTERMEDIATE WIRE (Continued)

Size*	Dollar per MT Size Extras 300 Series & 17-7PH	400 Series	17-4PH & 15-5PH
Over .375"	459	319	459
.3125"-.374"	459	319	459
.250"-.312"	459	331	459
.234"-.249"	459	354	459
.216"-.233"	459	377	459
.200"-.215"	459	406	459
.185"-.199"	569	435	569
.170"-.184"	598	459	598
.155"-.169"	627	499	627
.142"-.154"	650	563	650
.128"-.141"	702	673	702
.113"-.127"	842	749	842
.099"-.112"	923	853	923
.086"-.098"	975	882	975
.076"-.085"	1086	935	1086
.067"-.075"	1196	1022	1196
.058"-.066"	1306	1242	1306
.051"-.057"	1353	1469	1353
.044"-.050"	1405	1515	1405
.038"-.043"	1527	1573	1527
.033"-.037"	1620	1759	1620
.030"-.032"	1730	1875	1730
.027"-.029"	1887	Not Available	1887
.024"-.026"	2038	"	2038
.021"-.023"	2194	"	2194
.019"-.020"	2339	"	2339

*Intermediate sizes to take next higher price.

COATING EXTRAS

Material provided uncoated or coated with lime (or equivalent to lime) and/or soap will carry no extra. Other coatings require an appropriate extra where additional costs are involved.

Metallic coatings include copper, nickel and lead. Non-metallic coatings include plastics, molybdedum disulfide, etc.

Type of Coating

Size Range	Oxide	Metallic Copper	Metallic Nickel	Non-Metallic
Over .155"	None	116	35	25
.154"-.099"	"	174	35	25
.098"-.063"	"	232	47	33
.062"-.041"	"	Not Available	72	50
.040"-.030"	"	"	99	66
.029"-.025"	"	"	99	66
.024"-.020"	"	"	135	95
.019"-.015"	"	"	177	125
.014"-.010"	"	"	210	151

FINISH EXTRAS

Size Range*	Centerless Ground 300 Series, 17-7PH, 400 Series, 17-4PH, & 15-5PH	Centerless Ground and Polished 300 Series, 17-7PH, 400 Series, 17-4PH,& 15-5PH
.703"-.595"	499	627
.594"-.501"	499	627
.500"	551	697
.499"-.375"	563	720
.374"-.3125"	563	720
.3124"-.250"	563	720
.249"-.234"	865	1051
.233"-.216"	865	1051
.215"-.200"	958	1167
.199"-.185"	1120	1353
.184"-.170"	1318	1567
.169"-.155"	1579	1846
.154"-.142"	1840	2107
.141"-.128"	2165	2432
.127"-.113"	2711	3001
.112"-.093"	5521	6078

*All intermediate sizes to take next higher price.

17-4PH to be included in 400 series.

Straightening and cut to length extras are already included in the above finish extras in case of centerless ground or centerless ground and polished.

TOLERANCE EXTRAS

Standard: AISI or JIS Specification

Diameter Tolerance	$/MT
Standard	0
Not less than 1/2 standard	$116
Closer than 1/2 to 1/4 standard	25% of size extra
Closer than 1/4 standard	50% of size extra

Straightening and Cut to Length Extras

Size Range	Dollar per MT
.703"-.595"	104
.594"-.501"	104
.500"	104
.499"-.375"	131
.374"-.3125"	131
.3124"-.170"	236
.169"-.099"	590
.098"-.051"	1706
.050"-.032"	1968

Length	Dollar per MT
Under 12"	92
12" to under 18"	59
18" to under 24"	59
24" to under 30"	39
30" to under 36"	39
36" to under 48"	39
48" to under 60"	39
60" to under 72"	39
72" to under 120"	33
120" to under 168"	33
168" to under 192"	33
192" to under 216"	33
216" to under 240"	33
240" to under 264"	26
264" to under 288"	26
288" to 316"	26

Packaging Extras

Type	Dollar per MT
Bundle	29
Wooden Boxes	87
Fibre Drums	87
Coil Carriers	29
Spools	145

Stainless Wire (Continued)
Category 16
Tariff Schedule Nos. 609.4510 and 609.4540

	Ocean Freight	Handling	Interest Factor
West Coast	93	7	1.8%
Gulf Coast	109	5	2.4%
East Coast	109	4	2.4%
Great Lakes	142	4	2.9%

Interest charge equals F.O.B. price including size extra times interest factor.

Insurance at 1% of base plus extras plus ocean freight.

UPHOLSTERY SPRING WIRE AUTOMATIC COILING AND KNOTTING TYPE

Category A.I.S.I. 16

Tariff Schedule Number 609.4315 8.5%

1st Quarter

Base Price Per Metric Ton $487

Charges to C.I.F.*

	Ocean Freight	Handling	Interest
West Coast	$38	$7	$ 9
Gulf Coast	47	5	12
Atlantic Coast	49	4	12
Great Lakes	62	4	14

Insurance 1% of Base Price + Extras + Ocean Freight

Extras

1. Size Extra

Size (Inches)	$ Per Metric Ton
0.191 - 0.135	Base
0.134 - 0.105	9
0.104 - 0.080	13
0.078 - 0.062	24

*Tramper Rate

MECHANICAL SPRING WIRE A.S.T.M. A-227 AND A-648

Category A.I.S.I. 16

Tariff Schedule Numbers 609.4305 8.5%
609.4315 8.5%

Base Price Per Metric Ton $513

Class 1 and 2

Charges to C.I.F.

	Ocean Freight	Handling	Interest
West Coast	$38	$7	$ 9
Gulf Coast	47	5	12
Atlantic Coast	49	4	12
Great Lakes	62	4	15

Insurance 1% of Base Price + Extras + Ocean Freight

Extras

1. Processing Extra Class 3 $2/M.T.

2. Size Extra

Size (Inches)	$ Per Metric Ton class 1 and 2	class 3
0.625" - 0.437"	10	10
0.436" - 0.192"	-2	-2
0.191" - 0.135"	Base	Base
0.134" - 0.105"	7	7
0.104" - 0.080"	22	22
0.079" - 0.062"	34	34

* Ocean Freight Represents Tramper Rate

OIL-TEMPERED STEEL SPRING WIRE A.S.T.M. A-229

Category A.I.S.I. 16

Tariff Schedules 609.4055 8½%
609.4305 8½%
609.4315 8½%

Base Price Per Metric Ton $516 MB Grade

Charges to C.I.F.

	Ocean Freight Tramper	Ocean Freight Container	Handling	Interest
West Coast	$38	$ 88	$7	$10
Gulf Coast	47	100	5	12
Atlantic Coast	49	100	4	12
Great Lakes	62	102	4	15

Insurance 1% of Base Price + Extras + Ocean Freight

Extras

1. Processing Extra
HB Grade $22

2. Size Extra

Size (Inches)	$ Metric Ton M.B.	N.B.
0.625 - 0.437	10	10
0.436 - 0.192	4	4
0.191 - 0.135	Base	Base
0.134 - 0.105	19	19
0.104 - 0.080	46	46
0.079 - 0.062	64	64
0.061 - 0.054	72	72
0.053 - 0.042	81	81
0.041 - 0.037	95	95
0.036 - 0.0348	150	150

Wires 0.625" through 0.054" shipped by Tramper

Wires 0.053" through 0.0348" shipped by container vessels

CARBON STEEL VALVE SPRING QUALITY WIRE A.S.T.M. A-230

Category A.I.S.I. 16

Tariff Schedules 609.4305 8.5%
609.4315 8.5%

Base Price Per Metric Ton $859

Charges to C.I.F.

	Ocean Freight	Handling	Interest
West Coast	$ 88	$7	$16
Gulf Coast	100	5	20
Atlantic Coast	100	4	20
Great Lakes	102	4	25

Insurance 1% of Base + Extras + Ocean Freight

Extras

1. Size Extra

Size (Inches)	$ Per Metric Ton
0.311 - 0.250	$ 90
0.2499 - 0.207	55
0.2069 - 0.192	11
0.1919 - 0.162	Base
0.161 - 0.1483	25
0.1482 - 0.135	47
0.134 - 0.1205	85
0.1204 - 0.1055	143
0.1054 - 0.0915	207
0.0914 - 0.090	266

Ocean Freight - Container Vessel

AUTOMOBILE TIRE BEAD WIRE 0.037"

Category A.I.S.I. 16

Tariff Schedule 609.4065 8.5%

Base Price Per Metric Ton $602

Charges to C.I.F.

	Ocean Freight	Handling	Interest
West Coast	$ 91	$7	$11
Gulf Coast	101	5	14
Atlantic Coast	101	4	14
Great Lakes	103	4	17

Insurance 1% of Base Price + Extras + Ocean Freight

Ocean Freight Represents Container Vessel

V 4 4 / 1 6 J A 2 3 7 9 UMI

New Page 16-28
Jan 1979

FIELD FENCE A.S.T.M. A-116

Category A.I.S.I. 19

Tariff Schedule Number 642.3570 0.1¢ per lb.

Base Price Per Metric Ton $587

11 Gauge Galvanized Wire

Charges to C.I.F.

	Ocean Freight	Handling	Interest
West Coast	$ 42	$7	$11
Gulf Coast	50	5	14
Atlantic Coast	55	4	14
Great Lakes	60	4	17

Extras

Size Extra

$ Metric ton

Filler Wire Size	Stay Wire Spacing 6"	12"
#11	Base	- $ 3
#12½	16	13

Ocean Freight Represents Tramper Rate

New Page 16-27
Jan 1979

GALVANIZED CORE WIRE FOR A.S.C.R. A.S.T.M. B-498
CLASS "A"

Category A.I.S.I. 16

Tariff Schedule Number 609.4365 8.5%

Base Price Per Metric Ton $642

Charges to C.I.F.

	Ocean Freight	Handling	Interest
West Coast	$50	$7	$12
Gulf Coast	53	5	15
Atlantic Coast	55	4	15
Great Lakes	65	4	19

Insurance 1% of Base Price + Extras + Ocean Freight

Extras

1. Size Extra

Size (Inches)	$ Per Metric Ton
	$ 12
0.1878 - 0.1410	Base
0.1409 - 0.1210	12
0.1209 - 0.1055	35
0.1054 - 0.0915	47
0.0914 - 0.0860	71
0.0859 - 0.0800	101
0.0799 - 0.0720	165
0.0719 - 0.0661	

Ocean Freight Represents Tramper Rate

[FR Doc. 79-2175 Filed 1-22-79; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

COOPERATIVE STUDIES EVALUATION COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Public Law 92-463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 USC 4101, will be held at the Holiday Inn—Airport Lakes, 1101 NW 57th Avenue, Miami, Florida, on February 12 and 13, 1979. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, the scientific validity and the propriety of technical details, including involvement of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 8 to 8:30 a.m., February 12 and 13 to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator of the Committee, Veterans Administration Central Office, Washington, DC. (202-389-3702) prior to January 26.

The meeting will be closed from 8:30 a.m. to 5:00 p.m., on February 12 and 8:30 to 1:00 p.m. on February 13 for consideration of specific proposals in accordance with provisions set forth in Subsection 10(d) of Public Law 92-463, as amended by Public Law 94-409, and Subsection 552b(c)(6) of Title 5, United States Code. During this portion of the meeting, discussion and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of person privacy.

Dated: January 17, 1979.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc. 79-2273 Filed 1-22-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 12]

ASSIGNMENT OF HEARINGS

JANUARY 18, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 120257 (Sub-41), K. L. Breeden & Sons, Inc., now assigned for hearing on January 25, 1979, at Birmingham, Alabama, is postponed indefinitely.

MC-F 13566, George W. Kugler, Inc.,—Purchase (Portion)—Fischbach Trucking Co., No. MC-125533, (Sub-No. 23F), George W. Kugler Inc., now assigned for hearing on March 1, 1979, (2 days), at Columbus, Ohio in a hearing room to be later designated.

MC 114632(Sub-179F), Apple Lines, Inc., now assigned for hearing on February 26, 1979, (1 day), in Room B-44, Federal Building & U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minnesota.

MC 118159 (Sub-280F), National Refrigerated Transport, Inc., now assigned February 9, 1979, at Washington, DC., is postponed indefinitely.

MC 114632 (Sub-171F), Apple Lines, Inc., now assigned February 27, 1979, (1 day), in Room B-44, Federal Building & U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minnesota.

MC 4943 (Sub-36F), Central Express, Inc., now being assigned countinued hearing January 29, 1979, (2 weeks), in the Ramada Inn., 33 N.W. Loop 410, San Antonio, Texas.

MC 134477 (Sub-241F), Schanno Transportation, Inc., now assigned February 26, 1979, at St. Paul, Mn., is postponed indefinitely.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 79-2308 Filed 1-22-79; 8:45 am]

[7035-01-M]

[Released Rate Application No. 1934]

BANGOR AND AROOSTOOK RAILROAD CO.

AGENCY: Interstate Commerce Commission.

ACTION: Notice. Released Rate Application No. 1934.

SUMMARY: The Bangor and Aroostook Railroad Company wants authority to publish joint rail-motor commodity rates on toilet preparations, NOIBN; viz: cologne or toilet water, from Madawaska, Maine to Taunton, Massachusetts released to a value not exceeding 50 cents per pound. The net effect will be to limit the carriers' liability for any cologne or toilet water they may lose or damage to 50 cents per pound.

ADDRESSES: Anyone seeking copies of this application should contact: Mr. Hugh G. Goodness, General Freight Traffic Manager, Bangor and Aroostook Railroad Company, Northern Maine Junction Park, R. R. 2, Bangor, Maine 04401, telephone (207) 848-5711.

FOR FURTHER INFORMATION CONTACT:

Max Pieper, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423 telephone (202) 275 75553.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 U.S.C. 10730, formerly Section 20(11) of the Interstate Commerce Act for and on behalf of carriers parties to Bangor and Aroostook Tariff I.C.C. 4477.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 79-2307 Filed 1-22-79; 8:45 am]
CAPTAIN. MCDONOUGH.

[7035-02-M]

[Notice No. 150]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 23, 1979.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

MC-FC 77985. By application filed January 3, 1979, LAWRENCE McKENZIE TRUCKING Service, Inc., Route 5, Box 111, Winchester, KY 40391, seeks temporary authority to transfer the operating rights of LAWRENCE McKENZIE, AN INDIVIDUAL PROPRIETORSHIP, d/b/a McKENZIE TRUCKING SERVICE, Route 5, Box 111, Winchester, KY 40391, under section 210a(b). The transfer to LAWRENCE McKENZIE TRUCKING SERVICE, INC., of the operating rights of LAWRENCE McKENZIE, AN INDIVIDUAL PROPRIETORSHIP, d/b/a McKENZIE TRUCKING SERVICE, is presently pending.

MC-FC 77991. By application filed January 4, 1979, TIGHE TRUCKING, INC., 45 Holton St., Winchester, MA 01890, seeks temporary authority to transfer a portion of the operating

rights of GRINGERI BROS. TRANSPORTATION CO., INC., (M. G. Sherman, Trustee in Bankruptcy), c/o M. G. Sherman, 18 Tremont Street, Boston, MA 02108, under section 210a(b). The transfer to TIGHE TRUCKING, INC., of a portion of the operating rights of GRINGERI BROS. TRANSPORTATION CO., INC., (M. G. Sherman, Trustee in Bankruptcy) c/o M. G. SHERMAN, is presently pending.

MC-FC 77997. By application filed December 28, 1978, ODEAN DUANE BAKKEN, AN INDIVIDUAL, d/b/a BAKKEN TRUCK LINE, Northwood, IA 50459, seeks temporary authority to transfer a portion of the operating rights of KATUIN BROS. INC., Highway 61 South, P.O. Box 311, Fort Madison, IA 52627, under section 210a(b). The transfer to ODEAN DUANE BAKKEN, AN INDIVIDUAL, d/b/a BAKKEN TRUCK LINE, of a portion of the operating rights of KATUIN BROS. INC., is presently pending.

By the Commission.

H. G. HOMME, Jr.
Secretary.

[FR Doc. 79-2306 Filed 1-22-79; 8:45 am]

[7035-01-M]

[Notice No. 5 TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 8, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calender day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 56270 (Sub-17TA), filed November 30, 1978. Applicant: LEICHT TRANSFER & STORAGE CO., 1401—55 State Street, P.O. Box 2385, Green Bay, WI 54306. Representative: Dennis L. Sedlacek (same as above). *Welders, welder parts and materials, equipment and supplies used in the manufacture and distribution of welders and welder parts,* between Appleton, WI on the one hand, and on the other Dallas and Houston, TX; Atlanta, GA; Kansas City, MO and Philadelphia, PA, for 180 days. SUPPORTING SHIPPER(S): Miller Electric Mfg., Co., 718 S. Bound Street, P.O. Box 11079, Appleton, WI 54912. SEND PROTESTS TO: Gail Daugherty, ICC, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 63792 (Sub-33TA), filed November 30, 1978. Applicant: TOM HICKS TRANSFER CO., INC., 710 N. Post Oak Road, Houston, TX 77022. Representative: C. W. Ferebee (same as above). OILFIELD EQUIPMENT, from Shreveport, LA to points in TN, VA and WV, for 180 days. SUPPORTING SHIPPER(S): Tri-State Oil Tool Co., 2570 E. Tx., Bossier City, LA 71111. SEND PROTESTS TO: John F. Mensing, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

MC 71652 (Sub-24TA), filed November 29, 1978. Applicant: BYRNE TRUCKING, INC., 4669 Crater Lake Highway, P.O. Box 280, Medford, OR 97501. Representative: William D. Taylor, 100 Pine Street—Suite 2550, San Francisco, CA 94111. *Aluminum plate and sheet,* from the plant site of the Kaiser Aluminum and Chemical Corporation, Trentwood Mill, at or near Spokane, WA, to points in Los Angeles, Orange, San Bernadino, San Francisco, Contra Costa, Alameda, Solano, and Santa Clara Counties, CA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Kaiser Aluminum and Chemical Corporation, 300 Lakeside Drive, Oakland, CA 94643. SEND PROTESTS TO: A. E. Odoms, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, OR 97204.

MC 87103 (Sub-28TA), filed December 4, 1978. Applicant: MILLER TRANSFER AND RIGGING CO., P.O. Box 6077, Akron, OH 44312. Representative: Edward P. Bocko, P.O. Box 6077, Akron, OH 44312. *Machines, machinery, plant equipment and supplies and commodities* requiring special handling or rigging, from Ravenna, OH, to Denison, TX, Long Beach and Stockton, CA, and Green Cove Springs, FL, for 180 days. SUPPORTING SHIPPER(S): Johns Manville Sales Corp., Ken Caryl Road, Denver, CO. 80217. SEND PROTESTS TO: Mary Wehner Trans. Specialist, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 95920 (Sub-54TA), filed December 4, 1978. Applicant: SANTRY TRUCKING CO., 10505 NE., 2nd Avenue, Portland, OR 97211. Representative: Geo. R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Bottled mineral water,* from Santa Rosa, CA, to points in Oregon and Washington, under a continuing contract or contracts, with Sante' Mineral Waters, Inc., for 180 days. SUPPORTING SHIPPER(S): Sante' Mineral Waters, Inc., 55 College Avenue, Santa Rosa, CA 95401. SEND PROTESTS TO: A. E. Odoms DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 102616 (Sub-970TA), filed November 28, 1978. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister, 250 North Cleveland-Massillon Road, Akron, OH 44313. *Liquid chemicals,* NOI, (in bulk, in tank vehicles), from Plaquemine, LA, to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia and WV., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Dow Chemical Company, Building 3302, Plaquemine, LA 70764. SEND PROTESTS TO: Mary Wehner DS, ICC, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 103066 (Sub-76 TA), Filed December 1, 1978. Applicant: STONE TRUCKING COMPANY, INC., 4927 S. Tacoma, P.O. Box 2014, Tulsa, OK 74107. Representative: C. L. Phillips, 1411 N. Classen, Oklahoma City, OK 73106. *Meat and meat products,* from Omaha, NE., to points in CA, for 180 days. An underlying ETA seeks up to 90 days of authority. SUPPORTING SHIPPER(S): Armour Fresh Meat Company, 111 W. Clarendon, Phoenix, AZ 85077. SEND PROTESTS TO: Connie Stanley Trans. Asst., Room 240 Old Post Office Building, 215 NW, Third Street, Oklahoma City, OK 73102.

MC 106401 (Sub-60 TA), Filed November 28, 1978. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 31577, 2426 North Graham Street, Charlotte, NC 28231. Representative: Thomas G. Sloan, P.O. Box 31577, Charlotte, NC 28231. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Madison Furniture, Co., at or near Canton, MS, as an off-route point in connection with applicant's existing regular-route authority between Atlanta, GA, and Ft. Worth, TX, restricted to traffic moving to, from, or through Atlanta, GA, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Madison Furniture Company, P.O. Box 11, Canton, MS 39046. SEND PROTESTS TO: Terrell Price DS, 800 Briar Creek Road, Room CC 516, Mart Office Building, Charlotte, NC 28205.

MC 106674 (Sub-354 TA), Filed December 5, 1978. Applicant: SCHILLI MOTOR LINES, INC, P.O. Box 123, U.S. Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson, P.O. Box 123, U.S. Highway 24 West, Remington, IN 47977. *Glass containers,* from Thatcher Glass Manufacturing Company at Streator, IL, to Byhalia, MS, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Thatcher Glass Manufacturing Co., Division of Dart Industries, P.O. Box 265, Elmira, NY 14902. SEND PROTESTS TO: J. H. Gray DS, ICC, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 109584 (Sub-185TA), Filed December 1, 1978. Applicant: ARIZONA PACIFIC TANKK LINES, P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (Same address as applicant). *Urea resin* (in bulk, in tank vehicles), from Fremont and Ukiah, CA, to Navajo, NM, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Navajo Forest Products Industries, P.O. Box 1280, Navajo, NM 87328. SEND PROTESTS TO: Roger L. Buchanan DS, ICC, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 109633 (Sub-39 TA), filed December 1, 1978. Applicant: ARBET TRUCK LINES, INC., 222 East 135th Place, Chicago, IL 60627. Representative: Arnold L. Burke, 180 N. LaSalle Street, Suite 3520, Chicago, IL 60601. *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and feed business houses, between Clinton, IA and Davenport, IA, on the one hand, and points in the states of Indiana, Michigan and OH., on the other, for 180 days. SUPPORTING SHIPPER(S): L. N. Brown Coordinator, Motor Transportation, Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. SEND PROTESTS TO: Lois M. Stahl Trans. Asst., 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 111401 (Sub-536TA), filed November 29, 1978. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (Same as above). *Flour,* in bulk, in tank vehicles, from Fargo, ND to Pittsburg, KS, for 180 days. SUPPORTING SHIPPER(S): Junge Baking Company, 1810 Main, Joplin, MO 64801. SEND PROTESTS TO: Connie Stanley, ICC, Room 240 Old Post Office and Court House Building, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 113024 (Sub-157 TA), filed November 28, 1978. Applicant: A. J. WILLIAMS, INC., 1398 S. Du Pont Highway, Smyrna, DE 19977. Representative: Samuel W. Earnshaw, 833 Washington Bldg., Washington, DC 20005. Authority sought to operate as a *contact carrier,* by motor vehicle, over irregular routes, transporting: (1) *Synthetic yarn,* from Salisbury and Siler City, NC., and Elizabethtown, TN., to McCook and Alliance, NE.; and (2) *Rubber hose,* from McCook, NE., to Waynesville, NC, transportation to be performed under a continuing contract or contracts, with Electric Hose & Rubber Co., Wilmington, DE., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Fred H. Evick, Electric Hose & Rubber Co., P.O. Box 910, Wilmington, DE 19899. SEND PROTESTS TO: William L. Hughes Trans. Asst., ICC, 1025 Federal Building, Baltimore, MD 21201.

MC 113666 (Sub-142TA), filed November 28, 1978. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: D. R. Smetanick (Same as above). *Modular panels, television backs, basketball backboards, crib bottoms, and materials and supplies used in the manufacture of modular panels, television backs, basketball backboards, and crib bottoms,* between Frankfort, IN on the one hand, and, on the other, points in the states of AL, AR, CA, GA, IL, IA, IN, KY, LA, MI, MN, MO, NY, OH, PA, SC, TN, TX, VA and WI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Harmeson Manufacturing Co., Inc., 509 W. Barner Street, Frankfort, IN 46041. SEND PROTESTS TO: John J. England, ICC, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 114301 (Sub-101 TA), filed December 1, 1978. Applicant: DELAWARE EXPRESS CO., P.O. Box 97, Elkton, MD 21921. Representative: Maxwell A. Howell, 1511 K. Street, N.W. Washington, DC 20005. *Liquid fertilizer,* (in bulk, in tank trucks), from Seaford, DE., to points in Maryland, Virginia and DE., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): R. R. Whipple Supervisor-Traffic, Allied Chemical Corporation, P.O. Box 2120, Houston, TX 77001. SEND PROTESTS TO: William L. Hughes Trans. Specialist, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 115331 (Sub-474TA), filed November 30, 1978. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. E. Ferris, 11040 Manchester Road, St. Louis, MO 63131. *Plastic bottles,* in truckload quantity, from Terre Haute, IN to Fort Madison, IA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Hercules Incorporated, 814 Commerce Drive, Oak Brook, IL 60521. SEND PROTESTS TO: P. E. Binder, ICC, Room 1465, 210 N. 12th Street, St. Louis, MO 63101.

MC 117786 (Sub-38TA), filed November 30, 1978. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Road, Phoenix, AZ 85014. *Paper and paper products,* from Middletown, OH to points in WA, OR, CA, AZ, NV, ID, MT, UT, WY, CO, NM, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Sorg Paper Company, 901 Manchester Avenue, Middleton, OH 45042. SEND PROTESTS TO: Andrew V. Baylor, ICC, Room 2020 Federal Bldg., 230 N. First Avenue, Phoenix, AZ 85025.

MC 117786 (Sub-39TA), filed November 30, 1978. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Road, Phoenix, AZ 85014. *Paper and paper products,* from Hamilton, OH to points in WA, OR, CA, ID, NV, UT, AZ, MT, WY, CO, NM, OK and TX, for 180

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days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Beckett Paper Company, 400 Dayton Street, Hamilton, OH 45011. SEND PROTEST TO: Andrew V. Baylor, ICC, Room 2020 Federal Bldg., 230 N. First Avenue, Phoenix, AZ 85025.

MC 117786 (Sub-43TA), filed December 4, 1978. Applicant: RILEY WHITTLE, INC., P.O. Box 1938, Phoenix, AZ 85009. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. *Paper and paper products*, from all points in CA, to Phoenix, AZ, for 180 days. SUPPORTING SHIPPER(S): Amba Marketing Systems, Inc., and divisions thereof, 711 W. Broadway, Tempe, AZ 85282. SEND PROTESTS TO: Andrew V. Baylor DS, ICC, Room 2020 Federal Building, 230 N. First Avenue, Phoenix, AZ 85025.

MC 118142 (Sub-195TA), filed November 30, 1978. Applicant: M. BRUENGER & CO., INC., 6250 No. Broadway, Wichita, KS 67219. Representative: Brad T. Murphree, 814 Century Plaza Bldg. Wichita, KS 67202. *Canned and bottled apple juice*, from facilities of Speas Company, at or near Fremont, MI, to Kansas City, KS, Oklahoma City, OK, and Denver, CO, for 180 days. SUPPORTING SHIPPER(S): Speas Company, 502 Connie, Fremont, MI 49412. SEND PROTESTS TO: M.E. Taylor, I.C.C., 101 Litwin Bldg., Wichita, KS 67202.

MC 118811(Sub-12TA), filed November 29, 1978. Applicant: LAWRENCE MCKENZIE, dba MCKENZIE TRUCKING SERVICE, Route 5, Box 111, Winchester, KY 40391. Representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. *Scrap metal*, from Lexington, KY to Huntington, WV, for 180 days. SUPPORTING SHIPPER(S): Baker Iron and Metal Co., Inc., 717 N. Limestone Street, (P.O. Box 11040) Lexington, KY 40512. SEND PROTESTS TO: Linda H. Sypher, ICC, 426 Post Office Building, Louisville, KY 40202.

MC 118989 (Sub-211TA), filed December 1, 1978. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th Street, Milwaukee, WI 53221. Representative: Rolland K. Draves (Same address as applicant). *Fibreboard cans*, from points in the St. Louis, MO, commercial zone to Roseport and St. Paul, MN, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Container Corporation of America, 500 E. North Avenue, Carol Stream, IL. SEND PROTESTS TO: Gail Daugherty Trans. Asst., ICC, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 119493 (Sub-246 TA), Filed November 28, 1978. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (Same address as applicant). (1) *Animal and poultry feed, fish feed and corn products* (except in bulk), from Birmingham and Decatur, IL., to points in the states of Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Oklahoma, Ohio, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and WI; and (2) *Materials and supplies* used in the manufacture, sale and distribution of commodities named in (1) above, from named destinations in (1) above, to Birmingham and Decatur, AL., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Jim Dandy Company, Birmingham, AL. SEND PROTESTS TO: John V. Barry DS, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 123255 (Sub-189 TA), filed December 4, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, OH 43055. Representative: C.F. Schnee, Jr., 1984 Coffman Road, Newark, OH 43055. *Malt beverages*, from Newark, NJ., to points in MI., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Pabst Brewing Company, 917 W. Juneau Avenue, Milwaukee, WI 53201. SEND PROTESTS TO: Frank L. Calvary Trans. Specialist, ICC, 220 Federal Building and U.S. Courthouse, 85 Marconi boulevard, Columbus, OH 43215.

MC 125470 (Sub-36 TA), filed November 22, 1978. Applicant: MOORE'S TRANSFER, INC., Rural Route 4, P.O. Box 1151 Norfolk, NE 68701. Representative: Gailyn L. Larsen, Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. *Salt and salt products, and materials and supplies used in the agricultural, water treatment, food processing, wholesale grocery and institutional supply industries*, from the facilities of American Salt Company, at or near Lyons, KS, to points in NE, SD, ND, MN, WI, IL, and IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: American Salt Company, John Branham, Traffic Manager, 3142 Broadway, Kansas City, MO. Send protests to: Carroll Russell, I.C.C. 110 North 14th Street, Suite 620, Omaha, NE 68102.

MC 126717 (Sub-16 TA), filed December 1, 1978. Applicant: WALT'S DRIVE-A-WAY SERVICE, INC., 1103 East Franklin Street, Evansville, IN 47711. Representative: Warren C. Moberly, 320 N. Meridian Street, Indianapolis, IN 46204. *Trucks of three-quarter ton capacity and up, modified as construction equipment* (such as but not limited to, cement mixers and mine, well, or quarry-drilling equipment and A-frame, in drive-away service, in secondary movements), (1) From Waverly, IA, Brian, OH, and Chattanooga, TN, to Ashland, Corbin and Louisville, KY, and to Evansville and Indianapolis, IN; (2) from Ashland, KY, to points in Ohio; (3) From Corbin, KY, to points in OH, Tennessee, and WV; (4) From Louisville, KY, to points in Indiana, on and south of Interstate Highway 70, including Indianapolis, IN; (5) From Evansville, IN, to points in Kentucky on and west of U.S. Highway 65, and points in IL, on and south of U.S. Highway 70; and (6) From Indianapolis, IN, to Louisville, KY; (7) From Olathe, KS, and Minneapolis, MN, to Indianapolis, IN, and from Indianapolis, IN, to points in all counties from the Indiana-Ohio State line that will include Columbus, Dayton, and Greenville, and to points in IL in the counties including Danville, IL, and Shawnee Town, IL, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): (1) Rudd Construction Equipment Co., Inc., 4344 Poplar Level Road, Louisville, KY 40232. (2) Rudd Equipment Corporation, 2655 Kentucky Avenue, Indianapolis, IN. SEND PROTESTS TO: Beverly J. Williams Trans. Asst., ICC, Federal Bldg., & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 127579 (Sub-14TA), filed December 1, 1978. Applicant: HAULMARK TRANSFER, INC., 1100 N. Macon Street, Baltimore, MD 21205. Representative: Glenn M. Heagerty, (same address as applicant). *Such merchandise* as is dealt in by Book Wholesalers, from Jessup, MD, to Los Angeles, CA, and Seattle, WA, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Frank Sutton Vice President, Ingram Book Co., 347 Reedwood Drive, Nashville, TN 37217. SEND PROTESTS TO: William L. Hughes Trans. Specialist, ICC, 1025 Federal Building, Baltimore, MD 21201.

MC 129026 (Sub-8TA), filed November 30, 1978. Applicant: J.C.D. TRANSPORTATION CORP., P.O. Box 487—5950 Fisher Road, East Syracuse, NY 13057. Representative: Michael R. Werner, P.O. Box 1409—167 Fairfield Road, Fairfield, NJ 07006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, except commodities in bulk, in vehicles equipped with temperature

control devices, between Pennsauken, NJ on the one hand, and, on the other, points in PA on and west of a line beginning at the NY-PA state line and extending along U.S. Hwy 15 to junction U.S. Hwy 522, and thence along U.S. Hwy 522 to the PA-MD state line, under a continuing contract(s) with The Nestle' Company, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): The Nestle' Company, Inc., 100 Bloomingdale Road, White Plains, NY 10605. SEND PROTESTS TO: ICC, U.S. Courthouse and Federal Building, 100 S. Clinton Street, Room 1259, Syracuse, NY 13260.

MC 134182 (Sub-33TA), filed December 1, 1978. Applicant: ALLIED TRANSPORTATION SERVICES, INC., P.O. Box 7424, Shawnee Mission, KS 66207. Representative: Tom Kretsinger, 20 East Franklin, Liberty, MO 64068. *Foodstuffs*, (1) From New Jersey to Alabama, Arkansas, Arizona, California, Colorado, Florida, Georgia, Iowa, Illinois, Indiana, Kansas, Kentucky, Michigan, Missouri, Mississippi, Nebraska, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas and (2) Between San Fernando, CA and Newark, NJ, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Globe Products Company, Inc., Clifton, NJ. SEND PROTESTS TO: John V. Barry DS, Room 600, 911 Walnut, Kansas City, MO 64106.

MC 135082 (Sub-80TA), filed November 29, 1978. Applicant: ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road NE., Albuquerque, NM 87125. Representative: Randall R. Sain (same as above). *Refractories*, from Denver, CO to AR, LA and OK, for days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Castalite Manufacturing, Inc., P.O. Box 4122, Denver, CO 80204. SEND PROTESTS TO: ICC District Supervisor, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM.87101.

MC 136818 (Sub-48 TA), filed December 4, 1978. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 W. Elwood Road, Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 E. McDowell Road, Phoenix, AZ 85008. *Glu-Laminated beams*, from Magna, UT., to points in Colorado, Arizona, New Mexico, Nevada, and California, for 180 days. And underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Glu-Laminated Wood Systems, Inc., 3909 S. 8000 West, Magna UT 84044. SEND PROTESTS TO: Andrew V. Baylor DS, ICC, Room 2020 Federal Building, 230 N. First Avenue, Phoenix, AZ 85025.

MC 138151 (Sub-4TA), filed November 29, 1978. Applicant: OREGON RUBBER CO., 3595 West First Avenue, Eugene, OR 97402. Representative: J. W. Mc Craken, Jr., 975 Oak Street—Suite 620, Eugene, OR 97401. *Lumber*, from points in Linn and Klamath Counties, OR to points in NM (except points in Rio Arriba and San Juan Counties), for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Snow Mountain Lumber Co., Inc., P.O. Box 25485, Albuquerque, NM 97125. Sagebrush Sales Company, P.O. Box 2560, Albuquerque, NM 87125. SEND PROTESTS TO: A. E. Odoms, ICC, 114 Pioneer Courthouse, 555 SW. Yamhill Street, Portland, OR 97204.

MC 138548 (Sub-6TA), filed November 28, 1978. Applicant: INDIANOAKS TRANSPORTATION CO., P.O. Box 37, Old Route 66, Dwight, IL 60420. Representative: James R. Madler, 120 W. Madison Street, Chicago, IL 60602. *Chemicals*, (except in bulk), moving in mechanically refrigerated trailers, from St. Louis, MO, to points in FL, restricted to shipments originating at the facilities of Peck's Products Company, St. Louis, MO, for 180 days. SUPPORTING SHIPPER(S): John F. Daley President, Peck's Products Company, 2515 W. 35th Street, Chicago, IL 60632. SEND PROTESTS TO: Lois M. Stahl Trans. Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 139906 (Sub-23TA), filed December 1, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A Peterson, P.O. Box 81849, Lincoln, NE 68501. *Stereo systems and materials, equipment and supplies* used in the manufacture, sale and distribution of stereo systems, (except those commodities in bulk or those which because of their size or weight require special handling or equipment), From compton, CA, to points in the United States, (except Alaska, and Hawaii), and from New York City, NY, to Compton, CA, for 180 days. SUPPORTING SHIPPER(S): Symphonic Electronic Corporation, 1062 E. Del Amo Boulevard, Carson, CA 90746. (S. F. Gordon Vice President) SEND PROTESTS TO: L. D. Helfer DS, ICC, 5301 Federal Building, Salt Lake City, UT 84138.

MC 140241 (Sub-36TA), filed November 30, 1978. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. *Used Crossties*, Between points in AL, AZ, AR, CO, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NM, ND, OH, OK, SD, TN, TX, WI and WY, for 180 days. SUPPORTING SHIPPER(S): Ron-Jon Company, 1118 S. 133rd East Avenue, Tulsa, OK 74100. SEND PROTESTS TO: M. E. Taylor, I.C.C., 101 Litwin Bldg., Wichita, KS 67202.

MC 141764 (Sub-12TA), filed November 29, 1978. Applicant: BLACKHAWK ENTERPRISES, 3149 Depot Road, Hayward, CA 94545. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning Compounds, food supplements, vitamins, cosmetics, plastic articles, printed materials and merchandise*, NOI (except commodities in bulk), in temperature controlled equipment, from the facilities of Shaklee Corporation, at or near Hayward, CA to Denver, CO and Portland, OR under a continuing contract or contracts with Shaklee Corporation, Hayward, CA, for 180 days. Shipments may be stopped in transit to partially unload at Salt Lake City, UT. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Shaklee Corporation, 2036 National Avenue, Hayward, CA 94545. SEND PROTESTS TO: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 142114 (Sub-5TA), filed November 28, 1978. Applicant: RETAIL EXPRESS, INC., 9 Stuart Street, Chelmsford, MA 01824. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores (except commodities in bulk and frozen foodstuffs), (1) from Jersey City, NJ, to Pawtucket, RI, and Braintree, MA.; and (2) from Braintree, MA, to Silver Spring, MD.; (3) from Silver Spring, MD., to Jersey City, NJ, under a continuing contract or contracts, with Outlet Specialties Stores, Inc. for 180 days. SUPPORTING SHIPPER(S): Outlet Specialties Stores, Inc., 295 Armistice Blvd., Pawtucket, RI 02861. SEND PROTESTS TO: John B. Thomas DS, ICC, 150 Causeway Street, Boston, MA 02114.

MC 142948 (Sub-15TA), filed November 29, 1978. Applicant: THE GRADER LINE, INC., 434 Atlas Drive, Nashville, TN 37211. Representative: Lawrence C. Goddard, Suite C, Parkway Towers, 404 James Robertson Pkwy, Nashville, TN 37219. *Electroless nickel plating solution requiring temperature controlled handling* (except in bulk), between the plant site of Elnic of TN, Inc., in Nashville, TN and points in the U.S., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING

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SHIPPER(S): Elnic, Inc., 747 Massman Drive, Nashville, TN. SEND PROTESTS TO: Glenda Kuss, ICC, Suite A-422—U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143032 (Sub-10 TA), filed December 4, 1978. Applicant: THOMAS J. WALCZYNSKI, d.b.a., WALCO TRANSPORT, 3112 Truck Center Drive, Duluth, MN 55806. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. *Hardboard, and accessories for the installation thereof,* from Duluth, MN., to points in Indiana, Michigan and OH., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Superwood Corporation, Box 6267, Duluth, MN 55806. SEND PROTESTS TO: Delores A. Poe Trans. Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 143239 (Sub-4 TA), filed November 30, 1978. Applicant: Jamour, Inc. d.b.a. Quick Metropolitan Messenger Services, 123 North 23rd Street, Philadelphia, PA 19121. Representative: Alan Kahn, Two Penn Center Plaza, Philadelphia, PA 19102. (1) *General commodities* except articles of unusual value and classes A and B explosives limited to parcels and packages not exceeding 50 lbs. in weight and total shipments not exceeding 200 lbs. in weight and having a prior or subsequent movement by air between the facilities of Donnelley Printing Company at Lancaster, PA, on the One hand, and, on the other, Philadelphia, PA. (2) *General commodities* except articles of unusual value and classes A and B explosives limited to parcels and packages not exceeding 50 lbs. in weight and total shipments not exceeding 200 lbs. in weight between the facilities of Donnelley Printing Company at Lancaster, PA, on the one hand, and, on the other, points in New Castle County, DE for 180 days. An underlying ETA seeks 90 days authority. RESTRICTION: The service authorized in (1), above, is limited to articles transported in the small package express service of the scheduled airlines or the express mail service of the U.S. postal service. SUPPORTING SHIPPER(S): R. R. Donnelley and Sons Company, 2223 South King Drive, Chicago, IL 60616. SEND PROTESTS TO: T. M. Esposito, Trans. Asst, I.C.C., 600 Arch St., Rm. 3238, Phila., PA 19106.

MC 143739 (Sub-7 TA), filed December 4, 1978. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Frozen foods and frozen inedible foods,* from the facilities of Continental Freezers of Illinois, Chicago, IL., to points in Indiana, Kentucky, Michigan, Minnesota, Missouri, Ohio and WI., for 180 days. An underlying ETA seeks up to 90 days of authority. SUPPORTING SHIPPER(S): Continental Freezers of IL., 4220 South Kildare Blvd., Chicago, IL 60632. SEND PROTESTS TO: Delores A. Poe Trans. Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 144282 (Sub-5TA), filed November 29, 1978. Applicant: JAMES RECK, d.b.a. JAMES RECK TRUCKING, 4029 W. McDowell, No. 4, Phoenix, AZ 85009. Representative: Lewis P. Ames/Phil B. Hammond, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Iron oxide,* from Los Angeles, CA to points in AZ, under a continuing contract(s) with Frank D. Davis Co., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Frank D. Davis Co., 3700 E. Olympic, Los Angeles, CA 90023. SEND PROTESTS TO: Andrew V. Baylor, ICC, Room 2020 Federal Building, 230 N. First Avenue, Phoenix, AZ 85025.

MC 144927 (Sub-7TA), filed November 30, 1978. Applicant: REMINGTON FREIGHT LINES, INC., Box 315—U.S. 24 West, Remington, IN 47977. Representative: Warren C. Moberly, 320 North Meridian Street, Indianapolis, IN 46204. *Scouring pads and foam cleaning products* (except in bulk in tank vehicles), (1) from Hackensack, NJ, to Waxdale and Racine, WI; Syracuse and Buffalo, NY; Cleveland, OH; and Waukegan, IL; and (2) from Racine, WI to St. Louis, MO, for 180 days. SUPPORTING SHIPPER(S): S. C. Johnson Co., Racine, WI 53403, Mercury Foam Corp., 214 South Newman Street, Hackensack, NJ 07601. SEND PROTESTS TO: J. H. Gray, ICC, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 145282 (Sub-1TA), filed November 28, 1978. Applicant: FALCON TRANSPORT, INC., 666 Tifft Street, Buffalo, NY 14202. Representative: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, NY 14202. *General commodities,* in International Standard Organization containers requiring container chassis type trailers, between ports of entry on the International Boundary line between the United States and Canada on the Niagara River, on the one hand, and, on the other, points in New York, New Jersey, Maryland, Ohio, Pennsylvania and WV., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): There are approximately (4) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: ICC, 910 Federal Bldg., 111 West Huron St., Buffalo, NY 14202.

MC 145341 (Sub-1TA), filed November 29, 1978. Applicant: NORTH CENTRAL DISTRIBUTING CO., 2001 North University Drive, Fargo, ND 58102. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. *Modified inedible corn flour,* except in bulk, in tank vehicles, from North Kansas City, MO, to ports of entry on the United States Canada boundary line located at or near Pembina, ND, and Noyes, MN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Domtar, Inc., 2001 University Street, Montreal, Quebec, Canada H3A 2A6. SEND PROTESTS TO: Ronald R. Mau, ICC, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 144819 (Sub-7TA), filed November 30, 1978. Applicant: C & N TRANSPORT, INC., 727 S. Overhead Drive, Oklahoma City, OK 73108. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Frozen meats and frozen prepared foods,* from Eau Claire, WI and Fairmont, MN to Phoenix, AZ; Las Vegas, NV; and points in CA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Armour and Company, P.O. Box 239, Union Stockyards, S. St. Paul, MN 55075. SEND PROTESTS TO: Connie Stanley, ICC, Room 240 Old Post Office and Court House Building, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 145588 (Sub-5TA), filed December 4, 1978. Applicant: GULF-MIDWESTERN INCORPORATED, 12151 West 44th Avenue, Denver, CO 80033. Representative: William W. Selman, 18500 John F. Kennedy Blvd., Houston, TX 77205. *Iron and steel articles,* from Williamsport, PA and Avis, PA, to all points in the states of Texas, Arkansas, Oklahoma, Mississippi, Georgia, Washington, Wisconsin, Florida, Alberta, Canada and CA, for 180 days. An underlying ETA seeks up to 90 days of authority. SUPPORTING SHIPPER(S): Jersey Shore Steel Company, Jersey Shore, PA 17740. SEND PROTESTS TO: Herbert C. Ruoff DS, ICC, 492 U.S. Customs House, 721 19th Street, Denver, CO. 80202.

MC 145733 (Sub-1 TA), filed December 1, 1978. Applicant: AMERICAN AUTO SHIPPERS, Suite 923, 152 W. 42nd Street, New York, NY 10036. Representative: Jack Pearce, Pearce and Brand, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036. *New and used automobiles,* including small trucks, vans, and campers up to ¾ tons, and motor homes, in subsequent or secondary movements, in driveaway service, between points in the United States, for 90 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): There are approximately (28) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Maria B. Kejss Trans. Asst., ICC, 26 Federal Plaza, New York, NY 10007.

MC 145816TA, filed November 30, 1978. Applicant: NTC TRUCKING CORP., 233 North Sneden Place West, Spring Valley, NY 10977. Representative: Michael R. Werner, POB 1409, 167 Fairfield Road, Fairfield, NJ 07006. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Piece goods and materials, supplies and equipment used in the manufacture thereof* (except commodities in bulk), between Beacon, NY, on the one hand, and, on the other, New York, NY, and Bergen, Passaic, Morris, Somerset and Middlesex Counties, NJ, under a continuing contract(s) with Printree LTD, and its affiliates Pret-A-Printree and Le Fabrics, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Printree LTD, and its affiliates Pret-A-Printree and Le Fabrics, 49 West 37th Street, New York, NY 10018. SEND PROTESTS TO: Maria B. Kejss, ICC, 26 Federal Plaza, New York, NY 10027.

MC 145819TA, filed December 1, 1978. Applicant: FULLMER BROTHERS INTERNATIONAL, INC., 5325 South Orange Blossom Trail, Orlando, FL 32809. Representative: Harry S. Dent, P.O. Box 528, Columbia, SC 29202. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs,* between Williamson, Hamlin and Holley, NY, and Aspers and Hanover, PA, on the one hand, and on the other, to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Oklahoma, South Carolina, Tennessee and TX, under a continuing contract or contracts, with Duffy-Mott Co., Inc., for 180 days. SUPPORTING SHIPPER(S): Duffy-Mott Co., Inc., 370 Lexington Avenue, New York, NY 10017. SEND PROTESTS TO: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 145820TA, filed November 28, 1978. Applicant: NORTH CENTRAL DISTRIBUTING CO., Box 5453, University Station, Fargo, ND 58102. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Lumber, wood products, and building materials,* (except in bulk), from points in Washington, Oregon, California, Idaho, Montana, North Dakota, South Dakota, Minnesota, Illinois, Iowa, Missouri, Nebraska, Wisconsin Wyoming, Kansas, Mississippi, Arkansas and OK, to points in North Dakota, South Dakota, Iowa, Minnesota, Wisconsin, Illinois, Nebraska, Montana, Wyoming, Idaho, Washington, Oregon and CA, and (2) *Animal and poultry feed and feed ingredients,* from points in Minnesota, North Dakota, South Dakota, Iowa, and NE, to pints in Washington, Oregon, California, Idaho, Montana, Wyoming, North Dakota, and South Dakota. RESTRICTION: Restricted to a transportation service to be performed under a continuing contract or contracts with North Central Distributing Co., Fargo, ND, for 180 days. An underlying ETA seeks up to 90 days of authority. SUPPORTING SHIPPER(S): North Central Distributing Co., Box 5453, University Station, Fargo, ND 58102. SEND PROTESTS TO: Ronald R. Mau DS, ICC, Room 268 Federal Building & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 145828TA, filed November 30, 1978. Applicant: RONALD JONES, dba ALGOMA FARMS, 1762 Leonard Road North, Oshkosk, WI 54901. Representative: James A. Spiegel, 6425 Odana Road, Madison, WI 53719. Authority sought to operate as a *contract carrier,* by motor vehicle, over regular routes, transporting: *Precast concrete panels,* from shipper's plant at Omro, WI to points in IA, IL, IN, MI and MN, under a continuing contract(s) with Precast Concrete Specialities, Inc., Omro, WI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Precast Concrete Specialities, Inc., P.O. Box 412, Omro, WI 54963. SEND PROTESTS TO: Gail Daugherty, ICC, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 145829TA, filed November 29, 1978. Applicant: ETI CORP., P.O. Box 549, Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such merchadise* as is dealt in by wholesale, retail, chain, grocery, department stores, and food business houses (except glass containers and commodities in bulk), and in connection therewith, equipment, materials and supplies used in the conduct of such business (except glass containers and commodities in bulk), between points in CT, DE, MD, MA, NH, NJ, NY, PA, RI, VA, NC, SC, WV, GA, FL, AL, LA, MS, TN, and DC, for 180 days. RESTRICTION: Limited to a transportation service to be performed under a continuing contract or contracts with Warner-Lambert Company. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Warner-Lambert Company, 201 Tabor Road, Morris Plains, NJ 07950. SEND PROTESTS TO: Robert E. Johnston, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 145835TA, filed November 28, 1978. Applicant: TODAY CARTAGE, INC., Route 2, Box 49B, Plano, IL 60545. Representative: James Madler, 120 W. Madison, Chicago, IL 60602. *Sand,* (in bulk), from LaSalle County, IL, and Berrien County, MI, to Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and WS, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Manley Bros., P.O. Box 538, Chesterton, IN 46304. SEND PROTESTS TO: Lois M. Stahl Trans. Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-2228 Filed 1-22-79; 8:45 am]

[7035-01-M]

[Notice No. 6]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

January 9, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on

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the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make avilable for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 2202 (Sub-575TA), filed November 24, 1978. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving Wolfe City, TX as an off-route point in connection with applicant's regular routes, for 180 days. SUPPORTING SHIPPER(S): Texas Tag & Specialty Company, Inc., P.O. Drawer D, Wolfe City, TX 75496. Henington Industries, Inc., P.O. Drawer N, Wolfe City, TX 75496. SEND PROTESTS TO: Mary Wehner, Trans. Specialist, I.C.C., 731 Federal Bldg., 1240 East Ninth Street, Cleveland, OH 44199.

MC 19105 (Sub-52TA), filed November 27, 1978. Applicant: FORBES TRANSFER COMPANY, INC., P.O. Box 3544, Wilson, NC 27893. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Penn. Avenue & 13th Street, NW, Washington, DC 20004. *Malt beverages in containers*, from Williamsburg, VA to points in NC in and east of Granville, Durham, Chatham, Lee, Harnett, Cumberland and Roberson Counties, NC, for 180 days. SUPPORTING SHIPPER(S): Jessup Distributing Company, POB 3423, Wilson NC 27893. Smoot Wholesale Co., 205 W. Wilson Street, Tarboro, NC 27886. Atlas Distributing Co., Inc., POB 35235, Fayetteville, NC 28303. Jeffreys Beer and Wine, Box 2105, Goldsboro, NC 27530. SEND PROTESTS TO: Archie W. Andrews, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 36509 (Sub-3TA), filed December 11, 1978. Applicant: LOOMIS ARMORED CAR SERVICE, INC., 821 Sansome Street, San Francisco, CA 94111. Representative: Robert C. Konkle (Same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silver bullion* between Owyhee County, ID, on the one hand, and, on the other, King County, WA, under a continuing contract(s) with Earth Resources Co./DeLamar Silver Mine, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Earth Resources Co./DeLamar Silver Mine, P.O. Box 52, Jordan Valley, OR 97910. SEND PROTESTS TO: Michael M. Butler, ICC, 211 Main—Suite 500, San Francisco, CA 94105.

MC 44302 (Sub-8TA), filed November 29, 1978. Applicant: DEFAZIO EXPRESS, INC., 1028 Springbrook Avenue, Moosic, PA 18507. Representative: Thomas Melvin (Same as above). (1)(a) *Sanitary paper and paper products*, (b) *Sanitary paper and paper products joined to or combined with paper, plastics, synthetics, or cloth*, (c) *pulp*, (d) *machinery used in paper mills*, and (e) *materials, equipment, and supplies used or useful in the production, manufacture, and distribution of the commodities in (1)(a), (b) and (c)* (except commodities in bulk), between the facilities of Proctor and Gamble Company and its subsidiaries in the Township of Washington (Wyoming County), PA, and Luzerne and Lackawanna Counties, PA, on the one hand, and, on the other, Trenton, NJ, and Beacon and Newburg, NY, and points in that portion of the Philadelphia, PA, commercial zone in DE and NJ; and (2) *Paper and paper mill products*, between Scranton, PA, on the one hand, and, on the other, Trenton, NJ, Beacon and Newburg, NY, and Ansonia, south Norwalk, New Haven and Hartford, CT, and points in that portion of the Easton, PA, commrecial zone in NJ, and in that portion of the Philadelphia, PA, commercial zone in DE and NJ, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): No certificates of support were filed with this application. SEND PROTESTS TO: Paul J. Kenworthy, ICC, 314 U.S. Post Office Building, Scranton, PA 18503.

MC 54819 (Sub-2TA), filed November 27, 1978. Applicant: T. F. BOYLE TRANSPORTATION, INC., 21 Everrett Street, Natick, MA 01760. Representative Thomas F. Boyle (Same as above). *General commodities*, except those in bulk, between Pease Air Base, Portsmouth, NH and points in MA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Department of Defense, Room 2C455-Pentagon, Washington, DC 20350. SEND PROTESTS TO: John B. Thomas, ICC, 150 Causeway Street, Boston, MA 02114.

MC 55896 (Sub-103TA), filed November 27, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: Martin J. Leavitt, P.O. Box 400, Northville, MI 48167. *Iron and steel articles*, between Cincinnati, OH and Muncie, IN, for 180 days. RESTRICTED to traffic having a prior or subsequent movement by water. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): River Transportation Co., 5297 River Road, Cincinnati, OH 45233. SEND PROTESTS TO: Tim Quinn, ICC, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

MC 59668 (Sub-11TA), filed December 12, 1978. Applicant: HAROLD G. CLINE, INC., Harding Highway and DuPont Road, Penns Grove, NJ 08069. Representative: M. Bruce Morgan, 104 Azar Building, Glen Burnie, MD 21061. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, dyes, dye stuffs and colors, motor fuel anti-knock compound solodified carbon dioxide (dry-ice), eductors, eductor parts, mixing charts, drums cylinders, carboys, barrels and other empty containers, and such materials, equipment and supplies* as are used or necessary in conjunction with the manufacture, sale or distribution of chemicals, dyes, motor fuel anti-knock compound, or materials sold by such manufacturers in the ordinary course of their business, between Deepwater, NJ and Saugett, IL, under a continuing contract(s) with E. I. du pont de Nemours and Company, for 180 days. SUPPORTING SHIPPER(S): E. I. du pont de Nemours and Company, 1007 Market Street, Wilmington, DE 19898. SEND PROTESTS TO: John P. Lynn, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 64932 (Sub-590TA), filed November 29, 1978. Applicant: ROGERS CARTAGE CO., 10735 South Cicero Avenue, Oak Lawn, IL 60453. Representative: William F. Farrell (Same as above). *Compound cleaning, liquid, corrosive material*, in rubber lined top unloading tank trucks, from the plantsite of Oxy Metal Inds., Parker Div., Morenci, MI to the plantsite of Coors Container Co., Golden, CO, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Oxy Metal Inds., Parker Div., 21441 Hoover Road, Warren, MI 48089. send protests to Lois M. Stahl, ICC, 219 South Dearborn Street, Room 1386, Chicago, Il 60604.

MC 82063 (Sub-97TA), filed November 29, 1979. Applicant: KLIPSCH HAULING CO., 10795 Watson Road, Sunset Hills, MO 63127. Representative: W. E. Klipsch (Same as above). *Calcium bromide*, in bulk, in tank vehicles, from the plantsite of Plastifax, Inc., Gulfport, MI to points in LA and TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Velsicol Chemical Corporation, 341 E. Ohio, Chicago, IL 60611. SEND PROTESTS TO: P. E. Binder, ICC, Room 1465, 210 N. 12th Street, St. Louis, MO 63101.

MC 107403 (Sub-1148TA), filed November 27, 1978. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Well packing fluids, viz: Calcium bromide*, in bulk, in tank vehicles, from the facilities of Plastifax, Inc., Gulfport, MS to Cameron, Intracoastal City, Morgan City, Berwick, Dulac, Houma and Venice, LA and Freeport, Galveston, Port O'Connor and Beaumont, TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Velsicol Chemical Corp., 341 E. Ohio Street, Chicago, IL 60611. SEND PROTESTS TO: T. M. Esposito, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 107541 (Sub-53TA), filed November 28, 1978. Applicant: WASHINGTON-OREGON LUMBER FREIGHTERS, INC., 12925 N.E. Rockwell Drive, Vancouver, WA 98665. Representative: Edward A. Francom (same address as applicant). *Iron oxide and paint pigment*, in bags, from Emeryville, CA to Portland, OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: PFIZER, INC., 235 East 42nd Street (4th Floor), New York, NY 10017. Send protest to: R. V. DuBay, I.C.C., 114 Pioneer Courthouse, Portland, OR 97204.

MC 109584 (Sub-184TA), filed November 29, 1978. Applicant: ARIZONA PACIFIC TANK LINES, Box 7240, Denver, CO 80207. Representative: Rick Barker (same as above). *Fish solubles*, in bulk, in tank vehicles, from San Diego, CA to Denver, CO; Flagstaff, AZ; and Sparks, NV, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. SEND PROTESTS TO: Roger L. Buchanan, ICC, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 114457 (Sub-460TA), filed November 27, 1978. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same as above). *Aluminum ingots and zinc alloy ingots*, from the facilities of Aluminum Smelting and Refining Company, Inc., and/or Certified Alloys Company located at Maple Heights, OH; Clinton, IA; Minneapolis, MN; and Waukesha, WI to points in the states of AL, CT, GA, KY, IA, MN, MO, MI, NC, NJ, NY, SC, TN and WI, for 180 days. Restricted against the use of dump vehicles. SUPPORTING SHIPPER(S): Aluminum Smelting and Refining Co., Inc., 5463 Dunham Road, Maple Heights, OH 44137. SEND PROTESTS TO: Delores A. Poe, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 114632 (Sub-190TA), filed November 24, 1978. Applicant: APPLE LINES, INC., 212 S.W. Second St., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson, 212 S.W. Second St., Madison, SD 57042. *Electrical transformers, and materials and supplies used in the restoration of electrical transformers*, from points in the United States (except Alaska, Hawaii and South Dakota) to Madison, South Dakota, for 180 days. SUPPORTING SHIPPER(S): Roger's Transformer Supply, Inc., P.O. Box 333, Madison, SD 57042 (Roger G. Larson, President). Send Protests To: J. L. Hammond, I.C.C., Room 455, Federal Bldg., Pierre, SD 57501.

MC 114897 (Sub-128TA), filed November 29, 1978. Applicant: WHITFIELD TANK LINES, INC., 821 E. Pasadena (P.O. Box 7676), Phoenix, AZ 85011. Representative: J. P. Rose (same as above). *Waste or spent chemicals*, in bulk, in tank vehicles, from Albuquerque, NM to Beatty, NV, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): General Electric Co., 336 Woodward SE, Albuquerque, NM 87102. SEND PROTESTS TO: Andrew V. Baylor, ICC, Room 2020 Federal Building, 230 N. First Avenue, Phoenix, AZ 85025.

MC 115036 (Sub-26TA), filed December 11, 1978. Applicant: VAN TASSEL, INCORPORATED, 5th and Grand, Pittsburg, KS 66762. Representative: Dean Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay and clay products*, from Pittsburg, KS to points in NY, under continuing contract or contracts with the W. S. Dickey Clay Manufacturing Company of Pittsburg, KS, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): W. S. Dickey Clay Manufacturing Company, P.O. Box 6, 824 E. 4th Street, Pittsburg, KS 66762. SEND PROTESTS TO: M. E. Taylor, ICC, 101 Litwin Building, Wichita, KS 67202.

MC 115841 (Sub-656TA), filed November 27, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same as above). *Floor coverings, tools and accessories, adhesives, preservatives, carpet tacking strips, and metal moulding*, from the facilities of Roberts Consolidated, located in Los Angeles County, CA to all points in the United States (except AK and HI), for 180 days. SUPPORTING SHIPPER(S): Roberts Consolidated Industries, 600 N. Baldwin Park Boulevard, City of Industry, CA 91749. SEND PROTESTS TO: Glenda Kuss, ICC, Suite A-411—U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 118838 (Sub-37TA), filed November 29, 1978. Applicant: GABOR TRUCKING, INC., Rural Route No.4, Box 124B, Detroit Lakes, MN 56501. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. *Lumber, lumber mill products and wood products*, from Juliaetta and Grangeville, ID, to points in MN, WI, IA, IL, MI, IN, OH, ND and SD, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): The Wickes Corporation, P.O. Box 153, Grangeville, ID 83530. Gem State Lumber Company, Box 379, Juliaetta, ID 83535. SEND PROTESTS TO: Ronald R. Mau, ICC, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 119619 (Sub-129TA), filed November 29, 1978. Applicant: DISTRIBUTORS SERVICE CO., 2000 West 43rd Street, Chicago, IL 60609. Representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, NY 11368. *Meat, meat products, and meat by-products, and articles distributed by meat packinghouses*, as decribed in Sections A and C of Appendix I to the report in descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from points in CT, DE, DC, MD, MA, NJ, NY, RI and those points in PA on and east of U.S Highway 15 to points in IA, KS, MO, and NE, for 180 days. SUPPORTING SHIPPER(S): There are approximately (6) statements of sup-

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port attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Lois M. Stahl, ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

NOTE: The purpose of this application is to substitute a single-line service for its existing joint line operations. An underlying ETA seeks 90 days authority.

MC 119741 (Sub-123TA), filed November 29, 1978. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, NW, P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as above). *Foodstuffs*, from the facilities of Michigan Fruit Canners at Coloma, MI to points in CO, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Michigan Fruit Canners, P.O. Box 206, Coloma, MI 49038. SEND PROTESTS TO: Herbert W. Allen, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 123075 (Sub-30TA), filed November 27, 1978. Applicant: SHUPE & YOST, INC., North U.S., 85 Bypass, P.O. Box 1123, Greeley, CO 80631. Representative: Stuart L. Poelman, 700 Continental Bank Building, Salt Lake City, UT 84101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from the Salt Plant at Lake Point, UT to points in CO, WY, NE, ND and SD under a continuing contract with Leslie Salt Co., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Leslie Salt Company, 866 W. 2600 S., Salt Lake City, UT 84119. SEND PROTESTS TO: Roger L. Buchanan, ICC, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 125535 (Sub-12TA), filed November 30, 1978. Applicant: JOHN SHARP TRUCKING COMPANY, INC., 12015 Manchester Rd., Suite 118, St. Louis, MO 63131. Representative: Donald S. Helm, (same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: (1) *Tile, clay, earthenware and china fixtures and (2) commodities used in the manufacture and installation of commodities* in (1) (except commodities in bulk) (1) between Cloverport and Lewisport, KY, Olean, NY, and Jackson, TN on the one hand, and on the other, points in the U.S. in and east of CO, NM, MT and WY, and (2) between Lansdale and Quakertown, PA, on the one hand, and on the other, points in the U.S. in and east of CO, NM, MT, and WY (except points in CT, DE, DC, ME, MD, MA, NH, NY, PA, RI, VT, VA, and WV), for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): American Olean Tile Company, 1000 Canon Ave., Lansdale, PA 19446. SEND PROTESTS TO: P. E. Binder, I.C.C., Rm. 1465, 210 N. 12th St., St. Louis, MO 63101. Under a continuing contract or contracts with American Olean Tile Company.

MC 126421 (Sub-10TA), filed November 24, 1978. Applicant: GYPSUM TRANSPORT, INC., P.O. Drawer 2679, East Highway 80, Abilene, TX 79604. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. (1) *Building and roofing materials and* (2) *materials and supplies used in the manufacture, distribution, and/or installation of commodities described in (1) above* (except commodities in bulk), from the plantsite Bird & Son, Inc., at Shreveport, LA to points in TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Bird & Son, Inc., East Walpole, MA 02032. SEND PROTESTS TO: Robert J. Kirspel, Trans. Specialist, I.C.C., 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 129615 (Sub-27TA), filed November 29, 1978. Applicant: AMERICAN INTERNATIONAL DRIVEAWAY, 123 N. First Street, P.O. Box 545, Decatur, IN 46733. Representative: Edward D. Helmer (same as above). *Passenger automobiles* (van conversions) and trucks, thru ¾ ton, in motor carrier service, between Huntington County and Adams County, IN, on the one hand, and on the other, points in the states east of the Mississippi River, plus MO, AR, LA, TX, IA, OK and MN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): General Engineering and Manufacturing Corp., P.O. Box 338, Andrews, IN 46702. SEND PROTESTS TO: J. H. Gray, ICC, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 134806 (Sub-55TA), filed December 11, 1978. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Brattleboro, VT 05301. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: (1) *Skis, skiing equipment and accessories*, from Middletown, CT, to points in CA, and (2) *fiberglass stock*, from San Diego County, CA, to Middletown, CT, under a continuing contract(s) with Olin Ski Company, Inc., for 180 days. SUPPORTING SHIPPER(S): Olin Ski Company, Inc., 475 Smith Street, Middletown, CT 06457. SEND PROTESTS TO: ICC, P.O. Box 548, 87 State Street, Montpelier, VT 05602.

MC 135070 (Sub-23TA), filed November 27, 1978. Applicant: JAY LINES, INC., 720 N. Grand, Amarillo, TX 79120. Representative: Gailyn Larsen, 521 South 14th Street, Lincoln, Ne 68501. *Drugs, medicines, cosmetics, plastic boxes, weed killing compounds, and animal and poultry feed supplements, and materials and supplies used in the manufacture and distribution thereof*, between the facilities of Eli Lilly and Company, located at or near Clinton, Lafayette, and Indianapolis, IN, on the one hand, and, on the other, points in TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Eli Lilly and Company, 1555 S. Kentucky Avenue, Indianapolis, IN 46206. SEND PROTESTS TO: Haskell E. Ballard, ICC, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 135152 (Sub-28TA), filed November 27, 1978. Applicant: CASKET DISTRIBUTORS, INC., Harrison-Brookville Road, Harrison, IN 45030. Representative: J. D. Campbell (same as above). *Games, toys, and children's vehicles*, (1) from facilities of Louis Marx & Co., at Girard, PA; Glendale, WV; and Columbus, OH; to the states of WA, ID, OR, CA, NV, UT, AZ and NM; and (2) *Material, equipment and supplies used in the manufacture of toys* from above named states to the facilities of Louis Marx & Co., at Girard, PA; Glendale, WV; and Columbus, OH, for 180 days. SUPPORTING SHIPPER(S): Louis Marx and Company, Inc., 633 Hope Street, Stamford, CT 06904. SEND PROTESTS TO: Beverly J. Williams, ICC, Federal Bldg. and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 138144 (Sub-40TA), filed November 24, 1978. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, WI 53213. Representative: William D. Brejcha, 10 South La Salle Street, Suite 1600, Chicago, IL 60603. (A) *Such commodities* as are manufactured or distributed by manufactures of (1) buildings, complete, knocked down, or in sections, (2) *building sections and panels*, (3) *component parts, materials and supplies* for (1) and (2), and (4) parts, accessories, and equipment used in the installation of (1), (2), and (3), (except commodities in bulk), from the facilities of Sonoco Buildings, a Division of Sonoco Products Co., located at or near Chetopa, KS to points in the United States (except AK and HI), (B) Material and supplies used in the production of the commodities described in (A) above, from points in the United States (except AK and HI) to the facilities of Sonoco Buildings, a Division of Sonoco Products Co., at or near Chetopa, KS. RESTRICTION: Restricted to the transportation of traffic originating at or destined to the facilities of Sonoco

Buildings, a Division of Sonoco Products Co., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Sonoco Buildings, A Division of Sonoco Products, 19775 Sommer Drive, Waukesha, WI 53186. SEND PROTESTS TO: Gail Daugherty, Trans. Asst., I.C.C., U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 138345 (Sub-9TA), filed November 24, 1978. Applicant: BASIL B. GORDON, d.b.a. VALLEY SPREADER COMPANY, 260 N. Ninth St. (P.O. Box 673), Brawley, CA 92227. Representative: R.Y. Schureman, 1545 Wilshire Blvd. Los Angeles, CA 90017. *Liquid chemicals, in bulk and in drums*, from the Port of Entry at the International Boundary between United States and the Republic of Mexico at Calexico, CA to points in Los Angeles and San Joaquin Counties, CA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Los Angeles Chemical Company, 4545 Ardine St., South Gate, CA 90280; and Occidental Chemical Company, P.O. Box 198, Lathrop, CA 95330. SEND PROTESTS TO: Irene Carlos, I.C.C., 300 North Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 139420 (Sub-44TA), filed November 29, 1978. Applicant: ART GREENBERT, d.b.a. GLACIER TRANSPORT, P.O. Box 428, Grand Forks, ND 58201. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. *Grain flour, and cereal*, from the facilities of Roman Meal Co., at or near Fargo, ND, to Phoenix, AZ; Billings, MT; Las Vegas, NV; Albuquerque and Roswell, NM; Portland and Eugene, OR; Ogden, UT; and points in CA, CO, TX and WA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Roman Meal Company, 2010 South Tacoma Way, Tacoma, WA 98409. SEND PROTESTS TO: Ronald R. Mau, ICC, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 139457 (Sub-13TA), filed December 7, 1978. Applicant: G. L. SKIDMORE, d.b.a. JELLY SKIDMORE TRUCKING COMPANY, P.O. Box 38, Paris, TX 75460. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. Authority sough to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ingredients and supplies* used in the manufacture of canned and preserved foodstuffs, from Milwaukee, WI to the facilities of Campbell Soup (Texas) Inc., at or near Paris, TX, under a continuing contract(s) with Campbell Soup (Texas) Inc., for 180 days. SUPPORTING SHIPPER(S): Campbell Soup Company, Paris, TX. SEND PROTESTS TO: Opal M. Jones, ICC, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 139495 (Sub-399TA), filed November 24, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, Sullivan & Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. *Drugs, medicines, and toilet preparations, in vehicles equipped with mechanical refrigeration*, from the facilities of Warner Lambert at or near San Antonio, TX to the facilities of Warner Lambert at or near Allen Park, MI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER: Texas Pharmacal Company, Pharmaceutical Division, Warner Lambert Company, 182 Tabor Road, Morris Plains, NJ 07950. SEND PROTESTS TO: M. E. Taylor, I.C.C., 101 Litwin Bldg., Wichita, KS 67202.

MC 141195 (Sub-7TA), filed December 6, 1978. Applicant: CAL-ARK, INC., R. R. 2 Armistics, Prairie Grove, AR 72104. Representative: Thomas W. Bartholomew, 854 Moline, P.O. Box 394, Malvern, AR 72104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Polystyrene trays*, from the facilities of Western Foam Pak, Inc., at Fresno, CA, to all points in the states of UT and AZ, and CO, under a continuing contract or contracts with Western Foam Pak, Inc., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Western Foam Pak, Inc., 5370 East Home, Fresno, CA 93727. SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 141804 (Sub-156TA), filed November 29, 1978. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (Same as above). *Toys and pools and related articles*, from Los Angeles and Long Beach CA to Amsterdam and Gloversville, NY, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Coleco Industries, Inc., Amsterdam, NY. SEND PROTESTS TO: Irene Carlos, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 142948 (Sub-14TA), filed November 27, 1978. Applicant: THE GRADER LINE, INC., 434 Atlas Drive, Nashville, TN 37211. Representative: Lawrence C. Goddard, Suite C, Parkway Towers, 404 James Robertson Pkwy., Nashville, TN 37219. *Electroless nickel plating solution requiring temperature controlled handling* (except in bulk) between the plantsite of Elnic of TN, Inc., in Nashville, TN, and points in MN and NY, TX and OK, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Elnic Inc., 657 Massman Drive, Nashville, TN. SEND PROTESTS TO: Glenda Kuss, ICC, Suite A-422—U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 142980 (Sub-1TA), filed November 27, 1978. Applicant: PROCESSING TRANSPORTATION, INC., P.O. Box 68 (Tanners Church Road), Comley, GA 30027. Representative: Mark C. Ellison, 235 Peachtree Street, Suite 1200, Gas Light Tower, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bags*, from the facilities of the Dixie Bag Company in College Park, GA to points in AL, FL, GA, KY, LA, MS, NC, OH, SC, TN, and VA, under a continuing contract with Dixie Bag Company, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Dixie Bag Company, 4880 Massachusetts Boulevard, College Park, GA 30337. SEND PROTESTS TO: Sara K. Davis, ICC, 1252 W. Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 143179 (Sub-9TA), filed December 11, 1978. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Representative: Foster L. Kent (Same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood excelsior products*, from Rice Lake, WI, to points in AR, CO, IL, IN, IA, KS, LA, MA, MN, MO, NE, ND, OK, SD, and TX, under a continuing contract(s) with American Excelsior Company, for 180 days. SUPPORTING SHIPPER(S): American Excelsior Company, 850 Avenue East, P.O. Box 5067, Arlington, TX 76011. SEND PROTESTS TO: Carroll Russell, ICC, Suite 620, 110 No. 14th Street, Omaha, NE 68102.

MC 143562 (Sub-2TA), filed December 8, 1978. Applicant: DONALD R. FORD, dba SERVICE TRANSPORT, P.O. Box 37, Burbank, WA 98323. Representative: Boyd Hartman, 10655 N. E. Fourth, Suite 210, Bellevue, WA 98004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Blood*, liquid, in bulk, from points in ID, WA, MT and OR to Wallula, WA, under a continuing contract(s) with Columbia Foods, Inc., a subsidiary of Iowa Beef Processors, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Columbia Foods, Inc., a subsidiary of

Iowa Beef Processors, P. O. Box 494, Dakota City, NE 68731. SEND PROTESTS TO: Shirley M. Holmes, ICC, 858 Federal Building, Seattle, WA 98174.

MC 143754 (Sub-5TA), filed November 29, 1978. Applicant: MACZUK INDUSTRIES, INC., R.R. 2, New Haven, MO 63068. Representative: Richard P. Senecal, 817 Santa Fe, Atchison, KS 66002. *Molasses, feed and feed ingredients,* from Atchison, KS to points in KS, MO, NE, IA, CO, OK, and shipments in return from Nebraska City, NE to points in MO, NE, KS and IA, for 180 days. SUPPORTING SHIPPER(S): Industrial Molasses Division of Westway Trading Corp., 6600 France Avenue, Suite 670, Minneapolis, MN 55435. SEND PROTESTS TO: P. E. Binder, ICC, Room 1465, 210 N. 12th Street, St. Louis, MO 63101.

MC 143775 (Sub-40TA), filed November 29, 1978. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (Same as above). *Mushrooms and tomato sauce in cans,* combined and separated, in temperature controlled equipment, from Oxford, PA to states on and east of the Mississippi River (except PA), for 180 days. SUPPORTING SHIPPER(S): Oxford Corporation, P. O. Box 377, Oxford, PA 19363. SEND PROTESTS TO: Andrew V. Baylor, ICC, Room 2020 Federal Building, 230 N. First Avenue, Phoenix, AZ 85025.

MC 144298 (Sub-5TA), filed November 27, 1978. Applicant: MASTER TRANSPORT SERVICES, INC., 5000 Wyoming Avenue, Suite 203, Dearborn, MI 48126. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs,* in mechanically-refrigerated equipment, from Detroit, MI to Sacramento, CA; Salt Lake City, UT; and Urbandale, IA, under a continuing contract with Fred Sanders, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Fred Sanders, 100 Oakman Boulevard, Detroit, MI 48203. SEND PROTESTS TO: Tim Quinn, ICC, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

MC 145082 (Sub-1TA), filed December 11, 1978. Applicant: JANNEY INDUSTRIES, INC., 1119 Beaver Street, Bristol, PA 19007. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Lighting fixtures and materials and supplies* used in the manufacture or distribution of lighting fixtures, from the facilities of Keystone Lighting Corp., at or near Bristol, PA to points in AZ, CA, CO, ID, MT, NM, NV, ND, OR, SD, UT, WA and WY, under a continuing contract(s) with Keystone Lighting Corp., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Keystone Lighting Corporation, Beaver Street and Route 13, Bristol, PA 19007. SEND PROTESTS TO: T. M. Esposito, ICC, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 145384 (Sub-15TA), filed November 29, 1978. Applicant: ROSE-WAY, INC., 1914 E. Euclid, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Steel, stainless steel, nickel and aluminum,* from the facilities of A.M. Castle and Co., at Franklin Park, IL to Salt Lake City, UT, and Fresno, Los Angeles, and San Francisco, CA, and points in their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): A. M. Castle and Co., 3400 North Wolf Road, Franklin Park, IL 60131. SEND PROTESTS TO: Herbert W. Allen, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 145397 (Sub-3TA), filed November 27, 1978. Applicant: P. A. JOHNSON & CO., 1220 Monroe Avenue, River Forest, IL 60305. Representative: John F. Kelly (Same as above). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* for the National Starch & Chemical Corporation, to include commodities that require protection from freezing, not to include commodities in bulk, from the plant site of National Starch & Chemical Corporation at Chicago, IL to points in the states of IN, IA, MI and WI, for 180 days. RESTRICTION: Above authority restricted to seasonal operation; November through April. SUPPORTING SHIPPER(S): National Starch and Chemical Corporation, P. O. Box 6500, Bridgewater, NJ 08817. SEND PROTESTS TO: Lois M. Stahl, ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 145599 (Sub-1TA), filed November 27, 1978. Applicant: NANCY L. GUY, d.b.a. GUY TRUCKING CO., Route 1, Whitwell, TN 37397. Representative: (Same as above). *Coal,* in bulk, in dump vehicles, from Mentone, AL to Chattanooga, TN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Mobile Fuel Shipping Inc., P.O. Box 312, Mentone, AL 35984. SEND PROTESTS TO: Glenda Kuss, ICC, Suite A-422—U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 145634 (Sub-1TA), filed December 8, 1978. Applicant: PHILLIP W. GOETTLING, d.b.a. GOETTLING TRANSPORTATION, 2006 Benfield Road, Severna Park MD 21146. Representative: Chester A. Zyblut, 1030 15th Street, NW, Washington, DC 20005. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Laboratory and photographic equipment and supplies* from Baltimore, MD to Washington, DC and its commercial zone, under a continuing contract(s) with VWR Scientific, Inc., for 180 days. SUPPORTING SHIPPER(S): VWR Scientific, Inc., 6601 Amberton Drive, Baltimore, MD 21227. SEND PROTESTS TO: ICC, 1025 Federal Building, Baltimore, MD 21201 (W. L. Hughes).

MC 145655 (Sub-2TA), filed December 11, 1978. Applicant: TYSON FOODS, INC., 2210 Oaklawn, P.O. Drawer E, Springdale, AR 72764. Representative: Michael H. Mashburn, 111 Holcomb, P.O. Box 869, Springdale, AR 72764. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products,* from FL, IN, LA, MI, MO, NC, OH, TN, TX, VT, WA and WI to Springdale, AR, under a continuing contract(s) with Northwest Arkansas Paper Company, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Northwest Arkansas Paper Company, 500 East Meadow, P.O. Box 729, Springdale, AR 72764. SEND PROTESTS TO: William H. Land, Jr., ICC, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145669 (Sub-1TA), filed November 24, 1978. Applicant: PETROLEUM TANK LINE, 2600 Rice Avenue, West Sacramento, CA 95691. Representative: Alan F. Wohlstetter, 1700 K Street, NW, Washington, DC 20006. *Petroleum and petroleum products,* in bulk, in tank vehicles, from points in Butte, Contra Costa, Sacramento, San Mateo, San Jaoquin, Solano and Yolo Counties, CA to points in Curry, Jackson, Josephine, Klamath and Lake Counties, OR and points in Carson City, Churchill, Douglas, Esmeralda, Eureka, Humboldt, Lander, Lyon, Mineral, Nye, Pershing, Storey and Washoe Counties, NV, for 180 days. SUPPORTING SHIPPER(S): Texaco, Inc., P.O. Box 52332, Houston, TX 77052. SEND PROTESTS TO: A. J. Rodriguez, 211 Main Street, Room 500, San Francisco, CA 94105.

MC 145688 (Sub-1TA), filed November 27, 1978. Applicant: FARMINGDALE TRUCKING CORP., 22 Carnegie Drive, Smithtown, NY 11787. Representative: Lester R. Gutman, 805 McLachlen Bank Building, 666 Eleventh Steet, NW, Washington, DC 20001. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Wines and liqueurs,* in containers, from ports of entry in the New York, NY commercial zone to the facilities of Banfi Products, Inc., at or near Farmingdale, NY. (2) *Wines and liqueurs,* from the facilities of Banfi Products, Inc., at or near Farmingdale, NY, to points in the United States (except AK and HI), and (3) *Wines,* from San Jose, Ripon, and Modesto, CA, to the facilities of Banfi Products, Inc., at or near Farmingdale, NY, for 180 days. The transportation in (1), (2), and (3) above, to be under a continuing contract or contracts with Banfi Products, Inc. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Banfi Products, Inc., 200 Sherwood Drive, Farmingdale, NY 11735. SEND PROTESTS TO: Maria B. Kejss, ICC, 26 Federal Plaza, New York, NY 10007.

MC 145813 TA, filed November 27, 1978. Applicant: POINTS WEST TRUCKING, INC., P.O. Box 55085, Valencia, CA 91355. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Paper envelopes,* from Deer Park (Suffolk County), NY, to points in CA, OR, WA, AZ, NV, ID and UT, for 180 days. SUPPORTING SHIPPER(S): Commercial Envelope Manufacturing Company, Inc., 900 Grand Blvd., Deer Park, Long Island, NY 11729. SEND PROTESTS TO: Irene Carlos, Trans. Asst., I.C.C., Rm. 1321, Federal Bldg., 300 North Los Angeles St., Los Angeles, CA 90012.

MC 145872 TA, filed December 6, 1978. Applicant: TREVIS BERRY TRANSPORTATION, P.O. Box 1802, Gilroy, CA 95020. Representative: Trevis L. Berry, 655 Luchessa (Same as above). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Pulpboard, fibreboard or paper, NOI; VIZ: rolls; corrugated boxes, KD flat; sheets, corrugated, flat; corrugated fillers, pads, or partitions, NOI, flat, KD Flat or folded flat,* from the facilities of Hoerner Waldorf-Champion International Corporation, at or near Salinas, CA to Reno and Sparks, NV; and *Waste products; viz: scrap paper and paper products,* from Reno and Sparks, NV to points in Alameda, Contra Costa, Monterey, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Solano, Stanislaus, and Yolo Counties, CA, under a continuing contract(s) with Hoerner Waldorf Champion International Corporation, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Hoerner Waldorf Champion International Corporation, P.O. Box 1211, Salinas, CA 93901. SEND PROTESTS TO: Michael M. Butler, ICC, 211 Main—Suite 500, San Francisco, CA 94105.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-2229 Filed 1-22-79; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

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[6320-01-M]

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[M-190 amdt 3, Jan. 17, 1979]

ADDITION OF ITEMS TO THE JANUARY 18, 1979 MEETING AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., January 18, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 9b. Docket 33776, Application of Northwest Airlines for unused authority (Detroit-Boston)—Motion of North Central Airlines for a stay of Order 78-12-166 pending judicial review (BPDA, Memo No. 8444). 16a. Dockets 34138, 34100, 34089 and 34132 Commuter/Certificated carrier joint fares (OGC, BPDA, Memo No. 8311B).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: North Central's motion for stay by the Board was filed in the late afternoon of January 11. On January 12 North Central filed in the court of appeals a motion for summary reversal or judicial stay of Order 78-12-166. The Litigation Division of OGC advises BPDA they consider it essential that the court should have the benefit of the Board's own views on the legal points raised concerning this staff-issued order. Since it will not be possible to prepare and clear an order disposing of these points in time for this week's meeting, OGC has asked BPDA to prepare and have placed on the January 18 agenda an order denying the stay but taking review of Order 78-12-166 on the Board's own motion, with the order on review to follow. Because of the timing of North Central's filing, the first order could not have been prepared any earlier. Item 16a is being added to the January 18, 1979 agenda since the order, if adopted, will extend both the uniform method of constructing, and, on an interim basis, the uniform method of dividing joint fares to commuter/certificated carrier connections as of January 22, 1979. Because the expedited schedule in this proceeding and the need to coordinate OGC's recommendation with the Director of BPDA, the staff recommendation could not be provided to the Board in time for inclusion in the published calendar. Accordingly, the following Members have voted that agency business requires the addition of Items 9b and 16a to the January 18, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-144-79 Filed 1-19-79; 10:54 am]

2

[6320-01-M]

[M-190 amdt 4, Jan. 18, 1979]

DELETION OF ITEM FROM THE JANUARY 18, 1979 MEETING AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., January 18, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 18. Docket 30777, IATA agreement proposing a four percent currency related surcharge on fares from the United States to Japan, and for percent discount on fares from Japan to the United States. The Embassy of Japan has submitted comments, through the Department of State, arguing that the surcharge is justified to reduce the present directional differential in U.S./Japan fares; (Memo 8071-B, BPDA, OGC, BIA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Item 18 was deleted from the January 18, 1979 agenda in order to give the Board Members additional time to review the case and also to consider whether this item should be taken up in closed session. Accordingly, the following Members have voted that agency business requires the deletion of Item 18 from the January 18, 1979 agenda and that no earlier announcement of this deletion was possible:

Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-150-79 Filed 1-19-79; 3:50 pm]

[6320-01-M]

3

[M-191, Jan. 18, 1979]

SHORT NOTICE OF MEETING FOR JANUARY 24, 1979

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., January 24, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 32318—Deregulation of freight forwarders and cooperative shippers associations. (OGC, Memo No. 7828-A)
3. Docket 32828, Application of North Central Airlines, Inc. for Milwaukee-Toronto nonstop authority (Memo No. 8447, BIA, OGC)
4. Dockets 33703, 33744, 33934 and 34437; Braniff's Motion for Hearing on its Certificate Application for Dallas/Fort Worth-Cincinnati/Indianapolis Nonstop Authority and Allegheny's Ozark's, and Texas International's applications respectively, requesting similar authority and Motions to Consolidate (Memo No. 8442, BPDA, OGC BALJ)
5. Dockets 33527, 33615, 33923, 33901, 33666, 33826, 33659 and 33890. Petitions of Frontier, Northwest, American, Ozark, Western, Continental, and Trans World for Amendments of Certificates of Public Convenience and Necessity and Application of Hughes Airwest for an exemption (Memo 8443, BPDA, OGC and BALJ)
6. Dockets 31496 and 33280, Piedmont's and Southern's applications for authority between the coterminals Charleston and Columbia, South Carolina, on the one hand, and the coterminals Miami and Ft. Lauderdale, on the other. (Memo No. 8160-B, BPDA)
7. Dockets 28944, 29085 and 33970. Application of Allegheny for Deletion of Youngstown, Ohio; Petition for Reconsideration of Order 77-7-62 denying suspension at Youngstown, Ohio and Notice of termination of Allegheny's service at Youngstown under Section 401(j) (BPDA, OCCR)
8. Dockets 33971 and 33302, TXI's notice of intent to suspend service at Hot Springs (BPDA, OCCR)
9. Docket 33927; National's 90-day Notice to Suspend service at Providence (Memo 8445, BPDA, OCCR)
10. Dockets 33075, 34057, and 34068, Frontier's application for a three year suspension of service at Columbus, Hastings, Kearney, and McCook, Nebraska; Frontier's application for an exemption to reduce the minimum 90-day notice requirements of section 401(j) and 419(a)(3) of the Act, so as to coordinate its termination of service with the commencement of replacement service by Pioneer at these Nebraska cities; Petition of the City of Kearney and the Kearney Municipal Airport Corporation for the determination of its essential air transportation and the prohibition of any reduction of certificated service pending such determination and establishment of acceptable replacement service and Frontier's application and notice of intent to suspend service at Columbus, Hastings, Kearney, and McCook under section 401(j) and 419(a)(3) of the Act. (BPDA, OCCR)
11. Draft Notice of Proposal Rulemaking to expand the current exemption to air carriers from sections 408(a)(2) and (a)(3) contained in Part 299 of the Board's Regulations and to extend the exemption to other persons (BPDA, OGC, BCP, BIA)
12. Docket 30226, Final Future Subsidy Mail Rate for Kodiak-Western Alaska Airlines, Inc. (BPDA, OC, OCCR, OGC)

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The Chairman's schedule has been changed in order that he be able to attend the CAB Regional Hearings in Atlanta, and therefore a quorum will not be present at the regularly scheduled Board Meeting on Thursday, January 25. As a result, the Sunshine meeting will be held on Wednesday, January 24, 1979. Accordingly, the following Members have voted that agency business requires that the Board meet on less than seven days' notice and that no earlier announcement of this meeting was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-151-79 Filed 1-19-79; 3:50 pm]

[6570-06-M]

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT S-68-79.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, January 16, 1979.

CHANGE IN THE MEETING: The following matter is added to the agenda for the open portion of the meeting:

Proposed Revision of Jurisdictional Boundaries for Field Offices.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

IN FAVOR OF CHANGE: Eleanor Holmes Norton, Chair; Ethel Bent Walsh, Commissioner; Armando M. Rodriguez, Commissioner; J. Clay Smith, Jr., Commissioner.

OPPOSED: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This Notice Issued January 12, 1979.

[S-146-79 Filed 1-19-79; 10:54 am]

[6712-01-M]

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, January 25, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Common Carrier—1—Order resolving all outstanding petitions for reconsideration (and related comments and filings) on telephone equipment registration proceedings in Docket Nos. 19528, 20774 and 21182.
Common Carrier—2—Provision of domestic facilities to International Record Carriers by AT&T. (CC Docket No. 21499).
Common Carrier—3—GTE Acquisition of Telenet.
Common Carrier—4—Application of French Telegraph Cable Company seeking authority to establish facilities for the provision of its authorized international services from the gateways of San Francisco and Washington, D.C. in addition to its New York gateway.
Common Carrier—5—Petition filed by RCA Global Communications, Inc. of rule revisions reducing pleading periods for filing petitions to suspend tariff filings and replies thereto.
Common Carrier—6—Applications by Corporation for Public Broadcasting, National Public Radio and the licensees of noncommercial educational radio stations; and by Western Union Telegraph Company.
Common Carrier—7—Various pleadings filed in Docket No. 21256, inquiry into the quality of service and the terms and conditions of interconnection between Carpenter Radio Company and United Telephone Company of Ohio.
Common Carrier—8—Public Message Telegraph Inquiry (CC Docket Nos. 78-95 and 78-96).
Common Carrier—9—Request for declaratory ruling by Graphnet Systems, Inc. concerning Electronic Computer Originated Mail, a proposed electronic mail offering.
General—1—Application for review of Broadcast Bureau ruling granting the Freedom of Information Act request filed by Alaskans for Better Media (FOIA Control No. 8-134).

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone number 202-632-7260.

Issued: January 19, 1979.

[S-148-79 Filed 1-19-79; 2:31 pm]

[7025-01-M]

6

INTER-AMERICAN FOUNDATION.

TIME AND DATE: 12:30 p.m., February 5, 1979.

PLACE: Board Room, Inter-American Foundation, 1515 Wilson Boulevard, Arlington, Va. 22209.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Chairman's Report
2. President's Report
3. Financial Report
4. Dissemination Discussion
5. Country Overview

CONTACT PERSON FOR MORE INFORMATION:

Lawrence E. Bruce, Jr., 703-841-3812.

[S-147-79 Filed 1-19-79; 10:54 am]

[4410-01-M]

7

UNITED STATES PAROLE COMMISSION: National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Wednesday, January 24, 1979, at 9 a.m.

PLACE: Room 818, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTER TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 20 cases in which in-

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mates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

A. Ronald Peterson, Analyst, 202-724-3094.

[S-149-79 Filed 1-19-79; 3:24 pm]

[8120-01-M]

8

TENNESSEE VALLEY AUTHORITY (MEETING NO. 1208).

TIME AND DATE: 10:30 a.m., Thursday, January 25, 1979.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTERS FOR ACTION:

OLD BUSINESS

1. Req. No. 823481—Fire alarm system for the Hartsville and Phipps Bend Nuclear Plants.

NEW BUSINESS

CONSULTING AND PERSONAL SERVICE CONTRACTS:

1. Renewal of consulting contract with Dr. Frank E. Perkins, Cambridge, Massachusetts, for advice and assistance in connection with studies relating to siting and licensing for nuclear generating plants, requested by the Division of Water Management.

PURCHASE AWARDS:

1. Req. No. 823205—Electrode boiler packages for the Yellow Creek Nuclear Plant.
2. Req. No. 108149 (Reissue)—Galvanized structural tower steel for various transmission lines.
3. Req. No. 825047—Structural steel framing for duct, precipitator supports and stair-air separator tower for Cumberland Steam Plant.

POWER ITEMS:

1. New Power contract with Hooker Chemicals & Plastics Corporation.
2. Lease and amendatory agreement with Chickasaw Electric Cooperative—TV's Oakland Substation in Fayette County, Tennessee.
3, Rental and amendatory agreement with the city of Chattanooga, Tennessee, covering arrangements for 161-kV service at TVA's Chickamauga Hydro Plant Substation.
4. Agreement between distributors of TVA power and TVA participation in Heat Pump Financing Plan for TVA area.

REAL PROPERTY TRANSACTIONS:

1. Sale of permanent easement affecting approximately 1.03 acres of Fort Loudon Dam Reservation land in Loudon County, Tennessee—Tract XFL-117H.

UNCLASSIFIED:

1. Interagency agreement with the Department of Energy covering arrangements for an evaluation project to reduce boiling water reactor use of uranium ore.
2. Adoption of supplemental resolution authorizing 1979 Series A Bonds.
3. Resolution authorizing the Chairman and other Executive Officers to take further action relating to issuance of sale of 1979 Series A Bonds.
4. Agreement with Small Business Administration concerning programs for furthering participation in TVA's purchases by small businesses, including minorities.

Dated: January 18, 1979.

CONTACT PERSON FOR MORE INFORMATION:

Lee C. Sheppeard, Acting Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-566-1401.

[S-145-79 Filed 1-19-79; 10:54 am]

federal register

TUESDAY, JANUARY 23, 1979
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

INTERNATIONAL COMMUNICATION AGENCY

■

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

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[8230-01-M]

INTERNATIONAL COMMUNICATION AGENCY

PRIVACY ACT OF 1974

Transfer of Systems of Records Existing and Proposed

AGENCY: International Communication Agency

ACTION: Notice of transfer and adoption of new systems of records.

SUMMARY: Systems of records of the United States Information Agency and the Bureau of Educational and Cultural Affairs of the Department of State have been transferred to the International Communication Agency. The Agency's systems of records have been amended to reflect those changes made necessary by its reorganization.

In addition to the amendments, US/ICA proposes to adopt the following new records systems:

USICA—54

System name: Incentive Awards File-MGT/P-USICA

USICA—55

System name: Educational and Cultural Exchange Program Records-ECA-USICA

USICA—56

System name: Exchange Visitor Waiver Records-GC-USICA

EFFECTIVE DATE: The new systems shall become effective without further notice in 30 calendar days (February 21, 1979) unless comments are received on or before February 21, 1979, which would result in a contrary determination.

ADDRESS: Written comments should be directed to: Mr. Michael Pistor, Office of Congressional and Public Liaison, Room 1019, International Communication Agency, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Jones, Access to Information Officer, International Communication Agency, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547, phone (202) 724-9130.

SUPPLEMENTARY INFORMATION: The International Communication Agency was established by Reorganization Plan No. 2 of 1977, which was made effective April 1, 1978, by Executive Order 12048, dated March 28, 1978. Reorganization Plan No. 2 provided for the transfer of all functions of the United States Information and Educational Exchange Act of 1948, as amended, P.L. 80-402, and the Mutual Educational and Cultural Exchange Act of 1961, as amended, P.L. 87-256, from the United States Information Agency and the Bureau of Educational and Cultural Affairs of the Department of State to the International Communication Agency.

By Determination Orders dated April 5, 1978, the Director of the Office of Management and Budget transferred all records of the United States Information Agency which had not been forwarded to the Archives for retention and active records of the Bureau of Educational and Cultural Affairs, Department of State, to the International Communication Agency.

All systems of records of the United States Information Agency have therefore been amended to reflect this transfer to the International Communication Agency.

The records of the Bureau of Educational and Cultural Exchange of the Department of State which were subject to the Privacy Act were contained in the system State-08 Educational and Cultural Exchange Program Records (42 FR 49703, September 27, 1977). when these records were transferred to the International Communication Agency, a portion of the records was transferred to the General Counsel and the remainder was retained by the Associate Director for Educational and Cultural Affairs. The systems of records of the International Communication Agency have therefor been amended to adopt the records transferred from the Bureau of Educational and Cultural Affairs of the Department of State by adding USICA-55 Educational and Cultural Exchange Program Records-ECA-USICA and USICA-56 Exchange Visitor Waiver Records-GC-USICA. No information not previously maintained in the system State-08 is maintained in USICA-55 or USICA-56.

The International Communication Agency also proposes to establish a new system of records USICA—54 Incentive Awards File—MGT/P—USICA. The information in this file was formerly contained in USIA—9 Employee Awards, Health Programs, Retirement and Out-Placement records—IPT—USIA. Due to internal reorganization of the Agency, the Agency proposes to remove the data relating to employee awards, establish a separate system of records for this material, and rename the former system USICA—9 Retirement and Insurance Records—MGT/P—USICA.

Public comment is invited on the proposed new records systems.

The prefatory statement containing general routine uses applicable to all of the Agency's systems of records was published at 42 FR 48245 (September 22, 1977).

Issued at Washington, D.C., October 22, 1978.

CHARLES W. BRAY III,
Deputy Director.

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USICA—1

System name: Americans Residing in Foreign Countries—USICA

The International Communication Agency maintains establishments overseas in 120 foreign countries, which are designated as mission posts, branch posts, regional service centers, VOA relay stations and media extensions. A current listing of names and addresses of overseas establishments is not considered practical for Privacy Act purposes, due to the fact that such a list would require frequent amendment. Changing of office locations, opening of new offices, closing of established offices and realignment of geographic areas have become practical realities in conducting the Agency's mission overseas. Individuals who feel that records pertaining to themselves are maintained at any of our overseas locations may contact the Agency's Office of Congressional and Public Liaison, Room 1019, 1750 Pennsylvania Avenue, N.W., Washington, D.C., 20547. The Agency maintains an index of its records, including a current listing of overseas posts, which is available to the public as indicated in 22 CFR Ch. V, Sec. 504.2

American citizens and aliens admitted for permanent U.S. residence, who are residing Overseas, i.e., journalists, businessmen, scholars, artists, representatives of other U.S. Government agencies, missionaries.

Names and addresses.

Public Law 402, Information and Educational Exchange Act of 1948; Federal Records Act, 44 U.S.C. 3101.

Distribution of printed matter; invitation lists of official social functions and programs; selection of candidates for temporary employment, as needed; location of specialist to arrange, conduct, appear in or appraise Agency programs organized overseas; press briefings for American journalists residing in foreign countries; appraisal of American specialists whose services are utilized in Agency programming overseas.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies having statutory or other legal authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Addressograph plates or paper records in file folders.

Retrievability: By name of the individual.

Safeguards: Records are kept in locked file cabinets or in locked rooms when not in use.

Retention and disposal: Records are updated regularly, and metal plates or paper files no longer useful or current are destroyed.

System manager(s) and address: See "System Location" above.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C., 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Information obtained from the individual concerned.

USICA—2

System name: Artists and Speakers-NEA

System location: Office of the Assistant Director of North African, Near Eastern and South Asian Affairs, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Artists and speakers considered qualified to conduct programs at USICA's overseas posts in the Near East, North Africa and South Asia.

Categories of records in the system: Biographic data on speakers and artists; evaluation reports of past service with USICA; travel arrangements; program arrangements.

Authority for maintenance of the system: The Federal Records Act, 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide basic personnel and program information in order to arrange regional schedules for speakers and artists. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their offical duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By the name of the individual concerned.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: Records are held as long as the individual is a prospective speaker or artist needed for or willing to conduct programs overseas.

System manager(s) and address: Office of Director, North African, Near Eastern and South Asian Affairs, 1750 Pennsylvania Avc., N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Information provided by the individual artists and speakers; evaluation of speaker or artist by overseas posts; public documents and publications.

USICA—3

System name: Bidders Mailing List Application-MGT/AC

System location: International Communication Agency, Contract and Procurement Division, 1717 H Street, NW., Washington, D.C. 20547.

Categories of individuals covered by the system: Prospective Government contractors and Agency contractors.

Categories of records in the system: Information is contained on a standard form which requests the individual's name and address, type of business, number of employees, average annual sales or receipts, facilities (space), net worth, security clearances held, and a certification of the accuracy of the information provided on the form.

Authority for maintenance of the system: Federal Procurement Regulations (41 CFR 1-2.205-1(c) and 1-16.802).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To prepare the Agency's Bidders Mailing List and for use of contracting specialists to determine adequacy of facilities, and financial responsibility of prospective contractors. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

The principal user of this information outside the International Communication Agency is the General Services Administration.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information included on Standard Form 129, and maintained in binders.

Retrievability: By the name of the individual.

Safeguards: Maintained in combination lock file cabinet, available only to authorized personnel.

Retention and disposal: A routine update of information is conducted approximately every five years. Outdated information disposed of by burning.

System manager(s) and address: Agency Contracting Officer, Contract and Procureent Division, 1717 H Street, N.W., Washington, D.C. 20547.

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Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Assistant Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Information provided by individuals, companies and corporations.

USICA—4

System name: Contract Talent and Employee Recruitment Files-PGM/T

System location: International Communication Agency, Television and Film Service, 601 "D" Street, N.W., Washington, D.C. 20547. International Communication Agency, Television and Film Service, 1657 Broadway, New York, New York 10019.

Categories of individuals covered by the system: Job applicants; professional talent specialists in languages, camera, acting, etc., contractual motion picture and television producers.

Categories of records in the system: Records on individuals who have applied for employment as free-lance talent; correspondence between contractual motion picture and television producers; film review sheets; producer questionnaire forms; duplicate copies of security clearance information on talent vendors and contractual producers; card files on applicants for employment with USICA's Television Service and Film Service.

Authority for maintenance of the system: Federal Records Act, 44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To identify sources for contract productions; to identify individuals who have applied to USICA for employment as free-lance talent vendors; to fill vacant positions in production and/or technical positions as they become vacant; to determine security clearance status of contractual individuals or companies. Also see Prefatory Statement of General Routing Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these files is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card records and paper records in file folders.

Retrievability: By name of the individual concerned.

Safeguards: Maintained in locked file cabinets and available only to authorized personnel.

Retention and disposal: Records on talent vendors and contractual producers retained indefinitely; records on job applicants retained for ten years, and disposed of in accordance with internal schedules for rentention and disposal of files.

System manager(s) and address: Chief, Television and Film Service, 601 "D" Street, N.W., Washington, D.C. 20001. Executive Officer, Television and Film Service, 601 "D" Street, N.W., Washington, D.C. 20001.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Provided by vendors, contractors and job applicants concerned; by employees of USICA's Television and Film Service.

USICA—5

System name: Contract Talent Vendor Files-VOA

System location: International Communication Agency, Voice of America, HEW North Building, 330 Independence Ave., S.W., Washington, D.C. 20547.

International Communication Agency, Voice of America, 25 "M" Street, S.W., Washington, D.C. 20547.

Categories of individuals covered by the system: All contract talent vendors who perform free-lance services in the U.S. for the Voice of America.

Categories of records in the system: Records and information pertaining to the testing and qualifications of vendors; security clearance applications and approvals; copies of contracts, and detailed record of services performed by vendors and payments made by VOA for these services.

Authority for maintenance of the system: Public Law 402: United States Information & Educational Exchange Act of 1974, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Provide necessary reference information for use by VOA administrative offices in meeting their daily responsibilities of advising on and coordinating programming and fiscal activities relating to the recruitment and contracting of free-lance talent vendors. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties. These records are not normally available to individuals and agencies outside the International Communication Agency, but information may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All information is retained in document form in file folders.

Retrievability: Files are indexed alphabetically by vendor.

Safeguards: All files are locked in security-approved file cabinets. Access to files is permitted only to administrative staffs and other top management officials having a need to know such information in the normal performance of their duties.

Retention and disposal: Files are retained for three to four years after last date of services rendered by vendor, after which time files are then destroyed in accordance with established USICA records-disposal procedures.

System manager(s) and address: Director of Administration, Voice of America, Room 3360, HEW North Building, 330 Independence Ave., S.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Information is received from vendor (application forms); from USICA Security Office (approval of security clearance request); from documents generated through the normal process of using a vendor and making payments for services rendered (purchase orders and payment records).

USICA—6

System name: Office of Cultural Centers and Resources Recruitment Files-ECA/F

System location: International Communication Agency, Educational and Cultural Affairs, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: American Scholars who may be used as consultants or specialists in American studies domestically or overseas; applicants for employment, contracts or grants with regard to USICA's Library Program and Library Fellows; applicants for employment, contracts or grants with regard to USICA's English Teaching Program; other applicants for employment, contracts or grants with regard to specific positions in overseas cultural operations.

Categories of records in the system: Biographic data on American Scholars provided by the individuals themselves upon request; biographic data on applicants for employment, contracts and grants including previous employment, education, recommendations and security clearance status; library field reports, comments and evaluation on library visits written by Public Affairs Officers, and letters of correspondence between supervisors and librarians.

Authority for maintenance of the system: Executive Order 11034, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Screening of applicants for employment, contracts or grants, for appraisal by Agency's geographic area offices and Public Affairs Officers located overseas; evaluation by Library Program Staff of candidates for librarian positions; to develop work requirements for regional librarians; to identify scholars with skills related to academic projects. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

The principal user of this information outside the International Communication Agency is the U.S. Department of State.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By name of the individual.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: Files retained as long as they are of active interest or the individual is employed. Inactive files destroyed by burning.

System manager(s) and address: Director, Office of Cultural Centers and Resources, 1717 H St., N.W., Washington D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., NW., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., NW., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Records on American Scholars provided by applicants; records on all other applicants are submitted to the Agency or authorized by the applicants.

USICA—7

System name: Director's Secretariat Staff Files D/SS

System location: International Communication Agency, Executive Secretariat, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Members of the White House Staff, Congressmen, heads of other executive agencies of the Federal Government, Federal Judges and members of the general public.

Categories of records in the system: Correspondence addressed to the director of USICA, and copies of responses to requests for reports, information and/or assistance of various kinds prepared by the Director or his or her designated representative.

Authority for maintenance of the system: The Federal Records Act of 1950, as amended, 44 USC 3101-3107; Records Disposal Act of 1943, as amended, 44 USC 3301-3314.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Reference file to provide oversight of the flow of requests to the USICA Director for reports, information and/or assistance of various kinds, and to monitor the accomplishment of responses to such requests. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in a computer maintained by and located within the U.S. Department of State, and maintained as paper records in file folders in USICA.

Retrievability: Records are cross-indexed by individual name and by computer reference number.

Safeguards: Computer records are accessible only to authorized employees of the International Communication Agency or the Department of State. Paper records are kept in locked file cabinets.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Chief, Executive Secretariat, International Communication Agency, 1750 Pennsylvania Ave., N.W. Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Unsolicited correspondence from U.S. Government officials and members of the general public addressed to the Director of USICA.

Systems exempted from certain provisions of the act: Certain records contained within this system of records may be exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H) and (f). See amendments to 22 CFR, Chapter V, Sec. 505.15 as published in the proposed rules section of the Federal Register for December 10, 1976.

USICA—8

System name: Employee Administrative Files VOA.

System location: International Communication Agency, Voice of America, HEW North Building, 330 Independence Avenue, S.W., Washington, D.C. 20547.

International Communication Agency, Voice of America, Engineering Division, 25 "M" Street, S.W., Washington, D.C., 20547. Also see Appendix II for locations of domestic relay stations.

Categories of individuals covered by the system: Voice of America domestic employees and overseas American employees.

Categories of records in the system: Records and information pertaining to testing, recruitment and appointment of employees (application forms, fiscal documents covering related expenses); records concerning post-appointment changes in employee skills, qualifications, and experience; copies of SF-50 "Notice of personnel Action" and payrool change slips.

Authority for maintenance of the system: Public Law 402, United States Information and Educational Exchange Act of 1948, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Files maintained for convenience due to physical separation from Personnel Office; provide necessary background/reference information for use by VOA Administrative Offices in meeting their daily responsibilities of advising on and co-ordinating programming, personnel and fiscal activities relating to recruitment, hiring and employment of staff employees. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

These records are not normally available to individuals and agencies outside the International Communication Agency, but information may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All information is retained in document form in file folders

Retrievability: Files are indexed alphabetically by employee name.

Safeguards: All files are locked in security-approved file cabinets. Access to files is permitted only to administrative staffs and other top management officials having a need-to-know such information in the normal performance of their duties.

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Retention and disposal: Files may be retained for up to ten years after departure of employee, then destroyed in accordance with established USICA records disposal procedures. Copies of documents for which originals exist in Official Personnel Folders and which are removed from official personnel folders when an employee resigns, are also removed from administrative files and destroyed.

System manager(s) and address: Director of Administration, Voice of America, Room 3360, HEW North Building, 330 Independence Avenue, S.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Information is received from employees (application forms); from employees' supervisors (employees' experience, performance, and recommendations for promotions, etc.); from organizational personnel and fiscal elements (SF-50 personnel actions, payroll change slips, etc.).

USICA-9

System name: Retirement and Insurance Records—MGT/P-USICA.

System location: International Communications Agency, Office of Personnel Services, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Agency employees in retirement processing; approaching mandatory retirement, or actually retired from the Agency.

Categories of records in the system: Retirement service history (Agency only); computer listing of (1) persons retiring mandatorily within 90 days; (2) persons who are projected to retire within 5 years. Lists give name, DOB, SCD, Grade/Step, Salary, Location code, Retirement code.

Authority for maintenance of the system: FPM Supplement 831-1, 51, 58-2, 3 FAM 670; 44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Processing retirement applications and counselling prospective retirees on annuities and other benefits. Also see Prefatory Statement of General Routing Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties. The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Manually by name of employee.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: Retirement files retained indefinitely. Old computer listing destroyed when updated; individual retirement computation worksheets filed in employee's retirement file.

System manager(s) and address: Chief, Retirement and Insurance Branch, Office of Personnel Services (MGT/PDR), 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Notification procedure: Office of Congressional and Public Liaison (CPL), 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Record access procedures: Requests from individual should be addressed to: Office of Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access, contesting contents, and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Employees; official personnel folder; supervisors; Agency's payroll and leave office; Civil Service Commission; Foreign Service Retirement Board.

USICA—10

System name: Employee Indentification Card and Photograph File-MGT/S

System location: International Communication Agency, Office of Security, 1425 K Street, N.W. Washington, D.C. 20547.

Categories of individuals covered by the system: Current and past employees of the International Communication Agency.

Categories of records in the system: Personal description; date of birth; height; weight; color of hair and eyes; color photograph of full face.

Authority for maintenance of the system: Executive Order 11652 dated March 8, 1972.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Personal proof of employee identity; to provide Passport photos of employee and dependents for official use; provide photographs for official use by the office of Congressional and Public Liaison (USICA) and other Agency elements having official need to have visual identification records, such as a Senior Officer Staffing display. Photographs are also available to employees for official uses. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to presonnel of the International Communication Agency as may be required in the performance of their official duties

The principal user of this information outside the International Communication Agency is the U.S. Department of State.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Written form record and photograph film.

Retrievability: By name of the individual employee.

Safeguards: Access by security-cleared employees having a need-to-know. When not in personal custody during processing, stored in combination-locked security container.

Retention and disposal: Records of former employees destroyed after five years under security controls. Records of current employees retained indefinitely, or until employee is separated.

System manager(s) and address: Director (USICA) Office of Security, 1925 K Street, N.W., Washington, D.C., 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, DC 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Applicant and employment records (with verification from the individual concerned).

USICA—11

System name: Employee Payroll and Retirement System-MGT/CF

System location: International Communication Agency, Financial Operations Division, 1717 H ST. NW., Washington, D.C. 20547.

Categories of individuals covered by the system: Employees currently on Agency rolls.

Categories of records in the system: Civil Service and Foreign Service individual retirement records, time and attendance records (domestic employees only), master employee registers (domestic only), payroll folders, overseas pay cards for foreign service employees.

Authority for maintenance of the system: Section 113 of the Budget and Accounting Procedures Act of 1950 as amended

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To assure proper salary payment to employees and for reference regarding salary history; master record of employee accumulation and use of annual and sick leave; recording of employee contributions to the Civil Service and Foreign Service Retirement Systems. Also see Prefatory Statement of General Routine Uses.

Information is made available to personnel of the International Communication Agency on a need-to-know basis or as may be required in the the performance of their official duties.

The principal users of this information outside the International Communication Agency are the U.S. Treasury, the Civil Service Commission, and the Director General of the Foreign Service, U.S. Department of State.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Time and attendance cards maintained on punched cards; retirement records are recorded on 5 x 7 cards and maintained in a file cabinet; the master employee register is a computer report; payroll records are maintained in manila folders; overseas pay cards are manually prepared or maintained as a computer report, depending upon the facilities available at various overseas locations.

Retrievability: By the name of the individual employee.

Safeguards: Records maintained in various types of containers; security provided by surveillance of responsible employees during working hours, and by building security guards during non-working hours.

Retention and disposal: Retirement records are forwarded to the Civil Service Commission for domestic employees, and the State Department for foreign service employees, upon retirement, resignation or transfer of employee. Payroll records are retired to Federal records Center, St. Louis, after two years.

System manager(s) and address: Chief, Financial Operations Division, 1717 H St., NW., Washington, D.C. 29547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., NW., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., NW., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Various forms provided by individual and by USICA's Office of Personnel Services, i.e., personnel action forms, payroll change forms, Federal and state withholding exemption certificates, employee allotment deduction forms, time and attendance cards.

USICA—12

System name: Employee Relations Files—MGT/P—USICA

System location: Internatinal Communication Agency, Office of Personnel Services, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547

Categories of individuals covered by the system: Employees who have filed informal grievances or complaints, or formal grievances for Agency level review; employees affected by workforce or element reorganization; employees for whom special disciplinary actions are in process.

Categories of records in the system: All appropriate documents necessary in the processing of a grievance, such as position descriptions, performance evaluations, grievance investigation reports statements of supervisors, witnesses, representatives of grievant, and miscellaneous housekeeping records.

Authority for maintenance of the system: Agency's Manual of Operations and Administration; FPM 511—Subchapter 6; 44 USC 3101; P.L. 93-181; FPM Letter 630-22, FPM Chapters 335, 752, 831.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Investigation and resolution of employee grievances; provide information to the Foreign Service Grievance Board or Federal Appeals Boards as appropriate or necessary; provide investigatory or background materials to grievants or their representatives; provide information to the Agency's General Counsel in connection with the processing of a grievance, the prosecution of an appeal, or the processing of an adverse action. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency (ICA) in the performance of their offical duties. The principal users of this information outside the International Communication Agency are: the Civil Service Commission, the Department of Justice; other federal, state and local law enforcement or agencies or accredited investigators. Information may also be released to other government agencies which have statutory or other legal authority to access or maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By name of individual.

Safeguards: Maintained in locked file cabinets; grievance files are extremely confidential and are protected as such.

Retention and disposal: Records retained indefinitely or unitl no longer needed.

System manager(s) and address: Chief, Labor Relations Branch((MGT/PPL), Office of Personnel Services, International Communication Agency, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Notification procedure: Office of Congressional and Public Liaison, International Communication Agency, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Office of Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Individual to whom the record pertains; Agency officials; affidavits or statements from employees; testimony of witnesses; correspondence from specific organizations or persons; employee's representative; and official documents relating to the appeal grievance or complaint.

Systems exempted from certain provisions of the act: Certain records contained within this system of records may be exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f). See 22 CFR Part 505.15 as published in the Federal Register in July 21, 1976 (41 FR 30029).

USICA—13

System name: Employee Training Files—MGT/PT—USICA

System location: International Communication Agency, Office of Personnel Services, Training and Development Division, 1425 K Street, N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Agency employees receiving training: workshops, languages, lectures or seminars, university or service colleges; personnel and management interns.

Categories of records in the system: Employee training applications, biographic data, educational background, record of training received by the Agency, outline of training program, performance evaluation extracts; language proficiency and test scores, course grade, and employee's evaluation of training courses.

Authority for maintenance of the system: P.L. 85-507, 72 Stat. 335, Reorganization Plan No. 8 of 1953, 22 U.S.C. 1461, 67 Stat. 642, P.L. 79-724, Foreign Service Act of 1946, as amended, FPM 410, Subch. 3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Background material used to determine eligibility for training; assignment and progress in language courses; used by career counselors to determine training needs; justification of training reports and record-keeping; evaluation of intern training and potential for job growth; used to evaluate and select lecturers for agency workshops or seminars; preparation of reports to Congress and other government agencies on training provided and costs, as well as projected training needs and costs. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

The principal users of this information outside the Agency are: the Civil Service Commission; personnel officers in other government agencies as a result of transfer of the individual to whom the records pertain; other agencies considering employees for detail purposes; accredited investigators.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Manually retrieved by name, by computer generated lists of training statistics, or by training course title.

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Safeguards: File maintained in locked cabinets or protected by routine office safeguards, i.e., surveillance by responsible personnel and disclosure only to authorized individuals.

Retention and disposal: Training records maintained until employee is separated, at which time records are included with official personnel folder; other records are retained indefinitely or until no longer needed; budget records and cost statistics retained indefinitely.

System manager(s) and address: Chief, Training & Development Division (MGT/PT), Office of Personnel Services, 1425 K Street, N.W., Washington, D.C. 20547.

Notification procedure: Office of Congressional and Public Liaison, International Communication Agency, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Office of Congressional and Public Liaison, International Communication Agency, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determination by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: The employee; employment applications; official personnel records; personnel action forms; personnel officers; training officers and other officers, involved in personnel management; supervisors; training records; application for training; trainee evaluations of courses.

Systems exempted from certain provisions of the act: Certain records contained within this system of records may be exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f). See 22 CFR Part 505.15 as published in the Federal Register on July 21, 1976 (41 FR 30029).

USICA—14

System name: Employee's Confidential Statement of Employment and Financial Interests-GC

System location: International Communication Agency, Office of the General Counsel, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Experts or consultants, employees paid at the Executive Schedule level; employees classified at GS-13, FSIO-4, FSR-5, FSS-2, or above, who are in positions of responsibility for a Government decision or taking a Government action in regard to: (1) contracting or procurement; (2) Administering or monitoring grants or subsidies; (3) regulating or auditing private or other non-Federal enterprise; or required to report employment and financial interests in order to avoid possible conflicts of interest.

Categories of records in the system: Statements of personal and family shareholdings and other interest in business enterprises; copies of blind trust and other agreements pertaining to such interests; correspondence as to insulation of control or conflicts of interest; opinions of counsel, including recommendations on waivers.

Authority for maintenance of the system: E.O. 11222; 5 U.S.C. 7301; 18 U.S.C. 208.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Review by Assistant General Counsel for possible conflict of interest. Provide necessary reference information should allegations of conflict of interest arise. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these records is not normally made available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Alphabetically by name and by Agency element or geographic area.

Safeguards: Maintained in bar-lock cabinet.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Disposed of 2 years after employee leaves a position in which a statement is required, or 2 years after the employee is separated from the Agency, whichever is earlier.

System manager(s) and address: General Counsel, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director, (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: From the individual who filed the statement.

USICA—15

System name: Equal Empoyment Opportunity Complaint Files—MGT/E.

System location: Office of Equal Employment Opportunity, International Communication Agency, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Any aggrieved employee or applicant for employment with USICA who believes he or she has been discriminated against because of race, color, religion, sex, national origin, and/or age, and who has consulted with an Equal Opportunity Counselor of the Agency or a member of the EEO Staff about the matter.

Categories of records in the system: Communications of EEO Counselor with aggrieved person, written report of precomplaint counseling efforts by the EEO Counselor, the complaint, the investigative file, written records of adjustment of complaint; written record of complaint withdrawal by complainant, Agency letter proposing disposition of the case, transcripts of hearing, Agency letter advising of final disposition of the case.

Authority for maintenance of the system: FPM Suppl. 990-1 (Part 713).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To record actions taken, with verifying statements, regarding employees' and employment applicants' complaints of discrimination. Also see Prefatory Statement of General Routine Uses.

Information is made availabe on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

The principal users of this information outside the International Communication Agency are the Civil Service Commission and the Department of Justice.

The information may also be released to other Government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Indexed by the individual's last name.

Safeguards: Records are stored in cabinets with bar locks. Except for copy of individual file provided to complainant and/or his or her representative, and copies furnished as needed to the office of the USICA General Counsel, and to officials of the Civil Service Commission and the Department of Justice, files are not removed from the EEO Office.

Retention and disposal: Records are maintained indefinitly.

System manager(s) and address: Director (USICA), Equal Employment Opportunity, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Personal interviews, affidavits, USICA personnel and employment records and procedures, transcript of hearings, and related correspondence.

Systems exempted from certain provisions of the act: Certain records contained within this system of records may be exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). See 22 CFR Part 505.15 as published in the Federal Register on July 21, 1976 (41 FR 30029).

USICA—16

System name: Equal Employment Opportunity General Files MGT/E

System location: International Communication Agency, Office of Equal Employment Opportunity, 1750 Pennsylvania Ave., N.W., D.C. 20547.

Categories of individuals covered by the system: Employees of the Office of Equal Employment Opportunity; employees selected for employment and applicants for positions with USICA; significant women, minority group members, and specialists in the area of Equal Employment Opportunity.

Categories of records in the system: Copies of applications and resumes of women and minority group members seeking employment with USICA; biographical materials describing significant women, minority group members and specialists in the area of Equal Employment Opportunity who can be used as speakers, selection board members, and consultants; miscellaneous information about individual employees and job applicants involved in the USICA Equal Employment Opportunity Affirmative Action Plan; training requests, travel documents, and notices of personnel actions for employees of the Office of Equal Employment Opportunity.

Authority for maintenance of the system: FPM Supplement 990-1, Part 713.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To supply names of women and minority group candidates to USICA recruitment officers; determine effectiveness of Agency's female and minority recruitment programs; select significant Equal Employment Opportunity speakers, consultants, and selection board members; maintain records of significant personnel actions involving employees in the Office of Equal Employment Opportunity. Also see Prefatory Statement of General Routine uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

This information is available upon request to the Civil Service Commission.

The information may also be released to other Government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Indexed by individual name and types of activity; e.g., speaker's file, Affirmative Action Plan file, travel file.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: Records maintained indefinitely.

System manager(s) and address: Director (USICA), Equal Employment Opportunity, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Correspondence; memos of conversation; Agency records of personnel actions; published biographical sources.

Systems exempted from certain provisions of the act: Certain records contained within this system of records may be exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). See 22 CFR, Part 505.15 as published in the Federal Register on July 21, 1976 (41 FR 30029).

ICA-17

System name: Foreign Service Selection board Files-MGT/P-USICA

System location: International Communication Agency, Office of Personnel Services, 1776 Pennsylvania Avenue, N.W., Washington, D.C., 20547.

Categories of individuals covered by the system: Foreign Service employees of the Agency.

Categories of records in the system: Preprinted 5 x 8 cards containing data such as name, class, specialty code, position, date OER received by MGT/P; as appropriate, letters of commendation or low-ranking and comments of the selection boards on foreign service promotions contained in letter files.

Authority for maintenance of the system: Foreign Service Act of 1946, as Amended, Sec. 611; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: preparaton of promotion projections and foreign service information officer nominations lists; used to monitor and control receipt of Officer Evaluation Reports by MGT/P; used to prepare files and other information for Selection Boards may be used by Agency's Equal Employment Opportunity Officer, or the Labor Relations Branch (grievance examiners) in the event of an employee grievance. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

The principal user of this information outside the USICA is the Director General of the Foreign Service, U.S. Department of State.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and card records in file folders or metal card files.

Retrievability: Manually retrieved by individually name and class.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: Maintained during period of employment with the Agency; records destroyed upon separation of the employee.

System manager(s) and address: Chief, Policies and Services Staff, Office of Personnel Services (MGT/PPS), 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Notification procedure: Office of Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Office of Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in Rules Section of the Federal Register.

Record source categories: Reports of Selection Boards on the review of pertinent promotion documentation such as officer evaluation; notifications of personnel actions; foreign service residency and dependency reports; notifications to officers of low ranking; materials submitted by officer on his or her own behalf.

USICA—18

System name: Congressional Correspondence—CPL/USICA

System location: International Communication Agency, Office of (USICA) Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Current and former Members of Congress.

Categories of records in the system: Incoming and outgoing correspondence to Members of Congress, including requests for information and referral of job applicants by Members.

Authority for maintenance of the system: Federal Records Act of 1950, as amended, 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Reference file for oversight of Congressional requests. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency, as may be required in the performance of their duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency,

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but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Indexed alphabetically by individual name.

Safeguards: Maintained in bar-lock file cabinets.

Retention and disposal: Records are kept as long as the individual is a Member of Congress, or the files are of active interest. Thereafter the records are destroyed.

System manager(s) and address: Director, Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Communications from Members of Congress and copies of responses generated by various Agency personnel.

USICA—19

System name: Legal Files—GC

System location: International Communication Agency, Office of the General Counsel, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Individuals who have filed grievances or discrimination complaints; employees separated or considered for separation for cause; officers selected out; individuals taking legal action against the Agency or its employees; tort claimants and accident victims; employees and related persons for whom legislative action is sought; personal property loss claimants; employees and applicants raising legal issues concerning rights or benefits.

Categories of records in the system: Investigatory reports; litigation reports; pre-hearing and trial preparatory materials; evidence for discovery and submission to hearing officers or courts; pleadings, briefs, transcripts, decisions and other related documents.

Authority for maintenance of the system: The Federal Records Act as amended, 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To represent the Agency in claims and other actions; to issue legal opinions or determinations on further Agency action. Also see Prefatory Statement of General Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their offical duties.

The principal users of this information outside the Agency are the Department of Justice, Department of State, Civil Service Commission, Foreign Service Grievance Board and the Employee Management Relations Committee.

Records contained in these files may be released to agencies outside the International Communication Agency who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By the name of the individual, and the nature of the legal action.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: Records may be retained indefinitely or disposed of when no longer useful or current.

System manager(s) and address: General Counsel, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Information provided by the individuals and their attorneys or representatives, and by employees of the Agency; information produced in the processing of a claim, grievance, legal action or issue.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), all investigatory material in the record which meets the criteria of these subsections is exempted from the notice, access and contest requirements (under 5 U.S.C. 552(a)(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Agency regulations in order for the Agency's legal staff to properly perform its functions. See also 22 CFR Part 505.15 as published in the Federal Register on July 21, 1976 (41 FR 30029).

USICA—20

System name: Locator Cards—MGT/AA

System location: International Communication Agency, Domestic Support Division, Administrative Office, 1717 H Street, N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Past and present domestic employees of USICA.

Categories of records in the system: Locator card prepared for each domestic employee, containing the name, office location, telephone number, home address and telephone number of person to contact in case of emergency.

Authority for maintenance of the system: USICA's Manual of Operations and Administration, Part-II 495.2.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To assist USICA elements and others in locating employees; basic input source for telephone directory; also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Material maintained on index cards.

Retrievability: Filed alphabetically by name, sorted as to active and inactive.

Safeguards: Cards maintained in index card boxes which are locked in bar-lock cabinets after working hours.

Retention and disposal: Cards retained for one year after departure of employee and disposed of by shredding.

System manager(s) and address: Chief, Office of Administrative Services, Room 600, 1717 H Street, N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: The individual on whom information is maintained.

USICA—21

System name: Employee Master Personnel Recrods—MGT/P-USICA.

System location: International Communication Agency, Office of Personnel Services, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547; and International Communication Agency, 300 "C" Street, S.W., Washington, D.C. 20547. Computer tape and disc records are located in the Automatic Data Processing Division (MGT/AP), International Communication Agency, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: All Agency employees and reimbursables from other agencies.

Categories of records in the system: Data on employee's work experience, assignments, promotions, transfers, within-grade increases, personnel actions, commendations, evaluations of work performance, medical information, training certificates, home address, next-of-kin information, information related to security clearances, suspense reports on various events, such as appointment expiration dates, date probation ends, date promotion eligibility, expiration of LWOP, etc.

Authority for maintenance of the system: Executive Order 10561; FPM Chapter 291-93; 5 U.S.C. 13-2, 2951, 4118, 4308, 4506, FPM Chapter 713, Subchapter 3; Executive Order 14492; 44 U.S.C. 3101; FPM Chapter 732.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To prepare reports required by the Civil Service Commission, Congress and OMB; used by the Civil Service Commission and investigatory agencies to verify employee statements on applications for employment with other agencies; investigation of discrimination complaints; statistical reporting to the CSC on minority employment, handicap programs, and other special programs; control of personnel ceilings; project and assess personnel movement dynamics; conducting security check and updating security clearances; preparation of employee performance rating and evaluations; evaluation of work performance are reviewed by Officer Evaluation Report Review Panel to correct technical deficiencies in reporting and improving quality of evaluation; used by Selection Boards and Merit Promotion Panels to determine whether employees should be recommended for promotion; used for routine personnel management and administration. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Principal users of this information outside the International Communication Agency are: The Civil Service Commission, the Department of State, the Office of Management and Budget, the General Accounting Office, and personnel offices of other government agencies when an employee seeks transfer or detail; accredited investigators.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer disc and magnetic tape; computer printouts, visual card files, paper records in file folders.

Retrievability: By employee name, agency element, employee ident. number, grade/class, tenure code, and other data elements.

Safeguards: Computer files are stored internally in the computer or in locked tape file cabinets and cannot be physically accessed except by authorized personnel; paper files and card trays locked in metal cabinets; room holding files is secured; access controlled by "sign out" records; computer access to EEO related or minority identification data strictly controlled by written direction of Director, Office of Equal Employment Opportunity.

Retention and disposal: Computer printouts destroyed by shredding or burning when new listings are produced; computer tapes retained indefinitely; other records retained until employee is separated, and then disposed of by transfer to the Civil Service Commission, other employing agency, Federal Records Center, or destruction as directed by internal agency regulations.

System manager(s) and address: Chief, Transactions and Files Staff (MGT/PDT), Office of Personnel Services, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Notification procedure: Office of Congressional and Public Liaison, International Communication Agency, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Office of Congressional and Public Liaison, International Communication Agency, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules to access, for contesting contents, and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Employee; employment applications; official personnel records, personnel action forms; administrative file; budget and personnel authorizations; employees' supervisors; USICA Office of Security; training officers and other officials involved in personnel management.

Systems exempted from certain provisions of the act: Certain records contained within this system of records may be exempted from 5 U.S.C. 552a (c)(3), (d), (e), (1), (e)(4) (G), (H), (I), and (f). See 22 CFR Part 505.15 as published in the Federal Register on July 21, 1976 (41 CFR 30029).

USICA—22

System name: Non-Offical Personnel Files—USICA

System location: International Communication Agency, 1776 Pennsylvania Ave., N.W. Washington, D.C. 20547.

International Communication Agency, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

International Communication Agency, 1717 "H" Street, N.W., Washington, D.C. 20547.

International Communication Agency, 601 "D" Street, N.W., Washington, D.C. 20547.

International Communication Agency, 1425 "K" Street, N.W., Washington, D.C. 20547.

See Appendix I for details of offices located in Washington, D.C.

See Appendix II for the locations of Agency offices located outside of Washington, D.C.

Categories of individuals covered by the system: Current employees and employees of other agencies detailed to USICA, and who are assigned to any of the following Agency elements:

Office of the Director
Associate Directorate for Programs
Office of Research and Evaluation
Television and Film Service
Press and Publications Service
Exhibits Service
Associate Directorate for Management
Office of Equal Employment Opportunity
Office of Security
Office of Personnel Services
Office of Administrative Services
Associate Directorate for Educational and Cultural Affairs
Office of Cultural Centers and Resources
Office of Congressional and Public Liaison
Office of General Counsel
Office of the Director of African Affairs
Office of the Director of American Republics Affairs
Office of the Director of East Asian and Pacific Affairs
Office of the Director of European Affairs
Office of the Director of North African, Near Eastern and South Asian Affairs

(Note: For non-Official Personnel Records maintained by the Associate Directorate for Broadcast see USICA—8 Employee Administrative Files—VOA.)

Categories of records in the system: Job descriptions; personnel action forms; payroll change slips; service record cards; employee locator cards; letters of commendation and other correspondence; material related to employment, experience, training, special qualifications and skills; salary and leave records. (Note: The record material listed above may not be contained in the files of all Agency elements listed under "Categories of Individuals Covered by the System".)

Authority for maintenance of the system: FPM-293-31, Subch. S-8; USICA's Manual of Operations and Administration. Part III—520.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To prepare requests for personnel action; to provide convenient access to information about employees, in view of the office's physical separation from the Office of Personnel Services, which maintains Official Personnel Files.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the Performance of their official duties.

Information in these files is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Indexed by individual name.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: When employee separates from the Agency, file is forwarded to the Office of Personnel Services for screening and disposal.

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System manager(s) and address: Chief, Secretariat Staff, Office of the Director, 1750 Pennsylvania Ave., N.W., Washington D.C. 20547.

Records Control Officer, Associate Directorate for Programs, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Executive Officer, Office of Research and Evaluation, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Records Control Officer, Office of Equal Employment Opportunity, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Access to Information Officer, Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Paralegal Specialist, Office of the General Counsel, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Chief, Personnel Security Division, Office of Security, 1425 K Street, N.W., Washington, D.C. 20547.

Program Coordinator, Office of the Director (African Affairs), 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Program Coordinator, Office of the Director (East Asia and Pacific Affairs), 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Program Coordinator, Office of the Director (European Affairs), 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Program Coordinator, Office of the Director (American Republics Affairs), 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Resource Coordinator, Office of the Assistant Director (North African, Near Eastern and South Asian Affairs), 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Records Control Officer, Associate Directorate Management, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Records Control Officer, Office of Personnel Services, 1776 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Records Control Officer, Office of the Director, Cultural Centers and Resources, 1717 "H" Street, N.W., Washington, D.C. 20547.

Executive Officer, Television and Film Service, Patrick Henry Building, 601 "D" Street, N.W., Washington, D.C. 20547.

Executive Officer, Press and Publications Service, 1776 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individual should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: From the individual concerned; copies of actions originated by the USICA Office of Personnel Services; USICA Payroll Office; supervisors of employees on whom records are maintained.

USICA—23

System name: Overseas Personnel Files and Records—USICA

System location: International Communication Agency maintains establishments overseas in 120 foreign countries which are designated as mission posts, branch posts, regional service centers, VOA relay stations, and media extensions. A current listing of names and addresses of overseas establishments is not considered practical for Privacy Act purposes, due to the fact that such a list would require frequent amendment. Changing of office locations, opening of new offices, closing of established offices and realignment of geographic areas have become practical realities in conducting the Agency's mission overseas. Individuals who feel that records pertaining to themselves are maintained at any one of our overseas locations may contact the Agency's Congressional and Public Liaison, Room 1019, 1750 Pennsylvania Ave., NW., Washington, D.C. 20547. The Agency maintains an index of its records, including a current listing of overseas posts, which is available to the public as indicated in 22 CFR Ch. V, Rules for Implementing the Freedom of Information Act.

Categories of individuals covered by the system: Foreign Service employees of the International Communication Agency who are serving or have served at any of the Agency's overseas establishments.

Categories of records in the system: Personnel evaluation reports, travel orders, personnel action forms, payroll change forms, travel vouchers, residence and dependency reports, correspondence related to transfer of duty station or training assignments.

Authority for maintenance of the system: The Foreign Service Act of 1946.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Maintained for convenience due to separation from main office; for use by senior USICA officers at overseas establishments in evaluating the performance of subordinate officers; for planning future staffing requirements; dates of reassignment of officers; entitlement to foreign service allowances; home address and next of kin in the United States in case of emergency; settlement of personal business after departure of employee from the overseas establishment. Also see Prefatory Statement of General Routing Uses.

Information in these files is available only to American foreign service employees on a need-to-know basis as may be required in the performance of their official duties.

The principal user of this information outside the International Communication Agency is the U.S. Department of State.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By name of the individual.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: Destroyed after three years after employee's departure from the post. (Reference USICA's Manual of Operations and Administration, Part III, Exhibit 630A-3, Page 3).

System manager(s) and address: See "System Location" above.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., NW., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., NW., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: All documents contained in these records are duplicates of material originated by other elements of the International Communication Agency or, in some instances, by the Department of State.

USICA—24

System name: Personnel Security and Integrity Records—MGT/S

System location: Office of Security, Room 662, International Communication Agency 1425 K. St., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: All persons currently or formerly employed or used under contract in the U.S.; all Americans currently or formerly employed or used under contract in other countries; some but not all foreign nationals currently or formerly employed or used under contract in other countries; former applicants who were not employed; persons whose services are or were otherwise utilized by a component of USCIA, whether compensated or not; prospective spouses of USICA employees; and other persons who are significantly identified with persons whose services have at one time or another been utilized or considered by the Agency in one or more of the manners indicated herein. Names are also cross-indexed on persons not so identified but who are or were significantly involved in non-security related administrative inquiries conducted by the Security Office of USICA, such as malfesance, nonfesaance, misfesance, conflicts of interest, tort matters, equal employment opportunity inquiries and other administrative investigations conducted at the request of other elements of the Agency, and on persons of intelligence and counterintelligence interest whose names appeared in the press, or are contained in documents furnished by the FBI, CIA and other intelligence and counterintelligence agencies of the U.S. Government.

Categories of records in the system: Reports of Investigation conducted by the Security Office of USICA and by other government agencies, inter-office correspondence, relevant correspondence and memoranda originated by other elements of USICA, other federal agencies, other governmental entities (i.e., state and local authorities), corporate and private entities and by individuals. Additionally, records are maintained of security violations and consequent recommendations for disciplinary action. The system contains reports of briefings and debriefings of employees and other performing services for USICA at overseas posts and evaluative summaries of individuals files. Not all files, however, contain all of the above elements.

Authority for maintenance of the system: The authority of the Office of Security to collect and maintain security data is based on Section 1001 of the United States Information and Education Exchange Act of 1948, 62 Stat. 13, 22 U.S.C. Section 1434, as amended, 66 Stat. 43, (1952), Reorganization Plan No. 8 of 1953, 67 Stat. 642, Executive Order 10477 of August 1, 1953 as amended, the Act of August 26, 1950 64 Stat. 476, 5 U.S.C.A. 3571, 7312, 7501, 7512 and 7532, Executive Order No. 10450 of April 27, 1953 as amended, and Executive Order 11652 of March 8, 1972.

The authority of the Office of Security to collect and maintain certain administrative data, as the investigative arm of the Agency, is based on 22 USC 1434; Foreign Service Act of 1946, Sec. 611; Reorganization Plan No. 8; Executive Order 10477; 5 USC Chap. 33.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Making security decisions on applicants for employment. In certain cases data in security files is used by the Personnel Office and the Foreign Service Board of Examiners to determine the qualifications and suitability of an applicant.

Making security decisions on Agency employees to determine whether previously granted security clearances may remain in effect.

Making advisory opinions on individuals used by the Agency in a limited or unlimited contractual manner or otherwise and granting exceptions to the Agency's regulations governing such usage under a delegation of authority from the Director.

Giving security certifications in writing or orally to other Security Offices of the Federal Government.

Making security decisions as to the advisability of assigning employees to certain areas of the world or to certain positions within the Agency.

Making security decisions as to the advisability of certain promotions as required by Agency regulations.

Making security decisions as to granting an employee a cryptographic clearance under regulations for such clearance enforced by the Department of State.

Making an advisory opinion as to the effect on an employee's security clearance of a marriage to a non-U.S. citizen.

Reviewing the files in certain cases of non-citizen employees of USICA abroad to determine whether they may be granted a security certification.

Reviewing the files of former Agency employees and applicants never employed to determine what investigative material must be returned to the Civil Service Commission as required by that Commission.

Forwarding the investigative material to certain designated employees of the Personnel Office and of other offices of USICA.

Advising duly authorized security officers of other agencies of significant security data in the file of an Agency employee or applicant.

Advising the Civil Service Commission that significant security or suitability data was developed during a pre-employment investigation of an applicant, or during an investigation of an Agency employee who left the Agency's employment prior to a final adjudication of the case.

To determine whether the Office of Security has previous record of individuals or organizations of interest to the Agency as potential employees, contractors or in some non-compensated activity, or previous record of individuals or organizations becoming of interest as the result of significant identification with person or organizations of current interest to the Agency.

To determine what investigation might be required in the processing of individuals or organizations of interest to the Agency as potential employees or contractors, or in non-compensated use.

To determine specific areas of inquiry by agents of the Office of Security or agents of other federal agencies acting in our behalf, engaged in the various types of security/suitability investigations conducted by the office, i.e., applicant interviews, applicant update investigations, employee investigations, administrative inquiries, debriefings and employee interviews.

To determine whether periodic updating of employee security clearances are required and further determine the appropriate scope of update investigations.

To assist in determining the extent to which allegations against employees or applicants should be investigated.

Review of MGT/SI investigative material by authorized representatives of other U.S. government agencies having security or suitability interests.

Furnish to the Department of Justice information indicating possible violation of criminal laws.

Review for research projects originating from within and outside MGT/SI i.e., surveys of exhibit guide debriefings, and statistical surveys regarding the conduct of various types of investigations and the results thereof.

To determine whether debriefings are indicated.

To furnish biographical data to other elements of the agency.

To furnish data, to the extent necessary to identify the individual adequately, to any other record custodian in order to obtain information relevant to a legitimate investigative or intelligence interest of the International Communication Agency.

To provide guidance for employees having had and anticipating contacts with certain foreign nationals.

To assess recommendations for disciplinary action based on violations of security regulations.

Also see Prefatory Statement of General Routine Uses.

Individual files are used by the Director, Office of Security, as reference in contacts and correspondence with USICA Director, Deputy Director, General Counsel, Associate Directors and other USICA personnel when necessary to resolve specific personnel security matters. In addition, files are also used by him in correspondence and contacts with other government agency officials when necessary to inform them of information available in USICA Office of Security files.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Various written-entry document forms.

Retrievability: Indexed by serial file number through card index by name.

Safeguards: Persons having access are security-cleared and must establish a "need-to-know" the information under routine use policies and practices established by Statute, Executive Order, and Agency Regulation. When not in personal custody, files are stored in combination-locked containers or intrusion alarmed area.

Retention and disposal: Records are retained indefinitely, with CSC investigate reports returned to that agency and the balance of records sent to archival storage when no longer active.

System manager(s) and address: Director, Office of Security, International Communication Agency, 1425 K Street, N.W., Washington D.C. 20547.

Notification procedure: Director, Congressional and Public Liaison, International Communication Agency, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director, Congressional and Public Liaison, International Communication Agency, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Biographic and personal history information furnished voluntarily by applicants and employees.

Reports of Investigation conducted by the Civil Service Commission, the Federal Bureau of Investigation, the Department of State and other government investigative agencies.

Reports of Investigation conducted by the Office of Security, USICA.

Investigative sources include information furnished by the subject of the investigation during personal interviews, record checks at other government agencies, records of professional organizations, real estate and rental agencies, baptismal records, police and credit records, interviews of former and present employers, supervisors, references, teachers, neighbors and other acquaintances. Educational and medical records are also checked when appropriate.

Intelligence reports relating to USICA interests which are furnished by other Federal agencies.

Various public records and indices such as those produced by committees of Congress.

Information furnished by employees of USICA, employees of other Government agencies, nongovernmental entities or members of the public at large who occasionally furnish information to USICA in the interests of national security or the integrity of the Federal service.

Systems exempted from certain provisions of the act: Certain records contained within this system of records may be exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). See 22 CFR, Part 505.15 as published in the Federal Register on July 21, 1976 (41 FR 30029).

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USICA—25

System name: Press Service Contributors—PGM/P

System location: International Communication Agency, Press and Publication Service, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Free-lance writers, photographers and artists who are available to USICA on an intermittent, fixed-fee basis to perform services for the Agency outside of Washington, D.C.; authors of newspaper and magazine articles.

Categories of records in the system: Copies of purchase orders issued to contributors; biographic data on contributors, including addresses, phone numbers, type of security clearances, specialties, foreign languages; data on number of times contributors have been used and fees paid for services; cross-indexed records, by author, of newspaper and magazine articles for which reprint/translation rights have been obtained covering republication by USICA and/or the local press outside the United States.

Authority for maintenance of the system: IAPR—191.103 issued under authority of 5 U.S.C., Chap. 3 and Federal Property and Administrative Services Act of 1949 (P.L. 152, 81st Congress) as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Reference material used to select writers, artists and/or photographers, as required, to provide coverage of newsworthy events, such as, interviews with foreign visitors and students, and coverage of conferences outside of Washington, D.C.; also used to determine the type of security clearance held by contributor before granting an assignment; used to check on completion of assignment before payment for services is approved; for office reference in identifying articles, locating authors, checking the extent of right previously obtained and for use in the Agency's Overseas Information Program. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these files is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other Government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Purchase order paper records in file folders. Biographic data is kept on 3x5 cards.

Retrievability: By name and geographic location of the contribution; author files maintained alphabetically by name.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: Purchase orders retained for 2 years and then destroyed. Biographic data retained until contributor is no longer available, has died or moved; author index retained indefinitely.

System manager(s) and address: Executive Office, Press and Publications Service, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Record access procedures: Request from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Referrals by city editors of local newspapers; other free-lance contributors; biographic data provided by individual concerned; data on authors obtained from the newspaper or magazine article in which the original article appeared, from the author directly or from standard references such as "Who's Who" and "Editor and Publisher."

USICA—26

System name: Press Service Photographer File—PGM/P

System location: International Communication Agency, Press and Publications Service, 1776 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Free-lance photographers and picture agents; prominent Americans.

Categories of records in the system: Personal data on free-lance photographers such as name, address, telephone number, price charged for services, specialties, availability of rights, previous USICA assignments, evaluations of photographer's work; photographs of prominent Americans.

Authority for maintenance of the system: IAPR—191.103 issued under authority of 5 U.S.C., Chap. 3 and the Federal Property and Administrative Services Act of 1949 (P.L. 152, 81st Congress), as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To acquire existing pictures; to select photographers for specific assignments; for general photo research; for use in the Agency's Overseas Information Program. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these files is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card file and paper records in file folders; mounted and unmounted prints; 3 x 5 index cards and 35 mm and 4 x 5 transparencies.

Retrievability: By name of the individual concerned.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: Paper records on photographers are maintained indefinitely, or until individual is no longer available for assignment; picture files retained indefinitely or until no longer useful; outdated pictures retired to Federal Records Center.

System manager(s) and address: Executive Office, Press and Publication Service, 1776 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: From the individuals concerned; from publications, photo agencies, and photographer association; photos taken by USICA photographers or obtained from various news services.

USICA—27

System name: Printout of Minority Group Designator (MGD) Data System—MGT/E.

System location: International Communication Agency, Office of Equal Employment Opportunity, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: All current employees of USICA.

Categories of records in the system: Computer printout containing names of all USICA employees identified by name, sex, race, national origin, age, grade, and wage scale.

Authority for maintenance of the system: Draft FPM 713, and Public Law 93-571, 5 U.S.C. 552 as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To compile statistical records of minority and female employment and promotion within the Agency; for inclusion in Agency's Equal Employment Opportunity Affirmative Action Plan; for determinations in complaints of discrimination.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency,

but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

The principal user of this information outside the International Communication Agency is the Civil Service Commission.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders (computer reports).

Retrievability: By name, sex, race, national origin, age, grade, and wage scale.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: Records maintained indefinitely.

System manager(s) and address: Director (USICA), Equal Employment Opportunity, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: From the employee concerned; USICA personnel data; visual inspection of the employee.

USICA—28

System name: Recruitment, Contractor and Vendor File—PGM/R

System location: International Communication Agency, Office of Research and Evaluation, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Job applicants; prospective contractors or vendors (or principals of firms); and any other individuals from whom services (whether compensated or not) may be formally solicited by the Office of Research and Evaluation.

Categories of records in the system: Resumes, employment inquiries and related correspondence; records on the security clearance status of prospective contractors or vendors.

Authority for maintenance of the system: USICA Manual of Operations and Administration, Part VIII; Federal Records Act, 44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To review qualifications of candidates for employment; to comply with security regulations in procurement actions or when soliciting services from outsiders. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

This information is not normally available to individuals or agencies outside the International Communication Agency, but it may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Indexed alphabetically by the name of the individual.

Safeguards: Files are kept in bar-lock file cabinets.

Retention and disposal: Security clearance status records on contractors and vendors maintained indefinitely; employment applications and inquiries are retained for two years or as long as there is an interest or prospect of employment of the individual, at which time, records are disposed of in accordance with internal disposal requirements.

System manager(s) and address: Executive Officer, Office of Research and Evaluation, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: From the individuals concerned and from USICA's Office of Security.

USICA—29

System name: Recruitment Records—GC

System location: International Communication Agency, Office of the General Counsel, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Applicants for legal and summer intern positions.

Categories of records in the system: Inquiries from attorneys and law students seeking employment with the Office of the General Counsel, resumes and responses to inquiries.

Authority for maintenance of the system: Federal Records Act of 1950, as amended, 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For reference and screening of candidates for vacancies on the Agency's legal staff. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these records is not normally made available to individuals or agencies outside the International Communication Agency, but records may be released to other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: Records are kept one year and then destroyed by shredding.

System manager(s) and address: Paralegal Specialist, Office of the General Counsel, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Unsolicited inquiries and job applications received from individuals who are seeking employment with USICA's legal staff.

USICA—30

System name: Recruitment Records—MGT/P—USICA

System location: International Communication Agency, Office of Personnel Services, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547, and 300 "C" Street, S.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Applicants for foreign service or domestic employment; applicants for personnel or management intern positions; employees hired under the worker-trainee program; individuals certified by the Civil Service Commission for appointment consideration.

Categories of records in the system: Employment application forms; resumes and replies to employment inquiries; personnel security data forms; results of written examinations; notes on interviews by selection panels; records on availability of job applicants; CSC employment certificates.

Authority for maintenance of the system: 44 USC 3101; FPM 333 Subch. 1-1; FPM Chap. 713, FPM Bulletin 713-31, FPM 332, Appendix B, FPM Chap. 731, FPM Chap. 732.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used for recruitment and evaluating employment applicants; to determine Agency employment needs; evaluation of minority hiring practices; selection of candidates for intern and other programs; evaluation of progress of employees on worker-trainee programs; monitor status of pre-employment secu-

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rity investigation. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

The principal users of this information outside the International Communication Agency are: the Civil Service Commission; the Director General of the Foreign Service; U.S. Department of State; accredited investigators; Board of Examiners for the Foreign Service.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By name of the individual.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: Records of successful employment candidates transferred to official personnel folder; records of unsuccessful candidates destroyed after 2 years; CSC certificates retained indefinitely; security files destroyed after candidate is given security clearance; other records retained indefinitely or disposed of in accordance with Agency's internal regulations.

System manager(s) and address: Chief, Employment Branch (MGT/PDE), Office of Personnel Services, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Notification procedure: Office of Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to; Office of Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section. of the Federal Register.

Record source categories: Employment applicants; college transcripts and other recruitment sources; test scores provided by testing Agency; notes prepared by selection panels; the Civil Service Commission; U.S. ICA Office of Security.

Systems exempted from certain provisions of the act: Certain records contained within this system of records may be exempted from 5 U.S.C. 552 (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f). See 22 CFR Part 505.15 as published in the Federal Register on July 21, 1976 (41 FR 30029).

USICA—31

System name: Senior Officer and Prominent Employee Information CPL/USICA

System location: International Communication Agency, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Leaders of the International Communication Agency and other prominent employees.

Categories of records in the system: Photographs, biographic data sheets and past press releases.

Authority for maintenance of the system: The Federal Records Act, 44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For responding to press inquires and in the preparation of Agency press releases concerning leaders of the International Communication Agency and Prominent employees. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

While this information is generally available to the public upon request, it may also be released to other government agencies who have statutory of other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records and photographs in file folders.

Retrievability: By name of the individual employee.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: Records are disposed of upon separation of the employee.

System manager(s) and address: Director, (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: The Department of State's Biographic Register; from the individual concerned; copies of press releases concerning the individual.

USICA—32

System name: Senior Officer Files—MGT/P

System location: International Communication Agency, Office of Personnel and Services, 1776 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Employees in grades GS-14, 15, 16, 17, 18 and foreign service officer class equivalents (FSIO, FSR, FSLR—1, 2, 3.2)

Categories of records in the system: Biographical, professional and experience information on employees nominated for senior level positions, position descriptions and position evaluations.

Authority for maintenance of the system: FPM 305, Supp. 305—1, FPM—300 subch. 3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Reference material for the Director's staff, element heads and personnel officers; placement of high level employees in proper management positions and to insure their consideration for vacancies government-wide; used by personnel officers for personnel management functions; requested from time to time by CSC, OMB, and Congress for position control of supergrade employees. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

The principal users of this information outside the International Communication Agency are: the Civil Service Commission; the Office of Management and Budget; the Congress; personnel officers in other government agencies as a result of a transfer or potential transfer of the individual to whom the records pertain.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By name and grade of individual, or combinations of name and grade.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: Records maintained indefinitely, or until employee is separated, at which time pertinent information is filed in the official personnel folder; all other material is destroyed as provided in Agency internal regulations.

System manager(s) and address: Chief, Operations Branch 1776 Pennsylvania Ave., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director, (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Official Personnel Folders; from the employee; element heads; position classifiers.

USICA—33

System name: Speaker File—AF

System location: Office of the Director, African Affairs, International Communication Agency. 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Artists and Speakers considered qualified to conduct programs at USCA's oversea posts in sub-Sahara Africa.

Categories of records in the system: Biographic data on speakers and artists; evaluation of reports of past service; intineraries.

Authority for maintenance of the system: The Federal Records Act, 44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide basic personnel and program information in order to arrange regional schedules for speakers and artists. Also see Prefatory schedules for speakers and artists. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties. Information in these records is not normally made available to individuals or agencies outside USCA, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By the name of the individual concerned.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: Records are held as long as the individual is a prospective speaker or artist.

System manager(s) and address: Regional Cultural Affairs Officer, Office of the Director, African Affairs, International Communication Agency, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Notification procedure: Director, (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director, (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Originated through correspondence with speakers and correspondence with individual USICA posts overseas.

USICA—34

System name: Speaker File—EA

System location: International Communication Agency, Office of the Director, East Asian and Pacific. Affairs 1750 Pennsylvania Ave., NW., Washington, D.C. 20547.

Categories of individuals covered by the system: Prospective individual and actual speakers at USICA overseas posts in the East Asia and Pacific geographic area. Speakers may include volunteers, U.S. Government officials, and others.

Categories of records in the system: Biographic data on prospective speakers, including lists of topics, dates of previous service to USICA, travel vouchers processed, amounts charged Agency and method of payment, and in some cases, evaluations of speakers by overseas posts.

Authority for maintenance of the system: Federal Records Act, 44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Biographic data and evaluations of speakers and their sutiability to engage in Agency programs. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

The principal user of this information outside the International Communication Agency is the U.S. Department of State.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Indexed by name of the individual.

Safeguards: Maintained in locked file cabinets, available only to authorized persons.

Retention and disposal: Retained as long as the speaker has topicality for area programs. Records are destroyed thereafter in accordance with Agency's internal records retirement procedures.

System manager(s) and address: Program Coordinator, Office of the Director, East Asian and Pacific Affairs, 1750 Pennsylvania Ave., NW., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., NW., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., NW., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Originated through correspondence with speakers and correspondence with individual USICA posts overseas.

USICA—35

System name: Speaker Name Files—PGM

System location: International Communication Agency, 1750 Pennsylvania Ave., NW., Washington, D.C. 20547.

Categories of individuals covered by the system: American specialists and experts in a variety of fields who have participated or been considered for participation in the Volunteer Speakers Program.

Categories of records in the system: A typical file contains the following information on or about speakers and prospective speakers in the Volunteer Speakers Program administered by the International Communication Agency; Biographic data including education and professional experience, correspondence between the speaker and PGM and communications between the Agency and its overseas posts regarding the speaker's participation in the program. Many of these files also include the results of requests for security information from the Office of Security, USICA.

Authority for maintenance of the system: Executive Order No. 11034 and Executive Order 11034 as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Speakers files are used routinely by program development officers, program assistants and clerical personnel in the daily conduct of the speaker program. They are occassionally consulted by other Agency personnel for such purposes as preparing advance publicity on speakers who will lecture abroad under USICA auspices. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these files is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The files are stored in individual folders by name and consist of the types of information specified under "Category of Record."

Retrievability: File folders are indexed alphabetically by name and filed under five major subjects: Arts and Humanities, Economics, International Political and Security Affairs, Political and Social Processes, and Science and Technology.

Safeguards: The files are kept in locked file cabinets and, when open during office hours, are always tended by one or more employees. Only appropriate personnel are normally allowed to consult these files routinely. Other Agency personnel wishing to consult them are asked to identify themselves. U.S. government personnel other than USICA very rarely seek access to these files. When they do, they are asked to produce specific identification.

Retention and disposal: These records are normally maintained for approximately 3 years. Afterward, they are retired to the USICA archives for a period of from 5-7 years.

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System manager(s) and address: International Communication Agency Associate Director for Programs, 1750 Pennsylvania Ave., NW., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., NW., Washington, D.C. 20547

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., NW., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Without significant exceptions, the information on individuals maintained in these files has come from the individual concerned or, occasionally, from others at the request of that individual.

USICA—36

System name: Advisory, Referral and Counseling Records—MGT/P-USICA.

System location: International Communication Agency, Office of Personnel Services, 1776 Pennsylvania Avenue, N.W., Washington, D C 20547

Categories of individuals covered by the system: Employees with serious personal, job-related or medical problems such as alcoholism, drug abuse or behavioral problems.

Categories of records in the system: Confidential statements relating to specific problems.

Authority for maintenance of the system: Public Law 91-616, Sec. 201 (Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970); Public Law 92-255, Sec. 413 (Drug Abuse Treatment Act of 1972).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used on occasion to provide necessary background to medical personnel to arrange for medical examinations, treatment of employees, or for counseling purposes within. The program is a confidential resource within the Agency available voluntarily to employees for assistance with personal or job-related problems. Employees are advised of rights, obligations as well as benefits available; referrals of employees to professional resources within the government and in the community; continuing on-the-job counseling available. Also see Prefatory Statement of General Routine Uses. Without the express written consent of the employee, this information is not available to other personnel of the International Communication Agency. The only users of this information outside the International Communication Agency are appropriate medical personnel of the Department of State, Office of Medical Services, and appropriate health professionals in the community, only with the employee's consent.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By the employee's name.

Safeguards: Records are maintanined in a combination barlock cabinet at all times, accessible only to the Advisory, Referral and Counseling personnel.

Retention and disposal: Records retained as long as individual is an employee of the Agency; file destroyed by shredding when employee is separated, or when ARCS personnel considers there is no need to retain file, or when incumbent counselor is separated from the Agency; exceptions to rules for retention can be made only with the concerned employee's specific approval.

System manager(s) and address: Chief, Policies and Services Staff (MGT/PPS), Office of Personnel Services, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Notification procedure: Office of Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Office of Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Principally from the individual concerned; background information provided by the person who initiates referral of the employee, such as supervisors or medical personnel.

USICA—37

System name: Book Adaptation Files—ECA/FB

System location: International Communication Agency, Associate Directorate For Educational and Cultural Affairs, Washington, D.C. 20547.

Categories of individuals covered by the system: Authors of books selected for inclusion in the Current Thought Series and the Ladder Series; contractual adapters of books.

Categories of records in the system: Correspondence with authors; rights agreements for use of books; USICA book appraisals and reviews; biographic data on authors; correspondence with and biographic data and namecheck forms on adapters; correspondence with contracting agency concerning contractual arrangements with adapters, qualifying tests and sample material submitted by adapters.

Authority for maintenance of the system: Executive Order 11034, as amended, Public Law 87-256, Mutual Educational and Cultural Exchange Act of 1961.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Reference material for determination of suitability of books for use in the Agency's Current Thought Series and Ladder Series; to arrange for clearances to use books in Agency programs; for the selection of adapters who can adapt books for use by foreign nationals; final clearance of adaptation by authors of books.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication agency as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card records and paper records in file folders.

Retrievability: By individual name, by date of assignment, or both.

Safeguards: Maintained in bar-lock file cabinets.

Retention and disposal: Biographic data and personnel statistical data subject to update periodically; old records destroyed by shredding when no longer needed.

System manager(s) and address: Chief, Foreign Service Personnel Division, 1776 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Notification procedure: Director, USICA, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director, Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Officer Evaluation Reports; official administrative file (OPP); records of interviews and correspondence with officers; minutes of meetings held to discuss assignment of Foreign Service Officers by the career management staff.

USICA—38

System name: Career Counseling Records—MGT/P-USICA

System location: International Communication Agency, Office of Personnel Services, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: All foreign service officers of the Agency.

Categories of records in the system: Computer listing of work experience; biographic data; assignment history date; education data; position data; grade; title; post of assignment; date of employment; dependents', proposed position detail to "pipeline" complement; roster of personnel available for domestic assignments; notes of personnel discussions between counselors and individual clients on preferences and other factors bearing on assignments.

Authority for maintenance of the system: The Foreign Service Act of 1946, as amended; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by career counselors and personnel officers for assignment, detail or rotation of Agency foreign service officers, within USICA or to other federal agencies. Also see Prefatory Statement of General Routine Uses. Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties. The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card records and paper records in file folders.

Retrievability: By individual name, by date or place of assignment, or both.

Safeguards: Maintained in bar-lock file cabinets.

Retention and disposal: Biographic data and personnel statistical data subject to update periodically; old records destroyed by shredding when no longer needed or when employee separates.

System manager(s) and address: Chief, Career Counselors Staff, Office of Personnel Services, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Notification procedure: Office of Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Office of Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Officer Evaluation Reports. Official administrative file (OPF); records of interviews and correspondence with officers; minutes of meeting of the career management staff held to discuss assignment of Foreign Service officers.

USICA—39

System name: Employee Parking—USICA

System location: International Communication Agency, Office of Administrative Services, General Services Branch, 1776 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Voice of America, 330 Independence Ave., S.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Agency employees assigned USICA controlled parking spaces; employees awaiting assignment of vacated parking spaces.

Categories of records in the system: Names, office locations and telephone numbers of employees assigned parking space; participants in car-pools; records of payments for parking space use; records on employees with physical handicaps and doctors or others to contact in case of emergency; waiting list of employees desiring assignment of official parking space.

Authority for maintenance of the system: General Services Administration Regulations dated February 6, 1974, prescribing regulations regarding the use of federally controlled parking spaces.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Assignment of parking space to Agency executives; to assure fairness in the assignment of parking space to employees and to give priority to the handicapped and to car-pools; to assure timely payment of fees for parking space.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

The principal user of this information outside the International Communication Agency is the General Services Administration.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: By name of the employee.

Safeguards: Maintained in bar-lock cabinets.

Retention and disposal: Records destroyed when employee relinquishes assigned parking space or is separated from the Agency.

System manager(s) and address: Director of Administration, Voice of America, Room 3360, HEW-N Bldg., 330 Independence Ave., N.W., Washington, D.C. 20547.

Chief, General Services Branch, 1776 Pennsylvania Ave., S.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: All information obtained from individuals concerned.

USICA—40

System name: Employment Requests—MGT/P—USICA

System location: International Communication Agency, Office of Personnel Services, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Certain individuals seeking employment with the Agency such as Congressional referrals, referrals of Director, etc.

Categories of records in the system: Letters, memos, resumes, recommendations, biographic data and referrals submitted to the Director, Office of Personnel Services, for the purpose of soliciting employment with the Agency.

Authority for maintenance of the system: The Federal Records Act, 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To answer inquiries from Members of Congress regarding employment opportunities for constituents; referrals to Agency elements for qualification evaluations. Also see Prefatory statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By name of the individual.

Safeguards: Maintained in bar-lock file cabinets.

Retention and disposal: Records retained until no longer useful, or until after 2 years from date of submission, whichever is first. Records are destroyed by shredding.

System manager(s) and address: Director, Office of Personnel Services, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Notification procedure: Office of Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Record access procedures: Requests for individuals should be addressed to: Office of Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Unsolicited information or referrals submitted to the Agency by individuals seeking information on employment possibilities.

USICA—41

System name: Exhibit Guide Training File—PGM/E

System location: International Communication Agency Service, 1425 "K" Street, N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Translators and various instructors hired periodically by the Exhibits Service to train Exhibit Guides before assignment overseas.

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Categories of records in the system: Biographic data, security namecheck forms, history of assignments with the Agency, and routine correspondence.

Authority for maintenance of the system: Executive Order 11034, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A ready reference file for locating specialists and translators, evaluating their qualifications and determining their availablilty to train individuals hired by the Agency for overseas assignments as Exhibit Guides.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By name of the individual.

Safeguards: Records maintained in bar-lock cabinets, available only to authorized personnel.

Retention and disposal: Records kept as long as person is of employment interest and/or employed. Files are destroyed by burning when no longer needed.

System manager(s) and address: Records Control Officer, Creative Services Branch, Exhibits Service, International Communication Agency, 1425 "K" Street, N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Information including in these records is submitted or authorized by the individual concerned and is available for his her review.

USICA—42

System name: Exhibit Specialist Grantees—PGM/E.

System location: International Communication Agency, Exhibit Service, 1425 "K" Street, N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Private individuals under grant or contractual agreement with the Agency, or Government employees on temporary duty assignments with USICA, to provide services to Agency exhibits as expert specialists, usually involving overseas travel.

Categories of records in the system: Name, address, itinerary of travel, description of services, records of security clearance and of grants or orders, resume of career and list of publications, correspondence, informal evaluations of performance as an exhibit specialists, photographs, publications by the concerned individuals.

Authority for maintenance of the system: Executive Order 11034, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used for the purpose of selecting specialists in various fields to assist in the design of exhibits for use overseas; as consultants during fabrication of exhibits; to assist USICA personnel overseas to construct exhibits.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other Government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By show name, the word "specialist," followed by individual's name.

Safeguards: Maintained in bar-lock file cabinets.

Retention and disposal: Records kept as long as individual is of employment interest and/or employed. Files are destroyed by burning when no longer needed.

System manager(s) and address: Records Control Officer, Creative Services Branch Exhibits Service, International Communication Agency, 1425 "K" Street, N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Information included in records was either submitted or authorized by the individual concerned, or was available from public sources, such as book reviews or material printed in various publications; National Agency namecheck information is obtained through the Agency's Office of Security.

USICA—43

System name: Foreign Service Location File—MGT/P—USICA

System location: International Communication Agency, Office of Personnel Services, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: All Agency foreign service employees and foreign service retirees.

Categories of records in the system: Foreign service employees' place of assignment overseas, position held, home address, address of next-of-kin, employee's personal bank (if requested the Agency deposit payroll checks); last home address of retirees.

Authority for maintenance of the system: The Federal Records Act, 44 U.S.C. 3101; Foreign Service Act of 1946, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by USICA officials to locate a Foreign Service employee; make salary deposits; informing next-of-kin in emergency situations.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other Government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained on 5x8 index cards in metal cabinets.

Retrievability: By the officer's name.

Safeguards: Records are under surveillance by authorized employees during working hours; in locked metal cabinets after hours.

Retention and disposal: Locator information destroyed when employee separates, except by retirement, in which case card maintained indefinitely.

System manager(s) and address: Chief, Administrative Staff (MGT/PA), Office of Personnel Services, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Notification procedure: Office of Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Office of Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: From the officer concerned; copies of Personnel Action Forms (SF-50); travel memos.

USICA—44

System name: Office of Cultural Centers and Resources ECA/F

System location: International Communication Agency, Associate Directorate for Educational and Cultural Affairs, 1717 "H" Street, N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Private individuals who are under grant or contractual agreement with the Agency's Office of Cultural Centers and Resources to provide goods or services required in conducting cultural programs.

Categories of records in the system: Name, address, itinerary of travel, goods and/or services to be provided to the Office of Cultural Centers and Resources under grant, contract or purchase order grant; records of payments for services rendered or goods delivered.

Authority for maintenance of the system: Executive Order 110477 of August 1, 1953; Executive Order 10822 of May 20, 1953, implementing Section 2(d) of the Reorganization Plan No. 8 of 1953.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Files are used by the Budget Office and the Executive Office staffs of the Agency's Office of Cultural Centers and Resources as reference material to assure proper expenditure of agency funds, to monitor the completion of grant or contractual arrangements, and to assure proper payment for goods delivered or services rendered.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: By document number cross-referenced by a name card file.

Safeguards: Maintained in bar-lock file cabinets.

Retention and disposal: Records of transactions over 10,000 dollars retained for six years, then sent to the Federal Records Center. For transactions under 10,000 dollars, records retained for three years, then sent to Federal Records Center.

System manager(s) and address: Records Control Officer, ECA/F, Associate Directorate for Educational and Cultural Affairs, 1717 "H" Street, N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: From the individual concerned; copies of contracts and grants; travel authorizations provided by Agency Transportation Branch; copies of invoices for payment.

USICA—45

System name: Mailing Lists—MGT/AGR

System location: International Communication Agency, Office of Administrative Services Reproduction and Graphics Branch, 1776 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: USICA domestic and Foreign Service officers; radio station managers, and technicians; foreign correspondents; American and foreign diplomats; librarians; scholars; Members of Congress; information counselors of other Federal agencies and the military; officers of international organizations; American journalists; newspaper and magazine editors and publishers; public relations officers; musicians; historians.

Categories of records in the system: Records contain name, address, occupation, title and profession of individuals who need to have access to, or have requested information concerning: Agency publications, news pictures, reports on current issues and other reports; messages for overseas distribution; press releases; USICA Manual of Operations and Administration; adaptations and condensations; current events picture packs; FYI kits; VOA frequency schedule; standby officer lists; special packets; Music USA packets; VOA program highlights.

Authority for maintenance of the system: Public Law 402.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Mailing lists are used by Agency elements to distribute printed materials to Agency personnel who need access to such information in the performance of their duties, and to members of the public listed under Categories of Individuals covered by the system as shown above who have re quested such information, or who have a professional need and interest in acquiring such information.

Also see Prefatory statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Addressograph plates filed in special drawers.

Retrievability: By code number of the distribution list and the subject matter of the printed material, and then by name arranged alphabetically.

Safeguards: Maintained in locked cabinets when not in use.

Retention and disposal: Plates are updated frequently, with old plates removed from the system and destroyed.

System manager(s) and address: Chief, Reproduction and Graphics Branch, International Communication Agency, 1776 Pennsylvania ave., N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: From the individual concerned and from public documents such as Congressional and professional directories and journals.

USICA—46

System name: Officer Assignment Requests MGT/P

System location: International Communication Agency, Office of Personnel Services, 1776 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Agency officers who have written or spoken to the Director, Office of Personnel Services, regarding assignment preferences or problems.

Categories of records in the system: Letters, memos, and occasionally biographic data submitted by the individual seeking particular assignments; written answers to specific requests.

Authority for maintenance of the system: The Federal Records Act, 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used exclusively by the Director and the Deputy Director, Office of Personnel Services, for discussion of officer assignments and officer career interests.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Records in file folders.

Retrievability: By the name of the individual.

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Safeguards: Maintained in metal bar-lock file cabinets.

Retention and disposal: Usually retained until officer is assigned or for longer period depending upon the assignment actions; destroyed when no longer needed.

System manager(s) and address: Assistant Director, Office of Personnel Services, International Communication Agency, 1776 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: From the officer requesting assignment consultation, replies of the Director, Office of Personnel Services, to such requests.

USICA-47

System name: Official Travel Records-MGT/ADT

System location: International Communication Agency Office of Administrative Services, Travel and Transportation Branch 1776 Pennsylvania Ave. N.W., Washington D.C. 20547

Categories of individuals covered by the system: Past and present USICA employees and private citizens who have traveled under Agency auspices.

Categories of records in the system: Travel authorizations documents related to shipment and storage of personal effects and automobiles worksheets on itineraies and correspondence related to the above. Records of active passports and passports issued. Records of temporary duty travel. Location and cost of storage of personal effects.

Authority for maintenance of the system: Supplemental Appropriations act of 1955, Public Law 663, Section 1311 (83d Congress) (31 U.S.C. 200). Section 3679 of the Revised Statutes, as amended, Antideficiency Act (31 U.S.C. 665).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as reference materal by the staff of the Agency's Travel and Transportation Branch, and as authorization for issuance of transportation requests, travel advances, and passports, for payment to carriers for transportation of travelers and their personal effects, for payment to storage and transfer companies for the packing and storage of household effects.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their offical duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders and in index boxes.

Retrievability: Indexed alphabetically by name.

Safeguards: Passports and related material such as correspondence and messages are kept in bar-lock cabinets. Other records are kept in unlocked cabinets which are under surveillance of authorized employees during the working day, and by security guards after official working hours.

Retention and disposal: Temporary duty travel authorizations are maintained for four years and then sent to a Federal records center. All other records are retained indefinitely, or until after an employee has been separated from the Agency for six months.

System manager(s) and address: Cheif. Travel and Transportation Branch, International Communication Agency, 1776 Pennsylvania Ave, N.W, Washington, D.C. 20547

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave, N.W., Washington, D.C. 20547

Record access procedures: Requests from individuals should be Addressed to Director (USICA), Congressional and Public Liaison 1750 Pennsylvania Ave, N W, Washington, DC 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register

Record source categories: Travel request forms initiated by various Agency elements, information regarding personal and household effects obtained from the tarveler and from carriers, passport information received from the Department of State's Passport Office.

USICA—48

System name: Photographers and Photographs for Exhibits Use—PGM/E

System location: International Communication Agency, Exhibits Service, 1425 K Street, N.W., Washington, D.C. 20547

Categories of individuals covered by the system: Names and addresses of photographers hired by the Exhibits Service to provide photographs suitable for use in the Agency's overseas Exhibits Program, collection of photographs for possible use in Exhibits programs with the names and addresses of the individuals holding copyrights.

Categories of records in the system: Correspondence with individuals concerning employment with the Exhibits Service to perform photographic services, personal data on photographers such as name, address, telephone number, price charged for service, specialties, availability of rights, previous USICA assignments, evaluation of photographer's work, names and addresses of persons owning rights to photographic work considered suitable for overseas exhibits.

Authority for maintenance of the system: Excutive Order 11034, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To acquire existing pictures, to select photographers for specific assignments, for general photo reserch, for use in the Agency's Exhibits Program.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their offical duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records and photographs maintained in file folders.

Retrievability: By name of the individual.

Safeguards: Maintained in combination bar-lock cabinets.

Retention and disposal: Records kept as long as person's photographs are of interest for use in particular exhibits. Files are destroyed by burning when no longer useful.

System manager(s) and address: Records Control Officer, Exhibits Service International Communication Agency, 1425 K Street, N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Information included in records is provided or authorized by the individual concerned and is available for his or her review.

USICA—49

System name: Records on Shipment of Effects, Unaccompanied Baggage and Automobile—MGT/CF

System location: International Communication Agency, Office of Comptroller Services, Financial Operations Division, 1717 H St., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Foreign service employees authorized to ship effects and automobiles overseas at USICA expense.

Categories of records in the system: Paper cards listing payments made to packers, carriers, etc., in connection with shipments of effects, baggage and automobiles pursuant to travel authorizations.

Authority for maintenance of the system: 31 U.S.C. 66a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine if unauthorized charges were incurred due to excess shipments, indirect routing, or other reasons.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in tub file.

Retrievability: Filed alphabetically by individual name.

Safeguards: Records are under surveillance by authorized employees during the working day, and by security guards after official working hours.

Retention and disposal: Records destroyed four years after the fiscal year in which shipment is authorized.

System manager(s) and address: Chief, Financial Operations Division, International Communications Agency, 1717 H St., N.W., Washinton, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547

Record access procedures: Requests from individuals should be addressed to Assitant Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealjng initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: USICA offices issuing travel authorizations, travel vochers submitted by employees; invoices submitted by carriers for payment.

USICA—50

System name: Salary Computation Records—MGT/CB

System location: International Communication Agency, Office of Comptroller Services, Budget Operations Division, 1776 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Persons employed by the Agency during any past fiscal year, and the current fiscal year.

Categories of records in the system: Personnel Action Forms, Standard Forms 50.

Authority for maintenance of the system: Executive Order 10477 of August 1, 1953; Executive Order 10822 of May 20, 1953, implementing Section 2(d) of the Reorganization Plan No. 8 of 1953; Budget-Treasury Regulation No. 1 (revised); The Economy Act (31 U.S.C. 686), Section 601; Section 3679 of the Revised Statutes as amended (31 U.S.C. 665).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For the use of the Budget Operations Division only, for salary computations for Agency budget purposes.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in files.

Retrievability: By name of individual.

Safeguards: Security provided by surveillance of authorized employees during working hours and by security guards after working hours.

Retention and disposal: Retained until no longer needed.

System manager(s) and address: Chief, Program Support Branch, Budget Operations Division, International Communication Agency, 1776 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Office Personnel Services.

USICA—51

System name: Travel Authorization Obligation File—MGT/CF

System location: International Communication Agency, Office of Comptroller Services, Financial Operations Division 1717 H St., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Individuals authorized to travel for which costs of travel are chargeable to USICA appropriations.

Categories of records in the system: Copies of travel authorizations and copies of paid vouchers and/or abstracts or other documents relating to payments for authorized travel.

Authority for maintenance of the system: 31 U.S.C. 66a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To support recording of obligations of funds for travel; for audit of travel and transportation vouchers prior to certification and payment; control to avoid duplicate payment of claims.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Storage: Paper files maintained in three-ring binders and in file folders.

Retrievability: By name; cross-reference to travel authorization number filed by appropriation/allotment chargeable.

Safeguards: Records are under surveillance by authorized employees during the working hours, and by security guards after official working hours.

Retention and disposal: Alphabetical copy of travel authorizations destroyed 3 years after close of fiscal year in which issued. Folders destroyed between 4 and 10 years after close of fiscal year, depending upon the type of travel.

System manager(s) and address: Chief, Financial Operations Division, International Communication Agency, 1717 H St., N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Standard forms and Agency forms prepared in connection with official travel by personnel.

USICA—52

System name: Source File—PGM/T

System location: Television and Film Service, International Communication Agency, 601 D Street, N.W., Washington, D.C. 20547.

V 4 / 16 JA 23 79 UMI

Categories of individuals covered by the system: Individuals in the audio-visual field who are in contact with the International Communications Media Staff on attestation, film festivals and other activities.

Categories of records in the system: Biographical data, press releases, routine correspondence, and similar material.

Authority for maintenance of the system: To provide a source of information file for the Office of Acquisitions on subjects such as attestation and film festivals.

Also Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful legal authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By name individual concerned.

Safeguards: Maintained in locked file cabinets and available only to authorized personnel.

Retention and disposal: Files are reviewed approximately every 5 years and retained, retired or destroyed as appropriate.

System manager(s) and address: Chief, Office of Acquisitions Media Staff, International Communication Agency, 601 D Street, N.W., Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Information is provided by the individual concerned or from published sources.

In addition, the Agency proposes to adopt the following system of records, "USICA-53-Privacy Act/Freedom of Information Act File-CPL-USICA," which has not been announced heretofore because of administrative oversight.

USICA—53

System name: Privacy Act-Freedom of Information Act file—CPL-USICA

System location: Congressional and Public Liaison, International Communication Agency, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Individuals who have requested documents, records or other information concerning themselves from the Agency pursuant to the Freedom of Information Act (5 U.S.C. 552), or the Privacy Act of 1974 (5 U.S.C. 552a).

Categories of records in the system: Personal information that may be contained in reports, memoranda, letters, or any other official or unofficial documents that are relevant to the request.

Authority for maintenance of the system: 5 U.S.C. 552 and 5 U.S.C. 552a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For processing of requests received pursuant to the Freedom of Information and Privacy Acts.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the International Communication Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By name of individual requesting the information.

Safeguards: Records are under surveillance by authorized employees during working hours, and are stored in combination-lock cabinets when not in use.

Retention and disposal: Retired and destroyed in accordance with schedules of the International Communication Agency.

System manager(s) and address: Access to Information Officer, Congressional and Public Liaison, International Communication Agency, Washington, D.C. 20547.

Notification procedure: Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Assistant Director (USICA), Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear at 22 CFR, Chapter V, Part 505 and were published in the Federal Register on October 21, 1975 (40 FR 49278) and on September 22, 1976 (41 FR 11424) (and on April 4, 1978 (43 FR 14298).

Record source categories: Compiled as a result of requests under the Freedom of Information Act and the Privacy Act.

Systems exempted from certain provisions of the act: Certain records contained within this system of records may be exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). See amendments to 22 CFR, Chapter V, Part 505.15 as published in the proposed rule section of the Federal Register for December 10, 1976.

USICA—54

System name: Incentive Awards File—MGT/P-USICA

System location: International Communications Agency, Office of Personnel Services, 1776 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Employees who are nominated for Special, Honor, Unit, Cash or other incentive awards; employees who are to receive Length-of-Service Certificates.

Categories of records in the system: Nomination forms or narratives; copies of award certificates with citations: cards containing name, award, and date awarded.

Authority for maintenance of the system: 3 FAM 640; 5 CFR 451; FPM Chapter 451; MOA V-A/B 570.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used only by awards staff, selection committee and approving officials to process and record nominations and for presentation of incentive and length of service awards; used to prepare annual statistical reports for the Civil Service Commission. Also see prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the International Communication Agency as may be required in the performance of their official duties.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Temporary paper records in file folders; 3x5 cards in card files.

Retrievability: Manually by name and/or type of award.

Safeguards: File folders maintained in locked file cabinets.

Retention and disposal: Cards and copy of nomination and if an award includes a certificate maintained indefinitely.

System manager(s) and address: Chief, Policies and Services Staff (MGT/PPS), Office of Personnel Services, 1776 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Notification procedure: Office of Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Record access procedures: Requests from individuals should be addressed to: Office of Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and contesting contents and appealing initial determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: Nominations; supervisors; official personnel folders; awards committee and approving officials.

USICA—55

System name: Educational and Cultural Exchange Program Records: ECA—USICA

System location: Associate Directorate for Educational and Cultural Affairs, 1776 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Applicants, recipients, and prospective recipients of Educational and Cultural Exchange grants; members of the Board of Foreign Scholarships; American Executive Secretaries of Fulbright Foundations and Commissions; members of the U.S. Advisory Commission on International Educational and Cultural Affairs; members of the Government Advisory Committee on International Book and Library Programs; members of the former National Review Board of the East-West Center; faculty members of U.S. educational institution participating in student counseling workshops conducted in various countries.

Categories of records in the system: Biographic information; project descriptions; forms relating to the individual's security clearance; evaluations of the performances of former grantees; evaluations of performing artists who may be potential grantees; copies of press releases; news clippings; information related to the grant; related correspondence; academic transcripts; letters of reference.

Authority for maintenance of the system: Mutual Educational and Cultural Exchange Act of 1961; 22 U.S.C. 2451-58; 22 U.S.C. 2054-57; 22 U.S.C. 1431.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary function of the Educational and Cultural Exchange Program records is the aiding in the selection of individuals for educational and cultural exchange grants and for the administration of such grants. Information from these records is also used to develop statistics for use in the operation of the exchange program. The principal users of this information outside the International Communication Agency are: Civil Service Commission; Central Intelligence Agency; Immigration and Naturalization Service; Department of Justice; Smithsonian Institution; Congress; the news media; relatives of the grantee trying to reach the individual for bona fide personal reasons; the grantee. In connection with the selection process, information may be released to: binational commissions; the Board of Foreign Scholarships; foreign host institutions; contract agencies. Fulbright-Hays alumni names and addresses may be made available to American institutions, organizations or individuals assisting in the organizing and functioning of an association of alumni of the exchange program. Excerpts from the files may be used by non-governmental panels of experts in rating candidates. This information may also be released to other government agencies having statutory or other lawful authority to maintain such information. Also see Routine Uses paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy; magnetic computer media.

Retrievability: By individual name.

Safeguards: Records are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel.

Retention and disposal: Retention of these records varies from three years to an indefinite period of time, depending upon the specific kind of record involved. (Records of non-recommended candidates are only maintained for up to twelve months after submission of the application.) They are retired or destroyed in accordance with published schedules of the International Communication Agency.

System manager(s) and address: Associate Director, (USICA), Associate Directorate for Educational and Cultural Affairs, 1776 Pennsylvania, Avenue, N.W., Washington, D.C. 20547.

Notification procedure: Individuals who have cause to believe that the Educational and Cultural Affairs might have records pertaining to them should write to the Director, Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547. The individual must specify that he/she wishes the records of the Bureau of Educational and Cultural Affairs to be checked. At a minimum, the individual must include: name; date and place of birth; current mailing address and zip code; signature. If the individual is or was a grantee or an applicant for a grant, he/she must specify the type of grant and the dates of the grant which he/she received or for which he/she applied.

Record access procedures: Individuals who wish to gain access to or amend records pertaining to themselves should write to Director, Congressional and Public Liaison, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the Rules Section of the Federal Register.

Record source categories: The individual; public references; other offices within the Department; other government agencies; other public and professional institutions possessing relevant information.

Systems exempted from certain provisions of the act: Certain records contained within this system of records are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f).

USICA—56

System name: Exchange Visitor Waiver Records—GC—USICA

System location: USICA, Office of the General Counsel, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Categories of individuals covered by the system: Applicants for extensions or waivers or foreign-residence requirements.

Categories of records in the system: Biographic data; information from the Immigration and Naturalization Service regarding hardship or persecution; evalutions of applicants' performances; copies of published materials; newsclippings; academic transcripts; letters of reference; related correspondence.

Authority for maintenance of the system: Mutual Educational and Cultural Exchange Act of 1961, as amended, Sec. 109, P.L. 87-256.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the Exchange Visitor Waiver Records is in recommending to the Immigration and Naturalization Service if the foreign residency requirements should be waived or visas extended. Information from these records is also used to develop statistics for use in the operation of the cultural and educational exchange program. The principal users of this information outside the Internatinal Communication Agency are: Immigration and Naturalization Service; Department of Justice; the Diplomatic Corps of the foreign embassies in Washington; Department of State; Congress; relatives of the applicant trying to reach the individual for bana fide personal reasons; the applicant; foreign host institutions; contract agencies. This information may also be released to other Government agencies having statutory or other lawful authority to maintain such information. Also see Routine Uses paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Manually by name of applicant.

Safeguards: Records are maintanined in secured cabinets.

Retention and disposal: Retention of these records varies from three years to an indefinite period of time, depending on the specific kind of record involved. they are destroyed in accordance with Agency's internal regulations.

System manager(s) and address: General Counsel, USICA, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Notification procedure: Individuals who have cause to believe that the Office of General Counsel might have records pertaining to them should write to the Director, Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547. The individual must specify that he/she wishes the Exchange visitor Waiver Records to be checked. At a minimum, the individual must include: name; date and place of birth, current mailing address and zip code; signature.

Record access procedures: Individuals who wish to gain access to or amend records pertaining to themselves should write to Director, Congressional and Public Liaison, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Contesting record procedures: The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in the rules Section of the Federal Register.

Record source categories: The individual applicants; foreign embassies, applicants' sponsors and attorneys; Department of State; Immigration and Naturalization Service; other offices within the Agency.

APPENDIX I

Prefatory Statement of General Routine Uses

The following routine uses apply to, and are incorporated by reference into, each system of records set forth above.

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1. In the event that a system of records maintained by the Agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. A record from this system of records may be disclosed, as a routine use, to a federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an Agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

5. A record in this system of records which contains medical information may be disclosed, as a routine use, to the medical advisor of any individual submitting a request for access to the record under the Act and 22 CFR 505 if, in the sole judgment of the Agency, disclosure could have an adverse effect upon the individual, under the provision of 5 U.S.C. 552a(f)(3) and implementing regulations at 22 CFR 505.6.

6. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

7. A record from this system of records may be disclosed to an authorized appeal grievance examiner; a formal complaints examiner; an equal employment opportunity investigator; an arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint or appeal filed by an employee. A record from this system of records may be disclosed to the U.S. Civil Service Commission in accordance with the Agency's responsibility for evaluation and oversight of federal personnel management.

8. A record from this system of records may be disclosed to authorized employees of a federal agency for purposes of audit.

9. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

10. A record from this system of records may be disclosed, as a routine use, to the Department of State and its posts abroad for the purpose of transmission of information between organizational units of the Agency, or for purposes related to the responsibilities of the Department of State in conducting foreign policy or protecting United States citizens, such as the assignment of employees to positions abroad, the reporting of accidents abroad, evacuation of employees and dependents, and other purposes for which officers and employees of the Department of State have a need for the records in the performance of their official duties.

11. A record in this system of records may be disclosed, as a routine use, to a foreign government or international agency when necessary to facilitate the conduct of U.S. relations with that government or agency through the issuance of such documents as visas, country clearances, identification cards, drivers' licenses, diplomatic lists, licenses to import or export personal effects, and other official documents and permits routinely required in connection with the official service or travel abroad of the individual and his or her dependents.

12. A record in this system of records may be disclosed, as a routine use to Federal agencies with which the Agency has entered into an agreement to provide services to assist the Agency in carrying out its functions under the Foreign Assistance Act of 1961, as amended. Such disclosures would be for transmitting information between organizational units of the Agency, for providing to the original employing agency information concerning the services of its employee while under the supervision of the Agency, including performance evaluations, reports of conduct, awards and commendations and information normally obtained in the course of personnel administration and employee supervision, or for providing other information directly related to the purpose of the inter-agency agreement as set forth therein, and necessary and relevant to its implementation.

13. A record in this system of records may be disclosed, as a routine use, to the Department of Justice to determine whether disclosure thereof is required by the Freedom of Information Act (5 U.S.C. 552).

14. A record in this sytem of records may be disclosed, as a routine use, when the information is subject to exemption under the Freedom of Information Act (5 U.S.C. 552) but the Agency, in its discretion, determines not to assert the exemption.

15. A record from this system of records may be disclosed, as a routine use, only to State and local taxing authorities with which the Secretary of the Treasury has entered into agreements and only to those State and local taxing authorities for which the employee is subject to tax (whether or not tax is withheld).

[FR Doc. 79-1498 Filed 1-19-79; 8:45 am]

federal register

TUESDAY, JANUARY 23, 1979
PART III



DEPARTMENT OF DEFENSE

Defense Mapping Agency

■

PRIVACY ACT OF 1974

Systems of Records; Deletions and Amendments

federal register

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DEPARTMENT OF DEFENSE
Defense Mapping Agency
PRIVACY ACT OF 1974
Notice of Systems of Records: Deletions and Amendments

AGENCY: Defense Mapping Agency (DMA)

ACTION: Notification of deletions and amendments to systems of records due to an internal Agency realignment which combined the DMA Hydrographic Center and the DMA Topographic Center into a single organizational element, the DMA Hydrographic/Topographic Center located at Brookmont, MD. Simultaneously, a new, administratively defined Component separately identified from existing personnal and resources in DMA named the DMA Office of Distribution Services became operational.

SUMMARY: The Defense Mapping Agency proposes to delete 91 and amend 90 systems of records subject to the Privacy Act of 1974. The deleted systems and reasons for their deletions are specifically set forth below under "Deletions". The 90 amended systems being amended are set forth below under "Amendments".

DATES: These systems shall be deleted and amended as proposed without further notice on February 21, 1979, unless comments are received on or before February 21, 1979 which would result in a contrary determination and require republication for further comments.

ADDRESS: Privacy Act Officer, Defense Mapping Agency, ATTN: Administration Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Jane Stafford, telephone 202-254-4401.

SUPPLEMENTARY INFORMATION: The Defense Mapping Agency's systems of records notices inventory subject to the Privacy Act of 1974 (5 USC 552a) Pub. L. 579 have been published in the Federal Register as follows:

FR Doc. 77-28255 (42 FR 50670) September 28, 1977
FR Doc. 78-25819 (43 FR 42375) September 20, 1978
FR Doc. 78-34821 (43 FR 58405) December 14, 1978

The proposed amendments are not within the purview of the provisions of the Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3 dated September 30, 1975 and May 17, 1976, respectively, which provide supplemental guidance to Federal Agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act. This OMB guidance was set forth in the Federal Register (40 FR 45877) on October 3, 1975.

January 10, 1979.

Maurice W. Roche,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

Deletions

Notice is given that the following Defense Mapping Agency systems of records published in the September 28, 1977 issue of the Federal Register are deleted.

B0102-01 HQ THASI

System name: Office General Personnel Files (42 FR 50672) September 28, 1977

Reason: This system has been redesignated as B0102-02 HQ HT ASID appearing with minor revisions in the amendments section of this document.

B0102-03 HQ THASI

System name: Office Personnel Locator Files (42 FR 50672) September 28, 1977

Reason: This system has been redesignated as B0102-03 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0102-04 HQ HASI

System name: Employee Record Card Files (42 FR 50672) September 28, 1977

Reason: This system has been redesignated as B0102-04 HQ HT ASID appearing with minor revisions in the amendments section of this document.

B0102-08 HQ THASI

System name: Office Personnel Information Files (42 FR 50673) September 28, 1977

Reason: This system has been redesignated as B0102-08 HQ HT ASID appearing with minor revisions in the amendments section of this document.

B0102-09 HQ THASI

System name: Duty Roster Files (42 FR 50673) September 28, 1977

Reason: This system has been redesignated as B0102-09 HQ HT ASID appearing with minor revisions in the amendments section of this document.

B0102-09-2 HQ THASI

System name: Duty Roster Files (42 FR 50673) September 28, 1977

Reason: This system has been redesignated as B0102-09-2 HQ HT ASID appearing with minor revisions in the amendments section of this document.

B0102-10 HQ THASI

System name: Standard of Conduct Files (42 FR 50674) September 28, 1977

Reason: This system has been redesignated as B0102-10 HQ HT ASID appearing with minor revisions in the amendments section of this document.

B0102-11 HQ THASI

System name: Temporary Duty Travel Files (42 FR 50674) September 28, 1977

Reason: This system has been redesignated as B0102-11 HQ HT ASID appearing with minor revisions in the amendments section of this document.

B0104-02 HQ THASI

System name: Records Access Files (42 FR 50675) September 28, 1977

Reason: This system has been redesignated as B0104-02 HQ HT ASID appearing with minor revisions in the amendments section of this document.

B0104-12 HQ THASI

System name: Security Awareness Files (42 FR 50675) September 28, 1977

Reason: This system has been redesignated as B0104-12 HQ HT ASID appearing with minor revisions in the amendments section of this document.

B0104-13 HQ THASI

System name: Personnel Security Clearance Information Files (42 FR 50675) September 28, 1977

Reason: This system has been redesignated as B0104-13 HQ HT ASID appearing with minor revisions in the amendments section of this document.

B0201-05 HQ

System name: DMA Central Clearance Group Pre-Employment Files (42 FR 50675) September 28, 1977

Reason: This system is covered by B0302-21-2 HQ HT A, DMA Central Clearance Group Pre-Employment Files, appearing with minor revisions in the amendments section of this document. The system identifier B0201-05 is not a system of records as defined in 5 U.S.C. 552(a)(5), since they are not accessed by name or other personal identifier.

B0201-07 HQ

System name: DMA HQ Military Personnel Reference Paper Files (42 FR 50676) September 28, 1977

Reason: This system is covered by B0201-07-1 HQ HT ASDI, Military Personnel Reference Paper Files, appearing with minor revisions in the amendments section of this document.

B0201-07 HQ T

System name: Communications Center Release Authorization (42 FR 50676) September 28, 1977

Reason: This system has been redesignated as B0201-07 HQ HT appearing with minor revisions in the amendments section of this document.

B0201-07 HQ THASI

System name: Military Personnel Reference Files (42 FR 50677) September 28, 1977

Reason: This system has been redesignated as B0201-07-1 HQ HT ASID appearing with minor revisions in the amendments section of this document.

B0210-06 HQ THASI

System name: Inspector General Investigative Files (42 FR 50677) September 28, 1977

Reason: This system has been redesignated as B0210-06 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0210-07 HQ THASI

System name: Inspector General Complaint Files (42 FR 50677) September 28, 1977

Reason: This system has been redesignated as B0210-07 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0228-04 T

System name: AR 228-04 Historic Photographic Files (42 FR 50678) September 28, 1977

Reason: This system has been redesignated as B0228-04 HT appearing with minor revisions in the amendments section of this document.

B0228-10 T

System name: AR 22-10 Installation Historical Files (42 FR 50678) September 28, 1977

Reason: This system has been redesignated as B0228-10 HT appearing with minor revisions in the amendments section of this document.

B0302-21 THA

System name: Record of Travel Payments (42 FR 50679) September 28, 1977

Reason: This system has been redesignated as B0302-21 HT A appearing with minor revisions in the amendments section of this document.

B0302-21-2 THA

System name: DMA Central Clearance Group Pre-Employment Files (42 FR 50679) September 28, 1977

Reason: This system has been redesignated as B0302-21-2 HQ HT A appearing with minor revisions in the amendments section of this document.

B0303-02 TA

System name: Compensation Data Request Files (42 FR 50680) September 28, 1977

Reason: This system has been redesignated as B0303-02 HT A appearing with minor revisions in the amendments section of this document.

B0303-03 THA

System name: Individual Retirement Record Control Files (42 FR 50680) September 28, 1977

Reason: This system has been redesignated as B0303-03 HT A appearing with minor revisions in the amendments section of this document.

B0303-21 TA

System name: Decedent Claim Files (42 FR 50681) September 28, 1977

Reason: This system has been redesignated as B0303-21 HT A appearing with minor revisions in the amendments section of this document.

B0401-02 HQ TA

System name: Statements of Employment and Financial Interest Files (42 FR 50681) September 28, 1977

Reason: This system has been redesignated as B0401-02 HQ HT A appearing with minor revisions in the amendments section of this document.

B0401-03 HQ THA

System name: Legal Assistance Care Files (42 FR 50682) September 28, 1977

Reason: This system has been redesignated as B0401-03 HQ HT A appearing with minor revisions in the amendments section of this document.

B04002-05 HQ TA

System name: Personnel Property Claim Files (42 FR 50682) September 28, 1977

Reason: This system has been redesignated as B0402-05 HQ HT A appearing with minor revisions in the amendments section of this document.

B0402-06 HQ T

System name: Tort Claims File (42 FR 50682) September 28, 1977

Reason: This system has been redesignated as B0402-06 HQ HT appearing with minor revisions in the amendments section of this document.

B0402-13 HQ T H A

System name: Agency Claim Files (42 FR 50683) September 28, 1977

Reason: This system has been redesignated as B0402-13 HQ HT A appearing with minor revisions in the amendments section of this document.

B0403-12-13-14 HQ T H A S I

System name: Patent Files (42 FR 50683) September 28, 1977

Reason: This system has been redesignated as B0403-12 HQ HT A S I, Patent and Invention Files, and incorporates three systems of records into one system. It appears with minor revisions in the amendments section of this document.

B0407-03 HQ THASI

System name: Congressional Correspondence Files (Civilian Personnel—Congressional Inquiries) (42 FR 50684) September 28, 1977

Reason: This system has been redesignated as B0407-03 HQ HT ASID appearing with minor revisions in the amendments section of this document.

B0408-11 HQ THASI

System name: Biography Files (42 FR 50684) September 28, 1977

Reason: This system has been redesignated as B0408-11 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0502-03 HQ THA

System name: Master Billet/Access Records (42 FR 50684) September 28, 1977

Reason: This system has been redesignated as B0502-03 HQ HT A appearing with minor revisions in the amendments section of this document.

B0502-03-2 HQ THASI

System name: Classified Material Access Files (42 FR 50686) September 28, 1977

Reason: This system has been redesignated as B0502-03-2 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0502-15 HQ THASI

System name: Security Compromise Case Files (42 FR 50686) September 28, 1977

Reason: This system has been redesignated as B0502-15 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0503-01 THASI

System name: Security Identification Issue Files (42 FR 50687) September 28, 1977

Reason: This system has been redesignated as B0503-02 HQ ASI appearing with minor revisions in the amendments section of this document.

B0503-03 TA

System name: Firearms Authorization Files (42 FR 50687) September 28, 1977

Reason: This system has been redesignated as B0503-03 HT A appearing with minor revisions in the amendments section of this document.

B0503-04 HQ THASI

System name: Parking Permit Control Files (42 FR 50687) September 28, 1977

Reason: This system has been redesignated as B0503-04 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0503-05 HQ TASI

System name: Vehicle Registration and Driver Record Files (42 FR 50688) September 28, 1977

Reason: This system has been redesignated as B0503-05 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0503-07 TA

System name: Traffic Law Enforcement Files (42 FR 50688) September 28, 1977

Reason: This system has been redesignated as B0503-07 HQ A appearing with minor revisions in the amendments section of this document.

B0503-09 HQ THASI

System name: Key Accountability Files (42 FR 50688) September 28, 1977

Reason: This system has been redesignated as B0503-09 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0504-01 HQ TAH

System name: Personnel Security Files (42 FR 50689) September 28, 1977

Reason: This system has been redesignated as B0504-01 HQ HT A appearing with minor revisions in the amendments section of this document.

B0504-01-2 HQ THASI

System name: Personnel Security Files (42 FR 50689) September 28, 1977

Reason: This system has been redesignated as B0504-01-2 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0504-01-3 HQ HA

System name: Personnel Security Investigative Files (42 FR 50690) September 28, 1977

Reason: This system has been redesignated as B0504-01-3 HQ HT A appearing with minor revisions in the amendments section of this document.

B0504-02 HQ TGASI

System name: Security Briefing and Debriefing Files (42 FR 50690) September 28, 1977

Reason: This system has been redesignated as B0504-02 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0504-02-2 HQ THA

System name: Special Security Briefing and Debriefing Files (42 FR 50690) September 28, 1977

Reason: This system has been redesignated as B0504-02-2 HQ HT A appearing with minor revisions in the amendments section of this document.

B0601-01 HQ TASI

System name: Civilian Personnel Program Reporting Files (42 FR 50691) September 28, 1977

Reason: This system has been redesignated as B0601-01 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0601-01-2 TA

System name: Civilian Personnel Program Reporting Files (Employment Retirement Records) (42 FR 50691) September 28, 1977

Reason: This system has been redesignated as B0601-01 HQ HT A appearing with minor revisions in the amendments section of this document.

B0601-03 HQ THASI

System name: Advanced Personnel Data System—Civilian (APDS-C) (42 FR 50692) September 28, 1977

Reason: This system has been redesignated as B0601-03 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0602-03 HQ THASI

System name: Organization File (42 FR 50692) September 28, 1977

Reason: This system has been redesignated as B0602-03 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0604-03 HQ HTASI

System name: Active Application Files (Applicant Supply Files) (42 FR 50693) September 28, 1977

Reason: This system has been redesignated as B0604-03 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0604-04 TA

System name: Pending Application Files (42 FR 50693) September 28, 1977

Reason: This system has been redesignated as B0604-04 HT A appearing with minor revisions in the amendments section of this document.

B0605-01 HQ THASI

System name: Equal Employment Opportunity Reporting Files (42 FR 50694) September 28, 1977

Reason: This system has been redesignated as B0605-01 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0605-03 HQ THASI

System name: Equal Employment Opportunity Complaint Case Files (42 FR 50694) September 28, 1977

Reason: This system has been redesignated as B0605-01 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0606-01 HQ THASI

System name: Official Personnel Folder Files (42 FR 50694) September 28, 1977

Reason: This system has been redesignated as B0606-01 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0606-02 HQ THAI

System name: Employee Service Record Files (42 FR 50695) September 28, 1977

Reason: This system has been redesignated as B0606-02 HQ HT AI appearing with minor revisions in the amendments section of this document.

B0606-03 HQ THA

System name: Expert and Consultant Data Files (42 FR 50695) September 28, 1977

Reason: This system has been redesignated as B0606-03 HQ HT A appearing with minor revisions in the amendments section of this document.

B0606-05 HQ THASI

System name: Adverse Action Files (42 FR 50695) September 28, 1977

Reason: This system has been redesignated as B0606-05 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0607-01 HQ THASI

System name: Personnel Locator Files (Alpha Listing) (42 FR 50696) September 28, 1977

Reason: This system has been redesignated as B0607-01 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0607-03 HQ TASI

System name: Chronological Journal Files (42 FR 50696) September 28, 1977

Reason: This system has been redesignated as B0607-03 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0608-06 HQ THASI

System name: Civilian Training Reporting Files (42 FR 50696) September 28, 1977

Reason: This system has been redesignated as B0608-06 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0608-07 THA

System name: Civilian Training Program Files (42 FR 50697) September 28, 1977

Reason: This system has been redesignated as B0608-07 HT A appearing with minor revisions in the amendments section of this document.

B0608-08 HQ THASI

System name: Training Files (42 FR 50697) September 28, 1977

Reason: This system has been redesignated as B0608-08 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0608-09 HQ THASI

System name: Contract Training Files (42 FR 50697) September 28, 1977

Reason: This system has been redesignated as B0608-09 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0601-10 HQ THASI

System name: Record of Training Files (42 FR 50698) September 28, 1977

Reason: This system has been redesignated as B0608-10 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0609-01 HQ THASI

System name: Referral and Selection Files (42 FR 50698) September 28, 1977

Reason: This system has been redesignated as B0609-01 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0609-07 HQ THAI

System name: Individual Overseas Employment Referral Files (42 FR 50699) September 28, 1977

Reason: This system has been redesignated as B0609-07 HQ HT AI appearing with minor revisions in the amendments section of this document.

B0610-01 HQ THASI

System name: Hours of Work Files (42 FR 50700) September 28, 1977

Reason: This system has been redesignated as B0610-01 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0610-03 HQ THASI

System name: Appeals Files (42 FR 50700) September 28, 1977

Reason: This system has been redesignated as B0610-03 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0610-03-2 HQ THASI

System name: Grievance Files (42 FR 50700) September 28, 1977

Reason: This system has been redesignated as B0610-03-2 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0611-01 THAI

System name: Reduction in Force Card Files (42 FR 50701) September 28, 1977

Reason: This system has been redesignated as B0611-01 HT AI appearing with minor revisions in the amendments section of this document.

B0611-03 THAI

System name: Retention Register Files (42 FR 50701) September 28, 1977

Reason: This system has been redesignated as B0611-03 HT AI appearing with minor revisions in the amendments section of this document.

B0612-01 HQ THASI

System name: Basic Labor Relations Files (42 FR 50701) September 28, 1977

Reason: This system has been redesignated as B0612-02 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0612-01 HQ THASI

System name: Basic Labor Relations Files (42 FR 50701) September 28, 1977

Reason: This system has been redesignated as B0612-01 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0613-05 HQ THASI

System name: Incentive Awards (42 FR 50701) September 28, 1977

Reason: This system has been redesignated as B0613-05 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0614-01 T

System name: Official Records (Military) Files and Extracts (42 FR 50702) September 28, 1977

Reason: This system has been redesignated as B0614-01 HT appearing with minor revisions in the amendments section of this document.

B0614-02 TA

System name: Military Services Administrative Record Files (42 FR 50702) September 28, 1977

Reason: This system has been redesignated as B0614-02 HT A appearing with minor revisions in the amendments section of this document.

B0615-02 HQ THASI

System name: Federal, State, and Professional Safety Councils and Committees Files (42 FR 50702) September 28, 1977

Reason: This system has been redesignated as B0615-02 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0615-07 HQ THASI

System name: Safety Award Files (42 FR 50703) September 28, 1977

Reason: This system has been redesignated as B0615-07 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0615-11 HQ THASI

System name: Accidental Injury/Death Reporting Records Files (42 FR 50703) September 28, 1977

Reason: This system has been redesignated as B0615-11 HQ HT ASI appearing with minor revisions in the amendments section of this document.

B0901-04 TA

System name: Civilian Employee Health Clinic Record Files (42 FR 50703) September 28, 1977

Reason: This system has been redesignated as B0901-04 HT A appearing with minor revisions in the amendments section of this document.

B0901-06 THAS

System name: Blood Donor Files (42 FR 50704) September 28, 1977

Reason: This system has been redesignated as B0901-06 HT AS appearing with minor revisions in the amendments section of this document.

B0901-07 HQ THAI

System name: Alcoholism and Drug Abuse Files (42 FR 50704) September 28, 1977

Reason: This system has been redesignated as B0901-07 HQ HT AI appearing with minor revisions in the amendments section of this document.

B1202-17 TA

System name: Contracting Officer Designation Files (42 FR 50706) September 28, 1977

Reason: This system has been redesignated as B1202-17 HT A appearing with minor revisions in the amendments section of this document.

B1205-05 TA

System name: Property Officer Designation Files (42 FR 50706) September 28, 1977

Reason: This system has been redesignated as B1205-05 HT A appearing with minor revisions in the amendments section of this document.

V 4 4 / 1 6 J A 2 3 7 9 UMI

B1205-23 THASI

System name: Report of Survey Files (42 FR 50707) September 28, 1977

Reason: This system has been redesignated as B1205-23 HT ASI appearing with minor revisions in the amendments section of this document.

B1206-02 TA

System name: Self-Service Store Authorization Card Files (42 FR 50707) September 28, 1977

Reason: This system has been redesignated as B1206-02 HT A appearing with minor revisions in the amendments section of this document.

B1208-06 TA

System name: Motor Vehicle Operator's Permits and Qualifications Files (42 FR 50707) September 28, 1977

Reason: This system has been redesignated as B1208-06 HT A appearing with minor revisions in the amendments section of this document

B1211-03 HQ TAI

System name: Passport Files (42 FR 50708) September 28, 1977

Reason: This system has been redesignated as B1211-03 HQ HT AI appearing with minor revisions in the amendments section of this document.

B1211-06 HQ TA

System name: Transportation Officer Appointment Files (42 FR 50708) September 28, 1977

Reason: This system has been redesignated as B1211-06 HQ HT A appearing with minor revisions in the amendments section of this document.

B1211-07 HQ TA

System name: Individual Government Transportation Files (42 FR 50708) September 28, 1977

Reason: This system has been redesignated as B1211-07 HQ HT A appearing with minor revisions in the amendments section of this document.

AMENDMENTS

Following the identification code of the records systems and the specific changes made therein, the complete revised record systems, as amended, are published in their entirety. Citations are to the September 28, 1977 issue of the Federal Register for all of the DMA systems of records.

B0102-01 HQ HT ASID

System name: Office General Personnel Files (42 FR 50672) September 28, 1977

Changes:

System location: Delete entire entry and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I), Office of Distribution Services (D). Staff offices, departments, divisions, and branch offices, all Components. See DMA Directory for complete address listing."

B0102-03 HQ HT ASI

System name: Office Personnel Locator Files (42 FR 50672) September 28, 1977

Changes:

System location: Delete entire entry and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I). Staff offices, departments, divisions, and branch offices, all Components. See DMA Directory for complete address listing."

System manager(s) and address: Delete entire entry and insert "Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone area code 202-254-4066."

B0102-04 HQ HT ASID

System name: Employee Record Card Files (42 FR 50672) September 28, 1977

Changes:

System location: Delete entire entry and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I), Office of Distribution Services (D). Staff offices, departments, divisions, and branch offices, all Components. See DMA Directory for complete address listing."

System manager(s) and address: Delete entire entry and insert "Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone area code 202-254-4066."

B0102-08 HQ HT ASID

System name: Office Personnel Information Files (42 FR 50673) September 28, 1977

Changes:

System location: Delete entire entry and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I), Office of Distribution Services (D). Staff offices, departments, divisions, and branch offices, all Components. See DMA Directory for complete address listing."

System manager(s) and address: Delete entire entry and insert "Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone area code 202-254-4066."

B0102-09 HQ HT ASID

System name: Duty Roster Files (42 FR 50673) September 28, 1977

Changes:

System location: Delete entire entry and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I), Office of Distribution Services (D). Staff offices, departments, divisions, and branch offices, all Components. See DMA Directory for complete address listing."

System manager(s) and address: Delete entire entry and insert "Defense Mapping Agency, ATTN: Administration Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone area code 202-254-4401."

B0102-09-02 HQ HT ASID

System name: Duty Roster Files (42 FR 50673) September 28, 1977

Changes:

System location: Delete entire entry and insert "Personnel Office, Military Personnel Division, DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I), Office of Distribution Services (D). See DMA Directory for complete address listing."

B0102-10 HQ HT ASID

System name: Standard of Conduct Files (42 FR 50674) September 28, 1977

Changes:

System location: Delete entire entry and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I), Office of Distribution Services (D). See DMA Directory for complete address listing."

B0102-11 HQ HT ASID

System name: Temporary Duty Travel Files (42 FR 50674) September 28, 1977

Changes:

System manager(s) and address: Delete entire entry and insert "Defense Mapping Agency, ATTN: Administration Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone area code 202-254-4401."

B0104-02 HQ HT ASID

System name: Records Access Files (42 FR 50675) September 28, 1977

Changes:

System location: Delete "DMATC" and insert "DMAHTC."

B0104-12 HQ HT ASID

System name: Security Awareness Files (42 FR 50675) September 28, 1977

Changes: NONE

B0104-13 HQ HT ASID

System name: Personnel Security Clearance Information Files (42 FR 50675) September 28, 1977

Changes:

System location: Delete entire entry and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I), Office of Distribution Services (D). Staff offices, departments, divisions, and branch offices, all Components. See DMA Directory for complete address listing."

B0201-07 HQ HT

System name: Communications Center Release Authorization (42 FR 50676) September 28, 1977

Changes:

System location: Delete "T" and insert "HQ, HT."

System manager(s) and address: Delete entire entry and insert "Defense Mapping Aggency, ATTN: Special Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone area code 202-254-4603."

B0201-07-1 HQ HT A S I D

System name: Military Personnel Reference Paper Files (42 FR 50677) September 28, 1977

Changes: NONE

B0210-06 HQ HT A S I

System name: Inspector General Investigative Files (42 FR 50677) September 28, 1977

Changes:

System location: Delete entire entry and insert "Office of the Inspector General—DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I). See DMA Directory for complete address listing."

B0210-07 HQ HT A S I

System name: Inspector General Complaint Files (42 FR 50677) September 28, 1977

Changes:

System location: Delete entire entry and insert "Office of the Inspector General—DMA Headquarters (HQ), DMA Hydrographic—Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I). See DMA Directory for complete address listing."

B0228-04 HT

System name: Historical Photographic Files (42 FR 50678) September 28, 1977

Changes:

System location: Delete "DMATC" and insert "DMAHTC."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete "DMATC" and insert "DMAHTC."

System manager(s) and address: Delete "DMA Topographic Center" and insert "DMA Hydrographic/Topographic Center . . . ."

B0228-10 HT

System name: Installation Historical Files (42 FR 50678) September 28, 1977

Changes:

System location: Delete "DMATC" and insert "DMAHTC."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete "DMATC" and insert "DMAHTC."

System manager(s) and address: Delete "DMA Topographic Center" and insert "DMA Hydrographic/Topographic Center." Delete "Rm 215" and insert "Rm. 152."

B0302-21 HT A

System name: Record of Travel Payments (42 FR 50679) September 28, 1977

Changes:

System location: Delete "DMA Topographic Center (T) and DMA Hydrographic Center (H)" and insert "DMA Hydrographic/Topographic Center (HT)."

System manager(s) and address: Delete the entire entry and insert "Defense Mapping Agency, ATTN: Finance and Accounting Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone area code 202-254-4466."

B0302-21-2 HQ HT A

System name: DMA Central Clearance Group Pre-Employment Files (42 FR 50679) September 28, 1977

Changes: NONE

B0303-02HT A

System name: Compensation Data Request Files (42 FR 50680) September 28, 1977

Changes

System location: Delete "DMA Topographic Center (T)" and insert "DMA Hydrographic/Topographic Center (HT)."

System manager(s) and address: Delete entire entry and insert "Defense Mapping Agency, ATTN: Comptroller, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone area code 202-254-4398."

B0303-03 HT A

System name: Individual Retirement Record Control Files (42 FR 50680) September 28, 1977

System location: Delete "T and A" and Insert "DMA Hydrographic/Topographic Center (HT) and DMA Aerospace Center (A)."

Categories of individuals covered by the system: Delete entire entry and insert "Any civilian employee of DMA who has retired from Government service."

B0303-21 HT A

System name: Decedent Claim Files (42 FR 50681) September 28, 1977

Changes:

System location: Delete "DMA Topographic Center (T)" and insert "DMA Hydrographic/Topographic Center (HT)."

Categories of individuals covered by the system: Delete "DMA Topographic Center" and insert "DMA hydrographic/Topographic Center."

B0401-02HQ HT A

System name: Statements of Employment and Financial Interest Files (42 FR 50681) September 28, 1977

Changes:

System location: Delete entire entry and insert "Statements of DMA Headquarters staff personnel, all special Government employees, all DMA Component Directors, and personnel of Defense Mapping School, Inter American Geodetic Survey, and Office of Distribution Services—Office of General Counsel, DMA Headquarters, Building 56, U.S. Naval Observatory, Washington, D.C. 20305. . . . Statements of personnel assigned to DMA Hydrographic/Topographic Center—Office of Counsel, DMA Hydrographic/Topographic Center, Washington, D.C. 20315 . . . Statements of personnel assigned to DMA Aerospace Center—Office of Counsel, DMA Aerospace Center, St. Louis Air Force Station, Missouri 63118."

System manager(s) and address: Delete "Counsel" and insert "General Counsel."

Notification procedure: Delete entire entry and insert "General Counsel, DMA Headquarters, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone area code 202-254-4431. . . . Office of Counsel, DMA Hydrographic/Topographic Center, Washington, D.C. 20315, telephone area code 202-227-2268. . . . Office of Counsel, AMA Aerospace Center, St. Louis Air Force Station, Missouri 63118, telephone area code 314-268-4501."

Record access procedures: Delete "Counsel" and insert "General Counsel." Delete entire sentence "Visits will be arranged through the Counsel, HQ DMA" and insert "Visits will be arranged through the General Counsel, HQ DMA."

B0401-03 HQ HT A

System name: Legal Assistance Case Files (42 FR 50682) September 28, 1977

Changes:

V 4 4 / 1 6 J A 2 3 7 9 UMI

System location: Delete "HQ, H, and A" and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), and DMA Aerospace Center (A)."

System manager(s) and address: Delete "Counsel" and insert "General Counsel."

B0402-05 HQ HT A

System name: Personnel Property Claim Files (42 FR 50682) September 28, 1977

Changes:

System location: Delete "HQ, T, and A" and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), and DMA Aerospace Center (A)."

System manager(s) and address: Delete "Counsel" and insert "General Counsel."

B0402-06 HQ HT

System name: Tort Claim Files (42 FR 50682) September 28, 1977

Changes:

System location: Delete "HQ and T" and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT)."

System manager(s) and address: Delete "Counsel" and insert "General Counsel."

B0402-13 HQ HT A

System name: Agency Claim Files (42 FR 50683) September 28, 1977

Changes:

System location: Delete "HQ, T, H, A" and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A)."

System manager(s) and address: Delete "Counsel" and insert "General Counsel."

B0403-12 HQ HT A S I

System name: Patent Invention Files (42 FR 50683) September 28, 1977

Changes:

System identifier: Delete the numbers 13 and 14 which have been incorporated under one system identifier.

System name: Insert "and Invention Files" after the word "Patent".

System location: Insert "General" before the word "Counsel". Delete "HQ T H A" and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A)."

System manager(s) and address: Delete "Counsel" and insert "General Counsel."

B0407-03 HQ HT A S I D

System name: Congressional Correspondence Files (Civilian Personnel—Congressional Inquiries) (42 FR 50684) September 28, 1977

Changes: NONE

B0408-11 HQ HT A S I

System name: Biography Files (42 FR 50684) September 28, 1977

Changes: NONE

B0502-03 HQ HT A

System name: Master Billet/Access Records (42 FR 50684) September 28, 1977

Changes:

System location: Delete entire entry and insert "Primary System—Special Security/Activities Division, Department of Computer Services, DMA Hydrographic/Topographic Center. Decentralized segments—HQ DMA, DMA Aerospace Center. See DMA Directory for complete address listing."

Safeguards: Delete "DMATC' and insert "DMAHTC."

B0502-03-2 HQ HT A S I

System name: Classified Material Access files (42 FR 50686) September 28, 1977

Changes:

System location: Delete entire entry and insert "Security Offices—DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I)."

B0502-15 HQ HT A S I

System name: Security Compromise Case files (42 FR 50686) September 28, 1977

Changes:

System location: Delete entire entry and insert "Primary System—Security Offices—DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I). See DMA Directory for complete address listing."

B0503-01 HT A S I

System name: Security Identification Issue Files (42 FR 50687) September 28, 1977

Changes:

System location: Delete entire entry and insert "Security Offices—DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I). See DMA Directory for complete address listing."

B0503-02 HT A S I

System name: Security Identification Accountability Files (42 FR 50687) September 28, 1977

Changes:

System location: Delete entire entry and insert "Security Offices—DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I). See DMA Directory for complete address listing."

B0503-03 HT A

System name: Firearms Authorization Files (42 FR 50687) September 28, 1977

Changes:

System location: Delete "DMATC and DMAAC" and insert "DMA Hydrographic/Topographic Center (HT) and DMA Aerospace Center (A)."

B0503-04 HQ HT A S I

System name: Parking Permit Control Files (42 FR 50687) September 28, 1977

Changes:

System location: Delete "Communications."

B0503-05 HQ HT A S I

System name: Vehicle Registration and Drive Record Files (42 FR 50688) September 28, 1977

Changes:

System location: Delete entire entry and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I). See DMA Directory for complete address listing."

B0503-07 HT A

System name: Traffic Law Enforcement Files (42 FR 50688) September 28, 1977

Changes:

System location: Delete "TC and AC" and insert "DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A)."

B0503-09 HQ HT A S I

System name: Key Accountability Files (42 FR 50688) September 28, 1977

Changes:

System location: Delete "HQ, T, H, S, I" and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I)."

Categories of records in the system: Delete "Documenting" and insert "Documentation."

B0504-01 HQ HT A

System name: Personnel Security Files (42 FR 50689) September 28, 1977

Changes:

System location: Delete "HQ, T, H, A" and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A)."

System manager(s) and address: Delete "Security Office" and insert "Special Security Office."

B0504-01-2 HQ HT A S I

System name: Personnel Security Files (42 FR 50689) September 28, 1977

Changes:

System location: Delete entire entry and insert "Primary System—Security Office—DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I). See DMA Directory for complete address listing."

Categories of records in the system: In line 12, delete "Southeast Asia Treaty Organization (SEATO)"; in line 16, delete "TOP SECRET SEATO."

B0504-01-3 HQ HT A

System name: Personnel Security Investigative Files (42 FR 50690) September 28, 1977

Changes:

System location: Delete entire entry and insert "Primary System—Security Office—DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A). See DMA Directory for complete address listing."

B0504-02 HQ HT A S I

System name: Security Briefing and Debriefing Files (42 FR 50690) September 28, 1977

Changes:

System location: Delete entire entry for Decentralized Segments and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I). See DMA Directory for complete address listing."

B0504-02-2 HQ HT A

System name: Special Security Briefing and Debriefing Files (42 FR 50690) September 28, 1977

Changes:

System location: Under Decentralized Segments, delete "HQ, H, A" and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A)."

B0601-01 HQ HT A S I

System name: Civilian Personnel Program Reporting Files (Master File Printout) (42 FR 50691) September 28, 1977

Changes: NONE

B0601-01-2 HT A

System name: Civilian Personnel Program Reporting Files (Employee Retirement Records) (42 FR 50691) September 28, 1977

Changes:

Categories of individuals covered by the system: Delete "DMA Topographic Center" and insert "DMA Hydrographic/Topographic Center."

B0601-03 HQ HT A S I

System name: Advanced Personnel Data System—Civilian (ADPS-C) (42 FR 50692) September 28, 1977

Changes: NONE

B0602-03 HQ HT A S I

System name: Organization Files (42 FR 50692) September 28, 1977

Changes: NONE

B0604-03 HQ HT A S I

System name: Active Application Files (Applicant Supply Files) (42 FR 50693) September 28, 1977

Changes: NONE

B0604-04 HT A

System name: Pending Application Files (42 FR 50693) September 28, 1977

Changes:

System location: Delete "DMA Topographic Center" and insert "DMA Hydrographic/Topographic Center."

B0605-01 HQ HT A S I

System name: Equal Employment Opportunity Reporting Files (42 FR 50694) September 28, 1977

Changes: NONE

B0605-03 HQ HT A S I

System name: Equal Employment Opportunity Complaint Case Files (42 FR 50694) September 28, 1977

Changes: NONE

B0606-01 HQ HT A S I

System name: Official Personnel Folder Files (42 FR 50694) September 28, 1977

System location: Delete entire entry and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I). See DMA Directory for complete address listing."

B0606-02 HQ HT A S I

System name: Employee Service Record Files (42 FR 50695) September 28, 1977

Changes: NONE

B0606-03 HQ HT A

System name: Expert and Consultant Data Files (42 FR 50695) September 28, 1977

Changes: NONE

B0606-05 HQ HT A S I

System name: Adverse Action Files (42 FR 50695) September 28, 1977

Changes: NONE

B0607-01 HQ HT A S I

System name: Personnel Locator Files (Alpha Listing) (42 FR 50697) September 28, 1977

Changes:

System location: Delete "T, H, A" and insert "DMA Hydrographic/Topographic Center (HT) and DMA Aerospace Center (A)."

B0607-03 HQ HT A S I

System name: Chronological Journal Files (42 FR 50696) September 28, 1977

Changes:

System location: After "Personnel Offices" insert "DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A)."

B0608-06 HQ HT A S I

System name: Civilian Training Reporting Files (42 FR 50696) September 28, 1977

Changes: NONE

B0608-07 HT A

System name: Civilian Training Program Files (42 FR 50697) September 28, 1977

Changes: NONE

B0608-08 HQ HT A S I

System name: Training Files (42 FR 50697) September 28, 1977

Changes:

System location: Delete "DMA Topographic Center (T)" and insert "DMA Hydrographic/Topographic Center (HT)."

B0608-09 HQ HT A S I

System name: Contract Training Files (42 FR 50697) September 28, 1977

Changes: NONE

B0608-10 HQ HT A S I

System name: Record of Training Files (42 FR 50698) September 28, 1977

Changes: NONE

B0609-01 HQ HT A S I

System name: Referral and Selection Files (42 FR 50698) September 28, 1977

Changes: NONE

B0609-05 A

System name: Occupational Inventory Files (42 FR 50698) September 28, 1977

Changes:

System location: Delete entire entry and insert "Decentralized Segments—all directorates, staff agencies, and departments at DMAAC, St. Louis AFS, Missouri."

Categories of records in the system: Delete "DMATC" and insert "DMAHTC."

B0609-07 HQ HT A I

System name: Individual Overseas Employment Referral Files (42 FR 50699) September 28, 1977

Changes:

System location: Delete "HQ, T, H, A, I" and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A)."

B0610-01 HQ HT A S I

System name: Hours of Work Files (42 FR 50700) September 28, 1977

Changes: NONE

B0610-03 HQ HT A S I

System name: Appeals Files (42 FR 50700) September 28, 1977

Changes:

System location: Delete "HQ, H, A, T, I" and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Inter American Geodetic Survey (I)."

B0610-03-2 HQ HT A S I

System name: Grievance Files (42 FR 50700) September 28, 1977

Changes: NONE

B0611-01 HT A I

System name: Reduction-In-Force Card Files (42 FR 50701) September 28, 1977

Changes: NONE

B0611-03 HT A I

System name: Retention Register Files (42 FR 50701) September 28, 1977

Changes: NONE

B0612-01 HQ HT A S I

System name: Basic Labor Relations Files (42 FR 50701) September 28, 1977

Changes: NONE

B0613-05 HQ HT A S I

System name: Incentive Awards (42 FR 50701) September 28, 1977

Changes: NONE

B0614-01 HT

System name: Official Records (Military) Files and Extracts (42 FR 50702) September 28, 1977

Changes:

System location: Delete "DMATC" and insert "DMAHTC."

Contesting record procedures: Delete entire entry and insert "The Agency's rules for contesting contents and appealing initial determinations may be obtained from System Manager."

B0614-02 HT A

System name: Military Services Administrative Records Files (42 FR 50702) September 28, 1977

Changes:

System location: Delete "DMATC" and insert "DMAHTC."

Categories of individuals covered by the system: Delete entire entry and insert "Military personnel assigned to DMA Hydrographic/Topographic Center and DMA Aerospace Center."

B0615-02 HQ HT A S I

System name: Federal, State, and Professional Safety Councils and Committee Files (42 FR 50702) September 28, 1977

Changes:

System location: Delete entire entry and insert "Safety Offices-Defense Mapping Agency Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I). See DMA Directory for complete address listing."

System manager(s) and address: Delete "Administrative and Communications Office" and "telephone area code 202-254-4401" and insert "Facilities Engineering Office" and "telephone area code 202-254-4477."

B0615-07 HQ HT A S I

System name: Safety Awards Files (42 FR 50703) September 28, 1977

Changes:

System manager(s) and address: Delete "Administrative and Communications Office" and "telephone area code 202-254-4401" and insert "Facilities Engineering Office" and "telephone area code 202-254-4477."

B0615-11 HQ HT A S I

System name: Accidental Injury/Death Reporting Record Files (42 FR 50703) September 28, 1977

Changes:

System location: Delete entire entry and insert "Safety Offices of DMA. See DMA Directory for complete address listing."

System manager(s) and address: Delete "Administrative and Communications Office" and "telephone area code 202-254-4401" and insert "Facilities Engineering Office" and "telephone area code 202-254-4477."

B0901-04 HT A

System name: Civilian Employee Health Clinic Record (42 FR 50703) September 28, 1977

Changes:

System location: Delete "T and A" and insert "DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A)."

Categories of individuals covered by the system: Delete entire entry and insert "Any individual employed by DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), and any individual employed by other Government agencies housed in the DMAHTC/DMAAC complexes."

Categories of records in the system: Delete "TC" and insert "HTC".

Retention and disposal: Delete "Topographic Center" and insert "Hydrographic/Topographic Center."

System manager(s) and address: Delete "Topographic Center" and insert "Hydrographic/Topographic Center."

B0901-06 HT A S

System name: Blood Donors Files (42 FR 50704) September 28, 1977

Changes: NONE

System manager(s) and address:

B0901-07 HQ HT A I

System name: Alcoholism and Drug Abuse Files (42 FR 50704) September 28, 1977

Changes: NONE

B1202-17 HT A

System name: Contracting Officer Designation Files (42 FR 50706) September 28, 1977

Changes:

System location: Delete "T and A" and insert "DMA Hydrographic/Topographic Center and DMA Aerospace Center."

System manager(s) and address: Delete entire entry and insert "Defense Mapping Agency, ATTN: Logistics Office, Building 56, U.S. Naval Obesrvatory, Washington, D.C. 20305, telephone area code 202-254-4475."

B1205-05 HT A

System name: Property Officer Designation Files (42 FR 50706) September 28, 1977

Changes:

System location: Delete "DMATC" and insert "DMAHTC."

System manager(s) and address: Delete entire entry and insert "Defense Mapping Agency, ATTN: Logistics Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone area code 202-254-4475."

B1205-23 HT A S I

System name: Report of Survey Files (42 FR 50707) September 28, 1977

Changes:

System location: Delete "T, H, A, S, I" and insert "DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I)."

System manager(s) and address: Delete entire entry and insert "Defense Mapping Agency, ATTN: Logistics Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone area code 202-254-4475."

B1206-02 HT A

System name: Self-Service Store Authorization Card Files (42 FR 50707) September 28, 1977

Changes:

System location: Delete "DMATC" and insert "DMA Hydrographic/Topographic Center (HT) and DMA Aerospace Center (A)."

System manager(s) and address: Delete entire entry and insert "Defense Mapping Agency, ATTN: Logistics Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone area code 202-254-4475."

B1208-06 HT A

System name: Motor Vehicle Operator's Permits and Qualifications Files (42 FR 50707) September 28, 1977

Changes:

System location: Delete "DMATC (T) and DMAAC (A)" and insert "DMA Hydrographic/Topographic Center (HT) and DMA Aerospace Center (A).

System manager(s) and address: Delete entire entry and insert "Defense Mapping Agency, ATTN: Logistics Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone area code 202-254-4475."

B1211-03 HQ HT A I

System name: Passport Files (42 FR 50708) September 28, 1977

Changes:

System location: Delete "HQ DMA (HQ), DMATC (T), DMAAC (A), IAGS (I)" and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Inter American Geodetic Survey (I)."

System manager(s) and address: Delete "and Communications."

B1211-06 HQ HT A

System name: Transportation Officer Appointment Files (42 FR 50708) September 28, 1977

Changes:

System location: Delete "HQ DMA (HQ), DMATC (T), DMAAC (A)" and insert "DMA Headquarters (HQ) DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A)."

System manager(s) and address: Delete entire entry and insert "Defense Mapping Agency, ATTN: Logistics Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone area code 202-254-4475."

B1211-07 HQ HT A

System name: Individual Government Transportation Files (42 FR 50708) September 28, 1977

Changes:

System location: Delete "HQ DMA (HQ), DMATC (T), DMAAC (A), DMAHC (H)" and insert "DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A)."

System manager(s) and address: Delete entire entry and insert "Defense Mapping Agency, ATTN: Logistics Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, telephone area code 202-254-4475."

DEFENSE MAPPING AGENCY

B0102-01 HQHTASID

System name:

102-01 Office General Personnel Files

System location:

DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center(A), Defense Mapping School(S), Inter American Geodetic Survey(I), Office of Distribution Services (D). Staff Offices, Departments, Division and Branch Offices, all Components. See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Employees of DMA Civilian and Military

Categories of records in the system:

Consist of copies of and papers relating to time and attendance reports, leave reports, overtime work, work attendance, holidays, athletic events, employee unions, medical services, training, duty assignments, emergency information and similar data on related subjects. List of individuals authorized to receive these services will also be included.

Authority for maintenance of the system:

Executive Order 10561, 9/15/54; Designating Official Personnel Folders in Government Agencies as Records of the Civil Service Commission and Prescribing Regulations Relating to the Establishment, Maintenance and Transfer thereof.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Supervisory personnel in their day-to-day personnel actions for; promotion, adverse actions, training and other related actions. File subject to civil service review.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book.

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary records. Destroy after 1 year or on discontinuance, whichever is first.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from DMA Directory

Record access procedures:

Requests from individuals should be addressed to appropriate organization of address list.

Written requests for information should contain the full name of the individual current address and telephone number, social security number. Visits are limited to normal working hours.

For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from: System Manager.

Record source categories:

Copies of papers relative to time and attendance reports, overtime work, work attendance, leave reports, holidays, athletic events, employee unions, medical services, training and related subjects.

Systems exempted from certain provisions of the act:

NONE

B0102-03 HQHTASI

System name:

102-03 Office Personnel Locator Files

System location:

DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center(A), Defense Mapping School(S), Inter American Geodetic Survey(I). Staff Offices, Departments, Division and Branch Offices, all Components. See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Personnel currently employed or assigned at DMA

Categories of records in the system:

Documents reflecting the name, address, telephone number, and similar data for each person.

Authority for maintenance of the system:

E.O. 10561 9/15/57; Designating Official Personnel Folders in Government Agencies as Records of the Civil Service Commission and Prescribing Regulations Relating to the Establishment, Maintenance and Transfer thereof.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Supervisory Personnel - Used to record personal information and Military Career Progression and maintained on file to notify appropriate agencies and officials in case of emergencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book.

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employs security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary records. Destroy on separation or transfer of the individual or preparation of a new list.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from Above.

Record access procedures:

Requests from individuals should be addressed to system manager. Written requests for information should contain the full name of the individual current address and telephone number, social security number. Visits are limited to normal working hours.

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager

Record source categories:

Information received from employee and other personnel records.

Systems exempted from certain provisions of the act:

NONE

B0102-04 HQHTASID

System name:

102-04 Employee Record Card Files

System location:

DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center(A), Defense Mapping School(S), Inter American Geodetic Survey(I), Office of Distribution Services (D). Staff Offices, Departments, Division and Branch Offices, all Components. See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Active civilian employees of DMA

Categories of records in the system:

A record of the employee's conduct, performance evaluations, reprimands, commendations, debts and complaints that may be necessary and useful in making and supporting decisions or work assignments. Cards that provide complete information relative to active employees, position, strength authorization and action in process, such as SF 7B, OF 4B, Summary Records Cards and Air Force (AF) Form 971.

Authority for maintenance of the system:

E.O. 10561 9/15/54; Designating Official Personnel Folders in Government Agencies as Records of the Civil Service Commission and Prescribing Regulations Relating to the establishment, Maintenance and Transfer thereof.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Employee Record File - An up-to-date record on each employee. A reference or locator file for each unit. Information for recommending or requesting personnel actions affecting the employee. Supervisors are encouraged to make the record available for review by the employee. Third party review is limited to supervisors who are considering the employee for a vacancy.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book.

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Maintained current on all Civil Service Employees presently employed. Record cards pertaining to employees separated for military service who have restoration rights: Withdrawn and placed in the separation for military service file. Record cards pertaining to employees transferred to other organizational elements within HQ or the same component will be forwarded to the gaining office. Record Cards pertaining to employees separated or transferred from DMA: Destroy on separation or transfer, in CFA.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager. Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Information summarized from existing records and current entries by supervisors.

Systems exempted from certain provisions of the act:

NONE

B0102-08 HQHTASID

System name:

102-08 Office Personnel Information Files

System location:

DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center(A), Defense Mapping School(S), Inter American Geodetic Survey(I), Office of Distribution Services (D). Staff Offices, Departments, Division and Branch Offices, all Components. See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Employees of DMA Civilian and Military

Categories of records in the system:

Supervisory copies of personnel matters that are duplicated in or which are not appropriate for inclusion in the Official Personnel Folder: for example, copies of papers relating to injuries, appreciation and commendation, training received, performance appraisals and assigned responsibilities or off-duty information.

Authority for maintenance of the system:

EO 10561 - 9/15/54, Designating Official Personnel Folders in Government Agencies as Records of the CSC and Prescribing Regulations Relating to the Establishment, Maintenance, and Transfer Thereof. 44 U.S.C. 3101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Supervisory personnel record used for performance ratings and similar uses, appreciation, commendation, career development and responsibilities of employees. Record may be subject to CSC inspection.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book.

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings and Facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Records are temporary, review at end of calendar year and destroy documents which have been superseded or are no longer applicable.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from Above.

Record access procedures:

Requests from individuals should be addressed to system manager. Written requests for information should contain the full name of the individual, current address and telephone number, social security number, and organizational element where employed. Visits are limited to normal working hours.

For personal visits, the individual should be able to provide some acceptable identification, that is drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Information summarized from existing records and current entries by supervisors.

Systems exempted from certain provisions of the act:

NONE

B0102-09 HQHTASID

System name:

102-09 Duty Roster Files

System location:

DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center(A), Defense Mapping School(S), Inter American Geodetic Survey(I), Office of Distribution Services (D). Staff Offices, Departments, Division and Branch Offices, all Components. See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Assigned DMA Personnel

Categories of records in the system:

Documents used for recording recurring and routine duties performed by personnel within an office, or organization including special duties performed on a rotating basis.

Authority for maintenance of the system:

50 U.S. Code 797; Internal Security - Security Regulations and Orders; Penalty for Violations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to record the date and performance of specific duties assigned personnel.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex Book

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary record. Destroy after three months or three months after last entry in book.

System manager(s) and address:

Defense Mapping Agency, ATTN: Administration Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4401

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager. Written requests for information should contain the full name of the individual, current address and telephone number, service number on all correspondence received from this office. Visits are limited to normal working hours.

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card and give some verbal information that could be verified.

Contesting record procedures:

The Department's rules for contesting contents and appealing initial determinations may be obtained from System Manager.

Record source categories:

Existing records and previous roster

Systems exempted from certain provisions of the act:

NONE

B0102-09-2 HQHTASID

System name:

102-09 Duty Roster Files

System location:

Personnel Office, Military Personnel Division, DMA Headquarters (HQ) DMA Hydrographic/Topographic Center (HQ), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I), Office of Distribution Services (D). See DMA Directory for complete address listing.

Categories of individuals covered by the system:

All military personnel assigned duties on a rotating basis.

Categories of records in the system:

Documents used for recording recurring and routine duties performed by military personnel within an office, including special duties performed on a rotating basis.

Authority for maintenance of the system:

50 U.S.C. 797 - 'Internal Security - Security Regulations and Orders, Penalty for Violation'.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Military Personnel Supervisors - used to record the date and performance of special duties by assigned military members and movement of military.

Subject to inspection by military security.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

File folder or roster book

Retrievability:

Alphabetically by last name or date.

Safeguards:

Buildings, facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary record. Destory after three months or three months after last entry in book.

System manager(s) and address:

Director Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to the System Manager.

Written requests for information should contain the full name of the individual, current address and telephone number, service number (if any) on all correspondence. Visits are limited to normal working hours.

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office identification card, and give some verbal information that could be identified.

Contesting record procedures:

The Department's rules for contesting contents and appealing initial determinations may be obtained from: System Manager

Record source categories:

Previous roster and existing records.

Systems exempted from certain provisions of the act:

NONE

B0102-10 HQHTASID

System name:

102-10 Standard of Conduct Files

System location:

Personnel Offices - DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I), Office of Distribution Services (D), DMAAC(A), IAGS(I), DMA(S). See DMA Directory for complete Address Listing.

Categories of individuals covered by the system:

All civilian personnel of DMA.

Categories of records in the system:

A signed document by individual indicating that they fully understand the Standard of Conduct and Ethics required of them.

Authority for maintenance of the system:

E.O. 11222 - Prescribing Standards of Ethical Conduct for Government Officers and Employees - 5/11/65.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel Office to assure that the employees are kept informed of the Standard of Conduct and ethics required of them.

Supervisory Personnel to assure the employees have read and understand the directives.

Supervisors, Employee representative, counsel - Used as supporting material for corrective actions.

Civil Service Commission - Inspection purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by last name.

Safeguards:

Buildings, facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary record. Destroyed after the next periodic application or one year after obsolescence of the system, or on discontinuance of the office.

System manager(s) and address:

Defense Mapping Agency, ATTN: General Counsel, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4431

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to System Manager.

Written requests for information should contain the full name of the individual, current address and telephone number, social security number.

For personal visits the individual should be able to provide some acceptable identification, that is, drivers' license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencies' rules for contesting contents and appealing initial determinations may be obtained from: System Manager.

Record source categories:

Forms provided by CSC and signed by individual.

Systems exempted from certain provisions of the act:

NONE

B0102-11 HQHTASID

System name:

102-11 Temporary Duty Travel Files

System location:

Primary DMA Travel Officer - See DMA Directory for complete address Listing.

Decentralized Segment - Offices, all Components having personnel on subject to travel.

Categories of individuals covered by the system:

Military or civilian authorized Government travel orders

Categories of records in the system:

Requests and authorizations for military personnel and civilian personnel travel

Authority for maintenance of the system: 45 USC 5707 - Travel and Subsistence Expense - Regulations

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to record authorization to travel, issue orders, make travel arrangements, and prepare voucher for any reimbursement

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book

Retrievability:

Alphabetically by last name

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Temporary record. Destroy after one year

System manager(s) and address:

Defense Mapping Agency, ATTN: Administrative Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4425

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Contesting record procedures:

The Agencys' rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Information furnished by traveler and from the travel office

Systems exempted from certain provisions of the act:

NONE

B0104-02 HQHTASID

System name:

104-02 Records Access Files

System location:

Primary System - Security Office - See DMA Directory for complete address Listing.

Decentralized Segments - Requesting Offices at DMAHTC and organization requiring the access authorization

Categories of individuals covered by the system:

Personnel of DMA who need authorization to use classified information in performing their duties

Categories of records in the system:

Office request for access and security approvals thereof, roster of individuals authorized access

Authority for maintenance of the system:

Executive Order 11652 - Classification and Declassification of National Security Information and Material - 3/10/72

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Collateral Security Division to verify security clearance and to approve or disapprove request

Requesting DMA organization to gain approval for employees to have access to perform their duties

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Temporary Record. Security Office - destroy after two years; other offices, destroy when superseded or obsolescence of the authorization document; or on transfer, separation or relief of the individual concerned

System manager(s) and address:

Defense Mapping Agency, ATTN: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Contesting record procedures:

The Agencys' rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Security clearance documents

Systems exempted from certain provisions of the act:

NONE

B0104-12 HQHTASID

System name:

104-12 Security Awareness Files

System location:

Staff Offices, Departments, Divisions and Branch Offices of all Components. See DMA Directory for complete address listing

Categories of individuals covered by the system:

All personnel of DMA

Categories of records in the system:

A signed document by individuals indicating that they fully understand the security regulation that concerns them

Authority for maintenance of the system:

Executive Order 11652 - Classification and Declassification of National Security Information and Material - 3/10/72

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Collateral Security Division to assure that the employees are kept informed of the security regulations that concerns them

Supervisory Personnel to assure the employees have read and understood the regulations

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Temporary record - destroy after next application

System manager(s) and address:

Defense Mapping Agency, ATTN: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Statements signed by individuals

Systems exempted from certain provisions of the act:

NONE

B0104-13 HQHTASID

System name:

104-13 Personnel Security Clearance Information Files

System location:

DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center(A), Defense Mapping School(S), Inter American Geodetic Survey(I), Office of Distribution Services (D). Staff Offices, Departments, Division and Branch Offices, all Components. See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Individual employee or assigned in DMA Organizations having security classified information.

Categories of records in the system:

Documents relating to the security clearance of individuals. Included are requests for security clearance and copies of notices that individuals have been cleared for classified material, and other documents related to personnel security such as DMA Forms 5210-8-R and AF Form 47 or compatable forms.

Authority for maintenance of the system:

E.O. 11652 9/15/54; Classification and Declassification of National Security Information and Material.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used internally by supervisors

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book.

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary record. Destroy on supersession or obsolescence, transfer or separation or on relief of the individual concerned.

System manager(s) and address:

Defense Mapping Agency, ATTN: Security Office,Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to System Manager

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager

Record source categories:

Results of adjudication of Investigative Files by Military Services and DMA Adjudicators

Systems exempted from certain provisions of the act:

NONE

B0201-07 HQHT

System name:

201-07 Communications Center Release Authorization

System location:

Primary System - Communications Center, HQ,HT. See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Individuals authorized to release classified and unclassified messages

Categories of records in the system:

File contains signature cards of individuals who are authorized to release classified and unclassified messages

Authority for maintenance of the system:

Executive Order 11652 - Classification and Declassification of National Security Information and Materials Information and Material - 3/10/72

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Communications Center - for the purpose of determining individuals that are authorized to release messages

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Card record filed in cabinet

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

This is a temporary record - destroy upon supersession

System manager(s) and address:

Defense Mapping Agency, ATTN: Special Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4603

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Information is obtained from the individual's Service Military Personnel Center, the individual's rating official within the HQ DMA and the individual concerned.

Systems exempted from certain provisions of the act:

NONE

B0201-07-1 HQHTASID

System name:

201-07 Military Personnel Reference Paper Files

System location:

Military Personnel Office - See DMA Directory for complete address

Categories of individuals covered by the system:

All active duty military personnel assigned to the Defense Mapping Agency.

Categories of records in the system:

Copies of personnel career briefs provided by the individual's parent Service.

Copies of efficiency reports (USA & USAF), fitness reports (USN), and effectiveness reports (USMC) submitted periodically to the parent Service on each military individual assigned to duty in DMA during the period of such duty.

Copies of personal biographies provided by each military individual assigned to DMA.

Copies of official correspondence submitted by the individual concerned to his/her parent Service or from his/her parent Service to the individual concerned regarding requested or proposed duty assignments and related matters.

Copies of award recommendations originated within DMA for military personnel.

Copies of the Military Personnel Information Roster for the Headquarters and each of the DMA Components. This roster is updated monthly and shows the following information for all military personnel assigned: JTD Paragraph and Line Number, Position Title, Military Occupational Specialty, Grade, Service, Specialty Branch, Supplementary Remarks, Incumbent's Grade, Incumbent's Name, Incumbent's Social Security Account Number, Supplementary Remarks, Incumbent's Estimated Date of Departure.

Authority for maintenance of the system:

44 USC 3101; Records Management by Federal Agencies

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Heads of major staff elements to determine the acceptability of an individual nominated by the parent Service for a DMA position.

For review by appropriate DMA officials responsible for the preparation of efficiency/fitness/effectiveness reports, and award recommendations and presentations.

For use of appropriate officials within DMA Military Personnel Division in conducting routine daily business as prescribed by the Director, Defense Mapping Agency.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by last name of military person.

Safeguards:

Building in which files maintained is not open to general public and is guarded on 24-hour basis. Files are maintained in a single lock filing cabinet and are accessible only to Military Personnel Division officials.

Retention and disposal:

The file of each military person is maintained for six months to one year after detachment of the individual from the DMA at which time it is destroyed manually.

System manager(s) and address:

Chief, Military Personnel Division, Headquarters Defense Mapping Agency, Building 56, Naval Observatory, Washington, D.C. 20305, telephone 202-254-4497.

Notification procedure:

Information may be obtained from System Manager.

Record access procedures:

Requests from individuals should be addressed to System Manager.

Written requests for information should contain full name, grade, branch, Service, current address and telephone number of the individual. Visits will be arranged through the System Manager.

For personal visits, the individual should be able to provide acceptable identification such as a Military Identification Card and be prepared to provide some verbal information that can be verified with his file.

Contesting record procedures:

The Defense Mapping Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the System Manager.

Record source categories:

Information is obtained from the individual's Service Military Personnel Center, the individual's rating official within the HQ DMA and the individual concerned.

Systems exempted from certain provisions of the act:

NONE

B0210-06 HQHTASI

System name:

210-06 Inspector General Investigative Files

System location:

Office of the Inspector General - DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I). - See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Any individual, military or civilian assigned to, employed by or having reason to do official business with the Defense Mapping Agency or one of its employees.

Categories of records in the system:

Investigative Files consist of written inquiries or investigative reports pertaining to complaints, possible violations or improper procedures pertaining to DMA personnel, procedures, policies or programs.

Authority for maintenance of the system:

44 U.S.C. 3101, Records Management by Federal Agencies.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Inspector General and Command Officials - to analyze and evaluate the effectiveness and efficiency of DMA policies, programs and procedures.

Complaints, inquires or investigations are used to initiate proper corrective action if the allegation is proven to be true in fact.

Security - Personnel - Supervisors - Used as basis for corrective actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Files are considered official in nature and are made available only to the Inspector General and Command officials.

Storage:

Paper records are stored in file folders and secured in safe-file cabinets.

Retrievability:

Alphabetically by last name or subject matter

Safeguards:

Building, facilities employ security guards and alarms. Records are maintained in areas accessible only to authorized personnel that are properly screened cleared and trained.

Retention and disposal:

Files accumulated in the Office of the Inspector General as permanent. Cut off on completion of Investigation.

System manager(s) and address:

Inspector General, Headquarters, Defense Mapping Agency, Bldg 56, U.S. Naval Observatory, Washington, D.C. 20305

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the indivdual current address and telephone number, social security number.

For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Contesting record procedures:

The Agency rules for contesting contents and appealing initial determinations may be obtained from System Manager.

Record source categories:

Inspector General Investigative reports are the written results of IG Inquiries or Investigation of written or oral allegations from complaints.

Systems exempted from certain provisions of the act:

NONE

B0210-07 HQHTASI

System name:

210-07 Inspector General Complaint Files

System location:

Office of the Inspector Generals - DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I). - See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Any individual, military or civilian assigned to, employed by or having reason to do official business with the Defense Mapping Agency or one of its employees.

Categories of records in the system:

File contains letters or memorandums received by the Defense Mapping Agency wherein someone has complained about DMA personnel, programs, policies and/or procedures.

Authority for maintenance of the system:

44 U.S.C. 3101, 3102 - Records management by Federal Agencies

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Inspector General and Command officials - As a basis to conduct an inquiry or investigation of the complaint and to initiate proper corrective action if justified.

Security, Personnel, Supervisors - as a basis for corrective action

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Files are considered official in nature and are made available only to the Inspector General and Command officials.

Storage:

Paper records are stored in file folders and secured in safe-file cabinets.

Retrievability:

Alphabetically by last name of individual or by subject.

Safeguards:

Buildings, facilities located on guarded military installations. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

V 4 4 / 1 6 J A 2 3 7 9 UMI

Temporary Record. Destroy one year after completion and close of case.

System manager(s) and address:

Inspector General, Headquarters Defense Mapping Agency, Bldg 56, U.S. Naval Observatory, Washington, D. C. 20305.

Notification procedure:

Information may be obtained from System Manager.

Record access procedures:

Request from individual should be addressed to System Manager.

Written requests for information should contain the full name of the individual, current address and telephone number.

For personal visits, the individual should be able to provide some acceptable identification, that is; drivers license, etc., and some verbal information.

Contesting record procedures:

The Agencies' rules for contesting contents and appealing initial determinations may be obtained from System Manager.

Record source categories:

Source of Inspector General Complaint files are letters or memorandums received by HQ DMA from military or civilian.

Systems exempted from certain provisions of the act:

NONE

B0228-04 HT

System name:

AR 228-04 Historical Photographic Files

System location:

Public Affairs office of DMAHTC - See DMA Directory for complete address.

Decentralized Segments - Records Holding Area, Records Management Division of DMAHTC

Categories of individuals covered by the system:

Commanding Officers; civilian employees (staff organization) VIP visitors; awards, suggestions, sports, retirement ceremonies.

Categories of records in the system:

Photographs and negatives of

Authority for maintenance of the system:

5 U.S.C. 301 - Departmental Regulations

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Public Affairs Office - furnish copies of photographs to organizations that requested photographs to be taken

Records Holding Area - Researchers and Historians - To obtain the background information regarding events, ceremonies, awards, sports, retirements at DMATC for input to newspapers, magazine articles.

Release to News Media for Public Relations and Community Affairs Matters.

Organizers of testimonials, banquets and parties.

Supervisors - Recognize accomplishments and publications.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Prints and negatives filed in cabinets.

Retrievability:

Filed by name and/or event

Safeguards:

Buildings, facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Records are Permanent. Records will be retired to Washington National Records Center on discontinuance of the installation.

System manager(s) and address:

DMA Hydrographic/Topographic Center, ATTN: Public Affairs Office, Room 152, Erskine Hall, 6500 Brookes Lane, Washington, D.C. 20315, TELEPHONE: Area Code 202/227-2007

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individual current address and telephone number, social security number.

For personal visits the individual should be able to provide some acceptable identification, that is, drivers liceose, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencies' rules for contesting contents and appealing initial determinations may be obtained from System Manager.

Record source categories:

Photographs taken at awards ceremonies; Sporting events; retirement parties.

Systems exempted from certain provisions of the act:

NONE

B0228-10 HT

System name:

AR 228-10 Installation Historical Files

System location:

Public Affairs Office of DMAHTC - See DMA Directory for complete address.

Decentralized Segments - Records Management Division - Records Holding Area of DMAHTC

Categories of individuals covered by the system:

Individuals who have given speeches or written an article for a magazine or newspaper.

Categories of records in the system:

Copies of Speeches and articles for magazine or newspapers

Authority for maintenance of the system:

5 U.S.C. 301 - Departmental Regulations

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Historian - To furnish background Information on the history of the installations.

Public Affairs Office and Records Management Division - to obtain up-to-date information on all speeches, articles for magazines and newspapers published or given by an individual of DMAHTC.

Released to News Media for Public Relations and Community Affairs.

Organizers of testimonials, banquets and supervisors to recognize accomplishments and publications.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Files retrieved alphabetically by name of individual.

Safeguards:

Buildings, facilities employs security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

This is a permanent record. Retired from Records Holding Area.

System manager(s) and address:

DMA Hydrographic/Topographic Center, ATTN: Public Affairs Office, Room 152, Erskine Hall, 6500 Brookes Lane, Washington, D.C. 20315, TELEPHONE: Area Code 202/227-2007

Notification procedure:

Information may be obtained from Above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individual current address and telephone number, social security number.

For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card and give some verbal information that could be verified with his 'case' folder.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Travel orders and vouchers

Systems exempted from certain provisions of the act:

NONE

B0302-21-2 HQHTA

System name:

302-21-2 DMA Central Clearance Group Pre-Employment Files

System location:

Security Office, DMA Headquarters (HQ) See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Any civilian applicant for a sensitive position within DMA

Categories of records in the system:

File includes investigations, board determinations letters or written interrogatories, applicant response letters

Authority for maintenance of the system:

Section 7532 of title 5, United States Code; Suspension and Removal

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

HQ DMA SO - Staff Director of Security, HQ DMA acts as executive secretary for the DMA Central Clearance Group. He processes all papers pertaining to an individual case and assures all actions taken are in compliance with DOD directives and regulations.

Director DMA - The authority to deny employment based on security reasons is vested solely in the authority of the Director DMA; the Central Clearance Group will review all derogatory cases and make recommendation to the Director.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

File has been rarely used within DMA; it is established to provide for the filing of papers in the event a case as specified in DOD Directive 5200.7 Department of Defense Civilian Applicant and Employee Security Program, 31 Jan 67, should be processed.

Storage:

Paper records in file folders and/or Kardex book

Retrievability:

File alphabetically by last name of employee.

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Office of the secretariat designated office of record: Permanent. Cutoff when no longer needed for current operations.

System manager(s) and address:

Defense Mapping Agency, ATTN: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individual, current address and telephone number. Visits are limited to Security Office, Building 56, U.S. Naval Observatory.

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, etc., and some verbal information that could be verified with his 'case' folder.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from: System Manager.

Record source categories:

DMA Central Clearance Group files are the result of unfavorable investigations pertaining to applicants for possible DMA employment. Determinations by the group and resulting correspondence between the group and individual are the source of the remaining files.

Systems exempted from certain provisions of the act:

NONE

B0303-02 HTA

System name:

303-02 Compensation Data Request Files

System location:

Finance Accounting of DMA Hydrographic/Topographic Center (HT) and Aerospace Center (A). See DMA Directory for complete address listing.

Categories of individuals covered by the system:

All civilian employees requesting compensation.

Categories of records in the system:

Correspondence relating to Federal Employee Compensation claims.

Authority for maintenance of the system:

21 USC 1175

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To record documents and correspondence on employees who have been injured on the job, received treatment from a medical facility, and filed a claim for compensation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by employee last name.

Safeguards:

Buildings and facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary record. Destroyed after 2 years.

System manager(s) and address:

Defense Mapping Agency, ATTN: Comptroller, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4398

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to System Manager

Written requests for information should contain the full name of the individual, current address and telephone number, and social security number. Visits are limited to normal working hours.

For personal visits, the individual should be able to provide some acceptable identification; that is, driver's license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Department's rules for contesting contents and appealing initial determinations may be obtained from System Manager.

Record source categories:

Requests from individuals for information, notice of determination and refusal of work offer. Request for claims of compensation.

Systems exempted from certain provisions of the act:

NONE

B0303-03 HTA

System name:

303-03 Individual Retirement Record Control Files

System location:

Primary System - Civil Service Commission, Retirement Bureau, Washington, D.C. 20315

Decentralized Segments - Personnel Office, DMA Hydrographic/Topographic Center and DMA Aerospace Center.

Categories of individuals covered by the system:

Any civilian employee of DMA who has retired from government service.

Categories of records in the system:

File contains employee's application for retirement from the Federal Service including documentation concerning physical disability retirement.

Authority for maintenance of the system:

E.O. 10561 - 'Designating Official Personnel Folders in Government Agencies as Records of CSC and Prescribing Regulations Relating to the Establishment, Maintenance, and Transfer Thereof' - 9/15/54

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To take follow-up action or answer questions from the retiree, survivors, Civil Service Commission, and health and life insurance carriers.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book.

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary - Retain in active file. Destroy after 4 years.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Application for retirement from Federal Service, and related documentation.

Systems exempted from certain provisions of the act:

NONE

B0303-21 HTA

System name:

303-21 Decedent Claim Files

System location:

Personnel Office - DMA Hydrographic/Topographic Center (HT) and Aerospace Center (A). See DMA Directory for complete address listing.

Categories of individuals covered by the system:

All civilian employees of DMA Hydrographic/Topographic Center or DMA Aerospace Center.

Categories of records in the system:

Death separation - FE Form 6, SF 1153, SF 2800, and other allied papers and correspondence.

Authority for maintenance of the system:

21 USC 1175

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Purpose of this file is to document the death of a career employee.

Users are: Personnel Office to maintain/ascertain that documents are in file for employees who have been separated due to death.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folder.

Retrievability:

Alphabetically by employee last name.

Safeguards:

Buildings and facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary record. Destroyed after 10 years.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to System Manager.

Written requests for information should contain the full name of the individual, current address and telephone number, and social security number. Visits are limited to normal working hours.

For personal visits, the individual should be able to provide some acceptable identification; that is, driver's license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Department's rules for contesting contents and appealing initial determinations may be obtained from System Manager.

Record source categories:

Copies of vouchers with supporting documents, letters/claims from decedents.

Systems exempted from certain provisions of the act:

NONE

B0401-02 HQHTA

System name:

401-02 Statements of Employment and Financial Interest Files

System location:

Statements of DMA Headquarters Staff personnel, all Special Government Employees, all DMA Component Directors and personnel of Defense Mapping School, Inter American Geodetic Survey and Office of Distribution Services -- Office of General Counsel, DMA Headquarters, Building 56, U.S. Naval Observatory, Washington, D.C. 20305.

Statements of personnel assigned to DMA Hydrographic/Topographic Center, Office of Counsel, DMA Hydrographic/Topographic Center, 6500 Brooks Lane, N.W., Washington, D.C. 20315.

Statements of personnel assigned to DMA Aerospace Center, St. Louis Air Force Station, MISSOURI

Categories of individuals covered by the system:

Defense Mapping Agency civilian personnel classified at GS-13 or above, and military officers serving in the grade of 0-5 or above, whose duties require the exercise of judgment in making Government decisions in regard to monitoring grants or subsidies; contracting and procurement; auditing; or other activities having a significant economic impact on the interests of any non-Federal enterprise.

Special Government Employees of the Defense Mapping Agency serving as advisors or consultants.

Categories of records in the system:

File includes: individual's completed DD Form 1555 'Confidential Statement of Employment and Financial Interests,' (DD Form 1555-1 in the case of Special Government Employees) containing information as to employment and financial interests, creditors and interests in real property. Such forms are filed by individuals upon employment in affected positions and renewed annually thereafter.

Copies of the individual's current position description.

Signed statements of the individual concerned stating that none of the interests listed on his Form 1555 constitute a conflict of interest with respect to the duties of his present position.

File also contains correspondence indicating review of the individual's statement by his supervisor, and may contain correspondence between the individual, his supervisor and Agency Counsel relative to any apparent conflicts disclosed in the individual's statement and resolution thereof.

Authority for maintenance of the system:

Part IV, Executive Order 11222, 'Prescribing Standards of Ethical Conduct for Government Officers and Employees' (as amended).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Individual's Supervisor (superior officer or official responsible for signing military evaluation reports or civilian performance ratings)--to determine the existence of, and, if possible, to resolve, any real or apparent conflict between the personal financial interests of the individual concerned and the performance of his services for the Government.

Agency Legal Counsel--to (1) review the individual's statement and the supervisor's evaluation thereof for legal sufficiency, (2) to assist in the resolution of any conflicts disclosed in such statements, and (3) to maintain and safeguard the confidentiality of all such statements.

Directors of Defense Mapping Agency Components and Heads of Defense Mapping Agency Headquarters Major Staff Elements--for review, comment and appropriate action with respect to resolution of any real or apparent conflicts disclosed by the statement of an individual.

The Director, Headquarters Defense Mapping Agency or the Staff Director of Personnel (as designee)--to review and take action on any conflicts not previously resolved.

Department of Justice--for possible use in investigation/prosecution of fraud or other violation of conflict of interest laws.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by last name of employee.

Safeguards:

Buildings in which files maintained are not open to general public and are guarded on 24-hour basis. Records are maintained in combination safes and are accessible after completion of review only to Agency Counsel. Each submission and subsequent annual renewals are kept in individual, sealed manila envelopes to prevent unauthorized disclosures.

Retention and disposal:

This is a temporary record. The record of each employee is maintained until his death, retirement or separation from the Defense Mapping Agency and for six (6) years thereafter at which time it is destroyed.

System manager(s) and address:

General Counsel, DMA Headquarters, Building 56, US Naval Observatory, Washington, D.C. 20305.

Notification procedure:

Information may be obtained from:

General Counsel, DMA Headquarters, Building 56, US Naval Observatory, Washington, DC. 20305, telephone 202 254-4431.

Counsel Defense Mapping Agency Hydrographic/Topographic Center, Washington, D.C. 20315, telephone 202 227-2268.

Counsel Defense Mapping Agency Aerospace Center, St. Louis Air Force Station, Missouri 63118, telephone 314 268-4501.

Record access procedures:

Requests from individuals should be addressed to: General Counsel, DMA Headquarters Building 56, U.S. Naval Observatory, Washington, D.C. 20305.

Written requests for information should contain the full name and current address and telephone number of the individual. Visits will be arranged through the General Counsel, Headquarters DMA.

For personal visits, the individual should be able to provide some acceptable identification, such as a drivers license or an employer's identification card, and be prepared to provide some verbal information that can be verified with his file.

Contesting record procedures:

The Defense Mapping Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Statements (DD Form 1555) and related documents are obtained from the individual concerned.

Systems exempted from certain provisions of the act:

NONE

B0401-03 HQHTA

System name:

401-03 Legal Assistance Case Files

System location:

Office of Counsel, DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), and Aerospace Center (A). See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Military personnel assigned to DMA who request legal assistance

Categories of records in the system:

Files contain legal opinions of the counsel regarding personal matters of an individual. Also copies of document prepared on behalf of the individual.

Authority for maintenance of the system:

44 U.S.C. 3101 - Records Management by Federal Agencies

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Office of Counsel - for consoltation with individual involved, and for reference and precedent value.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

This record is a temporary record. Records are destroyed one year after completion of the case. Selected opinions and correspondence withdrawn for use as precedent may be held until no longer required for reference.

System manager(s) and address:

Defense Mapping Agency, ATTN: General Counsel, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4431

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Request from military individual for legal opinion on a personal matter, opinions of council and documents prepared by counsil.

Systems exempted from certain provisions of the act:

NONE

B0402-05 HQHTA

System name:

402-05 Personal Property Claim Files

System location:

Primary System - Office of Counsel, DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), and DMA Aerospace Center (A) - See DMA Directory for complete address listing.

Decentralized Segments - National Washington Record Center, GSA, 4205 Suitland Road, Suitland, Maryland 20409, Department of Army, Judge Advocate General, Pentagon, Washington, D.C.

Categories of individuals covered by the system:

DMA personnel having a claim against the Government for loss, damage, or destruction of personal property.

Categories of records in the system:

Files contain request from individuals filing for a claim for damage, loss or destruction of personal property, and related correspondence to that request: investigative reports and recommendations of the investigator; opinions of counsel.

Authority for maintenance of the system:

44 U.S.C. 3101; - Records Management by Federal Agencies

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Office of Counsel - Preliminary investigation and legal opinions for recommendation to high authority for further disposition of claim.

National Washington Records Center - To store and maintain inactive records; The Department of Justice in event of Litigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book.

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

This is a temporary record. 25 years for disapproved claims and claims involving a minor, COFF on final action. Inactive one year, transfer Records Holding Area. Hold one year, retire National Washington RECORD CENTER, hold 23 years, destroy. Approved Claims - 10 year. COFF final action. Hold one year inactive, Transfer RHA, hold nine years - destroy

System manager(s) and address:

Defense Mapping Agency, ATTN: General Counsel, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4431

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Application or related forms from the individual requesting claim against the Government; correspondence relating to the claim; investigative reports and recommendations of investigator.

Systems exempted from certain provisions of the act:

NONE

B0402-06 HQHT

System name:

402-06 Tort Claim Files

System location:

Primary System - Office of Counsel, DMA Headquarters (HQ), and DMA Hydrographic/Topographic Center (HT). See DMA Directory for complete Address Listing.

Decentralized Segments - Washington National Records Center, GSA, 4205 Suitland Road, Suitland, Maryland 20409

Categories of individuals covered by the system:

Any individual filing tort claim against DMA for damage, loss, or destruction of property and for personal injury or death resulting from negligence or wrongful act or omission of acts by DMA personnel.

Categories of records in the system:

File contains individual's claim, correspondence relating to such claim and related processing papers, opinion of Counsel.

Authority for maintenance of the system:

Federal Tort Claim Act - 28 U.S.C. Sec. 2671 - Sec. 2680

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Office of Counsel - Preliminary investigation and legal opinion for recommendation to higher authority for further disposition of claim.

Records Holding Area, RMD - To maintain inactive records for destruction or transferring to Washington National Record Center at the end of a given date.

Washington National Record Center - to maintain records until destruction on a given date.

Army Judge Advocate General - for possible settlement

Department of Justice - in the event of litogation

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book.

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary record/approved claims: 10 year record, COFF on final action. Inactive one year, transfer Records Holding Area, hold nine years, destroy.

Disapproved claims and claims involving personal injury or a minor - COFF on final action, hold one year inactive, transfer Records Holding Area, hold 1 year, transfer to Nat'l Wash. Record Ctr, hold 23 years, destroy.

System manager(s) and address:

Defense Mapping Agency, ATTN: General Counsel, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4431

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be address to system manager.

Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Claims against DMA from individuals, correspondence relating to such claims, photographs, investigative documents, legal opinions

Systems exempted from certain provisions of the act:

NONE

B0402-13 HQHTA

System name:

402-13 Agency Claim Files

System location:

Office of Counsel - DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), and DMA Aerospace Center (A). See DMA Directory for complete address

Categories of individuals covered by the system:

Individual against whom Agency has legal claim

Categories of records in the system:

Information pertaining to Agency claim against an individual involved in damage suit. All correspondence relating to such claims, legal opinions by counsel, investigative reports.

Authority for maintenance of the system:

44 USC 3101 - Records Management by Federal Agencies

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Office of Counsel - to attempt settlement and prepare for possible litigation

Records Holding Area - to maintain and storage of records until the destruction date of the file

Transfer to Department of Justice in event of litigation

Transfer to designated local Government representatives who have delegated authority to investigate and/or settle claim

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book

Retrievability:

Filed by case (name of potential dependent)

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Temporary Record - this file is a ten year record. COFF after final action. Inactive one year, transfer to Records Holding Area, hold for nine years - destroy

System manager(s) and address:

Defense Mapping Agency, ATTN: General Counsel, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4431

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys' rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Investigative reports by civilian or military police at accident sites, statements by Government personnel involved in accident; in general, any type of information gathered in anticipation of litigation and legal opinions, statements of witnesses.

Systems exempted from certain provisions of the act:

NONE

B0403-12 HQHTASI

System name:

403-12 Patent and Invention Files

System location:

Primary System - Office of General Counsel, DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), and DMA Aerospace Center (A). See DMA Directory for complete address listing.

Decentralized Segments - The Judge Advocate General, Department of the Army, ATTN: DAJA-PA, Washington, D.C.; Commissioner of Patents, Washington, D.C. 2023l

Categories of individuals covered by the system:

Personnel who have submitted technical descriptions, invention disclosures and/or for which patent application has been made or a patent issued

Categories of records in the system:

Patent application with related invention disclosure claims and all amendments, petitions, appeals, patent and related correspondence

Authority for maintenance of the system:

E.O. 10096, as amended - Uniform Government Patent Policy for Inventions by Government Employees; 1/23/50

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by Office of Counsel in conducting patentability search. Also used in further discussions between Counsel and inventor. In cases where Defense Mapping Agency has no direct interest in the invention, the file may be forwarded to Patent Counsel of other Government agencies who may have interest in processing patent application.

Army JAG Patents Div for processing patent applications per Title 35 USC. Used by US Patent Office per Title 35 USC

Office of Counsel for reference and precedent material

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

V 4 4 / 1 6 J A 2 3 7 9 UMI

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Temporary Record - cut off annually after issuance of the patent, transfer to Records Holding Area, hold two additional years, retire to the Washington National Records Center, hold additional 23 years, and destroy

System manager(s) and address:

Defense Mapping Agency, ATTN: General Counsel, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4431

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Notification procedure:

Information may be obtained from System Manager

Record access procedures:

Requests from individuals should be addressed to System Manager

Written requests for information should contain the full name of the individuals current address with the office symbol on all correspondence received from this office

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys' rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Information supplied by inventor plus any technical legal additions generated by Counsel and US Patent Office, and all related correspondence

Systems exempted from certain provisions of the act:

NONE

B0407-03 HQHTASID

System name:

407-03 Congressional Correspondence Files (Civilian Personnel-Congressional Inquiries)

System location:

Personnel Offices - See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Any employee who has written their Congressman or Senator regarding their employment with the Agency

Categories of records in the system:

Includes employee's letter to Congressman or Senator, referral letter from Congressman's/Senator's Office to the Agency, documents related to the matter, Agency reply to Congressman/Senator

Authority for maintenance of the system:

5 USC 2954 - Information to Committee of Congress on Requests

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information is used to investigate and attempt to resolve employee problems conveyed to their Congressman/Senator

Officials of the Congressman's/Senator's Office

Personnel Office

Supervisors

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Temporary Record - destroy after five years

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Correspondence and Internal Memos originated by Employees, Congressman, Senator, Personnel Office and Supervisors

Systems exempted from certain provisions of the act:

NONE

B0408-11 HQHTASI

System name:

408-11 Biography Files

System location:

Public Affairs Officer, See DMA Directory for complete address

Categories of individuals covered by the system:

All top management and other key personnel of DMA

Categories of records in the system:

Biographies; photographs; newspaper clippings and related documents pertaining to leading military and civilian personalities

Authority for maintenance of the system:

44 USC 3101 - Records Management by Federal Agencies

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Public Affairs Office - for release on public relations and community affairs matters

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Record is Permanent. Destroy two years after transfer, separation or death of the individual concerned

System manager(s) and address:

Defense Mapping Agency, ATTN: Public Affairs Officer, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4532

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Contesting record procedures:

The Agencys' rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Biographical data furnished by individual

Systems exempted from certain provisions of the act:

NONE

B0502-03 HQHTA

System name:

502-03 Master Billet/Access Record

System location:

Primary System - Security - Special Security/Activities Division, Department of Computer Services, DMA Hydrographic/Topographic Center. Decentralized segments - HQ DMA, DMA Aerospace Center. See DMA Directory for complete address listing.

Categories of individuals covered by the system:

All DMA employees and contractor personnel authorized and indoctrinated for access to Sensitive Compartmented Information (SCI). In addition, employees of other Government Agencies are included for the period during which their SCI access status is permanently certified to DMA.

Categories of records in the system:

File may contain for an individual the following: name, rank/grade, military component or civilian status, social security number, SCI billet number and title, SCI accesses authorized and held, date Background Investigation completed, date indoctrinated or debriefed, date and state of birth, DMA badge number and expiration date, and whether an authorized courier of SCI material.

Transcript and IBM card inputs are submitted to and batch produced output is received from the computer system and terminal operation.

Authority for maintenance of the system:

E.O. 11652 - Classification and Declassification of NS Information and Materials 3/10/72

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

File used to produce Confidential rosters of personnel authorized SCI to access for control of access to areas accredited for use of this information and for certification of SCI access status to other Government agencies; for updating of Defense Intelligence Agency (DIA) Security Management Information System (SMIS) file.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system.

Storage:

Records filed on magnetic tape.

Retrievability:

Information recorded alphabetically by last name and numerically by billet number

Safeguards:

Secured in alarmed vault in guarded building. Vault accessible only to properly cleared, authorized personnel. Transmission of system data between DMAAC and DMATC is by Secure (encrypted) teletype circuit.

Retention and disposal:

Active records only are maintained. Records of personnel debriefed for SCI access are dumped on a debrief tape which is printed as an alphabetical listing cumulatively each month for one year, then the tape is erased. Old printed listing is destroyed when replaced by new printed listing (weekly).

System manager(s) and address:

Director, Defense Intelligence Agency (DS-6C2), The Pentagon, Washington, D. C. 20301

Notification procedure:

Information may be obtained from Defense Mapping Agency, ATTN: Security Office,Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Record access procedures:

Requests from individuals should be addressed to above.

Written requests for information should contain the full name of the individual Social Security Nmber, current address and telephone number.

For personal visits, the individual should be able to furnish personal identification containing his/her full name, Social Security Number, physical description, photograph, and signature.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Defense Mapping Agency, ATTN: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Record source categories:

Information originated by maintaining office. Bases of billet entries are approval messages or correspondence from DIA; bases for incumbent entries are indoctrination oaths executed by incumbents at time of indoctrination.

Systems exempted from certain provisions of the act:

NONE

B0502-03-2 HQHTASI

System name:

502-03 Classified Material Access Files

System location:

Primary System - Security Offices - DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), and Inter American Geodetic Survey (I).

Decentralized Segments - Requesting offices at DMA and organizations requiring the access authorization. See DMA Directory for complete address listing.

DIA, JCS

Categories of individuals covered by the system:

Individuals authorized to have access to classified files

Categories of records in the system:

Documents relfecting authorization to have access to classified material. They include forms containing individual's name, and signature, classification of files concerned, information desired, and signature of an official authorizing access.

Authority for maintenance of the system:

Executive Order 11652 3/10/72; Classification and Declassification of National Security Information.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Security Office - Check of authorized individuals for access to classified material and guard authorization.

Requesting DMA organizations - to gain approval for employees to have access to perform their duty.

Requiring DMA and other Agencies - to allow employees the right to use classified information.

DIA - to verify who has been granted authority to Special Security information.

JCS - to verify who has been granted authority to use JCS papers.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book.

Retrievability:

File alphabetically by last name or grade of individual requiring access

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary Record - Destroy on transfer, reassignment, or separation of the individual.

System manager(s) and address:

Defense Mapping Agency, ATTN: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Report of investigating agency that conducted the background investigation.

Systems exempted from certain provisions of the act:

NONE

B0502-15 HQHTASI

System name:

502-15 Security Compromise Case Files

System location:

Primary System - Security Offices - DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), and Inter American Geodetic Survey (I). See DMA Directory for complete address listing
Decentralized Segments - Dept. of Justice and FBI on felonies cases.

Categories of individuals covered by the system:

DMA personnel security violation

Categories of records in the system:

Documents relating to investigations of alleged security violations, such as missing documents, unauthorized disclosure of information, unattended open security containers, documents not properly safeguarded and matters of a similar nature.

Authority for maintenance of the system: Executive Order 11652 3/10/72; Classification and Declassification of National Security Information and Material.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Security Office - Conduct security investigations.
Dept. of Justice and FBI - for advise on felony cases.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book.

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary Record - Destroy two years after completion of final corrective or disciplinary action, except that records of violations of a sufficiently serious nature to be classed as felonies are permanent.

System manager(s) and address:

Defense Mapping Agency, ATTN: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Notification procedure:

Information may be obtained from System Manager.

Record access procedures:

Requests from individuals should be addressed to system manager.
Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from: System Manager.

Record source categories:

Reporting organization or official

Systems exempted from certain provisions of the act:

NONE

B0503-01 HTASI

System name:

503-01 Security Identification Issue Files.

System location:

Security Offices - DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), and Inter American Geodetic Survey (I). - See DMA Directory for complete add ress listing.

Categories of individuals covered by the system:

Any Civilian Employees

Categories of records in the system:

File contains the application, supporting materials and the number of the identification badge.

Authority for maintenance of the system:

E.O. 11652 - 'Classification and declassification of National Security Information and Material'. - 3/10/72.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Maintain accountability for identification cards and badge accountability form.
Category of users - Supervisor, Personnel and Security Office
To identify persons to whom badges and identification cards are issued.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

5x8 Cards filed in Kardex Container

Retrievability:

Filed alphabetically by last name.

Safeguards:

Facility employs security guards on a continuous basis. Cards are maintained in area accessible only to authorized personnel.

Retention and disposal:

Record is placed in the inactive file upon supersession or obsolescence, and destroyed after three (3) years.

System manager(s) and address:

Defense Mapping Agency, ATTN: Security Office,Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Notification procedure:

Request should be addressed to the above SYSMANAGER

Record access procedures:

Information may be obtained from System Manager.
Requesting individuals should provide, name, SSAN, (Service Number if applicable) home address and home telephone number when inquiring about whether the system contains records pertaining to him/her.
For personal visits, the individual should be able to provide some acceptable identification and be in a position to give verbal information that could be verified with the form on file.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determination by the individual concerned may be obtained from the SYSMANAGER

Record source categories:

Individual's Badge request, personnel forms and investigatory findings.

Systems exempted from certain provisions of the act:

NONE

B0503-02 HTASI

System name:

503-02 Security Identification Accountability Files

System location:

Security Offices - DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), and Inter American Geodetic Survey (I). - See DMA Directory for complete address.

Categories of individuals covered by the system:

Any Civilian employee

Categories of records in the system:

File contains the application, supporting materials and the number of the identification badges.

Authority for maintenance of the system:

E.O. 11652 - Classification and Declassification of National Security Information and Materials. 3/10/72

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To identify persons to whom badges are issued.
Purpose - Maintain accountability for identification cards.
Users - Supervisor, Personnel and Security Offices

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records kept in file folders by No. also in desk type cabinet.

Retrievability:

Filed Alphabetically by name.

Safeguards:

Buildings, facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary Record-Transfer to Records Holding Area after last card or badge number entered has been accounted for. Hold for three years and destroy.

System manager(s) and address:

Defense Mapping Agency, ATTN: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be address to system manager
Written requests for information should contain the full name of the individual, current address and telephone number and the case (Control) number that appears with the office symbol, on all correspondence received from this office.
For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card and give some verbal information that could be verified with his 'case' folder.

Contesting record procedures:

The agency's rules for contesting contents and appealing initial determinations may be obtained from System Manager

Record source categories:

Individual's badge request, personnel forms and investigatory findings.

Systems exempted from certain provisions of the act:

NONE

B0503-03 HTA

System name:

503-03 Firearms Authorization Files

System location:

DMA Hydrographic/Topographic Center (HT) and DMA Aerospace Center (A). See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Security guards that have been issued firearms and ammunitions

Categories of records in the system:

Documents authorizing DMA civilian guards to carry firearms. Included are firearms authorization cards and related papers.

Authority for maintenance of the system: 50 U.S.C. 61; Arms and Ammunition issued to protect public property; reimbursement of Department of Army.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Collateral Security Division-Serves as a record for weapons serial numbers and firearms authorization cards issued to each Security Police.
Available to Federal and State local law enforcing agency as required by current laws and regulations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book.

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary Record, Destroy upon expiration of authorization.

System manager(s) and address:

Defense Mapping Agency, ATTN: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.
Requests from individuals should be addressed to the appropriate organization as indicated in address list.
Written requests for information should contain the full name of the individual, current address and telephone number, and social security number. Visits are limited to normal working hours.
For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Weapon serial number, and authorization of issue authorization card issued.

Systems exempted from certain provisions of the act:

NONE

B0503-04 HQHTASI

System name:

503-04 Parking Permit Control Files

System location:

Security Offices of Components - See DMA Directory for complete address

Categories of individuals covered by the system:

Individuals who have been issued parking Permits or cited for violations.

Categories of records in the system:

Documents relating to the allotment of parking spaces, recording of violations by holders of parking permits.

Authority for maintenance of the system:

50 U.S.C. 797; Internal Security - Security Regulations and Orders; Penalty for Violation. and Delegations, Promulgation by President.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Security Offies - Issue of spaces and recording of violators.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records kept in file folders and desk type pull-out shelves.

Retrievability:

Filed by name alphabetically

Safeguards:

Buildings and Facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary-Record. Destroy on Transfer or separation of parking permit holder, or when permit is superseded or revoked.

System manager(s) and address:

Defense Mapping Agency, ATTN: Administration Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4401

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to System Manager.

Written requests for information should contain the full name of the individual, current address, and telephone number, and social security number.

For personal visits the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, and give some verbal information that could be verified on employment.

Contesting record procedures:

The Agencies' rules for contesting contents and appealing initial determinations may be obtained from System Manager.

Record source categories:

Individuals requests for permits, copies of tickets issued.

Systems exempted from certain provisions of the act:

NONE

B0503-05 HQHTASI

System name:

503-05 Vehicle Registration and Driver Record File

System location:

DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), and Inter American Geodetic Survey (I). - See DMA Directory for complete address.

Categories of individuals covered by the system:

Any person privileged to operate a motor vehicle on a military instal- lation and who has been involved in a chargeable traffic accident or whose commission of a moving traffic violation has been verified.

Categories of records in the system:

File contains a record of issuance of decal and of all traffic offenses/ incidents and actions.

Authority for maintenance of the system: 50 U.S.C. 797; Internal Security - Security Regulations and Orders; Penalty for Violation.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Security Office, to record all traffic offenses/incidents and action taken. State and Local Law Enforcement Agency for vehicle identifications.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

8'x5' paper cards in card file cabinet

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal: Destroy one year after revocation or expiration.

System manager(s) and address:

Defense Mapping Agency, ATTN: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours.

For personal visits, the individual should be able to provide some acceptable identification and also some information that would verify his need to know.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Report of traffic violation from Security police.

Systems exempted from certain provisions of the act:

NONE

B0503-07 HTA

System name:

503-07 Traffic Law Enforcement Files

System location:

Security Office - DMA Hydrographic/Topographic Center (HT), and DMA Aerospace Center (A) - See DMA Directory for complete address listing

Categories of individuals covered by the system:

All DMA personnel who have committed traffic violations on DoD installations.

Categories of records in the system:

Armed Forces traffic tickets and related correspondence.

Authority for maintenance of the system:

50 U.S.C. 797; Internal Security - Security Regulations and Orders; Penalty for Violation

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Security Office - for issue and filing ticket. Traffic violation correspondence and Armed Forces Traffic Tickets.

Supervisory - for advisory procedures

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders and/or Kardex book.

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary/Record - Destroy after 1 year.

System manager(s) and address:

Defense Mapping Agency, ATTN: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Armed Forces Traffic Tickets issued by guard force personnel.

Systems exempted from certain provisions of the act:

NONE

B0503-09 HQHTASI

System name:

503-09 Key Accountability Files

System location:

Security Office, DMA Headquarters (HQ), DMA Hydrographic/ Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), and Inter American Geodetic Survey (I). - See DMA Directory for complete address.

Categories of individuals covered by the system:

Individuals with keys to a secure area.

Categories of records in the system:

Documentation relating to the issue, return and accountability for keys to secure areas.

Authority for maintenance of the system:

E.O. 11652 - Classification and Declassification of National Security Information and Material. 3/10/72

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Security Police - Periodic Inspections, reissuance of keys after locks have been changed.

Personnel - Reference checks on individuals with keys to secure areas.

Supervisors - Reference checks and daily use for information purposes.

OSD and DIA - Investigation of loss or destruction of secure area.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper Records in file folders

Retrievability:

Filed Alphabetically by name

Safeguards:

Buildings, facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary Record - Transfer to holding area, hold three (3) years then destroy.

System manager(s) and address:

Defense Mapping Agency, ATTN: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should contain the full name of the individual, current address and telephone number, social security number.

For personal visits the individual should be able to provide some acceptable identification, that is, drivers' license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencies' rules for contesting contents and appealing initial determination s may be obtained from System Manager.

Record source categories:

Individual's key requests, personnel forms and investigatory findings.

Systems exempted from certain provisions of the act:

NONE

B0504-01 HQHTA

System name:

504-01 Personnel Security Files

System location:

Special Security/Activities Division - DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A) - See DMA Directory for complete address

Categories of individuals covered by the system: ES

DMA Military or civilian employees who have been assigned to positions that require access to Sensitive Compartmented Information (SCI).

Categories of records in the system:

Files consist of Special Security Office (SSO) security indoctrination and termination oaths; clearance and access certification messages; SSO security violation investigative reports if applicable.

Authority for maintenance of the system:

E.O. 11652 Classification and Declassification of NS Information and Material 3/10/72

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To provide central file repository for all SSO security forms pertaining to the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders

Retrievability:

Filed alphabetically by last name of file subject.

Safeguards:

Buildings, facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Retained in active file during period subject is assigned to or employed by DMA, retained in inactive file for one year following reassignment or termination of employment, then destroyed.

System manager(s) and address:

See Defense Mapping Agency, ATTN: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individual current address and telephone number, social security number.

For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card and give some verbal information that could be verified.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Information obtained from such sources as review of birth records; education records; credit and former employment records; interviews of named and developed references; check of local police and FBI files & check of subversive files.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 U.S.C. 522a (j) or (k), as applicable. For additional information, contact the Systems Manager.

B0504-01-2 HQHTASI

System name:

504-01 Personnel Security Files

System location:

Primary System - Security Office, DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I). See DMA Directory for complete address.

Decentralized Segments - Cross reference index cards (i.e., Badge Requests Cards, Identification Cards, Guard Desk Roladex Identification Cards) with extracts of information contained in primary files are maintained on file in Security Office of each DMA element.

Categories of individuals covered by the system:

Those military, civilian, and industrial personnel who are assigned to, employed by DMA; whose official duties, responsibilities and/or contracts require that they have access to classified defense information which has been entrusted to or is under the Defense Mapping Agency.

Categories of records in the system:

File Contains individual's certificate of clearance indicating level of access individual is cleared for, date clearance was issued, type of

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investigation conducted, date investigation was completed and identification of agency that conducted the investigation. Additionally, contained in the file are; copy of Statement of Personal History (DD Form 398), individual's certification that he/she has read and understands both the Department of Defense and Agency security directives and instructions regarding the protection of classified defense information; individual certification that he/she understands responsibilities for protection of North Atlantic Treaty Organization (NATO), Central Treaty Organization (CENTO), material to a lesser extent some files will contain individuals certification that he/she has been briefed for access to NATO Top Secret (COSMIC); NATO Top Secret Restricted Data (ATOMAL); Top Secret CENTO; Single Integrated Operational Plan (SIOP); Extremely Sensitive Information (ESI); Atomic Energy Commission, Restricted Data (RD); and Atomic Energy Commission, Critical Nuclear Weapons Design Information (CNWDI).

Authority for maintenance of the system:

Section 6, Section 7, (B) (3); and Section 12 of Executive Order 11652; Classification and Declassification of National Security Information and Material - 3/10/72

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

DMA SO - This information is maintained as a means to insure that each and every individual assigned to, employed by or contracting with the HQ DMA has been cleared for the level of access to classified information that is necessary for accomplishment of his official duties. These records further insure that each individual is made aware of his responsibilities regarding the protection and safe guarding of any classified information entrusted to him.

Other Governmental Agencies - Information regarding any individual's clearance and level of access. This enables DMA personnel to conduct official business requiring security clearance, with other governmental agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders

Retrievability:

Alphabetically by name of individual

Safeguards:

Buildings are located on guarded government installation with security guards and alarms. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Records are maintained in an active status only for the period of time that the individual is actually assigned to, employed by or contracting with DMA. When the individual terminates his association with DMA, the records are maintained in an inactive status for the period of one year and then destroyed.

System manager(s) and address:

SDefense Mapping Agency, ATTN: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to System Manager. Written requests for information should contain the full name of the individual, current address and telephone number, social security number.

For personal visits the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The agencies' rules for contesting contents and appealing initial determinations may be obtained from System Manager.

Record source categories:

Individual's certificate of clearance originates in HQ DMA Special Security Office (SSO) based on notification of personnel investigation by either the Civil Service Commission or the Defense Investigative Agency. Certification of clearance for military personnel will be certified by the individuals' parent service. Much of the routine information in these records such as name, date and place of birth, etc., is obtained during the individual's initial processing which is usually accomplished on his first duty day. Other information such as type of investigation, date of investigation, etc., is obtained from such investigating agencies as the Civil Service Commission (CSC), Defense Investigative Service (DIS), etc. The records are updated as new information is received regarding the individual's clearance and access.

Systems exempted from certain provisions of the act:

NONE

B0504-01-3 HQHTA

System name:

504-01 Personnel Security Investigative Files

System location:

Primary System - Security Offices, DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A) - See DMA Directory for complete address.

Categories of individuals covered by the system:

Those military and civilian personnel who are assigned to or employed by the Defense Mapping Agency and whose duties require access to classified defense information and who have therefore been investigated under the provisions of Department of Defense regulations.

Categories of records in the system:

Files consist of two parts, one part subject two exemption of 552a(K)(5) from review one part available for review. Part (I) Exempted consists of National Agency Checks with Written Inquiries (NACI); Background Investigations (BI) Special Background Investigations (SBI); Bring-up Investigations (BU). Part (2) Available for review consists of National Agency Checks (NAC).

Authority for maintenance of the system:

E.O. 11652 - Classification and Declassification of National Security Information and Material - 3/10/72.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Defense Mapping Agency - to determine eligibility for access to classified defense information and to conduct continuing Security Program

Defense Intelligence Agency - to determine eligibility for access to Sensitive Compartmented Information, applicable to Special Security Office access.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by last name of file subject.

Safeguards:

Buildings, facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Retained in active file during period subject is assigned to or employed by DMA, retained in inactive file for one year following termination of subject's assignment or employment, then destroyed.

System manager(s) and address:

Defense Mapping Agency, ATTN: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to System Manager. Written requests for information should contain the full name of the individual current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office.

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencies' rules for contesting contents and appealing initial determinations may be obtained from System Manager.

Record source categories:

Investigations are originated based on applicant's application for employment Source of information are inquiries of birth, education, local police, federal police agency files, credit, neighborhood, personal references, etc.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 U.S.C. 522a (j) or (k), as applicable. For additional information, contact the Systems Manager.

B0504-02 HQHTASI

System name:

504-02 Security Briefing and Debriefing Files

System location:

Primary System - Central RS COSMIC Register Room 1B889, Pentagon, Washington, D.C. 20310

Decentralized Segments - DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I) - See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Personnel briefed and debriefed on security matters

Categories of records in the system:

Documents relating to security briefing and debriefing of personnel authorized access to classified material. Included are briefing statements, debriefing statements and certificates, and related papers.

Authority for maintenance of the system:

E.O. 11652 - 'Classification and Declassification of National Security Information and Material' 3/10/72

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Debriefing personnel upon termination of employment.

IPO Officer/TS Control Officer - use to certifying employee access of current security regulations.

Central US Cosmic Register - maintain as in information record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book.

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary Record - Destroy one year

System manager(s) and address:

Defense Mapping Agency, ATTN: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager. Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Form generated by employee

Systems exempted from certain provisions of the act:

NONE

B0504-02-2 HQHTA

System name:

504-02 Special Security Briefing and Debriefing Files

System location: Primary System - Defense Intelligence Agency, Special Security Office, Room 1A884, Pentagon, Washington, D.C. 20310

Decentralized Segments - Security Office, DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A) - See DMA Directory for complete address

Categories of individuals covered by the system:

Personnel briefed and debriefed on Special Security Matters

Categories of records in the system:

Documents relating to special security briefing and debriefing of personnel authorized access to special classified material. Included are briefing and debriefing statements, debriefing statements and certificates, and related papers.

Authority for maintenance of the system:

E.O. 11652 - Classification and Declassification of National Security Information and Material; 3/10/72

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Security Office - To verify individual employee compliance with current Special Security requirement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders, in safe and vault.

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary Record - Destroy one year after termination of access to information.

System manager(s) and address:

DIA Special Security Office, Room 1A884, Pentagon, Washington, D.C. 20310

Notification procedure:

Information may be obtained from Defense Mapping Agency, ATTN: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4411

Record access procedures:

Requests from individuals should be addressed to system manager. Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from DMA Security Officer

Record source categories:

Individuals authorized to have access to special classified material

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 U.S.C. 522a (j) or (k), as applicable. For additional information, contact the Systems Manager.

NONE

B0601-01 HQHTASI

System name:

601-01 Civilian Personnel Program Reporting Files (Master File Printout)

System location:

Personnel Offices. See DMA Directory for Complete Address Listing

Categories of individuals covered by the system:

Any individual employed by the Agency.

Categories of records in the system:

File contains Name, Social Security Number, Date of Birth, Sex, Service Computation Date, Location, Job Title, Grade, Series, Step, Salary, Life Insurance, Health Benefits, Organization Code, Nature and Date of Last Action Tak en, Veteran's Preference, Retirement Deductions, Type of Appointment, Master Tapes, etc.

Authority for maintenance of the system:

Executive Order 10561. Designating Official Personnel Folders in Government Agencies as Records of the CSC and Prescribing Regulations Relating to the Establishment, Maintenance and Transfer Thereof; 9/15/54

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To provide consolidated source of pertinent information on employees for internal requests for information and internal reports. Provides records of information transmitted to Civil Service Commission Central Personnel Data File.Available to Civil Service Commission

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer Printout paper

Retrievability:

By organization, grade level, alpha by name

Safeguards:

Buildings/facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary. Destroy after six months.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial deter- mination may be obtained from System Manager.

Record source categories:

Digest of Information from existing Personnel Files.

Systems exempted from certain provisions of the act:

NONE

B0601-01-2 HTA

System name:

601-01 Civilian Personnel Program Reporting Files (Employee Retirement Record)

System location:

Primary System - Personnel Office, See DMA Directory for complete address listing

Decentralized Segments - Department of Computer Services

Categories of individuals covered by the system:

Any individual employed by DMA Hydrographic/Topographic Center who is qualified for retirement

Categories of records in the system:

Contains names of employees eligible for optional retirement within next five years. Contains name, job title, earliest retirement date, Date of Birth, Service Computation Date, Pay Plan, Grade, Step, Series, Organization Code.

Authority for maintenance of the system:

Executive Order 10561

Designating Official Personnel Folders in Government Agencies as Records of the CSC and Prescribing Regulations Relating to the Establishment, Maintenance and Transfer Thereof; 9/15/54

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Supervisory management planning purposes and personal benefit of individuals concerned- Available to Civil Service Commission.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer printout and tape

Retrievability:

By organization, alpha by last name

Safeguards:

Building facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Printout
Temporary - Destroy after five years
Tape - updated periodically

System manager(s) and address:

DMA Hydrographic/Topographic Center, ATTN: Personnel Office, Room 170, Erskine Hall, 6500 Brookes Lane, Washington, D.C. 20315, TELEPHONE: Area Code 202/227-2116

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Personnel Master File computer tape in Department of Computer Services

Systems exempted from certain provisions of the act:

NONE

B0601-03 HQHTASI

System name:

601-03 Advanced Personnel Data System - Civilian (APDS-C)

System location:

Civilian Personnel Offices - See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Current and former DMA civilian employees.

Categories of records in the system:

Civilian employment information including authorization for position, personnel data, suspense information; position control information; projected information and historical information; civilian education and training data; performance appraisal, ratings, evaluation of potential; civilian historical files covering job experinece, training and transactions; civilian awards information, merit promotion plan work files; career programs files for such functional areas as procurement, logistics, civilian personnel, etc., civilian separation and retirement data for reports and to determine eligibility; adverse and disciplinary data for statistical analysis and employee assistance; stand-along file, as for complaints, enrollee programs; extract files from which to produce statistical reports in hard copy, or for immediate access display on remote computer terminals; miscellaneous files.

Authority for maintenance of the system:

5U.S. Code 301 and 44 U.S. Code 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To provide automated system support to DMA officials at all levels from that part of the Civil Service Commission required personnel management and records keeping system that pertains to evaluation, authorization and position control, position management, staffing skills inventory, career management, training, retirement, employee services, rights and benefits, merit promotions, demotions, reductions in force, complaints resolution, labor management relations, and the suspensing and processing of personnel actions; to provide for transmission of such records between employing activities within the Defense Mapping Agency; to provide reports to the Civil Service Commission; to provide reports of military reserve status to other armed services for contingency planning; to obtain statistical data on the work force to fulfill internal and external report requirements and to provide DMA offices with information needed to plan for and evaluate manpower, budget and civilian personnel programs, to provide minority group designator codes to the U.S. Civil Service Commission's automated data file, to provide the Office of the Assistant Secretary of Defense, Manpower and Reserve Affairs, with data to assess the effectiveness of the program for employment of women in executive level positions; to provide data to DMA officials to facilitate the assessment of the DMA Affirmative Action Plan for minorities and women; to obtain listings of employees by function or area for locator and inventory purposes; disclosed to officials of labor organizations recognized under Executive Order 11491, as amended, when relevant and necessary to their duties of exclusive representation concerning personnel policies and practices and matters affecting working conditions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in visible file binders/cabinets, card files, computer magnetic tapes, disks or drums, computer paper printouts, microfiche.

Retrievability:

Filed by name, Social Security Account Number (SSAN), other identification number or system identifier. The primary individual record identifier in APDS-C is SSAN. There is the added capability of selecting an individual's record or certain preformatted information by SSAN on an immediate basis using a teletype or cathode ray tube display device.

Safeguards:

Records are accessed by custodian(s) of the record system. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets. Records are stored in safes. Records are stored in vaults. Records are stored in locked cabinets or rooms. Records are protected by guards. Records are controlled by computer system software.

Retention and disposal:

Analog output products are retained in office files until superseded, obsolete, no longer needed for reference, or inactivated. They are then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Data stored digitally within system is retained only for the period required to satisty recurring processing requirements and/or historical requirements. The Notification of Personnel Action, Standard Form 50, is disposed of as directed by the Civil Service Commission, work files and records such as the employee career brief, position survey work sheet, retention register work sheet, alphabetic and social security account number locator files, and personnel and position control register are destroyed after use by tearing into pieces, shredding, macerating, or burning work sheets pertaining to qualification and retention registers are disposed of as directed by the Civil Service Commission; transitory files such as pending files, and recovery files are destroyed after use by degaussing files and records retrieved through general retrieval systems are destroyed after use by tearing into pieces, shredding, pulping, macerating, or burning. The separated employee file retains employee information at time of separation for five years after which the employee's record is destroyed by degaussing.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to above.

Written requests for information should contain the full name of the individual, Social Security Number, current address and telephone number.

For personal visits, the individual should be able to furnish personal identification containing his/her full name, Social Security Number, physical description, photograph and signature.

Contesting record procedures:

The Agency rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Digest of information from existing Personnel Files and management/employee source documents.

Systems exempted from certain provisions of the act:

NONE

B0602-03 HQHTASI

System name:

602-03 Organization File

System location:

Personnel Offices - See DMA Directory for complete address listing

Categories of individuals covered by the system:

Military and civilian personnel assignment to HQ DMA

Categories of records in the system:

Roster of people assigned to DMA by name - job number. JTD Position series-grade-organization

Authority for maintenance of the system:

5 U.S.C. 3101 - 'Authority for Employment'

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Matching people with job numbers and JTD numbers for ceiling purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in File Folders

Retrievability:

Chronological date

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Destroy when superseded or obsolete.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from: System Manager

Record source categories:

Personnel action recorded for supervisory records.

Systems exempted from certain provisions of the act:

NONE

B0604-03 HQHTASI

System name:

604-03 Active Application Files (Applicant Supply Files)

V 4 4 / 1 6 J A 2 3 7 9 UMI

System location:

Primary System - DMA Personnel Offices. See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Individual job applicants

Categories of records in the system:

File contains rated applications for positions of Clerk-Typists or Clerk-Steno, test results

Authority for maintenance of the system:

5 U.S.C. Section 3301; Examination, certification and Appointment - Civil Service; Generally
Executive Order 10577 - Amending the Civil Service Rules and Authorizing a New Appointment System for the Competitive Service; 11/23/54

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by Personnel Office to fill position vacancies for Clerk-Typist and Clerk-Steno positions up to GS-4 level, exchange with other organizations, such as NIH, subject to periodical inspection by Civil Service Commission

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and file cabinets

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary. Destroy after two years

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.
Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Department's rules for contesting contests and appealing initial determination may be obtained from System Manager.

Record source categories:

Applications and tests completed by job applicants

Systems exempted from certain provisions of the act:

NONE

B0604-04 HTA

System name:

604-04 Pending Application Files

System location:

Civilian Personnel Offices - DMA Hydrographic/Topographic Center (HT) and DMA Aerospace Center (A) See DMA Directory for complete address listing.

Categories of individuals covered by the system:

All civilian personnel concerned.

Categories of records in the system:

Record of personnel applying for positions with DMA whose application is pending due to lack of qualifications, declining or not available for appointment. Applicants for whom there are adequate Civil Service registers.

Authority for maintenance of the system:

21 USC 1175

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to document individual's consideration for appointment.
Personnel Office, concerned employees, employee representatives, and authorized inspectors of Civil Service Commission.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by employee last name.

Safeguards:

Buildings and facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary record. Destroy in CFA after 2 years or on receipt of CSC inspection report.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Request from individuals should be addressed to System Manager
Written requests for information should contain the full name of the individual, current address and telephone number, and social security number. Visits are limited to normal working hours.
For personal visits, the individual should be able to provide some acceptable identification; that is, driver's license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Department's rules for contesting contents and appealing initial determinations may be obtained from System Manager.

Record source categories:

Applications from individuals concerned--qualification statements.

Systems exempted from certain provisions of the act:

NONE

B0605-01 HQHTASI

System name:

605-01 Equal Employment Opportunity Reporting Files

System location:

Primary System - Staff Offices, Department, Division and Branch Offices, All Components. See DMA Directory for complete address listing.
Decentralized Segment - Components and organizations of DMA

Categories of individuals covered by the system:

All civilian employees of DMA and Components

Categories of records in the system:

Social security number, statistical by organization/minority designation

Authority for maintenance of the system:

Executive Order 11478, 8/8/64; Equal Employment Opportunity in the Federal Government.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by the Equal Employment Opportunity Office only to identify minorities and for statistical purposes. Can be subject to submission to CSC for inspection or central EEO office - counselors investigators have access to files.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer magnetic tapes, vertical file cards and computer paper printouts.

Retrievability:

Social Security Number

Safeguards:

Information available only to Equal Employment Opportunity Office. Information kept in locked cabinets.

Retention and disposal:

Destroy after five years.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.
Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Existing Personnel Records

Systems exempted from certain provisions of the act:

NONE

B0605-03 HQHTASI

System name:

605-03 Equal Employment Opportunity Complaint Case Files

System location:

DMA and Component organizational EEO Office
see DMA Directory for complete Address Listing

Categories of individuals covered by the system:

Any employee who files a complaint of discrimination

Categories of records in the system:

All documents pertaining to specific complaints of discrimination.

Authority for maintenance of the system:

Executive Order 11478, 8/8/69; Equal Employment Opportunity in the Federal Government.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

EEO Office - to process complaints; counselors have access;
Personnel Office - to concur or non-concur with proposed disposition
Office of Counsel - formal investigation; Complainant's designated Representative
HQ DMA - to concur or non-concur with proposed decision
Civil Service Commission - appeal from initial agency decision; Department of Justice in event of litigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in folders in barred containers

Retrievability:

By name of complainant

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Components - maintained until final decision
Temporary Record - destroyed after five years
HQ DMA - permanent

System manager(s) and address: Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager
Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Complaints, transmittal letters, investigative data and summaries, hearing transcripts, finding of fact statements, final disposition reports, acceptance statements, withdrawl notices, and similar or related documents.

Systems exempted from certain provisions of the act:

NONE

B0606-01 HQHTASI

System name:

606-01 Official Personnel Folder Files

System location:

Primary System - DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I) - See DMA Directory for complete address listing.
Decentralized Segments - National Personnel Records Center, St. Louis, MO

Categories of individuals covered by the system:

All civilian employees
Indebtedness - Allegations of indebtedness made by creditors to Personnel Office requesting help

Categories of records in the system:

File contain documentation of all official personnel action taken on an employee regarding Federal service including verification of military service.
Indebtedness - copies of court judgements, responses to claim and counseling records

Authority for maintenance of the system:

Executive Order 10561 9/15/54 Designating Government Agencies as Records of the Civil Service Commission and Prescribing Regulations Relating to the Establishment, Maintenance and Transfer thereof.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel Office - serves as the official personnel record of an employee's Federal Service
Supervisory - Merit Promotion Plan
National Personnel Records Center, St. Louis, MO. - to give information to individuals concerned after retirement or separation from government service.
Any regulatory authority such as Civil Service Commission
Indebtedness - counseling, possible use in court proceedings, supervisors and personnel for disciplinary actions

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders

Retrievability:

Alphabetically by last name

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary Record - retained in active file until employee separates. Upon separation from Federal Service, file sent to National Personnel Records Center. Upon transfer to another Agency, file is sent to Agency's personnel office. Destroyed at NPRC after 75 years after date of birth.
Indebtedness - destroyed upon separation of individual.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to System Manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager

Record source categories:

Personnel forms completed by employee and Personnel Office regarding Federal employment.

Personnel Office - notification of personnel action, pay changes, change of address, change of health benefits and life insurance, letters of reprimand, verification of military service, educational transcripts. Documents generated by Civil Service Commission such as test scores, notices of ratings.

Indebtedness - official court judgements or court orders. Employees responses and creditors requests for help.

Systems exempted from certain provisions of the act:

NONE

B0606-02 HQHTASI

System name:

606-02 Employee Service Record File

System location:

Primary System - Personnel Office and each organizational field activity

Decentralized Segments - Records Holding Area, Records Management Division (For HT files only) - See DMA Directory for complete address

Categories of individuals covered by the system:

Any individual employed by HQ,HT,A,I

Categories of records in the system:

Card contains a summary of all personnel actions on SF-50's or pay change actions during employment of the individual concerned.

Log and disposition contains name, social security number, date of birth, when and where official Personnel Folder was sent from Personnel Office

Authority for maintenance of the system:

Executive Order 10561, 'Designating Official Personnel Folders in Government Agencies as Records of the Civil Service Commission and Prescribing Regulations Relating to the Establishment, Maintenance, and Transfer Thereof; 9/15/54

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel - Card index control of personnel actions on employees and organizational control, updated

Supervisory - Statistical Purposes

Log - used by Personnel to verify employee

Records Holding Area, Records Management Division - to furnish certain information (Permanent or Temporary; Salary; How long employed; Date of birth) to other Government agencies, commercial or credit organizations, verification of employment, reasons for leaving, birth date, date of employment, information to be given to FBI, Civil Service Commission on dates of employment.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Card (SF 7) and Log Book

Retrievability:

Card by organization, grade level, alphabetically by name. Log - by date

Safeguards:

Building/facility employs security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary Record. Card (SF 7) - COFF inactive files every five years. Transfer to Records Holding Area five years after cut off. Destroy in Records Holding Area after ten years. Log - retained in Personnel, destroyed after 15 years.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card and give some verbal information that could be verified

Contesting record procedures:

The Agencys' rules for contesting contents and appealing initial determination may be obtained from: System Manager.

Record source categories:

Card Entries - Supervisory - SF 52 action, pay actions, performance appraisals

Personnel and Civil Service Commission Automatic Pay Actions Log - Personnel Clerk entries

Systems exempted from certain provisions of the act:

NONE

B0606-03 HQHTA

System name:

606-03 Expert and Consultant Data Files

System location:

Personnel Offices - See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Any individual employed as an expert or consultant with DMA

Categories of records in the system:

Employment and education history, salary data, statement of duties or functions proposed for the expert/consultant.

Authority for maintenance of the system:

5 U.S.C. 3101 - Authority for Employment

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of collecting the information is to evaluate the merits of proposed appointments of consultants/experts and to meet CSC requirements to maintain such records.

The information is used to obtain final approval by DMA/DOD on proposed appointments of experts/consultants.

Supervisors, Personnel, OSD officials, CSC.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Alphabetically by name.

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary. Destroy 2 years after separation of employee.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Personnel actions recorded for supervisory records.

Systems exempted from certain provisions of the act:

NONE

B0606-05 HQHTASI

System name:

606-05 Adverse Action Files

System location:

Personnel Offices DMA. See DMA Directory for complete address listing.

Categories of individuals covered by the system:

All civilian employees who have had adverse action taken against them.

Categories of records in the system:

Copies of notice of proposed adverse action, the material relied on by the Agency to support the reasons in that notice, any answer made by the employee and the notice of decision.

Authority for maintenance of the system:

E.O. 11491 - 'Labor Management Relations in the Federal services' - 10/31/69

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To maintain records on adverse actions for use in employee appeals or grievances and as documentation in further adverse actions against an employee, information from file could be used in appeal cases to Civil Service Commission, can be used by both counsel and union in cases of representation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

This is a temporary record. Destroy after 10 years unless employee appeals; in which case, transfer to File No. 610-03 (Appeals and Grievances)

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories: All documents related to adverse actions, such as removal, suspension, furlough without pay, and reduction in rank or pay for cause other than reduction-in-force. Notices of proposed action, employee's reply, statement of witness, notice of decision, and similar documents.

Systems exempted from certain provisions of the act:

NONE

B0607-01 HQHTASI

System name:

607-01 Personnel Locator Files (Alpha Listing)

System location:

Primary Personnel Offices - See DMA Directory for complete listing.

Decentralized Segments - Computer Services - DMA Hydrographic/Topographic Center (HT) and DMA Aerospace Center (A).

Categories of individuals covered by the system:

Any civilian individual employed by DMA

Categories of records in the system:

Alphabetical file contains name, job title, job number, social security number, date of birth, service computation date, pay plan, grade, step, series, organization code.

Social Security Listing - Contains social security number and name.

Authority for maintenance of the system:

5 U.S.C. 7301 - Regulation of Conduct - Presidential Regulations

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Alpha listing - To locate employees by organization and job title and perform certain internal reports and internal requests for information within the Personnel Office within the Agency.

Social Security Number Listing - To locate an employee when social security number only is known. Used when working with error listings sent by Civil Service Central Personnel Data File.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer Printout Paper

Retrievability:

Alphabetically by last name
Social Security Number

Safeguards:

Building/Facility employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Alphabetical Listing - Temporary - Destroy after 6 months.
Social Security Number Listing

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Personnel Master File Computer Tape located in Department of Computer Services
Personnel Master File - Tab run

Systems exempted from certain provisions of the act:
NONE

B0607-03 HQHTASI

System name:
607-03 Chronological Journal Files

System location:
Personnel Offices - DMA Hydrographic/Topographic Center (HT) and DMA Aerospace Center (A). See DMA Directory for complete address listing.

Categories of individuals covered by the system:
Any civilian employee of the Agency who has a personnel action pertaining to him.

Categories of records in the system:
Contains all personnel actions for which an SF 50, Notification of Personnel Action is required.

Authority for maintenance of the system:
E.O. 10561 - 'Designating Official Personnel Folders in Government Agencies as Records of the CSC and Prescribing Regulations Relating to the Establishment, Maintenance and Transfer Thereof' 9/15/54

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
Monthly strength reports - Internal, DoD and the Civil Service Commission

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Paper file of SF 50 in file folders

Retrievability:
By date, organization, alphabetical by name

Safeguards:
Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:
Temporary. Destroy after 2 years in current files area

System manager(s) and address:
Defense Mapping Agency, ATTN: Personnel Office Building 56, U.S. Naval Observatory, Washington, D.C. 20305 TELEPHONE: Area Code 202/254-4066

Notification procedure:
Information may be obtained from above.

Record access procedures:
Requests from individuals should be addressed to system manager.
Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:
The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:
Typed from SF 52, Request for Personnel Action from either management or the Personnel Office.

Systems exempted from certain provisions of the act:
NONE

B0608-06 HQHTASI

System name:
608-06 Civilian Training Reporting Files

System location:
Civilian Personnel Offices - See DMA Directory for complete address

Categories of individuals covered by the system:
Any civilian employee receiving training in Government and non-government facilities
Civil Service Commission
Supervisory Personnel
Members of Personnel Office

Categories of records in the system:
File contains the Central Personnel Data Files Report showing training completed and also the quarterly report of career development executive and management training for minorities and women

Authority for maintenance of the system:
Executive Order 11348, - Providing for Further Training of Government Employees; 4/22/67

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
Civilian Personnel Office - for reporting training
Civil Service Commission for review
Supervisory Personnel - access to file for review

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Paper records in file folders

Retrievability:
Appropriate folder by name of individual, social security number and type of training

Safeguards:
Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:
Records are destroyed after five years

System manager(s) and address:
Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:
Information may be obtained from System Manager

Record access procedures:
Requests from individuals should be addressed to system manager.
Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office
For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:
The Agencys' rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:
Individuals, interagency - professional institutions

Systems exempted from certain provisions of the act:
NONE

B0608-07 HTA

System name:
608-07 Civilian Training Program Files

System location:
Primary System - Staff Offices, Department, Division and Branch Offices, All Components. See DMA Directory for complete address
Decentralized Segments - Components and organizations of DMA

Categories of individuals covered by the system:
Any civilian employee

Categories of records in the system:
File contains career plans for certain executives and managements, GS-13 and above, career appraisals - performance evaluations, applications for career appraisal, and assessment of knowledges and abilities for certain managers. The files also contain minutes of executive manpower resources board meetings

Authority for maintenance of the system:
Executive Order 11348, Providing for the Further Training of Government Employees; 4/22/67

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
Civilian Personnel Office - for career planning and career appraisals
Supervisory and Civil Service Commission - reviews

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Paper records in file folders

Retrievability:
Filed within appropriate folder in alphabetical order by name

Safeguards:
Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:
Records are destroyed after five years or five years after completion of a specific training program

System manager(s) and address:
Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:
Information may be obtained from above.

Record access procedures:
Requests from individuals should be addressed to system manager.
Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office
For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Contesting record procedures:
The Agencys' rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:
Information and/or transcripts supplied by Federal Institution - requests by supervisor or personnel to initiate action

Systems exempted from certain provisions of the act:
NONE

B0608-08 HQHTASI

System name:
608-08 Training Files

System location:
DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I). See DMA Directory for complete address listing

Categories of individuals covered by the system:
Any DMA civilian employee

Categories of records in the system:
File contains documents reflecting such items as cumulative record of management training received by each supervisor, space allocations, listing of participants in after duty hours on base courses, and student evaluation of courses. Included also are Nomination for Interagency Training (OF Form 37); Enrollment and Registration Request for DoD Management Education and Training Program Courses (DD Form 1556); Training Attendance and Rating (AF Form 1151); Trainee Date (AF Form 1152); and Record of Training or Certification of Equivalency (AF Form 1514).

Authority for maintenance of the system:
Executive Order 11348, 'Providing for the Further Training of Government Employees'

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
Civilian Personnel Office - For use in planning, scheduling, approving, documenting, and evaluating training. Also, for statistical information needed in various reports.
Supervisory - For use in personnel administration.
Civil Service Commission - Inspection purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Paper records in file folders and/or Kardex

Retrievability:
Filed alphabetically by last name of employee

Safeguards:
Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:
Civilian Personnel Office - Records are destroyed after five years.

System manager(s) and address:
Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:
Information may be obtained from above.

Record access procedures:
Requests from individuals should be addressed to system manager.
Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:
The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:
Civil Service Commission, Academic Institutions, Professional Organizations and Inter-Agency training.

Systems exempted from certain provisions of the act:
NONE

B0608-09 HQHTASI

System name:
608-09 Contract Training Files

System location:
Civilian Personnel Offices - See DMA Directory for complete address

Categories of individuals covered by the system:
Any civilian employee concerned

Categories of records in the system:
File contains documents reflecting contract training of civilian employees in non-government facilities - covering such items as information used in rating applicants for Long-Term Full Time Training (LTFTT), service agreements for LTFTT, employee selection, student evaluation, contracts between Agency and non-government training facilities.

Authority for maintenance of the system:
Executive Order 11348, Providing for the Further Training of Government Employees; 4/22/67

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
Civilian Personnel Office - For use in planning, scheduling, approving documenting and evaluating training. Also, for statistical information needed in various reports.
Managers - For use in personnel administration.
Academic Institutions - Civil Service Commission

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Paper records in file folders.
5' x 8' file cards.

Retrievability:
Filed alphabetically by name.

Safeguards:
Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:
Civilian Personnel Office - Records are destroyed after five years.

System manager(s) and address:
Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:
Information may be obtained from above.

Record access procedures:
Requests from individuals should be addressed to system manager.
Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:
The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:
Civil Service Commission, Academic Institutions, Professional Organizations and Inter-Agency training.

Systems exempted from certain provisions of the act:
NONE

B0608-09 HQHTASI

System name:
608-09 Contract Training Files

System location:
Civilian Personnel Offices - See DMA Directory for complete address

Categories of individuals covered by the system:
Any civilian employee concerned

Categories of records in the system:
File contains documents reflecting contract training of civilian employees in non-government facilities - covering such items as information used in rating applicants for Long-Term Full Time Training (LTFTT), service agreements for LTFTT, employee selection, student evaluation, contracts between Agency and non-government training facilities.

Authority for maintenance of the system:
Executive Order 11348, Providing for the Further Training of Government Employees; 4/22/67

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
Civilian Personnel Office - For use in planning, scheduling, approving documenting and evaluating training. Also, for statistical information needed in various reports.
Managers - For use in personnel administration.
Academic Institutions - Civil Service Commission

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Paper records in file folders and/or Kardex

Retrievability:
Filed alphabetically by last name of employee

Safeguards:

V 4 4 / 1 6 J A 2 3 7 9 UMI

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary - Record destroyed 3 years after completion of training or upon expiration of obligated service agreement.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Transcripts from previous academic Institutions, Professional Organizations

Systems exempted from certain provisions of the act:

NONE

B0608-10 HQHTASI

System name:

608-10 Record of Training Files

System location:

Civilian Personnel Offices - See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Any individual trainee participating in off-the-job training courses.

Categories of records in the system:

Files contain listing of all courses which the Agency sponsors for the individuals' length, dates and cost of each course.

Authority for maintenance of the system:

Executive Order 11348 5 U.S.C. Section 4103 and 4118 - Establishment of Training Programs; Training - Regulations

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Civilian Personnel Office - For use in administering training program and documenting record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.
Card files

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Records are reviewed annually and the portion pertaining to individuals no longer employed with Agency are destroyed.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Supervisors approval, employee request forms, academic institutions

Systems exempted from certain provisions of the act:

NONE

B0609-01 HQHTASI

System name:

609-01 Referral and Selection Files

System location:

Personnel Offices - See DMA Directory for complete address

Categories of individuals covered by the system:

All applicants for positions

Categories of records in the system:

Contains position vacancy announcements and records of persons applying, their ratings and the persons referred and selected for the vacancy

Authority for maintenance of the system:

Executive Order 10577 - Amending the Civil Service Rules and Authorizing a New Appointment System for Competitive Service; 11/23/54

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To maintain a record of employees selected under the Civilian Personnel Office, Promotion Panel, EEO, Personnel, CSC

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Envelopes in file cabinets

Retrievability: By vacancy announcement number

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Temporary - destroy after two years

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office

For personnel visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Information is provided by employee, their supervisor, and the selecting official

Systems exempted from certain provisions of the act:

NONE

B0609-05 A

System name:

609-05 Occupational Inventory Files

System location:

Primary System - Office of Civilian Personnel (POP), DMAAC, 8900 South Broadway, St. Louis, MO 63125.

Decentralized Segments - All Directorates, Staff Agencies and Departments of DMAAC, St. Louis, MO.

Categories of individuals covered by the system:

Employee concerned, supervisor and Personnel Office

Categories of records in the system:

Record contains information on qualifications, availability, appraisals, and other data on persons registered in specific career fields (DMAHTC Fm 1405 POP-5 and 1405 pop-4)

Authority for maintenance of the system:

5, E.O. 10577 - Amending the Civil Service Rules and Authorizing a new Appointment System for Competitive Services, 11/23/54

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information is utilized to provide numerical appraisal of employee's current performance.

Category of users are civilian employees, supervisors and Personnel Office.

Specific use, the user utilizes the information to provide numerical appraisal of employee's current performance and potentials for middle and high level managerial and executive positions, and potential for general schedule nonsupervisory positions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically be last name according to position level.

Safeguards:

Facility employs security guards on a continuous basis. Records are maintained in area accessible only to authorized personnel. Records are stored in locked file cabinets.

Retention and disposal:

Primary System - Forms are maintained and retained in current files area (CFA). Forms are destroyed 2 years after individual is no longer eligible for consideration.

System manager(s) and address:

Office of Civilian Personnel (POP), DMAAC, 8900 South Broadway, St. Louis, MO 63125 TELEPHONE: Area Code 304/268-8334

Notification procedure:

Information may be obtained from above.

Record access procedures:

Request should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address, telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agency's rules for access to records and for containing contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Employee, Supervisor, Personnel Office, DMAAC Fm 1405 POP-5 and 1405 POP-4

Systems exempted from certain provisions of the act:

NONE

B0609-07 HQHTAI

System name:

609-07 Individual Overseas Employment Referral Files

System location:

Personnel Offices - DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A) - See DMA Directory for complete address

Categories of individuals covered by the system:

Any individual registered in the Overseas Employment Referral Program

Categories of records in the system:

File contains documents on employees registered in Overseas Employment Referral Program. Includes application, name, skills, grade levels, locations, for which registered, offers received and action taken, correspondence with registrant, date dropped from system and reasons.

Authority for maintenance of the system:

5 U.S.C. 3101 - Authority for Employment

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Place employees in automated Overseas Employment Program
Any agency employing personnel overseas
Supervisors
Personnel Office

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders

Retrievability:

Alphabetically by last name

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary - Destroy 2 years after individual is dropped from system.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Form completed by employee with advice of personnel representatives.

Systems exempted from certain provisions of the act:

NONE

B0610-01 HQHTASI

System name:

610-01 Hours of Work Files

System location:

Personnel Offices - See DMA Directory for complete address

Categories of individuals covered by the system:

Employees who request change in hours of work.

Categories of records in the system:

Contains employees name, reason for desiring change in work hours, decisions to approve or disapprove.

Supervisors, Personnel Office, Office of Comptroller

Authority for maintenance of the system:

5 U.S.C. 7301 - Regulation of Conduct - Presidential Regulations

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to show changes in hours of work of individuals.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Alphabetically by name

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Destroy one year after no longer effective

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the indi- viduals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Individuals originating request review of approval or disapproval by supervisor.

Systems exempted from certain provisions of the act:

NONE

B0610-03 HQHTASI

System name:

610-03 Appeals Files

System location:

DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Inter American Geodetic Survey (I) - See DMA Directory for complete address.

Categories of individuals covered by the system:

All civilian employees who file an appeal to a removal, suspension for more than 30 days, furlough and reduction in rank or pay.

Categories of records in the system:

File contain copies of; notice of proposed action, supporting evidence, employee reply, notice of decision, record of when a hearing is held

Authority for maintenance of the system:

Executive Order 11787 - Revoking Executive Order No. 10987, Relating to Agency Systems for Appeals from Adverse Actions 5 USC 7512, 7701

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Maintained for use in appeal proceedings.
Personnel Office
Employee Representative
Supervisors
Hearing Officer
Civil Service Commission
Equal Employment Opportunity

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders and magnetic tapes

Retrievability:

Filed alphabetically by last name of employee.

Safeguards:

buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Destroy in current files area after seven years unless appeal is still pending.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Supervisors, employee, witnesses.

Systems exempted from certain provisions of the act:

NONE

B0610-03-2 HQHTASI

System name:

610-03 Grievance Files

System location:

Civilian Personnel Offices - See DMA Directory for complete address

Categories of individuals covered by the system:

All civilian employees who have filed a grievance.

Categories of records in the system:

File contains correspondence relative to grievance, investigation report, decision by management at various steps of procedure, supporting evidence. Hearing record, Examiners Report, Grievance decision.

Authority for maintenance of the system:

5 U.S.C. 1302, 3301, 3302
Executive Order 11491 as amended

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To evaluate the merits of employee grievances and to make decisions on grievances

Personnel Office, Employee Representative, Supervisors Grievance Examiner, Civil Service Commission, Equal Employment Opportunity Officer, Local Union Officials

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper Records in file folder - magnetic tape recording when a hearing is held

Retrievability:

Filed alphabetically by last name of employee.

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Temporary Record - destroy after seven years unless appeals are pending

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Supervisors, employee, witnesses and grievance examiners

Systems exempted from certain provisions of the act:

NONE

B0611-01 HTAI

System name:

611-01 Reduction in Force Card Files

System location:

Civilian Personnel Offices - See DMA Directory for complete address

Categories of individuals covered by the system:

All civilian employees at Agency

Categories of records in the system:

File contains reduction-in-force data, including name of employee, date, position, grade, last performance rating, competitive level code and similar information

Authority for maintenance of the system:

5 USC 3502; Order of Retention

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To construct retention register in event of reduction in force
Employees, Union Officials, Personnel, Supervisors

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper cards in card boxes

Retrievability:

Alphabetically by job title, competitive level code, name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Temporary - destroy upon separation of employee or upon updating

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys' rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Official Personnel Folder and SF 7, Service Record Card

Systems exempted from certain provisions of the act:

NONE

B0611-03 HTAI

System name:

611-03 Retention Register Files

System location:

Personnel Offices - See DMA Directory for complete address Listing.

Categories of individuals covered by the system:

All civilian employees at Agency

Categories of records in the system:

File contains retention groups of employees according to tenure, length of service, performance ratings and veterans preference

Authority for maintenance of the system: 5 USC 3502; order of Retention

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To determine ranking of employees in the event of reduction-in-force

Employees, Union officials, Personnel, Supervisors

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders

Retrievability:

By competitive level code - individual name

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Temporary - destroy after two years unless appeals are pending

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys' rules for contesting contents and appealing initial determination may be obtained from System Manager

Record source categories:

Reduction-in-Force Card Files - Official Personnel Folder - Service Record Card (SF 7)

Systems exempted from certain provisions of the act:

NONE

B0612-01 HQHTASI

System name:

612-01 Basic Labor Relations Files

System location:

Personnel Offices - See DMA Directory for complete address listing

Categories of individuals covered by the system:

Civilian Employees who file grievances under negotiated grievance procedure.

Categories of records in the system:

File contains correspondence relative to grievance, decisions by supervisors at various steps of procedure and report of arbitrator when abitration is requested.

Authority for maintenance of the system:

E.O. 11491 as amended. - Labor Management Relations in the Federal Service; 10/31/69

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To resolve labor management disputes
Supervisors, Personnel Office, Union representatives, arbitrator, Federal Labor Relations Counsel, DoD.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper Records in file folders

Retrievability:

Alphabetically by name

Safeguards:

Buildings or facility employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary Record. Destroyed after 7 years unless appeals are pending.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.
Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office
For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Supervisor, Labor Organizations, Employee, Arbitrator, Witnesses.

Systems exempted from certain provisions of the act:

NONE

B0613-05 HQHTASI

System name:

613-05 Incentive Awards

System location:

Civilian Personnel Offices - See DMA Directory for complete address

Categories of individuals covered by the system:

All civilian employees who have submitted a beneficial suggestion.
Civilian employees who have been recommended for an award.

Categories of records in the system:

Documents related to submitting, evaluating, and approving or disapproving each award; includes suggestion and performance awards

Authority for maintenance of the system:

5 U.S.C. Section 4502, 4503, 4504 and 4506; Incentive Awards

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used as a basis for awarding employees
Suggestions - save money, increase efficiency, improve morale
Statistical Reports containing number of awards, amount of money saved
Employees (originate), Supervisors or official who evaluate suggestions, Incentive Awards Boards, Personnel Office, Civil Service Commission

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders

Retrievability:

Filed by Fiscal Year. Suggestion - sequential numerical code
Performance Awards - individuals name, alphabetical

Safeguards:

Stored in locked file cabinet

Retention and disposal:

Temporary Record - destroy two years after final action

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.
Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys' rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Suggestions received from employees, Suggestion Evaluations and Performance awards received from supervisors.

Systems exempted from certain provisions of the act:

NONE

B0614-01 HT

System name:

614-01 Official Records (Military) Files and Extracts

System location:

Military Personnel Office, DMAHTC - See DMA Directory for complete address.

Categories of individuals covered by the system:

Military Personnel assigned to DMA

Categories of records in the system:

Navy-Documents as required by Bureau of Naval Personnel Manual (BUPERSMAN) NAVPERS 15791.B.
Army-Documents as required by Army Regulation 640.10
Enlisted and Officer personnel folders - co
Statement of Military History, Qualification Records.

Authority for maintenance of the system:

44 U.S.C. 3101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Heads of major staff elements to determine the acceptability of an individual nominated by the parent service for a DMA Position.
For Review by appropriate DMA Officials responsible for the preparation of efficiency/fitness/effectiveness reports and award recommendations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders

Retrievability:

Alphabetically by name of individual

Safeguards:

Buildings, facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Permanent Record. Retained until departure of individual DMA, MPRJ handcarried to transfer point by individual upon separation from the service and subsequently retired to National Records Center (Military Records) 9700 Page Boulevard, St. Louis, MO 63132.

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to System Manager
Written requests for information should contain the full name of the individual current address and telephone number, service number on all correspondence received from this office. Visits are limited to normal working hours.
For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification cards, and give some verbal information that could be verified.

Contesting record procedures:

The Department's rules for contesting contents and appealing initial determinations may be obtained from System Manager.

Record source categories:

Information is obtained from the individual's Service Military Personnel Center, the individual's rating official within the DMA and the individual concerned.

Systems exempted from certain provisions of the act:

NONE

B0614-02 HTA

System name:

614-02 Military Services Administrative Record Files

System location:

Directorate of Administration, DMAAC; Military Personnel Division, DMAHTC. See DMA Directory for complete mailing address.

Categories of individuals covered by the system:

Military Personnel assigned to DMA Hydrographic/Topographic Center and DMA Aerospace Center.

Categories of records in the system:

File contains letters, memorandums, emergency data, and assignment actions.

Authority for maintenance of the system:

21 USC 1175.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of collecting the information is to maintain information to act as a liaison between individual, DMA, and Servicing CBPO's.
User of the collected information is the Commander, Military Personnel Division, and the individual.
User utilizes the collected information to have available information when needed on assigned military personnel.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by employee last name.

Safeguards:

Buildings and facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Destroy in accordance with parent service directives.

System manager(s) and address:

Director of Civilian Personnel (POX). See DMA Directory

Notification procedure:

Information may be obtained from System Manager

Record access procedures:

Requests from individuals should be addressed to System Manager.
Written requests for information should contain the full name of the individual, current address and telephone number, and social security number. Visits are limited to normal working hours.
For personal visits, the individual should be able to provide some acceptable identification; that is, driver's license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Leave records, finance documents, transmittals, personnel rosters, physical examinations, personnel actions, locator cards, trip reports, copies of orders/reassignments.

Systems exempted from certain provisions of the act:

NONE

B0615-02 HQHTASI

System name:

615-02 Federal, State and Professional Safety Councils and Committees Files

System location:

Safety Offices - DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter American Geodetic Survey (I). See DMA Directory for complete address

Categories of individuals covered by the system:

Safety Officer, Safety Monitors and Fire Marshalls of DMA

Categories of records in the system:

Individuals appointed Safety Officers, Safety Monitors, Fire Marshall and related appointments

Authority for maintenance of the system:

Executive ORDER 11807 Occupational Safety and Health Programs for Federal Employees - 9/28/74

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Safety Office - informational records of assignments

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders

Retrievability:

Filed alphabetically by last name

Safeguards:

Buildings and facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Temporary Record - destroy two years after termination of appointment

System manager(s) and address:

Defense Mapping Agency, ATTN: Facilities Engineering Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4477

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.
Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office
For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Safety Council and committee membership and appointed Safety Monitors and Fire Marshalls

Systems exempted from certain provisions of the act:

NONE

B0615-07 HQHTASI

System name:

615-07 Safety Awards Files

System location:

Safety Offices of DMA. See DMA Directory for complete address listing.

Categories of individuals covered by the system:

Any DMA Driver

Categories of records in the system:

File contains list of the names of drivers who have received safe driver awards. All correspondence between the Safety Office and the National Safety Council

Authority for maintenance of the system:

5 U.S.C. 4503 - Agency Awards

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Safety Office - used to document and present safe driver awards

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders

Retrievability:

Filed alphabetically by name

Safeguards:

Buildings and facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained

Retention and disposal:

Records are permanent. Cut off annually, held inactive for one year, transferred to Records Holding Area (RHA), held two years and retired to the Washington National Records Center (WNRC)

System manager(s) and address:

Defense Mapping Agency, ATTN: Facilities Engineering Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4477

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager. Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office.

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Driver record of the individual and all correspondence between the Safety Office and the National Safety Council

Systems exempted from certain provisions of the act:

NONE

B0615-11 HQHTASI

System name:

615-11 Accidental Injury/Death Reporting Records Files

System location:

Safety Offices of DMA - See DMA Directory for complete address listing.

Categories of individuals covered by the system:

DMA employees injured as a result of accident

Categories of records in the system:

Files contain necessary forms and records and reports of accident and injuries

Authority for maintenance of the system:

29 USC 668 - Occupational Safety and Health Programs of Federal Agencies

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Safety Office - for reporting all injuries of persons assigned to DMA for preparation of statistical reports to other required activities

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Records is temporary-CUT OFF end of each year; Inactive one year; Transfer to Records Holding Area; Destroy after five years

System manager(s) and address:

Defense Mapping Agency, ATTN: Facilities Engineering Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4477

Notification procedure:

Information may be obtained from above System Manager

Record access procedures:

Requests from individuals should be addressed to system manager. Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Information made available by the employee and the supervisor

Systems exempted from certain provisions of the act:

NONE

B0901-04 HTA

System name:

901-04 Civilian Employee Health Clinic Record

System location:

Primary System - Civilian Employee Health Clinic - DMA Hydrographic/Topographic Center (HT) and DMA Aerospace Center (A) - See DMA Directory for complete address

Categories of individuals covered by the system:

Any individual employed by DMA Hydrographic/Topographic Center (HT) and Aerospace Center (A) and any individual employed by other Government agencies housed in the DMAHTC/DMAAC complexes

Categories of records in the system:

File contains information on treatment of employee received at dispensary at HTC and AC

Authority for maintenance of the system:

5 USC 7901 - Health Service Programs; 5 U.S.C. 8103 - Compensation for Injuries - Medical Services and Initial Medical and Other Benefits

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Civilian Employee Health Clinics - to maintain medical records of individuals receiving treatment at the clinic for illness/injury while on duty

Family Doctor will have full access to the information
Supervisors may inquire to record of injury

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

5x8 card files in cabinet

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Hydrographic/Topographic Center - destroy 25 years after separation of individual, upon transfer of employee transfer to gaining organization

Aerospace Center - on transfer of individual, record is transferred to gaining organization. On separation record is returned to National Personnel Records Center (NPRC) with the individuals official Personnel Folder

System manager(s) and address:

DMA Hydrographic/Topographic Center, ATTN: Personnel Office, Room 132-A, Erskine Hall, 6500 Brookes Lane, Washington, D.C. 20315, TELEPHONE: Area Code 202/227-2116CPO DMAAC. See DMA Directory for complete address.

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager. Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office.

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Entry of information by attending nurse. Record of treatment.

Systems exempted from certain provisions of the act:

NONE

B0901-06 HTAS

System name:

901-06 Blood Donors Files

System location:

Civilian Personnel Office - See DMA Directory for complete address

Categories of individuals covered by the system:

All civilian employees who have donated blood

Categories of records in the system:

File contains cards with names, dates and amount of blood donated.

Authority for maintenance of the system:

5 U.S.C. Section 7901; Health Service Programs

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Uses are for awarding employees with certificates and pins.
Personnel Office, Supervisors, blood collectors

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

cards

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Destroy when employee is separated from Agency

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager. Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencys' rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Information received from collecting Agency

Systems exempted from certain provisions of the act:

NONE

B0901-07 HQHTAI

System name:

901-07 Alcoholism and Drug Abuse Files

System location:

Civilian Personnel Offices - See DMA Directory for complete address listing.

Categories of individuals covered by the system:

All civilian employees who have contacted program counselor requesting assistance.

Categories of records in the system:

File contains counseling interview notes, medical documents, therapy/treatment referral notes.

Authority for maintenance of the system:

21 USC 1175

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To help employees with alcohol or drug problems
Medical Officer - diagnose problem
Counselor - to give advise and management

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders

Retrievability:

Filed chronologically by number; names deleted, but are known by counselor.

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Temporary - destroy when no longer needed or upon separation of employee

System manager(s) and address:

Defense Mapping Agency, ATTN: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4066

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.

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Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Employee interviews and medical reports
Employee or relatives

Systems exempted from certain provisions of the act:

NONE

B1202-17 HTA

System name:

1202-17 Contracting Officer Designation Files

System location:

Contracting Offices - DMA Hydrographic/Topographic Center (HT) and DMA Aerospace Center (A) - See DMA Directory for complete mailing address

Categories of individuals covered by the system:

Employee designated Contracting Officer and Contracting Officer Representative at DMA

Categories of records in the system:

Documents reflecting the designation and recission of Contracting Officers and Contracting Officers representative which includes the specific procurement authorities delegated

Authority for maintenance of the system:

44 USC 3101 - Records Management by Federal Agencies

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Documents showing individual designated as contracting officers or Contracting Officers Representatives (COR).
Data includes limitations or restrictions on authority
Data includes background information on 'COR' for use in other contracts

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book

Retrievability:

Filed alphabetically by last name of employee

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Temporary Record. Cut off upon recession or termination and placed in an inactive file area for one year. Transferred to Records Holding Area and held for five years and then destroyed

System manager(s) and address:

Defense Mapping Agency, ATTN: Logistics Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4475

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.
Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office
For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Certificate of Appointment and background information on education, DD Form 1539, and specific information on procurement authorities delegated

Systems exempted from certain provisions of the act:

NONE

B1205-05 HTA

System name:

1205-05 Property Officer Designation Files

System location:

Property Officers of DMAHTC and DMAAC - See DMA Directory for complete address

Categories of individuals covered by the system:

Employees designated Property Officers who have property accounts for their organizations, and have been issued an account number.

Categories of records in the system:

Forms and/or memorandums designating property officers. Included are letters of appointment and revocation.

Authority for maintenance of the system:

40 U.S.C. 486; Management and Disposal of Government Property

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Memorandums or forms showing who or which individual is authorized custodian for equipment for the various organizations within the Agency. Name of individual grade and organization are shown on this document.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders

Retrievability:

By individual's account number and organization.

Safeguards:

Buildings, facility employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary Record - Destroyed in the active office two years after termination of appointment.

System manager(s) and address:

Defense Mapping Agency, ATTN: Logistics Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4475

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.
Written requests for information should contain the full name of the individual current address and telephone number, social security number.
For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and some verbal information that could be verified.

Contesting record procedures:

The Agencies' rules for contesting contents and appealing initial determinations may be obtained from System Manager.

Record source categories:

Internal correspondence designating responsible property accounting individuals

Systems exempted from certain provisions of the act:

NONE

B1205-23 HTASI

System name:

1205-23 Report of Survey Files

System location:

DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), and Inter American Geodetic Survey (I) - See DMA Directory for complete address listing.

Categories of individuals covered by the system:

DMA personnel that have loss, damage, or destroyed accountable Government property

Categories of records in the system:

Files consist of reports that describe the circumstances concerning loss, damage or destruction of Government property

Authority for maintenance of the system:

40 USC 486 - Management and Disposal of Federal Property - Policies, Regulation and Delegations; Promulgation by President

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Logistics Officer - determine responsibility and recommend appropriate action be taken as to pecuniary liability
Director final decision on payment

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper record in file folders and/or Kardex book

Retrievability:

Filed by assigned control number of individual.

Safeguards:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained

Retention and disposal:

Cutoff end of year, held one year, transferred Records Holding Area, held two years, then destroyed

System manager(s) and address:

Defense Mapping Agency, ATTN: Logistics Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4475

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to system manager.
Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office
For personal visits, the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Report of lost damaged or destroyed property

Systems exempted from certain provisions of the act:

NONE

B1206-02 HTA

System name:

1206-02 Self Service Store Authorization Card Files

System location:

Logistics Offices - DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A) - See DMA Directory for complete address

Categories of individuals covered by the system:

DMA personnel authorized self-service store cards.

Categories of records in the system:

Cards identifying individuals as authorized self-service store representatives, requests for issuance of cards, correspondence concerning lost and found cards and related documents.

Authority for maintenance of the system:

40 U.S.C. 486; Management and Disposal of Federal Property.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Indicates individuals authorized to sign/receipt for supplies in a designated activity.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Card file and file cabinets

Retrievability:

By account number and organization, alphabetical by last name

Safeguards:

Buildings and Facility employ security guards. Reports are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary Record. Held in active file until expiration of card or change of individual; held two years and destroyed.

System manager(s) and address:

Defense Mapping Agency, ATTN: Logistics Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4475

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to System Manager.
Written requests for information should contain the full name of the individual, current address and telephone number, social security number.
For personal visits the individual should be able to provide some acceptable identification, that is, drivers' license, employing office's identification card, and give some verbal information that could be used to verify employment.

Contesting record procedures:

The Agencies' rules for contesting contents and appealing initial determinations may be obtained from System Manager.

Record source categories:

Memorandums, cards, forms designating an individual authorization to sign for supplies received from the self-service store.

Systems exempted from certain provisions of the act:

NONE

B1208-06 HTA

System name:

1208-06 Motor Vehicle Operator's Permits and Qualifications Files

System location:

Primary System - Motor Pool, DMA Hydrographic/Topographic Center (HT) and DMA Aerospace Center (A) - See DMA Directory for complete address
Decentralized Segments - Official Personnel Folder; Personnel Records (Civilian) Center - St. Louis, MO.

Categories of individuals covered by the system:

All DMA employees qualified and issued a motor vehicle operators permit.

Categories of records in the system:

Contains information on employee qualification record and cards and logs in regards to permits issued to individuals authorized to operate Government equipment.

Authority for maintenance of the system:

40 U.S.C. 491; Management and Disposal of Federal Property-Motor Vehicle Pools and Transportation Systems.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Motor Pool used as a record of scores on tests, such as: eye examinations; reaction examinations; and as a quick reference on an individual having a license to operate a Government Vehicle.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Rotary Card file and Log Book

Retrievability:

ROTARY Card File - By last name of individual
Log Book - By number of permit

Safeguards:

Building, Facility employs security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary Record - Permit is a three year record - Destroyed in the Motor Pool

Permanent Record - Qualification Record - kept in active office until separation or transfer of individual concerned, then transferred to Personnel Office for incorporation into the Official Personnel Folder.

System manager(s) and address:

Defense Mapping Agency, ATTN: Logistics Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4475

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to System Manager.

Written requests for information should contain the full name of the individual current address and telephone number, social security number.

For personal visits the individual should be able to provide some acceptable identification, that is, drivers' license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencies' rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Qualification records consisting of scores on tests.

Systems exempted from certain provisions of the act:

NONE

B1211-03 HQHTAI

System name:

1211-03 Passport Files

System location:

Primary System - DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Inter American Geodetic Survey (I) See DMA Directory for complete address

Decentralized Segment - State Department (Passports)

Categories of individuals covered by the system:

Individuals traveling overseas on official government orders.

Categories of records in the system:

Documents relating passports and visas for DMA personnel, including their dependents. Included are requests and receipts for passports, transmittal letters, control cards, and related documents.

Authority for maintenance of the system:

44 U.S.C. 3101; Records Management by Federal Agencies.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by personnel travel in processing for travel orders.

Used by individuals of DMA and their dependents for travel purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

File folders - paper records in locked cabinets.

Retrievability:

By name of individual - Alphabetically

Safeguards:

Buildings, facility employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary Record - Held in active office until separation or transfer of individual.

Transferred to State Department upon transfer or separation of individual.

System manager(s) and address:

Defense Mapping Agency, ATTN: Administration Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4401

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to System Manager.

Written requests for information should contain the full name of the individual, current address and telephone number, social security number.

For personal visits the individual should be able to provide some acceptable identification, that is, drivers' license, employing office's identification card, and give some verbal information that could verify employment.

Contesting record procedures:

The Agencies' rules for contesting contents and appealing initial determination should be obtained from System Manager.

Record source categories:

Requests and receipt for passports and visas.

Systems exempted from certain provisions of the act:

NONE

B1211-06 HQHTA

System name:

1211-06 Transportation Officer Appointment Files

System location:

Travel Office, DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A) - See DMA Directory for complete address.

Categories of individuals covered by the system:

Individuals appointed to act as transportation officers, assistant transportation officers or transportation agents.

Categories of records in the system:

Documents reflecting appointments of individuals to act as transportation officers, assistant transportation officers or transportation agents.

Authority for maintenance of the system:

44 U.S.C. 3101; Records Management by Federal Agencies

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to officially designate transportation officers, assistants and agents.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper Records in file folders

Retrievability:

By name of Individual

Safeguards:

Buildings, facility employs security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary Record. Destroy two (2) years after termination of appointment.

System manager(s) and address:

Defense Mapping Agency, ATTN: Logistics Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4475

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to System Manager.

Written requests for information should contain the full name of the individual, current address and telephone number, social security number.

For personal visits the individual should be able to provide some acceptable identification, that is, drivers' license, employing office's identification card, and give some verbal information that could be verified.

Contesting record procedures:

The Agencies' rules for contesting contents and appealing initial determination may be obtained from System Manager.

Record source categories:

Memorandums or letters reflecting individuals appointed to act as transportation officers, assistants or agents.

Systems exempted from certain provisions of the act:

NONE

B1211-07 HQHTA

System name:

1211-07 Individual Government Transportation Files

System location:

Primary System - Travel Office - DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A) - See DMA Directory for complete address listing.

Decentralized Segments - Records Management, Records Holding Areas

Categories of individuals covered by the system:

DMA employees authorized government travel.

Categories of records in the system:

Travel orders and other pertinent correspondence and related documents, and copies of issued and canceled transportation requests, transportation certificates, MAC transportation authorizations.

Authority for maintenance of the system:

44 U.S.C. 3101; Records Management by Federal Agencies.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to officially designate Transportation Officer, Assistants and Agents.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper Records in file folders

Retrievability:

Alphabetical by name on individual folders or by TR number in case of group travel.

Safeguards:

Buildings, facility employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary Record. Travel Office holds for one year, transfers to Records Holding Area, held for three (3) years and then destroyed.

System manager(s) and address:

Defense Mapping Agency, ATTN: Logistics Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, TELEPHONE: Area Code 202/254-4475

Notification procedure:

Information may be obtained from above.

Record access procedures:

Requests from individuals should be addressed to System Manager.

Written requests for information should contain the full name of the individual, current address, and telephone number, social security number.

Personal visits - the individual should be able to provide some acceptable identification, that is, drivers' license, employing office's identification card, and give some verbal information that could verify employment.

Contesting record procedures:

The Agencies' rules for contesting contents and appealing initial determinations may be obtained from System Manager.

Record source categories:

Folders contain various amounts of information on issued and cancelled transportation requests, transportation certificates, travel orders and related data on overseas employees, DMA employees and invitational orders.

Systems exempted from certain provisions of the act:

Buildings, facility employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Temporary Record. Travel Office holds for one year, transfers to Records Holding Area, held for three (3) years and then destroyed.

[FR Doc. 79-1617 Filed 1-19-79; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
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CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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Documents Relating to Federal Grants Programs

This is a list of documents relating to Federal grants programs which were published in the FEDERAL REGISTER during the previous week.

Rules Going Into Effect:

Commerce/EDA—Public works projects experiencing underruns; amendment of grant rate policy; effective 1-19-79 ..... 3959; 1-19-79

HEW/PHS—Scientific peer review of research grant applications and research and development contract projects; correction (See also 43 FR 7861, 2-24-78 ..... 3980; 1-19-79

Deadlines for Comments on Proposed Rules

Commerce/NOAA—Coastal Energy Impact Program, administrative procedures regarding grants and credit assistance; comments by 3-3-79 ..... 3230; 1-15-79

Applications Deadlines:

HEW/HRA—Graduate training in family medicine, fiscal year 1979; apply by 2-5-79 ..... 4017; 1-19-79

Health professions capitation grants, fiscal year 1979; apply by 2-1-79 ..... 4017; 1-19-79

HUD/CPD—Innovative grant competition, fiscal year 1979; apply by 5-7-79 ... 4124; 1-19-79

HEW/ADAMHA—National Advisory Committees, review of grant applications, February, 1979 ..... 3778, 3779, 3781-3783; 1-18-79

NFAH—Federal Graphics Evaluation Advisory Panel, Washington, D.C. (open), 2-2-79 ..... 3338; 1-16-79

Humanities Panel, Washington, D.C. (closed), 2-5-79 ..... 4054; 1-19-79

NSF—Atmospheric Sciences Advisory Committee, Washington, D.C. (open), 2-1 and 2-2-79 ..... 4054; 1-19-79

Behavioral and Neural Sciences Advisory Committee, Anthropology Subcommittee, Washington, D.C. (closed), 2-8 and 2-9-79 ..... 4054; 1-19-79

Behavioral and Neural Sciences, Linguistics Subcommittee, Washington, D.C. (closed), 2-8 and 2-9-79 ..... 4054; 1-19-79

Physiology, Cellular, and Molecular Biology, Metabolic Biology Subcommittee, Washington, D.C. (closed), 2-8 and 2-9-79 ..... 4055; 1-19-79

Physiology, Cellular, and Molecular Biology Advisory Committee, Developmental Biology Subcommittee, Washington, D.C. (closed), 2-8 thru 2-10-79 ..... 4054; 1-19-79

Other items of interest:

EPA—Grants for construction of treatment works, royalties for use of or for rights in patents; final program policy issuance 3082; 1-15-79

HEW/OE—Bilingual education program; decision to develop regulations 3996; 1-19-79

Community education program; decision to develop regulations 3996; 1-19-79

Ethnic heritage studies program; decision to develop regulations .. 3997; 1-19-79

Law-related education program, availability of draft proposed regulation 3732; 1-18-79

National diffusion network program; decision to develop regulations 3997; 1-19-79

ICA—Treaty of friendship and cooperation between the U.S. and Spain; cooperative research grants—1979/80 3100; 1-15-79

LSC—Colorado Rural Legal Services, Cumberland Trace Legal Services, Inc. et al. and Greater Boston Legal Services Corp.; consideration of grant applications; comments invited 3576; 1-17-79

NFAH—Architecture, Planning, and Design Advisory Panel; Renewal .. 4052; 1-19-79

Dance Advisory Panel; renewal 4052; 1-19-79

Expansion Arts Advisory Panel; renewal 4053; 1-19-79

Federal Graphics Evaluation Advisory Panel; renewal 4053; 1-19-79

Literature Advisory Panel; renewal . 4053; 1-19-79

Music Advisory Panel; renewal 4053; 1-19-79

Theatre Advisory Panel; renewal 4053; 1-19-79

List of Public Laws

This is the first of a continuing listing of public bills from the current session of Congress which have become Federal law. The text of laws is not published in the FEDERAL REGISTER but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.J. Res. 1 ..... Pub. L. 96-1
To extend the time for filing the Economic Report; (Jan. 22, 1979; 93 Stat. 1). Price $.60.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-01-M]

Title 7—Agriculture

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 62; Docket No. AO-10-A53]

PART 1062—MILK IN THE ST. LOUIS-OZARKS MARKETING AREA

Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action changing present order provisions is based on industry proposals considered at a public hearing held June 21-22, 1978. The amendments provide that a distributing plant which meets the pooling standards of the St. Louis-Ozarks milk order and one or more other Federal milk orders shall continue to be regulated under the St. Louis-Ozarks order until the third consecutive month in which it has more than 50 percent of its Class I sales in another Federal order marketing area. This change would apply only to plants that had been regulated under the St. Louis-Ozarks order for at least the previous 13 months. The current pooling standards would continue to apply for those plants regulated under the order less than that time. Another major change increases the funding rate for the Advertising and Promotion program and also tie such rate to the level of the blend price to producers. The amendments are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

EFFECTIVE DATE: The order provisions set forth herein shall become effective April 1, 1979, except that the provisions amending §§ 1062.7(d), 1062.13, 1062.85, and 1062.121 (e) and (f) shall become effective on February 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing: Issued May 31, 1978, published June 6, 1978 (43 FR 24540). Recommended decision: Issued November 17, 1978, published November 22, 1978 (43 FR 54642). Partial final decision: Issued January 3, 1979, published January 8, 1979 (44 FR 1741).

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the St. Louis-Ozarks marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in a marketing agreement upon which a hearing has been held; and

(4) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to milk specified in § 1062.85.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order partially effective not later than February 1, 1979. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Marketing Program Operations, was issued November 17, 1978, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued January 3, 1979. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order partially effective not later than February 1, 1979, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended;

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(3) The issuance of the order amending the order, except for the advertising and promotion program is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area; and

(4) The issuance of the order amending the order relative to provisions of the advertising and promotion program is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the market area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective dates hereof, the handling of milk in the St. Louis-Ozarks marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. In § 1062.7, paragraph (d) is revised to read as follows:

§ 1062.7 Pool plant.

* * * * *

(d) The term "pool plant" shall not apply to:

(1) A producer-handler plant or governmental agency plant;

(2) A distributing plant that meets the requirements specified in paragraph (a) of this section and also meets the pooling requirements of another Federal order and has greater route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area unless one of the following conditions applies:

(i) If the plant was a pool plant under this order in each of the immediately preceding 13 months, it shall continue to be a pool plant under this order until the third consecutive month in which more than 50 percent of such route disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order; or

(ii) Except as provided in paragraph (d)(2)(i) of this section, if the plant was a pool plant under this order in the immediately preceding month, it shall continue to be a pool plant under this order until the third consecutive month in which a greater proportion of such route disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(3) A distributing plant which meets the pooling requirements of another Federal order and from which route disposition, except filled milk, during the month in this marketing area is greater than in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) A supply plant meeting the requirements of paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the months of March through August if such plant retains automatic pooling status under this part.

2. Section 1062.13 is revised to read as follows:

§ 1062.13 Producer milk.

"Producer milk" means the skim milk and butterfat in milk of a producer which is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1062.9(c); or

(c) Diverted from a pool plant for the account of the handler operating such pool plant to another pool plant or diverted from a pool plant to a nonpool plant (other than a producer-handler plant) for the account of the handler operating such pool plant or for the account of a handler described in § 1062.9(b), subject to the following conditions:

(1) Milk from a dairy farmer shall not be eligible for diversion during any of the months of September through February unless at least one day's production is physically received during the month at a pool plant;

(2) The total quantity of milk diverted by a cooperative association to nonpool plants during each of the months of September through February may not exceed 50 percent of the quantity of producer milk that the cooperative association causes to be delivered to or diverted from pool plants during the month;

(3) The total quantity of milk diverted by the operator of a pool plant (other than a cooperative association) to nonpool plants during each of the months of September through February may not exceed 50 percent of the quantity of milk received at or diverted from such pool plant during the month that is not under the control of a cooperative association that diverts milk pursuant to paragraph (c)(2) of this section;

(4) Any milk diverted to nonpool plants in excess of the limits prescribed in paragraph (c) (2) and (3) of this section shall not be producer milk. The diverting handler may designate the dairy farmers whose diverted milk will not be producer milk, otherwise the milk last diverted—in lots of an entire day's production—shall be excluded first in determining which milk should not be producer milk; and

(5) For pricing purposes, milk diverted from one pool plant to another pool plant or milk diverted to a nonpool plant that is located more than 120 miles from the nearer of the city halls in St. Louis and Springfield, Mo. (by the shortest highway distance as determined by the market administrator using the most current issue of the Household Carriers Guide), shall be priced at the location of the plant to which diverted. Milk diverted to a nonpool plant located less than 120 miles from the city hall in St. Louis or Springfield shall be priced at the location of the plant from which diverted.

3. Section 1062.61 is revised to read as follows:

§ 1062.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1062.60 for all handlers who filed the reports prescribed by § 1062.30 for the month and who made the payments pursuant to §§ 1062.71 and 1062.73 for the preceding month;

(b) Deduct the amount of the plus adjustments and add the amount of the minus adjustments which are applicable pursuant to § 1062.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1062.60 (f) and (g); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price".

(f) For the months of January, February, and August, subtract from the weighted average price computed in paragraph (e) of this section the withholding rate for the Advertising and Promotion program as computed in § 1062.121(e). The result shall be the uniform price for the applicable month.

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (c) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (d)(2) of this section by the weighted average price;

(h) From the remaining amount in paragraph (g) of this section subtract for each of the months of March and July an amount equal to 15 cents per hundredweight, and for each of the months of April, May, and June an amount equal to 25 cents per hundredweight, of the total amount of producer milk included in these computations for each respective month. This amount shall be retained in the producer-settlement fund and disbursed according to the provisions of paragraph (i) of this section;

(i) To the remaining amount in paragraph (g) of this section add for each of the months of September and December an amount equal to 20 percent, and for each of the months of October and November an amount equal to 30 percent, of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations;

(k) Subtract the withholding rate for the Advertising and Promotion program as computed in § 1062.121(e); and

(l) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers for the applicable month.

§ 1062.71 [Amended]

4. In § 1062.71(a)(2)(ii), the words "plus 5 cents" are deleted.

§ 1062.75 [Amended]

5. In § 1062.75(b), the words "plus 5 cents" are deleted.

§ 1062.76 [Amended]

6. In § 1062.76(a)(4), the words "plus 5 cents" are deleted.

§ 1062.85 [Amended]

7. In the preamble of § 1062.85, the number "2.5" is changed to read "4".

8. In § 1062.120, paragraph (c) is revised to read as follows:

§ 1062.120 Procedure for requesting refunds.

* * * * *

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the end of the ensuing calendar quarter may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such calendar quarter pursuant to § 1062.121(b).

* * * * *

9. In § 1062.120(d), the reference "§ 1062.61(d)" is changed to read "§ 1062.121(b)."

10. In § 1062.121, the introductory text of paragraph (b) and paragraph (b) (2) and (3) are revised and new paragraphs (e) and (f) are added, to read as follows:

§ 1062.121 Duties of the market administrator.

* * * * *

(b) Each month set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (e) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

* * * * *

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1062.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section by the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

* * * * *

(e) As soon as possible after the beginning of each year, compute the rate of withholding by multiplying the simple average of the monthly "weighted average prices" for the last quarter of the preceding year by 0.75 percent and rounding to the nearest whole cent. This rate shall apply during the 12-month period beginning with April of the current year.

(f) As soon as possible after the rate of withholding is computed, notify in writing each producer currently on the market and any new producer that subsequently enters the market of the withholding rate. This notification shall be repeated annually thereafter only if there is any change in the rate from the previous period.

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674))

Effective date. The order provisions set forth herein shall become effective April 1, 1979, except that the provisions amending §§ 1062.7(d), 1062.13, 1062.85, and 1062.121 (e) and (f) shall become effective on February 1, 1979.

Signed at Washington, D.C., on January 18, 1979.

P. R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

[FR Doc. 79-2543 Filed 1-23-79; 8:45 am]

[4410-10-M]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 238—CONTRACTS WITH TRANSPORTATION LINES

Addition to Preinspection Ports and Transportation Lines to Listing

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This document amends the regulations of the Immigration and Naturalization Service to add Calgary, Alberta, Canada and Freeport, Bahamas to the list of locations outside the United States at which passengers bound for the United States may avail themselves of immigration preinspection. It also adds several airlines to the listing which have entered into preinspection agreements, as provided by regulation, at those locations. The amendments are necessary because the preinspection ports and signatory transportation lines are published in the Service's regulations. The amendments are intended for the information of the affected and interested public.

EFFECTIVE DATE: January 24, 1979.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536. Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: Recently, the United States entered into agreements with the Government of the Bahamas and the Government of Canada to provide for the immigra-

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tion preinspection of passengers and crews departing Freeport, Bahamas and Calgary, Alberta, Canada, respectively.

Also, Bahamas Air Holdings Ltd., Delta Air Lines Inc., and Eastern Air Lines Inc., entered into agreements with the Commissioner of Immigration and Naturalization on Form I-425 for immigration inspection of their passengers and crews at Freeport, Bahamas. In addition, Air Canada, Hughes Air West and Western Airlines Inc., entered similar agreements for the immigration preinspection of their passengers and crews at Calgary, Alberta, Canada.

Accordingly, the Service regulations at 8 CFR 238.4 will be amended to add Calgary and Freeport and the signatory transportation lines to the listing.

In the light of the foregoing, Chapter I of Title 8 of the Code of Federal Regulations is hereby amended as follows:

§ 238.4 [Amended]

In § 238.4, *Preinspection outside the United States*, the listing of places and signatory lines is amended by inserting the following two listings immediately following the listing for "At Bermuda", and immediately preceding the listing for "At Montreal":

* * * * *

AT CALGARY

Air Canada
Hughes Air West
Western Airlines Inc.

AT FREEPORT

Bahamas Air Holdings Ltd.
Delta Air Lines Inc.
Eastern Air Lines Inc.

* * * * *

(Sec. 103 and 238(b); (8 U.S.C. 1103 and 1228(b)))

These amendments are published pursuant to 5 U.S.C. 552 as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of 5 U.S.C. 553 as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendments add preinspection ports and transportation lines to the listing, and are editorial in nature.

Effective date. The amendments contained in this order become effective on January 24, 1979.

Dated: January 19, 1979.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 79-2544 Filed 1-23-79; 8:45 am]

[6720-01-M]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER D—INSURANCE OF ACCOUNTS

PART 563—OPERATIONS

PART 571—STATEMENTS OF POLICY

Fidelity Bond Requirements for Insured Institutions

JANUARY 18, 1979.

AGENCY: Federal Home Loan Bank Board ("Bank Board").

ACTION: Final rule.

SUMMARY: These amendments change the maximum deductible amounts permitted for fidelity bonds of FSLIC-insured institutions and codify the Bank Board's policy regarding acceptable surety companies. The deductible amounts being demanded by surety companies today often exceed the maximum amounts permitted by the former regulation. Also, in some areas, there are few, if any, surety companies which are acceptable under the Bank Board's regulations and offer this coverage to FSLIC-insured institutions. The Bank Board believes that all FSLIC-insured institutions will be able to obtain bonds with deductible amounts within the limits permitted by this amendment and that additional acceptable surety companies will increase competition in writing the bonds, resulting in better rates and services to such institutions.

EFFECTIVE DATE: February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Telephone number: (202) 377-6440.

SUPPLEMENTARY INFORMATION: The Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), proposed by Resolution No. 78-453, dated August 9, 1978, to amend the Rules and Regulations for Insurance of Accounts by (1) revising § 563.19(b) (12 CFR 563.19(b)) regarding the maximum deductible amounts permitted in the fidelity bonds of FSLIC-insured institutions and (2) adding § 571.14 (12 CFR 571.14) stating the Bank Board's policy regarding acceptable surety companies. Notice of that proposal was published in the FEDERAL REGISTER on August 15, 1978 (43 FR 36107-36108), with an invitation to interested persons to submit written comments by September 30, 1978. Twenty-seven public comments were received: 14 approved, as proposed; 9 approved and suggested changes; 3 opposed; and 1 respondent stated that it is making a study of this matter and will comment at a later time. On the basis of those comments and all other relevant information available to it, the Bank Board deems it advisable to adopt the amendments as proposed.

EXPLANATION OF AMENDMENTS

A. *Deductible Amounts.* The revision of § 563.19(b) is designed primarily to provide room for negotiation between an insured institution and a surety company within regulatory limitations sufficiently restrictive to prevent unsafe and unsound practices by the institution. The general premise underlying the schedule is that a deductible should not exceed approximately two percent of an insured institution's net worth. The deductible is not tied directly to net worth since (a) that figure may fluctuate considerably over time and (b) it is desirable to retain the regulatory insurance "base" (insured institution's assets plus the unpaid balance of loans serviced for others). It is therefore assumed that "net worth" would be considered to be five percent of the base amount and the schedule is designed to set the maximum deductible at no more than two percent of such figure (i.e., 1/10 of 1% of the base). An exception is made for very small institutions because the Bank Board believes that a deductible up to $1000 may be acceptable even when strict application of the percentage schedule would dictate a lesser amount. Also, because the dollar amount represented by 1/10 of 1% of the base eventually becomes unacceptably large as the base increases, a sliding scale is imposed. For example, a three billion dollar base institution is subject to a maximum deductible of $412,500 or only 0.275 of 1% of the 5%-of-base-net-worth figure. The Bank Board believes that such an amount is large enough to allow a negotiated deductible without endangering the solvency of the institution. Of course, the negotiated deductible may be, and often should be, less than the maximum deductible.

B. *Acceptable Surety Companies.* The Bank Board has been unique among the Federal financial regulatory agencies in that it has attempted not only to prescribe the type and amount of bond coverage FSLIC-insured institutions must carry, but also to determine which insurance companies may write that bond coverage. This latter effort was never expressed

in the FSLIC regulations, but nevertheless has survived as a formal policy of the agency since its earliest days. At least as early as 1937, the FSLIC adopted the United States Treasury Department's list of casualty and surety companies approved by that department for writing bonds running to the Federal government as the authoritative index of insurers approved to write savings and loan blanket bonds. The Treasury Department's criteria are quite stringent, and as the number of insurers on the Treasury list still offering bonds to financial institutions has dwindled to only a few over the years, the desirability of retaining that list as the only index has become questionable. Lack of competition in the financial institution bond market, especially with respect to savings and loans, may be the prime cause of high premium rates and lack of interest in providing coverage to associations with an adverse loss history. Removing, or at least reducing, the criteria for approval of a surety encourages competition from insurance companies which currently do not qualify by Treasury standards to offer bonds on Federal projects, including certain domestic and foreign surplus lines insurers.

DISCUSSION OF MAJOR COMMENTS

One respondent suggested making no change in the schedule of permissible deductible amounts but permitting variances from that schedule when approved by the FSLIC. This suggestion is not adopted because the additional paper work which it would involve appears unjustified.

One respondent suggested retaining the former provision permitting an increase in the deductible amounts up to three times the scheduled amounts in those cases where high loss ratios have been experienced. This suggestion is not adopted because the new larger deductible limits provide adequate flexibility. The Bank Board expects that insured institutions will be able under the new regulation to obtain proper coverage at reasonable rates even where high loss ratios have been experienced, particularly since the new policy statement enlarges the number of acceptable surety companies.

One respondent suggested that the revised regulation call attention to the fact that there may be particular situations which would dictate bond coverage in excess of $3,000,000. Also, this respondent requested that the Bank Board point out that the deductible amounts specified are maximums, and that each institution is expected to obtain a deductible appropriate to its particular situation. The Bank Board believes the regulation is sufficiently clear on both points without further specificity or explanation.

Some respondents expressed apprehension that the new schedule will result in forcing insured institutions to accept much higher deductibles with only minimum relief in premium expense. One respondent recommended moving toward higher deductible amounts on a gradual basis over a period of time. One respondent noted that surety companies have recently excluded various types of losses without reducing premiums. The new policy statement, increasing the number of acceptable surety companies, is intended to increase competition which should mitigate these problems. The Bank Board's staff will monitor this situation.

Two respondents suggested that the deductible amounts for larger institutions appear excessive. One of these respondents suggested a maximum deductible amount of $100,000 and the other suggested further research before adopting a new schedule of deductible amounts. In finalizing the proposed schedule, the Bank Board points out that the regulation prescribes maximum deductible amounts, leaving the actual amounts to negotiation between an insured institution and its surety company.

Two respondents suggested that the acceptability of surety companies should be based on more than the fact that the companies are licensed in the various states, i.e. require a certain "rating" or specify some ratio of the policy limit to the surety company's surplus. The Bank Board has not adopted this suggestion because the administrative burden of monitoring such criteria would be substantial and does not appear justified. However, sound business judgment would dictate that an insured institution consider the financial soundness of its surety company prior to taking a bond written by that company.

Accordingly, 12 CFR Parts 563 and 571 of the Rules and Regulations for Insurance of Accounts are hereby amended by revising § 563.19(b) and adding § 571.14 to read as set forth below, effective February 26, 1979.

§ 563.19 Bonds for directors, officers, employees, and agents; form of and amounts of bonds.

* * * * *

(b) No insured institution shall be required to maintain such bond coverage in an amount greater than $3,000,000. Such bond coverage may provide for a deductible amount from any loss which otherwise would be recoverable from the bonding company. A deductible amount may be applied separately to one or more insuring agreements. The bond shall not provide for more than one deductible amount from all losses caused by the same person or caused by the same persons acting in collusion or combination in cases in which such losses result from dishonesty of employees (as defined in the bond). A deductible shall not exceed an amount determined according to the following schedule:

Base	Permissible deductible
$25,000,000 and under	.001 of base or $1,000, whichever is greater.
$25,000,001 to $250,000,000	$25,000 plus .0005 of base over $25 million.
Over $250,000,000	$137,500 plus .0001 of base over $250 million.

* * * * *

§ 571.14 Fidelity bonds; acceptable surety companies.

Section 563.19 of this subchapter in part requires each insured institution to maintain bond coverage with a bonding company acceptable to the Corporation. Any surety or insurer meeting one or more of the following criteria is acceptable:

(a) Underwriters holding certificates of authority as acceptable sureties on Federal bonds, as listed in the most recent issue of the United States Treasury Department Circular No. 570, to the limits established by such circular;

(b) Underwriters currently licensed to issue surety bonds by the State in which the home office of the insured institution is located, subject to all restrictions and requirements imposed by the licensing State; or

(c) Underwriters approved to do business as surplus lines insurers under the laws of the State in which the home office of the insured institution is located, subject to all restrictions and requirements imposed by the surplus lines laws of such State.

* * * * *

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730, Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 79-2447 Filed 1-23-79; 8:45 am]

[7535-01-M]

Title 12—Banks and Banking

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Treasury Tax and Loan Accounts

AGENCY: National Credit Union Administration.Q04

ACTION: Final Rule.Q04

SUMMARY: This rule authorizes Federal Credit Unions to participate as depositaries for funds representing payments for certain United States obligations and payments of Federal taxes as authorized by Pub. L. 95-147 of October 28, 1977. This action is required to accommodate amendments to Treasury regulations which require the payment of interest on Treasury Tax and Loan Accounts and immediate availability of such funds upon demand.

EFFECTIVE DATE: January 22, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Mike Fischer, Special Assistant for Examination and Insurance at the above address. Telephone: (202) 254-8760.

SUPPLEMENTARY INFORMATION: Federal credit unions have long been authorized to act as fiscal agents of the United States under Section 121 of the Federal Credit Union Act. The enactment of Pub. L. 95-147 and the issuance of appropriate Treasury Regulations make it possible for FCUs to exercise that power by acting as depositaries for Treasury Tax and Loan Accounts. The regulatory changes to enable Federal credit unions to participate in the Treasury program include the establishment of two new types of share accounts which are not subject to the notice requirements of Article III, Section 5 of the FCU Bylaws.

Department of Treasury regulations provide that a Treasury Tax and Loan Depositary may elect to participate either under the "remittance option" or the "note option." Under the "remittance option" funds credited by the depositary to its Treasury Tax and Loan (TT&L) Account will be withdrawn by the Federal Reserve Bank immediately upon receipt of advices of credit supporting such deposits. Under the "note option" such funds will be held in an account (subject to call) which represents an investment in the depositary by Treasury, and will be evidenced by an open-ended interest-bearing note maintained at the Federal Reserve Bank of the district in which the depositary is located.

This rule provides that funds held under either the "remittance option" or the "note option" shall be considered public unit funds for share insurance purposes and as such are insured up to $100,000 in the aggregate by the National Credit Union Share Insurance Fund and are subject to share insurance premium charges.

Funds held under the "note option" are not considered borrowed funds for purposes of the limitation on borrowing in Section 107(9) of the FCU Act. The Administration believes that Congress, in passing Pub. L. 95-147, did not intend that an FCU's ability to borrow to meet the needs of its members be in any way inhibited by the FCU's participation in Treasury's program. Accordingly, the amendments approved today will promote Congress' purpose in enacting this legislation to provide Treasury with a direct means of obtaining interest on its cash balances while not impacting on an FCU's borrowing authority.

FCUs are cautioned that funds in TT&L accounts are highly volatile and should not be placed in long term investments. Treasury will call for the funds held in "note option" TT&L accounts as required to meet its cash needs. The frequency of the calls depends upon the depositary's class which is based upon the depositary's annual volume of activity in TT&L accounts. The frequency of Treasury calls will range from daily to 3 or 4 times a month. Newly designated depositaries will initially be placed in the low volume class (Class "A"—annual TT&L deposits of $7.5 million or less). The Treasury calls on Class "A" depositaries will generally be by mail and may take the form of requiring remittance of all deposits in TT&L accounts as of the call date within 5 days of the call date. In addition to their volatility, the requirement to pay the stipulated return to Treasury on note option TT&L accounts should cause FCUs to give serious consideration to the overall impact on operations that will result from such accounts before offering this service.

This rule also provides that FCUs may pledge specifically identified assets of the FCU as collateral for TT&L accounts and to enter into such custodial arrangements as may be necessary to meet Department of Treasury requirements for TT&L accounts.

Department of Treasury regulations set forth the requirements and conditions for TT&L depositaries. Interested parties are referred to 31 CFR Parts 203 and 214 and to the Treasury publication entitled "Procedural Instructions for Treasury Tax and Loan Depositaries." The latter publication is available from Federal Reserve Banks.

This rule aids in implementing new legislation and augments regulations of the Treasury which became effective November 2, 1978. The Administration believes that significant public benefit will result from its immediate adoption. The immediate adoption of the final rules will remove uncertainty concerning the nature of and insured status of TT&L accounts for FCUs. This will permit FCUs to prepare immediately for participation in the Treasury program. Consequently, the Administration has determined that the procedures for notice, public participation, and deferred effective date as provided in the Administrative Procedure Act (5 U.S.C. Section 553) are unnecessary and would not serve the public interest.

Accordingly, 12 CFR Part 701 is amended by adding a new section 701.37 as set forth below.

LAWRENCE CONNELL,
Administrator.

JANUARY 18, 1979.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766); sec. 209, 84 Stat. 1104 (12 U.S.C. 1796); sec. 107(15), 82 Stat. 284 (12 U.S.C. 1757(15)); sec. 121, 73 Stat. 637 (12 U.S.C. 1767); sec. 207(c)(2), 88 Stat. 1501 (12 U.S.C. 1787(c)(2)); and sec. 210, 91 Stat. 1277 (12 U.S.C. 1789).)

§ 701.37 Treasury tax and loan accounts.

(a) 31 CFR Part 203, Department of Treasury Regulations states that every credit union insured by the Administrator of the National Credit Union Administration is eligible to be designated as a Treasury tax and loan (TT&L) depositary. The application procedures and requirements for designation as a TT&L depositary are as set forth in the Department of the Treasury Regulations.

(b) Definitions of terms as used in this part:

(1) TT&L Remittance Account—means an account, the balance of which is subject to the right of immediate withdrawal, established for receipt of payments of Federal taxes and certain United States obligations.

(2) TT&L Note Account—means an account subject to the right of immediate call, evidencing funds held by depositaries electing the note option under applicable U.S. Treasury Department regulations.

(c) Upon designation as a Treasury tax and loan depositary, a Federal credit union may establish a TT&L Remittance Account for the receipt of payments of Federal taxes and certain U.S. obligations. Funds in the TT&L Remittance Account are not eligible to receive dividends and are not subject to the 60 day notice requirement of Article III, Section 5 of Federal Credit Union Bylaws.

(d) Credit unions selecting the Note Option under 31 CFR Part 203.9 may hold funds in a TT&L Note Account in accordance with Department of Treasury Regulations. Funds held in the credit union's TT&L Note Account shall bear interest at the rate specified in the Department of Treasury regulations. Funds held in TT&L Note accounts are not considered borrowings for purposes of Section 107(9) of the FCU Act and are not subject to the 60 day notice requirement of Article III, Section 5 of Federal Credit Union Bylaws.

(e) The sum of the amounts held in the TT&L Remittance Account and the TT&L Note Account shall not exceed 10 per centum of the total assets of the credit union.

(f) For share insurance purposes, funds in the TT&L Remittance Account and the TT&L Note Account shall be considered public unit funds and as such are insured up to a maximum of $100,000 in the aggregate. The share insurance premium paid shall include a premium equal to one-twelfth of 1 per centum of the total amount of funds in the TT&L Remittance Account and the TT&L Note Account at the close of the preceding insurance year.

(g) A Federal credit union may pledge specifically identified assets as collateral for TT&L Remittance and Note Accounts and may enter into such custodial arrangements as may be necessary to meet Department of Treasury requirements for collateral on TT&L accounts.

[FR Doc. 79-2539 Filed 1-23-79; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Docket C-2942. Lockheed Corporation

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Burbank, Calif. aircraft manufacturer and its subsidiaries to cease offering or making payments to influential foreign entities for the purpose of preventing competition in the sale of their aircraft abroad; and to keep adequate documentation for all payments, brokerage fees, commissions, or political campaign contributions paid to any one foreign party which total annually in excess of $100,000. The firms would additionally be required to report to the Commission, within ten days, any corporate policy change which relates to foreign sales activities.

DATES: Complaint and order issued Dec. 21, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

FTC/C, Jaime Taronji, Jr., Washington, D.C. 20580. (202) 376-2894.

SUPPLEMENTARY INFORMATION: On Monday, August 21, 1978, there was published in the FEDERAL REGISTER, 43 FR 36973, a proposed consent agreement with analysis In the Matter of Lockheed Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart-Combining or Conspiring: § 13.410 To eliminate competition in conspirators' goods; § 13.470 To restrain or monopolize trade. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-45 Maintain records. Subpart-Discriminating In Price Under Section 2, Clayton Act—Payment or Acceptance of Commission, Brokerage, or Other Compensation Under 2(c): § 13.810 Buyers' corporate or other agent.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; Sec. 2, 49 Stat. 1526; 15 U.S.C. 45, 13.)

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-2441 Filed 1-23-79; 8:45 am]

[6750-01-M]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Docket C-2943. The Boeing Company

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Seattle, Wash. aircraft manufacturer and its subsidiaries to cease offering or making payments to influential foreign entities for the purpose of preventing competition in the sale of their aircraft abroad; and to keep adequate documentation for all payments, brokerage fees, commissions, or political campaign contributions paid to any one foreign party which total annually in excess of $100,000. The firms would additionally be required to report to the Commission, within ten days, any corporate policy change which relates to foreign sales activities.

DATES: Complaint and order issued Dec. 21, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

FTC/C, Jaime Taronji, Jr., Washington, D.C. 20580. (202) 376-2894.

SUPPLEMENTARY INFORMATION: On Monday, August 21, 1978, there was published in the FEDERAL REGISTER, 43 FR 36973, a proposed consent agreement with analysis In the Matter of The Boeing Company, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart-Combining or Conspiring: § 13.410 To eliminate competition in conspirators' goods; § 13.470 To restrain or monopolize trade. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-45 Maintain records. Subpart—discriminating In Price Under Section 2, Clayton Act—Payment Or Acceptance Of Commission, Brokerage Or Other Compensation Under 2(c): § 13.810 Buyers' corporate or other agent.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

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(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; Sec. 2, 49 Stat. 1526; 15 U.S.C. 45, 13.)

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-2440 Filed 1-23-79; 8:45 am]

[6740-02-M]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. RM79-3]

SUBCHAPTER I—OTHER REGULATIONS UNDER THE NATURAL GAS POLICY ACT OF 1978

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS

Interim Regulations Implementing the Natural Gas Policy Act of 1978

Correction

In FR Doc. 78-35477, appearing at page 59481 in the issue for Thursday, December 21, 1978, on page 59482, the last two items on the page, labeled "Page 362 . . ." and "Page 364 . . ." should be corrected as follows:

1. The first of these items should read "Page 363: Delete the entire page."

2. The second item should be deleted.

[4810-25-M]

Title 31—Money and Finance: Treasury

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF THE TREASURY

PART 10—PRACTICE BEFORE THE INTERNAL REVENUE SERVICE

Amendment of the Regulations Governing Solicitation by Practitioners Before the Internal Revenue Service

AGENCY: Department of the Treasury.

ACTION: Final Rule.

SUMMARY: The rule amends the advertising and solicitation provisions of the regulations governing practice by attorneys, certified public accountants, enrolled agents and others who represent clients before the Internal Revenue Service. The purpose of this amendment is to permit the expansion of advertising and solicitation by Internal Revenue Service practitioners. This change is based upon recent judicial determinations on the subject of advertising and solicitation by the professions. Consistent with this change, provisions relating to solicitation, formerly in § 10.24 of the regulations, have been incorporated in the provisions of Section 10.30.

EFFECTIVE DATE: This revision of Part 10 becomes effective on January 24, 1979.

FOR FURTHER INFORMATION, CONTACT:

Mr. Leslie S. Shapiro, Director of Practice, 202-376-0767.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On June 14, 1978, the Department of the Treasury (hereinafter referred to as the Department) published proposed amendments to the regulations governing practice before the Internal Revenue Service (31 CFR Part 10) in the FEDERAL REGISTER (43 FR 25695). The regulations in 31 CFR Part 10 (reprinted as Treasury Department Circular No. 230) govern the conduct of attorneys, certified public accountants, enrolled agents and others in their practice before the Internal Revenue Service. Section 10.30 of the current regulations prohibits advertising and solicitation of employment in matters related to the Internal Revenue Service. The proposed amendment expanded advertising and solicitation by those practitioners.

Amendment to the regulations allowing increased solicitation and advertising was deemed warranted because of the United States Supreme Court decision in *Bates* v. *State Bar of Arizona*, 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed. 2d 810 (1977). In *Bates*, the Court held that an absolute ban on lawyer advertising violated the freedom of speech clause of the First Amendment to the Constitution and that some forms of lawyer advertising are permissible.

Written comments on the proposal were invited and a public hearing was held on September 26, 1978. After consideration of all comments received, the proposal is adopted as revised by this document.

DISCUSSION OF MAJOR COMMENTS

GENERAL COMMENTS

1. *Scope of Regulations*

Some comments asserted that those practicing before the Internal Revenue Service should have greater freedom to advertise than the proposal provided. In doing so, the commenters believed that such a restriction would result in minimal regulation. Those asserting this position interpreted the *Bates* decision as standing for the proposition that all commercial information should be freely disseminated unless it is false or misleading.

The Department is of the view that this interpretation of *Bates* is not consistent with the Court's decision. The issue in *Bates* was limited to whether attorneys may advertise fees for routine legal services. The Court held that such fee advertising came within First Amendment protection, noting that the advertising allowed serves individual and societal interests in assuring informed and reliable decisionmaking. However, the Supreme Court did not hold that there may be no regulation of other aspects of solicitation, indicating some of them could be restricted as appropriate.

One of the issues the *Bates* opinion reserved was addressed in two subsequent Supreme Court decisions. In *Ohralik* v. *Ohio State Bar Association*, 46 USLW 4511 (May 30, 1978), the need to protect the consumer from the potential harms of solicitation was demonstrated by the Court. The Court upheld a prohibition on in-person solicitation by attorneys, stating "the aim and effect of in-person solicitation may be to provide a one-sided presentation and to encourage speedy and perhaps uninformed decision-making." The *Ohralik* decision therefore permits a prohibition on truthful in-person solicitation of employment for pecuniary gain under circumstances likely to pose dangers to the consumer. The Supreme Court, in *in Re Primus*, 46 USLW 4519 (May 30, 1978), also dealt with in-person solicitation by an attorney in behalf of a non-profit organization. It found that the First Amendment right of association afforded non-profit organizations the right to engage in such solicitation as a means of political expression and because of the unlikelihood of pecuniary gain. Although *Primus* permits non-profit organizations to engage in in-person solicitation, the Court noted there could be carefully tailored regulations governing such activity.

The Department believes the Supreme Court, in sanctioning certain advertising by professionals, was principally concerned with providing the public the opportunity to make informed decisions in selecting an attorney. The *Bates* decision recognizes that advertising can be a valuable tool for consumer education. However, the *Ohralik* and *Primus* decisions demonstrate that, on balance, not all forms of solicitation are desirable, and recognize the propriety of prohibitions on forms of solicitation which could be detrimental to the consumer, such as in-person solicitation.

2. *Application of Regulations*

The advertising and solicitation rules in the proposed regulations would expressly apply to all individuals eligible to practice before the Internal Revenue Service in any matter related to the Internal Revenue Service. Some commenters suggested that the advertising and solicitation provisions should apply only to practice before the Internal Revenue Service as defined by § 10.2(a) of the regulations. Section 10.2(a) defines "practice" as "all matters connected with presentation to the Internal Revenue Service or any of its officers or employees relating to a client's rights, privileges, or liabilities under the laws or regulations administered by the Internal Revenue Service." The preparation of tax returns is expressly excluded. If the advertising and solicitation provisions were limited only to practice before the Internal Revenue Service, practitioners could advertise tax return preparation services without coming under the regulations' restrictions. In evaluating these comments, the Department found that such a limitation would be inconsistent with the purpose of its regulations. Such regulations govern all aspects of professional services offered, including the preparation of Federal tax returns. Consequently, there is no basis for limiting the application of the regulations.

3. *Relationship With Other Regulations*

Two comments received addressed that portion of the preamble to the proposed rule which stated that "the proposed advertising and solicitation rules set forth will not supersede or preempt any advertising and solicitation rules applied to practitioners before the Internal Revenue Service by any national, state, or local organizations controlling the professional conduct of Internal Revenue Service practitioners." It was suggested that this language either be clarified or eliminated. The statement in the preamble reflected the Department's recognition that the professional conduct of many practitioners before the Internal Revenue Service is also circumscribed by rules adopted by national, state or local organizations. Its purpose was to place such practitioners on notice of the requirement to follow those rules where appropriate. Accordingly, it is not believed the language need be deleted or clarified.

SPECIFIC COMMENTS AND CHANGES

10.24—Assistance From Disbarred or Suspended Persons and Former Internal Revenue Service Employees

One commenter called our attention to the fact that proposed § 10.24(c) was inconsistent with the provision contained in § 10.26 of the regulations. Both prohibit a practitioner from accepting assistance from any former Government employee in any matter in which the former employee had "official responsibility" while with the Government. However, the prohibition in proposed § 10.24(c) would have been a lifetime bar while the prohibition in § 10.26 is for one year. This was not the intent of the proposal and the final regulation has been clarified in accordance with the comment.

10.30(a)—Advertising and Solicitation Restrictions

Two comments stated that the term "Solicitation Restrictions" as used in the heading was vague and misleading as to the scope of the provision's application. In order to clarify this, § 10.30(a) has been retitled "Advertising and Solicitation Restrictions."

10.30(a)(1)—General Restrictions

One comment suggested that the prohibition on advertising the "quality of services rendered" would prohibit the dissemination of useful information subject to factual verification and therefore should be deleted. The Department concurs that such information may assist taxpayers and believes that only the advertising of quality of services not subject to factual verification should be prohibited. Accordingly, the final rule has been revised to more clearly reflect this belief.

Several comments suggested that the prohibition of self-laudatory statements be eliminated because it is vague and ambiguous. The Department agrees and this prohibition has been deleted.

Consistent with the Supreme Court decisions in *Ohralik* and *Primus*, and to further reflect the Department's intent, the words "coercive" and "unduly influencing" have been added to the prohibition in § 10.30(a)(1).

10.30(a)(2)—Prohibition on Advertising Former Internal Revenue Service Employment

Comments suggested that the prohibition on making any written or oral statement referring to a past or present connection with, or relationship to, the Internal Revenue Service be deleted. The comments stressed that the prohibition would prevent taxpayers from receiving valuable information helpful in the selection of a tax practitioner. Further, the comments suggested that any abuses resulting from the deletion of this provision are addressed in other provisions of the regulations. The Department concurs, and the prohibition has been deleted from the final rule.

10.30(a)(3)—In-Person Solicitation

1. *General*

Some comments recommended the proposal's prohibition on in-person solicitation be deleted. The commenters believed that in-person solicitation is valuable to the public and would present no situations which could lead to overreaching and other "vexatious conduct" by practitioners.

As previously discussed, the Supreme Court addressed the issue of in-person solicitation by attorneys in the *Ohralik* case. The Court stated that in-person solicitation does not give the recipient opportunity to reflect or compare other information and could demand an immediate response, thereby exerting pressure on the potential client. The Department believes that the complexity of our tax laws and the anxiety which many taxpayers feel when confronted with matters such as examination of tax returns, imposition of tax liens and estate tax issues for bereaved family members of decedents, indicate that, at this stage of our experience, limitations be placed on in-person solicitation. Hence, to avoid the opportunity for overreaching, the invasion of a taxpayer's privacy and situations where the judgment of the practitioner on behalf of the client may be clouded by his own pecuniary self-interest, the prohibition on in-person solicitation is continued in the final regulations.

Two comments requested that the Department clarify the phrase "without the intervention of print or electronic media." This proposed phrase was intended to delineate various types of in-person solicitation from other types of solicitation. To eliminate any ambiguity, the phrase has been replaced and examples of activity which are deemed to constitute forms of in-person solicitation are given.

One comment suggested that the term "solicitation" be replaced with the phrase "uninvited solicitation" to make clear that an exchange of information which could be characterized as invited in-person solicitation would be proper. The Department is of the view that invited solicitation by its nature ordinarily would be outside the application of the restriction. However, to clarify any possible ambiguity, the word "uninvited" was added to the final regulation.

2. *Mailings*

Several comments requested clarification of in-person solicitation mailings which would be permitted by the regulations. One comment recommended it be deleted. The Department feels that general mailings will assist taxpayers and would be consistent with permitted advertising. The intent of the proposed regulations was to

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sanction such general mailings and to prohibit mail designed for a specific potential client which addresses specific circumstances unique to that individual. It is believed that specific mailings may present potentials for harm similar to those of oral in-person solicitation. To alleviate any misunderstanding, the final regulation has been reworded to permit mailings when the contents are designed for the general public.

One comment requested clarification of the meaning of the term "potential client", questioning the scope of possible communication with a current or former client. The regulations were not intended to prohibit a practitioner from any communication with existing or former clients in related matters and the final rule has been clarified accordingly. Thus, it would be permissible for a practitioner who had prepared a client's 1977 tax return to inquire about preparing his 1978 return. It should be noted, however, that when a practitioner attempts to expand the business relationship to an unrelated matter, the existing or former client is viewed as a new client. An example of such expansion would be an attorney who represented an individual in a negligence action arising from an automobile accident and then sought to prepare the individual's tax returns.

3. *Tax Exempt Organizations*

Although no comments were received in regard to in-person solicitation by tax exempt organizations, the Department believes it is necessary to clarify this provision in the final rule. The final rule therefore provides that in-person solicitation by a party in behalf of the specified tax exempt organizations is permissible if it is not coercive. This addition is consistent with the previously discussed Supreme Court opinions. Further, the tax exempt organizations referred to in the regulations have been modified to include only those non-profit groups which pursue litigation as a vehicle for advancing effective political expression and association in furtherance of a tax exempt purpose. This is deemed appropriate under the *Primus* case and reflects clarity and consistency on the subject.

10.30(b)—Permissible Advertising

The title of the paragraph in the final rule is revised to read "Permissible Advertising." This change reflects the parallelism of the regulation by having § 10.30(a) entitled "Advertising and Solicitation Restrictions" and by having § 10.30(b) entitled "Permissible Advertising."

10.30(b)(1) Contents of Advertisements

Section 10.30(b)(1) now refers to § 10.30(d) in order to clarify the modes of communication practitioners may utilize in permissible advertising.

A number of comments were received suggesting that the phrase "enrolled to practice before the Internal Revenue Service" in § 10.30 of the former regulations be retained. The proposed regulations, in § 10.30(b)(1)(ix), sanction the use of a new enrollment legend "enrolled to represent taxpayers before the Internal Revenue Service." Since reference to one's enrollment to practice before the Internal Revenue Service is a relevant statement of fact, there was no intent to eliminate the previously allowed enrollment legend. Rather, the proposed regulation was designed to give the enrolled agent an alternate choice. To clarify this matter, § 10.30(b)(1)(ix) of the final regulations has been modified to include reference to both legends.

One comment expressed concern with the proposal which would permit statements limiting an individual's or a firm's practice to certain areas by stating that practitioners should only be able to advertise a limited practice if the national or local bodies exercising authority over the practitioners recognized the speciality. The Department believes, however, that information informing the consumer of the limited areas of practice in which an individual engages is factual in nature and relevant to informed decision making by a taxpayer.

Two comments were received regarding proposed § 10.30(b)(1)(x), which provides flexibility in an advertisement by permitting one to use facts which would be relevant in selecting a practitioner before the Internal Revenue Service. One comment suggested that if the regulations were to be truly flexible, the list of nine items which precede subparagraph "x" should be eliminated. Another comment stated that § 10.30(b)(1)(x) should be deleted because it is too broad, and suggested additional items be added to the listing preceding it. It is believed that proposed § 10.30(b)(1)(i) through (ix) furnishes the practitioner guidance as to the type of facts relevant to the selection of a practitioner. Section 10.30(b)(1)(x) provides needed flexibility in addition to the guidance of the subparagraphs preceding it. The Department remains of the view that the regulation gives the practitioner necessary guidance without restriction to a finite list of items. Accordingly, proposed § 10.30(b)(1)(x) has been retained in the final regulations.

10.30(b)(2)—Provision Relating to Biographical Insertions, Professional Cards, Letterheads and Announcements

Section 10.30(b)(2) of the proposed regulations makes reference to certain provisions in the rules of professional conduct of the American Bar Association, the American Institute of Certified Public Accountants, the National Society of Public Accountants, and the National Association of Enrolled Agents. These provisions apply to the use of biographical insertions, professional cards, letterheads and announcements. Three comments indicated it was improper for the regulations to refer to any organization's advertising and solicitation provisions. The Department believes the references to these organizations' standards, to the extent they are consistent with the Department's regulations, are essential in order to avoid the presentation of minutia in the regulations for this limited area, standards which may be considered in the periphery of solicitation. In addition, this approach to regulating these matters is identical to that currently employed in the Department's regulations and reflects a recommendation of the Chief Counsel's (Internal Revenue Service) Advisory Committee on Rules of Professional Conduct in the Committee's September 2, 1976 report.

Some comments suggested the rules of the National Association of Enrolled Federal Tax Accountants be included in § 10.30(b)(2). The Department believes reference to the National Association of Enrolled Federal Tax Accountants' rules would not provide additional guidance to enrolled agents and has not included such reference in the section.

One comment indicated that § 10.30(b)(2)(iii) was inconsistent with the references in § 10.30(b)(2)(i) and (ii). The commenter questioned the propriety of addressing membership by enrolled agents in the National Society of Public Accountants or the National Association of Enrolled Agents when the proposal does not address membership by attorneys or by certified public accountants in their respective organizations. The intent of § 10.30(b)(2)(iii) is to require enrolled agents, in these limited areas, to adhere to the relevant rules of one of the two named organizations. To clarify the provision, the inconsistent language has been omitted from the regulations.

10.30(c)—Fee Information

Two comments were concerned with the provision that clients were entitled, without charge, to a written estimate of the fees likely to be charged if the practitioner advertised fee information. One comment stated it was not always feasible to give such a written estimate of fees likely to be charged; the other comment believed the requirement was of little value to the consumer but could pose serious hardships on a practitioner's ability to advertise fee information. The Department concurs in these comments and has deleted the requirement for free written estimates.

The proposed regulation requires that any advertisement or other communication of fixed fees for specific routine services be accompanied by a statement clearly indicating that the quoted fees are for services in matters of average complexity and that the actual fees for such services will depend upon the actual complexity of the client's particular matter. Two comments suggested that the statement be eliminated because it served no useful purpose and would result in an unneeded expense for the practitioner when advertising such fee information. The Department agrees, and the requirement has been deleted in the final rule.

10.30(d)—Communications

Some comments received questioned the necessity for the delineation of permissible forms of communications set forth in § 10.30(d). The Department believes the regulation is necessary to provide the practitioner with guidance as to the forms of communication allowable, and has retained it in the final rule.

Two comments objected to the failure of this provision to include mailings as a public communication, believing mailings would be beneficial to the consumer and essential for the practitioner. The Department recognizes the need for clarification and the need to be consistent with permissible mailings addressed in § 10.30(a)(2) of the final rule. The term "permissible mailings" therefore was added to this section.

One comment stated the term "print media" was ambiguous, and inquired as to whether mailings would be included as "print media." The term is used in this provision in the general sense of communication through means of the printed word. Inasmuch as the subject of permissible mailings is separately addressed in this section, the Department believes that the expressed ambiguity has been eliminated.

Two comments addressed the requirement in the proposed regulations that practitioners pre-record radio and television advertisements and retain the recordings. One suggested that retention of the written transcript was sufficient to assure that practitioners did not engage in false or misleading broadcasts. The other suggested that retention of the audio portion of the broadcast was sufficient. Both stated the proposed regulations would pose an unnecessary financial burden on the practitioner and could restrict the use of electronic media advertising if required to retain the video portion of a television transmission. The Department reviewed the submitted financial evidence which indicated that the retention of the video portion of a pre-recorded television broadcast would be burdensome. Accordingly, the final regulation requires only the retention of a pre-recording of the audio portion of a broadcast.

10.30(e)—Improper Associations

Although there were no direct comments on this provision, several comments indirectly indicated their belief that the prohibition on enrolled agents from accepting employment from or affiliating with certain entities was too harsh. For example, commercial tax return preparation entities indicated their desire to employ enrolled agents. These entities stated that by their employment of enrolled agents, the expertise of their service would be enhanced, thereby benefitting the public. The Department believes these comments have merit. The prohibition which would have been imposed by proposed § 10.30(e) has been modified to allow individuals authorized to practice before the Internal Revenue Service to be employed by those who advertise and solicit business contrary to the provisions in § 10.30, as long as those practitioners neither practice before the Internal Revenue Service nor are represented (held out) as being eligible to practice before the Internal Revenue Service. The regulations would permit those individuals to hold themselves out and/or practice before the Internal Revenue Service in a capacity other than that of such an employee or affiliate.

COMMENTS BEYOND SCOPE

A number of comments were received which went beyond the scope of the notice of proposed rulemaking. Accordingly, such comments were not incorporated into the final regulation. These comments included recommendations:

1. That Circular 230 be revised to have a continuing education program for practitioners;

2. That Circular 230 be revised to have jurisdiction over individuals practicing as unenrolled return preparers under Revenue Procedure 68-20; and

3. That Circular 230 be revised to contain instructions for the general public in reporting violations of § 10.30.

DRAFTING INFORMATION

The principal author of this amendment is Mr. Leslie S. Shapiro, Director of Practice, Office of the General Counsel, Department of the Treasury, and members of his staff. Personnel from other offices of the General Counsel, Department of the Treaury, and from the Internal Revenue Service also participated in developing this amendment.

AUTHORITY

This amendment is adopted under the authority of: Sec. 3, 23 Stat. 258, secs. 2-12, 60 Stat. 237 et seq.; 5 U.S.C. 301, 500, 551-559, 31 U.S.C. 1026, Reorg. Plan No. 26 of 1950, 15 F.R. 4935, 64 Stat. 1280, 3 CFR, 1949-1953 Comp., except as otherwise noted.

Accordingly, 31 CFR Part 10 is amended to read as follows:

Paragraph 1. § 10.24, is revised to read as set forth below:

§ 10.24 Assistance from disbarred or suspended persons and former Internal Revenue Service employees.

No attorney, certified public accountant or enrolled agent shall, in practice before the Internal Revenue Service, knowingly and directly or indirectly:

(a) Employ or accept assistance from any person who is under disbarment or suspension from practice before the Internal Revenue Service.

(b) Accept employment as associate, correspondent, or subagent from, or share fees with, any such person.

(c) Accept assistance from any former government employee where the provisions of § 10.26 of these regulations or any Federal law would be violated.

PARAGRAPH 2. Section 10.30, is revised to read as set forth below:

§ 10.30 Solicitation.

(a) *Advertising and Solicitation restrictions.* (1) No attorney, certified public accountant, enrolled agent, or other individual eligible to practice before the Internal Revenue Service shall, with respect to any Internal Revenue Service matter, in any way use or participate in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, unduly influencing, coercive or unfair statement or claim. For the purposes of this subsection, the prohibition includes, but is not limited to, statements pertaining to the quality of services rendered unless subject to factual verification, claims of specialized expertise not authorized by State or Federal agencies having jurisdiction over the practioner, and statements or suggestions that the ingenuity and/or prior record of a representative rather than the merit of the matter are prin-

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cipal factors likely to determine the result of the matter.

(2) No attorney, certified public accountant, enrolled agent or other individual eligible to practice before the Internal Revenue Service shall make, directly or indirectly, an uninvited solicitation of employment, in matters related to the Internal Revenue Service. Solicitation includes, but is not limited to, in-person contacts, telephone communications, and personal mailings directed to the specific circumstances unique to the recipient. This restriction does not apply to: (i) Seeking new business from an existing or former client in a related matter; (ii) solicitation by mailings, the contents of which are designed for the general public; or (iii) non-coercive in-person solicitation by those eligible to practice before the Internal Revenue Service while acting as an employee, member, or officer of an exempt organization listed in sections 501(c) (3) or (4) of the Internal Revenue Code of 1954 (26 U.S.C.).

(b) *Permissible Advertising.* (1) Attorneys, certified public accountants, enrolled agents and other individuals eligible to practice before the Internal Revenue Service, may publish, broadcast, or use in a dignified manner through any means of communication set forth in paragraph (d) of this section:

(i) The name, address, telephone number, and office hours of the practitioner or firm.

(ii) The names of individuals associated with the firm.

(iii) A factual description of the services offered.

(iv) Acceptable credit cards and other credit arrangements.

(v) Foreign language ability.

(vi) Membership in pertinent, professional organizations.

(vii) Pertinent professional licenses.

(viii) A statement that an individual's or firm's practice is limited to certain areas.

(ix) In the case of an enrolled agent, the phrase "enrolled to represent taxpayers before the Internal Revenue Service" or "enrolled to practice before the Internal Revenue Service."

(x) Other facts relevant to the selection of a practitioner in matters related to the Internal Revenue Service which are not prohibited by these regulations.

(2) Attorneys, certified public accountants, enrolled agents and other individuals eligible to practice before the Internal Revenue Service may use, to the extent they are consistent with the regulations in this section, customary biographical insertions in approved law lists and reputable professional journals and directories, as well as professional cards, letterheads and announcements: *Provided*, That: (i) attorneys do not violate applicable standards of ethical conduct adopted by the American Bar Association, (ii) certified public accountants do not violate applicable standards of ethical conduct adopted by the American Institute of Certified Public Accountants, and (iii) enrolled agents do not violate applicable standards of ethical conduct adopted by either the National Society of Public Accountants or the National Association of Enrolled Agents.

(c) *Fee Information.* (1) Attorneys, certified public accountants, enrolled agents and other individuals eligible to practice before the Internal Revenue Service may disseminate the following fee information:

(i) Fixed fees for specific routine services.

(ii) Hourly rates.

(iii) Range of fees for particular services.

(iv) Fee charged for an initial consultation.

(2) Attorneys, certified public accountants, enrolled agents and other individuals eligible to practice before the Internal Revenue Service may also publish the availability of a written schedule of fees.

(3) Attorneys, certified public accountants, enrolled agents and other individuals eligible to practice before the Internal Revenue Service shall be bound to charge the hourly rate, the fixed fee for specific routine services, the range of fees for particular services, or the fee for an initial consultation published for a reasonable period of time, but no less than thirty days from the last publication of such hourly rate or fees.

(d) *Communications.* Communications, including fee information, shall be limited to professional lists, telephone directories, print media, permissible mailings as provided in these regulations, radio and television. In the case of radio and television broadcasting, the broadcast shall be pre-recorded and the practitioner shall retain a recording of the actual audio transmission.

(e) *Improper Associations.* An attorney, certified public accountant or enrolled agent may, in matters related to the Internal Revenue Service, employ or accept employment or assistance as an associate, correspondent, or subagent from, or share fees with, any person or entity who, to the knowledge of the practitioner, obtains clients or otherwise practices in a manner forbidden under this section: *Provided*, That a practitioner does not, directly or indirectly, act or hold himself out as an Internal Revenue Service practitioner in connection with that relationship. Nothing herein shall prohibit an attorney, certified public accountant, or enrolled agent from practice before the Internal Revenue Service in a capacity other than that described above.

NOTE.—The Department of the Treasury has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 17, 1979.

ROBERT H. MUNDHEIM,
General Counsel,
U.S. Department of the Treasury.

[FR. Doc. 79-2484 Filed 1-19-79; 3:59 pm]

[4810-25-M]

PART 10—PRACTICE BEFORE THE INTERNAL REVENUE SERVICE

Revision of the Provisions Governing Those Individuals Eligible To Practice Before the Internal Revenue Service

AGENCY: Department of the Treasury.

ACTION: Final Rule.

SUMMARY: The rule amends and revises the provision of 31 CFR Part 10, reprinted as Treasury Department Circular No. 230, which defines those individuals who are eligible to practice before the Internal Revenue Service. Currently, the regulations permit attorneys, certified public accountants and enrolled agents to practice before the Internal Revenue Service. The purpose of this rule is to permit enrolled actuaries to engage in practice before the Internal Revenue Service in connection with the provisions of the Internal Revenue Code involving pension plans under the Employee Retirement Income Security Act of 1974 (ERISA).

EFFECTIVE DATE: This revision of Part 10 becomes effective February 24, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Leslie S. Shapiro, Director of Practice, 202-376-0767.

SUPPLEMENTARY INFORMATION: On August 3, 1978, the Department of the Treasury (Department) published a proposed rule (43 FR 34161) to amend the regulations governing practice before the Internal Revenue Service (31 CFR Part 10). A number of written comments were received regarding the proposed rule. Almost all parties submitting comments commended the regulations as proposed. One comment opposed the proposal, and several recommended technical amendments to the proposed regulation.

DISCUSSION OF MAJOR COMMENTS

GENERAL COMMENTS

The majority of comments strongly supported the proposed regulations as being a necessary element of the full service enrolled actuaries are qualified to provide. It was felt this would benefit their clients, the Internal Revenue Service, and pension plan participants.

COMMENT OPPOSING THE PROPOSAL

The comment opposing the proposed regulations stated that actuaries have no special qualifications to argue (before the Internal Revenue Service) questions of plan qualification, discrimination, and similar legal issues not related to funding. The implication of the comment appears to be that Internal Revenue Service appearances are adversary proceedings and that the questions addressed in the proposal are areas only attorneys should handle. Further, the comment disagreed with the premise that one can limit practice before the Internal Revenue Service to enumerated sections of the Internal Revenue Code because of those provisions' interrelationship with other Code sections.

The Department does not view Internal Revenue Service proceedings to be adversary in nature. Rather, it is the duty of the Internal Revenue Service to administer the Internal Revenue Code by correctly applying the laws enacted by Congress; to determine the reasonable meaning of various Code provisions in light of the Congressional purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view. Under 31 CFR Part 10, attorneys, certified public accountants and enrolled agents are authorized to represent taxpayers before all administrative levels of the Internal Revenue Service. The fact that certified public accountants and enrolled agents are so authorized demonstrates that practice before the Internal Revenue Service does not involve a proceeding which necessarily requires the services of an attorney. The overwhelming consideration in proposing that enrolled actuaries practice in a limited area is that they possess an expertise in certain matters concerning pension plans that may be in issue in Internal Revenue Service proceedings. Consequently, there are significant benefits to the public and the Internal Revenue Service by permitting direct communication between enrolled actuaries and representatives of the Internal Revenue Service. The Department therefore has determined that enrolled actuaries are an appropriate class to engage in practice before the Internal Revenue Service within the ambit of their expertise.

The matter of how best to address practice by enrolled actuaries was carefully considered in drafting the proposed regulations. Such consideration included administrative issues and meaningful guidelines for enrolled actuaries. It was determined that limiting practice to specific statutory provisions was preferable to a more general authorization. It is believed that the interrelationship between those provisions under which enrolled actuaries would practice and other provisions of the Internal Revenue Code would not work a hardship on the sound administration of the revenue laws, and that the proposed regulations in this area should not be altered.

The comment further stated that under proposed § 10.51(g) of the regulations, enrolled actuaries could not be disbarred or suspended because they are not licensed by States. In addition, the absence of the term "enrolled" from the proposed amendment would not provide the Department authority to suspend or disbar an enrolled actuary who has his or her status as such suspended or terminated by the Joint Board for the Enrollment of Actuaries.

The Department does not concur in this interpretation. Under § 10.51 of Treasury Department Circular No. 230, one who practices before the Internal Revenue Service may be suspended or disbarred from such practice for an act of disreputable conduct. Proposed § 10.51(g) would include as disreputable conduct, suspension or disbarment as an actuary by any duly constituted authority of any State or Federal agency, body or board. The Department has found that certain States regulate the qualifications of actuaries who perform services under State laws and understands that the trends indicate growing regulation in this area. The proposal therefore should be considered prospective in nature to apply to any actuary who may be subject to State licensing. In addition, the Department is of the view that the absence of the word "enrolled" does not negate the Department's authority to disbar or suspend an enrolled actuary whose eligibility to perform actuarial services has been suspended or terminated by the Joint Board for the Enrollment of Actuaries. Such suspension or termination would preclude the individual from performing as an actuary those services his or her enrollment status authorizes. Accordingly, it is not believed any clarification is required.

PROPOSED AMENDMENTS

Several comments favored the proposed regulations, but recommended that practice by enrolled actuaries be expanded to include Internal Revenue Code provisions not delineated in the proposed rule.

(1) Two commenters recommended that the proposed regulation be expanded to permit practice before the Internal Revenue Service in matters involving Section 403(b) of the Internal Revenue Code (taxability of beneficiary under annuity purchased by a Section 501(c)(3) organization or public school). One of the comments pointed out that Section 403(b)(2)(A)(ii) may involve, in the case of unallocated contributions to a defined benefit plan, calculations that are distinctly actuarial in nature.

The Department did not adopt this recommendation. Section 403(b) concerns non-actuarial conditions for tax-sheltered annuity treatment. It was determined these conditions would not be within the ambit of actuarial services, regardless of certain actuarial aspects of the annuities. The calculation of an excludable amount under Section 403(b)(2)(A) was a part of the Internal Revenue Code before ERISA and has been treated as a matter that does not necessarily require an enrolled actuary's expertise. Hence, there is insufficient justification to bring all provisions of Section 403(b) within limited practice rules.

(2) Several comments recommended that the regulations include Section 410 (minimum participation standards), Section 411 (minimum vesting standards), and Section 415 (limitations on benefits and contributions under qualified plans) of the Internal Revenue Code.

These recommendations were not adopted because these Sections are already incorporated by reference in Section 401(a), a Section under which the proposed regulations would permit enrolled actuaries to practice. Since issues arising under Sections 410, 411, and 415 come under Section 401(a), the Department does not believe any amendment is required.

(3) Two comments recommended that the regulations include Section 501 of the Internal Revenue Code (exemption from tax on corporations, certain trusts, etc.). In addition, one comment recommended inclusion of Section 503 (denial of tax exemption for certain tax-exempt entities including qualified employee benefit plans which engage in prohibited transactions), and one comment recommended inclusion of Section 4972 (taxes on excess contributions for self-employed individuals) to the extent it deals with excess contributions under defined benefit plans. Section 501(a), in part, provides for tax-exempt status for plans qualified under Section 401(g); thus, this provision of Section 501 is already included in the enrolled actuaries' proposed limited practice area. Other provisions of Section 501 are

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concerned with the tax-exempt status of non-profit organizations and non-retirement employee benefit trusts, and are not particularly within an enrolled actuary's expertise. Similarly, Sections 503 and 4972 involve substantive areas that are not within the ambit of an enrolled actuary's expertise. The recommendations therefore were not adopted.

(4) Several comments recommended inclusion of Sections 6057, 6058, 6059, and 6692 of the Internal Revenue Code. These provisions concern reporting requirements and related penalties generally applicable to plan administrators. The Department agrees that these reporting requirements may involve actuarial computations. It is appropriate, therefore, that an enrolled actuary's practice include matters concerning the assessment of penalties against a plan administrator for failure to file accurate information. Accordingly, these provisions have been included in the final rule. In addition, Sections 6652 (e) and (f), which provide penalties for failure to comply with Sections 6057 and 6058, have been added to the regulations.

DRAFTING INFORMATION

The principal author of this amendment is Mr. Leslie S. Shapiro, Director of Practice, Office of the General Counsel, Department of the Treasury and members of his staff. Personnel from other offices of the General Counsel and from the Internal Revenue Service also participated in developing this amendment.

AUTHORITY

This amendment is adopted under the authority of: Sec. 3, 23 Stat. 258, secs. 2-12, 60 Stat. 237 et seq.; 5 U.S.C. 301, 500, 551-559, 31 U.S.C. 1026, Reorg. Plan No. 26 of 1950, 15 FR 4935, 64 Stat. 1280, 3 CFR, 1949-1953 Comp., except as otherwise noted.

Accordingly, 31 CFR Part 10 is amended to read as follows:

§ 10.3 [Amended]

1. Section 10.3 is amended as follows:

(a) By redesignating present paragraphs (d), (e) and (f) as paragraphs (e), (f) and (g) respectively;

(b) By adding a new paragraph (d), as follows:

* * * * *

(d) *Enrolled Actuaries.* (1) Any individual who is enrolled as an actuary by the Joint Board for the Enrollment of Actuaries pursuant to 29 U.S.C. 1242 may practice before the Internal Revenue Service upon filing with the Service a written declaration that he/she is currently qualified as an enrolled actuary and is authorized to represent the particular party on whose behalf he/she acts. Practice as an enrolled actuary is limited to representation with respect to issues involving the following statuatory provisions.

Internal Revenue Code (Title 26 U.S.C.) sections: 401 (qualification of employee plans), 403(a) (relating to whether an annuity plan meets the requirements of section 404(a)(2)), 404 (deductibility of employer contributions), 405 (qualification of bond purchase plans), 412 (funding requirements for certain employee plans), 413 (application of qualification requirements to collectively bargained plans and to plans maintained by more than one employer), 414 (containing definitions and special rules relating to the employee plan area), 4971 (relating to excise taxes payable as a result of an accumulated funding deficiency under section 412), 6057 (annual registration of plans), 6058 (information required in connection with certain plans of deferred compensation), 6059 (periodic report of actuary), 6652(e) (failure to file annual regustration and other notifications by pension plan), 6652(f) (failure to file information required in connection with certain plans of deferred compensation), 6692 (failure to file acuarial report), 7805(b) (relating to the extent, if any, to which an Internal Revenue Service ruling or determination letter coming under the herein listed statutory provisions shall be applied without retroactive effect); and 29 U.S.C. 1083 (relating to waiver of funding for nonqualified plans).

(2) An individual who practices before the Internal Revenue Service pursuant to this subsection shall be subject to the provisions of this part in the same manner as attorneys, certified public accountants and enrolled agents.

2. Section 10.51(g) is amended to include an actuary within the ambit of those covered, as follows:

§ 10.51 Disreputable conduct

* * * * *

(g) Disbarment or suspension from practice as an attorney, certified public accountant, public accountant, or actuary by any duly constituted authority of any State, possession, territory, Commonwealth, the District of Columbia, any Federal court of record, or any Federal agency, body or board.

* * * * *

NOTE.—The Department of the Treasury has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 17, 1979.

ROBERT H. MUNDHEIM,
General Counsel,
U.S. Department of the Treasury.

[FR Doc. 79-2485 Filed 1-19-79; 3:59 pm]

[3810-70-M]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER R—CHARTERS

[DoD Directive 5129.1]

PART 351—UNDER SECRETARY OF DEFENSE FOR RESEARCH AND ENGINEERING

AGENCY: Office of the Secretary of Defense.

ACTION: Final Rule—Revision of DoD Charter Directive 5129.1.[1]

SUMMARY: The Secretary of Defense has changed the title of the Director for Research and Engineering to the Under Secretary of Defense for Research and Engineering and has revised the charter, adding responsibilities and realigning relationships and authorities with other OSD and Defense components. This will effect a more efficient OSD command structure in that it reduces the Secretary's span of control.

EFFECTIVE DATE: November 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Arthur H. Ehlers, Director for Organizational and Management Planning, Office of the Deputy Assistant Secretary of Defense (Administration), Washington, D.C. 20301, Telephone 202-695-4278.

SUPPLEMENTARY INFORMATION: This information is submitted in compliance with the requirements of section 552(a)(1) of Title 5, United States Code, and Recommendation 76-2 of the Administrative Conference of the United States.

Accordingly, Part 351 of Chapter I, 32 CFR is revised to read as follows:

Sec.
351.1 Purpose.
351.2 Responsibilities.
351.3 Functions.
351.4 Relationships.
351.5 Authorities.

AUTHORITY: 10 U.S.C. Chapter 4.

§ 351.1 Purpose.

Pursuant to the authority vested in the Secretary of Defense under the provisions of title 10, United States Code, the Under Secretary of Defense for Research and Engineering (hereafter "the USDRE") is hereby assigned responsibilities, functions, and authorities as prescribed herein.

§ 351.2 Responsibilities.

The USDRE is the principal adviser and assistant to the Secretary of Defense for Department of Defense scientific and technical matters; basic and applied research; environmental services; and the development and acquisition of weapon systems. The USDRE is also the Defense Acquisition Executive with responsibilities prescribed in DoD Directive 5000.30,[1] "Defense Acquisition Executive," August 20, 1976. For each assigned area the USDRE shall:

(a) Conduct analyses, develop policies, provide advice, make recommendations, and issue guidance on Defense plans and programs.

(b) Develop systems and standards for the administration and management of approved plans and programs.

(c) Initiate programs, actions, and taskings to ensure adherence to DoD policies and national security objectives; and to ensure that programs are designed to accommodate operational requirements.

(d) Review and evaluate programs for carrying out approved policies and standards.

(e) Inform appropriate organizations and personnel of new and significant scientific trends or initiatives.

(f) In conjunction with the Assistant Secretary of Defense (Comptroller), review proposed resource programs, formulate budget estimates, recommend resource allocations, and monitor the implementation of approved programs.

(g) Participate in those planning, programing, and budgeting activities which relate to USDRE responsibilities.

(h) Review and evaluate recommendations on requirements and priorities.

(i) Promote coordination, cooperation, and mutual understanding within the Department of Defense and between the DoD and other Federal agencies and the civilian community.

(j) Serve on boards, committees, and other groups pertaining to the USDRE's functional areas, and represent the Secretary of Defense on USDRE matters outside the Department of Defense.

(k) Perform such other duties as the Secretary of Defense may from time to time prescribe.

§ 351.3 Functions.

The USDRE shall carry out the responsibilities described in § 351.2 for the following functional areas:

(a) Scientific and technical information.

(b) Basic and applied research.

(c) Design and engineering, including life-cycle considerations.

(d) Development and acquisition of weapon systems, including procurement policy and production planning.

(e) Test and evaluation in accordance with DoD Directive 5000.3, "Test and Evaluation," April 11, 1978, to include review and approval of the T&E Master Plan (TEMP).

(f) Environmental services.

(g) Assignment and reassignment of research and engineering and acquisition responsibility for systems, activities, and programs.

(h) Coproduction and research interchange with friendly and allied nations, in conjunction with the Under Secretary of Defense for Policy.

(i) Contract placement and administration for research, development and weapon systems acquisition programs.

(j) Such other areas as the Secretary of Defense may from time to time prescribe.

§ 351.4 Relationships.

(a) In the performance of the duties, the USDRE shall:

(1) Exercise direction, control and authority over:

(i) The Assistant Secretary of Defense (Communications, Command, Control, and Intelligence), who shall also serve as the Principal Deputy Under Secretary of Defense for Research and Engineering;

(ii) The Assistant to the Secretary of Defense (Atomic Energy);

(iii) The Defense Advanced Research Projects Agency, the Defense Mapping Agency, the Defense Nuclear Agency, and, through the Assistant Secretary of Defense (Communications, Command, Control, and Intelligence), the Defense Communications Agency.

(2) Exercise, through the Assistant Secretary of Defense (Communications, Command, Control, and Intelligence), staff supervision on resource management matters over:

(i) The Defense Communications Agency, Defense Intelligence Agency, and National Security Agency;

(ii) Air Force and Navy special intelligence programs;

(iii) Defense communications and intelligence functions retained by the Military Departments.

(3) Coordinate and exchange information with other DoD organizations having collateral or related functions.

(4) Use existing facilities and services, whenever practicable, to achieve maximum efficiency and economy.

(b) All DoD organizations shall coordinate all matters concerning the functions cited in § 351.3 with the USDRE.

§ 351.5 Authorities.

The USDRE is hereby delegated authority to:

(a) Issue DoD Instructions and one-time directive-type memoranda which carry out policies approved by the Secretary of Defense, in assigned fields of responsibility as prescribed in DoD Directive 5025.1, "Department of Defense Directives System," November 18, 1977. Instructions to the Military Departments will be issued through the Secretaries of those Departments or their designees. Instructions to Unified and Specified Commands will be issued through the Joint Chiefs of Staff.

(b) Obtain such reports, information, advice, and assistance, consistent with the policies and criteria of DoD Directive 5000.19, "Policies for the Management and Control of Information Requirements," March 12, 1976 as the USDRE deems necessary.

(c) Communicate directly with heads of DoD organizations, including the Secretaries of the Military Departments, the Joint Chiefs of Staff, the Directors of Defense Agencies, and, through the Joint Chiefs of Staff, the Commanders of Unified and Specified Commands.

(d) Establish arrangements for DoD participation in those nondefense governmental programs for which the USDRE has been assigned primary cognizance.

(e) Approve, modify or disapprove research and development, environmental services and acquisition programs and projects of the Military Departments and other Department of Defense agencies in assigned fields.

(f) Communicate with other Government agencies, representatives of the legislative branch, and members of the public, as appropriate, in carrying out assigned functions.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 19, 1979

[FR Doc. 79-2545 Filed 1-23-79; 8:45 am]

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

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Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1043-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Comprehensive Document Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of State Implementation Plan Documents.

SUMMARY: In compliance with Section 110(h) of the Clean Air Act, this action announces the availability of the comprehensive documents setting forth all requirements of each State's applicable implementation plan. Anyone wishing to submit comments regarding these documents or requiring more detailed information on any of the regulations contained therein should direct them to the appropriate Environmental Protection Agency (EPA) Regional Office. The address and area of responsibility for each Regional Office are presented elsewhere in this notice.

EFFECTIVE DATE: January 24, 1979.

ADDRESS: The comprehensive State Implementation Plan (SIP) documents are available for a nominal fee from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. All requests should refer to the comprehensive document by the EPA document numbers listed below.

State	EPA Document No.
Alabama	EPA-450/3-78-050
Alaska	EPA-450/3-78-051
Arizona	EPA-450/3-78-052
Arkansas	EPA-450/3-78-053
California	EPA-450/3-78-054
Colorado	EPA-450/3-78-055
Connecticut	EPA-450/3-78-056
Delaware	EPA-450/3-78-057
District of Columbia	EPA-450/3-78-058
Florida	EPA-450/3-78-059
Georgia	EPA-450/3-78-060
Hawaii	EPA-450/3-78-061
Idaho	EPA-450/3-78-062
Illinois	EPA-450/3-78-063
Indiana	EPA-450/3-78-064
Iowa	EPA-450/3-78-065
Kansas	EPA-450/3-78-066
Kentucky	EPA-450/3-78-067
Louisiana	EPA-450/3-78-068
Maine	EPA-450/3-78-069
Maryland	EPA-450/3-78-070
Massachusetts	EPA-450/3-78-071
Michigan	EPA-450/3-78-072
Minnesota	EPA-450/3-78-073
Mississippi	EPA-450/3-78-074
Missouri	EPA-450/3-78-075
Montana	EPA-450/3-78-076
Nebraska	EPA-450/3-78-077
Nevada	EPA-450/3-78-078
New Hampshire	EPA-450/3-78-079
New Jersey	EPA-450/3-78-080
New Mexico	EPA-450/3-78-081
New York	EPA-450/3-78-082
North Carolina	EPA-450/3-78-083
North Dakota	EPA-450/3-78-084
Ohio	EPA-450/3-78-085
Oklahoma	EPA-450/3-78-086
Oregon	EPA-450/3-78-087
Pennsylvania	EPA-450/3-78-088
Rhode Island	EPA-450/3-78-089
South Carolina	EPA-450/3-78-090
South Dakota	EPA-450/3-78-091
Tennessee	EPA-450/3-78-092
Texas	EPA-450/3-78-093
Utah	EPA-450/3-78-094
Vermont	EPA-450/3-78-095
Virginia	EPA-450/3-78-096
Washington	EPA-450/3-78-097
West Virginia	EPA-450/3-78-098
Wisconsin	EPA-450/3-78-099
Wyoming	EPA-450/3-78-100
American Samoa	EPA-450/3-78-101
Guam	EPA-450/3-78-102
Puerto Rico	EPA-450/3-78-103
U.S. Virgin Islands	EPA-450/3-78-104

Furthermore, the comprehensive SIP documents will be available for public inspection during normal business hours at the EPA Regional Offices, but for only those States or territories for which that office has jurisdiction. The address and area of responsibility for each Regional Office are as follows:

REGION I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), John F. Kennedy Federal Building, Room 2303, Boston, Massachusetts 02203.
REGION II (New Jersey, New York, Puerto Rico, Virgin Islands), Federal Office Building, 26 Federal Plaza, New York, New York 10007.
REGION III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia), Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.
REGION IV (Alabama, Florida, Georgia, Mississippi, Kentucky, North Carolina, South Carolina, and Tennessee), 345 Courtland, N.E., Atlanta, Georgia 30308.
REGION V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), 230 South Dearborn, Chicago, Illinois 60604.
REGION VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), First International Building, 1201 Elm Street, Dallas, Texas 75270.
REGION VII (Iowa, Kansas, Missouri, Nebraska), 1735 Baltimore Avenue, Kansas City, Missouri 64108.
REGION VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), 1860 Lincoln Street, Denver, Colorado 80295.
REGION IX (Arizona, California, Hawaii, Nevada, Guam, American Samoa, Northern Mariana Islands), 215 Fremont Street, San Francisco, California 94105.
REGION X (Washington, Oregon, Idaho, Alaska), 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT:

Robert M. Scheli, EPA, Chief Plans Analysis Section (MD-15), Research Triangle Park, NC 27711, phone 919-541-5365 (FTS: 629-5365).

SUPPLEMENTARY INFORMATION: Section 110 of the Clean Air Act requires each State to adopt and to submit to the Administrator a plan which provides for the implementation, maintenance, and enforcement of the national ambient air quality standards (NAAQS) promulgated under Section 109 for any air pollutant. These plans are called State Implementation Plans (SIPs).

SIPs are dynamic in nature and are continuously being revised due to modifications and additions to State and local air pollution control programs. Furthermore, amendments to the Clean Air Act and revisions of the NAAQS, also necessitate revisions to the SIPs. The States are required to submit such SIP revisions to the Administrator for approval. After submittal to the Administrator, the SIP revisions are approved or disapproved in the FEDERAL REGISTER and codified under Part 52 of Title 40 of the Code of Federal Regulations (40 CFR Part 52).

In 40 CFR Part 52, a subpart has been designated for each State. All regulations promulgated by EPA under Section 110(c) of the Clean Air Act are printed in their entirety in Part 52. However, the State's own regulation submittals which EPA approves (or disapproves) under Section 110(a) do not appear in Part 52 because of the voluminous nature of the SIPs and the revisions thereto; these regulations are incorporated by reference into Part 52, however. State submitted regulations are briefly described in Part 52 under the "Identification of Plan" section for each State subpart and are generally referenced by the date of submittal to EPA. The complete texts of the State submissions listed in each "Identification of Plan" Section are available to the public at EPA headquarters in Washington, D.C., the appropriate Regional Office, and the appropriate State air pollution control agency.

The texts available at the above three locations consist of every submission listed in the "Identification of Plan" Section and do not distinguish whether the revision was disapproved or approved by EPA. It is necessary to go to each State's subpart under Part 52 to determine whether a regulation was approved or disapproved. Also, these State submissions vary widely in their organization, content, and language and are not available in a standard format, nor is it clear in many cases what portion of the SIP the revisions affect. This makes it difficult for routine usage and for interstate and intrastate comparison of SIP regulations.

Section 110(h) of the Clean Air Act requires that the Administrator assemble and publish a comprehensive document for each State setting forth the regulatory portions of each implementation plan. The purpose of this notice is to announce the availability of these documents. The Federally enforceable regulations have been compiled for 55 States and territories. The compilation for the Northern Mariana Islands which was recently included under the purview of the Clean Air Act will be prepared at a future date. The documents consist of the following, both as of January 1, 1978: (1) The Federally approved State and/or local air quality regulations; and (2) the Federally promulgated regulations for the State. As mandated by Congress, this document will be updated annually at a minimum, and will reflect any changes in the status of the SIP since January 1, 1978. Some of the documents updated since the date of this publication are expected to be available in the very near future.

Since State air quality regulations vary widely in their organization, content, and language, a standardized subject index is utilized in this document. Index listings consist of both pollutant and activity oriented categories to facilitate usage. For example, for regulations which apply to copper smelters, one might look under sulfur compounds, particulate matter process weight, or copper smelters. Federal regulations pertaining to a given State immediately follow the approved State and local regulations. The standard subject index will facilitate interstate and intrastate comparisons of the regulations and routine usage of the SIPs. Only the Federally promulgated and Federally *approved* State submitted regulations are documented. This negates the need to check Part 52 for the approval/disapproval status of a State submitted revision.

The standardized documentation of the regulatory portions of the SIPs provides EPA with a more efficient system for tracking SIP provisions. In addition, it provides the public with an up-to-date, organized compilation of Federally approved State air pollution regulations.

Dated: January 9, 1979.

DAVID S. HAWKINS,
Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 79-2328 Filed 1-23-79; 8:45 am]

[6560-01-M]

[FRL 1034-1]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Chrysler Casting Corp., Fostoria Foundry Division, Fostoria, Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Chrysler Casting Corporation, Fostoria Foundry Division. The Order requires the Company to bring air emissions from its three gray iron pouring lines at Fostoria, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Chrysler Casting Corporation, Fostoria Foundry Division's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (the Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect January 24, 1979.

FOR FURTHER INFORMATION CONTACT:

Arthur E. Smith, Jr., Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone: (312) 353-2082.

SUPPLEMENTARY INFORMATION: On September 25, 1975, the Acting Regional Administrator of U.S. EPA's Region V Office, published in the FEDERAL REGISTER (43 FR 43334), a notice setting out the provisions of a proposed State Delayed Compliance Order for Chrysler Casting Corporation, Fostoria Foundry Division. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the proposed notice.

Therefore, a Delayed Compliance Order effective this date is approved to Chrysler Casting Corporation, Fostoria Foundry Division, by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places the Company on a schedule to bring its three gray iron pouring lines at Fostoria, Ohio, into compliance as expeditiously as practicable with Regulation OAC 3745-17-11(B)(5), a part of the federally approved Ohio State Implementation Plan. Chrysler Casting Corporation, Fostoria Foundry Division, is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the Company to delay compliance with the SIP regulations covered by the order until June 30, 1979.

Compliance with the Order by Chrysler Casting Corporation, Fostoria Foundry Division, will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that the Company is in violation of a requirement contained in the order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective January 24, 1979 because of the need to immediately place Chrysler Casting Corporation, Fostoria Foundry Division, on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: January 18, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.401 to read as follows:

§ 65.401 U.S. EPA Approval of State Delayed Compliance Orders Issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Date of FR proposal	SIP regulation involved	Final compliance date
Chrysler Casting Corp., Fostoria Foundry Division.	Fostoria, Ohio	Sept. 25, 1978	OAC 3745-17-11(B)(5)	June 30, 1979

[FR Doc. 79-2560 Filed 1-23-79; 8:45 am]

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[6820-26-M]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER B—ARCHIVES AND RECORDS

[FPMR Temporary Reg. B-2]

APPENDIX—TEMPORARY REGULATIONS

Applicability of the General Records Schedules (GRS)

AGENCY: National Archives and Records Service (NARS), General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation requires mandatory application of the General Records Schedules (GRS). The GRS prescribe retention periods for records common to several or all Federal agencies. The regulation directs agencies to notify NARS of any agency records disposition instructions which deviate from the GRS and to request authority to supersede the GRS if the records must be maintained for a longer period than provided in the GRS. The intent of this regulation is to ensure that agencies do not retain records unnecessarily.

DATES: Effective date: January 24, 1979. Expiration date: September 30, 1980.

ADDRESS: General Services Administration (NCD), Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Wadlow, Records Disposition Division, (202-724-1625).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter B to read as follows:

[Federal Property Management Reg.: Temporary Reg. B-2]

APPLICABILITY OF THE GENERAL RECORDS SCHEDULES (GRS)

1. *Purpose.* This regulation informs agencies that the General Records Schedules (GRS) are now mandatory.

2. *Effective date.* This regulation is effective January 19, 1979.

3. *Expiration date.* This regulation expires September 30, 1980, unless sooner revised or superseded.

4. *Background.* a. Federal law (44 U.S.C. 3303a(d)) authorizes the Administrator of General Services to issue General Records Schedules (GRS) to provide minimum records retention standards for records common to several or all Federal agencies. These schedules were permissive. Agencies which desired a shorter retention period for any of the records described in the GRS were required to submit a Standard Form (SF) 115, Request for Records Disposition Authority, following procedures prescribed by § 101-11.406, and to justify the shorter retention period.

b. On October 10, 1978, the President approved Pub. L. 95-440 that amended subsection 3303a(d) of title 44, United States Code, "• • • to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal • • •." Under this law, the GRS are now mandatory, but any shorter retention period which has been approved for agencies' records by the Archivist of the United States will override the GRS provision.

Effect on agency schedules. Any item on an agency records schedule approved by the National Archives and Records Service (NARS) before October 10, 1978, which authorizes a shorter retention period than that provided for in the GRS shall take precedence. However, the GRS retention standards must now be applied to all other Federal records described therein, even if the agency has scheduled some records for a longer period than that specified in the GRS. The new law cancels any schedule or other records disposition instruction, whether or not it was approved by NARS, authorizing the retention of Federal records for periods longer than those prescribed by the GRS.

6. *Agency action.* a. By January 1, 1980, agencies shall inform the Office of Federal Records Centers (mailing address: General Services Administration (NCD), Washington, D.C. 20408) of any disposition instructions they have promulgated which deviate from the GRS.

(1) Agencies which have received authority from NARS to apply shorter retention periods shall submit the following information: Records series description, approved disposition instruction, and the NARS job and item numbers and/or agency printed manual and item numbers.

(2) Since the GRS now supersedes any authority to retain the records scheduled therein for periods longer than those specified in the GRS, agencies which have scheduled records for periods longer than those provided in the GRS shall, if they wish to continue to maintain those records for the longer period, submit an SF 115 to request authority to supersede the GRS. Approval of such requests will be contingent on the strength of the agency's justification for the deviation.

b. On a continuing basis, as a result of new GRS items or a reevaluation of agency needs, agencies wishing to deviate from the published GRS disposition standards for any series of records shall submit an SF 115. The SF 115 shall include the following information: GRS number and item number; agency schedule and item number, if any; and, if a shorter retention period is requested, a concurrence statement from any other Federal agency (such as the General Accounting Office or the Office of Personnel Management) which has an interest in the disposition of the records.

7. *NARS action.* In order to facilitate the application of the GRS to Federal records, the Records Disposition Division of the Office of Federal Records Centers is developing a training session which will be open to all Federal employees. Details on the presentation of these sessions will be announced in a GSA bulletin.

8. *Availability of the GRS.* The current and future editions of the GRS will be available from General Services Administration (NC), Washington, D.C. 20408, at no cost for a reasonable number of copies.

9. *Effect on other directives.* This regulation modifies the provisions of §§ 101-11.403-2(b) and 101-11.404-1(d).

Dated: January 11, 1979.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 79-2379 Filed 1-23-79; 8:45 am]

[1505-01-M]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

[Circular No. 2439]

SUBCHAPTER B—LAND RESOURCES MANAGEMENT

[Group 2700—Disposition; Sales]

PART 2720—CONVEYANCE OF FEDERALLY-OWNED MINERAL INTERESTS

Procedures

Correction

In FR Doc. 79-341 appearing at page 1340 as the Part IV of the issue of Thursday, January 4, 1979, in the first column of this page 1340, the effective date should read "February 5, 1979".

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[4910-59-M]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-7; Notice 4]

PART 573—DEFECT AND NONCOMPLIANCE REPORTS

Equipment Manufacturers' Delay of Effective Date

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Delay of effective date.

SUMMARY: This notice amends the effective date for the implementation of amendments to Part 573, *Defect and Noncompliance Reports*, extending its application to equipment manufacturers. The final rule on the Part 573 amendment was published on December 26, 1978, (43 FR 60165) and established an effective date of January 25, 1979. This effective date has proven, however, insufficient to complete the process of interdepartmental review of the amendment. Further, some equipment manufacturers may wish to petition for reconsideration of the amendment. Since such petitions can be received up to 30 days after publication of the regulation in the FEDERAL REGISTER and since this regulation is scheduled to become effective 30 days after publication, there may be insufficient time before that date to consider fully petitions, if any are received. For these reasons, the NHTSA extends the effective date to March 1, 1979.

This amendment is being adopted without notice and public procedure because of the impending effective date of the Part 573 amendments. Since the amendment will otherwise become effective on January 25, the agency concludes that notice and public procedure are impracticable and not in the public interest.

EFFECTIVE DATE: This amendment is effective immediately changing the December 26, 1978, FEDERAL REGISTER notice to state that Part 573 is effective on March 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. James Murray, Office of Defects Investigation, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2840).

(Secs. 108, 112, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1397, 1401, 1407); secs. 102, 103, 104, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1397, 1401, 1408, 1411-1420); delegation of authority at 49 CFR 1.50.)

Issued on January 18, 1979.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 79-2486 Filed 1-19-79; 4:05 pm]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Third Revised Service Order No. 1315]

PART 1033—CAR SERVICE

Decision on Demurrage and Free Time on Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order. Third Revised Service Order No. 1315.

SUMMARY: Third Revised Service Order No. 1315 establishes minimum periods for the detention of cars by shippers and receivers free of demurrage and increases demurrage charges for cars held beyond the free time. Class X—Boxcar type and Class H—Hopper Car type are removed from the order, and the expiration time is extended two months.

DATES: Effective 7:00 a.m., February 1, 1979. Expires 6:59 a.m., April 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone (202) 275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: Decided on January 18, 1979. The Order is printed in full below.

An acute shortage of certain types of freight cars exists throughout the country. Certain carriers are unable to furnish adequate supplies of such freight cars to shippers located on their lines. These shortages of freight cars are impeding the movement of many commodities. Many freight cars are held by shippers for excessive periods awaiting loading, unloading, or disposition instructions immobilizing large numbers of freight cars needed by shippers for the transportation of other freight. Existing demurrage and detention rules, regulations, and practices of the railroads are ineffective to control such use of freight cars. It is, therefore, the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, we find that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1315 Demurrage and free time on freight cars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Application:*

(i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all freight cars which are listed in the Official Railway Equipment Register, I.C.C. R.E.R. No. 409, issued by W. J. Trezise, or successive issues thereof, as having one of the mechanical designations shown on pages 1260-1262 inclusive, under the following headings:

"Class 'L'-Special Car Type" mechanical designation 'LO', covered hopper, only.[1]

(iii) This order shall apply to all detention of freight cars subject to freight car demurrage or detention rules which occurs on or after the effective date of this order and which may have been shipped, placed or constructively placed prior to that date.

(iv) *Exception:*

This order shall not apply to cars while such cars are subject to Section 1900, Items 1900-1950, inclusive, or to Section 2000, Items 2000-2005, inclusive, of General Car Demurrage Tariff 4-K, I.C.C. H-74, issued by D. M. Rogers, supplements thereto or reissues thereof.

(v) *Exception:*

This order shall not apply to cars held at or outside of ocean, Great Lakes, or river ports, for loading or unloading with freight requiring transfer between rail and water carriers.

(vi) *Exception:*

This order shall not apply to freight cars of Mexican ownership while held by or for shippers at Mexican border crossings, viz:

Brownsville, Texas; Laredo, Texas; Eagle Pass, Texas; Presidio, Texas; El Paso, Texas; Douglas, Arizona; Nogales, Arizona; Calexico, California

(vii) *Exception:*

This order shall not apply to cars subject to items 710, 720, 725, 730, 740, 750, 755, 760, or 765 or General Car Demurrage Tariff 4-K, I.C.C. H-74, issued by D. M. Rogers, supplements thereto or reissue thereof.

[1] Class "X" boxcar type and Class "H" hopper car type eliminated.

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(viii) *Exception:*

The provisions of Section 1400, Items 1400-1440, inclusive, of General Car Demurrage Tariff 4-K, I.C.C. H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, or similar provisions of other applicable demurrage, detention, or storage tariffs shall govern the adjustment, cancellation, or refund of demurrage assessed as a result of the causes described in such rules.

(ix) *Exception:*

Exceptions to this order may be authorized to carriers by the Railroad Service Board. Requests for exceptions must be submitted in writing to Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C. 20423. Each such request must specifically identify the type of cars for which an exception is desired and must clearly state the reasons why such cars cannot be utilized in other services.

(x) The terms "loading," "unloading," "constructive placement," and "forwarding directions" as defined in General Car Demurrage Tariff 4-K, I.C.C. H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, shall apply to cars subject to this order.

(xi) The term "holidays" means holidays as listed in Item 525 of General Car Demurrage Tariff 4-K, I.C.C. H-74, issued by D. M. Rogers, supplements thereto or reissues thereof.

(2) *Free Time:*

(i) Not more than a total of 48 hours' free time, computed in accordance with the provisions of the applicable tariffs naming demurrage or detention rules and charges, shall be allowed for the complete unloading of each car.

(ii) Not more than a total of 24 hours' free time, computed in accordance with the applicable tariffs naming demurrage or detention rules and charges, shall be allowed for loading or for any purpose other than complete unloading.

(iii) If the maximum free time authorized in applicable tariffs is less than the periods described in paragraphs (i) or (ii) of this section, the free-time periods, if any, provided in such tariffs shall apply.

(3) *Demurrage, Detention, or Storage Charges—Cars Not Subject to Average Demurrage Basis:*

(i) After the expiration of the free-time period described in Part (2) of this Order, or without free-time allowance when none is provided, demurrage charges shall be assessed at the following rates, until car is released:

$10.00 per car per day, or fraction of a day, for each of the first two days
$20.00 per car per day, or fraction of a day, for each of the next two days.
$30.00 per car per day, or fraction of a day, for each of the next two days
$50.00 per car day, or fraction of a day, for each subsequent day

(ii) Except as provided in Item 1225, General Car Demurrage Tariff 4-K, I.C.C. H-74, the applicable demurrage charges provided herein will accrue on all Saturdays, Sundays, and holidays subsequent to the free time, or without free time when none is provided, including a Saturday, Sunday, or holiday immediately following the day on which the last day of free time begins, provided such last day of free time begins to run at or before 7:00 a.m., or expires at or before 11:59 p.m., of the day immediately prior to the Saturday, Sunday, or holiday.

(iii) If the demurrage rates published in applicable tariffs is greater than the demurrage rates named in paragraph (i) of this section, the rates provided in such tariffs shall apply.

(4) *Cars Subject to Average Demurrage Basis:*

(i) One credit will be allowed for each car released before the expiration of the first twenty-four (24) hours of free time. After the expiration of the free time (or the adjusted free time if provided in applicable tariffs), one debit per car per day, or fraction of a day, will be charged for each of the first two days. In no case shall more than one credit be allowed on any one car, and in no case shall more than four credits be applied in cancellation of debits accruing on any one car. When a car has accrued two debits, a charge of $20.00 per car per day, or fraction of a day, will be made for each of the next two days; $30.00 per car day, will be made for each of the next two days; and $50.00 per car per day, or fraction of a day, will be made for all subsequent detention. In computing time under this rule, all Saturdays, Sundays, and holidays will be counted after the free time, including a Saturday, Sunday, or holiday immediately following the day on which the last day of free time begins.

(ii) Credits earned on cars held for loading shall not be used in offsetting debits accruing on cars held for unloading, nor shall credits earned on cars held for unloading be used in offsetting debits accruing on cars held for loading.

(iii) An average agreement may not include cars held for:

(a) Purposes other then loading and unloading

(b) Loading or unloading in intraplant switching service.

(iv) Credits cannot be earned by private cars subject to Section 700, Item 765, of General Car Demurrage Tariff 4-K, I.C.C. H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, or subject to similar rules in other tariffs, but debits charged such cars while under constructive placement may be offset by credits earned on other cars.

(v) At the end of the calendar month the total number of applicable credits will be deducted from the total number of debits at the ratio of two credits for one debit, and $10.00 per debit will be charged for the remainder. (See Note.) If the total number of debits are offset by credits through deduction at the above ratio of two credits for one debit, no charge will be made for the detention of the cars except as otherwise provided herein for detention beyond the second debit day, and no payment will be made by the railroad on account of such excess of credits; nor shall the credits in excess of the debits of any one month be considered in computing the average detention for another month.

NOTE.—For the purpose of applying Part (v) of this paragraph, when an odd number of credits is earned, one of such credits will be disregarded in the computation.

(vi) Credits earned on cars subject to this order shall not be used in offsetting debits accruing on cars not subject to this order; nor shall debits accruing on cars subject to this order be offset by credits earned on cars not subject to this order.

(5) Existing tariff rules requiring the placement or release, as a unit, of all cars in a multiple-car shipment shall remain in effect.

(6) The demurrage, detention, or storage rates provided herein shall supersede all published storage charges expressed in cents per hundredweight, per bushel, or other unit of measure, for all freight held in cars, in excess of the free-time periods provided in Paragraph (2) herein.

(7) If the demurrage, detention, or storage rates authorized in the applicable tariffs are greater than those described herein, such higher rates shall apply.

(8) *Notices of Arrival, Constructive Placement, etc:*

(i) Existing tariff provisions defining constructive placement and establishing the requirements for the placement, the giving of arrival of constructive placement notice of freight destined for unloading or transshipment, shall apply.

(ii) If no such rules with respect to arrival, or regarding constructive placement are published in the applicable tariffs, the rules published in General Car Demurrage Tariff 4-K, I.C.C. H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, shall apply.

(b) *Rules and regulations suspended.* The operation of all rules and regulations, including rates, rules and free-time periods granted by authority of Sections 10721, 10723 and 10724 of the Interstate Commerce Act, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Notification of shipper required.*

(1) Carriers shall send or deliver a written notice to shippers or consignees of the requirements of this order at or prior to the time of actual or constructive placement of cars for loading or unloading or at the time notice of arrival or of constructive placement is given. On cars held for instructions from the shipper or qualified owner of the freight, such notices must accompany or precede the arrival notice.

(2) If a notice described in paragraph (1) of this section has been given to a shipper or receiver at origin, destination, or hold point, no further notices of the requirements of this order need be given.

(3) Carriers are required to maintain a copy of all notices of the requirements of this order sent to shippers, receivers, or qualified owners of freight, at the station or point from which sent.

(4) Failure of a carrier to send and preserve copies of the notices required by paragraph (1) of this section shall not be deemed as nullifying the requirements of sections (a) and (b) of this order.

(d) *Effective date.* This order shall become effective at 7:00 a.m., February 1, 1979.

(e) *Expiration date.* This order shall expire at 6:59 a.m., April 1, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Joel E. Burns not participating.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2541 Filed 1-23-79; 8:45 am]

J A 2 4 7 9 UMI

[7035-01-M]

[S.O. No. 1352; Amdt. 1]

PART 1033—CAR SERVICE

Chicago and North Western Transportation Co. Authorized to Operate Over Tracks of Chicago, Milwaukee, St. Paul & Pacific Railroad Co. at Fond du Lac, Wis.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Amendment No. 1 to Service Order No. 1352.

SUMMARY: The lines of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) serving Fond du Lac, Wisconsin, are inoperable because of heavy snow at this location, which is depriving industries located adjacent to the MILW tracks at this location of railroad service. Service Order No. 1352 authorized the Chicago and North Western Transportation Company to operate over tracks of the MILW in Fond du Lac in order to restore railroad service to these shippers. The order is printed in full in Volume 44 of the FEDERAL REGISTER at page 3715. Amendment No. 1 extends the order until January 31, 1979.

DATES: Effective 11:59 p.m., January 19, 1979. Expires 11:59 p.m., January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, telephone (202) 275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: Decided January 19, 1979.

Upon further consideration of Service Order No. 1352 (44 F.R. 3715), and good cause appearing therefor:

It is ordered, That § 1033.1352 Service Order No. 1352 Chicago and North Western Transportation Company authorized to operate over tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Fond du Lac, Wisconsin is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date,* The provisions of this order shall expire at 11:59 p.m., January 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 19, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the FEDERAL REGISTER.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2542 Filed 1-23-79; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

National Wildlife Refuges in Florida, Georgia, and South Carolina

AGENCY: Fish and Wildlife Service.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the condition under which sport fishing will be permitted on portions of certain National Wildlife Refuges in Florida, Georgia, and South Carolina.

DATES: Effective on date of publication for duration of calendar year 1979.

FOR FURTHER INFORMATION CONTACT:

The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

Donald J. Hankla, Area Office Manager, U.S. Fish and Wildlife Service, 900 San Marco Boulevard, Jacksonville, Fla. 32207. Telephone: 904-791-2267.

John P. Davis, Refuge Manager, Savannah (and Blackbeard Island) National Wildlife Refuge, P.O. Box 8487, Savannah, Ga. 31402. Telephone: 912-232-4321, Ext. 415.

Bruce Bilhovde, Refuge Manager, Lake Woodruff National Wildlife Refuge, P.O. Box 488, DeLeon Springs, Fla. 32028. Telephone: 904-

985-4673.

Thomas W. Martin, Refuge Manager, Loxahatchee National Wildlife Refuge, Route 1, Box 278, Boynton Beach, Fla. 33437. Telephone: 305-732-3684.

Stephen Vehrs, Refuge Manager, Merritt Island National Wildlife Refuge, P.O. Box 6504, Titusville, Fla. 32780. Telephone: 305-867-4820.

John R. Eadie, Refuge Manager, Okefenokee National Wildlife Refuge, P.O. Box 117, Waycross, Ga. 31501. Telephone: 912-283-258.

Ronnie L. Shell, Refuge Manager, Piedmont National Wildlife Refuge, Round Oak, Ga. 31080. Telephone: 912-986-5441.

Joe D. White, Refuge Manager, St. Marks National Wildlife Refuge, Box 68, St. Marks, Fla. 32355. Telephone: 904-925-6280.

Martin Perry, Refuge Manager, St. Vincent National Wildlife Refuge, P.O. Box 447, Apalachicola, Fla. 32320. Telephone: 904-653-8808.

SUPPLEMENTARY INFORMATION:

GENERAL

Sport fishing on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to sport fishing are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 33.5 Special regulations; sport fishing for individual wildlife refuge areas.

FLORIDA

LAKE WOODRUFF NATIONAL WILDLIFE REFUGE

Sport fishing on the Lake Woodruff National Wildlife Refuge, DeLeon Springs, Fla. is permitted on approximately 650 acres. The sport fishing season is open year-round on delineated refuge waters west of Norris Dead River, Lake Woodruff, Spring Garden Creek, Highland Park Canal, and the Canal bordering the east side of Norris Dead River. Refuge waters east of Norris Dead River Canal, Lake Woodruff and Spring Garden Creek will be open to fishing and access March 15 to October 15, 1979. Fishing and access on refuge waters are permitted during daylight hours only. Air thrust boats are prohibited.

LOXAHATCHEE NATIONAL WILDLIFE REFUGE

Sport fishing is permitted in all waters (61,352 acres) of the Loxahatchee National Wildlife Refuge, Delray Beach, Fla. except those marked by signs as being closed. All public entry onto the refuge for any purpose is limited to the following points: (a) S-5A (Twenty-Mile Bend) boat ramp; (b) headquarters area; (c) Loxahatchee Recreation Area. Sport fishing is permitted year-round. Fishing is restricted to 1½ hours before sunrise until 1 hour after sunset. Boats must enter or leave the refuge through the three public ramps: (a) S-5A (Twenty-Mile Bend) boat ramp; (b) Headquarters boat ramp; (c) S-39 (Loxahatchee Recreation Area) boat ramps. Method of fishing allowed is with attended rod and reel and/or pole and line. Air thrust boat use is authorized only by special permit issued by the refuge manager. Speed boats and racing craft are prohibited.

MERRITT ISLAND NATIONAL WILDLIFE REFUGE

Fishing is permitted in the open waters of the Indian River, Banana River and Mosquito Lagoon except for the Kennedy Space Center security areas.

No more than 20 total fish daily may be taken from the K.A.R.S. marina in the Banana River or Eddy Creek "trout hole" in Mosquito Lagoon during the period November 15-March 31 annually, by any individual sport fishermen.

Sport fishing is permitted from boats at night by those persons possessing a refuge special use permit.

Boat launching on the refuge for sport fishing between sunset and sunrise is permitted only at Beacon 42 Fish Camp and Bairs Cove. Air thrust boats are not allowed on refuge waters. Coast Guard approved life preservers shall be worn by persons in small craft less than 20 feet in length while these boats are in motion in the Indian River, Banana River, and Mosquito Lagoon within refuge boundaries.

The Refuge will be closed to fishing at certain unannounced times during Space Center operation. Local new sources will provide a security schedule for the Space Center.

ST. MARKS NATIONAL WILDLIFE REFUGE

Sport fishing on the St. Marks National Wildlife Refuge, St. Marks, Fla., is permitted on approximately 50,000 acres. The sport fishing season on the refuge extends from March 15 through October 15, 1979 with the exception of Otter Lake which is open year-round. Fishing is permitted ½ hour before sunrise until ½ hour after sunset during open season. Boats with electric motors and gasoline engines up to and including 4 horsepower are permitted. Trotlines shall be taken up daily prior to closing hours of fishing.

The taking of salt water species in Apalachee Bay and tidal creeks is subject to state regulations. Year-round launching of salt-water fishing boats from the lighthouse launch ramp is regulated. The launching of commercial boats and sport net boats is prohibited.

ST. VINCENT NATIONAL WILDLIFE REFUGE

Sport fishing on the St. Vincent National Wildlife Refuge, Franklin County, Apalachicola, Florida is permitted on 245 acres.

The sport fishing season extends from March 1 through October 30, 1979. Fishermen are permitted on the refuge from 1 hour before sunrise to 1 hour after sunset. Boats with electric motors permitted; all other motors prohibited. Private boats may not be left on the refuge overnight. Use of live minnows as bait is prohibited.

GEORGIA

BLACKBEARD ISLAND NATIONAL WILDLIFE REFUGE

Fresh water sport fishing on the Blackbeard Island National Wildlife Refuge, McIntosh County, Townsend, Georgia, is permitted on only two areas totaling 350 acres. The sport fishing season extends from March 15 through October 25, 1979. No one will be allowed on the refuge before sunrise and all persons must be off the refuge no later than one-half hour after sunset. Boats with electric motors permitted. Gasoline powered motors prohibited. Use of live minnows as bait prohibited. Private boats may not be left on the refuge overnight.

OKEFENOKEE NATIONAL WILDLIFE REFUGE

Sport fishing is permitted on the Okefenokee National Wildlife Refuge, Waycross, Ga. in the designated open water areas connected by established boat runs. Fishing permitted during posted hours only. Boats with motors not larger than 10 horsepower, canoes, and rowboats permitted. Use of live minnows as bait prohibited. Trotlines, limblines, nets and other set tackle prohibited. Persons entering refuge from main access points must register with the respective concessioner. Persons using the sill access ramp on the pocket and Kingfisher Landing access ramp are required to sign the respective registers when they enter the swamp and again when they leave.

PIEDMONT NATIONAL WILDLIFE REFUGE

Sport fishing on the Piedmont National Wildlife Refuge, Round Oak, Georgia is permitted on approximately 81 acres, during daylight hours. Fishing is allowed on the following areas in accordance with all applicable State regulations subject to the following restrictions. Open season: Falling Creek Bridge and Little Falling Creek Bridge—open daily March 12 through September 9, 1979. Pond 2A open May 15 through September 15, 1979, on Tuesdays, Saturdays and National Holidays. Boats allowed, electric motors permitted, all other motors prohibited; Ponds 6A, 11A, and 11B—open May through September 15, 1979, on Tuesdays, Saturdays and National Holidays. No boats allowed; 5 Points Lake open May 15 through September 15, 1979, fishing is permitted daily, no boats allowed; Ponds 21A and 22A—open May 15 through September 15, 1979, on Tuesdays, Saturdays and National Holidays. No boats allowed. Fishing on these two areas is restricted to youths 12 years of age or younger. Boats may not be left on the refuge overnight. No minnows allowed for bait. Littering and alcoholic beverages are prohibited. Fishing shall be with rod and reel and/or pole and line only. Bank fishing permitted within posted areas only.

GEORGIA AND SOUTH CAROLINA

SAVANNAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Savannah National Wildlife Refuge, portions of Jasper County, South Carolina, and Chatham and Effingham Counties, Georgia is permitted only on designated impounded waters, tidal creeks, ditches and canals in an area comprising 26,000 acres. The sport fishing season extends from March 15 through October 25, 1979, for all impounded waters. No one will be allowed on the refuge before sunrise and all persons must be off the refuge no later than one-half hour after sunset. Only electric motors are permitted on impounded waters. Tidal creeks may be fished from boats only from February 1 through October 25. Rod and reel, pole and line, artificial and live baits are permitted. All areas posted with "closed area" signs are closed to all activities including fishing. Private boats may not be left on the refuge overnight.

(Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb)

Dated: January 16, 1979.

DON PALMER,
Acting Area Manager.

[FR Doc. 79-2376 Filed 1-23-79; 8:45 am]

[4310-55-M]

PART 33—SPORT FISHING

Opening of Swan Lake National Wildlife Refuge, Mo., to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Swan Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: March 1, 1979, through September 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Alfred O. Manke, P.O. Box 68, Sumner, Missouri 64681, Telephone—AC816/856-3323.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Swan Lake National Wildlife Refuge, Missouri, only on the areas designated by signs as being open to fishing. These areas comprising 10,500 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver, Colorado 80225. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. During daylight hours only.

2. Boats without motors may be used on Swan Lake, Silver Lake, and that portion of South Lake immediately adjacent to No. 5 Levee.

3. Travel is permitted on all roads except those posted with "Road Closed" signs.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

(Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb)

Dated: January 16, 1979.

ALFRED O. MANKE,
Refuge Manager.

[FR Doc. 79-2377 Filed 1-23-79; 8:45 am]

[8025-01-M]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

PART 130—SMALL BUSINESS ENERGY LOANS

Authority and Statutory Provision, Correction

AGENCY: Small Business Administration.

ACTION: Correction to final rule.

SUMMARY: This corrects a final rule published in the FEDERAL REGISTER on January 5, 1979 (44 FR 1369).

DATES: Effective January 4, 1979.

FOR FURTHER INFORMATION CONTACT:

Evelyn Cherry, Chief Special Projects Division, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416 (202) 653-6696.

In FR Doc. 79-558 appearing at page 1369 in the issue for Friday, January 5, 1979, the authority and statutory provisions for Part 130 should have read "15 U.S.C. 636" instead of "5 U.S.C. 636."

Dated: January 18, 1979.

OLETA F. WAUGH,
Federal Register Liaison Officer.

[FR Doc. 79-2540 Filed 1-23-79; 8:45 am]

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[8025-01-M]

Title 13—Business Credit and Assistance

CHAPTER 1—SMALL BUSINESS ADMINISTRATION

[Amendment 7]

PART 124—PROCUREMENT AND TECHNICAL ASSISTANCE

The Section 8(a) Program; Completions and Terminations

AGENCY: SMALL BUSINESS ADMINISTRATION.

ACTION: Final rule.

SUMMARY: As a result of the provisions of Pub. L. 95-507 which amend the Small Business Act, SBA is clarifying the procedures by which SBA will determine 1) that a small business concern participating in its section 8(a) program (procurement and technical assistance for socially and economically disadvantaged) has completed its participation in the program, or 2) that the participation of a small business concern participating in its section 8(a) program should be terminated.

EFFECTIVE DATE: January 24, 1979.

FOR FURTHER INFORMATION CONTACT:

Martin D. Teckler, Office of General Counsel, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, 202-653-6797.

SUPPLEMENTARY INFORMATION: Pursuant to the authority contained in section 8(a)(9) of the Small Business Act, 15 U.S.C. 637(a), as amended, notice is hereby given that SBA amends section 124.8-2(e) of Chapter 1 of Title 13 of the Code of Federal Regulations to read as indicated in the following rules.

Dated: January 22, 1979.

A. VERNON WEAVER,
Administrator.

§ 124.8-2 Procedures.

• • • • •

(e) *Program Completion.* (1) When a section 8(a) business concern has substantially achieved the objectives of the 8(a) program, including but not limited to, the achievement of the goals set forth in its business plan as approved and modified, and the attainment of demonstrated ability to compete in the market place without assistance from 8(a), its participation within the program shall be determined by SBA to be completed.

(2) In determining whether a concern has substantially achieved the goals of its business plan or has attained the ability to compete in the market place without 8(a) assistance, the following factors, among others, shall be considered by SBA. The factors cited above shall be determined with regard to the remedial purposes of the statute.

(i) Positive overall financial trends, including but not limited to:

(A) Profitability

(B) Sales, including improved ratio of non-8(a) sales

(C) Net Worth, financial ratios, working capital, capitalization, access to credit and capital

(D) Ability to obtain bonding

(ii) A comparison of the 8(a) business concern's business and financial profile with profiles of non 8(a) small businesses in the same area or similar business category.

(iii) Management capacity

(3) Upon determination by the SBA that a section 8(a) business concern's participation within the program has been completed pursuant to paragraph 124.1-1(e)(1), above, the section 8(a) business concern shall be afforded an opportunity for a hearing on the record in accordance with chapter 5 of Title 5 of the United States Code, at which hearing it may contest such determination. Such a hearing will be held pursuant to the SBA's Rules of Practice for Adjudicative Proceedings set forth at Part 101.10 et. seq. of SBA rules and regulations.

(4) Subsequent to the completion of such hearing, based upon the record established therein, and after consideration of the recommended decision of the examiner who has conducted the hearing, the AA/MSB&COD shall render a final decision regarding the completion of the section 8(a) business concern's participation in the program. Prior to a final decision, the subject 8(a) business concern may have full rights of participation in the 8(a) program.

(f) *Program Termination.* (1) Participation of a section 8(a) business concern in the program may be terminated by the SBA prior to the completion of the concern's business plan for good cause. Examples of good cause include, but are not limited to, the following:

(i) Failure of the 8(a) business concern to continue to meet the standards of eligibility set forth in these regulations.

(ii) Failure of the 8(a) business concern to maintain its status as a small business concern within the applicable regulations.

(iii) The failure of the section 8(a) business concern to exert reasonable efforts to attain commercial business.

(iv) Failure to maintain ownership and control by the person(s) who has been determined to be socially and economically disadvantaged.

(v) Inadequate management performance by the section 8(a) business concern.

(vi) Repeated inadequate performance of awarded section 8(a) procurement contracts by the section 8(a) business concern.

(vii) The concern has ceased its business operations. This constitutes automatic and immediate grounds for terminating a concern's participation in the program.

(viii) Failure to submit updated business plans within a reasonable time after its due date without approval by SBA.

(ix) Withholding notice from, or failure to provide notice to, SBA within 30 days of changes in ownership and management control.

(x) Noncompliance with substantial requirements of divestiture or management agreements as approved by the AA/MSB&COD.

(xi) Failure to comply with the reporting provisions required in management agreements. Compensating those providing management assistance in excess of that specified in the SBA approved management agreement. Having a management agreement either written or oral that has not been approved by the AA/MSB&COD. Willful violation of any of the requirements of the management agreement.

(xii) Failure or refusal to provide SBA with required quarterly and annual financial statements and reports within a reasonable time after the close of the quarter.

(xiii) Failure to achieve goals cited in the business plan, as modified, as a result of repeated refusal to accept or utilize SBA assistance.

(xiv) Failure to reasonably pursue commercial and competitive business in accordance with the business plan projection, or failure to otherwise make reasonable efforts to achieve competitive status.

(xv) Inability to make satisfactory progress, within a reasonable time, after receiving SBA's management and technical assistance, financial and technical assistance in achieving its business development objectives.

(xvi) Failure to request prior approval from SBA before subcontracting under an 8(a) contract.

(xvii) Failure to disclose to SPA the extent to which nondisadvantaged persons or firms will participate in the management of the 8(a) business concern.

(xviii) Failure to disclose to SBA fees paid or to be paid, costs incurred or committed to third parties, directly or indirectly, in the process of obtaining 8(a) contracts.

(xix) Willful failure to comply with applicable labor standards obligations.

(xx) Knowingly submitting false information to SBA.

(xxi) Whenever the concern is debarred by the Comptroller General, the Secretary of Labor or the Director of the Office of Federal Contract Compliance.

(xxii) Whenever the concern is debarred or suspended for cause by any contracting agency pursuant to FPR subpart 1-1.6 "Debarred Suspended and Ineligible Bidders" or DAR (ASPR) section I. Part 6, "Debarment, Ineligibility and Suspension".

(xxiii) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract.

(xxiv) Conviction under the Organized Crime Control Act of 1970, or conviction of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a Government contractor.

(xxv) Conviction under the Federal Antitrust Statutes arising out of the submission of bids or proposals.

(xxvi) Violation of the subcontract provision against contingent fees and gratuities.

(2) Upon determination by the SBA that a section 8(a) business concern's participation in the program should be terminated for good cause, the section 8(a) business concern shall be afforded an opportunity for a hearing on the record in accordance with chapter 5 of Title 5 of the United States Code, at which hearing it may contest such determination. Such a hearing will be held pursuant to the SBA's Rules of Practice for Adjudicative Proceedings set forth at Part 101.10 et seq. of the SBA rules and regulations.

(3) Subsequent to the completion of such hearing, upon the record established therein, and after consideration of the recommended decision of the examiner who has conducted the hearing, the AA/MSB&COD shall render a final decision regarding the termination, for good cause, of the 8(a) business concern's participation in the program.

(4) After the effective date of a program termination as provided for herein, the 8(a) business concern is no longer eligible to receive 8(a) subcontracts and other 8(a) assistance. However, such concern is obligated to complete previously awarded 8(a) subcontracts.

[FR Doc. 79-2664 Filed 1-23-79; 8:45 am]

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[8025-01-M]

[Revision 2, Amendment 3]

PART 101—ADMINISTRATION

Rules Of Practice For Adjudicative Proceedings To Be Used In Effecting the Completion or Termination Of A Section 8(a) Business Concern From Participating In The Section 8(a) Program

AGENCY: Small Business Administration.

ACTION: Final Rule.

SUMMARY: As a result of the provisions of Pub. L. 95-507 which amend the Small Business Act, SBA is clarifying the procedures by which SBA will determine 1) that a small business concern participating in its section 8(a) program (procurement and technical assistance for socially and economically disadvantaged) has completed its participation in the program, or 2) that the participation of a small business concern participating in its section 8(a) program should be terminated. SBA is providing rules under which administrative proceedings necessary to effect these determinations will be held.

EFFECTIVE DATE: January 24, 1979.

FOR FURTHER INFORMATION CONTACT:

Martin D. Teckler, Office of General Counsel, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416. 202-653-6797.

SUPPLEMENTARY INFORMATION: Pursuant to the authority contained in section 8(a)(9) of the Small Business Act, 15 U.S.C. 637(a), as amended, notice is hereby given that SBA amends section 101, Chapter I of Title 13 of the Code of Federal Regulations to include the following rules.

Dated: January 22, 1979.

A. VERNON WEAVER,
Administrator.

PART 101—ADMINISTRATION

Sec.
101.10 Rules of Practice for Adjudicative Proceedings To Be Used In Effecting The Completion Or Termination Of A Section 8(a) Business Concern From Participating In The Section 8(a) Program.
101.10-1 Application of the rules in this part.
101.10-2 Definitions.
101.10-3 Appearances.
101.10-4 Consent order procedure.
101.10-5 Order to show cause and notice of hearing.
101.10-6 Answer.
101.10-7 Motions.
101.10-8 Amendments and supplemental proceedings.
101.10-9 Prehearing conferences.
101.10-10 Voluntary intervention.
101.10-11 Admissions as to facts and documents.
101.10-12 Evidence.
101.10-13 Presiding official.
101.10-14 Hearings; transcripts.
101.10-15 Witnesses and fees.
101.10-16 Proposed findings, conclusions, and order.
101.10-17 Interlocutory appeals.
101.10-18 Initial decision.
101.10-19 Petition for review.
101.10-20 AAMSB-COD review.
101.10-21 Decision on review.
101.10-22 Requirements as to form and filing of documents other than correspondence.
101.10-23 Time.
101.10-24 Service.
101.10-25 Ex parte communication.
101.10-26 Reports of compliance.
101.10-27 Reopening of proceedings.

AUTHORITY: Sec. 8(a)(9), Small Business Act (15 U.S.C. 637(a)).

§ 101.10 Rules of Practice for Adjudicative Proceedings To Be Used In Effecting The Completion Or Termination Of A Section 8(a) Business Concern From Participating In The Section 8(a) Program.

§ 101.10-1 Scope of the Rules in this Part.

The rules in this part govern procedure to be utilized in adjudicative proceedings conducted pursuant to the provisions of section 8(a)(9) of the Small Business Act, as amended (15 U.S.C. 631 *et seq.*). They do not apply to adjudicative or rulemaking proceedings under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) nor do they apply to investigations conducted under the Small Business Act (15 U.S.C. 631 *et seq.*).

§ 101.10-2 Definitions.

Administration. "Administration" means Small Business Administration (SBA).

AAMSB-COD. "AAMSB-COD" means the Associate Administrator for Minority Small Business and Capital Ownership Development of the SBA.

Respondent. "Respondent" means (a) a section 8(a) business concern which may be a corporation or a director or officer thereof, (b) a partnership, or a partner thereof, (c) a trust, or a trustee thereof, (d) an association, or a director or officer thereof, or (e) any other person against whom such proceedings are instituted.

Party. "Party" refers to a Regional Director of SBA and each respondent.

Examiner. "Examiner" means the Administrative Law Judge (ALJ) who presides over the conduct of hearings held pursuant to the rules of practice in this part.

Order to show cause. "Order to show cause" means the formal statement and notice of hearing issued by a Re-

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gional Director under § 101.10–5 for the purpose of initiating adjudicative proceedings under these rules.

Regional Director. "Regional Director" means the Regional Director of the Region which is the principal location of a respondent.

Act. "Act" means the Small Business Act, as amended.

§ 101.10–3 Appearances.

(a) *By non-lawyers.* An individual may appear in his own behalf or may represent a sole proprietorship; a member of a partnership may represent the partnership; a bona fide officer of a corporation, trust or association may represent the corporation, trust or association upon a showing of adequate authorization.

(b) *By lawyers.* An individual, partnership, corporation, trust or association may be represented by an attorney at law who is a member of a bar of any Federal court or of the highest court of any State or Territory of the United States, and who is not disbarred or suspended by any court or administrative agency.

(c) *Restrictions as to former employees.* The restrictions as set forth in § 105.401 through 405 of the SBA Rules and Regulations shall apply to former employees with respect to their appearances as attorney or agent for any other than the United States in any proceeding conducted under the rules of practice in this part.

(d) *Notice of appearance.* Any attorney desiring to appear before the AAMSB–COD, a Regional Director or an examiner, on behalf of a respondent, shall file with the AAMSB–COD a written notice of such appearance, which shall contain a statement of such attorney's eligibility as provided in this section. No other application shall be required for admission to practice, and no register of attorneys shall be maintained.

(e) *Standards of conduct.* All counsel practicing before the Administration shall conform to the standards of ethical conduct required of practitioners in the courts of the United States and by the bars of which they are members.

(f) *Suspension or disbarment of attorneys.* (1) The examiner shall have the authority, for good cause stated on the record, to bar from participation in a particular proceeding any attorney who shall refuse to comply with his directions, or who shall be guilty of disorderly conduct, dilatory tactics, or contemptuous language in the course of such proceedings. Any attorney so barred shall have the right to appeal to the AAMSB–COD from such action of the examiner and take such action as he deems warranted by the circumstances.

(2) The Administrator of the SBA for good cause shown may, in accordance with the procedures set forth in Part 104 of this chapter, suspend or disbar any alleged offender from practice before the Administration.

§ 101.10–4 Consent order procedure.

(a) General policy; notice of proposed adjudicative proceedings. It is the policy of SBA to afford respondents and other persons an opportunity where it is proposed to terminate a section 8(a) business concern's participation in the 8(a) program to enter into voluntary settlement agreements pursuant to this section with regard to alleged violations, if it appears to a Regional Director that such procedure will satisfy the objective of the requirements allegedly violated and serve the purposes of the section 8(a) program. Accordingly, where time, the nature of the alleged violations, and other attendant circumstances indicate that it would be in the interest of the 8(a) program to do so, a Regional Director may notify a respondent and any other person concerned of SBA's intention to institute formal adjudicative proceedings. Such notice shall be served in the manner provided for in § 101.10–24, and shall be accompanied by a form of order to show cause which the Regional Director intends to issue, together with a proposed form of order.

(b) *Reply.* (1) Within 10 days after service of such notice, the party named therein may file with the Regional Director a reply stating whether or not such party is interested in having the proceeding disposed of by the entry of a consent order.

(2) If the reply is in the negative, or if no reply is filed within the time prescribed, the order to show cause will be issued and served forthwith.

(c) If the reply is in the affirmative, the party served will (as hereinafter set forth) be afforded an opportunity to execute an appropriate settlement agreement. The party may be represented by counsel who has entered an appearance in the manner set forth in § 101.10–3(d). The party will be afforded an opportunity to negotiate and submit, for the consideration and approval of counsel for the Regional Director, an executed agreement conforming to the requirements set forth in paragraph (d) of this section. Such agreement must be submitted within 30 days after the filing of the reply.

(d) *Agreements.* Every agreement shall (1) set forth the terms of an appropriate order to be entered by consent; (2) admit all jurisdictional facts; (3) expressly waive (i) further procedural steps, including any hearing, submission of proposed findings and conclusions, or an initial decision by a hearing examiner, (ii) the requirement that the Administration's decision contain findings of fact and conclusions of law, and (iii) all rights to seek judicial review or otherwise to challenge the validity of the consent order; (4) provide that the order to show cause may be used in construing the terms of the consent order; and (5) stipulate that the consent order shall have the same force and effect and shall become final and may be altered, modified, or set aside in the same manner and within the same time as other orders in adjudicative proceedings. In addition, the agreement may contain a statement that the signing thereof is for settlement purposes only and does not constitute an admission by any party that the Act or regulations pursuant thereto have been violated as alleged in the order to show cause. The agreement shall not become effective unless expressly approved by the Regional Director and made a part of the official record of the proceeding.

§ 101.10–5 Order to show cause and notice of hearing.

(a) *Commencement of proceeding.* Adjudicative proceedings are commenced by the issuance of an order to show cause in the case of proceedings against a respondent. A copy of the order to show cause will be served upon each respondent.

(b) *Form and notice of hearing.* The order to show cause shall be issued by the appropriate Regional Director and shall contain a statement of the matters of fact and law asserted by SBA and the legal authority and jurisdiction under which a hearing is to be held and shall inform the respondent of the time and place of hearing. The date of hearing shall not be earlier than 30 days after service on the respondent.

(c) *Revised hearing date.* The hearing shall be held on the date set forth in the order to show cause unless a different date is fixed by the Regional Director or the examiner at the request of any party and for good cause shown.

(d) *Motion for more definite statement.* If the statement in the order to show cause as to matters of fact and law, or legal authority and jurisdiction asserted by the Regional Director is so vague and ambiguous that a party cannot reasonably frame a responsive answer, the respondent may move for a more definite statement before filing an answer. Such motion shall be filed within 15 days after service of the order to show cause and shall point out the defects complained of and the details desired.

§ 101.10–6 Answer.

(a) *Time for filing.* A respondent shall have thirty days after service of the order to show cause within which

to file an answer thereto: Provided, however, that the filing of a motion for a more difinite statement alters this period of time as follows, unless a different time is fixed by the examiner: (1) if the motion is denied, the answer shall be filed within ten days after notice of such action; (2) if the motion is granted, in whole or in part, the answer shall be filed within ten days after service of the more difinite statement: Provided further, however, that in no event need of an answer be filed in less than thirty days after service of the order to show cause.

(b) *Content of answer.* An answer shall comform to the following:

(1) Contesting allegations of order to show cause. Such answer shall contain:

(i) A concise statement of the facts constituting the ground(s) of defense;

(ii) Specific admission, denial, or explanation of each fact alleged in the order to show cause, or if the respondent is without knowledge thereof, a statement to that effect.

(2) Admitting allegations of order to show cause. If the respondent elects not to contest the allegations of fact set forth in the order to show cause, the answer shall consist of a statement that respondent admits all material allegations to be true. Such an answer shall constitute a waiver of hearings as to facts so alleged, and an initial decision containing appropriate findings and conclusions and an appropriate order disposing of the proceeding shall be issued by the examiner. In such answer, the respondent may, however, reserve the right to submit proposed findings and conclusions and an appropriate order disposing of the proceeding shall be issued by the examiner. In such answer, the respondent may, however, reserve the right to submit proposed findings and conclusions and the right to petition for review under § 101.10–19.

(c) *Default.* Failure of the respondent to file an answer within the time provided shall be deemed to constitute a waiver of its right to appear and to authorize the examiner, without further notice to respondent, to find the facts to be as alleged in the order to show cause and to enter an initial decision containing such findings, appropriate conclusions and order.

(d) *Signature on answer.* Every answer filed pursuant to this section shall be signed by (1) the individual named as respondent, (2) an officer of the corporate respondent, (3) a partner of the partnership, (4) a trustee of the trust, or (5) the attorney who represents the respondent.

(e) *Consent order procedure.* A respondent may, within the time alloted for the submission of its answer or amended answer prior to any hearing, file an executed settlement agreement conforming to the requirements of § 101.10–4(c), which has been negotiated with and approved by the counsel for the Regional Director. In that event, the examiner shall, without delay or further action on his part, certify the proceedings to the AAMSB–COD for decision or other appropriate disposition.

§ 101.10–7 Motions.

(a) *Presentation and disposition.* During the time a proceeding is before an examiner, all motions, therein, except as provided in § 101.10–13(e), shall be addressed to and ruled upon by him, and if in writing, shall be filed with him. All motions addressed to the Regional Director shall be in writing and shall be filed with him.

(b) *Content.* All written motions shall state the particular order, ruling, or action desired and the grounds therefor.

(c) *Answers.* Within ten days after service of any written motion, or within such longer or shorter time as may be designated by the examiner or the Regional Director, the opposing party shall answer or be taken to have consented to the granting of the relief asked for in the motion. The moving party shall have no right to reply, except as permitted by the examiner or the Regional Director.

(d) *Motions for extensions.* As a matter of discretion, the examiner or the Regional Director may waive the requirements of this section as to motions for extensions of time, and may rule such requests ex parte.

(e) *Rulings on motions for dismissal.* When a motion to dismiss an order to show cause or for other relief is granted with the result that the proceeding before the examiner is terminated, the examiner shall make and file an initial decision in accordance with the provisions of § 101.10–18. When a motion to dismiss is made at the close of the evidence offered in support of the order to show cause based upon the alleged failure to establish a prima facie case, the examiner may, if he so elects, defer ruling thereon until the close of the case in order to permit the reception of evidence.

§ 101.10–8 Amendments and supplemental pleadings.

(a) *Amendments—(1) By leave.* If and whenever determination of a controversy on the merits will be facilitated thereby, the examiner may, upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, allow appropriate amendments to pleadings: provided, however, that an application for amendment of an order to show cause may be allowed only if the amendment is reasonably within the scope of the proceeding initiated by the original order to show cause.

(2) *Conformance to evidence.* When issues not raised by the pleadings, but reasonably within the scope of the proceeding initiated by the original order to show cause, are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings; and such amendments of the pleadings as may be necessary to make then conform to the evidence and to raise such issues shall be allowed at any time.

(b) *Supplemental pleadings.* The examiner may, upon reasonable notice and such terms as are just, permit service of a supplemental pleading setting forth transactions, occurrences, or events which have happened since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 101.10–9 Prehearing conferences.

(a) The examiner upon motion of any party or upon his own motion may direct counsel for all parties to meet with him for a conference to consider:

(1) Simplification and clarification of the issues;

(2) Necessity or desirability of amendments to pleadings, subject, however, to the provisions of § 101.10–8(a)(1);

(3) Stipulations, admissions of fact and of the contents and authenticity of documents;

(4) Expedition in the presentation of evidence, including, but not limited to, restriction of the number of expert, economic or technical witnesses; and

(5) Such other matters as may aid in the orderly disposition of the proceeding, including disclosure of the names of witnesses or furnishing for inspection or copying of nonprivileged documents, papers, books or other physical exhibits, which constitute or contain evidence relevant to the subject matter involved and which are in the possession, custody, or control of any party to the proceeding.

(b) Prehearing conferences, in the discretion of the examiner, may be stenographically reported as provided in § 101.10–14(f), but shall not be public unless all parties so agree.

(c) The examiner shall enter in the record an order which recites the action taken, the amendments allowed and the agreements made at the conference; and such order shall control the subsequent course of the proceeding, unless modified at the hearing to prevent manifest injustice. If counsel for any party after proper direction fails or refuses to disclose the names of witnesses or to make available for inspection or copying nonprivileged documents, papers, books or other physical exhibits, the examiner, in his

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discretion, may also enter in the record an order providing, as appropriate:

(1) That the testimony of the witnesses whose names are not disclosed or the documents, papers, books or other physical exhibits which are not made available for inspection or copying in accordance with the direction shall not be introduced in evidence; or

(2) That counsel who fails or refuses to comply with the examiner's direction in respect to any of the foregoing shall be barred from participation in the proceeding in accordance with the provisions of § 101.10-3(f)(1).

§ 101.10-10 Voluntary intervention.

(a) Any individual, partnership, unincorporated association, or corporation desiring to intervene in an adjudicative preceeding shall make written application in the form of a motion setting forth the basis therefor. Such application shall have attached to it a certificate showing service thereof upon each party to the proceeding in accordance with the provisions of § 101.10-24(b). A similar certificate shall be attached to the answer filed by any party showing the service of such answer upon the applicant.

(b) The examiner or the Regional Director may be ordered to permit the intervention to such extent and upon such terms as are provided by law or as otherwise may be deemed proper. The examiner or the Regional Director shall consider, among other matters, whether the intervention will unduly delay or prejudice the adjudication of the rights of the parties.

§ 101.10-11 Admissions as to facts and documents.

(a) At any time after answer has been filed, any party may serve upon any other party a written request for the admission of the genuineness of any relevant documents described in the request, or the admission of the truth of any relevant matters of fact set forth in such documents. Copies of the documents shall be delivered with the request unless copies have already been furnished.

(b) Each requested admission shall be deemed made unless, within a period designated by the examiner, not less than ten days after service thereof, or within such further time as the examiner may allow, the party so served serves upon the party making the request either (1) a statement denying specifically the relevant matters of which an admission is requested or setting forth in detail the reasons why he can neither truthfully admit nor deny them, or (2) written objections on the ground that some or all of the matters involved are privileged or irrelevant or that the request is otherwise improper in whole or in part, together with a copy of a request to the examiner for a hearing on the objections at the earliest practicable time. Answers on matters to which such objections are made may be deferred until the objections are determined, but if written objections are made to only part of a request, the remainder of the request shall be answered within the period designated.

(c) Admissions obtained pursuant to this procedure may be used in evidence to the same extent and subject to the same objections as other admissions.

§ 101.10-12 Evidence.

(a) *Burden of proof.* Counsel supporting the order to show cause shall have the burden of proof, but the proponent of any factual proposition shall be required to sustain the burden of proof with reference thereto.

(b) *Admissibility.* Relevant, material, and reliable evidence, shall be admitted. Irrelevant, immaterial, unreliable, and unduly repetitious evidence shall be excluded. Immaterial or irrelevant parts of an admissible document shall be segregated and excluded so far as practicable.

(c) *Official notice of facts.* When any decision of an examiner or of the AAMSB-COD rests, in whole or in part, upon the taking of official notice of a material fact not appearing in evidence of record, opportunity to disprove such noticed fact shall be granted any party making timely motion therefor.

(d) *Objections.* Objections to evidence shall timely and briefly state the grounds relied upon and the transcript shall include argument or debate thereon except as ordered by the examiner. Rulings on all objections shall appear in the record.

(e) *Exceptions.* Formal exceptions to an adverse ruling by the examiner are not required.

(f) *Record of excluded evidence.* When an objection to a question propounded to a witness is sustained, the examining attorney may make a specific offer of what he expects to provide by the answer of the witness, or the examiner upon request shall receive and report the evidence in full, unless it clearly appears that the evidence is not admissible on any ground or that the witness is privileged. Similarly, rejected exhibits, adequately marked for identification, shall be retained in the record so as to be available for consideration by any reviewing authority.

§ 101.10-13 Presiding official.

(a) *Who presides.* All hearings in adjudicative proceedings shall be presided over by an examiner.

(b) *Powers and duties.* Examiners shall have the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of proceedings, and to maintain order. They shall have all powers necessary to that end, including the following:

(1) To administer oaths and affirmations;

(2) To rule upon offers of proof and receive evidence;

(3) To regulate the course of the hearings and the conduct of the parties and their counsel therein;

(4) To hold conferences for simplification of the issues or any other proper purpose;

(5) To consider and rule upon all procedural and other motions appropriate in an adversary proceeding;

(6) To make and file initial decisions; and

(7) To take action authorized by the rules in this part or in conformance with the provisions of Chapter 5, Administrative Procedure of title 5 of the United States Code (5 U.S.C. 551-559).

(c) *Substitution of examiner.* In the event of substitution of a new examiner for the one originally designated, any motion predicated upon such substitution shall be made within five days thereafter.

(d) *Interference.* In the performance of their adjudicative functions, examiners shall not be responsible to, nor subject to the supervision or direction of, any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for the administration, and all directions by the AAMSB-COD to examiners concerning any adjudicative proceeding shall appear in and be made a part of the record.

(e) *Disqualification of examiners.* When an examiner deems himself disqualified to preside in a particular proceeding, he shall withdraw therefrom by notice on the record and shall notify AAMSB-COD of such withdrawal.

(2) Whenever any party shall deem the examiner for any reason to be disqualified to preside, or to continue to preside, in a particular proceeding, that party shall file with the AAMSB-COD a motion to disqualify and remove such examiner, such motion to be supported by affidavits setting forth the alleged grounds for disqualification. A copy of such motion shall be served by the AAMSB-COD on the examiner whose removal is therein sought, who shall ten days from such service within which to reply thereto. If the examiner does not disqualify himself within ten days, then the AAMSB-COD shall promptly determine the validity of the grounds alleged, either directly or on the report of another hearing examiner appointed to conduct a hearing for that purpose.

§ 101.10-14 Hearings; transcripts.

(a) *Public hearings.* All hearings in adjudicative proceedings shall be public unless otherwise specified in the order to show cause or ordered by the examiner for good cause shown.

(b) *Rights of parties.* Every party shall have the right to due notice, cross-examination, presentation of evidence, objection, motion, argument and all other rights essential to a fair hearing.

(c) *Adverse witnesses.* An adverse party, or an officer, agent, or employee thereof, and any witness who appears to be hostile, unwilling, or evasive, may be interrogated by leading questions and may also be contradicted and impeached by the party calling him.

(d) *Expedition.* Hearings shall proceed with all reasonable expedition. Unless the AAMSB-COD otherwise orders upon a certificate of necessity therefor by the examiner, all hearings will be held at one place and will continue without suspension until concluded. (This shall not bar overnight, weekend, or holiday recesses, or other brief intervals of the sort normally involved in judicial proceedings.)

(e) *Notice.* Not less than ten days notice of the time and place of any hearing shall be given, and in setting such hearings due regard shall be had for the public interest and the convenience and necessity of all parties, witnesses, and counsel.

(f) *Transcripts.* Hearings shall be stenographically reported and transcribed by the official reporter of the Administration under the supervision of the examiner, and the original transcript shall be part of the record and the sole official transcript. Copies of transcripts are available to respondents and to the public from the reporter at rates not to exceed the maximum rates fixed by contract between the Administration and the reporter.

(g) *Corrections of the transcript.* Corrections of the official transcript may be made only when they involve errors relating substance and then only in the manner herein provided: Corrections ordered by the examiner or agreed to in a written stipulation signed by all counsel and approved by the examiner shall be included in the record, and such stipulations, except to the extent they are capricious or without substance, shall be approved by the examiner. Corrections shall not be ordered by the examiner except upon notice and opportunity for the hearing of objections. Corrections so ordered or approved shall be incorporated in the record as an appendix and when so incorporated the examiner shall make or cause to be made the necessary physical corrections in the official transcript so that it will incorporate the changes agreed upon or ordered. In making such physical corrections, there shall be no substitution of pages, but, to the extent practicable, such corrections shall be made by running a line through the matter to be changed, but without obliteration, and writing the matter as changed immediately above. Where the correction consists of an insertion, it shall be added, by rider or interlineation, as near as may be to the text which is intended to precede and follow it.

§ 101.10-15 Witnesses and fees.

(a) Witnesses at hearings shall be examined orally. Witnesses shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

(b) Witness fees and mileage shall be paid by the party at whose instance witnesses appear.

§ 101.10-16 Proposed findings, conclusions, and order.

At the close of the reception of evidence in an adjudicative proceeding, or within a reasonable time thereafter fixed by the examiner any party may file with the examiner for his consideration proposed findings of fact, conclusions of law, and order, together with reasons therefor and briefs in support thereof. Such proposals shall be in writing, shall be served upon all parties, and shall contain adequate references to the record and authorities relied on. The record shall show the examiner's ruling on each proposed finding and conclusion except when his order disposing of the proceeding otherwise informs the parties of the action taken by him thereon.

§ 101.10-17 Interlocutory appeals.

(a) Except as provided in § 101.10-3(f), interlocutory appeals from rulings of an examiner may be filed only after permission is first obtained from the Regional Director. Any request for such permission shall be in writing, not to exceed ten pages in length, and shall be filed within five days after notice of the ruling complained of. No such permission shall be granted by the Regional Director unless he finds that such ruling involves substantial rights and will materially affect a final decision and that determination of its correctness before the conclusion of the proceeding would better serve the interest of justice.

(b) Interlocutory appeals shall be in the form of a brief, not to exceed thirty pages in length, and shall be filed within five days after notice of the ruling complained of, in the case of appeals under § 101.10-3(f), or within five days after notice of permission to file, in the case of appeals under this section. Answer thereto may be filed within five days after service of the appeal brief. The appeal shall not operate to suspend the hearing unless otherwise ordered by the examiner or the Regional Director.

§ 101.10-18 Initial decision.

(a) When filed and when effective as agency decision. Within sixty days after completion of the reception of evidence in any proceeding, or within such further time as the Regional Director may allow on the examiner's written request, the examiner shall file an initial decision which shall become the decision of the Administration (i.e., the findings of fact, conclusions of law, and order contained in such initial decision shall become the final agency decision) thirty (30) days after service thereof upon each of the parties (except in the case of an order issued by consent, which shall become effective at the time specified therein), unless (1) within fifteen (15) days after service of the initial decision a petition for review thereof shall be filed pursuant to § 101.10-19, or (2) within such thirty day period the AAMSB-COD issues an order directing the case to be placed on his docket for review. In that event, a copy of such order in addition to a copy of the initial decision shall be served on each party and each counsel or other representative which has appeared in the proceeding pursuant to § 101.10-3.

(b) *Content.* An initial decision shall include a statement of (1) findings and conclusions, with the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and (2) an appropriate order specifying the effective date thereof. Initial decisions shall be based upon a consideration of the whole record and supported by reliable, probative and substantial evidence.

(c) *By whom made.* The initial decision in an adjudicative proceeding shall be made and filed by the examiner who presided therein, except when he shall have become unavailable to the Administration, in which event a substitute examiner shall be designated.

(d) *Reopening:* termination of examiner's jurisdiction. (1) At any time prior to the filing of his initial decision, an examiner may reopen the proceeding for the reception of further evidence.

(2) Except for the correction of clerical errors, the jurisdiction of the examiner is terminated upon the filing of his initial decision, unless and until the proceeding is remanded to him by the AAMSB-COD.

§ 101.10-19 Petition for review.

(a) *Who may file.* Any party to a proceeding may file a petition for review within the time prescribed by § 101.10-18.

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(b) *Content.* The petition for review shall concisely and plainly state (1) the questions presented for review, (2) the facts in abbreviated form, and (3) the reasons why review by the AAMSB-COD is deemed to be in the public interest. Such petition shall not exceed ten pages in length.

(c) *Answer.* Within ten days after service upon the opposing party of a petition for review, such party may file in opposition thereto an answer not exceeding ten pages.

(d) *Disposition.* A petition for review will be granted where, on examination of the record, the petition for review, and the answer, the AAMSB-COD finds that the questions presented are substantial and that determination thereof by the AAMSB-COD is necessary or appropriate under the law to insure a just and proper disposition of the proceeding and to protect the rights of all parties. If the petition for review is denied, the initial decision of the examiner shall thereupon become the decision of the AAMSB-COD.

§ 101.10-20 AAMSB-COD review.

(a) Within thirty days after service of the AAMSB-COD's order granting the petition for review, the petitioner may file exceptions to the initial decision and a brief in support thereof.

(b) *Exceptions.* Each exception (1) shall relate only to substantive or procedural matters presented on the record, limited to the questions stated in the petition for review; (2) shall identify the part of the initial decision to which objection is made; (3) shall specify the portions of the record relied upon; and (4) shall state the grounds for the exception, including the citation of authorities in support thereof. Any objection to a ruling, finding, or conclusion which is not made a part of the exceptions shall be deemed to have been waived. Any exception which fails to present with accuracy, brevity and clearness whatever is essential to a ready and adequate understanding of the points requiring consideration may be disregarded.

(c) *Brief.* The brief in support of the exceptions shall contain, in the order indicated, the following:

(1) A subject index of the matter in the brief, with page references, and a table of cases, textbooks, statutes, and other material cited, with page references thereto;

(2) A concise statement of the case containing all that is material to the consideration of the questions presented;

(3) A specification of the assigned errors; and

(4) The argument presenting clearly the points of fact and law relied upon in support of the position taken on each question, with specific page references to the transcript and the legal or other material relied upon.

Material not included in the exceptions or brief may not be presented to the AAMSB-COD in oral argument or otherwise.

(d) *Answering brief.* Within thirty days after service of the brief upon the opposing party, such party may file an answering brief which shall also contain a subject index, with page references, and a table of cases, textbooks, statutes, and other material cited, with page references thereto. It shall be limited to the questions raised in the brief in support of the exceptions and shall present clearly the points of fact and law relied upon in support of the position taken on each question with specific page references to the transcript and legal or other material relied upon.

(e) *Reply brief.* Reply briefs, not in excess of ten pages and limited to rebuttal of matter in an answering brief, will be received if filed and served within seven days after receipt of the answering brief or the day preceding the oral argument, whichever comes first. No answer to a reply brief will be permitted.

(f) *Length of briefs.* No brief in excess of sixty pages, including any appendices, shall be filed without leave of the AAMSB-COD.

(g) *Oral argument.* The AAMSB-COD may permit oral argument in connection with agency review of any initial decision (1) upon request made by any party at the time of filing its brief and for good cause shown, or (2) on the AAMSB-COD's own motion. Oral argument before the AAMSB-COD shall be reported stenographically unless otherwise ordered by it.

§ 101.10-21 Decision on review.

(a) Upon review of an initial decision, the AAMSB-COD will consider such parts of the record as are cited or as may be necessary to resolve the issues presented; and in addition will, to the extent necessary or desirable, exercise all the powers which he could have exercised if he had made the initial decision.

(b) In rendering his decision, the AAMSB-COD will adopt, modify, or set aside the findings, conclusions and order contained in the initial decision, and will include in the decision a statement of the reasons or basis for his action.

(c) The final decision issued by the AAMSB-COD on review of the initial decision shall be served upon each party and each counsel or other representative who has appeared in the proceeding pursuant to § 101.10-3.

§ 101.10-22 Requirements as to form and filing of documents other than correspondence.

(a) *Filing.* All documents in proceedings hereunder before the AAMSB-COD shall be addressed to and filed with the Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, Washington, D.C. 20416. All documents before a Regional Director in procedures hereunder shall be addressed and filed with that Regional Director.

(b) *Title.* All documents shall clearly show the docket number and title of the proceeding.

(c) *Copies.* Ten copies shall be filed of a petition for review and of all briefs; five copies of all other documents shall be filed with the exception of reports of compliance under § 101.10-26, in which case only two copies need be filed, and notices of appearances under § 101.10-3, in which case only one copy need be filed.

(d) *Form.* (1) Documents, other than briefs filed with the AAMSB-COD on petitions for review, shall be printed, typewritten or otherwise processed in permanent form and on good unglazed paper. The paper must not be less than eight (8) inches nor more than eight and one-half (8½) inches by not less than ten and one-half (10½) inches nor more than eleven (11) inches. The left margin must be one and one-half (1½) inches and the right margin one (1) inch. Documents must be bound on the left side. If printed, the type shall be not less than ten (10) point adequately leaded.

(2) Briefs before the AAMSB-COD on review shall be printed on good unglazed paper seven (7) inches by ten (10) inches. The type shall not be less than ten (10) point adequately leaded. Citations and quotations shall not be less than ten (10) point single leaded and footnotes shall not be less than eight (8) point single leaded. The printed line shall not exceed four and three-quarter (4¾) inches in length.

(e) *Signature.* (1) One copy of each document shall be signed by an attorney of record for the party or, in the case of respondents not represented by counsel, by an officer of respondent.

(2) Signing a document constitutes a representation by the signer that he has read it, that to the best of his knowledge, information, and brief, the statements made in it are true, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may go forward as though the document had not been filed.

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§ 101.10-23 Time.

(a) *Computation.* Computation of any period of time prescribed or allowed by these rules, by order of the AAMSB-COD, or an examiner, or by any applicable statute, shall begin with the first business day following that on which the act, event or development initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or national holiday, or other day on which the office of SBA is closed, the period shall run until the end of the next following business day. When such period of time, with the intervening Saturdays, Sundays and national holidays counted, is less than seven days, each of the Saturdays, Sundays, and such holidays shall be excluded from the computation. When such period of time, with the intervening Saturdays, Sundays, and national holidays counted, exceeds seven days, each of the Saturdays, Sundays and such holidays shall be included in the computation.

(b) *Extensions.* For good cause shown, the examiner may, in any proceeding before him, extend any time limit prescribed or allowed by these rules or by order to the AAMSB-COD or the examiner, except those governing interlocutory appeals and initial decisions and those expressly requiring AAMSB-COD action. Except as otherwise provided by law, the AAMSB-COD, for good cause shown, may extend any time limit prescribed by these rules or by order of the AAMSB-COD or the examiner: *Provided, however,* That in a proceeding pending before an examiner, the application shall first be made to him. Applications for extensions of time shall be made by motion.

§ 101.10-24 Service.

(a) *By SBA.* (1) Service of orders to show cause, orders and other processes of SBA may be effected as follows:

(i) *By registered mail.* A copy of the documents shall be addressed to the person, partnership, corporation or unincorporated association to be served at his or its residence or principal office or place of business, registered, and mailed; or

(ii) *By delivery to any individual.* A copy thereof may be delivered to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation or unincorporated association to be served; or

(iii) *By delivery to an address.* A copy thereof may be left at the principal office or place of business of the person, partnership, corporation or unincorporated association, or it may be left at the residence of the person or of a member of the partnership or of an officer or director of the corporation or unincorporated association to be served.

(2) Documents other than orders to show cause, orders and other processes of SBA, the service of which starts the running of prescribed periods of time provided or allowed by any of the rules in this part or by any order of SBA or an examiner for the performance of some act or the occurrence of some event or development, shall be served in the same manner as orders to show cause, orders and other processes of SBA, or by certified mail

(3) All other documents may be similarly served, or they may be served by ordinary first-class mail.

(b) *By other parties.* Service of documents by parties other than SBA shall be by delivering copies thereof as follows: Upon SBA by personal delivery or delivery by first-class mail to the office of the AAMSB-COD; upon any other party, by delivery to the party. If the party is an individual or partnership, delivery shall be to such individual or a member of the partnership; if a corporation or unincorporated association, to an officer or agent authorized to accept service of process therefor. Delivery to a party other than SBA means handing to the individual, partner, officer, or agent; leaving at his office with a person in charge thereof, or, if there is no one in charge or if the office is closed or if he has no office, leaving at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; or sending by mail.

(c) *Proof of service.* (1) When service is by mail, registered or ordinary first-class, it is complete upon delivery of the document by the post office.

(2) When a party has appeared in a proceeding by a partner, officer, or attorney, service upon such partner, officer, or attorney of any document other than an order to show cause, order or other process of SBA shall be deemed service upon the party.

(3) The return post office receipt for a document registered and mailed, or the verified return or certificate by the person serving the document by personal delivery or ordinary mail, setting forth the manner of said service, shall be proof of the service of the document.

§ 101.10-25 Ex parte communication.

(a) In an adjudicative proceeding, no employee or agent of SBA who performs any investigative or prosecuting function in connection with the proceeding and no respondent in the proceeding, or agent, or counsel, or anyone acting on behalf of a respondent, shall communicate ex parte, directly or indirectly, with the AAMSB-COD, or the examiner, or any employee involved in the decisional process in such proceeding, with respect to the merits of that or a factually related proceeding.

(b) In an adjudicative proceeding, the AAMSB-COD, examiner or employee involved in the decisional process of such proceeding, shall not communicate ex parte, directly or indirectly, with any employee or agent of SBA who performs any investigative or prosecuting function in connection with the proceeding, or with any party respondent in the proceeding, or agent, or counsel, or anyone acting on behalf of a party respondent, with respect to the merits of that or a factually related proceeding.

(c) In an adjudicative proceeding, if any oral or written ex parte communication is made to or by the examiner, or employee involved in the decisional process, in violation of paragraph (a) or (b) of this section, such examiner or employee as the case may be, shall promptly deliver to the AAMSB-COD any such written communication or, in the case of an oral communication, a report giving the substance thereof in writing, together with a written statement of the circumstances under which it was made. If the AAMSB-COD determines that any such communication should, in fairness, be brought to the attention of all parties to the proceeding, the relevant written material pertaining thereto shall be made a part of the record of the proceeding to which it applies and the AAMSB-COD shall send copies thereto to all parties respondent.

(d) In any case where the AAMSB-COD determines that the dictates of fairness so require, any party requesting an opportunity to do so may rebut, on the record, any facts or contentions contained in any such ex parte communication.

(e) The AAMSB-COD may censure or may, in accordance with the procedures contained in Part 104 of this chapter, suspend or revoke the privilege of any person who makes or solicits the making of an unauthorized ex parte communication, to practice or appear before SBA.

§ 101.10-26 Reports of compliance.

Unless otherwise specifically provided in an order, in every proceeding in which SBA has issued an order, the respondent named in such order shall file with SBA within twenty days after service thereof, a report in writing, signed by the respondent, setting forth in detail the manner and form of his compliance with the order, and shall thereafter file with SBA such further signed, written reports of compliance as it may require. Reports of compliance shall be under oath if so requested. Where court review of an order of SBA is pending, respondent

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shall file only such reports of compliance as the court may require. Thereafter, the time for filing a report of compliance shall begin to run de novo from the final judicial determination.

§ 101.10-27 Reopening of proceedings.

(a) In any case where an order has been issued by SBA it may, upon notice to the parties, modify or set aside, in whole or in part, its report of findings as to the facts or order in such manner as it may deem proper at any time prior to expiration of the time allowed for filing a petition for review.

(b) In any case where an order issued by SBA has become final, SBA may at any time after reasonable notice and opportunity for hearing as to whether changed conditions of fact or of law or the public interest so require, reopen and alter, modify or set aside, in whole or in part, its report of findings as to the facts or order therein whenever in the opinion of the AAMSB-COD such action is required by said changed conditions or by the public interest.

(c) After an order dismissing an order to show cause has been issued, SBA may, upon reasonable notice to the parties and opportunity for a hearing as to whether said proceeding should be reopened, issue an order reopening such proceeding whenever, in the opinion of the AAMSB-COD, changed conditions of fact or of law or the public interest so require.

[FR Doc. 79-2669 Filed 1-23-79; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4957]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Clearwater, Wright County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Clearwater, Wright County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Clearwater, Minnesota. Send comments to: The Honorable Curtis Heaton, Mayor City of Clearwater, Clearwater City Hall, Clearwater, Minnesota 55320.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Clearwater, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River...	Downstream corporate limits.	947
	Upstream corporate limits.	948
Clearwater River...	Just upstream of Burlington Northern Railroad.	948
	Just upstream of County Highway 75 dam.	957
	Upstream corporate limits.	959

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional reveiw requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insuranace Administrator.

[FR Doc. 79-1970 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4954]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Monticello, Wright County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Monticello, Wright County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Monticello, Minnesota. Send comments to: The Honorable Conrad O. Johnson, Mayor, City of Monticello, City Hall, 250 East Broadway, P.O. Box 777, Monticello, Minnesota 55362; Attention: Mr. Gary Wieber.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Monticello, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act

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of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River...	Downstream corporate limits.	897
	Just downstream of Pine Street bridge.	907
	At confluence with Otter Creek.	910
	Upstream corporate limits.	918
Otter Creek.....	Just downstream of West River Street bridge.	912
	Just upstream of West River Street bridge.	913
	1,200 feet upstream of West River Street bridge.	914
	Just downstream of Broadway Street bridge.	919
	400 feet upstream of Burlington Northern railroad bridge.	921
	Upstream corporate limits.	923

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1967 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4958]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of St. Michael, Wright County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of St. Michael, Wright County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, St. Michael, Minnesota. Send comments to: The Honorable Joseph Dehmer, Mayor, City of St. Michael, City Hall, St. Michael, Minnesota 55376.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of St. Michael, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
School Lake Creek	Eastern corporate limits	883
	550 feet upstream of eastern corporate limits.	883
	2,600 feet upstream of eastern corporate limits.	898
	70 feet downstream of Main Street.	918
	Just upstream of Main Street.	926
	3,500 feet upstream of Main Street.	927

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1971 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4955]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Sartell, Stearns County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Sartell, Stearns County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures

that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Sartell City Hall, 2nd Street South, Sartell, Minnesota. Send comments to: The Honorable Anthony Zakrajshek Mayor, City of Sartell, Sartell City Hall, 2nd Street South, Sartell, Minnesota 56377.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Sartell, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River...	Downstream corporate limits.	1000
	Just downstream of St. Regis Dam.	1004
	Just upstream of St. Regis Dam.	1019
	Upstream corporate limits.	1020
Watab River.....	200 feet upstream Riverside Avenue.	1004
	900 feet upstream of Riverside Avenue.	1010
	2300 feet upstream of Riverside Avenue.	1018
	Upstream corporate limits.	1022

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administration.

[FR Doc. 79-1968 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4956]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Waltham, Mower County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Waltham, Mower County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Waltham, Minnesota. Send comments to: The Honorable Clifton McCamy Mayor, City of Waltham, City Hall, Box 97, Waltham, Minnesota 55982.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Waltham, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Waltham Creek.....	At West Corporate Limits.	1311
	Just downstream of Atlantic Street.	1316
	Just downstream of First Street.	1319
	Just upstream of First Street.	1323
	Eastern Corporate Limits.	1326

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended

(42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1969 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4959]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Harrisonville, Cass County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Harrisonville, Cass County, Missouri. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Harrisonville, Missouri. Send comments to: The Honorable Robert Johnson, Mayor, City of Harrisonville, City Hall, Harrisonville, Missouri 64701.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Harrisonville, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Muddy Creek	Downstream corporate limits.	853
	At confluence of Town Creek.	860
	Just upstream of Missouri Pacific Railroad.	867
	Just upstream of northbound U.S. 71.	874
	Just upstream of Commercial Street.	877
	Upstream corporate limits.	890
Town Creek	Mouth at Muddy Creek	860
	Just upstream of northbound U.S. 71.	865
	Just upstream of Missouri Pacific Railroad.	873
	Just downstream of Commercial Street.	880
	Just upstream of Oakland Street.	885
	Just upstream of St. Louis & San Francisco Railroad.	893
	Just downstream of Ash Street.	897
Tributary No. 1	Downstream corporate limits.	869
	Just upstream of northbound U.S. 71.	880
	Approximately 2,300 feet upstream of northbound U.S. 71.	888
Tributary No. 2	Mouth at Muddy Creek	874
	Just upstream of Orchard Road.	883
	Just upstream of East South Street.	894
	Approximately 3,000 feet upstream of East South Street.	903
	Just upstream of Bird Avenue.	921

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1973 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4531]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Unincorporated Areas of Warren County, Miss.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 43323 of the FEDERAL REGISTER of September 25, 1978.

EFFECTIVE DATE: September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimn, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5581 or Toll Free Line 800-424-8872.

The following:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Yazoo River	1 mile upstream of Kings Ferry.	104

Should be corrected to read:

Yazoo River	At Kings Ferry	104

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1972 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4960]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of Peerless Park, St. Louis County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Peerless Park, St. Louis County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Hall, Peerless Park, Missouri. Send comments to: The Honorable Tom Ward, Mayor, Village of Peerless Park, Village Hall, Peerless Park, Missouri.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Peerless Park, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Meramec River	Downstream corporate limit 530 feet downstream of St. Louis-San Francisco Railroad.	432
	50 feet upstream of St. Louis-San Francisco Railroad.	433
	Just upstream of Missouri Highway 141.	433
	Upstream corporate limit 3,150 feet above Missouri Highway 141.	434

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1974 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4961]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Fair Haven, Monmouth County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Fair Haven, Monmouth County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Fair Haven, Municipal Building, Fair Haven, New Jersey. Send comments to: Honorable William C. Rue, Mayor of Fair Haven, Fair Haven Municipal Building, Fair Haven, New Jersey 07701.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Fair Haven, Monmouth County, New Jersey, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed

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to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Navesink River	Downstream Corporate Limits.	9
	Fair Haven Road	9
	4th Creek at River Road	9
	Battin Road	9
	Grange Avenue	9
	Swenkers Pond Brook at River Road.	9
	Upstream Corporate Limits.	9

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1975 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4962]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Bedford, Westchester County, NY.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Bedford, Westchester County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Clerk, Townhouse, 321 Bedford Road, Bedford Hills, New York. Send comments to: Mr. Albert V. Marchigiani, Supervisor of the Town of Bedford, Townhouse, 321 Bedford Road, Bedford Hills, New York 10507.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Bedford, Westchester County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stone Hill River	Matthews Mill Road	315
	Cantitoe Street	318
	The Hook Road	383
	The Old Post Road	400
Mianus River	Downstream Corporate Limits.	333
	Millers Mill Road	350
	Patent Road	353
	Greenwich Road	354
	Mill Brook Road (Extended).	360
	The Old Post Road	364
David's Brook	Harris Road	335
	300' downstream of Guard Hill Road.	338

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1976 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4963]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Penfield, Monroe County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Penfield, Monroe County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Supervisor's Office, Penfield, New York. Send comments to: Ms. Irene Gossin, Town Supervisor of Penfield, Town Hall, 3100 Atlantic Avenue, Penfield, New York 14526.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Penfield, Monroe County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Irondequoit Creek	Confluence with Irondequoit Bay.	249
	Browncroft Boulevard	258
	Blossom Road	262
	State Route 441	275
	Washington Street	319
	Upstream Corporate Limits.	349
Commission Ditch	State Route 441	486
	Harris Road	489
	Sweets Corners Road	501
	State Route 286	501
	Penfield Center Road	502
Fourmile Creek	Downstream Corporate Limits.	469
	Marchner Road	474
	State Route 250	475
	Plank Road	477
Allen Creek	Confluence with Irondequoit.	274
	Upstream Corporate Limits.	324

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1977 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4921]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for The City of Mount Holly, Gaston County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in City of Mount Holly, Gaston County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Mount Holly City Hall, 1033 South Main Street, Municipal Building, Mount Holly, North Carolina. Send comments to: Honorable T. A. Belk, Jr., Mayor of the City of Mount Holly or Mr. Wilson Coleman, City Manager, Municipal Building, 1033 South Main Street, Mount Holly, North Carolina.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Mount Holly, Gaston County, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dutchmans Creek	Approximately 1700 feet upstream of Seaboard Coastline Railroad.	578
	Approximately 200 feet downstream of Main Street.	585

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat.

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2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1978 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4922]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Boone, Watauga County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Boone, Watauga County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Boone City Hall, Drawer 192, Boone, North Carolina 28607. Send comments to: Honorable Wade Wilmuth, Mayor of the Town of Boone or Randall Marshall, Town Clerk, City Hall, P.O. Box 192, Boone, North Carolina 28607.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Boone, Watauga County, North Carolina in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Boone Creek	Just downstream of Meadow View Drive.	3,120
	Just downstream of Deck Hill Road.	3,127
	Just upstream of Clement Street.	3,157
Hodges Creek	Just upstream of Deck Hill Road.	3,128
Middle Fork	At Deerfield Road	3,104
	Southern Corporate Limits.	3,122
Rocky Knob	Just downstream of Daniel Boone Drive.	3,126
	Just downstream of King Street (U.S. 221 & 421).	3,135
	Just upstream of Jefferson Road (N.C. 194).	3,142
Winkler Creek	Just downstream of Blowing Rock Road.	3,111
	Just downstream of Meadow View Drive.	3,119
	Just downstream of Deck Hill Road.	3,131

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional reveiw requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administration.

[FR Doc. 79-1979 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4923]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Tahlequah, Cherokee County, Okla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Tahlequah, Cherokee County, Okla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Tahlequah, Oklahoma. Send comments to: Mayor Tony Stockton, City Hall, Tahlequah, Oklahoma 74464.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Tahlequah, Cherokee County, Oklahoma, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Town Branch	Approximately 120 feet upstream of southern corporate limits.	721
	Just upstream of First Street.	745
	Just downstream of Downing Street.	782
	Just upstream of York Street.	822
	Approximately 80 feet downstream of Allen Road.	855
East Branch	Approximately 250 feet upstream of South Street.	765
	Just upstream of Maple Street.	777
	Approximately 400 feet upstream of Downing Street (Route 10, 62, 51).	836

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1980 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4924]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Yukon, Canadian County, Okla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Yukon, Canadian County, Oklahoma. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Russell, Gravlin & Douglas, City Engineers, Attention: Mr. Don Douglas, P.O. Box 1906D, Yukon, Oklahoma. Send comments to: Honorable Harold Dunham, Mayor of the City of Yukon or Mr. James Branum, City Manager, City Hall, P.O. Box A, Yukon, Oklahoma.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Yukon, Canadian County, Oklahoma, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Canadian River.	Just downstream of Czech Hall Road.	1,267
	Just upstream of Cameron Road.	1,280
North Canadian River Tributary A.	At Eastern corporate limits.	1,272
	Just downstream of U.S. Highway 66 (Main Street).	1,286
Main Stem of Turtle Creek.	Just upstream of Czech Hall Road.	1,286
	At Oak Avenue	1,290
	Just upstream of Third Street.	1,293
Middle Branch of Turtle Creek.	Just upstream of Bass Avenue.	1,301
	Just downstream of Vandament Avenue.	1,310
East Branch Turtle Creek.	Just downstream of U.S. Highway 66 (Main Street).	1,285
	Sky View Lane Extended.	1,291
West Branch of Turtle Creek.	Just downstream of Holly Avenue.	1,300
	Just downsteam of Yukon Avenue.	1,310

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1981 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4925]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Aldan, Delaware County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Aldan, Delaware County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in

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order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall, 6 East Providence Road, Aldan, Pennsylvania 19018. Send comments to: Mr. Kenneth L. Wilson, President of the Council of Aldan, 6 East Providence Road, Aldan, Pennsylvania 19018.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Aldan, Delaware County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Darby Creek	Upstream Corporate Limits (Conrail).	57
	Downstream Corporate Limits.	55
Lobbs Run	Upstream Maryland Avenue.	83
	Downstream Maryland Avenue.	74
	Downstream Corporate Limits.	55

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1982 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4926]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Clairton, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Clairton, Allegheny County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 551 Ravensburg Boulevard, Clairton, Pennsylvania. Send comments to: Honorable Rose Bush, Mayor of Clairton, c/o Mr. George Margetto, 551 Ravensburg Boulevard, Clairton, Pennsylvania 15025.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Clairton, Allegheny County, Pennsylvania, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monongahela River.	Downstream Corporate Limits.	746
	Glassport Highway Bridge.	747
	Conrail Bridge	748
	Upstream Corporate Limits.	748
Peters Creek	Ravensburg Boulevard Bridge.	751
	Upstream Corporate Limits.	752

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1983 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4927]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Liberty, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Liberty, Allegheny County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall, Liberty, Pennsylvania. Send comments to: Honorable Gerald J. Fayshak, Mayor of Liberty, 3412 Orchard Drive, McKesport, Pennsylvania 15133.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Liberty, Allegheny County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Youghiogheny River.	At downstream corporate limit and confluence of Unnamed Tributary.	745
	At River Mile No. 2 post	746
	At Chessie System Bridge.	747
	At upstream corporate limits.	747

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1984 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4928]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Monroe, Cumberland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Monroe, Cumberland County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building, Mechanicsburg, Pennsylvania. Send comments to: Mr. Walter E. Rimmer, Chairman of the Board of Supervisors of Monroe, R. D. 2, Route 174, Box 187, Mechanicsburg, Pennsylvania 17055.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Monroe, Cumberland County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are re-

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quired. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Yellow Breeches Creek.	U. S. Route 15 Bridge	421
	Old U. S. Route 15 Bridge.	421
	Dam 600 feet upstream	421
	From Old U. S. Route 15 Bridge Confluence of Dogwood Run.	425
	Legislative Route 66026 Bridge.	425
	Conrail Bridge	427
	Dam 320 feet upstream from Conrail Bridge.	427
	Private Road 1,060 feet upstream from Conrail Bridge.	428
	Confluence of Hertzlers Run.	432
	Legislative Route 21012	434
	Pennsylvania Route 74 Bridge.	441
	Dam 800 feet upstream from Pennsylvania Route 74 Bridge.	442
	Conrail Bridge	457
	Confluence of Indian Peg Run.	457
	Leidgh Drive	458
	Conrail Bridge	460
	Dam 830 feet downstream from confluence of Stought Run.	462
	Confluence of Stought Run.	462
	Confluence of Reading Banks.	465
	Dam 3,520 feet upstream from confluence of Reading Banks.	469
Trindle Spring Run.	Conrail Bridge	424
	Sinclair Road Bridge	426
	Conrail Bridge	428
	Dirt Lane 600 feet upstream from Conrail Bridge.	428
	Conrail Bridge	430

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1985 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4929]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Old Forge, Lackawanna County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Old Forge, Lackawanna County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Circuit Writer, Town Hall, Old Forge, Pennsylvania. Send comments to: Honorable Anthony G. Christiano, Mayor of Old Forge, 210 Race Street, Old Forge, Pennsylvania 18518.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Old Forge, Lackawanna County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lackawanna River	Union Street Bridge	592
	South Main Street Bridge.	611
	Third Street Bridge	636
	Upstream Corporate Limits.	645
St. Johns Creek	Confluence with Lackawanna River.	587
	Connell Street Bridge	606
	Mine Road Bridge	639
	Abandoned Railroad Bridge.	661
	Milwaukee Street	675
	Oak Street	710
	Sibley Avenue	727
Mill Creek	Confluence with Lackawanna River.	618
	Dick Street	622
	Abandoned Railroad Bridge.	628
	Upstream County Boundary.	636

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1952 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4930]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Wayne, Clinton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Wayne, Clinton County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at at the Township Building, Lockhaven, Pennsylvania. Send comments to: Mr. Herbert Spong Chairman of the Board of Supervisors of Wayne R. D. 1 Lockhaven, Pennsylvania 17745.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Wayne, Clinton County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	Downstream Corporate Limits.	554
	Conrail	558
	Appalachian Thruway	559
	Legislative Route 18033	561
	Upstream Corporate Limits.	563

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1953 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4931]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of West Pottsgrove, Montogomery County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of West Pottsgrove, Montgomery County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building, 101 Lemon Street, Stowe, Pennsylvania. Send comments to: Mr. Ralph F. Murgia President of the Commission of West Pottsgrove 101 Lemon Street Stowe, Pennsylvania 19444

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of West Pottsgrove, Montogomery County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Schuylkill River	Upstream County Boundary.	151
	Downstream Corporate Limit.	148
Manatawny Creek.	Upstream County Boundary.	161
	Crosstown Road	161
	Confluence of Tributary No. 1 to Manatawny Creek.	157
	Downstream Corporate Limit.	157
		152

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(oX4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administration.

[FR Doc. 79-1954 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4932]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Unincorporated Areas of Aiken County, S.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Unincorporated Areas of Aiken County, South Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Office of the Council Clerk, P.O. Box 2040, Aiken County, South Carolina. Send comments to: Mr. Carrol Warner, Chairman of the Aiken County Council, P.O. Box 2040 or Mr. Erick Thompson, Director of the Planning Commission, P.O. Box 2227, Aiken County, South Carolina.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Unincorporated Areas of Aiken County, South Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bridge Creek	Just downstream of confluence with Bridge Creek Tributary 1.	260
	Just upstream of Vancluse to Aiken Highway.	277
Bridge Creek Tributary 1.	Just downstream of Asphalt Road.	309
Bridge Creek Tributary 2.	Just downstream of Aiken Road.	313
Bridge Creek Tributary 3.	Just upstream of Mayfield Road.	363
Fox Creek	Approximately 5,000 feet upstream of confluence with Savannah River.	163
Pole Branch	Just upstream of Willowick Drive.	189
	Just upstream of I-20	230
	Just upstream of Wellington Street.	251
Pole Branch Tributary 1.	Approximately 900 feet upstream of confluence with Pole Branch.	220
Pole Branch Tributary 2.	Approximately 400 feet upstream of confluence with Pole Branch.	250
	Just downstream of Knobcone Avenue.	283
Pole Branch Tributary 3.	Just upstream of I-20 westbound.	277
Pole Branch Tributary 4.	Approximately 400 feet upstream of confluence with Pole Branch.	269
Hollow Creek	Just upstream of Silver Bluff Road.	123
	Just upstream of SC Highway 125.	151
	Just upstream of Old U.S. Highway 278.	187
Horse Creek	Just upstream of Highway 67.	152
	Just upstream of Marshall Street.	202
	Just upstream of SC 33	207
Little Horse Creek	Just upstream of U.S. 1 and 78.	153
	Just upstream of SC 254	197
	Just upstream of SC 779	268
	Just upstream of I-20	290
Long Branch	Just upstream of Silver Bluff Road.	214
	Just upstream of Pine Log Road.	267
No Name Creek to Dead River.	Just upstream of Seaboard Coast Line Railroad Spur.	149
	Just downstream of SC Highway 8.	193
No Name Creek to Dead River Tributary 1.	Just upstream of Old Langley Road.	179
	Just upstream of SC Highway 28.	189
No Name Creek to Savannah River.	Just upstream of Hazelgrove Baptist Church Road (Highway 278).	194
	Just upstream of confluence of No Name Creek to Savannah River Tributary 1.	346
No Name Creek to Savannah Tributary 1.	Approximately 600 feet upstream of confluence with No Name Creek to Savannah River.	265
Sage Mill Branch	Approximately 900 feet upstream of confluence with Horse Creek.	245
Sand River	Just upstream of U.S. 191.	193
	Just upstream of Highway 421.	230
	Just upstream of Dibble Road.	251
Sand River Tributary 1.	Approximately 150 feet downstream of dirt trail.	295
Sand River Tributary 2.	Just upstream of Hitchcock Parkway.	365

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sand River Tributary 3.	Approximately 1,100 feet upstream of confluence with Sand River Tributary 2.	305
Savannah River	Just upstream of 13th Street Bridge.	147
	Just upstream of I-20	160
Town Creek	Just upstream of Silver Bluff Road.	172
	Just upstream of U.S. Highway 278.	199
	Just downstream of SC Highway 145.	227
	Just upstream of Herndon Pond Dam.	281
Town Creek Tributary 1.	Approximately 1,200 feet upstream of confluence with Town Creek.	211
Town Creek Tributary 2.	Approximately 1,500 feet upstream of confluence with Town Creek.	220
Town Creek Tributary 3.	Just downstream of SC 145.	231
	Just upstream of SC 145	237
Town Creek Tributary 4.	Just downstream of dirt road.	287
Town Creek Tributary 5.	Approximately 650 feet upstream of confluence with Town Creek.	300
Town Creek Tributary 6.	Approximately 1,000 feet upstream of confluence with Town Creek.	321
Town Creek Tributary 7.	Approximately 775 feet upstream of confluence with Town Creek.	314
Town Creek Tributary 8.	Just downstream of Richardson Lake Road.	330
	Just downstream of confluence of Town Creek Tributary 9.	360
Town Creek Tributary 9.	Approximately 1,400 feet upstream of confluence with Town Creek Tributary 8.	385

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(oX4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1955 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4933]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Celina, Collin County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Celina, Collin County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Celina, Texas. Send comments to: Mayor Glenn Phillip, or Ms. Linda Grumble, City Secretary, P.O. Box 75, Celina, Texas 75009.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Celina, Collin County, Texas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Doe Branch	Just upstream of Ash Street.	690
	Just downstream of 289 State Highway.	704

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(oX4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1956 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4971]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Fairview, Collin County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Fairview, Collin County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the

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second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Fairview City Hall, Fairview, Texas. Send comments to: Mayor Peter Haas, P.O. Box 551, Fairview, Texas 75069.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Fairview, Collin County, Texas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sloan Creek	Just upstream of FM 1378.	542
	Approximately 550 feet upstream of the eastern Corporate Limits.	523
Wilson Creek	Northern Corporate Limits.	527
	Country Club Road extended.	526

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1957 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4970]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Garland, Dallas County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Garland, Dallas County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Secretary's Office, City Hall, 200 North Fifth Street, Garland, Texas. Send comments to: Mayor Charles Clack, or Mr. June E. Lykes, Jr., City Manager, City Hall, P.O. Box 401889, Garland, Texas 75040.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Garland, Dallas County, Texas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rowlett Creek	Just downstream of State Highway 78.	481
	Just upstream Blackburn Road.	495
Spring Creek	Just upstream Naaman School Road.	490
	Just upstream North Star Road.	512
	Just downstream Big Spring Road.	532
Stream 2I1	Approximately 130' downstream of Naaman School Road.	497
Stream 2I2	Approximately 50' downstream of Apollo Road.	522
Stream 2I3	Just upstream of Apolla Road.	517
Stream 2I4	Just upstream of Quarry Raod.	530
Stream 2I5	Approximately 100' downstream of Big Spring Road.	538
Stream 2I6	At Big Spring Road	548
Stream 2I7	Just upstream of Campbell Road.	561
Stream 2DI	Approximately 100' downstream of Centerville Road.	470
Mills Branch	Just upstream of Centerville Road.	451
	Just upstream of New Garland Avenue (New State Highway 66).	480
	Approximately 40' upstream of Commercial Street.	496
	Just upstream of Lavon Drive.	522
Stream 2D3	Just downstream of High Meadow Drive.	487
Bradfield Creek	At Centerville Road	458
	Just upstream of Country Club Road.	511
Stream 2D13	Confluence with Rowlett Creek.	467
Stream 2D14	Approximately 40' upstream Ben Davis Road.	496
Stream 2D4	Just upstream of Atcheson Topeka & Santa Fe Railroad.	487
Stream 2D5	Approximately 100' downstream Blackburn Road.	506
Stream 2D6	Just downstream of North Star Road.	507
Duck Creek	Just Downstream of State Highway 67 & Interstate Highway 30.	460
	Approximately 100' upstream of Dates Road.	473
	Just upstream of Kingsley Road.	506
	At Forrestland	538
	Approximately 100' downstream of Buckingham Road.	569
Long Branch	Approximately 150' upstream of Highway 635.	504
	Just upstream Centerville Road.	533
	Approximately 100' upstream of North West Highway.	560
Stream 2C1	Just upstream of Northern Frontage Road to U.S. Highway 67.	464
	Just upstream of Tacoma Drive.	467
Stream 2C2	Approximately 100' upstream of Douglas Drive.	526
Stream 2C3	Approximately 100' downstream of Patricia Lane.	547
	Just downstream of Lonnecker Drive.	578
Stream 2C4	At South Garland Avenue.	541
	Just upstream of Patricia Lane.	558
Stream 2C5	Just upstream of Shiloh Road.	572
	Approximately 80' downstream of Kirby Street.	599
Stream 2C6	Just upstream of Buckingham Road.	581

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of Housing Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1958 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4934]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Junction, Kimble County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Junction, Kimble County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Office of the County Clerk, County Courthouse, Junction, Texas. Send comments to: Honorable LaRue Newby, Mayor of the City of Junction or Don Bouta, Mayor Protem, 102 N. 15th Street, Junction, Texas 76849.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Junction, Kimble County, Texas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Llano River	Just upstream I-10	1,700
North Llano	At the intersection of Hickory Street and North 9th Street.	1,706
	Just downstream Highways 290, 83, and 377.	1,712
South Llano River	At the intersection of Oak Street and 4th Street.	1,706
	Intersection of Patricia Drive and South 12th Street.	1,710

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1959 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4935]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Leward, Jackson County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of LaWard, Jackson County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at LaWard Community Center, LaWard, Texas. Send comments to: Honorable Arthur Kinsfater, Mayor of the City of LaWard, P.O. Box 68, LaWard, Texas.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of LaWard, Jackson, County, Texas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Keller's Creek	Washington Street Extended.	41
West Carancahua Creek Tributary No. 18.	At the Northern Corporate Limits.	38
West Carancahua Creek Tributary No. 19.	At the Southern Corporate Limits.	42

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional reveiw requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administration.

[FR Doc. 79-1960 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4969]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the County of Fauquier, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the County of Fauquier, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the County Planning Office, 14 Main Street, Warrenton, Virginia. Send comments to: Mr. Steve Crosby, County Administrator, County Office Building, 14 Main Street, Warrenton, Virginia 22186.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the County of Fauquier, Virginia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cedar Run	Southern Railroad Bridge.	223
Owl Run	State Route 616	255
	Southern Railway	268
	State Route 28	268
	Access Road	268
Rappahannock River.	Confluence of Tinpot Run.	277
	outhern Railway	277
	U.S. Route 15/29	278
	U.S. Route 15/29 (By-Pass).	287
South Run	U.S. Route 29/211	476
	Va. Route 693	488
Tinpot Run	Confluence with Rappahannock River.	277
	Va. Route 651	277
	Va. Route 655	277
	U.S. Route 15/29	277
	U.S. Route 15/29 (By-Pass).	283
White Mills Branch.	Upstream Corporate Limits.	423

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Statute 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1961 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4968]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Marion, Smyth County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Marion, Smyth County, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Mayor, Marion, Virginia. Send comments to: Honorable W. W. Scott, Mayor of Marion, P.O. Box 1005, Marion, Virginia 24354.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Marion, Smyth County, Virginia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Middle Fork Holston River.	Upstream Country Club Road.	2,067
	Upstream Marion Dam	2,110
	Upstream Amplex Street.	2,127
	At Mile 43.6	2,146
	Upstream Norfolk and Western Railway.	2,175
Staley Creek	At East Lee Street	2,125
	At East High Street	2,142
	Upstream Matson Drive.	2,170
	Upstream Interstate Route 81 (Exit North).	2,192
Town Branch	At Pearl Avenue	2,142
	At South Iron Street	2,146
	At Orange Street	2,180
	At Mile 0.46	2,191
	At Church Street (Mile 0.66).	2,210
Hooks Branch	At Matson Drive (Mile 0.05).	2,172
	At Interstate Route 81	2,184
	Upstream Matson Drive at Mile 0.27.	2,190
	At Mile 0.38	2,200
	Upstream Private Drive at Mile 0.57.	2,220
	Upstream Matson Drive at Mile 0.85.	2,233
	Upstream Matson Drive at Mile 0.85.	2,249
	At Mile 1.00	2,263
	At Mile 1.10	2,273

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1962 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4967]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Scott County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Scott County, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the County Administrator's Office, Gate City, Virginia. Send comments to: Ms. Billee Lynch, County Administrator, P.O. Box 67, Gate City, Virginia 24251.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Scott County, Virginia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub.

L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Fork Holston River.	Downstream State Boundary.	1,205
	U.S. Route 23	1,217
	U.S. Routes 58 and 421	1,283
Stony Creek	Clinchfield Railroad	1,272
	Mill Dam	1,278
	River Mile 1.00	1,301
	River Mile 1.50	1,326
Big Moccasin Creek.	U.S. Routes 58 and 421 at River Mile 2.35.	1,256
	Mill Dam	1,291
Clinch River	U.S. Routes 23, 58, and 421.	1,232
	Clinchfield Railroad	1,258
	State Route 65	1,301
North Fork Clinch River.	River Mile 13.0	1,239
	River Mile 15.0	1,259
	Kingdom Road	1,282
	State Route 638	1,291
	River Mile 21.0	1,319
Troublesome Creek.	Private Road at River Mile 2.12.	1,426
	Private Road at River Mile 2.37.	1,447
	Private Bridge at River Mile 2.64.	1,470
Tributary No. 1 to Possum Creek at Mile 5.23.	Confluence of Cate Branch.	1,261
	Private Bridge at River Mile 1.5.	1,286
Tributary No. 1 to North Fork Holston River at Mile 7.34.	State Route 714	1,212
	Private Bridge at River Mile 0.55.	1,227
Stock Creek	Upstream Town of Clinchport Corporate Limits.	1,239
	Southern Railway at River Mile 1.93.	1,259
	Footbridge at River Mile 2.85.	1,296
	State Route 646	1,333
Little Moccasin Creek.	Private Road at River Mile 3.42.	1,354
	Private Road at River Mile 4.41.	1,385
	Private Road at River Mile 5.61.	1,438

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1963 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4966]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Smyth County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Smyth County, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the County Administrator, Marion County, Virginia. Send comments to: Mr. Marvin Perry, County Administrator, P.O. Box 188, Marion, Virginia 24354.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Smyth County, Virginia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Middle Fork Holston River.	Interstate Route 81	1,944
	State Route 638	1,953
	U.S. Route 11	1,974
	State Route 645	1,986
	State Route 659	2,064
	Confluence of Hungry Mother Creek.	2,080
	State Route 691	2,167
	State Route 693	2,194
	State Route 689	2,210
	Confluence of Bear Creek.	2,256
	Confluence of Shupe Hollow Creek.	2,288
	State Route 626	2,303
	Flowing Springs Road	2,337
Sulphur Spring Creek.	Chilhowie Corporate Limits.	1,947
	State Route 640	1,962
	River Mile 1.0	1,993
Carlock Creek	U.S. Route 11	1,953
	Carlock Creek Road	1,953
	State Route 774	1,958
	Private Road at River Mile 0.62.	1,963
Staley Creek	Marion Corporate Limits.	2,196
	State Route 16	2,257
	Private Road at River Mile 2.68.	2,302
	State Route 688	2,334
	Private Road at River Mile 3.43.	2,362
	State Route 689	2,377
	State Route 740	2,415
North Fork Holston River.	Downstream County Boundary.	1,676
	State Route 91	1,714
	Confluence of Elkhorn Branch.	1,737
	State Route 633	1,748
	Private Road at River Mile 91.5.	1,764
Turkey Run Creek	State Route 91	1,731
	Private Road at River Mile 0.18.	1,749
	Private Road at River Mile 0.26.	1,769
	State Route 613 at River Mile 0.28.	1,775
	State Route 613 at River Mile 0.43.	1,807
	River Mile 0.55	1,828
	River Mile 0.66	1,863
South Fork Holston River.	State Route 674	2,558
	Private Road at River Mile 112.48.	2,563
	Confluence of Slemp Creek.	2,568
Dickey Creek	State Route 601	2,571
	State Route 695	2,609
	River Mile 1.0	2,637
Slemp Creek	Confluence with South Fork Holston River.	2,568
	Confluence of Cressy Creek.	2,577
Cressy Creek	State Route 601	2,586
	State Route 16	2,593
	Confluence of Quarter Branch.	2,596
Quarter Branch	Private Road at River Mile 0.03.	2,601
	Confluence of Unnamed Tributary.	2,616
	Private Road at River Mile 0.32.	2,637
Unnamed Tributary to Quarter Branch.	State Route 676	2,616
	Private Road at River Mile 0.14.	2,629
	Private Road at River Mile 0.23.	2,636
Cedar Branch	State Route 632	1,713
	River Mile 2.0	1,729
	River Mile 3.5	1,749
	River Mile 5.0	1,766
	River Mile 6.5	1,780
	Private Road at River Mile 0.76.	1,800
	River Mile 0.9	1,826
	Saltville Corporate Limits (Extended).	1,843

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1964 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4965]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Oceana, Wyoming County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Oceana, Wyoming County, West Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Oceana Town Hall, Cook Parkway, Oceana, West Virginia. Send comments to: Honorable John Roach, Mayor of Oceana, Oceana Town Hall, P.O. Box 190, Oceana, West Virginia 24870.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Oceana, Wyoming County, West Virginia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clear Fork	Downstream Corporate Limits.	1,240
	Old Mill Road	1,251
	Tyler Street	1,254
	Lois Street	1,281
	Upstream Corporate Limits.	1,295
Laurel Fork	Confluence w/Clear Fork.	1,267
	Sycamore Street (Extended).	1,272
	Private Drive	1,276
	Corporate Limits (Upstream).	1,295

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Public Law 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1965 Filed 1-23-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4936]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of North Fond du Lac, Fond du Lac County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of North Fond du Lac,

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Fond du Lac County, Wisconsin. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office, North Fond Du Lac City Hall, North Fond Du Lac, Wisconsin. Send comments to: Mr. Robert J. Hinn, Director of Public Works, Village of North Fond du Lac, North Fond Du Lac city Hall, North Fond Du Lac, Wisconsin 54935.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of North Fond Du Lac, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Supple Creek	Downstream corporate limits.	752
	Upstream corporate limits.	752
Mosher Creek	Downstream corporate limits.	754
	300 feet upstream of the downstream corporate limit.	757
	Just downstream of the Chicago and North Western Railroad bridge located 870 feet upstream of the downstream corporate limit.	758
	Just upstream of the Chicago and North Western Railroad bridge located 1,550 feet downstream of Wisconsin Avenue.	764
	Just downstream of Clinton Street.	765
	Just upstream of Polk Street.	767
	Approximately 80 feet upstream of Mckinley Street.	769
	Just downstream of Prospect Avenue.	772
	Upstream corporate limits.	774

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-1966 Filed 1-23-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 1040-6; Docket No. VII-79-DCO-1]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued By the Iowa Department of Environmental Quality To Terra Chemicals International, Sergeant Bluff, Iowa

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Iowa Department of Environmental Quality to Terra Chemicals International. The order requires the company to bring air emissions from its urea prill tower In Sergeant Bluff, Iowa into compliance with certain regulations contained in the federally-approved Iowa State Implementation Plan (SIP) by June 15, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 23, 1979.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Peter J. Culver or Henry F. Rompage, EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108, telephone 816/374-2576.

SUPPLEMENTARY INFORMATION: Terra Chemicals International operates a fertilizer manufacturing plant at Sergeant Bluff, Iowa. The order under consideration addresses emissions from urea prill tower at the facility, which are subject to subrule 400—4.3(2)a Iowa Administrative Code, Process weight rate. The regulation limits the emissions of particulates, and is part of the federally approved Iowa State Implementation Plan. The order requires final compliance with the regulation by June 15, 1979 through installation of a packed bed scrubber. The source has consented to the terms of the order. The source has satisfied increments 1 and 2 contained in the order.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Iowa SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601.)

Dated: January 8, 1979.

KATHLEEN Q. CAMIN,
Regional Administrator.

PART 65—DELAYED COMPLIANCE ORDER

1. By Amending the table in § 65.201 to reflect approval of the following Order:

[Docket No. VII-79-DCO-1]

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY AIR QUALITY COMMISSION

DES MOINES, IOWA

In the matter of Terra Chemicals International, Inc., Order, Docket No. 78-A-012.

WHEREAS employees of the Department of Environmental Quality have reviewed the results of the April, 1978, stack test of the urea prill tower of Terra Chemicals International, Inc., at Port Neal Industrial Area in Woodbury County, Iowa, and determined that the emissions from the urea prill tower exceed the emission standard of subrule 400—4.3(2)a I.A.C.

WHEREAS the said subrule is a part of the federally-approved implementation plan applicable to Air Quality Control Region 086 in which the Terra Chemicals International, Inc. urea prill tower at the Port Neal Industrial Area, Woodbury County, Iowa, is located;

WHEREAS Terra Chemicals International, Inc. has acknowledged that it is in violation of subrule 400—4.3(2)a I.A.C. and has agreed to waive its rights to a contested case hearing under the Iowa Administrative Procedure Act and to waive its rights under section 455B.17 of the Iowa Code;

WHEREAS Terra Chemicals International, Inc. is hereby given notice that in the event it fails to meet any requirement of this order, it will be subject to civil penalties for such noncompliance, and that if it fails to achieve final compliance as specified in Subparagraph A-6 by July 1, 1979, it shall be required to pay a noncompliance penalty under Section 120 of the Clean Air Act as amended (42 USC 7420) or under Iowa Law subsequently enacted to obtain delegation under that section;

WHEREAS after full consideration of relevant facts, including the seriousness of the violation and any good faith efforts to comply, the source cannot immediately comply and compliance with the order below is reasonable and expeditious;

Therefore, it is ordered, By the Air Quality Commission:

A. That Terra Chemicals International, Inc. complete the following acts with respect to the urea prill tower at its plant at Port Neal Area in Woodbury County, Iowa, on or before the dates specified.

1. September 1, 1978—Submit final control plan.

2. November 1, 1978—Award bids and execute contracts for emission control equipment.

3. March 5, 1979—Initiate on-site construction or installation of emission control equipment.

4. May 18, 1979—Complete on-site construction or installation of emission control equipment.

5. May 21, 1979—Complete shakedown operations and perform stack tests on system.

6. June 15, 1979—Submit stack test report and achieve final compliance with subrule 400—4.3(2)a I.A.C.

The parties understand and agree that the above timetable shall be extended for such periods of time as Terra Chemicals International, Inc. may be delayed as the result of causes beyond the control of Terra Chemicals International, Inc., such as, but not limited to, acts of God and strikes. Determination as to the existence of circumstances beyond Terra Chemicals International, Inc.'s control and of the period of any extension shall be at the reasonable discretion of the Iowa Department of Environmental Quality.

B. That specified interim requirements for emission reduction, prior to final compliance as specified in subparagraph A-6, are not feasible.

C. That no specific monitoring prior to final compliance will be required.

D. That Terra Chemicals International, Inc. prior to the initiation of on-site construction or installation of emission control equipment required by paragraph A-3, obtain a permit for the proposed equipment or related control equipment from the Permits Section of the Air and Land Quality Division of the Department of Environmental Quality, as defined in subrule 400—3.1 I.A.C.

E. That Terra Chemicals International, Inc. certify to the Chief of Surveillance Section of the Air and Land Quality Division of the Department of Environmental Quality no later than seven (7) days after the deadline for completing such increment of progress, whether such increment has been achieved; if an increment has not been achieved by the deadline date, a full report of the reasons why the increment was not achieved and of whether the failure is expected to put the subsequent deadline dates in jeopardy should be submitted.

F. That Terra Chemicals International, Inc., 15 days prior to conducting the performance tests required by this order give notice of such scheduled test to the Chief of Surveillance Section to afford him an opportunity to have an observer present.

Dated: November 16, 1978.

AIR QUALITY COMMISSION,
HAL B. RICHERSON,
Chairman.

Dated: August 4, 1978.

TERRA CHEMICALS INTERNATIONAL, INC.,
JOHN H. COLBY.

A public notice was published on August 24, 1978 in the Sioux City Journal regarding this order (and the schedule for compliance contained herein), and a public hearing was held before the Iowa Air Quality Commission on October 12, 1978, at the Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand Avenue, Des Moines, Iowa.

DEPARTMENT OF ENVIRONMENTAL QUALITY

DES MOINES, IOWA

In the matter of: Terra Chemicals International, Inc., Waiver.

Terra Chemicals International, Inc. acknowledges that it is in violation of subrule 400—4.3(2)a I.A.C. and agrees to waive its rights to a contested case hearing under the Iowa Administrative Procedure Act and its rights under 455B.17 of the Iowa Code. Furthermore, Terra Chemicals International, Inc. has reviewed Order 78-A-012, believes it to be a reasonable means to attain compliance with the applicable regulations in that it accords with the intentions of Terra Chemicals International, Inc. regarding the urea prill tower at its plant at Port Neal Industrial Area in Woodbury County, Iowa, and it consents to the terms of the order. Finally, Terra Chemicals International, Inc. acknowledges that compliance with the Order 78-A-012 does not relieve it of the responsibility to comply with the provisions of the Rules of the Air Quality Commission.

Dated: August 4, 1978.

TERRA CHEMICALS INTERNATIONAL, INC.,
JOHN H. COLBY.

[FR Doc. 79-2559 Filed 1-23-79; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Proposed Elimination of the Quality Analysis for Dark, Hard, and Vitreous Kernels in Hard Red Winter Wheat

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice and Request for Comments.

SUMMARY: The Administrator of the FGIS proposes the elimination of the quality analysis for the percentage of Dark, Hard, and Vitreous (DHV) kernels in Hard Red Winter (HRW) wheat to become effective May 1, 1980, and requests comments on the proposal.

DATES: Comments must be received on or before February 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Leslie E. Malone, Assistant Deputy Administrator, Program Operations (Staff), Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1627, Washington, D.C. 20250, (202) 447-9166.

SUPPLEMENTARY INFORMATION: Pursuant to the authority in section 7(b) of the United States Grain Standards Act, as amended, (7 U.S.C. 79(b)), hereinafter cited as the Act, notice is hereby given, that the Administrator of the FGIS proposes the elimination of quality determinations for the percentage of DHV kernels in HRW wheat.

As of May 1, 1977, all references to subclass in HRW wheat, based on the factor of DHV, were deleted from the Official United States Standards for Grain. This action was based on results from research studies indicating that protein content is better correlated to baking quality than the correlation that exists between DHV and baking quality. Further, the test for protein content is an objective test, whereas, the determination of the percentage of DHV is a subjective test. For this reason, the DHV analysis is subject to the variance attributed to human judgement. This variance had been a contributing factor in intermarket subclassing differences in HRW wheat.

To lessen the negative effects that the subclass deletion may have had on the contracting and marketing of wheat, applicants were allowed to request DHV determinations under Section 7(b), permissive criteria, of the Act (7 U.S.C. 79(b)). This also provided time to initiate action to inform foreign buyers of U.S. HRW wheat in regard to the advantages of an objective analysis for protein content. At the time of the deletion of subclasses in HRW wheat, determination for the percentage of DHV was the only method available that could quickly provide some indication of end-use quality. Protein content could only officially be determined by the Kjeldahl method was accurate, but too time-consuming for widespread use at export markets, particularly on a sublot basis.

Since the deletion of subclasses in HRW wheat, the Administrator has made available a quick and reliable means of determining protein content in HRW wheat via the use of approved near-infrared reflectance (NIR) instruments. These instruments are currently in use throughout the United States, including all major export markets. Acordingly, the effect of the elimination of quality analysis for the percentage of DHV kernels on the marketing of HRW wheat is expected to be minimal.

Therefore, the Administrator proposes to eliminate the quality determination of DHV, performed under permissive criteria, in HRW wheat as of May 1, 1980. This proposal is based on the availability of a quick and reliable method of determining protein content, which has been shown to be, in general, a better indicator of baking quality. Also, by eliminating DHV determinations, the occurrence of intermarket subclassing differences due to variances in human judgement when determining the percentage of DHV in HRW wheat will be eliminated.

Interested persons are encouraged to submit written comments regarding the elimination of quality analysis for DHW in HRW wheat. All comments should be submitted in writing, in duplicate, and mailed on or before February 23, 1979, John W. Marshall, Director, Inspection Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 0624, Washington, D.C. 20250.

Consideration will be given to the comments filed and to all other information available to the U.S. Department of Agriculture prior to a final determination with respect to the availability of DHV analysis under permissive criteria in HRW wheat. All comments submitted pursuant to this Notice will be made available for public inspection at the previously mentioned address during regular business hours.

(Sec. 8, 16, Pub. L. 94-582, 90 Stat. 2870, 2884 (7 U.S.C. 79(b), 87(e)).)

Dated: January 18, 1979.

L. E. BARTELT,
Administrator, FGIS.

[FR Doc. 2323 Filed 1-23-79; 8:45 am]

[3410-05-M]

Office of the Secretary

ADVISORY COMMITTEE ON EXPORT SALES REPORTING

Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the following Committee meeting:

NAME: Advisory Committee on Export Sales Reporting.

DATE: February 8, 1979.

TIME: 9 a.m. to 4 p.m.

PLACE: Room 4960-South Building, U.S. Department of Agriculture, 1400 Independence Avenue, Washington, D.C. 20250.

TYPE OF MEETING: Open to the public. However, only written comments will be accepted and should be submitted to Kelly Harrison, General Sales Manager, U.S.D.A., Washington, D.C. 20250, telephone 202-447-5173. Copies of summary minutes of committee meetings may be obtained from the address shown above.

PURPOSE: The Committee is expected to review and approve its report to the Secretary of Agriculture.

Dated: January 19, 1979.

GEORGE S. SHANKLIN,
Acting General Sales Manager.

[FR Doc. 79-2460 Filed 1-23-79; 8:45 am]

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[6320-1-M]

CIVIL AERONAUTICS BOARD

[Order 79-1-111; Dockets 34138, 34100, 34089, 34129, 34132]

COMMUTER/CERTIFICATED CARRIER JOINT FARES

Phase II (Division of Revenues)

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 18th day of January, 1979.

On November 30, 1978, we issued a Tentative Decision and Order, Order 78-11-154, in response to the direction from Congress, contained in Section 37(c) of the Airline Deregulation Act, to include commuter-certificated carrier connections in the present, and future, uniform methods of establishing and dividing joint fares. At that time, we found that application of the uniform method establishing and dividing joint fares to interline routings between certificated and commuter carriers beginning January 22, 1979, was required by the Airline Deregulation Act of 1978, Pub. L. 95-504. We also tentatively found that the uniform method of establishing and dividing joint fares should not apply to interline routings between certificated and commuter carriers, except in those specific cases previously ordered by the Board, until January 22, 1979.

Consequently, we then proposed to extend the existing Phase 4 methods of establishing and dividing joint fares to all commuter/certificated carrier interline routings effective January 22, 1979. We determined to waive the 30-day requirement for the filing of new tariffs under this program. And, as directed by Congress, we provided that any commuter carrier modifying, terminating, or suspending service covered by an interline agreement without giving 90 days notice of such change would be excluded from participating in the uniform method.

We directed any person having objection to finalizing this decision to file comments with us by December 20, 1978 and permitted responses to be filed until December 29, 1978.

Comments were filed by the Commuter Airline Association of America (CAAA), Western Airlines, United Airlines, Aspen Airways, Southwest Airlines, Altair Airlines,[1] Continental Airlines, the Local Service Carriers,[2] American Airlines and Trans World Airlines. Responses were then filed by Pacific Southwest Airlines, Provincetown-Boston Airline, and CAAA.[3]

After consideration of the various positions, we have decided to affirm, with certain clarifications, that portion of the Tentative Decision and Order calling for the extension of the uniform method of establishing joint fares to commuter-certificated carrier connections effective January 22, 1979. We have also decided to institute an investigation of whether the current method of divisions is unfair, unreasonable or unduly prejudicial or preferential and of, whether, as a matter of law, the Airline Deregulation Act requires that the uniform method of dividing joint fares be made retroactive before January 22, 1979. While we are therefore opening the division formula we have decided that, on an interim basis, the current method and formula be used for dividing joint fares, including those between certificated and commuter carriers.

The comments submitted by the various parties fell into three groups. Several smaller, certificated carriers who were not parties to Phase 4 filed requests that our order be clarified insofar as their participation in the uniform method is involved. One carrier wished it made clear that it did not have to participate in the uniform method; several wished it made clear that they were included in the uniform method.

The second group of comments were filed by certificated carriers who objected strenuously to the use of the Phase 4 division formula as a basis for dividing joint fares with commuter carriers, terming such a division formula unjust and unreasonable. Several also objected to the extension of the requirement to establish joint fares with commuters in all markets and some expressed doubt that the system could effectively be implemented by January 22, 1979. Several suggested that the better course was to begin the comprehensive reexamination of joint fare policy, which we have announced our intention to undertake, at once and consider the question of commuter/certificated joint fares in that context. Various suggestions were made as to what should be done in the interim.

The third set of comments were the consolidated answer and response filed by CAAA, the trade association of commuter carriers, and by an individual commuter carrier. These comments urged the finalization of our interim order insofar as it extended the uniform method prospectively, and in addition urged us to reverse our position and apply the uniform method retroactively or, in the alternative, to sever this question from the rest of our order and address it separately. The commuters argued that the system could operate effectively, if not flawlessly, by January 22, 1979, if both we and the affected carriers made a commitment to seeing it work. They also responded to the objections of the certificated carriers.

A more detailed summary of the comments filed with us is contained in the attached Appendix.[4]

DISCUSSON

After consideraton of these comments and answers, we remain convinced that Congress intended us to move expeditiously to extend whatever uniform method of establishing and dividing joint fares currently exist, or may exist in the future, to interline routings involving commuter and certificated carriers. We believe that, despite obvious difficulties which must be dealt with, we can and should finalize our Tenative Order, setting January 22, 1979 as the date on which the uniform method will apply to commuter/certificated carrier joint fares. In this regard, we repeat our intent to be reasonable in implementing the requirements for publication of joint fares.[4]

It is clear, however, that many carriers believe that the current uniform method of dividing joint fares is unjust and unreasonable. We are not prepared to say that these concerns lack foundation. Consequently, we are initiating an investigation into whether the current method is unjust, inequitable or unduly preferential or prejudicial and, if so, what division method is fair and equitable. We leave open for resolution in this proceeding whether the "method" must embody a specific formula applicable to all carriers.

While we are opening the method of dividing joint fares as of January 22, 1979, we believe that the current method and formula should be used on an interim basis beginning on that date. We are not prepared to consider changes to a long-standing division formula on such short notice given the potential impact of unanticipated effects on the parties, some of whom are very small and burdened by the need to compete in the new regulatory environment. The parties in the proceeding we are initiating are, of course,

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[1] Altair's pleading was accompanied by a Motion for Late Filed Document, which we grant.

[2] Frontier Airlines, Hughes Airwest, North Central Airlines, Ozark Airlines, Piedmont Aviation, Southern Airways, Texas International Airlines, and Allegheny Airlines.

[3] During the pendency of this proceeding Air Florida (Docket 34132) and Golden West/Swift Aire (jointly in Docket 34129) have petitioned us seeking inclusion in the uniform method. Since this order general applicability grants these applicants the relief they seek without the necessity of individualized proceedings, we will dismiss their petitions as moot. Docket 34100, involving a similar petition by Wright Airlines and Altair Airlines, will also be disposed of in this manner.

[4] Appendix A filed as a part of the original document.

[4] In order to ensure that the carriers who would be affected by the finalization of our Tenative Decision and Order were aware of this, for planning purposes, Chairman Cohen so indicated in a statement at the Sunshine meeting of January 4, 1979 and in an accompanying press release.

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free to request modification of the interim formula at a later time, on a proper record.

This proceeding should also examine CAAA's contentions that, as a matter of law, Section 37(c) of the Airline Deregulation Act requires the retroactive application of the existing uniform method of dividing joint fares before January 22, 1979. While we have not been persuaded that our tentative determination against such retroactivity is incorrect, we prefer to await the development of a more extended record before making a final decision. We will determine, and announce shortly, the manner in which this proceeding will be conducted.

With respect to the exclusion of commuter carriers who modify, suspend, or terminate service covered by an interline agreement without providing 90 days notice, we agree that only actual modifications of service, and not inconsequential changes in the times of flights, are covered. We solicit informal comments within the next 30 days as to what should be deemed to constitute such a modification and as to how to deal with cases in which both commuter and certificated carrier involved wish to modify service on less than 90 days notice. Following receipt of such comments, the Board will determine what additional procedures, if any, are required to arrive at a correct policy. In the interim, we will deal with any problems that arise on a case-by-case basis.

Southwest's desire not to participate in the joint fare system will be honored. It has never been our intention to force carriers not bound by Phase 4 of DPFI to participate. The burdens attendant to participation are not insignificant and could hamper the efforts of new and potential entrants to the industry. While we will adopt the proposed general rule bringing newly-licensed carriers within the system, 15 days following certification unless prior to their certification they file a notice of intent not to participate, we will permit existing certificated airlines not now subject to Phase 4 to opt out of the system by filing a notice on or before February 1, 1979 of their intent not to participate. Southwest has attempted to give such notice in its Statement of Objections and will be deemed to have complied with this requirement. PSA, Aspen and other newly-certificated carriers which do wish to participate as of January 22, 1979 need do nothing; the Tentative Order contemplated their automatic inclusion. Carriers such as Altair who provide service under a variety of authorities and are not bound by Phase 4 of *DPFI* are free to differentiate their participation on this basis, upon timely notice.

Commuter carriers wishing to be excluded from the system clearly can do so by modifying, suspending or terminating service without giving the required notice. We see no reason why this option should be available only at the cost of disrupting service. Therefore, we will permit them to stay out of the system by filing notice to that effect by February 1. We do not feel that such a decision must be made now or never, for such a policy would ultimately harm passengers. Consequently, commuter airlines, not barred from participation in the uniform method because of a service modification, suspension, or termination without notice, will be able to join or leave the uniform method on 90-days notice. Such notice shall be served on all certificated carriers and on the Board in Docket 34138 (PHASE II). Recognizing the advantages which flow from flexibility, we will also extend the same option to those certificated carriers which were not parties to Phase 4 of the DPFI and hence need not be bound by it.

Finally, we reemphasize our commitment to undertake the promised comprehensive evaluation of the joint fare system and direct the staff to expedite the initiation of such a proceeding. In so doing we make no judgement about the desirability of mandatory joint fares and divisions, but rather of the need to address these questions giving opportunity for all concerned persons to participate.

Accordingly, 1. We amend Paragraph 1 of Order 74-12-108, amended by Order 75-8-126, to read as follows:

The maximum lawful joint hereafter to be demanded, charged, collected, and received by trunk, local, and commuter service carriers for interline transportation of persons, involving at least one certificated carrier, by said air carriers in the 48 contiguous states and the District of Columbia are as follows:

2. Paragraph 6 of Order 74-12-108 is revised to read as follows:

Divisions of all joint fares for transportation of persons by trunk, local, and commuter carriers for interline transportation involving at least one certificated carrier between points served by said carriers in the 48 contiguous states and the District of Columbia shall be based on the relative costs for the distances flown by each carrier participating in the interline carriage.

3. We waive, for 30 days from the service date of this order, the requirements of 14 CFR 221.160 and paragraph 3 of Order 74-12-108, that tariffs involving joint fares between certificated and commuter carriers be filed 30 days before their effective date. During this period, such tariffs may be effective one day after filing.

4. The uniform method of establishing and dividing joint fares shall not apply to any commuter air carrier which has an agreement with any air carrier to provide service for persons and property which includes transportation over its routes and which:

(a) modifies, suspends or terminates such service; and

(b) fails to provide ninety days notice of such modification, suspension or termination of service to the Board and to the carrier or carriers involved in such agreement.

5. Any carrier which was not a party to Phase 4 of *DPFI* which does not wish to participate in the uniform method of establishing and dividing joint fares as of January 22, 1979 may be excluded by providing notice to the board and to all certificated carriers prior to February 1, 1979.[1]

6. After February 1, 1979 any carrier, which was not a party to Phase 4 of DPFI may withdraw from participation in the uniform method of establishing and dividing joint fares by providing 90 days notice to the Board and to all certificated carriers.

7. After February 1, 1979 any carrier which was not a party to Phase 4 of DPFE and which is not participating in the uniform method of establishing and dividing joint fares but which is eligible to do so, may have such uniform method made applicable to it by providing 90 days notice to the Board and to all certificated carriers.[1]

8. We hereby institute an investigation in Docket 34138 (PHASE II) of (1) whether the existing formula for the division of mandatory joint fares is unjust, unreasonable, inequitable, or unduly preferential or prejudicial and if it is, what is just, reasonable and equitable; (2) in the event such a new division formula is established, whether it should be effective from the date of entry of this order of investigation or such other date subsequent thereto as may be just, reasonable, and equitable; and (3) whether Section 37 of the Airline Deregulation Act of 1978 requires that any uniform method of dividing joint fares be made retroactive to a date before January 22, 1979.

9. Effective January 22, 1979, on an interim basis, the current *DPFI (Phase 4)* formula will be used for the division of mandatory joint fares.

10. The petitions filed by Air Florida and jointly by Golden West and Swift Aire, and Wright and Altair, requesting proceedings to effectuate their inclusion in Phase 4 of *DPFI* are dismissed as moot.

11. The petition of the CAAA in Docket 34089 is consolidated into Docket 34138 (PHASE II). Docket 34089 is closed.

[1] Notices required to be filed with the Board pursuant to this order shall be sent to the Docket section in Docket 34138 (PHASE II).

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12. This order does not constitute a "major federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 or a "major regulatory action" under the Energy Policy and Conservation Act of 1975 as defined in subsection 313.4(a)(1) of the Board's regulations.

13. We will serve a copy of this order on all certificated and commuter carriers and on the Commuter Airline Association of America, Inc.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[1]
Secretary.

[FR Doc. 79-2511 Filed 1-23-79; 8:45 am]

[1] All Members concurred.

[6320-01-M]

[Docket 33361]

CONNER AIR LINES, INC.

Former Large Irregular Air Service Investigation; Rescheduled Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding previously scheduled to be held on January 30, 1979 (44 FR 2186, January 10, 1979), will, upon request of counsel for applicant, be held instead on February 14, 1979, at 9:30 a.m. (local time), in Hearing Room 1003 C, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before me.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served November 9, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., January 18, 1979.

MARVIN H. MORSE,
Administrative Law Judge.

[FR Doc. 79-2510 Filed 1-23-79; 8:45 am]

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

DUKE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

DOCKET NUMBER: 78-00363. APPLICANT: Duke University, Department of Physics, Durham, N.C. 27706. ARTICLE: PS-400P Coherent Nuclear Magnetic Resonance (NMR) Pulse Spectrometer with one tunable probe head and receiver transmitter. MANUFACTURER: Spin-Tech Electronics Ltd., Canada. INTENDED USE OF ARTICLE: This article is intended to be used for studies on solid hydrogen deuterium and helium-3 which involves investigation of the orientational forces acting on the molecules. The article will also be used by students working for the doctorate in physics.

COMMENTS: No comments have been received with respect to this application. DECISION: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. REASONS: The foreign article is capable of providing measurements in the 20-1000 millikelvin range. The National Bureau of Standards advises in its memorandum dated January 5, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 79-2464 Filed 1-23-79; 8:45 am]

[3510-25-M]

NATIONAL INSTITUTES OF HEALTH ET AL.

Consolidated Decision on Applications for Duty Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

DOCKET NUMBER: 79-00037. APPLICANT: National Institutes of Health NIAMDD/LEP, 9000 Rockville Pike, Building 4, Room 312, Bethesda, Maryland 20014. ARTICLE: Electron Microscope, Model EM 400 HMG with high magnification goniometer and accessories. MANUFACTURER: Philips Electronics Instrument NVD, The Netherlands. INTENDED USE OF ARTICLE: The article is intended to be used in the electron microscope study of intracellular junctions, which provide a barrier to the passage of antigenetically active molecules between cells, and in their chemical characterization, both on intact isolated cells, and in isolated plasma membranes; both in freeze fracture and in negatively stained preparation to learn more about the generation of several immune diseases in man. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 3, 1978.

DOCKET NUMBER: 79-00038. APPLICANT: Biomedical Engineering and Instrumentation Branch DRS, National Institutes of Health, Bldg. 13, Room 3W13, 9000 Rockville Pike, Bethesda, MD 20014. ARTICLE: Electron Microscope, Model H-700 and accessories. MANUFACTURER: Hitachi Ltd., Japan. INTENDED USE OF ARTICLE: The article is intended to be used to analyze the ultrastructure and composition of a wide variety of biological specimens. In addition, the article will be equipped with X-ray and electron energy—less spectrometers, whose data output will assist in the exploration of the structure—function relationships in the tissues examined. ARTICLE ORDERED: June 26, 1978.

DOCKET NUMBER: 79-00040. APPLICANT: Kansas State University, College of Veterinary Medicine, Manhattan, KS 66506. ARTICLE: Electron Microscope, Model H-300 and accessories. MANUFACTURER: Hitachi, Japan. INTENDED USE OF ARTICLE: The article is intended to be used to help elucidate the pathogenesis and pathologic changes in various diseases of domestic animals. The experiments to be conducted will include daily examination of specimens from animals for diagnostic purposes and planned

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experiments arising from diagnostic cases of economic significance. The objectives of the investigations are to develop a better understanding of the structural and functional changes with cells that result in malfunction and disease. In addition, the article will also be used in the courses: Topics in Pathology, Advanced Topics in Pathology and Advanced Diagnostic Pathology to give the pathologists-in-training training in the use of electron microscope and in the recognition of ultrastructural disease processes. ARTICLE ORDERED: May 16, 1978.

DOCKET NUMBER: 79-00042. APPLICANT: East Tennessee State University College of Medicine, P.O. Box 19540A, State University Station, Johnson City, Tennessee 37601. ARTICLE: Electron Microscope, Model EM 201C and Plate Camera with accessories. MANUFACTURER: Philips Electronics Instruments NVD, The Netherlands. INTENDED USE OF ARTICLE: The article is intended to be used for studies of tissues from experimental animals used in a model of experimental endometrial and bladder cancer. The ultrastructure of organelles of target tissue is altered by the administration of chemical carcinogens, sex hormones, and castration. These alterations will be studied. The article will also be used in a Sophomore Pathology course designed to present a comprehensive survey of general and organ system pathology to familiarize the students with medical nomenclature, basic concepts of etiology and pathogenesis and sufficient information about disease states so that they can perform up to their capabilities on the National Board examinations and benefit maximally from their subsequent clinical clerkships. ARTICLE ORDERED: September 28, 1978.

DOCKET NUMBER: 79-00043. APPLICANT: University of Mississippi Medical Center, 2500 North State Street, Jackson, MS 39216. ARTICLE: Electron Microscope, Model EM 10A with Goniometer and accessories. MANUFACTURER: Carl Zeiss, West Germany. INTENDED USE OF ARTICLE: The article will be used in part for a combined ultrastructural, immunocytochemical and biochemical investigation of the role of the large dense core noradrenergic vesicles of the peripheral sympathotic nervous system. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 3, 1978.

DOCKET NUMBER: 79-00045. APPLICANT: University of Oklahoma, Purchasing Office, 660 Parrington Oval, Room 321, Norman, Oklahoma 73019. ARTICLE: Electron Microscope, Model EM 10A and accessories. MANUFACTURER: Carl Zeiss, West Germany. INTENDED USE OF ARTICLE: The article is intended to be used for research programs involving viruses, bacteria, plant and animal tissue and algae. Essentially, all these studies are morphological in nature, i.e. to elucidate ultrastructural morphology. The morphological information being observed will concern the natural state of the specimen. Consequently, any "experiments" will be an attempt to retain the natural state of the specimen. The article will be used primarily in conjunction with the course "Cytology Ultrastructure" with emphasis given to the ultrastructural morphology of cellular organelles and their functional significance. It is a descriptive survey of bacterial, plant, and animal cells. Students will be familiarized with the design and function of both the scanning and transmission electron microscope and the attendant specimen preparation techniques. ARTICLE ORDERED: September 6, 1978.

DOCKET NUMBER: 79-00064. APPLICANT: University of California, San Francisco, 1438 Harbour Way South, P.O. Box 4028, Richmond CA 94804. ARTICLE: Electron Microscope, Model EM 400 and accessories. MANUFACTURERS: Philips Electronics Instruments NVD, The Netherlands. INTENDED USE OF ARTICLE: The article is intended to be used in conducting varied research projects which include the following:

(1) Histological and cytological studies of the development of the pancreas, using ultrastructure to complement their molecular studies.

(2) Studies on the formation of synapses between neurons and target cells to localize particular molecules in synapses using antibody conjugates.

(3) Characterization of purified homogeneity synaptic vesicles and further to use antibodies to synaptic vesticles and to presynaptic neurotoxins in functional studies of the nervous system.

(4) Several studies on chromosomal structure—including studies of the organization of Drosophila polytene chromosomes bands/interbands.

(5) Analysis of biological macromolecules, particularly DNA and RNA, and their interaction with proteins.

(6) Characterization of yeast and mammalian gene DNA isolate by recombinant DNA techniques.

(7) Studies of the mechanisms which mediate the RNA tumor viruses and the factors that control viral gene expression.

In addition, the article will be used for instruction purposes covering all new techniques. ARTICLE ORDERED: November 6, 1978.

DOCKET NUMBER: 79-00066. APPLICANT: Princeton University, P.O. Box 33, Princeton, New Jersey 08540. ARTICLE: Electron Microscope, Model EM 400 HMG and accessories. MANUFACTURER: Philips Electronics Instruments NVD, The Netherlands. INTENDED USE OF ARTICLE: The article is intended to be used for investigation of biological macromolecules (proteins, nucleic acids), cell particulates (chromatin, ribosomes, membranes) viruses, cells with the objective of obtaining knowledge of biomedical value. The article will be used by both pre- and postdoctoral research students in their research work, as well as by faculty. The pre- and postdoctoral students will receive training in the use of the microscope by resident electron microscopist. ARTICLE ORDERED: October 20, 1978.

DOCKET NUMBER: 79-00067. APPLICANT: National Institutes of Health, Bethesda, Maryland 20014. ARTICLE: Electron Microscope, Model EM 400 HMG and accessories. MANUFACTURER: Philips Electronics Instruments NVD, The Netherlands. INTENDED USE OF ARTICLE: The article is intended to be used by electron microscopists looking at synaptic junctions, neural processes and peptide binding sites. The work on the neural connections of the retina involves examination of serial sections in the electron microscope and some of the project will involve examination of Golgi-impregnated tissues or horseradish peroxidase injected cells. The sectioned neurons are followed through at least one hundred sections and frequently montage electron micrographs are taken. ARTICLE ORDERED: September 30, 1978.

DOCKET NUMBER: 79-00032. APPLICANT: Howard University, 415 College Street N.W., Washington, D.C. 20059. ARTICLE: Electron Microscope, Model EM 10 with Coolwell recirculating cooling system and accessories. MANUFACTURER: Carl Zeiss. West Germany. INTENDED USE OF ARTICLE: The article is intended to be used for studies of biological materials related to human diseases, particularly heart disease and stroke and cancer with focus on studies on the molecular and subcellular alteration of organelles. Investigations will be conducted to:

(a) To determine the change in myofibril structure and function in cardiac cells and endothelia in normal and heart diseased animals.

(b) Determine the ultrastructural changes that occur during the transformation of a normal mammary gland cell into a turmor cell.

(c) Localize the sites of protein hormone binding on the plasma membrane of cells in hormone responsive tissues.

(d) Localize sites of tumor specific antigens on cultured cell surfaces.

ARTICLE ORDERED: September 1, 1978.

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COMMENTS: No comments have been received with respect to any of the foregoing applications.

DECISION: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

REASONS: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 79-2463 Filed 1-23-79; 8:45 am]

[3510-25-M]

NORTHWESTERN UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

DOCKET NUMBER: 78-00432. APPLICANT: Northwestern University, Chemistry Department Evanston, Ill. 60201. ARTICLE: Rare Gas Halide Laser Kit and Accessories. MANUFACTURER: Lumonics Research, Canada. INTENDED USE OF ARTICLE: The article is intended to be used to create large quantities of molecular fragments which will be studied with respect to measuring the initial energy distribution of these fragments. This will allow for the testing and formulation of theories of chemical dynamics and the reactivity of excited molecules. In another set of experiments the article will be used as a HF laser to pump energy into overtone vibrations of molecules. The reactivity of these excited molecules will then be studied. In a third set of experiments, the output of this laser will be used in the 300-nm region of the spectrum to pump a dye laser which will then be used to probe excited state molecular fragment energy distributions. The article will also be used in nonlinear optics experiments in which high peak power is very important.

COMMENTS: No comments have been received with respect to this application.

DECISION: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. REASONS: The foreign article provides a high power level (6 millijoules for nitrogen), a short pulse (5 nanoseconds for nitrogen) and operation using several gases (N_2, KrF, ArF, Xef etc.). The National Bureau of Standards advises in its memorandum dated December 13, 1978 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 79-2465 Filed 1-23-79; 8:45 am]

[3510-25-M]

UNIVERSITY OF ALABAMA

Withdrawal of Application for Duty Free Entry of Scientific Article

The University of Alabama in Birmingham has withdrawn its application (Docket Number 78-00391) for duty-free entry of a Model LKB 8800A Ultramicrotome.

Accordingly, further administrative proceedings will not be taken by the Department of Commerce with respect to this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.).

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 79-2461 Filed 1-23-79; 8:45 am]

[3510-25-M]

UNIVERSITY OF RHODE ISLAND, ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building at 14th and Constitution Avenue N.W., Washington, D.C. 20230.

DECISION: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

REASONS: Subsection 301.8 of the Regulations provides in pertinent part:

> The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90-day period.
>
> . . . If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of Subsection 301.11." [Emphasis added]

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another appli-

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cation for the same article to which the denial without prejudice relates within the 20-day period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Subsection 301.8 further provides:

. . . the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission, to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

DOCKET NUMBER: 78-00052. APPLICANT: University of Rhode Island, Graduate School of Oceanography, Kingston, R.I. 02881. ARTICLE: VG Micromass 30B Surface Ionization Mass Spectrometer and accessories. DATE OF DENIAL WITHOUT PREJUDICE TO RESUBMISSION: May 12, 1978. DOCKET NUMBER: 78-00099. APPLICANT: Case Western Reserve University, Department of Macromolecular Science, University Circle, Cleveland, Ohio 44106. ARTICLE: Chart Recorder, Model TE 200/2 and Accessories. DATE OF DENIAL WITHOUT PREJUDICE TO RESUBMISSION: August 24, 1978.

DOCKET NUMBER: 78-00137. APPLICANT: University of South Alabama—College of Medicine, Electron Microscopy Suite, Room 1206, Medical Sciences Building, 307 University Blvd., Mobile, Alabama 36688. ARTICLE: LKB 8800A Ultrotome III Ultramicrotome and Accessories. DATE OF DENIAL WITHOUT PREJUDICE TO RESUBMISSION: June 8, 1978.

DOCKET NUMBER: 78-00145. APPLICANT: University of Wisconsin, Nuclear Engineering Department, 1500 Johnson Drive, Madison, Wisconsin 53706. ARTICLE: Microwave Reflex Klystron. DATE OF DENIAL WITHOUT PREJUDICE TO RESUBMISSION: June 16, 1978.

DOCKET NUMBER: 78-00153. APPLICANT: Northwestern University, 633 Clark Street, Evanston, Illinois 60201. ARTICLE: Dual Channel Transient Recorder Model DL 922 and Accessories. DATE OF DENIAL WITHOUT PREJUDICE TO RESUBMISSION: August 30, 1978.

DOCKET NUMBER: 78-00179. APPLICANT: National Aeronautics and Space Administration, Headquarters, Contracts Division, Code HWE-2, Washington, D.C. 20546. ARTICLE: Eighteen (18) Ultrasonic Flowmeter Transducers and Accessories. DATE OF DENIAL WITHOUT PREJUDICE TO RESUBMISSION: August 30, 1978.

DOCKET NUMBER: 78-00180. APPLICANT: Albert Einstein College of Medicine of Yeshiva University, Dept. of Molecular Pharmacology, 1300 Morris Park Ave., Bronx, New York 10461. ARTICLE: Laminar Flow Cage Rack. DATE OF DENIAL WITHOUT PREJUDICE TO RESUBMISSION: August 24, 1978.

DOCKET NUMBER: 78-00191. APPLICANT: Washington State University, Division of Purchasing, Pullman, WA 99164. ARTICLE: Particle Electrophoresis Apparatus, Mark II and Accessories. DATE OF DENIAL WITHOUT PREJUDICE TO RESUBMISSION: August 24, 1978.

DOCKET NUMBER: 78-00194. APPLICANT: Harvard Medical School, VA Hospital, 1400 VFW Pkwy., West Roxbury, MA 02132. ARTICLE: LKB 8800A Ultrotome III Ultramicrotome and Accessories. DATE OF DENIAL WITHOUT PREJUDICE TO RESUBMISSION: August 24, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 79-2462 Filed 1-23-79; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL GROUNDFISH ADVISORY SUBPANEL

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council was established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Council has established an Advisory Subpanel on Groundfish. This subpanel will meet to review a draft fishery management plan.

DATES: The meeting will convene on Wednesday, February 21, 1979, at 9:30 a.m. and adjourn at 4:00 p.m. This meeting is open to the public.

ADDRESS: The meeting will take place in the Aviation Board Room at the New Orleans International Airport, Kenner, Louisiana.

FOR FURTHER INFORMATION CONTACT:

Wayne Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228-2815.

Dated: January 19, 1979.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

[FR Doc. 79-2421 Filed 1-23-79; 8:45 am]

[3510-22-M]

MARINE FISHERIES ADVISORY COMMITTEE

Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix I, notice is hereby given of a Subcommittee meeting of the Marine Fisheries Advisory Committee. The meeting will be held on Thursday, February 8, 1979, in Room 401, Page Building No. 2, 3300 Whitehaven Street, NW., Washington, D.C., starting at 9:00 a.m. and ending at approximately 4:00 p.m.

The purpose of the Subcommittee is to look at the current requirements for mandatory safety inspection of commercial fishing vessels and the potential for bringing the uninspected vessels under mandatory safety requirements; to evaluate the requirements to build U.S. fishing vessels solely in U.S. shipyards and the impacts that changes would have on industries associated with fishing and shipbuilding.

The Subcommittee meeting is open to the public and there will be seating for approximately 25 members of the public available on a first come, first served basis. Questions concerning the meeting may be directed to:

Ms. Phyllis Bentz, Marine Fisheries Advisory Committee, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: Area Code 202-634-7355.

Interested members of the public who wish to submit written comments should do so at the address noted above. Written statements should be received within 10 days after the close of the Subcommittee meeting.

Dated: January 19, 1979.

JACK W. GEHRINGER,
Deputy Assistant Administrator for Fisheries.

[FR Doc. 79-2420 Filed 1-23-79; 8:45 am]

[3510-22-M]

ULF SVENSSON

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Mr. Ulf Svensson, Kolmardens Djurpark.

b. Address: S-610 23 Kolmardens, Sweden.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Atlantic Bottlenose dolphins (*Tursiops truncatus*), 3.

4. Type of Take: To capture and maintain permanently in a facility.

5. Location of Activity: Rockport, Texas.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before February 23, 1979. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicants and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11614, March 12, 1975). In this regard, the application:

(a) Was submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the National Board of Agriculture, Sweden, that agency being responsible, among other things, for ensuring the suitable care of animals in captivity:

(b) Includes:

i. A verification from the Division of Contagious Animal Diseases of the information set forth in the application;

ii. A certification from the Division of Contagious Animal Diseases that the Board is prepared to monitor compliance with the terms and conditions of the permit, and will do so, if and when necessary; and

iii. A statement that the Board will have no objection to a NMFS decision to amend, suspend, or revoke a permit.

In accordance with the above cited policy, the certification and statements of the National Board Agriculture, Sweden, have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: January 18, 1979.

WILLIAM ARON,
Director, Office of Marine Mammals/Endangered Species, National Marine Fisheries Service.

[FR Doc. 79-2427 Filed 1-23-79; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

REPUBLIC OF SOUTH AFRICA

Import Restraint Level for Certain Man-Made Fiber Yarn, Correction

On December 28, 1978, there was published in the FEDERAL REGISTER (43 FR 60635) a letter dated December 21, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs establishing an import restraint level for man-made fiber yarn in Category 604 (only T.S.U.S.A. 310.5049) of 1,866,000 pounds during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. The name of the country concerned should have read, "Republic" of South Africa, instead of "Union" of South Africa.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-2459 Filed 1-23-79; 8:45 am]

[6820-33-M]

COMMITTEE FOR PURCHASE FROM BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1979

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1979 a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: January 24, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On July 28, 1978 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (43 FR 32851) of proposed addition to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodity is hereby added to Procurement List 1979:

CLASS 6510

Bandage, Muslin, Compressed, Camouflaged
6510-00-201-1755.

E. R. ALLEY, JR.,
Acting Executive Director.

[FR Doc. 79-2439 Filed 1-23-79; 8:45 am]

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[3810-70-M]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE ADVISORY COMMITTEE ON WOMEN IN THE SERVICES (DACOWITS)

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 9 a.m. to 4 p.m., February 13, 1979, at the Pentagon, OSD Conference Room, 1E801 No. 3. Meeting sessions will be open to the public.

This meeting has been called by the Chairperson without the normal 30 day prior notification requirement to discuss the plans and agenda for the semiannual meeting which will be held three weeks earlier (April 1-5, 1979) than previously scheduled. This constitutes the normal Executive Committee Meeting held during February or March preparatory to the formal DACOWITS Spring Meeting.

Persons desiring to make oral presentations or submit written statements for consideration at the Executive Committee Meeting must contact Lt. Col. Barbara J. Roy, Executive Secretary, DACOWITS, OASD (Manpower, Reserve Affairs and Logistics), Room 3D322, the Pentagon, Washington, D.C. 20301, telephone 202-697-5655 no later than February 12, 1979.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

JANUARY 19, 1979.

[FR Doc. 79-2466 Filed 1-23-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

NATIONAL PETROLEUM COUNCIL, TASK GROUP OF THE COMMITTEE ON MATERIALS AND MANPOWER REQUIREMENTS

Meeting

Notice is hereby given that two task groups of the Committee on Materials and Manpower Requirements will meet in February 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Materials and Manpower Requirements will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The two task groups scheduling meetings are the Task Group on Drilling Equipment and the Task Group on Well Servicing. The time, location and agenda of each task group meeting follows:

The first meeting of the Drilling Equipment Task Group will be on Friday, February 2, 1979, starting at 8:00 a.m. on the 9th Floor of the Armco Building, 1455 West Loop South, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of scope of the NPC study on Materials and Manpower Requirements.
3. Discussion of the study methodology to be employed by the Drilling Equipment Task Group.
4. Discussion of the timetable of the Drilling Equipment Task Group.
5. Discussion of any other matters pertinent to the overall assignment of the Drilling Equipment Task Group.

The second meeting of the Well Servicing Task Group will be on Monday, February 12, 1979, starting at 9:00 a.m. in the Board Room of Well-Tech, Inc., 700 Rusk Avenue, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of the study methodology to be employed by the Well Servicing Task Group and review of assignments.
3. Discussion of the timetable of the Well Servicing Task Group.
4. Discussion of any other matters pertinent to the overall assignment of the Well Servicing Task Group.

The meetings are open to the public. The chairman of each task group is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with either task group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202-633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meetings will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 16, 1979.

GEORGE S. MCISAAC,
Assistant Secretary for Resource Applications.

JANUARY 16, 1979.

[FR Doc. 79-2380 Filed 1-23-79; 8:45 am]

[6450-01-M]

Bonneville Power Administration

[DOE/EIS-0005-DS-2]

PROPOSED FISCAL YEAR 1979 PROGRAM

Availability of Draft Facility Planning Supplement

Notice is hereby given that the Bonneville Power Administration (BPA), Department of Energy (DOE), has issued a draft facility planning supplement to BPA's Final Fiscal Year 1979 Proposed Program Environmental Statement. This Draft Facility Planning Supplement is issued pursuant to DOE's implementation of the National Environmental Policy Act of 1969. Entitled "Southwest Oregon Area Service," this supplement assesses the environmental impacts of two electrical plans of service to provide power to southwestern Oregon and to reinforce the Pacific Northwest power grid.

Copies of the Southwest Oregon Area Service Draft Facility Planning Supplement are available for public inspection at designated Federal depositories (for locations, contact the Environmental Manager, BPA, P.O. Box 3621, Portland, OR 97208) and at DOE public document rooms located at:

FOI Public Reading Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C.
BPA, Washington, D.C., Office, Forrestal Building, 1000 Independence Avenue, S.W. (Room GA-176), Washington, D.C.
Library, BPA Headquarters, 1002 N.E. Holladay Street, Portland, OR.

And in the following BPA Area and District Offices:

Eugene District Office, U.S. Federal Building, 211 East 7th Street, Room 206, Eugene, OR.
Idaho Falls District Office, 531 Lomax Street, Idaho Falls, ID.
Kalispell District Office, Highway 2 (East of Kalispell), Kalispell, MT.
Portland Area Office, Lloyd Plaza Building, 919 N.E. 19th Avenue, Room 210, Portland, OR.
Seattle Area Office, 415 First Avenue North, Room 250, Seattle, WA.
Spokane Area Office, U.S. Court House, Room 561, W. 920 Riverside Avenue, Spokane, WA.
Walla Walla Area Office, West 101 Poplar, Walla Walla, WA.

Wenatchee District Office, U.S. Federal Building, Room 314, 301 Yakima Street, Wenatchee, WA.

This document is being furnished to various Federal, State, and local agencies with environmental expertise, or which are otherwise likely to be interested in, or affected by, the proposal. Copies of the document are also being furnished to State and local clearinghouses and to other interested groups and individuals.

A limited number of single copies are available for distribution by contacting the Environmental Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208; the BPA Area and District Offices mentioned above.

Dated at Portland, Oregon this 8th day of December 1978.

STERLING MUNRO,
Administrator.

[FR Doc. 79-2435 Filed 1-23-79; 8:45 am]

[6450-01-M]

Federal Energy Regulatory Commission

[Docket Nos. IS79-4, FS79-1 and FS79-2]

WILLIAMS PIPE LINE CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Instituting Section 4 Investigation, Consolidating Proceedings, Establishing Procedures and Certifying Matter to the Commission

JANUARY 18, 1979.

On November 30, 1978, Williams Pipe Line Company (WPL) filed in Docket No. IS79-4 supplemental tariff sheets [1] incorporating increased rates for the transportation of crude petroleum and various petroleum products. WPL proposes an effective date of January 19, 1979.[2]

Concurrently with its general rate increase filing WPL filed two applications for relief under Section 4 of the Interstate Commerce Act (I.C.A.). The first of these applications, designated "Fourth Section Application No. 11," was assigned Docket No. FS79-1 and pertains to certain transportation services performed under WPL's F.E.R.C. Tariff Nos. 5, 8, and 10. The second application, designated "Fourth Section Application No. 12," was assigned Docket No. FS79-2 and pertains to certain transportation services performed by WPL under F.E.R.C. Tariff No. 9. If granted, the applications would allow WPL to charge lower rates for specified long-haul transportation services than for short-haul service on the same lines. WPL claims that the Section 4 relief requested by its two applications is supplementary to relief granted by the I.C.C. in Fourteenth Supplemental Fourth Section Order 20281, dated September 23, 1977, and Second Supplemental Fourth Section Order No. 20500, dated September 29, 1977.[3]

On December 20, 1978, "Mid-Continent Petroleum Products Shippers" (Mid-Continent), a group of five petroleum shippers which transport petroleum products via WPL's facilities, filed a complaint in Docket No. IS79-4 seeking suspension of WPL's proposed rate increase. Mid-Continent's complaint was supplemented by filing of January 8, 1979, and WPL filed a reply on January 10, 1979.

For the reasons stated below, the Board shall (1) suspend WPL's proposed tariff sheets until August 1, 1979, (2) institute an investigation under Section 4 of the Interstate Commerce Act, (3) consolidate all three dockets for purposes of hearing and decision and (4) prescribe hearing procedures for the consolidated proceeding. In addition, the Board shall certify to the Commission (in accordance with 18 CFR Part 3.5(e)(9)) the question of whether this consolidated proceeding should also be consolidated with pending rate proceedings involving WPL.

WPL owns and operates an 8,500 mile pipeline system serving 12 midwestern states. The company operates 33 distribution terminals, all of which have truck-loading facilities, 13 of which are equipped to handle railroad tank cars. The system is also connected to ten pipelines, 52 shipper-owned facilities and five refineries. Transportation services are provided for a broad range of products including gasolines, fuel oils, kerosene, diesel fuels, jet fuels, liquefied petroleum gases, aqueous fertilizer solutions, crude oils, blending stocks and other semi-refined products. According to WPL approximately 70 shippers use the system on a continuing basis. In 1977, system throughput averaged 522,000 barrels per day.

WPL claims that its increased rates will result in a 3.79 percent increase in revenue per barrel in the third quarter of 1979 and, therefore, that the increase meets Presidential price guidelines and falls below the level at which the Board has indicated, as a matter of policy, it will suspend proposed rates. WPL cites increases in the cost of its purchased power, labor, materials, and services as support for its increase. It is estimated by WPL that total 1978 operating expenses increased by 21.6 percent over 1977 levels. On a per-barrel basis expenses have increased by an estimated 15.4 percent. WPL projects that is will earn an 8.86 percent return on valuation in 1979 if the proposed rate increase is allowed to become effective as requested.

Mid-Continent's complaint, as supplemented, protests the WPL increase on three principal grounds. First, it contends that WPL's rates reflect excessive depreciation charges. WPL, it is asserted, amortizes the pipeline assets which it purchased from Great Lakes Pipe Line Company on the basis of WPL's "fair-market" value purchase price ($287.6 million) rather than on the basis of the property's original cost to Great Lakes ($174.8 million). Second, Mid-Continent argues that WPL's historical earnings have been excessive. The protestors claim that WPL earned a 16.1 percent before tax return on average net investment in 1977. Finally, Mid-Continent charges that WPL's filing will increase rates applicable to its shipments by an average of 8.5 percent while increasing joint rates [4] from Gulf coast origins by an average rate of only 4.3 percent. This disparity in percentage increase, it is said, constitutes undue preference and prejudice violative of Section 3(1) of the I.C.A. The protestors point out that both their depreciation and discrimination claims were, in part, the subject of the *Farmers Union* [5] case and *Williams Pipe Line Co.*, I.C.C. Docket No. I&S 9089.

WPL in its January 10, 1979, reply responds to all of Mid-Continent's contentions. WPL points out that the depreciation and discrimination issues raised by Mid-Continent are before the F.E.R.C. on remand from the D.C. Circuit Court of Appeal's opinion in *Farmers Union*. WPL argues that it would be premature to decide those issues in a suspension order: The proper forum is in the remand of *Farmers Union* and not here. Contrary to Mid-Continent's assertion that WPL earnings have been excessive,

[1] Supplement 18 to WPL F.E.R.C. No. 5; Supplement 17 to WPL F.E.R.C. No. 6; Supplement 12 to WPL F.E.R.C. No. 8; Supplement 6 to WPL F.E.R.C. No. 9; Supplement 15 to WPL F.E.R.C. No. 10; Supplement 6 to WPL F.E.R.C. No. 11; Supplement 15 to WPL F.E.R.C. No. 12; Supplement 4 to WPL F.E.R.C. No. 13; Supplement 4 to F.E.R.C. No. 14; and Supplement 4 to WPL F.E.R.C. No. 15.

[2] Postponement supplement filed December 22, 1978, delayed the effective date from the originally proposed date of January 1, 1979.

[3] Both I.C.C. orders require, however, that WPL not increase applicable rates unless new Commission authorization is obtained.

[4] The rates complained of consist of through rates filed jointly by Explorer Pipeline and WPL and are published as F.E.R.C. No. 12.

[5] *Farmers Union Central Exchange, et al., v. F.E.R.C.*, 584 F. 2d 408 (D.C. Cir. 1978) *reh. denied* July 25, 1978, *cert. denied* U.S. (No. 78-352, Nov. 27, 1978), *Farmers Union* is now before the Commission on remand from the D.C. Circuit Court of Appeals and has been assigned Docket No. OR79-1

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the pipeline stresses that it projects for 1979 only a 7.7 percent return on valuation absent the rate relief requested.

Having reviewed the pleadings of Mid-Continent and WPL, the Board finds that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, prejudicial or otherwise unlawful. Accordingly, the Board shall suspend WPL's rate increase until August 1, 1979, and permit it to become effective, subject to refund, on that date.

The unique circumstances arising in this case fully justify a suspension period until August 1, 1979. In particular, the Board is concerned that WPL's proposed rates may grant an undue preference to shippers of products originating in Gulf coast areas resulting in undue prejudice to Mid-Continent shippers and others similarly situated. Without addressing the merits of the shippers' or WPL's contentions on this point, the Board finds that the *potential* for harm to the complaining shippers supports the length of the suspension period provided for by this order.

With respect to WPL's section 4 applications, the Board finds that the suspension of WPL's general rate increase request makes it inappropriate to grant these applications at this time. The Board shall institute an investigation to determine whether circumstances continue to exist which require departure from the long- and short-haul restriction of section 4 of the I.C.A. Because the section 4 investigation involves questions common to WPL's general rate increase request, the Board shall consolidate Docket Nos. IS79-4, FS79-1 and FS79-2 for purpose of hearing and decision.

The Board takes notice of the fact that the filings in Docket Nos. IS79-4, FS79-1 and FS79-2 represent the most recent of a series of WPL rate cases now before the Federal Energy Regulatory Commission. Other pending cases include the remand of *Farmers Union, supra,* and I.C.C. Docket Nos. I & S 9089, 36423 and 36520.

Because the proceeding instituted by this order involves questions of law and fact common to other penidng WPL cases, the Board believes that it should be consolidated for purposes of hearing and decision with the *Farmers Union* remand, as well as other WPL rate cases. The authority to consolidate this proceeding with pre-existing WPL cases, however, resides in the full Commission. The Board, therefore, shall certify this matter (together with the record thus far developed in these dockets) to the Commission and, as part of this order, shall request the Commission to consolidate this proceeding with one or more of WPL's pending rate cases. Except as may be modified by any consolidation orders which may eventually be entered by the Commission in the proceeding, the schedule established in the ordering paragraphs, below, shall control the conduct of hearings in this case.

The Board orders: (A) Pursuant to Section 15(7) of the I.C.A. an investigation shall be instituted into the lawfulness of the proposed rate increases reflected in the supplemental tariff sheets filed by WPL on November 30, 1978. Pending hearing and decision on the lawfulness of WPL's proposed rates, the supplemental tariff sheets filed November 30, 1978, shall be accepted for filing and suspended until August 1, 1979, when they shall be permitted to become effective subject to refund.

(B) Pursuant to Section 15(7) of the I.C.A. a public hearing shall be held in Docket No. IS79-4 concerning the lawfulness of WPL's proposed rates.

(C) An investigation and public hearing shall be held in Docket Nos. FS79-1 and FS79-2 to determine whether WPL is entitled to relief from the long- and short-haul restriction of section 4 of the I.C.A.

(D) The hearings and investigations instituted in Docket Nos. IS79-4, FS79-1 and FS79-2 shall be consolidated for purposes of hearing and decision.

(E) WPL shall file its case-in-chief fully justifying the proposed general rate increase and section 4 applications on or before April 2, 1979. WPL's case-in-chief shall contain a schedule setting forth net original cost investment, with details. WPL may propose an appropriate working capital allowance to be included in rate base and may propose a rate of return to be applied to this rate base.

(F) Staff shall serve its top sheets on or before June 29, 1979.

(G) A Presiding Administrative Law Judge, to be designated by the Chief Administative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding on July 17, 1979, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss) as provided for in the rules of practice and procedure.

(H) If WPL's proposed rate increase becomes effective, subject to refund, after the suspension period but prior to final Commission decision upon the lawfulness of such increase, WPL shall keep an accurate account of all amounts received by reason of such increase, specifying when, by whom, and in whose behalf such amounts are paid. The account shall be in sufficient detail so that refunds, with interest, can be ordered of any portion of the increased rates ultimatley found unjustified.

(I) If WPL's proposed increase becomes effective, subject to refund, after the suspension period but prior to final Commission decision on the lawfulness of the increase, WPL shall file an undertaking with the Board in a form and manner substantially similar to the undertaking required of gas pipleline companies under § 154.67(d) of the Commission's regulations under the Natural Gas Act (18 CFR 154.67(d)).

(J) Pursuant to 18 CFR Part 3.5(e)(9) the Board by this order certifies to the full Commission the following matter: Should the proceedings in these dockets be consolidated with one or more of the proceedings pending before the Commission involving WPL? For the sole purpose of assisting the Commission in its determination, the Board concurrently certifies the pleadings and applications filed to date in this proceeding.

By the Oil Pipleine Board.

LEON J. SLAVIN,
Administrative Officer
Oil Pipeline Board.

[FR Doc. 79-2382 Filed 1-23-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1044-3; OPP-50398]

ISSUANCE OF EXPERIMENTAL USE PERMITS

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 10182-EUP-13. ICI Americas Inc., Wilmington, Delaware 19897. This experimental use permit allows the use of the acaracide fentrifanil on almonds, apples, grapefruit, oranges, and pears to evaluate control of certain mites. The experimental use permit is effective from January 4, 1979 to January 4, 1980. (PM-12, Room: E-229, Telephone: 202/426-9425)

No. 10182-EUP-14. ICI Americas Inc., Wilmington, Delaware 19897. This experimental use permit and the one above allow the use of a total of 1,700 pounds of the acaracide fentrifanil on almonds, apples, grapefruit, oranges, and pears to evaluate control of certain mites. A total of 820 acres is involved for both permits; the programs are authorized only in the States of Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Iowa, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, North Carolina, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, Virginia, Washington, Wisconsin, and West Virginia. This experimental use permit is also effective from January 4, 1979 to January 4, 1980. The permits will use the same active ingredient, but different formulations. These permits are being issued with the limitation that all treated crops are destroyed or used for research purposes only. (PM-12, Room: E-229, Telephone: 202/426-9425)

No. 3125-EUP-161. Mobay Chemical Corp., Kansas City, Missouri 64120. This experimental use permit allows the use of 2,000 pounds of the insecticide fensulfothion on turf to evaluate control of Japanese beetle larvae. A total of 800 acres is involved; the program is authorized only in the State of New Jersey. The experimental use permit is effective from March 1, 1979 to March 1, 1980. (PM-15, Room: E-229, telephone: 202/426-9425)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)

Dated: January 19, 1979.

HERBERT S. HARRISON,
Acting Director,
Registration Division.

[FR Doc. 79-2561 Filed 1-23-79; 8:45 am]

[6560-01-M]

[FRL 1044-2; OPP-30158]

PESTICIDE PROGRAMS

Receipt of Application to Register Pesticide Product Containing New Active Ingredients

Abbott Laboratories, North Chicago, IL 60064, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product PROMALIN (EPA File Symbol 275-GE), containing the active ingredients *N*-(phenylmethl)-*IH*-purine-6-amine at 1.8% (w/w) and Gibberellins A.A. at 1.8% (w/w) which have not been included in any previously registered pesticide product. The application proposes that the pesticide be classified for general use as a plant regulator on Red Delicious apples. This application is made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amend in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFE Part 162).

Notice of receipt of this application does not indicate a decision by the Agency on the application. Interested persons are invited to submit written comments on this application to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St., SW, Washington DC 20460. The comments must be received on or before February 23, 1979, and should bear a notation indicating the EPA File Symbol "275-GE". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application and the data submitted should be directed to Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, at the above address or by telephone at 202/755-2196. The label furnished by Abbott Laboratories, as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Notice of approval or denial of this application to register PROMALIN will be announced in the FEDERAL REGISTER. Except for such material protected by section 10 of FIFRA, the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: January 17, 1979.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 79-2562 Filed 1-23-79; 8:45 am]

[6720-01-M]

FEDERAL HOME LOAN BANK BOARD

CHARTERING AUTHORITY FOR MUTUAL SAVINGS BANKS

Informal Public Hearings and Solicitation of Written Views and Comments

As previously announced (see 43 FR 60999 (1978)), the Federal Home Loan Bank Board has scheduled hearings on its chartering authority for mutual savings banks for January 26, 1979. The record of these proceedings will be held open for fourteen days, or until the close of business on February 9, 1979, so that all interested parties might submit in writing any further views and comments on the above referenced matter.

All submissions, which will be deemed filed when received, should be directed to Loren J. Friesen, Attorney, Office of the General Counsel, 1700 G Street, N.W., Washington, D.C., 20552; phone: (202) 377-6454.

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc. 79-2456 Filed 1-23-79; 8:45 am]

[6325-01-M]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

CANCELLATION OF MEETING

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463) notice was published in 43 FR 245 of December 20, 1978, that a meeting of the Federal Prevailing Rate Advisory Committee would be held on January 25, 1979. Notice is hereby given that the meeting scheduled for January 25, 1979, has been cancelled.

JEROME H. ROSS,
Chairman, Federal Prevailing
Rate Advisory Committee.

JANUARY 22, 1979.

[FR Doc. 79-2649 Filed 1-23-79; 8:45 am]

[6820-23-M]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 3, on February 8 and 9, 1979, from 9:30 a.m. to 4:15 p.m., in Room 2636 of the GSA Regional Office Building, Seventh and D Streets, SW, Washington, DC. The meeting will be devoted to the initial stage of the process for screening and evaluating prospective architect-engineer firms to furnish professional services required in connection with development of Design Services for the following projects: (1) Renovate and Upgrade Air-Conditioning, Sub and Plumbing Support Systems, National Archives Building, 7th Street and Pennsylvania Avenue, N.W., Washington, D.C., (GS-03B-88318/89055) and (2) Switchgear House No. 2 and Upgrade of 13.2KV System, Suitland Complex, Suitland,

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Maryland, (GS-03B-78278/89007). The meeting will be open to the public.

WALTER V. KALLAUR,
Regional Administrator.

[FR Doc. 79-2627 Filed 1-23-79; 8:45 am]

[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Health Care Financing Administration

MEDICAL ASSISTANCE PROGRAM

Proposed List of Medicaid Laboratory Tests Subject to Lowest Charge Level

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice with Comment Period.

SUMMARY: This is a proposed list of laboratory tests commonly paid for by Medicaid, but not Medicare, which would be subject to the Medicaid lowest charge level regulation. This proposed list is the first step in implementing that portion of the Medicaid lowest charge level regulation dealing with Medicaid-only items and services (42 CFR 447.351(c)).

DATES: Closing date for receipt of comments: March 26, 1979.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013. In commenting, please refer to file code MMB-249-N. Agencies and organizations are requested to submit comments in duplicate.

Beginning two weeks from today, the public may review the comments Monday through Friday of each week, from 8:30 a.m. to 5:00 p.m.: Department of Health, Education, and Welfare, Health Care Financing Administration, Room 5231, 330 C Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Estelle Seldowitz, 202-245-0596.

SUPPLEMENTARY INFORMATION: Section 1903(i)(1) of the Social Security Act (the Act) provides that federal financial participation shall not be available in medicaid payments that exceed the charge which is reasonable under section 1842(b)(3) of the Act. Section 1842(b)(3) provides that for medical services, supplies, and equipment (including equipment servicing) which the Secretary determines do not generally vary significantly in quality from one supplier to another, the charges allowed under Medicare may not exceed the lowest charge levels at which such items and services are widely and consistently available in a locality.

Medicaid regulations (42 CFR 447.351, 352) implementing section 1903(i)(1) and Medicare regulations (42 CFR 405.502, 405.506, and 405.511) implementing section 1842(b)(3) were published in the FEDERAL REGISTER on July 26, 1978 (43 FR 32294). Since we want to maintain consistent reimbursement policy for Medicare and Medicaid, the Medicaid regulation (42 CFR 447.351(c)) provides for the establishment of lowest charge levels for items and services that are frequently furnished under Medicaid but not Medicare. For these items and services, the State Medicaid agency, or its fiscal agent, will calculate the lowest charge level using the methodology set forth in the medicare lowest charge level regulation (42 CFR 405.511).

To implement section 1903(i)(1) of the Act and 42 CFR 447.351(c), we propose to apply lowest charge level criteria to certain laboratory services that appear to be among the most frequently furnished to Medicaid recipients and reimbursed under State Medicaid programs.

The proposed list of services that follows is the first step in implementing lowest charge levels for Medicaid-only items and services. As more data are gathered and analyzed, lowest charge level criteria will be applied to other items and services that are frequently provided under Medicaid, but not Medicare, and which do not vary significantly in quality among the providers who actually furnish them. As more items and services (including equipment servicing) are proposed for application of the lowest charge level provision, notices will be published in the FEDERAL REGISTER, giving the public opportunity to comment.

Proposed List of Commonly Performed Medicaid Laboratory Tests Subject to Lowest Charge Level Criteria (with identifying codes as listed in the 1964 edition of the California Relative Value Studies):

(1) Sickling of Red Blood Cells (8123)
(2) Hemoglobin; Electrophoresis (8119)
(3) Microscopic Examination, Stain for Bacteria (including Smear for Gonococcus), Fungi, Ova and Parasites, Any Source (8471)
(4) Heterophil Antibodies, Screening (8685)
(5) Lead, Blood, Quantitative (8895)
(6) Iron, Serum, Automated (8686)
(7) Pregnancy Test (8143)

(Section 1102, 1842(b)(3) and 1903(i)(1) of the Social Security Act (42 U.S.C. 1302, 1395u(b)(3) and 1396b(i)(1)).)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Dated: December 8, 1978.

LEONARD D. SCHAEFFER,
Administrator, Health Care Financing Administration.

Approved: January 6, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 79-2251 Filed 1-23-79; 8:45 am]

[4110-83-M]

Health Resources Administration

AGENDA PLANNING SUBCOMMITTEE OF THE NATIONAL COUNCIL ON HEALTH PLANNING AND DEVELOPMENT

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of February 1979:

Name: AGENDA PLANNING SUBCOMMITTEE OF THE NATIONAL COUNCIL ON HEALTH PLANNING AND DEVELOPMENT
Date and Time: February 8, 1979, 10:30 a.m.—12:30 p.m.
Place: Hubert H. Humphrey Building, Rooms 703A-705, 200 Independence Avenue, S.W., Washington, D.C. 20201. Open for entire meeting.

Purpose. The objectives of the Agenda Planning Subcommittee are to (1) assist the Chairperson in planning the order and timing of agenda topics for full Council consideration and action to assure that the Secretary will receive advice and/or recommendations on each of its three areas of functional responsibilities under section 1503(a) in an appropriate time and manner; (2) coordinate information about and among subcommittee activities and plans; and (3) provide preliminary review of proposed changes in Council operations.

Agenda. The Subcommittee will plan the agenda for the March 9 meeting of the National Council on Health Planning and Development.

Anyone requiring information regarding the subject Subcommittee should contact Mrs. S. Judy Silsbee, Executive Secretary, National Council on Health Planning and Development, Room 10-27, Center Building, 3700 East-West Highway, Hyattsville, Maryland, 20782. Telephone (301) 436-7175.

Agenda items are subject to change as priorities dictate.

Dated: January 19, 1979.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 79-2455 Filed 1-23-79; 8:45 am]

[4110-84-M]

Health Services Administration

MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES PROJECT GRANTS TO INSTITUTIONS OF HIGHER LEARNING

Announcement of Availability of Grants

The Bureau of Community Health Services, Health Services Administration, announces that competitive applications are now being accepted for grants in fiscal year 1979 for specialized training in maternal and child health of several categories of health professionals. The grants are offered under the authority of sections 503(2), 504(2), and 511 of the Social Security Act (42 U.S.C. 703(2), 704(2), and 711) which authorize the Secretary of Health, Education, and Welfare to make grants to institutions of higher learning for that purpose. Regulations for the program appear at 42 CFR Part 51a, Subpart D.

"Institution of higher learning" is defined as any college or university accredited by a recognized body or bodies approved for such purpose by the U.S. Commissioner of Education, and any teaching hospital which has higher learning among its purposes and functions and which has a formal affiliation with an accredited school of medicine and a full time academic medical staff holding faculty status in such school of medicine.

Grants to eligible applicants may be made by the Secretary for projects which will best promote the purposes of sections 503, 504, and 511 of the Act, taking into account:

1. The relative extent to which the project will contribute to a nationwide distribution of needed services and training with special emphasis on how the applicant will place graduates in State and local health departments and the extent to which the applicant has been successful in recruiting trainees or fellows from minority groups.

2. The capability of the applicant to provide training of high quality and effectiveness.

3. The relative extent to which the project will provide more effective utilization of personnel currently providing health services to mothers and children.

4. The extent to which the project will assist in the development of new information or innovative methods relating to the provision of maternal and child health and crippled children's services.

5. The degree to which the project would meet the requirements as set forth in the regulations (See 42 CFR Part 51a. 405).

A document regarding intended disbursement of funds is available to applicants from: Health Services Training, Bureau of Community Health Services, Health Services Administration, Parklawn Building, Room 7-15, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: 301-443-2340.

Consultation and technical assistance relative to the development of an application is also available upon request to that address.

Completed applications must be received by March 16, 1979, and will be subject to competitive, objective review. They should be sent to: Grants Management Branch, Bureau of Community Health Services, Health Services Administration, Parklawn Building, Room 6-49, 5600 Fishers Lane, Rockville, Maryland 20857.

The amount available for new maternal and child health training grants under this announcement is $4,750,000. Approximately 25 grants will be awarded.

Dated: January 12, 1979.

GEORGE I. LYTHCOTT,
Administrator, Health Services Administration.

[FR Doc. 79-2354 Filed 1-23-79; 8:45 am]

[4110-84-M]

SUDDEN INFANT DEATH SYNDROME PROGRAM

Announcement of Competitive Grant Applications

The Bureau of Community Health Services (BCHS), Health Services Administration, announces that competitive applications for Sudden Infant Death Syndrome (SIDS) Information and Counseling project grants will be accepted until April 16, 1979, under the grant program established by Section 1121(b) of the Public Health Service Act (42 U.S.C. 300c-11, as added by Section 3(a) of the Sudden Infant Death Syndrome Act of 1974, P.L. 93-270).

Section 1121(b) of the Public Health Service Act authorizes project grants to public and nonprofit private entities for support of SIDS projects for the collection, analysis, and furnishing of information (derived from postmortem examination and other means) relating to the causes of SIDS and the provision of information and counseling to families affected by SIDS.

Regulations applicable to this program are set forth at Subpart E of Part 51a of Title 42, Code of Federal Regulations "Project Grants for SIDS Information and Counseling," published on June 6, 1975 (40 FR 24436).

Scope of This Program Announcement: This program announcement identifies the general program objectives and funding priorities of the Project Grants for SIDS Information and Counseling Program for fiscal year 1979.

A. *Program Purposes:* There are an estimated 6,500-8,000 cases of SIDS in the United States each year. These deaths occur in all geographical areas and socioeconomic classes, as well as in all ethnic and racial groups. The purposes of the project grants are to provide comprehensive, coordinated and humanitarian services to families whose infants have died suddenly and unexpectedly and to learn more about this syndrome. The SIDS program, administered by the Office of Maternal and Child Health in BCHS, currently provides grant funds to 34 organizations in 29 States.

B. *Eligible Applicants:* Any public or nonprofit private entity is eligible to apply for a grant under this announcement. Individuals are not eligible applicants. Applications with evidence of active support of the various community resources necessary to provide a comprehensive approach to this serious problem are encouraged.

C. *Available Funds:* Of the $2,802,000 approved under a continuing resolution, H. J. Res. 1139, by the Congress for the SIDS program in fiscal year 1979, the SIDS program expects to award $1,412,414 for new and competing renewal grants.

A new grant is the initial grant made in support of a project requested in an application. A competing renewal grant continues a project beyond the project period for which the initial grant was made.

Is is expected that approximately 15 new and renewal grants will be awarded pursuant to this announcement. The range of funds per grant is expected to be from $23,000 to $179,000, with the average award expected to be $78,000. Generally, projects will be supported for periods of 1 to 3 years. The funds currently available will sustain the budget of the new and renewal awards for a 1-year period. Support for any additional time remaining in the project period depends on: (1) the availability of funds; (2) the Secretary's assessment of the grantee's satisfactory performance on the project for which the grant was awarded, and (3) the likelihood of the grantee's continued contribution to the priorities of the SIDS program.

D. *Program Objectives and Priorities for Funding:* Regulations under the

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Sudden Infant Death Syndrome Act call for programs which provide services, including: (1) autopsies in sudden and unexpected deaths of infants, (2) use of SIDS as a cause of death on the death certificate where appropriate, (3) prompt notification of the parents about the cause of death, within a 24 hour period, wherever possible, (4) information and voluntary conseling of families affected by a SIDS loss, (5) consultation and arrangements with official and voluntary community resources for referral of families affected by SIDS and for furnishing information and suggestions for dealing with SIDS cases to such resources and (6) collection and dissemination of information on SIDS cases in the project area to appropriate public officials and interested members of the general public in the project area.

Priority will be given to projects that provide statewide coordinated services: (1) to geographic areas with a population of one million or more persons, (2) to geographic areas with an infant mortality rate higher than the national average, (3) with community resources available which enable the projects to meet the requirements of the program, (4) which are assured of community support, and (5) which provide indications of how continuations of services will be maintained after Federal funding is concluded.

E. *The Application Process: A-95 Clearinghouse Notice:* In compliance with the Department of Health, Education, and Welfare's implementation of Office of Management and Budget Circular No. A-95 Revised, applicants which request grant support must, prior to submission of an application, notify both the State and Areawide A-95 Clearinghouses of their intent to apply for Federal assistance. If the application is for a statewide project which does not affect areawide or local planning and programs, the notification need be sent only to the State Clearinghouse (listed at 42 FR 2210, January 10, 1977).

It is strongly recommended that the clearinghouse be notified at least sixty (60) days before the submission deadline date for receipt of applications. Applications will not be formally reviewed without clearinghouse comments, which should be included with the application, or verification that no comments were made within the applicable period available to the clearinghouse for comment.

Application Consideration: Applications which are late, incomplete or otherwise do not conform to this announcement, will not be accepted for review and applicants will be notified accordingly. All other applications will be subject to a competitive review and evaluation in accordance with the established objective review process.

For additional program information, please write or telephone: Mrs. Geraldine J. Norris, SIDS Program Director, BCHS, Parklawn Building, Room 7-44, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: 301-443-6600.

Once the Secretary has decided (see item F of this notice) to disapprove competing grant applications, or if funds are not available to support all approved competing grant applications, the affected applicants will be notified.

F. *Criteria for Review and Evaluation of Applications:* Competing grant applications will be reviewed and evaluated against the criteria which are set forth in SIDS program regulations (42 CFR Part 51a, Subpart E). Applicants will be furnished with application forms and instructions (see item H of this notice).

G. *Closing Date for Receipt of Applications:* The closing date for receipt of applications under this program announcement is April 16, 1979. Applications may be mailed or hand delivered. Hand delivered applications are accepted during the usual working hours of 8:30 a.m. and 5:00 p.m.

An application will be considered to have arrived by the closing date if: (1) the application is in the Grants Mangement Branch (see item H, below) on or before the announced closing date, or (2) the application is postmarked at least two (2) days prior to the announced closing date.

H. *Availability of Application Forms:* Application kits, including all necessary forms, instructions, and information may be obtained from, and completed applications returned to, the address below: Grants Management Branch, Bureau of Community Health Services, Room 6-49, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: January 12, 1979.

GEORGE I. LYTHCOTT,
Administrator,
Health Services Administration.

[FR Doc. 79-2355 Filed 1-23-79; 8:45 a.m.]

[4110-08-M]

National Institutes of Health

BOARD OF SCIENTIFIC COUNSELORS

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases, February 14 and 15, 1979, in Building 5, Room 216, and on February 16, 1979, in Building 31, Room 7A24, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on February 14 and 15 from 9:00 a.m. until recess. During this open session, the permanent staff of the Laboratory of Parasitic Diseases will present and discuss their immediate, past, and present research activities.

In accordance with the provisions set forth in Sections 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Public Law 92-463, the meeting of the Board will be closed to the public on February 16 from 9:00 a.m. to adjournment for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personal qualifications and performance, and the competence of individual investigators.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland, telephone (301) 496-5717, will provide summaries of the meetings and rosters of the Board members.

Dr. Kenneth W. Sell, Executive Secretary, Board of Scientific Counselors, NIAID, NIH, Building 5, Room 137, telephone (301) 496-2144, will provide substantive program information.

Dated: January 10, 1979.

SUZANNE L. FREMEAU,
Committee Management
Officer, NIH.

(Catalog of Federal domestic Assistance Program No. 13-301, National Institutes of Health.)

[FR Doc. 79-2370 Filed 1-23-79; 8:45 am]

[4110-08-M]

CANCER EDUCATION WORKSHOP

Meeting

Notice is hereby given of the Cancer Education Workshop sponsored by the Division of Cancer Control and Rehabilitation, National Cancer Institute, February 22 and 23, 1979 at the Linden Hill Hotel, Bethesda, Maryland.

This meeting will be open to the public on February 22, 1979 from 9:00 a.m. to 5:15 p.m., and on February 23, 1979 from 9:00 a.m. to 4:30 p.m. for presentation and discussion of scientific papers. Attendance by the public will be limited to space available.

Anyone wishing to attend or to obtain more information about the conference should contact Dr. Arlene Barro, Program Director for Educational Resources, Office of Planning and Analysis, Blair Building, Room 720, Division of Cancer Control and Rehabilitation, National Cancer Institute, National Institutes of Health, Silver Spring, Maryland 20910 (301/427-8055).

Dated: January 18, 1979.

SUZANNE L. FREMEAU,
Committee Management
Officer, NIH.

[FR Doc. 79-2372 Filed 1-23-79; 8:45 am]

[4110-08-M]

DIVISION OF RESEARCH SERVICES

Meeting

Notice is hereby given that the Division of Research Services, Biomedical Engineering and Instrumentation Branch, National Institutes of Health, will hold a consensus development conference April 24-26, 1979, at the Masur Auditorium, Bldg. 10, NIH. Topic of the conference is the role of "intelligent" microprocessor-based machines in patient care. The meeting is open to any interested individuals and groups.

Machines are being developed that can handle many facets of patient care. Attendees at the conference will attempt to reach consensus on the state of the art of this technology and the prospects for future development. They will also consider the legal, ethical, social, political, medical and economic implications of this equipment.

Specific issues to be discussed include: Would intelligent machines be more reliable or cose effective than alternative technologies? How could performance be validated? What ethical-legal issues can arise in the development, testing and marketing of these devices? What long-term adverse consequences might occur? Can they be avoided? When might clinically useful devices of this type first appear?

Requests for information should be directed to Dr. Murray Eden, BEIB, DRS, National Institutes of Health, Bldg. 13, Room 3W-13, Bethesda, Md., 20014

Dated: January 10, 1979

SUZANNE L. FREMEAU
Committee Management
Officer, NIH.

[FR Doc. 79-2371 Filed 1-23-79; 8:45 am]

[4110-08-M]

NATIONAL HEART, LUNG, AND BLOOD INSTITUTES; HIGH BLOOD PRESSURE WORKING GROUP

Notice of Meeting

Notice is hereby given of the meeting of the High Blood Pressure Working Group sponsored by the National Heart, Lung, and Blood Institute, March 5, 1979, National Institutes of Health, Building 31—C Wing, Conference Room 10, Bethesda, Maryland 20014.

This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. The Working Group is meeting to define the priorities, activities, and needs of the participating groups in the National High Blood Pressure Education Program. Attendance by the public will be limited to space available.

Mr. Graham W. Ward, Chief, Health Education Branch, National High Blood Pressure Education Program, National Heart, Lung, and Blood Institute, NIH, Building 31, Room 5A10, 9000 Rockville Pike, Bethesda, Maryland 20014 (301/496-1051) will provide additional information.

For the list of participants and meeting summary contact: Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, NIH, Building 31, Room 5A10, 9000 Rockville Pike, Bethesda, Maryland 20014.

Dated: January 10, 1979.

SUZANNE L. FREMEAU,
Committee Management
Officer, NIH.

[FR Doc. 79-2373 Filed 1-23-79; 8:45 am]

[4110-08-M]

NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE SCIENCE INFORMATION PROGRAM ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee, National Institutes of Health, March 15 and 16, 1979, in Conference Room 4, Landow Building, 7910 Woodmont Avenue, Bethesda, MD 20014.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m.,on March 15th, and from 9:00 a.m. to adjournment on March 16th, to review the public information program of the Institute and topics regarding the Institute's science information transfer activities. Attendance by the public will be limited to space available.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20014, telephone 301/496-5751, will furnish summaries of the meeting and rosters of committee members.

Mr. Alfred Weissberg, Executive Secretary, NINCDS, NIH, Building 31, Room 8A07, Bethesda, MD 20014, telephone 301/496-9271, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.854, National Institutes of Health.)

Dated: January 16, 1979.

SUZANNE L. FREMEAU,
Committee Management
Officer, NIH.

[FR Doc. 79-2374 Filed 1-23-79; 8:45 am]

[4110-08-M]

REWIEW OF CONTRACT PROPOSALS AND GRANT APPLICATIONS

Meetings

Pursuant to Public Law 92-463, Notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552(b)(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, for the review, discussion and evaluation of individual contract proposals and grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

NAME OF COMMITTEE: Bladder and Prostatic Cancer Review Committee (Prostatic Subcommittee)

DATES: February 20, 1979; 8:00 a.m.

PLACE: Building 31C, Conference Room 8, National Institutes of Health

TIMES:
OPEN: February 20, 8:00 a.m.-8:30 a.m.

CLOSED: February 20, 8:30 a.m.-adjournment

CLOSURE REASON: To review research grant applications

EXECUTIVE SECRETARY: Dr. Andrew Chiarodo

ADDRESS: Westwood Building Room 853, National Institutes of Health

PHONE: 301/496-7194

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(CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER 13.393; 13.394; 13.395 NATIONAL INSTITUTES OF HEALTH)

NAME OF COMMITTEE: Cause and Prevention Scientific Review Committee

DATES: February 22-23, 1979; 8:30 a.m.

PLACE: Building 31A, Conference Room 11A10, National Institutes of Health

TIMES:
OPEN: February 22, 8:30 a.m.-9:00 a.m.

CLOSED: February 22, 9:00 a.m.-5:00 p.m.

CLOSED: February 23, 9:00 a.m.—adjournment.

CLOSURE REASON: To review research contract proposals

EXECUTIVE SECRETARY: Dr. Eugene Zimmerman

ADDRESS: Westwood Building, Room 826, National Institutes of Health

PHONE: 301/496-7575

(CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER 13.395 NATIONAL INSTITUTES OF HEALTH)

NAME OF COMMITTEE: Cancer Clinical Investigation Review Committee

DATES: February 26-27, 1979; 9:00 a.m.

PLACE: Building 31C, Conference Room 6, National Institutes of Health

TIMES:
OPEN: February 26, 9:00 a.m.-12:00 noon

CLOSED: February 26, 1:00 p.m.-5:00 p.m.

CLOSED: February 27, 8:30 a.m.—adjournment

CLOSURE REASON: To review research grant applications

EXECUTIVE SECRETARY: Mr. C. W. White

ADDRESS: Westwood Building, Room 819, National Institutes of Health

PHONE: 301/496-7481

(CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER 13.395 NATIONAL INSTITUTES OF HEALTH)

NAME OF COMMITTEE: Cancer Control Grant Review Committee

DATES: March 5-6, 1979; 8:30 a.m.

PLACE: Building 31C, Conference Room 8, National Institutes of Health

TIMES:
OPEN: March 5, 8:30 a.m.-9:00 a.m.

CLOSED: March 5, 9:00 a.m.-5:00 p.m.

CLOSED: March 6, 8:30 a.m.—adjournment

CLOSURE REASON: To review research grant applications

EXECUTIVE SECRETARY: Dr. Robert F. Browning

ADDRESS: Westwood Building, Room 806, National Institutes of Health

PHONE: 301/496-7413

(CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER 13.399 NATIONAL INSTITUTES OF HEALTH)

NAME OF COMMITTEE: Cancer Special Program Advisory Committee

DATES: March 8-9, 1979; 9:00 a.m.

PLACE: Building 31C, Conference Room 10, National Institutes of Health

TIMES:
OPEN: March 8, 9:00 a.m.-10:00 a.m.

CLOSED: March 8, 10:00 a.m.-5 :00 p.m.

CLOSED: March 9, 8:30 a.m.—adjournment

CLOSURE REASON: To review research grant applications

EXECUTIVE SECRETARY: Dr. William R. Sansione

ADDRESS: Westwood Building, Room 805, National Institutes of Health

PHONE: 301/496-7565

(CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER 13.392 NATIONAL INSTITUTES OF HEALTH)

Dated: January 10,1979.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 79-2369 Filed 1-23-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 35830]

NEW MEXICO

Application

JANUARY 15, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Cities Service Company has applied for one 2-inch and 4-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 7 S., R. 31 E.,
Sec. 33, SE¼SW¼.
T. 8 S., R. 31 E.,
Sec. 4, lot 3.

This pipeline will convey natural gas across 0.305 of a mile of public lands in Chaves County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their veiws should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-2424 Filed 1-23-79; 8:45 am]

[4310-84-M]

[NM 35469]

NEW MEXICO

Transfer of Jurisdiction to Pueblo of Zia

JANUARY 16, 1979.

1. Pub. L. 95-499 (92 Stat. 1679) declared that all right, title, and interest of the United States in the lands situated within Sandoval County in the State of New Mexico and described in paragraph five of this notice are to be held by the United States in trust for the benefit and use of the Pueblo of Zia. The transfer includes all right, title, and interests of the United States in all minerals, including gas and oil underlying the lands declared to be held in trust.

2. All existing mineral leases and rights-of-way involving lands declared to be held in trust by this Act, including oil and gas leases which have been issued or approved pursuant to Federal law, prior to enactment of this Act, shall remain in force and effect in accordance with the provisions thereof.

3. This transfer and conveyance is subject to the following roadway rights-of-way for the use and benefit of adjacent private landowners, the Bureau of Land Management, its permittees, lessees, successors and assigns:

A. Access road through Zia allotment: A road right-of-way, 50 feet wide over that portion in SE¼, Sec. 13; SE¼ Sec. 23; N½, Sec. 24, N½, Sec. 26 and N½, Sec. 27, T. 15 N., R. 1 E., New Mexico Principal Meridian.

Beginning at intersection of State Road 44, thence southwesterly 1,600 feet to a point of curve, thence westerly 2,100 feet to a point of curve, thence southerly 1,100 feet to a point of curve, thence southwesterly 2,400 feet to a point of curve, thence southerly 2,640 feet of a point of curve, thence southerly 8,500 feet to a point of curve near the west section line of section 27. Road being 3.5 miles long (approx.). Distances to a curve are scaled distances (approx.) from U.S.G.S. Quadrangle Sheet, Sky village N.E. Quadrangle, and San Ysidro Quadrangle.

B. Gypsum Mine Access Road: A road right-of-way, 50 feet wide over that portion in W½, SE¼, Sec. 13; NE¼, Sec. 14 and NE¼, Sec. 24, T. 15 N., R. 1 E., New Mexico Principal Meridian.

Beginning at the intersection of Gypsum mine access road and access road through lands known as Zia Allotment being 500 feet southwesterly from State Road 44, thence northwesterly 6,500 feet near the east line of section 14. Distances to the termination of road are scaled distances (approx.) from U.S.G.S. Quadrangle Sheet, San Ysidro Quadrangle.

C. These descriptions are taken from paper surveys made from U.S.G.S. Quadrangle maps. The roads are subject to survey and this legal description may be modified in the future to more accurately describe the locations of the roads.

4. Paleontological resources from these lands shall be managed as provided by the Act.

5. New Mexico Principal Meridian, New Mexico:

T. 14 N., R. 1 E.,
Sec. 3, Lots 2, 3, 4, SW¼NE¼, S½NW¼, SW¼, W½SE¼ and SE¼SE¼;
T. 15 N., R. 1 E.,
Sec. 10, Lot 4;
Sec. 11, S½S½;
Sec. 13, W½, SE¼;
Sec. 14, all;
Sec. 15, Lots 1, 2, 3, 4, SW¼, W½SE¼;
Sec. 22, all;
Sec. 23, NE¼NE¼, W½NE¼, W½ and SE¼;
Sec. 24, N½N½;
Sec. 26, N½NW¼;
Sec. 27, all;
Sec. 34, NE¼ and W½.

Containing a total of 4849.34 acres.

BILLY M. BRADY,
Acting State Director.

[FR Doc. 79-2425 Filed 1-23-79; 8:45 am]

[4310-84-M]

[NM 35760]

NEW MEXICO

Application

JANUARY 16, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 25 N., R. 3 W.,
Sec. 14, NW¼NE¼, N½NW¼, SW¼NW¼, N½SW¼ and NW¼SE¼.

This pipeline will convey natural gas across 1.848 miles of public land in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-2426 Filed 1-23-79; 8:45 am]

[4310-55-M]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Crown Animals, 1140, Via Enrico, San Lorenzo, California 94580.

The applicant requests a permit to import one (1) female margay cat (*Felis wiedii*) from Costa Rica, for enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and wildlife Service, (WPO), Washington, D.C. 20240.

This application has been asigned file number PRT 2-3640. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: January 18, 1979.

LARRY LAROCHELLE,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service

[FR Doc. 79-2351 Filed 1-23-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Osborn Laboratories of Marine Sciences, New York Aquarium, Boardwalk at West 8th Street, Brooklyn, New York 11224.

The applicant requests a permit to remove twelve snail darters (*Percina tanasi*) from the wild in Tennessee for propagation and exhibition at the New York Aquarium at Brooklyn, New York.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3674. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: January 16, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-2353 Filed 1-23-79; 8:45 am]

[4310-55-M]

MARINE MAMMAL PERMIT

Notice of Receipt of Application

Notice is hereby given that an Applicant has applied in due form for a Permit to take polar bears as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 18).

1. Applicant:
a. Name: Charles A. Repenning
b. Address: Branch of Paleontology & Stratigraphy, U.S. Geological Survey, M/S 15, 345 Middlefield Road, Menlo Park, California 94025
2. Type of Permit: Marine Mammal
3. Name and Number of Animals: Polar bear (Ursus maritimus)2
4. Type of Activity: Import for scientific research
5. Location of Activity: San Francisco, California
6. Period of Activity: As soon as possible

The purpose of this application is to import 2 polar bear skulls to be used as comparative material in the study of the paleontologic history of marine mammals.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned file number PRT 2-3521. Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application

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would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia.

Dated: January 18, 1979.

DONALD G. DONAHOO,
Acting for Chief, Permit Branch
Federal Wildlife Permit Office.

[FR Doc. 79-2350 Filed 1-23-79; 8:45 am]

[4310-55-M]

MARINE MAMMAL REPORT

Availability

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of availability of marine mammal report.

SUMMARY: The Director, U.S. Fish and Wildlife Service, on September 18 signed the report on the Service's administration of the marine mammals under its jurisdiction, as required by section 103(f) of the Marine Mammal Protection Act of 1972. The report covers the period June 22, 1977, to March 31, 1978, and was submitted to the Congress on December 8. By this notice, the Director informs the public that the report is available and that any interested individual may secure a single copy by requesting same in writing from the Service.

ADDRESS: Write for a copy to Director (WA), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Requests will be filled until the supply is exhausted.

FOR FURTHER INFORMATION CONTACT:

Mr. Rupert R. Bonner, Marine Mammal Coordinator, Office of Wildlife Assistance, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 202-632-2202.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service is responsible for eight species of marine mammals under the jurisdiction of the Department of the Interior, as assigned by the Marine Mammal Protection Act of 1972 (MMPA). These species are polar bears, sea and marine otters, walruses, manatees (three species), and dugongs. The report reviews the Service's marine mammal-related activities during the report period and summarizes the following status information for each species: Distribution and migration, abundance and trends, general biology, ecological problems, allocation problems, regulations, and current research. Administrative actions discussed include the amendment of the MMPA to increase fiscal authorization ceilings for fiscal year 1978, the waiver of the moratorium for nine species of marine mamals, the walrus waiver, marine mammal care and maintenance standards, the West Indian manatee, the marine otter, legal actions against the Department of the Interior, law enforcement activities, scientific research and public display permits, ceritificates of registration, research, endangered species, the Outer Continental Shelf Environmental Studies Program, ecological characterizations of U.S. coastal areas, and international activities. The end of this year's reporting period was changed from June 21, 1978, to March 31, 1978, to eliminate problems in meeting reporting requirements; each future report will cover the interval between April 1 of one year and March 31 of the following year.

The primary author of this notice is Jackson E. Lewis, Mairine Biologist, Office of Wildlife Assistance, 202-632-2202.

Dated: December 28, 1978.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc. 79-2378 Filed 1-23-79; 8:45 am]

[4310-55-M]

THREATENED SPECIES PERMIT

Notice of Receipt of Applicotion

Applicant: Frank J. Zeitler, 2225 West Elder Street, Santa Ana, California 92704.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of pheasants listed in 50 CFR Section 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3429. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: January 17, 1979.

LARRY LAROCHELLE,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-2352 Filed 1-23-79; 8:45 a.m.]

[4310-31-M]

Geological Survey

NATURAL GAS CATEGORY DETERMINATION

Delegation of Authority and an Interim Notice to Lessees for Implementing the Natural Gas Policy Act

Commencing December 1, 1978, the effective date of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. 95-621, the authority to make category determinations on certain natural gas under the NGPA is hereby delegated from the Director, Geological Survey, through the Chief, Conservation Division, and the appropriate Regional Conservation Manager, to the appropriate Oil and Gas Supervisor, Conservation Division, Geological Survey (GS).

The authority delegated is the regulatory function pursuant to Section 503(c)(1) and related provisions of the NGPA. Section 503(c)(1) states:

> A Federal or State agency having regulatory jurisdiction with respect to the production of natural gas is authorized to make determinations referred to in subsection (a).

Subsection (a)(1) provides, in essence, that any determination of a certain natural gas category by a State or Federal agency is within the authority of that agency, but such a determination shall be forwared to the Federal Energy Regulatory Commission (FERC) for a final ruling.

The categories of natural gas subject to final determination by the Oil and Gas Supervisor include the following, as listed in the NGPA:

Section 102(c)—New OCS leases, new onshore wells, and new onshore reservoirs.
Section 102(d)—OCS gas qualifying for new natural gas ceiling price.
Section 103(c)—New onshore production well.
Section 107(c)—High-cost natural gas.
Section 108(b)—Stripper well natural gas.

By the provisions of the December 1, 1978, FERC interim regulations, Title 18, Subchapter H, Part 274, and the delegation of authority above, the Oil and Gas Supervisor shall process the respective applications from the operators of Federal leased lands and shall make the appropriate category determination for each application.

So that the filing requirements of the FERC regulation 18 CFR 274.201 may be fulfilled, an Interim Notice to Lessees is set forth below establishing the general processing procedure of the Area Oil and Gas Supervisor and the requirements to be met by the operators to be in compliance with this procedure. The Interim Notice becomes effective immediately January 24, 1979; however, a 30-day period is allowed from date of publication to receive comments from interested persons. The Geological Survey will not require the use of Forms GS-102, GS-103, GS-107, and GS-108 enclosed in the Interim Notice until the Office of Management and Budget grants clearance under the Federal Reports Act of 1942 and OMB Circular A-40. The comments should be forwarded to the Chief, Conservation Division, Geological Survey, National Center, 12201 Sunrise Valley Drive, Reston, Va. 22092. The telephone number is (703) 860-7524. The staff person most familiar with the Interim Notice is Price McDonald, telephone (703) 860-6461.

INTERIM NOTICE TO LESSEES

(1) *Who may file.* An operator of a Federal lease, either on public lands or on the Outer Continental Shelf (OCS) or on Indian allotted or tribal lands except for the Osage Reservation, Osage County, Oklahoma, may make application for a natural gas category determination to the appropriate Oil and Gas Supervisor as provided under the Natural Gas Policy Act of 1978 (NGPA) and the Federal Energy Regulatory Commission (FERC) regulations 18 CFR 274. The operator shall make application for any co-lessees, except that a co-lessee may make application if the operator refuses to take such action upon written request. Each application shall indicate one category preference; however, more than one category may be entered on the application, if an explanation is given, the support data are furnished, and a preference is clearly marked.

(2) *Where to file.* The applications shall be filed with the appropriate Oil and Gas Supervisor as indicated by the addresses listed in 18 CFR 274.501. For those Federal leases involved with State or other leases through a unit or communitization agreement or by a State boundary line condition, the respective Oil and Gas Supervisors shall make the determination if the completion location of a well is on a Federal or Indian lease. For those cases where the completion location of a well is on a divided interest lease involving Federal or Indian and State or private ownerships, the Oil and Gas Supervisor shall make the determination if the majority interest is Federal and/or Indian. In the case of a 50-50 split interest lease, the State shall make the determination.

(3) *Form, signature, and affidavit.* The applicant shall make application using Form FERC 121, "Application for Determination of the Maximum Lawful Price under the Natural Gas Policy Act," as the base instrument. The signature on the application shall be in compliance with 18 CFR 274.201(c).

Further, to assure that the oath requirements of 18 CFR 274.202, 274.203, 274.204, 274.205, and 274.206 are fulfilled, the applicant shall submit an affidavit of truth with each application. The affidavit shall be signed by the appropriate company official or person and shall be notarized.

(4) *Draft GS Forms.* With each application, the operator shall complete and submit one of the following draft forms as a supplement to the application: Draft Form GS-102, Draft Form GS-103, Draft Form GS-107, or Draft Form GS-108. The Form in each case is titled "Supplementary Application for Category Determination." A copy of each is enclosed.

(5) *Support data.* With each application, the applicant shall submit five copies of Form FERC 121 and two copies of all other information required under 18 CFR 274.202, 274.203, 274.204, 274.205, and 274.206, as appropriate. If the applicant wishes to have a copy of all such information returned upon filing, an additional copy of the application should be submitted.

The applicant shall include support data beyond the minimum requirements of the FERC regulations if he relies on such data in making application. Also, the applicant shall supply such additional information if so requested by the Oil and Gas Supervisor in making the category determination. The minimum data required for each category determination shall be in accordance with the data required on the Draft Forms mentioned in (4) above. All copies of records relied on by the applicant shall be certified.

(6) *Support data considered to be proprietary.* In accordance with the provisions of 18 CFR 275.206, all information submitted in support of the application shall be marked appropriately if believed to be proprietary and therefore confidential in nature. Such information may be considered as confidential if it falls within one of the exemptions described in paragraphs (1) through (9) of 5 U.S.C. 552(b). (OCS Order No. 12 is an acceptable "proprietary" guide for operations under operating regulations 30 CFR 221 and 30 CFR 250, but the regulatory authority as to confidentiality under the NGPA is pursuant to 18 CFR 275.206(b).)

(7) *Notice to purchaser and others.* With each application, the applicant shall forward a copy of Form FERC 121 to the purchaser and to the co-lessees and shall so indicated this action with a statement attached to the application. Also, the applicant shall give notice of each application to the public through at least one daily newspaper common to the area and generally well circulated. The notice shall include complete well identity, and location information, and the category preference. The notice shall state that written comments will be accepted by the Oil and Gas Supervisor for a 15-day period following receipt of a completed application and the filing of Form, FERC 121 in the Supervisor's Public Record Office. The Oil and Gas Supervisor may approve an extentions of the 15-day holding period. The 15 days referred to here and below shall be considered as calendar days.

(8) *Receipt of application.* Upon receipt of an application, the Oil and Gas Supervisor shall enter the date and other appropriate information into a log. Upon establishing that the application is acceptable for processing, a copy of Form FERC 121 will be placed in the Supervisor's Public Records Office, and the above mentioned 15-day holding period will begin. Until the 15-day holding period or an approved extention expires, the Oil and Gas Supervisor shall receive written comments (in triplicate) on the notice of application from other operators and lessees, the purchasers, and the public. All such comments shall be filed with the appropriate application and copies shall be placed in the Supervisor's Public Records Office.

(9) *Preliminary determination.* The Oil and Gas Supervisor shall make a preliminary category determination (Draft Form GS-1) following the 15-day holding period above and the review and evaluation of the application and all comments submitted. The preliminary determination shall be entered in a log, and a copy shall be placed in the Supervisor's Public Records Office. Notice shall be given as follows:

a. The Oil and Gas Supervisor shall forward a copy of the preliminary determination to the applicant and to all parties who submitted comments on the application in such a manner that the copy will be received by the first day of the month. A copy shall be forwarded to the co-lessees when the determination differs from the applicant's category preference.

b. On the first working day of each month, the Oil and Gas Supervisor shall place in the Public Records Office a copy of all preliminary determinations (Draft Form GS-1) made during the previous month.

c. The Oil and Gas Supervisor shall receive written comments (in triplicate) on all preliminary determinations on file in the Public Records Office for a 15-day period or for such extended period as he may approve.

d. For those cases where the applicant or commenter requests oral discussion, the Oil and Gas Supervisor shall comply with the request and shall schedule a conference, reasonably soon thereafter. With each conference, the Oil and Gas Supervisor shall give notice to the applicant, the purchaser, and others who may be interested in attendance at the conference. With each conference involving a protest, the protestor shall submit (in triplicate) a signed statement identifying the application in question and indicating the basis for protest at least 1 day ahead. The Oil and Gas Supervisor or his/her representative shall conduct the conference on an informal basis but shall exercise discretion in guiding the participants and limiting the time for a particular discussion. A record and transcript shall be made of all conferences.

(10) *Final determinations.* Upon review and study of the application and all written comments and conferences, the Oil and Gas Supervisor shall make a final determination and shall forward the determination on Draft Form GS-2 (copy enclosed) with the application to the FERC within fifteen (15) days of making the determination. Draft Form GS-2 is designed to be in compliance with 18 CFR 274.104. The determination shall be entered in the log, and a copy shall be filed with the application. Also, a copy shall be filed with the preliminary determination in the Public Records Office, and additional copies shall be forwarded to the applicant, the purchasers, and all parties who commented in writing on the application.

In the event of a negative determination, the Oil and Gas Supervisor shall forward to the FERC a notice of the determination together with FERC Form 121. Copies of such a determination shall also be forwarded to the aforementioned parties and to the colessees, and shall be placed on file in the

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Public Records Office. If so requested by the applicant or any aggrieved party within 15 days following the determination, the Oil and Gas Supervisor shall forward to the FERC all the information specified under 18 CFR 274.104.

Any relief sought by an applicant or other interested party from a Supervisor's final decision should be in the form of a protest to the FERC, as provided for in 18 CFR 275.201 through 271.205.

(11) The public shall be notified promptly through the FEDERAL REGISTER of any changes of substance in the above procedure. Without such changes, the public shall be informed annually hereafter through the FEDERAL REGISTER as to the procedure in effect and the information on file in the Public Records Office.

Dated: January 19, 1979.

HENRY W. COULTER,
Acting Director.

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[3510-25-C]

Draft Form GS-102

SUPPLEMENTARY APPLICATION FOR CATEGORY DETERMINATION
UNDER THE NATURAL GAS POLICY ACT, SECTION 102

1. Applicant. Enter name, address, and phone number. (If not the operator, so indicate.) _____

2. Identification and location of the well, reservoir, and Federal or Indian lease number, including the API well number, section, township, and range, as appropriate. _____

3. Requested Category: Section 102(c)(1)(A), (c)(1)(B), (c)(1)(C), or (d). Indicate one. _____

4. Name, address, and phone number of person responsible for answering questions about this application if different from applicant.

5. Newspaper and expected date of notice publication. _____

6. List all gas purchasers by name and address. _____

7. List all co-lessees by name and address. _____

8. Mark below to indicate the materials relevant to the request and attach accordingly:

   a. All applications:

      (1) FERC Form 121 ____

Draft Form GS-102 (cont.)

(2) A statement under oath appropriate for the application including a statement that completed copies of FERC Form Number 121 have been forwarded to the purchasers and to the co-lessees ____

b. Section 102(c)(1)(A), New OCS leases:

(1) Lease Agreement ____

(2) Form 9-330, Well Completion or Recompletion Report ____

c. Section 102(c)(1)(B), New onshore wells:

(1) 2.5 mile test:

Form 9-330, Well Completion or Recompletion Report ____

Directional drilling survey ____

A plat locating and identifying the applicant's well of interest and any other well within a 2.5 mile radius which is producing or produced natural gas after January 1, 1970 ____

(2) 1,000-feet deeper test:

Form 9-330, Well Completion or Recompletion Report ____

A plat locating and identifying the applicant's well of interest and any other well within a 2.5 mile radius which is producing or produced natural gas after January 1, 1970; including specific identification of all marker wells for which a determination is sought ____

A list of the deepest completion locations for all marker wells identified ____

Directional drilling survey ____

d. Section 102(c)(1)(C), New onshore reservoirs:

(1) Supporting geological information if reasonably available:

A well log section defining the top and bottom of the reservoir ____

Draft Form GS-102 (cont.)

Bottom-hole or surface pressure surveys ____

Well potential tests ____

Formation structure map ____

Subsurface cross-section chart ____

Gas analysis ____

(2) Form 9-330, Well Completion or Recompletion Report ____

(3) Directional drilling survey ____

(4) Portion of driller's log showing date reservoir penetrated ____

(5) Form 9-329, Monthly Report of Operations, showing first commercial production from reservoir ____

(6) Date that suitable facilities for production and delivery were in existence ____

e. Section 102(d), New Reservoir on Old OCS Lease:

(1) Effective date of the lease agreement ____

(2) Directional drilling survey ____

(3) Portion of driller's log showing date reservoir penetrated ____

(4) Supporting geological information if reasonably available:

A well-log section defining the top and bottom of the reservoir ____

Well potential tests ____

Formation structure map ____

Subsurface cross-section chart ____

Bottom-hole or surface pressure surveys ____

Gas analysis ____

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Draft Form GS-102 (cont.)

(5) Form 9-330, Well Completion or Recompletion Report ____

(6) If the date of reservoir penetration is prior to July 27, 1976, any tests or capability evidence during that time frame under OCS Order No. 4 which would indicate the reservoir to be incapable of producing in paying quantities ____

(7) Other: _____

I certify that the foregoing is true and correct and that the records relied on and submitted with this application are true and correct to the best of my knowledge.

Name: _____

Title: _____

Signature: _____

Date: _____

Phone number: _____

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Draft Form GS-103

SUPPLEMENTARY APPLICATION FOR CATEGORY DETERMINATION UNDER THE NATURAL GAS POLICY ACT, SECTION 103

1. Applicant. Enter name, address, and phone number. (If not the operator, so indicate.) _____

2. Identification and location of the well, reservoir, and Federal or Indian lease number, including the API well number, section, township, and range, as appropriate. _____

3. Requested Category: Section 103(c).

4. Name, address, and phone number of person responsible for answering questions about this application if different from applicant.

5. Newspaper and expected date of notice publication. _____

6. List all gas purchasers by name and address. _____

7. List all co-lessees by name and address. _____

8. Mark below to indicate the materials relevant to the request and attach accordingly:

a. All applications:

(1) FERC Form 121 ____

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Draft Form GS-103 (cont.)

(2) A statement under oath appropriate for the application including a statement that completed copies of FERC Form Number 121 have been forwarded to the purchasers and to the co-lessees ____

(3) Form 9-330, Well Completion or Recompletion Report ____

(4) A plat locating and identifying the well of interest and all other wells within the proration unit encompassing the well of interest ____

(5) For a new well drilled into an existing proration unit, appropriate geological evidence to show that the new well is necessary ____

(6) Other: _____
_____
_____ ____

I certify that the foregoing is true and correct and that the records relied on and submitted with this application are true and correct to the best of my knowledge.

Name: _____

Title: _____

Signature: _____

Date: _____

Phone number: _____

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Draft Form GS-107

SUPPLEMENTARY APPLICATION FOR CATEGORY DETERMINATION UNDER THE NATURAL GAS POLICY ACT, SECTION 107

1. Applicant. Enter name, address, and phone number. (If not the operator, so indicate.) _____

2. Identification and location of the well, reservoir, and Federal or Indian lease number, including the API well number, section, township, and range, as appropriate. _____

3. Requested category: Section 107(c)(1).

4. Name, address, and phone number of person responsible for answering questions about this application if different from applicant.

5. Newspaper and expected date of notice publication. _____

6. List all gas purchasers by name and address. _____

7. List all co-lessees by name and address. _____

8. Mark below to indicate the materials relevant to the request and attach accordingly:

a. All applications:

(1) FERC Form 121 ____

Draft Form GS-107 (cont.)

(2) A statement under oath appropriate for the application including a statement that completed copies of FERC Form Number 121 have been forwarded to the purchasers and to the co-lessees ____

(3) All of the Forms 9-330, Well Completion or Recompletion Reports ____

(4) Well logs or service company reports or other such information corroborating the well completion depth ____

(5) Directional drilling survey ____

(6) Water depth at well location ____

(7) Other: _____ ____

I certify that the foregoing is true and correct and that the records relied on and submitted with the application are true and correct to the best of my knowledge.

Name: _____

Title: _____

Signature: _____

Date: _____

Phone number: _____

Draft Form GS-108

SUPPLEMENTARY APPLICATION FOR CATEGORY DETERMINATION UNDER THE NATURAL GAS POLICY ACT, SECTION 108

1. Applicant. Enter name, address, and phone number. (If not the operator, so indicate.) _____

2. Identification and location of the well, reservoir, and Federal or Indian lease number, including the API well number, section, township, and range, as appropriate. _____

3. Requested Category: Section 108(b).

4. Name, address, and phone number of person responsible for answering questions about this application if different from applicant. _____

5. Newspaper and expected date of notice publication. _____

6. List all gas purchasers by name and address. _____

7. List all co-lessees by name and address. _____

8. Mark below to indicate the materials relevant to the request and attach accordingly:

a. All applications:

(1) FERC Form 121 ____

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Draft Form GS-108 (cont.)

(2) A statement under oath appropriate for the application including a statement that completed copies of FERC Form Number 121 have been forwarded to the purchasers and to the co-lessees ____

(3) Form 9-330, Well Completion or Recompletion Report ____

(4) Natural gas production for each month for 12 preceding months using a 14.73 psia base pressure

Month	Year	Natural Gas (MCF)	Oil (Barrels)
____	____	_____	
____	____	_____	
____	____	_____	
____	____	_____	
____	____	_____	
____	____	_____	
____	____	_____	
____	____	_____	
____	____	_____	_____
____	____	_____	_____
____	____	_____	_____
Totals		_____	_____
Average Per Production Day		_____	_____

Average per production day for the last three (3) months of production history noted above _____ (MCFD @ 14.73 psia)

Maximum efficient rate of flow based on the twelve (12) month production history noted above _____ (MCFD @ 14.73 psia)

(5) List all dates the well was off production during the past 90-day production period and give reasons respectively by date

_____
_____
_____

(6) Form 9-152, or Form 9-329, Monthly Report of Operations, for 12 months preceding this application ____

Draft Form GS-108 (cont.)

(7) An inventory of the lease production equipment connected to the well for the past 24 months or for such lesser period as the well has been in production prior to the date of filing ____

(8) Identify any equipment or processes used for enhanced recovery during the well completion or during production subsequent to well completion but prior to the date of filing ____

(9) For a seasonably affected well:

Names and addresses of the applicant and purchasers ____

Well identification, reference to the original stripper-well qualification, and any notice filed by a purchaser pursuant to 18 CFR 271.805 ____

Production records for a period of 24 months, including the 90-day or 12-month production period which is the subject of the notice by the operator or the purchaser ____

A description of the nature of the seasonal fluctuations ____

(10) Other: _____
_____
_____ ____

I certify that the foregoing is true and correct and that the records relied on and submitted with this application are true and correct to the best of my knowledge.

Name: _____

Title: _____

Signature: _____

Date: _____

Phone number: _____

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Draft Form GS 1

PRELIMINARY DETERMINATION BY THE OIL AND GAS SUPERVISOR
UNDER THE NATURAL GAS POLICY ACT (NGPA)

A preliminary category determination is set forth below pursuant to the provisions of the NGPA for certain Federal lease gas as requested in an application dated _____ and filed by _____

_____

Well, reservoir, and lease location information: _____

_____

_____

_____

Category determination requested: Section _____

Preliminary category determination:

Approved as requested _____ Negative determination _____

Remarks: _____

_____

_____

In accordance with the requirements of 18 CFR 274.104 and upon making a final determination in this matter, the following information and reference materials will be submitted to the FERC:*

1. List of participants thus far including the applicant and all parties submitting comments on the application. _____

_____

_____

2. A statement on any matter being opposed. _____

_____

_____

3. A copy of the application. Also, a copy of any other materials in the record used in the determination, which thus far include:

_____

_____

*In the case of a negative determination, only a copy of the negative determination and a copy of FERC Form 121 will be forwarded to FERC. If the applicant or any aggrieved party so requests within 15 days of making such a determination, all information referenced in 1 through 4 will be forwarded with the negative determination to FERC in accordance with 18 CFR 274.104(b).

Draft Form GS 1 (cont.)

4. An affirmative finding that all materials required under 18 CFR 274, Subpart B, and all other record materials used in the determination process are enclosed with the final determination: ____

_____

In my judgment, a final determination in agreement with this decision will be rendered unless additional comments are received in this office within 15 calendar days which would justify a finding contrary to this preliminary determination.

Name: _____

Title: _____

Signature: _____

Date: _____

Phone number: _____

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Draft Form GS 2

FINAL DETERMINATION BY THE OIL AND GAS SUPERVISOR UNDER THE NATURAL GAS POLICY ACT OF 1978 (NGPA)

A final category determination is set forth below pursuant to the provisions of the NGPA for certain Federal lease gas as requested in an application dated _____ and filed by _____

_____

Well, reservoir, and lease location information: _____

_____

_____

_____

Category determination requested: Section _____

Final category determination:

Approved as requested _____ Negative determination _____

Remarks: _____

_____

_____

In accordance with the requirements of 18 CFR 274.104, the following information and reference materials are being submitted to the FERC with this final determination:*

1. List of participants including the applicant and all parties submitting comments on the application. _____

_____

_____

2. A statement on any matter opposed. _____

_____

_____

3. A copy of the application. Also, a copy of any other materials in the record used in the determination, which include: _____

_____

_____

*In the case of a negative determination, only a copy of the negative determination and a copy of FERC Form 121 will be forwarded to FERC. If the applicant or any aggrieved party so requests within 15 days of making such a determination, all information referenced in 1 through 4 will be forwarded with the negative determination to FERC in accordance with 18 CFR 274.104(b).

Draft Form GS 2 (cont.)

4. An affirmative finding is hereby made that all materials required under Part 274, Subpart B, and all other record materials used in the determination process are enclosed with the final determination.

_____

_____

A final jurisdictional agency determination is hereby made that the Federal lease natural gas referred to above does/does not qualify as natural gas produced from a _____ in accordance with the applicable provisions of the NGPA.

Any person may object to this final determination by filing a protest with the FERC within 15 days after this determination is published by the FERC in the Federal Register in accordance with 18 CFR, Part 275.

Name: _____

Title: _____

Signature: _____

Date: _____

Phone number: _____

Address: _____

_____

[FR Doc. 79-2532 Filed 1-23-79; 8:45 am]

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[4310-31-M]

NATURAL GAS CATEGORY DETERMINATION

Delegation of Authority

Pursuant to Section 503(c)(1) of the Natural Gas Policy Act of 1978 (NGPA), the Secretary of the Department of the Interior has issued Order No. 3032 authorizing the Director, Geological Survey, to make natural gas category determinations in accordance with the provisions of Section 503(a) and related sections of the NGPA. For additional information on this matter, please write to the Chief, Conservation Division, Geological Survey, 12201 Sunrise Valley Drive, Reston, Virginia 22092, or telephone him at (703) 860-7524. The Order is published as follows:

[Order No. 3032]

Subject: Delegation of authority for implementation of certain sections of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. 95-621.

SECTION 1. *Purpose.* Sections 102, 103, 107, and 108 of the NGPA provide categories of natural gas for which applications from Federal lease operators are to be submitted for final determinations. The NGPA became effective December 1, 1978.

SECTION 2. *Delegation of Authority.* Section 503(c)(1) of the NGPA states that "A Federal or State Agency having regulatory jurisdiction with respect to the production of natural gas is authorized to make determinations referred to in subsection (a)." Subsection (a)(1) provides, in essence, that any final determination of a natural gas category by a State or Federal Agency is within the authority of that Agency but that such a determination is subject to a final ruling by the Federal Energy Regulatory Commission (FERC). The authority for implementation of the NGPA for natural gas produced on the Outer Continental Shelf, public lands, and Indian allotted and tribal lands (except for the Osage Reservation, Osage County, Oklahoma) is hereby delegated to the Director, Geological Survey, through the Assistant Secretary—Energy and Minerals. This delegation is subject to the authority of the Assistant Secretary—Energy and Minerals as provided in Secretarial Order No. 3005, July 8, 1977. The delegation of authority is effective as of December 1, 1978, concurrent with the effective date of the NGPA.

SECTION 3. *The Categories of Natural Gas.* Category determinations shall be made in accordance with Section 503(c) and related sections of the NGPA. The natural gas categories subject to application by Federal lease operators include the following:

Section 102(c)—New OCS leases, new onshore wells, and new onshore reservoirs.
Section 102(d)—OCS gas qualifying for new natural gas ceiling price.
Section 103(c)—New onshore production well.
Section 107(c)—High-cost natural gas.
Section 108(b)—Stripper-well natural gas.

SECTION 4. *Effective Date.* This Order is effective as of December 1, 1978. Its provisions shall remain in effect until it is amended, superseded, or revoked, whichever occurs first. However, in the absence of the foregoing actions, the provisions of this Order shall terminate and be considered obsolete on July 1, 1978.

Dated: January 11, 1979.

CECIL D. ANDRUS,
Secretary.

[FR Doc. 79-2444 Filed 1-23-79; 8:45 am]

[4310-31-M]

RESEARCH AND DEVELOPMENT PROGRAM FOR OCS OIL AND GAS OPERATIONS

Annual Report

The annual technical report entitled "Research and Development Program for Outer Continental Shelf Oil and Gas Operations—1978" is available without charge. Requests should be addressed to Mr. John B. Gregory, Branch of Marine Oil and Gas Operations, Conservation Division, 620 National Center, Reston, Virginia 22092; phone 703-860-7531.

This report contains background information on the program and summarizes technical investigations on 14 individual projects. These projects include structural dynamics of offshore platforms, monitoring of structural fatigue, underwater acoustic telemetry, the application of fluidic controls to down-hole telemetry and hydrogen sulfide gas detection, well-control experimentation, and effects of toxicity of drilling muds on corals.

Dated: January 17, 1979.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 79-2445 Filed 1-23-79; 8:45 am]

[4310-70-M]

National Park Service

[Order No. 2]

ADMINISTRATIVE OFFICER, ET AL., CUMBERLAND ISLAND NATIONAL SEASHORE, GA.

Delegation of Authority

SECTION 1. *Administrative Officer.* The Administrative Officer mayexecute, approve, and administer contracts not in excess of $25,000for supplies, equipment or services in conformity with applicableregulations and statutory authority and subject to the availabilityof appropriated funds.

SEC. 2. *Purchasing Agent.* The Purchasing Agent may issuepurchase orders not in excess of $500 for supplies, equipment orservices in conformity with applicable regulations and statutoryauthority and subject to the availability of appropriated funds.

SEC. 3. *Revocation.* This order supersedes Order No. 1 datedFebruary 11, 1975 and published in 40 FR 30294 on July 18, 1975. (National Park Service Order No. 77 (38 FR 7478), as amended;Southeast Region Order No. 6 (42 FR 59428), published November 17, 1977.)

Dated: May 26, 1978.

PAUL F. MCCRARY,
Superintendent, Cumberland Island National Seashore.

[FR Doc. 79-2414 Filed 1-23-79; 8:45 am]

[4310-70-M]

[Order No. 3]

ADMINISTRATIVE SERVICES ASSISTANT, STONES RIVER NATIONAL BATTLEFIELD

Delegation of Authority

1. *Administrative Services Assistant*—Administrative Services Assistant may issue purchase orders not in excess of $5,000 for supplies, materials, and services and not in excess of $2,000 for contracting; in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

2. *Revocation.* This order supersedes Order No. 2 issued June 4, 1973 (FR 38 106).

(National Park Service Order No. 77 (38 FR 7478) published March 22, 1973, as amended; Southeast Region Order No. 6 (42 FR 59428) Published November 17, 1977.

JAMES A. SANDERS,
Superintendent, Stones River National Battlefield.

JUNE 23, 1978.

[FR Doc. 79-2416 Filed 1-23-79; 8:45 am]

[4310-70-M]

[Order No. 2]

ADMINISTRATIVE TECHNICIAN

Delegation of Authority Regarding Approval and Administration of Contracts for Construction, Supplies, Equipment and Services; Approval of Revocable Special Use Permits

1. *Administrative Technician.* The Administrative Technician may approve and administer contracts not in excess of $2,000 for construction, supplies, equipment and services, in conformity with applicable regulations and statutory authority and subject to availability of allotted funds; and may execute and approve revocable special use permits for use of Government-owned lands and facilities.

2. *Redelegation.* The authority delegated herein shall not be redelegated.

(National Park Service Order No. 77 (38 FR 7478) as amended; Southeast Region Order No. 6 (42 FR 59428) published November 17, 1977.)

Dated: November 7, 1978.

BENJAMIN H. DAVIS,
Superintendent, Carl Sandburg Home National Historic Site.

[FR Doc. 79-2413 Filed 1-23-79; 8:45 am]

[4310-70-M]

[Order No. 2]

ADMINISTRATIVE TECHNICIAN, KENNESAW MOUNTAIN NATIONAL BATTLEFIELD PARK

Delegation of Authority

SECTION 1. *Administrative Technician.* The Administrative Technician may issue purchase orders not in excess of $2,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

SEC. 2. Revocation. This order revokes Order No. 1, dated April 2, 1975 (40 FR 29309).

(National Park Service Order No.77 (38 FR 7478) as amended; Southeast Region Order No. 6 (42 FR 59428).

Dated: July 14, 1978.

ALVOID L. RECTOR,
Superintendent, Kennesaw Mountain National Battlefield Park.

[FR Doc. 79-2415 Filed 1-23-79; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[303-TA-9]

CERTAIN FISH AND CERTAIN SHELLFISH FROM CANADA

Investigation and Hearing

Having received advice from the Department of the TTeasury on Janaury 9, 1979, that a bounty or grant is being paid with respect to certain fish and certain shellfish imported from Canada, provided for in items 110.1593, 110.1597, 110.4730, 110.4755, 110.4760, 110.4765, 114.4520, and 114.4537 of the Tariff Schedules of the United States (TSUS), which merchandise is accorded duty-free treatment, the United States International Trade Commission on January 18, 1979, instituted investigation No. 303-TA-9, under section 303(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(b)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing in connection with the investigation will be held in the Commission's Hearing Room, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.s.t., on Tuesday, February 27, 1979. All persons shall have the right to appear by counsel or in person, to present evidence and be heard. Requests to appear at the public hearing shall be filed with the Secretary of the Commission at his office in Washington, D.C. not later than close of business February 23, 1979.

Issued: January 19, 1979.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-2501 Filed 1-23-79; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

PROPOSED CONSENT DECREE IN ACTION TO ENJOIN DISCHARGE OF WATER POLLUTANTS

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, a notice is hereby given that on January 10, 1979, a proposed consent decree in *United States* v. *West Penn Power Company*, was lodged with the United States District Court for the Western District of Pennsylvania. The proposed decree requires the company to construct a flue gas desulfurization system at its Mitchell Station Unit No. 3 and comply with the Clean Air Act by September 21, 1982.

The Department of Justice will receive for 30 days from the date of publication of this notice written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *West Penn Power Company*, D.J. Ref. 90-5-2-1-58.

The proposed consent decree may be examined at the office of the United States Attorney, Western District of Pennsylvania, U.S. Courthouse, Pittsburgh, Pennsylvania; the Clerk of the District Court, Western District of Pennsylvania, U.S. Courthouse, Pittsburgh, Pennsylvania; and the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-2436 Filed 1-23-79; 8:45 am]

[4410-01-M]

PROPOSED CONSENT DECREE IN ACTION TO ENJOIN DISCHARGE OF WATER POLLUTANTS

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, a notice is hereby given that on January 19, 1979, a proposed consent decree in *United States* v. *National Steel Corporation*, was lodged with the United States District Court for the Northern District of West Virginia. The proposed decree requires the company to construct several water pollution control systems in order to comply with the Clean Water Act and pay a civil penalty of $3.5 million for violations of the Act.

The Department of Justice will receive for 30 days from the date of publication of this notice written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *National Steel Corporation*, D.J. Ref. 90-1-5-6-110.

The proposed consent decree may be examined at the office of the United States Attorney, Northern District of West Virginia, U.S. Courthouse, Wheeling, West Virginia; the Clerk of the District Court, Northern District of West Virginia, U.S. Courthouse, Wheeling, West Virginia; and the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section.

JAMES W. MOOREMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-2437 Filed 1-23-79; 8:45 am]

[4410-01-M]

PROPOSED CONSENT DECREE IN ACTION TO ENJOIN DISCHARGE OF WATER POLLUTANTS

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, a notice is hereby given that on January 12, 1979, a proposed consent decree in *United States* v. *National Steel Corporation*, was lodged with the United States District Court for the Northern District of West Virginia. The proposed decree requires the company to construct several water pollution control systems in order to comply with the Clean Water Act and pay a civil penalty of $3.5 million for violations of the Act.

The Department of Justice will receive for 30 days from the date of publication of this notice written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *National Steel Corporation*, D.J. Ref. 90-1-5-6-110.

The proposed consent decree may be examined at the office of the United States Attorney, Northern District of West Virginia, U.S. Courthouse, Wheeling, West Virginia; the Clerk of the District Court, Northern District of West Virginia, U.S. Courthouse, Wheeling, West Virginia; and the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-2436 Filed 1-23-79; 8:45 am]

[4410-09-M]

Drug Enforcement Administration

IMPORTATION OF CONTROLLED SUBSTANCES

Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export

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Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on November 1, 1978, Lee Laboratories, Inc., Petersburg Industrial Park, 2999 Frontage Road, Petersburg Virginia 23803, made application to the Drug Enforcement Administration to be registered as an importer of the basic class of controlled substances listed below:

Drug:	Schedule
Morphine (9300)	II
Thebaine (9333)	II
Imported Raw Opium (9600)	II
Concentrate of Poppy Straw (9670)	II

As to the basic class of controlled substances listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than February 26, 1979.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (b), (c), (d), (e) and (f) (if applicable) are satisfied.

It should be noted that concentrate of poppy straw is presently imported into the United States under the terms of the emergency provisions of Section 1002(a)(2)(A) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a)(2)(A)). Thus, while the Drug Enforcement Administration invites the filing of comments on the advisability or propriety of granting an additional registration to import concentrate of poppy straw, the terms of Section 1008(h) clearly leave it to the discretion of the Administrator to grant or deny a hearing to any party on issues concerning such importation.

In addition, the terms of Section 1008(h) of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)) obligate the Administrator to give only to manufacturers holding registrations for the bulk manufacture of a substance sought to be imported the opportunity for a hearing on issues associated with the proposed registration of a bulk manufacturer of the substance or associated with the proposed actual importation of the substance. In the case of imported raw opium, there exists no registered bulk manufacturer of the substance, hence, it is likewise left to the discretion of the Administrator to grant or deny a hearing to any party on issues concerning the importation of raw opium.

Dated: January 17, 1979

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc. 79-2423 Filed 1-23-79; 8:45 am]

[4410-09-M]

MANUFACTURE OF CONTROLLED SUBSTANCES

Notice of Application

Pursuant to 21 U.S.C. 823(a)(1), and § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 1, 1978, Lee Laboratories, Inc., Petersburg Industrial Park, 2999 Frontage Road, Petersburg, Virginia 23803, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic class of controlled substances listed below:

Drug	Schedule
Codeine (9050)	II
Oxycodone (9143)	II
Morphine (9300)	II
Opium Extracts (9610)	II
Opium Fluid Extracts (9620)	II
Opium Tinctures (9630)	II
Opium Powders (9639)	II
Opium Granulated (9640)	II
Concentrate of Poppy Straw (9670)	II

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than February 26, 1979.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

Dated: January 17, 1979.

[FR Doc. 79-2422 Filed 1-23-79; 8:45 am]

[4410-18-M]

ADVISORY COMMITTEE OF THE NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Meeting

Notice is hereby given that the Advisory Committee of the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, will meet on February 8, 1979 from 9:00 A.M. to 4:30 P.M. and on February 9, 1979 from 9:00 A.M. to 12:00 P.M. at the Holiday Inn, 480 King Street, Old Town, Alexandria, Virginia.

The major topic of discussion will concern the research agenda for FY80.

The meeting will be open to the public.

For further information, please contact Blair G. Ewing, National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U. S. Department of Justice, Washington, D.C. 20531 (301/492-9108).

BLAIR G. EWING,
Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 79-2428 Filed 1-23-79; 8:45 am]

[4410-18-M]

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Program Solicitation of Research for Policy Experiments in General Deterrence

The National Institute of Law Enforcement and Criminal Justice announces the solicitation of research proposals for policy experiments in general deterrence. This competitive solicitation has a closing date of March 21, 1979. Interested researchers may obtain a copy of the solicitation by writing to:

National Criminal Justice Reference Service, Program Solicitation, Policy Experiments in General Deterrence, Box 6000, Rockville, Maryland 20850.

This solicitation will award only grants.

BLAIR G. EWING,
Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 79-2429 Filed 1-23-79; 8:45 am]

[4410-18-M]

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Solicitation Regarding Grant Program of Research on Minority Communities

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant program or research on minority communities with the purpose of increasing the understanding of the relationships between race and crime.

The solicitation asks for the submission of concept papers rather than full proposals. Full proposals will be requested following reviews of concept papers. In order to be considered, a concept paper must be received by the National Institute no later than March 31, 1979. One grant will be awarded for a project to run for 2 years.

Additional information and copies of the solicitation can be obtained by contacting Winifred L. Reed, Center for the Study of Crime Correlates and Determinants of Criminal Behavior, NILECJ, 633 Indiana Avenue, N.W., Washington, D.C., 20531, (301) 492-9126.

BLAIR G. EWING,
Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 79-2430 Filed 1-23-79; 8:45 am]

[4410-18-M]

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Solicitation Regarding Grant Program to Study Safe and Secure Neighborhoods

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant to study "Safe and Secure Neighborhoods." The purpose of the research is to identify those processes operating through the physical and social characteristics of a neighborhood to achieve and maintain a safe and secure environment.

The solicitation asks for the submission of full proposals. In order to be considered, proposals must be postmarked no later than March 1, 1979. It is expected that two to three awards will be made under this announcement. Funding under any one award will not exceed $125,000, and will be executed within 24 months.

Copies of the solicitation and additional information can be obtained by contacting: Director, Community Crime Prevention Division, NILECJ, 633 Indiana Avenue, N.W., Washington, D.C. 20531 (301/492-9122).

Dated: January 11, 1979.

Approved:

BLAIR G. EWING,
Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 79-2431 Filed 1-23-79; 8:45 am]

[7537-01-M]

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

MEDIA ARTS (GENERAL PROGRAMS) ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts (General Programs) Advisory Panel to the National Council on the Arts will meet February 26, 1979, from (9:00 a.m. to 6:00 p.m., February 27, 1979, from 9:00 a.m. to 6:00 p.m., and February 28, 1979, from 9:00 a.m. to 6:00 p.m., in room 1220, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

JANUARY 19, 1979.

[FR Doc. 79-2504 Filed 1-23-79; 8:45 am]

[7537-01-M]

NATIONAL COUNCIL ON THE ARTS

Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the National Council on the Arts will be held on February 9, 1979, from 9:00 a.m. to 5:30 p.m., February 10, 1979, from 9:00 a.m. to 5:30 p.m., and February 11, 1979 from 9:00 a.m. to 1:00 p.m., at the East Building of the National Gallery of Art, Constitution Avenue and 4th Street, N.W., Washington, D.C. Use 4th Street entrance to the Study Center which is to the right of the East Building Exhibition entrance.

A portion of this meeting will be open to the public on Friday, February 9, 1979 from 9:00 a.m. to 4:00 p.m. and Saturday, February 10, 1979 from 9:00 a.m. to 3:30 p.m. Topics for discussion will be program policy and guidelines for the Literature, Music, Opera-Musical Theatre, Folk Arts and Dance Touring Programs; long-range planning for the Arts Endowment; a report on the work of the Hispanic American Task Force and other general reports. The remaining sessions of this meeting on Friday, February 9, 1979 from 4:00–5:30 p.m.; on Saturday, February 10, 1979 from 3:30-5:30 p.m.; and on Sunday, February 11, 1979 from 9:00 a.m. to 1:00 p.m. are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions may be closed to the public pursuant to subsections (c) (4), (6) and 9 (B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

JANUARY 19, 1979.

[FR Doc. 79-2503 Filed 1-23-79; 8:45 am]

[7537-01-M]

VISUAL ARTS PANEL (ARTIST'S FELLOWSHIPS)

Meeting

Pursuant to section 10 (a) (2) of the Federal Advisory Committee Act (Pub.

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L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Panel (Artist's Fellowships) will be held February 12, 1979, from 9:30 a.m. to 5:30 p.m., February 13, 1979, from 9:30 a.m. to 5:30 p.m., and February 13, 1979, from 9:30 a.m. to 5:30 p.m., and February 14, 1979, from 9:30 a.m. to 5:30 p.m., in Room 1115, Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9 (B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

JANUARY 19, 1979.

[FR Doc. 79-2505 Filed 1-23-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on February 8-10, 1979, in Room 1046, 1717 H Street, NW, Washington, DC.

The agenda for the subject meeting will be as follows:

THURSDAY, FEBRUARY 8, 1979

8:30 a.m.-9:15 a.m.: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

9:15 a.m.-10:15 a.m.: Meeting with Director, NRC (Open)—The Committee will hear a brief report on the degree to which the NRC Staff considers low-probability, high-consequence accidents in the licensing process.

10:15 a.m.-1:00 p.m.: Executive Session (Open)—The Committee will review items to be discussed with the NRC Commissioners including the ACRS 1978 Annual Report to Congress on the NRC Safety Research Program, ACRS review of Licensee Event Reports, and use of probabilistic assessment in the licensing process including consideration of low-probability, high-consequence accidents. The Committee will also discuss the qualifications of candidates proposed for appointment to the Committee.

Portions of this session will be closed as necessary to permit discussion of information the release of which would represent an unwarranted invasion of personal privacy.

2:00 p.m.-3:00 p.m.: Meeting with NRC Commissioners (Open)—The Committee will meet with the NRC Commissioners in Room 1130 to discuss the items noted above.

3:00 p.m.-3:30 p.m.: Executive Session (Open)—The Committee will hear and discuss the report of its Subcommittee and consultants who may be present regarding the request for an Operating License for the Salem Nuclear Generating Station Unit 2.

Portions of this session will be closed as required to permit discussion of Proprietary Information related to this project and arrangements for the physical security of this station.

3:30 p.m.-6:00 p.m.: Salem Nuclear Generating Station Unit 2 (Open)—The Committee will hear reports from and hold discussions with representatives of the NRC Staff and the applicant regarding proposed operation of this plant.

Portions of this session will be closed as required to discuss Proprietary Information related to this project and arrangements for the physical security of this station.

FRIDAY, FEBRUARY 9, 1979

8:30 a.m.-9:00 a.m.: Executive Session (Open)—The Committee will hear and discuss the report of its Subcommittee and consultants who may be present regarding the request for Preliminary Design Approval for the Fluor Pioneer Inc. standard balance of plant (Fluor BOPSSAR) used with the Babcock-205 Standard Nuclear Steam Supply System.

Portions of this session will be closed as required to permit discussion of Proprietary Information related to this request and arrangements for the physical security of this facility.

9:00 a.m.-12:00 Noon: Fluor Pioneer Inc. Standard Balance of Plant to be used with the Babcock-205 Standard Nuclear Steam Supply System (Open)—The Committee will hear and discuss reports from representatives of the NRC Staff, Fluor Pioneer Inc., and the Babcock and Wilcox Company regarding the request for Preliminary Design Approval for this type of nuclear power plant facility.

Portions of this session will be closed as required to permit discussion of Proprietary Information related to this request and arrangements for the physical security of this facility.

1:00 p.m.-3:45 p.m.: Meeting with NRC Staff (Open)—The Committee will meet with members of the NRC Staff to hear reports on and to discuss recent operating experience and licensing actions. These matters will include matters related to operations at the Kewaunee Nuclear Station and NRC activities related to the capability of nuclear power plants to shut down and remove decay heat using only safety grade equipment.

The future schedule for ACRS activities will also be discussed.

3:45 p.m.-5:30 p.m.: Executive Session (Open)—The Committee will hear and discuss the reports of its Subcommittees on recent activities regarding Anticipated Transients Without Scram, Emergency Core Cooling Systems, and ACRS review of Licensee Event Reports.

The Committee will discuss its proposed reports to the NRC regarding the Salem Nuclear Generating Station and the Fluor Pioneer Inc. standard balance of plant.

Portions of this session will be closed as required to permit discussion of Proprietary Information related to these subjects and arrangements for the physical security of these plants.

SATURDAY, FEBRUARY 10, 1979

8:30 a.m.-12:30 p.m.: Executive Session (Open)—The Committee will discuss its proposed reports to the NRC on the Salem Nuclear Station and the Fluor Pioneer Inc. standard balance of plant.

The committee will also discuss proposed comments and positions regarding other items discussed during this meeting.

Procedures for the conduct of and participation in ACRS meetings were outlined in the FEDERAL REGISTER on October 4, 1978, page 45926. In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

I have determined in accordance with Subsection 10(d) Pub. L. 92-463 that it is necessary to close portions of this meeting as noted above to protect Proprietary Information (5 U.S.C. 552 b(c)(4) and to protect information the release of which would represent an unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634-3265), between 8:15 a.m. and 5:00 p.m. EST.

Dated: January 18, 1979.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 79-2406 Filed 1-23-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-295, 50-304]

COMMONWEALTH EDISON CO.

Issuance of Amendements to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 41 and 38 to Facility Operating Licenses Nos. DPR-39 and DPR-48 issued to Commonwealth Edison Company (the licensee) which revise Technical Specifications for Zion Station, Unit Nos. 1 and 2, located in Zion, Illinois. The amendments are effective as of the date of issuance.

These amendments reduce the maximum allowable pressurizer heatup rate from 200°F per hour to 100°F per hour and add ECCS flow rate surveillance requirements.

The applications for these amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of this action was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal is not required for these amendments.

For further details see (1) the applications for amendments dated October 26, 1977 and October 5, 1978, (2) the above cited amendments and (3) the Commission's Related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 16th day of January 1979.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-2411 Filed 1-23-79; 8:45 am]

[7590-01-M]

[Docket No. 50-245]

CONNECTICUT LIGHT AND POWER CO.; THE HARTFORD ELECTRIC LIGHT CO.; WESTERN MASSACHUSETTS ELECTRIC CO.; AND NORTHEAST NUCLEAR ENERGY CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 58 to Provisional Operating License No. DPR-21, issued to Northeast Nuclear Energy Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Connecticut Light and Power Company (the licensees), which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 1 (the facility) located in Waterford, Connecticut. The amendment is effective as of its date of issuance.

The amendment changes the Appendix A Technical Specifications to authorize a revised setpoint for the suppression chamber to reactor building vacuum breakers.

The application for the amendment complies with the standards and requiremens of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 15, 1978, (2) Amendment No. 58 to License No. DPR-21, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regualtory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 12th day of January, 1979.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 79-2409 Filed 1-23-79; 8:45 am]

[7590-01-M]

[Docket No. 50-263]

NORTHERN STATES POWER CO. (MONTICELLO NUCLEAR GENERATING STATION, UNIT NO. 1)

Request for Issuance of Immediately Effective Order Prohibiting Installation of Allegedly Defective Spent Fuel Storage Racks

Notice is hereby given that by letter dated December 8, 1978, the Minnesota Pollution Control Agency (MPCA) requested that the Commission issue an immediately effective order to prohibit installation of allegedly defective spent fuel storage racks at the Monticello Nuclear Generating Station, Unit No. 1. The MPCA alleges that installation of the racks violates Provisional Operating License No. DPR-22 issued for the Monticello facility. The MPCA also requests that a hearing be granted on the issue of whether a license amendment should be issued authorizing the modification and continued use of the allegedly defective spent fuel storage racks and petitions for leave to intervene in such hearing.

This request is being treated under 10 CFR 2.206 of the Commission's regulations and accordingly, action will be taken on the request within a reasonable time. A copy of the request is available for inspection in the Commission's Public Document Room,

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1717 H Street, N.W., Washington, D.C. 20555, and at the local public document room for the Monticello Nuclear Generating Station located at Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Dated at Bethesda, Md., this 17 day of January 1979.

For the Nuclear Regulatory Commission.

HAROLD DENTON,
Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-2412 Filed 1-23-79; 8:45 am]

[7590-01-M]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 10.8, "Guide for the Preparation of Applications for Medical Programs," described the information needed by the NRC staff in its evaluation of an application for a license to use byproduct radioactive materials in diagnostic and therapeutic medical applications. The guide also provides a simpler Form NRC-313M for completing the required entries.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 10.8 will, however, be particularly useful in evaluating the need for an early revision if received by March 23, 1979.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of the latest revision of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accomodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 16th day of January 1979.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 79-2407 Filed 1-23-79; 8:45 am]

[7590-01-M]

TOPICAL REPORT

Issuance and Availability

The Nuclear Regulatory Commission staff has released a topical report on potential radiation doses from timepieces containing tritium and promethium paint. The report was prepared by the Oak Ridge National Laboratory under a contract to NRC.

The report, NUREG/CR-0216, "Radiation Dose Estimates from Timepieces Containing Tritium or Promethium-147 in Radioluminous Paints," presents estimates of potential radiation doses to members of the general public, both individually and collectively, from exposure to timepieces containing tritium or promethium-147 mixed with a phosphor used in luminous paint. The study considered exposures that could occur during the distribution, use, repair, and disposal of such timepieces, as well as under certain postulated accident conditions involving the timepieces.

This is the second in a series of reports prepared for the NRC on radiation doses associated with consumer products containing radioactive materials. The first, NUREG/CR-0215, "Estimates of Potential Radiation Doses from Wristwatches Containing Tritium Gas," was announced in the FEDERAL REGISTER on November 8, 1978 (43 FR 52070).

NUREG/CR-0216 is available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Copies may be purchased at current rates from the National Technical Information Service, Springfield, Va. 22161. (Paper copy: $4.50; Microfiche: $3.00)

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 15th day of January 1979.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 79-2410 Filed 1-23-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

PRIVACY ACT

Notice of New Systems

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals * * *"

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between December 11, 1978 and December 29, 1978. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice period begins on the report date indicated.

FEDERAL TRADE COMMISSION

System Name:

Consumer Complaint Files.

Report Date:

December 12, 1978.

Point-of-Contact:

Ms. Karen C. Gabbert, Office of General Counsel, Federal Trade Commission, 6th Street and Pennsylvania Avenue, Washington, D.C. 20580.

Summary:

This is a report on a proposed change to an existing system of records. The FTC plans to maintain these files on a computer, to "allow for faster, more complete and accurate retrieval of the necessary information," to save staff time.

DEPARTMENT OF DEFENSE

System Name:

Automated Payroll, Cost and Personnel Subsystem.

Report Date:

December 20, 1978.

Point-of-Contact:

Mr. William Cavaney, Defense Privacy Board, Department of Defense, Washington, D.C. 20301.

Summary:

This existing Defense Logistics Agency system is being altered to include a minority group designator; the system is used for personnel management, including personnel actions and reporting requirements.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

System Name:

Women Administrators in Vocational Education.

Report Date:

December 22, 1978.

Point-of-Contact:

Mr. William A. Wooten, Privacy and Information Rights Officer, Office of Education, Washington, D.C. 20202.

Summary:

The Office of Education proposes this new system of records as a basis for a Directory of Women Administrators in Vocational Education. The directory will provide information about women who administer programs in non-traditional areas for women, and make their services available to those who need them.

System Name:

Health Education Assistance Loan Program Loan Control Master File.

Report Date:

December 22, 1978.

Point-of-Contact:

Mr. William A. Wooten, Privacy and Information Rights Officer, Office of Education, Washington, D.C. 20202.

Summary:

This proposed new system will be used by the Office of Education to service health education assistance loans, including verifying the identity and eligibility of applicants, counseling of borrowers, collection of the loan and prevention of fraud and abuse in the program.

System Name:

Studies of Possible Influence on Cognitive and Emotional Development of Children.

Report Date:

December 22, 1978.

Point-of-Contact:

Mr. Robert J. Slevin, NIH Privacy Act Coordinator, 9000 Rockville Pike, Bethesda, Md 20014.

Summary:

This system, to be maintained by the National Institutes of Health, is part of a research study focussed on "early environmental influences on development and the complex transactions between organismic characteristics." The study will examine mother-child relationships from delivery through childhood.

System Name:

Scientific Visitors at the National Institutes of Health, Fogarty International Center.

Report Date:

December 22, 1978.

Point-of-Contact:

Mr. Robert J. Slevin, NIH Privacy Act Coordinator, 9000 Rockville Pike, Bethesda, MD 20014.

Summary:

The National Institutes of Health will maintain this new system to administer its foreign visitors program. It will include biographical and education/employment information about applicants for the program.

Waiver Requests:

OMB procedures permit a waiver of the advance notice requirement when the agency can show that the delay caused by the 60 day advance notice would not be in the public interest. It should be noted that a waiver of the 60 day advance notice period does not relieve the agency of the obligation to publish a notice describing the system and to allow 30 days for public comment on the proposed routine uses of the personal information to be collected. A waiver of the 60 day advance notice provision was requested by agencies for the following reports received between December 11, 1978 and December 29, 1979. Public inquiries or comments on the proposed new or altered systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. Comments on the operation of the waiver procedure should be directed to OMB.

CIVIL SERVICE COMMISSION/OFFICE OF PERSONNEL MANAGEMENT

System Name:

Ethics in Government Financial Disclosure Records.

Report Date:

December 21, 1978.

Point-of-Contact:

Office of General Counsel, U.S. Civil Service Commission, 1900 E Street, NW, Washington, D.C. 20415.

Summary:

This system of records is being developed to implement the Ethics in Government Act of 1978 (Public Law 95-521). It will be a government-wide system of records containing financial disclosure records on the President and Vice President and candidates for those offices, Executive Branch and Postal Service employees who are GS-16 or above, administrative law judges, certain other confidential or policy making employees. The information provided by each individual will be available upon request to any member of the public and will be used to administer the Ethics in Government Act.

Status of waiver request:

No action as of January 8, 1979.

DEPARTMENT OF THE TREASURY

System Name:

General Allegations and Investigative Records System.

Report Date:

December 26, 1978.

Point-of-Contact:

Mrs. Carol Jolliffee, Office of the Inspector General, Main Treasury Building, Washington, D.C. 20220.

Summary:

This new system will be maintained by the Office of the Inspector General to track and carry out investigations of alleged illegal acts and misconducts.

Status of waiver request:

No action as of January 8, 1979.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 79-2368 Filed 1-23-79; 8:45 am]

JA 24 79 UMI

[6820-97-M]

PRESIDENTIAL COMMISSION ON WORLD HUNGER

PUBLIC PARTICIPATION AND COMMUNICATION SUBCOMMITTEE

Meetings

The Public Participation and Communication Subcommittee of the Presidential Commission on World Hunger has scheduled meetings as follows:

February 5, 1979, in the Presbyterian Center Chapel, 341 Ponce de Leon Avenue, N.E., Atlanta Georgia. February 12, 1979, in the Foote Music Hall, Houston Fine Arts Center, Montview and Quebec Streets, Colorado Women's College, Denver, Colorado, February 19, 1979, in the El Centro College Performance Hall, Market Street, Dallas, Texas. All meetings will commence at 9:30 a.m.

The meetings will be open to observation by the public. Persons interested in attending such meetings should address a letter to the Presidential Commission on World Hunger, 734 Jackson Place, N.W., Washington, D.C. 20006. Admission of observers will be on the basis of earliest postmark date and to the extent space is available. The Commission's telephone number is (202) 395-3505.

DANIEL E. SHAUGHNESSY,
Acting Executive Director, Presidential Commission on World Hunger.

[FR Doc. 79-1272 Filed 1-23-79; 8:45 am]

[6820-99-M]

PRESIDENT'S COMMISSION ON PENSION POLICY

Privacy Act of 1974

Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93-479, 4 U.S.C. 552a, the President's Commission on Pension Policy, hereafter known as the Commission, hereby publishes for comment those systems of records subject to the Privacy Act of 1974 which are maintained by the Commission. Any person interested in commenting on the routine use of the system notices may do so by submitting comments in writing to the Administrative Officer, 736 Jackson Place, N.W., Washington, DC 20006. Comments should be submitted on or before February 23, 1979. The Commissions procedures for access to records in the systems are contained in 1 CFR Part 470.

Dated at Washington, DC, on 1/16/79.

THOMAS C. WOODRUFF,
Executive Director.

PCPP—1

System name:

Payroll Records—President's Commission on Pension Policy.

System location:

General Services Administration, Region 3 Office; copies held by the Commission. (GSA holds records for the President's Commission on Pension Policy under contract).

Categories of individuals covered by the system:

Employees and members of the Commission.

Categories of records in the system:

Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health records; requests for deductions; tax forms, W-2 forms, overtime requests; leave data; retirement records. Records are used by Commission and GSA employees to maintain adequate payroll information for Commission employees, and otherwise by Commission and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system:

31 U.S.C. "Money and Finance", generally. Also, Executive Order 12071, July 12, 1978.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigations; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 4416, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Administrative Officer, 736 Jackson Place, NW., Washington, D.C. 20006. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Administrative Officer, 736 Jackson Place, NW., Washington, D.C. 20006.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper and microfilm.

Retrievability:

Social Security Number.

Safeguards:

Stored in guarded building; released only to authorized personnel, including among others, GSA liaison staff and finance personnel; and Commission administrative staff.

Retention and disposal:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAS P 1820.2).

System manager(s) and address:

Administrative Officer, 736 Jackson Place, N.W., Washington, D.C. 20006.

Notification procedure:

Refer to Commission access regulations contained in 1 CFR Part 470.

Record access procedures:

Refer to Commission access regulations contained in 1 CFR Part 470.

Record source categories:

The subject individual; the Commission.

PCPP—2

System name:

General Financial Records—President's Commission on Pension Policy.

System location:

General Services Administration, Central Office, copies held by the Commission (GSA holds records for the President's Commission on Pension Policy under contract).

Categories of individuals covered by the system:

Employees and members of the Commission.

Categories of records in the system.

SF-1038, Application and account for advance of funds; Vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of GSA and the Commission who have a need for the record in the performance of their duties.

Authority for maintenance of the system:

31 U.S.C. "Money and Finance", generally; also Executive Order 12071, dated July 12, 1978.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See appendix. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper and tape.

Retrievability:

Manual and automated by name.

Safeguards:

Stored in guarded building; released only to authorized personnel including among others, GSA liaison staff and finance personnel; and Commission administrative staff.

Retention and disposal:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition.

System manager(s) and address:

Administrative Officer, 736 Jackson Place, N.W., Washington, D.C. 20006.

Notification procedure:

Refer to President's Commission on Pension Policy access regulations contained in 1 CFR Part 470.

Record access procedures:

Refer to President's Commission on Pension Policy in 1 CFR Part 470.

Contesting record procedures:

Refer to President's Commission on Pension Policy access regulations contained in 1 CFR Part 470.

Record source categories:

The subject individual; the Commission.

PCPP—3

System name:

General Informal Personnel Files—President's Commission on Pension Policy.

System location:

President's Commission on Pension Policy, 736 Jackson Place, N.W., Washington, D.C. 20006.

Categories of individuals covered by the system:

Commission members staff and consultants, past and present.

Categories of records in the system:

Copies of: Personnel qualifications statements, personnel action requests and notifications, oaths of office, consultant and/or expert certifications, delegations of authority, background information for security clearances (non-sensitive and critical-sensitive), statements of employment and financial interests, training materials and correspondence with members of the Commission.

Authority for maintenance of the system:

Title 5, U.S.C. "Government Organization and Employees", generally. Also Executive Order 12071, dated July 12, 1978.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper.

Retrievability:

Manual.

Safeguards:

Stored in lockable file cabinets, released only to authorized personnel, including among others, GSA liaison staff and Commission administrative staff.

Retention and disposal:

Retained until no longer needed, then discarded.

System manager(s) and address:

Administrative Officer, 736 Jackson Place, N.W., Washington, D.C. 20006.

Notification procedure:

Refer to President's Commission on Pension Policy access regulations contained in 1 CFR Part 470.

Contesting record procedures:

Refer to President's Commission on Pension Policy access regulations contained in 1 CFR Part 470.

Record source categories:

The subject individual; the Commission.

APPENDIX—PRESIDENT'S COMMISSION ON PENSION POLICY

In the event that a system of records maintained by this Commission to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, or local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement or a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Office of Personnel Management in accordance with the agency's responsibility for evaluation and oversight of federal personnel management.

A record from this system of records may be disclosed to officers and employees of a federal agency for purposes of audit.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of pri-

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vate relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of an individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

[FR Doc. 79-2457 Filed 1-23-79; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 10561; 812-4405]

FIDELITY GOVERNMENT SECURITIES FUND, LTD. AND FIDELITY MANAGEMENT & RESEARCH CO.

Filing of Application of the Act for Order of Exemption

JANUARY 16, 1979.

Notice is hereby given that Fidelity Government Securities Fund, Ltd. ("Fund"), registered under the Investment Company Act of 1940 (the "Act") as an open-end, diversified management investment company, and Fidelity Management & Research Company ("FMR" or the "Adviser"), 82 Devonshire Street, Boston, Massachusetts 02109, Non-Managing General partner and investment adviser of the Fund (collectively "Applicants"), filed an application on December 13, 1978, requesting an order of the Commission pursuant to Section 6(c) of the Act exempting the Fund and its general partners from the provisions of Section 2(a)(19) of the Act to the extent that the Fund's general partners would otherwise be deemed to be "interested persons" of the Fund or its Non-Managing General Partner solely because they are partners in the Fund. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Fund has been organized as a limited partnership under the Uniform Limited Partnership Act of Nebraska and proposes to operate as an open-end, diversified management investment company registered under the Act, with the objective of providing investors with as high a level of current income exempt from state and local taxes as is consistent with the preservation of capital. They further state that the Fund will seek to achieve this objective by investing in a diversified portfolio of securities issued by the United States Government, its agencies or instrumentalities ("government securities").

The Fund plans to invest only in those securities the interest income on which is exempt from state and local taxes. However, the Fund does reserve the right to invest in government securities the interest on which may be subject to taxation in some states in cases of significant yield disparity or for defensive purposes. According to the application, requests for rulings have been filed with the Internal Revenue Service seeking a determination that the Fund will be a partnership and not an association taxable as a corporation.

The general partners of the Fund will consist of Managing General Partners and a Non-Managing General Partner; the Fund will be managed solely by the Managing General Partners, except in the circumstances described below. Only individuals may serve as Managing General Partners. They will perform the same functions as directors of incorporated investment companies. Applicants state that the Non-Managing General Partner FMR, in its capacity as such, is excluded from participation in the Management of the Fund, except in the circumstances described below. In its capacity as investment adviser, however, FMR may also have the authority to act on behalf of the Fund to the extent provided in its advisory agreement.

According to the application, the Managing General Partners may act only by majority vote and are subject to election and removal by vote of the partners. In the event no Managing General Partner remains, it is the responsibility of the Non-Managing General Partner to call a meeting of the limited partners ("Limited Partners"), to be held within 60 days of the date the last Managing General Partner ceased to act in such capacity, for the purpose of determining whether to elect to continue the business of the Fund and, if the business is to be continued, electing new Managing General Partners. During a period of time in which no Managing General Partner remains, the Non-Managing General Partner is permitted to engage in the management, conduct and operation of the business of the Fund to the same extent as a Managing General Partner.

According to the application, the Fund's Limited Partners have no rights to control the Fund's business, but may exercise certain right and powers of a Limited Partner under the partnership agreement, including voting rights, and the giving of consents and approvals provided for in the partnership agreement. The partnership agreement authorizes Limited Partners to exercise voting rights on certain matters, including the right to elect or remove general partners, approval or termination of investment advisory contracts, and ratification or rejection of the appointment of the independent public accountants of the Fund. Applicants state that they have been advised that it will be the opinion of Nebraska counsel that the existence or exercise of these voting rights does not subject the Limited Partners to liability as general partners under the Uniform Limited Partnership Act of Nebraska. However, Applicants further state that it is possible that, because of such voting rights, the Limited Partners might be found to be subject to liability as general partners by the courts of another state. In this regard, the Applicants state that, if a Limited Partner is sued to satisfy an obligation of the Fund, the Fund will, upon notice of such suit by the Limited Partner, either satisfy such obligation or, if it believes such suit is without merit, undertake the defense of such suit. In addition, the Fund intends to include in all material contracts a provision limiting the claims of creditors to Fund assets. The Applicants specifically recognize that in the event a Limited Partner should be found to be liable as a general partner, he will be required to satisfy such a claim personally to the extent that the assets and insurance of the Fund are insufficient to reimburse him.

Applicants state that the entire interest of the partners will be divided into Shares of Partnership Interest ("Shares") which will be offered to investors, and that, upon the sale of a Share to a purchaser who is not a Limited Partner, and upon receipt of a signed partnership authorization, including a power of attorney required of all Limited Partners, the purchaser will become a Limited Partner upon the filing of an amendment to the partnership agreement. According to the application, the Managing General Partners agree to process such amendments at least weekly. However, while amendments will be processed at least weekly, income loss, gain, expense or credits will be allocated to a holder of shares on the day following receipt of payment for shares purchased and a signed partnership authorization. Applicants further state that (1) all items of Fund income gain, loss, deductions and credits will be allocated equally among the outstanding Shares of the Fund; (2) all Shares will have equal rights and one vote each on all matters to be voted upon by partners, and are redeemable; and (3) a Limited Partner can assign his Shares, in whole or part: *Provided*, The assignee

agrees to become a substituted Limited Partner, the general partners consent to such assignment and substitution, and the assignee executes the necessary documents to become a substituted Limited Partner.

It is anticipated that, as a condition of the granting of the rulings noted above, the Internal Revenue Service will require that at all times the general partners must have in the aggregate a one percent interest in all Fund items of income, gains and losses. The general partners intend to meet this condition by purchasing in the aggregate one percent of the outstanding Shares of the Fund. In addition, FMR undertakes that at all times while serving as Non-Managing General Partner it will own a sufficient amount of the Fund's outstanding Shares so that when its ownership is combined with the Share ownership of the General Partners, the aggregate Share ownership of the General Partners will amount to a least one percent of the outstanding Shares of the Fund. FMR also undertakes that it will not withdraw as a Non-Managing General Partner except on 180 days notice or unless another General Partner has assumed this obligation. The Fund undertakes that any successor Non-Managing General Partner will agree to the same undertakings as FMR.

Applicants assert that, if the Fund is organized as a limited partnership, certain tax benefits will accrue to its investors which would not be available if the Fund were organized in corporate form. This, Applicants state, is because as a general rule, income from government securities is exempt from state, local and municipal taxes. The Fund has been advised that if it were organized in corporate form, state and local governments would be free to treat the income distributions paid to shareholders as corporate dividends rather than interest income and impose income tax liability on such distributions. The Fund has also been advised that a limited partnership is generally not considered to be a separate entity under state income tax laws. Consequently, Applicants state that Fund shareholders will have the same state tax liability on income distributions of the Fund as they would have had under direct ownership of a proportionate interest in the instruments held in the Fund's portfolio. Applicants also argue that by organizing as a limited partnership, the Fund provides investors with the benefits of diversification, professional management and low cost operation inherent in an investment company without sacrificing the favorable tax treatment that attaches to the direct ownership of government securities. The Applicants assert that the above favorable tax treatment can have a significant effect on the net tax-adjusted yield for investors of all income levels and can be particularly important for investors wishing to invest less than the amounts of the lowest denominations of government securities customarily available, which is generally 5,000 except for U.S. Treasury bills for which the minimum denomination is generally $10,000.

Applicants also state that as a partnership, the Fund will not be obliged to comply with the provisions of Subchapter M of the Internal Revenue Code in order to avoid being taxed as a separate entity under Federal income tax laws; and that, unlike a corporation, a partnership normally is not subject to state taxes.

Section 10(a) of the Act provides, in pertinent part, that no registered investment company shall have a board of directors more than 60 percent of the members of which are persons who are interested persons of such registered company.

Section 2(a)(12) of the Act defines "director" to include any director of a corporation or any person performing similar functions with respect to any organization, whether incorporated or unincorporated.

Section 15(c) of the Act provides, that it shall be unlawful for any registered investment company having a board of directors to enter into, renew, or perform any contract or agreement, written or oral, whereby a person undertakes to regularly serve or act as investment adviser of such company, unless the terms of such contract or agreement and any renewal thereof have been approved by the vote of a majority of directors, who are not parties to such contract or agreement or interested persons of any such party.

Section 2(a)(19)(A) of the Act provides, in pertinent part, that an "interested person" of another person, when used with respect to an investment company, means (1) any affiliated person of such investment company, and (2) any interested person of any investment adviser or principal underwriter for such company. Section 2(a)(19)(B) of the Act provides, in pertinent part, that an "interested person" of another person, when the other person is an investment adviser or principal underwriter for any investment company, means any affiliated person of such investment adviser or principal underwriter.

Section 2(a)(3)(D) of the Act provides, in pertinent part, that an "affiliated person" of another person means any officer, director partner, co-partner or employee of such other person.

Applicants submit that the relationship of the Managing General Partners to the Fund is essentially identical to the relationship of directors to an incorporated investment company. They state that, nevertheless, the provisions of Section 2(a)(3) of the Act would make all Managing General Partners affiliated persons of FMR, the adviser which is the Non-Managing General Partner, with the result that the Managing General Partners would be deemed interested persons of the Fund and its Non-Managing General partner under Section 2(a)(19) of the Act.

Applicants, to ensure compliance with Sections 10(a) and 15(c) of the Act, have requested that the Fund and its Managing General Partners be exempted from the provisions of Section 2(a)(19) to the extent that the Fund's Managing General Partners would otherwise be deemed to be "interested persons" of Fund or its Non-Managing General Partner solely because they are general partners of the Fund, a limited partnership in which the Fund's investment adviser, FMR, is also a general partner. Applicants assert that since Section 2(a)(19) excludes from the definition of interested persons of an investment company those individuals who woud be interested persons solely because they are directors or owners of securities of an investment company, and since the Non-Managing General Partner is excluded from participation in the management of the Fund except in the limited circumstance described above, it is consistent with the purposes fairly intended by the policy and provisions of the Act to grant the requested exemption from the provisions of Section 2(a)(19).

In addition to the undertakings and representations summarized above (including the fact that the only relationship of the Managing General partners to the Fund or FMR to which the requested exemptive relief will apply will be their serving as general partners of the Fund), the Applicants also undertake that if there are changes in state laws concerning the taxation of dividends paid by corporations with respect to income received from government securities so that there is no longer any significant advantage to the partnership form, FMR will recommend to the Fund and the fund will recommend to its shareholders that the form of the Fund's organization be changed from a partnership to a corporation.

Applicants state that, prior to a public offering of Shares, the fund will be added as one of the named assureds in FMR's existing errors and omissions policy, up to a maximum amount of $10 million (with a $50,000 deductible for any one claim) and will be named assured in indemnity bonds in an aggregate amount of $35 million. Applicants further state that they will take no action to cancel such policies

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and that, if such policies are cancelled by the insurance companies, it will seek to obtain comparable insurance.

Applicants agree that any exemptive order granted may be conditioned upon the continued effectiveness of the above-described undertakings. They submit that the granting of the requested exemptions is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of person, securities, or transactions from any provision of the Act or any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 7, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally, or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2383 Filed 1-23-79; 8:45 am]

[8010-01-M]

[Release No. 34-15498; File No. SR-NASD-78-16]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 27, 1978, the National Association of Securities Dealers, Inc. (the "NASD") filed with the Securities and Exchange Commission amendment No. 1 to a proposed rule change to amend schedule C under Article I, Section 2, of its By-Laws to create several new Categories of limited principal registration and to provide for specialized principal qualification examinations for those various categories. Notice of this proposed rule change was given in Securities Exchange Act Release No. 15283 (October 27, 1978) and in the FEDERAL REGISTER, 43 FR 51154 (November 2, 1978). The NASD has described the changes made by the amendment as technical and clarifying in nature. In order to assist the Commission to determine whether to approve the proposed rule change, as amended, or institute proceedings to determine whether it should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 15 days from the date of publication in the FEDERAL REGISTER of notice of the filing of Amendment No. 1 to the proposed rule change. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NASD-78-16.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change and amendments to it which are filed with the Commission, and of all written communications relating to the proposed rule change, as amended, between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the submission, and of any subsequent amendments, will be available at the principal office of the NASD.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 16, 1979.

[FR Doc. 79-2400 Filed 1-23-79; 8:45 am]

[8010-01-M]

[Release No. 10562; 812-4406]

PAUL REVERE VARIABLE ANNUITY INSURANCE CO. AND PAUL REVERE VARIABLE ANNUITY CONTRACT ACCUMULATION FUND

Filing of Application of the Act for an Order of Exemption

JANUARY 17, 1979.

Notice is hereby given that the Paul Revere Variable Annuity Insurance Company ("Paul Revere"), a stock insurance company organized under the laws of the State of Massachusetts, and The Paul Revere Variable Annuity Contract Accumulation Fund ("Accumulation Fund"), 18 Chestnut Street, Worcester, MA 01608, a separate account of Paul Revere registered under the Investment Company Act of 1940 ("Act") as diversified open-end investment company (collectively "Applicants"), filed an application on December 13, 1978, for an order granting exemption pursuant to Section 6(c) of the Act from the provisions of Sections 27(c)(2) and 26(a)(2)(C) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Accumulation Fund, a separate account of Paul Revere was established for the purpose of funding variable annuity contracts. Paul Revere acts as the principal underwriter for the Accumulation Fund. One of the contracts currently issued by Paul Revere is the Group "Level Charge" Flexible Annuity Contract (the "Contract") used to fund tax-qualified annuity plans under Section 403(b) of the Internal Revenue Code of 1954, as amended. Presently Applicants assess a level initial sales charge of 5% on the gross purchase payments under the Contract. On sales of the Contract to employers with anticipated annual premiums in excess of $50,000, Applicants propose to assess a level 2% initial sales charge on the gross purchase payments and an administrative fee of the lesser of $50 or 0.5% of any amount of the contract value withdrawn prior to the annuity commencement date or the date of the annuitant's death.

SECTION 27(c)(2) AND 26(a)(2)(C)

Section 27(c)(2) of the Act, in pertinent part, makes it unlawful to sell any periodic payment plan certificate unless the proceeds of all payments on such certificates are deposited with a custodian having the qualifications described in Section 26(a)(1), and are held by such custodian under an agreement containing substantially the provisions required in Sections 26(a) (2) and (3) of the Act. Section 26(a)(2)(C) provides essentially that no payment to the depositor of, or a principal underwriter for, a registered unit investment trust shall be allowed the trustee or the custodian as an expense except a fee, not exceeding such reasonable amount as the Commission may prescribe, as compensation for performing bookkeeping and other administrative duties normally performed by the custodian.

Applicants request an exemption from the provisions of Sections 27(c)(2) and 26(a)(2)(C) of the Act, to the extent necessary, to permit the deduction of the administrative fee. Applicants submit that this administrative fee is intended to closely approximate the actual cost in processing these contract withdrawals. Applicants represent that the requested exemptions are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants have consented that the foregoing requested exemption may be made subject to the following conditions: (1) that the deductions under the Contract for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe and the Commission may reserve jurisdiction for such purpose; and (2) that the payment of sums and charges out of the assets of the Accumulation Fund shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that Applicants consent to this condition shall not be determined to b a concession to the Commission of authority to regulate the payment of sums and charges out of such assets, other than the charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

SECTION 6(c)

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is futher given that any interested person may, not later than February 12, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be adddressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the rules and regulations promulgated under the Act, as order disposing of the application will be issued as of course following February 12, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A FITZSIMMONS,
Secretary.

[FR Doc. 79-2384 Filed 1-23-79; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

ARIZONA FIRST SMALL BUSINESS INVESTMENT CO.

Surrender of License

Notice is hereby given that Arizona First Small Business Investment Company (Arizona First), 86 University Drive, Mesa, Arizona 85201, incorporated under the laws of the State of Arizona on March 13, 1975, has surrendered its License No. 09/09-0186, issued by the Small Business Administration on December 31, 1975.

Arizona First has complied with all conditions set forth by SBA for the surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the Regulations promulgated thereunder, the surrender of the license of Arizona First is hereby accepted and it is no longer licensed to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59-011, Small Business Investment Companies.)

Dated: January 17, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-2450 Filed 1-23-79; 8:45 am]

[8025-01-M]

CARDON CAPITAL CORP.

Surrender of License

Notice is hereby given that Cardon Capital Corporation (Cardon) 134 West Broadway, Mesa, Arizona 85202, incorporated under the laws of the State of Arizona on May 1, 1975, has surrendered its License No. 09/09-0188 issued by the Small Business Administration on October 30, 1975.

Cardon has complied with all conditions set forth by SBA for the surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the Regulations promulgated thereunder, the surrender of the license of Cardon is hereby accepted and it is no longer licensed to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59-011, Small Business Investment Companies.)

Dated: January 17, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-2451 Filed 1-23-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1555; Amdt. 1]

ARIZONA

Declaration of Disaster Loan Area

The above numbered declaration (see 44 FR 1812, January 8, 1979) is amended in accordance with the President's declaration of December 21, 1978, to include Coconino, Pinal and Yavapai Counties in the State of Arizona. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above-named counties and adjacent counties within the State of Arizona. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on February 21,

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1979, and for economic injury until close of business on September 21, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 14, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-2448 Filed 1-23-79; 8:45 am]

[8025-01-M]

[Application No. 09/09-5231]

EQUITABLE CAPITAL CORP.

Application for a License to Operate as a Small Business Investment Co.

An application for a license to operate as a small business investment company under Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et seq.*), has been filed by the Equitable Capital Corporation (applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1979).

The officers, directors, and stockholders are as follows:

John C. Lee, 1424 Stockton Street, San Francisco, Calif. 94133. Chairman, President, 60.8%; Common Stockholder & 46.2%; Class B Preferred Stockholder.

Patricia Lee, 1424 Stockton Street, San Francisco, Calif. 94133. Secretary & Director.

Thomas J. Yick, 1235 Stockton Street, San Francisco, Calif. 94133. Vice President, Director, 24.1%; Common Stockholder & 53.8% Preferred Stockholder.

Jennifer C. Lee, 1665 Marlborough Road, Hillsborough, Calif. 94010. 15.1% Common Stockholder.

The applicant, a California corporation, will maintain an office at 419 Columbus Avenue, San Francisco, California 94133 and will begin operations with $505,000 of paid-in capital and paid-in surplus derived from the sale of 166,000 shares of Common Stock and 65,000 shares of Class B Preferred Stock to three individuals.

The applicant will operate within the investment policies of § 107.101(c) of the regulations. The applicant anticipates being both equity and loan oriented in its investment decisions and policy. The applicant intends to make investments to businesses owned by person or persons whose participation in the free enterprise system is hampered because of social or economic disadvantages. In addition, applicant plans to participate in providing both monetary and management resources to Asian groups who have expressed interest in establishing an underwritten title company in San Francisco, California.

Such concerns will engage in the business of preparing title researches, title examination, title reports, certificates or abstracts of title upon the basis of which a title insurer writes title policies, as defined by California Insurance Code, Section 12340.5. The applicant also plans to devote considerable interest in the manufacturing industry. In particular, construction products manufactured by minority entrepreneurs such as welded studs and safety hooks. In general, the applicant is exploring the manufacturing process of electrical components and parts.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management and the probability of successful operations of the applicant under this management, including adequate profitability and financial soundness, in accordance with the Act and SBA Rules and Regulations.

Any person may, not later than February 8, 1979, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in San Francisco, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: January 17, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-2452 Filed 1-23-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1552; Amdt. 2]

KENTUCKY

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 59561, December 21, 1978) and Amendment #1 (see 44 FR 2445, January 11, 1979) amended in accordance with the President's Declaration of December 12, 1978, to include Johnson and Pike Counties in the State of Kentucky. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above named counties and adjacent counties within the State of Kentucky. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on February 12, 1979, and economic injury until the close of business on September 12, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: January 4, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-2449 Filed 1-23-79; 8:45 am]

[8025-01-M]

[License No. 02/02-0352]

PERCIVAL CAPITAL CORP.

Issuance of License To Operate as a Small Business Investment Company

On September 19, 1978, a Notice of Application for a License as a Small Business Investment Company was published in the FEDERAL REGISTER (43 FR 42053) stating that an Application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR § 107.102 (1979)) for a license as a small business investment company by Percival Capital Corp., 2 West 46th Street, New York, New York 10036.

Interested parties were given until the close of business October 4, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and the facts with regard thereto, SBA on January 15, 1979, issued License No. 02/02-0352 to Percival Capital Corp., to operate as a small business investment company.

(Catalogue of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: January 17, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-2453 Filed 1-23-79; 8:45 am]

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[8025-01-M]

[Delegation of Authority No. 30, Rev. 15, Amdt. 26]

PROGRAM ACTIVITIES IN FIELD OFFICES

Delegations of Authority

Delegation of Authority No. 30, Rev. 15, republished in the FEDERAL REGISTER on November 24, 1978 (43 FR 55220), as amended (44 FR 963), is amended to delegate certain authority for 8(a) contracting to District Directors in the Boise and Spokane District Offices.

Accordingly, Part VI of Delegation of Authority No. 30, Revision 15, is amended as follows:

PART VI—PROCUREMENT ASSISTANCE PROGRAM (PA)

* * * * *

SECTION B—*Section 8(a) Contracting Authority (SBAct).*

1. * * *

g. District Directors, all Region IX and all Region X District Offices—$500,000.

* * * * *

2. * * *

g. District Directors, all Region IX and all Region X District Offices—$500,000.

* * * * *

3. * * *

g. District Directors, all Region IX and all Region X District Offices—$500,000.

* * * * *

Effective Date: January 24, 1979.

Date: January 19, 1979.

HAROLD A. THEISTE,
Acting Associate Administrator for Operation.

[FR Doc. 79-2500 Filed 1-23-79; 8:45 am]

[8025-01-M]

REGION IV ADVISORY COUNCIL

Executive Board Meeting

The Small Business Administration Region IV Advisory Council Executive Board Meeting will hold a public meeting from 9:00 a.m. to 4:00 p.m. on Wednesday, February 14, 1979, in the Regional Office Conference Room, Room 502, 1375 Peachtree Street, N.E., Atlanta, Georgia, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others attending.

For further information, write or call Wiley S. Messick, Regional Director, U.S. Small Business Administration, 1375 Peachtree Street, N.E., 5th Floor, Atlanta, Georgia 30309, (404) 257-4999.

Dated: January 18, 1979.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-2487 Filed 1-23-79; 8:45 am]

[8025-01-M]

[Application No. 04/04-5159]

SOCIETY CAPITAL CORP.

Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by Society Capital Corporation (applicant) with the Small Business Administration pursuant to 13 CFR § 107.102 (1978).

The officers and directors are as follows:

Reinaldo Lopez, President & Director, 17235 N.W. 48th Place, Carol City, Florida 33054.

Caridad Seoane, Vice President & Director, 46 N.W. 108th Place, Miami, Florida 33173.

Guillermo J. Moran, Jr., Secretary/Treasurer & Director, 2804 S.W. 79th Avenue, Miami, Florida 33155.

The applicant will maintain its principal place of business at 4157 N.W. 132d Street, Opa Locka, Florida 33054. It will begin operations with $500,000 of private capital derived from the sale of 1,000 shares to fewer than 25 stockholders, none of whom will own 10 percent or more of the applicant's stock.

The applicant will conduct its operations in the Dade, Broward, Monroe and Palm Beach Counties of Florida which are going through great stress.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than February 8, 1979, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Opa Locka, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: January 12, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-2454 Filed 1-23-79; 8:45 am]

[1505-01-M]

[Declaration of Disaster Loan area No. 1550]

WASHINGTON

Declaration of Disaster Loan Area

Correction

In FR Doc. 78-34848, appearing on page 58692 in the issue of Friday, December 15, 1978, and corrected on page 3599 in the issue of Wednesday, January 17, 1979, the headings should read as above.

[4710-10-M]

DEPARTMENT OF STATE

[Public Notice CM-8/145]

ADVISORY COMMITTEE CHARTER RENEWALS

In accordance with the provisions of the Federal Advisory Committee Act (P.L. 92-463) the Department of State announces that it has, with the concurrence of the General Services Administration, approved for a two-year period renewed charters for the following Advisory Committees (new charter expiration dates shown in parentheses):

Advisory Committee on International Investment, Technology, and Development (November 27, 1980)

Advisory Committee on International Intellectual Property (December 7, 1980)

Overseas Schools Advisory Council (December 13, 1980)

Fine Arts Committee (December 15, 1980)

Advisory Committee on Historical Diplomatic Documentation (December 17, 1980)

Advisory Committee on Private International Law (December 20, 1980)

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Advisory Committee to the United States National Section of the Inter-American Tropical Tuna Commission, (December 21, 1980)
Advisory Committee to the United States Section of the International North Pacific Fisheries Commission (December 21, 1980)
Oceans Affairs Advisory Committee (December 21, 1980)
Shipping Coordinating Committee (December 21, 1980)
Advisory Committee on Law of the Sea (December 21, 1980)

Additionally, the President in Executive Order 12110, dated December 31, 1978, approved a two-year renewal of the charter of the Presidential Advisory Board on Ambassadorial Appointments.

Copies of the charters have been filed with the Senate Foreign Relations Committee, the House International Relations Committee, and the Library of Congress as provided by law.

Dated: January 15, 1979.

SUSAN T. TAIT,
Advisory Committee Management Officer.

[FR Doc. 79-2358 Filed 1-23-79; 8:45 a.m.]

[4710-07-M]

[Public Notice CM-8/151]

SHIPPING COORDINATING COMMITTEE SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Notice of Meeting

The Working Group on Radiocommunications of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 1:30 p.m. on February 15, 1979, in Room 8442 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

The purpose of the meeting is to prepare position documents for the Twentieth Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO) to be held in London on March 26-30, 1979. In particular, the working group will discuss the following topics:

survival craft radio equipment
operational requirements for future EPIRBs
operational standards for shipboard radio equipment
maritime distress system

Requests for further information should be directed to Lieutenant R. F. Carlson, U.S. Coast Guard (G-OTM-74), Washington, D.C., telephone (202) 426-1345.

The Chairman will entertain comments from the public as time permits.

Dated: January 12, 1979.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

[FR Doc. 79-2356 Filed 1-23-79; 8:45 am]

[4710-07-M]

[Public Notice CM-8/150]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Notice of Meeting

The working group on international multimodal transport and containers of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on February 13, 1979 in Room 2230 of the Department of Transportation Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

The purpose of this meeting is to discuss matters germane to multimodal transport and containers. The meeting will be held in two sessions. The following specific issues will be addressed during the morning session (9:30-12:00):

(a) Discussion of U.S. position for the meeting of the Group of Rapporteurs on Container Transport (GRCT) (ECE), to be held February 19-23, 1979, in Geneva including the following items:

(1) Container Standards
(2) International Convention for Safe Containers
(3) Taxation of Containers Operated by Foreign Carriers
(4) Maritime Bill of Lading
(5) Convention on International Multimodal Transport

(b) Discussion of U.S. position for the meeting of the 20th Session of the IMCO Subcommittee on containers and Cargoes to be held March 5-9, 1979, in London;

(c) Other business.

The following specific issues will be addressed during the afternoon session (1:00-4:30):

(a) Discussion of the U.S. position regarding the 6th UNCTAD Intergovernmental Preparatory Group on International Multimodal Transport to be held February 21-March 9, 1979, in Geneva, in light of what has taken place at previous meetings.

(b) Debriefing of the meeting of the 2nd Session of the UNCTAD ad hoc Intergovernmental Group on Container Standards for International Multimodal Transport held in Geneva, November 20-December 1, 1979;

For futher information concerning this meeting contact either Mr. John Lloyd, Department of State, (202)632-0703 or Mr. Charles Hochman, United States Coast Guard, (202) 426-1577.

The Chairman will entertain comments from the public as time permits.

Dated: January 11, 1979.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

[FR Doc. 79-2357 Filed 1-23-79; 8:45 am]

[4710-07-M]

[Public Notice CM-8/152]

STUDY GROUP 1 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Notice of Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on February 21, 1979, in Room B841, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. at 9:30 a.m.

Study Group 1 deals with matters relating to efficient use of the radio frequency spectrum, and in particular, with problems of frequency sharing, taking into account the attainable characteristics of radio equipment and systems; principles for classifying emissions; and the measurement of emission characteristics and spectrum occupancy. The purpose of the meeting will be to review the results of the Special Preparatory Meeting for the 1979 World Administrative Radio Conference, and preparation for the next CCIR Plenary cycle.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Date: January 15, 1979.

GORDON L. HUFFCUTT,
Chairman, U.S. CCIR National Committee

[FR Doc. 79-2359 Filed 1-23-79; 8:45 am]

[4710-02-M]

Agency for International Development

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Joint Research Committee Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2) Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the twentieth meeting of the Joint Research Committee of the Board for International Food and Agricultural Development on February 13 and 14, 1979.

The purpose of the meeting is to: review the proposed revised Guidelines of the Joint Research Committee (JRC) concerning procedures for planning and implementing Collabroative Research Suport Programs (CRSPs) with Title XII universities; review progress of CRSPs being planned and implemented; and discuss long-term Title XII research priorities and programs. The meeting will convene at 9:00 a.m. and adjourn at 5:00 p.m. on February 13 and 14, 1979. The meeting will be held in the Dynasty Room of the Holiday Inn, 1850 N. Ft. Myer Drive, Arlington, Virginia, 22209. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Mr. William F. Johnson, Office of Title XII Coordination and University Relations, Development Support Bureau, is designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-9054.

Dated: January 16, 1979.

WILLIAM F. JOHNSON,
A.I.D. Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 79-2316 Filed 1-23-79; 8:45 am]

[4710-02-M]

JOINT COMMITTEE FOR AGRICULTURAL DEVELOPMENT OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Joint Committee on Agricultural Development (JCAD) of the Board for International Food and Agricultural Development on February 12 and 13, 1979.

The purpose of the meeting is to: Discuss status of the University Strengthening program; discuss Regional Work Group Reports on plans for country visits; report on the review of Country Development Strategy Statements; discuss Country Programming process and review a paper on that subject; discuss progress on preparation of a source book on education and training; and review JCAD priorities.

The meeting on February 12, 1979, will convene in Regional Work Groups (RWGs): Africa RWG at 9:00 a.m. in Room 3676, New State Department Bldg. (Dr. Carl Ferguson, A.I.D. Federal Designee for this meeting, can be contacted at (703) 235-9054); Asia RWG at 9:00 a.m. in Room 206 Rosslyn Plaza Bldg., 1601 North Kent Street, Rosslyn, Virginia (Dr. Frank Madden, A.I.D. Federal Designee for this meeting, can be contacted at (703) 235-9054); Near East RWG at 9:30 a.m. in Room 6484 New State Department Bldg. (Mr. Russell Olson, A.I.D. Federal Designee for this meeting, can be contacted at (202) 632-9256); and Latin America RWG at 10:30 a.m. in room 2248 New State Department Bldg. (Mr. Vince Cusumano, A.I.D. Federal Designee for this meeting, can be contacted at (202) 632-8279). The meeting on February 13, 1979, will convene from 9:00 a.m. to 5:00 p.m. in the Dynasty Room of the Holiday Inn, 1850 N. Ft. Myer Drive, Arlington, Virginia, 22209. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Carl E. Ferguson, Office of Title XII Coordination, Development Support Bureau, is designated A.I.D. Advisory Committee Representative at the February 13 meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703) 235-9054.

Dated: January 16, 1979.

CARL E. FERGUSON,
A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc. 79-2443 Filed 1-23-79; 8:45 am]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RFA 511-78-1]

COAL LINE PROJECT

Application Amendment; Extension of Comment Periods

The Federal Railroad Administration ("FRA"), Department of Transportation, hereby gives notice that the coal line project application dated August 15, 1978, for loan guarantees under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. 831, submitted by the Chicago and North Western Transportation Co. ("C&NW") and its wholly owned subsidiary, Western Railroad Properties, Inc. ("WRPI"), has been substantially amended as to scope and dollar amount, and that further revisions will be submitted in subsequent months. A detailed description of the original project was presented in the notice of receipt of the application, (43 FR 41126), (September 14, 1978). The revised application consists of:

(1) A loan guarantee for C&NW's one-half share of construction costs for a new 106 mile rail line to be owned jointly with Burlington Northern Inc., extending from Shawnee, Wyoming to a point slightly north of Atlantic Richfield Company's Coal Creek Mine in the Southern Powder River Basin, Wyoming. C&NW's one-half share of the costs is estimated to be $51,796,000 plus $3,750,000 for contingencies; and

(2) A loan guarantee for the construction costs of rehabilitation of approximately 45.5 miles of existing trackage presently owned by the C&NW between Shawnee, Wyoming and mile post 475.7 (approximately 4 miles west of Van Tassell, Wyoming) on the C&NW's main line to Fremont, Nebraska; and

(3) A loan guarantee for the construction of a new rail line, approximately 56 miles in length, connecting the existing C&NW line, at mile post 475.7, with the Union Pacific Railroad Company's North Platte branch line at mile post 163.8, near Joyce, Nebraska, approximately 3 miles southwest of Morrill, Nebraska. The line would cross the Niobrara River and Highway U.S. 20, proceeding south through Niobrara and Goshen Counties roughly paralleling the Wyoming-Nebraska state line. The line would enter Nebraska approximately 2 miles north of Highway U.S. 26. It would then cross U.S. 26, the Burlington Northern single main track, and the North Platte River approximately 2 miles west of Morrill, Nebraska.

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The C&NW states that the new line would not pass through any incorporated cities, villages, or concentrations of population, and that there would be one public roadway and two farm crossings at grade. The application also proposes car and locomotive servicing and maintenance facilities and interchange/relay tracks adjacent to the present Union Pacific mainline at Gering, Nebraska.

In light of the significant revisions to the application, the public comment period is hereby extended for 90 days (from January 12, 1979 to April 12, 1979) to afford a fair opportunity for comments on the application. Written comments should be submitted no later than the comment closing date of April 12, 1979.

In a notice of intent to prepare an Environmental Impact Statement ("EIS"), (43 FR 52798), (November 14, 1978), the FRA, after having reviewed the environmental assessments provided by the C&NW, published its conclusion that the proposed project constituted a major Federal action significantly affecting the quality of the human environment and that the preparation and filing of an EIS would be required. After consideration of the proposed revisions of the application received to date, the FRA maintains the conclusion that an EIS is necessary and hereby invites comments for an additional 30 days from all interested parties on the environmental impacts of the project as amended, or alternatives thereto, and especially on the scope and depth of analysis desirable for the draft EIS. Comments received by February 23, 1979 will be taken into consideration by the FRA in preparing the draft EIS. Comments received after February 23, 1979 will be considered to the extent practicable. Commenters will have an additional opportunity to comment on environmental impacts after the draft EIS is prepared.

All written comments may be submitted to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590. Submissions should indicate the docket number shown on this notice. Formal acknowledgement of the comments will not be provided.

As amendments are received and to the extent permitted by law, the application will be made available for inspection during normal business hours in room 5415 at the above address of the FRA in accordance with the regulations of the Office of the Secretary of Transportation set forth in Part 7 of Title 49 of the Code of Federal Regulations. The FRA has neither approved nor disapproved this application nor has it passed upon the accuracy or adequacy of the information contained therein.

(Sec. 51 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210), as amended; Sec. 102(2)(c) of the National Environmental Quality Act of 1969, 42 U.S.C. 4332(c); Department of Transportation Order No. 5610.1B (39 FR 35234 (September 30, 1974)); Council on Environmental Quality guidelines, (43 FR 55978 (November 29, 1978)); FRA proposed Procedures for Considering Environmental Impacts (42 FR 5171 (January 27, 1977)).)

Issued in Washington, D.C. on January 10, 1979.

CHARLES SWINBURN,
Associate Administrator for Federal Assistance, Federal Railroad Administration.

[FR Doc. 79-2438 Filed 1-23-79; 8:45 am]

[4810-25-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

PRIVACY ACT OF 1974

Reinstated System of Records

AGENCY: Office of the Secretary, Department of the Treasury.

ACTION: Systems Notice.

SUMMARY: Treasury System of Records OS 00.194, Library Circulation Control Records—Treasury/OS (41 FR 45199), which was previously consolidated into the Administrative Personnel System, Treasury/OS 001 (42 FR 49099), is reinstated as a separate system of records. The description has been updated to include previously approved and published changes. The full text of OS 00.194 published below, does not require a new system report, additional approval of the Congress and OMB, or a public comment period.

DATE: This change is effective immediately.

FOR FURTHER INFORMATION CONTACT:

Anne E. Stewart, (202-566-2069), Chief, Library Division, Room 5010, Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, D.C. 20220.

Dated: January 15, 1979.

W. J. MCDONALD,
Acting Assistant Secretary (Administration).

TREASURY/OS 00.194

System name:

Library Circulation Control Records—Treasury/OS

System location:

Department of the Treasury, Office of Administrative Programs, Library Division, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, D.C. 20220.

Categories of individuals covered by the system:

Library users.

Categories of records in the system:

Individuals who borrow library materials or receive library materials on distribution.

Authority for maintenance of the system:

5 U.S.C. 301.

Routine uses of records maintained in the system:

The information is used by the Library Staff to identify the location of materials withdrawn from the Library collection, to distribute library periodicals in response to a request and to complete pre-exit clearance procedures for employees leaving the Department. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records of publications borrowed from the Library are maintained in a card file. The file is maintained by both name of individual borrower and title of publication.

Retrievability:

Files are maintained by individual name.

Safeguards:

Records are not classified. Located in Main Treasury Building (secure building).

Systems manager and address:

Chief, Library Division, Room 5010, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, D.C. 20220.

Notification procedures:

See Systems Manager.

Record access procedures:

See Systems Manager.

Contesting records procedures:

Submit written requests to the Systems Manager listed above.

Records sources categories:

Library users.

[FR Doc. 79-2458 Filed 1-22-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 13]

ASSIGNMENT OF HEARINGS

JANUARY 19, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearing as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MCF 13563, Central Transport, Inc.—Purchase (Portion)—C.P.T. Freight, Inc., and MC 19311 (Sub No. 45F), Central Transport, Inc., now assigned for hearing on February 6, 1979, at Chicago, Illinois and will be held in Room 1319, E. M. Dirksen Building.

MC 69397 (Sub-49F), James H. Hartman & Son, Inc., now being assigned March 12, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 142559 (Sub-43F), Brooks Transportation, Inc., now being assigned March 1, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 37064, OKC, Corporation V. Missouri-Kansas-Texas Railroad Company, et al., now being assigned for hearing on March 19, 1979 (3 days), at Dallas, Texas, in a hearing room to be later designated.

MC 114632 (Sub-179F), Apple Lines, Inc., now assigned for hearing on February 26, 1979 (1 day), at Minneapolis, Minnesota in Room B-44, Federal Building & U.S. Courthouse, 110 South Fourth Street.

MC 114632 (Sub-171F), Apple Lines, Inc., now assigned for hearing on February 27, 1979 (1 day), at Minneapolis, Minnesota in Room B-44, Federal Building & U.S. Courthouse, 110 South Fourth Street.

MC 113267 (Sub-365), Central & Southern Truck Lines, Inc., & MC 113651 (Sub-282F), Indiana Refrigerator Lines, Inc., & MC 115654 (Sub-99F), Tennessee Cartage Co., Inc., & MC 119789 (Sub-508F), Caravan Refrigerated Cargo, Inc., & MC 123819 (Sub-69F), Ace Freight Line, Inc., & MC 135797 (Sub-134F), J. B. Hunt Transport, Inc., now assigned for prehearing conference February 22, 1979 at Washington, D.C. and will be held at the Offices of the Interstate Commerce Commission.

MC 119619 (Sub-127F), Distributors Service Co., now assigned February 15, 1979 at Boston, Mass., is canceled and application dismissed.

MC 124679 (Sub-95F), C. R. England & Sons now assigned February 26, 1979 for prehearing conference at Washington, D.C. and will be held at the Interstate Commerce Commission.

MC 134922 (Sub-267F), B. J. McAdams, Inc., application dismissed.

MC 99565 (Sub-17F), Fore Way Express, Inc., application dismissed.

MC 25869 (Sub-142F), Nolte Bros. Truck Line, Inc., now assigned for hearing on February 22, 1979, at Chicago, Illinois and will be held in Room 3855-A, 230 South Dearborn Street.

MC 139577 (Sub-23F), Adams Transit, Inc., now assigned for hearing on February 21, 1979, at Chicago, Illinois and will be held in Room 3855-A, 230 South Dearborn Street.

I&SM 27312, Restructured Rates and Charges, Central States Territory, now assigned for hearing on January 19, 1979, at Washington, D.C. is cancelled and reassigned for Pre-hearing Conference on January 19, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. I&S 22930, Small Shipment Rate Revision—Eastern Central Territory, now being assigned for Pre-hearing Conference on January 19, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 79-2499 Filed 1-23-79; 8:45 am]

[7035-01-M]

[Docket No. AB-19 (Sub-No. 39F)]

BALTIMORE & OHIO RAILROAD CO.

Discontinuance of Operations Over Lines of Baltimore & Ohio Connecting Railroad Co. and Chicago, Rock Island & Pacific Railroad Co.; Baltimore & Ohio Connecting Railroad Co.—Abandonment: All in Chicago, Cook County, Ill.; Notice of Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided January 9, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978), and further that applicants shall keep intact all of the right-of-way underlying the track, including all of the bridges and culverts for a period of 120 days from the effective date of the certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment of that portion of the Baltimore & Ohio Connecting Railroad and the discontinuance of operations of the Baltimore & Ohio Railroad Company between milepost 11.78 and milepost 13.27, a distance of approximately 1.49 miles, in Chicago, Cook County, IL. B&O also seeks to discontinue its operations over the Chicago, Rock Island and Pacific Railroad Company between milepost 13.27 and milepost 19.52, a distance of approximately 6.25 miles, in Chicago, Cook County, IL. A certificate of public convenience and necessity was issued to the Baltimore & Ohio Railroad Company and the Baltimore & Ohio Connecting Railroad. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than February 8, 1979. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective March 12, 1979.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 79-2492 Filed 1-23-79; 8:45 am]

[7035-01-M]

[Docket No. AB-18 (Sub-No. 26F)]

CHESAPEAKE & OHIO RAILWAY CO.

Discontinuance of Operations Over the Baltimore & Ohio Connecting Railroad and Chicago, Rock Island & Pacific Railroad Co. in Chicago, Cook County, Ill.; Notice of Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided January 9, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 354 I.C.C. 584 (1978), and further that applicant shall keep intact all of the right-of-way underlying the track, including all of the bridges and culverts for a period of 120 days from the effective date of the certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and ne-

cessity permit the discontinuance of operations of the Chesapeake and Ohio Railway Company over that portion of The Baltimore and Ohio Connecting Railroad between milepost 11.78 and milepost 13.27, a distance of approximately 1.49 miles, in Chicago, Cook County, IL, and over the Chicago, Rock Island and Pacific Railroad Company between milepost 13.27 and milepost 19.52, a distance of approximately 6.25 miles, in Chicago, Cook County, IL. A certificate of public convenience and necessity permitting discontinuance of operations was issued to the Chesapeake and Ohio Railway Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than February 8, 1979. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing discontinuance of operations shall become effective March 12, 1979.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2491 Filed 1-23-79; 8:45 am]

[7035-01-M]

[I.C.C. Order No. 15 under Service Order No. 1344]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO.

Rerouting Traffic

In the opinion of Joel E. Burns, Agent, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company is unable to transport promptly all traffic offered for movement over its lines between St. Paul, Minnesota, and Tacoma-Seattle, Washington, because of congestion and adverse weather conditions.

It is ordered,

(a) *Rerouting traffic.* The Chicago, Milwaukee, St. Paul and Pacific Railroad Company, being unable to transport promptly all traffic offered for movement over its lines between St. Paul, Minnesota, and Tacoma-Seattle, Washington, because of congestion and adverse weather conditions, is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which and traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 10:00 a.m., January 13, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 15, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the FEDERAL REGISTER.

Issued at Washington, D.C., January 13, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-2497 Filed 1-23-79; 8:45 am]

[7035-01-M]

[Docket No. AB-1 (Sub-No. 65F)]

CHICAGO & NORTH WESTERN TRANSPORTATION CO.

Abandonment Near Jolly and Jolly Dump in Butte County, S. Dak.; Notice of Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided January 9, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 354 I.C.C. 584 (1978), and further that applicant shall keep intact all of the right-of-way underlying the track, including all of the bridges and culverts for a period of 120 days from the effective date of the certificate and decision to permit any State or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of a line of railroad known as Jolly Dump spur extending from railroad milepost 0.0 near Jolly to rail milepost 3.7 near Jolly Dump, a distance of 3.7 miles in Butte County, SD. A certificate of public convenience and necessity permitting abandonment was issued to the Chicago and North Western Transportation Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than February 8, 1979. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regula-

tions. If no such offer is received, the cetificate of public convenience and necessity authorizing abandonment shall become effective March 12, 1979.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2490 Filed 1-23-79; 8:45 am]

[7035-01-M]

[Docket No. AB-1 (Sub-No. 60)]

CHICAGO & NORTH WESTERN TRANSPORTATION CO.

Abandonment Near Beloit and Evansville, in Rock County, Wis., Notice of Findings

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision decided on November 16, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 354 I.C.C. 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of that portion of its line of railroad, extending from milepost 92.5 near Beloit, WI, to milepost 115.5 near Evansville, WI, a distance of 23 miles located in Rock County, WI. A certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above-described finding of abandonment, February 23, 1979, unless within 30 days from the date of publication (February 23, 1979), the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978 at 43 FR 20072: All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2494 Filed 1-23-79; 8:45 am]

[7035-01-M]

[Finance Docket No. 26560]

ILLINOIS CENTRAL RAILROAD CO.

Abandonment Between Foster and Fayette, Miss., Notice of Findings

Notice is hereby given pursuant to section 1a(6)(a) bf the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on November 9, 1978, the Commission reopened the proceeding to modify the prior decision, served February 27, 1978, for the limited purpose of imposing employee protective conditions. By decision served February 27, 1978, as modified, a finding, which is administratively final, was made by the Commission, stating that, subject to the condition to the approval of this application the employee protective provisions will be those finally adopted in Docket No. AB-36 (Sub-No. 2), *Oregon Short Line R. Co.—Abandonment Goshen*, the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Company of its line of railroad from Foster to Fayette, MS (the Natchez District Line). A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Company based on the above-described finding of abandonment, February 23, 1979, unless within 30 days from the date of publication (February 23, 1979), the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2488 Filed 1-23-79; 8:45 am]

[7035-01-M]

[Docket No. AB-43 (Sub-No. 27) [1]

ILLINOIS CENTRAL GULF RAILROAD CO.

Abandonment Between Seely and Mando in Williamson County, Ill.; Notice of Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision decided on March 20, 1978, and the decision of the Commission, Division 1, served October 13, 1978, as modified, adopted the decision of the Administrative Law Judge, which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment*

[1] This proceeding is pending review in the United States Court of Appeals for the Seventh Circuit, entitled *People of the State of Illinois, Illinois Commerce Commission, John W. McGinness and Winston C. Harbicht v. Interstate Commerce Commission and United States of America*, No. 79-1005.

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Goshen, 354 I.C.C. 584 (1978), and to the condition that any responsible Federal or state agency or local government, or other responsible organization, be given the opportunity, for a period of 120 days from the date of service of a certificate and decision issued in this proceeding, to negotiate the purchase of all or any portion of the right-of-way of the line to be abandoned for public use at a purchase price on such terms as the parties may agree is just and reasonable, the present and future public convenience and necessity permit abandonment by applicant of its branch line of railroad between milepost 93.5 near Seely, IL, to milepost 99.47 at Ordill, IL, a distance of 5.97 miles.

A certificate of abandonment will not be issued to the Illinois Central Gulf Railroad Company based on the above-described finding of abandonment until final determination of the proceeding by the United States Court of Appeals. During the interim, however, the procedures specified in Section 1a (6) and (7) of the Act will otherwise be followed. Thus, the Commission will be in a position to issue a certificate of abandonment, February 23, 1979, unless within 30 days from the date of publication (February 23, 1979), the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment), to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect.

However, as previously indicated no such certificate will be issued until the pending court proceeding has been finally resolved. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2489 Filed 1-23-79; 8:45 am]

[7035-01-M]

[I.C.C. Order No. 16 under Service Order No. 1344]

RAILROADS OPERATING IN THE CHICAGO SWITCHING DISTRICT

Rerouting of Traffic

In the opinion of Joel E. Burns, Agent, many of the railroads operating in the Chicago switching district are unable to interchange traffic routed via Chicago because of heavy snow in the Chicago terminals.

It is ordered,

(a) *Rerouting traffic.* Any railroad operating in the Chicago switching district which is unable to interchange traffic routed via Chicago because of interference with the operations of the delivering, intermediate, or receiving line due to heavy snow, is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving road to be obtained.* The railroad rerouting cars in accordance with this order, shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* The railroad rerouting cars in accordance with this order shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers, or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 10:00 a.m., January 15, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 19, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 15, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-2498 Filed 1-23-79; 8:45 am]

[7035-01-M]

[Exception under Section (a), paragraph (1), Part (v) Second Revised Service Order No. 1332; Exception No. 12]

RAILROADS SERVING THE CHICAGO SWITCHING DISTRICT

Exception to Service Order

JANUARY 15, 1979.

By the Board.

Because of excessive snow in the Chicago, Illinois, area, railroads serving the Chicago switching district are unable to place, remove, forward, interchange or repair cars within 60 hours as required by Second Revised Service Order No. 1332.

It is ordered, Pursuant to the authority vested in the Railroad Service Board by Section (a)(1)(v) of Second Revised Service Order No. 1332:

(a) The operation of Second Revised Service Order No. 1332 is suspended at all points within the Chicago, Illinois, switching district.

(b) The operation of Section (a)(4) of Second Revised Service Order No. 1332 is suspended with respect to cars destined to points within the Chicago, Illinois, switching district, or routed via interchange facilities located within the Chicago, Illinois, switching district. Carriers holding cars outside the Chicago switching district under the suspension authorized in this paragraph shall maintain lists of the cars so-held containing the name of the point where held, the initial and number of each car held, the date and time each car was stored and the date and time each car was released. These lists shall be kept at the station or terminal at which records of cars set-off at such points normally are kept. A copy of such lists, bearing reference to this exception, shall be sent to the Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C., 20423.

(c) *Chicago switching district defined.* The terms Chicago Switching District means all points in Illinois and Indiana listed in or within the boundaries of that district as described in the applicable switching tariff of each railroad.

Effective January 15, 1979.
Expires January 26, 1979.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

[FR Doc. 79-2495 Filed 1-23-79; 8:45 am]

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[7035-01-M]

[Docket No. AB-55 (Sub-No. 16)]

SEABOARD COAST LINE RAILROAD CO.

Abandonment Near McCormick and Calhoun Falls, in McCormick and Abbeville Counties, S.C.; Notice of Findings

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision decided November 21, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 354 I.C.C. 584 (1978), and subject to the condition that, subsequent to abandonment, the Seaboard Coast Line Railroad Company will continue to base its rates on pulpwood and wood chips on mileages existing prior to the abandonment for a period of five years or until the Brunswick Pulp and Paper Company moves its woodyard from Hester, SC, whichever first occurs, and subject further to the condition that applicant shall not sell, lease, exchange or otherwise dispose of the right-of-way underlying the track, including all bridges and all culverts on the line, for a period of 120 days following issuance of the certificate to permit any state and/or local government agency or other responsible persons to negotiate the acquisition of all or any portion of the property for public use, the present and future public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of a portion of its Anderson Subdivision, extending from railroad milepost AKH-503.63 near McCormick, SC, to milepost AKH-527.86 near Calhoun Falls, SC, a distance of 24.65 miles, in McCormick and Abbeville Counties, SC. A certificate of abandonment will be issued to the Seaboard Coast Line Railroad Company based on the above-described finding of abandonment, February 23, 1979, unless within 30 days from the date of publication (February 23, 1979), the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978 at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2493 Filed 1-23-79; 8:45 am]

[7035-01-M]

[I.C.C. Order No. 17 Under Service Order No. 1344]

THE ATCHISON, TOPEKA & SANTA FE RAILWAY CO. AND MISSOURI PACIFIC RAILROAD CO.

Rerouting Traffic

The Atchison, Topeka and Santa Fe Railway Company and the Missouri Pacific Railroad Company are unable to transport all of the traffic routed via their lines for interchange between them at Kansas City, Missouri-Kansas, because of congestion at Kansas City caused by excessive snow. These lines have agreed to interchange such traffic via a connection between their lines at Sweetwater, Texas.

It is ordered,

(a) *Rerouting traffic.* The Atchison, Topeka and Santa Fe Railway Company (ATSF) and the Missouri Pacific Railroad Company (MP), being unable to transport all of the traffic routed via their lines for interchange at Kansas City, Missouri-Kansas, because of congestion at Kansas City caused by excessive snow, these railroads are authorized to divert or reroute such traffic over any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Acceptance of rerouted cars required.* Any railroad named in the original routing is required to accept and transport cars rerouted or diverted by the ATSF or MP in accordance with the requirements of this order.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common

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carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers, or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 10:45 a.m., January 15, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 19, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 15, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-2496 Filed 1-23-79; 8:45 am]

[1505-01-M]

[Decisions Volume No. 17]

DECISION-NOTICE

Correction

In FR Doc. 78-21099, appearing at page 33861, in the issue of Tuesday, August 1, 1978, on page 33870 in the middle column, the second full paragraph, in the seventh line up from the end of the paragraph, insert the following words behind the comma and before the word "to":

"(2) *materials, equipment, and supplies* used in manufacture of new furniture, from points in the United States (except AK and HI),"

At the end of the document, the file line was inadvertently omitted and should be corrected to read as follows:

[FR Doc. 79-21099 Filed 7-31-78; 8:45 am]

[1505-01-M]

[Decisons Volume No. 13]

DECISION-NOTICE

Correction

In FR Doc. 78-19931 appearing at page 31258 in the issue for Thursday, July 20, 1978, make the following correction: on page 31262, in the middle column, in the paragraph pertaining to MC 118159 (Sub-267F), in the 1st line, "Scrap rugs" should read "Scrap rags".

[1505-01-M]

[Vol. No. 105]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

Correction

In FR Doc. 78-20685 appearing at page 32494 in the issue for Thursday, July 27, 1978, make the following correction: On page 32497, in the middle column, in the paragraph pertaining to MC 117815 (Sub-289F), in the 13th line, insert "MI" between "IA" and "MN".

[7035-01-M]

[Notice No. 7]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 11, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 2900 (Sub-349TA), filed December 4, 1978. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408-R, Jacksonville, FL 32203. Representative: John Carter (same address as applicant). *Chemicals* from facilities of Dow Chemical Company at or near Ludington, Michigan, to points in IL, IN, OH, MO, PA, and WI, restricted to the transportation of shipments originating at the named origin and destined to points in named states, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Dow Chemical U.S.A.-Central Division, South Madison St., Ludington, MI 49431. SEND PROTESTS TO: G. H. Fauss, Jr., I.C.C., Box 35008, 400 West Bay St., Jacksonville, FL 32202.

MC 48948 (Sub-12TA), filed December 4, 1978. Applicant: THE HOCKING CARTAGE COMPANY, R. R. 2 Box 373, Logan, OH 43138. Representative: Rober W. Gardier, Jr., 100 East Broad Street, Columbus, OH 43215. (1) *Clay products and materials and supplies* used in the installation of clay products, from New Lexington and Junction City, OH to those points in the United States in and east of ND, SD, NE, KS, OK and TX, and (2) *Materials* (except in bulk) used in the manufacture of clay products, from the destinations named in (1) above, to New Lexington and Junction City, OH, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Ludowici-Celadon Co. Div. of C.S.C. Inc., P.O. Box 69, New Lexington, OH 43764. SEND PROTESTS TO: Frank L. Calvary, I.C.C., 220 Federal Bldg. & U.S. Courthouse, 85 Marconi Blvd., Columbus, OH 43215.

MC 85934 (Sub-88 TA), filed December 4, 1978. Applicant: MICHIGAN TRANSPORTATION COMPANY, 3601 Wyoming Ave., P.O. Box 248, Dearborn, MI 48120. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Liquified petroleum gas, in bulk, in tank vehicles,* from *Milford, IN, to points in MI and OH,* for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Great Plains Gas Company, 1101 Second Avenue, S.E., Cedar Rapids, IA 52406 (Gerald Pohlman, Product Control). SEND PROTESTS TO: Tim Quinn, I.C.C., 604 Federal Bldg. & U. S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 106074 (Sub-78 TA), filed December 6, 1978. Applicant: B AND P MOTOR LINES, INC., Oakland Rd., & US Highway No. 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd, NE, Atlanta, GA 30342. *Frozen foods,* from the facilities of Ore-Ida Foods, Inc. at Greenville, MI to all points in NC, SC, TN, and VA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83700. SEND PROTESTS TO: Terrell Price, I.C.C., 800 Briar Greek Rd., Rm. CC516, Mart Office Bldg., Charlotte, NC 28205.

MC 108859 (Sub-66 TA), filed December 5, 1978. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue North, Escanaba, MI 49829. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. *Paper and paper products,* from the United States-Canada border at or near Sault Ste. Marie, Michigan to points in the Minneapolis-St. Paul commercial zone, including Burnsville and Plymouth, Minnesota, in foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Toronto Dominion Centre, Toronto, Ontario, Canada M5K 1B3. SEND PROTESTS TO: C. R. Flemming, I.C.C., Rm. 225, Federal Bldg., Lansing, MI 48933.

MC 109154 (Sub-15TA), filed December 8, 1978. Applicant: BAYLOR TRUCKING, INC., Rural Route 1, Milan, Indiana 47031. Representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, Indiana 46204. *Printed matter,* from Detroit, MI, to points in DE, DC, IL, IN, KY, MD, NJ, NY, OH, PA, VT, and VA, for 180 days. Supporting shipper: Printing Service, Inc., 1451 E. Lincoln, Madison Heights, MI 48071. Send Protests to: Beverly Williams, ICC, Federal Building & U. S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 109324 (Sub-39TA), filed December 6, 1978. Applicant: GARRISON MOTOR FREIGHT, INC., P.O. Box 1278, Harrison, AR 72601. Representative: Jay C. Miner (same address as applicant). Authority sought to operate as a common carrier by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, livestock, commodities in bulk and those requiring special equipment), between Vilonia, AR and Van Buren, AR and points within their commercial zones, serving all intermediate points and points within their respective commercial zones; from Vilonia over U.S. Highway 64 to Van Buren and return over the same route. Applicant intends to tack its exisiting authority with MC-109324 and various subs thereunder for 180 days. There are approximately (75) statements of support attached to this application which may be examined at the I.C.C., in Wash. D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: William H. Land, Jr., I.C.C., 3108 Federal Office Bldg., 700 West Capitol, Little Rock, AR 72201.

MC 109708 (Sub-93TA), filed December 7, 1978. Applicant: INDIAN RIVER TRANSPORT, INC., P.O. Box AG, Dundee, FL 33838. Representative: Marshall D. Becker, STERN & BECKER, P.C., Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Apple cider vinegar,* in bulk, in tank vehicles, from Sterling, MA to West Columbia, SC, for 180 days. Applicant has filed underlying ETA for 30 days of operating authority. SUPPORTING SHIPPER: Piggie Park Enterprises, Inc., P.O. Box 847, West Columbia, SC. SEND PROTESTS TO: George M. Parker, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 32202.

MC 111201 (Sub-37TA), filed December 5, 1978. Applicant: J. N. ZELLNER & SON TRANSFER COMPANY, P.O. Box 91247, East Point, GA 30364. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Plastic containers,* from the facilities of Sewell Plastics, Inc., located at or near Greenville, SC and Pittsburgh, PA, to points in AL, AR, FL, GA, KY, LA, MS, MO, NC, OK, SC, TN, TX, VA, WV, MD and DC, (2) *Plastic preforms or plastic base cups for plastic containers* from the facilities of Sewell Plastics, Inc., located at or near Atlanta, GA, and Coats and Clark, Inc., at or near Seneca, SC, to the facilities of Sewell Plastics, Inc., located at or near Greenville, SC and Pittsburgh, PA, and (3) *Materials, equipment and supplies used in the manufacture and distribution of plastic containers or parts therefor* (except commodities in bulk), from points in the destination states named in (1) above to the facilities of Sewell Plastics, Inc., located at or near Greenville, SC and Pittsburgh, PA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Sewell Plastics, Inc., 5111 Phillip Lee Dr., Atlanta, GA 30336. SEND PROTESTS TO: Sara K. Davis, Trans. Asst., 1252 W. Peachtree Street, N.W., Room 300, Atlanta, GA 30309.

MC 112766 (Sub-4TA), filed December 6, 1978. Applicant: JOHN F. COYNE, d.b.a. COYNE TUCKING CO., Scotland Lane, P.O. Box 549, New Castle, Pa. 16103. Representative: John A. Pillar, Esq., 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. (1) *Plumbing goods,* (2) *bathroom vanities and accessories for bathroom vanities,* and (3) *equipment, materials and supplies* used in the manufacture and distribution of the commodities name in (1) and (2) above, between the facilities of Universal Rundle Corp. at New Castle, PA, Salem, OH, and Crawfordsville and Rensselaer, IN, on the one hand, and, on the other, points in DE, IN, KY, MD, MI, NJ, NY, OH, PA, VA, WV and DC, for 180 days. SUPPORTING SHIPPER: Universal Rundle Corp., 217 North Mill Street, New Castle, PA 16103. SEND PROTESTS TO: John England, District Supervisor, I.C.C., 2111 New Federal Building, Pittsburgh, PA 15222.

MC 113666 (Sub-144TA), filed December 4, 1978. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: Daniel R. Smetanick (same as above). *Precast and prestressed concrete units,* from Monongahela, PA to Cumberland, MD and Bridgeport, WV, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): The Pittsburgh Flexicore Co., Inc., Fourth and Railroad Sts., Monongahela, PA 15063. SEND PROTESTS TO: John J. England, trans. Specialist, I.C.C., 2111 Federal Bldg., 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 115092 (Sub-74TA), filed December 1, 1978. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, VT 84078. Representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. *Plastic foam articles less than 2 pounds per cubic foot in packages,* from Biola, CA to Paonia, Delta, Grand Junction and Denver, CO and salt Lake City, UT for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. SUPPORTING SHIPPER: Southwest Interpak, Inc., 2010 W. Dartmouth, Englewood, CO 80110. SEND PROTESTS TO: Lyle Helfer, I.C.C., 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 115242 (Sub-15TA), filed December 8, 1978. Applicant: DONALD MOORE, 601 North Prairie Street, Prairie du Chien, Wisconsin 53821.

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Representative: Michael S. Varda, 121 South Pinckney Street, Madison, Wisconsin 53703. *Lumber*, from Prairie du Chien, WI, to points in MN, ND, and SD, for 180 days. SUPPORTING SHIPPER: Quality Wood Treating Co., Inc., P.O. Box 367, Prairie du Chien, WI 53821. SEND PROTEST TO: Gail Daugherty, Trans. Asst., I.C.C., U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 115917 (Sub-33TA), filed December 6, 1978. Applicant: UNDERWOOD & WELD COMPANY, INC., P.O. Box 247, Crossnore, NC 28616. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. *Salt, in bulk*, from Asheville, NC to Glade Springs, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. SUPPORTING SHIPPER: International Salt Company, Suite 133, 1600 Tullie Circle, Atlanta, GA 30329. SEND PROTESTS TO: Mr. Terrell Price, I.C.C., 800 Briar Creek Rd., Rm. CC516, Mart Office Bldg., Charlotte, NC 28205.

MC 115955 (Sub-28TA), filed December 3, 1978. Applicant: SCARI'S DELIVERY SERVICE, INC., Arnold Ave. & Skeet Rd., Greater Wilmington Airport, New Castle, DE 19720. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. *General commodities*, having a prior or subsequent movement by rail in trailer on flatcar-service (except motor vehicles, commodities of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those commodities which because of size or weight require the use of special equipment), between Alexandria, VA and Downingtown, PA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Sonoco Products Co., 300 S. Brandywine Ave., Downingtown, PA 19335. SEND PROTESTS TO: T. M. Esposito, Trans. Asst., 600 Arch St., Rm. 3238, Phila., PA 19106.

MC 117370 (Sub-34TA), filed December 7, 1978. Applicant: STAFFORD TRUCKING, INC., 2155 Hollyhock Lane, Elm Grove, WI 53122. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, Wisconsin 53705. *Sand*, in bulk, from LaSalle County, IL and Berrien County, MI to points in the United States in and east of ND, SD, NE, KS, OK and TX, (except D.C.) for 180 days. SUPPORTING SHIPPER: Manley Bros:, P.O. Box 538, Chesterton, Indiana 46304. SEND PROTESTS TO: Gail Daugherty, Trans. Asst., I.C.C., U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 117589 (Sub-57TA), filed December 8, 1978. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Avenue South, Seattle, WA 98108. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. (1) *Frozen Fruits, Frozen Vegetables and Frozen Berries*, for Kennewick and Grandview, WA to points in CO and NM. (2) *Frozen Potatoes, Frozen Potato Products and Juice* from points in OR and WA to points in CO and NM. (3) *Commodities, the transportation of which would otherwise be exempt from regulation, when moving in mixed loads with the commodities listed in 1 and 2 above*, from points in OR and WA to points in CO and NM, for 180 days. There are approximately (8) statement of support attached to this application which may be examined at the I.C.C., in Wash., D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Shirley M. Holmes, Trans. Asst., I.C.C., 858 Federal Bldg., Seattle, WA 98174.

MC 118142 (Sub-199TA), filed December 12, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219 Representative: Brad T. Murphree, 814 Century Plaza Bldg., Wichita, KS 67202. *Pizza and pizza ingredients and supplies used in the manufacture or distribution of pizza and pizza ingredients*, from facilities of Tony's Pizza Service at or near Salina, KS, on the one hand, and on the other points in the U.S. (except AK, HI, & KS). Restricted to the transporation of traffic moving in vehicles equipped with refrigeration, and further restricted to traffic originating at or destined to the facilities of Tony's Pizza Service at or near Salina, KS, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Tony's Pizza Service, a wholly owned subsidiary of Schwan Sales Enterprises, Inc., 115 West College, Marshall, MN 56258. SEND PROTESTS TO: M. E. Taylor, I.C.C., 101 Litwin Bldg., Wichita, KS 67202.

MC 118318 (Sub-37TA), Filed December 5, 1978. Applicant: IDA-CAL FREIGHT LINES, INC., P.O. Box Drawer M, Nampa, ID 83651. Representative: Timothy R. Stivers, Registered Practitioner, P.O. Box 162, Boise, ID 83701. *Such merchandise as is delt in by grocery and food business houses*, (1) from the facilities of (a) Colgate Palmolive, (b) White King, Inc., (c) Lever Brothers Company located in CA to points in WA; and (2) from the facilities of Colgate Palmolive in CA to points in the Utah Counties of Box Elder, Cache, Davis, Morgan, Salt Lake, Tooele, Utah and Weber, for 180 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority SUPPORTING SHIPPERS: White King, Inc., 617 East First Street, Los Angeles, CA 90012; Lever Brothers Company, 6300 East Sheila, Los Angeles, CA 90022; Colgate Palmolive, 2700 7th Street, Berkeley, CA 94710. SEND PROTESTS TO: Barney L. Hardin, I.C.C., Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 118318 (Sub-38TA), filed December 7, 1978. Applicant: IDA-CAL FREIGHT LINES, INC., P.O. Drawer M Nampa, ID 83651. Representative: Timothy R. Stivers, Registered Practitioner, P.O. Box 162, Boise, ID 83701. *Such merchandise as is delt in by grocery and food business houses*, from the facilities of Proctor & Gamble Company located in CA to points in WA, and those points in Box Elder, Cache, Davis, Morgan, Salt Lake, Tooele, Utah and Weber Counties, UT, for 180 days. The applicant has filed an underlying ETA seeking up to 90 days. SUPPORTING SHIPPER(S): The Proctor & Gamble Distributing Co., P.O. Box 599, Cincinnati, OH 45201, SEND PROTESTS TO: Barney L. Hardin, I.C.C., Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 124078 (Sub-907TA), filed December 6, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Fly Ash*, in bulk, from Gentry, AR to points in IL, KS, LA, MS, MO, OK, TN, and TX for 180 days. SUPPORTING SHIPPER: GIFFORD HILL & CO., INC., P.O. Box 47127, Dallas, TX 75247. SEND PROTESTS TO: Gail Daugherty, I.C.C., U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue Room 619, Milwaukee, WI 53202.

MC 124078 (Sub-908TA), filed December 6, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (Same address as applicant). *Monochloroacetic Acid*, in bulk, in tank vehicles, from Hopewell, VA to the facilities of Fallek-Lankron Corporation, at or near Tuscaloosa, AL for 180 days. Supporting shipper: FALLEK-LANKRO CORPORATION, P.O. Box H, Tuscaloosa, AL 35401. Send protests to: Gail Daugherty, ICC, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124078 (Sub-909TA), filed December 7, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (Same address as applicant). *Cement*, in bulk, in bags from the facilities of Hercules Cement Co. at Stockertown, PA to points in CT, MD, MA, NJ, NY and VA for 180 days. Supporting shipper: Hercules Cement Company, Stockertown, PA 18083, Robert H. McKinley, Mgr. of Distribution. Send protests to: Gail Daugherty, Trans. Asst., I.C.C., U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124947 (Sub-122TA), filed December 5, 1978. Applicant: MACHINERY TRANSPORTS, INC., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson, 1945 South Redwood Road, Salt Lake City, UT 84104. *Batteries* from (1) Dunmore, PA to Phoenix, AZ; City of Industry, CA; Salem, OR and Dallas, TX and (2) from Shreveport, LA to Phoenix, AZ; City of Industry, CA and Salem, OR, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Gould, Inc., P. O. Box 3140, St. Paul, MN 55165 (T. A. Bentley, Manager of Physical Distribution). SEND PROTESTS TO: L. D. Helfer, I.C.C., 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125335 (Sub-40TA), filed December 5, 1978. Applicant: GOOD-WAY, INC., P.O. Box 2283, York, Pennsylvania 17405. Representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebraska 68501. *Meats, meat products, meat by products, and articles deistributed by meat packinghouses*, from the facilities of Dubuque Packing Co. at or near Denison, IA to points in CT, MD, MA, NJ, NY, and PA, for 180 days. Supporting shipper: Dubuque Packing Co., Tim Hopkins, Traffic Manager, P. O. Box 257, Denison, IA 51442. Send protests to: Charles Myers, Trans. Specialist, I.C.C., P.O. Box 869, Federal Square Station, 228 Walnut St., Harrisburg, PA 17108.

MC 128133 (Sub-23TA), filed December 11, 1978. Applicant: H. H. OMPS, INC., Route 7, Box 295, Winchester, VA 22601. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street, NW, Washington, DC 20005. *Rock salt*, from Baltimore, MD to points in Caroline, Spotsylvania, Louisa, Fluvanna, Albemarle, Greene, Culpepper, Orange, Rappahannock, Faquier, Fairfax, Arlington, Prince William, Loudoun, Hanover, and Madison Counties, VA, for 180 days. An underlaying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Morton Salt Co., 110 N. Wacker Drive, Chicago, IL 60606. SEND PROTESTS TO: T. M. Esposito, ICC, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 128246 (Sub-35TA), filed December 4, 1978. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box AD, Watsonville, CA 95076. Representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Rd., Alexandria, Va 22312. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses, and, in connection therewith, equipment, materials, and supplies used in the conduct of such business (except in bulk)*, from the factilities of Safeway Stores, Incorporated, at or near Dallas and Denison, TX to the facilities of Safeway Stores, Incorporated at or near Denver, DO and Salt Lake City, UT, under a continuing contract or contracts with Safeway Stores, Incorporated, of Oakland, CA for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Safeway Stores, Incorporated, 5725 E. 14th Street, Oakland, CA 94660. Send protests to: Michael M. Butler, I.C.C., 211 Main-Suite 500, San Francisco, CA 94105.

MC 128273 (Sub-325 TA), filed: December 6, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. *Paper boxes* (1) from Fort Wayne, IN, to Salt Lake City, UT, and Emeryville, Fresno, Lemon Grove, Los Angeles, Modesto, Oakland, Ontario, Pomona, Sacramento, San Bernardino, San Diego, San Francisco, San Jose, Santa Ana, Santa Clara, South Gate, and Watsonville, CA, and (2) from Sikeston, MO, to Ontario, CA. RESTRICTED to traffic originating at the facilities owned or utilized by Potlatch Corporation at the origins listed in Part (1) and (2) above, and terminating at the destination points. Further restricted against the transportation of commodities in bulk in tank vehicles. Applicant has also filed a corresponding ETA seeking up to 90 days of operating authority. Supporting shipper: Potlatch Corporation, P.O. Box 1016, Lewiston, ID 83501. Send protests to: M. E. Taylor, ICC, 101A Litwin Bldg., 110 North Market, Wichita, KS 67202.

MC 133391 (Sub-4TA), filed December 5, 1978. Applicant: SCHWERMAN TRUCKING CO. OF VA., INC., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (Same address as applicant). *Aplite Rock*, in bulk from Piney River, VA to Bridgeton, NJ for 180 days. Supporting shipper: OWENS-ILLINOIS, INC., 405 Madison Avenue, Toledo, OH 43666, Donald R. Krause, Supvr., Raw Materials. Send protests to: Gail Daugherty, Trans. Asst., I.C.C., U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 135797 (Sub-168TA), filed December 11, 1978. Applicant: J.B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant, P.O. Box 200, Lowell, AR 72745. *Box or crate material, wood and wire combined, knocked down*, from Magnolia, MS, to points in AL, AR, CA, FL, KY, LA, NY, OH, OK, SC, TN, TX and WI. RESTRICTION: Restricted to traffic originating at the facilities of Great Southern Wirebound Box Co., Inc., for 180 days. SUPPORTING SHIPPER(S): Great Southern Wirebound Box Co., Inc., P.O. Box 271, Magnolia, MS 39652. SEND PROTESTS TO: William H. Land, Jr., 3108 Federal Office Bldg., 700 West Capitol, Little Rock, AR 72201

MC 136077 (Sub-10TA), filed December 11, 1978. Applicant: REBER CORP., 2216 Old Arch Road, Norristown, PA 19401. Representative: Sheri B. Friedman, 1600 Land Title Building, 100 S. Broad Street, Philadelphia, PA 19110. *Lime, limestone and products thereof*, in bags and in bulk, from Plymouth Meeting, PA to points in NJ, North of NJ Hwy. 33; NY, VA and WV, for 180 days. SUPPORTING SHIPPER(S): G. & W. H. Corson, Inc., Plymouth Meeting, PA. SEND PROTESTS TO: T. M. Esposito, ICC, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 138104 (Sub-61TA), filed December 5, 1978. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. (1) *Building and construction materials*, (except commodities in bulk), and (2) *materials and supplies* used in the manufacture of and/or distribution of commodities named in (1) above (except commodities in bulk), (1) from the facilities of the Celotex Corporation, located at or near Marrero, LA to points in AR, CO, OK, NM, and TX and (2) from points in AR, CO, OK, NM and TX to the facilities of the Celotex Corporation located at or near Marrero, LA, for 180 days. SUPPORTING SHIPPER(S): The Celotex Corporation, 1500 North Dale Mabry, Tampa, FL 33607. SEND PROTESTS TO: Martha A. Powell, Trans. Asst., I.C.C., Rm. 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 139006 (Sub-5TA), filed December 4, 1978. Applicant: RAPIER SMITH, Rural Route 5, Loretto Road, Bardstown, KY 40004. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. (1) *Malt beverages and related advertising material*

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and display racks, (except in bulk), from Columbus and Cincinnati, OH to Bardstown, Ky., and its commercial zone, and (2) *Returned empty malt beverage containers*, from Bardstown, KY., and its commercial zone to Columbus and Cincinnati, OH., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): B. L. Smith, Sr., President, Smith Bros. Distributing Co., Inc., Louisville Rd., Drawer H, Bardstown, KY 40004. SEND PROTESTS TO: Mrs. Linda H. Sypher DS, ICC, 426 Post Office Building, Louisville, Ky. 40205.

MC 139495 (Sub-400TA), filed December 6, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, Sullivan & Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. *Cookies* from the facilities of Interbake Foods, Inc. at or near Richmond, VA to points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, points in PA on and west of U.S. Hwy 15, SD, TX, and WI; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: INTERBAKE FOODS, INC., P.O. Box 27487, Richmond, VA 23261. Send protests to: M. E. Taylor DS, I.C.C., 101 Litwin Bldg., Wichita, KS 67202.

MC 140768 (Sub-26TA), filed December 11, 1978. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. (1) *Molded wood pulp products*, from the plant site of Packaging Corporation of America, at or near Macon, GA to Hope, AR; Moorpark, CA; North Franklin, CT; Griffith, Indianapolis, North Manchester, North Vernon and Wabash, IN; Philpot, KY; Hammond and Sibley, LA; Lawrence, MA; Coldwater, MI; Jackson, MO; Farmingdale and Woodstown, NJ; Woodbourne, NY; Vale, NC; Fort Recovery, OH; Carlisle, Doylestown, Ephrata, Manheim, New Wilmington, and Shoemakersville, PA; Bethune, SC; and Abingdon, VA; and (2) *materials and supplies* used in the manufacture, packaging and distribution of molded pulp products (except in bulk), from points in AL, FL, KY, MS, NC, SC, TN, and VA to the plant site specified in (1) above for 180 days. Supporting shipper: Packaging Corporation of America, 7670 Airport Drive, Macon, GA 31201. Send protests to: Robert E. Johnston, I.C.C., 9 Clinton St., Newark NJ 07102.

MC 140829 (Sub-155TA), filed December 6, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, US Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Ave., Morristown, NJ 07960. *Frozen Foods*, from the facilities of Pet, Incorporated, Frozen Foods Division at Benton Harbor, Frankfort and Hart, MI, to points in AR, IA, KS, MO, NE, OK and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pet Incorporated, Frozen Food Division, P.O. Box 392, St. Louis, MO 63166. Send protests to Carroll Russell, ICC, Suite 620, 10 North 14th St., Omaha, NE 68102.

MC 140829 (Sub-156TA), filed December 7, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, US Hwy 20, Sioux City, IA 51102. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Drugs, medicines, cosmetics, plastic boxes, weed killing compounds, and animal or poultry feed supplements, and materials and supplies used in the manufacture and production of, and rejected and/or damaged shipments of the commodities named above* (except commodities in bulk), between the facilities utilized by Eli Lilly and Company, located at or near Clinton, Indianapolis, and Lafayette, IN; Omaha, NE, on the one hand, and, on the other, points in IA, MN, NE (interstate), ND and SD. Also, between Mendota, IL, and IN, IA, MN, NE, ND and SD, restricted to traffic originating at the named origins and destined to points in the named destination states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Eli Lilly and Company, 1555 South Kentucky Avenue, Indianapolis, IN 46206. Send protests to: Carroll Russell, ICC, Suite 620, 10 North 14th Street, Omaha, NE 68102.

MC 141804 (Sub-158TA), filed December 1, 1978.Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761.Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761.*Such merchandise* as is dealt in by wholesale, retail and chain department and hardware stores, catalogue show room stores, and home center stores, (except commodities in bulk and food stuffs) from the facilities of Pacific Freight Supply, Inc., its divisions and subsidiaries located at Los Angeles County, CA, to points in and east of MN, IA, MO, AR, and LA. Restricted to traffic originating at the facilities of Pacific Freight Supply, Inc., division and subsidiaries, for 180 days. SUPPORITNG SHIPPER(S): Pacific Freight Supply, Inc., 12551 Staticoy St., South North Hollywood, CA 91605. SEND PROTESTS TO: Irene Carlos, Trans. Asst., I.C.C., Rm. 1321, Federal Bldg., 300 North Los Angeles St., Los Angeles, CA 90012.

MC 141871 (Sub-12TA), filed December 4, 1978.Applicant: WNI, INC., 8700 S.W. Elligsen Road, Wilsonville, OR 97070.Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes transporting: *Sodium bicarbonate, sodium carbonate, and cleaning, scouring, and washing compounds* (except commodities in bulk and except soda ash) from points in Sweetwater County, WY to Clackamas, Milwaukie, Portland, Salem, Sherwood, Pendleton, Albany, Eugene, Malin, and Wheeler, OR; Bellevue Kent, Seattle, Spokane, Tacoma, and Ellensburg, WA; and Billings, Butte, and Great Falls, MT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Church & Dwight Company, Inc., P. O. Box 369, Piscataway, NJ 08854 (John A. Coneys). Send Protests to: A. E. Odoms, I.C.C., 114 Pioneer Courthouse, Portland, OR 97204.

MC 142059 (Sub-55TA), filed December 8, 1978.Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road Joliet, Illinois 60436.Representative: Jack Riley, 1830 Mound Road, Joliet, Illinois 60436. *Aluminum and aluminum articles*, from the facilities of Kaiser Aluminum to Chemical Corporation at or near Ravenswood, WV to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI and DC, for 180 days. Supporting shipper, Kaiser Aluminum & Chemical Corporation, P. O. Box 98, Ravenswood, WV 26164. Send protests to Lois Stahl, Trans. Asst., I.C.C., Rm. 1386, 219 South Dearborn St., Chicago, IL 60604.

MC 144513 (Sub-7TA), filed December 4, 1978.Applicant: CONDOR CONTRACT CARRIER, INC., 656 Wooster Street, Lodi, OH 44254.Representative: Bradford E. Kistler, P. O. Box 82028, Lincoln, NE 68501. *Brick*, from the facilities of May Brik Co. at Los Angeles, CA, to points in and east of MN, IA, MO, OK and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: May Brik Co., 4545 Brazil Street, Los Angeles, CA 90039. Send protests to: Mary Wehner, Trans. Specialist, I.C.C., 731 Federal Bldg., 1240 East Ninth St., Cleveland, OH 44199.

MC 145125 (Sub-6TA), filed December 5, 1978. Applicant: LAUREL MOUNTAIN OVERLAND EXPRESS, INC., P.O. Box 327, Milroy, PA 17063. Representative: Eugene M. Malkin,

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Suite 6193, 5 World Trade Center, New York, NY 10048. (1) *Rock crushers, rock crusher parts, and accessories and tools therefor*, and patterns, from Carlisle, PA to points in AZ, CA, CO, ID, NV, NM, OR, TX, UT, WA, and WY; and (2) *scrap steel, wooden patterns and used, damaged or defective rock crushers and parts thereof*, from points in AZ, CA, CO, ID, NV, NM, OR, TX, UT, WA, and WY, to Carlisle, PA for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): The Frog, Switch & Manufacturing Company, P.O. Box 70, Carlisle, PA 17013. SEND PROTESTS TO: Charles F. Myers, Trans. Specialist, I.C.C., P.O. Box 869 Federal Square Station, 228 Walnut St., Harrisburg, PA 17108.

MC 145399 (Sub-4TA), filed December 4, 1978. Applicant: SHAY DISTRIBUTING CO., INC., P.O. Box 3465, Orange, CA 92665. Representative: Mr. Paul M. Daniell, WATKINS & DANIELL, P.C., Suite 1200, Gas Light Tower, 235 Peachtree Street, N.E., Atlanta, GA 30303. (1) *Commercial laundry tumblers, dryers and drying equipment* from Louisville, KY to points in AZ, CA, NV, NM, OR, UT, and WA; (2) *washing and cleaning compounds* (except in bulk) from Cincinnati, OH to points in AZ, CA, NV, NM, OR, UT, and WA for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers Fabritec International, Inc. and W. M. Cissell Manufacturing Co., P.O. Box 32270, Louisville, KY 40232. Send protests to: Irene Carlos, Trans. Asst., I.C.C., Rm. 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, CA 90012.

MC 145593 (Sub-1TA), filed December 6, 1978. Applicant: HAROLD SHULL TRUCKING, INC., P.O. Box 1533, Hickory, NC 28601. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave., N.W., Washington, D.C. 20036. *Furniture and furniture parts*, (1) from points in Catawba, Iredell, Caldwell, Wilkes, Burke, Rutherford, Cleveland, Alexander, and Lincoln Counties, NC to points in MI and OH, (2) from Hickory, NC to Clarksburg, Charleston, Huntington, and Wheeling, WV, for 180 days. An underlying ETA seeks 90 days authority. There are approximately (16) statement of support attached to this application which may be examined at the I.C.C., in Wash., D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Terrell Price, I.C.C., 800 Briar Creek Road, Rm. CC516, Mart Office Bldg., Charlotte, NC 28205.

MC 145673 (Sub-1TA), filed November 16, 1978. Applicant: ROAD RAIL SERVICES, INC., 860 Skokie Highway, Lake Bluff, IL 60044. Representative: James R. Madler, 120 W. Madison Street, Chicago, IL 60602. *Auto parts, supplies, and accessories*, from Bedford Park, and Hinsdale, IL to points in the Indianapolis, IN Commercial Zone; Cincinnati, Columbus and Cleveland, OH Commercial Zones; and the Detroit, MI Commercial Zone, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Nissan Motor Corp., Dave Miller Distribution Manager, 18501 South Figuerou, Carson, CA 90240. SEND PROTESTS TO: Lois M. Stahl, Trans. Asst., ICC, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 145673 (Sub-2TA), filed November 16, 1978. Applicant: ROAD RAIL SERVICES, INC., 860 Skokie Highway, Lake Bluff, IL 60044. Representative: James R. Madler, 120 W. Madison Street, Chicago, IL 60602. *Hospital supplies and drugs; and materials, equipment and supplies* used in the manufacture, distribution and sale of hospital supplies and drugs, between North Chicago, IL., on the one hand, and, on the other, points in the United States, (except Alaska and Hawaii), restricted to shipments moving in mechanically refrigerated trailers and originating at the facilities of Abbott Laboratories, Inc., for 180 days. SUPPORTING SHIPPER(S): Ernest Tracy Manager of Rate Development, Abbott Laboratories, Inc., North Chicago, IL. SEND PROTESTS TO: Lois M. Stahl trans., Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 145759TA, filed December 4, 1978. Applicant: CHARLES A. DALBEY and DAVID H. MURPHY, d/b/a MONTEREY PENINSULA MOVERS, 666 Redwood Avenue, Seaside, California 93955. Representative: Alan F. Wohlstetter, 1700 K Street, N.W., Washington, D.C. 20006. *Used Household Goods* between points in Monterey, Santa Cruz, San Benito and San Luis Obispo Counties, California, restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic, for 180 days. SUPPORTING SHIPPER(S): Delcher Intercontinental Moving Service, Inc., 4219 Central Ave., St. Petersburg, FL 33733. SEND PROTESTS TO: Michael M. Butler, ICC, 211 Main—Suit 500, San Francisco, CA 94105.

MC 145760 (Sub-1TA), filed December 5, 1978. Applicant: JOHNSON TRANSPORTATION CO., 1327 Highway 13 North, Columbia MS 39439. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. *Plastic pipe and plastic pipe fittings, and materials used in the installation of plastic pipe* from the facilities of Ethyl Corporation, Pipe Products Division, at or near Columbia, MS to points in AL, AR, FL, GA, IL, IN, KY, LA, MI, MO, NC, OH, OK, SC, TN, TX, VA and WV, for 180 days. SUPPORTING SHIPPER(S): Ethyl Corporation, Pipe Products Division, 451 Florida, Baton Rouge, LA 70801. SEND PROTESTS TO: Alan C. Tarrant, I.C.C., Rm. 212, 145 East Amite Bldg., Jackson, MS 39201.

MC 145837TA, filed December 4, 1978. Applicant: WIRT TRANSPORT CO., 400 Martin Street, Bay City, Michigan, 48706. Representative: Edwin M. Snyder, Esquire, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *contract carrier*, over irregular routes, by motor vehicle, transporting: *Animal feed ingredients and sunflower seeds in dump vehicles*, from points in Michigan to the facilities of the Overseas Blending and transfer Company located at Essexville, Michigan, under a continuing contract with I.S. Joseph Company, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): I.S. Joseph Company, 789 Grain Exchange Bldg., Minneapolis, MN 55415. SEND PROTESTS TO: C. R. Flemming, I.C.C., 225 Federal Bldg., Lansing MI 48933.

MC 145838TA, filed December 4, 1978. Applicant: OHIO CONTAINER SERVICE, INC., 2701 Lakeside Avenue, Cleveland, Ohio 44114. Representative: Lewis S. Witherspoon, Suite 1940, 88 East Broad Street, Columbus, Ohio 43215. (1) *General commodities* (except those of unusual value, classes A & B explosives, commodities in bulk, automobiles, and those requiring special equipment because of size or weight) in cargo containers or trailers, between points on Ohio, on the one hand, and, on the other Cleveland, OH rail facilities, and the ports of Cleveland, OH; NY; NJ; and Baltimore, MD; restricted to the transportation of shipments having a prior or subsequent movement by water, and (2) of empty cargo containers or trailers between the points in the places named in (1) above, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately twelve (12) statements of support attached to this application which may be examined at the Field office named below. Send protests to: Mary Wehner, Trans. Asst., I.C.C., 731 Federal Office Bldg., 1240 East Ninth Street, Cleveland, OH 44199.

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MC 145874TA, filed December 8, 1978. Applicant: KENNETH L. PETITT, dba PETITT TRUCKING, 1659 S. Route 22 N.E., P.O. Box 492, Washington Court House, OH 43160. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass reinforced plywood and equipment, materials, and supplies* used in the manufacture, sale and distribution of fiberglass reinforced plywood (except commodities in bulk) between the facilities of Cor-Tec, Inc., at or near Washington Court House, OH, on the one hand, and, on the other, points in FL, IA, IL, IN, MD, NC, NJ, NY, PA and TN, under a continuing contract or contracts with Cor-Tec, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Cor-Tec, Inc., 2351 Kensill Avenue, Washington Court House, OH 43160. SEND PROTESTS TO: Frank L. Calvary, ICC, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2313 Filed 1-23-79; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

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[6355-01-M]

1

CONSUMER PRODUCT SAFETY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 4553.

PREVIOUSLY ANNOUNCED DATE AND TIME: January 24, 1979, 9:30 a.m.

CHANGES IN THE MEETING: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

REVISED AGENDA[1]

OPEN TO THE PUBLIC

1. *Briefing on Children's Sleepwear Enforcement Policy:* The staff will brief the Commission on issues related to a possible CPSC policy on what children's garments are considered sleepwear subject to the Standards for the Flammability of Children's Sleepwear.

2. *Briefing on Coal- and Wood-Burning Stoves Petition (AP 77-2):* The staff will brief the Commission on a petition in which Adam Paul Banner, of Midland Michigan, asks the Commission to issue a labeling rule for coal- and wood-burning appliances, stoves and free-standing fireplaces. The labels would show the minimum clearances from "combustibles," and the type of chimney required for installation. The Commission previously considered, and deferred action on this petition in February 1978. (Decision scheduled for February 8.)

[S-153-79 Filed 1-22-79; 12:28 pm]

[6355-01-M]

2

CONSUMER PRODUCT SAFETY COMMISSION.

[1]Agenda approved January 12, 1979. Agenda revised January 19, with deletions of previous Item No. 2 (Section 15 procedures), which will be held February 7, and Item No. 2 (TRIS Enforcement); and with the addition of current Item No. 3 (Stoves Petition).

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 4553.

PREVIOUSLY ANNOUNCED DATE AND TIME: January 25, 1979, 9:30 a.m.

CHANGES IN THE MEETING: Third floor hearing room, 1111 18th Street, NW., Washington, D.C.

REVISED AGENDA[1]

OPEN TO THE PUBLIC

1. *Possible Substantial Product Hazard: Chance Manufacturing Co., Yo-Yo Amusement Ride ID 78-4:* The staff has recommended that the Commission accept the corrective action plan which Chance has implemented, and close this matter.

2. *Power Lawn Mowers:* The Commission will consider possible actions on a final safety standard for power lawn mowers. The staff briefed the Commission on power mowers at the January 17 briefing. The Commission proposed a standard for mowers in May 1977.

CLOSED TO THE PUBLIC

3. *Architectural Glazing Case (OS No. 633):* The Commission will consider staff recommendations on a possible enforcement case under the Consumer Product Safety Act involving architectural glazing. (Closed under exemption 10: Possible adjudication.)

[S-154-79 Filed 1-22-79; 12:28 pm]

[6355-01-M]

3

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: Commission meeting, Wednesday, January 31, and Thursday, February 1, 1979, 9:30 a.m.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MID-YEAR REPORT

The staff will present its mid-fiscal year report on CPSC priorities and activities, as set forth in the Commission's fiscal year 1979 operating plan.

FOR INFORMATION CONTACT:

Sheldon Butts, Assistant Secretary, suite 300, 1111 18th Street NW., Washington, D.C. 20207, (202) 634-7700.

[1]Agenda approved January 12, 1979; Agenda revised January 19, with deletion of former Item No. 2, petition on coal- and wood-burning stoves, now scheduled for the January 24 briefing.

Agenda approved January 19, 1979.

[S-155-79 Filed 1-22-79; 12:28 pm]

[6714-01-M]

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 2:25 p.m. on Friday, January 19, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met by telephone conference call to issue a temporary cease-and-desist order and to institute cease-and-desist proceedings, in accordance with sections 8(b) and 8(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b), 1818(c)), against an insured State nonmember bank.

In calling the meeting, the Board determined, on motion of Director William M. Isaac (Appointive), seconded by Acting Chairman John G. Heimann, that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; and that the meeting could be closed to public observation to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)), since the public interest did not require consideration of the matter in a meeting open to public observation.

Dated: January 19, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION,
HOYLE L. ROBINSON,
Assistant Executive Secretary.

[S-159-79 Filed 1-22-79; 2:43 pm]

[6730-01-M]

5

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: January 18, 1979, 44 F.R. 3840.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., January 24, 1979.

CHANGE IN THE MEETING: Deletion of the following item from the open session:

2. Agreement No. 10012-3: Application for extension of the intermodal authority of the Australia-Pacific Coast Rate Agreement.

[S-152-79 Filed 1-22-79; 10:05 am]

[6730-01-M]

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10:30 a.m., January 29, 1979

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTER TO BE CONSIDERED: (1) Docket No. 78-56: Actions to adjust or meet conditions unfavorable to shipping in the United States Atlantic and Gulf/European trades.

[S-156-78 Filed 1-22-79; 1:30 pm]

[6210-01-M]

7

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR, 4093, January 19, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, January 24, 1979.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such open item was added:

Proposal to implement Title VI of the Financial Institutions Regulatory and Interest Rate Control Act. (This matter was originally announced for a meeting on Wednesday, January 17, 1979).

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: January 22, 1979.

[S-158-79 Filed 1-22-79; 2:15 pm]

[7600-01-M]

8

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 9:30 a.m., February 8, 1979.

PLACE: Room 640, National Labor Relations Board, 1717 Pennsylvania Avenue NW., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED: The subject matter will be the consideration of testimony to be presented concerning the Commission's proposed revision of certain of its Rules of Procedure, as well as the adoption of certain additional rules.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Patricia Bausell, 202-634-4015.

Date: January 19, 1979.

[S-157-79 Filed 1-22-79; 1:53 pm]

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THURSDAY, JANUARY 25, 1979

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-08-M]

Title 7—Agriculture

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

[Amendment No. 100]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years; Soybean Endorsement

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule provides the regulations for insuring soybeans effective with the 1979 crop year. The regulations outlined below incorporate a previous amendment, provide for more than one level of coverage on soybeans, amend the harvested guarantee, and extend the end of the insurance period from December 10 to December 20 in certain states to conform with current farming practices regarding the harvest period.

EFFECTIVE DATE: January 25, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: On Tuesday, November 14, 1978, there was published in the FEDERAL REGISTER a notice of proposed rule making (43 FR 52722) that proposed a revision of the regulations for insuring soybeans effective with the 1979 crop year which would—

(1) incorporate a previous amendment, (2) amend the harvested guarantee, (3) provide for more than one level of coverage on soybeans, and (4) extend the end of the insurance period from December 10 to December 20 in certain states to conform with current farming practices regarding the harvest period.

Since the revised regulations must be placed on file in the Corporation's office for the county by not later than December 15, there would not be sufficient time to provide a full 60 days for public comment. A 20-day period was provided for such comments, but none were received.

In the proposed rule, the Corporation proposed to revise and reissue the Soybean Endorsement as found in 7 CFR 401.134 (33FR 8264, June 4, 1968), to include a previous amendment providing a formula for the downward adjustment of soybean production to be counted because of poor quality due to insured causes, which became effective for the 1975 crop year (39 FR 32127, September 5, 1974).

In addition, the proposed regulations contain a provision that the harvested guarantee will be shown on the actuarial table on file in the office for the county, and that this guarantee will be reduced for any unharvested acreage. The current soybean crop insurance endorsement provides that the production guarantee as shown on the actuarial table will be increased by 1.5 bushels for any acreage on which 1.5 or more bushels are harvested. The Corporation feels this provision will be more effective administratively.

Further, the proposed regulations will provide for more than one coverage level on soybeans within a county. This change will allow the grower more flexibility in tailoring the insurance offer to meet his needs. It is anticipated that for the 1979 crop, two coverage levels as well as three price elections will be offered to soybeans growers.

Finally, the current endorsement provides that the end of the insurance period shall be December 10 in some states. Present day farming practices in some of these states indicate that the harvest period comes later than December 10, and since soybean crop insurance terminates at the time of harvest, this date has been changed in the proposed endorsement as outlined below to December 20 in such states to allow for the later harvest period. In the absence of any public comment to the contrary, the endorsement provisions outlined below are hereby published as a final rule.

FINAL RULE

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Soybean Endorsement, as found in 7 CFR Part 401.134, is hereby amended effective with the 1979 and succeeding crop years to read as follows:

§ 40..134 The Soybean Endorsement.

1. *Insured crop.* The crop insured shall be soybeans planted for harvest as beans, as determined by the Corporation. Unless otherwise provided on the county actuarial table, insurance shall attach only on acreage initially planted in rows far enough apart to permit cultivation, as determined by the Corporation; but, if such insured acreage is destroyed and is replanted, whether in the same manner or by broadcasting, drilling or in rows too close to permit cultivation, it shall be regarded as insured acreage and not as acreage put to another use. Insurance shall not attach on acreage on which it is determined by the Corporation that soybeans are planted for the development of hybrid seed, or planted in the same row or interplanted in rows with corn. Item (1) of the second sentence of subsection 2(c) of the policy shall not be applicable hereunder in Arkansas, Louisiana, and Mississippi.

2. *Production guarantee.* The production guarantee shall be in bushels per acre as shown on the county actuarial table and the guarantee for any unharvested acreage shall be decreased by the lesser of 3 bushels or 20 percent. Where applicable, at the time the application for insurance is made, the applicant shall elect a guarantee level from the guarantee levels shown on the actuarial table. If the insured has not elected a guarantee level, or the guarantee level elected is not one shown on the actuarial table, the guarantee level which shall be applicable, and which the insured will be deemed to have elected, shall be the guarantee level provided on the actuarial table for such purpose. The insured may, with the consent of the Corporation, elect a new guarantee level for any crop year any time before the closing date for filing applications for that year.

3. *Insurance period.* Insurance on insured acreage shall attach at the time the soybeans are planted and shall cease in the same calendar year as follows: The earliest of (1) final adjustment of a loss, (2) threshing or removal from the field, whichever occurs first, or (3) October 31 in North Dakota; December 20 in Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina, South Carolina, and Virginia; and December 10 in all other states.

4. *Claims for loss.* (a) Any claim for loss on an insurance unit shall be submitted to the Corporation on a form prescribed by the Corporation not later than 60 days after the time of loss. The Corporation reserves the right to provide additional time if it determines that circumstances beyond the control of either party prevent compliance with this provision.

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(b) It shall be a condition precedent to the payment of any loss that the insured (1) establish the production of the insured soybeans on the unit, and that such loss of production has been directly caused by one or more of the hazards insured against during the insurance period of the crop year for which the loss is claimed, and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(c) Losses shall be determined separately for each unit. The amount of loss with respect to any unit shall be determined by (1) multiplying the insured acreage of soybeans on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share. *Provided,* That if the insured fails to report all of the insurable acreage or share for the unit, the amount of loss shall be determined with respect to all of the insurable acreage and share, and in such case, if the premium computed on the basis of the insurable acreage and share exceeds the premium computed on the acreage and share shown on the acreage report, or the acreage and share when determined by the Corporation under section 3 of the policy, the amount of loss shall be reduced proportionately.

(d) The total production to be counted for a unit shall be determined by the Corporation and, subject to the provisions hereinafter, shall include all harvested production and any appraisals made by the Corporation for unharvested or potential production, poor farming practices, uninsured causes of loss, or acreage abandoned or put to another use without the consent of the Corporation: *Provided,* That the total production to be counted shall be not less than the applicable guarantee for any acreage which is abandoned, put to another use without prior written consent of the Corporation, or damaged solely by an uninsured cause.

(e) Notwithstanding any other provision of this section for determining production to be counted, the production to be counted of any harvested soybeans which have in excess of 8 percent kernel damage, as defined in the "Official Grain Standards of the United States," due to insurable causes occurring within the insurance period shall be adjusted by (1) dividing the value per bushel of the damaged soybeans as determined by the Corporation, by the market price per bushel at the local market for soybeans grading No. 2 at the time the loss is adjusted, or if the damaged soybeans have been sold, by dividing the price per bushel received by the insured by the No. 2 price on the date of sale at the local market, and (2) multiplying the result thus obtained by the number of bushels of such damaged soybeans. If the soybeans do not have in excess of 8 percent kernel damage and it is determined that the production contains a moisture content of 15 percent or more, such production shall be reduced 1.2 percent for each full percent of moisture in excess of 14 percent.

5. *Meaning of terms.* For purposes of insurance on soybeans the term:

(a) "Harvest" means the mechanical severance from the land of matured soybeans for threshing.

6. *Cancellation and termination for indebtedness dates.* For each year of the contract, the cancellation date and termination date for indebtedness are the following applicable dates immediately preceding the beginning of the crop year for which the cancellation or the termination is to become effective:

State	Cancellation date	Termination date for indebtedness
Delaware, Illinois, Indiana, Iowa, Maryland, Michigan, Minnesota, Nebraska, Ohio, and Wisconsin.	December 31.	May 10
North Dakota	December 31.	April 15
All other states	December 31.	April 30

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516.)

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942 and OMB Circular No. 840.

Approved by the Board of Directors on December 20, 1978.

Dated: December 20, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: December 22, 1978.

Approved by:

JAMES D. DEAL,
Manager, Federal Crop Insurance Corporation.

[FR Doc. 79-2618 Filed 1-24-79; 8:45 am]

[3410-02-M]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 450]

[Navel Orange Reg. 449; Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 26-Feb. 1, 1979, and increases the quantity of such oranges that may be so shipped during the period January 19-25, 1979. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective January 26, 1979, and the amendment is effective for the period January 19-25, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of navel oranges, as hereafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on January 19, 22, and 23, 1979, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges continues to be reasonably good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 907.750 Navel Orange Regulation 450.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period January 26, 1979, through February 1, 1979, are established as follows:

(1) District 1: 800,000 cartons;

(2) District 2: 121,505 cartons;

(3) District 3: unlimited movement.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

2. Paragraph (a)(1) in § 907.749 Navel Orange Regulation 449 (44 FR 3669), is hereby amended to read:

* * * * *

§ 907.749 Navel Orange Regulation.

(a) * * *

(1) District 1: 950,000 cartons;

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: January 24, 1979.

CHARLES R. BRADER,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-2868 Filed 1-24-79; 11:39 am]

[3410-07-M]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER P—GUARANTEED LOANS

PART 1980—GENERAL

Subpart B—Farmer Program Loans

CORRECTION

AGENCY: Farmers Home Administration, USDA.

ACTION: Correction.

SUMMARY: On January 8, 1979, the Farmers Home Administration published in the FEDERAL REGISTER at page 1720 an amendment to § 1980.154 of subpart B of Part 1980, chapter XVIII, Title 7, Code of Federal Regulations. The numbers of the subparagraphs shown as being amended in § 1980.154 should be changed from 5, 6, and 7 to (e), (f), and (h) respectively.

EFFECTIVE DATE: January 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard Gartman, (202) 447-2091.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

Dated: January 15, 1979.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 79-2690 Filed 1-24-79; 8:45 am]

[4410-10-M]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

Immigrant Visa Petitions for Adopted Alien Children; Implementation of Pub. L. 95-417

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This Final Rule Order sets forth amendments to the Service regulations pertaining to the filing of visa petitions to classify adopted alien orphan children as immediate relatives. These new regulations require that a petition filed to classify an alien orphan child as an immediate relative for the purpose of issuance of an immigrant visa must be accompanied by a valid home study by an appropriate agency, favorably recommending the adoption of the child. The new rules also set forth the requirements of the home study for alien children coming to the U.S. for adoption and for alien children adopted abroad. These rules are necessary and intended to implement recently-enacted legislation which requires a valid home study favorably recommending the adoption of the child as a prerequisite to the issuance of an immigrant visa, or approval of an immediate relative visa petition for an alien orphan child.

DATES: Effective date: January 25, 1979. Comments should be submitted on or before March 26, 1979.

ADDRESSES: Please submit written representations, in duplicate, to the Commissioner of Immigration and Naturalization, Room 7100, 425 Eye Street, N.W., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: On October 5, 1978, the President signed H.R. 12508 into law as Pub. L. 95-417. Section 3 of that legislation amends Section 204 of the Immigration and Nationality Act by adding a new subsection (e) which provides:

"(e) Notwithstanding the provisions of subsections (a) and (b) no petition may be approved on behalf of a child defined in section 101(b)(1)(F) unless a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States."

Section 101(b)(1)(F) of the Immigration and Nationality Act defines the term "child" as an orphan coming into the United States to be adopted by a United States citizen or an orphan adopted by a United States citizen in a foreign country. These orphans are classified as immediate relatives under Section 201(b) and not counted against the numerical limitations of the Act. Section 101(b)(1)(F) further provides that the Attorney General must be satisfied that proper care will be provided to the child if admitted to the United States.

In order to implement section 3 of Pub. L. 95-417, the following amendments will be made to 8 CFR 204.2(d):

1. 8 CFR 204.2(d)(1) will be amended to add the requirement that a petition filed on behalf of an orphan under section 204.1(b) must be accompanied by a valid home study favorably recommending the adoption. Also, in the second sentence of 8 CFR 204.2(d)(1) "his" will be changed to read "his/her", and in the sixth sentence, "he" will be changed to read "he/she".

2. 8 CFR 204.2(d) will be amended by adding a new subparagraph (2) captioned *"Valid Home Study,"* subdivided into subparagraphs which set out specific requirements and criteria for a valid home study for (a) a child coming to the United States for adoption and (b) for a child adopted abroad, who will subsequently immigrate to the U.S. with his/her adoptive parents.

3. Existing 8 CFR 204.2(d)(2) and (3) will be redesignated as 8 CFR 204.2(d)(3) and (4), respectively, and republished without change.

In the light of the foregoing, the following amendments are hereby made

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to Chapter I of Title 8 of the Code of Federal Regulations.

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

1. 8 CFR 204.2(d)(1) is amended by revising the first sentence to read as follows:

§ 204.2 Documents.

• • • • • •

(d) *Evidence required to accompany petition for orphan*—(1) *General.* A petition filed on behalf of an orphan under § 204.1(b) must be accompanied by: (i) A valid home study favorably recommending adoption, made by an agency of the state of the child's proposed residence or by an agency authorized by that state to conduct such a study; in the case of a child adopted abroad, the home study shall be made by an appropriate agency which is licensed in the United States; (ii) fingerprints on Form FD-258 of the United States citizen petitioner and spouse if married; (iii) evidence of the age and of the United States citzenship of the petitioner as provided in paragraph (a) of this section; (iv) a marriage certificate of the married petitioner and spouse if applicable, and evidence of the termination of any previous marriages; (v) proof of age of the orphan in form of a birth certificate, or, if such certificate is not available, other evidence of the orphan's birth; (vi) if the child has been adopted abroad, a certified copy of the adoption decree together with a copy of certified translation; (vii) evidence that the sole or surviving parent is incapable of providing for the orphan's care and has in writing irrevocably released the orphan for emigration and adoption, if the orphan has only one parent.

• • • • • •

2. In 8 CFR 204.2(d)(1), the second sentence is amended by changing "his" to read "his/her", and the sixth sentence is amended by changing "he" to read "he/she".

3. In 8 CFR 204.2(d) a new subparagraph (2), including subdivisions (i) and (ii) is added to read as follows:

• • • • • •

(d)

(2) *Valid home study.*—(i) *Child coming to the United States for adoption.* A home study for a child to be adopted in the United States is considered to be valid if it meets the following criteria. For the purposes of these regulations, the term "agency" includes both individuals and organizations. The home study must contain, but is not limited to, a factual evaluation of the financial, physical, mental and moral capabilities of the prospective parents to rear and educate the child, a detailed description of the living accommodations where the adoptive parents presently reside and a detailed description of the living accommodations in the United States where the child will reside, if known. The home study must contain or have attached to it a statement recommending the proposed adoption. The recommendation must be signed by an official of the responsible State agency in the State of the child's proposed residence, or by an official of an agency authorized by the responsible State agency; however, research, including interviewing, and the preparation of the home study may be done by an individual or group, in the United States or abroad, satisfactory to the State agency or authorized agency. When a home study contains a favorable recommendation by an agency claiming to be authorized by the responsible agency of the State of the child's proposed residence, it cannot be accepted as valid unless the District Director is satisfied that the recommending agency was authorized by the responsible State agency to conduct such a study. The authorized agency need not be located in the State of the child's proposed residence or anywhere in the United States.

(ii) *Child adopted abroad.* A home study for a child adopted abroad is considered to be valid if it meets the following criteria. For the purposes of these regulations, the term "agency" includes both individuals and organizations. The home study must contain, but is not limited to, a factual evaluation of the financial, physical, mental and moral capabilities of the prospective parents to rear and educate the child, a detailed description of the living accommodations where the adoptive parents presently reside and a detailed description of the living accommodations in the United States where the child will reside, if known. The home study must contain or have attached to it a statement recommending or approving of the adoption. The recommendation must be signed by an official of an appropriate public or private adoption agency which is licensed in any state in the United States; however, research, including interviewing, and the preparation of the home study may be done by an individual or group in the United States or abroad, satisfactory to the recommending adoption agency. The responsible state agency in any state of the United States shall be considered to be an appropriate public adoption agency which is licensed in the United States. The home study of any public or private adoption agency other than a state agency referred to above may be considered as valid only if the District Director is satisfied that the agency is licensed to perform home studies by at least one state in the United States. The District Director may require such proof of licensure as is deemed necessary. The licensed agency need not be located in the United States.

• • • • • •

4. Existing 8 CFR 204.2(d)(2) and 8 CFR 204.2(d)(3), are redesignated as 8 CFR 204.2(d)(3), and 8 CFR 204.2 (d)(4), respectively.

• • • • • •

(Sec. 103; 8 U.S.C. 1103 and Sec. 3 of Pub. L. 95-417 (92 Stat. 917))

These regulations are being published in accordance with section 552 of Title 5 of the United States Code, as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1.

Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rule making and delayed effective date is unnecessary and would be impracticable in this instance because expeditious publication of these rules is imperatively required to implement the provisions of section 3 of Pub. L. 95-417 which became effective on October 5, 1978.

However, in the spirit of 5 U.S.C. 553 and E.O. 12044, opportunity will be given interested parties to submit written comments, data, views, and arguments concerning the provisions of these final rules.

The Service will carefully consider all comments received and amend the rules, if warranted. Please submit all comments on or before March 26, 1979, to the Commissioner of Immigration and Naturalization at the address given at the beginning of this document.

Dated: January 19, 1979.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 79-2588 Filed 1-24-79; 8:45 am]

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[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-GL-12; Amdt. No. 39-3400]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman G-21A Aircraft With Hartzell Propellers Installed in Accordance With Supplemental Type Certificate No. SA1-52

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires the installation of a placard on Grumman G-21A "Goose" aircraft that incorporate Hartzell propellers and a governor crossfeed system installed in accordance with Supplemental Type Certificate No. SA1-52. The AD is prompted by a report of inability to restart an engine and simultaneous failure of the remaining engine. This condition could result in an unsafe forced landing on unsuitable terrain or water.

DATES: Effective January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Cornelius Biemond, Engineering and Manufacturing Branch, Flight Standards Division, AGL-217, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 460.

SUPPLEMENTARY INFORMATION: Certain Grumman G-21A aircraft that have been modified to incorporate Hartzell propellers in accordance with Supplemental Type Certificate No. SA1-52 utilize a propeller governor crossfeed system for emergency propeller unfeathering. The FAA has determined that incorrect use of this system can result in the inability to restart an engine and the simultaneous failure of the remaining engine. This condition could, in turn, result in an unsafe forced landing on unsuitable terrain or water. Since this condition exists on other airplanes of this same type design, an airworthiness directive is being issued which requires the installation of a placard outlining the correct use of this system on these aircraft. Concurrent with the issuance of this airworthiness directive, the FAA is preparing an advance notice of proposed rule making to determine whether further corrective action is necessary. Depending on the information received as a result of this advance notice of proposed rule making, the action required herein may be interim in nature.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

GRUMMAN. Applies to all G-21A aircraft that have been modified to incorporate Hartzell propellers and governor crossfeed systems in accordance with Supplemental Type Certificate No. SA1-52, and are certificated in all categories.

Compliance required within 50 hours' time in service or 15 days, whichever occurs first, after the effective date of this AD, unless previously accomplished.

To preclude the inability to restart an engine and the simultaneous loss of the remaining engine, install the following placard adjacent to the emergency unfeather valve in full view of the pilot and operate the aircraft thereafter in accordance with these terms:

"ENGINE RESTART: ATTEMPT RESTART USING STARTER. IF UNSUCCESSFUL

1. ADVANCE PROP CONTROL LEVER TO FULL INCREASE RPM POSITION.
2. OPEN EMERGENCY UNFEATHER VALVE".

The placard lettering must be at least ⅛ inch in height and of a contrasting color.

Equivalent modifications may be approved by the Chief, Engineering and Manufacturing Branch, FAA Great Lakes Region.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958 as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Des Plaines, Illinois on January 9, 1979.

WAYNE J. BARLOW,
Acting Director, Great Lakes Region.

[FR Doc. 79-2363 Filed 1-24-79; 8:45 am]

[4910-13-M]

[Docket No. 78-EA-91; Amdt. 39-3402]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Piper PA-38-112 type airplanes and requires an inspection of the bearing in the rudder bracket and eventual addition of bearing retention plates. The purpose of the requirement is to preclude vertical movement of the bottom rudder hinge bearing which would cause interference between the rudder fairing tip and the vertical fin.

DATE: January 31, 1979. Compliance is required as set forth in the AD.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 11745.

FOR FURTHER INFORMATION CONTACT:

C. Kallis, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: There had been reports of the bottom rudder hinge bearing becoming loose, which allowed the rudder to drop down causing interferenee between the rudder fairing and fin surface which results in a control problem. Since this deficiency affects air safety, notice and public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

PIPER: Applies to Piper Model PA-38-112 Serial Nos. 38-78A0001 thru 38-78A0348 certificated in all categories.

To prevent vertical movement of the bottom rudder hinge bearing and possible interference between the bottom surface of the rudder fairing tip and the vertical fin top surface, accomplish the following:

(a) Within the next 25 hours in service after the effective date of this AD:

(1) Deflect the rudder so that the bottom hinge is accessible.

(2) Inspect the bottom hinge bracket for a loose bearing, which will be evident by any portion of the bearing outer-race protruding below the lower surface of the bracket.

(3) If a loose bearing is indicated, install Piper Kit 763 881 or equivalent, before further flight.

(b) Within the next 50 hours of service, after the effective date of this AD, unless already accomplished, install Piper Kit 763 881 or equivalent.

(c) The affected airplane may be flown in accordance with FAR 21.197 to a location where the AD may be accomplished.

(d) Equivalent inspections, repairs and alterations must be approved by the Chief,

Engineering and Manufacturing Branch, FAA, Eastern Region.

(e) Upon submission of substantiating data through an FAA Maintenance Inspector the compliance times specified in this AD may be adjusted by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

Piper Service Bulletin No. 613, dated August 11, 1978, pertains to this subject.

Effective Date: This amendment is effective January 31, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

Issued in Jamaica, New York, on January 16, 1979.

BRIAN J. VINCENT,
Acting Director, Eastern Region.

[FR Doc. 79-2564 Filed 1-24-79; 8:45 am]

[4910-13-M]

[Docket No. 18695; Amdt. No. 95-283]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 95—IFR ALTITUDES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This admendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provides for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348 and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3).)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on January 19, 1979.

JAMES M. VINES,
Chief, Aircraft Programs Division.

[4910-13-C]

§95.299 RED FEDERAL AIRWAY 99
Is amended to read in part:

FROM	TO	MEA
Illiamna, Alas. NDB	Kechemak, Alas. NDB	6000

§95.1801 DIRECT ROUTES—U.S.
Possess Routes
Amber 12 is amended to read in part:

Watson INT, R.P.	San Andres, Columbia NDB	1500

V-18 is amended to read in part:

La Palma, R.P. VOR	*Joque INT, R.P.	8000
*10000—MRA		

V-29 is amended to read in part:

France, C.Z. VOR	*Mandinga INT, R.P.	8000
*10000—MRA		

§95.6003 VOR FEDERAL AIRWAY 3
Is amended to read in part:

FROM	TO	MEA
Brunswick, Ga. VOR	*Faded INT, Ga.	2000
*3000—MRA		
Faded INT, Ga.	*Herpe INT, Ga.	2000
*3800—MRA		

§95.6004 VOR FEDERAL AIRWAY 4
Is amended to read in part:

FROM	TO	MEA
Lansi INT, Kans.	Kansas City, Mo. VOR	2800
De Soto INT, Kans.	Paims INT, Mo.	
Via S alter.	Via S alter.	2800
Paims INT, Mo.	Kansas City, Mo. VOR	
Via S alter.	Via S alter.	*2800
*2300—MOCA		
St. Louis, Mo. VOR	Troy, Ill. VOR	2400

§95.6006 VOR FEDERAL AIRWAY 6
Is amended to read in part:

FROM	TO	MEA
Okaha, Neb. VOR	*Lyman INT, Iowa	3000
*3500—MRA		
Lyman INT, Iowa	Des Moines, Iowa VOR	3000
Des Moines, Iowa VOR	Iowa City, Iowa VOR	2700
Iowa City, Iowa VOR	Davenport, Iowa VOR	2600
Omaha, Neb. VOR	Elliott INT, Iowa	
Via S alter.	Via S alter.	2800
Witts INT, Iowa	Des Moines, Iowa VOR	
Via S alter.	Via S alter.	2700
Des Moines, Iowa VOR	Bussey INT, Iowa	
Via S alter.	Via S alter.	2700

§95.6008 VOR FEDERAL AIRWAY 8
Is amended to read in part:

FROM	TO	MEA
Seal Beach, Calif. VOR	Alhein INT, Calif.	
Via N alter.	Via N alter.	*3000
*2400—MOCA		
Alhein INT, Calif.	*Pomona, Calif. VOR	
Via N alter.	Via N alter.	4000
*10300—MCA Pomona VOR, NE-bound		
Omaha, Neb. VOR	*Lyman INT, Iowa	3000
*3500—MRA		
Lyman INT, Iowa	Des Moines, Iowa VOR	3000
Des Moines, Iowa VOR	Iowa City, Iowa VOR	2700
Iowa City, Iowa VOR	Moline, Ill. VOR	2700

§95.6009 VOR FEDERAL AIRWAY 9
Is amended to read in part:

FROM	TO	MEA
Malden, Mo. VOR	Farmington, Mo. VOR	*3000
*2400—MOCA		
Arnold INT, Mo.	Imperial INT, Mo.	2800

§95.6010 VOR FEDERAL AIRWAY 10
Is amended to read in part:

FROM	TO	MEA
Kirksville, Mo. VOR	Lesny INT, Mo.	2700
Napoleon, Mo. VOR	Lesso INT, Mo.	
Via W alter.	Via N alter.	2800
Lesso INT, Mo.	Kirksville, Mo. VOR	
Via N alter.	Via N alter.	*3000
*2400—MOCA		

§95.6012 VOR FEDERAL AIRWAY 12
Is amended to read in part:

FROM	TO	MEA
Acoma INT, N.M.	Albuquerque, N.M. VOR	
Via S alter.	Via S alter.	9000
Napoleon, Mo. VOR	*Odessa INT, Mo.	2700
*MRA—4000		
Boonville INT, Mo.	Columbia, Mo. VOR	2500
Boonville INT, Mo.	Jamestown INT, Mo.	
Via S. Alter.	Via S alter.	4000
Jamestown INT, Mo.	Jefferson City, Mo. VOR	
Via S alter.	Via S alter.	2600
Jefferson City, Mo. VOR	Guthrie INT, Mo.	
Via S alter.	Via S alter.	3000
Guthrie INT, Mo.	Roodsville INT, Mo.	
Via S alter.	Via S alter.	4000
Hanna INT, Mo.	Faristell, Mo. VOR	*2700
*2200—MOCA		
Faristell, Mo. VOR	Troy, Ill. VOR	2500

§95.6013 VOR FEDERAL AIRWAY 13
Is amended to read in part:

FROM	TO	MEA
Rezarback, Ark. VOR	Neosho, Mo. VOR	3000
Neosho, Mo. VOR	Nesho INT, Iowa	2900
Nesho INT, Mo.	*Dizzi INT, Mo.	**2700
*3000—MRA		
**2100—MOCA		
Dizzi INT, Mo.	Butler, Mo. VOR	*2600
*2000—MOCA		
Butler, Mo. VOR	Napoleon, Mo. VOR	2700
Napoleon, Mo. VOR	Plattsburg INT, Iowa	3000
Plattsburg INT, Iowa	Lamoni, Iowa VOR	2900
Lamoni, Iowa VOR	*Wivey INT, Iowa	3000
*4300—MRA		
Wivey INT, Iowa	Des Moines, Iowa VOR	3000
Lamoni, Iowa VOR	Des Moines, Iowa VOR	
Via W alter.	Via W alter.	3000
Fort Dodge, Iowa VOR	Mason City, Iowa VOR	
Via W alter.	Via W alter.	3000

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§95.6014 VOR FEDERAL AIRWAY 14
is amended to read in part:

FROM	TO	MEA
Onsom INT, N.M.	*Capro INT, N.M.	7500
*9000—MRA		
Capro INT, N.M.	*Winns INT, N.M.	**7500
*8000—MRA		
**6500—MOCA		
*Nocks INT, Okla.	Oklahoma City, Okla. VOR	
Via S alter.	Via S alter.	3000
*5000—MRA		
Adair INT, Okla.	Neosho, Mo. VOR	3000
Tulsa, Okla. VOR	Vinta INT, Okla.	
Via N alter.	Via N alter.	*2600
*2200—MOCA		
Vinta INT, Okla.	Neosho, Mo. VOR	
Via N alter.	Via N alter.	3000
*Pryor INT, Okla.	Neosho, Mo. VOR	
Via S alter.	Via S alter.	3000
*2900—MRA		
Billings INT, Mo.	Springfield, Mo. VOR	
Via S alter.	Via S alter.	3000
Springfield, Mo. VOR	Lonez INT, Mo.	*3000
*2400—MOCA		
Lonez INT, Mo.	Stout INT, Mo.	3000
Rebbs INT, Mo.	Vichy, Mo. VOR	3000
Vichy, Mo. VOR	Farristell, Mo. VOR	2900
Farristell, Mo. VOR	St. Louis, Mo. VOR	2600
St. Louis, Mo. VOR	Prairie INT, Ill.	2500

§95.6015 VOR FEDERAL AIRWAY 15
is amended to read in part:

FROM	TO	MEA
*Pryor INT, Okla.	Neosho, Mo. VOR	3000
*2900—MRA		
St. Joseph, Mo. VOR	Coin INT, Iowa	*2900
*2300—MOCA		
Coin INT, Iowa	Neola, Iowa VOR	*3000
*2500—MOCA		
Neola, Iowa VOR	*Blencoe INT, Iowa	3000
*4000—MRA		
Blencoe INT, Iowa	Sioux City, Iowa VOR	3000

§95.6016 VOR FEDERAL AIRWAY 16
is amended to delete:

FROM	TO	MEA
Yuma INT, Va.	Blackford, Va. VOR	
Via N alter.	Via N alter.	6000
Blackford, Va. VOR	Duff INT, Va.	
Via N alter.	Via N alter.	6600

§95.6016 VOR FEDERAL AIRWAY 16
is amended by adding:

FROM	TO	MEA
Yuma INT, Va.	Glade Spring, Va. VOR	
Via N alter.	Via N alter.	6000
Glade Spring, Va. VOR	Duff INT, Va.	
Via N alter.	Via N alter.	6600

§95.6019 VOR FEDERAL AIRWAY 19
is amended to read in part:

FROM	TO	MEA
Albuquerque, N.M. VOR	Santa Fe, N.M. VOR	
Via W alter.	Via W alter.	9000

§95.6021 VOR FEDERAL AIRWAY 21
is amended to read in part:

FROM	TO	MEA
Seal Beach, Calif. VOR	Aheim INT, Calif.	*3000
*2400—MOCA		
Aheim INT, Calif.	*Olive INT, Calif.	5000
*4100—MCA Olive INT, NE-bound		

§95.6027 VOR FEDERAL AIRWAY 27
is amended to read in part:

FROM	TO	MEA
Shark INT, Calif.	Hodly INT, Calif.	*6000
*3000—MOCA		

§95.6035 VOR FEDERAL AIRWAY 35
is amended to delete:

FROM	TO	MEA
Holston Mountain, Tenn. VOR	Blackford, Va. VOR	6000
Blackford, Va. VOR	Stacy INT, Va.	6000
Blackford, Va. VOR	Bluefield, W. Va. VOR	
Via E alter.	Via E alter.	6600
Morgantown, W. Va. VOR	Uniontown INT, Pa.	
Via W alter.	Via W alter.	5000
Uniontown INT, Pa.	Query INT, Pa.	
Via W alter.	Via W alter.	4000
Query INT, Pa.	Johnstown, Pa. VOR	
Via W alter.	Via W alter.	5000

§95.6035 VOR FEDERAL AIRWAY 35
is amended by adding:

FROM	TO	MEA
Holston Mountain, Tenn. VOR	Glade Spring, Va. VOR	6000
Glade Spring, Va. VOR	Stacy INT, Va.	6000
Glade Spring, Va. VOR	Bluefield, W. Va. VOR	
Via E alter.	Via E alter.	6600

§95.6037 VOR FEDERAL AIRWAY 37
is amended to delete:

FROM	TO	MEA
Elkins, W. Va. VOR	Tygar INT, W. Va.	5000
Tygar INT, W. Va.	Morgantown, W. Va. VOR	4000
Morgantown, W. Va. VOR	Ellwood City, Pa. VOR	4000

§95.6037 VOR FEDERAL AIRWAY 37
is amended by adding:

FROM	TO	MEA
Elkins, W. Va. VOR	Clarksburg, W. Va. VOR	5000
Clarksburg, W. Va. VOR	Ellwood City, Pa. VOR	4000

§95.6037 VOR FEDERAL AIRWAY 37
is amended to read in part:

FROM	TO	MEA
Brunswick, Ga. VOR	*Faded INT, Ga.	7000
*3000—MRA		
Faded INT, Ga.	*Harps INT, Ga.	2000
*3800—MRA		

§95.6038 VOR FEDERAL AIRWAY 38
is amended to read in part:

FROM	TO	MEA
Bugel INT, W. Va.	Carol INT, Va.	8000

§95.6048 VOR FEDERAL AIRWAY 48
is amended to read in part:

FROM	TO	MEA
Ottumwa, Iowa VOR	Burlington, Iowa VOR	2500

§95.6050 VOR FEDERAL AIRWAY 50
is amended to read in part:

FROM	TO	MEA
Pawnee City, Neb. VOR	St. Joseph, Mo. VOR	3000
New Market INT, Mo.	St. Joseph, Mo. VOR	
Via S alter.	Via S alter.	2900
Kirksville, Mo. VOR	Quincy, Ill. VOR	2700

§95.6052 VOR FEDERAL AIRWAY 52
is amended to read in part:

FROM	TO	MEA
St. Louis, Mo. VOR	Troy, Ill. VOR	2400
Des Moines, Iowa VOR	Ottumwa, Iowa VOR	2700

§95.6062 VOR FEDERAL AIRWAY 62
is amended to read in part:

FROM	TO	MEA
Gallup, N.M. VOR	Cabzo INT, N.M.	11000

§95.6063 VOR FEDERAL AIRWAY 63
is amended to read in part:

FROM	TO	MEA
Billings INT, Mo.	Springfield, Mo. VOR	3000
Springfield, Mo. VOR	*Roach INT, Mo.	**3000
*3200—MRA		
**2500—MOCA		

§95.6065 VOR FEDERAL AIRWAY 65
is amended to read in part:

FROM	TO	MEA
New Market INT, Mo.	St. Joseph, Mo. VOR	3000
St. Joseph, Mo. VOR	Lamoni, Iowa VOR	2900

§95.6067 VOR FEDERAL AIRWAY 67
is amended to read in part:

FROM	TO	MEA
Burlington, Iowa VOR	Iowa City, Iowa VOR	*2600
*2000—MOCA		
Iowa City, VOR	Cedar Rapids, Iowa VOR	*2600
*2100—MOCA		
Cedar Rapids, Iowa VOR	*Vinty INT, Iowa	2700
*3200—MRA		
Vinty INT, Iowa	*Lyers INT, Iowa	2700
*3200—MRA		
Lyers INT, Iowa	Waterloo, Iowa VOR	2700
Waterloo, Iowa VOR	Rochester, Minn. VOR	3000

§95.6069 VOR FEDERAL AIRWAY 69
is amended to read in part:

FROM	TO	MEA
Walnut Ridge, Ark. VOR	Farmington, Mo. VOR	3000

§95.6071 VOR FEDERAL AIRWAY 71
is amended to read in part:

FROM	TO	MEA
Reeds INT, Mo.	Spoke INT, Mo.	*3000
*2500—MOCA		
Billings INT, Mo.	Springfield, Mo. VOR	
Via W alter.	Via W alter.	3000

§95.6072 VOR FEDERAL AIRWAY 72
is amended to read in part:

FROM	TO	MEA
Razorback, Ark. VOR	Reeds INT, Mo.	3200
Reeds INT, Mo.	Dogwood, Mo. VOR	*3400
*2800—MOCA		

§95.6077 VOR FEDERAL AIRWAY 77
is amended to read in part:

FROM	TO	MEA
Nocks INT, Okla.	Oklahoma City, Okla. VOR	3000
*5000—MRA		
Oklahoma City, Okla. VOR	Pioneer Okla. VOR	
Via E alter.	Via E alter.	3000
Topeka, Kans. VOR	St. Joseph, Mo. VOR	*2900
*2300—MOCA		
St. Joseph, Mo. VOR	Lamoni, Iowa VOR	2900
Lamoni, Iowa VOR	*Wivey INT, Iowa	3000
*4300—MRA		
Wivey INT, Iowa	Des Moines, Iowa VOR	3000
Newton, Iowa VOR	Waterloo, Iowa VOR	2800

§95.6083 VOR FEDERAL AIRWAY 83
is amended to read in part:

FROM	TO	MEA
Corona, N.M. VOR	Otto, N.M. VOR	9000

§95.6086 VOR FEDERAL AIRWAY 86
is amended by adding:

FROM	TO	MEA
Sheridan, Wyo. VOR	Gillette, Wyo. VOR	
Via S alter.	Via S Alter.	7000
Gillette, Wyo. VOR	Newcastle, Wyo. VOR	
Via S alter.	Via S alter.	7500
Newcastle, Wyo. VOR	Rapid City, S.D. VOR	
Via S alter.	Via S alter.	9300

§95.6087 VOR FEDERAL AIRWAY 87
is amended to delete:

FROM	TO	MEA
San Francisco, Calif. VOR	Napa, Calif. VOR	3500
Napa, Calif. VOR	Maxwell, Calif. VOR	5000

§95.6087 VOR FEDERAL AIRWAY 87
is amended by adding:

FROM	TO	MEA
San Francisco, Calif. VOR	Scaggs Island, Calif. VOR	3500
Scaggs Island, Calif. VOR	Maxwell, Calif. VOR	5000

§95.6088 VOR FEDERAL AIRWAY 88
is amended to read in part:

FROM	TO	MEA
Tulsa, Okla. VOR	Vinta INT, Okla.	*2600
*2200—MOCA		
Vinta INT, Okla.	Wacco INT, Mo.	*6500
*3000—MOCA		
Wacco INT, Mo.	Springfield, Mo. VOR	3000
Springfield, Mo. VOR	Lonez INT, Mo.	*3000
*2400—MOCA		
Lonez INT, Mo.	Stout INT, Mo.	3000
Rebbs INT, Mo.	Vichy, Mo. VOR	3000

§95.6100 VOR FEDERAL AIRWAY 100
is amended to read in part:

FROM	TO	MEA
Sioux City, Iowa	Fort Dodge, Iowa VOR	3000
Fort Dodge, Iowa	Waterloo, Iowa VOR	3000
Waterloo, Iowa VOR	Dubuque, Iowa VOR	2900

§95.6108 VOR FEDERAL AIRWAY 108
is amended to delete:

FROM	TO	MEA
Santa Rosa, Calif. VOR	Napa, Calif. VOR	4500
Napa, Calif. VOR	Crockett INT, Calif.	3000

§95.6108 VOR FEDERAL AIRWAY 108
is amended by adding:

FROM	TO	MEA
Santa Rosa, Calif. VOR	Scaggs Island, Calif. VOR	4500
Scaggs Island, Calif. VOR	Crockett INT, Calif.	3000

§95.6120 VOR FEDERAL AIRWAY 120
is amended to read in part:

FROM	TO	MEA
Bancroft INT, Iowa	Mason City, Iowa VOR	3000
Mason City, Iowa VOR	*Arada INT, Iowa	3000
*3500—MRA		
Arada INT, Iowa	*Shellrock INT, Iowa	3000
*3500—MRA		
Shellrock INT, Iowa	Waterloo, Iowa VOR	3000
Mason City, Iowa VOR	Waterloo, Iowa VOR	
Via N alter.	Via N alter.	3000

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§95.6122 VOR FEDERAL AIRWAY 122
is amended to read in part:

FROM	TO	MEA
Crescent City, Calif. VOR	Reflx INT, Calif.	
	SW-bound	4000
	NE-bound	8000
Reflx INT, Calif.	Obrin INT, Calif.	
	SW-bound	6000
	NE-bound	8000

§95.6129 VOR FEDERAL AIRWAY 129
is amended to read in part:

FROM	TO	MEA
Davenport, Iowa VOR	Dubuque, Iowa VOR	*2900
*2300—MOCA		
Dubuque, Iowa VOR	Waukon, Iowa VOR	
Via W alter.	Via W alter.	*3000
*2400—MOCA		

§95.6132 VOR FEDERAL AIRWAY 132
is amended to read in part:

FROM	TO	MEA
Chanute, Kans. VOR	Wolfe INT, Kans.	*2800
*2400—MOCA		
Wolfe INT, Kans.	Nosho INT, Mo.	2700
Springfield, Mo. VOR	Lanes INT, Mo.	*3000
*2400—MOCA		
Lanes INT, Mo.	Int 051 M rad Springfield VOR & 260 M rad Farney VOR	3000

§95.6138 VOR FEDERAL AIRWAY 138
is amended to read in part:

FROM	TO	MEA
Fort Dodge, Iowa VOR	Mason City, Iowa VOR	3000
Mason City, Iowa VOR	Waukon, Iowa VOR	3000

§95.6140 VOR FEDERAL AIRWAY 140
is amended to read in part:

FROM	TO	MEA
Sayre, Okla. VOR	Waxey INT, Okla.	4000
Odins INT, Okla.	Kingfisher, Okla. VOR	3500

§95.6148 VOR FEDERAL AIRWAY 148
is amended by adding:

FROM	TO	MEA
Minneapolis, Minn. VOR	Hayward, Wis. VOR	*5000
*2700—MOCA		
Hayward, Wis. VOR	Ironwood, Wis. VOR	*5000
*2100—MOCA		

§95.6158 VOR FEDERAL AIRWAY 158
is amended to read in part:

FROM	TO	MEA
Mason City, Iowa VOR	Pound INT, Iowa	3000

§95.6159 VOR FEDERAL AIRWAY 159
is amended to read in part:

FROM	TO	MEA
Walnut Ridge, Ark. VOR	Dogwood, Mo. VOR	*3400
*2800—MOCA		
Dogwood, Mo. VOR	Ford DME Fix, Mo.	4000
Springfield, Mo. VOR	*Bolivar INT, Mo.	**3000
*6000—MRA		
**2400—MOCA		
Bolivar INT, Mo.	Augie INT, Mo.	*3000
*2400—MOCA		
Augie INT, Mo.	Holden INT, Mo.	2700
Napoleon, Mo. VOR	St. Joseph, Mo. VOR	3000
St. Joseph, Mo. VOR	Craig INT, Mo.	*2900
*2400—MOCA		
Omaha, Neb. VOR	*Blencoe INT, Iowa	3000
*4000—MRA		
Blencoe INT, Iowa	Sioux City, Iowa VOR	3000

§95.6160 VOR FEDERAL AIRWAY 160
is amended to read in part:

FROM	TO	MEA
Denver, Colo. VOR	Flats, INT, Colo.	*7500
*7000—MOCA		
Flats INT, Colo.	Keenor INT, Colo.	8500
Keenor INT, Colo.	Wiggi INT, Colo.	9500
Wiggi INT, Colo.	Crikk INT, Colo.	12000
Crikk INT, Colo.	Sidney, Neb. VOR	7000

§95.6161 VOR FEDERAL AIRWAY 161
is amended to read in part:

FROM	TO	MEA
Oswego, Kans. VOR	Wolfe INT, Kans.	*3000
*2200—MOCA		
Wolfe INT, Kans.	Butler, Mo. VOR	2800
Butler, Mo. VOR	Napoleon, Mo. VOR	2700
Napoleon, Mo. VOR	Lesso INT, Mo.	2800
Lesso INT, Mo.	Lamoni, Iowa VOR	2900
Lamoni, Iowa	*Wivey INT, Iowa	3000
*4300—MRA		
Wivey INT, Iowa	Des Moines, Iowa VOR	3000

§95.6172 VOR FEDERAL AIRWAY 172
is amended to read in part:

FROM	TO	MEA
Linden INT, Iowa	Newton, Iowa VOR	3300
Cedar Rapids, Iowa VOR	Polo, Ill. VOR	2700

§95.6175 VOR FEDERAL AIRWAY 175
is amended to read in part:

FROM	TO	MEA
Vichy, Mo. VOR	Jefferson City, Mo. VOR	
Via W alter.	Via W alter.	*2900
*2300—MOCA		
Hillsville, Mo. VOR	Macon, Mo. VOR	2600
Macon, Mo. VOR	Kirksville, Mo. VOR	2700
Kirksville, Mo. VOR	Des Moines, Iowa VOR	2800
Des Moines, Iowa VOR	Linden INT, Iowa	2800
Linden Int, Iowa	*Manning INT, Iowa	**4000
*3900—MRA		
**2800—MOCA		
Manning INT, Iowa	Sioux City, Iowa VOR	*4000
*2800—MOCA		

§95.6177 VOR FEDERAL AIRWAY 177
is amended to delete:

FROM	TO	MEA
Wausau, Wis. VOR	Westboro INT, Wis.	3700
Westboro INT, Wis.	Union INT, Wis.	*6000
*2800—MOCA		
Union INT, Wis.	Duluth, Minn. VOR	*3500
*3000—MOCA		
Wausau, Wis. VOR	Hayward, Wis. VOR	
Via W alter.	Via W alter.	*4500
*3600—MOCA		
Hayward, Wis. VOR	Duluth, Wis. VOR	
Via W alter.	Via W alter.	3000

§95.6177 VOR FEDERAL AIRWAY 177
is amended by adding:

FROM	TO	MEA
Wausau, Wis. VOR	Hayward, Wis. VOR	*4500
*3600—MOCA		
Hayward, Wis. VOR	Duluth, Wis. VOR	3000

§95.6178 VOR FEDERAL AIRWAY 178
is amended to read in part:

FROM	TO	MEA
Vichy, Mo. VOR	Farmington, Mo. VOR	3300
Cape Girardeau, Mo. VOR	Cunningham, Ky. VOR	*2400
*1800—MOCA		

§95.6181 VOR FEDERAL AIRWAY 181
is amended to read in part:

FROM	TO	MEA
Kirksville, Mo. VOR	Lamoni, Iowa VOR	2900
Lamoni, Iowa VOR	Omaha, Neb. VOR	3000

§95.6190 VOR FEDERAL AIRWAY 190
is amended to read in part:

FROM	TO	MEA
Acoma INT, N.M.	*Albuquerque, N.M. VOR	9000
*11500—MCA Albuquerque VOR, NE-bound		

§95.6216 VOR FEDERAL AIRWAY 216
is amended to read in part:

FROM	TO	MEA
Lamoni, Iowa VOR	Ottumwa, Iowa VOR	2900
Ottumwa, Iowa VOR	Iowa City, Iowa VOR	*2600
*2000—MOCA		

§95.6219 VOR FEDERAL AIRWAY 219
is amended to read in part:

FROM	TO	MEA
Sioux City, Iowa VOR	*Gruver INT, Iowa	**4000
*5000—MRA		
**2900—MOCA		

§95.6225 VOR FEDERAL AIRWAY 225
is amended to read in part:

FROM	TO	MEA
Diddy INT, Fla.	Vero Beach, Fla. VOR	2000

§95.6234 VOR FEDERAL AIRWAY 234
is amended to read in part:

FROM	TO	MEA
Int 223 M rad Liberal VOR & 343 M rad Borger VOR	Liberal, Kans. VOR	*5700
*4600—MOCA		
Butler, Mo. VOR	Augie INT, Mo.	2700

§95.6235 VOR FEDERAL AIRWAY 235
is amended by adding:

FROM	TO	MEA
Casper, Wyo. VOR	Newcastle, Wyo. VOR	8300

§95.6238 VOR FEDERAL AIRWAY 238
is amended to read in part:

FROM	TO	MEA
Delmar INT, Mo.	Imperial INT, Mo.	3000

§95.6313 VOR FEDERAL AIRWAY 313
is amended to read in part:

FROM	TO	MEA
Malden, Mo. VOR	Cape Girardeau, Mo. VOR	*2300
*1700—MOCA		

§95.6254 VOR FEDERAL AIRWAY 254
is added to read:

FROM	TO	MEA
Douglas, Wyo. VOR	Gillette, Wyo. VOR	*10000
*7500—MOCA		
Gillette, Wyo. VOR	Miles City, Mont. VOR	*9000
*6900—MOCA		

§95.6263 VOR FEDERAL AIRWAY 263
is amended to delete:

FROM	TO	MEA
Hugo, Colo. VOR	Gill, Colo. VOR	8000

§95.6263 VOR FEDERAL AIRWAY 263
is amended by adding:

FROM	TO	MEA
Hugo, Colo. VOR	Byers INT, Colo.	8000
Byers INT, Colo.	Denver, Colo. VOR	8500

§95.6267 VOR FEDERAL AIRWAY 267
is amended to read in part:

FROM	TO	MEA
Shoals INT, Fla.	Boirn INT, Fla.	
Via E alter.	Via E alter.	*6000
*1500—MOCA		

§95.6272 VOR FEDERAL AIRWAY 272
is amended to read in part:

FROM	TO	MEA
Sayre, Okla. VOR	Waxey INT, Okla.	
Via N alter.	Via N alter.	4000

§95.6280 VOR FEDERAL AIRWAY 280
is amended to read in part:

FROM	TO	MEA
Ossom INT, N.M.	*Capro INT, N.M.	
Via S alter	Via S alter.	7500
*9000—MRA		
*9500—MCA Capro INT NE-bound		
U.S. Mexican Border	El Paso, Tex. VOR	*8000
*6300—MOCA		

§95.6286 VOR FEDERAL AIRWAY 286
is amended to read in part:

FROM	TO	MEA
Derin INT, W. Va.	Okfol INT, Va.	6600
Okfol INT, Va.	Casanova, Va. VOR	6000

§95.6291 VOR FEDERAL AIRWAY 291
is amended to read in part:

FROM	TO	MEA
*Cuba INT, N.M.	Gallup, N.M. VOR	
Via N alter.	Via N alter.	11000
*9000—MRA		
*10000—MCA Cuba INT, W-bound		

§95.6294 VOR FEDERAL AIRWAY 294
is amended to read in part:

FROM	TO	MEA
Des Moines, Iowa VOR	Nasal INT, Iowa	2700
Nasal INT, Iowa	Cedar Rapids, Iowa VOR	*2700
*2100—MOCA		
Cedar Rapids, Iowa VOR	Davenport, Iowa VOR	2600

§95.6298 VOR FEDERAL AIRWAY 298
is amended by adding:

FROM	TO	MEA
Casper, Wyo. VOR	Gillette, Wyo. VOR	8500

§95.6304 VOR FEDERAL AIRWAY 304
is amended to read in part:

FROM	TO	MEA
Int 223 M rad Liberal VOR & 343 M rad Borger VOR	Liberal, Kans. VOR	
Via W alter.	Via W alter.	*5700
*4600—MOCA		

§95.6324 VOR FEDERAL AIRWAY 324
is added to read:

FROM	TO	MEA
Crazy Woman, Wyo. VOR	Gillette, Wyo. VOR	7500

V 44 / 18 JA 25 79 UMI

V 4 4 / 1 8 J A 2 5 7 9 UMI

§95.6335 VOR FEDERAL AIRWAY 335
is amended to read in part:

FROM	TO	MEA
Imperial INT, Mo.	Arnold INT, Mo.	2800
Crystal City INT, Mo. *2300–MOCA	Engen INT, Ill.	*3500

§95.6341 VOR FEDERAL AIRWAY 341
is amended to read in part:

FROM	TO	MEA
Cedar Rapids, Iowa VOR	Dubuque, Iowa VOR	2700

§95.6345 VOR FEDERAL AIRWAY 345
is amended by adding:

FROM	TO	MEA
Eau Claire, Wis. VOR *2700–MOCA	Hayward, Wis. VOR	*4500
Hayward, Wis. VOR *2900–MOCA	Ashland, Wis. VOR	*3500

§95.6362 VOR FEDERAL AIRWAY 362
is amended to read in part:

FROM	TO	MEA
Hoche INT, Ga.	Chattanooga, Tenn. VOR	3000
Chattanooga, Tenn. VOR	Shelbyville, Tenn. VOR	4000
Shelbyville, Tenn. VOR *2400–MOCA	Nashville, Tenn. VOR	*3000
Bridy INT, Tenn. *2000–MOCA	Bowling Green, Ky. VOR	*3000

§95.6429 VOR FEDERAL AIRWAY 429
is amended to read in part:

FROM	TO	MEA
Cape Girardeau, Mo. VOR	Marion, Ill. VOR	3000

§95.6434 VOR FEDERAL AIRWAY 434
is amended to read in part:

FROM	TO	MEA
Ottumwa, Iowa VOR	Moline, Ill. VOR	2500

§95.6437 VOR FEDERAL AIRWAY 437
is amended to read in part:

FROM	TO	MEA
*Cathy INT, Ga. *5000–MRA **1500–MOCA	Keler INT, Ga.	**3000
*Keler INT, Ga. *5500–MRA **1500–MOCA	Savannah, Ga. VOR	**3000

§95.6456 VOR FEDERAL AIRWAY 456
is amended to read in part:

FROM	TO	MEA
Fort Dodge, Iowa VOR	Mankato, Minn. VOR	3000

§95.6469 VOR FEDERAL AIRWAY 469
is amended by adding:

FROM	TO	MEA
Elkins, W.Va. VOR	Tygar INT, W.Va.	5000
Tygar INT, W.Va.	Morgantown, W.Va. VOR	4000
Morgantown, W.Va. VOR	Otown INT, Pa.	5000
Otown INT, Pa.	Quary INT, Pa.	4000
Quary INT, Pa.	Johnstown, Pa. VOR	5000

§95.7072 JET ROUTE NO. 72 is amended to delete:

Peach Springs, Calif. VORTAC	Winslow, Ariz. VORTAC	18000	45000
Winslow, Ariz. VORTAC	Zuni, N.M. VORTAC	18000	45000
Zuni, N.M. VORTAC	Albuquerque, N.M. VORTAC	18000	45000

§95.7072 JET ROUTE NO. 72 is amended by adding:

FROM	TO	MEA	MAA
Peach Spring, Ariz. VORTAC	Gallup, N.M. VORTAC	18000	45000
Gallup, N.M. VORTAC	Albuquerque, N.M. VORTAC	18000	45000

§95.7020 JET ROUTE NO. 20 is amended to delete:

FROM	TO	MEA	MAA
Orlando, Fla. VORTAC	Int. 118 M rad Orlando VORTAC & 341 M rad Vero Beach VORTAC	18000	45000

§95.7020 JET ROUTE NO. 20 is amended by adding:

FROM	TO	MEA	MAA
Orlando, Fla. VORTAC	Fort Lauderdale, Fla. VORTAC	18000	45000

§95.7081 JET ROUTE NO. 81 is amended to delete:

FROM	TO	MEA	MAA
Miami, Fla. VORTAC	Orlando, Fla. VORTAC	18000	45000
Orlando, Fla. VORTAC	Barracuda INT, Fla.	18000	45000

§95.7089 JET ROUTE NO. 89 is amended by adding:

Duluth, Minn. VORTAC	U.S. Canadian Border	18000	45000

2. By amending Sub-part D as follows:

95.8003 VOR FEDERAL AIRWAY CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE FROM	
V-177 is amended to delete:			
Wausaw, Wis. VOR Via W alter.	Hayward, Wis. VOR Via W alter.	46	Hayward
V-177 is amended by adding:			
Wausaw, Wis. VOR	Hayward, Wis. VOR	46	Hayward
V-148 is amended by adding:			
Minneapolis, Minn. VOR	Hayward, Wis. VOR	65	Minneapolis
V-345 is amended by adding:			
Eau Claire, Wis. VOR	Hayward, Wis. VOR	35	Eau Claire

[FR Doc. 79-2567 Filed 1-24-79; 8:45 am]

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[4910-13-M]

[Docket No. 18693; Amdt. No. 1129]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESS: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

• • • effective April 19, 1979.

Houston, TX—Houston Intercontinental, VOR/DME Rwy 32, Amdt. 6

• • • effective March 22, 1979.

Lincoln, IL—Logan County, VOR Rwy 3, Amdt. 3
Weatherford, TX—Parker County, VOR/DME Rwy 35, Original

• • • effective March 8, 1979.

San Jose, CA—San Jose Muni, VOR Rwy 12L/R, Amdt. 15
Marshalltown, IA—Marshalltown Muni, VOR Rwy 12, Amdt. 2
Marshalltown, IA—Marshalltown Muni, VOR Rwy 30, Amdt. 3
Willmar, MN—Willmar Municipal, VOR Rwy 10, Amdt. 7
Willmar, MN—Willmar Municipal, VOR Rwy 28, Amdt. 2
Winona, MN—Winona Municipal-Max Conrad Field, VOR Rwy 29, Amdt. 8
Winona, MN—Winona Municipal-Max Conrad Field, VOR-A, Amdt. 7
Wells, NV—Harriet Field, VOR Rwy 8, Amdt. 1
Deming, NM—Deming Muni, VOR Rwy 26, Amdt. 7
Santa Fe, NM—Santa Fe County Muni, VOR Rwy 33, Amdt. 6
Oklahoma City, OK—Wiley Post, VOR Rwy 35R, Amdt. 5, cancelled
San Juan, PR—Puerto Rico International, VOR Rwy 7 & 10, Amdt. 7
Columbia-Mt. Pleasant, TN—Maury County, VOR/DME-A, Amdt. 2
Wise, VA—Lonesome Pine, VOR Rwy 24, Amdt. 3

• • • effective February 22, 1979.

Kansas City, KS—Fairfax Muni, VOR-D, Amdt. 5
Flint, MI—Bishop, VOR Rwy 9, Amdt. 18
Flint, MI—Bishop, VOR Rwy 18, Amdt. 11
Flint, MI—Bishop, VOR Rwy 27, Amdt. 14
Flint, MI—Bishop, VOR Rwy 36, Amdt. 7
Kansas City, MO—Kansas City Downtown, VOR Rwy 3, Amdt. 11
Kansas City, MO—Kansas City Downtown, VOR Rwy 21, Amdt. 10
Centerville, TN—Centerville Muni, VOR Rwy 2, Amdt. 4

• • • effective January 16, 1979.

Laurel, MS—Hesler-Noble Field, VOR Rwy 13, Amdt. 10

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

• • • effective April 19, 1979.

Houston, TX—Houston Intercontinental, LOC/DME BC Rwy 32, Amdt. 4

• • • effectuve March 22, 1979.

Harlingen, TX—Harlingen Industrial Airpark, LOC BC Rwy 35L, Amdt. 4

• • • effective March 8, 1979.

Tallahassee, FL—Tallahassee Muni, LOC BC Rwy 18, Amdt. 11
New Orleans, LA—New Orleans International (Moisant Field), LOC BC Rwy 28, Amdt. 10
Grand Rapids, MI—Kent County, LOC BC Rwy 8R, Original
St. Louis, MO—Spirit of St. Louis, LOC BC Rwy 25, Amdt. 2, cancelled

• • • effective February 22, 1979.

Flint, MI—Bishop, LOC BC Rwy 27, Amdt. 11

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

• • • effective April 19, 1979.

Blanding, UT—Blanding Muni, NDB Rwy 35, Amdt. 3

• • • effective March 22, 1979.

Lincoln, IL—Logan County, NDB Rwy 21, Amdt. 2
Harlingen, TX—Harlingen Industrial Airpark, NDB Rwy 17L, Amdt. 1
Harlingen, TX—Harlingen Industrial Airpark, NDB Rwy 17R, Amdt. 7
Suffolk, VA—Suffolk Muni, NDB Rwy 7, Original

• • • effective March 8, 1979.

Marshalltown, IA—Marshalltown Muni, NDB Rwy 12, Original
Marshalltown, IA—Marshalltown Muni, NDB Rwy 12, Amdt. 4, cancelled
Bedford, MA—Laurence G. Hanscom Field, NDB Rwy 11, Amdt. 14
Taos, NM—Taos Muni, NDB-A, Amdt. 1
New York, NY—LaGuardia, NDB Rwy 22, Amdt. 10
Mt. Airy, NC—Mt. Airy-Surry County, NDB-A, Original

• • • effective February 22, 1979.

Flint, MI—Bishop, NDB Rwy 9, Amdt. 18

• • • effective January 16, 1979.

Laurel, MS—Hesler-Noble Field, NDB Rwy 13, Amdt. 3

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

• • • effective March 22, 1979.

Harlingen, TX—Harlingen Industrial Airpark, ILS Rwy 17R, Amdt. 5

• • • effective March 8, 1979.

Bedford, MA—Laurence G. Hanscom Field, ILS Rwy 11, Amdt. 17
Boston, MA—General Edward Lawrence Logan Int'l., ILS Rwy 33L, Amdt. 15
Winona, MN—Winona Municipal-Max Conrad Field, MLS Rwy 29 (Interim), Amdt. 1
Grand Rapids, MI— Kent County, ILS Rwy 8R, Original, cancelled
New York, NY—LaGuardia, ILS Rwy 22, Amdt. 13
Philadelphia, PA—Philadelphia Int'l., ILS Rwy 27L, Amdt. 2

• • • effective February 22, 1979.

Flint, MI—Bishop, ILS Rwy 9, Amdt. 12

5. By amending § 97.31 RADAR SIAPs identified as follows:

• • • effective March 8, 1979.

Greensboro, NC—Greensboro-High Point-Winston-Salem Regional, RADAR-1, Amdt. 5

• • • effective February 22, 1979.

Flint, MI—Bishop, RADAR-1, Amdt .2

6. By amending § 97.33 RNAV SIAPs identified as follows:

• • • effective April 19, 1979.

Houston, TX—Houston Intercontinental, RNAV Rwy 32, Amdt. 5

• • • effective March 8, 1979.

Greensboro, NC—Greensboro-High Point-Winston-Salem Regional, RNAV Rwy 23, Amdt. 3

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a) 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3).)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the FEDERAL REGISTER on May 12, 1969.

Issued in Washington, D.C. on January 19, 1979.

[FR Doc. 79-2565 Filed 1-24-79; 8:45 am]

[6320-01-M]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1091; Amendment No. 1]

PART 252—PROVISION OF DESIGNATED "NO SMOKING" AREAS ABOARD AIRCRAFT OPERATED BY CERTIFICATED AIR CARRIERS

Final Rule

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., January 11, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Board is requiring certificated air carriers to provide for the special segregation of cigar and pipe smokers. It is also requiring carriers to be able to expand no-smoking areas to accommodate all persons who wish to sit there, and to prohibit all smoking when ventilation systems are not fully functioning.

DATES: Effective: February 23, 1979. Adopted: January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard B. Dyson, Associate General Counsel, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5444.

SUPPLEMENTARY INFORMATION: By EDR-306, 41 FR 44424, October 8, 1976, the Board issued a Notice of Proposed Rulemaking that would amend Part 252 of the Economic Regulations (14 CFR Part 252) to prohibit the smoking of cigars and pipes aboard aircraft operated by certificated air carriers, and to improve the segregation of cigarette smokers and non-smokers on these aircraft. In addition, the Board expressed interest in receiving comments on a number of other possible alternatives for protecting non-smokers from exposure to tobacco smoke.

Formal comments [1] have been filed by air carriers, organizations representing the tobacco industry, anti-smoking groups, interested individuals and organizations, and by the Department of Health, Education, and Welfare's Office of Consumer Affairs (HEW).[2] In addition, over 31,000 letters and cards have been received from individual consumers. The comments contain a wide range of contentions and suggestions, which have been of help to the Board in reaching its decision.

On consideration of the comments and other related material in the record and of the Board's open meetings on August 11, 1977, November 23, 1977, September 7, 1978, and January 4, 1979 we have decided to adopt some parts of the rule proposed by EDR-306, but to withdraw the detailed proposals relating to carrier administration. We are adopting the following provisions: Special segregation of cigar and pipe smokers, and such other procedures as may be necessary to avoid exposing persons seated in no-smoking areas to smoke from cigars and pipes; a no-smoking area for each class of service and for charter service; a no-smoking area must consist of at least two rows of seats; a sufficient number of seats in the no-smoking areas of the aircraft to be made available to accommodate all persons who wish to be seated in such areas, and specific provision for expansion of no-smoking areas to meet passenger demand; special provisions to ensure that if a no-smoking section is placed between smoking sections, that the non-smoking passengers are not unreasonably

[1] Formal comments are multi-copy comments submitted in conformity with Part 302 of the Board's Rule of Practice.

[2] A list of those filing comments is attached hereto as an appendix.

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burdened; and that carriers must take measures to prevent smoking in no-smoking areas and to enforce their rules with respect to segregation of passengers.

Our decision here reflects two basic principles that governed enactment of the present smoking rule: (1) That U.S. air carriers have a duty to eliminate, to the extent practicable, their passengers' involuntary breathing of other people's smoke, and (2) that Board involvement in the administrative and enforcement aspects of smoking rules should be kept to the minimum. At the time we adopted Part 252, we found that the carrier obligations to provide "adequate service" and to establish and observe "reasonable practices" [3] required them to provide segregated seating of smokers and non-smokers (ER-800, effective July 10, 1973, 38 FR 12207, May 10, 1973). On the basis of the present record, we now find that there should be improved segregation of cigar and pipe smokers from non-smokers and other provisions that ensure that there will be no smoking when ventilation systems are not fully functioning. We also are making it clear that seats in the no-smoking section must be available to all who wish to be seated there.

In reaching these conclusions, we have considered the contentions of carriers, tobacco interests, and some individuals, that any expansion or strengthening of Part 252 is unnecessary. Carriers urged, in support of this argument, that decreases in the number of complaints to them show that the present system is working well. The Tobacco Institute argued that responses to the 1971 Federal Administration (FAA)-HEW flight survey which we cited in ER-800 show that a majority of aircraft passengers either smoke or do not object to smoking and that the present rule protects all but the most sensitive or vocal non-smokers. Some comments opposed any additional regulation as an interference with management at a time when the climate of opinion favors less regulation.

Assertions of a reduction in complaints to carriers are, for the most part, vague and unsupported. The Board has consistently received a substantial number of informal complaints concerning smoking on U.S. scheduled carriers.[4] Furthermore, the record in this rulemaking alone contains thousands of complaints from persons who find the present system unsatisfactory, and the Bureau of Enforcement has prosecuted 48 smoking violations on the basis of third party complaints since Part 252 was adopted. The FAA-HEW survey referred to by the Tobacco Institute showed that in 1971, 39% of surveyed MAC (Military Airlift Command) passengers and 54% of surveyed domestic passengers asked for corrective action with respect to smoking.[5] The Tobacco Institute offered no current statistics in support of its statement of majority preferences and such general statistics as are available do not tend to substantiate it.[6] Neither the 132,000 signatures on the Tobacco Institute's petition [7] nor the more than 25,400 individual communications favoring either a ban on all smoking or a ban on cigars and pipes [8] conclusively demonstrate the preference of the majority of airline passengers.

Some of the comments raise questions as to the application of smoking rules in foreign air transportation and their effect on the competitive position of U.S. air carriers. The Air Transport Association (ATA) argues that because EDR-306 cited section 404(a) of the Act as authority, the proposed rules would not apply in foreign air transportation. This contention is without merit. While paragraph 1 of section 404(a) relates to interstate and overseas air transportation, paragraph 2 of section 404(a) specifically relates to foreign air transportation. Part 252 applies, and the proposed amendments would apply, to all direct air carriers certificated under section 401 of the Act, and to interstate, overseas and foreign air transportation performed by those carriers.

Pan American contends that restrictions on cigar and pipe smoking would injure its competitive position in that passengers desiring to use these forms of tobacco would turn to foreign air carriers. We do not consider, however, that the available experience supports this contention. Carriers that already ban cigars and pipes do not appear to have been adversely affected. Pacific Southwest noted public acceptance of its ban. Trans International, having had a ban in effect since before the enactment of Part 252, has had ample opportunity to change its rule, if that appeared economically desirable. Northwest has banned cigars and pipes for more than 4 years, with evidently no unfavorable effects on its competitive position.[9] For similar reasons, we do not expect a decrease in the use of air transportation on domestic short haul flights, as suggested in an individual comment. According to Pan American's June 1977 Bulletin on file with the Board, in fact, Pan American itself has already "normally" limited smoking to cigarettes, permitting cigar and pipe smoking only if other passengers are not annoyed.[10]

The Connecticut Health Commissioner suggested that Part 252 be extended to apply to all airlines not now covered, including foreign air carriers. Since American citizens traveling in foreign air transportation are, however, generally free to use U.S. air carriers, we find no present need for such an extension of Board smoking rules.

CIGARS AND PIPES

On review of all the comments and other material before us, we find that there is a substantial distinction between cigar and pipe smoke on the one hand and cigarette smoke on the other. Submitted and cited literature indicated that in test situations, smoking of cigars produces more pollutants

[3] Section 404(a)(1) of the Federal Aviation Act of 1958 provides, "It shall be the duty of every air carrier to provide and furnish interstate and overseas air transportation, * * * to provide safe and adequate service, * * * in connection with such transportation; to establish, observe, and enforce * * * just and reasonable * * * practices relating to such air transportation * * *.

(2) It shall be the duty of every air carrier * * * to establish, observe, and enforce * * * just and reasonable * * * practices relating to foreign air transportation * * *."

[4] These figures for the years 1973-77 were, respectively; 329, 291, 125, 225 and 369. In the first nine months of 1978, the Board received 477 informal complaints.

[5] 38 FR 12208, May 10, 1973.

[6] 1975, *Adult Use of Tobacco*, HEW, June 1976, is the most extensive recent study of smoking habits and attitudes. It shows that in 1975, 39% of adult males and 29% of adult females were smokers. There was a slight decrease in the proportion of adult (over 21) cigarette smokers between 1970 and 1975, and a marked rise in the percentage of persons who expressed a desire for additional smoking restrictions. In 1975, 70% of 12,010 persons interviewed (including more than half of the smokers) agreed that the smoking of cigarettes should be allowed in fewer places than it then was. The comparable figure for 1970 was 57%.

[7] This petition, prepared by the Tobacco Institute and presented to travelers in 41 airports by temporary workers it employed, stated: "The undersigned believe that each smoking and non-smoking airline passenger deserves equal comfort, service, freedom from engine noise and access to exits, and that this can best be achieved by separately seating smokers and non-smokers across the aisles from each other."

The Institute cites signatures to its petition as showing that signers regard the present rule as discriminating against smokers and oppose any further regulation. The question of discrimination in the present rule was considered at the time of its enactment (ER-800, p. 16, 38 FR 12209) and requires no further discussion here.

[8] Tabulation of single copy comments as of April 13, 1977, indicated that some 1,450 individuals supported a ban on cigars and/or pipes, about 23,950 supported a ban on all smoking, and about 6,800 supported the *status quo, i.e.*, segregation of smokers, with or without improvements.

[9] While opposing a Board ban, Northwest did so only on the grounds that it would constitute government interference with carrier management.

[10] While this agency's concern is with the field of air transportation, we have also considered arguments addressed to the effect of Board action on the tobacco industry and its role in the economy. Any possible effect of our action here appears to be minimal.

that the smoking of cigarettes.[11] While fewer tests appear to have been run on pipe smoking, several authorities place pipes and cigars in the same category with respect to relative production of pollution.[12] A few comments, both formal and informal, would have us distinguish between cigars and pipes, on the grounds that pipes are less offensive to non-smokers. Allegheny's rule makes a distinction, banning cigars and permitting pipes "only if the cabin is pressurized, well-ventilated and the smoke does not offend anyone." However, cigar and pipe smoke have important similarities and we find that they should be treated together for our purposes here.

Pollution due to smoking is derived from both mainstream and sidestream smoke.[13] Cigar and pipe smokers, since they generally inhale less than cigarette smokers, produce a composite of sidestream smoke and relatively unfiltered mainstream smoke.[14] In addition, cigars and pipes are usually kept burning for longer periods of time than cigarettes, which produces a relatively large quantity of sidestream smoke—frequently stated to contain more noxious elements than mainstream smoke.[15] Comments in this rulemaking, as well as cited published articles, note the relative alkalinity of cigar and pipe smoke—a factor suggested as a reason for lack of inhalation by the smoker himself. They also frequently describe this type of smoke as thicker, more voluminous, more difficult to dissipate, and more offensive in its odor.

The record shows that a substantial number of persons on aircraft experience more distress from cigar and pipe smoke than from cigarette smoke. A majority of flight attendants responding to an ASH survey stated that they were more affected by cigars and pipes than by cigarettes.[16] Many letters to the Board refer to particular difficulties, such as nausea, experienced as a result of exposure to cigar and pipe smoke. A number of organizations and individuals filing comments on EDR-306 favored a ban of this type of tobacco.[17] The Secretary of Health, Education and Welfare, in a letter to the Board dated January 11, 1978, noted the "particularly obnoxious" effect of cigar and pipe smoke, and fully supported the proposed amendments of Part 252. (EDR-306, 41 FR 44424, October 8, 1976)

Existing carrier bans and restrictions in themselves indicate that carriers have found cigar and pipe smoke particularly annoying to passengers.[18] Trans International Airlines, one carrier having such a ban, pointed out that it was adopted because of passenger complaints prior to enactment of Part 252. Furthermore, in opposing the original enactment of Part 252, carriers criticized the fact that a cited questionnaire failed to distinguish cigar, cigarette, and pipe smoke. As stated in ER-800, the carriers implied that if the question of restricting smoking had been broken down by type of smoke, most passengers would be in favor of restricting cigars and pipes.[19]

Comments by carriers, tobacco interests and some individuals urged that the net effect of cigars and pipes is less than that of cigarettes because they are less frequently smoked. While no current statistics were offered, it is fair to assume that fewer cigars and pipes are smoked on aircraft, and that this is true even in the absence of carrier restriction.[20] But cigars and pipes evidently cause more severe distress when they are smoked. While no scientific tests of relative pollution produced by cigars, pipes and cigarettes have taken place in the aircraft environment, there is sufficient basis for distinguishing cigar and pipe tobacco.[21] Accordingly, there is no need to postpone Board action.

HEW's recent survey based on interviews of 12,000 adults shows that 18% of the men interviewed smoked cigars and 12% pipes. *Adult Use of Tobacco*—1975, *supra*, note 6

Carriers, tobacco interests and some individuals also urged that while cigar and pipe smokers may not be "addicted," smoking is important to their comfort and special restrictions would deprive them of "adequate service" and discriminate against them vis-a-vis both cigarette smokers and non-smokers. We do not agree. "Adequate service" to smokers does not include a right to impose smoke on the many people who are adversely affected by it. A rule or practice which restricts a particularly objectionable kind of smoke without placing an unreasonable burden on those it restricts does not unjustly discriminate. We believe that carriers should be able to devise arrangements permitting use of cigars and pipes on aircraft while providing the additional protection we here require. If it proves to be impossible, in some circumstances, to permit cigar

[11] Carbon monoxide generated by one cigar is said to be double that of three cigarettes smoked simultaneously. Epstein, "The Effects of Tobacco Smoke Pollution on the Eyes of the Non-Smoker", Paper Presented to Third World Conference on Smoking and Health, June 4, 1975, New York, p. 2.

See also Brunnemann and Hoffman, "Chemical Studies on Tobacco Smoke", Journal of Chromotographic Science, 12(2) February 1974 pp. 70-75 and Harke, The Problem of Passive Smoking, *Munchener Medizinishche Wochenschrift* 112(51) 2328-2334, December 18, 1970 cited and tabulated in Chapter 4, Health Consequences of Smoking, 1975, Department of Health, Education and Welfare.

[12] Epstein, *supra*, note 11; Steinfeld, "Health Consequences of Smoking", Talk presented June 2, 1975, Third World Conference on Smoking and Health, New York; Doyle, "Pipe and Cigar Smoking—is it Safe?", American Lung Association Bulletin, March 1974. And see "Report of an Expert Group", *Practitioner* 210 (1259): 645, 651, May 1973.

[13] Mainstream smoke emerges from the tobacco product after being drawn through the tobacco during puffing, whereas sidestream smoke rises from the burning cone of tobacco. The two kinds of smoke contribute different concentrations of many substances to the atmosphere. *The Surgeon General's Report on The Health Consequences of Smoking*, (HEW), 1975, Chapter 4 at p. 92.

[14] Surgeon General's 1972 Report, 72 Cong. Rec. Vol. 118 (May 4, 1972); Epstein, *supra* note 11; Steinfeld, *supra* note 12.

[15] See Epstein and Steinfeld, *supra* notes 11 and 12, respectively.

[16] The Cigar Association contends that this survey is irrelevant because the question here is one of effect on passengers. While flight attendants are generally exposed to smoke for longer periods, we think it clear that the effects of different types of tobacco on attendants is relevant to their effects on other persons.

[17] In addition to petitioners ASH and Paul R. Kaiser, ACAP (Aviation Consumer Action Project), GASP, San Francisco (Group Against Smoking Pollution), the Association of Flight Attendants, the American Lung Association, the Commissioner of Health for Connecticut, the Chicago Heart Association, Pacific Southwest Airlines, the Office of Consumer Affairs (HEW), and many individuals filing both formal and informal comments favored a ban on cigars and pipes.

[18] According to manuals on file with the Board, five carriers (Northwest, Pacific Southwest, Trans International, Wien Consolidated, and World Airways) ban cigars and pipes; Allegheny bans cigars and permits pipes "only if the cabin is pressurized, well-ventilated and the smoke does not offend anyone"; North Central bans cigars and pipes on Convairs, permitting them on DC-9s as long as they are not objectionable to nearby passengers. Pan American, Alaska, Piedmont and United all have special provisions with respect to cigars and pipes. The ATA states that most carriers permit cigar and pipe smoking only until a neighboring passenger objects.

[19] 38 FR 12208.

[20] The study sample cited throughout ER-800 showed that of 3,073 passengers on MAC flights, 1,604 smoked; 28 of these smoked cigars and 37, pipes. Of 265 passengers on domestic flights in the sample, 83 smoked; five of these smoked pipes and one, cigars; ER-800, p. 6, 38 FR 12208.

[21] The Interstate Commerce Commission recently adopted a rule which imposes special restrictions on cigars and pipes, limiting their use to private sleeping cars and to cars which have been designated as smoking areas in their entirety. (49 CFR 1124.21(b)(4).) That agency's Administrative Law Judge found that pipe and cigar smoke is a "substantially more lasting and obnoxious imposition on 'passive smokers' than cigarette smoke," that the carbon monoxide content of cigar and pipe smoke is about twice that found in cigarette smoke, and that since these materials tend to be burned for longer periods of time per usage they also tend to generate more pollutants per smoking incident. 351 ICC 883, 917 (March 20, 1976).

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and pipe smoking without exposing other unwilling passengers to this smoke (or should carriers prefer to adopt their own rules prohibiting cigar and pipe smoking, regardless of circumstances) then we believe that the cigar or pipe smoker's desire for this type or degree of comfort must yield.[22]

We have also considered and rejected ATA's assertions that a cigar or pipe smoker would regard a ban on his smoking in a "smoking" area as unreasonable, and that his attitude would lead to enforcement problems. ATA offered no evidence that carriers already banning or restricting cigars and pipes experience such problems.[23] ATA stated that most air carriers already require their personnel to request that cigars or pipes be extinguished if a passenger in an adjacent area objects. There is no reason to foresee that particular enforcement problems will result from the special protection we here require.

We find that additional protection from cigar and pipe smoke is important to "adequate service" and to "reasonable practices." Since our policy in this area is to impose the minimum amount of regulation consistent with ensuring that these statutory requirements are met, the rules we adopt will permit the largest possible measure of carrier discretion and initiative in providing that protection. A flat ban would have the obvious advantage of administrative simplicity but at this time, we prefer to limit our prescription. Our final rule with respect to cigar and pipe smoke will therefore be generally phrased, leaving carriers free to devise the best methods for ensuring that their passengers are not subjected to involuntary inhalation of cigar and pipe smoke.

Carriers may decide that different arrangements for additional protection are required in different configurations, but where further segregation of cigar and pipe smokers would effectively protect other passengers, these smokers must be seated in the portion of the smoking area that is most distant from no-smoking. In cases where this seating arrangement would not suffice to accomplish our stated objective, carriers must take other or additional protective measures. For example, in a forward first class compartment where the smoking area itself is small, additional segregation of cigar and pipe smokers may not in itself offer real protection to either first class non-smokers or coach non-smokers seated directly behind first class. In these circumstances, carriers might adopt the practice of permitting use of cigars and pipes only after expressly ascertaining that passengers in the adjacent area do not object. We cite only this one example since the carriers themselves are in the best position to know what steps are needed to achieve such additional segregation in varying situations. Should any carrier prefer to avoid the administrative problems that additional segregation inevitably entails by the simple expedient of imposing a complete ban on cigars and pipes, the Board would, as previously stated, regard such a ban as reasonable.

No-Smoking Areas

Section 252.2 already provides that each carrier shall adopt procedures to "insure that a sufficient number of seats in the 'no-smoking' areas of the aircraft are available to accommodate persons who wish to be seated in such areas." The proposed amendment would emphasize this requirement by inserting the word "all" before "persons," and by specifying that carrier procedures shall include "specific provision for expansion of the no-smoking area to meet passenger demand."

Pan American commented that, while it previously expanded and contracted no-smoking and smoking areas to accommodate preferences on particular flights, it has now abandoned that practice in favor of a system of "semi-permanent" zones. It requested either a determination that this new system is lawful, or an amendment of Part 252 to make it lawful. On consideration of all of the comments, we have decided to deny the request, and to adopt this aspect of the amendment as proposed.[24]

Pan American argued that expansion of the no-smoking area to accommodate persons desiring no-smoking seats is impractical on down-line stops, and that this is especially true on multi-stop international flights where other factors (*e.g.*, facilities for children, seat positions for disabled persons) are important, and problems are compounded by language difficulties. Pan American stated that expanding and contracting zones and reallocating seating assignments created confusion in these circumstances. After continuing complaints and pending enforcement proceedings, it adopted a new system of semi-permanent zones under which it does not adjust the "no-smoking" area for each flight, but rather, on the basis of periodic passenger surveys, designates a percentage of seats as no-smoking. The current percentage is 62%, adjusted to include whole rows. Variations from this "norm" are said to be accommodated in vacant seats and by assigning "don't cares" to seats in smoking or no-smoking areas, as the situation requires. Pan American asserts that smoking complaints have dropped markedly under its new system,[25] that it regards the system as compliance with Part 252, and that in view of the competitive international situation it should have leeway to determine how best to discharge its obligations under the rule.

Pan American appears to have given considerable attention to the smoking problem and to have made a substantial effort to determine passenger preferences. It has also been enterprising and practical in its use of "don't cares." However, insofar as it fails to expand its no-smoking area to accommodate every passenger who wishes to be in it, Pan Am is not in compliance with Part 252. Problems of implementing Part 252 on multi-stop flights were recognized and discussed at the time of its adoption.[26] We consider it important that access to a seat in the no-smoking area not be dependent on the point of boarding. While the requirements of Part 252 may be in some respects more burdensome in foreign air transportation, for many non-smokers the availability of a seat in a no-smoking area is most important on the longer flights that foreign air transportation is likely to involve.

We are not proposing, as suggested by some comments, to prescribe any fixed percentage of seats for no-smoking areas. Carriers may themselves adopt such percentages, provided the requirements of Part 252 are met, but we prefer to leave them as much operating flexibility as possible. We are, however, adopting the proposal in EDR-306 that any no-smoking area consist of at least two rows of seats, since in our judgment a section of only one row could not constitute an adequate no-smoking "area."

Pacific Southwest objected to the proposed amendment as discriminatory and suggested an alternative that would provide for accommodation of the majority of both smoking and no-smoking passengers. We have rejected this proposal as inconsistent with the basic purpose of Part 252: the protection of all those who wish to be seated in no-smoking areas.

The Board therefore adopts its proposed clarification of section 252.2 by amending the regulation to specifically require the accommodation of all who wish to be seated in the no-smoking areas.

We are also adding language to emphasize that carriers must ensure that if they place a no-smoking section between two smoking sections, the non-smoking passengers are not unduly burdened. EDR-306 had proposed banning such "sandwiching" of non-smokers. Some evidence and argument was presented by the carriers to the effect that in certain aircraft configurations, placing the smoking section at each end of a compartment would result in better isolation of non-smokers from smoke. We are not deciding the merits of that question at this time. In light of the complaints that have been made by non-smokers concerning sandwich configurations, however, we wish to place a special burden on carriers who use them to be sure that they can justify their usage.

Ban on Smoking When Ventilation Systems Not Fully Functioning

Many of the comments in Docket 29044 dealt with the merits of aircraft ventilation systems. There was considerable disagreement as to their effectiveness. Airlines asserted that air was completely replaced or cleaned at least every three minutes,[27] while other commenters argued that the ventilation system merely recirculates smoke. In view of the carriers' reliance on these systems to protect passengers from smoke, however, we have concluded that smoking should be prohibited whenever they are not operating at maximum capacity and efficiency.

Several comments asserted that in current practice, ventilation systems are not operated at full capacity for reasons of energy conservation, or because of special problems with particular aircraft.[28] ASH has asserted, on the basis of complaints made to it, that smoking is sometimes permitted when aircraft are waiting for takeoff and that at these times airflow mechanisms are relatively ineffective. It is our judgment that at times when ventilation is cut back for any reason, and non-smoking passengers denied the protection of fully operating systems, smoking should be prohibited. A new § 252.2a is added to prohibit smoking when the ventilation systems are not fully functioning.

Enforcement and Administration

Section 252.3 now requires each carrier to take such action as is necessary to insure that smoking is not permitted in no-smoking areas, and to enforce its rules with respect to segregation of passengers. EDR-306 proposed to spell out a number of detailed procedures to be required of carrier employees. The proposals would specify such matters as the time and content of announcements concerning the right to a seat in a no-smoking area and the steps to be followed in cases where a passenger is in violation of smoking rules. Some aspects of the proposals were opposed by the carriers, while ASH and others favoring restrictions on smoking suggested additional requirements. The Airline Pilots Association asked that the Board make clear that pilots are not responsible for enforcement of smoking rules.

On review of the record and comments, we have decided not to issue the changes proposed in this area, but instead to issue a broadly-worded rule requiring carriers to do what is necessary to prevent smoking in no-smoking areas and to enforce their segregation rules. We are not undertaking to dictate the allocation of responsibilities among crew members by air carriers. Our declining to act does not imply that the Board regards present standards of enforcement as satisfactory. There was a large number of letters complaining of lack of carrier diligence in this respect. They indicate that carrier employees should be given more explicit instructions, so that each person desiring a seat in a no-smoking area will be accommodated and effective separation will be provided. The decision to issue a broad rule at this time reflects our preference for leaving administrative details to the carriers, with the expectation that they will voluntarily achieve more effective enforcement. We will of course take more direct action in the future, which could include civil penalties, if we find carrier enforcement to be unsatisfactory.

Accordingly, the Civil Aeronautics Board amends Part 252 of the Economic Regulations (14 CFR Part 252), effective February 23, 1979, by adding new §§ 252.1a and 252.2a and amending §§ 252.1, 252.2 and 252.3, so that the whole part reads as follows:

PART 252—PROVISION OF DESIGNATED "NO-SMOKING" AREAS ABOARD AIRCRAFT OPERATED BY CERTIFICATED AIR CARRIERS

Sec.
252.1 Applicability.
252.1a Special segregation of cigar and pipe smokers.
252.2 No-smoking areas.
252.2a Ban on smoking when ventilation systems not fully functioning.
252.3 Enforcement.
252.4 Manual containing company rules for smoking by passengers aboard aircraft.
252.5 Board may modify manual rules to conform them to the provisions of this part.

AUTHORITY: Secs. 204(a), 404(a), and 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, 766; 49 U.S.C. 1324, 1374 and 1377.

§ 252.1 Applicability.

This part establishes rules for the smoking of tobacco aboard aircraft. It applies to each direct air carrier that holds a certificate of public convenience and necessity, authorizing the transportation of persons, issued pursuant to Section 401 of the act (hereafter called "carriers"). Nothing in this regulation shall be deemed to require such carrier to permit the smoking of tobacco aboard aircraft.

§ 252.1a Special segregation of cigar and pipe smokers.

Carriers shall adopt and enforce rules providing for special segregation of cigar and pipe smokers, and for such other procedures as may be necessary to avoid exposing persons seated in no-smoking areas to smoke from cigars and pipes.

§ 252.2 No-smoking areas.

Carriers shall ensure that non-smoking passengers are not unreasonably burdened by breathing smoke and to that end shall provide at a minimum:

(a) A no-smoking area for each class of service and for charter service;

(b) A no-smoking section of at least two rows of seats;

(c) A sufficient number of seats in the no-smoking areas of the aricraft for all persons who wish to be seated there;

(d) Specific provision for expansion of no-smoking areas to meet passenger demand; and

(e) Special provisions to ensure that if a no-smoking section is placed between smoking sections, the non-smok-

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[22] See ER-800 at p. 16, 38 FR 12207, 12209. And see *National Association of Motor Bus Owners* v. *U.S.*, 370 F. Supp. 408 (D.D.C. 1974) upholding the ICC's action in requiring segregation of smokers and non-smokers and confining smokers to 20% of the capacity of buses. (This figure has subsequently been raised to 30%.)

Gasper v. *Louisiana Stadium and Exposition District*, 418 F. Supp. 716 (E.D. La. 1976) cited by the Tobacco Institute, is not to the contrary. There the court dismissed an action to enjoin the Stadium District from allowing smoking during events in the Superdome. The court found no violation of any constitutional right and expressed the view that this type of adjustment of individual liberties is better left to the people, acting through legislative bodies, than to the courts. Our decision here rests on the statutory requirements of the Federal Aviation Act. Furthermore, the Act establishes the Civil Aeronautics Board as a regulatory agency having quasi-legislative functions.

[23] Pacific Southwest, in fact, comments that the public has accepted its ban.

[24] We are not, however, adopting that portion of proposed section 252.2 which would require that "no-smoking" areas consist of a minimum of two rows.

[25] Pan American asserts that in 1976, it received "only" 85 non-smoker complaints related to seat assignment.

[26] ER-800, p. 21, 38 FR 12210.

[27] ATA asserted that there is a complete change of air every 2 or 3 minutes on modern jets. Continental stated that under normal operating conditions the air is replaced or cleaned every 3 minutes in the DC-10 and even faster in the 727-200 and claimed that a study it undertook in 1973 shows that any forward or aft smoke flow is limited to a maximum of one row forward or aft of the smoking passenger.

[28] The Office of Consumer Affairs (HEW) indicated that some Boeing 747 ST models fly with less than total ventilation capacity to conserve energy and stated that older models of the Boeing 747 often require that systems be turned off in order to permit take-off within acceptable distance limitations. Both ACAP and ASH refer to reduced use of compressors.

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ing passengers are not unreasonably burdened.

§ 252.2a Ban on smoking when ventilation systems not fully functioning.

Carriers shall adopt and enforce rules prohibiting the smoking of tobacco whenever the ventilation system is not fully functioning. A ventilation system shall be considered fully functioning only when all parts are in working order and operating at the capacity designed for normal service.

§ 252.3 Enforcement.

Each carrier shall take such action as is necessary to ensure that smoking is not permitted in no-smoking areas and to enforce its rules with respect to the segregation of passengers in smoking and no-smoking areas.

§ 252.4 Manual containing company rules for smoking by passengers aboard aircraft.

Each air carrier subject to this part shall maintain an employees manual containing company rules for smoking by passengers aboard aircraft. Two copies of such manual shall be filed with the Bureau of Pricing and Domestic Aviation, and revisions and amendments shall be filed within 15 days following adoption by the company.

§ 252.5 Board may modify manual rules to conform them to the provisions of this part.

If the Board finds that any company rule set forth in the manual is at variance with any provision of this part, the Board may by order modify such company rule to the extent necessary to conform the rule to the provisions of the part.

(Secs. 204(a), 404(a), and 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, 766; (49 U.S.C. 1324, 1374 and 1377).)

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX

AIR CARRIERS

Air Transport Association of America (on behalf of Alaska Airlines, Allegheny Airlines, American Airlines, Braniff Airways, Delta Air Lines, National Airlines, Eastern Airlines, Frontier Airlines, Hughes Airwest, Northwest Airlines, Ozark Air Lines, Pan American World Airways, Piedmont Aviation, Southern Airways, United Airlines, Western Airlines, and Wien Air Alaska.)
Continental Air Lines
Northwest Airlines
Pacific Southwest Airlines
Pan American World Airways
Trans International Airlines

ORGANIZATIONS FAVORING SMOKING RESTRICTIONS

ASH
ACAP
American Lung Association
BANS (Ban all Nicotine Sources)
Chicago Heart Association
The Church of Jesus Christ of Latter-Day Saints
Commissioner of Health for Connecticut
District of Columbia Lung Association
GASP (Calgary Chapter)
GASP (Santa Barbara Chapter)
GASP (San Francisco Chapter)
German Physicians' Council on Smoking and Health
Listen (a Journal of Better Living)
Right to Breathe
Seventh Day Adventists

ORGANIZATIONS OPPOSING SMOKING RESTRICTIONS

Associated Tobacco Manufacturers
Cigar Association of America
Dibrell Bros.
Kentucky Farm Bureau Federation
National Association of Tobacco Distributors
North Carolina Commissioner of Agriculture
Retail Tobacco Dealers of America

ORGANIZATIONS WITH GENERAL INTEREST IN AIR TRANSPORTATION

Airline Passengers' Association
The Air Line Pilots Association, International
Association of Flight Attendants
The Travel Advisor

FEDERAL GOVERNMENT AGENCY

Department of Health, Education and Welfare (Office of Consumer Advocate)

INDIVIDUALS

Andrew Bass, Sherill S. Duncan & Steven W. Stone
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Joseph Valasek

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[6320-01-M]

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-193; Amdt. No. 51]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Filing of Documents; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., January 19, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Editorial amendment.

SUMMARY: The CAB is correcting a drafting error in the general rules on filing of documents (14 CFR 302.3(c)). The second sentence of this paragraph was inadvertently deleted by a previous amendment.

DATES: Effective: February 14, 1979. Adopted: January 19, 1979

FOR FURTHER INFORMATION CONTACT:

M. Candace Fowler, Bureau of Consumer Protection, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5158.

SUPPLEMENTARY INFORMATION: This editorial amendment is issued pursuant to the delegation of authority from the Board to the General Counsel in 14 CFR 385.19. Procedures for review of this amendment are set forth in Subpart C of Part 385 (14 CFR 385.50 through 385.54).

AMENDMENT

The Board hereby restores the second sentence of 14 CFR 302.3(c), *Rules of Practice in Economic Proceedings*, so that the paragraph reads as follows:

§ 302.3 Filing of documents.

• • • • •

(c) *Number of copies.* Unless otherwise specified, an executed original and nineteen (19) true copies of each document required or permitted to be filed under these rules shall be filed with the Docket Section, except that an original and five (5) copies of third-party complaints, answers, documents dealing with discovery, and motions addressed to an administrative law judge may be filed in proceedings under Subpart B—Rules Applicable to Economic Enforcement Proceedings. The copies need not be signed but the name of the person signing the document, as distinguished from the firm or organization he represents, shall also be typed or printed on all copies

below the space provided for signature.

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(Sec. 204, Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324).)

By the Civil Aeronautics Board.

PHILIP J. BAKES, Jr.,
General Counsel.

[FR Doc. 79-2609 Filed 1-24-79; 8:45 am]

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. SIPA-83]

PART 300—RULES OF THE SECURITIES INVESTOR PROTECTION CORPORATION

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission has approved rules submitted by the Securities Investor Protection Corporation ("SIPC") establishing, for the purpose of SIPC protection, the various separate capacities in which a customer may hold more than one account, each eligible for the maximum amount of SIPC protection. In order that the general public be given notice of, and access to, these and future SIPC rules which have force and effect as if promulgated by the Commission, such rules will be published in the FEDERAL REGISTER and the Code of Federal Regulations,("CFR").

EFFECTIVE DATE: October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert J. Millstone, Senior Special Counsel, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, (202) 755-8777.

SUPPLEMENTARY INFORMATION: The Commission, on October 20, 1978, approved the Series 100 and Series 200 Rules of SIPC, which were published for comment in Securities Investor Protection Act Release Numbers SIPC-70 and SIPC-71 at 43 FR 30953 (July 18, 1978). SIPC provides certain protection to customers of member broker-dealers which experience financial difficulty. The approved rules are entitled "Accounts of 'Separate' Customers of SIPC Members," and "Accounts Introduced by Other Brokers or Dealers," respectively. The Series 100 Rules set forth the manner for determining which accounts maintained by a customer with a member of SIPC will be deemed separate customer accounts for purposes for SIPC protection. The Series 200 Rules provide the standards under which a securities account that is carried on a fully disclosed basis by a SIPC member will be extended SIPC protection separate from that which is provided an account maintained directly by that member for the same customer.

These rules have been adopted under procedures established by the Securities Investor Protection Act (the "SIPC Act"), which gives SIPC authority, subject to Commission approval, to promulgate rules in certain areas. That authority which is patterned after the rulemaking authority given to self-regulatory organizations by the Securities Exchange Act of 1934, requires SIPC rules to be filed with the Commission and published for comment. Following publication, the Commission, within certain time limits, must approve the rules or institute proceedings to determine whether the rules should be disapproved.

In considering whether to approve rules submitted by SIPC, Section 3(e)(2)(D) of the SIPC Act provides that the Commission "shall approve a proposed rule change if it finds that such proposed rule change is in the public interest and is consistent with the purposes of [the SIPC Act]." Section 3(e)(2)(D) also provides that "any proposed rule change so approved shall be given force and effect as if promulgated by the Commission."

The effect of SIPC's rules is unique. SIPC is not an agency or establishment of the United States Government but is empowered to promulgate rules that, upon Commission approval, have the force and effect of Commission rules—that is, rules which affect all persons and not just SIPC members. In contrast, the rules of self-regulatory organizations directly bind only persons who voluntarily submit to the organizations' jurisdiction.

In order that the general public be given the same notice of, and access to, SIPC rules as other rules of general applicability, the text of SIPC rules having force and effect as if promulgated by the Commission will be published in the CFR as well as in the FEDERAL REGISTER. To that end a new Part 300 of Chapter II of Title 17 of the CFR is established as follows:

PART 300—RULES OF THE SECURITIES INVESTOR PROTECTION CORPORATION

ACCOUNTS OF "SEPARATE" CUSTOMERS OF SIPC MEMBERS

Sec.
300.100 General.
300.101 Individual accounts.
300.102 Accounts held by executors, administrators, guardians, etc.
300.103 Accounts held by a corporation, partnership or unincorporated association.
300.104 Trust accounts.
300.105 Joint accounts.

ACCOUNTS INTRODUCED BY OTHER BROKERS OR DEALERS

300.200 General.
300.201 Accounts introduced by same or different broker or dealer.

AUTHORITY: Sec. 3, 84 Stat. 1636, as amended; 15 U.S.C. 78ccc.

NOTE.—The numbers to the right of the decimal points correspond with the respective rule numbers of the rules of the Securities Investor Protection Corporation (hereinafter referred to as "SIPC").

EXPLANATORY NOTE.—Pursuant to section 3(e)(2)(D) of the Securities Investor Protection Act of 1970 (hereinafter referred to as "the Act"), the Securities and Exchange Commission (hereinafter referred to as "the Commission") shall approve a proposed rule change submitted by the Securities Investor Protection Corporation if it finds that such proposed rule change is in the public interest and is consistent with the purposes of the Act, and any proposed rule change so approved shall be given force and effect as if promulgated by the Commission. The rules of this Part 300 have been so approved.

ACCOUNTS OF "SEPARATE" CUSTOMERS OF SIPC MEMBERS

§ 300.100 General.

(a) For the purpose of sections 9(a)(2) and 16(12) of the Securities Investor Protection Act (hereinafter referred to as "the Act"), these rules will be applied in determining what accounts held by a person with a member of SIPC (hereinafter called a "member") are to be deemed accounts held in a capacity other than his individual capacity.

(b) Accounts held by a customer in different capacities, as specified by these rules, shall be deemed to be accounts of "separate" customers.

(c) A "person" as ued in these rules includes, but is not limited to, an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, or a government or political subdivision thereof.

(d) The burden shall be upon the customer to establish each capacity in which he claims to hold accounts separate from his individual capacity.

§ 300.101 Individual accounts.

(a) Except as otherwise provided in these rules, all accounts held with a member by a person in his own name, and those which under these rules are deemed his individual accounts, shall be combined so as to constitute a single account of a separate customer.

(b) An account held with a member by an agent or nominee for another

[1] Section 3(a)(1)(A) of the SIPC Act.

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person as a principal or beneficial owner shall, except as otherwise provided in these rules, be deemed to be an individual account of such principal or beneficial owner.

§ 300.102 Accounts held by executors, administrators, guardians, etc.

(a) Accounts held with a member in the name of a decedent or in the name of his estate or in the name of the executor or administrator of the estate of the decedent shall be combined so as to constitute a single account of a separate customer.

(b) An account held with a member by a guardian, custodian, or conservator for the benefit of a ward or for the benefit of a minor under the Uniform Gifts to Minors Act or in a similar capacity shall be deemed to be held by such guardian, custodian, or conservator in a different capacity from any account or accounts maintained by such person in his individual capacity.

§ 300.103 Accounts held by a corporation, partnership or unincorporated association.

A corporation, partnership or unincorporated association holding an account with a member shall be deemed to be a separate customer distinct from the person or persons owning such corporation or comprising such partnership or unincorporated association if on the filing date it existed for a purpose other than primarily to obtain or increase protection under the Act.

§ 300.104 Trust accounts.

(a) A trust account held with a member shall be deemed a "qualifying trust account" if it is held on behalf of a valid and subsisting express trust created by a written instrument. No account held on behalf of a trust that on the filing date existed primarily to obtain or increase protection under the Act shall be deemed to be a qualifying trust account.

(b) A qualifying trust account held with a member shall be deemed held by a separate customer of the member, distinct from the trustee, the testator or his estate, the settlor, or any beneficiary of the trust.

(c) Any account held with a member on behalf of a trust which does not meet the requirements of paragraph (a) of this rule shall be deemed to be an individual account of the settlor of the trust on behalf of which the account is held.

§ 300.105 Joint accounts.

(a) A joint account shall be deemed to be a "qualifying joint account" if it is owned jointly, whether by the owners thereof as joint tenants with the right of survivorship, as tenants by the entirety or as tenants in common, or by husband and wife as community property, but only if each co-owner possesses authority to act with respect to the entire account.

(b) Subject to paragraph (c) of this rule, each qualifying joint account with a member shall be deemed held by one separate customer of the member.

(c) All qualifying joint accounts with a member owned by the same persons shall be deemed held by the same customer so that the maximum protection afforded to such accounts in the aggregate shall be the protection afforded to one separate customer of the member

(d) A joint account with a member which does not meet the requirements of paragraph (a) of this rule shall be deemed to be an individual or qualifying joint account of the co-owner or co-owners having the exclusive power to act with respect to it.

ACCOUNTS INTRODUCED BY OTHER BROKERS OR DEALERS

§ 300.200 General.

A person having one or more accounts cleared by the member on a fully disclosed basis for one or more introducing brokers or dealers is a customer of the member and shall be protected with respect to such account or accounts without regard to the protection available for any other account or accounts he may have with the member.

§ 300.201 Accounts introduced by same or different broker or dealer.

All accounts of a person which are introduced by the same broker or dealer shall be combined and protected as the single account of a separate customer, unless such accounts are maintained in different capacities as specified in §§ 300.100-300.105; accounts introduced by different brokers or dealers shall be protected separately.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 17, 1979.

[FR Doc. 79-2623 Filed 1-24-79; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. 4993]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL FLOOD HAZARD AREAS

Communities With No Special Hazard Areas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities would not be inundated by the 100-year flood. Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flood Insurance Program without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of List of Communities with No Special Flood Hazards.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh St., S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: In these communities, there is no reason not to make full limits of coverage available. The entire community is now classified as zone C. In a zone C, insurance coverage is available on a voluntary basis at low actuarial non-subsidized rates. For example, under the Emergency Program in which your community has been participating the rate for a one-story 1-4 family dwelling is $.25 per $100 of coverage. Under the Regular Program, to which your community has been converted, the equivalent rate is $.01 per $100 of coverage. Contents insurance is also available under the Regular Program at low actuarial rates. For example, when all contents are located on the first floor of a residential structure, the premium rate is $.05 per $100 of coverage.

In addition to the less expensive rates, the maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program. For example, a single family residential dwelling now can be insured up to a maximum of $185,000 coverage for the structure and $60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program.

The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the FEDERAL REGISTER.

The entry reads as follows:

§ 1915.8 List of Communities With No Special Flood Hazard Areas

State	County	Community name	Date of conversion to regular program
California	Monterey	City of Soledad	Nov. 30, 1978
Michigan	Oakland	City of Hazel Park	Nov. 30, 1978
Michigan	Oakland	City of Pleasant Ridge	Nov. 30, 1978
Pennsylvania	Berks	Borough of Laureldale	Nov. 30, 1978
Pennsylvania	Lebanon	Borough of Mt. Gretna	Nov. 30, 1978
Pennsylvania	Butler	Borough of Slippery Rock	Nov. 30, 1978
Michigan	Wayne	City of Garden City	Dec. 29, 1978

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2118 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. 4994]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL FLOOD HAZARD AREAS

Communities with Minimal Flood Hazard Areas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the forseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Floor Hazard Areas. Therefore, the Administrator is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: January 25, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh St., S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the FEDERAL REGISTER.

The entry reads as follows.

§ 1915.9 List of Communities with Minimal Flood Hazard Areas

State	County	Community name
Kentucky	Logan	City of Auburn
New Jersey	Atlantic	City of Estell Manor
New Jersey	Camden	Borough of Oaklyn
Pennsylvania	Lancaster	Township of Upper Leacock
Maine	Penobscot	Town of Holden
Maine	Oxford	Town of Stow
Maine	Piscataquis	Town of Wellington
Texas	Coryell	City of Copperas Cove
Texas	Morris	City of Naples
Texas	Bowie	City of New Boston
Texas	Montague	City of Nocona
Utah	Davis	City of Sunset
Alabama	Colbert	Town of Littleville
Alabama	Madison	Town of New Hope
Alabama	Macon	Town of Notasulga
Alabama	Morgan	City of Trinity
New Jersey	Camden	Borough of Magnolia
Pennsylvania	Cambria	Township of Susquehanna
South Carolina	Spartanburg	Town of Campobello
South Carolina	Spartanburg	Town of Inman
South Carolina	Spartanburg	Town of Pacolet Mills
South Carolina	Florence	Town of Quinby
South Carolina	Spartanburg	Town of Woodruff
Arkansas	Lonoke	City of Carlisle
Missouri	Miller	Town of Eldon
Oklahoma	Kiowa	Town of Mountain View
Texas	Hays	City of Kyle
Texas	Bowie	City of Maud
Alabama	Madison	City of Madison
Maryland	Dorchester	Town of Eldorado
Maryland	Frederick	Town of Myersville
Maryland	Dorchester	Town of Vienna
Maryland	Frederick	Town of Woodsboro
New Jersey	Cumberland	Township of Hopewell
Ohio	Hamilton	City of Mt. Healthy
Ohio	Lake	Village of Perry
Pennsylvania	Lehigh	Borough of Alburtis
Pennsylvania	Allegheny	Borough of Avalon
Pennsylvania	Allegheny	Borough of Bellevue
Pennsylvania	Mifflin	Township of Bratton
Pennsylvania	Allegheny	Borough of Churchill
Pennsylvania	Lancaster	Borough of Millersville
Pennsylvania	Northumberland	Township of Washington
Tennessee	Roane	City of Kingston

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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2119 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4404]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Hamden, New Haven County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Hamden, New Haven County, Connecticut. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Hamden, New Haven County, Connecticut.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Hamden, New Haven County, Connecticut are available for review at the Planning Office, Hamden, Connecticut.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Hamden, New Haven County, Connecticut.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mill River	100 feet Downstream Connolly Parkway.	40
	1,200 feet Downstream of Skiff Street.	45
	150 feet Upstream of Skiff Street.	48
	500 feet Downstream of Whitney Avenue.	53
	100 feet Downstream of Dixwell Avenue.	56
	100 feet Upstream of Wilbur Cross Parkway.	59
	3,300 feet Upstream of Wilbur Cross Parkway.	62
	100 feet Downstream of Ives Street.	71
	500 feet Downstream of Clarks Pond Dam & Bridge.	76
	400 feet Upstream of Clarks Pond Dam & Bridge.	81
	1,000 feet Downstream of Mt. Carmel Avenue.	85
	100 feet Upstream of Mt. Carmel Avenue.	89
	250 feet Downstream of Axelshop Pond Dam.	94
	400 feet Upstream of Axelshop Pond Dam.	97
	500 feet Downstream of Tuttle Avenue.	100
	200 feet Upstream of Tuttle Avenue.	103
	1,500 feet Downstream of Confluence with Butterworth Brook.	106
	200 feet Downstream of River Road.	106
	100 feet Upstream of River Road.	109
	750 feet Downstream of Confluence with Willow Brook.	111
	450 feet Upstream of Confluence with Willow Brook.	116
	2,150 feet Upstream of Confluence with Willow Brook.	123
	3,850 feet Upstream of Confluence with Willow Brook.	128
Shepard Brook	100 feet Downstream of Wilbur Cross Parkway.	49
	50 feet Upstream of Wilbur Cross Parkway.	56
	250 feet Downstream of Dixwell Avenue.	63
	120 feet Downstream of Dixwell Avenue.	73
	Just Upstream of Dixwell Avenue.	83
	1,000 feet Downstream of Sanford Street.	85
	200 feet Downstream of Sanford Street.	89
	100 feet Upstream of Sanford Street.	95
	50 feet Downstream of Conrail.	100
	Just Upstream of Conrail.	106
	250 feet Downstream of Dam (Dam located 550 feet Downstream of Meyer Wire Company).	111
	100 feet Downstream of Dam (Dam located 550 feet Downstream of Meyer Wire Company).	115
	400 feet Upstream of Dam (Dam located 550 feet Downstream of Meyer Wire Company).	120
	300 feet Upstream of Meyer Company Entrance.	125
	80 feet Downstream of of Sherman Avenue.	130
	150 feet Upstream of Sherman Avenue.	135
	500 feet Upstream of Sherman Avenue.	140
	1,000 feet Upstream of Sherman Avenue.	147
Eaton Brook	80 feet Downstream of Whitney Avenue.	99
	450 feet Upstream of Whitney Avenue.	101
	80 feet Downstream of Conrail.	103
	Just Upstream of Conrail.	113
	30 feet Upstream of Dam, 590 feet Downstream of Todd Street.	114
	300 feet Downstream of Todd Street.	115
	40 feet Upstream of Todd Street.	120
	200 feet Upstream of Todd Street.	125
	550 feet Upstream of Todd Street.	135
	900 feet Upstream of Todd Street.	145
	1,230 feet Upstream of Todd Street.	155
	1,580 feet Upstream of Todd Street.	165
	1,900 feet Upstream of Todd Street.	175
	2,200 feet Upstream of Todd Street.	185
	2,500 feet Upstream of Todd Street.	195
	2,850 feet Upstream of Todd Street.	205
	3,220 feet Upstream of Todd Street.	215
	50 feet Downstream of Shepard Avenue.	220
	Upstream face of Shepard Avenue.	223
	160 feet Upstream face of Shepard Avenue.	225
	640 feet Upstream face of Shepard Avenue.	235
	1,150 feet Upstream face of Shepard Avenue.	245
	100 feet Downstream of Hill Field Road.	255
	30 feet Downstream of Hill Field Road.	258
	80 feet below Confluence with Brookdale Stream.	273
	130 feet above Confluence with Brookdale Stream.	278
	330 feet above Confluence with Brookdale Stream.	283
	100 feet Downstream of Johnson Road.	287
	100 feet Upstream of Johnson Road.	293
	250 feet Upstream of Johnson Road.	295
	900 feet Upstream of Johnson Road.	305
	80 feet Downstream of Choate Road.	315
	20 feet Downstream of Choate Road.	320
	100 feet Upstream of Choate Road.	322
	300 feet Downstream of Westwood Road.	330
	100 feet Downstream of Westwood Road.	335
	30 feet Downstream of Westwood Road.	340
	50 feet Upstream of Westwood Road.	343
Brookdale Stream	At Confluence with Eaton Brook.	275
	270 feet Downstream of Johnson Road.	285
	120 feet Downstream of Johnson Road.	287
	130 feet Upstream of Johnson Road.	292
	80 feet Downstream of Still Hill Road.	296
	40 feet Downstream of Still Hill Road.	300

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just Upstream of Still Hill Road.	304
Willow Brook	At Confluence with Mill River.	114
	70 feet Upstream of Willow Street.	115
Jepp Brook	At Confluence with Willow Brook.	116
	590 feet Upstream of Confluence with Willow Brook.	120
	900 feet Upstream of Confluence with Willow Brook.	123
	350 feet Downstream of Conrail.	127
	Just Downstream of Brookdale Avenue.	131
	1,100 feet Upstream of Brookdale Avenue.	137
	80 feet Downstream of River Road.	145
	100 feet Upstream of River Road.	150
	420 feet Upstream of River Road.	160
	750 feet Upstream of River Road.	170
	1,050 feet Upstream of River Road.	180
	100 feet Downstream of Jepp Pond Dam.	185
	75 feet Downstream of Jepp Pond Dam.	190
	50 feet Downstream of Jepp Pond Dam.	195
	20 feet Downstream of Jepp Pond Dam.	200
	1,300 feet Upstream of Jepp Pond Dam.	205
	100 feet Downstream of a Dam, 200 feet Downstream of Chatterton Way.	208
	60 feet Downstream of a Dam, 200 feet Downstream of Chatterton Way.	213
	40 feet Downstream of a Dam, 200 feet Downstream of Chatterton Way.	218
	Just Downstream of a Dam, 200 feet Downstream of Chatterton Way.	223
	100 feet Upstream of a Dam, 200 feet Downstream of Chatterton Way.	229
	120 feet Upstream of Chatterton Way.	234
	550 feet Upstream of Chatterton Way.	240
	900 feet Upstream of Chatterton Way.	245
	950 feet Downstream of Still Hill Road.	250
	550 feet Downstream of Still Hill Road.	255
	250 feet Downstream of Still Hill Road.	260
	Just Upstream of Still Hill Road.	265
Farm Brook	200 feet above Corporate Limit.	25
	150 feet Downstream of Woodin Street.	38
	100 feet Upstream of Woodin Street.	41
	1,100 feet Upstream of Woodin Street.	43
	850 feet Downstream of Brook Street.	45
	300 feet Downstream of Brook Street.	49
	Just Downstream of Brook Street.	51
	500 feet Upstream of Brook Street.	55
	150 feet Downstream of Footbridge.	59
	200 feet Upstream of Footbridge.	64
	300 feet Downstream of Gilbert Avenue.	68
	Just Upstream of Gilbert Avenue.	70
	Just Upstream of Wilbur Cross Parkway.	72
	3,500 feet Upstream of Lane Street.	74
West Branch Farm Brook	At Confluence with Farm Brook.	72
	700 feet Upstream of Morgan Drive.	73
	Just Upstream of Clover Circle.	73
	At Leonard Drive	74
	250 feet Upstream of Sanquist Circle.	75
	500 feet Upstream of Sanquist Circle.	76

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE: In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2120 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4405]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Newtown, Fairfield County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Newtown, Fairfield County, Connecticut. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show

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evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Newtown, Fairfield County, Connecticut.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Newtown are available for review at the Town Hall, Newtown, Connecticut.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Town of Newtown, Fairfield County, Connecticut.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Housatonic River	Upstream side of Interstate 84.	106
	Upstream side of Glen Road.	109
	Downstream of Shepaug Dam.	109
Pootatuck River	Just upstream of Walnut Tree Hill Road.	110
	Just upstream of Rocky Glen Dam No. 1.	179
	Just upstream of Black Bridge Road.	181
	Just upstream of Rocky Glen Dam No. 2.	207
	Upstream side of foot bridge 1,430 downstream of Main Street.	221
	Upstream side of Main Street.	236
	250 feet upstream of Interstate 84 culvert at confluence with Tom Brook.	248
	Upstream side of Mile Hill Road.	258
	Upstream side of Gauging Station bridge.	276
	Upstream side of Pecks Turkey Hill Road.	317
	Just upstream of Conrail.	338
	Upstream side of Route 25.	340
	Upstream side of Weir 670 feet downstream from Cold Spring Road.	400
	100 feet upstream of Cold Spring Road.	404
	Just upstream of Meadow Brook Road.	405
	Upstream side of Huntingtown Road.	432
	Southern corporate limit.	461
Halfway River	Just upstream of Route 34.	126
	Just upstream of Jordan Hill Road.	213
Deep Brook	Upstream side of access road to treatment plant.	265
	Upstream side of Conrail.	326
	125 feet upstream of Mile Hill Road.	366
	50 feet upstream of Route 25.	391
	50 feet upstream of Elm Drive.	396
	Just upstream of Deep Brook Road.	410
	35 feet upstream of Boggs Hill Road.	449
Lewis Brook	Just upstream of Huntingtown Road.	429
	Upstream side of Maltbie Road.	469
	Just upstream of Hattertown Pond Dam.	523
	Just upstream of Barlow Road.	540
	Just upstream of dam 620 feet downstream of Hattertown Road.	622
	Upstream side of Hundred Acres Road.	629

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2121 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4407]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Jacksonville, Morgan County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Jacksonville, Morgan County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Jacksonville, Morgan County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Jacksonville are available for review at the City Hall, Jacksonville, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Jacksonville, Morgan County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mauvaisterre Creek.	Just downstream of Diamond Street.	566
	Just upstream of Oak Street.	570
	75 feet upstream of Myrtle Street.	574
	60 feet downstream of State Street.	575
	50 feet upstream of Norfolk & Western Railway.	578
	Just downstream of Henry Street.	583
	100 feet upstream of Brooklyn Avenue.	586
	50 feet downstream of Spillway.	587
	50 feet upstream of Spillway.	595
	Eastern Corporate Limit (State Route 104).	597
Town Brook	Confluence with Mauvaisterre Creek.	579
	50 feet upstream of East Street.	581
	Just downstream of West Street.	584
	100 feet downstream of Lincoln Avenue.	587
	65 feet upstream of Lincoln Avenue.	592
	65 feet upstream of Morton Avenue.	594
	Just downstream of Massey Lane.	601
Tributary No. 1	50 feet upstream of Sandusky Street.	570
	2,750 feet upstream of Sandusky Street.	578
	500 feet downstream of West Walnut Street.	579
	140 feet downstream of Walnut Street.	583
	100 feet upstream of Walnut Street.	592
	50 feet downstream of Norfolk & Western Railway.	594
	75 feet upstream of Norfolk & Western Railway.	602
	950 feet upstream of Harmony Drive.	614
Tributary No. 2	Just downstream of Township Road No. 2200.	596
	Eastern Corporate Limit	596

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2122 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4368]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Village of Morton Grove, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Morton Grove, Cook County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Morton Grove, Cook County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Morton Grove are available for review at the Village Hall, 6300 Lincoln Avenue, Morton Grove, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Village of Morton Grove, Cook County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Branch Chicago River.	Just Upstream of Oakton Street.	620
	Just Downstream of Dempster Street Railroad.	621
	Northern Corporate Limits.	622
West Fork of North Branch Chicago River.	Northern Corporate Limits.	622

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2123 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4370]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Wheaton, Du Page County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for se-

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lected locations in the City of Wheaton, Du Page County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Wheaton, Du Page County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Wheaton are available for review at the City Hall, 303 Wesley Street, Wheaton, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Wheaton, Du Page County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical dtum
Spring Brook	Just Upstream of Essex Road.	720
	1,135 feet Upstream of Essex Road.	721
	1,240 feet Upstream of Essex Road.	722
	2,350 feet Upstream of Essex Road, between Corporate Limits.	723
	125 feet Upstream of Creekside Drive, near Sewage Disposal Plant.	724
	210 feet Upstream of Creekside Drive, near Footbridge.	724
	50 feet Upstream of Aurora Way.	725
	Just Downstream of Warrenville Road.	728
	200 feet Upstream of Hawthorne Lane.	730
	Just Downstream of Elm Street.	731
Winfield Creek	240 feet Upstream of Schaffner Road.	722
	Just Downstream of Beverly Lane.	726
	1,200 feet Upstream of Beverly Lane.	727
	65 feet Downstream of Manchester Road.	729
	105 feet Upstream of Union Avenue.	731
	85 feet Downstream of Prairie Path.	731
	180 feet Upstream of Prairie Path.	732
	Just Upstream of Ellis Avenue Extended.	732
	50 feet Downstream of Main Street.	732
	160 feet Upstream of Main Street.	733
	Just Downstream of Cole Avenue.	736
	105 feet Upstream of Cole Avenue.	739
	100 feet Downstream of Paddock Avenue.	740
	105 feet Upstream of Paddock Avenue.	744
	100 feet Downstream of Geneva Road.	745
Winfield Creek Tributary.	95 feet Downstream of Cole Avenue.	734
	65 feet Upstream of Cole Avenue.	736
	750 feet Downstream of Geneva Road.	739
	Just Downstream of Geneva road.	744

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2124 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4371]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Woodstock, McHenry County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Woodstock, McHenry County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Woodstock, McHenry County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Woodstock are available for review at the City Hall, 121 West Calhoun Street, Woodstock, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Woodstock, McHenry County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Selver creek	Corporate Limits, Wicker Street.	868
	Melody Lane	876
	900 feet Upstream of Seminary Avenue.	881
	Corporate limits, St. Johns Road.	881
	Water Plant Access Road.	882
	McHenry Avenue	882

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2125 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4032]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Concord, Middlesex County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Concord, Middlesex County, Massachusetts. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Concord, Middlesex County, Massachusetts.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Concord are available for review at the Town Planner's Office, Town House, Concord, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Concord, Middlesex County, Massachusetts.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.,

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Concord River	North Corporate Limit	120
	600 feet Upstream of Lowell Road.	121
Sudbury River	Confluence with Concord River.	121
	Main Street	121
	Sudbury Road	122
	Fitchburgh Turnpike	122
	Southeast Corporate Limit.	122
Assabet River	Confluence with Concord River.	121
	Route 2	122
	Upstream Side of Boston and Maine Railroad Bridge.	123
	Upstream Side of Main Street (Route 62).	124
	At Conrail	125
	Upstream Side of Pine Street.	126
	Upstream Side of Damondale Dam.	131
	150 feet Upstream of Main Street at West Corporate Limit.	134
Sawmill Brook	At Confluence with Concord River.	120
	250 feet Downstream of Monument Street.	120
	Upstream Side of Monument Street.	132
	1,100 feet Upstream of Monument Street.	132
Mill Brook	At Confluence with Concord River.	120
	100 feet Downstream of Lang Street.	120
	Upstream Side of Lang Street.	123
	100 feet Downstream of Main Street.	124
	Main Street	128
	Cambridge Turnpike	129
Tributary 1 (South of Boston and Maine Railroad Between the Sudbury River and Route 2).	Confluence with Sudbury River.	121
	20 feet Upstream of Coolidge Road.	124
	Main Street	126
	Route 2	128
Dakins Brook	Confluence with Assabet River.	121
	Upstream of Lowell Street.	127
	1,000 feet Upstream of Barnes Hill Road.	127
Spencer Brook	Confluence with Assabet River.	121
	Downstream of Barrett's Mill Road.	121
	900 feet Upstream of Barrett's Mill Road.	125
Nashoba Brook	Just Upstream of Warners Pond Dam.	124
	800 feet Upstream of Route 2.	125
Fort Pond Brook	Concord Reformatory Service Bridge.	125
Tributary 2 (South of Boston and Maine Railroad Between Assabet River and Route 2).	Baker Avenue	123
	50 feet Downstream of Middle Road.	127
	50 feet Upstream of Middle Road.	130
	Route 2	130

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).)

NOTE: In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2126 Filed 1-24-79; 8:45 am]

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[4210-01-M]

[Docket No. FI-4335]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Village of Beverly Hills, Oakland County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Beverly Hills, Oakland County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Beverly Hills, Oakland County, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Beverly Hills are available for review at the City Hall, Beverly Hills, Michigan.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Village of Beverly Hills, Oakland County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rouge River	Southern Corporate Limit.	665
	Upstream side of Lasher Road.	670
	Upstream side of Riverview Road.	674
	2300 feet Upstream from Riverview Road.	676
	580 feet Downstream from 13 Mile Road at Footbridge.	677
	790 feet Upstream from 13 Mile Road.	680
	1795 feet Upstream from 13 Mile Road.	681
	2690 feet Upstream from 13 Mile Road at Walkway Bridge.	684
	Upstream side of Evergreen Road.	694
	580 feet Upstream from Evergreen Road.	695
	Upstream side of Dam 700 feet Downstream from Riverside Drive.	701
	Upstream side of Riverside Drive.	702
	2100 feet Upstream from Riverside Drive at Corporate Limit.	703
North Branch of Rouge River.	Confluence of Rouge River.	692
	Downstream side of Dam 500 feet below Evergreen Road.	693
	Upstream side of Dam above Evergreen Road.	701

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2127 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4346]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Gibraltar, Wayne County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Gibraltar, Wayne County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Gibraltar, Wayne County, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Gibraltar are available for review at the City Hall, Gibraltar, Michigan.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Gibraltar, Wayne County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, International Great Lakes datum
Detroit River	North corporate limit	576
	South corporate limit	576
Frank & Poet Drain.	South Gibraltar Road	576
	Just downstream of McLouth Steel Railroad entry.	576
	Just upstream of McLouth Steel Railroad entry.	579
	Just downstream of Detroit & Toledo Shoreline Railroad.	579
	Just upstream of Detroit & Toledo Shoreline Railroad.	580
	Just upstream of Conrail.	581
	Just upstream of Vreeland Road.	581
Brownstown Creek.	South Gibraltar Road	576
	Just downstream of Middle Gibraltar Road.	576
	700 feet upstream of Middle Gibraltar Road.	577
	Just upstream of Conrail at Quarry Lake.	579
	Confluence with Marsh Creek.	580
	2,000 feet downstream of Fort Street.	580
	Just downstream of Fort Street.	583
Marsh Creek	Just downstream of Conrail.	580
	Just upstream of Conrail.	581
	Just downstream of Fort Street.	583
Division A	Confluence with Brownstown Creek.	579
	Confluence with Frank & Poet Drain.	580
Division B	Confluence with Brownstown Creek.	579
	350 feet upstream from Brownstown Creek.	581
	Confluence with Frank & Poet Drain.	581

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-2128 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4347]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS,

Final Flood Elevation Determination for the City of Lapeer, Lapeer County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Lapeer, Lapeer County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Lapeer, Lapeer County, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Lapeer are available for review at the City Hall, Lapeer, Michigan.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Lapeer, Lapeer County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Branch Flint River.	At northern corporate limit.	812
	2,100 feet upstream of the corporate limits.	813
	Just downstream of Oregon Street.	816
	Just downstream of Conrail, near Oregon Street.	817
	Just upstream of Conrail, near Oregon Street.	819
	At confluence of Farmers Creek.	820
	Just downstream of Grand Trunk Western Railroad.	822
	Just upstream of Grand Trunk Western Railroad.	823
	At eastern corporate limit.	823
Hunters Creek	At confluence with South Branch Flint River.	823
	Just downstream of Conrail.	823
	Just upstream of Conrail.	824
	Downstream of DeMille Street.	826
	Just upstream of DeMille Street.	830
	At southern corporate limit.	831
Farmers Creek	100 feet downstream of Main Street.	822
	Just upstream of Main Street.	826
	50 feet downstream of Grand Trunk Western Railroad.	826
	Just upstream of Grand Trunk Western Railroad.	830
	At Millville Road	831

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2129 Filed 1-24-79; 8:45 am]

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[4210-01-M]

[Docket No. FI-4337]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Spaulding, Saginaw County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Spaulding, Saginaw County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Spaulding, Saginaw County, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Spaulding are available for review at the Township Hall, Spaulding, Michigan.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Spaulding, Saginaw County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cass River	All flooded areas within the community.	594

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2130 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4453]

PART 1917—APPEALS PROPOSED FROM FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Goffstown, Hillsborough County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Goffstown, Hillsborough County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Goffstown, Hillsborough County, New Hampshire.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Goffstown are available for review at the Planning Department, Town Office, Goffstown, New Hampshire.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Goffstown, Hillsborough County, New Hampshire.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Piscataquog River.	Downstream Corporate Limits with Manchester, New Hampshire.	167
	5,700 Feet Downstream of Henry Bridge Road.	177
	300 Feet Upstream of Henry Bridge Road.	187
	2,200 Feet Upstream of Henry Bridge Road.	197
	3,800 Feet Upstream of Henry Bridge Road.	207
	260 Feet Downstream of Glen Lake Dam.	216
	100 Feet Upstream of Glen Lake Dam.	276
	6,600 Feet Upstream of Glen Lake Dam.	276
	100 Feet Downstream of a Dam Located 450 Feet Downstream of Boston and Maine Railroad.	283
	100 Feet Upstream of a Dam Located 450 Feet Downstream of Boston and Maine Railroad.	292
	200 Feet Upstream of Main Street.	294
	Upstream Corporate Limits with Weare, New Hampshire.	299
South Branch Piscataquog River.	At Mouth with Piscataquog River.	296
	2,700 Feet Downstream of Corporate Limits with New Boston, New Hampshire.	298
	Upstream Ccrporate Limits with New Boston, New Hampshire.	308
Bog Brook	At Mouth with Piscataquog River.	294
	240 Feet Downstream of New Boston Road.	303
	100 Feet Upstream of New Boston Road.	310
	1,750 Feet Upstream of New Boston Road.	320
	530 Feet Downstream of the Downstream Crossing of Bog Road.	330
	240 Feet Downstream of the Downstream Crossing of Bog Road.	340
	140 Feet Upstream of the Downstream Crossing of Bog Road.	350
	790 Feet Downstream of the Upstream Crossing of Bog Road.	360
	200 Feet Upstream of the Upstream Crossing of Bog Road.	370
	710 Feet Upstream of the Upstream Crossing of Bog Road.	380
Gorham Brook	At Mouth with Piscataquog River.	297
	210 Feet Downstream of Old Route 114.	307
	320 Feet Upstream of Old Route 114.	317
	850 Feet Upstream of Old Route 114.	327
Autumn Brook	At Mouth with Piscataquog River.	294
	20 Feet Downstream of Depot Street.	294
	20 Feet Upstream of Depot Street.	301
	50 Feet Downstream of Church Street.	305
	50 Feet Upstream of Church Street.	306
	60 Feet Downstream of North Mast Road.	306
	320 Feet Upstream of North Mast Road.	309
	1,600 Feet Upstream of North Mast Road.	314

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978

GLORIA M. JIMENEZ
Federal Insurance Administrator.

[FR Doc. 79-2131 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4050]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Clyde, Sandusky County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Clyde, Sandusky County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Clyde, Sandusky County, Ohio.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Clyde, Sandusky County, Ohio, are available for review at the Clyde City Hall, 606 South Church Street, Clyde, Ohio.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Clyde, Sandusky County, Ohio.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Raccoon Creek	North Corporate Limits	647
	U.S. Highway 20	656
	Whirlpool Corporation Building (North Side).	658
	Factory Access Road (975 Feet Upstream from U.S. 20).	661
	Conrail	665
	Mulberry Street	667
	Vine Street	670
	Maple Street	672
	Conrail	673
	Buckeye Street	675
	South Street	676
	Limerick Road	694
Buck Creek	North Corporate Limits	655
	State Road 101	673
	Conrail (Penn Central R.R.) Downstream Side.	675
	Conrail (Penn Central R.R.) Upstream Side.	680
	766' upstream from Conrail to Culvert Outlet.	690
	East Corporate Limits	690

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: July 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2132 Filed 1-24-79; 8:45 am]

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[4210-01-M]

[Docket No. FI-4425]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Village of South Bloomfield, Pickaway County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of South Bloomfield, Pickaway County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of South Bloomfield, Pickaway County, Ohio.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of South Bloomfield are available for review at the Municipal Building, 5023 South Union Street, Ashville, Ohio.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of South Bloomfield, Pickaway County, Ohio.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mud Run	Downstream Corporate Limit.	678
	Downstream Side of State Route 316.	678
	Upstream Side of State Route 316.	681
	Downstream Side of State Route 752.	681

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2133 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3427]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Borough of Port Allegany, McKean County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Port Allegany, McKean County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Port Allegany, McKean County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Port Allegany, McKean County, Pennsylvania, are available for review at the Bulletin Board at the Borough Office Building, Port Allegany, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Port Allegany, McKean County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, above mean sea level
Allegheny River	U.S. Route 6	1,474
	Mill Street	1,477
Lillibridge Creek	Conrail Bridge (Upstream Side).	1,480
	Mill Street (Upstream side).	1,485
	Arnold Avenue (Upstream Side).	1,506
	Upstream Corporate Limits.	1,543

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1979, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 11, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2134 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI 4326]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Algoma, Kewaunee County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City Algoma, Kewaunee County, Wisconsin. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City Algoma, Kewaunee County, Wisconsin.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for for the City of Algoma are available for review at the City Clerk's Office, City Hall, 416 Freemont, Algoma, Wisconsin.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410. 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Algoma, Kewaunee County, Wisconsin.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ahnapee River	At mouth	584
	100 feet upstream of 2nd Street.	584
	Downstream side of 4th Street.	585
	200 feet upstream of 4th Street.	586
	At upstream corporate limit.	587
Silver Creek	At confluence with Ahnapee River.	587
	Downstream of Ahnapee and Western Railroad.	587
	100 feet upstream of Perry Street.	589
	2,500 feet upstream of Perry Street.	590
	3,200 feet upstream of Perry Street.	592
	At upstream corporate limit.	593

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2135 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4387]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Village of Hales Corners, Milwaukee County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Hales Corners, Milwaukee County, Wisconsin. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Hales Corners, Milwaukee County, Wisconsin.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Hales Corners are available for review at the Village Hall, 5635 S. New Berlin Road, Hales Corners, Wisconsin.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Village of Hales Corners, Milwaukee County, Wisconsin.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed

base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Root River Tributary.	At Downstream Whitnall Park Drive.	734
	1000 feet Downstream of 108th Street.	756
	Just Upstream of West Forest Home Avenue.	765
	Just Upstream of West Janesville Road.	780
	Just Upstream of West Godsell Road, approximately 1500 feet Downstream of Upper Kelly Lake.	795
	Just Upstream of South Kurtz Road.	803
	130 feet Upstream of South 124th Street.	811
	Upper Kelly Lake	811
Wemp Branch	Confluence with Root River Tributary.	769
	Just Upstream of West Janesville Road.	774
	Just Upstream of West Parnell Avenue.	784
	Just Upstream of South 115th Street.	789
	At West Corporate Limits.	814
113th Street Branch.	Mouth at Wemp Branch	784
	Just Upstream of West Grange Avenue.	789
	Just Upstream of West Upham Avenue.	795
	Just Downstream of West Edgerton Avenue.	800

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 13, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2136 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4536]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Pierce, Weld County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Pierce, Weld County, Colorado. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Pierce, Colorado.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Pierce, Weld County, Colorado, are available for review at City Hall, 240 Main Street, Pierce, Colorado.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Pierce, Colorado.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Spring Creek	Main Street—100 feet upstream of centerline.	5,033
	Corporate limit—60 feet downstream of centerline of Rowe Avenue.	5,040
Spring Creek Overflow.	Weld County Road 88—100 feet upstream of centerline.	5,017
	Main Street—100 feet upstream of centerline.	5,037
	Rowe Avenue—150 feet downstream of centerline.	5,044

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2137 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4487]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of East Hartford, Hartford County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of East Hartford, Hartford County, Connecticut. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of East Hartford, Hartford County, Connecticut.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of East Hartford are available for review at the Town Hall, 740 Main Street, East Hartford, Connecticut.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Town of East Hartford, Hartford County, Connecticut.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River.	At southern corporate limit.	29
	At northern corporate limit.	31
Burnham Brook	At northern corporate limit.	31
	Just downstream of King Street.	31
	50 feet upstream of King Street.	33
	800 feet upstream of King Street.	34
	260 feet downstream of U.S. Route 5.	37
	100 feet upstream of U.S. Route 5.	41

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	40 feet downstream of the Conrail Bridge.	42
	Just upstream of Conrail Bridge.	46
	Approximately 2,930 feet downstream of University Avenue.	50
	Just upstream of bridge, 1,100 feet downstream of University Avenue.	58
	Just upstream of University Avenue.	61
	Just upstream of Alps Drive.	66
	Just upstream of Yale Road.	68
	1,450 feet upstream of Yale Road.	70
	2,300 feet upstream of Yale Road.	79
Hockanum River	Mouth at Connecticut River.	29
	Just upstream of dam, 425 feet downstream of Forbes Street.	38
	Just upstream of dam, 50 feet downstream of Forbes Street.	50
	Just upstream of dam, 500 feet upstream of Forbes Street.	60
	Just upstream of Scotland Road.	63
	Just upstream of Footbridge, 1,250 feet downstream of Walnut Street.	64
	Just upstream of Walnut Street.	66
	Just upstream of dam, 2,000 feet upstream of Walnut Street.	73
	2,450 feet upstream of Walnut Street.	73
Pewterpot River	Mouth at Keeney Cove	29
	Just upstream of Glastonbury-East Hartford Expressway.	32
	Just upstream of bridge, 200 feet upstream of Brewer Street.	35
	3,250 feet upstream of Brewer Street.	38
	260 feet downstream of South Branch confluence.	43
	At confluence of South Branch.	49
	850 feet upstream of South Branch confluence.	49
	Approximately 915 feet downstream of Forbes Street.	53
	130 feet downstream of Forbes Street.	55
	Just upstream of Forbes Street.	59
	770 feet upstream of Forbes Street.	59
	Just upstream of Bridge, 2,250 feet upstream of Forbes Street.	66
	4,100 feet upstream of Forbes Street.	68
Willow Brook	Mouth at Connecticut River.	29
	Just upstream of dam, 1,150 feet upstream of Main Street.	33
	Just downstream of the Pratt and Whitney Aircraft Corporation culvert.	33
	Just upstream of the Pratt and Whitney Aircraft Corporation culvert.	44
	Just upstream of the Reptschler Field culvert.	46
	Just upstream of Silver Lane.	48
	Just downstream of Cumberland Drive culvert.	49
	Just downstream of the footbridge, 340 feet upstream of Cumberland Drive.	50
	Just upstream of the footbridge, 550 feet downstream of Ginger Lane.	53
	Just downstream of the Willow Brook Diversion Structure.	55
	800 feet upstream of the Willow Brook Diversion Structure.	57
	100 feet downstream of the shopping center access road.	59
	Just upstream of the shopping center access road.	63
	Just upstream of Forbes Street.	72
	1,100 feet upstream of Forbes Street.	78
Porter Brook	At the downstream corporate limits.	29
	475 feet downstream of Forbes Street.	29
	Confluence of Hills Pond Branch.	42
	1,200 feet upstream of Forbes Street.	43
	1,750 feet downstream of Hill Street.	45
	900 feet downstream of Hill Street.	49
	Just upstream of Hill Street.	53
	4,780 feet upstream of Hill Street.	58
	2,150 feet downstream of Farnham Drive branch confluence.	61
	Just upstream of Farnham Drive branch confluence.	70
Hills Pond Brook	Mouth at Porter Brook	42
	1,250 feet downstream of the culvert near Gourman Park.	45
	Just upstream of the culvert near Gourman Park.	55
	600 feet upstream of the culvert near Gourman Park.	55
Farnham Drive Branch.	Mouth at Porter Brook	70
	1,150 feet upstream of the mouth at Porter Brook.	76
	Just downstream of the Mulcahy Drive culvert.	82
	Just upstream of Oak Street.	101
	200 feet upstream of Oak Street.	101
South Branch	Mouth at Pewterpot River.	49
	Just upstream of Roxbury Road.	82
	Just upstream of Forbes Street.	58
	1,500 feet upstream of Forbes Street.	60

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Source of flooding	Location	Elevation[1] in feet, national geodetic vertical datum
	Just upstream of dam, 1,150 feet downstream of Brewer Street.	73
	Just upstream of Brewer Street.	80
	Just upstream of bridge, 800 feet upstream of Brewer Street.	84
	Just upstream of footbridge, 500 feet downstream of Grande Road.	90
	Just upstream of Grande Road.	98
	Just upstream of bridge, 500 feet downstream of Oak Street.	101
	130 feet downstream of Oak Street.	103
	Just upstream of Oak Street.	114
	600 feet upstream of Oak Street.	114

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080 this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2138 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4328]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determinations for the City of Kellogg, Shoshone County, Idaho

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Kellogg, Shoshone County, Idaho. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Kellogg, Idaho.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Kellogg, Shoshone County, Idaho, are available for review at City Hall, 323 Main Street, Kellogg, Idaho.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Kellogg, Idaho.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Fork Coeur D'Alene River.	Interstate 90—100 feet*..	2,276
	New Street—20 feet*.....	2,285
	Hill Street—100 feet*.....	2,300
	Division Street North—50 feet*.	2,308

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2139 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4306]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Pinehurst, Shoshone County, Idaho

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Pinehurst, Shoshone County, Idaho. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Pinehurst, Idaho.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Pinehurst, Shoshone County, Idaho, are available for review at City Hall, North Division Street, Pinehurst, Idaho.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Pinehurst, Idaho.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pine Creek.....	Most Downstream Corporate Limits.	2205
	Main Street Bridge (140 feet upstream from centerline).	2220
	Most Upstream Corporate Limits (approximately 1200 feet upstream of Ohio Avenue Bridge).	2253

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2140 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4308]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of St. Maries, Benewah, County, Idaho

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of St. Maries, Benewah County, Idaho. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of St. Maries, Benewah County, Idaho.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of St. Maries, Benewah County, Idaho, are available for review at City Hall, 602 College Avenue, St. Maries, Idaho.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of St. Maries, Benewah County, Idaho.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
St. Joe River	Highway 95 Alternate Bridge-100 feet*.	3139
St. Maries River	Chicago, Milwaukee, St. Paul and Pacific Railroad Bridge-10 feet*.	3139
	State Highway 3 and Alternate 95 Bridge-10 feet*.	3140

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2141 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4461]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Chicago Heights, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Chicago Heights, Cook County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Chicago Heights, Cook County, Ill.

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ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Chicago Heights, Cook County, Illinois, are available for review at the Chicago Heights City Hall, 1601 Chicago Road, Chicago Heights, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Chicago Heights, Cook County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Thorn Creek	Confluence w/Tributary C North of Joe Orr Road.	625
	Downstream Corporate Limit at Joe Orr Road.	630
	Halsted Road	639
	Chicago Road	647
	14th Street	650
	15th Street	652
	16th Street	654
	Penn Central	658
	E J & E Railroad	663
	Chicago Heights Corporate Limits at Spillway for Sauk Lake.	665
Tributary "B" of Thorn Creek at Route 1 Cutoff.	Confluence w/Thorn Creek.	640
	State Route 1 (One)	640
	Reigle Road 6646	649
	Dixie Highway	649
	Tenth Street	652
	Meadow Lane	654
Butterfield Creek	Kuechler Avenue Extended.	632
	Ashland Avenue Extended.	634

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2142 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4493]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Harvard, McHenry County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Harvard, McHenry County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Harvard, McHenry County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Harvard are available for review at the City Hall, Harvard, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Harvard, McHenry County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, (national geodetic vertical datum
Mokeler Creek	1,450 feet Downstream of Route 173 at Western Corporate Limit.	911
	400 feet Downstream of Route 173 at Sewage Disposal Pond.	914
	660 feet Downstream of Eastmann Street.	917
	60 feet Upstream of Eastmann Street.	921
	Just Downstream of Marengo Parkway.	923
	130 feet Upstream of Marengo Parkway.	924
	100 feet Upstream of Route 173, second crossing.	928
	50 feet Upstream of U.S. Route 14.	930
	50 feet Downstream of Jefferson Street.	931
	70 feet Upstream of Jefferson Street.	933
	200 feet Downstream of Chicago & Northwestern Railroad.	935
	75 feet Upstream of Chicago & Northwestern Railroad.	937
	120 feet Downstream of Kennedy Drive (Eastern Corporate Limits).	937

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2143 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3947]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of West Chicago, Du Page County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of West Chicago, Du Page County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of West Chicago, Du Page County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of West Chicago, Du Page County, Illinois, are available for review at the City Hall, 475 Main Street, West Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of West Chicago, Du Page County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Du Page River.	Downstream Corporate Limits.	707
	State Route 38, Roosevelt Road (Upstream).	707
	Upstream Corporate Limits.	708
Kress Creek	McChesney Road (Upstream).	740
	Footbridge at Corporate Limits (Downstream).	741
	State Route 38, Roosevelt Road.	745
	Downs Drive (Upstream).	747
	Western Drive (Upstream).	748
	Indian Boundary Road, Corporate Limits (Upstream).	750
	Industrial Drive, Corporate Limits (Upstream).	753
	Chicago and Northwestern Railroad Spur (Upstream).	754
Unnamed Tributary of Kress Creek.	Downstream Corporate Limits.	733
	Parking lot bridge (Upstream).	735
	Town Road bridge (Upstream).	737
	Private Road (Upstream).	744
	Burlington Northern Railroad (Downstream).	748
	Fenton Road	750
	Industrial Drive 343 feet downstream of Geneva Road.	753
	Chicago and Northwestern Railroad Bridge (Upstream).	757
	Chicago and Northwestern Railroad Spur 2,904 feet upstream of Geneva Road.	759

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2144 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4463]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Charlestown, Clark County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Charlestown, Clark County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Charlestown, Clark County, Indiana.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Charlestown, Clark County, Indiana, are available for review at the Charlestown City Hall, 701 Main Street, Charlestown, Indiana.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Charlestown, Clark County, Indiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L.

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93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pleasant Run	Corporate Limits (Downstream).	543
	Spring Street	566
	Reed Street (Downstream).	572
	Reed Street (Upstream).	578
	Monroe Street	594
	Corporate Limits (Upstream).	603

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2145 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4269]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for East Baton Rouge Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in East Baton Rouge Parish, Louisiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for East Baton Rouge Parish, Louisiana.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for East Baton Rouge Parish, Louisiana, are available for review at Municipal Building, 300 North Boulevard, Baton Rouge, Louisiana.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for East Baton Rouge Parish, Louisiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Amite River	Bayou confluence with Manchac.	18
	Confluence with Jones Creek.	21
	Interstate Highway 12	40
	U.S. Highway 190	42
Baker Canal-Upper Cypress Bayou-South Canal-Upper White Bayou.	U.S. Highway 61 South	63
	City of Baker, downstream corporate limits.	73
	City of Baker, upstream corporate limits.	79
	McHugh Road	81
	Lower Zachary Road	90
Upper White Bayou.	Lower Zachary Road	90
	Louisiana State Highway 64.	93
	Louisiana State Highway 19.	96
	Port Hudson-Pride Road	105
Bayou Duplantier	Lee Drive	27
Bayou Fountain	Confluence with Selene Bayou.	15
	Gardere Lane	18
	Ben Hur Road	20
	Bob Pettit Drive	24
Bayou Fountain North Branch.	Confluence with Bayou Fountain.	20
	West Parker Boulevard	21
Bayou Fountain South Branch.	Confluence with Bayou Fountain.	24
	South Stadium Road	25
South Canal Diversion.	Confluence with Comite River.	73
	Dyer Road	75
	Plank Road	82
	Confluence with White Bayou.	83
Wards Creek	Highland Road	18
	Pecue Lane	21
	Siegen Lane	24
	Essen Lane	31
	Interstate Highway 12	35
	Clay Cut Road	45
	Government Street	48
Blackwater Bayou.	Confluence with Comite River.	53
	Hooper Road	57
	1.5 miles upstream of Hooper Road.	63
Clay Cut Bayou	Parish Road	27
	Jefferson Highway	29
	Airline Highway	30
	Siegen Road	32
	Inswold Road	34
Comite River	Illinois Central Railroad	42
	Joor Road	52
	Hooper Road	55
	Comite Drive	66
	Dyer Road, downstream side.	75
Dawson Creek	Perkins Road, downstream crossing.	26
	Perkins Road, upstream crossing.	27
	College Avenue extended.	29
Elbow Bayou	Confluence with Bayou Fountain.	19
	Illinois Central Railroad (upstream side).	20
	Ben Hur Road	21
Hurricane Creek	Confluence with Comite River.	48
	Joor Road	49
	Maribel Drive	49
	Brookstown Drive	52
	Lorraine Street	52
Jones Creek	Confluence with Amite River.	31
	Jones Creek Road	35
	Woodland Bridge Boulevard.	39
	Interstate Highway 12	40
	Old Hammond Highway	41
	Sherwood Forest Boulevard.	43
	Mollylea Drive	46
Jones Creek	Monterrey Boulevard	49
	Airline Highway	52
	Lobdell Extension	54
Lively Bayou	Old Hammond Highway	41
	Flannery Road (upstream crossing).	43
	Florida Boulevard	43
	Illinois Central Railroad	46
Lower Cypress Bayou.	Hooper Road	54
	Plank Road	57
	Thomas road	63
	Greenwood Park Road (North).	64
	Lavey Lane	65
Lower White Bayou.	Confluence with Comite River.	51
	Comite Road	65
	Pettit Road	70
	Plank Road	71
	Bentley Drive	76
North Branch Wards Creek.	Confluence with Wards Creek.	29
	Interstate Highway 12	34
	Jefferson Highway	35
	Old Hammond Highway	39
	Goodwood Boulevard	44
	Florida Boulevard	52
	Fernwood Drive	53
Lively Bayou Tributary.	Goodwood Boulevard	41
	Lockaley Drive	42
	Florida Boulevard	45
	Tams Drive	47
	Choctaw Drive	48
Weiner Creek	Confluence with Jones Creek.	39
	Sherwood Forest Boulevard.	41
	Stanley Aubin Drive	45
	Janice Street	46
	Interstate Highway 12	50
Knox Branch	Confluence with Jones Creek.	34
	Harrells Ferry Road	35
Jacks Bayou	Tiger Bend Road	29
	Sherwood Forest Boulevard.	41
Monte Sano Bayou.	Airline Highway	54
	Harding Boulevard	55
	Eighth Street	61
	Fourth Street	62
	Confluence with Gibbens Lateral.	64
	Scotlandville Lateral	
	Interstate Highway 110	55
	Badley Road	55
	Stitt Street	56
	Fraternity Street	57
Scotlandville Avenue.		62
South Airport Lateral.	Confluence with Monte Sano Bayou.	55
	0.80 mile upstream of confluence with Monte Sano Bayou.	63
North Airport Lateral.	Confluence with Gibbons Lateral.	64
	0.75 mile upstream of confluence with Gibbens Lateral.	66
Robert Canal	Joor Road	49
	Greenwell Street	50
	Matthews Street	50
	Silverleaf Avenue	51
	Glenoaks Drive	52
Hollywood Lateral	Confluence with Wildwood Lateral.	53
	Plank Road	53
	Confluence with Monte Sano Bayou.	54
Wildwood Lateral	Lorraine Street	52
	St. Gerald Avenue	52
	Confluence with Hollywood Lateral.	53
East Lateral Cypress Bayou.	Gibbens Road	63
	Baker Corporate Limits	63
West Lateral Cypress Bayou.	Confluence with Cypress Bayou.	63
	Baker Road	65
	Rafe Mayer Road	67
Gibbens Lateral North.	Confluence with Cypress Bayou.	61
	Gore Road	63
	320 feet north of Blount Road.	65
South Lateral	Confluence with Cypress Bayou.	58
	Plank Road	61

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2146 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4520]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Bangor, Bay County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Bangor, Bay County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Bangor, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Bangor, Bay County, Michigan, are available for review at Township Hall, 3921 Wheeler Road, Bay City, Michigan.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Bangor, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation feet, national geodetic vertical datum
Kawkawlin River	Detroit and Mackinac Railroad*.	585
	State Park Road*	585
	Euclid Avenue, 100 feet upstream from centerline.	586
	Upstream Corporate Limits.	588
Saginaw Bay	Confluence with Kawkawlin River.	585
Saginaw River	Confluence with Saginaw Bay.	585
	Detroit and Mackinac Railroad*.	585

*At centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

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Note.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2147 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4271]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Frankenlust, Bay City, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Frankenlust, Bay City, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Frankenlust, Bay City, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Frankenlust, Bay County, Michigan, are available for review at Township Hall, 2401 Delta Road, Bay City, Michigan.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Frankenlust, Bay City, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saginaw River	Hotchkiss Road—20 feet*.	585
	Upstream Corporate Limits.	586
Saginaw River West Channel.	Confluence with Dutch Creek.	585
Dutch Creek	Euclid Road—40 feet*	585
	Minnesota Highway 84—50 feet*.	585
Squaconning Creek.	Ziegler Road—20 feet*	585
	Southbound Interstate Highway 75—50 feet*.	586
	Minnesota Highway 84—100 feet*.	588
	Bay Valley Road—20 feet*.	589
	Four Mile Road—20 feet*.	593
	Hotchkiss Drive—100 feet*.	596
Squaconning Creek Secondary Channel.	Minnesota Highway 84—50 feet*.	588
Kochville and Frankenlust Drain.	Delta Road—20 feet*	591
	Amelith Road—50 feet**	602
	Kloha Road—10 feet*	604
	Machinaw Road—10 feet**.	606
Klauss Drain	Footbridge—10 feet*	594
	South Campus Drive—50 feet*.	598
	Delta Road—50 feet*	604

* Upstream of centerline.
** Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2148 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4336]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Saginaw, Saginaw County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Saginaw, Saginaw County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Saginaw, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Saginaw, Saginaw County, Michigan, are available for review at Administrative Offices, 4980 Shattuck Road, Saginaw, Michigan.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Saginaw, Saginaw County, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Blaine, Minnesota.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Blaine, Anoka County, Minnesota, are available for review at City Hall, 9150 Central Avenue, N.E., Blaine, Minnesota.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Blaine, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tittabawassee River.	Center Road—50 feet*...	595
	Conrail—10 feet*	597
	Gratiot Road—10 feet*...	598
	State Street—50 feet*....	601
	Tittabawassee Road—30 feet*.	604
Unnamed Tributary to the Tittabawassee River.	Midland Road (State Highway 47)—30 feet*.	601
	Hospital Road—30 feet*.	601

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2149 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4523]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Blaine, Anoka County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Blaine, Anoka County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Blaine, Minnesota.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Blaine, Anoka County, Minnesota, are available for review at City Hall, 9150 Central Avenue, N.E., Blaine, Minnesota.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Blaine, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
County Ditch 39...	4th Street Northeast—50 feet*.	893
	Jefferson Street Northeast—100 feet*.	894
County Ditch 41 (Sand Creek).	University Avenue—25 feet*.	889
	Jefferson Street Northeast—25 feet*.	890
County Ditch 60 (Branch 1).	Main Street downstream crossing—50 feet**.	890
	Main Street downstream crossing—50 feet*.	895
	Main Street (upstream crossing)—at centerline.	897
County Ditch 60 (Branch 2).	Paul Parkway—50 feet*..	896
	Duke Drive—50 feet*	895
County Ditch 17....	University Avenue—50 feet*.	892
	U.S. Highway 10—100 feet*.	895
	Quincy Street Northeast—50 feet*.	901
Pleasure Creek	University Avenue—50 feet*.	897
	99th Avenue Northeast—at centerline.	897
Rice Creek	85th Street Northeast—50 feet*.	885
Tributary to Rice Creek.	Flowerfield Road—50 feet*.	885
Laddie Lake	From crossing of western shoreline and corporate limit to 50 feet west along corporate limit.	905
Blaine Pond	50 feet outward from shoreline.	885

*Upstream of centerline.
**Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2150 Filed 1-24-79; 8:45 am]

[4210-01—M]

[Docket No. FI-4035]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Lake Elmo, Washington, County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Lake

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Elmo, Washington, County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Lake Elmo, Minnesota.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Lake Elmo, are available for review at City Hall, Lake Elmo, Minnesota.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Lake Elmo, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Eagle Point Lake Fork.	50 feet upstream of Kevin Avenue North.	901
	Levee Road	901
	Upstream side of Ivy Avenue North.	905
	Upstream side of 28th Street North.	908
	75 feet upstream of Stillwater Boulevard North.	921
Lake Elmo	East of Lake Elmo Avenue North.	889
Downs Lake	Northwest of the intersection of Manning Avenue North and 20th Street.	893
Lake Jane	North of 45th Street North.	925
Sunfish Lake	North of Stillwater Boulevard.	894
Lake Olson and Lake De Montreville.	50th Street North	931

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2151 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4273]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Springfield, Brown County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Springfield, Brown County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Springfield, Minnesota.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Springfield, Brown County, Minnesota, are available for review at City Hall, 2 East Central, Springfield, Minnesota.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Springfield, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cottonwood River.	Most Downstream Corporate Limits.	1017
	Cass Avenue Bridge-at centerline.	1020
	Most Upstream Corporate Limits.	1021

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2152 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4276]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for Hinds County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Hinds County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Hinds County, Mississippi.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Hinds County, Mississippi, are available for review at Chancery Court Building, 316 South President Avenue, Jackson, Mississippi.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Hinds County, Mississippi.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bakers Creek	Champion Hill Road—100 feet*.	208
	Lancaster Road—10 feet*.	217
	Natchez Trace Parkway—100 feet*.	242
	North Midway Road—10 feet*.	251
	Illinois Central Gulf Railroad Spur Line—100 feet*.	280
	McRaven Road—10 feet*.	294
Bakers Creek Tributary 1.	Illinois Central Gulf Railroad—10 feet*.	246
	Airport Road—50 feet*	251
	Snake Creek Road—10 feet*.	259
	Dunn-Pease Road—10 feet*.	294
Big Creek	Interstate Highway 55—10 feet*.	262
	Old U.S. Highway 51—10 feet*.	268
	Davis Road—10 feet*	287
	Broadwater Road—10 feet*.	314
	Raymond Road—10 feet*.	329
	North Siwell Road—10 feet*.	341
	Brookview Drive—10 feet*.	351
	Mississippi Highway 8—50 feet*.	364
Big Creek Tributary 1.	Siwell Road—20 feet*	285
	Private Road 1st crossing—100 feet*.	312
	Private Road 2nd crossing—10 feet*.	326
Big Creek Tributary 3.	Gore Road—10 feet*	314
	Parks Road—100 feet*	322
	Springridge Road—10 feet*.	332
Bogue Chitto	Natchez Trace Parkway 1st crossing—10 feet*.	250
	Cynthia Road—10 feet*	254
Bogue Chitto Tributary 1.	Magnolia Road—10 feet*	256
	North Side Drive—10 feet*.	272
	Vicksburg Road—40 feet*.	302
Hanging Moss Creek.	County Line Road—10 feet*.	340
Harris Creek	Interstate Highway 55 (upstream lane)—10 feet*.	269
	Old U.S. Highway 51—10 feet*.	271
Pearl River	Confluence with Cany Creek.	268
Rhodes Creek	Portner Road—10 feet*	266
	West Frontage Road—100 feet*.	273
	Old U.S. Highway 51—100 feet*.	280
Smith Creek	McRaven Road—100 feet*.	256
	Wells Road—10 feet*	266
	Springridge Road—20 feet*.	280
	North Siwell Road—100 feet*.	326
Smith Creek Tributary 1.	State Highway 18—100 feet**.	293
	State Highway 18—100 feet*.	303
Smith Creek Tributary 2.	Confluence with Smith Creek.	310
Smith Creek Tributary 3.	Confluence with Smith Creek Tributary 1.	291
Snake Creek	Herrin Road—10 feet*	218
	Natchez Trace Parkway—40 feet*.	244
	Raymond-Clinton Road—10 feet*.	261
	State Highway 18—10 feet*.	278
Trahon Creek	Old Byram Road—10 feet*.	264
	Interstate Highway 55—100 feet*.	273
	Terry Road—10 feet*	275
	Forest Hills Road—100 feet*.	298
Trahon Creek Tributary 1.	Interstate Highway 55—150 feet*.	264
	Henderson Road—50 feet*.	321
Vaughn Creek	Georgetown Road—100 feet*.	265
	Illinois Central Gulf Railroad—10 feet*.	275
	Old U.S. Highway 51—10 feet*.	276
	Interstate Highway 55—100 feet**.	282
	Interstate Highway 55—100 feet*.	286

*Upstream of centerline.
**Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2153 Filed 1-24-79; 8:45 am]

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[4210-01-M]

[Docket No. FI-4531]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Unincorporated Areas of Warren County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Warren County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Warren County, Mississippi.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Warren County are available for review at the County Offices, Vicksburg, Mississippi.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Warren County, Mississippi.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	Downstream county boundary.	96
	Upstream county boundary.	110
Yazoo River	At mouth of Yazoo Canal.	102
	At Kings Ferry	104
	Confluence of Little Sunflower River.	106
Hatcher Bayou	Just downstream of the U.S. Route 61 bridge located downstream of the Stouts Bayou confluence.	101
	Just upstream of the Illinois Central Gulf Railroad bridge located downstream of the Stouts Bayou confluence.	105
	Just upstream of the U.S. Route 61 bridge located just upstream of the Hatcher Bayou Tributary No. 1 confluence.	115
	2,850 feet downstream of the confluence of Durden Creek.	116
	Just upstream of Halls Ferry Road.	136
	At confluence of Hatcher Bayou Tributary No. 4.	145
	Just upstream of Lee Road.	164
	At confluence of Hatcher Bayou Tributary No. 8.	177
	Just upstream of Warriors Trail.	182
	Just upstream of the Illinois Central Gulf Railroad bridge located upstream of Warriors Trail.	189
	Just upstream of the south entrance to the Warren Central High School.	202
	3,700 feet upstream of the south entrance to the Warren Central High School.	204
Hatcher Bayou Tributary No. 1.	Confluence with Hatcher Bayou.	114
	At the City of Vicksburg-Warren County boundary line located 3,540 feet upstream from mouth.	120
	5,175 feet upstream of mouth.	141
Hatcher Bayou Tributary No. 3.	At confluence with Hatcher Bayou.	134
	At confluence of Hatcher Bayou Tributary No. 3B.	138
	Just upstream of Halls Ferry Road.	166
	3,700 feet upstream of Halls Ferry Road.	176
	6,340 feet upstream of Halls Ferry Road.	195
Hatcher Bayou Tributary No. 3A.	At confluence with Hatcher Bayou Tributary No. 3.	133
	Just downstream of Halls Ferry Road.	133
	400 feet upstream of Halls Ferry Road.	135
	100 feet upstream of Greenbriar Drive.	144
	2,400 feet upstream of Greenbriar Drive.	152
Hatcher Bayou Tributary No. 3B.	At confluence with Hatcher Bayou Tributary No. 3.	138
	630 feet upstream of confluence with Hatcher Bayou Tributary No. 3.	138
	2,220 feet upstream of confluence with Hatcher Bayou Tributary No. 3.	145
Hatcher Bayou Tributary No. 3C.	At confluence with Hatcher Bayou Tributary No. 3.	161
	1,000 feet upstream of confluence with Hatcher Bayou Tributary No. 3.	162
	2,850 feet upstream of the confluence with Hatcher Bayou Tributary No. 3.	169
Hatcher Bayou Tributary No. 4.	At confluence with Hatcher Bayou.	145
	1,580 feet upstream of confluence with Hatcher Bayou.	146
	1,700 feet upstream of Lee Road.	167
	1,200 feet downstream of Warriors Trail.	188
	520 feet upstream of Warriors Trail.	214
Hatcher Bayou Tributary No. 4A.	At confluence with Hatcher Bayou Tributary No. 4.	185
	530 feet upstream of confluence with Hatcher Bayou Tributary No. 4.	185
	160 feet downstream of State Highway 27.	196
	50 feet upstream of State Highway 27.	206
Hatcher Bayou Tributary No. 5.	Confluence with Hatcher Bayou.	146
	2,300 feet upstream of the confluence with Hatcher Bayou.	148
	3,750 feet upstream of the confluence with Hatcher Bayou.	153
	100 feet upstream of New Street.	196
	Just upstream of Inglewood Street.	214
Hatcher Bayou Tributary No. 6.	Confluence with Hatcher Bayou.	155
	1,425 feet upstream of the confluence with Hatcher Bayou.	155
	600 feet downstream of New Street.	171
	130 feet upstream of New Street.	189
	Just downstream of East Indiana Avenue.	202
	210 feet upstream of East Indiana Avenue.	207
Hatcher Bayou Tributary No. 7.	Confluence with Hatcher Bayou.	168
	1,050 feet upstream of the confluence with Hatcher Bayou.	168
	Just upstream of State Highway 27.	197
Hatcher Bayou Tributary No. 8.	At confluence with Hatcher Bayou.	177
	Just downstream of Warriors Trail.	178
	100 feet upstream of Warriors Trail.	181
	50 feet downstream of the Illinois Central Gulf Railroad bridge.	184
	100 feet upstream of Illinois Central Gulf Railroad.	195
Stouts Bayou	Confluence with Hatcher Bayou.	109
	1,000 feet upstream of the confluence with Hatcher Bayou.	110
	100 feet downstream of Rifle Range Road.	110
	Just upstream of Rifle Range Road.	115
Durden Creek	Vicksburg corporate limit south of Porters Chapel Road.	159
	2,100 feet upstream of Porters Chapel Road.	180
	4,650 feet upstream of Porters Chapel Road.	194

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2154 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4312]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determinations for the City of Belt, Cascade County, Mont.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Belt, Cascade County, Montana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Belt, Montana.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Belt, are available for review at City Hall, Belt, Montana.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Belt, Montana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Belt Creek	Bridge Street—20 feet upstream of centerline.	3,510

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2155 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4313]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Eureka, Lincoln County, Mont.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Eureka, Lincoln County, Montana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Eureka, Montana.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Eureka, Lincoln County, Montana, are available for review at Town Hall, Eureka, Montana.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Eureka, Lincoln County, Montana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination

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to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tobacco River.....	Dewey Avenue Bridge—20 feet upstream of centerline.	2562
	Upstream corporate limits at station 20800.	2588

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2467 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4314]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Libby, Lincoln County, Mont.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Libby, Lincoln County, Montana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Libby, Montana.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Libby, Lincoln County, Montana, are available for review at City Hall, 603 Mineral Avenue, Libby, Montana.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Libby, Lincoln County, Montana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Flower Creek	Sixth Street Bridge—100 feet*.	2078
	U.S. Highway 2 Bridge—80 feet*.	2062
	Private Bridge—100 feet*.	2087
	Footbridge—30 feet*	2116
	Balsam Street Bridge—20 feet*.	2141
Kootenai River.....	State Highway 37—50 feet*.	2057

* Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2468 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4357]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Colden, Erie County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Colden, Erie County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Colden, Erie County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Colden, Erie County, New York, are available for review at the Colden Town Hall, Route 240, Colden, New York 10433.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Colden, Erie County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Casenovia Creek.	Downstream Town boundary.	942
	State Route 240—1st crossing upstream of Town boundary.	944
	Burr Road.....	969
	State Route 240—1st crossing downstream of Heath Road.	1,055
	Heath Road.....	1,059
	State Route 240—1st crossing upstream of Heath Road.	1,077
	Chessie System Bridge ...	1,083
	Farm bridge south of Village of Colden.	1,121
	Murray Road—upstream side.	1,169
	Upstream Town boundary.	1,191

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2469 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4358]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Village of Lancaster, Erie County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Lancaster, Erie County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Lancaster, Erie County, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Lancaster, Erie County, New York, are available for review at the Department of Public Works, 5200 Broadway, Lancaster, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Lancaster, Erie County, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Cayuga Creek	Penora Street.....	649
	Aurora Street.....	655
	Lake Avenue.....	664
	Coord Park Dam	671
	Upstream Corporate Limits.	672
Plum Bottom Creed.	Confluence w/Cayuga Creek.	653
	Central Avenue.....	661
	Clark Street.....	663
	Holland Avenue	670
	Court Street	677
	Upstream Corporate Limits.	680
Spring Creek.....	Confluence with Plum Bottom Creek.	662
	Contail Bridge.....	676
	Court Street.....	683
	Upstream Corporate Limits.	686

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2470 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4428]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Hatfield, Montgomery County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Hatfield, Montgomery County, Penn-

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sylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Hatfield, Montgomery County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Hatfield, Montgomery County, Pennsylvania, are available for review at the Township Building of Hatfield, School Road and Chestnut Streets, Hatfield, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Hatfield, Montgomery County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Neshaminy Creek.	Downstream Corporate Limits (Upstream County Line Road).	272
	Upstream Old Bethlehem Pike.	278
	Upstream Lexington Road.	285
	Upstream Orvilla Road..	295
	Upstream Souderton Pike.	327
	Upstream Bergey Road..	335
	Upstream Hallowell Corporation Road.	346
Colmar Tributary.	Upstream Walnut Street	276
	Upstream Conrail.....	281
	Upstream Old Bethlehem Pike.	293
Unionville Tributary.	Upstream Trewigtown Road.	292
	Downstream Trewigtown Road.	285
	Upstream Lexington Road.	301
	Downstream Orvilla Road.	309
	Upstream Orvilla Road..	314
	Upstream Corporate Limits (Downstream County Line Road).	345
Tributary to Unionville Tributary.	Confluence with Unionville Tributary.	314
	Upstream Corporate Limits (Downstream County Line Road).	343
Lansdale Tributary.	U. S. Route 463 (Hatfield Valley Road).	291
	Upstream Schwab Road.	297
	Upstream Huffel Road...	306
	Upstream Oak Park Drive.	311
	Upstream Orvilla Road..	326
North Hatfield Tributary.	Downstream Corporate Limits.	304
	Upstream Maple Avenue	306
	Upstream School Road...	323
	Downstream Unionville Pike.	330

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2471 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4430]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Middletown, Bucks County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Middletown, Bucks County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Middletown, Bucks County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Middletown, Bucks County, Pennsylvania, are available for review at the Middletown Township Building, 700 New Rodgers Road, Levittown, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Middletown, Bucks County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Neshaminy Creek.	Township Corporate Limits.	22
	Upstream Hulmeville Corporate Limits.	35
	U.S. Route 1 Upstream...	48
	Conrail.....	51
	Brownsville Road Upstream.	60
	Langhorne Corporate Limits Downstream.	69
	Langhorne Corporate Limits Upstream.	71
	Bridgeton Pike Downstream.	73
	Conrail (Reading R.R.) Upstream.	86
Mill Creek	Township Corporate Limits at Newportville Road Upstream.	48
	Frosty Hollow Road Upstream.	63
	Forsythia Cross Downstream.	70
	Trenton Road Upstream	77
	New Rodgers Road Upstream.	84
	I-95 Upsteam.....	87
	U.S. Route 1 Upstream...	91
	Flower Mill Road Upsteam.	103
	Old Lincoln Highway Downstream.	126
	Bristol Pike Downstream.	146
Queen Anne Creek.	Township Corporate Limits Downstream.	48
	Township Corporate Limits Upstream.	58

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2472 Filed 1-24-79; 8:45 am]

period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Moist Run	Front Street (Upstream/ Downstream).	444
	Main Street/William Penn Highway (Upstream/ Downstream).	444
	Cross Street (30 feet downstream of bridge).	444
	At Cross Street Bridge ...	448
Juniata River.....	Confluence of Moist Run.	444
	Bridge Street (Upstream/ Downstream).	444
	Northern Corporate Limits—about 1,050 feet upstream of Bridge Street bridge.	444

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2473 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4378]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Borough of Mifflintown, Juniata County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Mifflintown, Juniata County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Mifflintown, Juniata County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Mifflintown, Juniata County, Pennsylvania, are available for review at the Mifflintown Borough Building, Mifflintown, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Mifflintown, Juniata County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed

[4210-01-M]

[Docket No. FI-4379]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Borough of Osborne, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Os-

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borne, Allegheny County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Osborne, Allegheny County, Pennsylvania.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Osborne, Allegheny County, Pennsylvania, are available for review at the Sewickley Public Library, Board and Thorn Streets, Sewickley, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Osborne, Allegheny County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Downstream Corporate Limits.	716
	Upstream Corporate Limits.	717

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rules has been granted waiver of Congressional review requirements in order to permit it to take effect of the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2474 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4472]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Burrillville, Providence County, R.I.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Burrillville, Providence County, Rhode Island. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Burrillville, Providence County, Rhode Island, are available for review at the Burrillville Town Hall, Harrisville, Rhode Island.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Burrillville, Providence County, Rhode Island.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Branch River	Downstream Corporate Limits.	255
	Victory Highway (Downstream).	260
	Victory Highway (Upstream).	268
	Nasonville Dam (Downstream).	270
	Nasonville Dam (Upstream).	273
	Mohegan Dam (Downstream).	277
	Mohegan Dam (Upstream).	284
	Glendale Dam (Upstream).	299
	State Route 102 (Bridge).	300
	Victory Highway (Upstream).	301
	Oakland Dam (Downstream).	305
	Oakland Dam (Upstream).	306
	Confluence of Clear River.	310
Clear River	Victory Highway (Downstream).	311
	Victory Highway (Upstream).	314
	State Route 102 (Bridge).	315
	Sweets Hill Road (Downstream).	323
	Sweets Hill Road (Upstream).	326
	Harrisville Dam (Downstream).	326
	Harrisville Dam (Upstream).	335
	Sherman Road	338
	School Street	341
	State Route 107	345
	Railroad Avenue	348
	State Route 107 (Downstream).	362
	State Route 107 (Upstream).	366
	Confluence of Pascoag River.	366
	Centennial Street	368
	Premier Worsted Dam (Approximately 350 feet downstream).	369
	Premier Worsted Dam (Upstream).	375
	Green's Shoddy Mill Dam (Downstream).	381
	Green's Shoddy Mill Dam (Upstream).	392
	North Road	395
	Laurel Ridge Avenue	407
	Pendercast Dam (Approximately 700 feet downstream).	413
	Pendercast Dam (Upstream).	423
	Warner Lane	427
	East Wallum Lake Road (Downstream).	442
Hepachet River	Confluence with Branch River.	310
	Mapleville Dam (Approximately 250 feet Downstream).	313
	Mapleville Dam (Upstream).	319
	Cooperhill Road	320
	Gilleran Mill Dam (Approximately 300 feet downstream).	325
	Gilleran Mill Dam (Upstream).	338
	Gazza Road	340
Pascoag River	Confluence with Clear River.	366
	Grove Street	367
	Dam 1,500 feet upstream from Grove Street (Approximately 100 feet downstream).	389
	Dam 1,500 feet upstream from Grove Street (Upstream).	403
	State Route 107	408
	Dam 200 feet upstream from State Route 107 (Approximately 100 feet downstream).	408
	Dam 200 feet upstream from State Route 107 (Upstream).	415
	State Route 107 (Upstream).	417

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2474 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4435]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of University Park, Dallas County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of University Park, Dallas County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of University Park, Dallas County, Texas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of University Park, Dallas County, Texas, are available for review at the Secretary's Office of University Park, 3800 University Boulevard, Dallas County, Texas 75205.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of University Park, Dallas County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Turtle Creek	Just downstream of Vassar Drive.	538
Stream 6A2	Just upstream of Turtle Creek Boulevard.	542

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2476 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4217]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for Carbon County, Utah

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Carbon County, Utah. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

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EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Carbon County, Utah.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Carbon County, Utah, are available for review at Carbon County Courthouse, Price, Utah.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Carbon County, Utah.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Price River	3rd West Street*	5506
	Bridge (Near Trailer Park)**.	5551
	Bridge (Near Trailer Park)*.	5561
	U.S. Routes 6 and 50	5687
	Denver Rio Grande Western Railroad**.	5965
	Denver Rio Grande Western Railroad*.	5978
Cardinal Wash	U.S. Highway 6 and 50* Airport Road Bridge.	5482
Meads Wash	Fourth South Street**	5512
	Fourth South Street*	5529
Spring Glen Wash	Main Street Bridge*	5780
Spring Canyon	Corporate Limits of Helper, Utah (downstream crossing).	5922
	Corporate Limits of Helper, Utah (upstream crossing).	5958

*Upstream side.
**Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2477 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4384]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determinations for the City of Port Orchard, Kitsap County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Port Orchard, Kitsap County, Washington. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Port Orchard, Washington.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Port Orchard, Kitsap County, Washington, are available for review at City Hall, 216 Prospect Street, Port Orchard, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Port Orchard, Washington.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Blackjack Creek (Lower Reach).	Confluence with Sinclair Inlet.	10
Blackjact Creek (Upper Reach).	Washington State Highway 16—175 feet upstream of centerline.	168
Ross Creek	1,260 feet west of intersection of Melcher Street and Pottery Avenue at corner of corporate limits near Ross Creek.	49
Sinclair Inlet	Areas adjacent to the shore.	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2478 Filed 1-24-79; 8:45 am]

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[4210-01-M]

[Docket No. FI-4325]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Poulsbo, Kitsap County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Poulsbo, Kitsap County, Washington. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Poulsbo, Washington.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Poulsbo, Kitsap County, Washington, are available for review at City Hall, 127 Jensen Way, Poulsbo, Washington..

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Poulsbo, Kitsap County, Washington.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Liberty Bay	Intersection of Sixth Avenue South and Holm Street—100 feet south.	10
	Intersection of Sommerseth Street and Third Avenue South—150 feet west.	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2479 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4290]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Pullman, Whitman County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Pullman, Whitman County, Washington. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Pullman, Washington.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Pullman, Whitman County, Washington, are available for review at City Hall, 325 Paradise Street, Southeast, Pullman, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Pullman, Whitman County, Washington.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Fork Palouse River.	State Street Bridge—70 feet*.	2338
	Kamiaken Street Bridge—30feet*.	2344
	Spring Street Bridge—60 feet*.	2350
	Koppels Farm Bridge—40 feet*.	2358
	Trailer Creek Bridge—30 feet*.	2365
Missouri Flat Creek.	State Street—10 feet*	2337
	Grand Street—60 feet*	2344
	Burlington Northern Railroad Bridge 75A—50 feet*.	2356
	Stadium Way—40 feet*	2364
Airport Road Creek.	State Highway 270—70 feet*.	2405

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Airport Road—70 feet*	2424
Wawawai Creek	U.S. Highway 195—120 feet*.	2426
	Private Access—120 feet*.	2439
Dry Fork Creek	Union Pacific Railroad—40 feet*.	2342
	West Main Street—20 feet*.	2352
	McKenzie Street—80 feet*.	2362
	South Street—10 feet*	2374
	Rossiter Street—30 feet*	2401
	Cemetary Road—40 feet*.	2441
	2nd Private Road—100 feet*.	2477
Paradise Creek	State Highway 270—50 feet*.	2366
	2nd crossing Union Pacific Railroad Bridge—50 feet*.	2382
	3rd crossing Union Pacific Railroad Bridge—30 feet*.	2397
	5th crossing Union Pacific Railroad Bridge—20 feet*.	2429
	5th Private Road—20 feet*.	2442

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: October 24, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2480 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4386]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of South Bend, Pacific County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of South Bend, Pacific County, Washington. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of South Bend, Pacific County, Washington, are available for review at City Hall, 1st and Willapa Streets, South Bend, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of South Bend, Washington.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Willapa River	Intersection of First Street and Central Avenue.	11
	Intersection of Monroe Street and Oregon Avenue.	11
	Intersection of First Street and Washington Street.	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2481 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-2913]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Colton, Whitman County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Colton, Whitman County, Washington. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Colton, Whitman County, Washington.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Colton, Whitman County, Washington, are available for review at the Colton Post Office, 507 Steptoe Street, Colton, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Colton, Whitman County, Washington.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation feet above mean sea level
Union Flat Creek	Downstream Corporate Limit (Upstream Side).	2,533
	Steptoe Street (Upstream Side).	2,538
	Depot Street (Upstream Side).	2,540
	Upstream Corporate Limit (Upstream Side).	2,541

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2482 Filed 1-24-79; 8:45 am]

[4210-01-M]

[Docket No. FI-947]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Rockaway, Morris County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Rockaway, Morris County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Rockaway, Morris County, New Jersey.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Rockaway, Morris County, New Jersey, are available for review at the Municipal Building, 19 Mount Hope Road, Rockaway, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Rockaway, Morris County, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rockaway River	Mill Brook	540
	Dover Rockaway Road	546
	Upstream Corporate Limits.	549
Beaver Brook	Ford Road	523
	Hibernia Brook	524
	Meridan Road	556
Hibernia Brook	Hewlett-Packard Driveway.	528
	Meridan-Lyonsville Road.	528
	Private Road	532
	Hibernia Road	539

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2483 Filed 1-24-79; 8:45 am]

[4830-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7591]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Source of Income of certain dividends from a DISC

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the source of income of certain dividends from a

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domestic international sales corporation (DISC). Changes to the applicable law were made by the Tax Reform Act of 1976. These regulations provide the public with the guidance needed to comply with that Act. The regulations affect all DISCs and all taxpayers who are shareholders of DISCs.

DATE: The regulations are effective generally for taxable years beginning after December 31, 1975.

FOR FURTHER INFORMATION CONTACT:

Diane L. Renfroe of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 29, 1978, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 861 (a) (2) (D) of the Internal Revenue Code of 1954 (43 FR 38599) relating to the source of income of certain DISC dividends. These amendments were proposed to conform the regulations to changes made by sections 1063, 1065, and 1101 of the Tax Reform Act of 1976 (90 Stat. 1525). One written comment on the proposed amendments was received. No public hearing was requested or held. The written comment suggested minor changes in the form of the proposed amendments but not in the substance. After consideration of this comment, these amendments are adopted by this Treasury decision.

THE TAX REFORM ACT OF 1976

The Tax Reform Act of 1976 (90 Stat. 1525) added two new categories of deemed distributions from a DISC to its shareholders and expanded a previously existing category. Under a new section 995 (b) (1) (D) 50 percent of the taxable income of a DISC attributable to military property is deemed to be distributed to its shareholders. Under a new section 995 (b) (1) (E) the taxable income of a DISC for the taxable year attributable to base period export gross receipts is also deemed to be distributed. Under section 995 (b) (1) (F) (ii) and (iii) illegal bribes and kickbacks, and amounts relating to an international boycott are now considered part of the deemed distribution under that section.

SINGLE RULE

These amendments revise paragraph (a) (5) (iii) (b) of § 1.861-3 to set forth a rule for determining the source of these new categories of deemed distributions. They provide one single rule for determining the source of income of deemed distributions under section 995 (b) (1) (D), (E), and (F).

RULES UNCHANGED

These amendments do not change the rules set forth in § 1.861-3 (a) (5) (i) for determining the source of income of deemed distributions under section 995 (b) (1) (A), (B), and (C). Nor do they change the rule set forth in § 1.861-3 (a) (5) (iv) for determining the source of income of dividends that reduce accumulated DISC income under § 1.996-3 (b) (3). These amendments move a definition from § 1.861-3 (a) (5) (iii) (*a*) to § 1.861-3 (a) (5) (ii) (c) in order to permit a more simple reference to the defined concept. The references to the concept are accordingly shortened each place they appear in § 1.861-3 (a) (5).

EXAMPLE ADDED

These amendments also add a comprehensive example of how the source of income of all deemed distributions under section 995 (b) (1) is determined.

DRAFTING INFORMATION

The principal author of this regulation is Diane L. Renfroe of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the proposed amendment to 26 CFR Part 1 as published in the FEDERAL REGISTER (43 FR 38599) on August 29, 1978, is adopted without change.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: January 15, 1979.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

The amendments to 26 CFR 1 are as follows:

Section 1.861-3 is amended as follows:

1. Paragraph (a)(5)(i)(*a*), (iii), and (v)(*b*) are revised.

2. Paragraph (a)(5)(ii) is amended by adding a new (c) preceding the flush material.

3. Paragraph (a)(5)(iv) is amended as follows:

a. (*a*) is amended by deleting "described in subdivision (iii)(*a*) of this subparagraph" and inserting the words "nonqualified export" between the words "is attributable to" and "taxable income".

b. The first sentence of (*b*) is amended by deleting "described in subdivision (iii)(*a*) of this subparagraph", inserting the words "nonqualified export" between the words "is attributable to" and "taxable income", deleting the word "such" that is between the words "attributable to" and "taxable income" and inserting in its place "nonqualified export".

4. Paragraph (a)(5)(vi) is amended as follows:

a. Example 1(a) is amended by deleting "giving rise to gross receipts which are not qualified export receipts" from the third sentence, inserting the words "nonqualified export" in that sentence between the words "and $1,000 of" and "taxable income", deleting "50 percent" from the last sentence and inserting in its place "$9,500/$19,000".

b. Example 1(b) is amended by deleting "had no taxable income described in subdivision (iii)(*a*) of this subparagraph." from the first sentence, inserting in its place "did not have any nonqualified export taxable income.", deleting "from transactions which gave rise to gross receipts which are not qualified export receipts (as described in subdivision (iii)(*a*) of this subparagraph)" from the last sentence, and inserting the words "nonqualified export" in the last sentence between the words "attributable to" and "taxable income".

c. Example (2) is amended by deleting the period at the end of the last sentence and inserting in its place "*i.e.*, $1,000×$9,500/($19,450-450).".

d. Example (3)(a) is amended by deleting "had no taxable income described in subdivision (iii)(*a*) of this subparagraph." from the third sentence, inserting in its place "did not have any nonqualified export taxable income.", deleting "described in subdivision (iii)(*a*) of this subparagraph" from the last sentence, and inserting the words "nonqualified export" in the last sentence between the words "attributable to" and "taxable income".

e. Example (3)(e) is amended by deleting "described in subdivision (iii)(*a*) of this subparagraph" from the flush material, and inserting "nonqualified export" in the flush material between the words "*i.e.*, $1,000—$587.50, of" and "taxable income."

f. A new Example (4) is added.

5. Paragraph (d) is amended by adding a sentence after the first sentence. The revised and added provisions read as follows:

§ 1.861-3 Dividends.

(a) *General.* • • •

(5) *Certain dividends from a DISC or former DISC.*—(i) *General rule.* A dividend described in this subparagraph is a dividend from a corporation that is a DISC or former DISC (as defined in section 992(a)) other than a dividend that—

(*a*) Is deemed paid by a DISC, for taxable years beginning before January 1, 1976, under section 995(b)(1)(D), and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F) to the extent provided in subdivision (iii) of this subparagraph or • • •

• • • • • •

(ii) *Definitions.* • • •

(c) "Nonqualified export taxable income" means the taxable income of a DISC from any transaction which gives rise to gross receipts (as defined in § 1.993-6) which are not qualified export receipts (as defined in § 1.993-1) other than a transaction giving rise to gain described in section 995(b)(1)(B) or (C). • • •

(iii) *Determination of source of income for deemed distributions, for taxable years beginning before January 1, 1976, under section 995(b)(1)(D) and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F).* (*a*) If for its taxable years a DISC does not have any nonqualified export taxable income, then for such year the entire amount treated, for taxable years beginning before January 1, 1976, under section 995(b)(1)(D) and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F) as a deemed distribution taxable as a dividend will be treated as gross income from sources without the United States.

(*b*) If for its taxable year a DISC has any nonqualified export taxable income, then for such year the portion of the amount treated, for taxable years beginning before January 1, 1976, under section 995(b)(1)(D) and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F) as a deemed distribution taxable as a dividend that will be treated as income from sources within the United States shall be equal to the amount of such nonqualified export taxable income multiplied by the following fraction. The numerator of the fraction is the sum of the amounts treated, for taxable years beginning before January 1, 1976, under section 995(b)(1)(D), and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F) as deemed distributions taxable as dividends. The denominator of the fraction is the taxable income of the DISC for the taxable year, reduced by the amounts treated under section 995(b)(1) (A), (B), and (C) as deemed distributions taxable as dividends. However, in no event shall the numerator exceed the denominator. The remainder of such dividend will be treated as gross income from sources without the United States.

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(v) *Special rules.* For purposes of subdivisions (iii) and (iv) of this subparagraph—

(*a*) • • •

(*b*) The portion of any deemed distribution taxable as a dividend, for taxable years beginning before January 1, 1976, under section 995(b)(1)(D) and for taxable years beginning after December 31, 1975, under section 995(b)(1) (D), (E), and (F) or amount under § 1.996-3(b)(3) (i) through (iv) that is treated as gross income from sources within the United States during the taxable year shall be considered to reduce the amount of nonqualified export taxable income as of the close of such year.

(vi) *Illustrations.* • • •

Example. (*4*). (a) Z is a corporation which uses the calendar year as its taxable year and which elects to be treated as a DISC beginning with 1972. W is its sole shareholder. At the end of the 1976 Z has previously taxed income of $12,000 and accumulated DISC income of $4,000, $900 of which is attributable to nonqualified export taxable income. In 1977, Z has $20,050 of taxable income from qualified export receipts, of which $550 is from gross income from producer's loans described in section 995(b)(1)(A); Z has $950 of taxable income giving rise to gross receipts which are not qualified export receipts, of which $450 is gain described in section 995(b)(1)(B). Of its total taxable income of $21,000 (which is equal to its earnings and profits for 1977), $1,000 is attributable to sales of military property. Z has an international boycott factor (determined under section 999) of .10, and made an illegal bribe (within the meaning of section 162(c)) of $1,265. The proportion which the amount of Z's adjusted base period export receipts bears to Z's export gross receipts for 1977 is .40 (see section 995(e)(1)). Z makes a deemed distribution taxable as a dividend of $1,000 under section 995(b)(1)(G) (relating to foreign investment attributable to producer's loans) and actual distributions of $32,000.

(b) The deemed distributions of $550 under section 995(b)(1)(A) and $450 under section 995(b)(1)(B) are treated in full under subdivision (i) of this subparagraph as gross income from sources within the United States.

(c) Under these facts, Z has also made the following deemed distributions taxable as dividends to W under the following subdivisions of section 995(b)(1):

(D)	$500, *i.e.*, ½×$1,000.
(E)	7,800, *i.e.*, .40×[$21,000-$(550+450+500)].
(F)(i)	5,850, *i.e.*, ½×[$21,000-$550+450+500+7,800)].
(ii)	585, *i.e.*, $5,850×.10
(iii)	1,265
Total	16,000

(d) The portion of the total amount of these deemed distributions ($16,000 that is treated under the subdivision (iii)(*b*) as gross income from sources within the United States is computed as follows:

(1) The amount of nonqualified export taxable income is $500, i.e., taxable income giving rise to gross receipts which are not qualified export receipts ($950) minus gain described in section 995(b)(1) (B) or (C) ($450).

(2) $500×($16,000/$[21,000-(550+450)]) =$400.

The remainder of these distributions, $15,600 ($16,000 minus $400), is treated under subdivision (iii)(*b*) of this subparagraph as gross income from sources without the United States.

(e) The earnings and profits accounts of Z at the end of 1977 are computed as follows:

	Total earnings and profits	Previously taxed income	Accumulated DISC income attributable to taxable income from transactions which give rise to gross receipts which— Are qualified export receipts	Are not qualified export receipts
(1) Balance: Jan. 1, 1977	$16,000	$12,000	$3,100	$900
(2) (Earnings and profits for 1977, before actual and sec. 995(b)(1)(G) distributions	21,000	17,000	3,900	[1]100
(3) Balance: Dec. 31, 1977	37,000	29,000	7,000	1,000
(4) Distribution under sec. 995(b)(1)(G)		1,000	(875)	[2](125)
(5) Balance	37,000	30,000	6,125	875
(6) Actual distribution	(32,000)	(30,000)	(1,750)	[3](250)
(7) Balance: Jan. 1, 1978	5,000		4,375	625

[1] The total of nonqualified export taxable income ($500) minus the portion of such income, under subdivision (iii)(*b*) of this subparagraph, deemed distributed pursuant to section 995(b)(1)(D), (E), and (F) ($400), as computed under (d)(2) of this example.

[2] Under subdivision (iv)(*b*) of this subparagraph, $1,000/$8,000×$1,000.

[3] Under subdivision (iv)(*b*) of this subparagraph, $1,000/$8,000×$2,000 (amount of actual distribution that reduces accumulated DISC income).

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(d) *Effective date.* • • • For purposes of paragraph (a)(5) of this section, any reference to a distribution taxable as a dividend under section 995(b)(1)(F) (ii) and (iii) for taxable years beginning after December 31, 1975, shall also constitute a reference to any distribution taxable as a dividend under section 995(b)(1)(F) (ii) and (iii) for taxable years beginning after November 30, 1975, but before January 1, 1976. • • •

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 79-2546 Filed 1-24-79; 8:45 am]

[4910-14-M]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-246]

PART 128—REGULATED NAVIGATION AREAS

Regulated Navigation Areas, Great Lakes

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes three seasonal Regulated Navigation Areas in the Great Lakes. In Grays Reef Passage the channel is subject to ice buildups in the winter so that a vessel, not escorted by an icebreaker, could easily become beset by ice and be forced aground. The potential for loss of life, loss of or damage to the vessel, and damage to the environment justifies empowering the Captain of the Port, Sault Ste. Marie to close this area to navigation when weather conditions indicate it is necessary. In the Mackinac Island and Bois Blanc Island Areas natural ice bridges form in waters linking the islands and the mainland while at the same time the ice on the lake prevents the use of small vessels for travel to and from the mainland. Consequently, the island residents depend on the ice bridges for access to the mainland. The passage of larger vessels through this area breaks up the ice bridges. This amendment empowers the Captain of the Port, Sault Ste. Marie to close these areas to navigation during appropriate times of the year.

EFFECTIVE DATE: This amendment is effective on February 28, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. D. W. Ziegfeld, U.S. Coast Guard, Office of Marine Environment and Systems, Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202) 426-1934.

SUPPLEMENTARY INFORMATION: On August 17, 1978, the Coast Guard published the proposed rule in the FEDERAL REGISTER (43 FR 36486). Interested persons were invited to submit comments on or before October 2, 1978. No comments were received. The proposal is therefore being adopted without change.

DRAFTING INFORMATION

The principal persons involved in drafting this Regulation are: Mr. D. W. Ziegfeld, Project Manager, Office of Marine Environment and Systems, and Lt. G. S. Karavitis, Project Attorney, Office of Chief Counsel.

The Coast Guard has evaluated this rule under the Department of Transportation Policies for improving Government Regulations published on March 8, 1978 (43 FR 9582). Because of the existence of alternative routes for navigation, minimal increase in cost to shipping interests is expected.

In consideration of the foregoing, a new § 128.901 is added to Part 128 of Title 33 of the Code of Federal Regulations to read as follows:

§ 128.901 Great Lakes Winter Navigation.

(a) *Lake Huron.* The following are Regulated Navigation Areas:

(1) The waters of Lake Huron known as South Channel between Bois Blanc Island and Cheboygan, Mich.; bounded by a line north from Cheboygan Crib Light (LL 1340) at latitude 45°39.8' N., longitude 84°27.6' W.; to Bois Blanc Island at latitude 45°43.7' N., longitude 84°27.6' W., and a line north from the mainland at latitude 45°43.0' N., longitude 84°35.5' W.; to the western tangent of Bois Blanc Island at latitude 45°48.7' N., longitude 84°35.5' W.

(2) The waters of Lake Huron between Mackinac Island and St. Ignace, Mich. bounded by a line east from St. Ignace Ferry light (LL-1387) at latitude 45°52.2' N., longitude 84°43.0' W.; to Mackinac Island at Latitude 45°52.2' N., longitude 84°39.0' W.; and a line east from the mainland at latitude 45°53.2' N., longitude 84°43.5' W.; to the northern tangent of Mackinac Island at latitude 45°53.2' N., longitude 84°38.8' W.

(b) *Lake Michigan.* The following is a Regulated Navigation Area. The waters of Lake Michigan known as Grays Reef Passage bounded by a line from Grays Reef Light (LL-2006) at latitude 45°46.0' N., longitude 85°09.2' W.; to White Shoals Light (LL-2003) at latitude 45°50.5' N., longitude 85°08.1' W.; to a point at latitude 45°49.2' N., longitude 85°04.8' W.; thence to a point at latitude 45°45.7' N., longitude 85°08.7' W.; thence to the point of beginning.

(c) *The regulations.* The Captain of the Port, Sault Ste. Marie, will close and open these regulated navigation areas as ice conditions dictate. Under normal seasonal conditions only one closing each winter and one opening each spring are anticipated. Prior to the closing or opening of these regulated navigation areas, the Captain of the Port must give interested parties, including both shipping interests and island residents, not less than 72 hours notice of the action. No vessel may navigate in a regulated navigation area which has been closed by the Captain of the Port. Under emergency conditions, the Captain of the Port may authorize specific vessels to navigate in a closed regulated navigation area.

(Sec. 2, Pub. L. 95-474, 92 Stat. 1471, 49 CFR 1.46(n)(4).)

J. B. HAYES,
Admiral, U.S. Coast Guard, Commandant.

JANUARY 18, 1979.

[FR Doc. 79-2632 Filed 1-24-79; 8:45 am]

[4910-14-M]

[CGD 11-79-01]

PART 165—SAFETY ZONES

Establishment of Safety Zone Around LPG Vessel Fern Valley in Los Angeles Harbor

AGENCY: Coast Guard DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard Safety Zone Regulations establishes a safety zone around the LPG Vessel Fern Valley during the period of its arrival, transit, mooring and cargo transfer of liquified petroleum gas in the waters of Los Angeles Harbor. This zone has been instituted to provide exceptional degree of safety and control for the duration of this operation from the estimated time of arrival on January 12, 1979 until approximately January 15, 1979.

EFFECTIVE DATE: This amendment becomes effective on January 12, 1979 and remains in effect until the vessel departs Los Angeles Harbor or until January 25, 1979, whichever is earlier.

For further information contact LTJG G. S. JOHNSON, Port Operations Officer, Captain of the Port, Los Angeles-Long Beach, 165 North Pico Avenue, Long Beach, CA 90802, (213) 590-2315.

SUPPLEMENTARY INFORMATION: This safety zone is being enforced by representatives of the Captain of the Port Los Angeles-Long Beach, California. In addition, the Captain of the Port will be assisted in enforcing this safety zone by the Los Angeles Harbor Department.

As provided in the General Safety Zone Regulations (33 CFR 165.20), no person or vessel may enter a safety zone unless authorized by the Captain of the Port or the District Commander. These General Regulations and other Regulations in 33 CFR Part 165 apply to the Safety Zone established for the navigable waters within one nautical mile of the LPG Vessel Fern Valley while it is anchored outside the middle breakwater or in Los Angeles Harbor, and within 100 yards when moored at Berth 120 LA Harbor.

An opportunity to comment on this safety zone as a proposed rule has not been provided and good cause exists for making the zone effective immediately. A determination has been made that to do otherwise would be both impracticable and contrary to the public interest. In view of the imminent arrival of the LPG Vessel Fern Valley there is not sufficient time to allow an opportunity for public comment or to provide for a delayed effective date. Following these administrative procedures would prevent timely establishment of the Safety Zone and, thus would thwart the purpose of the zone.

DRAFTING INFORMATION

The principal person involved in drafting this rule is: LTJG G. S. JOHNSON, Port Operations Officer, Captain of the Port Los Angeles-Long Beach, CA.

In consideration of the above, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a § 165.110 to read as follows:

§ 165.110 11th Coast Guard District.

(a) The navigable waters within one nautical mile of the LPG Vessel Fern Valley while it is anchored outside the middle breakwater in Los Angeles Harbor, or is transiting from Anchorage to Berth 120 Los Angeles Harbor, or departing from Berth 120 until clear of Los Angeles Harbor. Vessels moored or anchored may remain so during the transit of the LPG Vessel Fern Valley unless otherwise directed by the Captain of the Port Los Angeles-Long Beach or Los Angeles Harbor Department.

(b) The navigable waters within 100 yards of the LPG Vessel Fern Valley while the vessel is moored at Berth 120 Los Angeles, CA.

(Port and Tanker Safety Act of 1978, Sec. 101, 104, 86 Stat. 427 (33 U.S.C. 1221, 1224); 49 CFR 1.46(r)(4); 33 CFR 165.10.)

L. A. ONSTAD,
Lieutenant Commander, U.S. Coast Guard, Captain of the Port, Acting, Los Angeles-Long Beach.

JANUARY 11, 1979.

[FR Doc. 79-2671 Filed 1-24-79; 8:45 am]

[7710-12-M]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

SUBCHAPTER D—ORGANIZATION AND ADMINISTRATION

PART 224—GROUPS AND DEPARTMENTS

Organizational Changes; Correction

AGENCY: Postal Service.

ACTION: Final rule correction.

SUMMARY: This document corrects errors appearing on page 60275 of a document published in the Wednesday, December 27, 1978 issue of the FEDERAL REGISTER (43 FR 60274).

FOR FURTHER INFORMATION CONTACT:

Neva Watson, (202) 245-4642.

In FR Doc. 78—35893 appearing at page 60274 in the issue of Wednesday, December 27, 1978, make the following corrections:

1. On page 60275, in the first column, in the paragraph numbered "1.", in the amendatory language, "§ 224.1(c)(5)(i)" should read "§ 224.1(c)(4)(i)" and below, in the amendment, change "(5) • • •" to read "(4) • • •".

2. On page 60275, in the first column, in the paragraph numbered "2.", in the amendatory language, "§ 224.1(c)(5)(v)(B)" should read "§ 224.1(c)(4)(v)(B)" and below, in the amendment, change "(5) • • •" to read "(4) • • •".

W. ALLEN SANDERS,
Acting Deputy General Counsel.

[FR Doc. 79-2619 Filed 1-24-79; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FR 11044-1]

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Section 107 Attainment Status Designations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to revise, correct and elaborate on the contents of a March 3, 1978 FEDERAL REGISTER notice (43 FR 8962) which provided designations of the attainment status in relation to National Ambient Air Quality Standards for the State of New York, the State of New Jersey, the Commonwealth of Puerto Rico and the Territory of the Virgin Islands. The tables following this rulemaking indicate, on a state-by-state, pollutant-by-pollutant basis, the attainment status of every state, territory, or commonwealth in Region II. Publication of these designations fulfills the requirements of section 107(d) of the Clean Air Act, as amended.

DATE: Effective Date: January 25, 1979.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007. (212) 264-2517.

SUPPLEMENTARY INFORMATION: Section 107(d) of the Clean Air Act, as amended in August 1977, directed each state to submit to the Administrator of the Environmental Protection Agency (EPA) a list of the National Ambient Air Quality Standards attainment status designations for all areas within the state. EPA received such designations and promulgated the list of state designations, with necessary modifications, on March 3, 1978 (43 FR 8962). The states are now preparing revisions to their State Implementation Plans (SIPs) based on these promulgated designations.

Subsequent to the March 3, 1978 promulgation, the states administered by the Region II Office of EPA (New York, New Jersey, Puerto Rico and the Virgin Islands) requested that revision be made to these designations.

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These requests have been reviewed by the Regional Office and discussed with the states. The designations appearing in this notice are a result of this process.

This FEDERAL REGISTER notice indicates changes in the designation and changes in geographic boundaries for some areas. All changes in designation are either from "cannot be classified" to "better than national standards" or from "does not meet primary or secondary standards" to "better than national standards". Other changes include elaboration on the designations which appeared in the March 3, 1978 notice to include a more detailed description of geographic boundaries of areas, and correction to inadvertent omissions and errors. The discussion contained in this notice is addressed specifically to designations applicable to New York, New Jersey, Puerto Rico and the Virgin Islands. A more general discussion of the 107(d) designations is contained in the September 11, 1978 FEDERAL REGISTER (43 FR 40412).

Areas designated as "cannot be classified" will be subject to further study by the states and EPA to determine, in a timely manner, the actual status of those areas.

The following discussion addresses revisions to the March 3, 1978 designations:

NEW JERSEY

Total Suspended Particulates: The cities of Camden and Jersey City were originally designated on March 3, 1978 as not meeting both primary and secondary standards for total suspended particulates (TSP). They are now redesignated an "cannot be classified" for the primary standards. The nonattainment designation for the secondary standard remains unchanged. EPA's decision to change these designations is based on a request by the State of New Jersey which cited results of a special monitoring study conducted by the State Department of Environmental Protection (NJDEP) and EPA monitoring site inspection reports. In its monitoring study, NJDEP established additional monitors adjacent to the original ones in Camden and Jersey City. Filters used for sample collection at the "new" sites were changed immediately before and after each sampling day. The original monitors were serviced as usual, with the filters being changed approximately every sixth day, thus experiencing additional exposure during non-operational periods.

In Camden, results of the monitoring study indicate potential attainment of the primary standards. In the first six months of this study, the less frequently serviced monitor (replaced every 6 days) recorded a geometric mean concentration of 84.1 ug/m³. The more frequently serviced monitor (filters changed immediately before and after sampling) indicated a geometric mean concentration of 68.5 ug/m³. The resulting difference in concentration of 15.6 ug/m³ is substantial, indicating that much of the material on the filters was collected during periods when the monitor was not operating.

Furthermore, the State reported to EPA that the Camden site was unduly influenced by construction and demolition activities since 1975. EPA has conducted an inspection of the monitoring site and found that the site is not well situated. EPA's redesignation of Camden as "cannot be classified" for the primary standards is made in view of these factors.

In the case of Jersey City, the result of the specially operated monitor showed a 7.8 ug/m³ decrease in concentration. In addition, this monitoring site is also not well situated. An EPA monitoring site inspection report indicates that the monitor is located too close to a section of the New Jersey Turnpike, causing it to be unduly influenced by the emissions from this roadway. Again, in view of these factors, EPA believes that a primary standard designation of "cannot be classified" is applicable until further studies are completed.

CARBON MONOXIDE

The City of Wildwood is redesignated as "cannot be classified." The designation of this area as "does not meet primary standards," as appeared in the March 3, 1978 FEDERAL REGISTER, was a typographical error.

In the State's original submission to EPA, a distinction was made between areas classified as "cannot be classified" and areas classified as "better than national standards." The charts which appeared in the March 3, 1978 FEDERAL REGISTER did not provide for this distinction. In addition to the City of Wildwood in the Intrastate Air Quality Contol Region, the areas which "cannot be classified" are listed below:

NEW JERSEY-NEW YORK-CONNECTICUT INTERSTATE AIR QUALITY CONTROL REGION

PASSAIC COUNTY

The City of Clifton
The City of Passaic
The Borough of Hawthorne
The Borough of North Haledon
The Borough of Haledon
The Borough of Prospect Park
The Borough of Totowa
The Borough of West Paterson
The Township of Little Falls

BERGEN COUNTY

The Borough of Elmwood Park
The Township of Saddle Brook
The Township of Rochelle Park
The Borough of Maywood
The Township of Teaneck

BERGEN COUNTY—Continued

The City of Englewood
The Borough of Englewood Cliffs
The Borough of Fort Lee
The Borough of Leonia
The Borough of Bogota
The Township of South Hackensack
The Borough of Teterboro
The Borough of Hasbrouck Heights
The Borough of Lodi
The City of Garfield
The Borough of Wallington
The Borough of Wood-Ridge
The Borough of Moonachie
The Borough of Little Ferry
The Township of Ridgefield Park
The Borough of Palisades Park
The Borough of Edgewater
The Borough of Cliffside Park
The Borough of Fairview
The Borough of Ridgefield
The Borough of Carlstadt
The Borough of East Rutherford
The Borough of Rutherford
The Township of Lyndhurst
The Borough of North Arlington

HUDSON COUNTY

Hudson County (except Jersey City)

ESSEX COUNTY

The Town of Bloomfield
The City of East Orange
The City of Orange
The Village of South Orange
The Township of Maplewood
The Town of Nutley
The Town of Belleville
The Town of Irvington

UNION COUNTY

The City of Plainfield
The Township of Union
The Borough of Kenilworth
The Township of Cranford
The Township of Clark
The Township of Hillside
The Borough of Roselle Park
The Borough of Roselle
The Township of Winfield
The City of Linden
The City of Rahway

MIDDLESEX COUNTY

The City of South Amboy
The City of New Brunswick
The Borough of Highland Park

METROPOLITAN PHILADELPHIA INTERSTATE AIR QUALITY CONTROL REGION

CAMDEN COUNTY

The City of Gloucester
The Borough of Collingswood

NEW YORK STATE

Total Suspended Particulates: At the request of the State of New York, several areas in the Niagara Frontier Air Quality Control Region and one area in the Hudson Valley Air Quality Control Region are redesignated.

In the Niagara Frontier AQCR, portions of the Buffalo waterfront, originally designated as "cannot be classified" for the primary and secondary standards are redesignated as "better than national standards". Also in the Niagara Frontier AQCR, the eastern portion of the Towns of Cheektowaga and West Seneca and the Town of Amherst have been changed from "cannot be classified" for the secondary standard to "better than national standards" for the secondary standard. In these areas there were no contraventions of the 24-hour or annual primary or secondary standards for 1977. However, in the eastern portion of Cheektowaga, the annual secondary guideline of 60 ug/m³ was exceeded slightly (61 ug/m³).

The Village of Hoosick Falls in the Hudson Valley AQCR is changed from "does not meet secondary standards" to "better than national standards". This area has only experienced two minor contraventions (151 ug/m³ and 153 ug/m³) of the 24-hour secondary standard over the past two years. The annual geometric mean concentration was 45 ug/m³ during 1977. The monitoring site is located near an unpaved parking lot which is suspected of contributing fugitive dust to the monitoring site. Hoosick Falls has a population of less than 4,000 and does not have any significant industrial particulate emissions. Thus, the marginal air quality problem is classified as being due to "rural fugitive dust". EPA policy does not require such areas to be classified as nonattainment.

Sulfur Dioxide: The cities of Buffalo (except the southwest portion) and Lackawanna (east of South Park Avenue) are changed from a classification of "cannot be classified" to "better than national standards". Examination of the most recent air quality data (1977) show that there are no contraventions of the sulfur dioxide standards in these areas.

Carbon Monoxide: The State requested that EPA concur with its original request to redesignate as "cannot be classified" all urbanized areas which were designated as "does not meet primary standards" in the March 3, 1978 FEDERAL REGISTER. However, no additional data has been presented by the State to support its request. Based on the EPA's original review of existing air quality data and transportation data, the designations for these areas remain unchanged.

THE VIRGIN ISLANDS

Total Suspended Particulates: The designation of the southern industrial complex in St. Croix is changed from "does not meet primary or secondary standards" to "cannot be classified". Recent air quality data show the area to be attaining the primary standards. Marginal attainment of the secondary standard is also evident. However, the data EPA has received covers only a few months of sampling, which is insufficient to redesignate this area as attainment at this time. Rather than require the Virgin Islands to prepare a SIP revision, which is costly and time consuming, EPA is redesignating the southern St. Croix area as "cannot be classified" until further studies can be completed.

PUERTO RICO

Total Suspended Particulates: At the request of the Commonwealth of Puerto Rico, the designation for the northern part of Bayamon is changed by adding the classification of "does not meet primary standards" to the current classification of "does not meet secondary standards". The tables accompanying this FEDERAL REGISTER notice reflect the inclusion of the northern part of Bayamon as being contained in the Catano Air Basin (newly defined) as well as the portions of the municipalities of Catano, Toa Baja, and Guaynabo designated as "does not meet primary or secondary standards" in the March 3, 1978 FEDERAL REGISTER. The change in designation for the northern part of Bayamon has been made for the sake of consistency and is based on modeling results which show nonattainment problems in the northern part of Bayamon.

The designation for the municipality of Mayaguez has been changed from "cannot be classified" to "better than national standards" on the basis of air quality dispersion modeling results.

The boundaries of the Guayanilla Air Basin (newly defined) have been defined as containing the parts of the municipalities of Guayanilla and Penuelas designated as "does not meet secondary standards".

Sulfur Dioxide: The "cannot be classified" designation for San Juan is changed to "better than national standards" and the Catano Air Basin (newly defined) is designated as "cannot be classified". This is based on a review of modeling results by EPA and subsequent discussion and agreement with the Puerto Rico Environmental Quality Board.

Carbon Monoxide: Since the charts which appeared in the March 3, 1978 FEDERAL REGISTER made no distinction between areas classified as "cannot be classified" and areas classified as "better than national standards", those areas that are classified as "cannot be classified" are listed below:

San Juan Metropolitan Urban Area
Ponce Metropolitan Urban Area

Photochemical Oxidants: For the sake of clarification, since the charts which appeared in the March 3, 1978 FEDERAL REGISTER made no distinction between "cannot be classified" and "better than national standards" designations, the entire Puerto Rico AQCR is classified as "better than national standards".

Boundaries of Selected Nonattainment Areas.—Because the geographical boundary descriptions of areas in Puerto Rico are lengthy, the area descriptions appear here rather than on the accompanying tables.

Guayanilla Air Basin

The southwest corner of the air basin is located at the point where the line separating the municipalities of Yauco and Guayanilla terminates at the coastline adjacent to the Bahia de la Ballina, thence northerly along said line to the intersection of Route #2, thence easterly along Route #2 to the intersection of Route 132, thence northerly on Route 132 for a distance of two kilometers, thence in an easterly direction parallel to and two kilometers north of Route #2 until the line separating Penuelas and Ponce municipalities is reached, thence in a southerly direction along the line separating Penuelas and Ponce municipalities to the coastline, thence westerly along the coastline to the point and place of origin (southwest corner).

Catano Air Basin

Starting at the northerly point of the line separating San Juan municipality and Guaynabo municipality where it intersects with Bahia de San Juan, proceed in a southerly direction along said line until a point is reached in said line which is 1 kilometer north of Route #2, thence along a line which is one kilometer north and parallel to Route #2 in a westerly direction to its intersection with Route 872, thence north on Route 872 to the line which separates the municipalities of Toa Baja and Bayamon (Rio Honda), thence north along this line to the point where the confluence of Rio Honda and Rio de Bayamon departs from the line separating the two municipalities, thence north from this point of departure along the waterway to the Ensenada de Boca Vieja, thence easterly along the coastline to the point of origin.

Ponce Metropolitan Urban Area

The Ponce Metropolitan Urban Area is defined as that area which is included within the line which is identified as the limit of the area of zoning and the coastline.

San Juan Metropolitan Urban Area

Starting at the Bahia de San Juan where the line separating the municipalities of Catano and Guaynabo intersects the coastline, thence southerly along said line until it intersects the line separating the municipalities of Catano and Bayamon, thence westerly along the line separating the municipalities of Catano and Bayamon until it intersects the line separating the municipalities of Toa Baja and Bayamon, thence southerly along the line separating the municipalities of Toa

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Baja and Bayamon until it intersects with the line separating the municipalities of Bayamon and Toa Alta, thence southerly along the line separating the municipalities of Bayamon and Toa Alta, until the area known as Van Scoy is reached, thence easterly along a line which is south of the areas known as Bella Vista, Cana, Monte Bello and Irlanda Heights until the line separating the municipalities of Bayamon and Guaynabo is reached, thence northerly and easterly along the line separating the municipalities of Bayamon and Guaynabo until the area known as Villa Marista is reached, thence southerly along a line which is west of the areas known as Lisette Torremolinos, Munoz Rivera, Ponce de Leon, El Alamo Guaynabo, Colimal, Colinas de Guaynabo, thence easterly along a line which is south of the areas known as Colinas de Guaynabo, Arbona, Los Choferes and Fairview until the line separating the municipalities of San Juan and Trujillo Alto is reached, thence north and east along the line separating the municipalities of San Juan and Trujillo Alto until it intersects the line separating the municipalities of Trujillo Alto and Carolina thence southerly along the line separating the municipalities of Trujillo Alto and Carolina for approximately two kilometers, thence in an easterly direction along a line which is south of the areas known as Carolina Alta, Jardines de Carolina, and Victoria Industrial Park until the area known as Lomas de Carolina is reached, thence northerly along a line which is east of the areas known as Carolina, Rosa Maria, Jose S. Quinones, Hoyo Mulas, Villa Cooperativa, Sabana Gardens, Jardines de Country Club, Vistimar and the International Airport until the coastline is reached at the Boca de Cangrejos, thence along the coast line to the point and place of origin.

NOTE: The Environmental Protection Agency has determined that this document is not a significant regulation and does not require preparation of a regulatory Analysis under Executive Order 12044.

(Secs. 107(d), 171(2), 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d), 7501(2), 7601(a)))

Dated: January 18, 1979.

DOUGLAS M. COSTLE,
Administrator,
Environmental Protection Agency.

Part 81 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

* * * * *

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New Jersey - SO_2

Designated Area	Does not meet Primary Standards	Does not meet Secondary Standards	Cannot Be Classified	Better Than National Standards
New Jersey-New York-Connecticut Interstate AQCR				X
Metropolitan Philadelphia Interstate AQCR				X
New Jersey Intrastate AQCR				X
Northeast Pennsylvania-Upper Delaware Valley Interstate AQCR				X

[6560-01-C]

In §81.331, the attainment status designation table for TSP is revised to read as follows:

New Jersey - TSP

Designated Area	Does not meet Primary Standards	Does not meet Secondary Standards	Cannot Be Classified	Better Than National Standards
New Jersey-New York-Connecticut Interstate AQCR				
The City of Jersey City		X	X	
Remainder of Hudson County		X		
The City of Newark (east of the Garden State Pkwy.)		X		
The City of Elizabeth		X		
The City of Linden		X		
The Borough of Carteret		X		
The Township of Woodbridge		X		
The City of Perth Amboy		X		
Remainder of AQCR				X
Metropolitan Philadelphia Interstate AQCR				
The City of Camden		X	X	
Remainder of AQCR				X
New Jersey Intrastate AQCR				
The City of Bridgeton		X		
Remainder of AQCR				X
Northeast Pennsylvania-Upper Delaware Valley Interstate AQCR				

In §81.331, the attainment status designation table for CO is revised to read as follows:

New Jersey - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
New Jersey-New York-Connecticut Interstate AQCR		
The City of Paterson	X	
The City of Hackensack	X	
The City of Jersey City	X	
The City of Newark	X	
The City of Elizabeth	X	
The Town of Morristown	X	
The City of Perth Amboy	X	
The Borough of Somerville	X	
The City of Asbury Park	X	
The Borough of Freehold	X	
Remainder of AQCR		X
Metropolitan Philadelphia Interstate AQCR		
The City of Trenton	X	
The City of Burlington	X	
The City of Camden	X	
The Borough of Penns Grove	X	
Remainder of AQCR		X
New Jersey Intrastate AQCR		
The City of Atlantic City	X	
Toms River (portion of Dover Township)	X	
Remainder of AQCR		X
Northeast Pennsylvania-Upper Delaware Valley Interstate AQCR		X

New Jersey - OXIDANTS

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
New Jersey-New York-Connecticut Interstate AQCR	X	
Metropolitan Philadelphia Interstate AQCR	X	
New Jersey Intrastate AQCR	X	
Northeast Pennsylvania-Upper Delaware Valley Interstate AQCR	X	

New Jersey - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
New Jersey-New York-Connecticut Interstate AQCR		X
Metropolitan Philadelphia Interstate AQCR		X
New Jersey Intrastate AQCR		X
Northeast Pennsylvania-Upper Delaware Interstate AQCR		X

In §81.333, the attainment status designation table for TSP is revised to read as follows:

New York State - TSP

Designated Area	Does not meet Primary Standards	Does not meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Niagara Frontier AQCR				
The City of Buffalo(south of I-190;except an area one-half mile inland and parallel to Fuhrman Blvd. between I-190 and Tifft Street).	X			
The City of Buffalo(south of I-190;except an area one-quarter mile inland and parallel to Fuhrman Blvd. between I-190 and Tifft Street).		X		
The City of Lackawanna	X	X		
The City of Tonawanda (west of Military Road)		X	X	
The City of Tonawanda (east of Military Road)			X	
The Town of Tonawanda (west of Military Road)		X	X	
The Town of Tonawanda (eastof Military Road)			X	
The City of Niagara Falls (south of Pine Ave., east of Hyde Park Blvd., and west of I-190)	X			
The City of Niagara Falls		X		
The Town of Niagara		X		

New York State - TSP (continued)

Designated Area	Does not meet Primary Standards	Does not meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Niagara Frontier (cont.)				
The City of North Tonawanda		X		
The Village of Blasdell		X		
The Town of Cheektowaga (west of Union Road)		X		
The Town of West Seneca (west of Union Road)		X		
The City of Lockport		X		
Remainder of AQCR				X
Genesee-Finger Lakes AQCR				X
Southern Tier West AQCR				
The City of Jamestown		X		
Remainder of AQCR				X
Southern Tier East AQCR				X
Central AQCR				
The City of Syracuse (south of I-690, north of Rte. 5, east of I-81, and west of Teale Ave.)	X			

New York State - TSP (continued)

Designated Area	Does not meet Primary Standards	Does not meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Central AQCR (cont.)				
The City of Syracuse		X		
The Village of East Syracuse		X		
The Village of Solvay		X		
Remainder of AQCR				X
Northern (Champlain Valley) AQCR				X
Hudson Valley AQCR				
The City of Albany (east of Rts. 9 and 9W)		X		
The Town of Catskill (east of Rte. 9W, except Catskill Village)		X		
Remainder of AQCR				X
New Jersey-New York-Connecticut Interstate AQCR				
The Borough of Manhattan		X	X*	
The Boroughs of the Bronx, Brooklyn, and Queens, (south of the Cross Bronx Expressway, west of the Hutchinson River Parkway and Bronx-Whitestone Bridge, west of the Whitestone Expressway, west of the Van Wyck Expressway, north of		X	X*	

* EPA designation replaces state designation.

New York State - TSP (continued)

Designated Area	Does not meet Primary Standards	Does not meet Secondary Standards	Cannot Be Classified	Better Than National Standards
New Jersey-New York-Connecticut Interstate (cont.)				
the Southern Parkway, north of Conduit Blvd., north of Linden Blvd., north of Caton Ave., north of the Ft. Hamilton Parkway, and north of 39th Street)				
The Borough of Staten Island (south of I-278, west of Richmond Ave., and north of Arthur Kill Road as far west as Rossville Ave.)		X		
Remainder of AQCR				X

In §81.333, the attainment status designation table for SO_2 is revised to read as follows:

New York State - SO_2

Designated Area	Does not meet Primary Standards	Does not meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Niagara Frontier AQCR				
The City of Buffalo (an area bounded on the north by Tifft Street, on the east by Hopkins Street, on the south by the City of Lackawanna and on the west by Lake Erie)	X			
The City of Lackawanna (west of South Park Avenue)	X			
Remainder of AQCR				X
Genesee-Finger Lakes AQCR				X
Southern Tier West				X
The Town of Corning			X*	
Remainder of AQCR				X
Southern Tier East AQCR				
The Town of Bainbridge			X*	
Remainder of AQCR				X
Central AQCR				X
Northern (Champlain Valley) AQCR				X

* EPA designation replaces state designation

New York State SO_2 (continued)

Designated Area	Does not meet Primary Standards	Does not meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Hudson Valley AQCR				X
New Jersey-New York-Connecticut Interstate AQCR				
The Borough of Manhattan (except between 59th and 125th Sts.)			X	
The Boroughs of Brooklyn and Queens (south of the Queensborough Bridge and Queens Blvd., west of 44th St., west of I-278, and north of the Brooklyn Bridge.)			X	
The Borough of the Bronx (south of I-95 and west of I-278)			X	
Remainder of AQCR				X

New York State - CO

Designated Areas	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Niagara Frontier AQCR		
The City of Buffalo (north of the Buffalo River, Michigan Ave., and Broadway)	X*	
The Town of Cheektowaga (west of Rte. 277)	X*	
The Town of Amherst (south and west of Ellicott Creek and west of Rte. 277)	X*	
Remainder of AQCR		X
Genesee-Finger Lakes AQCR		
Monroe County (inside the area bounded by the Seabreeze Expressway, I-490, Elmwood Ave., Scottsville Road, Paul Road, Behan Road, Harvard Street, I-490, Mt. Read Blvd., (as far north as Stone Road), a straight line to the intersection of St. Paul Blvd. and Titus Avenue, and Titus Avenue)	X*	
Remainder of AQCR		X
Southern Tier West AQCR		X
Southern Tier East AQCR		X
Central AQCR		
The City of Syracuse (an area bounded by No. Salina St., Kirkpatrick St., Lodi St., Butternut St., Park St., DeWitt St., Sedgwick St., Robinson St., Sherwood Ave., Burnet Ave., the City line, East Genesee St., Basset St., Madison St., Comstock Ave., Jamesville Ave., the City Line,	X*	

*EPA designation replaces state designation

New York State - CO (continued)

Designated Areas	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Central AQCR (cont.)		
Erie-Lackawanna Railroad tracks, Glen Ave., I-81, Rte. 173, the City line, South Ave., Onondaga Ave., Bellevue Ave., Geddes St., I-690, Rte. 298, I-81, and Wolf St.)		
Remainder of AQCR		X
Northern (Champlain Valley) AQCR		X
Hudson Valley AQCR		X
The City of Troy	X*	
The Town of Waterford	X*	
The City of Watervliet	X*	
The City of Albany (east of Fuller Rd.)	X*	
The Town of Colonie (inside an area bounded by Sand Creek Road, Wolf Road, Railroad Ave., and Fuller Road).	X*	
The City of Schenectady	X*	
Remainder of AQCR		X
New Jersey-New York-Connecticut Interstate AQCR		
The Borough of Manhattan (midtown: south of 60th St. and north of 30th St., exclusive of the West Side Highway and areas west, and FDR Drive and areas east; and downtown: south of Canal St., exclusive of the West Side Highway and areas west, and FDR Drive and areas east).	X	

* EPA designation replaces state designation

New York State - CO (continued)

Designated Areas	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
New Jersey-New York-Connecticut Interstate AQCR (cont.)		
The Borough of Manhattan (remainder)	X*	
The Borough of Staten Island	X*	
The Borough of Queens	X*	
The Borough of Brooklyn	X*	
The Borough of the Bronx	X*	
The City of Yonkers	X*	
The City of Mt. Vernon	X*	
Nassau County (south of the Long Island Expressway, west of the Oyster Bay Expressway, and north of the Southern State Parkway).	X*	
Remainder of AQCR		X

New York State - OXIDANTS

Designated Areas	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Niagara Frontier AQCR	X	
Genesee-Finger Lakes AQCR	X	
Southern Tier West AQCR	X	
Southern Tier East AQCR	X	
Central AQCR	X	
Northern (Chamaplain Valley) AQCR	X	
Hudson Valley AQCR	X	
New Jersey-New York-Connecticut Interstate AQCR	X	

New York State - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot BE Classified or Better Than National Standards
Niagara Frontier AQCR		X
Genesee-Finger Lakes AQCR		X
Southern Tier West AQCR		X
Southern Tier East AQCR		X
Central AQCR		X
Northern (Champlain Valley) AQCR		X
Hudson Valley AQCR		X
New Jersey-New York-Connecticut Interstate AQCR		X

In §81.355, the attainment status designation table for TSP is revised to read as follows:

Puerto Rico - TSP

Designated Area	Does not meet Primary Standards	Does not meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Catano Air Basin**	X	X		
Guayanilla Air Basin**		X		
Municipality of Dorado			X	
Municipality of Ponce			X	
Remainder of AQCR				X

** Geographic boundary is described in the text.

In §81.355, the attainment status designation table for SO_2 is revised to read as follows:

Puerto Rico - SO_2

Designated Area	Does not meet Primary Standards	Does not meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Catano Air Basin**			X	
Remainder of AQCR				X

** Geographic boundary is described in the text.

Puerto Rico - CO

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Puerto Rico AQCR		X

Puerto Rico - OXIDANTS

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Puerto Rico AQCR		X

Puerto Rico - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than National Standards
Puerto Rico AQCR		X

In §81.356, the attainment status designation table for TSP is revised to read as follows:

Virgin Islands - TSP

Designated Area	Does not meet Primary Standards	Does not meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Virgin Islands AQCR				
St. Croix (an area bounded on the west by 64°48' W longitude; on the east by 64°43' W longitude; on the north by 17°44' N latitude; and on the south by the Krause Lagoon, Limetree Bay, and the Canegarden Bay.			X	
Remainder of AQCR				X

Virgin Islands - SO_2

Designated Area	Does not meet Primary Standards	Does not meet Secondary Standards	Cannot Be Classified	Better Than National Standards
Virgin Islands AQCR				
St. Croix (southern) Remainder of AQCR			X*	X

* EPA designation replaces state designation

Virgin Islands - CO

Designated Area	Better Than Primary Standards	Cannot Be Classified or Better Than National Standards
Virgin Islands AQCR		X

Virgin Islands - OXIDANTS

Designated Area	Better Than Primary Standards	Cannot Be Classified or Better Than National Standards
Virgin Islands AQCR		X

Virgin Islands - NO_2

Designated Area	Better Than Primary Standards	Cannot Be Classified or Better Than National Standards
Virgin Islands AQCR		X

[FR Doc. 79-2576 Filed 1-24-79; 8:45 am]

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[6560-01-M]

SUBCHAPTER E—PESTICIDE PROGRAMS

[PP 6E1809/R193; FRL 1044-8]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Glyphosate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide glyphosate on coffee beans. The regulation was requested by Monsanto Co. This rule establishes a maximum permissible level for residues of glyphosate on coffee beans.

EFFECTIVE DATE: January 25, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202/755-7013).

SUPPLEMENTARY INFORMATION: On December 5, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 57003) in response to a petition (PP 6E1809) submitted to the Agency by Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166. This petition proposed that 40 CFR 180.364 be amended by the establishment of a tolerance for combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodity coffee beans at 1 part per million (ppm). No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.364 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before February 26, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, 401 M St., SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on January 25, 1979, Part 180, Subpart C, § 180.364 is amended by adding a tolerance for residues of glyphosate on coffee beans at 1 ppm as set forth below.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)])

Dated: January 22, 1979.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.364 is amended by alphabetically inserting coffee beans at 1 ppm in the table to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

Commodity:	Parts per million
Coffee beans	1

[FR Doc. 79-2677 Filed 1-24-79; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 78-140; RM-3019]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Fairbanks, Alaska; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: First report and order.

SUMMARY: This action assigns a third non-reserved FM channel to Fairbanks, Alaska. This community has shown substantial growth in recent years and a need for additional FM service. This action was initiated by a petition filed by Interior Broadcasting Corporation.

EFFECTIVE DATE: March 5, 1979.

ADDRESS: Federal Communications Commission, Washington, D. C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION: A separate request for a fourth non-reserved FM assignment was denied but the Commission indicated a willingness to review this matter at a later time.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Fairbanks and North Pole,[1] Alaska; *First Report and Order* (proceeding terminated).

Adopted: January 17, 1979.

Released: January 19, 1979.

By the Chief, Broadcast Bureau:

1. Before the Commission is the *Notice of Proposed Rule Making*, 43 FR 18574, released May 2, 1978, proposing the assignment of Channel 273 to Fairbanks, Alaska, as its fourth FM channel assignment. Comments were filed by petitioner, Interior Broadcasting Corporation ("Interior") and by Prime Time of Alaska, Inc. ("Prime Time"). Reply comments were received from Interior.

2. Fairbanks (pop. 14,771 [2]) is part of the Fairbanks Census Division (pop. 45,864) in central Alaska. It has three AM stations and one noncommercial educational FM station (Station KUAC). There are two other FM channels assigned to Fairbanks—one is used at North Pole, Alaska (Station KJNP), under the 15-mile rule.[3] The other channel has a pending application (BPH-9530).

3. In response to the *Notice* both Interior and Prime Time state that they support the proposal and would apply for the channel if assigned. In addition, Prime Time urges the assignment of an additional Class C FM channel (Channel 278) to Fairbanks in order to eliminate having two applicants for one channel assignment. No additional information is supplied concerning the need for such an assignment.

4. As for the Channel 273 request for a second commercial FM service at Fairbanks, we find that sufficient justification has been provided. As stated in the *Notice*, Fairbanks has doubled in population since 1970, to become the second largest city in the State. Although the proposal represents a fourth channel assignment which would exceed our population criteria for communities under 50,000, we do not normally take into account reserved noncommercial educational assignments or channels used in other communities pursuant to § 73.203(b). Accordingly, we would recognize the proposal as a second FM assignment falling within the Commission's standard. We also note that due to the scarcity of populated areas near Fairbanks, the preclusive impact is minimal. In addition, the need for service at Fairbanks is enhanced by the lack of outside services received.

5. We do not believe it would be appropriate to grant the request of Prime Time for a third commercial assignment for Fairbanks. The Commission's policy has been that a channel will not be assigned in an effort to avoid a comparative hearing. Rather, a separate showing of need for such channel must be provided. It has not been provided in this case and such information as is available does not now support the making of two additional assignments. The Commission would be ready to reexamine matters when and if the facts warrant. In the meantime, the request will be denied.

6. Finally, we intend to amend the FM Table of Assignments to reflect the use of Channel 262 at North Pole, Alaska, by reassigning the channel from Fairbanks to North Pole. That action must await Canadian concurrence and will be considered at a later date.

7. Canadian concurrence in the Fairbanks proposal has been obtained.

8. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules and Regulations, *It is ordered*, That effective March 5, 1979, the FM Table of Assignments (§ 73.202(b) of the Rules) is amended with respect to the following city:

City and Channel No.
Fairbanks, Alaska, 262, 266, 273, 284.

9. *It is further ordered*, That the request of Prime Time for assignment of Channel 278 to Fairbanks, Alaska, is denied.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 79-2620 Filed 1-24-79; 8:45 am]

[1] This community has been added to the caption.

[2] Population figures are taken from the 1970 Census.

[3] Under § 73.203(b), assigned channels may be used at other communities not listed in the FM Table of Assignments if within 10 miles (for Class A channels) or 15 miles (for Class B or C channels) of the community to which the requested channel is assigned.

[4910-59-M]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-7; Notice 4]

PART 573—DEFECT AND NONCOMPLIANCE REPORTS

Equipment Manufacturers' Delay of Effective Date

NOTE.—This document originally appeared in the FEDERAL REGISTER for Wednesday, January 24, 1979. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See OFR notice 41 FR 32914, August 6, 1976.)

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Delay of effective date.

SUMMARY: This notice amends the effective date for the implementation of amendments to Part 573, *Defect and Noncompliance Reports*, extending its application to equipment manufacturers. The final rule on the Part 573 amendment was published on December 26, 1978 (43 FR 60165), and established an effective date of January 25, 1979. This effective date has proven, however, insufficient to complete the process of interdepartmental review of the amendment. Further, some equipment manufacturers may wish to petition for reconsideration of the amendment. Since such petitions can be received up to 30 days after publication of the regulation in the FEDERAL REGISTER and since this regulation is scheduled to become effective 30 days after publication, there may be insufficient time before that date to consider fully petitions, if any are received. For these reasons, the NHTSA extends the effective date to March 1, 1979.

This amendment is being adopted without notice and public procedure because of the impending effective date of the Part 573 amendments. Since the amendment will otherwise become effective on January 25, the agency concludes that notice and public procedure are impracticable and not in the public interest.

EFFECTIVE DATE: This amendment is effective immediately changing the December 26, 1978, FEDERAL REGISTER notice to state that Part 573 is effective on March 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. James Murray, Office of Defects Investigation, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-2840)

(Secs. 108, 112, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1397, 1401, 1407); secs. 102, 103, 104, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1397, 1401, 1408, 1411-1420); delegation of authority at 49 CFR 1.50)

Issued on January 18, 1979.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 79-2486 Filed 1-19-79; 4:05 pm]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1353]

PART 1033—CAR SERVICE

Chicago and North Western Transportation Co., Authorized To Operate Over Tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Co. at Oshkosh, Wis.

JANUARY 22, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1353).

SUMMARY: The lines of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) serving Oshkosh, Wisconsin, are inoperable because of heavy snow at this location, which is depriving industries located adjacent to the MILW tracks at this location of railroad service. Service Order No. 1353 authorizes the Chicago and North Western Transportation Company to operate over tracks of the MILW in Oshkosh in order to restore railroad service to these shippers.

DATES: Effective 4:00 p.m., January 19, 1979. Expires 11:59 p.m., January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

Decided: January 19, 1979.

The lines of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) serving Oshkosh, Wisconsin, have become inoperable because of heavy snow. Numerous ship-

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pers located adjacent to the tracks of the MILW have been deprived of essential railroad service because of the inability of the MILW to switch the industries at Oshkosh. The Chicago and North Western Transportation Company (CNW) has agreed to operate over the tracks of the MILW at Oshkosh in order to restore essential railroad service to these shippers. The MILW has consented to such use of its tracks by the CNW.

It is the opinion of the Commission that an emergency exists requiring the operation of CNW trains over these tracks of the MILW in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1353 Service Order No. 1353.

(a) *Chicago and North Western Transportation Company Authorized To Operate Over Tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Oshkosh, Wisconsin.* The Chicago and North Western Transportation Company (CNW) is authorized to operate over tracks of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) at Oshkosh, Wisconsin, for the purpose of serving industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the CNW over tracks of the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved by the CNW over the tracks of the MILW shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective 4:00 p.m., January 19, 1979.

(e) *Expiration date.* The provision of this order shall expire at 11:59 p.m., January 31, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-2672 Filed 1-24-79; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 929]

HANDLING OF CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Proposed Amendment of Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The proposed action is designed to assure equitable distribution of reserve base quantity and facilitate expansion of base quantities of existing cranberry growers and entry of new cranberry growers in recognition of changing market conditions.

DATE: Comments must be received on or before February 12, 1979.

ADDRESS: Comments should be filed in duplicate with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250

FOR FURTHER INFORMATION CONTACT:

For further information or a draft impact analysis contact: Charles R. Brader, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, telephone (202) 447-6393.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department is considering proposed amendment, as hereinafter set forth, of the rules and regulations (Subpart—Rules and Regulations; 7 CFR 929.101 *et seq.*) currently in effect pursuant to the applicable provisions of the amended marketing agreement and Order No. 929, as amended (7 CFR Part 929; 43 FR 29764). The order regulates the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposed rule provides that the committee schedule meetings to consider growers' applications for reserve base quantity by March 1 of each year. In order that the final rule governing the procedures for allocating reserve base quantity be effective by February 27, it is necessary that comments with respect to this proposal be received not later than February 12, 1979.

The proposal to amend said rules and regulations was recommended by the Cranberry Marketing Committee established under the order as the agency to administer the terms and provisions thereof.

The establishment of an annual base quantity reserve equal to 2 percent of the aggregate base quantities of growers is mandated by § 929.48(b) of the order. This reserve quantity is to be allocated 75 percent to existing growers and 25 percent to new growers. An "existing grower" is defined in the proposed rule as a person engaged in producing cranberries and who now holds a base quantity certificate, and a "new grower" as one who does not hold a base quantity certificate. The order also mandates that the committee, with approval of the Secretary, shall establish rules and procedures governing the distribution of reserve base quantity among eligible applicants. Under the proposed rule an existing grower applicant's share of the base quantity reserve would be an amount arrived at by subtracting his present base quantity from his average annual sales of the best 4 of the past 6 years. A share of the reserve for such grower applicant's new acreage would be an amount arrived at by multiplying the number of new acres by the grower's average sales per acre from established acreage for the best 4 of the past 6 years. A share of the base quantity reserve for a new grower applicant would be an amount arrived at by multiplying the grower's cranberry acreage by the average base quantity per acre for the State in which the acreage is located. If the total amount computed for growers in each category (existing or new grower) exceeds the amount of reserve base quantity available to such category, then each such grower shall receive a proportionate share of the reserve quantity available. There are approximately 900 producers engaged in the production of cranberries. Approximately 10 percent of the growers have produced and sold cranberries in excess of their base quantity during the crop years 1974-76. Also, some individuals have indicated their intention of becoming cranberry producers. The proposed action is designed to assure equitable distribution of reserve base quantity and facilitate expansion of base quantities of existing producers and entry of new producers. The proposal empowers the committee to invalidate a producer's base quantity if he does not make a bona fide effort to produce and sell cranberries. The proposal establishes criteria whereby the committee may determine whether a bona fide effort to produce and sell cranberries has been made.

The proposal is to add a new section 929.153 reading as follows:

§ 929.153 Base quantity reserve.

(a) *Establishment.* An annual reserve base quantity equal to 2 percent of total base quantities is hereby established.

(b) *Application.* Each grower who wishes to be considered for base quantity from the reserve shall file an application with the committee on a form provided by the committee not later than February 1 of any crop year. Such application shall identify the grower as either an existing grower (an "existing grower" shall mean any person who is engaged in producing cranberries and now holds a base quantity certificate) or a new grower (a "new grower" shall mean any person who does not hold a base quantity certificate nor any interest in a base quantity certificate, financial or otherwise, but may or may not be producing cranberries and shall include any grower whose acreage did not previously qualify as established cranberry acreage.) The application shall include the following information:

(1) Location of acreage,

(2) Acreage planted,

(3) Production and sales of cranberries for the preceding six-year period,

(4) Prospective production and such other information as may be required by the committee.

(c) *Disposition.* Following the closing date for filing applications, a meeting or meetings of the committee shall be held for the purpose of reviewing applications, if any, and making a determination on each request. Such meeting or meetings shall be scheduled to begin no later than March 1 of the crop year.

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(1) *Existing grower.* There shall be set aside for allocation to existing growers 75 percent of the amount determined under paragraph (a) of this section. The basis for determining such share shall be determined by the following:

(i) Subtract the existing grower applicant's present base quantity from his average annual sales of cranberries produced on his acreage during the 4 years, within the immediately preceding 6-year period, in which his greatest sales were made.

(ii) With respect to such grower's new acreage, a base quantity shall be issued to each approved applicant from his base quantity share (determined by multiplying the number of new acres by average sales per acre for cranberries produced on established acreage under the grower's control and sold during the 4-year period specified in paragraph (c)(1)(i)) in an amount equal to the estimated production for that crop year. Successive increment allocations based upon an annual application by the grower shall be made until the balance of the base quantity share for that grower is exhausted. If sales from such new acreage do not attain the expected yield within six years from the time the application is approved by the committee, such grower shall receive base quantity equal to average sales from his best two years of production during the specified period.

(iii) If the total amount computed for all existing grower applicants exceeds the amount of reserve base quantity available, then the applicant's shares shall be multiplied by a factor obtained by dividing the amount of reserve base quantity available by the total amount computed for all existing grower applicants.

(2) *New grower.* There shall be set aside for allocation to new growers 25 percent of the amount determined under paragraph (a) of this section. Base quantity share shall be determined by multiplying the grower's cranberry acreage by the State average base quantity per acre. If the total amount computed for all new grower applicants exceeds the amount of reserve base quantity available, then the applicants' shares shall be multiplied by a factor obtained by dividing the amount of reserve base quantity available by the total amount computed for all new grower applicants. Base quantity shall be issued to each approved applicant from his base quantity share in an amount equal to the estimated production for that crop year. Successive increment allocations based upon an annual application by the new grower shall be made until the balance of the base quantity share for that grower is exhausted. Thereafter, the new grower may apply to the committee for additional base quantity from the proportion of the reserve allocated to existing growers. Any producer who does not reach the State average base quantity per acre within six years from the time the application is approved by the committee shall lose the "new grower" status and receive a base quantity equal to the average of his two best crops during this six-year period. All or any part of the base quantity reserved for new growers not needed to fill new grower requests, may be allocated by the committee to eligible existing growers.

(d) *Invalidation of base quantity.* The base quantity of a grower who has made no bona fide effort to produce and sell cranberries for five consecutive seasons, commencing with the 1978–79 season, may be declared invalid and cancelled at the end of the fifth season. The committee shall determine if a grower is making a bona fide effort to produce and sell cranberries based upon the producer's level of production each crop year during the five-year period and taking due account of any special factors which may have affected or may be affecting such production, including, but not necessarily limited to, frosts, disease, water shortages, bog renovation, and illness of a kind causing inability to carryout the management of his crop. The committee shall notify the grower and initiate investigations as appropriate and necessary to obtain full and complete information bearing on the subject prior to taking any action to cancel a base quantity.

(e) Each producer shall file with the committee a report by February 1 of each crop year indicating new acreage planted and sales of cranberries from such acreage.

(f) Any producer who is dissatisfied with the action of the committee pursuant to § 929.153 may appeal to the Secretary in accordance with § 929.125.

Dated: January 22, 1979.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-2611 Filed 1-24-79; 8:45 am]

[3410-02-M]

[7 CFR Part 1004]

[Docket No. AO-160-A55]

MILK IN THE MIDDLE ATLANTIC MARKETING AREA

Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision is based on industry proposals considered at a public hearing held in October 1978. The decision would reduce the pooling requirements for distributing plants and reserve processing plants and permit a federation of cooperative associations to operate a pool reserve processing plant. The decision would also increase the number of days' milk production of a producer that may be diverted monthly to nonpool plants as pooled milk during the months of September through February. These changes are adopted in response to changed supply-demand conditions and methods of handling the market's reserve milk supplies and are necessary to assure orderly milk marketing.

DATE: Comments are due on or before February 9, 1979.

ADDRESS: Comments (five copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Clayton H. Plumb, Marketing Specialist, Diary Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6273.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing issued September 14, 1978, published September 19, 1978 (43 FR 41990).

Order Suspending Certain Provisions issued October 18, 1978, published October 23, 1978 (43 FR 49285).

Order Suspending Certain Provisions; Correction issued November 13, 1978, published November 16, 1978 (43 FR 53413).

PRELIMINARY STATEMENT

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Middle Atlantic marketing area, and of the opportunity to file written exceptions thereto. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., 20250, by the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in five copies. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Philadelphia, Pa. on October 3–4, 1978, pursuant to notice thereof.

The material issues on the record of the hearing relate to:

1. Pooling standards for distributing plants.
2. Diversion provisions.
3. Pooling standards for reserve processing plants.
4. Payments by handlers for certain milk received from other Federal order markets.
5. Whether an emergency exists to warrant omission of a recommended decision.

FINDINGS AND CONCLUSIONS

1. *Pooling standards for distributing plants.* The requirements that a distributing plant must meet to qualify as a pool plant during September through February should be changed. The order now requires that a pool distributing plant must have not less than 40 percent for each month of March through August and 50 percent for each month of September through February of its receipts of milk disposed of as Class I milk during the month. This should be changed by providing that the total Class I disposition requirement be 40 percent during all months.

A federation of five dairy cooperative associations, representing approximately 75 percent of the market's producers, proposed changing the requirement that a pool distributing plant must have not less than 50 percent of its receipts of milk disposed of as Class I milk during each month of September through February. The cooperative federation proposed decreasing the 50 percent requirement to 40 percent.

The federation's witness contended that there have been recent changes in marketing conditions within the Middle Atlantic marketing area that necessitate the proposed modification of the Order 4 distributing plant performance requirements. The changed conditions referred to by the witness include a downward trend in Class I sales and Class I utilization percentage. The proponent witness pointed out that since the marketing area was expanded in 1975 there has been a significant decrease in the Order 4 Class I utilization. He noted that during 1976 and 1977, producer receipts increased while Class I sales remained at about the 1975 level, thus causing the Class I utilization percentage to decrease. He also pointed out that on May 1, 1978 a large distributing plant shifted its market affiliation from Order 4 to Order 2, the order for the New York-New Jersey market. This, he claimed, decreased the Order 4 Class I sales and further reduced the Order 4 Class I utilization percentage. The proponent witness also contended that the need for reserve milk supplies has been increasing over the years due to the changing pattern of distribution, reduced number of plants, large number of three-day holiday weekends and changing processing practices at distributing plants.

The federation's witness pointed out that due to increased supplies during the flush production months of 1976 and 1977, it was necessary to suspend the requirement that distributing plants dispose of 50 percent of their producer receipts as Class I milk. The witness stated that within the last two years four of the federation's five cooperatives and various pool plants would have had trouble pooling milk under Order 4 if there had not been timely suspensions of the pool distributing plant Class I disposition percentage. He noted that prior to these suspensions there had been several times when fluid milk handlers and individual dairy farmers had lost their pool status because of the existing pooling requirements. He contended that it is not a stable condition when order provisions must be suspended each time there is a problem in maintaining pooling status for plants and producer milk supplies.

An Order 4 proprietary handler testified in support of the proposed decrease in the distributing plant performance level for September through February. However, the handler also proposed that for the months of March through August the Class I disposition requirement for a distributing plant be decreased from the present level of 40 percent to 30 percent. The handler's witness contended that this was necessary because of the seasonal differences in Class I utilization.

The witness noted that during the periods of March through August 1976 and September 1976 through February 1977 the Order 4 Class I sales were 57.93 percent and 62.28 percent, respectively, of the receipts from producers. He also noted that the Class I utilization for the same periods a year later were 55.09 percent and 59.69 percent, respectively. He indicated that the 1976 seasonal difference in class I utilization was 4.35 percentage points and the 1977 difference was 4.60 percentage points. It was the witness' contention that these statistics clearly demonstrate a continuing trend requiring a seasonal variation in the Order 4 pooling requirement.

At the hearing and in its brief, the proponent federation supported a 40 percent year-round distributing plant performance standard, rather than one that changes seasonally. The federation contended that the 40 percent requirement adequately accommodated the needs of the reserve supplies of the market.

A producer in the market testified in opposition to any reduction in the distributing plant performance requirements. He contended that the proposal would remove the insentive for producers to control production because they would not have any problem pooling additional milk. He also contended that additional milk supplies were not needed to meet the market's Class I requirements and that any such milk would decrease the Order 4 Class I utilization and the returns to producers.

The supply-demand relationship for milk associated with the market has changed significantly since June 1975 when the marketing area was expanded. Since then, there has been a steady decline in the percent of producer milk assigned to Class I use. Until May 1978 this had occurred primarily because producer milk receipts had increased substantially while Class I use had been relatively unchanged, with the latter varying from above year-earlier levels in some months to below year-earlier levels in other months. However, on May 1, 1978 the largest distributing plant under Order 4 became regulated under Order 2. This resulted in a substantial decrease in Order 4 Class I disposition. For example, September 1976 and September 1977 Class I disposition by pool handlers were 2.3 percent and 1.4 percent, respectively, above a year earlier. However, the total Class I disposition in September 1978 [1] was 14.1 percent below September 1977. In the 5 months following April 1978, the Class I disposition averaged over 12 percent less than year-earlier levels in the same months. Also, the market's Class I utilization percentage has decreased substantially since the marketing area was expanded in 1975. The Order 4 Class I utilization percentage for June through September 1978 averaged 11.7 percentage points less than for the same months in 1975. These data clearly indicate significant changes in the market's supply-demand relationship for milk.

Increasing supplies of milk relative to Class I sales necessitated the suspension of the 50 percent Class I pooling standard for certain months during each of the last three years.

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[1] Official notice is taken of the Middle Atlantic Market Administrator's Bulletin, Issue No. 10, 1978.

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The 50-percent requirement was suspended for June and July 1976, May through August 1977, and again in 1978 during April through October. A suspension action reduced the 50-percent requirement to 40 percent for the months of November 1978 through February 1979. The need for the suspensions stemmed from a continuing downward trend in the Class I utilization percentage of the market. These actions were taken to prevent some distributing plants, and thus the milk of producers who regularly supply these plants, from losing pool status. A reduced pooling standard should minimize the need for such suspension actions.

As a proprietary handler's witness pointed out, there is seasonal variation in the market's Class I utilization. However, the market's Class I utilization has never dropped below 49 percent. It is therefore anticipated that a 40 percent Class I disposition requirement throughout the year will provide handlers, cooperative and proprietary alike, with a reasonable means for assuring the pooling of distributing plants.

As noted by the dairy farmer mentioned earlier, it is true that the market's Class I utilization percentage would decrease if producer milk increased without a proportionate increase in the Class I demand. This in turn would lower the Middle Atlantic weighted average price for all producer milk. However, the record evidence fails to support the witness' contention that lowering the distributing plant pooling standards would remove the incentive for producers to control production. For the reasons stated, the proposed change in the pooling standards is needed at this time and should be adopted.

2. *Diversion provisions.* The order should be amended to increase to 18 days the number of days' production of an individual producer that may be diverted to nonpool plants each month during the period of September through February.

The order now provides that a handler's total monthly diversions to nonpool plants during September through February may not exceed 25 percent of the milk delivered to the handler by dairy farmers during the month. Alternatively, up to 15 days' production of each dairy farmer may be diverted during the month to nonpool plants. No diversion limitations apply during the months of March through August.

A proprietary handler proposed that limits now applicable on diversions to nonpool plants during September through February be eliminated. In support of the proposal, the handler's spokesman stated that prevailing marketing conditions do not warrant diversion limits to nonpool plants. He indicated that while production per producer has been increasing in the Middle Atlantic procurement area, the market's total Class I sales have been decreasing. Consequently, he contended, diversions of Order 4 producer milk to nonpool plants have been rapidly increasing in connection with the need to handle the market's reserve supplies.

Proponent claimed that his distributing plant has been faced with the same supply-demand changes that have occurred marketwide. The witness stated also that approximately 50 percent of the milk he pools is presently being diverted. However, because of increasing milk production and the difficulty of maintaining Class I sales, he anticipates that his Class I utilization could drop to around 47 percent, thus increasing the proportion of his milk supply that would have to be disposed of outside his distributing plant. Proponent stated that the Order 4 diversion limits have forced milk to be received at his pool plant and then transferred when it could have been marketed more efficiently through direct delivery to a nonpool plant. He contended that the order's diversion limitations should be eliminated because of the same marketwide conditions that necessitate a reduction in the distributing plant performance requirements.

Proponent noted that if the limitations on diversions were removed, the pool plant performance requirements would still limit the amount of milk that could be diverted to nonpool plants. Since 40 percent of a handler's milk would have to be received and utilized in Class I at an Order 4 distributing plant, no more than 60 percent could be diverted.

Deletion of the limits on diversion of milk to nonpool plants was opposed at the hearing by a federation of cooperatives. A witness for the cooperatives stated that the present provisions have been adequate and will continue to be so in the foreseeable future. Removal of the diversion limits, he contended, would permit milk to be pooled for manufacturing uses on a year-round basis and not be made available for fluid use. He also contended that this should not be encouraged in the Middle Atlantic market, since many handlers need supplemental milk supplies during peak days of fluid milk demand. He stated that each year when schools reopen his cooperative must completely deplete its reserve milk supplies to fulfill requests from other handlers for supplemental milk supplies. He thus contended that if an increased proportion of the market's milk supply were to be committed for manufacturing use on a year-round basis, the availability of supplemental milk supplies for distributing plants during peak periods would be threatened.

Distributing plants need reserve milk supplies that are not used in Class I. There are certain non-Class I uses of milk at distributing plants that are unavoidable such as, shrinkage, route returns (that are dumped or used for animal feed), standardization of milk to a butterfat content that differs from the butterfat content of milk received from producers, and variation in the inventory of milk supplies in the plant.

Moreover, distributing plants tend to need significantly greater milk supplies on certain days of the week than on other days of the week to meet variations in sales to accounts such as schools and supermarkets. Most schools have no need for milk during vacations, weekends, and holidays. Supermarkets tend to have greater sales volume during the latter part of the week than during other days of the week. In addition, distributing plants tend to process milk on only four days or five days a week to accommodate to a 40-hour workweek for employees and to avoid paying overtime wage rates.

In these circumstances of daily variations in sales volume and plant processing schedules, distributing plant operators need substantially higher volumes of milk for processing on certain days of the week than on other days of the week and, therefore, prefer to schedule milk receipts at their plants to conform with such daily variation in milk requirements.

During the months when production is seasonably low and Class I sales are relatively high, it is necessary to provide assurance that milk supplies will be made available to meet the needs of fluid milk distributors. As pointed out by proponent, the performance standards for pool plants tend to limit the proportion of a handler's milk supply that can be pooled and used in other than Class I use. However, performance standards for pool plants do not necessarily insure that all the milk required by distributing plants will be made available to such plants. Qualification of a pool plant is based on monthly performance standards. The pool plant performance standards set requirements that must be met by the plant on the average over the month. However, on peak demand days during any month the market's Class I requirements are often considerably higher than the monthly average demand for Class I use. Limits on diversion of milk to nonpool plants, when set at a level commensurate with the needs of the fluid market, can help assure that milk will be made available to pool plants for fluid uses on peak demand days.

Nevertheless, a substantial proportion of the milk in the market is not

needed at distributing plants, particularly on non-processing days such as weekends. Rather than require these supplies to be physically received at the distributing plant and then transferred to a manufacturing outlet for disposal, Order 4 provides for the diversion of milk directly from the farm to the manufacturing plant. The diversion provisions facilitate the economical disposition of milk supplies not needed at distributing plants. The diversion limits are, therefore, set at levels appropriate to accomplish that purpose.

Some marketing conditions clearly have changed since the present diversion provisions were adopted. Due to the shifting to Order 2 of a large distributing plant, the Order 4 Class I utilization percentage has decreased significantly. A result of this change has been an increase in the percentage of Order 4 reserve milk supplies. One outcome of this has been a substantial increase in the quantity of milk diverted to nonpool plants. For example, such diversions during July 1978 totaled 71.1 million pounds, up 23 percent from the same month a year earlier.

Proponent handler operates a distributing plant at which virtually no milk is used for Class II. Thus, reserve milk supplies associated with the Class I operation must be disposed of elsewhere. Proponent handlers during the entire year all of the milk production of the dairy farmers who supply his pool distributing plant and arranges for the pooling of the milk under the order. These dairy farmers have increased their production at about the same general rate of increase experienced for the market as a whole. As a result, during the months when diversion limits are applicable, the handler utilizes the days of production basis for diverting to nonpool plants because more milk can be diverted under that provision than under the percentage limits.

The modification to the distributing plant pooling requirements that is adopted herein would allow a handler to dispose of up to 60 percent of his milk supplies to nonpool plants during the period of September through February. These supplies could either be diverted or transferred to nonpool plants. It is often more costly to receive milk at a pool plant and then transfer it to a nonpool plant than to move the milk directly from a farm to a nonpool manufacturing facility. However, the present 15 days' production limit on diversions would limit diversions to approximately 50 percent of the handler's receipts. This could result in some milk being transferred when it could more economically be diverted. Such uneconomic handling can be avoided by providing for the diversion to nonpool plants of up to 18 days' production of individual producers.

Providing that up to 18 days' production of a dairy farmer may be diverted to nonpool plants as producer milk will make it possible for the proponent handler, and any others similarly situated, to continue to pool all the milk produced by his regular producers without incurring costly transfer expenses. The change will not provide the means by which large volumes of milk intended only for manufacturing use on a year-round basis may be associated with the market and not be made available to distributing plants.

There is no need, on the other hand, to increase the 25-percent diversion limit. The record does not indicate that any Order 4 handler using the 25-percent diversion limit is experiencing any problem in handling reserve milk because of this limit. Furthermore, no such handler requested that the 25-percent limit be increased. Also, it is noted that an increase in this type of diversion provision, under which a producer's milk could be diverted to a nonpool plant every day for an indefinite period, could inhibit pool milk supplies from being made available to distributing plants when needed.

The record establishes that the basic reasons for having diversion limits are still valid. Accordingly, the proposal to remove all diversion limits is denied.

3. *Pooling standards for reserve processing plants.* The provisions of Order 4 for pooling a reserve processing plant should be modified to provide that such a plant may be operated by either a cooperative association or a federation of cooperatives. A federation should be defined as an organization formed by two or more cooperative associations and incorporated under the laws of a state. The order also should be modified so that a reserve processing plant of a cooperative or federation is pooled only if the total of the fluid milk products (except filled milk) that are transferred from the cooperative's or federation's pool plant(s) to pool distributing plants and the milk of its member producers that is delivered directly from farms to pool distributing plants is not less than 40 percent of the total milk deliveries of the cooperative's or federation's member producers during the month.

The present order provisions accord pool plant status to any reserve processing plant which is operated by a cooperative association if at least 50 percent of its member milk is delivered to pool distributing plants during the month, either directly from farms or by transfer from the cooperative's pool plants.

An organization composed of five dairy cooperative associations proposed that the provisions that provide for the pooling of a reserve processing plant be modified in two repects. One change would reduce the present 50 percent delivery requirement to 40 percent. The other change would permit a federation of cooperatives to be the operator of a pool reserve processing plant.

(a) *Fifty percent delivery requirement.* In support of its proposal to reduce the present 50 percent delivery requirement to 40 percent, proponent presented statistics demonstrating that the Order 4 Class I utilization percentage had decreased significantly over the last few years to an all-time low of 49 percent during July 1978. The witness contended that this has meant an increase in the amount of reserve milk supplies in the market. He stated also that the five proponent cooperatives collectively handle the reserve milk supplies for the market at reserve processing plants. Proponent stated that four of the five cooperatives have had less than 50 percent Class I usage of member milk during many months in recent years and have had to resort to requests for suspension action to keep the milk of member producers pooled under the order. Consequently, proponent stated that current marketing conditions made it vital that the proposal be adopted.

The changes in the market's supply-demand relationship for milk, as expounded in the findings of Issue No. 1, necessitate a reduction in the Order 4 pooling requirements for reserve processing plants. It has been a customary practice of cooperatives in this market to move the milk of member producers to reserve processing plants when it is not needed at pool distributing plants. The proportion of reserve milk supplies in the market has increased in recent years and the Class I utilization percentage has declined. For example, in 1975 Class I utilization was 65 percent and in 1977 Class I utilization was 58 percent. A further significant decrease in Class I utilization for this market has prevailed since May 1, 1978 when a large distributing plant shifted from the Order 4 pool to the Order 2 pool.

The distributing plant that shifted to the Order 2 pool discontinued receiving milk from a large Order 4 cooperative that had been supplying about 10 million pounds of milk each month to the plant. This milk supply of the cooperative is now a part of the reserve milk supply in the Order 4 market and is processed at reserve processing plants.

To accommodate the pooling of the increased volume of reserve milk supplies on the market it has been necessary to suspend various pooling provisions of the order on several occasions

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during the past three years. Such suspensions have involved pool distributing plant Class I disposition percentages and diversion limits. The suspension of these provisions has enabled cooperatives to move reserve milk supplies to pool distributing plants and then move such supplies to reserve processing plants or to nonpool manufacturing plants.

Such method of pooling reserve milk supplies by cooperatives that operate reserve processing plants tends to require movement of milk to pool distributing plants in circumstances when such milk is not needed at the distributing plants. This practice could be avoided if the 50 percent delivery requirement were reduced to 40 percent. The lower delivery requirement would permit the cooperatives who operate reserve processing plants to move all their reserve milk supplies directly from the farm to their reserve processing plants and maintain pool status on the milk. This would enable the cooperatives to avoid engaging in hauling milk to pool distributing plants solely for the purpose of keeping the milk pooled.

Moreover, providing pool plant status for a reserve processing plant operated by a cooperative enables the cooperative to minimize the total cost of farm-to-plant hauling for milk of member producers. If member producer milk can be accorded pool status by being received at the reserve processing plant, the cooperative could be expected to utilize milk produced on farms located closest to the reserve processing plant at such plant. Milk of other member producers whose farms are located closest to pool distributing plants could be expected to be moved to such plants. By following this practice to the fullest extent practicable the cooperative will realize greater efficiency in handling its member milk supplies.

The delivery requirement for a cooperative that operates a reserve processing plant should be set low enough to enable the cooperative to move all of the member producer milk that needs to be moved to such plant directly from the farm. On the other hand, such delivery percentage should be high enough to encourage the cooperative to ship adequate supplies of member producer milk to pool distributing plants to fulfill the milk requirements of such plants. The proposed 40 percent delivery requirement will best meet these desired objectives under the current Class I utilization percentage in the Order 4 market. The 40 percent delivery requirement is also comparable to the pooling performance standards adopted for proprietary handlers in the market who operate both a pool distributing plant and a reserve processing plant.

(b) *A plant operated by a federation.* In support of the proposal to permit pool plant status for a plant operated by a federation of two or more cooperatives, proponent stated that two cooperatives in the market have formed a new wholly-owned cooperative (federation) called Holly Milk Cooperative, which has constructed a new processing plant in the Order 4 production area. The witness stated that this plant was built to handle the increased quantities of reserve milk supplies in the market, particularly the reserve supplies of the two cooperatives who entered into the joint venture to build the plant. Proponent stated that at times in the past it has been necessary for these cooperatives to transport reserve milk supplies as far as Ohio to find sufficient plant capacity to handle such milk.

The Holly plant is intended to serve these two cooperatives in the same manner as pool reserve processing plants operated by other handlers in the market. However, the pooling provisions of the order are not written in a manner that would accord pool status for a reserve processing plant operated by a federation. This is because the present provisions limit pool status to a reserve processing plant operated by a cooperative association that has member producers or a reserve processing plant operated by a handler who also operates a pool distributing plant.

Pool plant status for a reserve processing plant operated by a federation would enable the cooperative association members of the federation to realize savings in farm-to-plant hauling costs by moving milk produced on members' farms located closest to the reserve processing plant directly to such plant and moving milk produced on farms located closest to pool distributing plants to such plants.

The 40 percent delivery requirement should be based on the combined cooperatives' member producer milk received at pool distributing plants either directly from the farm or as transfers from pool plants operated by the federation of such cooperatives. Proponent contemplated that the delivery percentage should be met by each member cooperative of the federation. However, proponent conceded that additional economies in farm-to-plant hauling costs could be realized by the cooperatives if they were to meet the pooling standard on a combined basis. Moreover, it will provide for more simplified administration of the pooling provisions to assign pooling credit on shipments from the federation's plant to pool distributing plants on a combined basis.

To facilitate drafting of appropriate pooling provisions for a reserve processing plant operated by a federation, a definition of a federation, as stated previously, is adopted. In order to implement the pooling of milk that is received at a reserve processing plant operated by a federation of cooperative associations, appropriate conforming changes are included in the dairy farmer, producer, and producer milk definitions of the order.

4. *Payments by handlers for certain milk received from other Federal order markets.* A proposal that would require regulated handlers to pay not less than the Middle Atlantic order class prices to a cooperative association for bulk milk received by transfer from a plant pooled under another Federal order by such cooperative association should not be adopted.

Current order provisions do not regulate the price that Order 4 handlers must pay for bulk milk that is received from handlers (either cooperative association or proprietary) regulated under another Federal order. Such milk is priced and pooled in the market of origin where the transferor-handler is held accountable at minimum prices established under that order. Order 4 provisions deal with the classification of interorder transfers at the transferee-handler's pool plant. However, the actual price at which the interorder transaction takes place is not subject to the minimum prices in the transferee-market, i.e., the Order 4 market.

A federation of five cooperative associations that represent producers who supply the Order 4 market proposed that the order be amended to require that Order 4 handlers pay not less than minimum Order 4 prices applicable at their plant location for bulk milk received from a cooperative association plant pooled under another Federal order. While stating that such a requirement is not contained in any Federal order, a witness representing the federation testified that there are unique circumstances that justify the adoption of its proposal. Particularly, the witness referred to various regulatory provisions of the New York-New Jersey milk marketing order (Order 2) which include farm point pricing [2] and the pooling of supply plants under that order by designation rather than requiring such plants to supply milk for fluid use on a regular basis. The witness noted that there are Order 2 supply plants in Pennsylvania located near the farms of producers who direct-ship milk to Order 4 plants. He contended that under these circumstances Order 2 supply plant milk must be priced at its full value in order to contribute to orderly marketing in both the production and marketing area. Proponent alleges that this currently is not the case because farm point pricing of milk under Order 2 understates the actual cost of the milk to a handler and therefore underprices the milk at the plant of first receipt under Order 2 in comparison with Order 4. Proponent indicated that when the plant of first receipt is a supply plant such underpricing occurs because the handler for the milk receives a 15-cent credit from the pool on each hundredweight of farm bulk tank milk received. [3]

[2] Under the New York-New Jersey order, prices for milk are established at township locations, which is commonly referred to as farm point pricing.

Proponent contends that there is a disparity of pricing between Orders 2 and 4 such that Order 2 supply plant milk can be delivered to Order 4 pool plants at less than Order 4 minimum class prices applicable at the latter plants. Proponent presented an exhibit to illustrate the magnitude of price disparity between Orders 2 and 4. Order 2 Class I price differentials applicable at six Order 2 supply plant locations were compared with applicable Order 4 prices at the same locations. On the basis of the exhibit, the Order 2 Class I differential value ranged from 34 to 54.5 cents per hundredweight less than the Order 4 Class I differential value at the same locations.

Proponent contends that it is this difference in pricing that resulted in offers of milk to Order 4 handlers at less than Order 4 prices during May, June and July 1978, although no Order 2 bulk Class I milk was received at Order 4 pool plants during such months. Proponent stated that in order to meet the competition from offers of Order 2 priced milk, Middle Atlantic cooperative associations reduced service charges to Order 4 handlers on milk used to service school and institutional accounts.

A Philadelphia area milk distributors association and an individual proprietary handler also contended that there is a disparity of pricing between Order 2 and Order 4. However, they opposed the proposal on the grounds that it would result in the loss of alternative sources of supply for Order 4 handlers that may be needed to be competitive with Order 2 handlers in the sale of fluid milk products. They also argued that the proposal would not result in uniformity of pricing among competing handlers. One witness stated that just considering the proposal at the hearing hampers the free movement of milk and that the proposal thus should be denied expeditiously.

A cooperative association that has member producers on both the Order 4 and Order 2 markets also opposed the proposal. A witness representing the cooperative association states that the proposal should not be adopted since there are no economic or marketing conditions that could serve as a basis to adopt the proposal. He contended that the proposal was specifically aimed at an Order 2 supply plant that the opposing cooperative association operates at New Holland, Pennsylvania. For this reason, the witness constructed the Class I differential cost for milk moved from the New Holland plant to Philadelphia. On the basis of his calculations, the differential cost of delivering milk to Philadelphia would exceed the Order 4 Class I price in such area plus the applicable 6-cent direct delivery differential by 8.2 cents per hundredweight ($2.922 versus $2.84). On the basis, the witness concluded that there is no misalignment of Class I costs between the orders and that, therefore, there is no economic justification for the proposal.

The witness further testified that evidence of actual movements of bulk Class I milk from Order 2 pool plants to Order 4 pool plants does not establish a need for the proposal. An exhibit presented by the witness indicates that in recent years the volume of bulk Class I shipments from Order 4 to Order 2 exceeded such shipments from Order 2 to Order 4 and that for the months of May, June and July, 1978 no shipments were made from Order 2 pool plants to Order 4 pool plants. Additionally, the witness testified that a single shipment of bulk Class I milk from Order 2 to Order 4 in August 1978 was made by a proprietary handler. Consequently, the proposal would have had no effect on the transaction since it is limited in scope to shipments by a cooperative association.

With respect to this latter point, the witness further contended that the proposal is discriminatory among handlers and their sources of milk supplies. The witness stated that the proposal would foreclose Order 2 cooperative association supply plants as a source of supply to Order 4 handlers while such handlers could continue to purchase milk from Order 2 proprietary handlers at whatever price the market would bear. In addition, the witness stated that the proposal would apply the 6-cent direct delivery different to purchases by Philadelphia area Order 4 handlers from Order 2 cooperative association supply plants whereas such differential does not now apply to transfers from Order 4 reserve processing plants to Philadelphia area distributors. Furthermore, the witness contended that the proposal would prevent Order 2 cooperatives from disposing of reserve milk supplies to Order 4 handlers for Class II use while it would not do so for Order 2 proprietary handlers, thus giving the latter handlers an advantage in the disposition of surplus milk.

In its brief, a federation of cooperative associations that represents producers supplying the Order 2 market opposed the proposal. The federation questioned the legality of a provision that would require Order 4 handlers to pay Order 2 cooperative associations prices different than those required under Order 2. The federation also stated that if the proposal has any validity it would appear that it should be implemented in Order 2 since the milk is priced and pooled under that order. Additionally, the federation stated that if there is a disparity of pricing between the two orders, a joint hearing should be held to consider narrowing any such price differences.

Although the proposal would apply to bulk milk transfers from cooperative association plants pooled under any other Federal order, proponent contends that the alleged interorder pricing problem arises because of the unique feature of farm point pricing in Order 2 and an alleged disparity of pricing between Orders 2 and 4 that results from farm point pricing and pricing changes in Order 2 that became effective November 1, 1977. The hearing record, however, does not demonstrate a price disparity between the cost of direct-delivered Class I milk at Order 4 plants and the cost of Class I milk at such plants that is received by transfer from Order 2 supply plants. Moreover, the record does not establish that the differences in the regulatory provisions of Orders 2 and 4 require the implementation of the proposal.

With respect to the alleged misalignment of prices between Orders 2 and 4, and the Class I differential costs computed by the proponent's witness are those applicable at supply plants in Pennsylvania that are located at varying distances from the major population centers of the Middle Atlantic marketing area (ranging from 60 to 200 miles). However, there are no Order 4 supply plants at these locations that assemble milk supplies for transshipment to Order 4 bottling plants. In addition, the Order 2 Class I differential costs stated by the witness do not include reloading and transportation costs that would be incurred in shipping milk from Order 2 supply plants to the Philadelphia area where offers of milk were supposedly made at less than Order 4 direct-delivered prices. Furthermore, the Order 2 Class I cost used by the witness is understated by 15 cents or more since it excludes farm-to-first plant hauling costs

[3] Proponent is referring to a 15-cent transportation credit for pool milk received by a handler in a pool or partial pool unit. This transportation credit is intended to partially reimburse handlers for transportation costs incurred in moving milk from the farm to the plant of first receipt.

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incurred by an Order 2 supply plant operator.

With respect to this latter point, proponent's witness conceded that the Order 4 cooperatives were not concerned with bulk milk transfers from Order 2 proprietary handler plants since costs incurred in receiving and transferring milk tend to equalize the cost of Class I milk between the two orders. This basically negates the claim by proponent that there is a disparity of pricing between the two orders. Actually, the crux of proponent's concern in proposing a provision that relates only to supply plants of cooperatives is the fact that cooperatives associations can pay member producers less than minimum order prices while a proprietary handler can not. Thus, a cooperative association can transfer a portion of the cost of marketing functions to its member producers while a proprietary handler must absorb such costs or pass them on to the next purchasing handler. This is not a situation that is unique to the Order 2 market and thus something that should be recognized in the pricing provisions of Order 4. Blending by a cooperative association of the net proceeds of all of its sales in all markets in all use classifications and distributing the returns to its producers in accordance with the contract between the association and its producers is authorized by the Act and may occur in any market.

With respect to costs of milk incurred by a cooperative association, an opposing cooperative association presented a constructed Class I differential cost in marketing Order 2 supply plant milk in the Philadelphia area. Although it is not possible on the basis of this record to determine whether all of the cost components of the constructed differential precisely reflect current marketing costs, the figures presented by opponent appear reasonable in that they are consistent with the findings of the Assistant Secretary in his decision to revise the pricing structure under Order 2.[1] On the basis of the figures presented by the opposing cooperative, it would appear that Class I costs of Order 2 supply plant milk would exceed the cost of Order 4 direct-delivered milk in the Philadelphia area.

It would not be anticipated that a cooperative association would sell milk at less than its cost for any extended period of time. Rather, sales below costs would be expected only occasionally, usually during periods of surplus production when supplies of distress milk might have to be disposed of on a least-loss basis.

The record of this proceeding establishes that the volume of bulk Class I milk received by Order 4 handlers from Order 2 sources is insignificant. The greatest volume of such sales since November 1977 occurred in February 1978 when 785 thousand pounds of Class I milk were received at Order 4 plants from Order 2 sources. During such month over 431 million pounds of milk were received from Order 4 producers and over 256 million pounds of such milk were disposed of in Class I uses. Also, during the months of May, June, and July, when Order 2 supply plant milk was purportedly offered at less than Order 4 prices, no bulk Class I milk was received by Order 4 handlers from Order 2 sources.

The record does not establish the existence of disorderly marketing conditions in the Middle Atlantic marketing area that could serve as a basis for implementing the proposal. The possibility of bulk Class I sales from plants pooled under other Federal orders by cooperative associations to Order 4 handlers at less than Order 4 prices is a matter of conjecture. There is no evidence of any such sales. Furthermore, it cannot be concluded on the basis of this record that there is a disparity of pricing between Orders 2 and 4 that would result in a cost of Order 2 supply plant milk at less than the direct-delivered Order 4 price in the Philadelphia area, or that there is a unique feature of Order 2 that requires unique treatment of such milk in Order 4. For these reasons, the proposal is denied.

5. *Whether an emergency exists to warrant omission of a recommended decision.* A spokesman for a federation of five cooperative associations testified that emergency marketing conditions exist that warrant the omission of a recommended decision with respect to its proposed amendments. However, in its post hearing brief, the federation stated that an Order suspending certain provisions of Order 4 through February 1979 that was issued by the Assistant Secretary on October 18, 1978 (43 FR 49285) eliminated the need for omitting a recommended decision in this amendatory proceeding. The federation stated that the effect of the suspension action is to allow sufficient time to review briefs, to issue a recommended decision, and to issue a final proposed rule. For this reason the federation withdrew its request for omitting a recommended decision.

In view of the circumstances, it is determined that there is no need to consider the testimony concerning the need to omit the issuance of a recommended decision and, accordingly the request for emergency action is denied.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Middle Atlantic marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1004.7, the introductory text of paragraph (a) and paragraph (d) are revised to read as follows:

§ 1004.7 Pool plant.

* * * * *

(a) A plant from which during the month a volume not less than 40 percent of its receipts described in paragraph (a) (1) or (2) of this section is disposed of as Class I milk (except filled milk) and a volume not less than 15 percent of such receipts is disposed of as route disposition (other than as filled milk) in the marketing area;

* * * * *

(d) A plant operated in accordance with paragraph (d) (1), (2) or (3) of this section, subject to the requirement of paragraph (d) (4) of this section.

(1) A reserve processing plant operated by a cooperative association at which milk from dairy farmers is received if the total of fluid milk products (except filled milk) transferred from such cooperative association plant(s) to, and the milk of member producers physically received at, pool plants pursuant to § 1004.7(a) is not less than 40 percent of the total milk of member producers during the month.

(2) A reserve processing plant operated by a federation of cooperative associations at which milk of member producers of the cooperatives is received if the total of fluid milk products (except filled milk) transferred from such federation plant(s) to, and the milk of member producers of the cooperatives physically received at, pool plants pursuant to § 1004.7(a) is not less than 40 percent of the combined milk of member producers of the cooperatives during the month.

(3) A reserve processing plant owned and operated by a cooperative association that also owns and operates a pool plant pursuant to § 1004.7(a) so long as the volume of the cooperative's member milk pooled at the reserve processing plant does not exceed the volume of sales of Class I milk (except filled milk) from the cooperative's pool distributing plant, plus the milk of member producers received directly at pool plants pursuant to § 1004.7(a) of other handlers during the month.

(4) A cooperative or federation of cooperatives operating a pool reserve processing plant qualified pursuant to this paragraph shall notify the market administrator each month, at the time of filing reports pursuant to § 1004.30 and in the detail prescribed by the market administrator, with respect to any receipts from member dairy farmers of the cooperative(s) delivering to such plant not meeting the health requirements for disposition as fluid milk in the marketing area.

* * * * *

§ 1004.11 [Amended]

2. In § 1004.11, the phrase, "the proviso of paragraph (d) of said § 1004.7" is revised to read " (d)(4)".

3. In § 1004.12, the number "15" in the introductory text of paragraph (d)(2) is changed to "18", and paragraph (b) is revised to read as follows:

§ 1004.12 Producer.

* * * * *

(b) A dairy farmer with respect to milk which is received at a pool plant pursuant to § 1004.7(d): *Provided*, That such milk is received directly from the farm of one who is a member of the cooperative operating the plant, or is received directly from the farm of one who is a member of a cooperative association that is a member of the federation operating the plant, or is received as milk diverted from a poll plant pursuant to § 1004.7 (a), (b) or (e).

* * * * *

4. In § 1004.13, paragraph (b) is revised to read as follows:

§ 1004.13 Producer milk.

* * * * *

(b) Received at a pool plant pursuant to § 1004.7(d): *Provided*, That such milk is received directly from the farm of one who is a member of the cooperative operating the plant, or is received directly from the farm of one who is a member of a cooperative association that is a member of the federation operating the plant, or is received as milk diverted from a pool plant pursuant to § 1004.7 (a), (b) or (e).

* * * * *

5. A new § 1004.19 is added to read as follows:

§ 1004.19 Federation.

Federation means an organization that is formed by two or more cooperative associations as defined in § 1004.20 and which is incorporated under the laws of a state.

(This recommended decision constitutes the Department's Draft Impact Analysis Statement for this proceeding.)

Signed at Washington, D.C. on January 19, 1979.

JAMES E. SPRINGFIELD,
Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-2693 Filed 1-24-79; 8:45 am]

[3410-05-M]

Commodity Credit Corporation

[7 CFR Part 1430]

PRICE SUPPORT PROGRAM FOR MILK

Terms and Conditions of 1978-79 Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal announces that the Secretary of Agriculture is considering the semiannual adjustment of the support price for milk. This proposed rule is being issued pursuant to the requirement in the Food and Agriculture Act of 1977 that the support price for milk shall be adjusted semiannually to reflect any estimated change in the parity index during such semiannual period. The Secretary may also consider other matters pertaining to the milk support program, including the manufacturing margins used in calculating Commodity Credit Corporation (CCC) dairy product purchase prices.

DATE: Comments must be received on or before February 26, 1979, to be sure of consideration.

ADDRESS: Director, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, 5741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Sidney Cohen (ASCS) 202-447-4037.

SUPPLEMENTARY INFORMATION: Section 201(c) of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, provides as follows: "The price of milk shall be supported at such level not in excess of 90 percent nor less than 75 percent of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. Notwithstanding the foregoing, effective for the period beginning on the effective date of the Food and Agriculture Act of 1977 and ending March 31, 1979, the price of milk shall be supported at not less

[1] Official notice is taken of the Assistant Secretary's decision on proposed amendments to the New York-New Jersey order that was issued on August 12, 1977 (42 FR 41582).

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than 80 per centum of the parity price therefor. Such price support shall be provided through purchases of milk and the products of milk."

Section 201(d) of the Act provides as follows: "Effective for the period beginning on the effective date of the Food and Agriculture Act of 1977 and ending March 31, 1981, the support price of milk shall be adjusted by the Secretary at the beginning of each semiannual period after the beginning of the marketing year to reflect any estimated change in the parity index during such semiannual period. • • • Any adjustment under this subsection shall be announced by the Secretary not more than thirty days prior to the beginning of the period to which it is applicable."

The parity index (index of prices paid by farmers for commodities, services, interest, taxes, and wage rates) was 757 (1910-14=100) on September 15. It is currently estimated that the March 15, 1979 index will be 3.8 to 5.8 percent higher. Therefore, the adjustment is estimated to require a 3.8 to 5.8 percent increase in the support price on April 1, 1979, or an increase from the present level of $9.64 per hundredweight for milk of 3.5 percent fat content to a level somewhere between $10.00 to $10.20.

From April through September 1978, milk production was about 1 percent below a year earlier. In October and November, production was 0.3 percent below a year ago and it is expected to rise over year earlier levels early in 1979. During October through December butter production was about 17 percent below a year earlier while American cheese production was about 10 percent above a year earlier. Production of nonfat dry milk in October and November (the latest available data) was 33 percent less than a year earlier.

Since October 1, the beginning of the marketing year, CCC has purchased less than 1 million pounds of butter, no cheese and only a relatively small amount of nonfat dry milk under the support program. CCC sold about 10 million pounds of butter back to the industry, at 10 percent above CCC's purchase price.

Commercial consumption of milk and milk products increased in 1977-78 over 1976-77. However, it is expected to increase only slightly in 1978-79 due to a projected decrease in butter use and much smaller gains in cheese use.

The market price of butter in Chicago began to rise above CCC's support purchase price in mid-July. On October 1, 1978, it was 116.62 cents per pound when the purchase price for the 1978-79 marketing year was announced at 113.30 cents per pound. The price continued to rise, reaching 122.12 cents in the last week in November, but it dropped to close to the announced purchase price in the last week in December.

The American cheese price also began to rise in July and was 111.12 cents per pound on October 1, 1978, when the purchase price for 1978-79 was announced at 106.00 cents per pound. The price continued to increase, reaching 119.50 cents per pound in early December.

The price for nonfat dry milk began to rise at a much slower rate in July and was very nearly the same as the 73.75 cents per pound announced on October 1, 1978. The price has continued to rise, reaching 78.10 cents per pound in the first week in January.

Manufacturing margins used in calculating the dairy product purchase prices under the support program were increased 10 cents per hundredweight, effective April 1, 1978. Costs to manufacturers have increased since then and it may necessary to increase the manufacturing margins in April 1979, in order to provide greater assurance that the average price for manufacturing milk received by farmers at least equals the announced support price.

PROPOSED RULE

Notice is hereby given that the Secretary of Agriculture is considering the semiannual adjustment in the level of the support price for milk as required by law, and the prices and terms of purchase by CCC of butter, cheese and nonfat dry milk, including factors used in calculating the dairy product purchase prices.

You are invited to submit in writing to the Director, Procurement and Sales Division, data, views and recommendations concerning the determinations to be made. In order to be assured of consideration, all submissions must be received by the Director not later than (30 days after publication in FEDERAL REGISTER). All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Procurement and Sales Division, ASCS, USDA, Room 5741-South Building, during regular business hours (8:15 a.m.-4:45 p.m.).

This notice of proposed rule making is issued under authority of Section 201 (c) and (d) of the Agricultural Act of 1949, as amended, (63 Stat. 1051, as amended; 7 U.S.C. 1446); and Sections 4 and 5 of the Commodity Credit Corporation Act, as amended (62 Stat. 1070, as amended; 15 U.S.C. 714b and 714c).

Because the latest available economic data concerning the first quarter of the marketing year is not available until January and because a longer comment period would not permit adequate consideration of public comment, I have determined that compliance with the 60-day comment period prescribed by Executive Order 12044 is not possible.

NOTE.—It is hereby certified that an approved Draft Impact Analysis has been prepared in accordance with Executive Order 12044 and is available from the Director, Procurement and Sales Division, ASCS, USDA, Room 5741-South Building.

Signed at Washington, D.C., on January 15, 1979.

STEWART N. SMITH,
Acting Executive Vice President, Commodity Credit Corporation

[FR Doc. 79-2596 Filed 1-24-79; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 18692]

AIRWORTHINESS DIRECTIVES

Avions Marcel Dassaults; All Models Fan Jet Falcon Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) that would require inspection for wear or inadequate mating of the engaging surfaces of the passenger door outer control handle and its catch on certain Fan Jet Falcon Series airplanes. It would also require repairs or replacements as necessary, repetitive inspections, and related modifications. The proposed AD is needed to prevent improper engagement of the passenger door locking mechanism which could result in the passenger door opening in flight.

DATES: Comments must be received on or before March 12, 1979.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 18692, 800 Independence Avenue, S.W., Washington, D.C. 20591.

The applicable service bulletin may be obtained from: Falcon Jet Corporation, 90, Moonachie Ave., Moonachie, New Jersey 07074.

A copy of each of the service bulletins is contained in the Rules Docket, Rm. 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Don C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone 513.38.30, or Chris Christie, Federal Aviation Administration, Engineering and Manufacturing Division, AFS-110, 800 Independence Ave. S.W. Telephone Washington, D.C. Area Code 202-426-3874.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been reports that the passenger door locking mechanism on certain Fan Jet Falcon series airplanes may not adequately engage, due to component wear or poor adjustment which can allow the door to open in flight if for some reason there is low relative pressure in the cabin. Since this condition is likely to exist or develop on other airplanes of the same type design, it is proposed to issue an airworthiness directive which would require inspection of the passenger door outer handle assembly and its catch on certain Fan Jet Falcon series airplanes to assure there is adequate engagement of the passenger door latching mechanism, repair of the door outer control handle assembly or replacement of the handle, as necessary, repetitive inspection, installation of a microswitch connected to the existing "door locked" annunciator light, and the installation of a placard.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 or the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

AVIONS MARCEL DASSAULT (A.M.D.). Applies to all models of the Fan Jet Falcon series airplanes, Serial Numbers 1 through 376, 378 through 380, 382, and 385 through 388, certificated in all categories.

Compliance required as specified in the body of this AD, unless already accomplished.

To prevent inadvertent opening of the passenger door due to incomplete manual engagement in closing, worn components, or poor adjustment of the latching mechanism, accomplish the following:

(a) For aircraft serial numbers 371 and 386, comply only with paragraph (e) of this AD. All other aircraft must comply with paragraphs (b) through (g) of this AD.

(b) Within the next 50 hours in service after the effective date of this AD, unless already accomplished, inspect the passenger door outer control handle and its catch for evidence of wear or inadequate mating of the engaging surfaces in accordance with Avions Marcel Dassault (A.M.D.) Service Bulletin (SB) No. 604 dated May 17, 1978, with Revision 1 dated June 8, 1978, or equivalent approved by the Chief, Aircraft Certification Staff, FAA, AEU-100, Europe, Africa, and Middle East Region.

(c) If during any inspection required by this AD, inadequate mating of the door outer control handle and its catch is found, before further flight, except that the airplane may be flown in accordance with FAR 21.197 and 12.199 to a base where repairs can be made, modify the door outer control handle assembly and its catch and install new steel lock bolts in accordance with AMD-SB No. 615, dated May 17, 1978, or an equivalent approved by Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, or if wear is localized on the door outer handle, replace it with a door outer handle of the same part number in accordance with the Falcon 20 service manuals referenced in paragraph "J" of AMD-SB No. 615 or equivalent approved by Chief, Aircraft Certification Staff, AEU-100, FAA, Europe, Africa, and Middle East Region.

(d) If during any inspection required by this AD, adequate mating of the door outer control handle and its catch is found or if a new door outer control handle has been installed in accordance with paragraph (b) of this AD, inspect the door outer control handle and its catch in accordance with the method specified in paragraph (a) of this AD at intervals not to exceed 500 hours time in service from the last inspection until the door outer control handle assembly and its catch are modified and steel lock bolts are installed in accordance with AMD-SB No. 615, dated May 17, 1978, or equivalent approved by the Chief, Aircraft Certification Staff, AEU-100, FAA, Europe, Africa, and Middle East Region.

(e) Within the next 500 hours time in service after the effective date of this AD, install passenger door closing instruction placards and symbols in accordance with the Accomplishment Instructions, paragraph 2. K. of AMD-SB No. 616, dated May 17, 1978 or FAA-approved equivalent.

(f) Within the next 1000 hours time in service after the effective date of this AD, install a microswitch and associated electrical circuitry to the passenger door handle mechanism and accomplish associated modifications in accordance with AMD-SB 616, dated May 17, 1978, or equivalent approved by the Chief, Aircraft Certification Staff, AEU-100 Federal Aviation Administration, Europe, Africa, and Middle East Region, c/o American Embassy, Brussels, Belgium.

(g) Incorporate appropriate revisions to the Aircraft Parts, Maintenance and Repair Manuals, and Wiring Diagrams related to AMD service bulletins referenced in this AD.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.85).

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on January 11, 1979.

J. A. FERRARESE,
Acting Director, Flight Standards Service.

[FR Doc. 79-2362 Filed 1-24-79; 8:45 am]

[4910-13-M]

[14 CFR Part 39]

[Docket No. 78-WE-26-AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-9 Series and C-9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would require inspection, rework and replacement of the forward passenger entry door lock mechanism crank assembly. The proposed AD is needed to preclude possible cracking and failure of the crank assembly that could result in jamming of the forward passenger door locking mechanism and prevent the door from being opened.

DATES: Comments must be received on or before March 30, 1979.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attn: Director, Publications and Training C1-750 (54-60).

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administra-

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tion, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Phone: 213-536-6351.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been reports of fatigue cracks found in the forward passenger entry door lock mechanism crank assembly. In one instance, the cracks were determined to be a major contributing factor in the complete failure of the crank assembly and subsequent jamming of the door lock mechanism that prevented the door from being opened after landing; passengers were deplaned through the emergency overwing exits. This door is a Type I emergency exit. The cracks and failure were reported on airplanes with more than 20,000 total flight hours.

The crank assembly, P/N 4918613-1, is made up of a −3 crank and −5 clevis in the shape of a tuning fork. The parts are made from 7075-T651 aluminum plate and are mated together with two bolts, at the crank arm and clevis tang. The mating faces contain a series of saw-tooth serrations to insure positive clamp-up on assembly. The bolt holes in the crank arm are elongated to permit adjustment in the length of the crank assembly during rigging of the door operating and locking mechanism.

The cracks originate in the roots of the serrations and are caused by preload due to misalignment of the −3 and −5 parts on the assembly during rigging. The misalignment is attributed to incorrect length of the elongated holes which permit the serrated surfaces of the mating parts to ride up on the unserrated areas and, in some cases, on the radius of the arm and tang, thereby inducing a preload and a bending stress when the parts are bolted together. The complete failure of one crank assembly is attributed to misalignment and initial overload: misalignment subjected the assembly to bending stress and fatigue cracking in the root of the serrations, and finally, as a result of an overload, complete separation on the −3 crank at the end serration.

The proposed airworthiness directive would require an inspection of the −3 crank and −5 clevis for cracks. The crank and clevis must be replaced with either reworked −3 and −5 parts or newly designed −11 and −13 parts. Parts that have cracks must be removed from service. The locking mechanism and crank assembly are located inside the door and covered by a liner which prevents any cracks or failure from being readily detectable.

Since this condition is likely to exist on other airplanes of the same type design, the proposed airworthiness directive would require a one time inspection, and rework and replacement of the forward passenger entry door mechanism crank assembly.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

McDONNELL DOUGLAS Applies to DC-9 Series and Military C-9 Series Airplanes, Certificated in all Categories.

Compliance is required as indicated, unless already accomplished.

To detect fatigue cracks in the forward passenger entry door lock mechanism crank assembly parts, P/N 4918613-3 (crank) and P/N 4918613-5 (clevis) accomplish the following:

(a) Within the next 1500 landings after the effective date of this AD, or before accumulating 22,500 total landings whichever occurs later, perform the dye penetrant inspections on the crank assembly part P/N 4918613-1, comprised of P/N 4918613-3 (crank) and P/N 4918613-5 (clevis), in accordance with the instructions in McDonnell Douglas DC-9 Service Bulletin 52-111, dated November 15, 1978.

(b) If a crack(s) is found in the −3 crank and/or the −5 clevis before further flight:

(1) Replace the cracked part(s) with a new crank, P/N 4918613-11, and/or a new clevis, P/N 4918613-13, in accordance with the instructions in the McDonnell Douglas DC-9 Service Bulletin 52-111, dated November 15, 1978; or,

(2) Replace the part(s) with an uncracked −3 crank and/or a −5 clevis modified in accordance with instructions in McDonnell Douglas DC-9 Service Bulletin 52-111, dated November 15, 1978.

(c) If no cracks are found in the −3 crank and/or −5 clevis, before further flight:

(1) Modify these parts in accordance with the instructions in McDonnell Douglas DC-9 Service Bulletin 52-111, dated November 15, 1978; or

(2) Replace the part(s) with a new P/N 4918613-11 crank and/or a new P/N 4918613-13 clevis in accordance with the instructions in McDonnell Douglas DC-9 Service Bulletin 52-111, dated November 15, 1978.

(d) Equivalent inspections procedures and repairs may be used when approved by Chief, Aircraft Engineering Division, FAA Western Region.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(f) For the purpose of complying with this AD, subject to the acceptance by the signed FAA maintenance inspector, the number of landings may be determined by dividing each airplane's hour's time in service by the operator's fleet average time from takeoff to landing for the airplane type.

(g) Upon request of operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region, may adjust the initial and repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator, if the request contains substantiating data to justify the increase for that operator.

NOTE.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044, and set forth in interim Department of Transportation Guildlines.

Issued in Los Angeles, California on January 15, 1979.

LEON C. DAUGHERTY,
Director,
FAA Western Region.

[FR Doc. 79-2375 Filed 1-24-79; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-CE-33]

TRANSITION AREA

Broken Bow, Nebraska; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to alter the 700-foot transition area at Broken Bow, Nebraska to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Broken Bow, Nebraska Municipal Airport, which is based on a VOR, a navigational aid being installed northwest of the airport by the City of Broken Bow, Nebraska.

DATES: Comments must be received on or before February 26, 1979.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri, 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before February 26, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR Section 71.181) by altering the 700-foot transition area at Broken Bow, Nebraska. To enhance airport usage, an additional instrument approach procedure to the Broken Bow, Nebraska Municipal Airport is being established utilizing a VOR, a navigational aid being installed northwest of the airport by the City of Broken Bow, Nebraska. The establishment of a new instrument approach procedure based on these facilities entails alteration of the transition area at and above 700 feet above ground level (AGL) within which aircraft will be provided additional controlled airspace protection.

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), by altering the following transition area:

BROKEN BOW, NEBRASKA

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Broken Bow Municipal Airport (latitude 41°26'05"N, longitude 99°38'25"W); and within 6 miles each side of the Broken Bow VOR 323° radial extending from the 7-mile radius area to 8.5 miles northwest of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Missouri, on January 12, 1979.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 79-2361 Filed 1-24-79; 8:45 am]

[1505-01-M]

[14 CFR Part 73]

[Airspace Docket No. 78-50-55]

TEMPORARY RESTRICTED AREAS

Proposed Establishment

Correction

In FR Doc. 78-36069 appearing at page 60579 in the issue for Thursday, December 28, 1978, in § 73.53, on page 60580, third column, third line under R5315B Lejeune, N.C., "Long. 77° 54' 45" W.," should read "Long. 76° 54' 45" W.;".

[4910-13-M]

[14 CFR Part 73]

[Airspace Docket No. 78-EA-89]

RESTRICTED AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to divide the present restricted area at Quantico, Va., into two areas and to provide for additional time of designation by issuing a Notice to Airman (NOTAM) in advance of intended additional use. This action would provide for more efficient use of the airspace by permitting nonmilitary operations to use one portion of the area while the military is using another portion. The change in time of designation would provide for make up time of training schedules that could not be met because of weather or other delays.

DATES: Comments must be received on or before February 26, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 78-EA-89, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamacia, N.Y. 11430. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamacia, N.Y. 11430. All communications received on or before February 26, 1979

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will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) that would divide the present Quantico Restricted Area R-6608 into R-6608A and R-6608B. No addition airspace would be designated, however, additional time would be provided by a NOTAM issued 24 hours in advance. The designated altitude, controlling agency and using agency would not change.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 73.66 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 714) as follows:

Under § 73.66

R-6608 title and text is deleted.
R-6608A and R-6608B Quantico, Va., are added as follows:
R-6608A Quantico, Va.
Boundaries. Beginning at Lat. 38°35'10"N.; Long. 77°34'07"W.; to Lat. 38°37'00"N.; Long. 77°34'07"W.; to Lat. 38°37'50"N.; Long. 77°32'20"W.; to Lat. 38°37'00"N.; Long. 77°25'34"W.; to Lat. 38°35'45"N.; Long. 77°24'55"W.; to point of beginning.
Designated altitudes. Surface to 10,000 feet MSL.
Time of designation. Intermittent, 0700 to 2400 hours, local time, other times by NOTAM issued at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Washington ARTCC.
Using agency. Commanding General, Marine Corps Development and Education Command, Quantico, Va.
R-6608B Quantico, Va.
Boundaries. Beginning at Lat. 38°35'10"N.; Long. 77°34'07"W.; to Lat. 38°35'45"N.; Long. 77°24'55"W.; to Lat. 38°31'15"N.; Long. 77°24'00"W.; to Lat. 38°31'15"N.; Long. 77°24'20"W.; to Lat. 38°29'00"N.; Long. 77°28'45"W.; to Lat. 38°31'20"N.; Long. 77°34'07"W.; to points of beginning.
Designated altitudes. Surface to 10,000 feet MSL.
Time of designation. Intermittent, 0700 to 2400 hours, local time, other times by NOTAM issued at least 24 hours in advance.
Controlling agency. Federal Aviation Administration, Washington ARTCC.
Using agency. Commanding General, Marine Corps Development and Education Command, Quantico, Va.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on January 19, 1979.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-2566 Filed 1-24-79; 8:45 am]

[4910-13-M]

[14 CFR Part 75]

[Airspace Docket No. 77-WE-21]

JET ROUTES

Proposed Revocation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke several jet routes in the vicinity of Battle Mountain, Nevada. Jet Routes J-154, J-198 and J-200 were established so that alternate routes would be available when aircraft encountered mountain wave turbulence. Since these routes have not been used, the FAA proposes to revoke them to reduce chart clutter.

DATES: Comments must be received on or before February 26, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 77-WE-21, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before February 26, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) that would revoke Jet Routes J-154 and J-200 and revoke in part J-198. Presently, J-154 is aligned from Battle Mountain, Nev., to Sacramento, Calif.; J-198 is aligned in part from Mina, Nev., to Linden, Calif.; and J-200 is aligned from Battle Mountain, to Linden. These jet routes were established to increase the number of routes available when mountain wave turbulence was reported. J-154 has been used only once and J-198 and J-200 have never been used. Radar service is available in these areas and could be used in lieu of the jet routes in the unlikely event that course deviation becomes necessary to avoid unfavorable weather. The revocation of these jet routes would reduce chart clutter and improve traffic flow by utilizing radar vectors for safe, expeditious separation of traffic in the area.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of the Federal Aviation Regulations (14 CFR Part 75) as republished (44 FR 722) as follows:

1. "Jet Route No. 154"—title and text would be deleted.
2. "Jet Route No. 200"—title and text would be deleted.
3. Under Jet Route No. 198—"From Linden, Calif., via INT Linden 063° and Mina, Nev., 298° radials; Mina; Wilson Creek, Nev.;" would be deleted "From Wilson Creek, Nev.;" would be substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C. on January 18, 1979.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-2364 Filed 1-24-79; 8:45 am]

[4910-13-M]

[14 CFR Part 199]

[Docket No. 18694; Notice No. 79-3]

AIRCRAFT LOAN GUARANTEE PROGRAM

Proposed Revision to Regulations Governing the FAA's Aircraft Loan Guarantee Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pub. L. 95-504, recently signed by the President, amended the Act relating to the FAA's Aircraft Loan Guarantee Program. The new law raised the total amount that can be guaranteed for any eligible participant from 30 million to 100 million dollars; expanded the eligible participants to include charter air carriers, commuter air carriers and intrastate air carriers; extended the term of eligible loans to fifteen years; and required that aircraft purchased under a guaranteed loan comply with FAA noise standards. In order to comply with the new law and to make related procedural changes, and to provide additional information and guidance to potential guarantee applicants the FAA is proposing amendments to Part 199 of the Federal Aviation Regulations.

DATES: Comments must be received on or before March 25, 1979.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 18694, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Richard A. Smith, Office of the Chief Counsel (AGC-50), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone: (202) 426-3480.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, Docket No. 18694, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before March 25, 1979, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure. The FAA's Aircraft Loan Guarantee program is authorized under the Act of September 7, 1957, as amended (71 Stat. 629; 49 U.S.C. 1324 Note) referenced hereafter as "the Act." The Act provides that this program is the responsibility of the Secretary of Transportation. Section 1.47(c) of the Department of Transportation Regulations (49 CFR 1.47(c)) delegates the Secretary's authority over the Loan Guarantee Program to the Administrator of the Federal Aviation Administration.

To implement the Loan Guarantee program the FAA promulgated Part 199 of Title 14 of the Code of Federal Regulations (14 CFR Part 199). This established the procedural mechanism by which the program is administered.

Recently, Pub. L. 95-504 made substantial amendments to the Act, the most significant of which are as follows:

1. It expands the categories of eligible participants to include "charter air carriers," "commuter air carriers," and "intrastate air carriers" (as those terms are defined in the new Act). Formerly only certain categories of local service, Alaskan, Hawaiian and Helicopter air carriers were eligible.

2. It expands the term of loans which may be guaranteed to a maximum of 15 years. The former maximum was 10 years.

3. It increases the maximum amount of a loan or combination of loans which can be guaranteed for a single carrier to $100 million. The former maximum was $30 million.

4. It adds the requirement that any new turbojet powered aircraft to be purchased under the Loan guarantee program must comply with the FAA's noise standards set forth in 14 CFR Part 36.

5. It provides that any guarantee made for the purchase of any all-cargo nonconvertible aircraft by a charter air carrier must be based on the percentage of service provided by that air carrier to small, medium and nonhub airports during the prior twelve months. The maximum amount of the guarantees will be roughly $1 million for each percent of service to these airports.

6. It re-enacts the authority to guarantee loans for a period of five years effective October 24, 1978. The previous authority expired on September 7, 1977.

The Secretary's guarantee authority lapsed on September 6, 1977 and was not revived until October 24, 1978 as a part of the Airline Deregulation Act (Pub. L. 95-504). During the debates of this Act, Congress demonstrated a

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great deal of concern that deregulation might substantially degrade the quality of air service to small communities. In an evident attempt to lessen any such negative effect, Congress expanded the class of eligible carriers to include additional carriers which typically provide the majority of their service to small communities. This expansion, the heightened emphasis on service to small communities and the fact that the loan guarantee program was revitalized, not independently, but as a part of the President's deregulation program, leads the FAA to conclude that this is a new program and that every effort should be made under the expanded guarantee authority to benefit the small communities. In addition, serious questions have been raised by both Congress and the Executive branch about the use and control of loan guarantees. There is every indication that control procedures will be adopted which will treat loan guarantees as part of the Federal budget process. For example, in a recent study by the Congressional Budget Office, that office concluded that:

> Understanding of Federal government activity through the budget process is incomplete to the extent that an estimated $53.4 billion of guaranteed loans are not included in the fiscal year 1979 budget. The current budgetary treatment of guaranteed lending hinders the coordination of loan guarantee programs with other important elements of Federal fiscal policy . . . CBO believes that guarantees, as well as other Federal fiscal activities, should be reviewed and controlled within the Congressional budget process. Efforts to improve control of guarantees should focus on refining the budget structure and strengthening the budget process. *Loan Guarantees, Current Concerns and Alternatives for Control, August 1978, Page 39.*

President Carter's budget message for 1979 expressed similar concern, and as a result, the FAA's 1980 budget contains the following proposed supplemental appropriation language:

FEDERAL AVIATION ADMINISTRATION

Sec. None of the funds in the Department of Transportation and Related Agencies Appropriation Act, 1979, shall be available for the administrative expenses of making a new loan guarantee during fiscal year 1979 for any aircraft purchase loan, pursuant to the act of September, 1957 (71 Stat. 629), as amended, (a) to any air carrier other than a commuter air carrier as defined in § 2 of the Act of September 7, 1957, as amended, or (b) which causes the aggregate of all such guarantees made during fascal year 1979 to exceed $50,000,000 in principal amount.

In light of these potential restrictions and of Pub. L. 95-504 and its history, the FAA, in the administration of this new program, cannot be bound by previous practices. Therefore, in order to be fair to potential applicants, the FAA cannot process loan guarantee applications or issue guarantees until new rules are adopted.

DISCUSSION OF PROPOSED CHANGES

The regulations governing the FAA's Aircraft Loan Guarantee program are found in Part 199 of the Federal Aviation Regulations (14 CFR Part 199) and set forth the procedures for obtaining guarantees. To conform Part 199 to the new amendment, to provide criteria by which applications will be evaluated, and to make related procedural changes, the FAA is proposing the revision of Part 199 as set forth below.

WHO IS ELIGIBLE FOR A GUARANTEE

The Act provides that the Secretary of Transportation is authorized to guarantee any lender against loss of principal and interest on aircraft purchase loans made to various air carriers. "Air Carriers" are defined in Section 101(3) of the Federal Aviation Act of 1958 as "any citizen of the United States who undertakes, whether directly or indirectly or by a lease as any other arrangement, to engage in air transportation." The citizen of the United States, therefore, must engage in air transportation. A question has arisen as to whether a broker, or a consortium of investors which intends to lease an aircraft to an air carrier qualified as an "air carrier" for the purposes of the Act.

There is no indication that Pub. L. 95-504 was designed to add brokers to the class of eligible carriers. Accordingly, the FAA has determined that such groups are too remote from the actual engagement in air transportation to qualify for a guaranteed loan. The actual carriage of freight or passengers will be accomplished by another person (who might well qualify as an eligible carrier if that person sought to purchase the aircraft) and not in any respect by the lessor. Furthermore, to guarantee a loan made to a lessor would be to guarantee a loan for the purchase of an aircraft which, in the future, might well not be used to provide the service which the Act is intended to encourage.

ALASKA AND HAWAII

Section 3 of the Act includes in the class of eligible air carriers "any air carrier whose certificate . . . authorizes scheduled passenger operations the major portion of which are conducted within the State of Hawaii"; and any air carrier whose certificate authorizes scheduled or nonscheduled operations, the "major portion" of which are conducted either within Alaska or between Alaska and the forty-eight contiguous states or adjacent Canadian territory. A question has arisen as to the standard to be used in determining whether a carrier's certificate meets this criteria. For purposes of administering the Act, the term "major portion" will be deemed to refer to more than 50% of the total number of a carrier's operations authorized in a certificate. The term "operation" will be deemed to mean takeoff, and the related subsequent landing, i.e. a takeoff and a landing, would be one "operation."

It is proposed to define the term adjacent Canadian territory in terms of a specific distance from the Alaskan border. Public comment is requested to assist the FAA in selecting a distance that will realistically reflect the objectives of the act as discussed above.

These standards are adopted because they appear to be most suited to facilitate service to small communities in the Alaskan and Hawaiian regions. They offer sufficient flexibility that a carrier may reinforce its economic base by servicing other locations which are economically advantageous; yet insure that communities within these regions will retain their service.

WHAT LOANS ARE COVERED

Section 3 of the Act gives the Secretary of Transportation authority to guarantee certain "loans made" to carriers for the purchase of modern aircraft and equipment. The Act, however, does not define when a loan is made. Neither the Act nor the legislative history restricts the meaning of this term. Accordingly, the FAA will give the term a meaning consistent with the ordinary commercial practice of lending institutions which finance aircraft purchases, so long as the interests of the United States as a guarantor are adequately protected.

In aircraft financing, a "loan" is actually an extended transaction, with a loan agreement or agreements and related documents executed on one date, but with loan amounts changing hands subsequently, on or near the date of aircraft delivery. The FAA, as required by the Act, and as a matter of sound business judgment, intends to review all financing documents prior to executing a guarantee agreement. So long as these documents are provided in final form or the essential terms and conditions of the parties' legal commitments are otherwise finally established, the Agency will have sufficient basis to determine whether an aircraft purchase loan may be guaranteed. Accordingly, loan agreements must be certain and definite in their essential terms and conditions in order to be deemed to be "loans made" within the meaning of the Act; and only such agreements will be considered as a basis for a loan guarantee.

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The only exception to this rule involves those loan documents placed in final form prior to the effective date of the Act, but which are contingent on an FAA Guarantee. In these cases no funds will change hands unless there is a guarantee; and, for that reason, such loans will be deemed to qualify under the Act when and if a guarantee is executed.

LOANS WHICH PREDATE GUARANTEE APPLICATIONS

A significant number of inquiries reach the FAA concerning whether a loan is eligible for a guarantee if the funds have already changed hands.

Section 4(a)(5) of the Act provides that no guarantee shall be made unless the Secretary finds that without such guarantee the carrier would be unable to obtain necessary funds on reasonable terms for the purchase of needed aircraft. If loan amounts have been paid over before a guarantee is issued, it can not be argued that the loan was impossible without such guarantee. Similarly, once parties to a loan have agreed to an interest rate without a guarantee, and loan amounts have changed hands, the interest rate of that loan will be deemed to be commercially reasonable. Accordingly, a loan agreement under which loan amounts have changed hands will not qualify for the Loan Guarantee Program. No guarantee will be authorized to reduce an interest rate under such a loan or otherwise to refinance a transaction. The Act authorizes the FAA to guarantee loans made for the purchase of aircraft; not loans made for the refinancing of purchases already consummated. In light of established practice, however, the FAA will consider as eligible for a guarantee, a loan which liquidates previous loans made for deposits so long as the amount of such deposits do not exceed 30% of the aircraft purchase price.

LOANS WHICH ARE CONTRARY TO THE POLICY OF THE UNITED STATES

From time to time, Congress and the Executive Branch promulgate or implement national policies which may affect the Loan Guarantee Program. No guarantee of a loan will be made if the loan or its terms and conditions are in contravention of the national policy or policies in effect at the time of the guarantee.

PRIORITIES AMONG OTHERWISE ELIGIBLE GUARANTEE RECIPIENTS

The Act of September 7, 1957, as amended, authorizes the Secretary of Transportation to guarantee any lender against loss of principal or interest on aircraft purchase loans made to eligible carriers. The Act does not require the Secretary to make such guarantees, but is discretionary in nature.

The Airline Deregulation Act (Pub. L. 95-504) significantly increased the class of eligible carriers by adding commuter air carriers, charter air carriers, and intrastate air carriers. Much of the Congressional debate with respect to the Airline Deregulation Act centered on the effect that law might have on air service to small communities. The FAA views the expansion of the class of eligible carriers as an effort by Congress not only to economically aid these carriers but also to offset any deterioration of service to small communities. Accordingly, in the event law or public policy requires a limitation on the dollar amount or number of guarantees made under the Act, the FAA will give priority to those applications made by carriers which typically provide a major part of the service to small communities. In this regard, the FAA has determined that the commuter air carriers would deserve first priority in such circumstances.

Priorities will be assigned to the individual applications of other eligible carriers based upon their demonstrated service to the smaller communities.

The commuter airlines in 1976 were serving 421 communities in the 48 contiguous states, compared to only 391 served by the local service air carriers. More important, 46% of the communities served by the commuters were under 25,000 population, compared to only 33% of the communities served by local service carriers. Only 9% of the communities served by the trunks were below 25,000 population, and only 11% of those served by the intrastate carriers were below 25,000.

In recent years the commuter air carrier industry has become an increasingly important part of the Nation's air transportation system. These carriers have experienced a 10.3% average annual passenger traffic increase since 1970. CAB statistics for 1977 compared to 1976 show the number of passengers carried by commuters increased 16.5% to 8.5 million, passenger miles increased 22.8% to 946.2 million and city pairs served increased 12.9% to 1,594. One factor contributing to the increase is growing public acceptance of this segment of the industry. Another factor is the decline in the service to the smaller cities rendered by trunk and local service air carriers. Since 1960, these carriers have discontinued service to 179 points. The commuter air carriers have stepped in and provided service to 96 of these points and this trend is expected to continue in the future.

The purpose of the original Aircraft Loan Guarantee Act was to promote the development of local, feeder, and short-haul air transportation and to provide service to the smaller communities. Following passage of the Deregulation Act these carriers are tending to expand their long-haul markets rather than expanding service to small communities. Accordingly, it is reasonable to give special attention in the administration of the program to guarantee the purchase of aircraft intended for use in providing air transportation to the smaller communities. In this way, the program will be useful in assisting the commuter air carriers in replacing trunk and local service air carriers at those points which the Civil Aeronautics Board determines should receive essential air service under Section 419 of the Deregulation Act.

TERMS AND CONDITIONS OF THE LOAN

The FAA, as guarantor of a loan, is financially liable on behalf of the United States in the event of a loan default. In view of this liability, the FAA will not guarantee a loan if the terms and conditions of the loan documents, including any default provisions, are substantially less favorable than those which are available in similar circumstances in the market place at the time of the guarantee.

GUARANTEE FEE

The Act provides that the Secretary will prescribe and collect from the lender a reasonable guarantee fee on each loan. In the past this fee has been 0.25% per annum on the unpaid balance of the guaranteed portion of the loan. We foresee no reason to change this fee rate over the life of the guarantee program. In order to provide more visible notification to the public, the amount of the fee as well as the authority to collect it will be specified in the regulation.

INSTRUCTIONS FOR PREPARATION OF APPLICATIONS

A completed application for a loan guaranty under this program consists of two parts: An FAA Form 2950-1 submitted by the lender; and an FAA Form 2950-2 submitted by the borrower. Current regulations contain detailed instructions on completion of these forms.

The revised regulation will delete these instructions, and will instead simply advise the applicant where application may be obtained and where the completed applications must be submitted. Detailed instruction on completion of the forms will be sent to the applicant along with the forms.

FUNCTIONS OF THE ADMINISTRATOR

The functions of the Secretary, as already pointed out, were transferred to the Administrator by § 1.47(c) of the Department of Transportation Regulations (49 CFR 1.47(c)). Under

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the present Part 199, the Administrator's functions are delegated to the Director of the Office of Aviation Policy of the FAA. However, in practice, no loan guarantee has been executed without the approval of the Chief Counsel, or without his formal opinion that such guarantee complies with all requirements of law. The revised regulation merely formalizes that arrangement.

FULL FAITH AND CREDIT

Recently, various lenders have requested the FAA to provide legal opinions that particular loan guarantees under the program are entitled to the full faith and credit of the United States. Because of their repetitive requests, the FAA feels that it is proper to state by regulation the long standing position of the Agency.

Congress has the power to incur obligations on behalf of the United States and may use such agencies as it deems appropriate to execute its constitutional powers (See 41 Op. A.G. 403, 405). So viewed, the act of September 7, 1957, as amended, was a delegation of authority to the Secretary of Transportation to incur guarantee obligations on behalf of the United States. Any such obligation undertaken by the Secretary or his duly appointed representative, pursuant to the authority conferred by the Act, will constitute an obligation of the United States (41 Op. A.G. 403, 405).

This conclusion is not affected by the absence from the Act of any language expressly pledging the faith or credit of the United States to payment of guarantee obligations. The Attorney General has emphasized in various opinions that there is no order of solemnity of valid general obligations of the United States and that no legal priority is afforded general obligations contracted pursuant to an express pledge of faith or credit over those not so accompanied (41 Op. A.G. 363). It is enough to create an obligation of the United States if an agency or officer is validly authorized to incur such an obligation on its behalf and validly exercises that power (41 Op. A.G. 403, 405).

In accordance with the opinions of the Attorney General cited above, and because of the frequency of inquiries on this issue, a provision will be included in the regulations specifying that any guarantee issued pursuant to the Act is entitled to the full faith and credit of the United States.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Part 199 of the Federal Aviation Regulations (14 CFR Part 199) as follows:

PART 199—AIRCRAFT LOAN GUARANTEE PROGRAM

Sec.

199.1 Applicability.
199.3 Definitions.
199.5 Carriers eligible for an aircraft loan guarantee.
199.7 Alaska and Hawaii.
199.9 Loans made within the Act.
199.11 Conditions and limitations under which loans will be guaranteed.
199.13 National policy considerations.
199.15 Priorities among otherwise eligible guarantee recipients.
199.17 Terms and conditions of loan.
199.19 Applications.
199.21 Action taken on applications.
199.23 Fees.
199.25 Deviation from Terms of Agreement or Guarantee.
199.27 Delegation of Administrator's functions.
199.29 Notices.
199.31 Full faith and credit.

AUTHORITY: Act of September 7, 1957 (49 U.S.C. 1324 Note; 82 Stat. 1003), as amended, Pub. L. 95-504, secs. 6(a)(3)(A) and 9 of the Department of Transportation Act (49 U.S.C. 1655(a)(3)(A) and 1657) and sec. 1.4(b)(4) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.4(b)(4)).

§ 199.1 Applicability.

This part applies to applications for aircraft loan guarantees as provided by the Act of September 7, 1957 (40 U.S.C. 1324 Note), and as extended by Pub. Ls. 90-568 (82 Stat. 1003) and 95-504, and to requests for approval of deviations from the terms of guarantee and loan agreements concluded after September 7, 1957.

§ 199.3 Definitions.

"Act," as used in this part means the Act of September 7, 1957 (49 U.S.C. 1324 Note), as amended.

"Carrier," as used in this part, includes air carrier, charter air carrier, commuter air carrier and intrastate air carrier as these terms are defined in the Act of September 7, 1957, as amended.

§ 199.5 Carriers eligible for an aircraft loan guarantee.

(a) Only those carriers set forth in section 3 of the Act are eligible for loan guarantee assistance.

(b) Only those carriers identified in paragraph (a) of this section who are directly engaged in air transportation are eligible for loan guarantee assistance.

(c) Only those aircraft purchased by carriers for their own use in air transportation shall be eligible for a loan guarantee.

§ 199.7 Alaska and Hawaii.

(a) The term "major portion" as used in section 3 (1)(b) and (c) of the Act means a portion which is greater than 50%

(b) The term "operation" as used in section 3(1)(b) and (c) of the Act means a takeoff and the related subsequent landing.

(c) The term "adjacent Canadian territory" as used in section 3(1)(c) means (a specific distance will be selected for the final rule. See preamble for discussion.)

§ 199.9 Loans made within the Act.

(a) For purposes of determining which loans are eligible for guarantee under the Act, only those loans in which all financing documents are in final form, or in which the essential terms and conditions of the parties' legal commitments are otherwise finally established, shall be considered for a loan guarantee.

(b) Loans agreements which are submitted in final form during the life of the Act shall be deemed to fall within the Act, even if Loan amounts are to be paid over after expiration of the Act.

(c) Loan agreements which were in final form prior to October 24, 1978 may be considered for a loan guarantee only if no payments have been made under such agreement or agreements; and only if payments were expressly contingent on the obtaining of a government loan guarantee.

(d) No guarantee may be authorized for the refinancing of an aircraft purchase loan. This prohibition will not extend to aircraft purchase loans which liquidate previous loans made for deposits on an aircraft so long as such deposits do not exceed 30% of the aircraft purchase price.

§ 199.11 Conditions and limitations under which loans will be guaranteed.

(a) Subject to paragraph (b) of this section, no guaranty shall be made—

(1) Extending to more than the unpaid interest and 90% of the unpaid principal of any loan;

(2) On any loan or combination of loans for more than 90% of the purchase price of the aircraft, including spare parts, to be purchased therewith;

(3) On any loan whose terms permit full repayment more than 15 years after the date thereof;

(4) Wherein the total face amount of such loan, and of any other loans to the same carrier, or corporate predecessor of such carrier, guaranteed and outstanding under the terms of the Act exceeds $100 million;

(5) Unless the Administrator finds that, without such guarantee, in the amount thereof, the carrier would be unable to obtain necessary funds for the purchase of needed aircraft on reasonable terms;

(6) Unless the Administrator finds that the aircraft to be purchased with the guaranteed loan is needed to improve the service and efficiency of operation of the carrier;

(7) Unless the Administrator finds that the prospective earning power—

(i) Of the applicant air carrier or charter air carrier, together with the character and value of the security pledged, furnish (A) reasonable assurances of the applicant's ability to repay the loan within the time fixed therefor, and (B) Reasonable protection to the United States; and

(ii) Of the applicant commuter air carrier or intrastate air carrier, together with the character and value of the security pledged, furnish (A) reasonable assurances of the applicant's ability and intention to repay the loan within the time fixed therefor, to continue its operations as a commuter air carrier or intrastate air carrier, and to the extent found necessary by the Administrator to continue its operations as a commuter air carrier or intrastate air carrier between the same route or routes being operated by such applicant at the time of the loan guarantee, and (B) reasonable protection to the United States; and

(8) On any loan or combination of loans for the purchase of any new turbojet-powered aircraft which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary of Transportation acting through the Administrator (14 CFR Part 36), as such regulations were in effect on January 1, 1977;

(b) No guarantee may be made by the Administrator under paragraph (a) of this section on any loan for the purchase of any all-cargo nonconvertible aircraft by any charter air carrier in an amount which, together with any other loans guaranteed and outstanding under this Act to such charter air carrier, or corporate predecessor of such charter air carrier, would result in the ratio of the total face amount of such loans to $100 million exceeding the ratio of the amount of charter air transportation of such charter air carrier provided to medium, small, and nonhub airports during the twelve-month period preceding the date on which the application for such guarantee is made by such charter air carrier to the total amount of charter air transportation of such charter air carrier during such twelve-month period.

§ 199.13 National policy considerations.

No loan which is contrary to law or to the economic, social or foreign affairs interests or policies of the United States may be guaranteed.

§ 199.15 Priorities among otherwise eligible guarantee recipients.

In the event that, by reason of law or public policy, a limitation is placed or becomes necessary upon the dollar amount or number of guarantees made under the Act, priorities shall be assigned to guarantee applications in the following order:

(a) Applications made by commuter air carriers;

(b) Applications made by other eligible carriers, in the order of their demonstrated service to the smaller communities.

§ 199.17 Terms and conditions of loan.

No loan shall be guaranteed if its terms and conditions, including any default provisions, are substantially less favorable to the purchaser or guarantor than those which are available in the marketplace for similar transactions at the time of the loan.

§ 199.19 Applications.

(a) The lender shall make application for an aircraft loan guarantee under this part by filing with the Director, Office of Aviation Policy of the FAA an original and five copies of Form FAA 2950-1 and Form FAA 2950-2 prepared by the lender and air carrier, respectively, together with an original and four copies of any supporting documents. These forms may be obtained from the Federal Aviation Administration, Office of Aviation Policy AVP-210, 800 Independence Avenue, SW., Washington, D.C. 20591.

(b) Application forms (FAA 2950-1 and 2950-2) shall be completed in accordance with instructions which will be mailed together with the requested applications.

§ 199.21 Action taken on applications.

(a) Upon receipt of a completed application the Administrator may use available services and facilities of other agencies and instrumentalities of the Federal Government in carrying out the provisions of these regulations.

(b) The Administrator may approve or disapprove applications based on whether or not the requirements and standards of these regulations have been met.

(c) Upon approval of an application, the Administrator may execute any necessary guarantee agreement and such amendments to the guaranty agreement as from time to time become necessary.

§ 199.23 Fees.

Any lender to whom a guarantee under this part is issued shall pay to the Administrator a guaranty fee computed at the rate of ¼ of one percent per annum (based on the actual number of days elapsed) on the average daily amount of the guaranteed portion of the unpaid principal outstanding during the interest period defined in the loan agreement.

§ 199.25 Deviation from terms of Agreement of Guarantee.

No deviation from the terms of any guarantee agreements made after September 7, 1957, or from the terms of any underlying loan agreements approved as a part of a loan guarantee transaction shall be made without the prior approval by the Administrator. An original and four copies of requests for such approval, and an original and two copies of any supporting documents, shall be filed with the Director, Office of Aviation Policy of the FAA.

§ 199.27 Delegation of Administrator's functions.

The functions of the Administrator under this part are exercised by the Director of the Office of Aviation Policy of the FAA subject to approval of the Chief Counsel.

§ 199.29 Notices.

All correspondence required by this part shall be addressed to the Office of Aviation Policy, Attn: AVP-210, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

§ 199.31 Full faith and credit.

Any guarantee which is issued pursuant to this part shall be subject to the full faith and credit of the United States.

NOTE.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on January 19, 1979.

S. SCOTT SUTTON,
Acting Director,
Office of Aviation Policy.

[FR Doc. 79-2568 Filed 1-24-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 437]

FOOD ADVERTISING (PHASE I)

Trade Regulation Rule; Extension of Post-record Comment Period

AGENCY: Federal Trade Commission.

ACTION: Extension of the post-record comment period.

SUMMARY: On January 12, 1979, the Federal Trade Commission voted to extend the deadline for the submission of public comments on the Report of the Presiding Officer and the Staff Report and Recommendations on Phase I of the proposed Trade Regula-

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tion Rule on Food Advertising for two weeks.

DATES: Post record comments will, therefore, be accepted for the public record if received on or before February 12, 1979.

ADDRESS: Comments should be sent to: Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580

FOR FURTHER INFORMATION CONTACT:

Melvin H. Orlans, 202-724-1511, Deputy Assistant Director for Food and Drug Advertising, Federal Trade Commission, Washington, D.C. 20580 or Judith A. Neibrief, 202-724-1496, Attorney, Division of Food and Drug Advertising, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On November 29, 1978, the Director of the Bureau of Consumer Protection published in the FEDERAL REGISTER, 43 FR 55771, notice of the publication of the Staff Report and Recommendations on Phase I of the proposed Trade Regualtion Rule on Food Advertising. Pursuant to § 1.13(h) of the Commission's rules of practice the publication of this report commenced the final, 60-day comment period on both the Staff Report and Recommendations and the Report of the Presiding Officer (which was published on March 22, 1978; see 43 FR 11834). Therefore, the notice announced that public comments would be accepted if received on or before January 29, 1979.

In December 1978, the Commission received two requests for an extension of the time within which to file post record comments in this proceeding. On January 12, 1979, the Commission determined that an extension of two weeks should be granted. Therefore, comments will now be accepted if received on or before February 12, 1979.

Requests for copies of these reports should be sent to the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580

Comments will be accepted on both the staff report and the presiding officer's report. Comments should be identified as "Comment on Presiding Officer and Staff Reports—Food Advertising TRR," and addressed to the Secretary—Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, and submitted, when feasible, in five copies.

The Commission cautions all concerned that the staff report has not been reviewed or adopted by the Commission, and that its publication should not be interpreted as reflecting the present views of the Commission or any individual member thereof.

Approved: January 19, 1979.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-2692 Filed 1-24-79; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 183]

[CGD 78-090]

BOATS AND ASSOCIATED EQUIPMENT

Proposed Rule; Correction

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule (FR Doc. 78-36133) appearing at page 60850 in the December 28, 1978 issue of the FEDERAL REGISTER by adding the address to which comments on this proposed rule should be submitted. The date by which the comments must be received is also extended in order to allow commenters adequate time to respond.

DATE: Comments must be received on or before March 12, 1979.

ADDRESS: Comments should be submitted to Commandant (G-CMC/81), (CGD 78-090), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Lars E. Granholm, Office of Boating Safety (G-BBT), U.S. Coast Guard, Room 4314, Department of Transportation, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590, 202-426-4027.

Dated: January 22, 1979.

C. F. DEWOLF,
Rear Admiral, U.S. Coast Guard, Chief Counsel.

[FR Doc. 79-2721 Filed 1-24-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1045-4]

STATE IMPLEMENTATION PLANS

Receipt—Utah

AGENCY: Environmental Protection Agency.

ACTION: Notice of Receipt of Utah SIP.

SUMMARY: The purpose of this notice is to announce the receipt of a State Implementation Plan (SIP) revision for Utah and to invite public comment. On January 3, 1979, pursuant to the requirements of Part D of the Clean Air Act as amended in 1977, the State of Utah submitted to EPA a revision to its SIP for certain areas designated as non-attainment for specific air pollutants. As required by the Act, the purpose of this revision is to implement new measures for controlling air pollution in the non-attainment areas and to demonstrate that these measures will provide for attainment of the national ambient air quality standards as expeditiously as practicable, but no later than December 31, 1982 (in limited instances December 31, 1987). If the revision cannot be approved by EPA on or before July 1, 1979, certain sanctions as required by the Clean Air Act must be implemented in the applicable non-attainment areas.

DATES: See Supplementary Information.

ADDRESSES: Copies of the SIP revision are available at the following addresses for inspection:

Environmental Protection Agency, Region VIII, Regional Library, 1860 Lincoln Street, Denver, Colorado 80295.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

Bureau of Air Quality, Utah Division of Health 150 West North Temple, Post Office Box 2500, Salt Lake City, Utah 84110.

WRITTEN COMMENTS SHOULD BE SENT TO:

Mr. Robert R. DeSpain, Chief, Air Programs Branch, Region VIII, environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert R. DeSpain, Chief, Air Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), and on September 11, 1978 (43 FR 40412), pursuant to the requirements of Section 107 of the Clean Air Act, as amended in 1977, EPA designated areas in each state as non-attainment with respect to the criteria air pollutants. In Utah, the areas designated as non-attainment are:

	TSP	CO	O_3	SO_2
Davis County	X	X	X	—
Salt Lake County	X	X	X	X
Utah County	X	X	X	—
Weber County	X	X	X	—
Tooele County	—	—	—	X
Cedar City	—	—	—	X

Additionally, the Part D of the Amendments required each state to revise its SIP to meet specific requirements in the areas designated as non-attainment. These SIP revisions were due on January 1, 1979, and must demonstrate attainment of the national ambient air quality standards, as expeditiously as practicable, but no later than December 31, 1982, or in limited instances for carbon monoxide and photochemical oxidants, no later than December 31, 1987. If the revised SIP fails to meet the requirements of Part D and cannot be approved by July 1, 1979, the Amendments require the implementation of certain sanctions, which could include:

(1) The prohibition of new source permits for major air pollution sources in the non-attainment area, and

(2) Withholding of some federal funding, including DOT highway funding and EPA sewage treatment grants.

On January 3, 1979, EPA received the revised SIP for the State of Utah and is currently reviewing that SIP with respect to the requirements of the Clean Air Act. At the completion of that review, a notice will be published in the FEDERAL REGISTER proposing approval or disapproval of the revised SIP.

Interested persons are invited to review the revised SIP at one of the locations listed above and comment on its approvability. The proposed notice referred to above will announce the last date which comments can be received. This public comment period may end less than sixty days after EPA's proposal of approval or disapproval.

Dated: January 17, 1979.

ROGER L. WILLIAMS,
Acting Regional Administrator.

[FR Doc. 79-2665 Filed 1-24-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1045-3]

STATE IMPLEMENTATION PLANS

Receipt—Colorado

AGENCY: Environmental Protection Agency.

ACTION: Notice of Receipt of Colorado SIP.

SUMMARY: The purpose of this notice is to announce the receipt of a State Implementation Plan (SIP) revision for Colorado and to invite public comment. On January 2, 1979, pursuant to the requirements of Part D of the Clean Air Act as amended in 1977, the State of Colorado submitted to EPA a revision to its SIP for certain areas designated as non-attainment for specific air pollutants. As required by the Act, the purpose of this revision is to implement new measures for controlling air pollution in the non-attainment areas and to demonstrate that these measures will provide for attainment of the national ambient air quality standards as expeditiously as practicable, but no later than December 31, 1982 (in limited instances December 31, 1987). If the revision cannot be approved by EPA on or before July 1, 1979, certain sanctions as required by the Clean Air Act must be implemented in the applicable non-attainment areas.

DATES: See Supplementary Information.

ADDRESSES: Copies of the SIP revision are available at the following addresses for inspection:

Environmental Protection Agency, Region VIII, Regional Library, 1860 Lincoln Street, Denver, Colorado 80295.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW, Washington, D.C. 20460.

Colorado Department of Health, Air Pollution Control Division, 4210 East 11th Avenue, Denver, Colorado 80220.

WRITTEN COMMENTS SHOULD BE SENT TO:

Mr. Robert R. DeSpain, Chief, Air Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert R. DeSpain, Chief, Air Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), and on September 11, 1978 (43 FR 40412), pursuant to the requirements of Section 107 of the Clean Air Act, as amended in 1977, EPA designated areas in each state as non-attainment with respect to the criteria air pollutants. In Colorado, the areas designated as non-attainment are:

	TSP	CO	O_3	NO_2
Colorado Springs	X	X	X	—
Denver Region	X	X	X	X
Grand Junction Area	X	—	—	—
Larimer-Weld Region	X	X	X	—
Pueblo Area	X	—	—	—

Additionally, the Part D of the Amendments required each state to revise its SIP to meet specific requirements in the areas designated as non-attainment. These SIP revisions were due on January 1, 1979, and must demonstrate attainment of the national ambient air quality standards, as expeditiously as practicable, but no later than December 31, 1982, or in limited instances for carbon monoxide and photochemical oxidants, no later than December 31, 1987. If the revised SIP fails to meet the requirements of Part D and cannot be approved by July 1, 1979, the Amendments require the implementation of certain sanctions, which could include:

(1) The prohibition of new source permits for major air pollution sources in the non-attainment area, and

(2) Withholding of some federal funding, including DOT highway funding and EPA sewage treatment grants.

On January 2, 1979, EPA received the revised SIP for the State of Colorado and is currently reviewing that SIP with respect to the requirements of the Clean Air Act. At the completion of that review, a notice will be published in the FEDERAL REGISTER proposing approval or disapproval of the revised SIP.

Interested persons are invited to review the revised SIP at one of the locations listed above and comment on its approvability. The proposed notice referred to above will announce the last date which comments can be received. This public comment period may end less than sixty days after EPA's proposal of approval or disapproval.

Dated: January 17, 1979.

ROGER L. WILLIAMS,
Acting Regional Administrator.

[FR Doc. 79-2666 Filed 1-24-79; 8:45 am]

[6560-01-M]

[40 CFR Part 52]

[FRL 1045-2]

STATE IMPLEMENTATION PLANS

Receipt—South Dakota

AGENCY: Environmental Protection Agency.

ACTION: Notice of Receipt of South Dakota SIP.

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SUMMARY: The purpose of this notice is to announce the receipt of a State Implementation Plan (SIP) revision for South Dakota and to invite public comment. On January 3, 1979, pursuant to the requirements of Part D of the Clean Air Act as amended in 1977, the State of South Dakota submitted to EPA a revision to its SIP for Rapid City, South Dakota, which was designated as non-attainment for total suspended particulates (TSP). As required by the Act, the purpose of this revision is to implement new measures for controlling the emissions of particulates in the Rapid City area and to demonstrate that these measures will provide for attainment of the national ambient air quality standards for TSP as expeditiously as practicable, but no later than December 31, 1982. If the revision cannot be approved by EPA on or before July 1, 1979, certain sanctions as required by the Clean Air Act must be implemented in the Rapid City area.

DATES: See Supplementary Information.

ADDRESSES: Copies of the SIP revision are available at the following addresses for inspection:

Environmental Protection Agency, Region VIII, Regional Library, 1860 Lincoln Street, Denver, Colorado 80295.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

South Dakota Department of Environmental Protection, State Office Building, #2, Pierre, South Dakota 57501.

WRITTEN COMMENTS SHOULD BE SENT TO:

Mr. Robert R. DeSpain, Chief, Air Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert R. DeSpain, Chief, Air Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), and on September 11, 1978 (43 FR 40412), pursuant to the requirements of Section 107 of the Clean Air Act, as amended in 1977, EPA designated areas in each state as non-attainment with respect to the criteria air pollutants. In South Dakota, the Rapid City area was designated non-attainment with respect to total suspended particulates.

Additionally, the Part D of the Amendments required each state to revise its SIP to meet specific requirements in the areas designated as non-attainment. These SIP revisions were due on January 1, 1979, and must demonstrate attainment of the national ambient air quality standards, as expeditiously as practicable, but no later than December 31, 1982, or in limited instances for carbon monoxide and photochemical oxidants, no later than December 31, 1987. If the revised SIP fails to meet the requirements of Part D and cannot be approved by July 1, 1979, the Amendments require the implementation of certain sanctions, which could include:

(1) The prohibition of new source permits for major air pollution sources in the non-attainment area, and

(2) Withholding of some federal funding, including DOT highway funding and EPA sewage treatment grants.

On January 3, 1979, EPA received the revised SIP for the State of South Dakota and is currently reviewing that SIP with respect to the requirements of the Clean Air Act. At the completion of that review, a notice will be published in the FEDERAL REGISTER proposing approval or disapproval of the revised SIP.

Interested persons are invited to review the revised SIP at one of the locations listed above and comment on its approvability. The proposed notice referred to above will announce the last date which comments can be received.

Dated: January 17, 1979.

ROGER L. WILLIAMS,
Acting Regional Administrator.

[FR Doc. 79-2667 Filed 1-24-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1041-8]

DELAYED COMPLIANCE ORDERS

Proposed Delayed Compliance Order for Sun Oil Co. of Pennsylvania

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to issue Administrative Orders to Sun Oil Company of Pennsylvania. The Orders require the Company to bring its terminals in Cleveland, Columbus, Dayton, Akron and Toledo, Ohio into compliance with Ohio Regulation AP-5-07 (3745-21-07) part of the federally approved Ohio State Implementation Plan (SIP). Because the Company is unable to comply with this regulation at this time, the proposed Order would establish an expeditious schedule requiring final compliance by July 1, 1979. Source compliance with these Orders would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act (the Act) for violation of the SIP regulations covered by the Orders.

The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on U.S. EPA's proposed issuance of the Orders.

DATES: Written comments must be received on or before the thirtieth day from the date of this notice and requests for a public hearing must be received on or before the fifteenth day from the date of this notice. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESS: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Pierre Talbert, Attorney, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, at (312) 353-2086.

SUPPLEMENTARY INFORMATION: Sun Oil Company of Pennsylvania owns terminals in Cleveland, Columbus, Dayton, Akron and Toledo, Ohio. The proposed Order addresses emissions from these terminals which are subject to Ohio Regulation AP-5-07 (3745-21-07) of the Ohio Implementation Plan. The regulation limits the emissions of volatile organic materials and is part of the federally approved Ohio State Implementation Plan. The Orders require final compliance with the regulations by July 1, 1979, and the source has consented to its terms.

The proposed Orders satisfy the applicable requirements of Section 113(d) of the Act. If the Orders are issued, source compliance with its terms would preclude further U.S. EPA enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Orders during the period

the Orders are in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether U.S. EPA should issue the Orders. Testimony given at any public hearing concerning the Orders will also be considered. After the public comment period and any public hearing, the Administrator of U.S. EPA will publish in the FEDERAL REGISTER the Agency's final action on the Orders in 40 CFR Part 65.

Dated: January 10, 1979.

JOHN MCGUIRE,
Regional Administrator,
Region V.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending the table in § 65.400 to reflect approval of the following order:

§ 65.400 Federal Delayed Compliance Orders Issued under Section 113(d)(1), (3), and (4) of the Act.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION V

In the Matter of: Sun Oil Company of Pennsylvania, Cleveland, Akron, Columbus, Dayton, and Toledo, Ohio Marketing Terminals:

Cleveland—Order No. EPA-5-79-;
Akron—Order No. EPA-5-79-;
Columbus—Order No. EPA-5-79-;
Dayton—Order No. EPA-5-79-;
Toledo—Order No. EPA-5-79-

Proceeding pursuant to Section 113(d) of the Clean Air Act, as amended (42 U.S.C. Section 7413(d)).

INTRODUCTION

These Orders are issued this date pursuant to Sections 113(a), 113(d), and 114 of the Clean Air Act, as amended, 42 U.S.C. Section 7401 *et seq.* (hereafter the "Act") and contain a schedule for compliance, interim control requirements, and reporting requirements. Public notice, opportunity for a public hearing, and thirty (30) days notice to the State of Ohio have been provided pursuant to Section 113(d)(1) of the Act.

FINDINGS

1. On September 3, 1978, the United States Environmental Protection Agency (hereafter "U.S. EPA" or "Agency") issued a Notice of Violation (hereafter "NOV") to Sun Oil Company of Pennsylvania (hereafter Sun Oil) pursuant to Section 113(a)(1) of the Act, 42 U.S.C. 7413(a)(1), for alleged violation of Ohio Air Pollution Control Regulation AP-5-07 (recodified 3745-21-07). The NOV cited Sun Oil's Cleveland Marketing Terminal located at 3200 Independence, Cleveland, Ohio.

2. Ohio Air Pollution Control Regulation AP-5-07 (3745-21-07) creates certain requirements applicable to facilities which load volatile organic materials in specified quantities into certain tank trucks, trailers, or railroad tank cars.

3. Ohio Air Pollution Control Regulation AP-5-07 (3745-21-07) is part of the State of Ohio Implementation Plan, which was created under Section 110 of the Act, 42 U.S.C. 7410.

4. In satisfaction of Section 113(a)(4) of the Act, 42 U.S.C. 7413(a)(4), and opportunity to confer with the Administrator's delegate was extended to Sun Oil in the NOV, and a conference was held on September 27, 1978.

5. Following the September 27, 1978, conference, Sun Oil, by letter dated October 23, 1978, stated that it intends to install vapor recovery and disposal units at its Ohio Marketing Terminals, namely, Cleveland, Dayton, Columbus, Akron, and Toledo by July 1, 1979.

6. It has been determined by the U.S. EPA that Sun Oil Company of Pennsylvania is unable to immediately comply with Ohio Air Pollution Control Regulation AP-5-07 (3745-21-07) of the State of Ohio Implementation Plan.

7. It has been determined by U.S. EPA that violations of AP-5-07 (3745-21-07) have continued beyond the 30th day after the date of notification by the Director, Enforcement Division.

ORDERS

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in these Orders are as expeditious as practicable, and that the terms of these Orders comply with Section 113(d) of the Act. Therefore, it is hereby agreed and Ordered that:

1. Sun Oil Company of Pennsylvania will achieve compliance with the State of Ohio Implementation Plan Air Pollution Control Regulation AP-5-07 (3745-21-07) as approved by the U.S. EPA on April 15, 1974, which requires the installation of vapor collection and recovery systems at the volatile organic material loading racks associated with its Ohio Marketing Terminals, namely, Cleveland, Dayton, Columbus, Akron, and Toledo. Such installation shall be in accordance with the following schedule:

	Toledo	Cleveland	Columbus	Dayton	Akron
1. Order Unit	10/13/78	10/13/78	10/13/78	10/13/78	10/13/78
2. Start Construction	2/26/79	3/12/79	3/19/79	4/09/79	4/16/79
3. Unit Shipment	3/19/79	4/09/79	4/23/79	5/14/79	5/28/79
4. Unit Delivery	3/23/79	4/13/79	4/27/79	5/16/79	6/01/79
5. Complete Construction	4/13/79	5/04/79	5/18/79	6/08/79	6/22/79
6. Unit Start-Up	4/23/79	5/14/79	5/28/79	6/18/79	6/29/79
7. Achieve and Demonstrate Compliance	7/01/79	7/01/79	7/01/79	7/01/79	7/01/79

2. Sun Oil Company of Pennsylvania shall adopt and implement operation and maintenance procedures to maximize the control efficiency of the vapor collection and recovery systems and submit a copy of such procedures to the U.S. EPA by May 13, 1979.

3. Sun Oil Company of Pennsylvania shall continue to use submerged loading as the best practicable interim system of emission reduction at its Ohio Marketing Terminal loading facilities above mentioned so as to minimize hydrocarbon emissions, avoid any imminent and substantial endangerment to the health of persons, and minimize product spillage.

4. Sun Oil Company of Pennsylvania shall comply with the following emission monitoring and reporting requirements on or before the dates specified below:

a. *Emission Monitoring*

(1) Sun Oil Company of Pennsylvania shall, on or before January 1, 1979, maintain a record of the quantity of volatile organic materials which passes through each above mentioned Ohio loading facility.

(2) Sun Oil Company of Pennsylvania shall, immediately following demonstrated compliance, maintain a record of any malfunctions of the vapor recovery and disposal systems (including the reasons for such malfunctions) and the down time of the vapor recovery and disposal systems, whether caused by malfunction or other causes.

b. *Reporting Requirements*

(1) No later than fifteen (15) days after any date for achievement of an incremental step of the compliance schedule specified in these Orders, Sun Oil Company of Pennsylvania shall notify U.S. EPA in writing of its compliance or noncompliance with the requirements.

If Sun Oil fails to complete any of the actions required by the dates specified in these Orders, it shall include a detailed explanation of such failure in the notification required in this paragraph 4.b.(1).

(2) Sun Oil Company of Pennsylvania shall, beginning with the calendar quarter January-March 1979, report on a quarterly basis the information required to be maintained under paragraph 4.a. of these Orders. This requirement shall terminate upon submission of data for the calendar quarter April-June 1980.

(3) All submittals, notifications and reports to U.S. EPA pursuant to these Orders shall be made to Mr. Eric Cohen, Chief, Compliance Section, Enforcement Division, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604.

5. Sun Oil Company of Pennsylvania is hereby notified that its failure to achieve final compliance by July 1, 1979, at its Ohio Marketing Terminal loading facilities above mentioned may result in a requirement to pay a noncompliance penalty in accordance with Section 120 of the Act, 42 U.S.C. 7420. In the event of such failure, Sun Oil will be formally notified, pursuant to Section 120(b)(3), 42 U.S.C. 7420(b)(3), and any regulations promulgated thereunder, of its noncompliance.

6. These Orders shall be terminated in accordance with Section 113(d)(6) of the Act if the Administrator or his delegate determines on the record, after notice and hearing, that an inability to comply with Ohio

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Air Pollution Control Regulation AP-5-07 (3745-21-07) of the Ohio Implementation Plan no longer exists.

7. Violation of any requirement of these Orders may result in one or more of the following actions:

a. Enforcement of such requirement pursuant to Section 113(a), (b), or (c) of the Act, 42 U.S.C. 7413(a), (b) or (c).

b. Revocation of these Orders, after notice and opportunity for a public hearing, and subsequent enforcement of Ohio Implementation Plan Air Pollution Control Regulation AP-5-07 (3745-21-07) in accordance with the preceding paragraph.

c. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to Section 120 of the Act.

8. During the period of these Orders, no Federal enforcement action pursuant to Section 113 of the Act, and no action under Section 304 of the Act shall be pursued where Sun Oil is in compliance with the terms of this Order.

9. Nothing herein shall be construed to be a waiver by the Administrator of any rights or remedies under the Act, including but not limited to Section 303 of the Act, 42 U.S.C. 7503.

10. These Orders are effective upon final promulgation in the FEDERAL REGISTER.

Date ———.

.....
Administrator, U.S. Environmental Protection Agency.

Sun Oil Company of Pennsylvania has reviewed these Orders and believes them to be a reasonable means by which its Ohio volatile organic material loading racks can achieve compliance with Ohio Air Pollution Control Regulation AP-5-07 (recodified 3745-21-07). The Company stipulates as to the correctness of all facts stated above and consents to the requirements and terms of these Orders.

Date ———.

.....
Sun Oil Company of Pennsylvania.

[FR Doc. 79-2698 Filed 1-24-79; 8:45 am]

[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 405]

MEDICARE PROGRAM

Reimbursement for Radiological Services Furnished to a Hospital Inpatient by a Physician in the Field of Radiology

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would provide for Medicare reimbursement of 100 percent of the reasonable charge for all covered diagnostic imaging services furnished to hospital inpatients by physicians in the field of radiology. Under current administrative guidelines 100 percent reimbursement to radiologists is available only if X-rays or rays from radioactive substances are used for diagnostic or therapeutic purposes. The proposed regulation will help simplify reimbursement procedures and facilitate claims processing by hospitals and Medicare carriers and intermediaries for inpatient radiology services.

DATES: Consideration will be given to written comments or suggestions received on or before March 26, 1979.

ADDRESS: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013.

When commenting, please refer to file code MAB-21-P. Agencies and organizations are requested to submit their comments in duplicate. Comments will be available for public inspection, beginning approximately 2 weeks after publication, in room 5231 of the Department's offices at 330 C Street, SW., Washington, D.C., on Monday through Friday of each week, from 8:30 to 5 p.m. (Telephone 202-245-0950).

FOR FURTHER INFORMATION CONTACT:

Mr. Paul Riesel, Medicare Bureau, Health Care Financing Administration, Room 190, East High Rise Building, Baltimore, Maryland 21235, 301-594-9595.

SUPPLEMENTARY INFORMATION: Section 131 of the Social Security Amendments of 1967 (Pub. L. 90-248) provided, in part, for 100 percent payment of the applicable reasonable charge for radiology services furnished to a hospital inpatient by a physician in the field of radiology (Section 1833(a)(1)(B) of the Social Security Act). This amendment to the Medicare law was enacted to simplify reimbursement procedures and to facilitate beneficiary understanding of the program and claims processing by hospitals and Medicare carriers and intermediaries for inpatient radiology services.

Prior to the 1967 amendments, the common practice of many hospitals was to submit a bill containing a single combined charge for both the physician's service to the hospital patient and the supporting hospital services. However, physicians's services to a hospital patient are reimbursable under Part B of Medicare on a reasonable charge basis, while supporting hospital services are reimbursed under Part A on a reasonable cost basis. Therefore, it was difficult to allocate the combined charge properly between Part A and Part B. Moreover, because deductible and coinsurance amounts differ for Part A and Part B, it was difficult to subject the combined hospital bill to separate program deductible and coinsurance amounts. The 1967 amendments removed the Part B deductible and coinsurance amounts which would otherwise be applicable to these services, so that complicated allocation and billing procedures could be eliminated.

At the time of enactment of the amendments, the only generally accepted and widely available radiology services were those in which X-rays or rays from other radioactive substances were used for diagnostic or therapeutic purposes. The use of ultrasound as a diagnostic tool was in an incipient stage of development and was not a generally accepted and available diagnostic imaging modality.

Current Medicare administrative guidelines limit 100 percent payment for radiology services to services in which X-rays or rays from radioactive substances are used for diagnostic or therapeutic purposes. The guidelines do not allow 100 percent payment for new procedures that use other forms of radiant energy, such as light, heat, or sound, to produce images for diagnosis. (See Sec. 3146 of the Medicare Part A Intermediary Manual (HIM-13-3) and Sec. 2020.9 of the Medicare Part B Carrier Manual (HIM-14-3).)

To exclude these diagnostic services from the 100 percent payment provision subjects both hospitals and radiologists to the same billing complexities and administrative burdens which the 1967 amendments were intended to alleviate. Therefore, after reviewing the current policy and the 1967 amendments, we propose that all covered diagnostic imaging services furnished to hospital inpatients by physicians in the field of radiology be reimbursed at 100 percent of reasonable charges.

42 CFR 405.240 is amended by revising paragraph (a)(2) to read as follows:

§ 405.240 Payment of supplementary medical insurance benefits; amounts payable.

In the case of an individual who incurs expenses during his coverage period under the supplementary medical insurance plan, payment for the total amount of these expenses incurred during a calendar year shall be made as follows, subject to the provisions in §§ 405.243-405.246:

(a)(1) * * *

(2) Effective April 1, 1968, 100 percent of the reasonable charges for radiological and pathological services furnished to an inpatient of a hospital by a physician in the field of radiology or pathology (see § 405.232(f) and (g)). For purposes of this paragraph, "radiological services" include:

(i) A service in which ionizing radiation is used for diagnostic or therapeutic purposes (for example, X-ray, nuclear medicine, angiography); and

(ii) Effective January 1, 1979, other diagnostic imaging services for which other forms of radiant energy such as light, heat, or sound are used to produce images for diagnosis.

* * * * *

(Secs. 1102, 1833, and 1871 of the Social Security Act; (42 U.S.C. 1302, 1395l, and 1395hh).)

(Catalog of Federal Domestic Assistance Program No. 13.773 Medicare—Hospital Insurance and No. 13.774, Medicare-Supplementary Medical Insurance.)

Dated: October 13, 1978.

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

Approved: January 13, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 79-2689 Filed 1-24-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR—Part 73]

[BC Docket No. 79-1; RM-3166]

FM BROADCAST STATION IN CLINTON, ARKANSAS

Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of FM Channel 296A to Clinton, Arkansas, as that community's first FM assignment. Petitioner, Weber-King Radio, states the proposed channel would provide for an FM station which could render a first full-time aural broadcast service to Clinton, Arkansas.

DATES: Comments must be received on or before March 19, 1979, and reply comments on or before April 9, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Station. (Clinton, Arkansas.)

NOTICE OF PROPOSED RULEMAKING

Adopted: January 16, 1979.

Released: January 19, 1979.

By the Chief, Broadcast Bureau:

1. *Petitioner, Proposal, Comments:* (a) *Notice of Proposed Rule Making* is given concerning amendment of the FM Table of Assignments (Section 73.202(b) of the Commission's Rules) as it relates to Clinton, Arkansas.

(b) A petition for rulemaking [1] was filed by Weber-King Radio ("petitioner"), seeking the assignment of Channel 296A to Clinton, Arkansas, as its first FM assignment. No responses to the petition were filed.

(c) Channel 296A could be assigned to Clinton in compliance with the minimum distance separation requirements.

2. *Community Data:*

(a) *Location:* Clinton, seat of Van Buren County, is located approximately 121 kilometers (75 miles) north of Little Rock, Arkansas, and approximately 121 kilometers (75 miles) southeast of Harrison, Arkansas.

(b) *Population:* Clinton—1,029; Van Buren—8,275.[2]

(c) *Local Broadcast Service:* Clinton is served by daytime-only AM Station KGFL.

3. *Economic Data:* Petitioner asserts that the population of Van Buren County has increased substantially in recent years. It states that Clinton is located in what is primarily an agricultural area specializing in the production of dairy and beef cattle and poultry. We are told that power cord manufacturing and frozen food processing are the major industries in the area.

4. Petitioner states that no nighttime broadcast facility operates in Clinton or Van Buren County. It claims the proposed assignment would permit a station operating on it to fill an important need for coverage of general events in the community, including nighttime sports, muscial programs, cancellations during bad weather, and storm alerts. It asserts that there also is an important need for a local late evening advertising medium for the local businesses of Van Buren County.

5. In view of the fact that the proposed FM channel assignment would provide Clinton, as well as Van Buren County, an opportunity to acquire a first full-time local aural broadcast station, the Commission believes it appropriate to propose amending the FM Table of Assignments, Section 73.202(b) of the Rules, with respect to Clinton, Arkansas, as follows:

City and Channel No.
Clinton, Arkansas; Present:—; Proposed: 296A.

6. Authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involves channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission.

8. Interested parties may file comments on or before March 19, 1979, and reply comments on or before April 9, 1979.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g), and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the

[1] Public Notice of the petition was given on August 2, 1978, Report No. 1135.

[2] Population figures are taken from the 1970 U.S. Census.

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proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C

[FR Doc. 79-2626 Filed 1-24-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

[48 CFR Parts 1, 17, 23, 42]

FEDERAL ACQUISITION REGULATION PROJECT

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of Availability and Request for Comment on draft Federal Acquisition Regulation.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment segments of the draft Federal Acquisition Regulation (FAR)[1] regarding the FAR System Administration, Options, Environmental Protection, and Post-Award Orientation. Additional segments will be announced for availability and comment on late dates. An updated list of Agency contact points is provided. Government personnel must obtain copies of the FAR drafts through these established contact points in their agency. Official agency views are requested by this notice. Agency personnel, therefore, should coordinate their views within the Agency to be made a part of the agency's formal comment.

DATE: Comments must be received on or before March 22, 1979.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William W. Thybony, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, NW, Room 9025, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

William Maraist, or Strat Valakis, (202) 395-3300.

SUPPLEMENTARY INFORMATION: The fundamental purpose of the FAR is to reduce the proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following subparts of the draft Federal Acquisition Regulation are available upon request for public and Government agency review and comment.

PART 1—FEDERAL ACQUISITION REGULATION SYSTEM

1.2 FAR System Administration.

This subpart establishes the administrative mechanisms for maintenance of the FAR, and control of the FAR System. It provides for a high level policy board termed the "FAR Council", which is composed of the Administrator for Federal Procurement Policy (Administrator) and the principal acquisition officials of six major agencies. The Council is supported by a full time "FAR Executive Staff" responsible for overall administration and maintenance of the FAR System, including oversight of agency acquisition regulations which implement or supplement the FAR. The General Services Administration is responsible for publication and distribution of the FAR through the Code of Federal Regulations System (including a loose leaf edition). Departments and agencies are required to review and approve, at the headquarters level, all internal acquisition regulations to insure compliance with FAR requirements. The goal of subpart 1.2 is to create a single government-wide *system* of acquisition regulations, minimizing the volume of implementing and supplementing regulations, while still retaining sufficient flexibility to accomodate agency regulatory needs.

Provisions are made for executive agencies and private sector interests to appeal Executive Staff recommendations to the FAR Council, which will make final determinations.

Routine revisions to the FAR will be issued by the Administrator twice annually, with a three month period provided for implementation. Exceptions to the regular issuance dates may be made when necessitated by statute or in other special circumstances.

PART 17—SPECIAL CONTRACTING METHODS

17.2 Options.

This subpart prescribes policies and procedures for the use of solicitation provisions and contract clauses covering options. An option is a unilateral right in a contract by which, for a specified time, and at a guaranteed price, the Government may elect to purchase additional supplies or services called for by the contract, or may elect to extend the term of the contract. It includes limitations, documentation, evaluation, and applicable clauses.

PART 23—ENVIRONMENTAL PROTECTION

23.1 Pollution Control.

This subpart implements the Clean Air Act, the Federal Water Pollution Control Act, the Resource Conservation and Recovery Act, Executive Order 11738, and regulations of the Environmental Protection Agency (EPA) on these subjects. It also includes required solicitation and contract clauses which will be in Part 52.

23.2 Energy Conservation.

Thus subpart implements the Energy Policy and Conservation Act and Executive Order 11912 which delegated presidential responsibility under the Act to the Administrator for Federal Procurement Policy.

23.3 Hazardous Materials.

This subpart prescribes policies and procedures for the acquisition of hazardous materials, other than ammunition and explosives. It includes the required contract clause by which the contractor agrees to submit a Material Safety Data Sheet (Dept. of Labor Form OSHA-20) as prescribed in Federal Standard No. 313A.

[1] Filed as a part of the original document.

PART 42—CONTRACT ADMINISTRATION

42.5 Post-Award Orientation.

This subpart prescribes policies and procedures for the post contract award orientation of contractors and subcontractors. It contains criteria for selecting contracts for post-award conferences, as well as procedures for making conference arrangements, conference procedures and reports.

Dated: January 17, 1979.

LESTER A. FETTIG,
Administrator.

FAR AGENCY CONTACT POINT LIST

Agency for International Development, Department of State—Mr. Joseph C. Watkins, 235-9125, Chief, Support Division, Office of Contract Management, Washington, DC 20523, STOP 100.

Agriculture, Department of—Mr. Edmund Alvarez, 447-3937, Deputy Director, Administrative Services, Office of Operations and Finance, Room 113W, Administration Building, Washington, DC 20520, STOP 209.

Central Intelligence Agency—Mr. Aubrey T. Chason, 281-8167, Chief, Procurement Management Staff, Office of Logistics, Washington, DC, STOP 64.

Civil Aeronautics Board—Mr. Vincent J. Chaverini, 673-5246, Director, Office of Administrative Support Operations, 1825 Connecticut Avenue, NW, Washington, DC 20428, STOP 235.

Commerce, Department of—Mr. David Larkin, 377-3891, Chief, Program Policy Division, Office of Procurement and ADP Management, Room 6414, Washington, DC 20230, STOP 206.

Committee for Purchase from the Blind and Other Severely Handicapped—Mr. Charles W. Fletcher, 557-1145, Executive Director, 2009 14th Street North, Suite 610, Arlington, VA 22201.

Cost Accounting Standards Board—Mr. Noah Minkin, 275-5940, General Counsel, 441 G Street, NW, Room 4836, Washington, DC 20548, STOP 308.

Department of Defense—Mr. Thomas Cassidy, 697-6710, Acting Director, Defense Acquisition Regulatory Council, OUSDRE The Pentagon, Room 3D12080, Washington, DC 20301, STOP 103.

Defense/Department of the Army—Mr. Carl Brotman, 695-0255, Army Policy Member, DAR Council, Office of Assistant Secretary of the Army, R.D. & A.

Defense/Department of the Navy—Mr. Billy Williams, 692-3324, Navy Policy Member, DAR Council, Office of Assistant Secretary of the Navy, OASN (MRANL).

Defense/Department of the Air Force—Lt Col. Daniel Unruh, 695-1997, Air Force Policy Member, DAR Council, AF/RDC.

Defense/Defense Logistics Agency—Mr. David Freeman, 274-6411, DLA Policy Member, DAR Council, Cameron Station, Alexandria, VA.

Energy, Department of—Mr. Thomas Ruppert, 376-9057 Procurement Policy Division, 400 1st Street, NW, Railway Labor Building, Room 308, Washington, DC 20545.

Environmental Protection Agency—Mr. William E. Mathis, 755-0822, Director, Contracts Management Division (PM 214), 401 M Street, SW, Room 2003, Washington, DC 20460, STOP 460.

Federal Trade Commission—Mr. A. J. Nicolosi, 724-1133, Procurement Agent, Procurement and Contracts Branch, 6th & Pennsylvania Avenue, NW, Washington, DC 20580, STOP 221.

General Accounting Office, U.S.—Mr. John Brosnan, 275-5476, Room 7075, 441 G Street NW, Washington, DC 20548, STOP 308.

General Services Administration—Mr. Dale Babione, 566-1043, Acting Assistant Administrator for Acquisition Policy, Washington, DC 20405, STOP 29.

Health, Education & Welfare, Department of—Mr. Ed T. Rhodes, 245-8771, Deputy Assistant Secretary for Grants and Procurement, Hubert H. Humphrey Building, Room 513D, Washington, DC 20201, STOP 367.

Housing and Urban Development, Department of—Mr. Thomas R. Whittleton, 724-0040, Director, Office of Procurement and Contracts, Room B-133, 711 Building, Washington, DC 20410, STOP 98.

Interior, Department of the—Mr. William Opdyke, 343-5914, Division of Procurement and Grants, Office of Administrative and Management Policy, 18th & C Street, NW, Washington, DC 20240, STOP 43.

International Communication Agency—Mr. James T. McIlwee, 653-5570, Chief, Contract and Procurement Division, Office of Administration, Washington, DC 20547, STOP 121.

Justice, Department of—Mr. William H. O'Donoghue, 633-2075, Assistant Director, Procurement Management Group, Administrative Programs Management Staff, 10th & Constitution Avenue NW, Room 6322, Washington, DC 20530, STOP 219.

Labor, Department of—Mr. Walter C. Terry, 523-9148, Director, Office of Grants, Procurement and ADP Management Policy, 200 Constitution Avenue, NW, Room S-1325, Washington, DC 20210, STOP 205.

National Aeronautics and Space Administration—Mr. Stuart J. Evans, 755-2255, Director of Procurement, Washington, DC 20546, STOP 85.

National Science Foundation—Mr. Kenneth B. Foster, 632-5772, Director, Division of Grants and Contracts, 1800 G Street NW, Washington, DC 20550, STOP 19.

Nuclear Regulatory Commission—Mr. Edward L. Halman, 427-4460, Director, Division of Contracts, Washington, DC 20555, STOP 555.

Office of Personnel Management—Mr. Donald J. Biglin, 632-6161, Director, Office of Management, 1900 E Street, NW, Room 5554, Washington, DC 20415, STOP 227.

Panama Canal Company—Mr. Thomas M. Constant, 724-0104, Executive Secretary, 425 13th Street, NW, Room 312, Washington, DC 20004.

Postal Service, U.S.—Mr. Eugene A. Keller, 245-4818, Assistant for Procurement Policy, Procurement and Supply Department, Room 1512, Washington, DC 20260, STOP 201.

Small Business Administration—Mr. Robert McDermott, 653-6588, Acting Associate Administrator for Procurement Assistance, 1441 L Street, NW, Washington, DC 20416, STOP 71.

Smithsonian Institute—Mr. Harry P. Barton, 381-5924, North Building, Room 3120, 955 L'Enfant Plaza SW, Washington, DC 20024.

State, Department of—Mr. Thaddeus J. Figura, 235-9512, Chief, Supply and Transportation Division, Room 532, SA-6, Washington, DC 20520, STOP 27.

Tax Court, U.S.—Mr. Deyane Rudge, 376-2717, Administrative Facilities Officer, Room G-45, 400 2nd Street NW, Washington, DC 20217, STOP 312.

Tennessee Valley Authority—Mr. James L. Williams, Jr., 566-1401, Director, Division of Purchasing, Chattanooga, Tenn. 37401.

Transportation, Department of—Mr. Barnett M. Ancelietz, 426-4237, Director, Installations and Logistics, Washington, DC 20490, STOP 330.

Treasury, Department of the—Mr. Thomas P. O'Malley, 376-0650, Assistant Director, Office of Administrative Programs, Main Treasury Mail Room, 15th & Pennsylvania Avenue, NW, Washington, DC 20220, STOP 223.

Veterans Administration—Mr. Clyde C. Cook, 389-3808, Director, Supply Service, Department of Medicine and Surgery, Washington, DC 20420, STOP 73.

[FR Doc. 79-2608 Filed 1-24-79; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 296]

FISHERMEN'S CONTINGENCY FUND

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

ACTION: Advance Notice of Proposed Rulemaking and Notice of Public Workshops.

SUMMARY: The National Marine Fisheries Service (NMFS) intends to propose regulations to implement Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (the Act), which established a Fishermen's Contingency Fund to compensate fishermen for certain damages and losses caused by certain oil-and-gas-related activities. NMFS will hold public workshops to discuss certain important issues before regulations are proposed.

DATES: Public workshops will be held: in New Orleans, Louisiana on February 9, 1979; in Boston, Massachusetts on February 13, 1979; and in Anchorage, Alaska on February 21, 1979.

For exact places and times of the workshops, see the "WORKSHOPS" section of this Notice.

Any written comments on the issues identified in this Notice, or on any other aspect of the implementation of the Fishermen's Contingency Fund program, must be received on or before March 5, 1979.

ADDRESSES: Questions concerning the operation of the public workshops should be directed to the appropriate NMFS Regional Director:

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Workshop location and regional director

New Orleans, Mr. William Stevenson, Director, Southeast Region, NMFS, 9450 Kroger Blvd. St. Petersburg, Florida 33702. Telephone: (813) 893-3141.

Boston, Mr. William G. Gordon, Director, Northeast Region, NMFS, 14 Elm Street, Gloucester, Massachusetts 01930. Telephone: (617) 281-3600.

Anchorage, Mr. Harry Rietze, Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, Alaska 99802. Telephone: (907) 586-7221.

Any written comments concerning the issues identified in this Notice, or on any other aspect of the implementation of the Fishermen's Contingency Fund program, should be sent to:

Mr. Michael L. Grable, National Marine Fisheries Service, Washington, D.C. 20235.

Please mark "Title IV" on the envelope.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael L. Grable, National Marine Fisheries Service, Washington, D.C. 20235. Telephone: (202) 634-7496.

SUPPLEMENTARY INFORMATION:

I. SUMMARY OF THE NEW STATUTE

A. *The Fund.* Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372; 43 U.S.C. 1841 *et seq.*) gives the Secretary of Commerce primary responsibility for developing and implementing a new Fishermen's Contingency Fund program. The program is intended to compensate commercial fishermen (including crew members as well as owners and operators) for damage to commercial fishing vessels and gear, and any resulting economic loss, due to activities related to oil and gas exploration, development, and production on the federal Outer Continental Shelf (OCS). The Fund cannot be used to pay for damages, however, if the ownership of the oil-and-gas-related item causing the damage is known.

The Fund may contain up to $1,000,000. "Area accounts" for different geographic areas of the OCS may be established within the Fund. Each area account may contain up to $100,000. All accounts may be replenished by additional assessments on OCS oil-and-gas operations. Monies in the Fund come from assessments made against holders of OCS oil and gas leases, easements for pipelines, and certain other specified OCS activities. Assessment against OCS lease holders and other OCS operators are made by the Secretary of Commerce. The Secretary of the Interior is responsible for collecting any assessments and depositing them into the appropriate area account within the Fund.

B. *Payments to Commercial Fishermen.* Amounts in each area account may be paid to compensate fishermen in accordance with the requirements of the Act, and regulations which the Secretary of Commerce may issue to implement this program. Commercial fishermen may be compensated for actual and consequential damages, including loss of profits, due to damages to, or loss of, fishing gear by materials, equipment, tools, containers, and other items associated with oil and gas exploration, development, or production activities on the OCS. Payments can be made for damage which occurs in areas that are not on or over the federal OCS, if the claimant proves that the damage or loss was caused by activities associated with federal OCS oil and gas activities.

C. *Presumption of Validity.* The fisherman making a claim has the burden of proving that his/her claim is eligible for compensation from the Fund. However, the Act establishes a presumption of validity for any claim, if the claimant can establish that:

(1) The commercial fishing vessel involved was being used for fishing and was located in an area affected by OCS activities;

(2) A report on the location of the oil-or-gas-related item which caused the damage, and the nature of the damage, was made within five days after the date when the damage was discovered (as an interim procedure, the report should be made to the nearest NMFS Regional Director; see the "ADDRESSES" section of this Notice);

(3) There was no record on nautical charts or in the Notice to Mariners on the date the damage occured that such item existed in that area: and

(4) There was no proper surface marker or lighted buoy which was attached to, or closely anchored by, the item which caused the damage.

D. *Ineligible Claims.* The Act prohibits payment from the Fund if:

(1) The damage was cause by items "attributable to a financially responsible party";

(2) The damage for which the claim is filed was incurred before September 18, 1978; or

(3) The claim is not filed with the Secretary of Commerce within 60 days after the date the damage is discovered.

E. *Reduction in Amount of Award.* The Act requires that payments from the Fund to a claimant be limited or reduced in certain cases:

(1) For claims for damage to fishing gear (including fishing vessels), the amount of the award cannot exceed the replacement value of the gear (or vessel) involved:

(2) For claims for loss of profits, (a) the award cannot be for more than a six-month period, and (b) the claim must be supported by records detailing the claimant's profits during the previous year;

(3) If the claimant has or will receive compensation from insurance for the damage claimed, the award must be reduced accordingly; and

(4) If the negligence or fault of the claimant caused the damage, the award must be reduced accordingly.

F. *Procedure for Deciding Claims.* Claims are filed with the Secretary of Commerce (through the NMFS). NMFS sends a copy of the claim to the Secretary of the Interior, and refers the claim to a hearing examiner who may hold a formal hearing to determine the validity of the claim.

The Secretary of the Interior, after receiving notice of a claim from the Secretary of Commerce, makes reasonable efforts to notify all persons known to have engaged in OCS oil and gas activities in the vicinity where the damage occured. Each person notified must notify the Secretaries of Commerce and the Interior as to whether he/she admits or denies responsibility for the damages claimed. The OCS lease holders and operators, and their contractors or subcontractors, may submit evidence at any hearing concerning the claim.

The hearing is conducted in the United States judicial district nearest to, or in which, the damage occurred, or, if the damage occurred in more than one judicial district, in any of them. The hearing examiner must make his decision on the claim within 120 days after the claim is referred to him by the Secretary of Commerce. The hearing examiner has numerous powers in conducting a hearing concerning the claim, including the powers to administer oaths and subpoena witnesses or production of documents.

If the hearing examiner's decision is in favor of the commercial fisherman filing the claim, the hearing examiner includes, in the award to the claimant, reasonable attorney fees incurred by the claimant in pursuing his/her claim. However, if the hearing examiner determines that the commercial fisherman filing the claim or any person who has denied responsibility for the damages claimed, is responsible for the damage, that person must pay the costs of the proceedings concerning the claim.

The decision of the hearing examiner is not reviewable by the Secretaries of Commerce or the Interior. Any person who wishes to appeal the decision of the hearing examiner must do so by seeking judicial review in the appropriate U.S. Circuit Court of Appeals within 60 days after the hearing examiner's decision.

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If no party adversely affected by the hearing examiner's ruling seeks judicial review, the Secretary of Commerce pays the fishermen the amount of the award certified by the hearing examiner. When the claim is paid the Secretary of Commerce becomes subrogated to the fisherman's rights against any party who may later be found to be responsible for the damage.

II. ISSUES

Before proposing program regulations, NMFS would like to receive public comment on several issues which concern the program (and any others about which the public may be concerned).

ISSUE NO. ONE. Establishing the nature of obstructions which cause damage to fishing vessels or gear. Obstructions causings damage can be of at least three kinds: (a) natural obstructions; (b) man-made obstructions other than those resulting from oil and gas activities; or (c) man-made obstructions resulting from oil and gas exploration, development, and production on the federal Outer Continental Shelf. Only damage resulting from the third kind of obstruction is eligible for recovery from the Fund. If some physical evidence of the obstruction is not obtained by a claimant, what means are available for the claimant to establish the eligible nature of the obstruction and what should be the standard of proof?

ISSUE NO. TWO. Fixing the Position of Obstructions. Accurate reports of the location of obstructions which cause damage or loss for which claims are filed are very important because (1) the reports may be checked during the claims verification process, and (2) the National Ocean Survey may wish to locate precisely the obstruction so it can be properly charted. (The Act requires the Secretary of Commerce, in cooperation with the Secretary of the Interior, to survey all obstructions on the Outer Continental Shelf, including both natural and man-caused ones.)

Several methods of position fixing are available to vessels, but the different methods vary in their accuracy and repeatability. What methods of position fixing are generally available to fishing vessels and what methods should be employed to determine the location of the obstruction with precision suitable for the purposes of claims verification and charting of obstructions?

ISSUE NO. THREE. Valuation of lost or damged property. The Act specifies that the ceiling on compensation for lost or damaged property is the "replacement value". What is a fair and equitable basis for calculating the cost of lost or damaged property to reflect the age and condition of that property? Should different evaluation methods be used in different types of cases?

One alternative might be fair market value. Another alternative might be depreciated replacement cost. The question of salvage value might also be material. What is the best method and how could the values claimed (on whatever basis) be best established with certainty?

ISSUE NO. FOUR. Valuation of other economic loss. In addition to property damage, the statute also provides for compensation for economic loss resulting from property damage. What is the best method of compensation for claimant's inability to fish (lost fishing time) due to property damage and how could the values claimed (on whatever basis) best be established with certainty? What duty does a claimant have to minimize lost fishing time (for example, should a spare net have been aboard so that fishing could begin again as soon as possible after the initial net was damaged)?

A second area of concern involves the claimant's cost in pursuing the claim. Although the Act specifically permits recovery for attorneys' expenses, it is silent on the subject of recovery for such things as attempts to identify the nature of the obstruction, personal expenses resulting from the claims process, etc. To what extent should claimants be able to recover costs incurred in proving the nature of obstructions?

ISSUE NO. FIVE. Claimant's negligence. The statute prevents recovery to the extent that loss was caused by claimant's negligence. What kinds of acts, or failures to act, might constitute negligence?

ISSUE NO. SIX. Settlement of Claims Prior to Hearing. A hearing conducted under 5 U.S.C. 554 before a hearing examiner is similiar in nature and procedure to a court trial. If a pre-hearing review by NMFS showed that a claim had a high likelihood of success, NMFS might recommend to the hearing examiner that the award be certified without requiring additional proceedings. Would this pre-hearing settlement procedure be helpful to the fishermen, yet fair to the oil and gas industry?

ISSUE NO. SEVEN. Payment of Hearing Costs. Under what circumstances might a claimant or an oil or gas company be found to be responsible for the damages and, thus (as required by the Act), be liable for paying the cost of all proceedings with respect to the claim?

ISSUE NO. EIGHT. Hearing Examiner Discretion. There are at least two approaches to the issue of how much discretion a hearing examiner has in adjudicating claims. One approach would be for program rules to be very specific in areas like standard of proof, basis of compensation, claimant negligence, etc. This would tend to limit the hearing examiner's discretion because the examiner would have to evaluate the claim in accordance with specific criteria in the rules. This approach might have the advantages of treating similarly situated claimants similarly and putting claimants on notice, in advance, of the requirements for a successful claim recovery. The other approach would be to keep program rules quite general and give each hearing examiner as much discretion as possible in adjudicating claims. This approach might result in uneven treatment of claimants and might not result in claimants having a good foreknowledge of the requirements of successful claims recovery. It would have the advantage, however, of giving each hearing examiner a great deal of flexibility in dealing with the facts of each case.

ISSUE NO. NINE. Scope and amount of area accounts. Outer Continental Shelf oil and gas exploration, development, and production activities appear to be minor at this time in the major Atlantic and Pacific fishing areas, but very extensive in the Gulf of Mexico fishing areas. This might argue for establishing a number of area accounts (capitalized at the maximum level) in the Gulf of Mexico, while presently establishing only one area account each (capitalized at something less than the maximum amount) for the Atlantic and Pacific. One rationale for the scope of area accounts in the Gulf of Mexico might be the five existing U.S. Geological Survey Districts in the Gulf of Mexico. Atlantic and Pacific area accounts could be later expanded as conflict activity demonstrated a need to do so.

III. STAFF WORKING DRAFT OF REGULATIONS

NMFS is preparing proposed regulations to implement this new program. A working draft of proposed regulations has been prepared by NMFS staff to help focus the efforts of federal agencies concerned in implementing the program. This working draft addresses some but not all of the issues identified in this Notice, and does not represent any official position of NMFS.

Copies of the staff working draft of the proposed regulations will be available at the public workshops announced below. The workshops will *not* be devoted to a detailed discussion of the staff working draft, but instead will focus on the issues identified above. NMFS expects that the staff working draft will be substantially re-

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vised before proposed regulations are published.

WORKSHOPS: The National Marine Fisheries Service invites oral and written public comment on the issues identified in this Notice, and on implementation of the Fishermen's Contingency Fund program in general, before NMFS issues proposed regulations to implement the program. Public workshops will be held at the following locations on the following dates:

Place	Date	Time
New Orleans, Louisiana: Ramada Inn Airport, Kenner, Louisiana (near New Orleans Airport).	Friday, February 9, 1979	9 a.m. to 3 p.m.
Boston, Mass.: Logan Hilton Hotel (Near Logan Airport)	Tuesday, February 13, 1979	10 a.m. to 3 p.m.
Anchorage, Alaska: Anchorage Westward Hilton, 3rd and E Streets.	Wednesday, February 21, 1979	7:30 p.m.

Interested members of the public are invited to attend and participate in the workshops. In addition, interested persons may submit written comments on the issues identified in this Notice, or on any other aspect of the implementation of the Fishermen's Contingency Fund program. Any written comments must be sent to Mr. Grable (see the "ADDRESSES" section of this Notice) before March 5, 1979. All comments received will be considered before NMFS issues proposed regulations to implement the Act.

WINFRED H. MEIBOHM,
Acting Executive Director, NMFS.

JANUARY 22, 1979.

[FR Doc. 79-2694 Filed 1-24-79; 8:45 am]

[3510-22-M]

[50 CFR Parts 611 and 671]

TANNER CRAB OFF ALASKA

Fishery Management Plan Amendments and Proposed Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Fishery Management Plan Amendments and Proposed Regulations.

SUMMARY: Two amendments to the fishery management plan for Tanner crab off Alaska (FMP) are preliminarily approved under section 304 of the Fishery Conservation and Management Act, as amended. The amendments increase the optimum yield for Tanner crab and expand the area in which foreign vessels may fish for Tanner crab off Alaska. Regulations to implement the amendments are proposed and comments on the amendments and regulations are solicited.

DATE: Comments will be received until March 7, 1979.

ADDRESS: Comments should be addressed to: Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Washington, D.C. 20235. Please mark the envelope "Alaska Tanner Crab."

FOR FURTHER INFORMATION CONTACT:

Mr Harry Rietze, Director, Alaska Region, National Marine Fisheries Service, Box 1668, Juneau, Alaska 99802, telephone 907-586-7221.

SUPPLEMENTARY INFORMATION: The FMP for Tanner crab off Alaska was prepared by the North Pacific Fishery Management Council and approved by the Assistant Administrator for Fisheries on April 18, 1978 (see 43 FR 21170, May 16, 1978) under authority of the Fishery Conservation and Management Act, as amended (the Act) (16 USC 1801 *et seq.*). Final regulations applicable to vessels of the United States were promulgated on December 6, 1978 (43 FR 57149), and regulations applicable to vessels of foreign nations for the remainder of 1978 were implemented on December 19, 1978 (43 FR 59075). Regulations governing foreign vessels for 1979 also were published on December 19, 1978 (43 FR 59292, at 59320). An approved plan amendment extending the FMP through October 31, 1979, was published for public comment on November 8, 1978 (43 FR 52034), and was published in final form on January 4, 1979 (44 FR 1115).

On November 27, 1978, the Council submitted two amendments to the FMP to the Assistant Administrator for Fisheries, for review under Section 304 of the Act. The first amendment would increase the optimum yield (OY) for the Kodiak district from 25 million pounds to 35 million pounds for 1979. This amendment is based on current information which indicates that earlier stock assessments underestimated the amount of Tanner crab available for harvest in the Kodiak district.

The second amendment would extend the area in which foreign crab fishing in the Bering Sea is permitted by allowing foreign vessels to fish in the area between 54° and 58°N latitude, west of 173°W longitude. The purpose of the amendment is to allow full utilization by foreign fishermen of available Tanner crab resources by providing fishing grounds which are ice-free early in the season. The amendment would allow foreign vessels to retain only *C. opilio* Tanner crab, and would restrict harvest between 54°N latitude and 58°N latitude west of 173°W longitude to 2,500 metric tons (mt) of the total allowable level of foreign fishing (TALFF) of 15,000 mt.

The amendment also facilitates enforcement of the 2,500 mt limitation. No foreign processing vessel when north of 58°N latitude may receive crabs caught south of 58°N latitude. Conversely, no foreign processing vessel when south of 58°N latitude may receive crabs caught north of 58°N latitude.

Signed at Washington, D.C., this 22 day of January, 1979.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

AMENDMENT TO THE FMP

The FMP for the Tanner Crab Fishery off the Coast of Alaska (43 FR 21174) is amended as follows:

1. Section I.C (43 FR 21176)—Management Measures and Rationale for Foreign Fishing—*Delete* the last three sentences and *substitute:*

Crab fishing by foreign nations is prohibited south of 58°N latitude except west of 173°W longitude. Crab fishing is prohibited east of 164°W longitude north of 58°N latitude. The allocation to foreign pot fisheries directed at Tanner crab will be set at 15,000 mt (33,096,000 lbs.) • • •;

2. Section 8.3.2 Foreign (43 FR 21200)—*Delete* the first paragraph and *substitute:*

That portion of the *Preliminary Management Plan for King and Tanner Crab of the Eastern Bering Sea* which deals with the Tanner crab fishery will remain in force except that: (1) the area of legal fishing shall be north of 58°N latitude and west of 164°W longitude, and south of 58°N latitude west of 173°W longitude in the Bering Sea; and (2) for the Bering Sea management area, see section F.8.3.2 of this Plan. (The referenced Preliminary Management Plan appeared in the FEDERAL REGISTER on February 11, 1977. See Appendix 11.6.) • • •;

3. Section D.3.2.1.3 *Catch Trends* (43 FR 21229)—*Delete* the last two sentences and *substitute:*

In 1978 a harvest guideline range of 15–25 million pounds was set. The actual harvest was 33.1 million pounds. A mid-season adjustment of the harvest range was made by ADF&G based on a high CPUE and the stock assessments during the fishery. The data indicates the harvest range should be set at 20–35 million pounds with the expectation that the resource can sustain a catch in the upper end of that range. The catch history thru 1977 is documented in Table D1 • • •;

(4) Section D.3.3.2 *Guideline harvest levels* (43 FR 21231)—*Add* the following after the last sentence of the 3rd paragraph:

High CPUE during the 1978 season (January-April) and high stock levels as indicated by stock indexing studies led to a midseason change in harvest range with the catch ultimately totaling 33.1 million pounds. The guideline harvest level is therefore set at 20–35 million pounds with the expectation that catches can be safely taken near the top of that range • • •;

(5) Section D.4.7.1 *Maximum Sustainable Yield* (MSY) (43 FR 21232)—*Delete* the first paragraph and *substitute:*

Because of insufficient research data, no estimate of a MSY can be developed using generally accepted population dynamics models. However, an estimate of MSY of 25 million pounds (11,333 mt) has been derived by using the average catch of 25.1 million pounds (11,385 mt) for the seasons 1972/73 through 1975/76.

Analysis of commercial catch and assessment data obtained during 4 years of intensive fishing prior to the 1977 season when the average catch was 25.1 million pounds (11,385 mt) indicates that the current exploitation level has not significantly affected brood stock capacity or caused a decline in crab abundance • • •;

(6) Section D.4.7.3 *Acceptable Biological Catch* (*ABC*) (43 FR 21232)—*Delete* the paragraph and *substitute:*

Based upon the average catch since the 1972/73 season and current biological information, an acceptable biological catch of 20 to 35 million pounds (9,066 to 15,865 mt) has been established• • •;

(7) Section D.5.3 *Expected Domestic Annual Harvest* (*DAH*) (43 FR 21232)—*Delete* both paragraphs and *substitute:*

The DAH is approximately 1.8 times the 1977 harvest of 20.7 million pounds (9,399 mt). The low price received per pound and increased handling and sorting costs limited participation in the 1977 fishery.

With an increase in the ex-vessel price to approximately 40 cents per pound, 110 to 120 vessels harvested 33.1 million pounds (15,005 mt) in 1978. It is expected that catches near the upper end of the harvest range (20–35 million pounds) will be sustained• • •;

(8) Section D.6.3 *Optimum Yield* (*OY*), (43 FR 21232)—*Delete* the paragraph and *substitute:*

Optimum yield for the Kodiak management area is set at 35 million pounds (15,865 mt). • • •;

(9) Section F.3.2.1.3 *Catch Trends* (43 FR 21238)—*Delete* the paragraph and *substitute:*

U.S. fishermen caught 18,000 pounds (8.2 mt) of Tanner crab in 1968, 22.3 million pounds (10,115 mt) in 1978, 51.5 million pounds (23,400 mt) in 1977 and 68 million pounds in 1978. Annual Harvests are shown in Table 1. • • •;

(10) Section F.7.0 *Total Allowable Level of Foreign Fishery* (43 FR 21250)—(a) *Delete* the last sentence of the first paragraph and *subsitute:*

For this reason and in order to prevent gear conflicts and a foreign bycatch of *C. bairdi* crab, any foreign harvest of Tanner crab has been restricted to two areas: (1) north of 58°N latitude and west of 164°W longitude and (2) south of 58°N latitude and west of 173°W longitude • • •;

(b) *Add* at the end of the third paragraph:

Not more than 2,500 mt (5,515,000 pounds) of the TALFF can be taken from area (2), south of 58°N latitude and west of 173°W longitude and no. *C. bairdi* crab can be retained in that area. Foreign fishing has been allowed in that area primarily to provide ice free fishing grounds early in the season • • •;

(11) Section F.8.3.2 *Foreign* (43 FR 21250)—*Delete* the entire text of the section and *substitute:*

See statewide Section 8.3.2 Management measures governing foreign fishing are as follows:

(1) The total allowable foreign catch shall not exceed 15,000 mt of snow (Tanner) crab from that portion of the Bering Sea over which the United States exercises fishing jurisdiction. Of that amount not more than 2,500 mt may be taken in the area south of 58°N latitude and west of 173°W longitude.

(2) It shall be unlawful for any foreign fishing vessel to fish for crab at any time east of 164°W longitude and south of 58°N latitude except that they may fish for Tanner crab *C. opilio* species in the area south of 58°N latitude and west of 173°W longitude. No Tanner crab species *C. bairdi* may be retained in that area.

(3) When south of 58°N latitude and west of 173°W longitude no foreign processing ship may receive crabs from any catcher boat that are caught north of 58°N latitude. No foreign processing ship when north of 58°N latitude may receive crabs caught south of 58°N latitude.

The Assistant Administrator for Fisheries has determined under section 304 of the Act that the amendments are consistent with the National Standards, the Act and other applicable law, and has initially determined that these proposed regulations are not significant regulations under Executive Order 12044. A negative assessment of environmental impact has been filed with the Environmental Protection agency.

PROPOSED REGULATIONS

It is proposed to amend 50 CFR 611.91 (see 43 FR 59320, December 19, 1978) as follows:

§ 611.91 [Amended]

1. Section 611.91 (b) (2) is amended as follows: *Add* the following sentence: "No more than 2,500 metric tons of the TALFF set forth in that table may be taken south of 58°N latitude."

2. Section 611.91 is further amended by revising paragraphs (d) and (f)(1) and by adding a new paragraph (f)(5) to read as follows:

§ 611.91 Tanner crab fishery.

• • • • • •

(d) *Closed areas.* No foreign vessel may engage in fishing for Tanner crab:

(1) Within 12 nautical miles of the baseline used to measure the U.S. territorial sea;

(2) South of 58° N latitude, except west of 173° W longitude;

(3) South of 54° N latitude; or

(4) East of 164° W longitude.

• • • • • •

(f) *Other Restrictions.* (1) *Non-retention.* No foreign vessel may retain:

(i) Any female or soft shell Tanner crab;

(ii) Any Tanner crab of the species *C. bairdi* caught south of 58° N latitude; or

(iii) Any species of crab other than the genus *Chionoecetes.* All crabs whose retention is prohibited by this paragraph (f)(1) shall be returned immediately to the sea in a manner which: (A) minimizes handling mortality, and (B) is in accordance with section 611.13 of this Part.

• • • • • •

(5) *Fishing Location.* (i) A foreign processing vessel located south of 58° N latitude and west of 173° W longitude is prohibited from receiving from any foreign catcher vessel Tanner crab caught north of 58° N latitude.

(ii) A foreign processing vessel located north of 58° N latitude is prohibited from receiving from any foreign catcher vessel Tanner crab caught south of 58° N latitude.

§ 611.20 [Amended]

3. Section 611.20(c), Table I, is amended as follows:

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a. In the line beginning "Crab • • • Crab, Tanner," add footnote "6" after footnote "3" and before "15,000," to read "[3] [6]15,000."

b. Add a new footnote "6" to read: [6]Of this TALFF, not more than 2,500 mt may be taken south of 58° N latitude.

§ 671.21 [Amended]

4. Section 671.21(a), Table I, is amended as follows:

In line 8 ("Kodiak district") *delete* "11,340" and *substitute* "15,876".

[FR Doc. 79-2681 Filed 1-22-79; 4:50 pm]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-01-M]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

PRIVACY ACT OF 1974

Revision of Systems of Records

Notice is hereby given that the Office of Inspector General is revising its systems of records for the reasons given below. Although language has been added to one system of records to better explain how the information is used, there are no new routine uses. Therefore, this revision becomes effective on January 25, 1979.

Systems USDA/OIG-1 through 6: Additional authority of Public Law 95-452; editorial changes, including explanatory material and minor corrections.

Systems USDA/OIG-3: Official designated as contact for individuals to request access and to contest information.

Systems USDA/OIG-6: Expansion of explanation of routine uses to specifically identify use of records to carry out matching programs.

In accordance with the above, USDA/OIG-1 through 6 are revised to read as follows:

USDA/OIG-1

System name:

Employee Records, USDA/OIG

System location:

In the Headquarters Office in the Agriculture Administration Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250, and in the following U.S. Department of Agriculture, Office of Inspector General, Regional Offices and suboffices:

OIG Regional Offices

26 Federal Plaza, Room 1707, New York, New York 10007.
8930 Ward Parkway, P.O. Box 205, Kansas City, Missouri 64141.
555 Battery Street, Room 522, San Francisco, California, 94111.
101 South Main, Room 324, Temple, Texas 76501.
422 Federal Center Building, Hyattsville, Maryland 20782.
1 North Wacker Drive, Room 800, Chicago, Illinois 60606.
1447 Peachtree Street, N.W., Room 901, Atlanta, Georgia 30309.

OIG/Audit Suboffices

Federal Building, Harrisburg, Pennsylvania 17108.
Federal Building, Marlboro, Massachusetts 01752.
Federal Building, Syracuse, New York 13260.
Federal Office Building, Hato Rey, Puerto Rico 00917.
Federal Building, Little Rock, Arkansas 72201.
P.O. Box 29383, New Orleans, Louisiana 70189.
P.O. Box 16393, Jackson, Mississippi 39206.
P.O. Box 15067, Nashville, Tennessee 37215.
310 New Bern Avenue, Raleigh, North Carolina 27601.
333 Waller Avenue, Lexington, Kentucky 40504.
Box 14153 Main Post Office, St. Louis, Missouri 63178.
167 Federal Building, Des Moines, Iowa 50309.
276 Federal Building, Lincoln, Nebraska 68508.
571 Federal Building, St. Paul, Minnesota 55101.
200 North High Street, Columbia, Ohio 43215.
5610 Crawfordsville Road, Indianapolis, Indiana 46224.
2490 West 26th Avenue, Denver, Colorado 80211.
1711 Federal Building, Portland, Oregon 97204.
P.O. Box 1363, Huron, South Dakota 57350.
135 South State Street, Salt Lake City, Utah 84111.
24,000 Avila Road, Laguna Niguel, California 92677.

OIG/Investigation Suboffices

U.S. Court House, Hato Rey, Puerto Rico 00918.
600 Dekalb Pike, King of Prussia, Pennsylvania 19406.
310 New Bern Avenue, Raleigh, North Carolina 27611.
4004 Hillsboro Road, Nashville, Tennessee 37215.
5305 Executive Place, Jackson, Mississippi 39206.
200 North High Street, Columbia, Ohio 43215.
2490 West 26th Avenue, Denver, Colorado 80211.
P.O. Box 1363, Huron, South Dakota 57350.
100 Centennial Mall North, Lincoln, Nebraska 68508.
24,000 Avila road, Laguna Niguel, California 92677.
511 Northwest Broadway, Portland, Oregon 97209.
522 N. Central Avenue, Phoenix, Arizona 85004.

Categories of individuals covered by the system:

OIG temporary and permanent employees, former employees of OIG and predecessor offices, and applicants for employment.

Categories of records in the system:

These records show personnel management and work-related information, including position, title, grade, pay rate, pay, temporary and permanent address, phone number, performance evaluations, promotions, travel information, accident reports and related information, activity reports, participation in savings and contribution programs, availability for employment, for assignment, or for transfer, qualifications, awards, hours worked, issuance of credentials, passports, and other indentification, assignment and accountability of property and other things of value, parking space assignments, training and development, and special assignments.

Authority for maintenance of the system:

Pub. L. 95-452, 5 U.S.C. 301, 7 CFR 2.33.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To other agencies in the Department and Executive Branch agencies, such as the Civil Service Commission, as necessary, for proper personnel actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained on computer and in file folders, notebooks, and card file boxes.

Retrievability:

By name of individual employee.

Safeguards:

Available on official need-to-know basis. Kept in locked offices after office hours.

Retention and disposal:

Records are retained as long as needed and then discarded. Personal information that might be considered derogatory or embarrassing is burned when no longer needed.

System manager(s) and address

Director, Personnel Management Staff, OIG, U.S. Department of Agriculture, Washington, D.C. 20250.

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Notification procedure:

Inquiries should be addressed to Director, Policy, Liaison and Information Staff, OIG, U.S. Department of Agriculture, Washington, D.C. 20250.

Record access procedures:

To gain access to information in the system, send request to Director, Policy, Liaison and Information Staff, OIG, USDA, Washington, D.C. 20250.

Contesting record procedures:

To contest information in this system, send request to Director, Policy, Liaison and Information Staff, OIG, USDA, Washington, D.C. 20250.

Record source categories.

The primary information is furnished by the individual employee. Additional information is provided by supervisors, coworkers, references, and others.

USDA/OIG-2

System name:

Intelligence Records, USDA/OIG.

System location:

In the Headquarters Office in the Agriculture Administration Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250, and in the OIG offices listed in the system of records designated USDA/OIG-1.

Categories of individuals covered by the system:

Suspects and unpaid informants.

Categories of records in the system:

Names, occupations, other information about suspects and allegations against them; and types of information previously furnished by or to be expected from informants.

Authority for maintenance of the system:

Pub. L. 95-452, 5 U.S.C. 301, 7 CFR 2.33.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Routine uses for law enforcement purposes will include referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation of law or of enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation, or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, and disposing of records in the system:

Storage:

Stored on sheets of paper and index cards.

Retrievability:

Retrievable by name of individual subject.

Safeguards:

Available on an official need-to-know basis and kept in locked storage when not in use.

Retention and disposal:

Kept indefinitely and continually updated; out-of-date material is burned.

System manager(s) and address:

Director, Security and Special Investigations Division, Office of the Inspector General, Washington, D.C. 20250. Inquiries and requests should be addressed to: Director, Policy, Liaison and Information Staff, USDA, OIG, Washington, D.C. 20250.

Systems exempted from certain provisions of the act:

This system has been exempted from the provisions of sections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f) pursuant to 5 U.S.C. 552a(k)(2) as investigatory material compiled for law enforcement purposes. This exemption is contained in 7 CFR 1.123.

USDA/OIG-3

System name;

Investigative Files and Subject/Title Index, USDA/OIG.

System location:

In the Headquarters Office in the Agriculture Administration Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250, and in the OIG Regional and Investigation Suboffices listed in the system of records designated USDA/OIG-1.

Except for inadvertent errors, all entries in regional office indexes are duplicated in the Headquarters index. Thus the Headquarters index is the only complete index in OIG. The Headquarters files also contain a copy of every investigative report, but not the correspondence in all cases. Older investigative files may be stored in Federal Records Centers or on microfiche. Therefore, delays in retrieving this material can be expected.

Categories of individuals covered by the system.

The individual names in the OIG index fall into one or more of the following categories:

Subjects. These are applicants for OIG employment or individuals against whom allegations of wrongdoing have been made. In some instances, these individuals have been the subjects of investigations conducted to establish whether allegations were true. In other instances, the allegations were deemed too frivolous or indefinite to warrant inquiry.

Principals. These are individuals who are not named subjects of investigative inquiries, but may be responsible for violations. For example, the president of a firm alleged to have violated laws or regulations would likely be individually listed in the OIG index.

Complainants. These are individuals who allege wrongdoing, mismanagement, or unfair treatment relating to USDA employees and/or programs.

Others. These are all other individuals closely connected with a matter of investigative interest or whose names have been checked through the index to determine whether they were of record. Among these names are those of people who are connected with a matter only in that they have shown unusual interest in having allegations investigated or in learning the results of investigation. Also included in the index are the names of persons on the Department of Justice crime list.

Categories of records in the system:

The OIG Subject/Title Index and Investigative Files consist of:

1. Index cards and/or a microfiche index filed alphabetically by the names of individuals, organizations, and firms with a separate card or line items for each; dates of entries made into the index or dates of materials containing information about the named subjects; and identification of the OIG file or files containing information on that subject.

2. Files containing bound sheets of paper or microfiche of such sheets from investigative and other reports, correspondence, and informal notes and notations concerning (a) one investigative matter or (b) a number of incidents of the same sort of alleged violation or irregularity.

If such information was available when an index card or line item was made, the card or microfiche concerning an individual will include the individual's address, date of birth, and Social Security number.

3. Where investigation is being or will be conducted, but has not been completed, various case management records, investigator's notes, statements of witnesses, and copies of records. These are contained on index slips or cards and sheets of paper located in an OIG office or in the possession of the OIG investigator. Certain management records are retained after the investigative report is released as a means of following action taken on the basis of the OIG investigative report.

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Authority for maintenance of the system:

Pub. L. 95-452, 5 U.S.C. 301, 7 CFR 2.33.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Routine use for law enforcement purposes will include referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility for investigating or prosecuting a violation of law or of enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, or any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

The OIG Subject/Title Index consists of 3 inch by 5 inch cards or microfiche line items stored in steel cabinets. The investigative files are stored in steel lektriever cabinets, on microfiche sheets, or in Federal Records Centers.

Retrievability:

The subject cards or line items are arranged alphabetically, and each card or line item identifies one or more OIG investigative case files or administrative files arranged numerically by file number. Information in investigative or administrative files concerning individuals not indexed is considered irretrievable.

Safeguards:

These records are available within USDA and to others in the Executive Branch only upon proper identification and on a need-to-know basis. These records are kept in limited-access areas during duty hours and in locked offices at all other times.

Retention and disposal:

The cards or line items are kept indefinitely and investigative case files are maintained for 15 years. However, certain investigative case files of unusual significance are kept indefinitely. Administrative files are kept for five years.

System manager(s) and address:

Director, Management and Budget Staff, Office of the Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250.

Record access procedures:

To request access to information in this system, write to Director, Policy, Liaison and Information Staff, Office of Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250.

Contesting record procedure:

To contest information in this system, send request to Director, Policy, Liaison and Information Staff, Office of Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250.

Systems exempted from certain provisions of the act:

This system has been exempted from the provisions of sections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) pursuant to 5 U.S.C. 552a (k)(2) and (k)(5) as investigatory material compiled for law enforcement purposes or compiled solely for determining suitability, eiligibility or qualifications for Federal civilian employment. This exemption is contained in 7 CFR 1.123.

USDA/OIG-4

System name:

Liaison Records, USDA/OIG

System location:

Headquarters Offices in Agriculture buildings at 14th and Independence Avenue, S.W., Washington, D.C. 20250, and in the OIG offices listed in the system of records designated USDA/OIG-1.

Categories of individuals covered by the system:

Employees or officials of Federal, State, and local governmental agencies.

Categories of records in the system:

Such information as name, title, address, phone number, and type of assistance previously given or interest previously shown or expected.

Authority for maintenance of the system:

Pub. L. 95-452, 5 U.S.C. 301, 7 CFR 2.33.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosed to other investigative agencies (e.g., FBI, Secret Service, IRS) to coordinate investigative efforts or for those agencies to use in their independent investigations and to facilitate referral of OIG investigative information to other Executive Agencies that have an official interest.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Index cards and sheets of paper.

Retrievability:

By name of individual or by name of agency.

Safeguards:

Information is usually obtained from public records or previous contacts and is generally available to OIG employees and others on request. Records are in the custody of OIG employees during working hours and in locked offices at other times.

Retention and disposal:

Information is kept indefinitely and disposed of when updated. Out-of-date information is discarded.

System manager(s) and address:

Directors of the offices indicated in "System location."

Notification procedure:

Inquiries and requests should be addressed to Director, Policy, Liaison and Information Staff, Office of the Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250.

Record access procedures:

To gain access to information in this system, send request to Director, Policy, Liaison and Information Staff, OIG, U.S. Department of Agriculture, Washington, D.C. 20250.

Contesting record procedures:

To contest information in this system, send request to Director, Policy, Liaison and Information Staff, OIG, U.S. Department of Agriculture, Washington, D.C. 20250.

Record source Categories:

Public documents and directories and previous contacts with individuals listed.

USDA/OIG-5

System name:

Management Information and Data Analysis System, USDA/OIG

System Location:

Computer files are maintained on the Computer Sciences Infonet System with main offices at 650 North Sepulveda, El Segundo, California. Source documents and printouts are kept in OIG Headquarters, U.S. De-

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partment of Agriculture, 14th and Independence Avenue, S.W., Washington, D.C. 20250 and in the OIG regional offices listed in the system of records designated as USDA/OIG-1 (with the exception of the New York Regional Office).

Categories of individuals covered by the system:

OIG professional audit employees.

Categories of records in the system:

The Management Information and Data Analysis System provides audit management officials with a wide range of information on audit operations, including job performance of OIG professional audit personnel in grade GS-13 and below. The system identifies individual audit assignments of employees and provides information on their use of direct and indirect time; significant dates relating to each audit such as starting date, exit conference date, and report release date; the number and significance of audit findings and the identity of all the professionals who participated in the assignment.

Authority for maintenance of the system:

Pub.L. 95-452, 5 U.S.C. 301; 7 CFR 2.81.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Provided upon request to the General Accounting Office for reviewing OIG audit operations. Disclosure may also be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer discs and/or magnetic tape.

Retrievability:

Information in the system can be retrieved by OIG Headquarters and regions. Information can be retrieved by audit report number, employee Social Security number, or geographic location.

Safeguards:

Normal computer security is maintained over access to discs and magnetic tapes. Printouts are available within USDA as necessary and are kept under lock and key when not in use. Source documents are kept in file cabinets in the offices listed above.

Retention and disposal:

Discs and/or magnetic tapes are cleared, retired, or destroyed, when no longer useful, in accordance with General Services Administration and USDA retirement and/or destruction schedules.

System manager(s) and address:

Assistant Inspector General for Audits, Office of the Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250.

Notification procedure:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him, from the Director, Policy, Liaison and Information Staff, USDA-OIG, Washington, D.C. 20250. A request for information pertaining to an individual should contain: Name, address, and particular information requested.

Record access procedures:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertains to him by submitting a written request to the Director, Policy, Liaison and Information Staff, OIG, U.S. Department of Agriculture, Washington, D.C. 20250

Contesting record procedures:

Same as access procedures described above.

Record source categories:

Information in the system comes entirely from OIG audit employees.

USDA/OIG-6

System name:

Audit Information System, USDA/OIG

System location:

Records included in this system may be located at audit sites throughout the United States or at any of the Departmental Computer Centers. The Departmental Computer Centers are: (1) Washington Computer Center, 12th and Independence Avenue, S.W., Washington, D.C. 20250; (2) New Orleans Computer Center, P.O. Box 60900, New Orleans, Louisiana 70160; (3) Kansas City Computer Center, P.O. Box 205, Kansas City, Missouri 64141; (4) St. Louis Computer Center, 1520 Market Street, Room 3441, St. Louis, Missouri 63103; (5) Fort Collins Computer Center, 3825 East Mulberry Street, Fort Collins, Colorado 80521.

Categories of individuals covered by the system:

This system employs temporary data sets, computer printouts, and other audit records obtained from USDA agencies, non-Federal sources, and Federal agencies other than USDA. Individuals covered by these records are participants in programs administered and/or funded by the Department of Agriculture; employees of USDA and other Federal, State, county, and municipal agencies; and officials and employees of contractors, grantees, and cooperators that conduct business related to USDA programs.

Categories of records in the system:

The system may contain, for short periods of time, various categories of records relating to administration of, or individual participation in, USDA programs. For example, the categories of records may relate to the Department's farm, food, loan and research programs and to payroll records of USDA or other governmental employees.

Authority for maintenance of the system:

Pub. L. 95-452, 5 U.S.C. 301, 7 CFR 2.33.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are routinely used for analysis during the course of Office of Inspector General (OIG) audits. To facilitate this analysis, USDA, other Federal, State, or other governmental computer tapes containing program participation or employment information may be matched against themselves or each other to find duplications that indicate possible improper or illegal participation in USDA programs. Matching may be conducted by OIG, other USDA agencies, other Federal agencies, and/or State, county, or municipal agencies. The computer printouts of duplicates may be furnished to OIG auditors and investigators, the non-Federal entity responsible for operating the program, other Executive Branch audit agencies, the General Accounting Office, the Department of Justice, other law enforcement agencies, and the Congress.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Information is stored electronically on computer direct access storage devices or magnetic tape and in computer printouts and other audit records.

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Retrievability:

Electronically stored information may be retrieved using standard audit software analysis and retrieval packages and is limited only by the data elements maintained in the data set. This information may be transmitted and received using standard teleprocessing procedures. Data elements may include such information as an individual's name, address, social security numbers, employee identification, case or farm number, and specific information about the individual's program participation or employment. Information located in computer printouts and other audit records may be retrieved manually while audits are in process. After an audit is completed, information about individuals can only be retrieved by first identifying the audit involved (by type, location and time conducted) and then retrieving the information from audit work materials by mechanical or electronic search. If individual participation was investigated, personal privacy information about that individual may be retrievable, by name, from system USDA/OIG-3, described above.

Safeguards:

Normal computer security is maintained over access to electronically encoded data. Computer printouts and other audit records are protected in accordance with the sensitivity of data contained therein.

Retention and disposal:

Electronically encoded data is seldom retained for more than six months. It is then destroyed either by degaussing or overwriting the computer media. Computer printouts and manually prepared audit records may be incorporated into audit files where they are retrievable only by audit number or report title. Audit files are retained in accordance with General Services Administration retirement and/or destruction schedules. Computer printouts not incorporated into audit files are destroyed.

System manager(s) and address:

The system managers are the USDA Regional Inspectors General for Audits in whose geographical areas the audit sites and Departmental Computer Centers are located. These are as follows: (1) Regional Inspector General for Audits, Northeast Region, OIG, USDA, Room 422, Federal Building, Hyattsville, Maryland 20782 (Washington Computer Center); (2) Regional Inspector General for Audits, Southeast Region, OIG, USDA, 1447 Peachtree Street, N.E., Room 900, Atlanta, Georgia 30309; (3) Regional Inspector General for Audits, Midwest Region, OIG, USDA, 1 North Wacker Drive, Chicago, Illinois 60606; (4) Regional Inspector General for Audits, Southwest Region, OIG, USDA, Federal Office Building—Room 324, 101 South Main Street, Temple, Texas 76501 (New Orleans Computer Center); (5) Regional Inspector General for Audits, Great Plains Region, OIG, USDA, 8930 Ward Parkway, P.O. Box 205, Kansas City, Missouri 64141 (Kansas City, Fort Collins, and St. Louis Computer Centers); (6) Regional Inspector General for Audits, Western Region, OIG, USDA, Room 522 Customs House, 555 Battery Street, San Francisco, California 94111.

Notification procedure:

Any individual may request information contained in this system of records or information as to whether the system contains records pertaining to that individual by contacting the Director, Policy, Liaison and Information Staff, OIG, USDA, Washington, D.C. 20250. The individual is reminded that this system of records is temporary and usually is accessible only while an audit of a particular program or activity is in process. The period of accessibility normally ranges from one month to approximately six months, depending on the type of audit and the use made of the information. Any request for information pertaining to an individual should contain that person's name, address, the USDA program the individual is participating in, any pertinent identification number such as a case number, and the particular information requested. Proof of identity and/or authorization to access will be required.

Record access procedures:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertains to that person by submitting a written request to the Director, Policy, Liaison and Information Staff, OIG, U.S. Department of Agriculture, Washington, D.C. 20250.

Contesting record procedures:

These inquiries also should be sent to the Director, Policy, Liaison and Information Staff, OIG, U.S. Department of Agriculture, Washington, D.C. 20250.

Record source categories:

Information contained in this system of records is obtained mainly from USDA agencies and State and local governments that administer USDA programs on a cooperative basis and may be obtained from other grantees and program participants and other Federal agencies.

Information generally relates to a USDA program or activity which is being audited. Upon conclusion of the audit, the information is either destroyed, returned to the originator, or stored in an audit file from which information about individuals cannot be retrieved without manual and/or electronic search.

Signed at Washington, D.C., this 19th day of January 1979.

BOB BERGLAND,
Secretary, United States Department of Agriculture.

[FR Doc. 79-2864 Filed 1-24-79; 8:45 am]

[6230-01-M]

CIVIL AERONAUTICS BOARD

[Docket Nos. 33826, etc.; Order 79-1-102]

CONTINENTAL AIRLINES, ET AL.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of January 1979.

Petitions of Continental Airlines, Delta Airlines, Ozark Airlines, Trans World Airlines, for amendment of certificate of public convenience and necessity, Dockets 33826, 34086, 34145, 34174, 33894; applications of Continental Airlines, Delta Airlines, for exemption authority, Dockets 34102, 34143.

On October 25, 1978, Continental Airlines filed an application for amendment of its certificate to add Denver-San Francsico/Oakland/San Jose authority, accompanied by a motion to consolidate with Frontier's application for nonstop Denver-Los Angeles authority in Docket 33527.[1]

In support of its application, Continental states that it will provide at least three daily round trips and offer reduced fares; it can compete effectively in the market since it has a strong structure at Denver; and the Denver-San Francisco market merits additional competitive services.

Continental has also filed a petition for an order to show cause in the Denver-San Jose market in Docket 34086.

No one has objected to Continental's requests.

Delta, in Docket 34145, and Ozark, in Docket 34174,[2] have filed applications requesting the same authority. However, neither application has supporting documentation.

TWA, which already holds Denver-Bay Area authority, seeks removal of a long-haul restriction which requires its flights to originate or terminate at Chicago or St. Louis or at a point east of these cities.

Exemption applications for Denver-San Francisco and Denver-San Jose

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[1] We will consider Continental's motion to consolidate with Frontier's application in a forthcoming order.

[2] We will consolidate both of these dockets into this proceeding.

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authority have been filed by Delta and Continental, respectively.

We tentatively conclude, on the basis of the tentative findings below, that it is consistent with the public convenience and necessity to grant, on a Category II subsidy-ineligible basis, the Denver-San Francisco and Denver-San Jose portions of the applications[3] of Continental, Delta and Ozark and any other fit, willing and able applicant, whose fitness, willingness and ability can be established by officially noticeable data.[4] Further, we tentatively conclude that no oral evidentiary hearing is necessary here since there are no material determinative facts requiring such a hearing for their resolution.

Under the Airline Deregulation Act of 1978, we must approve an application for certificate authority unless we find, by a preponderance of the evidence, that approval would not be consistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). The new Act creates a presumption that the grant of all applications is consistent with the public convenience and necessity. It places on any opponents of these applications the burden of proving them inconsistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). To give such opponents a reasonable opportunity to meet an admittedly heavy burden of proof, it is our view that applicants must indicate what type of service they would provide if they served the markets at issue. This does not mean that an applicant must show that it will provide service if it receives authority, but rather what the nature of its services would be if it decides to serve. We will give all existing and would-be applicants 15 days from the date of service of this order to supply data,[5] in order to give interested persons sufficient information on the nature of the applicant's proposal to assess consistency with the convenience and necessity. Our tentative findings concerning all applicants that have not filed illustrative service proposals are contingent on such filings.

Our tentative conclusions comport with the letter and spirit of the Airline Deregulation Act of 1978, particularly the declaration of policy set forth in section 102 which instructs us to rely, to the maximum extent possible, on competitive forces, including potential competition.[6] See our general conclusion about the benefits of multiple permissive authority in *Improved Authority to Witchita Case, et al.*, Order 78-12-106, December 14, 1978. Accordingly, we conclude that it is desirable to award the additional authority sought by the applicants, whether or not services are in fact operated. The existence of additional operating rights in markets now being served by incumbent carriers or authorized to be served will best effect the statute's policy objectives of placing maximum reliance on the decisions of the marketplace. This will occur because newly authorized carriers may actually enter the market in order to exploit unmet demand, both in terms of price and service, or because incumbents will be encouraged by the realistic threat of entry to meet that demand. Because demand is dynamic in character and therefore constantly changing, the most effective means to assure that competitive forces will operate quickly and efficiently is to award multiple operating authority to carriers that are fit, willing and able to provide service.

Notwithstanding the foregoing tentative conclusions in support of multiple permissive authority in this proceeding, we wish to make clear that we in no way desire to deter objections that might be asserted under the 1978 Act by air carriers, civic interests or other interested persons. The new statute contains a completely revised declaration of policy in section 102, as well as numerous additional and modified substantive provisions. Some of these statutory changes relate to considerations not expressly covered in the preceding statute. For example, while diversion from existing carriers will not be given decisive weight in rejecting applications for new authority except upon an extraordinary showing of financial jeopardy on the part of one or more existing air carriers, with the consequent loss of air service which cannot be immediately replaced, other provisions suggest that the Congress desires us to take into account other factors. These include, but are not limited to satellite airport questions, the degree of concentration within the industry and safety. Any party in this proceeding may explain in full why the authority that we propose to grant should not issue. Such explanations should apply specifically to the applications in issue, and should be sufficiently detailed to overcome the statutory presumption of favorable treatment that the Act bestows on applications.

Upon review of the environmental evaluation submitted by Continental in its application, to which no answers have been filed, we find that our decision to award it authority does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, or a major regulatory action under the Energy Policy and Conservation Act of 1975. We reserve judgment on the environmental consequences of other applications, pending submission of environmental data.

We also tentatively conclude that TWA's long-haul restriction should be removed. It is our policy to remove operating restrictions unless there are affirmative reasons for retaining them. No reason for retaining the restriction has been shown here. Since we are proposing to authorize Continental, Delta and Ozark to provide nonstop service in the Denver-San Francisco and Denver-San Jose markets, TWA's certificate condition should be removed, so it can effectively compete in these markets.[7]

We will deny Continental's and Delta's exemption applications. The exemption requests are predicated upon the general need for competitive service in the markets. Also, Continental states that it should be granted an exemption because a "technicality" prevented it from receiving Denver-San Jose authority under the Act's unused authority provision.

Under the new Act, the change in statutory language overrides much of the precedent developed under former section 416(b)(1) and encourages us to eliminate many of the limitations we observed in the past exercise of our exemption authority. However, we are also cognizant of the fact that, despite enacting sweeping changes under the Airline Deregulation Act, Congress chose to retain the basic framework of the Federal Aviation Act[8] under which certification is the norm. Therefore, we will require each exemption applicant to demonstrate that a grant of a particular exemption will fulfill an immediate public need, so as to justify resort to the exemption procedure in lieu of utilizing conventional certification procedures.

Here, neither carrier has convinced us that there are such needs requiring exemptions. This conclusion is bolstered by our use of expedited show-case procedures. Further, we will not use exemptions as a tool to grant authority merely because a carrier failed to obtain such authority under the unused authority provisions.[9]

We will give interested persons 30 days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; replies will be due within 10 days thereafter. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a proceeding that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.

Accordingly, 1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated above and amending the certificates of public convenience and necessity of Continental for Route 29, Delta for Route 24, Ozark for Route 107 and TWA for Route 2 so as to authorize the carriers to engage in nonstop operations between Denver and San Francisco and between Denver and San Jose; and amending, to grant any of the authority in issue, the certificates of any other fit, willing and able applicants, the fitness of which can be established by officially noticeable material;

2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth here, to file with us and serve upon all persons listed in paragraph 9, no later than February 23, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections; answers shall be due no later than March 5, 1979;

3. If timely and properly supported objections are filed, we will accord full consideration to the matters and issues raised by the objections before we take further action;[10]

4. In the event no objections are filed, we will deem all further procedural steps to have been waived an we may proceed to enter an order in accordance with the tentative findings and conclusions set forth here;

5. We consolidate Dockets 34174, 34145, 33894, and 34086, with Continental's application in Docket 33826;

6. We direct applicants for the authority in issue to file the data set forth in footnote 5 no later than February 8, 1979;

7. We deny the relief sought in Dockets 34102 and 34143; and

8. We will serve a copy of this order upon Continental, Delta, Ozark, TWA and all other persons named in the service list in Docket 33826.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[11]
Secretary.

[FR Doc. 79-2582 Filed 1-24-79; 8:45 am]

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[3] We have also tentatively decided not to hyphenate San Francisco, Oakland and San Jose. If a carrier does not use its Denver-San Jose authority, another carrier can obtain that authority under section 401(d)(5) of the Act as long as San Jose is listed as a separate point on the first carrier's certificate (*see* Order 78-11-41). We believe that this course of action is more consistent with the Act's declaration of policy which calls on us to encourage air service at major urban airports through secondary or satellite airports.

Additionally, Denver-Oakland authority will not be treated in this proceeding because the market is being considered in another case, the *Oakland Service Case*, Docket 30699. In that proceeding, we invited carriers that have definite intentions of providing service in the Oakland markets to apply for exemptions. (Order 78-12-101, December 14, 1978).

[4] Officially noticeable data consist of that material filed under § 302.24(m) of our rules. Applicants whose fitness cannot be so established must make a showing of fitness, as well as dealing with any questions under sections 408 and 409 of the Act. Should such applications be filed, we will then consider how to deal with them procedurally.

On the basis of officially noticeable data, we find that Continental, Delta and Ozark are citizens of the United States and are fit, willing, and able to perform the air services proposed and to conform to the provision of the Act and our rules, regulations and requirements.

[5] They should submit an illustrative schedule of service in the markets at issue, which shows all points that they might choose to serve, the type and capacity of the equipment they would likely use and the elapsed trip time of flights in block hours over the segments. For the markets at issue only, they should also provide an environmental evaluation as required by Part 312 of our Regulations, and an estimate of the gallons of fuel to be consumed in the first year of operation in the markets if they instituted the proposed service, as well as a statement on the availability of the required fuel.

If an applicant has already filed this material in a related docket, it simply need refer to that docket.

[6] Section 102(a) specifies as being in the public interest, among other things: "The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital" and "The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services."

[7] We note that the relief we propose to grant today is consistent with Order 78-12-14, December 7, 1978, Appendix F, 1-2, which proposed to grant TWA nonstop authority in the Denver-San Francisco, Denver-Oakland, and Denver-San Jose markets. If TWA receives the authority in its route realignment proceeding, our tentative grant here will be superseded, and vice versa.

[8] *See, e.g., Northwest Airlines, Inc. v. C.A.B.*, 539 F. 2d 749 (D.C. Cir. 1976); *Utah Agencies v. C.A.B.*, 504 F. 2d 1232, 1237 (10 Cir. 1974).

[9] In Order 78-11-41, we decided that unused authority could not be granted in the Denver-San Jose market because Denver-San Francisco was being served, and service to one airport of a hyphenated point is considered service at the point.

[10] Since provision is made for the filing of objections to this order, we will not entertain petitions for reconsideration.

[11] All Members concurred.

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[6320-01-M]

[Order 79-1-118; Docket No. 33343]

CONTINENTAL AIR LINES, INC., ET AL.

Order Regarding Service at Lawton/Ft. Sill and Wichita Falls

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of January 1979.

Application of Continental Air Lines, Inc., for deletion of authority at Lawton/Ft. Sill and Wichita Falls, Docket 33343; notices of Continental Air Lines, Inc., of termination of all service at Lawton-Ft. Sill and Wichita Falls, Dockets 33827, 33828 and 34081; Continental Air Lines, Inc., suspension/replacement, Dockets 28744 and 31330.

On September 1, 1976, Continental Air Lines filed an application under section 401(g) of the Federal Aviation Act for deletion of Lawton/Ft. Sill, Oklahoma, and Wichita Falls, Texas, from its certificate for Route 29. On September 11, 1978, it filed a petition for an order to show cause why its application should not be granted.

In support of its application and petition, Continental states that by Order 77-10-92, October 29, 1977, the Board granted Continental's application for suspension of service at Lawton/Ft. Sill and Wichita Falls subject to replacement service being provided by Metroflight;[1] that Metroflight commenced its replacement service on October 31, 1977, and has provided service continuously since then between Lawton/Ft. Sill and Wichita Falls, on the one hand, and Oklahoma City and Tulsa, on the other; that the replacement service is decidedly uneconomic and unwarranted; and that Continental has no alternative but to seek permanent deletion of the points and termination of its replacement agreement with Metroflight. More specifically, Continental states that Metroflight's service has averaged only 2.5 passenger enplanements per departure (21% load factor); that Metroflight has incurred operating losses in excess of $180,000; and that Continental has paid Metroflight more than $206,000 under the terms of the replacement agreement. Continental asserts that the real problem is that there is not sufficient demand to support commuter service to Oklahoma City and that Dallas/Ft. Worth is the most important destination and connecting hub for Wichita Falls and Lawton/Ft. Sill passengers and there is abundant service to Dallas/Ft. Worth. Continental argues that its authority should be deleted rather than

[1] Continental was authorized to suspend service at Lawton/Ft. Sill and Wichita Falls for a period of five years.

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made permissive for the following reasons: deletion will automatically terminate its agreement with Metroflight; the so-called "scope clause" of its labor agreement with its pilot provides that it might be obligated to pay its pilots for the reduced flying time resulting from suspension of its service; deletion avoids any possible legal controversy concerning permissive route authority; and its has no plans or intentions to reinstitute service at either Lawton/Ft. Sill or Wichita Falls at any time in the foreseeable future.

Answers to Continental's deletion application were filed by the Wichita Falls Parties, the City of Lawton, and the Air Line Pilots Association (ALPA). Wichita Falls opposes the deletion request claiming that Continental has not given the replacement service sufficient time to develop, that deletion will deprive the traveling public of single-plane and on-line service to Lawton/Ft. Sill, Oklahoma City and Tulsa, and that it will inconvenience the traveling public. Lawton opposes the request on grounds that Continental has not adequately developed the replacement service, that deletion would eliminate the currently available joint-fare tariffs available on Metroflight and would adversely affect the planned development of the Lawton-Wichita Falls air service. ALPA opposes the deletion and argues that the Board cannot grant Continental's application without a hearing.

On October 25, 1978, Continental filed notices under the recently amended section 401(j) of the Federal Aviation Act of its intent to terminate all air transportation which it is providing either directly or by agreement with another air carrier at Lawton/Ft. Sill and Wichita Falls effective after 90 days.[2]

No answers to the termination notices have been filed.

We have decided (1) not to prohibit Continental's termination notices to take effect, and (2) to issue an order to show cause why Continental's application for deletion of Lawton/Ft. Sills and Wichita Falls should not be denied.

Our decision on the termination notices is based on the following considerations. In addition to the service being provided by Metroflight as replacement service for Continental, Lawton/Ft. Sill and Wichita Falls are receiving the following service. At Lawton/Ft. Sill, Frontier is providing four nonstop round trips daily except Saturday to Dallas/Ft. Worth and one daily nonstop round trip to Oklahoma City. It is also providing single-plane service to Atlanta, Denver, Enid and Sacramento. Metroflight is providing four daily nonstop round trips to Dallas/Ft. Worth (one flight is not operated on Saturdays) and three daily nonstop round trips to Altus. At Wichita Falls, Texas International is providing three daily nonstop round trips to Dallas/Ft. Worth with single-plane service to Houston, Lake Charles and New Orleans. Rio Airways is providing twelve daily nonstop round trips to Dallas/Ft. Worth. Our review of the services now being provided at Lawton/Ft. Sill and Wichita Falls convinces us that essential air transportation will be maintained at the points without the service that Continental is obliged to guarantee or that Metroflight is providing under the replacement arrangement. We will therefore allow the notices of termination to become effective after the required 90-day notice period.[3]

In order to make Continental's suspension authority in Order 77-10-92 compatible with our decision not to prohibit Continental from terminating it its service obligation after the 90-day period, we will amend Order 77-10-92 to make the suspension indefinite rather than for five years and to eliminate ordering subparagraph 2(b) which requires Continental to resume service within 30 days after Metroflight or another acceptable Part 298 carrier ceases or fails to provide the minimum level of service specified.

As to Continental's deletion application, we tentatively conclude that deletion of the points from its certificate would not be consistent with the public convenience and necessity. In support of our conclusion, we make the following tentative findings. We see no reason to delete Continental's authority to serve Lawton/Ft. Sill and Wichita Falls when Continental will be relieved of its service obligations at the points after the 90-day notice period. Retention of the points on Continental's certificate will not only permit the flexibility for Continental to resume service at any time circumstances might warrant such action, but also, and more importantly, enable the communities to attract service under the dormant authority provisions of the 1978 Act. Under these circumstances, we tentatively conclude that Continental's application to delete Lawton/Ft. Sill and Wichita Falls from its certificate should be denied.

We will give interested persons 30 days following the date of this order to show cause why the tentative findings and conclusions set forth here regarding Continental's deletion application should not be made final; replies will be due within 10 days thereafter. We expect those persons to direct their objections, if any, to specific matters dealt with here, and to support their objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.

Accordingly, (1). The notices filed by Continental Airlines for termination of service at Lawton/Ft. Sill, Oklahoma, and Wichita Falls, Texas, in Dockets 33827, 33828, and 34081 may be effective January 22, 1979;

2. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated here regarding Continental's deletion application and denying the certificate amendment application of Continental Air Lines to delete Lawton/Ft. Sill and Wichita Falls;

3. We direct any interested persons having objections to the issuance of an order making final the proposed findings and conclusions set forth in Paragraph 2 to file with us, no later than February 19, 1979, and serve upon all persons listed in Paragraph 6 below, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; interested persons shall file answers to objections no later than March 1, 1979;

4. If timely and properly supported objections to the show cause are filed, we will give full consideration to the matters or issues raised before we take further action on the deletion application;

5. In the event no objections are filed to our tentative findings to deny Continental's deletion application, we will eliminate all further procedural steps relating to that part and we will proceed to enter an order in accordance with the tentative findings and conclusions set forth in this order;[4]

6. We will serve this order on the Mayors of Lawton, Ft. Sill, Wichita Falls, Oklahoma City, and Tulsa; the airport managers of Lawton/Ft. Sill Municipal, Wichita Falls Municipal Airport, and Will Rogers World Airport; Governors, States of Oklahoma and Texas; the Oklahoma Aeronautics Commission and Texas Aeronautics Commission; Frontier Airlines, Texas International Airlines, Metro Airlines, Rio Airways; and the Postmaster General; and

7. We amend ordering paragraph 2 of Order 77-10-92 to delete the words "for a period of five years" and to delete subparagraph 2(b).

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[5]
Secretary.

[FR Doc. 79-2584 Filed 1-24-79; 8:45 am]

[2] Continental filed a 60-day notice under section 401(j)(2) in Docket 34081 on November 20, 1978.

[3] As well as relieving Continental of its service obligation at these points, this determination effectively relieves Metroflight of any obligation to provide the replacement service.

[4] Since provision is made for the filing of objections to the show-cause proposed, we will not entertain petitions for reconsideration regarding the deletion application.

[6320-01-M]

[Docket Nos. 31128; Order 79-1-100]

EASTERN AIR LINES, INC., ET AL.

Order To Show Cause and Denying Petitions for Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of January 1979.

Application of Eastern Air Lines, Inc., for an exemption under section 416(b) of the Federal Aviation Act of 1958, as amended, Docket 31128; application of Northwest Airlines, Inc., for amendment of its certificate of public convenience and necessity for Route 3, Docket 31213; application of Northwest Airlines, Inc., for an exemption under section 416(b) of the Federal Aviation Act of 1958, as amended, Docket 31244; application of Delta Air Lines, Inc., for amendment of its certificates of public convenience and necessity for Routes 8, 24, 27, and 54, Docket 31529; application of Delta Air Lines, Inc., for an exemption under section 416(b) of the Federal Aviation Act of 1958, as amended, Docket 32791.

By Order 78-10, October 20, 1978, we granted Eastern's exemption application in Docket 31128 insofar as it requested nonstop authority in the Fort Myers-Chicago market and denied exemption applications by Delta and Northwest for authority in the Atlanta-Fort Myers and Chicago-Fort Myers markets, respectively. We left to a later order the applications of Delta and Northwest for certificate amendments involving service at Fort Myers.[1]

We have received petitions for reconsideration of our order by the Fort Myers Parties, Northwest, and Delta. Fort Myers contends that its tourist industry cannot compete effectively against other vacation destinations unless more competitive air service is authorized. Northwest argues that it is in an excellent position to meet the need for Chicago-Fort Myers service this winter; that its proposal is clearly superior to that of Eastern; and that the decision conflicts with action taken the same day granting three carriers exemption authority in the Seattle/Portland-Honolulu markets.[2] Delta adds that our order is inconsistent with the new Act, which it contends mandates a policy of authorizing competition and using our exemption powers more liberally. Both carriers argue that our decision is protectionist toward Eastern.

The Fort Myers Parties support the petitions for reconsideration filed by the two carriers. Eastern filed in opposition.

We will deny the petitions for reconsideration. The petitioners have failed to show any new facts or demonstrate any error in the findings made in Order 78-10-107. Our exemption award to Eastern, the only carrier with authority at both points, was a logical response to the need to provide improved service during a peak traffic period. Northwest would have had to open a new station at Fort Myers. Delta did not show any unsatisfied immediate need which required an exemption for Fort Myers-Atlanta authority.

We recognize that the new law allows us to use our exemption power more freely. As we move toward an open entry regime, the problems raised by the *Kodiak* case diminish. It is clear that multiple exemptions were justified in the Seattle/Portland-Honolulu situation where a major incumbent withdrew needed capacity from the market. Indeed, multiple exemptions may be highly desirable in far less compelling circumstances. However, Delta and Northwest have not shown that there is a sufficient urgency for additional services to require use of our exemption power, particularly in light of the speed of our current certification procedures. Under these circumstances, we believe that the 401 process should be the tool for granting the desired operating authority.

As to the certificate amendment applications, we have tentatively concluded, on the basis of tentative findings below, that it is consistent with the public convenience and necessity to authorize, on a Category II subsidy-ineligible basis, unrestricted nonstop service between Fort Myers, on the one hand, and Baltimore, Boston, Chicago, New York, Philadelphia, and Washington, on the other,[3] to Delta and any other applicant whose fitness, willingness and ability can be established by officially noticeable data,[4] and to grant the application of Northwest insofar as it seeks Fort Myers-Chicago authority. Further, we tentatively conclude that no oral evidentiary hearing is needed here since there are no material determinative issues of fact requiring such a hearing for their resolution.

Fort Myers is a rapidly growing point—in 1967 a total of 87,090 passengers enplaned or deplaned there, while in 1977 the figure was 426,240,[5] a four-fold increase. This growth represented a rate of increase 2½ times the national average.[6] Traffic at Fort Myers has exceeded the predictions of even the most optimistic applicants in the *Fort Myers-Atlanta Case*, Docket 27237.[7] Yet, nonstop service is only available in seven markets, four of which are within Florida.[8] Only two carriers are currently authorized to serve the city, and their authority is for the most part nonduplicative. Therefore, we tentatively conclude that the award of unrestricted authority between Fort Myers and Baltimore, Boston, New York, Philadelphia, Washington, and Chicago, would be consistent with the public convenience and necessity. National is the only carrier with unrestricted authority to the northeast, and Eastern is the only carrier with single-plane authority to Chicago.

Under the Airline Deregulation Act of 1978, we must approve an application for certificate authority unless we find, by a preponderance of the evi-

[5] All members concurred.

[1] In Docket 31213 Northwest has applied for certificate authority between Chicago and Fort Myers nonstop and via Tampa. In Docket 31529 Delta has applied to add Fort Myers as an intermediate point on four domestic routes.

[2] See Order 78-10-106

[3] We are not including Atlanta because the issue of nonstop authority between Fort Myers and Atlanta is included for consideration in the *Florida Service Case* (see Order 78-11-15, on reconsideration). For the same reason, we are not including Ft. Lauderdale, Miami, Orlando, Sarasota, or Tampa. To the extent that Northwest's application in Docket 31213 involves one stop authority between Fort Myers via Tampa, it will be dismissed. To the extent that Delta's application in Docket 31529 involves authority between Fort Myers and points not included in the scope of this order, it will be dismissed.

[4] Officially noticeable data consist of that material filed under § 302.24(m) of our Procedural Regulations. Applicants whose fitness cannot be so established must make a showing of fitness, as well as deal with any questions under sections 408 and 409 of the Act. Should such applications be filed, we will then consider how to deal with them procedurally.

On the basis of officially noticeable data, we find that Delta and Northwest are citizens of the United States and are fit, willing and able to perform the air services proposed to be awarded here and to conform to the provisions of the Act and our rules, regulations and requirements.

[5] C.A.B. O&D Surveys, Table 8.

[6] Appendix A to Northwest Motion for an Order to Show Cause, Docket 31213.

[7] Eastern forecast it would carry 196,155 passengers in CY 1976 (Exhibits EA-103, 104, Docket 27237). It actually transported 229,549 (Eastern exemption application, Docket 31128, Appendix B).

[8] The markets are Atlanta, Chicago (by exemption), Miami, New York (unused authority), Orlando, Sarasota/Bradenton and Tampa.

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dence, that approval would not be consistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). The new Act creates a presumption that the grant of all applications is consistent with the public convenience and necessity. It places on any opponents of these applications the burden of proving them inconsistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). To give such opponents a reasonable opportunity to meet an admittedly heavy burden of proof, it is our view that applicants must indicate what type of service they would provide if, after receiving authority, they chose to serve the markets at issue. This does not mean that an applicant must show that it will provide service if it receives authority but rather what the nature of its service would be if it decided to serve. We will give all existing and further applicants 15 days from the date of service of this order to supply data,[9] in order to give interested persons sufficient information on the nature of the applicant's proposal to assess consistency with the public convenience and necessity. Our tentative findings concerning all applicants that have not filed illustrative service proposals are contingent on such filings.

Upon review of all the facts and pleadings in this case, we have tentatively determined that there is no reason why we should not grant multiple awards. Our tentative conclusions comport with the letter and spirit of the Airline Deregulation Act of 1978, particularly the declaration of policy set forth in section 102 which instructs us to rely, to the maximum extent possible, on competitive forces, including potential competition.[10] See our general conclusions about the benefits of multiple permissive authority in *Improved Authority to Wichita Case, et al.*, Order 78-12-106, December 14, 1978. Accordingly, we conclude that it is desirable to award the additional authority sought, as well as that included here by our own motion, whether or not services are in fact operated. The existence of additonal operating rights in markets now being served by incumbent carriers or authorized to be served will best effect the statute's policy objective of placing maximum reliance on the decisions of the marketplace. This will occur because newly authorized carriers may actually enter the market in order to exploit unmet demand, both in terms of price and service, or because incumbents will be encouraged by the realistic threat of entry to meet that demand. Because demand is dynamic in character and therefore constantly changing, the most effective means to assure that competitive forces will operate quickly and efficiently is to award multiple operating authority to carriers that are fit, willing and able to provide service.

Notwithstanding the foregoing tentative conclusions in support of multiple authority in this proceeding, we wish to make clear that we in no way desire to deter objections that might be asserted under the 1978 Act by air carriers, civic interests or other interested persons. The new statute contains a completely revised declaration of policy in section 102, as well as numerous additional and modified substantive provisions. Some of these statutory changes relate to considerations not expressly covered in the preceding statute. For example, while diversion from existing carriers will not be given decisive weight in rejecting applications for new authority except upon an extraordinary showing of financial jeopardy on the part of one or more existing air carriers, with the consequent loss of essential air service which cannot be immediately replaced, other provisions suggest that the Congress desires us to take into account other factors. These include, but are not limited to, satellite airport questions, the degree of concentration within the industry, and safety. Any party in this proceeding may explain in full why the authority that we propose to grant should not issue. Such explanations should apply specifically to the applications and authority in issue, and should be sufficiently detailed to overcome the statutory presumption of favorable treatment that the Act bestows on applications.

Finally, upon review of the environmental evaluation submitted by Northwest in its application, to which no answers have been filed, we find that our decision to award it Chicago-Fort Myers authority does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, or a major regulatory action under the Energy Policy and Conservation Act of 1975.[11] We reserve judgment on the environmental consequences of other applications or amendments to existing applications, pending submission of environmental data.

We will give interested persons 30 days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; replies will be due within 10 days thereafter. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If any evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a proceeding that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.

Accordingly,

1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated above and amended and certificate of public convenience and necessity of Delta Air Lines for Routes 8, 24, 27, and 54 so as to authorize it to engage in nonstop operations between Fort Myers, on the one hand, and Boston, Baltimore, Chicago, New York, Philadelphia, and Washington, on the other; amending the certificate of Northwest Airlines for Route 3 so as to authorize it to engage in nonstop operations between Fort Myers and Chicago; and amending, to grant any of the authority in issue, the certificates of any other fit, willing and able applicants the fitness of which can be established by officially noticeable material;

2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth here, to file with us and serve upon all persons listed in paragraph 9, no later than February 23, 1979, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections; answers shall be due no later than March 5, 1979;

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*They should submit an illustrative schedule of service in the markets at issue, which shows all points that they might choose to serve, the type and capacity of the equipment they would likely use and the elapsed trip time of flights in block hours over the segments. For the markets, at issue only, they should also provide an environmental evaluation as required by Part 312 of our Regulations, and an estimate of the gallons of fuel to be consumed in the first year of operations in the markets if they instituted the proposed service, as well as a statement on the availability of the required fuel.

[10] Section 102(a) specifies as being in the public interest, among other things:

"The placement of maximum reliance on competitive market forces and on actual and potential competition (a) to provide the needed air transportation system, and (b) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital" and "The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services."

[11] Northwest provided data only for the Chicago-Fort Myers market in its evaluation. We expect it to supply similar data for the other markets at issue if it wishes to obtain authority. We reserve judgment as to the environmental consequences of such additional services.

3. If timely and properly supported objections are filed, we will accord full consideration to the matters and issues raised by the objections before we take further action;[12]

4. In the event no objections are filed, we will deem all further procedural steps to have been waived and we may proceed to enter an order in accordance with the tentative findings and conclusions set forth here;

5. We deny the petitions of Delta Air Lines, Northwest Airlines, and the Fort Myers Parties for reconsideration of Order 78-10-107;

6. We grant the motions of Northwest Airlines for an order to show cause and for immediate hearing in Docket 31213;

7. We direct Delta Air Lines and any other applicants for the authority at issue, to file the data indicated in footnote 9 by February 8, 1979;

8. Except to the extent that they conform to the scope of this proceeding, we dismiss the applications of Delta Air Lines in Docket 31529 and of Northwest Airlines in Docket 31213; and

9. We will serve this order on Eastern Air Lines; Delta Air Lines; Northwest Airlines; National Airlines; the Fort Myers Parties; the City of Chicago; the City of New York; the Port of New York Authority; the City of Atlanta; the Tampa Bay Parties; the City of Boston; the City of Philadelphia; the City of Washington, D.C.; the City of Baltimore; all other certificated carriers; and the Postmaster General.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[13]
Secretary.

[FR Doc. 79-2581 Filed 1-24-79; 8:45 am]

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[12] Since provision is made for the filing of objections to this order, we will not entertain petitions for reconsideration.

[13] All Members concurred.

[6320-01-M]

[Docket Nos. 34226, etc.; Order 79-1-117]

EASTERN AIR LINES, ET AL.

Order Denying Consolidation and Instituting Investigation

Adopted by the Civil Aeronautics Board at its offices in Washington, D.C., on the 19th day of January 1979.

Eastern Air Lines, for approval of acquisition of control of National Air Lines, Inc., Docket 34226, Texas International-national acquisition case and enforcement investigation, Docket 33112, Pan American-National Acquisition Case, Docket 33283.

On December 13, 1978, Eastern Air Lines filed an application requesting Board approval of its proposed acquisition of control of National Airlines. Eastern also filed a motion to consolidate this application into the on-going hearing on the applications of Texas International Airlines[1] and Pan American World Airways,[2] applications that also request Board approval of proposed acquisitions of National Airlines.

Answers supporting Eastern's motion to consolidate have been filed by Braniff Airways and the United States Department of Transportation. The Department of Justice stated by letter that it did not oppose consolidation. Answers in opposition to consolidation have been filed by Pan American, Texas International, the "510 Furloughed Pan American Airmen,"[3] and the Board's Bureau of Pricing and Domestic Aviation.[4] National Airlines also filed an answer, without taking a position on whether the Board should consolidate the Eastern proposals.

Eastern's pleadings and the answers to it motion were filed with the Board and were also reviewed by Judge William H. Dapper, the administrative law judge presiding over the consolidated Pan American and Texas International hearing. On December 19, Judge Dapper presented the consolidation issue to the Board, as is provided for by our Rules of Practice,[5] along with his recommendation that the Board grant the consolidation request.[6]

We have decided not to consolidate Eastern's application with those of Pan American and Texas International, at least not at trial stage. The Eastern application will be heard separately and under the expectation that the record in that proceeding will be certified directly to the Board at the close of testimony. In reaching this decision we have considered all the arguments for consolidation, but we are not convinced that it would be fair to the opposition parties or good administrative practice to consolidate so untimely an application, coming at the close of testimony and months after commencement of the hearings, and consequently risk an indeterminate delay in cases that are nearly ripe for decision. This would be especially bad precedent in the very time-sensitive area of takeovers and mergers. We believe that direct certification of the record will permit us to meet the possible problems raised in the consolidation request, without jeopardizing the progress of the other applications.

The principal arguments advanced in favor of consolidation are the following. The applications have common issues of law and fact and many common parties. Consequently, it is argued, administrative efficiency and the need to avoid inconsistent determinations from the same evidence require consolidation. It is also argued that Eastern's application is mutually exclusive with those of Pan American and Texas International, that the public interest cannot be properly examined without a comparison of the various proposals, and that Eastern will be precluded from effecting its proposal if either of the other applications is approved first. Finally, it is argued that the Airline Deregulation Act,[7] which under certain circumstances requires consideration of less anticompetitive alternatives before approval of a merger,[8] also requires consolidated consideration of these proposals.

As to the arguments about common issues of law and fact—and obviously not all of these questions will be identical—we believe that the parties and the new administrative law judge assigned to the Eastern application should make extensive use of the existing record. To this end, we request the parties and the judge to use their best efforts to construct the new record by incorporation and judicial notice of the record in Dockets 32112 and 33282, and to devise whatever other efficiences are procedurally fair. We will also request that the procedural schedule in the evidentiary phase of the Eastern proceeding be scheduled to conclude on or about the first of April. This will permit certification of the Eastern record directly to the Board in time for contemporaneous consideration with the Pan American and Texas International records—should this somehow be required. However, these cases do not involve comparative questions in a "carrier selection" sense, and the issue of impact on competition must be answered for each application separately.

Given the decision to bypass the initial decision stage if contemporaneous decision becomes necessary, most of the arguments for consolidation—dealing as they do with the need for comparision and possible prejudice to Eastern—are substantially mooted. We

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[1] Docket 33112.

[2] Docket 33283. This docket and that noted above have been consolidated already and have proceeded as a single hearing. Order 78-9-24, September 7, 1978.

[3] This is a group of furloughed Pan American employees who are participating in the Pan American and Texas International hearing.

[4] The Bureau's answer was filed with motion to file late which we will grant.

[5] Rule 12(b), 14 CFR 302.12(b).

[6] Judge Dapper has not received the answer of the Bureau of Pricing and Domestic Aviation at the time he made his recommendation.

[7] Pub. L. No. 95-504, 92 Stat. 1705 (1978).

[8] *Id.*, Sec. 26, amending section 408 of the Federal Aviation Act of 1958, 49 U.S.C. 1378. The Board is instructed to consider less anticompetitive alternatives to a section 408 proposal if it finds that the proposals might be approved despite antitrust implications.

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would add, however, that we have chosen not to consolidate because we are quite uncertain about the extent of delay that would ensue,[9] and we do not care to set an unfortunate precedent for merger proceedings. Mergers and takeovers are time-sensitive matters. The Board has traditionally respected this,[10] and we are now commanded to do so by the Airline Deregulation Act.[11] We intend to proceed to a prompt decision on these applications, and certification of the Eastern record will permit a timely decision on all the applications as required.[12]

Accordingly:

1. The application of Eastern Airlines in Docket 34428 will be set for expedited hearing.

2. The taking of evidence before an administrative law judge should be completed by April 1.

3. The record in this proceeding will be certified directly to the Board unless, by further order, the Board requests an initial decision.

4. Parties to Dockets 33112 and 33283 are parties to the proceedings in Docket 34226.

5. The motion of Eastern Airlines for consolidation is denied and the motion of the Bureau of Pricing and Domestic Aviation to file late is granted.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[13]
Secretary.

O'Melia, Member, Dissenting:

The purpose of today's board order is simply to decide what procedure to use in dealing with Eastern's application for acquisition of control of National Airlines. The natural and expected procedure, the procedure recommended by the presiding administrative law judge in his certification to the Board of December 19, 1978, the procedure which the Board itself followed in the *Pan American-National Acquisition* Case, (Docket 33283, see Order 78-9-24) is to consolidate the Eastern application to the other two pending merger cases involving National Airlines (Dockets 33283 and 33112). Consolidation makes sense, because then common issues of law and fact can be appropriately and efficiently treated together, and problems raised by the mutual exclusivity of these various applications can be minimized. The Board considered all this, but, on December 21, 1978,[1] motivated by a desire to innovate and expedite the case, it voted to test out a maverick procedure. It has taken almost four weeks to prepare an order which would merely confirm in writing the Board's decision not to consolidate without making its legal and practical deficiencies too evident.[2] I must dissent to it.

The principal arguments for consolidating Eastern's application are succinctly summarized at page 3 of the order. It is significant to me that affirmative, positive arguments for not consolidating are not similarly set out in the order. We are instead left to gather that this is being done to expedite the case, to avoid setting an unfortunate precedent and to move to a prompt and timely decision on *all* the applications. I dissent, because this order does exactly the opposite. After being told in the body of the order that we are by-passing the initial decision stage—presumably, this will save us a lot of time—we are then informed in a footnote and in an ordering paragraph that the Board may subsequently change its mind and ask the administrative law judge for an initial decision. Am I to believe that this all-options-open solution will save us time as compared to the one and one-half month delay estimated by the administrative law judge which consolidation might require? I wonder also what this does to the case organization and direction of the administrative law judge? Wouldn't he be likely to handle the case differently if he knew that he was to write an initial decision, or knew that he was not to write an initial decision? Or are we to be even more innovative and assign still a third judge to write the initial decision.

Aside from these purely pragmatic reasons for dissenting from the Board's order, there are some deeper precedential aspects that give me pause. First, in light of the Board's determination in *Eastern-National-Cotonial, Acquisition of Assets*, 18 C.A.B. 453, 455 (1954), that the objectives of the two proceedings in that case on applications for acquistion and merger "were mutually exclusive", I find it disturbing for the Board to refuse to consolidate the Eastern application with the pending Pan American and TXI applications now being heard. The presiding judge's certification to the Board, as indicated above, stated that consolidation of Eastern's application would cause little delay and would not defer the ultimate decision in the consolidated case by more than six weeks. It seems to me that any reasonable balancing of the precedent of the Board requiring consolidation of *mutually exclusive* applications, and the small delay occasioned by consolidation leads to the conclusion that the Eastern application should be consolidated herein. Moreover, I believe that the Board would be in a better position to fulfill its responsibilities under the new Deregulation Act if the Eastern application were consolidated into this proceeding. The Board would then have the benefit of the views of a presiding officer who had heard the entirety of the evidence and had weighed all of the arguments of the parties, as well as having the published views of the affected parties and the public interest intervenors, both governmental and private.[3] This would be true regardless of whether the Board takes a narrow or a very broad view of the phrase "consistent with the public interest" appearing in section 408(b)(1) of the Act. It would be especially helpful to have a consistent record, and a record that permits us to keep our options open on that key Congressional directive to the Board on mergers and control.

This brings me to my second point, and that is the question whether the Board should give *comparative consideration* to these various applications. So far as I am aware, the Board has not decided in the short time since enactment of the Airline Deregulation Act that the only public interest considerations in processing merger applications are the anti-competitive aspects of the Clayton Act. However, this was the principal argument made to the Board by staff components in arguing that the cases did not need to be consolidated. I am not prepared to make such far-reaching conclusions without the benefit of the completed records in all of the proceedings. This is particularly true because international routes are involved. I have seen no discussion on whether these carriers, which all hold international routes, could be authorized to acquire National without a comparative hearing as to which one would be the best qualified carrier under international licensing policy guidelines. These international route policy guidelines have very significant public interest considerations, and have remained unchanged under the new statute. I am not convinced, because of these elements, that considerations of public interest concerns in section 408 proceedings is confined to those alternatives having to do with anticompetitive effects.

Nor does separate hearing of the Eastern application satisfy what may be a requirement, that the Board reach comparative judgments as to each of these carriers *on the same record*. Inherent in the Board's refusal to consolidate, and in its attempt to move these cases quickly, is the stated probability that the initial decision may be dispensed with in the Eastern proceeding. The evidence in the Eastern proceeding will be prepared and the case tried at a time when the parties still will be wrestling with the Pan Am/TXI/National case; this is hardly a

[9] In his recommendation in favor of consolidation, Judge Dapper appeared to indicate a delay of approximately one month. The Bureau of Pricing and Domestic Aviation claims, however, that proceeding on such an accelerated basis would prejudice their ability to participate. We agree that this could be a problem; the Eastern application presents many questions which are quite unlike those involved in the earlier applications. Consequently, we have allowed, in the choice of an April 1 target date for completion of the record, several additional weeks for evidentiary preparation.

[10] *See*, Order 73-6-106, June 27, 1973, and the cases cited there.

[11] Sec. 1010 of the Airline Deregulation Act, *supra*, provides that the Board must issue decision in merger cases not later than the last day of the sixth month after submission. Due to a temporary delay in the effectiveness of this provision, it is not technically applicable to any of the applications here.

[12] Our determination is made consistent with the requirements of the Administration Procedure Act, 5 U.S.C. 557(b)(2). If after we have a more complete understanding of the timing of this and the related merger cases, it becomes desirable to have briefs to the administrative law judge and an initial decision we will so inform the parties and the administrative law judge.

[13] All Members concurred except Member O'Melia who filed the attached dissent.

[1] I was away from Washington on official Board business on December 21, 1978, and did not participate in that meeting.

[2] On the basis of the Board's vote and instructions at the December 21 meeting, an administrative law judge was assigned to the Eastern application. A prehearing conference on this application has been convened and held, although an instituting order for this proceeding has not been issued by the Board.

[3] We should not overlook the fact that the Department of Transportation supported Eastern's motion to consolidate, and the Department of Justice stated by letter that it did not oppose Eastern's motion.

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prescription to make an adequate record, to give a reasonable opportunity to the parties to make their best case, or as indicated above, to keep the Board's options open.

Moreover, inherent in the procedure proposed is a short-circuiting of the adjudicatory process and a substitution of Board staff for the function of an administrative law judge rendering a decision based on the evidence he has heard, as well as forming the issues for the parties and for the decisional body on appeal. The procedural irregularities already alleged in this proceeding, including the questionable seminars (see my separate statement to Order 79-1-49, January 8, 1979) and the waivers granted to key Board personnel involved in enforcement aspects freeing them from "separation of functions" constraints (see my separate statement in PR-175, July 6, 1978) create the impression that the Board's views were previously conceived and are not being openly made on the record. Additional procedural limitations, particularly in light of the continued arguments by staff that could be perceived to limit the Board's options in the ultimate decision, can only foster concern by the parties, the public and the courts that refusal to consolidate and elimination of the initial decision as to Eastern are designed to infringe the rights of the parties to a full and open hearing.

I, too, am in favor of measures to expedite our cases. But, here, there are too many detriments and disadvantages to the proposed expedited procedure, including the substantial possibility that it will only result in a greater loss of time. I would vote to consolidate the application.

RICHARD J. O'MELIA.

[FR Doc. 79-2583 Filed 1-24-79; 8:45 am]

[6320-01-M]

[Docket Nos. 31447, 33734; Order 79-1-104]

PIEDMONT AVIATION, INC, AND BRANIFF AIRWAYS, INC.

Final Order and Order to Show Cause

Adopted by the Civil Aeronautics Board at its Office in Washington, D.C., on the 18th day of January 1979.

Application of Piedmont Aviation, Inc., for amendment of its certificate of public convenience and necessity for Route 87 to extend its system to Dallas/Ft. Worth, Docket 31447, application of Braniff Airways, incorporated, for amendment of its certificate of public convenience and necessity for Route 9 to authorize service Dallas/Ft. Worth Greensboro/Raleigh, Docket 33734.

On September 13, 1978, we adopted an order to show cause proposing to take two actions: (1) To amend Piedmont's certificate for Route 87 so as to add a new permissive and Category II subsidy-ineligible segment between the terminal Dallas/Ft. Worth, on the one hand, and the coterminals Greensboro/High Point and Raleigh/Durham, on the other, and (2) to remove Eastern's stop restrictions in the Dallas-Greensboro/Raleigh markets on its certificates for Routes 5 and 10.[1] The order provided for the filing of objection and answers.

Eastern objected to our proposed amendment of Piedmont's certificate, arguing that, since we proposed to grant Eastern nonstop authority in these markets in our order dealing with its route realignment application,[2] we should give it the exclusive opportunity to implement and develop any new authority.

Braniff also responded to our order, objecting to our proposed actions unless we simultaneously grant it authority in these markets. On the same date (October 23), it applied to amend its certificate for Route 9 so as to authorize Dallas/Ft. Worth-Greensboro/Raleigh service.[3] It also petitioned for an order to show cause why we should not grant it the route authority it requests.

Piedmont filed a reply in opposition to Braniff's response and also answered in opposition to Braniff's petition. Eastern also answered in opposition to Braniff's motion to consolidate and petition to show cause, making arguments similar to those it made in connection with our proposed Piedmont awards.

For the reasons stated below, we will make final our tentative findings and conclusions set forth in Order 78-9-60 and amend Piedmont's certificate for Route 87 and Eastern's certificates for Routes 5 and 10 as proposed. We also tentatively conclude, based on the tentative findings below, that it is consistent with the public convenience and necessity to amend Braniff's certificate for Route 9 so as to add a new segment between the terminal Dallas/Ft. Worth, on the one hand, and the coterminals Greensboro and Raleigh, on the other, and to award Dallas/Ft. Worth-Greensboro/Raleigh authority to any other fit, willing and able applicant the fitness of which can be established by officially noticeable data[4] and that provides that material specified on page 5 below. Further, we tentatively find that such awards can be made without the necessity of an oral evidentiary hearing since there are no material determinative facts which require such a hearing for their determination.

With regard to making final Order 78-9-60, we find Eastern's objections without merit. In essence, it asks for protection since it has the dominant position in the markets. We held in Order 78-8-97[5] that the 1958 Act did "not instruct us to safeguard each individual carrier from all the possible inroads of competition, where those inroads do not * * * threaten the carrier's existence or the provision of essential air services." This is even more clearly the case under the Airline Deregulation Act of 1978,[6] which instructs it to rely, to the maximum extent possible, on competitive forces including potential competition.[7] Eastern has not raised any objections that persuade us to deviate from the policies enumerated in the 1978 Act.[8]

As to our proposed award to Braniff, Piedmont argues that the certification of Braniff may contribute to unreasonable industry concentration, provide an opportunity for unfair competitive practices, and contravene the Act's objectives, contained in its Declaration of Policy, of strengthening

[1] Order 78-9-60.

[2] Order 78-9-136, September 29, 1978. Eastern's route realignment application was filed in Docket 29983. This order will preempt the relief proposed in Order 78-9-136 in the Dallas/Ft. Worth-Greensboro/Raleigh markets.

[3] Docket 33734. It also moved to consolidate its application with Docket 31447. We will deny Braniff's motion as untimely. Piedmont filed its application in Docket 31447 on September 29, 1977. Braniff delayed over one year before filing its application and motion to consolidate. Rather than delay making final the September 13 show-cause order, we will deal with Braniff's application separately in this order.

[4] Officially noticeable data consist of that information filed with us under Part 302.24(m) of our Rules of Practice. Applicants whose fitness cannot be so established must submit sufficient evidence on that issue and on any Section 408 and 409 issues. We will determine the procedures for dealing with such applications, when and if they are filed.

On the basis of officially noticeable data, we find that Braniff is a citizen of the United States and is fit, willing, able to perform the air service proposed and to conform to the provisions of the Act and our rules, regulations, and requirements. We also find, based on Braniff's environment evaluation, that our proposed action will not consitute a major Federal action significantly affecting the quality of the human environmental within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 or a major regulatory action within the intent of the Energy Policy and Conservation Act. We reserve judgment on the environmental consequences of other application pending submission of environmental data.

[5] *Piedmont Boston Entry, p. 9*

[6] Pub. L. 95-504, 92 Stat. 1705 (October 24, 1978).

[7] Section 102(a) specifies as being in the public interest, among other things:

"The placement of maximum reliance on competitive market forces and on actual and potential competition (a) to provide the needed air transportation system, and (b) to encourage efficient and well managed carriers to earn adequate profits and to attract capital" and "The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services."

[8] This discussion applies with equal force to Eastern's objection to Braniff's petition to show cause. Eastern has in neither case met its burden under the 1978 Act of showing that the grants of new authority would not be consistent with the public convenience and necessity.

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small carriers and encouraging efficient and well-managed carriers to earn adequate profits and to attract capital.

Contrary to Piedmont's assertion, we find that our tentative decision here to make awards in the Dallas/Ft. Worth-Greensboro/Raleigh markets to Braniff and any other fit, willing and able carrier conforms with the letter and spirit of the Act. A review of the pleadings and facts of this case convince us that there is no reason why multiple awards should not be made. Whether or not services are actually operated, we believe it is desirable to award additional authority in these markets, as this will best promote the statute's policy objective of placing maximum reliance on the decisions of the marketplace. The policy will be effectuated because Braniff and any other newly authorized carriers may actually enter the market in order to exploit unmet demand, in terms of price or service, and because incumbents will be induced by the realistic threat of entry to operate at or near optimum levels of efficiency. Because demand is dynamic in character, and therefore constantly changing, the most effective means to assure that carriers will respond quickly and efficiently to competitive forces is to award operating authority to all carriers that are fit, willing and able to provide service.

Piedmont's claim that grant of this authority to Braniff may provide an opportunity for predatory and unfair practices is totally speculative. We will not stifle competition upon such unsubstantiated fears. Similarly, we disagree with its contention that our proposed actions may contribute to unreasonable industry concentration. We are opening these markets to competition by all fit, willing and able carriers, large and small, including Piedmont. As we said in our final *Oakland* order: [9]

> Being big is not always an advantage; very often a small or medium-sized market will be far more important to a small carrier than to a larger rival, and will receive more top management attention, more innovation, service mor carefully tailored to local market needs, the support of beyond-market traffic flows to which the larger carrier lacks access * * * Of course, the smaller carrier does not always beat out the larger, but it does so often enough to refute utterly any theory that the latter have such weighty natural advantages that the smaller ones will be driven out of the market unless the Board extens its protecting arms around them (at 41).

Indeed, the Conference Report to the 1978 Act [10] specifically explains that paragraph (a)(10) of the Act's policy statement, which calls for the strengthening of small carriers "is not interpreted to mean that the Board must engage in carrier selection in its route proceedings to preclude large air carriers from new routes." In short, the Act directs the promotion of competitive opportunities for all carriers, not the sheltering of small carriers.

Under the Airline Deregulation Act of 1978, we must approve an application for certificate authority unless we find, by a preponderance of the evidence, that approval would not be consistent with the public convenience and necessity. The new Act creates a presumption that the grant of all applications is consistent with the public convenience and necessity. It places on any opponents of these applications the burden of proving them inconsistent with the public convenience and necessity. To give such opponents a reasonable opportunity to meet their burden of proof, it is our view that applicants must indicate what type of service they would provide if they served the markets at issue. This does not mean that an applicant must show that it will provide service if it receives authority but rather what the nature of its service would be if it decided to serve. We will give all existing and would-be applicants 15 days from the date of service of this order to supply data,[11] in order to give interested persons sufficient information on the nature of the applicant's proposal to assess consistency with the public convenience and necessity. Our tentative findings concerning all applicants that have not filed illustrative service proposals are contingent on such filings.

Finally, notwithstanding the foregoing tentative conclusions in support of multiple authority in this proceeding, we wish to make clear that we in no way desire to deter objections that might be asserted under the 1978 Act by air carriers, civic interests or other interested persons. The new statute contains a completely revised declaration of policy in section 102, as well as numerous additional and modified substantive provisions. Some of these statutory changes relate to considerations not expressly covered in the preceding statute. For example, while diversion from existing carriers will not be given decisive weight in rejecting applications for new authority except upon an extraordinary showing of financial jeopardy on the part of one or more existing air carriers, with the consequent loss of air service which cannot be immediately replaced other provisions suggest that the Congress desires us to take into account other factors. These include, but are not limited to, satellite airport questions, the degree of concentration within the industry and safety. Any party in this proceeding may explain in full why the authority that we propose to grant should not issue. Such explanations should apply specifically to the applications in issue, and should be sufficiently detailed to overcome the statutory presumption of favorable treatment that the Act bestows on applications.

We will give interested persons 30 days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; replies will be due within 10 days thereafter. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a proceeding that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.

Accordingly,

1. We make final our tentative findings and conclusions stated in Order 78-9-60 and amend Piedmont's certificate for Route 87, as shown in appendix A,[12] and Eastern's certificates for Routes 5 and 10, as shown in appendix B;[12a]

2. The certificate amendments shall be effective on the date of service of this order, subject to timely payment of such license fees as may be prescribed by us; and any service operated by Piedmont in the Dallas/Ft. Worth-Greensboro/Raleigh markets shall be classified as subsidy-ineligible, Category II;

3. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated here and amending Braniff's certificate for Route 9 so as to add a new segment, authorizing the nonstop scheduled air transportation of persons, property and mail between the terminal point Dallas/Ft. Worth, on the one hand, and the coterminal points Greensboro/High Point and Raleigh/Durham, on the other; and granting any of the authority in issue to any other fit, willing and able applicant, the fitness of which can be established on the basis of officially noticeable material, by amending its certificate(s);

4. We direct any interested person objecting to the issuance of an order making final the proposed findings, conclusions and certificate amendments set forth here to file with us and serve upon all persons listed in paragraph 7, those objections, together with a summary of testimony, statistical data, and evidence expected be relied on to support objections, no later than February 23, 1979; answers to objections shall be filed no later than March 5, 1979; [13]

5. In the event no objections are filed, we will deem all further procedural steps to be waived and we may proceed to enter an order in accordance with the tentative findings and conclusions we have set forth here;

6. We deny Braniff's motion to consolidate into Docket 31447 its application in Docket 33734; and

7. We shall serve this order upon Piedmont Aviation, Airlift International, Allegheny Airlines, American Airlines, Braniff International, Continental Air Lines, Delta Air Lines, Eastern Air Lines, Flying Tiger Line, Hughes Airwest, Texas International Airlines, Frontier Airlines, National Airlines, North Central Airlines, Northwest Airlines, Ozark Air Lines, Pan American World Airways, Southern Airways, Trans World Airlines, United Airlines, the North Carolina Department of Transportation, Division of Aeronautics, the Greensboro/High Point Airport Authority, the Carolina By-Products Company, Inc., the Virginia State Corporation Commission, the Virginia Division of Aeronautics, the Texas Aeronautics Commission, the Norfolk Port and Industrial Authority, the Airport Director, Raleigh/Durham Airport Authority, the Airport Managers, Byrd International Airport and Roanoke Municipal Airport, the Cities of Dallas and Fort Worth, the Dallas Chamber of Commerce, the Mayors of Knoxville, Bristol (Virginia), Roanoke, Winston-Salem, Greensboro, Fayetteville, Richmond, Dallas, Fort Worth, and the Governors of the States of North Carolina, New York, Virginia, and Texas.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[14]
Secretary.

[FR Doc. 79-2580 Filed 1-24-79; 8:45 am]

[9] Order 78-9-96, September 21, 1978.

[10] H. Rep. 1779, 95th Cong. 2d Sess. 56 (1978).

[11] They should submit an illustrative schedule of service in the markets at issue, which shows all points that they might choose to serve, the type and capacity of the equipment they would likely use and the elapsed trip time of flights in block hours over the segments. For the markets at issue only they should also provide an environmental evaluation as required by Part 312 of our Regulations, and an estimate of the gallons of fuel to be consumed in the first year of operations in the markets if they instituted the proposed service, as well as a statement on the availability of the required fuel.

[12] We have considered Piedmont's representations on the gross transport revenue increase resulting from an award of Dallas/Ft. Worth-Greensboro/Raleigh authority. On the basis of these representations, we find that, for purposes of a license fee, the resulting increase in gross transport revenues will be $16.2 million. We note, however, that the payment of license fees assessed for new authority has been suspended by Order 77-4-42; April 18, 1972.

[12a] Appendices A and B filed with the office of the Federal Register as part of the original document.

[13] Since we have provided for the filing of objections, we will not entertain petitions for reconsideration.

[14] All members concurred.

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

ILLINOIS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10:00 am and will end at 3:00 pm, on February 20, 1979, at 230 South Dearborn Street, Midwestern Regional Office Conference Room No. 3280, Chicago, Illinois 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting is to discuss report from Regional SAC Conference (12/15/78), up-date on Insurance Redlining Follow-up, Chicago desegregation Report and Special Education Report.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 19, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-2585 Filed 1-24-79; 8:45 am]

[3510-12-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976. (Pub. L. 94-265), will meet to discuss: (1) Shark Fishery Management Plan, (2) Fluke Fishery Management Plan, (3) Status of Fishery Management Plans, (4) Other Administrative Matters.

DATES: February 14, 15, & 16, 1979.

ADDRESS: The meeting will take place at the Sheraton-Fountainebleau Inn, 10100 Ocean Highway, Ocean City, Maryland 21842. (302) 524-3535.

FOR FURTHER INFORMATION CONTACT:

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Phone: (302) 674-2331.

SUPPLEMENTARY INFORMATION: The meeting will convene on Wednesday, February 14, 1979, at 1:00 p.m. and will adjourn on Friday, February 16, 1979, at approximately 1:00 p.m. The meeting is open to the public.

Dated: January 22, 1979.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 79-2870 Filed 1-24-79; 8:45 am]

[3810-70-M]

DEPARTMENT OF DEFENSE

Office of the Secretary

DISCHARGE REVIEW BOARDS

Implementation of Requirements Regarding the Index of Decisions and Preparation of Decisional Documents Issued by the Army, Navy, and Air Force Discharge Review Boards

Notice is hereby given that procedures have been established to implement requirements regarding the quarterly index of decisions and preparation of decisional documents issued by the Army, Navy, and Air Force Discharge Review Boards. Procedures have also been established to inform certain classes of persons about these procedures.

Requirements for the preparation of decisional documents and indexes of Discharge Review Board decisions were established in the Stipulation of Dismissal, *Urban Law Institute of Antioch College, Inc. v. Secretary of Defense*, No. 76-0530 (D.D.C., Jan. 31, 1977). These procedures were further developed in DoD Directive 1332.28 (43 FR 13564, 32 CFR Part 70). On August 23, 1978, the District Court entered a preliminary injunction in the *Urban Law Institute* case directing the Department of Defense to develop procedures that would further the purposes of the previous Stipulation of Dismissal.

By Memorandum to the Secretaries of the Military Departments, dated October 28, 1978, the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics (ASD(MRA&L)) created procedures

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for taking corrective action with respect to allegations that the decisional documents violate provisions of the Stipulation of Dismissal. The Memorandum also set forth the conditions under which such corrective action may entitle an applicant to a new hearing. The Memorandum further described other opportunities for applicants to receive new hearings. Details concerning the placement of the index of Discharge Review Board decisions are provided in the Memorandum. The Memorandum also specified the manner of notification about these matters to certain classes of individuals and provided sample letters to be used by the Discharge Review Boards.

As a result of the court's order of November 9, 1978, the original attachments to the Memorandum of October 28, 1978, have been modified. The modifications are reprinted below.

On December 9, 1978, the ASD(MRA&L) sent a Memorandum to the Secretaries of the Military Departments in furtherance of the court's order of November 9, 1978, by providing detailed procedures for a Joint Service Review Activity to receive and act on complaints about violations of the Stipulation as authorized by the court's order. The Memorandum establishes the Joint Service Review Activity as a function of the Department of Defense under the general supervision of the Deputy Assistant Secretary of Defense for Military Personnel Policy, and provides procedures for processing complaints authorized by the court's order.

The Department of Defense has been ordered by the District Court to implement these procedures; therefore, prompt action is required in order to meet the requirements established by the court. Under the procedures set forth in the Memorandum, certain classes of applicants and their counsel were or soon will be provided with information about use of the index published in November 1978, which contains entries under the newly published uniform standards for the Dischage Review Boards. The new indexing categories were published in the FEDERAL REGISTER (43 FR 47273) on October 13, 1978.

In view of the court order mandating prompt action, and the interest of applicants in receiving timely notice of the new procedures, immediate implementation is required. Therefore, notice and prepublication of these matters or public comment is impracticable, unnecessary, and contrary to the public interest.

FOR FURTHER INFORMATION CONTACT:

Col. Hugh R. Overholt, JAGC, US Army or Lt. Col G. A. Johnson, USAF, telephone 202-697-9525, Office of the Deputy Assistant Secretary of Defense (Military Personnel Policy), The Pentagon, Room 3C980, Washington, D.C. 20301.

EFFECTIVE DATE: December 9, 1978.

MAURICE W. ROCHE,
Director, Correspondence & Directives, Washington Headquarters Services, Department of Defense.

JANUARY 22, 1979.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., October 28, 1978.

MEMORANDUM FOR THE SECRETARIES OF THE MILITARY DEPARTMENTS

SUBJECT: Urban Law Institute of Antioch Institute of Antioch College, Inc. et al. v. Secretary of Defense, et al., Civ. No. 76-0530 (D.D.C.) *Stipulation: Jan. 31, 1977 (Court Order: Aug. 23, 1978)*

New procedures for the operation of the Discharge Review Boards are forwarded for immediate implementation. This will insure we meet the requirements of Dod Directive 1332.28, as well as the matters arising out of the subject case.

It is requested that the Department of the Army, as designated administrative focal point for processing all matters affecting the DRBs, undertake the responsibility for providing administrative support to the Joint-Service Review Activity.

JOHN P. WHITE,
Assistant Secretary of Defense, (Manpower, Reserve Affairs & Logistics).

PROCEDURES FOR THE OPERATION OF THE DISCHARGE REVIEW BOARDS IN CONNECTION WITH U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA (COURT ORDER: AUG. 23, 1978)

1. These procedures implement the Stipulation and Court Order in Urban Law Institute of Antioch College, Inc. v. Secretary of Defense, No. 76-0530 (D.D.C.) (Stipulation of Dismissal: Jan. 31, 1977).

2. To assist the Assistant Secretary of Defense (MRA&L), a joint service review activity shall be established for the sole purpose of assuring that decisional documents and index entries meet the requirements of the Stipulation in the subject case and DoDD 1332.28.

3. *Procedures.* a. Any person may submit a specific complaint alleging that an index entry or a decisional document issued on or after April 1, 1977 contains a specifically identified violation of the stipulation. Such complaints shall be addressed to the Department of Defense, as follows:

(1) Army cases shall be sent to the following address: Office of Assistant Secretary of Defense (MRA&L/MPP), Attn: Discharge Review—Army, Pentagon, Washington, D.C. 20301.

(2) Navy and Marine Corps cases shall be sent to the following address: Office of the Assistant Secretary of Defense (MRA&L/MPP), Attn: Discharge Review—Navy, Pentagon, Washington, D.C. 20301.

(3) Air Force cases shall be sent to the following address: Office of Assistant Secretary of Defense (MRA&L/MPP), Attn: Discharge Review—Air Force, Pentagon, Washington, D.C. 20301.

b. The complaint shall be forwarded to the Military Department concerned. If the President of the Discharge Review Board (DRB) or other official designated by the Secretary concerned determines that there is a specifically identified violation, a new statement of findings, conclusions, and reasons shall be prepared which complies with the decisional document requirements of DoDD 1332.28 and which applies the discharge review standards in effect at the time the original decisional document was prepared.

(1) Such statement shall be issued as an amendment to the decisional document by a panel of the DRB in a case where the defective document was issued by a DRB. If the defective document was issued as a result of a review by the Secretary concerned, the new statement shall be issued as an amendment to the decisional document by the Secretary or by an official to whom the Secretary's authority has been delegated.

(2) If it is determined that a decisional document that will comply with the decisional document requirements of DoDD 1332.28 cannot be prepared based upon the record of the proceedings and the records considered by the DRB in a case where the applicant did not receive complete relief, the applicant, and counsel, if any, shall be notified of the opportunity to request a new review of the case within thirty (30) days.

(3) In accordance with DoDD 1332.28, decisional documents issued under subparagraphs (1) and (2) shall be sent to the applicant and counsel, if any, and shall be made available for public inspection and copying. A copy of the amended decisional document available to the public shall be sent to the complainant and to the Assistant Secretary of Defense (MRA&L). On a quarterly basis, the joint service review activity shall monitor amended decisional documents under selection procedures established by the Assistant Secretary of Defense (MRA&L).

c. The issuance of a new decisional document pursuant to subparagraph (b) above shall not entitle the applicant to an opportunity for further review beyond that provided in reconsideration provisions of DoDD 1332.28 except in cases where the defective document was issued as a result of: (1) an initial record review conducted under the Department of Defense Special Discharge Review Program (SDRP) as implemented subsequent to April 5, 1977; or (2) an initial record review conducted pursuant to Pub. L. No. 95-126 (codified at 38 U.S.C.A. 3103(e)(2) (Supp. 1978)).

d. If a further review is authorized under the exceptions listed in subparagraphs (c)(1) or (c)(2), the applicant and counsel shall be notified of the right to request a de novo hearing under the discharge review standards in effect at the time such previous statement was prepared and under the standards in DoDD 1332.28. The applicant must submit a request for such de novo review within the time period that was permitted for response in the program under which the defective decisional document was issued. Government counsel will be made available to the applicant if such de novo review is conducted under the SDRP and the applicant would have been entitled to counsel under the SDRP. If the review is conducted under the SDRP, an initial decision will be made under the standards in DoDD 1332.28. If complete relief is not granted, the case will be reviewed under the SDRP standards in effect at the time the previous decisional document was issued. The decisional document shall contain a statement of findings, conclusions, and reasons for the decisions under the SDRP and the decision under DoDD 1332.28.

e. If it is determined that corrective action is required with respect to an index entry, the necessary correction shall be submitted to the official responsible for preparation of the index.

f. If the Military Department determines that the correspondence does not include a specific complaint alleging that a decisional document or index entry contains a specifically identified violation of the Stipulation, the Military Department shall return the correspondence to the Assistant Secretary of Defense (MRA&L), citing the basis for its determination.

g. When the correspondence contains a specific complaint alleging that a decisional document or index entry contains a specifically identified violation of the Stipulation and the Military Department determines that any portion of the corrective action requested is not warranted, the correspondence will be returned to the Assistant Secretary of Defense (MRA&L). The Military Department will provide a brief description of the basis for its determination.

h. If correspondence is returned to the Assistant Secretary of Defense (MRA&L) under subparagraphs (f) or (g), a determination shall be made by the joint service review activity as to whether corrective action is required. If it is determined that such action is required, the Military Department shall be directed to take appropriate action under subparagraphs (b)–(e). If it is determined that no such action is required, an appropriate response shall be provided to the complainant by the joint service review activity citing the basis for the determination.

4. *Notice of the Opportunity to Seek Corrective Action and Other Matters.* Each Military Department shall provide the notice contained at Attachment 1 to all applicants and their counsel, if applicable, who were denied complete relief as a result of a hearing, record review, or Secretarial review held during the period from April 1, 1977 to August 23, 1978.

5. *The Index.* a. Each Military Department shall insure that the index is available at the site of all traveling board locations as soon as possible for hearings to be held on or before October 22, 1978.

b. Each Military Department shall insure that the index is reasonably available for the applicant at least 30 days prior to the arrival of the traveling board for all hearings held subsequent to October 22, 1978.

c. The index scheduled to be published in the last week of November, 1978 shall include the terminology contained in DoDD 1332.28 and any amendments thereof.

6. *Notification about the Index.* a. Each Military Department immediately shall provide the notice contained in Attachment 2 to applicants presently scheduled for a personal appearance hearing and their counsel.

b. Prior to publication of the index scheduled to be published in the last week of November, 1978:

(1) The notice contained in Attachment 2 shall be executed by the applicant and counsel, if any, prior to commencement of a personal appearance hearing;

(2) The notice contained in Attachment 2 shall be included in the notice required by DoDD 1332.28 to be sent to applicants and counsel concerning the availability of regulations;

(3) The notice specified in Attachment 3 shall be provided to applicants who have requested a documentary discharge review and their counsel. The Discharge Review Board may initiate consideration of the case pending receipt of the request for continuance. If a timely request is received, consideration of the case shall be held in abeyance for the duration of the continuance. If no request is received within 30 days, or if the applicant or counsel requests the Board to proceed, consideration of the case shall be completed and a decision shall be issued.

c. Subsequent to publication of the index scheduled to be published in the last week of November, 1978: (1) general information about the index shall be provided in the notice to applicants concerning the availability of regulations required by DoDD 1332.28; (2) the notice specified in Attachment 3 shall be sent to the applicant prior to a documentary discharge review if the applicant was not provided with the notice specified in paragraphs 6(b) or 6(c)(1).

7. *Decisional Documents.* In order to further the purposes of DoDD 1332.28, the President of the Discharge Review Board, or the presiding officer of the panel concerned, shall insure that decisional documents prepared by the board or the panel meet the requirements of the Directive.

ATTACHMENT 1

Dear ————.

Our records show that your discharge was reviewed by the Discharge Review Board since April 1, 1977, and that the Board did not grant you a change or full upgrade of your discharge. A recent court order (in *Urban Law Institute of Antioch College Inc. v. Secretary of Defense,* Civ. No. 76-530 (D.D.C., Aug. 23, 1978)) has directed us to inform you about a number of matters, in particular that you might be entitled to a new review of your case and that you can obtain free help in making a decision.

1. *Right to a New Hearing.* The Court has ordered us to tell you that if your case was last reviewed before March 31, 1978, you have the right to request and receive an entirely new review of your case. This new review may result in an upgrade or a further upgrade in your discharge. This new review will be based upon newly published standards in DOD Directive 1332.28, published in the FEDERAL REGISTER on March 31, 1978. Copies of the FEDERAL REGISTER may be found at most public or private libraries; or you may obtain a copy of the directive by writing to the address listed in paragraph 8 of this letter. This new review is an absolute right for applicants whose cases have not been reviewed since March 31, 1978 and does not depend upon any of the other procedures discussed later in this letter. If your case has been reviewed since March 31, 1978, you may be eligible for a further review under the provisions for reconsideration that are spelled out in DOD Directive 1332.28. There is enclosed for your use, should you want to reapply, a DD Form 293 (attachment 1) which should be filled out and mailed to the address provided on the bottom of the DD Form 293. *The discharge that you now have will not be lowered if you apply for a new review.*

2. *Right to Use New Index.* The Court has also directed us to inform you about the Index of the decisions of the Discharge Review Boards. The index may assist applicants in appealing their discharges. The Index identifies cases that might be similar to yours and the resasons used by Discharge Review Boards in deciding those cases. You may look at this Index or copy it at the locations listed on Attachment 2 to this letter. The Index available now, however, does not index cases under the newly published Discharge Review Board standards. In late November, 1978, a revised Index will be available. This revised Index will index cases under the newly published standards in DOD Directive 1332.28.

3. *Right to a Complete Explanation of the Board's Decision In Your Case.* When you previously applied for a discharge review, the Discharge Review Board sent you a decisional document announcing the Board's decision. The purpose of the decisional document is to provide you with an explanation of why the Board decided the case the way it did. *If you do not have a copy of the Board's explanation, you can receive a free copy by writing to [the address of the Service's Discharge Review Board.]*

If the decision of the Board that was sent to you did not contain a full explanation of why the Board decided your case the way it did or the Board did not discuss important issues you raised, you can receive a full explanation if you make a specific complaint and specifically identify a violation of the requirements for preparation of an explanation. The requirements for preparation of an explanation are contained in the Stipulation of Dismissal, *Urban Law Institute of Antioch College, Inc. v. Secretary of Defense,* No. 76-530 (D.D.C., Jan. 31, 1977). A copy of the Stipulation may be obtained by writing the address listed in paragraph 8.

Because you must be specific, you cannot make a general complaint such as stating, "I don't believe that the Board gave consideration to all the problems I faced in the Army/Navy/Marine Corps/Air Force." Instead, you must tell us specifically how the decision was not complete within the meaning of the requirements for preparation of an explanation. The type of specific complaint that is required is one like "the Board did not state why it rejected my claim that I did not receive proper counseling," or "the only reason given by the Board for not upgrading my discharge was a statement that the discharge was appropriate based on the overall service record without any specific supporting findings."

If you wish to make a complaint about the explanation of the Board's decision in your case, you must write to the Department of Defense, as follows:

(1) Army cases shall be sent to the following address: Office of Assistant Secretary of Defense (MRA&L/MPP), Attn: Discharge Review—Army, Pentagon, Washington, D.C. 20301.

(2) Navy and Marine Corps cases shall be sent to the following address: Office of the Assistant Secretary of Defense (MRA&L/MPP), Attn: Discharge Review—Navy, Pentagon, Washington, D.C. 20301.

(3) Air Force cases shall be sent to the following address: Office of Assistant Secretary of Defense (MRA&L/MPP), Attn: Discharge Review—Air Force, Pentagon, Washington, D.C. 20301.

4. *Right to a New Hearing Under the Special Discharge Review Program or a New Hearing to Regain Veterans Benefits.* Under certain circumstances you may have a right to a new hearing in your case under the more liberal standards of the Special Discharge Review Program, where you may have a free lawyer to represent you. You

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may also have a right to a new hearing to get Veterans Administration benefits that you may have lost if the Discharge Review Board reconsidered your case because of a recent Act of Congress. To be specific, you will have a right to a new hearing if:

a. Your case was decided under the Department of Defense's Special Discharge Review Program (application period was April 3, 1977 through October 4, 1977) or was a Special Discharge Review Program case reconsidered after March 27, 1978, as required by Congress; and

b. You did not have a hearing at which you were either present or were represented by counsel/representative; and

c. You write the Department of Defense using the procedures described above under the heading *Right to a Complete Explanation of the Boards' Decision in Your Case;* and

d. Your complaint concerns the explanation in the decisional document you received when the Discharge Review Board first reviewed your case under the programs described in subparagraph (a) above; and

e. The Department of Defense determines that the explanation of the Board in the decisional document in your case was not complete.

If you write and meet these conditions, we will write you back and inform you that you have a right to request a hearing when we send you another decisional document containing the complete explanation of the Board. We will also inform you that you can get a lawyer to represent you at your hearing at no cost to you if you applied under the Special Discharge Review Program and still have an Undesirable Discharge or Discharge Under Other Than Honorable Conditions. *You will not lose any upgrade in your discharge that you may have already received or lose any right to veterans benefits that you already have as a result of a new hearing.*

5. *Assistance in Your Case.* As you can see, for you to determine if you are eligible for a new hearing or a more complete explanation in your case, you need to understand this letter and the issues in the *Urban Law Institute* case. You may wish to contact those who assisted you in your initial appeal.

6. *The Availability of Free Assistance.* In addition, the court has ordered us to inform you of a list of organizations provided by the people who brought the lawsuit. If you contact these organizations, they will explain the meaning of this letter to you free of charge. These organizations are listed on attachment 3. Further advice from the people who brought the lawsuit may be obtained free of charge from the Veterans Education Project, 1346 Connecticut Avenue, NW., Room 606, Washington, D.C. 20036, (202) 466-2244. The Veterans Education Project has asked us to inform you that they will accept no collect calls. These people or organizations are not connected with the federal government, and our listing of these organizations in no way implies Department of Defense sponsorship or endorsement.

7. *Further Questions You May Have.* If you have any questions at all concerning your case that you cannot get satisfactorily answered by those who assisted you in your initial appeal, or by the organizations listed on attachment 3, you may call the following number at your own expense. (Each Board phone number).

8. *Availability of Regulations and Documents.* Regulations of the Department of Defense or a Military Department, including the newly published standards in DOD Directive 1332.28 and the Stipulation of Dismissal in the *Urban Law Institute* case, may be obtained by writing to the Director, DA Military Review Boards Agency, ATTN: SFBA (Reading Room), The Pentagon, Room 1E520, Washington, D.C. 20310. Current regulations are normally provided to individual applicants without charge.

Sincerely,

ATTACHMENT

WHERE NO AGENCIES ARE LISTED FOR YOUR STATE, CALL OR WRITE THE NEXT NEAREST STATE OR: VETERANS EDUCATION PROJECT, 1346 Connecticut Avenue, N.W., Rm. 610, Washington, D.C. 20036, 202-466-2244.

ALABAMA:
see last page for agencies

ALASKA:
ACLU of Alaska
c/o William P. Bryson
333 West 4th Avenue, Suite 35
Anchorage AK 99501
907-276-7000

ARIZONA:
Friends Draft & Military Counseling
ATTN: Ralph Raymond, Counselor
303 North Lindsay Road Sp R56
Mesa AZ 85203
602-832-0811

ARKANSAS:
Legal Aid Bureau of Central AR
ATTN: Claude Nicholson
209 West Capitol Avenue, Suite 36
Little Rock AR 72201
501-376-3423

CALIFORNIA:
Discharge Review Project/Swords to Plowshares
944 Market Street, Suite 500
San Francisco CA 94102
415-391-6984

CCCO Western Region
1251 Second Avenue
San Francisco CA 94122
415-566-0500

Veterans Outreach Project
ATTN: Jim Graham
1349 A Street
Hayward CA 94545
415-881-1414

Veterans Affairs Office
ATTN; Phil Knox, Room 200
Silo University of CA Davis
Davis CA 95616
916-752-2020

Discharge Upgrading Program
Office of Veterans Affairs
California State University
Chico CA 95929
916-895-5911

Office of Veterans Affairs
Building 434, Room 121-C
University CA Santa Barbara
Santa Barbara CA 93106
805-961-4193

Center for Veterans Rights
514 West Adams Boulevard
Los Angeles CA 90007
213-748-4662

American G.I. Forum
ATTN: Larry Tipton
1680 East Santa Clara Street
San Jose CA 95116
408-259-4686

Purple Heart Veterans Rehabilitation Services
3333 E. South Street
Long Beach CA 90805
213-531-2587

ICHE/Education Central
ATTN: Robert Dudley
P.O. Box 686
Soledad CA 93960
(institutional use only)

COLORADO:
Office of Veterans Affairs
ATTN: Elvin Hopper
Pikes Peak Community College
5675 South Academy Boulevard
Colorado Springs CO 80906
303-576-7711x40

CONNECTICUT:
Veterans Affairs Office, City of Bridgeport
ATTN: Don Michelle
45 Lyon Terrace, Room 19
Bridgeport CT 06604
203-576-7907

Veterans Assistance Project
ATTN: Howard Graham
59 Whitney Avenue
New Haven CT 06510
203-777-5374

DELAWARE:
see listings for New Jersey, Pennsylvania or New York

DISTRICT OF COLUMBIA:
Veterans Education Project
1346 Connecticut Avenue, N.W., Room 610
Washington, D.C. 20036
202-466-2244

Urban Law Institute of Antioch College, Inc.
ATTN: Prof. Frank Munger
1624 Crescent Place, N.W.
Washington, D.C. 20009
202-265-9500x228

Incarcerated Veterans Assistance Organization
51 Peabody Street, N.E.
Washington, D.C. 20011
202-726-9080

FLORIDA:
Community Intervention Inc.
ATTN: Keith Merrill
P.O. Box 2407
Naranja FL 33032
305-443-7496

Office of Veterans Affairs
ATTN: Bob Jett, Director
University of South Florida
Tampa FL 33617
813-974-2291

GEORGIA:
Southern Center for Military and Veterans Rights
848 Peachtree Street, N.E.
Atlanta GA 30308
404-881-6666

Economic Opportunity Atlanta/Veterans Outreach Program
75 Marietta Street, N.W.
Atlanta GA 30303
404-524-0862

HAWAII:
Trecker, Rosenberg & Fritz
415 Uluniu Street
Kailua HI 96734
808-261-8544

IDAHO:
Idaho State Division of Veterans Services
VA Regional Office, Room 789
Federal Building & US Courthouse
Box 044
Boise ID 83724
208-384-1245

ILLINOIS:
Midwest Committee for Military Counseling
343 South Dearborn, Suite 317
Chicago IL 60604
312-939-3349

Project Verdict
ATTN: Howard Stoner
53 West Jackson, Room 225
Chicago IL 60604
312-786-0016

INDIANA:
VETS Project
ATTN: Charles Mathes
611 North Park Street, Rm. 516
Indianapolis IN 46204
317-639-9421

IOWA:
Iowa Civil Liberties Union
ATTN: Steve Brown, Director
102 East Grant Street, Suite G-100
Des Moines IA 50319
515-243-3576

KANSAS:
see listings for Missouri and Veterans Education Project in District of Columbia

KENTUCKY:
William Allison
3208 West Broadway
Louisville KY 40211
502-776-1740

LOUISIANA:
New Orleans Legal Assistance
ATTN: Richard Goines
226 Carondelet St., Suite 605
New Orleans LA 70130
504-529-7551

MAINE:
Maine Civil Liberties Union
97A Exchange Street
Portland ME 04101
207-744-5444

MARYLAND:
see listings for District of Columbia

MASSACHUSETTS:
Committee on Military Justice
ATTN: Adele Miles
303 Austin Hall
Harvard Law School
Cambridge MA 02138
617-495-4820

Gold Star Parents for Amnesty
ATTN: Pat Simon
25 Beacon Street
Boston MA 02108
617-742-2100

MICHIGAN:
Center for Education of Returning Veterans
5031 Grandy
Detroit MI 48211
313-224-6262

MINNESOTA:
Veterans Assistance & Outreach
ATTN: Linda Bick
University of Minnesota
2020 Minnehaha Avenue
Minneapolis MN 55050
612-376-5085

MISSISSIPPI:
Paul S. Minor
400 Main Street, Suite 301
P.O. Box 1388
Biloxi MS 39533
601-374-5151

MISSOURI:
Veterans Service Center
ATTN: Patricia Clement
3025 South Brentwood
Brentwood MO 63144
314-968-4518

ACLU of Western Missouri
ATTN: Margaret Barron, Dir.
823 Walnut Street, Room 608
Kansas City MO 64106
816-421-1875

MONTANA:
Montana State Department of Veterans Affairs
ATTN: David Armstrong
111 Sanders Street, Room 210
P.O. Box 4210
Helena MT 59601
406-449-3014

NEBRASKA:
see listing for Veterans Education Project in District of Columbia

NEVADA:
Nevada Commission for Veterans Affairs
Attn: Stein E. Moen
VA Regional Office, Room 104
1201 Terminal Way
Reno NV 89520
702-784-5238

NEW HAMPSHIRE:
Franklin Pierce Law Center
ATTN: Arpiar Saunders
2 White Street
Concord NH 03301
603-228-1541

NEW JERSEY:
Drop-In Center
Rutgers University
55 Central
Newark NJ 07102
201-623-4005

Veterans Affairs Office
ATTN: George DeNardo
Records Hall, Room 201
Rutgers University
New Brunswick NJ 08901
201-932-8157

NEW MEXICO:
Mark Shapiro
9104 Lagrima De Oro NE
Albuquerque NM 87111
505-296-2596 (evenings)

Legal Aid Society of Albuquerque, Inc.
ATTN: Howard Graham
505 Marquette, N.W.
P.O. Box 7538
Albuquerque NM 87104
505-243-7871

Veterans Affairs Office
ATTN: Mike Wheeler
Mesa Vista Hall, Room 2097
University of New Mexico
Albuquerque NM 87131
505-277-3513

NEW YORK:
Veterans Upgrade Center
84 Fifth Avenue, Room 1105
New York NY 10011
212-675-2777

American Friends Service Com.
ATTN: Margaret Rusk
821 Euclid Avenue
Syracuse NY 13210
315-475-9469

Veterans Outreach Project
ATTN: Phil Hansen
75 Woodbury Boulevard
Rochester NY 14607
716-428-7445

Allen Pilbeam
Box 149
Attica NY 14011
(institutional use only)

NORTH CAROLINA:
Quaker House
ATTN: Bill Sholar
223 Hillside Avenue
Fayetteville NC 28301
919-485-3213

NORTH DAKOTA:
ND Dept. of Veterans Affairs
1017 Fourth Avenue North
P.O Box 1287
Fargo ND 58107
701-237-8383

OHIO:
Community Action Commission-VETS
c/o Ron McCants, Director
801 Linn Street
Cincinnati OH 45203
513-241-1425

ACLU of Cleveland
1223 West 6th Street
Cleveland OH 44114
216-781-6276

OKLAHOMA:
Oklahoma ACLU
ATTN: Shirley Barry
1707 North Broadway
Oklahoma City OK 73101
405-524-8511

OREGON:
Portland Military & Veterans Counseling Center, Inc.
633 S.W. Montgomery Street
Portland OR 97201
503-224-9307

Project Return-VETS
ATTN: K. Stangel
1412 S.E. 25th
Portland OR 97214
503-234-0801

PENNSYLVANIA:
CCCO
ATTN: John Judge
2016 Walnut Street
Philadelphia PA 19103
215-568-7971

Veterans Action Committee
ATTN: Adrian Powell
1501 Cherry Street
Philadelphia PA 19102
215-241-7173 or 7181

Delaware County Legal Assistance
ATTN: Mark Kaufman
844 Main Street, Box 295
Darby PA 19023
215-534-5400

Friends Peace Center
ATTN: Tom Onleal
4836 Ellsworth Avenue
Pittsburgh PA 15213
412-683-2669

PUERTO RICO:
Puerto Rico Legal Project
P.O. Box 1829 Old San Juan Sta.
San Juan PR 00903

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809-756-5788

RHODE ISLAND:
Vietnam Era Veterans Association
ATTN: Joseph Knight
242 Prairie Avenue
Providence RI 02905
401-521-8710

SOUTH CAROLINA:
Neighborhood Legal Assistance Program
ATTN: James Dimitri
438 King Street
Charleston SC 29403
803-722-0107

Palmetto Legal Services
ATTN: Robert Guild
1316 Main Street, P.O. Box 1056
Columbia SC 29202
803-799-9668

SOUTH DAKOTA:
South Dakota Legal Services
ATTN: Barbara Bordeaux
P.O. Box 727
Mission SD 57555
605-856-4444

TENNESSEE:
Memphis Area Legal Services
ATTN: Tom Ashby
308 Dermon Building
Memphis TN 38103
901-526-5132

University of Tennessee Legal Clinic Community Office
502 South Gay Street, Suite 404
Knoxville TN 37902
615-974-5241

TEXAS:
University of Texas School of Law Upgrading Clinic
c/o Prof. Edward Sherman
Univ. Of Texas School of Law
Austin TX 78705
512-471-5151

UTAH:
VETS
ATTN: Larry Witherow
431 South 6th East
Salt Lake City UT 84102
801-328-8521

VERMONT:
Project to Advance Veterans Employment Litigation Division
P.O. Box 37
Randolph VT 05060
802-728-3303

VIRGINIA:
ACLU of Virginia
ATTN: Chan Kendrick
1001 East Main Street, #515
Richmond VA 23219
804-644-8022 or 649-8140

WASHINGTON:
Seattle Veterans Action Center
ATTN: Steve LaVerne
1300 Madison Street
Seattle WA 98104
206-625-4656

WEST VIRGINIA:
See listings for District of Columbia, Virginia or Pennsylvania

WISCONSIN:
National Association of Black Veterans, Inc.
4240 West Fond du lac Avenue
Milwaukee WI 53218
414-442-6110

VETS House
134 East Johnson Street
Madison WI 53703
608-255-8387

WYOMING:
See listing for Utah or Veterans Education Project in District of Columbia

ALABAMA:
OFFICES OF THE LEGAL SERVICES CORPORATION:
Montgomery Regional Office
ATTN: Emily Gassemheimer
804 South Perry Street
Montgomery AL 36104
205-832-4570

Selma Regional Office
ATTN: Booker Fort
520 Church Street
P.O. Box 954
Selma AL 36701
205-875-3770

Mobile Regional Office
ATTN: Steve Gudac
103 Dauphin St., Ste. 610
Mobile AL 36602
205-433-6560

Gadsden Regional Office
ATTN: Sue Thompson
802 Chestnut Street
Gadsden AL 35901
205-543-2435

Florence Regional Office
412 South Court St., Rm. 311
Florence AL 35630
205-767-2020

Dothan Regional Office
161 South Oates
Dothan AL 36301
205-793-7932

Birmingham Area Legal Services
2030 First Avenue North, 2d Fl.
Birmingham AL 35203
205-328-3540

Legal Services of North Central Alabama
ATTN: Norman Bradley
102 Clinton Avenue West
Huntsville AL 35805
205-536-9645

ADDENDUM TO ATTACHMENT 1 [1]

Further Information About the Index.

Paragraph 2 of the attached letter describes the index of decisions of the discharge review boards. As noted in paragraph 2 of the attached letter, the next index will be published in late November. The following information concerns the index that will be published in late February.

Commencing April 1, 1977, all decisions of the Discharge Review Boards (DRBs) were assigned index numbers. These index numbers are tabulated quarterly and a consolidated index is prepared. This index is made available to help you prepare your case for presentation to the appropriate Discharge Review Board.

A more complete quarterly index of past decisions of the Discharge Review Boards will be published during the last week of February 1979. This index will include, among other things, several thousand cases reviewed and indexed since the promulgation of Department of Defense Directive 1332.28 dated March 29, 1978. The February 1979 index will be more extensive than the index presently available because it will include many cases that previously have not been indexed. Your case will be decided under the same standards as the cases contained in the February 1979 index, and that index may assist you in determining the matters you wish the board to consider.

If you request a discharge review before the index is published, you have a right to obtain a continuance in order to examine the February index.

ATTACHMENT 2 [2]

Dear Applicant:

As you were previously notified, you are scheduled for a personal appearance hearing before the ——— Discharge Review Board.

Commencing April 1, 1977, all decisions of the Discharge Review Boards (DRBs) of all Services were assigned index numbers. These index numbers are tabulated quarterly and a consolidated index is prepared. This index is made available to help you prepare your case for presentation to the appropriate Discharge Review Board. Attached is a list of locations at which you may examine the index. It is expected that the next quarterly index of past decisions of the DRBs will be available during the last week of November 1978. This index will include, among other things, a listing of DRB decisions and the issues addressed in some cases reviewed and indexed since the promulgation of the Department of Defense Directive 1332.28 dated March 29, 1978. The next index will be broader in scope than the index presently available because it will index cases under the newly published standards contained in the DoD Directive. Your case will be decided under these standards, and the November 1978 index may assist you in determining the matters you wish the board to consider.

A more complete quarterly index of past decisions of the Discharge Review Boards will be published during the last week of February 1979. This index will include, among other things, several thousand cases reviewed and indexed since the promulgation of Department of Defense Directive 1332.28 dated March 29, 1978. The February 1979 index will be more extensive than the index presently available because it will include many cases that previously have not been indexed. Your case will be decided under the same standards as the cases contained in the February 1979 index, and that index may assist you in determining the matters you wish the board to consider.

If you wish to obtain a delay in your case in order to examine either the November of February index, you should so indicate below at this time. However, you may proceed with your hearing as scheduled. Please indicate your choice, sign and return this letter to the Board in person or by return envelope provided.

Sincerely,

☐ I want to proceed with my previously scheduled hearing.
☐ I do not want a hearing at this time, and request a delay in order to examine the November quarterly index.
☐ I do not want a hearing at this time, and request a delay in order to examine both the November and February quarterly indexes.

(Signature of Applicant): ———
(Date): ———

ATTACHMENT 3 [3]

Dear Applicant:

Consideration of your case has been initiated by a Discharge Review Board pursuant to your request of DD Form 293.

Commencing April 1, 1977, all decisions of the Discharge Review Boards (DRBs) of all Services were assigned index numbers. These index numbers are tabulated quarterly and a consolidated index is prepared. This index is made available to help you prepare your case for presentation to the Discharge Review Boards. Attached is a list of locations at which you may examine the index. It is expected that the next quarterly index of past decision of the Discharge Review Boards (DRBs) will be available during the last week of November 1978. This index will include, among other things, a listing of DRB decisions and the issues addressed in specific discharge review cases, as required by the Department of Defense Directive 1332.28 dated March 29, 1978. The next index will be broader in scope than the index presently available because it will index cases under the newly published uniform standards contained in the DoD Directive. Your case will be decided under these standards, and the November 1978 index may assist you in determining the matters you wish the board to consider.

A more complete quarterly index of past decisions of the Discharge Review Boards will be published during the last week of February 1979. This index will include, among other things, several thousand cases reviewed and indexed since the promulgation of Department of Defense Directive 1332.28 dated March 29, 1978. The February 1979 index will be more extensive than the index presently available because it will include many cases that previously have not been indexed. Your case will be decided under the same standards as the cases contained in the February 1979 index and that index may assist you in determining the matters you wish the board to consider.

If you wish to obtain a delay in your case in order to examine either the November or February index, you should so indicate below at this time. However, you may wish to have the Discharge Review Board complete the review that has been initiated in your case. Please indicate your choice, sign and retrun this letter to the board in person or by return envelope provided.

☐ I want the Discharge Review Board to complete the action in my case.
☐ I do not want the Discharge Review Board to complete the action in my case and request a delay in order to examine the November quarterly index.
☐ I do not want the discharge Review Board to complete the action in my case and request a delay in order to examine both the November and February quarterly indexes.

If you do not respond within 30 days of the date of this letter, the Discharge Review Board will complete action on your case.

Signature (of applicant): ———

Date: ———

ATTACHMENT 4 [4]

Further Information About the Index of Decisions

Commencing April 1, 1977, all decisions of the Discharge Review Boards (DRBs) were assigned index numbers. These index numbers are tabulated quarterly and a consolidated index is prepared. This index is made available to help you prepare your case for presentation to the appropriate Discharge Review Board.

A quarterly supplement to the index is scheduled to be published in the last week of November 1978. The next quarterly index of past decisions of the Discharge Review Boards will be published during the last week of February 1979. This index will include, among other things, several thousand cases reviewed and indexed since the promulgation of Department of Defense Directive 1332.28 dated March 29, 1978. The February 1979 index will be more extensive than the index presently available because it will include many cases that previously have not been indexed. Your case will be decided under the same standards as the cases contained in the February 1979 index and that index may assist you in determining the matters you wish the board to consider.

If you wish to obtain a delay in the Discharge Review Board's consideration of your case in order to examine the February index, your request for a delay should be sent promptly to the Discharge Review Board.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C. 20301

DECEMBER 9, 1978.

MEMORANDUM FOR THE SECRETARIES OF THE MILITARY DEPARTMENTS

Subject: Urban Law Institute of Antioch College, Inc. v. Secretary of Defense, No. 76-0530 (D.D.C.) (Stipulation of Dismissal: Jan. 31, 1977, Court Order: Nov. 9, 1978)

Refs: (a) DepSecDef memo, 11Feb77, subj: Urban Law Institute of Antioch College, Inc., et al., v. Secretary of Defense, et al., U.S.D.C., D.C., Civil Action No. 76-0530

(b) DoD Directive 1332.28, Discharge Review Board (DRB) Procedures and Standards, 29Mar78 (para. D.3.e.)

(c) ASD(MRA&L) memo, 28Oct78, subj: Urban Law Institute of Antioch College, Inc., et al., v. Secretary of Defense, et al., Civ. No. 76-0530 (D.D.C.) Stipulation: Jan. 31, 1977 (Court Order: Aug. 23, 1978)

Reference (c) provided for a Joint Service Review Activity (JSRA) to assist ASD(MRA&L) in assuring that DRB decisional documents and index entries meet the requirements of the Stipulation in the subject case and DoD Directive 1332.28. The operating procedures prescribed in the attachment to this memorandum will be utilized as interim guidance for this Activity until publication of a formal DoD directive.

The Chairmanship of the JSRA will rotate among the Military Department representatives on a quarterly basis, beginning with the Air Force representative.

The Department of the Army is requested to provide an officer in the grade of 0-3/0-4 as Administrative Director/Recorder of the JSRA to report to the Chairman, JSRA by 15 December 1978.

Requirements of the 23 August 1978 Court Order in the *Urban Law* case resulted in a large backlog of DRB cases for filing and indexing in the Armed Forces Discharge Review/Correction Boards Reading Room. Temporary augmentation of the Reading Room staff is required. The Departments of the Navy and Air Force are requested to provide one civilian employee each in grade GS-5 or below to augment the Reading Room staff on a full-time basis during the period 18 December 1978 through 16 March 1979.

I must emphasize the importance of this activity to the entire Department of Defense—and ask for your full support.

ROBERT B. PIRIE, JR.,
Principal Deputy Assistant, Secretary of Defense, (MRA&L).

Attachment.

JOINT SERVICE REVIEW ACTIVITY PROCEDURES

1. These procedures, for a Joint Service Review Activity, implement the Stipulation and Court Orders in Urban Law Institute of Antioch College, Inc. v. Secretary of Defense, No. 76-0530 (D.D.C.)(Stipulation of Dismissal: Jan. 31, 1977, Court Order: Nov. 9, 1978) and memorandum from ASD(MRA&L) dated 28 October 1978.

2. The Joint Service Review Activity is established for the sole purpose of assuring that decisional documents and index entries meet the requirements of the Stipulation in the subject case.

3. The Activity shall conduct its operations and render its decisions under the provisions of this memorandum at the direction of the DASD(MPP)(MRA&L).

4. The procedures set forth herein may be modified or supplemented by the DASD(MPP)(MRA&L).

5. a. The Joint Service Review Activity shall consist of one person in the grade of 0-6 from each of the Military Departments, and an alternate of equivalent rank. The members shall be appointed by a the Military Department concerned and shall serve at the direction of the Assistant Secretary of Defense (MRA&L).

b. As a general matter, counsel for the Activity shall be provided by the Military Department whose decisional documents are being considered bya the Activity at that meeting, provided, however, that such counsel may serve during consideration of documents from a different Service if there is no objection by members of the Activity.

c. A full-time Administrative Director shall assist the Chairman in coordinating the operations of the Activity and shall act as Recorder during meetings of the Activity.

6. a. The chairmanship of the Activity shall be rotated on a quarterly basis among the representatives of the Military Departments.

b. The Activity shall develop a uniform docketing procedure for use by the Activity and the Military Departments for the complaint process. Each Military Department shall provide the Chairman with a weekly report of: (1) the number of complaints acted upon by its DRB which require fur-

[1] As a result of the court's order of November 9, 1978, the following addendum was included in Attachment 1. The court's order is attached as an appendix.

[2] As a result of the court's order of Nov. 9, 1978, the original Attachment 2 was replaced by this revision. The court's order is attached as an appendix.

[3] As a result of the court's order of Nov. 9, 1978, the original Attachment 3 was replaced by this revision. The court order is attached as an appendix.

[4] This attachment was added after the court's order of Nov. 9, 1978. Except for persons sent the revised versions of Attachments 1, 2, and 3, the following information will be provided to all Discharge Review Board applicants and counsel with whom the Discharge Review Boards correspond between the date of the court order and the date of the February 1979 index. The court order is attached as an appendix.

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ther action by the Activity, (2) the number of complaints acted upon by its DRB not requiring further action by a the Activity, and (3) the number of complaints pending review within the Military Department. The Activity shall meet once a month or more frequently if the Chairman determines that there are a sufficient number of complaints to warrant review by the Activity. The Chairman is responsible for insuring the expeditious resolution of complaints.

7. Representation by the three Military Departments shall constitute a quorum. The presiding officer during a meeting of the Activity shall be the representative of the Service whose decisional documents are under consideration. Matters before the Activity shall be presented by the Administrative Director in his capacity as a nonvoting Recorder. Each of the three members of the Activity shall have one vote. A majority of the votes of the members is required to approve action by the Activity. No member or counsel may participate in any action by the Activity concerning a decisional document with respect to which he previously took action as a board member or in any other review or advisory capacity. A minority opinion may be appended to the Activity's record of action if desired by a dissenting member.

8. The following procedures will be used in processing complaints:

a. When correspondence contains a specific complaint alleging that a decisional document or index entry contains a specifically identified violation of the Urban Law Stipulation and the Military Department determines that any portion of the corrective action requested is not warranted, the correspondence will be forwarded to the Activity with a brief description of the bases for the Military Department's determination as set forth in Attachment 1.

b. If a Military Department determines that correspondence from a complainant does not include a specific complaint alleging that a decisional document or index entry contains a specifically identified violation of the Stipulation, the Military Department shall forward the correspondence to the Activity, citing the bases for its determination as set forth in Attachment 1.

c. If correspondence is forwarded to the Activity under a. or b. above, a determination shall be made by the Activity as to whether corrective action is required. If it is determined by the Activity that corrective action is required, the Military Department shall be informed of the deficiencies noted in sufficient detail so that corrective action may be taken. After corrective action by a Military Department has been completed, the corrected decisional document shall be forwarded to the Activity for review and transmittal to the complainant. If it is determined by the Activity that no corrective action is required, an appropriate response shall be provided the complainant by the Activity citing the bases for the determination.

d. If the Military Department of the Activity in its review of a decisional document issued on or after March 27, 1978, determines that there has been a violation of the decisional document requirements of DoD Directive 1332.28, corrective action will be directed as appropriate.

9. For those new statements of findings, conclusions and reasons that are prepared by a Military Department in response to a complaint to the ASD(MRA&L) and that are not otherwise reviewed by the Activity, the Activity shall review on a quarterly basis enough of a sample of such new statements to ensure that they comply with the Stipulation.

10. Action taken by the Activity shall be reported to the Assistant Secretary of Defense (MRA&L), ATTN: DASD(MPP).

11. The responsibility for filing complaints and other records of the Activity, and for performing related administrative duties to assist the Administrative Director, is delegated to the Army.

12. Amended decisional documents issued by the Military Departments will be indexed by the Military Depatment under the terminology included in the quarterly index scheduled to be published during the last week of November 1978, and subsequent indexes.

13. The Administrative Director is responsible for disposition of the Records of Action (Attachment 1) prepared by the Military Departments and the Joint Service Review Activity.

14. The Stipulation in the subject case permits plaintiffs to submit complaints concerning any violation of the Stipulation to the General Counsel of the Department of Defense. The General Counsel amy refer complaints about decisional documents and index entries to the Joint Service Review Activity for initial comment.

Service: Date:

Name of Complainant:

Docket No.:

1. List specific complaints.

2. List other defects in the decisional document or index entries noted by the Military Department.

3. List Military Department's findings on each specific complaint or defect and the reasons for each finding.

4. List the Military Department's conclusions on each specific complaint or defect and the reasons for each conclusion.

5. *JSRA*: List specific complaints or other defects not noted by the Military Department.

6. List JSRA findings on each specific complaint or defect in the decisional document or index entries and the reasons for each finding.

7. List JSRA conclusions on each specific complaint or defect and the reason for each conclusion.

8. Action taken by JSRA:

Army Member

Navy Member

Air Force Member

Counsel/Recorder

Final Action Taken

by:——— on:———

The response sent to the complainant is attached.

APPENDIX

Court Order

Nov: 9, 1978

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

URBAN LAW INSTITUTE OF ANTIOCH COLLEGE, INC., ET AL., Plaintiffs, v. SECRETARY OF DEFENSE, ET AL., Defendants.

Civil Action No. 76-0503.

ORDER

Upon consideration of plaintiffs' motion to reopen to secure compliance with the Stipulation of Dismissal herein, the memoranda submitted by the parties discussing the issue of why the preliminary relief granted by the Court on August 23, 1978, should not be made final, oral argument of counsel and the entire record herein, it appears to this Court that to further the purposes of the Stipulation entered in this case by this Court on January 31, 1977, it is hereby

ORDERED that the preliminary relief granted by this Court on August 23, 1978, is made final; and it is

FURTHER ORDERED that the quarterly index to be published by defendants during the last week of February, 1979, shall index all those decisional documents issued after April 1, 1977 and not previously published in an index, that have been sent to applicant and counsel and/or made publicly available on or before twenty (20) days prior to the scheduled publication date of such index; and it is

FURTHER ORDERED that defendants shall provide all Discharge Review Board applicants and counsel with whom the Discharge Review Boards correspond between the date of this Order and the date of publication of the February, 1979 index with the following information: Commencing April 1, 1977, all decisions of the Discharge Review Boards (DRBs) were assigned index numbers. These index numbers are tabulated quarterly and a consolidated index is prepared. This index is made available to help applicants prepare their cases for presentation to the appropriate Discharge Review Board. Another quarterly index of past decisions of the Discharge Reveiw Boards will be published during the last week of February, 1979. This index will include, among other things, several thousand cases reviewed and indexed since the promulgation of Department of Defense Directive 1332.28 dated March 29, 1978. The February, 1979 index will be more extensive than the index presently available because it will include many cases that previously have not been indexed. Cases will be decided under the same standards as the cases contained in the February, 1979 index, and that index may assist applicants in determining the matters they wish the board to consider. Such notification shall also inform the applicant that he or she may obtain a continuance of defendants' consideration of their case for the purpose of consulting the February, 1979 index by submitting a timely request therefor to the Discharge Review Board; and it is

FURTHER ORDERED that for those new statements of findings, conclusions and reasons that are prepared by a military department in response to a complaint to the Department of Defense and that are not reviewed by the Department of Defense, the Department of Defense shall review on a quarterly basis enough of a sample of such new statements to ensure that such new statements comply with the Stipulation herein; and it is

FURTHER ORDERED that plaintiffs and defendants shall file memoranda on March 9, 1979, discussing the adequacy of the actions defendants have taken to comply with this Order and the Stipulation herein.

Entered this 9th day of November, 1978

AUBREY E. ROBINSON, Jr.,
United States District Judge.

[FR Doc. 79-2617 Filed 1-24-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

CASES FILED

Week of December 15 through December 22, 1978

Notice is hereby given that during the week of December 15 through December 22, 1978, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

JANUARY 15, 1979.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of December 15 through 22, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 15, 1978	Amtel Inc., Whitco, Inc., and Sun Company, Inc., Philadelphia, Pennsylvania.	DMR-0039	Request for Modification/Rescission. IF GRANTED: The October 13, 1978, Decision and Order issued to Sun Company, Inc. would be rescinded, and the supplier-purchaser relationships among Sun, Amtel, Inc. and Whitco, Inc. would be restructured to conform to an agreement reached by the three firms on December 1, 1978.
Dec. 15, 1978	Carr Oil Company, Inc., Franklin, Louisiana.	DEE-2083	Price Exception (Section 212.93). IF GRANTED: Carr Oil Company, Inc. would be granted a retroactive exception which would relieve it of the obligation to refund overcharges attributable to its wholesale sales of diesel fuel.
Dec. 15, 1978	Chestertown Shorgas Co., Chestertown, Maryland.	DEE-2080	Price Exception (Section 212.93). IF GRANTED: The Chestertown Shorgas Company would be granted an exception to the provisions of 10 CFR 212.93, permitting it to increase its prices for propane gas.
Dec. 15, 1978	Clark and Clark, Ardmore, Oklahoma	DEE-2077 and DEE-2078.	Price Exception (Section 212.73). IF GRANTED: Clark and Clark would be permitted to sell crude oil from the Bass and Pickens leases, located in Carter County, Oklahoma, at upper tier ceiling prices.
Dec. 15, 1978	Continental Oil Company, Houston, Texas.	DXE-2081 and DXE-2082.	Extension of relief granted in *Continental Oil Co.*, 2 DOE Par. —— (September 22, 1978). IF GRANTED: Continental Oil Company would be permitted to sell crude oil produced from the McCroskey and McNee leases, located in the Olivera Canyon Field, Santa Barbara County, California at upper tier ceiling prices.
Dec. 15, 1978	Edgington Oil Company, Washington, D.C.	DEX-0134	Supplemental Order. IF GRANTED: The level of exception relief found to be appropriate in a Proposed Decision and Order issued to the Edgington Oil Company (Case No. DXE-1890) on December 6, 1978, would be modified.
Dec. 15, 1978	Universal Development Company, Ann Arbor, Michigan.	DEE-2079	Exception to Change Supplier. IF GRANTED: Universal Development Corporation would be assigned a new base period supplier of motor gasoline to replace Texaco, Inc.
Dec. 19, 1978	Marathon Oil Company, Findlay, Ohio	DXE-2097	Extension of relief granted in *Marathon Oil Company*, 2 DOE Par. —— (September 9, 1978). IF GRANTED: Marathon Oil Company would be granted an extension of exception relief previously granted and would be permitted to continue selling crude oil produced from the Canal Unit, located in Kern County, California, at upper tier ceiling prices.
Dec. 19, 1978	Petroleum, Inc., Wichita, Kansas	DEE-2084	Price Exception (Section 212.73). IF GRANTED: Petroleum, Inc. would be permitted to sell crude oil from the Johnson lease No. 1-29, located in Converse County, Wyoming, at upper tier ceiling prices.
Dec. 20, 1978	Ashland Oil, Inc. and Clark Oil & Refining Corporation, Washington, D.C.	DES-0255	Request for Stay. IF GRANTED: Ashland Oil, Inc. and Clark Oil & Refining Corporation would receive a stay of the provisions of 10 CFR 211.67(i)(4) exempting them from the $.21/bbl entitlement penalty on imported crude oil pending the DOE's decision on their Appeal from the August 1978 Entitlement Notice (Case No. DEA-0255).
Dec. 20, 1978	Atlantic Richfield Company, Los Angeles, California.	DEE-2092	Exception to the provisions of 10 CFR Section 212.85. IF GRANTED: Atlantic Richfield Company would be permitted to calculate the cost of transporting crude oil and covered products transported by domestic marine vessels between United States ports on the basis of market rates applicable to marine transportation vessels.
Dec. 20, 1978	Cities Service Company, Tulsa, Oklahoma	DEE-2086	Price Exception (Section 212.73). IF GRANTED: Cities Service Company would be permitted to sell the crude oil produced from the Walker A Lease, located in Seminole County, Oklahoma, at upper tier ceiling prices.
Dec. 20, 1978	Gulf Oil Corporation, Houston, Texas	DPI-0033	Exception to the base fee requirements. IF GRANTED: Gulf Oil Corporation would be permitted to import crude oil on a fee-exempt basis.
Dec. 20, 1978	Gulf Oil Corporation, Tulsa, Oklahoma	DXE-2087	Extension of relief granted in *Gulf Oil Corporation*, 2 DOE Par. —— (October 18, 1978). IF GRANTED: Gulf Oil Corporation would be permitted to sell the crude oil produced from the South Stanley Lease, located in Osage County, Oklahoma, at upper tier ceiling prices.
Dec. 20, 1978	Hydrotherm, Inc., Los Angeles, California	DEE-2091 and DES-2091.	Stay Request and Exception to the Provisions of 10 CFR, Part 405, Section 430.33(n)(1). IF GRANTED: Hydrotherm, Inc. would receive an exception to the provisions of 10 CFR, Part 405, Section 430.33(n)(1), regarding test procedures of a covered product.
Dec. 20, 1978	Justiss-Mears Oil Company, Jena, Louisiana.	DXE-2088	Extension of relief granted in *Justiss-Mears Oil Company*, 1 DOE Par. 81,106 (April 11, 1978). IF GRANTED: Justiss-Mears Oil Company would be permitted to sell the crude oil produced from the Saucier No. 1 lease, at upper tier ceiling prices.

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LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

(Week of December 15 through 22, 1978)

Date	Name and location of applicant	Case No.	Type of submission
Dec. 20, 1978	Monsanto Company, Houston, Texas	DXE-2093 and DXE-2094.	Extension of relief granted in *Monsanto Company*, 2 DOE Par. 81,045 (1978); *Monsanto Company*, 2 DOE Par. —— (October 16, 1978). IF GRANTED: Monsanto Company would be permitted to sell the crude oil produced from the Hendrick "A" Lease and the Hendrick "C" Lease, located in Winkler County, Texas, at upper tier ceiling prices.
Dec. 20, 1978	Newhall Refining Company, Newhall, California.	DEX-0133	Supplemental Order. IF GRANTED: The DOE would review the entitlements exception relief granted to Newhall Refining Company during its fiscal year ending August 31, 1978 in order to determine whether the level of relief accorded to the firm was appropriate.
Dec. 20, 1978	Texaco, Inc., Denver, Colorado	DXE-2089 and DXE-2090.	Extension of relief granted in *Texaco, Inc.*, 2 DOE Par. —— (October 6, 1978). IF GRANTED: Texaco, Inc. would be permitted to sell the crude oil produced from the Sweeney Lease, located in Moffat County, Colorado and the Wyoming "G" lease, Johnson County, Wyoming, at upper tier ceiling prices.
Dec. 20, 1978	W. F. Shuck Petroleum Company, Cromwell, Connecticut.	DEE-1967	Exception to Change Supplier. IF GRANTED: W. F. Shuck Petroleum Company would be assigned a new base period supplier of motor gasoline to replace Texaco, Inc.
Dec. 20, 1978	Earl E. Wall, New Orleans, Louisiana	DXE-2095	Extension of relief granted in *Earl E. Wall*, 2 DOE Par. —— (September 27, 1978). IF GRANTED: Earl E. Wall would be permitted to sell crude oil produced from the Lester Reed Unit, located in the Grand Coulee Field, Acadia Parish, Louisiana, at market prices not to exceed $19.58 per barrel.
Dec. 20, 1978	Unionville Tire & Supply Company, Unionville, Virginia.	DEE-2096	Exception to Change Supplier. IF GRANTED: Unionville Tire & Supply Co. would be assigned a new base period supplier of motor gasoline to replace Flippo Oil Company.
Dec. 21, 1978	Clark Oil and Refining Company, Washington, D.C.	DFA-2070	Freedom of Information Appeal. IF GRANTED: Clark Oil and Refining Company would receive access to all documents relating to the sale of a refinery in Mount Pleasant, Texas, by American Petrofina, Inc. ("Fina") to Dorchester Gas Corporation and the exception proceeding regarding that transaction.
Dec. 21, 1978	Crown Central Petroleum Corporation, Washington, D.C.	DEA-0269	Appeal of September 1978 Entitlements Notice. IF GRANTED: The September 1978, Entitlements Notice would be amended and the entitlements sale obligations of Crown Central Petroleum Corporation would be recomputed to eliminate the $.21/bbl penalty set forth in Section 211.67(l)(4).

Notices of Objection Received

Date	Name and location of applicant	Case No.
Dec. 18, 1978	Appalachian Flying Service, Washington, D.C	DEO-0158
Dec. 15, 1978	Wilson Oil Company, Wabasha, Minnesota	DEO-0124
Dec. 20, 1978	Mid-Michigan Truck Service, Houston, Texas	DXE-1997
Dec. 18, 1978	Lunday-Thagard Oil Company, Washington, D.C	DXE-1936
Dec. 18, 1978	Navajo Refining Company, Washington, D.C	DXE-1937
Dec. 15, 1978	Young Refining Company, Washington, D.C	DXE-1978

Proposed Remedial Orders, Notices of Objection Received

Dec. 21, 1978	St. Louis Fuel and Supply Company, Washington, D.C	DRO-0159
Dec. 21, 1978	Diversified Chemical & Propellants Co., Oak Brook, Illinois	DRO-0160

[FR Doc. 79-2506 Filed 1-23-79; 8:45 am]

[6450-01-M]

CASES FILED

Week of December 22 through December 29, 1978

Notice is hereby given that during the week of December 22 through December 29, 1978, the appeals and applications for exception or other relief listed below were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR 205, any person who will be aggrieved by the DOE action sought in this case may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

JANUARY 16, 1979.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

(Week of December 22 through 29, 1978)

Date	Name and location of applicant	Case No.	Type of submission
Dec. 22, 1978	Ashland Oil Inc. & Clark Oil & Refining Corporation.	DEA-0273	Appeal of September 1978 Entitlements Notice. IF GRANTED: The September 1978 Entitlements Notice would be amended and the entitlements sales obligations of Ashland Oil, Inc. and Clark Oil and Refining Corporation would be recomputed to eliminate the $.21/bbl. differential for foreign crude oil specified in Section 211.67(l)(4).
Dec. 22, 1978	Energy Cooperative, Inc., Washington, D.C	DEA-0272	Appeal of September 1978 Entitlements Notice. IF GRANTED: The September 1978 Entitlements Notice would be amended and the entitlements sales obligations of Energy Cooperative, Inc. would be recomputed to eliminate the $.21/bbl. differential for foreign crude oil specified in Section 211.67(l)(4).
Dec. 22, 1978	Farmers Union Central Exchange, Inc. *et al.*, Washington, D.C.	DEA-0271	Appeal of September 1978 Entitlement Notice. IF GRANTED: The September 1978 Entitlement Notice would be amended and the entitlement sales obligations of Farmers Union Central Exchange, Inc., Indiana Farm Bureau Cooperatives Assn. and National Cooperative Refinery Assn. would be recomputed to eliminate the $.21/bbl. differential for foreign crude oil specified in Section 211.67(l)(4).
Dec. 22, 1978	Tosco Corporation, Washington, D.C	DES-1910 and DST-1910.	Request for Stay and Temporary Stay. IF GRANTED: Tosco Corporation would receive a stay of Section 212.83 with respect to its sales of motor gasoline to two of its classes of purchaser, pending a final determination on its Application for Exception (Case No. DXE-1910).
Dec. 26, 1978	Batson Petroleum Corporation, Alexandria, Virginia.	DRD-0136	Motion for Discovery. IF GRANTED: Discovery would be granted to Batson Petroleum Corporation with respect to its Statement of Objections to a Proposed Remedial Order (Case No. DRO-0136).
Dec. 26, 1978	Burlington Northern, Inc., St. Paul, Minnesota.	DEE-2104	Exception to reporting requirements. IF GRANTED: Burlington Northern, Inc. would not be required to file reports in the first phase of the Financial Reporting System.
Dec. 26, 1978	Joseph O'Neill Oil Properties, Midland, Texas.	DXE-2098	Extension of relief granted in *Joseph I. O'Neill Oil Properties* 1 DOE Par. 81,111 (1978). IF GRANTED: Joseph I. O'Neill Oil Properties would be granted an extension of exception relief previously granted and be permitted to continue to sell crude oil produced from the Feldman and Pardo lease located in Scurry County, Texas at upper tier ceiling prices.
Dec. 26, 1978	Powerine Oil Company, Los Angeles, California.	DEE-2099	Exception to the Entitlements Program. IF GRANTED: Powerine Oil Company would be granted an exception from its entitlement purchase obligations under the provisions of 10 CFR Section 211.67.
Dec. 27, 1978	Argo Petroleum Corporation, Houston, Texas.	DRH-0146	Request for Evidentiary Hearing. IF GRANTED: An evidentiary hearing would be convened in connection with a Statement of Objections submitted by Argo Petroleum Corporation regarding a Proposed Remedial Order which was issued to the firm by DOE Region IX (Case No. DRO-0146).
Dec. 27, 1978	Armstrong Petroleum Corporation, Los Angeles, California.	DRH-0150 and DRD-0150.	Request for Evidentiary Hearing and Motion for Discovery. IF GRANTED: An evidentiary hearing would be convened in connection with the Statement of Objections submitted by Armstrong Petroleum Corp. regarding a Proposed Remedial Order which was issued to the firm by DOE Region IX on November 16, 1978 (Case No. DRO-0150). In addition it would be granted discovery with respect to the objection it has raised.
Dec. 27, 1978	McAlester Fuel Company, Denver, Colorado.	DMR-0040	Request for Modification/Rescission. IF GRANTED: The February 21, 1978 Consent Order issued by the DOE Office of Enforcement would be modified with respect to the sale of crude oil from the Jim Coulee Unit, located in Musselshell County, Montana.
Dec. 27, 1978	Mohawk Petroleum Corporation, Bakersfield, California.	DEX-0135	Supplemental Order. IF GRANTED: The DOE would correct an error in the Decision and Order (Case No. DEX-0127) issued to Mohawk Petroleum Corporation on December 14, 1978.
Dec. 27, 1978	Sun Producing Company, Dallas, Texas	DEE-2100	Price Exception (Section 212.73). IF GRANTED: Sun Producing Company would be permitted to reduce the base production of the Delhi Unit, located in Richland, Franklin, and Madison Parishes, Louisiana by 1,125 barrels per day for the period beginning June 1, 1978.
Dec. 28, 1978	Louis Kahan, Tulsa, Oklahoma	DEE-2101	Price Exception (Section 212.73). IF GRANTED: Louis Kahan would be permitted to sell the crude oil produced from the Polly "B" lease located in Seminole County, Oklahoma at upper tier ceiling prices.
Dec. 28, 1978	O'Brien's North Star Station, Superior, Michigan.	DEE-2103	Exception to change supplier. IF GRANTED: O'Brien's North Star Station would be assigned a new supplier of motor gasoline to replace its present supplier, Ashland Oil Corporation.
Dec. 28, 1978	Schulze Processing, Inc., Washington, D.C.	DST-0012	Request for Temporary Stay. IF GRANTED: Schulze Processing, Inc. would be granted a temporary stay of its entitlement purchase obligations under the October 1978 Entitlements Notice.
Dec. 28, 1978	Union Oil Company of California, Los Angeles, California.	DEE-2102	Price Exception (Section 212.73). IF GRANTED: Union Oil Company of California would be permitted to sell the crude oil produced from the Pacific Electric Pool located in the Las Cienegas Oil Field, California at upper tier ceiling prices.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Dec. 22, 1978	Pacific Resources, Inc., Washington, D.C	DEE-1874
Dec. 26, 1978	Craft Petroleum Company, Jackson, Mississippi	DEE-1558, DEE-1559
Dec. 28, 1978	North Attleboro Gas Company, North Attleboro, Massachusetts	DEO-0163

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Proposed Remedial Orders, Notices of Objection Received

Dec. 22, 1978	City of Long Beach, Washington, D.C	DRO-0161
Dec. 27, 1978	Lucia Lodge, Big Sur, California	DRO-0162
Dec. 28, 1978	Texas Pacific Oil Company, Houston, Texas	DRO-0165
Dec. 28, 1978	Garrett Production Company, Washington, D.C	DRO-0164
Dec. 28, 1978	Texaco Inc., New York, New York	DRO-0166

[FR Doc. 79-2507 Filed 1-24-79; 8:45 am]

[6450-01-M]

ISSUANCE OF PROPOSED DECISION AND ORDER

January 2 through January 5, 1979

Notice is hereby given that during the period January 2 through January 5, 1979, the Proposed Decision and Order which is summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to Application for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this Proposed Decision and Order is available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t. except federal holidays.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

JANUARY 18, 1979.

PROPOSED DECISION

Bock and Bacon Oil Company, Houston, Texas, DXE-2027 Crude oil

The Bock and Bacon Oil Company filed an Application for Exception from the provisions of 10 CFR, part 212, Subpart D, in which the firm requested that it be permitted to continue to sell certain of the crude oil produced from the Champion Paper Company Lease, located on the Norian Field in Newton County, Texas, at upper tier ceiling prices or at market price levels. On January 4, 1979, the DOE issued a Proposed Decision and Order which determined that the Bock and Bacon Exception request be granted.

[FR Doc. 79-2508 Filed 1-24-79; 8:45 am]

[6450-01-M]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS

January 8 through January 12, 1979

Notice is hereby given that during the period January 8 through January 12, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office. Amendments to the DOE's procedural regulations, 10 CFR 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this Proposed Decision and Order is available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t. except federal holidays.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

JANUARY 18, 1979.

PROPOSED DECISIONS AND ORDERS

Chevron U.S.A. Inc., San Francisco, California, DEE-1963, crude oil

Chevron U.S.A. Inc. filed an Application for Exception from the provisions of 10 CFR 212.73. The exception request, if granted, would permit the firm to sell the crude oil produced from State Lease PRC 1824 South Flank Pool (the South Flank Lease) located in the Summerland field offshore Santa Barbara County, California, at market prices. On January 12, 1979, the DOE issued a Proposed Decision and Order in which it determined that the exception request should be granted.

Justiss-Mears Oil Company, Inc., Jena, Louisiana, DXE-2088, crude oil

The Justiss-Mears Oil Company, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the working interest owners to sell a portion of the crude oil which is produced from the Saucier No. 1 Well, located in the Five Mile Bayou Field in Avoyelles Parish, Louisiana, at upper tier ceiling prices. *Justiss-Mears Oil Co., Inc.*, DOE Par. 81,106 (1978). On January 9, 1979, the DOE issued a Proposed Decision and Order to Justiss-Mears Oil Company, Inc. granting an extension of exception relief which permits the firm to sell at upper tier ceiling prices 85.59 percent of the crude produced for the benefit of the working interest owners from the Saucier No. 1 Well during the period January 1, 1979 through June 30, 1979.

McAlester Fuel Company, Houston, Texas, DEE-2010 crude oil

McAlester Fuel Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would permit the firm to sell the crude oil produced from the Kelly Field Tyler Sand Unit at upper tier ceiling prices. On January 12, 1979 the DOE issued a Proposed Decision and Order in which it determined that McAlester should be permitted to sell at upper tier ceiling prices 74.90 percent of the crude oil produced from the Kelly Field Tyler Sand Unit for the benefit of the working interest owners during the period December 15, 1978 through June 30, 1979.

Pennzoil Producing Company, Houston, Texas, DXE-2044 crude oil

Pennzoil Producing Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Pennz>oil to sell the crude oil produced for the benefit of the working interest owners from the McGraw-Stevens Waterflood Unit at market price levels. On January 9, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Pennzoil Producing Company, Houston, Texas, DXE-2012 crude oil

Pennzoil Producing Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Pennzoil to sell the crude oil produced for the benefit of the working interest owners from the Woodruff Sand Waterflood Unit at market price levels. On January 11, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Ross Production Company, Shreveport, Louisiana FEE-4476 crude oil

Ross Production Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Ross to sell the crude oil produced from the C. F. Routon property located in Catahoula Parish, Louisiana for the benefit of the working interest owners at upper tier ceiling price levels. On January 12, 1979 the DOE issued a Proposed Decision and Order which determined that Ross' request should be granted in part.

Sun Company, Inc. Dallas, Texas DEE-1483 crude oil

Sun Company, Inc. filed an application for Exception from proposed amendments to the provisions of 10 CFR 211.67 (the Domestic Crude Oil Entitlements Program). The exception request, if granted, would permit Sun to sell the crude oil produced for the benefit of the working interest owners from the Felda Fields without regard to the proposed Amendments. On January 12, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be granted to the extent that Sun may sell a portion of the crude oil produced from the Sunoco Felda Unit at upper tier prices.

Texas Oil and Gas Corporation, Corpus Christi, Texas, DEE-1830 crude oil

Texas Oil and Gas Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Texas Oil and Gas to sell the crude oil produced for the benefit of the working interest owners at the Pete Rydolph "A" Lease at upper tier ceiling prices. On January 12, 1979, the DOE issued a Proposed Decision and Order which determind that the exception request be granted.

[FR Doc. 79-2509 Filed 1-24-79; 8:45 am]

[6450-01-M]

Southwestern Power Administration

[DOE/EA-0068]

TRANSMISSION LINE CONSTRUCTION HARRY S. TRUMAN DAM TO CLINTON SUBSTATION

Negative Determination of Environmental Impact

The Southwestern Power Administration, Department of Energy, has analyzed the potential environmental impacts of the proposed construction of 29 miles of 161 Kv transmission line in Benton and Henry Counties in Missouri from the Harry S. Truman Dam near Warsaw, Missouri, to the SWPA substation at Clinton, Missouri, and has determined that the proposed action will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act, 42 U.S.C. 4321 et seq. Therefore, pursuant to 10 CFR 208.4(c), the Department of Energy has concluded that preparation of an Environmental Impact Statement is not required.

Copies of the negative determination and the environmental assessment are available for public inspection at:

Library, DOE, Room 1223, 20 Massachusetts Avenue, NW., Washington, DC; DOE Freedom of Information Reading Room GA152, Forrestal Building, 1000 Independence Avenue SW., Washington, DC; and SWPA Headquarters, Room 3330, Page Belcher Building, 333 West 4th Street, Tulsa, OK.

This notice of negative determination and the environmental assessment are being furnished to various Federal, State, and local agencies with environmental expertise, or which are otherwise likely to be interested in, or affected by, the proposed program. Copies of the documents are also being furnished to State and local clearinghouses and to other interested groups and individuals.

Interested parties are invited to submit written comments with respect to the negative determination to: Administrator, Southwestern Power Administration, P.O. Drawer 1619, Tulsa, Oklahoma, 74101. Ten copies should be submitted. All comments should be received within 15 days of the date of this notice. Any information considered by the person submitting it to be confidential should be so identified and submitted in accordance with procedures set forth in 10 CFR 205.9(f). Any material not filed in accordance with such section will be considered to be nonconfidential. The Department of Energy reserves the right to determine the confidential status of information or data submitted, and to treat it according to that determination.

A limited number of single copies of the negative determination and the environmental assessment are available for distribution by contacting the Chief, Branch of General Services, Southwestern Power Administration, P.O. Drawer 1619, Tulsa, Oklahoma, 74101.

Dated at Washington, D.C., this 22 day of January 1979.

RUTH C. CLUSEN,
Assistant Secretary for Environment.

[FR Doc. 79-2696 Filed 1-24-79; 10:41 am]

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180172E; FRL 1044-7]

ALABAMA, ARKANSAS, FLORIDA, GEORGIA, LOUISIANA, NORTH CAROLINA, SOUTH CAROLINA, AND TEXAS

Proposed Emergency Exemptions for Use of Ferriamicide to Control Fire Ants; Extension of Additional Comment Period

AGENCY: Environmental Protection Agency, Office of Pesticide Programs (EPA, OPP).

ACTION: Proposed emergency exemptions; extension of additional comment period.

SUMMARY: EPA is providing a second additional formal opportunity for public comment on proposed emergency exemptions to permit the use of the pesticide Ferriamicide to control fire ants in Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina, South Carolina, and Texas. Notice of the first opportunity for additional formal public comment was published in the October 18, 1978 edition of the FEDERAL REGISTER (43 FR 48012).

DATE: Comments on these eight applications are due by February 5, 1979.

ADDRESS: Send comments to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Timothy A. Gardner, Product Manager 15 (PM-15), Registration Division (TS-767), Office of Pesticide Programs, EPA, Room 229, East Tower, telephone (202) 426-9426.

SUPPLEMENTARY INFORMATION: A complete statement of the background relating to EPA's decision to permit additional public comment on the applications of the eight States named above to use the pesticide Ferriamicide in those States appeared in the October 18, 1978 edition of the FEDERAL REGISTER (43 FR 48012). EPA's position is that emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) are not subject to the notice and comment provisions of 5 U.S.C. Section 553. The Agency, however, provided an additional formal comment period on the eight States' applications.

The additional comment period closed on November 15, 1978. Since that date additional information has been brought to the Agency's attention and the Agency has decided to provide a second additional opportunity for formal comment. The additional information which has been received has been placed in the public file on this matter, which is located in Room 229-E, 401 M Street SW., Washington, D.C. The public file may be inspected during normal business hours.

Any additional comments which interested persons desire to submit on the information in the public file or any other relevant subject must be submitted by February 5, 1979.

Dated: January 22, 1979.

JAMES M. CONLON,
Associate, Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-2678 Filed 1-24-79; 8:45 am]

[6560-01-M]

[FRL 1044-5]

NATIONAL DRINKING WATER ADVISORY COUNCIL

Open Meeting

Under section 10(a)(2) of Pub. L. 92-463, "The Federal Advisory Committee Act," notice is hereby given that a meeting of the National Drinking Water Advisory Council established under Pub. L. 93-523, the "Safe Drinking Water Act," will be held at 9:00 a.m. on February 22, 1979, and at 8:30 a.m. on February 23, 1979, in Room 3906, Waterside Mall, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C.

The purpose of the meeting will be to discuss EPA's underground Injection Control Regulations which are scheduled to be reproposed, and to review State program reports on drinking water activities. In addition, five new Council members will be given the oath of office.

Both days of the meeting will be open to the public. The Council encourages the hearing of outside statements and allocates a portion of its meeting time for public participation. Any parties or individuals interested in presenting an oral statement should petition the Council in writing. The petition should include the general topic of the proposed statement and the petitioner's telephone number.

Any person who wishes to file a written statement can do so before or after a Council meeting. Accepted written statements will be recognized at Council meetings.

Any member of the public wishing to attend the Council meeting, present an oral statement, or submit a written statement, should contact Patrick Tobin, Executive Secretary for the National Drinking Water Advisory Council, Office of Drinking Water (WH-550), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

The telephone number is: Area Code 202/426-8877.

THOMAS C. JORLING,
Assistant Administrator for Water and Waste Management.

JANUARY 22, 1979.

[FR Doc. 79-2680 Filed 1-24-79; 8:45 am]

[6560-01-M]

[OPP-180256; FRL 1044-6]

OREGON AND WASHINGTON STATE DEPARTMENTS OF AGRICULTURE

Specific Exemptions to Use Isopropyl Carbanilate to Control Cheatgrass and Volunteer Grain in Fallow Wheat Fields

The Environmental Protection Agency (EPA) has granted specific exemptions to the Oregon and Washington State Departments of Agriculture (hereafter referred to as the "Applicants") to use isopropyl carbanilate to control cheatgrass and volunteer grain in 50,000 acres of fallow wheat fields in Oregon and 100,000 acres in Washington. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the Applicants, wheat fields are allowed to remain fallow every other year in Oregon and Washington in order to conserve the limited amount of moisture for the subsequent wheat crop. Research and grower practice have demonstrated that it is important to control weed growth in fallow fields since weed growth utilizes moisture and necessitates excessive tillage or cultivation prior to planting. Minimum tillage is an important agricultural practice in these areas since the light, sandy soils are subject to wind and water erosion. Growers normally attempt to leave at least twenty percent of the previous crop residue on the soil surface in order to reduce soil erosion.

This year's heavier than normal rain in August and September has enabled germination and establishment of cheatgrass and volunteer grain many months earlier than in previous years. These weeds utilize large amounts of moisture and require residue-destroying tillages to control them. The Applicants claim that the use of isopropyl carbanilate would control the weeds during the non-crop year, and allow the past year's crop residue to control erosion since tilling would not be required.

Under conditions that exist this year, the Applicants feel that the alternative registered pesticides atrazine, cyanazine, glyphosate, and paraquat will not provide effective control of weed pests for a variety of reasons. They claim that these pesticides may (1) work for one of the weeds but not the other, (2) are effective only when used on the growing plants, (3) can be applied by ground equipment only and in the affected area there is limited available equipment, (4) require multiple, cost-prohibitive applications, or (5) are not recommended for use on soils with low organic content, which is the condition of the soils to be treated.

The applicants estimate the loss of five bushels of wheat per acre of untreated fields. In Oregon the monetary loss could come to $875,000, and in Washington it could come to $1,500,000. Washington also claims that future productivity may be reduced by the loss of up to 100 tons of top soil per acre as a result of wind and water erosion if growers must resort to tillage to control the weeds.

The Applicants propose to make a single pre- or post-emergence application of isopropyl carbanilate using ground or air equipment. In Oregon, it will be applied at a rate of three pounds active ingredient (a.i.) per acre, and in Washington, three to four pounds a.i. per acre depending on soil type if pre-emergence, or stage of weed growth if post-emergence. Treated fields will be planted to wheat in the fall of 1979.

EPA has established interim tolerances for residues of isopropyl carbanilate on various agricultural crops at rates ranging from 0.05 part per million (ppm) to 2 ppm. EPA has concluded that residue levels from the proposed use are not likely to exceed 0.1 ppm, and should not result in an undue health hazard. Unreasonable adverse effects to fish and wildlife are not anticipated.

After reviewing the applications and other available information, EPA has determined that (a) pest outbreaks of cheatgrass and volunteer grains have occurred; (b) there is no effective pesticide presently registered and available for use to control these pests in Oregon and Washington; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pests are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until March 1, 1979. The specific exemptions are also subject to the following conditions:

1. The Product Chem Hoe 135 FL3 may be applied at a rate of three pounds a.i. per acre in Oregon, and three to four pounds a.i. per acre in Washington;
2. A single application is authorized;
3. Ground application will be made in a minimum of 20 gallons of water, and aerial application will be made in five to ten gallons of water;
4. All applications of isopropyl carbanilate are limited to fallow fields that will be planted to wheat during the fall of 1979;
5. In Oregon, a maximum of 50,000 acres may be planted. In Washington, a maximum of 100,000 acres may be planted;
6. Applications shall be made by State-licensed commercial applicators or qualified growers;
7. All applicable directions, restrictions, and precautions on the product label will be observed;
8. Precautions will be taken to avoid or minimize spray drift to non-target areas;
9. This use of isopropyl carbanilate is not expected to result in residues of isopropyl carbanilate in wheat grain, straw, or forage in excess of 0.1 ppm. Wheat grain and straw with residues that do not exceed this level may be offered in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action. Existing tolerances are adequate to cover secondary residues in meat and milk;
10. The EPA shall be immediately informed of any adverse effects to man or the environment resulting from the use of isopropyl carbanilate in connection with this exemption; and
11. Each of the Applicants is responsible for assuring that all of the provisions of its specific exemption are met in the State and must submit a report summarizing the results of this program by June 15, 1979.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: January 22, 1979.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-2679 Filed 1-24-79; 8:45 am]

[6560-01-M]

[FRL 1044-4]

SCIENCE ADVISORY BOARD SUBCOMMITTEE ON MOBILE SOURCES

Open Meeting

As required by Pub. L. 92-463, notice is hereby given that a meeting of the Subcommittee on Mobile Sources of the Science Advisory Board will be held beginning at 9:15 a.m., February 20 and 21, 1979 in Room 1112-A, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Virginia. This the first meeting of the Subcommittee on Mobile Sources. The Agenda includes a briefing on diesel health effects research being conducted by the Environmental Protection Agency, the Department of Transportation, and the automobile industry; A summary of provisions of the Clean Air Act relating to mobile sources; and a review of the Mobile Sources Research Plan prepared by EPA's Mobile sources Research Committee. The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Mr. Terry F. Yosie or Dr. Douglas B. Seba, Staff Officers, Subcommittee on Mobile Sources, (703) 557-7720, by close of business February 13, 1979.

Dated: January 19, 1979.

RICHARD M. DOWD,
Staff Director, Science Advisory Board.

[FR Doc. 79-2682 Filed 1-24-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[SS Docket No. 79-4; File Nos. 82242/3/4-IB-98**]

RULAND SALVAGE, INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: January 12, 1979.

Released: January 17, 1979.

In reapplications of Ruland Salvage, Inc., 603 Main Street, Westbury, New York 11590, for authorizations for new facilities in the Business Radio Service, SS Docket No. 79-4, File Nos. 82242/3/4-IB-98**.

1. The Chief, Safety and Special Radio Services Bureau (the Bureau) has before him for consideration the above-captioned applications of Ruland Salvage, Inc. (Ruland) for authorization of new facilities in the Business Radio Service. The applications, filed September 8, 1978, had been granted by the Bureau November 9, 1978. On November 21, 1978, the Bureau, pursuant to § 1.113 of the Commission's Rules, set aside its earlier action and returned the applications to pending status after receiving information that Ruland had been operating unlicensed radio facilities on frequencies assigned by the Commission for use by other licensees.

2. Ruland's applications propose operation on a frequency pair in the 800 MHz band. Information before the Bureau indicates that for a period of two months Ruland operated a radio system on a frequency pair in the 472/475 MHz band and that such operation continued until it was discovered by the staff of the Commission's Field Operations Bureau. Ruland's use of that frequency pair was unlicensed. Those frequencies were evidently licensed to Motorola Communications And Electronics, Inc. in Jericho, New York, which has sold radio equipment to Ruland. It appears that the radio equipment used by Ruland in its unlicensed operation was lent to it by Motorola. See *Bill Sims d/b/a Sims Tow Service*, Docket No. 21416 (FCC 78D-42 released July 7, 1978). It is unclear why the radio equipment was lent to Ruland.

3. The information before the Bureau concerning Ruland's unlicensed operation raises serious questions as to whether Ruland possesses the requisite character qualifications or is sufficiently competent or shows sufficient interest with respect to the licensing and implementation of radio facilities to receive a grant of the authorizations which it here seeks. Because the Bureau cannot make the necessary finding, pursuant to Section 309(a) of the Communications Act of 1934, as amended, that a grant of the above-referenced applications would serve the public interest, convenience and necessity, the applications must, in accordance with Section 309(e) of the Act, be designated for hearing.

4. *Accordingly, it is ordered,* That in accordance with the provisions of Section 309(e) of the Communications Act of 1934, as amended (47 U.S.C. 309(e)), the above-captioned applications of Ruland Salvage, Inc., File Nos. 82242/3/4-IB-98**, for authorization of new facilities in the Business Radio Service are, pursuant to authority delegated in Sections 0.131(a) and 0.331 of the Commission's Rules, designated for hearing, at a time and place to be specified at a later date, on the following issues:

(a) To determine whether Ruland Salvage, Inc. operated radio facilities in the Business Radio Service which were not licensed to it.

(b) To determine whether any unlicensed operation by Ruland Salvage, Inc. was knowing or willful.

(c) To determine, in light of the evidence adduced pursuant to issues (a) and (b) hereinabove, whether Ruland Salvage, Inc. possesses the requisite character qualifications to receive a grant of the applications which are the subject of this proceeding.

(d) To determine, in light of the evidence adduced pursuant to issues (a) and (b) hereinabove, whether Ruland Salvage, Inc. has exhibited such lack of interest or carelessness concerning conduct of its affairs with respect to the licensing and implementation of radio facilities that it should not be entrusted with the radio authorizations which it is here seeking.

(e) To determine, in light of the evidence adduced pursuant to each of the foregoing issues, what disposition of the above-captioned applications of Ruland Salvage, Inc. will best serve the public interest, convenience and necessity.

5. *It is further ordered,* That Ruland Salvage, Inc. and the Chief, Safety and Special Radio Services Bureau ARE MADE PARTIES in this proceeding.

6. *It is further order,* That the burden of proceeding with the introduction of evidence of the burden of proof are, pursuant to Section 309(e) of the Communications Act of 1934, as amended, and §§ 1.254 and 1.973(e) of the Commission's rules, upon Ruland Salvage, Inc. with respect to the issues set forth in paragraph 4 hereinabove.

7. *It is further ordered,* That each of the parties named in paragraph 5 hereinabove, in order to avail itself of the opportunity to be heard, shall within 20 days of the mailing of this notice of designation by the Secretary of the Commission, file with the Commission, in triplicate, a written notice of appearance that it will appear on the date fixed for hearing and present evidence on the issues specified in this Order, as prescribed in § 1.221 of the Commission's rules.

8. *It is further ordered,* That the Secretary of the Commission shall serve a copy of this Order, by Certified Mail, Return Receipt Requested, upon Ruland Salvage, Inc. at the address furnished in its applications.

FEDERAL COMMUNICATIONS COMMISSION,
CARLOS V. ROBERTS,
Chief, Safety and Special Radio Services Bureau.

[FR Doc. 79-2613 Filed 1-24-79; 8:45 am]

[6712-01-M]

[Canadian List No. 379]

CANADIAN STANDARD BROADCAST STATIONS

Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

DECEMBER 8, 1978.

Call letters	Location	Power kW	Antenna	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of commencement of operation
CHRD	Drummondville, Que., N. 45°47'47", W. 72°29'04" (P.O. 10kw) (Reduced tolerance Q = 18mV/m)	50D/35N	DA-2	1480 kHz U	III				Dec. 8, 1979

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc. 79-2614 Filed 1-24-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

COMBUSTION ENGINEERING, INC.

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Combustion Engineering, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of Basic Incorporated. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Combustion Engineering. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: January 17, 1979.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202-523-3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers of acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the FEDERAL REGISTER.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-2691 Filed 1-24-79; 8:45 am]

[4110-24-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Institute of Museum Services

MUSEUM SERVICES PROGRAM

Closing Date for Receipt of Applications for Fiscal Year 1979

Notice is given that, under the authority contained in section 206 of the Museum Services Act, Pub. L. 94-462, Title II (20 U.S.C. 965), applications from museum are being accepted under the Museum Services Program. The Museum Services Program provides Federal financial assistance to ease the financial burdens borne by museum as a result of their increased use by the public and to help them carry out their educational and conservation roles as well as other functions. Under this program grants are made to museums to maintain, increase, or improve museum services.

CLOSING DATE: Applications for awards must be mailed or hand delivered by March 9, 1979.

(a) *APPLICATIONS FORMS AND INFORMATION:* Application forms are available from the program office of the Institute of Museum Services (IMS). The Institute plans to mail forms and program information packages to organizations currently on the Institute's mailing list.

Applications must be prepared and submitted in accordance with the regulations for the Museum Services Program (45 CFR Part 64) and the instructions and forms included in the program information packages.

(b) *APPLICATIONS SENT BY MAIL:* An application sent by mail must be addressed to: U.S. Office of Education, Application Control Center, ATTENTION: 13.923, Washington, D.C. 20202. (While the Institute is not part of the U.S. Office of Education, that Office is making available its facilities to receive applications invited under this notice.)

Applications sent by mail must be postmarked not later than March 9, 1979. Proof of timely mailing must consist of a legible U.S. Postal Service dated postmark or legible mail receipt stamped by the U.S. Postal Service.

(NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

(c) *HAND-DELIVERED APPLICATIONS:* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th & D Streets, S.W., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applicatons will not be accepted after 4 p.m. on the closing date.

Strict compliance with the closing date and these procedures is required. Late applications will be returned to the applicants.

(d) *PROGRAM INFORMATION:*

(1) *Adoption of final regulations.* Final regulations for the Museum Services Program (45 CFR Part 64) were published in the FEDERAL REGISTER on September 29, 1978 at pages 45166-45173. These regulations govern the program for the current fiscal year, including the review of applications submitted in response to this notice. These regulations contain rules for the award of grants to museums from funds appropriated under the Museum Services Act, including rules governing the eligibility of applicant institutions, the types of assistance that may be provided, the criteria to be used in judging applications, and the requirements that must be met by applicants.

In the final regulations, IMS invited additional public comment regarding the criteria for evaluation of applications for general operational support (§ 64.13 of the regulations, 45 CFR 64.13) and for project support (§ 64.14 of the regulations, 45 CFR 64.14). (See p. 45167 of the September 29, FR Doc.) The Institute received very few written comments on these criteria in response to this invitation. In the view of the Institute, the comments received do not warrant a change in the criteria. One commenter urged that the criteria for evaluation of applications for general operational support (§ 64.13) should invite the applicant to provide statistical informaton on whether increased attendance had resulted in increased operating costs causing neglect of essential museum services such as conservation. IMS believes that the criteria as written (particularly §§ 64.13(a) and 64.13(b)) permit applicants to address this concern. Other commenters expressed satisfaction with the regulations as they stand.

Under these circumstances, the criteria in §§ 64.13 and 64.14 of the final regulations published on September 29 remain in effect and will govern the valuation of applications for assistance under the Museum Services Program submitted during the current fiscal year. In applying the criterion for general operating support in § 64.13(a) (45 CFR 64.13(a))—museum services—the Institute does not give less weight to situations where the effect of the general operating support is to maintain rather than increase the quality of

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services of the applicant institution. See § 64.7 of the regulations.

An application must contain the information necessary to permit IMS to determine that the applicant meets the requirements in § 64.11 of the regulations (45 CFR 64.11) and to apply the criteria for evaluation of applications.

Applications will be accepted from institutions which qualify as museums under the definition set forth in the regulations. (Service organizations are currently ineligible.)

For the 1979 grants program, priority will be given to those museums that:

1. Have been providing museum services for at least two years.

2. Operate their own exhibition facilities. (See § 64.12 (45 CFR 64.12).)

(2) *Other information.* For fiscal year 1979 $7,400,000 in grant funds are available. Not less than 75% of this amount will be awarded for general operating support. The balance of the funds will be awarded for special projects that are model or exemplary and address a problem that is general to a number of museums.

A museum may apply for both operational and project support, but it is anticipated that no museum will receive more than $25,000 under the Institute's grant programs for the current fiscal year. (See § 64.9 of the regulation (45 CFR 64.9).) The Institute will accept joint applications from cooperating museums in the Special Projects category. In these cases, each museum is eligible for up to $25,000, but one of the cooperating museums must serve as fiscal agent. Applicants wishing to submit joint applications are encouraged to contact the IMS staff prior to submitting applications.

(e) *FOR FURTHER INFORMATION AND FORMS CONTACT:* Elizabeth Olofson, Institute of Museum Services, Room 326H, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201; telephone (202) 245-6753.

(Catalog of Federal Domestic Assistance No. 13.923; Insitute of Museum Services)

Dated: January 17, 1979.

LEE KIMCHE,
Director, Institute of Museum Services.

[FR Doc. 79-2558 Filed 1-24-79; 8:45 am]

[4110-02-M]

Office of Education

[Amdt. #2]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Meeting Relocated

This notice is an amendment to the notice of the meeting of the Editing Committee of the National Advisory Council on the Education of Disadvantaged Children which appeared on Page 1472 in the January 5, 1979 edition of the FEDERAL REGISTER. The Editing Committee meeting scheduled to be held on January 29-30, 1979 in Washington, D.C., has been relocated. The meeting will now be held at 2929 Banyan Road in *Boca Raton, Florida.* For any further information regarding this meeting, please call the Council office at area code 202/724-0114.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

Signed at Washington, D.C. on January 22, 1979.

GLORIA B. STRICKLAND,
Acting Executive Director.

[FR Doc. 79-2587 Filed 1-24-79; 8:45 am]

[4110-02-M]

TEACHER CENTERS PROGRAM

Procedures for Appeal and Extended Closing Dates for Transmittal of Applications for Fiscal Year 1979

On August 23, 1978, closing dates for transmittal of applications for grants awarded by the U.S. Office of Education were published in the FEDERAL REGISTER. That notice covered most Office of Education programs, including the Teacher Centers Program. Because the Education Amendments of 1978 (Pub. L. 95-561) made changes in the Teacher Centers Program statute (20 U.S.C. 1119a), the Office of Education is now amending the August 23, 1978 notice of closing dates to reflect those changes. Apart from the changes noted in this notice, the dates and other information contained in the August 23, 1978 notice of closing dates remain unchanged. This notice changes only: (1) The procedures for appeal and transmittal of applications for which an appeal has been requested; (2) the closing dates for transmittal of applications for non-competing continuation awards to support the first year of operation following an award made solely for planning; and (3) the amount of funds available.

I. *Notice of Procedures for Appeal.* The Education Amendments of 1978 (Pub. L. 95-561) significantly change that portion of the Teacher Centers Program statute which permits a dissatisfied applicant to appeal for reconsideration of an unfavorable recommendation of its application by the State educational agency. (See 20 U.S.C. 1119a(c)(2) and (3).)

The effect of the statutory change is that in every appeal by an applicant (1) the Commissioner requests further consideration by the appropriate State educational agency, whether or not it reconsiders the application favorably, shall transmit it to the Commissioner.

In order to avoid the delay in transmitting and evaluating applications that might result from this statutory change, the Commissioner gives notice to applicants who wish to appeal that their petition must be transmitted to the office of the Teacher Centers Program (at the address noted under Further Information) by March 9, 1979, and that applicants should simultaneously send a copy of the petition to the appropriate State educational agency. Applicants who wish to appeal are encouraged to make their intent known by telephone at the number given below under "Further Information" prior to submitting a written appeal. The Commissioner requests further consideration by the appropriate State educational agencies of any and all applications for which an appeal is taken, and further requests the State educational agencies to transmit those applications to the U.S. Office of Education Application Control Center by March 15, 1979.

(Although the amended Teacher Centers Progarm stautue allows the State educational agency to wait 30 days—until April 9, 1979 at the latest—before transmitting its non-recommended applications for which appeals have been made, the March 15, 1979 date is suggested in the above paragraph to facilitate timely review by the Office of Education.)

II. *Notice of Extended Closing Dates. New closing dates for non-competing continuation grants.* The Commissioner establishes new closing dates *only* for the transmittal of applications for non-competing continuation awards to support the first year of operation following an award made solely for planning a teacher center. The Commissioner is extending these dates in order to give applicants who received grants solely for planning the maximum time possible to complete their work. The awards affected are:

Grant number G007804146 Ouachita Parish, LA
Grant number G007804569 Jackson, MS
Grant number G007804048 Missoula, MT
Grant number G007804567 Newark, NJ
Grant number G007804655 Oak Ridge, TN
Grant number G007804162 Kelso, WA
Grant number G007804138 Spokane, WA
Grant number G007804040 Spokane, WA

The closing dates for all applicants other then those listed above are unchanged. (See the notice of closing dates that was published in the FEDERAL REGISTER on August 23, 1978.)

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS TO STATE EDUCATIONAL AGENCIES. To be assured of consideration for funding, applications for non-competing continuation awards, *to support the first year of operation following an award made solely for planning a teacher center,* should be mailed (postmarked) or hand delivered to the appropriate State educational agency by March 1, 1979.

If the application is late, the State educational agency may lack sufficient time to review it with other non-competing continuation applications and may decline to accept it.

All applications must be submitted to the State educational agency of the State in which the applicant is located, for review by that agency. The State educational agency must then transmit to the U.S. Office of Education those applications that it recommends for consideration and approval by the Commissioner of Education. State educational agencies may set their own criteria for the review of applications, and applicants may wish to take these criteria into consideration. The State criteria (if any) can be obtained by writing to the appropriate State educational agency (see the list of chief State school officers in the notice of closing dates that was published in the FEDERAL REGISTER on August 23, 1978).

APPLICATIONS DELIVERED BY MAIL: Five copies (3 for the U.S. Office of Education) of an application for a non-competing continuation grant should be sent to the chief State school officer of the appropriate State educational agency. The package in which the application is mailed should be clearly marked: Attention: CFDA 13.416 Teacher Centers Program continuation application. Planning grant. State review required.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered should be taken to the office of the appropriate chief State school officer, during their regular business hours.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS TO THE U.S. OFFICE OF EDUCATION: To be assured of consideration for funding, applications for non-competing continuation awards *to support the first year of operation following an award made solely for planning a teacher center,* should be mailed (postmarked) or hand delivered by March 15, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other non-competing continuation applications and may decline to accept it.

APPLICATIONS DELIVERED BY MAIL: Applications sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.416, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first-class mail.

APPLICATIONS DELIVERED BY HAND: Applications that are hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8 a.m., and 4 p.m. (Washington, D.C., time) daily except Saturdays, Sundays, and Federal holidays.

AVAILABLE FUNDS: The fiscal year 1979 appropriation for the Teacher Centers Progam is $12.625 million. It is anticipated that of this sum $3 million will be available to fund approximately 30 new projects. These estimates do not bind the U.S. Office of Education except as may be required by the applicable statutes and regulations.

FURTHER INFORMATION: For further information contact Dr. Allen Schmieder, Teacher Centers Program, Division of Educational Systems Development, U.S. Office of Education (Room 819 Riviere Building), 400 Maryland Avenue, SW., Washington, D.C. 20202, telephone (202) 653-5839.

(20 U.S.C. 1119a)

Dated: January 18, 1979.

ERNEST L. BOYER,
U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance Number 13.416; Teacher Centers Program)

[FR Doc. 79-2577 Filed 1-24-79; 8:45 am]

[4110-89-M]

Office of the Assistant Secretary for Education, Office of the Assistant Secretary for Planning and Evaluation

FINANCING PUBLIC AND NONPUBLIC ELEMENTARY AND SECONDARY SCHOOLS DURING THE COMING DECADE

Public Hearing

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice of public hearing.

SUMMARY: This document establishes the time and date for a public hearing on the financing of public and nonpublic elementary and secondary schools during the period 1980-1990.

DATE: February 5.

LOCATION: Auditorium, Hubert Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20202.

TIME: 9-12 a.m. and 1-5 p.m.

CONTACT: William E. McLaughlin, 202-245-6996.

Supplementary Information: The Education Amendments of 1978 direct the Secretary of the Department of Health, Education, and Welfare to conduct a comprehensive, three-year study of elementary and secondary school finance. The legislation provides the following framework for the study:

1. Investigation of the availability of reliable and comparative data on the status and trends in financing elementary and secondary education.

2. Conduct of studies necessary to understand and analyze the trends and problems affecting the financing of elementary and secondary education, both public and nonpublic, including the prospects for adequate financing during the next ten years.

3. Development of recommendations for federal policies to assist in improving the equity and efficiency of federal and state systems for raising and distributing revenues to support elementary and secondary education.

The purpose of the public hearing is to provide an opportunity for the public to share their concerns and proposals regarding the financing of elementary and secondary education during the coming decade.

The hearing will be before the Steering Committee established by the Secretary to oversee the initial organization of the study. Present will be the Deputy Assistant Secretary for Education, the Deputy Assistant Secretary for Planning and Evaluation, the Deputy Director for the National Institute of Education, the Assistant Commissioner of Education for Policy Studies, and the Acting Director of the Division of Elementary and Secondary Education Statistics in the National Center for Education Statistics.

Testimony will be accepted from students, parents, faculty, administrators, public officials, and educational organizations. Testimony should be limited 15 minutes or less. Those interested should directly contact William E. McLaughlin at (202) 245-6996 by February 2. The following information should be provided when contacting Mr. McLaughlin: Name; address; (business, if appropriate); telephone number during working hours; capacity in which the presentation will be made (e.g., parent, student, association representative, etc.); principal issues to

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be addressed; minimum time necessary for presentation; and text of presentation, if available.

The transcription and all written testimony will become a part of the record in the proceedings.

Dated: January 17, 1979.

MARY BERRY,
Assistant Secretary for Education.

Dated: January 17, 1979.

BEN W. HEINEMAN,
Assistant Secretary for Planning and Evaluation, Acting.

[FR Doc. 79-2578 Filed 1-24-79; 8:45 am]

[4110-85-M]

Office of the Secretary

ANNUAL OPERATING PLAN

Fiscal Year 1979

The following tables set forth the compliance and enforcement activities that the Office for Civil Rights is conducting in FY 1979.

OCR plans to have 573.2 investigator person years available [1] for compliance work in FY 1979. Of these person years, 377.6 are assigned to complaint investigations. The remaining 195.6 person years are assigned to compliance reviews.

In FY 1977, OCR resolved complaints for which investigations were required at the rate of 4.3 per investigator per year. In the first half of FY 1978, the rate had been increased to 6.7 complaints per investigator per year, and to 11.8 by the second half of the fiscal year. If OCR continues to resolve investigated complaints at the rate of 11.8 per investigator per year, it will end FY 1979 with a workload of 2555 complaints under or awaiting investigation.

The consent order, dated December 29, 1977, in *Adams vs. Califano* and related cases requires that OCR "use its best efforts" to eliminate the complaint backlog by the end of FY 1979. To accomplish this, OCR should have no more than 1266 complaints in its workload at that time. Without the addition of substantial new resources, this goal can be accomplished only by increasing the Agency's productivity to a rate of 18 investigated complaint resolutions per investigator per year by the third quarter of FY 1979. Accordingly, OCR will use its best efforts to increase its productivity to an annual rate of 18 complaints per investigator per year in order to comply with the *Adams* Order. Table 2 shows the results OCR would achieve in FY 1979 working at the rates of 12 and 18 investigated complaints per investigator per year.

In order to raise its productivity rate, OCR will:

- Improve its management control and accountability
- Streamline its complaint processing procedures
- Strengthen its training program for new and experienced investigators
- Provide better policy articulation
- Establish closer coordination between regional offices and HEW General Counsel attorneys (including locating a new unit of attorneys in each OCR regional office)

A report on the Agency's increased productivity for the first half of FY 1979 will be issued on May 31, 1979. If the report indicates that the backlog will be eliminated before the end of the year, as OCR believes it will, there will be staff available for additional compliance reviews in the fourth quarter of FY 1979. The additional reviews to be conducted will be identified in the May 31 report.

OCR appreciates the comments that members of the public submitted on the proposed AOP that was published in August. After careful consideration of these comments and re-evaluation of its priorities, the following changes have been made in the compliance reviews to be conducted in FY 1979:

CHANGES IN THE PROPOSED AND FY 1979 ANNUAL OPERATING PLAN

Type	Number	Person years
REVIEWS DROPPED		
Medicaid/Medicare Reviews	1	2.24
Public Health Care Reviews	2	4.00
Mental Retardation Services Reviews	2	1.66
Child Welfare Services Reviews	1	.41
Compliance Plan Monitoring	1	.10
Public Higher Education Central Administrative Units Reviews	2	1.32
Special Title IX Reviews	5	.55
REVIEWS ADDED		
Monitoring Adams State Higher Education Systems	1	.75
FY78 AOP Carryover Reviews	3	2.53
Hospital Reviews	1	1.45
Health Planning Reviews	1	.65
Public Assistance/Social Services Reviews	2	4.00
Vocational Rehabilitation Services Reviews	1	1.04
Community Colleges Reviews	2	2.00
Special 504 Reviews	2	.80

The investigator time assigned to compliance reviews in FY 1979, 195.6 person years, is 20.4 person years less than scheduled in FY 1978 because of the transfer of staff with Executive Order 11246 responsibilities to the Department of Labor on October 1. (The FY 1978 plan assigned approximately 21 person years to Executive Order reviews). The specific reviews that OCR will conduct in FY 1979 are dictated by:

- The requirements of the consent order
- Other external requirements such as reviewing applications for Federal financial assistance (primarily ESAA grants)
- OCR's goal of achieving balance in its compliance program
- The minority, female and handicapped population in each HEW region.

The specific types of reviews which OCR will conduct appear in Table 3. Region by region tables for the compliance reviews are available from OCR on request.

Dated: January 18, 1979.

DAVID S. TATEL,
Director, Office for Civil Rights.

[FR Doc. 79-2502 Filed 1-24-79; 8:45 am]

[1] OCR's total authorized staff for FY 1979 is 1893 positions. Of these positions, 527 are assigned to Headquarters and 1366 to the regional offices. Of the regional positions, 687 are for investigators, 108 for attorney support, 82 for first line supervisors, 178 for management and 311 for clerical support. Of the investigator positions, 398 were filled on October 1, and 563 on December 31. Because of the time needed for the filling of these vacancies and the training of the new staff, OCR estimates that the staff in these 687 investigtor positions will provide 573.2 person years of work in FY 1979.

OFFICE FOR CIVIL RIGHTS
FY 1979 Annual Operating Plan
Table 2
Complaints Pending at End of Year

NOTE: OCR will be in compliance with the Adams Order when it is able to begin the investigation of complaints when they are received. Given OCR's projected complaint receipts for FY 1979, and the time required for the conduct of an investigation and negotiations, the minimum OCR workload at the end of FY 1979 without a backlog will be 1266 complaints.

PRODUCTIVITY RATE	12	18
Investigated Complaints Closed in FY'79	4075	5364
Workload at End of 4th Quarter FY 1979	2555	1266
Person Years for Additional Compliance Reviews in 4th Quarter FY 1979	-0-	42

• The productivity rate represents the number of investigated complaints a single investigator resolves in a fiscal year.

[4110-89-C]

OFFICE FOR CIVIL RIGHTS
FY 1979 ANNUAL OPERATING PLAN
TABLE 1
COMPLAINT RECEIPTS

1. Starting Inventory 10/1/78	3376
2. Projected FY 1979 Complaint Receipts	5768
3. FY 1979 Receipts Projected to be Closed Without Investigation	2514
4. FY 1979 Receipts held for Investigation (See Table 2)	3254
5. Total Complaints Requiring Investigation in FY 1979 (Item 1 + Item 4)	6630

OCR will close complaints without an investigation for one or more of the following reasons:

1. OCR has no jurisdiction over the alleged discrimination.
2. OCR has no jurisdiction over the subject matter of the complaint.
3. The complaint is filed too late.
4. The complaint is incomplete and not completed within 110 days.
5. The complaint is being, or will be, investigated by another compliance agency.
6. The complainant cannot be located, refuses to cooperate, or withdraws the complaint.
7. The complaint is on its face without merit.

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Table 3
OFFICE FOR CIVIL RIGHTS
COMPLIANCE REVIEW ACTIVITY - 1979

11/20/78

TYPE OF REVIEW	NUMBER	PERSON YEARS
1. Emergency School Aid Act Reviews (Title VI)	644	45.08
2. Health Agency and Program Pre-grant Reviews (Title VI)	1,395	6.99
3. Monitoring Adams State Higher Education Systems (Title VI)	11	11.25
4. Formerly Dual State Higher Education Systems Reviews (Title VI)	5	11.00
5. Elementary and Secondary School District Language Program (ESL) Reviews (Title VI)	45	9.45
6. Equal Educational Services Reviews of Major City School Systems (Title VI; Section 504; Title IX)	4	12.50
7. Area Vocational/Technical School Reviews (Title VI; Section 504; Title IX)	10	10.80
8. Special Purpose State Administered School Reviews (Title VI; Section 504; Title IX)	15	9.60
9. FY '78 ACP Carryover Reviews (Title VI; Section 504; Title IX)	9	3.28
10. FY '78 ACP Negotiation and Enforcement Carryover (Title VI; Section 504; Title IX)		9.07
11. New Reviews of Elementary & Secondary Districts in the N & W (Brown)(Title VI; Section 504; Title IX)	2	6.00
12. Medicaid/Medicare Reviews (Title VI; Section 504)	1	2.24
12a. Hospital Reviews (Title VI; Section 504)	10	3.13
12b. Nursing Home Reviews (Title VI; Section 504)	0	0
12c. Neighborhood Health Center Reviews (Title VI; Section 504)	2	.16
13. Public Health Care Reviews (Title VI; Section 504)	2	4.00
14. Health Planning Reviews (Title VI; Section 504)	3	1.95
15. Mental Health Services Reviews (Title VI; Section 504)	3	2.00
16. Mental Retardation Services Reviews (Title VI; Section 504)	3	2.49
17. Drug Abuse/Alcoholism Services Reviews (Title VI; Section 504)	2	.94
NATIONAL TOTALS	2352	195.61

[4110-12-M]

Office of the Secretary

OFFICE OF FACILITIES ENGINEERING

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part A of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, Office of the Secretary, by making certain changes in chapter AMF, "Office of Facilities Engineering," (OFE) (43 FR 2764, January 19, 1978). The amendment transfers the functions of the Management Services Staff from the Office of the Director and the Division of Federally Assisted Construction from Office of Technical Services to the Office of Planning and Special Projects. These changes will provide for more effective management and use of staff. The necessary revisions to the chapter are as follows:

Delete from section AMF.20 Functions, subsection A, Office of the Director, items 7 and 8, and from subsection C, Office of Technical Services, items 7, 8, and 9. Add the above items to subsection B, Office of Planning and Special Projects. The revised statement for B, Office of Planning and Special Projects, now reads as follows:

B. Office of Planning and Special Projects. The Office of Planning and Special Projects performs the following functions:

1. Manages and coordinates special activities that cut across functional responsibilities within the Office of Facilities Engineering, such as:

(a) The development and recommendation of energy conservation actions for HEW-owned facilities and HEW facility-related programs; (b) the development and recommendation of HEW policy and procedures for providing physical accessibility in the area of architectural barriers; and (c) the development and maintenance of a working procedure and process for HEW facilities master planning.

2. Provides technical facilities planning consulting services to any HEW requesting office.

3. Designs, implements, and operates internal engineering management information and performance evaluation systems in coordination with OFE Office heads. Advises those Office heads on changes in procedures and priorities in all matters relating to internal OFE and HEW-wide facility engineering operations. Designs, implements, and operates the OFE manpower management program control, and work planning systems.

4. Provides ADP operations and technical ADP support to system users within HEW and GSA for the Facilities Management Information System (FMIS), Facilities Engineering Automated Management System (FEAMS), and Safety Management Information System.

5. Directs and coordinates the HEW nationwide natual disaster engineering activity to service the Office of Education and the Department of Housing and Urban Development/Federal Disaster Assistance Administration Programs.

6. Develops the requirements for an information system to monitor construction project schedules, costs, trends, and progress, and annual manpower resources need.

7. Manages the Department's construction wage rate (Davis-Bacon) and labor standards program, and coordinates with the Department of Labor in resolving construction contractor violations.

Dated: January 15, 1979.

FREDERICK M. BOHEN,
Assistant Secretary for Management and Budget.

[FR Doc. 79-2557 Filed 1-24-79; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-79-910]

PRIVACY ACT OF 1974

Proposed New System of Records

AGENCY: Department of Housing and urban Development.

ACTION: Notice of proposed new system of records.

SUMMARY: The Department is giving notice of a new system of records it intends to maintain that is subject to the provisions of the Privacy Act of 1974.

EFFECTIVE DATE: The system of records shall become effective without further notice on February 26, 1979 unless comments are received on or before February 26, 1979, which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, telephone 202-755-5192.

SUPPLEMENTARY INFORMATION: The new system identified as Single-Family Homes Management Underwriting System will consist of manual and machine-readable records about builders of single-family dwellings. The system records are required by the Department to aid the processing of mortgagee applications for property appraisal and commitment for mortgage insurance. The personal data items protected by the Privacy Act and included in this system are: name, address, telephone number, tax identification or social security account number, and minority data to include racial/ethnic background and the sex of the builder. A new system report was filed with the Speaker of the House, the President of the Senate and the Office of Management and Budget on November 24, 1978. The prefatory statement containing General Routine Uses applicable to all of the Department's systems of records was published at 43 FR 55105 (November 24, 1978). Appendix A, which lists the addresses of HUD's field offices, was published at 43 FR 55121 (November 24, 1978).

HUD/H-5

System name:

Single-family Homes Management Underwriting System.

System location:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system:

Builders of single-family dwellings.

Categories of records in the system:

Case binders and automated files contain builder's name; address; telephone number; tax identification number or social security account number; and minority data for statistical tracking to include racial/ethnic background and sex of the builder.

Routine uses of records maintained in the system including categories of users and purposes of such uses:

See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for stowing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

In case binders and on magnetic tape/disc/drum.

Retrievability:

Name, tax identification number or social security number.

Safeguards:

Manual files are kept in lockable cabinets or rooms; automated records

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are maintained in secured areas. Access to either type of record is limited to authorized personnel.

Retention and disposal:

Manual records of insured cases are retained for 36 years and rejected cases are retained for one year. Computerized records of insured cases are retained for 10 years and rejected cases are retained for 3 years.

System manager and address:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Records source categories:

HUD authorized mortgagees.

(5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., January 19, 1979.

WILLIAM A. MEDINA,
Assistant Secretary for Administration.

[FR Doc. 79-2685 Filed 1-24-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

Filing of California State Protraction Diagram

JANUARY 16, 1979.

Notice is hereby given that effective March 14, 1979, the following protraction diagram, approved December 18, 1978, is officially filed and of record in the California State Office, Bureau of Land Management, Sacramento, California. In accordance with Title 43, Code of Federal Regulations, this protraction will become the basic record for describing the land for all authorized purposes at and after 10:00 a.m. on the above date. Until this date and time, the diagram has been placed in the open files and is available to the public for information only.

CALIFORNIA PROTRACTION DIAGRAM 60 (REVISED), SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 2 S., R. 9 E.,
Sec. 1;
Sec. 2, N½, SE¼;
Sec. 3, NW¼;
Sec. 4;
Sec. 5, N½, SE¼;
Sec. 8, E½;
Sec. 9;
Sec. 10, SW¼;
Sec. 11, E½;
Secs. 12 & 13;
Sec. 14, E½;
Sec. 15, NW¼;
Sec. 16, N½;
Sec. 24, E½;
Sec. 25, NE¼, S½;
Sec. 36.

Copies of this diagram are for sale at two dollars ($2.00) each by the Survey Records Office, Bureau of Land Management, Room E-2807, Federal Office Building, 2800 Cottage Way, Sacramento, California.

HERMAN J. LYTTGE,
Chief, Branch of Records and Data Management.

[FR Doc. 79-2591 Filed 1-24-79; 8:45 am]

[4310-84-M]

[Group 519]

CALIFORNIA

Filing of Plat of Survey

JANUARY 17, 1979.

1. A plat of survey of the following described land, accepted January 13, 1976, will be officially filed in the California State Office, Bureau of Land Management, Sacramento, California, effective at 10:00 a.m. on March 16, 1979:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 26 S., R. 37½ E.,
Sections 1, 12, 13, 24, 25 and 36.

The area described totals 1,477.23 acres.

The plat represents a dependent resurvey of the west boundary of T. 26 S., R. 38 E., and the north and a portion of the west boundaries of Section 1, T. 27 S., R. 37 E., and the subdivisional survey of a hiatus designated as T. 26 S., R. 37½ E.

2. These lands are within California Grazing District No. 1 established by Secretary's Order dated April 8, 1935.

3. The above listed lands are withdrawn from entry under the nonmineral public land laws by Public Land Order No. 2594, dated January 22, 1962, establishing the Monache-Walker Pass National Cooperative Land and Wildlife Management Area and Section 36 is withdrawn in Stock Driveway No. 235, California No. 17, by Secretary's Order dated January 21, 1933.

4. The area surveyed is located at the eastern edge of the Sierra Nevada Mountains. The steep mountain escarpments range in elevation from 4,000 feet to over 6,000 feet. Vegetation in the lower elevations includes Joshua trees, sagebrush and creosote bush with annual grasses as understudy. Pinon-juniper is found at the higher elevations with an understudy of big sage, black brush and California buckwheat.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

HERMAN J. LYTTGE,
Chief, Branch of Records and Data Management.

[FR Doc. 79-2592 Filed 1-24-79; 8:45 am]

[4310-84-M]

[Colorado 26085]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

JANUARY 17, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corporation, 315 East 200 South, Salt Lake City, Utah 84111, has applied for a right-of-way for a 4¼" o.d. natural gas pipeline for the Colorow Gultch Gathering System approximately 0.879 miles long across the following Public Lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLORADO

T. 3 N., R. 97 W., 6th P.M.
Section 29: SW¼NW¼, N½SW¼, W½SE¼

The above-named gathering system will enable the applicant to collect natural gas in areas through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions. (2) To give all interested parties the opportunity to comment on the application. (3) To allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipline Corporation.*

Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, JR.,
Leader, Craig Team Branch of Adjudication.

[FR Doc. 79-2593 Filed 1-24-79; 8:45 am]

[4310-84-M]

[Colorado 26176 c]

NORTHWEST PIPELINE CORP.

R/W Application for Access Road

JANUARY 17, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corporation, 315 East 200 South, Salt Lake City, Utah 84111, has applied for a 30' right-of-way for an access road for a meter station for the Rocky Mountain Natural Gas Gathering System approximately 0.011 miles across the following Public Lands:

SIXTH PRINCIPAL MERIDIAN, MOFFAT COUNTY, COLORADO

T. 10 N., R. 94 W., 6th P.M.
Section 22: SE¼SW¼SW¼
Section 27: NE¼NE¼NW¼

The above-named gathering system will enable the applicant to collect natural gas in areas through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions. (2) To give all interested parties the opportunity to comment on the application. (3) To Allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipeline Corporation.*

Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, JR.,
Leader, Craig Team Branch of Adjudication.

[FR Doc. 79-2594 Filed 1-24-79; 8:45 am]

[4310-84-M]

[CA-856]

CALIFORNIA

Termination of Proposed Withdrawal and Reservation of Land

JANUARY 15, 1979.

Notice of a Bureau of Reclamation, U.S. Department of the Interior, application CA-856, for withdrawal and reservation of lands for addition to Tulelake townsite was published as FR Doc. 74-9483 on page 14618 of the issue of April 25, 1974 and republished as FR Doc. 77-17003 on pages 30549 and 30550 of the issue of June 15, 1977. The applicant agency has withdrawn its application in its entirety. The lands involved are described as follows:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 47 N., R. 4 E.,
Sec. 1, a tract of land within the NW¼NW¼ being all the southerly portion of Lot 4, also shown as Block 1 on the plat of "Tulelake Townsite Addition," approved September 11, 1973.

The area described aggregates 12.43 acres in Siskiyou County, California.

Therefore, pursuant to the regulations contained in 43 CFR Part 2350, such lands at 10:00 a.m. on February 22, 1979, will be relieved on the segregative effect of the above mentioned application.

MARIE M. GETSMAN,
Acting Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 79-2597 Filed 1-24-79; 8:45 am]

[4310-84-M]

[Colorado 22644 and 26913]

LANDS IN ROUTT COUNTY, COLORADO

Public Hearing

United States Department of the Interior, Bureau of Land Management, Colorado State Office, Denver, Colorado. Notice is hereby given that a public hearing will be held on February 15, 1979 at 7:00 p.m. in the Routt County Courthouse in Steamboat Springs, Colorado. The purpose of the hearing is to obtain public comments concerning the offering for lease of certain coal resources in the lands hereinafter described on the Technical Examination-Environmental Assessment Report and on the following items: (1) the method of mining to be employed to obtain maximum economic recovery of the coal (2) the impact that mining the coal in the proposed leaseholds may have on the area, included but not limited to impacts on the environment, agriculture, and other economic activities, and (3) method of evaluation of the coal to be offered. Comments will be accepted orally or in writing and will be considered prior to lease offering.

In addition, the public is invited to submit written comments on the fair market value of the coal to be offered to the State Director, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202.

COAL TO BE OFFERED IN C-22644

The coal resource to be offered is limited to strippable reserves to be mined from the Wadge Coal bed in the following described lands located approximately 13 miles south of Milner, Routt County, Colorado:

T. 4 N., R. 86 W., 6th P.M.
Sec. 18: Lots 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, & 16;
Sec. 19: Lots 2, 3, 4, 5, and those parts of Lots 1, 6, 7, 8, 11, and 12 and that part of the NW¼NE¼ lying north of a line described below*:
T. 4 N., R. 87 W., 6th P.M.
Sec. 13: SE¼NE¼, NE¼SE¼, S½SE¼
Sec. 24: NE¼, NE¼NW¼, S½NW¼, N½SW¼, N½N½S½SW¼, NW¼SE¼, N½N½SW¼SE¼, and that part of the E½SE¼ lying north of a line described below*:

*Southern boundary—Beginning at the southwest corner of the N½N½SW¼SW¼ of Sec. 24, T. 4 N., R. 87 W., 6th P.M., Colorado, thence N. 89° 54' E. approximately 3,960 ft. to the southwest corner of the N½N½SE¼SE¼, thence N. 63° 16' E. approximately 1,473 ft. to the northeast corner of the S½S½NE¼SE¼ of said section, thence N. 0° 30' W. approximately 63 ft. along the Range line between Ranges 86 and 87 W., 6th P.M., Colo. to the southwest corner of Lot 12 of Sec. 19, T. 4 N., R. 86 W., 6th P.M., Colo., thence N. 53° 29' E. approximately 6,651 ft. to the northeast corner of

Footnotes continued on next page

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COAL TO BE OFFERED IN C-26913

The coal resource to be offered is limited to strippable reserves to be mined from the Wadge Coal bed in the following described lands located approximately 13 miles south of Milner, Routt County, Colorado:

T. 4 N., R. 86 W., 6th P.M.
Sec. 7: Lot 11 and SE¼
Sec. 8: Lot 4 and SW¼
Sec. 18: Lots 1, 2 and 3 (Containing 524.48 acres.)

NOTICE OF AVAILABILITY

The Technical Examination-Environmental Assessment Report will be available for review in the Craig District Office, Bureau of Land Management, 455 Emerson Street, P.O. Box 248, Craig, Colorado 81625.

A copy of the Technical Examination-Environmental Assessment Report, the case files and the comments submitted by the public on fair market value, except those portions identified as proprietary by the commenter, will be available for public inspection at the Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202.

ANDREW W. HEARD, JR.,
Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 79-2598 Filed 1-24-79; 8:45 am]

[4310-84-M]

[ES 10960]

LOUISIANA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The Property Management and Disposal Service, General Services Administration, filed application ES 10960 on April 28, 1972 for the withdrawal of the following described land:

LOUISIANA MERIDIAN

T. 12 S., R. 6 E.,
Sec. 79, The westernmost part not patented as part of Lot 1, sec. 6, based on the public land survey plat of October 2, 1830.

Containing approximately 17.50 acres in Iberia Parish, Louisiana. The General Service Administration desires to use the land in its disposal program for the former New Iberia Naval Auxiliary Air Station. A notice of the proposed withdrawal was previously published as FR Doc. No. 73-12378 in FR 16253 on June 21, 1973.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application.

All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the Director, Eastern States, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Maryland 20910, on or before February 20, 1979. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B. All previous comments submitted in connection with the withdrawal application are included in the record and will be considered in making a final detemination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before February 20, 1979.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by temporary segregation. In accordance with Section 204(g) of the Federal Lands Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications in connection with the pending withdrawal application should be addressed to the Director, Eastern States, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Maryland 20910.

LOWELL J. UDY,
Director,
Eastern States.

[FR Doc. 79-2599 Filed 1-24-79; 8:45 am]

[4310-84-M]

[NM 35756 and 35764]

NEW MEXICO

Applications

JANUARY 16, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for five 4-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 8 W.,
Sec. 3, lot 1, SE¼NE¼, NE¼SW¼, S½SW¼ and N½SE¼;
Sec. 12, N½NE¼.
T. 29 N., R. 9 W.,
Sec. 17, SE¼SE¼;
Sec. 20, NE¼NE¼;
Sec. 21, lot 1;
Sec. 24, lots 1, 7 and 8.

These pipelines will convey natural gas across 2.074 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address toa the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc. 79-2602 Filed 1-24-79; 8:45 am]

[4310-84-M]

[NM 35758, 35763]

NEW MEXICO

Applications

JANUARY 18, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for one 2-inch and one 4-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 10 W.,
Sec. 30, lots 18, 18 and 19.
T. 30 N., R. 11 W.,
Sec. 1, lot 4.

These pipelines will convey natural gas across 0.978 of a mile of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land

Footnotes continued from last page
the W½NW¼NE¼ of Sec. 19, T. 4 N., R. 86 W., 6th P.M., Colo. (Containing 1,265.22 acres.)

J A 2 5 7 9

Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc. 79-2603 Filed 1-24-79; 8:45 am]

[4310-84-M]

[NM 35759 and 35762]

NEW MEXICO

Applications

JANUARY 16, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for one 2-inch, one 3-inch and four 4-inch natural gas pipline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 8 W.,
Sec. 5, lots 2, 3, 4 and SW¼NE¼;
Sec. 6, lot 1.
T. 27 N., R. 8 W.,
Sec. 31, SW¼NE¼, W½SE¼ and SE¼SE¼.
T. 29 N., R. 8 W.,
Sec. 31, lots 9, 11, 12, SE¼NE¼ and NE¼SE¼;
Sec. 32, S½NE¼, N½SW¼ and NW¼SE¼.

These pipelines will convey natural gas across 3.559 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc. 79-2601 Filed 1-24-79; 8:45 am]

[NM 35761 and 35772]

NEW MEXICO

Applications

JANUARY 18, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for four 4-inch and four 2-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 11 W.,
Sec. 5, lot 4 and SW¼NW¼;
Sec. 6, lots 1, 3, 6, 7, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec. 7, E½NE¼.
T. 30 N., R. 11 W.,
Sec. 31, lots 12, 14 and 15.
T. 31 N., R. 11 W.,
Sec. 18, lot 2.
T. 31 N., R. 12 W.,
Sec. 13, lots 1, 2 and 5.

These pipelines will convey natural gas across 4.530 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc. 79-2600 Filed 1-24-79; 8:45 am]

[4310-84-M]

[Wyoming 65890]

WYOMING

Application

JANUARY 18, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way for one 8⅝ inch O.D. pipeline, one 6⅝ inch O.D. pipeline and three 4½ inch O.D. pipelines for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 21 N., R. 111 W.,
Sec. 8, NW¼NW¼.
T. 21 N., R. 112 W.,
Sec. 2, S½SE¼;
Sec. 10, N½N½, SW¼NW¼ and NW¼SW¼;
Sec. 12, N½N½, SW¼NW¼ and N½SW¼.

The pipelines are an extension of the applicant's Moxa Arch Gathering System and will transport natural gas from the Whiskey Buttes #6, #8, and #17 wells in sections 10, 1, and 12, T. 21 N., R. 112 W., to a point in the NW¼NW¼ Sec. 8, T. 21 N., R. 111 W., in Lincoln and Sweetwater Counties, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P. O. Box 1869, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc. 79-2606 Filed 1-24-79; 8:45 am]

[4310-84-M]

[Wyoming 66261]

WYOMING

Application

JANUARY 17, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch pipeline and related facilities consisting of a meter house and a dehydrator for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 17 N., R. 99 W.,
Sec. 8, SW¼SW¼;
Sec. 18, SW¼NE¼, E½NE¼, N½SE¼ and SE¼SE¼.

The pipeline will transport natural gas produced from the Federal R-1 Well located in the SW¼SW¼ of sec. 8, to a point of connection with Colorado Interstate Gas Company's existing pipeline in the NW¼SE¼ of sec. 18, within T. 17 N., R. 99 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc. 79-2605 Filed 1-24-79; 8:45 am]

[4310-84-M]

[Wyoming 66308]

WYOMING

Application

JANUARY 17, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to construct a 6⅝ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 22 N., R. 111 W.,
Sec. 20, N½N½;
Sec. 22, N½N½.

The proposed pipeline will transport natural gas extending from a point of connection with Northwest Pipeline Corporation's Trunk "A" pipeline located in the NW¼SW¼ section 29, and will connect into the proposed 6⅝ inch O.D. pipeline at a point in the NW¼NW¼ section 20, and will end at a point in the NW¼NW¼ section 23, T. 22 N., R. 111 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-2604 Filed 1-24-79; 8:45 am]

[4710-07-M]

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

PRESIDIO VALLEY FLOOD CONTROL PROJECT

Intent Not to Prepare Environmental Impact Statement

JANUARY 10, 1979.

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Intent not to prepare an environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines, and the Agency's "Operational Procedures for Implementing section 102 of the National Environmental Policy Act of 1969" dated March 5, 1974, the Agency hereby gives notice that an environmental impact statement is not found necessary for the work of repairing the Presidio Valley Flood Control Project levees, channel bank, grade control structures, and irrigation and drainage facilities damaged during the September-October 1978 flood.

The findings of the environmental assessment of this action are that it does not constitute a major Federal action which would cause significant local, regional, or national impact on the environment. As a result of these findings, Mr. J. F. Friedkin, Commissioner, has determined that the preparation and review of an environmental impact statement are not needed for this action.

FOR FURTHER INFORMATION CONTACT:

D. D. McNealy, Principal Engineer, Supervising, United States Section, International Boundary and Water Commission, 4110 Rio Bravo, El Paso, Texas 79902, 915-543-7330.

SUPPLEMENTARY INFORMATION: The Presidio Valley Flood Control Project was authorized by Pub. L. 92-549, approved October 25, 1972, as part of a coordinated plan by the United States and Mexico for international flood control works for protection of lands along the international section of the Rio Grande in the United States and in Mexico in the Presidio-Ojinaga Valley. Construction of the levees was completed late in 1976, and the Project receives annual maintenance.

A final environmental impact statement dated March 17, 1971, on the original flood control project was transmitted to the Council on Environmental Quality on april 1, 1971, and included the finding that the project would have negligible effects on wildlife, and would enhance the environment of the people in the Valley.

The extraordinary 1978 flood was 146 percent of the levee design flood, resulting in overtopping and breaching of the downstream portion of the levee and causing inundation of 2,119 acres of farmlands. The plan of repair includes reconstruction and raising portions of the levee, repairing the erode channel bank, repair of the levee erosion damage, cleaning and repair of drainage facilities, and placing or replacing riprap where needed.

No administrative action on implementation of this proposal will be taken until February 26, 1979.

Signed at El Paso, Texas, this 16th day of January, 1979.

D. D. MCNEALY,
Principal Engineer, Supervising.

[FR Doc. 79-259 Filed 1-24-79; 8:45 am]

[4810-25-M]

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

The purpose of this document is to give notice that the systems of records identified in notices published in the FEDERAL REGISTER at 42 FR 48178 (September 22, 1977) continue in effect without change. This notice is published in compliance with the requirements of 5 U.S.C. 552a(e)(4).

ROWLAND E. CROSS,
Chairman, Joint Board for the Enrollment of Actuaries.

JANUARY 19, 1979.

[FR Doc. 79-2683 Filed 1-24-79; 8:45 am]

[4410-18-M]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Solicitation for Research Grants Regarding Parole Conditions and Revocations

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant aimed at examining administrative discretion as it relates to determination of conditions of parole and the utilization of technical violations as a basis for parole revocations.

The solicitation asks for proposals to be submitted for peer review in accordance with the criteria set forth in the solicitation. In order to be considered, all proposals must be postmarked no later than March 15, 1979. The 18 month research grant is planned for award in July 1979 with funding support not to exceed $225,000.

Further information and copies of the solicitation can be obtained by contacting: Director, Corrections Division, Office of Research Programs, NILECJ, 633 Indiana Avenue, N.W., Washington, D.C. 20531 (301) 492-9118.

BLAIR G. EWING,
Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 79-2607 Filed 1-24-79; 8:45 am]

[4410-18-M]

GRANT PROGRAMS

AGENCY: Law Enforcement Assistance Administration, Department of Justice.

ACTION: Notice of grant programs.

The Law Enforcement Assistance Administration (LEAA) published in the FEDERAL REGISTER on August 24, 1978, (43 FR 37964), a draft program announcement or incentive fund programs in order to obtain public comment about the proposed concept. Extensive and varied comments were received from a number of public interest groups and individuals. LEAA is now considering those comments and will issue a revised version, in the form of a Guideline, for review later this year.

Due to the divergence of views on the proposed programs and budget constraints for new program funding, LEAA will only experiment with the concept and award only a limited number of grants this fiscal year for the models listed below. Additional programs may be announced later in the year, depending on the availability of resources.

Programs will be governed by the administrative and fiscal requirements of LEAA Guideline Manuals M 4500.1G, Guide to Discretionary Grant Programs and M 7100.1 Financial Management for Planning and Action grants, except where specific modifications are necessary to provide flexibility for experimenting with this approach. Deadlines for application, size and number of grants to awarded, selection criteria, and specific procedures for application will differ among the programs. That information may be obtained from the offices listed below.

The names, addresses, and telephone numbers of offices to contact for information about each program are listed with each program description below:

1. MANAGING CRIMINAL INVESTIGATIONS

LEAA-sponsored research and development have disclosed a number of ways in which improvements can be made in managing criminal investigations, a critical police function. successful tests at five sites have been conducted, upon which this program is based. The program has the following objectives:

To increase the percentage of convictions for target crimes and offenders;

To reduce the number of cases not prosecuted or dismissed because of faulty case preparation;

To decrease the time and resources devoted by investigator units on cases which are potentially "unsolvable," and;

To improve the effective allocation of investigative resources.

The program has five major elements designed to structure the criminal investigation process to achieve the objectives:

(1) Organizational structure;
(2) Preliminary investigation;
(3) Case screening;
(4) Managing continuing investigation;
(5) Investigative monitoring system.

For information contact: Enforcement Program Management Team, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531 Phone: (202) 376-3967.

2. CAREER CRIMINAL PROSECUTION PROGRAM

A disproportionate amount of a jurisdiction's serious and violent crime is committed by a relatively few habitual offenders who utilize familiarity with the criminal justice system to avoid apprehension, identification, full prosecution and appropriate punishment. This program seeks to identify offenders who frequently commit robbery, aggravated assault, forceable sexual offenses, burglary, and recidivistic homicide, and to expedite the thorough preparaton and presentments of those cases to court.

The program emphasizes these concepts and strategies:

Early screening and evaluation of all felony cases to identify career criminal cases according to predetermined and even-handedly applied selection criteria;

Senior prosecutors assigned to career criminal cases;

Individualized and thorough case preparation (vertical handling);

A policy of no plea to sentence bargaining;

Witness coordination.

The program may be implemented by agencies, such as State Planning Agencies or State Prosecutor Associations, that have State-wide representation and that have authority to implement and supervise subgrants in local prosecutors' offices. Participating prosecutor offices must have a minimum of six (6) full-time assistant prosecutors.

For information contact: Career Criminal Prosecution Program, Adjudication Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531 Phone: (202) 376-2275.

3. JUROR UTILIZATION AND MANAGEMENT

This program is a set of operating procedures and measurements for juror utilization and management designed to reduce costs to the community, minimize income loss for jurors, insure selection methods that are proper and can withstand legal challenge, and increase citizen participation and interest by making productive use of jurors' time. LEAA-sponsored demonstrations have been implemented in 18 jurisdictions and are showing considerable cost and time savings.

The program design is based on proven methods for qualifying the optimum number of jurors, and summoning and utilizing jurors. It will enable state and local court administrators to apply and transfer these methods.

The program strategy focuses on state-wide implementation, or implementation in an individual court when that would have State-wide impact, of proven juror management procedures, tailoring the required financial and technical assistance to the needs of each State.

For information contact: Adjudication Program Management Team, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531. Phone: (202) 376-2275.

4. TREATMENT ALTERNATIVES TO STREET CRIME (TASC)

The Treatment Alternatives to Street Crime (TASC) program is designed to reduce substance abuse and its related criminal activity by providing community-based treatment services for substance abusing offenders. The TASC model has been demonstrated in over 50 cities and counties since 1972 and has expanded in concept from a pretrial diversion mechanism for heroin abusers to a comprehensive criminal justice/health care linkage mechanism for drug and alcohol abusing offenders.

The major elements of the model include:

A screening unit to identify and recruit potential clients as soon as possible after their arrest.

A diagnostic/evaluation unit to determine the nature and extent of drug use and provide appropriate referral to community-based treatment.

A monitoring or tracking unit to continuously monitor the progress of clients in treatment, to include weekly urinalysis reports, as well as serve as a liaison to the court or other criminal justice agent.

The TASC incentive program strategy focuses primarily on state-wide implementation of TASC models in all major urban centers and regional

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rural areas where such services are needed. Each state will be required to establish a small central coordinating unit to plan and administer the TASC effort.

For information contact: TASC Program, Corrections Division, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, Washington, D.C. 20531. Phone: (202) 376-3824.

5. PROSECUTOR MANAGEMENT INFORMATION SYSTEM (PROMIS)

This program will support the implementation of PROMIS on a multi-jurisdictional basis. PROMIS was developed as a prosecutor's management information system in 1971 for the Washington, D.C., U.S. Attorneys Office. The Institute for Law and Social Research (INSLAW), with LEAA support, has refined the system so that it can be operated on either a full-size or a mini-computer. The system is machine independent and can be operated on a variety of different manufacturers' hardware. A manual adaptation has also been developed for offices not requiring an automated system. PROMIS is presently being implemented in approximately 45 jurisdictions and been successfully adapted for use by State and local court systems.

The focus of this program is prosecutor offices; consideration may also be given to utilization of the system for trial court purposes. Objectives should be consistent with a State's criminal justice information planning. State-wide implementation is to be conducted on a phased basis in 3-5 jurisdiction increments. Counties may choose whether to install PROMIS, mini-PROMIS, or manual PROMIS, based upon their particular office workload requirements.

For information contact: Systems Division, National Criminal Justice Information and Statistics Service, Law Enforcement Assistance Administration, Washington, D.C. 20531. Phone: (301) 492-9057.

HENRY S. DOGIN,
Deputy Administrator for Policy Development.

[FR Doc. 79-2595 Filed 1-24-79; 8:45 am]

[7532-01-M]

NATIONAL COMMISSION ON NEIGHBORHOODS

MEETING

Late Notice

AGENCY: National Commission on Neighborhoods.

ACTION: Late notice of meeting by the National Commission on Neighborhoods called by a consensus of the commissioners.

SUMMARY: This notice required under the Federal Advisory Committee Act (5 U.S.C. Appendix I) announces a public meeting.

TIME AND DATE: From 9 a.m. to 5 p.m. on February 8, 1979.

PLACE: Room 9104, New Executive Office Building.

AGENDA: 9 a.m. to 5 p.m.—Consideration of final report.

JOHN EADE,
Designated Federal Officer.

[FR Doc. 79-2822 Filed 1-23-79; 3:45 pm]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

EXPORTATION OF NUCLEAR FACILITIES OR MATERIALS

Applications for Licenses

Pursuant to 10 CFR 110.70, "Public Notice of Receipt of an Application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated this day January 17, 1979, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

EXPORT LICENSE APPLICATIONS, SOURCE AND SPECIAL NUCLEAR MATERIAL, IN KILOGRAMS

Name of applicant, date of application, date received, application number	% Enriched & Material Type	Total Element	Total Isotope	End-Use	Country of Ultimate Destination
Nissho-Iwai American, 12/19/78, 12/22/78, XSNMO1435.	45.40 Enriched Uranium	12	5.448	Demonstration Experiments of medium enriched uranium at KUCA.	Japan
General Elect. Co., 12/22/78, 12/27/78, XSNMO1436.	3.1 Enriched Uranium	5,875	161	Reload fuel for Tsuruga	Japan
Nissho-Iwai American, 12/29/78, 01/08/79, XSNMO1439.	1.52 Enriched Uranium	229.14	1.52	Fuel for advanced Thermal Reactor "FUGEN".	Japan

[FR Doc. 79-2419 Filed 1-24-79; 8:45 am]

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-4]

ACCIDENT REPORTS AND STATISTICAL ANALYSES; RESPONSES TO SAFETY RECOMMENDATIONS

Availability

Aircraft Accident Reports.—The National Transportation Safety Board on January 11 made available the findings and probable causes of 900 U.S. general aviation accidents which occurred in 1978. The reports comprise a volume, the first in a series presented in a synoptic, computer-printout format that will be issued this year. This publication, No. NTSB-BA-78-7, also provides statistical information tabulated by type of accident, phase of operation, kind of flying, injury index, aircraft damage, conditions of light, pilot certificate, injuries, and causal factors.

The Safety Board, in Press Release SB 79-2 for Issue Number 1, cites one general aviation accident in which three persons were killed after a Piper PA-28 collided with cables supporting a 600-foot tall television antenna tower near Clewiston, Fla. The Board again warned general aviation pilots against low flying, which it described as usually unwarranted, unnecessary, and unsafe. The Board pointed out that in addition to the natural obstructions endangering low flight, such as trees, box canyons, and mountains, the pilot in today's world is confronted with man-made obstructions often difficult to see even in good visibility conditions.

NOTE.—The brief reports in this publication contain essential information; more detailed data may be obtained from the original factual reports on file in the Washington Office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 17 cents per page for printed matter, $5 per page for black-and-white photographs, and $4 per page for color photographs, plus postage. Requests concerning aircraft accident report briefs should include this information: (1) Date and place of occurrence, (2) type of aircraft and registration number, and (3) name of pilot.

Copies of Issue No. 1 may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

Annual Review of Aircraft Accident Data.—Another Safety Board publication, No. NTSB-ARG-78-2, presents the record of aircraft accidents which occurred in U.S. general aviation operations during the calendar year 1977. This publication, also released on January 11, includes an analysis of accident data relating to an overview, types of accidents, accident causal factors, kinds of flying, and conclusions; a statistical compilation of accident information presented in the form of accident and rate tables, analytic tables, injury tables and cause/factor tables. These statistical data are divided into sections pertaining to all operations, small fixed-wing aircraft, large fixed-wing aircraft, rotorcraft, gliders, and collisions between aircraft.

The total number of all general aviation accidents reached 4,286, an increase of 49 over 1975 and 93 more than in 1976. The number of fatal accidents—702—was an increase of 7 over 1976. The 1977 review also shows that engine failure or malfunction was cited as being involved in 1,025 accidents—almost 24 percent of the total number. Considering the total accidents by phase, the highest percentage—41 percent—occurred during the landing phase. Takeoff accidents accounted for 20 percent of the total.

The Safety Board noted in its press release, No. SB 79-3, that the pilot was cited as a causal factor in 89 percent of the fatal accidents and 81 percent of the nonfatal accidents during 1977. Emphasis on accident prevention training and safety programs, with special attention to pilot causal factors, could have a positive influence on the safety record of general aviation and could reduce the accident rates in this category, the Board said.

U.S. Civil Aviation Safety Records.—Through the medium of press release SB 79-4, U.S. civil aviation safety records for calendar year 1978 were released on January 16. The two basic segments of civil aviation, air carrier operations and general aviation operations, are presented separately. In each category the safety data are compiled in 10-year comparison tables of accidents, fatalities, and rates.

As indicated in the attachments to the press release, 1978 produced a mixed operational record; air carrier safety improved over the previous year but general aviation safety declined. U.S. air carriers recorded fewer total accidents and fewer fatalities than the preceding year. U.S. general aviation recorded increases in total and fatal accidents and fatalities compared to the preceding year.

The press release notes that U.S. air carriers in 1978 carried more than 286 million passengers, an increase of 32 million passengers or nearly 13 percent over 1977. In general aviation, except for commuter operation, the number of passengers carried is not reported. However, the aircraft hours flown in general aviation increased 2.2 percent from 35.8 million in 1977 to 36.6 million in 1978.

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation

A-78-76.—The Federal Aviation Administration on January 3 submitted a formal response to a recommendation issued last October 17 calling for issuance of an Airworthiness Directive similar to AD 67-26-3 for all Piper PA-28 amd PA-32 aircraft to require that the interior surfaces of both main fuel tanks are inspected for evidence of sealant deterioration. (See 43 FR 50063, October 26, 1978.)

In response FAA notes that after 1966 the sloshing process, using sloshing compound EC 776SR, was discontinued on fuel tanks manufactured at the Piper Vero Beach Plant. Since then, PRC 1422 sealant has been used and is applied only to the skin laps of production airplanes. FAA says that analysis of available service history on this process does not provide any basis for airworthiness directive action at this time. FAA is, however, acting to minimize the probability of fuel flow interruption due to contamination by sealant deterioration. FAA has requested that the manufacturer: Implement improved cleaning and flushing procedures for the fuel system during manufacturing buildup; revise the inspection items required at annual inspection as listed in the aircraft service manual to emphasize the detection of fuel system contamination; and revise the appropriate service manuals to emphasize cleaning and thorough removal of all old sealant prior to resealing, and to specifically prohibit localized or spot sealing.

Further, FAA will issue a maintenance alert item emphasizing the importance of strict adherence to the fuel tank sloshing procedures provided with the Randolph Sloshing Sealer 802 compound. FAA expects to complete these actions within 90 days.

A-78-79 through 81; A-78-82 and 83.—FAA's response of January 9 addresses two sets of related recommendations issued last October 26 as a result of safety Board investigation of two midair collisions—one, last May 18 near Memphis (Tenn.) International Airport involving a Cessna 150 and a Falcon Fan Jet, and the other occurring last September 25 over San Diego, Calif., involving a Pacific Southwest Airlines Boeing 727-214 and a Cessna 172. (See 43 FR 51151, November 2, 1978.)

Concerning A-78-79, FAA reports that procedures for handling consecutive approaches at Memphis have been formalized and instituted to require coordination of any consecutive approach prior to the aircraft's crossing the approach end of the runway; if that coordination is not approved, the aircraft is climbed to 3,000 feet and handled as a departure. Also, aircraft conducting multiple practice approaches will be required to climb straight ahead to 3,500 feet with control responsibility transferred to the TRACON, unless otherwise coordinated.

Recommendation A-78-80 calls for establishment of two categories of terminal radar service areas (TRSA)— locations handling the largest volume of traffic with automated ATC equipment available to be designated TRSA I locations, and the remaining areas to be designated TRSA II locations. FAA reports issuance of a proposed rulemaking which it believes will meet or exceed the intent of this recommendation without adding additional categories of airspace or control services. FAA believes the latter is necessary to facilitate pilot and public understanding of the system and the various levels of service provided.

Recommendation A-78-81 asked FAA to require Mode "C" transponder equipment for operations with a TRSA I and Group II TCA and require that a pilot of a VFR flight traversing a TRSA I establish radio contact with the appropriate ATC facility before entering the designated airspace. FAA will soon issue an advance proposed rulemaking to upgrade altitude encoding requirements.

Recommendations A-78-82 and 83, stemming from the San Diego accident, addressed visual separation in terminal control areas and TRSA's. In response, FAA states that the total use of visual separation which is permitted only in the terminal environment is currently under study by a

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task group composed of FAA headquarters, field personnel and Department of Defense representatives. All recommendations for changes resulting from this group will be submitted to all aviation interests, including the Safety Board, prior to May 1, 1979.

Highway

H-78-20.—Letter of January 12 from the Federal Highway Administration is in response to a recommendation issued last May 3 after the Safety Board completed a safety effectiveness evaluation of the National Accident Sampling System (NASS). The recommendation called for a comprehensive study of highway safety accident problem factors for data to identify the problem magnitude and support research and counter measure formulation, the problem factors to include geometric design factors, roadway surface skid resistance qualities, traffic control devices, traffic barrier systems, roadway hazards, and other factors related to highway operational safety. This study was to be designed to support the National Highway Transportation Safety Administration NASS program and activities of FHWA and State and local agencies involved in highway safety. (See 43 FR 20284, May 11, 1978.)

FHWA reports in response that an extensive list of data items related to highway and motor carrier safety was submitted by FHWA to NHTSA in May 1978 for consideration and possible inclusion in NASS forms. A joint FHWA/NHTSA subcommittee which reports to the Executive Coordination Group is now reviewing the data items on this list. Meetings of this group were held in August, September, November 1978, and a fourth meeting is planned for early 1979.

Further, FHWA reports planning a comprehensive study of its needs for safety-related information. In "A Statement of National Highway Transportation Policy," December 1976, FHWA said the ". . . safety considerations must be accounted for throughout each stage in the transportation development process." A task force is now determining the needed information to carry out this policy and should complete its report within 3 or 4 months. The scope, objectives, and approach for this task force study are described in an FHWA Notice, "Study of FHWA's Safety-Related Information Needs."

H-78-51.—Letter of January 9 from FHWA is in response to the Safety Board's December 1 comments on FHWA's initial response dated October 25 to one of two recommendations issued last July 19 following investigation of the tractor-cargo-tank semitrailer accident which occurred near Beattyville, Ky., September 24. 1977. The recommendation asked FHWA to expedite the implementation of the findings of the FHWA study, "Analysis of Cargo-Tank Interity in Rollovers, Final Report, October, 1977," by Dynamic Sciences, Inc., FHWA Contract DOT-FH-9193. (See 43 FR 56113, November 30, 1978.)

As indicated in the Board's December 1 letter, the primary concern in issuing this recommendation was the time element. The need for methods to reduce leakage from cargo tanks in overturn situations was firmly established by a study begun as a result of an NTSB recommendation made in 1973. This tank analysis study also confirmed the need for clarification of Federal regulations. The Board also noted that current FHWA action includes an engineering research effort of one year, a review of that research, and regulatory activity which in itself includes notices of proposed rulemaking, more review, and final publication of rules with an effective date usually beyond that. This total process could conceivably take three to six years, which means that, if all goes well, a problem identified in 1973 might be solved in 1981. The Board asked FHWA to do all in its power to expedite the process by keeping review periods in check and reducing any slippage in contract time.

Attached to FHWA's January 9 response is a paper entitled "Summary of Research and Regulatory Actions Pertinent to Leakage in Cargo Tanks." FHWA shares the Board's concern regarding the time consumed in the regulatory process and states that, upon completion of the planned research, every effort will be made to expedite any resultant revision to the Materials Transportation Bureau for promulgation under 49 CFR Part 178 or Part 177. The Board will be kept apprised of the progress in the research study and will be invited to any meangful contract briefing.

H-78-69.—FHWA's letter of January 5 provides the initial response to a recommendation arising from the investigation of a truck-semitrailer collision with a pickup truck near Marion, N.C., January 25, 1978. The recommendation called on FHWA to review North Carolina's barrier rail installation practices to assure conformity to height standards. (See 43 FR 48742, October 19, 1978.)

In response, FHWA states that it has long recognized the problem of improper height of guardrails and refers for example to paragraph 4.g. of FHWA Notice N 5040.19, dated June 28, 1976, and to the American Association of State Highway and Transportation Officials "Guide for Selecting, Locating, and Designing Traffic Barriers," 1977. Copies of these references are attached to FHWA's response. Also, instead of a review of only North Carolina practices, FHWA reports that a memorandum, dated November 21, was sent to all FHWA field offices with the expectation that reviews will be made as the Division Administrators deem appropriate. A copy of this memorandum is also provided.

Railroad

R-78-1 through 4.—Letter of December 22 from Conrail responds to the Safety Board's comments of November 3 concerning recommendations issued last February 15 following investigation of the June 12, 1977, collision of two Conrail freight trains at Stemmers Run near Baltimore, Md. The recommendations asked Conrail to insure that its freight trains and locomotives receive proper airbrake tests (R-78-1); equip all mainline freight trains with radio capable of communicating between trains, between trains and base stations, and between both ends of the same train (R-78-2); supplement Rule 102 by requiring the crewmembers of all trains to noitfy by radio the appropriate authority (dispatcher, etc.) immediately when a train stops under unpredicted circumstances and require that authority to inform all trains that are approaching the stopped train (R-78-3); and determine whether engineers on Conrail freight trains fully understand and use train brakes properly (R-78-4). (See 43 FR 8600, March 2, 1978.)

Last September 6 Conrail's initial response indicated that a program to insure proper airbrake tests has been instituted and that inspections are monitored on a daily basis. Conrail also informed the Board that a study is in progress to determine the feasibility of adopting a Conrail policy which will provide radio communications within cabooses. Conrail reported that its new Rule 102 provides that when a train is moving and emergency application of the brakes occurs, adjacent tracks must be protected in both directions by fusees and if possible, by radio transmission to other trains and train dispatcher. Further, Conrail's September 6 letter outlined Conrail's training program, stating, "It is unrealistic to expect a supervisor to accompany every engineer on every trip to determine compliance of airbrake rules." Conrail relies on the individual to perform his duties properly using knowledge gained in promotional and remedial training programs.

On November 3 the Safety Board, in answer to Conrail's September 6 response, asked for further advice concerning Conrail's program to insure proper airbrake tests and the related monitoring system. The Board stated its accord with Conrail's policy to equip each mainline locomotive consist of an operating radio in the controlling unit, but wanted to be advised of Conrail's decision to equip mainline cabooses with radios, as outlined in recommendation R-78-2.

With reference to recommendation R-78-3, the Board noted in its November 3 letter Conrail's revised Rule 102 contains two improvements on the previous rule—the mandatory use of fusees and the radio transmission to other trains and to the train dispatcher. The Board concurred with Conrail in that some circumstances, such as the close proximity of a passing train, radio "dead spots," overlapping transmissions, and preoccupation with other duties, may result in an untimely or futile transmission, but believes that fusee protection of adjacent tracks plus a transmission of an emergency brake application could be the difference between an unexpected to stop and a subsequent collision. Further, the Board noted that revised Rule 102 does not afford "immediate" fusee protection and does not absolutely require radio transmissions to other trains and train dispatcher. The Board asked to be advised of Conrail's intent to emphasize these points in their training and rules classes.

Concerning recommendation R-78-4, the Board commended Conrail's use of the Stemmers Run accident for training and instruction purpose is commendable. The Board agreed that placing a supervisor on every train is not realistic and recognized that efficiency testing of operating employees affords railroad management a valuable tool in determining each engineer's proper understanding of airbrakes. The Board asked to be advised of Conrail's method of such testing, outlining the frequency and type of testing of locomotive engineers.

Conrail's December 22 response addresses the Board's November 3 comments. As to recommendation R-78-1, Conrail says that terminal airbrake tests are made on all Conrail trains by car inspectors, who are required to complete a form for each group of cars tested; the forms are maintained at the terminal offices. Overall responsibility for assuring proper airbrake tests is in the hands of mechanical supervisors who monitor the testing by the car inspectors for compliance with all applicable Federal regulations.

Concerning recommendation R-78-2, Conrail advises that after conducting a study the company has decided not to equip each caboose with radios, but Conrail is providing portable radios to all crewmembers whose responsibilities require them to be on the rear of Conrail trains. Currently 5,000 such radios are in service and another 5,200 sets are on order, scheduled for delivery by April 1, 1979.

With regard to recommendation R-78-3, Conrail will hold special classes on the new Book of Rules for Conducting Transportation, strongly emphasizing revised Rule 102. This will include the requirement to provide immediate fusee protection, and, if possible, to notify other trains in the area and the train dispatcher when emergency situations arise. Conrail notes that although revised Rule 102 does not specifically indicate that fusees are to be immediately provided, this requirement is understood and will be underscored in the training and rule classes. employees will also be instructed that unless radio transmission is impossible due to "dead spots," close proximity of passing trains, etc., the train dispatcher and other trains in the area must be notified of emergency situations.

Concerning recommendation R-78-4, Conrail reports that new engine service employees are trained at the various enginemen's training schools throughout the Conrail system to comply fully with airbrake rules. Train and engine service employees are required to complete the qualification page in their timetables, including information as to (1) date of last physical examination, (2) employee qualifications—geographical, (3) date of last examination—Book of Rules and Timetables, and (4) date of last airbrake examination or instruction. Conrail further notes that road foremen assigned to Conrail's major terminals are responsible for monitoring all train and engine service employees for compliance with rules. The road foremen ride with and observe train and engine crews and a record is maintained on Conrail's Operational and Safety Test Form 1872. Conrail also has a mandatory program that requires all train and engine service employees to be reinstructed in airbrake operation every two years. Each Region and Division monitors the records of employees' biannual airbrake instruction due dates.

R-78-5 and 6.—Responsive to recommendations also issued as a result of the Stemmers Run accident is the letter of January 4 from the Federal Railroad Administration. These recommendations asked FRA to analyze the data relating to the role of radio in train accidents and report its findings (R-78-5), and, unless refuted by that analysis, require railroads to install radios where appropriate on trains and to maintain them in operating condition, unless all personnel involved are notified to the contrary by appropriate railroad procedures (R-78-6). (See 43 FR 8600, March 2, 1978.)

In response, FRA reports that analysis of a five-year study of train accidents resulting from improper use of radio or the malfunction of the radio equipment shows 24 accidents in 1976, 23 in 1975, 2 in 1974, 2 in 1973, and 1 in 1972. FRA notes that the increase in figures for 1975-1976 when compared to the figures for the three previous years is misleading in that it was brought about by revision to the accident reporting cause codes. The revision made it possible to more clearly identify these types of causes in the reporting of train accidents, FRA said. Nine of the radio related accidents shown were caused by either the failure of radio equipment or the failure of personnel to properly utilize radio. Since the principal problem appears to be improper use, FRA has developed standards for the proper use of radio for train operations and has incorporated certain testing requirements governing the radio equipment utilized on engines and cabooses.

Based on review of the accident statistics attributable to the use of radio in railroad operations, FRA does not find justification for promulgation of additional regulations requiring the installation of radios.

R-78-26 and 27.—Letter of January 15 from FRA is in response to recommendations issued last June 28 following investigation of the collision of a Louisiana & Arkansas Railway Company (L&A) freight train and an L. V. Rymes tractor-semitrailer at Goldonna, La., December 28, 1977. (See 43 FR 29195, July 6, 1978.)

In response to R-78-26, which recommended that FRA assure that L&A complies with the requirements of 49 CFR Part 174 (Transportation of Hazardous Materials), FRA states that since the Goldonna accident L&A has issued to its employees the Bureau of Explosives booklet, "Emergency Handling of Hazardous Materials in Surface Transportation" and B. E. Pamphlet 20. The fire departments along L&A'S road also received these two publications. FRA also reports that L&A is trying to increase employee congnizance of the rules for handling hazardous materials. L&A's Superintendent of Safety has attended numerous Hazardous Materials conferences and has passed this information on to company employees. L&A conducts monthly goal meetings with special emphasis on hazardous materials handling. Further, FRA's Director of Safety in Region 4 will continue to monitor L&A's compliance with hazardous materials handling rules.

Recommendation R-78-27 asked FRA to quickly conclude its study of improvements to the design of locomotive operator compartments to minimize crash damage and to promulgate necessary regulations. FRA reports that in FY 1979, scale model impact tests will be conducted on the crashworthy locomotive cab conceptual design and the energy absorption capability of that design will be evaluated. A full-scale demonstration cab will

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be completed by December 1979, and the actual full-scale testing of the design is scheduled for June 1980. FRA says that all of the tests will be completed and the report issued the first quarter of 1982.

NOTE: Copies of Safety Board press releases and safety recommendation response letters in their entirety are available without charge. All requests for copies must be in writing, identified by press release or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 29594.

Single copies of the Annual Review of Aircraft Accident Data, 1977, are also available free of charge by writing to the Safety Board. Multiple copies of this and other Safety Board reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

JANUARY 22, 1979.

[FR Doc. 79-2625 Filed 1-24-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for Clearance of Reports intended for use in collecting information from the public received by the Office of Management and Budget on January 19, 1979 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service
Status of Claims Against Households
FNS-209
Monthly
648 State food stamp programs 648 responses; 1,296 hours
Ellett, C.A., 395-5080

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation
Monthly return of arson offenses known to law enforcement
4-749
Monthly
180,000 nationwide law enforcement agencies 180,000 reponses; 90,000 hours
Office of Federal Statistical Policy and Standard, 673-7956

REVISIONS

VETERANS ADMINISTRATION

Fiduciary Account Book and Accounting Form
27-4718 and 27-4706
Annually
Fiduciary
63,300 responses; 126,600 hours
Caywood, D.P., 395-6140

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health
Individual National research Service Award Application (Research Fellowship Application)
Phs 416-1, 2, 3, 5, 6, 7, and 6031-1
On occasion
Individual fellowship applicants and awardees
27,500 responses; 51,860 hours
Richard Eisinger, 395-3214

OFFICE OF THE SECRETARY

Income Survey Development Program—1978
Research Panel Round-up
OS-1-79
Quarterly
Household members in national probability sample
78,959 responses; 27,636 hours
Office of Federal Statistical Policy and Standards, 673-7956

DEPARTMENT OF INTERIOR

Bureau of Land Management
Grazing application (grazing schedule)
4130-1
On occasion
Applicants for grazing authorization
21,000 responses; 7,000 hours
Ellett, C.A., 395-5080

EXTENSIONS

NATIONAL SCIENCE FOUNDATION

Final Project Report
NSF-98A
Annually
Colleges and universities
10,000 responses; 5,000 hours
LaVerne V. Collins, 395-3214

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

DOD Industrial Plant Equipment Requisition (NASA use)
DD 1419
On occasion
NASA contractors
900 responses; 198 hours
Caywood, D.P., 395-6140

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration
Engineers' monthly report of substation progress
REA-457
Monthly
REA electric borrowers
516 reponses; 516 hours
Ellett, C.A., 395-5080

FOOD AND NUTRITION SERVICE

Claim for Reimbursement—Summer Food Service Program
FNS-143 and 143-1, SF-270
Monthly
Summer camps
2,400 responses; 792 hours
Caywood, D.P., 395-6140

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-2628 Filed 1-24-79; 8:45 am]

[3110-01-M]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 18, 1979 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

INTERNATIONAL COMMUNICATION AGENCY

Update of Information on Exchange Visitor Program Sponsor
IAP-87
On occasion
6,000 universities, colleges, and private foundations
6,000 responses; 1,500 hours
Marsha Traynham, 395-6140

REVISIONS

INTERNATIONAL COMMUNICATION AGENCY

Fact Sheet for Performing Artists Touring Privately
IAP-90
On occasion
Performing artists
500 responses; 250 hours
Marsha Traynham, 395-6140

VETERANS ADMINISTRATION

National Service Life Insurance—Claim for monthly payments
29-4125A
On occasion
Beneficiary
12,000 responses; 3,000 hours
Caywood, D. P., 395-6140

DEPARTMENT OF COMMERCE

Bureau of Census
Footwear
MA-31A
Annually
Footwear manufacturers
750 responses; 990 hours
Office of Federal Statistical Policy and Standard, 673-7956

BUREAU OF CENSUS

Apparel (production and shipment)
MA-23A and MA-23A(S)
Annually
Apparel manufacturers and jobbers
5,000 responses; 8,500 hours
Office of Federal Statistical Policy and Standard, 673-7956

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit
Application for Insurance—supplementary loan
FHA-3201-A
On occasion
Cooperativeproject mortgagors
190 responses; 95 hours
Strasser, A., 395-5080

DEPARTMENT OF LABOR

Labor Management and Service Administration
Simplified Annual Report Format
Annually
Labor unions
5,000 responses; 833 hours
Strasser, A., 395-5080

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-2615 Filed 1-24-79; 8:45 am]

[3110-01-M]

UNIFORM RULES OF PROCEDURE FOR BOARDS OF CONTRACT APPEALS

Invitation for Public Comment

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget.

ACTION: Notice of proposed direction regarding Uniform Rules of Procedure for Boards of Contract Appeals.

SUMMARY: This proposed direction would instruct the General Services Administration and the Department of Defense to incorporate changes regarding rules of Boards of Contract Appeals and related material into the Federal Procurement Regulations (FPR) and Defense Acquisition Regulations (DAR).

On November 1, 1978, the President signed into law Pub. L. 95-563, the "Contract Disputes Act of 1978."

That Act, among other things, requires changes to the Rules of Procedure currently in use by the Boards of Contract Appeals of the procuring agencies, as well as certain other changes in contract clauses and procurement regulations. The proposed regulations set forth below incorporate the changes required by Pub. L. 95-563, as well as certain other improvements. The proposed Rules of Procedure are to be adopted uniformly by all Boards of Contract Appeals.

DATE: Comments must be received on or before February 23, 1979.

ADDRESS: Comments are to be submitted to the Office of Federal Procurement Policy, OMB, 726 Jackson Place, NW., Room 9025, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Mr. Owen Birnbaum, Deputy Associate Administrator for Acquisition Law (202) 395-3455.

LESTER A. FETTIG,
Administrator.

PROPOSED RULES OR PROCEDURES

PREFACE TO RULES

1. *Jurisdiction for considering appeals*

The —— Board of Contract Appeals (referred to herein as "the Board") shall consider and determine appeals from decisions of contracting officers relating to contracts awarded by (i) the —— (executive agency) or (ii) any other executive agency when such agency or the Administrator for Federal Procurement Policy has designated the Board to decide the appeal.

2. *Organization and location of the Board*

(a) The Board's address is (——).

(b) The Board consists of a Chairman, (Vice Chairman), and other members, all of whom are attorneys at law duly licensed by any state, commonwealth, territory, or the District of Columbia. In general, the appeals are assigned to a panel of at least (—) members who decide the case by a majority vote.

3. *Board of Contract Appeals procedure*

(a) Time, computation, and extensions—

(1) Where possible, procedural actions should be taken in less time than the maximum time allowed. Where appropriate and justified, however, extensions of time will be granted. All requests for extensions of time shall be in writing.

(2) In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall run to the end of the next business day.

PRELIMINARY PROCEDURES

1. *Appeals, How Taken*

(a) Notice of an appeal must be in writing and together with two copies must be filed with the contracting officer from whose decision the appeal is taken. The notice of appeal must be mailed or otherwise filed within ninety (90) days from the date of receipt of a contracting officer's final decision.

(b) Where the contractor has submitted a claim of $50,000 or less to the contracting officer and has requested a written final decision within sixty (60) days from receipt of such request, and the contracting officer has not done so, the contractor may file a written notice of appeal directly with the Board, citing the failure of the contracting officer to issue a decision.

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(c) Where the contractor has submitted a claim in excess of $50,000 to the contracting officer and the contracting officer has failed to issue a final decision within a reasonable time, the contractor may file a written notice of appeal directly with the Board, citing the failure to issue a decision.

(d) Upon docketing of appeals filed pursuant to (b) or (c) hereof, the Board may, on motion of either party, or on its own motion, stay further proceedings pending issuance of a final decision by the contracting officer within such period of time as is determined by the Board.

2. *Notice of Appeal, Contents of*

A notice of appeal should indicate that an appeal is being taken and should identify the contract (by number), the department and agency or bureau involved in the dispute, and the decision from which the appeal is taken. The notice of appeal should be signed by the appellant (the contractor making the appeal), or by the appellant's duly authorized representative or attorney. The complaint referred to in Rule 6 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

3. *Forwarding of appeals*

When a notice of appeal in any form has been received by the contracting officer he shall endorse thereon the date of mailing (or date of receipt, if otherwise conveyed) and within 10 days shall forward it to the Board. Following receipt by the Board of the original notice of an appeal (whether through the contracting officer or otherwise), the appellant and contracting officer will be promptly advised of its receipt and the appellant will be furnished a copy of these rules.

4. *Preparation, Content, Organization, Forwarding, and Status of Appeal File*

(a). Duties of Contracting Officer—Within 30 days of receipt of an appeal, or notice that an appeal has been filed, the contracting officer shall assemble and transmit to the Board (through the) an appeal file consisting of all documents pertinent to the appeal, including:

(1) The decision from which the appeal is taken;

(2) The contract including specifications and pertinent amendments, plans and drawings;

(3) All correspondence between the parties pertinent to the appeal, including the letter or letters of claim in response to which the decision was issued;

(4) Transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and

(5) Any additional information considered pertinent.

Within the same time above specified the (3/M) shall furnish the appellant a copy of each document he transmits to the Board, except those in subparagraph (a)(2) above. As to the latter, a list furnished appellant indicating specific contractual documents transmitted will suffice.

(b) Duties of the Appellant—Within 30 days after receipt of a copy of the appeal file assembled by the contracting officer, the appellant shall transmit to the Board any documents not contained therein which he considers pertinent to the appeal, and furnish two copies of such documents to the Government trial attorney.

(c) Organization of Appeal File—Documents in the appeal file may be originals or legible facsimile or authenticated copies, and shall be arranged in chronological order where practicable, numbered sequentially, tabbed, and indexed to identify the contents of the file.

(d) Lengthy Documents—Upon request by either party, the Board may waive the requirement to furnish to the other party copies of bulky, lengthy, or out-of-size documents in the appeal file when inclusion would be burdensome. At the time a party files with the Board a document as to which such a waiver has been granted he shall notify the other party that the document or a copy is available for inspection at the offices of the Board or of the party filing same.

(e) Status of Documents in Appeal File—Documents contained in the appeal file are considered, without further action by the parties, as part of the record upon which the Board will render its decision. However, a party may object to consideration of a particular document or all documents in advance of hearing or of settling the record in the event there is no hearing on the appeal. If such objection is made, the Board will rule upon admissibility into the record as evidence in accordance with Rules 13 and 20 hereof.

5. *Dismissal for Lack of Jurisdiction*

Any motion addressed to the jurisdiction of the Board shall be promptly filed. Hearing on the motion shall be afforded on application of either party. However, the Board may determine that its decision on the motion will be deferred pending hearing on both the merits and the motion. The Board shall have the right at any time and on its own motion to raise the issue of its jurisdiction to proceed with a particular case, and shall do so by an appropriate order, affording the parties an opportunity to be heard thereon.

6. *Pleadings*

(a) Appellant—Within 30 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board an original and two copies of a complaint setting forth simple, concise and direct statements of each of its claims. Appellant shall also set forth the basis, with appropriate reference to contract provisions, of each claim and the dollar amount claimed. The pleading shall fulfill the generally recognized requirements of a complaint, although no particular form or formality is required. Upon receipt of the complaint, the Board shall serve a copy of it upon the Government. Should the complaint not be received within 30 days, appellant's claim and appeal may, if in the opinion of the Board the issues before the Board are sufficiently defined, be deemed to set forth its complaint and the Government shall be so notified.

(b) Government—Within 30 days from receipt of the complaint, or the aforesaid notice from the Board, the Government shall prepare and file with the Board an original and two copies of an answer thereto. The answer shall set forth simple, concise and direct statements of Government's defenses to each claim asserted by appellant. This pleading shall fulfill the generally recognized requirements of an answer, and shall set forth any affirmative defenses or counter-claims as appropriate. Upon receipt of the answer, the Board shall serve a copy upon appellant. Should the answer not be received within 30 days, the Board may, in its discretion, enter a general denial on behalf of the Government, and the appellant shall be so notified.

7. *Amendments of Pleadings or Record*

The Board upon its own initiative or upon application by a party may, in its discretion, order a party to make a more definite statement of the complaint or answer, or to reply to an answer.

The Board may, in its discretion, and within the proper scope of the appeal, permit either party to amend its pleading upon conditions fair to both parties. When issues within the proper scope of the appeal, but not raised by the pleadings or the documentation described in Rule 4, tried by express or implied consent of the parties, or by permission of the Board, they shall be treated in all respects as if they had been raised therein. In such instances, motions to amend the pleadings to conform to the proof may be entered, but are not required. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings or the Rule 4 documentation (which shall be deemed part of the pleadings for this purpose), it may be admitted within the proper scope of the appeal, provided, however, that the objecting party may be granted a continuance if necessary to enable it to meet such evidence.

8. *Hearing Election*

After filing of Government's answer or notice from the Board that it has entered a general denial on behalf of the Government, each party shall advise whether it desires a hearing as prescribed in Rules 17 through 25, or whether, it elects to submit its case on the record without a hearing, as prescribed in Rule 11.

9. *Prehearing Briefs*

Based on an examination of the documentation described in Rule 4, the pleadings, and its determination of whether the arguments and authorities addressed to the issues are adequately set forth therein, the Board may, in its discretion, require the parties to submit prehearing briefs in any case in which a hearing has been elected pursuant to Rule 8. If the Board does not require prehearing briefs either party may, in its discretion and upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall simultaneously be furnished to the other party as previously arranged.

10. *Prehearing or Presubmission Conference.*

Whether the case is to be submitted pursuant to Rule 11, or heard pursuant to Rules 17 through 25, the Board may upon its own initiative, or upon the application of either party, call upon the parties to appear before an Administrative Judge or examiner of the Board for a conference to consider:

(a) Simplification or clarification of the issues;

(b) The possibility of obtaining stipulations, admissions, agreements on documents, and understandings on matters already of record, or similar agreements that will avoid unnecessary proof;

(c) Limitation of the number of expert witnesses, or avoidance of similar cumulative evidence;

(d) The possibility of agreement disposing of any or all of the issues in dispute; and

(e) Such other matters as may aid in the disposition of the appeal.

The results of the conference shall be reduced to writing by the Administrative Judge or examiner and this writing shall thereafter constitute part of the record.

11. *Submission Without a Hearing*

Either party may elect to waive a hearing and to submit its case upon the record before the Board, as settled pursuant to Rule 13. Submission of a case without hearing does not relieve the parties from the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories, and stipulations may be employed to supplement other docmentary evidence in the Board record. The Board may permit such submission to be supplemented by oral argument (transcribed if requested), and by briefs arranged in accordance with Rule 23.

12. *Optional SMALL CLAIMS (EXPEDITED) and ACCELERATED Procedures. These procedures are available solely at the election of the appellant.*

12.1. *Elections to Utilize SMALL CLAIMS (EXPEDITED) and ACCELERATED Procedure.*

(a) In appeals where the amount in dispute of $10,000 or less, the appellant may elect to have the appeal processed under a SMALL CLAIMS (EXPEDITED) procedure requiring decision of the appeal, whenever possible, within 120 days after the Board receives written notice of the appellant's election to utilize this procedure. The details fo this procedure appear in section 12.2 of this Rule. An appellant may elect the ACCELERATED procedure rather than the SMALL CLAIMS (EXPEDITED) procedure for any appeal eligible for the SMALL CLAIMS (EXPEDITED) procedure.

(b) In appeals where the amount in dispute is $50,000 or less, the appellant may elect to have the appeal processed under an ACCELERATED procedure requiring decision of the appeal, whenever possible, within 180 days after the Board receives written notice of the appellant's election to utilize this procedure. The details of this procedure appear in section 12.3 of this Rule.

(c) The appellant's election of either the SMALL CLAIMS (EXPEDITED) procedure or the ACCELERATED procedure may be made either in his notice of appeal or by other written notice at any time thereafter.

(d) In deciding whether the SMALL CLAIMS (EXPEDITED) procedure or the ACCELERATED procedure is applicable to a given appeal, the Board shall determine the amount in dispute by adding the amount claimed by the appellant against the Government to the amount claimed by Government against the appellant. If either party making a claim against the other party does not otherwise state in writing the amount of its claim, the amount claimed by such party shall be the maximum amount which such party represents in writing to the Board that it can reasonably expect to recover against the other.

12.2 *The SMALL CLAIMS (EXPEDITED) Procedure.*

(a) This procedure shall apply only to appeals where the amount in dispute is $10,000 or less as to which the appellant has elected the SMALL CLAIMS (EXPEDITED) procedure.

(b) In cases proceeding under the SMALL CLAIMS (EXPEDITED) procedure, the following time periods shall apply: (1) Within ten days from the respondent's first receipt from either the appellant or the Board of a copy of the appellant's notice of election of the SMALL CLAIMS (EXPEDITED) procedure, the respondent shall send the Board a copy of the contract, the contracting officer's final decision, and the appellant's claim letter or letters, if any; (2) within 15 days after the Board has acknowledged receipt of the notice of election, either party desiring an oral hearing shall so inform the Board. If either party requests an oral hearing, the Board shall promptly schedule such a hearing for a mutually convenient time consistent with administrative due process and the 120-day limit for a decision, at a place determined under Rule 17. If a hearing is not requested by either party within the time prescribed by this Rule, the appeal shall be deemed to have been submitted under Rule 11 without a hearing.

(c) In cases proceeding under the SMALL CLAIMS (EXPEDITED) procedure, pleadings, discovery, and other prehearing activity will be allowed only as consistent with the requirement to conduct the hearing on the date scheduled or, if no hearing is scheduled, to close the record on a date that will allow decision within the 120 limit. The Board, in its discretion, may shorten time periods prescribed elsewhere in these Rules as necessary to enable the Board to decide the appeal within 120 days after the Board has received the appellant's notice of election of the SMALL CLAIMS (EXPEDITED) procedure. In so doing the Board may reserve whatever time up to 30 days it considers necessary for preparation of the decision.

(d) Written decision by the Board in cases processed under the SMALL CLAIMS (EXPEDITED) procedure will be short and contain only summary findings of fact and conclusions. Decisions will be rendered for the Board by a single Administrative Judge. If there has been a hearing, the Administrative Judge presiding at the hearing may, in his discretion, at the conclusion of the hearing and after entertaining such oral arguments as he deems appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the Appeal. Whenever such an oral decision is rendered, the Board will subse-

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quently furnish the parties a typed copy of such oral decision for record and payment purposes and to establish the date of commencement of the period for filing a motion for reconsideration under Rule 29.

(e) Decisions of the Board under the SMALL CLAIMS (EXPEDITED) procedure will not be published, will have no value as precedents, and, in the absence of fraud, cannot be appealed.

12.3. *The ACCELERATED Procedure*

(a) This procedure shall apply only to appeals where the amount in dispute is $50,000 or less as to which the appellant has made the requisite election.

(b) In cases proceeding under the ACCELERATED procedure, the parties are encouraged, to the extent possible consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs, The Board, in its discretion, may shorten time periods prescribed elsewhere in these Rules as necessary to enable the Board to decide the appeal within 180 days after the Board has received the appellant's notice of election of the ACCELERATED procedure, and may reserve 30 days for preparation of the decision.

(c) Written decisions by the Board in cases processed under the ACCELERATED procedure will normally be short and contain only summary findings of act and conclusions. Decisons will be rendered for the board by a single Administrative Judge with the concurrence of the Chairman or a Vice Chairman or other disignated Administrative Judge, or by a majority among these two and an additional designated member in case of disagreement. Alternatively, in cases where the amount in dispute is $10,000 or less as to which the ACCELERATED procedure has been elected and in which there has been a hearing, the single Administrative Judge presiding at the hearing may, with the concurrence of both parties, at the conclusion of the hearing and after enteraining such oral arguments as he deems appropriate, render on the record oral summary findings of fact, conclusions, and a decision of the appeal. Whenever such an oral decision is rendered, the Board will subsequently furnish the parties a typed copy of such oral decison for record and payment purposes and to establish the date of commencement of the period for filing a motion for reconsderation under Rule 29.

12.4. *Motions for Reconsideration in Rule 12 cases*

Motions for Reconsideration of cases decided under either the SMALL CLAIMS (EXPEDITED) procedue or the ACCELERATED procedure need not be decided within the time periods prescribed by this Rule 12 for the initial decision of the appeal, but all such motions shall be processed and decided rapidly so as to fulfill the intent of this Rule.

13. *Settling the Record*

(a) The record upon which the Board's decision will be rendered consists of the appeal file described in Rule 4 and, to the extent the following items have been filed, pleadings, prehearing conference memoranda or orders, prehearing briefs, depositions or interrogatories received in evidence, admissions, stipulations, transcripts of conferences and hearings, hearing exhibits, posthearing briefs, and documents which the board has specifically designated be made a part of the record. The record will, at all resonable times, be available for inspection by the parties at the office of the Board.

(b) Except as the Board may otherwise order in its discretion, no proof shall be received in evidence after completion of an oral hearing or, in cases submitted on the record, after notification by the Board that the case is ready for decision.

(c) The weight to be attached to any evidence of record will rest within the sound discretion of the Board. The Board may in any case require either party, with appropriate notice to the other party, to submit additional evidence on any matter relevant to the appeal.

14. *Discovery—Depositions*

(a) General Policy and Protective Orders—The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the board may make any order required to protect a party or person from annoyance, embarrassment, or undue burden or expense. Those orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(b) When Depositions Permitted—After an appeal has been docketed and complaint filed, the parties may mutually agree to, or the Board may, upon application of either party, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purpose of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(c) Orders on Depositions—The time, place, and manner of taking depositions shall be as mutually agreed by the parties, or failing such agreement, governed by order of the Board.

(d) Use as Evidence—No testimony taken by depositions shall be considered as part of the evidence in the hearing of an appeal until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence if the deponent can testify at the hearing. In such instances, however, the deposition may be used to contradict or impeach the testimony of the deponent given at the hearing. In cases submitted on the record, the Board may, in its discretion, receive depositions to supplement the record.

(e) Expenses—Each party shall bear its own expenses associated with the taking of any deposition.

(f) Subpoenas—Where appropriate, a party may request the issuance of a subpoena under the provisions of Rule 21.

15. *Interrogatories to Parties, Admission of Facts, and Production and Inspection of Documents*

(a) Interrogatories to parties—After an appeal has been filed with the Board, a party may serve on the other party written interrogatories to be answered separately in writing, signed under oath and returned within 30 days. Upon timely objection by the party, the Board will determine the extent to which the interrogatories will be permitted.

(b) Admission of facts—After an appeal has been filed with the Board, a party may serve upon the other party a request for the admission of specified facts. Within 30 days after service, the party served shall answer each requested fact or file objections thereto. The factual propositions set out in the request shall be deemed admitted upon the failure of a party to respond to the request for admission.

(c) Production and inspection of documents—Upon motion of any party showing good cause therefor, and upon notice, the Board may order the other party to produce and permit the inspection and copying or photographing of any documents or objects, not privileged, which are reasonably calculated to lead to the discovery of admissible evidence. If the parties cannot agree thereon, the Board shall specify terms and conditions in making the inspection and taking the copies and photographs.

16. *Service of Papers Other than Subpoenas*

Papers shall be served personally or by mail, addressed to the party upon whom service is to be made. Copies of complaints, answers and simultaneous briefs shall be filed directly with the Board. The party filing any other paper with the Board shall send a copy thereof to the opposing party, noting on the paper filed with the Board that a copy has been so furnished. Subpoenas shall be served as provided in Rule 21.

Hearings

17. *Where and When Held*

Hearings will ordinarily be held in the Washington, D.C. area. however, upon timely request and for good cause, the Board may set the hearing at another location. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals and other pertinent factors. On request or motion by either party and for good cause, the Board may, in its discretion, advance a hearing.

18. *Notice of Hearings*

The parties shall be given at least 15 days notice of the time and place set for hearings. In scheduling hearings, the Board will consider the desires of the parties and the requirement for just and inexpensive determination of appeals without unnecessary delay. Notices of hearing shall be promptly acknowledged by the parties.

19. *Unexcused Absence of a Party*

The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in Rule 11.

20. *Hearings: Nature; Examination of Witnesses*

(a) *Nature of Hearings.* Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Appellant and respondent may offer such relevant evidence as they deem appropriate and as would be admissible under the Federal Rules of Evidence, subject, however, to the sound discretion of the presiding Administrative Judge or examiner in supervising the extent and manner of presentation of such evidence. In general, admissibility will depend on relevancy and materiality. Evidence which may not be admissible under the Federal Rules of Evidence may be admitted in the discretion of the presiding Administrative Judge or examiner. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may require evidence in addition to that offered by the parties.

(b) *Examination of Witnesses.* Witnesses before the Board will be examined orally under oath or affirmation, unless the presiding Administrative Judge or examiner shall otherwise order. If the testimony of a witness is not given under oath, the Board may advise the witness that his statements may be subject to the provisions of Title 18, United States Code, sections 287 and 1001, and any other provision of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof.

21. *Subpoenas*

(a) *General*

Upon written request of either party filed with the (clerk, recorder), or on his own motion, the Administrative Judge to whom a case is assigned or who is otherwise designated by the Chairman may issue a subpoena requiring:

(i) *Testimony at a deposition*—the deposing of a witness in the city or country where he resides or is employed or transacts his business in person, or at another location convenient for him that is specifically determined by the Board;

(ii) *Testimony at a hearing*—the attendance of a witness for the purpose of taking testimony at a hearing; and

(iii) *Production of books, papers, documents, or tangible things*—in addition to (i) or (ii), the production by the witness at the deposition or hearing of relevant books, papers, documents, or tangible things designated in the subpoena.

(b) *Voluntary Cooperation*

Each party is expected (i) to cooperate and make available witnesses and books, papers, documents, or tangible things under its control as requested by the other party, without issuance of a subpoena, and (ii) to secure voluntary attendance of desired third-party witness and production of desired third-party books, papers, documents, or tangible things whenever possible.

(c) *Requests for Subpoenas*

(1) A request for a subpoena shall normally be filed at least:

(i) 15 days before a scheduled deposition where the attendance of a witness at a deposition is sought;

(ii) 30 days before a scheduled hearing where the attendance of a witness at a hearing is sought.

In its discretion the Board may honor requests for subpoenas not made within these time limitations.

(2) A request for a subpoena shall state the reasonable scope and general relevance to the case of the testimony and of any books, papers, documents, or tangible things sought.

(d) *Requests to Quash or Modify*

Upon written request by the person subpoenaed or by a party, made within 10 days after service but in any event not later than the time specified in the subpoena for attendance, the Board may (i) quash or modify the subpoena if it is unreasonable and oppressive or for other good cause shown, or (ii) require the person in whose behalf the subpoena was issued to advance the reasonable cost of producing subpoenaed books, papers, documents, or tangible things. Where circumstances require, the Board may act upon such a request at any time after a copy has been served upon the opposing party.

(e) *Form; Issuance*

(1) Every subpoena shall state the name of the Board and the title of the appeal, and shall command each person to whom it is directed to attend and give testimony, and if appropriate, to produce specified books, papers, documents, or tangible things, at a time and place therein specified. In issuing a subpoena to a requesting party, the Administrative Judge shall sign the subpoena and may, in his discretion, enter the name of the witness and otherwise leave it blank. The party to whom the subpoena is issued shall complete the subpoena before service.

(2) Where the witness is located in a foreign country, a letter rogatory or subpoena may be issued and served under the circumstances and in the manner provided in 28 U.S.C. 1781-1784.

(f) *Service*

(1) The Administrative Judge may arrange for service of the subpoenas or may release them to the parties for service.

(2) A subpoena requiring the attendance of a witness at a deposition or hearing may be served at any place. A subpoena may be served by a United States marshal or his deputy, or by any other person who is not a party and not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by personally delivering a copy to him and tendering to him the fees for one day's attendance and the mileage provided by 28 U.S.C. 1821 or other applicable law.

(3) The party at whose instance a subpoena is issued shall be responsible for the payment of fees and mileage of the witness and of the officer who serves the subpoena. The failure to make payment of such charges on demand may be deemed by the Board as a sufficient ground for striking the testimony of the witness and the books, papers, documents, or tangible things he has produced.

(g) *Contumacy or Refusal to Obey a Subpoena*

In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States District Court, the Board will apply to the court through the Attorney General of the United States for an order requiring the person to appear before the Board or a member thereof to give testimony or produce evidence or both. Any failure of any such person to obey the order of the

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court may be punished by the court as a contempt thereof.

22. *Copies of Papers*

When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor, during the hearing or at the conclusion thereof.

23. *Posthearing Briefs*

Posthearing Briefs may be submitted upon such terms as may be agreed upon by the parties and the presiding Administrative Judge or examiner at the conclusion of the hearing. Ordinarily, they will be simultaneous briefs, exchanged within 30 days after receipt of transcript.

24. *Transcript of Proceedings*

Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders. Transcripts or copies of the proceedings shall be supplied to the parties at such rates as may be fixed by ( ).

25. *Withdrawal of Exhibits*

After a decision has become final the Board may, upon request and after notice to the other party, in its discretion permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board in its discretion as a condition of granting permission for such withdrawal.

Representation

26. *The Appellant*

An individual appellant may appear before the Board in person, a corporation by one of its officers; and a partnership or joint venture by one of its members; or any of these by an attorney at law duly licensed in any state, commonwealth, territory, or in the District of Columbia. An attorney representing an appellant shall file a written notice of appearance with the Board.

27. *The Government*

Government counsel may, in accordance with their authority, represent the interest of the Government before the Board. They shall file notices of appearance with the Board, and notice thereof will be given appellant or his attorney in the form specified by the Board from time to time. Whenever appellant and the Government counsel are in agreement as to disposition of the controversy, the Board may suspend further processing of the appeal. However, if the Board is advised thereafter by either party that the controversy has not been disposed of by agreement, the case shall be restored to the Board's calendar without loss of position.

Decisions

28. *Decisions*

Decisions of the Board will be made in writing and authenticated copies of the decision will be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions shall be open for public inspection at the offices of the Board in Washington, D.C. Decisions of the Board will be made solely upon the record, as described in Rule 13.

Motion for Reconsideration

29. *Motion for Reconsideration*

A motion for reconsideration may be filed by either party. It shall set forth specifically the grounds relied upon to sustain the motion. The motion shall be filed within 30 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion.

Dismissals

30. *Dismissal Without Prejudice*

In certain cases, appeals docketed before the Board are required to be placed in a suspense status and the Board is unable to proceed with disposition thereof for reasons not within the control of the Board. Where the suspension has continued, or may continue, for an inordinate length of time, the Board may, in its discretion, dismiss such appeals from its docket without prejudice to their restoration when the cause of suspension has been removed. Unless either party or the Board acts within three years to reinstate any appeal dismissed without prejudice, the dismissal shall be deemed with prejudice.

31. *Dismissal for Failure to Prosecute*

Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the Board, comply with orders of the Board, or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the Board may issue an order requiring the offending party to show cause why the appeal should not be either dismissed or granted, as appropriate. If no cause is shown, the Board may take appropriate action.

ExParte Communications

32. No member of the Board or of the Board's staff shall entertain, nor shall any person directly or indirectly involved in an appeal submit to the Board or the Board's staff, off the record, any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an appeal. This provision does not apply to consultation among Board members nor to exparte communications concerning the Board's administrative functions or procedures.

Sanctions

33. If any party fails or refuses to obey an order issued by the Board, the Board may then make such order as it considers necessary to the just and expeditious conduct of the appeal.

Effective Date

34. These rules shall take effect on March 1, 1979.

PROPOSED REGULATORY COVERAGE AND CONTRACT CLAUSE

I. REGULATORY COVERAGE—DISPUTES PROCEDURE

Section 1-314 of the Defense Acquisition Regulation and Section 1-1.318 of the Federal Procurement Regulations are amended to provide as follows:

1. Contractor claims against the Government.

(a) As used in connection with this disputes procedure—

(1) "Misrepresentation of fact" means a false statement of substantive fact, or any conduct which leads to a belief of a substantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead.

(2) "Claim" means a written demand for a decision of the contracting officer pursuant to the Contract Disputes Act of 1978, 41 U.S.C. 601, *et. seq.*

2. (a) Only a written submission shall constitute a claim by the contractor. The claim shall include the amount or other relief sought and appropriate supporting data. In the case of claims or amendments to claims exceeding $50,000, or with any amendment causing the total claim to exceed $50,000, the Contractor shall certify, when the Contracting Officer and the Contractor agree that the claim is ready for a decision under (f) below, as follows:

I certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief; and that the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable.

Contractor's Name _____

Title _____

(b) The Government shall pay the contractor interest—

(1) On the amount found due on claims;

(2) At the rate fixed by the Secretary of the Treasury, under the Renegotiation Act, Public Law 92-41, in effect on the date the Contracting Officer receives a claim;

(3) From the date payment is due or the Contracting Officer receives the

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claim, whichever is later, until the Government makes payment.

(c) If a contractor cannot support any of its claim as a result of fraud or misrepresentation of fact, then, in addition to whatever remedies or penalties may otherwise be provided by law, the Contractor shall—

(1) Pay the Government an amount equal to the unsupported part of the claim;

(2) Pay all Government costs attributable to reviewing that part of the claim;

(d) Agencies shall report all instances of suspected fraudulent claims using the procedures in (———).

(e) The Contracting Officer shall give the Contractor a decision in accordance with (f) below on any unsatisfied Government demand against the Contractor relating to the contractor.

(f) Contracting Officer's decision.

(1) When a claim cannot be satisfied or settled by agreement and a decision on the claim is necessary the Contracting Officer shall:

(i) Review the facts pertinent to the claim;

(ii) Secure assistance from legal and other advisors;

(iii) Coordinate with the contract administration office or contracting office, when appropriate.

(iv) Furnish a copy of the decision to the contractor, by certified mail, return receipt requested, or any other method that provides evidence of receipt; and

(v) Include in the final decision:

(A) A paragraph substantially as follows: This is the final decision of the Contracting Officer. This decision may be appealed to the cognizant Board of Contract Appeals. If you decide to make such an appeal you must mail or otherwise furnish written notice thereof to the Contracting Officer, and to the Board under its Rules, within ninety days from the date you receive this decision. The notice shall indicate that an appeal is intended, should reference this decision, and identify the contract by number. In lieu of appealing to the cognizant Board of Contract Appeals you may bring an action directly in the U.S. Court of Claims, within twelve months of the date you receive this decision.

(B) A description of the claim or dispute;

(C) A reference to pertinent contract provisions;

(D) A statement of the factual areas of agreement or disagreement.

(E) A statement of the contracting officer's decision, with supporting rationale.

(F) Notification that the small claims procedure of the cognizant Board shall be applicable at the sole election of the contractor in the event the amount in dispute as a result of the final decision is $10,000 or less.

(G) Notification that the accelerated procedure of the cognizant Board shall be applicable at the sole election of the contractor in the event the amount in dispute as a result of the final decision is $50,000 or less.

(vi) Issue the decision within the following statutory time limitations:

(A) For claims not exceeding $50,000: Sixty days after receipt of the claim.

(B) For submitted claims exceeding $50,000: Sixty days after receipt of claim; provided, however, if a decision is not issued within sixty days the contracting officer shall notify the contractor of the time within which he will make the decision. The reasonableness of this time period will depend on the size and complexity of the claim and the adequacy of the contractor's supporting data and any other relevant factors.

(g) The amount determined payable pursuant to the decision, less any portion already paid, normally should be paid without awaiting contractor action concerning appeal. Such payment shall be without prejudice to the rights of either party.

(h) These procedures do not affect the rights or authority of the Government regarding any demand or dispute for penalties or forfeitures prescribed by statute or regulation that any agency is specifically authorized to administer, settle, or determine, nor do they apply to requests for relief under Pub. L. 85-804.

(i) Informal Administrative Conference.

(1) At any time prior to an appeal to a Board of Contract Appeals or suit in court, an agency shall afford a contractor at least one opportunity for an informal conference with the agency for the purpose of considering the possibility of disposing of the claim by mutual agreement.

(2) This conference shall be held within thirty days of the request for such conference, or later as mutually agreeable between the contractor and the agency head or his designee. The conference shall be conducted by a designee or designees of the agency head selected from a level above the office to which the contracting officer is attached, who, if feasible, shall not have participated substantially in any prior decision on the claim.

(3) The conferees may consider any material, written or oral, relevant to the claim, but testimony or evidence shall not be taken. Any documentary materials or oral statements submitted during the conference shall not be evidence in any subsequent appeal or suit in court on the claims unless offered anew and admissible under applicable rules of evidence. Any offers of settlement or compromise during or resulting from the conference shall be without prejudice and shall not be evidence or referred to in any subsequent appeal or suit in court on the claim.

(4) If the agency conferees determine that the claim or dispute should be settled, compromised, paid, or otherwise adjusted by mutual agreement, they shall make a written report to the agency head within thirty days of the conference detailing the basis for their determination and recommending exercise of his settlement authority. The agency head shall act pursuant to his settlement authority within sixty days, or later if mutually agreeable between the contractor and the agency head, after receiving the agency conferees' report and recommendations.

(5) A request for a conference with the agency does not affect the time for commencement of a contractor's appeal to the agency board of contract appeals or filing a suit in court. However, an agency board shall stay further proceedings whenever a timely requested conference has not been conducted at the time the contractor files an appeal with the agency board until the conference is held or waived by the contractor.

II. DISPUTES CLAUSE

1. Section 7-103.12 of the Defense Acquisition Regulation and Section 1—7.102-12 of the Federal Procurement Regulation are amended to provide as follows:

The Contracting Officer shall insert the following clause in all contracts unless exempted by the head of the agency under 41 U.S.C. 603(c).

Disputes Clause

(a) If this contract is subject to the Contract Disputes Act of 1978, (41 U.S.C. 601, et. seq.) any dispute or claim relating to this contract shall be resolved in accordance with the provisions of that Act.

(b) On request, the contracting officer shall promptly furnish the contractor a copy of the regulations and procedures applicable to the resolution of claims and disputes relating to this contract.

(c) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal or action related to the contract, and comply with any decision of the Contracting Officer rendered pursuant to the Contract Disputes Act of 1978.

[FR Doc. 79-2688 Filed 1-24-79; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20892; 70-6042]

ALLEGHENY POWER SYSTEM, INC.

Post-Effective Amendment Regarding Issuance and Sale of Short-Term Notes to Banks and to Commercial Paper Dealer; Request for Exemption From Competitive Bidding

JANUARY 18, 1979.

Notice is hereby given that Allegheny Power System, Inc. ("Allegheny"), 320 Park Avenue, New York, New York 10022, a registered holding company, has filed with this Commission a post-effective amendment to the application previously filed in this proceeding pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transactions.

By orders in this proceeding dated September 21, 1977, and August 24, 1978 (HCAR Nos. 20185 and 20682), Allegheny was authorized to borrow funds during the period ending March 31, 1979, through the issuance and sale of short-term notes to banks and commercial paper to a commercial paper dealer in an aggregate amount not to exceed $70,000,000 outstanding at any one time. The notes and commercial paper were to be issued and renewed from time to time as funds were required prior to March 31, 1979, provided that no such notes or commercial paper would mature after September 30, 1979. The list of banks and maximum amounts to be borrowed were as follows:

Citibank, N.A., New York, New York	$40,000,000
The Chemical Bank, New York, New York	30,000,000
Mellon Bank, N.A., Pittsburgh, Pennsylvania	55,000,000
Pittsburgh National Bank, Pittsburgh, Pennsylvania	7,500,000
Manufacturers Hanover Bank, New York, New York	60,000,000
Irving Trust Company, New York, New York	5,000,000
Chase Manhattan Bank, N.A., New York, New York	2,500,000
	$200,000,000

The maximum amount of such borrowings at any one time outstanding was not, when taken together with any commercial paper then outstanding, to be in excess of $70,000,000.

By post-effective amendment, it is now proposed that: (1) the period for the borrowings be extended to March 31, 1980, (2) the latest maturity date be September 30, 1980, and (3) the maximum amount of bank notes and commercial paper outstanding at any one time be increased to $130,000,000.

As of January 5, 1979, Allegheny had $47,905,000 of short-term debt outstanding. It is stated that Allegheny desires to increase and extend its authority to issue short-term debt to permit it to make such investments as may be necessary to assist its subsidiaries to the greatest extent possible. The presently projected maximum investments by Allegheny in its subsidiaries in 1979 are as follows: Monongahela Power Company, $25,000,000; The Potomac Edison Company, $30,000,000; and West Penn Power Company, $25,000,000. The presently estimated 1979 construction programs of the subsidiaries are as follows: Monongahela Power Company, $70,000,000 to $75,000,000; The Potomac Edison Company, $65,000,000 to $70,000,000; and West Penn Power Company, $120,000,000 to $125,000,000.

Each note payable to a bank will be dated as of the date of the borrowing which it evidences, will mature not more than two hundred seventy (270) days after the date of issuance or renewal thereof, will bear interest at the prime or equivalent interest rate of the bank at which the borrowing is made in effect at the time of issuance, or in effect from time to time, and will be payable at any time without premium or penalty.

The proposed commercial paper will be in the form of promissory notes in denominations of not less than $50,000 nor more than $5,000,000, will be of varying maturities, with no maturity more than 270 days after the date of issue, and will not be prepayable prior to maturity. The commercial paper notes will be sold directly to the dealer, at a discount not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and of the particular maturity. The dealer may reoffer the commerical paper at a discount rate of ⅛ of 1% per annum less than the discount rate to Allegheny. Allegheny may issue commerical paper notes if (1) the interest cost thereof is equal to or less than the effective interest cost at which Allegheny could borrow the same amount from the banks named herein at that time or (2) Allegheny cannot at that time borrow the same amount for the same period of time from the banks named herein. The dealer will reoffer the commercial paper notes to not more than 200 of its customers, identified and designated in a list (non-public) prepared in advance. It is expected that the commerical paper notes will be held by the dealer's customers to maturity, but if the customers wish to resell prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase the notes and reoffer them to others on said list.

The original filing stated that no commitment or agreement had been made with respect to the proposed borrowings and that Allegheny and its subsidiaries maintain balances to meet regular operating requirements at all of the banks which may vary in amount from time to time. It was stated that such balances are generally either on the basis of a percentage of the line of credit extended by such bank (for example 10%), or a higher percentage of notes outstanding (for example 20%), whichever is greater, or a percentage of the line of credit (for example 10%) plus a percentage (for example 10%) of notes outstanding, in every case on an average annual basis. If such balances were maintained by Allegheny solely to fulfill compensating balance requirements for borrowings to be made by Allegheny, the effective interest cost to Allegheny of issuing and selling the notes would be no more than 14.68% on the basis of a prime commercial credit rate of 11¾% and 15% with a prime rate of 12%.

By an earlier post-effective amendment, it was stated that certain of the banks listed above had offered to substitute fees for, or to be used in conjunction with, lower compensating balances than those set forth above. The fee arrangements vary. In some cases fees equal to a specific percentage of the prime commercial rate (for example 8¼% of the prime commercial rate) are involved, while in another instance the arrangement provides that balances be maintained equal to 5% of the line of credit with an additional fee of 2¼% of prime. Allegheny is not to utilize the fee arrangements unless the effective cost thereof is less than the compensating balance arrangement in effect at that bank at that time. It is stated that the fee arrangements produce an effective interest cost of issuing and selling the notes of between 13.35% and 14.05% on the basis of a prime commercial rate of 11¾% and 13.63% and 14.35% on the basis of a prime commercial credit rate of 12% rather than the 14.68% and 15.00% effective cost resulting from meeting compensating balance requirements set forth above.

Exception from the competitive bidding requirements of Rule 50 has been requested for the proposed issuance and sale of commercial paper pursuant to paragraph (a)(5) thereof, since it is not practicable to invite competitive bids for commercial paper and current rates for commercial paper for prime borrowers such as Allegheny are published daily in financial publications. Allegheny has also requested authority to file certificates under Rule 24 with respect to the issuance and sale of commercial paper on a quarterly basis.

In all other respects the proposed transactions remain the same. No state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 13, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as now amended or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporation Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2547 Filed 1-24-79; 8:45 am]

[8010-01-M]

[Administrative Proceeding File No. 3-5602; File No. 81-441]

CAPITOL HILL ASSOCIATES, INC.

Application and Opportunity for Hearing

JANUARY 17, 1979.

Notice is hereby given that Capitol Hill Associates, Inc. (the "Applicant"), has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting it from the periodic reporting requirements under Section 15(d) of the 1934 Act.

The Applicant states:

(1) On May 12, 1978, the Applicant sold all of its assets to the Republican National Committee pursuant to a Plan of Complete Liquidation and Distribution.

(2) The plan was described in the Applicant's Form 10-K for the fiscal year ending January 1, 1978 and various Form 8-K reports.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington D.C. 20549.

Notice is further given that any interested person no later than February 12, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability if a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2548 Filed 1-24-79; 8:45 am]

[8010-01-M]

[Admin. Proceeding File No. 3-5596; File No. 81-415]

CCI LIFE SYSTEMS INC.

Application and Opportunity for Hearing

JANUARY 17, 1979.

Notice is hereby given that CCI Life Systems Inc. (the "Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), for an order exempting the Applicant from the requirements to file reports pursuant to Sections 13 and 15(d) of the Exchange Act.

The Applicant states in part:

1. Pursuant to a statutory merger effected on September 18, 1978, the Applicant was merged with and into Dialco Incorporated, and each outstanding share of the Applicant was surrendered for cash. As a result of the merger, the Applicant ceased to exist or to have any shareholders.

2. Dialco, Inc., the successor corporation, is jointly owned by Akzo Pharma B. V., a Netherland corporation, and Akzona, Inc, a Delaware corporation. The common stock of Akzona is registered with the Commission pursuant to Section 12(b) of the 1934 Act, and is publicly traded on the New York and Pacific Stock Exchanges.

3. Audited financial statements for the Applicant have been presented as of the latest fiscal year ended April 30, 1978 in notices sent to shareholders in connection with the merger, as well as audited interim financial statements for the quarter ended July 31, 1978.

4. As a result of the merger, there are no securities of the Applicant in the hands of the public, and there is no longer any trading market for the Applicant's securities.

In the absence of an exemption, Applicant is required to file reports pursuant to Sections 13 and 15(d) of the Exchange Act and the rules and regulations thereunder for the balance of the fiscal year ending April 30, 1979. Applicant believes that its request for an order exempting it from the provisions of Section 13 and 15(d) of the Exchange Act is appropriate in view of the fact that Applicant believes that the time, effort and expense involved in the preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person no later than Feb. 12, 1979 may submit to the Commission in writing his view or any substantial facts bearing on this application or the desireability of a hearing thereon. Any such communication or request should be addressed: Secretary, securities and Exchange Commission, 500 North Capital Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2549 Filed 1-24-79; 8:45 am]

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[8010-01-M]

[Rel. No. 10564; 812-4391; 812-4392]

COMMERCE INCOME SHARES, INC. AND IMPACT FUND, INC.

Filing of Application for an Order Exempting Proposed Transaction and Granting an Exemption

JANUARY 18, 1979.

Notice is hereby given that Commerce Income Shares, Inc. ("Commerce") and Impact Fund, Inc. ("Impact") (collectively, "Applicants"), 711 Polk Street, Houston, Texas 77002, both registered under the Investment Company Act of 1940 ("Act") as open-end, diversified management investment companies, filed applications on November 10, 1978, and an amendment thereto on December 26, 1978, for an order: (1) pursuant to Section 17(b) of the Act exempting from the provisions of Section 17(a) the proposed sale by Impact of its assets to Commerce in exchange for shares of Commerce, and (2) pursuant to Section 6(c) of the Act exempting from the provisions of Rule 22c-1 the issuance of Commerce shares in the proposed sale at a price based on their net asset value as of the close of business on the business day next preceding the closing of the transaction. All interested persons are referred to the applications and amendment on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants represent that the same individuals who serve Commerce as directors also serve Impact as directors, and that all but one of the officers of Impact hold the identical offices with Commerce. In addition, one of the directors and all but one of the officers of Impact and Commerce are employed by or are officers and/or directors of Funds, Inc., the investment adviser for Commerce and Impact. Accordingly, Applicants state that they may be deemed to be under common control and, therefore, that they may be affiliated persons of each other. Section 2(a)(3)(C) of the Act defines affiliated person of another person to include any person under common control with such other person.

Applicants state that pursuant to a Plan and Agreement of Reorganization ("Agreement") between Commerce and Impact, Impact will transfer all of its cash and securities, subject to Impact's retention of assets sufficient to pay its liabilities and expenses, to Commerce in exchange for Commerce's shares. Commerce will not assume liabilities of Impact in connection with the acquisition and subsequent dissolution of Impact. Commerce has been informed by Impact that all of Impact's assets consist of securities, cash, accounts receivable, claims, contract rights, and rights to tax-loss carry-forwards.

The number of shares of Commerce to be issued is to be determined by dividing the aggregate value of the assets of Impact to be transferred to Commerce by the net asset value per share of Commerce, both to be determined as of the close of business on the business day immediately preceding the closing date. Immediately after closing, Impact intends to cause the Commerce shares to be distributed to its shareholders of record, and as soon as possible thereafter, to inform each former Impact shareholder of the number of Commerce shares to which he is entitled. The valuation procedures to be applied to the Commerce shares and Impact assets are those which are set forth in the current Commerce prospectus. Applicants state that as of August 31, 1978, Commerce's and Impact's total net assets (including cash and cash equivalents) amounted to approximately $47,130,055 and $10,175,927, respectively. No tax adjustments will be made in the net assets of either Impact or Commerce to reflect differences in unrealized appreciation and realized losses which either may have in its portfolio.

Applicants state that the reorganization is contingent upon receipt of a ruling by the Internal Revenue Service to the effect that the transaction will constitute a tax-free reorganization and that no gain or loss will be recognized by Applicants or their shareholders as a result of the transaction. Applicants further represent that the Agreement is subject to approval by the holders of two-thirds of the outstanding voting securities of Impact.

Section 17(a) of the Act provides, in pertinent part, that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such an affiliated person, knowingly to sell to or purchase from such investment company any security or other property. Section 17(b) of the Act provides, however, in part, that the Commission shall, upon application, grant an exemption from such prohibition if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve any overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned, and with the general purposes of the Act.

Applicants state that the proposed acquisition may be deemed to involve the purchase and sale of securities and other property between affiliated registered investment companies and, therefore, may be deemed to violate Section 17(a) of the Act. However, Applicants represent that the terms of the proposed reorganization are reasonable and fair and do not involve overreaching on the part of any person concerned and are consistent with the policies of each and with the general purposes of the Act. Applicants assert that the exchange will be on the basis of respective net asset values. Applicants state that as of August 31, 1978, Commerce had net unrealized appreciation of $98,478 and Commerce had realized losses of $3,223,074. Impact had unrealized appreciation of $355,068 and realized losses of $2,754,883 on that date. No tax adjustment will be made to reflect the differences in unrealized appreciation and realized losses of Applicants. Applicants assert that the potential tax consequences to an individual shareholder of the reorganized entity cannot practically be determined or accounted for in the consideration exchanged in the proposed reorganization. Moreover, Applicants state that, in any event, such tax consequences would be minor. Applicants also point out that Commerce would violate its Articles of Incorporation if it were to issue its shares at less than their current net asset value.

Applicants assert that consummation of the proposed transaction will eliminate the current duplication of certain expenses borne by the Applicants. In addition, Applicants represent that Impact's expense ratio is expected to be reduced by approximately 0.5 % as a result of the transaction. Commerce will benefit in that it will acquire compatible portfolio securities on which brokerage expenses have already been paid. Finally, Applicants contend that the investment objectives of both Commerce and Impact contain flexibility to emphasize either common stocks, bonds and/or cash equivalents, although Commerce places a greater emphasis on current income.

Rule 22c-1 under the Act provides, in part, that no registered investment company shall sell, redeem, or repurchase any redeemable security of which it is the issuer except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase of sell such security. Applicant state that because under the Agreement, the respective net asset values of each will be determined as of the close of business on the business day immediately preceding the reorganization, the issuance by Commerce of shares of its capital stock in the reorganization may not comply with Rule 22c-1.

Section 6(c) of the Act provides, in part, that the Commission may by order, upon application, exempt any person, security, or transaction from any provision of the Act or any rule thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants submit that the timing of the determination of net asset values of the Applicants is appropriate. Applicants submit that such timing will not give rise to the speculative activity which Rule 22c-1 was designed to prohibit. Therefore, Applicants state that the granting of the exemption is appropriate in the public interest and consistent with the protection of investors and with the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 12, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, be certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2550 Filed 1-24-79; 8:45 am]

[8010-01-M]

[Admin. Proceeding File No. 3-5615; File No. 81-419]

GLOBE-UNION, INC.

Application and Opportunity for Hearing

JANUARY 17, 1979.

Notice is hereby given that Globe-Union, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), seeking an exemption from the requirement to file reports pursuant to Sections 13 and 15(d) of the 1934 Act.

The Applicant states in part:

1. The Applicant was a publicly-held company with a class of securities registered pursuant to Section 12(b) of the 1934 Act, and was thus subject to the reporting provisions of Section 13 of the 1934 Act.

2. On October 10, 1978, the Applicant was merged with Johnson Controls, Inc. pursuant to an Agreement and Plan of Reorganization dated June 27, 1978.

3. As a result of the merger, all the issued and outstanding shares of common stock of the Applicant are now owned by, and Applicant's outstanding debentures are guaranteed by, Johnson Controls, Inc.

4. After termination of its Section 12(b) registration on October 11, 1978, Applicant is subject to the reporting provisions of Section 15(d) of the 1934 Act.

In the absence of an exemption, Applicant will be required to file certain periodic reports with the Commission, including an annual report on Form 10-K for the fiscal year ended September 30, 1978, pursuant to Section 13 of the 1934 Act, and further reports for periods ending in 1979, pursuant to Section 15(d) of the 1934 Act.

The Applicant contends that no useful purpose would be served in filing the periodic reports because Johnson Controls, Inc. now owns all of the Applicant's common stock, and its common stock is no longer publicly traded.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Office of the Commission at 1100 L Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than Feb. 12, 1979 may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing if (ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2551 Filed 1-24-79; 8:45 am]

[8010-01-M]

[Admin. Proceeding File No. 3-5614; File No. 81-438]

M.A.G. LIQUIDATING CORPORATION (FORMERLY HOUSTON FIRST FINANCIAL GROUPS, INC.)

Application and Opportunity for Hearing

JANUARY 17, 1979.

Notice is hereby given that M.A.G. Liquidating Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") seeking an exemption from the requirements to file reports pursuant to Sections 13 and 15(d) of the Exchange Act.

The Applicant states, in part:

1. The Applicant is a Texas corporation subject to the reporting provisions of Sections 13 and 15(d) of the 1934 Act.

2. On June 29, 1978, the shareholders of the Applicant approved a proposal to sell all of the Applicant's assets and adopted a plan of complete liquidation.

3. The sale was consummated on June 30, 1978, at which time all of the Applicant's assets were purchased by HFG Stockholding, Inc., a wholly-owned subsidiary of Pennsylvania Life Company in exchange for cash and buyer's debentures.

4. The name of the Applicant was changed from Houston First Financial Group, Inc. to M.A.G. Liquidating Corporation on June 30, 1978, after the purchase.

In the absence of an exemption, Applicant is required to file pursuant to Sections 13 and 15(d) of the 1934 Act and the rules and regulations thereunder, an annual report on Form 10-K for its fiscal year ended December 31, 1978, and its quarterly report on Form 10-Q for the period ended September

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30, 1978. Applicant believes that its request for an order exempting it from the provisions of Sections 13 and 15(d) of the 1934 Act is appropriate in view of the fact that Applicant believes that the time, effort and expense involved in preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20005.

Notice is further given that any interested person not later than February 12, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2552 Filed 1-24-79; 8:45 am]

[8010-01-M]

[Rel. No. 34-15504; File No. SR-NSCC-78-10]

NATIONAL SECURITIES CLEARING CORP.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 14 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on Janaury 5, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF PROPOSED CHANGE

Rule 3 of the NCC Division of National Securities Clearing Corporation (NSCC) at paragraph (1) thereto, shall continue to read as follows until January 6, 1979:

(1) The Clearing Corporation, in its discretion, may maintain one or more clearing accounts and, in its own name or in such clearing accounts, may act for itself or may act for a clearing agency registered pursuant to the Securities Exchange Act of 1934, as amended ("registered clearing agency") in providing for, or in assisting the registered clearing agency to provide for, the prompt clearance and settlement of securities transactions by the Clearing Corporation or the registered clearing agency and the satisfaction of the Clering Corporation's or the registered clearing agency's obligations and responsibilities under the Securities Exchange Act of 1934, as amended.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change permits NSCC's SCC Division to interpose itself, between the NCC Divison on one hand, and Midwest Clearing Corporation (MCC) and Stock Clearing Corporation of Philadelphia (SCCP) on the other, in the interfaces for processing over-the-counter (OTC) transactions, as contemplated by the Securities and Exchange Commission (the Commission) in its Order of January 13, 1977 granting NSCC's registration as a Clearing Agency (at Exchange Act Release No. 34-13163). This interpositioning permits MCC and SCCP to only have to relate to one NSCC division, the SCC Division, for purposes of interface processing, instead of requiring separate interface arrangements to be made by MC and SCCP for processing exchange listed and OTC transactions until the date on which NSCC will have completed the operational shift of OTC processing from the NCC Division to the SCC Division.

The Commission initially approved the proposed rule change on a summary basis on May 18, 1978 (at Exchange Act Release No. 34-14772). Because that approval was for a six-month period of time, which would have expired shortly before NSCC completed the operational shift described above, upon NSCC request, the Commission extended the proposed rule change (at Exchange Act Release No. 34-15334) until January 6, 1979, by which date the operational shift will have been completed.

The proposed rule change facilities the prompt and accurate clearance and settlement of securities transactions and fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions by permitting NSCC, through the NCC Division, to act in a manner which will allow a participant in the registered clearing agency to clear and settle a securities transaction with a participant in another registered clearing agency.

No comments on the proposed rule change have been solicited or received.

The Corporation does not perceive that the proposed rule change would constitute a burden on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 15, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 18, 1979.

[FR Doc. 79-255 Filed 1-24-79; 8:45 am]

[8010-01-M]

[File No. 1-5654]

SFM CORP.

Application To Withdraw From Listing and Registration

JANUARY 16, 1979.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the BOSTON STOCK EXCHANGE, INC. ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of SFM Corporation (the "Company") has been listed for trading on the BSE since November 28, 1967. On December 21, 1978 the stock was also listed for trading on the American Stock Exchange, Inc. ("Amex"). The Company has decided that it does not wish to maintain a dual listing for its stock.

The application relates solely to the withdrawal from listing on the BSE and shall have no effect upon the continued listing of such common stock on the Amex. The BSE has posed no objection in this matter.

Any interested person may, on or before February 16, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2553 Filed 1-24-79; 8:45 am]

[8010-01-M]

[Admin. Proceeding File No. 3-5594; File No. 81-365]

SYCOR, INC.

Application and Opportunity for Hearing

JANUARY 17, 1979.

Notice is hereby given that Sycor, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting the Applicant from the obligations to file all reports required to be filed pursuant to Sections 13 and 15(d) of that Act.

Applicant states in part that:

(1) Applicant, a Delaware corporation, became a wholly-owned subsidiary of Northern Telephone Limited ("NTL"), as the result of a merger completed on May 26, 1978.

(2) The merger was approved by stockholders of the Applicant at a Special Meeting held April 19, 1978, proxies for which were solicited in accordance with the requirements of Regulation 14A under the 1934 Act.

(3) The Applicant has filed a report on Form 8-K reporting consummation of the merger.

In the absence of an exemption, Applicant is required to file reports pursuant to Sections 13 and 15(d) of the 1934 Act and the rules and regulations thereunder for the balance of the fiscal year ending December 31, 1978. Applicant believes that its request for an order exempting it from the provisions of Sections 13 and 15(d) of the 1934 Act is appropriate in view of the fact that the Applicant believes that the time, effort and expense involved in preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington D.C. 20549.

Notice is further given that any interested person no later than February 12, 1979 may submit to the Commission in writing his view or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At the time after said date, and order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2554 Filed 1-24-79; 8:45 am]

[8010-01-M]

[Release No. 34-15508; File No. SR-BSPS-78-5]

BRADFORD SECURITIES PROCESSING SERVICES, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 14, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change generally represents an increase in Registrant's fees. The schedules attached as Exhibit 2 to BSPS's filing on Form 19b-4A set forth the maximum fee Registrant will charge for each of the services listed thereon.

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the rule change is to change Registrant's fee schedule to reflect more accurately and to allocate more reasonably the fees for its services, particularly in light of substantial cost increments the Registrant has experienced over the past three years.

The raising of fees still maintains our basic billing structure among our participants.

To date, we have received verbal comments from certain customers indicating that they understand the need for a fee change and asking for further information as to its impact upon them. No written comments have been received.

BSPS is of the opinion that this fee change maintains its competitive position with other registered clearing agents and competing banks.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 15, 1979.

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For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 22, 1979.

[FR Doc. 79-2621 Filed 1-24-79; 8:45 am]

[8010-01-M]

[Rel. No. 15507; SR-MSE-78-19]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JANUARY 18, 1979.

On September 11, 1978, the Midwest Stock Exchange, Incorporated ("MSE") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of proposed rule changes which make necessary modifications to the MSE's rules for the implementation and operation of an Intermarket Trading System.

Notice of the proposed rule changes together with the terms of substance of the proposed rule changes was given by publication of a Commission Release (Securities Exchange Act Release No. 34-15223, October 6, 1978) and by publication in the FEDERAL REGISTER (43 FR 47336, October 13, 1978). All written statements with respect to the proposed rule changes which were filed with the Commission and all written communications relating to the proposed rule changes between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Sections 6 and 11A, and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and they hereby are, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2624 Filed 1-24-79; 8:45 am]

[8010-01-M]

[Rel. No. 34-15506; File No. SR-PHLX 78-22]

PHILADELPHIA STOCK EXCHANGE

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 30, 1978, the Philadelphia Stock Exchange, Inc. ("PHLX") filed with the Securities and Exchange Commission a proposed rule change. The PHLX has provided the Commission with the following statement of the terms of substance, basis and purpose of the proposed rule change.

STATMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The PHLX proposes to change its Rule 2002, Liability Relating to Operations of ITS, to provide an alternative method of entering commitments and receiving responses through the Intermarket Trading System (ITS) in order to relieve the specialist or specialist unit of the burden of ITS terminal operation during busy periods. In order to accomplish this, the proposed rule calls for establishment of a floor broker terminal, operated by a PHLX employee and outlines the responsibility of the employee and the floor broker as well as limit the liability of the PHLX for entry of data by the employee.

STATEMENT OF BASIS AND PURPOSE

The proposed rule change providing an alternative method of entering commitments and receiving responses through the Intermarket Trading System (ITS) is designed to foster efficiency in the operation ITS consistent with the provisions of Section 11A(a)(1) under the Securities Exchange Act of 1934, as amended.

No written comments have been received from members on the proposed rule change; however, the rule change is being proposed because of verbal comments and recommendations from specialists and specialist units.

No burden on competition will be imposed by the proposed Rule.

On or before March 1, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and published its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 26, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 18, 1979.

[FR Doc. 79-2622 Filed 1-24-79; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Disaster Loan Area Number 1562]

PENNSYLVANIA

Declaration of Disaster Loan Area

The area of Morton Avenue, Kedron Avenue and Route 420 in the town of Morton, Delaware County, Pennsylvania, constitutes a disaster area because of damage resulting from a fire which occurred on December 19, 1978. Applications will be processed under the provisions of Public Law 94-305. Interest rate is 7¾ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on March 22, 1979 and for economic injury until the close of business on October 19, 1979 at:

Small Business Administration, District Office, East Lobby—Suite 400, One Bala Cynwyd Plaza, 231 St. Asaphs Road, Bala Cynwyd, Pennsylvania 19004.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 19, 1979.

HAROLD A. THEISTE,
Acting Administrator.

[FR Doc. 79-2687 Filed 1-24-79; 8:45 am]

[4710-02-M]

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 99.1.17]

DIRECTOR, REGIONAL ECONOMIC DEVELOPMENT, BANGKOK, THAILAND

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby revoke Redelegation of Authority No. 99.1.17 to the Director, Regional Economic Development, Bangkok, Thailand (38 FR 27848).

This revocation is effective immediately.

Dated: January 12, 1979.

HUGH L. DWELLEY,
Director, Office of Contract Management.

[FR Doc. 79-2556 Filed 1-24-79; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 79-005]

PROPOSED RECONSTRUCTION OF HIGHWAY BRIDGE ACROSS GURNET STRAIT BETWEEN BRUNSWICK AND HARPSWELL, MAINE

Notice of Public Hearing

Notice is hereby given that the Commandant has authorized a public hearing to be held by the Commander, First Coast Guard District, at the Community Center, Cundys Harbor, Harpswell, Maine, from 7:00 p.m. to 12:00 midnight on February 26, 1979. The purpose of the hearing is to consider the application from the Maine Department of Transportation for a permit to reconstruct a highway bridge across Gurnet Strait between Brunswick and Harpswell, Maine. All interested persons may present data, views and comments orally or in writing at the public hearing concerning the impact of the proposed bridge on the environment and its effect on navigation. Of particular importance at this time are effects on navigation of the proposed bridge alignment and the vertical and horizontal clearances. Presentations should include factual data to support comments presented.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statment, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (obr), First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114, by February 21, 1979. Such notification should include the approximate time required to make the presentation. A transcript will be made of the hearing and may be purchased by the public. Comments previously submitted are a matter of record and need not be resubmitted at the hearing. speakers are encouraged to provide written copies of their oral statements to the hearing officer at the time of the hearing. Those wishing to make written comments only may submit those comments at the hearing, or to the Commander (obr), First Coast Guard District by March 9, 1979. Each comment should state the reasons for any objections, comments or proposed changes to the plans, and the name and address of the person or organization submitting the comment.

Copies of all written communications will be available for examination by interested persons at the office of the Commander (obr), First Coast Guard District. All comments received will be considered before final action is taken on the proposed bridge permit application. After the time set for the submission of comments, the Commander, First Coast Guard District, will forward the record, including all written comments, and his findings, conclusions and recommendations to the Commandant, U.S. Coast Guard, Washington, D.C. 20590. The Commandant will make the final determination of the bridge permit.

(Section 502, 60 Stat. 847, as amended; 33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(C); 49 CFR 1.46(c)(10).)

Dated: January 18, 1979.

F.P. SCHUBERT,
Captain, U.S. Coast Guard, acting Chief, Office of Marine Environment and Systems.

[FR Doc. 79-2631 Filed 1-24-79; 8:45 am]

[4910-14-M]

[CGD 79-010]

UNITED STATES COAST GUARD ACADEMY ADVISORY COMMITTEE

Renewal and Charter

This is to give notice, in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 1) of October 6, 1972, that the charter of the U.S. Coast Guard Academy Advisory Committee has been renewed by the Secretary of Transportation for a two-year period beginning January 16, 1979 through January 16, 1981.

The U.S. Coast Guard Academy Advisory Committee was established under section 6 of an Act of Congress, Pub. L. 75-38 of April 16, 1937 (14 U.S.C. 193) as amended.

The purpose of the Advisory Committee is to examine the curriculum and faculty of the Academy and advise the Commandant of recommendations to maintain and improve the Academy's high quality.

CHARTER—U.S. COAST GUARD ACADEMY ADVISORY COMMITTEE

1. *Purpose.* The purpose of this Instruction is to promulgate the charter of the Coast Guard Academy Advisory Committee in response to the provisions of reference (a).

2. *Directives Affected.* Commandant Instruction 5420.10B is hereby canceled.

3. *Background.* The Coast Guard Academy Advisory Committee was authorized by Section 6 of an Act of Congress, Pub. L. 75-38, on 16 April 1937. This Act permitted the Secretary to appoint an advisory committee of "five persons of distinction in the field of education who shall serve without pay." Subsequently, the 81st Congress increased the membership to "seven persons of distinction in education and other fields relating to the purposes of the Academy who shall serve without pay."

4. *Objectives.* The objectives and mission of the Committee are to advise the Commandant, United States Coast Guard, on the status of the curriculum and faculty of the United States Coast Guard Academy, making recommendations for improvement and maintenance of its high quality.

5. *Membership.* The Committee will consist of seven members who are recognized persons of distinction in the field of education and other fields relating to the purpose of the Academy, and who will be appointed by the Secretary to serve three-year terms.

6. *Committee Officers.* a. The *Chairman* shall be appointed by the Secretary and shall conduct each meeting, provide opportunity for participation by each member, and ensure adherence to the agenda.

b. The *Sponsor* of the Committee shall be the Commandant, to whom the Committee shall report.

c. *Executive Director* and permanent Vice Chairman shall be the Superintendent, united States Coast Guard Academy. He shall be responsible for preparing the agenda and submitting same to Commandant (G-P) eight weeks prior to the schedule date of the meeting. He shall be the designated Federal Office required by Section 10 of the Federal Advisory Committee Act and perform the duties pertaining thereto.

d. The *Executive Secretary* shall be the Academic Dean, United States Coast Guard Academy. He will assist the chairman and the Executive Direc-

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tor in discharging committee responsibilities.

e. The *Coast Guard Headquarters Liaison Officer* shall be Chief, Office of Personnel. He will be the point of contact for the Committee, Executive Director and the Executive Secretary and will provide all the necessary support services to permit the effective execution of Committee functions.

7. *Meetings.* The Committee shall meet approximately once every six months with special meetings called as necessary. Timely notice shall be published in the FEDERAL REGISTER. All meetings shall be open to the public, who shall be permitted to attend, appear before or file statements with the Committee. All members of the public may file written statements with the Advisory Committee before or after the meeting. The Committee may allow oral statements if desired and may establish procedures for their introduction. The Executive Director shall approve the calling of all meetings, approve all agenda, attend all meetings, and is authorized to adjourn any meeting whenever he determines it to be in the public interest.

8. *Subcommittees.* The Chairman is authorized, with the approval of the sponsor, to establish subcommittees from among the membership of the Committee. The subcommittee shall comply with all regulations to which the parent committee is subject.

9. *Cost.* All necessary operating expenses will be borne by the United States Coast Guard. It is estimated that the annual cost will be $5000.00 and 0.1 man-years. All members serve voluntarily without compensation, except for reimbursement for travel expenses and lodging plus $16.00 in lieu of subsistence, the total not to exceed $35.00 per day.

10. *Records Availability.* Subject to Section 552 of Title 5, U.S.C., the records reports, minutes, agenda or other documents shall be made available for public inspection and copying at a single location in the offices of the Executive Secretary.

11. *Reports.* A detailed report, including the minutes of each meeting, shall be furnished to the Commandant and shall include:

a. Persons present.

d. Complete and accurate description of matters discussed and conclusions reached.

c. Copies of reports received, issued or approved by the Committee.

d. Certification of accuracy by the Chairman and Executive Director.

12. *Filing Date.* January 16, 1979. This is the effective date of the charter which will expire two years from that date unless sooner terminated or extended.

Interested persons may seek additional information by writing: Capt. R. M. White, U.S.C.G., Executive Secretary, Coast Guard Academy Advisory Committee, U.S. Coast Guard Academy, New London, CT 06320, or by calling: 202-43-8688.

Dated: January 22, 1979.

W.H. STEWART,
Rear Adm., U.S. Coast Guard
Chief, Office of Personnel.

[FR Doc. 79-2630 Filed 1-24-79; 8:45 am]

[4910-14-M]

[CGD 79-002]

UNITED STATES COAST GUARD RESEARCH ADVISORY COMMITTEE

Termination

This is to give notice in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 1) of October 6, 1972, that the U.S. Coast Guard Research Advisory Committee has been terminated by the Secretary of the Department of Transportation effective January 16, 1979. This action was taken in response to the review of Federal Advisory Committees requested by the Office of Management and Budget's Transmittal Memorandum No. 5, Circular No. A-63 of March 7, 1977.

Any questions concerning this termination may be directed to: Mrs. Patricia A. Shenkle, Executive Secretary, U.S. Coast Guard Research Advisory Committee, U.S. Coast Guard (G-DS/62), Washington, D.C., 20590 or by calling 202-426-1037.

A. P. MANNING,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Research and Development.

[FR Doc. 79-2629 Filed 1-24-79; 8:45 am]

[4910-13-M]

Federal Aviation Administration

AIR TRAFFIC PROCEDURES ADVISORY COMMITTEE

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee to be held February 13 through February 16, 1979, from 9 a.m. E.D.T. to 4 p.m. daily, in conference rooms 9A and B at FAA Headquarters, 800 Independence Ave., S.W., Washington, D.C.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Mr. Franklin L. Cunningham, Executive Director, Air Traffic Procedures Advisory Committee, Air Traffic Service, AAT-300, 800 Independence Ave., SW., Washington, D.C. 20591, telephone (202) 426-3725.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on January 15, 1979.

F. L. CUNNINGHAM,
Executive Director, ATPAC.

[FR Doc. 79-2367 Filed 1-24-79; 8:45 am]

[4910-13-M]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA); SPECIAL COMMITTEE 134—ELECTRONIC TEST EQUIPMENT FOR GENERAL APPLICATION

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Special Committee 134 on Electronic Test Equipment for General Application to be held February 15-16, 1979, Conference Room 9W67, National Center #1, Naval Electronics Systems Command, 2511 Jefferson Davis Highway, Arlington, Virginia commencing at 9:00 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Remarks; (2) Approval of Minutes of Sixth Meeting held December 7-8, 1978; (3) Briefing on Federal and Defense Acquisition Regulations; (4) Consider Proposed Position on Service Credits for Maintenance; (5) Review Issue Paper on Warranty Shortfalls; (6) Review Issue Paper on Specification Confusion; (7) Review Issue Paper on Wasteful Cost of Obsolescence; (8) Report by *ad hoc* Group on use of Bid Sample Technique for Off-The-Shelf Electronic Test Equipment Procurement; (9) Identify Additional Issues and Establish Priorities and Work Schedule for all Issues, and (10) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should

contact the RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on January 15, 1979.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 79-2366 Filed 1-24-79; 8:45 am]

[4910-13-M]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA); SPECIAL COMMITTEE 138—MINIMUM PERFORMANCE STANDARDS FOR AIRBORNE OMEGA RECEIVING EQUIPMENT

Cancellation of Meeting

This Notice announces the cancellation of the Radio Technical Commission for Aeronautics (RTCA) Special Committee 138 meeting which was scheduled for January 30 and 31, 1979, and announced in the FEDERAL REGISTER on December 26, 1978, (43 FR 60247). The meeting has been rescheduled for March 8 and 9, 1979, and a revised Notice of Meeting will be published in the near future.

Issued in Washington, D.C. on January 16, 1979.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 79-2365 Filed 1-24-79; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

[Docket No. IP78-6; Notice 2]

GENERAL MOTORS CORP.

Grant of Petition for Inconsequential Noncompliance

This notice grants the petition by General Motors Corp. of Warren, Michigan ("GM" herein), to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.110, Motor Vehicle Safety Standard No. 110, *Tire Section and Rims for Passenger Cars.* The basis of the petition was that the noncompliance was inconsequential as it related to motor vehicle safety.

Notice of receipt of the petition was published in the FEDERAL REGISTER on July 3, 1978 (43 FR 28882) and an opportunity afforded for comment.

Approximately 1,402 1978 model Oldsmobile Cutlass Calais passenger cars equipped with bucket seats may carry tire inflation placards (required by Standard No. 110) with an incorrect seating capacity and vehicle capacity weight. The placards indicate that the front seating capacity is three persons when the correct capacity is two, that the occupant capacity is six when actually it is five, and that the total passenger capacity weight is 1,060 pounds when it is 950 pounds.

GM argued that the incorrect seating capacity noncompliance was inconsequential because the physical limitations of the vehicle precluded the addition of a third passenger in the front compartment. Further, even if the vehicle were loaded with an additional 150 pounds, its tire load limits would not be exceeded, because "they are identical to Cutlass series vehicles equipped with bench seats and six-passenger capacity." The noncompliance arose through a computer programming error which called for a five-passenger placard for vehicles with bucket seats but not for bucket seats with reclining backs. The error has now been corrected.

No comments were received on the petition.

NHTSA concurs with the petitioner's conclusion that the noncompliances are inconsequential as they relate to motor vehicle safety. The physical limitations of the bucket-seat equipped vehicles preclude the addition of a third passenger in the front compartment. If an additional 150 pounds could be added to the front compartment occupant weight, the tires would not be overloaded. Accordingly, General Motors has met its burden of persuasion, and its petition is hereby granted.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on January 19, 1979.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 79-2895 Filed 1-24-79; 8:45 am]

[4910-62-M]

Office of the Secretary

SURFACE TRANSPORTATION ADMINISTRATION

Draft Proposal to Establish

AGENCY: Department of Transportation.

ACTION: Notice to reopen comment closing date for consultative process.

SUMMARY: This Notice reopens the consultative process and extends the comment closing date, relating to the establishment of the Surface Transportation Administration, to March 2, 1979. This action is in response to a number of requests for further time to review, evaluate and respond to the proposal. In addition, since the Department does not now expect to go forward with the proposal before Spring 1979, additional comment time is available.

DATES: The consultative process is reopened and comments will continue to be received until March 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph Leo, M-21, Department of Transportation, Washington, D.C. 20590, ATTN: STA Working Group, Room 10324, 202-426-4494.

SUPPLEMENTARY INFORMATION: The Department of Transportation developed a draft proposal to establish a Surface Transportation Administration (STA) through consolidation of the Federal Highway Administration and the Urban Mass Transportation Administration. The Department initiated a consultative process which began on November 9, 1978, to solicit comments and suggestions from interested parties before developing a formal proposal for submission to the President and Congress early in 1979. The official closing date for comments expired on December 31, 1978. In order to afford more time to interested groups to comment on this proposal, the Department has decided to reopen the consultative process.

Accordingly, the comment period on the draft STA proposal is reopened until March 2, 1979.

(49 U.S.C. 1652 (e)(4))

Issued in Washington, D.C. on January 19, 1979.

RAYMOND J. SANDER,
Director of Management Planning.

[FR Doc. 79-2686 Filed 1-24-79; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 9 (Rev. 4)]

DEPUTY COMMISSIONER, ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Authority to permit the use of government owned or leased automobiles between home and work may not be redelegated below the District director in streamlined districts. This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury directive appearing in the FEDERAL REGISTER for Wednesday November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Alan Beck, 1111 Constitution Avenue, NW. Room 3308, Washington, D.C. 20224, (202) 566-4868 (Not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to the Assistant Commissioner (Compliance).

[Order No. 9 (Rev. 4)]

USE OF GOVERNMENT OWNED OR LEASED AUTOMOBILES BETWEEN HOME AND WORK

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 151 (Revision No. 4), dated October 7, 1974, I hereby delegate authority to designate employees authorized to use government owned or leased automobiles for transportation between their domiciles and places of employment, in accordance with the provisions of 31 U.S.C. 638a, to: Deputy Commissioner, Assistant Commissioners, Assistant to the Commissioner (Public Affairs), Division Directors, Regional Commissioners, Regional Inspectors, Chief Counsel, Regional Counsel, Director of International Operations.

The authority delegated herein may be redelegated only by the officials specified in this Order, but not below Branch Chief level in other than streamlined districts, and District Director level in streamlined districts, and may not be redelegated by those officials to whom the specified officials redelegate. This supersedes Delegation Order No. 9 (Rev. 3), issued October 21, 1976.

Date of issue: January 29, 1979.

Effective Date: January 29, 1979.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2515 Filed 1-24-79; 8:45 am]

[4830-01-M]

[Delegation Order No. 4 (Rev. 7)]

DISTRICT DIRECTORS, ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Authority to issue summonses, to administer oaths, and certify and to perform other functions is revised to reflect the new names, titles and delegations in streamlined districts. This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Melvin M. Blaustein, 1111 Constitution Avenue, NW., Room 7526, Washington, DC 20224, (202) 566-4356 (Not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to Assistant Commissioner (Compliance).

[Order No. 4 (Rev. 7)]

AUTHORITY TO ISSUE SUMMONSES, TO ADMINISTER OATHS AND CERTIFY, AND TO PERFORM OTHER FUNCTIONS

1(a). The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602-1(b), 301.7603-1, 301.7604-1 and 301.7605-1(a) to issue summonses; to set the time and place for appearance; to serve summonses; to take testimony under oath of the person summoned; to receive and examine books, papers, records or other data produced in compliance with the summons; and to enforce summonses, are delegated to the officers and employees of the Internal Revenue Service specified in paragraphs 1(b), 1(c) and 1(d) of this Order and subject to the limitations stated in paragraphs 1(b), 1(c), 1(d) and 6 of this Order.

(b) The authorities to issue summonses and to perform the other functions related thereto specified in paragraph 1(a) of this Order, are delegated to all District Directors, the Director of International Operations, and the following officers and employees, provided that the authority to issue a summons in which the proper name or names of the taxpayer or taxpayers is not identified because unknown or unidentifiable (hereinafter called a "John Doe" summons) may be exercised only by said officers and employees and by them only after obtaining preissuance legal review by Regional Counsel, Deputy Regional Counsel (General Litigation) or District Counsel, or the Director, General Litigation Division in the case of Inspection.

(1) Inspection: Assistant Commissioner and Director, Internal Security Division.

(2) District Criminal Investigation: Chief of Division, except this authority in streamlined districts is limited to the District Director.

(3) International Operations: Chiefs of Divisions.

(4) District Collection Activity: Chief of Division, except this authority in streamlined districts is limited to the District Director.

(5) District Examination: Chief of Division, except this authority in streamlined districts is limited to the District Director.

(6) District Employee Plans and Exempt Organizations: Chief of Division.

(c) The authorities to issue summonses except "John Doe" summonses, and to perform other functions related thereto specified in paragraph 1(a) of this Order, are delegated to the following officers and employees:

(1) Inspection: Regional Inspectors and Assistant Regional Inspectors (Internal Security) and Chief, Investigations Branch.

(2) District Criminal Investigation: Assistant Chief of Division; Chiefs of Branches; and Group Managers.

(3) International Operations: Assistant Director; Chiefs of Branches; Case Managers; and Group Managers.

(4) District Collection Activity: Assistant Chief of Division; Chiefs of Collection Section; Chiefs of Field Branches and Office Branches; Chiefs, Special Procedures Staffs; Chiefs Technical and Office Compliance Groups and Group Managers.

(5) District Examination: Case Managers and Group Managers.

(6) District Employee Plans and Exempt Organizations: Group Managers.

(d) The authority to issue summonses except "John Doe" summonses and to perform the other functions related thereto specified in paragraph 1(a) of this Order is delegated to the following officers and employees except that in the instance of a summons to a third party witness, the issuing officers' case manager, group manager, or any supervisory official above that level, has in advance personally authorized the issuance of the summons. Such authorization shall be manifested by the signature of the authorizing officer on the face of the original and all copies of the summons or by a statement on the face of the original and all copies of the summons, signed by the issuing officer, that he/she had prior authorization to issue said summons and stating the name and title of the authorizing official and the date of authorization.

(1) International Operations: Internal Revenue Agents; Attorneys, Estate Tax; Estate Tax Examiners; Special Agents; Revenue Service and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers, GS-9 and above.

(2) District Criminal Investigation: Special Agents.

(3) District Collection: Revenue Officers, GS-9 and above.

(4) District Examination: Internal Revenue Agents; Tax Auditors; Attorneys, Estate Tax; and Estate Tax Examiners.

(5) District Employee Plans and Exempt Organizations: Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

(e) Each of the officers and employees referred to in paragraphs 1(b), 1(c) and 1(d) of this Order may serve a summons whether it is issued by him/her or another official.

2. Each of the officers and employees referred to in paragraphs 1(b), 1(c), and 1(d) of this Order authorized to issue summonses, is delegated the authority under 26 CFR 301.7602-1(b) to designate any other officer or employee of the Internal Revenue Service referred to in paragraph 4(b) of this Order, as the individual before whom a person summoned pursuant to Section 7602 of the Internal Revenue Code shall appear. Any such other officer or employee of the Internal Revenue Service when so designated in a summons is authorized to take testimony under oath of the person summoned and to receive and examine books, papers, records or other data produced in compliance with the summons.

3. Internal Security Inspectors are delegated the authority under 26 CFR 301.7603-1 to serve summonses issued in accordance with this Order by any of the officers and employees of the Inspection Service referred to in paragraphs 1(b)(1) and 1(c)(1) of this Order even though Internal Security Inspectors do not have the authority to issue summonses.

4(a). The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602-1(a), and 301.7605-1(a) to examine books, papers, records or other data, to take testimony under oath and to set the time and place of examination are delegated to the officers and employees of the Internal Revenue Service specified in paragraphs 4(b), 4(c), and 4(d) of this Order and subject to the limitations stated in paragraphs 4(c) and 6 of this Order.

(b) General Designations

(1) Inspection: Assistant Commissioner; Director, Internal Security Division; Director, Internal Audit Division; Regional Inspectors; Internal Auditors; and Internal Security Inspectors.

(2) District Criminal Investigation: Chief and Assistant Chief or Division: Chiefs of Branches; Group Managers; and Special Agents.

(3) International Operations: Director, Assistant Director; Chief of Divisions and Branches; Special Agents; Case Managers; Group Managers, Internal Revenue Agents; Attorneys, Estate Tax; Estate Tax Examiners; Revenue Service and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers.

(4) District Collection Activity: Chiefs and Assistant Chiefs of Division; Chiefs of Field Branches and Office Branches; Chiefs, Special Procedures Staffs; Group Managers; and Revenue Officers. In streamlined districts to Chiefs, Collection Section; Chiefs, Technical and Office Compliance Group; Group Managers and Revenue Officers.

(5) District Examination: Chiefs of Division; Chiefs of Examination Sections; Chiefs of Examination Branches; Case Managers; Group Managers; Internal Revenue Agents; Tax Auditors; Attorneys, Estate Tax; and Estate Tax Examiners.

(6) District Employee Plans and Exempt organization: Chief of Division; Chief, Examination Branch; Chief, Technical Staff; Group Managers; Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

(7) Service Center: Chief, Examination Division; Chief, Criminal Investigation Staff; Revenue Agents; Tax Auditors; Tax Examiners in the Correspondence Examination Branch; and Special Agents.

(c) District Directors, Service Center Directors, Regional Inspectors, the Chief of Investigation Branch, and the Director of International Operations may redelegate the authority under 4(a) of this Order to aides or trainees, respectively, for the positions of revenue agent, tax auditor, tax examiner in the service center Correspondence Examination Branch, tax law specialists, revenue officer, internal auditor, internal security inspector, and special agent, provided that each such aide or trainee shall exercise said authority only under the direct supervision, respectively, as applicable of a revenue agent, tax auditor, tax examiner in the service center Correspondence Examination Branch, tax law specialist, revenue officer, special agent, internal auditor or internal security inspector.

(d) District Directors may redelegate the authority under 4(a) of this Order to Revenue Representatives and Office Collection Representatives.

5. Under the authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7622-1, the officers and employees of the Internal Revenue Service referred to in paragraphs 1(b), 1(c), 1(d), and 4(b) and 4(c) of this Order are designated to administer oaths and affirmations and to certify to such papers as may be necessary under the internal revenue laws and regulations *except* that the authority to certify shall not be construed as applying to those papers or documents the certification of which is authorized by separate order or directive. Revenue Representatives and Office Collection Representatives referred to in paragraph 4(d) of this Order are not designated to administer oaths or to perform the other functions mentioned in this paragraph.

6. The authority delegated herein may not be redelegated except as provided in paragraphs 4(c) and 4(d).

7. This Order supersedes Delegation Order No. 4 (Rev. 6), issued October 1, 1978.

Date of Issue: January 29, 1979.

Effective Date: January 29, 1979.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2513 Filed 1-24-79; 8:45 am]

[4830-01-M]

REGIONAL COMMISSIONER, ET AL.

[Delegation Order No. 11 (Rev. 10)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: In streamlined districts, the authority to accept or reject offers in compromise is limited to the District Director. This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Melvin M. Blaustein, 1111 Constitution Avenue, NW., Room 7526, Washington, DC 20224, (202) 566-4356 (Not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to Assistant Commissioner (Compliance).

[Order No. 11 (Rev. 10)]

AUTHORITY TO ACCEPT OR REJECT OFFERS IN COMPROMISE

The authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-25, dated June 1, 1953, as amended by Order No. 180 dated November 17, 1953, and Order No. 150-36 dated August 17, 1954, 26 CFR 301.7122-1 and 26 CFR 301.7701-9, and Treasury Department Order No. 150-60 dated June 3, 1964, is hereby delegated as follows:

1. Regional Commissioners of Internal Revenue are delegated authority, under Section 7122 of the Internal Revenue Code, to accept offers in compromise of tax, based solely on doubt as to liability, if the unpaid liability (including any interest, penalty, additional amount or addition to tax) is $100,000 or more. This authority does not pertain to offers in compromise of liabilities arising under laws relating to alcohol, tobacco and firearms taxes. The authority delegated herein may not be redelegated.

2. For the Office of International Operations, the Assistant Commissioner (Compliance) is delegated authority, under Section 7122 of the Internal Revenue Code, to accept offers in compromise of tax, based solely on doubt as to liability, if the unpaid liability (including any interest, penalty, additional amount or addition to tax) is $100,000 or more. This authority does not pertain to offers in compromise of liabilities arising under laws relating to alcohol, tobacco and firearms taxes. The authority delegated herein may not be redelegated.

3. Regional Commissioners and the Director, Collection Division are delegated authority, under Section 7122 of the Internal Revenue Code, to accept offers in compromise based on doubt as to collectibility and those based on doubt as to both collectibility and liability if the unpaid liability (including any interest, penalty, additional amount or addition to tax) is $100,000 or more. In addition, Regional Commissioners and the Director, Collection Division are delegated authority to accept offers in compromise submitted under Section 3469 of the Revised Statutes, as amended (31 U.S.C. 194) insofar as claims arising in the administration of the Internal Revenue laws are concerned. The authorities delegated herein do not pertain to offers in compromise of liabilities arising under laws related to alcohol, tobacco and firearms taxes. The authorities delegated herein may not be redelegated.

4. District Directors, Assistant District Directors, the Director of International Operations and the Assistant Director of International Operations are delegated authority, under Section 7122 of the Internal Revenue Code, to accept offers in compromise in cases in which the liability sought to be compromised (including any interest, penalty, additional amount or addition to the tax) is less than $100,000, to accept offers involving specific penalties, and to reject offers in compromise regardless of the amount of the liability sought to be compromised. This authority does not pertain to offers in compromise of liabilities arising under laws relating to alcohol, tobacco and firearms taxes. The authority delegated herein may not be redelegated, except that the authority to reject offers in compromise may be redelegated, but not lower than to Division Chief. The District Director in a streamlined district may not redelegate this authority.

5. Service Center Directors and Assistant Service Center Directors are delegated authority, under Section 7122 of the Internal Revenue Code, to accept offers in compromise, limited to penalties based solely on doubt as to liability, if the unpaid liability is less than $100,000, and to reject offers in compromise, limited to penalties, regardless of the amount of the liability sought to be compromised. This authority does not pertain to offers in compromise of liabilities arising under laws relating to alcohol, tobacco and firearms taxes. This authority may be redelegated, but not lower than to Division Chief.

6. This Order supersedes Delegation Order No. 11 (Rev. 9) issued April 18, 1978.

Date of issue: January 29, 1979.

Effective Date: January 29, 1979.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2516 Filed 1-24-79; 8:45 am]

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[4830-01-M]

[Delegation Order No. 8 (Rev. 7)]

REGIONAL DIRECTORS OF APPEALS, ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The authority to sign agreements as to liability for personal holding company tax may be redelegated by District Directors in streamlined districts not lower than to GS-11 Revenue Agents. This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Bernard L. Meehan, 1111 Constitution Avenue NW., Room 2505, Washington, D.C. 20224, (202) 566-6849 (not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to the Assistant Commissioner (Compliance).

[Order No. 8 (Rev. 7)]

AUTHORITY TO SIGN AGREEMENTS AS TO LIABILITY FOR PERSONAL HOLDING COMPANY TAX

1. The authority granted to the Commissioner of Internal Revenue and District Directors by 26 CFR 301.7701-9 and 26 CFR 1.547-2 to enter into agreements relating to liability for personal holding company tax, is hereby delegated to the following officials:

a. Regional Directors of Appeals;
b. Chiefs, Appeals Offices;
c. Associate Chiefs, Appeals Offices;
d. Director of International Operations;
e. Assistant District Directors; and
f. Chiefs of District Examination Divisions, in other than streamlined districts.

2. This authority may be redelegated only by District Directors and the Director of International Operations, who may redelegate to the Chief of Review Staff; and to Revenue Agents (Reviewers) not lower than GS-11. In streamlined districts this authority may be redelegated only by the District Director who may redelegate not lower than to GS-11 Revenue Agents.

3. This Order supersedes Delegation Order No. 8 (Rev. 6), issued October 1, 1978.

Date of issue: January 29, 1979.

Effective Date: January 29, 1979.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2514 Filed 1-24-79; 8:45 am]

[4830-01-M]

[Delegation Order No. 19 (Rev. 6)]

DEPUTY COMMISSIONER, ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The authority to make payment for expenses incident to transfers or appointments of employees to new official stations, vacation leave travel and similar items may not be redelegated below the District Director in the streamlined districts. This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Joseph F. Kump, 111 Constitution Avenue, N.W. Room 3322 Washington, D.C. 20224 (202) 566-3135 (Not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to the Assistant Commissioner (Compliance).

Payment of Expenses Incident to Transfers or Appointments of Employees to New Official Stations, Vacation Leave Travel, and Similar Items.

1. This order delegates authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 72 Revised, to authorize or approve the allowance and payment form Government funds of expenses allowable under Chapter 2, Relocation Allowances, of General Services Administration Federal Property Management Regulations Part 101-7, Federal Travel Regulations. The following officers may authorize or approve the incurrence of such expenses, and make related determinations, subject to the restrictions in the succeeding paragraphs of this order and pursuant to implementing regulations in Treasury Department Administrative Circular No. 19, as revised, and IRM 1763, Travel Handbook:

Deputy Commissioner
Assistant to the Commissioner (Public Affairs)
Assistant Commissioners
Chief Counsel
Division Directors
Director of International Operations
Director, National Computer Center
Fiscal Management Officer
Regional Commissioners
Regional Inspectors
Regional Counsel
District Directors
Service Center Directors
Director, Data Center

2. This delegation does not include the authority to agree to the payment of moving expenses by an office other than the gaining office in transfers between the Internal Revenue Sevice and another agency, department, bureau of the Treasury Department, etc.

3. This delegation does not include the authority to agree to payment of travel and transportation of new appointees to first post of duty.

4. This delegation does not include the authority to approve a period of service of less than two years, or to accept separation, without penalty, from service before the end of the year of service, with respect to employees serving outside the conterminous (contiguous 48 States and the District of Columbia) United States under circumstances requiring two years of service.

5. No redelegation of the above authority may be made except that:

(1) Regional Commissioners may redelegate, but not lower than to Branch Chiefs in the Regional Office,

(2) District Directors, Service Center Directors, and the Director, Data Center, may redelegate, but not lower than to Division Chiefs. In streamlined districts this authority may not be redelegated below the District Director.

6. The Director of International Operations and the Regional Commissioner, Western Region, may make determinations and authorizations in cases under their jurisdiction with respect to the transportation and emergency storage of privately-owned motor vehicles of Service employees appointed or transferred to posts of duty other than those located in the conterminous United States. The Fiscal Management Officer may make such determinations and authorizations with respect to all other Service employees appointed or transferred to posts of duty outside the conterminous United States. This authority may not be redelegated.

7. Delegation Order No. 19 (Rev. 5), issued August 19, 1976, is superseded.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2517 Filed 1-24-79; 8:45 am]

[4830-01-M]

[Delegation Order No. 27 (Rev. 7)]

ADMINISTRATIVE OFFICERS, ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: In streamlined districts, the authority to administer oaths in connection with employment in the Federal Service is extended to Administrative Officers. This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Wanda Brasher, 1111 Constitution Avenue, NW, Room 1514, Washington, DC 20224 (202) 376-0530 (Not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to the Assistant Commissioner (Compliance).

Authority to Administer Oaths Required by Law in Connection with Employment in the Federal Service.

A. Pursuant to the authority granted to me in Treasury Department Order No. 125 dated September 18, 1950, the incumbents of, and persons acting in, the positions listed below are hereby authorized to administer, without charge or fee, the oath of office required by Section 1757 of the Revised Statutes, as amended (5 U.S.C. 16) or any other oath required by law in connection with employment in the Federal Service:

1. *National Office.* Assistant Commissioner (Resources Management); Director and Assistant Director, Personnel Division; Chief and Assistant Chief, National Office Personnel Branch; Chief, Team Leaders, Personnel Management Specialists, and Personnel Staffing Specialists, Employment Section, National Office Personnel Branch; Chief and Appointment Clerks of the Services Section, National Office Personnel Branch; and Director and Assistant Director of International Operations.

2. *Regional Offices.* Regional Commissioner; Assistant Regional Commissioner (Resources Management); Chief, Personnel Branch; Chiefs, Personnel Management Specialists and Appointment Clerks of the Employment and Regional Office Personnel Sections, Personnel Branch; and Chiefs and Associate Chiefs, Appeals Offices.

3. *District Offices.* District Director; Assistant District Director; Chief, Resources Management Division, Chief, Personnel Branch; Chief, Employment Section, Personnel Management Specialists, Personnel Assistants and Appointment Clerks, Personnel Branch; Administrative Officer in Streamlined Districts; and the Administrative Officer or Representative of the District Director at an Area, Zone, or Local Office.

4. *Service Centers.* Director; Assistant Director; Chief, Resources Management Division; Chief, Personnel Branch; Chief, Employment Section, Personnel Management Specialists, Personnel Assistants and Appointment Clerks, Personnel Branch.

5. *Data Center.* Director; Assistant Director; Chief, Resources Management Division; Chief, Personnel Branch; Personnel Management Specialists; Personnel Assistants; Personnel Clerks; and Appointment Clerks.

6. *National Computer Center.* Director; Chief, Resources Management Division; Chief, Personnel Branch, Personnel Management Speicalists; and Appointment Clerks, Personnel Branch.

7. *Puerto Rico Collections Branch.* Director's Representative, Office of International Operations.

B. All Supervisors authorized by Section A of this Order to administer oaths are also authorized to designate in writing employees under their supervision and control who may administer such oaths.

C. Pursuant to the above authority vested in me as Commissioner of Internal Revenue, employees designated to serve as Grievance Examiners and Executive Secretaries in agency grievances are hereby authorized to administer oaths to witnesses testifying in hearings being conducted under the agency grievance process contained in IRM 0771.1. This authority may not be redelegated.

D. This Order supersedes Delegation Order No. 27 (Rev. 7), issued October 1, 1978.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2518 Filed 1-24-79; 8:45 am]

[4830-01-M]

[Delegation Order No. 35 (Rev. 10)]

REGIONAL DIRECTORS OF APPEALS, ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The authority to enter into agreements on determinations under Section 1313(a)(4) of the Internal Revenue code of 1954 may be redelegated by the District Director no lower than to GS-11 Revenue Agents. This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1979.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Bernard L. Meehan, 1111 Constitution Avenue, N.W. Room 2505, Washington, D.C. 20224 (202) 566-6849 (Not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to the Assistant Commissioner (Compliance).

Agreements as Determinations Under Section 1313(a)(4) of the Internal Revenue code of 1954

1. Pursuant to the authority granted to the Commissioner of Internal Revenue and district directors by 26 CFR 301.7701-9 and 26 CFR 1.1313(a)-4, Internal Revenue Code of 1945, relating to agreements treated as determinations, is hereby delegated to the following officials:

a. Regional Directors of Appeals;
b. Chiefs and Associate Chiefs of Appeals Offices;
c. Director of International Operations;
d. Assistant District Directors;
e. Chiefs of Examination Divisions; and
f. Chiefs of Employee Plans and Exempt Organizations Divisons.

Official	Personnel
Assistant Commissioner (Resources Management)	National Office (except Data Center and National Computer Center).
Assistant Commissioner (Data Services)	Data Center and National Computer Center.
Assistant Commissioner (Inspection)	Regional Inspectors.
Director of International Operations	Employees of Office of International Operations including those stationed outside the Washington Metropolitan area.
Regional Commissioners, District Directors, and Service Center Directors.	Personnel under their supervision and control.

2. In other than streamlined districts this authority may be redelegated only by District Directors and the Director of International Operations, who may redelegate to the Chief of Review Staff; to Revenue Agents and Tax Law Specialists (Reviewers) not lower than GS-11 for field examination cases; and to Revenue Agents and Tax Technicians (Reviewers) not lower than GS-9 for office examination cases. In streamlined districts, this authority may be redelegated by the District Director no lower than to GS-11 Revenue Agents.

3. This Order supersedes Delegation Order No. 35 (Rev. 9), issued October 1, 1978.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2519 Filed 1-24-79; 8:45 am]

[4830-01-M]

[Delegation Order No. 39 (Rev. 9)]

ASSISTANT COMMISSIONERS, ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The authority to set tours of duty and overtime shall not be redelegated below the District Director in streamlined districts. This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Anthony D'Amata, 1111 Constitution Avenue, N.W., Room 3316, Washington, D.C. 20224 (202) 566-3161 (Not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to the Assistant Commissioner (Compliance).

Tours of Duty and Overtime.

1. Pursuant to authority vested in the Commissioner of Internal Revenue by Chapter 610 of the Treasury Personnel Manual, the following officials are hereby authorized to prescribe, for personnel listed below, the official hours of duty and, when necessitated by operating requirements, to establish an administrative workweek of five 8-hour days other than Monday through Friday for individual employees or groups of employees whose services are required on Saturday or Sunday or both, and flexible tours of duty for criminal investigators consisting of five 8-hour days, Monday through Friday.

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2. The above-named officials are required, in accordance with 5 U.S.C. 6101, to establish tours of duty for individual employees or groups of employees in accord with the following criteria:

(1) Assignments to tours of duty shall be scheduled in advance over periods of not less than one week;

(2) The basic forty-hour workweek shall be scheduled in five days, which shall be Monday through Friday *wherever possible*, and the two days outside the basic workweek shall be consecutive;

(3) The working hours in each day in the basic workweek shall be the same;

(4) The basic nonovertime workday shall not exceed eight hours;

(5) The occurrence of holidays shall not affect the designation of the basic workweek; and

(6) Breaks in working hours of more than one hour shall not be scheduled in any basic workday.

3. In accordance with 5 U.S.C. 6101, an exception to the criteria in Section 2 may be made in those instances where the authorizing official determines that application of one or more of the above enumerated criteria would result in a serious handicap in carrying out the organization's functions, or that costs would be substantially increased. Such exceptions and the reasons therefor shall be made a matter of record.

4. The authority delegated in Section 1 may be redelegated as follows:

(1) By the Assistant Commissioner (Data Services) to the Directors, Data Center and the National Computer Center; and

(2) By Regional Commissioners, Director of International Operations, District Directors, and Service Center Directors, but not lower than to: Branch Chiefs in the regional headquarters; Associate Chiefs, Appeals Offices; and Division Chiefs in Districts, Office of International Operations and Service Centers. In streamlined districts, this authority may not be redelegated below the District Director.

5. Assistant Commissioners, Regional Commissioners, Regional Directors of Appeals, Assistant Regional Commissioners, District Directors, Director of International Operations and Service Center Directors, are hereby authorized:

(1) To order or approve the performance of paid overtime duty by employees under their supervision and control, provided funds are available for such duty;

(2) To order or approve the performance of overtime duty by employees under their supervision and control for which compensatory time off will be granted in lieu of overtime pay;

(3) To order or approve the performance of work on holidays, provided funds are available for such duty; and

(4) To establish tours of duty for educational purposes under the provisions of 5 U.S.C. 6101(a)(4).

6. The authority delegated in Section 5 may be redelegated to supervisors for employees under their supervision and control.

7. This order supersedes Delegation Order No. 39 (Rev. 8), issued October 1, 1978.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2521 Filed 1-24-79; 8:45 am]

[4830-01-M]

[Delegation Order No. 42 (Rev. 11)]

REGIONAL DIRECTORS OF APPEALS, ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Authority to execute consents fixing the period of limitations on assessments or collection under provisions of the 1939 and 1954 Internal Revenue Codes may be extended to the Chief, Technical and Office Compliance Group, a new position in the streamlined districts.

This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Melvin M. Blaustein, 1111 Constitution Avenue, NW. Room 7526, Washington, DC 20224, (202) 566-4356 (Not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to Assistant Commissioner (Compliance).

Subject: Authority to Execute Consents Fixing the Period of Limitations on Assessment or Collection Under Provisions of the 1939 and 1954 Internal Revenue Codes.

1. Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 120, dated July 31, 1950; Order No. 150-2, dated May 15, 1952; 26 CFR 301.6501(c)-1; 26 CFR 301.6502-1; 26 CFR 301.6901-1(d); and 26 CFR 301.7701-9; the authority to sign all consents fixing the period of limitations on assessment or collection is delegated to the following officials:

a. Regional Directors of Appeals;
b. Service Center Directors;
c. District Directors;
d. Director of International Operations.

2. This authority may be redelegated but not below the following levels for each activity:

a. Service Centers—Chief, Accounting Branch; Chief, Correspondence Examination Branch; and Revenue Officers;

b. Collection—Chief, Office Branch and Office Groups; and Revenue Officers. In streamlined districts—Chief, Technical and Office Compliance Group, and Revenue Officers;

c. Examination—Reviewers, Grade GS-11; Group Managers; Case Managers; and Returns Program Managers;

d. Criminal Investigation Chief, Criminal Investigation Division, except this authority in streamlined districts is limited to the District Director;

e. Appeals—Appeals Officers;

f. Office of International Operations—Representatives at foreign posts; Revenue Agents, Tax Auditors, and Special Agents on foreign assignments; and levels b, c, and d, above; and

g. District Employee Plans and Exempt Organizations—Reviewers, Grade GS-11; Group Managers.

3. This Order supersedes Delegation Order No. 42 (Rev. 10), issued October 1, 1978.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2521 Filed 1-24-79; 8:45 am]

[4830-01-M]

[Delegation Order No. 51 (Rev. 3)]

CHIEF, SPECIAL PROCEDURES STAFF

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Authority to sign proofs of claims and other documents has been extended to the Chief, Technical and Office Compliance Group a new position in streamlined districts.

This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Melvin M. Blaustein, 1111 Constitution Avenue, NW, Room 7526, Washington, D.C. 20224, (202) 566-4356 (Not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to Assistant Commissioner (Compliance).

The following officers are hereby authorized to sign proofs of claim and other documents asserting obligations incurred under the Internal Revenue laws (including taxes, penalties and interest), in order to claim and collect such obligations in any proceeding under the Bankruptcy Act and any receivership, decedents's estate, corporate dissolution, or other insolvency proceeding:

Chief, Special Procedures Staff

Chief, Technical and Office Compliance Group in streamlined districts

The authority herein delegated may not be redelegated.

This Order supersedes Delegation Order No. 51 (Rev. 2), issued July 2, 1978.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2522 Filed 1-24-79; 8:45 am]

[4830-01-M]

[Delegation Order No. 77 (Rev 12)]

REVENUE AGENTS, ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Authority to issue statutory notices of deficiency may be extended to Grade GS-11, Revenue Agents in streamlined districts.

This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Bernard L. Meehan, 1111 Constitution Avenue, NW, Room 2505, Washington, DC 20224, (202) 566-6849 (Not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to Assistant Commissioner (Compliance).

Authority to Issue Statutory Notices of Deficiency

1. The authority granted to the Commissioner of Internal Revenue and District Directors, by 267 CFR 301.7701-9, 26 CFR 301.6212-1, and 26 CFR 301.6861-1 to sign and send to the taxpayer by registered or certified mail any statutory notice of deficiency is hereby delegated to the following officials:

a. Regional Director of Appeals;

b. Chiefs and Associate Chiefs of Appeals Offices;

c. Director of International Operations;

d. Service Center Directors;

e. Assistant District Directors;

f. Assistant Service Center Directors;

g. Chiefs of Examination Divisions;

h. Chiefs of Correspondence Examination Branch; and

i. Chiefs of Employee Plans and Exempt Orgainzations Divisions.

2. This authority may be redelegated only by District Directors, Service Center Directors and the Director of International Operations, but not lower than Examination Division Reviewers, Grade GS-9, Revenue Agents (GS-11) in streamlined districts, and Reviewers, Grade GS-12, in Employee Plans and Exempt Organizations Divisions.

3. This Order supersedes Delegation Order No. 77 (Rev. 11), issued October 1, 1978.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2523 Filed 1-24-79; 8:45 am]

[4830-01-M]

[Delegation Order No. 80 (Rev 2)]

ASSISTANT COMMISSIONERS, ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority

SUMMARY: In streamlined districts, the District Director must concur in enrollments for required training courses.

This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Orion L. Birdsall, 1111 Constitution Avenue, N.W., Room 1406, Washington, D.C. 20224 (202) 566-3197 (Not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to the Assistant Commissioner, (Compliance).

Authority to Determine Correspondence Course Enrollment Requirements

1. Authority is hereby delegated to the following officials to determine the correspondence course enrollment requirements for employees under their jurisdiction. (Requirements may be established in terms of entire courses or portions of such courses.):

Assistant Commissioners
Regional Commissioners
District Directors
Service Center Directors
Director of International Operations

2. These officials determine which employees will be required to complete courses or portions of courses for effective work performance, the minimum rate at which courses shall be completed, and the amount of official time to be allowed for the preparation of each course assignment. The minimum rate shall be not less than (a) one assignment for each four hours of official time allowed and (b) one assignment per month per course unless unusual circumstances justify exceptions. Normally, the maximum official time allowed shall not exceed four hours per pay period for each course for which the employee is enrolled.

3. The immediate supervisor shall be responsible for seeing to it that enrollees meet the rate-of-completion standards and are allotted the prescribed official time.

4. This authority should be redelegated to the immediate supervisor. However, to ensure reasonable uniformity, Division Chiefs should concur in enrollments for required courses in other than streamlined districts. In streamlined districts the District Director should concur in enrollments for required courses.

5. This Order supersedes Delegation Order No. 80 (Rev. 1), issued February 18, 1963.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2224 Filed 1-24-79; 8:45 am]

[4830-01-M]

[Delegation Order No. 93 (Rev. 6)]

REGIONAL DIRECTORS OF APPEALS, ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: In streamlined districts, the authority to consent to a redetermination of aggregations by a taxpayer, in the case of invalid basic aggregations or invalid additions, may not be extended below the District Director. This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Bernard L. Meehan, 1111 Constitution Avenue, NW, Room 2505, Washington, DC 20224. (202) 566-6849 (Not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to Assistant Commissioner (Compliance).

Authority to Consent to a Redetermination of Aggregations by a Taxpayer in the Case of Invalid Basic Aggregations or Invalid Additions

1. The authority vested in the Commissioner of Internal Revenue as prescribed in 26 CFR 1.614-2(d)(5) and 26 CFR 1.614-3(f)(8) and described below is hereby delegated to Regional Directors of Appeals; Chiefs, and Associate Chiefs, Appeals Offices; District Directors; and, in other than streamlined districts, Chiefs, District Examination Divisions. In streamlined districts, this authority is not delegated below the District Director.

Consent to the reforming of aggregations by a taxpayer where the taxpayer has formed invalid basic aggregations or made invalid additions to valid or invalid basic aggregations, and

Consent, in the case of oil and gas wells where an invalid aggregation has been formed under section 614(b), to the treatment by a taxpayer of all the properties included in the aggregation, which fall within a single operating unit, under the provisions of section 614(d) rather than section 614(b) of the 1954 Code if so requested by the taxpayer.

2. In the case of oil and gas wells this delegation order shall apply only to taxable years subject to the 1954 Code beginning before January 1, 1964.

3. The authority delegated herein may not be redelegated.

4. This Order supersedes Delegation

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Order No. 93 (Rev. 5), issued October 1, 1978.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2525 Filed 1-24-79; 8:45 am]

[4830-01-M]

[Delegation Order No. 102 (Rev. 6)]

ADMINISTRATIVE OFFICERS

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: In streamlined districts, the authority for labor-management relations matters may be redelegated to Administrative Officers or other appropriate management officials. Authority to negotiate basic labor-management agreements has been given the Director, Resources Management Division for National Office employees. This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Sue Barliant, 1111 Constitution Avenue, NW, Room 3316, Washington, DC 20224, (202) 370-0575 (Not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to Assistant Commissioner (Compliance).

Delegation of Authority in Labor-Management Relations Matters.

1. The authority delegated to the Commissioner of Internal Revenue in Chapter 711, Treasury Personnel Manual, to administer the Labor-Management Relations Program is hereby delegated as follows:

(a) The Director, Personnel Division, is authorized:

(1) to act as the Service's representative in dealing with the national headquarters of unions;

(2) to negotiate and execute multi-unit agreements and agreements covering any amendments, corrections, alterations, substitutions and/or changes thereto;

(3) to act as final approving official on all local and multi-unit agreements, including any amendments, corrections, alterations, substitutions and/or changes thereto, subject to existing statements of Service policy;

(4) to establish and represent the Service's position on the appropriateness of units, unfair labor practice complaints, standards of conduct cases and other formal proceedings before the Department of Labor, the Federal Labor Relations Council, and the Federal Services Impasses Panel;

(5) to consult, as appropriate, with the recognized unions holding national consultation rights with the Service and to consult with the national headquarters of properly recognized unions on Service-wide issues;

(6) to determine whether a dispute arising out of a collective bargaining agreement shall be submitted to binding arbitration; and

(7) to issue interpretations of multi-unit agreements.

(b) Regional Commissioners (regarding Regional Office employees); District Directors; Service Center Directors; the Director, Data Center; the Director, National Office Resources Management Division; and the Director, National Computer Center, are authorized:

(1) to negotiate basic agreements after prior consultation with the Director, Personnel Division, or his/her designee;

(2) to negotiate local supplemental agreements subject to the terms of any controlling master agreement; and

(3) to consult, as appropriate, regarding local issues.

2. The authority delegated in 1(a) may be redelegated by the Director, Personnel Division to the Chief, Labor Relations Branch, any or all of the authorities contained in subparagraphs 1.(a)(1) through 1.(a)(7).

3. The authority delegated in 1(b) may be redelegated by the officials listed therein to their Chief, Personnel Branch, and Chief, National Office Personnel Branch, but may not be further redelegated. In streamlined districts, the District Director may also redelegate this authority to an appropriate management official, but may not be redelegated below the group manager level.

4. Delegation Order No. 102 (Rev. 5), issued October 18, 1974, is hereby superseded.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2526 Filed 1-24-79; 8:45 am]

[4830-01-M]

[Delegation Order No. 103 (Rev. 4)]

DIRECTOR, PERSONNEL DIVISION, ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: In streamlined districts, the authority to approve premium pay authorizations may not be delegated below the District Director. This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Wanda Brasher, 1111 Constitution Avenue, NW., Room 1514, Washington, D.C. 20224, (202) 566-0530 (not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to Assistant Commissioner (Compliance).

Premium Pay for Administratively Uncontrollable Overtime.

The authority delegated to the Commissioner of Internal Revenue in Chapter 550, Treasury Personnel Manual, to approve premium pay authorizations is hereby delegated as follows:

A. The Director, Personnel Division, is authorized to prescribe eligibility requirements for the payment of premium pay, and to resolve questions of application. This authority may not be redelegated.

B. The Assistant Commissioner (Inspection) is authorized to approve premium pay authorizations for Criminal Investigators under his/her jurisdiction in National Office and field positions who meet the eligibility requirements for premium pay. This authority may be redelegated by the Assistant Commissioner (Inspection) to the Director, Internal Security Division, and to the Regional Inspectors. This authority may not be redelegated by them.

C. The Director, Criminal Investigation Division is authorized to approve premium pay authorizations for Criminal Investigators in assignments under his/her control (including Criminal Investigators detailed to the National Office) who meet the eligibility requirements for premium pay. This authority may not be redelegated.

D. Regional Commissioners are authorized to approve premium pay authorizations for Criminal Investigators under their jurisdiction who meet the requirements for premium pay. This authority may be redelegated not lower than to Chiefs of the Criminal Investigation Division in the district offices or the District Director in streamlined districts.

This Order supersedes Delegation Order No. 103 (Rev. 3), issued July 2, 1978.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2527 Filed 1-24-79; 8:45 am]

[4830-01-M]

[Delegation Order No. 105 (Rev. 3)]

DEPUTY COMMISSIONER, ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The authority for approval to engage in outside employment, business and other activities may not be redelegated below the District Director in streamlined districts. This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Anthony D'Amata, 1111 Constitution Avenue, NW., Room 3316, Washington, D.C. 20224, (202) 566-3161 (Not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to the Assistant Commissioner Compliance.

Authorization to Engage in Outside Employment, Business, and Other Activities.

Pursuant to authority granted to the Commissioner of Internal Revenue by Chapters 250 and 735 of the Treasury personnel Manual:

1. Authority is hereby delegated to the following officials to approve or disapprove the acquisition or retention of direct or indirect interests in the manufacture of tobacco, snuff, or cigarettes, firearms, ammunition, or explosives, or in the production, rectification, or redistillation of distilled spirits, or in the production of fermented liquors, by employees under their supervision and control, except as restricted in paragraph 3. This authority may be redelegated, but not lower than to Division Directors in the National Office, Assistant Regional Commissioners in regional offices, Division Chiefs in other than streamlined districts, and service center offices, Division Chiefs in the Office of International Operations, and Assistant Regional Inspectors. In streamlined districts, this authority may not be redelegated below the District Service Center Directors, Director, Deputy Commissioner, Assistant Commissioners, Assistant to the Commissioner (Public Affairs), Regional Commissioners, District Directors, Director of International Operations.

2. Authority is hereby delegated to the following officials to approve or disapprove requests from employees under their supervision and control, except as restricted in paragraph 3, to engage in outside employment, business, and other activities. This authority may be redelegated but not lower than to Assistant Regional Inspectors and to Branch Chiefs in the National Office, regions, districts (in other than streamlined districts), and service centers and Office of International Operations. In streamlined districts, this authority may be redelegated but not lower than to Section Chiefs. Deputy Commissioner, Assistant Commissioners, Assistant to the Commissioner (Public Affairs), Regional Commissioners, District Directors, Service Center Directors, Director of International Operations.

3. The Commissioner retains the authority to approve or disapprove the acquisition or retention of direct or indirect interests in the manufacture of tobacco, snuff, cigarettes; firearms, ammunition, or explosives, or in the production, rectification, or redistillation of distilled spirits, or in the production of fermented liquors, or requests to engage in outside employment, business, and other activities, by the following officials: Deputy Commissioner, Assistant Commissioners, Assistant to the Commissioner (Public Affairs), Regional Commissioners, District Directors, Service Center Directors, Regional Inspectors, Director of International Operations.

4. Delegation Order No. 105 (Rev. 2), issued May 10, 1972, is hereby superseded.

JEROME KURTZ
Commissioner.

[FR Doc. 79-2528 Filed 1-24-79; 8:45 am]

[4830-01-M]

[Delegation Order No. 107 (Rev. 5)]

REGIONAL DIRECTORS OF APPEALS, ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The authority to determine that certain "savings institutions" do not intend to avoid taxes by paying dividends or interest for periods representing more than 12 months may be redelegated not lower than to GS-11 Revenue Agents in streamlined districts. This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Bernard L. Meehan, 1111 Constitution Avenue NW., Room 2505, Washington, D.C. 20224, 202-566-6849 (not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to the Assistant Commissioner (Compliance).

Authority to Determine that Certain "Savings Institutions" do not Intend to Avoid Taxes by Paying Dividends or Interest for Periods Representing More than 12 Months.

1. The authority granted to the Commissioner of Internal Revenue under 26 CFR 1.461-1(e)(3)(ii) to determine that an organization referred to therein does not intend to avoid taxes (and therefore be permitted to deduct one-tenth of the amount of dividends or interest not allowed as a deduction for a taxable year under 26 CFR 1.461-1(e)(1) in each of ten succeeding taxable years) is hereby delegated to the following officials:

(a) Regional Directors of Appeals,
(b) District Directors,
(c) Director of International Operations,
(d) Chiefs, Appeals Offices,
(e) Associate Chiefs, Appeals Offices,
(f) Assistant District Directors, and
(g) Chiefs of District Examination Divisions.

2. In nonstreamlined districts this authority may be redelegated only by District Directors and the Director of International Operations, who may redelegate to the Chief of Review Staff. In streamlined districts, District Directors may redelegate this authority not lower than to GS-11 Revenue Agents.

3. This Order supersedes Delegation Order No. 107 (Rev. 4), issued October 1, 1978.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2529 Filed 1-24-79; 8:45 am]

[4830-01-M]

[Delegation Order No. 109 (Rev. 5)]

REGIONAL DIRECTORS OF APPEALS, ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: In streamlined districts, the authority to sign agreements determining inapplicability of exclusion under Section 963 of Internal Revenue Code of 1954 may not be delegated below the District Director. This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Bernard L. Meehan, 1111 Constitution Avenue, NW., Room 2505, Washington, D.C. 20224, 202-566-6849 (not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to the Assistant Commissioner (Compliance).

Authority to Sign Agreements Determining Inapplicability of Exclusion under Section 963 of Internal Revenue Code of 1954.

1. The authority granted to the Commissioner of Internal Revenue and to District Directors by 26 CFR 301.7701-9 and 26 CFR 1.963-6(c) to sign agreements determining that the exclusion under Section 963 of the Internal Revenue Code of 1954 does not apply to United States shareholders for certain taxable periods due to their failure to receive minimum distributions is hereby delegated to the following officials:

(a) Regional Directors of Appeals;
(b) District Directors;
(c) Director of International Operations;
(d) Chiefs, Appeals Offices;
(e) Associate Chiefs, Appeals Offices;
(f) Assistant District Directors;
(g) Assistant director of International Operations;
(h) Chiefs of District Examination Divisions; and
(i) Chief of Examination Division, Office of International Operations.

2. This authority may be redelegated only by District Directors and the Director of International Operations, who may redelegate to the Chief of Review Staff. This authority may not be delegated below the District Director in streamlined districts.

3. This Order supersedes Delegation Order No. 109 (Rev. 4), issued October 1, 1978.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2530 Filed 1-24-79; 8:45 am]

[4830-01-M]

[Delegation Order No. 116 (Rev. 3)]

DISTRICT DIRECTORS, ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: In streamlined districts, the authority to grant extensions of time to file income and estate tax returns may not be redelegated below

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the Chief, Technical and Office Compliance Group. This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Melvin M. Blaustein, 1111 Constitution Avenue NW., Room 7526, Washington, D.C. 20224, 202-566-4356 (not toll free).

FRANKLIN L. FINLEY,
Staff Assistant to the Assistant Commissioner (Compliance).

Delegation of Authority to Grant Extensions of Time to File Income and Estate Tax Returns.

The authority granted to the Commissioner of Internal Revenue by 26 CFR 1.6081-1, 26 CFR 20.6081-1 and 26 CFR 301.7701-9 to grant extensions of time to file income and estate tax returns is hereby delegated to District Directors, Assistant District Directors, Director of International Operations, Assistant Director of International Operations, Service Center Directors and Assistant Service Center Directors.

The authority delegated here in for estate tax returns may be redelegated, but not below Branch Chief, Chief, Special Procedures Staff, or Chief Technical and Office Compliance Group in District Offices and Office of International Operations, and not below Senior Tax Examiners in Service Centers.

The authority delegated herein for income tax returns may be redelegated, but not below Branch Chief, Chief, Special Procedures Staff, or Chief, Technical and Office Compliance Group in District Offices and Office of International Operations, and not below full working level Tax Examiners in Service Centers.

Delegation Order No. 116, (Rev. 2), issued July 18, 1978, is superseded.

JEROME KURTZ,
Commissioner.

[FR Doc. 79-2531 Filed 1-24-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Volume No. 4]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS.

JANUARY 17, 1979.

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY NOTICE

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) number where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission on or before February 26, 1979. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247)* and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 139468 and Sub 6 and 12 (M1F) (notice of filing of petition to modify permits), filed September 29, 1978. Petitioner: INTERNATIONAL CONTRACT CARRIERS, INC. 6534 Gessner Rd. Houston, TX 77040. Representative: John T. Wirth Suite 2600 Energy Center One 717 Seventeenth Street, Denver, Co 80202. Petitioner holds a motor *contract carrier* permits in MC 139468 and Subs 6 and 12 issued August 16, 1974, October 3, 1973 and March 25, 1977 respectively. MC 139468 authorizes transportation over irregular routes, of *Metal buildings and parts therefor*, from the plantsites and storage facilities of Stran-Steel Corporation, at Houston, TX, to points in AR, LA, TN, MS, AL, GA, FL, SC, and NC, under a continuing contract(s) with Stran-Steel Corporation. MC 139468 Sub 6 authorizes transportation, over irregular routes, of *Metal buildings and parts* for metal buildings, (1) Between the plant sites of Stran-Steel Corp., at or near Houston, TX, and at or near Terre Haute, IN, and (2) From the plant site of Stran-Steel Corp., at or near Houston, TX, to points in OK, KS, NE, SD, ND, NM, CO, WY, MT, ID, UT, AZ, NV, OR, WA, and CA, under a continuing contract(s) with Stran-Steel Corp., of Houston, TX. MC 139468 Sub 12 authorizes transportation, over irregular routes, of *Buildings and building sections*, from Terre Haute, IN, and Houston, TX, to points in AK, under a continuing contract(s) with National Steel Products Company, Inc., restricted to the transportation of traffic originating at the plant sites and facilities utilized by National Steel Products Company, Inc., of Houston, TX.

By the instant petition, petitioner seeks to modify the above authority by adding "pipe" to the commodity descriptions in the three permits and to also remove the facility limitation reference in the origin description in the lead and Sub 6, and to also delete the restriction concerning facility limitations in Sub 12.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before February 26, 1979. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 13900 (Sub-18) (2nd republication), filed November 23, 1973, published in the FEDERAL REGISTER issues of January 17, 1974 and December 14, 1978, and republished this issue. Applicant: MIDWEST HAULERS, INC., 228 Superior Street, Toledo, OH 43604. Representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, VA 22314. A Decision of the Commission, decided August 24, 1978, and served September 20, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *General commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cincinnati, OH, Minneapolis and St. Paul, MN, Milwaukee, WI, Chigago, IL, St. Louis, MO and Houston, TX, on the one hand, and, on the other, Memphis, TN, New Orleans, LA, Dallas, Forth Worth, and San Antonio, TX, Kansas City, MO, Phoenix and Tucson, AZ, Salt Lake City, UT, Reno and Las Vegas, NV, Fresno, Oakland, Los Angeles, San Francisco, Sacramento, San Diego, San Jose, and Santa Fe Springs, CA, Portland, OR, and Seattle, Spokane, and Tacoma, WA, restricted to the transportation of traffic when moving on the bills of lading of freight forwarders as defined

* Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

in section 402(a)(5) of the act. Applicant is permitted to tack the authority granted herein with its existing motor common carrier authority at Cincinnati, OH, Houston, TX, Minneapolis and St. Paul, MN, Milwaukee, WI, Chicago, IL, and St. Louis, MO, to serve points in IL, IN, MN, MO, OH, MI, KY, PA, NY, MA, RI, CT, NJ, MD, WI, and the District of Columbia. Applicant is fit, willing, and able properly to perform this service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 29643 (Sub-10F) (republication), filed March 28, 1978, published in the FEDERAL REGISTER issue of May 25, 1978, and republished this issue. Applicant: WALSH TRUCKING SERVICE, INC., 50 Burney Avenue, Massena, NY 13662. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. A Decision of the Commission, Division 2, decided December 15, 1978, and served January 9, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *General commodities* (except Classes A and B explosives, articles of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Albany, NY, on the one hand, and, on the other, points in Clinton County, NY, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to delete the restriction.

MC 95876 (Sub-229F) (republication), filed February 21, 1978, published in the FEDERAL REGISTER issue of April 6, 1978, and republished this issue. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: Robert D. Gisvild, 1000 First National Bank Bldg., Minneapolis, MN 55402. A Decision of the Commission, Review Board Number 1, decided November 22, 1978, and served December 5, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Lumber and millwork*, from Pine Bluff, AR; and (2) *lumber and furniture*, from Sheridan, AR, to points in CO, IL, IN, IA, KS, KY, MI, MN, NE, ND, OH, PA, SD, and WI, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 115841 (Sub-623F) (republication), filed march 29, 1978, published in the FEDERAL REGISTER issue of May 19, 1978, and republished this issue. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 27919. Representative: E. Stephen Heisley, 666 11th St., NW., Washington, DC 20001. A Decision of the Commission, Review Board Number 1, decided December 18, 1978, and served January 10, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Foodstuffs* (except in bulk), from the facilities of Welch Foods, Inc., at Lawton, MI, to points in AR, KS, NE, MO, NM, OK, and TX, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate AR in lieu of AK, as a destination point.

MC 141820 (Sub-1) (republication), filed December 7, 1977, published in the FEDERAL REGISTER issue of February 2, 1978, and republished this issue. Applicant: ROMAN RURAK, 319 Eckford Street, Brooklyn, NY 11222. Representative: Sidney J. Leshin, 575 Madison Avenue, New York, NY 10022. A Decision of the Commission, by the Initial Decision of Administrative Law Judge Harold J. Sarbacher, served October 31, 1978, becomes effective January 3, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of *Passengers and their baggage*, in charter operations, beginning and ending in Brooklyn, NY, and extending to the District of Columbia and points in CT, FL, MA, NJ, NY, PA, and VA, under contract with the Polish & Slavic Center, Inc., of Brooklyn, NY, and Greenpoint Human Services—People For People, Inc., of Brooklyn, NY, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the grant of contract carrier authority in lieu of common carrier authority.

MC 144450 (Sub-1F) (republication), filed March 21, 1978, published in the FEDERAL REGISTER issue of May 11, 1978, and republished this issue. Applicant: HARRISON TRANSFER & STORAGE CO., a Corporation, P.O. Box 2276, Augusta, GA 30903. Representative: R. Frank Allen, 412 Old Evans Road, Martinez, GA 30907. A Decision of the Commission, Review Board Number 1, decided December 27, 1978, and served January 11, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *Used household goods*, between points in Richmond, Columbia, Burke, Jefferson, Lincoln, McDuffie, Emanuel, Glascock, Jenkins, Screven, Warren, Taliferro, and Wilkes Counties, GA, and Aiken, Edgefield, Allendale, Barnwell, Hampton, and McCormick Counties, SC, restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the grant of common carrier authority in lieu of contract carrier authority, and add a restriction.

FINANCE APPLICATIONS NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission on or before February 26, 1979. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's repre-

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sentative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC-F-13833F. Authority sought for purchase by: (A) SANBORN'S MOTOR EXPRESS, INC., 550 Forest Ave., Portland, ME 04101, and (AA) ARKANSAS-BEST FREIGHT SYSTEM, INC., P.O. Box 48, Fort Smith, AR 72002 of a portion of the operating rights of M & M TRANSPORTATION CO., DEBTOR IN POSSESSION, 750 Third Street, New York, NY 10017, and for acquisition by (A) H. Blaine Sanborn and Dwight L. Sanborn of 550 Forest Ave., Portland, ME and (AA) Arkansas Best Corporation, 100 So. 21st Street, Fort Smith, Arkansas 72901, of control of such rights through the transaction. Representatives: Herbert Burstein, One World Trade Center, New York, NY 10048. Mary E. Kelley, 11 Riverside Ave., Medford, MA 02155. Don A. Smith, 510 North Greenwood, Box 43, Fort Smith, AR 72902. Operating rights sought to be transferred: That portion of Certificate No. 69275 authorizing the transportation of General Commodities, with exceptions, over regular routes: Between New York, NY and York, PA: (Pennsylvania portion is between Philadelphia and York) Between Newark, NJ amd Junction U.S. Hwys 222 and 30.: (Pennsylvania portion is part of route between NJ-PA State line and Junction U.S. Hwys 222 and 30) Between Junction U.S. Hwy 22 and NJ Hwy 31 and Scranton, PA.: (Pennsylvania portion is part of route between NJ-PA State line and Scranton, PA) Between Scranton, PA and junction PA Turnpike Northeast Extension, and PA Turnpike, serving Allentown, PA, as an off-route point: Between junction PA Turnpike and U.S. Hwy 422, and Philadelphia, PA.: Between junction PA Hwy 100 and U.S. Hwy 22, and York, PA.: Between New York, NY, and Harrisburg, PA.: (Pennsylvania portion is that part of the route between NJ-PA State line and Harrisburg, PA) Between junction NJ Turnpike and U.S. Hwy 46, and junction U.S. Hwy 46 and NJ Hwy 31.: (no Pennsylvania portion) Between junction U.S. Hwy 22 and NJ Hwy 24, and Hackettstown, NJ.: (no Pennsylvania portion) Between junction U.S. Hwy 22 and NJ Hwy 31, and Flemington, NJ.: (no Pennsylvania portion) Between Allentown, PA, and Stroudsburg, PA.: Between junction U.S. Hwy 22 and PA Hwy 512, and Pen Argyl, PA.: Between Allentown, PA, and Hazelton, PA.: Between Allentown, PA, and Tamaqua, PA.: Between Allentown, PA, and Kutztown, PA.: Between Allentown-Bethlehem, PA, and Doylestown, PA.: Between Allentown, PA, and Lansdale, PA.: Between junction U.S. Hwy 309 and PA Hwy 29, and Spring City, PA.: Between junction PA Hwy 29 and 100, and Boyertown, PA.: Between Scranton, PA, and Honesdale, PA.: Between Scranton, PA, and Tobyhanna, PA.: Between Scranton, PA, and Danville, PA.: Between Scranton, PA, and Daleville, PA.: Between junction U.S. Hwy 11 and PA Hwy 315, and Wilkes-Barre, PA.: Between Wilkes-Barre, PA, and Blakeslee, PA.: Between Wilkes-Barre, PA, and West Nanticoke, PA.: Between Wilkes-Barre, PA, and Hazelton, PA.: Between junction U.S. Hwy 309 and PA Hwy 437, and Hazelton, PA.: Between Hazelton, PA, and Shickshinny, PA.: Between Reading, PA, and Sunbury, PA.: Between Pottsville, PA, and Minersville, PA.: Between Reading, PA, and Phoenixville, PA.: Between junction PA Hwy 10 and 724, and West Chester, PA.: Between Kennett Square, PA, and junction PA Hwy 82 and U.S. Hwy 322.: Between Reading, PA, and Lancaster, PA.: Between Lancaster, PA, and Morgantown, PA.: Between Lititz, PA, and Brownstown, PA.: Between Reading, PA, and Lebanon, PA.: Between York, PA, and Harrisburg, PA.: Between junction Interstate Hwy 83 and PA Hwy 181, and York Haven, PA.: Between York, PA, and Harrisburg, PA.: Between Elizabethtown, PA, and Annville, PA.: Between Marietta, PA, and Manheim, PA.: Between York, PA, and Dillsburg, PA.: Between York, PA, and Gettysburg, PA.: Between junction U.S. Hwy 30 and PA Hwy 116, Littletown, PA.: Between Hanover, PA, and Gettysburg, PA.: Between Hanover, PA, and York Springs, PA.: Between Hanover, PA, and East Berlin, PA.: Between Gettysburg, PA, and Dillsburg, PA.: Between Hanover, PA, and Spring Grove, PA.: Between York, PA, and New Freedom, PA.: Between junction U.S. Hwy 30 and PA Hwy 616, and Railroad, PA.: Between York, PA, and Delta, PA.:

Service is authorized (1) to and from all intermediate points except those located on PA Turnpike, PA Turnpike Northeast Extension, NJ Turnpike and interstate Hwy and are not specifically named; and (2) to and from all points within 5 miles of said routes as off-route points except those routes which are interstate Hwys and PA Turnpike, PA Turnpike Northeast Extension, and NJ Turnpike.

RESTRICTION: (1) Service at described points in PA is restricted to shipments from, to, or through New York, NY, Camden, NJ or points in NJ on the regular routes described above; (2) Service at described points in NJ is restricted to transportation of shipments moving from, to or through New York, NY, or points in PA on routes described above; (3) operations over above routes is restricted against service at any off-route point not located in NJ or PA; (4) service is also restricted against service in those portions of commercial zones of authorized points which are not located in NJ or PA; (5) the regular route authority is not severable by sale or otherwise from underlying irregular route authority hereinafter described.

REGULAR ROUTES: GENERAL COMMODITIES, with exceptions between York Springs, PA and the plant site of the Sylvania Shoe Manufacturing Corp. and its affiliates at Mount Holly Springs, PA, serving no intermediate points. IRREGULAR ROUTES: General commodities, with exceptions, (A) between New York, NY on the one hand, and, on the other, Camden, NJ and points in that part of NJ north of and including Mercer and Middlesex Counties; and points in that part of PA on and east of a line beginning at the MD-PA State line and extending along U.S. Hwy 15 to junction U.S. Hwy 11, thence along U.S. Hwy 11 to junction U.S. Hwy 6; and on and south of U.S. Hwy 6 from the said junction of U.S. 6 and 11 to the PA-NY State line. (B) Between Camden, NJ and points in the above described territory in NJ, on the one hand, and, on the other, points in the above described territory in PA.

The applicants propose to split the restriction described above, which limits service under the regular and irregular route authority, to traffic moving from, to, or through New York, NY, points in New Jersey north of and including Mercer and Middlesex Counties, NJ, and Camden, NJ.

The portion of authority ARKANSAS-BEST FREIGHT SYSTEM, INC. seeks to purchase would be limited to service between Camden, NJ on the one hand, and, on the other, the described irregular route area in PA and the corresponding regular routes within PA, subject to the restrictions described above, including that relative to Camden, NJ. Arkansas-Best would be obliged to traverse the Camden, NJ gateway in providing service at involved Pennsylvania points.

SANBORN'S MOTOR EXPRESS, INC. seeks to purchase that portion of the involved regular and irregular route authority subject to the restrictions which would limit service to traffic moving from, to, or through New York, NY and points in that part of NJ north of and including Mercer and Middlesex Counties, NJ which would result in it being permitted to provide service (a) between New York, NY, on the one hand, and, on the other, points in that part of New Jersey north of and including Mercer and

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Middlesex Counties, NJ and points on described regular routes within such Counties and (b) between New York, NY and points in New Jersey north of and including Mercer and Middlesex Counties, NJ on the one hand, and, on the other, points in that part of Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along U.S. Hwy 15 to junction U.S. Hwy 11, thence along U.S. Hwy 11 to junction U.S. Hwy 6; and on and south of U.S. Hwy 6 from the said junction of U.S. Hwy 6 and 11 to the Pennsylvania-New York State line, over irregular and described regular routes. Sanborn's would also acquire the regular route authority between York Springs, PA and the plant site of the Sylvania Shoe Manufacturing Corp., at Mount Holly Springs, PA.

SANBORN'S MOTOR EXPRESS, INC. and ARKANSAS-BEST FREIGHT SYSTEM, INC. are both motor common carriers of general commodities with exceptions. SANBORN'S MOTOR EXPRESS, INC. is authorized to operate in the States of: ME, NH, VT, MA, RI, CT, NY, NJ, PA.

ARKANSAS-BEST FREIGHT SYSTEM, INC. is authorized to operate in the States of: AL, AR, CT, DE, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MS, MO, NY, NJ, NC, OH, OK, PA, RI, SC, TN, TX, and WI.

Application has been filed for temporary authority under Section 210a(b).

MC-F-13842F. Transferee: SHANAHAN'S EXPRESS, INC., 2201 Garry Road, Cinnaminson, N.J. 08077. Transferor: P. Callahan, Inc., 5240 Comly Street, Philadelphia, Penna. 19135. Representative: Maxwell A. Howell, Esquire, 1100 Investment Building, 1511 K Street, N.W., Washington, D.C. 20005. Authority sought for purchase by transferee of a portion of the operating rights of transferor set forth in MC-20894, and for acquisition by James J. Shanahan, same address as transferee, of control of such rights through the purchase. Operating rights sought to be transferred: *General commodities*, with usual exceptions, as a *common* carrier, of property, by motor vehicle, over *regular* routes, between Red Bank NJ, and New York, NY serving the intermediate and off-route points of Mechanicsville, Cliffword, Morgan, South Amboy, Woodbridge, Elizabeth, Newark, South Kearny, Little Silver, Sea Bright, Rumson, Fair Haven, Highlands, Atlantic Highlands, Navesink, Leonardo, Belford, Port Monmouth, Keansburg, Union Beach, Keyport, Middletown, Hazlet, Perth Amboy, Boyton Beach, Sewaren, Port Reading, Carteret, Maurer, Chrome, Grasselli, Tremley, Avenel, Elizabethport, and Port Newark, NJ: From Red Bank over NJ Highway 35 to South Amboy, NJ, thence over U.S. Highway 9 to junction U.S. Highway 1, thence over U.S. Highway 1 via Newark, NJ, to Jersey City, NJ, and thence across the Hudson River to NY, and return over the same route. Transferee is authorized to operate as a common carrier, by motor vehicle, in PA and NJ. Application has not been filed for temporary authority under section 210a(b).

MCF—13860F. Authority sought for purchase by CENTRAL OKLAHOMA FREIGHT LINES, INC., 2945 North Toledo, Tulsa, OK 74415, of a portion of the operating rights of BURK MOTOR FREIGHT, INC., 209 N. Berry Street, Burkburnett, TX 76354, and for the acquisition by Jack E. Tucker, 2945 North Toledo, Tulsa, OK 74415, of control of such rights through the transaction. Transferee's attorney: R. H. Lawson, 106 Bixler Bldg., 2400 N.W. 23rd, Oklahoma City, OK 73107. Transferor's attorney: David B. Schneider, Morgan and Brown, P.O. Box 1540, Edmond, OK 73034. Operating rights sought to be transferred: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between Wichita Falls, Tex., and Oklahoma City, Okla., serving the intermediate points of Burkburnett, Tex., Randlett, Taylor, Waurika, Addington, Comanche, Beckett, Duncan, Marlow, and Rush Springs, Okla. From Wichita Falls over U.S. Highway 277 to junction U.S. Highway 70 west of Randlett, Okla., thence over U.S. Highway 70 to junction U.S. Highway 81, east of Waurika, Okla., thence over U.S. Highway 81 to junction H. E. Bailey Turnpike, and thence over H. E. Bailey Turnpike to Oklahoma City, and return over the same route. Between Randlett and Comanche, Okla., serving the intermediate points of Walters and Corum, Okla. From Randlett over H. E. Bailey Turnpike to junction Oklahoma Highway 53 west of Walters, Okla., and thence over Oklahoma Highway 53 to Comanche, and return over the same route. Transferee is authorized to operate as a regular route common carrier in the State of Oklahoma. application has been filed for temporary authority under section 210 a(b). (Hearing site: Oklahoma City, OK). Note: MC-121739 (Sub 4F) is a directly related matter.

MC-F-13869F. Authority sought for purchase by BRUNSWICK TRANSPORTATION COMPANY, INC., Elm and Middle Streets, Brunswick, ME 04011, of a portion of the operating rights of CAPITAL TRANSIT, INC., DBA CONCORD COACH LINES, South Main Street, Concord, NH 03301, and for acquisition by Albert Z. and Maurice J. Ouellette, of Brunswick, ME, and Raymond L. and Robert J. Ouellette, of South Portland, ME, of control of the rights through the purchase. Applicants' attorney: J. G. Dall, Jr., P.O. Box LL, McLean, VA 22101. Operating rights sought to be purchased: Common carrier, over irregular routes, of *passengers and their baggage* in one-way and round trip special operations in tour service, beginning and ending at points in Belknap, Carroll, Coos, Hillsborough, Merrimack, Rockingham, and Strafford Counties, NH, and points in the part of Grafton County, NH, on and east of a line beginning at the Grafton-Merrimack County line and extending along U.S. Highway 4 to Cannan, NH, thence along NH Highway 118 to its junction with NH Highway 112, near North Woodstock, NH, thence along NH Highway 112 to its junction with NH Highway 116 near Easton, NH, thence along NH Highway 116 to Franconia, NH, thence along NH Highway 18 to its junction with U.S. Highway 3 near Franconia Notch, NH, thence along U.S. Highway 3 to the Grafton-Coos County line, and extending to points in the United States, including AK, but excluding HI, and subject to a stated restriction. Vendee is authorized to operate under MC-109495 as a common carrier of passengers and their baggage over described regular routes in Maine and in special and charter operations, beginning and ending at points in certain counties in Maine and extending to points in the United States, except HI. Duplicating authority for roundtrip special operations beginning and ending at Coos County, NH, will result, but transferee seeks no severable duplicating authority. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-F-13870F. Authority sought for purchase by Watkins Motor Lines, Inc., P.O. Box 1636, Lakeland, FL 33802, of a portion of the operating rights of George Transfer and Rigging Company, Incorporated, P.O. Box 500, Parkton, MD 21120, of control of such rights through the purchase by Watkins Associated Industries, Inc. and Bill Watkins. Applicant's representatives: Paul M. Daniell, Suite 1200, 235 Peachtree Street, N.E., Atlanta, GA 30303 and John Guandolo, 502 Solar Building, 1000 16th Street, Washington, DC 20423. Operating rights sought to be purchased: The Transferor's general commodity irregular route authority between Victoria and Kenbridge, VA on the one hand, and, on the other, Hanover, PA; Balimore, MD; Washington, DC; and, points in VA and NC (Sub-38, In Part) and the Transferor's general commodity irregular route authority between the site

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of carrier's terminal at or near South Hill, VA on the one hand, and , on the other, points in NC, serving said terminal site for purpose of joinder with carrier's existing operating rights (Sub-44). Vendee is authorized to operate as a common carrier in all states in the US except AK and HI. Application has not been filed for temporary authority under Section 210a(b) of the Act. (Hearing site: Washington, DC)

MC-F-13875F. Authority sought for purchase by GLESS BROS., INC., P.O. Box 219, Blue Grass, IA., 52726, of a portion of the operating rights of KATUIN BROS., INC., P.O. Box 311, Ft. Madison, IA., 52627, and for acquisition by STEVEN BERGER AND RICHARD POWELL of Blue Grass, IA., of control of such rights through the purchase. Transferee's attorney: Larry D. Knox, 600 Hubbell Building, Des Moines, IA., 50309, Transferors' representative: Carl E. Munson, 469 Fisher Bldg., Dubuque, IA., 52001. Operating rights sought to be transferred: Salt, as a common carrier over irregular routes from Rock Island, IL., to points in IA., with restrictions. Vendee is authorized to operate as a common carrier within the States of IA, IL, WI, IN, MN, NE, ND, SD, MO, AR, KS, KY and TN. Application has been filed for temporary authority under section 210a(b).

NOTE.—If a hearing is deemed necessary, applicants request it be held in Des Moines, IA.

MC-F-13878F. Authority sought for control by ROGER CROUCH ENTERPRISES, INC., 5310 St. Joseph Avenue, St. Joseph, MO., 64505 of INDUSTRIAL CITY LINES, INC., 5310 St. Joseph Avenue, St. Joseph, MO., 64505, through a stock exchange. Applicant's attorney. E. Wayne Farmer Linde Thomson Fairchild Langworthy & Kohn, City Center Square—27th Floor, 12th & Baltimore, P.O. Box 26010, Kansas City, MO., 64196. Principal operating routes of Industrial City Lines, Inc. as a contract carrier sought to be controlled: 1) Regular route specified commodity authority authorizing the transportation of *Fresh Fruits and Vegetables, Lumber, Sand, Coal, Building Materials, Empty Fruit Baskets, Chemicals used in spraying* and *Spraying Materials*, from and to specified points in KS and MO over specified routes; 2) Regular and irregular routes specified commodity authority authorizing the transportation of Beer and Cereal Beverages and Empty Beer and Cereal Beverage Containers from and to specified points in MO and NE over specified routes; 3) Irregular route specified commodity authority authorizing the transportation of Fresh Fruits and Vegetables, Malt Beverages, Empty Malt Beverage Containers, Damaged Shipments, Beer, Empty Beer Container, Hardware, Wagons, Saddlery, Glassware and Cans from and to specified points in MO, NE, SD, CO, WY, AR, MN, OK, IL, IA and KS. The aforementioned summary is generally the commodities and territory involved but does not precisely define the scope of operations of Industrial City Lines, Inc. ROGER CROUCH ENTERPRISES, INC. holds no authority from this Commission, However, ROGER CROUCH ENTERPRISES, INC. is the sole shareholder of MISSOURI-NEBRASKA EXPRESS INC., operating under MC-22509 and subs thereunder as a common carrier in the States of IA, MO, NE, KS, MN, WI, IL, and AR. (Hearing site: Washington, D.C. or Kansas City, MO).

MC-F-13879F. Authority sought for a purchase by SUNDERMAN TRANSFER, INC., P.O. Box 63, Windom, MN, 56101, of a portion of the operating rights of AJAX TRANSFER COMPANY (BB) and LTL PERISHABLES, INC. (BBB), both of which Transferors are located at 550 East 5th Street South, South Saint Paul, MN 55075, and for acquisition by L. E. Sunderman and Eugene Sunderman, both of Windom, MN, of control of the rights sought to be acquired through the purchase. Applicant Transferee's Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108; and Applicant Transferors' Representative: Kenneth O. Petrick, 550 East 5th Street South, South Saint Paul, MN 55075. Operating rights sought to be purchased: (BB) (1) Frozen foodstuffs (except commodities in bulk, in tank vehicles), and (2) Frozen meats and meat by-products unfit for human consumption (except commodities in bulk, in tank vehicles), from the facilities of Wiscold, Inc., at or near Beaver Dam, WI, to points in IL, IA, MI, MN, ND, and SD, as fully described in MC-138896 (Sub-7); and (BBB) meats, meat products and meat byproducts, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Howard, SD to points in IA, NE and MN, restricted to traffic originating at and destined to the named points, and frozen foods (except in bulk) from Sioux Falls, SD, to points in IA, NE and MN, restricted to traffic originating at the facilities or Nordica Frozen Foods, Inc., at Sioux Falls, SD, and destined to the named points, as described in MC-135874 (Sub-15). Transferor Ajax Transfer Company (BB) would retain that portion of MC-138896 (Sub-7) which authorizes service from the facilities of Wiscold, Inc., at or near Milwaukee, WI; and thus a split of operating authority is proposed. Vendee is authorized to operate as a contract carrier pursuant to MC-125103 within that part of the United States in and east of ND, SD, NE, CO, OK and TX, but holds no authority to operate as a common carrier. Dual operations are involved. Application has not been filed for temporary authority under section 210a (b).

MOTOR CARRIER OF PASSENGERS

MC-F-13880F. Authority sought for purchase by DAYTON & SOUTHEASTERN LINES, INC., 2600 Willowburn Avenue, P.O. Box 26040, Dayton, Ohio 45426, of the operating rights of Bus America, Inc., 2600 Willowburn Avenue, P.O. Box 26040, Dayton, Ohio 45426 and for acquisition by Carl Schaefer Jr., 321 Stuckhardt Drive, Trotwood, Ohio 45426 of control of such rights through the purchase. Applicant's attorney: Earl N. Merwin, Attorney at Law, 85 East Gay Street, Columbus, Ohio 43215. Operating rights sought to be purchased: *passengers and their baggage and newspapers and express in the same vehicle with passengers*, between Columbus, Ohio, and Lima, Ohio, serving all intermediate points: From Columbus over U.S. Highway 33 to New Hampshire, Ohio, thence over Ohio Highway 196 to junction Ohio Highway 117, and thence over Ohio Highway 117 to Lima, and return over the same route. Between junction U.S. Highway 33 and Ohio Highway 161 and New California, Ohio, serving all intermediate points: from junction U.S. Highway 33 and Ohio Highway 161 Over Ohio Highway 161 to Plain City, Ohio, thence over U.S. Highway 42 to New California, and return over the same route. Between junction U.S. Highway 33 and County Road 152 and junction Ohio Highway 292 and U.S. Highway 33, serving all intermediate points: from junction U.S. Highway 33 and County Road 152, over County Road 152 to junction Ohio Highway 292, thence over Ohio Highway 292 via East Liberty, Ohio, to junction U.S. Highway 33, and return over the same route. Between junction U.S. Highway 33 and County Road 153 and junction Ohio Highway 540 and U.S. Highway 33, serving all intermediate points: from junction U.S. Highway 33 and County Road 153, over County Road 153 to Zanesville, Ohio, thence over County Road 5 to junction County Road 25, thence over County Road 25 to junction Ohio Highway 540, and thence over Ohio Highway 540 to junction U.S. Highway 33, and return over the same route. Between junction U.S. Highway 33 and Ohio Highway 117 and junction Ohio Highway 366 and Ohio Highway 33, serving all intermediate points: from Junction U.S. Highway 33 and Ohio Highway 117, over Ohio Highway 117 via Huntsville, Ohio, to junction Ohio Highway 366, thence over Ohio Highway 366 via Russells Point, Ohio, to junction U.S. Highway 33, and return over the same route.

The above described authority to transport passengers was issued pursuant to an application filed on or before January 1, 1967, and therefore, incidental charter operations in interstate or foreign commerce may be conducted under rules and regulations prescribed by the Commission pursuant to section 208 (c) of the Interstate Commerce Act, as amended November 10, 1966.

IRREGULAR ROUTES: *passengers and their baggage, in charter and special operations, in round-trip sightseeing and pleasure tours*, beginning and ending at points in Allen, Athens, Auglaize, Belmont, Coshocton, Franklin, Fairfield, Guernsey, Harrison, Hocking, Jefferson, Licking, Logan, Meigs, Morgan, Muskingum, Perry, Pickaway, Ross, Union, and Washington Counties, Ohio, and extending to points in the United States (including Alaska, but excluding Hawaii).

IRREGULAR ROUTES: *passengers and their baggage, in charter and special operations, in round-trip sightseeing and pleasure tours*, beginning and ending at points in Delaware County, Ohio, and extending to points in the United States (including Alaska but excluding Hawaii).

REGULAR ROUTES: *passengers and their baggage and newspapers and express in the same vehicle with passengers and their baggage*, between Delaware, Ohio, and Marysville, Ohio, serving all intermediate points, over U.S. Highway 36. Between Delaware, Ohio, and Dublin, Ohio, serving all intermediate points: From Delaware over U.S. Highway 42 to its junction with Ohio Highway 745, thence over Ohio Highway 745 to Dublin, and return over the same route. From Delaware over U.S. Highway 42 to its junction with Ohio Highway 257 to Dublin, and return over the same route. Between Columbus, Ohio, and Dublin, Ohio, serving all intermediate points: From Columbus, Ohio over Ohio Highway 315 to its junction with Ohio Highway 161, thence over Ohio Highway 161 to Dublin, and return over the same route. Between Lima, Ohio, and Wapakoneta, Ohio, serving all intermediate points: from Lima over Ohio Highway 65 to its junction with Ohio Highway 33, thence over Ohio Highway 33 to Wapakoneta, and return over the same route. RESTRICTION: the authority granted in the paragraph next above is restricted against transporting passengers whose entire ride is between Lima and Wapakoneta. Between St. Marys, Ohio, and Dayton, Ohio, serving all intermediate points: From St. Marys over Ohio Highway 66 to its junction with U.S. Highway 36, thence over U.S. Highway 36 to its junction with Ohio Highway 48, thence over Ohio Highway 48 to Dayton, and return over the same route. RESTRICTION: the authority granted in the paragraph next above is restrictd against transporting any passengers whose entire ride is between Lima, Ohio, and Dayton, Ohio, and between Wapakoneta, Ohio and Dayton, Ohio. Between Celina, Ohio, and New Hampshire, Ohio, serving all intermediate points: from Celina over Ohio Highway 29 to U.S. Highway 33, thence over U.S. Highway 33 to New Hampshire, and return over the same route. Between the junction of Taywood Road and Ohio Highway 48 (Montgomery County, Ohio) and Dayton, Ohio, serving all intermediate points: from the junction of Taywood Road and Ohio Highway 48 over Taywood Road to Westbrook Road, thence over Westbrook Road to its intersection with Salem Bend Drive, thence over Salem Bend Drive to its intersection with Shiloh Springs Road, thence over Shiloh Springs Road to its intersection with Olive Road, thence over Olive Road to its intersection with Free Pike, over Free Pike to its intersection with Salem Avenue, thence over Salem Avenue to Dayton, and return over the same route. Between the junction of Free Pike and Olive Road, and Dayton, Ohio, serving all intermediate points: over Olive Road to Wolf Creek Pike, thence over Wolf Creek Pike to Dayton, Ohio. Between Englewood, Ohio and Dayton, Ohio, serving all intermediate points, over Ohio Highway 48. Between Dayton, Ohio, and Xenia, Ohio, serving all intermediate points, over U.S. Highway 35 and Dayton Xenia Pike. ALTERNATE ROUTES FOR OPERATING CONVENIENCE ONLY: *passengers and their baggage and newspapers and express in the same vehicle with passengers and their baggage*, between Lima, Ohio and Wapakoneta, Ohio, serving no intermediate points, over Interstate Highway 75. RESTRICTION: the authority granted in the paragraph next above is restricted against transporting passengers whose entire ride is between Lima and Wapakoneta. Between Dayton, Ohio, and Xenia, Ohio, serving no intermediate points over U.S. Highway 35.

IRREGULAR ROUTES: *passengers and their baggage in round-trip charter operations*, beginning and ending at points in Champaign, Greene, Miami, Preble, Shelby, and Montgomery (except charter operations that begin and end in the cities of Dayton, Kettering, Moraine, West Carrollton, Miamisburg, and Miami Township) Counties, Ohio, and extending to points in the United States, including Alaska but excluding Hawaii. *Passengers and their baggage in special operations, in round-trip, sightseeing and pleasure tours*, beginning and ending at points in Champaign, Greene, Miami, Preble, Shelby, and Montgomery Counties, Ohio, and extending to points in the United States, including Alaska but excluding Hawaii. Vendee is authorized to operate as a common carrier, over regular routes, in Indiana, Kentucky and Ohio. Application has not been filed for temporary authority under Section 210 a(b).

MC-F-13881F. Authority sought for purchase by GENE'S INC., 6975 Brookville-Salem Road, Brookville, Ohio 45309, of a portion of the operating rights of Gene's Inc., 10115 Brookville-Salem Road, Clayton, Ohio 45315, and for acquisition by Charles E. Foreman, 1400 Talbott Tower, Dayton, Ohio 45402, of control of such rights through the purchase. Attorney, Paul F. Beery, 275 East State Street, Columbus, Ohio 43215; vendee's attorney, James R. Stiverson, 1396 West Fifth Avenue, Columbus, Ohio 43212. The operating rights sought to be acquired are set forth in Certificate MC-133977 and Subs 4, 5, 6, 7, 10, 12, 16, 19, 23 and 24, and Permit MC-134238 Subs 2, 3, 5, 8 and 9. The certificated authority encompasses foodstuffs from Washington Court House, Ohio, to points in 38 states and D.C.; fertilizer, fertilizer material, etc. from St. Bernard and Orrville, Ohio, to points in Kentucky, Indiana and Michigan; and polystyrene articles from Troy, Ohio, generally to that part of the United States on and east of U.S. Highway 85; and ice cream, etc. between Bowling Green, Ohio, and points in eight states. The permit authority encompasses dairy products, ice cream and fruit juices variously from plantsites and storage facilities of the Kroger Company to destinations located on and east of U.S. Highway 85, limited to a transportation service to be performed under a continuing contract or contracts with the Kroger Company of Cincinnati, Ohio. Dual operations have been approved. GENE'S, INC. of Brookville, OH, holds no authority from this Commission. However Charles E. Foreman controls GENE'S, INC. Charles E. Foreman is the controlling shareholder of Springfield Warehousing Co., Inc., a non-carrier, which in turn is the controlling shareholder of Thomas Kappel, Inc., a contract carrier by virtue of Permit MC-107006 and Subs 2 and 3 thereunder, which generally encompass automotive parts and iron and steel articles between specified points in Ohio, Illinois, Indiana, Kentucky, Michigan and West Virginia. All of the above-described authorities are over irregular routes. The authorities sought to be transferred by Gene's Inc. are more fully described in Certificate No. MC-

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133977 and subs thereunder and Permit No. MC-134238 and subs thereunder. Approval of the proposed transaction will not result in vendee acquiring duplicating authority.

MC-F-13882F. Authority sought for control by FREDERICK TRANSPORT LIMITED, R.R. 6, Chatham, Ontario, Canada, and also George Frederick, Robert Frederick and Thomas E. Broadwood, R.R. 6, Chatham, Ontario, Canada, of Preston Feed & Seed Limited, R.R. 4, Cambridge, Ontario, Canada. Attorney: Jeremy Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Operating rights to be controlled: soybean meal, in bulk, from points in Illinois, Indiana and Ohio to ports of entry on the International Boundary Line; grain and grain products and feed ingredients, dry, in bulk, between ports of entry on the International Boundary Line on the one hand, and on the other, points in Michigan, Illinois, Indiana and Ohio, both under contract with Maple Leaf Mills Limited; and grain and grain products in bulk, between ports of entry on the International Boundary Line on the one hand, and, on the other, points in Michigan, New York, Ohio and Pennsylvania, as more fully described in permits MC-127353, and MC-127353 Sub No. 2, and certificate MC-135421 (Sub No. 2). Frederick is authorized to operate as common carrier of specified commodities, including dry commodities in bulk, between ports of entry on the International Boundary Line, and 27 states in the eastern portion of the United States, as more fully described in certificates in MC-116519 and Sub Nos. thereunder. Approval of this transaction will result in the applicant being in control of both common and contract motor carrier operation in the states of Illinois, Indiana, Ohio and Michigan. Approval of this transaction will also include some duplicating authority to serve points in Michigan, New York, Ohio and Pennsylvania. An application for temporary authority under Section 11349 of the Interstate Commerce Act has been filed.

MC-F-13883F. Authority sought for purchase by ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326, a portion of the operating rights of Katuin Bros., Inc., P.O. Box 311, Fort Madison, IA 52627, and for acquisition by Henry Zellmer of control of the rights through purchase. Representatives: E. Stephen Heisley, 666 Eleventh Street, N.W., No 805, Washington, DC 20001; Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. Operating rights sought to be purchased; (1) *Molybdenum compounds, molybdenum ores, molybdenum concentrates, molybdenum concentrates, molybdenum chemicals, molybdenum alloys, sulphuric acid, and tungsten concentrates* (except in bulk and those which because of size or weight require the use of special equipment (a) from the facilities of AMAX, Inc. at or near Fort Madison, IA to points in the United States (except IA, AK and HI), (b) from the facilities of AMAX, Inc., located at or near Langeloth, PA to points in the United States (except AK, HI, MD, MI, NJ, NY, OH, PA, and WV), (2) *materials and supplies used in the production and distribution of the commodities in (1) above* (except in bulk and those which because of size or weight require the use of special equipment) from points in the United States (except IA, AK, HI) to the facilities of AMAX, Inc., at or near Fort Madison, IA, restricted to transportation performed under a continuing contract or contracts with AMAX, Inc. Vandee is authorized to operate as a *common carrier* in the States of MN, IL, WI, NE, IN, MI, MO, SD, IA, KS, KY, CO, ND, OH, WY. Application has been filed for temporary.

MC-F-13884F Authority sought for purchase by SYSTEM 99, 8201 Edgewater Drive, Oakland, California 94621, a portion of the operating rights of FARRAGUT BAGGAGE & TRANSFER CO., INC., 945 E. 17th Street, P.O. Box 50406, Tucson, Arizona 85703, and for acquisition by M.D. Gilardy, L.A. Dore', Jr. and E. R. Preston also of Oakland, California, of the control of the rights through the purchase. Attorney: Michael A. Bernstein, 1441 E. Thomas Road, Phoenix, Arizona 85014. Operating rights sought to be purchased: General commodities, with exceptions as a common carrier, over regular routes between all points within the vicinity of Tucson, Arizona, as more fully described in MC-98852 (Sub-No. 2). Vendee is authorized to operate pursuant to Certificate No. MC-98327 as a common carrier in the States of AZ, CA, NV, ID, OR and WA. Approval of the application will result in minor duplication within the commercial zone of Tucson, AZ. Application has been filed for temporary authority under Section 210a(b).

MC-F-13885F. Authority sought for purchase by GELCO COURIER SERVICES, INC., P.O. Box 1975, St. Paul, MN 55111 of the operating rights of LOOMIS COURIER SERVICE, INC., 390 4th Street., San Francisco, CA., 94107 and for acquisition by INTERNATIONAL COURIERS CORPORATION, P.O. Box 1975, St. Paul MN., 55111 and GELCO CORPORATION, 1 Gelco Dr., Eden Prairie, MN., 55344 of control of such rights through the transaction. Attorneys: Jack Goodman, Axelrod, Goodman, Steiner & Bazelon, 39 S. LaSalle St., Chicago, IL., 60603, and Melvin Rosenbloom, P.O. Box 1975, St. Paul, MN., 55111. Transferor's Attorney: Melvin Bailet, 55 Battery St., Seattle, WA., 98121. Operating rights sought to be transferred are as a common and contract carrier of Cash letters, Commercial Papers, documents, and written instruments as are used in the business of Banks and banking institutions; Commercial Account Commodities; Commercial documents; Business records; Accounting and auditing media; Automated data processing media, and Advertising materials, over irregular routes, from, to and between points in the States of WA, OR, ID, CA, and HI. Transferee is authorized to transport specified commodities over irregular routes, as a common and contract carrier, from to and between points in the States of AR, CA CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, and WY. Dual operations are involved. Duplicating authority is involved. Application has been filed for temporary authority under Section 210a(b). (Hearing site: San Francisco, CA).

MC-F-13886F Authority sought for purchase by NEW DEAL DELIVERY SERVICE, INC., 206 West 37th Street, New York, NY 10018, of a portion of the operating rights of S.T.S. MOTOR FREIGHT, INC., 107 Evergreen Road, Stratford, NJ 08084, of control of such rights through the transaction. Attorney: Arthur J. Piken, Piken & Piken, Esqs., One Lefrak City Plaza, Flushing, NY 11368. Operating rights sought to be transferred: General commodities, except those of unusual value, Classes A and B explosives, livestock, live fish, and poultry, new furniture, motion picture films, silk, household goods as defined by the Commission, and those commodities requiring the use of tank equipment for their transportation, as a common carrier, over regular routes between Philadelphia, PA, and Trenton, NJ, serving the intermediate point of Camden, NJ, and the off-route point of Bristol, PA: From Philadephia over US Hwy 1 to Trenton, and return over the same route. Also return from Trenton over US Hwy 206 to Bordentown, NJ, then over US. Hwy 130 to Philadephia. Alternate route for operating convenience only: General commodities, except those of unusual value, Classes A and B explosives, livestock, live fish and poultry, new furniture, motion picture films, silk, household goods as defined by the Commission, and those commodities requiring the use of tank equipment for their transportation, between Philadelphia, PA, and junction US Hwys 130 and 1, located approximately 1 mile northwest of Milltown, NJ, in connection with carrier's regular-route operations, authorized herein, serving no intermediate points, but serving junction US Hwys 130 and 1, for the purposes of joinder only: From Philadephia over city streets to junction US Hwy 130, then over US Hwy 130 to junction US Hwy 1 near Milltown, NJ, and return over the same route. Vendee is authorized to operate as a common carrier in the States of NY, NJ, CT, PA, and DE. Application has not been filed for temporary authority under section 210a(b).

Operating Rights Application(s) Directly Related to Finance Proceedings

The following operating rights application(s) are filed in connection with pending finance applications under Section 11343 (formerly Section (5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 10926 (formerly Section 212(b)) of the Interstate Commerce Act.

An original and one copy of protests to the granting of the authorities must be filed with the Commission on or before February 26, 1979. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC-121739 (Sub-No. 4F). Filed December 13, 1978. Applicant: BURK MOTOR FREIGHT, INC. P.O. Box 387, Burkburnett, TX 76354. Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034. Authority sought to operate as a *common carrier* over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Wichita Falls, Texas and the junction of U.S. Highway 277 and U.S. Highway 70, serving all intermediate points. From Wichita Falls over U.S. Highway 277 to the junction of U.S. Highway 70 and U.S. Highway 277, and return over the same route. (Hearing site: Oklahoma City, OK.)

NOTE.— The purpose of this applicaion is to enable to continue operations over the above described route. This application is directly related to a finance proceeding docketed MC-F-13860F, published in a previous section of this FR issue.

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before February 26, 1979.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

MOTOR CARRIERS OF PROPERTY

MC 29555 (Deviation No. 26), BRIGGS TRANSPORTATION CO., North 400, Griggs-Midway Bldg., St. Paul, MN 55104, filed December 20, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Minneapolis/St. Paul, MN over US Hwy 169 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction Interstate Hwy 29, then over Interstate Hwy 29 to Sioux City, IA, then over US Hwy 77 to Fremont, NE, then over US Hwy 275 to Omaha, NE, and (2) From Minneapolis/St. Paul, MN over US Hwy 169 to junction MN Hwy 60, then over MN Hwy 60 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction Interstate Hwy 29, then over Interstate Hwy 29 to Sioux City, IA, then over US Hwy 77 to junction US Hwy 73 at Winnebago, NE, then over US Hwy 73 to Omaha, NE, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Minneapolis/St. Paul, MN over Interstate Hwy 35 to junction MN Hwy 50, then over MN Hwy 50 to Farmington, MN, then over MN Hwy 3 to Faribault, MN, then over Interstate Hwy 35 (US. Hwy 65) to Owatonna, MN, then over US Hwy 218 to Waterloo, IA, then over US Hwy 63 to junction US Hwy 6, then over US Hwy 6 to Omaha, NE and return over the same route.

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before February 26, 1979.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

MOTOR CARRIERS OF PASSENGERS

MC 2866 (Deviation No. 15) (Cancels Deviation No. 9), EDWARDS MOTOR TRANSIT COMPANY, 3446 Charlotte St., Pittsburgh, PA 15201, filed January 11, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage* and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From Youngstown, OH over Interstate Hwy 680 to juction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 480 (Gate 13, Ohio Turnpike), then over Interstate Hwy 480 to junction Interstate Hwy 77, then over Interstate Hwy 77 to Cleveland, OH, with the following access route: (a) From Warren, OH over OH Hwy 82 to junction OH Hwy 5, then over OH Hwy 5 to junction Interstate Hwy 80 (Gate 14, OH Turnpike), and (2) From Youngstown, OH, over Interstate Hwy 680 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction OH Hwy 21 (Gate 11, OH Turnpike), then over OH Hwy 21 to junction Miller road, then over Miller road to junction Interstate Hwy 77, then over Interstate Hwy 77 to Cleveland, OH, with the following access route: (a) From Warren, OH over OH Hwy 82 to junction OH Hwy 5, then over OH Hwy 5 to junction Interstate Hwy 80 (Gate 14, OH Turnpike), and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Youngstown, OH over US Hwy 422 to Cleveland, OH and return over the same route.

MC 29957 (Deviation No. 19), CONTINENTAL SOUTHERN LINES, INC., Box 8435, Jackson, MS 39204, filed January 11, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express*, and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Chester, IL over IL Hwy 150 and the Mississippi River Bridge to junction MO Hwy 51, then over MO

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Hwy 51 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction US Hwy 61, then over US Hwy 61 to Cape Girardeau, MO and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Chester, IL over IL Hwy 3 to junction IL Hwy 146, then over IL Hwy 146 and the Mississippi River Bridge to Cape Girardeau, MO and return over the same route.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2512 Filed 1-24-79; 8:45 am]

[7035-01-M]

[Notice No. 14]

ASSIGNMENT OF HEARINGS

JANUARY 22, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC-144343F, Florida Car Transport, Inc., now assigned for hearing on January 30, 1979, at Miami, Florida is canceled and dismissed.

I&SM No. 29941, Restructured Class Rates, R.M.M.T.B., October 1978, now being assigned for pre-hearing conference on February 6, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. MC-69833 (Sub-No. 131F), Associated Truck Lines, Inc., now assigned for hearing on March 13, 1979, at Columbus, Ohio is canceled and dismissed.

No. MC-123407 (Sub-No. 438F), Sawyer Transport, Inc., now assigned for hearing on January 11, 1979, at St. Paul, Minnesota is canceled and dismissed.

No. MC-143910 (Sub-No. 4F), New Hampshire Continental Express, Inc., now assigned February 21, 1979, Washington, D.C. is canceled transferred to Modified Procedures.

No. MC-114211 (Sub-No. 346F), Warren Transport, Inc., now assigned January 30, 1979, at Portland, Oregon, is canceled transferred to Modificed Procedure.

H. G. HOMME, Jr.
Secretary.

[FR Doc. 79-2636 Filed 1-24-79; 8:45 am]

[7035-01-M]

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 22, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before February 9, 1979. FSA NO. 43655, Southwestern Freight Bureau, Agent's No. B-796, rates on hulls, cottonseed, peanut or soybean, from, to and within Southwestern Territory, in Supplement 84 to its Tariff 235-E, ICC 5166, to become effective February 12, 1979. Grounds for relief—revised rate structure.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2637 Filed 1-24-79; 8:45 am]

[7035-01-M]

[Notice No. 151]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission on or before February 26, 1979. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

REPUBLICATION

MC-FC-77907, filed October 16, 1978. Transferee: GREEN COUNTRY EXPRESS, INC., 16 West Brady, Tulsa, OK 74103. Transferor: C & P Transportation, Inc., 47 North Rockford Avenue, Tulsa, OK 74120. Representative: G. Timothy Armstrong, Esquire, 6161 North May Avenue, Oklahoma City, OK 73112. Authority sought for purchase by transferee of that portion of the operating rights of transferor set forth in Certificate of Registration No. MC-121637 (Sub-No. 2), issued April 4, 1978, as follows: General commodities, with exceptions, over specified routes, between Tulsa, OK and LaBarge, OK, and between Tulsa, OK and Pryor, OK. Transferee presently holds no authority from this Commission. Application for temporary authority under Section 210a(b) has not been filed. This republication of the notice of December 1, 1978, is necessary to show the correct description of the operating rights sought to be transferred.

MC-FC-77965, filed December 19, 1978. Transferee: MARK PRODUCTS & SERVICES, INC., Box 354, Chatham, MA 02633. Transferor: Gringeri Bros. Transportation Co., Inc., M. G. Sherman, Trustee in Bankruptcy, 18 Tremont Street, Boston, MA 02108. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought for purchase by transferee of a portion of the operating rights of transferor set forth in Certificate NO. MC-117758 (Sub 4) issued October 24, 1975, as follows: Such commodities as require special equipment by reason of size or weight, between points in a defined area in MA, on the one hand, and, on the other, points in RI, CT and defined areas in NY, NH and VT. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77970, filed December 21, 1978. Transferee: ALL-AMERICAN MOVING SYSTEMS, INC., 58 Hubbard Rd., Youngstown, OH 44505. Transferor: Douglas Moving & Transfer Company, 483 Industrial Rd., Youngstown, OH 44509. Representative: E. H. Van Deusen, Esq., 220 West Bridge St., P.O. Box 97, Dublin, OH 43017. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-69376, issued May 10, 1973, as follows: *Household goods* as defined by the Commission, between

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points in Mahoning County, Ohio, on the one hand, and, on the other, points in New York, Pennsylvania, West Virginia, and the Lower Peninsula of Michigan. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77972, filed December 21, 1978. Transferee: GRAHAM BELL doing business as B & W TRUCKING, P.O. Box 281, 1 Porter Street, Gloucester, MA 01930. Transferor: Gringeri Bros. Transportation Co., Inc., c/o/ M. G. Sherman, 18 Tremont Street, Boston, MA 02108. Representative: George C. O'Brien, 12 Vernon Street, Norwood, MA 02062. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC-117758 Sub 3 and portion of MC-117758 authorizing the transportation of bananas, from Baltimore, MD, Philadelphia, PA, NY, NY Commerical Zone, and Weehawken, NJ, and Albany, NY to points in MA, RI and ME. An application for temporary authority under Section 210a(b) has also been filed.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 79-2638 Filed 1-24-79; 8:45 am]

[7035-01-M]

[Notice No. 15]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 19, 1979.

The following are notices of filing of applications for temporary authority under Section 210a (a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the paricular portion of authority upon which it relies. Also, the portestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 124078 (Sub-892TA), filed October 17, 1978, and published in the FR issue of December 15, 1978, and republished as corrected this issue. Applicant: SCHWERMAN TRUCKING COMPANY, 611 South 28 Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (same as above). Cement, in bulk, in tank vehicles from Ragland, AL to Brinkley, AR, for 180 days. An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): Pampa Concrete Co., Inc., 220 W. Tyng, Pampa, TX 79065. SEND PROTEST TO: Gail Daugherty, Transportation Assistant, ICC, U. S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202. The purpose of this republication is to show Ragland, AL.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2635 Filed 1-24-79; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

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[6320-01-M]

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[M-191 Amdt. 1; Jan. 19, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition and closure of item to the January 24, 1979, agenda.

TIME AND DATE: 10 a.m. (after regular Board meeting), January 24, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 13. BIA briefing on ongoing consultations with U.S.S.R. and Netherlands Antilles and Jamaica.

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: On Friday, January 19, 1979 Member O'Melia requested that BIA staff brief the Board on the present situation and possible future strategies and actions concerning the ongoing, negotiations with the U.S.S.R., the Netherlands Antilles and Jamaica. Accordingly, the following members have voted that agency business requires the addition of this item to the January 24, 1979 agenda and that no earlier announcement of this addition was possible:

Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

This meeting will concern the Board's views on the ongoing negotiations with the U.S.S.R., the Netherlands Antilles and Jamaica. Public disclosure, particularly to foreign governments with whom the United States is or will be negotiating, of the opinions, evaluations, and strategies of the Board and its staff could seriously compromise the ability of the United States Delegations to achieve agreements which would be in the best interests of the United States. Accordingly, the following Members have voted that public observation of this item would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting on this item will be closed:

Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

PERSONS EXPECTED TO ATTEND

Board Members: Chairman Marvin S. Cohen, Member Richard J. O'Melia, Member Elizabeth E. Bailey, and Member Gloria Schaffer.

Assistants To Board Members: Mr. Sanford Rederer, Mr. David M. Kirstein, Mr. Elias Rodriguez, and Mr. Stephen H. Lachter.

Office of the Managing Director: Mr. John R. Hancock.

Bureau of International Affairs: Mr. Donald A. Farmer, Jr., Mr. Rosario J. Scibilia, Ms. Sandra W. Gerson, Mr. Francis S. Murphy, Mr. Donald L. Litton, Ms. Mary I. Pett, Mr. James S. Horneman, Mr. Ivars V. Mellups, Mr. Richard M. Loughlin, Mr. Willard L. Demory, and Mr. Richard Stair.

Office of the General Counsel: Mr. Philip J. Bakes, Jr., Mr. Gary J. Edles, Mr. Peter B. Schwarzkopf, Mr. Michael Schopf, and Ms. Carol Light.

Bureau of Pricing and Domestic Aviation: Mr. Michael E. Levine, Mr. Herbert Aswall, Mr. Douglas V. Leister, and Mr. James L. Deegan.

Office of Economic Analysis: Mr. Robert H. Frank and Mr. Richard H. Klem.

Bureau of Consumer Protection: Mr. Reuben B. Robertson and Ms. Patricia Kennedy.

Office of the Secretary: Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310.b5(9)(B) and that the meeting may be closed to public observation.

PHILIP J. BAKES, Jr.,
General Counsel.

[S-166-79 Filed 1-23-79; 3:24 pm]

[6730-01-M]

2

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., January 31, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Report on notation items disposed of during December 1978.
2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during December 1978.
3. Report of the Secretary on applications for admission to practice approved during December 1978, pursuant to delegated authority.
4. Assignment of informal dockets by the Secretary during December 1978.
5. Informal Docket Nos. 390(I): *Cummins Engine* v. *United States Lines, Inc.;* 391(I): *Cummins Engine* v. *American President Lines, Ltd.;* 392(I): *Cummins Engine Co.* v. *Maersk Line, Ltd.*—Petition of claimant for reconsideration.

Portion closed to the public:

1. Agreement No. 10135-6: Application for extension of the Far East and Pacific Westbound Conferences Member Lines Discussion Agreement.
2. Agreement No. 8200-5: Expansion of scope of the agreement to include overland and intermodal matters.
3. Agreement Nos. 9929-3, et al. (Combi Lines Joint Service Agreement)—Decision on Remand of Interim Approval Order.
4. Docket No. 77-4: Agreement Nos. 9902-3, 9902-4, 9902-5, and 9902-6, modification of Euro-Pacific Joint Service Agreement—Discussion of the record.
5. Docket No. 78-14: Agreement No. 10116-1, Extension of pooling agreement in the eastbound and westbound trades between Japanese ports and ports in California, Oregon, and Washington—Decision on request for oral argument and possible consideration of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-164-79 Filed 1-23-79; 2:44 pm]

[6735-01-M]

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

JANUARY 23, 1979.

TIME AND DATE: 10 a.m., January 19, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Closed (pursuant to 5 U.S.C. 552b(c)(10)).

MATTER CONSIDERED: Part of this meeting involved the Commission's participation in a civil action, namely, *Anschutz Coal Corp.* v. *Federal Mine Safety and Health Review Commission*, No. 78-1840, pending 10th Circuit Court of Appeals.

VOTE: Voting to close that part of the meeting: Commissioners Waldie (Chairman), Lawson, Nease, and Backley. It was determined by this vote that Commission business required that this meeting be closed. Further, the Commission members voted to hold the meeting immediately on the basis that agency business so required and to issue public notice as soon as practicable.

ATTENDANCE: Present at that closed part of the meeting were: Commissioners Waldie (Chairman), Lawson, Nease, and Backley; Al Treherne; Robert Phares; Mary Masulla; James Lastowka; Arthur Sapper; Daniel Delacey; General Counsel Robert Pleasure, and Joanne Kelley and Carolyn Crittenden, Secretaries.

CONTACT PERSON FOR MORE INFORMATION:

Joanne Kelley, Staff Assistant, 202-653-5632.

[S-165-79 Filed 1-23-79; 2:58 pm]

[6750-01-M]

4

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR 44, January 19, 1979, page No. 4094.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., Thursday, January 25, 1979.

CHANGES IN THE AGENDA: The Federal Trade Commission has changed the date of its previously announced meeting of Thursday, January 25, 1979, 2 p.m., to Friday, February 9, 1979, 2 p.m.

[S-163-79 Filed 1-23-79; 1:14 pm]

[7020-02-M]

5

INTERNATIONAL TRADE COMMISSION.

TIME AND PLACE: 2 p.m., Friday, January 26, 1979.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Emergency meeting—less than 10 days prior notice. Open to the public.

MATTERS TO BE CONSIDERED: 1. Further consideration of the report in Investigation 332-87 (U.S. Western Steel Market).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-161-79 Filed 1-23-79; 11:29 am]

[4110-39-M]

6

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-2571-78 filed, December 20, 1978; 11:51 a.m.

TIME AND DATE: 2 p.m.-5 p.m., February 2, 1979. 9 a.m.-12:45 p.m., February 3, 1979.

PLACE: Room 823, National Institute of Education, 1200 19th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

February 2, 1979

1. Approval of minutes of November 3, 1978 meeting (2 p.m.-2:05 p.m.).
2. Director's report (2:05 p.m.-2:50 p.m.).
3. Comments on council seminar (2:50 p.m.-3:20 p.m.).
4. NCER review process (3:20 p.m.-3:50 p.m.)
5. Discussion of fiscal year 1980 budget (3:50 p.m.-4:30 p.m.).
6. Preparation for discussion with the panel on labs and centers (4:30 p.m.-5 p.m.).

February 3, 1979

1. Session with the Panel on Labs and Centers (9 a.m.-11:30 a.m.).
2. Council Discussion About Further Actions (11:30 a.m.-12 Noon).
3. Lunch.

PERSON TO CONTACT FOR INFORMATION:

Peter Gerber, Staff Director, 202-254-7900. Ella L. Jones, Administrative Coordinator, 202-254-7900.

PETER H. GERBER,
Chief, Policy & Administrative Coordination, National Council on Educational Research.

[S-160-79 Filed 1-23-79; 11:29 am]

[7910-01-M]

7

THE RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 4095, January 19, 1979.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, January 23, 1979; 10 a.m.

MATTERS TO BE CONSIDERED: Regular board meeting.

CHANGE IN MEETING: Date changed to: Tuesday, January 30, 1979, 10 a.m.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: January 23, 1979.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-162-79; Filed 1-23-79; 11:38 am]

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federal register

THURSDAY, JANUARY 25, 1979
PART II



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

V 4 4 / 1 8

[4110-02-M]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 190—BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

AGENCY: Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: This rule revises and consolidates all Basic Educational Opportunity Grant regulations other than those contained in the Family Contribution Schedules. The regulations, resulting from a notice of proposed rulemaking published on May 15, 1978, more clearly define the administration of the program and implement relevant portions of the Education Amendments of 1976 and the Middle Income Student Assistance Act.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the FEDERAL REGISTER. The effective date is changed by statute if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT:

Mr. William Moran, Acting Chief, Basic Grants Policy Section, Division of Policy and Program Development, ROB-3, Room 4318, 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 472-4300.

SUPPLEMENTARY INFORMATION:

A. Overview of the Program and the Regulations

The Basic Educational Opportunity Grant Program is intended as a means of assisting students in the continuation of their training and education at the postsecondary level by providing a "foundation" or "floor" of financial aid to help defray educational costs. The program's entitlement feature distinguishes it from other financial aid programs administered by the Office of Education.

The Basic Grant Program was established by the Education Amendments of 1972 and began operation in the 1973-74 academic year with an appropriation of $122.1 million. During that year approximately 185,000 students received awards ranging from $50 to $452. The program has experienced dramatic growth since its first year of existence, and, during the 1978-79 award period, estimates indicate that nearly 2.4 million students will receive awards ranging from $50 to $1,600 based on an appropriation of $2.168 billion.

The regulations for the Basic Grant Program may be divided into two broad categories: the Family Contribution Schedules and the Administrative and Technical regulations. The Family Contribution Schedules are the formulas used in determining a student's eligibility for a Basic Grant on the basis of need. The legislation governing the program requires that these schedules be submitted annually for public comment and for review by both Houses of Congress. The remaining program regulations—concerning institutional administration of the program, computation of awards, and all other matters except those included in the annually published Family Contribution Schedules—are referred to as the Administrative and Technical regulations.

The new Administrative and Technical regulations published here supersede previous regulations published in the FEDERAL REGISTER on November 6, 1974, December 2, 1974, and August 10, 1976. In preparing this revision of the Basic Grant regulations, three major objectives were established: first, to write the regulations as clearly and concisely as possible; second, to incorporate the applicable provisions of the Education Amendments of 1976 and the Middle Income Student Assistance Act; and third, to respond to problems in the operation of the program which were not adequately addressed in the former regulations.

The notice of proposed rulemaking from which these regulations result was published in the FEDERAL REGISTER on May 15, 1978, and public comment was solicited. Copies of the NPRM were mailed by the Office of Education to financial aid administrators and fiscal officers at more than 6,000 eligible postsecondary institutions as well as to a number of student groups, education associations, and other interested parties. Public hearings were conducted in Washington, D.C. on May 31, in Chicago on June 2, and in San Francisco on June 5. A total of 40 people representing numerous organizations presented their views on the proposed regulations at these hearings. Additionally, during the 30-day period for public comment, 275 letters were received from individuals, institutions, and educational organizations containing comments, criticisms, recommendations, and questions on nearly every section of the proposed regulations. All comments were given careful consideration in the development of the final regulations. A summary of these comments and the Office of Education responses to them is included as an appendix to these regulations. The comments and responses appear in the numerical sequence of the regulations and are identified with the section number and title of the regulation to which they refer.

B. Summary of Major Issues

Among the issues on which comments were received, three areas of concern were predominant. The first of these concerned the differentiation in treatment in the proposed regulations between proprietary institutions and public and private non-profit institutions regarding the admission to an eligible program of persons not having a high school diploma or GED certificate.

Under the proposed regulations, an eligible proprietary institution was limited to those proprietary schools that restrict their enrollment of regular students to high school graduates or their equivalent. The definition of an eligible program in a proprietary institution included only those programs which, among other things, admitted as regular students only high school graduates or their equivalent. Section 190.4, the student eligibility section, provided that Basic Grants could be awarded only to regular students. Finally the definition of a regular student described that student, in effect, as a student who enrolls in an institution for the purpose of obtaining a degree or certificate in a program which that institution is qualified to give. As a result of these provisions, non-high school graduates or non-GED certificate holders attending proprietary institutions were ineligible to receive Basic Grants. Furthermore, their presence in a degree or certificate program at a proprietary institution made both that program and that institution ineligible so that no student attending that program would be able to receive a Basic Grant.

Numerous comments were received objecting to these provisions. Many felt that proprietary schools were being unfairly singled out in contrast to public and non-profit private institutions, and that non-high school graduates were being unfairly treated.

The difference in treatment between proprietary institutions and public and non-profit private institutions was based upon the statutory definitions of those terms as they existed at the time the proposed regulations were published. Therefore a different treatment was not only proper, it was required.

Briefly, the historical background for the difference in treatment resulting from the statute is as follows. Before the enactment of the Education amendments of 1976, one requirement of institutional eligibility was

that an institution must admit as regular students only persons with a high school diploma or the recognized equivalent. The Education Amendments of 1976 amended the Higher Education Act of 1965 by providing that public and private non-profit institutions could also admit as regular students "persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution." This statutory change in institutional eligibility requirements did not affect proprietary institutions. However, the Middle Income Student Assistance Act has now extended this change in institutional eligibility requirements to proprietary institutions. Consequently, all differences in treatment in the definitions in Subpart A of the proposed regulations which had been based upon the differing statutory definitions have been removed in the final regulations.

The second major area of concern on which comment was received related to a new procedure for calculating Basic Grants which was proposed for term-based institutions using credit hours. This procedure was set forth in § 190.64 of the NPRM. As described in the following paragraphs, under that procedure a part-time student's award would more accurately reflect his or her enrollment status. However that procedure would also involve an additional calculation for each student. Many commenters felt the extra work load necessitated by this additional calculation would outweigh the advantage of greater equity which the proposed procedure was intended to provide.

In order to receive a Basic Grant, a student must be at least half-time. Current program regulations define students as either full-time, three-quarter-time or half-time. A student enrolled for more credits than the amount needed to be considered half-time but less than the amount needed to be considered three-quarter-time is considered a half-time student and receives an award computed as one-half of the amount a student would receive at a full-time status.

Similarly, a student enrolled at less than full-time but more than three-quarter-time is considered three-quarter-time for Basic Grant purposes and receives an award computed as three-quarters of the amount a full-time student would receive.

Under the proposed rule, students enrolled less than full-time would no longer have been divided into two categories. Rather, it was proposed that a student's status as part-time would reflect the exact degree that the student's enrollment is related to full-time enrollment status. The proposed rule would have required that the institution calculate a part-time student's award according to the number of credit hours that student was enrolled in for that term.

For example, a student enrolled in 11 credit hours would receive a three-quarter-time award under the current procedures. Under the NPRM, the student would receive 11/12 of the full-time award for a term. The issue raised by the commenters was whether the increased equity to the student is worth the increased administrative burden to the institution.

The vast majority of commenters preferred the current procedures where students are defined as either full-time, three-quarter-time, or half-time. Several said the proposal made such a small difference in the amount of the award that it was not worth the effort it would require on the part of the institution or the inconvenience it would create for the student because of additional delays in making payment.

Based on the suggestions of the majority of the commenters, the Commissioner has decided to maintain the current award calculation procedures for those institutions which use terms and measure progress by the credit hour.

The Basic Grant Validation effort—and § 190.77 of the proposed regulations which is intended to provide the regulatory basis for that effort—was the third major area of concern on which considerable public comment was received.

Beginning with the 1978-79 award period, the Office of Education has initiated an expanded effort to insure the accuracy of the information on which the student's Basic Grant eligibility is calculated. Basically, this effort consists of two separate processes. The first is an attempt to prevent or minimize errors at the time of application through the use of computerized edit checks in the processing system. As applications are edited, those not meeting established criteria are either returned to the applicant for verification or processed with a printed edit check assumption on the SER. Currently, more than 250 statements relating to edit checks may be printed on the SER. The second is the Basic Grant validation effort—a detailed and extensive procedure for verifying the data which appears on the SER.

In authorizing the second of these two processes, the Office of Education has, in § 190.77 of the regulations, outlined (1) the authority for such a verification effort, and (2) the general responsibilities that the Commissioner, the institution, and the student will have in their respective rules. The actual mechanics of the process have not been detailed in the regulation, but rather will be published and distributed as procedures.

The response of the financial aid community to this concept of verification of information has been mixed. The vast majority of people concede the necessity of this type of activity, but disagree in a number of areas about the specifics of what should be done. Many individuals were concerned about the timing of this requirement and suggested various alternative courses of action to alleviate the timing problem, such as postponement for one year, or voluntary compliance for the first year. In addition, many people felt that the Office of Education should centrally verify all applications which need such action either before or after a Student Eligibility Report is generated rather than require that this action be performed by the institutions.

Several people also offered a number of specific suggestions related to the actual mechanics of the verification process. Since a Validation Procedures Handbook had already been published to acquaint the financial aid community with the anticipated new procedures, many of those specific comments dealt with those procedures. In this area, the commenters voiced their preferences on a number of items including (1) the actual dollar or percentage figures which would be used as tolerance levels as far as the degree of accuracy of applicant information is concerned; (2) whether the institution should be able to calculate and disburse awards when errors are known to be on the Student Eligibility Report, but when a correction of those errors would cause only a minimal change in the applicants award; (3) whether Supplemental applications should be verified; (4) what type of documentation should be accepted; and (5) how institutions and students would handle situations where requested documentation from various agencies (i.e., Social Security Administration, Public Welfare Offices, etc.) proved unusually hard to acquire.

Institutional officers were also concerned about a number of potential consequences which they foresaw if § 190.77 were to become effective. Basically these types of problems were related to either (1) costs to be incurred by the school both in terms of dollars and time, and (2) problems that verification will cause those students who are asked to comply.

As a result of the comments received on § 190.77 a number of revisions have been made to clarify and more precisely define the responsibilities of the student, the institution, and the Commissioner. Although it is realized that institutions may need to institute ad-

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ditional administrative processes as a result of the validation effort, the Commissioner believes that, in order to ensure the integrity of the program, information used in determining Basic Grant eligibility must be as accurate as possible. The validation effort is intended to achieve this objective.

The public comments and OE responses about the areas of concern described above are set forth in detail in Appendix A.

(Catalog of Federal Domestic Assistance No. 13.539 Basic Educational Opportunity Grant Program.)

Dated: November 16, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Dated: January 13, 1979.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Part 190 of Title 45 of the Code of Federal Regulations is amended by revising Subparts A, B, E, F, and G and by adding Subpart H, to read as follows:

PART 190—BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Subpart A—Scope, Purpose and General Definitions

Sec.
190.1 Scope and purpose.
190.2 General definitions.
190.2a Special terms.
190.3 Institution of higher education.
190.4 Eligible student.
190.5 Duration of student eligibility.
190.6 Basic Grant payments from more than one institution.
190.7 Institutional eligibility.
190.8 Consortium agreements.
190.9 Determination of enrollment status under special circumstances.
190.10 Administrative cost allowance to participating schools.

Subpart B—Application Procedures for Determining Expected Family Contribution

Sec.
190.11 Application.
190.12 Certification of information.
190.13 Deadline for filing applications.
190.14 Notification of expected family contribution.
190.15 Applicant's request for recomputation of expected family contribution because of clerical or arithmetic error.
190.16 Request for recomputation of expected family contribution because of extraordinary circumstance.

Subpart C—(Expected Family Contribution for Dependent Students)

Subpart D—(Expected Family Contribution for Independent Students)

Subpart E—Costs of Attendance

Sec.
190.51 General attendance costs.
190.52 Attendance costs for students in correspondence study programs.
190.53 Attendance costs for students whose program length exceeds the academic year at institutions using clock hours.
190.54 Attendance costs for incarcerated students.
190.55 Attendance costs for students at U.S. Armed Forces academies.

Subpart F—Determination of Basic Grant Awards

190.61 Submission process and deadline for Student Eligibility Report.
190.62 Calculation of a Scheduled Basic Grant at full funding.
190.63 Calculation of a Scheduled Basic Grant at less than full funding.
190.64 Calculation of a Basic Grant for a payment period.
190.65 Calculation of Basic Grants for a term which occurs in two award periods.
190.66 Transfer student: attendance at more than one institution during an award period.
190.67 Correspondence study.

Subpart G—Administration of Grant Payments—Regular Disbursement System

190.71 Scope.
190.72 Institutional agreement—Regular Disbursement System.
190.73 Termination of agreement—Regular Disbursement System.
190.74 Advancement of funds to institutions.
190.75 Determination of eligibility for payment.
190.76 Frequency of payment.
190.77 Verification of information on the SER—withholding of payments.
190.78 Method of disbursement—by check or credit to student's account.
190.79 Affidavit of educational purpose.
190.80 Recovery of overpayments.
190.81 Recalculation of a Basic Grant award.
190.82 Fiscal control and fund accounting procedures.
190.83 Maintenance and retention of records.
190.84 Submission of reports.
190.85 Audit and examination.

Subpart H—Administration of Grant Payments—Alternate Disbursement System

190.91 Scope.
190.92 Institutional agreement—Alternate Disbursement System (ADS).
190.93 Change in ownership and change to the Regular Disbursement System (RDS).
190.94 Calculation and disbursement of awards by the Commissioner of Education.
190.95 Termination of enrollment and refund.
190.96 Maintenance and retention of records; access for purpose of audit.

AUTHORITY: Section 411 of the Higher Education Act of 1965 as added by Section 131(b) of Public Law 92-318, 86 STAT 247-251 as amended (20 U.S.C. 1070a), unless otherwise noted.

Subpart A—Scope, Purpose and General Definitions

§ 190.1 Scope and purpose.

The Basic Educational Opportunity Grant (Basic Grant) Program awards grants to help financially needy students meet their costs of post-secondary education.

(20 U.S.C. 1070a.)

§ 190.2 General definitions.

As used in this part:

Academic year: (a) A period of time in which a full-time student is expected to complete the equivalent of at least 2 semesters, 2 trimesters or 3 quarters at institutions using credit hours; or

(b) At least 900 clock hours of training for each program at institutions using clock hours.

(20 U.S.C. 1088(c)(1).)

Act: Title IV-A-1 of the Higher Education Act (HEA) of 1965, as amended.

Award period: The period of time between July 1 of one year and June 30 of the following year.

Clock hour: The equivalent of—

(a) A 50 to 60 minute class, lecture or recitation; or

(b) a 50 to 60 minute faculty supervised laboratory, shop training, or internship.

Commissioner: The U.S. Commissioner of Education or his/her designee.

Enrolled: Completion of registration requirements at the institution a student is attending.

Enrollment status:

(a) At those institutions using semesters, trimesters, quarters, or other academic terms and measuring progress by credit hours, enrollment status equal's a student's credit hour work loan categorized as either full-time, three-quarter-time, or half-time.

(b) At those institutions which measure progress by clock hours or which measure progress by credit hours or units but do not use semesters, trimesters, quarters, or other academic terms, enrollment status equals a student's work load categorized by the following fraction:

$$\frac{\text{the credit or clock hours the student is expected to take in a payment period}}{\text{the credit or clock hours that a full-time student would take in an academic year.}}$$

Full-time student: An enrolled student who is carrying a full-time academic work load (other than by correspondence) as determined by the institution and which is applicable to all students enrolled in a particular program. However, the institution's full-time standard must equal or exceed one of the following minimum requirements:

(a) 12 semester hours or 12 quarter hours per academic term in those institutions using standard semester, trimester or quarter hour systems;

(b) 24 semester hours or 36 quarter hours per academic year for institutions using credit hours to measure progress but not using semester, trimester or quarter systems, or the prorated equivalent for programs of less than one academic year;

(c) 24 clock hours per week for institutions using clock hours;

(d) In those institutions using both credit and clock hours, if the sum of the following fractions is equal to or greater than one:

$$\frac{\text{number of credit hours per term}}{12} + \frac{\text{number of clock hours per week}}{24}$$

(e) A series of courses or seminars which equals 12 semester hours or 12 quarter hours in a maximum of 18 weeks; or

(f) The work portion of a cooperative education program in which the amount of work performed is equivalent to the academic work-load of a full-time student.

(20 U.S.C. 1088(c)(2).)

Good standing: The eligibility of a student to continue attending the institution in which he/she is enrolled in accordance with the standards of the institution.

Half-time student: (a) An enrolled student who is carrying a half-time academic work load as determined by the institution and which amounts to at least half the work load of a full-time student. (see full-time student).

(b) A student enrolled solely in a program of study by correspondence who is carrying a work load of at least 12 hours of preparation of work per week. However, regardless of the work load, no student enrolled solely in correspondence study will be considered more than a half-time student.

Nonprofit institution: An institution owned and operated by one or more nonprofit corporations or associations where no part of the net earnings of the institution benefits any private share holder or individual.

(20 U.S.C. 1141(c).)

Payment schedule: (a) A table showing a full-time student's Scheduled Basic Grant for a given award period. This table, published by the Commissioner, is based on—

(1) The Expected Family Contribution Schedules described in Subparts C & D;

(2) Attendance costs as defined in Subpart E; and

(3) The amount of funds available for making Basic Grants.

(b) The *Payment Schedule* also includes the *Disbursement Schedules* which are tables showing the grant amounts three-quarter and half-time students would receive for an academic year.

Scheduled Basic Grant: The amount of a Basic Grant which would be paid to a full-time student for a full academic year.

State: The States of the Union, American Samoa, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, the Virgin Islands and the Northern Mariana Islands.

(20 U.S.C. 114(b); 20 U.S.C. 1088(a)).

Student Eligibility Report (SER): A report provided to the applicant showing the amount of his/her expected family contribution.

Three-quarter-time student: An enrolled student who is carrying a three-quarter-time academic work load as determined by the institution and which amounts to at least three-quarters of the work load of a full-time student (see full-time student).

Undergraduate student: A student enrolled in an undergraduate course of study at an institution of higher education who:

(a) Has not been awarded a baccalaureate or first professional degree; and

(b) Is in an undergraduate course of study which usually does not exceed 4 years, or is enrolled in a 5-year program designed to lead to a first degree. (A student enrolled in any other length program is considered an undergraduate student for only the first 4 years.)

(20 U.S.C. 1070a unless otherwise noted.)

§ 190.2a Special terms.

(a) *Eligible program:* An undergraduate program of education or training which—

(1) Admits as regular students only persons who—

(i) Have a certificate of graduation from a secondary school (high school diploma),

(ii) Have the recognized equivalent of a high school diploma, (The recognized equivalent of a high school diploma is defined in paragraph (d) of this section.) or

(iii) Are beyond the age of compulsory school attendance in the State in which the institution is located, and have the ability to benefit from the education or training offered. An institution must document a student's ability to benefit from the training offered on the basis of a standardized test, other measurement instrument, practicum examination, or other verifiable indicators such as written recommendations from professional educators, counselors, or persons who are not employed or affiliated with the institution; and

(2) (i) Leads to a bachelor, associate or undergraduate professional degree,

(ii) Is at least a two-year program which is acceptable for full credit toward a bachelor degree,

(iii) Is at least a 1-year program leading to a certificate or degree, which prepares students for gainful employment in a recognized occupation. (A 1-year program is defined in § 190.3(c)), or

(iv) Is, for a proprietary institution of higher education, at least a six-month program leading to a certificate or degree, which prepares students for gainful employment in a recognized occupation. (A six-month program is defined in § 190.3(d).)

(b) *An eligible program of study by correspondence* must be designed to require at least 12 hours of preparation a week.

(c) *Regular student:* A person who enrolls in an eligible program at an institution of higher education for the purpose of obtaining a degree or certificate.

(d) *Recognized equivalent of a high school diploma* means—

(1) A General Education Development Certificate (GED), or

(2) A state certificate received after a student has passed a State authorized examination, which that State recognizes as the equivalent of a high school diploma.

(e) *Payment period—General.*

(1) An institution must have at least two payment periods calculated in accordance with subparagraph (e)(2) if it—

(i) measures progress in clock hours, or

(ii) measures progress in credit hours or units but does not use academic terms.

(2) If the student's academic year is within one award period and the student's educational program is not less than a full academic year—

(i) The first payment period is the first half of the student's academic year, and

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(ii) The second payment period is the second half of the student's academic year.

(3) If the student's academic year is NOT within one award period or the student's educational program is LESS than a full academic year—

(i) The first payment period is the first half of the hours the student is scheduled to complete within the award period, and

(ii) The second payment period begins when the first payment period ends and ends when the student completes all hours he/she was scheduled to complete between the beginning of the second payment period and June 30.

(4) A student with incompleted hours for the second payment period of any award period may complete them during the following award period. In this case, the first payment period of the new award period begins when the student finishes all carried over hours for which he/she was paid.

(f) *Payment period—Academic terms/credit hour institutions.* For those institutions which use academic terms and measure progress in credit hours, a payment period is a span of time which corresponds with each semester, trimester, quarter or other academic term.

(20 U.S.C. 1070a.)

§ 190.3 Institution of higher education.

An institution of higher education is a public, private nonprofit or proprietary institution.

(a) *A public or private nonprofit institution of higher education* is an educational institution which—

(1) Is in a State;

(2) Admits as regular students only persons who—

(i) Have a high school diploma, or

(ii) Have the recognized equivalent of a high school diploma, or

(iii) Are beyond the age of compulsory school attendance in the State in which the institution is located, and have the ability to benefit from the training offered. (An institution must document a student's ability to benefit from the training offered in accordance with the procedures set forth in § 190.2a(a)(1)(iii)).)

(3) Is legally authorized to provide an education program beyond secondary education in the State in which the institution is physically located;

(4) Provides—

(i) An educational program for which it awards an associate, baccalaureate, advanced or professional degree,

(ii) At least a 2-year program which is acceptable for full credit towards a baccalaureate degree, or

(iii) At least a 1-year training program which leads to a certificate or degree and prepares students for gainful employment in a recognized occupation, and

(5) Is—

(i) Accredited by a nationally recognized accrediting agency or association,

(ii) Approved by a State agency recognized by the Commissioner as a reliable authority on the quality of public postsecondary vocational education in its State, if the institution is a public postsecondary vocational educational institution.

(iii) An institution which has satisfactorily assured the Commissioner that it will meet the accreditation standards of an agency or association within a reasonable time, considering the resources available to the institution, the period of time it has operated and its efforts to meet accreditation standards, or

(iv) An institution whose credits are accepted on transfer by at least 3 accredited institutions on the same basis as transfer credits from fully accredited institutions.

(b) *A proprietary institution of higher education* is an educational institution which—

(1) Is not a public or other nonprofit institution;

(2) Is in a State;

(3) Admits as regular students only persons who—

(i) Have a high school diploma, or

(ii) Have the recognized equivalent of a high school diploma, or

(iii) Are beyond the age of compulsory school attendance in the State in which the institution is located, and have the ability to benefit from the training offered. (An institution must document a student's ability to benefit from the training offered in accordance with the procedures set forth in § 190.2a (a)(1)(iii)).)

(4) Is legally authorized to provide postsecondary education in the State in which it is physically located;

(5) Provides at least a 6-month program of training to prepare students for gainful employment in a recognized occupation;

(6) Is accredited by a nationally recognized accrediting agency or association,

(7) Has been in existence for at least 2 years. The Commissioner considers a school to have been in existence for two years if it was legally authorized to provide, and has provided, a training program on a continuous basis to prepare students for gainful employment in a recognized occupation during the 24 months (except for normal vacation period) preceding the date of application for eligibility; and

(8) Has entered into an agreement which the Commissioner has determined will insure that the availability of assistance to students under Title IV of HEA has not resulted in, and will not result in, increased tuition, fees or other charges to its students.

(c) *One year training program.* A program which is at least—

(1) 24 semester or trimester hours or units, or 36 quarter hours or units, at an institution using credit hours or units to measure progress,

(2) 900 clock hours of supervised training at an institution using clock hours to measure progress; or

(3) 900 hours of preparation in a correspondence program.

(d) *Six month training program.* A program which is at least—

(1) 16 semester or trimester hours or 24 quarter hours at institutions using credit hours or units to measure progress;

(2) 600 clock hours of supervised training at an institution using clock hours to measure progress; or

(3) 600 hours of preparation in a correspondence program.

(20 U.S.C. 1141(a), 20 U.S.C. 1088(b)(3).)

§ 190.4 Eligible student.

(a) A student is eligible to receive a Basic Grant if the student—

(1) Is a regular student,

(2) Is enrolled in good standing as at least a half-time undergraduate student at an institution of higher education;

(3) Is enrolled in an eligible program as a regular student, as defined in § 190.2a; and

(4) (i) Is a U.S. citizen or National,

(ii) Is a permanent resident of the U.S.,

(iii) Is in the U.S. for other than a temporary purpose and can provide evidence from the Immigration and Naturalization Service of his/her intent to become a permanent resident, or

(iv) Is a permanent resident of the Trust Territory of the Pacific Islands, or the Northern Mariana Islands.

(b) A member of a religious order, community, society, agency or organization—who is pursuing a course of study in an institution of higher education will be considered as having a family contribution of not less than $1,601 if that religious order—

(1) Has as a primary objective the promotion of ideals and beliefs regarding a Supreme Being;

(2) Requires its members to forego monetary or other support substantially beyond the support it provides; and

(3)(i) Has directed the member to pursue the course of study, or

(ii) Provides subsistence support to its member.

(20 U.S.C. 1070a.)

§ 190.5 Duration of student eligibility.

(a) A student is eligible to receive a Basic Grant for the period of time required to complete an undergraduate course of study. That period is usually 4 academic years, but may be extended up to one additional year if—

(1) The student is pursuing a 5-year course of study designed to lead to a first degree; or

(2) The student is or will be required to enroll in a noncredit remedial course of study.

(b) For the purpose of paragraph (a), a noncredit remedial course of study is a course of study for which no credit is given toward an academic degree and which is designed to increase the ability of the student to pursue an undergraduate course of study leading to such a degree.

(c) The Commissioner will subtract from each student's period of eligibility, any period for which the student has received a Basic Grant. The eligibility used during an award period will be calculated by dividing the student's actual Basic Grant Award for that award period, by the student's Scheduled Basic Grant for that award period.

(d) If a student has received an overpayment in an award period, the overpayment will not be used in calculating the amount of eligibility used.

(20 U.S.C. 1070a.)

§ 190.6 Basic Grant payments from more than one institution.

A student will not be entitled to receive Basic Grant payments concurrently from more than one institution or from the Commissioner and an institution.

(20 U.S.C. 1070a.)

§ 190.7 Institutional eligibility.

(a)(1) An institution of higher education is eligible to participate in the Basic Grant Program if it meets the appropriate definition set forth in § 190.3, and is in compliance with the applicable provisions of part 168 of this title, "Standards of Administrative Capability and Financial Responsibility."

(2) If an institution becomes eligible during an award period, a student enrolled and attending that institution will be eligible to receive a Basic Grant for the payment period during which the institution became eligible and any subsequent payment period.

(b)(1) An institution of higher education becomes ineligible to participate in the Basic Grant Program if it no longer meets the applicable definition set forth in § 190.3, or if its eligibility is terminated under Subpart H of part 168 of this title.

(2) If an institution becomes ineligible during an award period, an eligible student who submitted a valid SER to the institution (or to the Commissioner if the institution participates under the Alternate Disbursement System (ADS) before the date the institution became ineligible, will be paid a Basic Grant for—

(i) the payment period that the student completed before the institution became ineligible, and

(ii) the payment period in which the institution became ineligible.

(c) An institution participating in the program under ADS which becomes ineligible must provide the Commissioner with the name and enrollment status of each student who applied for and was determined eligible for a Basic Grant who was attending the institution when its eligibility was terminated.

(d) An institution participating in the program under the Regular Disbursement System which becomes ineligible must supply to the Commissioner—

(1) The name and enrollment status of each eligible student who, during the award period, submitted a valid SER to the institution before it became ineligible.

(2) The amount of funds paid to each Basic Grant recipient for that award period;

(3) The amount due to each student eligible to receive a Basic Grant through the end of the payment period; and

(4) An accounting of the Basic Grant expenditures for that award period to the date of termination.

(20 U.S.C. 1070a.)

§ 190.8 Consortium agreements.

(a) A consortium agreement is a written agreement between at least two institutions which enables an enrolled student in an eligible program at one institution to take courses at other institutions which apply towards his/her certificate or degree at the first institution.

(b) If two eligible institutions have entered into a consortium agreement, the institution at which the student is enrolled and expects to receive a degree or certificate calculates and pays the student's Basic Grant.

(c) The institution which calculates and pays the student a Basic Grant must take into account courses taken by the student at both institutions in determining the student's enrollment status and cost of attendance.

(20 U.S.C. 1070a.)

§ 190.9 Determination of enrollment status under special circumstances.

(a) *Non-credit remedial courses.*

(1) When calculating a student's enrollment status, the institution may not, and the Commissioner will not, count any course in a program of instruction leading to a high school diploma or the recognized equivalent of a high school diploma, even if the course is necessary to enable the student to complete the degree or certificate program.

(2) Except as provided in subparagraph (1), in determining a student's enrollment status, the institution will include any non-credit remedial course in which the student is enrolled. If a non-credit remedial course is not measured by clock or credit hours, the institution must determine the equivalent number of clock or credit hours which should be included for that work.

(b) *Combination of regular and correspondence study.* If an eligible student takes correspondence courses from either his/her own institution or another institution under a consortium agreement with the student's institution, the correspondence work which will be included in determining the student's enrollment status is that amount of work which—

(1) Applies toward the student's degree or certificate or is remedial work necessary for the student or to proceed in his/her course of study;

(2) Is completed within the period of time required for regular course work; and

(3) Does not exceed one-half of the student's total course load for that payment period.

(20 U.S.C. 1070a.)

§ 190.10 Administrative cost allowance to participating schools.

(a)(1) Any participating institution is eligible to receive an administrative cost allowance when funds are appropriated by Congress for this purpose.

(2) If funds are sufficient, each participating institution will be paid not more than $10 per year for each student who receives a Basic Grant. (No institution may count a Basic Grant recipient more than once in an award period.)

(3) All funds a school receives under this section must be used to provide consumer information in accordance with 45 CFR 178, and for additional costs of administrating student financial aid programs under title IV of HEA.

(b) If appropriated funds for any fiscal year are insufficient to pay full allowances, payments will be proportionately reduced. If additional funds become available for any fiscal year in which payments were reduced, allowances will be increased proportionately to the reductions.

(20 U.S.C. 1070a(d).)

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Subpart B—Application Procedures for Determining Expected Family Contribution

§ 190.11 Application.

(a) As the first step to receiving a Basic Grant, a student applies on an approved form to the Commissioner to have his/her expected family contribution determined. Facsimile copies of this form are not acceptable.

(b) The student, and where relevant the student's parents or spouse, must submit accurate and complete information as of the date the application is signed.

(c) The address provided by the student must be his/her residence and not the address of the school, unless the student resides at the school.

(20 U.S.C. 1070a(b)(2).)

§ 190.12 Certification of information.

(a) The applicant, and where relevant the applicant's parents or spouse, will provide (if requested by either the Commissioner or the school) information or documents, including a copy of Federal Income Tax Returns, necessary to verify the accuracy of the information provided.

(b) Failure to provide the requested documentation may make the applicant ineligible to receive a Basic Grant.

(20 U.S.C. 1070a(b)(2).)

§ 190.13 Deadline for filing applications.

For each award period the Commissioner will establish application filing cut-off dates for determining expected family contributions.

(20 U.S.C. 1070a(b)(1).)

§ 190.14 Notification of expected family contribution.

The Commissioner will send to each eligible applicant a "Student Eligibility Report"(SER) which states the amount of the applicant's expected family contribution and information used in that computation.

(20 U.S.C. 1070a.)

§ 190.15 Applicant's request for recomputation of expected family contribution because of clerical or arithmetic error.

(a) An applicant may request a recomputation of the expected family contribution if he/she believes a clerical or arithmetic error has occurred, or if the information submitted was inaccurate when the application was signed.

(b) A request for recomputation must be made on an approved form and must be received by the Commissioner no later than the annual cut-off date unless the recomputation is necessary because of a request made by the Commissioner to verify information.

(20 U.S.C. 1070a(b)(2).)

§ 190.16 Request for recomputation of expected family contribution because of extraordinary circumstances.

In filing an application to have an expected family contribution determined, an applicant may provide financial information relating to the tax year immediately following the base year if the conditions in §§ 190.39 or 190.48 apply.

(20 U.S.C. 1070a.)

Subpart C—(Expected Family Contribution for Dependent Students)

Subpart D—(Expected Family Contribution for Independent Students)

Subpart E—Costs of Attendance

§ 190.51 General attendance costs.

Except as provided in §§ 190.52 through 190.55, the following are recognized as a student's costs of attendance:

(a) *Tuition and fees:* (1) The amount charged to a full-time student by the institution for tuition and fees for an academic year.

(2) Tuition and fees may include travel costs within the United States required for completion of a course of study, but not for travel between the student's residence and the institution, or for travel outside the United States.

(b) *Room and board:*

(1) The amount charged the student by the institution under a contract for:

(i) Room and board for the academic year,

(ii) Room, plus an allowance of $625 for board for the academic year, or

(iii) Board plus an allowance of $475 for room for the academic year,

(2) If no contract is entered into for either room or board, an allowance of $1,100 for the academic year whether or not the student lives with a parent, or

(3) If an institution enters into a contract with the student for room and/or board for less than 7 days a week, a daily rate will be computed based upon the standard allowance and used for those days not covered by the contract. This amount will be added to the costs established under clauses (i), or (ii), or (iii) of subparagraph (b)(1), whichever is applicable.

(c) An allowance of $400 will be made for books, supplies, and miscellaneous expenses for the academic year.

(d) An institution may not charge a student who receives a Basic Grant more than it charges a student enrolled in that same program who does not receive a Basic Grant.

(20 U.S.C. 1070(a)(2)(B)(iv).)

§ 190.52 Attendance costs for students in correspondence study programs.

(a) If a student is enrolled in a correspondence study program, only the costs of tuition and fees charged the student for that program for an academic year will be recognized as a student's costs of attendance. However, room and board costs incurred for fulfilling a required period of residential training will be recognized as a cost of attendance.

(b) These room and board costs will be—

(1) Based on institutional charges; or

(2) Determined according to the costs established in § 190.51(b) and prorated in the same ratio as the course work completed in residential training bears to the course work for the academic year.

(20 U.S.C. 1070a.)

§ 190.53 Attendance costs for students whose program length exceeds the academic year at institutions using clock hours.

Costs for students who are charged tuition and fees for a program whose length exceeds the length of the academic year at institutions measuring progress in clock hours will be calculated by adding—

(a)

$$\text{Institutional charges} \times \frac{\text{clock hours in the academic year}}{\text{clock hours in the program}}$$

(b) Room and/or board as described in § 190.51(b) if not determined in paragraph (a) of this section; and

(c) An allowance of $400 for books, supplies and miscellaneous expenses.

(20 U.S.C. 1070(a)(2)(B)(iv).)

§ 190.54 Attendance costs for incarcerated students.

(a) Costs of attendance for eligible students who are incarcerated and for whom at least one-half of room and board expenses are provided include—

(1) Tuition and fees charged a full-time student for an academic year; and

(2) An allowance of $150 for books and supplies.

(b) Costs of attendance for eligible students who are incarcerated and for whom less than one-half of room and board expenses are provided will be the same as those allowed for students who are not incarcerated.

(20 U.S.C. 1070(a)(B)(iv).)

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§ 190.55 Attendance costs for students at U.S. Armed Forces academies.

Students enrolled at the U.S. Military Academy at West Point, the U.S. Naval Academy, the U.S. Air Force Academy or the U.S. Coast Guard Academy are considered to have no cost of attendance.

(20 U.S.C. 1070a(2)(B)(iv).)

Subpart F—Determination of Basic Grant Awards

§ 190.61 Submission process and deadline for student eligibility report.

(a) (1) A student applies for a Basic Grant by submitting a valid "Student Eligibility Report" (SER) to his/her institution or to the Commissioner if that institution is participating in the Basic Grant Program under the Alternate Disbursement System (ADS).

(2) The SER is considered valid only if all information used in the calculation of the expected family contribution is complete and accurate when the application was signed. Institutions are entitled to rely on SER information except under conditions set forth in § 190.77.

(b) Except as noted in § 190.77, to receive a Basic Grant, a student who enrolls before May 1 of an award period must submit the SER to his/her institution on or before May 31 of that award period.

A student who enrolls for the first time in the award period on or after May 1 of that award period may submit the SER to the institution on or before June 30 of that award period.

(c) A student attending an institution participating in the Basic Grant Program under the ADS has an additional ten days to submit the SER to the Commissioner: June 10 for those who enroll before May 1, and July 10 for those who enroll on or after May 1.

(d) A student who submits an SER to an institution when he/she is no longer enrolled and eligible for payment at that institution may not be paid a Basic Grant.

(20 U.S.C. 1070a(b)(2).)

§ 190.62 Calculation of a Scheduled Basic Grant at full funding.

(a) When funds are available to satisfy all payments, the Commissioner will pay each eligible, full-time student for a complete academic year a Scheduled Basic Grant which is the lowest of:

(1) The difference between $1,800 and the expected family contribution stated on the applicant's SER;

(2) 50 percent of the applicant's cost of attendance; or

(3) The difference between the cost of attendance and expected family contribution.

(b) Notwithstanding paragraph (a) of this section, no payment will be made if the student's Scheduled Basic Grant is less than $200.

(20 U.S.C. 1070a(a)(2).)

§ 190.63 Calculation of a Scheduled Basic Grant at less than full funding.

(a) When funds are not available to satisfy all payments, the Commissioner will pay each eligible full-time student for a complete academic year a Scheduled Basic Grant which is the lowest of:

(1) The difference between $1,800 and the expected family contribution, reduced in accordance with section 411(b)(3) of the Act;

(2) 50 percent of the applicant's costs of attendance; or

(3) The difference between the costs of attendance and expected family contribution.

(b) Notwithstanding paragraph (a) of this section, no payment will be made if—

(1) The student's award is less than $50; or

(2) When calculated at full funding, the Scheduled Basic Grant is less than $200. (See § 190.62(a).)

(20 U.S.C. 1070a(b)(3).)

§ 190.64 Calculation of a Basic Grant for a payment period.

(a) At those institutions using semesters, trimesters, quarters, or other academic terms and measuring progress by credit hours, a student's Basic Grant for each payment period is calculated as follows:

(1) Determine his/her enrollment status for the term,

(2) Based upon that enrollment status, determine his/her annual award from the Payment Schedule (full-time students), or one of the Disbursement Schedules (Part-time students), as appropriate,

(3) Divide the amount determined in subparagraph (2) by the number of terms in an academic year if those terms are of equal length.

(4) If those terms are not of equal length, determine that portion of the award derived in subparagraph (2) which reflects the proportion of the academic year represented by that term. However, a payment for any term may not exceed 50% of the award determined in subparagraph (2). To insure this, payments for unequal terms must be adjusted if necessary.

(b) At those institutions which measure progress by clock hours or which measure progress by credit hours or units but do not use semesters, trimesters, quarters or other academic terms, a student's Basic Grant for each payment period is calculated by:

(1) Determining the student's Scheduled Basic Grant; and

(2) Multiplying the Scheduled Basic Grant by:

Determining which measure progress by credit hours or units but

student's by:

Multiplying

$$\frac{\text{the number of credit or clock hours the student is expected to take in a payment period}}{\text{the number of credit or clock hours that a full-time student would take in an academic year}}$$

(c) Notwithstanding paragraphs (a) and (b) of this section, a student may not receive a Basic Grant if the amount which the student would receive, projected on the basis of a full academic year, would be less than either $200 at full funding or $50 at less than full funding.

(20 U.S.C. 1070a.)

§ 190.65 Calculation of Basic Grants for a term which occurs in two award periods.

(a) Students who—

(1) Attend institutions which measure progress by credit hours and use semesters, trimesters, quarters or other academic terms, and

(2) Enroll in a term which occurs in two award periods—will be paid in accordance with the rules set forth in the remainder of this section.

(b)(1) The entire term will be considered to occur within one award period.

(2) The institution will determine the award period in which the term will be placed.

(3) The determination made in subparagraph (b)(2) must be the same for all Basic Grant recipients.

(4) If the institution places the term in the first award period, it must pay the student with funds from the first award period.

(5) If the institution places the term in the second award period, it must pay the student with funds from the second award period.

(c) The institution may not make a payment which will result in the student receiving more than his/her Scheduled Basic Grant award for that award period.

(d)(1) If an institution offers a series of mini-sessions which occurs in two award periods, the combined sessions will be treated as one term. A student may not receive more than one term's award for completing any combination of these sessions.

(2) The institution must determine the student's enrollment status for the entire term. The enrollment status for the entire term will be based upon—

(i) The total number of credits enrolled for in all sessions if that

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number is known when the award is calculated, or

(ii) a projected number of credits based upon the credits enrolled for in the first session, if the number of credits to be taken in subsequent sessions is unknown when the award is calculated.

(20 U.S.C. 1070a.)

§ 190.66 Transfer student: attendance at more than one institution during an award period.

(a) If a Basic Grant recipient withdraws from one institution and enrolls at a second in the same award period, the student must submit an SER to the second institution, or to the Commissioner for an institution participating in the program under ADS.

(b) The second institution (or the Commissioner for ADS schools) calculates the student's award according to § 190.64.

(c) The second institution (or the Commissioner for ADS schools) pays a Basic Grant for only that portion of the award period in which the student is enrolled at that institution. The grant must be adjusted to ensure that the student does not exceed the Scheduled Basic Grant for that award period.

(d) A transfer student must repay any amount received in an award period which exceeds the Scheduled Basic Grant.

(20 U.S.C. 1070a.)

§ 190.67 Correspondence study.

A student, enrolled in a program of study by correspondence will be paid according to the following procedures:

(a) The institution prepares a written schedule for submission of lessons. This schedule must reflect a work load of at least 12 hours of preparation per week. It is used to determine the length of the program.

(b) The student's Basic Grant for an award period is calculated by:

(1) Determining the Scheduled Basic Grant according to §§ 190.62 or 190.63, whichever is appropriate, and

(2) Multiplying the Scheduled Basic Grant by the lesser of the following fractions:

$$\frac{1}{2} \text{ or } \frac{\text{hours of preparation in the award period}}{\text{hours of preparation in the academic year}}$$

(This procedure insures that students in a program of study by correspondence are paid as half-time students.)

(d) A student will receive 2 equal payments for an award period. The first payment will be made after the student has submitted 25 percent of the lessons scheduled for the award period.

(e) The final payment will be made after the student has submitted 75 percent of the lessons scheduled for the award period.

(20 U.S.C. 1070a.)

Subpart G—Administration of Grant Payments—Regular Disbursement System

§ 190.71 Scope.

This subpart deals with program administration by an institution of higher education that has entered into an agreement with the Commissioner to calculate and pay Basic Grant awards.

(20 U.S.C. 1070a.)

§ 190.72 Institutional agreement—regular disbursement system (RDS).

(a) The Commissioner may enter into an agreement with an institution of higher education under which the institution will calculate and pay Basic Grants to its students. The agreement will be on a standard form provided by the Commissioner and will contain the necessary terms to carry out this part.

(b) The Commissioner will send a Payment Schedule for each award period to an institution that has entered into an agreement under paragraph (a) of this section.

(20 U.S.C. 1070a.)

§ 190.73 Termination of agreement—regular disbursement system.

(a) *Termination by Commissioner.* The Commissioner may terminate the agreement with an institution by giving—

(1) 30 days written notice; or

(2) Less than 30 days written notice if it is necessary to prevent the likelihood of a substantial loss of funds to the Federal government or to students.

(b) *Information provided.* The institution must provide the following information to the Commissioner if the Commissioner terminates the agreement:

(1) The name and enrollment status of each eligible student who submitted a valid SER to the institution before the termination date;

(2) The amount of funds the institution paid to Basic Grant recipients for the award period in which the agreement is terminated;

(3) The amount due to each student eligible to receive a Basic Grant through the end of the award period; and

(4) An accounting of Basic Grant expenditures to the date of termination.

(c) *Termination by institution.* The institution may terminate the agreement by giving the Commissioner written notice. The termination becomes effective on June 30 of that award period. The institution must carry out the agreement for the remainder of the award period.

(d) *Termination because of change in ownership which results in a change of control.* The agreement automatically terminates when an institution changes ownership which results in a change of control. The Commissioner will enter into an agreement with the new owner if the institution complies with requirements set forth in § 149.66 of the "Eligibility Regulations." (45 CFR 149.66.)

(e) If an agreement is terminated, the Commissioner will pay an institution's students ONLY if it enters into an ADS agreement. (See § 190.92.)

(20 U.S.C. 1070a.)

§ 190.74 Advancement of funds to institutions.

The Commissioner will advance funds for each award period, from time to time, to RDS institutions, based on his/her estimate of the institution's need for funds to pay its Basic Grant students.

(20 U.S.C. 1070a(b)(3)(A).)

§ 190.75 Determination of eligibility for payment.

(a) An institution may pay a Basic Grant to a student only after it determines that the student—

(1) Meets the eligibility requirements set forth in section 190.4;

(2) Is enrolled in good standing;

(3) Is maintaining satisfactory progress in his/her course of study;

(4) Is not in default on any National Defense/Direct Student Loan made by that institution or on any Guaranteed Student Loan received for attendance at that institution; and

(5) Does not owe a refund on a Basic Grant, a Supplemental Grant or a State Student Incentive Grant received for attendance at that institution.

(b)(1) Before making any payment to a student for an award period, the institution must confirm that he/she continues to meet the criteria set forth in paragraph (a) of this section.

(2) However, if an eligible student submits an SER to the institution and becomes ineligible before receiving a payment, the institution must pay only the amount which it determines could have been used for educational purposes before the student became ineligible.

(c) If an institution determines at the beginning of a payment period that a student is not maintaining satisfactory progress, but reverses itself BEFORE the end of the payment period, the institution may pay a Basic Grant to the student for the entire payment period.

(d) If an institution determines at the beginning of a payment period that a student is not maintaining satisfactory progress, but reverses itself AFTER the end of the payment period, the institution may neither pay the student a Basic Grant for that payment period nor make adjustments in subsequent Basic Grant payments to compensate for the loss of aid for that period.

(e) Conditions under which students who are overpaid grants may continue to receive Basic Grants are as follows:

(1) *Overpayment of a Basic Grant.* If an institution makes an overpayment of a Basic Grant to a student, it may continue to make Basic Grant payments to that student if (i) the student is otherwise eligible, and (ii) it can eliminate the overpayment in the award period in which it occurred by adjusting the subsequent Basic Grant payments for that award period.

(2) *Overpayment of a Basic Grant due to institutional error.* In addition to the exception provided in subparagraph (1) of this paragraph, if the institution makes an overpayment of a Basic Grant to a student as a result of its own error, it may continue to make payments to that student if:

(i) The student is otherwise eligible, and

(ii) The student acknowledges in writing the amount of overpayment and agrees to repay it in a reasonable period of time.

(3) *Overpayment on a Supplemental Grant.* An institution may continue to make Basic Grant payments to a student who receives an overpayment on a Supplemental Grant if:

(i) The student is otherwise eligible, and

(ii) It can eliminate the overpayment by adjusting subsequent financial aid payments (other than Basic Grants) in the same award period in which it occurred.

(f) An institution, in determining whether a student is in default on a loan made under the Guaranteed Student Loan Program, may rely upon the student's written statement that he/she is not in default unless the institution has information to the contrary.

(g) Conditions under which students who are in default on loans made for attendance at that institution may receive Basic Grants are as follows:

(1) *Guaranteed Student Loans.* An institution may pay a Basic Grant to a student who is in default on a Guaranteed Student Loan if the Commissioner (for federally insured loans) or a guarantee agency (for a loan insured by that guarantee agency) determines that the student has made satisfactory arrangements to repay the defaulted loan.

(2) *National Defense/Direct Student Loan.* An institution may pay a Basic Grant to a student who is in default on a National Defense/Direct Student Loan made at that institution, if the student has made arrangements, satisfactory to the institution, to repay the loan.

(3) The Commissioner considers a National Defense Student Loan, a National Direct Student Loan, or a Guaranteed Student Loan which is discharged in bankruptcy to be in default for purposes of this section.

(h) For purposes of this part—

(1) Overpayment of a grant means that a student received payment of a grant greater than the amount he/she was entitled to receive;

(2) Supplemental Grant is a grant authorized under Title IV-A-2 of the HEA;

(3) State Student Incentive Grant is a grant authorized under Title IV-A-3 of the HEA;

(4) National Defense Student Loan is a loan made under Title II of the National Defense Education Act;

(5) National Direct Student Loan is a loan made under Title IV-E of the HEA, and

(6) Guaranteed Student Loan is a loan made under Title IV-B of the HEA.

(20 U.S.C. 1070a, 20 U.S.C. 1070b et seq. 20 U.S.C. 1087aa et seq. 20 U.S.C. 1071 et seq. and 20 U.S.C. 1088f.)

§ 190.76 Frequency of payment.

(a) In each payment period, an institution may pay a student at such times and in such installments as it determines will best meet the student's needs.

(b) Only one payment is required if a portion of an academic year occurring within one award period is less than three months.

(c) The institution may pay funds due a student for any completed period in one lump sum. The student's enrollment status will be determined according to work already completed.

(20 U.S.C. 1070a.)

§ 190.77 Verification of information on the SER—withholding of payments.

(a)(1) The Commissioner may require that a student verify the information submitted on the application and included on the SER, by submitting appropriate documentation to the institution or to the Commissioner.

(2) The Commissioner may also require that the institution withhold payment of a student's grant until the institution or the Commissioner determines that the student has supplied the correct information.

(b) If an institution believes that any information on the SER used in calculating the student's expected family contribution is inaccurate, or if the application is chosen by the Commissioner for verification, the institution must request that the student verify the information on the SER.

(c) The Commissioner will establish and publish—

(1) Procedures to be used in verifying information for selected students ("Validation Procedures"), and

(2) The conditions under which payments will be made for these students.

(d)(1) If a student makes a correction which results in a change in his/her expected family contribution, the student must submit the SER to the institution, and the institution must recalculate the student's award based on the verified SER. Any overpayment must be repaid by the student.

(2) If the documentation requested by the institution under this section does not verify the information on the SER, or if the student does not correct the SER, the institution must forward the student's name, social security number and other relevant information to the Commissioner in accordance with the procedures referenced in paragraph (c) of this section.

(e) A student corrects an SER by—

(1) Providing accurate information on the SER;

(2) Getting the appropriate signatures on the SER; and

(3) Re-submitting the SER to the Commissioner.

(f) If an institution has documentation which indicates that the information used to calculate the student's expected family contribution on the SER is inaccurate, it may not pay a Basic Grant for any award period until the student corrects the error or verifies the data.

(g) If an institution believes, but cannot document, that inaccuracies exist on the SER, it may not withhold payments unless authorized by the Commissioner. These cases must be forwarded to the Commissioner.

(h)(1) If the Commissioner requests documentation, the student must comply within a time period set by the Commissioner.

(2)(i) If the student provides the requested documentation on time, he/she will be eligible for Basic Grant payments based upon the verified SER.

(ii) If the verified SER is submitted to the institution after the appropriate deadline as specified in § 190.61, but within an established time period to be determined by the Commissioner, the student may be paid only up to the amount withheld because of the verification process.

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(3) If the student does not provide the requested documentation within the established time period—

(i) The student will forfeit the Basic Grant for the award period,

(ii) Any grant payments received must be returned to the Commissioner, and

(iii) No further Basic Grant applications will be processed for that student until documentation has been provided or the Commissioner decides there is no longer need for documentation.

(20 U.S.C. 1070a.)

§ 190.78 Method of disbursement—by check or credit to student's account.

(a) The institution may pay a student either directly by check or by crediting his/her account with the institution. The institution must notify the student of the amount of money he/she can expect to receive, and how he/she will be paid.

(b)(1) The institution may not make a payment to a student for a payment period until the student is registered for that period.

(2) The earliest an institution can directly pay a registered student is 10 days before the first day of classes of a payment period.

(3) The earliest an institution can credit a registered student's account is 3 weeks before the first day of classes of a payment period.

(c) The institution must return to the Basic Grant account any funds paid to a student who, before the first day of classes—

(1) officially or unofficially withdraws, or

(2) is expelled.

(d)(1) If an institution pays a student directly, it must notify him/her when it will pay the Basic Grant award.

(2) If a student does not pick up the check on time, the institution must keep that check for 15 days after the date the student's enrollment for that award period ends.

(3) If the student has not picked up the check at the end of the 15 day period, the institution may credit the student's account for any amount owed to it for the award period.

(4) A student forfeits the right to receive any remaining Basic Grant payment if he/she does not pick up the check within the specified period of time.

(5) Notwithstanding subparagraph (4) of this paragraph, the institution may, if it chooses, pay a student who did not pick up the check, through the next payment period.

(20 U.S.C. 1070a.)

§ 190.79 Affidavit of educational purpose.

No Basic Grant may be paid unless the student has filed a notarized affidavit with the institution he/she attends which—

(a) Is on a form approved by the Commissioner;

(b) States that the grant money will be used solely for educational expenses at the institution; and

(c) Is notarized by someone who does not recruit students for the institution.

(20 U.S.C. 1088g.)

§ 190.80 Recovery of overpayments.

(a)(1) The student is liable for any overpayment made to him/her.

(2) Also, the institution is liable for an overpayment it makes to a student if the regulations indicate that the payment should not have been made. The institution must restore those funds to the Basic Grant account even if it cannot collect the overpayment from the student.

(b) If an institution makes an overpayment for which it is not liable, it must help the Commissioner recover the overpayment by—

(1) Making a reasonable effort to contact the student and recover the overpayment; and, if unsuccessful,

(2) Providing the Commissioner with the student's name, social security number, amount of overpayment and other relevant information.

(20 U.S.C. 1070a.)

§ 190.81 Recalculation of a Basic Grant award.

(a) *Change in expected family contribution.* (1) If the student's expected family contribution changes the institution must recalculate the Basic Grant Award.

(2) Except as provided in § 190.77(h)(2)(ii), the institution must adjust the award and pay the student the amount he/she is entitled to for the award period if the expected family contribution is recalculated because of—

(i) A clerical or arithmetic error under § 190.15, or

(ii) Extraordinary circumstances which affect the expected family contribution under §§ 190.39 and 190.48.

(3) If a student's expected family contribution is recalculated because of a correction of the information requested under §§ 190.12 or 190.77, the student's Basic Grant for the award period must be adjusted. Where possible, the adjustment must be made within the same award period.

(4) If the recalculation takes place in a subsequent award period, the student will be

(i) Eligible to receive payment unless prohibited under the provisions of § 190.77(h) and

(ii) Required to return any overpayment at the time of recalculation.

(b) *Change in enrollment status.*

(1) If an institution decides that a student's enrollment status has changed during a payment period, it may (but is not required to) establish a policy under which the student's award may be recalculated.

(2) If such a policy is established, it must apply to all students.

(3) If a student's award is recalculated, the institution determines the total amount the student is entitled to for the entire payment period by taking into account—

(i) The portion of the payment period at the original enrollment status;

(ii) The portion of the payment period at the new enrollment status; and

(iii) Any change in the student's cost of attendance.

(20 U.S.C. 1070a.)

§ 190.82 Fiscal control and fund accounting procedures.

(a)(1)(i) An institution must receive and process all Basic Grant funds through one identifiable bank account.

(ii) This account may be an existing one (preferably one maintained for Federal funds) if the institution maintains adequate accounting records to account for the Basic Grant funds separately from the other funds in that account.

(iii) At no time may the Basic Grant funds in this bank account be less than the balance indicated in the institution's accounting records for these funds.

(2) The institution must account for the receipt and expenditure of Basic Grant funds in accordance with generally accepted accounting principles.

(b) A separate bank account for Basic Grant funds is not required. However, the institution must notify any bank in which it deposits Basic Grant funds of all accounts in that bank in which it deposits Federal funds. This notice can be given by either:

(i) Including in the name of the account the fact that Federal funds are deposited therein; or

(ii) Sending a letter to the bank listing the accounts in which Federal funds will be deposited. A copy of this letter must be retained in the institution's files.

(c) Except for funds received under § 190.10, funds received by an institution under this part are held in trust for the intended student beneficiaries and may not be used or hypothecated for any other purpose.

(20 U.S.C. 1070a.)

§ 190.83 Maintenance and retention of records.

(a) Each institution must maintain adequate records which include the fiscal and accounting records that will be required under § 190.82 and records indicating—

(1) The eligibility of all enrolled students who have submitted a valid SER to the institution;

(2) The name, social security number, and amount paid to each recipient;

(3) The amount and date of each payment;

(4) The amount and date of any overpayment that has been restored to the program account;

(5) The "Student Eligibility Report" for each student;

(6) The student's cost of attendance;

(7) How the student's full or part-time enrollment status was determined; and

(8) The student's enrollment period.

(b) The institution must make the records listed in paragraph (a) available for inspection by the Commissioner's authorized representative at any reasonable time in the institution's offices. It must keep these records for five years after it submits an accounting of each award period's funds to the Commissioner.

(c) The institution must keep records involved in any claim or expenditure questioned by Federal audit until resolution of any audit questions.

(d) An institution may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(20 U.S.C. 1070a.)

§ 190.84 Submission of reports.

The institution must submit the reports and information the Commissioner requires in connection with the funds advanced to it and must comply with the procedures the Commissioner finds necessary to ensure that the reports are correct.

(20 U.S.C. 1070a.)

§ 190.85 Audit and examination.

(a) *Federal audits.* The institution must give the Secretary, the Comptroller General of the United States, or their duly authorized representatives, access to the records specified in §§ 190.82 and 190.83 and to any other pertinent books, documents, papers and records.

(b) *Non-Federal audits.* The institution must audit or have audited under its direction all Basic Grant Program transactions to determine at a minimum—

(1) The fiscal integrity of financial transactions and reports; and

(2) If such transactions are in compliance with the applicable laws and regulations. Such audits will be performed in accordance with HEW's "Audit Guide" for the Basic Grant Program.

(3) The institution must have an audit performed at least once every two years.

(c) The institution must submit audit reports to the institution's local regional office of HEW's Audit Agency. It must give the Audit Agency and the Commissioner access to records or other documents necessary to the audit's review.

(20 U.S.C. 1070a.)

Subpart H—Administration of Grant Payments—Alternate Disbursement System

§ 190.91 Scope.

This subpart deals with program administration by an institution of higher education under the Alternate Disbursement System (ADS). Under the ADS, the Commissioner calculates and pays the Basic Grant awards.

(20 U.S.C. 1070a.)

§ 190.92 Institutional agreement—Alternate Disbursement System (ADS).

(a) Under ADS, the Commissioner will calculate and pay Basic Grant awards to students enrolled in an institution which has entered into an agreement to carry out this subpart.

(b) Under this agreement, the institution agrees to:

(1) complete OE Form 304 for each eligible student, as specified in § 190.94; and

(2) maintain and keep records as specified in § 190.96.

(20 U.S.C. 1070a.)

§ 190.93 Change in ownership and change to the Regular Disbursement System (RDS).

(a) *Change to RDS.* The Commissioner may enter into an agreement with an ADS institution which wishes to participate in the program under the Regular Disbursement System. However, the agreement will go into effect July 1 of the succeeding award period.

(b) *Termination because of change in ownership that results in a change in control.* (1) An ADS agreement terminates when an institution changes ownership that results in a change in control. (2) The Commissioner may enter into an agreement with the new owner if the institution complies with the requirements set forth in § 149.66 of the "Eligibility Regulations," (45 CFR 149.66).

(20 U.S.C. 1070a.)

§ 190.94 Calculation and disbursement of awards by the Commissioner of Education.

(a) An eligible student enrolled in an institution participating in the Basic Grant Program under the ADS applies to the Commissioner for a Basic Grant according to the following procedures:

(1) The student submits an SER to his/her institution and obtains an OE Form 304 from the institution;

(2) The student completes the OE Form 304, including the affidavit of educational purpose described under § 190.79, and submits it to the institution;

(3) On the OE Form 304 the institution certifies that the student—

(i) Meets eligibility requirements of § 190.4,

(ii) Is maintaining satisfactory progress in his/her course of study,

(iii) Does not owe a refund on grants received for attendance at that institution under the Basic Grant, the Supplemental Grant, or the State Student Incentive Grant Programs, and

(iv) Is not in default on any National Defense/Direct Student Loan made by the institution or on any Guaranteed Student Loan received for attendance at that institution. (In determining whether a student is in default on a GSL, the institution may rely on a written statement provided by the student unless the institution has information to the contrary); and

(4) The institution returns the SER and OE Form 304 to the student, who then submits these documents to the Commissioner. Both documents must be received by the Commissioner on or before the deadline dates described in § 190.61.

(b) If an institution believes that the information on an SER may be in error, the institution must notify the student and request documentation or correction. Any case not resolved by the institution should be reported to the Commissioner.

(c) The Commissioner will calculate a student's award in accordance with Subpart F of this part and will pay the student once every payment period.

(20 U.S.C. 1070a.)

§ 190.95 Termination of enrollment and refund.

(a) The institution must inform the Commissioner of the date when a student officially or unofficially withdraws or is expelled during a payment period for which that student was paid.

(b) A student who officially or unofficially withdraws or is expelled from an institution before completion of 50 percent of a payment period for which he/she has been paid, will refund a prorated portion of the payment as determined by the Commissioner.

(20 U.S.C. 1070a.)

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§ 190.96 Maintenance and retention of records.

(a) An institution under the ADS must establish and maintain—

(1) Records relating to each Basic Grant recipient's enrollment status, and attendance costs at the institution; and

(2) Records showing when each recipient was enrolled.

(b) The institution must make these records available at the geographic location where the student will receive his/her degree or certificate of course completion, and must keep them for five years following a recipient's last date of enrollment.

(c) The institution will make available to the Commissioner, the Secretary, the Comptroller General of the United States, and their authorized representatives, pertinent books, documents, papers and records for audit and examination during the five year retention period.

(d) An institution may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(20 U.S.C. 1070.)

APPENDIX A—SUMMARY OF COMMENTS AND RESPONSES

Set forth below is a summary of the public comments received on the proposed Basic Grant Administrative and Technical regulations and the Office of Education responses to those comments. Generally, the comments and responses appear in the numerical sequence of the regulations and are identified with the section number and title of the section to which they refer.

§ 190.2 General Definitions.

(a) *academic year*

Comment. Several commenters asked if institutions with a longer academic year than the minimum provided in § 190.2(a) could use their longer academic year as their institutional standard. One commenter suggested the insertion of the phrase "at least" prior to § 190.2(a)(1) to indicate that the definition merely establishes minimum criteria for an institution's academic year, and that the institution has the flexibility to adhere to a longer one if it so chose.

Response. An institution with a longer academic year than the minimum provided in § 190.2(a) must use that longer year as the institution's standard. To that end the Commissioner has adopted the commenter's suggestion to insert the phrase "at least" in the definition of an "academic year."

900 Clock Hour Minimum

Comment. The 900 clock hour minimum requirement for each program during an academic year is regarded by many commenters as too stringent. Several questioned the logic behind the 900 figure. They indicated that if a student completed a thirty-six week course at 24 clock hours per week the student would accumulate only 864 clock hours, and suggested a reduction to at least that number of clock hours as a minimum requirement.

One commenter recommended the adoption of a standard of 750 clock hours for a one year program as the minimum number of clock hours used to measure an academic year. Another suggested a reduction to 800 clock hours on the basis of an eight month academic year which is the equivalent of two semesters or three quarters.

A majority of commenters disagreed with the 900 clock hour minimum on the basis of the recent changes in the Veterans' Administration requirements. The requirements for a full-time student at clock hour institutions receiving Veterans benefits was reduced from 24 clock hours a week to 18 clock hours in theory oriented courses and 22 clock hours in laboratory or workshop oriented courses. Utilizing these new clock hour requirements, the commenters suggested an academic year ranging from 648 to 792 clock hours. Several other commenters pointed to the lack of consistency between the 900 clock hour requirement and the Veterans' Administration requirements of 648 to 792 and suggested that this inconsistency would greatly increase record-keeping and monitoring of students who are recipients under both programs.

Full-time student

Many commenters disagreed with the proposed definition. Several questioned the continued viability of requiring 24 clock hours per week as a facet of the definition. These commenters, referring to the recent action of the Veterans' Administration, recommended that the Office of Education revise the full-time student definition to address these changes and thereby eliminate the inconsistency among the various student assistance programs. The proposed regulation requiring 24 clock hours per week was further criticized as being inconsistent with the notice of proposed rulemaking recently published for the Guaranteed Student Loan Program which required 25 clock hours per week for a full-time student. These commenters suggested that the current criteria for full-time student status of 18 clock hours per week for theory related coursework and 22 clock hours per week for laboratory or workshop related coursework used by the Veterans' Administration be adopted by the Office of Education.

Citing the history of the clock hour requirement another commenter recommended that, since the Office of Education originally adopted the then current Veterans' Administration requirement of 25 clock hours per week in its original definition, consistency of treatment requires that the Office of Education reduce the number of clock hours required to the Veterans' Administration minimum.

Response. The recommendations for revising the number of clock hours in an academic year have not been adopted. The Commissioner believes that 900 clock hours is the appropriate equivalent of two semesters, two trimesters or three quarters.

The 900 clock hours equivalent was calculated in the following manner. A one year program was considered to be one academic year of approximately nine months, or 36 weeks in length. A full-time student in a clock hour program was considered full-time if he or she was taking 25 clock hours per week. Nine hundred hours is the product of multiplying 25 x 36. The Commissioner has subsequently reduced the minimum number of clock hours a student must take to be full-time but this change was undertaken for the convenience of having the definition of half-time study equal one-half of full-time study.

The Commissioner does not believe that the action of the Congress in reducing the number of hours that a veteran must take in a clock hour program to be considered a full-time student requires a similar change in the Basic Grant program.

Congress reduced the number of hours required for full-time study to permit a certain limited class of students, basically Vietnam era veterans, to receive a larger grant. If the Commissioner reduced the definition of a full-time student and an academic year to the level included in the veterans education benefits program legislation, the effect would be all encompassing and not limited to a particular class of students. While the Commissioner believes in the desirability of uniformity where appropriate, he believes that the definitions included in the proposed rule more accurately reflect full-time study. Therefore, the definition of an academic year of 900 clock hours and full-time study in a clock hour program of 24 clock hours a week will not be changed.

(c) *award period*

Comment. Two commenters questioned the need for the term and suggested that the term "fiscal year" be used in place of "award period." One commenter recommended that the dates of the Federal fiscal year—October 1 and September 30th—be used in place of the July 1 and June 30th dates.

Response. The suggestions were not adopted. To provide consistency with all title IV Programs, the name for the period of time between July 1 of one year and June 30 of the subsequent year was changed in the notice of proposed rulemaking. The definition is now standard for all Title IV Programs and remains in the final regulation unamended.

(d) *clock hour*

Comment. Two commenters suggested that the definition specify either a 50 or a 60 minute class period as the standard in the interest of clarity. One commenter felt that the clock hour definition was too restrictive. The commenter suggested that some institutional clock hours may be as little as 45 minutes in length, and requested that the exact extent of time in minutes be left to the institution's complete discretion.

Response. The suggestions were not adopted. The Commissioner believes that the current definition is reasonable and that it allows for sufficient institutional flexibility. Additionally, it is consistent with other Title IV Programs.

(g) *enrollment status*

Comment. One of the proposed revisions included in the May 15 NPRM was a new procedure for calculating awards at term-based institutions which use credit hours. Under the proposed rule students enrolled less than full-time would no longer be divided into three-quarter and half-time categories. Rather, it was proposed that a student's part-time status would reflect the exact degree that his/her enrollment related to full-time status. For example, a student enrolled for 11 credit hours would receive 11/12 of a full-time award for the term instead of receiving an award as a three-quarter-time student.

Many commenters suggested that this fractional concept not be implemented. One commenter stated that, in effect, the institution must employ multiple payment schedules for a variety of "cost" situations in each of the fractional enrollment status situations. Another criticized the proposed definition as "unmeasurably difficult, time consuming and frustrating." A third suggested that the costs to the institutions in performing these calculations are much more severe than the actual dollar differences lost or gained by using the current range of credit hours. Another requested a postponement of the implementation of this fractional concept to give the financial aid community more time to reflect upon the concept and to react to the proposed change. Several commenters alluded to the difficulty of reprogramming their computer operations for the 1978-79 award period if this fractional concept becomes effective with the publication of the final regulation.

Response. For the reasons stated by the commenters, the fractional concept of enrollment status has been omitted in the final regulations. Instead enrollment status will refer to a student's status as a full-time, three-quarter-time or half-time student. A definition of three-quarter-time student status has been incorporated in the final regulation. For those institutions which use credit hours and academic terms, the final regulation does not embody a change in the method of calculating awards from the procedure under the old regulation.

Comment. Three commenters criticized the 12 semester or 12 quarter hour requirement for full-time student status as being inadequate. Citing the fact that most institutions require between 15 and 18 hours per term for eight semesters or 12 quarters, a full-time student, according to the definition in § 190.2(h)(1) and (2), would not have completed the degree requirements within four years and yet not be eligible for a fifth year grant. One commenter suggested raising the minimum requirement to 15 credit hours while another suggested 18 credit hours per term.

Response. The suggestions were not adopted. The criteria set forth in § 190.2(h)(1) and (2) are only minimum criteria. An institution must use the actual credit hours required of a full-time student at that institution in determining whether a student is full-time if that number is at least as much as the minimum numbers included in the definition. The definition is not intended to limit an institution's requiring more than the minimum, rather the definition provides a minimum number of credit hours to be considered full-time status under the Basic Grant Program.

Comment. A majority of commenters suggested that, in place of the proposed full-time student definition, the definition applicable in the Supplemental Educational Opportunity Grant (SEOG) Program regulations be adopted for Basic Grants. The change was also suggested by several of the financial aid organizations, arguing that the adoption of the SEOG Program definition would achieve two goals: (1) increased clarity and a simplification of the regulation, and (2) provide greater uniformity of definitions among the Title IV Programs.

One commenter cited the proposed full-time student definition as an example of over-regulation. In the commenter's opinion, the Office of Education, in attempting to address every conceivable type of full-time student situation, has created an unworkable definition. Another commenter believed that the proposed definition created an intrusion into the activities of non-traditional and innovative institutions by forcing them to choose one of the proposed minimum requirements.

Response. The suggestion to adopt the relevant subsection of the SEOG Program regulation was not adopted. Full-time student status under the SEOG Program has no relation to the amount of money a student receives. However under the Basic Grant Program full-time status is directly related to the amount of grant funds a student receives. The Commissioner does not believe that the definition is an example of over-regulation. On the contrary, the definition puts forth minimum standards in an effort to establish a base for the consistent treatment of all Basic Grant recipients.

(i) *good standing*

Comment. One commenter questioned the distinction between good standing and satisfactory progress. Another suggested that it is confusing to have a definition of good standing and not a definition of satisfactory progress and recommended the final regulation include a written definition of satisfactory progress. A third commenter recommended deletion of the definition.

Response. The recommendation to include in the final regulation a definition of satisfactory progress was not adopted. The Commissioner believes that an institution should develop its own standards of satisfactory progress.

An institution must have a written standard of satisfactory progress which is applicable for all student recipients of Title IV funds in order for its students to receive those funds. The content is strictly an institutional concern. Satisfactory progress is an evaluation of a student's efforts to achieve an educational goal within a given period of time. Accordingly, in formulating its standard, the institution should take into consideration the normal time frame for completing a course of study and must have some means, such as grades or work projects completed, which can be measured against a norm.

The recommendation to delete the definition of good standing has not been adopted. The term is taken directly from the authorizing legislation (Higher Education Act (HEA) of 1965 as amended, SEC 411(a)(1)). A conceptual difference exists between good standing and satisfactory progress. Good standing means that a student is capable of continuing enrollment, while satisfactory progress means that the student is proceeding in a positive manner toward fulfilling degree or certificate requirements.

(o) *Student Eligibility Report*

Comment. Three commenters suggested that the name Student Eligibility Report (SER) is confusing to students and their families and recommended that the report be called a Basic Grant Report. Two commenters thought the definition was misleading and would confuse students. One commenter recommended that the definition indicate that the report is provided by the Office of Education.

Response. The final regulation has not been amended. The Commissioner does not believe that the definition or the title of the report are confusing or misleading to students. The name of the report has been used for the last five years of the program and a change in nomenclature now would create the very confusion the commenters wished to prevent.

(q) *undergraduate student*

Comment. A number of respondents questioned the meaning and purpose of § 190.2(p)(2) particularly the concluding sentence which states that a student is considered an undergraduate student for only the first four years of a course of study which may be longer in duration.

Response. This statement is designed to clarify the status of students whose academic program may be five, six or more years in length. Program experience indicates that there has been confusion as to the duration of undergraduate status. Therefore, this clarifying sentence was inserted in the regulation.

Comment. Several commenters were dissatisfied with the proposed definition. One suggested adding the word "eligible" to delineate an undergraduate course of study. Another suggested clarifying the definition by substituting the phrase "completed the academic work toward a baccalaureate" for the term "awarded a baccalaureate," on the justification that a student not awarded a degree but having completed the requirements would be eligible to receive additional Basic Grant awards.

Response. The suggestions for amendments were not adopted. The insertion of the word "eligible" would render the definition redundant. In the case of the term "awarded", a student is considered an undergraduate until he or she has been awarded a baccalaureate. Using the suggested language would require a financial aid officer to know exactly at what point a student has sufficient credits to graduate and would not take into account a student's change of program or major.

§ 190.2a Special Terms.

§ 190.2a(b) *Eligible Program in a proprietary institution*

(c) *Regular student*

§ 190.3(b) *Proprietary Institution of higher education*

§ 190.4 *Eligible student*

Under the proposed regulations, an eligible proprietary institution was limited to those proprietary schools that restrict their enrollment of regular students to high school graduates or their equivalent. The definition of an eligible program in a proprietary institution included only those programs which, among other things, admitted as regular students only high school graduates or their equivalent. Section 190.4, the student eligibility section, provided that Basic Grants could be awarded only to regular students. Finally, the definition of a regular student described that student, in effect, as a student who enrolls in an institution for the purpose of obtaining a degree or certificate in a program which that institution is qualified to give. As a result of these provisions, non-high school graduates or non-GED certificate holders attending proprietary institutions were ineligible to receive Basic Grants. Furthermore, their presence in a degree or certificate program at a proprietary institution made both that program and that institution ineligible so that no student attending that Program would be able to receive a Basic Grant.

Numerous comments were received objecting to these provisions. Many felt that proprietary schools were being unfairly singled out in contrast to public and non-profit pri-

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vate institutions, and that non-high school graduates were being unfairly treated.

The difference in treatment between proprietary institutions and public and nonprofit private institutions was based upon the statutory definitions of those terms as they existed at the time the proposed regulations were published. Therefore, a different treatment was not only proper, it was required.

Briefly, the historical background for the difference in treatment resulting from the statute is as follows. Before the enactment of the Education Amendments of 1976, one requirement of institutional eligibility was that an institution must admit as regular students only persons with a high school diploma or the recognized equivalent. The Education Amendments of 1976 amended the Higher Education Act of 1965 by providing that public and private non-profit institutions could also admit as regular students "persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution." This statutory change in institutional eligibility requirements did not affect proprietary institutions. However, the Middle Income Student Assistance Act has now extended this change in institutional eligibility requirements to proprietary institutions. Consequently, all differences in treatment in the definitions in Subpart A of the proposed regulations which had been based upon the differing statutory definitions have been removed in the final regulations.

§ 190.2a(a) *Eligible Program*

Comment. Three commenters asked that the term "GED Certificate" used in § 190.2a(a)(1)(ii) be supplemented to include several of the State equivalency program certificates.

Response. The recommendation has been adopted. In addition to specifying the General Education Development Certificate, the final regulation also makes reference to recognized state equivalencies.

Comment. One commenter requested that parallel language be used in § 190.2a(a)(1)(iii) and § 190.3(a)(iii) and suggested instead of "may benefit" the use of the phrase "have the ability to benefit." The commenter argued for the parallel language because the latter phrase (§ 190.3(a)(iii)) is taken directly from the authorizing legislation (HEA 1965 as amended, Sec. 411(a)(1)).

Response. The suggestion has been adopted and parallel language has been incorporated in the final regulation.

Comment. One commenter asked for a definition of the terms "gainful employment" and "recognized occupation" as these terms appear in § 190.2a(b)(3).

Response. The suggestion has not been adopted. These terms will be defined in the forthcoming proposed regulations regarding Eligible Institutions, which will govern institutional participation in all Title IV programs.

(f) *Payment period—General*

Comment. Several commenters objected to the distinction made in the proposed regulations between clock hour and credit hour institutions. One commenter questioned the distinction and suggested that it would result in inequitable treatment for students in proprietary institutions.

Five commenters voiced concern over what they felt was excessive monitoring of students under either the payment period proposed in the regulation or the alternative payment period proposed in the Preamble.

Four commenters requested clarification as to how to treat absences for short illness, family death, or other such non-voluntary situations in which the student incurs clock hour absence if the proposed definition of payment period published in the regulation were adopted in the final regulation. One commenter requested that if the payment period method proposed in the regulation were adopted, specific guidelines should be made part of the regulation indicating any tolerance levels that would be operative in the situation of non-voluntary absences.

Commenters, however, were generally in favor of the payment period proposed in the regulation as being the most equitable to students.

Response. The recommendation of many of the commenters to adopt the concept of a payment period with a fixed number of clock hours has been adopted and incorporated in the final regulation.

The question of the treatment of absences under the payment period method using a fixed number of clock hours warrants some discussion. Under this method a student may not be paid a second payment until all the clock hours for which the student was paid in the first payment period are completed. However, if the institution allows a certain number of hours of absences which do not have to be made up in order to complete the academic year, those allowable hours of absences may be taken into account in determining when the second payment should be made. This concept of payment period was developed as a response to questions from proprietary institution officials as to how to treat those students whose hours of attendance may fluctuate.

§ 190 Institution of Higher Education.

(a) *public or other non-profit institution*

Comment. One commenter requested the insertion of the term "usually" in § 190.3(a)(2)(i) and (ii) so that extraordinary students who are sometimes accepted by universities and colleges before they complete their high school education would not be in question.

Response. No change was made in the regulation. The Commissioner believes that extraordinary students accepted for admission by colleges and universities before they complete their high school education are generally above the age of compulsory school attendance. They would thus not pose a problem to the institution's eligibility status.

Comment. Several commenters criticized the inclusion in § 190.3(a)(2)(iii) of both the "ability to benefit from the training offered" clause and the documentation required of the institution. Citing the fact that it is an institutional matter to determine who has the ability to benefit, one commenter stated that the means of determining ability to benefit is a matter of institutional decision making. Another commenter considered the wording an unwarranted intrusion by the Federal Government into the admissions process of the institution.

Three commenters objected to the ability to benefit sections as endangering the "open door" policy of most community colleges. One commenter stated that this section, if unamended, will be used to deny potentially capable students any chance to attempt higher education. Another commenter suggested that the present rules governing satisfactory progress are a much more appropriate point to assess a student's ability to benefit from the training offered by local public postsecondary educational institutions.

Several other commenters criticized the "linkage" of the definition of public and non-profit institutions and the definition of regular student.

These commenters argued that the linkage presumes upon the ability of the institution of higher education to determine whom it should or should not admit to its academic programs. One commenter complained that the definition of a public or non-profit institution of higher education intruded upon the integrity of the institution's decision making process with respect to its academic programs and overall educational philosophy.

Two commenters voiced the opinion that this section (190.3(a)) violates Section 432 of the General Education Provisions Act of 1970, which prohibits a department or agency of the Federal Government from exercising any direction, supervision or control over the curriculum, program of instruction, administration or personnel at any educational institution. Whom an institution admits as a student, the commenter stated, should be the institution's decision alone.

One commenter suggested an addition to the criteria of § 190.3(a)(2)(iii). As part of the test as to whether a student "has the ability to benefit," performance (where applicable) at a secondary school be included. This, the commenter said, would obviate the necessity of "subjecting" to the same test all those beyond the age of compulsory school attendance.

Another commenter stated that documenting a student's ability to benefit by using requirements beyond the normal admissions requirements was an unrealistic additional burden to place upon an institution. Further, the commenter complained it is discriminatory because no similar requirement exists requiring tests and recommendations for high school graduates or GED certificate holders. This commenter recommended the deletion of the ability to benefit section of § 190.3 (a)(2)(iii).

Response. No change was made. The Education Amendments of 1976 expanded the definition of a public and non-profit private institution of higher education in section 1201(a) of the Higher Education Act by allowing those institutions to admit as regular students persons above the age of compulsory school attendance who had the ability to benefit from the training offered. Before this revision, those institutions could admit as regular students only high school graduates or their equivalent. Similarly, the Middle Income Student Assistance Act amended this definition of a proprietary institution of higher education to allow proprietary institutions to admit as regular students the same type of individual.

The Commissioner is merely giving effect to these statutory provisions by requiring each institution to document that the persons it admits as regular students who do not have a high school diploma or an equivalent degree, can, in fact, benefit from the education or training it offers.

These statutory and regulatory provisions affect the open door admission policy of institutions only if the students enrolled under the policy are admitted as regular students. Moreover, the Commissioner believes this requirement is consistent with the open door policy which is to provide a higher education opportunity to students with a potential to benefit from that experience.

Comment. Two commenters objected to the more stringent requirements of § 190.3(a)(4)(iii) and § 190.3(c)(2) for program lengths in comparison to the program lengths in proprietary institutions as stated in § 190.3(b)(5) and § 190.3(d)(2). One commenter stated that, in the community college sector, particularly in the areas of adult education and night school instructional programs, the community college frequently functions exactly like a proprietary institution because the programs are of identical length. Yet this commenter stated, the program in the community college is ineligible while the exact same program in a proprietary school is eligible. The other commenter stated that the two should be treated in a like manner since both are fulfilling virtually the same community and social purpose.

Response. The recommendation to reduce program lengths for public and private nonprofit institutions has not been adopted. The one and two year program distinctions are taken directly from the statute (HEA 1965 as amended, Section 1141(a)) and are retained in the final regulation.

Comment. One commenter suggested the language of § 190.3(a)(5)(i) be clarified by inserting "accredited by a nationally recognized accrediting agency or association," on the basis that statutory legislation uses this language to define postsecondary institutions for program purposes. Another commenter questioned the use of the unspecific language in § 190.3(b)(6) regarding accrediting agencies.

Response. The recommendation has been accepted and incorporated in the final regulation in § 190.3(a)(5)(i) and § 190.3(b)(6). The final regulation now uses the language exactly as in the statute.

Comment. Another commenter stated that § 190.3(a)(5)(iii) violates 20 U.S.C. 1141(a)(5)(A) which places the burden on the Commissioner to determine "satisfactory assurance" and not the opposite as proposed in the regulation. The commenter suggested the section be revised to conform to the statute.

Response. The recommendation to revise the language of this subsection has not been adopted. The regulation retains the original language because, contrary to the commenter's interpretation of the subsection, there is no contravention of the statute in the present wording.

Comment. In § 190.3(a)(5)(iv) the phrase "fully accredited" was objected to by one commenter on the grounds that the term accreditation is a plenary term (i.e., complete in itself) and a school is either accredited or not accredited.

Response. The recommendation has been adopted and the final regulation has been amended.

(c) *One year training program, and (d) Six month training program.*

Comment. As was discussed above under § 190.2(a) academic year, many commenters thought the 900 clock hour requirement for a one year program was too stringent. Most of the commenters on these sections tended to treat the terms "academic year" and "one year training program" as synonymous.

Several commenters also thought that the 600 clock hour requirement for a six month program was too stringent. Specifically, four commenters voiced confusion over § 190.3(d)(2) because the proposed regulation no longer specifies a calendar basis as a facet of the program length and requested clarification of the issue. One commenter asked whether an eligible program exists if the student's program is fifteen weeks in duration and the student is in class for 40 clock hours a week.

Many of these commenters asked that the one year, and six month training program definitions be explained both in clock hours and in calendar months of study thereby allowing some institutional flexibility in these matters.

Finally, one commenter thought the definition of the six month training program as proposed in the regulation would cause confusion. This commenter recommended an insertion in the definition which would state that Basic Grant awards for programs less than 900 clock hours must be proportionally reduced. This insertion, she believed, would clarify this problem and prevent institutions from miscalculating awards.

Response. The recommendation to define one year, and six month training programs in terms of calendar months has not been accepted. The purpose of defining these programs of training solely in terms of clock hours and not in length of calendar months is to provide a means of measurement for the programs, not in terms of the length of time either program takes to complete, but in terms of the actual amount of training that occurs.

The discussion of how the 900 clock hour minimum was derived has been set forth in the comments and responses relating to § 190.2.

Those institutions which have had six month training courses which do not equal the 600 clock hour figure will, if the institutions wish that the programs retain their eligibility, be required to readjust their programs slightly to meet the 600 clock hour requirement.

Finally, the Commissioner does not believe that it is necessary to indicate in § 190.3(d) that Basic Grant awards must be proportionately reduced if a program is less than the length of the institution's academic year. Under § 190.64 Basic Grant awards must be proportionately reduced if a program is less than the length of the institution's academic year.

In response to a question of one of the commenters, a 15-week, 40-hour a week program would satisfy the 600 clock hour requirement. Of course, in that case, a full-time student would be one who is taking 40 hours a week, not 24.

Comment. Several commenters requested the insertion of the phrase "including those institutions that use such credit hours to measure progress" to § 190.3(d)(1) to include institutions which historically have operated on clock hours but award credit in terms of semester or quarter units.

Response. The phrase was inadvertently omitted in the notice of proposed rulemaking. The recommendation has been adopted and incorporated in the final regulation.

§ 190.4 Eligible Student.

Comment. Four commenters questioned the use of the word "intends" in the discussion of citizenship under § 190.4(a)(3). One commenter requested that the final regulation specifically list the eligible visa classifications of the Immigration and Naturalization Service. Another stated that it is difficult to prove "intent," for students regularly claim that they plan on becoming permanent citizens when they have no real intention of this or they have not taken any steps to achieve this.

Response. The recommendation was adopted in a modified form. The regulation provides authority for allowing students who can provide evidence from the Immigration and Naturalization Service that they have the intent to become permanent residents to be eligible. The Basic Grant Handbook and the application instructions delineate those acceptable visa classifications and other applicable eligible Immigration and Naturalization Service (INS) documents. Those classifications have not been listed in the regulation because they are subject to change by the INS. Students in the U.S. only on a student visa, of course, are not eligible for Basic Grant assistance.

Comment. Four commenters requested the insertion of the clarifying phrase "and has not been awarded a baccalaureate or first professional degree" in § 190.4(a)(1).

Response. The suggestion has not been adopted. The definition of undergraduate student includes the criteria suggested by the commenter under § 190.2(q) which defines an undergraduate student as one who has not received a baccalaureate or first professional degree.

Comment. Ten commenters suggested changes in § 190.4(b) regarding the ineligibility of members of religious communities for Basic Grants and suggested the adoption of the applicable section of the Supplemental Educational Opportunity Grants Program regulations (§ 176.9(d)) for reasons of clarity and standardization of Title IV Program language.

Response. The recommendations have not been adopted. While the concept is the same for both programs, the nature of the Basic Grant program requires that the prohibition of eligibility for members of religious orders be stated in a different manner than it is in the Supplemental Educational Opportunity Grant program.

Comment. Two commenters suggested revising the language of § 190.4(b) because although monotheist religious community members are excluded from participating in the Basic Grant Program, polytheist religious community members are not. One commenter requested that this inconsistency be rectified in the final regulation.

Response. The recommendation for revision has not been adopted. The Commissioner believes that the intent of the regulation is sufficiently understood to mean members of any religious community.

§ 190.5 Duration of Student Eligibility..

Comment. One commenter asked whether the non-credit remedial course of study must be required of the student by the institution for the student to be eligible for the additional eligibility period.

Response. Yes, these courses will extend a student's duration of eligibility beyond four full years only if the institution requires that the student take them.

Comment. Five commenters suggested substituting the term "baccalaureate" for

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"academic" in § 190.5(b). Community college students are often required to enroll in remedial courses that are granted credit towards the community college's degree but are not transferable to a baccalaureate-granting institution.

Response. The suggestion was not adopted. The term "academic degree" is taken directly from the authorizing legislation (HEA 1965 as amended, Sec. 411(a)(4)(B)).

Comment. Three commenters argued that the phrase "non-credit remedial course of study" in § 190.5(a)(2) be replaced by "remedial, developmental or supportive coursework including a reduced rate of credit accumulation," in an effort to help the educationally disadvantaged who may be given some credit for remedial work.

Response. The suggestion was not adopted at this time because § 190.5(a)(2) is taken directly from the authorizing legislation.

Comment. Two commenters complained that § 190.5(c) was confusingly written and that the present wording was unclear. Several others questioned the intent and asked for the section to be clarified or eliminated.

Response. The suggestion to clarify the language of this section has been adopted. The intent is to explain the method of calculating the amount of eligibility that a student has used for a given award period.

Comment. Four commenters questioned the need for § 190.5(d) and asked for its deletion.

Response. The suggestion has not been adopted. § 190.5(d) clarifies the status of an overpayment in the calculation of the eligibility used by the student.

§ 190.7 Institutional Eligibility

Comment. One commenter suggested that § 190.7(a)(2) could be interpreted to permit an eligible student to continue to receive Basic Grants throughout his or her enrollment even if the institution later becomes ineligible. This commenter recommended adding the clause "in which the institution is eligible" to the conclusion of the subsection. The clause would then place the appropriate limitation on payments.

Response. The suggestion has not been adopted. The student must, of course, be enrolled in an eligible institution, as well as meet other eligibility criteria set forth in the regulation, in order to receive a Basic Grant.

Comment. One commenter questioned the lack of retroactivity in § 190.7(a)(2) which would not allow a student to receive a Basic Grant prior to the payment period in which an institution established its eligibility.

Response. The suggestion to institute retroactivity was not adopted. In the past, in the absence of regulations on the issue, the Commissioner allowed an institution which had become eligible sometime during the award period to pay its eligible students for the entire award period. However, it is felt that a student should not be retroactively paid a Basic Grant for attendance at what was an ineligible institution. Under the final regulation a student will be able to be paid for the payment period in which the institution becomes eligible and subsequent payment periods.

Comment. Four commenters criticized the language of § 190.7(b)(2) as being unclear. One suggested that § 190.7(b)(2) would be interpreted that if a student had not submitted an SER as of the date of the institution's ineligibility, the student could receive payment for prior payment periods, but not for the current one. Another recommended that the first sentence of § 190.7(b)(2) is redundant because it repeats the stipulations of § 190.7(a)(2).

Response. The suggestion requesting clarification was adopted. This regulation sets forth the responsibilities an institution has to pay its students for the current and prior payment period when that institution becomes ineligible.

The suggestion concerning the stipulation that a student had submitted a valid SER has been adopted by the Commissioner and has been incorporated in the final regulation.

Comment. One commenter stated that § 190.7(b)(3) be revised to include a student who has accepted an offer of admission to an institution and who submits the SER to the institution, or to the Commissioner under the Alternate Disbursement System, but has not enrolled, be paid a Basic Grant.

Response. The suggestion was not adopted. A student who merely accepted an offer of admission to an institution but had not yet enrolled when the institution loses its eligibility has never enrolled or attended an eligible institution and therefore may not be paid a Basic Grant.

§ 190.8 Consortium Agreements

Comment. One commenter suggested that this section should address agreements between eligible and ineligible institutions.

Response. the recommendation was not adopted. For all Title IV Programs, agreements between eligible and ineligible institutions will be discussed in the notice of proposed rulemaking regarding institutional eligibility for participation in Title IV Programs. The Commissioner does not believe it is appropriate to discuss this issue in a single program's regulation.

Comment. Two commenters requested that the institution in a consortium agreement which the student is attending be allowed to process and pay a student's Basic Grant award if that student is taking all his or her courses that term at that institution. They suggested that this be the case even if that institution is not the one at which the student is expecting to receive a degree or certificate.

Response. The suggestion has not been adopted. In order to be eligible to receive a Basic Grant a student must be a candidate for a degree or certificate at a particular institution. If a student is studying under a consortium agreement at another institution of higher education, the student is not a degree or certificate candidate at that institution, but merely taking courses transferable towards that degree or certificate. Since the student will not be awarded a degree or certificate at that institution, the institution at which the student is a degree or certificate candidate should process and pay the Basic Grant.

Comment. One commenter asked what costs of attendance should be used for a consortium student, particularly if the student has no direct educational costs at the "home" institution. The commenter recommended that if the student is enrolled in only one institution for a given period that institution should calculate and pay the student's Basic Grant.

Response. The costs of education to be used are those incurred by the student at the institution at which he or she is taking courses. The educational costs incurred by the student under a consortium agreement can be easily ascertained by the "home" institution even if the student incurs no cost for a given period at that institution. If the consortium agreement is an ad hoc agreement between two eligible institutions for one or two students, the educational costs the student would incur at the other institution could be itemized as part of this consortium agreement.

§ 190.9 Determination of enrollment status under special circumstances

Comment. Three commenters stated that the phrase "non-credit remedial courses" was unclear and confusing in the context of current postsecondary terminology. One commenter asked if "developmental" or "basic" courses are included under this phrase. Another asked if preparatory GED courses, which are non-credit and remedial in nature, are to be included in this category. A third suggested that the term "non-credit" be deleted since many two year institutions award credit for these courses which is applicable towards a two year degree.

Response. It should be noted that if an institution gives credit for courses in an eligible program towards the degree or certificate awarded for that program, those courses will count in determining the enrollment status. This is based on the definition of enrollment status found in § 190.2. For courses for which credit is not given towards the degree or certificate and which are remedial in nature, the phrase "non-credit remedial courses" is used and is taken directly from the authorizing legislation. This legislation does not include a distinction between a two year and a four or five year academic degree. Developmental, supportive or basic courses could be included within the meaning of non-credit remedial courses as long as the institution does not award credit for these courses which may be used by the student to fulfill academic degree requirements. However, non-credit remedial courses which are also preparatory GED courses, or for which high school credit is given, do not count in the determination of the enrollment status.

Comment. One commenter suggested that a limit on the number of remedial courses a student may carry in conjunction with credit work during a given term.

The limit suggested was that remedial course work not exceed three-fourths of the total course work a student carries during the first payment period of the first academic year. The commenter stated that a limit was necessary otherwise students in special programs would carry so much remedial work as to preclude completion of studies in a reasonable period of time.

Response. The recommendation was not adopted. The Commissioner believes that the limitation proposed would unwarrantedly interfere with the internal academic functions of participating institutions. Furthermore, a limitation would act as a detriment to those educationally disadvantaged students who may require additional remedial course work beyond the proposed limitation. Under § 190.5, "Duration of Student Eligibility," a student who has completed institutionally required non-credit remedial course work and who cannot complete the requirements for his or her academic or first professional degree within the normal four years, is eligible for additional grant assistance of up to one academic year.

Comment. One commenter indicated that there was a contradiction between § 190.9(b) and the definition of half-time student (§ 190.2(j)) concerning correspondence course workload and requested clarification of the contradiction by revising the regulation of § 190.9(b) to include a student's particular status with regard to full or half-time.

Response. The definition of half-time student in § 190.2 is not intended to address the student situation found in § 190.9(b) but refers only to the student who is enrolled solely in a correspondence course of study. That section has been clarified to indicate that. Section 190.9(b) has also been clarified to explain how the enrollment status of a student is figured when he or she enrolls in both correspondence and regular coursework.

§ 190.10 Administrative cost allowance to participating schools.

Comment. Several commenters appeared to be confused as to the use of the proposed administrative allowance. Several indicated that the allowance would not compensate the institution for its expenditures under § 190.77. In several other comments there seemed to be a misunderstanding of the priority of attribution of this allowance. Another commenter assumed that this allowance was designated solely to reimburse the institution for staff salaries and the commenter suggested that the allowance would be inadequate for this purpose.

Response. The use of the proposed administrative allowance is clearly set forth in § 190.10(a). All allowance funds must be used first to provide consumer information to prospective and enrolled students. These consumer information requirements, 45 CFR 178, were published as final regulations on December 1, 1977. After the requirements of 45 CFR 178 are met, any remaining allowance funds may be used to help defray the cost of administration of Title IV Programs.

Comment. Three commenters suggested that the 4% administrative allowance be extended to the Basic Grant Program.

Two other commenters expressed discontent with the $10.00 amount per recipient as being inadequate to offset the expenses incurred by the institution.

Response. The authorizing legislation specifically provides for an allowance of not more than $10.00 per Grant recipient. The 4% allowance is not applicable to the Basic Grant Program under the current law.

Comment. Four commenters requested that paragraph (a) be revised to include those students eligible for Basic Grants "who have been processed by the institution."

Response. The recommendation was not adopted. The authorizing legislation refers to a "payment of $10 per academic year for each student enrolled in that institution who is receiving a Basic Grant . . . for that year."

SUBPART B

§ 190.11 Application

Comment. One commenter asked if a facsimile duplicate Basic Grant application form could be used to apply for a Basic Grant.

Response. No. In order to apply for a Basic Grant the applicant must use one of the approved Multiple Data Entry forms or a Basic Grant application. A fascimile is not an approved form. For the 1978-79 award period, the Office of Education has permitted two need analysis services not participating in Multiple Data Entry to preprint on facsimile Basic Grant applications the financial information taken from the application of those need analysis services. However, the Office of Education does not plan to permit this deviation from normal procedures in future years.

Comment. One commenter felt that paragraph (c) is unnecessary and should be deleted.

Response. Paragraph (c) was not deleted. The Office of Education believes this paragraph is necessary because of repeated instances of abuse in the past, when SER's were mailed directly to the school. Mandating that the student receive the SER through the mail at his/her residence helps to ensure that an institution does not have access to an SER for a student who is not enrolled at that institution. Additionally, mailing the SER directly to the student is consistent with a fundamental concept of the Basic Grant Program which is that the student may choose to attend any eligible institution and receive the grant.

Comment. One commenter stated that the clause "resides at the school" was unclear. Does this mean that the student's legal permanent residence must be at the school, or simply that the student is currently living in on-campus housing?

Response. The clause "resides at the school" means that the student is living at the school during the award period for which the Basic Grant is to be received, but not necessarily that the school is his/her permanent residence.

Comment. Several commenters stated that incarcerated students or students from disadvantaged, ghetto neighborhoods should be able to use the institution's address because of the difficulty they may experience receiving the Student Eligibility Report in the mail.

Response. Under the current system of processing applications there is no way to identify students who are incarcerated or live in disadvantaged neighborhoods. Therefore, these SER's must be mailed directly to the student.

§ 190.12 Certification of information.

Comment. One commenter recommended that the provision be added that "failure to provide requested documentation will make the applicant ineligible to receive Basic Grant assistance."

Response. That has been added to the regulation.

Comment. One commenter suggested that the following be added: "The applicant . . . will provide (if requested *by either the Commission or the school*) . . ."

Response. The final regulation has been amended to include this suggestion.

§ 190.14 Notification of expected family contribution.

Comment. One commenter stated that the phrase "expected family contribution" should not be used in the regulations. Rather, the phrase "eligibility index," which is more familiar to aid officers and students, should be used.

Response. The phrase "expected family contribution" is that which is used in the legislation. Therefore, it is also used in the regulations. "Eligibility index" is used on the Student Eligibility Report because of the problems which arose using "expected family contribution," where families thought that they actually had to contribute that amount in order to receive the Basic Grant.

§ 190.15 Applicant's request for recomputation of expected family contribution because of clerical or arithmetic error.

Comment. Two commenters asked whether the statement that the corrections had to be made "on an approved form," meant that they were to be made on the Student Eligibility Report as they are now.

Response. No change from current procedures is intended by this section. The "approved form" referred to is the Student Eligibility Report.

SUBPART E

§ 190.51 General attendance costs.

Most of the comments on § 190.51 concern three separate issues. The first issue concerns the use of average rather than actual room and board costs at institutions which have variable on-campus room and board charges. The second area of concern is a need to increase the standard allowance for room, board, and miscellaneous expenses. The third issue concerns the establishment of separate commuter and non-commuter budgets.

Comment. Many commenters said that the requirement to use actual rather than average room and board costs in determining the Basic Grant budget requires frequent revision of awards, causes unnecessary administrative burdens, and leaves students uncertain about the amount of their awards since they are subject to revision. According to many commenters, use of average cost is highly preferable. Several commenters said that it was inconsistent with the entitlement concept to vary student's awards depending upon the life styles they choose, presumably in the case of different residence hall plans. These same commenters suggested that a standard maintenance allowance be established for on- and off-campus students.

Response. Because the authorizing legislation stipulates that the actual cost of attendance will be used to determine the amount of the Basic Grant award, it is not legally permissible to incorporate average room and board costs into the Basic Grant budget.

Comment. Many commenters said that the standard allowances for room and board and miscellaneous expenses should be raised to account for increases in the cost of living since they were established for the 1973-74 award period. There was a wide range of suggested bases upon which the allowances could be increased. One commenter suggested the use of average regional costs. Some commenters said that the standard allowances should be raised to reflect increases in the Consumer Price Index since 1973. A few commenters did, however, realize the cost implications of increasing the Basic grant maintenance allowances.

Response. The Commissioner believes that the room and board allowances are adequate at the current time. However, the Office of Education is planning to undertake a survey of room and board costs at colleges in various parts of the country to determine whether the off-campus room and board allowances should be raised.

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Comment. Two commenters said that Basic Grant awards should be based on the student budget used to determine eligibility for the campus-based programs.

Response. This proposal also could not be implemented because the specific items to be included in the Basic Grant cost of attendance are set forth by the statute while the campus-based budget may include other items to reflect an individual student's actual situation.

Comment. There was a wide range of comments about the determination of room and board allowances for those students who do not live on campus. While most of the commenters favored a distinction between the budgets of commuters and non-commuters, there was no clear consensus of opinion about the method to determine these figures. For instance, three commuters suggested that two off-campus budgets be established—dependent upon whether or not students live with their parents. Several commenters said that the allowances for off-campus residents not living with parents should be average, residence hall costs. Another commenter suggested that commenters should have a room and board allowance which is the lesser of an average on-campus cost or a standard off-campus cost. One commenter suggested that, for students living on-campus, either the average on-campus budget or a commuter room and board allowance should be used.

Response. The Commissioner does not feel that there is sufficient evidence to warrant an attempt to differentiate among categories of students who live off-campus. There was no general agreement among commenters about a suggested means of determining the various budgets.

Comment. One commenter said that the off-campus allowance of $1,100 should be revised to allow for differences in marital status or household size.

Response. The Basic Grant maintenance allowances are designed to reflect average subsistence expenses of a student, regardless of the student's marital status or household size.

Comment. One commenter posed a question about the requirement of charging a Basic Grant recipient the same as any other student. He asked whether a student attending a proprietary school, but enrolled in a program contracted for by an outside school, can have different costs than those students who are enrolled in the proprietary school's program.

Response. Yes, there can be different costs for different programs, even though the program may involve the same course work. For example an institution may provide one program and contract for another, and the costs of the two programs may differ. An institution must charge a Basic Grant recipient the same amount as all other students in the same program. The regulation provides that the distinguishing factor in the amount of tuition charged may not be based upon whether or not the student is a Basic Grant recipient.

Comment. One commenter said that proration of board costs when a student is charged for less than 7 days should be clarified. Should proration be based upon institutional costs or the $1,100 allowance. § 190.51(b)(3)(v)(1).

Response. Proration should be based upon the standard allowance. The institution should determine the number of days in its academic year, then divide the standard allowance by that number of days to derive a daily average cost. The daily average should be multiplied by the number of days in the academic year not covered by the contract for room and/or board. Institutional charges for the academic year should be added to the allowance calculated above, resulting in a total cost for the academic year.

Comment. One commenter said that the cost of necessary child care should be included as a separate attendance cost.

Response. The authorizing legislation stipulates that the cost of attendance means "the actual per-student charges for tuition, fees, room and board (or expenses related to reasonable commuting), books, and an allowance for such other expenses as the Commissioner determines by regulation to be reasonably related to attendance at the institution at which the student is in attendance." Based upon this legislation, the Commissioner has not included child care costs in allowable costs of attendance. The basic Grant Program is a formula program which attempts to treat students equally. Therefore, special costs incurred by students, including child care, are not included. These costs may be included when determining the amount of campus-based aid (Supplemental Educational Opportunity Grant, College Work-Study, and National Direct Student Loan programs) for which the student is eligible.

Comment. Two commenters asked how institutions that charge tuition and fees by credit hour determine tuition and fee costs under the proposed regulations.

Response. The method of determining the tuition and fees component in the Basic Grant cost of education has not changed from previous regulations. For a full-time student, tuition and fees to be included would be the amounts charged to that student for the academic year. For part-time students, tuition and fees to be included are the tuition and fees charged to the typical full-time student for an entire academic year. Each institution must determine its typical full-time course load. The reduction in an award for a part-time student is reflected in the Disbursement Schedules.

Comment. One commenter asked, if a student has to travel outside the United States as a part of his or her course of study, would costs associated with travel within the United States be included as a separate fee item in the Basic Grant cost of attendance. For instance, if an anthropology student had to travel to the Yucatan, would costs associated with travel to Miami be included.

Response. If an institution requires travel (such as field trips) within the United States in order for the student to complete his or her course of study, fees related to that travel may be included in the student's Basic Grant cost of education. If the ultimate destination of the travel is outside the United States, costs associated with any portion of that trip may not be included as a separate item in the cost of attendance.

Comment. One commenter said that allowances for travel costs should be deleted. Why allow them for some students, but not others?

Response. Travel costs may be included in the Basic Grant cost of attendance only if these costs are part of the tuition and fees paid to the institution and the institution requires this travel (for purposes such as field trips) for completion of the course of study. Allowance for travel costs are not intended to cover transportation between the institution and the student's home which is not related to a specific program of course requirement.

§ 190.53 Attendance costs for students whose program length exceeds the academic year at institutions using clock-hours.

Comment. One commenter said that since it is possible for a student to complete more than one academic year during an award period, the tuition cost for the course length should be used. Another commenter said that § 190.53 should be dropped because the Basic Grant cost of attendance and award calculation procedures already prorate awards.

Response. A student may not receive a Basic Grant for more than one academic year's worth of work in an award period. Therefore, only the costs of attendance for that academic year should be used. Section 190.53 is intended to determine the cost of attendance for the portion of the program constituting an academic year. It does not result in the proration of an award. It merely reflects the costs the award is intended to meet.

Comment. A number of commenters said that prorating tuition cost to the length of the academic year at institutions measuring course length in clock hours results in reduction of awards compared to institutions measuring progress by credit hours and using academic terms.

Response. The commenters' assertions are incorrect. The tuition cost for both types of institutions must be based upon attendance for an academic year. In each case the student is paid for one academic year in an award period. Thus, if a clock hour institution has a 12 month, 1200 hour program, but considers its academic year to be 900 rather than 1200 hours, the tuition to be used in the Basic Grant budget must be prorated for 900 hours. Similarly, if a credit hour institution has two regular semesters and a summer term, but considers its academic year as being only the two semesters, the Basic Grant budget includes only the tuition for the regular terms.

An institution may, of course, define its academic year as greater than the minima set forth in § 190.2(a). If either type of institution does so and thus includes tuition for this longer academic year in its Basic Grant Budget, it may disburse a full Scheduled Basic Grant only for completion of the longer academic year.

Comment. One commenter questions whether § 190.53 would reflect a student's costs for a complete academic year regardless of when within the award period the student's academic year began. The commenter suggested adding the following language, "The student's allowable institutional charges shall be those direct school costs incurred during a student's full-time attendance during an entire academic year."

Response. The regulation will reflect the cost for the entire academic year in all cases. The recommendation for changing the wording was not adopted. The Commissioner feels that the wording in the new regulation more specifically addresses the determination of attendance costs for an academic year and is preferable to the suggested wording.

§ 190.54 Attendance costs for incarcerated students.

Comment. One commenter asked whether a program for incarcerated students can have a different academic year than a program for regular students (4 quarters instead of 3 quarters).

Response. Yes. An institution may establish a separate academic year for a particular program. If an institution establishes a program specifically for incarcerated students, the institution could define the academic year differently.

Comment. One commenter requested that funding be increased to 75% of the cost of education. Another commenter suggested that entire tuition and fee costs should be covered by a Basic Grant, plus a $10/credit hour allowance should be provided when books are not supplied.

Response. The authorizing legislation for the Basic Grant Program establishes that the amount of the Basic Grant may not exceed 50% of the cost of education.

Comment. One commenter suggested substitution of a prorated system for inclusion of room and board charges for the existing formula—incarcerated students often contribute ⅓ of their net income, if employed, for room and board.

Response. Incarcerated students generally forego significant monetary compensation for their work in exchange for their maintenance. Since the Basic Grant application does not request in-kind compensation, it is not desirable and would be highly confusing to allow for the inclusion of prorated room and board charges.

Comment. One commenter suggested that allowable attendance costs for incarcerated students be modified to include transportation costs to and from school.

Response. Because the transportation costs of incarcerated students are usually provided by the incarceration facility, the Commissioner feels that it is not necessary to add a separate allowance for transportation costs.

The $400 miscellaneous expense allowance for students who are not incarcerated is intended to be applied not only for books and supplies, but also other costs such as laundry, transportation and other miscellaneous expenses. The allowance for incarcerated students is limited to an amount considered adequate for books and supplies, because generally the other costs the miscellaneous expenses allowance is intended to cover are met for incarcerated students by the incarceration facility.

Comment. One Commenter said that it is unclear whether we mean to distinguish between mandatory or voluntary participants in half-way houses.

Response. The regulation does not distinguish between mandatory and voluntary participants in half-way houses.

SUBPART F

§ 190.61 Submission process and deadline for Student Eligibility Report.

Comment. Several commenters said that the language in § 190.61(c) does not agree with the language in § 190.61(b). Paragraph 190.61(b) provides that a student "who enrolls *before May 1* of an award period" must submit the SER to the institution on or before May 31. Paragraph 190.61(c), setting submission deadlines for students participating under the Alternate Disbursement System, referred to students enrolling "on or before May 1."

Response. In accordance with this suggestion, we have adjusted 190.61(c) to be consistent with 190.61(b). The last sentence of 190.61(c) now reads, ". . . for those who enroll before May 1, and July 10 for those who enroll on or after May 1."

Comment. One commenter said that no cut-off dates should be set since they eliminate students who enroll late in the award year from receiving a grant.

Response. The deadline dates for processing of applications and corrections, as well as the deadline dates for submission of the SER to the institution, are not intended to prevent students who enroll late in the year from receiving Basic Grants, but rather are necessary for proper administration of the Program. Applications are made available to students more than fourteen months before the March 15 deadline date for filing. In most cases, this is a sufficient amount of time for students to apply and receive an SER, since most students do enroll in post-secondary education early in the award period, and those who do not, usually make plans in advance for financial aid.

For the Basic Grant Program, the funding cycle corresponds with the award period, that is, July 1 to June 30. The Family Contribution Schedules and Payment Schedule are approved by Congress each year and are in effect for a specific award period. Each award period's funds must be accounted for and the accounts closed out within a reasonable period of time after the end of the award period, in order to make possible a responsible administration of Basic Grant funds.

The authorizing legislation gives the Commissioner the authority to set a deadline date by which applications must be filed. The regulations specify that the student must submit the SER to the school prior to May 31, or, in cases where the student enrolls on or after May 1, the student must submit the SER no later than June 30. Institutions are then required to submit Progress Reports by July 15, which account for all of the funds disbursed during the privious award period. Clearly, given the volume of applications (3.6 million in 1977-78) and the amount of Federal dollars involved (1.6 billion in 1977-78), sound fiscal administration of the Program is of the utmost importance. This involves setting the necessary deadline dates for students and institutions.

Comment. One commenter suggested the following addition to § 190.61(d), "Unless in the judgment of the financial aid officer a delay was caused by resubmitting of the SER or the filing of a supplemental application for which the applicant was not principally responsible." Another commenter suggested that § 190.61(d) be amended to say: "If a student was legitimately enrolled, the Basic Grant payment could be made in a subsequent enrollment period, but prior to June 30 of the fiscal year the student was deemed eligible." These commenters felt that this section in the proposed regulations would cause a hardship to students who had to make corrections.

Another commenter cited instances in which incarcerated students submit a Basic Grant application during one semester, but have completed the semester and are no longer enrolled by the time the SER is returned. The commenter suggested adding the following language, "Awards may be claimed by colleges in any semester following attendance for incarcerated students, provided the student was registered at the time of application for a Basic Grant award." One commenter suggested that § 190.61(d) be changed to allow a student to be paid for any portion of an academic year that he or she is in attendance if a valid SER is submitted during that same academic year.

Response. Deadlines for the submission of valid SER's are necessary for the proper administration of the Basic Grant Program. Because the application system is open to students for over 14 months, the Commissioner feels that applicants are afforded an adequate opportunity to apply for a Basic Grant and receive a valid SER. To waive the deadlines for some applicants and not others would not treat everyone equitably.

Comment. One commenter suggested that § 190.61(d) be changed to, "A student who submits an SER to an institution at the time he/she is no longer eligible to receive a Basic Grant or is no longer enrolled and attending a program at that institution may not be paid a Basic Grant." (Directed specifically to the problem of graduate students who were undergraduates during the prior term.)

Response. This concept has been inserted into the final regulation.

§ 190.62 Calculation of a Scheduled Basic Grant at full funding.

Comment. Two commenters disagree with the ½ cost concept.

Response. The half cost limitation in the Basic Grant Program is mandated by the program statute.

Comment. One commenter stated that the Basic Grant $200 minimum award under full funding discriminates against home study/correspondence students.

Response. No change was made in the regulation. The authorizing legislation requires that, under full funding, the minimum Basic Grant award is $200. This provision applies to all Basic Grant recipients, regardless of the kind of program in which they may be enrolled.

§ 190.63 Calculation of a Scheduled Basic Grant at less than full funding.

Comment. One commenter did not understand why an award of less than $200 for an academic year is allowed when the program is not fully funded.

Response. The authorizing legislation establishes a minimum award of $50 for an academic year if the program is not fully funded. When the program is not fully funded, the law provides a schedule of reductions. When these reductions are applied to a student's award as calculated under the full funding requirements, the reduced award must meet the $50 minimum.

§ 190.64 Calculation of a Basic Grant for a payment period.

Proposed Computation procedures for students enrolled at less than full-time status at institutions using terms.

Comment. The Office of Education received considerable comment about the effect of the proposed award calculation procedures on institutions which use terms, and measure progress by credit hours. A summary of these comments follows.

Several commenters favored the exact proration (10/12, 11/12, etc.) presented in the proposed regulation.

Various other commenters said the proposed calculation procedure would not be a problem at schools with fixed class sched-

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ules, schools with few part-time students, or schools with automated systems.

Several commenters agree with the concept of the proposed computational procedure, but think it is too late to implement it for 1978–79. Programming changes would be needed at large institutions. It could also be confusing since different procedures have been published (1978–79 Payment Schedule). Another commenter suggested that the new procedures be delayed until financial aid officers have a chance to review them, and, if implemented, until institutions have time to put them into practice.

The vast majority of commenters preferred the current procedures. Many of them said that the proposed regulations would be a disincentive for students to carry a full-time load, would increase administrative costs and time, and would encourage institutions to make one payment per term. Current procedures are adequate and less complicated. One commenter said the additional equity is not worth the added confusion.

Several commenters said the proposed difference in the amount of the award is not worth the effort it would require because of a small difference in the award, the delay in making payment, and additional administrative burden.

Many commenters said that multiplying by enrollment status will lead to more mistakes in calculating grants than occur by entering a figure from the payment or disbursement schedule. They felt that the three payment schedules should be retained.

One commenter said that exact degree of equity for part-time students provided by the proposed regulations is unnecessary. The commenter felt the program should be geared to full-time students.

One commenter said the new procedures do not eliminate the need for part-time payment schedules, but actually require additional ones.

One commenter said that a one hour change would require recomputation since enrollment status would change. Another commenter said that the institution should not recalculate if a student drops from 12 to 11 or 10 units because the student is still, for all intents and purposes, full-time.

One commenter said that preliminary calculation is impossible when the student projects the number of courses rather than the number of credit hours.

Response. Based on the suggestions of the majority of the commenters, the Commissioner has decided to maintain the current award calculation procedures for those institutions which use terms and measure progress by credit hour. Therefore, three payment schedules will be maintained for these institutions.

Comment. There were a few comments received about the effect of the proposed calculation procedures for institutions which measure progress by clock hour. One commenter said that awards for clock hour institutions should be based on months, as is currently done. Another commenter said there are problems with award calculation for beauty schools because different states have different requirements for the number of clock hours.

Response. The Commissioner has decided to implement the procedures discussed in the proposed regulations. As noted in the discussion of "payment period," the new procedure is intended as a response to questions from clock hour schools about how to compute awards for students whose hours of attendance fluctuate.

Comment. One commenter asked, in reference to § 190.64(b), whether an institution can excuse absence and still pay students at the the mid-point.

Response. No, a clock-hour institution may only make a second payment to a student after he/she has completed the number of clock hours for which originally paid. This section was designed to eliminate the problem of students attending class intermittently.

Comment. One commenter asked how a school pays if it measures progress in terms of clock hours, but uses terms, the last of which overlaps award periods. One commenter asked how this section affects institutions with staggered starting dates, i.e., monthly.

Response. An institution must follow the procedures outlined in § 190.64(b) to determine awards if it uses clock hours to measure progress, regardless of whether it also uses terms. The concept of an academic term is not relevant to this method of calculation.

With regard to the second comment, these procedures are followed regardless of whether all students enter on a set date or if student enrollment dates are staggered. A calculation would have to be done for each student at the time he or she enters school.

Comment. Concerning the use of clock or credit hours rather than months, one commenter questioned whether the amount of the grant will be less under the new calculation proposed in § 190.64(b).

Response. Under the new procedure, the amount of the grant may be slightly higher or lower than the amount determined under previous procedures. However, on the basis of a study of public reponse to the current regulations, as well as comments on the proposed regulations, the Commissioner has decided that the most equitable and precise way of calculating awards at clock hour institutions or at institutions without terms is on the basis of the number of credit or clock hours required for the academic year, rather than eight months. The eight month proration factor has become less pertinent to the situation at many institutions since they are instituting innovative schedules, mini-terms, accelerated terms, etc.

§ 190.65 Calculation of Basic Grants for a term which occurs within two award periods.

Comment. Many commenters stated that the proposed rule would create an unnecessarily cumbersome process. It was noted by some commenters that the proposed rule would require an institution to calculate the award twice for any term which occurs within two award periods, once for each award period separately. Other commenters stated that under the proposed rule it was unclear what procedures to follow if a student was ineligible for a Basic Grant during one of the award periods involved. The majority of commenters felt that the institution should be able to pay for the entire term from one award period's funds.

Response. The proposed rule governing computations for a term occurring within two award periods was intended to simplify those computations. However, because of the number of questions raised by commenters, the Commissioner feels that the proposal still leaves financial aid officers with an unduly complex process for computing awards.

After considering several alternatives, with the primary goal being to provide the simplest possible means for computing awards for students enrolled in terms which occur in two award periods, the regulation has been amended. It provides that if a term begins in one award period and ends in another, the institution must designate that term as "belonging" entirely to one or the other of the two award periods. The calculation of all student awards for the entire session will then be based on the SER for the award period designated by the institution and the portion of eligibility used by the student will be attributed to that award period.

§ 190.66 Transfer student: attendance at more than one institution during an award period.

Comment. Many commenters requested clarification regarding how to determine a Basic Grant when a student transfers during the award period and the costs of education differ at the two institutions.

Response. A transfer student's Basic Grant is initially calculated the same way as any other student's Basic Grant, i.e., the award is determined using the student's eligibility index, enrollment status, and cost of attendance at the institution. That award is then divided by the number of terms in the academic year of the institution to determine the award for each term. However, once that award has been calculated, the financial aid officer can ensure that the student does not exceed his or her eligibility by calculating the amount of eligibility already used at the previous school, and adjusting the current payment, if necessary. To do this, the aid officer needs to know the amount received and the student's Scheduled Basic Grant at the previous school. For instance, a full-time student with an eligibility index of zero attends school A, where the cost of attendance is $3,200. Using that cost of attendance, that student's Scheduled Basic Grant, i.e., the amount which would be paid to a full-time student for a full academic year, is $1,600. The student receives an $800 disbursement for the first semester. The student has received 50% of a Scheduled Basic Grant. The student transfers to school B and continues in full-time status, where the cost of education is $2,025. Using the cost of attendance, the scheduled Basic Grant for the student at school B is $1,012. At school B the student will receive 50% of $1,012, which is $506. No adjustment is necessary in this example, since the student only received one-half of the applicable Scheduled Award for a semester's attendance at each institution.

Another full-time student with an eligibility index of 600 attends school X for the first two quarters where the cost of attendance is $2,100. That student's Scheduled Basic Grant is $1,062, and he/she will receive a disbursement of $352 for each quarter—two-thirds of the Scheduled Basic Grant. The student then transfers to school Y, a semester institution, for the last semester of the academic year. The student enrolls full-time at school Y where the cost of attendance is $4,500. The student's Scheduled Basic Grant at school Y is $1,090 and the student would normally receive a disbursement of one-half of that amount ($545) for the remaining semester in his/her academic year. However, since the student has already received two-thirds of his/her Scheduled Award at the previous institution, he/she can only receive one-third of his/her Scheduled Award at this institution, i.e., $363 for that semester.

Comment. Many commenters stated that the wording of the proposed regulation was inaccurate since a transfer student does not "reapply" for a Basic Grant at the new school. The student simply submits a duplicate copy of the Student Eligibility Report.

Response. The Commissioner agrees and the final regulation has been amended.

Comment. Many commenters expressed concern over the requirement that institutions collect a financial aid transcript on all transfer students who receive Basic Grant assistance. Some of the commenters also thought that the Office of Education should monitor the amount received by a transfer student.

Response. The Basic Grant proposed rules do not require an institution to obtain a financial aid transcript. These regulations require only that the institution to which a student transfers adjust the student's Basic Grant payment to avoid an overpayment of a Basic Grant. However, a notice of proposed rulemaking concerning fiscal and administrative standards for institutions participating in Title IV programs, published on August 10, 1978, does require the financial aid transcript. If that proposed requirement becomes effective as a final regulation, schools will have the necessary information from the previous institution to adjust the Basic Grant. In the meantime, in order to avoid making overawards to students, institutions may wish to require on their own initiative that transfer students provide financial aid transcripts.

The Office of Education currently does monitor the amount of Basic Grant assistance received by a student each year. However, the monitoring system detects an overaward after the payments have been made. These new requirements for adjustment of the transfer student's award are an attempt to avoid the overaward before it is made.

Comment. Many commenters stated that the second institution should not be held liable for any overaward. Some mentioned that a dishonest student could conceal the fact that he or she is a transfer student or could have transferred more than once.

Response. The Basic Grant regulations would find the second institution liable for an overaward only if the institution knows that the student has transferred and knows the Scheduled Basic Grant at previous school(s) and the amount the student received there.

§ 190.67 Correspondence study.

Comment. Concerning paragraph (a) one commenter suggested that we substitute the following language: "The institution prepares a written schedule for *satisfactory completion* of lessons . . ." Satisfactory completion would replace submission.

Response. No change was made in the regulation. "Schedule for submission" means that the student would actually submit the completed lessons to the school according to the schedule. Whether or not the lessons were completed safisfactorily would be up to the institution's standards and practices. If the student is not maintaining satisfactory progress, the institution would then withhold payment.

Comment. One commenter suggested that the entire grant be disbursed when the student completes either 25% or 50% of the program. One disbursement would reduce the administrative burden on the school.

Response. No change was made in the regulation. The Commissioner agrees that the school's administrative burden would be reduced if only one payment were required. However, just as is the case for non-correspondence schools, correspondence schoods are required to make two payments to the student every award period. This ensures that the student actually is participating in the program of study at the time the disbursement is made. Requiring two disbursements per award period provides greater control over the funds. This provides two points in time when the student's eligibility for payment must be established.

Comment. One commenter suggested the requirement that, for students enrolled in correspondence study, Basic Grants must be credited toward tuition and none disbursed to the student.

Response. No change was made in the regulation. As with any institution, participating correspondence schools already have the authority to credit the student's account for tuition and fees. However, correspondence schools participating under the Regular Disbursement System will have two ways to disburse the Basic Grant, by crediting the student's account, or paying it directly to the student.

SUBPART G

§ 190.72 Institutional agreement—Regular Disbursement System.

Comment. One commenter stated that the regulations should either outline the content of the agreement or the agreement should be open for public comment using the standard process of publishing the proposed agreement in the FEDERAL REGISTER.

Response. The terms of agreement, which must be signed by each eligible institution wishing to participate in the Title IV programs, has not been published in the FEDERAL REGISTER. It is not required that this document be published in the FEDERAL REGISTER and the Commissioner believes no useful purpose would be served by such publication.

Comment. One commenter stated that a deadline date by which the Commissioner will send the payment schedule each year would help assure schools that they will receive them early, this could help in institutional operations planning.

Response. An annual deadline date for distribution of the Payment Schedule has not been set. The Office of Education publishes and distributes the Payment Schedule as early as possible each year. The Schedule is developed as soon as all of the necessary variables become final, such as the amount of the appropriation and the award level.

§ 190.73 Termination of agreement—Regular Disbursement System.

Comment. Several commenters stated that in paragraph (a), Termination by Commissioner, schools are not given due process. They suggested that termination of the agreement by the Commissioner should follow procedures similar to those outlined in the Limitation, Suspension and Termination (L, S, and T) regulations.

Response. The termination of the RDS Agreement means that the institution will no longer act as the Office of Education's agent in disbursing the funds. However, students at that institution will continue to receive Basic Grant funds if an ADS agreement is signed. Because the students will continue to receive the funds, procedures such as those under L, S, and T are not necessary.

Comment. One commenter stated that the regulation setting forth the Commissioner's authority to terminate the agreement immediately if there is a risk of loss of funds is excellent. OE must have the ability to stop funds while legal negotiations take place.

Response. The Office of Education agrees.

Comment. Several commenters noted that the Commissioner can terminate the RDS agreement upon less than 30 days notice, whereas a school must wait until the end of an award period to terminate the agreement. The school should be able to terminate the RDS agreement after 30 days notice.

Response. This section has not been changed. The Commissioner must have the authority to terminate the RDS agreement upon notice in order to protect the interests of both the government and the students. Termination of the RDS agreement at the request of the institution takes effect on the last day of the award period in which the termination is requested to ensure a smooth transition from RDS to ADS. If an institution is having substantial difficulty in administering the program, the Commissioner has the authority to terminate the agreement during an award period if necessary.

Comment. Several commenters stated that if a school's agreement is terminated because of change in ownership, students attending the school should have their awards honored through the end of the award period.

Response. An institution must establish eligibility in order to participate in the Title IV programs. It should be noted that not only does the RDS agreement terminate upon a change of ownership, but also the institution's Agreement with the Commissioner to participate in all Title IV programs terminates. If the institution changes ownership after institutional eligibility has been established, institutional eligibility must be reaffirmed under the new ownership. The Commissioner believes that the reaffirmation of eligibility should be able to be accomplished during the award period in which the change of ownership occurred.

Comment. Two commenters questioned why the agreement would automatically terminate because of a change in ownership. Would it not be possible to have the agreement extended, not to be terminated unless the necessary papers are not signed within a certain period of time. This would prevent a time period where students would not receive their Basic Grants.

Response. The Commissioner believes that proper stewardship of Federal funds requires that a new owner reaffirm an institution's eligibility and sign a new Agreement with the Commissioner to participate in the Title IV programs. By signing the Terms of Agreement, the new owner acknowledges his or her responsibility to properly administer Federal funds available to students at that institution.

§ 190.74 Advancement of funds to institutions.

Comment. Several commenters stated that the school, and not the Commissioner, should determine the amount of funds it

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will receive if the school can demonstrate that another figure is more appropriate.

Response. The proposed regulation was not changed. No change from the current procedure is intended under this provision. Currently, the amount of funds advanced to an institution is based upon the number of Basic Grant recipients at the school in the previous year. Proper administration of funds requires that the Commissioner not allow an undue surplus of funds to be held at an institution during an award period. When an institution needs additional funds, the funds are provided. Because the Basic Grant is an entitlement, funds will be provided to the institution to pay all of the Basic Grant recipients at that institution.

§ 190.75 Determination of eligibility for payment.

Comment. Concerning subparagraphs (a)(4), (a)(5) and (g)(2), several commenters suggested that these provisions should be changed to say that the student is not in default on a loan made at *any* institution, or does not owe a refund on a grant made at *any* institution.

Response. No change was made to the regulation. The statute clearly provides that the student may not owe a refund on Title IV grants received at that institution or be in default on a National Direct Student Loan or a Guaranteed Student Loan made for attendance at that institution. The regulation has been written to be consistent with the legislation.

Comment. Concerning satisfactory progress, two commenters noted that the preamble to the NPRM states that institutional standards of satisfactory progress "establish a framework for evaluating a student's efforts to achieve an educational goal within a given period of time . . . the institution needs to know the normal time frame for completion of the course . . ." What is a reasonable number of quarters/semesters for a full-time student to complete a baccalaureate degree?

Response. The language from the preamble referred to by the commenters was included to give schools some direction as to what satisfactory progress should measure. This was in response to the numerous inquiries which were received concerning this issue. However, the Office of Education does not intend to dictate an institution's standards, nor determine what the proper length of a course would be. This would be strictly an institutional determination.

Comment. Concerning paragraph (b), several people made the comment that if the intent of the Basic Grant program is to help students working towards completion of a degree or certificate, how can prorated payments be made to students who have already withdrawn from school.

Response. This paragraph has not been amended. The section provides for payment if the eligible student becomes ineligible before actually receiving the payment. If a student has submitted an SER while eligible for payment, the student has completed his/her responsibilities for receipt of a Basic Grant, and the Office of Education believes that the student is entitled to a portion of the Basic Grant to cover educational costs the student incurred during his or her enrollment. Therefore, the student is entitled to a portion of the Basic Grant, even if payment has been delayed.

Comment. Concerning paragraph (b), two commenters asked if payments to students who have already withdrawn from school could reflect costs incurred for books, supplies and miscellaneous expenses.

Response. Yes. The payment is an amount which the school determines could have been used for educational purposes before the student became ineligible. The cost incurred for books, supplies and miscellaneous expenses may be included in this determination.

Comment. Concerning paragraph (b), one commenter stated that the payment to a student who has already withdrawn from school should not be reduced if it would all go towards institutional charges. Rather, the entire payment should be made and the refund policy should go into effect, proportioning the funds back to the programs from which they were disbursed. Otherwise the student may have a disproportionate loan burden if the NDSL or GSL was processed before the Basic Grant was disbursed.

Response. The suggestion in this comment is possible under the proposed rule as it is written. If the institutional charges equal or exceed the amount of the Basic Grant scheduled to be disbursed, that amount may be disbursed for those charges. Of course, if there is a refund, a portion of that refund must be returned to the Basic Grant account.

Comment. Concerning paragraph (b), one commenter suggested that, when paying a student who has already withdrawn from school, the calculation of the amount to be paid should be based solely on the fraction of the period of attendance up to the time of withdrawal divided by the length of the entire payment period.

Response. This suggestion is not prohibited by the proposed rule. The institution has discretion in determining an amount to which the student is eligible. This may, in some cases, be a prorated amount.

Comment. Concerning paragraph (c), one commenter stated that the words "may pay" should be changed to "*must* pay," because if the student has re-established satisfactory progress, the institution should pay him or her.

Response. The commenter's suggestion has not been adopted. The option to pay within a payment period remains with the institution.

Comment. Many commenters stated that paragraphs (c) and (d) are invasions on the institutional prerogative for developing its own standards and procedures, infringing on statutory authority for determining satisfactory progress.

Response. The regulation has not been changed. Paragraphs (c) and (d) do not infringe upon an institution's discretion in developing its own standards and practices for academic progress. These sections provide clarification concerning the time frame for when the determination is made. This allows a determination of unsatisfactory progress to be reversed and payment made if it can be done before the end of the payment period. The regulation makes the necessary clarification that, if a payment period has passed during which a student was denied payment because of not making satisfactory progress, no retroactive payment may be made for that payment period.

Comment. One commenter stated that allowing the student to be paid if he/she was overpaid because of institutional error is fair to the student.

Response. The Commissioner agrees with the commenter.

Comment. Concerning subparagraph (e)(2)(ii), Overpayment of a Basic Grant due to institutional error, several commenters stated that merely allowing the student to agree to repay the overpayment in a reasonable period of time provides a large loophole and also conflicts with § 190.80(a). The commenter suggested that the subparagraph should be changed to "The student acknowledges in writing the amount of the overpayment and an adjustment in subsequent financial aid payments eliminates the overpayment in the same award period in which it occurred."

Response. The Commissioner disagrees with this comment and no change has been made in the final regulation. The institution itself determines if satisfactory arrangements have been made for repayment and if the time for repayment is reasonable and, the institution's decisions are subject to review by the Office of Education in a program review. The school is also liable to the Office of Education for the amount of any overpayment made because of its own error, whether that amount is collected from the student or not. The language of § 190.80(a) has been clarified in this final regulation.

Comment. Concerning subparagraphs (e)(1) and (2), two commenters suggested that it should be possible to eliminate an overpayment by adjusting subsequent Basic Grant payments in the award period in which it occurred *or the next award period.*

Response. The Commissioner disagrees with the commenters and no change has been made in the regulation. The statute authorizes a specific amount of money to the student for a specific period of time, i.e., a Scheduled Basic Grant award for an award period. Because the Basic Grant covers an award period, it is permissible to adjust payments within the award period to eliminate the overpayment. Also, repayment of an overpayment (i.e., an educational debt from a previous year) is not an allowable cost in determining a student's need for the current year.

Comment. Concerning subparagraph (e)(3)(ii)—Overpayment on a Supplemental Grant, two commenters suggested that the section be changed to "an adjustment in subsequent financial aid payments (*including Basic Grants*) eliminates the overpayment in the same award period in which it occurred . . ." This change would permit a Basic Grant to be reduced to eliminate an overpayment of a Supplemental Grant which had occurred in the same award period.

Response. The commissioner disagrees with the commenter and no change has been made in the final regulation. The student is entitled to a specific amount under the Basic Grant Program. That amount may not be adjusted to repay overpayments from other financial aid programs, even if the overpayment occurred in the same award period.

Comment. Concerning subparagraphs (e)(3)(ii), (g) (1) and (2), one commenter stated that these sections will weaken the financial aid officer's ability to correct errors and prevent abuse, and that these sections should be eliminated. Other commenters thought that these paragraphs are excessively prescriptive and infringe upon institutional discretion for handling overpayments.

Response. The Commissioner disagrees and no change has been made in the final regulation. These provisions do not weaken

the aid officer's ability to prevent abuse. They do not require him to take action but rather increase his/her discretion in handling these kinds of cases. Under these provisions the school *may* (not must) pay a Basic Grant to a person whose SEOG overpayment can be eliminated through adjustment. A student in default on a Guaranteed Student Loan *may* (not must) be paid only if the Commissioner (for an FISL) or guarantee agency (for a GSL) determines that satisfactory arrangements have been made to repay the loan. A student in default on an NDSL *may* (not must) be paid only if the *institution* determines that the student has made satisfactory arrangements to repay the loan. In all cases, the institution, the Commissioner or the loan guarantee agency has discretion, and not the student. Therefore, these sections will not weaken the aid officer's control but rather enhance it.

§ 190.76 Frequency of payment.

Comment. Two commenters asked whether more than one payment is required if a semester is four months in length and occurs within one award period.

Response. No. The commenters are making inferences from the stated rule. The rule only covers the situation where a portion of a student's academic year occurring in one award period is less than three months. It does not cover the situation where any portion of a student's academic year occurring in one award period is three months or more.

Comment. One commenter asked if the lump sum payment for courses completed referred to in paragraph (c) would include courses which were failed?

Response. Yes. As long as the student has completed the course, regardless of final grade, and did not withdraw from the class before the end of the term, he/she may be paid for that course.

§ 190.77 Verification of information on the SER—withholding of payments.

Comment. The vast majority of commenters indicated that they agreed with the concept of verification of information. However, some also expressed a desire to have the implementation of this section postponed for one year, so that additional time could be spent studying the problem. Others wished that the verification process could be a pilot program, with voluntary participation by individual institutions or that schools could be allowed to use their own systems of verification. Along this line, one commenter suggested that the Office of Education's prescribed procedure should be used for those cases which the Commissioner picks, but that the institution's procedures could be used for other validation cases (those the institution decides to validate). Several other commenters, however, thought that validation was unnecessary and that it would result in lower income students dropping out of school.

Response. The Office of Education considers validation a necessary and useful tool in helping to ensure that determinations of eligibility for Basic Grant assistance are made in an equitable and consistent manner. While the institution will incur additional responsibilities due to this section, the Commissioner does not believe that it would be advisable to either postpone what is almost universally considered to be a very necessary aspect of need-based student aid, or to require validation activities from only a limited number of institutions. Further, to allow each institution to use its own method of verifying information, either for part or for all of its validation cases would appear to be inconsistent with the formula nature of the Basic Grant Program. While the Commissioner realizes that the specific application of this section will result in an additional responsibility for each student involved, he does not feel that it will overwhelm any student to the point that the student will be forced to withdraw from school.

Comment. Several commenters suggested that the documentation of information should become a function of the application process and that the necessary verification should be accomplished before the Student Eligibility Report is mailed to the student. One specific suggestion along these lines was that the Office of Education should require that an official tax form be sent in with each application. Towards the same purpose, another commenter suggested that legislation allowing an exchange of information from the Internal Revenue Service to the Office of Education would be helpful.

Response. While the Office of Education readily agrees that it would be simpler for the institutions if all necessary documentation were to be provided prior to the issuance of an SER to the student, the offsetting delays involved with centrally verifying all validation cases would cause a severe hardship for the students involved. The Commissioner believes that by spreading the cases throughout the universe of over 6,000 eligible institutions which disburse Basic Grant awards, the impact, in terms of time lost to the student, will be minimal. Further, the closer scrutiny that an aid officer can give at the local level should produce a more accurate eligibility index in most cases. The specific suggestion of requiring an official tax form with each application is impractical because some Basic Grant recipients come from families who have not filed Federal Income Tax Returns in the base year.

Comment. Several commenters thought that the Office of Education should centrally verify the pertinent information. Several of these individuals also felt that it was not the role of the financial aid officer to verify the information. Others, along these same lines, felt that individual institutions should be required to verify applicant information only if a sufficient administrative allowance was provided to them.

Response. As indicated in the previous response, the Commissioner believes that while validation is necessary, the Office of Education should attempt to inconvenience the student as little as possible. Centrally verifying information would not help to achieve this goal. Rather, the financial aid officer, with his or her firsthand knowledge, experience, and direct communication with the student, is in a much better position to expedite the validation process.

Comment. Several commenters suggested that different types of applicants should be treated differently. For example, one person thought that incarcerated students should not have to comply with all aspects of the validation process since their families would be less likely to cooperate in providing the requested information than other families. Others thought that dependent applicants with only non-taxable income from sources such as Social Security, Disability Insurance, Aid to Families with Dependent Children, etc. should not have to have their information verified.

Response. Due to the formula nature of the Basic Grant Program, the regulation treats all applicants the same. While the families of incarcerated students may be less willing to cooperate than other families, other identifiable groups may also have special problems. Discretionary judgment in the regulation as to who should comply with validation requests would be inconsistent with the nature of this program. This reasoning would also apply to dependent applicants with only non-taxable income. In addition, it would not be desirable to set up a situation where any applicant could avoid validation solely by reporting only non-taxable income, regardless of the accuracy of that report.

Comment. One commenter felt that there was confusion with the use of the two terms "validation" and "verification", and suggested that we choose one term and use it consistently.

Response. In the actual regulation, the word "verification" is used consistently since the regulation authorizes the Commissioner or the institution to seek documentation which will verify that information which is pertinent to the calculation of the student's eligibility index. In the Procedures Handbook, the Office of Education has chosen to use the term "validation" to indicate that payment of a Basic Grant may only be made on a valid SER. In addition, the term validation had been used previously to encompass similar activities conducted by the Office of Education. The Commissioner feels that the use of the two terms in these contexts in understandable.

Comment. Several commenters suggested that, when a discrepancy on the Student Eligibility Report is found, the financial aid officer should be able to recalculate the student's eligibility index and pay the student accordingly. At a later date, the Office of Education would verify the financial aid officer's calculation.

Response. The Commissioner agrees in part with this comment. Therefore, § 190.77 has been expanded to incorporate this concept on a limited basis. Basically, the Commissioner feels that the financial aid officer should be allowed to recalcualte and disburse a Basic Grant award prior to the receipt of the "valid" SER when the change from the original eligibility index to the valid one will be minimal in terms of the award amount.

Comment. Several commenters thought that the Office of Education should provide additional authority for the financial aid officer to withhold payments from students when inaccuracies are suspected but not proven.

Response. The Office of Education feels that there is already ample authorization in the current regulation for withholding of payment. The institution, of course, must withhold payment when they have documentation indicating that discrepancies exist on the SER. Additionally, if it believes, but cannot document that discrepancies exist, § 190.77(g) provides for the withholding of payments when documentation is not available or is not provided, if authorized by the Commissioner.

Comment. Section 190.77(c) of the NPRM states, "If an institution *can* document . . . it may not pay a Basic Grant . . . until the student corrects the error or verifies the data." One commenter felt that this could

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be interpreted to require verification of 100% of the Basic Grant applicants in order to insure that virtually no Basic Grant payments would be made on any invalid Student Eligibility Reports. In other words, would the school be held responsible for a payment on an invalid Student Eligibility Report which it did not know was invalid but which it "could have known?"

Response. In response to the commenter's confusion about the wording, the regulation was amended. Simply stated, an institution is prohibited from making payments if it has documentation at the institution which indicates the information on the SER is incorrect. Therefore, an institution would not be held responsible for making payment on an invalid SER if the only way it could have known the information was inaccurate was to conduct an investigation of information outside the institution.

Comment. Several commenters suggested that the requirement in § 190.77(f)(2) of the NPRM that the institution forward the student's name, etc. to the Commissioner be changed. Basically, it was felt that this information should not be forwarded when the student has not been paid, does not want to pursue the validation nor receive his or her grant, and the institution has followed all pertinent procedures.

Response. The Commissioner agrees and will publish procedures which will state that an unresolved validation case need not be referred to the Office of Education if all of the following conditions are met:

a) the procedures have been followed,

b) no payment of Basic Grant funds has been made for academic year 1978–79, and

c) the student does not want to pursue the validation and does not want to receive payment of a Basic Grant for 1978–79.

The final regulation has been amended to reflect this change.

Comment. Several commenters expressed concern about § 190.77(g)(2) of the NPRM. One felt that the provisions of this section would allow a student to receive more than he or she was entitled to, while several others wanted the financial aid officer to be able to determine whether a Student Eligibility Report submitted after the appropriate deadline was so submitted due to a delay caused by the verification process for which the applicant was not principally responsible. In such a case, it was suggested that the financial aid officer would pay the student the entire amount based on the valid Student Eligibility Report.

Response. This regulation was written to ensure that the student would receive only the amount to which he or she was entitled. It will accomplish this since the student will be paid his or her Basic Grant based upon the correct eligibility index when the valid SER is submitted on time. Of course, if the student supplies the documentation in a timely fashion, and that documentation verifies the data on the original SER, then the student will have already submitted a valid SER to the school. In that case, there will not be a problem with the deadline date. If, however, the verification process results in a corrected SER, and that corrected (valid) SER is submitted after the deadline, the student will, at the time the valid SER is submitted, be eligible for payment. The deadline date for submission of a valid SER will be waived for such a student because of the validation process. However, the amount that the student will be entitled to will be limited to the amount that he or she would have received, calculated on the SER which was submitted prior to the deadline date. This limited exception to the deadline date is put into the regulations since the Office of Education feels that the student should not be penalized by the deadline when the Basic Grant Program required a procedure which caused the delay in the submission of the SER. On the other hand, the Commissioner feels that such a student should not receive an additional benefit that other students do not receive. Thus, since the student had supplied the original information and had submitted the original SER upon which he or she expected to be paid, he or she should not benefit by an increase in that expected award unless the corrected (valid) SER is submitted prior to the deadline. This same rule would apply to any student whether he or she was required to comply with validation procedures or not. Consequently, § 190.77(h)(2) states that such a student may be paid his or her Basic Grant based on a valid SER, but may receive only up to the amount previously withheld, i.e., the amount the student would have received from the original SER.

Comment. One commenter suggested that § 190.77(g)(3)(iii) of the NPRM should limit to one award period, the period of time for which the Office of Education would not process a recalcitrant applicant's future applications.

Response. The Office of Education feels that if a student does not provide requested documentation (as the student indicated he or she would when he or she signed the application), the student should be prohibited from applying for future Basic Grants until the documentation has been provided or the Commissioner decides that there is no longer a need for that documentation. This provision is expected to provide added incentive for a student to comply with the request for documentation. Limiting the period of time to one award period would, of course, limit the Commissioner's flexibility in such matters and would probably be too weak to be effective as an incentive.

Comment. Several commenters felt that the Office of Education should include the complete validation procedure (as published in the Validation Procedures Handbook) in the Notice of Proposed Rulemaking, and that public comment should be solicited on the specific procedures. Along these same lines, several commenters suggested that the precise responsibilities of the Commissioner, the institution, and the student should be delineated in the FEDERAL REGISTER.

Response. The commenters' suggestion was not adopted. The Validation Handbook merely sets forth procedures that institutions are to follow in verifying information submitted by an applicant. As such the Commissioner did not believe it necessary to publish the handbook as part of the Notice of Proposed Rulemaking. The Commissioner will, however, publish various specialized procedures in the FEDERAL REGISTER. Moreover, the Commissioner welcomes comments and suggestions about the procedures contained in the Handbook that will result in the improvement of the validation effort.

Comment. Several commenters were concerned that some schools (community colleges for example) might receive a disproportionately large share of the Office of Education's requests for validation. And some suggested that there should be some assurance that no one school would have more than 10% of its Basic Grant recipients picked for validation by the Commissioner.

Response. While the Commissioner does not expect that any one school or type of school will receive an unusually large share of requests for validation, he does not feel that it would be appropriate in the regulation to limit the number of people who, by location or any other factor, could have their SER's verified. Since the whole purpose of this section is to help ensure that Basic Grant assistance is indeed based on accurate information, the Office of Education would not want to be restricted by arbitrary parameters from verifying the data of any particular applicant. Further, since the institution the student attends may not be known by the Commissioner at the time the application is submitted, the student's institution cannot be a relevant factor in determining whether he or she will be selected for validation.

Comment. Several commenters also addressed topics related to the actual mechanics of the validation process. Such points as the tolerance level that should be used, the potential problem of securing cooperation from public agencies (Social Security, Welfare, etc.), and the need to verify supplemental applications were highlighted.

Response. Since these questions pertain to the mechanics of the process, as opposed to specific points in the regulation itself, they will not be addressed here but rather will be forwarded to the Validation staff for study.

§ 190.78 Method of disbursement—by check or credit to a student's account

Comment. Several commenters thought that § 190.78(b)(1) of the NPRM was in conflict with subparagraphs (b)(2) and (b)(3). Subparagraph (b)(1) stated that no payment may be made until the student is registered; subparagraph (b)(2) stated that the earliest a direct payment may be made is 10 days before the first day of classes; subparagraph (b)(3) stated that the earliest a payment can be credited is 3 weeks before the first day of classes.

Response. The regulation has been clarified to indicate that a student must always be registered to be eligible for payment.

Comment. Several commenters suggested that the Office of Education should modify § 190.78(b) to allow each institution to use its own judgment as to when it disburses funds to the student (within a payment period). The general feeling expressed in these comments was that it is often desirable to disburse funds earlier than either the three week or ten day limitation. Additionally, some of these comments indicated that the Office of Education should distinguish between a credit to the student's account which involves an actual transfer of funds and a notation of a commitment to that account which indicates that a transfer of funds will be made at a later time. Still others thought that if the Office of Education keeps § 190.78(c), then it should not matter how soon funds are disbursed to a student as a credit to his or her account.

Response. § 190.78(b)(1) establishes the principle that a student must be registered for a payment period before he or she can be paid for that payment period. Since Basic Grant funds are intended to be used by a student for educational expenses related to his or her attendance at an institution, this seems to be a reasonable limitation. However, when a student "registers" for a payment period as much as several months in advance, the certainty that he or she will actually attend that period decreases. Thus, sections 190.78 (b)(2) and (b)(3) have been added to lessen the likelihood of disbursing funds for a student who will not actually commence attendance, while, at the same time, allowing the institution some flexibility to disburse money that might be needed sometime prior to the first day of classes. When this regulation addresses the question of a credit to the student's account, it should be understood that that means an actual disbursement of Basic Grant funds. Thus, the limitation of ". . . Three weeks beofe the first day of classes . . ." refers to an actual transfer of Basic Grant funds. An institution may, of course, note on the student's account that a specific amount of Basic Grant funds will be transferred to that account at a later date. An actual disbursement is not being made under this procedure and could not be made until the time specified in the regulation.

The Commissioner feels that these limitations ensure that Basic Grant funds are disbursed in and for the period for which they are intended.

Comment. Several commenters suggested that § 190.78(b)(1) be changed from "registered" to "accepted for enrollment."

Response. The Commissioner disagrees. For reasons outlined in the previous comment, the Commissioner feels that this provision is quite reasonable and does not wish to liberalize it further.

Comment. Several commenters suggested that we clarify § 190.78(b)(3) by adding the words "to the student's account" after the word "credited."

Response. The Commissioner agrees and the wording has been added.

Comment. Several commenters suggested that the Office of Education add a section to § 190.78 which would mandate that the institution pay a Basic Grant within a certain number of days from the beginning of classes.

Response. The recommendation has not been adopted. The Commissioner feels that flexibility should be allowed to accommodate various types of institutional procedures.

Comment. Several commenters expressed concern about the ramifications of what was § 190.78(c) in the proposed rules. The majority of these commenters indicated that it would be next to impossible for schools to comply with this requirement. While many of these same commenters agreed that the student should be informed that his or her grant would be paid as a credit to his or her account, they did not feel that it was necessary for the student to know the exact time that such a transaction would take place, especially in view of the fact that the institution might be unable to determine in advance exactly when such a transaction would be possible.

Response. The Commissioner agrees and has deleted what was § 190.78(c) in the proposed rules. Section 190.78(a), however, has been expanded slightly to require not only that the institution inform the student how he or she will be paid, but also how much money he or she can expect. The Commissioner feels that these requirements will not be unduly difficult for the institution, while at the same time, they will provide the student with the information that he or she may need. The specific disbursements (times and amounts) should, of course, be readily identifiable from the institution's records.

Comment. One commenter suggested that a new section should be added to § 190.78 which would allow the Commissioner to terminate the eligibility of an institution which defrauded a student.

Response. The Commissioner feels that adequate authority already exists for a termination of the Regular Disbursement System Agreement in such a situation (§ 190.73(a)). Actual termination of institutional eligibility for any or all Title IV Programs is covered in the Limitation, Suspension, and Termination regulations (45 CFR 168, Subpart H). Institutional misrepresentation regarding the nature of its programs, its financial charges, or the employability of its graduates is covered in the proposed regulations on Fiscal and Administrative Standards (45 CFR 168) published on August 10, 1978.

Comment. Several commenters objected to the inclusion of students who "unofficially withdraw" in § 190.78(d). Their concern was that schools would not know if a student "unofficially withdrew" since their instructors did not take attendance. Others thought that the students should be responsible for returning the funds in situations of withdrawal or expulsion (some limited this comment only to withdrawals) before the first day of class. And, others thought that the individual institution ought to be able to follow its own guidelines and refund policy in determining if any funds should be returned to the Basic Grant account.

Response. "Unofficial withdrawal" refers to situations where the student leaves the institution without completing official withdrawal procedures. This provision does not require institutions to change current procedures for withdrawing students. Rather, the institution determines to the best of its ability the date on which the student left the institution.

Since the purpose of the Basic Grant program is to provide financial assistance for the pursuit of postsecondary education, the Commissioner feels that disbursements should not be made if a student does not even begin to attend his or her classes, but rather withdraws from his or her educational pursuit prior to the beginning of a term. Further, the early disbursement of funds to a student (either as a credit or as a direct disbursement) authorized in § 190.78(b) is provided for institutional administrative convenience and, of course, for the benefit of the student. If the student never attends classes, the whole basis for making the disbursement is negated. For this reason the institution's refund policy would not be applicable in such a situation. If an institution chooses to disburse early (prior to the beginning of classes), it must be able to determine whether or not a student begins classes in order to comply with this regulation.

Comment. Several commenters expressed concern that under § 190.78(c), they would incur expenses in the processing of grants for those applicants who withdrew or were expelled before the first day of class but they would be unable to collect the administrative allowance for them.

Response. Section 190.10(a) authorizes an administrative cost allowance for each student who receives a Basic Grant. Thus, when a student withdraws or is expelled before the first day of classes, and all Basic Grant funds are returned to the Basic Grant account, according to § 190.78(c), no administrative allowance would be paid for that student. It is not anticipated that any institution would have many students who would withdraw or be expelled prior to the first day of classes and who could also have had Basic Grant funds disbursed to them which would then have to be returned. In order to avoid the possibility of incurring unrecoverable processing costs in such an instance, the institution may choose to postpone making disbursements until the student begins attending classes.

Comment. Several commenters suggested under § 190.78(d)(2), that the time that the school should have to hold the student's check should be considerably shorter than "15 days after the last date . . . of the student's enrollment for that award period." While some commenters suggested specific substitutes others thought that each school should be allowed to use its discretion in the matter. Some of these commenters cited potential problems in reporting and recordkeeping under this rule. Many of these commenters also thought that the overriding principle ought to center around the concept of student responsibility in this matter. On the other hand, a few commenters thought that the institution should have to hold the student's check for a longer period of time than is set forth in the Notice of Proposed Rulemaking. In addition, some of these felt that the institution should have to send the student a certified letter notifying him or her of the impending forfeiture of the grant 10 days prior to the effective date of that forfeiture. Also, a great many of the commenters indicated that it is impractical to keep a specific check for a period of time beyond 30 or 60 days. They suggested instead that the original could be destroyed, and a replacement could be reissued.

Response. This regulation was written in response to a number of inquiries from students that the Office of Education has received in the past related to their problems in receiving their Basic Grant checks. The Commissioner feels that both the institution's administrative convenience and the student's entitlement should be considered in this area. Thus, the regulation attempts to achieve a compromise between these two, sometimes conflicting, goals. While the student certainly must exercise responsibility in this area, the institution must be somewhat flexible in order to be responsive to unusual circumstances. Fifteen days after the last date of the student's enrollment in the award period appears to be reasonable for both parties. However, the Commissioner does not feel that the institution should have to engage in extraordinary measures (such as the mailing of certified letters) to inform the student about an impending forfeiture of a check. And, of course, an institution may cancel any check and reissue a duplicate rather than hold the original check, if it chooses to do so.

Comment. One commenter suggested that the word "may" in § 190.78(d)(3) should be changed to "shall" since subparagraph (e)(4) addresses itself to a forfeiture of "any remaining Basic Grant payment" if the check has not been picked up within the specified time period.

Response. The Office of Education does not feel that such a change is necessary. The institution, under § 190.78(d)(3), has the option of crediting the students account for any amount owed if the student has not picked up the check in time. Under subpara-

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graph (d)(4), the student forfeits any remaining Basic Grant payments. The words "any remaining Basic Grant payments," in subparagraph (d)(4) would take into consideration a school's action under subparagraph (d)(3). A change to "shall" from "may" would mandate an action that most institutions will choose anyway, but which should be their option.

Comment. One commenter suggested that the Office of Education add a new section to § 190.78 which would state that the student has a limited time period to contest the school's calculation of his award.

Response. Since the Basic Grant is based on an entitlement concept, the Commissioner feels that a student should not be denied what is due to him or her if a mistake is made by either the Office of Education or an institution. Thus, a limited time period to contest a school's calculation will not be mandated by regulations.

Comment. One commenter suggested that a new section should be added to § 190.78 which would allow an institution to use an incarcerated student's Basic Grant to cover all legitimate expenses accrued by the student in the event that the incarcerated student cannot continue his or her educational program at the institution either because he or she was transferred from one correctional facility to another, or because he or she had his or her education interrupted by a correctional facility decision.

Response. Sections 190.76, 190.64, 190.65, and 190.66 establish the requirements for the frequency and the calculation of payments which must be made for a student. Any student may, for a variety of reasons, interrupt his or her education at a point when he or she still owes money to the institution. The Commissioner does not feel that it would be appropriate to single out incarcerated students in this regard and allow Basic Grant payments to them which would not be allowed to other students.

§ 190.79 Affidavit of Educational Purpose

Comment. While several commenters suggested that all of § 190.79 be dropped from the regulations, the majority of commenters suggested two changes. First, they suggested that the word "notarized" be dropped, and second, they suggested that the affidavit be incorporated on the application form. In addition, related to the notarization function, one commenter suggested that the Office of Education define the term "recruit" used in § 190.79(c).

Response. The regulation was not changed. Section 498 of the Higher Education Act of 1965, as amended (20 U.S.C. 1088g), requires the student to sign an affidavit. An affidavit is a written statement made under oath or affirmation before a notary public or other person authorized under State law to administer such an oath or affirmation. Since the affidavit is required for all Title IV programs, the institution is the logical place for the student to complete this requirement. Thus, incorporating the affidavit on the application would not be a viable alternative. Concerning the last portion of the comment, the Commissioner intends the term "recruit" to be used in its normal context and does not feel that a special definition of the word is necessary.

Comment. One commenter suggested that the word "form" in § 190.79(a) be changed to "format." This, it was felt, would accomplish two things. First, institutions could incorporate the required wording on other institutional documents rather than on a separate form. Second, if change in the wording is mandated by the Office of Education, institutions would have more flexibility in form design and would be able to respond quicker with their own document rather than wait for the "approved form" of the Commissioner.

Response. The word "form" does not mean an OE approved document, but rather that the wording of the affidavit is the same as the wording prescribed by the statute. Under the current regulation, the institution has the option of incorporating the affidavit into another institutional form (for example, an award letter) if it chooses.

§ 190.80 Recovery of Overpayments

Comment. Several commenters indicated that the term "reasonable" in § 190.80(b)(1) is not precise enough. Some of them suggested that the Office of Education define what is meant by "a reasonable effort."

Response. The Commissioner feels that the term reasonable, although not precise in nature, does have a readily understood meaning. The Commissioner does not feel that specific procedures should be established in this area, since various situations might call for different action on the part of the institution.

Comment. One commenter suggested that the Office of Education add a section to § 190.80 which would provide (possibly on the progress report) a mechanism for carrying over payments due and recoveries from prior award periods similar to provisions for the National Direct Student Loan Program.

Response. Basic Grant funds are appropriated yearly and are intended by Congress to be used for a specific purpose in a specified time period. The National Direct Student Loan Program, of course, makes use of a continuing revolving fund and, therefore, the situation is not similar. Thus, as is presently being done, overpayments recovered by the institution must be deposited in the appropriate Basic Grant Account, or returned to the Office of Education if that account is no longer open at the school.

Comment. Several commenters suggested that in § 190.80, the Office of Education should establish some sort of incentive for the institutions. For example, one person suggested that there should be a monetary compensation for the institution if it recovers overpayments which resulted from non-institutional errors. Another suggested that the schools should be able to use "recovered funds" for their campus-based programs.

Response. Regarding the latter suggestion, as indicated in the previous response, Basic Grant funds are appropriated by Congress for a specific purpose. Thus, recovered funds from this program can not be used for other programs. And, implementation of the former suggestion would require an amendment to the statute and a separate appropriation from Congress for that purpose.

Comment. One commenter suggested that, in order to facilitate compliance with § 190.80(b)(2), the Office of Education should provide official forms.

Response. The Commissioner does not feel that an official form for such a purpose is necessary. To comply with this section, the institution could simply write a letter to the Commissioner containing the appropriate information.

§ 190.81 Recalculation of a Basic Grant award.

Comment. Several commenters suggested that under § 190.81(b), recalculation should be mandatory. On the other hand, one commenter indicated that she was happy with this section, since it provides an opportunity for each institution to develop its own policy in this area. The commenter, however, wondered whether the institution's policy had to be written.

Response. The Commissioner does not feel that a recalculation (under § 190.81(b)) should be mandatory. If the school does opt for such a policy, it would have to be consistently applied to all students and should be available to students in writing as part of the terms and conditions of financial aid programs outlined under the provisions of the Student Consumer Information Regulations.

Comment. Several commenters thought that the language in § 190.81(a)(3) appeared to be both permissive and mandatory. ("... The student's Basic Grant . . . must be adjusted. *Where possible*, the adjustment *must be* made within the same award period." (Emphasis added)). They, therefore, were unsure as to the Office of Education's intent with this portion of the regulations.

Response. There is not a conflict with the present language of § 190.81(a)(3). Under the condition stated there, the student's Basic Grant *must* be adjusted. Even though it will not always be possible to make the adjustment in the same award period, the adjustment *must* still be made. The regulation does however state that *where possible* the adjustment must be made within the same award period. An example of a situation where the adjustment could not be made in the same award period would be where a correction necessitated by § 190.77 was processed late in the award period in question, or early in the subsequent award period.

Comment. Several commenters also thought that § 190.81(a)(1) should be expanded to indicate under what circumstances and within what time frame the required action (the recalculation of the student's award) would have to be taken. Several of these commenters also stated that the term "eligibility index" should be used in place of the term "expected family contribution."

Response. The regulation's intent is to indicate that the institution must recalculate the student's award whenever the student's eligibility index has changed. The circumstances under which recalculation must be made are set forth in subparagraphs (a)(2) and (3) of this section. As to the time frame involved, the provisions of § 190.61 would be applicable here as they would in any other situation unless otherwise noted.

For the Basic Grant Program, the terms "eligibility index" and "expected family contribution" are synonymous. In the interest of consistency the term "expected family contribution" will be kept.

§ 190.82 Fiscal control and fund accounting procedures.

Comment. A number of commenters suggested that the requirement for maintaining a separate account for Federal funds (found in § 190.82) was unnecessary and burdensome for institutions. Further, some of these commenters thought that this requirement was in conflict with other program regulations as well as with information previously disseminated by the Office of Management and Budget. As an alternative to this requirement, some people suggested that "problem schools" be treated as an exception, but that most institutions should simply be allowed to maintain separate ledgers to accomplish the same purpose. On the other hand, several commenters thought that the requirement was an excellent idea, and that it would alleviate problems which have been encountered in the past with some schools when Federal and institutional funds have been kept in a single account. One commenter suggested that the bank should be notified in writing that federal funds are deposited in the account, or that the name of the account should indicate that federal funds are deposited there. This requirement would be identical to one which has been in the regulations for the campus-based programs for several years. However, several commenters, although agreeing that the requirement was an excellent idea, suggested that it did not belong in the Basic Grant regulations since it pertained to all Title IV programs. They, therefore, suggested that it should be deleted from this regulation package and incorporated into the proposed regulations for Fiscal and Administrative Standards which were published as a Notice of Proposed Rulemaking on August 10, 1978.

Response. Because of the generally negative reaction to the requirement for a separate bank account for Title IV funds which was included in § 190.82 of the NPRM and in the proposed regulations for Fiscal and Administrative Standards, published on August 10, 1978, the separate account requirement has not been included in the final regulations. Rather, § 190.82 contains the same requirement that is included in the regulations for the campus-based programs, i.e., a separate bank account is not required, however, the institution must notify its bank of the accounts in which it has deposited Federal funds.

Comment. Several commenters suggested that although the requirement for validity of all information submitted by the institution is included in the terms of agreement, such a statement reiterating this requirement should be included in § 190.82.

Response. The Commissioner feels that adequate authorization for requirements in this area can be found in § 190.72 and § 190.92.

Comment. One commenter thought that the wording of § 190.82 ("Funds received * * * under this part are held in trust for the intended student beneficiaries and may not be used * * * for any other purpose") precludes the use of an administrative expense allowance and, thus, should be changed.

Response. The Commissioner agrees and the final regulation has been clarified.

§ 190.83 Maintenance and retention of records.

Comment. Regarding the maintenance of records, several commenters suggested that in § 190.83(a)(1) the Office of Education change the wording from "The eligibility of all enrolled students who have applied for Basic Grants" to "the eligibility of all enrolled students who have submitted a valid SER to the institution.". Other commenters suggested limitations on who they would have to keep records on by stating that such phrases as "all grant recipients" or "*valid* SER's" should be used in the appropriate places.

Response. The intention of § 190.83(a)(1) is to include only those students who have submitted valid SER's to the institution. The final regulation has been amended accordingly.

Comment. Concerning § 190.83(a)(1), one commenter wondered what the term adequate records meant. Further, the commenter asked if the institution would be required to keep separate individual records or would it be sufficient for the information to be maintained in appropriate offices throughout the institution, e.g., on the student's account card in the business office, on the academic record in the Registrar's office, etc.

Response. The term "adequate records" is intended to mean those records which are enumerated in this section. Where the institution chooses to keep the records would be up to them. The records, of course, do have to be retrievable and available for inspection at the institution's offices as is required under subparagraph (b).

Comment. Several commenters indicated that the requirement of five years in § 190.83 was excessive. Along this same line, several people suggested that either three years be used, or that records would only have to be kept until they were audited.

Response. The requirement of five years is consistent with not only other Title IV program regulations, but also with Section 434(a) of the General Education Provisions Act (20 U.S.C. 1232c(a)).

Comment. Regarding the retention of the Social Security number in § 190.83(a)(2), one commenter indicated that the school's policy regarding the privacy of student information did not require students to disclose their Social Security numbers. Rather, that school assigned a University identification number to each student.

Response. The student's Social Security number is already on the Student Eligibility Report (and in fact is required for Basic Grant application purposes). Thus, when the school retains the SER, they will retain the Social Security number.

§ 190.85 Audit and examination.

Comment. Several commenters suggested that the requirement in § 190.85(b)(2) for an audit to be conducted annually or at least every two years be modified. While some people favored audits every year, and others favored biennial audits, others suggested that some small schools should not have to undergo audits (or that the audit procedures should be substantially modified in those cases). Several people also suggested that the Office of Education include some definitive language to spell out exactly which schools (based on size and complexity of their program) must have annual audits. Paramount in many of these comments was the cost implication involved in meeting this requirement. In fact, several of these same commenters also suggested that the Office of Education provide funds for the audits it is requiring.

Response. Section 190.85(b)(2) has been modified to require that an audit be performed at least once every two years. An institution may, of course, have an audit more frequently if it chooses to do so. While the Office of Education recognizes the validity of institutional complaints concerning the costs of a program audit, the authorizing statute does not permit the recovery of these costs except for the amount remaining from the administrative cost allowance after the provisions of the Student Consumer Information regulations have been met.

Comment. Concerning the "HEW Audit Guide" mentioned in § 190.85(b)(2), several commenters indicated that one did not exist yet. Thus, they wanted to know what they should use.

Response. The "HEW Audit Guide" for the Basic Grant Program has been published and mailed to all eligible institutions. If an institution has not yet received a copy it should contact the contact person for these regulations.

Comment. One commenter questioned the necessity of auditing all transactions as is required in § 190.85(b). Instead, he suggested that the audit guide should specify the confidence levels required, and set different confidence levels depending on the size of the program.

Response. All Basic Grant Program transactions must, of course, be available for audit. The procedures that the auditor will use in each case will be set forth in the "HEW Audit Guide."

Comment. One commenter indicated that it was misleading to imply in § 190.85(b) that the institution could conduct internal audits themselves.

Response. Section 190.85(b) indicates that the audit is to be done by the institution or at the institution's direction. In the majority of cases, this will mean that the audit will be done by an independent private accounting firm hired by the institution. However, in some cases an internal audit staff of the institution may be available to perform these audits. In these instances, the internal auditor must meet the standard of independence as defined by the United States General Accounting Office in its publication, "Standards for Audits of Governmental Organizations, Programs, Activities, and Functions."

SUBPART H

§ 190.94 Calculation and disbursement of awards by the Commissioner of Education.

Comment. Concerning paragraph (b), one commenter stated that validation should be performed by the Office of Education for students attending Alternate Disbursement System (ADS) schools.

Response. Verification for students at an ADS institution will be performed by the Office of Education.

§ 190.95 Termination of enrollment and refund.

Comment. One commenter asked if the school is required to notify the Office of Education of a change in enrollment status under paragraph (a).

Response. No, such notification is not required.

Comment. Two commenters suggested that the word "unofficially" be deleted from paragraph (a) because schools would not know if the student has unofficially withdrawn.

Response. The regulation has not been changed. "Unofficial withdrawal" refers to situations where the student leaves the institution without completing official withdrawal procedures. This provision does not require institutions to change current procedures for withdrawing students. Rather, the institution determines to the best of its ability the date on which the student left the institution.

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Comment. Concerning paragraph (b) two commenters disagreed with the student having to refund a prorated portion determined by the Commissioner. One commenter suggested that the student should refund a portion which is consistent with the institution's refund policy. The other commenter suggested that this section should be amended to require the student to refund the lesser of a prorated portion of the Basic Grant, or the amount remaining to the student following payment of all outstanding room, board and tuition payments for the payment period.

Response. No change has been made to this section. Under the Alternate Disbursement System, all payments and refunds must be calculated by the Office of Education. Incorporation of each institution's refund policy or each student's outstanding bills into the central system is administratively infeasible. A pro rata refund is the only method which can be handled through central administration of the Program.

[FR Doc. 79-2291 Filed 1-24-79; 8:45 am]

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THURSDAY, JANUARY 25, 1979
PART III



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Community Planning and Development

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Application Submission Date

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[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Community Planning and Development

[Docket No. N-79-909]

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

AGENCY: Department of Housing and Urban Development; Assistant Secretary for Community Planning and Development.

ACTION: Notice of application submission date—Financial Settlement Fund.

FOR FURTHER INFORMATION CONTACT:

Peter Rowan, 202-755-1871.

Pursuant to Section 570.484, Chapter V, Title 24 of the Code of Federal Regulations which requires the establishment of submission deadlines for the filing of applications for Categorical Program Settlement Grants, the Secretary is establishing the application date with respect to grants for funding the financial settlement, and to the extent feasible, the completion of projects assisted under the categorical grant programs terminated by Congress in 1974.

Accordingly, applications are invited from units of general local Governments in which projects assisted under the Urban Renewal Program are located which cannot be financially settled or completed, without supplemental financial assistance. To be considered for funding at this time, complete applications must be received by the appropriate HUD Area Office by close of business, February 28, 1979. For full program information see Subpart H. Part 570, Chapter V, Title 24 of the Code of Federal Regulations, which was published June 6, 1978, 43 FR 24656.

Issued at Washington, D.C., January 18, 1979.

ROBERT C. EMBRY, Jr.,
Assistant Secretary for Community Planning and Development

[FR Doc. 79-2616 Filed 1-24-79; 8:45 am]

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THURSDAY, JANUARY 25, 1979
PART IV



DEPARTMENT OF TRANSPORTATION

Coast Guard

SUSPENSION AND REVOCATION PROCEEDINGS

Temporary Documents

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[4910-14-M]

Title 46—Shipping

CHAPTER 1—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 78-024]

PART 5—SUSPENSION AND REVOCATION PROCEEDINGS

Temporary Documents

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the regulations governing the issuance of temporary documents during the pendency of appeals of suspension and revocation orders to the Commandant and revokes redundant regulations concerning the release of records. The Administrative Law Judge hearing the case presently forwards each denied request for a temporary document the Commandant for final action. This amendment makes the Administrative Law Judge's decisions concerning the issuance of a temporary document final in the absence of further appeal of that decision, and eliminates the necessity of the Commandant reviewing each denial of a temporary document.

EFFECTIVE DATE: January 25, 1979.

FOR FURTHER INFORMATION CONTACT:

Commander Charles H. King, Jr., Office or Merchant Marine Safety (G-MMI-2/82), Room 8205, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202 426-2215).

SUPPLEMENTARY INFORMATION: Since this is a matter relating to agency procedure and practice, under 5 U.S.C. 553(a)(2) notice and public procedure are unnecessary. Under 5 U.S.C. 553(d)(3), the amendments may be made effective in less than thirty days after publication in the FEDERAL REGISTER since they clarify appeal procedures for merchant seamen. This rule has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (43 FR 9582, March 8, 1978). A final evaluation has been prepared, and has been included in the public docket.

DRAFTING INFORMATION

The principal persons involved in drafting this amendment are: Commander Charles H. King, Jr., Project Manager, Office of Merchant Marine Safety, and Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

DISCUSSION OF AMENDMENT

A merchant seaman who has had his document suspended or revoked by an order of an Administrative Law Judge may request the issuance of a temporary document that would be valid during the pendency of his appeal of the suspension or revocation to the Commandant. The change to the regulation will make the Administrative Law Judge decision denying the issuance of a temporary document final in the absence of an appeal of that decision. If the Administrative Law Judge's does not authorize the issuance of a temporary document, the merchant seaman may appeal to the Commandant requesting that the Commandant review the Administrative Law Judge's decision concerning the temporary document. The amendment will relieve the Commandant of the burder of reviewing every denial of a request for a temporary document. The Commandant will now review only those cases in which an appeal has been made by the seaman.

The regulations dealing with the release of records (46 CFR 5.55) are being deleted because the substance of the regulations is in Title 49 of the Code of Federal Regulations and this reference is set out in 46 CFR 5.50-1. It is unnecessary and superfluous to have two sets of regulations on the same subject.

Accordingly, Part 5 of Title 46 of the Code of Federal Regulations is amended as follows:

1. By revising § 5.30-15(a) and (b) to read as follows:

§ 5.30-15 Temporary documents.

(a) A person who has appealed from a decision suspending or revoking a document and/or license may file a written request for a temporary document and/or license with the Administrative Law Judge who rendered the decision, or with any Officer in Charge, Marine Inspection, for forwarding to such Administrative Law Judge. Action on the request will be taken by the Administrative Law Judge. However, if the hearing transcript has been forwarded to the Commandant, the request for a temporary document is forwarded by the Administrative Law Judge to the Commandant for final action.

(1) If the request for a temporary document is denied by the Administrative Law Judge, the individual denied the document may appeal the denial, in writing, to the Commandant within 10 days.

(b) The Administrative Law Judge or the Commandant grants the request for a temporary document based on:

(1) Whether the service of the individual involved on board a vessel at the time of the request, or immediately thereafter, is compatible with the requirements for safety of life and property at sea.

(2) The individual's prior record.

* * * * * * *

Subpart 5.55 [Deleted]

2. By deleting Subpart 5.55.

(Sec. 633, 63 Stat. 545, as amended (14 U.S.C. 633); R.S. 4450 (46 U.S.C. 239); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b))

Dated: January 20, 1979.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 79-2668 Filed 1-24-79; 8:45 am]

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THURSDAY, JANUARY 25, 1979
PART V



DEPARTMENT OF ENERGY

Economic Regulatory Administration

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AMENDMENTS TO IMPOSE THE ENTITLEMENT OBLIGATION ON THE FIRST PURCHASE OF PRICE CONTROLLED DOMESTIC CRUDE OIL

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[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Parts 211, 212]

[Docket No. ERA-R-78-12]

AMENDMENTS TO IMPOSE THE ENTITLEMENT OBLIGATION ON THE FIRST PURCHASE OF PRICE-CONTROLLED DOMESTIC CRUDE OIL

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is proposing to amend its domestic crude oil allocation (or entitlements) program to impose the entitlement purchase obligation on the first purchase of price-controlled domestic crude oil, regardless of whether the purchaser is a refiner, reseller, or some other user of crude oil.

Under this proposal, the ERA would announce in advance of each calendar quarter the entitlement prices for lower tier and uppper tier crude oil, respectively for each month of the quarter. Since all transactions after the first sale would reflect the entitlement obligation, resellers of crude oil would not be required to certify to their purchasers the volumes and per-barrel price of lower tier, upper tier, and exempt crude oil sold in each transaction, thus reducing the current regulatory burden on both resellers and refiners and the potential evasion of price controls downstream of the producer. In addition, shifting the entitlement purchase obligation from refiners to first purchasers would automatically assure that entitlement obligations attach to nonrefining uses of price-controlled domestic crude oil.

This proposal is intended to be the first phase in ERA's effort to simplify the crude oil price controls by eventually using the entitlements program, rather than the ceiling price regulations, to regulate first sale prices of domestic crude oil.

DATES: Comments by March 23, 1979, 4:30 p.m. Requests to speck by March 2, 1979, 4:30 p.m. Hearing dates: Denver, Colorado hearing: March 8, 1979, 9:30 a.m.; Washington, D.C. hearing; March 13, 1979, 9:30 a.m.

ADDRESSES: All comments and requests to speak for Washington hearing to: Public Hearing Management, ERA Docket No. ERA-R-78-12, Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. Requests to speak for Denver hearing—Robert Drawe, 1075 South Yukon Street, P.O. Box 26247, Belmar Branch, Lakewood, Colorado 80226. Hearing locations: Washington hearing—Room 2105 2000 M Street, N.W., Washington, D.C. 20461; Denver hearing—Room 269, U.S. Post Office Building, 1823 Stout Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, 2000 M Street, N.W., Room 2214B, Washington, D.C. 20461 (202) 254-5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, N.W., Room B110, Washington, D.C. 20461 (202) 634-2170.

Douglas W. McIver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, N.W., Room 6128I, Washington, D.C. 20461 (202) 254-8660.

Daniel J. Thomas (Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street, N.W., Room 2310, Washington, D.C. 20461 (202) 254-7477.

Samuel M. Bradley (Office of General Counsel), Department of Energy, 12th & Pennsylvania Avenue, N.W., Room 5134, Washington, D.C. 20461 (202) 566-9565.

SUPPLEMENTARY INFORMATION:

I. Background
A. Discussion of Comments
B. Relationship to Other Rulemakings
II. Proposed Amendments
A. General
B. Principal Definition Changes
C. Effect of Proposal on First Purchasers
D. Effect of Proposal on Refiners
E. Reporting Requirements
F. Special Provisions for Transition Period
III. Request for Additional Comments
IV. Written Comment and Public Hearing Procedures.

I. Background

On April 5, 1978, we issued a notice of inquiry (43 FR 15158, April 11, 1978) requesting public comment on simplifying the crude oil price control program by using an entitlements-based crude oil price system, rather than the present ceiling price regulations, as the primary mechanism for regulating first sale prices of domestic crude oil. We stated that the principal objectives of such a system were to expand the role of the market system in determining specific transaction prices in sales of domestic, price-controlled crude oil and to eliminate as much of the current regulatory burden on crude oil producers, resellers and refiners as possible without affecting current benefits of price controls to consumers. We also indicated that an entitlements-based crude oil price control system could permit the elimination of ceiling prices on first sales of domestic crude oil as well as price controls on crude oil resellers. We identified and requested comment on a wide variety of issues and possible regulatory actions concerning the simplification of the existing ceiling price and entitlements programs generally and the entitlements-based price control system in particular. These included the desirability of establishing the entitlement price for a calendar quarter rather than a month; the desirability and feasibility of imposing the entitlement obligation on the first purchaser of crude oil; the legality of eliminating ceiling prices on crude oil prior to May 1979 (when authority under the EPAA is discretionary rather than mandatory); and the desirability of establishing different entitlement prices for discrete gravity ranges of crude oil.

A. Discussion of Comments

In response to our April 5 notice, we received 70 written comments. Public hearings were held in Houston, Texas on May 22, 1978, at which 5 persons testified, and in Washington, D.C. on May 24-25, at which 23 persons testified. The commenters included major, large independent, and small refiners, independent producers, crude oil resellers, trade and industry associations, a consumer group, and two federal agencies.

Although the commenters were nearly unanimous in their support of any effort to remove unnecessary regulatory controls and to restore the influence of the marketplace in domestic crude oil pricing practices, a slight majority of the commenters opposed the entitlements-based price control system. Most of the firms which opposed the proposal urged us to concentrate our efforts on a phased decontrol of domestic crude oil prices rather than a new regulatory system which would perpetuate price controls. However, of the commenters which opposed the proposal, few offered substantive support for their position other than general apprehension over the uncertainties and disruptions involved in a significant change in the status quo.

The principal arguments that were raised in opposition to the entitlements-based price control system were: 1) the system would not reduce appreciably the reporting burdens for producers, refiners or resellers, and the confusion and uncertainty which normally follows any major regulatory change would outweigh the benefits of the system; 2) since the system would continue the present crude oil pricing categories, the composite price limitation, the small refiner bias and entitlements exceptions relief for particular refiners, it would not promote market-determined pricing; 3) the fluctuations

in world and domestic crude oil prices would require repeated adjustments in the pre-determined entitlement price to compensate for previous forecast inaccuracies, creating cashflow problems for many refiners and general uncertainty in the marketplace; and 4) the likely increase in low-sulfur crude oil prices would cause producers of medium and high-sulfur crude oils to lose an equivalent amount of revenues unless there were an overall rise in the average domestic crude oil price. Many of the commenters expressed the view that it would be inappropriate to adopt the proposal at this time since the composite price requirements on first sales of domestic crude oil as well as other mandatory price controls expire on May 31, 1979, and it is unclear whether the President will use his discretionary authority to continue controls.

The overwhelming majority of the small refiners who submitted comments opposed the entitlements-based price control system. In general, they argued that, without the continuation of allocation controls on crude oil, the major integrated refiners would decline to sell their production to small and independent refiners and would outbid them for production controlled by independent producers. The result for small and independent refiners would be significantly higher crude oil costs and near total dependence on imported crude oil.

Most of the commenters who supported the concept of an entitlements-based crude oil price control system contended that its successful implementation depended upon the adoption of various complementary regulatory changes. Thus, for example, several independent and major refiners argued that without modification of the small refiner bias and elimination of entitlement purchase exemptions, some refiners would be in a position to outbid all other refiners for access to crude oil from their historical sources. Many commenters stated that the present ceiling price controls should be removed immediately upon implementation of the new system to permit the market place to determine the proper differentials among different grades and qualities of crude oils. Some commenters argued that the new system would be effective only if the entitlement value varies with crude oil gravity, while others contended that a variable entitlement price would so complicate the system as to make it unworkable. Finally, as discussed more fully below, many firms expressed the view that shifting the entitlement obligation from refiners to first purchasers would facilitate the transition to an entitlements-based crude oil price system.

Both the Department of Justice and the Bureau of Competition of the Federal Trade Commission urged us to adopt the entitlements-based price control system. They both expressed the view that it would enhance significantly competition within the petroleum industry, provided that controls on first sale prices of domestic crude oil and crude oil resellers were removed and the entitlement obligation were imposed on the first sale of domestic crude oil.

We have carefully considered the written comments received and the testimony given at the public hearings. On the basis of these comments, we have decided not to propose an entitlements-based crude oil price control system at this time. Notwithstanding that the majority of the commenters opposed the proposal, the information received in this proceeding has persuaded us that such a system would accomplish the objectives which we outlined in our April 5, 1978 Notice. However, we believe it would be desirable to implement the system in phases in order to lessen the disruptive effects and uncertainties which necessarily follow a major regulatory change. Accordingly, as the first phase in the implementation of and to facilitate the transition to an entitlements-based price system, we are proposing in this proceeding to modify the structure of the entitlements program to impose the entitlement purchase obligation on the first sale of price-controlled domestic crude oil. During the pendency of this rulemaking, we will continue to evaluate the comments submitted in response to the April 5 notice, particularly the comments addressed to the eighteen specific issues raised in the notice.

As expressed in many of the comments, a first purchaser entitlements program should significantly reduce the public and private costs associated with crude oil price controls, since such a system eliminates the need for tracking the various price tiers of domestic crude oil from the wellhead to the refiner. In addition, since all transactions after the first sale would reflect the entitlement purchase obligation, such a system should help reduce the potential evasion of price controls that now can occur downstream of the producer, since there would be less opportunity for a reseller to profit from the evasion on controls. In this regard, since any evasion scheme that occurred under this system would have to occur at the production level, it should be easier to detect such conduct than it has been under the present system where miscertifications can occur anywhere between the wellhead and the refinery gate. Finally, since the entitlement purchase obligation is imposed on the first purchaser regardless of eventual end use, the proposal would eliminate the need for special regulations to include nonrefining uses of crude oil in the entitlements program.

In deciding to propose the first sale entitlements program, we gave serious consideration to the concern reflected in some comments that the addition of aproximately 100 to 150 new participants (i.e., first purchasers other than refiners) to the entitlements program potentially could create confusion and uncertainty with respect to settlement of entitlement transactions, particularly where the accountability and financial stability of a first purchaser is questionable. However, we have concluded that, on balance, the advantages of a first purchaser entitlements program outweigh these disadvantages. In any event, as discussed below, we are requesting comments on whether we should strengthen existing provisions that are designed to ensure that all firms perform reliably in the settlement of their entitlements transactions.

B. Relationship to Other Rulemakings

On November 1, 1978 (43FR 52104, November 8, 1978), we issued a notice of proposed rulemaking to expand the coverage of the entitlements program to include the nonrefining uses of price-controlled domestic crude oil. The proposal presented in this notice to shift the entitlement purchase obligation from refiners to first purchasers would automatically result in including all nonrefining uses of domestic crude oil in the entitlements program (unless a specific exception were made), since the entitlements obligation would attach at the point of first sale regardless of the ultimate use of the oil. Accordingly, the issues raised in and the comments submitted in response to the November 1 notice will be considered in the context of this rulemaking and, in the event we determine to adopt a final rule imposing the entitlement purchase obligation on first purchasers, we will terminate the nonrefining uses proceeding.

II. Proposed Amendments

A. General

Under the proposed "first purchaser" entitlements program, each first purchaser (regardless of whether the purchaser is a refiner, reseller or some other user of crude oil) of price-controlled domestic crude oil would be required to purchase one entitlement for each barrel of old oil and a fraction of an entitlement for each barrel of upper tier crude oil purchased in a month. However, consistent with our November 1 proposal with respect to nonrefining uses, first purchasers

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would not incur an entitlement obligation with respect to old oil and upper tier oil sold to producers for purposes of crude oil production, provided that the producer certifies to the first purchaser that the crude oil will be used for production purposes. We would announce the monthly entitlement prices for old oil and upper tier crude oil in advance of each calendar quarter to permit first purchasers to establish their prices to their purchasers. Thus, resellers' invoices would reflect the appropriate entitlement obligation associated with the crude oil sold.

Refiners would be issued entitlements each month based on their crude oil runs to stills multiplied by the National Domestic Crude Oil Supply Ratio (DOSR), as is presently done. As is also the case under the present entitlements program, the sale and purchase of entitlements would take place in the second month following the month in which crude oil is run to stills. Thus, although the proposal provides for the determination of the entitlement prices on a quarterly basis, first purchasers and refiners would continue to report their first sale transactions and runs to stills, respectively, on a monthly basis.

Since under this proposal all transactions after the first sale would include the entitlement obligation (except crude oil sold for purposes of crude oil production), the provision requiring resellers of crude oil to certify the volumes and per barrel prices of lower tier, upper tier, and exempt crude oil sold in each transaction could be eliminated. For the same reason, firms (except producers) which consume price-controlled domestic crude oil for nonrefining uses will obtain such crude oil subject to the cost-equalizing effects of the entitlements program. In this regard, refiners and other firms (except producers with respect to price-controlled crude oil used for production purposes) would be deemed to have crude oil runs to stills (and thus receive entitlements) for any volume of domestic crude oil consumed for nonrefining uses.

B. PRINCIPAL DEFINITION CHANGES

Under the proposal, "first purchaser" would be defined in § 211.62 as any firm which acquires domestic crude oil in the "first sale" as that term is defined in § 212.72 of the Mandatory Petroleum Price Regulations. Since "first purchasers" rather than refiners would incur the entitlement obligations for purchases of price-controlled domestic crude oil, the term "entitlement" in § 211.62 would be redefined as the right for a particular month of a first purchaser to include one barrel of deemed old oil in its adjusted crude oil purchases in that month. Similarly, since first purchasers would not be required to certify the volumes of lower tier, upper tier and exempt crude oils sold in each transaction, and thus refiners would not report their receipts of these crude oil pricing categories, the numerator of the "National domestic crude oil supply ratio", as defined in § 211.62, would be based on the adjusted purchases of all first purchasers, rather than the "adjusted crude oil receipts" of all refiners, as is done currently.

The proposed regulations also would add a new definition of "adjusted crude oil first purchases" to provide for reporting by first purchasers of retroactive adjustments on a current basis in the same manner that refiners presently report such adjustments under the definition of "adjusted crude oil receipts." In this regard, as discussed more fully below, we are proposing to amend § 211.67(j) of the entitlements program regulations to permit first purchasers, as well as refiners, to correct clerical and other "reporting errors" by the filing of amended monthly reports.

C. EFFECT OF PROPOSAL ON FIRST PURCHASERS

The principal regulatory change to the entitlements program under this proposal is an amendment to § 211.67(b) [Required purchase of entitlements by refiners] to require each first purchaser of price-controlled domestic crude oil to purchase one entitlement for each barrel of old oil and a fraction of an entitlement for each barrel of upper tier crude oil purchased in a month. Refiners that own and consume their own crude oil production would, of course, be first purchasers as to that production, since the definition of "first sale" in § 212.72 of the price regulations provides that in the case of transfers between affiliated entities, the "first sale" will be imputed to occur as if in arms-length transactions.

As discussed above, imposing the entitlement purchase obligation on the first sale of price-controlled domestic crude oil automatically would include nonrefining uses of crude oil in the entitlements program since, in the absence of an express exemption, all transactions after the first sale would reflect the entitlement purchase obligation. However, consistent with our November 1 proposal to include nonrefining uses of price-controlled crude oil within the entitlements program, the proposed amendment to § 212.67(b) would exempt from the entitlement purchase obligation sales of lower tier and upper tier crude oil to crude oil producers for purposes of crude oil production, provided that the producer-purchaser certifies to the seller (first purchaser) that the crude oil would be used for production purposes.

On June 15, 1978 (43 FR 26540, June 20, 1978), we adopted a graduated system of reducing the entitlement obligations of (that is, increasing the number of entitlements issued to) refiners which report low-gravity California lower tier and upper tier crude oil in their adjusted crude oil receipts based on the weighted average gravity of the crude oil. Under the first purchaser system, we propose to give effect to these adjustments for California price-controlled crude oil at the first-purchaser level. Accordingly, the proposed amendment to § 211.67(b) provides a graduated system for reducing the entitlement obligations of first purchasers of California lower tier and upper tier crude oil that is similar to the system which we adopted on June 15, 1978. Since resellers play a relatively small role in the distribution of California crude oil, we believe that this approach will not frustrate our objectives underlying the June 15, 1978 amendments of better equalizing the after-entitlement costs to refiners of controlled and uncontrolled crude oil in California and providing greater incentives for refiners to purchase price-controlled California crude oil at prices that will enhance the potential for maximum domestic crude oil production. However, comments are sought on the impact, if any, of giving effect to the California entitlement adjustments at the first purchaser level on the wellhead prices of price-controlled California crude oil.

Since all transactions after the first sale, regardless of the pricing category of the crude oil involved, would be based on a price which includes the entitlement cost, the proposed regulations delete the certification requirement in § 212.131(b) applicable to resales of price-controlled domestic crude oil. The deletion of the certification requirements should substantially lessen the current regulatory burden on crude oil resellers and the potential for price violations by resellers based on miscertifications.

We would publish the entitlements notice specified in § 211.67(i) in the second month following the transaction month, as is currently done. § 211.67(i) would be amended to provide that the list would specify the number of barrels of deemed old oil purchased by each first purchaser and the number of entitlements required to be purchased by each first purchaser. With regard to first purchasers that are also refiners, the entitlements list would specify the entitlement obligations net of entitlement issuances and, if appropriate, the entitlement issuances net of entitlement obligations.

§ 211.67(i) also would be amended to provide that, in advance of each calendar quarter, we would fix the price at which entitlements would be sold and purchased in each month of the quarter. The entitlement price under this proposal would be established to accomplish the objective under the present entitlements program of roughly equalizing refiners' crude oil acquisition costs.

Since the entitlement prices would be established in advance of each quarter, it will be necessary for us to project the weighted average delivered costs to refiners of imported and domestic crude oils for the quarter. In the case of *domestic* crude oils, these projections would be based on available historical data and projected first sale price increases. The projections regarding old oil and upper tier crude oil would, of course, be consistent with the schedule of monthly first sale price adjustments for the quarter.

With the elimination of the tier certification requirement, refiners would not report to us their weighted average *delivered* costs of domestic crude oils by tier. Consequently, in projecting the delivered costs of domestic crude oils, it would be necessary for us to impute the national average cost of transporting domestic crude oils from the lease to the refinery. In this regard, we are proposing to require refiners to continue reporting their receipts and delivered costs of Alaska North Slope (ANS) and Naval Petroleum Reserves (NPR) crude oils. Since ANS and NPR crude oils are not typically sold through resellers, we believe that refiners would be able to identify and report their delivered costs of such crude oils.

In light of these considerations, proposed § 211.67(i)(4) provides that the entitlement price would be calculated as the difference between the projected weighted average delivered cost per barrel to refiners of old oil and such projected weighted average delivered cost of imported crude oil, ANS crude oil, stripper well crude oil, incremental tertiary crude oil and other exempt domestic crude oils. Consistent with our recent notice of proposed rulemaking (43 FR 52186, November 8, 1978) regarding incentives to promote increased production of domestic crude oil, the above method for calculating the entitlement price would eliminate the current 21¢ penalty for refiners' receipts of imported crude oil. As we indicated in the November 8 notice, we have tentatively concluded that the 21¢ penalty may be imposing an inappropriate burden on those refiners that are dependent upon imported crude oil.

We invite comments on the appropriateness and feasibility of calculating the entitlement price in the manner described above. You are encouraged to offer alternative calculation methods. In particular, we request comments on the feasibility of establishing a single entitlement price for an entire quarter, rather than a separate entitlement price for each of the three months of the quarter, as proposed.

Finally, we are proposing to amend § 211.67(m) [Adjustments to crude oil and product costs] to permit first purchasers that are crude oil resellers to pass through the cost of entitlements to their purchasers. Proposed § 211.67(m)(2)(ii) would permit crude oil resellers to include in their monthly "costs and expenses associated with sales of crude oil," as defined in § 212.182 of the reseller price regulations contained in Subpart L of Part 212, the entitlement obligations incurred with respect to the crude oil sold in that month.

D. EFFECT OF THE PROPOSAL ON REFINERS AND NONREFINING END-USERS

Generally speaking, the shifting of the entitlement purchase obligation with respect to price-controlled domestic crude oil from refiners to first purchasers should lessen the current regulatory burden for refiners, inasmuch as refiners would not be required to keep track of and report to us the volumes and costs of lower tier, upper tier and exempt crude oil included in their crude oil receipts each month. In this regard, the current provisions designed to require refiners to account for price-controlled domestic crude oil as to which they have received the competitive benefits associated with its lower acquisition cost would be eliminated. Thus, the proposed regulations would delete the present provisions applicable to exchanges of crude oil (§ 211.67(g)) and certification by non-refiners (§ 211.67(l)). An exception is § 211.67(f), which governs transactions under the crude oil buy/sell program (§ 211.65). § 211.67(f) would be amended to provide that where a refiner-seller arranges for a refiner-buyer to acquire Price-controlled crude oil in a first sale to satisfy the refiner-seller's sales obligation under § 211.65, the refiner-seller would be deemed to be the first purchaser.

With the exception of the amendment discussed above applicable to entitlement adjustments for California price-controlled crude oil, imposing the entitlement purchase obligation on first purchasers would not involve a change in other special entitlements adjustments provisions, such as, for example, the provisions regarding the small refiner bias,[1] petroleum substitutes, and East Coast residual fuel oil.

[1] On November 14, 1978, the ERA proposed amendments to the entitlements program to reduce the level of benefits received under the small refiner bias (43 FR 54652, Novermber 22, 1979).

Since refiners and other firms (except producers with respect to crude oil used for production) would acquire all price-controlled domestic crude oil, regardless of its end use, subject to the cost-equalizing effect of the entitlements program, the cost for such volumes would be approximately equivalent to the weighted average cost of uncontrolled crude oil. Proposed § 211.67(d)(9) provides that a refiner's crude oil runs to stills would (except for purposes of computing the small refiner bias) be deemed to include those volumes of domestic crude oil consumed by that refiner as other than a refinery feedstock. Proposed § 211.67(d)(10) would provide for entitlement issuances to firms other than refiners on the same basis as a refiner with respect to those volumes of domestic crude oil consumed for nonrefining uses. The effect of these provisions would be to render the after-entitlement cost for domestic crude oil consumed for nonrefining uses equivalent to the cost of crude oil used as a refinery feedstock.

E. REPORTING REQUIREMENTS FOR FIRST PURCHASERS, REFINERS, AND NONREFINING END-USERS

In order to implement the proposed first purchaser program, we are proposing to amend the refiner reporting requirements contained in § 211.66 and the reporting forms for first purchasers (FEA-P124-M-1) and refiners (ERA-49) currently used in connection with the entitlements and crude oil price control programs. Section 211.66(h) [Monthly report] presently requires refiners to report the volumes and costs by tier of all crude oils included in their crude oil receipts each month. The proposed amendment to § 211.66(h) would require refiners to report the total volumes and average costs of all domestic crude oil (excluding ANS and NPR crude oils), ANS and NPR crude oils, an imported crude oil included in their crude oil receipts in the second month prior to the month in which the report is filed. In addition, refiners would be required to report the volumes of domestic crude oil consumed for purposes other than refining (excluding lease use). Finally, refiners would be required to report their crude oil runs to stills for the reporting month, as is currently done.

We are proposing to revise the present first purchaser reporting form (FEA-P124-M-1) to require the following new information of first purchasers (including refiners that are first purchasers):

(a) The volumes (separately stated) of lower tier crude oil and upper tier crude oil (i) consumed by the first purchaser on a lease for crude oil production purposes and (ii) sold to a produc-

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er for consumption on a lease for crude oil production purposes.

(b) The volumes and weighted average gravity of California lower tier crude oil and upper tier crude oil included in the first purchases.

(c) Any permitted or requried adjustments to the volumes of lower tier, upper tier and California lower tier and upper tier crude oil included in the purchases of the first purchaser.

For firms other than refiners and producers which consume domestic crude oil for a nonrefining use, proposed § 211.66(l) would require such firms to report the volumes of domestic crude oil so consumed for purposes of receiving entitlements. Finally, the proposed amendments to § 211.66(i) would require any firm (that is, first purchaser, refiner and nonrefining user of crude oil) which is required to buy or sell entitlements to file the monthly entitlement transaction report specified in § 211.66(i). Currently, only refiners and "eligible firms" are required to file this form.

We are interested in receiving specific comments on the reporting requirements as proposed and, in particular, whether any further modifications to the reporting requirements should be made.

F. SPECIAL PROVISIONS FOR TRANSITION PERIOD

In the event we adopt a final rule imposing the entitlement purchase obligation on first purchasers, it will be necessary to ensure that all price-controlled domestic crude oil is properly accounted for during the transition period between the present entitlements program and the first purchaser entitlements program. Thus, under proposed § 211.67(n), the provisions of §§ 211.62, 211.66, and 211.67, as they existed prior to the effective date of the final rule, would govern entitlement issuances and purchase requirements after the effective date with respect to receipts and runs to stills of price-controlled domestic crude oil prior to the effective date of the proposed rule. To illustrate, if the proposal were adopted effective April 1, 1979, in April and May refiners would be required to file with the ERA the monthly report specified in § 211.66 with respect to their crude oil receipts and runs to stills in February and March, respectively, pursuant to the regulations in effect prior to April 1, 1979. Similarly, ERA would issue in April and May the entitlement notice for February and March, respectively, and refiners would be required to consummate their entitlement purchase and sale transactions for February and March by the end of April and May, respectively, pursuant to the regulations in effect prior to April 1, 1979.

Proposed § 211.67(n) also provides that any price-controlled domestic crude oil purchased (including crude oil in transit or in inventory) prior to the effective date of this proposed rule and sold after such effective date would be deemed, in this one instance only, to be a first purchase of price-controlled domestic crude oil in the month following the effective date of the proposed rule. In addition, any volume of crude oil received by any firm *after* the effective date of the proposed rule pursuant to an exchange subject to present § 211.67(g) in which price-controlled domestic crude oil was given up *prior* to the effective date of the rule would be deemed to be a first purchase of price-controlled domestic crude oil at the time it is received. In the event this proposal is adopted, we will take appropriate measures to ensure that no price-controlled domestic crude oil is unaccounted for during the transition between the present program and the first purchaser program.

The following two examples will illustrate the operation of proposed § 211.67(n). For the purposes of these examples, assume that the entitlement obligation is imposed on first purchases effective April 1, 1979. In the first example, a firm purchases lower tier crude oil in March 1979 and sells that crude oil in April. Under proposed § 211.67(n), the firm which sold the crude oil after April 1 (irrespective of whether it is a first purchaser of the crude oil) would be considered a first purchaser of the crude oil and would be required to include the crude oil in its adjusted crude oil purchases for April (which would be reported in June). Thus, the firm would be required to satisfy the entitlement purchase requirement associated with the crude oil.

For the purposes of the second example, assume that Refiner a acquires lower tier crude oil in March and enters into an exchange agreement with Refiner B whereby Refiner A will deliver the lower tier crude oil to Refiner B on March 30 in exchange for crude oil to be delivered April 15.[1] Under proposed § 211.67(n), Refiner A would be required to treat the crude oil received April 15 as a first purchase of *lower tier* crude and therefore satisfy the entitlement obligation associated with the lower tier crude oil.

III. REQUEST FOR ADDITIONAL COMMENTS

Comments are requested on all aspects of the proposed first sale entitlements program described in this notice. You are encouraged to provide your own analysis of any regulatory problems which could develop if the proposal is adopted and to recommend alternatives to the regulatory provisions set forth in this notice. In addition to the specific comments requested in other sections of this notice, we invite comments on the issues discussed below:

1. Shifting the entitlement purchase obligation from refiners to first purchasers may pose a cash flow problem (that is, a requirement for increased working capital) in the second month following the adoption of the first purchaser system for certain refiners that acquire price-controlled crude oil from first purchasers/resellers. The following example illustrates this potential cash flow problem.

For the purposes of the example, assume that the entitlement purchase obligation is imposed on first purchasers effective April 1, 1979 and that a refiner purchases and receives delivery of deemed old oil from a reseller in April. In May, when the reseller's invoice normally is payable, the refiner would be required to pay to the reseller a price for the oil that will reflect the entitlement obligation the reseller has paid on the deemed old oil. The total will be approximately equal to the market price for uncontrolled oil.

Under the current entitlements program, the refiner would not have been required to buy entitlements until the *second* month (*i.e.*, June) after the receipt of the deemed old oil. As is done currently, under the proposal the refiner would not receive entitlement issuances for its April runs to stills until June. Thus, in May the refiner would be required to make a cash outlay for crude oil at market prices irrespective of whether it would have been a purchaser or seller of entitlements under the present program.

This cash flow problem does not apply to refiners which purchase crude oil directly from the producer (or from their own production division) as opposed to through a reseller. As first purchasers, such refiners would not be required to buy entitlements for April crude oil receipts until June, when they receive entitlement issuances for their April runs to stills.

We have not been able to determine whether and to what extent refiners will experience a cash flow problem of the type described above. However, it appears that the impact, if any, of the cash flow problem would be greatest upon small refiners (those having refining capacity less that 175,000 barrels per day), since many of them purchase a significant portion of their crude oil supply through resellers and they may not have, or be unable to borrow, sufficient working capital to finance the entitlement obligations in the second month of the first purchaser system.

We invite comments on all aspects of the cash flow problem. In particular, comments are requested on whether you believe that refiners would be able to recover any increased working capital costs in the marketplace. If not, is it desirable and necessary to adopt a regulatory provision designed to alleviate the cash flow problem? What type of provision would be appropriate? Should all small refiners that acquire price-controlled domestic crude oil from resellers be eligible for such relief, or would it be appropriate to limit the relief to only the smallest small refiners (for example, those with capacity under 50,000 barrels per day), or only to small refiners with a demonstrated hardship? Should refiners other than small refiners be eligble for such relief? Commenter who believe they would experience a cash flow problem of the type described above are requested to submit detailed financial data which would show the nature and magnitude of the problem.

2. Some crude oil resellers also may experience a cash flow change as a result of imposing the entitlement obligation on first purchasers. Thus, for example, where there are two or more resellers in the distribution chain between the producer and the ultimate refiner purchaser, the reseller purchasing deemed old oil from a first purchaser would be required to pay the first purchaser a price for the oil that reflects the first purchaser's entitlement obligation. The second reseller may experience a cash flow change if it is required to make full payment to the first purchaser before it sells the crude oil to a refiner. Although we anticipate that resellers would adjust their business arrangements to avoid problems from such changes in cash flow, we invite comments on the necessity of a regulatory provision that deals with this potential problem.

3. A number of refiners have expressed concern to us that under the present entitlements program refiners that are dependent upon imported crude oil and thus are required to sell entitlements are penalized by the time lag between the time such crude oil is booked into inventory and receipt of entitlements revenues. For example, a refiner that processes imported crude oil currently carries $1.42 (the value of the runs credit in September) per barrel of inventory cost on behalf of the refiner that processes lower tier crude oil for about 75 days. Assuming a marginal cost of money of 10% per annum, this cost to the imported crude oil refiner is approximately 3¢ per barrel in carrying charges. On the other hand, the refiner processing lower tier crude oil enjoys a benefit of approximately 14¢ per barrel, inasmuch as it has the use of the net entitlement obligation (approximately $6.71 for September 1978) for this 75-day period.

Under a first purchaser entitlements program, refiners that acquire price-controlled domestic crude oil from resellers may incur a similar penalty since they would be required to pay the resellers the entitlement obligations associated with crude oil receipts in a particular month approximately five weeks before they receive entitlement issuances for their runs to stills in that month. The resellers, of course, would enjoy the benefit of the use of the entitlement monies for this five-week period.

We are interested in receiving comments on all aspects of this issue and, in particular, the desirability and feasibility of a regulatory solution, such as, for example, establishing a separate entitlement price that would reflect the time value of the entitlement price for firms that may be penalized in the manner described above.

4. As indicated above, a number of the comments submitted in response to our April 5 notice on Simplification of Crude Oil Price Controls expressed concern that some first purchasers may not perform reliably in the entitlements market. Specifically, some refiners expressed the belief that certain resellers which enter the market only occasionally as first purchasers may be difficult to identify or may attempt to avoid their entitlement purchase obligations. We invite comments on whether we should adopt regulatory measures to deal with this problem and, if so, what type of measures would be the most effective and the least burdensome. For example, would it be desirable and feasible to require first purchasers to deposit their entitlement monies with a central or regional escrow agent, who would then purchase entitlements from refiners? Should all first purchasers be subject to such a requirement? If not, what criteria should we use to determine which resellers would be subject to the requirement?

In addition to or in lieu of the escrow agent mechanism, should we adopt a provision that would permit us to impose sanctions against any firm which fails to purchase or sell entitlements and, if so, what type of sanctions? We are particularly interested in receiving specific and detailed comments on this issue and, if warranted, we may adopt one or more measures designed to ensure that all firms perform reliably in purchasing and selling entitlements.

5. Under our November 1, 1978 nonrefining uses proposal, refiners and non-refiners (except producers with respect to crude oil used for crude oil production) would receive entitlements only for lower tier and upper tier crude oil consumed for nonrefining uses. However, under this proposal such firms would receive entitlements for nonrefining uses of *all* domestic crude oil, since the elimination of the § 212.131(b) certification requirement would make it impossible for them to distinguish between price-controlled and uncontrolled domestic crude oil. We invite comments on whether such firms should also receive entitlements for imported crude oil consumed for nonrefining uses. In addition, comments are sought on whether any nonrefining uses (for example, crude oil used for bunker fuel) should be ineligible for entitlement issuances.

6. Under present § 211.67(j), in adjusting entitlement issuances or purchase requirements to reflect refiners' reporting errors, we are required to give effect to any differential between the entitlement price for the month in which the correction is reflected as compared with the entitlement price for the month as to which the reporting error is made. We invite comments on whether § 211.67(j) should be amended to provide that such adjustments also would give effect to any change in the domestic crude oil supply ratio.

IV. WRITTEN COMMENT AND PUBLIC HEARING PROCEDURES

A. WRITTEN COMMENTS

You are invited to participate in this proceeding by submitting data, views or arguments with respect to the proposals set forth in this notice of proposed rulemaking. Comments should be submitted by 4:30 p.m., e.s.t., March 23, 1979 to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "First Purchaser Entitlements Program." Fifteen copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. PUBLIC HEARINGS

1. *Procedure for Request to Make Oral Presentation.* The times and places for the hearings are indicated in the "Dates" and "Addresses" sections of this preamble. If necessary to present all testimony, a hearing will be continued to 9:30 a.m. of the next

[1] Under present § 211.67(g); Refiner A is deemed to retain the lower tier crude oil exchanged away and is required to include the lower tier crude oil in its crude oil receipts at the time the imported crude oil constitutes a crude oil receipt, that is, after April 15.

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business day following the first day of the hearing.

If you have any interest in the proposals in this notice, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation by 4:30 p.m., e.s.t., March 2, 1979. You should be prepared to give a concise summary of the proposed oral presentation. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., e.s.t., March 6, 1979, and will be required to submit one hundred copies of your statement to the appropriate address indicated in the "Addresses" section of this preamble before 4:30 p.m., e.s.t. on March 12, 1979 for the Washington, D.C. hearing and, for the Denver hearing, to the hearing room by 9:30 a.m. of the date of the hearing.

2. *Conduct of the Hearings.* We reserve the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at each of the hearings. These will not be judicial-type hearings. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at either of the hearings to the addresses indicated above for requests to speak before 4:30 p.m., of the day before the hearing. If you wish to have a question asked at a hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officer.

Transcripts of the hearings will be made and the entire record of each of the hearings, including the transcripts, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of a hearing from the reporter.

As required by section 7(a)(1) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

Executive Order 12044 (43 FR 12661, March 24, 1978) requires that a regulatory analysis be prepared for all regulations which will result in "an annual effect on the economy of $100 million or more" or will result in "a major increase in costs or prices for individual industries, levels of government or geographic regions." We have determined that neither of these threshold criteria for the preparation of a regulatory analysis is met by the proposed rule. However, since the proposal involves significant regulatory changes, we have prepared a preliminary regulatory analysis which examines the various potential impacts of the proposal. Copies of the preliminary regulatory analysis may be obtained from ERA's Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C. You are invited to provide comments on the preliminary regulatory analysis at the time you submit comments on the proposed rule. Such comments will be taken into account before the preparation of a final regulatory analysis on any final rule that may be adopted.

Pursuant to the requirements of section 404(a) of the Department of Energy Organization Act (Pub. L. 95-91), this proposed rule is being referred, concurrently with the issuance hereof, to the Federal Energy Regulatory Commission for a determination whether the proposed rule may significantly affect any function within the Commission's jurisdiction pursuant to section 402 (a)(1), (b), and (c)(1) of the Act.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Parts 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, are proposed to be amended as set forth below.

Issued in Washington, D.C., January 19, 1979.

DAVID J. BARDIN,
Administrator,
Economic Regulatory Administration.

1. Section 211.62 is amended by adding the definitions of "Adjusted crude oil purchases" and "First purchaser" in proper alphabetical order, and by revising the definitions of "Entitlement," "National domestic crude oil supply ratio," "Old oil," and "Upper tier crude oil" to read as follows:

§ 211.62 Definitions.

* * * * *

"Adjusted crude oil purchases" means the crude oil purchases of a first purchaser in a particular month the composition of which has been adjusted to reflect any invoice which is received in that month for domestic crude oil purchased by that first purchaser in any previous month, and which has the effect of increasing or decreasing the volume of old or upper tier crude oil reported by that first purchaser for such previous month, in cases where such previously reported volume was based on either a prior invoice or a good faith estimate (based on that first purchaser's past experience as to the old and upper tier crude oil content of domestic crude oil of the same origin) as to the old and upper tier crude oil content of that crude oil delivery.

* * * * *

"Entitlement" means, for a particular month the right of the first purchaser owning the entitlement to include one barrel of deemed old oil (as provided in § 211.67(b)), in its adjusted crude oil purchases in that month. The issuance and transfer of entitlements shall be evidenced on records maintained by the ERA.

* * * * *

"First purchaser" means any firm which acquires domestic crude oil in the first sale as defined in § 212.72 of this chapter.

* * * * *

"National domestic crude oil supply ratio" means, for a particular month, the volume of deemed old oil (as defined in § 211.67(b)(2)) included in the aggregate adjusted crude oil purchases of all first purchasers, decreased by a number of barrels of old oil equal to the number of entitlements issuable to small refiners under § 211.67(e) and the number of entitlements deducted from the entitlement purchase requirements of all first purchasers under § 211.67(b)(3) and the number of entitlements issuable under § 211.67(a)(5), divided by the sum of the total volume of the crude oil runs to stills for all refiners for that month and thirty percent (30%) of the total volume of imports of eligible products by eligible firms for that month, *provided* that, for the period July 1, 1978 through June 30, 1979, the reference herein to thirty percent (30%) shall read fifty percent (50%). The calculation of the national domestic crude oil supply ratio for each month shall take into account entitlement purchase or sale requirements resulting from the correction of reporting errors pursuant to paragraph (j) of § 211.67.

* * * * *

"Old oil" means old crude oil as defined in §§ 212.72 and 212.75 of this chapter, except that old oil included in a first purchaser's adjusted crude oil purchases or a refiner's adjusted crude oil receipts shall not include condensate recovered at the inlet side of a gas processing plant.

* * * * *

"Upper tier crude oil" means, (i) for the period February 1, through August 31, 1976, new crude oil as defined in §§ 212.72 and 212.75 of this chapter and crude oil produced and sold from a stripper well lease as defined in § 212.74 of this chapter, and (ii) effective September 1, 1976, new crude oil as defined in §§ 212.72 and 212.75 of this chapter, except that upper tier crude oil included in a first purchaser's adjusted crude oil purchases or a refiner's adjusted crude oil receipts shall not include condensate recovered at the inlet side of a gas processing plant.

* * * * *

2. Section 211.66 is amended by revising paragraphs (h) and (i) and by adding a new paragraph (l) to read as follows:

§ 211.66 Reporting requirements.

* * * * *

(h) *Monthly report.* On or prior to the fifth day of each month, commencing with the month of ———, 1979, each refiner shall file with the ERA a report certifying the following information as to the second month prior to the month in which the report is filed:

(1) The estimated volume (to the best of the knowledge of the certifying officer) of domestic crude oil (excluding Alaska North Slope and Naval Petroleum Reserve crude oils) included in the crude oil receipts of that refiner.

(2) The estimated volumes (to the best of the knowledge of the certifying officer), stated separately, of Alaska North Slope and Naval Petroleum Reserve crude oils included in the crude oil receipts of that refiner.

(3) The volume of crude oil runs to stills of that refiner, taking into account, and specifying the amount of, the adjustments provided for in § 211.67(d).

(4) The volume of domestic crude oil consumed by that refiner for purposes other than refining.

(5) The weighted average costs (including transportation costs to the refinery) for that refiner for (i) domestic crude oils (excluding Alaska North Slope and Naval Petroleum Reserve crude oils), (ii) Alaska North Slope and Naval Petroleum Reserve crude oils, and (iii) imported crude oil included in that refiner's crude oil receipts. For refiners required to file transfer pricing report forms under § 212.84 of this chapter, the weighted average cost of imported crude oil reported under this subparagraph should be derived from the landed costs set forth in such reports.

(6) Such other information as the ERA may request.

(i) *Monthly transaction report.* On or prior to the tenth day of each month, commencing with the month of ———, 1979, each refiner, eligible firm, first purchaser or other firm that was required to purchase or sell entitlements for the third month prior to the month in which the report is filed shall file with the ERA a report certifying its purchases or sales of entitlements for that prior month.

* * * * *

(l) *Special report for crude oil consumed for non-refining uses.* On or prior to the fifth day of each month, commencing with the month of ———, 1979, each firm other than a refiner or producer (with respect to crude oil consumed on the lease for crude oil production purposes) that purchases domestic crude oil for consumption by that firm for purposes other than refining shall file with the ERA a report certifying the volumes of domestic crude oil so consumed.

3. Section 211.67 is amended by deleting the last sentence of subparagraph (2) of paragraph (a), by deleting subparagraph (4) of paragraph (a), by renumbering subparagraph (5) of paragraph (a) as subparagraph (4), by revising paragraphs (b) and (c), by adding new subparagraphs (9) and (10) to paragraph (d), by revising paragraph (f), by deleting paragraphs (g) and (h) and reserving them for future use, by revising subparagraphs (1), (2) and (4) of paragraph (i), by revising subparagraphs (1) and (3) of paragraph (j), by revising paragraph (k), by deleting paragraph (l) and reserving it for future use, by revising subparagraph (2) of paragraph (m), and by adding a new paragraph (n) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(b) *Required purchase of entitlements by first purchasers.*

(1) For each month, commencing with the month of ———, 1979, each first purchaser of domestic crude oils the first sale of which is subject to the provisions of Part 212 of this chapter shall purchase a number of entitlements effective for that month equal to the number of barrels of deemed old oil purchased by that first purchaser in that month; *provided that* this subparagraph (1) of paragraph (b) shall not apply to purchases of lower tier or upper tier crude oil sold to crude oil producers for purposes of crude oil production, provided that the producer certifies to the seller that the crude oil will be used for production purposes. Entitlement purchases required under this paragraph (b) with respect to a particular month shall be effected by the close of the second month following that month.

(2) To calculate the number of barrels of deemed old oil included in a first purchaser's adjusted crude oil purchases for purposes of the definition of national domestic crude oil supply ratio in § 211.62 of this subpart, each barrel of old oil shall be equal to one barrel of deemed old oil and each barrel of upper tier crude oil shall constitute a fraction of a barrel of deemed old oil, such fraction to be fixed by the ERA by the ——— day of the month preceding the calendar quarter for which such fraction shall be effective.

(3) For each month, commencing with the month of ——— 1979, the number of entitlements required to be purchased under paragraph (b)(1) of this section by each first purchaser shall be decreased by: (i) the number of barrels of California lower tier crude oil purchased by that first purchaser in that month multiplied by a fraction, the numerator of which is $2.38 plus or minus $.09 for each degree API gravity (or fraction thereof) by which the weighted average gravity of all California lower tier crude oil purchased in that month either falls below or exceeds, respectively, 18 degrees API, and the denominator of which is the entitlement price for that quarter; and (ii) the number of barrels of California upper tier crude oil purchased in that month multiplied by a fraction, the numerator of which is $1.45 plus or minus $.09 for each degree API gravity (or fraction thereof) by which the weighted average gravity of all California upper

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tier crude oil purchased in that month either falls below or exceeds, respectively, 18 degrees API, and the denominator of which is the entitlement price for that quarter; *provided that* the dollar value by which the entitlement obligation is reduced for a barrel of such California crude oil shall not exceed the dollar value of the entitlement obligation associated with such crude oil. Each first purchaser shall calculate and report the weighted average gravity of California lower tier crude oil and California upper tier crude oil separately, and in calculating such weighted average gravities shall (A) determine the gravity of such crude oil for each purchase of such crude oil in that month on the basis of the gravity of such crude oil at the time it is purchased and (B) determine a single monthly weighted average gravity for such crude oil by weight averaging (on a volumetric basis) all of such crude oil purchased in that month.

• • • • •

(c) *Refiners and other firms issued entitlements.* For each month, commencing with the month of ———, 1979, each refiner that has been issued entitlements for that month shall sell such entitlements and any firm other than a refiner, including any eligible firm as defined in § 211.62, that has been issued entitlements shall sell such entitlements.

• • • • •

(d) *Adjustments to volume of crude oil runs to stills.*

• • • • •

(9) Commencing with the month of ———, 197—, the volume of a refiner's crude oil runs to stills in a particular month for purposes of the calculations in paragraph (a)(1) of this section and the calculations for the national domestic crude oil supply ratio (without giving effect to the provisions of paragraph (e) of § 211.67) shall include the number of barrels of crude oil consumed (other than as a refinery feedstock) by that refiner or blended into a refined petroleum product or residual fuel oil by that refiner and sold to any firm other than a refiner for consumption by that firm for purposes other than refining.

(10) Notwithstanding any other provisions of this section, any firm other than a refiner shall be eligible for entitlement issuances on the same basis as a refiner under paragraph (d)(9) of this section with respect to those volumes of crude oil consumed by that firm for purposes other than refining; *provided* that, this subparagraph (10) shall not apply to those volumes of crude oil consumed by a producer for purposes of crude oil production.

• • • • •

(f) *Transactions under § 211.65.* Effective for sales for the allocation period commencing ——— , 1979 under § 211.65 of this subpart, and notwithstanding the provisions of subparagraph (1) of paragraph (b) of this section, a refiner-seller shall be deemed to be a first purchaser as to any volume of domestic crude oil acquired by a refiner-buyer in a first sale as defined in § 212.72 of this chapter, where such first sale is made to satisfy such refiner-seller's sales obligations under § 211.65 of this subpart.

(g) *Reserved.*

(h) *Reserved.*

(i) *Issuance and transfer of entitlements.* (1) The ERA shall issue entitlements for each month (effective for the month of ——— 1979 and subsequent months) pursuant to a notice issued on the fifteenth day of the second month following that month.

(2) Each notice published by the ERA evidencing the issuance of entitlements under this section shall specify as to a particular month the national domestic crude oil supply ratio, the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil purchased by each first purchaser, the number of entitlements issued to each such refiner or other firm, the number of entitlements required to be purchased or sold by each such refiner, first purchaser or other firm, and the price at which entitlements shall be purchased and sold.

• • • • •

(4) On or about the tenth day preceding each calendar quarter, the ERA shall fix and publish the prices at which entitlements shall be sold and purchased for each month during the calendar quarter. The entitlement price shall be equal to the differential between the projected weighted average cost per barrel to refiners of old oil, and such projected weighted average costs of imported crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), and other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter, such costs to be equivalent to the projected delivered costs to the refinery.

• • • • •

(j) *Reporting errors.* (1) Refiners, first purchasers and other firms, including eligible firms, shall correct any errors contained in reports filed pursuant to § 211.66, or reports filed pursuant to statutory authority, by filing an amended report for the particular month. Based on any reporting errors so corrected, the ERA in its discretion may adjust entitlement issuances to the refiner or other firm or adjust the entitlements purchase obligations of the first purchaser, refiner or other firm in one or more months subsequent to the month in which the amended report is filed with the ERA, by issuing fewer entitlements than the number otherwise issuable, by requiring the refiner or eligible firm to purchase entitlements in order to correct for excess entitlements issued in a prior month or by issuing entitlements over and above the number otherwise issuable to compensate for too few entitlements having been issued in such prior month or by requiring a first purchaser to purchase entitlements to compensate for insufficient entitlement purchase obligations for a prior month. All entitlement issuances or purchase requirements under this subparagraph shall give effect to any differential between the entitlement price for the month in which any correction is reflected as compared with the entitlement price for the month as to which the reporting error was made (except with respect to corrections to volumes of crude oil runs to stills where a corresponding adjustment to crude oil receipts was made as contemplated by the term "adjusted crude oil receipts" in § 211.62) and such other factors as the ERA deems appropriate.

• • • • •

(3) For purposes of this paragraph, errors required to be corrected by the filing of amended reports include (i) clerical errors, and (ii) inaccurate estimates as to the domestic crude oil pricing composition of a particular volume of crude oil where the refiner or first purchaser had no basis, in prior experience or otherwise, on which to make that estimate.

• • • • •

(k) *Failure to consummate transactions.* The ERA may direct first purchasers, refiners or other firms, including eligible firms, that have not purchased the required number of entitlements under this section for a particular month to purchase such required number of entitlements at a price specified by the ERA from any first purchaser, refiner or other firm, including an eligible firm, that has entitlements for such month available for sale. The ERA may direct first purchasers, refiners, or other firms, including eligible firms, that have entitlements available for sale to sell such entitlements at a price specified by the ERA to first purchasers, refiners, or other firms, including eligible firms,

that have not purchased their required number of entitlements under this section.

(l) *Reserved.*

(m) *Adjustments to crude oil and product costs.*

• • • • •

(2) *Resellers and retailers.* (i) The sales revenues from entitlements sold pursuant to this section by resellers or retailers of refined petroleum products and residual fuel oil shall be subtracted from the cost of the product in inventory for which the entitlements were issued, so as to reduce the weighted average unit cost of that product in inventory computed pursuant to § 212.92 of this chapter.

(ii) The reseller's costs and expenses associated with sales of crude oil as defined in § 212.182 of this chapter in a month may include the cost of entitlements associated with the crude oil sold in the month.

• • • • •

(n) *Savings provision; deemed old oil purchased prior to ———, 1979 and sold after ———, 1979.* (1) The provisions of this section and §§ 211.62 and 211.66 as in effect on ———, 1979 shall govern entitlement purchase and sale requirements which arise after ———, 1979 with respect to refiners' crude oil runs to stills and adjusted crude oil receipts for any month prior to ———, 1979.

(2) Any firm that purchased old oil or upper tier crude oil prior to ———, 1979 and sells such crude oil after ———, 1979, shall be deemed a first purchaser as to such crude oil, irrespective whether the firm acquired the crude oil in a first sale as defined in § 212.72 of this chapter, and shall include the volumes of such crude oil in its adjusted crude oil purchases for the month of ———. In addition, any firm which receives crude oil after ———, 1979, pursuant to an exchange or matching purchase and sale transaction of the type described in paragraph (g)(1) of this section as in effect prior to ———, 1979, in which old oil or upper tier crude oil is exchanged away prior to ———, 1979, shall be deemed a first purchaser as to such crude oil received after ———, 1979 and shall include in its adjusted crude oil purchases for the month in which such crude oil is received the volumes of old oil or upper tier crude oil exchanged away prior to ——, 1979.

§ 212.131 [Amended]

4. Section 212.131 is amended by deleting paragraph (b) and by redesignating paragraph (c) as paragraph (b).

§ 212.185 [Amended]

5. Section 212.185 is amended by deleting paragraph (c).

[FR Doc. 79-2589 Filed 1-24-79; 8:45 am]

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THURSDAY, JANUARY 25, 1979
PART VI



DEPARTMENT OF TRANSPORTATION

Coast Guard

VESSEL NUMBERING AND CASUALTY AND ACCIDENT REPORTING; STATE NUMBERING AND CASUALTY REPORTING SYSTEM

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[4910-14-M]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER S—BOATING SAFETY

[CGD 76-155]

PART 173—VESSEL NUMBERING AND CASUALTY AND ACCIDENT REPORTING

PART 174—STATE NUMBERING AND CASUALTY REPORTING SYSTEM

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: A change is being made to the accident reporting regulations which would reduce the number of recreational boating accidents which must be reported to the Coast Guard. Present reporting requirements result in accidents being reported in which the Coast Guard has minimal interest. One other change will require States to list the cause of accidents on the accident report forwarded to the Coast Guard. These changes will reduce the reporting burden and increase the usefulness of the report. Similarly, the time period allowed for reporting certain accidents will be extended. A proposed change to the vessel numbering requirements is being withdrawn. Also being withdrawn is a proposal to change the Application for a Certificate of Number which will be included in a more comprehensive change to the Application.

EFFECTIVE DATE: February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. David R. Gauthier, Office of Boating Safety (G-BLC-3/TP42), Room 4308, Department of Transportation, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590, 202-426-4176.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking concerning this amendment was published in the FEDERAL REGISTER issue of November 10, 1977 (42 FR 58722). Interested persons were invited to submit written comments to the Coast Guard before December 27, 1977.

DRAFTING INFORMATION

The principal persons involved in the drafting of this rule are: Mr. D.R. Gauthier, Project Manager, Office of Boating Safety and Ms. Mary Ann McCabe, Project Attorney, Office of Chief Counsel.

DISCUSSION OF COMMENTS

Eleven comments, including nine from state boating law administrators, one from the National Transportation Safety Board (NTSB), and one from the public, were received.

Numbering: Exemption of Tenders of Documented Yachts. Of the nine State boating law administrators who responded, eight expressed opposition to the proposal to exempt tenders of documented yachts from the vessel numbering requirements of 33 CFR 173.13 and 173.27. Reasons expressed were law enforcement problems connected with the multiple uses of small boats used as tenders and a reluctance to extend a financial benefit to a class of boaters seen by some States as already circumventing the State registration laws by documenting their boats with the Coast Guard. Adoption of this exemption by the States would not be required and, in light of the apparent widespread opposition to the rule, it can be expected that the exemption would be effective in few States other than those for which the Coast Guard is the numbering authority. For that reason, and because of the potential confusion which would result, the Coast Guard has decided to withdraw that proposal.

CASUALTY AND ACCIDENT REPORTING

Four persons commented on the proposed changes to the accident reporting requirements of 33 CFR 173.55. Two of the commenters supported all of the proposed changes. The other two commenters found that the new criterion for a reportable injury, "unable to perform normal functions or usual activities for more than 24 hours", is as ambiguous as the phrase to be replaced. One commenter suggested, as an alternate criterion, "receives medical treatment," defined as "aid or attention by a physician or other person trained to practice medicine or administer treatment." In the Notice of Proposed Rulemaking, the Coast Guard proposed deleting the phrase "receives medical treatment" from the existing regulations because it was considered ambiguous and resulted in a lack of uniformity in reporting. However, since the commenters seemed to have as much difficulty with the proposed criterion, the Coast Guard has decided to adopt the commenter's suggestion to keep the phrase "receives medical treatment," but to modify the commenter's suggested definition to create a clearer criterion that will result in greater uniformity of reporting.

One commenter was concerned that under the proposed $200 criterion for property damage, accidents involving inexpensive boats would not be reported even if the boat was a total loss. The commenter suggested, therefore, that a criterion for accidents involving complete loss of the vessel be added. The Coast Guard has adopted that suggestion.

One commenter objected that the latitude left to the States by 33 CFR 174.101, in that a State may require accident reports resulting in property damage less that $200, demolishes the objective of uniformity. The Coast Guard does not concur and the comment was not adopted. States have had, since 1972, the latitude to require accident reports for accidents other than those the Coast Guard would require and there has been no serious public objections.

REVIEW OF REPORTS

Three commenters objected that the changes to 33 CFR 174.103 would require onsite investigations of all accidents. They argue that it would be difficult, if not impossible, to guarantee accuracy or completeness. It is not the intent of this section to require onsite investigations, although the Coast Guard encourages the States to do so. The change does not add a new requirement to determine cause. It merely clarifies how and where the determination should be furnished to the Coast Guard. As noted in the proposal, 70% of the states follow this procedure now. If during a review of a report the reviewing agency finds that the report does not state the cause of the accident or that the cause stated is inconsistent with information which the reviewing agency possesses, the reviewing agency is required to enter its opinion as to the cause. To clarify that there is no intent to require an investigation of the accident, the phrase "based on information available" is added and the term "apparent cause" is used.

One commenter suggested that State agencies should determine the cause of the fatality, if appropriate. This comment was not adopted because it may be interpreted as placing unintended burdens (requiring autopsies) upon the States.

This amendment has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis and Review of Regulations (43 FR 9582, March 8, 1978). A final evaluation has been prepared and is included in the public docket.

In consideration of the foregoing Title 33 of the Code of Federal Regulations is amended as set forth below:

1. By revising § 173.55(a) (2) and (3) and (b) (2) and (3) to read as follows:

§ 173.55 Report of casualty or accident.

(a) • • •

(2) A person is injured and requires medical treatment beyond first aid;

(3) Damage to the vessel and other property totals more than $200 or there is a complete loss of a vessel; or

• • • • • •

(b) • • •

(2) Within 48 hours of the occurrence if a person is injured and requires medical treatment beyond first aid, or disappears from a vessel; and

(3) Within 10 days of the occurrence or death if an earlier report is not required by this paragraph.

• • • • • •

2. By revising § 174.101(b) to read as follows:

§ 174.101 Applicability of state casualty reporting system.

• • • • • •

(b) The State casualty reporting system may require vessel casualty or accident reports resulting in property damage of $200 or less.

3. By revising § 174.103 (c) and (d) to read as follows:

§ 174.103 Administration.

• • • • • •

(c) Reviews each accident and casualty report to assure the accuracy and completeness of each report;

(d) Determines the cause of casualties and accidents reported based on information available and indicates the apparent cause on the casualty report or on an attached page;

• • • • • •

(46 U.S.C. 1486; 49 CFR 1.46(n)(1).)

Dated: January 20, 1979.

J. B. HAYES,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc. 79-2673 Filed 1-24-79; 8:45 am]

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THURSDAY, JANUARY 25, 1979
PART VII



DEPARTMENT OF TRANSPORTATION

Coast Guard

VESSELS OF 1,600 GROSS TONS OR MORE

Proposed Electronic Navigation Equipment

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[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 164]

[CGD 77-168]

VESSELS OF 1600 GROSS TONS OR MORE

Proposed Electronic Navigation Equipment

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This supplemental notice proposeds a more detailed standard for marine LORAN-C receivers, provides for a "phase in" period, and modifies the proposed warranty requirement. The more detailed standard was not available at the time of publication of the notice, November 14, 1977 (42 FR 59012). Although objectively similar, it is so clearly superior to the previously proposed standard that the Coast Guard considers its incorporation worthy of consideration.

DATE: Comments must be received by March 12, 1979.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81) (CGD 77-168), U.S. Coast Guard, Washington, DC 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Fred A. Schwer, Project Manager, Office of Marine Environment and Systems (G-WLE-4/73), Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, DC 20590, (202) 426-4958.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data or arguments. Persons submitting comments should indicate their name and address, identify this notice (CGD 77-168) and the specific section of the proposal to which each comment applies, and give reasons for each comment. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No additional public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if such a meeting is requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this document are: Mr. Fred Schwer, Office of Marine Environment and Systems, Project Manager, and Mr. Stanley Colby, Office of Chief Counsel, Project Attorney.

DISCUSSION OF COMMENTS

The Coast Guard published a notice of proposed rulemaking on this subject on November 14, 1977 (42 FR 59012). Thirty two letters of comment were received. Six commenters endorsed the proposal as written and two additionally advocated haste in its implementation. The Coast Guard agrees with the need for deliberate haste and is proceeding with the rulemaking as quickly as necessary information becomes available and the Administrative Procedure Act allows.

Nine commenters urged that the Coast Guard incorporate the "Minimum Performance Standards (MPS) [for] Marine LORAN-C Receiving Equipment", developed by the Radio Technical Commission for Marine Services (RTCM), an advisory group to the Federal Communications Commission, as the required standard for LORAN-C receivers. That document became available in January 1978. In reviewing the MPS, it was evident that the standard is a more detailed version of that which the Coast Guard proposed in the notice of proposed rulemaking. In response to the commenters and in recognition of the fact that use of the MPS will achieve the same objectives and that it is a technically superior document, the Coast Guard proposes to incorporate it as the LORAN-C standard. The purpose of this supplementary notice is publication of the more detailed standard.

This notice proposes one departure from the RTCM MPS. The existence of an interfacing capability, described in section 1.4(f) of the MPS under advisory information, would be made mandatory. Loran Position Transmitting equipment will be proposed as a requirement for Trans Alaskan Pipeline System tankers in the Prince William Sound VTS area by 1980. A similar requirement is contemplated for the Puget Sound, Houston, New Orleans and New York VTS Areas. Moreover, a general requirement for continuous position reporting by vessels calling at U.S. ports is being discussed as a means of tracking vessels in the U.S. Coastal Confluence Zone. In view of the probable need for the interfacing capability within the next few years, it is proposed that the requirement be imposed now. In that way, receivers would not require retrofit or suffer premature obsolescence.

Nine commenters suggested that the Coast Guard "grandfather" good existing units, even if they are not "to spec". This was considered, but the definition of "good" units is an elusive one. That approach would require the Coast Guard to undertake an evaluation of each existing receiver. This would be time consuming and expensive and neither personnel nor financial resources are available for such a program. Instead, the Coast Guard is proposing a "phase in" period, from June 1, 1979 to June 1, 1981, during which any Type I or II (fully- or semi-automatic acquisition) receiver will be acceptable. At the end of that period, only LORAN-C sets complying with the RTCM standard would be acceptable.

The Coast Guard proposes to stagger the effective dates for various vessels. Section 5 of the Port and Tanker Safety Act of 1978 (Pub. L. 95-474) requires tank vessels of 10,000 gross tons or more that carry oil or any hazardous material in bulk as cargo or in residue to be equipped with an electronic position fixing device by June 1, 1979. Therefore, those vessels would have to be equipped with a Type I or II LORAN-C or a specified alternative by that date. All other tank vessels of 1600 gross tons or more would have to have them by June 1, 1980, and all other vessels of 1600 gross tons or more by June 1, 1981.

Nine commenters asserted that the warranty requirement, as written, subjected manufacturers to an unacceptable degree of product liability. This was not the intent of the proposal. The Coast Guard, as explained above, is not able to undertake a type approval program for electronic navigation equipment at this time. Therefore, because it is necessary for vessels to be equipped with adequate devices and because purchasers and vessel inspection personnel must have a way to recognize complying units, the proposed warranty requirement is retained.

It is recognized that manufacturers may have no control over equipment installation and proper use, nor was that broad a warranty intended. Therefore, it is proposed that the warranty be limited to the set being in compliance as designed and manufactured or as subsequently modified by the manufacturer. Moreover, it is recognized that an individual warranty program may prove cumbersome, particularly for sets already installed or in distribution. Therefore, this supplementary notice proposes a type-attestation alternative. The manufacturer might elect to attest to the Coast Guard, in writing, that a particular make, model, and series or modification of receiver complies with the MPS. The Coast Guard would list the receivers as having been attested to for the convenience of purchasers and vessel inspectors. However, inclusion on the list would not constitute an approval by the Coast Guard.

Warranty or attestation would not be required for any receiver until June 1, 1981.

Two commenters recommended that the Coast Guard publish procedures for approving alternative devices. The Coast Guard does not intend to "approve" any of these devices. A receiver proposed as an alternative under the provisions of § 164.41(b)(3) would be evaluated against the requirements of the National Plan for Navigation. Since the receivers so proposed could vary widely, no specific procedure can be stipulated at this time. Requests would be handled on a case by case basis, using whatever procedure is appropriate to the particular device.

Several persons have complained to the Coast Guard that they have been unable to obtain copies of the National Plan for Navigation. That document has been revised and is available from the National Technical Information Service (NTIS), Springfield, VA 22161. The Government Accession Number is AD-A-052269.

Eight commenters complained about the lack of signal characteristic and test standards. The Coast Guard plans to publish LORAN-C signal characteristics. The RTCM is developing LORAN-C test standards. The proposed two year phase in period would allow time for all needed information to become available.

This proposal has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (43 FR 9582, March 8, 1978). A draft evaluation has been prepared and is included in the public docket.

In consideration of the foregoing, it is proposed to amend Part 164 of Chapter I of Title 33, Code of Federal Regulations as follows:

§ 164.30 [Amended]

1. By striking, in § 164.30, the section number "164.35" and inserting the section number "164.41" in place thereof.

2. By adding a new § 164.41 to read as follows:

§ 164.41 Equipment: Certain vessels.

(a) This section applies to vessels calling at ports in the continental U.S. or on the Gulf of Alaska, except—

(1) Vessels not engaged in commerce and owned or bareboat chartered and operated by the United States, by a state or its political subdivision, or by a foreign nation; and

(2) Vessels calling only at U.S. ports on the Great Lakes are not required to meet paragraph (b) of this section until 120 days after the day LORAN-C for that area is declared operational by the U.S. Coast Guard.

(b) Each vessel must have one of the following devices installed:

(1) A LORAN-C receiver meeting the requirements of paragraph (c) of this section.

(2) A continual update, satellite-based hybrid navigation receiver (i.e., satellite-bottom tracking, satellite-inertial, or satellite-Omega) meeting the standards contained in paragraph (d) of this section.

(3) A system that the Commandant finds meets the intent of the statements of availability, coverage, and accuracy for the U.S. Coastal Confluence Zone (CCZ) contained in the U.S. Department of Transportation National Plan for Navigation (Report No. DOT-TST-78-4 dated November 1977). A person desiring a finding by the Commandant under this subparagraph must submit a written request describing the receiver to: Commandant (G-W/73), U.S. Coast Guard, Washington, DC 20590. In addition to the description, the Commandant may request data and test results to establish whether or not the receiver meets the National Plan.

(c) Each LORAN-C receiver must meet the following:

(1) Be a Type I or II receiver as defined in Section 1.2(e) of Radio Technical Commission for Marine Services (RTCM) Paper 12-78/DO-100, entitled "Minimum Performance Standards (MPS) Marine LORAN-C Receiving Equipment."

NOTE.—This paper may be purchased from the Radio Technical Commission for Marine Services, P.O. Box 19087, Washington, DC 20036 [(202)—296-6610].

(2) Provide a separate digital data output as described in section 1.4(f) of the RTCM MPS. Resolution of the output data may not be more coarse than that displayed by the receiver. Data must be available whenever the receiver is tracking LORAN-C signals.

(3) After June 1, 1981, be accompanied by a manufacturer's warranty that, at time of manufacture or modification by the manufacturer, the receiver complied with the minimum performance standards contained in Section 1.4(f) and 2 of the Radio Technical Commission for Marine Services Paper 12-78/DO-100 as defined in Section 1 of that paper, unless the manufacturer attests to the Coast Guard, in writing, that a particular make, model, and series of receivers meets the minimum performance standards contained in Sections 1.4(f) and 2 of the RTCM Paper 12-78/DO-100, as defined in Section 1 of that paper.

NOTE.—A list of equipment which manufacturers have attested as being in compliance with this standard will be published periodically by the Coast Guard. The Coast Guard does not test or otherwise verify the performance of electronic navigation equipment, but publishes the listing solely as a matter of public convenience based on the representations of the manufacturer.

(d) Each hybrid satellite system must have—

(1) Automatic acquisition of satellite signals after initial operator settings have been entered;

(2) Position updates derived from satellite information obtained during each usable satellite pass; and

(3) A continual tracking complementary system that provides, in between satellite passes, position updates at intervals of one minute or less.

§ 164.53 [Amended]

3. By adding in § 164.53(b) the words "radio navigation receivers," after the word "radar," and before the word "gyrocompass,".

(Sec. 2, Pub. L. 95-474; R.S. 4417a, as amended by Sec. 5, Pub. L. 95-474 (46 U.S.C. 391a); 49 CFR 1.46(n)(4).)

Dated: January 16, 1979.

J. B. HAYES,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc. 79-2674 Filed 1-24-79; 8:45 am]

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THURSDAY, JANUARY 25, 1979
PART VIII



DEPARTMENT OF TRANSPORTATION

Coast Guard

VESSEL INSPECTION

Certification of Inspection

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[4910-14-M]

Title 46—Shipping

CHAPTER 1—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-014]

PART 2—VESSEL INSPECTIONS

Certificates of Inspection

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing amendments to the vessel inspection regulations that reflect changes in the types of Certificates of Inspection issued by the Officer in Charge, Marine Inspection to different classes of vessels upon completion of an inspection.

EFFECTIVE DATE: January 25, 1979.

FOR FURTHER INFORMATION CONTACT:

LTJG Michael P. Rolman (G-MVI-2/83), Room 8300, Department of Transportation, Nassif Bldg., 400 Seventh St., S.W., Washington, D.C. 20590, (202) 426-2190.

SUPPLEMENTARY INFORMATION: Since these amendments are matters relating to agency procedure or practice, they are exempt from notice of proposed rulemaking requirements in 5 USC 553(b)(3)(A) and since these amendments are not substantive, they may be made effective immediately under 5 USC 553(d).

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: LTJG Michael P. Rolman, Project Manager, Office of Merchant Marine Safety, and Michael N. Mervin, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF AMENDMENTS

In recent years the Coast Guard has expanded its role in the inspection of merchant vessels, both United States and foreign. As a result the Coast Guard issues new forms of Certificates of Inspection that were not previously issued. These are Barge Certificates of Inspection (CG-4678), Control Verification for Foreign Vessel (CG-4504), Letter of Compliance (CG-2832A), and Tank Vessel Examination Letter (CG-840S-1).

The Barge Certificate of Inspection issued to a United States vessel describes the vessel, route, required crew, required safety equipment, owner, operator and product allowed to be carried.

The Control Verification for Foreign Vessel describes the vessel, type of certificate required by the International Convention for the Safety of Life at Sea, 1960, as modified by the amendments proposed by the Thirteenth Session of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization contained in Annexes I through IV of the Note Verbale of the Secretary General of the Organization dated 17 May 1966, No. A1/C/3.07 (NV.1), and country issued by. This certificate indicates the vessel has been examined by the Coast Guard and that the vessel meets the requirements of SOLAS, 1960 as modified by the amendments proposed by the Thirteenth Session of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization contained in Annexes I through IV of the Note Verbale of the Secretary General of the Organization dated 17 May 1966, No. A1/C/3.07 (NV.1)

The Letter of Compliance indicates that the described foreign vessel has been examined by the Coast Guard for compliance with 33 CFR Parts 155, 156, 159, 164, 46 CFR Part 153, and SOLAS 60, and is considered suitable for carrying into or from United States ports the cargoes shown in the endoresment, subject to the restrictions of 46 CFR Part 153.

The Tank Vessel Examination Letter is issued to a foreign vessel, described therein, that has been examined for compliance with Tankship Cargo Venting and Handling Systems and Minimum Safety Standards (SOLAS 60, 46 CFR Part 35), Pollution Prevention Regulations and Transfer Procedures (33 CFR Parts 155, 156, 157, and 159) and Navigation Safety Regulations (33 CFR Part 164).

There are also certificates that were issued to foreign vessels that are no longer used due to either obsoleteness or replacement. These certificates are Certificate of Examination of a Foreign Passenger Vessel (CG-989) and Certificate for Foreign Vessel to Carry Persons in Addition to Crew (CG-3463).

PART 2—VESSEL INSPECTIONS

Subpart 2.01—Inspecting and Certificating of Vessels

Accordingly, Subpart 2.01 of Title 46, Code of Federal Regulations is amended as follows:

1. By revising § 2.01-5 to read:

§ 2.01-5 Certificate of Inspection.

(a) *Issuance of Certificates.* Upon completion of the inspection of a United States vessel, and on condition that the vessel and its equipment are approved by the inspector, a certificate of one or more of the following Coast Guard forms is issued by the Officer in Charge, Marine Inspection:

(1) CG-841—Certificate of Inspection.

(2) CG-854—Temporary Certificate of Inspection.

(3) CG-3753—Certificate of Inspection (for small passenger vessels).

(4) CG-4678—Barge Certificate of Inspection.

(b) *Description of Certificates.* The certificates of inspection issued to United States vessels describe the vessel, the route the vessel may travel, the minimum manning requirements, the safety equipment and appliances required to be on board, the total number of persons that may be carried, and the names of the owners and operators. The period of validity is stated on the certificate. The certificate may be renewed by applying for inspection under § 2.01-1.

(c) *Amending Certificates.* When because of a change in the character of the vessel or vessel's route, equipment, etc. the vessel does not comply with the requirements of the Certificate of Inspection previously issued, a certificate amending such certificate may be issued at the discretion of the Officer in Charge, Marine Inspection, to whom request is made on Coast Guard form CG-858, Certificate of Inspection Amendment.

2. By adding a new § 2.01-6 to read as follows:

§ 2.01-6 Certificate issued to foreign vessels.

(a) *Issuance of Certificates.* Upon completion of an examination of a foreign vessel, one or more of the following certificates is issued by the Officer in Charge, Marine Inspection:

(1) CG-4504—Control Verification for Foreign Vessel—issued to a foreign vessel that is registered in a country which is signatory to the International Convention for the Safety of Life at Sea, 1960, as modified by the amendments proposed by the Thirteenth Session of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization contained in Annexes I through IV of the Note Verbale of the Secretary General of the Organization dated 17 May 1966, No. A1/C/3.07 (NV. 1).

(2) CG-2832A—Letter of Compliance—issued to a foreign vessel that is suitable for carriage of hazardous cargoes in bulk as defined in 46 Code of Federal Regulations, Subchapter 0 and is in compliance with Tankship Cargo Venting and Handling Systems and Minimum Pollution Prevention Regulations and Transfer Procedures (33 CFR Parts 155, 156, 157 and 159), and Navigation Safety Inspection Regulations (33 CFR Part 164).

(3) CG-840S-1—Tank Vessel Examination Letter—issued to a foreign vessel that is suitable for carriage of cargoes as defined in 46 Code of Federal Regulations, Subchapter D and is in compliance with Tankship Cargo Venting and Handling Systems and Minimum Safety Standards (SOLAS 60-46 CFR Part 35), Pollution Prevention Regulations and Transfer Procedures (33 CFR Parts 155, 156, 157 and 159), and Navigation Safety Regulations (33 CFR Part 164).

(4) Foreign vessels of countries which are nonsignatory to the International Convention for the Safety of Life at Sea, 1960, are issued a Temporary Certificate of Inspection (CG-854) and a Certificate of Inspection (CG-841) as described in § 2.01-5.

(b) *Description of Certificates.* (1) CG-4504—Control Verification for Foreign Vessels—describe the vessel, type of certificate required by the International Convention for the Safety of Life at Sea, 1960, as modified by the amendments proposed by the Thirteenth Session of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization contained in Annexes I through IV of the Note Verbale of the Secretary of the Organization dated 17 May 1966, No. A1/C/3.07 (NV. 1), country issued by, and its expiration date. The period of validity of a control verification for foreign vessel is stated on the certificate.

(2) CG-2832A—Letter of Compliance—describe the vessel and the period for which the letter is valid.

(3) CG-840S-1—Tank Vessel Examination Letter—describe the vessel and if there are any deficiencies as to applicable regulations at the time the vessel was examined. If there are deficiencies they are listed in an attachment to this letter (CG-840S-2). The Tank Vessel Examination Letter is valid for a period of 1 year from the date the examination is completed.

(4) Temporary Certificate of Inspection (CG-854) and Certificate of Inspection (CG-841) are amended as provided for in § 2.01-5(c).

(46 USC 416, 49 USC 1655(b); 49 CFR 1.46(b).)

Dated: January 16, 1979.

J. B. HAYES,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc. 79-2675 Filed 1-24-79; 8:45 am]

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THURSDAY, JANUARY 25, 1979
PART IX

SMALL BUSINESS ADMINISTRATION

SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

Procurement and Technical Assistance; Proposed Rules

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[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 124]

SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

Procurement and Technical Assistance

AGENCY: Small Business Administration.

ACTION: Proposed rules.

SUMMARY: These proposed rules describe the type of assistance available, the requirements for obtaining assistance, and the methods of providing assistance to certain eligible small businesses under SBA's new Small Business and Capital Ownership Development Program as mandated by Pub. L. 95-507. In addition, they provide criteria for determining when the participation of a business in the program should be terminated or determined to be completed, and specify a procedure by which such a determination can be made.

DATES: Comments must be received on or before March 26, 1979.

ADDRESS: Comments, submitted in duplicate, are to be submitted to the Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Martin D. Teckler, Office of General Counsel, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, 202-653-6797.

SUPPLEMENTARY INFORMATION: Pub. L. 95-507 requires the revision of Part 124 of Title 13 of the Code of Federal Regulations because that Public Law substantially amends parts of the Small Business Act which Part 124 implements. As a result of Pub. L. 95-507, it is necessary to replace the following presently effective sections: 124.8, 124.8-1 and 124.8-2. The following proposed rules are proposed as replacements for these sections.

These proposed rules are to provide for the implementation of the Pub. L. 95-507, which amends among other provisions, sections 8(a) and 7(j) of the Small Business Act, as amended, (hereinafter the "Act"). The purpose of Section 8(a) of the Act is to foster busines ownership by individuals who are both socially and economically disadvantaged, to promote the competitive viability of such firms by providing such available contract, financial, technical, and management assistance as may be necessary, and to clarify and expand the program for the procurement by the United States of articles, equipment, supplies, services, materials and construction work from small business concerns owned and managed by socially and economically disadvantaged individuals.

The Act sets forth a business development program whereby the Administration is authorized to provide to eligible business concerns procurement contracts, financial, management and technical assistance.

The Congress has found that the opportunity for full participation in our free enterprise system by socially and economically disadvantaged persons is essential in order to attain social equality and economic parity for such persons. The Congress found further that Black Americans, Hispanic Americans, Native Americans, and other minorities have suffered the effects of discriminatory practices and other invidious circumstances over which they have no control.

The business development program of the Administration is designed to ameliorate the condition of socially and economically disadvantaged groups by providing the maximum practical opportunity for the development of businesses owned and managed by such persons. Such development can be materially advanced through the procurement by the United States of articles, equipment, supplies, services, and construction work from such businesses and the provision of management and technical assistance to develop managerial self-sufficiency. The Congress intends that the primary beneficiaries of this program shall be minorities and that the authorities granted the Administration in this program will be used for appropriate business development.

The Act requires that the Administration of the section 8(a) program—the principal procurement assistance vehicle—and the section 7(j) management assistance program shall be under the direction of the Associate Administrator for Minority Small Business and Capital Ownership Development. The interface of these programs should result in the delivery to the business owned by the socially and economically disadvantaged individual an increased opportunity to produce and sell goods and services efficiently and profitably.

These regulations provide for significant changes in regard to the following areas:

(a) Program eligibility—The Act allows program participation for a "socially and economically disadvantaged small business concern." This means a small business concern which is at least 51 percent owned by one or more socially disadvantaged individuals, and whose management and daily business operations are controlled by one or more of such individuals. Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities, the Administration shall consider, but not be limited to, the assets and net worth of such socially disadvantaged individual.

This represents a significant change of eligibility criteria from the standard of social or economic disadvantage heretofore utilized by the Administration.

(b) Contracting—This section provides for the relationship between the Administration and other federal agencies in regard to the provision of procurement contracts for the 8(a) program.

(c) Termination—Detailed termination procedures and standards are provided which will govern the circumstances under which a business concern can be denied assistance under the program. Simultaneously, with the publication of the within regulations, final regulations governing substantive and procedural rights for 8(a) concerns in regard to termination and the dental of assistance under the program shall be published. Comments regarding these matters are welcome.

(d) Small Business and Capital Ownership Development Program—This section grants significant new authority for the Administration to aid 8(a) concerns in regard to procurement, financial, management and technical assistance matters.

(e) Advance Payments and Business Development Expense—These sections set forth the criteria and standards for the award and use of advance payments and business development expense.

(f) Surety Bond Waiver—This section provides for the criteria and conditions for the Administration to grant waivers to requirements for the use of surety bonds in appropriate circumstances.

This 22d day of January 1979.

A. VERNON WEAVER,
Administrator.

It is proposed to amend 13 CFR Part 124 by deleting the present §§ 124.8, 124.8-1, and 124.8-2 and adding the following new §§ 124.1-1—124.1-5, 124.2-1, 124.3-1 and 124.4-1 to read as follows:

Sec.
124.1-1 The Section 8(a) Program.
124.1-2 Contracting.
124.1-3 Advance payments.
124.1-4 Letter of credit.
124.1-5 Business development expense.
124.2-1 Consultant services program.
124.3-1 Small business and capital ownership development program.
124.4-1 Surety bond waivers.

§ 124.1-1 The Section 8(a) Program.

(a) *General.* These regulations implement Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) which authorizes SBA to enter into all types of contracts (including, but not limited to, supply, services, construction, research and development) with other Government departments and agencies and negotiate subcontracts for the performance thereof.

(b) *Purpose.* It is the objective of SBA to use such authority to assist small business concerns owned and controlled by socially and economically disadvantaged persons to achieve a competitive position in the market place.

(c) *Eligibility.* In order to be eligible to participate in the section 8(a) program, an individual or an applicant concern as the case may be must meet all of the pertinent eligibility criteria set forth hereafter in paragraphs (c)(1) through (5) of this section. All determinations pursuant to paragraphs (c)(1) through (5) of this section shall be made by the Associate Administrator for Minority Small Business and Capital Ownership Development (AA/MSB&COD) whose decision shall be final; provided however, than an applicant may request reconsideration of such final decision based upon information discovered subsequent to such decision or upon information which was unavailable at the time of such final decision. The granting of such reconsideration shall be within the absolute discretion of the AA/MSB&COD.

(1) *Small Business Concern.* In order to be eligible to participate in the section 8(a) program, an applicant concern must qualify as a small business concern as defined for purposes of Government procurement in § 121.3-8 of the SBA Rules and Regulations; the size standard to be applied shall be based on the principal activity of the applicant concern.

(2) *Ownership and Control.* In order to be eligible to participate in the section 8(a) program, an applicant concern must be one:

(i) Which is at least 51 percent owned by an individual or individuals who are citizens of the United States, (specifically excluding resident aliens) and who are determined to be socially and economically disadvantaged.

(A) In case of an applicant concern which is a corporation, 51 percent of all classes of voting stock of such corporation must be owned by an individual(s) determined to be socially and economically disadvantaged.

(B) In the case of an applicant concern which is a partnership, 51 percent of the partnership interest must be owned by an individual or individuals determined to be socially and economically disadvantaged.

(ii) Whose management and daily business operations are controlled by an individual(s) determined to be socially and economically disadvantaged. Such individual(s) must be engaged full time in the daily management and operation of the business concern.

(3) *Social Disadvantage.* (i) Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identification as members of certain groups, without regard to their individual qualities. Such groups include, but are not limited to, Black Americans, Hispanic Americans, Native Americans and other minorities.

(ii) Social disadvantage of individuals within such groups shall be determined on a case-by-case basis. Membership alone in any group is not conclusive that an individual is socially disadvantaged.

(4) *Economic Disadvantage.* (i) Economically disadvantaged individuals are socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit oportunities, as compared to others in the same line of business and competitive market area who are not socially disadvantaged.

(ii) In determining the degree of diminished credit and capital opportunities, consideration shall be given:

(A) With respect to both the disadvantaged individual and the applicant concern, to the following factors, including but not limited to:

(*1*) Personal and business assets;

(*2*) Personal and business net worth; and

(*3*) Personal and business income and profits.

(B) With respect to the applicant concern, the following factors, including but not limited to:

(*1*) Availability of financing;

(*2*) Bonding Capability;

(*3*) Availability of outside equity capital; and

(*4*) Available markets.

(5) *Potential for Success.* In order to be eligible to participate in the section 8(a) program, an applicant concern must be a concern:

(i) Which with contract, financial, technical and management support will be able to successfully perform contracts awarded under the section 8(a) program, and with such assistance shall have reasonable prospects for success in competing in the private sector.

(ii) In addition to meeting the criteria set forth in § 124.1-1(c)(5)(1) above, the AA/MSB&COD must determine that the financial, technical and management support necessary to enable the applicant concern to successfully complete the section 8(a) procurement contract shall be available to such concern from SBA or other identified and acceptable sources.

(d) *Program Completion.* (1) When a section 8(a) business concern has substantially achieved the objectives of the 8(a) program, including but not limited to, the achievement of the goals set forth in its business plan as approved an modified, and the attainment of demonstrated ability to compete in the market place without assistance from 8(a), its participation within the program shall be determined by SBA to be completed.

(2) In determining whether a concern has substantially achieved the goals of its business plan or has attained the ability to compete in the market place without 8(a) assistance, the following factors, among others, shall be considered by SBA. The factors cited above shall be determined with regard to the remedial purposes of the statute.

(i) Positive overall financial trends, including but not limited to:

(A) Profitability.

(B) Sales, including improved ratio of non-8(a) sales.

(C) Net Worth, financial ratios, working capital, capitalization, access to credit and capital.

(D) Ability to obtain bonding.

(ii) A comparison of the 8(a) business concern's business and financial profile with profiles of non-8(a) small businesses in the same area or similar business category.

(iii) Management capactity.

(3) Upon determination by the SBA that a section 8(a) business concern's particiaption within the program has been completed pursuant to § 124.1-1(d)(1), above, the section 8(a) business concern shall be afforded an opportunity for a hearing on the record in accordance with chapter 5 of Title 5 of the United States Code, at which hearing it may contest such determination. Such a hearing will be held pursuant to the SBA's Rules of Practice for Adjudicative Proceedings set forth at Part 101.10 et. seq. of SBA rules and regulations.

(4) Subsequent to the completion of such hearing, based upon the record established therein, and after consideration of the recommended decision of the examiner who has conducted the hearing, the AA/MSB&COD shall render a final decision regarding the completion of the section 8(a) business concern's participation in the pro-

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gram. Prior to a final decision, the subject 8(a) business concern may have full rights of participation in the 8(a) program.

(e) *Program termination.* (1) Participation of a section 8(a) business concern in the program may be terminated by the SBA prior to the completion of the concern's business plan for good cause. Examples of good cause include, but are not limited to, the following:

(i) Failure of the 8(a) business concern to continue to meet the standards of eligibility set forth in these regulations.

(ii) Failure of the 8(a) business concern to maintain its status as a small business concern within the applicable regulations.

(iii) The failure of the section 8(a) business concern to exert reasonable efforts to attain commerical business.

(iv) Failure to maintain ownership and control by the person(s) who has been determined to be socially and economically disadvantaged.

(v) Inadequate management performance by the section 8(a) business concern; and

(vi) Repeated inadequate performance of awarded section 8(a) procurement contracts by the section 8(a) business concern.

(vii) The concern has ceased its business operations. This constitutes automatic and immediate grounds for terminating a concern's participation in the program.

(viii) Failure to submit updated business plans within a reasonable time after its due date without approval by SBA.

(ix) Withholding notice from, or failure to provide notice to SBA within 30 days of changes in ownership and mangement control.

(x) Noncompliance with substantial requirements of divestiture or management agreements as approved by the AA/MSB&COD.

(xi) Failure to comply with the reporting provisions required in management agreements. Compensating those providing management assistance in excess of that specified in the SBA approved management agreement. Having a management agreement either written or oral that has not been approved by the AA/MSB&COD. Willful violation of any of the requirements of the management agreement.

(xii) Failure or refusal to provide SBA with required quarterly and annual financial statements and reports within a reasonable time after the close of the quarter.

(xiii) Failure to achieve goals cited in the business plan, as modified, as a result of repeated refusal to accept or utilize SBA assistance.

(xiv) Failure to reasonably pursue commerical and competitive business in accordance with the business plan projection, or failure to otherwise make reasonable efforts to achieve competitive status.

(xv) Inability to make satisfactory progress, within a reasonable time, after receiving SBA's management and technical assistance, financial and technical assistance in achieving its business development objectives.

(xvi) Failure to request prior approval from SBA before subcontracting under an 8(a) contract.

(xvii) Failure to disclose to SBA the extent to which nondisadvantaged persons or firms will participate in the management of the 8(a) business concern.

(xviii) Failure to disclose to SBA fees paid or to be paid, costs incurred or committed to third parties, directly or indirectly, in the process of obtaining 8(a) contracts.

(xix) Willful failure to comply with applicable labor standards obligations.

(xx) Knowingly submitting false information to SBA.

(xxi) Whenever the concern is debarred by the Comptroller General, the Secretary of Labor or the Director of the Office of Federal Contract Compliance.

(xxii) Whenever the concern is debarred or suspended for cause by any contracting agency pursuant to FPR subpart 1-1.6 "Debarred Suspended and Ineligible Bidders" or DAR (ASPR) section I. Part 6, "Debarment, Ineligibility and Suspension".

(xxiii) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract.

(xxiv) Conviction under the Organized Crime Control Act of 1970, or conviction of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a Government contractor.

(xxv) Conviction under the Federal Antitrust Statutes arising out of the submission of bids or proposals.

(xxvi) Violation of the subcontract provision against contingent fees and gratuities.

(2) Upon determination by the SBA that a section 8(a) business concern's participation in the program should be terminated for good cause, the section 8(a) business concern shall be afforded an opportunity for a hearing on the record in accordance with chapter 5 of Title 5 of the United States Code, at which hearing it may contest such determination. Such a hearing will be held pursuant to the SBA's Rules of Practice for Adjudicative Proceedings set forth at Part 101.10 et seq. of the SBA rules and regulations.

(3) Subsequent to the completion of such hearing, upon the record established therein, and after consideration of the recommended decision of the examiner who has conducted the hearing, the AA/MSB & COD shall render a final decision regarding the termination, for good cause, of the 8(a) business concern's participation in the program.

(4) After the effective date of a program termination as provided for herein, the 8(a) business concern is no longer eligible to receive 8(a) subcontracts and other 8(a) assistance. However, such concern is obligated to complete previously awarded 8(a) subcontracts.

§ 124.1-2 Contracting.

(a) *General policy.* (1) Whenever SBA determines that it is necessary or appropriate, it shall enter into contracts with the United States Government or any department, agency, or officer thereof having procurement powers obligating SBA to furnish articles, equipment, supplies, services or materials to the Government, or to perform construction work for the Government.

(2) In any case in which SBA certifies to any procurement officer that SBA is competent and responsible to perform any specific Government procurement contract to be let by such officer, such officer shall be authorized in his discretion to let such procurement contract to SBA upon such terms and conditions as may be agreed upon between SBA and the procurement officer.

(3) In any case in which SBA and such procurement officer fail to agree on a procurement and/or the terms and conditions of a specific procurement contract, such disagreement shall be submitted to the head of the department or agency for final determination.

(4) SBA shall arrange for the performance of such procurement contracts by negotiating or otherwise letting subcontracts to section 8(a) small business concerns to provide whatever goods, construction work, or services may be necessary to enable SBA to perform such contracts.

(b) *Procedures*—(1) *Submission of business plans.* Applicants must submit a business plan, including complete information regarding the concern's qualifications, which will demonstrate that section 8(a) assistance will foster its participation in the economy as a self-sustaining, profit-oriented small business.

(2) *Requirements.* Procuring agencies will offer prospective contracts to SBA for the 8(a). A procuring agency shall submit to SBA an offer which contains the following information:

(i) Current and complete specifications and drawings as necessary;

(ii) A procuring agency estimate of the current fair market value of the contract documented with supporting calculations;

(iii) Identification of any incumbent small business contractor which is presently performing the same or similar contract requirements with all available information on that business' gross receipts and the volume of Federal contracts previously awarded to and performed by such contractor, when such information is readily available and does not unduly delay the offering of a contract.

(3) *Certification.* SBA's execution of a procurement contract with a procuring agency, will operate as a certification of SBA's competency and responsibility to perform the contract as required by section 8(a)(1) of the Small Business Act.

(4) *Failure to Agree on Terms and Conditions.* In the event that SBA and the procuring agency's contacting officer fail to agree upon the selection of the procurement or the terms and conditions of any prospective contract being negotiated between SBA and the procuring agency, SBA and the procuring agency shall submit information sufficient to facilitate a final decision to the head of the procuring agency, who shall have the responsibility to resolve any such disagreement.

(i) Before submission of any disagreement to the head of the procuring agency, the appropriate SBA Regional Director shall seek resolution of any such disagreement by the contracting officer's supervisor.

(ii) Failure of the appropriate Regional Director and the contracting office's supervisor to agree will cause the matter to be submitted to the AAMSB-COD, who on behalf of the Administrator of the SBA, shall present the disagreement to the head of the procuring agency for resolution.

(iii) Subsequent to the resolution of any disagreement over the terms and conditions of any proposed contract by the head of the procuring agency, SBA and the procuring agency may reach agreement upon the proposed contract, or SBA may decide that the contract is unsuited to performance by a section 8(a) business concern, and may then return the proposed contract to the procuring agency for other procurement action.

(c) *Negotiation by 8(a) Business Concern.* Whenever practicable, any section 8(a) business concern which has been selected by SBA to perform a section 8(a) subcontract shall participate in the negotiations of the terms and conditions of such contract.

(d) *Impact on Small Business.* The AAMSB-COD and the AA/PA shall make a determination for each section 8(a) subcontract before award that:

(1) No public solicitation has been made on the specific purchase in question; and

(2) No small business, having relied upon Federal purchasing of the item for a significant part of its business during the preceding year, will suffer hardship because of the removal of the procurement from competition.

§ 124.1-3 Advance Payments.

(a) *Definitions.* Advance payments are disbursements of money made by SBA to a section 8(a) business concern prior to the completion of perfromance of a specific section 8(a) subcontract for the purpose of assisting the said 8(a) business concern in meeting financial requirements pertinent to the performance of said subcontract. Advance payments must be liquidated from proceeds derived from the performance of the specific section 8(a) subcontract. However, this does not preclude repayment of such advance payments from other revenues of the business except from other advance payments. The proceeds derived from the performance of the specific 8(a) contract must be deposited in a bank account established exclusively for the purpose of administering the advance payments.

(b) *General Policy.* Advance payments shall not be made in any case in which the section 8(a) business concern has assigned its rights to receive any payment under the specific section 8(a) subcontract to any person or entity, unless such assignment shall be made to SBA or to a Federal agency in regard to the receipt by the 8(a) business concern of a progress payment for any specific 8(a) subcontract. In no event shall the total amount of advance payments for a Section 8(a) business concern exceed the amount of the 8(a) subcontract to which it relates; nor shall any such advance payment exceed the amount which is to be earned from the anticipated completion of performance of the remainder of the subject 8(a) subcontract. The SBA shall not charge interest on advance payments disbursed pursuant to these regulations.

(c) *Requirements.* (1) Advance payments may be approved for a Section 8(a) business concern when the following conditions are found by SBA to exist:

(i) A Section 8(a) business concern does not have adequate working capital to perform a specific Section 8(a) subcontract; and

(ii) Either adequate and timely financing is not available on reasonable terms to provide the necessary capital, or financing is available but the terms of such financing are not conducive to the effective performance of the Section 8(a) subcontract and/or the business development purposes of the Section 8(a) program.

(iii) The Section 8(a) business concern has established or agrees to establish and maintain financial records and controls which provide for complete accountability and required reporting of program funds. These records must be made available upon request for review by SBA and the General Accounting Office.

(d) *Procedure.* To be eligible to receive Advance Payments a Section 8(a) business concern must meet the conditions set forth in § 124.1-3(c) above and must comply with the following procedure.

(1) A Section 8(a) business concern desiring to receive an advance payment in connection with any Section 8(a) subcontract shall:

(i) Submit a written request for advance payment to the appropriate SBA regional director or his designee. Such request must include detailed documentation supporting the need for such funds and evidence that working capital financing cannot be found upon terms acceptable under § 124.1-3(c)(ii) above from financial institutions.

(ii) The Section 8(a) business concern msut select a commercial bank which is a member of the Federal Reserve System in which it must establish a Special Bank Account for the deposit of advance payment funds from SBA and for the deposit of payments earned pursuant to the performance of the subcontract(s). This special account shall be a demand deposit account.

(A) Disbursements from the account shall require the countersignature of such SBA employee as shall be designated by the appropriate regional director.

(B) Under no circumstances shall the requirement for an SBA employee countersignature be waived.

(C) SBA shall obtain a lien upon the Special Bank Account, any property contracted for, and supplies, material and other property acquired with the proceeds of such advance payment funds.

(2) Upon a review of all the circumstances and evidence, the Regional Director shall have the obligation to decide whether to approve or deny a request for advance payment. This right of approval by the Regional Director shall not be delegated to any other person or entity. The 8(a) business concern, the bank selected pursuant to § 124.1-3(d)(ii) above, and SBA shall execute an Advance Payment agreement which shall set forth the terms and conditions governing advance payments.

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(e) *Use of Advance Payment Funds.* (1) Except for repayment to SBA in appropriate circumstances, advance payment funds may be withdrawn from the special bank account by a Section 8(a) business concern exclusively for the purpose of purchasing materials and labor and paying for administrative and overhead expenses required to perform the specific Section 8(a) subcontract.

(2) Under no circumstances may advance payment funds be deposited in interest-bearing accounts.

(3) Advance payment funds shall be disbursed for deposit into the special account only in such amounts necessary to pay for the immediate needs of a Section 8(a) subcontract. Such disbursements shall be made as expeditiously as possible. Such immediate needs shall be documented by the small business concern and verified by SBA prior to disbursement.

(4) Payments to the 8(a) business concern for work performed or services rendered pursuant to the subject 8(a) contract shall be paid into the Special Bank Account.

(f) *Cancellation.* (1) SBA may determine that the advance payments be cancelled for any of the following reasons:

(i) The terms and conditions of the advance payment agreement have not been adhered to by a section 8(a) small business concern.

(ii) The subcontracting relationship between SBA and subcontractor is completed or terminated.

(2) In the event of cancellation, all previous advance payments shall become immediately due and payable to SBA.

§ 124.1–4 Letter of Credit.

(a) *General Policy.* The letter of credit method of payment will be utilized under certain circumstances to disburse advance payments to section 8(a) business concerns performing subcontracts under the section 8(a) program when SBA has made a decision approving the use of advance payments pursuant to the requirements and conditions provided for in these regulations.

(b) *Eligibility Requirements.* SBA may disburse advance payments through the letter of credit method of payment through the Federal Reserve Bank System to a section 8(a) business concern when all of the following conditions are found by SBA to exist:

(1) SBA determines that the section 8(a) business concern may be awarded more than one section 8(a) subcontract during a period of at least one year.

(2) The aggregate amount of letter of credit advance payment funds will exceed $120,000 annually.

(3) The section 8(a) business concern has submitted a schedule of its projected monthly advance requirements for 8(a) subcontract disbursements, SBA has reviewed it, and SBA has found it to be reasonable.

(4) The section 8(a) business concern has established or agrees to establish and maintain financial records and controls which will provide for complete accountability and required reporting of program funds. These records must be made available upon request for review and audit by SBA and the General Accounting Office.

(c) *Procedures.* The procedures for the utilization of the letter of credit method of payment shall be in accord with 41 CFR 1-30.408-1.

§ 124.1–5 Business Development Expense.

(a) *Definition.* Business Development Expense (BDE) funds are available for the purpose of assisting section 8(a) business concerns in connection with specific 8(a) subcontracts in their efforts to become competitive by overcoming deficiencies which would otherwise impede the firms from producing a service or product at a fair market price.

(b) *Purpose.* In the discretion of SBA, BDE funds may be used for the following purposes:

(1) To make up the difference between the current fair market price and the reasonable price required by the 8(a) contractor to provide the product or service in connection with a specific section 8(a) subcontract.

(2) For the purchase of capital equipment which has been determined by SBA to be essential to the section 8(a) business concern's performance of specific section 8(a) subcontracts and for which acquisition cannot be made by other financing means without adversely affecting the concern's financial condition.

(c) BDE may be used to defray other costs necessary to the performance of a specific 8(a) contract, including but not limited to:

(1) Facility and production engineering.

(2) Development, testing, and implementation of quality control procedures.

(3) Training costs to counteract low labor productivity due to the inexperience of the business concern or its labor force.

(4) Differential due to low order purchasing power and/or material usage in comparison to its competitors.

§ 124.2–1 Consultant Services Program.

(a) *General.* The Small Business Act, as amended, authorizes the SBA to provide assistance as set forth in section 7(j) of the Act. Section 7(j) of the Small Business Act, provides for financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under section 7(i), 7(j)(10), and 8(a) of the Small Business Act. Section 7(j)(10) of the Small Business Act establishes a Small Business and Capital Ownership Development program which shall provide additional assistance exclusively for small business concerns eligible to receive contracts pursuant to section 8(a) of the Small Business Act. The management of the Capital Ownership Development program is vested in the Associate Administrator for Minority Small Business and Capital Ownership Development who is responsible for the oversight of the program and activities set forth in this part of these regulations. The Associate Administrator for Minority Small Business and Capital Ownership Development is responsible for coordinating and formulating policies relating to Federal assistance to small business concerns eligible for assistance under section 7(i) and 8(a) of the Small Business Act.

(b) *Services.* (1) Section 7(j)(1–2) of the Small Business Act empowers the SBA to provide through public and private organizations the management and technical assistance enumerated below to those individuals or concerns who meet the eligibility criteria contained in sections 7(i) and 8(a) of the Small Business Act.

(2) The SBA shall give preference to projects which promote the ownership, participation in ownership, or management of small businesses owned by low-income individuals and small businesses eligible to participate in the section 8(a) program.

(3) This assistance may include any or all of the following:

(i) Planning and research, including feasibility studies and market research;

(ii) The identification and development of new business opportunities;

(iii) The furnishing of centeralized services with regard to public services and Federal Government programs including programs authorized under sections 7(i), 7(j)(10), and 8(a) of the Small Business Act;

(iv) The establishment and strengthing of business service agencies, including trade associations and cooperatives;

(v) The furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing business, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

(4) Sections 7(j)(3) and 7(j)(9) of the Small Business Act authorize SBA to:

(i) Encourage the placement of subcontracts by businesses with small business concerns located in areas of high concentration of unemployed or low-income individuals, with small businesses owned by low-income individuals, and with small businesses eligible to receive contracts pursuant to section 8(a) of this Act. SBA may provide incentives and assistance to such businesses that will aid in the training and upgrading of potential subcontractors or other small business concerns eligible for assistance under sections 7(i), 7(j), and 8(a) of the Small Business Act, and

(ii) Coordinate and cooperate with the heads of other Federal departments and agencies, to insure that contracts, subcontracts, and deposits made by the Federal Government or with programs aided with Federal funds are placed in such way as to further the purposes of sections 7(i), 7(j), and 8(a) of the Small Business Act.

(c) *Eligibility.* (1) Eligibility for the assistance enumerated under § 124.2-1(b) above shall include, but not limited to:

(i) Businesses which qualify as small within the meaning of size standards prescribed in Part 121 of 13 CFR and which are located in urban or rural areas with a high proportion of unemployed or low income individuals; and

(ii) Businesses eligible to receive contracts pursuant to section 8(a) of the Small Business Act.

(d) *Delivery of Services.* (1) The financial assistance authorized for project under § 124.2-1(b) above includes assistance advanced by grant, agreement, or contract.

(2) To the extent feasible, services under § 124.2-1(b) above shall be provided in a location which is easily accessible to the individuals and small business concerns served.

(e) *Coordination and Cooperation With Other Government Agencies.* (1) The Associate Administrator for Minority Small Business and Capital Ownership Development may utilize the resources of other agenies and departments whenever practicable which can directly or indirectly support or augment the purposes of sections 7(j) and 8(a) of the Small Business Act.

(2) The Associate Administrator for Minority Small Business and Capital Ownership Development shall enter into agreements with Federal agencies and departments to further effectuate sections 7(i), 7(j) and 8(a) of the Small Business Act.

(3) The Associate Administrator for Minority Small Business and Capital Ownership Development shall encourage the placement of deposits made by the Federal funds, in such a way as to further the purposes of sections 7(i), 7(j) and 8(a) of the Small Business Act.

§ 124.3–1 Small Business and Capital Ownership Development Program.

(a) *General.* The development assistance described below shall be provided exclusively to those small business concerns eligible to receive contracts pursuant to section 8(a) of the Small Business Act. Such small business concerns shall be participants in the Small Business Capital Ownership and Development program. This program shall:

(1) Assist small business concerns participating in the program to develop comprehensive business plans with specific business targets, objectives, and goals;

(2) Provide for such other nonfinancial services as deemed necessary for the establishment, preservation, and growth of small business concerns participating in the program, including but not limited to (i) loan packaging, (ii) financial counseling, (iii) accounting and bookkeeping assistance, (iv) marketing assistance, and (v) management assistance;

(3) Assist small business concerns participating in the program to obtain equity and debt financing;

(4) Establish regular performance monitoring and reporting systems for small business concerns participating in the program to assure compliance with their business plans;

(5) Analyze and report the causes of success and failure of small business concerns participating in the program; and

(6) Provide assistance necessary to help small business concerns participating in the program to procure surety bonds. Such assistance shall include, but not be limited to, (i) the preparation of surety bond application forms; (ii) special management and technical assistance designed to meet the specific needs of small business concerns participating in the program and which have received or are applying to receive a surety bond, and (iii) preparation of all forms necessary to receive a surety bond guarantee from the SBA pursuant to Title IV, part B of the Small Business Investment Act of 1958.

§ 124.4–1 Surety Bond Waivers.

(a) *Policy.* Notwithstanding subsections (a) and (c) of the first section of the Miller Act (40 U.S.C. 270(a) and (c), 49 Stat. 793) no small business concern shall be required to provide any amount of any bond as a condition of receiving any subcontract under section 8(a) of the Small Business Act if such business concern is determined by SBA to be a start-up concern which, as defined below, has not been participating in any program conducted under the authority of section 8(a) of the Small Business Act for a period exceeding one year, and SBA determines that such amount of bond is inappropriate for the concern in performing the subcontract.

(b) *Definitions.* (1) Start-up concern means a section 8(a) small business concern which is:

(i) both eligible for participation in SBA's section 8(a) program and has had its business plan approved by SBA, and

(ii) which has not been participating in any program conducted under the authority of section 8(a) of the Small Business Act for a period exceeding one year, and

(iii) which has been in its line of work, as its principal business activity, for no more than 2 years. If a principal of the concern has been a principal of another such firm or firms in the same line of work, and the cumulative time span of his service in such capacity(s) is more than two years, the concern is not a start-up concern.

(2) Surety means a corporation with a Certificate of Authority from the Secretary of the Treasury under sections 6 to 13 of Title 6 of the United States Code, or as otherwise qualified under the Small Business Administration's Surety Bond Guarantee Regulations.

(c) *Eligibility.* To be eligible to receive a waiver of surety bond requirements by SBA, a business concern must:

(1) Be determined to be a start-up concern as defined in above; and

(2) Be under consideration by the AA/MSB-COD for award of a section 8(a) subcontract.

(d) *Procedures for Granting A Surety Bond Water.* SBA shall grant a surety bond waiver to an eligible start up concern with respect to the award of a section 8(a) subcontract after SBA has made the following determinations:

(1) SBA determines that the eligible start up concern is unable to obtain the requisite bond or bonds from a surety, and that no surety is willing to issue such bond or bonds subject to the surety bond guarantee provisions of Title IV of the Small Business Investment Act of 1958; and

(2) SBA determines that it can and shall assist, insofar as practicable, the eligible start up concern to develop within a reasonable period of time, such financial and other capability as may be needed to obtain such bonds as SBA may subsequently require for the successful completion of any such contract awarded to the eligible small business concern pursuant to section 8(a) of the Small Business Act; and

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(3) SBA determines that it can and shall take such measures as it deems appropriate for the protection of persons furnishing materials and labor to the eligible small business construction concern to which a surety bond waiver is granted; and

(4) The start up concern agrees to remit to SBA a surety bond waiver fee in the amount of 2 percent of the 8(a) contract's face value within ninety (90) days of the time the contract is awarded.

[FR Doc. 79-2703 Filed 1-24-79; 8:45 am]

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federal register

THURSDAY, JANUARY 25, 1979
PART X



COUNCIL ON WAGE AND PRICE STABILITY

CHANGES IN COUNCIL'S ORGANIZATION AND LOCATION OF OFFICES; CLARIFICATION OF PROCEDURES REGARDING CONFIDENTIAL INFORMATION; FINAL STANDARDS FOR FEDERAL, STATE, AND LOCAL ENTITIES; SUPPLEMENTAL QUESTIONS AND ANSWERS AND IMPLEMENTATION GUIDE

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[3175-01-M]

Title 6—Economic Stabilization

CHAPTER VII—COUNCIL ON WAGE AND PRICE STABILITY

ORGANIZATION, LOCATION OF OFFICES AND CONFIDENTIAL INFORMATION

Correction and Clarification of Regulations

AGENCY: Council on Wage and Price Stability.

ACTION: Final rule.

SUMMARY: These amendments update Parts 701 through 704 of the regulations of the Council on Wage and Price Stability, in order to reflect changes in its organization and the location of its offices, and to clarify procedures relating to confidential information.

EFFECTIVE DATE: January 25, 1979.

FOR FURTHER INFORMATION CONTACT:

Roy Nierenberg, Assistant General Counsel, Council on Wage and Price Stability, Room 5020, 726 Jackson Place NW., Washington, D.C. 20506, 202-456-6210.

SUPPLEMENTARY INFORMATION: The Council's regulations were adopted in 1975, and do not, therefore, reflect recent changes in the Council's organization and location. The amendments incorporate these changes and also clarify existing procedures relating to the submission and treatment of confidential information. It should be noted that the Council on Wage and Price Stability Act, 12 U.S.C. 1904 note, provides strong protection for confidential data submitted to the Council, which protection is reflected in the regulations issued today. If data is confidential, it cannot be released by the Council pursuant to a Freedom of Information Act request or other legal process, and is protected from disclosure to other Federal agencies. Moreover, the regulations issued today contain a new procedure at § 704.4(c), which permits a person to submit information conditionally, subject to a determination by the Council that it can be treated as confidential. If the Council determines that the information cannot be so treated, it will be returned.

Since the amendments are procedural, they are effective immediately, without providing for an initial comment period or waiting the customary 30 days. The Council will, however, accept comments on the amendments, which may be submitted to the General Counsel at the address given above, and which should be received by February 16, 1979.

The provisions of Parts 701 through 704 are promulgated under the Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904 note).

In accordance with the foregoing, Parts 701 through 704 of Title 6 of the Code of Federal Regulations are amended to read as follows.

Issued in Washington, D.C., January 19, 1979.

BARRY BOSWORTH,
Director.

PART 701—ORGANIZATION

Sec.
701.1 Purpose.
701.2 Status.
701.3 Membership.
701.4 Staff.
701.5 Offices and hours.
701.6 Functions of the Council.
701.7 Standards of conduct.
701.8 Divisions.

AUTHORITY: Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904 note).

§ 701.1 Purpose.

This part is intended to provide a general description of the organization of the Council on Wage and Price Stability (the Council). More detailed information can be obtained from the Assistant Director for Public Information at the Council's offices.

§ 701.2 Status.

Pursuant to the Council on Wage and Price Stability Act of 1974, 12 U.S.C. 1904 note, as amended, the Council was established as an agency within the Executive Office of the President.

§ 701.3. Membership.

The Council consists of eight members and four adviser-members, all of whom are appointed by the President. The Chairman of the Council is designated by the President.

§ 701.4 Staff.

The staff of the Council is headed by a Director, appointed by the President with the advice and consent of the Senate.

§ 701.5 Offices and hours.

(a) The offices of the Council are at the New Executive Office Building, Room 4025, 726 Jackson Place, N.W., Washington, D.C. 20506.

(b) Business hours are from 9:00 a.m. to 5:30 p.m., Monday through Friday, except Federal holidays. Where any provision of this chapter refers to a period of days, such period includes only business days, except where otherwise specified. Where any period lapses on a day other than a business day, such period shall be extended through the next following business day.

§ 701.6 Function of the Council.

(a) The principal function of the Council, pursuant to the Council on Wage and Price Stability Act, is to encourage restraint in wage, price and other activities that might have an inflationary effect upon the nation's economy. The Council serves this function by (1) monitoring wage, price and other activity within the private sector of the economy, (2) reviewing programs and policies of the various Federal departments and agencies to analyze their inflationary impact upon the economy, (3) working with representatives of labor and management in various sectors of the economy to encourage restraint in their wage, price and other activity, and (4) holding hearings and otherwise collecting data related to the economy. The Council does not, however, have the authority to impose mandatory economic controls with respect to wages, prices or similar transfers.

(b) In addition, by Executive Order No. 12092 (November 1, 1978), the President authorized the Council to develop standards implementing the voluntary program of wage and price restraint which the President initiated. These standards are set out in an Appendix to Part 705 of this chapter, with related procedures at Part 706.

§ 701.7 Standards of conduct.

The standards of conduct of the Council staff are those applicable to the Office of the President, 3 CFR Part 100.

§ 701.8 Divisions.

(a) *Office of the Chairman.* The Chairman of the Council establishes the basic policy direction to be pursued by the Council, and participates in the various advisory groups within the Office of the President.

(b) *Office of the Director.* This office consists of the Director, and a Deputy Director. It provides overall coordination of the Council's activities and directs the implementation of those activities and responsibilities assigned to the staff by the Council.

(c) *Office of Planning, Policy and Evaluation.* This office, which is headed by an Assistant Director, investigates and develops policy options to combat inflation in various sectors of the economy; provides broad policy coordination for the Council's program activities; develops and presents detailed strategies for dealing with specific sectoral problems; maintains liaison with the Executive Office of the President and other government agencies to facilitate implementation of anti-inflation policy measures, and undertakes and coordinates program evaluations.

(d) *Office of Legislative/Congressional Affairs.* This office, which is headed by an Assistant Director, maintains relations with House and Senate Committees interested in the Council; processes congressional requests for information; develops and coordinates legislative proposals originated by the Council; and advises the Council on policy matters related to Congress.

(e) *Office of Administration and Management.* This office, which is headed by an Assistant Director, provides administrative support in the areas of budget preparation, personnel management, contracting, and administrative services. It also ensures a coordination of management and other policy issues among the program offices.

(f) *Office of Government Programs & Regulations.* This office, which is headed by an Assistant Director, develops and recommends policies for mitigating the potential inflationary effects of Federal activities. The office participates in regulatory proceedings, and comments on proposed regulations, in order to encourage Federal agencies to analyze the cost-effectiveness of their initiatives.

(g) *Office of Price Monitoring.* This office, which is headed by an Assistant Director, is responsible for the overall monitoring of price data and analysis of trends, and identifying particular sources of inflationary pressure; for determining whether or not specific companies are in compliance with the price standards set forth in Subparts 705A and 705C; and for undertaking studies and providing reports for the Congress with respect to inflation trends.

(h) *Office of Pay Monitoring.* This office, which is headed by an Assistant Director provides analytical support to senior government officials; identifies wage negotiations for special attention; responds to technical inquiries as to whether specific unions and/or firms are in compliance with the pay standard set forth in Subpart 705B; and analyzes overall trends in wages and compensation, in order to identify sources of particular inflationary pressures.

(i) *Office of Public Information.* This office, which is headed by an Assistant Director, carries out activities in the area of media relations and other public information services. It is also responsible for editing and distributing publications and reports of the Council.

(j) *Office of the General Counsel.* This office, headed by a General Counsel, provides broad legal support for the Chairman, the Director, and program offices in the implementation of the Council's programs. It reviews requests for information, coordinates the issuance of regulations and interpretive material, and advises on administration of the Pay and Price Standards in order to insure substantive consistency and procedural due process.

PART 702—PUBLIC ACCESS TO RECORDS

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AUTHORITY: Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904 note).

Subpart A—General

§ 702.1 Purpose.

The Freedom of Information Act, 5 U.S.C. Section 552, which is applicable to the Council, requires the public disclosure of records held by the Council, with the exception of specific categories of confidential records described in that Act. This Part establishes the Council's procedures for providing public access to Council records and for determining the confidential treatment of specific records submitted to it. This Part authorizes the General Counsel, subject to review by the Director of the Council, to receive and act upon requests for the disclosure of records.

§ 702.2 Waiver.

Whenever a waiver of any of the procedures set forth in this Part would further the purposes of the Freedom of Information Act by causing the public disclosure of nonconfidential records within the time period required by that Act, the Director of General Counsel may, in the context of individual requests for records, waive any of the procedural requirements of this Part.

§ 702.3 Authority.

The provisions of this part are promulgated pursuant to the requirement in the Freedom of Information Act, 5 U.S.C. Section 552, and of 18 U.S.C. Section 1905, both of which statutory provisions are made expressly applicable to the Council by Section 4 of the Council on Wage and Price Stability Act, as amended.

Subpart B—Confidential Records

§ 702.4 Request for confidential treatment.

(a) Any person requesting the confidential treatment, pursuant to 5 U.S.C. Section 552(b) and to 18 U.S.C. Section 1905, of records submitted by that person to the Council shall make that request in writing to the Council. Such a written request shall accompany the records for which confidential treatment is requested and shall specifically identify the portions of the submitted records for which confidential treatment is requested.

(b) To the extent possible, records for which confidential treatment is requested shall be separately bound or otherwise segregated from any accompanying material submitted without a request for confidentiality.

§ 702.5 Confidential records.

The following kinds of records, exempt from the public availability requirements of 5 U.S.C. Section 552, may be provided confidential treatment by the Council, pursuant to a request made as set forth in § 702.1:

(a) Records specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(b) Records related solely to the internal personnel rules and practices of the Council;

(c) Records specifically exempted from disclosure by statute, including information defined in section 4(f)(1) of the Council on Wage and Price Stability Act, as amended, and as further defined in § 704.4(a) of this chapter;

(d) Trade secrets and commercial or financial information obtained from a person and privileged or confidential. This exemption includes, without limitation, data about the amount of sources of income, profits, losses, costs or expenditures; inventory lists; customer lists; manufacturing processes and other trade secrets; in each case to the extent that such information is not in fact published or otherwise made available on a nonconfidential basis;

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(e) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the Council. The exemption includes, without limitation, minutes and other records of the deliberations of the Council members and staff, intra- and inter-agency reports, memorandums, letters, work papers, and staff papers, except to the extent that such documents have been publicly released by the Council. To the extent that their premature release would be contrary to the public interest, such documents to be made public are included within this exemption until their public release by the Council;

(f) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The exemption includes, without limitation, the personnel records of the Council, files containing reports, records or other material pertaining to individual cases in which disciplinary or other administrative action has been or may be taken, including records of proceedings pertaining to the conduct or performance of duties by Council personnel;

(g) Investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(h) Records contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(i) Geological and geophysical information and data, including maps, concerning wells.

§ 702.6 Confidentiality determination.

Where a request for the confidential treatment of records submitted to the Council has been made, the General Counsel may, within a reasonable time, make such determination, and notify the party making that request of whether those records are confidential.

Subpart C—Requests for Disclosure of Records

§ 702.7 Written requests.

(a) Any request for records held by the Council shall be made in writing and addressed to the General Counsel, at the Council's offices, Room 5020.

(b) Any request for records from the Council shall describe and identify, in reasonable detail, the particular documents or the type of records requested.

(c) Such a written request shall also estimate, pursuant to the fee schedule set forth in Subpart E, the maximum fee that the party making the request would be willing to pay for the search and duplication of the requested records, without further approval.

§ 702.8 Notice of request.

Whenever a request shall be made for the disclosure of records that the General Counsel has previously concluded, pursuant to § 702.6 to be confidential, notice shall be given to the party who has submitted those records that their disclosure has been requested.

§ 702.9 Initial decision.

(a) The General Counsel shall, within ten (10) days of the receipt of any written request for records, determine whether to grant or deny, in whole or in part, that request (based on any determinations respecting such records under § 702.6). In making such a determination, the General Counsel shall consider, among other alternatives, the possibility of separating confidential records, as defined in Subpart B, from other portions of any requested records, and disclosing the nonconfidential portions.

(b) In the event of an unusual circumstance, as defined in Paragraph (b) (1), (2), or (3) of this section, the General Counsel may extend, by no more than ten (10) working days, the time within which he must make an initial decision in response to a written request. The General Counsel shall immediately give written notice to the party making the request of any such extension of time, of the reasons for such an extension, and of the expected date of the initial decision. "Unusual circumstances," for this purpose, shall include:

(1) The need to search for and collect the requested records from establishments that are separate from the Council's office.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request for records or among two or more components of the Council having substantial subject-matter interest therein.

(c) For purposes of this Section, a written request for records shall be deemed "received" when it has arrived in the offices of the Council in a written form that complies with the requirements of § 702.7.

§ 702.10 Notice of initial decision.

The General Counsel shall, immediately upon making an initial decision about a request for records, give written notice of that decision to the person making the request. In the event that that initial decision is to grant a request in whole or part, the written notice shall include a statement of that decision, a brief description of the records to be made available, a statement of the times and place when such records can be available for inspection or, alternatively, of the procedure for duplication and delivery (by mail or other means) of the records to the requesting party, and an itemized statement of the total fees chargeable to the requesting person, pursuant to the fee schedule set forth in Subpart E, for the search for and duplication of the requested records. In the event, on the other hand, that the General Counsel's initial decision is to deny a request in whole or in part, the written notice of that decision shall include a brief statement of that decision and of the reasons therefor, an identification of the name and title of the person making that decision, and also a description of the procedures, pursuant to Subpart D, for an appeal from that decision.

§ 702.11 Preservation of requests and notices.

The General Counsel shall preserve all written requests for records and all written notices of his initial decisions in response thereto for at least one calendar year.

Subpart D—Appeals

§ 702.12 Written appeal.

(a) Any person who has made a written request for the disclosure of records, pursuant to Subpart C, may, within 30 days of receipt of a written notice of the General Counsel's initial decision or after the General Counsel's failure to take any timely action upon that request, request that the Director of the Council review that decision or nonaction. Any such request for review should be made in writing, shall be addressed to the Director, at the Council's offices.

(b) Any written request for review of an initial decision shall include a copy of the party's initial request to the General Counsel for the disclosure of records, a copy of the General Counsel's initial decision, and a brief statement of the legal, factual or other basis for the party's objection to that initial decision.

§ 702.13 Additional information.

Immediately upon receipt of a written appeal, the Director may request that additional information be submitted by the party appealing or by the General Counsel.

§ 702.14 Appellate decision.

(a) The Director shall, within twenty (20) days of the receipt of any written appeal, determine whether to grant or deny that appeal:

(b) In the event of an unusual circumstance, as defined in § 702.9(b), the Director may extend, by no more than ten (10) days, the time within which he must make an appellate decision in response to a written appeal. The Director shall immediately give written notice to the party making the request of any such extension of time, of the reasons for such an extension, and of the expected date of the appellate decision.

§ 702.15 Notice of appellate decision.

The Director shall, immediately upon making an appellate decision, give written notice of that decision to the person making the request. This notice shall include a brief statement of the appellate decision and of the reasons therefor.

Subpart E—Access for Records; Fees

§ 702.16 Access.

(a) Except as set forth in paragraph (b) of this section or as otherwise determined by the Assistant Director for Administration and Management (hereinafter the "Assistant Director") or the Director, requested records or duplicate copies thereof, to be made available to any person shall be made available during regular business hours at the offices of the Council.

(b) Upon the Assistant Director's or the Director's approval, requested records or duplicate copies thereof can be made available by mail to the person making the request.

§ 702.17 Fees.

(a) Fees charged by the Council for the search for and duplication of any records requested shall comply with the following fee schedule:

(a) *Search for records.* $5 per hour when the search is conducted by a clerical employee. $8 per hour when the search is conducted by a professional employee. There is no charge for searches of less than one hour.

(2) *Duplication of records.* Records will be duplicated at a rate of $.25 per page for all copying of four pages or more. There is no charge for duplicating three or less pages.

(3) *Other.* When no specific fee has been established for a service, the Assistant Director is authorized to establish an appropriate fee based on "direct costs" as provided in the Freedom of Information Act and in accordance with Office of Management and Budget Circular No. A-25. Examples of services covered by this provision include searches involving computer time or special travel, transportation or communication costs.

(4) If records requested are stored elsewhere than at the offices of the Council, the special costs of returning those records to the Council's offices for review will be added to the search costs. Search costs are due and payable even if the record which was requested cannot be located after all reasonable efforts have been made or if it is determined that a requested record is confidential and should be withheld.

(b) The Assistant Director or Director may determine, in connection with specific requests for records, that the public interest is best served by the provision of the requested records at no cost or at a cost below the above schedule and, in those specific instances, may waive the above schedule, in whole or in part.

§ 702.18 Prior approval or advanced deposit of fees.

(a) Where the search, duplication or other fees anticipated to result from a request are substantially greater than the amount estimated in the written request, pursuant to § 702.7 above, or in the absence of such an estimate where the anticipated fees are greater than $25, the person requesting the records shall be immediately notified of the estimated fees and his approval for such fees requested. Such person shall also be offered the opportunity to reformulate his or her request in order to reduce the search, duplication and other fees but yet satisfy that person's needs for records.

(b) Where the estimated search, duplication and other fees would exceed $25, the Assistant Director may in addition request that the person requesting records make an advance deposit of the estimated fees.

(c) The dispatch of any such request for an estimated fee approval or advance deposit shall suspend, until a reply is received by the Council, the period, pursuant to 5 U.S.C. section 552 and to § 702.9, within which the Assistant Director must respond to a written request for records.

§ 702.19 Payment of fees.

(a) Fees actually charged a person for the search and duplication of records must be paid in full prior to issuance to him or her of those records. In the event that that person is in arrears for previous requests to the Council for records, records will not be provided for any subsequent requests until the arrears have been paid in full. (b) Payment of fees shall be made by a personal check, postal money order or bank draft drawn on a bank in the United States, made payable to the order of the Treasurer of the United States.

PART 703—RECORDS MAINTAINED ABOUT AN INDIVIDUAL

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AUTHORITY: Council on Wage and Price Stability Act, Pub. L. 93-387 as amended (12 U.S.C. 1904 note).

Subpart A—General

§ 703.1 Purpose.

This part contains the regulations of the Council implementing the Privacy Act of 1974, 5 U.S.C. 552a. The regulations apply to all records maintained by the Council that are contained in a system of records, as defined herein, and that contain information about an individual. The regulations in this part set forth procedures that (a) authorize an individual's access to records maintained about him (or her), (b) limit the access of other persons to those records, and (c) permit an individual to request the amendment or correction of records about him (or her).

§ 703.2 Definitions.

For purposes of this part:

(a) "Council" shall mean the Council on Wage and Price Stability;

(b) "Individual" shall mean a citizen of the United States or an alien law-

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fully admitted for permanent residence;

(c) "Record" shall mean any item, collection or grouping of information about an individual that is maintained by the Council, including but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the individual's name, identifying number, symbol, or other identifying particulars assigned to the individual, such as a finger or voice print or photograph: *Provided,* That such record is maintained in a system of records as defined herein:

(d) "System of records" shall mean a group of any records under the control of the Council from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

§ 703.3 Fees.

The fee schedule set forth in § 702.17 of Part 702 of this chapter shall apply to the reproduction of documents for any request made pursuant to this part.

Subpart B—Annual Notice of Systems of Records Maintained by the Council

§ 703.4 Publication of notice.

The Council will publish in the FEDERAL REGISTER an annual notice describing the systems of records that the Council maintains. Those notices shall include (a) the system name, (b) the system location, (c) the categories of individuals covered by the system, (d) the categories of records in the system, (e) the Council's authority to maintain the system, (f) the routine uses of the system, (g) the Council's policies and practice for maintenance of the system, (h) the system manager, (i) the procedures for notification, access to and correction of records in the system, and (j) the sources of information for the system. Notices shall also be published, as required by the Privacy Act of 1974, of significant changes in or additions to the Council's systems of records.

Subpart C—An Individual's Access to Records Maintained About Him (or Her)

§ 703.5 Request for records.

Any individual may request that the Council provide access to review and/or obtain a copy of any record pertaining to which is contained in any system of records maintained by the Council. Such a request shall be made pursuant to the procedures set forth in §§ 703.6 and 703.7.

§ 703.6 Contents of request.

(a) Any request for access to records must (1) identify the individual making the request by him full name, birth date and current address and (2) reasonably describe the systems of records from which an individual's records are requested. Descriptions of the systems of records maintained by the Council will be available pursuant to § 703.4 in a volume, listing the systems of records maintained by the various agencies of the federal government, to be published by the Office of the Federal Register.

(b) Any request for access to records may also notify the Assistant Director for Administration and Management(hereinafter the "Assistant Director") of the individual's intent to be accompanied by another person of his choice, when reviewing records. Such a statement shall be deemed the individual's consent that records about him (or her) be disclosed in the presence of that other person.

§ 703.7 Procedure for request.

Any individual's request for access to records pertaining to him shall be made in writing or in person to the Assistant Director at the Council's offices, Room 5235. Any individual making such a request in person shall provide acceptable identification (for example, a driver's license, employee identification card or medicare card) to verify his identity and shall complete and sign any reasonable form that the Assistant Director might provide as a record of the request. Any individual making such a request in writing shall mail or otherwise submit to the Assistant Director a written request that is accompanied by a statement verifying the identification of the requestor.

§ 703.8 Initial decision.

(a) Within 10 working days of the receipt of a request pursuant to § 703.4, the Assistant Director shall make an Initial Decision whether the requested records exist and whether they will be made available to the person requesting them. That initial decision shall immediately be communicated, in writing or other appropriate form, to the person who has made the request.

(b) Where the initial decision is to provide access to the requested records, the above writing or other appropriate communication shall (1) briefly describe the records to be made available, (2) state whether any records maintained, in the system of records in question, about the individual making the request are not being made available, (3) state that the requested records will be available during business hours at the Council's offices or alternatively state the procedure for delivery of copies of the records by mail to the individual making the request, and (4) state whether any further verification of the identity of the requesting individual is necessary.

(c) Where the initial decision is not to provide access to requested records, the Assistant Director shall by writing or other appropriate communication explain the reason for that decision. The Assistant Director shall only refuse to provide an individual access to records about himself (or herself) where (1) there is inadequate verification that the requesting individual is in fact the person about whom records are maintained, (2) in fact no such records are maintained, or (3) the requested records have been compiled in reasonable anticipation of civil or criminal action or proceedings.

Subpart D—Access of Others to Records About an Individual

§ 703.09 Limitations on disclosure.

Requests for records about an individual made by persons other than that individual shall also be directed to the Assistant Director. Such records shall only be made available to persons other than that individual in the following circumstances:

(a) To any person with the prior written consent of the individual about whom the records are maintained;

(b) To officers, employees or contractors of the Council who need the records in the performance of their duties for the Council;

(c) For a routine use compatible with the purpose for which it was collected;

(d) To any person to whom disclosure is required by the Freedom of Information Act, 5 U.S.C. 552;

(e) To the Bureau of the Census for uses pursuant to Title 13, of the United States Code;

(f) In a form not individually identifiable, to a recipient who has provided the Council with adequate assurance that the record will be used solely as a statistical research or reporting record; or

(g) To the National Archives of the United States or other appropriate entity as a record which has historical or other value warranting its preservation;

(h) In response to a written request from the head of that federal agency, to an agency for a civil or criminal law enforcement activity that is authorized by law;

(i) To a person showing compelling circumstances, affecting the health or safety of the individual about whom records are maintained, that require the disclosure of such records: *Provided,* That notification of such a disclosure is immediately mailed to the last known address of the individual;

(j) To either House of Congress or to any committee thereof with appropriate jurisdiction;

(k) To the Comptroller General in the performance of the official duties of the General Accounting Office; or

(l) Pursuant to the order of a court of competent jurisdiction.

Subpart E—Accounting of the Disclosure of Records About an Individual

§ 703.10 Maintenance of an Accounting.

The Assistant Director of the Council shall maintain a record ("Accounting") of every instance in which records about an individual are made available, pursuant to this part, to any person other than (a) an officer, employee or contractor of the Council in the performance of his duties or (b) any person pursuant to the Freedom of Information Act, 5 U.S.C. 552.

§ 703.11 Contents of an Accounting.

The above Accounting shall contain the following information:

(a) A brief description of records disclosed;

(b) The date, nature and, where known, the purpose of the disclosure; and

(c) The name and address of the person or agency to whom the disclosure is made.

§ 703.12 Access to accounting.

Any individual may request and shall be provided access, pursuant to the procedures set forth in Subpart C of this part, to any Accounting pertaining to records maintained about that individual.

Subpart F—Amendment or Correction of Records About an Individual

§ 703.13 Request for amendment or correction.

After inspection of any records about an individual, that individual may request, in person or by mail, that the Assistant Director correct or otherwise amend the records maintained about him (or her). Such request shall specify the particular portions of the record to be amended or corrected, the desired amendment or correction, and the reasons therefor.

§ 703.14 Initial decision.

Within 10 working days of receipt of such a request, the Assistant Director shall give the requesting individual notice, by mail or other appropriate means, of his decision regarding the request. That notice shall include:

(a) A statement whether the request has been granted or denied, in whole or in part;

(b) A quotation or description of any amendment or correction made to any records; and

(c) Where a request is denied in whole or in part, an explanation of the reason for that denial, of the requesting individual's right to appeal the decision to the Council's Director pursuant to Subpart G of this part, and of the individual's right, pursuant to § 703.15, to file a written statement to accompany the records in question, setting forth the individual's reasons why those records should have been amended or corrected.

§ 703.15 Written statement of disagreement.

Any individual whose request for the correction or amendment of a record about him (or her) has been denied, in whole or part, may file a Written Statement of Disagreement, setting forth the reasons why the record should have been amended or corrected as requested. That Written Statement shall be made a part of the record and shall accompany that record in any use of disclosure of the record.

§ 703.16 Amendment or correction of previously disclosed records.

Whenever a record is amended or corrected pursuant to § 703.13 or a Written Statement filed pursuant to § 703.15, the Assistant Director shall give notice of that correction, amendment or Written Statement to all persons to whom the records or copies thereof have been disclosed, as recorded in the Accounting kept pursuant to Subpart E of this part.

Subpart G—Appeals

§ 703.17 General.

Any individual whose request for access to records or request for the amendment or correction of records has been denied, in whole or in part, by the Assistant Director may appeal that Initial Decision to the Director of the Council. Such an appeal shall be made in accordance with the procedures of this subpart.

§ 703.18 Appeal.

An individual whose request has been denied in whole or in part by an Initial Decision of the Assistant Director may appeal that decision by filing an appeal, in writing or in person, with the Director, at the Council's offices. That appeal shall describe (a) the request initially made by the individual for access to or the amendment or correction of records, (b) the Assistant Director Initial Decision thereupon and (c) the reasons why that Initial Decision should be Modified by the Director.

§ 703.19 Director's decision.

Within 30 working days of the receipt of any appeal, the Director shall make a decision, and give notice thereof to the appealing individual, whether to modify the Assistant Director Initial Decision in any way. The Director shall also notify the appealing individual of (a) his right to judicial review of the Director's decision pursuant to 5 U.S.C. 552a(g)(1)(A), and (b) of his right, after the denial of any request to amend or correct records, to file a written statement to accompany those records, explaining the individual's reasons why, in his view, the records should have been amended or corrected.

PART 704—INVESTIGATIONS

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AUTHORITY: Council on Wage and Price Stability Act, Pub. L. 93-387, as amended Pub. L. 94-78 (12 U.S.C. 1904, note).

Subpart A—General

§ 704.1 Purpose.

This part establishes the Council's procedures (a) for issuing subpoenas for testimony and documentary evidence, (b) for requiring the submission of periodic reports, (c) for receiving information submitted voluntarily in response to a Council request, and (d) for determining the confidentiality of information submitted to the Council, pursuant to the Council on Wage and Price Stability Act, as amended, 12 U.S.C. Section 1904 note, and procedures for filing objections and requests related thereto. This Part also establishes the Council's procedures for requesting data or information from other agencies pertaining to the economy or any sector of the economy.

§ 704.2 Investigational policy.

From time to time, the Council shall conduct investigations related to its responsibilities under the Council on Wage and Price Stability Act, as amended, to monitor inflationary activities and potentially inflationary activities in the public and private sectors of the economy. In these investigations, the Council will encourage parties voluntarily to provide data requested by the Council. Where the public interest requires, however, the Council may, in any matter under investigation, invoke any or all of the compulsory processes authorized by the Council on Wage and Price Stability Act.

§ 704.3 Notification of purpose.

Subpoenas and orders requiring periodic reports issued subject to this Part shall notify the respondent of the purpose and scope of the Council's investigation.

§ 704.4 Confidentiality of information.

(a) Product line or other such category information relating to an individual firm or person obtained by subpoena, or obtained by order requiring periodic reports, shall be considered as confidential and exempt from public disclosure under section 552(b)(4) of Title 5 of the United States Code, the Freedom of Information Act, and shall not be disclosed by the Council.

(b) A firm or person submitting information pursuant to a subpoena or an order requiring periodic reports which he believes to be protected under paragraph (a) shall designate such information as confidential. In the absence of such designation, the General Council shall determine whether the information is confidential pursuant to Section (f)(1) of the Council on Wage and Price Stability Act.

(c) Notwithstanding the provisions of § 702.4, any person or firm considering whether to provide information for which protection under paragraph (a) may be available, but who is uncertain as to its actual availability, may furnish such information to the Council on a conditional basis, pending a decision of the General Counsel as to whether paragraph (a) applies. It should be accompanied by a statement explaining the basis of the confidentiality of the data. All such information shall be submitted directly to the General Counsel, at the offices of the Council, Room 5020, and shall be labeled "CONDITIONAL SUBMISSION/EYES ONLY GENERAL COUNSEL". If the General Counsel determines that paragraph (a) does apply, he shall so advise the person or firm making the submission and authorize the Counsel to treat the information as having been submitted to it on a confidential basis. If the General Counsel determines that paragraph (a) does not apply, he shall neither allow any other person to examine it or reproduce it for his own retention, and shall promptly return it to the person or firm which furnished it. In the latter case, the General Counsel shall record the type of information submitted, and the dates on which it was furnished and returned.

(d) A firm or person voluntarily submitting information to the Council who believes that, although not within the provision of § 704.4(a), such information warrants treatment as confidential information under the Freedom of Information Act should specifically identify the records for which confidential treatment is requested, stating the basis for the request pursuant to Part 702. Information submitted voluntarily to the Council (other than information submitted in accordance with paragraph (c)) and determined to be confidential under the criteria and procedures in Part 702 shall be considered as confidential and exempt from public disclosure under section 552(b)(4) of Title 5 of the United States Code, the Freedom of Information Act, and shall not be disclosed by the Council.

(e) Whenever the Council receives a request under the Freedom of Information Act, Section 552 of Title 5 of the United States Code or other provision of law for the disclosure of confidential information submitted voluntarily, or information obtained by subpoena or by order requiring periodic reports, notice shall be given to the party who has submitted that information.

(f) Nothing stated herein shall prohibit the Council from publishing data submitted voluntarily or obtained by subpoena or by order requiring periodic reports, when aggregated in a manner that does not separately disclose any data obtained from an individual firm or person.

§ 704.5 Immunity of certain information from legal process.

Periodic reports obtained by the Council pursuant to an order and determined to be in compliance with that order, and information submitted voluntarily pursuant to a request and determined to be in accordance with that request, and copies thereof which are retained by the reporting firm or person, shall be immune from legal process as provided by the Council on Wage and Price Stability Act.

§ 704.6 Noncompliance.

In cases of failure to comply with any subpoena, order requiring periodic reports, or part thereof, the Chairman or Director of the Council or a duly authorized representative may request the Attorney General to initiate any appropriate enforcement proceeding in a United States District Court.

Subpart B—Subpoenas

§ 704.7 Authority to issue subpoenas.

(a) The Chairman or the Director of the Council or in the absence of both of the above a duly authorized representative may sign subpoenas issued by the Council for the attendance and testimony of witnesses and the production of relevant books, papers and other documents, relating to wages, costs, productivity, prices, sales, profits, imports and exports and other aspects of business operations, all by product line or by such other category as the Council may prescribe for any purpose related to the Council on Wage and Price Stability Act.

(b) Subpoenas may be issued to any entity whose gross annual revenues are in excess of $5,000,000. For purposes of this Subsection, "entity whose annual gross revenues are in excess of $5,000,000" shall include without limitation (1) any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship, charitable, educational or eleemosynary institutions, or any other entity however organized, including subsidiary or affiliated units thereof, whose consolidated gross receipts from whatever source derived during the most recently completed fiscal year are in excess of $5,000,000, and (2) any labor union, including all local or other unit thereof, whose consolidated gross receipts for the most recently completed fiscal year from membership dues, return on investments or other sources are in excess of $5,000,000.

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§ 704.8 Service of subpoenas.

Service of subpoenas may be effected as follows:

(a) By registered or certified mail. A copy of the subpoena shall be addressed to the entity to be served at its principal office or place of business, registered or certified, and mailed. A return receipt shall be requested; or

(b) By delivery. A copy thereof may be (1) delivered to an individual authorized, to accept service for the entity to be served, or (2) left at the principal office or place of business of the entity to be served.

§ 704.9 Proof of service of subpoenas.

When service is by registered or certified mail, it is complete upon receipt. A return receipt constitutes proof of service by mail. When service is by delivery, it is complete upon delivery to an individual authorized to accept service or upon being left at the principal office or place of business of the entity to be served. The verified return or certificate of the person serving the document by delivery shall be proof of the service of the document.

§ 704.10 Satisfactory compliance and extension of time.

(a) Subpoenas are returnable within twenty (20) days or such other period the Chairman, Director, or a duly authorized representative, determines to be warranted under the circumstances of a particular case. If a return date of other than twenty (20) days is chosen, the reasons therefor shall be explained in the subpoena or accompanying letter.

(b) The Director or his authorized representative are each authorized to negotiate and approve the terms of satisfactory compliance with the subpoena and, for good cause shown, may extend the time prescribed for compliance with the subpoena.

§ 704.11 Procedure for objections and requests.

Any objections or requests related to a subpoena shall be filed in triplicate with the Director at the Council's offices, within ten (10) days after service of the subpoena, or, if the return date is less than ten (10) days after service of the subpoena, at any time prior to the subpoena's return date. A timely filing under this section shall stay the requirement of a return on the portion of the subpoena challenged if the Director has not ruled by the return date.

§ 704.12 Contents of objections and requests.

(a) Any filing that objects to a subpoena shall identify those portions of the subpoena which are challenged and also those portions not challenged. With regard to the portions challenged, the filing shall indicate the relief requested and the reasons why the relief should be granted.

(b) Any filing that objects to a subpoena on the ground that the subpoenaed entity is not an entity whose annual gross revenues are in excess of $5,000,000, as defined by § 704.7(b), shall submit documentary proof of its annual sales, dues, or other appropriate data from whatever source derived during its most recently completed fiscal year.

§ 704.13 Director's decision.

Within twenty (20) working days of the receipt of any objections or requests filed pursuant to § 704.11, the Director shall make a decision and shall transmit the decision and the reasons therefor to the objecting party. The Director's decision is a "final agency action" within the meaning of 5 U.S.C., section 704. The Director shall specify a new return date, if appropriate.

§ 704.14 Investigational hearings.

(a) Investigational hearings for the purpose of hearing the testimony of subpoenaed witnesses and receiving subpoenaed documents and other data relative to any subject under investigation, shall be presided over by the Council, one or more of its members, or the Director, or a duly designated representative. The presiding officer at such a hearing is authorized to administer oaths to witnesses.

(b) Witnesses subpoenaed shall be paid the same fees and mileage as are paid to witnesses in the Courts of the United States.

§ 704.15 Rights of witnesses in investigational hearings.

(a) Any person who testifies or appears in an investigational hearing shall be entitled, on payment of lawfully prescribed costs, to procure a copy of his own testimony as transcribed stenographically or electronically.

(b) Any person who appears in person in an investigational hearing may be represented by counsel. Counsel shall be permitted to make objections on the record that could not reasonably been raised pursuant to § 704.12, above, and to state briefly the basis for such objections.

(c) The Director may review any objections made at investigational hearings. If he finds that the objections are without merit and that the witness has failed to comply fully with the subpoena, he shall notify the party of his finding. If within five (5) working days the party has not fully complied, the Director may request the assistance of the Attorney General pursuant to § 704.6.

Subpart C—Periodic Reports

§ 704.16 Authority to require periodic reports.

(a) The Chairman, the Director, or in the absence of both of the above a duly authorized representative, may sign orders issued by the Council to require periodic reports derived from information maintained in the ordinary course of business relating to wages, costs, productivity, prices, sales, profits, imports, and exports, and other aspects of business operations, all by product line or by such other category the Council may prescibe for any purpose related to the Council on Wage and Price Stability Act.

(b) A single report from a single entity, separate single reports from two or more entities, and multiple reports from one or more entities are all authorized under this Part.

(c) Orders requiring periodic reports shall be in compliance with the Federal Reports Act, 44 U.S.C. Section 3501 *et seq.*

(d) Orders requiring periodic reports shall state the date(s) when the periodic reports shall be submitted.

§ 704.17 Definition of periodic reports.

For the purpose of this Part, "periodic report" shall mean a report derived from information maintained in the ordinary course of business relating to wages, costs, productivity, prices, sales, profits, imports and exports, and other aspects of business operations, by product line or such other category as the Council may prescribe, which report is sought by the Council and for the Council relating to any matter under investigation by the Council.

§ 704.18 Service of orders requiring periodic reports.

Service of orders requiring periodic reports may be effected as follows:

(a) *By registered or certified mail.* A copy of the order shall be addressed to the entity to be served at its principal office or place of business, registered or certified, and mailed. A return receipt shall be requested; or

(b) *By delivery.* A copy thereof may be (1) delivered to an individual authorized to accept service for the entity to be served, or (2) left at the principal office or place of business of the entity to be served.

§ 704.19 Proof of service of orders requiring periodic reports.

When service is by registered or certified mail, it is complete upon receipt. A return receipt constitutes proof of service by mail. When service is by delivery, it is complete upon delivery to an individual authorized to accept service or upon being left at the principal office or place of business of the

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entity to be served. The verified return or certificate of the person serving the document by delivery shall be proof of the service of the document.

§ 704.20 Statement accompanying periodic report.

All responses to an order requiring periodic reports shall be signed by a representative authorized to file the document, indicating that he (or she) has examined the statements contained in the submittal or response, and that all such statements are true and correct to the best of his (or her) knowledge, information, and belief.

§ 704.21 Procedure for objections and requests.

Any objections or requests related to an order requiring periodic reports shall be filed in triplicate with the Director at the Council's offices, within ten (10) days after service of the order requiring periodic reports. A timely filing under this section shall stay the requirement of a return on the portion of the order challenged if the Director has not ruled by the return date.

§ 704.22 Contents of objections and requests.

(a) Any filing that objects to an order requiring periodic reports shall identify those portions which are challenged and also those portions not challenged. With regard to the portions challenged, the filing shall indicate the relief requested and the reasons why the relief should be granted.

(b) Any filing that objects to an order requiring periodic reports on the ground that the order requires information in categories not maintained in the ordinary course of business shall identify any alternative categories or types of information maintained in the ordinary course of business which bear on the Council's inquiry or shall demonstrate that such an identification would be unreasonably burdensome.

§ 704.23 Satisfactory compliance and extensions of time.

(a) The Director or his authorized representative may negotiate and approve the terms of satisfactory compliance with the order requiring periodic reports. For good cause shown, they may extend the time prescribed for compliance.

(b) The Director may determine that any portion or all of a periodic report which contains substantially less or substantially more information that was ordered is not in compliance with that order.

§ 704.24 Director's decision.

Within twenty (20) working days of the receipt of any objections or requests filed pursuant to § 704.19, the Director shall make a decision and shall transmit the decision and the reasons therefore to the objecting party. The Director's decision is a "final agency action" within the meaning of 5 U.S.C. Section 704. The Director shall specify a new return date, if appropriate.

Subpart D—Data From Other Agencies

§ 704.25 Authorization to request data from other agencies.

The Chairman of the Council has authorized the Director to exercise all of the authority vested in him by section 4(a) of the Act and to delegate any or all of these authorities (39 FR 44068). The Director, the Assistant Directors for Price Monitoring, Pay Monitoring, Government Programs and Regulations, and Planning, Policy and Evaluation, and their representatives are each authorized to request data and information pertaining to the economy or any sector of the economy from any department or agency of the United States and any state or local agency or department, which collects, generates, or otherwise prepares or maintains data or information.

§ 704.26 Procedure for requests by the Council.

(a) Any Council request for data from another governmental department or agency shall be addressed to the head of the agency or to any other appropriate official of the agency.

(b) The time and manner of an agency's response to a Council request for data shall be determined by consultation with the appropriate official from that agency.

§ 704.27 Responses by agencies.

When supplying data and information to the Council, the Federal, state or local agency shall (i) indicate whether the data and information are confidential, and (ii) specify all the applicable rules of practice and procedure governing the disclosure of the material supplied.

§ 704.28 Confidentiality of data obtained from other agencies.

(a) Upon request for disclosure for information obtained from a Federal, state or local agency, the Council will be guided by section 552 of Title 5, United States Code, and all the applicable rules of practice and procedure of the agency or department from which the information was obtained.

(b) If the agency or department from which the information was obtained has no rules of practice and procedure governing disclosure, the Council shall apply its own rules set forth at 6 CFR, Part 702.

§ 704.29 Compliance with Privacy Act.

Submissions made by any agency in response to a Council request shall be made in compliance with the Privacy Act, 5 U.S.C. Section 552a.

[FR Doc. 79-2533 Filed 1-24-79; 8:45 am]

[3175-01-M]

PART 705—NONINFLATIONARY PAY AND PRICE BEHAVIOR

Modified Price Standard for Federal, State, and Local Entities

AGENCY: Council on Wage and Price Stability.

ACTION: Final Standard for Federal, State, and Local Entities.

SUMMARY: The Council's voluntary standard for noninflationary price behavior contains modified standards applicable to segments of the economy that would have special difficulties in complying with the general price standard. The Council has determined that, in some instances, Federal, State and local entities would have such difficulties and, accordingly, has adopted a modified price standard applicable to these entities.

EFFECTIVE DATE: January 25, 1979.

FOR FURTHER INFORMATION CONTACT:

Sandra Sherman, Office of General Counsel, Council on Wage and Price Stability, 726 Jackson Place, NW., Washington, D.C. 20506, (202) 456-6210.

SUPPLEMENTARY INFORMATION: On the basis of discussions with Federal, State, and local entities and other groups, the Council has determined that, while the pay standard is applicable to all types of government entities, the price standard can be appropriately applied only to those government entities that resemble private enterprises (the U.S. Post Office, port authorities, etc.). That is, it would be inappropriate to apply the price standard to a government entity that is funded primarily by general tax revenues rather than by revenue from the sale of goods and services. Moreover, since the revenues of government entities are usually from nonbusiness sources (e.g., taxes), they do not maintain the type of data or records which would permit them to make the calculations necessary to determine compliance with the price standard. Accordingly, the Council is adopting a modified price standard for those entities.

Under this modified price standard, Federal, State, and local enterprises (i.e., limited-purpose entities affiliated with the government and doing business with the public, such as municipal utilities, water authorities, and public hospitals) that can be treated as separate compliance units ("companies" under 705D) *and* whose operating revenues equal at least 50% of their total expenses, are expected to comply with the price standard under 705A. Federal, State, and local enterprises and other entities that are not in the foregoing category are exempt from the price standard.

It should be noted that if a government entity is subject to the price standard, it may, of course, comply with the profit-margin limitation if, for either of the reasons set forth in 705A-6(a)(1), it is unable to comply with the price deceleration standard. In meeting the profit-margin limitation, an entity may use the operating-margin limitation that is applicable to nonprofit organizations. The operating margin is operating surplus divided by operating funds, where the operating surplus is defined as operating funds less total costs and expenses including wages.

Under this approach, those entities of government that are separate for accounting purposes and are otherwise operated substantially like businesses, can be expected to have the records appropriate to businesses and, therefore, to have the capability of complying with the price standard. Those government enterprises that cannot be disaggregated from the nonbusiness operations of government in accordance with 705D, or that cannot cover at least half of their current expenses with operating revenue, as well as all other government entities, are less likely to have the necessary records, and are therefore exempt from compliance with the price standard. However, all Federal, State, and local governments and government entities are expected to comply with the pay standard.

While this Standard is final, the Council will consider comments on it. Comments should be sent to the above address by February 16, 1979.

(Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904 note); E.O. 12092.)

In consideration of the foregoing, section 705C-4 is added to the appendix to Part 705 of Chapter VII, Title 6 of the Code of Federal Regulations, to read as follows.

Issued in Washington, D.C. January 19, 1979.

BARRY BOSWORTH,
Director, Council on Wage and Price Stability.

A new 705C-4 is added to the appendix to Part 705 to read as follows:

705C—Modified Price Standard for Selected Industries

* * * * * *

705C-4 Federal, State, and Local Government Enterprises and Other Entities

(a)(1) Government enterprises are expected to comply with the price standard.

(2) For purposes of this standard, a "government enterprise" is an entity such as a port, transit, or water authority, public hospital, or municipal utility,

(i) that may, in accordance with the definition of "company" in 705D, be disaggregated from Federal, State, or local government entities and treated as a separate unit for purposes of compliance with the price standard, and,

(ii) whose operating revenue equals at least fifty percent (50%) of current expenses, including interest on debt but not including depreciation. (Operating revenue includes subsidy payments from other government entities intended to effectuate a specific policy objective, but does not include transfers from a government's general revenues.)

(b) Federal, State, and local entities that are not government enterprises in accordance with paragraph (a) are exempt from the price standard but are expected to comply with the pay standard.

* * * * *

[FR Doc. 79-2534 Filed 1-24-79; 8:45 am]

[3175-01-M]

PART 706—SPECIAL PROCEDURAL RULES

Compliance With the Pay Standard by Federal, State, and Local Enterprises and Other Entities

AGENCY: Council on Wage and Price Stability.

ACTION: Final rule.

SUMMARY: In order to minimize the reporting burdens on Federal, State and local entities, the Council is adopting modified procedural rules for compliance with the pay standard by these entities.

EFFECTIVE DATE: January 25, 1979.

FOR FURTHER INFORMATION, CONTACT:

Sandra Sherman, Office of General Counsel, Council on Wage and Price Stability, 726 Jackson Place, N.W., Washington, D.C. 20506, (202) 456-6210.

SUPPLEMENTARY INFORMATION: On the basis of discussions with Federal, State, and local officials, and other groups, the Council has determined that, while the pay standard is applicable to all government entities, the price standard should be applicable only to "government enterprises" (defined in Section 705C-4, released today). Accordingly, the Council is adopting a modified reporting procedure for these entities, codified at 6 CFR 706.25.

Under this procedure, if a Federal, State, or local entity is not defined as a government enterprise, it is exempted from the general reporting provisions in Subpart B of Part 706. However, if it has 5,000 or more employees, it is requested to provide the Council by February 15, 1979, with an assurance of compliance with the pay standard or with its method of pay computation under 705B-4.

This procedure reflects the fact that under 705C-4, government entities that are not "enterprises," as defined therein, are exempted from the price standard, and also acknowledges that in the area of pay, it may be much easier for a government to certify compliance than to provide a more elaborate notification of the identification of employee groups and methods of pay-rate calculations.

Since this rule is procedural only, it is effective immediately, without the customary thirty days' notice. However, the Council will accept comments, which should be sent to the above address by February 23, 1979.

(Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904 note); E.O. 12092.)

In consideration of the foregoing, Part 706 of Chapter VII, Title 6 of the Code of Federal Regulations, is amended by adding a new § 706.25 to Subpart B—Reports and Notifications to read as follows.

Issued in Washington, D.C., January 19, 1979.

BARRY BOSWORTH,
Director, Council on Wage and Price Stability.

Part 706 is amended by adding a new § 706.25 to Subpart B—Reports and Notifications as follows:

Subpart B—Reports and Notifications

* * * * * *

§ 706.25 Compliance with the Pay Standard by Federal, State, and Local Enterprises and Other Entities

(a) When complying with the pay standard, Federal, State, and local enterprises and other government entities that are not government enterprises as defined in 705C-4, and which have 5,000 or more employees, should either:

(1) Notify the Council by February 15, 1979, of the method of computation under 705B-4 to be used for determining pay rate changes during the program year; or

(2) Furnish the Council by February 15, 1979, with a letter of assurance

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from the head of government, stating that the enterprises and/or entities intend to comply with the pay standard during the program year.

(b) No other provision of this Subpart applies to any enterprise or entity covered by paragraph (a) of this section.

[FR Doc. 79-2537 Filed 1-24-79; 8:45 am]

[3175-01-M]

PART 705—NONINFLATIONARY PAY AND PRICE BEHAVIOR

Amendment to Pay Standard

AGENCY: Council on Wage and Price Stability.

ACTION: Amendment to Pay Standard.

SUMMARY: On December 28, 1978, the Council on Wage and Price Stability published in the FEDERAL REGISTER at 43 FR 60772 voluntary standards for compliance with the President's anti-inflation program. It thereafter came to the Council's attention that the intent of the pay standard (705B Pay Standards) could be circumvented by cost-of-living adjustment clauses that were contingent upon a rise in the Consumer Price Index above a certain point. To prevent this from being permissible under the pay standard, the Council ruled on January 10, 1979, that cost-of-living adjustments that make payments only after the Consumer Price Index has been increased by some minimum amount violate the pay standard. Because of the emergency nature of this ruling, the amendment to the pay standard was effective the date the decision was made public, January 10, 1979.

EFFECTIVE DATE: January 10, 1979.

FOR FURTHER INFORMATION CONTACT:

Sean Sullivan, Office of Pay Monitoring, Council on Wage and Price Stability, 726 Jackson Place, NW., Room 5002, Washington, D.C. 20506 (202) 456-6480.

(Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904 note); E.O. 12092)

In consideration of the foregoing, section 705B-3(c) of the appendix to Part 705 of Chapter VII, Title 6 of the Code of Federal Regulations, is amended as follows.

Issued in Washington, D.C., January 19, 1979.

BARRY P. BOSWORTH,
Director, Council on Wage and Price Stability.

Accordingly, Section 705B-3(c) of the appendix to Part 705 is amended by adding subparagraphs (1) and (2) as follows:

705B—PAY STANDARDS

• • • • • •

(c) • • •

(1) This assumption cannot be used if—

(i) A new cost-of-living provision is established that makes payments only after the Consumer Price Index has increased by some minimum amount;

(ii) an existing cost-of-living provision is modified to begin making payments only after the Consumer Price Index has increased by some minimum amount;

(iii) The Consumer Price Index minimum amount in an existing cost-of-living provision of the type described in (i) is increased; or

(iv) the duration of the contract is one year or less. (2) Cost-of-living adjustment provisions that are not permitted to be evaluated using the 6-percent inflation assumption should be evaluated using the actual rate of inflation. Contracts with such clauses should be in compliance with the pay standard at the end of each year of the contract.

[FR Doc. 79-2535 Filed 1-24-79; 8:45 am]

[3175-01-M]

PART 705—NONINFLATIONARY PAY AND PRICE BEHAVIOR

PART 706—SPECIAL PROCEDURAL RULES

Supplemental Questions and Answers and Implementation Guide

AGENCY: Council on Wage and Price Stability.

ACTION: Issuance of Supplemental Questions and Answers (Q's and A's) and Implementation Guide.

SUMMARY: In order to facilitate compliance with the Council's voluntary standards on noninflationary pay and price behavior (6 CFR 705), and the accompanying Special Procedural Rules (6 CFR 706), the Council is issuing supplemental Q's and A's and an Implementation Guide.

EFFECTIVE DATE: January 25, 1979.

FOR FURTHER INFORMATION, CONTACT:

Pay: Sean Sullivan (202/456-6480); Price: Jack Triplett (202/456-7000); Procedure: Roy A. Nierenberg (202/456-6286), of the Council on Wage and Price Stability, 726 Jackson Place, NW., Washington, D.C. 20506.

SUPPLEMENTARY INFORMATION: The Q's and A's issued today supplement those published at 43 FR 60772 (December 28, 1978), and are arranged in categories under Pay, Price, and Procedure. The information provided supersedes any which may have been furnished by Council staff at an earlier date. The Implementation Guide contains methodologies of calculation applicable to the standards and is intended to facilitate compliances with technical features of the standards.

(Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904 note); E.O. 12092.

Issued in Washington, D.C., January —, 1979.

BARRY BOSWORTH,
Director, Council on Wage and Price Stability.

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PART TWO

QUESTIONS AND ANSWERS .....

[3175-01-C]

PAY AND PRICE STANDARDS

IMPLEMENTATION GUIDE

JANUARY 22, 1979

COUNCIL ON WAGE AND PRICE STABILITY

INTRODUCTION

The President's anti-inflation program requests that individual firms establish procedures to measure and evaluate their pay and price actions under the voluntary standards. This document is designed

(1) to explain and clarify the concepts used in the voluntary pay and price standards issued on December 13, 1978 (published in the Federal Register on December 28, at 43 FR 60772), and

(2) to illustrate methods individual firms can use to determine compliance with the standards.

Although some firms will be asked to submit information to the Council, the standards are intended to be largely self-administered. The standards provide a general outline for pay and price behavior to reduce inflation. Individual firms are asked to use the concepts presented in the standards to develop and apply measures of their pay and price performance.

The Council is aware that no single set of procedures can cover every eventuality. This guide provides examples that apply to most circumstances. Some firms, however, will need to extend these procedures to meet their own situation. In doing so, they should ensure that their procedures are consistent with the intent of the program and that they are consistently applied.

I. PRICE STANDARDS

The price standard applies to all goods and services (products) sold in the United States and its territories and possessions. To meet the objectives of the price standard, firms will need to make decisions about:

(a) how their firm's activities will be organized for compliance purposes;

(b) how they will compute a measure of their price actions; and

(c) how they will measure profits and profit margins.

Each of these issues is addressed in the following sections. In addition, examples have been included to illustrate the special procedures used in the food processing industry and retail/wholesale trade.

A. ORGANIZATION FOR COMPLIANCE PURPOSES

In most situations, companies will measure their performance under the pay and price standards on an aggregate basis. Since the price-deceleration standard is applicable to average price changes over all of a company's product lines, large price increases for some products can be offset by smaller price increases for others. Firms that have operations in a wide variety of different industries, however, may decide to separate their activities. This section contains a description of an illustrative corporation and a discussion of how it might be organized for purposes of compliance with the price standards.

The A-to-Z Corporation is a parent company consolidated for Form 10K reporting to the Securities and Exchange Commission. The parent company consists of two consolidated divisions (a manufacturing division and a consolidated miscellaneous division), a group of other consolidated subsidiaries, and a group of unconsolidated subsidiaries. This corporation's fiscal year ends June 30. The corporation's business will remain essentially unchanged over 1978-79.

The organizational structure that the company chooses will be affected by special situations acknowledged in the standards. These special situations include: exclusion of products from average-price calculations under Section 705A-3 of the standards; the insufficient-product-coverage considerations under 705A-5; application of the profit-margin limitation under 705A-6(a); and special industry standards, under 705C.

1. Parent, Manufacturing Division ($600 million sales)

This division sells manufactured products, and is complying with the price deceleration standard as a single separate "company" in accordance with the criteria provided by the definition of "company" in 705D. It has the following product lines:

Product Line	Revenues (million)
A	$150
B	90
C (metal scrap)	60
D	270
E (introduced 12/77)	30
Total	$600

Metal scrap is excluded from the calculation of average price changes (705A-3(b)). Thus, adjusted net revenues, as defined in 705A-5, are $540 million ($600-$60). In addition, the new product, E, is excluded from the computation of the average price change under 705A-3(g) for the 1976-77 period, but not for the program year.

2. Miscellaneous Division ($300 million sales)

This division consists of a group of consolidated companies that do not fit into the manufacturing division; it is complying with the standards as a single separate company. Its sales include the following:

Product Line	Revenues (millions)
F (copper)	$ 25
G (custom-made products)	100
H	175
Total	$300

The company can demonstrate that its pricing of copper follows the New York Metal Exchange spot copper price. Thus, these revenues are excluded under 705A-3(c) and adjusted net revenues equal $275 million ($300-$25). The revenues from custom-made products, $100 million, exceed one-third of adjusted net revenue, so this division, following 705A-5(b), will comply with the profit-margin-limitation exception in 705A-6(a). For purposes of this exception all of the Miscellaneous Division's business will be included in the profit-margin calculations for the program year.

3. Other Consolidated Subsidiaries

Each of these subsidiaries will comply as a single separate "company".

Company III — Retail Trade

The company will comply with the retail trade standards under 705C-2(c).

Company IV — Food Processing

The company will comply with the food processing standards under 705C-2(d).

Company V — 80% collected scrap; 20% manufacturing

As scrap prices are excluded under 705A-3(b) and scrap revenues exceed 75 percent of total revenues, under 705A-5(a), company V is exempted from the price standard and the profit-margin limitation.

4. Unconsolidated Subsidiaries

Unconsolidated subsidiaries must comply with the standards as separate companies.

Company VI — Only exports manufactured products

All products are excluded under 705A-3(d). The company is exempted under 705A-5(a) from the general price-deceleration standard and the profit-margin limitation.

Company VII — Hospitals

The standards will be administered by the Department of Health, Education, and Welfare as part of the Hospital Cost Containment Program.

Company VIII — Water Utility

Maximum allowable rates are regulated by State Utility commissions. However, actual rate increases should comply with the general price-deceleration standard.

B. PRICE DECELERATION STANDARD

To establish compliance with the price deceleration standard, two rates of price increase should be computed for the "company" (as defined in 705D). The first summarizes the average rate of price increase over the 1976-77 period. The second summarizes the rate of price increase over the program year. These two rates of change are compared to determine compliance with the price deceleration standard.

A company-wide average price change is calculated as a weighted average of the individual product-line price changes. A product-line is any aggregation of products or services established by a company that reflects the company's customary pricing unit. It may consist of a single product or service, or a group of related products or services.

In establishing the product-line grouping within a company, the price changes computed for each product-line must reasonably reflect the changes in the prices of the products contained within the category. All characteristics which influence price should be reviewed including class of buyer and other factors influencing the terms of sale. Price is defined as the net realized revenues per unit at time of delivery. In establishing product-lines for the calculation of price indexes for their company units, firms should try to minimize the impact of changes in the mix of products sold.

In some situations, it may not be feasible to disaggregate a product group to the point where changes in the mix of products are eliminated. A firm may choose to select a sample of representative products within the group and use the average price change for this sample as an index of price change for the entire group.

The basic data for the illustrative computations are provided in Table 1. The revenues and prices of product-line C (metal scrap) are excluded from covered revenues and all computations. Similarly, price and revenue data from product E are used only during the program year.

TABLE 1

BASIC PRICE DATA FOR EXAMPLE COMPANY

Quarter ending	Revenues	Units Sold	Unit Price
	Product A		
12-31-75	$47,250,135	3,500,010	$ 13.50
12-31-77	54,382,500	3,625,500	15.00
9-30-78	60,800,000	3,800,000	16.00
9-30-79	65,625,000	3,750,000	17.50
	Product B		
12-31-75	$15,600,000	5,200,000	$ 3.00
12-31-77	21,750,750	5,800,200	3.75
9-30-78	26,137,500	6,150,000	4.25
9-30-79	27,450,000	6,100,000	4.50
	Product C (metal scrap)		
12-31-75	$ 5,950,000	170,000	$ 35.00
12-31-77	18,200,000	260,000	70.00
9-30-78	18,750,000	250,000	75.00
9-30-79	10,000,000	200,000	50.00
	Product D		
12-31-75	$45,000,000	1,800,000	$ 25.00
12-31-77	57,000,000	1,900,000	30.00
9-30-78	62,400,000	1,950,000	32.00
9-30-79	70,125,000	2,125,000	33.00
	Product E (Introducted Dec. 4, 1977)		
12-31-75	$ -	-	$ -
12-31-77	496,850	5,230	95.00
9-30-78	15,500,100	147,620	105.00
9-30-79	23,057,500	200,500	115.00

	Total Revenues	Covered Products Revenues
12-31-75	$113,800,135	$107,850,135
12-31-77	151,830,100	133,133,250
9-30-78	183,587,600	164,837,600
9-30-79	196,257,500	186,257,500

1. Base-Period Rate of Price Change

The company should first compute the base-period rate of price change according to the formula of 705D:

Base Period Rate of Price Change (BPRC)

$$BPRC = \left[\sqrt{\sum_i S_i \times \frac{P_i(77)}{P_i(75)}} - 1.0\right] \times 100$$

where

S_i = the share of covered revenues represented by the ith product

$P_i(77)$ = the unit price of the ith product in the 4th quarter of 1977

$P_i(75)$ = the unit price of the ith product in the 4th quarter of 1975

In this example there are three products (A, B, and D) that are used in the base rate of price change calculation:

Product	S_i	$P_i(77) \div P_i(75)$	$S_i \times [P_i(77) \div P_i(75)]$
A	$\left(\frac{47,250,135}{107,850,135}\right)$	$\times \left(\frac{15.00}{13.50}\right)$ =	0.4868
B	$\left(\frac{15,600,000}{107,850,135}\right)$	$\times \left(\frac{3.75}{3.00}\right)$ =	0.1808
D	$\left(\frac{45,000,000}{107,850,135}\right)$	$\times \left(\frac{30.00}{25.00}\right)$ =	0.5007
	Total		1.1683

$BPRC = \left(\sqrt{1.1683} - 1.0\right) \times 100 = \boxed{8.09\%}$

Thus, the base-period rate of price change is 8.09 percent. During the program year, the company would have an allowable price increase equal to the base-period rate of price increase minus the deceleration percentage of 0.5 percentage points (705A-2(c)). Thus, this illustrative company has an allowable program year price increase of 8.09 percent minus 0.5 percentage points or 7.59 percent. (Some companies may have a larger deceleration percentage due to a passthrough of pay deceleration. This is discussed in a later section).

2. Program-Year Rate of Price Change

During the program year the company will need to monitor its price increases to ensure compliance with its deceleration standard (7.59 percent). Program-year price changes are computed according to the following formula:

Program-Year Rate of Price Change (PRPC)

$$PRPC = \left(\sum_i S_i \frac{P_i(79)}{P_i(78)} - 1.0\right) \times 100$$

here

S_i = the share of covered revenues represented by the ith product

$P_i(78)$ = the unit price of the ith product in the third quarter of 1978

$P_i(79)$ = the unit price of the ith product in the third quarter of 1979

In this period there are four products, A, B, D, and E, which are included in the price change calculation:

Product	S_i	$P_i(79) \div P_i(78)$	$S_i (P_i(79) \div P_i(78))$
A	$\left(\frac{60,800,000}{164,837,600}\right)$	$\times \left(\frac{17.5}{16.00}\right)$ =	0.4034
B	$\left(\frac{26,137,500}{164,837,600}\right)$	$\times \left(\frac{4.50}{4.25}\right)$ =	0.1679
D	$\left(\frac{62,400,000}{164,837,600}\right)$	$\times \left(\frac{33.00}{32.00}\right)$ =	0.3904
E	$\left(\frac{15,500,100}{164,837,600}\right)$	$\times \left(\frac{115.00}{105.00}\right)$ =	0.1030
	Total	=	1.0647

$PRPC = (1.0647 - 1.0) \times 100 = \boxed{6.47\%}$

As indicated, the company's program-year rate of price change is 6.47%. It complies with the price-deceleration standard since its program-year rate of price change is less than its allowable rate of 7.59%, which was derived in the preceding section.

However, a company must also determine if its company-wide pay-rate change has decelerated between the 1976-77 period and the program year. If so, the additional amount of deceleration, as computed in the following section, must be incorporated in the company's price-deceleration standard.

3. Passthrough of Pay Deceleration

The above example applies to a company that has not experienced pay deceleration; additional price deceleration is expected for companies whose payroll costs decelerate by more than 0.5 percentage points. The concept of pay used to compute the company pay rate includes the costs of all private fringe benefits, FICA wages, and employment taxes. The pay rate is the simple average pay rate for all employees of the company (including the union, management, and other groups, as well as workers with wage rates below $4.00 per hour).

TABLE 2

BASIC PAY DATA

Quarter Ending	Employee Hours	Pay Rate	Employment Costs (Rate x Hours)	Total Company Revenues
12-31-75	2,250,000	$12.50	$ 28,125,000	$ 113,800,135
12-31-77	2,200,000	14.75	32,450,000	151,830,100
9-30-78	2,350,000	15.25	35,837,500	183,587,600
9-30-79	2,255,000	16.40	36,982,000	196,257,500

Pay rate changes are measured by the following formulas:

$$\left(\begin{matrix}\text{Base Period Rate}\\ \text{of Pay Change}\end{matrix}\right) = \left(\sqrt{\frac{\text{Pay Rate (77)}}{\text{Pay Rate (75)}}} - 1.0\right) \times 100$$

$$\left(\begin{matrix}\text{Program Year Rate}\\ \text{of Pay Change}\end{matrix}\right) = \left(\frac{\text{Pay Rate (79)}}{\text{Pay Rate (78)}} - 1.0\right) \times 100$$

In this example, the base-period rate of change of the company pay rate is

$$\left(\sqrt{\frac{14.75}{12.50}} - 1.0\right) \times 100 = 8.63\%.$$

The program-year rate of change of the company pay rate is

$$\left(\frac{16.40}{15.25} - 1.0\right) \times 100 = 7.54\%.$$

If the program-year rate of pay change is more than 0.5% below the base rate, a pay deceleration passthrough adjustment to the price-deceleration standard is required. This is computed in accordance with 705A-2(c) in the following way:

$$\left(\begin{matrix}\text{Deceleration}\\ \text{Percentage}\end{matrix}\right) = .5\% + \left[\left(\begin{matrix}\text{Deceleration}\\ \text{of Company}\\ \text{Pay Rate}\end{matrix}\right) - .5\%\right] \times \left(\begin{matrix}\text{Company}\\ \text{Pay Share}\end{matrix}\right)$$

where

$$\left(\begin{matrix}\text{Deceleration}\\ \text{of Company}\\ \text{Pay Rate}\end{matrix}\right) = \left(\begin{matrix}\text{Base Period}\\ \text{Rate of}\\ \text{Pay Change}\end{matrix}\right) - \left(\begin{matrix}\text{Program Year}\\ \text{Rate of}\\ \text{Pay Change}\end{matrix}\right)$$

and

$$\left(\begin{matrix}\text{Company}\\ \text{Pay Share}\end{matrix}\right) = \frac{\text{Employment Costs in Base Quarter}}{\text{Total Revenue in Base Quarter}}$$

In the above example

$$\left(\begin{matrix}\text{Deceleration}\\ \text{of Company}\\ \text{Pay Rate}\end{matrix}\right) = 8.63\% - 7.54\% = \underline{1.09\%}$$

$$\left(\begin{matrix}\text{Company}\\ \text{Pay Share}\end{matrix}\right) = \frac{35,837,500}{183,587,600} = .1952$$

$$\left(\begin{matrix}\text{Deceleration}\\ \text{Percentage}\end{matrix}\right) = 0.5\% + [(1.09\%) - 0.5\%] \times .1952 = \boxed{0.61\%}$$

The computation of pay deceleration provides an adjusted measure of the required price deceleration. In this situation the company has an allowable program-year rate of price change of

$$\left(\begin{matrix}\text{Allowable Program-}\\ \text{Year Rate of Price}\\ \text{Change}\end{matrix}\right) = \left(\begin{matrix}\text{Base Rate of}\\ \text{Price Change}\end{matrix}\right) - \left(\begin{matrix}\text{Deceleration}\\ \text{Percentage}\end{matrix}\right)$$

$$= 8.09\% - 0.61\% = \boxed{7.48\%}$$

Since its actual rate of price change was 6.47 percent, it is in compliance with the price-deceleration standard.

Early in the program year, many firms will not be able to determine the actual amount of pay deceleration that will occur.

Thus, the computations will, of necessity, involve a projection that periodically can be adjusted as the year progresses. As long as a reasonable method of projection is used, no company would be out of compliance with the price-deceleration standard as a result of reasonable differences between the projected and actual amounts of pay deceleration.

4. Six-Month Standard for Price Increases

During the first six months of the program year, the company average price increase should not exceed 50 percent of the allowable program-year price increase.

In this example the allowable program-year price increase is 7.48 percent.

Therefore, the allowable price increase in the first six months is

$$\frac{7.48}{2} = \boxed{3.74\%}$$

A firm may exceed this amount if: (1) it can show on the basis of historical practices that the proportion of price increases that occur during this six-month period is normally greater than 50 percent of the annual allowable increase; and (2) that its projected profits over the program year would not exceed the profit-margin limitation.

C. ILLUSTRATION OF PROFIT-MARGIN LIMITATION (705A-6 (a))

The profit-margin limitation is an exception to the standards for companies that cannot achieve price deceleration or are unable to compute an index of price changes. It is a two-part limitation. First, the program-year profit margin should not exceed the weighted average of the highest two annual profit margins during the three fiscal years ending prior to October 2, 1978. Second, total profits during the program year should not exceed profits of the base year, adjusted for any increase in volume and an allowable 6.5-percent increase for general inflation.

For the purpose of this exception, calculations should be based on total domestic operations. The prices of goods and services excluded from company average-price-change calculations under Section 705A-3 should not be excluded in the calculation of the profit margin.

TABLE 3

ILLUSTRATIVE DATA FOR CALCULATION OF PROFIT-MARGIN LIMITATION
(millions of dollars)

	1976	1977	1978
Revenues (year ending 6-30)			
Sales	$446.5	$501.5	$588.0
Rent	2.2	4.1	5.0
Interest	1.0	1.2	1.6
Dividends	0.5	0.8	0.9
Miscellaneous other income	2.7	4.2	4.5
	$452.9	$511.8	$600.0
Less Expenses			
Cost of sales	$363.0	$411.2	$485.0
Selling, general and administrative expenses	40.9	45.8	52.3
Interest	4.6	6.1	9.2
Amortization of debt discount and expense	0.7	0.6	0.7
Misc. other expense	1.0	1.4	2.4
Income or loss before taxes	$ 42.7	$ 46.7	$ 50.4

An illustrative set of revenue and expense data is shown in Table 3. The company's profit as defined by the Council (see 705A-6(2)(i)) can be derived in this example as follows:

PROFIT-MARGIN COMPUTATION	Fiscal Years 1976	1977	1978
	(millions of dollars)		
Sales	$446.5	$501.5	$588.0
+ Rent	2.2	4.1	5.0
= Net revenues	$448.7	$505.6	$593.0
Income or loss before tax	$ 42.7	$ 46.7	$ 50.4
- Interest received	1.0	1.2	1.6
- Dividends received	0.5	0.8	0.9
- Miscellaneous other income	2.7	4.2	4.5
+ Interest expense	4.6	6.1	9.2
+ Amortization of debt discount and expense	0.7	0.6	0.7
+ Miscellaneous other expense	1.0	1.4	2.4
= Profit	$44.8	$48.6	$55.7
$\left(\text{Profit Margin}\right) = \left(\frac{\text{Profit}}{\text{Net Revenues}}\right)$	9.98%	9.61%	9.39%

The two best years for the profit margin in this example are 1976 and 1977. To calculate the allowable program-year profit margin (see 705A-6(a)(1)), the two years are averaged together

	1976	1977	Total
Net Revenues	$448.7	$505.6	$954.3
Profit	44.8	48.6	93.4
$\left(\text{Allowable Profit Margin}\right) = \frac{93.4}{954.3}$ or 9.79%			

The second condition of the profit-margin limitation is that total profits should not increase by more than 6.5 percent plus the percentage growth in physical volume.

For illustration, assume that, in the four quarters ending prior to October 2, 1978 (the base year), net sales were $610 million and profits were $53 million. Also assume that the

physical volume of sales is 3 percent greater in the program year than in the base year. (Note that, in this example, the base year does not correspond to the company's fiscal year, so profit and net revenues can not be taken directly from Table 3.)

Base-year profit is the larger of

1) actual profit during the base year, or
2) an adjusted base-year profit, obtained by multiplying the allowable profit margin times base-year revenues.

In the above example, the adjusted base-year profit is

$$\left(\text{Adjusted Base-Year Profit}\right) = \left(\text{Allowable Profit Margin}\right) \times \left(\text{Base-Year Revenues}\right)$$

$$= .0979 \times \$610 \text{ million}$$

$$= \$59.7 \text{ million}$$

Since $59.7 million exceeds actual base-year profit, $53 million, the $59.7 million figure is used as base-year profit in this example.

Given base-year profit, the allowable profit level during the program year is

$$\left(\text{Allowable Program-Year Profit}\right) = \left(\text{Base-Year Profit}\right) \times (1.065) \times \left[1.0 + \text{Percentage Volume Increase}\right]$$

$$= \$59.7 \text{ million} \times 1.065 \times 1.03$$

$$= \$65.5 \text{ million}$$

If, for any of the reasons specified in 705A-4 and 705A-6, this firm cannot achieve the price-deceleration standard,

(a) its profit margin should not be above 9.79 percent, and

(b) program-year profit should not exceed $65.5 million.

D. ILLUSTRATION OF GROSS-MARGIN STANDARD

Modified standards are available for two industries for which the general price-deceleration standard may be inappropriate: food processing and the wholesale/retail sector

1. Food Manufacturing and Food Processing (705C-2(d))

The use of the gross margin standard can be illustrated with data for a hypothetical food processing company with only domestic operations. It had $1.6 million in sales during the base quarter ending September 30, 1978.

a. Gross-Margin Computations for Quarter Ending September 30, 1978

The base-quarter gross margin should be computed as follows:

Sales (adjusted for discounts, returns, coupons, etc.)	$1,600,000
Less: food ingredients used in manufacturing	800,000
Gross margin	$ 800,000

- Sales may come from either inventory of finished goods or goods manufactured during that quarter.
- Food ingredients include those used in the manufacturing or processing of the foods sold during the same quarter, not those going into inventory of finished goods. Food ingredients are defined as agricultural or fishery commodities that undergo further refining, processing or manufacturing prior to being sold for ultimate consumption.
- Gross margin includes the cost of containers, ingredients other than food commodities used in manufacturing, transportation, storage, rent, supplies, labor, company overhead, interest, income and other taxes, net profits on sales, and all other costs except for food ingredients.

The gross margin can be computed for any reasonable grouping of products or product lines in order to remove the influence of shifts in the mix of sales. In such cases, the company-wide gross margin would be a weighted average of the individual product-line margins. Export sales as well as the related food ingredient costs and gross margins should be excluded from all calculations where possible. Costs and profits may be prorated in line with export sales of similar lines of business.

b. Alternative Computation of Base Margin

The volatility of raw material prices can result in a situation in which the margin in a single quarter is not representative of the firm's normal margin.

Under Section 705C-2(d)(2), an alternative method of determining a base-quarter gross margin is provided. For the company cited in the above example, if the average percentage gross margin for the four quarters ending September 30, 1978, were 49 percent, the base-quarter margin could be determined by taking 49 percent of base quarter sales of $1,600,000 or $784,000. Thus, the firm would have the option of using this $784,000 as the base-quarter margin for program purposes rather than the $800,000 base-quarter margin actually realized. (In this example, it would choose not to do so.)

The four-quarter average of percentage gross margins for a company is computed by adding the gross margins for each of the four quarters, adding the net sales for each of the four quarters, and dividing the latter sum into the former.

c. Implementing the Gross-Margin Standard during the Program Year

Dollar gross margins are allowed to rise during the program year by as much as 6.5 percent plus the percentage increase in physical volume. The use of the gross-margin standard does pose a problem for firms that adopt it because the margins themselves are not decision variables of the firm. Companies will need to make projections of the volume of sales and some cost elements. Thus, actual results may lead to an increase in excess of the allowable margin growth even though primary actions were taken with good-faith expectations of compliance with the standards.

If, however, a firm adopts a regular procedure for monitoring its performance and undertakes appropriate adjustments as the year progresses, it would be judged to be in compliance, and any year-end gross-margin increase in excess of the 6.5 percent

standard would be rolled over into the subsequent year. A firm should compute allowable gross margin levels for each quarter, and they should be used in appraising results and making necessary adjustments in sales prices as appropriate.

d. Calculation of Physical Volume Changes

Physical volume changes often will not need to be computed at all. Such calculations are needed only when gross margin increases exceed a 6.5 percent annual rate of increase and the excess is the result of increases in physical volume.

Volume calculations may be done in a variety of different ways. Two acceptable procedures include (1) an adjustment of revenue changes for changes in average prices, and (2) a price-weighted index of units sold. A company may use a method of volume measurement that is most consistent with its own accounting system.

2. Retail and Wholesale Trade (705C-2(c))

Retailers and wholesalers may comply with the program by limiting the growth in their percentage gross margins. Calculations for retail and wholesale companies applying the percentage-gross-margin standard are illustrated by the following data.

a. Computation of Base-Year Percentage Gross Margin

Gross margins are defined as

$$\left(\begin{matrix}\text{Gross}\\\text{Margin}\end{matrix}\right) = \left(\text{Sales}\right) - \left(\begin{matrix}\text{Cost of}\\\text{Goods Sold}\end{matrix}\right).$$

The cost of goods sold is obtained by adjusting the cost of goods purchased for inventory changes. The following example illustrates the gross-margin and percentage-gross-margin calculations for the four quarters ending September 30, 1978

COMPUTATION OF PERCENTAGE GROSS MARGIN (Base Year)		
Sales (adjusted for discounts returns, coupons, etc.)		150,000,000
Beginning inventory	5,000,000	
+Cost of goods purchased	119,500,000	
-Ending inventory	6,000,000	
Cost of goods sold		118,500,000
Gross margin on sales		31,500,000
Percentage gross margin on sales		21.0%

b. Margin Trend Calculations

- A company may maintain the same percentage gross margin in the program year as during the base year. For example, if sales for the above company increased to $180,000,000 in the year ending September 30, 1979, the gross margin could increase to $37,800,000 and the firm would remain in compliance with the standards:
  $180,000,000 × .21 = $37,800,000.
- Some distributors have experienced an historical upward trend in their percentage margins. This can be expected to occur whenever the costs of goods purchased for resale are rising less rapidly than the cost items (such as labor, rent, and fuel) that are part of the gross margin. Thus, an alternative margin standard, based on margin trend, is provided

The annual rate of increase in the gross margin is computed as

$$\left(\text{Margin Trend}\right) = \sqrt{\frac{\text{Percentage gross margin in base year}}{\text{Percentage gross margin for four quarters ending prior to October 2, 1976}}} - 1.0$$

If the percentage gross margin for this illustrative firm was 20.0% in the 1976 period,

$$\left(\text{Margin Trend}\right) = \sqrt{\frac{21.0}{20.0}} - 1.0 = \sqrt{1.05} - 1.0 = .0247$$

or

2.47%

The allowable program year percentage gross margin is obtained by applying the margin trend to the base-period percentage gross margin:

$$\left(\begin{matrix}\text{Allowable Program}\\\text{Year Percentage}\\\text{Gross Margin}\end{matrix}\right) = \left(\begin{matrix}\text{base-year}\\\text{\% gross margin}\end{matrix}\right) \times \left(1.0 + \begin{matrix}\text{margin}\\\text{trend}\end{matrix}\right)$$

$$= 21.0\% \times 1.0247$$

$$= 21.52\%.$$

If a firm makes use of the gross-margin trend, the increase in the gross margin should be implemented on a gradual basis that reflects past seasonal patterns.

c. Compliance Plan

The percentage gross margin is not a direct decision variable. It reflects policies and practices with respect to the initial percentage markup over invoice costs, subsequent markdowns of prices, and loss or shrinkage experience on sales. Thus, most distributors will need to adopt a compliance plan that translates the objective of meeting the gross-margin standard into explicit policies for markups and markdowns. It may also be necessary to establish reasonable categories of sales that control for shifts in the mix of sales among items with sharply different margins.

Some firms will choose to project some components of the gross margin other than markups (specifically, markdowns and loss rates). They may then adopt a specific policy for markups that would yield a gross margin consistent with the gross-margin standard if the projections for other elements of the gross margin are realized.

Alternatively, a firm may apply the computational procedure for deriving the allowable percentage gross margin directly to its markups. In this case it should be prepared to demonstrate that it has not altered its policies toward markdowns during the program year or during the period used to compute the trend in the markup.

If a company's percentage gross margin exceeds the allowable gross margin during the program year, it may show, for purposes of compliance, that the discrepancy is the result of unforeseen changes in those elements of the gross margins that are not

directly controllable. For example, it may achieve the target objective for its initial markups only to find that other items such as loss experience were different than anticipated. In such cases, the firm will not be viewed as being out of compliance during the program year; but plans for the second year should be designed to compensate for discrepancies during the first program year.

As in the case of food manufacturers, distributors are expected to implement any increase in the margin on a gradual basis during the year, and to make periodic adjustments as the year progresses so that they can reasonably expect to be in compliance for the program year as a whole.

II. PAY STANDARD

In order to comply with the pay standard, companies must calculate rates of change of pay rates for various employee groups. Different methods of computing these changes are required for (1) collective bargaining agreements, which are evaluated prospectively at the time they are signed, and (2) nonunion pay-rate increases, which are calculated retrospectively. The two different methods are discussed respectively in the following two sections. Examples have been included to illustrate the specific issues.

In section A, on collective bargaining agreements, a method of computing the base-period pay rate and the pay rate at the end of each year of the contract period is outlined. Firms will need to compute the annual compound rate of pay-rate change over the life of the contract and the percentage changes for individual years in order to determine whether the agreement complies with the standard.

Changes in nonunion pay rates can be computed using three different methods: a simple change in the average pay rate; a method that adjusts for shifts in the composition of the work-force; and a computation that measures pay-rate changes for a fixed population of continuing workers, adjusting for legitimate promotions. Each of these methods is illustrated. Also included is an example of the method of determining whether commission pay increases are consistent with the pay standard.

A. APPLICATION OF THE PAY STANDARD TO COLLECTIVE BARGAINING AGREEMENTS

Collective bargaining agreements are costed out prospectively. At the time the agreement is signed, it is necessary to calculate (or estimate) the average pay rate

- o at the end of the old contract period,
- o at the end of each year of the new contract, and
- o at the end of the period covered by the new contract.

The contract complies with the pay standard if

- o the percentage increase in the pay rate is no more than 8 percent during each complete year of the new contract, and
- o the (compound) average annual rate of increase over the life of the new contract is no greater than 7 percent.

The rate of increase of the pay rate includes

- o fixed wage increases,
- o cost-of-living adjustments (COLA) evaluated at an assumed 6-percent rate of increase in the Consumer Price Index (CPI) over the term of the agreement,
- o roll-up on existing wage-related benefits,
- o the first 7 percent of the increased cost of maintaining existing health-care benefits, and
- o the cost of all improvements in existing benefit plans and additions of new benefits.

In order to evaluate the terms of a new contract, it is necessary to translate wage and benefit costs to average hourly rates. The pay standard applies to the percentage changes in these hourly rates. The hourly rates are computed on the basis of pay per hour worked. The pay rate is computed as

$$(1)\quad \text{(pay rate)} = \text{(straight-time wage rate)} + \text{(benefit costs per hour worked)}.$$

Over any one-year interval during the contract life, the percentage increase in the pay rate is calculated as

$$(2)\quad \left[\left(\frac{\text{pay rate at the end of year } t}{\text{pay rate at the end of year } t-1}\right) - 1.0\right] \times 100.$$

The compound average annual rate of change of the pay rate over the contract life is computed as

$$(3)\quad \left[\left(\frac{\text{pay rate at end of contract}}{\text{pay rate at end of prior contract}}\right)^{\frac{1}{T}} - 1.0\right] \times 100$$

where T is the length of the contract in years. In practice, the annual rate need not be computed -- compound interest tables can be used. Table 1 lists the percentage increases over the lives of contracts ranging from 12 to 40 months that are consistent with the 7-percent standard.

The following brief sections describe how a company might compute each of the key elements needed to compute pay rates in formula (1). These elements are

- o average straight-time wage rate,
- o hours worked and hours of leave,
- o cost of paid-leave benefits per hour worked, and
- o other benefit costs per hour worked.

TABLE 1

Total Percentage Pay-Rate Increases
Allowable Under Pay Standard by Length of Contract

Months of Contract	Allowable Percentage Increase	Months of Contract	Allowable Percentage Increase
12	7.00	27	16.44
13	7.60	28	17.10
14	8.21	29	17.76
15	8.83	30	18.43
16	9.44	31	19.10
17	10.06	32	19.77
18	10.68	33	20.45
19	11.31	34	21.13
20	11.94	35	21.82
21	12.57	36	22.50
22	13.21	37	23.20
23	13.85	38	23.89
24	14.49	39	24.59
25	15.14	40	25.30
26	15.79	48	31.08

Average Straight-Time Hourly Wage Rate

In many collective bargaining agreements there will be more than one job classification and, as a result, more than one straight-time wage rate. In order to combine these into one average straight-time wage rate, a weighted average should be constructed using the number of straight-time hours worked in each job classification as weights. In computing the base wage rate -- that in existence at the termination of the expiring contract -- the average number of hours worked in each classification over some recently completed period (e.g., a year or a quarter) would be appropriate. These same weights should be applied in the prospective determination of average straight-time wage rates over the life of the new contract.

In most cases, the number of employees in each job classification may be used as weights rather than hours worked. This method is appropriate if straight-time hours worked per employee are similar across job classifications. The following illustrative example uses employee weights.

Table 2

(1) Job Classification	(2) Number of Employees	(3) Straight-Time Hourly Rate at End of Expiring Contract	(4) (2) × (3)
A	10	$5.50	$55.00
B	30	$6.50	$195.00
C	20	$6.75	$135.00
D	40	$7.15	$286.00
Total	100		$671.00

Average Straight-Time Hourly Wage Rate

$$\frac{\$671.00}{100} = \$6.71$$

Hours Worked and Leave Hours

The pay rates used in the standard should reflect pay per straight-time hour worked. In order to translate pay for leave time and other benefit payments into an hourly rate, it is first necessary to make an estimate of the number of hours worked and the amount of paid leave time. An example of how this might be done follows:

Table 3

Straight-time hours paid (40 hours per week × 52 weeks)	= 2080
less 8 holidays × 8 hours:	-64
less 20 vacation days × 8 hours:	-160
less 3 days sick leave (on average) × 8 hours:	-24
less an average of 1 day of other leave (e.g., jury duty, funeral leave, and administrative leave) × 8 hours:	-8
Average straight-time hours worked:	1824

In this example, the average number of straight-time hours worked is 1824 hours per year and the average number of paid-leave hours is 256 hours per year. Thus, an employee receives approximately one hour of paid leave for each 17 hours worked (1824/256 = 7.125). In what follows, the terms "hours worked" and "straight-time hours worked" are used interchangeably.

Hourly Cost of Paid-Leave Benefits

Holiday, vacation, and other paid leave constitute one important type of fringe-benefit: pay for time not worked. In order to compute the cost of leave time per hour worked, it is necessary to multiply the average straight-time wage rate by the (annual) number of hours of paid leave and divide by the (annual) number of straight-time hours worked. For example, using the figures developed above,

$$\left(\begin{matrix}\text{Hourly Cost of}\\ \text{Paid Leave}\end{matrix}\right) = \left(\begin{matrix}\text{Straight-Time}\\ \text{Wage Rate}\end{matrix}\right) \times \left(\frac{\text{Hours of Leave}}{\text{Hours Worked}}\right)$$

$$= (\$6.71) \times \left(\frac{256}{1824}\right)$$

$$= \$.942 \text{ per hour worked.}$$

In this case, the cost of paid leave at the end of the expiring contract is 94.2 cents per hour worked. Over the life of the new contract, the hourly cost of paid leave will increase (due to roll-up) as the straight-time wage rate increases. Further, if additional vacation days or holidays are granted under the new contract, hours of leave will increase and hours worked will decrease correspondingly. Both of these changes increase the hourly cost of paid leave. Conversely, reductions in hours of leave decrease the hourly cost of paid leave for a given wage rate.

Hourly Cost of Other Benefits

A collective bargaining agreement could provide a wide variety of additional benefits other than paid leave. For example, these benefits might include

- Private Pensions,
- Health Insurance,
- Life Insurance,
- Other Welfare Benefits,
- Educational Benefits,
- Legal Assistance Benefits,
- Supplemental Unemployment Insurance, and
- Uniform Allowances.

In most cases, the cost per hour worked for these benefits can be calculated by first converting the average employer cost per employee to an annual cost and then converting to an hourly rate. In the following examples, a monthly employer cost and an hourly contribution rate are translated into an employer cost per hour worked.

Example A. Employer contributions for a benefit package are $50 per month for each employee. This monthly cost is multiplied by 12 months to obtain an annual cost of $600 per year. When divided by average hours worked (1824 hours per year), the cost of the benefit per hour worked is 32.9 cents per hour worked. That is,

$$\left(\begin{matrix}\text{Benefit}\\ \text{cost per}\\ \text{hour worked}\end{matrix}\right) = \left(\begin{matrix}\text{50 dollars}\\ \text{per month}\end{matrix}\right) \times \left(\begin{matrix}\text{12 months}\\ \text{per year}\end{matrix}\right) \div \left(\begin{matrix}\text{1824 hours}\\ \text{worked per}\\ \text{year}\end{matrix}\right)$$

$$= 32.9 \text{ cents per hour worked.}$$

Example B. Employer contributions for a benefit package are 20 cents per hour paid. Since hours paid include paid leave, this value must be translated into an employer cost per hour worked. Given a 40-hour straight-time work week (2080 hours per year), the annual straight-time cost is $416 per year ($.20 × 2080). Division by average hours worked (1824 hours per year) yields the cost of the benefit per hour worked:

$$\left(\begin{matrix}\text{Benefit}\\ \text{cost per}\\ \text{hour worked}\end{matrix}\right) = \left(\begin{matrix}\text{20 cents}\\ \text{per hour}\end{matrix}\right) \times \left(\begin{matrix}\text{2080 hours}\\ \text{per year}\end{matrix}\right) \div \left(\begin{matrix}\text{1824 hours}\\ \text{worked per}\\ \text{year}\end{matrix}\right)$$

$$= 22.0 \text{ cents per hour worked.}$$

The remainder of this section costs out two illustrative, hypothetical contracts.

Example 1

A new contract takes effect on March 1, 1979. Relevant data concerning pay rates at the expiration of the old contract are as follows:

- The average straight-time wage rate under the expiring contract -- the base wage rate -- is $6.71 per hour (see Table 2)
- The average number of paid-leave hours is 256 per year and the average number of straight-time hours worked is 1824 per year (see Table 3).

- Other fringe-benefit costs at the end of the expiring contract are
  - -- employer contributions to a flat-rate pension fund (the benefit is stated in terms of dollars per month times years of service) of $50 per month per employee, or 32.9 cents per hour worked (See Example A);
  - -- employer contributions for health insurance of $35 per month per employee, or 23 cents per hour worked;
  - -- employer contributions to life insurance equal to one percent of employee straight-time hourly wages, providing a survivor benefit equal to two times annual wages;
  - -- supplemental unemployment benefits, which cost the employer $300 per year per employee or 16.4 cents per hour worked; and
  - -- a uniform allowance, averaging $200 per year per employee or 11.0 cents per hour worked.

The new contract provides for

- fixed wage-rate increases of 7 percent on March 1, 1979 -- the first day of the new contract -- and 6 percent on March 1, 1980 -- the first day of the second year of the new contract;
- maintenance of existing paid-leave provisions, life insurance benefits, supplemental unemployment benefits (employer contributions remain at 16.4 cents per hour worked), and uniform allowance (employer cost remains at 11.0 cents per hour worked);
- maintenance of existing health benefits, with employer-paid premiums estimated to increase to $39 per month per employee in the first year and to $43 in the second;
- an increase of pension benefit rates, requiring an increase in employer contributions to $55 per month per employee, or 36.2 cents per hour worked, effective at the beginning of the new contract; and
- addition of a dental-care plan, estimated to cost $16 per month per employee in the first year, or 10.5 cents per hour worked, and $17 per month per employee in the second year, or 11.2 cents per hour worked.

The contract is costed out below in four steps:

(1) calculation of the base pay rate,

(2) calculation of the first-year pay rate,

(3) calculation of the second-year pay rate, and

(4) calculation of percentage changes in the pay rate (and comparisons to the allowable percentage increases).

Step 1

Calculation of Base Pay Rate

Average wage rate	$6.71
Benefits	
Paid leave ($6.71) × (256/1824)	.942
Pension fund	.329
Health insurance	.230
Life insurance (.01 × $6.71)	.067
Supplemental unemployment benefits	.164
Uniform allowance	.110
Total (base pay rate)	$8.552/hour

Step 2

Calculation of First-Year Pay Rate

Average wage rate (1.07 × $6.71)	$7.18
Benefits	
Paid leave ($7.18) × (256/1824)	1.008
Pension fund	.362
Health insurance (1.07 × $.230)	.246
Life insurance (.01 × $7.18)	.072
Supplemental unemployment benefits	.164
Uniform allowance	.110
Dental care	.105
Total (pay rate)	$9.247/hour

The health-insurance contribution per hour worked is calculated by increasing the base contribution of 23.0 cents per hour worked by 7 percent since the estimated first-year increase in the health premium is 11.4 percent, and only the first 7 percent of the increase is counted in calculating the new pay rate (see the Pay Standard, section 705B-6).

Step 3

Calculation of Second-Year Pay Rate

Average wage rate (1.06 × $7.18)	$7.61
Benefits	
Paid leave ($7.61) × (256/1824)	1.068
Pension fund	.362
Health insurance (1.07 × $.246)	.263
Life insurance (.01 × $7.61)	.076
Supplemental unemployment benefits	.164
Uniform allowance	.110
Dental care	.112
Total (pay rate)	$9.765/hour

Step 4

Calculation of Percentage Change in Pay Rate

	Pay Rate	Percentage Change	Allowable Percentage Change	
Base	$8.552	—	—	
First Year	$9.247	8.13%	8.00%	Does not comply
Second Year	$9.765	5.60%	8.00%	Complies
Life of contract	—	14.18%	14.49%	Complies
(Annual Average)	—	(6.86%)	(7.00%)	Complies

As the first-year increase exceeds 8 percent, the contract does not comply with the pay standard, even though the average annual rate of increase over the life of the contract is less than 7 percent. Since the second-year increase is only 5.6 percent, the contract can be brought into compliance by an appropriate reallocation of some of the increase from the first to the second year. For example, deferral of the establishment of the dental-care plan until the second year would lower the first-year pay rate by 10.5 cents per hour. This alteration in the contract results in the following percentage changes:

Calculation of Percentage Changes in Pay Rate
(Assumes Dental Plan Introduced in Second Year)

	Pay Rate	Percentage Change	Allowable Percentage Change	
Base	$8.552	—	—	
First Year	$9.142	6.90%	8.00%	Complies
Second Year	$9.765	6.81%	8.00%	Complies
Life of Contract	—	14.18%	14.49%	Complies
(Annual Average)	—	(6.86%)	(7.00%)	Complies

Note: The above calculations make no distinction between wage-related increases (roll-up) and non-wage-related increases in fringe benefit costs; each benefit cost per hour is calculated directly in an appropriate manner. Often it is useful to separate wage-related benefits -- benefits for which employer costs are proportional to wage rates -- since the cost of providing these benefits will roll-up directly with the wage-rate increase. These benefit costs can be derived using a roll-up factor. In the example, only paid leave and life insurance are wage related. The percentage roll-up factor is calculated as follows:

Wage-Related Benefits	
Cost of paid leave per hour worked	$.942
Life-insurance cost per hour worked	.067
Total	$1.009

$$\text{Roll-up factor} = \frac{\text{Wage-related benefits}}{\text{Base wage rate}} = \frac{\$1.009}{\$6.71} = 15.0\%$$

This roll-up factor can be used to calculate benefit cost increases for the wage-related benefits. The increases summarized in step 4 above can be calculated alternatively as follows (assuming that the dental care plan is introduced in the first year).

Percentage Increases in Pay Rates

	(1) Wage Increase	(2) Roll-up .15×(1)	(3) Increase in other benefits costs	(4) Increase in pay rate (1)+(2)+(3)	(5) Pay Rate	(6) Percent Change
Base	—	—	—	—	$8.552	—
First Year	$.47	$.070	$.154	$.694	$9.246	8.12%
Second Year	$.43	$.065	$.024	$.519	$9.765	5.61%

Column (1) is the average wage rate increase derived from Steps 1, 2, and 3 above. Column (2) applies the roll-up factor to the wage rate increase in column (1). Column (3) is obtained by summing the increases in the non-wage-related components of fringe benefits (employer contributions to the pension fund, health insurance, supplemental unemployment benefits, and the uniform allowance), which are developed from the information in Steps 1, 2, and 3 presented above. Column (4) sums the pay rate changes in columns (1), (2), and (3). In column (5), the pay rate increases in column (4) are successively added to the base pay rate. Finally, column (6) presents the annual percentage changes. The trivial differences between the above percentage changes and those calculated in step 4 above are due to rounding differences.

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Example 2

A three-year contract becomes effective on February 1, 1979. Relevant information concerning pay rates at the expiration of the old contract is as follows:

- The average straight-time wage rate under the expiring contract -- the base wage rate -- is $9.00 per hour.
- The average number of hours of leave with pay is 280 per year and the average number of straight-time hours worked is 1800 per year. Hence, leave-pay cost is $1.40 per hour worked ($9.00 × 280 ÷ 1800).
- The only remaining benefit, for purposes of this example, is a flat-rate pension fund. Employer contribution rates to this fund are $90 per month per employee, or 60 cents per hour worked ($90 × 12 ÷ 1800).
- The base pay rate is $11.00 per hour worked ($9.00 + $1.40 + $.60).

The new contract provides for

- fixed wage increases of 60 cents per hour at the beginning of the first year (i.e., on February 1, 1979) and 50 cents per hour at the beginnings of the second and third years (i.e., on February 1 of 1980 and 1981);
- COLAs at the beginnings of the second and third years based on increases in the Consumer Price Index (CPI) according to the following formula:
  - -- at the start of the second year (on February 1, 1980), a wage increase of 1.5 cents per hour for each full-point rise of the CPI in excess of two points between November 1978 and November 1979; and

  - -- at the start of the third year (on February 1, 1981), a wage increase of 1.5 cents per hour for each full-point rise of the CPI in excess of two points between November 1979 and November 1980;
- an increase in the pension-benefit rate, estimated to cost an additional $22.50 per month per employee in the first year of the contract, or 1¢ cents per hour worked ($22.50 × 12 ÷ 1800).

In order to evaluate the pay-rate increases prospectively under this contract, it is necessary to evaluate the two COLAs assuming a 6-percent average annual rate of increase in the CPI over the life of the contract. The value of the CPI for November of 1978 is 201.8. At a 6-percent annual rate of increase, it will rise to 213.9 in November of 1979, and to 226.7 in November of 1980. Based on this assumption, the COLAs would be as follows:

COLA ADJUSTMENTS

DATE	CPI	INCREASE IN CPI	COLA*
November 1978 (actual)	201.8	—	—
November 1979 (assumed)	213.9	12.1	15¢=(1.5 × [12-2])
November 1980 (assumed)	226.7	12.8	15¢=(1.5 × [12-2])

*Note: In computing the COLA adjustment, the 12.1-point and 12.8-point increases in the CPI are adjusted down to the nearest complete full-point rise -- 12 points in each case.

Combining the fixed wage increases and the COLAs and adding these increases to the base wage rate of $9.00 per hour we can calculate the wage rates in effect at the end of each year of the contract, as shown below.

WAGE-RATE SUMMARY

	FIXED WAGE INCREASE	COLA	TOTAL WAGE INCREASE	WAGE RATE
Base	—	—	—	$ 9.00
First year	$.60	$.00	$ .60	9.60
Second year	.50	.15	.65	10.25
Third year	.50	.15	.65	10.90

Since the only wage-related benefit is paid leave, a roll-up factor is easily determined as follows:

WAGE-RELATED BENEFITS

Cost of paid leave per hour worked:	$1.40
Total:	$1.40

$$\left(\text{Roll-up Factor}\right) = \frac{\text{Wage-Related Benefits}}{\text{Base Wage Rate}} = \frac{\$1.40}{\$9.00} = 15.6\%$$

Combining the information regarding the base pay rate, the wage-rate increases, the increased cost of paid leave due to roll-up, and the specified cost of the pension-benefit improvements, we can summarize the pay-rate increases dictated by this contract as follows:

CONTRACT SUMMARY

	(1) Wage Increase	(2) Roll-up .156×(1)	(3) Pension-Cost Increase	(4) Pay-Rate Increase (1)+(2)+(3)	(5) Pay Rate	(6) Percentage Change
Base	—	—	—	—	$11.00	—
First year	$ .60	$ .09	$ .15	$ .84	11.84	7.64%
Second year	.65	.10	.00	.75	12.59	6.33%
Third year	.65	.10	.00	.75	13.34	5.96%

$$\left(\text{Percentage Increase Over Life of Contract}\right) = \left(\frac{\$13.34}{\$11.00} - 1.0\right) \times 100 = 21.27\%$$

This contract complies since the percentage increase in each year is less than 8 percent and the percentage increase over the life of the contract (21.27%) is less than the 22.50% increase allowed for a 36-month agreement (see Table 1). The compound average rate of increase over the life of the contract is (using formula (3)).

$$\left[\left(\frac{13.34}{11.00}\right)^{1/3} - 1\right] \times 100 = 6.64\%$$

B. APPLICATION OF THE PAY STANDARD TO NONUNION PAY RATES

Nonunion pay increases may be calculated by three alternative methods. Section 705B-4(a) provides for a simple comparison of the average pay rate in the last quarter of the program year with the average pay rate in the base quarter. This method is the least complex and includes the effect of all pay-rate changes, including those due to promotions and shifts in the work-force composition. Section 705B-4(e) permits an adjustment to control for the effects of shifts in the composition of the work force among distinct employee groups with different average pay rates. Section 705B-4(b) allows measurement of the pay-rate change for the fixed population of workers employed throughout the program year. This method excludes the effect of promotions as well as turnover of the work force. In order to compare these alternative methods, examples are given below.

METHOD 1 - Computation of Average Pay-Rate Change (705B-4(a))

The employee unit includes 100 workers with the following pay rates in the base quarter:

Classification	Number of Workers	Average Pay Rate*
A	25	$ 10/hr.
B	25	$ 8/hr.
C	50	$ 6/hr.

* The average pay rate in each job classification includes the costs of private fringe benefits per hour. See Section A for treatment of benefit costs and the conversion of these costs to costs per hour worked.

All employees work 500 straight-time hours in the quarter. The base pay for this unit is calculated as

A: 500 hrs. × $10/hr. × 25 workers = $125,000
B: 500 hrs. × $ 8/hr. × 25 workers = $100,000
C: 500 hrs. × $ 6/hr. × 50 workers = $150,000
Total base pay = $375,000
Total hours = 500 hours × 100 workers = 50,000 hours
The base quarter pay rate = $375,000 ÷ 50,000 hours
= $7.50/hour

All job classifications in this example receive a 7-percent pay-rate increase over the program year and employment expands by 5 employees in category B, and by 5 in category C. The unit now has the following pay rates in the final quarter of the program year:

Classification	Number of Workers	Average Pay Rate
A	25	$10.70
B	30	$ 8.56
C	55	$ 6.42

The average pay rate in the final quarter is calculated as

A: 500 hrs. × $10.70/hr. × 25 workers = $133,750
B: 500 hrs. × $ 8.56/hr. × 30 workers = $128,400
C: 500 hrs. × $ 6.42/hr. × 55 workers = $176,550
Total pay = $438,700
Total hours = 500 hours × 110 workers = 55,000 hours
The final-quarter pay rate = $438,700 ÷ 55,000 hours
= $7.98/hour

Using the method of Section 705B-4(a), the percentage change in the average pay rate is computed as

$$\left(\text{Pay-rate change}\right) = \left(\frac{\text{Final quarter pay rate}}{\text{Base quarter pay rate}} - 1.0\right) \times 100$$
$$= \left(\frac{\$7.98}{\$7.50} - 1.0\right) \times 100$$
$$= 6.40\%$$

This employee unit complies with the 7-percent pay standard. The actual pay-rate change (6.40%) is below the 7-percent increase given to each job classification due to the effect of the shift in the work-force composition.

METHOD 2 - Adjustment for changes in Work-Force Composition (705B-4(e))

In the previous example, the shift in the composition of the work force reduced the measured increase in the average pay rate. For some employee groups, however, such shifts may exaggerate the average pay-rate increase.

This is illustrated by the following situation, which begins with the same base-period pay rates and work-force composition as in the preceding example. However, in this case the number of workers in the A classification increases by 5 employees and the number in the C classification decreases by 10 employees during the program year. As in the preceding example, a 7-percent pay-rate increase is given to each classification. The job mix and pay rates in the final quarter are:

Classification	Number of Workers	Average Pay Rate
A	30	$10.70
B	25	$ 8.56
C	40	$ 6.42

Under these conditions, the average pay rate in the final quarter is computed as:

A: 500 hrs. × $10.70/hr. × 30 workers = $160,500
B: 500 hrs. × $ 8.56/hr. × 25 workers = $107,000
C: 500 hrs. × $ 6.42/hr. × 40 workers = $128,400
Total pay = $395,900
Total hours = 500 hours × 95 workers = 47,500 hours
The final-quarter pay rate = $395,900 ÷ 47,500 hours
= $8.33/hour

The average pay rate increases from $7.50 per hour to $8.33 per hour -- an increase of 11.1%. If Method 1 were used, this employee unit would exceed the 7-percent standard, even though no job classification was given a pay-rate increase of more than 7 percent. The excess is due to the shift in the composition of the work force.

Section 705B-4(e) of the standards permits the calculation of a weighted-average pay-rate change that excludes the effect of such compositional shifts. Using this method, it is assumed that the composition of the work force remains the same as in the base quarter. This is done by

(1) computing the share or fraction of total base quarter pay accounted for by each employee subgroup;

(2) computing the percentage change in the average pay rate for each employee subgroup; and

(3) computing a weighted average pay-rate change using the payroll shares as weights.

For the example developed above, these computations are

$$\left(\text{Weighted-Average Pay-rate Change}\right) = \left\{\text{Sum of Product}\left[\left(\text{Payroll Share}\right) \times \left(\text{Percentage Pay-rate Change}\right)\right]\right\}$$

Classification	(1) Base Quarter Payroll*	(2) Base Payroll Share	Percent Pay-rate Change	Weighted Change (1) × (2)
A	$125,000	.333	7.0%	2.33%
B	$100,000	.267	7.0%	1.87%
C	$150,000	.400	7.0%	2.80%
Total	$375,000	1.000		7.00%

* Note: The base-quarter payroll values are those used in calculating the base-quarter pay rate in the Method 1 section.

In this example, then, the weighted average pay-rate change is 7 percent and the employee unit complies with the pay standard.

METHOD 3 - Computations Using Continuing Employees (705B-4(b))

The method in Section 705B-4(b) of the standards allows companies to measure pay-rate changes of individual workers after excluding the effects of legitimate job promotions. The computation is based on the average of pay-rate increases for those employees who remain with the firm throughout the program year.

As illustrated in the following table, this example involves an employee unit with 5 workers in the base quarter. Each of these workers falls into an individual job category and the corresponding job rates are indicated in column (1). During the program year, each job rate is increased by 7 percent. Column (2) presents the job rates that would apply to each individual in the final quarter of the program year if their job had remained unchanged. Column (3) presents the job changes occurring during the program year. Column (4) indicates the final-quarter pay rates after the effects of turnover, promotion, and hiring activity. Column (5) isolates the cents-per-hour increases due to promotions.

PAY-RATE DATA FOR INDIVIDUAL EMPLOYEES

Worker	(1) Initial Job Rate	(2) Terminal Job Rate ((1) × 1.07)	(3) Job Action	(4) Final Pay-Rate	(5) Promotional Increase
1	$10.50	$11.24	Unchanged	$11.24	-
2	9.75	10.43	Leaves	-	-
3	9.50	10.17	Promoted	10.43	$0.26
4	9.25	9.90	Promoted	10.17	0.27
5	9.00	9.63	Unchanged	9.63	-
6	-	-	New Hire	10.17	-

The final-pay-rate data in column (4) reflect the effects of increases in job rates and the promotions and turnovers described in column (3). The job changes by individuals in this example are as follows:

- Individual 1 retains the original job.
- Individual 2 leaves the employee unit.
- Individual 3 is promoted to the job vacated by individual 2.
- Individual 4 is promoted to the job vacated by individual 3.
- Individual 5 retains the original job.
- Individual 6 is a new hire brought in for the same job to which individual 4 has been promoted.

The shift in work requirements during the program year has resulted in elimination of one job category -- the one originally occupied by individual 4 -- and requires having two workers in another category -- the category to which individual 4 was promoted and which the new hire, individual 6, entered.

Using the method of Section 705B-4(b), the average pay-rate change is computed solely on the basis of those individual workers who are employed throughout the program year -- workers 1,3,4, and 5. The portion of pay-rate increases entirely due to the job changes and corresponding promotions for individuals 3 and 4 are excluded. As seen in the preceding table, these promotional increases sum to 53 cents per hour. The appropriate computations are summarized below:

Average Pay Rate for Continuing Employees

Worker	Initial Pay Rate	Final Pay Rate	Percent Change in Pay Rate
1	$10.50	$11.24	7.0%
3	9.50	10.43	9.8
4	9.25	10.17	9.9
5	9.00	9.63	7.0
Total	$38.25	$41.47	8.4%
Less promotions	0.00	0.53	
Adjusted Pay	$38.25	$40.94	7.0%

Although the average pay rate for continuing employees has risen by 8.4%, the average pay rate, after excluding the effect of promotions, has increased only 7 percent.

Firms that use this method should exclude promotion increases only when there is a legitimate change in job responsibilities and should be able to demonstrate that the cost of promotions during the program year is consistent with prior years.

Sales Commission

The computation of increases in sales compensation raises special problems because of its dependence on sales volume. Salespeople receive increased compensation for three reasons: (1) an increase in commission rates; (2) an increase in the prices of goods sold; and (3) an increase in the volume of goods sold. The first two types of increases should be chargeable against the 7-percent standard, but the third should not.

A method of computing such compensation increases under the pay standard is shown in the following illustration.

Illustration of Commission Pay Increases

	Commission Rate	Units Sold	Price	Sales Revenues	Commission
Base Quarter	10.0%	1000	$100	$100,000	$10,000
Final Quarter	10.1%	1100	105	115,500	11,666

$$\left(\text{Actual Percentage Increase in Commission Pay}\right) = \left(\frac{\$11,666}{\$10,000} - 1.0\right) \times 100 = 16.7\%$$

$$\left(\text{Chargeable Income in Final Quarter}\right) = \left(\text{Final-Quarter Commission Rate}\right) \times \left(\text{Base-Period Units Sold}\right) \times \left(\text{Final-Period Price}\right)$$

$$.101 \times 1000 \times \$105$$

$$= \$10,605$$

$$\left(\text{Chargeable Percentage Increase in Sales Commission}\right) = \left(\frac{\text{Chargeable Income in Final Quarter}}{\text{Base-Quarter Commission}} - 1.0\right) \times 100$$

$$= \left(\frac{\$10,605}{\$10,000} - 1.0\right) \times 100 = 6.05\%$$

Although total commission pay increased by 16.7%, after adjusting for volume, the chargeable increase of 6.05% is safely within the 7-percent limitation.

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QUESTIONS AND ANSWERS

The following questions and answers are an extension of those previously published by the Council in *Wage and Price Standards* on December 13, 1978 (published in the FEDERAL REGISTER on December 28, at 43 FR 60772). The numbering of the questions is sequential with that document.

I. THE PRICE STANDARDS

A. Coverage

Q24. How is the price standard applied to an agricultural cooperative?

A. Agriculutural cooperatives that provide only a marketing function for their farmer members are exempt from the price, margin, and profit standards.

If an agricultural cooperative is a food processor, it should be treated the same as any other food processor. Application of the price standard itself should be the same as for other companies. But, it should use the market price of inputs in lieu of payments to farmers in calculating its gross margin if it chooses the gross margin alternative to the price standard, or if it ends up using the profit-margin limitation.

Q25. A company does more than 75 percent of its program-year business (delivery of goods) under contracts that were signed prior to October 2, 1978 and that specify a fixed price. Is the company excluded from the application of both the price-deceleration standard and the profit-margin standard under section 705A-5(a)?

A. No, it is not. Section 705A-3(e) refers to deliveries during the *program year* whereas section 705A-5(a) refers to adjusted revenue in the *base year*. The company should comply with the price-deceleration standard with respect to deliveries not excluded under section 705A-3(e) (i.e., deliveries under contracts signed during the program year and non-contractual sales).

Q26. May companies that *purchase* products that are excluded under 705A-3 exclude the costs of those products in their own price calculations?

A. No. Companies may only exclude from their own price calculations those products, excluded under 705A-3, that they *produce*.

Q27. Is an agricultural product price that is excluded from company price calculations under 705A-3 also excluded if some processing of the product takes place before the first sale?

A. No.

Q28. May a company exclude a processed product from its price calculations if the processed product's price is closely related to the price of a raw material that is, in turn, excluded as being determined by an organized open exchange market?

A. No, unless the processed product itself is traded on an open exchange market. A connection of a preprocessed material to an open exchange market does not justify the exclusion of the processed product (e.g., fluid milk, cheese, and meat are not excluded). A few processed products themselves have an organized open exchange market. A company may exclude the sales of these processed products from the company's price or gross-margin calculations. As a first approximation, the only processors that qualify for this exclusion are manufacturers or processors of butter, oilseeds, oil and protein meals.

Finally no product that is brand-name identified can qualify for this exemption.

Q29. What freight rates and passenger fares does a U.S. air carrier exclude as exports in making its average-price calculations?

A. It excludes all international fares and rates except those for flights between the U.S. and Canada and between the U.S. And Mexico. International fares are excluded because an individual carrier has no practical way to distinguish exports from domestic sales in its international activities. Therefore, airlines treat all international sales (other than those between the U.S. and Canada and between the U.S. and Mexico) as if they were sales to foreign residents and foreign business firms. Also, these prices are set in an international market and must have the approval of foreign governments with which we have bilateral agreements.

Q30. In making average-price calculations, what freight rates and passenger fares should U.S.-operated ocean carriers engaged in international transport exclude?

A. they should exclude all rates on international movements of goods and people. These rates are excluded because of the difficulty involved in distinguishing between sales to foreign residents and companies and sales to U.S. residents and companies. Also, international ocean-liner freight rates are set in conferences which include carriers of foreign countries.

Q31. Do engineering services performed in the United States (design, drafting, studies, calculations) for a foreign client for use in a foreign country qualify as "exports of services" under 705A-3(d)?

A. Yes.

Q32. Does the term "contract" as used in Section 705A-3(e) include purchase orders of routine or normal recurring purchased items?

A. No.

Q33. How does a firm comply with the price standard if it commenced operations in the first quarter of 1978?

A. It cannot technically comply with the price standard since none of the required information is available. Such companies are, however, expected to comply with the pay standard and they are asked to adhere to the "spirit" of the program in their price decisions.

Q34. If a company sells a product to the Department of Defense (DOD) based on DOD generated and directed specifications, the specifications are subject to modification. May a company treat this item as a custom product?

A. If the company can net out the costs associated with the changes, it should treat the product as a standard item. If, however, this approach is not feasible, the company may treat the item as a custom product.

C. Computation of the Price Standard

Q8. In the calculation of base-period and program-year rates of price change, must the prices of all of a company's products be included in the calculation?

A. If it would be extremely difficult to include the prices of a certain set of products, accounting for a small portion of the total sales of the company, these prices may be excluded from the calculations. However, the included products should be representative of the company's product line. Moreover, in keeping with the spirit of the program, companies should make every effort to apply the standards to the pricing decisions for all products.

Q9. A company can choose either the third quarter of 1978 or the company's last complete fiscal quarter prior to October 2 as its base quarter. Must the choice of the base quarter be identical for price and pay calculations?

A. The base quarter should be identical for the two calculations unless there is a compelling reason, in terms of accounting convenience, for the choice of different periods.

Q10. How should a company value a cost-plus-fixed-fee contract for purposes of complying with the price-deceleration standard?

A. The price for such a contract is defined as the cost plus the fixed fee. However, if the seller is acting only as a purchasing agency with a fixed dollar fee, the transaction could be defined to include only the fee since the seller is filling a role similar to a wholesaler or retailer.

D. Profit Margin Limitation

Q7. If a diversified company treats each of its divisions as a separate "company" in accordance with the requirements of section 705D, is an individual division free to use the profit margin limitation or will *all* divisions have to use the same standard.

A. The different "companies" do not have to use the same standard.

Q8. In the calculation of its profit margin, can a company exclude the profits earned on sales excluded under 705A-3?

A. No.

Q9. How does the profit-margin limitation apply to government enterprises?

A. Government entities that are covered by the price standard can use the operating-margin limitation that is applicable to nonprofit organizations. The operating margin is operating surplus divided by operating funds, and the operating surplus is defined as operating funds less total costs and expenses including wages.

Q10. In section 705A-6 there are two reasons for the application of the profit-margin limitation exception, one being "uncontrollable price increases in goods and services it buys." How do you define such uncontrollable cost increases?

A. The wording of section 705A-6 is intended to convey the notion that companies are asked to make a good-faith effort to comply with the price deceleration standard, and to revert to the profit-margin limitation exception only if such compliance would cause a significant deterioration of the company's profit position. The effort to comply with the price-deceleration standard entails a good-faith effort to hold down costs. Hence, the reference to "uncontrollable" cost increases. However, the extent to which cost increases are uncontrollable will depend upon individual circumstances. The following nonexhaustive list includes items which if they rise in price, might be included as "uncontrollable" increases:

- Government-mandated cost increases (such as payroll taxes)
- Increased labor costs dictated by collective bargaining agreements or annual pay plans in effect prior to October 24, 1978,
- Utility-rate increases, and
- Raw materials purchased from outside the U.S.

It should be emphasized that the mere existence of an uncontrollable cost increase, no matter how trivial, does not constitute justification for the use of the profit-margin limitation exception. Companies applying for such an exception under section 705A-6(a) are asked to explain the reason for their inability to comply with price deceleration, documenting their cost increases.

II. THE PAY STANDARD

B. Employee Coverage

Q8. In determining its organizational structure for purposes of determining compliance with the standards, must the same structure be used for pay and price purposes?

A. Normally companies are expected to use the same organizational structure for pay and price purposes. However, if a company's normal accounting practices would result in different structures for pay reporting than for price reporting, and it would impose substantial administrative costs to report the same units for pay and price purposes, the company may follow its normal accounting practices.

Q9. May different pay computation methods for different employee units within one company be used?

A. Yes. But once a method is chosen for a particular unit, it should not be changed later in the program year to another method.

C. Pay and Pay Rates

Q5. If a company is required to make retrospective payments to an employee or employees as the result of legal action, are these payments chargeable under the standard?

A. No.

Q6. Is rollup included in the calculation to a pay increase?

A. Yes. The additional cost of existing benefits which results from a wage increase is to be included as part of the pay increase chargeable to the 7-percent standard.

Q7. Are TRAESOPS (Tax Reduction Act Employee Stock Ownership Plans) considered in measuring compliance with the standards?

A. No. TRAESOPS are excluded, since they are not an employer cost but rather result from money available under the investment tax credit.

D. Collective Bargaining Units

Q5. Can a company that has a large number of small collective bargaining units combine these units for purposes of compliance?

A. Units of less than 100 employees can be combined for administrative purposes or in response to requests for information. But such units are expect to comply with the standards on an individual basis.

Q6. If a new collective bargaining unit is formed, what limit is placed on pay increases in the program year?

A. The total increase for such workers should not exceed 7 percent in the program year, including pay-rate increases granted prior to formation of the new unit. Of course, a contract signed by the new unit during the program year should be consistent with the Pay Standard, as applied to collective bargaining agreements.

Q7. What is the base pay rate for a new collective bargaining agreement?

A. The average pay-rate in effect at the expiration of the prior agreement.

Q8. Can a union contract signed prior to October 25, 1978, be reopened to grant an additional pay increase during the program year?

A. Yes, if the total pay increase for the program year does not exceed 7 percent and the new contract is consistent with the pay standard as applied to new collective bargaining agreements.

Q9. Are longevity increases chargeable for collective bargaining units?

A. Yes, to the extent that they can be distinguished from qualification increases and if they add to average wage rates over the duration of the contract.

Q10. Are step-rate or progression increases included as pay rate increases?

A. Movement through a structured pay schedule from entry levels to established job-rate levels is treated the same as a qualification increase. These increases are not included in determining compliance. Increases beyond the job-rate level are treated as longevity increases and are charged against the 7-percent standard to the extent that they add to average wage rate increases over the life of the contract.

Q11. In an industry bargaining situation in which a number of companies sign a common agreement with a union and the companies have different average base pay rates, will compliance be measured for each company?

A. The Council will continue its past practice of evaluating such agreements on an industry basis, using an average base pay rate for all the companies. Individual companies that sign the pattern agreement will be deemed in compliance.

Q12. Under the pay standard, a contract that includes a provision for a future wage reopening will be assumed to be terminating on that date. Does this apply to a wage reopener that has a specific limitation?

A. The Council will permit a wage reopener that specifically provides that, upon reopening, any wage-rate or benefit increases must be in compliance with the standards. A contract that includes such a provision would not be assumed to be terminating on the reopening date. The following would thus be permissible: A two-year agreement providing for an 8-percent pay-rate increase in the first year, with a wage reopener in the second year subject to a limitation of 6-percent for the second-year increase.

E. Nonunion Standard

Q12. When excluding legitimate promotion increases under method 705B-4(b), what amount should be included as pay-rate increases?

A. The company should count any increases that the employee would have received in the absence of the promotion. This method is intended for promotions from one job paying a

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fixed rate to another fixed-rate job. Firms with salary ranges that combine merit increases with promotions are expected to use 705B–4(a). However, if there is a basis for separating the merit and promotional increases, 705B–4(b) may be used.

Q13. When using the fixed-population method for determining compliance, must the company recompute the base-quarter compensation rate to exclude those employees no longer with the company?

A. Yes.

Q14. How is a benefit improvement communicated to the employees before October 2, but implemented after that date, to be treated?

A. The cost of the new benefit may be excluded from all pay-rate calculations.

Q15. What is a formal annual pay plan as covered by Section 705B–4(c) of the pay standard?

A. This section covers annual merit plans and general pay increases which would have been interrupted by application of the 7-percent pay standard. For example, this provision applies to pay increases given to employees on their anniversary dates under the continuation of a plan which was in operation on October 1, 1978. The intent is to allow such plans to run as usual through the end of the plan year. In the next planning year of the company the pay increases under such plans should be in compliance with the pay standard.

Q16. May a company increase its pay to salaried employees to compensate for an increase in hours worked per day or days worked per week?

A. Such increases pose a special problem because salaried employees typically are not paid by the hour, but by the month or year. If a company wishes to give pay increases for additional hours worked for salaried employees, the burden rests with the company to show that there is an actual increase in hours worked.

Q17. Does the provision for calculating chargeable increases under cost-of-living formulas apply to nonunion employees also?

A. Yes, if such employees are covered by a formal cost-of-living formula. But, as with formal collective bargaining contracts, it should be part of a pay plan that extends beyond a year in duration.

F. Variable Compensation

Q6. How will annual incentive bonuses be treated in future years?

A. Annual incentive bonuses are expected to be consistent with the 7-percent pay standard. For nondiscretionary plans, companies should make a reasonable estimate of their profits for the coming year, and calculate the amount of aggregate incentive bonuses that would be paid at that level of profits. The projected increase in these bonuses (prorated) together with fixed compensation increases should not be more than 7 percent greater in the last quarter of the program year than in the base quarter. If bonuses are larger than estimated due to higher profits, the excess over the 7-percent standard will be considered an exception *if* the company can demonstrate that its estimate of profits was not unreasonably low.

G. Future-Value Compensation

Q5. Under Section 705B–5(e) companies are expected to place a value on new future-value plans "consistent with generally accepted accounting practices." There really is no accounting value with respect to new stock option plans. Does this mean that companies may place a zero value on such plans?

A. No. Companies are expected to place *some* reasonable value on such plans and include this value as pay during the program year.

I. Pensions

Q7. Are increased pension benefits for retirees chargeable as pay increases?

A. Since retirees are not employees under the standard, pension costs for retirees would normally be excluded from all pay calculations for the employee unit—both in the base period and in the program year. However, if it is a company's normal practice to treat retiree pension benefits as part of an employee unit's base compensation package, improvements in such benefits should be charged as a pay increase for the unit.

Q8. Can reductions in pension costs due to changes in actuarial assumptions or funding methods be used as a credit toward other pay-rate increases?

A. No.

K. Tandem Pay-Rate Exception

Q2. Is the tandem exception applicable to individual elements of pay?

A. Yes, provided that the criteria set forth in the standards covering tandem relationships are met.

III. SPECIAL SECTORS

A. Food Manufacturers, Retailing and Wholesaling

Q6. If a food-processing company, a retailer, or a wholesaler chooses to comply with the price-deceleration standard and later finds that it is unable to do so because of uncontrollable cost increases, can it turn directly to the profit-margin limitation or must it first attempt to comply with the appropriate margin standard?

A. The company may choose either to comply with the gross margin standard or to apply the profit-margin limitation exception in accordance with § 706.31.

Q7. In the computation of a gross margin by a wholesaler, do service fees have to be included?

A. Yes. All service fees, stop or order charges, delivery fees, cash discounts earned, adjustments to "sell price," etc., should be added to sales in computing the gross margin. The gross margin, calculated by subtracting from net sales the cost of goods purchased for resale, includes all costs associated with these various types of service fees.

Q8. How do inventory changes affect the computation of gross margins?

A. Net sales, less cost of goods sold (for retail and wholesale trade) or less food ingredients in the goods sold (for food manufacturers), are adjusted for inventory changes of finished goods in the computation of gross dollar margins.

Any method of calculation of inventory valuation is acceptable as long as generally accepted accounting procedures are consistently applied for a given company. No changes in inventory policy (e.g., changing from FIFO to LIFO) should be made with the intention of influencing the level of computed gross dollar margins. A company should recalculate its inventory valuation if it changes its accounting procedures.

Q9. Because of changes in the mix of product sales, an improvement in loss experience ("shrinkage"), or changes in the rates of movement of merchandise at initial markups vs. marked-down prices, a retailer might fail to satisfy the percentage-margin standard for reasons beyond its control. Will the company be judged to be out of compliance?

A. No. As long as a company makes a good-faith effort to comply with the standard, an inadvertent overshooting of the margin target will not result in a determination of noncompliance. A good-faith effort requires that retailers adopt a markup (and mark-down) policy that can be expected to generate percentage margins that comply with the standard. If there is no change in policy regarding mark-downs, shrinkage, etc., the retailer can simply project past experience regarding these factors. However, a change in policy or practice regarding any of these factors should be reflected in the mark-up policy. Finally, if a company overshoots the margin target, it will be expected to adjust its markup policy in the next year to compensate for the excessive margin during the first program year.

Q10. How can a retail company comply with the margin standard if its interest costs of carrying accounts receivable are going up at a rapid rate?

A. In many cases, the finance division of the retailer can be treated as a separate company in accordance with the criteria set forth in the definition of "company" in section 705D. In those cases in which these criteria are not met, and in which the inclusion of interest costs on accounts receivable imposes an undue hardship on the retailer, the Council will provide a procedure for an exception to the conditions required for the disaggregation of a company. In order for a company to be eligible for this exception, there must exist a reasonable basis in the available accounting records to be able to make this separation, and a reasonable allocation of all applicable overhead costs must be made. The new company would be expected to meet the standards for financial companies.

Q11. If a company whose activities include both manufacturing and retailing qualifies for the use of the percentage-margin standard under section 705C–2(a), can the retail-trade segment be treated separately under the percentage-margin standard or must these activities be combined under the price-deceleration standard?

A. The firm is allowed to do either. However, if the aggregation of these activities would force a company to the profit-margin exception due to the inability to calculate price changes for its retail activities, the Council would prefer disaggregation and separate compliance with the price-deceleration and percentage-gross-margin standards.

Q12. How does a food-manufacturing company that applies the gross-margin standard to its food operations treat its nonfood products?

A. It should apply the price-deceleration standard to its nonfood sales.

B. Professional Fees

Q4. What is the program year for application of the professional-fee standard?

A. The program year is the last calendar or fiscal quarter prior to October 2, 1978, through the same quarter in 1979.

Q5. Can professionals in applying the professional-fee standard use the revenue-weighted average fee on October 2 instead of the average fee during the last complete fiscal quarter prior to October 2?

A. Yes, if it is easier to compute and there has not been a major fee increase during the last complete fiscal quarter prior to October 2.

Q6. Are hospital-based physicians and other health professionals covered under the pay standard of the professional-fee standard?

A. Physicians that are paid on a salary basis are included in one of the employee units identified by the hospital for the purpose of compliance with the pay standard. Physicians that are paid on a fee-for-service or proportion-of-department-revenue basis should comply with the professional-fee standard. If professional earnings are based on some combination of salary and fee-for-service or proportion-of-department-revenue, the hospital and the physicians should comply with the respective standards for the relevant portions of professional earnings.

Q7. Are fees charged for services of hospital-based physicians covered under the professional fee standard?

A. Yes. Services provided on a fee-for-service basis by radiologists, pathologists, emergency-room physicians, and other hospital-based physicians are covered under the professional-fee standard. If billing is done for their services through the hospital, the hospital and the physician are both responsible for compliance with the professional-fee standard. If billing is not on a fee-for-service basis (i.e., charges are included in the hospital-room charge), the professional-fee standard does not apply.

IV. PROCEDURES

A. General Provisions

[Reserved]

B. Reports and Notifications

Q1. Are companies with at least $250 million in sales or revenues, which intend to treat their entire organization as one unit (i.e., "company") for purposes of compliance, still requested to notify the Council of their organizational structure under § 706.21(a)?

A. Yes. Even if a company does not separate into smaller "companies" for purposes of compliance, it is still requested to notify the Council of its decision, as well as to submit data on the major lines of business.

Q2. Once a company notifies the Council of its organizational structure and method of pay calculation, may it change such structure or method merely by advising the Council of the change?

A. No. Once a company establishes its reporting structure and price and pay data a company is committed to that structure and data for the program year. If a company believes that failure to change will result in an undue hardship or gross inequity, it may, if it qualifies, seek permission to change by requesting an exception.

Q3. What should a company do if it is required to report its base-period rate of price change under § 706.22(d), but it is subject to the Profit Margin Limitation because it has insufficient product coverage?

A. It should supply the information in § 706.22(d)(1) demonstrating that it is subject to the Profit Margin Limitation. The other requirements in § 706.22(d) could be omitted. The company would not have to apply for an exception in order to use the Profit Margin Limitation if it is automatically subject to that limitation because of insufficient product coverage.

Q4. Do the reporting requirements apply to private universities and other nonprofit institutions?

A. Yes, since the Standards apply to such institutions, the reporting requirements would also apply. The same principles of calculation applicable to profit-making entities would apply to nonprofit institutions, subject to certain adjustments. For example, if the Profit Margin Limitation were used, the nonprofit institution would utilize a limitation on its operating surplus, i.e., on its operating funds less total costs and expenses including wages. (See Question I.D. 6, of the Q's and A's issued on December 13, 1978.)

Q5. With respect to §706.22, does the $500 million apply only to domestic sales?

A. No. It applies to the data stated in the Form 10–K as submitted to the SEC which may include foreign sales as well.

Q6. § 706.22(b) asks consolidated companies having, or companies belonging to consolidated companies having, $500 million in sales or revenues to submit to the Council a copy of Form 10–K reports submitted to the Securities and Exchange Commission. Does this mean that firms that do not file 10–K reports with the SEC need not comply with the remainder of § 706.22.

A. No. If a firm has not prepared a Form 10–K report, it is not asked to generate one. However, it is asked to submit other information.

Q7. Should firms that have filed Form 10–K reports with the SEC file the same forms with the Council?

A. Form 10–K's on file at the SEC can be obtained by the Council, and companies need not furnish the Council with duplicate copies if this would be burdensome. However, if such copies are readily available, their submission would reduce the Council's administrative work and would be greatly appreciated.

Q8. What type of data are contemplated by § 706.22(d)(2), in the phrase "not included in the calculation of the base-period rate of price change?"

A. It is expected that some companies will find that it is not feasible to calculate an average price change covering 100 percent of their revenues (even after deducting revenues covered by 705A–3(a)–(d) and (f)–(i). Typically, this may be caused by the lack of historical records on prices, revenues, and/or physical volumes for some products. Accordingly, § 706.22(d)(2) asks companies to advise

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the Council of data of this sort. The revenues covered by 705A-3(e) would not be included, however, since that category is only defined for the program year.

Q9. Should companies filing reports under Subpart B of Part 706 file in triplicate?

A. No. One copy is sufficient.

Q10. What is a company's "most recently completed fiscal year" for purposes of Subpart B?

A. This refers to the most recently completed fiscal year prior to the start of the program year.

Q11. § 706.24 requests information from "companies with 5,000 or more employees." Can this be interpreted to refer only to disaggregated compliance units ("companies" under 705D) with 5,000 or more employees?

A. No. The request is directed at "companies" with 5,000 or more employees, *and* companies that belong to consolidated companies with 5,000 or more employees.

Q12. Does failure to comply with a request for reports under Subpart B result in a company's being put on the list of noncomplying companies?

A. No. A company can be placed on this list only if it fails to comply with the substantive Price or Pay Standards. However, if a company fails to make the requested reports, this may prompt further investigation of its operations by the Council.

Q13. If a company does not maintain records for its major lines of business at the four-digit level of the Standard Industrial Classification System, must it generate this information for purposes of a report under § 706.21(b)?

A. No. A company should supply information at a comparable level of detail, but need not follow the SIC system exactly.

Q14. § 706.22 applies to companies that "belong to" consolidated companies with $500 million or more in sales. Does this mean that companies which are owned by, but *not* consolidated with, companies with the requisite sales, are subject to § 706.22?

A. Yes.

Q15. Should companies submit data regarding base-period rates of price change under § 706.22(d) if they are subject only to the profit-margin limitation?

A. No. If a company *knows* by February 15, 1979, that it is subject to the profit margin limitation, either because it has insufficient product coverage or because it has been granted an exception, it need not supply data under § 706.22(d)(1) or (3).

Q16. Does § 706.24 require that companies submit detailed reports on their methods of meeting the pay standard by February 15, 1979?

A. No. Companies are asked only to outline how they plan to identify their reporting units, and to identify briefly what method(s) of pay calculation that they plan to use.

C. Exceptions

Q1. Should a company seek a determination under § 706.31(a)(10) if it had or is part of a consolidated company which had net sales or revenues in excess of $500 million in its last fiscal year and intends to apply an exception to the pay standard?

A. Yes. § 706.31 applies to exceptions to the pay standard as well as the price standard.

Q2. Does § 706.31(a)(2) apply to any employee unit, regardless of size?

A. No. A company need not seek a determination from the Council under § 706.31(a)(2) if an exception to the pay standard would affect an employee unit of less than 100 employees.

D. Special Investigations

[Reserved]

E. Determination of Noncompliance

Q1. Is it a defense to a Notice of Probable Noncompliance, that a company was exempted from both the price deceleration *and* profit margin standard because its adjusted revenues are less than 25 percent of total company revenue?

A. Yes. While this defense is not listed in § 706.52, it can be raised.

F. Removal from List of Noncomplying Companies

[Reserved]

G. Request for Reconsideration

[Reserved]

[FR Doc. 79-2538 Filed 1-24-79; 8:45 am]

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federal register

THURSDAY, JANUARY 25, 1979
PART XI

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF TRANSPORTATION

Coast Guard

MARINE SAFETY INVESTIGATIONS

Notice of Proposed Rulemaking

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[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 168]

[CGD 77-018]

MARINE SAFETY INVESTIGATIONS

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The proposed rule requires reports of specified waterfront incidents, accidents, and acts and establishes procedures for investigating them. Until now there have been no regulations implementing the investigatory authority created by the Ports and Waterways Safety Act of 1972. These regulations should assist in determining causes of these events and preventing their recurrence.

DATES: Comments must be received on or before: March 12, 1979.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), (CGD 77-018), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FUTHER INFORMATION CONTACT:

Lieutenant Commander Edward H. Bonekemper, III, Port Safety Branch, Port Safety and Law Enforcement Division, Office of Marine Environment and Systems, U.S. Coast Guard, Room 7319, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1927).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CGD 77-018), identify the specific section of the proposal to which each comment applies, and include sufficient detail to indicate the basis on which each comment is made. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Lieutenant Commander Edward H. Bonekemper, III, Project Manager, Office of Marine Environment and Systems, and Stanley M. Colby, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

This proposed amendment would implement the investigatory powers established in Section 8 of the Ports and Waterways Safety Act (33 U.S.C. 1227). That statute authorizes the investigation of any incident, accident, or act involving the loss or destruction of, or damage to, any structure on, in, or next to the navigable waters of the United States or on a shore area next to those waters or which affects or may affect the safety or environmental quality of the ports, harbors, or navigable waters of the United States. It also provides for the issuance of subpenas and the payment of witness fees related to these investigations.

These proposed regulations define those incidents, accidents, and acts which must be reported to the Coast Guard and explain who is authorized to initiate an investigation. The powers of an investigating officer are set forth. Also detailed are proposed investigative proceedings, rights of parties in interest, testimony by deposition, and reports of investigation.

Comments are solicited on all the contents of this notice. Of particular value would be comments on the notification requirements, including the related definitions of "shore area," "structure," and "unusual condition."

Specific attention is called to the investigation procedures proposed in §§ 168.12 through 168.36. Commenters may wish to compare these provisions with existing 46 CFR Part 4. Should separate procedures be published in 33 CFR for these facility-related investigations? Or, should a simple cross-reference to 46 CFR Part 4 be used to make those vessel-related investigation procedures applicable to facility-related investigations?

This proposed regulation has been evaluated under the Department of Transportation Policies for Improving Government Regulations published on March 8, 1978 (43 FR 9582). The draft evaluation is available for public review at the above address.

In consideration of the foregoing, it is proposed to amend Chapter I to title 33, Code of Federal Regulations as follows:

By amending Subchapter P by adding a new Part 168 to read as follows:

PART 168—MARINE SAFETY NOTIFICATIONS AND INVESTIGATIONS

Sec.

168.01 Purpose.
168.02 Definitions.
168.03 Notification of incident, accident, or act.
168.09 Contents of notification.
168.12 Initiation of investigation.
168.15 Investigating officer: designation.
168.20 Investigating officer: authority.
168.22 Informal investigation.
168.23 Witnesses and documents.
168.25 Investigative proceedings: attendance by public.
168.27 Investigative proceedings: notice and procedures.
168.30 Investigative proceedings: parties in interest and witnesses.
168.33 Testimony by deposition.
168.36 Report of investigation.

AUTHORITY: 92 Stat. 1476 (Ports and Waterways Safety Act, as amended, 33 USC 1227); 49 CFR 1.46(n)(4).

§ 168.01 Purpose.

The purpose of the regulations under this part is to prescribe procedures for notification and investigation of accidents involving vessels, bridges or other structures on or in the navigable waters of the United States, or certain land structures or shore areas immediately adjacent to those waters in order to determine the cause and circumstances of such accidents. Determining the cause of accidents will aid in preventing their recurrence and will help protect the navigable waters and the resources therein from environmental harm.

§ 168.02 Definitions.

As used in this part:

(a) "Party in interest" means a responsible person and a person that the investigating officer finds to have direct interest in an investigation being conducted under this part.

(b) "Shore area" means a parcel of land any part of which is next to or within 100 yards of the navigable waters of the United States, excluding any part which is more than 1,000 yards from the navigable waters of the United States.

(c) "Structure" means a dock, wharf, pier, marine terminal, refinery, bridge, commercial pipeline, or bulk liquid or bulk liquefied gas facility on, in, or next to navigable waters of the United States or on a shore area.

(d) Unusual condition" means any of the following:

(1) Fire.

(2) Explosion.

(3) A breakaway of a vessel from moorings.

(4) Damage to or rupture of a pipeline, tank, or bulk liquid transfer manifold or loading arm.

(5) The release or discharge of a substance or material that affects or could adversely affect property or the environmental quality of the port, harbor, or navigable waters of the United States.

(e) "Responsible person" means the owner or operator of a structure or person in charge of or at a structure.

§ 168.03 Notification of incident, accident, or act.

Unless there is notification made under 46 CFR 4.05-1 or under Part 153 of this chapter, the responsible person shall immediately notify, by telephone, radio communication, or a similar means of rapid communication, the Captain of the Port of the occurrence of each incident, accident, or act that involves-

(a) Actual physical damage of more than $5,000 to the structure, cargo, and any property on the structure; or

(b) An unusual condition involving or affecting the structure.

§ 168.09 Contents of notification.

The notification to the Captain of the Port under § 168.03 must include the following information:

(a) Structure identification and location.

(b) Description of the incident, accident, or act being reported.

(c) Cargo involed in the incident, accident, or act.

(d) Measures taken or planned to be taken by the responsible person to mitigate the effects of the incident, accident, or act.

(e) The responsible person's name and title.

§ 168.12 Initiation of investigation.

The Commandant, District Commander, or Captain of the Port may initiate an investigation of an incident, accident, or act reportable under § 168.03.

§ 168.15 Investigating officer: designation.

The Commandant, District Commander, or Captain of the Port may designate an investigating officer to conduct the investigation of any incident, accident, or act under this part to determine in each case—

(a) The cause;

(b) If there is evidence that any failure of material or safety equipment was a contributing factor; and

(c) If there is evidence that any violation of federal law or regulation occurred.

§ 168.20 Investigating officer: authority.

The investigating officer may—

(a) Determine who is a party in interest to the incident, accident, or act;

(b) Issue subpenas for the attendance of witnesses and the production of documents and other evidence;

(c) Conduct investigation proceedings; and

(d) Take testimony by deposition.

§ 168.22 Informal investigation.

The investigating officer may conduct an informal investigation. This informal investigation may constitute the entire investigation or it may lead to investigative proceedings.

§ 168.23 Witnesses and documents.

(a) Witness fees are payable in accordance with 46 CFR Subpart 4.11.

(b) In case of refusal to obey a subpena issued to any person, the District Commander may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance.

§ 168.25 Investigative proceedings: attendence by the public.

(a) The public may attend investigative proceedings conducted by the investigating officer, except those concerned with evidence of a classified nature affecting national security.

(b) No person may interfere with the form and manner of conducting the investigative proceedings.

§ 168.27 Investigative proceedings: Notice and procedures.

(a) The investigating officer gives reasonable notice of the time and place of the investigative proceedings to each party in interest.

(b) The investigating officer opens the investigative proceedings by announcing the statutory authority for the proceedings and by advising parties in interest of their rights.

(c) Investigative proceedings are administrative and adherence to the formal rules of evidence is not mandatory.

§ 168.30 Investigative proceedings: parties in interest and witnesses.

(a) Parties in interest in an investigative proceeding may—

(1) Be represented by counsel;

(2) Examine and cross-examine any witnesses; and

(3) Have witnesses and present evidence in their own behalf.

(b) Each witness in an investigative proceeding who is not a party in interest may have a counsel's advice, but counsel may not—

(1) Examine or cross-examine parties in interest or other witnesses; or

(2) Be a participant in the investigative proceeding.

§ 168.33 Testimony by deposition.

(a) A party in interest requesting the investigating officer to take a deposition must apply in writing and supply the following information:

(1) The reasons why the deposition is needed in the investigative proceedings.

(2) The name and address of each witness from whom a deposition is requested.

(3) The matters concerning the investigation upon which the party in interest expects the witness to testify.

(4) The proposed time and place for the taking of the deposition.

(b) If the investigating officer grants the request for a deposition, the investigating officer gives an order to each party in interest that contains the following:

(1) The name of the witness whose deposition is required.

(2) The time period during which interrogatories may be submitted.

(3) The time and place of the taking of the deposition.

(4) The name of the person taking the deposition.

(c) Within the time under paragraph (b)(2) of this section, the party in interest desiring the deposition must submit a list of interrogatories for the person who is to testify.

(d) After the party in interest submits interrogatories under paragraph (c) of this section, any other party in interest or the investigating officer may submit a list of cross-interrogatories.

(e) Each deposition must be taken before a person who is authorized to administer oaths by the laws of the United States.

(f) As soon as practicable after the receipt of a deposition, the investigating officer rules on the admissibility of the deposition or any part of the deposition.

§ 168.36 Report of investigation.

At the conclusion of the informal investigation or investigative proceedings, the investigating officer submits a report that contains—

(a) The facts as determined by the investigating officer;

(b) The investigating officer's conclusions; and

(c) The investigating officer's recommendations.

(92 Stat. 1476 (Ports and Waterways Safety Act, as amended 33 USC 1227); 49 CFR 1.46(n)(4).)

Dated: January 17, 1979.

J. B. HAYES,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc. 79-2676 Filed 1-24-79; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
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DOT/OHMO	USDA//FSQS		DOT/OHMO	USDA/FSQS
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CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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rules and regulations

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[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—OFFICE OF PERSONNEL MANAGEMENT

PART 213—EXCEPTED SERVICE

Entire Executive Civil Service

AGENCY: Office of Personnel Management.

ACTION: Final Rule.

SUMMARY: Positions of readers for blind employees and interpreters for deaf employees, which involve only provision of reading or interpreting services, are excepted under Schedule A because it is impracticable to examine for them. Persons employed under this Schedule A authority may not be assigned other duties.

EFFECTIVE DATE: January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3102 (ll) is added as set out below:

§ 213.3102 Entire Executive Civil Service.

• • • • • •

(ll) Positions of readers for blind employees and interpreters for deaf employees, filled on a full-time, part-time, or intermittent basis. Persons employed under this authority may not perform work which is not directly related to the provision of reading or interpreting services.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-2401 Filed 1-25-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C a position at the Department of Commerce because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management. (Previously approved but inadvertently not published.)

EFFECTIVE DATE: December 13, 1978.

FOR FURTHER INFORMATION CONTACT:

On Position Authority Contact: Peter Gaul, Office of Personnel Management, 202-632-7676. On Position Content Contact: Dave Harrington, Department of Commerce, 202-377-5740.

Accordingly, 5 CFR 213.3314(x)(3) is added as set out below:

§ 213.3314 Department of Commerce.

• • • • • •

(x) *Office of the Assistant Secretary for Communicatons and Information.* • • •

(3) Deputy Assistant Secretary of Commerce.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-2402 Filed 1-25-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Agriculture, Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final Rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Department of Agriculture and the Department of Energy because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3313(i)(4) and 213.3331(i)(3) are added as set out below:

§ 213.3313 Department of Agriculture.

• • • • • •

(i) *Commodity Credit Corporation.* • • •

(4) One Special Assistant and two Confidential Assistants to the President.

• • • • • •

§ 213.3331 Department of Energy.

• • • • • •

(i) *Office of the Assistant Secretary for Environment.* • • •

(3) One Confidential Assistant (Secretary) to the Deputy Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-2797 Filed 1-25-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Commerce, U.S. International Trade Commission, Department of Transportation

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment (1) excepts under Schedule C a certain position at the Department of Commerce because it is confidential in nature, (2) changes the title of a position at the International Trade Commission from Staff Assistant to Confidential Assistant to a Commissioner to more appro-

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priately reflect the duties of the position and (3) changes the title of a position at the Department of Transportation from Special Assistant to the Deputy Under Secretary to Special Assistant to the Assistant Secretary for Budget and Programs to reflect the current title of the Superior. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: December 29, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3314(a)(16) is added and 213.3339(b) and 213.3394 (a)(15) are amended as set out below:

§ 213.3339 Department of Commerce.

(a) *Office of the Secretary.* • • •

(16) One Private Secretary to the Inspector General.

• • • • • •

§ 213.3314 U.S. International Trade Commission.

• • • • • •

(b) One Staff Assistant (Legal), One Staff Assistant, and one Confidential Assistant to a Commissioner.

• • • • • •

§ 213.3394 Department of Transportation.

(a) *Office of the Secretary.* • • •

(15) One Special Assistant to the Assistant Secretary for Budget and Programs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-2793 Filed 1-25-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

General Services Administration

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment (1) excepts under Schedule C a position at the General Services Administration because it is confidential in nature, and (2) revokes two positions because the need for the positions no longer exists and the positions have been abolished. Appointments may be made to the position without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 4, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3337(a)(4) is amended and (a)(12) is added as set out below:

§ 213.3337 General Services Administration.

(a) *Office of the Administrator.* • • •

(4) One Confidential Assistant to the Assistant Administrator. • • •

(12) One Assistant to the Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-2794 Filed 1-25-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment (1) excepts under Schedule C a position at the Department of Health, Education, and Welfare because it is confidential in nature and (2) changes the title of a position at the Department of Energy from Special Assistant to the Director, Office of Congressional Affairs, Federal Energy Administration to Staff Assistant to the Director, Office of Congressional Affairs to more appropriately reflect the duties of the position. This position formerly existed at the Federal Energy Administration and was subsequently transferred to the Department of Energy on September 30, 1977. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3316(a)(4) is added and 213.3331(m)(6) is amended as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

(a) *Office of the Secretary.* • • •

(4) One Assistant Deputy Under Secretary for Intergovernmental Affairs.

• • • • • •

§ 213.3331 Department of Energy.

• • • • • •

(m) *Office of the Assistant Secretary for Intergovernmental and Institutional Relations.* • • •

(6) Six Staff Assistants, Congressional Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-2798 Filed 1-25-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Inter-American Foundation, Department of Energy, and Department of Transportation

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment (1) excepts under Schedule C certain positions at the Inter-American Foundation, Department of Energy and Department of Transportation because they are confidential in nature and (2) revokes a position at the Department of Energy because it has been vacant for more than 60 days. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3320 and 213.3394(f)(7) are added, 213.3331(m)(5) is amended and 213.3331(m)(4) is revoked as set out below:

§ 213.3320 Inter-American Foundation.

(a) One Confidential Assistant (Andean Region).

(b) One Confidential Assistant (Caribbean/Brazil Region).

(c) One Confidential Assistant (Mexico/Central America/Panama Region).

(d) One Confidential Assistant (Southern Cone Region).

• • • • • •

§ 213.3331 Department of Energy.

• • • • • •

(m) *Office of the Assistant Secretary for Intergovernmental and Institutional Relations.* • • •

(4) [Revoke].

(5) One Staff Assistant, one Staff Assistant, State Relations, and one Staff Assistant, City and County Relations, to the Director, Office of Intergovernmental Affairs.

• • • • • •

§ 213.3394 Department of Transportation.

• • • • • •

(f) *Urban Mass Transportation Administration.* • • •

(7) One Special Assistant for Special Projects to the Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-2799 Filed 1-25-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Labor

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Part-time and intermittent positions at grades GS-6 and below in the Bureau of Labor Statistics involved in data collections for the Consumer Price Index may be filled by new appointment under Schedule A through December 31, 1983, because it continues to be impracticable to examine for them. Persons employed in these positions may work up to 1,600 hours in a service year.

EFFECTIVE DATE: January 10, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3115(b)(1) is amended as set out below:

§ 213.3115 Department of Labor.

• • • • • •

(b) *Bureau of Labor Statistics.* (1) Not to exceed 500 positions involving part-time and intermittent employment for field survey and enumeration work in the Bureau of Labor Statistics. This authority is applicable to positions where the salary is equivalent to GS-6 and below. Employment under this authority may not exceed 1,600 work hours in a service year. No new appointment may be made under this authority after December 31, 1983.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-2794 Filed 1-25-79; 8:45 am]

[6320-01-M]

PART 213—EXCEPTED SERVICE

Merit Systems Protection Board, and Office of Personnel Management

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to list the Schedule C positions currently existing at both the Merit Systems Protection Board and the Office of Personnel Management. These positions had been previously excepted under Schedule C but were not listed in the FEDERAL REGISTER prior to this time.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3390(a), (b), (c) and 213.3391(a), (b) are added as set out below:

§ 213.3390 Merit Systems Protection Board.

(a) Two Special Assistants and one Administrative Assistant to the Chairperson.

(b) One Policy Advisor and one Administrative Assistant to the Vice-Chairperson.

(c) One Policy Advisor and one Administrative Assistant to the Commissioner.

§ 213.3391 Office of Personnel Management.

(a) Two Special Assistants and one Confidential Assistant to the Director.

(b) One Policy Advisor and one Administrative Assistant to the Deputy Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-2800 Filed 1-25-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Veterans Administration

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Up to 400 scientific, professional and technical positions at grades GS-11 and above in the medical research program of the Veterans Administration are excepted under Schedule B because it is impracticable to hold a competitive examination for them. Employment in these positions may not exceed 7 years.

EFFECTIVE DATE: January 9, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3227 is added as set out below:

§ 213.3227 Veterans Administration.

(a) Not to exceed 400 scientific, professional and technical positions at grades GS-11 and above in the medical research program. Employment under this authority may not exceed 7 years for any individual.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-2795 Filed 1-25-79; 8:45 am]

[3410-05-M]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 7—SELECTION AND FUNCTIONS OF AGRICULTURAL STABILIZATION AND CONSERVATION COUNTY AND COMMUNITY COMMITTEES

Revision

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: These regulations are a complete revision of the existing regulations governing the selection and functions of Agricultural Stabilization

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and Conservation county and community committees. The parts of these regulations relating to the suspension and removal of county committee members, community committee members, county executive directors, and other county employees have been extensively revised to eliminate repetition and to provide specific procedures to be followed in such cases, including the right to a hearing, cross-examination of witnesses, and examination of relevant evidence.

EFFECTIVE DATES: The regulations are effective when published.

FOR FURTHER INFORMATION CONTACT:

Alfred Oberg, Management Analyst, TSS-ASCS, Room 4720 South Building, Washington, D.C. 20013, (202) 447-6865.

SUPPLEMENTARY INFORMATION: On April 21, 1977, there was published in the FEDERAL REGISTER (42 FR 20628) proposed regulations revising existing regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees.

Since these regulations were developed prior to the issuance of Departmental procedures under Executive Order 12044, such procedures are not applicable. However, interested persons were invited to submit written comments to these regulations within thirty days after publication pursuant to 5 U.S.C. 553, and other means to obtain public participation were utilized. There were no adverse comments received. Twenty replies were received commenting on the proposed regulations. As a result of these comments, some editorial changes have been made and some changes were made to the procedures to follow in cases involving the suspension or removal from office or employment of county and community committee members, county executive directors, and other county employees. Such changes provide that hearings in connection with determinations of the Deputy Administrator are to be conducted by the Deputy Administrator or his or her designee.

Accordingly, 7 CFR Part 7 is revised to read as follows:

PART 7—SELECTION AND FUNCTIONS OF AGRICULTURAL STABILIZATION AND CONSERVATION COUNTY AND COMMUNITY COMMITTEES

NAMES OF COMMITTEES

Sec.
7.1 Local or community committee.
7.2 County committee.

PURPOSE OF COMMITTEES

7.3 Purpose.

SELECTION OF COMMITTEES

7.4 Method.
7.5 Who may vote for community committee members and delegates.
7.6 Restrictions on voting.
7.7 Determination of elective areas.
7.8 Calling of elections.
7.9 Conduct of community elections.
7.10 Conduct of county convention.
7.11 Election of community committee and delegates to the county convention.
7.12 Election of the county committee.
7.13 Tie votes.
7.14 Vacancies.
7.15 Appeals.

ELIGIBILITY REQUIREMENTS

7.16 County committee members, community committee members, and delegates.
7.17 All other personnel.
7.18 Dual office.

TERMS OF OFFICE

7.19 County and community committee members.
7.20 Delegates to the county convention.

DUTIES

7.21 County committee.
7.22 Chairperson of the county committee.
7.23 Community committee.
7.24 Chairperson of the community committee.
7.25 Delegate to the county convention.
7.26 County executive director.

PRIVATE BUSINESS ACTIVITY AND CONFLICTS OF INTEREST

7.27 All personnel.

POLITICAL ACTIVITY

7.28 All personnel.

REMOVAL FROM OFFICE OR EMPLOYMENT

7.29 County and community committee members and delegates to the county convention; county office personnel.
7.30 Delegation of authority to Deputy Administrator.
7.31 Right of review.
7.32 Hearing in connection with appeals and requests for reconsideration to Deputy Administrator.
7.33 Findings, analysis, and recommendations of hearing officer.
7.34 Determination of the Deputy Administrator.

CUSTODY AND USE OF BOOKS, RECORDS, AND DOCUMENTS

7.35 Custody.
7.36 Use.

GENERAL PROVISIONS

7.37 Administrative operations.
7.38 Implementation.
7.39 Applicability.
7.40 Secretary, Administrator, or Deputy Administrator, not precluded from exercising authority.

AUTHORITY: The provisions of this Part 7, issued under secs. 4, 8, 49 Stat. 164, 1149, as amended; 16 U.S.C. 590d, 590h(b).

NAMES OF COMMITTEES

§ 7.1 Local or community committee.

Each local committee elected under the provisions of this part shall be known as the Agricultural Stabilization and Conservation Community Committee, referred to in this part as the "community committee."

§ 7.2 County committee.

Each county committee elected under the provisions of this part shall be known as the Agricultural Stabilization and Conservation County Committee, referred to in this part as the "county committee."

PURPOSE OF COMMITTEES

§ 7.3 Purpose.

The purpose of the county committee shall be to direct the administration of sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act of 1936, the Agricultural Adjustment Act of 1938, the Agricultural Acts of 1949, and 1970, the Agriculture and Consumer Protection Act of 1973, the Food and Agricultural Act of 1977, and any amendments to such acts, such other acts of Congress as the Secretary of Agriculture or the Congress may designate, and to perform such other functions as may be designated by the Secretary. This shall be done through community committees and county committee members and other personnel responsible to the county committee, and in accordance with applicable laws, regulations, and official instructions.

SELECTION OF COMMITTEES

§ 7.4 Method.

County and community committees shall be elected in accordance with the provisions of this part.

§ 7.5 Who may vote for community committee members and delegates.

(a) Any person, regardless of race, color, religion, sex, age, or national origin, who has an interest in a farm as owner, tenant, or sharecropper and who is of legal voting age in the State in which the farm is located, and any person not of such legal voting age who is in charge of the supervision and conduct of the farming operations on an entire farm, shall be eligible to vote for community committee members and delegates in the community in which he/she has such an interest and such person is eligible to participate with respect to the farm in any program administered by the county committee.

(b) In any State having a community property law, the spouse of a person who is eligible to vote under paragraph (a) of this section shall also be eligible to vote.

(c) The term "person" as used in this section means an individual, partnership, association, corporation, estate, trust, other business enterprise or legal entity, or a State, political subdivision of a State or any agency thereof.

(d) The vote may be cast by:

(1) An individual for himself/herself.

(2) A duly authorized partner of a partnership for the partnership.

(3) A duly authorized officer of a corporation for the corporation.

(4) A guardian who is legally appointed for a minor or incompetent person.

(5) A duly authorized representative of any other eligible voter entity, except an individual.

(e) Each county office shall have a prepared list of eligible voters for each community within the county available for public inspection in advance of the election.

§ 7.6 Restrictions on voting.

Each eligible voter shall be entitled to only one vote on any one ballot in any election held in any one community. If the eligible voter has an interest in a farm in more than one community in the county, such voter shall not be entitled to vote in more than one such community in the county. There shall be no voting by proxy.

§ 7.7 Determination of elective areas.

Each county shall be divided into local administrative areas, referred to in this subpart as "communities." The term "county" in Alaska shall be the area so designated by the State committee. The boundaries of the communities shall be fixed by the State committee after considering any recommendations by the county committee. No such community shall include more than one county or parts of different counties. The county committee shall give public notice of the community boundaries in advance of the election.

§ 7.8 Calling of elections.

(a) Each election of community committee members shall be held on a date or within a period of time fixed by the Deputy Administrator, State and County Operations, (hereafter referred to as Deputy Administrator) or his/her designee, Agricultural Stabilization and Conservation Service which will in his/her judgment best afford full opportunity for participation therein by all persons eligible to vote: *Provided*, That such date or period of time shall fall within a period beginning on or after July 1 and ending not later than December 30, each year. Each such election shall be held in accordance with detailed instructions issued by the Deputy Administrator which shall be available for examination in each county office.

(b) If the number of eligible voters voting in any election of community committee members is so small that the State committee determines that the result of the election does not represent the views of a substantial number of eligible voters, it shall declare the election void and call a new election. If it is determined by the State committee that the election for any position on a community committee has not been held substantially in accordance with official instruction, the State committee shall declare such election void and call a new election.

§ 7.9 Conduct of community elections.

(a) The county committee serving at the time shall be responsible for the conduct of the community elections for the election of community committees and delegates to the county convention in accordance with official instructions issued by the Deputy Administrator.

(b) To prevent endorsement of any nongovernmental function either directly or indirectly by association or implication, community elections shall not be associated with or held in conjunction with any other election or referendum conducted for any other purpose.

(c) The county committee shall give advance public notice of how, when, and where eligible voters may vote, when and where the votes will be counted, and the right to witness the vote counting.

(d) All nominees shall be notified in writing of the outcome of the election by the county executive director.

§ 7.10 Conduct of county convention.

(a) The county committee serving at the time shall be responsible for designating the place at which the county convention for the election of the county committee will be held and for the conduct of the convention in accordance with official instructions issued by the Deputy Administrator which shall be available for examination in each county office.

(b) To prevent endorsement of any nongovernmental function either directly or indirectly by association or implication, county conventions shall not be associated with or held in conjunction with any other election or referendum conducted for any other purpose.

(c) The county committee shall give advance public notice of the county convention. It shall be open to the public.

(d) The county executive director shall notify in writing all newly elected county committee members, alternates, and county committee members with unexpired terms, of the election results.

§ 7.11 Election of community committee and delegates to the county convention.

(a) Except as provided in paragraph (c) of this section, the eligible voters in a community shall elect annually a community committee composed of three members and shall elect first and second alternates to serve as acting members of the community committee in the order elected in case of the temporary absence of a member, or to become a member of the community committee in the order elected in case of the resignation, disqualification, removal, or death of a member. An acting member of the community committee shall have the same duties and the same authority as a member. The election shall be conducted by the mail ballot method in all counties, except that the Deputy Administrator may authorize use of the meeting or polling place method in a specific county where such is deemed justified. Where elections are by mail or by polling place, the county committee shall give advance public notice that nominations may be made by petition. Election shall be by secret ballot and by plurality vote, with each eligible voter having the option of writing in the names of candidates of his/her own choice. Except as provided in paragraph (c) of this section, the three regular members of the community committee shall be the delegates to the county convention and the first and second alternates to the community committee shall also be in that order alternate delegates to the county convention: *Provided, however*, That a person may not serve as delegate if he/she has been a member of the county committee for that county during the 90 days preceding the community election. Failure to elect the prescribed number of alternates at the regular election shall not invalidate such election or require a special election to elect additional alternates.

(b) In any county where there is only one community, the community committee shall be the county committee.

(c) Where there is only one community in the county, one committee person shall be elected to hold offices for a term of 3 years or until his/her successor is elected and qualified, so that the term of office of one committee member will expire in each year. There shall also be elected annually a first alternate and second alternate to serve as acting members in the order elected in case of the temporary absence of a member or to become a member in the order elected in the case of resignation, disqualification, removal, or death of any member of

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the committee. In the event an alternate fills a permanent vacancy on the committee, he/she shall assume the unexpired term of the committee member replaced and hold office until the end of that unexpired term. An acting member shall have the same duties and authority as a member.

(d)) The community committee shall select a secretary who shall be either an employee of the county committee or the county agricultural extension agent.

§ 7.12 Election of the county committee.

(a) The delegates elected pursuant to § 7.11(a) shall meet in a convention held before the close of the same calendar year in which they were elected to elect committee members for vacancies on the county committee. The Deputy Administrator may fix the exact date. Each delegate shall be entitled to only one vote on any ballot, and there shall be no voting by proxy. A majority of the delegates so elected and qualified to vote at the time of the convention shall constitute a quorum. A county committee shall consist of three members. Each year one committee member shall be elected to hold office for a term of 3 years or until the successor is elected and qualified, so that the term of office of one committee member will expire in each year.

(b) At each convention, the delegates shall also elect annually a first and second alternate to the county committee to serve as acting members of the committee in the order elected in case of the temporary absence of a member, or to become a member in the order elected in case of the resignation, disqualification, removal, or death of a member of the county committee. In the event an alternate fills a permanent vacancy on the county committee, that person shall thereby assume the unexpired term of the committee member that was replaced. An acting member of the county committee shall have the same duties and authority as a member.

(c) The county committee shall select a secretary who shall be either the county executive director or other employee of the county committee, or the county agricultural extension agent for the county. If the county agricultural extension agent is not selected secretary to the county committee, that person shall be ex officio a member of the county committee but shall not have the power to vote.

§ 7.13 Tie votes.

(a) Tie votes in community committee elections held by mail or polling place method shall be settled by lot. Tie votes in such elections held by the meeting method which cannot be settled by further balloting on the same day shall be settled by lot. In one-community counties, a tie vote in determining the chairperson and vice chairperson which cannot be settled by further balloting on the same day shall be settled by lot.

(b) In the county convention, tie votes which cannot be settled by further balloting on the same day shall be settled by lot.

§ 7.14 Vacancies.

(a) In case of a vacancy in the office of chairperson of a county or community committee, the respective vice chairperson shall become chairperson; in case of a vacancy in the office of vice chairperson, the respective third member shall become vice chairperson; in case of a vacancy in the office of the third member, the respective first alternate shall become the third member; and in case of a vacancy in the office of the first alternate, the respective second alternate shall become the first alternate: *Provided,* That when unanimously recommended by the three members of the county committee as constituted under this paragraph and paragraph (c) of this section and approved by the State committee, the offices of chairperson and vice chairperson of the county committee may be filled from such membership without regard to the order of succession prescribed in this paragraph or the action of the delegates to the county convention.

(b) In case of a vacancy in the panel of delegates to the county convention, the respective alternates shall act as delegates.

(c) In the event that a vacancy, other than one caused by temporary absence, occurs in the membership of the county committee and no alternate is available to fill the vacancy, the State committee shall call a meeting of the delegates of the county convention to elect persons to fill such vacancies as exist in the membership of the county committee and in the panel of alternates, except as provided in § 7.29.

(d) In the event that a vacancy, other than one caused by temporary absence, occurs in the membership of the community committee and no alternate is available to fill the vacancy, a special election shall be held to fill such vacancies as exist in the membership and in the panel of alternates.

§ 7.15 Appeals.

(a) Any eligible voter in the county may appeal to the county committee in writing or in person, or both:

(1) The eligibility or ineligibility of persons to vote,

(2) The eligibility of persons to hold office, and

(3) The validity of the community committee elections. Such appeal must be made within 15 days of the election date, except that appeals on a determination of eligibility of a person nominated by petition must be made within 7 days of the date of notification of ineligibility.

(b) Any eligible voter in the county may appeal to the State committee in writing, in person, or both:

(1) A county committee decision on an election appeal, and

(2) The validity of a county convention. An appeal of a county committee decision must be made within 15 days of the notification of the decision. An appeal on the validity of a county convention must be made within 15 days of the county convention.

ELIGIBILITY REQUIREMENTS

§ 7.16 County committee members, community committee members, and delegates.

To be eligible to hold office as a county committee member, a community committee member, a delegate, or an alternate to any such office, a person must:

(a) Be eligible to vote in the county in which the election is held if proposed for county committee member or alternate and in the community in which the election is held if proposed for community committee member or alternate;

(b) Be residing in the county in which the election is held if proposed for county committee member; and unless waived by the State committee, be residing in the community in which the election is held if proposed for community committee member: *Provided, however,* That in cases where a State line, or a county line or community boundary runs through a farm, eligible persons residing on such farm may hold office in the county or community in which the farm has been determined to be located for program participation purposes;

(c) Not be ineligible under § 7.28;

(d) Not have been dishonorably discharged from any branch of the armed services; not have been removed for cause from any public office; not have been convicted of any fraud, larcency, embezzlement, or felony; unless any such disqualification is waived by the State committee or the Deputy Administrator;

(e) Not have been removed as a county committee member, community committee member, delegate, alternate to any such office, or as an employee for failure to perform the duties of the office, or committing, or attempting, or conspiring to commit fraud, or incompetency, or impeding the effectiveness of any program administered in the county, or refusal to carry out or failure to comply with the Department's policy relating to equal opportunity and civil rights, including the equal employment policy, or interfering with others in carrying out such policy, or for violation of official instructions, unless such disqualification is waived by the State committee or the Deputy Administrator;

(f) Not have been disqualified for future service because of a determination by a State committee that during previous service as a county committee member, community committee member, delegate, alternate of any such office, or as an employee, he/she failed to perform the duties of his/her office or employment, or he/she committed, attempted, or conspired to commit fraud, or he/she impeded the effectiveness of any program administered in the county, or refused to carry out or failed to comply with the Department's policy relating to equal opportunity and civil rights, including the equal employment policy, or interfered with others in carrying out such policy, or violated official instructions, unless such disqualification is waived by the State committee or the Deputy Administrator;

(g) Not be during the term of office a full-time employee of the U.S. Department of Agriculture;

(h) If the office is that of county committee member, not be during the term of office a sales agent or employee of the Federal Crop Insurance Corporation;

(i) If the office is that of delegate to the county convention, not have been a county committee member for that county during the 90 days preceding the community elections;

(j) If the office is that of county committee member, not be serving as a county committee member with one or more years following the current election remaining in the term of office;

(k) If the office is that of county committee member, not have served three consecutive terms as county committee member just prior to the current election: *Provided, however,* That any partial term served by an alternate who filled a permanent vacancy on the county committee, shall not count toward this three term limitation. The tenure of office of any county committee member, community committee member, delegate, or alternate to any such office, shall be terminated as soon as any such person becomes ineligible for office under the provisions of this section.

§ 7.17 All other personnel.

(a) The county executive director or any other employee must not be ineligible under § 7.28.

(b) The county executive director and other employees must not have been dishonorably discharged from any branch of the armed services, or not have been removed for cause from any public office, or not have been convicted of any fraud, larceny, embezzlement, or felony, unless any such disqualification is waived by the State committee or the Deputy Administrator.

(c) The county executive director or any other employee must not have been removed as a county committee member, community committee member, delegate, alternate to any such office, county executive director, or other employee for failure to perform the duties of the office, or committing, or attempting, or conspiring to commit fraud, incompetency, or impeding the effectiveness of any program administered in the county, or refusal to carry out or failure to comply with the Department's policy relating to equal opportunity and civil rights, including equal employment policy or interfering with others in carrying out such policy, or for violation of official instructions, unless such disqualification is waived by the State committee or the Deputy Administrator.

(d) The county executive director or any other employee must not have been disqualified for future employment because of a determination by a State committee that during previous service as a county committee member, community committee member, delegate, alternate to any such office, or as an employee, he/she failed to perform the duties of his/her office or employment; or committed, attempted, or conspired to commit fraud; or impeded the effectiveness of any program administered in the county; or refused to carry out or failed to comply with the Department's policy relating to equal opportunity and civil rights, including the equal employment policy; or interfered with others in carrying out such policy; or violated official instructions, unless such disqualification is waived by the State committee or the Deputy Administrator.

(e) The tenure of employment of any county executive director or other employee shall be terminated as soon as any such person becomes ineligible for employment under the provisions of this section.

§ 7.18 Dual office.

(a) *County committee membership.* A member of the county committee may not be at the same time:

(1) A member of a community committee;

(2) A delegate to a county convention;

(3) The secretary to the county committee;

(4) A member of the State committee; or

(5) County executive director or any other county office employee.

(b) *Community committee membership.* A member of the community committee may not be at the same time:

(1) A member of a county committee;

(2) The secretary to the county committee;

(3) A member of the State committee; or

(4) County executive director or regular county office employee.

(c) *Delegate to the county convention.* A delegate to the convention may not be a member of the State committee.

TERMS OF OFFICE

§ 7.19 County and community members.

The term of office of county and community committee members and alternates to such office shall begin on a date fixed by the Deputy Administrator, which shall be after their election and not later than the first day in the next January: *Provided, however,* That before any such county committee members or alternate county committee members may take office they shall sign an oath of office pledge that they will faithfully, fairly, and honestly perform to the best of their ability all of the duties devolving on them as committee members. A term of office shall continue until a successor is elected and qualified as provided in §§ 7.11 and 7.12.

§ 7.20 Delegates to the county convention.

The terms of office of delegates and alternates to the county convention shall begin immediately upon their election and shall continue until their respective successors have been elected and qualified.

DUTIES

§ 7.21 County committee.

The county committee, subject to the general direction and supervision of the State committee, and acting through community committee members and other personnel, shall be generally responsible for carrying out in the county the agricultural conservation program, the price support programs as assigned, the acreage allotment and marketing quota programs, the wool incentive payment program, and the disaster provisions under the feed grain, wheat, cotton and rice programs, formulated pursuant to the acts of Congress specified in § 7.3, and any other program or functions assigned to it by the Secretary of Agriculture. In so doing, the committee shall:

(a) Enter into leasing agreements for such office space as needed in accordance with prescribed procedures:

(b) Employ the county executive director, subject to standards and qualifications furnished by the State committee, to serve at the pleasure of the

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county committee, except that incumbent directors shall not be removed other than under the provisions of § 7.29, until all members of the county committee have been in office for at least 90 days: *Provided, also,* That there shall be no employment discrimination due to race, religion, color, sex, age, or national origin. The county executive director may not be removed under this paragraph for advocating or carrying out the Department's policy on equal opportunity and civil rights, including the equal employment policy, and in the event it is claimed that dismissal is for such reasons, the dismissal shall not become effective until the State committee and the Deputy Administrator have determined that dismissal was not because of such reasons;

(c) Direct the activities of the community committees elected in the county;

(d) Pursuant to official instructions, review, approve, and certify forms, reports, and documents requiring such action under such instructions;

(e) Recommend to the State committee needed changes in boundaries of communities;

(f) Make available to farmers and the public, information concerning the objectives and operations of the programs administered through the county committee;

(g) Make available to agencies of the Federal Government and others information with respect to the county committee activities in accordance with official instructions issued;

(h) Give public notice of the designation and boundaries of each community within the county not less than 50 days prior to the election of community committee members and delegates;

(i) Direct the giving of notices in accordance with applicable regulations and official instructions;

(j) Recommend to the State committee desirable changes in or additions to existing programs;

(k) Conduct such hearings and investigations as the State committee may request;

(l) Perform such other duties as may be prescribed by the State committee.

§ 7.22 Chairperson of the county committee.

The chairperson of the county committee or the person acting in his/her stead shall preside at meetings of the county committee, certify such documents as may require his/her certification, and perform such other duties as may be prescribed by the State committee.

§ 7.23 Community committee.

The community committee shall:

(a) Assist the county committee in carrying out programs assigned to it;

(b) Inform farmers concerning the purposes and provisions of programs being administered in the county by the county committee;

(c) Assist in arranging for and conducting necessary community meetings; and

(d) Perform such other duties as may be assigned to it by the county committee.

§ 7.24 Chairperson of the community committee.

The chairperson of the community committee or the person acting in his/her stead shall preside at meetings of the community committee, and perform such other duties as may be assigned to him/her by the county committee.

§ 7.25 Delegate to the county convention.

Each delegate shall meet with other delegates in a county convention within a period of time fixed by the Deputy Administrator and at the place designated by the county committee to elect county committee members for the county.

§ 7.26 County executive director.

The county executive director shall:

(a) Execute the policies established by the county committee and be responsible for the day-to-day operations of the county office;

(b) Employ the personnel of the county office, in accordance with standards and qualifications furnished by the State committee, to serve at his/her pleasure: *Provided, however,* That there shall be no employment discrimination due to race, religion, color, sex, age, or national origin. An employee may not be removed under this paragraph for advocating or carrying out the Department's policy on equal opportunity and civil rights, including the equal employment policy, and in the event it is claimed that dismissal is for such reason, the dismissal shall not become effective until the State committee and the Deputy Administrator have determined that dismissal was not because of such reason;

(c) Receive, dispose of, and account for all funds, negotiable instruments, or property coming into the custody of the county committee;

(d) Serve as counsellor to the county convention chairperson on election procedures; and

(e) Supervise, under the direction of the county committee, the activities of the community committees elected in the county.

PRIVATE BUSINESS ACTIVITY AND CONFLICTS OF INTEREST

§ 7.27 All personnel.

(a) No county committee member, community committee member, delegate, alternate to any such office, or any person employed in the county office shall at any time use such office or employment to promote any private business interest.

(b) County committee members, community committee members, delegates, or alternates, and any person employed in the county office shall be subject to the official instructions issued with respect to conflicts of interest and proper conduct.

POLITICAL ACTIVITY

§ 7.28 All personnel.

(a) No person may be a member of the county governing body or hold a Federal, State, or county office filled by an election held pursuant to law or be employed by any such office and also hold office as a county committee member, community committee member, delegate, alternate to such office, or be employed in any capacity, except that members of school boards, soil conservation district boards, weed control district boards, or of similar boards are not ineligible to hold office or employment under this paragraph solely because of membership on such boards.

(b) No person may be a candidate for membership on the county governing body or for any Federal, State, or county office filled by an election held pursuant to law and hold office as a county committee member, community committee member, delegate, alternate to any such office, or be employed in any capacity, except, that candidates for school boards, soil conservation district boards, irrigation district boards, drainage district boards, weed control district boards, or for similar boards are not ineligible to hold office or employment under this paragraph solely because of candidacy for such boards.

(c) No person may be an officer, employee, or delegate to a convention of any political party or political organization and hold office as a county committee member, community committee member, delegate, alternate to any such office, or be employed in any capacity.

(d) The tenure of office of any county committee member, community committee member, delegate, alternate to any such office, or the employment of any employee, shall be automatically terminated as soon as any such person becomes ineligible for office of employment under the provisions of paragraph (a), (b), or (c) of this section.

(e) No county committee member, community committee member, delegate, or alternate to any such office, or any employee shall at any time engage in the following political activities:

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(1) Solicit or receive any contributions (including the sale of tickets) for political party organizations or for a candidate for political office or for any other political purpose in any room or building used for the transaction of any Federal official business, or at any place from any other county committee member, community committee member, delegate, or alternate to any such office or employee.

(2) Use official authority or influence to discharge, remove, demote, or promote any employee, or threaten or promise to so do, for withholding or giving contributions (including the buying or the refusal to buy tickets) for political purposes, or for supporting or opposing any candidate or any political organization in any primary, general, or special election for political office.

(3) Use or direct or permit the use of any official space, equipment, materials, supplies, or personal services either to support or oppose any political office holder, candidate or party, or for any other political purpose.

(f) No county committee member, or alternate to such office, or any employee on any day when entitled to pay for services in performance of duties, and no employee who serves during a continuous period of 90 days or more and has a regular tour of duty established in advance at any time, shall solicit, collect, receive, disburse or otherwise handle contributions of money, pledges, gifts, or anything of value (including the sale of tickets) made for:

(1) Political party organizations;

(2) A candidate for political office in any primary, general, or special election, but excluding such activities on behalf of individual candidates in township and municipal elections;

(3) Any other political purpose.

REMOVAL FROM OFFICE OR EMPLOYMENT FOR CAUSE

§ 7.29 County and community committee members, and delegates to county convention; county office personnel.

(a) Any county committee member, community committee member, delegate to the county convention, an alternate to any such office, county executive director, or any other county employee who fails to perform the duties of his office; or who commits or attempts, or conspires to commit fraud; or is incompetent; or who impedes the effectiveness of any program administered in the county; or who violates the provisions of § 7.28 (e) or (f); or who refuses to carry out or fails to comply with the Department's policy relating to equal opportunity and civil rights, including the equal employment policy; or who interferes with others in carrying out such policy; or who violates official instructions, shall be suspended from his/her office or employment. Any person who is under formal investigation for any of the above-cited reasons may be suspended. The suspension action may be taken by the county executive director with respect to any other employee, or by the county committee or State committee with respect to the county executive director or any other county employee and by the State committee with respect to any county committee member, community committee member, delegate to the county convention, or any alternate to any such office. Any person suspended shall be given a written statement of the reasons for such action and allowed 15 days from the date of mailing of the suspension in which to advise the county committee, or the State committee if it made the suspension, in writing, in person, or both, why he/she should be restored to duty.

(b) The county committee, or county executive director, or the State committee if it made the suspension, following such further investigation as is deemed necessary, shall restore to duty or remove the suspended person; except that, the county committee or county executive director may not restore a suspended person to duty without prior written approval of the State committee, and if such approval is denied shall promptly remove such person. Upon refusal or failure of the county committee or county executive director promptly to remove the suspended person, the State committee shall remove such person. In the event further investigation develops reasons, in addition to those disclosed in the suspension notice, for the action taken, the suspended person shall be given written notification of such additional reasons and allowed 15 days from the date of mailing of the notice of additional reasons for the suspension in which to advise why he/she should be restored to duty. In the event a person under suspension submits his/her resignation, acceptance thereof shall not prevent a determination by the county committee or State committee that he/she would have been removed had he/she remained in the position, and such a determination shall constitute removal within the meaning of §§ 7.16(e) and 7.17(c). The person so removed shall be given written notification of any such determination and the reasons therefor.

(c) Any incumbent, or former county committee member, community committee member, delegate to the county convention, an alternate to any such office, county executive director, or any other county employee who during his/her term of employment fails or failed to perform the duties of his/her employment; or who committed, attempted, or conspired to commit fraud, or was incompetent; or who impeded the effectiveness of any program administered in the county; or who violated the provisions of § 7.28 (e) or (f); or who refused to carry out or failed to comply with the Department's policy relating to equal opportunity and civil rights, including the equal employment policy; or who violated official instructions, may be disqualified for future service or employment by the State committee. Before any such disqualification determination is made, the State committee shall undertake such investigation as it deems necessary, after which the State committee shall give the affected person a written statement of reasons for the proposed disqualification action. Such person shall have 15 days from the date of mailing to advise in writing, in person, or both, why the action should not be taken. If any further investigation develops substantial additional reasons for disqualification, a person involved shall be given a written statement of such reasons and 15 days from the date of mailing in which to respond. The State committee may remove the disqualification for future service or employment only with prior approval of the Deputy Administrator.

(d) Any county committee member, community committee member, delegate to the county convention, or any alternate to any such office, and county executive director, or any other county employee, who, prior to taking his/her present office, committed, or attempted or conspired to commit fraud, or who impeded the effectiveness of any program administered in the county, may be suspended. Any such person who is under formal investigation for any of the above cited reasons may be suspended. The proceedings under this paragraph shall be the same as in paragraph (a) of this section.

(e) If in the event of suspensions or vacancies there are less than two members, including alternates, available to serve on the county committee, the State committee shall designate a person to administer the programs in the county pending the exoneration or removal of those under investigation, and if removed, pending the election of new county committee members and alternates. Such person may be the remaining member or alternate member of the committee if available. Any person named by the State committee in such capacity shall have full authority to perform all duties regularly performed by a duly elected county committee.

§ 7.30 Delegation of authority to Deputy Administrator.

Notwithstanding the authority vested in the State committee, a county committee, and the county ex-

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ecutive director by this part, the Deputy Administrator shall have authority to suspend and/or remove or disqualify for future service or employment, any county committee member, community committee member, delegate to the county convention, an alternate to any such office, county executive director, or other county employee, for any and all of the reasons and causes authorizing such suspension, removal, and disqualification by the State committee, the county committee, or the county executive director. Any person suspended, removed or disqualified pursuant to the section shall be given a written statement of the reason for such action and shall be advised of his/her right of review as provided in § 7.31.

§ 7.31 Right of review.

Any person dissatisfied with a determination of the county committee or county executive director may appeal in writing or in person or both, such determination to the State committee. Any person dissatisfied with a determination of the State committee may appeal such determination to the Deputy Administrator. Any person dissatisfied with a determination of the Deputy Administrator made under § 7.30 may request a reconsideration of such determination by the Deputy Administrator. Such appeal or request for reconsideration shall be made within 15 days from the date of the mailing of the determination with respect to which the appeal or request is filed. Except as provided in § 7.32, such appeals and requests for reconsideration shall be determined on an informal basis. The person filing the appeal or request for reconsideration may present reasons, in writing, in person, or both, why the determination should be reversed or modified. Within 60 days after the reasons have been presented, such person shall be notified of the determination on appeal or reconsideration. The notification shall clearly set forth the basis for the determination. The determination of the Deputy Administrator is final and not subject to further administrative review.

§ 7.32 Hearing in connection with appeals and requests for reconsideration to Deputy Administrator.

Any person (hereinafter called the "appellant") filing an appeal with the Deputy Administrator, or a request for reconsideration of a determination made by the Deputy Administrator under § 7.30, is entitled, at his/her election, to a hearing in connection therewith. If the appellant does not request a hearing, the appeal or reconsideration shall be handled in accordance with § 7.31. If the appellant desires a hearing, he/she shall so advise the Deputy Administrator. The hearing shall be conducted by the Deputy Administrator, or his/her designee. The hearing shall be held at the time and place designated by the hearing officer (the Deputy Administrator or his/her designee). The appellant is entitled to appear personally or through or accompanied by a representative. The hearing officer shall conduct the hearing so as to bring out pertinent facts, including the production of pertinent documents. Rules of evidence shall not be applied strictly, but the hearing officer shall exclude irrelevant or unduly repetitious evidence. Information having a bearing on the issues shall be received in evidence. Both the appellant and the agency representatives are entitled to produce witnesses and the appellant and agency representative shall be given an opportunity to cross-examine witnesses. The hearing officer shall inform the witnesses that they are subject to a fine of not more than $10,000 or imprisonment for not more than 5 years or both for making any false statements (18 U.S.C. 1001). The hearing officer shall cause a transcript to be made of the hearing and it shall be made available to the appellant at actual cost.

§ 7.33 Findings, analysis, and recommendations of hearing officer.

If the hearing has been conducted by a designee of the Deputy Administrator, the hearing officer shall, within 60 days from the date of receipt of the transcript transmit to the Deputy Administrator, State and County Operations: (1) the record of the hearing; (2) the findings and analysis of the hearing officer; and (3) his/her recommended determination.

§ 7.34 Determination of the Deputy Administrator.

Within 30 days after receipt of the findings, analysis, and recommendations of the hearing officer, or within 60 days from the date of receipt of the transcript if the Deputy Administrator conducted the hearing, the Deputy Administrator shall make his/her final determination. The notification shall clearly set forth the basis for the determination. The determination of the Deputy Administrator is final and not subject to further administrative review.

CUSTODY AND USE OF BOOKS, RECORDS, AND DOCUMENTS

§ 7.35 Custody.

(a) All books, records, and documents of or used by the county committee in the administration of programs assigned to it, or in the conduct of elections, shall be the property of the United States Department of Agriculture and shall be maintained in good order in the county office.

(b) For polling and mail type elections, ballots shall remain in sealed boxes until the prescribed date for counting. Following the counting of ballots in all types of elections, the ballots shall be placed in sealed containers and retained for 30 days unless otherwise determined by the State committee.

§ 7.36 Use.

The books, records, and documents referred to in § 7.35 shall be available for use and examination:

(a) At all times by authorized representatives of the Secretary of Agriculture, the Administrator, the Deputy Administrator, State and County Operations, and the Deputy Administrator, Management, Agricultural Stabilization and Conservation Service;

(b) By State, county, and community committee members, and authorized employees of the State and county office in the performance of duties assigned to them under this part, subject to any limitations prescribed in official instructions;

(c) At any reasonable time to any program participant insofar as his/her interests under the programs administered by the county committee may be affected, subject to any limitations prescribed in official instructions; and

(d) To any other person only in accordance with official instructions issued.

GENERAL PROVISIONS

§ 7.37 Administrative operations.

The administrative operations of county committees including but not limited to the following, shall be conducted, except as otherwise provided in these regulations, in accordance with official instructions issued.

(a) Annual, sick, and other types of employee leave;

(b) Location and use of county committee office;

(c) Call, conduct, and records of county and community committee meetings.

§ 7.38 Implementation.

Unless specifically provided in this part, the Deputy Administrator, State and County Operations, or the Deputy Administrator, Management, Agricultural Stabilization and Conservation Service, is authorized to issue the official instructions and official procedures referred to herein, implementing the regulations in this part.

§ 7.39 Applicability.

The regulation in this part shall apply to each State of the United States.

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§ 7.40 Secretary, Administrator, or Deputy Administrator, not precluded from exercising authority.

Nothing in these regulations shall preclude the Secretary, Administrator, Agricultural Stabilization and Conservation Service, or Deputy Administrator, Agricultural Stabilization and Conservation Service, from administering any or all programs or exercising other functions delegated to the community committee, county committee, State committee, or any employee. In exercising this authority either the Secretary, Administrator, or Deputy Administrator may designate a person or persons of their choice to be in charge with full authority to carry on the programs or other functions without regard to the committee, committees, or their employees for such period of time he/she may deem necessary.

Signed at Washington, D.C., on January 22, 1979.

BOB BERGLAND,
Secretary of Agriculture.

[FR Doc. 79-2783 Filed 1-25-79; 8:45 am]

[3410-30-M]

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amendment 30]

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the National School Lunch Program regulations to require State agencies to include in the State Plan of Child Nutrition Operations the State's criteria for determining schools in need of a School Breakfast Program. By issuing this regulation, USDA is complying with the order issued in *Charette* v. *Bergland*, 457 F. Supp. 1197 (D.R.I. 1978).

EFFECTIVE DATE: January 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Margaret O'K. Glavin, Director, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202)447-8130.

SUPPLEMENTARY INFORMATION: Legislation and State Plan guidance require that State agencies provide in their annual State Plans a detailed action program to extend the School Breakfast Program to every school in the State, giving priority to schools identified by the State agency as in need of the Program. In support of the legislation, on November 22, 1977, a proposed rule was published in the FEDERAL REGISTER. As a minimum, priority was to be given to schools in the State:

1. Classified as "Title I schools".
2. With 25 percent or more of the enrollment eligible for free and reduced price meals.
3. Without food service.

The proposed rule was not finalized. This delay resulted from the Department's decision to await a court's ruling on a lawsuit affecting State Plans (*Charette* v. *Bergland*).

Charette v. *Bergland*, the court ruled that at the very least, the State's definition of schools needing the School Breakfast Program or information about participating and nonparticipating schools must be required as part of the State Plan. This final regulation complies with the court's ruling and clarifies the requirements contained in the Department's November 22, 1977 proposal. It requires States to provide in State Plans their criteria for determining schools in need of a School Breakfast Program. As a minimum, the State's criteria will have to include those schools having 25 percent or more of the enrollment eligible for free and reduced price meals. Title I and other available data may be used by States in calculating which schools would meet the State's criteria.

In the near future, the Department plans to issue a comprehensive proposal regarding State Plans of Child Nutrition Operations which is designed to augment this final rule with additional State Plan regulatory requirements. The public will be invited to comment on that proposal. However, to comply with the Court order, the following regulatory amendment is a final rule.

Accordingly, § 210.4a paragraph (b)(3), which had been reserved, will now read as follows:

§ 210.4a State Plan of Child Nutrition Operations.

* * * * *

(b) * * *

(3) The State's criteria for determining schools in need of a School Breakfast Program which as a minimum, shall include schools having 25 percent or more of the enrollment eligible for free and reduced price meals based on Title I or other available information.

* * * * *

(Catalog of Federal Domestic Assistance No. 10.555)

The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 or 11949, or OMB Circular A-107.

Dated: January 22, 1979.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-2610 Filed 1-25-79; 8:45 am]

[3410-05-M]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 719—RECONSTITUTION OF FARMS, ALLOTMENTS, NORMAL CROP ACREAGE AND PRECEDING YEAR PLANTED ACREAGE

FINAL RULE

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The Agricultural Stabilization and Conservation Service (ASCS) revises the regulations governing the reconstitution of farms, allotments, and incorporates requirements of normal crop acreage and preceding year planted acreage for 1978-79 and subsequent years under any program administered by ASCS through State and county committees. The revised regulations eliminate allotments for wheat, feed grains, and upland cotton while retaining those for tobacco, peanuts and extra long staple cotton. The regulations implement the Food and Agriculture Act of 1977.

EFFECTIVE DATE: January 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert Coplin, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447-4541.

SUPPLEMENTARY INFORMATION: The Food and Agriculture Act of 1977 does not provide for crop allotments for wheat, feed grains, and upland cotton. The new Act provides for establishing a farm "normal crop acreage" which is used for the farm participation in agricultural payment programs. Allotments are continued for ELS cotton, peanuts, rice, and tobacco. Since farmers are now requesting reconstitutions for the 1978-1979 crop

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years, it is essential this reissue be made effective as soon as possible, and it is hereby determined that it is not possible to comply with the 60-day notice requirements for public rulemaking. Accordingly, these regulations shall become effective upon publication in the FEDERAL REGISTER.

FINAL RULE

The provisions of 7 CFR Part 719 are amended to read as follows:

Sec.
719.1 Applicability.
719.2 Definitions.
719.3 Farm constitution.
719.4 Guides for determining the land constituting a farm.
719.5 County committee action to reconstitute a farm
719.6 Farm corporations and trusts.
719.7 Reconstitution of farm allotments, history acreages, normal crop acreage and preceding year planted acreage.
719.8 Rules for determining allotments, normal crop acreage, and preceding year planted acreage where reconstitution is made by division.
719.9 Rules for determining farm allotments, normal crop acreage, preceding year planted acreage and history acreages where reconstitution is by combination.
719.10 Preservation of cropland and allotment acreage.
719.11 Eminent domain acquisitions.
719.12 Exempting Federal prison farms and Federal wildlife refuges.
719.13 Supervisory authority of State ASC committees.
719.14 Transfer of allotments and Normal Crop Acreage—State public lands.

AUTHORITY: Secs. 375, 378, 379, 52 Stat. 66, as amended, 72 Stat. 995, as amended, 79 Stat. 1211, 7 U.S.C. 1375, 1378, 1379; secs. 601, 602, 706, 79 Stat. 1206, as amended, 1210, 7 U.S.C. 1801 note, 1838, 1305; sec. 105, 84 Stat. 1368, 87 Stat. 230, 7 U.S.C. 1441 note, 7 U.S.C. 1281 note, 91 Stat. 913; sec. 1001, 91 Stat. 950 (7 U.S.C. 1309).

§ 719.1 Applicability.

The provisions of this part apply to reconstitution of farms, allotments, normal crop acreage and preceding year planted acreage for 1978–1979 and subsequent years under any program administered by the Agricultural Stabilization and Conservation Service through State and county committees. The provisions of §§ 719.1 to 719.15 of Title 7 CFR (36 FR 11271, 36 FR 11802, 37 FR 5481, 37 FR 19340, 38 FR 7564, 40 FR 4112, 41 FR 20390 and 41 FR 27374) are superseded.

§ 719.2 Definitions.

In determining the meaning of the provisions of this part, unless the context indicates otherwise, words importing the singular include and apply to several persons or things, words importing the plural include the singular, words importing the masculine gender include the feminine as well, and words used in the present tense include the future as well as the present. The following terms shall have the following meanings:

(a) *Allotment.* Acreage allocated to a farm for a year for ELS cotton, peanuts, rice, or tobacco, pursuant to the Agricultural Adjustment Act of 1938, as amended, the Agricultural Act of 1949, as amended, and the Food and Agriculture Act of 1977.

(b) *Combination.* Consolidation of two or more farms or parts of farms into one farm.

(c) *Committees*—(1) *Community committee.* Persons elected within a community as the community committee under the regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees in Part 7 of Subtitle A of this title.

(2) *County committee.* Persons elected within a county as the county committee under the regulations governing the selection and functions of Agricultural Stabilization and Conservation county and community committees in Part 7 of Subtitle A of this title, except that for Puerto Rico and the Virgin Islands, the Caribbean Area Agricultural Stabliziation and Conservation Committee shall, insofar as applicable, perform the functions of the State committee.

(c) *State committee.* Persons in a State designated by the Secretary as the Agricultural Stablization and Conservation State committee under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, except that for Puerto Rico and the Virgin Islands, the Caribbean Area Agricultural Stablization and Conservation Committee shall, insofar as applicable, perform the functions of the State committee.

(d) *County.* County or parish of a State except that for Alaska, Puerto Rico and the Virgin Islands, county shall be an area designated by the State committee with the concurrence of the Deputy Administrator.

(e) *County Executive Director.* Person employed by the county committee to execute the policies of the county committee and be responsible for day-to-day operations of the ASCS county office or the person acting in such capacity.

(f) *Cropland.* Land which the county committee determines meets any of the following conditions:

(1) Is currently being tilled for the production of a crop for harvest.

(2) Has been tilled and is currently devoted to legumes or grasses which were established by a producer.

(3) Is not currently tilled but can be established that the land has been tilled in a prior year and is suitable for crop production.

(4) Has been tilled and is currently devoted to vineyards, orchards, or one-row shelter belt planting (excluding abandoned orchards or vineyards).

(5) Is preserved as cropland under § 719.10. Land classified as cropland shall be removed from such classifications upon a determination by the county committee that the land is (i) removed from agricultural production; (ii) no longer suitable for production of crops; (iii) devoted to trees (other than orchards or one-row shelter belt plantings) which were planted in the preceding year except that land planted to trees in the fall of the preceding year will retain its cropland classification for the succeeding year; or (iv) no longer preserved as cropland under the provisions of § 719.10 and does not meet the conditions in subparagraphs (1) through (4) of this paragraph.

(g) *Current year.* Calendar year for which the applicable allotment, base acreage, history acreage, normal crop acreage, yields, marketing quota penalties, or other program determinations are established or considered.

(h) *Department.* U.S. Department of Agriculture.

(i) *Deputy Administrator.* Deputy Administrator, or acting Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(j) *Division.* Dividing a farm into two or more farms or parts of farms.

(k) *Farm number.* Serial number assigned to a farm by the county committee for the purpose of identification.

(l) *Federally-owned land.* Land owned by the Federal Government or any department, bureau, or agency thereof, or any corporation whose stock is wholly owned by the Federal Government.

(m) *Landlord.* A person who rents or leases farmland to another person.

(n) *Normal crop acreage.* The total acreage of crops designated in accordance with 7 CFR 792.2.

(o) *OGC representative.* Appropriate Regional Attorney or Attorney-in-Charge, Office of the General Counsel, U.S. Department of Agriculture, or other authorized representative of the Office of the General Counsel.

(p) *Operator.* Person who is in general control of the farming operations on the farm during the program year.

(q) *Owner.* A person who has legal ownership of farmland, including a person who is buying farmland under a purchase agreement.

(r) *Person.* Individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity and, whenever applicable, a State, a political subdivision of a State, or any agency thereof.

(s) *Preceding year.* Calendar year immediately preceding the current year.

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(t) *Producer.* Person who, as owner, landlord, tenant or sharecropper, is entitled to share in the crops available for marketing from the farm or in the proceeds thereof.

(u) *Reconstitution.* Change in the land constituting a farm as a result of combination or division.

(v) *Representative of the State committee.* Member of the State committee or any employee of the State committee.

(w) *Secretary.* Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority is delegated to act in his stead.

(x) *Sharecropper.* A producer who performs work in connection with the production of a crop under the supervision of the operator and who receives a share of such crop for his labor.

(y) *State Executive Director.* Person employed by the State committee to execute the policies of the State committee and to be responsible for the day-to-day operations of the State ASCS office, or the person acting in such capacity.

(z) *Tenant.* (1) A person usually called a "cash tenant", "fixed-rent tenant", or "standing-rent tenant" who rents land from another for a fixed amount of cash or a fixed amount of a commodity to be paid as rent; or (2) a person (other than a sharecropper) usually called a "share tentant" who rents land from another person and pays as rent a share of the crops or proceeds therefrom. A tenant shall not be considered the farm operator if he does not have control of the farm operation.

(aa) *Representative of the county committee.* A member of the county committee or any employee of the county committee.

§ 719.3 Farm Constitution.

(a) *Farms constituted under prior regulations.* Land which has been properly constituted under prior regulations shall remain so constituted until a reconstitution is required under paragraph (d) of this section.

(b) *Farms constituted for the first time or reconstituted hereafter.* With respect to the constitution and identification of land as a farm for the first time or the reconstitution of farms made hereafter, a farm shall include all land operated by one person as a single farming unit except that it shall not include land under any of the following conditions:

(1) Land under separate ownership unless the owners agree in writing;

(2) Field-rented tracts under a short-term agreement of 1 year or less (such tracts shall remain with the farm of which they are a part);

(3) Land across county lines when the allotments or quotas on such land are restricted to transfer by lease, sale, or by owner, within the county. EXCEPTION: When the land is owned and operated by one person and all such land is contiguous.

(4) Federally-owned land except land acquired by an agency having the right of eminent domain and leased back to the former owner with uninterrupted possession.

(5) Federal- and State-owned wildlife land unless the former owner has possession of the land under a leasing agreement.

(6) Land constituting a farm which is declared ineligible to participate in a program under the regulations governing the program.

(c) *Location of farm for administrative purposes:* (1) If all land in the farm is located in one county, the farm shall be administratively located in such county.

(2) If the land in the farm is located in more than one county, the farm shall be administratively located in either of such counties as the county committees and the farm operator agree. If no agreement can be reached, the farm shall be administratively located in the county (i) where the principal dwelling is situated, or (ii)) where the major portion of the farm is located if there is no dwelling.

(3) Notwithstanding the provisions of subparagraphs (1) and (2) of this paragraph, if the land in the farm is part of an Indian reservation and is operated by a grazing association, the farm may be administratively located in the county where such grazing association has its headquarters if the county committee involved and the farm operator agree to such location, provided the persons using the land do not reside thereon and the geographic features are such that administrative access would be more practical.

(d) *Required reconstitutions.* A reconstitution of a farm either by division or by combination shall be required whenever:

(1) A change has occurred in the operation of the land after the last constitution or reconstitution and as a result of such change the farm does not meet the conditions for constitution of a farm as set forth in paragraph (b) of this section: *Provided,* That no reconstitution shall be made if the county committee determines that the primary purpose of the change in operation is to establish eligibility to transfer allotments subject to sale or lease;

(2) The farm was not properly constituted under the applicable regulations in effect at the time of the last constitution or reconstitution;

(3) An owner requests in writing that his land no longer be included in a farm which is composed of tracts under separate ownership.

(4) The county committee determines that the farm was reconstituted on the basis of false information furnished by the owner or farm operator; or

(5) The county committee determines that the tracts of land included in a farm are not being operated as a single farming unit.

§ 719.4 Guides for determining the land constituting a farm.

(a) *General.* In determining the constitution of a farm, consideration shall be given to provisions such as ownership and operation. A brief explanation of these provisions is outlined in this section to assist committees in properly determining what land is to be included in a farm.

(b) *Ownership.* The county committee shall require specific proof where there is doubt as to ownership.

(c) *Family members.* Land owned by different members of an immediate family living in the same household and operated as a single farming unit shall be considered as being under the same ownership in determining a farm.

(d) *Parent corporations and subsidiaries.* All land which is operated as a single farming unit and which is owned and operated by a parent corporation and subsidiary corporations of which the parent corporation owns more than 50 percent of the value of the outstanding stock (or which is owned and operated by such subsidiary corporations) shall be constituted as one farm.

(e) *Single farming unit.* Land which the committee determines is being operated by one person with cropping practices, equipment, labor, accounting system, and management substantially separate from that of any other unit shall be considered to constitute a single farming unit.

(f) *Operation.* In determining the constitution of a farm, the county committee shall satisfy itself that the operator will be in general control of the farming operations on the farm for the program year.

§ 719.5 County committee action to reconstitute a farm.

Action to reconstitute a farm may be initiated by the county committee, the farm owner, or the operator of the farm. Any request for a farm reconstitution shall be filed with the county committee. The county committee shall act on each proposed reconstitution. All interested operators shall be notified of the action taken by the county committee. All interested owners shall also be notified provided the State committee determines such notification is desirable and this policy

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is applicable to all counties in the State. If the proposed reconstitution is approved, the notice shall show the program year in which the reconstitution will become effective for each allotment, normal crop acreage, preceding year planted acreage, and program.

§ 719.6 Farm corporations and trusts.

Whenever the county committee believes a farm corporation(s) or trust(s) is formed primarily for obtaining additional program benefits under Title 7, the farm(s) shall not remain as constituted, or be reconstituted, when owned and operated (without the approval of the State committee and concurrence by the Deputy Administrator) by: (a) A corporation(s) having more than 50 percent of the stock owned by members of the same family living in the same household; (b) corporations having more than 50 percent of the stock owned by stockholders common to more than one corporation; (c) trusts in which the beneficiaries and the trustee are family members living in the same household.

§ 719.7 Reconstitution of farm allotments, history acreages, normal crop acreage and preceding year planted acreage.

(a) *When to reconstitute.* Farms shall be reconstituted as soon as it is determined that the land areas are not properly constituted and, to the extent practicable, shall be based on the facts and conditions existing at the time the change requiring the reconstitution occurred. For each farm reconstituted, the farm allotments, history acreages, normal crop acreage and preceding year planted acreage shall also be reconstituted in accordance with the provisions of this part. County office records shall be corrected as necessary to reflect properly the basic data for each farm as reconstituted.

(b) *Effective date of reconstitutions.* The effective date of the reconstitution shall be as follows:

(1) *Allotment crops, normal crop acreage, preceding year planted acreage.* (i) The reconstitution shall be effective for an allotment crop and other crops included in the normal crop acreage for the current program year if such reconstitution is initiated before such crop is or would have been planted.

(ii) The reconstitution shall be effective for an allotment crop, normal crop acreage, preceding year planted acreage for the current program year (1) if such reconstitution is initiated after such crop has been or would have been planted, and (2) if there was a bona fide change in operation before the planting period; the land involved is owned by one person; and the reconstitution would be required under this part had the facts been known by the county committee before the planting period: *Provided, however,* That where the change in operation was solely the addition of one or more operators, the reconstitution shall not be effective for the current program year if the county committee determines that an adverse effect to the program will result.

(iii) The reconstitution may be made effective for the current program year even though the reconstitution is initiated after the crop has been or would have been planted if the county committee determines that no adverse effect to the program will result and the farm owner(s) and operator(s) agree to make the reconstitution effective for such year.

(2) *Agricultural Conservation Program.* The reconstitution shall not be effective for purposes of the Agricultural Conservation Program (ACP) for the current program year if the county committee has approved cost-sharing for a producer on the farm for the current program year unless (i) the parent farm on which cost-sharing was approved was not properly constituted at the time of approval, or (ii) the county committee determines that some producer on the farm would not be eligible to participate in the ACP if the reconstitution is not made effective.

(3) *Misrepresentation.* Notwithstanding any other provision of this section, if the county committee determines that the farm was or was not reconstituted because of a misrepresentation by a producer, the farm shall be properly reconstituted, and the effective date of such reconstitution for all purposes shall be retroactive to the date the farm was improperly constituted.

(c) *Maximum and minimum provisions, adjustments, and release and reapportionments.* Allotments and normal crop acreage for reconstituted farms resulting from the divisions or combinations of parent farms in accordance with this part are subject to maximum and minimum allotment and normal crop acreage provisions and to adjustments from allotment and normal crop acreage reserves for the commodity and released farm allotments as provided in the regulations governing the determination of allotments for the commodity.

(d) *Continuous application.* Where a farm reconstitution for the current year is made before the current year's allotments, normal crop acreage and preceding year planted acreage are determined, the history acreages and other basic data for the reconstituted farms shall be used to establish the current year's allotments, normal crop acreage and preceding year planted acreage: *Provided,* That where the current year's preliminary allotment on one or more parent farms involved in a proposed combination would be reduced for underplanting, the allotment shall be determined as follows: (1) The current year's allotment for each parent farm shall be established separately, and then (2) the current year's allotment for the combined farm shall be determined by adding the allotments established for the parent farm.

§ 719.8 Rules for determining allotments, normal crop acreage, and preceding year planted acreage where reconstitution is made by Division.

The methods for dividing allotments, normal crop acreage and preceding year planted acreage in order of precedence, when the method applies, are estate, designation by landowner, contribution (including contribution-cropland and contribution-history), cropland, and history.

(a) *Estate method.* The estate method is the proration of the allotments, normal crop acreage and preceding year planted acreage for a parent farm among the heirs in settling an estate. If the estate sells a tract of land before the farm is divided among the heirs, the allotments, normal crop acreage and preceding year planted acreage for the tract shall be determined by using one of the methods provided in paragraphs (b) through (f) of this section. The allotments, normal crop acreage and preceding year planted acreage shall be divided among the heirs in settling an estate by dividing the farm among two or more heirs as follows:

(1) In accordance with a will if the county committee determines that the terms of the will are such that division can reasonably be made by the estate method.

(2) If the provisions of subparagraph (1) of this paragraph are not applicable, the allotments, normal crop acreage and preceding year planted acreage shall be apportioned in the manner agreed to in writing by all interested heirs. An agreement by the administrator or excecutor shall not be accepted in lieu of an agreement by heirs.

(3) If the provisions of subparagraphs (1) and (2) of this paragraph do not apply, the allotments, normal crop acreage and preceding year planted acreage shall be divided pursuant to paragraphs (c) through (f) of this section, as applicable.

(b) *Designation of allotments, normal crop acreage and preceding year planted acreage by landowner.* (1) If the ownership of a tract of land is transferred from a parent farm, the county committee shall at the request of the transferring owner divide the allotments, normal crop acreage and preceding year planted acreage between the parent farm and the transferred tract, or between the applicable tracts if the entire farm is sold to two or more purchasers, in the manner designated by the owner of the parent farm subject to conditions set forth in subparagraph (4) of this paragraph.

(2) If the county committee determines that the allotments, normal crop acreage and preceding year planted acreage cannot be divided in the manner designated by the owner because of the conditions set forth in subparagraph (4) of this paragraph, the owner shall be notified and permitted to revise the designation so as to meet the conditions in subparagraph (4) of this paragraph. If the owner does not furnish a revised designation of allotments, normal crop acreage and preceding year planted acreage within a reasonable time after such notification or if the revised designation does not meet the conditions of subparagraph (4), the county committee shall make the proration of allotments, normal crop acreage and preceding year planted acreage in accordance with paragraphs (c) through (f) of this section.

(3) If a parent farm is composed of tracts under separate ownership, each separately owned tract being transferred in part shall be considered a separate farm and shall be constituted separately from the parent farm using the rules in paragraphs (c) through (f) of this section, as applicable, prior to application of the provisions of this paragraph.

(4) The eligibility conditions that shall be complied with for applying this method of division are:

(i) The interested owners (seller and purchaser) shall file a written memorandum of understanding of the designation with the county committee before the farm is reconstituted and prior to a subsequent transfer of ownership of the land. The heirs of an estate may use this method to designate the allotments, normal crop acreage for allocation to a tract of land sold prior to dividing the parent farm among the heirs in settling an estate: *Provided, however,* That designation by the administrator or executor shall not be accepted in lieu of designation by the heirs.

(ii) Where the land of the parent farm is subject to a deed of trust, lien, or mortgage, the holder of the deed of trust, mortgage, or lien must agree to the division of allotments, normal crop acreage and preceding year planted acreage.

(iii) Neither the tract transferred from the parent farm nor the remaining porton of the parent farm shall receive allotments and normal crop acreage in excess of allotments and normal crop acreage for similar forms in the same area having allotments and normal crop acreage of the commodity or commodities involved and such allotments and normal crop acreage shall be consistent with good land use.

(iv) Where the part of the farm from which the ownership is being transferred was owned for a period of less than 3 years, the provisions of this paragraph shall not be applicable to such transfer unless the county committee finds that the primary purpose of the ownership transfer was not to retain or sell an allotment and normal crop acreage. In the absence of such a finding, and if the farm contains land which has been owned for less than 3 years, that part which has been owned for less than 3 years shall be considered as a separate farm and the allotments and normal crop acreage shall be assigned to that part using the rules in paragraghs (c) through (f) of this section, as applicable. Such apportionment shall be made prior to any designation of allotments and normal crop acreage with respect to the part which has been owned for 3 years or more.

(v) The land for which ownership is being transferred to a Federal, State, or other agency was not or could not have been acquired under the right of eminent domain. If eminent domain is applicable, the provisions of § 719.11 shall apply.

(5) This method is not applicable to burley tobacco and to crop allotments or quotas which are restricted to transfer within the county by lease, sale or by owner, when the land comprising the farm is located in two or more counties.

(6) This method may be applied to land identified as Indian Tribal land when leased by the Tribal Council to two or more producers for the production of allotment and normal crop acreage crops. If the land is leased to two or more producers, the county committee shall at the request of the Tribal Council divide the allotments and normal crop acreage between the applicable tracts in the manner designated by the Council. This use of the method shall not be subject to the conditions of subparagraph (4) of this section.

(c) *Contribution method.* The contribution method for dividing allotments, normal crop acreage and preceding year planted acreage for 1978 is the proration of the parent farm's allotment, normal crop acreage and preceding year planted acreage to each identical tract contributed to the allotments, normal crop acreage and preceding year planted acreage at the time of combination. Unless the provisions of paragraphs (a) or (b) of this section are applicable, this method shall be used to divide allotments and normal crop acreage for a farm which resulted from a combination that became effective during the 6-year period immediately prior to the current year. This method for dividing the allotments, and normal crop acreage shall be used beyond the 6-year period if records are available to show the contribution unless the county committee determines with the concurrence of a representative of the State committee that the use of the contribution method would not result in an equitable distribution of the allotments, normal crop acreage and preceding year planted acreage considering available land, cultural operation, and changes in type of farming. The contribution method shall not be used in cases involving the division for:

(1) Any commodity for which there was no allotment, normal crop acreage or preceding year planted acreage established at the time of combination.

(2) Preceding year planted acreage for 1979 and subsequent years.

(3) Normal crop acreage for 1978.

(d) *Contribution-Cropland or Contribution-History method.* In cases where the allotments, normal crop acreage and preceding year planted acreage are divided by the contribution method pursuant to paragraph (c) of this section and a further division of an identical tract is required, the allotments, normal crop acreage and preceding year planted acreage shall first be apportioned to the identical tracts and then apportioned among the parts of the identical tracts by the cropland or history method pursuant to paragraph (e) or (f) of this section, as applicable.

(e) *Cropland method.* The cropland method for dividing allotments, normal crop acreage and preceding year planted acreage is the proration of allotments, normal crop acreage and preceding year planted acreage to the tracts being separated from the parent farm in the same proration that the cropland acreage for each such tracts bears to the cropland for the parent farm. For rice, the acreage of cropland that is available for the production of rice shall be used to make the proration. The county committee shall verify or redetermine, if considered necessary, the cropland on each of the tracts of the parent farm prior to making the proration. This method shall be used if the provisions of paragraphs (a) through (c) of this section are not applicable unless the county committee determines that a division by the history method would result in allotments, normal crop acreage and preceding year planted acreage more representative of the operation normally carried out on each tract during the respective base period for the commodities. Notwithstanding any other provision of this paragraph, the allotments, normal crop acreage and preceding year planted acreage

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shall be apportioned on the basis of the cropland available for and adapted to the production of the allotment crop, normal crop acreage and preceding year planted acreage on each tract when the owners file with the county office a written agreement as to the amount of available and adapted cropland and the county committee approves such agreement.

(f) *History method.* The history method of division of allotments, normal crop acreage and preceding year planted acreage is the proration of allotments, normal crop acreage and preceding year planted acreage to the tracts being separated from the parent farm on the basis of the acreage determined to be representative of the operations normally carried out on each tract during the respective base period for the commodities. The base period for normal crop acreage is 1977. The base year for preceding year planted acreage is the preceding year. The history method shall be used when the county committee determines that division by the cropland method should not be used.

(g) *Variation in reconstituted allotments, normal crop acreage, and preceding year planted acreage.* Allotments, normal crop acreage and preceding year planted acreage apportioned among the divided tracts, pursuant to paragraphs (e) through (f) of this section, may be increased or decreased by as much as 10 percent of the allotment, normal crop acreage and preceding year planted acreage established for the parent farm if (1) the interested owners agree in writing, and (2) the county committee determines that the method used did not provide an equitable distribution concerning available land, cultural operations and changes in type of farming. Any increase in an allotment, normal crop acreage and preceding year planted acreage on a tract pursuant to this paragraph shall be offset by a corresponding decrease on the other tracts and all variations between tracts must be compensating.

(h) *Divided history acreage and other data.* The history acreage and other basic data, except commodity yields and minimum allotments, for divided farms shall be determined by using the same percentage figure as was used to apportion the allotment crop for the respective commodity. For commodity yields and minimum allotments applicable commodity regulations shall apply.

§ 719.9 Rules for determining farm allotments, normal crop acreage, preceding year planted acreage and history acreages where reconstitution is by combination.

If two or more farms or tracts are combined for the current year, the current year's allotments, normal crop acreage, preceding year planted acreages, history acreages on acreages considered planted for the years in the base period for the respective commodities for the reconstituted farms shall be the sum of the allotments, normal crop acreages, history acreages, preceding year planted acreages and acreages considered planted for each of the tracts comprising the combination, subject to the provisions of § 719.7(c).

§ 719.10 Preservation of cropland and allotment acreage.

(a) *Definitions.* Notwithstanding the definitions in § 719.2, for the purposes of this section, the following terms shall have the following meanings:

(1) *Final acreage.* The actual crop acreage, plus any additional acreage considered planted to the crop under applicable commodity regulations.

(2) *Underplanted acreage.* The acreage by which the allotment for a commodity or normal crop acreage exceeds the final acreage of the commodity or normal crop acreage.

(b) *Preservation of cropland and acreage available for diversion credit*—(1) *GPCP and RCP.* Cropland acreage established and maintained in vegetative cover under the Agricultural Conservation Program or Regional Conservation Program shall retain its cropland classification for the period of time the contract or agreement is in effect plus the period of time thereafter that the cover is maintained. Cropland acreage established in trees under one of the programs listed in this section shall retain its cropland classification for the period of time the contract or agreement is in effect plus an equal period thereafter provided the practice is maintained. All acreage under this subparagraph shall be available for diversion credit to the extent of the underplanted acreage of an allotment crop where needed to protect the history for such crop.

(2) *RECP-REAP-ACP and comparable practices carried out without Federal cost-sharing.* Cropland acreage established and maintained in vegetative cover (excluding trees) under the the Rural Environmental Conservation Program, the Rural Environmental Assistance Program, the Agricultural Conservation Program, or comparable practices carried out without Federal cost-sharing including approved volunteer cover shall retain its cropland classification for the period of time that the cover is maintained. To qualify for diversion credit under this subparagraph (2), the following conditions shall be met:

(i) Acreage must be in excess of the sum of the set-aside acreage requirements under other adjustment programs.

(ii) The practice must have been established and carried out in accordance with good farming practices.

(iii) The producer must report the conserving crop acreage each year preservation credit is desired by a date approved by the Deputy Administrator.

(c) *Termination of diversion credit.* Acreage shall cease to be available for diversion credit when:

(1) The approved vegetation is destroyed or not properly maintained.

(2) The additional period of protection in the case of trees established under a conservation program listed in paragraph (b) of this section expires or the trees are destroyed.

(d) *Diversion credit for divided farms.* When a parent farm is reconstituted by division, future diversion credit shall accrue to the farm or tract on which the vegetative cover is physically located.

(e) *Use of diversion credit.* The diversion credit determined under the provisions of this section for each underplanted allotment crop shall be considered as acreage devoted to the crop and shall be utilized in the establishment of future State, county farm allotments.

§ 719.11 Eminent domain acquisitions.

(a) *Commodities covered.* This section provides a uniform method for handling farm allotments for extra long staple cotton, peanuts, rice, tobacco, and normal crop acreage for commodities designated by the Secretary on land involved in an eminent domain acquisition. If eligible for pooling under this section, such allotments and normal crop acreage are pooled for the benefit of the owner who is displaced from his farm by eminent domain acquisition. Such pooling is for a 3-year period from the date of displacement and during such period the owner so displaced may request transfers of allotments and normal crop acreage from the pool to other farms in the United States owned by him.

(b) *Eminent domain acquisition.* An eminent domain acquisition is a taking of title to land, or the taking of an impoundment easement to impound water on the land, or the taking of a flowage easement to intermittently flood the land, consummated with respect to land which is, or could be, so taken under the power of eminent domain by a Federal, State, or other agency. Such acquisition may be by court proceedings to condemn the land or by negotiation between the agency and the owner. An acquisition by an agency with respect to land not subject to the agency's power of eminent domain shall not be an eminent domain acquisition for purposes of this section. All land acquired by an agency for the intended project, including surrounding land not needed for the project but acquired as a package acquisition, shall be considered to be in the eminent domain acquisition if the agency expended funds for the package acquisition on the basis of its power of eminent domain. For example, a governmental agency acquires 150 acres of land from an owner as a package acquisition and requires 130 acres for the public purpose but supports the expenditure of funds for the unneeded 20 acres on the grounds that no additional cost resulted, or that avoidance of condemnation procedings warranted the package acquisition.

(c) *Owner.* For purposes of this section, owner means the person, or persons in a joint ownership, having title to the land for a period of at least 12 months immediately prior to the date of transfer of title or grant of the impoundment or flowage easement under the eminent domain acquisition. If such person or persons have owned the land for less than such 12-month period, they may, nevertheless, be considered the owner if the State committee determines that such person or persons acquired the land for the purpose of carrying out farming operations and not for the purpose of obtaining status as an owner under this section. However, no person shall be considered the owner if he acquired the land subject to an eminent domain acquisition under an outstanding contract to an agency or an option by an agency or subject to pending condemnation proceedings. In any case where the current titleholders cannot be considered the owner for the purpose of this section, the State committee shall determine the person or persons who previously had title to the land and who qualify for status as the owner under the criteria in this paragraph.

(d) *Displacement.* The owner shall be considered displaced from a farm covered by an eminent domain acquisition on the date (1) the right to prduce an allotment crop or normal crop acreage crop is relinquished voluntarily even though the owner is not required to give up possession of the land; or (2) in the case of flowage easement, the owner determines it is no longer practical to conduct farming operations on the land; or (3) the owner loses possession of the land as owner or as lessee under a lease from the agency or its designee if the lease provided unbroken possession to the owner from the date of acquisition to the end of the lease or extensions of the lease. In cases where the agency and the owner have executed a binding contract for acquisition of the farm, the owner may be considered displaced prior to completion of the acquisition if he wishes to plant the commodity on other land he owns or buys.

(e) *Notice of displacement.* The owner shall notify the county committee in writing of the eminent domain acquisition and furnish the date of displacement as soon as possible so that the allotment and normal crop acreage may be pooled in accordance with this section. Failure to so notify the county committee shall not operate to extend the 3-year period of the pool.

(f) *Pool.* Whenever the county committee determines, by notice from the owner or otherwise, that an owner has been displaced, the county committee shall establish in a pool for a 3-year period, beginning on the date of displacement, the allotments and normal crop acreage eligible for pooling under this section. Pooled allotments and normal crop acreage shall be considered fully planted and, for each year in the pool, shall be established in accordance with applicable commodity regulations.

(g) *Cases where pooling not permitted or required*—(1) *Agency has authority to continue crop production.* If the county committee determines that an agency has authority under its eminent domain powers to acquire a farm for the continued production of an allotment or normal crop acreage crop and does so acquire a farm only for such purpose and files a written notice with the county committee of the county in which the farm is located at the time of acquisition designating the allotment and normal crop acreage crops to be produced on the farm, there shall be no pooling for such crops, but farm allotments and normal crop acreage shall be established in accordance with applicable commodity regulations.

(2) *Owner waives right to have pooling.* If the owner files written notice with the county committee of intention to waive his right to have all the allotments or normal crop acreage or any part thereof, pooled and the county committee determines that the owner fully understands his right to have allotments and normal crop acreage pooled and has not been coerced to waive his right, the allotments and normal crop acreage shall be retained on the agency acquired land.

(3) *Less than 15 percent of cropland acquired.* If an agency acquires part of a farm for nonfarming purposes and the cropland on the land so acquired represents less than 15 percent of the total cropland on the farm, the allotments and normal crop acreage shall be retained on the portion of the farm not acquired by the agency and shall not be pooled.

(4) *15 percent or more of cropland acquired.* If an agency acquires part of a farm for nonfarming purposes and the cropland on the land so acquired represents 15 percent or more of the total cropland on the farm, the allotments and normal crop acreage attributable to the acquired land shall be retained on the portion of the farm not acquired by the agency if the owner files a written request with the county committee for such retention. However, only such amounts of allotments and normal crop acreage may be retained as can be supported on the available cropland and which will not exceed the allotments and normal crop acreage established on similar farms in the area, taking into consideration the land, labor, and equipment available for the production of the commodity, crop rotation practices and other physical factors affecting production. Allotments and normal crop acreage not retained shall be pooled.

(5) *In-county transfer upon displacement.* If, prior to pooling, an owner files a request to transfer the allotments and normal crop acreage to other farms which he owns in the same county, the county committee may approve a direct transfer without formal establishment in the pool. Such transfer shall be subject to the requirements in paragraph (j) of this section.

(h) *Release of pooled allotments and normal crop acreage.* Pooled allotments and normal crop acreage may be released on an annual basis by the owner to the county committee during any year for which the allotments or normal crop acreages are pooled and not otherwise transferred from the pool. The county committee may reapportion such released allotments and normal crop acreage to other farms in the same county having allotments for such commodity or normal crop acreage. Pooled allotments and normal crop acreage shall not be released on a permanent basis or surrendered after release to the State committee for reapportionment in other counties. Reapportionment shall be on the basis of past acreage of the commodity, land, labor, and equipment available for the production of the commodity, crop rotation practices and soil and other physical facilities affecting the production of the commodity. Released pooled allotments and normal crop acreage shall be regarded as fully planted in the pool and not on the farm receiving reapportionment. This paragraph shall govern the release and reapportionment, of pooled allotments and normal crop acreage notwithstanding other procedures contained in applicable commodity regulations.

(i) *Sale, lease, and owner transfers.* Pooled allotments for which there is statutory authority implemented in the applicable commodity regulations for transfer of allotments on a permanent or temporary basis by sale, lease, or by owner (within the meaning of

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owner for such purposes) may be transferred permanently from the pool by the owner or temporarily for the life of the pooled allotment, subject to the terms and conditions in the applicable commodity regulations for such transfers.

(j) *Regular transfers from pool*—(1) *General rule.* The owner may request transfer of all or part of the pooled allotment or normal crop acreage to any farm in the United States of which he is the bona fide owner: *Provided*, That there are farms in the receiving county with allotments and normal crop acreage for the particular commodity or normal crop acreage, or if there are no such farms, the county committee determines that farms in the receiving county are suited for the production of the commodity. For purposes of this paragraph:

(i) Receiving farm means the farm to which transfer from the pool is to be made;

(ii) Receiving State and county committee mean those committees for the State and county in which the receiving farm is located; and

(iii) Transferring State and county committees mean those committees for the State and county in which the agency acquired farm is located.

(2) *Application for transfer.* The owner shall file with the receiving county committee written application for transfer of allotment and normal crop acreage from the pool within 3 years after the date of displacement. The application shall contain a certification by the owner that he has made no side agreement with any person for the purpose of obtaining an allotment and normal crop acreage from the pool for a person other than himself. The owner shall attach to the application all pertinent documents pertaining to his ownership or purchase of land and any leasing arrangements as for example, the deed of trust or mortgage, warranty deed, note, sales agreement, and lease.

(3) *Action by receiving county committee.* The receiving county committee shall consider each application and determine whether the transfer from the pool shall be approved. Before an application is acted upon by the receiving county committee, the owner shall personally appear before the receiving county committee after reasonable notice, bring any additional pertinent documents as may be requested for examination by the receiving county committee, and answer all pertinent questions bearing on the proposed transfer: *Provided*, That the personal appearance requirement may be waived if the receiving county committee determines from facts presented to it on behalf of the owner that such personal appearance would unduly inconvenience the owner on account of illness or other good cause and such personal appearance would serve no useful purpose. Any action by the receiving county committee shall be subject to the approval required under subparagraph (5) of this paragraph.

(4) *Elements of bona fide ownership.* The receiving county committee shall approve the transfer from the pool only where the documents and other evidence presented by the owner show conclusively that the owner has made a normal acquisition of the receiving farm for the purpose of bona fide ownership to reestablish his farming operations. The elements of such an acquisition shall include, but are not limited to, the following conditions:

(i) Appropriate legal documents must establish title to the receiving farm;

(ii) If the owner was the operator of the acquired farm at the date of displacement, such owner shall personally operate and be the operator of the receiving farm for the first year that the allotment is transferred;

(iii) If the owner was not the operator of the acquired farm at the date of displacement and he was not a producer because the leasing or rental agreement provided for cash, fixed rent, or standing rent payment, such owner shall not be required to personally operate and be the operator of the receiving farm but at least 75 percent of the allotment and normal crop acreage for the receiving farm for the first year;

(iv) If the owner was not the operator of the acquired farm at the date of displacement but he was a producer on the acquired farm at the date of displacement by virtue of receiving a share of the crops produced on the acquired farm, such owner shall not be required to be the operator of the receiving farm but he shall be a producer on the receiving farm the first year that an allotment and normal crop acreage is transferred;

(v) The contractual arrangements between the owner and the seller of the receiving farm shall not contain a requirement that the receiving farm be leased to the seller or a person designated by or subject to the control of the seller nor shall the seller or a person designated by or subject to the control of the seller lease the receiving farm for the first year the allotment and normal crop acreage is transferred even though such contractual arrangements are silent as to any lease; and

(vi) Contractual arrangements under which the receiving farm was purchased or leased are customary in the community where the receiving farm is located with respect to purchase price, size of payments due, time when payments are due, and size of rental payments, if any.

(5) *Action of receiving State committee.* The approval of a transfer from the pool under this paragraph by the receiving county committee shall be effective upon concurrence by the receiving State committee. Notwithstanding any other provision of this section, the receiving State committee may authorize a transfer from the pool in any case where the owner presents evidence satisfactory to the receiving State committee that the eligibility requirements of subparagraph (4), (ii), (iii), or (iv) of this paragraph cannot be met without creating a hardship because of illness, old age, multiple farm ownership, or lack of a dwelling on the farm to which allotment and normal crop acreage is to be transferred. Notwithstanding any other provisions of this section and particularly subparagraph (4)(v) of this paragraph, the receiving State committee may authorize a transfer from the pool in any case where the owner presents evidence satisfactory to the receiving State committee that the owner has made a normal acquisition of the receiving farm for the purpose of bona fide ownership to reestablish his farming operations although the farm is leased to the seller of the farm for the first year the allotment and normal crop acreage are transferred.

(6) *Amount of allotment and normal crop acreage available for transfer.* Upon completion of all necessary approvals under this paragraph, the receiving county committee shall issue an appropriate allotment and normal crop acreage notice under the applicable commodity regulations, taking into consideration the land, labor, and equipment available for the production of the commodity crop rotation practices, and soil and other physical factors affecting the production of the commodity. For purposes of determining the amount of allotment and normal crop acreage available for transfer, the receiving county committee shall consider the receiving tract as a separate farm when such tract is in combination with land under separate ownership. The acreage transferred from the pool shall not exceed the allotment and normal crop acreage most recently established for the acquired farm and placed in the pool. When all or part of the allotment and normal crop acreage placed in the pool are transferred and used to establish or increase the allotment and normal crop acreage for other farms owned or purchased by the owner, all or the proportionate part of the past acreage history for the acquired farm shall be transferred to and considered for purposes of future allotments and normal crop acreage to have been planted on the receiving farm for which an allotment and normal crop acreage is established or increased under this section. If only a part of the available allotment and normal crop acreage is transferred from the pool, the remaining part of the allotment and normal crop acreage and past acreage history shall remain in the pool for transfer to other farms of the owner until all such allotment acreage and normal crop acreage have been transferred or until the period of eligibility for establishing or increasing allotments and normal crop acreage under this section has expired.

(7) *Cancellation of transfers.* If any allotment and normal crop acreage is transferred under this paragraph and it is later determined by the receiving county or State committee or the Deputy Administrator, that the transfer was obtained by misrepresentation by or on behalf of the owner, or the conditions applicable under subparagraph (4) of this paragraph are not met, the allotment and normal crop acreage for the receiving farm shall be reduced for each year the transfer purportedly was in effect by the amount attributable to the acreage transferred from the pool; and if the time for withdrawal from the pool has not expired, the amount of acreage initially transferred from the pool shall be returned to the pool after the period of time has expired in which the producer could exercise his rights of review and court action. Any cancellation of transfer of allotment and normal crop acreage by the receiving county committee shall be subject to approval by the receiving State committee. The receiving county committee shall issue any notice or marketing quota and penalty as may be required in accordance with applicable commodity regulations.

(8) *Effect of release of pooled allotment and normal corp acreage.* Notwithstanding the provisions prescribed in this paragraph, if the displaced owner files a request for the transfer of a pooled allotment within the prescribed period for filing such request, but his request for transfer is filed during a year in which all or a part of the pooled allotment and normal crop acreage was released to the transferring county committee pursuant to paragraph (h) of this section, the application for transfer will be processed in the usual manner but the amount of the commodity released shall not be effective on the receiving farm until the succeeding year. When a request for transfer of pooled allotment and normal crop acreage involves a transfer from one State to another, the receiving State committee shall obtain information from the transferring State committee as to whether any part of the allotment or normal crop acreage for which the transfer is requested has been released to the transferring county committee for the current year.

(k) *Constitution of acquired land.* (1) Where the owner leases part but not all of the agency acquired land, such part shall be constituted as a separate farm on the date of his displacement from the land not so leased.

(2) If a parent farm consists of separate ownership tracts, each such tract being acquired in whole or in part shall be considered as a separate farm for purposes of subparagraphs (g) (3) and (4) of this section.

(3) If part of a farm is acquired by an agency and the owner is displaced therefrom, such part shall be constituted as a separate farm on the date of displacement unless the allotments and normal crop acreage are retained on the part not acquired as provided in subparagraphs (g) (3) and (4) of this section, in which case the farm shall not be reconstituted but the farmland and cropland data shall be corrected on all appropriate records for the parent farm.

(l) *Successors in interest*—(1) *Designation of beneficiary.* The owner may file with the county committee a written designation of beneficiary of his rights in the allotments and normal crop acreage attributable to the acquired land in the event of his death and may revise such designation from time to time. The beneficiary of a deceased owner may exercise the right to continue a lease or to negotiate a lease with the agency or its designee and exercise the regular transfer rights with respect to farms owned by such beneficiary and may also exercise the release and sale, lease and owner transfer rights under this section.

(2) *Cases where no beneficiary designated.* If the owner does not file a designation of beneficiary under subparagraph (1) of this paragraph and the owner dies before displacement or after pooling occurs, the following persons shall be considered the beneficiary with the rights as provided under subparagraph (1) of this paragraph:

(i) The surviving joint owner of the farm where two persons own the farm as joint tenants with right of survivorship under which title passes to the survivor;

(ii) The person(s) who succeed to the deceased owner's interest under a will or by interstate succession. However, in the case of interstate succession, such person(s) shall be limited to surviving spouse, mother, father, brothers, sisters, or children of the deceased owner. In the settlement of the estate of the deceased owner, the heirs may file a written agreement with the county committee for the division of the deceased owner's rights under this section.

(m) *Limitations on transfers from pool.* (1) No transfer from the pool under paragraph (h), (i), or (j), of this section shall be approved if there remains unpaid any marketing quota penalty due with respect to the marketing of the commodity from the acquired farm has not been accounted for as required under applicable commodity regulations.

(2) If the tobacco or peanut allotment for an acquired farm next established after the date of displacement would have been reduced because of false or improper identification of the commodity produced on or marketed from the farm or due to a false acreage report, the allotment shall be reduced in the pool in accordance with the applicable regulations.

§ 719.12 Exempting Federal prison farms and Federal wildlife refuges.

No marketing penalty shall be assessed or entered on the county or State office debt record for excess acreage of any commodity which may be produced on a Federal prison farm or Federal wildlife refuge: *Provided, however*, That this exception does not apply to penalties incurred by an individual who has a separate interest in a crop which is subject to marketing quotas and which was produced on such Federal prison farms and Federal wildlife refuges.

§ 719.13 Supervisory authority of State ASC committees.

The State committee may take any action required by these regulations which has not been taken by the county committee. State committee may also (a) correct, or require a county committee to correct any action taken by such county committee which is not in accordance with the regulations of this part, or (b) require a county committee to withhold taking any action which is not in accordance with the regulations in this part.

§ 719.14 Transfer of allotments and normal crop acreage—State public lands.

(a) *General authority.* The Secretary may permit transfers of allotments and normal crop acreage between farms in the same county where both farms are composed of public lands of the State. Such transfers shall be permitted in accordance with conditions prescribed by this section.

(b) *Application for transfer.* An application in writing requesting the transfer of one or more of the allotments and normal crop acreage on a farm entirely composed of public lands of a State shall be filed with the county committee by the agency of the State charged with the administration of the land in such farms. The application shall identify the farms as being within the same county, show

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that each farm is entirely composed of public lands of the State, and list the acreages requested to be transferred. Additional information as to the present operations on the farms, including all leasing arrangements, shall also be set forth in the application.

(c) *Closing date for filing applications.* The State committee shall establish the closing date for filing applications under paragraph (b) of this section for each year which shall be no later than the date when planting of the commodity involved in the transfer becomes general in the county.

(d) *Productivity adjustment in allotments, normal crop acreage and history acreage.* Each transfer of allotment and normal crop acreage under this section shall be adjusted for differences in farm productivity if the yield (projected for the year the transfer is to take effect) for the farm to which transfer is made exceeds the yield (projected for the year the transfer is to take effect) for the farm from which transfer is made by more than 10 percent. The county committee shall determine the amount of allotment and normal crop acreage to be transferred where productivity adjustment is required by dividing (1) the product of the yield for the farm from which transfer is made and the acreage to be transferred from such farm, by (2) the yield for the farm to which transfer is made. History acreage for the farm receiving allotment and normal crop acreage shall be adjusted by the same percentage as the allotment and normal crop acreage being transferred is adjusted. The amount of allotment and normal crop acreage and related farm history acreage transferred from the farm from which the transfer is made shall be the full amount, but the amount of allotment and normal crop acreage and related farm history acreage for the farm to which the transfer is made shall be the adjusted amount. The county acreage history, if applicable, shall be reduced to correspond with the adjusted history transferred to the farm. The history remaining unassigned to the county as a result of such productivity adjustment shall be tabulated by the State committee and included with the sum of county history acreage for determining the State history.

(e) *Limitation on acreages to be transferred.* The amount of allotment and normal crop acreage on a farm after a transfer under this section is made shall not exceed the average amount of allotment and normal crop acreage of at least three but not more than five farms with acreages of cropland similar to the farm receiving the transfer in the community having the applicable allotment and normal crop acreage on these farms.

(f) *Permanent vegetative cover requirements.* Each transfer or any allotment and normal crop acreage shall be subject to the condition that an acreage equal to the allotment and normal crop acreage transferred (before any productivity adjustment) shall be devoted to and maintained in permanent vegetative cover on the farm from which the transfer is made.

(g) *County committee action.* The county committee shall approve transfer under this section only if it determines that a timely filed application has been received, that the conditions of this section have been met, and a representative of the State committee has approved the transfer. The county committee shall issue revised notices of allotment and normal crop acreage for each farm affected by the transfer. If a county committee obtains evidence that the conditions applicable to any transfer under this section have not been met, a report of the facts shall be made to the State committee. The State committee shall determine whether such conditions have been met and if not met, shall require that the transfer be cancelled and retransferred to the original farm. Where cancellation and retransfer is required, the county committee shall issue revised notices of allotment and normal crop acreage showing the reasons for cancellation of the transfer.

Signed at Washington, D.C., on January 18, 1979.

STEWART N. SMITH,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79-2825 Filed 1-25-79; 8:45 am]

[3410-07-M]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER I—LOAN AND GRANT MAKING AMENDMENT

PART 1941—OPERATING LOANS

Subpart A—Operating Loan Policies, Procedures and Authorizations

PART 1943—FARM OWNERSHIP, SOIL AND WATER, AND RECREATION

Subpart A—Insured Farm Ownership Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is amending its regulations for determining eligibility of cooperatives, corporations and partnerships for operating and farm ownership loans. The intended effect of this action is to clarify the regulations. The action is being taken as a result of an administrative decision to set out statutory requirements more clearly and to eliminate differences between the operating loan and farm ownership loan regulations.

EFFECTIVE DATE: January 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Lynn L. Pickinpaugh, 202-447-5044.

SUPPLEMENTARY INFORMATION: FmHA amends subparagraphs (b)(6)(i) and (ii) of § 1941.12, Subpart A Part 1941, and subparagraph (b)(6)(i) of § 1943.12, Subpart A Part 1943, Chapter XVIII, Title 7 in the Code of Federal Regulations. This amendment clarifies the eligibility requirements of cooperatives, corporations and partnerships for operating and farm ownership loans. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 533 with respect to such rules. This regulation, however, is being published as a final rule. A copy of the Impact Statement prepared by FmHA is available in the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, DC 20250. Publication for comment is unnecessary because the change to Part 1943 needs to be made immediately in order to more clearly spell out existing statutory requirements for eligibility. The changes to Part 1941 are needed in order to clarify the existing requirements and to eliminate the differences between Parts 1941 and 1943 and avoid confusion in the administration of the two programs. This determination was made by Mr. Lynn L. Pickinpaugh, Director, Production Loan Division, Farmers Home Administration, U.S. Department of Agriculture, Room 5314, Washington, DC 20250.

Accordingly, various sections of Parts 1941 and 1943 are amended as follows:

PART 1941—OPERATING LOANS

Subpart A—Operating Loan Policies, Procedures, and Authorizations

1. In § 1941.12, subparagraph (b)(6)(i), add the following phrase after the word "met" in line 3; "by the entity and *all* its members, stockholders, or partners".

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2. In § 1941.12, paragraph (b)(6)(ii), add the words "own or" after the word "must" in line 2.

PART 1943—FARM OWNERSHIP, SOIL AND WATER, AND RECREATION

Subpart A—Insured Farm Ownership Loan Policies, Procedures, and Authorizations

3. In § 1943.12, subparagraph (b)(6)(i), line 3; add the phrase "by the entity and *all* its members, stockholders, or partners" after the word "met" at the end of the sentence.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Sec. of Agri. 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir. OEO 29 FR 14764, 33 FR 9850.)

Dated: January 11, 1979.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 79-2782 Filed 1-25-79; 8:45 am]

[6210-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. F; Docket No. R-0146]

PART 206—SECURITIES OF STATE MEMBER BANKS

Final Rule; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule: Correction.

SUMMARY: This notice corrects a previous FEDERAL REGISTER document (FR Doc. 78-35923) beginning at page 60549 of the issue for Thursday, December 28, 1978. On page 60559 of that document, in the center of the second column, a section heading should be added for § 206.54 so that the text reads as shown below:

§ 206.54 [Added]

Form F-13 (CFR 206.54) is adopted to read as follows:

§ 206.54 Form for statement to be filed pursuant to § 206.5(1) of Regulation F (Form F-13).

Board of Governors of the Federal Reserve System.

Form F-13

* * * * *

FOR FURTHER INFORMATION CONTACT:

Richard M. Whiting, 202-452-3786.

Board of Governors of the Federal Reserve System, January 18, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-2801 Filed 1-25-79; 8:45 am]

[6210-01-M]

[Reg. Z; FC-0159]

PART 226—TRUTH IN LENDING

Official Staff Interpretation; Suspension of Effective Date and Republication for Public Comment

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Correction.

SUMMARY: This notice corrects a previous FEDERAL REGISTER document, FR Doc. 79-1486, appearing on page 3257 of the issue for Tuesday, January 16, 1979.

In the second line of the paragraph entitled "ADDRESS," the FC number should read "0159."

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, 202-452-3667.

Board of Governors of the Federal Reserve System, January 18, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-2802 Filed 1-25-79; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2945]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Hertz Corp.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a New York City car rental company to provide each charge account customer having five dollars or more as a credit balance with periodic statements reflecting that balance; notify such customers that credit balances are refundable; and automatically refund unclaimed credit balances within seven months of their occurrence. The order would additionally prohibit the company from writing off credit balances, and would require the firm to refund, upon request, any credit balances created during the past six years.

DATES: Complaint and order issued December 21, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

FTC/PD, Lewis H. Goldfarb, Washington, D.C. 20580. (202) 724-1181.

SUPPLEMENTARY INFORMATION: On Tuesday, October 17, 1978, there was published in the FEDERAL REGISTER, 43 FR 47736, a proposed consent agreement with analysis in the Matter of the Hertz Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order. No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-45 Maintain records; 13.533-55 Refunds; rebates and/or credits. Subpart—Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45).)

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-2804 Filed 1-25-79; 8:45 am]

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[1] Copies of the Complaint and the Decision and Order filed with the original document.

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[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Contraceptive and Other Vaginal Drug Products Panel

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) announces the termination of the Panel on Review of Contraceptive and Other Vaginal Drug Products and amends the regulations to delete it from the list of standing advisory committees. The Panel was terminated because it had completed its work.

EFFECTIVE DATE: January 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Armond Welch, Bureau of Drugs (HFD-510), Food and Drug Administration, Departmnent of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: The Panel's functions were to review the data and information submitted as part of the over-the-counter (OTC) drug review under § 330.10 (21 CFR 330.10) on OTC products containing contraceptive and other vaginal active ingredients for human use. The Panel has submitted its conclusions and recommendations on the safety, effectiveness, and labeling of these products to the Commissioner of Food and Drugs. These conclusions and recommendations will be published in a future issue of the FEDERAL REGISTER.

Accordingly, the purpose of the Panel has been served, and the Panel is no longer needed. On December 31, 1978, the charter for the Panel expired.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 14 is amended in § 14.100 *List of standing advisory committees* by deleting paragraph (c)(20)(i)(*f*) *Contraceptive and Other Vaginal Drug Products Panel* and marking it reserved.

Effective date. Because this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, January 26, 1979.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: January 22, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-2715 Filed 1-25-79; 8:45 am]

[4110-03-M]

[Docket No. 78F-0047]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

Selenium

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the food additive regulation for selenium to provide for its extended use for sheep and to provide for its use for beef and dairy cattle. A petition was filed by the American Feed Manufacturers Association requesting such use.

DATES: Effective January 26, 1979. Objections by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

William D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: Notice was given in the FEDERAL REGISTER of April 7, 1978 (43 FR 14736) that a food additive petition (MF-3433) has been filed by American Feed Manufacturers Association, 1701 N. Fort Myer Dr., Arlington, VA 22209, proposing that § 573.920 *Selenium* (21 CFR 573.920) be amended to extend the conditions of its use for sheep and to provide for its use for beef and dairy cattle.

The Commissioner of Food and Drugs has evaluated data in the petition and other relevant material and concludes that the food additive regulation § 573.920 should be amended to provide for the use of the petitioned additive.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 573 is amended in § 573.920 by revising the introductory text of paragraph (b)(4), by adding new paragraph (b) (5) and (6), and by revising paragragh (c) (1) and (3) and adding new paragraph (c)(4) as follows:

§ 573.920 Selenium.

* * * * * *

(b) * * *

(4) Sheep: * * *

(5) Beef cattle:

(i) In complete feed at a level not to exceed 0.1 part per million.

(ii) In a feed supplement for limit feeding at a level not to exceed an intake of 1 milligram per head per day.

(iii) Up to 20 parts per million in a salt-mineral mixture for free choice feeding at a rate not to exceed an intake of 1 milligram per head per day.

(6) Dairy cattle: In complete feed (total ration) at a level not to exceed 0.1 part per million.

(c) The additive shall be incorporated into feed as follows:

(1) It shall be incorparated into each ton of the complete feed of growing chickens up to 16 weeks of age, swine, sheep, beef cattle, and dairy cattle by a premix containing no more than 90.8 milligrams of added selenium and weighing not less than 1 pound.

* * * * *

(3) It shall be incorporated into each ton of salt-mineral mixture for sheep by a premix containing no more than 27.2 grams of added selenium in not less than 6 pounds of premix.

(4) It shall be incorporated into each ton of salt-mineral mixture for beef and dairy cattle by a premix containing no more than 18 grams of added selenium in not less than 4 pounds of premix.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 26, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 26, 1979.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))

Dated: January 18, 1979.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-2442 Filed 1-25-79; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-4360]

PART 1917—APPEAL FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Davis, Yolo County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Davis, Yolo County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Davis, California.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Davis, Yolo County, California, are available for review at Department of Public Works, City Hall, 226 F Street, Davis, California.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Davis, California.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Covell Drain	F Street—100 feet*	43
	Oak Avenue—50 feet*	45
	Anderson Road—100 feet*.	47
Shallow Flooding	Intersection of B and Eleventh Streets.	41
	Intersection of East Fourteenth and B Streets.	41
	Intersection of H and Tenth Streets.	41
	Intersection of Alvarado Avenue and Fortuna Court.	47

* Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2176 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3972]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Woodside, San Mateo County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Woodside, San Mateo County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Woodside, California.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Woodside, San Mateo County, California, are available for review at Town Hall, 2925 Woodside Road, Woodside, California.

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FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Woodside, California.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dry Creek	Mountain Home Road	358
	Woodside Road*	359
	Woodside Road**	363
Bear Gulch Creek	Woodside Road*	469
	Woodside Road**	476
West Union Creek	Woodside Road	365
	Kings Mountain Road*	419
	Kings Mountain Road**	422
Corte Madera Creek	Corporate Limits	368
Sausal Creek	Family Farm Road (downstream crossing)	349
	Family Farm Road (upstream crossing)	367

*Downstream side.
**Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 11, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2177 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4539]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Melbourne Village, Brevard County, Florida

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Melbourne Village, Brevard County, Florida.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Melbourne Village, Brevard County, Florida.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Melbourne Village, Brevard County, Florida, are available for review at Town Hall, 533 Hammock Road, Melbourne Village, Florida 32901.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Melbourne Village, Brevard County, Florida.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Crane Creek	Western corporate limits.	23
	Live Oak Avenue (extended).	24
Channel A	Just downstream of Sheridan Road.	23
	Northern corporate limits.	24
Channel B	Approximately 600 feet downstream of Live Oak Avenue.	25
	Carissa Road (extended)	26

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2178 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4542]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Rockledge, Brevard County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Rockledge, Brevard County, Florida.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Rockledge, Brevard County, Florida.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the the City of Rockledge, Brevard County, Florida, are available for review at City Hall, P.O. Box 488, Rockledge, Florida 32955.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Rockledge, Brevard County, Florida.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Slough C	Between Barton Avenue and North Corporate limits.	20
Slough A	East of Murrell Road	22

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	South of Rovac Boulevard.	22
Slough B	Just west of intersection of Levitt Parkway and Murrell Road.	23
Channel A	Just upstream of U.S. Highway 1.	16
	Just upsteam of confluence of Slough A.	22
St. John's River	Intersection of Basque Drive and Conquistador Drive.	20
Indian River	At Magruder Drive	5
	Just east of intersection of Rockledge Drive and Bougainvillea Drive.	5

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2179 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4540]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Winter Park, Orange County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Winter Park, Orange County, Florida. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Winter Park, Orange County, Florida.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Winter Park, Orange County, Florida, are available for review at City Hall, 401 Park Avenue South, Winter Park, Florida 32789.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Winter Park, Orange County, Florida.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Osceola	Entire shoreline	68
Lake Maitland	Entire shoreline	68
Lake Virginia	Entire shoreline	68
Lake Berry	Entire shoreline	72
Lake Mizell	Entire shoreline	68
Lake Killarney	Western corporate limits.	85
Lake Corrine	Southern corporate limits.	95
Lake Spier	Southern corporate limits.	95
Lake Sylvan	Entire shoreline	75
Lake Knowles	Entire shoreline	80
Lake Wilbar	Entire shoreline	87
Lake Chelton	Entire shoreline	84
Lake Midget	At North Kentucky Avenue.	92
Lake Sue	Just west of the intersection of Fawsett Road and Dana Way.	75
Stream A	Just upstream of Pennsylvania Avenue.	74

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just upstream of Stirling Avenue.	71
Howell Creek	Just downstream of Temple Trail.	64

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 26, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2180 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4366]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Wallace, Shoshone County, Idaho

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Wallace, Shoshone County, Idaho. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Wallace, Idaho.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Wallace, Shoshone County, Idaho, are available for review at City Hall, 703 Cedar Avenue, Wallace, Idaho.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Wallace, Idaho.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Fork Coeur d'Alene River.	Downstream Corporate Limit—25 feet*.	2708
	Third Street—20 feet**...	2722
	Sixth Street—25 feet**...	2731
	U.S. Highway 10—300 feet**.	2744
	Canyon Creek—25 feet**	2758
	Upstream Corporate Limits—15 feet**.	2792
Placer Creek	Confluence with the South Fork Coeur d'Alene River—5 feet*.	2717
	U.S. Highway 10—50 feet*.	2719
	Cypress Avenue—50 feet*.	2722
	River Street—110 feet**.	2725
	Pine Street—40 feet	2732
	Bank Street—30 feet**...	2747
	High Street—30 feet**...	2756
	Upstream Corporate Limits.	2790
Canyon Creek	U.S. Highway 10—25 feet*.	2759
	Union Pacific Railroad...	2761
	Mullan Avenue—15 feet*.	2765
	Union Pacific Railroad...	2766
	Upstream Corporate Limits—15 feet**.	2776

*Upstream from centerline.
**Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 26, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 9, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2161 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4492]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Village of Golf, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Golf, Cook County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Golf, Cook County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Golf are available for review at the Village Hall, 1 Briar Road, Golf, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Golf, Cook County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Fork North Branch Chicago River.	South corporate limits...	623
	North corporate limits ...	624

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 26, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2182 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3398]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for Kankakee County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Kankakee County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Kankakee County, Illinois.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Kankakee County, Illinois, are available for review at the Kankakee County Regional Planning Office, 435 Oak, Kankakee, Illinois.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Kankakee County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kankakee River	Kankakee County Line ...	554
	Rock Creek	569
	Wilbey Creek	586
	Davis Creek	592
	Interstate 57	607
	Conrail Railroad	608
	Farr Creek	611
	Maple Island	612
	Momence Corporate Limit East	617
	Trim Creek	623
	Cherrill	625
	Shadow Lawn	626
	Williams Heights	628
	Kankakee County and Indiana State Line.	630
Iroquois River	Confluence with Kankakee River.	608
	Minnie Creek	612
	Sugar Island	616
	Deer Creek	617

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 26, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 22, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2188 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4372]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Danville, Hendricks County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Danville, Hendricks County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Danville, Hendricks County, Indiana.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Danville, Hendricks County, Indiana, are available for review at the Danville Town

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Hall, 77 North Kentucky, Danville, Indiana.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Danville, Hendricks County, Indiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base floo elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Fork White Lick Creek.	Twin Bridge Road	832
	U.S. 36 (Main Street (Upstream).	843
	Columbia Street (Upstream).	848

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2184 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4174]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Lynch, Harlan County, Ky.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Lynch, Harlan County, Kentucky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Lynch, Harlan County, Kentucky.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Lynch, Harlan County, Kentucky, are available for review at the City Hall, East Main Street, Lynch, Kentucky.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Lynch, Harlan County, Kentucky.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Looney Creek	Downstream Corporate Limits.	1,636
	Conveyor Drive (Upstream Side).	1,714
	City Street (Upstream Side—1,370 feet Upstream of Conveyor Dive).	1,738
	City Street (Upstream Side—2,600 feet Downstream of Gap Branch).	1,749
	Confluence of Gap Branch.	1,787
	Gap Branch Street (Upstream Side).	1,792
	Kentucky Route 160 (Upstream Side).	1,855
	Upstream Corporate Limits.	1,885
Gap Branch	Confluence Looney Creek.	1,787
	Upsteam Corporate Limit.	1,900

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2185 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4496]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determinations for the Town of Dover-Foxcroft, Piscataquis County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Dover-Foxcraft, Piscataquis County, Maine. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Dover-Foxcroft, Maine.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Dover-Foxcroft, Piscataquis County, Maine, are available for review at Town Office, 36 East Main Street, Dover-Foxcroft, Maine.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Dover-Foxcroft, Piscataquis County, Maine.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Piscataquis River	Atkinson Road—100 feet*.	310
	Essex Street—175 feet**.	322
	Elmer Street—25 feet*	341
	Maine Central Railroads—100 feet*.	357
Dawes Brook	Railroad Avenue—10 feet*.	348
	Autumn Street—60 feet*	367
	North Street (upstream crossing)—centerline.	375
Dunham Brook	Lincoln Street—60 feet*	345
	North Street—30 feet*	351
	Mechanic Street—30 feet*.	361
	Forest Street—40 feet*	376
Black Stream	Bear Hill Road—centerline.	443
Brassa Mill Pond	Upstream of Black Stream.	444

*Upstream from centerline.
**Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 9, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2186 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4439]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Hallowell, Kennebec County, Maine.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Hallowell, Kennebec County, Maine. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Hallowell, Maine.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Hallowell, Kennebec County, Maine, are available for review at City Hall, 1 Winthrop Street, Planning Department, Hallowell, Maine.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Hallowell, Maine.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kennebec River	Downstream Corporate Limits.	31
	Confluence with Vaughan Brook.	35
	Upstream Corporate Limits.	35

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

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Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2187 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4498]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Sangerville, Piscataquis County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Sangerville, Piscataquis County, Maine. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Sangerville, Maine.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Sangerville, Piscataquis County, Maine, are available for review at the Town Office, Sangerville, Maine.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Sangerville, Piscataquis County, Maine.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Manhanock Pond	Areas adjacent to shore	449
Center Pond	Areas adjacent to shore	506
Carlton Stream	Old Dunbarton Dam—100 feet*	394
	Old Dunbarton Dam—100 feet**	402
	Numberall Inc. Dam—100 feet*	414
	Numberall Inc. Dam—100 feet**	431
	Dover Stove Company Dam—100 feet	436
	Dover Stove Company Dam—100 feet**	446
	State Route 23-30 feet**	447
Piscataquis River	Lows Bridge—30 feet**	379
	State Route 23-30 feet**	386

*Downstream of centerline.
**Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 9, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2188 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3586]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for Montgomery County, Maryland

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Montgomery County, Maryland.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Montgomery County, Maryland.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Montgomery County, Maryland, are available for review at the County Office Building, 100 Maryland Avenue, Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Montgomery County, Maryland.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Booze Creek	Cabin John Parkway	119
	River Road	157
	Beech Tree Road	176
	Howell Road	215
	Bradley Boulevard	220
Buck Branch	Bells Mill Road	264
	Footbridge	293

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bulls Run	Confluence with Booze Creek.	203
	Bradley Boulevard	220
	Valley Road	229
	Greentree Road	234
Cabin Branch	Confluence with Great Seneca Creek.	331
	Watkins Mill Road	353
	Montgomery Village Avenue.	363
	Goshen Road	390
	Snouffers School Road	423
	Confluence of Tributary No. 67.	447
Cabin John Creek	Interstate 495-Northbound.	120
	Seven Locks Road	136
	River Road	163
Coquelin Run	Confluence with Rock Creek.	188
	Beach Drive	188
	Limit of Detailed Study (350' downstream of Connecticut Avenue).	227
Crabbs Branch	Confluence with Rock Creek.	300
	1,800' above confluence with Rock Creek.	355
	3,100' above confluence with Rock Creek.	369
	4,600' above confluence with Rock Creek.	376
	6,960' above confluence with Rock Creek.	391
	9,500' above confluence with Rock Creek.	415
	Redland Road	432
Goshen Branch	Confluence with Great Seneca Creek.	361
	Blunt Road	391
	State Route 124	423
Great Seneca Creek.	Confluence with Seneca Creek.	229
	Blackrock Road	246
	Damestown Road	262
	Confluence of Tributary No. 80.	267
	Riffle Ford Road	279
	Confluence of Gunners Branch.	289
	Clopper Road	309
	B&O Railroad	312
	Washington National Pike.	317
	State Route 355	323
	Confluence of Cabin Branch.	331
	Watkins Mill Road	344
	Brink Road	360
	Blunt Road	376
	Confluence of Magruder Branch.	419
	State Route 124	431
	Confluence of Tributary No. 85.	441
	Confluence of Tributary No. 54.	507
Greenbrier Branch.	Confluence with Sandy Branch.	225
	Glen Mill Road	249
Gunners Branch	Confluence with Great Seneca Creek.	289
	Clopper Road	306
	B&O Railroad	327
	Confluence of Tributary No. 76.	338
Hawlings River	Confluence with Patuxent River.	323
	State Route 650	323
	Goldmine Road	323
	Confluence of Reddy Branch.	326
James Creek	Confluence with Hawlings River.	323
	Confluence of Tributary No. 212.	361
	Driveway	410
Kilgour Branch	North Glen Road	257
	Confluence of Tributary No. 102.	282
	Broadgreen Way	303
Little Bennett Creek.	County Boundary	342
	Hyattstown Road	352
	Frederick Road	366
Little Falls Branch.	Confluence with Potomac River.	54
	George Washington Memorial Parkway.	54
	Blackstone Road (extended).	160
	Brookeway Drive (extended).	163
	Massachusetts Avenue	182
	Little Falls Parkway	196
	Greenway Drive	218
	River Road	225
Little Paint Branch.	County Boundary	249
	Aqueduct	260
	Robey Road (extended)	277
Little Seneca Creek.	Confluence with Bucklodge Branch and Seneca Creek.	244
	Shaeffer Road	247
	Confluence of Tributary No. 51.	251
	Confluence of Tributary No. 50.	284
	Hoyles Mill Road	289
	Confluence of Tributary No. 47.	302
	Confluence of Tributary No. 46.	307
Magruder Branch	Confluence with Great Seneca Creek.	419
	Watkins Road (downstream).	434
	Watkins Road (upstream).	439
	Welsh Road	513
	Sweepstakes Road (downstream).	586
	Sweepstakes Road (upstream).	694
	Unfinished Road (downstream).	694
	Unfinished Road (upstream).	704
Minnehaha Branch.	100 feet upstream of MacArthur Boulevard.	124
	Goldsboro Road	186
	Rannoch Road	190
	Goldsboro Road (2nd crossing).	228
	River Road	252
	Goldsboro Road (3rd crossing).	254
	Tanglewood Drive (extended).	266
Muddy Branch	Confluence with Potomac River.	197
	River Road	197
	Esworthy Road (downstream).	214
	Esworthy Road (upstream).	217
	Confluence of Tributary No. 91.	222
	Confluence of Tributary No. 90.	238
	Turkey Foot Road	250
	Quince Orchard Road	274
	Confluence of Rich Branch.	276
	Clover Knoll Court (extended).	295
	American Way	312
	Route 28 (downstream)	313
	Route 28 (upstream)	318
North Branch Rock Creek.	Confluence with Rock Creek.	270
	Lake Benard Frank	334
	Muncaster Mill Road (downstream).	334
	Muncaster Mill Road (upstream).	339
	Confluence of Tributary No. 161.	356
	Confluence of Tributary No. 150.	362
	Confluence of Tributary No. 148.	366
	Confluence of Tributary No. 143.	378
	Confluence of Tributary No. 146.	379
	Bowie Mill Road	394
	Confluence of Tributary No. 142.	416
	Limit of Detailed Study (75 feet downstream of Olney-Laytansville Road [Route 108]).	486
Northwest Branch	County Boundary	120
	Interstate Route 495	132
	Edelblut Drive (extended).	155
	Colesville Road	221
	Burnt Mills Dam (downstream).	224
	Burnt Mills Dam (upstream).	236
	Randolph Road	279
	Proposed Randolph Road.	280
	Confluence of Tributary No. 178.	294
	Bonifant Road	312
	Proposed Bonifant Road	313
	Unnamed Road	330
	Colesville Road (downstream).	355
	Colesville Road (upstream).	359
	Ednor Road	369
	Norwood Road	423
Old Farm Creek	Confluence of Tributary No. 182.	262
	Confluence of Tributary No. 120.	269
	Tilden Lane (downstream).	272
	Tilden Lane (upstream).	280
	Confluence of Tributary No. 119.	288
	Confluence of Tributary No. 118.	292
Paint Branch	County Boundary	158
	Confluence of Tributary No. 189.	161
	Confluence of Tributary No. 188.	168
	Naval Ordnance Laboratory Road.	189
	Naval Ordnance Laboratory Road.	192
	Confluence of Tributary No. 187.	206
	Old Columbia Road	236
	Columbia Pike—Northbound.	242
	Columbia Pike—Southbound.	243
	Confluence of Tributary No. 186.	250
	Randolph Road	270
	Fairland Road (downstream).	295
	Fairland Road (upstream).	297
	Confluence of Tributary No. 185.	309
	Briggs Chaney Road (downstream).	339
	Briggs Chaney Road (upstream).	344
	Confluence of Tributary No. 184.	348
	Fair Acres Road (extended).	363

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Piney Branch	Confluence with Watts Branch.	227
	Glen Road (downstream).	236
	Glen Road (upstream)	238
	Confluence of Tributary No. 105.	247
	Glen Mill Road (downstream).	277
	Glen Mill Road (upstream).	282
	Glen Mill Road (downstream—2nd crossing).	330
	Glen Mill Road (upstream—2nd crossing).	335
	Confluence of Tributary No. 104.	358
Reddy Branch	Confluence with Hawlings River.	328
	Brookeville Road (75 feet downstream).	330
	Brookeville Road (75 feet upstream).	334
	Route 97	362
	Brookeville Road (2nd crossing).	389
	Brookeville Road (3rd crossing).	404
	Brookeville Road (4th crossing).	411
Rich Branch	Confluence with Muddy Branch.	276
	Duffef Mill Road (downstream).	321
	Duffef Mill Road (upstream).	334
Rock Creek	County Boundary	178
	East West Highway (downstream).	185
	East West Highway (upstream).	187
	Confluence of Coquelin Run.	188
	B&O Railroad	190
	Interstate 495	204
	Kensington Avenue	207
	Connecticut Avenue	210
	Cedar Lane	215
	Beach Drive	223
	Beach Drive (2nd crossing).	227
	Knowles Avenue	232
	B&O Railroad (also Beach Drive—3rd crossing).	237
	Garrett Park Road	243
	Randolph Road	247
	Confluence of Turkey Branch.	250
	Parklawn Cemetery Road.	254
	Viers Mill Road	230
	Baltimore Road	274
	Norbeck Road	275
	Avery Road	281
	Southlawn Lane	290
	Confluence of Crabbs Branch.	306
	Dam	352
	Needwood Road	352
	Muncaster Mill Road	354
	Muncaster Road	396
	Confluence of Tributary No. 132.	405
	Private Road	407
Rock Run	MacArthur Boulevard	127
	Saunders Lane (extended).	208
	Confluence of Tributary No. 100.	261
	Confluence of Tributary No. 108.	277
	Oaklyn Drive	285
	Logan Drive	293
Sandy Branch	Confluence with Watts Branch.	190
	Confluence of Tributary No. 96.	190
	Beal Mountain Road	196
	Confluence of Greenbrier Branch.	225
	Glen Road (downstream).	256
	Glen Road (upstream)	259
Seneca Creek	Confluence with Potomac River.	203
	River Road	203
	Confluence of Dry Seneca Creek.	208
	Dawsonville Road	228
	Confluence with Backlodge Branch and Little Seneca Creek.	244
Sligo Creek	County Boundary	170
	Park Valley Road	176
	Piney Branch Road	199
	Wayne Avenue	214
	Maryland Route 29	237
	Confluence of Tributary No. 164.	266
	Interstate 495	271
	Forest Glen Road	276
	Dennis Avenue	294
	University Boulevard	338
	Easecrest Drive (extended).	365
Snakeden Branch	Confluence with Cabin John Creek.	227
	Seven Hill Drive (extended).	267
	Tuckerman Lane	297
	Pedestrian Bridge	319
	Gainsborough Road	329
	70 feet downstream of Postoak Road.	367
Thomas Branch	Confluence with Cabin John Creek.	133
	River Road	146
	Interstate 495 (1st crossing).	164
	Interstate 495 (2nd crossing).	191
	Bradley Boulevard	218
	100 feet downstream of Fernwood Road.	320
Turkey Branch	Confluence with Rock Creek.	250
	Viers Mill Road	251
	Bayne Street (extended)	263
	Grenoble Drive (extended).	270
	Connecticut Avenue	288
	Galvez Street (extended).	302
	Georgia Avenue	310
	Grand Pre Road (extended).	348
Watts Branch	Confluence with Potomac River.	190
	Maryland Route 190	190
	Unnamed Road	196
	Piney Meetinghouse Road (downstream).	216
	Piney Meetinghouse Road (upstream).	222
	Confluence of Piney Branch.	227
	South Glen Mill Road (downstream).	253
	South Glen Mill Road (upstream).	257
	Weatherwood Court (extended).	272
	Ambleside Drive (downstream).	279
	Ambleside Drive (upstream).	282
	Confluence of Tributary No. 100.	282
	Confluence of Tributary No. 99.	293
Whetstone Run	County Boundary	306
	Confluence of Tributary No. 74.	371
	Summit Road	368
Willet Branch	Confluence with Little Falls Branch.	191
	Upstream inlet of B&O Railroad Culvert.	211
	Sandy Landing Road	211
	Pedestrian Bridge	224
	River Road	229

Unnamed Streams:

Tributary No. 7	Confluence with Little Bennett Creek.	354
	Upstream Limit of Detailed Study (1,540' upstream of mouth).	373
Tributary No. 46	Confluence with Little Seneca Creek.	306
	Upstream Limit of Detailed Study (4,040' upstream of mouth).	369
Tributary No. 47	Confluence with Little Seneca Creek.	302
	Farm Lane (No. 1)	317
	Farm Lane (No. 2)	347
	Farm Lane (No. 3 extended).	394
Tributary No. 54	Confluence with Great Seneca Creek.	507
	Woodfield School Road	511
	Upstream Limit of Detailed Study (4,500' upstream of mouth).	625
Tributary No. 55	Confluence with Great Seneca Creek.	441
	Hanson Road (extended).	501
	Upstream Limit of Detailed Study (200' downstream of Woodfield School Road.	592
Tributary No. 67	Confluence with Cabin Branch.	447
	Cessna Avenue (extended).	459
Tributary No. 68	Confluence with Cabin Branch.	415
	Strawberry Knoll Road	423
	Private Drive (No. 1)	439
	Private Drive (No. 2)	440
	Bonanza Way (extended).	463
Tributary No. 69	Confluence with Cabin Branch.	415
	Snouffers School Road	422
	Upstream Limit of Detailed Study (5,730' upstream of mouth).	493
Tributary No. 70	Confluence with Cabin Branch.	380
	Goshen Road	396
	Confluence of Tributary No. 71.	401
	50 feet downstream of Snouffers School Road (upstream limit of detailed study).	467
Tributary No. 71	Confluence with Tributary No. 70.	401
	Upstream Limit of Detailed Study (50' downstream of Snouffers School Road).	484
Tributary No. 72	Confluence with Cabin Branch.	369
	Stewarton Road	369
	Top of Dam	394
Tributary No. 74	Confluence with Whetstone Run.	371
	Emory Grove Road	385
	Goshen Road	399
	Quail Valley Boulevard	417

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary No. 76	Confluence with Gunners Branch.	336
	Middle Brook Road	428
Tributary No. 77	Confluence with Gunners Branch.	295
	Heidelburg Road	317
	Clopper Road	338
	Retreat Lane (extended)	350
Tributary No. 78	Confluence with Gunners Branch.	292
	Metz Court (extended)	324
	Germantown Road	352
	Upstream Limit of Detailed Study (30' downstream of Maryland Route 118).	424
Tributary No. 79	Confluence with Great Seneca Creek.	284
	Road (unnamed 1,440' upstream mouth).	306
Tributary No. 80	Confluence with Great Seneca Creek.	267
	White Rock Road (extended).	332
Tributary No. 81	Confluence with Great Seneca Creek.	264
	Confluence of Tributary No. 82.	277
	Riffle Ford Road Culvert-Inlet.	333
Tributary No. 82	Confluence with Tributary No. 81.	277
	Upstream Limit of Detailed Study (300' downstream of Maryland Route 118).	330
Tributary No. 87	Confluence with Potomac River.	202
	Road (unnamed 2,950' upstream mouth).	214
	River Road	268
Tributary No. 90	Confluence with Muddy Branch.	238
	Turkey Foot Road	269
Tributary No. 91	Confluence with Muddy Branch.	222
	Farm Lane	272
Tributary No. 92	Confluence with Muddy Branch.	205
	Upstream Limit of Detailed Study (6,000' upstream of mouth).	354
Tributary No. 93	Confluence with Tributary No. 94.	224
	Upstream Limit of Detailed Study (6,045' upstream of mouth).	362
Tributary No. 94	Confluence with Muddy Branch.	197
	Confluence of Tributary No. 93.	224
	Upstream Limit of Detailed Study (150' downstream of Pettit Way).	285
Tributary No. 98	Confluence with Sandy Branch.	190
	Stony Creek Road	190
	Beall Creek Court (extended).	238
Tributary No. 99	Confluence with Watts Branch.	293
	Falls Chapel Way (downstream).	326
	Falls Chapel Way (upstream).	333
Tributary No. 100	Confluence with Watts Branch.	282
	Tallridge Drive (downstream).	283
	Tallridge Drive (upstream).	290
Tributary No. 102	Confluence with Kilgour Branch.	282
	Unnamed Road (downstream).	286
	Unnamed Road (upstream).	293
	Bedfordshire Avenue (downstream).	308
	Bedfordshire Avenue (upstream).	316
Tributary No. 104	Confluence with Piney Branch.	358
	Aqua Lane (downstream).	398
	Aqua Lane (upstream)	399
Tributary No. 105	Confluence with Piney Branch.	247
	Upstream Limit of Detailed Study (6,150' upstream of mouth).	328
Tributary No. 106	Confluence with Watts Branch.	223
	Tara Road (downstream).	245
	Tara Road (upstream)	255
	Unnamed Road (downstream).	319
	Unnamed Road (upstream).	326
Tributary No. 108	Confluence with Rock Run.	277
	Falls Road	315
Tributary No. 109	Confluence with Rock Run.	261
	Upstream Limit of Detailed Study (5,080' upstream of mouth).	319
Tributary No. 111	Confluence with Cabin John Creek.	168
	Bradley Boulevard	193
	Kendale Road	210
	Confluence of Tributary No. 112.	235
Tributary No. 112	Confluence with Tributary No. 111.	235
	Upstream Limit of Detailed Study (60' downstream of Logan Drive).	302
Tributary No. 113	Confluence with Buck Branch.	197
	Carmelita Drive	208
	Upstream Limit of Detailed Study (2,750' upstream of mouth).	266
Tributary No. 118	Confluence with Old Farm Creek.	292
	Randolph Road—Inlet of Culvert.	329
Tributary No. 119	Confluence with Old Farm Creek.	288
	Danville Drive (1st crossing).	299
	Danville Drive (2nd crossing).	310
Tributary No. 120	Confluence with Old Farm Creek.	269
	Marcliff Road Culvert-Inlet.	324
Tributary No. 122	Confluence with Cabin John Creek.	158
	Fenway Road	181
Tributary No. 129	Western Avenue	261
Tributary No. 130	Confluence with Tributary No. 129.	263
	Brennon Lane	271
	Pomander Lane	278
Tributary No. 132	Confluence with Rock Creek.	405
	Upstream Limit of Detailed Study (8,500' upstream of mouth).	500
Tributary No. 133	Confluence with Rock Creek.	399
	Upstream Limit of Detailed Study (6,540' upstream of mouth).	469
Tributary No. 134	Confluence with Rock Creek.	391
	Upstream Limit of Detailed Study (3,190' upstream of mouth).	433
Tributary No. 135	Confluence with Rock Creek.	389
	Upstream Limit of Detailed Study (5,200' upstream of mouth).	464
Tributary No. 136	Confluence with Rock Creek.	386
	Upstream Limit of Detailed Study (2,150' upstream of mouth).	428
Tributary No. 138	Confluence with Rock Creek.	291
	Driveway	319
	Incinerator Lane	337
	Confluence of Tributary No. 139.	351
	East Gude Drive	400
	Unnamed Road (No. 1)	407
	Unnamed Road (No. 2)	413
Tributary No. 139	Confluence with Tributary No. 138.	351
	Dover Road	404
	Upstream County Boundary.	406
Tributary No. 141	Confluence with Tributary No. 142.	420
	Driveway	443
Tributary No. 142	Confluence with North Branch Rock Creek.	418
	Confluence of Tributary No. 143.	420
	Unnamed Road	439
	Driveway	450
Tributary No. 143	Confluence with North Branch Rock Creek.	378
	Cashell Road	399
	Confluence of Tributary No. 145.	404
	Confluence of Tributary No. 144.	437
	Gelding Lane	440
Tributary No. 144	Confluence with Tributary No. 143.	437
	Mehrens Terrace (extended).	465
Tributary No. 145	Confluence with Tributary No. 143.	404
	Queen Elizabeth Drive (extended).	439
	Upstream Limit of Detailed Study (80' downstream of LaFayette Drive).	470
Tributary No. 146	Confluence with North Branch Rock Creek.	379
	Upstream Limit of Detailed Study (3,100' upstream of mouth).	417

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary No. 148.	Confluence with North Branch Rock Creek.	306
	George Washington Drive.	403
	Cashell Road	424
	Blossom View Drive	440
Tributary No. 149.	Confluence with Tributary No. 148.	436
	Unnamed Road (No. 1)	442
	Unnamed Road (No. 2)	464
Tributary No. 150.	Confluence with North Branch Rock Creek.	362
	Emory Lane	398
	Sycamore Lane (extended).	426
Tributary No. 151.	Confluence with North Branch Rock Creek.	356
	Upstream Limit of Detailed Study (4,000' upstream of mouth).	418
Tributary No. 152.	Confluence with North Branch Rock Creek.	334
	Sycamore Lane (extended).	362
Tributary No. 153.	Confluence with Rock Creek.	274
	County Boundary	277
Tributary No. 155.	Confluence with Rock Creek.	245
	Ashley Drive	245
	Schuylkill Road	262
	Rockinghorse Road	267
Tributary No. 156.	Confluence with Rock Creek.	243
	Shaller Drive (extended).	262
Tributary No. 157.	Confluence with Rock Creek.	224
	Montrose Avenue	228
Tributary No. 158.	Confluence with Rock Creek.	223
	Middle of Wisconsin Avenue.	223
	Dam (3rd from mouth of tributary).	227
	Tuckerman Lane	253
	Fleming Avenue	266
Tributary No. 159.	Confluence with Rock Creek.	220
	Wisconsin Avenue	227
Tributary No. 160.	Confluence with Rock Creek.	207
	Bexhill Drive, West	207
	Saul Road	216
	End of Detailed Study (County Boundary).	234
Tributary No. 163.	Confluence with Sligo Creek.	281
	Inwood Avenue	294
	Dennis Avenue	311
	Evans Parkway	317
	Dayton Street	325
	Plyers Mill Road	329
Tributary No. 164.	Confluence with Sligo Creek.	266
	Footbridge	268
Tributary No. 166.	Confluence with Northwest Branch.	425
	Upstream Limit of Detailed Study (2,100' upstream of mouth).	471
Tributary No. 167.	Confluence with Northwest Branch.	407
	Upstream Limit of Detailed Study (1,250' upstream of mouth).	427
Tributary No. 168.	Confluence with Whetstone Branch.	373
	Confluence of Tributary No. 170.	395
	Confluence of Tributary No. 169.	418
Tributary No. 169.	Confluence with Tributary No. 168.	418
	Upstream Limit of Detailed Study (1,800' upstream of mouth).	456
Tributary No. 170.	Confluence with Tributary No. 168.	395
	Unnamed Road	425
	Cliftonbrook Lane (extended).	446
Tributary No. 171.	Confluence with Northwest Branch.	362
	Old Orchard Road	387
	Upstream Limit of Detailed Study (6,530' upstream of mouth).	456
Tributary No. 172.	Confluence with Northwest Branch.	300
	Patton Hollow Road	361
	Old Orchard Road (extended).	380
	Unnamed Road	417
Tributary No. 173.	Confluence with Northwest Branch.	327
	Unnamed Road (No. 1)	327
	Unnamed Road (No. 2)	337
	Confluence of Tributary No. 175.	342
	Farm Road	343
	Maryland Route 182	356
	Confluence of Tributary No. 174.	379
	Farm Road	408
Tributary No. 174.	Confluence with Tributary No. 173.	379
	Unnamed Road	434
Tributary No. 175.	Confluence with Tributary No. 173.	342
	Norwood Road	346
	Confluence of Tributary No. 177.	357
	Norbeck Road	366
	Confluence of Tributary No. 176.	377
	Batchellors Forest Road	407
Tributary No. 176.	Confluence with Tributary No. 175.	377
	Batchellors Forest Road	409
	Upstream Limit of Detailed Study (7,000' upstream of mouth).	430
Tributary No. 177.	Confluence with Tributary No. 175.	357
	Narrows Lane	361
	Norbeck Road	377
	Upstream Limit of Detailed Study (4,765' upstream of mouth).	462
Tributary No. 178.	Confluence with Northwest Branch.	294
	Bonifant Road	332
Tributary No. 179.	Confluence with Northwest Branch.	284
	Locksley Lane	311
	Beaumont Road	316
Tributary No. 180.	Confluence with Northwest Branch.	281
	Middlevale Lane (extended).	300
	Layhill Road	314
	Fargrove Drive	326
	Unnamed Road	335
	North Gate Terrace (extended).	338
	Bel Pre Road	355
	Private Road (closest to Bel Pre Road, approximately 1,200' upstream of Belo Pre).	364
Tributary No. 181.	Confluence with Northwest Branch.	275
	Kemp Mill Road	276
	Dam	302
	Footpath	322

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary No. 183.	Confluence with Old Farm Creek.	263
	Tuckerman Lane	271
	Upstream Limit of Detailed Study (3,500' upstream of mouth).	286
Tributary No. 184.	Confluence with Paint Branch.	348
	Bethel Drive (extended).	361
Tributary No. 185.	Confluence with Paint Branch.	289
	Upstream Limit of Detailed Study (7,070' upstream of mouth).	497
Tributary No. 186.	Confluence with Paint Branch.	250
	Laurie Drive	263
	Cannon Road	279
Tributary No. 187.	Confluence with Paint Branch.	206
	Upstream Limit of Detailed Study (2,800' upstream of mouth).	312
Tributary No. 188.	Confluence with Paint Branch.	198
	Upstream Limit of Detailed Study (3,080' upstream of mouth).	285
Tributary No. 189.	Confluence with Paint Branch.	161
	Sweetbriar Parkway	228
Tributary No. 190.	County Boundary	171
	Monroe Loop Road	210
	Dahlgreen Road	214
	Tech Road	239
	Upstream Limit of Detailed Study (7,200' upstream of mouth).	268
Tributary No. 192.	County Boundary	237
	Aqueduct (No. 1)	254
	Confluence of Tributary No. 193.	256
	Aqueduct (No. 2)	264
	Robey Road	268
Tributary No. 193.	Confluence with Tributary No. 192.	256
	Aqueduct	287
	Robey Road	328
	Castle Boulevard (downstream).	347
	Castle Boulevard (upstream).	366
Tributary No. 209.	Confluence with Reddy Branch.	382
	Brookeville Road	382
	Olney Mill Road	401
Tributary No. 212.	Confluence with James Creek.	361
	Upstream Limit of Detailed Study (9,900' upstream of mouth).	509
Tributary No. 213.	Confluence with Tributary No. 212.	389
	Owens Road	412
Tributary No. 214.	Confluence of Tributary No. 216.	417
	Confluence of Tributary No. 215.	423
	Bauske Grove Road	432
	Upstream Limit of Detailed Study (70' downstream of Olney-Laytonsville Road).	502
Tributary No. 215.	Confluence with Tributary No. 214.	423
	Upstream Limit of Detailed Study.	
	(2,300' upstream of mouth).	449
Tributary No. 216.	Confluence with Tributary No. 214.	417
	Upstream Limit of Detailed Study (50' downstream of Tipton Place extended).	494

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2189 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4466]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Millbury, Worcester County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Millbury, Worcester County, Massachusetts. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Millbury, Worcester County, Massachusetts.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the the Town of Mill-

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bury, Worcester County, Massachusetts, are available for review at Municipal Office Building, 127 Elm Street, Millbury, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Millbury, Worcester County, Massachusetts.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Blackstone River...	Cross Street—20 feet*.....	341
	Riverlin Street Bridge—40 feet*.	358
	Route 122A Bridge—40 feet**.	357
	Route 122A Bridge—30 feet*.	361
	South Main Street Bridge—60 feet**.	373
	South Main Street Bridge—80 feet*.	377
	1st crossing Conrail Bridge—80 feet**.	389
	1st crossing Conrail Bridge—80 feet*.	394
	West Main Street Bridge—80 feet*.	397
	Worcester Providence Turnpike-Route 146 Bridge—80 feet*.	410
	U.S. Route 20 Bridge—80 feet*.	414
Singletary Brook...	Sycamore Street Bridge—80 feet*.	396
	Rhodes Street Bridge—80 feet**.	398
	Rhodes Street Bridge—40 feet*.	412
	2nd Dam upstream of confluence with Blackstone River—70 feet**.	417
	2nd Dam upstream of confluence with Blackstone river—10 feet*.	430
	3rd Dam upstream of confluence with Blackstone River—35 feet**.	440
	3rd Dam upstream of confluence with Blackstone River—10 feet**.	453
	4th Dam upstream of confluence with Blackstone River—30 feet**.	464
	4th Dam upstream of confluence with Blackstone River—20 feet*.	474
	Burbank Street Bridge—10 feet*.	477
	At Mayo Pond.....	497
Unnamed Tributary to Mayo Pond.	Laurel Drive—20 feet*	522
	Unnamed Road—100 feet*.	526
Ramsborn Brook...	Dam located 1,025 feet downstream of Carleton Street Bridge—40 feet**.	531
	Dam located 1,025 feet downstream of Carleton Street Bridge—20 feet*.	546
	Dam located 1,025 feet downstream of Carleton Street Bridge—80 feet*.	561
	West Main Road Bridge—100 feet**.	573
	West Main Road Bridge—100 feet*.	580
	Dam located 1,040 feet upstream of West Main Road Bridge—100 feet**.	589
	Dam located 1,040 feet upstream of West Main Road Bridge—100 feet*.	603
	Dolan Road—100 feet**..	614
Dorothy Brook	Grafton Street Bridge—20 feet*.	354

*Upstream of centerline.
**Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 9, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2190 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4441]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Northborough, Worcester County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Northborough, Worcester County, Massachusetts. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Northborough, Massachusetts.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Northborough, Worcester County, Massachusetts, are available for review at the Town Hall, 295 Crawford Street, Northborough, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Northborough, Massachusetts.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Assabet River.....	Allen Street	252
	River Street.....	254
	East Main Street—25 feet*.	259
	East Main Street—50 feet**.	265
Cold Harbor Brook I.	Hudson Street—35 feet**.	257
	Conrail.....	261
	Confluence with Howard Brook.	267
	Mill Street Dam.....	286
	Church Street.....	272
	Lincoln Street	298
Cold Harbor Brook II.	Cherry Strret	319
	West Street.....	319
	Fisher Street.....	326
	Crawford Street.....	352
	Old Mill Dam	367
	Reservoir Street*.....	371
	Reservoir Street**.....	376
	Church Street**.....	379
Howard Brook	Parking Lot Road.....	272
	Candle Factory Road.....	278
	Whitney Street**.....	290
	Howard Street.....	293
	Church Street (First crossing).	294
	Church Street (second crossing).	294
	Woods Road	296
	Brewer Street—50 feet*..	331

*Downstream.
**Upstream.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 9, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2191 Filed 1-25-79; 8:45 am]

from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

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[Docket No. FI-4334]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Pembroke, Plymouth County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Pembroke, Plymouth County, Massachusetts. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Pembroke, Massachusetts.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Pembroke, Plymouth County, Massachusetts, are available for review at Town Hall, Pembroke, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Pembroke, Massachusetts.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Indian Head River	Elm Street Dam—10 feet*.	18
	Dam located 3500 feet upstream of Elm Street Dam—10 feet*.	26
Massachusetts Bay (North River).	State Route 3	11
	State Routes 53 & 139	11
	West Elm Street	11
Massachusetts Bay (Robinson Creek).	Water Street.....	11
Herring Brook	Barker Street—50 feet*..	24
	High Street—50 feet*.....	26
	Dam located approximately 2800 feet upstream of Mountain Avenue—40 feet downstream of centerline.	40
	Dam located approximately 2800 feet upstream of Mountain Avenue—10 feet *.	50
	Mill Street—40 feet*	56
	Dam located approximately 900 feet upstream of Center Street—10 feet*.	59
Furnace Pond	Areas adjacent to shore .	60
Oldham Pond	Areas adjacent to shore .	60

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 9, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2192 Filed 1-25-79; 8:45 am]

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[4210-01-M]

[Docket No. FI-4443]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Westhampton, Hampshire County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Westhampton, Hampshire County, Massachusetts. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of West hampton, Massachusetts.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Westhampton, Hampshire County, Massachusetts, are available for review at Town Office, Easthampton, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Westhampton, Massachusetts.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Branch Manhan River.	Easthampton Road Bridge (First Crossing).	402
	Easthampton Road Bridge—75 feet upsteam from centerline (Second Crossing).	425
	Driveway Bridge	446
	Easthampton Road Bridge (Third Crossing).	473
	North Road Bridge	507

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2193 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4445]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Bridgman, Berrien County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Bridgman, Berrien County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Bridgman, Michigan.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Bridgman, Berrien County, Michigan, are available for review at City Hall, 4355 Lake Street, Bridgman, Michigan.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Bridgman, Michigan.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tanner Creek-William and Esseg Drain.	Confluence with Lake Michigan.	584
	Lake Street*	593
	Hillside Drive*	600
	Confluence with Bedortha Drain.	610
	Red Arrow Highway*	624
	Upstream Corporate limit.	629
Bridgman Drain (Unnamed Tributary).	Baldwin Road*	626
	Chessie System*	635
	Upstream Corporate limits.	640
Bedortha Drain	Lake Street—25 feet downstream from centerline.	614
	Red Arrow Highway*	623
	Confluence with Bridgman Drain.	623

*At centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2194 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4524]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Chanhassen, Carver County, Minnesota

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Chanhassen, Carver County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the the City of Chanhassen, Carver County, Minnesota.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the the City of Chanhassen, Carver County, Minnesota, are available for review at Chanhassen City Hall, 7610 Laredo Drive, Chanhassen, Minnesota.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Chanhassen, Carver County, Minnesota.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rice Marsh Lake	Just downstream of State Highway 101.	881
Lake Susan	Just upstream of State Highway 101.	884
Riley Creek	Approximately 100 feet downstream of Chicago Milwaukee St. Paul Pacific Railroad.	895
	Approximately 150 feet upstream of Chicago Milwaukee St. Paul Pacific Railroad.	899
	Just downstream of State Highway 5 (Arboretum Boulevard).	931
Lake Minnewashta	Entire Shoreline	945
Lake Ann	Entire Shoreline	957
Lake Lucy	Entire Shoreline	957
Lotus Lake	Entire Shoreline	898

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557; 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2195 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4529]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Canton, Madison County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Canton, Madison County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the the City of Canton, Madison County, Mississippi.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Canton, Madison County, Mississippi are available for review at the City Clerk's Office, City Hall, P.O. Box 153, Canton, Mississippi.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Canton, Madison County, Mississippi.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received

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from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bear Creek	Intersection of West Fulton St. and 1st Ave.	218
	Intersection of Dinkins St. and Union St.	224
Bachelor Creek	Approximately 250 feet upstream of Owens Rd.	218
	Just downstream of North Union St.	223
	Just downstream of Dobson Ave.	225
	Approximately 100 feet upstream of Miller St.	229
Stream A	Just downstream of Frey St.	223

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR. 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2196 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4530]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Kosciusko, Attala County, Mississippi

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Kosciusko, Attala County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Kosciusko, Attala County, Mississippi.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Kosciusko, Attala County, Mississippi, are available for review at City Hall, 105 West Jefferson Street, Kosciusko, Mississippi 39090.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Kosciusko, Attala County, Mississippi.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Canal Creek	Southeastern corporate limits.	396
	Just downstream of Jefferson St.	405
	Just downstream of State Highway 35.	412
Dye Ditch	Just upstream of State Highway 43.	402
	Just upstream of Jefferson St.	420
	Just upstream of Rockport Rd. (State Highway 19).	427
East Fork Creek	Just downstream of Jefferson St.	404
	Just downstream of State Highway 12.	409
	Just upstream of Fairgrounds Rd.	423
East Fork Creek Tributary 1.	Northern Corporate Limits.	424

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080) this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2197 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3655]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for Lowndes County, Mississippi

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Lowndes County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for Lowndes County, Mississippi.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Lowndes County, are available for review at Lowndes County Courthouse, Columbus, Mississippi.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Lowndes County, Mississippi.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Catalpa Creek	New Highway 82	192
	Old Highway 82*	193
	Old Highway 82**	195
	Illinois Central Gulf Railroad.	195
Ellis Creek	Nashville Ferry Road	166
	St. Louis-San Francisco Railroad.	178
	State Highway #69	200
Ellis Creek Tributary 1.	Hildreth Road	211
	Nashville Ferry Road	168
Green Creek	St. Louis-San Francisco Railroad.	185
	Hughes Road	196
	State Highway #69	216
	New Hope Road*	251
	New Hope Road**	255
Luxapallia Creek	Yorkville Road	170
	State Road 82	171
	Water Works Road	175
	Steens Road	200
Luxapallia Creek Tributary 1.	Southern Railway	180
	State Road 12	188
	St. Louis-San Francisco Railroad.	193
Luxapallia Creek Tributary 2.	State Highway #50*	220
	State Highway #50**	225
Magby Creek	State Highway #69	172
	Lehmberg Road	189
	County Road*	203
	County Road**	206
	Lee Stokes Road*	221
	Lee Stokes Road**	238
McCrary Creek	Sewage Treatment Plant Access Road.	171
	State Highway #69	172
	Lehmburg Road	190
	Armstrong Road	206
	Illinois Central Gulf Railroad.	220
	New Hope	222
	Illinois Central Gulf Railroad.	229
	County Road	251
Moore Creek	Columbus and Greenville Railroad.	181
	Bluecat Road	188
Oak Slush Creek	West Point Road*	176
	West Point Road**	194
	Younger Road	207
Oak Slush Creek Tributary 1.	West Point Road	184
Tombigee River	Illinois Central Gulf Railroad.	164
	State Highway #12	172
	State Highway #82	174
	Columbus and Greenville Railroad.	176
	State Highway #50	181
Tombigee River Tributary 1.	Nashville Ferry Road*	168
	Nashville Ferry Road**	173
	Frisco Road	178
	St. Louis-San Francisco Railroad.	179
Tombigee River Tributary 2.	Nash Road	178
	Columbus and Greenville Railroad.	180
	Holly Hills Road	188
	New Bell Road	194
	Private Road	194
Vernon Branch	Illinois Central Gulf Railroad.	177
	State Highway #82	185
	Old Airline Road*	203
	Old Airline Road**	206
	New Hope Road	219
	State Highway #82	244
	Mt. Vernon Church Road.	258
	Lee Stokes Road	294
Yellow Creek	Southern Railway	194
	Caldeonia-Steens Road	196

*Downstream side
**Upstream side

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2198 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4500]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Amherst, Hillsborough County, New Hampshire

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Amherst, Hillsborough County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Amherst, New Hampshire.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Amherst, are available for review at the Town Hall, Amherst, New Hampshire.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Amherst, New Hampshire.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

JA 26 79 UMI

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Souhegan River	Boston Post Bridge	216
	State Highway 122	220
	State Highway 101	221
Beaver Brook	Merrimack Road Bridge.	218
	State Highway 101—100 feet*.	226
	Boston Post Road	229
	Horace Greeley Highway (State Highway 101).	240
	Mack Hill Road Bridge—50 feet*.	247
	New Boston Road (downstream crossing).	300
	New Boston Road (upstream crossing).	330
Joe English Brook	Railroad Abutment Construction.	237
	State Highway 101 Bridge—100 feet*.	240
	Brook Road Bridge	324
Babcock Brook	Camp Road Bridge	235
	Railroad Abutment Construction.	237
Pulpit Brook	Unnamed Road Culvert	245
	Unnamed Road Bridge (Most Upstream Crossing).	276
Witches Brook	Most Downstream Corporate Limits.	193
	Most Upstream Corporate Limits.	199
Caesar's Brook	Small Footbridge over Dam—5 feet*.	267
	Mount Vernon Road Bridge—26 feet*.	293
Bolts Brook	Unnamed Road Culvert	222
	Merrimack Road Culvert.	222
Sherburn Mill	Thorntons Ferry Road Bridge.	211
	Upham Road Culvert	230
	Babcock Spring Road Culvert—50 feet*.	244
	Linch Farm Road Culvert.	245
Betty's Brook	Pine Road Bridge—50 feet**.	246
	State Highway 101 Culvert (Upstream Crossing)—25 feet*.	267
Parkhurst Brook	School House Road	256
Peacock Brook	Confluence with Witches Brook.	198
	State Highway 122 Bridge.	221

*Upstream from centerline.
**Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 9, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2199 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4420]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the town of Jackson, Carroll County, New Hampshire

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Jackson, Carroll County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Jackson, Carroll County, New Hampshire.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the town of Jackson, Carroll County, New Hampshire, are available for review at the Town Hall, Jackson, New Hampshire.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Jackson, Carroll County, New Hampshire.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
East Branch Saco River	0.6 Mile above Corporate Limits.	877
	Downstream Corporate Limits.	816
Ellis River	White Mountain National Forest.	1,100
	Boundary (0.74 Miles above Corporate Limits).	
	5 Miles above Corporate Limits.	1,037
	Confluence of Miles Brook.	969
	Confluence of Spruce Brook.	816
	Jackson Village Loop Bridge (Upstream).	768
	Route 16A Covered Bridge (Upstream).	752
Marsh Brook	Carternotch Road (Upstream).	1,170
	Confluence of Wildcat Brook.	1,095
Wildcat Brook	Mellon Road Bridge (Upstream).	1,182
	Five Mile Circuit Road Bridge (Upstream).	1,008
	Confluence of Great Brook.	933
	Valley Cross Road Bridge (Upstream).	924
	Jackson Village Loop Bridge (Upstream).	762
	Confluence with Ellis River.	757

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2200 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4049]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Borough of Allendale, Bergen County, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Allendale, Bergen County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Allendale, New Jersey.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Allendale, Bergen County, New Jersey, are available for review at Borough Hall, 290 Franklin Turnpike, Allendale, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Allendale, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hohokus Brook	Brookside Avenue	290
	West Crescent Avenue	273
	Park Avenue	265
Valentine Brook	Forest Road	300
Ramsey Brook	Erie Lackawanna Railroad.	326
	West Crescent Avenue	288
	Brookside Avenue	279
Allendale Brook	West Allendale Avenue	269
	West Orchard Street	267

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2201 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4318]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Borough of Keyport, Monmouth County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Keyport, Monmouth County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Borough of Keyport, Monmouth County, New Jersey.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Keyport, Monmouth County, New Jersey, are available for review at the Keyport Borough Hall, 18-20 Main Street, Keyport, New Jersey.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Borough of Keyport, Monmouth County, New Jersey.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Raritan Bay	Entire shoreline	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

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Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2202 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4103]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determinations for the Town of Eastchester, Westchester County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in for the Town of Eastchester, Westchester County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Town of Eastchester, New York.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Eastchester, Westchester County, New York, are available for review at the Department of Planning and Community Development, 40 Mill Road, Eastchester, New York.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Eastchester, New York.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bronx River	Bronx River Parkway approximately 1,890 feet upstream of Harney Road*.	123
	Harney Road*	120
	Bronx River Parkway approximately 240 feet downstream of Harney Road**.	117
	Bronx River Parkway approximately 4,040 feet downstream of Harney Road*.	113
	Bronx River Parkway approximately 4,720 feet downstream of Harney Road**.	
Hutchinson River	Hutchinson Boulevard*	212
	Wilmot Road**	192
	Dam holding Reservoir "No. 1".	186
	Exit Ramp—upstream of Hutchinson River Parkway*.	150
	Entrance/Exit ramp downstream of Hutchinson River Parkway**.	137
	Dam holding Reservoir No. 3*.	124
	Hutchinson River Parkway Ramp*.	103
	Dam holding Reservoir No. 2*.	103
	Driveway Bridge**	69
	New Rochelle Road*	66

*Upstream.
**Downstream.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)Q04

In accordance with Section 7(oX4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2203 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4516]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Village of Fairfax, Hamilton County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Fairfax, Hamilton County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Village of Fairfax, Hamilton County, Ohio.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Fairfax are available for review at the Village Clerk's Office, Fairfax, Ohio.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Fairfax, Hamilton County, Ohio.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Duck Creek	Downstream corporate limit.	502
	Just upstream of Red Bank Road.	511
	Upstream corporate limit.	516
Little Duck Creek	Confluence with Duck Creek.	503
	Just upstream of Conrail bridge.	509
	Just upstream of Red Bank Road.	515
	Just upstream of Columbia Parkway extension.	535
	Just upstream of Watterson Avenue.	540
	Upstream corporate limit.	544

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(oX4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2204 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4517]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Madeira, Hamilton County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Madeira, Hamilton County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Madeira, Hamilton County, Ohio.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Madeira are available for review at the City Hall, Madeira, Ohio.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for City of Madeira, Hamilton County, Ohio.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sycamore Creek	At northeast corporate limits.	701
	265 feet upstream of northeast corporate limits.	706
	660 feet upstream of northeast corporate limits.	713
	900 feet downstream of Cheese System.	723
	600 feet downstream of Cheese System.	726
	Downstream side of Cheese System at corporate limits.	730
	Upstream side of Cheese System.	732
	Upstream side of first Camargo Road crossing near corporate limit.	744
	Upstream side of second Camargo Road crossing.	752
	550 feet upstream of second Camargo Road crossing.	760

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(oX4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 3, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2205 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3119]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Township of Lower Providence, Montgomery County, Pennsylvania

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Lower Providence, Montgomery County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the Township of Lower Providence, Montgomery County, Pennsylvania.

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ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Lower Providence, Montgomery County, Pennsylvania, are available for review at the Township Office, 2836 West Ridge Pike, Norristown, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Township of Lower Providence, Montgomery County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, mean sea level
Schuylkill River	Downstream Corporate Limits.	84
	Pawling Road	96
Perkiomen Creek	Conrail Railroad Bridge.	97
	Egypt Road	100
	Arcola Road	107
	Yerkes Road	114
	U.S. Route 422	120
Skippack Creek	Arcola Road	104

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January, 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2206 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3346]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Benbrook, Tarrant County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Benbrook, Tarrant County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Benbrook, Tarrant County, Tex.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the the City of Benbrook, Tarrant County, Tex., are available for review at the City Hall, 911 Winscott Road, Benbrook, Texas.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Benbrook, Tarrant County, Tex.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clear Fork of Trinity River.	Loop 280 (upstream)	602
	Limit of Government Parkland.	622
Stream 266	Downstream Corporate Limits.	600
	Bryant-Irvin Road (upstream).	612
Marys Creek	Texas and Pacific Railroad.	624
	U.S. Highway 377 (upstream).	639
	Loop 820 (proposed)	672
Walnut Creek	U.S. Highway 377	662
	Aledo Road	685
	Old Railroad Bed	693
	F.M. Road 2871 (downstream).	768
Boaz Creek	Confluence with Walnut Creek.	663
	Corporate Limits	675
Willow Bend Creek.	Confluence with Marys Creek.	640
	Herndon Road	678
	Williams Road	707
Plantation East Creek.	Springbranch Drive (upstream).	655
	Chapin Road (downstream).	690
Plantation West Creek.	Confluence with Marys Creek (upstream).	656
	Chapin Road (downstream).	696
Timber Creek	Confluence with Clear Fork of Trinity River (upstream).	616
	Timber Creek Road (upstream).	665
	Warden Street (downstream).	683
Dutch Branch	U.S. Highway 377 (upstream).	724
	Upstream Corporate Limits.	757

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2207 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-2661]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Gonzales, Gonzales County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Gonzales, Gonzales County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Gonzales, Gonzales County, Tex.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Gonzales, Gonzales County, Tex., are available for review at the Municipal Building, 820 Saint Joseph Street, Gonzales, Texas.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Gonzales, Gonzales County, Tex.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Guadalupe San Marcos River.	Downstream Corporate Limits.	282
	U.S. Highway 183	282
	Upstream Corporate Limits.	283
	Municipal Dam	284
Tinsley Creek	Downstream Corporate Limits.	280
	Saint Lawrence Street	280
	Fischer Street	281
	Saint Andrew Street	283
	Southern Pacific Railroad (Downstream).	283
	Southern Pacific Railroad (Upstream).	288
	Dallas Street (Extended).	290
	Upstream Corporate Limits.	294
Kerr Creek	Downstream Corporate Limits.	276
	Upstream Corporate Limits.	279

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2208 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4579]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for City of Mason, Mason County, Texas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Mason, Mason County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Mason, Mason County, Texas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Mason, Mason County, Texas, are available for review at City Hall, 124 Moody Street, Mason, Tex.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Mason, Mason County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Comanche Creek	Just downstream of Bickenbach Avenue.	1516
	Just downstream of Spring Street.	1533
	Mulberry Street (extended).	1547
Gamels Branch	Just upstream of Live Oak Street.	1532
	Just downstream of Pecan Street.	1544

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just downstream of Rainey Street.	1580
Koocks Branch	Just downstream of Robin Avenue.	1543
	Just downstream of Avenue F.	1560
Comanche Creek Tributary No. 1.	Northern Corporate Limits.	1530
Comanche Creek	Just downstream of Mulberry Street.	1553
Tributary No. 2	At Northern Corporate Limits.	1566

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2209 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4436]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Valley Mills, Bosque County, Texas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Valley Mills, Bosque County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Valley Mills, Bosque County, Texas.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Valley Mills, Bosque County, Texas, are available for review at the City Secretary's Office, City Hall, Valley Mills, Texas.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Valley Mills, Bosque County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet; national geodetic vertical datum
Tributary 0	Just upstream Hwy 56	563
	Just downstream State Hwy 6.	558
Tributary 1	Avenue A extended	580
	Approximately 70 feet upstream State Hwy 6.	588

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: December 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2210 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-4115]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the Town of Hartford, Windsor County, Vermont

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the town of Hartford, Windsor County, Vermont. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the town of Hartford, Windsor County, Vermont.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the the town of Hartford, Windsor County, Vermont, are available for review at the Hartford Municipal Building, White River Junction, Vermont.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the town of Hartford, Windsor County, Vermont.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River	Just upstream of Interstate 89 Bridge.	351
	Just downstream of U.S. Route 4 Bridge.	354
White River	Just upstream of Hartford Bridge.	360
	Just upstream of Interstate 89 Bridge.	398
	Approximately 150 feet upstream of West Hartford Bridge.	403
Ottauquechee River.	Approximately 700 feet upstream of Taftsville Station Dam.	654

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2211 Filed 1-25-79; 8:45 am]

[4210-01-M]

[Docket No. FI-3903]

PART 1917—APPEALS FROM PROPOSED FLOOD ELEVATION DETERMINATIONS

Final Flood Elevation Determination for the City of Fredericksburg, Virginia

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Fredericksburg, Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

EFFECTIVE DATE: The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Fredericksburg, Virginia.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Fredericksburg, Virginia, are available for review at the City Planner's Office, Fredericksburg, Virginia.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Fredericksburg, Virginia.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rappahannock River.	Confluence with Hazel Run.	38
	Kings Highway	40
	U.S. Route 1	41
	Upstream Corporate Limits.	45

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 5, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2212 Filed 1-25-79; 8:45 am]

[4830-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7593]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Simplification of Reporting Requirements Under the Class Life Asset Depreciation Range System

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains amendments to the Income Tax Regulations (26 CFR Part 1) relating to reporting requirments under the Class Life Asset Depreciation Range System. The purpose of these amendments is to ease the public's reporting burden by using a less burdensome means to collect certain information. The amendments affect those persons who elect to use the Class Life Asset Depreciation Range System (CLADR System) for certain taxable years.

EFFECTIVE DATE: These amendments are effective for taxable years ending on or after December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Benedetta A. Kissel of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (202-566-4454, not a toll-free number).

SUPPLEMENTARY INFORMATION:

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BACKGROUND

This document contains amendments to the Income Tax Regulations (26 CFR Part 1) that ease the reporting burden of those taxpayers electing to use the CLADR System. The amendments are issued under the authority contained in sections 167(m) (85 Stat. 508, 26 U.S.C. 167(m)) and 7805 (68A Stat. 917, 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

The existing regulations require taxpayers electing under the CLADR System to file an annual return containing detailed information relating to eligible property. These amendments reduce the amount of information required to be contained in the return. Certain information, reported by means of the annual return prior to these amendments, remains necessary to the administration of the system. To assure collection of this information, the amendments require that a small number of taxpayers, chosen on the basis of scientifically sound sampling methods, respond to infrequent Treasury surveys. These surveys will provide the Treasury with sufficient information to keep current the figures needed for establishing asset guideline classes and periods under the CLADR System.

Since these amendments will not operate to the detriment of any taxpayer, they need not be published with notice of proposed rulemaking.

DRAFTING INFORMATION

The principal author of these amendments is Benedetta A. Kissel of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the amendments, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 1 is amended as follows:

PARAGRAPH 1. Section 1.167(a)-11 is amended as follows:

1. Paragraph (a)(1) is amended by deleting "specified in the election" the first place it appears in the seventh sentence and inserting in lieu thereof "selected", and by deleting "reporting" from the last sentence.

2. Paragraph (b)(4)(i) is amended by deleting "An election shall" from the first sentence and inserting in lieu therof "The taxpayer's books and records must".

3. Paragraph (b)(4)(iii)(c) is amended by deleting the last sentence.

4. Paragraph (d)(1)(iii) is amended by deleting the third sentence.

5. The fifth sentence of paragraph (d)(2)(iv) is revised to read as follows: "The treatment of expenditures under this subdivision for a taxable year for all asset guideline classes shall be specified in the books and records of the taxpayer for the taxable year."

6. Paragraph (f)(1)(i) is amended by deleting the sixth sentence and inserting in lieu thereof "The election may be made with an amended return filed within the time prescribed by law (including extensions) for filing the original return for the taxable year of election.".

7. Paragraph (f)(1)(iii) is revised to read as set forth below.

8. Paragraph (f)(2) is revised to read as set forth below.

9. Paragraph (f)(4) is revised to read as set forth below.

10. Paragraph (f)(5) is amended by deleting "(d)(3)(v)(c)" and inserting in lieu thereof "(d)(3)(v)(*d*)".

11. A new paragraph (f)(6) is added to read as set forth below.

§ 1.167(a)-11 Depreciation based on class lives and asset depreciation ranges for property placed in service after December 31, 1970.

* * * * *

(f) *Election with respect to eligible property*—(1) *Time and manner of election.* * * *

(iii) *Effective date.* See paragraph (f)(6) of this section for the effective date of this paragraph.

(2) *Information required.* A taxpayer who elects to apply this section must specify in the election:

(i) That the taxpayer makes such election and consents to and agrees to apply, all the provisions of this section;

(ii) The asset guideline class for each vintage account of the taxable year;

(iii) The first-year convention adopted by the taxpayer for the taxable year of election;

(iv) Whether the special 10 percent used property rule described in paragraph (b)(5)(iii) of this section has been applied to exclude used property from the election;

(v) Whether the taxpayer elects to apply the asset guideline class repair allowance described in paragraph (d)(2)(iii) of this section;

(vi) Whether the taxpayer elects for the taxable year to allocate the adjusted basis of a special basis vintage account in accordance with paragraph (d)(3)(vi) of this section;

(vii) Whether any eligible property for which the taxpayer was not required or permitted to make an election was excluded because of the special rules of paragraph (b)(5)(v) or (6), or paragraph (e)(3)(i) or (iv) of this section;

(viii) Whether any "section 38 property" was excluded under paragraph (b)(5)(iv) of this section from the election to apply this section;

(ix) If the taxpayer is an electric or gas utility, whether the taxpayer elects to apply this section on the basis of a composite asset guideline class in accordance with paragraph (b)(4)(iii)(*a*) of this section; and

(x) Such other information as may reasonably be required.

The information required under this subparagraph may be provided in accordance with rules prescribed by the Commissioner for reasonable grouping of assets or accounts. Form 4832 is provided for making an election and for submission of the information required. An election may be made and the information submitted only in accordance with Form 4832. An election to apply this section will not be rendered invalid under this subparagraph so long as there is substantial compliance, in good faith, with the requirements of this subparagraph.

* * * * *

(4) *Special conditions to election to apply this section*—(i) *Maintenance of books and records.* The taxpayer may not elect to apply this section for a taxable year unless the taxpayer maintains the books and records required under this section. In addition to any other information required under this section, the taxpayer's books and records must specify—

(*a*) The asset depreciation period selected by the taxpayer for each vintage account;

(*b*) If the taxpayer applies the modified half-year convention, the total cost or other basis of all eligible property first placed in service in the first half of the taxable year and the total cost or other basis of all eligible property first placed in service in the last half of the taxable year;

(*c*) The unadjusted basis and salvage value for each vintage account, and the amount, if any, by which gross salvage value was decreased under section 167 (f);

(*d*) Each asset guideline class for which the taxpayer elects to apply the asset guideline class repair allowance described in paragraph (d)(2)(iii) of this section;

(*e*) The amount of property improvement, determined under paragraph (d)(2)(vii)(*a*) of this section, for each asset guideline class for which the taxpayer elects to apply the asset guideline class repair allowance;

(*f*) A reasonable description of property excluded from an election to apply this section and the basis for the exclusion;

(*g*) The total unadjusted basis of all assets retired during the taxable year from each asset guideline class, and the proceeds realized during the taxable year from such retirements; and

(*h*) The vintage (that is, the taxable year in which established) of the assets retired during the year from each asset guideline class.

For purposes of paragraph (f) (4) (i) (*g*) and (*h*) of this section, all accounts of the same vintage and asset guideline class may be treated as a single account. The taxpayer must specify the information required under paragraph (f) (4) (i) (*g*) and (*h*) without regard to the retirement of an asset by transfer to a supplies account for reuse.

(ii) *Response to survey.* Taxpayers who elect to apply this section must respond to infrequent data surveys conducted by the Treasury Department. These periodic surveys, which will be conducted on the basis of scientifically sound sampling methods, are designed to obtain data (including industry asset acquisitions and retirements) used to keep the asset guideline classes and periods up to date.

(iii) *Effective of noncompliance.* An election to apply this section will not be rendered invalid under this subparagraph so long as there is substantial compliance, in good faith, with the requirements of this subparagraph.

* * * * *

(6) *Effective date.* The rules in this paragraph apply to elections for taxable years ending on or after December 31, 1978. In the case of an election for a taxable year ending before December 31, 1978, the rules in paragraph (f) of this section, in effect before the amendments made by T.D. 7593 approved January 11, 1979, shall apply. See 26 CFR § 1.67 (a)-11(f) (1977) for paragraph (f) of this section as it appeared before the amendments made by T.D. 7593.

§ 1.263(f)-1 [Amended]

Par. 2. Paragraph (a) of § 1.263 (f)-1 is amended be deleting "(f) (4) (c)" and inserting in lieu thereof "(f)".

* * * * *

The provisions of this Treasury decision will not operate to the detriment of any taxpayer. For this reason, the Treasury decision need not be issued with notice and public procedure under subsection (b) of section 553, Title 5 of the United States Code, or subject to the effective date limitation of subsection (d) of that section.

* * * * *

This Treasury decision is issued under the authority contained in sections 167(m) (85 Stat. 508, 26 U.S.C. 167(m)) and 7805 (68A Stat. 917, 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: January 11, 1979.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

(FR Doc. 79-2702 Filed 1-25-79; 8:45 am)

[4830-01-M]

SUBCHAPTER B—MISCELLANEOUS PROVISIONS

[T.D. 7592]

PART 420—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Disclosure of Certain Return Information to Officers and Employees of the Department of Labor for Purposes of Administering Titles I and IV of the Employee Retirement Income Security Act of 1974

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains amendments to the temporary regulations relating to disclosure by the Internal Revenue Service of certain described return information to officers and employees of the Department of Labor for purposes of administering the Employee Retirement Income Security Act of 1974. These amendments add to the authority contained in the existing regulations.

DATE: These regulations authorize the automatic disclosure of certain return information after the date of publication of this Treasury decision.

FOR FURTHER INFORMATION CONTACT:

David E. Dickinson of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3218, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains amendments to the Temporary Regulations on Procedure and Administration relating to the disclosure of returns and return information to the Department of Labor under section 6103(l)(2) of the Internal Revenue Code of 1954 as added by section 1202 of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1678).

AUTOMATIC DISCLOSURE OF CERTAIN RETURN INFORMATION TO DEPARTMENT OF LABOR FOR PURPOSES OF ADMINISTERING TITLES I AND IV OF EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

The Internal Revenue Service and the Department of Labor recently entered into an agreement entitled Procedures for Coordination Between the Internal Revenue Service and the Department of Labor of Employee Plan Examination and Litigation Activities. The purpose of this agreement, which is authorized by section 3004 of the Employee Retirement Income Security Act of 1974, is to further reduce duplication of effort under the Act and to improve the coordination of compliance programs under the Act. Proper implementation of the agreement necessitates automatic Internal Revenue Service disclosure to the Department of Labor of two categories of return information in addition to those categories presently described in § 420.6103 (l)(2)-3(a) of the temporary regulations.

Accordingly, § 420.6103 (l)(2)-3(a) is amended to permit the automatic notification that the Service intends to examine, or has completed an examination, either of an employee plan or to determine liability for tax under section 4971 or 4975. In addition, the Service is to automatically transmit copies of initial pleadings indicating that the Service intends to intervene in a civil action as authorized by section 502(h) of the Act.

DRAFTING INFORMATION

The principal author of this regulation was David E. Dickinson of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

WAIVER OF CERTAIN PROCEDURAL REQUIREMENTS OF PROPOSED TREASURY DIRECTIVE

A determination has been made by one of the undersigned, Jerome Kurtz, Commissioner of Internal Revenue, that there is an immediate need for amendment of the temporary regulations under section 6103(l)(2) of the Internal Revenue Code to allow additional automatic disclosures of certain return information to the Department of Labor for purposes of administering titles I and IV of the Employee Retirement Income Security Act of 1974. Because of the immediate need for such

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information, compliance with the procedural requirements of paragraphs (8) through (13) of the proposed Treasury directive, relating to improving regulations (43 FR 22319) would be impracticable, and, therefore, these requirements have not been followed.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

In order to amend the Temporary Regulations on Procedure and Administration (26 CFR Part 420) to allow for certain additional automatic disclosures to the Department of Labor, such regulations are amended to read as follows:

Section 420.6103(l)(2)-3(a) of the Temporary Regulations is amended—

1. By deleting "and" at the end of subparagraph (20) thereof,

2. By deleting the period at the end of subparagraph (21) and inserting in lieu thereof a semicolon, and

3. By adding thereto the following new subparagraphs (22) and (23):

§ 420.6103 (l)(2)-3 Disclosure to Department of Labor and Pension Benefit Guaranty Corporation of certain returns and return information.

(a) *Disclosures following general requests.* • • •

(22) Notification that the Service intends to undertake, or has completed, an examination to determine whether—

(i) A particular pension, profitsharing, or stock bonus plan, a trust which is a part of such plan, or an annuity or stock purchase plan meets the applicable requirements of part I of subchapter D of chapter 1 of the Code,

(ii) Any particular person is, or may be, liable for any tax imposed by section 4971 or 4975, or

(iii) A particular employee welfare benefit plan, as defined in section 3(1) of the Act, meets the applicable requirements of section 501(c) or 120 of the Code,

together with any completed Department of Labor form (and supplemental schedules) relating to such examination; and

(23) Copies of initial pleadings indicating that the Service intends to intervene in a civil action under section 502(h) of the Act.

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There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitations of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 6103(q) of the Internal Revenue Code of 1954 (90 Stat. 1685; 26 U.S.C. 6103(q)) and section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: January 17, 1979.

EMIL M. SUNLEY,
Acting Assistant Secretary of the Treasury.

[FR Doc. 79-2704 Filed 1-25-79; 8:45 am]

[7710-12-M]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICES

Third-Class Carrier Route Presort

AGENCY: Postal Service.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: As announced in the FEDERAL REGISTER on January 18, 1979 (44 FR 3797), the Postal Service will implement a new third-class carrier route presort classification on January 28, 1979 on a temporary basis. Implementing regulations for this new subclass have been developed and are set forth below. Although they are to take effect on January 28, 1979, comments on these regulations are solicited, and will be considered in drafting regulations for a permanent classification change if the Postal Service proposal is approved.

EFFECTIVE DATE: January 28, 1979, and until final regulations are issued. Comment Date: Written Comments should be received on or before April 1, 1979.

ADDRESS: Written comments should be directed to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Room 1610, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9:00 AM and 4:00 PM, Monday through Friday, in the Office of Mail Classification, Room 1610, at the above address.

FOR FURTHER INFORMATION CONTACT:

Ernest Collins, (202) 245-4749.

SUPPLEMENTARY INFORMATION: Classification schedule provisions on bulk third-class mail in effect prior to this temporary classification change do not provide a postage rate reduction for pieces of bulk mailings which are presorted to carrier routes or presorted to a finer extent. This temporary classification change recognizes that when pieces of large bulk mailings are properly presorted to carrier routes, the Postal Service's costs for delivering the mail are less due to reductions in the required number of handlings by the Postal Service. To implement this temporary classification change, acceptance and verification procedures considered necessary by the Postal Service must be included. These regulations must be in effect if the Third-Class Carrier Route Presort subclass is to be implemented on January 28, 1979.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service ordinarily invites comments from the public whenever it proposes a new or amended regulation such as this, which might have a substantial effect on the public. In this case, however, publishing these rules as proposals, with a comment period of 30 days, would delay implementation of this new subclass to the disadvantage of mailers who might otherwise utilize this subclass.

Accordingly, the Postal Service finds it unnecessary and contrary to the public interest to follow its customary practice of publishing these rules as proposed rules for comment before they become effective. See 5 U.S.C. 553(d). However, we reiterate that comments are welcomed on the published rules, and that any proposed changes will be considered and acted upon as appropriate.

In view of the considerations discussed above, the Postal Service hereby adopts the following revisions of the Postal Service Manual:

PART 134—THIRD CLASS

In 134, revise .12 and add new .24 and .436f reading as follows:

134.1 Rates

.12 Bulk Rates

Note. The annual bulk mailing fee is $40. (See 134.222 and 134.42.)

	Special rate for authorized organizations only (see 134.5)	Regular rates	Carrier Presort Rates
.121 Books and catalogs having 24 or more bound pages with at least 22 printed, seeds, cuttings, bulbs, roots, scions, and plants (see 134.31 for weight limit).	14¢ per pound or fraction.	36¢ per pound or fraction.	36 cents per pound or fraction minus 1.5 cents per piece.
Minimum rate per piece:	2.7¢ [Applies when a piece weighs not more than 3.0857 oz. or .19286 pounds or 87.479 grams]	8.4¢ [Applies when a piece weighs not more than 3.7333 oz. or .23333 pounds or 105.838 grams]	8.4 cents minus 1.5 cents [applies when a piece weighs not more than 3.7333 oz. or .23333 pounds or 105.838 grams]
.122 All matter, except the items in 134.121, not included in the first- or second-class (see 134.31 for weight limit).	17¢ per pound or fraction.	41¢ per pound or fraction.	41 cents per pound or fraction minus 1.5 cents per piece
Minimum rate per piece:	2.7¢ [Applies when a piece weighs not more than 2.5412 oz. or .15882 pounds or 72.041 grams]	8.4¢ [Applies when a piece weighs not more than 3.2780 oz. or .20488 pounds or 92.931 grams]	8.4 cents minus 1.5 cents [applies when a piece weighs not more than 3.2780 oz. or .20488 pounds or 92.931 grams]

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.24 Carrier Route Presort

a. *Eligibility Requirements.* (1) Pieces must be eligible for mailing as regular bulk third-class mail.

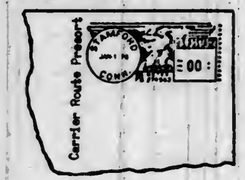
(2) Pieces must be of identical weight and size and must not exceed 10" height X 12" length X ¾" thickness. Merchandise samples with detached labels are eligible and may exceed the 10" height X 12" length X ¾" thickness dimensions as long as the detached labels meet the requirements of section 134.44a.

(3) Each mailing must contain a minimum of 2,000 separately addressed pieces properly presorted to carrier routes, rural routes, lockboxes, or general delivery. Mail addressed to post office boxes may qualify for the presort rate provided it is sorted in accordance with the scheme furnished by the Postal Service so as to eliminate incoming secondary sorts by the Postal Service.

(4) To qualify for the carrier presort rate, a piece must be in a group of ten or more properly sorted to the same carrier route. Groups of less than ten pieces to the same carrier route do not qualify for the carrier presort rate and are considered residual. The number of residual pieces to any single 5-digit ZIP Code area may not exceed 5% of the total presorted carrier route pieces addressed to that 5-digit area. Residual pieces are subject to the Regular Third-Class Bulk rates.

(5) The endorsement "Carrier Route Presort" must be printed or rubber stamped by the mailer either in or immediately adjacent to the permit imprint or postage. It may be incorporated in the permit imprint, meter ad plate, or meter "slug" as shown below. The endorsement "CAR-RT" may be printed as part of the permit imprint indicia instead of "Carrier Route Presort."

Meter Stamp



Permit Imprint

Carrier Route Presort
U.S. Postage Paid
Chicago, IL 60607
Permit No. _____

Permit Imprint

CAR-RT
U.S. Postage Paid
Chicago, IL 60607
Permit No. _____

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(6) Unsealed pieces may contain inserts or loose pages that may not be expected to become separated during postal handling.

(7) Mailers must present a listing that will reflect the number of qualifying and residual pieces mailed to each five-digit ZIP Code area with each mailing made under the carrier route presort subclass rate. After the first mailing the postmaster may authorize the mailer to retain the records and submit them upon request by the postmaster. These records must be kept for a period of 90 days following the date of mailing (or until any pending action regarding the recalculation of postage, see 8 below, is resolved to the satisfaction of the Postal Service).

(8) Mailers are responsible for the proper makeup of mail to carrier routes according to the latest official Postal Service scheme. Mailings with more then 5% error in the makeup to carrier routes in the five-digit ZIP Code area are subject to recalculation of postage at the regular Third-Class bulk rate for all pieces delivered in the five-digit ZIP Code area.

(9) Pieces bearing a simplified address as provided for in section 122.4, Postal Service Manual, may qualify for the carrier route presort subclass if they meet all requirements for the subclass.

b. How Mailers Obtain City Schemes. Mailers may, under the provisions of Section 122.54, Postal Service Manual, request a copy of the city scheme used by clerks for sorting mail. They may also request the Postal Service to sort address cards, plates or stencils by carrier routes.

This section of the Postal Service Manual is being changed to indicate that such requests are to be forwarded to the Management Sectional Center (MSC) Manager of the destination city. Management Sectional Centers and the areas they serve are listed on pages XLIX and L of the 1979 National ZIP Code and Post Office Directory, Publication 65.

Carrier schemes are currently being maintained in a variety of formats. Carrier schemes, in a standard hard copy format, for all 6300 city delivery post offices will be available to mailers at appropriate MSC's by the middle of March, 1979. Later, the Postal Service expects to have available, for mailer use, a computer tape with carrier schemes for all 480 multi-ZIP Coded post offices and 160 large single ZIP Coded post offices.

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.436 Packages and Sacks

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f. Preparation. (1) Packages—(a) *Carrier Packages.* When there are 10 or more pieces addressed to the same carrier route, or box section they must be prepared by the mailer in packages of 10 or more pieces. Packages of letter size mail should not exceed 4 inches in thickness. The pieces in the packages must be faces in the same direction and securely wrapped or tied together. Rubber bands are the preferred method of securing packages. A facing slip must be attached to the package over the top piece of a package and prepared as follows:

San Francisco, CA 94133	--5-digit ZIP of Address (need not be shown if the pieces bear a ZIP Code)
Carrier Route 18	--Carrier Route or Rural Route Number or Lockbox Section
FR Portland, OR 972	--Post Office of entry and its appropriate ZIP Code

San Francisco, CA 94133	--5-digit ZIP of Address (need not be shown if the pieces bear a ZIP Code)
Rural Route 18	--Carrier Route or Rural Route Number or Lockbox Section
FR Portland, OR 972	--Post Office of entry and its appropriate ZIP Code

San Francisco, CA 94133	--5-digit ZIP of Address (need not be shown if the pieces bear a ZIP Code)
Lockbox Section 18	--Carrier Route or Rural Route Number or Lockbox Section
FR Portland, OR 972	--Post Office of entry and its appropriate ZIP Code

(b) *5-Digit Packages.* Less than ten pieces to a carrier route do not qualify for the carrier route presort rate and are considered "Residual." Residual may be prepared as carrier packages as described above. If this is not done, they must be made up into 5-digit packages. All packages of residual must have a coded pressure sensitive "Red D" to facilitate postal verification and handling. Labels are to be placed on the lower left hand corner of the top piece of each package. Postage on residual pieces must be paid at regular bulk third-class rates. The number of residual pieces must not exceed 5% of the total carrier route presort mailing to the 5-digit ZIP Code area.

(2) *Sacks*—(a) *Carrier Sack.* Packages must be placed in a carrier route sack when there are 20 pounds or 1,000 cubic inches of mail to the same carrier route. These sacks must be labeled in the following manner:

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San Francisco, CA 94133	--Destination
3CL-Carrier Route 18	--Contents (Third-Class Letter size pieces as defined in 128 PSM
FR JC Company Boston, MA	--Mailer and Mailer's Location

San Francisco, CA 94133	--Destination
3CL-Rural Route 18	--Contents (as defined in 128 PSM)
FR JC Company Boston, MA	--Mailer and Mailer's Location

San Francisco, CA 94133	--Destination
3CF-Lockbox Section 18	--Contents (Third-Class flat size pieces as defined in 128 PSM)
FR JC Company Boston, MA	--Mailer and Mailer's Location

San Francisco, CA 94133	--Destination
3CF-Lockbox Section	
3CF-Carrier Route ___	--In this example, the contents are identified by circling the appropriate line.
3CF-Rural Route ___	
FR JC Company Boston, MA	--Mailer and Mailer's Location

(b) *5-Digit Sacks.* All packages of qualifying pieces not placed in carrier sacks must be placed in 5-digit sacks. There is no provision for city, SCF, or state sacks for material sent at Carrier Route Presort rates. These sacks must be labeled in the following manner:

San Francisco, CA 94133	--Destination
3CL-Carrier Routes	--Contents
FR JC Company Boston, MA	--Mailer and Mailer's Location

(3) *Trays*—The accepting post office may authorize the use of trays or other containers in lieu of sacks providing the separation to individual carrier routes will be adequately maintained throughout all postal handlings, the route is identified and all address labels are faced in the same direction.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the Postal Service proposal on third-class carrier route presort is approved.

(39 U.S.C. 401, 403, 404, 3621, 3623, 3641)

W. ALLEN SANDERS,
Acting Deputy General Counsel.

[FR Doc. 79-2841 Filed 1-24-79; 9:18 am]

[6560-01-M]

Title 40—Protection of Enviornment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1031-7]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to the New Jersey State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Rule.

SUMMARY: This notice announces approval of a request from New Jersey to revise its State Implementation Plan. The effect of the revision being approved will be to change the State's regulation limiting the emission of particulate matter from manufacturing processes. In part, this change relaxes particulate matter emission limitations applicable to the glass manufacturing industry. The Environmental Protection Agency (EPA) is announcing approval of all but one part of this State Implementation Plan revision request. That part of the State's proposed regulation which allowed for variances from the emission limitations contained elsewhere in the regulation is not being approved by EPA because it failed to meet certain important EPA procedural requirements. However, EPA has proposed and is hereby promulgating a procedure whereby such variances granted by the State may be approved on an individual basis as a part of the State Im-

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plementation Plan. Receipt of the revision request from New Jersey was announced in the FEDERAL REGISTER on September 28, 1978 at 43 FR 44552 where a full description of the proposed revision is contained.

DATES: January 26, 1979.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10007, 212-264-2517.

SUPPLEMENTAL INFORMATION: On March 31, 1977 the State of New Jersey requested that the Environmental Protection Agency (EPA) consider a proposed revision to its State Implementation Plan (SIP). Additional information was provided on April 18, 1977 and November 14, 1977. The revision request was submitted in accordance with all applicable EPA requirements under 40 CFR Part 51 including a public hearing which was held in Trenton, New Jersey on September 29 and 30, 1976.

The proposed revision consists of changes to the State regulation, Title 7, Chapter 27, Subchapter 6, of the New Jersey Administrative Code (N.J.A.C. 7:27-6.1 *et seq.*) entitled, "Control and Prohibition of Particles from Manufacturing Processes." A summary of the proposed changes to Subchapter 6 follows.

I. SECTION 6.1—DEFINITIONS

Definitions are provided for the terms "cullet," "glass," "glass manufacturing furnace," "lead glass," and "process weight." In addition, the present definition for the term "particles" is modified.

II. SECTION 6.2—STANDARDS FOR THE EMISSION OF PARTICLES

Except for glass manufacturing furnaces used for the production of lead glass, glass manufacturing furnaces are no longer required to meet a grain loading or control efficiency standard as specified in the present subsection 6.2(a), but instead are controlled by a new production rate standard contained in the changed subsection 6.2(b). No increase in allowable emissions from the production of lead glass is proposed because of the State's concern about the toxicity of lead.

III. SECTION 6.3—PERFORMANCE TEST PRINCIPLE

The methods for determining actual source emissions and plume opacity are identified as being those contained in N.J.A.C. 7:27 B-1, "Air Test Method One," and 7:27 B-2, "Air Test Method Two," respectively.

IV. SECTION 6.4—EMISSION TESTS

No changes are proposed for this section.

V. SECTION 6.5—VARIANCES

Under the proposal, the State may grant a variance from the emission limitations specified in Section 6.2 to those glass manufacturing furnaces where the material being processsed in the furnace consists of greater than 25 percent cullet, by weight. The maximum allowable emission rate in such situations increases as the cullet content increases above 25 percent.

The proposed Section 6.5 also permits the State to grant a variance from the plume opacity limitation of 20 percent specified in subsection 6.2(d) if a glass manufacturing furnace can meet all applicable emission limitations, but cannot at the same time meet the plume opacity limitation of subsection 6.2(d).

VI. SECTION 6.6—PERMIT TO CONSTRUCT AND CERTIFICATE TO OPERATE

A minor change to the wording of subsection 6.6(c) is proposed.

VII. SECTION 6.7—EXEMPTIONS

Subparagraph 6.7(a)(3) is deleted. This subparagraph established a schedule for compliance by certain sources required to meet the provisions of Subchapter 6. This schedule has been superseded by EPA compliance schedules established in the FEDERAL REGISTER of July 24, 1975 (40 FR 30962).

While the regulatory changes proposed by New Jersey increase the allowable particulate matter emissions from glass manufacturing furnaces above those contained in the existing SIP, emission reductions not documented in the SIP from the Federal regulation requiring reduction in lead content of gasoline and from the installation of control devices which reduce emissions below existing SIP limitations more than compensate for this. The Regional Office has determined that the air quality impact of compliance with the proposed plan revision taken together with the emission reductions previously not considered in the SIP would be equivalent to the impact that would result from compliance with the existing regulation alone. Moreover, if it is found that other control measures are necessary to provide for attainment of secondary standards, additional emission limitations will be adopted by the State by January 1, 1979, as required by the amended Clean Air Act. EPA believes that, with the exception of the section relating to variances, the air quality improvement to be derived from replacing the existing regulation with which many sources are currently out of compliance with a regulation such as has been proposed is sufficient justification for its approval.

EPA's approval of the proposed revision as it relates to nine furnaces previously identified by the State as having a potential for aerodynamic downwash is based on a commitment from the State put forth in an October 27, 1978 letter that these potential downwash problems will be examined and corrected, where necessary, in as expeditious a manner as possible. Such commitment was requested by EPA in the proposed rulemaking notice (43 FR 44552). One additional furnace was mistakenly included with the nine others in the proposed rulemaking notice. This was the Kraftco facility in Jersey City.

EPA did find one shortcoming in Section 6.5 "Variances," of the State's regulation. This section as submitted by the State contains no requirement that each variance issued by the State be submitted to EPA as a SIP revision request. Section 51.34 of Part 51 of Chapter I, Title 40, Code of Federal Regulations, requires that in order for a variance to be considered for approval as a revision to a state implementation plan, it must be submitted by the State in accordance with the requirements of Section 51.6, "Revisions."

Consequently, EPA proposed disapproval of subsections 6.5 (a), (b), and (c) of the State's revision request as submitted and proposed instead that each variance that the State grants under Section 6.5 of N.J.A.C. 7:27 be subject to a public hearing in accordance with the provisions of Section 51.4, "Public Hearings," and that each such variance be processed as an individual SIP revision for EPA approval.

The proposal for revision to the SIP was announced in the FEDERAL REGISTER on September 28, 1978 at 43 FR 44552, where a detailed description of the revision is provided. In this notice EPA advised the public that comments would be accepted as to whether the proposed revision to the New Jersey State Implementation Plan should be approved or disapproved. One comment was received from the New Jersey State Chamber of Commerce, and one comment was received from the New Jersey Business Industry Association. Both comments expressed support for the revision. Comments received from Owens-Illinois, Inc. expressed support for all but two provisions of the proposed regulation.

Owens-Illinois expressed two basic objections in its comments on the proposal; these objections relate to the provisions for granting variances and to EPA's call for a plan from the State to address the identified potential aerodynamic downwash problems.

Aerodynamic Downwash

Comment.—The company's objections to the approach taken to potential aerodynamic downwash problems centers around a number of points. It is claimed that specific reference to aerodynamic downwash was inappropriate because it is only one of many problems industry faces in complying with air pollution control regulations. Furthermore, the company points out that, even without measures to address downwash, no deterioration from present air quality would result from compliance with the proposed limitations. Owens-Illinois believes that it is significant that the New Jersey Department of Environmental Protection had not found it necessary to include any specific provision for downwash in Subchapter 6 and further believes that the SIP already included mechanisms to handle such problems. One such mechanism cited by the Company is the State's authority to impose conditions on sources as requirements for being granted variances. Finally, Owens-Illinois raises doubts about the basis on which the potential for aerodynamic downwash was evaluated. The Company claims that glass manufacturing facilities appear to have been singled out as though they were the only manufacturing facilities that can have this problem. The Company believes this is particularly inappropriate since the revision addresses a regulation for all manufacturing processes.

EPA response.—While aerodynamic downwash is not the only air pollution control problem that industrial facilities face, it is a problem that gives rise to the possibility for severe localized air quality problems despite compliance with the rest of the proposed regulation. In response to the Company's second point that air quality would not deteriorate under the revised regulation even without downwash provisions, EPA points out that while this is so, EPA must be extremely careful in examining and protecting or improving, if necessary, short term air quality in the vicinity of sources whose emission limitations are to be relaxed. In response to the Company's position that the absence of provisions for downwash in the State's existing and proposed regulations indicates that such provisions are unnecessary, EPA's position is that a commitment on behalf of the State to review the downwash situation is warranted by the technical analysis. Consideration of downwash effects only at the times when sources apply for variances as suggested by Owens-Illinois is not a system that provides assurance that all potential problems will be examined and corrected, if necessary. The plan requested by EPA does provide this assurance. Finally, the criteria requested by Owens-Illinois for evaluating the potential for downwash are contained in the control strategy demonstration submitted by New Jersey. The identification of nine glass manufacturing facilities as having downwash potential is not an attempt to single out glass manufacturing furnaces as the only kind of facilities that are subject to this problem. However, the substantive parts of this revision involve relaxations in emission limitations only for glass manufacturing facilities. Provisions for relaxing emission limitations for other kinds of facilities are not included. EPA must focus its concern on any possible violations of the air quality standards where relaxations are occuring.

Variances

Comment.—Owens-Illinois' position on the provision inserted in the proposal by EPA that all variances be subject to EPA review and approval/disapproval action is that this would be costly in terms of time and money for both industry and the federal government and that such federal review was contrary to the intent of the Clean Air Act Amendments of 1977 which attempt to delegate more authority to the States.

EPA response.—As stated in the proposed rulemaking notice, Section 34 of Part 51 of Chapter I, Title 40, Code of Federal Regulations, requires that a variance be submitted by the State in accordance with the requirements of section 51.6, "Revisions," if it is to be considered for approval as a SIP revision. The action taken serves to implement this requirement. If EPA were to give blanket approval to a state's variance provisions without knowledge of the air quality impact ramifications of such an approval, its actions would not be consistent with the implementation planning concept.

Based upon the technical support provided by New Jersey, EPA has found this revision to the New Jersey State Implementation Plan as submitted by the State and supplemented with the EPA variance provision consistent with the requirements of Section 110(a) of the Clean Air Act and EPA regulations found at 40 CFR Part 51. Accordingly, EPA approves this revision. Furthermore, this action is being made effective immediately because the revision imposes no hardship on the affected sources.

Dated: January 22, 1979.

(Section 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7601).)

DOUGLAS M. COSTLE,
Administrator, Environmental Protection Agency.

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart FF—New Jersey

1. Section 52.1570 paragraph (c) is amended by adding new subparagraph (20) as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

* * * * *

(20) A revision consisting of all but one of the sections of the revised regulation, N.J.A.C. 7:27-6.1 *et seq.*, submitted by the New Jersey Department of Environmental Protection with a March 31, 1977 cover letter which also transmitted the basis and background document and the Report of the Public Hearing. The one section that is not approved as submitted by the State is Section 6.5, "Variances."

2. Subpart FF is amended by adding a new paragraph (a) to Section 52.1604 [1] as follows:

§ 52.1604 Control Strategy and Regulations: Total suspended particulates.

(a) Any variance issued by the Department under N.J.A.C. Title 7, Chapter 27, Section 6.5, subsections (a), (b), or (c) shall not exempt any person from the requirements otherwise imposed by N.J.A.C. 7:27-6.1 *et seq.*; provided that the Administrator may approve such variance as a plan revision when the provisions of this Part, Section 110(a)(3)(A) of the Act, and 40 CFR Part 51 (relating to approval of and revisions to State implementation plans) have been satisfied with respect to such variance.

(Section 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7601).)

[FR Doc. 79-2843 Filed 1-25-79; 8:45 am]

[6560-01-M]

SUBCHAPTER C—AIR PROGRAMS

[FRL 1045-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Connecticut Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This is a notice of final approval of a modification to the indirect source air pollution control regulation for Connecticut. The modification eliminates the requirement for

[1] NOTE: Section 52.1604 was added at 43 FR 58568, December 15, 1978 and it consisted of a paragraph (b).

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review of all off-street facilities, such as shopping centers, parking lots, and sports complexes, but retains review and permit requirements for highways and airports.

EFFECTIVE DATE: February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald C. White, Air Branch, EPA Region I, Room 2113, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5630.

SUPPLEMENTARY INFORMATION: On March 15, 1978, (43 FR 10708) the Environmental Protection Agency (EPA) published a notice informing the public of the agency's proposal to approve a revision to the indirect source portion of the Connecticut State Implementation Plan (SIP) submitted by the Connecticut Department of Environmental Protection (DEP). The revision eliminates the requirement for review of all off-street facilities, such as shopping centers, parking lots, and sports complexes but retains review and permit requirements for highways and airports.

EPA received fourteen written comments on the proposed approval, eight favoring the proposed action and six opposed. Comments focused primarily on questions of interpretation of the relevant portions of the Clean Air Act and secondarily on the substantive impact of the proposed revision. One of the commentators, the California Air Resources Board, also filed a notice of an intent to take legal action in connection with the proposed approval. The comments received, and the agency's reasons for approving the revision, are discussed below.

The most difficult questions concern the interpretation of Section 110(a)(5)(A)(iii) of the Clean Air Act. The section provides that:

> Any State may revise an applicable implementation plan approved under Section 110(a) to suspend or revoke any such [indirect source] program included in such plan, *provided that such plan meets the requirements of this section.* (emphasis added)

The interpretation of this provision urged by those opposed to the revision is that a state may not remove the indirect source portion of a State Implementation Plan (SIP) unless it can show that the revision will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) and was adopted with proper procedure. The California Air Resources Board argues, for example, that there is no indication that Congress did not intend all of the requirements of Section 110 to apply to a revision of an indirect source program. EPA disagrees, for several reasons.

First, the literal interpretation renders the provision mere surplusage to the Act. Section 110(a)(3)(A) already allows a state to revoke or revise any part of its SIP so long as that action does not interfere with the attainment and maintenance of the NAAQS. Therefore, Section 110(a)(5)(A)(iii), under the literal interpretation, adds nothing to Section 110(a).

Second, the literal intrepretation raises an inconsistency within section 110(a)(5)(A) itself. If EPA refuses to approve a revocation of an indirect source review program and the state refuses to administer or enforce the program on its own, then the EPA must, under section 110(c)(1), promulgate and enforce its own indirect source review program. Such action, however, would be in direct conflict with section 110(a)(5)(A)(ii) which prohibits the Administrator from promulgating an indirect source program except for federal activities or sources. Therefore, under the literal interpretation section 110(a)(5)(A)(iii) conflicts with section 110(a)(5)(A)(ii).

Moreover, the literal interpretation of Section 110(a)(5)(A)(iii) results in harsh inequities. A state with an indirect source program would be prohibited from eliminating that program if the elimination would interfere with the attainment and maintenance of the NAAQS. A state without an indirect source program, however, cannot be forced to adopt one even if it were the only way to achieve and maintain the NAAQS. Thus, states which adopted indirect source programs when they were first proposed would be penalized and states which waited would be rewarded. California, for example, which opposes deletion of part of the Connecticut indirect source program, has no such program itself.

EPA has concluded that an interpretation of Section 110(a)(5)(A)(iii) which does not require a state to meet the substantive requirements of Section 110, including the attainment and maintenance requirement, is more in line with the overall intent of Section 110(a)(5).

Section 110(a)(5)(A)(i) allows states to include indirect source programs in SIPs and allows EPA to enforce such programs if a state chooses to adopt them, but it prohibits EPA from requiring such programs.

Section 110(a)(5)(A)(ii) prohibits EPA promulgation of indirect source programs with one exception, described below.

Section 110(a)(5)(A)(iii), which is in dispute here, allows a state to revise an approved plan to suspend or revoke indirect source programs, "provided that such plan meets the requirements of this section."

Finally, Section 110(a)(5)(B) allows EPA to promulgate, implement, and enforce indirect source review programs under Section 110(c) which apply only to federally owned, assisted or operated indirect sources.

The clear general intent of Section 110(a)(5) is thus to allow states freedom to include or not include indirect source control programs in SIPs and to restrict EPA enforcement to such programs which states freely choose to adopt and to limit EPA promulgation, implementation and enforcement to federally funded, owned and operated indirect sources. It would be directly contrary to the apparent intent of these provisions were EPA to conclude that one clause in subsection 110(a)(5)(A)(iii) has the effect of either requiring Connecticut to include an indirect source review program which it clearly chooses not to include or of authorizing EPA to promulgate or implement or enforce such a program.

Given the overriding intent of Section 110(a)(5)(A), the provision attached to subsection (iii) should be construed narrowly so as to not conflict with the primary purpose of Section 110(a)(5)(A) as a whole. This can be achieved only by interpreting subsection (iii) to require a state to meet the procedural, but not the substantive, requirements of Section 110(a). The legislative history of Section 110(a)(5)(A) also supports this narrow interpretation. The Conference Report states that the prohibition against the Administrator requiring indirect source review extends to his authority to require "as a condition for approval the inclusion or *retention* of these [indirect source review] programs in state implementation plans" (emphasis added). The Report goes on to say that "any state at any time may suspend or revoke such a program". *H.R. Rep. No. 95-564*, 95th Cong., 1st Sess., 126 (1977). The Conference Committee intended that a state should be free to revoke an indirect source regulation as well as refuse to adopt one, without any substantive interference from the EPA.

Furthermore, it was logical for Congress to retain the procedural requirements of the section while dispensing with the substantive requirements. While Congress prohibited EPA's interference with a state's substantive decisions concerning indirect source review, it did not intend that the decision process itself should be free of procedural requirements. The reference to the procedural requirements of Section 110 is necessary to insure that the decision to revoke or retain an indirect source review program is reached openly and with full public participation. Arguably, without the provision, the state's decision would not be subject to the procedural requirements.

The interpretation of the phrase "requirements of this section" in Section 110(a)(5)(A) to mean procedural and not substantive requirements is strictly limited. It is a narrow exception to the normal interpretation based on the unique circumstances surrounding Section 110(a)(5)(A)(iii). EPA continues to interpret all other provisions within Section 110 using this phrase to require SIP revisions to conform to the substantive requirements of Section 110(a)(2) and (3). In particular, except with respect to indirect source regulations, Section 110(a)(3)(A) still requires that SIP revisions not interfere with the attainment and maintenance of the NAAQS. Also, in 1979, all of the states' SIP revisions must be designed to attain and maintain the NAAQS within the required time limits regardless of whether they include an indirect source program or not.

Several commentators opposed to the revision argued that the Connecticut indirect source regulation should not be deleted until the state submits and EPA approves an adequate substitute program, since otherwise the results would have a negative effect on attainment of the standards. EPA is approving this revision, however, on the basis that the congressional intent disfavors mandatory indirect source review programs, without regard to the impact of such action on attainment and maintenance of the NAAQS. All states are required, however, to submit fully adequate SIPs to EPA which comply with the requirements of the Clean Air Act as amended in August of 1977, or suffer the consequences of their failure to do so. A state which chooses to eliminate an indirect source review program must find alternate means of attaining or maintaining standards. Furthermore, although in this context EPA takes no position on whether the Connecticut program, as established or implemented, was effective, it is the agency's position that properly designed and administered programs can have a beneficial effect on attainment and maintenance of standards. EPA is approving the SIP revision not because the Connecticut program was ineffective or unnecessary, but because Connecticut has chosen to eliminate the program and Congress has indicated that EPA should respect that choice.

Some commentators took issue with the condition stated in the proposed approval that, in order for EPA to allow elimination of an indirect source review program, "* * * the state must be proceeding in good faith to revise its plan by the January, 1979 deadline for all non-attainment areas." Some commentators argued that there is no basis for such a condition, while others claimed that Connecticut does not satisfy the condition. EPA agrees that there is no basis for the condition. Section 110(a)(5) contains no such condition. Accordingly, EPA attaches no such condition to this approval. The agency does, of course, intend to hold Connecticut to the requirement that adequate SIP revisions must be submitted within the time frames established in the Clean Air Act.

One commentator stated that the final decision should not be made by the Regional Administrator. This final decision is made by the Administrator. The same commentator listed ways in which the Connecticut SIP is inadequate. As explained above, this decision is made without regard to the overall adequacy of the Connecticut SIP.

Several commentators urged EPA to state that indirect source review programs are only maintenance and not attainment strategies. An indirect source review program could result in location and design of facilities and transportation modes which would reduce total transportation-related emissions and thus assist in attaining, and not just maintaining, standards.

Several commentators cited studies which concluded that indirect source regulations are of doubtful effectiveness. Whatever the experience may be to date with such programs, a properly designed and administered indirect source review program can result in substantial air quality benefits.

Several commentators pointed out that since Connecticut has repealed and deleted the off-street portion of its indirect source program and since EPA is prohibited from promulgating, implementing and enforcing regulations under Section 110(c), if EPA does not approve the revision, private developers would be left in a situation where they could be subject to suit under Section 304 of the Act for failing to obtain a permit, yet no agency could issue a permit. EPA agrees. If the agency were to disapprove the Connecticut revision, private developers in the state would be in an uncertain legal position. EPA could not issue indirect source permits itself since this would require a promulgation of regulations under Section 110(c) and such promulgation is prohibited. The DEP could not issue permits since there is now no state regulation authorizing such permits and the state does not intend to issue any permits. Yet developers could still be subject to suit. Approval of the revision eliminates this problem.

It should be noted, however, that this dilemma alone would not authorize EPA to approve a SIP revision absent a statutory provision similar to section 110(a)(5)(A)(iii).

Several commentators noted that the Connecticut hearing examiner's report contained conclusions that the indirect source regulation had a detrimental effect on air quality. As explained above, EPA takes no position on the substantive impact of the Connecticut regulation and thus neither agrees nor disagrees with the report.

After evaluation of the State's submittal, the Administrator has determined that the Connecticut revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Connecticut Implementation Plan.

Final Agency action is reviewable only as provided under Section 307(b) of the Clean Air Act, as amended.

(Sec. 110(a), Clean Air Act, as amended, (42 U.S.C. 740), *et seq.*)

Dated: January 22, 1979.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart H—Connecticut

Section 52.370(c) is amended by adding subparagraph (9) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(9) Revision to Indirect Source Review Regulation 19-508-100 submitted on June 13, 1977 by the Connecticut Department of Environmental Protection.

[FR Doc. 79-2845 Filed 1-25-79; 8:45 am]

[6560-01-M]

[FRL 1030-6]

PART 65—DELAYED COMPLIANCE ORDERS

Approval of a Delayed Compliance Order Issued by Iowa Department of Environmental Quality to Iowa Valley Milling Company, West Branch, Iowa

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AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby approves a Delayed Compliance Order issued by Iowa Department of Environmental Quality to the Iowa Valley Milling Company. The Order requires the company to bring air emissions from its alfalfa dehydrating plant hammermill cyclone at West Branch, Iowa into compliance with certain regulations contained in the federally approved Iowa State Implementation Plan (SIP). Because of the Administrator's approval, Iowa Valley Milling Company's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: January 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter J. Culver or Henry F. Rompage, Environmental Protection Agency, Region VII, 1735 Baltimore, Kansas City, Missouri 64108, Telephone 816/374-2576.

ADDRESSES: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing approval of the Order are available for public inspection and copying during normal business hours at: Environmental Protection Agency, Region VII, Enforcement Division, 1735 Baltimore, Kansas City, Missouri 64108.

SUPPLEMENTARY INFORMATION: On November 9, 1978, the Regional Administrator of EPA's Region VII Office published in the FEDERAL REGISTER, 43 FR 52255, a notice proposing approval of a delayed compliance order issued by Iowa Department of Environmental Quality to the Iowa Valley Milling Company. The notice asked for public comments by December 11, 1978, on EPA's proposed approval of the Order. No public comments were received in response to the proposal notice.

Company is approved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places Iowa Valley Milling Company on a schedule to bring its alfalfa dehydrating plant hammermill cyclone at West Branch into compliance as expeditiously as practicable with sub rule 400—4.3(2)b I.A.C. Process weight rate, a part of the federally-approved Iowa State Implementation Plan. The Order also imposes emission monitoring and reporting requirements. A finding has been made that the inclusion in the Order of interim emission reduction requirements would be unreasonable. If the conditions of the Order are met, it will permit Iowa Valley Milling Company to delay compliance with the SIP regulations covered by the Order until May 1, 1979. The company is unable to immediately comply with these regulations.

EPA has determined that its approval of the Order shall be effective upon publication of this notice because of the need to immediately place Iowa Valley Milling Company on a schedule which is effective under the Clean Air Act for compliance with the applicable requirement(s) of the Iowa State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601)

Dated: January 15, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter 1 of title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.201 to read as follows:

§ 65.201 EPA approval of State delayed compliance orders issued to major stationary sources.

* * * * *

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Iowa Valley Milling Co....	West Branch, Iowa.	VII-78-DCO-14...	Nov. 9, 1978...	Subrule 400-4.3(2)b.	May 1, 1979

[FR Doc. 79-2846 Filed 1-25-79; 8:45 am]

[6560-01-M]

[FRL 1034-1]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for the Town of Kennebunkport, Maine

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby issues a Delayed Compliance Order to the Town of Kennebunkport, Maine. The Order requires the company to bring air emissions from its open burning dump at Kennebunkport into compliance with certain regulations contained in the federally-approved Maine State Implementation Plan (SIP). Kennebunkport's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATE: This rule takes effect on January 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Attorney, Michael Gurchin (617/223-5061), or Engineer, R. W. DiNardo (617/223-5610), both at EPA, Region I, Rm. 2103, JFK Federal Building, Boston, Massachusetts 02203.

ADDRESSES: The Delayed Compliance Order, supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing issuance of the Order are available for public inspection and copying during normal business hours at: Enforcement Division, Environmental Protection Agency, Region I, JFK Federal Building, Room 2103, Boston, Massachusetts 02203.

SUPPLEMENTARY INFORMATION: On October 2, 1978, the Regional Administrator of EPA's Region I Office published in the FEDERAL REGISTER, 43 FR 45410, a notice setting out the provisions of a proposed delayed compliance order for the Town of Kennebunkport. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments or requests for a public hearing were received in response to the proposed notice.

Therefore, a Delayed Compliance Order effective this date is issued to the Town of Kennebunkport by the Administrator of EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places the Town of Kennebunkport on a schedule to bring the open burning dump in Kennebunkport into compliance as expeditiously as practicable with § 100.2.2 of the Maine Air Pollution Control Regulations, a part of the federally-approved Maine State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act and reporting requirements. Although Section 113(d)(1)(C) of the Act requires that emission monitoring be included as part of an order, no reasonable system of emission monitoring is in existence for open burning dumps.

If the conditions of the Order are met, it will permit the Town of Kennebunkport to delay compliance with the SIP regulations covered by the Order until April 1, 1979. The Town is unable to immediately comply with these regulations.

EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place the Town of Kennebunkport on a schedule for compliance with the requirement(s) of the Maine State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601)

Dated: January 23, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending § 65.240 to read as follows:

§ 65.240 Federal delayed compliance orders issued under Section 113(d) (1), (3), and (4) of the Act.

* * * * *

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Town of Kennebunkport	Maine	A-SS-77-559	Oct. 2, 1978	§ 100.2.2	Apr. 1, 1979

[FR Doc. 79-2849 Filed 1-25-79; 8:45 am]

[6560-01-M]

[FRL 1034-5]

PART 65—DELAYED COMPLIANCE ORDERS

Approval of a Delayed Compliance Order Issued by the Spokane County Air Pollution Control Agency to Suntex Veneer—Division of Boise Cascade

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby approves a Delayed Compliance Order issued by the Spokane County Air Pollution Control Authority to Suntex Veneer—Division of Boise Cascade. The Order requires the company to bring air emissions from its plywood plant at Spokane, Washington, into compliance with certain regulations contained in the federally approved Washington State Implementation Plan (SIP). Because of the Administrator's approval, Suntex Veneer's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATE: January 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Kenneth D. Brooks, EPA, Washington Air Coordinator, Enforcement Division, Mail Stop 513, 1200 Sixth Avenue, Seattle, Washington 98101, telephone 206/442-1387.

ADDRESS: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing approval of the Order are available for public inspection and copying during normal business hours at: EPA, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101 (11B, 11th Floor).

SUPPLEMENTARY INFORMATION: On November 13, 1978, the Regional Administrator of EPA's Region 10 Office published in the FEDERAL REGISTER, 43 FR 52500, a notice proposing approval, of a delayed compliance order issued by the Spokane County Air Pollution Control Authority to Suntex Veneer. The notice asked for public comments by December 13, 1978 on EPA's proposed approval of the Order. One citizen comment was received expressing concern over liability. The Delayed Compliance Order only protects the source from suit because of exceeding emission limitations of the State Implementation Plan and does not address liability under other statutes.

Therefore, the delayed compliance order issued to Suntex Veneer is approved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places Suntex Veneer on a schedule to bring its plywood plant at Spokane, Washington into compliance as expeditiously as practicable with WAC 18-04-040, a part of the federally approved Washington State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and reporting requirements. Monitoring requirements are waived for this order. If the conditions of the Order are met, it will permit Suntex Veneer to delay compliance with the SIP regulations covered by the Order until July 1, 1979. The company is unable to immediately comply with these regulations. EPA has determined that its approval of the Order shall be effective upon publication of this notice because of the need to immediately place Suntex Veneer on a schedule which is effective under the Clean Air Act for compliance with the applicable requirement(s) of the Washington State Implementation Plan.

(Authority: 42 U.S.C. 4713(d), 7601)

Dated: January 22, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending § 65.521 to read as follows:

§ 65.521 EPA Approval of State delayed compliance orders issued to major stationary sources.

* * * * *

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
Suntex Veneer	Spokane, Washington.	WO4	WAC-18-040	Nov. 13, 1978	July 1, 1979

[FR Doc. 79-2851 Filed 1-25-79; 8:45 am]

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[6560-01-M]

[FRL 1034-4]

PART 65—DELAYED COMPLIANCE ORDERS

Approval of a Delayed Compliance Order Issued by the Puget Sound Air Pollution Control Agency to Seattle Steam Corporation

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby approves a Delayed Compliance Order issued by the Puget Sound Air Pollution Control Agency (PSAPCA) to the Seattle Steam Corporation. The Order requires the company to bring air emissions from its heating plant at Seattle, Washington, into compliance with certain regulations contained in the federally approved Washington State Implementation Plan (SIP). Because of the Administrator's approval, Seattle Steam Corporation's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Kenneth D. Brooks, EPA, Washington Air Coordinator, Enforcement Division, Mail Stop 513, 1200 Sixth Avenue, Seattle, Washington 98101, telephone 206/442-1387.

ADDRESSES: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing approval of the Order are available for public inspection and copying during normal business hours at: EPA, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101 (11B, 11th Floor).

SUPPLEMENTARY INFORMATION: On November 14, 1978, the Regional Administrator of EPA's Region 10 Office published in the FEDERAL REGISTER, 43 FR 52748, a notice proposing approval of a delayed compliance order issued by the Puget Sound Air Pollution Control Agency to the Seattle Steam Corporation. The notice asked for public comments by December 14, 1978 on EPA's proposed approval of the Order. No comments or requests for public hearing were received.

Therefore, the delayed compliance order issued to Seattle Steam Corporation is approved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places Seattle Steam Corporation on a schedule to bring its heating plant at Seattle, Washington into compliance as expeditiously as practicable with PSAPCA Regulation I, Section 9.09(b)(1), a part of the federally approved Washington State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Seattle Steam Corporation to delay compliance with the SIP regulations covered by the Order until July 1, 1979. The company is unable to immediately comply with these regulations. EPA has determined that its approval of the Order shall be effective upon publication of this notice because of the need to immediately place Seattle Steam Corporation on a schedule which is effective under the Clean Air Act for compliance with the applicable requirement(s) of the Washington State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601)

Dated: January 23, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

I. By amending § 65.521 to read as follows:

§ 65.521 EPA approval of State delayed compliance orders issued to major stationary sources.

* * * * *

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
Seattle Steam Corp.	Seattle, Washington	WO5	PSAPCA Reg. I, Sec 9.03(b)(1).	Nov. 14, 1978.	July 1, 1979

[FR Doc. 79-2848 Filed 1-25-79; 8:45 am]

[6820-33-M]

Title 41—Public Contracts and Property Management

CHAPTER 51—COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PART 51-1—GENERAL

Definition of Other Severely Handicapped

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Final rule.

SUMMARY: The Committee amends its regulations by redefining the term "other severely handicapped". The new definition is more comprehensive than the definition that is presently used in the regulations. This action is taken in recognition of the definition of the term as it appears in the Rehabilitation Act of 1973, in the implementing regulations issued by the Department of Health, Education, and Welfare, as well as the terms developed in the Comprehensive Needs Study prepared for the Department of Health, Education, and Welfare by the Urban Institute in 1975.

EFFECTIVE DATE: January 26, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C.W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: On October 2, 1978, the Committee published a proposed rule (43 F.R. 45414) to revise paragraph 51-1.2(g) of 41 CFR Part 51-1 to redefine the term "other severely handicapped".

The background and reasons for the redefinition of the term "other severely handicapped" were discussed in the notice announcing the proposed rule.

The proposed definition published in the FEDERAL REGISTER has been changed slightly by inserting in subparagraph (1) the words "or for" after the words "evaluation program conducted by". This change was made to recognize those situations where the evaluation program is conducted for the workshop by an agency other than the workshop itself.

Only one comment was received as the result of the notice in the FEDERAL REGISTER. It was recommended that the definition be expanded to include "behavorial impairments", "mental or emotional conditions", and under functional capabilities, "social competence".

These changes were not considered necessary or appropriate since the proposed definition now includes those emotionally disturbed individuals who have a severe mental impairment resulting from an injury, disease, or congenital defect such that they are unable to engage in normal competitive employment. Additionally, including the proposed words would have the effect of listing a particular illness (emotional disturbance), which may cause or contribute to an individual's disability. This would serve no useful purpose and could result in demands to list a variety of other injuries or illnesses.

Accordingly, 41 CFR Part 51-1 is amended by revising § 51-1.2(g) to read as follows:

§ 51-1.2 Definitions.

* * * * *

(g) "Other severely handicapped" means a person, other than a blind person, who has a severe physical or mental impairment (a residual, limiting condition resulting from an injury, disease, or congenital defect) which so limits the person's functional capabilities (mobility, communication, self-care, self-direction, work tolerance or work skills) that the individual is unable to engage in normal competitive employment over an extended period of time.

(1) Capability for normal competitive employment shall be determined from information developed by an ongoing evaluation program conducted by or for the workshop and shall include, as a minimum, a preadmission evaluation and a reevaluation at least annually of each individual's capability for normal competitive employment.

(2) A person with a severe physical or mental impairment who is able to engage in normal competitive employment because the impairment has been overcome or the condition has been substantially corrected is not "other severely handicapped" within the meaning of this definition.

* * * * *

C. W. FLETCHER,
Executive Director.

[FR Doc. 79-2833 Filed 1-25-79; 8:45 am]

[4310-84-M]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5657]

ALASKA

Classification of Lands for Selection by the State of Alaska

AGENCY: Bureau of Land Management (Interior).

ACTION: Public Land Order.

SUMMARY: The purpose of this public land order is to classify lands as suitable for selection by the State of Alaska under the provisions of the Alaska Statehood Act and in the process modify and amend numerous public land orders.

EFFECTIVE DATE: January 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Beau McClure, 202-343-3078 or Bob Sorenson, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99510.

By virtue of the authority vested in the Secretary of the Interior by Section 17(d)(1) of the Alaska Native Claims Settlement Act, 85 Stat. 688, 708, and pursuant to Section 204 of the Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights the following described lands are hereby classified as suitable for State selection and the listed public land orders are modified and amended to the extent necessary to open the lands described in this paragraph to State selection; such classification and opening shall not attach to any lands segregated pursuant to Section 204(b) of the Act of October 21, 1976, or any applicable regulation, including but not limited to 43 CFR 2653, until such segregation is vacated and the land is not otherwise withdrawn:

a.

COPPER RIVER MERIDIAN

T. 11 N., R. 23 E.
T. 13 N., R. 6 and 23 E.
T. 16 N., Rs. 4 and 5 E.
T. 20 N., R. 5 E.
Tps. 25 and 26 N., Rs. 6 through 8 E.
T. 27 N., R. 6 E., Sections 3 through 10, 13 through 36.
T. 27 N., R. 7 E., Sections 13 through 36.
T. 28 N., R. 5 E.
T. 28 N., R. 6 E., Sections 1 through 34.
T. 28 N., R. 7 E., Sections 1 through 20.
T. 2 N., Rs. 5 through 7 W.
T. 7 S., Rs. 6 through 11 W.
T. 8 S., Rs. 8 through 11 W.
T. 10 S., Rs. 2 through 5 W.
T. 11 S., Rs. 2 through 5 W.
T. 12 S., Rs. 1 through 3 W.
T. 13 S., R. 1 W.
Tps. 13 and 14 S., R. 1 E.

FAIRBANKS MERIDIAN

T. 5 N., Rs. 1 through 4 E.
T. 6 N., Rs. 5, 6, and 9 E.
T. 7 N., R. 6 E., secs. 22 through 27, 34 through 36.
T. 7 N., Rs. 7, 9 through 18 E.
T. 8 N., Rs. 11 through 17 E.
T. 9 N., Rs. 13 through 15 E.
T. 10 N., Rs. 13 through 15 E.
T. 11 N., R. 15 E.
T. 1 N., Rs. 18 through 23 W.
T. 1 N., R. 24 W., sections 1 through 18.
T. 1 N., R. 25 W., sections 1 through 18.
T. 1 N., R. 26 W., sections 1 through 18.
T. 2 N., R. 18 W.
T. 3 N., R. 18 W.
T. 4 N., Rs. 1 and 18 W.
T. 5 N., Rs. 13 through 15 W.
T. 6 N., R. 2 W.
T. 7 N., Rs. 2 and 3 W.
T. 7 N., R. 4 W., sections 1 through 18.
T. 8 N., Rs. 2 through 4 W.
T. 8 N., R. 5 W., sections 1 through 3, 10 through 15, 22 through 27, 34 through 36.
T. 9 N., Rs. 1 through 5 W.
T. 10 N., Rs. 1 through 4 W.
T. 11 N., Rs. 3 through 5 W.
T. 12 N., R. 5 W.
T. 34 N., Rs. 2 through 8 W.
T. 35 N., Rs. 4 through 6 W.
Tps. 36 and 37 N., Rs. 5 through 8 W.
T. 1 S., Rs. 18 through 22 W.
T. 1 S., R. 23 W., sections 1 through 3, 10 through 15, 22 through 27, 34 through 36.
T. 2 S., Rs. 15 through 22 W.
T. 2 S., R. 23 W., sections 1 through 3, 10 through 15, 22 through 27, 34 through 36.
T. 3 S., Rs. 15 through 22 W.
Tps. 4 and 5 S., Rs. 16 through 22 W.
T. 6 S., Rs. 15 through 19 W.
T. 6 S., Rs. 20 and 21 W., sections 1 through 18.
T. 6 S., R. 22 W., sections 1 through 3, 10 through 15.
T. 7 S., Rs. 13, 14, 16 through 18 W.
T. 8 S., Rs. 11 through 14, 17 through 19 W.
T. 9 S., Rs. 10, 11, 14, and 15 W.
T. 10 S., Rs. 9, 10 and 11 W.
T. 11 S., R. 5 W.
T. 13 S., Rs. 27 and 28 W.
T. 14 S., Rs. 21 and 28 W.
T. 15 S., R. 28 W.
T. 18 S., R. 27 W., sections 19 through 36.
Tps. 19 and 20 S., Rs. 26 through 28 W.
T. 21 S., Rs. 26 through 28 W.
T. 22 S., R. 2 W., sections 13 through 24, 28 through 33.

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T. 22 S., Rs. 3 through 10 W. sections 19 through 36.
T. 22 S., R. 13 W.
T. 2 S., Rs. 12 and 13 E.
T. 3 S., Rs. 12 through 16 E.
T. 3 S., R. 17 E., sections 19 through 36.
T. 3 S., R. 18 E., sections 19 through 21, 28 through 33.
T. 4 S., Rs. 10 through 18 E.
T. 4 S., R. 19 E., sections 19 through 36.
T. 5 S., Rs. 9 through 20 E.
T. 6 S., Rs. 9 through 17, 19 and 20 E.
T. 6 S., R. 18 E., sections 1 through 3, 10 through 15, and 19 through 36.
T. 7 S., Rs. 11 through 16 E.
T. 7 S., R. 17 E., sections 1 through 11, 14 through 23, 27 through 35.
T. 7 S., R. 18 E., sections 1 through 6, 9 through 16, 21 through 28, 33 through 36.
T. 8 S., R. 17 E.
T. 8 S., R. 18 E., sections 5 through 8, 17 through 20, 29 through 32.
T. 16 S., Rs. 11 through 16 E.
T. 19 S., Rs. 12 and 13 E.
T. 20 S., Rs. 14 through 16 E.

KATEEL RIVER MERIDIAN

T. 21 N., Rs. 8 through 11 E.
T. 22 N., Rs. 7 through 13 E.
T. 23 N., R. 4 E., sections 22 through 27, 34 through 36.
T. 23 N., Rs. 5 through 12 E.
T. 24 N., R. 6 E., sections 22 through 27, 34 through 36.
T. 24 N., Rs. 7 and 8 E.
T. 25 N., R. 7 E., sections 1 through 3, 10 through 15, 22 through 27, 34 through 36.
T. 25 N., R. 8 E., sections 4 through 9, 16 through 36.
T. 1 N., R. 19 W.
T. 1 N., R. 20 W., sections 1 through 3, 10 through 15, 22 through 27, 34 through 36.
T. 1 N., Rs. 28 through 35 W.
T. 1 N., R. 40 W., sections 1 through 18, 22 through 27, 34 through 36.
T. 2 N., R. 19 W.
T. 2 N., R. 20 W., sections 1 through 3, 10 through 15, 22 through 27, 34 through 36.
T. 2 N., R. 28 through 40 W.
T. 3 N., R. 19 W.
T. 3 N., Rs. 28 through 40 W.
T. 4 N., R. 19 W.
T. 4 N., Rs. 28 through 39 W.
T. 5 N., R. 19 W.
T. 5 N., R. 20 W., sections 1 through 18.
T. 5 N., R. 21 W.
T. 5 N., R. 22 W., sections 1 through 18, 22 through 27, 34 through 36.
T. 5 N., Rs. 33 through 37 W.
T. 6 N., Rs. 22, 33 through 37 W.
T. 28 N., R. 20 W., sections 1 through 21, 28 through 33.
T. 28 N., Rs. 21 through 23 W.
T. 29 N., R. 18 W., sections 1 through 18.
T. 29 N., R. 19 W., sections 1 through 18.
T. 29 N., Rs. 20 through 23, 28 W.
T. 30 N., Rs. 18 through 21, 28 and 29 W.
T. 31 N., Rs. 19 through 21 W.
T. 31 N., R. 22 W., sections 1 through 18.
T. 31 N., R. 23 W., sections 1 through 3, 10 through 15.
T. 32 N., Rs. 18 through 22 W.
T. 32 N., R. 23 W., sections 1 through 3, 10 through 15, 22 through 27, 34 through 36.
T. 1 S., Rs. 19, 20, 29 and 30 W.
Tps. 5 and 6 S., Rs. 28 and 29 W.
T. 7 S., Rs. 28 through 32 W.
T. 7 S., R. 33 W., sections 1 through 3, 10 through 15, 22 through 27, 34 through 36.
T. 8 S., Rs. 28 through 32 and 34 W.
T. 8 S., R. 33 W., sections 1 through 18, 22 through 26, 35 and 36 W.
T. 8 S., R. 35 W., sections 4 through 36.
T. 18 S., R. 2 W.
Tps. 22, 23, 24 S., R. 4 W.
T. 28 S., Rs. 6 and 7 W.
Tps. 9 and 10 S., Rs. 13 and 14 E.
T. 16 S., Rs. 1 and 2 E.
T. 17 S., R. 1 E.
T. 17 S., R. 2 E., sections 1 through 18.
T. 20 S., Rs. 28 through 30 E.
T. 21 S., Rs. 27 through 30 E.
Tps. 22, 23, 24 S., R. 26 E.
T. 25 S., Rs. 20 through 27 E.
T. 26 S., Rs. 13 through 20, 25 through 27 E.
T. 27 S., Rs. 13 through 20, 27 and 31 E.
T. 28 S., Rs. 17 through 20, 27 and 31 E.
T. 29 S., Rs. 20, 27 through 31 E.

SEWARD MERIDIAN

T. 12 N., Rs. 4 and 5 E.
T. 13 N., Rs. 4 through 6 E.
T. 14 N., Rs. 4 through 7 E.
T. 15 N., Rs. 5 through 8 E.
T. 16 N., Rs. 5 through 10 E.
T. 17 N., Rs. 5 through 10 E.
T. 18 N., Rs. 4 through 10 E.
T. 19 N., Rs. 6, 7, 9, and 10 E.
T. 20 N., R. 3 and 10 E.
T. 21 N., Rs. 1 through 5 E.
T. 22 N., Rs. 1 through 4 E.
T. 23 N., R. 1E.
T. 32 N., R. 8 E., sections 19 through 36.
T. 32 N., R. 9 E., sections 19 through 36.
T. 33 N., R. 2 E., sections 1 through 3, 10 through 15, 22 through 27, 34 through 36.
T. 33 N., Rs. 3 through 7 E.
T. 33 N., R. 8 E., sections 4 through 9, 16 through 21, and 28 through 33.
T. 10 N., R. 16 W., sections 4 through 9, 16 through 21, and 28 through 33.
T. 10 N., Rs. 17 through 20 W.
T. 11 N., Rs. 17 through 20 W.
T. 12 N., Rs. 16 through 20 W.
Ts. 15 through 18 N., Rs. 16 through 18 W.
T. 19 N., Rs. 17 and 18 W.
T. 21 N., Rs. 1 and 2 W.
T. 22 N., Rs. 1 and 2 W.
T. 23 N., R. 1 W.
T. 23 N., R. 37 W., sections 4 through 9, 16 through 21, 28 through 33.
T. 23 N., R. 38 W.
T. 23 N., R. 39 W., sections 1 through 18, 22 through 27, 34 through 36.
T. 23 N., R. 40 W., sections 1 through 3, 10 through 15.
T. 24 N., R. 37 W., sections 4 through 9, 16 through 21, and 28 through 33.
T. 24 N., Rs. 38 and 39 W.
T. 24 N., R. 40 W., sections 1 through 3, 10 through 15, 22 through 27, 34 through 36.
T. 25 N., Rs. 1, 2, and 37 through 39 W.
T. 26 N., R. 36 W., sections 4 through 9, 16 through 21, and 28 through 33.
T. 26 N., 37 and 38 W.
T. 26 N., R. 39 W., sections 1 through 3, 10 through 15, 19 through 36
T. 27 N., Rs. 1, 35 through 38 W.
T. 28 N., Rs. 1, 2, and 35 through 38 W.
T. 29 N., Rs. 36 through 38 W.
T. 30 N., Rs. 33, and 36 through 38 W.
T. 31 N., Rs. 25, and 36 through 38 W.
T. 32 N., R. 25 W.
T. 32 N., R. 26 W., sections 1 through 3, 10 through 15.
T. 33 N., R. 30 W., sections 1 through 18.
T. 34 N., R. 30 W.

UMIAT MERIDIAN

T. 15 S., Rs. 14 and 15 E.
T. 16 S., Rs. 12 through 15 E.
T. 17 S., Rs. 12 through 15 E.

The lands described in this subparagraph *a* are contained in Public Land Order No. 5180 of March 9, 1972, as amended by Public Land Order No. 5193 of March 17, 1972, Public Land Order No. 5251 of September 12, 1972, Public Land Order No. 5321 of December 7, 1972, Public Land Order No. 5393 of September 14, 1973, Public Land Order No. 5411 of February 7, 1974, and Public Land Order No. 5418 of March 25, 1974, or are contained in Public Land Order No. 5179 of March 9, 1972, as amended by Public Land Order No. 5250 of September 12, 1972.

FAIRBANKS MERIDIAN

Tps. 2 through 4 N., Rs. 19, 25, and 26 W.
T. 5 N., Rs. 24 through 26 W.
T. 6 N., R. 6 W.
T. 7 N., Rs. 7 through 10 W.
T. 8 N., R. 10 W.
Tps. 4 and 5 S., Rs. 14 and 15 W.
T. 6 S., R. 14 W.
T. 7 S., Rs. 6 and 15 W.
T. 8 S., Rs. 15 and 16 W.
Tps. 9 and 10 S., Rs. 16 through 19 W.
Tps. 11 and 12 S., Rs. 27 and 28 W.
T. 22 S., Rs. 26 through 28 W.
T. 7 S., Rs. 19 and 20 E.
T. 8 S., R. 19 E.
T. 8 S., R. 20 E., sections 4 through 9, 16 through 21, and 28 through 33.

COPPER RIVER MERIDIAN

T. 22 N., R. 10 E.
Tps. 27 and 28 N., R. 8 E.

KATEEL RIVER MERIDIAN

T. 17 S., R. 1 W.
T. 17 S., R. 2 W., sections 22 through 27, 34 through 36.
T. 18 S., R. 3 W., sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36.
Tps. 19 and 20 S., R. 3 W.
T. 21 S., R. 4 W., sections 1 through 3, 10 through 15, 22 through 27, 34 through 36.
Tps. 24 and 25 S., R. 5 W.
T. 25 S., R. 6 W., sections 1 through 3, 10 through 15, 22 through 27, 34 through 36.
T. 26 S., R. 5 W., sections 4 through 9, 16 through 21, 28 through 33.
T. 26 S., R. 6 W., sections 1 through 3, 10 through 15, 22 through 27, 34 through 36.
T. 27 S., R. 6 W., sections 1 through 3, 10 through 15, 22 through 27, 34 through 36.
T. 3 S., R. 27 E.
T. 4 S., R. 24 and 25 E.
T. 5 S., Rs. 21 through 24 E.
T. 6 S., R. 20 E, sections 1 through 3, 10 through 15, 19 through 36.
T. 7 S., R. 19 E.
T. 17 S., R. 30 E., sections 19 through 36.
T. 18 S., R. 29, E., sections 22 through 27, and 34 through 36.
T. 18 S., R. 30 E.
T. 19 S., R. 29 E., sections 1 through 3, 10 through 15, and 19 through 36.

T. 19 S., R. 30 E.
T. 20 S., R. 26 E., sections 22 through 27, and 34 through 36.
T. 20 S., R. 27 E., sections 19 through 36.
T. 21 S., R. 26 E.
T. 22 S., R. 25 E., sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36.
T. 23 and 24 S., Rs. 22 through 25 E.
T. 27 S., Rs. 28 through 30 E.
T. 28 S., Rs. 28 through 30 E.

SEWARD MERIDIAN

Tps. 29 and 30 N., Rs. 34 and 35 W.
T. 31 N., Rs. 20 through 24 W.
T. 32 N., Rs. 19 through 24 W.
T. 33 N., Rs. 17 through 24 W.
T. 34 N., Rs. 20 through 24 W.

The lands described in this subparagraph *b* are contained in Public Land Order No. 5173 of March 9, 1972, as amended by Public Land Order No. 5191 of March 17, 1972, Public Land Order No. 5213 of May 30, 1972, Public Land Order No. 5321 of December 7, 1972, and Public Land Order No. 5391 of September 14, 1973.

c.

FAIRBANKS MERIDIAN

Tps. 21 and 22 S., Rs. 14 through 16 E.

COPPER RIVER MERIDIAN

Tps. 9, 10, 11 N., R. 1 E.
Tps. 12, 13, 14 N., Rs. 1 through 5 E.
T. 15 N., Rs. 4 and 5 E.

The lands described in this subparagraph *c* are contained in Public Land Order No. 5178 of March 9, 1972, as amended by Public Land Order No. 5214 of May 30, 1972.

d.

KATEEL RIVER MERIDIAN

T. 1 and 2 N., Rs. 41 and 42 W.
T. 3 N., R. 41 W.
T. 3 N., R. 42 W., sections 19 through 36.
T. 8 S., Rs. 36 through 39 W.
T. 10 S., Rs. 37 through 39 W.

The lands described in this subparagraph *d* are contained in Public Land Order No. 5170 of March 9, 1972, as amended by Public Land Order No. 5395 of September 14, 1973.

e.

KATEEL RIVER MERIDIAN

T. 12 N., Rs. 14 and 15 W.
T. 14 N., Rs. 14 and 16 W.
Tps. 15 and 16 N., R. 16 W.

The lands described in this subparagraph *e* are contained in Public Land Order No. 5171 of March 9, 1972, as amended by Public Land Order No. 5389 of September 14, 1973, and Public Land Order No. 5428 of July 25, 1974.

f.

SEWARD MERIDIAN

Tps. 29 and 30 N., Rs. 1 through 11E.
T. 31 N., Rs. 1 through 9 E.
T. 31 N., R. 10 E., sections 19 through 36.
T. 32 N., Rs. 1 through 7 E.
T. 33 N., R. 1 E.
T. 33 N., R. 2 E., sections 4 through 9, 16 through 21, 28 through 33.
T. 29 N., R. 1 W.
T. 30 N., Rs. 1 and 2 W.
Tps. 31 through 33 N., R. 1 W.

The lands described in this subparagraph *f* are contained in Public Land Order 5174 of March 9, 1972, as amended by Public Land Order No. 5256 of September 12, 1972, and Public Land Order No. 5421 of February 7, 1974.

The areas described aggregate approximately 16 million acres.

2. Any portion of any township described in paragraph 1 which lies within the National Park, Wildlife Refuge, or Forest Systems, any National Monument, or within the areas described in Public Land Order 5653, as modified by Public Land Order No. 5654, is not classified and opened to selection by the State of Alaska, except those lands described in Public Land Order No. 5653, as modified by Public Land Order No. 5654, which were also described in paragraph 5 of the Memorandum of Understanding of September 1, 1972, between the State of Alaska and the United States.

3. This public land order is not intended to modify, amend, or revoke any withdrawal, reservation, or appropriation of the lands described in paragraph 1, whether by Executive Order, proclamation, public land order, or otherwise, unless such order of withdrawal is expressly listed in paragraph 1. Land classifications made pursuant to Public Law 88-607, 78 Stat. 986, *et seq.* (the Classification and Multiple Use Act of 1964), are hereby modified only to the extent necessary to permit the State of Alaska to select the above described lands. The orders of withdrawal listed in paragraph 1 are modified and amended only to the extent necessary to open to State selection those lands specifically described in paragraph 1.

4. It is hereby determined that the promulgation of this public land order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, 83 Stat. 852, 42 U.S.C. 4332(2)(C), is required.

Dated: January 22, 1979.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 79-2732 Filed 1-25-79; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 0—COMMISSION ORGANIZATION

Editorial Amendments Concerning Delegations of Forfeiture Authority to the Staff

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order corrects an error in the monetary limit on authority delegated to three staff units to impose forfeitures. The document corrected appears at 43 FR 52244, November 9, 1978.

EFFECTIVE DATE: February 2, 1979.

ADRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Upton Guthery, Office of General Counsel, (202) 632-6444.

Adopted: January 17, 1979.

Released: January 18, 1979.

Order. In the Matter of Editorial Amendment of Delegations of Forfeiture Authority to the Staff.

1. In a recent Order delegating authority to the staff (FCC 78-767, November 2, 1978, 43 FR 52244, November 9, 1978), we inadvertently set the monetary limit for forfeitures imposed by the Broadcast and Common Carrier Bureaus at $3999 rather than $4000 as intended, and set the limit for the Safety and Special Radio Services Bureau at $1999 rather than the intended $2000. This Order corrects those errors.

2. Authority for these amendments is contained in Sections 4(i), 5(d), 503(b) and 504(b), of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(d), 503(b) and 504(b). Because the amendments are editorial and concern internal organization, the prior notice and effective date provisions of 5 U.S.C. 553 are inapplicable.

3. *Accordingly, it is ordered,* Effective February 2, 1979, That Part 0 of the Rules is amended as set out in the attached appendix.

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(Secs. 4, 5, 503, 504, 48 Stat., as amended, 1066, 1068, 1101; (47 U.S.C. 154, 155, 503, 504)).

R. D. LICHTWARDT,
Executive Director.

APPENDIX

Part O of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 0.281(c)(3) is revised to read as follows:

§ 0.281 Authority delegated.

• • • • •

(c) • • •

(3) Notices of opportunity for hearing pursuant to § 1.80(g) of this chapter; and notices of apparent liability, final forfeiture orders, and orders cancelling or reducing forfeitures imposed under § 1.80(f) if the amount set out in the notice of apparent liability is more than $4000.

• • • • •

2. Section 0.291(g) is revised to read as follows:

§ 0.291 Authority delegated.

• • • • •

(g) *Authority concerning forfeitures.* Authority to issue a notice of opportunity for hearing pursuant to § 1.80(g) of this chapter; and authority to issue notices of apparent liability, final forfeiture orders, and orders cancelling or reducing forfeitures imposed under § 1.80(f) if the amount set out in the notice of apparent liability is more than $4000.

3. Section 0.331(a)(9) is revised to read as follows:

§ 0.331 Authority delegated.

• • • • •

(a) • • •

(9) Authority to issue a notice of opportunity for hearing pursuant to § 1.80(g) of this chapter; and authority to issue notices of apparent liability, final forfeiture orders, and orders cancelling or reducing forfeitures imposed under § 1.80(f) if the amount set out in the notice of apparent liability is more than $2000.

• • • • •

[FR Doc.79-2819 Filed 1-25-79; 8:45 am]

PART 1—PRACTICE AND PROCEDURE

Editorial Amendment Concerning Petition for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: Because all final action documents in rule making proceedings are not published in the FEDERAL REGISTER, the FCC is amending its rules to provide that petitions for reconsideration of final actions in rule proceedings may be filed within 30 days after the text is published or, if the document is not published, within 30 days after the text is released. This editorial amendment resolves an interval inconsistency in the rules.

EFFECTIVE DATE: February 2, 1979.

ADDRESS: Federal Communications, Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Upton Guthery, Office of General Counsel 202-632-6444.

SUPPLEMENTARY INFORMATION:

Adopted: January 17, 1979.

Released: Janaury 18, 1979.

Order. In the Matter of Editorial Amendment of Section 1.429; Rules of Practice and Procedure.

1. Section 1.429(d) provides that petitions for reconsideration of final actions in rule making proceedings may be filed within 30 days after the text of the action is published in the FEDERAL REGISTER. When a proceeding is terminated without the adoption of rules, however, the action document is not always published in the Federal Register. To provide for such situations and to eliminate an inconsistency in the rules, it is appropriate to amend Section 1.429 to provide for the filing of petitions for reconsideration within 30 days after the action document is released.

2. The amendment is set out in the attached Appendix. Authority for the amendment is set out in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and in § 0.231(d) of the Commission's rules, 47 CFR 0.231(d). Because the amendment is editorial and procedural in nature, the prior notice and effective date provisions of 5 U.S.C. 553 are inapplicable.

3. *Accordingly, it is ordered,* Effective February 2, 1979, That § 1.429 of the rules is amended as set out in the Appendix hereto.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

R. D. LICHTWARDT,
Executive Director.

In part 1 of Chapter I of Title 47 of the Code of Federal Regulations, the first sentence of Section 1.429(d) is revised to read as follows:

§ 1.429 Petition for reconsideration

• • • • •

(d) The petition for reconsideration and any supplement thereto shall be filed within 30 days after publication in the FEDERAL REGISTER of the document containing the full text of the action taken or, if the document is not published, within 30 days after the full text of the document is released. • • •

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[FR Doc. 79-2818 Filed 1-25-79; 8:45 am]

[4910-62-M]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. No. 1-137]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation to the Commandant of the Coast Guard

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to delegate to the Commandant of the Coast Guard functions vested in the Secretary by the Natural Gas Pipeline Safety Act of 1968 as it relates to liquefied natural gas (LNG) facilities, on, in, or adjacent to the navigable waters of the United States.

EFFECTIVE DATE: This amendment is effective on January 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Lieutentant Commander Edward H. Bonekemper, III, U.S. Coast Guard, Port Safety and Law Enforcement Division (G-WLE-1/73), United States Coast Guard, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1927).

SUPPLEMENTARY INFORMATION: Since the amendment relates to the organization of the Department of Transportation, it is excepted from the notice and public comment requirements of the Administrative Procedure Act (5 U.S.C. 533). Also, because this amendment is not a substantive rule, publication in the FEDERAL REGISTER not less than 30 days before the effective date is not required.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Lieutenant Commander Edward H. Bonekemper, III, Project Manager, Office of Marine Environment and Systems, U.S. Coast Guard; Robert Beauregard, Office of the Chief Counsel, Research and Special Programs and Special Programs Administration; and Richard R. Clark, Office of the General Counsel, Office of the Secretary.

DISCUSSION

Effective February 7, 1978, the U.S. Coast Guard (USCG) and the Materials Transportation Bureau (MTB) executed a Memorandum of Understanding (MOU) with respect to a division of regulatory responsibility for waterfront LNG facilities. This MOU was published in the FEDERAL REGISTER on July 14, 1978 (43 FR 30381).

The division of responsibilities agreed to in the MOU was considered necessary due to the overlapping regulatory authority of the USCG and the MTB affecting the siting, design, construction, operation, and maintenance of waterfront LNG facilities. The authority of the USCG over such facilities is derived from the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221-1227) (PWSA) and the Magnuson Act (50 U.S.C. 191). The regulatory authority of the MTB over these same facilities is derived from the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1671 *et seq.*) (NGPSA) and the Hazardous Materials Transportation Act (49 U.S.C. 1801 *et seq.*).

By the terms of the MOU, the USCG will establish, and the MTB will refrain from establishing, regulatory requirements for: (1) Facility site selection as it relates to management of vessel traffic in and around a facility; (2) fire prevention and fire protection equipment, systems, and methods for use at a facility; (3) security of a facility; and (4) all other matters pertaining to the facility between the vessel and the last manifold (or valve) immediately before the receiving tank(s).

Absent the MOU, such matters would be subject to the regulatory authority of the NGPSA, including that Act's Section 3 which addresses the regulatory authority of States over gas pipeline facilities:

"Any State Agency may adopt additional or more stringent standards for intrastate pipeline transportation if such standards are compatible with the Federal minimum standards. No State agency may adopt or continue in force any such standards applicable to interstate transmission facilities, after the Federal minimum standards become effective." (49 U.S.C. 1672(b))

In executing the MOU it was neither the USCG's nor the MTB's intention to alter the overall DOT/State relationship with respect to regulation of waterfront LNG facilities under the NGPSA. However, if the USCG were to regulate the above four matters only under the authority of the PWSA and the Magnuson Act, such a relationship would be altered because neither of these statutes provides the Federal preemptive authority of the NGPSA. If this were permitted, a given facility could be subject to the unacceptable situation of a nonuniform approach to Federal/State regulation.

For the purpose of assuring continued uniform regulation of an entire waterfront LNG facility, the delegation of authority made by this amendment will permit the USCG to carry out its regulatory responsibilities under the MOU with the same preemptive powers already available to the MTB. It is not intended that this delegation, for this specific purpose, affect in any way the existing delegation of authority to the MTB to carry out the functions vested in the Secretary by the NGPSA (*see* 49 CFR 1.53(a) and APP. A to Part I).

In consideration of the above, Part I of Title 49 of the Code of Federal Regulations is amended by adding a new § 1.46(y) to read as follows:

§ 1.46 Delegation to the Commandant of the Coast Guard.

• • • • •

(y) Carry out the functions and responsibilities vested in the Secretary by the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1671 et seq.) relating to rulemaking so far as it applies to liquefied natural gas facilities adjacent to the navigable waters of the United States: *Provided,* That such rulemaking is in accordance with the Memorandum of Understanding between the Coast Guard and Materials Transportation Bureau executed on February 7, 1978, for regulation of such facilities.

• • • • •

(Sec. 9(e), Department of Transportation Act (49 U.S.C. 1657(e)).)

Issued in Washington, D.C., on January 18, 1979.

BROCK ADAMS,
Secretary of Transportation.

[FR Doc. 79-2806 Filed 1-25-79; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Opening of the Red Rock Lakes National Wildlife Refuge, Montana, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing on the Red Rock Lakes National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource and will provide additional recreational opportunities to the public.

DATES: Fishing season is open from the third Saturday in June through November. (June 16 through November 30, 1979.)

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Red Rock Lakes National Wildlife Refuge, Monida Star Route, Box 15, Lima, Montana 59739; phone (406) 276-3347 or Area Manager, U.S. Fish & Wildlife Service, Federal Building, 316 North 26th Street, Billings, Montana 59101; phone (406) 657-6115.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations, sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Red Rock Lakes National Wildlife Refuge, Montana, as posted. All areas open to fishing are delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, Federal Building, 316 North 26th Street, Billings, Montana 59101. Sport fishing shall be in accordance with all applicable State of Montana regulations subject to the following special conditions:

1. Boats with motors are prohibited.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement

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under Executive Order 11949 and OMB Circular A-107.

E. D. STROOPS,
Refuge Manager, Red Rock Lakes National Wildlife Refuge, Lima, Montana 59739.

JANUARY 15, 1979.

[FR Doc. 79-2805 Filed 1-25-79; 8:45 am]

[4510-30-M]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart F—Youth Incentive Entitlement Pilot Projects: Changes

AGENCY: Department of Labor.

ACTION: Final rules.

SUMMARY: The Department is amending the Youth Incentive Entitlement Pilot Project regulations with respect to extending the period of intake of youths into the program and with respect to allowing participants full-time work during school vacations. The amendments will clarify provisions that the school year does not include school breaks of five consecutive days or more to permit youths employment when school is not in session and will reflect the extension of the program for an additional year.

EFFECTIVE DATE: January 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert Taggart, Administrator, Office of Youth Programs, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213, Phone—202-376-7086.

SUPPLEMENTARY INFORMATION: On May 30, 1978, the Department of Labor published in the FEDERAL REGISTER final regulations to implement the Youth Incentive Entitlement Pilot Projects under the Youth Employment and Demonstration Projects Act of 1977 (YEDPA).

At this time the Department is amending three sections of the regulations for the Entitlement program. This action is being taken in order to deal with operational problems of the Entitlement projects in the period before regulations are to be published to implement the CETA Amendments of 1978 (Pub. L. 95-524).

These changes will be incorporated into the proposed Entitlement regulations under the CETA Amendments of 1978 (Pub. L. 95-524), when they are published.

Under Section 4(d) of Pub. L. 95-524 the Department may waive the requirements as to rulemaking in implementing the eligibility provisions for CETA. Accordingly, these regulations are being published in final form, effective immediately. The changes are as follows:

In § 97.507, *Preapplication specifications*, Paragraph (i)(1)(i), and in § 97.523, *Administrative provisions; hearing provisions, and limitations on use of funds*, Paragraph (d), that limit the maximum paid program time to 20 hours a week during the school year or 40 hours per week during the summer, these paragraphs are revised to clarify that the school year does not include school breaks of 5 consecutive days or more. The revision reflects the intent of the program that youths be limited in the hours they can work while attending school, but that they be allowed to work full-time when school is not in session (i.e., for Christmas and Spring vacations as well as during the summer).

In § 97.516, *Eligibility of participants*, Paragraph (f) is changed to remove the sentence, "No youths may be enrolled in the program after December 31, 1978." This change is made to allow intake after December 31, 1978, since the program has been extended an additional year.

Accordingly, Title 29 of the Code of Federal Regulations is amended as follows:

1. Section 97.507(i)(1)(i) is revised to read as follows:

Subpart F—Youth Incentive Entitlement Pilot Projects

§ 97.507 Preapplication specifications.

* * * * *

(i) *Work-Site Development*—(1) *General.* (i) The employment or combination of employment and training guaranteed under this program is intended to be year-round with no limitation on the period of enrollment. However, this guarantee shall not exceed 20 hours per week for each youth employed during the school year, nor 40 hours per week during the summer and during school year breaks of 5 consecutive school days or more. During the school year, the guarantee must extend for at least 6 months and during the summer for at least 8 weeks. This guarantee shall not be provided to each youth for less than 10 hours per week during the school year and not less than 30 hours per week during the summer.

* * * * *

2. Section 97.516(f) is revised to read as follows:

§ 97.516 Eligibility of participants.

* * * * *

(f) Since jobs during the school year must last at least 6 months, and jobs in the summer must last at least 8 weeks, no youth may be enrolled in the program if the grant will end before the youth can complete the required period of employment.

3. Section 97.523(d) is revised to read as follows:

§ 97.523 Administrative provisions; hearing provisions; and limitations on use of funds.

* * * * *

(d) No funds under the Entitlement program may be used to pay for time spent in the Entitlement program by an enrollee in excess of 20 hours a week during the school year, or 40 hours per week during the summer and during school year breaks of 5 consecutive days or more. The minimum paid program time guaranteed for each employed youth shall be 10 hours per week during the school year and 30 hours per week during the summer.

Signed at Washington, D.C., this 16th day of January 1979.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 79-2892 Filed 1-25-79; 8:45 am]

[4510-26-M]

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

[Docket No. H-052A]

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Occupational Exposure to Cotton Dust; Cotton Waste Processors and Users; Lifting of Administrative Stay

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Lifting of administrative stay of the cotton dust standard.

SUMMARY: This notice reinstates the application of the cotton dust standard, 29 CFR 1910.1043 (43 FR 27350), as it pertains to the cotton waste processing industries and employers who are purchasers and users of cotton batting, including employers in mattress, upholstered furniture, and automotive assembling industries. After careful review of the NIOSH health hazard evaluation survey of employees in two Stearns and Foster mattress plants, and an evaluation of the comments submitted in response to the FEDERAL REGISTER Notice of Friday, September 1, 1978 concerning this NIOSH survey, OSHA has concluded that a permanent suspension of the cotton dust standard for these pertinent industries is unwarranted and that the temporary suspension issued on that date should be rescinded.

EFFECTIVE DATE: The cotton dust standard as it pertains to the cotton waste processing industries is effective on March 4, 1979.

FOR FURTHER INFORMATION CONTACT:

OSHA, Room S-5526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Gary Adams, telephone (202) 523-7177.

SUPPLEMENTARY INFORMATION: The Occupational Safety and Health Administration (OSHA), in the FEDERAL REGISTER issue of June 23, 1978 (43 FR 27350), published a final occupational safety and health standard, pursuant to section 6(b) of the act, regulating worker exposure to cotton dust. The standard applies to all industries in which employees are exposed to cotton dust, with certain specified exceptions, and requires employers to take prescribed measures to control employee exposure to cotton dust. The standard was effective September 4, 1978, and, with limited exceptions, was applicable to all non-textile industries, including cottonseed oil mills, waste processing and use of cotton batting, as well as to the textile industry. On October 20, 1978, the U.S. Court of Appeals for the District of Columbia Circuit stayed the effective date of the cotton dust standard pending a decision of the merits of petitions for review before that Court. Accordingly, the agency's present action will not affect the waste processing industry while this judicial stay is in force.

On August 21, 1978, OSHA received a request for an administrative stay of the standard from the National Cotton Batting Institute and the Textile Fibers and By-Products Association, with respect to the cotton waste processing industries and employers who are purchasers and users of batting containing cotton. This request brought to OSHA's attention a draft report of a NIOSH health hazard evaluation of Stearns and Foster Company's garnetting and mattress workers. This report was not available prior to promulgation of the final standard. Upon preliminary review of this report, OSHA detemined that the information it presented warranted further review and analysis. While this new evidence was received after the close of the cotton dust record, and therefore did not have to be considered as part of this proceeding, OSHA chose to invite comment on the significance of this evidence and, in the meantime, to suspend the cotton dust standard as it pertained to the waste processing industries and users of cotton batting. NIOSH submitted a final version of the health hazard evaluation for purpose of comment on August 31, 1978.

Thirty-three comments were received in response to OSHA's request. Comments concerning the study were submitted by the Wolf Corporation, State of North Carolina, the Motor Vehicle Manufacturers Association, the National Cotton Batting Institute and the Textile Fibers and By-Products Association, the National Association of Bedding Manufacturers, and the National Cotton Council of America. NIOSH also submitted comments along with its final evaluation report on the health hazard in the Stearns and Foster plants. (In addition to these comments twenty-four were submitted by representatives of specific cotton industries employing the blind and did not comment on the study but instead sought an exemption from the cotton dust standard.)

After evaluation of this report and the written comments submitted concerning it, the Assistant Secretary has determined that further proceedings such as reopening the record for additional comments or instituting new rulemaking proceedings are not warranted, and that the standard should be applied to these industries. The reasons for this conclusion are set forth in the following section.

Evaluation of the NIOSH Health Hazard Survey: In April of 1977, the NIOSH Health Hazard Evaluation team conducted a study at the Stearns and Foster Mattress Company in Cincinnati, Ohio. The study consisted of medical and environmental data involving 54 of 75 available workers in one old and one new facility. Nineteen of these individuals were garnett workers, nineteen were tape edgers, and sixteen were sorters. No external control group was studied.

Pulmonary function testing was conducted before and after a Monday shift. Environmental monitoring was carried out simultaneously by vertical elutriation and personal sampling techniques. Dust level exposures measured by vertical elutriator for garnett workers averaged 1,500 $\mu g/m^3$ and 710 $\mu g/m^3$ in the old and new plants respectively; quilting and tape department workers were exposed to 180 $\mu g/m^3$ and 170 $\mu g/m^3$, and sorters were exposed to 340 $\mu g/m^3$ and 110 $\mu g/m^3$, in respective old and new facilities. Responses to questionnaires were also collected.

In their comments, NIOSH pointed out the obvious health features of the data. Acute pulmonary effects of exposure are discernable in the significant declines in FEV, (16/54 workers greater than 5% drop over the shift), and FVC in all three occupational categories of garnett, tape edgers and sorting. In addition, evidence of chronic pulmonary effect of exposure is demonstrated in the garnett worker group which exhibited an observed/predicted FEV, ratio of 91.5% compared to quilters and tape edgers (101%), and sorters (97%). In quilting and tape edge and sorting departments, dust levels measured by vertical elutriator varied from 110 $\mu g/m^3$ to 340 $\mu g/m^3$, yet significant acute broncho-constriction was evident among a substantial number of workers exposed at these low levels. NIOSH further noted that the pulmonary function declines observed among these workers are similar to declines observed among workers in primary textiles at similar dust levels. Byssinosis, as defined by questionnaire response, was found in one worker who also had an 11% drop in his FEV, over the shift.

Comments submitted by industry groups such as the National Cotton Batting Institute, and the Textile Fibers and By-Products Association, were similar in content. They can be summarized as follows: (1) The worker population involved in this study is small in comparison to the total population at risk; (2) no comparative relationships can be made between this worker population and other worker populations exposed to cotton dust with respect to race, age, smoking habits, years of exposure, etc; (3) the extent of respirator usage was never quantified; and (4) changes in pulmonary funtion could not be correlated with concentrations of dust present. These comments argue the impossibility of drawing any firm conclusions concerning the validity of this study or of relating dose to response from this data for the industry. These parties conclude that neither this latest NIOSH health hazard evaluation nor any other evidence in the cotton dust record supports the existence of a hazard from cotton dust in the cotton waste industries, and thus the cotton dust standard should not be applied to this segment of the cotton industry.

OSHA, based upon its review of this data, concluded that the appearance of one case of medically definable byssinosis, the large number of workers (16) with significant over-the-shift pulmonary function changes, the similarity observed between decrements among guilters and sorting workers, the decrements observed in the primary textile industry at similar dust levels and the likelihood that differential use of respirators masked some health effects, all tend to support OSHA's decision to include non-textile

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cotton waste processors and users within the scope of the final standard. The evidence contained in this latest NIOSH survey is compatible with other non-textile studies which indicate the presence of adverse health effects upon exposure to cotton dust wherever cotton is handled. Surely, nothing in the study supports the exemption of the cotton batting of waste utilization industry from the standard.

With respect to the scope of the survey, OSHA agrees with NIOSH which stated in the summary of the study that, "no firm conclusions can be drawn from this study and no generalizations to this segment of the cotton industry should be attempted." In effect, the latest NIOSH survey shares common features with the other studies in the record, that is, evidence of significant health effects upon exposure, but inadequate information for determining a dose-response relationship. Until a larger and more complete study is conducted to explain the dose-response relationship in these industries, no evidence exists to justify modification of the standard.

Therefore, in view of the health effects evident even in this limited NIOSH survey, the data contained in the final report by NIOSH and the comments submitted provide no basis for permanently suspending the cotton dust standard with respect to the waste processing industries and users of cotton batting, or for instituting further rulemaking proceedings at this time. OSHA concludes, as NIOSH did, that the OSHA standard must be complied with in order to ensure adequate worker safety and health.

In order to give affected parties an adequate period of time to comply with the standard, the effective date of the standard as it pertains to the waste industry is March 4, 1979. All other startup dates in the standard will be similarly delayed 6 months, as will the date for final implementation of the compliance plan.

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

(Secs. 4, 6, 8, 84 Stat. 1593; 29 U.S.C. 653, 655, 657; 19 CFR Part 1911; Secretary of Labor's Order No. 8-76 (41 FR 25059))

Signed at Washington, D.C. this 23rd day of January 1979.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 79-2823 Filed 1-25-79; 8:45 am]

[4510-29-M]

CHAPTER XXV—PENSION AND WELFARE BENEFIT PROGRAMS, DEPARTMENT OF LABOR

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Revision of Schedule B (Actuarial Information) and Permanent Waiver of Certain Actuarial Information in the Annual Report

AGENCY: Department of Labor.

ACTION: Adoption of a form and final regulation.

SUMMARY: This document contains (1) a revision of Schedule B (actuarial information) which is attached by certain employee benefit plans to the annual report filed under the Employee Retirement Income Security Act of 1974 (ERISA); and (2) a final regulation which waives a requirement of ERISA that certain actuarial information be included in the annual report. These actions will affect all defined benefit pension plans that are subject to the minimum funding standards of Part 3 of Title I of ERISA and section 412 of the Internal Revenue Code of 1954, as amended.

EFFECTIVE DATE: Plan years beginning January 1, 1978, and thereafter.

FOR FURTHER INFORMATION CONTACT:

Lottie Lisle, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4461, Washington, D.C. 20216, 202-523-9211. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On September 26, 1978, notice was published in the FEDERAL REGISTER (43 FR 43696) of proposed revisions to Schedule B (actuarial information) which must be filed under section 103(d) of ERISA as an attachment to the annual return/report (5500 series) by all defined benefit pension plans that are subject to the minimum funding standards of Part 3 of Title I of ERISA and section 412 of the Internal Revenue Code of 1954, as amended. These revisions were designed to achieve uniformity in the reporting of certain actuarial data, and to assist interested persons in determining the benefit obligations of an ongoing pension plan and in assessing the adequacy of the assets of a pension plan to meet its benefit obligations. The notice also announced that if certain proposed changes to the schedule B were adopted, the Department contemplated adopting a permanent waiver from the requirements of section 103(d)(6) of ERISA.

All interested persons were invited to submit comments on the proposals. In addition, pursuant to notice published in the FEDERAL REGISTER (43 FR 52789, November 14, 1978), a public hearing was held on November 20, 1978, in which interested persons were afforded the opportunity to present their views on the Department's proposals.

After considering the written comments and the testimony at the public hearing, the Department has determined to adopt a Schedule B which is revised in several respects from that which was proposed and to adopt a regulation permanently waiving the requirement to file the specific information required by section 103(d)(6) of ERISA.[1]

While, as discussed below, changes have been made to the Schedule B, certain important aspects of the proposal have been retained. These include: (1) The requirement that a uniform method—the accrued benefit cost (unit credit) method—be used to calculate the present value of accrued benefits; (2) that plans with less than 100 participants not be required to disclose the present value of accrued benefits; (3) that the assumptions used in calculating the accrued benefits be based on expectations relating to an ongoing rather than a terminating plan; and (4) that the major assumptions used be disclosed on the schedule B itself.

I. SCHEDULE B—DISCUSSION OF SIGNIFICANT COMMENTS AND CHANGES TO THE FORM.

A. End of Plan Year Basis. The proposed revision to the Schedule B would have required that the present value of accrued benefits be determined as of the end of the plan year to facilitate comparison between the value of plan assets as reported on the annual report and the plan's accrued benefit liabilities as reported on the Schedule B. The instructions provided that, for plans using a valuation date other than the end of the plan year, a reasonable estimate of the value of accrued benefits as of the end of the plan year could be projected from the most recent actuarial valuation.

According to the public comments, actuaries generally choose a valuation date other than the end of the plan year. If all plans were required to calculate plan liabilities as of the end of the plan year, this would, in the view of the commentators, increase costs to

[1] Section 103(d)(6) requires that a plan's actuarial statement include the present value of all of the plan's liabilities for nonforfeitable pension benefits allocated by the termination priority categories set forth in section 4044 of ERISA and the actuarial assumptions used in these computations.

affected plans. The commentators also indicated that valuations are generally made at the beginning of the plan year and further calculations, sometimes at substantial cost, would be required in order to project values as of, or to revise estimates at, the end of the plan year in the light of events during the year.

In view of the comments received, the Department has decided to require that the present value of accrued benefits should be determined as of the beginning of the plan year. This requirement should minimize costs to plans while permitting some degree of comparability between information in the Schedule B and in the annual report.

B. Statement of the Present Value of Accrued Benefits. As proposed, Schedule B would have required that for plan years beginning in 1979, all plans with more than 100 participants must provide information with respect to: (a) The present value of vested benefits for (1) retired participants and beneficiaries receiving payments and (2) other participants (with figures for both categories calculated on a historical basis, i.e., based on service performed by, and compensation earned by, employees prior to the end of the plan year); (b) the present value of nonvested accrued benefits, also calculated on a historical basis; and (c) the present value of additional accrued benefits calculated on a projected basis.

A number of comments urged the Department to delete the proposed requirement to disclose the present value of additional accrued benefits based on projections, particularly since the projections would be limited to salary increases. The commentators argued that the proposed requirement would substantially increase plans' actuarial costs, that the resulting figure would not be meaningful, that it is rarely calculated in practice, and that it would distort comparisons between final average salary plans and plans such as flat benefit or career average plans. The Department has considered these comments and has decided to delete this requirement because it appears that the benefits of disclosing the present value of additional accrued benefits on a projected basis are not justified in view of the additional costs that would be incurred by plans.

C. Actuarial Assumptions. The instructions to the Schedule B, as proposed, would have required that each actuarial assumption used in calculating the present value of accrued benefits be reasonable.

A number of commentators indicated that the appropriateness of the actuarial assumptions used for any particular plan can only be evaluated in the aggregate, by examining aggregate gain or loss during any year or number of years. If the gains or losses remain relatively small, the commentators argued, there is no need to modify any of the assumptions. The commentators also argued that the requirement would be inconsistent with Congressional intent that the actuarial assumptions used in calculating plan liabilities be reasonable in the aggregate. In response to these comments the Department has deleted the requirement that each assumption must be individually reasonable.

D. Explanation of Differing Actuarial Assumptions. In the case where the assumptions used for the calculation of the present value of accrued benefits differ from those used in the calculation of the funding standard account, the proposed instructions to the Schedule B would have required the actuary to explain the reasons for the differences and to provide an estimate of the approximate effect of using different assumptions. Numerous comments stated that it would be difficult to estimate the effect of using different assumptions, and that any such estimate would involve substantial costs for plans. The Department has considered these comments and has modified its proposal. As adopted, the instructions to the Schedule B require the actuary to set forth the reasons for any differences in the assumptions used, but do not require an estimate of the financial effect of such differences.

In addition to the changes discussed above, minor changes have been made in response to comments which noted several technical inconsistencies in the instructions to the Schedule B.

II. PERMANENT WAIVER OF SECTION 103(d)(6)

Section 103(d)(6) provides that the actuarial statement required by section 103(d) must include the present value of the plan's liabilities for nonforfeitable pension benefits allocated by termination priority categories as set forth in section 4044 of ERISA, and the actuarial assumptions used in these computations. Under section 104(a)(2)(A) of ERISA, the Secretary of Labor may waive the requirements of section 103(d)(6). In order to waive these requirements, however, the Secretary must find that:

(i) the interests of the plan participants are not harmed thereby and (ii) the expense of compliance with the specific requirements of section 103(d)(6) is not justified by the needs of the participants, the Pension Benefit Guaranty Corporation, and the Department of Labor * * *.

For plan years 1975, 1976 and 1977, the Secretary waived the requirements of section 103(d)(6) based on the findings that: (1) The information required under section 103(d)(6) is primarily important to a plan which is terminating and would be of little relevance to participants or the Secretary in the case on ongoing plans; (2) the requirements of section 103(d)(6) would add considerable expense and time to the preparation of the actuarial statement; and (3) the PBGC expressed no need for this information on an annual basis.

At the time the revisions to Schedule B were proposed, the Department announced that if certain changes to the Schedule B were adopted, the Department would issue a permanent waiver from the requirements of section 103(d)(6) of ERISA. The public comments received generally supported such a permanent waiver.

It appears that the information submitted in response to questions 6 (d) and (e) of the revised Schedule B should provide interested persons with sufficient information with respect to plan liabilities. It further appears that the information which would be provided under section 103(d)(6) would be of little interest to plan participants, PBGC and the Department, and would impose considerable expense on plans. Accordingly, the Department finds that the interests of the plan participants are not harmed by the adoption of § 2520.104-42—which provides a permanent waiver from the requirements of section 103(d)(6) of ERISA—and that the expense of compliance with the specific requirements of section 103(d)(6) is not justified by the needs of the participants, PBGC and the Department.

Pursuant to the authority in sections 103(d), 109(a) and 505 of ERISA, Pub. L. 93-406, 88 Stat. 840-852, 894 (29 U.S.C. 1023, 1029), Schedule B to the annual return/report (5500 series) and the instructions thereto are hereby amended to read as follows:

JAN 26 1979
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[4510-29-C]

SCHEDULE B (Form 5500)
Department of the Treasury
Internal Revenue Service
Department of Labor
Pension and Welfare Benefit Programs
Pension Benefit Guaranty Corporation

Actuarial Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974, referred to as ERISA, and section 6059(a) of the Internal Revenue Code, referred to as the Code.

▶ Attach to Forms 5500, 5500–C and 5500–K if applicable.

1978

This Form is Open to Public Inspection

For plan year beginning , 1978 and ending , 19

▶ Please complete every applicable item on this form. If an item does not apply, enter "N/A."
▶ Round off amounts to nearest dollar.

Name of plan sponsor as shown on line 1(a) of Form 5500, 5500–C or 5500–K | Employer identification number

Name of plan | Enter three digit plan number ▶

	Yes	No
1 Has a waiver of a funding deficiency for the current plan year been approved by the IRS? If "Yes," attach a copy of the IRS approval letter.		
2 Is a waived funding deficiency of a prior plan year being amortized in the current year?		
3 Have any of the periods of amortization for charges described in section 412(b)(2)(B) of the Code been extended by DOL? If "Yes," attach a copy of the DOL approval letter.		
4 (a) Has the shortfall funding method been used?		
(b) (i) If (a) is "Yes," has the deferral of the amortization of the shortfall gain (loss), beyond the plan year following the year in which the shortfall gain (loss) arose, been elected?		
(ii) If (a) is "Yes," has the deferral of the amortization of the actuarial gain (loss), beyond the first plan year after valuation, been elected?		
5 Has a change in funding method for the current plan year been made? If "Yes," attach a copy of the IRS approval letter.		

6 Operational information:
(a) Enter most recent actuarial valuation date ▶
(b) Enter date(s) and amount of contributions received this plan year for prior plan years and not previously reported:
Date(s) ▶ Amount ▶
(c) Current value of the assets accumulated in the plan as of the beginning of the plan year
(d) Present value of vested benefits as of the beginning of plan year: [1]
(i) For retired participants and beneficiaries receiving payments
(ii) For other participants
(iii) Total
(e) Present value of nonvested accrued benefits as of beginning of plan year [1]
(f) Number of persons covered (included in the most recent actuarial valuation):
(i) Active participants
(ii) Terminated participants with vested benefits
(iii) Retired participants and beneficiaries of deceased participants

7 Contributions made to the plan for the plan year by employer(s) and employees:

(a) Month / Year	(b) Amount paid by employer	(c) Amount paid by employees	(a) Month / Year	(b) Amount paid by employer	(c) Amount paid by employees
			Total		

8 Funding standard account and other information:
(a) Accrued liabilities as determined for funding standard account as of (enter date) ▶
(b) Value of assets as determined for funding standard account as of (enter date) ▶

Statement by Enrolled Actuary (see instructions before signing):

To the best of my knowledge, the information supplied in this schedule and on the accompanying statement, if any, is complete and accurate, and in my opinion the assumptions used in the aggregate (a) are reasonably related to the experience of the plan and to reasonable expectations, and (b) represent my best estimate of anticipated experience under the plan.

Signature of actuary — Date

Print or type name of actuary — Enrollment number

Address — Telephone number (including area code)

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Schedule B (Form 5500) 1978 Page 2

8 Funding standard account and other information (continued):
(c) (i) Actuarial gains or (losses) for period ending ▶
(ii) Shortfall gains or (losses) for period ending ▶
(d) Accumulated funding deficiency at end of plan year (amount of contribution certified by the actuary as necessary to reduce the funding deficiency to zero), from 9(m) or 10(g)

9 Funding standard account statement for plan year ending ▶

Charges to funding standard account:
(a) Prior year funding deficiency, if any
(b) Employer's normal cost for plan year
(c) Amortization charges (outstanding balance at beginning of plan year ▶ $.....)
(d) Interest on (a), (b) and (c)
(e) Total charge, sum of (a) through (d)

Credits to funding standard account:
(f) Prior year credit balance, if any
(g) (i) Employer contributions (total from column (b) of item 7)
(ii) Employer contributions received this plan year for prior plan years and not previously reported
(h) Amortization credits (outstanding balance at beginning of plan year ▶ $.....)
(i) Interest on (f), (g) and (h)
(j) Other (specify) ▶
(k) Total credits, sum of (f) through (j)

Balance:
(l) Credit balance, excess, if any, of (k) over (e)
(m) Funding deficiency, excess, if any, of (e) over (k)

10 Alternative minimum funding standard account (omit if not used):
(a) Was the entry age normal cost method used to determine entries in item 9 above? ☐ Yes ☐ No
If "No," omit (b) through (g) below.
(b) Normal cost
(c) Excess, if any, of value of accrued benefits over market value of assets
(d) Interest on (b) and (c)
(e) Employer contributions (total from column (b) of item 7)
(f) Interest on (e)
(g) Funding deficiency, excess, if any, of the sum of (b) through (d) over the sum of (e) and (f)

11 Checklist of actuarial cost methods:
(a) ☐ Attained age normal (b) ☐ Entry age normal (c) ☐ Accrued benefit (unit credit)
(d) ☐ Aggregate (e) ☐ Frozen initial liability (f) ☐ Individual level premium
(g) ☐ Other (specify) ▶

12 Checklist of certain actuarial assumptions:

	A Used for item 6(d) and (e)—value of accrued benefits				B Used for item 8, 9 or 10—funding standard account			
	Pre-retirement		Post-retirement		Pre-retirement		Post-retirement	
(a) Rates specified in insurance or annuity contracts	☐ Yes	☐ No	☐ Yes	☐ No	☐ Yes	☐ No	☐ Yes	☐ No
(b) Mortality table code:								
(i) Males								
(ii) Females								
(c) Interest rate	%		%		%		%	
(d) Retirement age								
(e) Expense loading	%		%		%		%	
(f) Annual withdrawal rate:	Male	Female			Male	Female		
(i) Age 25	%	%			%	%		
(ii) Age 40	%	%			%	%		
(iii) Age 55	%	%			%	%		
(g) Ratio of salary at normal retirement to salary at:								
(i) Age 25					%	%		
(ii) Age 40					%	%		
(iii) Age 55					%	%		

(h) Is a statement of actuarial assumptions attached? ☐ Yes ☐ No

[1] Provide these figures for 1978 plan year, if calculated. Beginning with the 1979 plan year disclosure of these figures is mandatory for all plans filing a Schedule B with 100 or more participants.

☆ U.S. GOVERNMENT PRINTING OFFICE : 1979—O-263-186 263–186–1

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Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefit Programs

Pension Benefit Guaranty Corporation

1978 Instructions for Schedule B (Form 5500)

Actuarial Information

(Code references are to the Internal Revenue Code. ERISA refers to the Employee Retirement Income Security Act of 1974.)

General Instructions

Who Must File.—The employer or plan administrator of a defined benefit plan that is subject to the minimum funding standards (see section 412 of the Code and Part 3 of Title I of ERISA) must file this schedule as an attachment to the annual return/report filed for plan years beginning on or after January 1, 1976. Plans maintained on January 1, 1974, pursuant to one or more collective bargaining agreements entered into before September 2, 1974, are not subject to the minimum funding standards for plan years beginning before the earlier of the termination of the collective bargaining agreement(s) or January 1, 1981.

For split-funded plans, the costs and contributions reported on Schedule B should include those relating to both trust funds and insurance carriers.

Specific Instructions

(References are to line items on the form.)

4(a). A collectively bargained plan only may elect the shortfall funding method (see regulations under section 412 of the Code). Advance approval from the IRS of the election of the shortfall method of funding is NOT required if it is first adopted on or before the later of (i) the first plan year to which section 412 of the Code applies or (ii) the last plan year commencing before December 31, 1980. However, advance approval from IRS is required, if adopted at a later time or if discontinued.

4(b). Advance approval from IRS of the election to defer the amortization of the shortfall gain (loss) and/or the amortization of the actuarial gain (loss) is required for a plan year, subsequent to the first plan year to which the shortfall method applies. Advance approval from IRS is required for discontinuance.

5. Changes in funding methods include changes in actuarial cost method, changes in asset valuation method and changes in the valuation date of plan costs and liabilities or of plan assets. Such changes require IRS approval.

6(a). The valuation for a plan year may be as of any date in the year, including the first and last. Valuations must be performed within the period specified by section 103(d) of ERISA and section 6059(a) of the Code.

6(b). Not applicable to the first plan year to which the minimum funding standards apply.

6(c). Enter current value of total assets as of the beginning of the plan year, as shown in item 13 on Form 5500, 5500–C or 5500–K. The beginning of the plan year value should be the same figure as that of the end of the prior plan year.

6(d) and (e). Schedule B for plan years beginning in 1979 will require that the information indicated in 6(d) and (e) be completed for all plans with 100 or more participants, in accordance with these instructions. Plans with fewer than 100 participants are to supply these figures if calculated. For plan years beginning in 1978, the information is required only to the extent it has been calculated. If the value indicated in item (d) has been calculated as of the beginning of the plan year beginning in 1978, it should be entered regardless of whether it has been determined according to these instructions. The term "accrued benefit" means the individual's accrued benefit determined under the plan as required by section 204 of ERISA.

Each separate actuarial assumption used in calculating the present value of accrued benefits reported in item 12 should explicitly reflect the expectations applicable to the plan on an ongoing (rather than a terminating) basis. The actuary shall take into account rates of early retirement and the plan's early retirement provisions as they relate to the accrued benefits, where these would significantly affect the results. See instructions for item 12 for further requirements concerning actuarial assumptions.

Where significant, the present value of accrued benefits for both (d) and (e) shall be increased by the present value of any subsidized early retirement benefits, disability benefits and death benefits which are related to the accrued benefit. The present value of accrued benefits should also be increased by the present value of a cost-of-living clause if such a clause is currently part of the benefit formula.

The present values should be determined as of the beginning of the plan year.

Omit from items 6(d) and (e) liabilities fully funded by annuity and insurance contracts other than any contract funds not allocated to individuals.

6(d). Include the present value of all vested accrued benefits that are vested as of the beginning of the plan year. 6(d)(i) should include the present value of vested benefits for all retired participants. 6(d)(ii) should include the present value of vested benefits for other participants. 6(d)(iii) is the sum of 6(d)(i) and (ii).

6(e). Include the present value of the excess of the accrued benefits over the vested benefits included in 6(d).

7. Show all employer and employee contributions for the plan year, and employer contributions made not later than 2½ months (or such later date allowed under section 412(c)(10) of the Code and section 302(c)(10) of ERISA) after the end of the plan year.

8(a). If the aggregate cost or frozen initial liability method is used, enter "N/A".

8(b). Enter the value of assets determined in accordance with section 412(c)(2) of the Code or 302(c)(2) of ERISA.

8(c)(i). If the aggregate cost or frozen initial liability method is used, enter "N/A".

8(c)(ii). For the methods to be used to determine the shortfall gain (loss) see the regulations under section 412 of the Code.

8(d). Insert amount from item 9(m). However, if the alternative method is elected, and item 10(g) is smaller than item 9(m), enter the amount from item 10(g). File Form 5330 with the IRS to pay 5% excise tax on the funding deficiency.

Statement by Enrolled Actuary

In lieu of signing Schedule B (Form 5500) an enrolled actuary may attach a signed statement containing the name, address, enrollment number, telephone number and the actuary's opinion that the assumptions used in preparing Schedule B are in the aggregate reasonably related to the experience of the plan and to reasonable expectations, and represent his or her best estimate of anticipated experience under the plan and to the best of his or her knowledge the report is complete and accurate. In addition, the actuary may offer any other comments related to the information contained in Schedule B.

9. Under the shortfall method of funding, the Normal Cost is the funding standard account, is the charge per unit of production (or per unit of service) multiplied by the actual number of units of production (or units of service) which occurred during the plan year. Each amortization installment in the funding standard account is similarly calculated. For a plan maintained by more than one employer, the amortization of the shortfall gain (loss) and the actuarial gain (loss) may be deferred. See regulations under section 412 of the Code.

9(b). If no valuation was made for the current year, enter the normal cost calculated in the most recent actuarial valuation, or the estimated cost for the current year based on such valuation. If amounts are not as of the date of the most recent actuarial valuation, indicate in the Statement of Actuarial Assumptions how the amounts shown were determined.

10(a). If the entry age normal cost method was not used to determine the entries in item 9, the alternative minimum funding standard account may not be used.

10(c). The value of accrued benefits should exclude benefits accrued for the current plan year. The market value of assets should be reduced by the amount of any contributions for the current plan year.

11. Enter only the primary method used. If the plan uses one actuarial cost method in one year as the basis of establishing an accrued liability for use under the frozen initial liability method in subsequent years, answer as if the frozen initial liability method were used in all years.

12. Complete all blanks. Enter "N/A" if not applicable. If the assumptions, listed under columns A and B differ, explain, in an attached Statement of Actuarial Assumptions, the reasons for the differences.

If unisex tables are used enter the values in both the male and female columns.

12(a). Check "Yes" if rates in contract were used (e.g. purchase rates at retirement).

12(b). Enter Code as follows:

Table	Code
1937 Standard Annuity	1
a–1949 Table	2
Progressive Annuity Table	3
1951 Group Annuity	4
1971 Group Annuity Mortality	5
1971 Individual Annuity Mortality	6
UP–1984	7
Other	8
None	9

Where an indicated table consists of separate tables for males and females, add F to the female table (e.g., 4F). When a projection is used with a table, follow the code with "P" and the year of projection (omit year if projection unrelated to a single calendar year); the identity of the projection scale should be omitted. When an age set-back or set-forward is used, indicate with "–" or "+" and the years. For example, if for females the 1951 Group Annuity Table with Projection C to 1971 is used with a 5-year set-back, enter "4P71–5." If the table is not one of those listed, enter "8" with no further notation. If the valuation assumes a maturity value to provide the post-retirement income without separately identifying the mortality, interest and expense elements, under "post-retirement" enter on 12(b) the value of $1.00 of monthly pension beginning at the age shown on 12(d) assuming the normal form of annuity for an unmarried person; in this case enter "N/A" on 12(c) and 12(e).

12(c). Enter assumption as to expected interest rate (investment return). If the assumed rate varies with the year, enter the weighted average of the assumed rate for 20 years following the valuation date.

12(d). If each participant is assumed to retire at his normal retirement age, enter "NRA"; otherwise enter the assumed retirement age. If the valuation uses rates of retirement at various ages, enter the estimated average whole age at which participants are assumed to retire.

12(e). If there is no expense loading, enter 0. If there is a single expense loading not separately identified as pre-retirement or post-retirement, enter it under pre-retirement and enter "N/A" under post-retirement. Where expenses are assumed other than as a percent of plan costs or liabilities, enter the assumed expense as a percent of the calculated normal cost.

12(f). Enter rates to nearest 0.1%. If select and ultimate rates which vary with both age and years of service are used, enter rates for a new participant at the age shown and enter "S" before the rate.

12(g). Enter salary ratio for the age indicated to the nearest 1%.

12(h). Attach a statement of actuarial assumptions used (if not fully described by item 12), actuarial methods used to calculate (i) the figures shown in items 6, 8, 9, 10 (if not fully described by item 11) and (ii) the value of assets shown on line 8(b). The statement is to include a summary of the principal eligibility and benefit provisions upon which the valuation was based, an identification of benefits not included in the calculation, and other facts, such as any change in actuarial assumptions or cost methods and justifications for any such change. Include also such other information, if any, needed to fully and fairly disclose the actuarial position of the plan.

★ U.S. GOVERNMENT PRINTING OFFICE : 1979—O-283-370 283–370

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The final regulation set forth below is adopted pursuant to the authority in sections 101, 103, 104, 109, 110, 111(c) and 505 of ERISA, Pub. L. 93-406, 88 Stat. 840-52, 894 (29 USC 1021, 1023-24, 1029-31, 1135).

Chapter XXV of Title 29 of the Code of Federal Regulations is hereby amended so that § 2520.104-42 reads as follows:

§ 2520.104-42 Waiver of certain actuarial information in the annual report.

Under the authority of § 104(a)(2)(A) of ERISA, the requirement of section 103(d)(6) of ERISA that the annual report include as part of the actuarial statement (Schedule B) the present value of all of the plan's liabilities for nonforfeitable pension benefits allocated by termination priority categories, as set forth in section 4044 of Title IV of ERISA, and the actuarial assumptions used in these computations, is waived.

Signed at Washington, D.C. this 22nd day of January, 1979.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration.

[FR Doc. 79-2714 Filed 1-23-79; 10:37 am]

[4510-26-M]

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Occupational Exposure to Lead; Administrative Stay; Reconsideration; Corrections

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of administrative stay of final standard for occupational exposure to lead; notice of reconsideration and opportunity to comment on respirator table; corrections to final standard.

SUMMARY: OSHA's final standard for occupational exposure to lead was published in the FEDERAL REGISTER on November 14 and November 21, 1978, to be effective February 1, 1979. This document gives notice of an administrative stay of the standard until February 24, 1979, to facilitate judicial consideration of motions to stay the standard pending full judicial review. In addition, OSHA has decided to reconsider the final standard's prohibition on the use of dust, mist and fume respirators in certain circumstances, and to permit use of these respirators pending reconsideration.

DATES: (1) The effective date of the standard is February 24, 1979.

(2) Comments on the respirator table must be submitted by March 1, 1979.

ADDRESS: Comments should be sent to: Docket Officer, Docket H-004, U.S. Department of Labor, Room S-6212, Washington, D.C. 20210, Telephone: (202) 523-7894.

FOR FURTHER INFORMATION CONTACT:

Gary Adams, OSHA Office of Toxic Substances, U.S. Department of Labor, Room S-5520, Washington, D.C. 20210, telephone 202-523-7177.

SUPPLEMENTARY INFORMATION:

1. *Introduction.* On November 13, 1978, the Occupational Safety and Health Administration (OSHA) promulgated a permanent standard for occupational exposure to lead. [29 CFR 1910.1025, 43 FR 52952-53014 (November 14, 1978), 43 FR 54354-54509 (November 21, 1978)]. The standard provides for a delayed effective date of February 1, 1979. Pursuant to section 6(f) of the Occupational Safety and Health Act, 29 USC 655(f), numerous petitions were filed in several U.S. Courts of Appeal challenging the validity of the standard. All petitions are being transferred to the U.S. Court of Appeals for the District of Columbia Circuit (*United Steelworkers of America, AFL-CIO-CLC* v. *Marshall*, No. 78-2452 (3rd Circuit, January 10, 1979)). Following promulgation of the standard, sixteen petitions were directed to the Assistant Secretary for Occupational Safety and Health for administrative relief requesting that OSHA either withdraw the standard for reconsideration of various issues or grant an administrative stay of the effective date pending judicial review by the U.S. Court of Appeals. Petitions were received from the following persons:

1. Lead Industries Association
2. Battery Council International
3. Ford Motor Company
4. Chrysler Corporation
5. General Motors Corporation
6. Ethyl Corporation
7. American Telephone and Telegraph Company
8. American Iron and Steel Institute
9. St. Joe Minerals Corporation
10. Corning Glass Works
11. E. I. duPont de Nemours & Company
12. Minnesota Mining and Manufacturing Company
13. National Association of Printing Ink Manufacturers
14. Southwire Company
15. National Paint and Coatings Association, Inc.
16. National Association of Recycling Industries

Some petitions were treated as requests for clarification or interpretation, but administrative relief was denied to all petitioners except the Minnesota Minning and Manufacturing Company. Copies of petitions and responses are available for inspection and copying at: OSHA Docket Office, U.S. Department of Labor, Room S-6212, Washington, D.C. 20210, Telephone (202) 523-7894.

2. *Administrative stay.* Under the authority of section 10(d) of the Administrative Procedure Act (5 U.S.C. § 705) the February 1, 1979 effective date of the standard as set forth in paragraph (p) of 29 CFR 1910.1025 is stayed and amended to read February 24, 1979.

The record in the lead rulemaking proceeding demonstrates that lead has profoundly adverse effects on the health of exposed workers and that compliance with the regulation must begin immediately in order to afford workers much needed, and overdue, protection. However, the agency believes that staying the effective date of the standard until February 24, 1979 is in the public interest because it will facilitate expeditious judicial consideration of applications for stay pending judicial review filed by several parties.

The agency believes that the public interest lies in enforcement of this regulation as quickly as possible. It appears that a judicial decision on applications for stay of the standard pending review can be made by February 23, 1979, and to grant an administrative stay for this brief period of time will enable the court to fully consider the issues raised by such stay applications, and the Secretary's opposition thereto, obviating the need for emergency relief by the court before the issues are fully before it.

3. *Reconsideration.* The Minnesota Mining and Manufacturing (3M) Company petitioned OSHA on December 28, 1978 to reconsider the prohibition on the use of dust, fume, and mist respirators for concentrations of lead not in excess of 0.5 mg/m³ This prohibition is implicit in the exclusion of these respirators from the respirator selection table of the final standard. (29 CFR 1910.1025(f)(2)(i)) 3M claimed that the evidence in the rulemaking record did not support the prohibition of these respirators and, on the contrary, supported their use. OSHA agrees that serious questions have been raised which warrant further administrative consideration. Therefore, OSHA has granted 3M's request to reconsider this issue and will permit the continued use of dust, fume and mist

respirators currently permitted under 29 CFR 1910.134 for concentrations of lead not exceeding 0.5 mg/m³ pending consideration of the issue.

OSHA relied primarily on the recommendations of NIOSH is formulating the table and will now review the NIOSH exhibits in the record, and request an interpretation from them. In addition, affected persons may submit comments on the issue of whether dust, fume, and mist respirators should be included in the respirator selection table of the final standard for concentrations of lead not in excess of 0.5mg/m³ or ten times the PEL. Comments must be submitted in quadruplicate on or before March 1, 1979 to the Docket Officer, Docket H-004, U.S. Department of Labor, Room S-6212, Washington, D.C. 20210. Telephone (202) 523-7894. Comments received will be available for public inspection and copying at the above address.

3. *Corrections.* The permanent standard for occupational exposure to lead, as published in the Federal Register on November 14, 1978, is corrected below. These changes are intended to correct typographical errors and inadvertent additions to or deletions from the regulation. These changes are minor and do not require public notice and comment. (29 CFR 1911.5) Corrections to the preamble of the standard and appendices to the standard will be published in a subsequent Federal Register notice.

Accordingly, pursuant to section 6 of the Occupational Safety and Health Act (29 USC 655), 29 CFR 1911.5, and section 10(d) of the Administrative Procedure Act (5 USC 705), notice is hereby given that the use of dust, fume, and mist respirators currently permitted under 29 CFR 1910.134 is permitted under the respirator selection table of the permanent standard for occupational exposure to lead (29 CFR 1910.1025 (f) (2) (i)) until reconsideration of their exclusion from the table is completed by OSHA and a determination is made.

In addition, pursuant to the above authority FR Doc. 78-31911, promulgating 29 CFR 1910.1025, is amended as follows:

Page	Column	Line	Correction
1. 53007	1	44	Insert "Lead." after "(g)"
2. 53007	2	34	close parenthesis after "m³"
3. 53007	2	50	insert period after "Exposure monitoring" in paragraph (d)
4. 53007	3	9-13	paragraph (d)(3)(i)(B) should read "Any previous measurements of airborne lead; and"
5. 53007	3	24	add as paragraph (d)(3)(ii): "Measurements of airborne lead made in the preceding 12 months may be used to satisfy the requirement to monitor under paragraph (d)(3)(i) if the sampling and analytical methods used meet the accuracy and confidence levels of paragraph (d)(9) of this section."
6. 53007	3	24	insert "*and initial monitoring.* (i)" after "*Positive initial determination*" in paragraph (d)(4)
7. 53007	3	32	change "which" to "who"
8. 53007	3	34	add as paragraph (d)(4)(ii): "Measurements of airborne lead made in the preceding 12 months may be used to satisfy this requirement if the sampling and analytical methods used meet the accuracy and confidence levels of paragraph (d)(9) of this section."
9. 53007	3	36	change "paragraph" to "paragraphs"
10. 53008	1	7	change "may" to "shall"
11. 53008	1	Table 1	The entry for "all other industries" under the 100 μg/m³ column should be "not applicable"
12. 53008	2	7	add to the end of footnote 2 of Table I "This continues an obligation from Table Z-2 of 29 CFR 1910.1000 which had been in effect since 1971 but which was deleted upon the effectiveness of this section."
13. 53008	2	19	insert comma after "limit" in paragraph (e)(3)(i)
14. 53008	2	20	change "appropriate" to "applicable" in paragraph (e)(3)(i)
15. 53008	2	49	change "employee's" to "employees'" in paragraph (e)(6)
16. 53009	1	4	add "negative pressure" after "wear a"
17. 53009	1	Table 2	(1) Add a footnote "3" after "filters" in lines 6 and 9 of the table. (2) Insert "PEL" after "2000x" in left column.
18. 53009	3	31	in paragraph (g)(2)(vii), delete comma and all after "air"; add period at end of sentence.
19. 53009	3	44	paragraph (h)(2)(ii) should read "Shoveling, dry or wet sweeping, and brushing may be used only where vacuuming or other equally effective methods have been tried and found not to be effective."
20. 53009	3	53-55	delete "skin or clothing may come in contact with fume, dust, mist, or liquids containing lead or where" in paragraph (l)(1)
21. 53009	3	68-70	delete "their skin or clothing comes into contact with fume, dust, mist, or liquids containing lead or where" in paragraph (l)(2)
22. 53010	1	9-11	delete "where their skin or clothing comes into contact with fume, dust, mist or liquids containing lead or" in paragraph (l)(3)
23. 53010	1	18	change "1910.141(a)(3)" to "1910.141(d)(3)"
24. 53010	1	28-30, 41-43	delete "their skin or clothing comes into contact with fume, dust, mist, or liquids containing lead or where" in paragraphs (l)(4)(i) and (l)(4)(iii)

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Page	Column	Line	Correction
25. 53010	1	45	add "the use of" before "respirator"
26. 53010	1	60–67	delete all of paragraph (l)(6)
27. 53010	3	6	in paragraph (j)(1)(iii), insert "including multiple physician review under paragraph (j)(3)(iii)" after "required medical surveillance"
28. 53010	2	53	insert a comma and "United States Department of Health, Education and Welfare" after "Control" in paragraph (j)(2)(iii)
29. 53011	1	71–72	delete "inorganic"
30. 53011	2	25	change "an" to "the" in paragraph (j)(3)(v)(A)
31. 53012	1	12	change semicolon to period at end of paragraph (k)(1)(ii)(A)
32. 53012	1	60–61	in paragraph (k)(1)(iii)(A)(4), change semicolon to period; delete "and"
33. 53012	2	39	delete "-iii" in paragraph (k)(1)(v)(B)
34. 53012	2	44–45	(1) delete semi colon and insert "or" after "physician;" in paragraph (k)(1)(v)(B)(2) line up ¶(2) at margin
35. 53012	2	46	change "proceeding" to "preceding"
36. 53012	3	33	insert "receives income" after "program, or"
37. 53012	3	37	change "no" to "not"
53013	1	42	change "(1)(1)(ii)" to "(1)(1)(ii)"
38. 53013	3	21	change "(1)(1)(v)" to "(1)(1)(v)"
39. 53014	2		The effective date in paragraph (p) is changed to February 24, 1979
40. 53014	3	26	add a new paragraph (D) to read "Quantitative fit testing required under (f)(3)(ii)—one year from effective date. Qualitative fit testing is required in the interim.

Signed at Washington, D.C. this 25th day of January, 1979.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 79-3022 Filed 1-25-79; 10:58 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-30-M]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 220]

SCHOOL BREAKFAST PROGRAM

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes to change the designation "especially needy school" to "school with severe need", establish minimum national eligibility criteria for States to use in determining schools with severe need, allow cost for severe need schools to be calculated on the School Food Authority level, and clarify the reimbursement formula for School Food Authorities which include schools with and without severe need. These changes are required by Public Law 95-166 and the Child Nutrition Amendments of 1978 (Public Law 95-627) as well as by clarifications in cost accounting methods. They are designated to provide greater national consistency of severe need determination, more efficient program operation, and inducement for increased participation by schools in the School Breakfast Program.

DATE: A 60 day comment period is provided for this proposal. Comments must be received on or before March 27, 1979 to be assured of consideration. It is the Department's intention to publish final regulations to be effective July 1, 1979.

ADDRESS: Send comments to: Margaret O'K. Glavin, Director, School Programs Division, FNS, USDA, Washington, D.C. 20250 (202) 447-8130. All written submissions received pursuant to this notice will be made available for public inspection in room 4300B, Auditor's Building, School Programs Division, FNS, during regular business hours (8:30 a.m. to 5:00 p.m.) (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:
Margaret O'K. Glavin, Director School Programs Division, FNS, USDA, Washington, D.C. 20250 (202)447-8130.

SUPPLEMENTARY INFORMATION:

CHANGES IN TERMINOLOGY

The change in terminology from "especially needy school" to "school with severe need" is a technical amendment to conform with the language of the Child Nutrition Act of 1966, as amended.

MINIMUM ELIGIBILITY CRITERIA

The Child Nutrition Amendments of 1978 (Public Law 95-627) make two categories of schools eligible for additional reimbursement when regular per meal reimbursement will not cover costs: (1) schools which are required by State law to serve breakfast and (2) schools which have a high number of needy children as defined by State criteria. The minimum State criteria is set by law at 40 percent of a school's lunches served. Schools are to rely on their statistics for free and reduced price lunches served during the second preceding school year to determine the number of needy children that they serve.

In addition the the explicit requirements of the law, the Department proposes to extend severe need reimbursement to schools which serve a high number of needy children but which did not have a lunch program in previous years upon which a forecast of participation by needy children could be made. Congressional intent is clearly to offer incentives for the expansion of the breakfast program, particularly in areas of economic need. Although the percentage of free and reduced price lunches served is a good indication that needy children will be reached in a breakfast program, administrators must rely on alternate guidelines when lunch statistics are not available. The regulations as proposed allow alternative bases on which a determination of need may be made in the absence of such data.

COST DETERMINATION

The Department proposes to continue to require the determination of eligibility for severe need funds to be made on a school by school basis. The language of the Child Nutrition Act, as amended, as well as the intent of Congress revealed in Congressional debate dictate that severe need funds be targeted to *schools* serving a substantial number of needy children. However, the Department proposes to allow cost to determined on a School Food Authority basis, in keeping with the cost accounting requirements of FNS (CN) Instruction 796-1 (Rev. 2), School Food Authority maintaining costs on an individual school basis may continue to do so. This proposal does not change the existing requirement that reimbursement not exceed cost.

The Department is aware that Section 6 of Public Law 95-627 states that no provision of the Child Nutrition Act or National School Lunch Act shall require schools receiving funds under these acts to account separately for costs incurred in the school lunch and school breakfast programs. This provision will be addressed in separate proposed rulemaking. However, it is envisioned that a formula will be divised to facilitate cost determination between programs in order that schools shall not be required under Federal regulations to maintain separate records on costs in order to qualify for severe need rates. The Department further proposes to amend that part of the regulations governing the reimbursement formula for School Food Authorities which include both schools with and without severe need by restructuring the regulations for further clarity.

Accordingly, Part 220.9 is proposed to be amended as follows: Paragraphs (b) and (c) are revised and new paragraphs (d) and (e) are added to read as follows:

§ 220.9 Reimbursement payments.

* * * * *

(b) The maximum rates of reimbursement for breakfasts served to eligible children are the applicable national average payment factors for breakfasts, prescribed semiannually by the Secretary in the FEDERAL REGISTER.

(c) The total reimbursement for breakfasts served to eligible children during the school year in any School Food Authority shall be equal to the lesser of the following amounts—(1) the total cost of such breakfasts minus revenues from other sources including children's payments; and (2) the sum of the products obtained by multiplying (a) the total number of paid breakfasts by the applicable rate of reimbursement for paid breakfasts, (b) the total number of reduced price breakfasts served in schools not determined to be in severe need by the applicable rate of reimbursement for reduced price breakfasts, (c) the total number

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of free breakfasts served in schools not determined to be in severe need by the applicable rate or reimbursement for free breakfasts, and if the School Food Authority includes schools determined to be in severe need, (d) the total number of reduced price breakfasts served in schools determined to be in sevre need by the applicable severe need rate of reimbursement for reduced price breakfasts, and (e) the total number of free breakfast served in schools determined to be in severe need by the applicable severe need rate of reimbursement for free breakfasts.

(d) The State agency, or FNSRO where applicable, shall determine whether a school is a school with severe need based on eligibility criteria established by the State educational agency, in the annual State Plan as required under 210.4a. At a minimum, a school shall be determined to be a school with severe need if the rate per meal established by the Secretary is insufficient to cover the costs of its breakfasts program and (1) it is required by State law to serve breakfasts, or (2) if under the National School Lunch Program, it served 40 percent or more of its lunches free or at a reduced price in the second preceding school year, or (3) if it does not have a lunch program but does have or did have a breakfast program in the second preceding school year, it served 40 percent or more of its breakfasts free or at a reduced price, or (4) if it has neither a lunch nor a breakfast program, it would estimate that it would serve 40 percent of its breakfasts free or at a reduced price. All such determinations shall be based on the most accurate data available, and must be adequately documented. A State educational agency may establish more inclusive eligibility criteria. State agencies shall submit for approval their eligibility criteria for the determination of severe need of a school in their annual State Plan.

(e) The total reimbursement for free and reduced price breakfasts served to eligible children in any School Food Authority may exceed the total cost of providing such breakfasts for any given month. However, the total reimbursement for free and reduced price breakfasts served to eligible children in any School Food Authority may not exceed the total cost as determined under guidelines established by FNS for the school year.

(Catalog of Federal Domestic Assistance No. 10.553.)

NOTE.—In accordance with Executive Order 12044, a copy of the detailed impact statement for this proposal is on file at the Office of the Director, School Programs Division, USDA-FNS, Washington, D.C. 20250 during regular business hours (8:30 a.m. to 5:00 p.m. Monday through Friday).

Dated: January 22, 1979.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-2612 Filed 1-25-79; 8:45 am]

[3410-02-M]

Agricultural Marketing Service

[7 CFR Part 1280]

[Docket No. WR-1]

WHEAT AND WHEAT FOODS RESEARCH AND NUTRITION EDUCATION ORDER

Hearing on Proposed Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: This noticed hearing is being held to consider a proposed Wheat and Wheat Foods Research and Nutrition Education Order, submitted by the Wheat and Wheat Foods Foundation that would establish a nationally coordinated program of research and nutrition education for wheat, processed wheat, and wheat end products. Such a program would be financed by assessments of up to five cents per hundredweight, to be paid by end product manufacturers of their purchases of processed wheat. The program would be administered by a twenty-member Council, composed equally or representatives of wheat producers, processors, end product manufacturers, and consumers. A coalition of wheat related organizations requested the proposed order. Proponents contend that a nationally coordinated program of research and nutrition education is needed to improve and enhance the quality, and make the most efficient use of American wheat, processed wheat, and wheat end products to ensure an adequate diet for the people of the United States.

DATES: The hearing sessions will be held beginning on February 27, March 6, and March 15 at three locations listed under "Supplementary Information."

ADDRESSES: See the list of locations under "Supplementary Information" below.

FOR FURTHER INFORMATION, CONTACT:

W. David Spalding, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, D.C. 20250, Phone: 202-447-3970

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing on a proposed national research and nutrition education order for wheat and wheat foods. Hearing sessions will be held at three locations beginning on the dates listed below:

1. February 27, 1979—Federal Building, Courtroom No. 2. 7th Floor, 316 North Robert Street, St. Paul, MN 55101

2. March 6, 1979—Federal Executive Building, Room 556, 275 Peachtree Street, N.E., Atlanta, GA 30303

3. March 15, 1979—State Social Service Building, Basement Auditorium, 1575 Sherman Street, Denver, CO 80203. Each day's session of the hearing will commence at 9:30 a.m., local time, unless the judge otherwise specifies during the course of the hearing. Any of the sessions may be continued beyond 1 day in necessary.

The hearing is called pursuant to the provisions of the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 *et seq.*), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate such an order (7 CFR Part 1280).

The public hearing is for the purpose of:

(a) Receiving evidence with respect to the economic and marketing conditions which relate to the proposed order set forth herein and to any appropriate modifications thereof;

(b) Determining the extent of need for an order to implement a nationally coordinated wheat and wheat foods research and nutrition education program;

(c) Determining the economic and social impact of the proposed order on the segments of industry and public affected by such an order; and

(d) Determining whether provisions specified in the proposed order or some other provisions appropriate to the terms of the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 *et seq.*) will tend to effectuate the declared policy of the Act. In addition, the following matters should also be addressed at the hearing:

(a) What are the social costs in relation to the social benefits associated with the proposed one cent per hundredweight assessment as opposed to any other assessment level between zero to five cents per hundredweight?

(b) What are probable quantitative impacts of alternative assessment levels on USDA costs, end product manufacturer costs, research budgets, competition between wheat products and their substitutes, and the longer term trends for nutrition, diets and health?

(c) Would there be a differentiation in effects from the program on low income and high income consumers, and on the different types of end product manufacturers?

(d) What evidence is there from similar actions in other commodities regarding the ability of research to improve efficiency, productivity, nutrition and diets?

The proposed order, set forth below, has not received the approval of the Secretary of Agriculture.

PROPOSED BY THE WHEAT AND WHEAT FOODS FOUNDATION

PROPOSAL NO. 1

The provisions of the order should read as follows:

PART 1280—WHEAT AND WHEAT FOODS RESEARCH AND NUTRITION EDUCATION

Subpart—Wheat and Wheat Foods Research and Nutrition Education Order

DEFINITIONS

Sec.
1280.101 Wheat.
1280.102 Processed wheat.
1280.103 End product.
1280.104 Wheat producer.
1280.105 Processor.
1280.106 End product manufacturer.
1280.107 Research.
1280.108 Nutrition education.
1280.109 Wheat Industry Council or Council.
1280.110 Department.
1280.111 Secretary.
1280.112 Person.
1280.113 United States.
1280.114 Fiscal period.
1280.115 Eligible organization.
1280.116 Representative of wheat producers.
1280.117 Representative of processors.
1280.118 Representative of end product manufacturers.
1280.119 Representative of consumers.
1280.120 Part and subpart.
1280.121 Retail baker.
1280.122 Intra-company transfers.
1280.123 Related companies or divisions of the same company.
1280.124 Control.
1280.125 Act.
1280.126 Plans and projects.
1280.130 Establishment and membership.
1280.131 Term of office.
1280.132 Nominations.
1280.133 Appointment.
1280.134 Acceptance.
1280.135 Vacancies.
1280.136 Alternate members.
1280.137 Procedure.
1280.138 Compensation and reimbursement.
1280.139 Powers of the Council.
1280.140 Duties.

Sec.

RESEARCH AND NUTRITION EDUCATION

1280.145 Research and nutrition education.

EXPENSES AND ASSESSMENTS

Sec.
1280.150 Expenses.
1280.151 Assessments.
1280.152 Refunds.
1280.153 Influencing governmental action.

REPORTS, BOOKS, AND RECORDS

Sec.
1280.159 General.
1280.160 Reports.
1280.161 Books and records.
1280.162 Confidential treatment.

CERTIFICATION OF ORGANIZATIONS

Sec.
1280.165 Certification of Organizations.

MISCELLANEOUS

Sec.
1280.166 Suspension and termination.
1280.167 Proceedings after termination.
1280.168 Effect of termination or amendment.
1280.169 Personal liability.
1280.170 Patents, copyrights, inventions, and publications.
1280.171 Amendments.
1280.172 Separability.

AUTHORITY: Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 et. seq.).

Subpart—Wheat and Wheat Foods Research and Nutrition Education Order

DEFINITIONS

§ 1280.101 Wheat.

"Wheat" means all classes of wheat grains grown in the United States.

§ 1280.102 Processed wheat.

"Processed wheat" means the wheat-derived content of any substance (such as cake mix or flour) produced for use as an ingredient of an end product by changing wheat grown within the United States in form or character by any mechanical, chemical, or other means.

§ 1280.103 End product.

"End product" means any product which contains processed wheat as an ingredient and which is intended, as produced, for consumption as human food, notwithstanding any additional incidental preparation which may be necessary by the ultimate consumer.

§ 1280.104 Wheat producer.

"Wheat producer" means any person who grows wheat within the United States for market.

§ 1280.105 Processor.

"Processor" means any person who commercially produces processed wheat within the United States.

§ 1280.106 End product manufacturer.

"End product manufacturer" means any person who commercially produces an end product within the United States, but such term shall not include such persons to the extent that they produce end products on the premises where such end products are to be consumed by an ultimate consumer, including, but not limited to, hotels, restaurants, and institutions, nor shall such term include persons who produce end products for their own personal, family, or household use.

§ 1280.107 Research.

"Research" means any type of research to advance the nutritional quality, marketability, production, or other qualities of wheat, processed wheat, or end products.

§ 1280.108 Nutrition education.

"Nutrition education" means any action to disseminate to the public information resulting from research concerning the economic value or nutritional benefits of wheat, processed wheat, and end products.

§ 1280.109 Wheat Industry Council or Council.

"Wheat Industry Council" or "Council" means the administrative body established pursuant to § 1280.130.

§ 1280.110 Department.

"Department" means the United States Department of Agriculture.

§ 1280.111 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

§ 1280.112 Person.

"Person" means any individual, partnership, corporation, association or other entity.

§ 1280.113 United States.

"United States" means the several States and the District of Columbia, including any territory or possession.

§ 1280.114 Fiscal period.

"Fiscal period" means the calendar year or such other period as the Council may determine.

§ 1280.115 Eligible organization.

"Eligible organization" means any organization or association which has been certified by the Secretary pursuant to § 1280.165.

§ 1280.116 Representative of wheat producers.

"Representative of wheat producers" means a wheat producer, the owner, officer, or employee of a processor, or an officer, or employee of an organization or association representing wheat producers certified under § 1280.165.

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§ 1280.117 Representative of processors.

"Representative of processors" means a processor, the owner, officer, or employee of a processor, or an officer, or employee of an organization or association representing processors certified under § 1280.165.

§ 1280.118 Representative of end product manufacturers.

"Representative of end product manufacturers" means an end product manufacturer, the owner, officer, or employee of an end product manufacturer, or an officer or employee of an organization or association representing end product manufacturers certified under § 1280.165.

§ 1280.119 Representative of consumers.

"Representative of consumers" means a consumer, or an officer or employee of an organization or association representing consumers certified under § 1280.165.

§ 1280.120 Part and subpart.

"Part" means 7 CFR Part 1280, containing rules, regulations, orders, supplemental orders, and similar matters concerning the Wheat and Wheat Foods Research and Nutrition Education Act. "Subpart" means any portion or segment of such part.

§ 1280.121 Retail baker.

"Retail baker" means an end product manufacturer who sells end products directly to the ultimate consumer: Provided, That such term shall not include any end product manufacturer who derives less than 10 percentum of gross end product sales revenues from sales to ultimate consumers or who derives 10 percentum or more of gross food or food product sales revenues from the sale of such products manufactured or produced by others.

§ 1280.122 Intra-company transfers.

"Intra-company transfers" means sales or transfers of processed wheat for use in the manufacture of end products to end product manufacturers from related companies or divisions of the same company.

§ 1280.123 Related companies or divisions of the same company.

"Related companies or divisions of the same company" means subsidiaries, affiliates, or divisions of an end product manufacturer which are controlled by, controlling, or under common control with, such end product manufacturer.

§ 1280.124 Control.

"Control", including the terms "controlling", "controlled by", and "under common control with", means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any person, whether through the ownership of voting securities, by contract, or otherwise.

§ 1280.125 Act.

"Act" means the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 et. seq.) and any amendments thereto.

§ 1280.126 Plans and projects.

"Plans and projects" means those research and nutrition education plans, studies or projects pursuant to § 1280.145.

WHEAT INDUSTRY COUNCIL

§ 1280.130 Establishment and membership.

There is hereby established a Wheat Industry Council of twenty members, each of whom shall have a specific alternate. The Council shall be composed equally of representatives of wheat producers, processors, end product manufacturers and consumers, appointed by the Secretary from nominations submitted by eligible organizations certified pursuant to § 1280.165, or from nominations in a manner authorized by the Secretary pursuant to § 1280.132(a).

§ 1280.131 Term of office.

The members of the Council and their alternates shall serve for terms of two years, except appointments to the initial Council shall be proportionately for terms of two and three years. Each member and alternate member shall continue to serve until his successor is appointed by the Secretary and has qualified. No member or alternate shall serve more than three consecutive terms in such capacity, but service of three consecutive terms in one capacity will not disqualify any person from appointment in another capacity.

§ 1280.132 Nominations.

All nominations authorized under § 1280.130 shall be made in the following manner:

(a) Within 60 days after approval of this order by referendum, or such other period as determined by the Secretary, nominations shall be submitted to the Secretary as specified in paragraph (d) of this section by eligible organizations or associations certified pursuant to § 1280.165. Alternatively, if the Secretary determines that a substantial number of wheat producers, processors, end product manufacturers or consumers are not members of, or their interests are not represented by, any such eligible organizations or associations, then nominations shall be submitted by such wheat producers, processors, end product manufacturers and consumers in a manner authorized by the Secretary;

(b) After the establishment of the initial Council, the nominations for subsequent Council members and alternates shall be submitted to the Secretary not less than sixty days prior to the expiration of the terms of the members and alternates previously appointed to the Council;

(c) Where there is more than one eligible organization or association representing wheat producers, processors, or end product manufacturers within any geographic area, or within any segment of the wheat producing, processing, or end product manufacturing industry, they may caucus for the purpose of jointly nominating two or more qualified persons for each member and alternate member to be appointed. If joint agreement is not reached with respect to any such nominations, or if no caucus is held, each eligible organization or association may submit to the Secretary two or more nominations for each appointment to be made;

(d) In selecting such members and their alternates, factors such as those listed below shall be considered in determining equitable representation on the Council:

(1) For wheat producers, class and volume of wheat produced and geographic distribution;

(2) For processors, class of wheat processed, amount of wheat processed and geographic distribution;

(3) For end product manufacturers, the generic type of end product produced by each segment of the end product industry (baked goods, biscuits and crackers, cereals, paste products) and the percentage each such segment uses of the total processed wheat used by all such segments of the end product industry; and

(4) For consumers, the factors set out in § 1280.165.

§ 1280.133 Appointment.

From the nominations made pursuant to § 1280.132, the Secretary shall appoint the members of the Council, and an alternate for each such member, on the basis of representations provided for in §§ 1280.130, 1280.131 and 1280.132.

§ 1280.134 Acceptance.

Any person appointed by the Secretary as a member, or as an alternate member, of the Council shall qualify by filing a written acceptance with the Secretary within a period of time prescribed by the Secretary.

§ 1280.135 Vacancies.

To fill any vacancy occasioned by the failures to qualify of any person appointed as a member, or as an alternate member, of the Council, or in the

event of the death, removal, resignation, or disqualification of any member or alternate member of the Council, a successor for the unexpired term of such member or alternate member shall be nominated, qualified, and appointed in the manner specified in §§ 1280.130, 1280.132 (b) (c) (d), 1280.133, and 1280.134, except that replacement of a Council member, or alternate, with an unexpired term of less than six months is not necessary.

§ 1280.136 Alternate members.

An alternate member of the Council, during the absence of the member for whom he is the alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is appointed and has qualified.

§ 1280.137 Procedure.

(a) A majority of the members, including alternates acting for members of the Council, shall constitute a quorum, and any action of the Council shall require the concurring votes of at least a majority of those voting.

(b) For routine and non-controversial matters which do not require deliberation and exchange of views, and in matters of an emergency nature when there is not enough time to call as assembled meeting of the Council, the Council may take action upon the concurring votes of a majority of its members by mail, telephone, or telegraph, but any such action by telephone shall be confirmed promptly in writing.

§ 1280.138 Compensation and reimbursement.

The members of the Council and alternates shall serve without compensation but shall be reimbursed for necessary and reasonable expenses, as approved by the Council, incurred by them in the performance of their duties under this subpart.

§ 1280.139 Powers of the Council.

The Council shall have the following powers:

(a) To administer the provisions of this subpart in accordance with its terms and provisions;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this subpart; and

(d) To recommend to the Secretary amendments to this subpart.

§ 1280.140 Duties.

The Council shall have the following duties:

(a) To meet and organize and to select from among its members a chairman and such other officers as may be necessary, to select committees and subcommittees of Council members, and to adopt such rules for the conduct of its business as it may deem advisable. The Council may also establish advisory committees of persons other than Council members and pay the necessary and reasonable expenses of the members of such committees;

(b) To appoint from its members and executive committee consisting of not less than 4 nor more than 8 members, and to delegate to the committee authority to administer the terms and provisions of this subpart under the direction of the Council and within the policies determined by the Council, if such a committee is believed to be necessary or appropriate, and to appoint or employ such persons as it may deem necessary and define the duties and determine the compensation of each;

(c) To develop and submit to the Secretary for approval research plans or projects, and nutrition education plans or projects resulting from research conducted either by the Council or others;

(d) To prepare and submit to the Secretary for approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of this subpart, including probable costs of research and nutrition education plans or projects, and also including a general description of the proposed research and nutrition education programs contemplated therein;

(e) To prepare a summary of the approved annual budget, or amendments thereto, including a brief general description of the proposed research and nutrition education programs contemplated therein, which shall be published promptly in the FEDERAL REGISTER.

(f) To maintain such books and records, which shall be available to the Secretary for inspection and audit, and prepare and submit such reports from time to time, to the Secretary, as the Secretary may prescribe, and to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it;

(g) With the approval of the Secretary, to enter into contracts or agreements for the development and conduct of the activities authorized under § 1280.145 of this subpart and for the payment of the cost thereof with funds collected through the assessments pursuant to § 1280.151. Any such contract or agreement shall provide that: (1) The contractors shall develop and submit to the Council a plan or project together with a budget or budgets which shall show the estimated cost to be incurred for such plan or project; (2) any such plan or project shall become effective upon approval of the Secretary; and (3) the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Council of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary may require;

(h) With the approval of the secretary, to invest, pending disbursement pursuant to a plan or project, funds collected through assessments authorized under § 1280.151 in, and only in, obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank which is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States;

(i) To prepare and make public, at least annually, a report of its activities carried out and an accounting for funds received and expended;

(j) To cause it books to be audited by a certified public account at least once each fiscal period and at such other times as the Secretary may request, and submit a copy of each such audit to the Secretary;

(k) To give the Secretary the same notice of meetings of the Council as is given to members in order that he or his representative may attend such meetings; and

(l) To submit to the Secretary such information pursuant to the subpart as he may request.

RESEARCH AND NUTRITION EDUCATION

§ 1280.145 Research and nutrition education.

The Council shall develop and submit to the Secretary for his approval any plans or projects authorized in this section. Such plans or projects shall provide for:

(a) the establishment, issuance, effectuation, and administration of appropriate plans or projects for nutrition education, both within the United States and in international markets, with respect to wheat, processed wheat, and end products;

(b) The establishment and conduct of research or studies with respect to sale, distribution, marketing, utilization or production of wheat, processed wheat, and end products and the creation of new products thereof to the end that marketing and utilization of wheat, processed wheat, and end products may be encouraged, expanded, improved, or made more acceptable;

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(c) Each plan or project authorized under paragraph (a) or (b) of this section shall be periodically reviewed or evaluated by the Council to insure that each such plan or project contributes to an effective coordinated program or research and nutrition education. If it is found by the Council that nay such plan or project does not further the purposes of the Act, then the Council shall terminate such plan or project; and

(d) In carrying out any plan or project, no reference to a private brand or trade name shall be made unless the Secretary determines that such reference will not result in undue discrimination against wheat, processed wheat or end products of other persons. No such plans or projects shall make use of unfair or deceptive acts or practices with respect to the quality, value or use of any competing product.

EXPENSES AND ASSESMENTS

§ 1280.150 Expenses.

(a) The Council is authorized to incur such expenses, (including provision for a reasonable reserve), as the Secretary finds are reasonable and likely to be incurred by the Council for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from assessments received pursuant to § 1280.151.

(b) The Council shall reimburse the Secretary, from assesments, for all the expenses and expenditures, including any referendum and administrative costs incurred by the Secretary under the Act, as the Secretary finds are reasonable and likely to be incurred under this subpart during any period specified by the Secretary.

§ 1280.151 Assessments.

(a) Each end product manufacturer shall pay to the Council, pursuant to regulations issued by the Council, an assessment based on the number of hundredweights of processed wheat purchased, including intra-company transfers of processed wheat with respect to which no assessment has been paid or scheduled for payment, for use in the manufacture of end products, from processors, distributors, or (in the case of such intra-company transfers) related companies or divisions of the same company: *Provided*, That no person, including any end product manufacture who makes intra-company transfers, shall be required to pay more than one assessment with respect to the same processed wheat, whether or not such processed wheat is further processed by such person: *And provided further*, That the following end product manufacturers shall be exempt from such assessment:

(1) Retail bakers, as defined in § 1280.121, including any end product manufacturer who does not purchase more than 2,000 hundredweights of processed wheat per year for use in the manufacture of end products: *Provided*, That any person exempted under this subparagraph may waive such exemption, upon application to and approval by the Council, and thereafter will be treated as a nonexempt end product manufacturer under this subpart unless and until such person requests that such exemption be reinstated.

(2) End product manufacturers who manufacture specified end products, or types or categories thereof, which are exempted under rules or regulations issued pursuant to section 1716 of the Act.

(b) The Council, with the approval of the Secretary, shall set the amount of the assessment, not to exceed five cents per hundredweight of processed wheat purchased or transferred: *Provided, however*, That the assessment rate for the first two years of the effectiveness of the order shall not exceed one cent per hundredweight.

(c) In order to enable product manufacturers to calculate the amount of processed wheat they have purchased, persons selling or transferring processed wheat in combination with other ingredients to such end product manufacturers for use in the manufacture of end products shall disclose to such end product manufacturers the amount or proportion of processed wheat contained in such products, plus or minus 3 per centum.

(d) End product manufacturers shall remit assessments to the Council at such times and in such manner as prescribed by regulations issued by the Council, but in no case shall assessments be required to be remitted more often than quarterly.

§ 1280.152 Refunds.

(a) Subsequent to the publication of the summary of the Council budget, or amendments thereto, provided for under § 1280.140(e), all end product manufacturers not exempt from the assessments under § 1280.151 shall have 60 days from the date of publication within which to elect, under such conditions as the Secretary may prescribe, by so indicating to the Council in writing, by registered or certified mail, to reserve the right to seek refunds under paragraph (b) of this section. Only those end product manufacturers who make such an election, under the described procedure, shall be eligible for refunds of assessments paid during the one-year period immediately following the expiration of such 60-day period.

(b) Nothwithstanding any other provision of this subpart, any end product manufacturer who has been subject to and has paid an assessment, but who has reserved the right, under paragraph (a) of this section, to seek a refund, and who is not in favor of supporting the programs as provided for herein, shall have the right to demand and receive from the Council a refund of such assessment: *Provided*, That such demand shall be made by such end product manufacturer in accordance with regulations, and on a form and within a time period, prescribed by the Council and approved by the Secretary and upon submission of proof satisfactory to the Council that the end product manufacturer paid the assessment for which refund is sought, and any such refund shall be made within 60 days after demand is received therefor.

§ 1280.153 Influencing governmental action.

No funds collected by the Council under this subpart shall in any manner be used for the purpose of influencing governmental policy or action, except to recommend to the Secretary amendments to this subpart.

REPORTS, BOOKS AND RECORDS

§ 1280.159 General

Consistent with the legislative history of the Act, the Secretary and the Council shall endeavor to keep any recordkeeping or reporting obligations imposed under this part to the absolute minimum necessary, consistent with the achievement of the objectives of the Act.

§1280.160 Reports.

Each end product manufacturer subject to this subpart, and other persons subject to § 1705(c) of the Act, may be required to report to the Council periodically such information as is required by the regulations recommended by the Council and approved by the Secretary. Such information may include but be limited to the following:

(a) The number of hundredweights of processed wheat purchased, sold, or initially transferred (as described in § 1280.122 and § 1280.151(a)) for use in the manufacture of end products;

(b) The number of hundredweights of processed wheat on which an assessment was paid; and

(c) The date any assessment was paid.

§1280.161 Books and records.

Each end product manufacturer who is subject to this subpart, and other persons subject to § 1705(c) of the Act, shall maintain and make available for inspection by the Council or the Secretary such books and records as are necessary to carry out the provisions of this subpart and the regulations issued hereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least two years beyond the fiscal period of their applicability.

§1280.162 Confidential treatment.

All information obtained from such books, records or reports under the Act and this part, and all information pertaining to refund requests and refunds, shall be kept confidential by all officers and employees of the Department, the Council, and by all officers and employees of contracting agencies having access to such information. Only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this section shall be deemed to prohibit: (a) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person, (b) the publication, by direction of the Secretary, of general statements relating to refunds made by the Council during any specific period, or (c) the publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this subpart, together with a statement of the particular provisions of the subpart violated by such person.

CERTIFICATION OF ORGANIZATIONS

§1280.165 Certification of organizations.

(a) Any organization or association may request the Secretary for certification of eligibility to participate in nominating members and alternate members of the Council to represent wheat producers, processors, end product manufacturers or consumers. Such eligibility shall be based, in addition to other available information, upon a factual report submitted by the organization or association which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to the following:

(1) Geographic territory covered by the organization's active membership;

(2) Nature and size of the organization's active membership including, in the case of an organization other than a consumer organization, the proportion of the total number of active wheat producers, processors, or end product manufacturers represented by the organization;

(3) The extent to which wheat producer, processor, or end product manufacturer membership, respectively, of such organization is represented in setting the organization's policies;

(4) Evidence of stability and permanence of the organization;

(5) Sources from which the organization's operating funds are derived;

(6) Functions of the organization; and

(7) The organization's ability and willingness to further the aims and objectives of the Act.

(b) The primary consideration in determining the eligibility of an organization, other than a consumer organization, shall be whether its membership consists primarily of wheat producers, processors, or end product manufacturers who produce a substantial volume of wheat, processed wheat, or end products, respectively, and whether the organization is based on a primary or overriding interest in the production, processing, or end manufacturing of wheat or wheat products, and the nutritional attributes thereof.

(c) In determining the eligibility of a consumer organization, the primary consideration shall be whether (1) a principal purpose of the organization is to promote consumer interests, consumer research, or consumer education, (2) such organization has a broadly representative constituency of consumers, with active membership participation on a regular basis, and (3) the organization has demonstrated to the Secretary's satisfaction its commitment to the achievement of the objectives of the Act.

(d) The Secretary shall certify any organization or association which he finds to be eligible under this section and his determination as to eligibility shall be final. After the original certification of organizations, such organizations shall request recertification every five years and the Secretary may require recertification at any time.

MISCELLANEOUS

§1280.166 Suspension and termination.

(a) The Secretary shall, whenever he finds that this subpart or any provision therof obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this subpart or such provision.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 percentum or more of the number of end product manufacturers subject to this subpart, to determine whether such manufacturers favor the termination or suspension of the subpart, and the Secretary shall suspend or terminate such subpart within six months after the Secretary determines that suspension or termination of the subpart is approved or favored by a majority of the end product manufacturers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the manfacture of end products or by end product manufacturers who produced end products containing more than 50 per centum of the total processed wheat contained in all end products manufactured during such period by the end product manufacturers voting in the referendum.

§1280.167 Proceedings after termination.

(a) Upon the termination of this subpart the Council shall recommend not more than five of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Council. Such persons, upon designation by the Secretary, shall become trustees of all the funds and property then in the possession or under the control of the Council, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustee shall: (1) Continue in such capacity until discharged by the Secretary; (2) carry out the obligations of the Council under any contracts or agreements entered into by it pursuant to § 1280.140(g); (3) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Council and of the trustees, to such persons as the Secretary may direct; and (4) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property, and claims vested in the Council or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligations imposed upon the Council and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be used, to the extent practicable, in the interest of continuing one or more of the research or nutrition education plans or projects hitherto authorized.

§1280.168 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall

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have arisen or which may hereafter arise in connection with any provision of this subpart or any regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, or of the Secretary, or of any person, with respect to any such violation.

§1280.169 Personal liability.

No member, alternate member or employee of the Council shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts either of commission or ommission, of such member, alternate or employee, except for acts of dishonesty or willful misconduct.

§1280.170 Patents, copyrights, inventions and publications.

Any patents, copyrights, inventions, or publications developed through the use of funds collected under the provisions of this subpart shall be the property of the U.S. Government as represented by the Council, and shall, along with any rents, royalties, residual payments, or other income from the rental, sale, leasing, franchising, or other uses of such patents, copyrights, inventions, or publications, inure to the benefit of the wheat and wheat foods industry. Upon termination of this subpart, §1280.167 shall apply to determine disposition of all such property.

§1280.171 Amendments.

Amendments to the subpart may be proposed, from time to time, by the Council, or by any organization or association certified pursuant to §1714 of the Act, or by any interested person affected by the provisions of the Act, including the Secretary.

§1280.172 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this subpart or the applicability thereof to other persons or circumstances shall not be affected thereby.

Proposed by the Livestock, Poultry, Grain, and Seed Division, Agricultural Marketing Service

PROPOSAL NO. 2

Make such changes as may be necessary to make the entire order conform with any provisions thereto that may result from this hearing.

Copies of this notice of hearing and the proposed order may be procured from W. David Spalding, Livestock, Poultry, Grain, and Seed Division, Agricultural Marketing Service, Room 2084 South Building, United States Department of Agriculture, Washington, D.C. 20250, or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued until the issuance of a final decision in a proceeding, Department employees invoived in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceedings. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of the General Counsel.
Livestock, Poultry, Grain, and Seed Division, Agricultural Marketing Service (Washington office only).

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on January 22, 1979.

BARBARA LINDEMANN SCHLEI,
Administrator.

[FR Doc. 79-2853 Filed 1-25-79 8:45 am]

[3410-05-M]

Commodity Credit Corporation

[7 CFR Part 1434]

1979 CROP HONEY PRICE SUPPORT PROGRAM

Proposed Determination

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture is preparing to make determinations with respect to a price support program for the 1979 crop honey and the regulations to carry out the program. These determinations are to be made pursuant to the Agricultural Act of 1949, as amended. The program will enable producers to obtain price support on 1979 crop honey. Written comments are invited from interested persons.

DATE: Comments must be received on or before March 26, 1979 in order to be sure of consideration.

ADDRESS: Acting Director, Production Adjustment Division, ASCS, USDA, Room 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Harry A. Sullivan (ASCS) (202) 447-7951.

SUPPLEMENTARY INFORMATION: A. *Price support program, color differentials and discounts for quality.* Title II of the Agricultural Act of 1949, as amended, authorizes and directs the Secretary to make available through loans, purchases or other operations, price support to producers of honey at a level which is not in excess of 90 percent nor less than 60 percent of the parity price thereof. Loan and purchase rates will be based on color, class and grade and will reflect market differentials under which honey is merchandised. Section 401 (b) of the Act requires that, in determining a price support rate in excess of the minimum level prescribed for honey, consideration must be given to the supply of the commodity in relation to the demand therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired under a price support program, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

B. *Price support program availability dates.* Comments are invited with respect to the loan and purchase availability dates and to the loan maturity date for the 1979 crop honey.

C. *Detailed operating provisions.* Detailed operating provisions necessary to carry out the program on honey will be considered for the 1979 crop honey. Provisions of this kind may be found in the regulations providing terms and conditions for the current price support program in Part 1434 of Title 7 of the Code of Federal Regulations.

PROPOSED RULE

The Secretary of Agriculture is considering the following determinations for the 1979 crop honey:

A. Price support rates based on color differentials, class and grade.

B. Price support program availability dates.

C. Detailed operating provisions to carry out the program.

Prior to making these determinations, consideration will be given to any data, views and recommendations. All comments will be made available to the public at the office of the Acting Director, Production Adjustment Division, ASCS, USDA, during regular business hours (8:15 a.m. to 4:45 p.m.), Monday through Friday, in room 3630 South Building, 14th and Independence Avenue, SW., Washington, D.C. (7CFR 1.27 (b)).

NOTE.— An aproved Draft Impact Analysis has been prepared in accordance with executive order 12044 and is available from Harry A., Sullivan (ASCS) 202-447-7951.

NOTE.—Based on an assessment of the environmental impacts of the proposed action, it has been determined that an Environmental Impact Statement need not be prepared since the proposals will have no significant effect on the quality of the human environment.

NOTE.—This regulation has been determined not significant under the USDA criteria implementing Executive Order 12044.

Signed at Washington, D.C., on January 22, 1979

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 79-2718 Filed 1-25-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 772 3031]

GENERAL MOTORS CORP.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Detroit, Mich. motor vehicle manufacturer to cease misrepresenting the manufacturing source of engine options and the availability of standard or optional equipment. The order would also require the firm to make designated disclosures regarding the manufacturing source, ordering code, and availability of each engine option offered for the model years 1979 through 1981; notify dealers promptly of engine option substitutions; and provide them with the replacement parts and maintainance information necessary to service such equipment. Additionally, the company would be prohibited from using any wholesale order system which could prevent dealers from designating specific options requested by purchasers.

DATE: Comments must be received on or before March 27, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Paul R. Peterson, Director, 4R, Cleveland Regional Office, Federal Trade Commission, 1339 Federal Office Bldg., 1240 East Ninth St., Cleveland, Ohio 44199. (216) 522-4207.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 772 3031]

GENERAL MOTORS CORP.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of General Motors Corporation, a corporation, and it now appearing that General Motors Corporation, a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between General Motors Corporation, and by its duly authorized officer, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent General Motors Corporation is a corporation organized, existing, and doing business under and by virtue of the Laws of the State of Delaware, with its office and principal place of business located at 3044 West Grand Boulevard, in the City of Detroit, State of Michigan.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement comtemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the United States Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

8. Anything herein to the contrary notwithstanding, the Commission shall abide by its commitments to General Motors Corporation as set forth in its letter dated March 14, 1978 to Richard W. Pogue, Counsel for General Motors Corporation, a copy of which is attached hereto and hereby made a part hereof, as well as any applicable order of court issued or to be issued in *Federal Trade Commission v. General Motors Corporation, et al.*, Case No. 77-927, United States District Court for the Northern District of Ohio, regarding the disclosure of documents.

ORDER

I

For purposes of this order, the following definitions shall apply:

A. The term *"GM"* shall mean General Motors Corporation, and all of its divisions, its successors, assigns, officers, representatives, agents, and employees, acting directly or through any subsidiary or other device.

B. The term *"franchised GM passenger car dealer"* shall mean any person, partnership, or corporation which is a party to a franchise agreement with GM to purchase

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new GM passenger cars for resale to purchasers.

C. The term "*Manufacturing source*" shall mean the GM division or entity by which the item referred to was produced.

D. The term "*line*" shall mean each make and model of passenger car manufactured by General Motors Corporation and distributed or sold under the Chevrolet, Pontiac, Buick, Oldsmobile or Cadillac name.

E. The term "*engine option*" shall mean any engine designated by a GM ordering code number (including the standard engine) offered by GM as factory-installed equipment. For purposes of this order, each engine option shall be assigned a single, unique ordering code designation for a given model year which does not vary across division lines.

F. The term "*material difference*" shall mean any difference which results in a significant difference in engine performance, including but not limited to any difference in Environmental Protection Agency (EPA) fuel economy ratings, mileage intervals in excess of 1,000 miles for recommended engine maintenance, horsepower and displacement, or which results in a difference of regular maintenance replacement parts.

G. The term "*substituted engine*" shall mean an engine option installed in any GM line in any area of the country as a replacement for an engine option offered for that line in the same model year, but which is unavailable in such line or area, if the replacement engine option.

(1) Is produced by a division other than that which produced the engine option to be replaced; or

(2) Has any "material difference" from the engine option to be replaced.

H. The term "*option*" shall mean an item of equipment to be installed in a new GM passenger car for which GM provides purchasers a choice of alternatives.

I. The term "*purchaser*" shall mean a potential buyer, potential lessee, buyer and lessee of any new GM passenger car, but shall not include a franchised GM passenger car dealer.

II

It is hereby ordered, That GM is prohibited from misrepresenting as of the time the representation is made by GM:

A. The manufacturing source of any engine option; and

B. That an option or item of standard equipment offered for a new GM passenger car is available if in fact it is not.

III

It is further ordered, That GM is prohibited from displaying the name of any GM car division on any engine or visible attachment to the engine under the hood of a new GM passenger car, including the air filter cover, unless the engine is manufactured by that Division.

IV

It is further ordered, That if:

A. GM furnishes or has furnished, during or in preparation for any model year, any information to any franchised GM passenger car dealers regarding any engine offered for any GM line for any model year, and

B. The engine described in the information provided to such dealers is to be or has been replaced by a substituted engine for that model year,

GM shall notify such dealers in writing, with respect to the affected lines handled by them, forthwith after the decision to substitute has been made. Such written notification shall include the lines in which the substituted engine is offered, its manufacturing source, ordering code number, designation used in the vehicle identification number to identify the type of engine option, and any material differences between the substituted engine and the engine to be replaced.

V

It is further ordered, That, for the 1979, 1980, and 1981 model years, GM shall furnish to all franchised GM passenger car dealers point-of-sale literature for distribution to purchasers in dealer showrooms disclosing clearly and conspicuously the engine options available in the GM lines carried by the dealer, and, for each engine option, the lines and areas of the country in which it is or is not available, its manufacturing source, and its ordering code designation. GM shall take such steps as are reasonably necessary to furnish such information to such dealers on a current basis. GM shall request, in writing, that such dealers display such materials in a conspicuous, accessible area of the dealer showroom.

VI

It is further ordered, That GM shall clearly and conspicuously disclose the following statement in all print advertising for the 1979 model year, and in the principal new car point-of-sale catalogs for the 1979, 1980, and 1981 model years, which contain any reference to the engine (including any representation regarding EPA fuel economy) in any GM line, group of lines or division, in which an engine option produced by a division different from the division under whose name the passenger car is distributed is offered:

(*Line, group of lines, divisional products*) is (are) equipped with GM-built engines produced by various divisions. See your dealer for details.

VII

It is further ordered, That, for the 1979, 1980, and 1981 model years:

A. GM shall clearly and conspicuously disclose, on a "window sticker" attached by GM to each new passenger car, or on the price information labels required by the Automobile Information Disclosure Act (15 U.S.C. Section 1232), the engine ordering code, and the manufacturing source of the engine installed in that car.

B. GM shall disclose in each owner's manual, maintenance chart or other maintenance information provided to a purchaser of a new GM passenger car, the accurate information customarily furnished regarding recommended maintenance intervals and regular maintenance replacement parts applicable to the engine installed in that car.

VIII

It is further ordered, That GM shall make available, subject to *force majeure*, labor disruptions, and other causes outside GM's control, replacement parts and repair and maintenance information to franchised GM passenger car dealers adequate to allow such dealers to provide GM warranty service to purchasers of new GM passenger cars equipped with any substituted engine to the same extent as it does in the case of new GM passenger cars equipped with non-substituted engines.

IX

It is further ordered, That this order shall be limited in its application to sales of new GM passenger cars in the United States and its territories.

X

It is further ordered, That:

A. GM is prohibited from utilizing a wholesale ordering system whereby its franchised GM passenger car dealers may not designate the specific options, other than standard equipment, requested by the purchaser. GM shall notify its dealers in writing that purchasers should be given the opportunity to designate the specific options ordered. *Provided*, That GM shall indicate when an option is required to be paired with another specific option.

B. For the 1979, 1980, 1981, 1982, and 1983 model years, GM shall advise its franchised GM passenger car dealers in writing whenever GM plans to build or has built a passenger car with options other than as ordered by the dealer. GM will disclose on such writing the following language:

Notify customer promptly of any changes indicated. If unacceptable, contact zone for disposition.

C. For the 1979, 1980 1981, 1982, and 1983 model years, GM shall clearly and conspicuously disclose in all principal new car point-of-sale catalogs the following statement:

Some options may be unavailable when your car is built. Your dealer receives advice regarding current availability of options. You may ask the dealer for this information. GM also requests the dealer to advise you if an option you ordered is unavailable. We suggest you verify that your car includes the options that you ordered or if there are changes that they are acceptable to you.

XI

It is further ordered, That:

A. GM shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

B. GM shall, within sixty (60) days after the effective date of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from General Motors Corporation.

The proposed consent order and material submitted by General Motors Corporation to the Commission that is reasonably related to the merits of the order and is not exempt from disclosure under the Freedom of Information Act have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that General Motors Corporation has misrepresented the division of manufacture and the availability of certain standard and optional equipment in its passenger cars, and that GM substituted other equipment for unavailable equipment.

The complaint also alleges that General Motors Corporation failed to disclose that:

(a) Certain standard and optional equipment was manufactured by a division other than the division under whose name the car is distributed;

(b) Certain standard and optional equipment was not available in cars for which GM represented them as available;

(c) GM substituted other equipment which differed from the unavailable equipment;

(d) An order by a consumer for particular equipment would not necessarily result in an order specifying that particular equipment; and

(e) An order for particular equipment, previously represented as available, could result in delivery of a car without that equipment, or with different equipment.

The complaint further alleges that GM did not make available, information and parts adequate to enable its dealers to fulfill warranty obligations for cars equipped with substituted equipment, and that GM did not make available accurate information regarding recommended maintenance intervals and regular maintenance replacement parts to purchasers of cars equipped with substituted equipment.

The proposed order applies to sales of new GM passenger cars in the United States and its territories.

The proposed order prohibits General Motors Corporation from misrepresenting the manufacturing source of any engine option and the availability of any item of standard or optional equipment. GM is also prohibited from displaying the name of any GM car division on or near the engine if the engine is not manufactured by that division.

For three model years, 1979 through 1981, GM must furnish point-of-sale literature disclosing the manufacturing source, ordering code, and availability of each engine option offered, to each dealer.

For the 1979 model year GM must use the following language in any print advertising which makes any reference to the engine in any car line in which an engine option produced by a division different from the division under whose name the car is distributed:

(*Line, group of lines, divisional products*) is (are) equipped with GM-built engines produced by various divisions. See your dealer for details.

The same notice must be placed in the principal new car point-of-sale catalogs for three model years, 1979 through 1981.

The order also requires GM to disclose on the window of each passenger car the manufacturing source and order code of the engine installed in the car for the model years 1979 through 1981. GM must also provide accurate information regarding recommended maintenance intervals and regular maintenance replacement parts in owners manuals or other information given to purchasers.

GM must notify its dealers promptly whenever it decides to substitute an engine option and provide important information about the substituted engine and the engine option it replaces.

Subject to labor disruptions and other causes outside GM's control, the order also requires GM to make available replacement parts and repair and maintenance information to dealers to allow dealers to provide GM warranty service to owners of cars equipped with substituted engines to the same extent as it does for cars not equipped with substituted engines.

Finally, GM is prohibited from using a wholesale ordering system which does not permit dealers to designate specific options requested by the purchaser. GM must notify dealers that purchasers should be given the opportunity to designate the specific options ordered.

For five model years, 1979 through 1983, GM must notify its dealers whenever it plans to build or has built a car with an option other than as ordered by the dealer. That notice directs the dealer to tell the customer promptly of the changes in the car he ordered. For the same five year period, GM must disclose in all principal new car point of sale catalogs the following prescribed statement:

Some options may be unavailable when your car is built. Your dealer receives advice regarding current availability of options. You may ask the dealer for this information. GM also requests the dealer to advise you if an option you ordered is unavailable. We suggest you verify that your car includes the options that you ordered or if there are changes that they are acceptable to you.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-2803 Filed 1-25-79; 8:45 am]

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1500]

ALUMINIZED POLYESTER FILM KITES

Proposed Banning of Hazardous Aluminized Polyester Film Kites

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed regulation.

SUMMARY: The Commission proposes a regulation banning aluminized polyester film kites because such kites are capable of conducting electricity and are susceptible to contact with high voltage electric power lines. This regulation is intended to reduce the risk of serious injury or death by electric shock created when an aluminized polyester film kite contacts a power line and conducts a strong electric current through the aluminized surface of the kite or its tail to a person in contact with the kite or its tail; and the risk of injury to persons in the vicinity of electric power lines which could break and fall as a result of an electric arc caused by the kites.

DATES: Comments must be received on or before March 27, 1979. The proposed effective date of the ban is 30 days after publication of a final banning regulation for aluminized polyester film kites.

ADDRESS: Send comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Received comments may be seen in, and obtained from, the Office of the Secretary, 1111 18th Street, N.W., 3rd Floor, Washington, D.C. 20207 during business hours, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Elaine H. Besson, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6453.

NOTE.—All of the documents and materials referenced in the preamble are available for inspection or copying in the Office of the Secretary, 1111 18th Street, N.W., 3rd floor, Washington, D.C. 20207.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In October of 1975, upon the recommendation of its enforcement staff, the Consumer Product Safety Commission issued a notice of enforcement under section 15 of the Consumer Product Safety Act ("CPSA", 15 U.S.C. 2064) alleging that certain aluminized polyester film kites manufactured between November 1, 1973 and March 31, 1974 constituted a substantial product hazard within the meaning of section 15(a) of the Consumer Product Safety Act. (See, Notice of Enforcement, October 30, 1975, In the Matter of *Francis Alonso, Jr., an individual doing business as Mylar Star Kites*, CPSC Docket No. 75-16, hereinafter "*Mylar Star Kites.*") A formal hearing on the staff's allegations was held before the Commission's administrative law judge at which oral testimony and written evidence were received from Commission and outside experts concerning the potential hazards associated with such kites. The respondent also presented evidence and has an opportunity to cross-examine witnesses presented by the Commission. (See, Transcript of Hearing and exhibits attached thereto, *Mylar Star Kites*, February 24-25, 1976, hereinafter, "Transcript.")

The technical evidence presented at the hearing concerning the electrical conductivity of aluminized polyester film kites showed that such material is an excellent conductor of electricity. When the kites manufactured by the respondent were tested at the Commission's engineering laboratory, they

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were found to be capable of transmitting approximately 52 to 66 milliamperes of current at ordinary household voltage of 115 to 120 volts through a resistance of 1500 ohms, representing the resistance of the human body. (Transcript at 81.) Significantly more current can be conducted through aluminized polyester film at higher than ordinary household voltage. (Transcript at 84.) The evidence also showed that if an aluminized polyester film kite and/or tail were entangled across a live 12,000 volt line and a line which would act as a ground, an arc or ionized path could be created through which a significantly greater amount of current can flow than would be expected from the thin layer of aluminum coating on the kite. Tests conducted at the Pacific Gas and Electric Company's San Ramon facility, revealed that as much as 100 amperes (100,000 milliamperes) can pass through such an arc. (Transcript at 95–100.)

When an electrically conductive metalized kite, tail or string comes in contact with a high voltage power line, bodily contact with the kite, tail, or string can result in serious injury ranging from tissue burns to respiratory paralysis, ventricular fibrillation, and death. Ventricular fibrillation, a condition in which the heart pulsates irregularly and stops pumping blood, will cause death if not defibrillated within three minutes. (Transcript at 261). A lethal shock can occur as a result of exposure to 100 milliamperes of electric current for one second. (Transcript at 252–253.)

Evidence presented in the *Mylar Star Kites* proceeding also indicated that aluminized polyester film kites are susceptible to becoming entangled in electric power lines in such a way as to conduct electricity from one power line to another. Incidents of such entanglement cited in the record of the *Mylar Star Kites* proceeding include the following:

In early April 1975 at Herman Street, San Francisco, California, an aluminized polyester film kite and tail caused two 12,000 volt conductors to break and fall on a car. The live conductors burned a hole in the right rear of the seat and burn marks were found on the tires and wheels. (Transcript at 38.)

On April 15, 1975, near Jackson and Broderick Streets, San Francisco, California, an aluminized polyester film kite and tail, apparently having severed its string, crossed three high voltage conductors causing them to break and fall resulting in a power surge into nearby residences blowing a fuse box off the wall, exploding an electric meter and light fixture, and burning out a refrigerator compressor. (Transcript at 45.)

After a review of the testimony and other evidence presented in the proceeding, the administrative law judge found that aluminized polyester film kites manufactured by the respondent, including kites with tails 25 feet or more in length, box kites with dimensions of 36 x 28 inches, and "fighter" kites with dimensions of 25 x 31 inches, presented a substantial product hazard because they are conductive of electricity and susceptible to contact with high voltage power lines, thus presenting a hazard of electrical shock to users and retrievers of such kites, other persons in the vicinity of such power lines, and persons in homes and other buildings affected by high voltage surges caused by the kites. (See Initial Decision and Order, *Mylar Star Kites*, June 21, 1976, at 1.)

On review of the initial Decision and Order, the Commission concluded that there was substantial evidence to support the administrative law judge's findings of fact as to the hazardous nature of aluminized polyester film kites. Specifically, the Commission found that the record showed the kites to contain.

"• • • a serious defect because the design incorporates a conductive material which is capable of transmitting a lethal electric shock to a person in contact with the kite. This aluminum surface does not add to the flying capability of the kite but merely adds to its aesthetc value." Commission Decision and Order, *Mylar Star Kites*, September 16, 1977, at 3.

The Commission conclude that because of the nature and severity of the risk without an offsetting benefit sufficient to justify the risk, a product such as the kites, if properly the subject of a proceeding under the CPSA, would present a substantial product hazard.

Notwithstanding this conclusion, the Commission determined that kites are articles intended for use by children and as such, fall within the scope of the Federal Hazardous Substances Act ("FHSA," 15 U.S.C. 1261). Since the majority concluded that the hazard presented by aluminized polyester film kites could be eliminated or reduced to a sufficient extent under the FHSA, the Commission, in accordance with section 30(d) of the CPSA (15 U.S.C. 2079(d)), as it existed at the time the proceeding was commenced [1] set aside the proposed order of the administrative law judge in *Mylar Star Kites* and instructed the staff to prepare the present proposed action under the FHSA.

[1] Subsequent to commencement of the *Mylar Star Kites* proceeding, section 30(d) was amended to permit the Commission to regulate hazards under the CPSA notwithstanding the applicability of a "transferred act" if the Commission finds by rule that it is in the public interest to proceed under the CPSA. (Section 16, Pub. L. 94-284, 90 Stat. 606, May 11, 1976.)

The Commission recognizes that aluminized polyester film kites are also used by adults. Such incidential use by adults does not invalidate the Commission's regulation of this product under the FHSA as an article intended for use by children.

The authority of the Commission to regulate under the FHSA, as articles intended for use by children, products that may also be used by adults was upheld in *Forester v. CPSC*, 559 F.2d 774 (D.C. Cir. 1977). In *Forester*, which involved a petition for review of the Commission's safety regulations under the FHSA for bicycles, the court concluded that "[i]ncidental use of an item by adults would not deprive the Commission of the jurisdiction to regulate an item under the FHSA." 559 F.2d at 786. The court held that the determination as to whether an item may be regulated under the FHSA depends on whether the item is intended for use by children, a determination vested in the sound discretion of the Commission.

In the present case, the Commission observes that kites are generally recognized as articles intended for use by children and are widely used by children. Neither the retail price nor the design of aluminized polyester film kites would exclude use by children. Moreover, as in the case of bicycles, it would be impossible to set a regulatory distinction between "children's" and "adult" kites.

The Proposal

The *Mylar Star Kites* proceeding specifically concerned particular models of almuminized polyester film kites manufactured by the respondent. However, the evidence in the record indicates that any aluminized polyester film kite susceptible to contact with high voltage electric power lines would pose the same hazard of electric shock to persons coming in contact with the kite or its aluminized tail, or persons in the vicinity of electric power lines which could break and fall as a result of an electric arc caused by the kites. Accordingly, the banning regulation proposed below is intended to apply to any aluminized polyester film kite posing the same hazard as those involved in the *Mylar Star Kites* proceeding.

The Americna National Standards Institute standard for electric power lines (ANSI C2 1977) [2] allows a minimum horizontal clearance of 12 inches between power lines transmitting current not exceeding 8.7 kilovolts (8700 volts). This standard is observed nationwide by electric utilities, and results in uniform placement of electric power lines. In order to allow for a margin of safety, the Commission is proposing to ban any kite containing a piece of aluminized polyester film measuring 10 inches or more. This provision allows for the possibility that electric power lines separated by a distance of 12 inches may be pulled together by a kite, its tail, or string becoming entangled in the line.

[2] Available from American National Standards Institute (ANSI), 1430 Broadway, New York, N.Y. 10018.

Economic Considerations

An assessment of potential economic impact has been made of the proposal set forth below. The Commission, on the basis of a staff investigation and analysis, has concluded that the proposed ban would affect only a small precentage of all kites manufactured in the United States. The precise number of kites manufactured in the United States is unknown but estimates indicate that approximately 40 million are produced annually. The average selling price of affected kites is $5.00. In addition to prohibiting manufacture, distribution, or sale of aluminized polyester film kites, the proposed rule set forth below would require the repurchase of banned kites, in accordance with section 15 of the FHSA (15 U.S.C. 1274) and Commission regulations published at 16 CFR 1500.202 and 1500.203.

The repurchase requirement would have the effect of requiring the recall of any banned kites which had been previously manufactured or distributed. The cost of such recall may be significant for a small number of firms. However, the Commission notes several factors which may tend to limit such costs. The Commission's staff was unable to identify any firms which are still manufacturing the long-tailed "dragon" kites which were the subject of the original notice of enforcement issued in the *Mylar Star Kites*, and which were the type of kite involved in the incidents described above. Given the relatively short usable life of an aluminized polyester film kite, there may be very few previously sold kites still in consumers' hands and available for recall. Moreover, several of the firms which had previously manufactured these kites have already conducted a recall. In the recalls conducted, relatively few kites were actually returned by consumers. Several firms have, however, continued to manufacture and distrubute box kites and other kites containing aluminized polyester film which would be subject to the proposed ban and repurchase. Greater numbers of those kites would be available in the chain of distrubution or in consumers' hands and consequently subject to repurchase.

A copy of the economic assessment is on file and can be inspected in the Commission's Office of the Secretary at the above address.

Environmental Considerations

An assessment of the potential environmental impact has been made of the proposal set forth below. The Commission concludes that there are no significant environmental effects associated with the proposal. Therefore, there is no need for an environmental impact statement. A copy of the environmental assessment is on file and can be inspected in the Commission's Office of the Secretary at the above address.

Effective Date

It is contemplated that the effective date will be 30 days after publication of a final banning regulation for aluminized polyester film kites. The regulation will be applicable to all kites meeting the definition, regardless of when manufactured or introduced into interstate commerce. Thus, as of the effective date, no kite meeting the definition set forth in § 1500.18(c)(1) below may be manufactured, introduced or delivered for introduction into, or received in, interstate commerce. Moreover, under section 15 of the FHSA (15 U.S.C. 1274), any such kite is subject to repurchase in accordance with 16 CFR 1500.202 and 1500.203. For purposes of this regulation, introduction into interstate commerce is defined as follows: A kite manufactured outside the United States is introduced into interstate commerce when it is is first brought within a U.S. port of entry. A kite manufactured in the United States is introduced into interstate commerce (a) at the time of its first interstate sale, or (b) at the time of its first intrastate sale if one or more of its components and/or raw materials were received interstate.

Conclusion

Under the Federal Hazardous Substances Act (FHSA) the term "hazardous substance" inlcudes any toy or article intended for use by children that the Commission determines by regulation presents an electrical hazard (sec. 2(f)(1)(D), 15 U.S.C. 1261(f)(1)(D)). Section 2(q)(1)(A) of the FHSA provides that such toy or article is also a banned hazardous substance.

"Electrical hazard" is defined by section 2(r) of the act, which reads

"an article may be determined to present an electrical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture may cause personal injury or illness by electrical shock." (15 U.S.C. 1261(r)).

Based on information available to the Commission, the Commission has preliminarily determined that certain aluminized polyester film kites, because of electrical hazards associated with their design (specifically their size and electrical conductivity), present a risk of personal injury from electric shock as a result of their ability to conduct electricity and to become entangled in or otherwise contact high voltage electric power lines. The Commission believes that the potential for serious personal injury presented by such kites outweighs the potential economic impact that would result from a ban. Consequently, the Commission believes such kites should be banned from interstate commerce.

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (sec. 2(f)(1)(D), (q)(1)(A), (r), 3(e)(1), 74 Stat 372, 374, 375, as amended, 80 Stat. 1304–05, 83 Stat. 187–189, 15 U.S.C. 1261, 1262) and under authority vested in the Commission by the Consumer Product Safety Act (sec. 30(a), 86 Stat. 1231, 15 U.S.C. 2079(a)), the Commission proposes to amend Title 16, Chapter II, Subchapter C of the Code of Federal Regulations by adding a new paragraph (c)(1) to § 1500.18 as follows:

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

§ 1500.18 Banned toys and other banned articles intended for use by children.

• • • • •

(c) *Toys and other children's articles (not electrically operated) presenting electrical hazards.* Under the authority of section 2(f)(1)(D) of the act and pursuant to provisions of section 3(e) of the act, the Commission has determined that the following types of toys or other articles intended for use by children (not electrically operated) present an electrical hazard within the meaning of section 2(r) of the act.

(1) Any kite 10 inches or greater in any dimension constructed of aluminized polyester film or any kite having a tail or other component consisting of a piece of aluminized polyester film 10 inches or greater in any dimension presents an electrical hazard and is a banned hazardous substance because its design (specifically its size and electrical conductivity) presents a risk of personal injury from electric shock due to its ability to conduct electricity and to become entangled in or otherwise contact high voltage electric power lines.

Interested persons are invited to submit, on or before March 27, 1979, written comments regarding this proposal. Comments and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments received after the close of the comment period will be considered to the extent practi-

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cable. Comments and accompanying material may be seen in, or copies obtained from, the Office of the Secretary, 1111 18th St., N.W., Third Floor, Washington, D.C. 20207, during working hours Monday through Friday.

Dated: January 23, 1979.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 79-2817 Filed 1-25-79; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 436 and 440]

[Docket No. 78N-0337]

PYROGEN TEST FOR CERTAIN PENICILLIN DRUGS

Proposed Rulemaking

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the antibiotic drug regulations by increasing the pyrogen test dose concentration or volume for certain penicillin drugs. This increase will improve the sensitivity of the pyrogen test and thereby assure better quality control of these drug products.

DATE: Comments by March 26, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: The pyrogen test is a biological test using rabbits, and it is used to determine the presence of pyrogens, substances that can produce a febrile reaction, in injectable drug products. The antibiotic drug regulations in § 436.32 (21 CFR 436.32) prescribe the volume of the pyrogen test dose to be administered to the test animal; however, the amount of antibiotic drug substance in each dose (concentration) is established by applicable regulations for specific antibiotic drugs.

The test dose concentration currently specified in the regulations for penicillin G potassium, carbenicillin disodium, nafcillin sodium, and penicillin G procaine are substantially below the recommended daily dose of each drug.

Based on its own laboratory findings, FDA has determined that the test dose concentration for penicillin G potassium, carbenicillin disodium, and nafcillin sodium can be raised without harm to the test animal. Also, FDA found that with penicillin G procaine, which is not soluble at a higher concentration, the volume of test dose solution administered can be safely increased, thereby increasing the amount of antibiotic drug the test animal receives. The sensitivity of the test method in detecting the presence of pyrogens is improved by increasing the concentration or volume of the antibiotic drug administered to the test animal.

Therefore, the Commissioner of Food and Drugs proposes that the regulations providing for those drugs be amended to increase the pyrogen test dose volume or concentration.

Although not reviewed separately, the test dose concentration for penicillin G sodium is also proposed to be raised. Because the toxicity of penicillin G sodium is so similar to penicillin G potassium in the test animal it can be assumed that the higher test dose will be tolerated. In addition, a typographical error in the italicized heading of § 440.41a(b)(3) is corrected by changing the phrase "*Nafcillin content*" to read "*Pyrogens.*"

The FDA has determined that this document does not contain an agency action covered by 21 CFR 25.1(b), and consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Parts 436 and 440 be amended as follows:

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. Part 436 is amended in § 436.32 by adding new paragraph (h) to read as follows:

§ 436.32 Pyrogen test.

* * * * *

(h) *Method 8.* Proceed as directed in paragraph (a) of this section, except inject a test dose of 2.0 milliliters of the diluted sample per kilogram of rabbit weight.

PART 440—PENICILLIN ANTIBIOTIC DRUGS

2. Part 440 is amended:

a. in § 440.13a, by revising paragraph (b)(3) to read as follows:

§ 440.13a Sterile carbenicillin disodium.

* * * * *

(b) * * *

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 200 milligrams of carbenicillin per milliliter.

* * * * *

b. In § 440.41a, by revising paragraph (b)(3) to read as follows:

§ 440.41a Sterile nafcillin sodium monohydrate.

* * * * *

(b) * * *

(3) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, using a solution containing 80 milligrams of nafcillin per milliliter.

* * * * *

c. In § 440.74a, by revising paragraph (b)(3) to read as follows:

§ 440.74a Sterile penicillin G procaine.

* * * * *

(b) * * *

(3) *Pyrogens.* Proceed as directed in § 436.32(h) of this chapter, using a solution containing 2,000 units of penicillin G per milliliter.

* * * * *

d. In § 440.80a, by revising paragraph (b)(3) to read as follows:

§ 440.80a Sterile penicillin G potassium.

* * * * *

(b) * * *

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 20,000 units of penicillin G per milliliter.

* * * * *

e. In § 440.81a, by revising paragraph (b)(3) to read as follows:

§ 440.81a Sterile penicillin G sodium.

* * * * *

(b) * * *

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 20,000 units of penicillin G per milliliter.

* * * * *

f. In § 440.241, by revising paragraph (b)(3) to read as follows:

§ 440.241 Nafcillin sodium monohydrate for injection.

* * * * *

(b) * * *

(3) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, using a solution containing 80 milligrams of nafcillin per milliliter.

* * * * *

g. In § 440.274b, by revising paragraph (b)(3) to read as follows:

§ 440.274b Sterile penicillin G procaine suspension.

* * * * *

(b) * * *

(3) *Pyrogens.* Proceed as directed in § 436.32(h) of this chapter, using a solution containing 2,000 units of penicillin G per milliliter.

* * * * *

h. In § 440.274c, by revising paragraph (b)(3) to read as follows:

§ 440.274c Sterile penicillin G procaine for suspension.

* * * * *

(b) * * *

(3) *Pyrogens.* Proceed as directed in § 436.32(h) of this chapter, using a solution containing 2,000 units of penicillin G per milliliter.

* * * * *

i. In § 440.280b, by revising paragraph (b)(3) to read as follows:

§ 440.280b Penicillin G potassium for injection.

* * * * *

(b) * * *

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 20,000 units of penicillin G per milliliter.

* * * * *

j. In § 440.281b, by revising paragraph (b)(3) to read as follows:

§ 440.281b Penicillin G sodium for injection.

* * * * *

(b) * * *

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 20,000 units of penicillin G per milliliter.

* * * * *

k. In § 440.1060a, by revising paragraph (b)(3) to read as follows:

§ 440.1060a Sterile Penicillin G potassium buffered.

* * * * *

(b) * * *

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 20,000 units of penicillin G per milliliter

* * * * *

l. In § 440.1061a, by revising paragraph (b)(3) to read as follows:

§ 440.1061a Sterile penicillin G sodium buffered.

* * * * *

(b) * * *

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 20,000 units of penicillin G per milliliter.

* * * * *

Interested persons may, on or before March 26, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: January 22, 1979.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 79-2717 Filed 1-25-79; 8:45 am]

[4110-03-M]

[21 CFR Part 1090]

[Docket No. 78N-0060]

ACCIDENTAL RADIOACTIVE CONTAMINATION OF HUMAN FOOD AND ANIMAL FEEDS

Recommendations for State and Local Agencies; Correction

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: In FR Doc. 78-34860 appearing in the issue of December 15, 1978, the note above the signature at the close of the document, in the third column on page 58797, is corrected to read:

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessments supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

FOR FURTHER INFORMATION CONTACT:

John A. Richards, Federal Register Writer (HFC-11), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

Dated: January 22, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-2716 Filed 1-25-79; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4303]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Sanibel, Lee County, Fla.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on pages 31031-31032 of the FEDERAL REGISTER of July 19, 1978.

EFFECTIVE DATE: July 19, 1978.

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FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The table showing base flood elevations for the Gulf of Mexico should be corrected to read as follows:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gulf of Mexico	Intersection of Sanibel Captiva Road and Wulfert Road.	11
	Intersection of West Gulf Drive and East Rocks Drive.	12
	Intersection of Periwinkle Way and Tarpon Bay Road.	12
	Intersection of Dixie Beach Boulevard and Royal Poinciana Drive.	11
	Intersection of Casa Ybell Road and Camino Drive.	12
	Intersection of Periwinkle Way and Baily Road.	12
	Intersection of Gulf Drive and Anchor Drive.	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2385 Filed 1-25-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4995]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of East Peoria, Tazewell County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of East Peoria, Tazewell County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office, East Peoria, Illinois. Send comments to: The Honorable Kalvin Cummins, Mayor, City of East Peoria, 100 South Main Street, East Peoria, Illinois 61611.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of East Peoria, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Illinois River	At western corporate limits.	459
	Just upstream of Toledo Peoria and Western Railroad Bridge.	460
Farm Creek	At northern corporate limits.	460
	Confluence with Illinois River.	460
	Upstream of Peoria and Pekin Union Railroad.	461
	580 feet upstream of State Route 116.	462
	Upstream side of Interstate 74.	466
	400 feet upstream from East Washington Street.	470
	400 feet upstream from U.S. Route 150.	476
	Confluence with Dempsey Creek.	480
	At eastern corporate limits.	489
Farm Creek Diversion Channel.	At confluence with Illinois River.	460
	At confluence with Farm Creek.	460
Dempsey Creek	At confluence with Farm Creek.	480
	Upstream side of U.S. Route 150.	481
	180 feet downstream from U.S. Route 150.	502
	140 feet upstream from U.S. Route 150.	507
	Upstream side of Hill Road.	531
	Upstream side of U.S. Route 150.	540
	Corporate limits (1.725 miles upstream from confluence with Farm Creek).	559
	Corporate limits (2.165 miles upstream from confluence with Farm Creek).	581
	Downstream side of U.S. Route 150 (2.67 miles upstream from mouth).	609
	Upstream of corporate limits (2.79 miles upstream from mouth).	616
Fondulac Creek	At Illinois Route 8	508
	120 feet upstream from Oakwood Road.	521
	Upstream side of Government Access Road.	522
School Creek	Upstream side of Farmdale Road at southern corporate limits.	521
	At eastern corporate limits.	533

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2386 Filed 1-25-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4996]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Oak Forest, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Oak Forest, Cook County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 15601 South Cicero Avenue, Oak Forest, Illinois. Send comments to: The Honorable James W. Wesk, Jr., Mayor, City of Oak Forest, 15601 South Cicero Avenue, Oak Forest, Illinois 60452.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Oak Forest, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Midlothian Creek	Downstream corporate limit.	623
	At Waverly Avenue	637
	Just upstream of 159th Street.	646
	At 163rd Street	654
Natalie Creek	Just upstream of Cicero Avenue.	627
	Just upstream of Laporte Avenue.	641
	Just upstream of Laramie Avenue.	648
	Just upstream of 155th Street.	654
	At upstream corporate limits.	660
Boca Rio Ditch	Just upstream of 147th Street.	659
	Just upstream of 151st Street.	671
	Just upstream of Almeda Avenue.	678
	Just downstream of Victoria Drive.	683
Western Tributary to Midlothian Creek.	Mouth at Midlothian Creek.	651
	Just upstram of Chicago Rock Island and Pacific Railroad.	660
	Upstream corporate limits.	665

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2387 Filed 1-25-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4997]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Quincy, Adams County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Quincy, Adams County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office and City Engineer's Office, City Hall, Quincy, Illinois. Send comments to: The Honorable C. David Nuessen, Mayor, City of Quincy, 507 Vermont Street, Quincy, Illinois 62301.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Quincy, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

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These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, (national geodetic vertical datum)
Cedar Creek	At west corporate boundary.	487
	Upstream at U.S. Highway 24.	515
	Upstream side of 5th Street.	520
	Downstream side of Sunset Cemetary Road.	530
	Upstream side of Sunset Cemetary Road.	544
	At Illinois Soldiers and Sailors Home Coal Storage Road.	547
	100 feet upstream of 10th Street.	551
	At eastern corporate boundary.	555
Curtis Creek	At southwestern corporate boundary.	491
	Downstream side of 8th Street.	500
	Upstream side of 8th Street.	508
	Downstream side of 12th Street.	528
	Upstream side of 12th Street.	543
	Just upstream of Eaton Lane.	577
	Just upstream of Harrison Street.	583
	250 feet downstream of 26th Street.	588
	Upstream side of 26th Street.	593
	Downstream side of Ridgewood Drive.	605
	Upstream side of Ridgewood drive.	618
	Downstream side of State Route 96.	625
	Upstream side of state route 96.	631
	750 feet upstream of State Route 96.	636
	At southeastern corporate boundary.	651
Emery Creek	At confluence with Curtis Creek.	585
	Downstream side of Monroe Street.	598
	Upstream side of Monroe Street.	594
	100 feet upstream of State Street.	600
	100 feet upstream of 30th Street.	619
	Downstream side of 36th Street.	635
	Upstream side of 36th Street.	646
	Eastern corporate limit.	668
Tributary 2	At southern corporate limit.	583
	Downstream side of woodside drive.	585
	Upstream side of woodside Drive.	599
	Upstream side of Fox Run West.	616
	275 feet upstream of Fox Run West.	626
	At eastern corporate limits.	696
Tributary 3	400 feet upstream of Burlington Northern Railroad.	606
	At corporate limit 2,120 feet upstream of 30th Street.	631
Mississippi River	1.2 miles downstream of memorial Bridge.	486
	Confluence with Cedar Creek.	487
	1.7 miles upstream of confluence with Cedar Creek.	488

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2388 Filed 1-25-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4998]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Tinley Park, Cook and Will Counties, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Tinley Park, Cook and Will Counties, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Hall, Office of Director of Community Development, 17355 South 68th Court, Tinley Park, Illinois. Send comments to: Mr. John T Dunn, Village President, Village of Tinley Park, Village Hall, 17355 South 68th Court, Tinley Park, Illinois 60477.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410; 202-755-5581 or toll free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Tinley Park, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, (National Geodetic Vertical Datum)
Midlothian Creek	2,800 feet downstream of Gaynelle Avenue.	675
	700 feet upstream of Gaynelle Avenue.	684
	700 feet upstream of Oak Park Avenue.	694
	Just upstream of 80th Avenue.	696
	171st Street (upstream corporate limit).	696
76th Avenue Ditch	Mouth at Midlothian Creek.	695
	167th Street	695
	Just upstream of 164th Plaza.	696
	Just upstream of Nottingham Drive.	699
	Just upstream of 163rd Street.	702
	76th Avenue	702
	Just upstream of 159th Street.	706
	Upstream corporate limit.	706
Union Drainage Ditch.	Downstream corporate limits.	692
	1,000 feet downstream of Oak Park Avenue.	693
	Upstream corporate limit.	694
Tributary to Union Drainage Ditch.	Downstream corporate limit.	694
	Downstream of 183rd Street.	695
	Upstream of 183rd Street.	696
	Just downstream of 80th Avenue.	697

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7 (o) (4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2389 Filed 1-25-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4999]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Lowell, Lake County, Indiana

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Lowell, Lake County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, 512 East Commercial Street, Lowell, Indiana. Send comments to: Mr. Larry Hitzman, Vice President of Town Board, Town of Lowell, 512 East Commercial Street, Lowell, Indiana 46356; Attention: James Mandon.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Lowell, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cedar Creek	At southern corporate limit.	658
	100 feet downstream of Oakley Avenue.	659
	Just downstream of Oakley Avenue.	661
	300 feet upstream of Washington Avenue.	668
	Just upstream of Main Street.	669
	Just upstream of Mill Street.	670
	Just upstresm of Clark Street.	671
	At northern corporate limit.	674
McConnell Ditch	Confluence with Cedar Creek.	671
	Just upstream of Morse Street.	673
	At northern corporate limits.	674

In accordance with Section 7 (o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2390 Filed 1-25-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5000]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Town of Vevay, Switzerland County, Indiana

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Vevay, Switzerland County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in

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the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall and Switzerland County Planning Commission, 702 West Main Street, Vevay, Indiana 47043. Send comments to: Mr. Roy L. Branham, Town Board President, Town of Vevay, 702 West Main Street, Vevay, Indiana 47043.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Vevay, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Upstream corporate limit.	471
	Downstream corporate limit.	481

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2391 Filed 1-25-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5001]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Marion, Marion County, Kansas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Marion, Marion County, Kansas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 203 North 3rd, Marion, Kansas. Send comments to: The Honorable Peggy Blackman, Mayor, City of Marion, City Hall, 203 North 3rd, Marion, Kansas 66861.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Marion, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cottonwood River	1500 feet downstream of Third Street.	1,306
	Just upstream of Third Street.	1,307
	1100 feet downstream of Chicago Rock Island and Pacific Railroad.	1,310
	Just downstream of the Chicago Rock Island and Pacific Railroad.	1,311
	Just upstream of the Chicago Rock Island and Pacific Railroad.	1,316
	800 feet upstream of Main Street.	1,315
Cottonwood River Tributary.	Southern corporate limit.	1,306
		1,309
	1700 feet downstream of Welch Street.	
	500 feet downstream of Welch Street.	1,313
	Just upstream of Welch Street.	1,318
	1200 feet upstream of Welch Street.	1,322
Old Mod Creek Channel (Interior Drainage Rainfall).	Ponding area	1,303

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2392 Filed 1-25-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5002]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of New Buffalo, Berrien County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of New Buffalo, Berrien County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, New Buffalo, Michigan. Send comments to: The Honorable Clarence Sayles, Mayor, City of New Buffalo, 224 West Buffalo Street, New Buffalo, Michigan 49117.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of New Buffalo, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Galien River	Mouth at Lake Michigan.	584
	Eastern corporate limits	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2393 Filed 1-25-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5003]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of New Buffalo, Berrien County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of New Buffalo, Berrien County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Hall, New Buffalo, Michigan. Send comments to: Mr. Edward O. Hime, Township Supervisor, Township of New Buffalo, P.O. Box 160, New Buffalo, Michigan 49117.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of New Buffalo, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to

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calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Gallen River	Western corporate limits.	584
	Just upstream of Red Arrow Highway.	585
	2,500 feet upstream of Red Arrow Highway.	588

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2394 Filed 1-25-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5004]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Centerville, Anoka County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Centerville, Anoka County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 1694 Sorel Street, Centerville, Minnesota. Send comments to: The Honorable Walter Pracher, Mayor, City of Centerville, 1694 Sorel Street, Centerville, Minnesota 55038.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Centerville, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clearwater Creek	Mouth at Peltier Lake	887
	Just downstream of Main Street.	899
	Just upstream of Main Street.	900
	Eastern corporate limits	906

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2395 Filed 1-25-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5005]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Shorewood, Hennepin County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Shorewood, Hennepin County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 20630 Manor Road, Shorewood, Minnesota. Send comments to: The Honorable Steven Frazier, Mayor, City of Shorewood, Shorewood City Hall, 20630 Manor Road, Shorewood, Minnesota 55331

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Shorewood, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Minnetonka	Entire lake	931

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

GLORIA M JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2396 Filed 1-25-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5006]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Unincorporated Areas of Rowan County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Rowan County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the County Manager's Office, Rowan County Courthouse, 202 North Main Street, Salisbury, North Carolina 28144. Send comments to: Mr. Seth Murdock, County Manager, Rowan County Courthouse, 202 North Main Street, Salisbury, North Carolina 28144.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Rowan County, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Coldwater Creek	Just downstream of Old Beatty Ford Road.	656
	Just downstream of Daugherty road.	671
	Just downstream of Pine Branch Road.	692
	Just downstream of Lents Road.	712
Beaver Creek	Just downstream of confluence of Beaver Creek Tributary.	666
Beaver Creek	Just downstream of Ebenezer Street.	700
	Just upstream of Ebenezer Street.	703
	Just downstream of US 29-601.	764
Beaver Creek Tributary.	Just downstream of confluence of Moose Branch.	715
	Just downstream of Ebenezer Street.	733
	Just downstream of 22nd St.	782
Moose Branch	Approximately 620 feet upstream of confluence with Beaver Creek Tributary.	720
Town Branch	Just downstream of China Grove Road.	686
	Just downstream of Old Beatty Ford Road.	723
	Just downstream of US 29-601.	754
	Just upstream of US 29-601.	761
Coldwater Creek Tributary.	Approximately 350 feet upstream of Daugherty Road.	675
	Just downstream of China Grove Road.	702
	Just upstream of China Grove Road.	708
Walnut Street Branch.	Approximately 300 feet upstream of confinence with Cold Water Creek.	688
	Just downstream of Pine Ridge Road.	712
Pine Ridge Branch.	Just downstream of Arant Road.	740
	Just upstream of Arant Road.	746
East Centerview Branch.	Approximately 1000 feet upstream of confluence with Cold Water Creek.	700
	Just downstream of Highway 29 Alternate.	744
Patterson Branch	Just upstream of Grace Avenue.	750

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just downstream of Jackson St.	752
	Just downstream of Marie Ave.	755
	Just downstream of Ruth Avenue.	759
	Just downstream of 11th Street.	771
	Just downstream of 13th Street.	780
Dutch Buffalo Creek.	Just downstream of confluence of Dutch Buffalo Creek Tributary.	689
	Just downstream of Old Beatty Ford Road.	695
	Just downstream of Rogers Rd.	727
	Just upstream of Rogers Road.	732
Dutch Buffalo Creek Tributary.	Just upstream of Roy Cline Road.	753
Bostian Heights Branch.	Just downstream of Old Concord Road.	720
	Just downstream of Sercy Rd.	740
	Just downstream of Daugherty Road.	750
Irish Buffalo Creek.	Just downstream of C Street.	687
	Just downstream of Kannapolis Lake Dam.	692
	Just upstream of Kannapolis Lake Dam.	729
	Just downstream of Cannon Farm Road.	733
	Just downstream of Saw Road.	753
Baker Branch	Just downstream of Glenn Ave.	698
	Just downstream of A Street.	709
	Just downstream of 22nd St.	755
	Just upstream of 22nd Street.	758
Dye Branch	Just downstream of 8th Street.	710
	Just upstream of 8th Street.	719
Lumber Yard Branch.	Just downstream of 8th Street.	727
	Just downstream of Church Ave.	757
	Just upstream of Church Ave.	770
Graeber Branch	Approximately 300 feet upstream of confluence with Baker Branch.	725
Graeber Tributary	Approximately 300 feet upstream of confluence with Baker Branch.	740
Rose Hill Branch	Just downstream of Blackwelder Street.	793
	Just upstream of Blackwelder Street.	800
	Just downstream of Rice St.	807
	Just downstream of Rosemont Avenue.	812
Draft Branch	Just downstream of Rowan Mill Road.	678
	Just downstream of Neil Road.	705
	Just downstream of Cauble Rd.	737
Wildlife Tributary	Just downstream of Harrison Road.	675
	Just downstream of Lents Road.	708
Draft Branch Tributary.	Approximately 1000 feet upstream of confluence with Draft Branch.	704
	Just downstream of Neil Road.	731
Grants Creek	Just downstream of 3rd Street.	634
	Just downstream of 7th Street.	640
	Just downstream of US 601.	654
	Just upstream of Woodleaf Rd.	672
	Just downstream of Rowan Mill Road.	677
	Just downstream of Fisher Mill Road.	701
Rowan Avenue Park Stream.	Just downstream of Spencer corporate limits.	636
Lomax Creek	Approximately 600 feet upstream of confluence with Grants Creek.	638
Sixth Street Branch.	Approximately 700 feet upstream of confluence with Grants Creek.	642
Henderson Branch	Approximately 1400 feet upstream of confluence with Grants Creek.	646
	Just downstream of the Golf Course Fairway.	657
Mahaley Branch	Just downstream of Park Road.	649
	Approximately 100 feet downstream of Hickory Drive.	655
Maple Avenue Branch.	Just downstream of Woodleaf Road.	678
Woodleaf Branch	Just downstream of confluence of Maple Avenue Branch.	677
Woodleaf Branch	Just downstream of Lincolnton Broad.	680
Petrea Branch	Approximately 2200 feet upstream of confluence with Grants Creek.	718
	Just downstream of China Grove Corporate Limits.	732
Swearington Branch.	Just downstream of New Subdivision Road.	746
	Just upstream of New Subdivision Road.	752
Lake Wright Branch.	Just downstream of Miller Rd.	720
	Just downstream of Stirewalt Road.	744
	Just downstream of Lake Wright Road.	793
Five Forks Tributary.	Just downstream of Stirewalt Road.	740
	Just upstream of Stirewalt Rd.	748
Wright Branch	Approximately 800 feet upstream of confluence with Lake Wright Branch.	773
North Fork Tributary.	Approximately 400 feet upstream of confluence with Lake Wright Branch.	773
	Just upstream of a Private Dr.	845
Little Creek	Just downstream of Shue Road.	697
	Just upstream of Shue Road.	700
	Just downstream of Miller Rd.	711
	Just upstream of Miller Road.	712
	Just downstream of Cooper Rd.	726
	Just upstream of Cooper Road.	731
Railroad Branch	Approximately 400 feet upstream of confluence with Town Creek.	652
Ice Plant Creek	Approximately 400 feet upstream of confluence with Town Creek.	664
Town Creek	Just downstream of I-85	635
	Just upstream of Correll St.	667
	Just downstream of Julian Rd.	718
	Just downstream of Peach Orchard Road.	741
	Just downstream of Webb Road.	761
	Just downstream of Mt. Hope Road.	782
Julian Tributary	Just downstream of Julian Road.	727
	Just downstream of I-85	746
Gravel Pit Branch	Approximately 300 feet upstream of confluence with Julian Tributary.	722
	Just downstream of I-85	730
Town Creek Tributary.	Just downstream of Leach Road.	771
	Just upstream of Leach Road.	778
	Just downstream of Brookfield Circle Drive.	778
	Just downstream of Weaver Rd.	780
Crane Creek	Just downstream of Old Union Church Road.	637
	Just downstream of Bringle Ferry Road.	662
	Just upstream of Bringle Ferry Road.	668
	Just downstream of Barringer Road.	712
	Just downstream of St. Pauls Church Road.	732
Trexler Creek	Just upstream of Treatment Plant Road.	709
	Just upstream of Carolina and Northwestern Railroad.	722
Legion Park Branch.	Just downstream of Old 60 Rd.	714
	Just upstream of Old 80 Rd.	720
Byrd Road Tributary.	Just downstream of Faith Rd.	727
	Just downstream of Legion Club Road.	777
Quarry Creek	Just downstream of St. Pauls Church Road.	762
	Just downstream of Confluence of Cemetery Creek.	763
Cemetery Creek	Approximately 100 feet upstream of confluence with Quarry Creek.	763
Faith Road Branch.	Just downstream of Old Covered Road.	760
	Just downstream of Webb Road.	776
Southside Tributary.	Approximately 1000 feet upstream of confluence with Faith Road Branch.	760
	Just downstream of Webb Road.	778
Peeler Branch	Just downstream of Rockwell corporate limits.	719

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2397 Filed 1-25-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5007]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Yeadon, Delaware County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Yeadon, Delaware County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall, Church Lane and Bailey Road, Yeadon, Pennsylvania 19050. Send comments to: Mr. Richard Schwab, Manager of the Borough of Yeadon Church Lane and Bailey Road Yeadon, Pennsylvania 19050

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Yeadon, Delaware County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cobbs Creek	Downstream Corporate Limits.	29
	Chesaie System	31
	Church Lane	33
	65th Street	34
	Cobbs Creek Parkway (Downstream crossing).	36
	Cemetary Access Road	38
	Cobbs Creek Parkway (Upstream crossing).	39
	Longacre Boulevard	47
	Conrail	48
	Baltimore Avenue	52
	Upstream Corporate Limits.	52
Darby Creek	Downstream Corporate Limits.	31
	Providence Road (Downstream).	33
	Providence Road (Upstream).	38
	Upstream Corporate Limits.	39

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Public Law 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2398 Filed 1-25-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5008]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Richardson, Dallas, and Collin Counties, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Richardson, Dallas and Collin Counties, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Director of Public Work's Office, P.O. Box 309, Richardson, Texas 75080. Send comments to: Mayor Raymond Noaa or Mr. Aubrey Adcock, Director of Public Works, P.O. Box 309, Richardson, Texas 75080.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Richardson, Dallas and Collin Counties, Texas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which

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added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rowlett Creek	At the confluence of Beck Branch.	505
Beck Branch	Approximately 200' upstream of North Star Road.	535
Spring Creek	Approximately 100' upstream of Jupiter Road.	557
	Approximately 200' upstream of Greenville Ave. (State Hwy 5).	569
	Approximately 100' upstream of U.S. Hwy 75.	586
Stream 2I7	Just upstream of Campbell Rd.	561
Stream 2I8	Just upstream of Unnamed Road.	585
Prairie Creek	Just upstream Hwy 75 North Bound.	579
	Just upstream of Fall Creek Rd. Drive.	603
	Just upstream of Custer Road.	618
	Just downstream of Renner Rd.	647
Duck Creek	Just upstream of Jupiter Road.	596
	Just upstream of Yale Boulevard.	605
	Just upstream of Plano Road.	616
Stream 2C7	Approximately 100' upstream of Yale Boulevard.	605
	Just upstream of N. Plano Rd.	619
Floyd Branch	Approximately 100' upstream of Spring Valley Road.	607
	Just upstream of Phillips St.	620
Stream 5B11	At Abrams Road	611
	Just upstream of Highland Boulevard.	629
Cottonwood Creek	Approximately 60' upstream of Spring Valley Road.	565
	Approximately 80' upstream of Beltline Road.	592
	Approximately 120' upstream of Arapaho Drive.	620
	Approximately 70' downstream of Campbell Road.	650
	Just upstream of Lookout Dr.	676
Hunt Branch	Just upstream of Spring Valley Road.	568
	Just upstream of Dumont Dr.	604
Stream 5B12	Just upstream of waterview Drive.	600
	Just upstream of Arapaho Dr.	623
	Just upstream of Melrose Dr.	637
	Just upstream of Campbell Rd.	650

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2399 Filed 1-25-79; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1 and 7]

[LR-199-76]

INCOME TAX

Amortization of Certain Rehabilitation Costs for Certified Historic Structures; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public Hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to amortization of certain rehabilitation costs for certified historic structures, under section 191 of the Internal Revenue Code of 1954, which appeared in the FEDERAL REGISTER for August 30, 1978 (43 FR 38731).

DATES: The public hearing will be held on March 15, 1979, beginning at 10:00 a.m. Outlines or oral comments must be delivered or mailed by March 1, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-199-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 191 of the Internal Revenue Code of 1954. The proposed regulations appeared in the FEDERAL REGISTER for August 30, 1978, at page 38731 (43 FR 38732). A Notice of Extension of Time for Comments appeared in the FEDERAL REGISTER for November 1, 1978, at page 50920 (43 FR 50920).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by March 1, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restriction, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

By Direction of the Commissioner of Internal Revenue.

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

[FR Doc. 79-2705 Filed 1-25-79 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 1035-8; Docket Nos. A-SS-77-591 and A-SS-77-592]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Orders for the Towns of Rockport and Camden, Maine

AGENCY: Environmental Protection Agency.

ACTION: Proposed rules.

SUMMARY: EPA proposes to issue administrative orders to the towns of Rockport and Camden, Maine. The orders require the towns to bring air emissions from their open burning dump in Rockport into compliance with certain regulations contained in the federally-approved Maine State Implementation Plan (SIP). Because the towns are unable to comply with these regulations at this time, the proposed orders would establish expeditious schedules requiring final compliance by July 1, 1979. Source compliance with the orders would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the orders. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the orders.

DATES: Written comments must be received on or before February 26, 1979, and requests for a public hearing must be received on or before February 12, 1979. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region I, Room 2103, JFK Federal Building, Boston, Massachusetts, 02203, Attn: Air Compliance Clerk. Material supporting the orders and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael Gurchin, attorney, 617/223-5061 or Mr. R. W. DiNardo, engineer, 617/223-5610, both at EPA, Region I, Room 2103, JFK Federal Building, Boston, Massachusetts, 02203.

SUPPLEMENTARY INFORMATION: The towns of Rockport and Camden operate an open burning dump at Rockport, Maine. The proposed orders address emissions from the dump, which are subject to section 100.2.2 of the Maine Air Pollution Control Regulations. The regulation prohibits open burning of waste, and is part of the federally-approved Maine State Implementation Plan. The orders require final compliance with the regulation by July 1, 1979, and the sources have consented to their terms. The sources have also agreed to meet the orders' increments during the period of this informal rulemaking.

The proposed orders satisfy the applicable requirements of Section 113(d) of the Clean Air Act (the Act). If the orders are issued, source compliance with their terms would preclude further EPA enforcement action under Section 113 of the Act against the sources for violations of the regulation covered by the orders during the period the orders are in effect. Enforcement against the sources under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the orders. Testimony given at any public hearing concerning the orders will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the orders in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: December 22, 1978.

WILLIAM ADAMS,
Regional Administrator, Region I.

The text of the proposed orders are as follows:

PART 65—DELAYED COMPLIANCE ORDERS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION I

In the Matter of Rockport, Maine Proceedings under Section 113 of the Clean Air Act, 42 U.S.C. § 7413; Order No. A-SS-77-591.

This ORDER is issued pursuant to section 113(d)(1) of the Clean Air Act (the "Act"), the 42 U.S.C. § 7413(d)(1). This ORDER contains a schedule for compliance, interim requirements, and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of Maine have been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

1. Former section 100.2.2 of the Maine Air Pollution Control Regulations ("Regulations") stated, in pertinent part, as follows: Open burning of waste of any kind shall be prohibited after July 1, 1974 except that municipalities qualifying for an extension under the Solid Waste Management Plan shall cease open burning as a means of solid waste disposal by July 1, 1975.

2. Section 100.2.2 of the Regulations is part of the Maine Implementation Plan submitted to and approved by the Environmental Protection Agency ("EPA") pursuant to section 110 of the Act. Although Maine has revised section 100.2.2, EPA disapproved this revision. Therefore, the implementation plan remains unchanged and section 100.2.2 of the Regulations is still a "requirement of an applicable plan," as that phrase is used in section 113(a)(1) of the Act.

3. The Towns of Rockport and Camden, Maine respectively own and operate an open burning disposal site in Rockport.

4. On December 15, 1977, the Regional Administrator of EPA issued Notices of Violation, pursuant to section 113(a)(1) of the Act, to the Towns of Camden and Rockport alleging a violation of the above-cited regulation. Information received from the Town Managers of Rockport and Camden in letters dated October 20, 1977, discussing the Towns' open burning of refuse, served as the basis for the issuance of these Notices.

5. Representatives of Camden and Rockport were afforded an opportunity to confer with EPA concerning the alleged violation, in accordance with section 113(a)(4) of the Act. The conference was held on February 23, 1978.

6. Comments made by the Town Manager of Rockport at the February, 1978 conference concerning Rockport's and Camden's continued open burning indicate that the violation of section 100.2.2 of the Regulations has continued more than thirty days beyond Camden's and Rockport's receipt of the Notices of Violation.

ORDER

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this ORDER is as expeditious as practicable, and that the terms of this ORDER comply with section 113(d) of the Act.

DEFINITIONS: For the purpose of this order:

"System for solid waste disposal" shall mean a land area, associated structures and necessary equipment used for storing, compacting, and processing the solid waste projected to be generated by the Towns of Rockport and Camden. The system shall satisfy all applicable regulations and procedures prescribed by the Main Department of Environmental Protection ("DEP").

It is hereby ORDERED:

I. That the Town of Rockport shall comply with the Maine Implementation Plan regulations in accordance with the fol-

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lowing schedule for implementation of plans for a solid waste disposal facility to dispose of the Town's refuse on or before the dates specified:

A. November 15, 1978—choose an alternative system of solid waste disposal.

B. December 15, 1978—enter into any necessary contracts to implement the alternative waste disposal system.

C. January 1, 1979—issue all necessary purchase orders and submit a progress report which shall contain the expected delivery dates of all necesary material and equipment.

D. April 1, 1979—begin construction and site preparation for the chosen solid waste disposal facility.

E. May 15, 1979—submit a progress report to EPA which shall contain an estimate of the percentage of construction completed and an anticipated completion date.

F. July 1, 1979—cease all open burning of solid waste and begin operation of a solid waste disposal facility in accordance with all applicable regulations.

II. That the Town of Rockport shall comply with the following interim requirements which have been found to be reasonble and practicable and will avoid an imminent and substantial endangerment to the public health.

A. Burning shall be restricted to those times when meteorological conditions are such that a minimum of smoke will impact on local residences.

B. The Limerock Street dump shall be protected by a gate and a dump attendant during normal operating hours to prevent accidental fires.

C. Burning of all tannery wastes shall cease immediately.

D. The dump shall close by 5:30 p.m. every day so that burning may occur earlier in the day.

That the Town of Rockport need not install an emission reduction system because no such system exists for open burning dumps and, therefore, need not comply with section 100.2.2 of Maine Implementation Plan regulations while this order is in effect.

III. That the Town of Rockport is not relieved by this ORDER from compliance with any requirement imposed by the Maine Implementation Plan, EPA and/or the courts pursuant to section 303 during any period of imminent and substantial endangerment to the health of persons.

IV. That the Town of Rockport shall comply with the following reporting requirements on or before the dates specified below:

A. Not later than five days after any date for achievement of an incremental step or final compliance specified in this ORDER, Rockport shall notify EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirement of this ORDER, the Town shall immediately notify EPA in writing of the anticipated delay and reasons therefor. Notification to EPA of any anticipated delay does not excuse the delay.

B. All submittals and notifications to EPA pursuant to this ORDER shall be made to: Director, Enforcement Division, U.S. Environmental Protection Agency, J.F.K. Federal Building, Room 2103, Boston, MA 02203, Attn: Air Compliance Clerk.

V. That while section 113(d)(1)(C) of the Act normally requires emission monitoring in an ORDER, no reasonable system of emission monitoring for the Town of Rockport's open burning dump site exists.

VI. Nothing herein shall affect the responsibility of the Town of Rockport to comply with State, local, or other Federal regulations.

VII. Rockport is hereby notified that failure to achieve final compliance by July 1, 1979 may result in a requirement to pay a noncompliance penalty under section 120 of the Act. In the event of such failure, the Town will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VIII. This ORDER shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator determines on the record, after notice and hearing, that an inability to comply with section 100.2.2 of the Regulations no longer exists.

IX. Violation of any requirement of this ORDER shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to sections 113(a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and, in appropriate cases, criminal prosecution.

B. Revocation of this ORDER, after notice and opportunity for a public hearing, and subsequent enforcement of section 100.2.2 of the Regulations in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

X. This ORDER is effective upon publication in the FEDERAL REGISTER.

DATED: January 23, 1979.

DOUGLAS M. COSTLE,
Administrator.

The Town of Rockport, Maine, finding that the compliance schedule in this ORDER is reasonable and practicable, hereby consents to the issuance of this ORDER and will undertake to comply with all of its terms and conditions.

Dated: October 30, 1978.

CARL L. BESTERLEY,
Authorized Source Signature.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION I

In the Matter of Camden, Maine Proceedings under Section 13 of the Clean Air Act, 42 U.S.C. 87413; Order No. A-SS-77-592.

This Order is issued pursuant to section 113(d)(1) of the Clean Air Act (the "Act"), 42 U.S.C. §7413(d)(1). This ORDER contains a schedule for compliance, interim requirements, and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of Maine have been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

1. Former section 100.2.2 of the Maine Air Pollution Control Regulations ("Regulations") stated, in pertinent part, as follows:

Open burning of waste of any kind shall be prohibited after July 1, 1974 except that municipalities qualifying for an extension under the Solid Waste Management Plan shall cease open burning as a means of solid waste disposal by July 1, 1975.

2. Section 100.2.2 of the Regulations is part of the Maine Implementation Plan submitted to and approved by the Environmental Protection Agency ("EPA") pursuant to section 110 of the Act. Although Maine has revised section 100.2.2, EPA disapproved this revision. Therefore, the implementation plan remains unchanged and section 100.2.2 of the Regulations is still a "requirement of an applicable plan," as that phrase is used in section 113(a)(1) of the Act.

3. The Towns of Rockport and Camden, Maine respectively own and operate an open burning disposal site in Rockport.

4. On December 15, 1977, the Regional Administrator of EPA issued Notices of Violation, pursuant to section 113(a)(1) of the Act, to the Towns of Camden and Rockport alleging a violation of the above-cited regulation. Information received from the Town Managers of Rockport and Camden in letters dated October 20, 1977, discussing the Towns' open burning of refuse, served as the basis for the issuance of these Notices.

5. Representatives of Camden and Rockport were afforded an opportunity to confer with EPA concerning the alleged violation, in accordance with section 113(a)(4) of the Act. The conference was held on February 23, 1978.

6. Comments made by the Town Manager of Rockport at the February, 1978 conference concerning Rockport's and Camden's continued open burning indicate that the violation of section 100.2.2 of the Regulations has continued more than thirty days beyond Camden's and Rockport's receipt of the Notices of Violation.

ORDER

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this ORDER is as expeditious as practicable, and that the terms of this ORDER comply with section 113(d) of the Act.

DEFINITIONS: For the purposes of this order:

"System for solid waste disposal" shall mean a land area, associated structures and necessary equipment used for storing, compacting, and processing the solid waste projected to be generated by the Towns of Rockport and Camden. The system shall satisfy all applicable regulations and procedures prescribed by the Maine Department of Environmental Protection ("DEP").

It is hereby ORDERED:

I. That the Town of Camden shall comply with the Maine Implementation Plan regulations in accordance with the following schedule for implementation of plans for a solid waste disposal facility to dispose of the Town's refuse on or before the dates specified:

A. November 15, 1978—choose an alternative system for solid waste disposal.

B. December 15, 1978—enter into any necessary contracts to implement the alternative waste disposal system.

C. January 1, 1979—issue all necessary purchase orders and submit a progress report which shall contain the expected delivery dates of all necessary material and equipment.

D. April 1, 1979—begin construction and site preparation for the chosen solid waste disposal facility.

E. May 15, 1979—submit a progress report to EPA which shall contain an estimate of the percentage of construction completed and an anticipated completion date.

F. July 1, 1979—cease all open burning of solid waste and being operation of a solid waste disposal facility in accordance with all applicable regulations.

II. That the Town Camden shall comply with the following interim requirements which have been found to be reasonable and practicable and will avoid an imminent and substantial endangerment to the public health.

A. Burning shall be restricted to those times when meteorological conditions are such that a minimum amount of smoke will impact on local residences.

B. The Limerock Street dump shall be protected by a gate and a dump attendant during normal operating hours to prevent accidental fires.

C. Burning of all tannery wastes shall cease immediately.

D. The dump shall close by 5:30 p.m. every day so that burning may occur earlier in the day.

That the town of Camden need not install an emission reduction system because no such system exists for open burning dumps and therefore need not comply with section 100.2.2 of Maine Implementation Plan regulations while this order is in effect.

III. that the Town of Camden is not relieved by this ORDER from compliance with any requirement imposed by the Maine Implementation Plan, EPA and/or the courts pursuant to section 303 during any period of imminent and substantial endangerment to the health of persons.

IV. That the Town of Camden shall comply with the following reporting requirements on or before the dates specified below:

A. Not later than five days after any date for achievement of an incremental step or final compliance specified in this ORDER, Camden shall notify EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirement of this ORDER, the Town shall immediately notify EPA in writing of the anticipated delay and reasons therefor. Notification to EPA of any anticipated delay does not excuse the delay.

B. All submittals and notifications to EPA pursuant to this ORDER shall be made to: Director, Enforcement Division, U.S. Environmental Protection Agency, J.F.K. Federal Building, Room 2103, Boston, MA 02203, Attn.: Air Compliance Clerk.

V. That while section 113(d)(1)(C) of the Act normally requires emission monitoring in an ORDER, no reasonable system of emission monitoring for the Town of Camden's open burning dump site exists.

VI. Nothing herein shall affect the responsibility of the Town of Camden to comply with State, local, or other Federal regulations.

VII. Camden is hereby notified that failure to achieve final compliance by July 1, 1979 may result in a requirement to pay a noncompliance penalty under section 120 of the Act. In the event of such failure, the Town will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VIII. This order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator determines on the record, after notice and hearing, that an inability to comply with section 100.2.2 of the Regulations no longer exists.

IX. Violation of any requirement of this ORDER shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to sections 113(a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and, in appropriate cases, criminal prosecution.

B. Revocation of this ORDER, after notice and opportunity for a public hearing, and subsequent enforcement of section 100.2.2 of the Regulations in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

X. This ORDER is effective upon publication in the FEDERAL REGISTER.

Dated: January 23, 1979.

DOUGLAS M. COSTLE,
Administrator.

The Town of Camden, Maine, finding that the compliance schedule in this ORDER is reasonable and practicable, hereby consents to the issuance of this ORDER and will undertake to comply with all of its terms and conditions.

Dated: October 30, 1978.

ELMER SAVAGE,
Authorized Source Signature.

[FR Doc. 79-2847 Filed 1-25-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1045-7]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for Chase Bag Company, Paper Mill Division, Chagrin Falls, Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to issue an Administrative Order to Chase Bag Company, Paper Mill Division. The Order requires the Company to bring Boilers #1 and #2 (the source) into compliance with Ohio Regulation AP-3-11 part of the federally approved Ohio State Implementation plan (SIP). Because the Company is unable to comply with this regulation at this time, the proposed Order would establish an expeditious schedule requiring final compliance by July 1, 1979. Source compliance with the Order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act (the Act) for violation of the SIP regulation covered by the Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on U.S. EPA's proposed issuance of the Order.

DATES: Written comments must be received on or before February 26, 1979 and requests for a public hearing must be received on or before February 12, 1979. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testmony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Arthur E. Smith, Jr., Attorney, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, at (312) 353-2082.

SUPPLEMENTARY INFORMATION: Chase Bag Company owns a paper mill at Chagrin Falls, Ohio. The proposed Order addresses emissions from Boilers #1 and #2 at this facility, which is subject to Regulation AP-3-11 of the Ohio Implementation Plan. The regulation limits the emissions of particulate matter and is part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulations by July 1, 1979, and the source has consented to its terms.

The proposed Order satisfies the applicable requirements of Section 113(d) of the Act. If the Order is issued, source compliance with its terms would preclude further U.S. EPA enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suite provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether U.S. EPA should issue the Order. Testimony given at any public hearing concerning the Order will also be considered. After the

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public comment period and any public hearing, the Administrator of U.S. EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65.

Dated: January 10, 1979.

JOHN MCGUIRE,
Regional Administrator,
Region V.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

I. By amending the table in Section 65.400 to reflect the approval of the following order:

65.400 Federal Delayed Compliance Orders issued under Section 113(d) (1), (3), and (4) of the Act.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

[Order No. FRL 1045-7]

In the Matter of Chase Bag Company, Paper Mill Division, Chagrin Falls, Ohio. Proceeding Pursuant to Section 113(d) of the Clean Air Act, as amended [42 U.S.C. Section 7413(d)].

This ORDER is issued this date pursuant to Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.* (Act). This ORDER contains a schedule for compliance, interim control requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of Ohio have been provided pursuant to Section 113(d) of the Act.

FINDINGS

1. On January 16, 1978, the United States Environmental Protection Agency (U.S. EPA) issued a Notice of Violation, pursuant to Section 113(a)(1) of the Act, to the Chase Bag Company, Paper Mill Division (Chase Bag), upon a finding that Chase Bag Boilers #1 and #2 are in violation of Ohio regulation AP-3-11, a part of the applicable Ohio implementation Plan as defined in Section 110(d) of the Act. This finding was based upon emission factor calculations derived from data submitted to U.S. EPA by the subject facility.

2. In satisfaction of Section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to Chase Bag, and on March 23, 1978, an enforcement conference was held.

3. It has been determined that Chase Bag is unable to immediately comply with the applicable implementation Plan.

After a thorough investigation of all relevant facts, including public coment, it is determined that the schedule for compliance set forth in this ORDER is as expeditious as practicable, and that the terms of this ORDER comply with Section 113(d) of the Act. Therefore, it is hereby ORDERED:

ORDER

I. That Chase Bag shall comply with the Ohio Implementation Plan regulation AP-3-11 in accordance with the following schedule on or before the dates specified therein.

A. In regard to Boilers #1 and #2:

1. Achieved—Chase Bag shall submit final control plans.

2. Achieved—Chase Bag shall award contracts for the control equipment.

3. March 1, 1979—Chase Bag shall initiate on-site contruction of the control equipment.

4. July 1, 1979—Chase Bag shall complete on-site construction of the control equipment and achieve compliance with Ohio Implementation Plan regulation AP-3-11.

5. Pursuant to Sections 113(a) and 114 within 2 months after July 1, 1979, Chase Bag shall demonstrate compliance with Boilers #1 and #2 to the U.S. EPA.

II. Pursuant to Section 113(d)(7) of the Act, during the period in which this ORDER is in effect, Chase Bag shall comply with the following interim requirements and shall use the best practicable systems(s) of emission reduction so as to minimize particulate emissions and to avoid an imminent and substantial endangerment to the health of persons and shall further comply with the requirements of the applicable implementation plan insofar as it is able to:

A. Chase Bag shall operate and maintain existing control equipment to maximize reliability and efficiency during the interim period preceding final compliance.

B. Commencing immediately, Chase Bag shall operate and maintain its boilers to minimize particulate matter emissions from the boilers on a day-to-day basis during the interim period preceding final compliance.

III. That Chase Bag shall comply with the following emission monitoring and reporting requirements:

A. Emission Monitoring: Pursuant to Sections 113(a) and 114, in operation of the control equipment, Chase Bag shall provide means for continuously determining the pressure drop across each baghouse compartment and shall monitor the pressure drop half-hourly during operation of Boilers #1 and # 2. Upon indication of bag failure, the compartment associated therewith shall be immediately shut off and maintenance initiated.

B. Reporting Requirements: 1. No later than 15 days after any date for achievement of an incremental step or final compliance, specified in this ORDER, Chase Bag shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirements of this ORDER, Chase Bag shall immediately notify U.S. EPA in writing of the anticipated delay and reasons therefor.

2. Pursuant to Sections 113(a) and 114, every 3 months, Chase Bag shall report to the U.S. EPA details of all incidents of bag failure including date, time of day, and number of bags involved.

3. Every 3 months, Chase Bag shall report on the progress of its program for compliance specified in Paragraph I.A.

4. All submittals and notifications to U.S. EPA pursuant to this ORDER shall be made to Mr. Eric Cohen, Chief, Compliance Section, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. A copy of all submittals and notifications should be sent to the Division of Air Pollution Control, Department of Public Health and Welfare, 2735 Broadway Avenue, Cleveland, Ohio 44115.

5. The first quarterly report pursuant to this ORDER shall be submitted January 1, 1979.

IV. Nothing herein shall affect the responsibility of Chase Bag to comply with State or local regulations, or other Federal regulations.

V. Chase Bag is hereby notified that its failure to achieve final compliance by July 1, 1979, at Boilers #1 and #2, may result in a requirment to pay a noncompliance penalty under Section 120. In the event of such failure, Chase Bag will be formally notifed, pursuant to Section 120(b)(3) and any regulations promulgated thereunder, of it noncompliance.

VI. Ths ORDER is effective upon final publication in the FEDERAL REGISTER.

Date ————.

——— ———,
Administrator, U.S.
Environmental
Protection Agency

WAIVER OF RIGHTS TO CHALLENGE ORDER

Although Chase Bag does not admit any violations, the Company hereby consents to the provisions of this ORDER and waives any and all rights under provisions of law to challenge this ORDER.

Date————.

——— ———,
Chase Bag Company,
Paper Mill Division

[FR Doc. 79-2844 Filed 1-25-79; 8:45 am]

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[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 405]

MEDICARE PROGRAM

Cost to Related Organizations

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This regulation would revise the current Medicare program regulation which limits the amount a provider may be reimbursed when it obtains services, facilities, or supplies from and organization related to it by common ownership or control. The revision clarifies the meaning and intent of the regulation by defining terms and adding explanatory language. The purpose of the revision is to make the regulation more understandable to the public, and to reduce those areas of misinterpretation which cause dispute in administration.

DATES: Consideration will be given to written comments or suggestions received on or before March 27, 1979.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013. In commenting, please refer to MAB-87-P. Comments will be available for public inspection beginning approximately 2 weeks after publication in room 5231 of the Department's offices at 330 C Street, SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (202-245-0950).

FOR FURTHER INFORMATION CONTACT:

Mr. Hugh J. McConville, Medicare Bureau, Health Care Financing Administration, East Building, Room 412, 6401 Security Boulevard, Baltimore, Maryland 21235 (301-594-9430).

SUPPLEMENTARY INFORMATION: A Medicare provider's reimbursable costs for items of services, facilities, or supplies furnished to the provider by another organization are normally the charges made by the supplying organization. (See 42 CFR 405.451.) However, a special rule applies when a provider obtains items from a supplier to which it is related by common ownership or control. (See 42 CFR 405.427, Cost to Related Organizations.)

In the situation of a related supplying organization, the provider's allowable costs for items obtained from the organization are limited to the organization's costs rather than its charges, provided those costs do not exceed the open market price of items. The regulation is intended to prevent the program from paying the provider any profit factor attributable to the provider's dealing with itself through the related organization. An exception is provided to this general rule for items supplied by related organizations meeting established criteria. (See 42 CFR 405.427(d).) Where the exception applies, the provider's allowable costs for the items obtained would be the charges made by the related supplying organization, if those charges do not exceed the prices in the open market.

In practice, the current regulation has been difficult to apply. Some of its provisions have been susceptible to misinterpretation and to subjective decisions on the part of the intermediaries and providers. As a result, many provider appeals have been brought before intermediary hearings officers and the Provider Reimbursement Review Board for resolution of disputes. Primary areas of concern have been the determination of relatedness, the determination of allowable cost, and the application of the criteria in the exception. The purpose of this proposed revision is to clarify the meaning and intent of the regulation, including the criteria for the exception to the regulation, and to extend the regulation to cover special contract situations.

1. DETERMINATION OF "RELATEDNESS"

The existing regulation treats a provider and a supplying organization as related if they are associated or affiliated "to a significant extent". The definitions of "common ownership" and "control" also use the terms "significant ownership" and "significantly" influence. The subjectiveness of these terms has caused problems in interpreting and consistently applying the regulation. We are proposing to revise these difinitions to remove these phrases. A provider and a supplying organization would be treated as related if there is "any" common ownership or control. Questions have also arisen regarding the proper treatment of chain organizations. We are proposing to define chain organization and clarify current policy, which treats dealings among components of a chain organization as dealings between related organizations. This proposed regulation would limit reimbursement to *providers* who obtain services, facilities or supplies from organizations related by common ownership or control. While HMO's are not "providers of services" for Medicare purposes, this provision is made applicable to them, subject to specific limitations by § 405.2042 (Principles of Reimbursement For Cost-Basis HMO's under Title XVIII; Allowable Costs). Therefore, because of our continuing interest in fostering the development of HMO's, we would be particularly interested in comments regarding the potential effect of the proposed regulation on HMO's.

2. DETERMINATION OF ALLOWABLE COST

The existing rule does not deal specifically with how the costs of a related supplying organization are to be determined and questions have arisen as to what methods are acceptable. We are proposing that the supplier's allowable costs be determined in accordance with the general reimbursement principles of Subpart D of the Medicare regulations. Our intent is that the supplier use generally accepted accounting principles, except where special rules have been adopted for Medicare.

3. EXCEPTIONS

We are proposing some clarifications and revisions in the existing criteria for granting an exception to the general principle. For example, we are proposing that the related supplying organization must conduct at least 80 percent of its business, of the type transacted with the provider, in the open market. The existing regulation uses the criterion "a substantial part", which is too vague to provide clear guidance. We have chosen 80 percent because, in our view, it is tantamount to the provider buying in the open market. At this level of activity, the forces prevailing in the market place should control the price charged the provider, and the supplying organization's existence would not be dependent upon the business conducted with the provider.

4. SPECIAL APPLICATIONS

The application of the regulation has been extended to provide that, even if the common ownership or control relationship terminates prior to the end of a contract for service, facilities, or supplies originally made between related organizations, the rule on related organizations would continue to apply during the full term of the contract. This application is necessary, in our view, because the contract terms, which were not arranged in arms-length bargaining, have not been changed by the termination of the relationship between the provider and the supplier.

The proposed revision to the regulation also applies the rule for related organizations to cases in which the provider and the supplying organization are unrelated prior to the execution of a contract, but common ownership or control is created at the same time by the nature of the contract or by other means.

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5. SHARED-SERVICES ORGANIZATIONS

This proposed rule does not incorporate the special provisions regarding shared-services organizations since those were published separately as a proposed rule on August 17, 1978 (43 FR 36488). A full explanation of the proposed rule and of our reasons for proposing it was set forth in that NPRM. Comments regarding that rule have been received and are being considered.

42 CFR 405.427 is revised to read as follows:

§ 405.427 Cost to related organizations.

(a) *Scope.* This section specifies criteria for determining a provider's allowable costs when the provider obtains services, facilities, or supplies from an organization that is related to it by common ownership or common control.

(b) *Definitions.* As used in this section, unless the context indicates otherwise:

"Chain organization" means any group of two or more facilities that are owned, leased, or controlled by one organization.

"Common control" means that an individual(s) or organization has the power to influence or direct the actions or policies of both a provider and a supplying organization or to influence or direct the transactions between a provider and a supplying organization. The term includes direct or indirect control, whether or not it is legally enforceable.

"Common ownership" means that an individual(s) or organization owns or has equity in both a provider and a supplying organization.

"Related organization" means an entity that is under common ownership or common control with a provider.

(c) *Allowable costs.* Fees charged among components of a chain organization are not allowable as provider costs. However, subject to paragraph (d) of this section, a provider's allowable costs for services, facilities, or supplies furnished to it by a related supplying organization include:

(1) Costs that would be allowable if they were incurred directly by the provider.

(2) Costs of services, facilities, or supplies furnished by one component of a chain organization to another component; and

(3) Costs of services, facilities, or supplies furnished by the home office of a chain organization to another component.

Example: Corporation A, a construction company, builds a hospital or nursing home and leases it to Corporation B to operate as a provider. Corporation B is related to Corporation A by common control. Rental payments made to Corporation A would not be used to determine the provider's allowable costs. Corporation B could only include in its allowable costs Corporation A's costs of ownership of the facility. These would include depreciation costs, interest on a mortgage, real estate taxes, and other expenses incurred by the owner for the leased facility.

(d) *Conditions for payment.*—(1) *Basic condition.* Except as provided in paragraphs (d) (2) and (3), a provider's allowable costs for services, facilities, or supplies furnished to it by a related supplying organization shall not exceed the lower of:

(i) The cost of the services, facilities, or supplies to the related supplying organization; or

(ii) The price at which comparable services, facilities, or supplies can be purchased in the open market.

(3) *Related open market suppliers.* (i) A provider's allowable costs are not limited to the provisions if paragraph (d)(1) of this section of the provider can show, to the satisfaction of the intermediary that:

(A) The related supplying organization is operated separately from the provider. This means it cannot be operated by the same sole proprietor, by the same partners of partnership, or by the same corporation, regardless of the internal corporate operating arrangements, that operates the >provider.

(B) The related supplying organization transacts 80 percent or more of its business (of the type carried on with the provider) with organizations to which it is not related.

(C) There is an open, competitive market for the type of services, facilities, or supplies furnished by the related supplying organization. For example, the items are produced and offered for sale in large quantities to the general public or the services are available at an established market price from a number of suppliers. This requirement for an open, competitive market does not apply, however, to items that are produced or acquired under a special contract, such as a provider building constructed by a related organization or a provider building rented for a related organization.

(D) The services, facilities, or supplies are of the type commonly obtained by providers from other organizations.

(ii) If all the conditions of paragraph (d)(3)(i) of this section are met, the provider's allowable costs for services, facilities, or supplies furnished by the related supplying organization shall be lower the of:

(A) The charge made by the related supplying organization to the provider; or

(B) The price at which comparable services, facilities, or supplies can be purchased in the open market.

(4) *Accounting method.* The allowable cost of services, facilities, and supplies to a related supplying organization will be determined in accordance with this subpart.

(e) *Applicability.* (1) If paragraph (d)(1) of this section is applicable, it governs the provider's allowable costs throughout the full term of a supply contract executed between a provider and a related supplying organization, even if the common control or common ownership terminates prior to the end of the contract.

(2) If a provider and a supplying organization are not related prior to the execution of a supply contract, but common ownership or common control is created at the same time by the supply contract, by a companion agreement, or by any other means, the supply contract will be treated as having been made between related organizations for purposes of paragraph (d) of this section.

Example: Corporation A owns a building and executes a lease contract with Corporation B, a provider. A single stockholder owns 100 percent of the capital stock of both corporations. A person unrelated to either corporation buys the stock of Corporation B from the stockholder, thus terminating the relationship of Corporation B and Corporation A. However, until the lease is terminated, Corporation B's allowable costs would be limited to Corporation A's costs of ownership.

(Secs. 1102, 1861(v), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395o(u), and 1395hh))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance.)

Dated: October 12, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: January 15, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 79-2163 Filed 1-25-79; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

ELBOW LAKE LIVESTOCK SALES CO., ELBOW LAKE, MINNESOTA, ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., Name, Location of Stockyard, and Date of Posting

MN-113 Elbow Lake Livestock Sales Company, Elbow Lake, Minnesota, March 1, 1960.
MN-119 Granite Falls Sales Co., Granite Falls, Minnesota, September 19, 1959.
MN-136 Park Rapids Sales Co., Park Rapids, Minnesota, October 2, 1959.
MN-142 Rush City Livestock Auction, Rush City, Minnesota, April 11, 1960.
MN-157 Walnut Grove Sales Pavilion, Walnut Grove, Minnesota, September 23, 1959.
ND-109 Ellendale Livestock Market, Inc., Ellendale, North Dakota, June 6, 1959.
ND-118 Kamrath Sales Pavilion, Mott, North Dakota, May 27, 1959.
ND-120 Oakes Livestock Commission Co., Oakes, North Dakota, May 13, 1959.
SD-109 Centerville Livestock Auction, Inc., Centerville, South Dakota, May 19, 1959.
SD-117 Faulkton Livestock Commission Company, Faulkton, South Dakota, June 3, 1959.
SD-122 Herreid Livestock Commission Company, Inc., Herreid, South Dakota, June 23, 1954.
SD-141 Rapid City Livestock Market, Inc., Rapid City, South Dakota, January 24, 1947.
SD-151 Wall Livestock Auction, Inc., Wall, South Dakota, May 30, 1959.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective January 26, 1979.

(42 Stat. 159, as amended and supplemented (7 U.S.C. 181 *et seq.*))

Done at Washington, D.C., this 19th day of January 1979.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc. 79-2724 Filed 1-25-79; 8:45 am]

[3410-02-M]

Federal Grain Inspection Service

OFFICIAL AGENCY DESIGNATION

Cancellation of Designation of the Lubbock Grain Inspection and Weighing, Inc.,—Official Designation of Lubbock Grain Inspection and Weighing—Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the cancellation of designation of the Lubbock Grain Inspection and Weighing, Incorporated, as an existing agency at Lubbock, Texas, and the designation of the Lubbock Grain Inspection and Weighing which is owned by Mr. Raymond Anthis, as a new official agency at Lubbock, Texas, to perform grain inspection services under the U.S. Grain Standards Act, as amended, effective October 19, 1978. This notice also proposes a geographic area within which the agency will operate.

DATE: Comments by March 12, 1979.

FOR ADDITIONAL INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street SW., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

On September 18, 1978, a notice was published in the FEDERAL REGISTER (43 FR 41418) announcing that (1) the Lubbock Grain Inspection and Weighing, Incorporated, Lubbock, Texas, requested that its designation as an official inspection agency be transferred to Mr. Raymond Anthis, the Chief Inspector of that agency; and (2) Mr. Anthis has applied for designation in accordance with Section 7(f)(1) of the Act (7 U.S.C. 79(f)(1)) to operate as an official agency at Lubbock, Texas, to be known as the Lubbock Grain Inspection and Weighing.

Interested persons were given until October 18, 1978, to submit written views and comments with respect to the requested transfer of designation and/or to apply for designation to operate as an official agency at Lubbock, Texas. No comments were received regarding the September 18, 1978, notice. No additional applications were received, other than the application from Mr. Anthis.

The FGIS has conducted the required investigation of the Lubbock Grain Inspection and Weighing which included an onsite review of the inspection point at Lubbock (specified service point).

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result of this investigation and after due consideration of the request for transfer, the Lubbock Grain Inspection and Weighing owned by Mr. Anthis, was selected for designation under the Act to perform official inspection functions (other than appeal inspection), not including official weighing, and the designation of the Lubbock Grain Inspection and Weighing, Incorporated was canceled effective October 19, 1978.

A document designating the Lubbock Grain Inspection and Weighing,

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as an official agency was signed on October 19, 1978. Said designation also includes an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned to the Lubbock Grain Inspection and Weighing on an interim basis pending final determination in this matter is:

Bounded on the North by: The northern Cochran County line from the Texas-New Mexico State line east; the northern Hockley County line east to Farm to Market Road (FM) 303; FM 303 north to U.S. Route 84; U.S. Route 84, including Sudan, Texas, southeast to FM 37; FM 37 east to FM 179; FM 179 north to FM 1914; FM 1914 east, not including Hale Center, Texas, to FM 400; FM 400 south to FM 37; FM 37 east to the eastern Hale County line; the Hale County line south; northern Crosby County line east; the northern Dickens County line east;

Bounded on the East by: The eastern Dickens, Kent, Scurry, and Mitchell County lines;

Bounded on the South by: The southern Mitchell, Howard, Martin, and Andrews County lines; and

Bounded on the West by: The Texas-New Mexico State line from the southern Andrews County line north to the northern Cochran County line.

In addition, the area shall include El Paso County, Texas.

Interested persons may obtain a map of the proposed geographic area from the Compliance Division, Delegation and Designation Branch.

The specified service point of the Lubbock Grain Inspection and Weighing is 920 Avenue A, Box 675, Lubbock, Texas 79408, which is located within the agency's proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspector is located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future within the agency's assigned geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to the Lubbock Grain Inspection and Weighing. All views or comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials submitted should be mailed to the Director not later than March 12, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 4, Pub. L. 94-582, 90 Stat. 2868 (7 U.S.C. 75a); sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C., on January 19, 1979.

LESLIE E. MALONE,
Acting Director.

[FR Doc. 79-2837 Filed 1-25-79; 8:45 am]

[3410-02-M]

OFFICIAL AGENCY TERMINATION

Termination of Designation of The Corn Exchange, Buffalo, New York

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and request for applications and comments.

SUMMARY: This notice announces the termination of the designation of The Corn Exchange, Buffalo, New York, as an official agency to perform grain inspection under the U.S. Grain Standards Act, as amended. The Federal Grain Inspection Service is requesting comments on the need for designation of a replacement agency to perform official inspection in the area previously serviced by The Corn Exchange. In addition, interested persons are invited to make application for designation to operate as an official agency in the Buffalo, New York, area.

DATES: Termination effective midnight, November 19, 1978. Application and/or comments received by March 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: Pub. L. 94-582 was enacted in 1976 to amend the United States Grain Standards Act (7 U.S.C. 71 *et seq.*) (hereinafter the "Act"). Section 27 of the Act (7 U.S.C. 74 note) provides that any interior inspection agency providing service on November 20, 1976, the date on which the amended Act became effective, could continue to do so without a designation under the Act until the expiration of a period of time as determined by the Administrator, but not to exceed 2 years after the Act's effective date.

The Corn Exchange (Exchange), Buffalo, New York, was advised on November 15, 1977, that conflicts of interest, as defined by Section 11(b) of the Act (7 U.S.C. 87(b)), existed in their agency. The Exchange submitted no proposal to effect a satisfactory resolution of these conflicts of interest and therefore was ineligible for designation as an official agency.

Because the Exchange did not become eligible for designation under the terms of the amended Act, their designation terminated midnight, November 19, 1978, in accordance with Section 27 of the Act (7 U.S.C. 74 note).

The Administrator of the Federal Grain Inspection Service (FGIS) is authorized under the provisions of the Act to provide official inspection where it is determined official inspection is needed (7 U.S.C. 79(f)(1)). FGIS requests comments from the grain trade and other interest parties with respect to the need for continuing to provide official grain inspection service under the Act in the area previously serviced by the Exchange. All comments should be submitted in writing and mailed to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 14th & Independence Avenue, SW., Room 2405, Auditors Building, Washington, D.C. 20250, not later than March 12, 1979.

Subject to a final determination by the Administrator as to the need for continuing official grain inspection service in this area, interested persons are hereby given opportunity to make application for designation to operate as an official agency in the Buffalo, New York, area, pursuant to the requirements in Section 7(f)(1)(A) of the amended Act (7 U.S.C. 79(f)(1)(A)) and section 26.96 of the regulations (7 CFR 26.96). Persons wishing to apply for designation to operate as an official agency in the Buffalo area should contact the Office of the Director, Compliance Division, at the above mentioned address, for the appropriate forms and mail their applications to that Director's office not later than March 12, 1979.

Official inspection services on domestic grain will be provided by the FGIS in the area previously serviced by the exchange until such time as the necessity of a replacement agency is determined. Persons desiring official inspection services during this period should contact Mr. Patrick Flanagan, Field Office Supervisor, United States Department of Agriculture, Federal Grain Inspection Service, Port of Albany, Albany, New York 12202, (518) 465-2662.

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2) provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

In making a final determination as to the need for a replacement agency in the Buffalo, New York, area, and the designation of an official agency if deemed necessary, consideration will be given to all comments filed and to any applications submitted and to all other information available to the Administrator. All comments and applications submitted pursuant to this notice will be made available for public inspection at the above Office of the Director during regular business hours (7 CFR 1.27(b)).

(Sec. 8, Pub. L. 94-582, 90 Stat. (7 U.S.C. 79); sec. 13, Pub. L. 94-582, 90 Stat. 2880 (7 U.S.C. 87); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note) 7 CFR 26.96.)

Done in Washington, D.C., on January 19, 1979.

LESLIE E. MALONE,
Acting Administrator.

[FR Doc. 79-2838 Filed 1-25-79; 8:45 am]

[3410-05-M]

Office of the Secretary

ADVISORY COMMITTEE ON EXPORT SALES REPORTING

Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), notice is herby given of the following Committee meeting:

NAME: Advisory Committee on Export Sales Reporting.

DATE: February 8, 1979.

TIME: 9 a.m. to 4 p.m.

PLACE: Room 4960-South Building, U.S. Department of Agriculture, 1400 Independence Avenue, Washington, D.C. 20250.

TYPE OF MEETING: Open to the public. However, only written comments will be accepted and should be submitted to Kelly Harrison, General Sales Manager, U.S.D.A., Washington, D.C. 20250, telephone (202) 447-5173. Copies of summary minutes of Committee meetings may be obtained from the address shown above.

PURPOSE: The Committee is expected to review and approve its report to the Secretary of Agriculture.

Dated: January 19, 1979.

GEORGE S. SHANKLIN,
Acting General Sales Manager.

[FR Doc. 79-2723 Filed 1-25-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket No. 33363]

FORMER LARGE IRREGULAR AIR SERVICE INVESTIGATION

Hearing

The hearing on the applications of IAL, Inc. (Dockets 33233, 33232) consolidated into this proceeding will be held on February 15, 1979 at 9:00 a.m. in Room 1003, Hearing Room B, at 1875 Connecticut Avenue, N.W., Washington, D.C. 20428.

Dated at Washington, D.C., January 19, 1979.

RUDOLF SOBERNHEIM,
Administrative Law Judge.

[FR Doc. 79-2826 Filed 1-25-79; 8:45 am]

[6320-01-M]

[Docket 34475]

FUNFLIGHTS, INC. ET AL.

Assignment of Proceeding

In the matter of Funflights, Inc., Edwin Skuller, Robert Nichols, and David Wolffe, Respondents, Enforcement Proceeding.

This proceeding is hereby assigned to Administrative Law Judge Richard J. Murphy. Future communications should be addressed to Judge Murphy.

Dated at Washington, D.C., January 19, 1979.

NAHUM LITT,
Chief Administrative Law Judge.

[FR Doc. 79-2827 Filed 1-25-79; 8:45 am]

[6320-01-M]

[Order 79-1-105; Docket 33196, et al.]

NATIONAL AIRLINES, INC., ET AL.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 18th day of January, 1979.

In the matter of application of National Airlines, Inc. for amendment of its certificate of public convenience and necessity pursuant to section 401 of the Federal Aviation Act of 1958, as amended (Docket 33196); applications of Northwest Airlines, Inc. (Docket 33350), Eastern Airlines, Inc. (Docket 32720), Western Air Lines, Inc. (Docket 32964), Southern Airways, Inc. (Docket 33438), for amendment of their certificates of public convenience and necessity pursuant to section 401 of the Federal Aviation Act of 1958, as amended; applications of Northwest Airlines, Inc. (Docket 33351), Eastern Airlines, Inc. (Docket 32891), for exemption authority pursuant to section 416(b) of the Federal Aviation Act.

On August 14, 1978, National Airlines filed an application and a petition for an order to show cause why its authority on Route 39 in the San Francisco/Oakland/San Jose-Atlanta market should not be converted from mandatory to permissive (Docket 33196).[1]

On September 5, 1978, Northwest Airlines filed an application for an amendment of its existing certificate of public convenience and necessity for Route 3, or for the grant of new certificate authority, to permit nonstop service between the San Francisco area and Atlanta (Docket 33350). It filed a motion for hearing on the same date, as well as an application under section 416(b) of the Act for an exemption from its certificate requirements so as to permit it to provide nonstop service between San Francisco/Oakland/San Jose and Atlanta for two years, or until 60 days after final Board decision on its application for certificate authority (Docket 33350).

On September 15, 1978, Southern Airways filed a motion to consolidate its application for Atlanta-San Francisco certificate authority (Docket 33438) with the applications of Northwest, Eastern Airlines (Docket 32720) and Wesern Air Lines (Docket 32964).[2]

Eastern,[3] Western, and an incumbent in the market, Delta, filed answers in opposition to Northwest's exemption request.

Neither of the incumbents, Delta or National, has filed an answer to any of the pending applications for certificate authority or to Northwest's motion for hearing.

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[1] National has apparently already canceled its service for an indefinite period. Beginning with the October 15, 1978, Official Airline Guide, no National flights are listed in this market.

[2] Western had already filed a motion to consolidate its application with that of Eastern on July 3, 1978.

[3] Eastern had filed for Atlanta-San Francisco exemption authority on June 21, 1978 (Docket 32891). This application was supported by the City of Atlanta and the Atlanta Chamber of Commerce and opposed by National, Western, and Delta. Eastern's request was accompanied by financial, economic and environmental data supportive of both the exemption request and the certificate request in Docket 32720. On October 25, 1978, Eastern also filed for "unused" Atlanta-San Francisco/Oakland/San Jose authority under section 401(d)(5)(A) of the Act, and was awarded this authority in Order 78-11-41 (November 9, 1978).

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In its application, [1] Northwest argues that the current service in the San Francisco-Atlanta market provided by Delta and National does not meet the needs of the public; that Delta provides three nonstop round trips daily but at inconvenient hours for the business traveler, and National offers only one nonstop round trip on the weekend. It proposes to provide two nonstop round trips each day, using B-727 equipment, at hours more convenient for the business traveler, and to offer "Super Saver" and other promotional fares that will compete with existing fares and benefit the public. It estimates that it will earn an operating profit of $1,318,000.

We tentatively conclude, on the basis of the tentative findings below, that it is consistent with the public convenience and necessity to award multiple authority on a Category II subsidy-ineligible basis, in the San Francisco-Atlantic and San Jose-Atlantic markets, and to grant the certificate applications of Northwest, Eastern, Western, Southern and any other fit, willing and able applicant whose fitness, willingness and ability can be established by officially noticeable data. [2] Further, we tentatively conclude that no oral evidentiary hearing is needed here since there are no material determinative issues of fact requiring such a hearing for their resolution.

Since the Oakland-Atlanta market is at issue in the pending *Oakland Service Case* (Docket 30699), we will not deal with the applications to the extent that they request such authority and, under section 302.12(d) of our Regulations, dismiss those portions of the applications. [3]

We have also tentatively decided not to hyphenate San Francisco and San Jose. If a carrier does not use its San Jose-Atlanta authority, another carrier can obtain that authority under section 401(d)(5) of the Act as long as San Jose is listed as a separate point on the first carrier's certificate. (*See* Order 78-11-41). We find this approach more consistent with the Act's declaration of policy which calls on us to encourage air service at major urban areas through secondary or satellite airports. [4]

Under the Airline Deregulation Act of 1978, we must approve an application for certificate authority unless we find, by a preponderance of the evidence, that approval would not be consistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). The new Act creates a presumption that the grant of all applications is consistent with the public convenience and necessity. It places on any opponents of these applications the burden of proving them inconsistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). To give such opponents a reasonable opportunity to meet an admittedly heavy burden of proof, it is our view that applicants must indicate what type of service they would provide if, after receiving authority, they chose to serve the markets at issue. This does not mean that an applicant must show that it will provide service if it receives authority but rather what the nature of its service would be if it decided to serve. We will give all existing and further applicants 15 days from the date of service of this order to supply data, [5] in order to give interested persons sufficient information on the nature of the applicants' proposals to assess consistency with the public convenience and necessity. Our tentative findings concerning all applicants that have not filed illustrative service proposals are contingent on such filings. [6]

Upon review of all the facts and pleadings in this case, we have tentatively determined that there is no reason why we should not grant multiple awards. Our tentative conclusions comport with the letter and spirit of the Airline Deregulation Act of 1978, particularly the declaration of policy set forth in section 102 which instructs us to rely, to the maximum extent possible, on competitive forces, including potential competition. [7] See our general conclusions about the benefits of multiple permissive authority in *Improved Authority to Wichita Case, et al.*, Order 78-12-106, December 14, 1978. Accordingly, we conclude that it is desirable to award the additional authority sought by the applicants, whether or not services are in fact operated. The existence of additional operating rights in markets now being served by incumbent carriers or authorized to be served will best effect the statute's policy objective of placing maximum reliance on the decisions of the marketplace. This will occur because newly authorized carriers may actually enter the market in order to exploit unmet demand, both in terms of price and service, or because incumbents will be encouraged by the realistic threat of entry to meet that demand. Because demand is dynamic in character and therefore constantly changing, the most effective means to assure that competitive forces will operate quickly and efficiently is to award multiple operating authority to carriers that are fit, willing and able to provide service.

Notwithstanding the foregoing tentative conclusions in support of multiple authority in this proceeding, we wish to make clear that we in no way desire to deter objections that might be asserted under the 1978 Act by air carriers, civic interests or other interested persons. The new statute contains a completely revised declaration of policy in section 102, as well as numerous additional and modified substantive provisions. Some of these statutory changes relate to considerations not expressly covered in the preceding statute. For example, while diversion

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[1] The supporting data appear in Northwest's application for exemption authority (Docket 33351), although they support both the exemption request and the certificate request.

[2] Officiably noticeable data consist of that material filed under section 302.24(m) of our Rules of Practice. Applicants whose fitness cannot be so established must make a showing of fitness, as well as dealing with any questions under sections 408 and 409 of the Act. Should such applications be filed, we will then consider how to deal with them procedurally.

On the basis of officially noticeable data, we find that Northwest, Eastern, Western and Southern are citizens of the United States and are fit, willing and able to perform the air services proposed and to conform to the provisions of the Act and our rules, regulations and requirements.

[3] *See Florida Service Case*, Order 78-11-15 (November 2, 1978).

[4] We will give Northwest and Eastern 15 days from this order's service date to file any revisions to their illustrative service proposals for the Bay Area.

[5] They should submit an illustrative schedule of service in the markets at issue, which shows all points that they might choose to serve, the type and capacity of the equipment they would likely use and the elapsed trip time of flights in block hours over the segments. For the markets at issue only, they should also provide an environmental evaluation as required by Part 312 of our Regulations, and an estimate of the gallons of fuel to be consumed in the first year of operations in the markets if they instituted the proposed service, as well as a statement on the availability of the required fuel.

[6] Even though we granted Eastern dormant authority in this market in Order 78-11-41 (November 9, 1978), we propose to award it section 401 certificate authority as well. Under the provisions of the Airline Deregulation Act of 1978, Eastern may lose its dormant authority if it does not provide service for a 13-week period (*see* PDR-59). (Eastern received an exemption from the prescribed 45-day service start-up dedline until January 20, 1979 in Order 78-11-96, November 17, 1978, and commenced service on December 15, 1978.) A carrier awarded authority under section 401, however, will not lose its authority if it fails to provide service, and may enter the market at any time.

[7] Section 102(a) specifies as being in the public interest, among other things:

"The placement of maximum reliance on completitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital" and "the encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services."

from existing carriers will not be given decisive weight in rejecting applications for new authority except upon an extraordinary showing of financial jeopardy on the part of one or more existing air carriers, with the consequent loss of air service which cannot be immediately replaced, other provisions suggest that the Congress desires us to take into account other factors. These include, but are not limited to, satellite airport questions and the degree of concentration within the industry and safety. Any party in this proceeding may explain in full why the authority that we propose to grant should not issue. Such explanations should apply specifically to the applications in issue, and should be sufficiently detailed to overcome the presumption of favorable treatment that the Act bestows on applications.

We have also decided to dismiss the application and show cause petition of National to convert its San Francisco-Atlanta authority from mandatory to permissive. Under new section 401(j) of the Airline Deregulation Act of 1978, a certificated carrier is free to suspend service at a point or over a segment for which it is the only certificated carrier providing nonstop single-plane service, provided that it gives us and the communities affected the notice prescribed in that section. [11] To the extent that National is merely requesting permissive authority to serve the San Francisco-Atlanta market, the issue is moot. [12]

Since Eastern has already received authority, under the dormant authority provisions of the Airline Deregulation Act of 1978, to commence service in the San Francisco-Atlanta market, we have determined that it would not be consistent with the public interest to award it exemption authority as well. It has received an extension of the 45-day start-up requirement for dormant authority until January 20, 1979. [13] We feel that the time granted to it to inititate service is sufficient, and that to award it exemption authority would be redundant and unnecessary.

We cannot find that it is consistent with the public interest to grant Northwest an exemption to serve the Atlanta-San Francisco/San Jose markets. Under the new Act, the change in statutory language overrides much of the precedent developed under former section 418(b)(1) and encourages us to eliminate many of the limitations we observed in the past exercise of our exemption authority. However, we are also cognizant of the fact that, despite enacting sweeping changes under the Airline Deregulation Act, Congress chose to retain the basic framework of the Federal Aviation Act [14] under which certification is the norm. Therefore, we will require each exemption applicant to demonstrate that a grant of a particular exemption will fulfill an immediate public need, so as to justify resort to the exemption procedure in lieu of utilizing conventional certification procedures. Here, although Northwest alleges a pressing need for additional service between Atlanta and the Bay Area, any such need that did exist has now been vitiated by Eastern's institution of two daily nonstop round trips between Atlanta and San Francisco, pursuant to its award under section 401(d)(5)(A) of the Act. We do find, however, that it would be consistent with the public interest to grant Northwest an exemption to serve the Atlanta-Oakland market (see Order 78-12-101, December 14, 1978)."

Finally, upon review of the environmental evaluations submitted by Northwest and Eastern in their applications, to which no answers have been filed, we find that our decision to award them authority will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, or a major regulatory action under the Energy Policy and Conservation Act of 1975. We reserve judgment on the environmental consequences of other applications pending submission of environmental data.

We will give interested persons 30 days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; answers will be due within 10 days thereafter. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a proceeding that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections. We remind objectors that under the 1978 Act they have the burden of proving why the awards proposed here will not be consistent with the public convenience and necessity.

Accordingly,

1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated above and amending the certificate of public convenience and necessity of Northwest Airlines for Route 3, Eastern Airlines for Route 10, Southern Airways for Route 98 and Western Air Lines for Route 19 so as to authorize the carriers to engage in nonstop operations between Atlanta, on the one hand, and San Francisco and San Jose, on the other;

2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth here, to file with us and serve upon National, Northwest, Eastern, Southern, Western, Delta and the Atlanta civic parties, no later than February 22, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections; answers shall be due no later than March 5, 1979;

3. If timely and properly supported objections are filed, we will accord full consideration to the matters and issues raised by the objections before we take further action; [15]

4. In the event no objections are filed, we will deem all further procedural steps to have been waived and we may proceed to enter an order in accordance with the tentative findings and conclusions set forth here;

5. We dimiss the application of National in Docket 33196 as moot;

6. We grant the motions of Southern and Western to consolidate their applications in Dockets 33438 and 32964, respectively, with those of Northwest and Eastern in Dockets 33350 and 32720, respectively;

7. We deny the application for exemption authority of Eastern in Docket 32891;

8. We exempt Northwest from any requirements of the Act, the Board's Regulations and/or its certificate which otherwise would prevent it from operating nonstop service between Atlanta and Oakland; to the extent not

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[11] Under section 419 of the Act, a certificated carrier intending to suspend service or reduce it below what we have determined is essential air transportation at a point must give 90 days' notice of this intent before suspending or reducing its service. We must require the carrier to continue providing essential service until we can find a suitable replacement.

[12] As noted in fn. 1, *supra*, National has apparently provided no service between Atlanta and San Francisco since May 6, 1978 (*see* Docket 31891). Since it discontinued all service on this segment before passage of the Airline Deregulation Act of 1978, it had no statutory authority to suspend such service, and therefore acted in violation of its certificate requirements. Our actions here, however, in no way condone National's behavior in this matter. We will refer this matter to our Bureau of Consumer Protection for any action they may deem necessary.

[13] *See* n. 9, *supra*.

[14] *See, e.g.*, Northwest Airlines, Inc. v. C.A.B., 539 F.2d 749 (D.C. Cir. 1976); Utah Agencies v. C.A.B., 504 F.2d 1231, 1237 (10 Cir. 1974).

[15] Since provision is made for the filing of objections to this portion of the order, we will not entertain petitions for reconsideration on these issues.

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granted here, Northwest's application in Docket 33351 is denied;

9. We direct Southern, Western and any other applicant for the authority in issue to file the data set forth in footnote 8 no later than February 7, 1979.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[16]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-2834 Filed 1-25-79; 8:45 am]

[6320-01-M]

[Docket 34431]

PAN AMERICAN WORLD AIRWAYS ENFORCEMENT PROCEEDING

Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Rudolf Sobernheim. Future communications should be addressed to Judge Sobernheim.

Dated at Washington, D.C., January 19, 1979.

NAHUM LITT,
Chief Administrative Law Judge.

[FR Doc. 79-2828 Filed 1-25-79; 8:45 am]

[3510-15-M]

DEPARTMENT OF COMMERCE

[Docket No. S-635]

OGDEN TRAVELER, INC.

Application

Notice is hereby given that Ogden Traveler, Inc. has filed an application under the Merchant Marine Act, 1936, as amended (the act), for operating-differential subsidy to engage in bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on December 31, 1979, unless extended. Inasmuch as the applicant, and/or related persons or firms, employ or may employ ships in the domestic intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Act will be required if the application for operating-differential subsidy is to be granted.

Ogden Traveler, Inc. requests written permission to continue the employment of its tanker, the SS TRAVELER, in the domestic intercoastal and/or coastwise service.

The following companies are related to Ogden Traveler, Inc. and are holders of operating-differential subsidy contracts in the grain trade to the Union of Soviet Socialist Republics. These companies have previously received written permission under section 805(a) of the Act for the following vessels to engage in domestic intercoastal or coastwise service:

Connecticut Transport, Inc., ST *Connecticut.*
James River Transport, Inc., SS *James.*
Mohawk Shipping, Inc., SS *Mohawk.*
Wabash Transport, Inc., ST *Ogden Wabash.*
Ogden Sea Transport, Inc., SS *Columbia.*
Empire Transport, Inc., SS *Potomac.*
Willamette Transport, Inc., ST *Ogden Willamette.*
Ogden Merrimac Transport, Inc., SS *Merrimac.*
Penn Tanker Company, ST *Ogden Champion,* ST *Ogden Challenger.*

It will be necessary that the written permission granted to the foregoing companies for the foregoing vessels be extended to Ogden Traveler, Inc., and for the permission requested by Ogden Traveler, Inc. for the SS TRAVELER be extended to each of the foregoing companies. The foregoing written permission is required notwithstanding the fact that a grain voyage of the SS TRAVELER would not be eligible for subsidy if the vessel engaged in the domestic trade on that voyage.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on February 7, 1979 file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

Dated: January 22, 1979.

By order of the Assistant Secretary for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 79-2697 Filed 1-25-79; 8:45 am]

[3510-08-M]

National Oceanic and Atmospheric Administration

COASTAL ZONE MANAGEMENT ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. , notice is hereby given of the meeting of the Coastal Zone Management Advisory Committee (the "Committee") on Monday and Tuesday, February 5-6, 1979. The meeting will commence at 9:00 A.M. on February 5 and 9:00 A.M. on February 6 in Room 416, Page Building I, 2001 Wisconsin Avenue N.W., Washington, D.C.

The meeting will be open to public observation and approximately 25 seats will be available. Interested persons are invited to attend and participate in the meeting, subject to the procedures which follow. From approximately 4:00 P.M. until 4:30 P.M. on February 5, persons will be permitted to make oral statements to the Committee which are relevant to topics on the agenda. The Chairman retains the prerogative to place limits on the duration or oral statements and discussions. Persons wishing to make oral statements should notify the Committee Control Officer in advance of the meeting. A written version of an oral statement or a written statement may be submitted to the Committee Control Officer before or after the meeting, or may be mailed within five days to: Coastal Zone Management Advisory Committee, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (Attn: Michael E. Shapiro, Committee Control Officer, CZM Advisory Committee). All statements received in typewritten form will be distributed to the Committee for consideration with the minutes of the meeting. Inquiries may be directed to the Committee Stafff at (202) 634-4128.

The items for Committee discussion at the meeting will include the following:

FEBRUARY 5

9:00 a.m.—Call to Order and Swearing in of New Members, John F. Hussey, Chairman, Robert W. Knecht, Assistant Administrator, Richard A. Frank, Administrator, NOAA.

Informal introductions.

9:30 a.m.—Overview of 1978 Work Program.
9:45 a.m.—Status of State Programs: New Members.
10:45 a.m.—Status of the National Program: report from the CSO Task Force.
11:45 a.m.—Lunch.
1:30 p.m.—Coastal Zone Management Program Update, Senior Staff, the Office of Coastal Zone Management.
4:00 p.m.—Public Statements (if any).

FEBRUARY 6

9:00 a.m.—President's Reorganization Program, Guest Speaker.
10:45 a.m.—This one hour session to be held at the Capitol in a place To Be Announced at the meeting.
11:45 a.m.—Lunch.
1:30 p.m.—Future of CZM Panel (Environmantal/government/industry representatives) Joe Bodovitz, Chairman.
2:30 p.m.—Discussion of Work Program/Formation of Task Force(s).
4:15 p.m.—Adjourn.

The Notice of Public Meeting does not permit members of the public sector 15 days notification because of an administrative delay in processing clearances and selecting of new members to provide a quorum as specified in the Committee's Charter.

Dated: January 24, 1979.

R. L. CARNAHAN,
Acting Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.

[FR Doc. 79-2902 Filed 1-25-79; 8:45 am]

[3510-22—M]

PACIFIC FISHERY MANAGEMENT COUNCIL

Amended Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council established by Section 302(a) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has modified its meeting dates to begin its meeting one day earlier. (FR Vol. 44, No. 3, dated January 4, 1979).

DATES: The Council will meet from 1:00 p.m. to 5:00 p.m. on Wednesday, February 7, 1979, to discuss salmon management. Meeting times and agendas for Thursday and Friday, February 8-9, 1979, remain unchanged.

ADDRESS: The meeting will take place at the Seattle Hyatt House, 17001 Pacific Highway South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Dated: January 23, 1979.

WILFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 79-2820 Filed 1-25-79; 8:45 am]

[3510-22-M]

PACIFIC FISHERY MANAGEMENT COUNCIL'S BILLFISH ADVISORY SUBPANEL AND PLAN DEVELOPMENT TEAM

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Billfish Advisory Subpanel and Plan Development Team of the Pacific Fishery Management Council established under Section 302(g) of the Fishery Conservation and Management Act (Pub. L. 94-265), will meet to discuss the Draft Billfish Fishery Management Plan.

DATES: The meeting will convene on Thursday, February 22, 1979, at 10:00 a.m. and adjourn at approximately 5:00 p.m. This metting is open to the public.

ADDRESS: The meeting will take place at the California Fish and Game Office, 350 South Golden Shores, Long Beach, California.

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry M. Nakatsu, Excutive Director, Pacific Fishery Management Council, 526 SW. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Dated: January 23, 1979.

WILFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 79-2821 Filed 1-25-79; 8:45 am]

[6820-33-M]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1979

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1979 commodities and military resale items to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 28, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and military resale items listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and military resale items to Procurement List 1979, November 15, 1978 (43 F.R. 53151):

Class 7520

Box, Filing, Wood
7520-00-285-3144 (GSA Regions 9, 10)
7520-00-285-3145 (GSA Regions 4, 5, 6, 7, 8)
7520-00-285-3146 (GSA Regions 4, 5, 6, 7, 8)
7520-00-285-3148 (GSA Regions 4, 5)

Class 8415

Cotton Gloves, White Cloth
8415-00-268-8354 (small)
8415-00-268-8353 (medium)
(Combined requirement of 300,000 pairs annually)

Military Resale Item No. and Name

No. 063 Retractable Pen
No. 064 Retractable Pen
No. 062 Rolling Ball Writer
No. 061 Rolling Ball Writer
No. 060 Rolling Ball Writer
No. 067 Ultra Fine Tip Marker
No. 066 Ultra Fine Tip Marker
No. 065 Ultra Fine Tip Marker

C. W. FLETCHER,
Executive Director.

[FR Doc. 79-2809 Filed 1-25-79; 8:45 am]

[3910-1-M]

DEPARTMENT OF DEFENSE

Department of the Air Force

PAVE PAWS RADAR SYSTEM OPERATION, OTIS AFB, MASS.

Environmental Impact Statement, Review Period Extension

JANUARY 19, 1979

The public review period for the Environmental Impact Statement on operation of the PAVE PAWS Radar System at Otis AFB, Massachusetts (FEDERAL REGISTER January 2, 1979) has been extended from February 12 to February 27, 1979.

Comments should be forwarded to Carlos Stern Ph.D., Deputy for Environment and Safety, Office of the As-

[16] All Members concurred.

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sistant Secretary of the Air Force (SAF/MIQ), Washington, D.C. 20330.

CAROL M. ROSE,
Air Force Federal Register Liaison Officer.

[FR Doc 79-2811 Filed 1-25-79; 8:45 am]

[3910-01-M]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

JANUARY 18, 1979.

The USAF Scientific Advisory Board Ad Hoc Committee to Review the Air Force Human Resources Laboratory will hold meetings at the Pentagon, Washington, D.C., on February 20 and 21, 1979. The meeting will convene at 8:30 a.m. and adjourn at 4:30 p.m. both days.

The Ad Hoc Committee will receive briefings and discuss the internal operations and functions of the Air Force Human Resources Laboratory. The meetings will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4648.

CAROL M. ROSE,
Air Force Federal Register Liaison Officer.

[FR Doc. 79-2810 Filed 1-25-79; 8:45 am]

[3810-70-M]

Office of the Secretary

DOD ADVISORY GROUP ON ELECTRON DEVICES

Meeting

The DoD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, NY 10014 on March 8, 1979.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of Electron Devices.

The meeting will be limited to review of research and development programs which the Military Department propose to initiate with industry, universities or in their laboratories. The AGED will review programs on microwave devices, night vision devices, lasers, infrared systems and microelectronics. The review will include classified program details throughout.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

JANUARY 23, 1979.

[FR Doc. 79-2725 Filed 1-25-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for November 1978

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: November 1978 Entitlement Notice.

SUMMARY: Under the Department of Energy's (DOE) domestic crude oil allocation (entitlements) program, this is the monthly entitlement notice which sets forth the entitlement purchase or sale requirements of domestic refiners for November 1978.

DATES: Payments for entitlements required to be purchased under this notice must be made by January 31, 1979. The monthly transaction report specified in § 211.66(i) shall be filed with the DOE by February 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Douglas McIver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, N.W., Room 6128I, Washington, D.C. 20461, (202) 254-8660.

Fred Wolgel (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue, N.W., Room 7134, Washington, D.C. 20461, (202) 633-8820.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of 10 CFR 211.67 relating to the domestic crude oil allocation program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for November 1978 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlement adjustment for residual fuel oil production shipped in foreign flag tankers for sale in the East Coast market provided in § 211.67(d)(4); application of the entitlement adjustments for California lower tier and upper tier crude oil provided in § 211.67(a)(4); December 1978 deliveries of crude oil for storage in the strategic Petroleum Reserve; and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for November 1978 is calculated to be .166378.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of November 1978, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .154545 of a barrel of deemed old oil.

The issuance of entitlements for the month of November 1978 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to CFR § 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of November 1978 is hereby fixed at $8.16, which is the exact differential as reported for the month of November between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil, less the sum of 21 cents.

In accordance with 10 CFR § 211.67(b), each refiner that has been issued fewer entitlements for the month of November 1978 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of November 1978 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of November 1978 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through October 1978 pursuant to 20 CFR § 211.67(j)(1).

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

The listing contained in the Appendix identifies in a separte column labeled "Exceptions and Appeals" additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, *see Beacon Oil Company, et al.*, 4 FEA par. 87,024 (November 5, 1976).

The listing contained in the Appendix continues the "Consolidated Sales" entry initiated in the October 1977 entitlement notice. The "Consolidated Sales" entry is equal to the November 1978 entitlement purchase requirement of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to ensure that Arizona Fuels is not relieved of its November 1978 entitlement purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, *see Entitlement Notice for October 1977* (42 FR 64401, December 23, 1977).

For purposes of § 211.67(d) (6) and (7), which provide for entitlement issuances to refiners or other firms for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve, the number of barrels sold to the Government totaled 2,393,862 barrels.

For the month of November 1978, imports of residual fuel oil eligible for entitlements issuances totaled 33,571,702 barrels.

In accordance with § 211.67(a)(4), the number of barrels of California lower tier and upper tier crude oil as reported by refiners to the DOE, and the weighted average gravity thereof are as follows:

	Volumes	Weighted average gravity
California Lower Tier Crude Oil	10,158,908	19°
California Upper Tier Crude Oil	7,179,641	20°

The total number of entitlements required to be purchased and sold under this notice is 21,051,237.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for November 1978, the pricing composition and weighted average costs thereof are as follows:

	Volumes	Weighted average cost	Percent of total volumes*
Lower tier	85,943,853	$6.12	17.4
Upper tier	90,577,277	13.02	18.4
Exempt domestic:			
Alaskan	34,655,747	12.98	7.0
Stripper	36,946,800	14.49	7.5
Naval petroleum reserve	3,306,009	13.31	.6
Total domestic	251,429,686	10.87	51.0
Total imported	241,484,208	14.72	49.0
Total reported crude oil receipts	492,913,894	12.76	100.0
Total reported crude oil runs to stills	493,854,178		

* Numbers may not add due to rounding.

Payment for entitlements required to be purchased under 10 CFR § 211.67(b) for November 1978 must be made by January 31, 1979.

On or prior to February 12, 1979, each firm which is required to purchase or sell entitlements for the month of November 1978 shall file with the DOE the monthly transaction report specified in 10 CFR § 211.66(i) certifying its purchases and sales of entitlements for the month of November. The monthly transaction report forms for the month of November have been mailed to reporting firms. Firms that have been unable to locate other firms for required entitlement transactions by January 31, 1979 are requested to contact the ERA at 202-254-3336 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to January 31, 1979, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before February 26, 1979.

Issued in Washington, D.C. on January 18, 1979.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

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APPENDIX.—*Notice of Entitlements for Domestic Crude Oil*

[November 1978]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position					
		Total issued	Exceptions and appeals	Entitlements		Required to buy	Required to sell
				Product	California		
Aconsol'D-Sales	−29,676	0	0	0	0	0	*29,676
A-Johnson	0	143,220	0	0	0	0	143,220
Allied	99,696	83,212	0	0	0	16,384	0
Amer-Petrofina	542,656	736,461	0	0	0	0	193,806
Amerada-Hess	1,914,716	**3,306,722	0	232,806	0	0	1,391,006
Amoco	5,968,838	5,823,153	0	0	0	3,165,685	0
Anchor	12,319	75,144	0	0	13,015	0	61,834
Arco	3,431,142	4,229,459	0	0	28,763	0	798,317
Arizona	76,744	47,008	0	0	2,470	29,676	0
Asamera	90,443	139,575	0	0	0	0	49,132
Ashland	1,070,485	1,699,805	0	0	0	0	629,180
Asiatic	0	495,205	0	495,205	0	0	495,205
Augsbury	0	4,139	0	4,139	0	0	4,139
Basin	183,779	184,442	0	0	65,161	0	663
Bayou	6,818	46,134	0	0	0	0	39,316
Beacon	218,044	134,502	−15,700	0	28,014	83,541	0
Belcher	0	146,823	0	146,823	0	0	146,823
Bi-Petro	5,537	171,341	0	0	0	0	165,704
Bruin	22,634	106,385	0	0	0	0	82,751
C&H	0	31	0	0	0	0	31
Calcasieu	18,214	50,071	0	0	0	0	31,857
Calumet	21,011	26,940	0	0	0	0	4,929
Canal	47,108	64,233	0	0	0	0	17,125
Carbonit	0	12,431	0	0	0	0	12,431
Caribou	72,965	80,302	0	0	0	0	7,337
Castle	0	14,293	0	14,293	0	0	14,293
Champlin	1,529,964	1,192,017	0	0	224,718	337,947	0
Charter	725,988	836,362	470,935	0	0	0	110,374
Chevron	4,357,213	6,589,087	0	27,408	364,629	0	2,231,774
Cibro	248,424	224,882	0	0	0	23,542	0
Cii	−9,118	0	0	0	0	0	9,118
Cirillo	0	51,575	0	51,575	0	0	51,575
Citgo	1,943,350	1,450,172	0	0	0	493,178	0
Claiborne	55,742	38,533	0	0	0	17,209	0
Clark	162,174	639,602	0	0	0	0	477,428
Coastal	198,527	1,091,437	0	27,842	0	0	892,910
Colonial	0	62,122	0	62,122	0	0	62,122
Conoco	2,551,698	1,856,324	0	34,527	137,557	695,374	0
Consumers-Power	0	56,947	0	56,947	0	0	56,947
Coral	6,180	153,436	0	0	0	0	147,256
Corco	0	1,296,944	***562,129	189,793	0	0	1,296,044
Cra-Farmland	274,956	437,756	0	0	0	0	162,800
Cross	44,248	90,295	0	0	0	0	46,047
Crown	288,562	535,459	0	0	0	0	246,897
Crystal-Oil	69,406	120,299	0	0	0	0	50,803
Crystal-Ref	0	24,980	0	0	0	0	24,980
Delta	190,798	263,696	0	0	0	0	72,898
Demenno	14,251	79,608	0	0	13,336	0	65,357
Derby	0	**48,544	0	0	0	0	48,544
Detroit-Ed	0	66,775	0	66,775	0	0	66,775
Diamond	434,837	320,109	0	0	0	114,668	0
Dorchester	2,933	202,472	0	0	0	0	199,539
DOW	33,712	94,172	0	0	0	0	60,460
E-Seaboard	0	54,406	0	54,406	0	0	54,406
ECO	113,486	96,884	0	0	35,528	14,602	0
Eddy	34,574	36,512	0	0	0	0	1,938
Elm	0	17,633	0	17,633	0	0	17,633
Energy-Coop	20,186	656,064	0	0	0	0	635,868
Erickson	5,817	114,400	0	0	0	0	108,583
Evangeline	11,832	36,821	0	0	0	0	24,989
Exxon	7,579,060	**7,896,694	0	267,564	0	0	317,614
EZ-Serve	174,399	105,746	0	0	21,234	68,653	0
Farmers-UN	180,059	272,486	0	0	0	0	92,427
Fletcher	0	111,622	0	0	0	0	111,622
Flint	7,991	7,051	0	0	0	940	0
Friendswood	115,117	37,438	0	0	0	87,679	0
Funding	46,927	59,816	0	0	0	0	12,889
Gary	134,278	119,196	0	0	0	15,082	0
Getty	1,292,310	925,136	0	0	0	367,174	0
Giant	33,834	45,671	0	0	0	0	11,837
Glacier-Park	82,478	45,702	0	0	0	36,776	0
Gladieux	72,911	120,112	0	0	0	0	48,101
Glenrock	675	1,438	0	0	0	0	763
Golden-Eagle	0	176,671	34,357	0	0	0	176,671
Golden-Eagle-NY	0	19,916	0	19,916	0	0	19,916

APPENDIX.—*Notice of Entitlements for Domestic Crude Oil*—Continued

[November 1978]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position					
		Total issued	Exceptions and appeals	Entitlements		Required to buy	Required to sell
				Product	California		
Goldking	40,452	117,755	0	0	0	0	77,303
Good-Hope	43,548	242,617	0	0	0	0	199,069
Guam	0	256,135	0	0	0	0	256,135
Gulf	7,564,382	4,662,464	0	31,995	64,461	2,901,898	0
Gulf-Sts	24,681	106,780	0	0	0	0	82,099
Hirl	0	375,855	0	0	0	0	375,855
Howell	194,709	247,626	0	0	0	0	52,917
Hudson-Oil	0,976	173,084	0	0	0	0	163,108
Hunt	166,581	242,263	0	0	0	0	75,682
Husky	522,268	622,268	211,750	0	10,917	0	****0
Independent-Ref	53,757	119,468	0	0	0	0	65,711
Indiana-Farm	27,087	186,127	0	0	0	0	159,040
Indust-Fuel	0	35,824	0	0	0	0	35,824
Irving	0	20,601	0	20,601	0	0	20,601
J&W	49,954	33,542	0	0	0	16,412	0
Kenco	9,269	36,582	0	0	0	0	27,313
Kentucky	14,652	12,516	0	0	0	2,136	0
Kern	308,905	324,891	111,956	0	60,169	0	15,986
Kerr-McGee	1,046,598	687,606	0	0	0	358,992	0
Koch	375,319	702,966	0	17,002	0	0	327,647
Lagloria	413,041	231,007	0	0	0	182,034	0
Lakeside	7,288	35,257	0	0	0	0	27,969
Laketon	123,744	139,486	37,396	0	0	0	15,742
Little-Amer	1,066,037	948,454	517,090	0	0	117,583	0
Louisiana-Land	153,851	254,415	0	0	0	0	100,564
MacMillan	51,738	142,096	0	0	0	10,363	0	90,358
Marathon	4,076,823	2,592,429	0	0	0	0	1,484,394	0
Marion	93,340	187,454	0	0	0	0	0	94,214
Metropolitan	0	145,438	0	145,438	0	0	0	145,438
Mid-Amer	1,870	33,772	0	0	0	0	0	31,902
Mid-Tex	14,205	24,799	0	0	0	0	0	10,594
Mobil	5,471,855	4,494,866	0	0,769	435,238	976,989	0
Mobile-Bay	0	118,768	0	0	0	0	0	118,768
Mohawk	482,389	370,065	113,241	0	49,119	112,324	0
Monoco	0	12,412	0	12,412	0	0	0	12,412
Monsanto	281,732	259,065	0	0	0	22,667	0
Morrison	11,650	10,682	0	0	0	968	0
Mountaineer	6,978	5,773	0	0	0	1,205	0
Mt-Airy	48,129	118,553	0	0	0	0	70,424
Murphy	799,478	608,987	0	0	0	190,491	0
N-Amer-Petro	48,168	131,239	0	0	15,230	0	83,051
Natl-Coop	268,470	384,803	0	0	0	0	131,383
Navajo	323,648	365,762	121,959	0	0	0	42,114
Nevada	13,657	34,918	0	0	0	0	21,261
New-Edgington	665,419	473,350	39,401	0	210,614	192,000	0
New-Engl-Petro	0	252,180	0	252,180	0	0	252,180
Newhall	150,249	204,220	0	0	50,295	0	53,971
Northeast-Petro	0	48,891	0	48,891	0	0	48,891
Northland	34,401	34,401	15,003	0	0	0	0
Northville	0	6,310	0	6,310	0	0	6,310
OKC	67,915	119,971	0	0	0	0	52,056
Okla-Ref	53,594	128,980	0	0	0	0	75,386
Oxnard	43,978	41,872	0	0	17,360	2,106	0
Peerless	0	6,507	0	0	0	0	6,507
Pemex	0	**256,515	0	0	0	0	256,515
Pennzoil	565,536	201,920	0	0	0	273,616	0
Pester	111,434	101,921	0	0	0	0	20,487
Petro-Heat-Pa	0	8,287	0	8,287	0	0	8,287
Phillips	1,972,057	1,811,141	0	0	−3,301	368,916	0
Phillips-PR	0	170,653	0	170,653	0	0	170,653
Pioneer	36,311	49,222	0	0	0	0	12,911
Placid	200,680	223,692	0	0	0	0	23,012
Plateau	111,114	162,941	0	0	0	0	51,827
Powerine	310,823	348,390	0	0	102,326	0	37,567
PR-Olefins	0	927	0	927	0	0	927
Pride	131,700	183,845	0	0	0	0	52,145
Publicker	0	18,870	0	18,870	0	0	18,870
Quad	95,339	76,391	0	0	33,132	18,948	0
Quaker-St	28,503	200,992	0	0	0	0	172,489
Quitman	16,998	37,385	0	0	0	0	20,387
Rancho-Ref	2,099	12,963	0	0	0	0	10,864
Raymal	5,921	23,488	0	0	0	0	17,567
Richards	289	60,010	0	0	0	0	59,721
Road-Oil	0	444	0	0	0	0	444

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APPENDIX.—*Notice of Entitlements for Domestic Crude Oil*—Continued

[November 1978]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position					
		Total issued	Exceptions and appeals	Entitlements		Required to buy	Required to sell
				Product	California		
Rock Island	290,516	296,173	0	0	0	0	5,657
Saber-Tex	15,820	135,843	0	0	0	0	120,023
Sabre-Cal	33,592	120,310	0	0	8,975	0	86,718
Sage-Creek	2,840	3,667	0	0	0	0	827
San-Joaquin	305,644	372,657	109,978	0	111,937	0	67,012
Schulze	5,332	14,235	0	0	0	0	8,903
Seminole	10,625	103,349	0	0	0	0	92,724
Sentry	655	60,043	0	0	0	0	59,388
Shell	7,980,777	5,188,090	0	0	440,316	2,792,687	0
Shepherd	18,997	55,529	0	0	0	0	36,532
Sigmor	5,031	134,311	0	0	0	0	129,280
Slapco	12,720	73,088	0	0	0	0	60,368
So-Hampton	12,274	118,483	0	0	0	0	106,209
Sohio	1,353,291	2,232,816	0	0	0	0	879,017
Somerset	15,482	42,837	0	0	0	0	27,355
Sound	46,373	103,889	0	0	16,243	0	55,516
Southern-Union	164,512	217,174	0	0	0	0	52,662
Southland	354,869	412,992	221,979	0	0	0	58,123
Southwestern	2,091	3,099	0	0	0	0	608
Sprague	0	40,504	0	40,504	0	0	40,504
Sunland	6,192	120,302	0	0	622	0	114,110
Sunoco	4,506,730	2,417,224	11,576	0	0	2,089,506	0
Swann	0	32,987	0	32,987	0	0	32,987
T&S	2,625	40,478	0	0	0	0	36,853
Tenneco	872,482	519,467	0	0	0	353,015	0
Tesoro	199,606	382,344	0	0	0	0	182,738
Texaco	6,696,884	5,393,497	0	285,479	317,154	1,303,367	0
Texas-American	26,699	95,886	0	0	0	0	69,187
Texas-Asph	32,448	21,589	0	0	0	10,859	****0
Texas-City	377,819	594,793	0	0	0	0	217,174
Thagard	180,666	184,546	31,899	0	54,187	0	3,899
Thriftway	29,226	47,112	0	0	0	0	17,886
Thunderbird	72,456	121,339	0	0	0	0	48,883
Tipperary	26,764	55,302	0	0	0	0	28,538
Tonkawa	26,375	54,645	0	0	0	0	28,270
Tosco	2,009,060	1,403,606	0	0	464,765	605,454	0
Total-Petroleum	144,516	480,099	0	0	0	0	335,583
UCC-Caribe	0	125,521	0	125,521	0	0	125,521
Uni-Ref	0	122,836	0	0	0	0	122,836
Union-Oil	3,628,692	2,529,001	0	0	273,927	1,099,691	0
Union-Petro	0	28,793	0	28,793	0	0	28,793
Unti-Ref	83,785	316,200	0	0	0	0	232,415
US-Oil	39,263	178,422	0	0	19,866	0	139,160
USA-Petrochem	94,618	194,018	0	0	36,744	0	99,400
Val-Verde	261	822	0	0	0	0	561
Vickers	214,593	368,422	0	0	0	0	153,829
Waller	0	12,476	0	12,476	0	0	12,476
Warrior	60,405	66,995	33,161	0	0	0	6,590
West-Coast	82,312	152,188	0	0	41,978	0	69,876
Western	118,233	119,914	0	0	0	0	1,681
Winston	104,434	155,004	0	0	0	0	50,570
Wireback	0	848	0	0	0	0	848
Witco	51,243	150,177	0	0	15,752	0	98,934
Wyatt	0	41,006	0	41,006	0	0	41,006
Wyoming	33,504	138,602	0	0	0	0	105,098
Yetter	0	859	0	0	0	0	859
Young	62,521	49,741	21,489	0	0	12,788	0
Total	98,993,204	98,993,204	2,649,629	3,273,686	3,782,918	21,051,237	21,051,237

*See discussion in Notice.
**Includes entitlements issued for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve.
***Authorization to sell these entitlements is subject to conditions set forth in a DOE Decision and Order issued to Commonwealth Oil and Refining Company on March 20, 1978.
****This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's Judgment in *Husky Oil Co. v. DOE, et al.*, Civ. Action No. C77-190-B (D.Wyo., filed March 14, 1978), *remanded* ——F.2d —— (No. 10-15 TECA, August 10, 1978).
*****This does not include the purchase obligation stayed by court order in *Texas Asphalt & Refinery Co. v. FEA* Civ. Action No. 4-75-268 (N.D. Tex., filed October 31, 1975).

[FR Doc. 79-2586 Filed 1-25-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER79-124]

APPALACHIAN POWER CO.

Notice of Filing

JANUARY 17, 1979.

Take notice that American Electric Power Service Corporation (AEP) on December 29, 1978, tendered for filing on behalf of its affiliates, Appalachian Power Company (Appalachian), Modification No. 9 dated October 1, 1978 to the Interconnection Agreement dated February 1, 1948 between Appalachian and Virginia Electric and Power Company (Appalachian Rate Schedule FPC No. 16).

AEP states that Section 1 of Modification 9 provides for an increase in the demand charge for Short Term Power from $0.45 to $0.70 per kilowatt per week and Section 3 provides for an increase in the demand charge for Limited Term power from $2.50 to $3.75 per kilowatt per month. AEP further states that Section 2 of Modification No. 9 provides for an increase in the transmission charge for third party Short Term Power transactions from $0.125 per kilowatt per week to $0.175 per kilowatt per week and Section 4 provides for an increase in the transmission charge for third party Limited Term transactions from $0.55 per kilowatt per month to $0.75 per kilowatt per month. AEP indicates that since the use of Short Term and Limited Term Power cannot be accurately estimated, it is impossible to estimate the increase in revenues resulting from this Modification for such period.

AEP requests an effective date of January 1, 1979, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Virginia Electric and Power Company, to Virginia State Corporation Commission and to the Public Service Commission of West Virginia, to AEP.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2759 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-126]

ARIZONA PUBLIC SERVICE CO.

Proposed Rate Change

JANUARY 17, 1979.

Take notice that Arizona Public Service Company (Arizona), on December 29, 1978, tendered for filing rate increases in its following FPC Electric Service Rate Schedules:

12—Electrical District No. 3
12—Electrical District No. 7
14—Maricopa County Municipal Water Conservation District No. 1
15—Roosevelt Irrigation District
16—Buckeye Water Conservation & Drainage District
17—Navopache Electric Co-operative, Inc.
34—Town of Wickenburg
35—Electrical District No. 6
50—Citizens Utilities Company
52—Papago Tribal Utility Authority
57—Arizona Electric Power Cooperative, Inc.
58—Wellton-Mohawk Irrigation & Drainage District
59—Arizona Power Authority
65—Colorado River Indian Irrigation Project
66—San Carlos Indiana Irrigation Project
68—Electrical District No. 1

Arizona states that the proposed rate change would increase revenue from jurisdictional sales and service by $5,165,063 based on the 12-month period ending February 28, 1979.

Arizona further states that the proposed changes are necessary to offset the rapidly escalating costs involved in rendering service under these schedules.

Arizona proposes to place the revised rate provisions into effect on March 1, 1979 as to all wholesale customers affected by this filing other than the following districts:

Electrical District No. 3
Electrical District No. 7
Maricopa County Municipal Water Conservation District No. 1
Roosevelt Irrigation District
Buckeye Water Conservation & Drainage District
Electrical District No. 6

Copies of the filing were served upon the Company's resale customers affected by the filing and the Arizona Corporation Commission, according to Arizona.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2760 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. ER78-489]

ARKANSAS MISSOURI POWER CO.

Informal Settlement Conference

JANUARY 19, 1979.

Please take notice that pursuant to Presiding Administrative Law Judge Bruce L. Birchman's Order of January 15, 1979, an informal settlement conference will be held at 10:00 A.M. on February 2, 1979 in room 3200, Federal Energy Regulatory Commission, 941 North Capitol Street, N.E., Washington, D.C.

The informal conference will be followed at 1:00 P.M. with a formal settlement conference before the Presiding Judge in a hearing room of the Federal Energy Regulatory Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2761 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-132]

CENTRAL MAINE POWER CO.

Notice of Filing

JANUARY 18, 1979.

Take notice that Central Maine Power Company (Central Maine) on January 5, 1979, tendered for filing a new service contract with Carrabassett Light & Power Company. Central Maine states that the instant contract replaces its previous contract with Carrabassett which expired by its own terms five (5) years from December 1, 1973.

Central Maine further states that all conditions of service in the instant

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contract remain the same as in the previous contract.

Central Maine requests waiver of the Commission's notice requirements in order to allow an effective date of December 1, 1978.

According to Central Maine copies of the filing were served upon Carrabassett Light & Power Company and the Maine Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2762 Filed 1-25-79; 8:45 am]

APPENDIX

Filing date	Company	Docket No.	Type Filing
Jan. 2, 1979	Consolidated Gas	RP72-157	Plan
Jan. 2, 1979	Transcontinental	AR69-1, *et al*	Report
Jan. 4, 1979	Consolidated Gas	RP72-157	Plan
Jan. 5, 1979	Texas Eastern	G-12706	Report

[FR Doc. 79-2763 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. RP79-23]

DISTRIGAS OF MASSACHUSETTS CORP.

Proposed Changes in FERC Gas Tariff

JANUARY 19, 1979.

Take notice that Distrigas of Massachusetts Corporation (DOMAC), on January 5, 1979, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1. The proposed changes are based on the twelve month period ending September 30, 1978, as adjusted, and would increase jurisdictional terminaling service revenues by $4,442,258 per year above the level of the rate for terminaling service rate under the TS Rate Schedule in the Settlement Agreement of October 19, 1977, filed in Docket No. CP77-216 *et al.*

DOMAC has also tendered Alternate Revised Tariff Sheets which would provide for the recovery of demurrage charges estimated at $1,023,102 per year as an integral component of its TS Rate in lieu of recovery of the actual costs of demurrage in its Rate Schedules GS-1 and BO-1 for the sales of LNG.

DOMAC states that the proposed increased rate is necessary to permit it to recover its costs of service for the test period of twelve months ended September 30, 1978, as adjusted. The cost of service reflects increases in the unit cost of terminaling services.

Copies of the filing have been served upon DOMAC's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2764 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. RP79-24]

DISTRIGAS CORP.

Filing of Revised Tariff Sheets

JANUARY 19, 1979.

Take notice that Distrigas Corporation (Distrigas) on January 5, 1979, tendered for filing:

Title Page to First Revised Volume NO. 1
First Revised Sheet No. 3
Second Revised Sheet No. 4
Second Revised Sheet No. 5
First Revised Sheet No. 6

to its FERC Gas Tariff. These revised sheets are submitted to clarify existing tariff provisions and make no substantive changes. Specifically the revisions relate to the incorporation into Section 2 language concerning charges to Distrigas of Massachusetts Corporation (DOMAC) presently contained in Section 5.

No change in rate is involved in these revised tariff sheets nor will Distrigas experience a change in sales level or revenues as a result of the proposed tariff changes.

Distrigas requests that the proposed tariff sheets become effective thirty days after filing or if suspension is necessary that such suspension be limited to one day.

A copy of this filing is being served upon all affected parties and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2765 Filed 1-25-79; 8:45 am]

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[6450-01-M]

[Docket No. ER79-145]

DUKE POWER CO.

Notice of Filing

JANUARY 19, 1979.

Take notice that Duke Power Company (Duke Power) on January 12, 1979, tendered for filing a proposed supplement to the Company's Electric Power Contract with the City of Shelby. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FPC No. 235.

Duke Power further states that the Company's proposed contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in contract demand: Delivery Point No. 1, from 7,500 Kw to 9,500 Kw.

Duke Power indicates that this proposed supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of February 19, 1979.

According to Duke Power Copies of this filing were mailed to the City of Shelby and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2744 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-146]

DUKE POWER CO.

Filing

JANUARY 19, 1979.

Take notice that Duke Power Company (Duke Power) on January 12, 1979, tendered for filing a proposed supplement to the Company's Electric Power Contract with Rutherford Electric Membership Corporation. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FPC No. 138.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for a new point of delivery, Delivery Point No. 14 with a designated demand of 2,600 Kw.

Duke Power indicates that this supplement also includes an estimate of sales and revenues for twelve months immediately succeeding the effective date. Duke Power proposes an effective date of February 19, 1979.

According to Duke Power copies of this filing were mailed to Rutherford Electric Membership Corporation and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR, 1.8, 1.10). All such petitions or protests should be filed on or before February 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2745 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket Nos. CP76-37 and RP77-97]

EL PASO NATURAL GAS CO.

Filing of Revised Rate Schedule

JANUARY 17, 1979.

Take notice that on January 4, 1979, El Paso Natural Gas Company (El Paso) tendered for filing the following original and revised sheets to its FERC GAS Tariff, Third Revised Volume No. 2:

First Revised Sheets Nos. 669 through 675
Original Sheet No. 675-A
First Revised Sheets Nos. 681 through 684
First Revised Sheet No. 686
First Revised Sheet No. 691

These tariff sheets constitute a notice of change in rate and certain other modifications to El Paso's special Rate Schedule T-4.

El Paso states that said Rate Schedule T-4 is comprised of the Gas Transportation Agreement dated May 9, 1975, ("Transportation Agreement") between El Paso and Southwest Gas Corporation ("Southwest"), providing for the best efforts transportation of natural gas for the account of Southwest by means of El Paso's interstate gas pipeline transmission system from a point of receipt near Ignacio, Colorado, to delivery points within the State of Arizona and on the Arizona-Nevada boundary near Big Bend, Arizona.[1] El Paso further states that on December 14, 1978, El Paso and Southwest have, by an Amendment to Gas Transportation Agreement dated December 14, 1978, ("Amendment") agreed to revise, among other things, the rate provisions contained in the currently effective Transportation Agreement in order to conform such rates to the applicable "Mainline Transmission Charges" appearing on El Paso's statement of rates sheet for transportation services rendered under executed transportation agreements included as special rate schedules in El Paso's Third Revised Volume No. 2 Tariff.

El Paso further states that it is currently charging 18.96 cents and 19.44 cents per Mcf for deliveries made pursuant to Rate Schedule T-4 at the Arizona-Nevada boundary and within the State of Arizona, respectively. El Paso proposes to reduce its transmission rates to 15.64 cents per Mcf for deliveries made at the Arizona-Nevada boundary, and to 15.12 cents per Mcf for deliveries made within the State of Arizona. El Paso states that this filing would change the currently effective rates charged to Southwest under this Rate Schedule to the applicable rates charged pursuant to Tariff Sheet No. 1-D.2, FERC Gas Tariff, Third Revised Volume No. 2.[2] The proposed effective date for these decreased rates is the earlier of the date of initial deliveries made pursuant to the above-

[1] Permanent authorization for the transportation arrangements provided for under special Rate Schedule T-4 was granted by Federal Power Commission order issued December 3, 1975, at Docket Nos. CP75-309 and CP76-37.

[2] El Paso now has pending before the Commission a general rate change filing in Docket No. RP79-12. This filing includes an increase applicable to Tariff Sheet No. 1-D.2. The Commission suspended this rate increase on December 28, 1978.

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mentioned Amendment of December 14, 1979, or January 1, 1979.

The filing also proposes certain revisions to priorities assigned to the receipt and allocation of volumes received by El Paso from Southwest pursuant to presently effective or future agreements. In addition, El Paso proposes to change to a volumetric basis of measurement of gas transported from the currently effective Btu basis. Furthermore, El Paso requests waiver of all necessary Regulations so that the tendered filing sheets may be accepted for filing, and the rates may go into effect on the proposed date.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before January 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2766 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. CS78-373, *et al.*[1]]

G & G OPERATING CO., ET AL.[1]

Order Granting Rehearing for Purposes of Further Consideration and Granting Intervention

JANUARY 17, 1979.

In the Matter of Certificates (Construction and Operation) and application for rehearing (Granted for Further Consideration).

The following petitions for rehearing have been filed in the following dockets relating to the orders granting temporary and permanent certificates of public convenience and necessity issued on the dates indicated.

Docket No.	Certificate Holder	Date Certificate Order Issued	Rehearing Applicant
CS78-373	G & G Operating Company	Nov. 24, 1978	Transwestern Pipeline Company*
CS73-338	James P. Evans, Jr.	Nov. 24, 1978	United Gas Pipe Line Company*
CS74-149	Daniel Oil Company	Nov. 24, 1978	United Gas Pipe Line Company*
CS78-377	SPG Operating Company	Nov. 24, 1978	United Gas Pipe Line Company*
CS78-381	William S. Evans	Nov. 24, 1978	United Gas Pipe Line Company*
CS78-386	Michel T. Halbouty	Nov. 24, 1978	United Gas Pipe Line Company*
C178-602	J. M. Huber Corporation	Nov. 30, 1978	El Paso Natural Gas Company*
C178-799	The Superior Oil Company	Nov. 22, 1978	Michigan Wisconsin Pipe Line Company**
C175-729	Union Texas Petroleum (A Division of Allied Chemical Corporation).	Nov. 30, 1978	El Paso Natural Gas Company*

*Indicates filing of petition to intervene.
**Indicates objections raised in addition to costs of conditioning gas.

The certificates were conditioned that if any of the costs associated with processing, dehydration, compression or other conditioning of the subject gas were included in the rates of the purchaser then the purchaser will be required to prove that these costs have not been compensated for in the applicable national ceiling rate. The orders also provide that this condition is subject to whatever action is taken by the Commission on rehearing in Docket Nos. CI77-412, CP77-558 and CP77-577.

The Commission finds: Participation in this proceeding by petitioners as listed above may be in the public interest.

The Commission orders: (A) Those parties listed above as petitioning for permission to intervene are permitted to intervene in the captioned proceeding subject to the rules and regulations of the Commission; *Provided, however,* that the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order of the Commission entered in this docket.

(B) The aforelisted applications for rehearing of our orders as shown above are hereby granted solely for the purpose of affording further time for consideration. Since this order is not a final order on rehearing, no response to the order will be entertained by the Commission in accordance with the terms of § 1.34 of the Commission's Rules of Practice and Procedure.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2772 Filed 1-25-79; 8:45 am]

[1]The petitions addressed by this order have been combined herein solely for administrative conveniences. The dockets have not been combined or consolidated by this order for any other purpose.

[6450-01-M]

[Docket No. RP78-76]

GAS RESEARCH INSTITUTE

Gas Research Institute Adjustment

JANUARY 18, 1979.

Take notice that on January 8, 1979, Natural Gas Pipeline Company of America (Natural) refiled under Docket No. RP78-76 proof that certain AGA research project costs have been removed from its Base Rates. Accordingly, under a concurrent filing of this same date, Natural has refiled in its pending rate proceeding, Docket No. RP78-78, Base Rates to be effective January 1, 1979, to give effect to the elimination of the AGA research project costs.

Natural states that it has requested acceptance of the tariff sheets under its concurrent filing in Docket No. RP78-78 incorporating the lower Base Rates as well as the proposed GRI surcharge of 3.5 mills per Mcf. Natural states this procedure has been followed in order to avoid filing duplicate sets of tariff sheets both to be effective January 1, 1979, with both sets reflecting the same rate levels.

Natural also requested waiver of any Commission regulations and orders to the extent necessary to allow the procedures used by it in the two interrelated filings and to allow the refiled tariff sheets in Docket No. RP78-78 to be made effective as of January 1, 1979.

Copies of Natural's filing and tariff sheets have been mailed to Natural's jurisdictional customers and interested state agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 2, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc 79-2746 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-131]

GEORGIA POWER CO.

Proposed Tariff Change

JANUARY 18, 1979.

Take notice that Georgia Power Company (Georgia Power), on January 4, 1979, tendered for filing a new Interchange Agreement with Tennessee Valley Authority (TVA), replacing Georgia Power's FERC Rate Schedule No. 704. Georgia Power states that Rate Schedule No. 704 expired on October 31, 1978, and the new agreement will provide for the continued use of Georgia Power facilities to transmit TVA power to TVA customers in north Georgia.

Georgia Power further states that pursuant to the agreement, TVA will make a monthly facilities charge which is a function of Georgia Power's transmission carrying charges and Georgia Power's investment in transmission facilities utilized to serve TVA's customers.

Georgia Power proposes an effective date of November 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Georgia Power indicates that copies of this filing have been served upon TVA.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2767 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-141]

GREAT LAKES GAS TRANSMISSION CO.

Application

JANUARY 18, 1979.

Take notice that on January 2, 1979, Great Lakes Gas Transmission Company (Applicant), 2100 Buhl Building, Detroit, Michigan 49226, filed in Docket No. CP79-141 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of 6,400 Mcf of natural gas per day to three of its existing customers on a *pro rata* firm basis, under its presently effective Rate Schedule CQ as follows:

[Mcf at 14.73 p.s.i.a.]

Customer	Present Contract Quantity	Proposed Increase in Contract Quantity	Proposed Total Contract Quantity
Natural Gas Pipeline Company of America	155,000	4,409	159,409
Michigan Consolidated Gas Company	57,000	1,621	58,621
Michigan Wisconsin Pipe Line Company	13,000	370	13,370

Applicant's proposals are more fully set forth in the application on file with the Commission and open to public inspection.

The application states that the gas required to render the additional sales is proposed to be imported by Applicant from TransCanada PipeLine Limited (TransCanada) in Docket No. CP79-142. Applicant states that in April 1978 TransCanada advised Applicant that its Alberta supplies would be extracting more of the heavier hydrocarbons from the gas delivered to TransCanada and subsequently sold to Applicant and that this would cause the heating value of the gas to drop to a level below 1,000 Btu's per cubic foot. In view of this, Applicant indicates that it has executed an amendatory agreement dated November 1, 1978, with TransCanada to provide for increased imports of 6,400 Mcf of natural gas per day to make up for expected Btu deficiencies below 1,000 Btu per cubic foot.

Applicant indicates that its other three customers, Northern, operating as Peoples Natural Gas Division, Inter-City Gas Limited and Michigan Power Company, which buy approximately 8.4 percent of the total volumes sold by Applicant to its existing customer, stated that they did not wish to purchase their *pro rata* share, and that their share was, therefore, reallocated back to Natural, Michigan Consolidated and Michigan Wisconsin.

It is stated that Applicant would render the sales at existing delivery points through the use of existing facilities. It is further stated that proposed sales would permit three of Applicant's existing customers to augment their gas supplies to offset reductions in the heat content of the natural gas delivered to them by Applicant. All of these customers have indicated that they intend to use these volumes in their existing market areas, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no peti-

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tion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2747 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. CP71-223]

GREAT LAKES GAS TRANSMISSION CO.

Petition to Amend

JANUARY 17, 1979.

Take notice that on January 3, 1979, Great Lakes Gas Transmission Company (Petitioner), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP71-223 a petition to amend the order of June 1, 1971, issued in the instant docket (45 FPC 1037)[1] pursuant to Section 3 of the Natural Gas Act so as to authorize the importation of 1,300,000 Mcf of natural gas annually from Canada from TransCanada PipeLines Limited (TransCanada) for resale in the United States, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner requests authorization to import from TransCanada for resale in the United States 1,300,000 Mcf of natural gas annually, which gas has been previously authorized to be imported for compressor fuel or other company use, but which is not now required for such uses as a result of the conservation of gas resulting from loop pipeline installed by Great Lakes pursuant to authorization granted it in Docket No. CP77-502. This looping is expected to reduce the amount of fuel gas required by the company in rendering its transportation and sales services.

Petitioner indicates that it would receive the imported gas from TransCanada at the existing point of interconnection between the two systems at the international boundary near Emerson, Manitoba. It is further indicated that pursuant to an application filed in Docket No. CP79-144, Petitioner proposes to sell the gas sought herein to be imported to Natural Gas Pipeline Company of America and Michigan Consolidated Gas Company pursuant to its Rate Schedule CQ.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 9, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2766 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-142]

GREAT LAKES GAS TRANSMISSION CO.

Application

JANUARY 18, 1979.

Take notice that on January 2, 1978, Great Lakes Gas Transmission Company (Applicant), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP79-142 an application pursuant to Section 3 of the Natural Gas Act for authorization to import an additional 6,400 Mcf of natural gas per day from TransCanada PipeLines Limited (TransCanada), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to import an additional 6,400 Mcf of natural gas per day at a point on the United States-Canadian border near Emerson, Manitoba, where Applicant's system presently interconnects with the facilities of TransCanada. It is stated that such additional volumes would be purchased from TransCanada for resale in the United States and are intended to offset a reduction in the heating content of natural gas presently being imported. Applicant indicates that in April 1978, TransCanada advised that its Alberta supplier would be extracting more of the heavier hydrocarbons from the gas which would cause its heating value to drop to a level below 1,000 Btu's per cubic foot. This level is currently approximately 995 Btu's per cubic foot and is expected to drop to 985 Btu's per cubic foot in the fall of 1979, it is said.

Applicant indicates that in order to effect the sale and importation of the additional quantity of gas it and TransCanada have executed an amending agreement, dated November 1, 1978, to their gas purchase contract No1. 1 of July 14, 1967, to increase the contract quantity that may be purchased under that agreement from 87,600 Mcf per day to 94,000 Mcf per day. Applicant further indicates that the amending agreement also provides for a Btu adjustment in the event the border price is not set by the National Energy Board of Canada (NEB) on the basis of the total heating value of the gas delivered. The present border price ($2.16 U.S. per million Btu) is set by the NEB on the basis of the heating value of the gas and, therefore, would reflect any decrease in Btu's delivered, it is indicated.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc 79-2748 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-144]

GREAT LAKES GAS TRANSMISSION CO.

Application

JANUARY 18, 1979.

Take notice that on January 3, 1979, Great Lakes Gas Transmission Company (Applicant), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP79-144 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of 1,300,000 Mcf of natural gas per year to Natural Gas Pipeline Company of America (Natural) and Michigan Consolidated Gas Company (Michigan Consolidated), two of Applicant existing customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to sell 2,604 Mcf per day of natural gas to Natural and 957 Mcf per day of natural gas per year to Michigan Consolidated pursuant to its Rate Schedule CQ. It is indicated that pursuant to an amendment filed in Docket No. CP71-223, Applicant proposes to import the gas proposed herein to be sold to Michigan Consolidated and Natural from TransCanada PipeLine Limited (TransCanada), which gas has been previously authorized to be imported for compressor fuel or other company use. Applicant states that the proposed volumes of gas to be sold are not expected to be required for such uses as a result of the installation of loop pipeline on Applicant's system as authorized in Docket No. CP77-502.

Applicant states that it would import the gas at an existing interconnection with TransCanada at Emerson, Manitoba, and that the gas would be delivered to the customers at the existing delivery points at which the gas is being currently delivered by Applicant to Natural and Michigan Consolidated.

It is indicated that Applicant has entered into new service agreements dated December 20, 1978, with Natural and Michigan Consolidated, which agreements increased the contract quantity under the existing service agreements. It is asserted that Natural and Michigan Consolidated have advised Applicant that this gas would form a part of their base supply and no new market would be served by this gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2749 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. CI64-26]

GULF OIL CORP.

Order Granting Notice, Directing Filings, and Setting Certain Issues for Hearing

JANUARY 17, 1979.

On October 15, 1976, the Commission[1] issued Opinion No. 780[2] in the captioned docket, ordering Gulf Oil Corporation (Gulf) to deliver gas to Texas Eastern Transmission Corporation (TETCO) "at a rate of 625 MMcf per day beginning on December 15, 1976 * * *." (Order at 18).

Ordering Paragraph (B) of that opinion required Gulf to file a computation of refunds due to TETCO's ratepayers for past underdeliveries of Gulf. Pursuant to this paragraph (B), Gulf filed a computation of refunds on December 15, 1976.[3]

Ordering Paragraph (E) required TETCO to file a plan for the flow-through to its jurisdictional customers of the monies Gulf must refund. This flow-through plan was to include "the amount payable to each jurisdictional customer, the basis used to compute the amount payable, and the periods involved." (Order at 19).

The Commission issued Opinion No. 780-A[4] on December 9, 1976. Gulf, thereafter filed a petition for a stay of the Commission orders in the Third Circuit Court of Appeals, and the Court issued a "Temporary Stay" on December 15, 1976 and a "Stay Pending Review" of the Commission's Opinions and Orders on December 22, 1976.[5]

The stay of the Commission's Orders was lifted February 24, 1978 effective upon the entering of the judgment by the Third Circuit following the Supreme Court's Denial of Gulf's Petition for Writ of Certiorari on February 21, 1978.

TETCO filed its "Plan for Flow-Through and Recoupment of Refunds" on June 22, 1978 pursuant to Ordering Paragraph (E) of Opinion No. 780. TETCO asserted that it had "surveyed its customers and the relevant State Commissions as ordered by the Commission. It appears," continued TETCO, "that a substantial majority of Texas Eastern's customers would prefer that the refunds be placed in escrow, with the proceeds from investment from such refund monies to be paid to the customers. In accordance with the desire of such customers, Texas Eastern submits the following Refund Flow-Through Plan." (Plan at 2).

Gulf, on July 24, 1978, filed a letter in response to TETCO's Refund Flow-Through Plan which advised the Commission that it reserved all of its rights under Opinion No. 780-A "with respect to the entitlement of Texas Eastern's customers to the refund and as to the amount of the refund which should be remitted to Gulf."

By letter of May 3, 1978 Gulf filed a "Supplemental Statement Reflecting Refund and Interest". In a June 16, 1978 letter, Gulf filed a "Revised Supplemental Statement Reflecting Refund And Interest" and Gulf, by letter of July 14, 1978 filed its third "Revised Supplemental Statement Reflecting Refund And Interest" pursuant to Ordering Paragraph (B) of Opinion No. 780. On August 21, 1978, Gulf filed its "Fourth Supplemental Statement" Reflecting Refund And Interest to July 1, 1978. Gulf filed its Fifth and Sixth Supplemental Statements, revising earlier refund calculations, by letters dated September 14 and October 11, 1978 respectively. In the October 11, 1978 letter, Gulf now

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

[1] This proceeding was commenced before the FPC. By the joint regulation of October 1, 1977, (10 CFR 1000.1), it was transferred to the FERC. The term "Commission", when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[2] *Opinion And Order On Deliveries Of Gas Under Certificate And Warranty Contract*, Docket No. CI64-26.

[3] Gulf's December 15, 1976 filing included a Schedule (B) and Schedule (C) which included therein *force majeure* volumes of gas Gulf estimated was not delivered due to the lack of OCS lease sales during the years 1962-1972. Gulf's argument was rejected by the Court of Appeals on review of the Commission's Opinion Nos. 780 and 780-A and is moot.

[4] *Opinion And Order Denying Rehearing In Part*, Docket No. CI64-26, issued December 9, 1976.

[5] *Gulf Oil Corp.* v. *FPC*, No. 76-2596. The Court affirmed the Commission's Orders on September 7, 1977, 563 F.2d 588 (CA-3, 1977) *cert. denied* February 21, 1978, 46 USLW 3526.

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estimates its refund liability for the period July 31, 1971 thru July 31, 1978 at $80,899,539.33 of principal and $19,786,317.96 of "interest".

Ordering Paragraph (F) of Opinion No. 780 requires Gulf to file monthly reports of its deliveries to TETCO. Pursuant to an understanding between Staff and Gulf, as set forth in a January 26, 1977 letter to Mr. Carroll L. Gilliam, Esquire (Gulf's counsel) from Mr. Allan A. Tuttle, Esquire (the then Commission's Solicitor), Gulf has filed monthly reports pursuant to Ordering Paragraph (F) during the pendancy of judicial review.[4]

By letter dated March 23, 1978 Staff requested Gulf to explain, in detail, how the company arrived at the monthly *force majeure* volumes as set forth in its "computation of refund" filings, as well as included in its monthly "reports of deliveries". Gulf responded to Staff's request in a April 12, 1978 letter.

The Public Service Commission of the State of New York (New York) filed a "Motion for Prompt Action On Plan For Flow-Through And Recoupment of Refunds" on June 28, 1978. New York requests the Commission to take prompt action to "effectuate Opinion No. 780 by directing Gulf to pay Texas Eastern for the account of its customers at least $100,000,000 of the refunds and interest presently due, and either approve the Texas Eastern escrow plan for flow through and recoupment of the Gulf refunds, or establish an interim mechanism which will provide full protection to Texas Eastern customers pending determination of an appropriate flow through plan". (Motion at 3). On August 2, 1978, Gulf filed a response in opposition to New York's June 28, 1978 Motion. Gulf stated that New York's request of the Commission to direct Gulf to make an immediate payment to TETCO of at least $100,000,000 "would conflict with Ordering Paragraph (B) of Opinion No. 780, which states in pertinent part, 'Gulf shall make the required refund to Texas Eastern within 30 days of Commission approval of Gulf's computation of refund.' ".

On October 19, 1978, New York filed a letter with the Commission asking that its June 28, 1978 Motion be acted upon expeditiously. New York reiterated its request that the Commission order Gulf to make "such refunds as its filings purport to show are due now . . . pending final Commission action on the other issues raised by the Gulf filings including the propriety of its huge *force majeure* claims." (Letter at 2).

[4]By letter filed September 28, 1978, Gulf stated that for August, 1978 its average daily deliveries to TETCO were 738,886 Mcf and, in addition, it had average daily *force majeure* volumes of 101,523 Mcf.

There are a number of issues which remain to be resolved in this docketed proceeding. Namely, (1) are the volumes of *force majeure* shown in the aforementioned Gulf filings accurate and reasonable and should any *force majeure* be authorized in a warranty sale; (2) are the computations of refunds, both principal and interest, made by Gulf correct; (3) what are the specific terms of the "Escrow Agreement" proposed by TETCO, including, *inter alia*, the interest, net of expenses, offered by the bank on the principal sums deposited; (4) to which of TETCO's jurisdictional customers, and in what percentages of the whole, will the net proceeds of the Escrow Account be distributed as proposed in TETCO's "Refund Flow-Through Plan" and (5) have the affected TETCO customers and pertinent State Regulatory Commissions been apprised by such specifics, in accordance with Opinion No. 780, Ordering Paragraph (E)?

Ordering Paragraph (B) of Opinion No. 780 sets forth the Commission's directive concerning Gulf's calculation of refunds for the period of time from November 1, 1964 to December 1, 1976 in which Gulf failed to meet its certificated delivery obligations. Pursuant to this Ordering Paragraph, relating to a "locked-in" period of time, Gulf on December 15, 1976, filed the required refund report. The Third Circuit stayed the Commission from further action on the refund computations by Orders Granting Stays issued December 15 and 22, 1976 (*supra*). But for these stay orders the TETCO jurisdictional customers would have received the time value of the refunded monies from December 15, 1976, without obligation to repay Gulf such monies under the recoupment portion of the Commission's Order.

In these circumstances the jurisdictional customers of TETCO should receive the interest accrued on and after December 15, 1976 on the refunds owing as of that date, as if a stay had never been issued by the Court of Appeals. As the Commission said in Opinion No. 780-A, at 10, "Gulf's loss of the time value of the amounts refunded is simply a proper reflection of loss suffered by Texas. Eastern's customers from Gulf's failure to deliver its contract or certificate volumes of gas".

The interest accrued on and after December 15, 1976 on the refund amount determined to be due for underdeliveries from November 1, 1964 to December 1, 1976 is to be passed through to the jurisdictional customers of TETCO without obligation on their part to allow Gulf to "recoup" such interest pursuant to Ordering Paragraph (D) of Opinion No. 780 as amended by Opinion No. 780-A. Consequently, when Gulf is required to make refunds, the interest on such refunds for the period on and after December 15, 1976, will be flowed through to Texas Eastern's customers.

The Commission hereby notifies all concerned about the various filings made to date in this docketed proceeding and discussed above, and, with the exception of the *force majeure* issue discussed below, invites comments thereon from any interested person. The Commission wishes to call particular attention to the following matters: (a) New York's June 28, 1978 motion for immediate flow-through of uncontested refunds; (b) TETCO's escrow plan; (c) the alternative plan to flow-through the refund to the ultimate rate payer; (d) the disposition herein of the interest accrued on and after December 15, 1976, on Gulf's refunds.

Texas Eastern is directed to furnish the Commission with a copy of the proposed "Escrow Agreement", setting forth all the terms and conditions of such agreement. Texas, Eastern shall submit its detailed flow-through plan, designating each jurisdictional customer who will share in the net proceeds of the "Escrow Account" and the basis for the computation of each such customer's share. Texas Eastern shall file, under oath by a responsible company officer, a statement attesting to the correctness of the volumes of gas delivered to it by Gulf and included within the various Statements Reflecting Refund and Interest filed by Gulf on and after December 15, 1976. TETCO shall also file its comments as to the correctness of Gulf's computations of refunds and interest set forth in Gulf's December 15, 1976 Statement as revised. In addition, TETCO shall file an alternative plan for the distribution of the corpus of the refunds to its jurisdictional customers and the plan for Gulf's recoupment thereof. In this context, "corpus" is defined as the principal and interest calculated to be owed by Gulf for all underdeliveries from November 1, 1964 through December 1, 1976. Texas Eastern is directed to file all of the aforementioned documents and information within 30 days of the issue date of this order.

The Commission hereby sets the *force majeure* issues down to a hearing to determine whether the claimed *force majeure* volumes are accurate and reasonable and should be allowed. To this end, Gulf is directed to assist the Staff's review and examination by complying promptly with all relevant Staff requests for documents and or information. The Commission directs the parties to the hearing to elaborate their respective views on, among other related issues, whether any *force majeure* is appropriate in a warranty sale, and if so, whether the *force majeure* volumes asserted in Gulf's filings are

accurate and reasonable and should be allowed.

The Commission orders: (A) Pursuant to the Natural Gas Act, particularly Sections 4, 5, 7, 8, 10, 14 and 16 thereof, the rules and regulations thereunder, (18 CFR, Chapter I), the Natural Gas Policy Act of 1978, (Pub. L. 95-621, *et seq.*). and the regulations thereunder (18 CFR, Chapter I, Subchapters H and I), the Commission hereby orders a public hearing in the captioned docket, to be held in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426 for the purpose of hearing and disposition of the *force majeure* issues in this proceeding.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the exception of motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(C) Gulf, and any intervenor supporting Gulf's position as to the accuracy and reasonableness of the asserted *force majeure* volumes as set forth in the filings by Gulf made pursuant to the Commission's Opinion Nos. 780 and 780-A, shall file its direct testimony and exhibits on the *force majeure* issues, including a full explanation of the factual basis and the rationale for each claim of the *force majeure*, on or before February 21, 1979. All testimony and exhibits shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to this proceeding. Gulf shall file not only opinion evidence on the *force majeure* issues, but also sufficient underlying data so that the reasonableness and credibility of the opinion evidence can be weighed by application of traditional evidentiary standards.

(D) The Commission Staff shall examine, and copy where it feels appropriate, the records, accounts, memoranda and other documents of Gulf pertaining to the *force majeure* issues. To this end, Gulf is directed to assist the Staff's examination by promptly complying with all relevant requests for documents and/or information.

(E) The Presiding Judge shall preside at a prehearing conference to be held on April 4, 1979 at 10:00 A.M. E.S.T. in a hearing room at the address noted in Ordering Paragraph (A).

(F) Texas Eastern shall, within 30 days of the date of issuance of this order, file with the Commission, with copies to the Commission Staff, all parties of record in Docket No. CI64-26, all its jurisdictional customers and affected States' Regulatory Commissions, its proposed "Escrow Agreement" setting forth all its terms and conditions, which if duly executed and approved, would be the operative "Escrow Agreement" regarding the refund flow-through and recoupment provided for in Opinion Nos. 780 and 780-A. Texas Eastern shall simultaneously file its detailed flow-through plan, designating each jurisdictional customer by name, and its proposed respective percentage entitlement of the net proceeds of the "Escrow Account" by payment period, and all supporting work papers and schedules. Texas Eastern shall file, at the same time as the above-stated filings: (1) a statement under oath by a responsible company officer, attesting to the correctness of the volumes of gas delivered to it by Gulf and included within the various Statements Reflecting Refund and interest filed by Gulf on and after December 15, 1976. In the event Texas Eastern considers the stated volumes incorrect, it shall explain the basis for its disagreement; (2) a statement regarding the correctness of Gulf's computations of monetary refunds and interest as set forth in the aforementioned Gulf filings; (3) a plan for the distribution and recoupment of the entire principal and interest to its jurisdictional customers, of the refunds calculated to be owed for Gulf's under-deliveries during the period November 1, 1964 through December 1, 1976.

(G) Comments on any of the matters set forth in this order and the filings made pursuant thereto, except for those issues listed in Ordering Paragraphs A-E, above shall be filed with the Commission and its Staff at its offices at 825 North Capitol Street, N.E. Washington, D.C. 20426 with copies served on all parties, within 60 days of this order's issue date. Such comments will be considered in determining appropriate action, but those filing comments will not, as a result thereof, become parties to this proceeding.

(H) The Commission will defer action on New York's June 28, 1978 Motion until it has had an opportunity to review the comments filed herein.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2769 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-134]

IDAHO POWER CO.

Notice of Filing

JANUARY 17, 1979.

Take notice that Idaho Power on November 29, 1978, tendered for filing 1st Revised FERC Electric Tariff Volume No. 1 (Supersedes Original Volume No. 1). Also tendered were executed Service Agreements between the Company and several companies who have purchased or desire to purchase energy under the above referenced Tariff together with unexecuted Service Agreements among the Company and Southern California Edison Company and the Department of Water and Power, City of Los Angeles.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are filed with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2770 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-135]

THE IDAHO POWER CO.

Notice of Filing

JANUARY 17, 1979.

Take notice that on January 2, 1979, Idaho Power Company tendered for filing a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during November, 1978, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 9, 1979. Protests will be considered by the

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Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2771 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-141]

KANSAS CITY POWER & LIGHT CO.

Notice of Filing

JANUARY 19, 1979.

Take notice that on January 10, 1979, Kansas City Power & Light Company (KCPL) tendered for filing Service Schedules C-MPA-4 for Firm Power Service under Municipal Participation Agreements between KCPL and the following Municipals:

Customer, Superseding and Replacing

Baldwin City, Kansas, Schedule C-MPA-3, Supplement No. 3 to KCPL's Rate Schedule FERC No. 85
Garnett, Kansas, Schedule C-MPA-3, Supplement No. 3 to KCPL's Rate Schedule FPC No. 78
Osawatomie, Kansas, Schedule C-MPA-2A, Supplement No. 3 to KCPL's Rate Schedule FPC No. 77
Carrollton, Missouri, Schedule C-MPA-3, Supplement No. 3 to KCPL's Rate Schedule No. 86

KCPL states that the purpose of this filing is to bring Firm Power rate levels for these customers up to those rate levels presently in effect for similar service as approved by FERC in Order dated June 2, 1978, in Docket No. ER77-522. KCPL proposes an effective date of May 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 12, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2751 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-136]

KANSAS GAS AND ELECTRIC CO.

Tariff Change

JANUARY 18, 1979.

Take notice that Kansas Gas and Electric Company (KG&E) on January 8, 1979, tendered for filing proposed changes in its FPC Electric Service Tariff No. 47. KG&E states that the proposed Amendment changes the minimum and maximum amounts of power at Delivery Points No. 5 and 6 of The Caney Valley Electric Cooperative Association, Inc.

KG&E further states that this Amendment is necessary because the Cooperative has exceeded its present demand amounts. KG&G proposes an effective date of December 11, 1978.

Copies of the filing were served upon The Caney Valley Electric Cooperative Association, Inc., according to KG&E.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 5, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2735 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-137]

KANSAS GAS AND ELECTRIC CO.

Proposed Tariff Change

JANUARY 19, 1979.

Take notice that Kansas Gas and Electric Company (KG&E) on January 8, 1979, tendered for filing proposed changes in its FPC Electric Service Tariff No. 114. KG&E indicates that the proposed Amendatory Agreement changes the minimum and maximum amounts of power.

KG&E further indicates that the Amendatory Agreement is necessary because the present demands are being exceeded. KG&E proposes an effective date of November 27, 1978.

According to KG&E copies of this filing were served upon the City of Arma, Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before February 5, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2752 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-147]

KANSAS GAS & ELECTRIC CO.

Proposed Tariff Change

JANUARY 19, 1979.

Take notice that Kansas Gas and Electric Company (KG&E) on January 12, 1979, tendered for filing proposed changes in its FPC Electric Service Tariff No. 111. The proposed Amendatory Agreement changes the minimum and maximum amounts of power for the City of Haven, Kansas.

KG&E states the Amendatory Agreement is necessary because the present demands are being exceeded.

KG&E also states that copies of this filing were served on the City of Haven, Kansas.

KG&E proposes an effective date of December 18, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions of protests should be filed on or before February 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with

the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 79-2753 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-149]

KANSAS GAS & ELECTRIC CO.

Proposed Tariff Change

JANUARY 19, 1979.

Take notice that Kansas Gas and Electric Company (KG&E) on January 12, 1979, tendered for filing proposed changes in its FPC Electric Service Tariff No. 55. The proposed Amendment changes the minimum and maximum amounts of power at Delivery Point No. 2 of Missouri Public Service Company.

KG&E states the Amendment is necessary because the present demands are being exceeded.

KG&E also states that copies of this filing were served upon the Missouri Public Service Company.

KG&E proposes an effective date of January 1, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions of protests should be filed on or before February 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2736 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-138]

KANSAS GAS & ELECTRIC CO.

Proposed Tariff Change

JANUARY 19, 1979.

Take notice that Kansas Gas and Electric Company (KG&E) on January 8, 1979, tendered for filing proposed changes in its FPC Electric Service Tariff No. 119. KG&E states that the proposed Amendatory Agreement changes the minimum and maximum amounts of power.

KG&E further states that the Amendatory Agreement is necessary because the present demands are being exceeded. KG&E proposes an effective date of November 28, 1978.

Copies of this filing were served upon the City of Mulberry, Kansas, according to KF&E.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 5, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2750 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket Nos. CP78-174, CP78-216]

KANSAS-NEBRASKA NATURAL GAS CO., INC. AND MICHIGAN WISCONSIN PIPE LINE CO.

Findings and Order After Statutory Hearing Issuing Certificates of Public Convenience and Necessity and Granting Petition To Intervene

JANUARY 12, 1979.

On January 25, 1978, and on March 6, 1978, applications were filed by Kansas-Nebraska Natural Gas Company, Inc. (K-N),[1] and Michigan Wisconsin Pipe Line Company (M-W)[2] in Docket Nos. CP78-174 and CP78-216, respectively, pursuant to Section 7(c) of the Natural Gas Act for certificates of public convenience and necessity authorizing (1) M-W to sell gas to K-N for resale in interstate commerce; (2) the transportation of natural gas for M-W by K-N; (3) the transportation of natural gas by N-W for Monsanto Company (Monsanto); and (4) the construction and operation by M-W and K-N of the necessary facilities for the exchange of natural gas between them, all as more fully set forth in the applications.

Monsanto and M-W each own a 50 per cent interest in the Long Butte No. 1 well (Long Butte well) in Fremont County, Wyoming. Monsanto has sold its 50 per cent interest to M-W, retaining the right to repurchase 50 percent of the transferred volumes.[3]

The Long Butte well is distant from M-W's system, but close to K-N's. In order to make this gas available to M-W, M-W and K-N have agreed as follows:

(1) K-N will construct, pursuant to its budget-type authority, the necessary gathering facilities to connect the Long Butte well to its system. K-N will charge M-W a gathering fee of 7.37 cents per Mcf of gas.

(2) M-W will construct, with $371,650 of internally generated funds, the necessary facilities to connect the systems of M-W and K-N in Hemphill County, Texas (redelivery point).

(3) K-N will construct a $7,000 tap and valve at the redelivery point.

(4) K-N will gather, and deliver by exchange, up to 10,000 Mcf of natural gas from the Long Butte well to the redelivery point, at a charge of 18.74 cents per Mcf of gas redelivered.

(5) K-N will have the right to purchase up to 25 percent of the volumes transported for M-W, at the applicable FERC area rate.

Since the proposed sale by M-W, the proposed transportation and exchange, and the facilities necessary therefor involve the sale for resale and transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, said sale and service, and the construction of the necessary facilities, are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.[4]

After due notice by publication in the FEDERAL REGISTER in Docket No. CP78-174, on February 2, 1978 (42 FR 5877), and in Docket No. CP78-216, on April 7, 1978 (43 FR 1207), a timely petition to intervene was filed in Docket No. CP78-174 by M-W in support of the application. No further petitions to intervene, notices of intervention,

[1] K-N, a Kansas corporation having its principal place of business in Phillipsburg, Kansas, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by order of April 6, 1943, in Docket No. G-259 (3 FPC 966).

[2] M-W, a Delaware corporation having its principal place of business in Detroit, Michigan, is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by order of November 30, 1946, in Docket No. G-669 (5 FPC 953).

[3] M-W agreed to transport this repurchased gas for Monsanto, through M-W's system and the systems of unidentified pipeline companies, to Monsanto's plant in Decatur, Alabama. There can be no authorization of this transportation service without applications from the other pipeline companies involved; none have yet been filed.

[4] The sale by M-W to K-N is not a "first sale" as defined by Section (2X21) of the Natural Gas Policy Act because (a) the volumes sold are not solely attributable to M-W's production, and (b) the sale is for resale in interstate commerce, and thus the price of the gas is regulated pursuant to the Natural Gas Act. See Section 270.203 of the Interim Regulations Implementing the Natural Gas Policy Act.

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or protests to the granting of the application have been filed.

At a hearing held on January 10, 1979, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) M-W and K-N are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(2) The proposed sale, transportation and exchange of natural gas and the construction and operation of facilities necessary therefor are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(3) Participation by M-W in Docket No. CP78-174 may be in the public interest.

The Commission orders:

(A) Upon the terms and conditions of this order, certificates of public convenience and necessity are issued in Docket Nos. CP78-174 and CP78-216, authorizing (1) M-W to sell natural gas to K-N; (2) K-N to transport by exchange natural gas for M-W; and (3) K-N and M-W to construct the necessary facilities, all as hereinbefore described and as more fully described in the applications.

(B) The certificates issued by paragraph (A) above and the rights granted thereunder are conditioned upon K-N's and M-W's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in Part 154, and in paragraphs (a), (c)(3), (c)(4), (e), (f), and (g), of § 157.20 of such Regulations.

(C) M-W's proposal to transport gas for Monsanto is denied without prejudice.

(D) M-W and K-N shall complete construction of all facilities and commence the operation thereof within 12 months of the date of this order.

(E) M-W is permitted to intervene in Docket No. CP78-174 subject to the rules and regulations of the Commission; *Provided, however,* that participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and, *Provided, further,* that the admission of such intervener will not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2754 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Doc. No. ER79-140]

METROPOLITAN EDISON CO.

Proposed Tariff Change

JANUARY 19, 1979.

Take notice that Metropolitan Edison Company, (Met-Ed) on January 6, 1979, tendered for filing Supplemental Letter Agreements dated October 30, 1978 to the Wheeling and Supplemental Power Agreement dated November 9, 1973 between Met-Ed (Rate Schedule FPC No. 26) and Allegheny Electric Cooperative, Inc.

Met-Ed states that the Supplemental Letter Agreements provided for the establishment of three additional delivery points for service to Adams Electric Cooperative, Inc., a member of Allegheny Electric Cooperative, Inc. Met-Ed further states that the addition of the new delivery points (a) Parkville, (b) Valley and (c) Orrtanna 115 KV will enable the Cooperative to transfer load to the new delivery points resulting in improved service capabilities to their customers.

Met-Ed proposes an effective date of February 1, 1979, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 5, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2737 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Doc. No. RP78-61]

MOUNTAIN FUEL RESOURCES, INC.

Tariff Sheet Filing

JANUARY 17, 1979.

Take notice that on January 8, 1979, Mountain Fuel Resources, Inc. (Resources) filed First Revised Sheet Nos. 4, 65, 66, 68, and 75 of its Rate Schedule No. T-1, FERC Gas Tariff, Original Volume No. 1. Resources states that the Rate Schedule No. T-1 covers transportation service available to any gas distribution system or gas pipeline company for the transportation of natural gas by Resources through its main pipeline system located in Colorado and Utah. Rocky Mountain Natural Gas Company is currently the only customer served under Rate Schedule No. T-1.

Resources states that the tariff sheets are filed in order to change the pressure base for Rate Schedule No. T-1 from 15.025 psia to 14.73 psia, to increase the transportation rate from that currently being charged to 17.79¢ per Mcf @ 14.73 psia, and to make some minor housekeeping-type modifications.

Copies of the filing have been served upon the customers of Resources, Rocky Mountain Natural Gas Company and Mountain Fuel Supply Company, and are available for public inspection at the general office of Resources, Suite 1450, 36 South State Street, Salt Lake City, Utah 84111.

Any person desiring to be heard and to make any protest with reference to said filing should on or before January 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Resources' tariff filing is on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 79-2738 Filed 1-25-79; 8:45 am]

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[6450-01-M]

[Doc. No. RP79-19]

MOUNTAIN FUEL SUPPLY CO.

Order Accepting for Filing and Suspending and Setting for Hearing Proposed Rate Increase, Subject to Condition

JANUARY 17, 1979.

On December 18, 1979, Mountain Fuel Supply Company ("Mountain Fuel") tendered for filing a proposed rate increase in the transportation rate contained in its special Rate Schedule X-4. The increase would be from 4¢/mcf to 13.2¢/mcf at 14.73 psia. Rate Schedule X-4 is a Gas Purchase and Exchange Agreement between Mountain Fuel and Colorado Interstate Gas Company (CIG) providing for a sale priced at the appropriate national rate, of a portion of the gas produced by Mountain Fuel from the Spearhead Ranch area of Wyoming. The Rate change is based upon: (1) claimed increases in the investment costs, (2) reduced transportation volumes, and (3) a reduction in the estimated remaining life of the reservoir.

Mountain Fuel supported its $156,000 increase with only Statements L, M, & N even thought the increase does not qualify under § 154.63(b)(4) (Minor Rate Increase) of the Commission's Regulations. Inasmuch as the increase concerns the transportation rate portion of a single rate schedule, for purposes of the filing requirements we shall treat this filing as a minor rate increase and accept the supporting statements as adequate compliance with the Commission's filing requirements.

Based on a review of Mountain Fuel's filing herein, the Commission finds that the proposed higher rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Mountain Fuel's proposed rate increase for filing, suspend its use for five months or until June 18, 1979, when it shall become eligible to become effective in the manner prescribed in Section 4 of the Natural Gas Act, subject to refund, and shall set the matter for hearing, as hereinafter conditioned.

Mountain Fuel's rates reflect corporate federal income taxes calculated at a 48% rate. However, since Congress recently adopted a tax measure which reduced the corporate federal income tax rate from 48% to 46% effective on January 1, 1978,[1] we shall require Mountain Fuel to file revised tariff sheets reflecting the lower rate (46%). However, Mountain Fuel shall not be permitted to make offsetting rate adjustments other than those made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

The Commission orders: (A) Mountain Fuel's proposed rate increase in the transportation rate contained in Rate Schedule X-4 of its FERC Gas Tariff is hereby accepted for filing and suspended for five months, until June 18, 1979, at which time it may be made effective, subject to refund, upon motion filed by Mountain Fuel in accordance with the Natural Gas Act, as hereinafter conditioned.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Mountain Fuel.

(C) Staff shall serve its top sheets on or before April 20, 1979.

(D) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 C.F.R. 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of a Statement of Position by the Staff in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(E) Thirty days prior to the end of the suspension period prescribed in this order, Mountain Fuel shall file revised tariff sheets reflecting the 46% corporate federal income tax rate. However, Mountain Fuel shall not be permitted to make offsetting rate adjustments other than those made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2755 Filed 1-25-79; 8:45 am]

[1] H.R. 13511, PL 950600 (1978).

[6450-01-M]

[Doc. No. R-406]

NATURAL GAS PIPELINE COMPANIES FERC GAS TARIFFS

Proposed Amendments to Purchased Gas Cost Adjustment Provisions

JANUARY 17, 1979.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on January 5, 1979, tendered for filing First Revised Sheet No. 245 and First Revised Sheet No. 253 to its FERC Gas Tariff, Original Volume No. 1 to become effective January 1, 1979.

Eastern Shore states that the purpose of the filing is to revise Eastern Shore's FERC Gas Tariff in order to comply with the requirements prescribed in Commission Order No. 13 issued October 28, 1978 in Docket No. R-406. Sheet No. 245 reflects the prescribed tracking dates of March 1 and September 1 under Eastern Shore's changes in Rates to Reflect Curtailment Credits or Debits, and to provide that any rate adjustments to be effective subsequent to February 1, 1979 shall be filed to be effective on March 1 and September 1 of each year; provided however, that if an adjustment is filed to be effective March 1, 1979 the provision that adjustments shall be placed into effect no sooner than six months after the next previous adjustment shall not apply thereto. Sheet No. 252 provides for the principles of interperiod income tax allocation in the determination of carrying charges on balances in FERC Account No. 191—Unrecovered Purchased Gas Cost Account and to reflect the prescribed tracking dates of March 1 and September 1 under Eastern Shore's Deferred Gas Cost Adjustment.

The Company states that copies of the filing have been sent to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2758 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Doc. No. RP78-78]

NATURAL GAS PIPELINE CO. OF AMERICA

Proposed Change in FERC Gas Tariff

JANUARY 18, 1979.

Take notice that on January 8, 1979, Natural Gas Pipeline Company of

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America (Natural) submitted for filing as part of its FERC Gas Tariff the below listed tariff sheets to be effective January 1, 1979.

THIRD REVISED VOLUME NO. 1

Second Substitute Thirty-sixth Revised Sheet No. 5
Substitute Eleventh Revised Sheet No. 5A
Substitute Second Revised Sheet No. 5B

Natural states it has reduced its Base Rates from the level shown in its pending December 29, 1978 filing in Docket No. RP78-78 to reflect the elimination of certain American Gas Association research costs, as required in the Commission order issued on December 27, 1978 in Gas Research Institute, Docket No. RP78-76 (GRI Order). The cost of service supporting the revised Base Rates also reflects the adjustments made in Natural's December 29, 1978 compliance filing for the actual balance of advance payments as of November 30, 1978, the elimination of facilities not actually certificated and placed in service by November 30, 1978, and the reduction in the federal income tax rate from 48 percent to 46 percent.

Natural also states that this procedure is appropriate because it allows the lower tax rate to be reflected in rates currently without impairing Natural's refund obligation, from and after December 1, 1978, for all items other than federal income tax and it will also serve to reduce eventual refunds in this proceeding.

A concurrent filing under separate cover at Docket No. RP78-76 was submitted by Natural requesting that its proposed GRI surcharge be approved at the 3.5 mill per Mcf level. The Base Rates shown on this latter filing are at the levels proposed on the submitted tariff sheets.

Natural requested that the Commission's Regulations be waived to the extent necessary to permit the lower Base Rates to become effective January 1, 1979.

Copies of Natural's filing and tariff sheets together with supporting data have been mailed to Natural's jurisdictional customers, interested state commissions and all other parties in Docket No. RP78-78.

Any person wishing to do so may submit comments in writing concerning Natural's filing. All such comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426 on or before February 2, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2756 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Doc. No. ER79-57]

NEW ENGLAND POWER CO.

Proposed Settlement Agreement

JANUARY 16, 1979.

Take notice that on January 5, 1979. New England Power Company (NEP) tendered for filing a proposed Settlement Agreement executed by NEP and its Municipal Customers. Copies of the Agreement, according to NEP, have been sent to Fitchburg Gas & Electric Light Company and the Village of Lyndonville, Vermont, the only other customers affected. NEP requests that the Commission act on the Settlement Agreement by February 1, 1979.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 24, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 79-2739 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Doc. No. ER79-57]

NEW ENGLAND POWER CO.

Proposed Settlement Agreement

JANUARY 16, 1979.

Take notice that on January 5, 1979. New England Power Company (NEP) tendered for filing a proposed Settlement Agreement executed by NEP and its Municipal Customers. Copies of the Agreement, according to NEP, have been sent to Fitchburg Gas & Electric Light Company and the Village of Lyndonville, Vermont, the only other customers affected. NEP requests that the Commission act on the Settlement Agreement by February 1, 1979.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 24, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 79-2773 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Doc. No. ER79-142]

NIAGARA MOHAWK POWER CORP.

Proposed Tariff Filing

JANUARY 19, 1979.

Take notice that Niagara Nohawk Power Corporation (Niagara), on January 9, 1979, tendered for filing as a proposed rate schedule, a transmission agreement between Niagara and Consolidated Edision Company of New York, Inc. (Con Edison), dated October 3, 1978.

The service to be rendered by Niagara provides for the delivery of pumping and generating energy in connection with Nonfirm Pumped Storage Energy Service provided to Con Edision by the Power Authority of the State of New York (PASNY) under PANSY's Service Tariff No. 3.

Transmission capacity to be made available by Niagara to Con Edison will be that amount scheduled on an hourly basis by Con Edision each day for the subsequent 24-hour period beginning at midnight.

Niagara asks for an effective date of December 18, 1978, and therefore requests a waiver of the notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with paragraphs 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not service to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2757 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. CP78-237, Docket No. CP66-110, *et al.*]

NORTHERN NATURAL GAS CO. AND GREAT LAKES GAS TRANSMISSION CO.

Order Consolidating Applications, Granting Certain Interventions, Denying Certain Late Interventions, and Providing for Formal Hearing Upon Approval of Import Authorization

JANUARY 12, 1979.

On March 17, 1978, as supplemented on November 16, 1978, Northern Natural Gas Company (Northern) filed in Docket No. CP78-237 an application pursuant to Sections 3 and 7 of the Natural Gas Act for authorization to import synthetic natural gas (SNG) from Canada by displacement and for a certificate of public convenience and necessity authorizing Northern to receive and transport the imported volumes through its transmission system and for an order approving certain rate treatment. In conjunction with Northern's application, Great Lakes Gas Transmission Company (Great Lakes) on April 20, 1978, filed a petition to amend its authorizations in Docket Nos. CP66-110, *et al.*, to permit deliveries by means of displacement of the gas which Northern is proposing to import in Docket No. CP78-237. Northern's and Great Lakes' proposals are more fully set forth in their respective applications, as supplemented.

Northern and Great Lakes have also filed applications with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for import authorizations pursuant to Section 3 of the Natural Gas Act. These applications were consolidated by ERA by order of June 29, 1978, in ERA Docket No. 78-002 NG, *et al.* The Administrator of ERA has been authorized to determine whether the proposed import will not be inconsistent with the public interest by Sections 301 and 402(f) of the Department of Energy Organization Act, Pub. L. 95-91, and DOE Delegation Order Nos. 0204-4 (42 FR 60726, November 29, 1977) and 0204-25 (43 FR 47772). Pursuant to Sections 3, 4, and 7 of the Natural Gas Act, Subsections 402(e) and (f) and Section 642 of the DOE Act, and DOE Delegation Order No. 0204-26 (October 17, 1978, 43 FR 47772), the Commission has jurisdiction over certain aspects of Northern's and Great Lakes' applications. As of the date of this order, neither ERA nor the Commission has rendered a decision on the subject applications.

Northern seeks authorization to import from Canada and to receive and transport in its system up to 75,000 Mcf of gas per day for five winter seasons (November 1 through March 31) with annual volumes not to exceed 10 Bcf. Deliveries would commence after receipt of all necessary regulatory approvals. Northern proposes to purchase this gas from Union Gas Limited (Union) of Chatham, Ontario, pursuant to a contract dated December 21, 1977. The gas Northern would purchase from Union would be the equivalent on an aggregate Btu basis of synthetic natural gas (SNG) which Union has contracted for and would receive from Petrosar Limited (Petrosar) at Corunna, Ontario, pursuant to a contract between Union and Petrosar dated November 20, 1974. The SNG is produced in a plant located near Sarnia, Ontario, using western Canadian crude oil as feedstock. The plant's capacity is 33,000 Mcf per day.

It is proposed that from April 1 through November 1 of each contract year, Union would store for Northern's account the total output of the Petrosar plant. During the winter period, Northern would nominate deliveries from Union of up to 75,000 Mcf per day, which would come from Petrosar's daily output and from SNG placed in storage. Northern would use these supplies to meet peak day requirements.

Union's gas would be delivered to Northern through arrangements with TransCanada PipeLines Limited (TransCanada) and Great Lakes. Great Lakes has an existing arrangement with TransCanada whereby TransCanada delivers gas to Great Lakes at the Minnesota-Manitoba border near Emerson, Manitoba, and Great Lakes transports the gas and redelivers it to TransCanada at the Michigan-Ontario border near St. Clair, Michigan. TransCanada transports and sells a portion of these redelivered volumes to Union at Dawn, Ontario. Great Lakes also transports gas for the account of Northern from the Emerson import point to interconnecting points with Northern at Carlton and Grand Rapids, Minnesota and Wakefield, Michigan. On days when Northern requests gas from Union, Great Lakes would reduce its deliveries to Union by an equivalent volume. Union would reduce the volumes of SNG held in storage for Northern's account, and would use this gas to serve its own market. Great Lakes would then deliver the additional volumes received from TransCanada (attributable to the SNG volumes) and deliver this gas to Northern at the three interconnection points with Northern, with Carlton as the primary delivery point.

Great Lakes has entered into an agreement with TransCanada whereby gas delivered to Northern under the Northern-Union agreement would for billing purposes be included as gas delivered by Great Lakes to TransCanada at St. Clair, Michigan under the transportation contract between Great Lakes and TransCanada dated September 12, 1967. Northern would not be charged by Great Lakes for the transportation service provided.

Pursuant to the contract between Northern and Union, Northern would pay Union a contract price which is based on a formula which does not have a cost of service derivation. The price for the SNG is related to the value of the various petrochemical products created by Petrosar at its plant and the plant's feedstock costs which, in turn, are related to the price of crude oil in Alberta. Northern would also pay a monthly demand charge and a commodity charge for the storage service.

Northern says that the total average incremental cost per Mcf of the subject gas (including storage) would be $3.86 in 1978-79, and would increase to $5.33 in 1982-83. On a rolled-in basis, the effect on Northern's annual system cost per Mcf of sales would be 4.26 cents in 1978-79, and would increase to 8.47 cents in 1982-83.

Northern contends that it needs the SNG to serve high-priority customers on its system. Northern asserts that without the SNG, it will need to curtail into priority categories 1, 2B, 2C, and 3 of its curtailment plan.[1]

Northern requests that it be permitted to recover the costs of the purchase of SNG on a rolled-in basis. In addition, Northern's proposed tariff provides that the costs of SNG may be included in its annual Purchased Gas Adjustment (PGA) filings. In its March 17, 1978, application, Northern also sought authority to include a surcharge in its 1978 PGA rate filing to be effective only during the year 1979 to recover the estimated cost of SNG to be incurred during November and December 1978. Northern asserted that the surcharge is required in order to avoid deferring until 1980 collection of an estimated $12.8 million in purchased gas costs.

In August 1978, the National Energy Board of Canada issued an export license to Union.

Northern's application and Great Lakes' petition to amend are companion filings for one project. We find that the expeditious management of these applications would be best served by consolidating them, and we so order.

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[1] Northern's curtailment plan consists of the following priority categories:
Priority 1: Residential, small commercial and industrial requirements.
Priority 2: (a) Customer storage injection requirements.
(b) Firm industrial requirements for plant protection, feedstock and process needs.
(c) Commercial and industrial requirements 300 to 499 per day or less than 50,000 Mcf annually.
Priority 3: All commercial requirements 500 Mcf to 1499 Mcf per day and all industrial not specified in Priorities 1 through 10.
Priorities 4-11: Industrial requirements with alternate fuel capabilities.

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In Docket No. CP78-237, timely notices of intervention or petitions to intervene were filed by the following:

(1) Iowa Public Service Company
(2) Iowa Electric Light and Power Company
(3) Northwestern Public Service Company
(4) Northern Illinois Gas Company
(5) Terra Chemicals International, Inc.
(6) Northern Municipal Defense Group and Minnesota Municipal Utilities Association
(7) Iowa Power and Light Company
(8) Union Gas Limited
(9) Wisconsin Power and Light Company
(10) Wisconsin Gas Company
(11) Metropolitan Utilities District of Omaha
(12) Iowa-Illinois Gas and Electric Company
(13) Greeley Gas Company
(14) Nebraska natural Gas Company

Untimely notices of intervention or petitions to intervene were filed by the following:

(1) Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
(2) TransCanada PipeLines Limited
(3) Michigan Public Service Commission
(4) Minnesota Gas Company
(5) Public Service Commission of Wisconsin
(6) Kansas-Nebraska Natural Gas Company, Inc.
(7) Northern Central Public Service Company, Division of Donovan Companies, Inc.
(8) North Central Public Service Corporation
(9) Iowa Southern Utilities Company
(10) Columbia LNG Corporation

In Docket Nos. CP66-110, *et al.*, Union, TransCanada, and Wisconsin Gas Company filed timely petitions for leave to intervene.

Those interveners who filed timely petitions are granted leave to intervene. Of those interveners who filed petitions to intervene out-of-time, only Columbia LNG Corporation and TransCanada stated any justification for their late filings. Columbia LNG Corporation's and TransCanada's petitions to intervene, therefore, shall be granted; the others shall be denied. See *Trunkline Gas Co., et al.*, Docket No. CP78-386, order issued November 15, 1978. The notices of intervention of the Michigan Public Service Commission and the Public Service Commission of Wisconsin are also granted.

In Docket No. CP78-237, the Metropolitan Utilities District of Omaha (Omaha) filed a timely request for a formal hearing. On the basis of Northern's and Great Lakes' applications, Northern's responses to Staff deficiency letters, and Omaha's request for a formal hearing, we believe that the subject applications should be set for formal hearing on the following general issues:

(1) Do Northern's winter market requirements necessitate the purchase of this SNG?

(2) Are there less expensive sources of supply available to Northern to meet Northern's winter requirements?

(3) Should Northern receive PGA rate treatment for the cost of the SNG?

These issues are ones which the Commission normally addresses in determining whether to grant a certificate of public convenience and necessity under Section 7 of the Natural Gas Act. DOE Delegation Order No. 0204-26 specifies that all functions under Sections 4, 5, and 7 of the Natural Gas Act are to be exercised by the FERC, as well as certain other functions within the purview of Section 3 of the Natural Gas Act. Delegation Order No. 0204-25 delegates to the Administrator of the ERA the authority to determine whether the importation is not inconsistent with the public interest under Section 3 of the Natural Gas Act on the basis of the following considerations:

(1) The security of supply and effect on U.S. balance of payments;

(2) The price proposed to be charged at the point of importation;

(3) Consistency with duly promulgated and published regulations or statements of policy of the Department of Energy specifically applicable to imports of natural gas;

(4) National need for the natural gas to be imported;

(5) Such other matters within the scope of Section 3 of the Natural Gas Act as the Administrator shall find in the circumstances of a particular case to be appropriate for his determination, including: (A) Regional needs for the natural gas to be imported; (B) The eligibility of purchasers and participants and their respective shares.

In general, the delegation orders provide that ERA is to determine whether the proposed import is consistent with the national interest and the national and regional need for gas. The Commission is to determine whether the proposal serves the public convenience and necessity of the pipeline applicants, their customers, and the ultimate consumers of the proposed gas supply.

The delegation orders appear to contemplate that ERA would act on an import application prior to the commencement of any formal proceedings before the Commission. However, no specific procedures have been developed between the ERA staff and the FERC staff to process expeditiously matters within the scope of the delegation orders. In the matter before us, the Applicant filed simultaneously applications before ERA and the Commission almost nine months ago. As of the date of this order, neither ERA nor this Commission has taken formal action on the subject applications. The applications before us involve matters which, we now believe, will have to be set for formal hearing at this Commission if ERA approves the related applications presently before it. In order to put the parties to this proceeding, including the Commission staff, on notice that a formal hearing will, in all likelihood, be required on the subject applications if ERA approves the related import authorizations, the Commission hereby announces that it intends to issue an order specifying the issues to be set for hearing and the procedures to be followed, following any ERA approval in this matter. The Commission believes that this order will assist the parties in preparing for future Commission proceedings in the subject dockets and will expedite consideration of these matters by the Commission.

At this time, however, we can not set forth in a definitive fashion all the issues which may be the subject of a formal hearing. That can not be done until the Administrator of ERA issues his order, with any terms and conditions which he may attach. Under Delegation Order No. 0204-26, the Commission has the authority to issue orders granting import and certificate authorizations in a manner necessary or appropriate to implement the determinations made by the Administrator of ERA pursuant to Delegation Order No. 0204-25. The Commission may grant its import authorization only if it adopts the terms and conditions attached by the Administrator in his order granting import authorization. The Commission, however, may deny any application if the Commission determines that the application, as conditioned by the Administrator, is inconsistent with Sections 4, 5, or 7 of the Natural Gas Act or those portions of Section 3 which have delegated to the Commission by Delegation Order No. 0204-26.

The Commission finds: (1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that notice be given of the Commission's present intent to hold a public hearing on the matters involved and the issues presented as hereinbefore described and limited, as well as any other matters and issues which the Commission determines shall be the subject of public hearing in any future order following any approval by the Economic Regulatory Administration of the related application of Northern and Great Lakes presently before it.

(2) Participation in these proceedings by the listed timely intervenors may be in the public interest and permitting the filing of TransCanada's and Columbia LNG Corporation's late petitions to intervene and accepting the late-filed notices of intervention will not delay the proceedings and may be in the public interest.

(3) The public convenience and necessity as well as the expeditious management of these proceedings require the consolidation of Northern's application and Great Lakes' petition to amend.

The Commission orders: (A) The application filed in Docket No. CP78-237 by Northern and the petition to amend filed by Great Lakes in Docket Nos. CP66-110, et al., are hereby consolidated and shall be set for public hearing if ERA approves the related import applications in ERA Docket No. 78-002 NG, *et al.*, and if the Commission at that time believes a hearing is required.

(B) TransCanada, Columbia LNG Corporation, and those persons filing notices of intervention or timely petitions to intervene are permitted to intervene subject to the rules and regulations of the Commission: *Provided, however,* that participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided, further,* that the admission of such interveners shall not be considered as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

(C) Those persons filing untimely petitions to intervene who offered no justification for their late filing are hereby denied leave to intervene.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2774 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Doc. No. CP79-133]

ONG WESTERN, INC.

Application

JANUARY 18, 1979.

Take notice that on December 20, 1978, ONG Western, Inc., 624 South Boston Avenue, Tulsa, Oklahoma (Applicant) filed an application in Docket No. CP78-133 pursuant to Section 7(c) of the Natural Gas Act and Section 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70) for a certificate of public convenience and necessity authorizing Applicant to sell natural gas to Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has agreed to sell to Natural for a term of 8 years such quantities of gas as Applicant may have available,[1] at the price of $2.0001 per Mcf of gas. Such sale is required by Natural to meet its emergency needs pursuant to Section 2.70 of the Commission's General Policy and Interpretations, it is asserted.

Applicant states that it gathers natural gas within the State of Oklahoma and sells such gas to its parent company, Oklahoma Natural Gas Company, and is exempt from the provisions of the Natural Gas Act and the regulations thereunder. Applicant requests that the requested authorization provide that:

(a) The Commission specifically waives its accounting and reporting requirements with respect to Applicant for the term of the authorization, provided Applicant reports the volumes of gas sold and the price paid for the gas.

(b) The facilities, transportation, and sales by suppliers of gas to Applicant, including but not limited to any producers, and all of the existing facilities, transportation of gas, and sales by Applicant with the exception of the proposed sales and the related interconnecting facilities shall remain exempt from Commission jurisdiction and their non-jurisdictional status shall not be affected by the authorization requested.

(c) Applicant is permitted and required to abandon the sales, transportation, and facilities referred to at the end of the eight-year term without further action by Applicant or the Commission, such condition being equally applicable to any suppliers of Applicant for the purpose of making the proposed sale.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2754 Filed 1-25-79; 8:45 am]

[1] Estimated volumes would be 100,500 Mcf per day.

[6450-01-M]

[Doc. No. CP76-409]

PANHANDLE EASTERN PIPE LINE CO. AND TRUNKLINE GAS CO.

Petition To Amend

JANUARY 18, 1979.

Take notice that on December 20, 1978, Panhandle Eastern Pipe Line Company (Panhandle) and Trunkline Gas Company (Trunkline) (Petitioners), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP76-409 a petition to amend the order issued on November 1, 1976, in the instant docket pursuant to Section 7(c) of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) to authorize Petitioner to transport for two years natural gas for Glass Containers Corporation (Glass), all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.[1]

Petitioners state that Glass has a continuing need for gas supplied pursuant to § 2.79 of the Commission's General Policy and Interpretations, and that to meet that need Glass has contracted with John O. Clay and Associates to purchase gas from a well in Caldwell Parish, Louisiana, at a rate of $2.075 per million Btu's. Petitioners request that their previous authorization be extended to allow them to receive, transport and deliver up to 660 Mcf per day on a firm basis and 440 Mcf of gas per day on best-efforts basis. It is stated that Trunkline would receive the gas from the wellhead through existing facilities, deliver it to Panhandle at an existing interconnection between their systems in Tuscola, Illinois, whereupon Panhandle would transport the gas to Citizens Gas and Coke Company for Glass' account at

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1, it was transferred to the Commission.

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an interconnection between their systems in Marion County, Indiana. Glass would pay a monthly charge of $3,485 to Petitioners, to be adjusted up or down at a rate of 17.38 cents per Mcf, depending on the amount of gas transported above or below the firm transportation volumes. It is stated that Panhandle would reimburse Trunkline approximately 82.6 percent of the fees collected from Glass.

The petition indicates that Trunkline would construct a measuring station at the point of receipt in Caldwell Parish and that Glass would reimburse Trunkline for the cost of such facility.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 9, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc 79-2740 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Doc. No. CP75-163]

SOUTHERN NATURAL GAS CO.

Second Amendment to Application for Pipeline Certificate

JANUARY 18, 1979.

Take notice that on November 13, 1978, Southern Natural Gas Company (Applicant), filed in Docket No. CP75-163 a second Amendment to its application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the transportation of natural gas, all as more fully set forth in the amendment to application on file with the Commission and open to public inspection.

Applicant now proposes certain revisions in the facilities originally proposed in the subject docket, which will enable it to receive gas to be purchased or transported by it from South Marsh Island Blocks 268, 269, and 281, offshore Louisiana. Trunkline Gas Company will transport the gas from offshore to a point near Southern's Shadyside Compressor Station, St. Mary Parish, Louisiana. Applicant states that certain reductions in the facilities orginally proposed at the subject docket are necessary because of a decrease in the quantity of gas to be transported by Trunkline for the account of Applicant, such decrease being attributable to the fact that alternate arrangements have been made with respect to gas produced from Blocks 64, 74 and E/2 of 65, Eugene Island Area, offshore Louisiana, which Applicant had previously contemplated would be received and transported through the facilities proposed in this docket.

The revised facilities for which Applicant requests a certificate of public convenience and necessity by the amendment are approximately 0.96 miles of 18-inch pipeline, 1,800 horsepower compression and related facilities. The estimated cost of revised proposed facilities is $2,952,887, which Applicant states will be financed from funds on hand.

Applicant further requests authorization to relocate to Shadyside Compressor Station on a temporary basis 1,080 horsepower of existing compression located at Gwinville Compressor Station in Jefferson Davis County, Mississippi. Applicant states that the proposed temporary relocation is necessary to permit the early commencement of deliveries from South Marsh Island Blocks 268, 269 and 281 in accordance with Commission Opinion Nos. 10 and 10-A, prior to the date on which Applicant anticipates that the proposed permanent compression horsepower will be ready for service. Applicant estimates the cost of the proposed relocation to be $140,814, which cost includes the cost of returning the relocated compression to Gwinville Compressor Station. Applicant states that the proposed temporary relocation will not adversely affect the operation of Applicant's Gwinville Compressor Station.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this Application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion finds that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2776 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Doc. Nos. CP67-337; CP77-18; C177-278; C177-311]

SOUTH TEXAS NATURAL GAS GATHERING CO. AND COASTAL STATES GAS PRODUCING CO.

Informal Conference

JANUARY 18, 1979.

Take notice that an informal conference will be held on February 7, 1979, with respect to certain matters and problems that are the outgrowth of the applications and other related filings that have been submitted by the parties to the above-styled proceedings.

One of the main purposes of this conference is to enable the Commission Staff to make a current assessment and evaluation of the problems underlying these filings. It would be helpful to such an evaluation if the parties are able to state their present position relative to each of the above-styled proceedings at this conference and whether they are of the view that each proceeding is so related to the others that such proceedings should be consolidated for purposes of Commission action.

It further appears that the existence of a substantial imbalance in an exchange arrangement authorized by the Commission in the proceeding entitled *South Texas Natural Gas Company* in Doc. No. CP67-337 has to some degree delayed the expeditious determination of the other proceedings. It would further assist in the evaluation of the applications filed in the above-styled proceedings if South Texas Natural Gas Gathering Company and Trunkline Gas Company would be prepared to discuss at this conference proposals that they would deem acceptable providing for the elimination of this imbalance. The latter two companies would be further expected to indicate why they felt that their proposals were justified or warranted in view of all of the underlying facts and circumstances.

The above-noted conference will be held on February 7, 1979, in Room No. 8402, at the Offices of Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 at 10:00 a.m.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2741 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Doc. No. CP79-132]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC. AND CONSOLIDATED GAS SUPPLY CORP.

Application

JANUARY 17, 1979.

Take notice that on December 20, 1978, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, (Applicants) filed an application in Docket No. CP79-132 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants to add a proposed delivery point, to be paid for by Consolidated and constructed and operated by Tennessee, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants propose for Tennessee to construct and operate, at an initial estimated cost of $92,200 to be borne by Consolidated, connecting and measuring facilities in Mercer County, Pennsylvania, as an additional delivery point to Consolidated in Tennessee's Northern Rate Zone. The proposed delivery point is stated to be capable of maximum daily deliveries of 7,000 Mcf of gas; these volumes would not increase the quantities of gas Tennessee has been previously authorized to deliver to Consolidated. The proposed connection is stated to be required in order to ensure continued service to The Peoples Natural Gas Company's customers.

Applicants further propose to amend their existing service agreement to substitute their previously certificated, jointly-owned storage pool meters at the Ellisburg Storage Pool in Potter County, Pennsylvania, as the primary CD-4 delivery point for sales by Tennessee to Consolidated in lieu of the Ellisburg Sales Delivery Point which is proposed to be retained in place as an emergency delivery point.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2742 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-143]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

JANUARY 18, 1979.

Take notice that on January 2, 1979, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-143 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 21,000 Mcf (14.73 psia) of natural gas per day on a firm basis for Florida Gas Transmission Company (Florida), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport up to 21,000 Mcf of natural gas per day for Florida pursuant to the terms of a gas transportation agreement dated September 11, 1978, between the two companies, which gas Florida has contracted to purchase from Shell Oil Company (Shell), Florida Gas Exploration Company (Florida Exploration), Barber Oil Exploration, Inc. (Barber) and Drillamex, Inc. (Drillamex) from Blocks 149 and 150, South Marsh Island Area (SMI), offshore Louisiana. Applicant indicates that it would receive the gas from Block 132, SMI and would transport and deliver thermally equivalent quantities of gas to Florida (less fuel and line loss make-up) at an existing point of interconnection between Applicant's Southeast Louisiana Gathering System and Florida's facility in St. Helena Parish, Louisiana.

Applicant further indicates that it was granted authorization in Docket No. CP77-453 to construct and operate an extension of its Southeast Louisiana Gathering System from Block 66, SMI to Block 106, SMI, and beyond to Blocks 130 and 132, SMI and Block 331, Vermilion Area, South Addition. Applicant states that the proposed pipeline facilities would be utilized to attach new offshore gas supplies for its system and to provide capacity for transportation services for others from the offshore producing areas that would be reached by the extension.

It is stated that Applicant would charge Florida for the firm transportation service an estimated initial monthly demand charge of $244,230, which demand charge is based on a contract demand quantity of 21,000 Mcf per day reflecting, in part, preliminary estimates of the cost of completing the facilities authorized in Docket No. CP77-453 and, prior to the initial service hereunder, will be adjusted to reflect the actual cost of such facilities. In addition, current estimates of projected daily quantities indicate compression would be required at Block 106, SMI; upon installation of such compression facility the monthly charge would be adjusted to reflect the actual cost of such facility and the remaining primary term of the transportation agreement, it is said.

Applicant states that in the event additional facilities are required to transport gas owned by Applicant and

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others and to maintain capacity for the contract demand quantity for Florida, Florida has the option of (1) terminating the transportation service, (2) reducing the contract demand quantity to a level that will eliminate the need for installation of additional facilities (and the monthly demand charge shall be adjusted to reflect such reduction), or (3) notifying Applicant to install such additional facilities as may be required to maintain capacity for Florida's contract demand quantity. If Florida exercises the latter option then Applicant would, at its option, either install such facilities to be jointly owned by Applicant and Florida, whereupon Florida would reimburse Applicant for Florida's proportionate share of the cost of such facilities and the monthly demand charge would be adjusted to reflect transportation through Florida's proportionate share of such facilities; or Applicant would install such facilities to be solely owned by Applicant, whereupon the monthly demand charge would be adjusted to reflect such additional facilities, it is stated.

Applicant indicates that in order to provide for offshore compressor fuel and line loss make-up, it reserves the right to retain a portion of the quantities of gas received at Block 132, based upon a determination by Applicant that such quantities are warranted by operating conditions. To provide for onshore compressor fuel and line loss make-up, Applicant initially would retain 1.2 percent of the quantities of gas it received at Block 132, SMI, it is said. Applicant asserts that it reserves the right from time to time to change the offshore and onshore percentages for fuel and line loss make-up, based upon a determination by Applicant that such percentage change is warranted by operating conditions.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc 79-2777 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-117]

VIRGINIA ELECTRIC & POWER CO.

Filing

JANUARY 17, 1979.

Take notice that on December 26, 1978, Virginia Electric and Power Company filed proposed supplemental contracts to FERC Rate Schedules No. 84-40 and No. 84-41. The Shenandoah Valley Electric Cooperative has requested a change in delivery voltage from 23 kV to 115 kV at Sherando Delivery Point which resulted in a previous change in delivery point location.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2839 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-130]

VIRGINIA ELECTRIC & POWER CO.

JANUARY 18, 1979.

Take notice that on January 4, 1979, Virginia Electric and Power Company (VEPCO) tendered for filing a revised supplement to the contract between VEPCO and Prince William Electric Cooperative. VEPCO states that the revised contract supplement reflects changes due to a change in transformer capacity from 2.5 MVA to 11.2/14.0 MVA as set forth below:

Delivery Point	Present FERC No.	Proposed FERC No.	Item Corrected
Heflin	83-19	83-43	1, 5 (1), (3), 8, 10, 11,

VEPCO states that the revised contract supplement is intended to supersede the listed FERC Rate Schedule and requests that the revised supplement be allowed to become effective on September 15, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2840 Filed 1-25-79; 8:45 am]

[6450-01-M]

[Doc. No. ER79-129]

WISCONSIN PUBLIC SERVICE CORP.

Notice of Filing

JANUARY 18, 1979.

Taken notice that on January 3, 1979, Wisconsin Public Service Corporation, (WPSC) tendered for filing an amendment to the "Partial Requirements Service Agreement" with Consolidated Water Power Company. WPSC states that this amendment will establish a new interconnection point.

WPSC proposes an effective date of October 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Consolidated Water Power Company, according to WPSC. Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-2778 Filed 1-25-79; 8:45 am]

[6450-01-M]

Office of Environment

STUDY GROUP ON THE GLOBAL EFFECTS OF CARBON DIOXIDE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Study Group on the Global Effects of Carbon Dioxide will meet Saturday, February 10, 1979, at 8:30 a.m. in the Magnolia Room, Hilton Inn, Atlanta Airport, Atlanta, Georgia.

The purpose of the Study Group is to give advice to the Department of Energy in the development of its role in environmental research dealing with the global effects of increasing levels of carbon dioxide from fossil fuel combustion and related matters. The Group's guidance will be based on a thorough review of ongoing and planned national and international research activities in this area.

The tentative agenda is as follows:

1. Call to order.
2. Approval of Minutes of the previous meeting.
3. Report on Progress and Functions of DOE CO_2 Effects Division.
4. Future Role and Function of Study Group: (a) Policy Advice to Assistant Secretary; (b) Advice and Assistance to CO_2 Effects Division; and (c) Scientific Considerations and Evaluations.
5. Discussion of World Climate Conference.
6. Other Business.
7. Public Comment (10 minute rule).

Adjourn approximately 1:00 p.m.

The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee concerning items on the agenda will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements concerning items on the agenda should inform Georgia Hildreth, Director, Advisory Committee Management (202) 252-5187, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

The minutes of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. An Executive Summary of the meeting may be obtained by calling the Advisory Committee Management Office at the above number.

Issued at Washington, D.C. on January 18, 1979.

GEORGIA HILDRETH,
Director,
T3Advisory
Committee Management.

[FR Doc. 79-2699 Filed 1-25-79; 8:45 am]

[6450-01-M]

Office of Hearings and Appeals

CASES FILED WEEK OF DECEMBER 29 THROUGH JANUARY 5, 1979

Notice is hereby given that during the week of December 29, 1978 through January 5, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice (January 26, 1979) or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 29461. January 19, 1979.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of December 29, 1978 through January 5, 1979]

Date	Name and location of applicant	Case No.	Type of Submission
Dec. 29, 1978	Gustafson Oil Company of California, Washington, D.C.	DEE-2106	Price Exception (Section 212.93). IF GRANTED: Gustafson Oil Company of California would receive retroactive exception relief from the provisions of 10 CFR 212.93, which would allow the company to increase its prices of residual fuel oil and diesel fuel during the period October 1973 through June 1976.
Dec. 29, 1978	Mohawk Petroleum Corporation, Inc., Los Angeles, California.	DEE-2105	Exception to the Entitlements Program. IF GRANTED: Mohawk Petroleum Corporation, Inc. would receive an exception from its obligation to purchase entitlements under the provisions of 10 CFR 211.67 to account for its crude oil receipts and runs to stills during its 1979 fiscal year.
Dec. 29, 1978	Schulze Processing Inc., Washington, D.C.	DEA-0274	Appeal of the October 1978 Entitlements Notice. IF GRANTED: The October 1978 Entitlements Notice would be amended with respect to Schulze Processing Inc.'s entitlement purchase obligations.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS —Continued

Date	Name and location of applicant	Case No.	Type of Submission
Jan. 1, 1979	Pasco Petroleum Co., Inc., Kansas City, Missouri.	DSO-040 and DES-0140.	Request for Special Redress and Stay Request. IF GRANTED: The Office of Hearings and Appeals would review the denial by DOE Region IX of the Application to Quash a Subpoena submitted by Pasco Petroleum Co., Inc. A stay of the subpoena would be approved pending a determination of Pasco's Petition for Speical Redress Relief.
Jan. 2, 1979	Kernaghan's Service, Great Falls, Montana.	DEE-2109	Price Exception (Normal business practices—credit terms). IF GRANTED: Kernaghan's Service would be permitted to charge interest to his agricultural customers who purchase gasoline on long-term credit in an amount which covers the increased cost to the firm since the base period.
Jan. 2, 1979	Glenn Martin Heller, Boston, Massachusetts.	DRT-0167	Temporary Stay. IF GRANTED: Glenn Martin Heller would be granted a temporary stay of the Interim Remedial Order for Immediate Compliance issued to it on December 22, 1978 by DOE Region I.
Jan. 2, 1979	Dorothy Roberts, Las Vegas, Nevada	DFA-0275	Appeal of the Information Request Denials on Nov. 29, 1978 and Dec. 18, 1978. IF GRANTED: The DOE's November 29, 1978 and December 18, 1978. Information requests denials would be rescinded and Dorothy Roberts would receive access to documents relating to litigation.
Jan. 3, 1979	Charter Oil Company, Jacksonville, Florida.	DXE-2106	Exception to the Entitlements Program. IF GRANTED: Charter Oil Company would receive an exception to the provisions of 10 CFR 211.67 regarding its entitlement purchase obligations beyond February 28, 1979.
Jan. 4, 1979	Dome Petroleum Corporation, Washington, D.C.	DES-0141 and DST-0141.	Request for Stay and Request for Temporary Stay. IF GRANTED: Dome Petroleum Corporation would receive a stay of the provisions of a Decision and Order issued by the Economic Regulatory Administration of December 28, 1978, pending a final determination of an Exception Application and an Appeal of the Order which the firm intends to file.
Jan. 3, 1979	Energy Reserves Group, Wichita, Kansas	DEE-2107	Price Exception (Section 212.73). IF GRANTED: Energy Reserves Group would be permitted to sell the crude oil produced from North Bayou Coedris Field located in Concordia Parish, Louisiana, at upper tier ceiling prices.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Dec. 29, 1978	San Joaquin Refining Co., Newport Beach, California	DXE-1977
Dec. 29, 1978	Burk Royalty Company, Washington, D.C	DEE-1010
Jan. 2, 1979	Consumer Power Company, Washington, D.C	DEE-0078

Proposed remedial orders, notices of objection received

Jan. 2, 1979	Glenn Martin Heller, Boston, Massachusetts	DRO-0167
Jan. 2, 1979	Thomas P. Reidy, Inc., Washington, D.C	DRO-0168
Jan. 3, 1979	Jack Halbert, Dallas, Texas	DRO-0169

[FR Doc. 79-2779 Filed 1-25-79; 8:45 am]

[6450-01-M]

CASES FILED WEEK OF JANUARY 5 THROUGH JANUARY 12, 1979

Notice is hereby given that during the week of January 5, 1979 through January 12, 1979 the appeals and application for exception or other relief in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice (January 26, 1979) or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 29461. January 19, 1979.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

(Week of January 5, 1979 through 12, 1979)

Date	Name and location of applicant	Case No.	Type of submission
Jan. 5, 1979	Little America Refining Company, Washington, D.C.	DXE-2110	Exception to the Entitlements Program. IF GRANTED: Little America Refining Company would receive an exception to the provisions of 10 CFR 211.67 regarding its entitlements purchase obligations.
Jan. 5, 1979	Tenneco Oil Company, Washington, D.C	DRD-0068	Motion for Discovery. IF GRANTED: Discovery would be granted Tenneco Oil Company with respect to the objections submitted in response to the Proposed Remedial Order (Case No. DRO-0069) issued on July 26, 1978.
Jan. 8, 1979	Bassett Oil and Equipment Co., Alexandria, Virginia.	DRA-0277	Appeal of Remedial Order. IF GRANTED: The September 19, 1978 Remedial Order issued to Bassett Oil and Equipment Company by the DOE Region III would be rescinded.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

Date	Name and location of applicant	Case No.	Type of submission
Jan. 8, 1979	Continental Oil Company, Washington, D.C.	DEE-2085 and DST-2085.	Price Exception (211.10) and Stay Request. IF GRANTED: Continental Oil Co. would be granted an exception to the provisions of 10 CFR 211.10 in regard to the allocation fraction of kerosene jet fuel customers. A stay would be granted to the firm pending a final determination on the Application for Exception.
Jan. 8, 1979	Geronimo Oil Company, Houston, Texas	DEE-2111	Price Exception, (§ 212.73). IF GRANTED: Geronimo Oil Company would be permitted to sell the crude oil produced from the Northwest quarter of Section 72, located in San Patricio County, Texas, at upper tier ceiling prices.
Jan. 8, 1979	Glenn Martin Heller, Boston, Massachusetts.	DRS-0167	Request for Stay. IF GRANTED: Glenn Martin Heller would receive a stay of the provisions of an Interim Remedial Order for Immediate Compliance issued to the firm on December 22, 1978, by DOE Region I.
Jan. 8, 1979	Kirkwood Oil and Gas, Washington, D.C	DRA-0276	Appeal of a Revised Remedial Order. IF GRANTED: The DOE would review the revised Remedial Order and rescind the portion concerning the Rudnik No. 32-27 lease classified as a stripper well lease.
Jan. 8, 1979	Theodore I. Leben, Wichita, Kansas	DEE-2112	Price Exception (Section 212.73). IF GRANTED: Theodore I. Leben would be permitted to sell the crude oil produced from the NE of Sec. 1-T19S-R25W, located in Ness County, Kansas, at Exempt prices.
Jan. 8, 1979	Northland Oil & Refining Co., Tulsa, Oklahoma.	DES-0142	Request for Stay. IF GRANTED: Northland Oil & Refining Company would receive a stay of the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations for January, 1979.
Jan. 9, 1979	Ashland Oil, Inc., Washington, D.C	DSG-0041 and DES-0144.	Petition for Special Redress and Stay Request. IF GRANTED: The Special Counsel would be disqualified from reviewing the July 24, 1978 denial of Ashland Oil, Inc.'s Application to Quash or modify a subpoena and the Administrator of the Economic Regulatory Administration would be designated as the appropriate official to hear Ashland's Application for Review. Compliance with the subpoena would be stayed pending a determination of the firm's Petition for Special Redress.
Jan. 9, 1979	Natural Resources Defense Council, Inc., Washington, D.C.	DFA-0278	Appeal of an Information Request Denial. IF GRANTED: The DOE's December 14, 1978, Information Request Denial would be rescinded and Natural Resources Defense Council, Inc. would receive access to the document of the interview with Dr. Zalman M. Shapiro.
Jan. 9, 1979	Schulze Processing, Inc., Washington, D.C.	DES-0143	Request for Stay. IF GRANTED: Schulze Processing, Inc. would receive a stay of the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations pending a final determination on its Appeal which the firm has filed.
Jan. 9, 1979	Tesoro Petroleum Corporation, Washington, D.C..	DSG-0042 and DES-0145.	Petition for Special Redress and Stay Request. IF GRANTED: The Special Counsel would be disqualified from reviewing the July 24, 1978 denial of Tesoro Petroleum Corporation's Application to Quash or Modify a subpoena and the Administrator of the Economic Regulatory Administration would be designated as the appropriate official to review the Tesoro application. Compliance with the subpoena would be stayed pending a final determination on its Petition for Special Redress.
Jan. 10, 1979	Coastal States Gas Corporation, Houston, Texas.	DFA-0279	Appeal of an Information Request denial. IF GRANTED: The DOE's December 7, 1978 Information Request Denial would be rescinded and Coastal States Gas Corporation would receive access to documents relating to various FEA regulatory matters.
Jan. 10, 1979	Dome Petroleum Corporation, Washington, D.C.	DEA-0280	Appeal of the Economic Regulatory Administration Decision and Order. IF GRANTED: The Economic Regulatory Administration Decision and Order of December 28, 1978, assigning SNG Feedstocks to Consumers Power Company would be amended.
Jan. 10, 1979	Pester Refining Company, Des Moines, Iowa.	DEA-0282	Appeal of a Validation Order. IF GRANTED: The November 22, 1978 Validation Order issued to Pester Refining Company by DOE Region VIII regarding the continued delivery of fuel to Diamond Gas and Fuel Company would be rescinded.
Jan. 10, 1979	Standard Oil Company of Indiana, Chicago, Illinois.	DES-0146	Request for Stay. IF GRANTED: Standard Oil Company of Indiana would receive a stay of the provisions of a Decision and Order issued by the Economic Regulatory Administration on December 28, 1978 pending a final determination of an Appeal of the Order which the firm intends to file.
Jan. 11, 1979	Petroleum International Associates, Inc., Washington, D.C.	DRD-0212	Motion for Discovery. IF GRANTED: Discovery would be granted the Petroleum International Associates, Inc. with respect to the Appeal of a Remedial Order which the firm has filed.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Jan. 9, 1979	Southwestern Refining Co., Inc., Bountiful, Utah	DEE-0463
Jan. 9, 1979	Texaco, Inc., Los Angeles, California	DEE-1777
Jan. 10, 1979	Henry Petroleum Corp., Midland, Texas	DEE-1400
Jan. 10, 1979	Rickelson Oil and Gas Company, Tulsa, Oklahoma	DEE-0363

Proposed Remedial Orders, Notices of Objection Received

Date	Name and location of applicant	Case No.
Jan. 10, 1979	E-Z Serve, Inc., Abilene, Texas	DRO-0170
Jan. 10, 1979	Great Plains Corporation, Wichita, Kansas	DRO-0171

[FR Doc. 79-2780 Filed 1-25-79; 8:45 am]

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1046-1]

RESOURCE CONSERVATION COMMITTEE

Open Meeting

The Resource Conservation Committee is the cabinet level interagency committee established by Section 8002(j) of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580). The Committee is responsible for studying and making recommendations to the President and the Congress on a broad range of resource conservation policies. The Committee is charied by the Administrator of the Environmental Protection Agency and includes the Secretaries of Commerce, Labor, Interior, Treasury, and Energy; the Chairman of the Council on Environmental Quality and the Council of Economic Advisers; and the Director of the Office of Management and Budget.

The Committee will neet on January 31, 1979 to endorse findings and decide on recommendations concerning the following resource conservation initiatives:

a. Product Regulation.
b. Virgin Materials Extraction Taxes.
c. Subsidies for Resource Recovery.
d. National Solid Waste Disposal Charge.
e. Local User Fees for Solid Waste Management.
f. National Litter Tax.
g. Beverage Container Deposits.
h. Deposits and Bounties on Durable and Hazardous Goods.
i. Federal Tax Policy Affecting Resource Conservation.
j. Railroad Freight Rates for Secondary Materials.

A report of the Committee's findings and recommendations on these initiatives will be sent to the President and Congress in March 1979.

This meeting of the Committee will be held in Room 2010, New Executive Office Building, 17th Street, N.W., between Pennsylvania Avenue and H Street, Washington, D.C. beginning at 10:00 a.m. The public is invited to observe the procedures.

Dated: January 24, 1979.

BARBARA BLUM,
Deputy Administrator,
Environmental Protection Agency.

[FR Doc. 79-2650 Filed 1-26-79; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

AMERICAN PIONEER LIFE INSURANCE CO.

Acquisition of Bank

American Pioneer Life Insurance Company, Truman, Arkansas has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to retain an additional 13.3 per cent of the voting shares of First National Bank of Poinsett County, Truman, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 19, 1979. Any comment on an applications that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of act that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 18, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[FR Doc. 79-2726 Filed 1-25-79; 8:45 am]

[6210-01-M]

BANK HOLDING CO.

Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than February 21, 1979.

A. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

1. CITICORP, New York, New York (commerical lending and leasing activities; California, Arizona, Nevada): To engage, through its subsidiary, Citicorp (USA), Inc., in commercial lending for its own account (with the intention that Citibank, N.A., Citibank (New York State), N.A., and other commercial banks may participate in the loans); and leasing personal property or acting as agent, or broker advisor in leasing such property subject to the conditions of the Board's Regulation Y. These activities would be conducted from an office in Los Angeles, California, and the geographic areas to be served are Santa Barbara, Ventura, Kings, San Bernadino, Los Angeles, Orange, Riverside, Imperial, and San Diego Counties, California; Maricopa and Pima Counties, Arizona; and Clark County, Nevada.

2. CITICORP, New York, New York (financing and insurance activities; Oregon): To engage, through its subsidiary, Person-to-Person Financial Center, Inc., in making loans to individuals (for personal, family or household uses) and businesses to finance the purchase og mobile homes, modular units, or related manufactured housing, together with real property to which such housing will be permanently affixed; and the sale of life (singly or jointly with co-signers), accident and health (or to make contractual monthly payments of the credit transaction in the event of the obligor's disability), and property and casualty insurance (including liability coverage where such is the general practice), directly related to its extensions of credit. These activities would be conducted from an office in Portland, Oregon, and the geographic area to be served is Oregon.

B. *Federal Reserve Bank of Richmond*, 100 North Ninth Street, Richmond, Virginia 23261:

NCNB CORPORATION, Charlotte, North Carolina (financing and insurance activities; Alabama, Georgia): To engage, through its subsidiary, TransSouth Financial Corporation, in operating a finance company, including the extension of direct loans for consumer and other purposes, the discount of retail and installment notes or contracts, the purchase of recreational lot notes, the extension of direct loans to dealers for the financing of inventory (floor planning) and working capital purposes, and the purchase of personal property lease contracts; and acting as agent for the sale of life, accident and health, and physical damage insurance directly related to its extensions of credit. These activities would be conducted from offices in Alexander City, Auburn, Enterprise, Eufala, Greenville, Prattville, Talladega, and Troy, Alabama, and the geographic areas to be served are the counties in which those offices are located, portions of certain contiguous counties in Alabama, and the western section of Quitman County, Georgia.

C. *Federal Reserve Bank of Chicago*, 230 South LaSalle Street, Chicago, Illinois 60690:

ST. JOSEPH BANK AND TRUST COMPANY, and ST. JOSEPH AGENCY, INC., South Bend, Indiana (mortgage banking activities; Illinois): Through its subsidiary, St. Joseph Mortgage Co., Inc., to originate, acquire, sell, and service residential, commercial, and industrial mortgage loans. These activities would be conducted from an office in Olympia Fields, Illinois, and the geographic area to be served is within a 15-mile radius of that office.

D. *Federal Reserve Bank of Dallas*, 400 South Akard Street, Dallas, Texas 75222:

FIRST UNITED BANCORPORATION, INC., Fort Worth, Texas (financing activities; Texas): To make or acquire loans or extensions of credit, including issuing letters of credit and accepting drafts; loans such as would be made by a mortgage, finance, credit card, or factoring company; consumer credit loans; accounts receivable of a bank in connection with credit card purchases; loans secured by liens on improved real estate; construction loans; short-term commercial loans; loans to finance the acquisition or carrying of accounts receivable or inventory; retail installment paper originated by dealers or other sellers of goods or services purchased by a bank; certificates of deposit issued by a bank; mortgage warehousing loans; equipment financing loans; income-producing mineral interest loans; and repurchase agreements with financial institutions involving money-market or other investments in short-term securities either on a direct investment or repurchase basis. These activities would be conducted from an office in Ft. Worth, Texas, and the geographic area to be served is Tarrant County, Texas.

E. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, January 22, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-2712 Filed 1-25-79; 8:45 am]

[6210-01-M]

CITIZENS BANKERS, INC.

Formation of Bank Holding Co.

Citizen Bankers, Inc., Baytown, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Citizens Bank and Trust Company of Baytown, Texas, Baytown, Texas and 100 percent of the voting shares (less directors' qualifying shares) of Baytown State Bank, Baytown, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 19, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 18, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-2729 Filed 1-25-79; 8:45 am]

[6210-01-M]

DIVERSIFIED FINANCIAL SERVICES, INC.

Formation of Bank Holding Co.

Diversified Financial Services, Inc., Otis, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 92.1 per-cent or more of the voting shares of Otis State Bank, Otis, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 12, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 18, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-2730 Filed 1-25-79; 8:45 am]

[6210-01-M]

FIRST NORTHERN BANCORPORATION

Acquisition of Bank

First Northern Bancorporation, Anchorage, Alaska, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less director's qualifying shares) of Alaska Pacific Bank, Anchorage, Alaska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 14, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu

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of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-2710 Filed 1-25-79; 8:45 am]

[6210-01-M]

FIRST PENNSYLVANIA CORP.

Proposed Acquisition of First Pennsylvania Corporation

First Pennsylvania Corporation, Philadelphia, Pennsylvania, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b) of the Board's Regulation Y (12 CFR 225.4(b), for permission to retain ownership of the shares of Vestaur Corporation, Philadelphia, Pennsylvania.

Applicant states that it will serve, through its subsidiary, as an investment adviser (1) as defined in section 2(a)(20) of the Investment Company Act of 1940, to an investment company registered under that act; and (2) to the extent of providing portfolio investment advice to any other person, and furnishing general economic information and advice, general economic statistical forecasting services, and industry studies. These activities would continue to be performed from offices of Applicant's subsidiary in Philadelphia, Pennsylvania, and San Francisco, California, and the geographic areas to be served are national (advisement-registered investment company) and principally California, Pennsylvania, New Jersey, Connecticut, Maryland, Delaware, Virginia, and North Carolina (other specified activities). Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4 (b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggreived by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 22, 1979.

Board of Governors of the Federal Reserve System, January 22, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-2713 Filed 1-25-79; 8:45 am]

[6210-01-M]

LINDALE BANCSHARES, INC.

Formation of Bank Holding Co.

Lindale Bancshares, Inc., Lindale, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 to 100 per cent of the voting shares of Lindale State Bank, Lindale, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 19, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 19, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-2709 Filed 1-25-79; 8:45 am]

[6210-01-M]

BANK HOLDING COMPANIES

Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than February 20, 1979.

A. *Federal Reserve Bank of Richmond*, 100 North Ninth Street, Richmond, Virginia 23261:

MARYLAND NATIONAL CORPORATION, Baltimore, Maryland (commercial lending activities; Midwestern United States): to engage, through its subsidiary, Maryland National Industrial Finance Corporation, in commercial lending operations, including financing of accounts receivable, inventories, and other loans to commerical enterprises, servicing commercial loans, and acting as adviser or broker in commercial lending transactions. These activities would be conducted from an office in Oakbrook, Illinois, and the geographic area to be served is the mid-western United States, principally Illinois, Indiana, Ohio, Michigan, Wisconsin, Minnesota, Iowa, Missouri, and Kentucky.

B. *Federal Reserve Bank of Chicago*, 230 South LaSalle Street, Chicago, Illinois 60690:

1ST STATE CORPORATION, Chicago, Illinois (leasing and lending activities; Illinois): to engage in making and acquiring commercial loans and other commercial extensions of credit such as would be made by a commercial bank; and leasing automobiles on a full payout basis as prescribed by the Board's Regulation Y. These activities would be conducted from an office at 4646 North Cumberland Avenue, Chicago, Illinois, and the geographic area to be served is the Chicago metropolitan area.

C. *Federal Reserve Bank of San Francisco*, 400 Sansome Street, San Francisco, California 94120:

OLD NATIONAL BANCORPORATION, Spokane, Washington (finance and insurance activities; California): to engage, through its subsidiaries, Old National Financial Services, Inc., and Union Securities Co., in making or acquiring loans and other extensions of credit, including making consumer installment loans, purchasing consumer installment sales finance contracts, and making loans to small businesses; and acting as agent or broker for the sale of life, accident and health, and property and casualty insurance directly related to its extensions of credit. These activities would be conducted from an office in Monterey, California, and the geographic area to be served is Monterey County, California.

Board of Governors of the Federal Reserve System, January 19, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-2727 Filed 1-25-79; 8:45 am]

[6210-01-M]

MINATARE STATE CO.

Formation of Bank Holding Co.

Minatare State Company, Minatare, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent (less directors' qualifying shares) of the voting shares of The Minatare State Bank, Minatare, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 16, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 22, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-2711 Filed 1-25-79; 8:45 am]

[6210-01-M]

BANK HOLDING COMPANIES

Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than February 15, 1979.

A. *Federal Reserve Bank of Boston*, 30 Pearl Street, Boston, Massachusetts 02106:

OLD STONE CORPORATION, Providence, Rhode Island (financing, Morris Plan banking, and insurance activities; Massachusetts, Rhode Island): to engage, through its subsidiary, Old Stone Banking Company of Bristol County, in making mortgage loans, consumer installment loans, and consumer demand loans; accepting savings deposits as authorized for Morris Plan Banking Corporations; and making available credit life insurance directly related to its extensions of credit, under a group policy. These activities would be conducted from an office in Seekonk, Massachusetts, and the geographic areas to be served are Seekonk and the westerly portion of Bristol County, Massachusetts, and East Providence, Rhode Island.

B. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

CITICORP, New York, New York (financing and insurance activities; California): to engage, through its subsidiary, Citicrop Person-to-Person Financial Center, Inc., in making consumer installment personal loans; purchasing and servicing consumer installment sales finance contracts; making loans, such as 1-4 family unit mortgage loans, for the account of others; making loans to individuals and businesses secured by real and personal property, the proceeds of which may be for the other than personal, family, or household purposes; and selling life, accident and health, decreasing or level (for single payment loans) term life, and property and casualty insurance (including home and automobile liability coverage where such is the general practice) directly related to its extensions of credit. These activities would be conducted from offices in City of Industry and Sherman Oaks, California, and the geographic area to be served is the Los Angeles metropolitan area.

C. *Federal Reserve Bank of Richmond*, 100 North Ninth Street, Richmond, Virginia 23261:

UNION TRUST BANCORP, Baltimore, Maryland (consumer finance and insurance activities; Maryland): to engage, through its subsidiary, Union Home Loan Corporation, in making secondary mortgage loans secured in whole or part by mortgage, deed of trust, security agreement, or other lien on real estate; and acting as agent for the sale of credit life, accident and health insurance directly related to its extensions of credit. These activities would be conducted from an office in Salisbury, Maryland, and the geographic area to be served is Wicomico County, Maryland.

D. *Federal Reserve Bank of Chicago*, 230 South LaSalle Street, Chicago, Illinois 60690:

FINANCIAL SERVICES CORPORATION OF THE MIDWEST, Rock Island, Illinois (consumer finance and insurance activities, Illinois): to engage, through its subsidiary, The Money Shops, Inc., in making consumer installment personal loans, purchasing consumer installment sales finance contracts, and acting as agent for the sale of credit life, accident and health, and casualty insurance directly related to extensions of credit by Applicant's subsidiary. These activities would be conducted from an office in Morton, Illinois, and the geographic area to be served is within a radius of 25 miles from the central business district of that town.

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E. *Federal Reserve Bank of St. Louis*, 411 Locust Street, St. Louis, Missouri 63166:

MERCANTILE BANCORPORATION, INC., St. Louis, Missouri (consumer finance and insurance activities; Washington): to engage, through its subsidiary, Franklin Finance Company, in making, acquiring, and servicing loans and other extensions of credit for personal, family, or household purposes, such as are made by a finance company; and acting as agent or broker for the sale of life, accident and health, and property damage insurance directly related to its extensions of credit. These activities would be conducted from an office at 19940 Ballinger Way, N.E., Seattle, Washington 98155, and the geographic areaa to be served is within a two-mile radius of that office.

F. *Federal Reserve Bank of Kansas City*, 925 Grand Avenue, Kansas City, Missouri 64198:

MISSOURI COUNTRY BANCSHARES, INC., Liberal, Missouri (insurance activities; Missouri): to act as agent or broker for the sale of property and casualty, life, and accident and health insurance directly related to extensions of credit by its subsidiary, Citizens Bank of Liberal, and in the sale of any insurance for that subsidiary. These activities would be conducted at the subsidiary bank's premises in Liberal, Missouri, and the geographic area to be served is Barton County, Missouri.

G. *Federal Reserve Bank of Dallas*, 400 South Akard Street, Dallas, Texas 75222:

FIRST SECURITY NATIONAL CORPORATION, Beaumont, Texas (data processing activities; Texas): to provide financially related data processing services primarily for financial institutions and to provide bookkeeping or other data processing services for the internal operations of Applicant and its subsidiaries. These activities would be conducted from an office in Bryan, Texas, and the geographic area to be served is within a 50-mile radius of that town.

H. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, January 17, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-2728 Filed 1-25-79; 8:45 am]

[6210-01-M]

PRESQUE ISLE BANCORPORATION, INC.

Formation of Bank Holding Co.

Presque Isle Bancorporation, Inc., Rogers City, Michigan, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Presque Isle Bank, Rogers City, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 19, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 19, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-2731 Filed 1-25-79; 8:45 am]

[4110-87-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

RADIO FREQUENCY AND MICROWAVE TERATOLOGY INVESTIGATIONS

Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health of the Center for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Date: February 5, 1979.
Time: 9:00 a.m. to 4:30 p.m.
Place: Room 115, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.
Purpose: To discuss the details of research protocols concerning the reproductive hazards of radio frequency and microwave radiation in experimental animal investigations.
Additional information may be obtained from: Dr. David L. Conover, Division of Biomedical and Behavioral Science, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: 513/684-8483.

Dated: January 16, 1979.

WILLIAM H. FOEGE,
Director,
Center for Disease Control.

[FR Doc. 79-2808 Filed 1-25-79; 8:45 am]

[4110-03-M]

Food and Drug Administration

[Docket No. 75N-0213; DESI 11556]

SULFINPYRAZONE

Drugs for Human Use; Drug Efficacy Study Implementation; Announcement

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces the results of the efficacy review of sulfinpyrazone and the conditions for marketing the drug for the indications for which it is classified as effective. The drug is effective for the treatment of intermittent and chronic gouty arthritis.

DATE: Supplements to approved NDA due on or before March 27, 1979.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 11556, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Oncology and Radiopharmaceutical Drug Products (HFD-150), Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Submissions of protocols and requests for information on conducting bioavailability tests: Division of Biopharmaceutics (HFD-520), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice Drug Efficacy Study Implementation Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Carol A. Kimbrough, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of July 9, 1966 (31 FR 9426), each holder of a new drug application that became effective prior to October 10, 1962, was requested to submit to the Food and Drug Administration (FDA) reports containing the best data available in support of the effectiveness of each such product for its claimed indications. That information was necessary to facilitate a determination by FDA, with the asistance of the National Academy of Sciences-National Research Council (NAS-NRC), whether each claim in the labeling is supported by substantial evidence of effectiveness as required by the Drug Amendments of 1962, Ciba-Geigy, the sponsor of the following drug product, did not submit such information and therefore the following drug product was not reviewed by NAS-NRC:

NDA 11-556; Anturane Tablets and Capsules, each containing sulfinpyrazone; Ciba-Geigy Corp., 556 Morris Ave., Summit, NJ 07901.

Another notice published in the FEDERAL REGISTER of November 19, 1975 (40 FR 53609), re-invited Ciba-Geigy, among other firms, to submit data on or before January 19, 1976. No new submission of data was made. FDA has reviewed, and found sufficient to establish effectiveness, the clinical studies in NDA 11-556 which pertain to the indications: for treatment of chronic gouty arthritis and, for intermittent gouty arthritis. Therefore, Anturane is classified effective for those indications, and may be marketed in accordance with the conditions set forth below.

Such a drug is regarded as a new drug (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such a drug. An approved new drug application is a requirement for marketing such a drug product.

As stated in the FEDERAL REGISTER of August 23, 1977 (42 FR 42311), the provision of 21 CFR 320.22(c) waiving bioavailability data for certain drugs does not necessarily apply to drug products first announced as effective in DESI notices published after January 7, 1977. As this is the first notice announcing that sulfinpyrazone is effective, the product has also been reviewed for actual or potential bioequivalence problems. It has been determined that sulfinpyrazone in tablet or capsule form suitable for oral administration should be added to the list of drugs for which bioavailability data are not waived.

In addition to the product specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to the product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug product containing sulfinpyrazone is effective for the indications set forth in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Sulfinpyrazone is in tablet or capsule form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

For chronic gouty arthritis.

For intermittent gouty arthritis.

3. *Marketing status.* a. Marketing of such a drug product that is the subject of a new drug application approved prior to October 10, 1962, may be continued provided that, on or before (insert date 60 days after date of publication in the FEDERAL REGISTER), the holder of the application has submitted, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)). Holders of such an application are required to submit in vivo bioavailability data if any of the conditions of 21 CFR 320.21(b) apply.

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)), must be obtained prior to marketing such a product. In addition, any applicant for approval of an abbreviated new drug application for sulfinpyrazone must provide information from (1) an in vitro dissolution test comparing the test product to the reference product, Anturane, and (2) an in vivo study employing a three period cross-over design comparing Anturane tablets, sulfinpyrazone solution and the test product. It is recommended that prior to the initiation of such studies, a protocol be submitted to the Division of Biopharmaceutics (HFD-520), (address given above). Marketing prior to approval of a new drug application will subject such a product, and those persons who caused the product to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: January 12, 1979.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 79-2563 Filed 1-25-79; 8:45 am]

[4110-08-M]

National Institutes of Health

REPORT ON BIOASSAY OF 5-CHLORO-O-TOLUIDINE FOR POSSIBLE CARCINOGENICITY

Availability

5-Chloro-o-toluidine (CAS 95-79-4) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for the possible carcinogenicity of 5-chloro-o-toluidine was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an intermediate in the manufacture of dyes. 5-Chloro-o-toluidine was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, 5-chloro-o-toluidine was carcinogenic to B6C3F1 mice, inducing hemangiosarcomas and hepatocellular carcinomas in both males and females. There was no conclusive evidence of the carcinogenicity of the compound in Fischer 344 rats.

Single copies of the report, Bioassay of 5-Chloro-o-toluidine for Possible Carcinogenicity (T.R. 187), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

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Dated: December 21, 1978.

THOMAS E. MALONE,
Acting Director,
National Institutes of Health.

[FR Doc. 79-2573 Filed 1-25-79; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF 2,5-DITHIOBIUREA FOR POSSIBLE CARCINOGENICITY

Availability

2,5-Dithiobiurea (CAS 142-46-1) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 2,5-dithiobiurea for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as a component of photographic chemicals. 2,5-Dithiobiurea was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species, with the exception of high dose male rats, of which there were only 49.

Under the conditions of this bioassay, the evidence suggested, but was insufficient to establish the carcinogenicity of 2,5-dithiobiurea for female B6C3F1 mice. The compound was not carcinogenic to male B6C3F1 mice or to male or female Fischer 344 rats.

Single copies of the report, Bioassay of 2,5-Dithiobiurea for Possible Carcinogenicity (T.R. 132), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dates: December 29, 1978.

LEON M. SCHWARTZ,
Acting Director,
National Institute of Health.

[FR Doc. 79-2671 Filed 1-25-79; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF P-QUINONE DIOXIME FOR POSSIBLE CARCINOGENICITY

Availability

p-Quinone dioxime (CAS 150-11-3) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for the possible carcinogenicity of p-quinone dioxime was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as a rubber vulcanization accelerator. p-Quinone dioxime was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, dietary administration of p-quinone dioxime was carcinogenic to female Fischer 344 rats, causing neoplasms of the urinary bladder. The compound was not carcinogenic to male Fischer 344 rats or B6C3F1 mice of either sex.

Single copies of the report, Bioassay of p-Quinone Dioxime for Possible Carcinogenicity (T.R. 179), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: December 21, 1978.

THOMAS E. MALONE,
Acting Director,
National Institutes of Health.

[FR Doc. 79-2672 Filed 1-25-79; 8:45 am]

[4110-02-M]

Office of Education

FOLLOW THROUGH PROGRAM

Notice of Closing Date for Receipt of Applications for Fiscal Year 1979

Applications in the following two categories are invited for noncompeting continuation awards under the Follow Through Program: (1) grants for carrying out local Follow Through projects; and (2) grants or assistance contracts for demonstration (Sponsors).

Authority for these categories is contained in sections 551-557 of the Economic Opportunity Act of 1964, as amended by Public Law 95-568. (42 U.S.C. 2929 et. seq.)

The local project grants are generally awarded to local educational agencies and the sponsor awards are generally made to institutions of higher education or regional educational laboratories.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by March 19, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.433A for Follow Through local projects and 13.433B for Demonstration (Sponsor) awards, Washington, D.C. 20202.

Applicants are encouraged to use registered or at least first class mail.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Street, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered application between 8:00 a.m. and 4:00 p.m. (Washington, D.C., time) daily except Saturdays, Sundays, and Federal holidays.

PROGRAM INFORMATION: In formulating proposals for local project grants, applicants should give special attention to § 158.15 of the *Follow Through Regulations* which provides an explanation of the procedure to be used in evaluating such proposals. In formulating proposals for sponsor awards, applicants should give special attention to § 158.52 of the *Follow Through Regulations* which provides an explanation of the procedure to be used in evaluating such proposals.

AVAILABLE FUNDS: It is estimated that FY 1979 funds will support the existing 141 local project grants and the existing 19 sponsors. In FY 1978 the local project grants ranged from approximately $65,000 to $1,800,000 and the sponsor awards ranged from approximately $65,000 to $700,000.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

APPLICATION FORMS: Application forms and program information packages are expected to be ready for mailing by January 17, 1979. They may be obtained by writing to the Division of Follow Through, U.S. Office of Education (Room 3624, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

SPECIAL PROCEDURES: Every applicant is subject to the State and areawide clearinghouse procedure under OMB Circular A-95.

An applicant should check with the appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A-95 requires the applicant to give the clearinghouse(s) up to 60 days for review, consultation, and comments on the application. The applicant must consider comments from the clearinghouse(s) before submitting the application to the Office of Education.

In its application each applicant must provide an assurance of compliance with clearinghouse review requirements. The assurance consists of:

(a) A State application identifier number obtained from the clearinghouse, and

(b) Clearinghouse comments.

However, an applicant may certify that either or both the State and areawide clearinghouses have been provided an opportunity to review the application and that no comments have been received.

APPLICABLE REGULATIONS: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Follow Through Program (45 CFR 158) published in the FEDERAL REGISTER on June 29, 1977.

FURTHER INFORMATION: For further information contact, Mrs. Rosemary C. Wilson, Director, Division of Follow Through, U.S. Office of Education (Room 3624, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202, telephone (202) 245-2500.

(42 U.S.C. 2929 et. seq.)
(Catalog of Federal Domestic Assistance No. 13.433, Follow Through Program)

Dated: January 23, 1979.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-2970 Filed 1-25-79; 8:45 am]

FOLLOW THROUGH—TECHNICAL ASSISTANCE

Notice of Closing Date for Receipt of Applications for Fiscal Year 1979

Applications are invited for new technical assistance projects under the Follow Through Program.

Authority for this program is contained in sections 551-557 of the Economic Opportunity Act of 1964, as amended by Public Law 95-568. (42 U.S.C. 2929 et. seq.)

The program makes technical assistance awards generally to State educational agencies (SEAs).

The purpose of the awards is to provide funds to SEAs and other appropriate agencies, organizations, or institutions so that they may provide technical assistance to local Follow Through projects and otherwise exercise leadership in regard to Follow Through activities in the State.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: Applications for awards must be mailed (postmarked) or hand delivered by April 2, 1979.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center Attention: 13.433C, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service. (NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.) Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

APPLICATION DELIVERED BY HAND: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

PROGRAM INFORMATION: In formulating proposals for technical assistance awards, potential applicants should give special attention to § 158.42 of the *Follow Through Regulations* which contains specific program funding criteria.

In Fiscal Year 1979 it is anticipated that up to 52 new awards will be made. A current grantee may apply for a new award on the same basis as an applicant not previously funded. Grants are for a one year duration.

AVAILABLE FUNDS: It is estimated that approximately $700,000 will be made available for technical assistance awards in FY 1979. It is anticipated that the grants will range from approximately $6,300 to $50,000. These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

APPLICATION FORMS: Application forms and program information packages are expected to be ready for mailing by January 31, 1979. They may be obtained by writing to the Division of Follow Through, U.S. Office of Education (Room 3624, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

SPECIAL PROCEDURES: Every applicant is subject to the State and areawide clearinghouse procedure under OMB Circular A-95.

An applicant should check with the appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A-95 requires the applicant to give the clearinghouse(s) up to 60 days for review, consultation, and comments on the application. The applicant must consider comments from the clearinghouse(s) before submitting the application to the Office of Education.

In its application each applicant must provide an assurance of compliance with clearinghouse review requirements. The assurance consists of:

(a) A State application identifier number obtained from the clearinghouse, and

(b) Clearinghouse comments.

However, an applicant may certify that either or both the State and areawide clearinghouses have been provided an opportunity to review the application and that no comments have been received.

APPLICABLE REGULATIONS: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Follow Through Program (45 CFR 158) published in the FEDERAL REGISTER on June 29, 1977.

FOR FURTHER INFORMATION: For further information contact Mrs. Rosemary C. Wilson, Director, Division of Follow Through, U.S. Office of Education, (Room 3624, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202, telephone (202) 245-2500.

(42 U.S.C. 2929 et seq.)

(Catalog of Federal Domestic Assistance No. 13.433, Follow Through Program)

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 79-2971 Filed 1-25-79; 8:45 am]

[4110-83-M]

PUBLIC HEALTH SERVICE

Health Resources Administration

PUBLIC HEALTH SPECIAL PROJECTS

Application Announcement for Grants

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal

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year 1979 grants for Public Health Special Projects are now being accepted under the authority of section 792 of the Public Health Service Act.

Section 792 authorizes grants to assist accredited schools of public health and other public or nonprofit private institutions to develop new graduate programs or expanded existing ones in biostatistics or epidemiology; health administration, health planning or health policy analysis and planning; environmental or occupational health; or dietetics and nutrition.

In the award of grants for projects in the area of health administration, health planning or health policy analysis and planning, funding preference will be given to:

(a) Programs preparing the graduate for employment in a wide variety of settings, including public and voluntary agencies, extended care facilities, ambulatory care facilities, and health systems or planning agencies;

(b) Programs expanding content in health planning, policy and regulation, health economics, and quantitative methods or financial management;

(c) Programs providing for field training in (a) and (b) above;

(d) Programs providing short courses for employed health services administrators and planners in special areas involving health policy, planning and regulation, health economics, quantitative methods and financial management; or

(e) Programs to meet manpower needs in health services administration and planning by providing educational opportunities for students residing in States which have a documented shortage of health administrators and planners.

Approximately $425,000 will be available for new, renewal, and supplemental grants in fiscal year 1979.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D-04), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436-7360.

To be considered for fiscal year 1979 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, at the above address no later than *March 1, 1979.*

Should additional programmatic information be required, please contact: Education Development Branch, Division of Associated Health Professions, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 5-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436-6800.

Dated: January 18, 1979.

HENRY A. FOLEY,
Administrator.

[FR Doc. 79-2612 Filed 1-25-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Sale No. 58A]

OUTER CONTINENTAL SHELF OFFSHORE TEXAS, LOUISIANA, MISSISSIPPI AND ALABAMA

Availability of Draft Environmental Statement and Holding of Public Hearing Regarding Proposed Oil and Gas Lease

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement relating to a proposed Outer Continental Shelf (OCS) oil and gas lease sale of 115 tracts consisting of 220,828.37 hectares (545,255.24 acres) of submerged lands on the OCS in the Gulf of Mexico.

Single copies of the draft environmental statement can be obtained from the Office of the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Hale Boggs Federal Building, Suite 841, 500 Camp Street, New Orleans, Louisiana 70130, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the draft environmental statement will also be available for review in the following public libraries: Austin Public Library, 401 West Ninth Street, Austin, Texas; Houston Public Library, 500 McKinney, Houston, Texas; Rosenburg Library, 2310 Sealy, Galveston, Texas; Dallas Public Library, 1954 Commerce Street, Dallas, Texas; Brazoria County Library, 410 Brazoport Boulevard, Freeport, Texas; La Ratama Library, 505 Mesquite Street, Corpus Christi, Texas; Texas Southmost College Library, 80 Fort Brown Street, Brownsville, Texas; New Orleans Public Library, 219 Loyola Avenue, New Orleans, Louisiana; Louisiana State Library, Baton Rouge, Louisiana; Lafayette Public Library, 301 West Congress Street, Lafayette, Louisiana; Calcasieu Parish Library System, Downtown Branch, Lake Charles, Louisiana; Harrison County Library, 21st Avenue and Beach, Gulfport, Mississippi; and Mobile Public Library, 701 Government Street, Mobile, Alabama.

In accordance with 43 CFR 3301.4, a public hearing is scheduled to begin at 9 a.m. on March 6, 1979, in the New Orleans Outer Continental Shelf Office, at the above listed address. The public hearing is held for the purpose of receiving comments and suggestions relating to the proposed sale.

The hearing will provide the Secretary with additional information from both public and private groups to help evaluate fully the potential effects of the proposed offering of 115 tracts. Comments are solicited concerning effects on area marine, aesthetic, recreation, and other resources and on the Gulf of Mexico environment as a whole, as a result of exploration, development, and production phases of the proposed OCS lease sale. The hearing will also provide the Secretary with the opportunity to receive additional comments and views of interested State and local agencies.

Interested individuals, representatives of organizations, and public officials wishing to testify at the public hearing are requested to contact the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, at the above address by 4:15 p.m., February 26. Written comments from those unable to attend the hearing also should be addressed to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management at the above address. The Department will accept written testimony and comments on the draft environmental statement until March 16, 1979. This should allow ample time for those unable to testify at the hearing to make their views known and for the submission of supplemental materials by those presenting oral testimony. Time limitations make it necessary to limit the length of oral presentations to ten (10) minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the Manager, New Orleans Outer Continental Shelf Office, at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, others present will be given an opportunity to be heard.

After all testimony and comments have been received and analyzed, a final environmental statement will be prepared.

ARNOLD E. PETTY,
Acting Associate Director,
Bureau of Land Management.

Approved:

LARRY E. MEIEROTTO,
Deputy Assistant,
Secretary of the Interior.

[FR Doc. 79-2734 Filed 1-25-79; 8:45 am]

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[4310-09-M]

Bureau of Reclamation

AUTHORIZED SALT-GILA AQUEDUCT, CENTRAL ARIZONA PROJECT, ARIZONA-NEW MEXICO

Public Hearings on Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a draft environmental statement for the Salt-Gila Aqueduct, authorized as a part of the Central Arizona Project by Pub. L. 90-537, 82 Stat. 885, 43 U.S.C. 1501 et seq., on September 30, 1968. This statement INT DES 79-1 dated January 4, 1979, filed with the Environmental Protection Agency, is available to the public, as specified in the Notice of Availability.

The draft environmental statement supplements the general information for the Salt-Gila Aqueduct system as covered in the final environmental statement for the overall Central Arizona Project which was filed with the Council on Environmental Quality on September 26, 1972 (FES 72-35). The purpose of the aqueduct is to convey Colorado River water from the terminus of the Granite Reef Aqueduct in south-central Pinal County, Arizona. Construction of the feature is scheduled to begin in mid-1980, with project completion scheduled for 1985.

Public hearings to receive comments on the draft statement will be in Coolidge, Arizona, at 1 p.m. and 7 p.m. on February 21, 1979, at the Coolidge Cultural Center located at 160 West Central Street. Public hearings will also be held in Apache Junction, Arizona, at 1 p.m. and 7 p.m. in the American Legion Hall located at Apache Boulevard on Saguaro Street on February 22, 1979.

The hearings will commence at 1 p.m. Oral statements at the hearing will be limited to a period of 10 minutes. Speakers will not trade their time to obtain a longer oral presentation, however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comment after all persons wishing to make comments have been heard. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request, whenever possible. Any scheduled speaker not present when called will lose his or her privilege in the scheduled order and his name will be recalled at the end of the scheduled speakers. Requests for scheduled presentations will be accepted up to 4 p.m. February 20, 1979, and any subsequent requests will be handled on a first-come-first-served basis following the scheduled presentations.

Organizations or individuals desiring to present their statements at the hearing should contact the Office of the Project Manager, Bureau of Reclamation, Suite 2200, Valley Center, 201 North Central Avenue, Phoenix, Arizona 85003, telephone Number 602-261-3106, and announce their intention to participate. Written comments for the hearing record from those unable to attend and from those wishing to supplement their oral presentation should be sent to the Regional Director, Bureau of Reclamation, Lower Colorado Region, P.O. Box 427, Boulder City, Nevada 89005, attention: Code 150 on or before March 5, 1979, so that they can be included in the hearing record.

Dated: January 20, 1979.

R. KEITH HIGGINSON,
Commissioner.

[FR Doc. 79-2700 Filed 1-25-79; 8:45 am]

[4310-02-M]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before January 15, 1979. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20243. Written comments or a request for additional time to prepare comments should be submitted by February 5, 1979.

NEW HAMPSHIRE

SULLIVAN COUNTY

Clermont, *Monadnok Mills.* This nomination includes 15 buildings situated in Clermont on Broad, Walter, Cresent Streets, and Mill Road.

CHARLES A. HERRINGTON,
Acting Keeper
of the National Register.

[FR Doc. 79-2719 Filed 1-25-79; 8:45 am]

[4310-70-M]

National Park Service

GRAND CANYON NATIONAL PARK: DRAFT FERAL BURRO MANAGEMENT AND ECOSYSTEM RESTORATION PLAN AND ENVIRONMENTAL STATEMENT

Public Meetings; Intent

Notice is hereby given that the National Park Service will hold a series of six public meetings on Grand Canyon National Park's draft Feral Burro Management and Ecosystem Restoration Plan and its Environmental Statement in late February and early March 1979, in Arizona, California, Nevada and Utah.

Each meeting will begin at 7:30 p.m., local time, however, Park Service personnel will be available at each of the meeting sites at 6:30 p.m. to answer questions and explain the plan for an hour before the meeting is convened. The schedule of meetings is as follows:

Feb. 27 Flagstaff, Room American B, Little America, 2515 East Butler Ave.

Feb. 28 Phoenix, Auditorium—Lower Level—First Federal Savings Bldg., 3003 North Central Ave.

Mar. 1 Tucson, Auditorium, Safford Jr. High School, 300 South 5th Ave.

Mar. 6 Salt Lake City, City Commission Chambers, City and County Bldg., 451 South State St.

Mar. 7 Las Vegas, Golden Eagle Room—Second Floor, Hughes Aviation Service Bldg., 6005 Las Vegas Blvd., South.

Mar. 8 Los Angeles, Regional Planning Commission Hearing Room, New Hall of Records, 320 West Temple.

These meetings are a part of the public involvement process which has been used throughout the development of the draft documents. Concurrent with the public meetings the National Park Service will consult with various Federal, State and local government agencies, individuals and organizations on the proposed Feral Burro Management and Ecosystems Restoration Plan and its draft environmental statement for the Park.

Interested individuals, representatives of organizations and public officials are encouraged and invited to express their views at these public meetings. Those unable to appear in person may submit written statements to the Superintendent, Grand Canyon National Park, P.O. Box 129, Grand Canyon, Ariz., 86023, until 30 days after the last meeting for inclusion in the public record.

Those who wish to provide oral comments for the record will be requested to register at the door. The number of people and time limitations may make ti necessary to limit the length of oral presentations. An oral statement, however, may be supplemented by a more complete written statement which also will be made a part of the record.

After a presentation of the draft plan by the Park Superintendent, the chairperson, insofar as possible, will adhere to the following order in calling for the presentation or oral comments:

1. Governor of the State in which the meeting is being held or his representative.
2. Members of Congress.
3. Members of the State legislature.
4. Official representatives of the counties in which the meeting is located.
5. Officials of other Federal agencies or public bodies.
6. Organizations in alphabetical order.
7. Individuals in order of registration.
8. Others, to the extent time is available.

Anyone wishing copies of the draft Feral Burro Management and Ecosystem Restoration Plan and its Environmental Impact Statement, which are available until the supply is exhausted, additional information on the public meetings, or the National Park Service planning process may write to the Superintendent, Grand Canyon National Park, at the address above.

Dated: January 16, 1979.

EDWIN N. WINGE,
Acting Regional Director, Western Region, National Park Service.

[FR Doc. 79-2867 Filed 1-25-79; 8:45 am]

[4310-05-M]

Office of Surface Mining

[Federal Lease No. W-6266]

BLACK BUTTE MINE, SWEETWATER COUNTY, WYO., BLACK BUTTE COAL CO.

Availability of Modification to Coal Mining and Reclamation Plan for Public Review

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Availability of Amendment to Coal Mining and Reclamation Plan for Public Review.

SUMMARY: Pursuant to § 211.5 of Title 30, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining, Region V, has received sufficient additional information from the applicant in partial response to a stipulation of the Department's approval of the Black Butte mining and reclamation plan to comprise a major modification to the approved Plan and that the information is available for public review. The plan, described below, involves extraction of federally- and privately-owned coal.

Applicant	Mine name	Location of lands to be affected by amendment		
		State	County	Township, range and sections
Black Butte Coal Company...	Black Butte	Wyoming	Sweetwater	T. 19 N, R100W: 22, 27, 28, 29, 32, 33, 34. (Area cited in Plan as "Area D")

Office of Surface Mining Reference Number: WY-0010. The amendment to the mining and reclamation plan provides a narrative of a proposal to dispose of spoil in Area D, post-mining topographic maps, and mine sequence maps showing selected stages of the proposed operations. The material is provided in response to a stipulation imposed at the time the Plan was approved. The stipulation required the operator to obtain the approval of the State of Wyoming and OSM prior to disposal of any spoil "outside the mine pit boundaries". The OSM estimates that 225 acres of land in addition to that shown in the previously-approved Plan would be disturbed by the proposed spoil disposal procedures explained in the amendment.

This particular mine was the subject of a site-specific analysis of environmental impacts, alternatives and mitigating measures in an Environmental Impact Statement titled "Development of Coal Resources in Southwestern Wyoming" which was made available to the Environmental Protection Agency on August 31, 1978.

The proposed amendment submitted by Black Butte for the Black Butte Mine is available for public review in the Library, Office of Surface Mining, Region V, Room 207, Post Office Building, 1823 Stout Street, Denver, Colorado.

This Notice is issued at this time for the convenience of the public. The Office of Surface Mining has not yet determined whether the plan is technically adequate. Therefore, OSM may request additional information during the technical review. Any information so obtained will also be available for public review.

No action with respect to approval of the plan shall be taken by the Regional Director for a period of 30 days after publication of this Notice of Availability. Prior to making a final decision regarding this proposed amendment, the Office of Surface Mining will issue a Notice of Pending Decision pursuant to § 211.5(c)(2) of Title 30, Code of Federal Regulations.

FOR ADDITIONAL INFORMATION:

John Hardaway, Office of Surface Mining, Region V, 1823 Stout Street, Denver, Colorado 80202.

WALTER N. HEINE, P.E.,
Director, Office of Surface Mining, Reclamation and Enforcement.

[FR Doc. 79-2701 Filed 1-25-79; 8:45 am]

[4310-70-M]

Office of the Secretary

[INT FES 79-2]

CUMBERLAND GAP NATIONAL HISTORICAL PARK, KENTUCKY, TENNESSEE, AND VIRGINIA

Availability of Final Environmental Statement on Proposed Master Plan

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Final Environmental Statement of the Proposed Master Plan for Cumberland Gap National Historical Park, Kentucky, Tennessee and Virginia.

The statement considers the future management and development of Cumberland Gap National Historical Park.

Copies of the Environmental Statement and Master Plan will be available for public review at the addresses given below for a period of 30 days following publication of this notice. (February 26, 1979).

Regional Director, Southeast Region, National Park Service, 1895 Phoenix Boulevard, Atlanta, Georgia 30349.

Superintendent, Mammoth Cave National Park, Mammoth Cave, Kentucky 42259.

Superintendent, Cumberland Gap National Historical Park, P.O. Box 840, Middlesboro, Kentucky 40965.

NOTE.—The U.S. Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: January 19, 1979.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 79-2807 Filed 1-25-79; 8:45 am]

[4310-10-M]

Office of the Secretary

WATER DATA FOR PUBLIC USE; EARTHQUAKE STUDIES; AND NATIONAL CAPITAL MEMORIAL

Advisory Committees; Renewal

This notice is published in accordance with the provisions of Section 7(a) of the Office of Management and Budget Circular A-63 (Revised). Pursuant to the authority contained in Section 14(a) of the Federal Advisory Committee Act (Public Law 92-463), I have determined that renewal of the advisory committees listed below is necessary and in the public interest.

Advisory Committee on Water Data for Public Use
Earthquake Studies Advisory Panel
National Capital Memorial Advisory Committee

The Office of Management and Budget has concurred in the renewal of these committees.

Further information regarding these renewals may be obtained from the Department Committee Management Officer, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-8401.

Dated: January 19, 1979.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 79-2813 Filed 1-25-79; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION; WESTERN FIFTH CIRCUIT PANEL

Correction of Meeting Location

Chairman: William Harvin.

The Western Fifth Circuit panel of the United States Circuit Judge Nominating Commission will meet at the Baton Rouge Hilton, 5500 Hilton Avenue, Baton Rouge, Louisiana 70808, February 13, 14, and 15, 1979, at 9:00 a.m. instead of the location given in the FEDERAL REGISTER of January 16, 1979, at Page 44 FR 3327.

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

JANUARY 22, 1979.

[FR Doc. 79-3614 Filed 1-25-79; 8:45 am]

[4410-05-M]

Bureau of Prisons

ADVISORY CORRECTIONS COUNCIL

Meeting

Notice is hereby given that the Advisory Corrections Council in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on Monday and Tuesday, February 26 and 27 in Fort Worth, Texas. The Council will hold its formal meeting in Fort Worth, Texas, on February 26 and tour the Federal Correctional Institution, Fort Worth, Texas, on February 27.

Agenda items include a disussion of the role of the Federal government in corrections; and identification of major issues and problems related to corrections to be resolved at the Federal level.

Signed at Washington, D.C., this 23rd day of January 1979.

NORMAN A. CARLSON,
Director.

[FR Doc. 79-2706 Filed 1-25-79; 8:45 am]

[4410-18-M]

Law Enforcement Assistance Administration

ADDITION TO FISCAL YEAR 1979 GUIDE FOR DISCRETIONARY GRANT PROGRAMS

Request for Public Comment

AGENCY: Law Enforcement Assistance Administration, Department of Justice.

ACTION: Request for public comment.

SUMMARY: The Law Enforcement Assistance Administration (LEAA) published in the FEDERAL REGISTER on November 3, 1978, the Fiscal Year 1979 Guide to Discretionary Grant Programs. This notice is to obtain comments on a proposed addition to that Guide. Publication in the FEDERAL REGISTER is in response to the Department of Justice's draft report on implementation of Executive Order 12044 (43 FR 22922, May 26, 1978). All comments will be considered in the publication of the final annoucement.

DATE: Comments are due on or before March 15, 1979.

ADDRESS: Send comments to: Henry S. Dogin, Deputy Administrator for Policy Development, Law Enforcement Administration, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT:

Marlene Beckman, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue NW., Washingon, D.C. 20531, 202-376-3824.

HENRY S. DOGIN,
Deputy Administrator for Policy Development.

JANUARY 19, 1979.

The complete text of the proposed addition to the Fiscal Year 1979 Guide to Discretionary Grant Programs appears as follows:

PROGRAM DESCRIPTION: PRESENTENCE INVESTIGATION REPORT PROGRAM

a. *Program Objective:* Increase the effectiveness and efficiency of the presentence investigation report as a decison-making tool.

b. *Program Description:* This program concentrates LEAA's past research and training efforts related to presentence reporting into a cohesive package that can be utilized by jurisdictions reexamining the utility of presentence investigations as a decision-making tool.

(1) PROBLEMS ADDRESSED

(a) During the past 35 years, a variety of organizations have established guidelines for presentence report investigations. Most recently, the 1967 President's Commission Reports on Law Enforcement and the Administration of Justice; the 1970 American Bar Association's standards on presentence reports; the 1972 National Council on Crime and Delinquency revision of the Model Sentencing Act; the 1973 publications of the National Advisory Commission on Criminal Justice Standards and Goals; and the 1977 American Correctional Association's Standards for Adult Probation all agree on several important standards.

There is consensus among these groups that presentence reports must be directly related to decison-making and that the presentence report must serve the needs of a diversity of decision-makers within the criminal justice system. These decision-makers include sentencing judges, supervising probation officers, institution classification personnel, the paroling authority, parole officers, and researchers. However, it is also agreed that the primary purpose of the presentence report is to provide the court with relevant and accurate data so that the judge may select the most appropriate sentencing alternative.

(b) Although the presentence report is often the only source of information about the offender available to the judge at the time of sentencing, a 1976 GAO Report entitled *State and County Probation: Systems in Crisis* which evaluated four counties in the

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nation found that in only 54 percent of the cases were presentence reports actually prepared. Further, the inclusion of a recommendation for sentencing by the probation officer seems to be as varied as the requirement for the report despite the results of numerous studies which suggest that in the majority of cases (correlation is often as high as 90 percent) the sentencing judge follows the recommendations contained in the presentence investigation report.

(c) Responding to these issues, in January 1978, the NILECJ published a Prescriptive Package which focused on the presentence investigation and report. The package is based on a comprehensive state-of-the-art survey which included a complete review of the literature and review of the operational procedures and presentence formats used by 735 state and local probation agencies. As a result of their survey, the authors found that during the 100 year history of the presentence report there has been an increasing emphasis on the quantity of data collected and presented to the courts. However, the effectiveness of the information in terms of its relevance to the sentencing decision has seldom been questioned. For the most part there has been a continuity of the "longer" rather than "shorter" presentence report format although there is extensive research evidence to show that judges make their decisions on a limited number of factors (i.e., current offense, prior criminal history, stability indicators).

(d) The principal product of the Prescriptive Package research effort is a series of 64 recommendations designed to assist the courts and probation administrators in developing a more systematic and effective approach to presentence report design and utilization. The recommendations are identical to the standards promulgated by the American Correctional Association's Commission on Accreditation in its Manual of Standards for Adult Probation.

(e) Increasing demands for probation services without the allocation of additional resources have required examination of these traditional approaches and some experimentation with new approaches. The 1978 LEAA survey report entitled State and Local Probation and Parole Systems indicates that approximately one million presentence investigation reports are prepared annually by more than 2500 agencies. More than one-third of these agencies reported that between one-fourth to one-half of probation officers' time was spent preparing presentence investigation reports. This imposes a tremendous cost effectiveness problem for probation departments. This program addresses the need for increased staff time without reducing the quality of decisions or case handling.

(2) ASSUMPTIONS

(a) The information contained in the presentence report is often the only information that the judge has about the defendant and the crime at the time of sentencing.

(b) The primary purpose of the presentence report is to provide data which meets judicial needs for decision-making.

(c) Other potential uses for decision-making may influence the content and format of the report.

(d) The data requirements for criminal justice decision-making are best determined by the decision-makers themselves.

(e) Presentence report design, both format and content, should be localized to meet the needs of the individual criminal justice system.

(f) The modular construction of reports—starting with a simple format and very basic data to which is appended other data as individual offense and/or offender warrant—represents the best utilization of scarce resources.

(3) RESULTS SOUGHT

(a) Jurisdictions participating in this program will develop and implement a presentence investigation report strategy which demonstrates the recommendations outlined in the *Presentence Report Handbook.*

(b) The presentence report program will increase the efficiency and effectiveness of the probation office and improve the quality of the information presented.

(c) Judges in the participating jurisdictions will make increased use of the presentence investigation report in their decision-making and sentences will be increasingly consistent and fair.

(d) The presentence investigation report will be a useful tool to the other decision-makers in the criminal justice system.

c. *Program Strategy:* This program will provide funding support to jurisdictions over a three phased approach including (1) planning and analysis, (2) development of the PSI Report, and (3) implementation and evaluation of the results of (1) and (2). LEAA will provide technical assistance and coordination through a grant to a National Program Coordinator. The role of the National Program Coordinator and the activities anticipated during the three phases of the program are discussed below:

(1) National PSI Program Coordinator

(a) *The National PSI Program Coordinator will be the grantee for this program. Funding for the jurisdictions selected to participate in this program will be subgrants from the National Program Coordinator.* The National Program Coordinator will assist in screening of potential sites; however, participating sites will be selected by LEAA.

(b) The National PSI Program Coordinator will provide assistance in the following ways:

- Assist finalist sites in the development of their programs
- Collect and analyze data elements needed for decision-making at each site (use of computer if needed)
- Help identify training and technical assistance needs within the jurisdiction
- Assist with local problem-solving during the life of the subgrants
- Schedule, coordinate, and provide cluster training and technical assistance for all participating sites.

(c) During the implementation phase of the projects the National Program Coordinator will provide an evaluation of the local sites to assess the results of the program and particularly to provide feedback to those participating sites.

(2) PHASED APPROACH

(a) Phase I—Planning and analysis. During this phase, it is anticipated that the probation office will review the current presentence investigation report practices and assess their utility for decision-making. Meetings among criminal justice decision-makers in the jurisdiction—particularly judges—should take place to sort out needed data elements and allow officials to articulate that information needed for decision-making. This will vary considerably in those jurisdictions where sentencing guidelines and/or mandatory minimum sentences are operating. This phase should take approximately four months.

(b) Phase II—Development of the PSI Report. Based on Phase I, special staff should develop a revised PSI Report for use in the jurisdiction. Pilot efforts could be introduced for certain types of offenders or with individual judges. One option could also include the establishment of a presentence report unit. It is anticipated that this phase will require three months.

(c) Phase III—Implementation and evaluation. During this final phase which should commence around month eight of the grant and continue for the remainder of the grant period, actual demonstration takes place. The new presentence investigation report becomes operational and its use is evaluated. Results will be measured, at a minimum, in terms of (1) time saved, (2) satisfaction of the judges, (3) cost effectiveness; and (4) impact on sentencing decisions.

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d. *Selection Process:* (1) Local jurisdictions will be selected by LEAA according to the following criteria:

(a) To the extent there is current use of the presentence investigation report at a minimum by the court and potential expanded uses for pretrial release, diversion, the corrections department, etc.

(b) It is essential that there is evidence of Probation Department, Judicial, and Corrections leadership, sponsorship, and participation. Letters from all appropriate officials should be included as part of the submission.

(c) To the extent this program offers the likelihood of addressing current problems facing the jurisdiction.

(d) The documented willingness to apply local existing staff commitment to this overall effort.

(e) To the extent the jurisdiction has available baseline data for pre-post comparisons and an information capability (manual or automated) to support project management and offender tracking.

(f) It is essential that there is a willingness to experiment with the presentence investigation report outlined in the NILECJ Prescriptive Package or variations including the use of a short form PSI which has, at a minimum, some commentary in the following data areas:

Description of the offense
Prior criminal record
Personal history
Evaluation
Recommendation.

(g) Pending or past legislation, including sentencing guidelines, which facilitates or promotes the use of the short form PSI.

(2) Priority consideration will be given to jurisdictions participating in one or more of the following national LEAA programs if use of the PSI can be shown to significantly contribute to the success of those programs:

(a) Reduction of Jail Overcrowding Program.

(b) Court Delay Reduction Program.

(c) Restitution or Community Service Program.

(d) Treatment Alternatives to Street Crime (TASC).

(e) Sentencing Guidelines Program.

Further, additional consideration will be given to those proposals which allow for the maximum impact of this program; that is, statewide probation systems vs. individual local offices. A mix of large and small probation departments is desired.

(3) DOLLAR RANGE AND NUMBER OF GRANTS

Up to ten separate sub-grants will be awarded with a dollar range from $50,000-$75,000. Grant duration will be for 18 months. A cash match of 12 percent is required. Additional year funding is anticipated only where project will expand program.

(4) ELIGIBILITY

Applicants are likely to be departments of adult probation or court offices which are responsible for the preparation of PSI Reports. Applicants must meet Part E criteria in the program areas as defined in the Omnibus Crime Control and Safe Streets Act of 1968, as amended. Applicants must have the endorsement of state and local planning units. Letters of cooperation from the Chief Probation Officer, Department of Corrections, and the Chief Judge must accompany the application.

(5) APPLICATION PROCEDURES AND DEADLINE

Applicants should submit to the Corrections Division, OCJP, LEAA, a concept paper addressing the following:

(a) Interest in the program.

(b) A copy of the current presentence investigation report format and description of procedures and problems. Include information on any existing statutes which impose requirements on the presentence investigation report.

(c) Proposed alternatives to current system to be investigated under Phase I.

(d) Evidence of familiarity with the requirements of this program and willingness to comply.

(e) Support from key court, county, prosecution, defense, and corrections officials.

(f) Responses to all other items listed in Section d.(1) of this announcement.

These concept papers will be accepted by LEAA through May 1, 1979. Applicants will then be contacted for additional information needed for selection purposes. If necessary, site visits will be arranged by the National Coordinator to assist in preliminary data collection and program development.

e. *Evaluation Requirements:* (1) A national cluster evaluation of this program is planned to be undertaken by the National Program Coordinator selected by the Office of Criminal Justice Programs, LEAA. The evaluator and LEAA will select sites for inclusion in the national level cluster evaluation.

(2) In addition to the self-assessment and monitoring requirements of Appendix 4, Paragraphs 3 and 4, and Appendix 5 of the *Guide for Discretionary Grant Programs* (M 4500.1G), applicants may propose an evaluation plan for their project containing the evaluation plan elements detailed in Appendix 4, Paragraph 6 of the *Guide for Discretionary Grant Programs* (M 4500.1G).

(3) Grant recipients may be required to modify their proposed evaluation plans in order to be integrated into the national level cluster evaluation design to be developed by the national evaluator.

(4) All grantees must indicate in advance their willingness to cooperate fully with the national evaluator, in providing needed data elements.

f. *Special Requirements:* Applicants are advised to be thoroughly familiar with the NILECJ Prescriptive Package entitled Presentence Report Handbook, January 1978 (available from the National Criminal Justice Reference Service or the Government Printing Office, Washington, D.C. 20402).

g. For further information, contact the Corrections Division, Office of Criminal Justice Programs, LEAA, Washington, D.C. 20531, 202/376-3824.

[FR Doc. 79-2816 Filed 1-25-79; 8:45 am]

[4410-18-M]

WASHINGTON STATE JUVENILE JUSTICE LEGISLATION (HB-371) AND RELATED ACTION PROGRAMS

Announcement of Solicitation for Grant Applications To Assess Implementation and

The National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP), Office of Juvenile Justice and Delinquency Prevention (OJJDP), U.S. Department of Justice, is sponsoring an assessment of the implementation and impact of new comprehensive juvenile justice legislation (HB-371) in Washington State and of related action programs funded by OJJDP to assist the State in implementing this legislation.

Applications will be considered from public or private (non-profit) agencies and organizations or individuals for the first phase (up to 18 months) of a proposed three year assessment. The maximum funding level for the initial phase is $300,000. The deadline for receipt of applications is March 31, 1979. Potential applicants may obtain a copy of the solicitation by writing to: National Institute for Juvenile Justice and Delinquency Prevention, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, 633 Indiana Avenue, N.W., Room 304, Washington, D.C. 20531, attention: Barbara Allen-Hagen; or by calling area code 202, 376-3952.

JOHN M. RECTOR,
Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 79-2815 Filed 1-25-79; 8:45 am]

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[4510-24-M]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON MANPOWER AND EMPLOYMENT

Meeting

The BRAC Committee on Manpower and Employment will meet on Tuesday, February 20, 1979, at 1:30 P.M. in room 4454 (A & B) of the General Accounting Office Building, 441 G Street, N.W., Washington, D.C. The agenda for the meeting is as follows:

1. Discussion of the "Summary of Major NCEUS Recommendations."
2. Other Business.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 523-1559.

Signed at Washington, D.C. this 19 day of January 1979.

JANET L. NORWOOD,
Acting Commissioner of Labor Statistics.

[FR Doc. 79-2836 Filed 1-25-79; 8:45 am]

[4510-43-M]

Mine Safety and Health Administration

[Docket No. M-78-127-C]

BARNWELL COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

The Barnwell Coal Company, P.O. Box 11222, Chattanooga, Tennessee, has filed a petition to modify the application of 30 CFR 77.1605(k) (berms) to its No. 1 Mine in Marion County, Tenn. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

(1) The petition concerns an elevated roadway 5.5 miles in length and varying in width from 40 to 65 feet.

(2) There are three areas on the roadway totaling in length 4000 feet where the outslope has a drop-off of greater than 3 to 1 in slope. In all cases, the roadway is a minimum of 50 feet wide and signs have been posted outlining the steepness and width of the road, cautioning for slow travel.

(3) The petitioner states that the construction of berms along the outer bank of the roadway would pose the following safety hazards:

(a) Run-off water flowing beside the berm would cut ditches which could cause an accident if a truck tire slides off into one of them.

(b) During heavy rainfall large quantities of water would flow down the road and create a potential hydroplaning hazard for large vehicles.

(c) The berm would reduce the effect of current grading maintenance of the roadway which keeps the roadbed in good condition for safe travel.

(4) As an alternative to the construction of berms, the petitioner has done the following:

(a) A caution sign is posted at the top of the hill before the steep grade;

(b) The road width is far in excess of the required 20 feet;

(c) The roadway was designated and elevated so that trucks should move toward the highwall, not toward the outslope side.

(d) Only experienced and competent drivers are permitted on this haul;

(e) Only trucks equipped with regular brakes, engine brakes and emergency brakes and well maintained vehicles are used in the hauling operation;

(f) The petitioner has instructed drivers to use the outside portion of the roadway, particularly along the cuts.

(g) Drivers are in constant radio communication with each other while on the roadway.

(5) In addition, the petitioner proposes to install posts and a ⅝ inch wire rope guardrail with a cable height of 26 inches above the ground if the above safety precautions are insufficient.

(6) The petitioner states that the measures listed above will achieve no less protection than that provided by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before February 26, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Copies of the petition are available for inspection at that address.

Dated: January 17, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-2640 Filed 1-25-79; 8:45 am]

[4510-43-M]

[Docket No. M-79-1-C]

J.A.S. PARTNERSHIP COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

J.A.S. Partnership Coal Company, R.D. No. 1, Box 1506, Pottsville, Pa. 17901, has filed a petition to modify the application of 30 CFR 75.301 (ventilation) to its 4 Foot Slope Mine in Columbia County, Pa. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

(1) The petitioner requests the following air quantity levels for its mine which are reductions of those in the standard:

(a) A minimum of 1,500 cubic feet per minute (c.f.m.) to each working face;

(b) A minimum of 5,000 c.f.m. to the last open crosscut in any pair or set of developing entries;

(c) A minimum of 5,000 c.f.m. to the intake end of a pillar; and

(d) Whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

(2) The petitioner requests this modification for the following reasons:

(a) The mine's air sample analysis history has not record of harmful quantities of methane or carbon dioxide and other noxious or poisonous gases;

(b) the mine has not had any ignitions, explosions, or fires;

(c) The mine's dust sampling programs have revealed extremely low concentrations of respirable dust;

(d) Extremely high air velocities in restricted airways and manways present a hazard of flying objects to miners;

(e) High air velocities and large air quantities in the wet mine cause extremely uncomfortable and cold working conditions; and

(f) Difficulty in keeping miners on the job and securing additional mine help is due primarily to these conditions.

(3) The petitioner states that the proposed reduction in air quantity will achieve no less protection than that provided by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before February 26, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 17, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-2639 Filed 1-25-79; 8:45 am]

[4510-26-M]

Occupational Safety and Health Administration

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Appointment of Members

This is to announce the appointment of members to the National Advisory Committee on Occupational Safety and Health, established under Section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

The membership of the Committee and the categories represented are as follows:

PUBLIC

Dr. Nicholas A. Ashford, Assistant Director, Center for Policy Alternatives, Building E40-250, Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Massachusetts 02139.

Dr. Richard E. Ginnold, Assistant Professor, School for Workers, University of Wisconsin-Extension, Room 825, 432 North Lake Street, Madison, Wisconsin 53706.

Andrea Hricko, Health Coordinator, Labor-Occupational Health Programs, Insititute of Industrial Relations, 2521 Channing Way, Berkeley, California 94720.

Dr. Hawey A. Wells, Chief of Pathology, Titusville Hospital, 406 W. Oak Street, Titusville, Pennsylvania 16354.

MANAGEMENT

Dr. Ernest M. Dixon, Corporate Medical Director, Celanese Corporation, 1211 Avenue of the Americas, New York, New York 10036.

Dr. Peter J. Nord, Executive Vice President, Schauer Manufacturing Corp., 4500 Alpine Avenue, Cincinnati, Ohio 45242.

LABOR

John J. Sheehan, Legislative Director, United Steelworkers of America, Suite No. 706, 815 Sixteenth Street, NW., Washington, D.C. 20006.

George H. R. Taylor, Director, Department of Occupational Safety and Health, AFL-CIO, 815 Sixteenth Street NW., Washington, D.C. 20006.

SAFETY

Dr. Don B. Chaffin, Professor of Industrial & Operations Engineering, University of Michigan, 2260 G. G. Brown Laboratory Ann Arbor, Michigan 48109.

Dr. Robert J. Firenze, President, R. J. E. Associates, P.O. Box 1428, Bloomington, Indiana 47401.

HEALTH

Dr. Marcus M. Key, Professor of Occupational Medicine, School of Public Health, The University of Texas Health Science Center, Room N-210, P.O. Box 20186, Houston, Texas 77025.

Claudia Miller, Consultant, 1260 Windwood Drive, Lake Forest, Illinois 60045.

Doctors Firenze, Ginnold, Nord, and Wells are new members; Dr. Ashford and Mr. Sheehan have been reappointed. The other six members of the Committee are serving the second year of a two-year term which will expire June 30, 1979.

The members were selected on the basis of their experience and competence in the field of occupational safety and health.

The six newly appointed members will serve two year terms, expiring on June 30, 1980. Dr. Nicholas Ashford will continue to chair the committee.

The purpose of the Committtee is to advise the Secretary of Labor and the Secretary of Health, Education and Welfare on matters relating to the Occupational Safety and Health Act.

Signed at Washington, D.C. this 18th day of January 1979.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 79-2641 Filed 1-25-79 8:45 am]

[4510-28-M]

Office of the Secretary

[TA-W-4020]

ALLEGHENY LUDLUM STEEL CORP., MINNEAPOLIS, MINN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4020: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 2, 1978 in response to a worker petition received on July 31, 1978 which was filed on behalf of workers and former workers of the Minneapolis, Minnesota sales office of the Allegheny Ludlum Steel Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on August 11, 1978 (43 FR 35759-60). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Allegheny Ludlum Steel Corporation and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Minneapolis branch sales office was closed on March 31, 1978 due to a reorganization of the company's Sales Division. The functions performed at the Minneapolis office were transferred to another company sales office. The Sales Division was reorganized for reasons involving business efficiency and not as a result of imports. The activities at the sales offices are directly dependent upon company sales levels. Company sales of the products sold by the petitioners, did not change significantly in 1977 compared to 1976 and increased in the first ten months of 1978 compared to the like 1977 period.

CONCLUSION

After careful review, I determine that all workers of the Minneapolis, Minnesota sales office of the Allegheny Ludlum Steel Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of January 1979.

JAMES F. TAYLOR
Director, Office of Management, Administration, and Planning

[FR Doc. 79-2642 Filed 1-25-79; 8:45 am]

[4510-28-M]

[TA-W-4359]

ALLIVINE KNITTING MILLS, INC., PHILADELPHIA, PENNSYLVANIA

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department

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of Labor herein presents the results of TA-W-4359: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was intitated on November 13, 1978 in response to a worker petition received on November 6, 1978 which was filed by the Knitgoods Union, ILGWU on behalf of workers and former workers producing double knot and sweater fabrics on a contract basis at Allivine Knitting Mills, Incorporated, Philadelphia, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (42 FR 55012). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Allivine Knitting Mills, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof and to the absolute decline in sales or production.

U.S. imports of finished fabric decreased from 464 million square yards in 1976 to 453 million square yards in 1977. Imports increased from 187 million square yards in the first half of 1977 to 255 million square yards in the first half of 1978. However, the ratio of imports to domestic production was less than two percent in 1976 and in 1977.

A Department of Labor survey of customers of Allivine Knitting Mills, Incorporated revealed that in the first ten months of 1978 when compared to the same period in 1977, only one customer, decreased purchases from Allivine and increased its purchases of imported fabric. Further, the kind of fabric that customer imported was chiffon, a fabric Allivine did not produce; that customer substantially increased its purchases of fabric from other domestic sources at the same time.

CONCLUSION

After careful review I determine that all workers of Allivine Knitting Mills, Incorporated, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-2643 Filed 1-25-79; 8:45 am]

[4510-28-M]

[TA-W-4218]

AMF, INC., WHEEL GOODS DIVISION, RECREATIONAL VEHICLE GROUP, LITTLE ROCK, ARK.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4218: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 29, 1978 in response to a worker petition received on September 27, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing bicycles at the Little Rock, Arkansas plant of AMF, Incorporated, (Wheel Goods Division of the Recreational Vehicle Group).

The Notice of Investigation was published in the FEDERAL REGISTER on October 17, 1978 (43 FR 44795). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of AMF, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

Evidence developed during the course of the investigation revealed that customers which decreased purchases of bicycles produced at the Little Rock, Arkansas plant of AMF, Inc., and increased purchases of imported bicycles represented and insignificant proportion of the firm's decline in sales.

The Department conducted a survey of customers who purchase bicycles produced at AMF, Inc. Since plant sales and production increased in 1977 compared to 1976 and no layoffs occurred at the plant during the period under investigation until the second quarter of 1978, particular attention was paid to the customers' 1978 purchases on a quarterly basis. Customers surveyed who represented the major portion of AMF's decline in sales in the second and third quarters of 1978 indicated that they did not switch to imported bicycles. Although some customers surveyed indicated a switch in purchases from the subject firm to foreign sources in the second and third quarters of 1978, these customers represented an insignificant portion of the subject firm's decline in sales over the same period.

The decline in production and employment following the first quarter of 1978 was due in large part to the completion of a large, one-time promotional order.

CONCLUSION

After careful review, I determine that all workers of the Little Rock, Arkansas plant of AMF, Inc. (Wheel Goods Division, Recreational Vehicle Group) are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of January 1979.

JAMES F. TAYLOR
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-2644 Filed 1-25-79; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing as substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 5, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 5, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 18th day of January 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers or former workers of:)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
Bemis Company, Inc. (company)	Talladega, Alabama	1/15/79	1/12/79	TA-W-4,719	canvas, yarn and industrial thread
Faberge, Inc. (workers)	Ridgefield, New Jersey	1/15/79	1/12/79	TA-W-4,720	cosmetics, perfume, shampoo and toilet articles in general
Kellwood Company, Alamo Division (workers).	Alamo, Tenn	1/15/79	1/10/79	TA-W-4,721	bras and girdles
Levi Strauss and Company (workers)	Blackstone, Virginia	1/15/79	1/8/79	TA-W-4,722	men's slacks and vests
Minneapolis Products Corporation (United Electrical, Radio and Machine Workers of America).	Minneapolis, Minnesota	1/15/79	1/8/79	TA-W-4,723	gas welding equipment headlight testing equipment and art welding equipment
Roller Derby Skate Corp. (Boot and Shoe Workers Union).	Litchfield, Ill	1/15/79	1/12/79	TA-W-4,724	roller skates and ice skates and shoes for same
Pilling Chain Company, Inc. (United Textile Workers of America).	Barrington, Rhode Island	1/16/79	1/12/79	TA-W-4,725	zipper components for textile and luggage trade
Seller's Corp., Capehart Plant (workers).	Norwich, Conn	1/15/79	1/4/79	TA-W-4,726	prepares meals, sandwiches, serves morning breaks and lunch hours. Also stocked vending machines

[FR Doc. 79-2645 Filed 1-25-79; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 5, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 5, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of January 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers or former workers of:)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
Birwin Trousers (ACTWU)	New York, New York	1/9/79	1/2/79	TA-W-4,695	men's trousers
Burlington Industries, Inc., Klopman Division, Mayflower Plant (workers).	Cramerton, North Carolina.	1/8/79	1/3/79	TA-W-4,696	weave light-weight apparel fabrics for men and women's wear
Forrest City Fashions (workers)	Forrest City, Ark	1/3/79	12/28/78	TA-W-4,697	blouses
Grossman Clothing Company (ACTWU).	New York, New York	1/9/79	1/2/79	TA-W-4,698	men's suits and sportcoats
Jonathan Logan, Inc. (workers)	North Bergen, New Jersey	1/9/79	12/27/78	TA-W-4,699	samples of pant suits and dresses
La Salle Fashions Company, Inc. (company).	Hoboken, New Jersey	1/9/79	1/5/79	TA-W-4,700	contractor of ladies' coats
Lukens Steel Corp. (U.S.W.A.)	Coatesville, Pa	1/10/79	12/20/79	TA-W-4,701	carbon steel plate, alloy plate and shapes
McGregor-Doniger, Inc. (workers)	Dover, New Jersey	1/8/79	1/5/79	TA-W-4,702	leather jackets, shirts, knit shirts and slacks and outerwear for men
Monique Brassiere Company (ILGWU).	Brooklyn, New York	1/9/79	1/4/79	TA-W-4,703	brassieres and girdles

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APPENDIX—Continued

Petitioner (Union/workers or former workers of:)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
Morehouse Garment Corp. (United Paperworkers International Union).	Bastrop, La	1/9/79	1/5/79	TA-W-4,704	men's and boys' trousers
Riegel Textile Corp., Ware Shoal Division, Fork Shoals Plant (workers).	Fork Shoals, South Carolina.	1/9/79	1/1/79	TA-W-4,705	cotton yarn
Republic Steel Corp., Buffalo District (U.S.W.A.).	Buffalo, New York	1/9/79	1/5/79	TA-W-4,706	carbon steel, carbon steel and alloyed steel bars and bar products
Wilson County Garment Company (workers).	Watertown, Tenn	1/8/79	1/4/79	TA-W-4,707	ladies' woven blouses
Zion Knitting Mills, Inc. (workers)	Brooklyn, New York	1/9/79	1/3/79	TA-W-4,708	men's, women's and childrens' knitted sweaters

[FR Doc. 79-2646 Filed 1-25-79; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of trade Adjustment Assistance, at the address shown below, not later than February 5, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 5, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 16th day of Jaunary 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers or former workers of:)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
Blu-Belle Knitting Mills, Inc. (company).	Fall River, Mass	1/12/79	1/9/79	TA-W-4,709	men's knitted sweaters
F.A.R. Corp. (workers)	South Bound Brook, N.J	1/11/79	1/8/79	TA-W-4,710	asbestos siding shingles
Grand Fashions, Inc. (company)	Hoboken, New Jersey	1/12/79	1/9/79	TA-W-4,711	ladies' coats
Knitcapers, Inc. (workers)	Jamaica, New York	1/12/79	1/6/79	TA-W-4,712	men's, children's & ladies' sweaters
Nova Sportswear (ILGWU)	Long Branch, New Jersey	1/12/79	1/10/79	TA-W-4,713	ladies' sportswear
Peters Sportswear Co., Inc. (company)	Philadelphia, Pa	1/12/79	1/8/79	TA-W-4,714	manufacturing & selling men's classic golf jackets, outerwear, leather jackets, corduroy suits & sportcoats
River St Sportswear Corp. (workers)	Lowell, Mass	1/12/79	1/10/79	TA-W-4,715	ladies' blouses, pants, jackets & blazers
Roman Ceramics Corp. (International Brotherhood of Pottery & Allied Workers).	Mayfield, Kentucky	1/15/79	1/10/79	TA-W-4,716	custom pottery (ceramic containers)
University Clothing Corp. (workers)	Sommerville, Mass	1/15/79	1/9/79	TA-W-4,717	men & women's rain-coats (mostly men's clothes)
Westforth Manufacturing Co., Inc. (company).	Williamsport, Pa	1/12/79	1/8/79	TA-W-4,718	manufacturing & selling men's classic golf jackets, outerwear, leather jackets, corduroy suits & sportcoats

[FR Doc. 79-2647 Filed 1-25-79; 8:45 am]

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[4510-28-M]

[TA-W-4367]

DOWEN ZIER KNITS, INC., WEST HEMPSTEAD, N.Y.

Termination of Investigation; Correction

In FEDERAL REGISTER Doc. 78-34996 appearing on page 58648 in the FEDERAL REGISTER of December 15, 1978, the fourth paragraph should be corrected to read as follows:

"The date of the petition in this case is November 1, 1978. Since workers separated from employment at the West Hempstead, New York plant of Dowen Zier Knits, Incorporated prior to November 1, 1977, are not eligible to apply for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974, continuation of this investigation would serve no purpose. Consequently, the investigation has been terminated."

Signed at Washington, D.C. this 16th day of January 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-2648 Filed 1-25-79; 8:45 am]

[4510-28-M]

[TA-W-4146]

GAF CORP., PHOTO AND REPRODUCTION DIVISION, ATLANTA, GA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4146: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 13, 1978 in response to a worker petition received on September 11, 1978 which was filed on behalf of workers and former workers producing photo sensitized color and black and white films, color sensitized photo paper, amateur cameras, other cameras and accessories and medical and industrial X-ray films at the Photo and Reproduction Division of GAF Corporation, Atlanta, Georgia. The investigation revealed that the workers distributed photographic film, photographic paper and precessing chemicals for both color and black and white photography produced by the 46 Jarvis Street, Binghamton, New York plant of GAF Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43588). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Photo and Reproduction Division of GAF Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of photographic films and plates and photographic paper increased absolutely and relative to domestic production from 1976 to 1977 and in the first half of 1978 compared to the same period in 1977.

U.S. imports of photographic chemicals increased absolutely and relative to domestic production each year from 1973 to 1976 before decreasing slightly in 1977.

The Photo and Reproduction Division of GAF Corporation, Atlanta, Georgia acts as a distributor for photographic products produced only at one manufacturing facility of GAF Corporation, GAF Photo Products at 46 Jarvis Street, Binghamton, New York. Workers at that plant were certified as eligible to apply for Trade Adjustment Assistance on March 14, 1978 (TA-W-2293).

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with photographic products distributed by the Photo and Reproduction Division of GAF Corporation, Atlanta, Georgia contributed importantly to the decline in sales and to the total or partial separation of workers of that division of the firm. In accordance with the provisions of the Act, I make the following certification:

All workers at the Photo and Reproduction Division of GAF Corporation, Atlanta, Geogia who became totally or partially separated from employment on or after September 6, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-2650 Filed 1-25-79; 8:45 am]

[4510-28-M]

[TA-W-4557]

GAYLOR MANUFACTURING CO., ASHLAND, VIRGINIA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4557: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 28, 1978 in response to a worker petition received on December 26, 1978 which was filed on behalf of workers and former workers producing men's and women's shirts at Gaylor Manufacturing Company, Ashland, Virginia. The investigation revealed that the plant primarily produces men's and women's shirts and blouses.

The Notice of Investigation was published in the FEDERAL REGISTER on January 5, 1979 (44 FR 1485). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Gaylor Manufacturing Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boy's woven dress and business shirts increased absolutely and relatively in 1977 compared to 1976 and then increased absolutely in the first nine months of 1978 compared to the same period in 1977.

U.S. imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased absolutely and decreased relatively in 1977 compared to 1976 and then increased absolutely in the first nine months of 1978 compared to the same period of 1977.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely and decreased relatively in 1977 compared to 1976 and then increased absolutely in the first nine months of 1978 compared to the same period of 1977.

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Customers surveyed indicated that they had decreased purchases from Gaylor Manufacturing Company and increased purchases of imported men's and women's shirts.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and women's shirts and blouses produced at Gaylor Manufacturing Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Gaylor Manufacturing Company, Ashland, Virginia engaged in employment related to the production of men's and women's shirts and blouses who became totally or partially separated from employment on or after December 21, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of Janaury 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-2651 Filed 1-25-79; 8:45 am]

[4510-28-M]

[TA-W-4394]

INFANTA KNITTING MILLS, INC., ROCKLEDGE, PA.

[TA-W-4394A]

INFANTA KNITTING MILLS, INC., SOUTHAMPTON, PA.

[TA-W-4394B]

INFANTA KNITTING MILLS, INC., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4394, TA-W-4394A, and TA-W-4394B: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 16, 1978 in response to a worker petition received on November 13, 1978 which was filed by the Knitgoods Union, Local 190, International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's dresses and woven sportswear and children's outerwear, sweaters, and pants at Infanta Knitting Mills, Incorporated, Philadelphia, Pennsylvania. The investigation revealed that the manufacturing plant is located in Rockledge, Pennsylvania. The investigation was expanded to include the warehouse in Southampton, Pennsylvania and sales office in New York, New York. The investigation revealed that the plant primarily produces girls' sweaters.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55011). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Infanta Knitting Mills, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased from 1975 to 1976. In 1977, imports of women's, misses' and children's sweaters increased 9.0 percent over the average level of imports for the years 1973 through 1976. The ratio of imports of sweaters to domestic production 1977 was above the import to domestic production ratio recorded in each year in the 1973 to 1975 time period.

A survey of Infanta's major customers for the years ended June 30, 1977 and June 30, 1978 was conducted by the U.S. Department of Commerce. All of the customers surveyed increased purchases of imports while reducing purchases from Infanta.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with girls' sweaters produced at Infanta Knitting Mills, Incorporated, Rockledge, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant, of the Southampton, Pennsylvania warehouse and the New York, New York sales office. In accordance with the provisions of the Act, I make the following certification:

All workers of the Rockledge, Pennsylvania plant, the Southampton, Pennsylvania warehouse and the New York, New York sales office of Infanta Knitting Mills, Incorporated who became totally or partially separated from employment on or after September 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-2652 Filed 1-25-79; 8:45 am]

[4510-28-M]

[TA-W-4396]

MODE KNITTING MILLS, INC., PHILADELPHIA, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4396: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 22 of the Act.

The investigation was initiated on November 16, 1978 in response to a worker petition received on November 14, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing men's and ladies' sweaters and sweater shirts at Mode Knitting Mills, Incorporated, Philadelphia, Pennsylvania. The investigation revealed that Mode also produces some sweater parts, which consist primarily of collars.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55011). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Mode Knitting Mills, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Production of men's and ladies' sweaters, sweater shirts and collars increased, in both quantity and value, in 1977 compared to 1976 and in the first eleven months of 1978 compared to the same period of 1977. Production is equivalent to sales at Mode Knitting Mills.

CONCLUSION

After careful review, I determine that all workers of Mode Knitting Mills, Incorprated, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-2653 Filed 1-25-79; 8:45 am]

[4510-28-M]

[TA-W-4241]

NIFFTY CREATIONS, INC. LINDENHURST, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4241: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 4, 1978 in response to a worker petition received on October 2, 1978 which was filed on behalf of workers and former workers producing ladies' jackets and blazers at Niffty Creations, Incorporated, Lindenhurst, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on October 20, 1978 (43 FR 49060-61). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Niffty Creations, Inc., its manufacturer, customers of the manufacturer, the International Ladies' Garment Workers' Union, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with those produced by the firm or appropriate subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales and/or production.

Evidence developed during the Department's investigation revealed that the closure of Niffty Creations was attributable to the loss of its management. Subsequent to its closure Niffty Creations was purchased by another apparel contractor. The new company occupies the same production facilities as Niffty Creations and uses the same machinery to produce ladies' raincoats and blazers. Almost all of the workers of Niffty Creations were hired by the new contractor.

CONCLUSION

After careful review, I determine that all workers of Niffty Creations, Incorporated, Lindenhurst, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-2654 Filed 1-25-79; 8:45 am]

[4510-28-M]

[TA-W-4397]

PROGRESSIVE KNITTING MILLS OF PENNSYLVANIA, INC., PHILADELPHIA, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4397: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 16, 1978 in response to a worker petition received on November 14, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing men's and boys' swimwear at Progressive Knitting Mills of Pennsylvania Incorporated, Philadelphia, Pennsylvania. The investigation revealed that the plant primarily produces men's and boys' swimming trunks and tennis shorts.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55011). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Progressive Knitting Mills of Pennsylvania Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation revealed that customers of Progressive did not increase purchases of imported men's and boys' swimming trunks or tennis shorts.

The Department conducted a survey of customers of Progressive Knitting Mills of Pennsylvania, Incorporated. None of the customers surveyed reduced purchases of men's swimming trunks and tennis shorts from Progressive and increased purchases of imported men's swimming trunks and athletic shorts in the relevant time period.

The average number of production employees at Progressive Knitting Mills increased in the fourth quarter of 1977 and in each of the first three quarters of 1978 compared to the same quarters one year earlier. The average number of employees increased in October and November of 1978 compared to the same months of 1977. The layoffs that took place in second and third quarters of 1978 were less severe than those that had taken place in the same period in 1977.

CONCLUSION

After careful review, I determine that all workers of Progressive Knitting Mills of Pennsylvania, Incorporated, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-2655 Filed 1-25-79; 8:45 am]

[4510-23-M]

[TA-W-4398; TA-W-4398A; TA-W-4398B]

QUEEN CASUALS, INC., PHILADELPHIA, PA., PUNXSUTAWNEY, PA., ATCO, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4398, 4398A, and 4398B: Investigations regarding certification of eligibility to apply for worker adjust-

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ment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 16, 1978 in response to a worker petition received on November 14, 1978 which was filed by the Knitgoods Union, Local 190, International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's sportswear including skirts, pants, shorts, pant suits, blouses, shirts and sweaters at the Philadelphia, Pennsylvania plant of Queen Casuals, Incorporated. The investigation was expanded to cover workers producing women's sportswear at the Punxsutawney, Pennsylvania and the Atco, New Jersey plants of Queen Casuals, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55011-12). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Queen Casuals, Incorporated, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's skirts increased in the first three quarters of 1978 compared to the same period in 1977.

U.S. imports of women's, misses' and children's slacks and shorts increased in 1977 compared to 1976 and increased in the first three quarters of 1978 compared to the same period in 1977.

U.S. imports of women's, misses' and children's suits, including pant suits, increased in the first three quarters of 1978 compared to the same period in 1977.

U.S. imports of women's, misses', and children's blouses and skirts increased in 1977 compared to 1976 and increased in the first three quarters of 1978 compared to the same period in 1977.

U.S. imports of women's, misses', and children's sweaters increased both absolutely and relative to domestic production in each successive year from 1973 through 1976 when the ratio of imports to domestic production reached 141.9 percent. In 1977, imports of sweaters were 9.0 percent above the average level of imports for the years 1973 through 1976. The ratio of imports of sweaters to domestic production in 1977 was above the import to domestic production ratio recorded in each year in the 1973 through 1975 time period.

A Departmental survey of customers of Queen Casuals, Incorporated indicated that some customers decreased their purchases from Queen Casuals, Incorporated and increased purchases of imported women's sportswear from 1976 to 1977 and in the first three quarters of 1978 compared to the same period in 1977.

CONCLUSION

After careful review, I determine that all workers of the Philadelphia and Punxsutawney, Pennsylvania and Atco, New Jersey facilities of Queen Casuals Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of those plants. In accordance with the provisions of the Act I make the following certification:

All workers of the Philadelphia, Pennsylvania, the Punxsutawney, Pennsylvania and the Atco, New Jersey plants of Queen Casuals, Incorporated who became totally or partially separated from employment on or after November 13, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-2656 Filed 1-25-79; 8:45 am]

[4510-28-M]

[TA-W-4521]

STEFFI FASHIONS, INC., NEW YORK, N.Y., PATERSON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4521: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 14, 1978 in response to a worker petition received on December 11, 1978 which was filed on behalf of workers and former workers producing ladies' outerwear at the New York City and Paterson, New Jersey locations of Steffi Fashions, Incorporated. The investigation revealed that the firm primarily produces women's outer coats, jackets and raincoats.

The Notice of Investigation was published in the FEDERAL REGISTER on December 26, 1978 (43 FR 60243). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Steffi Fashions, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With respect to workers of the New York City sales office without regard to whether any of the other criteria have been met, the following criterion has not been met.

That sales or production, or both of the firm or subdivision have decreased absolutely.

The investigation revealed that sales of women's outer coats, jackets and raincoats at Steffi Fashions increased in the one-year period from December, 1977, through November, 1978 compared with the like period of the previous year. Sales increased in each of the first three quarters of 1978 compared with the like quarters of 1977.

With respect to workers of the Paterson, New Jersey, plant of Steffi Fashions, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both of the firm or subdivision have decreased absolutely.

U.S. imports of women's, misses' and children's coats and jackets increased from 2252 thousand dozen in 1976 to 2723 thousand dozen in 1977. Imports decreased from 2081 thousand dozen in the first three quarters of 1977 to 1906 thousand dozen in the like period of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's misses' and children's raincoats increased from 191 thousand dozen in 1976 to 261 thousand dozen in 1977. Imports increased from 116 thousand dozen in the first half of 1977 to 210 thousand dozen in the first half of 1978. The ratio of imports to domestic production increased from 36.8 percent in 1976 to 50.4 percent in 1977.

Production increased in December, 1977—the earliest month of possible certification coverage given the petition date of November 30, 1978—compared to the previous month. Production in the first 11 months of 1978 was higher than in the same period of 1977. Similarly, company sales were higher in the first 11 months of 1978 than in the same period of the previous year.

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CONCLUSION

After careful review, I determine that all workers at the Paterson, New Jersey, plant of Steffi Fashions, Inc., and the New York City sales office are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-2657 Filed 1-25-79 8:45 am]

[4510-28-M]

[TA-W-4482]

TAMI SPORTSWEAR, SAN FRANCISCO, CALIF.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4482: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 6, 1978 in response to a worker petition received on November 13, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear such as sweaters, skirts, jackets, blouses, pants, shorts and other garments. The investigation revealed that the plant primarily produces skirts, pants, shorts, culottes, blazers and vests and imports sweaters and blouses.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59165-6). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Tami Sportswear, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of production workers at Tami Sportswear increased in 1977 compared to 1976 and increased in 1978 compared to 1977. The average weekly hours worked per employee did not change significantly during this period.

The petitioners allege that layoffs at Tami Sportswear occurred in 1974. Although layoffs did occur in September, 1974 when the company reorganized production operations, Section 223 (b) (1) of the Trade Act of 1974 provides that adjustment assistance not be granted to workers separated more than one year before the date of the petition. The petition in this case was dated August 29, 1978.

CONCLUSION

After careful review, I determine that all workers of Tami Sportswear, San Francisco, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-2658 Filed 1-25-79; 8:45 am]

[4510-28-M]

[TA-W-4327]

TRW DOT DIVISION, CHESHIRE, CONN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4327: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 2, 1978 in response to a worker petition received on October 31, 1978 which was filed on behalf of workers and former workers producing button snaps, rivets and burrs at TRW Dot Division, Cheshire, Connecticut.

The Notice of Investigation was published in the FEDERAL REGISTER on November 13, 1978 (43 FR 52564). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of TRW Dot Division, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

None of the customers of TRW Dot Division who were surveyed purchased imported buttons and tacks, rivets and burrs, or snaptites and staples.

CONCLUSION

After careful review, I determine that all workers of TRW Dot Division, Cheshire, Connecticut are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-2659 Filed 1-25-79; 8:45 am]

[4510-28-M]

[TA-W-2849]

UNION RAILROAD CO., EAST PITTSBURGH, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

On May 26, 1978, the Director of the Office of Trade Adjustment Assistance issued a Notice of Termination of Investigation (43 FR 25500) in response to a petition which was filed by the Brotherhood of Locomotive Engineers on behalf of engineers and firemen now or formerly engaged in transporting of raw materials into the U.S. Steel Corporation plants, interplant moves and carrying finished products from the plants to interchange points at Union Railroad Company, East Pittsburgh, Pennsylvania, (TA-W-2849). The investigation was terminated on the grounds that the group of workers covered by the petition were included in the group of workers covered in a separate petition, (TA-W-2605), filed by the United Transportation Union.

On August 9, 1978, the Department issued a Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance (43 FR 36714) in response to the petition which was filed by the United Transportation Union on behalf of workers and former workers engaged in railroad service to the U.S. Steel Corporation and other companies at Union Railroad Company, East Pittsburgh, Pennsylvania, (TA-W-2605). The nega-

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tive determination was based on insignificant total or partial separations at the firm. The determination was applicable to all workers (including engineers and firemen) of Union Railroad Company, East Pittsburgh, Pennsylvania.

On the basis of additional information that the pattern of layoffs may have differed as between the engineers and firemen, on the one hand, and the other railroad personnel, on the other, the Director of the Office of Trade Adjustment Assistance, on his own motion, reopened the investigation, TA-W-2849, to determine the eligibility of engineers and firemen for adjustment assistance. The Notice of Investigation was published in the FEDERAL REGISTER on October 31, 1978, (43 FR 50762).

The determination of TA-W-2849 was based upon information obtained principally from officials of Union Railroad Company, its customers and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separation, or threat thereof, and to the absolute decline in sales or production.

The investigation revealed that layoffs of engineers and firemen followed seasonal trends. Furthermore, iron ore and coal worker strikes in 1977 and early 1978 plus shutdowns of certain blast furnaces and rebuilds of coke batteries also contributed to layoffs. Average annual employment of these workers, as measured by train crews, increased in 1977 compared with 1976, and increased during the period January through October 1978 compared with the same period in 1977.

CONCLUSION

After careful review, I determine that the engineers and firemen of Union Railroad Company, East Pittsburgh, Pennsylvania, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of January 1979.

JAMES F. TAYOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-2660 Filed 1-25-79 8:45 am]

[4510-28-M]

[TA-W-4357]

WASHINGTON PORCELAIN CO., WASHINGTON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4357: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 7, 1978 in response to a worker petition received on November 6, 1978 which was filed on behalf of workers and former workers producing switch plates, castings, pouring cups, light fixtures known as industrial porcelain at Washington Porcelain Company, Washington, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on November 17, 1978 (43 FR 53852-53853). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Washington Porcelain Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of Washington Porcelain's customers. The survey results indicated customers did not purchase switch plates, castings, pouring cups, or light fixtures directly or indirectly from foreign sources during the period 1976 to June 1978.

CONCLUSION

After careful review, I determine that all workers of Washington Porcelain Company, Washington, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-2661 Filed 1-25-79; 8:45 am]

[4510-28-M]

[TA-W-4402]

WEXLER KNITTING MILLS, INC., PHILADELPHIA, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4402: Investigation regarding certification of eligibity to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 16, 1978 in response to a worker petition received on November 14, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing men's and boys' and ladies' sweaters at Wexler Knitting Mills, Incorporated in Philadelphia, Pennsylvania. The investigation revealed that the plant primarily produces men's and boys' sweaters.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55011-12). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Wexler Knitting Mills, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales of men's and boys' sweaters, in both quantity and value, increased at Wexler Knitting Mills, Incorporated in 1977 compared with 1976 and continued to increase in the first ten months of 1978 compared with the like period of 1977. Sales and production are equivalent at Wexler Knitting Mills.

CONCLUSION

After careful review, I determine that all workers of Wexler Knitting Mills, Incorporated in Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research

[FR Doc. 79-2662 Filed 1-25-79; 8:45 am]

[4510-28-M]

[TA-W-4403]

WILSHIRE KNITTING MILLS, INC., PHILADELPHIA, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4403: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 16, 1978 in response to a worker petition received on November 14, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sweaters at Wilshire Knitting Mills, Incorporated, Philadelphia, Pennsylvania. The investigation revealed that the plant produces men's, ladies' and children's sweaters.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55011-12). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Wilshire Knitting Mills, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased from 1975 to 1976. In 1977, imports of sweaters increased 9.0 percent over the average level of imports for the years 1973 through 1976. Imports increased in the first quarter of 1978 compared to the first quarter of 1977. The ratio of imports of sweaters to domestic production in 1977 was above the import to domestic production ratio recorded in each year in the 1973 to 1975 time period.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased from 20.4 million units in 1975 to 26.5 million units in 1976 and to 28.3 million units in 1977. Imports increased to 33.2 million units in the first three quarters of 1978 as compared to 22.6 million units in the first three quarters of 1977.

A Department of Labor survey was conducted of customers of Wilshire Knitting Mills, Incorporated. The survey revealed that major customers increased their purchases of imported sweaters and decreased their purchases from Wilshire Knitting Mills in 1977 as compared to 1976 and from January-September 1978 as compared to January-September 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's, ladies' and children's sweaters produced at Wilshire Knitting mills, Incorporated, Philadelphia, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Wilshire Knitting Mills, Incorporated, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after November 22, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-2663 Filed 1-25-79; 8:45 am]

[6820-35-M]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

JANUARY 22, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Connecticut Legal Services in Cromwell, Connecticut to serve Hartford County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Boston Regional Office, 84 State Street, Room 520, Boston, Massachusetts 02101.

THOMAS EHRLICH,
President.

[FR Doc. 79-2722 Filed 1-25-79; 8:45 am]

[3510-12-M]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

MEETING

Pursuant to section 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the National Advisory Committee on Oceans and Atmsphere (NACOA) will hold a 2-day meeting on Monday and Tuesday, February 12 and 13, 1979. The sessions will be open to the public and will be held in the Penhouse, Page Building 1, 2001 Wisconsin Avenue, N.W. Washington, D.C. The session on Monday will begin at 9:00 a.m.; the Tuesday session at 8:00 a.m.

The Committee, consisting of 17 non-Federal members, appointed by the President from State and local govenment, industry, science and other appropriate areas, was established by the Congress by Pub. L. 95-63, on July 5, 1977. Its duties are to: (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs of the National Oceanic and Atomospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

The tentative meeting schedule follows:

Monday, February 12, 1979

9:00-9:30 a.m.—Plenary Session—Opening Remarks, Chairman—Meeting Plans, Chairman

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9:30-10:00 a.m.—Update on Federal Reorganization for Marine and Atmospheric Affairs, Mr. M. Dubs, NACOA
10:00-10:30 a.m.—Discussion of Reactions to NACOA Report on Coastal Zone Management (Comments on Pub. L. 95-273), Ms. S. Stewart, NACOA
10:30-11:30 a.m.—Briefing upon the International Decade of Ocean Exploration, Dr. G. Gross, NSF
11:30-12:00 Noon—Working Group Sessions—Ocean Use Panel, Dr. E. Murphy, NACOA—Oil Spill Legislation; Timetable for Fisheries Conservation and Management Act; Ocean Dumping; Marine Sanctuaries—Weather and Climate Panel, Dr. W. Baum, NACOA—PROFS; Flash Flood Program; Planning for Work Shop on Future Weather Services—R&D Panel, Dr. J. Knauss, NACOA—Civil Ocean Technology
12:00-1:00—LUNCH
1:00 p.m.-5:00 p.m.—Working Group Sessions (continued)

Tuesday, February 13, 1979

8:00-9:00 a.m.—Plenary Session—Panel Reports, Panel Chairmen
9:00-10:00 a.m.—Proposed New Panel Structure, Chairman
10:00-11:00 a.m.—Future Work, Chairman
1:30 p.m.—ADJOURNMENT

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the perogative to impose limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Acting Executive Director, Mr. John W. Connolly, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street NW. (Room 434, Page Building 1), Washington, D.C. 20235. The telephone number is (202) 254-8412.

Dated: January 25, 1979.

SAMUEL H. WALINSKY,
Executive Officer.

[FR Doc. 79-3023 Filed 1-25-79; 11:09 am]

[4510-30-M]

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

MEETING

The eleventh meeting of the National Commission on Unemployment Compensation is scheduled to be held at the Ramada Inn, Rosslyn, Virginia in the Dogwood AB Room on March 8, 9, 10. The meeting will begin at 9:00 a.m. and conclude at 5:30 p.m. each day.

Requests for presenting testimony must be submitted 30 days prior to the meeting date and must indicate the topics to be discussed. Individuals and organizations requesting time must limit oral testimony to not more than ten minutes. Forty copies of written testimony must be submitted, but oral testimony should summarize any written testimony. Depending upon the number of persons and organizations requesting the opportunity to testify at a meeting, and the topics to be discussed, individuals and organizations will be notified of time and place allocated for testimony. Whenever feasible, individuals and organizations presenting similar views will be grouped together and will be handled as a panel in order to enable discussion, questioning, and responses to be developed with a view to assisting the Commission to deal with the mandate established by the Congress.

Telephone inquiries and communications concerning this meeting should be directed to: JAMES M. ROSBROW, Executive Director, National Commission on Unemployment Compensation, 1815 Lynn Street, Room 440, Rosslyn, Virginia 22209 (703) 235-2782.

Signed at Washington, D.C., this 19th day of January, 1979.

JAMES M. ROSBROW,
Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 79-2432 Filed 1-25-79; 8:45 am]

[4510-30-M]

MEETING

The twelfth meeting of the National Commission on Unemployment Compensation is scheduled to be held at the Southfield Sheraton, Southfield, Michigan, in the Southfield AB Room on March 29, 30, 31. The meeting will begin at 9:00 a.m. and conclude at 5:30 p.m. each day.

Requests for presenting testimony must be submitted 30 days prior to the meeting date and must indicate the topics to be discussed. Individuals and organizations requesting time must limit oral testimony to not more than ten minutes. Forty copies of written testimony must be submitted, but oral testimony should summarize any written testimony. Depending upon the number of persons and organizations requesting the opportunity to testify at a meeting, and the topics to be discussed, individuals and organizations will be notified of time and place allocated for testimony. Whenever feasible, individuals and organizations presenting similar views will be grouped together and will be handled as a panel in order to enable discussion, questioning, and responses to be developed with a view to assisting the Commission to deal with the mandate established by the Congress.

Telephone inquiries and communications concerning this meeting should be directed to: JAMES M. ROSBROW, Executive Director, National Commission on Unemployment Compensation, 1815 Lynn Street, Room 440, Rosslyn, Virginia 22209 (703) 235-2782.

Signed at Washington, D.C., this 19th day of January, 1979.

JAMES M. ROSBROW,
Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 79-2433 Filed 1-25-79; 8:45 am]

[7555-01-M]

NATIONAL SCIENCE FOUNDATION

NSF ADVISORY COUNCIL: TASK GROUP NO. 8

Amendment to Notice of Meeting

The notice of the February 2, 1979 meeting of the NSF Advisory Council, Task Group should be changed—

FROM—

TIME: 9:00 a.m. to 5:00 p.m.

TO—

TIME: 4:00 p.m. to 7:00 p.m.

This notice appeared in FEDERAL REGISTER, Volume 44, No. 9 on Friday, January 12, 1979.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 23,1979.

[FR Doc. 79-2785 Filed 1-25-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE FOR SOCIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act. P.L. 92-463, the National Science Foundation announces the following meeting:

NAME: Subcommittee for Sociology of the Advisory Committee for Social Sciences.

DATE AND TIME: February 15-16, 1979—9:00 am to 4:00 pm.

PLACE: Room 321, National Science Foundation, 1800 G Street, N.W., Washington, D.C.

TYPE OF MEETING: Closed: 9:00 am-4:00 pm.

CONTACT PERSON: Ronald J. Liebert, Program Director for Sociology, Room 316, National Science Foundation, Washington, D.C. 20550, Telephone: 202 632-4204.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendation concerning support for research in the Sociology Program.

AGENDA: To review and evaluate research proposals and projects as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 23, 1979.

[FR Doc. 79-2786 Filed 1-25-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON METALLURGY AND MATERIALS OF THE ADVISORY COMMITTEE FOR MATERIALS RESEARCH

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, as amended, the National Science Foundation announces the following meeting:

NAME: Subcommittee for Metallurgy and Materials of the Advisory Committee for Materials Research.

DATE AND TIME: February 15 and 16, 1979—9:00 a.m.-5:00 p.m. each day.

PLACE: Room 421, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

TYPE OF MEETING: Closed both days, 9:00 a.m.-5:00 p.m.

CONTACT PERSON: Dr. Herbert S. Bennett, Director, Division of Materials Research, Room 408, National Science Foundation, Washington, D.C., Telephone: (202)-632-7412.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in Ceramics.

AGENDA:

THURSDAY, February 15, 1979—9:00 a.m. to 5:00 p.m.—CLOSED.
Review and comparison of declined proposals (and supporting documentation) with successful awards under the Ceramics Program, including review of peer review materials and other privileged material.

FRIDAY, February 16, 1979—9:00 a.m. to 5:00 p.m.—CLOSED.
9:00 a.m.—Further discussions of declined proposals and awards.
12 noon—Lunch.
1 p.m.—Preparation of report on Subcommittee findings and recommendations.

REASON FOR CLOSING: The Subcommittee will be reviewing grants and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Director, NSF, pursuant to provisions of Section 10(d) of P.L. 92-463.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 23, 1979.

[FR Doc. 79-2787 Filed 1-25-79; 8:45 am]

[7555-01-M]

DOE/NSF NUCLEAR SCIENCE ADVISORY COMMITTEE, 1979 FACILITIES SUBCOMMITTEE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Facilities Subcommittee of the Nuclear Science Advisory Committee.
Date and Time: February 12, 1979, 9:00 am-10:00 pm, February 13, 1979, 9:00 am-6:00 pm, February 14, 1979, 9:00 am-5:00 pm.
Place: February 12 and 13, Conference Room 540; February 14, Conference Room 338, National Science Foundation, Washington, D.C. Telephone 202/632-4318.
Type of Meeting: February 12, 1979, 9:00 am-10:00 am, Closed; 10:00 am-10:00 pm, Open. February 13, 1979, 9:00 am-6:00 pm, Open. February 14, 1979, 9:00 am-5:00 pm, Closed.
Contact Person: Dr. Howel Pugh, Head, Nuclear Science Section, Room 341, National Science Foundation, Washington, D.C. Telephone 202/632-4318.
Summary Minutes: May be obtained from the Committee Managment Coordination Staff, Division of Finanical and Administrative Management, National Science Foundation, Washington, D.C. 20550.
Purpose of Committee: to provide advice on a continuing basis to both DOE and and NSF on support for basic nuclear science in the United States.
Agenda: *February 12, 1979, Closed Session (9:00 am-10:00 am);* Discusson of projects under consideration for funding. *Open Session (10:00 am-10:00 pm);* Presentations by research groups of proposes projects, and discussion thereof. *February 13, 1979, Open Session (9:00 am-6:00 pm);* Continuaton of previous day's activities.
February 14, 1979, Closed Session (9:00 a.m.—5:00 p.m.); Discussion of projects under consideration for funding.
Reason for Closing: The projects being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer, pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by athe Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Mangement Coordinator.

JANUARY 23, 1979.

[FR Doc. 79-2788 Filed 1-25-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON ANTHROPOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Subcommittee on Anthropology (Social Anthropology) of the Advisory Committee for Behavioral and Neural Sciences.
Date and Time: February 12 and 13, 1979: 9:00 a.m. to 5 p.m. each day.
Place: National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550 Room 338.
Type of Meeting: Closed.
Contact Person: Dr. John E. Yellen, Program Director, Anthropology Program, Room 320, National Science Foundation, Washington, D.C. 20550, Telephone (202) 632-4208.
Purpose of Subcommittee: To provide advice and recommendations concerning support for research in social anthropology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determina-

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tions by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 23, 1979.

[FR Doc. 79-2789 Filed 1-25-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON MOLECULAR BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation accounces the following meeting:

Name: Subcommittee on Molecular Biology, Group B, of the Advisory Committee for Physiology, Cellular, and Molecular Biology.
Date and Time: February 12 & 13, 1979, 9:00 a.m. to 5:00 p.m. each day.
Place: Room 321, National Science Foundation, 1800 G. Street, N.W., Washington, D.C. 20550.
Type of Meeting: Closed.
Contact Person: Dr. Brian J. Johnson, Program Director, Biochemistry Program, Room 330, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4260.
Purpose of Subcommittee: To provide advice and recommendations concerning support for research in Molecular Biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 23, 1979.

[FR Doc. 79-2790 Filed 1-25-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON PUBLIC UNDERSTANDING OF SCIENCE OF THE ADVISORY COMMITTEE ON SCIENCE AND SOCIETY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Public Understanding of Science of the Advisory Committee for Science and Society.
Date: February 15 and 16, 1979. 9-5 each day.
Place: Room 651, 5225 Wisconsin Avenue, N.W., Washington, D.C.
Contact Person: Dr. Jean Intermaggio, Program Manager, Public Understanding of Science program, Office of Science and Society, Room W-668, National Science Foundation, Washington, D.C. 20550, 202-282-7770.
Type of Meeting: Closed.
Purpose of Subcommittee: To provide advice and recommendations concerning direction and priorities for Public Understanding of Science program. To provide advice and recommendations concerning support for projects in Public Understanding of Science.
Agenda: To review proposals.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 23, 1979.

[FR Doc. 79-2791 Filed 1-25-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON GENETIC BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation annouces the following meeting:

Name: Subcommittee on Genetic Biology of the Advisory Committee for Physiology, Cellular & Molecular Biology.
Date and Time: February 15-17, 1979, 9:00 AM.
Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of Meeting: Closed.
Contact Person: Dr. Philip D. Harriman, Program Director, Genetic Biology Program, Room 326, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-5985.
Purpose of Subcommittee: To provide advice and recomendations concerning support for research in genetic biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

JANUARY 23, 1979.

[FR Doc. 79-2792 Filed 1-2-79; 8:45 am]

[7710-12-M]

POSTAL SERVICE

PRIVACY OF INFORMATION

Systems of Records Modifications

AGENCY: U.S. Postal Service.

ACTION: Final Notice of Modifications to Systems of Records.

SUMMARY: This document makes final a previously published notice of the addition of three longstanding but heretofore unpublished routine uses to systems of records. This document also provides final notice of the addition of several locations to a Postal Service system of records.

EFFECTIVE DATE: February 28, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Philip Skelly, (202) 245-5540.

SUPPLEMENTARY INFORMATION: A complete statement of the existence and character of each of the systems of records appeared in the FEDERAL REGISTER of September 8, 1978 (43 FR 40122). On July 27, 1978, the Postal Service published for comment in the FEDERAL REGISTER (43 FR 32479) a proposal to make changes to USPS 120.050, Personnel Records—Employee Suggestion Control, USPS 120.100, Personnel Records—Performance Awards System Records, USPS 120.070, Personnel Records—General Personnel Folders (Official Personnel Folders and Records Related Thereto) and USPS 120.010, Personnel Records—Architect Engineers Selection Records. No comments were received on the proposed modifications. Accordingly, after a review of the proposed text, the Postal Service has determined to give final notice of the following modifications:

USPS 120.050—Personnel Records—Employee Suggestion Control

Add routine use as follows:

"6. Disclosure may be made to the news media from the record of an individual regarding that individual's receipt of an employee award when the information is of news interest and consistent with the public right to know."

USPS 120.100—Personnel Records—Performance Awards System Records

Add routine use as follows:

"7. Disclosure may be made to the news media from the record of an individual regarding that individual's receipt of an employee award when the information is of news interest and consistent with the public right to know."

USPS 120.070—Personnel Records, General Personnel Folder (Official Personnel Folder and Records Related Thereto)

Add routine use as follows:

"16. Information pertaining to an employee who is a retired military officer will be furnished the appropriate service finance center as required under the provisions of the Dual Compensation Act."

USPS 120.010—Personnel Records—Architect Engineers Selection Records

Add routine use as follows:

"3. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, state or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto."

ADDITIONAL LOCATIONS FOR USPS 080.030, INSPECTION REQUIREMENTS—VEHICULAR VIOLATIONS RECORD SYSTEM

The Postal Service has determined that it is necessary to revise the description of the system location for USPS 080.030, Inspection Requirements—Vehicular Violations Record System. This revision does not change the general character or purpose of the system as described nor does it expand the population of individuals to whom the system applies. The modificatons merely provide a more accurate description of the affected system of records. The following constitutes final notice of the necessary changes:

USPS 080.030, Inspection Requirements—Vehicular Violations Record System

System location: ADD THE FOLLOWING:

Miami, Florida, 33102(GMF).
Jacksonville, Florida, 32099 (BMC).
Atlanta, Georgia, 30318(BMC).
Greensboro, North Carolina, 27420(BMC).
Dallas, Texas, 75221(GMF), 75222(BMC).
Houston, Texas, 77001(GMF).
San Antonio, Texas, 78296(GMF).
Memphis, Tennessee, 38101(GMF), 38136(BMC).
Biloxi, Mississippi, 39533(GMF).
New Orleans, Louisiana, 70151(GMF).
Tulsa, Oklahoma, 74101(GMF).

W. ALLEN SANDERS,
Acting Deputy General Counsel.

[FR Doc. 79-2842 Filed 1-25-79; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

ADVISORY COMMITTEE ON OIL AND GAS ACCOUNTING

Membership and Meeting

ACTION: Announcement of Membership of the Securities and Exchange Commission Advisory Committee on Oil and Gas Accounting.

SUMMARY: The Commission announced today the membership of its Advisory Committee on Oil and Gas Accounting. The initial meeting of this Committee will be held at 9:30 a.m. on Tuesday, January 30, 1979.

FOR FURTHER INFORMATION CONTACT:

James L. Russell, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-755-0222).

SUPPLEMENTARY INFORMATION: The Advisory Committee on Oil and Gas Accounting was established to advise the Chief Accountant of the Commission on issues relating to the development of reserve recognition accounting for oil and gas producers. Formation of the committee was announced on January 4, 1979 (Securities Act Release No. 6011, 44 FR 3112). The members of the Advisory Committee are listed below.

Richard C. Adkerson, Partner, Arthur Andersen & Co., Houston, TX.
Dean M. Bloyd, Group Vice President, Tesoro Petroleum Corp., San Antonio, TX.
Horace Brock, Professor, North Texas State Univ., Denton, TX.
John C. Burton, Professor, Columbia University, New York, NY.
Burnell H. DeVoe, Jr., Chairman, Price Waterhouse & Co., New York, NY.
Kenneth B. Ford, President, Miller & Lents, Ltd., Houston, TX.
P. H. Gutknecht, Vice President, Total Petroleum (North America) Ltd., Alma, MI.
Donald C. Haley, Controller, the Standard Oil Co. (Ohio), Cleveland, OH.
B. P. Huddleston, President, B. P. Huddleston & Co., Inc., Houston, TX.
John C. Jacobsen, Controller, Shell Oil Company, Houston, TX.
Kenneth L. Johnson, Vice Chairman, Coopers & Lybrand, New York, NY.
H. P. Keplinger, President, Keplinger & Associates, Inc., Houston, TX.
Charles J. Lee, Vice President, Natomas Company, San Francisco, CA.
U. J. LeGrange, Controller, Exxon Corporation, New York NY.
C. H. Moore, Partner, Peat, Marwick, Mitchell & Co., Dallas, TX.
David Norr, Lieber & Co., Harrison, NY.
Thomas A. Petrie, The First Boston Corporation, New York, NY.
Stanley P. Porter, Vice Chairman, Arthur Young & Co., Dallas, TX.
Lee J. Seidler, Professor, New York University, New York, NY.
Gerald E. Sherrod, Vice President, Citibank N.A., New York, NY.
Mr. Thomas G. Stevens, Senior Vice President, First City National Bank of Houston, Houston, TX.

As previously announced, the first meeting of the Advisory Committee on Oil and Gas Accounting will be held at 9:30 a.m. January 30, 1979, at the Commission's headquarters, 500 North Capitol Street, Washington, D.C. The meeting will be open to the public.

Dated: January 24, 1979.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2904 Filed 1-25-79; 8:45 am]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA General Docket H-78-2]

BI-MODAL CORPORATION WAIVER PETITION

As required by 45 U.S.C. 431(c) and in accordance with 49 CFR 211.41 and 211.9, notice is hereby given that Bi-Modal Corporation (Bi-Modal) has submitted a waiver petition to the Federal Railroad Administration (FRA) requesting a waiver of compliance with several safety regulations. These regulations include 49 CFR Par 215 (Freight Car Safety Standards), 49 CFR Part 231 (Safety Appliance Standards) and 49 CFR Part 232 (Power Brake Rules).

Bi-Modal seeks the waiver of compliance with these regulations in order to permit the operation of a combined railroad-highway vehicle which Bi-Modal designates as a "RoadRailer". The "RoadRailer" vehicle, as currently proposed by Bi-Modal, is almost identical to the standard semi-trailer presently used to haul cargo over the highway. The vehicle proposed by Bi-Modal deviates from the standard highway semi-trailer principally by virtue of the existence of railway running wheels. These two railway wheels are mounted on a single axle behind the normal highway tandem wheels of the semi-trailer. The separate highway and railway running gear are selectively operable. Each running gear is mounted on the body of the vehicle with an air suspension system so that

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while one unit is in a running position the other unit is in a stored position.

The vehicle proposed by Bi-Modal has been described in several publications of general circulation. These publications have generally included either photographs or drawings depicting the design of this vehicle. Among the publications that may be consulted for additional descriptive information are the following: Railway Age (December 11, 1978 issue); Progressive Railroading (September 19, 1978 issue); Modern Railroads (August 1978 issue); and Traffic World (June 19, 1978 issue). Detailed information concerning the vehicle is also on file with the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration. This material is available for examination by the public during regular business hours in Room 4406, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

Bi-Modal states that this vehicle, when being operated on a railroad, is intended for use only in trains consisting exclusively of similar vehicles. The vehicle, according to Bi-Modal would not be used with conventional freight cars. Consequently, the vehicle is no intended for interchange service, traditional switching or classification use as presently designed by Bi-Modal. Given this intended utilization, Bi-Modal states that, in its judgment, the FRA safety regulations for traditional railroad cars are not appropriate for this vehicle even though it will be operated on interstate railroads. Additionally Bi-Modal indicates that it is not possible, given the highway operation of the vehicle, to bring the vehicle into compliance with many of the FRA safety standard. Consequently, Bi-Modal seeks a waiver of compliance with all of these standards.

The waiver sought by Bi-Modal would permit non-compliance with all of the provisions of the Freight Car Safety Standards (49 CFR Part 215). These standards include provisions which relate to the inspection of freight cars and prescribe various conditions that constitute defective components requiring prompt remedial action. Additionally, the waiver sought by Bi-Modal would permit non-compliance with all of the provisions of the Safety Appliance Standards (49 CFR Part 231). These standards include provisions that prescribe the number, location and dimensional specifications for the handholds, ladders and sill steps that each freight car must be equipped with. Finally, the waiver sought by Bi-Modal would permit non-compliance with the Power Brake Rules (49 CFR Part 232). These standards include provisions that prescribe the height of drawbars and specifications for the air brake system that each freight car must be equipped with as well as the methods for conducting inspection and operational testing of train brake systems.

The scope of the requested waiver is well illustrated by some of the design features of two prototype vehicles that have already been built by Bi-Modal. These vehicles use a two pipe airbrake system rather than the single pipe system found on conventional railroad equipment. The vehicles also use a drawbar arrangement that is approximately fifteen inches higher than that found on conventional railroad equipment. Finally, these vehicles are equipped with none of the handhold, sill steps or ladders found on conventional railroad equipment.

The waiver sought by Bi-Modal is for a temporary period not to exceed five years. During this period Bi-Modal anticipates conducting operational testing of the vehicles and, as the vehicles are proven in train service, Bi-Modal expects to construct approximately ten thousand units during this period. Bi-Modal states that once operational experience has been obtained, it would then be appropriate to create specific safety standards applicable to such vehicles.

The Railroad Safety Board (Board) of the FRA, which has been delegated responsibility for determining whether to grant waivers of compliance, has decided to hold a public hearing in this proceeding prior to rendering a decision on this request. Accordingly, a public hearing will be held a 10:00 a.m. on February 28, 1979. The hearing will be held in Room 3201 of the Trans Point Building located at 2100 Second Street SW., Washington, D.C. 20590.

The hearing will be an informal one and will be conducted by a representative designated by the Board. The hearing will be conducted in accordance with the provisions of § 211.25 of the FRA Rules of Practice (49 CFR 211.25) and will not be an adversary proceeding. The Board's representative will make an opening statement outlining the scope of the hearing and will announce any additional procedures, if necessary, at the start of the hearing.

All interested persons are invited to participate in this hearing. Additionally, interested persons are invited to participate in this proceeding by submitting written data, views or comments.

All communications concerning this proceeding must identify the appropriate docket (FRA General Docket H-78-2) and should be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590. Communications received before March 9, 1979 will be considered by the Board before final action is taken. Comments received after that date will be considered to the extent practicable.

(Sec. 202, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431); Sec. 1.49(n), Regulations of the Office of the Secretary of Transportation (49 CFR 1.49(n)).)

Issued in Washington, D.C. on January 22, 1979.

ROBERT H. WRIGHT,
Acting Chairman,
Railroad Safety Board.

[FR Doc. 79-2781 Filed 1-25-79; 8:45 am]

[4810-25-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

DEBT MANAGEMENT ADVISORY COMMITTEES

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 5 U.S.C. App. I, Supp. III), the Secretary of the Treasury has approved continuation of the following industry committees as advisory committees:

Titles: (1) Government Borrowing Committee of the American Bankers Association.

(2) U.S. Government and Federal Agencies Securities Committee of the Public Securities Association.

Purpose: The committees are utilized by the Secretary of the Treasury and his staff for advice in carrying out Federal financing and public debt management. They consider commercial operations, advise the Secretary of the Treasury and his staff and make reports and recommendations.

Statement of Public Interest: The membership of these committees represents a cross section of the financial community. The members are intimately acquainted with commercial and financial information and day-to-day market factors relevant to Treasury debt management operations. It is in the public interest to insure that the Secretary of the Treasury and his staff have this supplemental information in order to manage the public debt.

Authority for these committees will expire two years from the date new charters are signed by the designated Treasury official and filed with the appropriate Committee of the Senate and the House of Representatives.

Dated: January 23, 1979.

WALTER J. MCDONALD,
Acting Assistant Secretary,
Administration.

[FR Doc. 79-2784 Filed 1-25-79; 8:45 am]

[3510-13-M]

UNITED STATES METRIC BOARD

PUBLIC FORUM

Notice is hereby given that the United States Metric Board will hold a Public Forum on Thursday, February 15, 1979, from 2 p.m. to 5 p.m. The forum will be held in conjunction with the Board's regular February meeting which is also open to the public. The forum will be held at the Dallas Hilton Hotel, Embassy Garden Room, 1914 Commerce Street, Dallas, Texas.

The purpose of the forum will be to allow the Board to receive comments about voluntary metric conversion from representatives of groups or organizations and from individuals. Those who wish to participate are invited to submit statements or questions in advance to Ms. Suzanne Lowery, Office of Public Information, United States Metric Board, The Magazine Building, 1815 N. Lynn St., Suite 301, Arlington, Virginia 22209. For further information call 703/235-1933.

LOUIS F. POLK,
Chairman,
United States Metric Board.

[FR Doc. 79-2824 Filed 1-25-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

AGRICULTURAL COOPERATIVES

Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

JANUARY 19, 1979.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have hearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations—Agriland Trucking Cooperative Association, Inc.

Principal Mailing Address (Street No., City, State, and Zip Code)—2700 Esquire Drive, Boise, Idaho 83704.

Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code)—2700 Esquire Drive, Boise, Idaho 83704.

Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address)—R. J. Redmon, 2700 Esquire Drive, Boise, Idaho 83704.

(2) Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations—T. C. E. Company.

Principal Mailing Address (Street No., city, State, and Zip Code—Room 106, 512-514 State Fair Boulevard, Syracuse, New York 13204.)

Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code)—512-514 State Fair Boulevard, Syracuse, New York 13204.

Person To Whom Inquiries and Correspondence Should Be Addressed (Name and Mailing Address)—John R. Spinella, 512-514 State Fair Boulevard, Syracuse, New York 13204.

(3) Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations—Wilco Farmers.

Principal Mailing Address (Street No., City, State, and Zip Code)—P.O. Box 258, Mount Angel, Oregon 97362.

Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code)—210 Monroe Street, Mount Angel, Oregon 97362.

Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address)—John Kuenzi, 210 Monroe Street, Mount Angel, Oregon 97362.

(4) Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations—Dawson Mills.

Principal Mailing Address (Street No., City, State, and Zip Code)—Diagonal & 8th Street, Dawson, Minnesota 56232.

Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address)—Keith R. Springer, Transportation Mgr., P.O. Box L, Dawson, Minnesota 56232.

(5) Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations—Farm Bureau Services, Inc.

Principal Mailing Address (Street No., City, State, and Zip Code)—7373 W. Saginaw Hwy., Lansing, Michigan 48917.

Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code)—7373 W. Saginaw Hwy., Lansing, Michigan 48917.

Person To Whom Inquiries and Correspondence Should Be Addressed (Name and Mailing Address)—Otto Jury, 7373 W. Saginaw Hwy., Lansing, Michigan 48917.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2835 Filed 1-25-79; 8:45 am]

[7035-01-M]

[Notice No. 15]

ASSIGNMENT OF HEARINGS

JANUARY 23, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellaton of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC-139584 (Sub-No. 15F), John Busch, now assigned January 25, 1979, at New York, New York is cancelled transferred to Modified Procedure.

No. MC-87689 (Sub-No. 13), Inter-City Truck Lines Limited, now assigned February 12, 1979, at Great Falls Montana is cancelled transferred to Modified Procedure.

No. MC-114457 (Sub-No. 399F), Dart Transit Co., A Corporation, now assigned February 12, 1979, at New Orleans is cancelled transferred to Modified Procedure.

No. MC-F 13623, H. H. Omp, Inc.—Purchase—(B) Emmett, Abbot, And Arthur Knight A Partnership, DBA Fry Trucking Co. And (BB), Kenneth William Omps, And Individual, DBA K.W.O. Trucking, now assigned for hearing on March 14, 1979, at the Offices of Interstate Commerce Commission, Washington, DC.

No. MC 76065 (Sub-No. 34F), Ehrlich Newmark Trucking Co., Inc., now assigned March 12, 1979 at Philadelphia, Pa., (2 days), in a hearing room to be later designated.

No. MC 95540 (Sub-No. 1025F), Watkins Motor Lines, Inc., & No. MC 111812 (Sub-No. 581F), Midwest Coast Transport, Inc., & No. MC 115841 (Sub-No. 637F), Colonial Refrigerated Transportation, Inc., & No. MC 124988 (Sub-No. 5F), Truck Service Company, & No. MC 140024 (Sub-No. 117F), J. B.

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Montgomery, Inc., & MC 138875 (Sub-No. 91F), Showmaker Trucking Company & No. MC 140629 (Sub-No. 117F), Cargo Contract Carrier Corp., & No. MC 143215 (Sub-No. 4F), Cycles Limited, & No. MC 143775 (Sub-No. 9F), Paul Yates, Inc., & No. MC 145069 (Sub-No. 3F), Spinelli Bros. Trucking, Inc., now assigned March 14, 1979 (3 days), at Philadelphia, Pa., in a hearing room to be later designated.

MC 96881 Sub 19F, Fine Truck Line, Inc., now assigned February 6, 1979, at Texarkana, Texas, is cancelled and reassigned February 6, 1979, at the Offices of the Interstate Commerce Commission Washington, D.C.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-2832 Filed 1-25-79; 8:45 am]

[7035-01-M]

FOURTH SECTION APPLICATION FOR RELIEF

January 23, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before February 12, 1979.

FSA No. 43656, Hanjin Container Lines, Ltd. No. 100, intermodal rates on general commodities, in containers, between rail carriers' terminals on the U.S. Atlantic and Gulf Coasts, on the one hand, and ports in Japan and Korea, on the other, by way of U.S. Pacific Coast ports, to be published in Trans-Pacific Freight Conference of Japan/Korea, Agent, Tariff No. 1, I.C.C. No. 1, and Pacific Westbound Conference Tariff No. 8-A, I.C.C. No. 4. Grounds for relief—water competition.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-2829 Filed 1-25-79; 8:45 am]

[7035-01-M]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

January 17, 1979.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before February 7, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 88368 (Sub-E5) (Correction), filed May 15, 1974, published in the Federal Register, issue of June 28, 1974, and partially republished, as corrected, this issue. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Avenue, Grandview, MO 64030. Representative: Charles Ephrain, Suite 600, 1250 Connecticut Ave., N.W., Washington, D.C. 20036. *Household Goods*, from points in CT to points in OR, (Gateway eliminated: Philadelphia, PA, points in Jefferson County, OH, Bloomington, IL and points within 25 miles thereof, Newton, KS and points within 15 miles thereof, points in CO, and points in WA east of the Cascade mountains. The purpose of this republication is to add the above territorial point previously omitted. The remainder of this letter-notice remains as previously published.

MC 88368 (Sub-E47) (Correction), filed May 15, 1974, published in the Federal Register, issue of August 25, 1974, and partially republished, as corrected, this issue. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Avenue, Grandview, MO 64030. Representative: Charles Ephrain, Ephrain and Clark, Suite 600, 1250 Connecticut Ave., N.W., Washington, D.C. 20036. (8) *Household Goods*, from points in RI to points in WA, (Gateways eliminated: S. Attleboror, MA; Philadelphia, PA; Steubenville, OH; Clinton, IL; Newton, KS and Sterling, CO. The purpose of this partial republication is to include part (8) above, previously omitted. The remainder of this letter-notice remains as previously published.

MC 107012 (Sub-E233), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New furniture*, crated, (1) from Waldron, AK to points in AR, NV and UT (Mexico, TX; Albuquerque, NM)* (2) from Houston, TX to points in AK, (points in Sedgewich County, KS)* (3) from Mexico, TX to points in AK (points in Sedgewich County, KS)* (4) from Albuquerque, NM to points in AK, (points in Sedgewich County, KS)* (5) from Clovis, NM to points in AK, (points in Sedgewich County, KS)* (6) from B ton, AR to points in Cochise, Gila, Graham and Greenlee, AZ, (Mexico, TC)* (7) from Waldron, AR to points in Butte, Lassen, Modoc, NV, Plumas, Shasta, Sierra, Siskiyou, Yuba, Ingo, Fresno, Kings, Tulane, Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura, San Bernardino, Imperial, Riverside, San Diego, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, NAPA, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne, and Yolo counties, CA; and those points in Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida, and Power counties, ID. (Mexico, TX or Albuquerque, NM)* Gateways eliminated denoted by asterisks above.

MC 107012 (Sub-E234), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Law Dept., Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Voting Machines*, uncrated. (1) from the facilities of AVM Corporation near Marion, SC to points in AK, (2) from the facilities of AVM Corporation near Marion, SC to points in Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer, Washington, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, and Stevens Counties, KS, and those points in Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, and Webster Counties, MO, (Gateway eliminated: Tulsa, OK).

MC 107012 (Sub-E236), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David A. Bishop (same as above). *New pianos*, uncrated, (1) from points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, De Kalb, Jackson, Limestone, Madison, Marshall, and Morgan Counties, AL, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity counties, CA (Grand Haven, MI*); (2) from points in Salt Lake County, UT, to points in AR, LA and MS (Vinita, Oklahoma City, or points in Bechham County, OK)*; (3) from points in Salt Lake County, UT, to points in Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN, and points in Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Herr, Kimble, King, Knox, Lampasas, LLamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Mendard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, La Salle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwell, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (Vinita, Oklahoma City, or Becham County, OK). (Gateway eliminated indicated by asterisk)

MC 107012 (Sub-E-389), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). *New Furniture*, Crated, (1)(a) from points in AL to points in AZ, (Camden, AR),* (b) from points in AL to points in CA, (Camden, AR), *(c) from points in AL to points in CO, (Little Rock, AR),* (d) from points in AL to points in ID, (Little Rock, AR),* (e) from points in AL to points in IA, (Burlington, IA),* (f) from points in AL to points in KS, Little Rock),* (g) from points in AL to points in MN, (Burlington, IA),* (h) from points in AL to points in MT, (points in Greene County, AR),* (i) from points in AL to points in NV, (Little Rock, AR),* (j) from points in AL to points in NM, (Camden, AR),* (k) from points in AL to points in ND, (points in Greene County, AR),* (l) from points in AL to points in OK, (Little Rock, AR),* (m) from points in AL to points in OR, (Camden, AR),* (n) from points in AL to points in SD, (Points in Greene County, AR),* (o) from points in AL to points in UT, (Little Rock, AR),* (p) from points in AL to points in WA, (Little Rock, AR),* (q) from points in AL to points in WY, (Fort Smith, AR),* (2) from points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega and Tallapoosa, AL, to points in Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (Camden, AR) points in Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuryler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Cattaraugus, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY (*Newton Falls, OH), points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga, Union, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington, and Westmoreland Counties, PA (Newton Falls, OH* points in TX (*Camden, AR), (3) from points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike and Russell Counties, AL, to points in Bienville, Bossier, Caddo, Claiborne, DeSoto, Nathchitoches, Reo River, Sabine and Webster Parishes, LA (*Camden, AR) points in Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Cattaraugus, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY (*Newton Falls, OH), points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington, and Westmoreland Counties, PA (*Newton Falls, OH), points in Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shakelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Arkansas, Atascosa, Ban-

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dera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (Camden, AR)*, (4) from points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker and Winston, Counties, AL, to points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Layfayette, Vermilion, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (Camden, AR)*, points in NY (Newton Falls, OH)*, points in PA (Newton Falls, OH)*, points in TX (Camden, AR)*, (5) from points in De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL, to points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (Camden, AR)*, points in NY (*Newton Falls, OH), points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga, Union, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington, and Westmoreland Counties, PA (*Newton Falls, OH) points in TX (*Camden, AR), (6) from points in Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL, to points in Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*Camden, AR); points in NY (*Newton Falls, OH), points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga, Union, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington, and Westmoreland Counties, PA (*Newton Falls, OH) points in TX (*Camden, AR), (6) from points in Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL, to points in Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*Camden, AR); points in NY (*Newton Falls, OH), points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga, Union, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA (*Newton Falls, OH) points in Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (Camden, AR)*. (Eliminate gateways indicated by asterisks above).

MC 107515 (Sub-E312), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Road, NE, Atlanta, GA 30326. *Frozen Foods*, (except in bulk), from the facilities of Standard Foods, Inc., at Louisville, KY to points in MA, RI, and CT, and those points in NY on and east if I-Hwy 81. (Gateway eliminated: Mendon, MI.)

MC 107515 (Sub-E458), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Road, NE., Atlanta, GA 30326. *Frozen Meats*, frozen edible meat products, and frozen edible meat by-products, as described in Section A of Appendix 1 to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and *Frozen Edible Articles distributed by meat packinghouses*, as described in Section C of Appendix 1 to the Report in *Descriptions in Motor Carrier Certificates*, supra, when in mixed shipments with meats, edible meat products and edible meat by-products, from Kansas City and St. Joseph, MO, to points in VA on and east of a line beginning at the VA-NC State line and extending along I-Hwy 85 to junction I-Hwy 95, then along I-Hwy 95 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the Potomac River, those points in MD on and south of U.S. Hwy 50. (Gateway eliminated: Ayden, NC).

MC 107515 (Sub-E547), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P. O. Box 308, Forest Park, GA 33050. Representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Road, NE, Atlanta, GA 30326. (1) *Fresh Fruit and Vegetables*, in vehicles equipped with mechanical refrigeration, when moving in the same vehicle and at the same time as commodities the transportation of which is subject to economic regulation under Part II of the Interstate Commerce Act, (a) from points in CA on, south or west of a line beginning at the Pacific Ocean at Moss Landing, CA, and extending along CA Hwy 1 to junction CA Hwy 152, then along CA Hwy 152 to junction CA Hwy 99, then along CA Hwy 99 to junction CA Hwy 180, along CA Hwy 180 to junction U.S. Hwy 395 to junction CA Hwy 58, then along CA Hwy 58 to junction US Hwy 66, then along CA Hwy 66 to junction CA Hwy 18, along CA Hwy 18 to junction CA Hwy 62, then along CA Hwy 62 to junction I Hwy 10, to I Hwy 10 to the AZ-CA state line to points in PA, NY, NJ, MD, DE, DC, MA, CT, RI and those points in OH on, south or east of I Hwy 71; Columbus, OH; Cleveland and Cincinnati, OH. (b) from those points in CA on, south or west of a line beginning at the AZ-CA state line and extending along I Hwy 40 to junction CA Hwy 58, then over along CA Hwy 58 to junction CA Hwy 99, then along CA Hwy 99 to CA Hwy 4, then along CA Hwy 4 to junction I Hwy 80, then along I Hwy 80 to the Pacific Ocean to points in MD on and east of U.S. Hwy 15 to those points in PA on and east of a line beginning at the MD-PA state line and extending along U.S. Hwy 15 to junction I Hwy 81, then along I Hwy 81 to the NY-PA state line; those points in NY on, south and east of I Hwy 84; those points in CT along I Hwy 84 to junction I Hwy 86, then along I Hwy 86 to the CT-MA state line; points in RI; those points in MA on, south and east of a line beginning at the MA-CT state line and extending along MA Hwy 15 to junction I Hwy 90, then along I Hwy 90 to junction I Hwy 290, along I Hwy 290 to junction I Hwy 495, then along I Hwy 495 to I Hwy 93, then along I Hwy 93 to MA-NH state line, and points in DE and NJ, (2) *Canned Lemon Juice*, in vehicles equipped with mechanical refrigeration, from Covina, Los Angeles and Fresno, CA to the points of destination in 1(a) above; (3) *Citrus Products*, frozen and non-frozen in vehicles equipped with mechanical refrigeration; from Ontario and Corona, CA to the destination points in 1(a) above, (4) *Canned vegetables*, in vehicles equipped with mechanical refrigeration, from Oxnard and Saticoy, CA to the destination points in 1(a) above, (5) *Canned Fish*, and *Meats, Meat Products* and *Meat By-Products*, as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, other than frozen in vehicles equipped with mechanical refrigeration, from Los Angeles, CA to the destination points in 1(a) above, (6) *Meats, Meat Products, Meat By-Products*, other than frozen, in vehicles equipped with mechanical refrigeration, from San Francisco and San Jose, CA to the destination points in 1(b) above, (7) *Cream*, sterilized in hermetically sealed containers, and *cream*, aerated, in gas charged containers, in vehicles equipped with mechanical refrigeration, from Gustine, CA to destination points in 1(b) above. (Gateway eliminated: Atlanta, GA.)

MC 115826 (Sub-E58), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P. O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street, N.W., Washington, DC 20036. *Malt beverages*, from points in CO on and east and on the south of a line beginning at the CO-NM state line, and extending along U.S. Hwy 285 to junction western boundary of Jefferson County, then along the western and northern boundaries of Jefferson County, to junction CO Hwy 93, then along CO Hwy 93 to Boulder, then along CO Hwy 119 to Longmont, then along U.S. Hwy 287 to Fort Collins, then along CO Hwy 14 to Sterling, CO; then along I-Hwy 76 to the CO-NE Boundary Line, including service from all points in the commercial zones in cities located on the above-described line, to points in ID on and west and on and north of a line beginning at the MT-ID State Line, and extending along U.S. Hwy 20 to ID Falls, then along U.S. Hwy 26 to Pocatello, then along U.S. Hwy 30 to junction U.S. Hwy 30(s), then along U.S. Hwy 30 to junction U.S. Hwy 93, then along U.S. Hwy 93 to the ID-NV State Line, including service to points in the commercial zones of cities located on the above-described line, (Eliminate Gateway of Golden, CO).

MC 124174 (Sub-E67) filed November 2, 1976. Applicant: MOMSEN TRUCKING COMPANY, P.O. Box 37490, Omaha, NE 68137. Representative: Karl E. Momsen (same as above). *Hides, skins, and pieces thereof, tannery products, tannery byproducts, and supplies* (except commodities in bulk, in tank vehicles) from points in OK, to points in NE on and east of a line beginning at the junction U.S. Hwy 34 and U.S. Hwy 281 extending along NE Hwy 2 to junction U.S. Hwy 183, then along U.S. Hwy 183 to the NE-SD State line; points in SD on and east of a line beginning at the SD-NE State line extending along U.S. Hwy 183 to junction U.S. Hwy 16, then along U.S. Hwy 16 to junction U.S. Hwy 83, than along U.S. Hwy 83 to junction U.S. Hwy 14, then along U.S. Hwy 14 to junction SD Hwy 63, then along SD Hwy 63 to junction U.S. Hwy 212, then along U.S. Hwy 212 to junction SD Hwy 65, then along SD 65 to the SD-ND State line; points in IL on and east of a line beginning at St. Louis extending along IL Hwy 3 to junction IL Hwy 149, then along IL Hwy 149 to junction IL Hwy 13, then along IL Hwy 13 to the IL-KY State line; points in KY on and east of a line beginning at the KY-IL State line extending along KY Hwy 56 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction KY Hwy 86, then along KY Hwy 86 to junction U.S. Hwy 62, then along U.S. Hwy 62 to junction KY Hwy 61, then along KY Hwy 61 to junction KY Hwy 84, then along KY Hwy 84 to junction KY Hwy 49, then along KY Hwy 49 to junction U.S. Hwy 127, then along U.S. Hwy 127 to junction KY Hwy 910, then along KY Hwy 910 to junction KY Hwy 80, then along KY 80 to junction U.S. Hwy 25, then along U.S. Hwy 25 to junction U.S. Hwy 25E, then along U.S. Hwy 25E to the KY-TN State line; and points in VA, WV, MD, PA, NJ, MA, VT, NH, ME, NY, OH, IN, MI, WI, IA, and MN. (Gateway eliminated: Hastings, NE, and St. Louis, MO).

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-2830 Filed 1-25-79; 8:45 am]

[7035-01-M]

Office of Proceedings

[Notice No. 8]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

January 16, 1979.

IMPORTANT NOTICE:

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 531 (Sub-368 TA), filed December 14, 1978. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Houston, TX 77021. Representative: Wray E. Hughes, 4904 Griggs Road,

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Houston, TX 77021. *Fish oil and solubles,* (in bulk, in tank vehicles), from San Diego, CA to Clinton and Davenport, IA; Shreveport, LA; Oklahoma City, OK; Fort Worth and Lubbock, TX., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Ralston Purina Co., Checkerboard Square, St. Louis, MO. 63188. SEND PROTESTS TO: John F. Mensing DS, 8610 Federal Bldg., 515 Rusk Avenue, Houston, TX 77002.

MC 730 (Sub-424TA), filed December 20, 1978. Applicant: PACIFIC INTERMOUNTAIN EXPRESS, CO., 25 North Via Monte, Walnut Creek, CA 94598. Representative: R. N. Cooledge, 25 North Via Monte, P.O. Box 8004, Walnut Creek, CA 94596. *Polypropylene Glycol (Resins),* (in bulk, in tank vehicles), from Azusa, CA., to Monticello, AR., for 180 days. SUPPORTING SHIPPER(S): Chemetics Systems, Inc., 2006 Gladwick Street, Compton, CA 90220. SEND PROTESTS TO: A. J. Rodriguez DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC-5227 (Sub 47TA), filed December 22, 1978. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Representative: Gailyn L. Larsen, Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. *Cooling towers, cooling tower components and parts and accessories,* from the facilities of Marley Cooling Tower Company, at or near Muscatine, IA, to the Pleasant Prairie Power Plant, at or near Kenosha, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Marley Cooling Tower Company, Fred Swickard, Precast Manager, P.O. Box 2388, Gulfport, MI 39501. Send protests to: Max Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Building & U.S. Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 19945 (Sub-69TA), filed December 20, 1978. Applicant: BEHNKEN TRUCK SERVICE, INC., Route 13, New Athens, IL 62264. Representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. *Salt* (in bulk), from the facilities of Morton Salt Company, at St. Louis, MO, to points in IL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Paul M. Mandra, Supervisor, Morton Salt Co., Division of Morton-Norwich Products, Inc., 110 N. Wacker Drive, Chicago, IL 60606. SEND PROTESTS TO: Charles D. Little, DS, ICC, 414 Leland Office Bldg., 527 East Capitol Avenue, Springfield, IL 62701.

MC 59457 (Sub-40TA), filed December 4, 1978. Applicant: SORENSEN TRANSPORTATION COMPANY, INC., Old Amity Road, Bethany, CT 06525. Representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117. *Dairy products* (except commodities in bulk), in shipper-owned trailers, from the facilities of the Borden Company in Stratford, CT, to points in New York, New Jersey, Pennsylvania, Rhode Island, Massachusetts, Maine, New Hampshire, Vermont, Delaware, and MD, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Borden Corporation, 355 Benton Street, Stratford, CT 06497. SEND PROTESTS TO: J. D. Perry, Jr., DS, ICC, 135 High Street, Room 324, Hartford, CT 06103.

MC 64932 (Sub-591TA), filed December 22, 1978. Applicant: ROGERS CARTAGE COMPANY, 10735 S. Cicero, Oak Lawn, IL 60453. Representative: William F. Farrell (same address as applicant). *Dry magnesium oxide* (in bulk, in pneumatic tank vehicles), from the facilities of Martin Marietta Company at Manistee, MI to Southern California Edison Co., at Daggett, CA, for 180 days. SUPPORTING SHIPPER(S): Calgon Corporation, Philip H. Ott, Traffic Supervisor, P.O. Box 1346, Pittsburgh, PA 15230. SEND PROTESTS TO: Lois M. Stahl, Transp. Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 69281 (Sub-48TA), filed December 13, 1978. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., 698 Fairmount Avenue, Towson, MD 21204. Representative: Henry J. Bouchat, P.O. Box 58, Baltimore, MD 21203. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* serving Dunkirk, MD as an offroute point in connection with carrier's presently authorized regular route operations, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Gerald Skalka Vice President, Victor Stanley, Inc., Brick House Road, Dunkirk, MD 20754. SEND PROTESTS TO: William L. Hughes DS, ICC, 1025 Federal Building, Baltimore, MD 21201.

MC 70477 (Sub-3TA), filed December 22, 1978. Applicant: M. J. SEIWERT CARTAGE CO., 2029 W. Hubbard Street, Chicago, IL 60612. Representative: Themis Anastos, 120 W. Madison Street, Chicago, IL 60602. *Freight all kinds,* from Chicago, IL, Commercial Zone to Detroit, MI and Detroit Commercial Zone, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): William B. Marsells, General Manager, Allied Shippers & Receivers, 2029 W. Hubbard Street, Chicago, IL 60612. SEND PROTESTS TO: Lois M. Stahl Transp. Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 82841 (Sub-242TA), filed December 21, 1978. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Representative: William E. Christensen, 10770 "I" Street, Omaha, NE 68127. *Thermal storage materials and supplies,* from Killeen, TX., to AZ, CA, CO, GA, ID, IA, KS, MN, MO, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, WI, and WY., for 180 days. SUPPORTING SHIPPER(S): Philip G. Williams Corporate Traffic Manager, Valmont Industries, Inc., d/b/a Valmont Energy Systems, Highway 190 West, P.O. Box 1416, Killeen, TX 76541. SEND PROTESTS TO: Carroll Russell DS, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 89369 (Sub-21TA), filed December 13, 1978. Applicant: JOART TRUCKING CO., P.O. Box 332, New Brunswick, NJ 08903. Representative: Edward F. Bowes, 167 Fairfield Road Fairfield, NJ 07006. *Dry plastic material,* (in bulk, in vacuum pneumatic tank vehicles), between points in Massachusetts, Connecticut, New York, Pennsylvania, Maryland, Rhode Island, Delaware, Virginia, & NJ, on the one hand, and, on the other, points in NJ, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are approximately (7) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Robert E. Johnston DS, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 100666 (Sub-415TA), filed December 13, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-E, The Oil Center, 2601 N.W., Expressway, Oklahoma City, OK 73112. *Zinc, zinc alloy and zinc products,* from the facilities of Jersey Miniere Zinc Company in Montgomery County, TN, to points in and east of Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and TX., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Jersey Miniere Zinc Company, 2200 First American Center, Nashville, TN 37238. SENT PROTESTS TO: Connie A. Guillory, DS, ICC, T-9038 U.S. Postal

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Service Bldg., 701 Loyola Avenue, New Orleans, LA 70113.

MC 100666 (Sub-416TA), filed December 13, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W., 58th Street, Oklahoma City, OK 73112. *Lumber,* from Cove City, NC., to points in Indiana, Illinois, Ohio, Michigan and WI., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): World Wook Corporation, P.O. Box 98, Cove City, NC 28523. SEND PROTESTS TO: Connie A. Guillory DS, ICC, T-9038 U.S. Postal Service Bldg., 701 Loyola Avenue, New Orleans, LA 70113.

MC 103798 (Sub-25TA), filed December 13, 1978. Applicant: HARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Meat, meat products, meat by-products and articles distributed by meat packinghouses,* as described in Sections A & C Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (Except hides and commodities in bulk), from the facilities utilized by John Morrell & Co., at Esterville and Sioux City, IA and St. Paul and Worthington, MN to points in CA., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): John Morrell & Co., 208 South LaSalle Street, Chicago, IL 60604. SEND PROTESTS TO: Delores A. Poe Trans. Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 103993 (Sub-945TA), filed December 22, 1978. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: Paul D. Borghesani, 28651 U.S. 20 West, Elkhart, IN 46515. Motor vehicles, (except trucks), in secondary movements, in driveaway service, from the facilities of Holiday Rambler Corporation in Elkart County, IN., to points in the United States, (except Alaska and Hawaii), for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Holiday Rambler Corporation, 65528 State Road 29, Wakarusa, IN 46573. SEND PROTESTS TO: J. H. Gray DS, ICC, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 107012 (Sub-326TA), filed December 21, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gary M. Crist, P.O. Box 988, Fort Wayne, IN 46801. *Kitchen cabinets,* in cartons, from the facilities of Boise Cascade Corporation at or within 25-mile radius of Berryville, and Winchester, VA., to points in North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Kentucky, Louisiana and MS., for 180 days. An underlying ETA seeks up to 90 days of authority. SUPPORTING SHIPPER(S): Boise Cascade Corporation, P.O. Box 7747, Boise, ID 83707. SEND PROTESTS TO: J. H. Gray DS, ICC, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 112617 (Sub-417TA), filed December 22, 1978. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Representative: Mr. Charles R. Dunford (same address as applicant). *Inedible tallow,* (in bulk, in tank vehicles), from Henderson, KY, to Russellville, KY and Hurricane, WV, to Cincinnati, OH, for 180 days. SUPPORTING SHIPPER(S): Mike Gilbert, Asst. Traffic Manager, Griffin Industries, 4221 Alexandria Pike, Cold Spring, KY 41076. SEND PROTESTS TO: Linda H. Sypher DS, ICC, 426 Post Office Building, Louisville, KY 40202.

MC 114211 (Sub-390TA), filed December 20, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). *Lumber, lumber mill products, and forest and wood products,* from Rosebud County, MT, to points in Illinois, Iowa, Minnesota, and WI., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Andersonia Forest Products, Inc., P.O. Box 4240, Arcata, CA 95521. SEND PROTESTS TO: Herbert W. Allen DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 115311 (Sub-323TA), filed December 22, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Mark C. Ellison, P.O. Box 872, Atlanta, GA 30301. *Hardboards, insulation boards, plywoods and/or particleboard, parts, materials and accessorial items used for the installation thereof,* from the facilities of Abitibi Corporation in Wilkes County, NC to points in Arkansas, Illinois, Kentucky, Ohio, Indiana and DC, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Abitibi Corporation, 3250 West Big Beaver Road, Troy, MI 48084. SEND PROTESTS TO: Sara K. Davis Transp. Asst., ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 115311 (Sub-324TA), filed December 22, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. *Dry animal feed,* (except in bulk, from Tupelo, MS and Red Bay, AL to points in VA, for 180 days. SUPPORTING SHIPPER(S): Sunshine Mills, Inc., P.O. Drawer S, Red Bay, AL 35582. SEND PROTESTS TO: Sara K. Davis Transp. Asst., ICC, 1252 W. Peachtree Street, N.W., Room 300, Atlanta, GA 30309.

MC 115331 (Sub-478TA), filed December 21, 1978. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 11040 Manchester Road, St. Louis, MO 63122. *Sweeteners,* (in bulk), from the plantsite and storage facilities of Industrial Sugars, Inc., at or near St. Louis, MO to all points in the states of Kentucky, Tennessee, Arkansas, Iowa, Ohio, Indiana, Kansas, Illinois and MO., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Industrial Sugars, Inc., Subsidiary Borden, Inc., 180 E. Broad Street, Columbus, OH 43215. SEND PROTESTS TO: Peter E. Binder DS, ICC, 210 N. 12th Street, Room 1465, St. Louis, MO 63101.

MC 115821 (Sub-38TA), filed December 21, 1978. Applicant: FRANK BEELMAN, d.b.a., BEELMAN TRUCK CO., St. Libory, IL 62282. Representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, MO 63101. *Salt,* (in bulk), from the facilities of Morton Salt Company at St. Louis, MO., to points in IL, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Paul M. Mandra, Supervisor, Morton Salt Co., Division of Morton-Norwich Products, Inc., 110 North Wacker Drive, Chicago, IL 60606. SEND PROTESTS TO: Charles D. Little DS, ICC, 414 Leland Office Building, 527 East Capitol Avenue, Springfield IL 62701.

MC 116446 (Sub-7TA), filed December 20, 1978. Applicant: J & R SCHUGEL TRUCKING, INC., 301 North Water Street, New Ulm, MN 56073. Representative: Robert S. Lee, 1000 First National Bank, Minneapolis, MN 55402. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Flour and flour products,* (except commodities in bulk), from New Prague, New Ulm, and Wabasha, MN to points in IA, under a continuing contract or contracts, with International Multifoods Corporation, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): International Multifoods Corporation, 1200 Multifoods Building, Minneapolis, MN 55402. SEND PROTESTS TO: Delores A. Poe Transp. Asst., ICC, 414 Federal Build-

ing & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 116947 (Sub-65TA), filed December 13, 1978. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby Street, S.W., Atlanta, GA 30310. Representative: William Addams, Suite 212, 5299 Roswell Road, NW., Atlanta, GA 30342. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, metal container ends, pallets, paper shrouds, chipboard, decorated tin plate in sheets, bottle caps, and material and supplies*, (except commodities in bulk), used in the manufacture and distribution of metal containers, (1) between the facilities of Crown Cork & Seal Company, in the states of Georgia, Illinois, Maryland, Massachusetts, Minnesota, New Jersey, Ohio, Pennsylvania, South Carolina, Texas and VA; and (2) between the facilities named in (1) above, and points in the states of Minnesota, Iowa, Kansas, Oklahoma, and TX, and states east thereof, under a continuing contract or contracts, with Crown Cork & Seal, Co., Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Crown Cork & Seal Co., Inc., 9300 Ashton Road, Philadelphia, PA. 19136. SEND PROTESTS TO: Sara K. Davis Transp. Asst., ICC, 1252 W. Peachtree Street, N.W., Room 300, Atlanta, GA. 30309.

MC 117786 (Sub-46TA), filed December 13, 1978. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85009. Representative: Thomas F. Kilroy, Suite 406, Executive Bldg., 6901 Old Keene Mill Road, Springfield, VA 22150. *Charcoal, charcoal briquettes, fireplace logs, charcoal lighter fluid*, in cans in cartons, *hickory chips, (not charred) for flavoring purposes, Vermiculite*, from Springfield, OR., to points in Arizona, California, Nevada, and UT., for 180 days. SUPPORTING SHIPPER(S): The Kingsford Company, P.O. Box 1033, 1700 Commonwealth Building, Louisville, KY 40201. SEND PROTESTS TO: Andrew V. Baylor DS, ICC, Room 2020 Federal Building, 230 N. First Avenue, Phoenix, AZ 85025.

MC 117786 (Sub-229TA), filed December 13, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (Same address as applicant). (1) *Toilet preparations*, and (2) *materials, and supplies used in the sale of toilet preparations*, from the facilities of LaMaur, Inc., at Minneapolis, MN, to points in NC and SC, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Eugene F. Schwarz Traffic Manager, LaMaur, Inc., 5601 East River Road, Minneapolis, MN 55432. SEND PROTESTS TO: Carroll Russell DS, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 116959 (Sub-189TA), filed December 21, 1978. Applicant: JERRY LIPPS, INC., 139 South Frederick, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 South La Salle Street, Chicago, IL 60603. *Paper and paper products* from the warehouse facilities of Nicolet Paper Company at or near DePere, WI to MS, GA, TN, TX, and GA for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Nicolet Paper Company, Main Avenue, DePere, WI 54115. SEND PROTESTS TO: Peter E. Binder DS, ICC, 210 N. 12th Street, Room 1465, St. Louis, MO 63101.

MC 124920 (Sub-16TA), filed December 13, 1978. Applicant: LABAR'S, INC., 771 Scott Street, Wilkes-Barre, PA 18705. Representative: L. Agnew Myers, Jr., 407 Walker Building, 734 15th Street, N.W., Washington, DC 20005. *Wool, mineral, and insulating materials*, from the facilities of CertainTeed Products Corporation, CSG Group, Mountaintop, PA, to points in Connecticut, Illinois, Indiana, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Rhode Island and VT., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): CertainTeed Corporation, P.O. Box 860, Valley Forge, PA 19482. SEND PROTESTS TO: Paul J. Kenworthy DS, ICC, 314 U.S. Post Office Building, Scranton, PA 18503.

MC 125777 (Sub-237TA), filed December 8, 1978. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. *Coke*, (in bulk), in dump vehicles, from Ashland, KY., to points in Illinois, Indiana, Michigan, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia and WV., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Semet Solvay Division of Allied Chemical Corporation, P.O. Box 1013R, Morristown, NJ 07960. SEND PROTESTS TO: Lois M. Stahl Trans. Asst., ICC, Room 1386, Chicago, IL 60604.

MC 125708 (Sub-156TA), filed December 22, 1978. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd Street, East Chicago, IN 46312. Respresentative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. *Salt covered magenesium granules*, (in containers), from Freeport, TX to the boundary of the United States and Canada at the Port of Entry at Sault Ste. Marie, MI and return of empty containers, from Sault Ste. Marie, MI to Freeport, TX., for 180 days. SUPPORTING SHIPPER(S): The Algoma Steel Corporation, Ltd., B. Dean, Traffic Analyst, Inbound Materials, Sault Ste. Marie, Ontario, Canada. SEND PROTESTS TO: Lois M. Stahl Transp. Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 128951 (Sub-27TA), filed December 6, 1978. Applicant: ROBERT H. DITTRICH, d/b/a/ BOB DITTRICH TRUCKING, 1000 North Front Street, New Ulm, MN 56073. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. *Feed and feed ingredients, grain, soybean and seed products and by-products*, (except commodities in bulk, in tank vehicles), from the facilities of Archer Daniels Midland Company located at or near Red Wing, MN., to points in Colorado, Kansas, Nebraska, Missouri, South Dakota, North Dakota, Iowa, Wisconsin and IL., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Archer Daniels Midland Company, P.O. Box 1470, Decatur, IL 62525. SEND PROTESTS TO: Delores A. Poe Trans. Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 134477 (Sub-30ZTA), filed December 21, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55116. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Foam rubber seat pads*, from Whitmore Lake, MI to St. Paul, MN, for 180 days. An underlying ETA seeks up to 90 days of authority. SUPPORTING SHIPPER(S): Ford Motor Company, One Parklane Boulevard, Parklane Towers East, Suite 200, Dearborn, MI 48126. SEND PROTESTS TO: Delores A. Poe Transp. Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 134978 (Sub-17TA), filed December 20, 1978. Applicant: C. P. BELUE, d/b/a BELUE'S TRUCKING, Route 6, Spartanburg, SC 29303. Representative: Mitchell King, Jr., P.O. Box 1628, Greenville, SC 29602. *Concrete products and prestressed concrete products*, from points in Spartanburg and Greenville Counties, SC to points in North Carolina, Georgia, and TN., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Metromont Materials, P.O. Box 1292 Spartanburg, SC 29304. SEND PROTESTS TO: E. E. Strotheid DS, ICC, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 135797 (Sub-169TA), filed December 22, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant, P.O. Box 200, Lowell, AR 72745. *Furniture, furniture parts, furniture hardware and furniture supplies*, from Fortuna, Healdsburg and Watsonville, CA to Cecero, IN; Tranquility, NJ; Candor, NC; Jefferson, TX and Columbus, WI., for 180 days. SUPPORTING SHIPPER(S): Harris Pine Co., P.O. Drawer 1168, Pendleton, OR 97801. SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 136220 (Sub-65TA), filed December 20, 1978. Applicant: SULLIVAN'S TRUCKING COMANY, INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112. *Fishmeal 9* (in bulk, in dump vehicles), from Empire, Dulac, Hommwood and Cameron, LA; Port Arthur, TX; and Gulf Port, MS, to points in AR and OK., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Wilbur-Ellis Company, 1000 Plaza West Building, Little Rock, AR 72207. SEND PROTESTS TO: Connie Stanley Transp. Asst., Room 240 Old Post Office & Court House Building, 215 N.W., 3rd, Oklahoma City, OK 73102.

MC 136553 (Sub-66TA), filed December 21, 1978. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, IA 52001. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Empty cans and can ends*, from the facilities of American Can Co., at Milwaukee, WI., to Dubuque, IA., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Coca-Cola Bottling Company, 2435 Kerper Boulevard, Dubuque, IA 52001. SEND PROTESTS TO: Herbert W. Allen DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 138991 (Sub-26TA), filed December 14, 1978. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards, Raymond A. Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry beverage preparations*, from Franklin Park and St. Charles, IL to Florence and Hightstown, NJ and Geneva, OH, and from Northfield, IL to Florence, NJ and Geneva, OH, and (2) *Empty cans and can lids*, from Florence and Hightstown, NJ to Franklin Park, St. Charles and Northfield, IL., under a continuing contract or contracts, with The Coca-Cola Company Foods Division, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): The Coca-Cola Company Foods Division, Patrick M. Persicano Reg. Distr. Manager, 480 Mercer Street, Hightstown, NJ. 08520. SEND PROTESTS TO: ICC, U.S. Courthouse & Federal Bldg., 100 S. Clinton Street, Room 1259, Syracuse, NY 13260.

MC 140452 (Sub-12TA), filed December 21, 1978. Applicant: ROSE BROTHERS TRUCKING, INC., 2425 U.S. Business Highway 41 N, Suite 204, Evansville, IN 47711. Representative: David Konnersman, 5101 Madison Avenue, Indianapolis, IN 46227. *Baking powder*, from the facilities of Hulman & Co., in Terre Haute, IN., to Tyler, Lubbock, and El Paso, TX, and Jacksonville, Tampa and Miami, FL., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPERS(S): Hulman & Co., 900 Wabash Avenue, Terre Haute, IN 47807. SEND PROTESTS TO: Beverly J. Williams Transp. Asst., ICC, Federal Building & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 140768 (Sub-27TA), filed December 13, 1978. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. *Pet foods*, from the facilities of Sunshine Mill, Inc., at or near Red Bay, AL to points in MD, NJ, NC, PA, VA and WV., for 180 days. SUPPORTING SHIPPER(S): Sunshine Mills, Inc., P.O. Box S, Red Bay, AL 35582. SEND PROTESTS TO: Robert E. Johnston DS, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 140869 (Sub-10TA), filed December 13, 1978. Applicant: KERRI TRUCKING, INC., 130 Route 17 South, Mahwah, NJ 07430. Representative: Mr. David Olsen, 116 Williams Avenue, Tappan, NY 10983. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy*, from Northvale, NJ and Champlain, NY, to Dallas, TX; Atlanta, GA.; Minneapolis, MN; Pennsauken and Linden, NJ; Columbus, OH; Chicago, IL; Boston, MA; Des Moines, IA; Nashville, TN; Miami and Jacksonville, FL; Charlotte, NC; Memphis, TN; Indianapolis, IN; Los Angeles, CA; Denver, CO; St. Louis, MO; New Orleans, LA; Philadelphia, PA; Baltimore, MD; Cincinnati, OH; Buffalo and Rochester, NY; under a continuing contract or contacts, with Dalt International, Inc., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Dalt International, Inc. 360 Sylvan Avenue, Englewood Cliffs, NJ. SEND PROTESTS TO: Joel Morrows DS, ICC, 9 Clinton Street, Newark, NJ. 07102.

MC 141232 (Sub-7TA), filed December 21, 1978. Applicant: STATEWIDE TRUCKING CO., 1801 West Oxford, Englewood, CO 80110. Representative: A. B. Ballah, Jr. (Same address as applicant). *Building materials, fence materials and supplies*, between points in WY, on the one hand, and, on the other, points in Meade, Pennington, Lawrence, Custer and Fall River Counties, SD, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Denver Reserve Supply Company, 555 West 48th Avenue, Denver, CO. SEND PROTESTS TO: Roger L. Buchanan DS, ICC, 492 U.S. Customs House, 721 19th Street, Denver, CO. 80202.

MC 141568 (Sub-1TA), filed December 20, 1978. Applicant: S & S TRANSPORT, INC., R. R. 3, Box 74A, Elkhart, IN 46514. Representative: Robert A. Kriscunas, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in dump vehicle, from the facilities of Aggregate Materials Corporation, near Edwardsburg, MI., to Harvey, IL., restricted to a contract or continuing contracts, with Harvey Cement Products, Inc., Harvey, IL., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Harvey Cement Products, Inc., 16030 S. Park Avenue, Harvey, IL 60426. SEND PROTESTS TO: J. H. Gray DS, ICC, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 141958 (Sub-7TA), filed December 20, 1978. Applicant: FEDCO FREIGHTLINES, INC., P.O. Box 422, Effingham, IL 62401. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Peanut butter*, for the account of Procter & Gamble Distributing Company, from Lexington, KY., to Chicago, IL., under a continuing contract or contracts, with The Procter & Gamble Distributing Company, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. (Dennis C. Chipman, Traffic Analyst) SEND PROTESTS TO: Charles D. Little DS, ICC, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 142508 (Sub-43TA), filed December 20, 1978. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street,

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Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Powered lawn mowerd, powered snow throwers, and powered turf equipment,* from the facilities of Trade Winds Company, Inc., at Manawa, WI and the facilities of Outboard Marine Corporation at Galesburg, IL to points in the United States (except Alaska and Hawaii), for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): J. A. Illes, Vice President, Director of Transportation, Outboard Marine Corporation, 100 Sea-Horse Drive, Waukegan, IL 60085. SEND PROTESTS TO: Carroll Russell DS, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 143373 (Sub-2TA), filed December 20, 1978. Applicant: WEILAND TRUCKING CO., INC., Route 2, P.O. Box 268, Wautoma, WI 54982. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Malt beverages,* from St. Paul, MN, to points in WI. RESTRICTION: Traffic proposed to be moved hereunder limited to a transportation service, to be performed under a continuing contract or contracts, with G. Helleman Brewing Company, Inc., La Crosse, WI., for 180 days. SUPPORTING SHIPPER(S): G. Helleman Brewing Company, Inc., 925 South Third Street, La Crosse, WI 54601. SEND PROTESTS TO: Gail Daugherty, Transp. Asst., ICC, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 143963 (Sub-3TA), filed December 13, 1978. Applicant: P. J. LOMBARDI TRUCKING, INC., 1308, 71st Street, Brooklyn, NY 11228. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Batteries, foil, valves, fittings, hoses, couplings, automotive parts, electric motors, electrical products and equipment, and materials, supplies and equipment* used in the manufacture and distribution of the aforementioned commodities, (a) between points in the United states in and east of North Dakota, South Dakota, Nebraska, Oklahoma, Kansas, and TX; and (b) between points in the United States in and east of North Dakota, South Dakota, Nebraska, Oklahoma, Kansas and TX, on the one hand, and, on the other, Los Angeles, CA, and Portland, OR, under a continuing contract or contracts, with Gould, Inc., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Gould, Inc., 10 Gould Center, Rolling Meadows, IL 60008. SEND PROTESTS TO: Maria B. Kejss, Trans. Asst., ICC, 26 Federal Plaza, New York, NY 10007.

MC 144630 (Sub-47TA), filed December 20, 1978. Applicant: STOOPS EXPRESS, INC., 2239 Maliba Court, Anderson, IN 46012. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, P.O. Box 14065, Indianapolis, IN 46204. *Alcoholic beverages* (except in bulk), from the facilities of National Distillers Products Co. at Cincinnati, OH, and Frankfort, KY., to points in Florida, Georgia and SC, for 180 days. SUPPORTING SHIPPER(S): There are approximately (5) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: J. H. Gray DS, ICC, 343 West Wayne Street, Suite 113, Port Wayne, IN 46802.

MC 144956 (Sub-2TA), filed December 20, 1978. Applicant: TRANSMUTUAL TRUCK LINES, LTD., 7034-30th Southeast, Calgary, Alberta, Canada. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. *Bentonite, drilling mud and additives,* from Billings, MT and Big Horn County, WY to the United States-Canada International Boundary line located at the Port of Entry at Sweetgrass, MT., restricted to traffic in foreign commerce, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Wyo-Ben, Inc., 1242 North 28th Street, Billings, MT 59101. SEND PROTESTS TO: Paul J. Labane DS, ICC, 2602-1st Ave., North, Billings, MT 59101.

MC 145384 (Sub-16TA), filed November 29, 1978. Applicant: ROSE-WAY, INC., 1914 E. Euclid, Des Moines, IA 50309. Representative: James Hodge, 1980 Financial Center, Des Moines, IA 50309. *Molding and millwork,* from the facilities of Diamond International Corporation at or near Chico, CA., to points in Iowa, Illinois, Indiana, Kentucky, Ohio, Pennsylvania, and WI., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Diamond International Corporation, 733 Third Avenue, New York, NY 10017. SEND PROTESTS TO: Herbert H. Allen DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 145707 (Sub-1TA), filed December 20, 1978. Applicant: DERBY FARM EQUIPMENT, LTD., Box 725, Grenfell, Saskatchewan, Canada. Representative: James B. Hovland, 414 Gate City Building, Box 1680, Fargo, ND 58107. *Crushed vehicles and scrap metal,* from points in MN on and north of Interstate Highway 94, (except Minneapolis and St. Paul, MN), and points in ND to ports of entry on the United States-Canada Boundary line at or near Pembina, Portal and Westhope, ND, and Noyues, MN. RESTRICTION: Restricted to the transporation of traffic destined to Winnipeg, Manitoba, Canada, and Regina, Saskatchewan, Canada, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Kar-Basher, Inc., Box 1725, Fargo, ND 58102. SEND PROTESTS TO: Ronald R. Mau DS, ICC, Room 268 Federal Building & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 145852 (Sub-1TA), filed December 13, 1978. Applicant: B & S TRUCKING, INC., Route 13, Box 460, Statesville, NC 28677. Representative: Richard A. Peniston, 2007 Commonwealth Avenue, Charlotte, NC 28205. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Textiles, textile products and the materials and supplies used in the production, manufacturing, display and sales thereof,* from points in NC and SC, where suppliers of shipper are located to shipper's mill in Ontario, CA., under continuing contract or contracts with Western Textile Mills, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Western Textile Mills, Inc., 1930 South Vineyard Avenue, Ontario, CA. SEND PROTESTS TO: Terrell Price DS, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 145869 TA, filed December 13, 1978. Applicant: WILLS TRUCKING CO., INC., Route 2, Willis, VA 24380. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *New furniture, mirrors, pictures, and picture frames,* from the facilities of Basset Mirror Company, Inc., at Bassett and Philpott, VA., to points in CA and TX., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Baassett Mirror Company, Inc., P.O. Box 627, Bassett, VA 24045 SEND PROTESTS: Paul D. Collins DS, ICC, Room 10-502 Federal Building, 400 North 8th Street, Richmond, VA 23240.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-2634 Filed 1-25-79; 8:45 am]

[7035-01-M]

[Notice No. 9]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 16, 1979.

IMPORTANT NOTICE

The following are notices of filing of applications for temporary authority under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 21455 (Sub-48TA), filed December 18, 1978. Applicant: GENE MITCHELL CO., West Liberty, IA 52776. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. *Soy flour and soy flour products,* from Mankato, MN to Springfield, Melrose Park, and Dundee, IL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Honeymead Products Company, 720 Minneopa Road, Mankato, MN 56001. SEND PROTESTS TO: Herbert W. Allen, I.C.C. 518 Federal Bldg., Des Moines, IA 50309.

MC 26396 (Sub-218TA), filed December 22, 1978. Applicant: POPELKA TRUCKING CO., d.b.a., THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Materials, equipment and supplies* used in the manufacture, sales distribution of doors and door systems; from points in the states of Michigan, Ohio and Alabama, to our plantsite at Colorado Springs, Co., for 180 days. SUPPORTING SHIPPER(S): Therma-Tru, Inc., 6275 Lakeshore Court, Colorado Springs, CO 80915. SEND PROTESTS TO: Paul J. Labane DS, ICC, 2602-1st Avenue North, Billings, MT 59101.

MC 26396 (Sub-219TA), filed December 22, 1978. Applicant: POPELKA TRUCKING CO., d/b/a THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Concrete mausoleum crypts,* from Denver, CO; (1) to points in the states of Arizona, Nebraska, New Mexico, Montana, Kansas, Utah, South Dakota, North Dakota, Oklahoma, Texas, Wyoming, Nevada, Oregon, Washington, California and ID; and (2) to ports of entry on the International Boundary line between the United States and Canada located in Washington, Idaho, Montana, and ND, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): DUWE Mausoleum Sales Corp., P.O. Box 2068, Oshkosh, WI 54903. SEND PROTESTS TO: Paul J. Labane DS, ICC, 2602-1st Avenue, North, Billings, MT 59101.

MC 38481 (Sub-10TA), filed December 11, 1978. Applicant: FARRUGGIO'S BRISTOL & PHILADELPHIA AUTO EXPRESS, INC., 1419 Radcliff St., Bristol, PA 19007. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. *Slag, slag products, sand and gravel,* from facilities of the Warner Co., in Falls Township, Bucks County, PA to points in NJ and NY, for 180 days. SUPPORTING SHIPPER(S): Warner Co., 1721 Arch St., Philadelphia, PA 19103. SEND PROTESTS TO: T. M. Esposito, Trans. Asst., 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 52858 (Sub-123TA), filed December 21, 1978. Applicant: CONVOY COMPANY, 3900 N.W. Yeon Ave., P.O. Box 10185, Portland, OR 97210. Representative: Peter Gearin, Convoy Company, 3900 N.W. Yeon Ave., P.O. Box 10185, Portland, OR 97210. *Motor vehicles* in initial and secondary movements, in truckaway service, from the facilities of Ford Motor Company at St. Paul, MN to points in SD, ND, MT, CO, and NE., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Ford Motor Company, P.O. Box 1529-B, NAAO Bldg., Dearborn, MI 48121. SEND PROTESTS TO: R. V. Dubay DS, ICC, 114 Pioneer Courthouse, Portland, OR. 97204.

MC 58549 (Sub-28TA), filed December 18, 1978. Applicant: GENERAL MOTOR LINES, INC., 1634 Granby Street N.W., Roanoke, VA 24034. Representative: Jerry Beard, P.O. Box 13727, Roanoke, VA 24034. *Pulpboard NOI, not corrugated or indented, and Activate Carbon* (except in bulk), from Covington, VA to points in NC, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Mr. Robert L. St. Clair, Westvaco Corp., Covington, VA. SEND PROTESTS TO: Paul D. Collins, I.C.C., Rm. 10-502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC-70832 (Sub-27TA), filed December 29, 1978. Applicant: NEW PENN MOTOR EXPRESS, INC., P.O Box 630, Lebanon, PA 17042. Representative: S. Harrison Kahn, Suite 733 Investment Bldg., Washington, D.C. 20005. *General commodities,* except Class A and B explosives, household goods as specified by the Commission, commodities in bulk, and those requiring special equipment. Restricted to traffic moving on bills of lading of the General Motors Corporation and/or consolidators and freight forwarders for the General Motors Corporation, from Harrisburg, PA to Dayton, OH, for 180 days. SUPPORTING SHIPPER(S): General Motor Corporation, Dayton, OH 45442. SEND PROTESTS TO: Charles F. Myers, I.C.C., P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC-85934 (Sub-90 TA), filed December 21, 1978. Applicant: MICHIGAN TRANSPORTATION COMPANY, 3601 Wyoming, Dearborn, MI 48120. Representative: Edwin M. Snyder, Law Offices of Sullivan, Leavitt & Blieti, 22375 Haggerty Road, P.O Box 400, Northville, MI 48167, 313-349-3980. *Sand,* in bulk, from LaSalle County, IL, and Berrien County, MI, to AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI., for 180 days. SUPPORTING SHIPPER(S): Manley Bros., P.O. Box 538, Chesterton, IN 46304. (J. J. Stefanec) SEND PROTESTS TO: Tim Quinn DS, ICC, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 87689 (Sub-17TA), filed December 21, 1978. Applicant: INTER-CITY TRUCK LINES LTD., 3033 Universal Drive, Mississauga, Ontario, Canada. Representative: John R. Davidson, 805 Midland Bank Building, Billings, MT

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59101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the commission, and those requiring the use of special equipment), between the Port of Entry located at or near Sweetgrass, MT., and Great Falls, MT: From the Port of Entry at or near Sweetgrass over Interstate 15 and U.S. Highway 91 to Great Falls, and return over the same route, serving no intermediate points, for 180 days. SUPPORTING SHIPPER(S): There are approximately (8) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: ICC, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

MC-103051 (Sub-468TA), filed December 29, 1978. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue, North, Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. *Petroleum products, vehicle body sealer, sound deadening compounds, and accoustical control items, in bulk, in tank vehicles*, from Warren County, MS to points in the United States (except AK & HI). RESTRICTED to shipments originating at the facilities of Quaker State Oil Refining Corp. located in Warren County, MS, for 180 days. SUPPORTING SHIPPER(S): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. SEND PROTESTS TO: Joe J. Tate, I.C.C., Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 103051 (Sub-469TA), filed December 29, 1978. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue, North, Nashville, TN 37209. Representative: Russell E. Stone, P.O Box 90408, Nashville, TN 37209. *Vegetable oils, in bulk, in tank vehicles*, from Maxton, NC, Darlington, SC, Dawson, Gainesville & Augusta, GA, Birmingham, Dothan and Enterprise, AL, and Graceville, FL to St. Rose, LA, for 180 days. SUPPORTING SHIPPER(S): Alimenta (USA), Inc., P.O. Box 88987, Atlanta, GA 30338. SEND PROTESTS TO: Joe J. Tate, I.C.C., Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 106074 (Sub-79TA), filed December 29, 1978. Applicant: B & P MOTOR LINES, INC., P.O. Box 741, Forest City, NC 28043. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Meats and packinghouse products*, from the facilities of Spencer Foods, Inc. at or near Schuyler, NE to points in FL and GA, for 180 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority and has been granted a 30-day ETA partially duplicating the authority sought herein. Supporting Shipper: Spencer Foods, Inc., P.O. Box 544, Schuyler, NE 68661. Send Protests to: Mr. Terrell Price, I.C.C., 800 Briar Creek Rd., Rm. CC516, Mart Office Bldg., Charlotte, NC 28205.

MC 107403 (Sub-1150TA), filed December 11, 1978. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., same as above. *Methanol, in bulk, in tank vehicles*, from New Haven, CT to Waltham, Natick, Hopkinton, MA, Central Falls, Cranston and Lincoln, RI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Monson Chemicals, Inc., 84 South St., Hopkinton, MA 01748. SEND PROTESTS TO: T. M. Esposito, Trans. Asst., 600 Arch St., Rm. 3238, Phila., PA 19106.

MC 107515 (Sub-1193TA), filed December 21, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O Box 308, Forest Park, GA 30050. Representative: Alan E. Serby & Richard M. Tettelbaum, Serby & Mitchell, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Lighting fixtures and/or parts thereof*, from the facilities of Lithonia Lighting, Div., of National Service Industries, Inc., at or near Cochran and Conyers, GA, to points in Illinois, Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota and WI., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Lithonia Lighting Division of National Service Industries, Inc., P.O. Box H, 1400 Lester Road, Conyers, GA. 30207. SEND PROTESTS TO: Sara K. Davis Transp. Asst., ICC, 1252 W. Peachtree Street, N.W., Room 300, Atlanta, GA 30309.

MC 110563 (Sub-256TA), filed December 15, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: John L. Maurer (same address as applicant). *Shortening, Cooking and Salad Oils and Oleomargarine*, from the facilities of PVO International, Inc., at St. Louis, MO, to points in AL, FL, GA, NC and TN, in mechanically refrigerated vehicles, for 180 days. Supporting Shipper: PVO International, Inc., 3400 N. Wharf, St. Louis, MO 63147. Send protests to: I.C.C., 313 Federal Office Bldg., 234 Summit St., Toledo, OH 43604.

MC 111729 (Sub-750TA), filed December 20, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same address as applicant). (1) *Business papers, records, and audit and accounting media of all kinds:* (2) *Parts, new and rebuilt replacement truck parts*, restricted against the transportation of packages or articles weighing more than 100 pounds in the aggregate from one consignor to one consignee on any one day, Between Coeburn, VA, on the one hand, and, on the other, Middlesboro and Prestonsburg, KY, for 180 days. Supporting Shipper(s): Eastern Kentucky Mack Truck, Inc., Division of World Wide Equipment Company, Inc., State Route 1428 East, Prestonsburg, KY. Send protests to: Maria B. Kejss Transp. Asst., ICC, 26 Federal Plaza, New York, NY 10007.

MC 114552 (Sub-190TA), filed December 21, 1978. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3526 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Iron and steel articles*, from the facilities of United States Steel Corporation at or near (a) Clairton, Duquesne, Fairless, Homestead, Dravosburg, Johnstown, McKeesport, McKees Rocks and Vandergrit, PA, and (b) Cleveland, Lorain, and Youngstown, OH, to points in AL, FL, GA, NC, SC, TN, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Steel Corporation, Room 568, 600 Grant Street, Pittsburgh, PA 15230. Send protests to: E. E. Strotheid DS, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 115651 (Sub-51TA), filed December 22, 1978. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, IL 61102. Representative: Robert D. Higgins, 7222 Cunningham Road Rockford, IL 61102. *Liquefied Petroleum gas* (in bulk, in tank trucks), from (1) the facilities of the Cochin Pipeline at or near New Hampton, IA, to points in IA, IL, MN, SD, WI, and (2) the facilities of Cochin Pipeline, at or near Milford, IN, to points in IL, KY, MI and OH, for 180 days. Supporting shipper(s): Northern Propane Gas Company, W. J. (Bill) Roth, Director of Traffic, 2223 Dodge Street, Omaha, NE 68102. Send protests to: Lois M. Stahl Transp. Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 117034 (Sub-4TA), filed December 18, 1978. Applicant: ARTHUR E. OLSEN, D/B/A DAWN TRAIL AWAY, 1468 Greenbrae, Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. *Mobile homes and camper-type trailers, in Tow-Away operations*, between points in CA, ID, and UT, on the one hand, and points in NV, on the other hand, for 180 day. There are approximately (17) statements of support attached to this application which may be examined at the ICC, in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: W. J. Huetig, ICC, 203 Federal Bldg., 705 N. Plaza St., Carson City, NV 89701.

MC 117686 (Sub-230TA), filed December 21, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, IA 51102. Representative: Robert A. Wichser (same address as applicant). *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Swift and Company located at or near Des Moines and Marshalltown, IA., to points in TX., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): John H. Groth, Manager, Claims & Services, Swift & Company, 115 W. Jackson Blvd., Chicago, IL 60604. SEND PROTESTS TO: Carroll Russell DS, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 117686 (Sub-231TA), filed December 21, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: Robert A. Wichser, P.O. Box 417, Sioux City, IA 51102. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766*, (except hides and commodities in bulk), from (1) the facilities of Hygrade Packing Co., at or near Storm Lake and Cherokee, IA and (2) the facilities of Wilson Foods Corporation located at or near Des Moines, and Cedar Rapids, IA to points in TX., for 180 days. SUPPORTING SHIPPER(S): (1) Douglas E. Henry, Manager, Warehousing Hygrade Food Products Corporation, P.O. Box 4771, Detroit, MI 48219. (2) A. N. Brent, Manager, Transportation Division, Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. (SEND PROTESTS TO: Carroll Russell DS, ICC, Suite 620, 110 North 14th Street, Omaha, NE. 68102.

MC 118457 (Sub-19TA), filed December 22, 1978. Applicant: ROBBINS DISTRIBUTING CO., INC., 2430 Algoma Boulevard, Oshkosh, WI 54901. Representative: Jack Meyer, 111 E. Wisconsin Avenue, Milwaukee, WI 53202. *Frozen foods*, (except in bulk), from the facilities of Pet, Inc., Frozen Foods Division at Frankfort, MI to Louisville, KY., and points in Illinois, Indiana and WI., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Pet, Inc., 400 S. 4th Street, P.O. Box 392, St. Louis, MO. 63166. SEND PROTESTS TO: Gail Daugherty Transp. Asst., ICC, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 121751 (Sub-2TA), filed December 29, 1978. Applicant: ABLE TRANSPORT, INC., P.O. Box 488, Wilmington, CA 90748. Representative: A. Michael Bernstein, 1441 E. Thomas Road, Phoenix, AZ 85014. *Doors, door sections, parts and accessories*, from the plantsites of Overhead Door Company, in Dallas and Forth Worth, TX to AZ, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Ralph Wilkins Co., Inc., 2836 W. Weldon Avenue, Phoenix, AZ 85017. SEND PROTESTS TO: Irene Carlos, Trans. Asst., I.C.C., Rm 1321 Federal Bldg., 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 123255 (Sub-193TA), filed December 29, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, Ohio 43055. Representative: C. F. Schnee, Jr., 1984 Coffman Road, Newark, Ohio 43055. (1) *such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses*, and (2) *materials, ingredients* and *supplies* used in the manufacture, distribution and sale of the products in (1), between the facilities of the Ralston Purina Company at or near Clinton and Davenport, IA on the one hand, and points in IL, IN, MI, and OH, on the other, for 180 days. SUPPORTING SHIPPER(S): Ralston Purina Company, Checker Square, St. Louis, MO 63188. SEND PROTESTS TO: Frank L. Calvary, I.C.C., 220 Federal Bldg. and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

MC 125335 (Sub-44TA), filed December 15, 1978. Applicant: GOOD-WAY, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, PETERSON, BOWMAN, LARSEN & SWANSON 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. *Cheese and cheese products* from the facilities of Borden Foods, Division of Borden, Inc., at or near Plymouth, WI, to points in AL, GA, FL, TN, NC, SC, NY, NJ, PA, VA, DE, MD, CT, and MA, for 180 days. An underlying ETA seeking up to 90 days operating authority. Supporting shipper: Borden Foods, Division of Borden, Inc., R. J. Metzger, Supervisor-Transportation Service & Pricing, 180 E. Broad Street, Columbus, OH. SEND PROTESTS TO: Charles Myers, I.C.C., P.O. Box 869 Federal Square Station, 228 Walnut St., Harrisburg, PA 17108.

MC 126118 (Sub-18TA), filed December 21, 1978. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie, P.O. Box 81228, Lincoln, NE 68501. *Such commodities* as are dealt in or used by manufacturers and distributors of printed matter between Lincoln, NE on the one hand, and, on the other, points in the United States (except AK and HI). Hearing site: Lincoln, NE., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Larry Glisdorf Traffic Manager, Mid-America Webpress, Inc., 3700 NW, 12th Street, Lincoln, NE. 68521. SEND PROTESTS TO: Max H. Johnston DS, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE 68508.

NOTE.—Common control may be involved.

MC 128633 (Sub-21TA), filed December 21, 1978. Applicant: LAUREL HILL TRUCKING CO., 614 New County Road, Secaucus, NJ 07094. Representative: William J. Augello, 120 Main Street P.O. Box Z, Huntington, NY 11743. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Infant food formula, drugs, medicines and related products*, from the facilities of Wyeth Laboratories at Lake Odessa and Mason, MI; Philadelphia, PA; and Chicago, IL, to all points in the United States, (2) *Infant food formula, drugs, medicines and related products*, between Lake Odessa and Mason, MI; Philadelphia, PA; and Chicago, IL. (3) *Materials, supplies and equipment* used in the manufacture and sale of infant food formula, drugs, medicines and related products, from all points in the United States, to the facilities of Wyeth Laboratories at Lake Odessa and Mason, MI; Philadelphia, PA; and Chicago, IL., limited to a transportation service to be performed under a continuing contract or contracts, with Wyeth Laboratories, Division of American Home Products Corp., and Wyeth Laboratories, Inc., a wholly-owned subsidiary of American Home Products Corp., of Paoli, PA., for 180 days. No duplications intended. Any duplications in certificates or pending applications will be tendered for revocation. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Wyeth Laboratories, P.O. Box 861, Paoli, PA 19301. SEND PROTESTS TO: Robert E. Johnston DS, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 133775 (Sub-17TA), filed December 22, 1978. Applicant: Reefer Transit

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Line, Inc., 55 E. Washington (Room 2015) Chicago, IL 60602. Representative: Elaine M. Conway, Sullivan & Associates, Ltd., 10 S. LaSalle Street, Chicago, IL 60603. *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), From Huron, SD to points in AL, FL, GA, MS, NC, TN, SC, and LA., for 180 days. SUPPORTING SHIPPER(S): D.A. Chute Manager, Transportation & Distribution, Armour Fresh Meat Company, 111 W. Clarendon, Greyhound Tower, Phoenix, AZ. 85077. SEND PROTESTS TO: Lois M. Stahl Transp. Asst., ICC, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

MC 135007 (Sub-70TA), filed December 22, 1978. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinhouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Dakota City, NE and Sioux City, IA, to points in CA, under a continuing contract or contracts, with Iowa Beef Processors, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Iowa Beef Processors, Inc., Glen C. Echelbarger, Rate Analyst, Dakota City, NE 68731. SEND PROTESTS TO: Carroll Russell DS, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 135009 (Sub-4TA), filed December 21, 1978. Applicant: PEAK TRANSFER CO., INC., 57 Hathaway Street, Wallington, NJ 07057. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and printed matter* Between Salem, and Effingham, IL, and Dresden and Nashville, TN, on the one hand, and on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Arkansas, California, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Massachusetts, Nebraska, Oklahoma, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and WI, under a continuing contract or contracts with CBS Publications, a division of C.B.S., Inc., for 180 days. SUPPORTING SHIPPER(S): C.B.S. Publications, a division of C.B.S. Inc., 1515 Broadway, New York, NY. SEND PROTESTS TO: Joel Morrows DS, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 136086 (Sub-14TA), filed December 18, 1978. Applicant: GUILEY TRUCKING, INC., 8615 Pecan Avenue, Fontana, CA 92335. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *talc or soapstone* (except in bulk), from the facilities of Pioneer Talc Co., located at or near Allamore, TX, a railhead in Hudspeth County, TX, situated approximately 10 miles west of Van Horn, TX, to Sacramento and San Jose, CA, Phoenix, AZ, and points in the counties of Los Angeles, Orange, Riverside and San Bernadino, CA, under a continuing contract(s) with Seaway Shipping & Trading, Ltd., located at San Francisco, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Seaway Shipping & Trading, Ltd., 16 California Street, San Francisco, CA 94111. Send protests to: Walter W. Strakosch, ICC, Rm. 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, CA 90012.

MC 138741 (Sub-64TA), filed December 22, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Pete Wilson, Walnut Products, Inc., 3211 Walnut Drive, St. Joseph, MO 64503. *Lumber and lumber products*, between St. Joseph, MO., on the one hand, and, on the other, points in AL, AR, CO, GA, IA, IL, IN, KS, KY,LA, MI, MN, MS, NE, OH, OK, TN, TX, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Walnut Products, Inc., Pete Wilson, Asst., Sales Manager, 3211 Walnut Drive, St. Joseph, MO 64503. Send protests to: Lois M. Stahl Transp. Asst., ICC, 219 South Dearborn street, Room 1386, Chicago, IL 60604.

MC 138991 (Sub-28TA), filed December 29, 1978. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards, Raymond A. Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: (1) *Frozen concentrate and beverage preparations (nonrefrigerated)*, from Auburndale and Forest City, FL and storage facilities utilized by Coca-Cola located in FL to hightstown, NJ and Geneva, OH, and (2) *Empty cans and lids*, from Hightstown, NJ to Auburndale, FL, under a continuing contract or contracts, with the Coca-Cola Company Foods Div., for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): Coca-Cola Company Foods Division, 480 Mercer Street, Hightstown, NJ 08520. Send protests to: ICC, U.S. Courthouse & Federal Building, 100 S. Clinton Street, Room 1259, Syracuse, NY 13260.

MC 139906 (Sub-22TA), filed December 1, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84125. Representtive: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Dry goods, sewing trims, notions, ribbons and bows*, (except commodities in bulk or those commodities which because of size or weight require special handling or equipment), from Ludlow and West Warren, MA; to Montgomery, AL; Buena Park, La Mirada, Los Angeles, and San Francisco, CA; Denver, CO; Orlando, FL; Stone Mountain and Atlanta, GA; Chicago, Urbana, and Des Plaines, IL; Indianapolis, IN; Shreveport, LA; Detroit and Pontiac, MI; St. Paul and Fridley, MN; Olive Branch, MS; St. Louis, and Kansas City, Mo; Omaha, NE; Charlotte, NC; Columbus and Cleveland, OH; Edmond, OK; Portland, OR; Pittsburgh, PA; Memphis, TN; Dallas, Lubbock, Lufkin, and Houston, TX; Salt Lake City, UT; and Seattle, WA, and points in the respective commercial zones thereof, for 180 days. SUPPORTING SHIPPERS(S): William E. Wright Co., South Street, West Warren, MA 01092. (Donald J. Baptiste, Manager-Traffic.) Send protests to: L. D. Helfer DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 140452 (Sub-13TA), filed December 21, 1978. Applicant: ROSE BROTHERS TRUCKING, INC., 2425 U.S. Business Highway 41 N, Suite 204, Evansville, IN 47711. Representative: David Konnersman, 5101 Madison Avenue, Indianapolis, IN 46227. *Corn and corn products*, (except liquid corn products, in bulk and tank vehicles), From Paris, IL., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, Kentucky, and TN., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Illinois Cereal Mills, Inc., Box 220, Paris, IL 61944. SEND PROTESTS TO: Beverly J. Williams Transp. Asst., ICC, Federal Building & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 141402 (Sub-23TA), filed December 15, 1978. Applicant: LINCOLN FREIGHT LINES, INC., P.O. Box 332, Lapel, IN 46051. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bottles*, from the facilities of Aim Packaging, Inc., near Port Clinton, Ohio, to points in Iowa. RESTRICTED to a contract or continuing contracts with Aim Packaging, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Aim Packaging, Inc., P.O. Box 278, Port Clinton, OH 43452, SEND PROTESTS TO: J. H. Gray, I.C.C., 343 West Wayne St., Suite 113, Fort Wayne, IN 46802.

MC 141718 (Sub-2TA), filed December 14, 1978. Applicant: E. W. MERRITT, Rte. 2, Box 224, Canal Road (P.O. Box 1274), Brunswick, GA 31520. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. *Agricultural insecticides, dry*, from Brunswick, GA to the facilities of Union Carbide Corp., at or near Woodbine (Camden County), GA, restricted to the transportation of shipments having an immediately prior movement by rail, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Union Carbide Corporation, P.O. Box 428, Woodbine, GA 31569. SEND PROTESTS TO: G. H. Fauss, Jr., I.C.C., Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 142668 (Sub-16TA), filed December 22, 1978. Applicant: AERO DISTRIBUTING CO., INC., 4814 Fulton Industrial Boulevard, Atlanta, GA 30336. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtreee St., NE, Atlanta, GA 30303. *Such merchandise* as is marketed by home products distributors for the account of Shaklee Corporation, (1) Fulton County, GA., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, Virginia, and W. VA., and (2) from Chicago, IL., to points in Iowa, Kansas, Michigan, Missouri, Nebraska, North Dakota and SD., for 180 days. SUPPORTING SHIPPER(S): Shaklee Corporation, P.O. Box 3625, 2035 National Avenue, Hayward, CA 94540. SEND PROTESTS TO: Sara K. Davis Transp. Asst., ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 143209 (Sub-6TA), filed December 21, 1978. Applicant: HOUSTON FREIGHTWAYS, INC., P.O. Box 607, Galena Park, TX 77547. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Rust preventive pipe line coating*, (in bulk, in tank vehicles), from Lone Star and Houston, TX., to Fort Collins, CO., and Birmingham, AL., for 180 days. SUPPORTING SHIPPER(S): Koppers Co., Inc., 850 Koppers Bldg., Pittsburgh, PA 15219. (2) Reilly Tar & Chemical Corp., P.O. Box 247, Lone Star, TX 75668. SEND PROTESTS TO: John F. Mensing DS, 8610 Federal Bldg., 515 Rusk Avenue, Houston, TX 77002.

MC 143570 (Sub-6TA), filed December 14, 1978. Applicant: D & G TRUCKING, INC., 4420 E. Overland Road, Meridian, Idaho 83642. Representative: David E. Wishney, P.O. Box 837, Boise, Idaho 83701. *MOULDING* from the facilities of Woodgrain/Dame Lumber and Moulding, Co., at or near Fruitland, ID., to points in the State of KS for 180 days. An underlying ETA seeking up to 90 days authority. Supporting shipper; Woodgrain/Dame Lumber and Moulding, Co., P.O. Box 369, Fruitland, ID, 83619. Send protests to Barney L. Hardin, I.C.C., Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 143691 (Sub-16TA), filed December 13, 1978. Applicant: PONY EXPRESS COURIER CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Steven J. Thatcher, P.O. Box 4313, Atlanta, GA 30302. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, audit and accounting media, data processing and computer media, business records, microfilm, microfiche, microforms and related items* as are used in the business of banks and banking institutions, (a) between Denver, CO and points in Denver, Jefferson, Adams, Arapahoe, Boulder and Douglas Counties, CO; between Santa and Albuquerque, NM and points in Bernalillo, Torrance, Mora, San Miguel, Santa Fe, Los Alamos, Rio Arriba, Sandoval, Taos, Valencia and Guadelupe Counties, MN; restricted to shipments having an immediately prior or subsequent movement by air, under a continuing contract or contracts, with Rio Grande Valley Bank, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are approximately (6) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Sara K. Davis Transp. Asst., ICC, 1252 West Peachtree St., N.W., Room 300, Atlanta, GA. 30309.

MC 144122 (Sub-36TA), filed December 22, 1978. Applicant: CARRETTA TRUCKING, INC., S. 160 Route 17 North, Paramus, NJ 07652. Representative: Joseph Carretta, S. 160 Route 17 North, Paramus, NJ 07652. *Plastic materials*, (except in bulk), from the facilities of Kalex Chemical Products, Inc., Elm Coated Fabrics Division at Brooklyn, NY to Chicago, IL, Muskegon and Saginaw, MI, Salisbury, MD, and points in Missouri and Nevada, for 180 days. SUPPPORTING SHIPPER(S): Kalex Chemical Products, Inc., 220 Stewart Avenue, Brooklyn, NY 11237. SEND PROTESTS TO: Joel Morrows DS, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 145341 (Sub-2TA), filed December 22, 1978. Applicant: NORTH CENTRAL DISTRIBUTING CO., 2001 North University Drive, Fargo, ND 58102. Representative: James B. Hovland, 414 Gate City Bldg., P.O. Box 1680, Fargo, ND 58107. *Crushed vehicles and scrap metal*, from points in MN., on and north of Interstate Highway 94, (except Minneapolis and St. Paul, MN) and points in ND to ports of entry on the United States-Canada Boundary Line at or near Pembina and Westhope, ND, and Noyes, MN. RESTRICTION: Restricted to the transportation of traffic destined to Winnipeg, Manitoba, Canada, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Kar-Basher, Inc., Box 1725, Fargo, ND 58107. SEND PROTESTS TO: Ronald R. Mau DS, ICC, Room 268 Federal Building & U.S. Post Office, 657 2nd Avenue, North, Fargo, ND 58102.

MC 145653TA, filed December 22, 1978. Applicant: KIRCHWEHM BROS. CARTAGE CO., INC., 1790 West Carroll Avenue, Chicago, IL 60612. Representative: Abraham A. Diamond, Abraham A. Diamond, Ltd., 29 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by the wholesale and retail grocery industry, rejected, refused and out-of-date shipments returned to origin, from the facilities of Procter & Gamble Company within Chicago, IL., and its commercial zone, to Detroit, Warren, Livonia, Grosse Pointe, Selfridge Air Force Base, and Plymouth, MI. RESTRICTION: Against the transportation of commodities in bulk, under a continuing contract or contracts, with The Procter & Gamble Distributing Company of Cincinnati, OH., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Dennis C. Chipman, Traffic Analyst-Motor Transportation Section, The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. SEND PROTESTS TO: Lois M. Stahl Transp. Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

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MC 145709 (Sub-1TA), filed December 18, 1978. Applicant: RICKY L. CHRISTY, 809 F Avenue, Vinton, IA 52349. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. *Rough cut lumber,* from the facilities of Big Timber, Inc., at or near Vinton, IA to points in KS, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Big Timber, Inc., R. R. No. 2, P.O. Box 169-1, Vinton, IA 52349. SEND PROTESTS TO: Herbert W. Allen, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145891TA, filed December 14, 1978. Applicant: THOMAS L. MARLOW, D/B/A T. L. MARLOW TRUCKING, R.R. No. 3, Sullivan, IL 61951. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Liquid and dry fertilizer and fertilizer ingredients,* for the account of Kaiser Agricultural Chemicals, Div. of Kaiser Aluminum & Chemical Sales, Inc., between points in IL, IN, IA, KY, MO, OH, MI, TN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): David Cowart, Mgr. Trans., Kaiser Agricultural Chemicals, Div. of Kaiser Aluminum & Chemical Sales, Inc., P.O. Box 1158, Savannah, GA 31402, SEND PROTESTS TO: Charles D. Little, ICC, 414 Leland Office Bldg., 527 East Capitol Ave., Springfield, IL 62701.

MC 145892TA, filed December 15, 1978. Applicant: PETER KARAGINES D/B/A FAST WAY FOOD COMPANY, 1720 West La Palma, Suite M, Anaheim, CA 92801. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Canned goods,* from Johnson City, NY to Phoenix, AZ and to points in and south of San Luis Obispo, Kern and San Bernardino Counties, CA, for 180 days. SUPPORTING SHIPPER(S): Douglas Food Service Co., P.O. Box 71, Johnson City, NY 13790. SEND PROTESTS TO: Irene Carlos, Trans. Asst., I.C.C., 300 North Los Angeles Street, Rm. 1321 Federal Bldg., Los Angeles, CA 90012.

MC 145913TA, filed December 21, 1978. Applicant: BART LANG TRUCKING, INC., Route 2, Box 221A1, Lexington, NE 68850. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses,* as described in Sections A and C of the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commidities in bulk, in tank vehicles), from the dacilities of Dugdale Packing Company at or near Darr, NE, to points in AR, CO, CT, GA, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, NJ, NY, NC, OH, OK, PA, SC, SD, TN, TX, UT, VA, WV, WI, and WY, for 180 days. An underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Dugdale Packing Company, Box 166, Cozad, NE 69130. Send protests to: Max Johnston, I.C.C., 285 Federal Bldg. & Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 145917TA, filed December 22, 1978. Applicant: CHARLES J. STALLMAN, d/b/a STALLMAN TRUCKING, 4457 West Montana, Chicago, IL 60639. Representative: Robert J. Gill, 29 S. LaSalle St., CHICAGO, IL 60603. Temporary authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *scrap paper,* between the facilities of Ajax Recycling, Inc. at or near Chicago, IL, on the one hand, and, on the other, points in Wisconsin and Indiana, under a continuing contract or contracts with Ajax Recycling, Inc., 850 West Division Street, Chicago, Illinois, for 180 days. SUPPORTING SHIPPER(S): Ajax Recycling, Inc., 850 W. Division St., Chicago, IL 60622. (Jerry Kaplan, President). SEND PROTESTS TO: Lois M. Stahl, Trans. Asst., I.C.C., 219 South Dearborn Street, Rm. 1386, Chicago, IL 60604.

MC 145948 (Sub-1TA), filed December 22, 1978. Applicant: ROY W. AND JOANNE GRAHAM, d/b/a ROY GRAHAM TRUCKING, P.O. Box 936, Lovelock, NV 89419. Representative: Mike Soumbeniotis, 402 N. Division Street, Box 646, Carson City, NV 89701. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Pallet shook, random length dimensional lumber for pallet construction,* from Stanislaus, San Joaquin, Shasta, Modoc, Mendocino and Sacramento Counties, CA and Josephine, Jackson, Marion, Klamath, Lane, and Douglas Counties, OR to Lovelock, NV and from Lovelock, NV., to Sacramento, CA., restricted to traffic originating at or terminating at facilities of RO-MARK PALLET, INC., at Lovelock, NV., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): RO-MARK PALLET, INC., P.O. Box 146, Lovelock, NV 89419. SEND PROTESTS TO: W. J. Huetig DS, ICC, 203 Federal Building, 705 N. Plaza Street, Carson City, NV 89701.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-2633 Filed 1-25-79; 8:45 am]

[Finance Docket No. 28937 F]

SOUTH CENTRAL TENNESSEE RAILROAD CO., INC.

Operation Over a Line of Railroad in Dickson, Hickman, and Lewis Counties, TN; Notice

South Central Tennessee Railroad Company, Inc. (SCTR), 1660 L Street, N.W., Suite 1000, Washington, DC 20036, represented by Fritz R. Kahn, Esquire, Verner, Liipfert, Bernhard, and McPherson, 1660 L Street, N.W., Suite 1000, Washington, DC 20036, hereby give notice that on the 15th day of January, 1979, it filed with the Interstate Commerce Commission at Washington, DC, an application under Section 10901 of the Interstate Commerce Act (formerly Section 1(18)) for a decision approving and authorizing the operation of a line of railroad situated in Dickson, Hickman, and Lewis Counties, TN.

SCTR proposes to operate a line of railroad between Colesburg, TN, and Hohenwald, TN, formerly known as the Centerville Branch of the Louisville and Nashville Railroad Company (L&N). On October 1, 1973, L&N filed for abandonment of the line in docket No. AB-2 (Sub-No. 5). Pursuant to authorization by the Commission in docket No. AB-2 (Sub-No. 5), operation of this line by L&N ceased at the close of business on June 30, 1978. The line was duly purchased from L&N by South Central Tennessee Railroad Authority (the "Authority").

The line of railroad proposed to be operated begins at former L&N milepost 2 at Colesburg, Dickson County, TN, and extends in a southwesterly direction through Hickman County to just south of milepost 52 near Hohenwald, Lewis County, TN, a distance of approximately 49.61 miles.

In the opinion of the Applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implenetation—National Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra,* at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, DC 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-2631 Filed 1-25-79; 8:45 am]

[7035-01-M]

[Finance Docket No. 28799 (Sub-No. 1F)]

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY PURCHASE (PORTION)—WILLIAM M. GIBBONS, TRUSTEE OF THE PROPERTY OF CHICAGO, ROCK ISLAND & PACIFIC RAILROAD CO., DEBTOR

St. Louis Southwestern Railway Company (Cotton Belt), Southern Pacific Building, One Market Plaza, San Francisco, CA 94105, represented by W. Harney Wilson, General Attorney, Southern Pacific Transportaiton Company, and William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company (Rock Island), 332 South Michigan Avenue, Chicago, IL 60604, represented by Martin L. Cassell, Senior General Counsel, hereby give notice that on December 29, 1978, they filed with the Interstate Commerce Commission at Washington, DC, a joint application under 49 U.S.C. 11343 (formerly section 5(2) of the Interstate Commerce Act) for a decision approving the purchase by Cotton Belt of (1) Rock Island's line between Santa Rosa, NM and Herington, KS; (2) one-half interest in Rock Island's line between Herington, KS and Topeka, KS; (3) the right to operate between Topeka, KS, and Kansas City, MO, under terms and conditions of Rock Island's contract with Union Pacific Railroad Company; (4) Rock Island's line between Kansas City, KS and St. Louis, MO; and (5) all of the Rock Island's stock in Terminal Railroad Association of St. Louis and Kansas City Terminal Railway Company. Under the terms of the agreement, Cotton Belt will pay Rock Island 57 million dollars. The application also seeks authority for (1) Southern Pacific Transportation Company (SPT), Cotton Belt's parent, to operate that portion of the line to be acquired between Santa Rosa, NM, and Tucumcari, NM, and (2) for Rock Island and Cotton Belt to jointly operate between Herington, KS and Topeka, KS. This application has been accepted and assigned Finance Docket 28799 (Sub-No. 1F). Cotton Belt filed a related application under 49 U.S.C. 11301 (formerly section 20a of the Act) to assume the obligation of Rock Island for certain securities of the Kansas City Railway Company. The latter application has been docketed Finance Docket No. 28799 (Sub-No. 2F).

Three related applications docketed Finance Docket No. 28799 (Sub-Nos. 3F, 4F, and 5F) have been filed pursuant to 49 U.S.C. 11103 (formerly section 3(5) of the Act) by Cotton Belt and Rock Island seeking orders requiring the grant of bridge trackage rights in certain terminal areas.

In Finance Docket No. 28799 (Sub No. 3F) Cotton Belt seeks a decision of the Commission requiring the grant of bridge trackage rights in St. Louis, Mo-East St. Louis, IL, terminal area over track of the Norfolk and Western Railway Company, Terminal Railroad Association of St. Louis, St. Louis-San Francisco Railway Company, and the Alton & Southern Railway company. The purpose of this application is to permit Cotton Belt to gain access to its Valley Junction Yard in East St. Louis from the railroad line of the Chicago, Rock Island and Pacific Railroad Company it seeks to acquire from Santa Rosa, NM to St. Louis, MO.

In Finance Docket No. 28799 (Sub No. 4F) Cotton Belt seeks a decision of the Commission requiring the grant of bridge traffic rights in the Kansas City, MO, terminal area, over the track of St. Louis-San Francisco Railway Company, Missouri Pacific Railroad Company and Burlington Northern, Inc. The purpose of this application is to permit the Cotton Belt to interchange with other railroads serving this terminal area and to operate through Kansas City.

In Finance Docket No. 28799 (Sub No. 5F) Rock Island seeks a decisions of the Commission requiring the grant of bridge traffic rights in the Kansas City, KS-Kansas City, MO, terminal area over track of Kansas City Terminal Railway Company, Burlington Northern, Inc., St. Louis-San Francisco Railway Company, and Atchinson, Topeka and Santa Fe Railway Company. The purpose of this application is to permit Rock Island to continue operations presently performed in the Kansas City, KS-Kansas City, MO terminal area.

In Finance Docket No. 28799 (Sub-No. 6F), Cotton Belt and Rock Island have jointly filed an application pursuant to 49 U.S.C. 11342 (formerly section 5(1) of the Act) seeking approval of pooling of traffic between Topeka, KS ad Kansas City, KS. The purpose of this agreement is to permit Rock Island to move traffic between Kansas City and the Gulf of Mexico, and between Denver, CO, and Kansas City by utilizing the Topeka to Kansas City route.

The applications, and exhibits are available for inspection in the Public Docket Room at the offices of the Interstate Commerce Commission in Washington, D.C.

Cotton Belt and its subsidiaries operate a railroad system serving the following six states: AR, IL, LA, MO, TN and TX. Cotton Belt's route extends to St. Louis, MO. SPT, which controls Cotton Belt through stock ownership, and its other subsidiaries, operate a railroad system serving the following eight states: AZ, CA, LA, NV, NM, OR, TX and VT. SPT presently interchanges traffic with the Rock Island at Santa Rosa, NM.

If the applications are approved, Cotton Belt and SPT propose to provide a single system service between southern California and Kansas City, MO and St. Louis, MO. Rock Island will retain the balance of its system and continue to provide service over it.

Pursuant to 49 U.S.C. 11345(d), (formerly section 5(1)(g) of the Act) the Commission must conclude all evidentiary proceedings on the 240th day after the notice of the application is published in the Federal Register (September 21, 1979). Dates for the filing of various documents in this proceeding will be strictly adhered to.

Any person interested in filing an inconsistent application or petition for inclusion should file a notice of intent to do so no later than March 12, 1979, (45 days after the date notice of the application is published in the Federal Register). Original and five copies shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. Any traffic studies and data submitted shall relate to the calendar year January 1, 1977 through December 30, 1977. A person filing traffic studies as part of an inconsistent application should study not only its own traffic, but also that of the applciants, Rock Island, Cotton Belt, and SPT, where it can be reasonably expected that this traffic would be diverted, if the inconsistent application was granted. Inconsistent applica-

[1] This proceeding embraces Finance Docket No. 28799 (Sub-No. 2F), St. Louis Southwestern Railway Company, Securities; Finance Docket No. 28799 (Sub-No. 3F), St. Louis Southwestern Railway Company, Use of Terminal Facilities at St. Louis, MO—East St. Louis, IL; Finance Docket No. 28799 (Sub-No. 4F), St. Louis Southwestern Railway Company, Use of Terminal Facilities at Kansas City, MO; Finance Docket No. 28799 (Sub-No. 5F), William M. Gibbons, Trustee of the Property of Chicago, Rock Island, and Pacific Railroad Company, Debtor, Use of Terminal Facilities at Kansas City, KS—Kansas City, MO; and Finance Docket No. 28799 (Sub-No. 6F), St. Louis Southwestern Railway Company and William M. Gibbons, Trustee of the Property of Chicago, Rock Island, and Pacific Railroad Company, Debtor Pooling Agreement.

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tions and petitions for inclusion must be filed with the Commission by April 26, 1979.

Persons interested in filing an inconsistent application or petition for inclusion are further advised that they should prepare a list of the information not otherwise available to them that will be necessary to complete the inconsistent application or petition for inclusion in accordance with 49 CFR sections 1111.4(b)(4) or 1111.4(b)(5), and other discoverable matter which may be desired. This list should be submitted to Cotton Belt, SPT, and Rock Island by February 26, 1979. Cotton Belt, SPT, and Rock Island are directed to respond to those persons by March 8, 1979, specifically stating what information will be voluntarily supplied and what information will not be supplied, with reasons. Fifteen copies of the lists of requested information and the responses should be filed with Commissison. Waivers granted to applicants in *Southern Pac. Transps. Co.-Pur-Chicago, R.I. & P.*, 354 I.C.C. 760 (1978), are also granted to parites filing inconsistent applications.

Any protestants who propose to file traffic studies as evidence in opposition to this application, should file such traffic studies by May 1, 1979. The traffic studies shall relate to the calendar year January 1, 1977 through December 30, 1977.

Any persons seeking protective traffic conditions, including trackage rights, shall be required to file with the Commission, and to serve upon applicants, and all other parties on or before April 15, 1979, an inital list of specific protective conditions including trackage rights applications. A final list of protective conditions shall be filed on or before May 1, 1979. Any trackage rights application shall be filed by May 15, 1979, to be considered in thes proceedings. We will presume any such application is a major market extension. Any petitions to rebut this presumption must be filed by April 15, 1979.

On April 3, 1979, an initial pre-hearing conference will be held, at the offices of the Interstate Commerce Commission in Washington, D.C., commencing at 9:30 a.m. Presiding at the conference will be Administrative Law Judge Peter A. Fitzpatrick, who has been designated to conduct the proceedings. Prior to that date, a Notice to the Parties will be issued setting forth an agenda for the pre-hearing conference. Parties should include in their comments any issues they wish discussed at the pre-hearing conference. Discovery, and related matters should be concluded prior to the pre-hearing conference to permit rulings at that time by the Administrative Law Judge on any discovery matters in dispute.

Any interlocutory appeals from rulings by the Administrative Law Judge will be considered by Division 1 of the Commission. Such appeals must be filed within 5 days after the date upon which the ruling appealed from is made, and are to be served upon the Administrative Law Judge.

Hearings will commence on May 1, 1979 at the office of the Interstate Commerce Commission in Washington, D.C., at 9:30 a.m. for presentation by applicants of their evidence-in-chief. All witnesses who will appear to testify at the hearings must prepare and serve on all parties written statements containing the substance of their testimony. Applicants will be required to serve such statements in support of the applications on all parties by April 3, 1979.

This proceeding is a class of action which may have environmental issues present, but normally does not require preparation of an environmental impact statement (EIS). 49 C.F.R. 1108.9. Although we believe that some form of environmental analysis is necessary for this proceeding, we are not contemplating, at this time, preparation of an EIS. Views to the contrary are invited.

The environmental analysis will focus on potential impacts associated with the addition of 8 to 10 trains daily over the Southern Pacific line between El Paso, TX, and Santa Rosa, NM, and the Rock Island line between Santa Rosa, NM, and St. Louis, MO. The following impacts along these lines will be considered: (1) changes in noise levels; (2) changes in air quality; (3) safety hazards; (4) changes in energy consumption; and (5) changes in employment. Comments are invited on these and other areas of potential concern which may be addressed.

Interested persons may participate formally in the proceedings by submitting written comments regarding the applications. Such submissions shall indicate the proceeding's designation (F.D. No. 28799 (Sub-No. 1F)), and the original and 15 copies shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than March 12, 1979 (45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER). Such comments shall include the following: the person's position, e.g. party protestant or party in support regarding the proposed transaction; specific reasons why approval would or would not be in the public interest. Additionally, interested persons who do not intend to participate formally, but who desire to comment, may file a statement and information, as they may desire, subject to the same filing and service requirements. Persons submitting written comments to the Commission shall, at the same time, serve copies of the written comments upon the applicants, the Secretary of Transportation, and the Attorney General.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2852 Filed 1-25-79; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

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[6351-01-M]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10:30 a.m., January 26, 1979.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Disposition of formal agency adjudications.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-178-79 Filed 1-24-79; 3:15 pm]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., resume 2 p.m., January 30, 1979.

PLACE: 2033 K Street NW., Washington, D.C., Fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Publication of futures prices by the Exchange (Part 16).

Proposed rules requiring FCM's to carry and report omnibus accounts on a gross basis.

CFTC Foreign trader policy discussion.

Title III.

Petition of Dowdex Corp. to waive a requirement of rule 32.13 in order to allow Dowdex to grant options on copper.

Petition of Monex International, Ltd., Monex Trading Corp., and Newport Trading Co. to waive a requirement of rule 32.12 so as to allow Monex and its affiliates to grant and sell options.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-169-79 Filed 1-24-79; 10:33 am]

[6351-01-M]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., February 2, 1979.

PLACE: 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-171-79 Filed 1-24-79; 10:33 am]

[6570-06-M]

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, January 30, 1979.

PLACE: Commission conference room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public:

1. Freedom of Information Act Appeal No. 78-7-FOIA-171, concerning a request for information included in a national charge investigative file.

2. Proposed Contract for Key-Punch Services.

3. Procedure for Early Litigation Identification.

4. Instructions to Field Offices concerning the Amendment to Title VII regarding Pregnancy Disability.

5. Proposed Procedures regarding Commission Decisions made at Headquarters.

6. Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation authorization; General Counsel recommendations; Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This Notice issued January 23, 1979.

[S-172-79 Filed 1-24-79; 10:33 am]

[6715-01-M]

5

FEDERAL ELECTION COMMISSION.

DATE AND TIME: *Wednesday, January 31, 1979, at 10 a.m.*

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audits and audit policy, Compliance; Personnel; Labor/Management relations; Litigation.

DATE AND TIME: *Thursday, February 1, 1979, at 10 a.m.*

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED: *Portions open to the public:*

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory opinion 1978-86.
Legislative recommendations for the 1978 annual report.
Policy on Release of information in computer tape format.
Master plan for 1980 elections.

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Draft regulations for Presidential primary matching fund, title 11, Code of Federal Regulations, subchapter C.
First Quarter fiscal year 1979 management report.
Appropriations and budget.
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.
Classification actions.
Routine administrative matters.

Portions of the meeting closed to the public: Any matters not concluded on January 31, 1979.

PERSONS TO CONTACT FOR INFORMATION:

Mr. Fred S. Eiland, Public Information Officer, 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-182-79 Filed 1-24-79; 3:42 pm]

[6740-02-M]

6

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published January 19, 1979, 44 F.R. 4092.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 24, 1979.

CHANGE IN THE MEETING: The following items have been added:

ITEM NUMBER, DOCKET NUMBER, AND COMPANY

CAP-3. ER78-414, Delmarva Power & Light Co.
CAP-4. ER78-526 and ER77-331, Central Power & Light Co.
CAG-19. OR79- , Lakehead Pipe Line Co.
RP-6. RP71-107 (phase II) and RP72-127, Northern Natural Gas Co.
GI-2. RI76-123, J. M. Zachary.

KENNETH F. PLUMB,
Secretary.

[S-183-79 Filed 1-24-79; 3:56 pm]

[6720-01-M]

7

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Volume. 44, No. 14, page 4093, Friday, January 19, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., January 24, 1979.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting—Consideration of proposed regulations implementing the Depository Institution Management Interlocks Act.

No. 213, January 23, 1979.

[S-168-79 Filed 1-24-79; 10:33 am]

[6730-01-M]

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 2:30 p.m., January 24, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTER TO BE CONSIDERED: Sea-Land Service, Inc., proposed increases on rice in its United States Pacific coast/Puerto Rico intermodal service.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-175-79 Filed 1-24-79; 1:36 pm]

[6735-01-M]

9

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., January 31, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hold oral argument on the following:

Secretary of Labor v. Republic Steel Corp., Docket Nos. IBMA 76-28, Morg 76-21.
Secretary of Labor v. Republic Steel Corp., Docket Nos. IBMA 77-39, Morg 76X95-P.
Secretary of Labor v. Kaiser Steel Corp., Docket No. 77-13-P.

These cases raise a substantial issue concerning the interpretation of the Federal Mine Safety and Health Act of 1977 and the Coal Mine Health and Safety Act of 1969: Whether a mine owner may be held liable for violative acts committed by its independent contractor?

CONTACT PERSON FOR MORE INFORMATION:

Joanne Kelley, 202-653-5632.

[S-180-79 Filed 1-24-79; 3:42 pm]

[6735-01-M]

10

JANUARY 24, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., February 1, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hold oral argument on the following:

Eastern Associated Coal Corp. v. Secretary of Labor, Mine Safety and Health Administration, Docket Nos. IBMA 77-28, Pitt 76X203.
Florence Mining Co., Helen Mining Co., Oneida Mining Co., North American Coal Corp. v. Secretary of Labor, Mine Safety and Health Administration, Docket Nos. IBMA 77-32, Pitt 77-15, 16, 17, 18, 19, 23.
Alabama By-Products Corp. v. Secretary of Labor, Mine Safety and Health Administration and United Mine Workers of America. Docket Nos. IBMA 76-114, Barb 76-153.

These cases raise substantial issues concerning the interpretation of the Federal Coal Mine Health and Safety Act of 1969 and the applicability of the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *UMWA v. Andrus* (*Carbon Fuel Co.*) 581 F. 2d 888 (D.C. Cir.) *cert denied*, — U.S. — (1978).

CONTACT PERSON FOR INFORMATION:

Joanne Kelley, 202-653-5632.

[S-181-79 Filed 1-24-79; 3:42 pm]

[6325-01-M]

11

MERIT SYSTEMS PROTECTION BOARD.

In accordance with 5 U.S.C. § 552b, announcement is made of the following meeting:

NAME: Merit Systems Protection Board.

DATE AND TIME: Friday, February 2, 1979 at 10 a.m.

PLACE: Offices of the Merit Systems Protection Board, room 762, 1717 H Street NW., Washington, D.C.

SUBJECT: Organizational meeting of merit systems protection board.

The meeting will be open to the public. Estella Michura (653-7101) will respond to requests for information about the meeting.

RUTH T. PROKOP,
Chair, Merit Systems Protection Board.

[S-170-79 Filed 1-24-79; 10:33 am]

[3510-13-M]

12

UNITED STATES METRIC BOARD.

TIME AND DATE: 8:30 a.m., Friday, February 16, 1979.

PLACE: Dallas Hilton, Court Room, 1914 Commerce Street, Dallas, Tex. 75201.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Review/approval of December 15, 1978 meeting minutes.
Reports.
Discussion of proposed consumer participation policy.
Discussion of proposed procedures for approval and acceptance of speaking engagements.
Discussion of proposed procedures for implementation of Freedom of Information Act requirements.
Discussion of comments received during public forum of February 15, 1979.
Introduction of agenda items for April 1979 meeting.

SUPPLEMENTARY INFORMATION: Notice of a public forum to be held by the U.S. Metric Board on February 15, 1979, which will provide individuals and groups the opportunity to comment on metric conversion, appears elsewhere in this issue.

CONTACT PERSON FOR MORE INFORMATION:

Joan Phillips, 703/235-1933.

LOUIS F. POLK,
Chairman,
United States Metric Board.

[S-167-79 Filed 1-23-79; 3:39 pm]

[7545-01-M]

13

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 10 a.m., Thursday, February 1, 1979.

PLACE: Board conference room, sixth floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED: Consideration of applicants qualified for appointment to Administrative Law Judge.

CONTACT PERSON FOR MORE INFORMATION:

William A. Lubbers, Executive Secretary, Washington, D.C. 20570, 202-254-9430.

Dated, Washington, D.C., January 24, 1979.

By direction of the Board.

GEORGE A. LEET,
Associate Executive Secretary, National Labor Relations Board.

[S-179-79 Filed 1-24-79; 3:42 pm]

[7590-01-M]

14

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: January 25 and 29, 1979.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.,

STATUS: Open.

MATTERS TO BE CONSIDERED:

Thursday, January 25 (1:30 p.m.) (postponement)

1. Discussion of decision in S-3 rulemaking (public meeting) is *Postponed* to January 29, 1979 (will be replaced by a continuation of the morning discussion on authorization hearing testimony, (public meeting).

Monday, January 29 (2 p.m.)

1. Discussion of Tarapur (approximate 1 hour, open/closed status to be determined—tentative).
2. Discussion of decision in S-3 rulemaking (approximate 1 hour, public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

[S-173-79 Filed 1-24-79; 10:42 am]

[8010-01-M]

15

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 4096, January 19, 1979.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: January 16, 1979.

CHANGES IN MEETING: (Additional items). The following additional items will be considered at a closed meeting scheduled for Wednesday, January 24, 1979, immediately following the open meeting at 10 a.m.:

Formal order of investigation.
Regulatory matter regarding financial institutions.

Chairman Williams and Commissioners Loomis, Evans and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

JANUARY 23, 1979.

[S-176-79 Filed 1-24-79; 1:45 pm]

[8010-01-M]

16

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of January 29, 1979, in room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, January 30, 1979 at 10 a.m., Wednesday, January 31, 1979 at 9 a.m., and on Thursday, February 1, 1979 at 9 a.m. Open meetings will be held on Tuesday, January 30, 1979 at 4 p.m., Wednesday, January 31, 1979 at 10 a.m., and on Thursday, February 1, 1979 at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402 (a) (8), (9)(i), and (10).

Chairman Williams and Commissioners Loomis, Evans, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, January 30, 1979, will be:

Access to investigative files by Federal, State or self-regulatory authorities.
Formal orders of investigation.
Chapter XI proceeding (affirming action of duty officer).
Settlement of administrative proceedings of an enforcement nature.
Settlement of injunctive actions.
Institution of administrative proceeding of an enforcement nature; settlement of administrative proceeding of an enforcement nature; amendment of formal order of investigation.
Order compelling testimony.
Litigation matter.

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Institution of injunctive actions.
Freedom of Information Act appeals.

The subject matter of the closed meeting scheduled for Wednesday, January 31, 1979, will be:

Consideration of amicus participation.

The subject matter of the closed meeting scheduled for Thursday, February 1, 1979, will be:

Regulatory matter bearing enforcement implications.

The subject matter of the open meeting scheduled for Tuesday, January 30, 1979 at 4 p.m., will be:

Meeting with American Society of Corporate Secretaries.

The subject matter of the open meeting scheduled for Wednesday, January 31, 1979, will be:

1. Consideration of whether to withdraw the proposed tender offer rules published for comment in Securities Exchange Act Release No. 34-12676 (Aug. 2, 1976) and to publish for comment new and revised proposals. If adopted, these proposals would implement the present statutory requirements by providing specific filing, delivery and disclosure requirements, nonexclusive dissemination provisions and additional substantive regulatory protections with respect to certain tender offers as well as particular anti-fraud provisions which would apply to any tender offer. For further information, please contact John Huber at 202-755-1280.

2. Consideration of proposed regulation 13B-2. This proposed regulation would consist, among other things, of proposed rules that would: (a) prohibit the falsification of corporate books, records and accounts, and (b) prohibit the making of materially false, misleading or incomplete statements to an accountant in connection with an audit of the financial statements of an issuer or the filing of required reports. The proposed rules were published for comment in Securities Exchange Act Release No. 13185, January 19, 1977. For further information, please contact Frederick B. Wade at 202-755-1229.

The subject matter of the open meeting scheduled for Thursday, February 1, 1979, will be:

1. Consideration of amendments to form S-16 under the Securities Act of 1933 that would make the form available for primary offerings by certain subsidiary issuers in the absence of a parent company guarantee of their securities. For further information, please contact Steven J. Paggioli at 202-376-8090.

2. Consideration of a request for a waiver of certain provisions of the Commission's Conduct Regulations (relating to outside practice and securities transactions) in connection with the temporary employment of Robert A. Howes, Esq. For further information, please contact Irving H. Picard at 202-755-1238.

3. Consideration of an application of Robert D. Nielsen to appear and practice before the Commission pursuant to 17 CFR 201.2(e)(4) and in accordance with the Commission's Findings and Order Imposing Sanction and Accepting Resignation From Practice, In re Robert D. Nielsen, Admin. Proc. File No. 3-5310. For further information, please contact Alan Rosenblat at (202) 755-1198.

4. Consideration of whether to adopt amendments to the Uniform System of Accounts for Mutual and Subsidiary Service companies ("Uniform System of Accounts") and Rule 93 (17 CFR 250.93) promulgated pursuant to the Public Utility Holding Company Act of 1935. The amendment of the Uniform System of Accounts is designed to provide revenue and expense information needed for regulatory purposes and to provide accounts analyzing service company income, including allowable rate of return for use of capital. It would follow, with appropriate modifications, selected accounts of the Federal Energy Regulatory Commission's Uniform System of Accounts. The amendment to Rule 93 (17 CFR 250.93) would require service companies to keep their accounts and records in accordance with the proposed amended Uniform System of Accounts. For further information, please contact Robert P. Wason at 202-523-5159.

FOR FURTHER INFORMATION, CONTACT:

Beverly C. Rubman, 202-755-1103.

JANUARY 23, 1979.

[S-177-79 Filed 1-24-79; 1:45 pm]

[8240-01-M]

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UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., February 1, 1979.

PLACE: Board room, room 2-500, fifth floor, 955 L'Enfant Plaza North SW., Washington, D.C. 20595.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: By the board of directors:

Portions closed to the public (9:00 a.m.)

1. Consideration of internal personnel matters.
2. Review of ConRail proprietary and financial information for monitoring and investment purposes.
3. Review of Delaware and Hudson Railway Co. proprietary and financial information for monitoring and investment purposes.
4. Litigation report.

Portions open to the public (11:00 a.m.)

5. Approval of minutes of the January 4, 1979 Board of Directors meeting and the December 15, 1978, meeting of the Executive Committee of the Board of Directors.
6. Status of joint USRA/NERCOM study.
7. Status of ConRail alternatives social/economic impact studies.
8. Status of capital additions and improvements study.
9. Report on ConRail monitoring.
10. Consideration of ConRail waiver to financing agreement.
11. Consideration of ConRail drawdown request for February 1979.
12. Status report on 211(h) loan program.
13. Contract actions (extensions and approvals).

CONTACT PERSON FOR MORE INFORMATION:

Alex Bilanow, 202-426-4250.

[S-174-79 Filed 1-24-79; 1:11 pm]

federal register

FRIDAY, JANUARY 26, 1979
PART II



DEPARTMENT OF LABOR

Office of the Secretary

IMPROVING GOVERNMENT REGULATIONS

Final Guidelines and Semiannual Agenda of Regulations Selected for Development and Review

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[4510-23-M]

DEPARTMENT OF LABOR

Office of the Secretary

IMPROVING GOVERNMENT REGULATIONS

Response to Executive Order 12044; Final Guidelines

AGENCY: Department of Labor.

ACTION: Final Guidelines.

SUMMARY: These Guidelines implement Executive Order 12044—Improving Government Regulations by prescribing procedures to be followed in the development of Department of Labor regulations. It is the purpose of these Guidelines to encourage increased public participation in Department of Labor rulemaking and reform existing regulatory practices and procedures.

EFFECTIVE DATE: Effective January 26, 1979.

ADDRESS: Seth D. Zinman Associate Solicitor for Legislation and Legal Counsel, Office of the Solicitor, Department of Labor, Room N2428, 200 Constitution Avenue, NW., Washington, D.C. 20210, 202-523-8201.

FOR FURTHER INFORMATION CONTACT:

Sofia Petters, Counsel for Administrative Legal Services, Room N2428, 200 Constitution Avenue, NW., Washington, D.C. 20210, 202-523-8065.

Mark Solomons, Counsel for Special Legislative Projects, Room N2428, 200 Constitution Avenue, NW., Washington, D.C. 20210, 202-523-8088.

SUPPLEMENTARY INFORMATION: On May 26, 1978 the Department of Labor published proposed Guidelines in the FEDERAL REGISTER for the implementation of Executive Order 12044 (43 FR 22915-22921), and invited public comment on the proposal. The proposal contained a summary of past regulatory practices followed by agencies and offices within the Department, proposed new procedures for the development of regulations, a listing of regulations selected by the Department for review in the coming year, and details relating to the comment procedure. The proposal was designed to give full force and effect to the requirements of Executive Order 12044, and in so doing, to significantly improve the process by which Department of Labor regulations would be written in the future.

The public was given until July 28, 1978 to comment on the proposal. Thirteen written comments were received from both individuals and on behalf of organizations, and a few other comments were submitted by telephone. Many of the comments received were largely favorable to the proposal, and virtually all of the comments were pertinent and well developed. A number of comments were critical of some of the provisions of the proposal and many of those criticisms also contain suggestions on how the particular provision could be improved. The Department has found the vast majority of the comments helpful in gaining insight into the way the public views rulemaking in the Department of Labor, and has adopted a number of the suggestions made by public commentators in these final Guidelines.

DISCUSSION OF MAJOR COMMENTS AND CHANGES

Most of the comments received relate to specific sections of the proposal, or suggest additions to specific sections. In order to fully respond to all significant comments, the Department will group the comments according to related sections of the proposal, and discuss each section in light of the comments, indicating where changes have been made.

The most frequent comments relate to (1) The policies to be followed by the Department in implementing the Executive Order, (2) The structure and functions of the Regulatory Review Panel; (3) The criteria for determining when a regulation is significant; (4) The criteria for determining when a regulation is "major"; (5) The nature and extent of public participation mandated by the proposal; and, (6) The procedures to be followed in the approval of significant and major regulations.

A few general comments express concern that the Guidelines will be routinely ignored or avoided by the Department or that compliance with the Guidelines will be treated as a matter convenience. The Department wishes to assure those commentators and the public in general that all agencies and offices within the Department have been and will be instructed concerning the importance of complying with the Executive Order and these Guidelines. Moreover, the Department believes that the objectives of the Executive Order must be realized in order to assure that all programs administered by the Department are both responsive and effective.

What follows is a section-by-section discussion of the comments received.

1. *Policies.* A few of the comments received express the view that the Department's regulatory reform policies do not adequately reflect an intention to make regulatory decisions on the basis of cost-effectiveness or cost-benefit studies which the commentators urge the Department to conduct.

The Department agrees that in some instances an analysis of the benefits likely to flow from certain regulatory actions as well as the costs of such action is an important part of regulatory decisionmaking. In other instances, expecially where congressional direction is unequivocal, or where cost or benefits parameters are not quantifiable, cost analyses must play a lesser role. Under the policy Guidelines set forth, sufficient flexibility is provided to allow an appropriate determination to be made of the weight which whould be assigned to cost information in the decisionmaking process. Morevover, each agency is instructed as a part of this process to, in every case, carefully consider (1) the responsiveness of a regulatory initiative; (2) the need for the initiative; (3) alternatives to regulation; and (4) the relationship of the initiative to legal requirements in light of cost information among other things, before going forward with a regulation. It is our belief that these safeguards will help to ensure effective regulatory decisionmaking in the future.

It is confidently expected that this approach will minimize or eliminate those unnecessary, ineffective and unjustifiably burdensome regulations which deeply concern some commentators.

A few commentators are dissatisfied with the restatement of the provisions of the Executive Order itself which exempt certain types of regulations, including emergency regulations, from these procedures, and which indicate that agency compliance with the Executive Order and implementing Department procedures will not be subject to judicial review.

In drafting the Executive Order, it was recognized that in certain instances, such as those which require the issuance of emergency regulations, the reform procedures would be either inapplicable or inappropriate. While the Department recognizes the need for certain exemptions the Guidelines clearly indicate that even in the case of an exempt regulation agencies should strive to follow the Guidelines if practicable and consistent with policy and legal requirements.

In connection with judicial review of agency action under the Executive Order, the provision of the Guidelines is intended to inform the public of an important item contained in the Executive Order. It in no way detracts from this Department's commitment to improve the quality of our regulatory efforts

2. *Regulatory Review Panel.* A number of comments received urge the expansion of the responsibilities of the Regulatory Review Panel to include among other things, a provision authorizing the Panel to monitor compliance with the Executive Order, and authority to receive and solicit public comment on existing rules thought by some to be in need of review. One comment recommends the publication of the names and addresses of the Panel's members.

The Department calls the attention of the public to the right to petition agencies involved in the regulatory process directly concerning new or proposed regulations. This is the most direct approach for seeking regulatory action. The Guidelines are being revised in reference to the public right of petition. However, the Department also agrees that the Regulatory Review Panel should be authorized to receive public recommendations on regulations thought to be in need of review. A corresponding change in the Guidelines is made. The Chairperson of the Panel, in consultation with appropriate agency heads may then include these public recommendations in its comments on the semiannual agenda submitted for approval to the Secretary. In keeping with this change the Department also agrees that the name and address of the Chairperson should be published when designated.

The Department does not, however, consider it appropriate for the Panel to review agency compliance with the Executive Order. The Panel will be composed of high level officials who will assist in the Department's efforts to select appropriate regulations for publication in the semiannual agenda and for subsequent review. It will assure that the agencies are informed of the requirements of the Order and implementing Guidelines. Moreover, it should be noted that the Offices of the Secretary and Under Secretary will exercise continuing supervision over agency compliance with the Executive Order. The Guidelines require that each regulatory development plan be submitted to those officials and further require approval by the Secretary before an agency may go forward with a major regulation.

It will remain the principal responsibility of each agency to comply with the Guidelines as they apply to matters within its jurisdiction. Agencies now have this responsibility with regard to a wide variety of other authorities governing the conduct of programs for which they are responsible. In proposing the establishment of the Panel, it was not the Department's purpose to create an additional layer of bureaucracy requiring extensive additional staff and resources. Such an approach could simply delay improvements in the quality of our regulatory efforts. It is essential that all Department officials commit themselves fully to this task.

3. *Procedures for Developing New Regulations.* One comment recommends that the Guidelines incorporate and implement 5 U.S.C. 553(e), which authorizes public petitions for rulemaking. As noted above the Department agrees.

4. *Criteria for Determining Significance of Regulations.* A large number of comments were received in connection with the criteria for determining when a regulation is to be considered significant. The most frequent comments object to the partial exclusion of regulations which describe requirements compelled by law, and minor technical or clarifying regulations from the grouping of significant regulations. Similarly, there was opposition in the comments to the exclusion of internal documents not otherwise required by law to be made available to the public.

Contrary to the views expressed by some commentators, the Department does not view these exclusions as easy loopholes which might be employed to avoid the requirements of the Executive Order for the following reasons: (1) The exemption for regulations which describe requirements compelled by law would in no way avoid the requirements of the Executive Order or Departmental Guidelines, but is stated in recognition of the fact that there are some regulations which do nothing more than describe provisions of law from which the Department has no authority to vary. (2) The exemption for minor technical or clarifying changes would in no way undermine the Department's compliance with the Executive Order. If a technical or clarifying change is intended to have a new and significant impact it is not exempt from the Executive order or Departmental Guidelines, and Department officials are not permitted to hide significant regulations under the guise of minor changes. (3) Internal documents not set forth in Departmental rules, which describe or discuss enforcement strategies or procedures are either available to the public or protected in accordance with the Freedom of Information Act. While some internal documents may, under the Guidelines, be subject to the requirement of the Executive Order, in certain other circumstances the application of the procedures would be contrary to the efficient conduct of government business. The decision to proceed under the Guidelines in the development of internal documents must therefore be made on a case-by-case basis. This approach will however, be followed by the Department with a view toward achieving full and appropriate application of these Guidelines.

The second major area of concern in this context relates to the specific criteria for determining when a regulation is significant. One comment urges that the indirect effect of a regulation should be considered in determining significance, and another suggests that all regulations should be presumed to be significant unless detailed analyses demonstrate otherwise.

The Department agrees that if on the basis of existing information substantial indirect effects of regulatory initiatives are reasonably ascertainable, that should form a basis for determining that a regulation is significant. It is not, however, agreed upon that determination of significance should be automatic unless detailed studies demonstrate otherwise. The Executive Order is not intended to delay necessary decisionmaking and the publication of needed regulations or create unnecessary paperwork. It is intended to ensure that truly important regulations are fully and properly considered. In view of these factors we do not believe that a blanket presumption would be useful or efficient.

One comment urges that a substantial expansion of the criteria for significance is necessary to properly consider the impact of a regulatory initiative on State and local governments. The Department agrees that regulations which have a substantial effect on State and local governments would be considered significant and believes that the existing criteria are broad enough to achieve this result.

A few comments request clarification of the criterion which mandates a finding of significance if the regulation affects equal employment opportunities for protected groups. The Department agrees that a change in this section is necessary. The term "protected groups," which may cause some confusion, is eliminated. The criterion is intended to direct appropriate attention to equal employment opportunity concerns, and is intended to be broadly construed.

5. *Identifying Major Regulations.* The majority of comments directed at the criteria for identifying major regulations recommend that the threshold criteria be lowered to require an analysis in more instances. It must be recognized in this connection that the criteria for major are flexible guidelines only. When a regulatory initiative falls short of the criteria agencies are encouraged to treat the regulation as "major" if it is likely to cause widespread public interest or controversy. The Department must reject the proposition that more stringent but less flexible criteria would better serve the intent of the Executive Order. It should not be necessary to conduct an extensive study to determine in the first instance whether a regulation is "major". We trust the flexible guidelines developed will adequately ensure that all truly important regulations will not be the subject of unnecessary delay or paperwork requirements.

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A few comments express concern that the exemption from the regulatory analysis requirements should not be permitted solely on the basis of the preparation of an Economic Impact Statement under Executive Orders 11821 or 11949 or on the basis of a decision that no such statement was required. Because the criteria applicable to a determination that an economic impact statement was or was not necessary are similar to the criteria for identifying major regulations, any prior decision to prepare an economic impact statement or that one was not needed should be sufficient to meet the requirements of the Executive Order. However, in view of the fact that conditions might have changed since the time of the earlier decision, the Guidelines now authorized the preparation of a new regulatory analysis if there have been substantially changed conditions or if otherwise appropriate.

6. *Public Participation.* Virtually all comments received on public participation urge the early and effective involvement of the public in rulemaking. Among the many suggestions made to achieve this end are: (1) That there should be more than one cycle of comments; (2) That the Department should disseminate issue papers on proposals; (3) That public panels, or advisory groups should be established; (4) That training in public participation procedures should be done; (5) That a commitment should be made to involve particular groups; and, (6) That notification lists should be kept.

The Department agrees that each of these recommendations as well as others not mentioned are good approaches which may be particularly useful in many instances. The Department believes that each of these suggestions is both permitted and encouraged by the general language of the Guidelines, but does not think it proper to require that any one or more of these approaches be required in every case. Depending upon the situation involved, an individual public participation plan should be designed to meet the special needs of the regulatory initiative. This must be done with a veiw toward securing full, active, and early public participation in all significant regulatory initiatives.

One comment expresses concern that the Guidelines may require less public input for new regulations than for the amendment of existing regulations. This is not intended.

7. *Regulatory Analyses.* The comments received in connection with the form and content of regulatory analyses generally recommend the inclusion of additional and more specific criteria in each regulatory analysis. For example, a few comments suggest that particular attention be paid to the effects of a regulation on employment, supplies of materials, health, competition, production and so forth. The Department agrees that each of these concerns as well as others would, in particular situations, be appropriate subjects to be addressed by a regulatory analysis. The Guidelines, however, are designed to facilitate the development of regulatory analysis in all cases and are very broadly phrased for this purpose. Flexibility in any agency's approach toward the preparation of a regulatory analysis is essential for the efficient implementation of the Executive Order.

One comment recommends that each regulatory analysis should set forth the assumptions relied upon in conducting the analysis, the methodology employed, and should identify source material utilized. The Department agrees that these matters should be a part of each analysis to the extent necessary and feasible.

8. *Approval of Significant Regulations.* One comment received in connection with this section suggests that the official signing any significant regulation should certify compliance with the Guidelines in writing and that this certification should be included in the public record. The proposed guidelines set forth requirements for written statements by the signing official or appropriate agency heads that the requirements for approval of significant regulations have been met. The Department agrees that these statements should be made available for public inspection.

Another comment suggests that the development plan prepared in connection with significant regulations should also be a part of the public record. The Department does not agree that the publications of preliminary ideas concerning new or revised regulations would be useful. It should be noted that the procedures now require public participation at all stages, and include public participation in the development of final regulatory analyses and significant rules and regulations. Early public participation in the development of proposed rules is also provided. We believe this is the most useful way to ensure fully adequate public involvement without unnecessary delay.

A few moments were received relating to the procedures applicable to the development and approval of regulatory analyses. These comments generally request clarification of the availability of regulatory analyses and one urges that regulatory analyses be subject to a public comment and participation procedure before the development of a proposed rule.

The Guidelines provide that each notice of proposed rulemaking involving a major regulation will contain a summary of the initial regulatory analysis prepared and a statement telling how the public may obtain a copy of the full initial analysis. During the comment period the public may address comments or submit information concerning the regulatory analysis and, the analysis will be revised if necessary along with the proposed regulation. The final regulation will also contain a statement informing the public how to obtain the final analysis. This procedure is fully in keeping with the Executive Order. The Department believes that any earlier circulation of regulatory analyses occurring before review and approval by Department experts and decisionmakers would unduly delay the regulatory process and is unnecessary in consideration of the comment and discussion period provided after publication of the proposed rule.

9. *Review of Existing Regulations.* Some comments suggest that public participation in selecting regulations for review should be part of the Department's procedures. Revisions in the Guidelines reflect this view.

10. *Other Comments.* A few comments urge that particular regulations now in force or under consideration be designated either significant or major and be subjected to the procedures in the Guidelines, accordingly. Some other comments objected to the way in which particular rules were considered in the past.

The purpose of the Guidelines is to improve the quality of the regulatory process. The Department is committed to this objective. In keeping with this commitment each of the comments regarding a specific rule has been forwarded to the appropriate agency officials for consideration.

11. *Initial List of Regulations Selected for Review.* In response to a few comments the description of regulations selected for initial review has been expanded to more clearly indicate the subject matter of the regulations selected. Many additional regulations have also been added to the list, and the list may be found in its entirety in the Department's Semiannual Agenda of Regulations Selected For Review and Development.

Accordingly, the Department of Labor Guidelines for the implementation of Executive Order 12044 are revised as follows:

I. Background

1. On March 23, 1978 President Carter signed Executive Order (E.O.) 12044 (43 FR 12661) which is designed to improve and reform the way in which the Executive Agencies of the United States Government develop, issue, and review the rules and regulations which are necessary for the efficient and effective administration of

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Government programs. To achieve these goals E.O. 12044 directs each Executive Agency to: (a) Establish procedures for the development of significant regulations which provide the maximum opportunity for early and meaningful public participation; (b) Conduct a detailed regulatory analysis of those significant regulations which may have major economic consequences for the National economy or for a particular segment of the economy; (c) Periodically review existing regulations to determine their continuing usefulness, and; (d) Eliminate, improve, or update those existing regulations which no longer adequately serve the purpose for which they were originally issued. In connection with each of these objectives, E.O. 12044 directs each Executive Agency to prepare a draft report describing the procedures followed in the development of regulations and the changes which are proposed to bring those procedures into compliance with the E.O., proposed criteria for identifying significant regulations and regulations with major economic impact and, proposed criteria for the selection of existing regulations which are in need of review and possible revision or elimination. The report is also to contain a list of regulations which have been selected for review in the near future, and is to be published in the FEDERAL REGISTER for comments by May 23, 1978.

The Department of Labor's new procedures are intended to implement both the letter and spirit of E.O. 12044 in connection with the regulations within the jurisdiction of the United States Department of Labor.

Summary of Past Regulatory Procedures

The Department of Labor is now mandated to implement many statutes and executive orders which relate to a wide range of subjects.

For example, under the Occupational Safety and Health Act the Department is charged with assuring working men and women with safe and healthful working conditions. Under the Comprehensive Employment and Training Act the Department administers a program of Federal assistance for unemployed and economically disadvantaged individuals. Under Executive Order 11246, the Department administers an enforcement program which requires equal employment opportunity on the basis of race, color, religion, sex and national origin by government contractors and federally assisted construction contractors. The wide range of programs administered by this Department have resulted in variations in the procedures followed in issuing regulations implementing these programs. Each agency within the Department is responsible for developing its own regulations. The issuance of regulations is triggered in various ways. A statute or executive order may provide for the issuance of regulations; there may be a change in policy in administering a program; judicial decisions may necessitate an amendment to existing regulations; complaints of affected individuals or organizations or reports from the Department's investigators may alert agency officials to problem areas in existing regulations. The following illustrate some of the practices now in use for issuing regulations by Department of Labor agencies.

The Occupational Safety and Health Act authorizes the Secretary to promulgate safety and health standards in a specified manner. When the Secretary determines, upon the basis of information submitted in writing by an interested person, a representative of any organization of employers or employees, a nationally recognized standards-producing organization, the Secretary of Health, Education and Welfare (HEW), the National Institute for Occupational Safety and Health, or a State or political subdivision, or on the basis of information developed by the Secretary or otherwise available that a rule should be developed in order to serve the objectives of the Act, the Secretary may direct that such rule be drafted or request the recommendations of an advisory committee.

Prior to the preparation of its proposed regulation, in most rulemaking proceedings, OSHA receives informal comments from interested parties. Though not specifically set forth in its pertinent regulations, OSHA has, in drafting many of its standards, published Advance Notices of Proposed Rulemaking in the FEDERAL REGISTER. Occasionally, OSHA has held public factfinding hearings to aid in the development of proposals.

The proposals and regulations are written by OSHA's technical staff with assistance from the Solicitor's Office, which also reviews the drafts for legal sufficiency. Drafts of proposed regulations or revisions are reviewed by the OSHA Director of Health Standards or Director of Safety Standards, appropriate technical personnel, and the Assistant Secretary for OSHA. Informal hearings are usually held in which interested parties are afforded the opportunity to comment orally and in writing. Published regulations are signed by the Assistant Secretary.

Somewhat different procedures are used in the development of safety and health standards under the Federal Mine Safety and Health Act. When the Assistant Secretary for MSHA determines that substantive regulations should be issued, the Assistant Secretary decides on the basic objectives of the regulation and indicates overall specifications. A program head, e.g., the Administrator for Coal Mine Safety and Health organizes a drafting committee for the proposed regulation. The drafting committee is staffed by technical experts from within the agency and may include attorneys from the Office of the Solicitor. This committee participates in the preproposal consultations, attends sessions of any advisory committee created to advise on the particular regulation and writes the proposed draft regulation. The Solicitor's Office reviews the proposed regulation for legal sufficiency. Prior to publication for proposed rulemaking, the draft regulations are reviewed by the program head responsible for the subject matter being regulated, the Office of Standards, Regulations and Variances, and the Assistant Secretary for Mine Safety and Health. The Assistant Secretary signs both proposed and final regulations.

The Office of Labor-Management Standards Enforcement develops and administers the regulations in Chapter IV of Title 29 of the Code of Federal Regulations which implement those sections of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), which are administered by the Department of Labor. This Office also administers regulations which have been issued to implement section 18 (Standards of Conduct) of Executive Order 11491. Those sections of LMRDA which are administered by DOL have only been amended once, in 1965, so that most of the amendments and additions to the regulations have been for purposes such as clarification of language and reflection of court decisions rather than because of amendments to the Act.

In the case of one interpretative regulation drafted in response to a Supreme Court ruling, a decision was made to go forward after discussion between the program office and the Office of the Solicitor. The final draft was sent to the Solicitor for review and then to the Assistant Secretary for Labor-Management Relations for signature. When amendments to the regulations implementing the Labor-Management Reporting and Disclosure Act involve policy changes and are not interpretations, preproposal consultations are held with outside groups.

Under Title I of the Employee Retirement Income Security Act of 1974 (ERISA), many sections of the statute provide that the Secretary (or his delegate—the Assistant Secretary for LMSA) will issue regulations to implement specific statutory requirements. In addition, general authority is granted by the statute to prescribe regula-

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tions that are necessary or appropriate to carry out the purposes of the Title. In some cases there is authority to issue regulations which ease or waive statutory requirements.

The Administrator of Pension and Welfare Benefit Programs after consulting with certain officials within the Department, and interested members of the public, determines the priorities and time schedule for the issuance of regulations. The time schedule includes internal due dates for the various stages in the regulatory process and a projected date for publication.

Generally, the Administrator then directs the Office of Regulatory Standards and Exceptions within the Pension and Welfare Benefit Programs to draft specifications for proposed regulations. Advice and recommendations from the Office of Policy and Planning and Research within the Administration as well as from the ERISA Advisory Council are considered in the development of specifications. The Advisory Council was created by statute to advise the Secretary of Labor with respect to carrying out ERISA functions. The Council consists of representatives of unions, employers, the general public and persons knowledgeable in the areas of insurance, corporate trust activity, actuarial counseling, investment counseling, investment management and accounting.

After the specifications are drafted they are referred to the Solicitor's Office which has the responsibility for drafting regulations based on these specifications. The draft regulations are then submitted to the Administrator for Pension and Welfare Benefit Programs, the Assistant Secretary for Labor-Management Services Administration, the Solicitor, the Under Secretary, and Secretary for approval. Comments are sought from the Internal Revenue Service and the Pension Benefit Guaranty Corporation when appropriate.

The Employment Standards Administration is responsible for a greater variety of programs than any other agency within the Department of Labor. The Administration includes the Office of Federal Contract Compliance Programs (OFCCP), the Office of Workers' Compensation Programs (OWCP), and the Wage and Hour Division (WH). OFCCP enforces nondiscrimination/affirmative action employment requirements applicable to government contractors and subcontractrs and Federally-assisted construction contractors under Executive Order 11246, and government contractors and subcontractors under Section 503 of the Rehabilitation Act of 1973, and Section 402 of the Vietnam Era Veterans Readjustment Act. OWCP administers workers' compensation benefit programs for Federal employees, longshore and harbor workers, and coal miners who have contracted black lung disease. The Wage and Hour Administration enforces statutes which establish standards in the workplace, such as the Fair Labor Standards Act (minimum wage, overtime, child labor, and equal pay), Age Discrimination in Employment, wage rates and overtime requirements in Government contracts (Davis-Bacon, Walsh-Healey, Service Contracts Act, and the Work Hours Act), and the Farm Labor Contractors Registration Act. Several factors common to all of these programs can give rise to the issuance of new regulations or the amendment of existing ones. Such factors include the enactment of legislation, changes in policy or procedures, comments or complaints from the public, staff recognition of ambiquities in existing regulations, and the perception of areas not covered by current regulations. However, the differences in the types of programs being administered and the segments of the public affected are such that different approaches to the development of regulations are needed.

The threshold decision to modify an existing regulation or to develop a new one is most often made in the ESA division directly involved in the interpretation and enforcement of a particular statute. This decision comes about in several ways, depending upon the statute involved. In the wage and Hour Division, the Administrator may determine that there is a need for regulatory activity because of a court decision, complaints or comments from the public, or recommendations from his or her staff arrived at through their experience with and knowledge of a program. During the formative stage of a significant regulation, there is coordination with the Assistant Secretary for Employment Standards Administration and other top Departmental policymakers.

The OFCCP develops regulatory changes for numerous reasons. These include prior experience and problems encountered in enforcing existing regulations and requirements; a desire to strengthen requirements in response to problem areas encountered in investigations; new or newly perceived areas of employment discrimination; amendments to the law itself; and developing case law.

Changes in regulations in the Office of Workers Compensation Programs are generally initiated by the Director as a result of changes in medical technology or insurance practices, comments or complaints from the public and statutory amendments. In some instances in the past, when the regulatory change was extensive, task groups were organized to draft regulations to implement new statutory provisions.

As a rule, in all ESA divisions, the original specifications and drafting of a regulation or revision is done in the office most directly involved with the administration and enforcement of the particular statute or Executive Order implemented by the regulation. The division of the Solicitor's Office most directly involved in the subject matter being regulated will assist the program officials in drafting and will then review for legal sufficiency. During this drafting process, which can extgend over a long period of time, constant attention is given to questions, observations, opinions, experiences and remarks of interested persons and organizations. After that, the draft is sent for approval to the program head and the Administrator or Director of the Division in which the program is located. The final draft is submitted to the Solicitor for review and approval. Depending upon the nature and complexity of the regulation, it is signed by the Administrator or Director of the program, the Assistant Secretary for ESA, or the Secretary of Labor.

The Employment and Training Administration has major responsibility for administering over 15 principal statutes and operates an even greater number of programs under those and other statutes. In some ETA statutes such as CETA, broad authority is given the Department of Labor to develop program practices and procedures.

Issuing regulations or revisions to regulations implementing the various statutes administered by the Employment and Training Administration is done by each program division with the advice and assistance of the Solicitor's Office. While the decisions to go forward with the issuance of a new regulation or a revision is made by the program head, the actual drafting of the proposal is usually a joint effort by the staff of the program division within ETA which is charged with administering the Act for which implementing regulations are being written or amended and the Solicitor's Office. In many cases, the Assistant Secretary for ETA directs that a project go forward. The Assistant Secretary and program officials will seek and receive comments from State Government officials, other Federal agencies, representatives of public interest groups, labor unions, employer organizations, interested parties as well as those subject to the regulations being proposed. Suggestions and comments on regulatory material also come from a national advisory committee which the Secretary of Labor has appointed to assist in carrying out the Department's responsibilities for safeguarding the welfare of apprentices. This Committee

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includes representatives of employers, labor, education, and officers of other executive departments.

An example of an ETA regulation that also involved the Bureau of Apprenticeship and Training concerned affirmative action in apprenticeship for women. This concept had been seriously considered by top officials in ETA and the Women's Bureau for many years. However, this particular rulemaking was initiated by the filing of a formal petition for rulemaking on this subject matter by an outside public interest organization.

In drafting the proposal for these regulations, program heads in the Bureau of Apprenticeship and Training worked with Women's Bureau and were assisted by staff from the Solicitor's Office who had considerable experience with other equal employment opportunity matters in its work with the Office of Federal Contract Compliance Programs. The Solicitor's staff drafted and prepared the proposed amendment to the regulations for Equal Employment Opportunity in Apprenticeship and Training. The proposal was then submitted to the Solicitor for approval, then to the Assistant Secretary for ETA and to the Secretary before publication in the FEDERAL REGISTER. The public was given 60 days to comment on the proposal.

As can be seen, the procedures used by the agencies within the Department of Labor vary in accordance with the needs of the programs being administered. However, all significant regulations or proposed regulations must be approved by the Secretary and the Under Secretary before publication in the FEDERAL REGISTER. In addition, the Solicitor of Labor reviews all regulations and proposed regulations for legal sufficiency.

Prior to publication of a proposed regulation, the type and extent of consultations with interested persons, agencies or organizations from outside of the Department varies with each regulatory action. However, on the whole there has generally been more involvement with outside groups during drafting of amendments to regulations already issued than during the drafting of new regulations pursuant to newly enacted legislation. With new regulations, great reliance is placed on the legislative history of the statute. This is not to say that persons or groups affected by the legislation are not afforded an opportunity to comment and make suggestions before a regulation is submitted to the FEDERAL REGISTER. But as a general rule, regulations already in operation generate more comments from the regulated public.

Finally, as a minimum the provisions of the Administrative Procedure Act have been followed where applicable. Informal rulemaking predominates in the Department of Labor's regulatory procedures. However, in some instances, including a number of rulemaking procedures under the Occupational Safety and Health Act, a record of the hearing has been kept and cross examination of witnesses allowed under the direction of an administrative law judge.

The foregoing is illustrative of the regulatory practices followed by the various agencies within the Department. Changes are being made in accordance with the directions of Executive Order 12044, and those changes are reflected in the following portions of this document.

DEPARTMENT OF LABOR POLICIES AND PROCEDURES FOR IMPROVING REGULATIONS

POLICIES

Following the issuance of the Executive Order, the Department of Labor has developed a series of procedures to achieve its objectives within the Department. All officials of the Department with responsibilities in the rulemaking process must make maximum efforts to carry out the policies of the Executive Order and implement Department of Labor procedures.

It is the policy of the Department of Labor to ensure that all regulations issued or revised by the various offices and agencies within the Department conform to the following standards:

(1) Regulations should be responsive to public needs, concerns and legislative goals.

(2) No regulation should be issued unless the need for it is clearly established.

(3) Appropriate efforts must be made to obtain public participation in the development and revision of significant regulations at as early a time as is practical.

(4) At an early stage, appropriate consideration should be given to meaningful alternative approaches, including approaches which achieve the desired result without the issuance of a regulation.

(5) Regulations should be designed to achieve statutory objectives and to avoid imposing unnecessary compliance, paperwork, costs, and other burdens on the economy, on individuals, on public or private organizations or on State or local governments.

(6) All regulations should be written in clear and concise language which can be understood by those who are required to comply with them.

The Executive Order contains certain exemptions, including exemptions for emergency regulations. Even where such exemptions apply, it is the policy of the Department that the procedures in these Guidelines be followed to the extent they are practicable and useful in the particular situation, without compromising applicable policy and legal requirements.

It is the policy of the Executive Order and the new Department procedures to improve the rulemaking process in accordance with law and avoid the issuance of unneeded regulations. Their purpose is to make necessary internal changes in procedures and they are not intended to detract from, add to or alter statutory requirements. Failure to meet the requirements of the Executive Order or of the Department's new procedures shall not provide a basis for judicial review of the regulation or other court action.

RESPONSIBILITIES OF DEPARTMENT OF LABOR OFFICIALS

Each agency head within the Department of Labor, including all Assistant Secretaries, the Solicitor, and all other chief agency officials shall become familiar with these Guidelines and shall be primarily and personally responsible for ensuring that the Guidelines are followed in connection with any regulations issued or revised by their respective agencies. In this connection, each agency head shall participate at an early stage in determining the need for the issuance or revision of regulations in their program areas, and shall exercise continuing supervision over the process by which public comment and participation is obtained, and by which final positions and regulatory provisions are developed.

REGULATORY REVIEW PANEL

In order to assist Department of Labor agencies and offices to comply with the requirements of E.O. 12044 and to facilitate the better management of regulations within the Department of Labor, a Regulatory Review Panel (The Panel) will be established. The Panel will consist of representatives appointed by the heads of agencies. The Secretary of Labor will appoint a Chairperson for the Panel. The Regulatory Review Panel will be responsible for receiving from agencies, their proposals for regulations to be included in the Department of Labor's semiannual agenda or any additional supplementary agenda of regulations. These agenda will be designed to give the public adequate advance notice of significant regulations which the Department intends to develop or review in the near future. The panel with compile and transmit the agenda to the Secretary for approval will any recommendations it may deem appropriate.

In keeping with President Carter's directive that each agency establish procedures for the continuing review of existing regulations, the Regulatory

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Review Panel will assure that each agency within the Department is informed of the criteria to be applied in selecting any existing regulation or series of regulations for periodic review. The Panel may also make recommendations concerning the review of overlapping and common subject matter regulations in force in different agencies within the Department. Particular attention in this regard should be paid to regulations affecting disclosure, privacy, administrative procedures and other types of regulations which cut across agency lines of jurisdiction.

Petitions by the public for regulatory action should be directed to the responsible agency within the Department, as discussed below. However, the Panel is also authorized to receive recommendations from the public on regulations thought to be in need of review. Public recommendations may be sent to the Chairperson and should contain an explanation why the regulation in question is considered unsatisfactory or unnecessary. The Panel should consider recommendations in connection with any comments it may make to the Secretary on the proposed agenda.

PROCEDURES FOR DEVELOPING NEW REGULATIONS

Whenever an official responsible for the development of regulations believes that the development of any regulation may be necessary, the official should make an informal assessment of the need for the regulation and possible alternative approaches. If it is decided to recommend development and issuance of a regulation, the official should determine whether or not the regulation is significant.

In deciding whether to begin the development of new regulations, responsible officials should seriously consider any public petition for rulemaking submitted in accordance with 5 U.S.C. 553(e).

CRITERIA FOR DETERMINING SIGNIFICANCE OF REGULATIONS

A regulation should be considered significant if it meets the criteria for major as specified in this Report or if it directly or indirectly (if indirect effects are reasonably ascertainable on the basis of existing information) and substantially—

(1) Affects the health or safety of employees;

(2) Affects standards for determining the amount of or conditions under which benefits are payable to individuals or the eligibility of individuals to participate in various programs;

(3) Affects the operations or responsibilities of a particular industry or business or group of industries or businesses, or public or private organizations, or of State or local governments, except that wage determinations issued by the Employment Standards Administration in accordance with prescribed requirements shall not be considered significant;

(4) Increases existing reporting or compliance requirements or establishes substantial new reporting or compliance requirements for any public or private group;

(5) Affects competition within a particular industry or business;

(6) Affects any program of a State or local government or of any other Federal agency; or

(7) Affects equal employment opportunites.

Rules or regulations which simply describe requirements compelled by law will not be considered significant. However, where these rules or regulations substantially provide standards or requirements authorized but not compelled by the law, they should be considered significant if they meet the various criteria described above. Regulations or amendments to regulations involving minor technical or clarifying changes shall not usually be considered significant. These procedures will not require the Department to regard as significant internal documents not otherwise required to be made available to the public where such documents related to Department procedures in enforcing laws for which the Department has responsibility.

Even if a regulation does not meet the standards described above, it may still be appropriate to subject it to the requirements which apply to significant regulations. This would be particularly true if the regulation is likely to arouse considerable public interest or controversy.

IDENTIFYING MAJOR REGULATIONS

Once the initiating official decides whether he or she believes that any regulation should be treated as "significant," an informal assessment should be made, based on available information, as to whether the effect of the regulation would be so major as to require the preparation of a regulatory analysis. A regulatory analysis should, generally speaking, be performed if the regulation is likely to cause or result in:

(1) An increased cost of $100 million or more in any one year for the national economy;

(2) A $50 million or larger increase in costs or total revenues in any one year for a specific segment of the economy such as a specific industry, geographic region or State or local government;

(3) A direct dislocation of 10,000 jobs or more;

(4) A substantial limitation on competition, marketing, market information or an increase in concentration in a market doing $100 million of business a year or more.

These criteria should be regarded as guidelines rather than precise standards. Their purpose is to provide a rough order of magnitude. Accordingly, the Department's procedures will not ordinarily require a complex analysis to see whether a proposed regulation does or does not meet the criteria.

In addition, even where a regulation does not meet the criteria, agency heads may require that a regulatory analysis be conducted. They are encouraged to do so when a regulation is likely to cause widespread public interest or controversy.

No analysis is needed if on or before March 23, 1978 an Economic Impact Statement has already been prepared in connection with the regulation, in accordance with Executive Orders 11821 and 11949, or where a decision has been made that none was needed, unless substanitally changed conditions or other factors now indicated that a regulatory analysis is appropriate.

PUBLIC PARTICIPATION

The initiator of a regulation shall devise a plan to obtain early and effective public participation in the development of significant regulations. Early and effective public participation in the rulemaking process is essential to the development of responsive and useful regulations. There is no single approach toward public participation which is clearly most effective in every case. The approach selected should be suited to the project under consideration and be consistent with the requirements of the law. Among the approaches which should be considered are the following:

(1) The publication in the FEDERAL REGISTER of a notice or advance notice of proposed rulemaking inviting public comment at the earliest possible date;

(2) Public hearings;

(3) Conferences or meetings with interested groups and individuals;

(4) The direct notification of interested parties;

(5) The distribution of appropriate notices, press releases, or statements to trade journals or other publications including newspapers likely to be read by interested parties;

(6) Submission of the regulation or matter to be addressed in the regulation to advisory committees where appropriate; and

(7) Communication with appropriate Federal, State, or local agencies, including contacts through the Office of Legislation and Intergovernmental Relations which maintains continuing contacts with State and local officials and their representatives.

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Agency personnel should be alert to those statutory provisions which govern communications with persons outside the Department under certain circumstances.

APPPROVAL OF PLAN TO DEVELOP REGULATIONS

Before an agency proceeds to develop a significant regulation, the initiating official will prepare and submit to the official who will sign the regulation or appropriate agency head a proposed development plan which will include a summary of the issues to be considered and a judgment as to whether the regulation is significant. Significant regulations are signed by the appropriate Assistant Secretary, the Commissioner of the Bureau of Labor Statistics, the Under Secretary, or the Secretary except as each may otherwise provide under special circumstances. The plan will also include a summary of the alternative approaches to be explored, a judgment as to whether a regulatory analysis will be required, and a tentative plan for obtaining early public participation. Target dates should also be included.

If the individual responsible for signing the regulation as described above, or appropriate agency head approves going forward with the development of the regulation, he or she shall approve a develoment plan and designate a project manager or managers to assure that the regulation is considered in a proper and timely manner. The approving official shall also send a copy of the development plan to the Secretary and Under Secretary.

The project manager shall proceed to consider the issues involved and develop a regulatory analysis where required.

REGULATORY ANALYSES

The purpose of the regulatory analyses is to provide a useful tool in the decisionmaking process. They should not serve or be regarded as an additional paperwork burden which needlessly delays a governmental response to a problem. Project managers should strive to make the best possible use of information available to the agency within an acceptable time-frame. Regulatory analyses should be succinct and written in plain, simple language and should cover the following items in such detail as is practicable:

(1) A statement of the problem and regulatory objectives (e.g., statement of condition or situation requiring regulatory action; evidence of the problem; scope of the problem including an indication of the frequency and severity of effects; and an estimate of the effectiveness of a regulatory action in solving the problem).

(2) A brief description of the parties (e.g., individuals, groups, industries, State and local Governments) most likely to be affected by the regulatory action.

(3) A description of the major acceptable alternative regulatory actions under consideration by the agency and a discussion of the effectiveness of each major acceptable alternative in achieving the regulatory objectives.

(4) An estimate of the economic consequences of the major acceptable alternative actions, presented in as simple a form as possible, which indicates the limitations of accuracy attached to such estimates.

(5) An explanation of why a given alternative was selected for proposed regulatory action.

(6) A brief description of assumptions, methods and important source material relied upon in performing the analysis to an exent which is considered appropriate.

A copy of each regulatory analysis will be transmitted to the Secretary. The transmittal will include any recommendation made by the appropriate agency head as to whether special consideration by the Secretary is needed.

APPROVAL OF SIGNIFICANT REGULATIONS

No significant regulation will be approved unless the official signing the regulation (as previously described) is satisfied that:

(1) The regulation is needed and is consistent with the law and with the legislative goal it seeks to carry out;

(2) The direct and indirect effects of the regulation have been considered and that the least burdensome of the major acceptable effective alternative approaches has been selected;

(3) Public comments have been considered, and, in the case of final regulations an adequate response has been prepared.

(4) The regulation is written in plain language which will be understood by those who must comply with the regulation, and that overly technical language, incorporation by reference, and complex procedures are kept to a minimum, consistent with statutory objectives;

(5) Any new reporting or recordkeeping burdens are justified and kept to a minimum, consistent with statutory objectives;

(6) The name, address and telephone number of an agency official who may be contacted by members of the public has been included;

(7) A plan for monitoring and evaluating the regulation after issuance has been developed; and

(8) A regulatory analysis has been prepared, if required, and that a brief summary is included in the notice of proposed rulemaking. A statement of how the public may obtain a copy of the initial regulatory analysis will also be included. A final regulatory analysis will be made available when the final regulations are published. The analysis may be incorporated in the preamble to the final regulations.

Prior to publication of significant regulations, a draft of the proposed regulations should be sent to the Secretary and Under Secretary together with a written statement by the signing official (as described above) providing personal assurance that the above criteria have been met. Approval by the Secretary will be required, prior to publication, before going forward with all regulations for which a regulatory analysis is required. The Secretary may also deem it appropriate to require Secretarial approval before going forward with other regulations. Where regulations are deemed significant, a written statement to that effect should be submitted to the Secretary along with the draft regulations and should be included in the published regulations. Where regulations are to be signed by the Secretary or Under Secretary, the written statements should be submitted by the appropriate agency heads. Each of the written statements described will be made available for public inspection upon request.

Each notice of proposed rulemaking published in connection with a significant regulation by a Department of Labor agency should, if possible, provide at least 60 days for public comment and participation. If a shorter period is necessitated, the published notice shall explain why a full 60 day comment period is impractical. Where statutory or judicial deadlines in whole or in part preclude the Department from following the requirements of these Guidelines, the name of the policy official who made the determination that it was necessary to forego the requirements will be published with the regulations.

REVIEW OF EXISTING REGULATIONS

Each agency shall periodically select for review significant regulations within its areas of responsibility. Agencies shall submit to the Regulatory Review Panel at such times as the panel deems appropriate a list of significant regulations proposed for review and inclusion in the semiannual agenda. The panel will transmit the proposed lists to the Secretary for approval, together with any comments it may wish to make.

Each agency shall provide the name and address, and telephone number of the regulation project managers which shall also be included in the published agenda.

Agencies shall also provide to the Panel information on regulations pre-

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viously selected for review. A report on the status of these regulations will be published together with the semiannual agenda.

The following criteria shall be considered in selecting regulations for review:

(1) Whether the regulation continues to be necessary to achieve statutory or policy goals;

(2) Whether the regulation has been the subject of significant public controversy, complaints, or suggestions;

(3) Whether the regulation is particularly burdensome for some segment of the public;

(4) Whether the regulation is confusing, difficult to interpret, or unnecessarily complex;

(5) Whether the regulation is duplicative or inconsistent with other Department of Labor or other agency regulations treating the same or similar subjects;

(6) Whether the regulation is consistent with the most recent technological advances;

(7) Whether a revision of the regulation needs to be considered in light of changed economic or other conditions affecting its appropriateness;

(8) Whether the regulation has been or probably will be subject to change as a result of legislative action;

(9) Whether court decisions have altered the meaning or effectiveness of the regulation;

(10) Whether agency operating personnel consider the regulation inefficient, burdensome, or a proper subject for revision;

(11) The length of time since the regulation has been evaluated; and

(12) Whether the regulation is discriminatory in effect or formulation.

Although this review process is directed principally at significant regulations, agencies should attempt to identify those groups of minor regulations which may be outdated or which may no longer serve useful purposes. These regulations should also be included on the Department's semiannual agenda.

Once a regulation has been selected for review, project managers and appropriate agency heads will be responsible for reviewing these regulations as promptly and carefully as practicable. Changes will be made in accordance with the procedures required for the development of new regulations.

Signed this 18th day of January, 1979 at Washington, D.C.

RAY MARSHALL,
Secretary of Labor.

[Pr Doc. 79-2417 Filed 1-25-79; 8:45 am]

[4510-23-M]

IMPROVING GOVERNMENT REGULATIONS

Semiannual Agenda of Regulations Selected for Development and Review

AGENCY: Department of Labor.

ACTION: Semiannual Agenda.

SUMMARY: Executive Order 12044 directs each agency of the United States Government to publish in the FEDERAL REGISTER a semiannual agenda of significant regulations which will be considered for review or development during the coming 6 month period. This document contains the Department of Labor's semiannual agenda. It is intended to give the public adequate notice of the existing regulations which will be reviewed by the Department, as well as new regulations which may be developed, in the near future.

DATES: Effective January 26, 1979.

ADDRESS: For further information contact Seth D. Zinman, Associate Solicitor for Legislation and Legal Counsel, Office of the Solicitor, Department of Labor, Room N2428, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-8201.

SUPPLEMENTARY INFORMATION: Included in this document are regulations selected by Department of Labor agencies for review, other regulations the Department is required to review and new regulations the Department intends to develop during the coming 6 month period. On October 31, 1978 the President requested that all executive agencies supplement earlier lists. This document includes major regulations selected for review which were not included in the Department's preliminary agenda. The Department of Labor agencies which have selected regulations for review or development are, the Employment Standards Administration (ESA), the Employment and Training Administration (ETA) the Labor-Management Standards Administration (LMSA), the Mine Safety and Health Administration (MSHA), the Office of the Assistant Secretary for Administration and Management (OASAM) and the Occupational Safety and Health Administration (OSHA). The regulations selected for review or development are organized by agency jurisdiction. Each regulation selected is identified by title and subject matter and is followed by a brief statement of the need for and legal basis for the action contemplated. Each description of a regulation selected also contains the name, address and telephone number of a knowledgeable official who may be contacted in connection with the regulation, a brief statement indicating whether a regulatory analysis may be undertaken and what action is anticipated during the coming 6 month period. Whether or not a regulatory analysis is indicated, the Department will encourage early and effective public participation in the rulemaking process.

The Department had hoped to publish its first semiannual agenda on October 31, 1978. The Department was unable to meet this deadline in an effort to review and supplement its agenda document and make it more useful. The Department regrets any inconvenience this later publication has caused any member of the interested public.

In an earlier statement published in the FEDERAL REGISTER, the Department indicated that its first semiannual agenda would be published on October 31, 1978 and that the next agenda would be published 6 months thereafter. Under the new schedule the Department's next agenda will be published on August 30, 1979 and subsequently at 6 month intervals thereafter.

INDEX

EMPLOYMENT AND TRAINING ADMINISTRATION

Regulations Selected For Review:

1. Labor Certification Process for Employment of Aliens.
2. Rehabilitation Certificates for Ex-Servicemen.
3. Nondiscrimination in Department of Labor Assisted Programs.
4. U.S. Employment Service.
5. U.S. Employment Service.
6. U.S. Employment Service.
7. Unemployment Compensation.
8. Trade Adjustment Assistance.

Regulations For Which Review is Required:

1. Unemployment Compensation for Federal Civilian Employees.
2. Unemployment Compensation for Ex-Servicemen.
3. Comprehensive Employment and Training.
4. Nondiscrimination on the Basis of Handicap.
5. Senior Community Servicer Employment.
6. Job Corps.
7. Employment Security Administration.

New Regulations:

None.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Regulations Selected For Review:

1. Fire Protection.
2. Electrical.
3. Walking-Working Surfaces.
4. Marine Terminals.
5(a). Materials Handling.
5(b). Materials Handling.
6. Flat Roofs.
7. Tunneling.
8. Ladders and Scaffolding.
9. Floor and Wall Openings.
10. Laboratory Accreditation.

Regulations For Which Review is Required:

None.

New Regulations:

1. Cancer Policy.
2. Pesticides.
3. Access to Medical Records.
4. Chromates.
5. Beryllium.
6. Chemical Hazard Identification.

Revision Modification of Existing Standards:

1. Abrasive Blasting.
2. MOCA.
3. Safety and Health Provisions for Federal Employees.

Tentative Regulatory Action Pending Staff Analysis:

1. Asbestos—Revision of Existing Standard.
2. Standards Completion Project.
3. Noise—Revision of Existing Regulation.
4. Nickel and Cadmium.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT

Regulations Selected for Review:

1. Debarred, Suspended and Ineligible Bidders.
2. Unsolicited Proposals.
3. Grants and Agreements.

Regulations For Which Review is Required:

None.

New Regulations:

None.

EMPLOYMENT STANDARDS ADMINISTRATION

Regulations Selected For Review:

1. Fair Labor Standards: Agricultural Exemptions.
2. Farm Labor Contractor Registration.
3. Sheltered Workshops.
4. Fair Labor Standards: Hospital Workers.
5. Federal Service Contracts.
6. Labor Standards: Davis-Bacon and Related Acts.
7. Slaughtering and Meat Packing.
8. Employment of Minors.
9. Equal Pay.
10. Contract Compliance.
11. Contract Compliance.
12. Contract Compliance.
13. Contract Compliance.
14. Contract Compliance.
15. Contract Compliance.
16. Contract Compliance.
17. Contract Compliance.
18. Contract Compliance.
19. Contract Compliance.

Regulations For Which Review is Required:

1. Black Lung State Plans.
2. Black Lung Insurance.
3. Black Lung Disability Standards.
4. Fair Labor Standards: Wage Payments.
5. Fair Labor Standards: Records.
6. Fair Labor Standards: Overtime.
7. Age Discrimination.
8. Age Discrimination.
9. Labor Standards—National Endowment for the Arts projects.

New Regulations:

None.

LABOR MANAGEMENT SERVICES ADMINISTRATION

Regulations Selected For Review:

1. Labor Management Reporting and Disclosure.
2. Elimination of Form EBS-1.
3. Employee Retirement Security: Suspensions.
4. Employee Retirement Security: Reporting.
5. Employee Retirement Security: Supplemental Pay.
6. Employee Retirement Security: Exemptions.
7. Dispute Resolution Guidelines.

Regulations For Which Review is Required:

None.

New Regulations:

1. Redwood National Park Expansion.

MINE SAFETY AND HEALTH ADMINISTRATION

Regulations Selected For Review:

1. Mine Safety: Consolidation of Parts.
2. Respirable Dust Standard.
3. Underground Coal Mines.
4. Underground Coal Mines.
5. Surface Coal Mines.
6. Transfer of Miners.
7. Temporary Roof Supports.
8. Fee Schedules.
9. State Grants.

Regulations For Which Review is Required:

1. Metal/Nonmetal Advisory Standards.

New Regulations:

1. Rescue Teams.
2. Independent Contractors.
3. Construction Work.
4. Radon Daughters and Other Amendments.
5. Explosives.
6. Explosives.
7. Training for Construction Workers.
8. Miscellaneous.
9. Self Rescuers.
10. Impoundments and Tailings Piles.
11. Raise Drilling.

OTHER

New Regulations:

1. Airline Deregulation.

DEPARTMENT OF LABOR

SEMIANNUAL AGENDA

EMPLOYMENT AND TRAINING ADMINISTRATION

Regulations Selected for Review:

1. *Description:* 20 CFR Part 656—Labor Certification Process for Permanent Employment of Aliens in the United States.

Regulations for the process an employer must use to recruit U.S. workers for the job as a test of the availability of U.S. workers to perform the work.

Basis for Action: Technical changes are necessary in order to update and clarify these regulations.

Contact: Nandor Kertai, Employment and Training Administration, U.S. Department of Labor, Patrick Henry Building, Room 8416, 601 D Street, NW., Washington, D.C. 20213 (202) 376-6982.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

2. *Description:* 29 CFR Part 26—Exemplary Rehabilitation Certificates for Ex-servicemen.

Procedures for granting Exemplary Rehabilitation Certificates to any person who received any other than an honorable discharge, upon being able to establish self-rehabilitation.

Basis for Action: These regulations are being reviewed to determine whether changes would improve the success of the program.

Contact: Robert Granakis, Assistant Director for Field Operations, Veterans Employment Service, Office of the Deputy Assistant Secretary for Veterans Employment, Room 8400, Patrick Henry Building, 601 D Street, NW., Washington, D.C. 20203 (202) 376-6550.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: A comprehensive review of the regulation is underway to determine the effectiveness of existing provisions and the need for revisions.

3. *Description:* 29 CFR Part 31—Nondiscrimination in Federally-assisted programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964.

Implementation of provisions of Title VI of the Civil Rights Act of 1964 to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Labor.

Basis for Action: To review and update existing provisions.

Contact: Frederick A. Drayton, Chief, Division of Equal Employment Opportunity, Employment and Training Administration, U.S. Department of Labor, Patrick Henry Building, Room 10324, 601 D Street, NW., Washington, D.C. 20213 (202) 376-6743.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

4. *Description:* 20 CFR 651.7—General Provisions Governing the Employment Service System Definitions; 20 CFR Part 653—Services of the Employment Service System, Subpart A—Basic Services of the Employment Service, Subpart E—Services in Support of Basic Services; and, 20 CFR 658.601—Administrative Provisions Governing the Employment Service, Subpart G—Review and Assessment of State Agency Compliance with Employment Service Regulations.

Basis for Action. The need for review of existing regulations and the

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development of new regulations was determined in discussions involving both Federal and State agencies.

The Employment Service Manual is a complex assortment of directives and advisory material. It has evolved over a 30 year period and much of it is now out of date and incomplete. Recent court rulings have highlighted the need for USES to differentiate between laws, regulations, policies, procedures and technical assistance.

Contact: Charles I. Carter, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, Patrick Henry Building, Room 8018, 601 D Street, NW., Washington, D.C. 20213 (202) 376-6700.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of final regulations is anticipated.

6. *Description:* 20 CFR Part 640—Standard for Benefit Payment Promptness—Unemployment Compensation. A regulation which provides the Secretary of Labor's Standard for Benefit Payment Promptness and sets forth criteria States must attain to meet the Standard and corrective action to be taken when a State's performance falls below the criteria.

Basis for Action: To clarify existing provisions.

Contact: Edwin Kerley, Employment and Training Administration, United States Department of Labor, Patrick Henry Building, Room 7102, 601 D Street, NW., Washington, D.C. (202) 376-7105.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

7. *Description:* 20 CFR Part 616—Interstate arrangement for combined Employment and Wages-Unemployment Compensation. A regulation approving an arrangement establishing a system whereby an unemployed worker with covered employment or wages in more than one State may combine all such employment and wages in one State, in order to receive more benefits.

Basis for Action: Review is necessitated to update and improve existing provisions.

Contact: Edwin Kerley, Employment and Training Administration, United States Department of Labor, Patrick Henry Building, Room 7102, 601 D Street, NW., Washington D.C. 20213 (202) 376-7105.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

8. *Description:* 29 CFR Part 91.

Adjustment assistance for workers after certification. Regulations for payment and delivery of trade adjustment assistance to workers certified under the Trade Act of 1974 by the State employment security agencies.

Basis for Action: To review, update, and clarify existing provisions.

Contact: Robert Gillham, Employment and Training Administration, U.S. Department of Labor, Patrick Henry Building, Room 7221, 601 D Street, NW., Washington, D.C. 20213 (202) 376-6352.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

Regulations For Which Review is Required:

1. *Description:* 20 CFR Part 609.

Unemployment Compensation for Federal Civilian Employees. Regulations for Payment of Unemployment Compensation to Former Federal Civilian Employees through State Unemployment Insurance Agencies.

Basis for Action: Review is necessitated by statutory changes (Pub. L. 94-566 and Public Law 95-19) and to standardize regulations.

Contact: Charles Reynolds, Employment and Training Administration, U.S. Department of Labor, Patrick Henry Building, Room 7014, 601 D Street, NW., Washington, D.C. 20213, (202) 376-6222.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

2. *Description:* 20 CFR Part 614—Unemployment Compensation for Ex-Servicemen. Regulations for payment of Unemployment Compensation to Ex-Servicemen.

Basis for Action: Review is necessitated by statutory changes (Public Law 94-566 and to standardize regulations).

Contact: Charles Reynolds, Employment and Training Administration, U.S. Department of Labor, Patrick Henry Building, Room 7014, 601 D Street, NW., Washington, D.C. 20213, (202) 376-6222.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

3. *Description:* 29 CFR Parts 94-99—Comprehensive Employment and Training.

Regulations which implement the Comprehensive Employment and Training Act as amended.

Basis for Action: A review of existing regulations from 29 CFR Part 94 to 29 CFR Part 99 is necessary in order to operate existing programs under the Comprehensive Employment and Training Act of 1973, as amended in 1978, to provide for a smooth transition from existing to new legislation, and to prepare new regulations under the reauthorized CETA legislation.

Contact: Robert Anderson, Administrator, Office of Comprehensive Employment Development, Employment and Training Administration, U.S. Department of Labor, Patrick Henry Building, Room 6000, 601 D Street, NW., Washington, D.C. 20213 (202) 376-6254.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

4. *Description:* 29 CFR Part 32—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance from the Department of Labor.

Implementation of provisions of Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

Basis for Action: The development of this Regulation is required by Section 504 of the Rehabilitation Act of 1973, Executive Order 11914, and the DHEW coordination regulations which implement Executive Order 11914.

Contact: Frederick A. Drayton, Chief, Division of Equal Employment Opportunity, Employment and Training Administration, U.S. Department of Labor, Patrick Henry Building, Room 10324, 601 D Street, NW., Washington, D.C. 20213 (202) 376-6743.

Regulatory Analysis: A regulatory analysis will be prepared.

Action Planned: The publication of a proposed regulation is anticipated.

5. *Description:* 29 CFR Part 89—Senior Community Service Employment Program.

These regulations govern the administration and operation of the SCSEP which is authorized under the Older Americans Act. The SCSEP provides part-time, subsidized job opportunities

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to low-income persons aged 55 and over.

Basis for Action: The need to revise the regulations arises from the fact that the authorizing legislation has been renewed with numerous amendments.

Contact: Lamond Godwin, Administrator, Office of National Programs, Employment and Training Administration, U.S. Department of Labor, Room 6402, Patrick Henry Building, 601 D Street, NW., Washington, D.C. 20213 (202) 376-6093.

Regulatory Analysis: A regulatory analysis is not anticipated.

Action Planned: The publication of a final regulation is anticipated.

6. *Description:* 29 CFR Part 97a: Job Corps Program.

Basis for Action: The reauthorized CETA legislation will require some modifications of the Job Corps regulations, including the section on pay and allowances. Additional changes will be made simultaneously for purposes of clarification and responsiveness to new concerns which have arisen as a result of Jobs Corps expansion.

Contact: Robert Taggart, Administrator, Office of Youth Programs, Employment and Training Administration, U.S. Department of Labor, Patrick Henry Building, Room 3402, 601 D Street, NW., Washington, D.C. 20213 (202) 376-7449.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

7. *Description:* 20 CFR Part 660—Cost Principles for Employment Security Administration—Consists of General Principles for Costs Chargeable to Grants to States for ES and UI Administration;

20 CFR Part 661—Standards for Selected Items of Employment Security Administration Costs—Consists of Descriptions of Particular Types of Costs which are Allowable, Allowable with Prior DOL Approval, and Unallowable as Charges to Grants to States for ES and UI Administration;

20 CFR Part 662—Transfers to State Accounts in the Unemployment Trust Fund under Section 903 of the Social Security Act (Reed Act)—Consists of Requirements Applicable to the Use of Reed Act Funds for Unemployment Benefits and Employment Security Administration.

Basis for Action: These regulations are needed to implement Federal Management Circular 74-4 and OMB Circular A-102 and to provide complete guidance to State agencies in the use of Reed Act funds. Legislative authority appears in the rulemaking provisions of the Wagner-Peyser Act (29 U.S.C. 49c-3) and the Department's general rulemaking authority under the Social Security Act (42 U.S.C. 501) and the Federal Unemployment Tax Act (28 U.S.C. 3301).

Contact: Edward Rowland, Employment and Training Administration, U.S. Department of Labor, Patrick Henry Building, 601 D Street, N.W., Room 4208, Washington, D.C. 20213 (202) 376-6414.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

New Regulations: None.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Regulations Selected For Review:

1. *Description:* 29 CFR Part 1910, Subpart L—Fire Protection.

This subpart contains regulations related to fire suppression equipment and fire protection systems.

Basis for Action: Subpart L is being revised to simplify existing regulations related to fire suppression equipment and fire protection systems and to require training for persons who are members of certain fire brigades.

Contact: Dr. Jerry L. Purswell, Director, Directorate of Safety Standards Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3510, 200 Constitution Avenue, NW, Washington, D.C. 20210 (202) 523-7198.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

2. *Description:* 29 CFR Part 1910, Subpart S—Electrical.

This subpart contains provisions related to the design and installation of electrical systems in public and private facilities.

Basis for Action: Subpart S is being revised to provide a significant simplification of the current regulations and to bring the existing regulations up-to-date with the current consensus standards and technology.

Contact: Dr. Jerry L. Purswell, Director, Directorate of Safety Standards Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3510, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (202) 523-7198.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

3. *Description:* 29 CFR Part 1910, Subpart D—Walking-Working Surfaces.

Subpart D contains safety requirements concerning falling and tripping hazards related to holes in floors, walls, platforms and ladders at the workplace.

Basis for Action: This subpart is being revised to simplify language, bring requirements up-to-date with current technology and cover new types of work platforms.

Contact: Dr. Jerry L. Purswell, Director, Directorate of Safety Standards Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3510, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (202) 523-7198.

Regulatory Analysis: The need for a regulatory analysis is under study.

Action Planned: The publication of a proposed regulation is anticipated.

4. *Description:* 29 CFR Part 1918—This Part Prescribes Occupational Safety and Health Regulations Governing the Operation of Maritime Terminals.

Basis for Action: This new standard is being developed specifically for maritime terminals following a request by the industry, in order to facilitate voluntary compliance and more efficient OSHA enforcement in a high hazard industry.

Contact: Dr. Jerry L. Purswell, Director, Directorate of Safety Standards Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3510, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (202) 523-7198.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

5(a). *Description:* 29 CFR Part 1910, Subpart N—Materials Handling.

The proposed regulation will be a new addition to Subpart N covering the handling of multi-piece wheel rims.

Basis for Action: The proposed regulations is needed to protect against a very serious hazard when multi-piece wheel rims and tires "explode" while being assembled or disassembled.

Contact: Dr. Jerry L. Purswell, Director, Directorate of Safety Standards Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3510, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (202) 523-7198.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

5(b). *Description:* 29 CFR Part 1910, Subpart N—Materials Handling.

Basis for Action: This proposed regulation will cover the health and safety hazards of workers around conveyors. Principal hazards include limbs being caught in conveyor parts, falling while going over conveyors, and objects falling from conveyors onto workers.

Contact: Dr. Jerry L. Purswell, Director, Directorate of Safety Standards Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3510,

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200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-7198.

Regulatory Analysis: A regulatory analysis is not anticipated.

Action Planned: The publication of a proposed regulation is anticipated.

6. *Description:* 29 CFR Part 1926, Subpart M—Perimeter Protection for Employees Working on Flat Roofs.

Basis for Action: This proposed new regulation will provide for perimeter guarding for employees who are exposed to the hazard of falling and injuring themselves while performing work on flat roofs.

Contact: Dr. Jerry L. Purswell, Director, Directorate of Safety Standards Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3510, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-7198.

Regulatory Analysis: A regulatory analysis is not anticipated.

Action Planned: The publication of a proposed regulation is anticipated.

7. *Description:* 29 CFR Part 1926, Subpart S—Tunneling.

This subpart contains regulations for workers constructing tunnels and shafts.

Basis for Action: The revised standard will bring coverage up-to-date with current technology and provide for improved monitoring of hazardous conditions during the construction of tunnels and shafts.

Contact: Dr. Jerry L. Purswell, Director, Directorate of Safety Standards Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3510, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-7198.

Regulatory Analysis: A regulatory analysis is not anticipated.

Action Planned: The development of a proposal will be undertaken.

8. *Description:* 29 CFR Part 1926, Subpart L—Ladders and Scaffolding.

Basis for Action: This subpart is being revised to coincide with the revision of 29 CFR Part 1910-Subpart D since similar material is treated. It is being revised to simplify language, bring requirements up-to-date with current technology and cover new types of work platforms.

Contact: Dr. Jerry L. Purswell, Director, Directorate of Safety Standards Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3510, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-7198.

Regulatory Analysis: A regulatory analysis is not anticipated.

Action Planned: The development of a proposal will be undertaken.

9. *Description:* 29 CFR Part 1926, Subpart M—Floor and Wall Openings, and Stairways.

Basis for Action: This subpart is being revised to coincide with the revision of 29 CFR Part 1910—Subpart D since similar material is treated. It is being revised to simplify language, bring requirements up-to-date with current technology and cover new types of work platforms.

Contact: Dr. Jerry L. Purswell, Director, Directorate of Safety Standards Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3510, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-7198.

Regulatory Analysis: A regulatory analysis is not anticipated.

Action Planned: The publication of a proposed regulation is anticipated.

10. *Description:* 29 CFR Part 1907—Laboratory Accreditation.

Basis for Action: To improve the procedures for the accreditation of testing laboratories which certify that equipment meet requirements established in OSHA standards.

Contact: Dr. Jerry L. Purswell, Director, Directorate of Safety Standards Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3510, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-7198.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The development of a proposal will be undertaken.

Regulations For Which Review is Required: None.

New Regulations:

1. *Description:* Cancer Policy.

OSHA has proposed a statement of policy and procedure for the regulation of potential carcinogens found in the occupational environment.

Basis for Action: The Agency is responding to a need to find a more expedient means of evaluating data on potentially carcinogenic materials and for developing regulations to provide adequate employee protection from exposure to these substances.

Contact: Grover C. Wrenn, Director of Health Standards Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3718, Washington, D.C. 20210 (202) 523-7075.

Regulatory Analysis: A regulatory analysis has been prepared.

Action Planned: The publication of a final standard is anticipated.

2. *Description:* Pesticides.

The OSHA is developing a generic standard for pesticides which may contain provisions for work practices, engineering controls, medical surveillance of employees in these operations or other provisions which would reduce the risk of serious occupational illness among workers employed in pesticide manufacture and formulation.

Basis for Action: Occupational exposure to pesticides in manufacturing and formulation operations presents serious health risks to employees in these work areas.

Contact: Flo H. Ryer, Director, Office of Special Standards Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3663, Washington, D.C. 20210 (202) 523-7175.

Regulatory Analysis: A regulatory analysis will be prepared.

Action Planned: The publication of a proposed standard is anticipated.

3. *Description:* Access to Medical Records.

Basis for Action: This proposed rule on access to employee exposure records and medical records would implement OSHA's policy under the OSH Act that employees have the basic right to know information obtained by employers on the employees exposure to workplace hazards and any consequent health effects on the employee. The proposal includes specifications for the length of time these records would be retained and notes to whom these records would be available.

Contact: Flo H. Ryer, Director, Office of Special Standards Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3663, Washington, D.C. 20210 (202) 523-7175.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

4. *Description:* Occupational Exposure Standards for Chromates.

Basis for Action: OSHA is developing standards for chromates following the Section 6(b) rulemaking procedures of the Act. Chromates have been found to present risks to the employees exposed to them in their place of employment.

Contact: Fayez Hanna, Director, Office of Carcinogen Standards, U.S. Standards, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3718, Washington, D.C. 20210 (202) 523-7148.

Regulatory Analysis: A regulatory analysis will be prepared.

Action Planned: The development of a proposal will be undertaken.

5. *Description:* Occupational Exposure for Beryllium.

Basis for Action: OSHA is developing standards for beryllium following the Section 6(b) rulemaking procedures of the Act. Beryllium has been found to present serious health risks to the employees exposed to it in their place of employment.

Contact: Fayez Hanna, Director, Office of Carcinogen Standards, U.S. Standards, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3718, Washington, D.C. 20210 (202) 523-7148.

Regulatory Analysis: An economic impact statement has been prepared.

Action Planned: The publication of a final standard is anticipated.

6. *Description:* Chemical Hazard Identification.

The proposal being developed by OSHA is expected to contain requirements for the employer to inform employees of toxic chemicals in the workplace, of their potential hazards, and of means of reducing exposure.

Basis for Action: Employee awareness of the chemical hazards to which he or she is exposed in the workplace provides knowledge necessary for that individual to actively participate in the reduction or elimination of exposure to these harmful agents.

Contact: Flo H. Ryer, Director, Office of Special Standards Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3663, Washington, D.C. 20210 (202) 523-7175.

Regulatory Analysis: A regulatory analysis will be prepared.

Action Planned: There will be continued staff analysis and evaluation of alternative approaches.

Revision/Modification of Existing Standards. 1. Description: Occupational Exposure Standards for Abrasive Blasting.

Basis for Action: OSHA is reviewing and considering modifications to the current standards for abrasive blasting following the Section 6(b) rulemaking procedures of the Act. Abrasive blasting has been found to present risks to the employees engaged in it at their place of employment.

Contact: John Froines, Director, Office of Toxic Substance Standards, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3718, Washington, D.C. 20210 (202) 523-7105. %

Regulatory Analysis: A regulatory analysis will be prepared.

Action Planned: The review of a draft proposal by the OSHA Construction Safety and Health Advisory Committee and possible publication of proposed revisions to existing standards is anticipated.

2. *Description:* Occuaptional Exposure Standards for MOCA.

Basis for Action: MOCA has been found to present risks of serious illiness including cancer to the employees exposed to it in their place of employment. Standards previously developed must now be reconsidered in light of a recent court decision.

Contact: Fayez Hanna, Director, Office of Carcinogens Standards, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3718, Washington, D.C. 20210 (202) 523-7148.

Regulatory Analysis: A regulatory analysis will be prepared.

Action Planned: The publication of a proposed standard is anticipated.

3. *Description:* 29 CFR Part 1960—Safety and Health Provisions for Federal Employees.

The regulations and guidelines of this part are applicable only to Federal employees and constitute a framework for the occupational safety and health program of the various Federal agencies.

Basis for Action: To ensure workplace safety and health for Federal employees.

Modifications under development for inclusion in 29 CFR Part 1960 include:

a. Uniform Program Evaluation Guide—to set forth Department of Labor policies and procedures for conducting agency safety and health program evaluation; and

b. Criteria for Occupational Safety and Health Program Awards—to establish uniform guidelines for various safety and health program awards.

These additions to 29 CFR Part 1960 will further define responsibilities of the Secretary of Labor under Section 19 of the Occupational Safety and Health Act of 1970 and Executive Order 11807. Item b. will also provide additional guidance to Federal agencies regarding various awards programs.

Contact: Mrs. Annie W. Asensio, Office of Federal Agency Safety and Health Programs, Occupational Safety and Health Administation, U.S. Department of Labor, 2100 M Street, NW., Room 156, Washington, D.C. 20210 (202) 654-5500.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed revision to the current regulation is anticipated.

Tentative Regulatory Action Pending Staff Analysis: 1. *Description:* Occupational Exposure Standards for Asbestos.

Basis for Action: OSHA is reviewing the existing standard for asbestos to determine the need for revision or modification. Asbestos has been found to present serious health risks to employees exposed to it in their place of employment.

Contact: John Froines, Director, Office of Toxic Substance Standards, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3718, Washington, D.C. 20210 (202) 523-7105.

Regulatory Analysis: A regulatory analysis will be prepared.

Action Planned: Staff analysis and evaluation of alternative approaches will be undertaken.

2. *Description:* Standards Completion Project.

The Occupational Safety and Health Act of 1970 describes provisions which are essential to a comprehensive and effective program of industrial hygiene. These provisions include periodic monitoring of workers exposure to toxic chemicals, medical surveillance of the employees exposed to the chemicals, employee training requirements, and recordkeeping, among others.

Basis for Action: This project would propose to apply such provisions to the current list of chemicals for which OSHA only has permissible exposure limits. The discussion of the provisions are found at Section 6(b)(7) and 8(c)(3) of the OSH Act. The OSHA permissible exposure limits are codified at 29 CFR 1910.1000.

Contact: Flo H. Ryer, Director, Office of Special Standards Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3663, Washington, D.C. 20210 (202) 523-7175.

Regulatory Analysis: A regulatory analysis will be prepared.

Action Planned: The staff analysis of several alternatives will be undertaken.

3. *Description:* Occupational Exposure Standards for Noise.

Basis for Action: OSHA is considering modifications to the current standard for noise exposure based on the record made in extensive public hearings.

Contact: John P. O'Neill, Director, Office of Physical Agent Standards, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3718, Washington, D.C. 20210 (202) 523-7193.

Regulatory Analysis: an economic impact statement has been prepared.

Action Planned: Staff analysis of the public record and an evaluation of alternatives will be undertaken.

4. *Description:* Occupational Exposure Standards for Nickel and Cadmium.

Basis for Action: OSHA is developing standards for nickel and cadmium following the Section 6(b) rulemaking procedures of the Act. Nickel and cadmium have been found to present serious health risks to exposed employees.

Contact: Fayey Hanna, Director, Office of Carcinogen Standards, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3718, Washington, D.C. 20210 (202) 523-7148.

Regulatory Analysis: A regulatory analysis will be prepared for each substance.

Action Planned: The staff analysis and evaluation of alternatives will be undertaken.

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OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT

Regulations Selected For Review: 1. *Description:* 41 CFR 29-1.6.—Debarred, Suspended and Ineligible Bidders.

Basis for Action: This is a revision of an existing Department of Labor (DOL) procurement regulation covering exclusion from eligibility of concerns or individuals to receive Labor Department contracts or grants on account of violations of applicable Federal laws and regulations. It supplements the requirements of the Federal Procurement Regulation (41 CFR 1-1.6).

Contact: Walter C. Terry, Director, Office of Grants, Procurements and ADP Policy, Office of the Assistant Secretary for Administration and Management, Room S1325, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-9148.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

2. *Description:* 41 CFR 29-4.9—Unsolicited Proposals.

This regulation implements for the Department requirements of a new section of the Federal Procurement Regulations (41 CFR 1-4.9).

Basis for Action: To revise procedures for handling unique or original proposals (for work to be done by contract) which are received in the Department without having been solicited by the Department.

Contact: Walter C. Terry, Director, Office of Grants, Procurement and ADP Policy, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington 20210 (202) 523-9148.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

3. *Description:* 41 CFR Part 29-70—Administrative Requirements Governing all Grants and Agreements by Which Department of Labor Agencies Award Funds to State and Local Governments, Indian and Native American Entities, Public and Private Institutions of Higher Education and Hospitals, and Other Quasi-Public and Private Nonprofit Organizations.

Basis for Action: Except for specific requirements of authorizing legislation, these requlations provide the Federal administrative requirements for all grants and agreements awarded by the Department of Labor. They implement for the Department the Federal administrative standards imposed on recipients of Federal grants and agreements by OMB Circulars Nos. A-102 (for recipients which are State and local governments) and A-110 (for recipients which are nonprofit organizations). The Circulars require that each Federal agency with grant or agreement programs issue regulations appropriate to its programs.

Contact: Walter C. Terry, Director, Office of Grants, Procurements, and ADP Policy, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor, Room S1325, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-9148.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of final regulation is anticipated.

Regulations For Which Review is Required: None.

New Regulations: None.

EMPLOYMENT STANDARDS ADMINISTRATION

Regulations Selected For Review:

1. *Description:* 29 CFR Part 780—Exemptions Applicable to Agriculture, Processing of Agricultural Commodities, and Related Subjects under the Fair Labor Standards Act.

Exemptions under various sections of the FLSA for certain persons engaged in agriculture or processing of agricultural commodities.

Basis for Action: Interpretative Bulletin must be updated to reflect changes (additions and deletions) in coverage and exemptions brought about by the 1974 and 1977 amendments to the Act.

Contact: Paul G. Campbell, Director, Division of Minimum Wage and Hour Standards, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S3508, Washington, D.C. 20210, (202) 523-7043.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The development of a proposal will be undertaken.

2. *Description:* 29 CFR Part 41—Interpretations of the Farm Labor Contractor Registration Act.

Interpretations of the Farm Labor Contractor Registration Act, which requires farm labor contractors, their full-time or regular employees and users of migrant agricultural workers to observe certain rules regarding the recruiting, transporting, or housing of migrant workers.

Basis for Action: The Farm Labor Contractor Registration Act was significantly changed as a result of the 1974 Amendments. Revisions in this Interpretative Bulletin are required to reflect changes made in the statute, changes in policy, and to provide clear and responsive interpretations to affected parties.

Contact: Solomon Sugarman, Chief, Branch of Farm Labor Law Enforcement, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S3504, Washington, D.C. 20210 (202) 523-7531.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The development of a proposal will be undertaken.

3. *Description:* 29 CFR Part 525—Employment of Handicapped Clients in Sheltered Workshops.

Conditions under which special certificates can be issued providing for employment of handicapped persons at special minimum wage rates in sheltered workshops, under the Fair Labor Standards Act.

Basis for Action: These regulations were last comprehensively revised in 1967. Revisions are needed to resolve problems which have arisen, and simplification of certain procedures is needed to improve the administration of the program.

Contact: Arthur H. Korn, Director, Division of Special Minimum Wages, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C4316, Washington, D.C. 20210, (202) 523-8727.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

4. *Description:* 29 CFR Part 529—Employment of Patient Workers in Hospitals and Institutions at Subminimum Wages.

Conditions under which certificates can be issued authorizing special minimum wage rates for patients performing work for the hospitals or institutions in which they reside, under Section 14 of the Fair Labor Standards Act.

Basis for Action: These regulations, first issued in 1975, contain a section which provides for a review based on our initial administrative experience with the regulations.

Contact: Arthur H. Korn, Director of Special Minimum Wages, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523-8727.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

5. *Description:* 29 CFR Part 4—Labor Standards for Federal Service Contracts.

Regulations and Interpretations providing for administration of the Service Contract Act.

Basis for Action: Revisions are needed to reflect current Departmental policy and clarify existing regulations by using simpler language.

Contact: Dorothy P. Come, Assistant Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S3205, Washington, D.C. 20210 (202) 523-8333.

Regulatory Analysis: A regulatory analysis will be prepared.

Action Planned: The development of a proposal will be undertaken.

6. *Description:* 29 CFR Parts 3 and 5—Labor Standards Provisions, Davis-Bacon and Related Acts/Contract Work Hours and Safety Standards Act.

Regulations and interpretations providing for the administration and enforcement of labor standards provisions required to be included in federally-funded or assisted construction contracts under the Davis-Bacon Act and the Contract Work Hours and Safety Standards Act.

Basis for Action: Revisions are needed to reflect current Departmental policy and to clarify existing regulations by using simpler language.

Contact: Dorothy P. Come, Assistant Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S3205, Washington, D.C. 20210 (202) 523-8333.

Regulatory Analysis: A regulatory analysis will be prepared.

Action Planned: The publication of a proposed regulation is anticipated.

7. *Description:* 29 CFR Part 570.61—Occupations Involving Slaughtering, Meat Packing or Processing, or Rendering (Order No. 10).

Hazardous Occupations Order No. 10 prohibits the employment of minors 16 and 17 years of age in occupations involving slaughtering, meat packing or processing, or rendering.

Basis for Action: Order No. 10 is issued under Section 3(1) of the Fair Labor Standards Act. A review of the Order is needed to update it in light of various technological changes which have occurred in the industry since its adoption.

Contact: Lucille C. Pinkett, Chief, Branch of Child Labor, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C3146, Washington, D.C. 20210 (202) 523-8412.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

8. *Description:* 29 CFR Part 570, Subpart C—Employment of Minors Between 14 and 16 Years of Age (Child Labor Reg. 3).

Child Labor Regulation 3 sets forth the periods and conditions for the employment of minors 14 and 15 years of age.

Basis for Action: Child Labor Regulation 3 is issued under Section 3(1) of the Fair Labor Standards Act. A review of the Regulation is needed to provide uniformity, to clarify the standards, and to provide consistency in the application of the provisions.

Contact: Lucille C. Pinkett, Chief, Branch of Child Labor, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S3022, Washington, D.C. 20210 (202) 523-8412.

Regulatory Analysis: The need for regulatory analysis is under study.

Action Planned: The publication of a proposed regulation is anticipated.

9. *Description:* 29 CFR Part 800—Equal Pay for Equal Work under the Fair Labor Standards Act.

Interpretations regarding the meaning and application of Equal Pay Act provisions prohibiting discrimination on the basis of sex in the payment of wages for work which is substantially equal.

Basis for Action: With respect to insurance and other employee benefit plans, the current interpretations provide that the Act is not violated where either the plan provides equal benefits to both men and women or the employer makes equal contributions to the plan. On the basis of decisions of the U.S. Supreme Court and other courts and a thorough review of the legislative history and purposes of the Equal Pay Act, the Department has determined that the "either-or-rule" is an incorrect interpretation. Thus, proposed modifications in §§ 800.110 and 80.116(d) of the Equal Pay interpretations, as proposed on August 25, 1978 in the FEDERAL REGISTER, would make clear that employee benefits are "wages" within the meaning of the Equal Pay Act, that any differential in such benefits based on sex-based actuarial distinctions violates the Act, and that any sex-based differential in required employee contributions toward equal benefits violates the Act.

Contact: Richard A. McMullen, Chief, Branch of Equal Pay, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S3028, Washington, D.C. 20210 (202) 523-7605.

Regulatory Analysis: A regulatory analysis will be prepared for the proposed modification to 29 CFR Sections 800.110 and 800.116.

Action Planned: The publication of a final regulation is anticipated.

10. *Description:* 40 CFR Part 60-1—Obligations of Contactors and Subcontractors under E.O. 11246, as amended.

Regulations to achieve the aims of Parts II, III, and IV of Executive Order 11246, as amended, for promoting and ensuring equal opportunity without regard to race, color, religion, sex, or national origin, for all persons employed or seeking employment with Government contractors or with contractors performing work under federally-assisted construction contracts.

Basis for Action: This regulation needs reorganization, simplification and clarification to correct inconsistencies, reflect consolidation of the program into the Department of Labor and improve the effectiveness of the program.

Contact: Dolores C. Symons, Chief, Branch of Regulations and Procedures, Division of Program Policy, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room C3324, Washington, D.C. 20210 (202) 523-9426.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

11. *Description:* 41 CFR Part 60-2—Affirmative Action Programs under E.O. 11246, as amended.

Requirements of affirmative action programs of nonconstruction contractors and subcontractors with 50 or more employees and (1) a contract of $50,000 or more; or (2) government bills of lading which in any 12-month period total or can reasonably be expected to total $50,000 or more; or (3) who serves as a depository of Government funds in any amount; or (4) who is a financial institution which is an issuing and paying agency for U.S. saving bonds and savings notes in any amount.

Basis for Action: This regulation needs reorganization, simplification and clarification to correct inconsistencies, reflect consolidation of the program into the Department of Labor and improve the effectiveness of the program.

Contact: Dolores C. Symons, Chief, Branch of Regulations and Procedures, Division of Program Policy, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C3324, Washington, D.C. 20210 (202) 523-9426.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

12. *Description:* 41 CFR Part 60-4—Construction Contractor's Affirmative Action Requirements under E.O. 11246, as amended.

Affirmative action requirements of contractors and subcontractors which hold any federal or federally-assisted construction contract in excess of $10,000 and procedures which all federal contracting officers and all applicants shall follow in soliciting for and awarding federal or federally-assisted construction contracts.

Basis for Action: New policies and procedures are being developed.

Contact: Dolores C. Symons, Chief, Branch of Regulations and Procedures, Division of Program Policy,

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Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C3324, Washington, D.C. 20210 (202) 523-9426.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

13. *Description:* 41 CFR Part 60-20—Sex Discrimination Guidelines.

Interpretations and guidelines of the Office of Federal Contract Compliance Programs regarding the implementation of E.O. 11246, as amended by E.O. 11375, for the promotion and ensuring of equal opportunities for all persons employed or seeking employment with Government contractors and subcontractors or with contractors performing under federally-assisted construction contracts, without regard to sex.

Basis for Action: There is a need for simplification and clarification in Part 60-20. Also, new policies are being proposed regarding several issues concerning discriminatory employment practices affecting women. In the area of employee benefits, a proposed amendment to Part 60-20 is now pending, having been published in the FEDERAL REGISTER on August 25, 1978 in conjunction with publication of a proposed new interpretation concerning employee benefits under the Equal Pay Act (see item 9, above).

Contact: Dolores C. Symons, Chief, Branch of Regulations and Procedures, Division of Program Policy, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C3324, Washington, D.C. 20210 (202) 523-9426.

Regulatory Analysis: A regulatory analysis will be prepared.

Action Planned: The publication of a proposed regulation is anticipated.

14. *Description:* 41 CFR Part 60-30—Rules of Practice for Administrative Proceedings to Enforce Equal Opportunity under Executive Order 11246.

Basis for Action: Modifications could expedite hearing procedures by enabling the agency to elect simpler procedures when appropriate.

Contact: Dolores C. Symons, Chief, Branch of Regulations and Procedures, Division of Program Policy, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C3324, Washington, D.C. 20210 (202) 523-9426.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

15. *Description:* 41 CFR Part 60-40—Examination and Copying of OFCCP Documents under E.O. 11245, as amended.

General rules of the OFCCP for public access to information from records of the E.O. 11246 program.

Basis for Action: Complete revision is required in order to facilitate consistency with other disclosure rules.

Contact: Dolores C. Symons, Chief, Branch of Regulations and Procedures, Division of Program Policy, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C3324, Washington, D.C. 20210 (202) 523-9426.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

16. *Description:* 41 CFR Part 60-50—Guidelines on Discrimination Because of Religion or National Origin.

Interpretations and guidelines of the OFCCP regarding the implementation of E.O. 11246, as amended, for promoting and ensuring equal employment opportunity for all persons employed by or seeking employment with government contractors, without regard to religion or national origin.

Basis for Action: This part is under review to consider the sufficiency of existing provisions and new proposals to strengthen its effectiveness.

Contact: Dolores C. Symons, Chief, Branch of Regulations and Procedures, Division of Program Policy, OFCCP, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C3324, Washington, D.C. 20210 (202) 523-9426.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

17. *Description:* 41 CFR Part 60-60—Contractor Evaluation Procedures for Contractors for Supplies under E.O. 11246, as amended (Revised Order No. 14).

Standardized contractor evaluation procedures for compliance reviews of contractors and subcontractors for supplies and services required to develop written affirmative action programs under the equal employment opportunity requirements of 41 CFR 60-1.40 and 41 CFR Part 60-2.

Basis for Action. With a view toward simplification and clarification, material now contained in Part 60-60 may be incorporated into 60-2 and an OFCCP compliance manual, with the result that the need for 60-60 could be eliminated.

Contact: Dolores C. Symons, Chief, Branch of Regulations and Procedures, Division of Program Policy, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C3324, Washington, D.C. 20210 (202) 523-9426.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

18. *Description:* 41 CFR Part 60-250—Affirmative Action Obligations of Contractors and Subcontractors for Disabled Veterans and Veterans of the Vietnam Era.

Affirmative action obligations for Government contractors and subcontractors with contracts of $10,000 or more relating to the employment of qualified disabled veterans and veterans of the Vietnam Era.

Basis for Action: Changes are necessary to achieve compatibility with E.O. 11246 and its implementing regulations.

Contact: Dolores C. Symons, Chief, Branch of Regulations and Procedures, Division of Program Policy, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room C3324, Washington, D.C. 20210 (202) 523-9426.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

19. *Description:* 41 CFR Part 60-741—Affirmative Action Obligations of Contractors and Subcontractors for Handicapped Workers.

Affirmative action obligations for Government contractors or subcontractors with contracts in excess of $2,500 relating to the employment of qualified handicapped individuals.

Basis for Action: The need to modify this part is the same as that for item 25, above, (41 CFR Part 60-250).

Contact: Dolores C. Symons, Chief, Branch of Regulations and Procedures, Division of Program Policy, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue NW., Room C3324, Washington, D.C. 20210 (202) 523-9426.

Regulatory Analysis: The need for a regulatory analysis is under study.

Action Planned: The publication of a proposed regulation is anticipated.

Regulations for Which Review is Required:

1. *Description:* 20 CFR Part 722—Criteria for Determining Whether State Workers' Compensation Laws Provide Adequate Coverage for Pneumoconiosis and Listing of Approved Laws.

Regulations establishing procedures and standards to be applied by the Secretary of Labor in determining whether a State workers' compensation law provides adequate coverage for death or disability due to pneumoconiosis.

Basis for Action: Review and revision of Part 722 is necessary because

of amendments to Section 421 of the Black Lung Benefits Reform Act of 1977.

Contact: Neil Montone, Assistant Associate Director for Coal Mine Workers' Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, 200 Constitution Avenue NW., Room C3320, Washington, D.C. 20210 (202) 523-6692.

Regulatory Analysis: It is not anticipated that a regulatory analysis will be required.

Action Planned: The publication of a final regulation is anticipated.

2. *Description:* 20 CFR Part 726—Black Lung Benefits: Requirements for Coal Mine Operators' Insurance.

Rules governing the manner by which a coal mine operator shall fulfill his insurance obligations under the Black Lung Benefits Act, either by qualification as a self-insurer or by contracting with a commercial insurance company.

Basis for Action: Review and revision of Part 726 is necessary as a result of enactment of the Black Lung Benefits Reform Act of 1977 and the Black Lung Benefits Revenue Act of 1977.

Contact: Edward Daniels, Chief, Branch of Finances, Division of Coal Mine Workers' Compensation, U.S. Department of Labor, 200 Constitution Avenue NW., Room C3316, Washington, D.C. 20210 (202) 523-9483.

Regulatory Analysis: The need for a regulatory analysis is under study.

Action Planned: The publication of a final regulation is anticipated.

3. *Description:* 20 CFR Part 718—Standards for Determining Coal Miners' Total Disability or Death Due to Pneumoconiosis.

OWCP has proposed regulations establishing standards to be applied in determining whether a coal miner is or was totally disabled due to pneumoconiosis or died from pneumoconiosis and specifying procedures and requirements to be followed in conducting medical examinations and in administering various tests.

Basis for Action: Review and revision of Part 718 is required by the amendments made to the Black Lung Benefits Act by the Black Lung Benefits Reform Act of 1977.

Contact: Robert B. Dorsey, Chief, Branch of Claims Determination, Division of Coal Mine Workers' Compensation, Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor, Room C3526, NDOL Building, 200 Constitution Avenue, NW., Washington, D.C. 20210, 202-523-6726.

Regulatory Analysis. A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

4. *Description:* 29 CFR Part 531—Wage Payments under the Fair Labor Standards Act.

Definition of the term "wage" under the FLSA, and determinations as to the "reasonable cost" and "fair value" of board, lodging and other facilities customarily furnished by an employer to employees.

Basis for Action: Regulations must be updated to reflect the 1974 and 1977 amendments to the FLSA and also to incorporate resultant interpretive rulings.

Contact: Paul G. Campbell, Director, Division of Minimum Wage and Hour Standards, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S3508, Washington, D.C. 20210, 202-523-7043.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

5. *Description:* 29 CFR Part 516—Records to be Kept by Employers.

Recordkeeping and posting requirements applicable to all employers who have employees covered by the FLSA.

Basis for Action: This regulation needs to be updated to reflect the 1977 amendments to the Act.

Contact: Paul G. Campbell, Director, Division of Minimum Wage and Hour Standards, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S3508, Washington, D.C. 20210, 202-523-7043.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

6. *Description:* 29 CFR Part 778—Overtime Compensation.

Explanation and interpretation of the overtime and maximum hours provisions of Section 7 of the Fair Labor Standards Act.

Basis for Action: Technical and editorial changes must be made in the Bulletin to reflect the 1977 Amendments to the FlSA.

Contact: Paul G. Campbell, Director, Division of Minimum Wage and Hour Standards, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S3508, Washington, D.C. 20210, (202) 523-7043.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

7. *Description:* 29 CFR Part 850—Age Discrimination in Employment—Records to be Made or Kept Relating to Age, Notices to be Posted, Administrative Exemptions.

Recordkeeping and posting requirements for employers, employment agencies and labor organizations subject to the Age Discrimination in Employment Act, and administrative exemptions pursuant to Section 9 of the Act.

Basis for Action: The Age Discrimination in Employment Act Amendments of 1978 include a limited exemption allowing compulsory retirement of certain bona fide executive or policymaking employees at ages 65 through 69. Regulations are required on how to calculate the level of retirement benefits in a form other than a straight life annuity to determine whether the $27,000 criterion for application of the exemption is met. A proposed new § 850.17 to implement this requirement was published in the FEDERAL REGISTER on December 12, 1978.

Contact: Francis V. LaRuffa, Chief, Branch of Age Discrimination, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S3502, Washington, D.C. 20210 (202) 523-7640.

Regulatory analysis: A regulatory Analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

8. *Description:* 29 CFR Part 860—Age Discrimination in Employment—Interpretations.

Interpretations which guide the Department in the enforcement and administration of the Age Discrimination in Employment Act of 1967.

Basis for Action: The interpretations must be revised to implement the Age Discrimination in Employment Act Amendments of 1978. Proposed interpretations relating to employee benefit plans (§ 860.120) were published in the FEDERAL REGISTER on September 22, 1978. Proposed interpretations concerning limited exemptions affecting certain bona fide executive or high policymaking employees and tenured employees at institutions of higher education were published in the FEDERAL REGISTER on December 12, 1978. Proposed interpretations concerning the prohibition of mandatory retirement up until age 70 may be expected in the near future. Also, to conform with changes in ADEA coverage under the Fair Labor Standards Act Amendments of 1974 and the 1978 ADEA amendments, minor proposed revisions may be expected (early next year) in sections of these interpretations concerning the definitions of "employer" and discrimination within the age range covered under the Act.

Contact: Francis V. LaRuffa, Chief, Branch of Age Discrimination, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S3502, Washington, D.C. 20210 (202) 523-7640.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

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9. *Description:* 29 CFR Part 505—Labor Standards on Projects or Productions Assisted by Grants from National Endowment for the Arts.

Basis For Action: The regulation must be updated to reflect the imposition of labor standards requirements with respect to all professional performers and related or supporting professional personnel employed on projects or productions financed in whole or in part under grants made by the National Endowment for the Humanities brought about by the 1976 Amendments to the National Foundation on the Arts and the Humanities Act of 1965. Such regulatory changes are authorized by Section 7(g) of the amended statute.

Contact: Paul G. Campbell, Director, Division of Minimum Wage and Hour Standards, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S3508, Washington, D.C. 20210 (202) 523-7043.

Regulatory Analysis: A regulatory Analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

New Regulations: None.

LABOR MANAGEMENT SERVICES ADMINISTRATION

Regulations Selected For Review:

1. *Description:* 29 CFR Part 452, Subpart J—Special Enforcement Provisions of the Election Provisions of the Labor-Managment Reporting and Disclosure Act of 1959.

Requirements which must be met before a union member files an election complaint with the Secretary of Labor, for investigation of a complaint by the Department upon receipt of a valid complaint and, requirements for filing a civil suit seeking to set the election aside.

Basis for Action: These provisions have not been revised since December, 1959. Judicial decisions and administrative determinations made since that date should be made known to the public.

Contact: Herbert Raskin, Labor-Management Services Administration, U.S. Department of Labor, Room N5119, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-7373.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

2. *Description:* 29 CFR Part 2520—Elimination of Form EBS-1.

A revision of certain reporting requirements will be proposed to eliminate the need for employee benefit plans to file a Plan Description Form EBS-1 with the Department.

Basis for Action: The revision is intended to eliminate duplicative reporting and reduce the paperwork burden imposed by ERISA.

Contact: Peter Straub, Pension and welfare Benefit Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N4472, Washington, D.C. 20210 (202) 523-8377.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

3. *Description:* 29 CFR Part 2530—Suspension of Benefits.

This proposed regulation will describe the circumstances under which an employee benefit plan will be permitted to suspend the payment of benefits to a retiree under Section 203(a)(3)(B) of ERISA.

Basis for Action: To clarify and implement the requirements of Section 203(a)(3)(B) of ERISA.

Contact: Judith Kahn, Pension and Welfare Benefit Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N4461, Washington, D.C. 20210 (202) 523-8430.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

4. *Description:* 29 CFR Parts 2520 and 2530—Individual Benefit Reporting and Recordkeeping.

These proposed provisions will govern (1) reports that must be furnished to participants and beneficiaries of pension plans regarding the benefits to which they are entitled, or may become entitled at retirement and (2) records that must be maintained to provide the information necessary to prepare these reports.

Basis for Action: To implement certain reporting and recordkeeping requirements of ERISA.

Contact: Peter Straub, Pension and Welfare Benefit Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N4700, Washington, D.C. 20210 (202) 523-8377.

Regulatory Analysis: The need for regulatory analysis is under study.

Action Planned: The publication of a proposed regulation is anticipated.

5. *Description:* 29 CFR Part 2510—Supplemental Pay.

This proposal to amend and finalize the existing temporary regulation will clarify the circumstances under which an arrangement to make supplemental payments to employees will not be deemed an employee benefit plan under Section 3 of ERISA.

Basis for Action: To clarify the circumstances under which supplemental payment arrangements are covered by ERISA.

Contact: Edith Fierst, Pension and Welfare Benefit Program, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N4700, Washington, D.C. 20210 (202) 523-8664.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

6. *Description:* 29 CFR Part 2520—Certain Exemptions for Plans Under Which Membership in a Health Maintenance Organization is Offered as a Benefit.

The proposed regulations would provide exemptions from certain reporting and disclosure requirements, where application of those requirements might be unnecessary in view of the Health Maintenance Organization Act of 1977.

Basis for Action: The revision is intended to eliminate duplicative reporting currently required by separate provisions of the HMO Act and ERISA, thereby harmonizing the requirements of the two Acts and reducing unnecessary paperwork.

Contact: Robert Doyle, Pension and Welfare Benefit Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N4700, Washington, D.C. 20210, (202) 523-8673.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of proposed regulations is anticipated.

7. *Description:* 29 CFR Part 212—GUIDELINES—Department of Labor Procedures for the Resolution of Disputes as to the Interpretation, Application or Enforcement of Employee Protection Arrangements when Employees are not Represented by a Signatory Labor Organization.

Basis for Action: These guidelines will be issued to provide information about the Department of Labor's procedures for making final and binding determinations in the resolution of disputes arising under the employee protective arrangements of the Urban Mass Transportation Act of 1964, as amended, and under Appendices C-1 and C-2 of the Rail-Passenger Service Act of 1970, as amended, when the employees are not represented by a labor organization which is signatory to the protective arrangement

Contact: Lary Yud, Division of Employee Protections, Labor-Management Services Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N5641, Washington, D.C. 20212 (202) 523-6495.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of proposed guidelines is anticipated.

Regulations For Which Review is Required: None.

New Regulations:

1. *Description:* 29 CFR 92.1-92.9—Labor Management Services Administration Regulations to be Issued Governing Employee Benefit Payments

under the Redwood National Park Expansion Act (Pub. L. 95-250).

These provisions will define the eligibility criteria which employees must meet in order to receive benefits under the Act.

Basis for Action: These regulations are necessary to implement Section 102(b) and Sections 103(d)-103(l) of title I and all of title II of Pub. L. 95-250.

Contact: Ron Glass, Division of Employee Protections, Labor-Management Services Administration, U.S. Department of Labor, Room N5641, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-6495.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned:

5. The publication of final regulations is anticipated.

MINE SAFETY AND HEALTH ADMINISTRATION

Regulations Selected For Review: 000

1. *Description:* 30 CFR Parts 55, 56, and 57-Consolidation of Parts.

Basis for Action: Section 508 of the Federal Mine Safety and Health Act of 1977 (FMSHA).

Contact: Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-1910.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The development of a proposal will be undertaken.

2. *Description:* 30 CFR Part 71—Respirable Dust Standard for Surface Coal Mines.

Health standards to limit miners' exposure to respirable dust in surface coal mines.

Basis for Action: To implement improved health standards under Section 101 of FMSHA.

Contact: Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-1910.

Regulatory Analysis: A regulatory analysis is not anticipated.

Action Planned: The publication of proposed regulations is anticipated.

3. *Description:* 30 CFR Part 75—Underground Coal Mine Safety Standards (nonstatutory).

Mandatory safety standards to protect miners in underground coal mines.

Basis for Action: To implement improved safety standards under Section 101 of FMSHA.

Contact: Herschel H. Potter, Chief, Division of Coal Safety, Mine Safety and Health Administration, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-1284.

Regulatory Analysis: A regulatory analysis will be prepared.

Action Planned: The development of a proposal will be studied.

4. *Description:* 30 CFR Part 70—Respirable Dust Standards for Underground Coal Mines.

Health standards to limit miners' exposure to respirable dust in underground coal mines.

Basis for Action: To implement improved health standards under Section 101 of FMSHA.

Contact: Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-1910.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

5. *Description:* 30 CFR Part 77—Surface Coal Mine Safety Standards.

Mandatory safety standards for surface coal mines and surface areas of underground coal mines.

Basis for Action: To implement improved safety standards under Section 101 of FMSHA.

Contact: Herschel H. Potter, Chief, Division of Coal Mine Safety, Mine Safety and Health Administration, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-1284.

Regulatory Analysis: A regulatory analysis will be prepared.

Action Planned: January, 1977 proposal will be reviewed for further action.

6. *Description:* 30 CFR Part 90—Transfer of Miners.

Procedures for the transfer of surface and underground coal miners with evidence of pneumoconiosis to less dusty work areas in order to prevent further development of the disease.

Basis for Action: To implement improved health standards under Section 101 of FMSHA.

Contact: Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-1910.

Regulatory Analysis: A regulatory analysis is not anticipated.

Action Planned: The publication of a proposed regulation is anticipated.

7. *Description:* 30 CFR 75—Automated Temporary Roof Support Standards to Protect Miners from Roof Falls in Underground Coal Mines.

Basis for Action: To implement improved safety standards under Section 101 of FMSHA.

Contact: Herschel H. Potter, Chief, Division of Coal Safety, Mine Safety and Health Administration, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-1284.

Regulatory Analysis: A regulatory analysis will be prepared.

Action Planned: The development of a proposal will be undertaken.

8. *Description:* 30 CFR Parts 11-36—Fee Schedules for Approval Tests Conducted by MSHA.

Basis for Action: To update fee schedules for the reimbursement of MSHA costs under Section 508 of the FMSHA.

Contact: Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703)-235-1910.

Regulatory Analysis: A regulatory analysis is not anticipated.

Action Planned: The development of a proposal will be undertaken.

9. *Description:* 30 CFR Part 46—State Grants Regulations.

Basis for Action: To improve regulations implementing Sections 503 of FMSHA.

Contact: Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703)-235-1910.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a final regulation is anticipated.

Regulations for Which Review is Required:

1. *Description:* 30 CFR Parts 55, 56, and 57—Metal/Nonmetal Health and Safety Advisory Standards.

Health and safety standards to protect life, promote health and safety, and prevent accidents in open pit metal and nonmetallic mines, sand, gravel and crushed stone operations, and metal and nonmetallic underground mines.

Basis for Action: To implement Section 301 of the Federal Mine Safety and Health Amendments Act of 1977 (Amendments Act).

Contact: Frank A. White, Office of Standards, Regulation and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703)-235-1910.

Regulatory Analysis: A regulatory analysis is not anticipated.

Action Planned: The publication of final regulations is anticipated.

New Regulations:

1. *Description:* 30 CFR Part 49—Mine Rescue Teams for all Underground Mines.

Basis for Action: To implement the requirements of Section 115 of FMSHA.

Contact: Frank A. White, Office of Standards, Regulation and Variances, Mine Safety and Health Administra-

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tion, 4015 Wilson boulevard, Arlington, Virginia 22203 (703)-235-1910.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: Public hearings will be conducted.

2. *Description:* 30 CFR Part 45—Regulations to Identify Independent Contractors as Mine Operators.

Basis for Action: To implement an enforcement policy consistent with the revised statutory definition of the term "operator" contained in Section 3(d) of FMSHA.

Contact: Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703)-235-1910.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

3. *Description:* 30 CFR Part 110—Safety and Health Standards for Construction Work at all Mines.

Basis for Action: To implement improved standards under Section 101 of FMSHA.

Contact: Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-1910.

Regulatory Analysis: The need for a regulatory analyis is under study.

Action Planned: The publication of a proposed regulation is anticipated.

4. *Deseription:* 30 CFR Parts 55, 56, and 57—Miscellaneous Amendments Including Standards for Exposure to Radon Daughters (Part 57 only).

Basis for Action: To implement improved safety and health standards under Section 301 of the Amendments Act.

Contact: Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-1910.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of final regulations is anticipated.

5. *Description:* 30 CFR Parts 55, 56 and 57—Miscellaneous Amendments to Explosives Standards.

Basis for Action: To implement improved safety standards under Section 301 of the Amendments Act.

Contact: Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-1910.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

6. *Description:* 30 CFR Parts 55, 56 and 57—Explosives Standards that Prohibit Loading through a Kelly Bar or Drill System.

Basis for Action: To implement improved safety standards under Section 301 of the Amendments Act.

Contact: Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-1910.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of proposed regulations is anticipated.

7. *Description:* 30 CFR Part 48—Subpart C—Training Regulations for Construction Workers.

Basis for Action: To implement the requirements of Section 115 of FMSHA.

Contact: Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-1910.

Regulatory Analysis: A regulatory analysis will be prepared.

Action Planned: The development of a proposal will be undertaken.

8. *Description:* 30 CFR Part 18—Miscellaneous Amendments.

Basis for Action: To update Part 18 under Section 508 of FMSHA.

Contact: Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-1910.

Regulatory Analysis: A regulatory analysis is not required.

Action Planned: The publication of a proposed regulation is anticipated.

9. *Description:* 30 CFR Part 57—Requirements to Provide Self-contained (Oxygen Generating) Self-rescuers to Underground Metal/Nonmetal Miners.

Basis for Action: To implement improved safety standards under Section 101 of FMSHA.

Contact: Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-1910.

Regulatory Analysis: The need for a regulatory analysis is under study.

Action Planned: The publication of a proposed regulation is anticipated.

10. *Description:* 30 CFR Parts 55, 56, and 57—Requirements for Construction and Maintenance of Impoundments and Tailings Piles at Metal and Nonmetal mines.

Basis for Action: To implement improved safety standards under Section 101 of FMSHA.

Contact: Roy L. Bernard, Chief, Division of Metal/Nonmetal Mine Safety, Mine Safety and Health Administration, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-8646.

Regulatory Analysis: A regulatory analysis will be prepared.

Action Planned: The development of a proposal will be undertaken.

11. *Description:* 30 CFR Parts 75 and 77—Requirements for Raise-Drilling Projects at Underground Coal Mines.

Basis for Action: To implement improved safety standards under Section 101 of FMSHA.

Contact: Herschel H. Potter, Chief, Division of Coal Mine Safety, Mine Safety and Health Administration, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-1284.

Regulatory Analysis: A regulatory analysis is not anticipated.

Action Planned: The development of a proposal will be undertaken.

OTHER

New Regulations:

Description: (CFR Part to be assigned.)

Airline Deregulation Act of 1978. Regulations (a) For establishing benefit amounts, determining eligibility for benefits, and extent of reemployment assistance to be provided to protected employees; and, (b) To govern administration of protected employees' priority hire rights, air carriers duty to hire and related negotiations between air carriers and representatives of protected employees.

Basis for Action: Section 43(f) of the Airline Deregulation Act (Public Law 95-504) authorizes the Secretary to issue, amend, and repeal such rules and regulations as may be necessary to carry out Section 43, the Employee Protection Program.

Contact: (a) Robert Kenyon, Employment and Training Administration, U.S. Department of Labor, Patrick Henry Building, Room 7004, 601 D Street NW., Washington, D.C. 20213 (202) 376-7545; (b) Lary Yud, Labor Management Services Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210 (202) 523-6495.

Regulatory Analysis: The need for regulatory analysis is under study.

Action Planned: The publication of proposed regulations is anticipated.

Signed this 18th day of January, 1979 at Washington, D.C.

RAY MARSHALL,
Secretary.

[FR Doc. 79-2418 Filed 1-25-79; 8:45 am]

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federal register

FRIDAY, JANUARY 26, 1979
PART III



DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27-M]

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Government Contract Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original general wage determination decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Florida:	
FL78-1055	Mar. 24, 1978
Nevada:	
NV78-5124	Sept. 15, 1978
NV78-5129	Oct. 27, 1978
New Mexico:	
NM78-4046	May 5, 1978
NM79-4021	Jan. 5, 1979
North Carolina:	
NC76-1019	Jan. 30, 1976
NC76-1024	Feb. 13, 1976
NC76-1042	Mar. 19, 1976
NC76-1046	Apr. 9, 1976
NC76-1068	May 28, 1976
NC76-1073	July 9, 1976
NC78-1094	Sept. 3, 1976
NC76-1109	Sept. 24, 1976
NC77-1012	Mar. 4, 1977
NC77-1014	Feb. 4, 1977
NC77-1018	Feb. 11, 1977
NC77-1046	Apr. 8, 1977
NC77-1076	June 10, 1977
NC77-1145	Nov. 18, 1977
NC78-1027	Mar. 24 1978
NC78-1035; NC78-1036; NC78-1037	Apr. 14, 1978
Oklahoma:	
OK79-4017	Jan. 5, 1979
Utah:	
UT78-5128	Oct. 6, 1978
Wisconsin:	
W178-2108; W178-2110; W178-2121	Oct. 20, 1978

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL78-1003(AL79-1001); AL78-1004(AL79-1004)	Feb. 3, 1978
Florida:	
FL78-1043(FL79-1017)	Apr. 14, 1978
Indiana:	
IN78-2025 & IN78-2033 (IN79-2003)	Mar. 10, 1978
IN78-2029 & IN78-2051 (IN79-2002);	
IN78-2051 & IN78-2052 (IN79-2003);	
IN78-2051 (IN79-2004)	Mar. 24, 1978
IN78-2065(IN79-2004)	July 21, 1978
Pennsylvania:	
PA78-5005(PA79-3000)	Feb. 24, 1978
Tennessee:	
TN78-1049(TN79-1063)	May 19, 1978

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

NONE

Signed at Washington, D.C., this 19th day of January 1979.

DOROTHY P. COME,
Assistant Administrator, Wage and Hour Division.

[4510-27-C]

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. NM78-4046 (Cont'd)					
Change (Con't'd): LABORERS*: (Cont'd) Remaining Counties (Cont'd) Building Construction (Cont'd) Zone 3: Area over 20 and not more than 40 road miles from the communities named in Zone 1:	$				
Group 1	9.20	.95	$ 1.20		.10
Group 2	9.30	.95	1.20		.10
Group 3	9.45	.95	1.20		.10
Group 4	9.70	.95	1.20		.10
Group 5	10.00	.95	1.20		.10
Group 6-A	10.00	.95	1.20		.10
Group 6-B	9.70	.95	1.20		.10
Group 6-C	9.35	.95	1.20		.10
Zone 4: Area over 40 road miles from the communities named in Zone 1:					
Group 1	9.90	.95	1.20		.10
Group 2	10.00	.95	1.20		.10
Group 3	10.15	.95	1.20		.10
Group 4	10.40	.95	1.20		.10
Group 5	10.70	.95	1.20		.10
Group 6-A	10.70	.95	1.20		.10
Group 6-B	10.40	.95	1.20		.10
Group 6-C	10.05	.95	1.20		.10
Heavy and Highway Construction:					
Area 1:					
Group 1	8.40	.95	1.20		.10
Group 2	8.50	.95	1.20		.10
Group 3	8.65	.95	1.20		.10
Group 4	8.90	.95	1.20		.10
Group 5	9.20	.95	1.20		.10
Group 6-A	8.90	.95	1.20		.10
Group 6-B	8.55	.95	1.20		.10
Area 2:					
Group 1	9.55	.95	1.20		.10
Group 2	9.65	.95	1.20		.10
Group 3	9.80	.95	1.20		.10
Group 4	10.05	.95	1.20		.10
Group 5	10.35	.95	1.20		.10
Group 6-A	10.35	.95	1.20		.10
Group 6-B	10.05	.95	1.20		.10
Group 6-C	9.70	.95	1.20		.10
*LABORERS - Area Definition - See Area Definition" following TRUCK DRIVERS					
DECISION NO. NV78-5124 - Mod #5 (43 FR 41351 - September 15, 1978) Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada					
Change: Carpenters: Soft Floor Layers	$9.05	.50	.50		.05
DECISION NO. NV78-5124 - Mod #5 (43 FR 41351 - September 15, 1978) Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada					
Change: LABORERS*: Remaining Counties: Building Construction: Zone 1: Area within 5 road miles of the following communities - Carson City, Elko, Fallon, Hawthorne, Lovelock, Minden, Tonopah, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada, also Washoe Valley between Reno, Nevada and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base; also the Tahoe Basin from the Summit to the Lake:	$				
Group 1	8.40	.95	$ 1.20		.10
Group 2	8.50	.95	1.20		.10
Group 3	8.65	.95	1.20		.10
Group 4	8.90	.95	1.20		.10
Group 5	9.20	.95	1.20		.10
Group 6-A	8.90	.95	1.20		.10
Group 6-B	8.55	.95	1.20		.10
Group 6-C					
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities:					
Group 1	9.00	.95	1.20		.10
Group 2	9.10	.95	1.20		.10
Group 3	9.25	.95	1.20		.10
Group 4	9.50	.95	1.20		.10
Group 5	9.80	.95	1.20		.10
Group 6-A	9.80	.95	1.20		.10
Group 6-B	9.50	.95	1.20		.10
Group 6-C	9.15	.95	1.20		.10

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MODIFICATIONS P. 3

DECISION #NV78-5124 (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Plumbers; Steamfitters: Remaining Counties and Nye County (north half)	$12.74	$1.13	$1.00	$1.95	.20
Plumbers (Utility): Statewide except Clark, Esmeralda, Lincoln, Nye County (south half)	12.74	1.13	1.00	1.95	.10
Roofers: Clark, Esmeralda, Lincoln, Nye County (south half)	14.75	.80			
DECISION #NV78-5129 - Mod. #3 (43 FR 50344 - October 27, 1978) Washoe County, Nevada					
Change:					
Boilermakers	$14.36	$1.075	$1.00	$1.00	.03
Carpenters	8.96	.85	1.41	1.00	.10
Laborers:					
Zone 1: In Washoe County, the area within 5 road miles of the following communities - Carson City, Lovelock; also area within 10 road miles of Reno, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base:					
Group 1	8.40	.95	1.20		.10
Group 2	8.50	.95	1.20		.10
Group 3	8.65	.95	1.20		.10
Group 4	8.90	.95	1.20		.10
Group 5	9.20	.95	1.20		.10
Group 6-A	9.20	.95	1.20		.10
Group 6-B	8.90	.95	1.20		.10
Group 6-C	8.55	.95	1.20		.10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the communities named in Zone 1:					
Group 1	9.00	.95	1.20		.10
Group 2	9.10	.95	1.20		.10
Group 3	9.25	.95	1.20		.10
Group 4	9.50	.95	1.20		.10
Group 5	9.80	.95	1.20		.10
Group 6-A	9.80	.95	1.20		.10
Group 6-B	9.50	.95	1.20		.10
Group 6-C	9.15	.95	1.20		.10

MODIFICATIONS P. 4

DECISION #NV78-5129 (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Laborers (Cont'd):					
Zone 3: Area over 20 and not more than 40 road miles from the communities named in Zone 1:					
Group 1	$9.20	.95	$1.20		.10
Group 2	9.30	.95	1.20		.10
Group 3	9.45	.95	1.20		.10
Group 4	9.70	.95	1.20		.10
Group 5	10.00	.95	1.20		.10
Group 6-A	10.00	.95	1.20		.10
Group 6-B	9.70	.95	1.20		.10
Group 6-C	9.35	.95	1.20		.10
Zone 4: Area over 40 road miles from the communities named in Zone 1:					
Group 1	9.90	.95	1.20		.10
Group 2	10.00	.95	1.20		.10
Group 3	10.15	.95	1.20		.10
Group 4	10.40	.95	1.20		.10
Group 5	10.70	.95	1.20		.10
Group 6-A	10.70	.95	1.20		.10
Group 6-B	10.40	.95	1.20		.10
Group 6-C	10.05	.95	1.20		.10
Plumbers; Steamfitters	12.74	1.13	1.00	1.95	.20

DECISION NO. NM78-4046 - Mod. #2
(43 FR 19559 - May 5, 1978)
Statewide, New Mexico

CHANGE "DECISION NUMBER" for modification number one published in Federal Register dated January 19, 1979 to read "NM78-4046."

MODIFICATIONS P. 5

DECISION NO. NM79-4021 - Mod. #2 (44 FR 1652 - January 5, 1979) Statewide, New Mexico	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
TRUCK DRIVERS (HEAVY CONSTRUCTION):					
Group 1	$8.26	.67	.55		
Group 2	8.38	.67	.55		
Group 3	8.46	.67	.55		
Group 4	8.58	.67	.55		
Group 5	8.63	.67	.55		
Group 6	8.73	.67	.55		
Group 7	8.83	.67	.55		
Group 8	8.97	.67	.55		
Group 9	9.12	.67	.55		

ADD:

TRUCK DRIVERS ZONE AND BASING POINTS DEFINITIONS FOR HEAVY CONSTRUCTION:

ZONE I 0 - 15 miles
ZONE II 15 - 35 miles
ZONE III 35 miles and over

TRUCK DRIVERS BASING POINTS

Alamogordo	Clovis	Grants	Lovington
Albuquerque	Deming	Hobbs	Portales
Artesia	Espanola	Las Cruces	Raton
Bayard	Eunice	Las Vegas	Roswell
Belen	Farmington	Los Alamos	Ruidoso
Carlsbad	Gallup	Lordsburg	Santa Fe

Santa Rosa - Silver City - Scorro - Taos - Tucumcari

MODIFICATIONS P. 6

DECISION NM79-4021 - Mod. #2

HEAVY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS - ZONE I					
Group 1	$7.41	.67	.55		
Group 2	7.53	.67	.55		
Group 3	7.61	.67	.55		
Group 4	7.58	.67	.55		
Group 5	7.78	.67	.55		
Group 6	7.88	.67	.55		
Group 7	7.98	.67	.55		
Group 8	8.12	.67	.55		
Group 9	8.27	.67	.55		
TRUCK DRIVERS - ZONE II					
Group 1	8.16	.67	.55		
Group 2	8.28	.67	.55		
Group 3	8.36	.67	.55		
Group 4	8.48	.67	.55		
Group 5	8.53	.67	.55		
Group 6	8.63	.67	.55		
Group 7	8.73	.67	.55		
Group 8	8.87	.67	.55		
Group 9	9.02	.67	.55		
TRUCK DRIVERS - ZONE III					
Group 1	8.26	.67	.55		
Group 2	8.38	.67	.55		
Group 3	8.46	.67	.55		
Group 4	8.58	.67	.55		
Group 5	8.63	.67	.55		
Group 6	8.73	.67	.55		
Group 7	8.83	.67	.55		
Group 8	8.97	.67	.55		
Group 9	9.12	.67	.55		

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # NC76-1019 - Mod. # 4 (41 FR-4796 - January 30, 1976) Carteret, Craven, Jones, Lenior, Onslow, and Pamlico Counties, North Carolina					
Change:					
Laborers:					
Laborers	2.90				
Truck drivers	2.90				
Sprinkler fitters (Carteret County)	8.25	.75	1.05		.08
Decision # NC76-1024 - Mod. # 3 (41 FR-6945 - February 13, 1976) Cumberland County, North Carolina					
Change:					
Sprinkler fitters	8.25	.75	1.05		.08
Decision # NC76-1042 - Mod # 2 (41 FR-11721 - March 19, 1976) Camden, Currituck, Dare, Pasquotank, Perquimans, and Tyrell Counties, North Carolina					
Change:					
Laborers:					
Laborers	2.90				
Truck drivers	2.90				
Decision # NC76-1046 - Mod. # 3 (41 FR-15231 - April 9, 1976) Edgecombe, Greene, Johnston, Nash, and Wilson Counties, North Carolina					
Change:					
Laborers:					
Laborers	2.90				
Sprinkler fitters (Wilson County)	8.25	.75	1.05		.08
Omit:					
Laborers:					
Plasterers' tenders	2.75				

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # NC76-1068 - Mod. # 4 (41 FR-22011 - May 28, 1976) Wilkes County, North Carolina					
Change:					
Laborers:					
Laborers	2.90				
Mason tenders	2.90				
Sprinkler fitters	8.25	.75	1.05		.08
Decision # NC76-1073 - Mod. # 1 (41 FR-28469 - July 9, 1976) Craven, Carteret, Duplin, Green, Johnson, Jones, Lenior, Onslow, Pamlico, and Wayne Counties, North Carolina					
Change:					
Laborers:					
Laborers	2.90				
Decision # NC76-1094 - Mod. # 1 (41 FR-37506 - September 3, 1976) Chatham, Cumberland, Harnett, Hoke, Lee, Moore, and Sampson Counties, North Carolina.					
Change:					
Laborers:					
Laborers	2.90				
Truck drivers	2.90				
Omit:					
Power Equipment Operators:					
Tractors	2.80				
Decision # NC76-1109 - Mod. # 1 (41 FR-42128 - September 24, 1976) Beaufort, Bertie, Chowan, Dare, Edgecombe, Franklin, Halifax, Hertford, Martin, Nash, Northampton, Pitt, Vance, Warren, and Wilson Counties, North Carolina					
Change:					
Laborers:					
Laborers	2.90				

MODIFICATIONS P. 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # NC77-1012 - Mod. # 2 (42 FR-12662 - March 4, 1977) Avery, Mitchell, and Watauga Counties, North Carolina.					
Change:					
Laborers	2.90				
Decision # NC77-1014 - Mod. # 2 (41 FR-7065 - February 4, 1977) Burke County, North Carolina					
Change:					
Laborers	2.90				
Decision # NC77-1018 - Mod. # 2 (42 FR-8979 - February 11, 1977) Burke, Catawba, Cleveland, Lincoln, Polk, and Rutherford Counties, North Carolina					
Change:					
Laborers:					
Laborers	2.90				
Truck drivers	2.90				
Omit:					
Ironworkers, reinforcing	2.82				
Laborers:					
Mason tenders	2.73				
Mortar mixers	2.65				
Decision # NC77-1046 - Mod. # 2 (42 FR-18778 - April 8, 1977) Durham County, North Carolina					
Change:					
Sprinkler fitters	8.25	.75	1.05		.08

MODIFICATIONS P. 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # NC77-1076 - Mod. # 1 (42 FR-30079 - June 10, 1977) Alexandria, Alleghany, Ashe, Caldwell, Watauga, and Wilkes Counties, North Carolina					
Change:					
Laborers	2.90				
Decision # NC77-1145 - Mod. # 3 (42 FR-59719 - November 18, 1977) Baldwin, Columbus, Richmond, Robeson, and Scotland Counties, North Carolina					
Change:					
Laborers:					
Laborers	2.90				
Truck drivers	2.90				
Omit:					
Insulation installer	2.75				
Laborers:					
Asphalt raker	2.68				
Power Equipment Operators:					
Tractor	2.65				
Decision # NC78-1027 - Mod. # 2 (43 FR-12602 - March 24, 1978) Gaston, Lincoln, Mecklenburg, and Union Counties, North Carolina					
Change:					
Sprinkler fitters (Mecklenburg and Union Counties)	8.25	.75	1.05		.08
Decision # NC78-1035 - Mod. # 1 (43 FR-16095 - April 14, 1978) Chatham, Harnett, Lee, and Moore Counties, North Carolina					
Change:					
Laborers:					
Laborers	2.90				
Sprinkler fitters (Chatham and Lee Counties)	8.25	.75	1.05		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # NC78-1036 - Mod. # 1 (43 FR-16095 - April 14, 1978) Guilford County, North Carolina					
Change:					
Sprinkler fitters	8.25	.75	1.05		.08
Decision # NC78-1037 - Mod. # 1 (43 FR-16096 - April 14, 1978) New Hanover County, North Carolina					
Change:					
Laborers:					
Laborers	2.90				
Sprinkler fitters	8.25	.75	1.05		.08
DECISION NO. OK79-4017 - Mod.#1 (44 FR 1664 - January 5, 1979) Comanche County, Oklahoma					
CHANGE:					
PAINTERS, brush	$6.00		.25	.70	.85

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #UT78-5128 - Mod. #4 (43 FR 46480 - October 6, 1978) Statewide Utah					
Change:					
Boilermakers	$12.56	$1.075	$1.00	$1.00	.03
Electricians:					
South section of Utah (Remaining Counties):					
Zone 1: Davis County (south of 41st Parallel); Salt Lake County; Tooele County (northeast corner beginning at a point where the township line between Township 3 south and Township 4 south, Salt Lake Base Meridian, intersects the east boundary line of Tooele County and thence west along said township line to the southwest corner of Section 32, Township 3 south, Range 4 west, Salt Lake Base Meridian, thence north to the northwest corner of Section 17 of Township 3 south, Range 4 west, thence west to longitude 112.5°, thence north along the line of longitude 112.5° to the north line of Tooele County); Utah County (north of 40th Parallel):					
Area A: Ten miles either direction (east or west) from Interstate Hwy. #15, bounded on the north by the 41st Parallel and on the south by the 40th Parallel:					
Electricians:					
Technicians	$12.00	.70	3% + .75		8/10%
Cable Splicers	12.50	.70	3% + .75		8/10%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #UT78-5128 (Cont'd):					
Change (Cont'd):					
Electricians (Cont'd):					
South section of Utah (Remaining Counties) (Cont'd):					
Zone 1(Cont'd):					
Area B: The balance of Zone 1 that lies in Davis, Salt Lake, Utah Counties:					
Electricians; Technicians	$12.75	.70	3% + .75		8/10%
Cable Splicers	13.25	.70	3% + .75		8/10%
Area C: That portion of the remainder of Zone 1 that lies in Tooele County:					
Electricians; Technicians	13.50	.70	3% + .75		8/10%
Cable Splicers	14.00	.70	3% + .75		8/10%
Zone 2: Remainder of Counties and all portions of Counties not included in Zone 1 of south section of Utah:					
Electricians; Technicians	15.50	.70	3% + .75		8/10%
Cable Splicers	16.00	.70	3% + .75		8/10%
Marble Setters	10.92	.37	.30		
Terrazzo Workers and Tile Layers	10.92	.37	.30		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #WI78-2108 - MOD #1 (43 FR 49215 - October 20, 1978) Statewide, Wisconsin					
CHANGE:					
AREA I - KENOSHA, MILWAUKEE, OZAUKEE, RACINE, WASHINGTON, & WAUKESHA COUNTIES					
POWER EQUIPMENT OPERATORS: HEAVY, TUNNEL & SEWER CONSTRUCTION					
Group I	$11.42	.85	1.00		.10
Group II	11.17	.85	1.00		.10
Group III	10.87	.85	1.00		.10
Group IV	10.77	.85	1.00		.10
Group V	10.41	.85	1.00		.10
Group VI	10.12	.85	1.00		.10

GROUP I - Cranes; Shovels; Draglines; Backhoes; Clamshells; Derricks; Caisson Rigs; Dredge Operator and Traveling Crane (Bridge Type); Concrete Paver (Over 27E); Concrete Spreader and Distributer.

GROUP II - Material Hoists; Stack Hoists; Tractor or Truck Mounted Hydraulic Backhoe; Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under); Manhoist; Tractor, Bulldozer, Endloader (Over 40 H.P.); Forklift (25' and Over); Motor Patrol; Scraper Operator; Sideboom; Straddle Carrier; Mechanic and Welder; Bituminous Plant and Paver; Roller (Over 5 Tons); Rotary Drill and Blaster; Trencher (Wheel Type or Chain Type Having Over 8-Inch Bucket); Elevator.

GROUP III - Concrete and Grout Pumps; Backfiller; Concrete Auto Breaker (Large); Concrete Finishing Machines (Road Type); Roller (Rubber Tire); Concrete Batch Hopper; Concrete Conveyor Systems; Concrete Mixers (14S or Over); Screw Type and Gypsum Pumps; Tractor, Bulldozer, Endloader (Under 40 H.P.); Pumps (Well Points); Trencher (Chain Type Having Bucket 8-Inch and Under); Industrial Locomotives; Roller (Under 5 Tons) and Firemen (Pile Drivers and Derricks).

GROUP IV - Hoists (Automatic); Forklift (12' to 25'); Tampers-Compactors (Riding Type); Assistant Engineer; "A" Frames and Winch Trucks; Concrete Auto Breaker; Hydrohammers (Small); Brooms and Sweepers; Hoists (Tuggers); Stump Chipper (Large); Boats (Tug, Safety, Work Barges and Launch).

GROUP V - Shouldering Machine Operator; Screed Operator; Farm or Industrial Tractor Mounted Equipment; Post Hole Digger; Stone Crushers and Screening Plants; Fireman (Asphalt Plants); Air Compressor (300 CFM or Over); Augers (Vertical and Horizontal); Air, Electric, Hydraulic Jacks (Slip Form); Prestress Machines; Bobcats; Boiler Operators (Temporary Heat); Forklift (12'and Under).

GROUP VI - Generators Over 150 KW; Pumps Over 3"; Combination Small Equipment Operator; Compressors (Under 300 CFM); Welding Machines; Heaters (Mechanical); Generators (Under 150 KW); Pumps (3" and Under); Winches (Small Electric); Oiler and Greaser; Rotary Drill Helper, Conveyor.

MODIFICATIONS P. 15

DECISION #WI78-2108 - MOD #1 (Cont'd)

CHANGE: AREA II - REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS HEAVY, TUNNEL & SEWER CONSTRUCTION					
Group I	$11.37	.85	.80		.10
Group II	11.12	.85	.80		.10
Group III	10.82	.85	.80		.10
Group IV	10.72	.85	.80		.10
Group V	10.41	.85	.80		.10
Group VI	10.12	.85	.80		.10

GROUP I - Cranes; Shovels; Draglines; Backhoes; Clamshells; Derricks; Caisson Rigs; Dredge Operator and Traveling Crane (Bridge Type); Concrete Paver (Over 27E); Concrete Spreader and Distributor.

GROUP II - Material Hoists; Stack Hoists; Tractor or Truck Mounted Hydraulic Backhoe; Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under); Manhoist; Tractor, Bulldozer, Endloader (Over 40 H.P.); Forklift (25' and Over); Motor Patrol; Scraper Operator; Sideboom; Straddle Carrier; Mechanic and Welder; Bituminous Plant and Paver; Roller (Over 5 Tons); Rotary Drill and Blaster; Trencher (Wheel Type or Chain Type Having Over 8-Inch Bucket); Elevator.

GROUP III - Concrete and Grout Pumps; Backfiller; Concrete Auto Breaker (Large); Concrete Finishing Machines (Road Type); Roller (Rubber Tire); Concrete Batch Hopper; Concrete Conveyor Systems; Concrete Mixers (14S or Over); Screw Type and Gypsum Pumps; Tractor, Bulldozer, Endloader (Under 40 H.P.); Pumps (Well Points); Trencher (Chain Type Having Bucket 8-Inch and Under); Industrial Locomotives; Roller (Under 5 Tons) and Firemen (Pile Drivers and Derricks).

GROUP IV - Hoists (Automatic); Forklift (12' to 25'); Tampers-Compactors (Riding Type); Assistant Engineer; "A" Frames and Winch Trucks; Concrete Auto Breaker; Hydrohammers (Small); Brooms and Sweepers; Hoists (Tuggers); Stump Chipper (Large); Boats (Tug, Safety, Work Barges and Launch).

GROUP V - Shouldering Machine Operator; Screed Operator; Farm or Industrial Tractor Mounted Equipment; Post Hole Digger; Stone Crushers and Screening Plants; Fireman (Asphalt Plants); Air Compressor (300 CFM or Over); Augers (Vertical and Horizontal); Air, Electric, Hydraulic Jacks (Slip Form); Prestress Machines; Bobcats; Boiler Operators (Temporary Heat); Forklift (12' and Under).

GROUP VI - Generators Over 150 KW; Pumps Over 3"; Combination Small Equipment Operator; Compressors (Under 300 CFM); Welding Machines; Heaters (Mechanical); Generators (Under 150 KW); Pumps (3" and Under); Winches (Small Electric); Oiler and Greaser; Rotary Drill Helper, Conveyor.

MODIFICATIONS P. 16

DECISION #WI78-2110 - MOD #1
(43 FR 49222 - October 20, 1978)
Ashland, Bayfield and Douglas Counties, Wisconsin

CHANGE: POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group I	$11.37	.85	.80		.10
Group II	11.12	.85	.80		.10
Group III	10.82	.85	.80		.10
Group IV	10.72	.85	.80		.10
Group V	10.41	.85	.80		.10
Group VI	10.12	.85	.80		.10

GROUP I - Cranes; Shovels; Draglines; Backhoes; Clamshells; Derricks; Caisson Rigs; Dredge Operator and Traveling Crane (Bridge Type); Concrete Paver (Over 27E); Concrete Spreader and Distributor.

GROUP II - Material Hoists; Stack Hoists; Tractor or Truck Mounted Hydraulic Backhoe; Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under); Manhoist; Tractor, Bulldozer, Endloader (Over 40 H.P.); Forklift (25' and Over); Motor Patrol; Scraper Operator; Sideboom; Straddle Carrier; Mechanic and Welder; Bituminous Plant and Paver; Roller (Over 5 Tons); Rotary Drill and Blaster; Trencher (Wheel Type or Chain Type Having Over 8-Inch Bucket); Elevator.

GROUP III - Concrete and Grout Pumps; Backfiller; Concrete Auto Breaker (Large); Concrete Finishing Machines (Road Type); Roller (Rubber Tire); Concrete Batch Hopper; Concrete Conveyor Systems; Concrete Mixers (14S or Over); Screw Type and Gypsum Pumps; Tractor, Bulldozer, Endloader (Under 40 H.P.); Pumps (Well Points); Trencher (Chain Type Having Bucket 8-Inch and Under); Industrial Locomotives; Roller (Under 5 Tons) and Firemen (Pile Drivers and Derricks).

GROUP IV - Hoists (Automatic); Forklift (12' to 25'); Tampers-Compactors (Riding Type); Assistant Engineer; "A" Frames and Winch Trucks; Concrete Auto Breaker; Hydrohammers (Small); Brooms and Sweepers; Hoists (Tuggers); Stump Chipper (Large); Boats (Tug, Safety, Work Barges and Launch).

GROUP V - Shouldering Machine Operator; Screed Operator; Farm or Industrial Tractor Mounted Equipment; Post Hole Digger; Stone Crushers and Screening Plants; Fireman (Asphalt Plants); Air Compressor (300 CFM or Over); Augers (Vertical and Horizontal); Air, Electric, Hydraulic Jacks (Slip Form); Prestress Machines; Bobcats; Boiler Operators (Temporary Heat); Forklift (12' and Under).

GROUP VI - Generators Over 150 KW; Pumps Over 3"; Combination Small Equipment Operator; Compressors (Under 300 CFM); Welding Machines; Heaters (Mechanical); Generators (Under 150 KW); Pumps (3" and Under); Winches (Small Electric); Oiler and Greaser; Rotary Drill Helper, Conveyor.

MODIFICATIONS P. 17

DECISION #WI78-2121 - MOD #1
(43 FR 49230 - October 20, 1978)
Columbia, Dane, Iowa & Sauk Counties, Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD: ROOFERS	$11.07				
CHANGE: POWER EQUIPMENT OPERATORS:					
GROUP I	11.37	.85	.80		.10
GROUP II	11.12	.85	.80		.10
GROUP III	10.82	.85	.80		.10
GROUP IV	10.72	.85	.80		.10
GROUP V	10.41	.85	.80		.10
GROUP VI	10.12	.85	.80		.10

GROUP I - Cranes; Shovels; Draglines; Backhoes; Clamshells; Derricks; Caisson Rigs; Dredge Operator and Traveling Crane (Bridge Type); Concrete Paver (Over 27E); Concrete Spreader and Distributor.

GROUP II - Material Hoists; Stack Hoists; Tractor or Truck Mounted Hydraulic Backhoe; Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under); Manhoist; Tractor, Bulldozer, Endloader (Over 40 H.P.); Forklift (25' and Over); Motor Patrol; Scraper Operator; Sideboom; Straddle Carrier; Mechanic and Welder; Bituminous Plant and Paver; Roller (Over 5 Tons); Rotary Drill and Blaster; Trencher (Wheel Type or Chain Type Having Over 8-Inch Bucket); Elevator.

GROUP III - Concrete and Grout Pumps; Backfiller; Concrete Auto Breaker (Large); Concrete Finishing Machines (Road Type); Roller (Rubber Tire); Concrete Batch Hopper; Concrete Conveyor Systems; Concrete Mixers (14S or Over); Screw Type and Gypsum Pumps; Tractor, Bulldozer, Endloader (Under 40 H.P.); Pumps (Well Points); Trencher (Chain Type Having Bucket 8-Inch and Under); Industrial Locomotives; Roller (Under 5 Tons) and Firemen (Pile Drivers and Derricks).

GROUP IV - Hoists (Automatic); Forklift (12' to 25'); Tampers-Compactors (Riding Type); Assistant Engineer; "A" Frames and Winch Trucks; Concrete Auto Breaker; Hydrohammers (Small); Brooms and Sweepers; Hoists (Tuggers); Stump Chipper (Large); Boats (Tug, Safety, Work Barges and Launch).

GROUP V - Shouldering Machine Operator; Screed Operator; Farm or Industrial Tractor Mounted Equipment; Post Hole Digger; Stone Crushers and Screening Plants; Fireman (Asphalt Plants); Air Compressor (300 CFM or Over); Augers (Vertical and Horizontal); Air, Electric, Hydraulic Jacks (Slip Form); Prestress Machines; Bobcats; Boiler Operators (Temporary Heat); Forklift (12' and Under).

GROUP VI - Generators Over 150 KW; Pumps Over 3"; Combination Small Equipment Operator; Compressors (Under 300 CFM); Welding Machines; Heaters (Mechanical); Generators (Under 150 KW); Pumps (3" and Under); Winches (Small Electric); Oiler and Greaser; Rotary Drill Helper, Conveyor.

SUPERSEDEAS DECISION

STATE: Alabama COUNTY: Statewide
DECISION NUMBER: AL79-1001 DATE: Date of Publication
Supersedes Decision No.: AL78-1003, dated February 3, 1978 in 43 FR-4805
DESCRIPTION OF WORK: Highway construction (does not include bridges over navigable waters; tunnels; building structures in rest area projects and railroad construction)

	ZONE 1 Basic Hourly Rates	ZONE 2 Basic Hourly Rates	ZONE 3 Basic Hourly Rates	ZONE 4 Basic Hourly Rates
Bricklayers	3.65	3.65	3.25	3.00
Carpenters	4.50	4.25	4.50	4.25
Concrete finishers	4.00	3.60	3.60	3.60
Concrete saw	2.90	2.90	2.90	2.90
Electricians	10.65a	7.90	10.65a	5.80
Ironworkers:				
Structural	5.80	5.80	5.80	5.80
Reinforcing	4.50	5.70	4.50	4.50
Laborers:				
Air tool operators	2.90	2.90	2.90	2.90
Asphalt rakers	3.35	3.30	3.50	3.10
Concrete laborers	3.25	3.00	3.00	2.90
Pipelayers	3.45	3.25	3.25	2.90
Powderman and blasters	3.50	3.50	3.50	3.50
Saw	3.50	3.50	2.90	2.90
Side rail or form setters	3.50	3.50	3.05	3.05
Unskilled	2.90	2.90	2.90	2.90
Wagon drill	3.00	3.00	3.00	3.00
Painters	5.75	5.75	5.50	5.50
Piledrivermen	5.00	5.00	4.80	4.80
Truck Drivers:				
Under 1½ tons	2.90	2.90	2.90	2.90
Single rear axle	2.90	2.90	2.90	2.90
Multi-rear axle or heavy duty, off road, single axle	3.00	3.25	2.90	2.90
Winch truck and A-Frame	3.70	3.25	3.25	3.25
Welders - Receive rate for craft				
POWER EQUIPMENT OPERATORS:				
Aggregate spreader operator	3.45	3.45	2.45	3.45
Air compressors	3.25	2.15	2.90	2.90
Asphalt distributor and asphalt spreader	3.90	3.90	3.90	3.90
Asphalt mixers and pug mills & batch plants	3.30	3.44	3.30	3.30

	ZONE 1	ZONE 2	ZONE 3	ZONE 4
POWER EQUIPMENT OPERATORS CONT'D:	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Asphalt paving machine	3.85	3.85	3.85	3.85
Asphalt plant driers	3.30	3.44	3.30	3.30
Bulldozers	4.95	4.30	4.50	3.85
Bull floats	3.15	3.44	3.15	3.15
Concrete mixers (3-bags and under)	2.90	3.44	2.90	2.90
Concrete mixers (over 3-bags)	3.75	3.60	3.30	3.30
Concrete paving machine	3.30	3.60	3.30	3.30
Concrete paving finishing machine	3.30	3.60	3.30	3.30
Concrete paving spreaders	3.30	3.60	3.30	3.30
Cranes, clamshells, backhoes dericks, draglines or shovels	4.95	4.95	4.95	4.75
Conveyors	2.90	3.13	2.90	2.90
Crusher and screening plants	3.30	3.44	3.30	3.30
Drilling machines	4.00	4.00	4.00	4.00
Elevating graders, gradalls or trenching	4.95	4.00	4.75	3.60
Firemen	2.90	3.15	2.90	2.90
Form graders	2.90	2.90	2.90	2.90
Hoist (2-drums or 2-cages or more)	3.30	3.60	3.30	3.30
Hoist (1 drum)	3.25	3.44	3.15	3.15
Mechanics	5.00	5.15	5.00	4.00
Motor patrols	5.00	5.00	5.00	5.00
Oilers and greasemen	3.90	3.85	4.00	3.60
Paving subgraders	3.15	3.15	3.15	3.15
Piledrivers	4.55	4.85	3.66	4.85
Pumps	2.90	2.90	2.90	2.90
Pumpcretes	3.15	3.15	3.15	3.15
Rollers, self-propelled	3.55	3.50	3.30	3.50
Rollers, self-propelled (on asphalt bases and pavements)	4.00	4.00	4.00	3.60
Scale operators	2.90	2.90	2.90	2.90
Scalemen	2.90	2.90	2.90	2.90
Scrapers	4.75	3.70	3.70	3.70
Seeding and mulching machines	2.90	3.35	2.90	2.90
Striping machines (paint)	3.40	3.40	3.30	3.30
Tractors and loaders (farm rubber tired)	3.10	3.35	3.00	2.90
Tractor & Loaders (80 H.P. or less)(draw-bar capacity)	3.10	3.40	3.00	3.00
Tractors and loaders (over 80 H.P.)	4.00	4.00	4.00	4.00

COUNTIES:

ZONE 1 - Jefferson

ZONE 2 - Mobile

ZONE 3 - Calhoun, Etowah, St. Clair, Shelby, Talladega, Tuscaloosa and Walker

ZONE 4 - Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Chambers, Cherokee, Chilton, Choctaw, Clark, Clay, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Cleburne, Dale, Dallas, DeKalb, Elmore, Escambia, Fayette, Franklin, Geneva, Greene, Hale, Henry, Houston, Jackson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, Sumter, Tallapoosa, Washington, Wilcox, and Winston Counties, Alabama.

FOOTNOTES:

a. Plus fringe benefits of 55¢ Health and Welfare, 3% +.40 Pension and .5% Apprentice Training.

SUPERSEDEAS DECISIONS

STATE: Alabama COUNTIES: *See below

DECISION NUMBER: AL 79-1004 DATE: Date of Publication

Supersedes Decision No.: AL78-1004 dated February 3, 1978 in 43 FR-4807

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

*Counties: Colbert & Lauderdale

	Basic Hourly Rates	Fringe Benefits Payments H&W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.51	.45	.40		.05
Boilermakers	10.005	.95	1.00		.02
Bricklayers:					
Bricklayers, blocklayers, stonemasons	10.885				
Saw operator	11.105				
Carpenters:					
Carpenters, soft floor layers	10.30		.25		.10
Piledrivermen	10.45		.25		.10
Millwrights	10.55		.25		.10
Cement masons:					
Cement masons	9.01	.25			
Power tool operators	9.26	.25			
Electricians:					
Electricians	10.60	.50	3%+.45		1%
Cable splicers	10.85	.50	3%+.45		1%
Elevator constructors	9.14	.495	.32	4%+a+b	.02
Ironworkers	9.805	.70	.70		.08
Laborers:					
Common	6.30	.35	.50		
Air tool operator (jackhammer, Vibrator)	6.50	.35	.50		
Plastorers' tenders	6.30	.35	.50		
Mason tenders	6.30	.35	.50		
Mortar mixers	6.30	.35	.50		
Pipelayers	6.50	.35	.50		
Painters:					
Commercial	8.25	.40	.25		.05
Industrial	9.00	.40	.25		.05
Plasterers	8.66	.25			
Plumbers, steamfitters	10.70	.50	.60		.08
Roofers	8.35		.20		.10
Sheet metal workers	11.05	.69	.82		.09
Sprinkler fitters	10.35	.65	.95		.08

Welders - receive rate prescribed for craft performing operation t which welding is incidental.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. 6 paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

AL79-1004 - (Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	10.58	.45	.45		
GROUP B	9.24	.45	.45		
GROUP C	8.52	.45	.45		

GROUP A - Backhoe, bulldozer, crane, crane car, central mixing plant, concrete pump, derrick, dragline, dredge, drill, elevating grader, finishing machine (concrete), forklift, front end loader, gradall, grout pump, helicopter pilot, hoist, locomotive engineer, mechanic, motor patrol, mucking machine, piledriver, post hole digger, scraper (pull type & self prop.) shovel, sweeper, tractor (spec. equip.), trenching machine, well point & winch truck operators

GROUP B - Bituminous dist., central air comp., concrete mixer (port.) fireman floating equip., front end loader, rubber tire, ½ cu. yd. & under, locomotive brakeman, locomotive flagman, locomotive switchman, oiler-driver (35 ton crane & over) outboard motor boat (when used for towing), paving machine, portable hoist "Buck hoist type", post hole digger mounted on farm type tractor & walk behind type trenching machine operators

GROUP C - Air compressor (port.), conveyor, fireman stationery equip., oiler, outboard motor boat & pump operators

Oiler driver - additional $ .10 per hour

All cranes, derricks & gantry operators operating such equipment with an overall height of 150', including jibs; all scraper operators (in tandem) additional $.25 per hour.

SUPERSEDEAS DECISION

STATE: Florida COUNTY: Duval
DECISION NUMBER: FL79-1017 DATE: Date of Publication
Supersedes Decision No.: FL78-1043 dated April 14, 1978 in 43 FR 16043.
DESCRIPTION OF WORK: Building Construction (does not include single family homes or garden type apartments of four stories or less).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.29	.45	.55		.08
BOILERMAKERS	11.00	.75	1.10		.02
BRICKLAYERS & Stonemasons	9.27	.45	.50		.06
CARPENTERS, Acoustical ceiling, & Drywall Installers	9.17	.62	.50		.05
CEMENT MASONS	7.96	.45	.40		.01
ELECTRICIANS:					
Wiremen	10.00	.50	3% + .81	.81	.07
Cable Splicers	10.35	.50	3% + .81	.81	.07
ELEVATOR CONSTRUCTORS:					
Mechanics	9.785	.745	.56	4% +a&b	.025
Helpers	6.85	.745	.56	4%+a&b	.025
Probationary Helpers	4.89				
GLAZIERS	8.00		.20		
IRONWORKERS	9.20	.65	.85		.02
LABORERS:					
Gunnite workers, Mechanical Tool Operators, Power Buggy Operators, & Pipelayers	5.64	.20	.20		
Unskilled	5.57	.20	.20		
LATHERS	7.85	.25	.10		.025
LINEMEN:					
Linemen	9.45	.66	3% + .88	.45	.10
Cable Splicers	9.65	.66	3% + .88	.45	.10
Heavy Equipment Operators	9.20	.66	3% + .88	.45	.10
Winch Truck Operators	7.32	.66	3% + .88	.45	.10
Groundmen - 1st Class	5.10	.35	3% + .47	.45	.10
Groundmen - 2nd Class	4.68	.33	3% + .47	.45	.10
MILLWRIGHTS	9.58	.62	.50		.05
PAINTERS	8.70	.40	.60		
PILEDRIVERS	9.17	.52	.50		.05
PLASTERERS	7.33	.40	.30		.05
PLUMBERS, Pipefitters, & Steamfitters	10.95	.55	.55		.08

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NOTICES

FL79-1017 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:	$9.16	.50	.25		.075
Roofers	6.84	.50	.25		.025
Kettlemen	9.48	3% + 85	.66		.12
SHEET METAL WORKERS	9.17	.62	.50		.05
SOFT FLOOR LAYERS	10.61	.75	1.05		.10
SPRINKLER FITTERS	7.29	.40	.50		.02
TILE & TERRAZZO WORKERS					
WELDERS - Rate for craft to which welding is incidental					

PAID HOLIDAYS: (Where Specified)

A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

FL79-1017 (cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	9.68	.55	.40		.05
GROUP II	8.50	.55	.40		.05
GROUP III	6.41	.55	.40		.05

GROUP I

Crane or derrick operator, clam shell operator, dragline operator, piledriver operator including Auger & Boring Machine operator for drilling in piling, backhoe operator, hydra crane operator, grade all operator, shovel operator, patrol operator, cable ways operator, tug boat captain (150 H.P. or more), multi-bowl operator (similar to R.G. LaTourneau Model L-60-2 or 3 twenty cubic yard scrapers), side boom cat operator, multi-drum hoist operator for rigging work, mechanic (heavy equipment), tower crane operator (stationary, climbing, and traveling), gantry crane operator, locomotive crane operator, bridge crane operator (over 20 ton capacity), concrete pump with boom (mobile) operator, high lift or fork lift operator (10' or higher), locomotive engineer (for job use that does not infringe upon the rights of Railroad Unions)

GROUP II

Bulldozer operator, bridge crane operator (20 tons & under), highlift or Forklift operator (less than 10'), straddle buggy operator, hoist operator (other than rigging work) including winch truck operator where winch truck is not mobile and used as a hoist, trenching machine operator (ladder & wheel type) over 6' cut and over 24" in width, concrete paver operator, scraper operator, front end loader operator, fireman-floating equipment, mobile winch truck operator, self propelled sub-grader operator, asphalt paving machine operator, lubricating engineer (mobile plant), pavement breaker operator

GROUP III

Tractor operated sweeper operator, trenching machine operator (ladder and wheel type) maximum cut 6' and maximum width 24", fireman, self propelled roller operators, wellpoint pump operator & supervise installation (one operator for 3 pumps, not including standby units, within 300 ft radius), asphalt distributor operator, water truck drive, motor boat operator, oiler, pumpman (other than wellpoint) up to and including pumps within 300 ft radius, conveyors operator (motor operated), welding machine operator (3 or more combustion type), pulver mixer operator, compressor operator (from 1 up to and including 3 compressors) within 300 ft. radius, self propelled sweeper operator, combination pump, compressor & combustion type welding machine operator (any group of 3 units) with 300 ft radius, concrete mixer operator, concrete pump operator, tractor operator, street sweeping machine operator.

5005

NOTICES

SUPERSEDEAS DECISION

STATE: INDIANA
DECISION NUMBER: IN79-2002
Supersedes Decision Nos. IN78-2029 dated March 24, 1978 in 43 FR 12581 and IN78-2051 dated March 24, 1978 in 43 FR 12589

COUNTIES: *SEE BELOW
DATE: Date of Publication

DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories).

*Adams, Allen, Bartholomew, Benton, Blackford, Boone, Carroll, Cass, Clinton, DeKalb, Delaware, Fountain, Fulton, Grant, Hamilton, Hancock, Hendricks, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Monroe, Montgomery, Morgan, Noble, Shelby, Steuben, Tippecanoe, Tipton, Wabash, Warren, Wells, White, & Whitley

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Adams, Allen, Blackford, Clinton, DeKalb, Grant, Huntington, Jay, Miami, Noble, Steuben, Wabash, & Wells Cos.	$12.60	.55	1.25		
Cass, Fulton, & White Cos.	12.13	.65	.90		
Remaining Cos.	12.15	.50	1.20		.01
BOILERMAKERS	12.55	.80	1.00		.03
BRICKLAYERS; Caulkers; Cleaners; Pointers; & Stonemasons:					
Adams, Allen, DeKalb, Huntington, Noble, Steuben, Wells, & Whitley Cos.	11.34	.45	.30		.01
Bartholomew & Monroe Cos.	11.05	.50	.30		.02
Benton, Carroll, Clinton, Fountain, Tippecanoe, Warren, & White Cos.	11.24	.48	.60		.02
Blackford, Delaware, Hamilton, Jay, Madison, & Tipton Cos.	10.80	.50	.75		.01
Boone, Hancock, Hendricks, Johnson, Marion, Montgomery, & Morgan Cos.	11.74	.50	.55		.08
Cass & Fulton Cos.	9.20	1.00	.30		
Grant & Wabash Cos.	10.48	.85	.50		
Howard & Miami Cos.	9.60	.75	.80		.04
Shelby Co.	10.00				
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers:					
Adams, Cass, Fulton, Grant, Howard, Huntington, Miami, Tipton, Wabash, & Wells Cos.:					
Carpenters; Soft floor layers	10.23	.80	.60		.05
Millwrights	10.73	.80	.60		.05
Piledrivermen	10.43	.80	.60		.05
Allen, DeKalb, Noble, Steuben, & Whitley Cos.:					
Carpenters; Soft floor layers	10.89	6%a			.08
Millwrights; Piledrivermen	11.22	6%a			.08

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bartholomew (Camp Atterbury), Boone, Fountain, Hamilton, Hancock, Hendricks, Johnson (excl. Edinburgh), Marion, Montgomery, Morgan (Excl. Twps. of Washington & Baker), Shelby (Camp Atterbury Area, Moral, & Van Buren Twps.), & Warren Cos.:					
Carpenters; Millwrights	$12.40	.70	.75		.08
Bartholomew (Rem. of Co.), Johnson (Edinburgh), & Shelby (Rem. of Co.) Cos.:					
Carpenters; Soft floor layers	10.49	.55	.65		.03
Millwrights	10.99	.55	.65		.03
Piledrivermen; Burners; & Welders	10.74	.55	.65		.03
Benton, Carroll, Clinton, Tippecanoe, & White Cos.:					
Carpenters; Soft floor layers	10.71	.60	.75		.02
Millwrights; Piledrivermen	11.06	.60	.75		.02
Blackford, Delaware, Jay, & Madison Cos.:					
Carpenters; Soft floor layers	10.70	.60	.45		.08
Millwrights	11.00	.60	.45		.08
Piledrivermen	10.90	.60	.45		.08
Monroe, Morgan (Twps. of Washington & Baker) Cos.:					
Carpenters; Soft floor layers	11.10	.66	.55		.01
Piledriverman	11.35	.66	.55		.01
Millwrights	11.85	.71	.59		.01
CEMENT MASONS:					
Adams, Allen, DeKalb, Noble, Steuben, & Whitley Cos.	10.50	.75			.01
Benton, Carroll, Cass, Clinton, Fountain, Howard, Miami, Montgomery, Tippecanoe, Warren, & White Cos.	10.00	.60	.75		
Blackford, Delaware, Grant, Huntington, Jay, Wabash, & Wells Cos.	9.95	.60	.80		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Boone, Hamilton (S. ½ of Co., N. to new Rte. Indiana Hwy #32 incl. Noblesville), Hancock (Southern & western part of Co. N. to but not incl. town of Wilkinson, & E. to, but not incl. town of Fortville), Hendricks, Johnson, Marion, Morgan (N ½), & Shelby (ending at Pleasant View) Cos.	10.36	.70	.75		.04
ELECTRICIANS:					
Adams, Allen, DeKalb, Huntington, Noble, Steuben, Wells, & Whitley Cos.	12.35	.50	3%+.40		.06
Bartholomew, Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Montgomery, Morgan, & Shelby Cos.	12.80	4%	7%		3%
Benton, Carroll, Cass, Fulton, Tippecanoe, & White Cos.	12.40	.50	3%		3%
Blackford, Delaware, & Jay Cos.	11.95	.50	3%+.30		.2%
Clinton, Grant, Howard, Miami, Tipton, & Wabash Cos.	11.85	.50	3%+.40		.2%
Fountain & Warren Cos.	11.42	.50	3%+.50		.25%
Monroe Co.	12.10	.50	3%+.50		.01
ELEVATOR CONSTRUCTORS:					
Adams, Allen, Blackford, DeKalb, Grant, Huntington, Jay, Noble, Steuben, Wabash, Wells, & Whitley Cos.:					
Elevator constructors	10.91	.7+5	.56	b+a	.035
Helpers	70%JR	.7+5	.56	b+a	.035
Helpers (Prob.)	50%JR				
Cass & Fulton Cos.:					
Elevator constructors	10.83	.7+5	.56	b+a	.035
Helpers	70%JR	.7+5	.56	b+a	.035
Helpers (Prob.)	50%JR				
Remaining Cos.:					
Elevator constructors	11.285	.7+5	.56	b+a	.035
Helpers	70%JR	.7+5	.56	b+a	.035
Helpers (Prob.)	50%JR				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
Adams, Allen, Blackford, Cass, DeKalb, Grant, Huntington, Jay, Miami, Noble, Steuben, Wabash, Wells, & Whitley Cos.	$10.79		.25	.40+d	.04
Remaining Cos.	13.29				
IRONWORKERS:					
Adams, Allen, Blackford, DeKalb, Delaware (Northeastern 1/3 of Co.), Grant (Excluding Southwestern portion), Huntington, Jay, Noble, Steuben, Wabash, Wells, & Whitley Cos.	11.80	.90	1.45		.02
Bartholomew, Boone (excl. NW ¼), Clinton (E ½), Delaware (S 2/3 of Co.), Grant (SW portion), Hamilton, Hancock, Hendricks, Howard, Johnson, Madison, Monroe, Morgan, Shelby, & Tipton (excl. NW ¼) Cos.	11.55	.90	1.70		.05
Benton, Boone (NW ¼), Carroll, Cass, Clinton (Rem. of Co.), Fountain, Miami, Montgomery, Tippecanoe, Tipton (NW ¼), Warren, & White Cos.	11.50	.90	1.25		.02
Fulton Co.	10.55	.90	1.33		.03
Marion Co.	11.40	.90	1.70		.05
LATHERS:					
Adams, Allen, DeKalb, Huntington, Noble, Steuben, Wabash, Wells, & Whitley Cos.	10.94		.50		.01
Bartholomew, Boone (SE ¼), Hamilton, Hendricks, Johnson, Madison, Marion, Monroe, Morgan & Shelby Cos.	11.04	.61	.45		.04
Benton, Carroll, Cass, Clinton, Howard, Montgomery, Tippecanoe, Warren, & White Cos.	10.54	.55	.35		.01
Blackford, Delaware, Grant, Hancock, & Jay Cos.	9.85		.35		.01
Fountain Co.	10.84	.45	.30		.01

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS; Terrazzo workers; & Tile setters:					
Adams, Allen, DeKalb, Huntington, Noble, Steuben, Wells, & Whitley Cos.:					
Marble setters	11.34	.45	.30		.01
Terrazzo workers & Tile setters	10.80				
Bartholomew & Monroe Cos.	11.05	.50	.30		.02
Benton, Carroll, Clinton, Fountain, Tippecanoe, Warren, & White Cos.	11.24	.48	.60		.02
Blackford, Delaware, Hamilton, Jay, Madison, & Tipton Cos.:					
Tile setters	10.55	.50	.75		.01
Boone, Hancock, Hendricks, Johnson, Marion, Montgomery, & Morgan Cos.:					
Marble setters; Tile setters	11.71	.50	.55		.04
Terrazzo workers	11.45	.50	.55		.03
Case & Fulton Cos.	9.65	1.00	.90		.01
Grant & Wabash Cos.	10.48	.85	.50		
Howard & Miami Cos.	10.33	.75	1.00		.05
MARBLE SETTERS' FINISHERS; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Adams, Bartholomew, Blackford, Boone, Clinton, Delaware, Fountain, Grant, Hamilton, Hancock, Hendricks, Howard, Huntington, Jay, Johnson, Madison, Marion, Monroe, Montgomery, Morgan, Tippecanoe, Tipton, Wabash, & Wells Cos.:					
Marble setters' finishers & Tile setters' finishers	10.15				

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Adams, Allen, DeKalb, Grant, Huntington, Noble, Steuben, Wabash, Wells (N ½ to & incl. Bluffton), & Whitley Cos.:					
Brush; Roller; Paperhangers; & Tapers	9.25	.50	.65		.12
Spray; Sandblasters; Steam-cleaning & pressure water blasting	10.25	.50	.65		.12
Bartholomew Co.:					
Brush; Drywall taping & finishing; & Rollers	9.45		.50		
Sandblasting; Spray; Swing stage	10.45		.50		
Benton, Clinton, Fountain, Montgomery, Tippecanoe & Warren Cos.:					
Brush; Roller	10.75				
Structural steel	11.00				
Sandblasting	11.75				
Spray	14.02				
Blackford, Case, Delaware, Fulton, Howard, Jay, Madison, Miami, Tipton, & Wells (to the So. city limits of Bluffton) Cos.:					
Brush; Taping	9.10		.60		
Pressure cleaning equipment; Sandblasters; Spray	9.85		.60		
Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan (N ½), & Shelby Cos.:					
Brush; Roller; Drywall tapers & finishers	10.43	.78	.34		
Sandblasters; Spray	11.43	.78	.34		
Carroll & White Cos.:					
Brush	9.60	.64	.50		.05
Sandblasting; Spray	10.35	.64	.50		.05
Drywall taping	10.65	.64	.50		.05
Vinyl Paperhanging	9.85	.64	.50		.05

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Monroe, Morgan (To the northern limits of Martinsville) Cos.:					
Brush; Drywall; Vinyl Paperhanging; & Roller	$8.90			.30	
Structural steel; Stage & Hazardous work; Scaffold	9.65			.30	
Sandblasting; Spray & Epoxy brush	9.90			.30	
Spray epoxy	10.90			.30	
PLASTERERS:					
Adams, Allen, DeKalb, Noble, Steuben, & Whitley Cos.	10.88	.60			
Bartholomew & Monroe Cos.	11.05	.50	.30		.02
Benton (Eastern 2/3 west to & incl. Boswell, Earl Park, & Raub), Carroll, Cass, Clinton, Fountain (W. to & incl. Attica, in the north & west to, but not incl. Veedersburg in the south) Howard, Miami, Montgomery, Tippecanoe, Warren (E ½ west to but not incl. Judyville, so. to & incl. Kramer), & White Cos.	10.60	.70			.02
Blackford, Delaware, Grant, Huntington, Jay, Wabash, & Wells Cos.	10.40	.75			.01
Boone, Hamilton (So. ½ no. to new Indiana Rte. #32), Hancock (So. & western part no. to state rd. #234 & e. to Co. Rd. #300 - w), Hendricks, Johnson, Marion, Morgan (N ½), & Shelby Cos.	11.21	.80			.01
PLUMBERS; Steamfitters:					
Adams, Allen, DeKalb, Huntington Noble, Steuben, Wells, & Whitley Cos.	12.65	.55	.85		.07
Bartholomew (exclu. Camp Atterbury) Co.	12.80	.50	.30		.05
Bartholomew (Camp Atterbury), Boone, Hamilton, Hancock, Hendricks, Howard, Johnson, Marion Miami (So. of Rte #218), Morgan Shelby, & Tipton Cos.	12.40	.50	.80		.04

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Benton, Carroll, Clinton, Fountain, Montgomery, Tippecanoe, Warren, & White Cos.	$12.95	.50	1.00		.10
Blackford, Grant, & Wabash Cos.	12.50	.50	.80		.15
Cass, Fulton, Miami (No. of Hwy. #218), Cos.	11.25	.48	.95		.10
Delaware, Jay, & Madison Cos.	11.90	.50	.75		.15
Monroe Co.	12.70	.50	1.00		.15
ROOFERS:					
Adams, Allen, DeKalb, Noble, Steuben, Wells, & Whitley Cos.	10.90		.10		
Bartholomew, Boone, Hancock, Hendricks, Johnson, Marion, Monroe, Morgan, & Shelby Cos.:					
Composition & Waterproof	11.60	.65	.50		
Slate, Tile, Asbestos & Precast slab	11.85	.65	.50		
Benton, Carroll, Cass, Clinton, Fountain, Montgomery, Tippecanoe, Warren, & White Cos.:					
Composition, Damp & waterproof	11.45	.60	.38		
Slate, Tile, & Asbestos	11.70	.60	.38		
Blackford, Delaware, Grant, Hamilton, Howard, Huntington, Jay, Madison, Miami, Tipton, & Wabash Cos.:					
Slate, Tile, & Asbestos	9.25	.55	.30		
Coal tar pitch	9.75	.55	.30		
Composition damp & waterproof	9.25	.55	.30		
Fulton Co.:					
Composition, Damp & waterproof	10.15	.50	.40		.03
Slate, Tile, & Asbestos	10.65	.50	.40		.03
SHEET METAL WORKERS:					
Adams, Allen, Blackford, Cass, DeKalb, Grant, Howard, Huntington, Jay, Miami, Noble, Steuben Wabash, Wells & Whitley Cos.	12.09	.50+a	.60		.12
Bartholomew, Boone, Delaware, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Monroe, Morgan, Shelby, & Tipton Cos.	12.27	.65+a	.70		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Benton, Carroll, Clinton, Fountain, Montgomery, Tippecanoe, Warren, & White Cos.	$11.49	.60	.44		.07
Fulton Co.	10.98	.65	.615		.035
SPRINKLER FITTERS	12.10	.75	1.05		.08
TRUCK DRIVERS:					
Benton, Carroll, Cass, Clinton, Fountain, Howard, Miami, Montgomery, Tippecanoe, Tipton, Wabash, Warren, & White Cos.:					
Pickups when hauling equipment etc.	7.64	19.00h	31.00h	i	
Helpers; Greaser; Tiremen	7.74	19.00h	31.00h	i	
Single axle-straight trucks; Warehousemen	7.79	19.00h	31.00h	i	
Mechanics	8.09	19.00h	31.00h	i	
Tandem axle & Dogleg straight trucks	7.89	19.00h	31.00h	i	
Bituminous distributors	7.94	19.00h	31.00h	i	
Tri-axles; Semis	8.09	19.00h	31.00h	i	
Boone, Hendricks, Johnson, Morgan, & Shelby Cos.:					
Up to & incl. 3 tons & helpers	7.865	20.00h	22.00h	j	
Over 3 tons; Semi-trailers; Tandem (double bottom); Winch trucks when used with winch	8.015	20.00h	22.00h	j	
Truck mechanics	7.94	20.00h	22.00h	j	
Fulton Co.:					
Pickups	6.94	13.50h	22.00h	k	
Single axles	7.13	13.50h	22.00h	k	
Tandem or fuel	7.26	13.50h	22.00h	k	
Tri-axles	7.31	13.50h	22.00h	k	
Semi-trailers	7.36	13.50h	22.00h	k	

DECISION NO. IN79-2002

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 6% includes pension
b. 7 paid holidays: A through F, & Day after Thanksgiving Day
c. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years, and 6% for employee who has worked in business less than 5 years.
d. 6 paid holidays: A through F, provided such employees work the last scheduled day prior to and the next scheduled work day after the holiday unless permission for not working on such days is granted by the employer.
e. 6 paid holidays: A through F
f. 2 paid holidays: C & D
g. 3% of gross earnings to EASHI
h. per week per employee
i. One week's paid vacation after one year's employment; two weeks' paid vacation after three years' employment; three weeks' paid vacation after ten years' employment.
j. Each employee who has been in the employ of the same employer for 1 year & has accumulated 1000 hours of service shall receive 1 week's vacation with pay of 40 hours at straight time; each employee who has been in the employ of the same employer for 10 years or more & has accumulated 1000 hours of service shall receive 3 weeks' vacation with pay of 120 hours at straight time hourly rate.
k. One week's paid vacation after three years' employment; Two weeks' paid vacation after ten years' employment; & three weeks' paid vacation after fifteen years' employment

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Adams, Allen, Benton, Boone, Carroll, Cass, Clinton, DeKalb, Fountain, Howard, Huntington, Miami, Montgomery, Noble, Steuben, Tippecanoe, Tipton, Wabash, Wells, White, & Whitley Cos.:					
GROUP I	7.70	.70	.50		.09
GROUP II	7.90	.70	.50		.09
GROUP III	8.00	.70	.50		.09
GROUP IV	8.70	.70	.50		.09
Bartholomew, Fountain, Hendricks Johnson, Monroe, Morgan, & Warren Cos.:					
GROUP I	7.83	.70	.50		.09
GROUP II	8.03	.70	.50		.09
GROUP III	8.15	.70	.50		.09
GROUP IV	8.83	.70	.50		.09
Blackford, Delaware, Grant, Hamilton, Hancock, Jay, & Madison Cos.:					
GROUP I	7.45	.70	.50		.09
GROUP II	7.65	.70	.50		.09
GROUP III	7.75	.70	.50		.09
GROUP IV	8.45	.70	.50		.09
Marion & Shelby Cos.:					
GROUP I	7.95	.70	.50		.09
GROUP II	8.15	.70	.50		.09
GROUP III	8.25	.70	.50		.09
GROUP IV	8.95	.70	.50		.09

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LABORERS

GROUP I: Building & Construction laborers; Scaffold builders (other than for masons or plasterers); Ironworker helpers; Mechanic tenders; Civil engineer helpers & surveyor helpers; Rodmen & Chainmen; Window washers & cleaners; Waterboys & Toolhousemen; Roofer's Helpers; Railroad workers; Masonry wall washers (interior & exterior); Cement finisher helpers; Carpenter helpers; Helpers of all other crafts not listed; Mason tenders for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; All portable water pumps with discharge up to 3 inches

GROUP II: Waterproofing; Handling of creosote lumber or like treated material (excluding railroad material); Asphalt rakers & tutmen; Kettlemen; Air tool operators, vibrators, chipping hammer operators and all pneumatic tool operators; Earth compactors; Jackmen & sheetmen working ditches deeper than 6 ft. in depth; Laborers working ditches 6 ft. in depth or deeper; Assembly of Unicrete pump; Chain saw operators; Tile layers (sewer or field) & sewer pipe layers (metallic or non-metallic); Motor driven wheelbarrows & concrete buggies; Hyster operators; Pump crete assemblers; Conveyor assemblers; Core drill operators; Cement, lime or silica Clay handlers (bulk or bag); Handling of toxic materials damaging to clothing; Pneumatic spikers; Deck engine & winch operators; Water main & cable ducking (metallic & non-metallic)

GROUP III: Plasterers' tenders; Mason tenders, except for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; Mortar mixers; Welders (acetylene or electric); Cutting torch or burner; Cement nozzle laborers; Cement gun operators; Scaffold builders when working for plasterers; Scaffold builders when working for masons (except in Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley)

GROUP IV: Dynamite men

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POWER EQUIPMENT OPERATORS
Adams, Allen, Benton, Blackford, Carroll, Cass, Clinton, DeKalb, Delaware, Grant, Hamilton, Hancock Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Shelby, Steuben, Tippecanoe, Tipton, Wabash, Wells, White, & Whitley Cos.

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$11.90	.55	.65	.09
GROUP 2	11.00	.55	.65	.09
GROUP 3	9.10	.55	.65	.09
GROUP 4	8.10	.55	.65	.09

CLASSIFICATIONS

GROUP 1: Air Compressor (pressurizing shafts, tunnels and divers), Air Tugger, Auto Patrol, Backfiller, Backhoe, Boom Cat, Boring Machine, Bulldozer, Caisson Drilling Machine, Cherry Picker, Compactor (w/dozer blade) Concrete Plant, Concrete Pump, Crane w/all attachments, Crane-Electric Overhead, Derrick, Ditching Machine (18" and over), Dredge, Elevator (when hoisting material or tool) Forklift (machinery), Formless Paver, Generator (power for welders or compressors), Gradall, Helicopter, Helicopter Winch Operator, Highlift-Front End Loader, Hoist, Locomotive, Mechanic on job site, Mucking Machine, Panel Board, Concrete Plant, Piledriver, Push Cat, Scoop and Tractor, Scraper-rubber-tired, Spreader-tractor mounted, Straddle Carrier-Ross type, Sub-base Finish, Machine (C.M.I. or similar tower crane), Tractor w/backhoe (over ½ yd.) Welder

GROUP 2: A-Frame Truck, Batcher Plant (automatic dry batch), Bending Machine-power driven, Bituminous Mixer, Bituminous Paver, Bituminous Plant Engineer, Boatman, Bullfloat, Compactor or Tamper-self-propelled, Concrete Mixer (21 cu. ft. or over), Concrete spreader-power driven, Dinkey Engine, Ditching Machine (less than 18"), Drilling Machine, Finish Machine and Bullfloat, Finishing Machine, Fireman, Piledriving and Boilers, Forklift-Masonry and Material, Gunnite Machine, Head Greaser, Mechanic in Shop, Mesh Depressor-mesh placer, P.C.C.-Concrete Belt Placer, Roller-Asphalt Stone and Sub-base, Sheepsfoot Roller self-propelled, Shop Mule, Spreader or Base Paver-self-propelled, Subgrader, Throttle Valve w/air compressor or boiler, Tractor w/backhoe (½ yard and under), Tractor-High lift-Farm-type, Tractor-Industrial type, Tractor w/winch, Well Points, Winch Truck

GROUP 3: Air Compressor (210 cu. ft. and over); Bituminous Distributor, Chair Cart, Concrete Curing Machine, Concrete Saw, Dope pot-power agitated, Flexplane, Form Grader, Hydrohammer, Jacks-Hydraulic-power driven, Miner Equipment Operator, Paving Joint Machine, Post Hole Digger, Roller-earth, Throttle Valve, Truck Jack-power driven, Tractor-farm type, Truck Crane Driver

GROUP 4: Air Compressor (less than 210 cu. ft.) Concrete Mixer (under 21 cu. ft.), Conveyor, Generator, Mechanical Heater, Oiler, Power Broom, Pump, Welding Machine, Helpers

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POWER EQUIPMENT OPERATORS
Boone, Fountain, Hendricks, Monroe, Montgomery, Morgan, & Warren Cos.

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$12.40	.55	.75	.08
GROUP II	12.30	.55	.75	.08
GROUP III	12.10	.55	.75	.06
GROUP IV	8.00	.55	.75	.08

CLASSIFICATIONS

GROUP I Master Mechanics

GROUP II Utility Operator

GROUP III Power Cranes, Draglines; Derricks; Electric Overhead Cranes; Shovels; Gradall; Mechanics; Repair and Maintenance of all Equipment; Tractor Highlift; Fork lifts; Tournadozer; Mixer over 14S Capacity; Tournamixer; Two Drum Machine or Two Cage Hoists; Cableways; Tower Machines; Motor Patrol; Boom Tractor; Boom or Winch Truck; Truck Crane; Tournapull, Tractor operating Scoops; Bulldozer; Push Tractor; Finishing Machine on Asphalt; Large Rollers & Rollers on Asphalt; Gravel Processing Machine; Asphalt Plant Engineer or Pug Mill; Two Air Compressors; Hetherington Paver Operator; Farm Tractor with half Yard bucket and/or Back Hoe Attachment; Trench Machines cutting over 24"; Dredging Equipment; Central Mix Plant Engineer; CMI or similar type Machine; Concrete Spreader; Cherry Picker; Standard or Dinkey Locomotives; Broompmobiles; Euclid Loader; Soil Cement Machines; Back Filler; Elevating Machine; Power Blade; Asphalt Plant Engineer; Well Drilling Machines; Paint Machine; Pipe Cleaning Machines; Pipe Wrapping Machine; Pipe Bending Machine; Apsco Paver; Boring Machine; Tractor Without Winch; Mead Equipment Greasers; Barber Green Loaders; Formless Paver; Well Point System Hydra Ax; Reeco Concrete Saw; Marine Scoops; Brush Mulcher; Brush Burner; Mesh Placer; Tree Mover; Helicopter Crew (3); Pile Driver Skid or Crawler; Stump Remover; Root Raker; Tug Boat Operator; Refrigerating Machine Freezing Operator; Chair Cart - Self Propelled; Hydro Seeder; Straw Blower; Concrete Mixers with Skip; all one Drum Hoists with Tower or Boom; Dredge Engineer; Dredge Operator; Rock Spreador; Truck or Skid Mounted Tower Crane; Engine or Rock Crusher Plant; Boiler Operator; Concrete Plant Engineer; Loaders; Hydra Crane Caissons; Shaft or any similar type Drilling Machine; Concrete Curb Machine - Self Propelled; Winch or Hydraulic Boom Truck.

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POWER EQUIPMENT OPERATORS

GROUP IV Mixers 14S capacity or less; Trench Machine cutting 24" and under; Farm Tractor with less than half yard bucket and other Attachments except Back Hoe; Truck Crane Oiler; Power Subgrader; Bull Float; Form Grader; Finishing Machine; Pavement Breaker; Rock Crushers; One Drum Machine; One Air Compressor; Concrete Pump; Gunite Machine; Air Tuggers; Truck Crane Drivers; House Elevators when used for hoisting Material; Two to Four Generators or Welding Machine; Mechanized Heaters irrespective of Motor Power when used for temporary heat; Small Rollers on Earth; Engine Tenders; Firemen; Wagon Drill; Flexplane; Conveyor; Two to Four Water Pumps; Siphon and Pulsometer; Switchman on Paint Pots; Fireman on Asphalt Plants; Distributor Operator on Trucks; Tampers; Power Broom; Post Hole Digger; Self-propelled Concrete Saw; Striping Machine (Motor Driven); Form Tamper; Seaman Tiller; Bulk Cement Plant Equipment Greaser; Track Jack; Mud Jack; Operator to do Winter Repair Work in Shop between November 1st and March 1st; Concrete Buggies motor driven; Oilers; Barrel Type Mixer; One Welding Machine or One Water Pump; Air Valves or Steam Valves from Plant; Concrete Mixers without Skip; Curing Machine; Concrete & Blacktop Curb Machine; Deck Hands

Cranes with booms from 149 ft. to 199 ft. including jib, receive additional $.75 per hour
Cranes with boom over 199 ft. including job receive additional $1.25 per hour.

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POWER EQUIPMENT OPERATORS
Fulton & Noble Cos.

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.52	.65	.85	.40	.05
GROUP II	9.16	.65	.85	.40	.05
GROUP III	8.38	.65	.85	.40	.05
GROUP IV	7.70	.65	.85	.40	.05

CLASSIFICATIONS

GROUP I: All power cranes; Truck cranes; Locomotive cranes; LeTourneau Tournapulls; Shovels; Draglines; Derricks; Pile drivers; Highlifts; Tractors w/Side boom or "A" Frame; Forklifts 18' 6" in height or over; Motor patrols; Combination backhoe & loader; Mechanic; Conveyor systems; Hoist (3 drum) & over

GROUP II: All bulldozers; Scoops; Push cats; Concrete mixers of more than 21 cu. ft. capacity; Locomotives; Rollers; Stone crushers; Fork lifts under 18' 6"; Air compressors - 600 cu. ft. & over; Combination of Gasoline or Deisel driven welding machine & compressor; Engineers operating throttle valve with boiler and compressor for piledriving; Concrete pumps; Trench machines excluding ditch witches; Cableways; Hoist (2 drum)

GROUP III: Truck winches w/A Frame & Power winches; Tractors-farm type; Drills & conveyors; Small rubber tire end loaders ½ cu. yd. & under; Bobcat

GROUP IV: Gin poles; Sasgen derricks & similar hoists; Firemen; Oilers; One drum hoist; Single drum tugger hoist; Automatic hoist; Elevators; Compressor over 210 cu. ft. & under 600 cu. ft.; Well points

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TRUCK DRIVERS Bartholomew, Blackford, Delaware, Grant, Hamilton, Hancock, Jay, Madison, & Monroe Cos.	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$9.05	$29.50a	$20.00a	b & c	
GROUP 2	9.10	29.50a	20.00a	b & c	
GROUP 3	9.15	29.50a	20.00a	b & c	
GROUP 4	9.20	29.50a	20.00a	b & c	
GROUP 5	9.25	29.50a	20.00a	b & c	
GROUP 6	9.30	29.50a	20.00a	b & c	
GROUP 7	9.40	29.50a	20.00a	b & c	
GROUP 8	9.45	29.50a	20.00a	b & c	
GROUP 9	9.50	29.50a	20.00a	b & c	
GROUP 10	9.55	29.50a	20.00a	b & c	
GROUP 11	9.70	29.50a	20.00a	b & c	

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:
a. per week per employee
b. 1 week's paid vacation after 1 year's service; 2 weeks' paid vacation after 3 years' service; & 3 weeks' paid vacation after 10 years' service.
c. 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; & Christmas Day

*SUPERSEDEAS DECISION

STATE: INDIANA
DECISION NUMBER: IN79-2003
COUNTIES: *SEE BELOW
DATE: Date of Publication

Supersedes Decision Nos. IN78-2025 dated March 10, 1978 in 43 FR 10167; IN78-2033 dated March 10, 1978 in 43 FR 10188; IN78-2051 dated March 24, 1978 in 43 FR 12589 and IN78-2052 dated March 24, 1978 in 43 FR 12598

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

*BROWN, CLARK, CRAWFORD, DEARBORN, DECATUR, FAYETTE, FLOYD, FRANKLIN, HARRISON, HENRY, JACKSON, JEFFERSON, JENNINGS, LAWRENCE, OHIO, ORANGE, RANDOLPH, RIPLEY, RUSH, SCOTT, SWITZERLAND, UNION, WASHINGTON, & WAYNE COS.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Brown, Decatur, Henry & Rush Cos.	$12.15	.50	1.20		.01
Dearborn, Fayette, Franklin, Ohio, Ripley, Switzerland & Union Cos.	13.16	.75	1.00		.02
Randolph & Wayne Cos.	11.97	.50	.75		.01
Remaining Cos.	12.85	.60	1.00		
BOILERMAKERS:					
Brown, Crawford, Decatur, Fayette, Franklin, Henry, Jackson, Jennings, Lawrence, Ohio, Orange, Randolph, Ripley, Rush, Union, Washington, & Wayne Cos.	12.55	.80	1.00		.03
Remaining Cos.	10.70	1.05	1.10	1.50	.02
BRICKLAYERS; Caulkers; Cleaners; Pointers; & Stonemasons:					
Brown, Jackson & Jennings	11.05	.50	.30		.02
Clark, Floyd & Harrison Cos.	10.94	.50	.40		.01
Crawford Co.	11.03	1.00	.50		
Dearborn, Decatur & Ripley Cos.	10.90		.30		
Fayette, Franklin, Rush, Union & Wayne Cos.	11.05	.80			
Henry & Randolph Cos.	10.80	.50	.75		.01
Jefferson, Ohio, Scott & Switzerland Cos.	9.75				
Lawrence, Orange & Washington Cos.	11.79				
CARPENTERS; Millwrights; Piledrivermen; & Soft Floor Layers:					
Brown (Twp. of Hamblin), Jackson, Jefferson, Jennings, Rush (except Carthage Twp.) & Scott Cos.					
Carpenters; Soft Floor Layers	10.49	.55	.65		.03
Millwrights	10.99	.55	.65		.03
Piledriverman; Welders; Burners	10.74	.55	.65		.03
Brown (excl. Hamblin Twp.) Co.:					
Carpenters; Soft Floor Layers	11.10	.66	.55		.01
Millwrights	11.85	.71	.59		.01
Piledrivermen	11.35	.66	.55		.01

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Clark, Floyd, Harrison, & Washington Cos.:					
Carpenters; Soft Floor Layers	$10.35	.50	.50		.05
Piledrivermen	10.60	.50	.50		.05
Millwrights	11.75	.50	.65		.05
Crawford Co.:					
Carpenters	10.47	.50	1.00		
Piledrivermen; Welders & Burners	10.72	.50	1.00		
Millwrights	10.89	.50	.90		
Dearborn, Decatur, Franklin, Ohio, Ripley, & Switzerland Cos.:					
Carpenters; Soft Floor Layers	10.54	.55	.65		.03
Millwrights	11.04	.55	.65		.03
Piledrivermen; Welders; Burners	10.79	.55	.65		.03
Fayette, Henry, Randolph, Rush (Carthage), Union, & Wayne Cos.:					
Carpenters; Soft Floor Layers	10.70	.60	.45		.08
Millwrights	11.00	.60	.45		.08
Piledrivermen	10.90	.60	.45		.08
Lawrence & Orange Cos.:					
Carpenters; Soft Floor Layers	10.40	.67	.67		
Millwrights; Piledrivermen	10.80	.67	.67		
CEMENT MASONS; PLASTERERS:					
Brown Co.:					
Plasterers	11.05	.50	.30		.02
Clark, Floyd & Harrison Cos.:					
Cement Masons	9.68	.90	.60		.04
Plasterers	10.85				
Crawford Co.:					
Cement Masons	10.60	.65	.55		
Plasterers	11.38				
Decatur, Fayette, Franklin (Northern part to and incl. Brookville), Rush, Union, & Wayne Cos.:					
Plasterers	9.80	.80	.50		.01
Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	10.00				

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Randolph Co.:					
Cement masons	$9.95	.60	.80		
Plasterers	10.40	.75			.01
ELECTRICIANS:					
Brown Co.	12.10	.50	3%+.50		.01
Clark, Floyd, Harrison, Jackson, Jefferson, Scott & Washington Cos.	13.30	.50	3%+.60		1%
Crawford, Daviess, Lawrence, & Orange Cos.	13.05	.50	3%		1%
Dearborn, Ohio & Switzerland Cos.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	12.90	.70	3%+.60		1%
Over 18 mi. radius up to & incl 21 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	13.20	.70	3%+.60		1%
Over 21 mi. radius up to & incl 25 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	13.30	.70	3%+.60		1%
Over 25 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	13.45	.70	3%+.60		1%
Decatur, Jennings, Ripley & Rush Cos.	12.80	4%	7%		1%
Fayette, Franklin, Henry, Randolph, Union & Wayne Cos.	11.95	.50	3%+.30		.2%
ELEVATOR CONSTRUCTORS:					
Brown, Decatur, Henry, & Rush Cos.:					
Elevator constructors	11.285	.745	.56	a&b	.035
Helpers	70%JR	.745	.56	a&b	.035
Helpers (Prob.)	50%JR				
Clark, Crawford, Floyd, Harrison, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.:					
Elevator constructors	11.41	.745	.56	a&b	.035
Helpers	70%JR	.745	.56	a&b	.035
Helpers (Prob.)	50%JR				

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Dearborn, Fayette, Franklin, Ohio, Ripley, Switzerland, Union, & Wayne Cos.:					
Elevator Constructors	$11.78	.745	.56	a&b	.035
Helpers	70%JR	.745	.56	a&b	.035
Helpers (Prob.)	50%JR				
Randolph Co.:					
Elevator Constructors	10.91	.745	.56	a&b	.035
Helpers	70%JR	.745	.56	a&b	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Brown, Decatur (NW of a line from the NE Co. corner thru Mechanicsburg to the S. Co. line); Fayette (N. of 44 to 121 and W of 121), Franklin (N. of a line from Buena Vista to Cornersville), Henry, Jackson (N. of a line from a point on the E. Co. line 8 mi. S. of the N. Co. line to Brownstown and from there N. of 50), Jennings (NW of a line from a point on the N. Co. line 4 mi. E. of the E. Co. line to N. Vernon and from N. Vernon N. of 50 to the W. Co. line), Lawrence (N. of 50 to Bedford and N. of Bedford to Springville to the W. Co. line), Randolph (W. of a straight line drawn from N. to S. thru Harrisville), Rush, Union (N. of 44 and W. of Kitchell), & Wayne (W. of a straight line N. to S. thru Chester) Cos.	13.29				
Crawford (Rem. of Co.), & Orange (SW corner) Cos.	10.905	.48	.50	.25	

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS (CONT'D)					
Dearborn, Decatur (Rem. of Co.), Fayette (Rem. of Co.), Franklin (Rem. of Co.), Jefferson (E½), Jennings (Rem. of Co.), Ohio, Randolph (Rem. of Co.), Ripley, Switzerland, Union (Rem. of Co.) & Wayne (Rem. of Co.) Cos.	$13.10		.60		.01
IRONWORKERS:					
Brown, Decatur (W½), Fayette (W½), Franklin (NW Tip), Henry, Jackson (N part inclu. Freetown), Jennings (NW Corner), Lawrence (N part exclu. Oolitic), Randolph (SW Tip), & Rush Cos.	11.55	.90	1.70		.05
Clark, Crawford, Floyd, Harrison, Jackson (Rem. of Co.), Jefferson (W2/3), Jennings (S2/3), Lawrence (S2/3), Orange, Scott, Switzerland (SW Tip), & Washington Cos.	11.75	.90	1.15		.06
Dearborn, Decatur (Rem. of Co.), Fayette (SE 2/3), Franklin (Rem. of Co.), Jefferson (NE Tip), Jennings (NE 1/3), Ohio, Ripley, Switzerland (Rem. of Co.), & Union (S 1/3) Cos.:					
Ornamental; Structural	12.33	.90	1.20		.03
Reinforcing	11.53	.90	2.00		.02
Fayette (Rem. of Co.), Randolph (S. part including Union City but exclu. Winchester), Union (N 2/3), & Wayne Cos.:					
Within 15 mi radius of Dayton, Ohio	10.96	.90	1.25		.04
Beyond 15 mi radius of Dayton, Ohio	11.11	.90	1.25		.04
Randolph (N part of Co. excluding Union City but includ. Winchester) Co.	11.80	.90	1.45		.02

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Brown, Dearborn (N½), Decatur, Fayette (S 2/3), Franklin, Jackson (N part including Freetown), Jennings (N part exclu. N. Vernon & Vernon), Lawrence (N 2/3), Ripley (N½), Rush, Union (except NW Tip) Cos.	$11.04	.61	.45		.04
Clark, Crawford, Dearborn (S½), Floyd, Harrison, Henry (SW portion), Jackson (S part exclu. Freetown), Jefferson, Jennings (S part inclu. N. Vernon & Vernon), Lawrence (S 1/3), Ohio, Orange, Ripley (S½), Scott, Switzerland, Washington Cos.	10.79		.20		.01
Fayette (N 1/3), Henry (Rem. of Co.), Randolph, Union (NW Tip), & Wayne Cos.	9.85		.35		.01
MARBLE SETTERS; TERRAZZO WORKERS; & Tile Setters:					
Brown, Jackson, Jennings Cos.	11.05	.50	.30		.02
Clark, Floyd, & Harrison	10.60	.50	.40		
Crawford Co.:					
Tile Setters	11.03	1.00	.50		
Fayette, Franklin, Rush, Union, & Wayne Cos.	11.05	.80			
Henry & Randolph Cos.:					
Tile Setters	10.55	.50	.75		.01
MARBLE SETTERS' FINISHERS; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Brown, Fayette, Franklin, Henry, Jackson, Jennings, Randolph, Rush, Union, & Wayne Cos.:					
Marble Setters Finishers & Tile Setters Finishers	10.15				
Clark, Crawford, Floyd, & Harrison Cos.	8.60				

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brown Co.:					
Brush; Paperhanger; Drywall; Roller; & Vinyl	$ 8.90			.30	
Structural Steel	9.65			.30	
Sandblasting & Spray	9.90			.30	
Clark, Crawford, Floyd, Harrison, Jefferson, Scott & Washington Cos.:					
Within 35 mi radius of Jefferson Co., Kentucky Court House:					
Brush; Drywall Tapers	9.02	.35	.20		.03
Special	9.37	.35	.20		.03
Spray	9.47	.35	.20		.03
Beyound 35 mi radius of Jefferson Co., Kentucky Court House:					
Brush; Drywall Tapers	9.37	.35	.20		.03
Special	9.72	.35	.20		.03
Spray	9.82	.35	.20		.03
Dearborn, Ohio, Ripley & Switzerland Cos.:					
Brush; Roller; Wallwashing; Drywall Taping & Finishing; Wallpaper & Vinyl Hanging; Floor Sanding; Seamless Flooring & Finishing; Sandblasting; Hopper Tending; & Steamcleaning	10.50				
Spray; Epoxy	11.00				
Decatur, Jackson & Jennings Cos.:					
Brush; Drywall Taping & Finishing; & Roller	9.45		.50		
Sandblast & Spray	10.45		.50		
Fayette, Franklin, Henry, Randolph, Rush, Union & Wayne Cos.:					
Brush	8.85				
Sandblasting & Spray	9.85				
Scaffold over 30 ft., Structural Steel; Stage & Spray Helper	9.10				
Lawrence & Orange Cos.:					
Brush; Drywall; Roller; & Structural Steel	8.50				
Sandblasting; Spray	9.50				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS:					
Brown (except Camp Atterbury), Jackson, Lawrence, Orange & Washington Cos.	$12.70	.50	1.00		.15
Brown (Camp Atterbury) Co.	12.40	.50	.80		.04
Clark, Crawford, Floyd, Harrison, Jefferson, Scott, & Switzerland Cos.	13.05	.50	1.10	c	.05
Dearborn, Ohio & Ripley Cos.:					
Plumbers; Gas Fitters	12.82	1.05	1.20		.05
Steamfitters; Pipefitters	13.00	1.00	1.325		.08
Decatur & Jennings Cos.	12.80	.50	.30		.05
Fayette, Franklin, Henry, Randolph, Rush, Union, & Wayne Cos.	11.90	.50	.75	d	.15
ROOFERS:					
Brown, Decatur, Fayette, Franklin, Jackson, Jennings, Lawrence, Rush, Union & Wayne Cos.:					
Composition & Waterproof Slate, Tile, Asbestos & Precast Slab	11.60	.65	.50		
Clark, Floyd, Harrison, Jefferson, Scotty Switzerland & Washington Cos.:	11.85	.65	.50		
Roofers	8.50	.65	.45		
Slate, Tile, & Precast Concrete Slabs	8.90	.65	.45		
Crawford & Orange Cos.:					
Composition & Waterproofers	10.63	.60	.50		
Gypsum Plank; Slate; Tile; & Concrete Slab	10.88	.60	.50		
Dearborn, Ohio & Ripley Cos.:					
Roofers	13.32		.85		.01
Pitch	13.92		.85		.01
Henry & Randolph Cos.:					
Composition; Damp & Waterproof Slate, Tile and Asbestos	9.25	.55	.30		
Coal Tar Pitch	9.75	.55	.30		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS:					
Clark, Floyd, & Harrison Cos.	$11.65	.70+e	1.05		.14
Crawford, Jefferson, Ohio, Scott & Switzerland Cos.	12.90	.70+e	1.05		.14
Dearborn Co.	11.935	1.00	.81		.04
Randolph & Wayne Cos.	11.70	.80+e	1.05		.16
Remaining Cos.	12.27	.65+e	.70		.10
SPRINKLER FITTERS	12.10	.75	1.05		.08

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Seven paid holidays: A thru F and Day after Thanksgiving
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 yrs.; Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 yrs.
c. One paid holiday: Christmas Eve Day
d. Two paid holidays: C&D
e. 3% of gross earnings to SASMI

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Fayette, Henry, Randolph, Rush, Union & Wayne Cos.:					
GROUP I	$7.45	.70	.50		.09
GROUP II	7.65	.70	.50		.09
GROUP III	7.75	.70	.50		.09
GROUP IV	8.45	.70	.50		.09
Remaining Cos.:					
GROUP I	7.85	.70	.50		.09
GROUP II	8.05	.70	.50		.09
GROUP III	8.15	.70	.50		.09
GROUP IV	8.85	.70	.50		.09

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LABORERS

GROUP 1 - Building & Construction laborers; Scaffold builders (other than for masons or plasterers); Ironworkers helpers; Mechanic tenders; Civil engineer helpers & surveyor helpers; Rodmen & Chainmen; Window washers & cleaners; Waterboys & Toolhousemen ; Roofer's helpers; Railroad workers; Masonry wall washers (interior & exterior); Cement finisher helpers; Carpenter helpers; Helpers all of other crafts not listed; Mason tenders for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; All portable water pumps with discharge up to 3 inches

GROUP 2 - Waterproofing; Handling of creosote lumber of like treated material (excluding railroad material); Asphalt rakers & tutemen; Kettlemen; Air tool operators, vibrators, chipping hammer operator and all pneumatic tool operators; Earth compactors; Jackmen & sheetmen working ditches deeper than 6 ft. in depth; Laborers working ditches 6 ft. in depth or deeper; Assembly of Unicrete pump; Chain saw operators; Tile layers (sewer or field) & sewer pipe layers (metallic or non-metallic); Motor driven wheelbarrows & concrete buggies; Hyster operators; Pump crete assemblers; Conveyor assemblers; Core drill operators; Cement, lime or silica Clay handlers (bulk or bag); Handling of toxic materials damaging to clothing; Pneumatic spikers; Deck engine & winch operators; Water main & cable ducking (metallic & non-metallic)

GROUP 3 - Plasterers' tenders; Mason tenders, except for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; Mortar mixers; Welders (acetylene or electric); Cutting torch or burner; Cement nozzle laborers; Cement gun operators; Scaffold builders when working for plasterers; Scaffold builders when working for masons (except in Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley)

GROUP 4 - Dynamite men

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POWER EQUIPMENT OPERATORS
Fayette, Henry, Randolph, Rush, Union, & Wayne Cos.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$11.90	.55	.65		.09
GROUP 2	11.00	.55	.65		.09
GROUP 3	9.10	.55	.65		.09
GROUP 4	8.10	.55	.65		.09

CLASSIFICATIONS

GROUP 1: Air Compressor (pressurizing shafts, tunnels and divers), Air Tugger, Auto Patrol, Backfiller, Backhoe, Boom Cat, Boring Machine, Bulldoser, Caisson Drilling Machine, Cherry Picker, Compactor (w/dozer blade) Concrete Plant, Concrete Pump, Crane w/all attachments, Crane-Electric Overhead, Derrick, Ditching Machine (18" and over), Dredge, Elevator (when hoisting material or tool) Forklift (machinery), Formless Paver, Generator (power for welders or compressors), Gradall, Helicopter, Helicopter Winch Operator, Highlift-Front End Loader, Hoist, Locomotive, Mechanic on job site, Mucking Machine, Panel Board, Concrete Plant, Piledriver, Push Cat, Scoop and Tractor, Scraper-rubber-tired, Spreader-tractor mounted, Straddle Carrier-Ross type, Sub-base Finish, Machine (C.M.I. or similar tower crane), Tractor w/backhoe (over ½ yd.) Welder

GROUP 2: A-Frame Truck, Batcher Plant (automatic dry batch), Bending Machine-power driven, Bituminous Mixer, Bituminous Paver, Bituminous Plant Engineer, Boatman, Bullfloat, Compactor or Tamper-self-propelled, Concrete Mixer (21 cu. ft. or over), Concrete spreader-power driven, Dinkey Engine, Ditching Machine (less than 18"), Drilling Machine, Finish Machine and Bullfloat, Finishing Machine, Fireman, Piledriving and Boilers, Forklift-Masonry and Material, Gunnite Machine, Head Greaser, Mechanic in Shop, Mesh Depresser-mesh placer, P.C.C.-Concrete Belt Placer, Roller-Asphalt Stone and Sub-base, Sheepstone Roller self-propelled, Shop Mule, Spreader or Base Paver-self-propelled, Subgrader, Throttle Valve w/air compressor or boiler, Tractor w/backhoe (½ yard and under), Tractor-High lift-Farm-type, Tractor-Industrial type, Tractor w/winch, Well Points, Winch Truck

GROUP 3: Air Compressor (210 cu. ft. and over); Bituminous Distributor, Chair Cart, Concrete Curing Machine, Concrete Saw, Dope pot-power agitated, Flexplane, Form Grader, Hydrohammer, Jacks-Hydraulic-power driven, Minor Equipment Operator, Paving Joint Machine, Post Hole Digger, Roller-earth, Throttle Valve, Track Jack-power driven, Tractor-farm type, Truck Crane Driver

GROUP 4: Air Compressor (less than 210 cu. ft.) Concrete Mixer (under 21 cu. ft.), Conveyor, Generator, Mechanical Heater, Oiler, Power Broom, Pump, Welding Machine, Helpers

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POWER EQUIPMENT OPERATORS

Remaining Cos.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$10.58	.35	.35		.05
GROUP B	9.49	.35	.35		.05
GROUP C	8.75	.35	.35		.05

CLASSIFICATIONS

GROUP A: A-Frame winch truck, air compressor over 600 cu. ft., air tugger, auto-grade (CMI), auto patrol backhoe, ballast regulator (RR), batcher plant (electric control concrete), bending machine (pipe), bituminous plant, bituminous mixer travel plant, bituminous power roller, bulldozer, cable way, Chicago boom, clamshell, concrete mixer (21 cu. ft. or over), crane, craneman, crusher plant, derrick boat, dinkey, dope pots (pipeline), dragline, dredge operator, drill operator, elevating grader, concrete paver, elevator, Ford hoe, (or similar type equipment), forklift formless paver, gantry crane, gradeall, grademan, grout pump, Hetherington paver, highlift hoist, hopto. Lough loader (or similar type), hydro crane, hydro hammer, locomotive crane, locomotive, mechanic mobile mixer, motor crane, motor crane oiler and one(1) piece of minor equipment, mucking machine, multiple tamping machine (RR), overhead crane, pile driver, pulls, push dozer, push boats, roller (sheepfoot), Ross carrier, scoop shovel, side boom, swing crane, tail boom, tar machine (pipeline), throttle valve, trench machine, welder pump, truck mounted drill 2 to 4 pieces of minor equipment, well point, whirleys

GROUP B: Air compressor (200 cu. ft. per minute capacity or more) brakeman, bull float, concrete mixer (over 10S and under 21S), concrete spreader or puddler, deck engine drill helper, electric vibrator Kompactor (earth or rock), finishing machine, fireman, greaser (on grease facilities servicing heavy equipment), material pump motor boats, motor crane oiler, oiler and one piece of minor equipment, portable loader, post hole digger, power broom, rock roller, roller-wobble wheel (earth and rock), spike machine (RR), seaman tiller, spreader rock, sub-grader, tamping machine, truck mounted drill oiler, welding machine widener (Apace or similar type)

GROUP C: Air compressor (under 200 cu. ft. per minute), bituminous distributor, cement gun, conveyor, deck hand, earth roller form grader, generator, guard rail driver, heater, oiler, paving joint machine, steam Jenny, vibrator, water pump, concrete saw

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TRUCK DRIVERS

All Counties, except Crawford	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$9.05	$29.50a	$20.00a	b & c	
GROUP 2	9.10	29.50a	20.00a	b & c	
GROUP 3	9.15	29.50a	20.00a	b & c	
GROUP 4	9.20	29.50a	20.00a	b & c	
GROUP 5	9.25	29.50a	20.00a	b & c	
GROUP 6	9.30	29.50a	20.00a	b & c	
GROUP 7	9.40	29.50a	20.00a	b & d	
GROUP 8	9.45	29.50a	20.00a	b & e	
GROUP 9	9.50	29.50a	20.00a	b & e	
GROUP 10	9.55	29.50a	20.00a	b & c	
GROUP 11	9.70	29.50a	20.00a	b & c	

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:
a. per week per employee
b. 1 week's paid vacation after 1 year's service; 2 weeks' paid vacation after 3 years' service; & 3 weeks' paid vacation after 10 years' service.
c. 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; & Christmas Day

SUPERSEDEAS DECISION

STATE: INDIANA COUNTIES: *See Below
DECISION NO.: IN79-2004 DATE: Date of Publication
Supersedes Decision Nos. IN78-2051 dated March 24, 1978 in 43 FR 12589 and IN78-2065 dated July 21, 1978 in 43 FR 31535
DESCRIPTION OF WORK: Building Construction (Does not include single family homes & garden type apartments up to & including 4 stories)

*CLAY, DAVIESS, GREENE, KNOX, MARTIN, PARKE, PUTNAM, SULLIVAN, VANDERBURGH, VERMILLION & VIGO

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Clay, Greene, Parke, Putnam, Vermillion & Vigo Cos.	$12.15	.50	1.20		.01
Daviess, Knox, Martin, Sullivan & Vanderburgh Cos.	11.70	.45	1.00		.03
BOILERMAKERS	12.55	.80	1.00		.03
BRICKLAYERS; Caulkers; Cleaners; Pointers; & Stonemasons					
Vanderburgh Co.	11.03	1.00	.50		
Remaining Cos.	11.65	.50	.90		.01
CARPENTERS; Millwrights; Pile-drivermen; & Soft Floor Layers:					
Clay (S. of Hwy 246 including Brazil), Parke (except east of Twps. of Jessup, Rosedale, Carbondale, & Portland), Vermillion (South of Summit Grove) & Vigo Cos.:					
Carpenters; Soft Floor Layers	11.00	.58	.70		.02
Piledrivermen	11.50	.58	.70		.02
Millwrights	12.40	.70	.75		.08
Clay (S. of Hwy 246 excluding Brazil), Daviess, Greene (excluding Twps. of Beach, Center, & Jackson), Knox, Martin, & Sullivan Cos.:					
Carpenters; Soft Floor Layers	10.40	.67	.67		
Millwrights; Piledrivermen	10.80	.67	.67		
Greene Co. (Twps. of Beach, Center & Jackson):					
Carpenters; Soft Floor Layers	11.10	.66	.55		.01
Millwrights	11.85	.71	.59		.01
Piledrivermen	11.35	.66	.55		.01
Parke (East of Twps. of Jessup, Rosedale, Carbondale, & Portland), Putnam, & Vermillion (North of the South city limit of Summit Grove):					
Carpenters; Millwrights	12.40	.70	.75		.08
Vanderburgh Co.:					
Carpenters & Soft Floor Layers	9.65	.40	.35		
Millwrights	10.89	.50	.90		
Piledrivermen	9.90	.40	.35		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Clay, Parke, Putnam, Vermillion, & Vigo Cos.	$10.20	.60	.25		
Daviess, Knox, & Martin Cos.	9.35	.70	.80		
Greene & Sullivan Cos.	11.05	.50	.90		.01
Vanderburgh Co.	10.60	.65	.55		
ELECTRICIANS:					
Clay, Greene, Knox (Electrical contracts over $5,000.00), Parke, Sullivan & Vigo Cos.	12.60	.50	3%+.50		.01
Daviess, Martin, & Vanderburgh Cos.	13.05	.50	3%		4%
Knox (Electrical contracts under $5,000.00)	12.10	.50	3%+.50		.01
Putnam Co.	12.80	4%	2%		4%
Vermillion Co.	12.27	.50	3%+.50		.25%
ELEVATOR CONSTRUCTORS:					
Clay, Greene, Parke, Putnam, Vermillion & Vigo Cos.:					
Elevator Constructors	11.285	.745	.56	a+b	.035
Helpers	70%JR	.745	.56	a+b	.035
Helpers (Prob.)	50%JR				
Daviess, Knox, Martin, Sullivan & Vanderburgh Cos.:					
Elevator Constructors	11.20	.745	.56	a+b	.035
Helpers	70%JR	.745	.56	a+b	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Clay, Greene (N½), Parke, Putnam, Sullivan (N½), Vermillion & Vigo Cos.	13.29				
Knox, Sullivan (S½) & Vanderburgh Cos.	10.905	.48	.50	.25	
IRONWORKERS (except Vanderburgh Co.)	11.30	.90	2.05		.10
LATHERS:					
Clay, Daviess (N½), Greene, Martin, Parke, Vermillion, & Vigo Cos.	11.04	.61	.45		.04
Daviess (S½), Knox, & Vanderburgh Cos.	11.97		.20		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS; Terrazzo Workers; & Tile Setters:					
Vanderburgh Co.	$10.30		.50		
Remaining Cos.	11.25	.50	.90		.01
MARBLE SETTERS' FINISHERS & Tile Setters' Finishers:					
Parke, Vermillion & Vigo Cos.	7.40	.40	.70		.01
Remaining Cos.	10.15				
PAINTERS:					
Daviess & Knox Cos.:					
Brush up to 30 ft.	9.80	.45			
Brush over 30 ft.	10.60	.45			
Wall covering hangers	11.15	.45			
Drywall preparing	9.95	.45			
Roller up to 30 ft.	10.65	.45			
Roller over 30 ft.	11.45	.45			
Sandblasting, Spray up to 30 ft.	10.80	.45			
Sandblasting, Spray over 30 ft.	11.60	.45			
Greene, Sullivan & Vigo Cos.:					
Brush; Drywall finishing; Paperhangers; & Rollers	10.00			.25	
Spray	11.00			.25	
Structural Steel to 30 ft.	10.25			.25	
Structural Steel 30 ft. to 100 ft.	11.00			.25	
Structural Steel over 100 ft.	12.00			.25	
Martin Co.					
Brush; Roller; Drywall	8.50				
Sandblasting; Spray	9.50				
Vinyl Hanging	8.60				
Parke & Vermillion Cos.:					
Brush; Paperhangers; Tapers	10.15			.25	
Sandblasting	12.15			.25	
Spray	11.65			.25	
Putnam Co.:					
Brush; Roller; Drywall Tapers	10.75				
Structural Steel	11.00				
Sandblasting	11.75				
Spray	14.02				
Vanderburgh Co.:					
Brush; Roller	9.65	.65	.30		
Sandblasting	10.40	.65	.30		
Spray	10.65	.65	.30		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Clay, Parke, Putnam, Vermillion, & Vigo Cos.	$ 9.75	.50	.50		
Daviess, Knox & Martin Cos.	9.35	.70	.80		
Greene & Sullivan Cos.	11.65	.50	.90		.01
Vanderburgh Co.	11.38				
PLUMBERS; Steamfitters:					
Clay, Greene, Knox (N. of Hwy #50), Parke, Putnam, Sullivan, Vermillion & Vigo Cos.	12.95	.50	1.00		.10
Daviess, Knox (S. of Hwy #50) & Vanderburgh Cos.	13.20	.50	.90		.06
Martin Co.	12.70	.50	1.00		.15
ROOFERS:					
Clay, Greene, Knox, Parke, Sullivan, Vermillion, & Vigo Cos.	10.90	.50	.20		
Daviess, Martin, & Vanderburgh Cos.:					
Composition & Waterproofers	10.63	.60	.50		
Slate, Tile; Concrete slab; Gypsum plank	10.88	.60	.50		
Putnam Co.:					
Composition & Waterproof	11.60	.65	.50		
Slate, Tile, Asbestos & Precast Slab	11.85	.65	.50		
SHEET METAL WORKERS:					
Clay, , Parke, Putnam, Sullivan, Vermillion, & Vigo Cos.	12.78	.40+c	.83		.07
Daviess, Knox, Martin & Vanderburgh Cos.	12.42	.55	.55		.03
SPRINKLER FITTERS	12.10	.75	1.05		.08
TERRAZZO WORKERS' FINISHERS:					
Parke, Vermillion, & Vigo Cos.	7.40	.40	.70		.01

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. 7 paid holidays: A through F & Day after Thanksgiving
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 6% for employee who has worked in business less than 5 years.
c. 3% of gross earnings to SASMI

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Daviess, Knox & Vanderburgh Cos.					
GROUP I	$ 8.30	.70	.50		a.09
GROUP II	8.50	.70	.50		.09
GROUP III	8.60	.70	.50		.09
GROUP IV	9.30	.70	.50		.09
Remaining Counties					
GROUP I	7.85	.70	.50		.09
GROUP II	8.05	.70	.50		.09
GROUP III	8.15	.70	.50		.09
GROUP IV	8.85	.70	.50		.09

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LABORERS

GROUP I: Building & Construction laborers; Scaffold builders (other than for masons or plasterers); Ironworker helpers; Mechanic tenders; Civil engineer helpers & surveyor helpers; Rodmen & Chainmen; Window washers & cleaners; Waterboys & Toolhousemen; Roofer's helpers; Railroad workers; Masonry wall washers (interior & exterior); Cement finisher helpers; Carpenter helpers; Helpers of all other crafts not listed; Mason tender for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; All portable water pumps with discharge up to 3 inches

GROUP II: Waterproofing; Handling of creosote lumber or like treated material (excluding railroad material); Asphalt rakers & tumen; Kettle; Air tool operators, vibrators, chipping hammer operators and all pneumatic tool operators; Earth compactors; Jackmen & sheetmen working ditches deeper than 6 ft. in depth; Laborers working ditches 6 ft. in depth or deeper; Assembly of Unicrete pump; Chain saw operators; Tile layers (sewer or field) & sewer pipe layers (metallic or non-metallic); Motor driven wheelbarrows & concrete buggies; Hyster operators; Pump crete assemblers; Conveyor assemblers; Core drill operators; Cement, lime or silica Clay handlers (bulk or bag); Handling of toxic materials damaging to clothing; Pneumatic spikers; Deck engine & winch operators; Water & cable ducking (metallic & non-metallic)

GROUP III: Plasterers' tenders; Mason tenders, except for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; Mortar mixers; Welders (acetylene or electric Cutting torch or burner); Cement nozzle laborers; Cement gun operators; Scaffold builders when working for plasterers; Scaffold builders when working for masons (except in Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley)

GROUP IV: Dynamite men

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POWER EQUIPMENT OPERATORS

Martin & Vanderburgh Cos.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$10.58	.35	.35		.05
GROUP B	9.49	.35	.35		.05
GROUP C	8.75	.35	.35		.05

CLASSIFICATIONS

GROUP A: A-Frame winch truck, air compressor over 600 cu. ft., air tugger, auto-grade (CMI), auto patrol backhoe, ballast regulator (RR), batcher plant (electric control concrete), bending machine (pipe), bituminous plant, bituminous mixer travel plant, bituminous power roller, bulldozer, cable way, Chicago boom, clamshell, concrete mixer (21 cu. ft. or over), crane, craneman, crusher plant, derrick boat, dinkey, dope pots (pipeline), dragline, dredge operator, drill operator, elevating grader, concrete paver, elevator, Ford hoe, (or similar type equipment), forklift formless paver, gantry crane, gradeall, grademan, grout pump, Hatherington paver, highlift hoist, hopto. hough loader (or similar type), hydro crane, hydro hammer, locomotive crane, locomotive, mechanic mobile mixer, motor crane, motor crane oiler and one(1) piece of minor equipment, mucking machine, multiple tamping machine (RR), overhead crane, pile driver, pulls, push dozer, push boats, roller (sheepfoot), Ross carrier, scoop shovel, side boom, swing crane, tail boom, tar machine (pipeline), throttle valve, trench machine, welder pump, truck mounted drill 2 to 4 pieces of minor equipment, well point, whirleys

GROUP B: Air compressor (200 cu. ft. per minute capacity or more) brakeman, bull float, concrete mixer (over 10S and under 21S), concrete spreader or puddler, deck engine drill helper, electric vibrator Kompactor (earth or rock), finishing machine, fireman, greaser (on grease facilities servicing heavy equipment), material pump motor boats, motor crane oiler, oiler and one piece of minor equipment, portable loader, post hole digger, power broom, rock roller, roller-wobble wheel (earth and rock), spike machine (RR), seaman tiller, spreader rock, sub-grader, tamping machine, truck mounted drill oiler, welding machine widener (Apsco or similar type)

GROUP C: Air compressor (under 200 cu. ft. per minute), bituminous distributor, cement gun, conveyor, deck hand, earth roller form grader, generator, guard rail driver, heater, oiler, paving joint machine, steam Jenny, vibrator, water pump, concrete saw

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POWER EQUIPMENT OPERATORS 1 of 2

Remaining Cos.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$12.40	.55	.75		.08
GROUP II	12.30	.55	.75		.08
GROUP III	12.10	.55	.75		.08
GROUP IV	8.00	.55	.75		.08

CLASSIFICATIONS

GROUP I Master Mechanics

GROUP II Utility Operator

GROUP III Power Cranes; Draglines; Derricks; Electric Overhead Cranes; Shovels; Gradall; Mechanics; Repair and Maintenance of all Equipment; Tractor Highlift; Fork lifts; Tournadozer; Mixer over 14S Capacity; Tournamixer; Two Drum Machine or Two Cage Hoists; Cableways; Tower Machines; Motor Patrol; Boom Tractor; Boom or Winch Truck; Truck Crane; Tournapull; Tractor operating Scoops; Bulldozer; Push Tractor; Finishing Machine on Asphalt; Large Rollers & Rollers on Asphalt; Gravel, Macadam and Brick Surface; Rose Carrier or similar Machine; Gravel Processing Machine; Asphalt Plant Engineer or Pug Mill; Two Air Compressors; Hetherington Paver Operator; Farm Tractor with half Yard bucket and/or Back Hoe Attachment; Trench Machines cutting over 24"; Dredging Equipment; Central Mix Plant Engineer; CMI or similar type Machine; Concrete Spreader; Cherry Picker; Standard or Dinkey Locomotives; Scoopmobiles; Euclid Loader; Soil Cement Machines; Back Filler; Elevating Machine; Power Blade; Asphalt Plant Engineer; Well Drilling Machines; Paint Machine; Pipe Cleaning Machines; Pipe Wrapping Machine; Pipe Bending Machine; Apsco Paver; Boring Machine; Tractor Without Winch; Head Equipment Greasers; Barber Green Loaders; Formless Paver; Well Point System Hydra Ax; Resco Concrete Saw; Marine Scoops; Brush Mulcher; Brush Burner; Mesh Placer; Tree Mover; Helicopter Crew (3); Pile Driver Skid or Crawler; Stump Remover; Root Rake; Tug Boat Operator; Refrigerating Machine Freezing Operator; Chair Carr - Self Propelled; Hydra Seeder; Straw Blower; Concrete Mixers with Skip; all one Drum Hoists with Tower or Boom; Dredge Engineer; Dredge Operator; Rock Spreader; Truck or Skid Mounted Tower Crane; Engine or Rock Crusher Plant; Boiler Operator; Concrete Plant Engineer; Loaders; Hydra Crane Caissons; Shaft or any similar type Drilling Machine; Concrete Curb Machine - Self Propelled; Winch or Hydraulic Boom Truck

POWER EQUIPMENT OPERATORS 2 of 2

GROUP IV Mixers 14S capacity or less; Trench Machine cutting 24" and under; Farm Tractor with less than half yard bucket and other Attachments except Back Hoe; Truck Crane Oiler; Power Subgrader; Bull Float; Form Grader; Finishing Machine; Pavement Breaker; Rock Crushers; One Drum Machine; One Air Compressor; Concrete Pump; Gunite Machine; Air Tuggers; Truck Crane Drivers; House Elevators when used for hoisting Material; Two to Four Generators or Welding Machine; Mechanized Heaters irrespective of Motor Power when used for temporary heat; Small Rollers on Earth; Engine Tenders; Firemen; Wagon Drill; Flexplane; Conveyor; Two to Four Water Pumps; Siphon and Pulsometer; Switchman on Paint Pots; Fireman on Asphalt Plants; Distributor Operator on Trucks; Tampers; Power Broom; Post Hole Digger; Self-propelled Concrete Saw; Striping Machine (Motor Driven); Form Tamper; Seaman Tiller; Bulk Cement Plant Equipment Greaser; Track Jack; Mud Jack; Operator to do Winter Repair Work in Shop Between November 1st and March 1st; Concrete Buggies motor driven; Oilers; Barrel Type Mixer; One Welding Machine or One Water Pump; Air Valves or Steam Valves from Plant; Concrete Mixers without Skip; Curing Machine; Concrete & Blacktop Curb Machine; Deck Hands

Cranes with booms from 149 ft. to 199 ft. including jib. receive additional $.75 per hour
Cranes with boom over 199 ft. including job receive additional $1.25 per hour.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Butler, Cambria, Erie, Fayette, Mercer, Washington, Westmoreland, Lawrence, Somerset, Allegheny, Beaver, Armstrong, Blair, Cameron, Centre, Clarion, Clearfield, Crawford, Forest, Greene, Indiana, McKean, Vanango, Warren, Bedford, Jefferson, Clinton, Elk, Franklin, Fulton, Huntingdon, Mifflin and Potter
DECISION No.: PA79-3000 DATE: Date of Publication
Supersedes Decision No. PA78-3005 dated February 24, 1978 in 43 FR 7923
DESCRIPTION OF WORK: Heavy and Highway Constcuction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS					
ZONE 1	$11.56	8%	7%		
ZONE 2	11.32	8%	7%		
CARPENTER - WELDER					
ZONE 1	12.00	8%	7%		
ZONE 2	11.76	8%	7%		

AREA COVERED BY CARPENTERS ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Butler, Erie, Fayette, Greene, Lawrence, Mercer, Washington and Westmoreland.
ZONE 2 - Bedford, Blair, Cambria, Cameron, Centre, Clarion, Clinton, Clearfield, Crawford, Elk, Forest, Franklin, Fulton, Huntingdon, Indiana, Jefferson, McKean, Mifflin, Potter, Somerst, Venango and Warren

CEMENT MASONS	10.90	.655	1.745		
PILEDRIVERMEN	11.98	5.5%	10%		
IRONWORKERS:					
Reinforcing					
ZONE 1	8.60	.785	1.215		.01
ZONE 2					
Structural, Ornamental & Reinforcing	12.105	1.14	1.36		.03

AREA COVERED BY IRONWORKERS ZONES

ZONE 1 - Butler, Cambria, Erie, Fayette, Mercer, Washington, Westmoreland, Lawrence, Somerset, Allegheny, Beaver, Armstrong, Blair, Cameron, Centre, Clarion, Clearfield, Crawford, Forest, Greene, Indiana, McKean, Vanango, Warren, Bedford, Jefferson, Clinton, Elk, Fulton and Potter
ZONE 2 - Franklin, Huntingdon and Mifflin Counties

DECISION NO. PA79-3000

	Basic Hourly Rates Zone 1	Basic Hourly Rates Zone 2	Basic Hourly Rates Zone 3	FRINGE BENEFITS H&W	FRINGE BENEFITS PEN
LABORERS					
CLASS 1	8.59	8.47	8.37	10%	10%
CLASS 2	8.75	8.65	8.55	10%	10%
CLASS 3	9.17	9.17	9.17	10%	10%
CLASS 4	10.13	10.13	10.13	10%	10%

AREA COVERED BY LABORERS ZONES

ZONE 1 - Allegheny, Beaver, Butler, Cambria, Erie, Fayette, Mercer, Washington, Westmoreland, Lawrence, and Somerset
ZONE 2 - Armstrong, Blair, Cameron, Centre, Clarion, Clearfield, Crawford, Elk, Forest, Greene, Indiana, McKean, Venango and Warren
ZONE 3 - Bedford, Jefferson, Clinton, Elk, Franklin, Fulton, Huntington, Mifflin and Potter

CLASSIFICATION DEFINITIONS
FOR ALL ZONES

CLASS 1 - Heavy Highway & R.R. Construction Laborer (including tenders, handling Salamanders, L.P. Gas Heaters or similar, etc.), Asphalt curb sealers, asphalt tampers, batchman (weigh), blaster's helper, brakeman, change house attendant, cofferdam laborer, concrete curing, pitman, puddler, (including vibrator operators), drill runner's helper includes drill mounted on truck, track or similar and davey drills (spots-clean-up & helps to maintain), electric brush and/or grinder, fence construction (including fence machine operator), form stripper and mover, gabion (erectors and placers), hydro-jet blaster nozzleman, manually moved emulsion sprayer, radio actual traffic control operator, rip rap work, scaffolds and runways (as per agreement of record), sheeters and shorers, structrual concrete top surfacer, walk behind stroot sweeper, water boy, welder's helper (pipeline), wood chipper
CLASS 2 - Air tools (all types), asphalt, batch and concrete plant operator (manually operated), asphalt rakers, burner, caisson men (open air), carryable pumps, chain saw operator (including attachments), cribbing (concrete or steel), curb machine operator (asphalt or concrete) (walk behind), diamond head core driller, drill runner's helper (tunnel), fork lift (walk behind), form setter (road forms line man), highway slab reinforcement placers (incl. joint and basket setter), hydraulic pipe pusher, liner plates (tile or vitrified clay), mechanical compacting equipment, mechanical joint sealer, dope pot, and tar kettle, mortar mixer (hand or machine), muckers, brakemen and all other labor (includes installation of utility lines), pipe layers (regardless of material), portable single unit conveyor, post hole auger (2 or 4 cycle hand operated), power wheelbarrows & buggies, rail porter, or similar, all railroad track work, adzing machine, ballast router, bolting machine, power jacks, rail drills, railroad brakeman, rail saws, spike drivers (manually or hand-held tool), spike pullers, tamping machine, thermitweld, sandblaster, signal man

DECISION NO. PA79-3000

CLASSIFICATION DEFINITIONS
FOR ALL ZONES (CONT'D)

CLASS 3 - Blacksmith, blaster, brick stone and block pavers and block cutters, (wood, belgian & asphalt), cement mortar lining car pusher, cement mortar mixer (pipe relining), cement mortar pipe relining, concrete saw operator (walk behind), curb cutters and setters, elevated roadway drainage construction, form setter (road forms-lead man), grout machine operator, gunite or dry pack gun (nozzle and machine man) manhole or catch basin (brick, block, concrete or any prefabrication), miners and drillers (including lining, supporting and form workmen, setting of shields, miscellaneous equipment & jumbos), multi-plate pipe (aligning and securing), placing wire mesh on gunite projects reinforcing steel placers (bending, aligning and securing & cad weld), wagon drill operators (air track or similar), walk behind ditching machine (trencher or similar), welder
CLASS 4 - Welder (pipeline)

	Basic Hourly Rates Zone 1	Basic Hourly Rates Zone 2	Fringe Benefits Pensions H & W	Pension	Appr. Tr.
LANDSCAPE:					
Landscape Laborer	6.15	6.05	.75	.60	
Skilled Landscape Laborer	6.30	6.20	.75	.60	
Landscaper Tractor Operator	6.65	6.55	.75	.60	

AREA COVERED BY LANDSCAPE
LABORERS ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Butler, Clarion, Crawford, Fayette, Greene, Indiana, Jefferson, Lawrence, Mercer, Venango, Washington, Westmoreland
ZONE 2 - Bedford, Blair, Cambria, Cameron, Centre, Clearfield, Clinton, Elk, Erie, Forest, Franklin, Fulton, Huntingdon, McKean, Mifflin, Potter, Somerset, Warren

DECISION NO. PA79-3000

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
ZONE 1					
Journeyman Lineman	12.83	.45	1.28		.064
Experienced Winch Truck Operator	8.98	.45	.089		.044
2nd 1000 Hrs.	8.77	.45	.087		.043
1st 1000 Hrs.	8.55	.45	.085		.042
Experienced Truck Driver	8.34	.45	.083		.041
2nd 1000 Hrs.	8.13	.45	.081		.040
1st 1000 Hrs.	7.91	.45	.079		.039
Experienced Groundman	7.70	.45	.077		.038
2nd 1000 Hrs.	7.48	.45	.074		.037
1st 1000 Hrs.	7.27	.45	.072		.036
ZONE 2					
Journeyman Lineman	10.76	.45	.107		.053
Experienced Winch Truck	7.49	.45	.074		.037
2nd 1000 hrs.	7.30	.45	.073		.036
1st 1000 hrs.	7.12	.45	.071		.035
Experienced Truck Driver	6.94	.45	.069		.034
2nd 1000 hrs.	6.76	.45	.067		.033
1st 1000 hrs.	6.58	.45	.065		.032
Experienced Groundman	6.40	.45	.064		.032
2nd 1000 hrs.	6.21	.45	.062		.031
1st 1000 hrs.	6.03	.45	.060		.030
ZONE 3					
Journeyman Lineman	10.80	.50	.32		.08
Dynamite Man	10.80	.50	.32		.08
Heavy Equipment Operator	10.80	.50	.32		.08
Experience Winch Truck Operator	7.59	.50	.22		.05
2nd 6 months	7.41	.50	.22		.05
1st 6 months	7.21	.50	.21		.05
Experience Truck Driver	7.43	.50	.22		.05
2nd 6 months	7.21	.50	.21		.05
1st 6 months	7.04	.50	.21		.05
Experienced Groundman	7.26	.50	.22		.05
2nd 6 months	7.04	.50	.21		.05
1st 6 months	6.82	.50	.20		.05

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AREA COVERED BY LINE CONSTRUCTION ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Bedford, Blair, Cambria, Centre, Clarion, Clearfield, Fayette, Fulton, Greene, Huntingdon, Indiana, Jefferson, Somerset, Washington & Westmoreland Counties
ZONE 2 - Franklin & Mifflin Counties
ZONE 3 - Butler, Cameron, Clinton, Crawford, Elk, Erie, Forest, Lawrence, McKean, Mercer, Venango, Warren & Potter Counties

	Basic Hourly Rates Zone 1	Basic Hourly Rates Zone 2	Fringe Benefits Pensions H & W	Pension	Appr. Tr.
POWER EQUIPMENT OPERATOR					
CLASS 1	11.73	11.44	.95	1.00	.09
CLASS 2	11.47	11.16	.95	1.00	.09
CLASS 3	9.11	8.82	.95	1.00	.09
CLASS 4	8.66	8.33	.95	1.00	.09
CLASS 5	8.51	8.22	.95	1.00	.09

AREA COVERED BY POWER EQUIPMENT OPERATOR ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Centre, Clearfield Crawford, Erie, Fayette, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, Westmoreland
ZONE 2 - Bedford, Cameron, Clarion, Clinton, Elk, Forest, Franklin, Fulton, Huntingdon, Mifflin, Potter

DECISION NO. PA79-3000

CLASSIFICATION DEFINITION
FOR ALL ZONES

CLASS 1 - Autograde (C. M. I. & similar), backfiller, backhoe - 360 swing, cableway, caisson drill (similar to Hugh Williams), central mix plant, cooling plant, concrete paving mixer, concrete pump (self-propelled), cranes, cranes (boom or mast 101 ft. or over up to & including 150 ft. inclusive of jib + .25), cranes (boom or mast over 150 ft. up to & including 200 ft. inclusive of jib + $.50), cranes (boom or mast over 200 ft. inclusive of jib + $.75), cranes (tower-stationary climbing tower cranes), derrick, derrick boat, dozer (D-6 & over), dragline, dredge, dredge hydraulic (1 leverman - 1 oiler - 1 apprentice), elevating grader, franki pile machine, gradall (remote controls or otherwise), grader (power-fine grade), helicopter (1500 lb. or over lift), helicopter (under 1500 lb. lift), hilift (4 cy. & over), hoist 2 drums or more (in one unit), hydraulic boom truck (with pivotal Cab) (single motor-pitman or similar), local, lead mechanic, locomotive (std. gauge), metro-chip harvester or similar, mix mobile, mix mobile (with self loading attachment), muching machine (tunnel), pile driver machine, pipe extrusion machine, presplitter drill crane (25 ton & over), rough terrain crane (under 25 ton), scrapers, shovel-power, slip form paver (C. M. I. and similar), trenching machine (30,000 lbs. and over), trenching machine (under 30,000 lb.), tunnel machine (mark XXI jarva or similar), whirley

CLASS 2 - Asphalt paving machines (spreader), asphalt plant operator, auger (tractor mtd.), auger (truck mtd.), backhoe (rear pivotal swing) (180 swing), belt loader (euclid or similar), boring machine, cable placer or layer, compactor with blade, concrete batch plant (electronically synchronized), concrete belt placer (C.M.I. and similar), concrete finishing machine and spreader, concrete mixer (over 1 cy.), concrete pump (stationary), core drill (truck or skid mtd. - similar to Pan drill), dozer (under D-6), force feed loader, fork lift (lull or similar), grader - power, grease unit operator (head), guard rail post driver (truck mounted), guard rail post driver (skid type), hilift (under 4 cy.), hydraulic boom truck (non-pivotal cab), job work boat (powered) (when assistance is required it shall be a deckhand), jumbo operator, locomotive (narrow guage), mechanic, minor equipment operator (accumulative four units), mucking machine, multi-head saw (groover), overhead crane, roller - power-asphalt, ross carrier, side boom or tractor mounted boom, stone cursher, (screening-washing plants), stone spreader (self-propelled) truck mounted drill (davey or similar), welder and repairman, well point pump operator

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CLASSIFICATION DEFINITION
FOR ALL ZONES (CONT'D)

CLASS 3 - Broom finisher (C.M.I. or similar), Compactors/Rollers (Static or Vibratory) (Self-propelled), Curb Buildet, Minor Equipment Operator (Two to three units), Multi-head Tie Tamper, Pavement Breaker (self-propelled or ridden), Soil Stabilizer Machine, Tire Repairman (As per Agreement with Teamsters), Tractor (Snaking & Hauling), Well Driller & Horizontal and Winch or "A" Frame (when hoisting & lowering)

CLASS 4 - Ballast Regulator, Compressor, Concrete Mixer (1 cy. & under with skip), Concrete Saw (Ridden or self-propelled), Conveyor, Elevator (Material hauling only), Fork-lift (Ridden or self-propelled), Form Line Machine, Generator, Groute Pump, Heater (Mechanical), Hoist (Single Drum), Ladavator, Light Plant, Mulching Machine, Personnel Boat (powered), Pulverizer, Pumps, Seeding Machine, Spray Cure Machine (power Driven), Subgrader, Tie Puller, Tugger and Welding Machine (Gas or Diesel)

CLASS 5 - Deck Hand, Farm Tractor, Fireman or Boiler, Mechanic's Helper, Oiler, Power Room, Side Delivery Shoulder Spreader (Attachment)

DECISION NO. PA79-3000

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
Trucks under 33,000 lbs. gross load category (including all types of trucks such as fuel, dump, flat bottom, pickup and similar equipment. Also parts man and warehouseman)	9.22	9%	7.5%		
Truck over 33,000 lbs. gross load category (including all types of trucks such as fuel, dump (tandem), flat bottom, scissors and combination fuel and grease)	9.36	9%	7.5%		
Tri-axle Trucks	9.43	9%	7.5%		
Heavy equipment whose capacity exceeds that for which state licenses are issued - specifically refers to units in excess of 8 feet, width (such as Euclids, Athey Wagon, Payloader, Tournawagons and similar equipment when not self-loaded rated under forty-five tons	9.43	9%	7.5%		
Heavy off-the-road equipment (rated at forty-five tons or over)	9.54	9%	7.5%		
Bottom or Belly-Dump Trucks	9.54	9%	7.5%		
Heavy Duty Trailer, such as Low Boy, Hi-Boy, Dump Trailer, Pole Trailer A-Frames (when used for transporting materials), Dumpsters, Ross Carriers, Form Trucks, Dual-purpose Trucks (when load has been loaded or unloaded with truck winch, loading, hauling and unloading), Mechanical Tailgate Trucks, Bucket Self-loading Trucks, Farm Tractors (when pulling and hauling), Fork Lift Trucks (in storage areas and warehouses), Tar and Asphalt distributing Trucks, Tar and Asphalt Trailer Trucks	9.51	9%	7.5%		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Single-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	9.26	9%	7.5%		
Tandem-axle Ready-mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	9.36	9%	7.5%		
Tri-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	9.43	9%	7.5%		
Liquid Tank Trucks - Straight and Semi (including water, sprinkler, oil trucks, etc.)	9.36	9%	7.5%		
Trucks with Dolly or Trailer	9.31	9%	7.5%		
ZONE 2					
Heavy Duty Trailer, such as Low-Boy, Hi-Boy, Dump Trailer, Pole Trailer, A-Frames (when used for transporting materials), Dumpsters, Ross Carriers, Form Trucks, Dual-purpose Trucks (when load has been loaded or unloaded with truck winch, loading, hauling and unloading Mechanical Tailgate Trucks, Bucket Self-loading Trucks, Farm Tractors (when pulling and hauling), Fork Lift Trucks (in storage areas and warehouses), Tar and Asphalt Distributing Trucks, Tar and Asphalt Trailer Trucks	9.32	9%	7.5%		
Single-axle Ready-mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	9.01	9%	7.5%		
Tandem-axle Ready-mix Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	9.13	9%	7.5%		

DECISION NO. PA79-3000

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Tri-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	9.27	9%	7.5%		
Liquid Tank Trucks - Straight and Semi (including water, sprinkler, oil trucks, etc.)	9.17	9%	7.5%		
Trucks with Dolly or Trailer	9.13	9%	7.5%		
Trucks under 33,000 lbs. gross load category (including all types of trucks such as fuel, dump, flat bottom, pickup and similar equipment. Also parts man and warehouseman)	8.99	9%	7.5%		
Trucks over 33,000 lbs. gross load category (including all types of trucks such as fuel, dump (tandem), flat bottom, scissors, and combination fuel and grease)	9.17	9%	7.5%		
Tri-axle Trucks	9.27	9%	7.5%		
Heavy equipment whose capacity exceeds that for which state licenses are issued - specifically refers to units in excess of 8 feet width (such as Euclids, Athey Wagon, Payloader, Tournawagons, and similar equipment when not self-loaded) Rated under forty-five tons	9.27	9%	7.5%		
Heavy off-the-road Equipment (rated at forty-five tons or over)	9.36	9%	7.5%		
Bottom or Belly-dump Trucks	9.36	9%	7.5%		

DECISION NO. PA79-3000

AREA COVERED BY TRUCK DRIVERS ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Centre, Clearfield, Crawford, Erie, Fayette, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, Westmoreland
ZONE 2 - Bedford, Cameron, Clarion, Clinton, Elk, Forest, Franklin, Fulton, Huntingdon, Mifflin, Potter

Welders - Rate for craft

SUPERSEDEAS DECISION

STATE: TENNESSEE
DECISION NUMBER: TN79-1063
COUNTIES: STATEWIDE
DATE: DATE OF PUBLICATION
Supersedes Decision No. TN78-1049, dated May 19, 1978, in 43 FR 21829.
DESCRIPTION OF WORK: HEAVY CONSTRUCTION (except Hamilton County), and HIGHWAY CONSTRUCTION.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Operator	$ 4.35				
Asphalt Paver	5.66				
Asphalt Raker	4.75				
Backhoe Operator	6.40				
Bricklayer	7.48				
Bulldozer or Pushdozer Operator	6.30				
Carpenter or Loadsman	6.33				
Cement Mason	6.23				
Central Mixing (asphalt/concrete)	5.58				
Chain Saw Operator	4.44				
Concrete Edger	4.46				
Concrete Finish Machine Operator	6.20				
Concrete Mixer (less than 1 yd.)	4.82				
Concrete Paver	6.20				
Concrete Rubber	4.93				
Concrete Saw Operator	4.56				
Crane Operator	6.36				
Curb Machine Operator	5.25				
Distributor (bituminous)	5.25				
Ditch Paver	4.65				
Dozer/Loader - (stockpile only)	5.30				
Earth Driller	5.35				
Electricians - Linemen:					
Shelby County;	10.78	.90	3% x .50		½ of 1%
Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, Obion, Tipton, & Weakley Counties;	9.68				
Benton, Carroll, Chester, Decatur, Hardin, Henderson, Henry, Houston, Humphreys, McNairy, Perry, Stewart, & Wayne Counties;	6.19				
Madison County;	8.35				
Hamilton County;	10.17				
Knox County;	9.67				
Davidson County;	10.03				

DECISION NO. TN79-1063

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians (Cont'd.):					
Cheatham, DeKalb, Dickson, Macon, Montgomery, Robertson, Smith, Sumner, Trousdale, Williamson, & Wilson Counties;	$10.00				
Bedford, Cannon, Coffee, Franklin, Giles, Grundy, Hickman, Lawrence, Lewis, Lincoln, Marion, Marshall, Maury, Moore, Rutherford, & Warren Counties;	10.10				
Anderson, Campbell, Clay, Cumberland, Fentress, Jackson, Morgan, Overton, Pickett, Putnam, Roane, Scott, & White Counties;	9.43				
Bledsoe, Blount, Bradley, Loudon, McMinn, Meigs, Monroe, Polk, Rhea, Sequatchie, Sevier, & Van Buren Counties;	9.87				
Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Sullivan, Unicoi, Union, & Washington Counties	9.42				
Pipe Layer	6.32				
Pipe Erector	5.52				
Plasterer	4.39				
Plumber	4.03				
Pre-Stress - Steel Road Guard Rail Erector	5.84				
Ironworker - Reinforcing	4.94				
Ironworker - Structural	5.73				
Laborer	6.67				
Mechanic Class I (heavy duty)	4.29				
Mechanic Class II (light duty)	6.53				
Mechanic's Helper (tire changer and/or greaser)	6.05				
	4.36				

Page 3

DECISION NO. WF79-1063	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and Apprn. Tr.
Mortar Mixer	$ 4.35				
Motor Crane Driver	4.37				
Motor Patrol - Finish	6.50				
Motor Patrol - Rough	5.88				
Mulcher or Seeder	4.34				
Nozzleman or Gunman (gunite)	5.80				
Oiler	5.30				
Painter or Sandblaster	6.31				
Pile Driver Operator	6.49				
Pipe Layer	4.61				
Powder Man	5.60				
Pump Operator	4.10				
Roller - High Type	5.57				
Roller - Other than Finish	5.06				
Scale Operator	5.00				
Scraper Operator	6.29				
Shovel Operator	6.32				
Sign Erector	5.94				
Soil Cement Machine Operator	5.66				
Spreader - Self-Propelled	5.57				
Tractor/Boom & Hoist Operator	5.62				
Tractor Drill Operator	4.83				
Tractor - Farm Operator	4.59				
Trenching Machine Operator	6.27				
Truck Driver (2.3 axles)	4.46				
Truck Driver (4.5 axles or more, heavy duty off-road trucks)	5.04				

Welders - Rate for craft.

[FR Doc. 79-2434 Filed 1-25-79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Fnday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA//FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
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presidential documents

Title 3—
The President

Proclamation 4634 of January 26, 1979

Implementation of Orderly Marketing Agreements—and the Temporary Quantitative Limitation on the Importation Into the United States of Color Television Receivers and Certain Subassemblies Thereof

By the President of the United States of America

A Proclamation

1. On March 22, 1977, the United States International Trade Commission (USITC) reported to the President (USITC Publication 808) the results of its investigation under section 201(b) of the Trade Act of 1974 (19 U.S.C. 2251(b)) (the Trade Act). The USITC determined that color television receivers assembled or not assembled, finished or not finished, provided for in item 685.20 of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles. By an evenly divided vote, three USITC Commissioners determined serious injury to exist in the monochrome television receiver industry and three Commissioners made no determination of injury with respect to the monochrome receiver industry. The Commissioners also had an evenly divided determination on the question of injury to that portion of the industry producing subassemblies of color television receivers, also provided for in item 685.20 of the TSUS.

2. On June 24, 1977, in order to remedy the serious injury found to exist by the USITC, I proclaimed (Presidential Proclamation 4511) that the Government of the United States of America and the Government of Japan had entered into an orderly marketing agreement on May 20, 1977, pursuant to section 203(a)(4) of the Trade Act (19 U.S.C. 2253(a)(4)) limiting the export from Japan to the United States of color television receivers and certain subassemblies thereof, for a period of three years beginning July 1, 1977, to 1.75 million units in each annual restraint period.

3. In Proclamation 4511 I delegated my authority under section 203(e)(3) of the Trade Act (19 U.S.C. 2253(e)(3)) to determine that any agreement negotiated pursuant to section 203(a)(4) of the Trade Act (19 U.S.C. 2253(a)(4)) is no longer effective to the Special Representative for Trade Negotiations (hereinafter referred to as the "Special Representative").

4. Pursuant to the authority delegated to the Special Representative in paragraphs 2 and 4 of Proclamation 4511, and after consultation with representatives of member agencies of the Trade Policy Staff Committee, the Special Representative has determined that imports of color television receivers and certain subassemblies thereof from Taiwan and the Republic of Korea have increased in such quantities so as to disrupt the effectiveness of the orderly marketing agreement with Japan with respect to such products and that for the purposes of section 203(e)(3) of the Trade Act (19 U.S.C. 2253(e)(3)) the orderly

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marketing agreement with Japan does not continue to be effective. I concur with that determination.

5. Pursuant to the authority vested in the President by the Constitution and the statutes of the United States, including section 203(a)(5) and 203(e)(3) of the Trade Act (19 U.S.C. 2253(a)(5) and 2253(e)(3)), and in order to restore the effectiveness of the orderly marketing agreement with Japan, and to remedy the serious injury to the domestic industry producing color television receivers and certain subassemblies thereof found to exist by the USITC, orderly marketing agreements were concluded on December 14, 1978, and December 29, 1978, between the Government of the United States of America and the Government of the Republic of Korea and Taiwan respectively. The orderly marketing agreements limit the export from the Republic of Korea and Taiwan to the United States of color television receivers and certain subassemblies thereof, for the period February 1, 1979, through June 30, 1980, and set forth conditions under which limitations will be placed on the importation into the United States of such articles by the Government of the United States through quantitative restrictions. These restrictions are to be implemented under the authority of sections 203(a)(5), (e)(3), and (g)(2) of the Trade Act (19 U.S.C. 2253(a)(5), (e)(3), and (g)(2)).

6. In accordance with section 203(d)(2) of the Trade Act (19 U.S.C. 2253(d)(2)), I have determined that the level of import relief hereinafter proclaimed permits the importation into the United States of a quantity or value of articles which is not less than the average annual quantity or value of such articles imported into the United States, from the Republic of Korea and from Taiwan, in the 1972–75 period, which I have determined to be the most recent representative period for imports of such articles.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and statutes of the United States, including sections 203 and 604 of the Trade Act (19 U.S.C. 2253 and 2483), and section 301 of Title 3 of the United States Code, do hereby proclaim:

(1) Orderly marketing agreements were entered into on December 14, 1978, and December 29, 1978, between the Government of the United States of America and the Government of the Republic of Korea and Taiwan, respectively, with respect to trade in color television receivers and certain subassemblies thereof, effective February 1, 1979. The orderly marketing agreements are to be implemented according to their terms and by quantitative restrictions as directed in this proclamation, including the Annex thereto.

(2) Subpart A, part 2 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is modified as set forth in the Annex to this proclamation.

(3) The President's authority under section 203(e)(2) of the Trade Act (19 U.S.C. 2253(e)(2)) to negotiate orderly marketing agreements with other foreign suppliers of articles subject to this proclamation after any import relief proclaimed pursuant to section 203(a)(1), (2), (3) or (5) of the Trade Act (19 U.S.C. 2253(a)(1), (2), (3) or (5)) takes effect, is hereby delegated to the Special Representative. The President's authority under section 203(e)(3) of the Trade Act (19 U.S.C. 2253(e)(3)) to determine that any agreement negotiated pursuant to section 203(a)(4) or (5) or 203(e)(2)) of the Trade Act (19 U.S.C. 2253(a)(4) or (5) or 2253(e)(2)) is no longer effective is hereby delegated to the Special Representative, to be exercised in conformity with paragraph (5) below. In the event of such a determination, the Special Representative shall prepare any proclamations that may be appropriate to implement import relief authorized by section 203(e)(3) of the Trade Act (19 U.S.C. 2253(e)(3)).

(4) The President's authority in section 203(g)(1) and (2) of the Trade Act (19 U.S.C. 2253(g)(1) and (2)) to prescribe regulations governing the entry or withdrawal from warehouse of articles covered by the orderly marketing

agreements and to issue rules and regulations governing entry, or withdrawal from warehouse, for consumption of like articles which are the product of countries not parties to such agreements, has been delegated to the Secretary of the Treasury pursuant to section 5(b) of Executive Order No. 11846. Such authority shall be exercised by the Secretary of the Treasury, upon direction by the Special Representative, on consultation with representatives of the member agencies of the Trade Policy Staff Committee.

(5) In exercising the authority delegated in paragraphs (3) and (4) above, the Special Representative shall, in addition to other necessary actions, institute the following actions.

(a) Statistics on imports from the Republic of Korea and Taiwan and from other sources of articles covered by the agreements shall be collected on a monthly basis. Should the effectiveness of the orderly marketing agreements be disrupted, the Special Representative, after consultation with representatives of member agencies of the Trade Policy Staff Committee, may make a determination that for the purposes of section 203(e)(3) of the Trade Act (19 U.S.C. 2253(e)(3)) the orderly marketing agreements do not continue to be effective.

(b) Beginning on February 1, 1979, if during any restraint period the quantity of imports of the articles covered by the agreements, from countries other than Taiwan and the Republic of Korea, appear likely to disrupt the effectiveness of the provisions of the orderly marketing agreements described in paragraph (1) above, the Special Representative may initiate consultations with those countries responsible for such disruptions and may prevent further entry of such articles for the remainder of that restraint period or may otherwise moderate or restrict imports of such articles from such countries pursuant to section 203(g)(2) of the Trade Act (19 U.S.C. 2253(g)(2)). Before exercising this authority, the Special Representative shall consult with representatives of the member agencies of the Trade Policy Staff Committee.

(c) Should the Special Representative determine, pursuant to this proclamation, to institute import restrictions on articles entered, or withdrawn from warehouse, for consumption from countries other than Taiwan or the Republic of Korea pursuant to this proclamation, such action shall be effective not less than eight days after such determination and any necessary changes in the TSUS have been published in the FEDERAL REGISTER.

(6) The Special Representative shall take such actions and perform such functions for the United States as may be necessary concerning the administration, implementation, modification, amendment or termination of the agreements described in paragraph (1) of this proclamation, and any actions and functions necessary to implement paragraphs (3), (4) and (5) of this proclamation. In carrying out his responsibilities under this paragraph the Special Representative is authorized to delegate to appropriate officials or agencies of the United States authority to perform any functions necessary for the administration and implementation of the agreements or actions. The Special Representative is authorized to make any changes in Part 2 of the Appendix to the TSUS which may be necessary to carry out the agreements or actions. Any such changes in the agreements shall be effective on and after their publication in the FEDERAL REGISTER.

(7) The Commissioner of Customs shall take such actions as the Special Representative shall determine are necessary to carry out the agreements described in paragraph (1) of this proclamation and to implement any import relief pursuant to paragraphs (3), (4) and (5) of this proclamation, or any modification thereof, with respect to the entry or withdrawal from warehouse, for consumption into the United States of products covered by such agreements or by such other import relief.

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(8) This proclamation shall be effective as of February 1, 1979, and shall continue in force through June 30, 1980, unless the period of its effectiveness is earlier expressly modified or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of January, in the year of our Lord, nineteen hundred and seventy-nine, and of the Independence of the United States of America the two hundred and third.

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Jimmy Carter

ANNEX

Subpart A, part 2 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is modified—

(a) by adding the following headnote:

"5. *Quantitative limitation on color television receivers and certain subassemblies thereof.*—The provisions of this headnote apply to items 923.74 through 923.83, inclusive, of this subpart. The quantitative import limitations imposed are in addition to the duties provided for the restrained articles in schedule 6, part 5. The import restrictions provided for in this subpart do not apply to a single color television receiver or subassembly thereof, if imported for the personal use of the importer.

(a) *Definition.*—For the purposes of this subpart—

(i) each subassembly that contains as a component, or is covered in the same entry with, one or more of the following television components, viz.,

tuner, channel selector assembly, antenna, deflection yoke, degaussing coil, picture tube mounting bracket, grounding assembly, parts necessary for fixing the picture tube or tuner in place, consumer operated controls, or speaker,

shall be classified in items 923.78 through 923.83, inclusive;

(ii) for the purposes of items 923.78 through 923.83, inclusive, each subassembly shall be counted as a single unit, except that two or more different printed circuit boards or ceramic substrates covered by the same entry and designed for assembly into the same television models shall be counted as one unit;

(iii) the term *"restraint period"* refers to the time periods set forth in items 923.74 through 923.83, inclusive; and

(iv) the term *"exported"* refers to the actual date the merchandise finally leaves the country of exportation for the United States as provided for in section 152.1(c) of the U.S. Customs regulations (19 CFR 152.1(c)).

(b) *Export visa.*—None of the color television receivers and subassemblies thereof provided for herein exported on or after February 1, 1979, from the foreign countries involved may be entered unless such color television receivers and subassemblies are accompanied by an appropriate export visa issued by the government of the exporting country.

(c) *Color television receivers and certain subassemblies thereof exported prior to Feburary 1, 1979.*—All color television receivers and subassemblies thereof provided for in items 923.74 through 923.83, inclusive, which were exported from the foreign country involved prior to February 1, 1979, may be entered prior to April 1, 1979, without the requirement of export visas. No such color television receivers and subassemblies may be entered on or after April 1, 1979, unless accompanied by an appropriate export visa issued by the exporting country and such products shall be counted against the applicable restraint levels.

(d) *Color television receivers and certain subassemblies thereof exported and entered in different restraint periods.*—Color television receivers and subassemblies thereof provided for in items 923.74 through 923.83, inclusive, which are exported from the foreign country involved during one restraint period, but are entered more than 90 days following the beginning of the subsequent restraint period, shall be counted against the restraint levels for that subsequent restraint period. Color television receivers and subassemblies thereof provided for in items 923.74 through 923.83, inclusive, which are exported from the foreign country involved during one restraint period in excess of the restraint level for such period, may be entered after the beginning of the next restraint period and shall be counted against the restraint level for such item for such subsequent restraint period.

(e) *Carryover.*—If the restraint level for any item has not been filled for a restraint period, upon appropriate request of the foreign government involved, the shortfall may be entered under the same item during the following restraint period provided that the amount of shortfall so entered does not exceed 11 percent of the restraint level for the restraint period during which the shortfall occurred for products of Taiwan and 10 percent for products of the Republic of Korea.

(f) *Exceeding restraint levels.*—Upon appropriate request of the Government of the Republic of Korea, the restraint level for item 923.81 may be exceeded by not more than 10 percent. If the restraint level is exceeded the Special Representative for Trade Negotiations shall make a downward adjustment of the restraint level for item 923.83 in the absolute amount the restraint level for item 923.81 was exceeded.

(g) *Adjustments.*—The quota quantity applicable to item 923.74 shall be adjusted by the

Special Representative for Trade Negotiations depending upon the quantity of color television receivers actually exported from Taiwan and entered into the United States during the period July 1, 1978, through January 31, 1979, inclusive, as determined from U.S. Customs data. If the quantity actually exported from Taiwan and entered into the United States exceeds 368,000 units, the amount of the excess shall be deducted from the quota quantity of 127,000 units. If the quantity actually exported from Taiwan and entered into the United States is less than 368,000 units, the amount of the deficiency shall be added to the quota quantity of 127,000 units. The quota quantity applicable to item 923.81 shall be adjusted by the Special Representative for Trade Negotiations depending upon the quantity of color television receivers actually exported from the Republic of Korea and entered into the United States during the period December 1, 1978, through January 31, 1979, inclusive, as determined from U.S. Customs data. If the quantity actually exported from the Republic of Korea and entered into the United States exceeds 122,000 units, the amount of the excess shall be deducted from the quota quantity of 153,000 units. The above adjustments are to be effective on and after the date of their publication in the FEDERAL REGISTER.

(b) by inserting in numerical sequence the following new provisions:

"Item	Articles	Quota Quantity (in units)
	Whenever the respective aggregate quantity of color television receivers and subassemblies thereof specified below for items 923.74 through 923.83, inclusive, the product of a specified foreign country, has been exported in any restraint period from that country and has been entered, no article in such item the product of such country exported during such restraint period may be entered, except as provided in headnote 5:	
	Taiwan:	
	Color television receivers, having a picture tube, provided for in item 685.20:	
923.74	If exported during the period from February 1, 1979, through June 30, 1979, inclusive	127,000
923.76	If exported during the period from July 1, 1979, through June 30, 1980, inclusive	373,000
	Printed circuit boards and ceramic substrates with components assembled thereon, for color television receivers; subassemblies containing one or more of such boards or substrates, except tuners or convergence assemblies; all the foregoing not having a picture tube, and entered with components enumerated in headnote 5(a)(i) and with all or part of a chassis frame, provided for in item 658.20:	
923.78	If exported during the period from February 1, 1979, through June 30, 1979, inclusive	270,000
923.79	If exported during the period from July 1, 1979, through June 30, 1980, inclusive	648,000
	Republic of Korea:	
	Color television receivers, having a picture tube, provided for in item 685.20; printed circuit boards and ceramic substrates with components assembled thereon for color television receivers and subassemblies containing one or more of such boards or substrates (except tuners or convergence assemblies), all the foregoing not having a picture tube, and entered with components enumerated in headnote 5(a)(i) and with all or part of a chassis frame, provided for in item 685.20:	
923.81	If exported during the period from February 1, 1979, through October 31, 1979, inclusive	153,000
923.83	If exported during the period from November 1, 1979, through June 30, 1980, inclusive	136,000."

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Order of January 26, 1979

Designating Director of the White House Military Office To Classify National Security Information as "Top Secret"

Pursuant to the provisions of Section 1–201 of Executive Order 12065 of June 28, 1978, entitled "National Security Information," I hereby designate the Director of the White House Military Office to classify information originally as "Top Secret."

This Order shall be published in the FEDERAL REGISTER.

Jimmy Carter

THE WHITE HOUSE,
January 26, 1979.

[FR Doc. 3215
Filed 1–26–79; 12:05 pm]
Billing code 3195–01–M

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6820-27-M]

Title 5—Administrative Personnel

CHAPTER XV—NATIONAL STUDY COMMISSION ON RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS

Removal of CFR Chapter

EDITORIAL NOTE: The National Study Commission on Records and Documents of Federal Officials was established by authority of Pub. L. 93-526 (89 Stat. 1695). Regulations establishing Chapter XV were published at 41 FR 47910, Nov. 1, 1976.

The National Study Commission on Records and Documents of Federal Officials was terminated on May 30, 1977, as provided by Pub. L. 93-526 (89 Stat. 1695), as amended by Pub. L. 94-261 (90 Stat. 326).

Since the National Study Commission on Records and Documents of Federal Officials has been terminated, the Director of the Office of the Federal Register, pursuant to 1 CFR 18.2 and in order to keep the CFR current, hereby removes from the *Code of Federal Regulations*, Title 5, Chapter XV, National Study Commission on Records and Documents of Federal Officials.

[3410-02-M]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Regulation 183]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period January-28-February 3, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: January 28, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on January 23, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is somewhat slower.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until February 28, 1979 (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.483 Lemon Regulation 183.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period January 28, 1979, through February 3, 1979, is established at 205,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: January 25, 1979.

D. S. KURYLOSKI,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-3027 Filed 1-26-79; 8:45 am]

[3410-05-M]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Specifications for Bale Packaging Materials, Amdt. 2]

PART 1427—COTTON

Subpart—Specifications for Bale Packaging Materials; Official Tare Weights; Acceptance Materials

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final Rule.

SUMMARY: The purpose of this rule is to provide that (1) conventional hot rolled steel ties and buckles may be used only on flat bales, modified flat bales and bales compressed at a warehouse, (2) all ties which are underneath the wrapping material shall be wire or high tensile steel strapping only, (3) T-2 jute bagging is no longer an eligible wrapping, (4) bales wrapped with 4 pound cotton bagging must be tied with wire or high tensile steel strapping only and (5) to provide a table of official tare weights. This rule is needed in order that producers and others will know which materials are acceptable to CCC and the official tare weights of such material.

EFFECTIVE DATE: January 29, 1979.

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ADDRESS: Price Support and Loan Division, ASCS, USDA, 3741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Dalton J. Ustynik, ASCS, 202-447-6611.

SUPPLEMENTARY INFORMATION: On September 1, 1978, Commodity Credit Corporation (CCC) published in the FEDERAL REGISTER 43 FR 39118, a notice that the Department proposed to make certain determinations concerning the 1979 crops of upland and extra long staple cotton. Such determinations included a determination of the specifications for bale packaging materials applicable to 1979 crop cotton pledged to CCC for price support loans.

Four responses were received concerning the specifications. Three recommended adopting the specifications as proposed by the Cotton Industry Bale Packaging Committee and one recommended that all wrapping material contain at least 85 percent cotton. After consideration of all responses to the notice and recommendations made by the Cotton Industry Bale Packaging Committee, it has been determined that the specifications will be amended to provide that all ties which are underneath the wrapping material shall be wire or high tensile steel strapping, that conventional hot rolled steel ties and buckles may be used only on flat bales and bales compressed at a warehouse, that T-2 type jute bagging shall be eliminated as an approved wrapping material, and 4 pound cotton bagging must be tied with wire or high tensile steel strapping and to provide a list of official tare weights.

FINAL RULE

7 CFR Part 1427 is amended as follows, effective as to the 1979 and subsequent crops. The material previously appearing in these sections remains in full force and effect as to the crop years to which it was applicable.

1. In order to provide that any bale packaging material carried over from the 1978 crop year may be used to wrap 1979 crop cotton, § 1427.1901 is amended to read as follows:

§ 1427.1901 Purpose.

This subpart is for the purpose of announcing the specifications applicable to bale packaging materials for packaging the 1978 and subsequent crops of cotton tendered to CCC for loans, unless otherwise approved by the Executive Vice President, CCC, or his designee: *Provided, however,* that all bales of cotton packaged and identified with the testing programs of the Cotton Industry Bale Packaging Committee sponsored by the National Cotton Council of America will be exempt from the provisions of this subpart, and any bale packaging materials carried over from the 1977 crop which were eligible for packaging 1977 crop loan cotton also may be used to package 1978 crop cotton pledged for loans, and any bale packaging materials carried over from the 1978 crop which were eligible for packaging 1978 crop loan cotton may also be used to wrap 1979 crop cotton pledged for loans.

2. In order to provide that all ties which are underneath the wrapping material shall be wire or high tensile steel strapping, the introductory paragraph of § 1427.1902 is amended to read as follows:

§ 1427.1902 Specifications for bale ties and buckles.

Any fixed length bale ties used on flat bales shall not exceed 10 feet 3 inches in length, excluding overlap. All ties and buckles or fasteners must be coated or finished with a rust inhibitor. All ties which are underneath the wrapping materials shall be wire or cold rolled high tensile steel strapping.

* * * * *

3. In order to provide that conventional hot rolled steel ties and buckles may be used only on flat bales, modified flat bales and bales compressed at a warehouse, paragraph 1427.1902(b) is amended to read as follows:

(b) Conventional hot rolled steel ties and buckles. The total weight of bale ties and buckles to tie each bale of cotton shall not be less than 8½ pounds. Such ties may be used only on flat, modified flat, and bales compressed at a warehouse.

4. In order to eliminate T-2 type jute bagging as an approved bale wrapping material, § 1427.1903(d) is deleted.

§ 1427.1903 Specifications for bagging [Amended]

* * * * *

(d) [Deleted]

* * * * *

5. In order to provide that bales wrapped with 4 pound cotton bagging must be tied with wire or high tensile steel strapping, § 1427.1903(g)(1) is amended to read as follows:

* * * * *

(g) *Cotton bagging*—(1) *General requirements.* Bagging made from 100 percent cotton may be used to wrap flat bales stored only in the States of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia, and on gin standard density and gin universal density bales stored in all States. The bagging must weigh not less than 7.7 ounces per square yard with a minimum weight of 4 pounds per pattern for flat bales, 3.1 pounds for gin standard density bales, and 3 pounds for gin yniversal density bales, at 8.5 percent moisture content (not moisture regain). Each panel of bagging must not be less than 112 inches in length and 48 inches in width for flat bales, 100 inches in length and 42 inches in width for gin standard density bales, and 96 inches in length and 42 inches in width for gin universal density bales. Each panel must be constructed with true selvages on each side. Bales wrapped with such bagging must be tied with wire or high tensile strapping.

* * * * *

§ 1427.1904 [Amended]

6. In order to eliminate additional test procedures for T-2 type new jute bagging, § 1427.1904(1) is deleted.

7. In order to provide a table of official tare weights for CCC loan purposes, § 1427.1905 is amended to read as follows:

§ 1427.1905 Official tare weights.

The following table shows official CCC tare weights for various combinations of approved wrapping material. CCC will not accept any bales for loans which carry a tare weight different than the one shown below:

Wrapping material	Bale ties	
	Wire or high tensile steel strapping [2]	Hot rolled steel ties with buckles [6]
Woven Polypropylene [1]	5	11
Polyethelene bags,[3] burlap spiral bags, cotton	7	
Nine-pound compact jute [4] for use on all bales and salvage jute on gin universal density and gin standard density bales only	12	18
New twelve-pound jute [4] and salvage jute on flat and modified flat bales only	15	21

[1] *Woven polypropylene* can be identified by its pale yellow color. This category includes all patterns of polypropylene including two sheets, half bag/sheet combinations and spirial sewn bags. Such material must meet all other requirements in § 1427.1903(1).

[2] *Polyethelene bags* can be identified by the clear color. The total tare weight is printed on the bag. *Burlap spiral* bags can be identified by the lightweight burlap fabric sewn to form a bag which completely encloses a bale. *Cotton bagging* is any packaging material made from all cotton fiber. Bagging must meet all other requirements for that type of bagging set forth in § 1427.1903 (h), (f), and (g).

[3] *Nine-pound compact jute* can be identified by the dark blue or black center marking yarns on each panel of bagging. *Salvage jute* is commonly referred to as sugar bagging and can be identified by seams and markings indicating that the material was previously used for other commodities. Such bagging must meet all other requirements as set forth in § 1427.1903 (b), (c), and (e)(3).

[4] *Twelve-pound new jute* can be distinguished from other approved new jute panels by the absence of center marking yarns. Salvage jute can be identified by seams and markings indicating that the material was previously used for other commodities. Such bagging must meet all other requirements as set forth in § 1427.1903(a), (e)(1), and (e)(2).

[5] Wire or strapping includes all wire or high tensile steel strapping other than conventional hot rolled steel ties with buckles and must meet all applicable requirements in § 1427.1902 (c) and (d).

[6] Bands with buckles consist of conventional hot rolled steel ties with buckles which meet requirements set forth in § 1427.1902(b).

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 103, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1444, 1421).)

NOTE.—An approved Impact Analysis Statement has been prepared and is available from Charles Cunningham (ASCS), (202) 447-7873.

Signed at Washington, D.C., on January 18, 1979.

S. N. SMITH,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-2995 Filed 1-26-79; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 15070, Amdt. 39-3405]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Aviation, Ltd. (British Aerospace) Model DH-114 Heron Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) applicable to Hawker Siddeley Aviation, Limited, DH-114 Heron Series airplanes by clarifying the repetitive inspection schedule for in-service booms and for replacements and elaborating on the types of cracking which necessitate additional inspections of the boom or its replacement. The amendment was prompted by a request from the field for clarifications.

DATES: Effective February 8, 1979. Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable technical news sheet may be obtained from: Hawker Siddeley Aviation, Limited, Hatfield, Hertfordshire, England, Product Support Department, Telephone: Hatfield 62345.

A copy of the technical news sheet is contained in the Rules Docket, for this amendment in Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30, or Chris Christie, Federal Aviation Administration AFS-110, 800 Independence Avenue, SW., Washington, D.C. 202-426-8374.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-2689 (41 FR 32734), AD 76-16-03, which currently requires inspections of the upper lugs of the upper carry through boom for cracks and replacement of the boom as necessary on Hawker Siddeley Aviation, Limited, Model DH-114 Heron Series airplanes. After issuing Amendment 39-2689 and receiving a request for clarifications from an FAA field office, the FAA has determined that certain revisions to the existing AD are needed to clarify the repetitive inspection schedule for in-service booms and for replacements in paragraphs (b) and (e). Paragraph (d) has been revised to make clear that that paragraph applies to cracking which is other than literally horizontal. In addition, paragraph (e) has been revised to state that replacement of the boom is required when cracking is found which runs from the bolt hole in an inboard direction only. This change is intended to provide more consistency with the description contained in the manufacturer's technical news sheet. Other minor clarifying changes have also been made.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-2689 (41 FR 32734), AD 76-16-03 as follows:

1. By revising paragraph (b) to read as follows:

(b) If no cracks are found during the inspection required by paragraph (a) of this AD, repeat the inspection at intervals not to exceed 1200 flight hours or 2 calendar years, whichever occurs sooner, until the wings are removed for compliance with AD 72-15-01 at which time the area must be further inspected using the ultrasonic and dye penetrant methods in accordance with Appendix 2 of Hawker Siddeley Aviation, Limited, Technical News Sheet TNS F.19, Issue 1, dated July 26, 1976, (hereinafter referred to as the Technical News Sheet) or an FAA-approved equivalent. Thereafter, if no cracking is found, continue to inspect the area as follows:

(1) In accordance with the method specified in paragraph (a) of this AD at an interval not to exceed 3 calendar years from each time the area is inspected in conjunction with the wing removal required by AD 72-15-01; and

(2) In accordance with the ultrasonic and dye penetrant methods specified in Appendix 2 of the Technical News Sheet or an FAA-approved equivalent at each time the wings are removed for compliance with AD 72-15-01.

2. By revising paragraph (c) to read as follows:

(c) If any cracks are found during any inspection required by this AD to be performed in accordance with the method specified in paragraph (a) of this AD, further inspect by ultrasonic and dye penetrant methods in accordance with Appendix 2 of the Technical News Sheet or an FAA-approved equivalent with the wing removed.

3. By revising paragraph (d) to read as follows:

(d) If, during any inspection required by this AD, cracking of the lugs is found which is confined to only one of the lugs per side of the aircraft and exists only from the bolt hole towards the outboard end of the lug, the center section carry through boom may remain on the aircraft and continued flight is permitted provided the wing is removed at intervals not to exceed 300 flight hours or 3 months, whichever is sooner, and the cracked lug is inspected for crack propagation and the remaining two lugs are inspected for cracking, all in accordance with Appendix 2 of the Technical News Sheet or an FAA-approved equivalent, until the boom is replaced with a new boom of the same part number or a used boom of the same part number determined after inspection in accordance with Appendix 2 of the Technical News Sheet to be crack-free.

4. By revising paragraph (e) to read as follows:

(e) If, during any inspection required by this AD, cracking is found in more than one lug per side of the aircraft or the cracking of any one lug extends to both sides (inboard and outboard) of the bolt hole or runs from the bolt hole in an inboard direction only, before further flight, replace the carry through boom with a new boom of the same part number or a used boom of the same part number determined after inspection in accordance with Appendix 2 of the Technical News Sheet to be crack-free. Replacement booms must continue to be inspected in accordance with the following schedule:

(1) For used replacement booms, within 3 years from replacement, inspect the lug

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area in accordance with Appendix 1 of the Technical News Sheet or an FAA-approved equivalent except if any wing removal is required by AD-72-15-01 during that period, inspect in accordance with Appendix 2 of the Technical News Sheet or an FAA-approved equivalent concurrently with that wing removal. Thereafter inspect in accordance with the schedule and inspection methods specified in paragraphs (b)(1) and (b)(2) of this AD.

(2) For new replacement booms, inspect the lug area in accordance with Appendix 2 of the Technical News Sheet or an FAA-approved equivalent with the wing removed prior to accumulating 6 years in service and thereafter in accordance with the schedule and inspection methods specified in paragraphs (b)(1) and (b)(2) of this AD. However, if the first inspection required after replacement is not performed in conjunction with a wing removal required by AD 72-15-01, within the next 3 years after that inspection, inspect in accordance with Appendix 1 of the Technical New Sheet or an FAA-approved equivalent except if any wing removal is required by AD 72-15-01 during that period, inspect in accordance with Appendix 2 of the Technical News Sheet or an FAA-approved equivalent concurrently with that wing removal and thereafter inspect in accordance with the schedule and inspection methods specified in paragraphs (b)(1) and (b)(2) of this AD.

This amendment becomes effective February 8, 1979.

(Secs. 313(a), 601, 603 Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in Washington, D.C., on January 22, 1979.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 79-2944 Filed 1-26-79; 8:45 am]

[4910-13-M]

[Docket No. 72-WE-22-AD, Amdt. 39-3401]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-9 -10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to McDonnel Douglas DC-9-10 Series airplanes by increasing the repetitive inspection interval specified in the AD. The amendment is needed because the FAA has determined that the compliance time for repetitive inspection of the fuselage frames covered by the subject AD may be safely extended, thus relieving a burden.

DATES: Effective January 31, 1979. Compliance schedule—As prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT:

Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: This notice further amends Amendment 39-1628 (38 FR 10253) AD 73-9-2, as amended by Amendments 39-1926 (39 FR 30108), 39-2004 (39 FR 39433) and 39-2850 (42 FR 13818). After issuing the AD as amended, and after evaluating the results of the operator's inspections and past service experience, the Federal Aviation Administration has determined that the repetitive inspection intervals specified in Paragraph (a)(1) of the AD can be increased to 2,000 hours time in service without adversely affecting safety. Therefore, the AD is being further amended to provide for an increase in repetitive inspection intervals.

Since this amendment provides relief and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by further amending Amendment 39-1628 (38 FR 12053), AD 73-9-2, as amended by Amendment 39-1926 (39 FR 30108), Amendment 39-2004 (39 FR 39433) and Amendment 39-2850 (42 FR 13818), is further amended by amending paragraph (a)(1) to read in pertinent part as follows:

• • • within the next 1,000 hours time in service and thereafter at intervals not to exceed 2,000 hours time in service from the last inspection, inspect the left and right hand lower sections of the fuselage frames • • •

Amendment 39-1628 became effective May 30, 1973.

Amendment 39-1926 became effective August 26, 1974.

Amendment 39-2004 became effective November 13, 1974.

Amendment 39-2850 became effective March 20, 1977.

This amendment becomes effective January 31, 1979.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in Los Angeles, Calif., on January 16, 1979.

LEON C. DAUGHERTY,
Director,
FAA Western Region.

[FR Doc. 79-2917 Filed 1-26-79; 8:45 am]

[4910-13-M]

[Docket No. 77-WE-29-AD, Amdt. 39-3403]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC-9, -10, -20, -30, -40, -50 Series (Including Military C-9A, C-9B, and VC-9C) Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires repetitive inspections and replacement of the wing flap idler hinge support fitting attachment studs at wing station X_w=333.148 on certain McDonnell Douglas DC-9 airplanes. These inspections and rework are necessary to prevent the hinge fitting from becoming loose and causing partial loss of flap and aileron control and damage to the spoiler and wing structure.

DATES: Effective March 2, 1979. Compliance schedule—as precribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846. Attn: Director, Publications and Training, C1-750, (54-60).

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring repetitive inspections and replacement of the wing flap outboard idler hinge attach studs on McDonnell Douglas Model DC-9 Series airplanes was published in the FEDERAL REGISTER at 43 FR 45380. The proposal was prompted by several reported instances of failures of the studs which attach the wing flap outboard idler hinge to the wing rear spar at wing station X_w=333.148. When the lower studs fail, the support fitting is allowed to rotate upwards under flap loading. Because the aileron control cables pass through a hole in the support fitting, rotation of the fitting could cause the control cables to be broken or jammed. This could cause loss of lateral control.

Interested persons have been afforded an opportunity to participate in the making of the amendment and several comments were received. Three of the comments received requested an increase in the initial inspection time to allow large fleet operators to establish an inspection schedule that would not require special handling of the aircraft. However, no justification was provided by any of the commenters to show that such an increase could be made without jeopardizing safety of the aircraft.

One comment concerned the difference in threshold inspection time between the proposed AD and the Douglas Aircraft Company Service Bulletin 57-118. The Service Bulletin suggests inspecting within 3,400 landings for airplanes which have accumulated 10,000 landings, whereas the proposed AD would require inspection within 850 landings or before accumulating 10,000 landings, whichever occurs later. The commenter suggested that service experience to date does not support lowering the inspection threshold since there have been no stud failures on aircraft with less than 14,000 landings. The 10,000 landing inspection threshold is considered reasonable and prudent by the FAA since failure has been encountered at 14,000 landings and the objective of the AD is to minimize failures. The 10,000 landing inspection threshold is therefore maintained.

Another commenter requested that the 3,400 landing inspection interval be changed to 3,400 hours to agree with the fleet schedule they have already established. The FAA does not believe such a change is justified. Flap attach stud loads are applied each time the flaps are lowered for landing. Operators of DC-9 airplanes accumulate from less than one landing per hour of time in service to almost 1.5 landings per hour of time in service. Concurrence with the commenter's request in the latter case would produce an unsafe situation. To provide relief for operators who do not maintain records of landings, paragraph (f) has been added.

After careful review of all available data, including the comments above, the FAA believes that sufficient evidence exists in the public interest of aviation safety to adopt the proposed rule with the relieving change noted, as a final rule.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to be by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

McDONNELL DOUGLAS: Applies to Model DC-9-10, -20, -30, -40, -50 Series Airplanes, including (Military C-9A, C-9B, and VC-9C) airplanes certificated in all categories, fuselage numbers F/N 1 thru F/N 880, which correspond to the factory serial numbers listed in Douglas DC-9 Service Bulletin 57-118 dated November 4, 1977.

Compliance required as indicated. To detect fatigue cracks and/or failure of the wing flap outboard idler hinge support fitting attachment studs, accomplish the following:

(a) Within the next 850 landings after the effective date of this AD, or before accumulating 10,000 total landings, whichever occurs later, unless already accomplished within the last 2,550 landings, and thereafter at intervals of 3,400 landings from the last inspection, accomplish the ultrasonic inspection in accordance with the instructions in Douglas DC-9 Service Bulletin 57-118 dated November 4, 1977.

NOTE.—Service Bulletin 57-118 dated November 4, 1977 is the only version of this Service Bulletin suitable for compliance with paragraphs (a) and (b) of this AD.

(b) If any one or more studs is found cracked or failed, or has accumulated 50,000 or more landings, before further flight:

1. Replace all four studs, two PLI washers and applicable attaching parts with new original design studs and PLI washers, and applicable attaching parts; or,

2. Replace all four studs, two PLI washers and applicable attaching parts with new studs, (upper two of original design and lower two of new design and higher heat treat), and two new design PLI washers, and applicable attaching parts, per Option 1, paragraph 2.D.1, Accomplishment Instructions, as prescribed in Douglas DC-9 Service Bulletin 57-118 dated November 4, 1977.

3. If new parts are installed per (b)1 above, the requirements of this AD may be discontinued for that idler hinge(s) group of four attachment studs only, until the newly replaced parts have accumulated 10,000 landings, at which time reinstate the program of repetitive inspections and/or corrective actions per this AD.

4. The requirements per this AD may be terminated for that idler hinge(s) group of four attachment studs only, upon compliance with paragraph (b)2 above, or upon installation of two lower studs of new design and two new design PLI washers, and applicable attaching parts, per Option 1, paragraph 2.D.2, Accomplishment Instructions, as prescribed in Douglas DC-9 Service Bulletin 57-118 dated November 4, 1977.

5. Compliance with this AD notwithstanding, attachment studs must be replaced in accordance with the schedule specified in Douglas Report MDC-J0005, "DC-9 Safe Life Limits" (Reference DC-9 TC Data Sheet A6WE).

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(d) Equivalent inspection procedures and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(e) Upon request of operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region may adjust the initial and repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(f) For the purpose of complying with this AD, when records of landings are not available, subject to acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing each airplane's hours' time in service by the operator's fleet average time from takeoff to landing for the airplane type.

This amendment becomes effective March 2, 1979.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, Calif., on January 17, 1979.

LEON C. DAUGHERTY,
Director, FAA Western Region.

[FR Doc. 79-2945 Filed 1-26-79; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-SO-35]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Controlled Airspace; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the FEDERAL REGISTER of January 2, 1979, (44 FR 39), under the amendment to § 71.163, the coordinates "Lat. 24°00'00"N., Long. 80°56'30"W.; to Lat. 24°45'40"N., Long. 80°48'20"W.;" were incorrectly published as "Lat. 24°00'00"N., Long. 80°56'20"W.; to Lat. 24°45'40"N., Long. 80°48'00"W." This correction reflects the correct coordinates for a portion of the description

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of the South Atlantic Additional Control Area.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION: Since this action is corrective in nature, public procedure thereon is unnecessary and good cause exists for making it effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 78-36240 as published in the FEDERAL REGISTER on January 2, 1979, (44 FR 39) is amended under § 71.163 by amending the description of the South Atlantic Control Area as follows:

In line three "Lat. 24°00'00"N., Long. 80°56'20"W.;" is deleted and "Lat. 24°00'00"N., Long. 80°56'30"W.;" is substituted therefor. In line four "Lat. 24°45'40"N., Long. 80°48'00"W.," is deleted and "Lat. 24°45'40"N., Long. 80°48'20"W.;" is substituted therefor.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510; Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on January 23, 1979.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-2918 Filed 1-26-79; 8:45 a.m.]

[4910-13-M]

[Airspace Docket No. 78-EA-71]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area: Pittstown, N.J.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This Amendment alters the Pittstown, N.J., transition area, over Sky Manor Airport, Pittstown, N.J. This alteration will change the approach course by one degree and provide protection to aircraft executing the revised instrument approach by increasing the controlled airspace. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: February 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Pittstown, N.J., transition area. On page 49311 of the FEDERAL REGISTER for October 23, 1978, the FAA published a proposed amendment to the subject transition area. Interested parties were given an opportunity to comment, but no objections were received.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective January 29, 1979, as published.

(Sec. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69).

Issued in Jamaica, New York, on January 15, 1979.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations, by deleting the description of the Pittstown, N.J., 700-foot floor transition area and by inserting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 40°33'59" N., 74°58 43 W., of Sky Manor Airport, Pittstown, N.J., and within 4.5 miles each side of the Solberg, N.J., VORTAC 264° radial, extending from the 7-mile radius area to 23 miles west of the VORTAC.

[FR Doc. 79-2950 Filed 1-26-79; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-EA-79]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area: Albion, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment designates an Albion, N.Y., transition area, over Pine Hill Airport, Albion, N.Y. This designation will provide protection to aircraft executing the new VOR RWY 28 standard instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: 0901 G.m.t. March 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate an Albion, N.Y., transition area. On page 51029 of the FEDERAL REGISTER for November 2, 1978, the FAA published a proposed designation to the subject transition area. Interested parties were given time in which to submit comments. No objections were received.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. March 22, 1979, as published.

(Sec. 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Issued in Jamaica, New York, on January 15, 1979.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating an Albion, N.Y., 700-foot floor transition area as follows:

ALBION, N.Y.

That airspace extending upward from 700 feet above the surface with a 5-mile radius of the center, 43°10'24" N., 78°16'29" W., of Pine Hill Airport, Albion, N.Y., and within 2.5 miles each side of the Rochester, N.Y., VORTAC 277° radial, extending from the 5-mile radius area to 20 miles west of the VORTAC.

[FR Doc. 79-2952 Filed 1-26-79; 8:45 am]

[4910-13-M]

[Airspace Docket NO. 78-ASW-51]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE,. AND REPORTING POINTS

Alteration of Transition Area: Ponca City, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: The nature of the action being taken is an alteration of the transition area at Ponca City, Okla. The intended effect of the action is the provision of additional controlled airspace for aircraft executing instrument procedures at the Blackwell/Tonkawa Municipal Airport. The circumstances which created the need for this action were the proposed approaches using the Pioneer VORTAC for flight under instrument weather conditions to the airport. Coincident with this action the airport is changed from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR).

EFFECTIVE DATE: April 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Ken Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On November 16, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 53448) stating that the Federal Aviation Administration proposed to alter the Ponca City, Okla., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. No objections were received on the proposal. Except for editorial changes, this amendment is that proposed in the notice.

THE RULE

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the Ponca City, Okla., transition area. This action provides additional controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument procedures at the Blackwell/Tonkawa Municipal Airport.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., April 19, 1979 as follows.

In Subpart G, § 71.181 (43 FR 440), the Ponca City, Okla., transition area is amended by adding the following:

• • • within a 5-mile radius of the Blackwell/Tonkawa Airport (latitude 36°44'40" N., longitude 97°20'58" W.), and 2 miles each side of the Pioneer VORTAC 269° radial, extending from the 5-mile radius to the VORTAC, and 2.5 miles each side of the 180° bearing from the Blackwell/Tonkawa Municipal Airport, extending from the 5-mile radius to 6 miles south of the Airport, and 2.5 miles each side of the 360° bearing from the Blackwell/Tonkawa Municipal Airport, extending from the 5-mile radius to 6 miles north of the Airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 3, 1978).

Issued in Fort Worth, Tex., on January 16, 1979.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc. 79-2946 Filed 1-26-79; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-EA-76]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration and Revocation of Transition Areas: Harrisburg and Annville, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment alters the Harrisburg, Pa., and revokes the Annville, Pa., transition areas. The revocation of the Annville, Pa., area results from the cancellation of the VOR RWY 11 instrument approach to Millard Airport. However, a portion of this transition area is needed for radar vectoring service furnished by Harrisburg Approach Control. Therefore, the needed airspace will be transferred to the Harrisburg, Pa., transition area.

EFFECTIVE DATE: February 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Harrisburg, Pa., and revoke the Annville, Pa., transition areas. Since the net effect is to lessen the amount of controlled airspace, no additional burden is placed on any person, and thus notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective January 29, 1979, as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to revoke the Annville, Pa. 700-foot floor transition area.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by adding the following to the description of the Harrisburg, Pa. 700-foot floor transition area, "; within a 26-mile radius of a point 40°13'24"N., 76°52'39"W., extending clockwise from a 072° bearing to a 094° bearing from said point."

(Sec. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(c)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Issued in Jamaica, New York, on January 15, 1979.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc. 79-2951 Filed 1-26-79 8:45 am]

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[4910-13-M]

[Airspace Docket No. 78-EA-102]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area: N. Philadelphia, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment alters the North Philadelphia, Pa., transition area. This alteration will provide protection to aircraft executing the new NDB RWY 6 instrument approach which has been developed for Wings Field, Philadelphia, Pa. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: February 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the North Philadelphia, Pa., transition area. The alteration requires the incorporation of additional airspace of approximately one mile in width and a change in the transition area extensions of one and two degrees. Since the additional airspace is a nominal amount, the effect does not impose an additional burden on any person and thus notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective January 29, 1979, as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by amending the description of the North Philadelphia, Pa. 700-foot floor transition area as follows:

Delete, "within 4.5 miles northwest 6.5 miles southeast of a 052° bearing and a 232° bearing from a point 40°05'06"N., 75°21'24"W., extending from 5.5 miles northeast to 11.5 miles southwest of said point; within 5 miles each side of a 254° bearing from a point 40°05'06"N., 75°21'24"W., extending from said point to 6.5 miles west of said point; within 5 miles each side of a 231° bearing from the Ambler, Pa., RBN 40°07'33"N., 75°17'08"W., extending from the RBN to 6.5 miles southwest of the RBN" and insert the following in lieu thereof; "within 4.5 miles northwest and 6.5 miles southeast of a 053° bearing and a 233° bearing from a point 40°05'06"N., 75°21'24"W., extending from 5.5 miles northeast to 11.5 miles southwest of said point; within 5 miles each side of a 255° bearing from a point 40°05'06"N., 75°21'24"W., extending from said point to 6.5 miles west of said point; within 8.5 miles northwest and 3.5 miles southeast of a 233° bearing from the Ambler, Pa. RBN 40°07'33"N., 75°17'08"W., extending from the RBN to 11.5 miles southwest of the RBN".

(Sec. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Jamaica, New York, on January 15, 1979.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc. 79-2953 Filed 1-26-79; 8:45 a.m.]

[4910-13-M]

[Airspace Docket No. 78-ASW-58]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area: Levelland, Tex., Revision of Federal Register Document

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Revision to final rule.

SUMMARY: This action revises a rule issued on October 18, 1978, which appeared in FR Doc. 78-30571 on page 50420 in the FEDERAL REGISTER of Monday, October 30, 1978. The rule described an amendment to Subpart G of Part 71 of the Federal Aviation Regulation (14 CFR) designating the Levelland, Tex., transition area. The transition area provided controlled airspace from 700 feet above the ground for the protection of aircraft executing an instrument approach procedure to runway 35 at the Levelland Municipal Airport.

EFFECTIVE DATE: April 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Ken Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: FR Doc. 78-30571 was published on October 30, 1978, with an effective date of December 28, 1978, (43 FR 37708) stating that the Federal Aviation Administration proposed to designate a transition area at Levelland, Tex. Since the final rule was published, the United States Air Force has filed a petition to modify the rule and has recommended that the instrument approach procedure be established to runway 17. The basis for this petition was the high volume of air traffic operating from the Terry County Auxiliary Airfield and possible conflicts with aircraft executing approaches at the Levelland Municipal Airport. The Federal Aviation Administration agrees that the high volume of high performance aircraft operating to and from the Terry County Auxiliary Airfield could, under certain conditions, create possible conflicts with aircraft executing instrument approaches to the Levelland Municipal Airport and that the instrument approach procedure should be established to runway 17.

THE RULE

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) revises the Levelland, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing an instrument procedure at the Levelland Municipal Airport.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 78-30571, appearing on page 50420 in the FEDERAL REGISTER of October 30, 1978, the Levelland, Tex., transition area is amended by deleting the description and substituting the following:

LEVELLAND, TEX.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Levelland Municipal Airport (33°33'32" N. latitude, 102°22'20" W. longitude), and within 3 miles each side of the 360° bearing from the Levelland NDB (33°33'20" N. latitude, 102°22'29" W. longitude), extending from the 7-mile radius to 8.5 miles north of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 3, 1978).

Issued in Fort Worth, Tex., on January 16, 1979.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc. 79-2948 Filed 1-26-79; 8:45 am]

[4810-22-M]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 79-31]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Container With Cargo Covered by Multiple Bills of Lading; Reporting Requirements

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by establishing a simplified alternative for reporting bill of lading numbers covering containerized cargo. Presently, (1) all bills of lading for inward foreign cargo in a particular container must be listed in numerical sequence, (2) the number of the container which contains the cargo covered by that bill of lading and the container seal number must be listed opposite the bill of lading number, and (3) the number of any other bill of lading for cargo in that container also must be listed immediately under the container number. As a result, bill of lading numbers for containers covered by multiple bills of lading must be listed more than once. The amendment provides a simplified alternative for listing bill of lading numbers only once on a separate container list and thereby eliminates multiple listings of the same number which are burdensome to carriers and of no benefit to Customs.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

John A. Mathis, Carriers, Drawback, and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

BACKGROUND

New cargo declaration forms for use as part of the manifest required in connection with the arrival and departure of vessels, and procedures for the use of those forms, were established by Treasury Decision 77-255, published in the FEDERAL REGISTER on October 25, 1977 (42 FR 56317), which amended Part 4, Customs Regulations (19 CFR Part 4). The forms involved, the Cargo Declaration, Customs Form 1302, and the Cargo Declaration Outward With Commercial Forms, Customs Form 1305, replaced the former Inward Foreign Manifest, Customs Form 7527-A, and the Outward Foreign Manifest, Customs Form 1374.

T.D. 77-255 provided for the use of the new forms any time after October 25, 1977, and for their mandatory use as of September 1, 1978. However, a number of U.S. ocean carriers advised Customs that mandatory use as of September 1, 1978, would impose a hardship. Accordingly, by a notice published in the FEDERAL REGISTER on August 18, 1978 (43 FR 36621), the effective date for mandatory use was delayed until January 1, 1979.

Section 4.7a(c)(2), Customs Regulations (19 CFR 4.7a(c)(2)), as amended by T.D. 77-255, provides (1) that all bills of lading for inward foreign cargo shipped in containers shall be listed in numerical sequence in the column headed "B/L Nr." on Customs Form 1302, (2) that the number of the container which contains the cargo covered by that bill of lading and the container seal number shall be listed in column No. 6, opposite the bill of lading number, and (3) that the number of any other bill of lading for cargo in that container also shall be listed in column No. 6 immediately under the container and seal numbers. Therefore, for containers with merchandise covered by more than one bill of lading number, the same bill of lading numbers must be listed more than once on Customs Form 1302.

Because multiple listings of the same bill of lading number impose a burden on carriers and are of no benefit to Customs, it has been decided to provide a simplified alternative that will eliminate the need for reporting bill of lading numbers more than once.

ALTERNATIVE PROCEDURE

As an alternative to the procedure provided in § 4.7a(c)(2), Customs Regulations, a separate container list made on a Cargo Declaration form or on a separate sheet attached to the Cargo Declaration, may be submitted.

If this procedure is used, container numbers shall be listed in alphanumeric sequence by port of discharge in Column No. 6 of Customs Form 1302, or on the separate sheet. Each bill of lading number covering cargo in that container, identifying the port of lading, shall be listed in the column headed "B/L Nr." on Customs Form 1302 opposite the container number, or either opposite or under the container number, if a separate sheet is used. The container list will not be required as part of the vessel's traveling manifest, but need be submitted only at each port of discharge.

The procedures set out in § 4.7(a)(c)(2) (i) and (ii), requiring the listing of bill of lading numbers opposite or under the numbers of the containers, are for the benefit of the importing public and Customs and are designed to enable Customs officers to expedite the clearance of containerized merchandise. Customs will not consider clerical errors in the listing of the bill of lading or container numbers under these provisions as manifest irregularities requiring penalty action.

EDITORIAL CHANGES

This document also makes several editorial changes in section 4.7a, Customs Regulations.

INAPPLICABILITY OF PUBLIC NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS

Because this amendment imposes no duty or burden on the public but merely relaxes a present requirement by providing an alternative reporting procedure, notice and public procedure are unnecessary and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

DRAFTING INFORMATION

The principal author of this document was Mark Jenkins, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

AMENDMENTS TO THE REGULATIONS

Sections 4.7a(c) (1) and (2), Customs Regulations (19 CFR 4.7a(c) (1) and (2)), are amended to read as follows:

§ 4.7a Inward manifest; information required; alternative forms.

* * * * * *

(c) *Cargo Declaration.* (1) The Cargo Declaration, Customs Form 1302, shall list all the inward foreign cargo on board regardless of the port of discharge. The block designated "Arrival" at the top of the form shall be checked. The cargo described in

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column Nos. 6 and 7, and either column No. 8 or 9, shall refer to the respective bills of lading. Either column No. 8 or column No. 9 shall be used, as appropriate. The gross weight in column No. 8 shall be expressed in either pounds or kilograms. The measurement in column No. 9 shall be expressed according to the unit of measure specified in the Tariff Schedules of the United States (19 U.S.C. 1202).

(2)(i) When inward foreign cargo is being shipped by container, each bill of lading shall be listed in the column headed "B/L Nr." in numerical sequence according to the bill of lading number. The number of the container which contains the cargo covered by that bill of lading and the number of the container seal shall be listed in column No. 6 opposite the bill of lading number. The number of any other bill of lading for cargo in that container also shall be listed in column No. 6 immediately under the container and seal numbers. A description of the cargo shall be set forth in column No. 7 only if the covering bill of lading is listed in the column headed "B/L Nr."

(ii) As an alternative to the procedure described in subparagraph (i), a separate list of the bills of lading covering each container on the vessel may be submitted on Customs Form 1302 or on a separate sheet. If this procedure is used—

(A) Each container number shall be listed in alphanumeric sequence by port of discharge in column No. 6 of Customs Form 1302, or on the separate sheet; and

(B) The number of each bill of lading covering cargo in a particular container, identifying the port of lading, shall be listed opposite the number of the container with that cargo in the column headed "B/L Nr." if Customs Form 1302 is used, or either opposite or under the number of the container if a separate sheet is used.

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

R. E. CHASEN,
Commissioner of Customs.

Approved: January 11, 1979.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 79-2914 Filed 1-26-79; 8:45 am]

[4810-22-M]

[T.D. 79-32]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

PART 6—AIR COMMERCE REGULATIONS

Vessels in Foreign and Domestic Trades; Air Commerce Regulations—Customs Regulations Amended

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final Rule.

SUMMARY: This document amends the Customs Regulations to require that an aircraft commander or other authorized person furnish Customs with an export inspection certificate issued by the Veterinary Services, Animal and Plant Health Inspection Service, Department of Agriculture, at the time of departure from the United States of any aircraft carrying specified livestock for export. The purpose of this requirement is to prevent diseased livestock from being exported from the United States by air. The document also makes minor conforming changes to a similar provision of the Customs Regulations relating to the exportation of specified livestock by vessels.

EFFECTIVE DATE: February 28, 1979.

FOR FURTHER INFORMATION CONTACT:

Leonard Rosenberg, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C., 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 4.71, Customs Regulations (19 CFR 4.71), requires the master of a vessel which is exporting horses, mules, asses, cattle, sheep, swine, or goats to furnish Customs with a notice of inspection by the Animal and Plant Health Inspection Service, Department of Agriculture, to ensure that no diseased animals are exported.

However, there is no similar provision in Part 6, Customs Regulations, requiring an aircraft commander or other authorized person to furnish Customs an export inspection certificate before departure of an aircraft carrying these animals. The Department of Agriculture informed Customs of several instances when livestock subject to export health inspection and certification were exported by aircraft without proper documentation.

Therefore, a notice was published in the FEDERAL REGISTER on June 1, 1978 (43 FR 23731), proposing that section 6.8(a), Customs Regulations, be amended to require that an aircraft commander or other authorized person furnish Customs with an export inspection certificate issued by the Veterinary Services, Animal and Plant Health Inspection Service, Department of Agriculture, before departure of an aircraft carrying horses, mules, asses, cattle, sheep, swine, or goats. The notice also proposed to amend § 4.71 to conform to an organizational change within the Department of Agriculture and to a change of title in its required documentation.

DISCUSSION OF COMMENTS

Three comments were received in response to the notice, all of which strongly supported the proposal.

One commenter, the representative of a large dairy cattle breed registry organization, agreed that air transportation as well as surface transportation should be covered by health provisions applicable to exported animals.

The other commenters, representatives of the Department of Agriculture, pointed out that the proposed rule is an essential control measure which would avoid damage to the U.S. export market by preventing the exportation of uninspected livestock by aircraft. Such damage would seriously impair the United States balance of payments, which agriculture marketing abroad is now reducing.

AMENDMENT TO THE REGULATIONS

After consideration of the comments received, Customs has decided that the proposed amendments should be adopted without change, as set forth below.

DRAFTING INFORMATION

The principal author of this document was Mark Jenkins, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: January 8, 1979.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

Section 4.71, Customs Regulations (19 CFR 4.71), is amended to read as follows:

§ 4.71 Inspection of livestock.

A proper export inspection certificate issued by the Veterinary Services, Animal and Plant Health Inspection Service, Department of Agriculture, shall be filed before the clearance of a vessel carrying horses, mules, asses, cattle, sheep, swine, or goats (9 CFR Part 91).

Section 6.8(a), Customs Regulations (19 CFR 6.8(a)), is amended by inserting a new sentence between the first and second sentences to read as follows:

§ 6.8 Documents for clearance, or for certain departures.

(a) * * * The aircraft commander or authorized person also shall deliver a proper export inspection certificate issued by the Veterinary Services, Animal and Plant Health Inspection Service, Department of Agriculture (9 CFR Part 91), to the Customs officer in charge at the time of departure of any aircraft carrying horses, mules, asses, cattle, sheep, swine, or goats. * * *

* * * * *

(R.S. 251, as amended (19 U.S.C. 66), secs. 12, 13, 14, 34 Stat. 1263, as amended (21 U.S.C. 612, 613, 614), secs. 624, 644, 46 Stat. 759, 761, as amended (19 U.S.C. 1624, 1644), sec. 1109, 72 Stat. 799, as amended (49 U.S.C. 1509).)

[FR Doc. 79-2913 Filed 1-26-79; 8:45 am]

[3710-08-M]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

[Army Reg. 340-21]

PART 505—PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING THEIR PERSONAL RECORDS

Exemptions

AGENCY: Department of the Army.

ACTION: Final rule.

SUMMARY: The Department of the Army is adopting an exemption rule pertaining to a system of records subject to the Privacy Act of 1974 identified as A0402.01aDAJA, entitled General Legal Files.

EFFECTIVE DATE: Januray 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Cyrus H. Fraker, Department of the Army, The Adjutant General Center, Washington, DC 20314; telephone 202/693-0973.

SUPPLEMENTARY INFORMATION: In 43 FR 59852, December 22, 1978, the Army published a proposed exemption rule to system notice A0402.01aDAJA General Legal Files. No comments were received. Accordingly, the exemption rule as set forth below, is adopted.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 23, 1979.

32 CFR Part 505 is amended as follows:

1. Section 505.9 is amended by adding the following exempted systems of records:

§ 505.9 Exemption rules for Army systems of records.

* * * * * *

EXEMPTED RECORD SYSTEMS

(Specific Exemptions)

ID-A0402.01aDAJA

SYSNAME—General Legal Files.

EXEMPTION—Those portions of this system of records falling within 5 U.S.C. 552a(k)(1), (2), (5), (6), and (7) may be exempt from the following provisions of Title 5 U.S.C. Section 552a: (c)(3), (d), (e)(1), and (f).

AUTHORITY—U.S.C. 552a(k)(1), (2), (5), (6), and (7).

REASONS—Various records from other exempted systems of records are sometimes submitted for legal review or other action. A copy of such records may be permanently incorporated into the General Legal Files system of records as evidence of the facts upon which a legal opinion or review was based. Exemption of the General Legal Files system of records is necessary in order to ensure that such records continue to receive the same protection afforded them by exemptions granted to the systems of records in which they were originally filed.

* * * * *

[FR Doc. 79-2915 Filed 1-26-79; 8:45 am]

[3710-08-M]

[AR 725-1]

PART 621—LOAN AND SALE OF PROPERTY

Procedures and Responsibilities

AGENCY: Department of the Army.

ACTION: Correction of Final Rule.

SUMMARY: This amendment corrects editorial errors and omissions to 32 CFR Part 621 published in FR Doc. 77-25317 appearing at page 43799 in the FEDERAL REGISTER issue of August 31, 1977. These errors have been corrected for clarity Part 621 is republished to read as set forth below.

EFFECTIVE DATE: August 1, 1977.

ADDRESS: Write to: Commander, U.S. Army Materiel Development and Readiness Command, ATTN: DRCMM-SP, 5001 Eisenhower Avenue, Alexandria, VA 22333.

FOR FURTHER INFORMATION CONTACT:

Mrs. Caryl L. Veth, (703) 274-9617.

By authority of the Secretary of the Army.

Dated: January 16, 1979.

ROME D. SMYTH,
Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

Accordingly, 32 CFR Part 621 is hereby corrected to read as follows:

Sec.
621.1 Loan of Army/Defense Logistics Agency (DLA) owned property for use at national and State conventions.
621.2 Sales of ordnance property to individuals, non-Federal government agencies, institutions, and organizations.
621.3 Accounting for arms and accouterments loaned to other government agencies.
621.4 Issues, loans, and donations for scouting.

(Pub. L. 81-193; 10 U.S.C. secs. 2574, 4308, 4506, 4507, 4627, and 4655, and Pub. L. 92-249.)

1. Present § 621.1 is revised as follows:

§ 621.1 Loan of Army/Defense Logistics Agency (DLA) owned property for use at national and State conventions.

(a) *General.* This section—

(1) Prescribes procedures for loan of Army-owned property to recognized National Veterans' Organizations for National or State conventions as authorized by Pub. L. 81-193.

(2) Request for loans for National Youth Athletic or recreation tournaments sponsored by veterans' organizations listed in the "Veterans Administration Bulletin 23 (ALPHA)," will be processed by parent veterans' organizations.

(3) Loans are not authorized for other types of conventions or tournaments.

(b) *Items authorized for loan.* If available, the following items may be loaned for authorized veterans' organizations requirements.

(1) Unoccupied barracks.
(2) Cots.
(3) Mattresses.
(4) Mattress covers.
(5) Blankets.
(6) Pillows.
(7) Chairs, folding.
(8) Tentage, only when unoccupied barracks are not available.

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(c) *Requests for loan.* (1) Requests by authorized veterans' organizations for loan of authorized Government property will be submitted to the appropriate CONUS Army Commander of the area in which the convention will be held or the Commander, Military District of Washington (MDW) if within his area.

(2) The tenure of loan is limited to 15 days from the date of delivery, except under unusual circumstances. A narrative explanation will be provided to support loan requests for more than 15 days duration.

(3) Loan requests should be submitted by letter at least 45 days prior to required date, if practicable.

(4) Requests for loans will contain the following information:

(i) Name of veterans' organization requesting the loan.

(ii) Location where the convention will be held.

(iii) Dates of duration of loan.

(iv) Number of individuals to be accommodated.

(v) Type and quantity of equipment required.

(vi) Type of convention, (State or National).

(vii) Complete instructions for delivery of equipment and address of requesting organizations.

(viii) Other pertinent information necessary to insure prompt delivery.

(d) *Responsibilities.* The Army or MDW Commander will:

(1) When the availability of personal and real property is determined, notify the requesting veterans' organization of the following:

(i) The items and quantities available for loan and the source of supply.

(ii) No compensation will be required by the Government for the use of real property.

(iii) No expense will be incurred by the United States Government in providing equipment and facilities on loan.

(iv) Costs of packaging, packing, transportation and handling from source of supply to destination and return will be borne by the requesting organization.

(v) All charges for utilities (gas, water, heat, and electricity) based on meter readings or such other methods determined will be paid by the veterans' organization.

(vi) Charges which may accrue from loan of DLA/GSA material in accordance with paragraph III, AR 700-49/DSAR 4140.27, and GSA Order 4848.7 and Federal Property Management Regulations, subparagraph 101-27.5.

(vii) The Army will be reimbursed for any material not returned.

(viii) Costs of renovation and repair of items loaned will be borne by the requesting organization. Renovation and repair will be accomplished in accordance with agreement between the Army Commander and the loanee to assure expeditious return of items.

(ix) Transportation costs in connection with the repair and renovation of property will also be at the expense of the using organization.

(x) Assure that sufficient guards and such other personnel necessary to protect, maintain, and operate the equipment will be provided by the loanee.

(xi) The period of loan is limited to 15 days from date of delivery, except as provided for in paragraph (c) of this section.

(xii) Any building or barracks loaned will be utilized in place and will not be moved.

(xiii) Upon termination of use, the veterans' organization will vacate the premises, remove its own property therefrom, and turn over all Government property.

(2) Specify a bond in an amount to insure safe return of real and personal property in the same condition as when borrowed. (In the case of personal property, this amount will be equal to the total value of the items based on current acquisition costs.)

(i) An agreement will be executed between the Army Commander and the Veterans' Organization if the terms of the loan are acceptable. A sample loan agreement is shown at Figure 7-5 of this subchapter.

(ii) When the agreement has been executed and the bond furnished, requisitions will be submitted to the appropriate source of supply. Requisitions will indicate shipping destination furnished by the veterans' organization. Transportation will be by commercial bills of lading on a collect basis.

(iii) Appoint a Property Book Officer to maintain accountability for the Government property furnished under this regulation.

(3) Property Book Officer will:

(i) Assume accountability from the document used in transferring property to the custody of the veterans' organization.

(ii) Perform a joint inventory with the veterans' organization representative. Survey any shortage or damages disclosed by the joint inventory in accordance with AR 735-11.

(iii) Maintain liaison with the veterans' organization during the period of the loan.

(iv) Prepare, in cooperation with the veterans' organization representative, an inventory of property being returned. Certify all copies of the receipt document with the veterans' organization representative.

(v) Insure the return of all property at the expense of loanee to the supply source or to repair facilities.

(vi) Obtain a copy of receipted shipping document from the installation receiving the property.

(vii) Determine cost and make demand on the loanee for:

(A) Items lost, destroyed, or damaged.

(B) Costs of repair or renovation. Estimated costs will be obtained from the accountable activity.

(C) Comply with instructions contained in AR 700-49/DSAR 4140.27 in the application of condition A and/or B, C, and T items utilized.

(D) Ascertain that items lost in transit are reconciled prior to assessing charges. Where the loss is attributable to other than the loanee, charges should not be borne by the borrower.

(viii) Request payment from the loanee. Checks are to be made payable to the Treasurer of the United States. Upon receipt of payment, appropriate fiscal accounts will be credited. The Property Transaction Record will be closed and the Stock Record Accounts audited.

(ix) Deposit collections in accordance with instructions contained in AR 37-103. In the event payment is not received within a reasonable period, Report of Survey Action will be initiated in accordance with AR 735-11.

(x) Reimburse DLA/GSA for the cost of any repair, reconditioning and/or materiel not returned.

§ 621.2 Sales of ordnance property to individuals, non-Federal government agencies, institutions, and organizations.

(a) *General.* This Section—

(1) Cites the statutory authority for, and prescribes the methods and conditions of sale of certain weapons, ammunition, and related items as specified herein.

(2) Applies to all sales of weapons and related material to individuals, organizations, and institutions, when authorized by the US Army Armament Materiel Readiness Command (ARRCOM), and overseas commanders.

(3) Provides that sales under this section will be limited to quantities of an item which authorized purchasers can put to their own use. It is not intended that property be sold under the provisions of this section for the purpose or resale or other disposition.

(4) Does not apply to sales of property determined to be surplus. (See AR 755 series.)

(b) *Price.* Except as noted below, when sales of the Army property are made and the title thereto passes from the US Government, the prices charged will be the standard list price contained in the SC 1305/30 Management Data List series, plus cost of packing, crating, and handling and administrative charges.

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(c) *Condition of sale.* Provisions apply to sales under this section, as follows:

(1) Sales will be made without expense to the Government.

(i) All costs incident to sales (including packing, crating, handling, etc.) will be paid in advance by the purchaser.

(ii) All costs incident to shipment (transportation, parcel post charges, etc.) will also be paid by the customer.

(iii) Payment for items and charges incident to sale will be made only by cashier's check, certified check, bank money order, or postal money order made payable to the Treasurer of the United States.

(iv) For other than items of ammunition and ammunition components, cash will be acceptable when consignee pickup is authorized or purchase is made in person.

(2) All financial transactions will be accomplished in accordance with applicable Department of the Army directives and regulations. Moneys collected for cost of items, as well as packing, crating, and handling, will be deposited as an appropriate reimbursement as prescribed in applicable regulations.

(3) Generally, all sales are final and, normally, the US Government assumes no obligation or responsibility for repair, replacement, or exchange, except as provided in AR 920-20. Purchasers will be so advised prior to making the sale. All weapons sold, however, will be safe for firing.

(4) Weapons sold at standard price will be supplied with equipment. Weapons sold at less than standard price will be supplied less equipment.

(5) Sales of specific items may be suspended at any time by the direction of CDR, ARRCOM.

(d) *Purchasing procedure.* (1) Except as provided in paragraph (e) of this section, all requests originating within CONUS for the purchase of small arms weapons, repair parts, cleaning, preserving, and target material will be submitted to the Commander, ARRCOM, Rock Island, IL 61201.

(i) Upon approval, these items will be shipped from Army depots stocking such material, based upon availability of material. Customers will be furnished instructions for submission of remittance.

(ii) Upon receipt of proper remittance from eligible customers ARRCOM will issue the necessary documents directing shipment from an Army depot where the items are available.

(2) In implementing the subchapter, oversea commands should designate installations within the oversea command to which requests for purchase of ammunition and related material will be directed.

(3) Depots shipping weapons to individuals, Director of Civilian Marksmanship (DCM) affiliated rifle and pistol "clubs", museums, veterans organizations, and other US Government agencies will annotate shipping documents with the serial number of all the weapons they ship. Firearms shipped will be reported to Commander, ARRCOM, ATTN: DR SAR-MMD-D, Rock Island, IL 61202, using DA Form 3535 (Weapons Sales Record). DA Form 3535 may be obtained from Commander, Letterkenny Army Depot, ATTN: DRXLE-ATD, Chambersburg, PA 17201.

(i) The transportation officer will ascertain estimated transportation costs, to include DA transportation security measures (costs) for shipment to destination. Such information will be transmitted by letter to consignee with request for acknowledgement that shipment will be accepted based on costs submitted.

(ii) Shipment will not be made unless consignee agrees to accept shipments. Refusal to accept shipment shall be reported to ARRCOM.

(4) CDR, ARRCOM is responsible for maintaining a record by serial number of all weapons reported by depot in accordance with paragraph (d)(3) of this section. He will establish procedures to screen purchase requests to insure compliance with any limitations established by this section.

(e) *Sales to individuals, organizations, and institutions.* (1) Sales of small arms weapons and ammunition are limited by statute (10 U.S.C. 4308) to members of the National Rifle Association (NRA). Such sales will be made in accordance with the provisions of this paragraph and with other rules and regulations approved by the Secretary of the Army.

(2) Sales will be limited to M1 service rifles, either national match grade or service grade. Only one such rifle and spare parts for it will be sold to an individual. No ammunition will be sold to individuals.

(3) Junior marksmanship clubs and junior marksmanship division affiliated within the Director of Civilian Marksmanship (DCM) pursuant to AR 920-20 may purchase limited quantities of .22 caliber ammunition.

(4) The DCM will determine the maximum quantity of such ammunition that clubs will be permitted to purchase in each fiscal year.

(5) Approved, non-profit summer camp organizations which are of a civic nature and are chartered or recognized by the NRA are allowed to purchase from the DCM at cost plus shipping and handling charges, 300 rounds of .22 caliber ammunition for each junior who is participating in a summer camp marksmanship program.

(6) Requests for purchase of ammunition by marksmanship clubs and summer camp organizations will be submitted to the DCM for approval. If he approves, the application will be forwarded to ARRCOM for processing. If it is disapproved, it is returned to applicant with reason(s) stated for disapproval.

(f) *Eligibility of purchasers.* In order to purchase a rifle under this program, an individual must:

(1) Be a member of the NRA as required by statute.

(2) Be a member of a marksmanship club affiliated with the DCM (AR 920-20).

(3) Based upon regular competitive shooting, have an established status as a marksman as determined by the DCM.

(g) *Purchase procedure.* (1) Individual members of the NRA desiring to purchase National Match grade M1 service rifles will submit requests to the Director of Civilian Marksmanship, Department of the Army, Washington, DC, 20315.

(i) The request should contain the name and address of the shooting club with which the purchaser is affiliated and appropriate evidence of status as a competitive marksman.

(ii) The individual's current NRA membership card (or exact facsimile thereto) will be forwarded with the request, accompanied by a self-addressed stamped envelope for return of the membership card.

(2) Upon receipt of a request, the Director of Civilian Marksmanship will forward to the individual a Certificate for Purchase of Firearms in the suggested format at figure 5-1 to be completed, notarized and returned. When returned with check or arrangements for payment, the Certificate will be referred for appropriate verification in the records of US Government agencies and for other investigation as required. This is done to insure that the sale of a weapon to the applicant is not likely to result in a violation of law. The Privacy Act Statement for Certificate of Purchase of Firearms (figure 5-2) will be made available to the individual supplying data on the Certificate for Purchase of Firearms (suggested format, figure 5-1). Prior to requesting the individual to supply data on the Certificate for Purchase of Firearms (suggested format, figure 5-1) the Privacy Act Statement for Certificate will be made available to the individual concerned. (The Privacy Act Statement will be reproduced locally on 8 x 10½ inch paper.)

(i) A purchase application will be denied if the applicant fails to meet all the conditions required in the Certificate.

(ii) If an application is denied, the applicant will be informed of the

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action and will be given an opportunity to submit additional information justifying approval of the application.

(iii) If the results of the investigation are favorable, the application will be forwarded to ARRCOM for processing.

(h) *Targets and spare parts.* Marksmanship clubs affiliated with the DCM and individuals who are members of National Rifle Association are authorized to purchase from the Army targets of types not otherwise available from commercial sources. Request for such purchases will be submitted to the Director of Civilian Marksmanship for approval and processing. Individuals who are members of the National Rifle Association and who have in the past purchased rifles from the Army under the authority of 10 U.S.C. 4308(a)(5), may purchase spare parts for those rifles if the parts are available. Requests for purchase of spare parts will be submitted to the Director of Civilian Marksmanship for approval. If he approves the application, he will forward it to ARRCOM for processing. If he disapproves the application, he will return it to the applicant stating the reasons for disapproval. Current DA transportation security measures for weapons will be applied under procedures contained in paragraph (d)(1) (i) and (ii) of this section.

(i) *Cadets, US Military Academy.* (1) When approved by the CDR DARCOM, the Superintendent, US Military Academy may sell to cadets upon graduation from the Academy those sabers which no longer meet prescribed standards of appearance and/or serviceability.

(2) Application to purchase sabers under these provisions will be made in accordance with procedures established by the Superintendent.

(j) *Reserve Officer's Training Corps (ROTC) and National Defense Cadet Corps (NDCC).* Supplies required by educational institution for the training of units and individuals of the Reserve Officer's Training Corps and National Defense Cadet Corps, in addition to authorized items normally furnished to ROTC and NDCC schools, may be sold when available by the activities listed in paragraph (g) of this section (10 U.S.C. 4627). Such purchases will be in accordance with AR 145-2.

(k) *Manufacturers and designers.* (1) Under the provisions of title 10 U.S.C. Section 4506, the Secretary of the Army is authorized to sell to contractors or potential contractors such samples, drawings, and manufacturing and other information as he considers best for national defense. Procedures for such sale are contained in APP 13-1502.

(2) Under the provisions of title 10, U.S.C. Section 4507, the Secretary of the Army may sell to designers who are nationals of the United States, serviceable ordnance and ordnance stores necessary in the development of designs for the Armed Forces. Designers will submit application to purchase to the appropriate Commodity Command.

(3) If any item normally requiring demilitarization pursuant to the Defense Disposal Manual (DoD 4160.21-M) and the AR 755-series is sold, a special condition of sale will prohibit further disposition by the purchaser without prior approval of the Deputy Chief of Staff for Logistics, Department of the Army.

(l) *Sales of individual pieces of U.S. armament for sentimental reasons.* Under the provisions of title 10, U.S.C., Section 2574, individual pieces of U.S. armament, which are not needed for their historical value and can be advantageously replaced, may be sold at a price not less than cost when there exists for such sale sentimental reasons adequate in the judgment of the Secretary of the Army.

(m) *Method of sale.* (1) Applications to purchase under the provisions of this act will be submitted to Deputy Chief of Staff for Logistics, ATTN: DALO-SMS, Department of the Army, with a complete identification including serial number, and location of desired item, if known.

(2) Approved applications for major items will be forwarded through Commander, U.S. Army Materiel Development and Readiness Command, ATTN: DRCMM-SP, to the Commander, U.S. Army Armament Materiel Readiness Command.

§ 612.3 Accounting for arms and accouterments loaned to other government agencies.

(a) *General.* This section—

(1) Prescribes procedures governing the accounting for arms and accouterments loaned to another agency of the U.S. Government by DARCOM for the protection of public money and property under the provisions of Title 10, U.S.C. 4655.

(2) Applies to DARCOM and those activities and installations thereof responsible for shipment of materiel and processing of supply documents for loans of arms and accouterments to other U.S. Government agencies.

(3) Issue of arms and accouterments to other U.S. Government agencies should be pursuant to section 601, Economy Act of 1932, (47 Stat. 417; 31 U.S.C. 686) as amended by the act of 26 June 1943 (57 Stat. 219).

(4) The Secretary or Under Secretary of the Army is the approving authority for loans covered by this section. Loans will be approved or disapproved after consideration of the purpose and proposed duration of the loan, and such factors as stock position, programmed Army requirements, and type classification with pending changes thereto.

(5) Unless otherwise approved by the Secretary or Under Secretary of the Army, loan agreements will be for a maximum of one year.

(b) *Requests.* (1) Requests for an initial loan of materiel or for the extension of an existing loan will be forwarded by the head of the agency involved to the Secretary or Under Secretary of the Army. Only those items which are available in on-hand stocks will be considered for approval. Procurement of materiel required to satisfy a loan requirement is not authorized.

(2) Normally, request for loan of weapons/items which are type classified standard (Logistics Control Code A or B), will not be approved when a similar item or lower type classification is available.

(c) *Issue, cost and care.* (1) Loaned materiel will be returned to the Army in the same condition in which it was received.

(2) Cost of packing, handling, and transportation will be borne by the borrowing agency.

(3) Borrowing agencies are fully responsible for the care, custody, and proper use of materiel loaned, and for payment for materiel lost, damaged or destroyed.

(d) *Responsibilities.* (1) Under the provisions of statute cited in paragraph (a)(1) of this section, CDR DARCOM will require the maintenance of a stock record account, as specified in AR 735-5, for the purpose of reflecting accountability for property loaned pursuant to this regulation.

(2) Commander, ARRCOM, ATTN: DRSAR-MMD, has been designated by Commander, DARCOM as the activity to maintain accountable property records for these loans.

(e) *Processing loan requests.* (1) Requests for loan of arms and accouterments received in DARCOM or other Army activity supply channels will be returned to the originating agency for referral in accordance with paragraph (b)(1) of this section. Those approved by the Secretary or Under Secretary will be sent to ARRCOM for execution of a formal loan agreement.

(2) Requests for loans will specify the responsible official, consignee, specific need for materiel, proposed duration of the loan, a citation of funds to cover the cost of packing, handling, and transportation, and that facilities are available to keep firearms in locked security when not in use.

(f) *Shipment procedure.* (1) Inventory control points will initiate materiel release orders in accordance with AR 725-50. Concurrently with initiation of the materiel release order, the consignee will be furnished notice that shipment has been directed, a list of the DOD Single Line Item Release/Receipt Documents (DD Form 1348-1), and instructions as follows:

(i) *Special note to consignee.* Upon receipt of the articles listed herein, the following certificate will be signed on three copies and forwarded with receiving document (DD Form 1348-1) to (insert name and address of responsible official).

"I certify that the articles listed on (insert number) copies of attached DD Form 1348-1, numbered as follows: (list number of each Release/Receipt Document) were received in apparent good condition, except as noted. Serial numbers have been verified. (Omit second sentence if not applicable).

(Signed) _____
(Typed) _____
(Date)." _____

(ii) Special note to responsible official.

(A) Upon receipt of signed copies from the consignee, another certificate as given in (B) below will be prepared and signed, with one copy to (insert name and address of accountable property officer) and one copy retained for file.

(B) When the requirement for these articles no longer exists, disposition instructions will be requested from (insert inventory control point). (The next sentence will be varied to fit cases where items are furnished on a nonreimbursable basis and can be disposed of in accordance with regulations of the borrowing agency; and cases where weapons, though furnished on a nonreimbursable basis, must be returned to Army control for demilitarization prior to disposal.)

"I certify that responsibility for articles listed on (insert number) copies of attached DD Form 1348-1, numbered as follows: (list number of each Release Receipt Document) is acknowledged, except as noted.

(Signed) _____
(Typed) _____
(Date)." _____

(2) All shipments will be documented on DoD Single Line Item Release/Receipt Document (DD Form 1348-1). Transportation, packing, and handling costs will be shown on all copies as will serial numbers in the case of weapons shipments.

(3) In addition to the normal distribution of DD Form 1348-1 to the consignee, one copy will be mailed to the designated responsible official of the agency concerned, and one to the pertinent inventory control point.

(g) *Accounting.* (1) *Stock record account.* Copies of the DD Form 1348-1 transmitted by the supplying installations as prescribed in paragraph (f)(1) of this section will be used as a basis for establishing accountability for the items on loan.

(2) *Hand receipt accounts.* The signature of the responsible official of the agency on DD Form 1348-1 will constitute a valid hand receipt in the accounts of the Army accountable property officer.

(3) *Annual settlements.* If a loan has been approved for a period longer than one year, property officers will reconcile loan accounts with responsible officials each 12 months. An Inventory Adjustment Report, DA Form 444, will be prepared in quadruplicate by the accountable property officer, listing items and quantities on loan to each agency. (Three copies will be forwarded to the responsible official concerned requesting verification of the listing and return of two signed copies.)

(h) *Returns.* (1) The responsible property officer normally will request disposition instructions from the accountable property officers when materiel is no longer needed or upon expiration of the established loan period. However, property may be drawn from the borrowing agency at any time to satisfy military requirements.

(2) The accountable property officer will issue shipping instructions for the return of property to a designated installation. The letter of instruction will contain a MILSTRIP document number (AR 725-50) for each line item to be returned, to be used for the shipment. The shipper will be directed to cite this document number on the shipping document.

(3) The accountable property officer will prepare and submit to the receiving installation a prepositioned materiel receipt card (DoD Materiel Receipt Document (DD Form 1486)) (document identifier DWC) as advance notice of the shipment.

(i) Exception data will be annotated as follows: "Return of Loan from other Government Agency-Report Receipt of Arms and Accouterments Accountable Property Officer, ATTN: DRSAR-MMD".

(ii) A copy of the letter of shipping instructions (paragraph (h)(2) of this section) will be inclosed with the prepositioned materiel receipt card for information.

(4) Upon receipt at the receiving installation, property will be inspected immediately. Cost of repairing unserviceable items and cost of replacement, if irreparable, will be determined at time of inspection. The MILSTRIP receipt card will be mailed to the accountable property officer with estimated damage cost and detail materiel conditions as exception data.

(5) Upon notification of materiel receipt, the accountable property officer will clear the loan record with a credit entry and process the receipt to the inventory records as an increase on-hand to asset balance.

(6) The accountable property officer will furnish receipted copies of the receiving document to the consignor and the responsible property officer closing the transaction. Billing action, when required, will be initiated as prescribed below by paragraph (i) of this section.

(i) *Fiscal procedure.* Inventory control points will be responsible for initiating billing and collection upon receipt of documents specified in paragraphs (g) and (h) of this section.

(1) Collection of amounts due the Department of the Army under this section will be in accordance with the procedures set forth in Chapter 5, AR 37-27. The same procedure will be followed whether collections are to cover the cost of packing, handling, and transportation; the value of property lost or irreparably damaged; or the cost of repair.

(2) Collections will be credited to the appropriation out of which similar materiel will be procured, or similar services rendered.

(3) Standard Form 1080 (Voucher for Transfer between Appropriations and/or Funds) will be annotated to indicate that collections are to reimburse Department of the Army appropriations in accordance with 10 U.S.C. 4655.

§ 621.4 Issues, loans, and donations for scouting.

(a) *General.* This section provides information relative to issue, loan or donation of Government property to the Boy Scouts of America and the Girl Scouts of America.

(b) *Guidance.* (1) Issues are made under the provisions of the loan agreement and reimbursement is made for adjusted shortages and damages.

(2) Provisions for donations of surplus property to Scout organizations, including lists of classes of donable property, are contained in Chapter III, Part 3, Defense Disposal Manual (DOD 4160.21M).

(3) The loan of certain Army, Navy, Air Force and DLA equipment and the provision of transportation and other services for Jamborees is initially provided for by Pub. L. 92-249. Implementation on a current basis is made in DOD Directive 7420.1. Army implementation is provided as follows:

(i) Army stock fund in paragraph 2-6b(4), AR 37-111, Working Capital Fund-Army Stock Fund Uniform Policies, Principles and Procedures Governing Army Stock Fund Operations.

(ii) Non-stock fund in paragraph 2-18, AR 310-34, Equipment Authorization Policies and Criteria, and Common Table of Allowances.

(c) *Procedure.* Loan agreements are mutually developed preceding the actual lending of the equipment. Paragraph 1-16, AR 735-5, General Principles, Policies and Basic Procedures, is used as the guide for preparation of loan agreements. Authority for commanders to participate in World and National Jamborees is included in paragraph (d) of this section; Procedures

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dure for Loan of Equipment and Providing of Transportation and Other Services to the Boy Scouts of America for World and National Jamborees is included in paragraph (j); and sample loan agreement to be executed by area commanders is included as figure 7-5.

(d) *World and National Boy Scout Jamborees.* The Act of 10 March 1972 (Pub. L. 92-249; 86 Stat. 62.) and (86 Stat. 63.) authorized the Secretary of Defense to lend equipment and provide transportation and other services to the Boy Scouts of America in support of World and National Jamborees. The Secretary of Defense has delegated his authority and responsibility for the support of Jamborees to the Secretary of the Army. The Commander DARCOM ATTN: DRCMM-SP has been assigned to monitor the program for the Secretary of the Army.

(e) *Group travel and visits.* Many Scouts and Leaders will travel in groups and their itinerary will provide for visits to places of interest in CONUS en route to and from Jamborees. Such group travel may begin in June and extend into September and October of the Jamboree year. In keeping with Department of the Army policies, commanders of Army installations may extend an invitation to and honor requests from Scout groups enroute to and from the Jamboree to visit and encamp at their installation.

(f) *Commissary and post privileges.* Installation commanders are authorized to provide commissary and post exchange privileges to Scout groups en route to and from the Jamboree for food items such as bread, meat, and dairy products. These privileges will be extended only to Scout groups which are en route to or from the Jamboree and who are encamped or quartered at the installation or the Jamboree site. Commissary and post exchange privileges extended to Scout groups while encamped at the Jamboree site for supply and food items will only be honored upon-application by officials of the Boy Scouts of America to supplement supplies and rations not considered adequate for American Scouts or Scouters.

(g) *Arrangements.* Regional Scout Executives have been informed by the National Headquarters of the contents of this subchapter and that arrangements pursuant to this subchapter must be made in advance directly with the installation commanders. However, commanders will consider factors of extenuation or emergency which may preclude advance arrangements.

(h) *Hospitalization.* Boy Scouts and Scout Leaders attending Jamborees are considered designees of the Secretary of the Army for the purpose of receiving medical care at US Army Medical facilities. The reciprocal rate will not be charged. Subsistence charges will be at the rate of $1.80 per day for hospitalized patients, but will not be collected locally. Each Boy Scout and Leader participating in Jamborees and hospitalized in Army medical treatment facilities will be reported to The Surgeon General, ATTN: DASG-SGRE-SSC, Department of the Army, Washington, DC 20314, on DD Form 7 (Report of Treatment Furnished Pay Patients; Hospitalization Furnished (Part A)). No local collections are authorized.

(i) *Service coordination.* (1) The Departments of the Navy and the Air Force and the Defense Logistics Agency will assist the Department of the Army in providing necessary equipment, transportation, and services in support of the Boy Scouts of America attending Jamborees. The Secretary of the Army or his designee will maintain liaison, as appropriate, with such agencies to avoid duplication of effort.

(2) Other departments (agencies) of the Federal Government are authorized under such regulations as may be prescribed by the Secretary (Administrator) thereof, to provide to the Boy Scouts of America (BSA), equipment and other services, under the same conditions and restrictions prescribed for the Secretary of Defense.

(j) *Procedure for loan of equipment and providing of transportation and other services to the Boy Scouts of America for world and national jamborees. Preliminary actions.* (1) In accordance with the provisions of Pub. L. 92-249, H.R. 11738, 10 March 1972, and Secretary of Defense Memo of 17 May 1972, Subject: Loan of Equipment and Providing of Transportation and Other Services to the Boy Scouts of America for Boy Scout Jamborees; Memo of 23 January 1973, Subject: Military Transportation Support for Boy Scout Jamborees; and Memo of 19 August 1974, Subject: Military Transportation Support for Boy Scout Jamborees, the DOD is authorized to lend certain items and provide transportation and certain other services to such Jamborees. Prior to the loan of property and providing transportation and other services, an appropriate agreement will be executed between the United States of America and the activity to be supported. A bond (fig. 7-6), in an amount specified by the Commander, DARCOM, based on statute taken by the Commander-in-Chief/Commander, Major Army Command (MACOM), and held until termination of the encampment and final settelment is made for each Jamboree.

(2) The Commander-in-Chief/Commander, MACOM designated, on behalf of the Commander, DARCOM, representing the Secretary of Defense will enter into legal arrangements with the Boy Scouts of America for the loan of equipment and the providing of transportation and certain other services for Boy Scouts World and National Jamborees. National Jamborees include Jamborees conducted by and within the United States and also those conducted by and within foreign nations.

(3) The Commander-in-Chief/Commander, MACOM, will appoint a Property Book Officer who will maintain separate stock records in order to provide for a single final billing to the supported activity (Boy Scouts of America) for items consumed, lost, damaged or destroyed. The Department of the Army will not be billed for items obtained from other than Army sources, except medical supply losses. Bills for medical supply losses will be submitted to the US Army Area Surgeon for payment. He will establish liaison with the activity to be supported. The property book account will be established in accordance with section II, chapter 2, AR 710-2.

(4) The Commander-in-Chief, MACOM, will task the Army Area Surgeon for Medical Supply Support to the Jamborees. Each Surgeon designated should appoint an accountable officer and furnish the name, location, and routing identifier of a project office wherein medical supply problems can be resolved.

(5) The Property Book Officer is authorized direct communication with the source of supply, other military department liaison personnel and DARCOM ICP's to resolve routine supply problems.

(k) *Preparing bills of material.* (1) The activity (BSA) will submit a list of equipment and supplies desired to the Commander-in-Chief/Commander, MACOM. This list will be edited during and subsequent to preliminary conferences with representatives of the activity and furnished to Commander, DARCOM, ATTN: DRCMM-SP.

(2) HQ, DARCOM will convert the informal list to a tentative Bill of Material and will furnish the respective Commodity Command that part of the Bill of Material for their items of logistical responsibility. A suggested format for the Bill of Material is included as figure 7-1. Local reproduction is authorized. Copies of the entire tentative Bill of Material will also be furnished to each of the military departments authorized to participate in the support of the encampments. The Bill of Material forwarded to the Commander-in-Chief/Commander, MACOM will be screened to determine inhouse availability prior to placing requisitions on CONUS supply points.

(3) At such time as item availability information is on hand and the sources to be used are determined

(paragraph (m) of this section, a Bill of Material (figure 7-1) will be prepared by HQ, DARCOM, and forwarded to the Commander-in-Chief/Commander, MACOM.

(4) The Bill of Material will list, by commodity command (military department), all items desired, identified by National Stock Number (NSN) description, quantity desired and required delivery date. The NSN will provide identification of the items required. Items will be identified by the Property Book Officer to the responsible commodity command or military department as indicated below:

(i) CERCOM	1 US Army Communications and Electronics Materiel Readiness Command.
(ii) TSARCOM	2 US Army Troop and Aviation Materiel Readiness Command.
(iii) ARRCOM	3 US Army Armament Materiel Readiness Command.
(iv) TARCOM	4 U.S. Army Tank-Automotive Materiel Readiness Command.
(v) DLA	5 Defense Logistics Agency.
(vi) Navy	N Department of the Navy.
(vii) Air Force	F Department of the Air Force.
(viii) Other Installations	A

The Bill of Material will be screened to insure that radioactive items restricted for military use are not included.

(l) *Establish property transaction records.* (1) A Property Transaction Record reflecting complete information about each item loaned to the activity will be established and maintained by the Property Book Officer (figure 7-2) and the respective commodity command military department (figure 7-3). Suggested formats for the Property Transaction Records are found in figures 7-2, 7-3, and 7-4. Local reproduction is authorized.

(2) The Property Book Officer will also establish and maintain separate Property Transaction Records for items obtained from supply sources other than Army commodity commands, i.e., other Army installations, Department of the Navy, Department of the Air Force (figure 7-4).

(3) Each entry on the Property Transaction Record will be supported by appropriate documentation (commodity command: copies of shipping documents, copies of return documents and copies of surveillance inspection report—Property Book Officer: Requisition voucher files and hand receipt cards). This is particularly important for reconciliation purposes in order that all property received from each source will be returned to that source upon termination of each encampment.

(m) *Locating and obtaining equipment and supplies.* (1) The respective commodity commands (military departments) will screen the tentative Bill of Material (paragraph (k)(2)) and determine availability and source of supply identified by Routing Identifier Code. They will advise HQ, DARCOM, ATTN: DRCMM—SP of availability, appropriate substitute items when the requested items are not available in sufficient quantity, and the source of supply for requisitioning purposes.

(2) Concurrently, the Bill of Material will be screened within the MACOM to determine those items that can be obtained from assets available in the command.

(3) The Property Book Officer will requisition equipment and supplies from the source of supply as indicated by Commander, DARCOM in accordance with AR 725-50 or other separately furnished instructions. The requisition number, quantity requisitioned, stock number and source of supply will be entered in the Property Transaction Record. Requisitions will cite the appropriate project code assigned and appropriate activity address code on all requisitions submitted. Project codes will be assigned by Commander, Logistic Systems Support Activity, ATTN: DRXLS-LCC, Chambersburg, PA, 17201 and distributed by message to all interested addressees.

(4) Loan of General Services Administration (GSA) General Supply Fund Material—The Federal Property and Administrative Services Act of 1949, as amended, authorizes the Administrator, GSA to loan GSA General Supply Fund Material to the Department of Defense and other federal agencies. Loan shall be made to the extent that items are readily available and that such loans will not jeopardize the GSA stock inventory. The loan of GSA General Supply Fund Material shall normally be limited to 90 Calendar days. Requisitions for GSA material should be submitted to the nearest GSA Regional Office by the CINC/CDR MACOM.

(5) Formal accountability for all items shipped to the site of the activity will be retained by the appropriate accountable activity. Property and financial accounting will be in accordance with respective military department regulations governing loans.

(6) The shipping depot or other source will furnish a copy of the shipping document to the respective commodity command (military department) where the quantity charged, date shipped, condition of the property and total value will be posted to the Property Transaction Record.

(7) Upon receipt of the advance copy of the shipping document, the commodity command (military department) will post information to his Transaction Record, by source as in paragraph (l)(1) of this section.

(8) When the shipment is received, the Property Book Officer will inspect the property. A narrative statement of condition will be prepared if condition of the property is other than that indicated on the shipping document and referenced to the condition entry on the Property Transaction Record. The source of supply, as appropriate, will be immediately notified of overages or shortages and verified in condition, as provided in Chapter 8, AR 735-11. The Property Book Officer will enter on the shipping document the quantity actually received when it differs from quantity shown as shipped and will post the quantities received to the property book record.

(9) Discrepancies between the quantity shipped by the depot and that received by the Property Book Officer and variance in condition will be reconciled as rapidly as possible and appropriate records will be brought into agreement. When shortage or damage is not attributable to the carrier, the Property Book Officer will immediately contact the responsible source of supply, furnishing the stock number and document number involved, together with an explanation of the discrepancy. Reconciliation is particularly important in order to ensure a common point of departure in determining charges to be assessed upon termination of the activity. Replacement shipments, when required, will be covered by appropriate shipping documents.

(10) Special Instructions for Defense Logistics Agency, Clothing and Textile Items. (See DSAR 4140.27/AR 700-49).

(n) *Transportation.* (1) Transportation of equipment and supplies—The responsibility of coordinating movement of equipment and supplies placed on loan to the Boy Scouts of America during National and World Jamborees is delegated to the Commander, US Army Materiel Development and Readiness Command, ATTN: DRCMM-ST.

(2) All requisitions for items in question, will cite the appropriate project code and will be shipped by commercial bill of lading on a collect basis to all National Jamborees and World Jamborees held in the United States.

(3) Shipments to Boy Scout contingents at World Jamborees in foreign countries will be by Government bills of lading, unless otherwise specified by the Boy Scouts of America.

(4) All shipments directed to Boy Scout Jamborees will be routed by the most feasible means as determined by the shipper. Shipments will be consolidated to the maximum extent possible to assure the lowest charges available to the Boy Scouts of America.

(5) Separate shipping instructions will be provided for each Jamboree to

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assure that correct consignee and railhead addresses are furnished.

(6) Movement of Boy Scouts, Scouters, and officials living in the United States of America to a Jamboree within the United States of America or to a Jamboree in an oversea area shall be the responsibility of the Boy Scouts of America or the individuals concerned.

(7) No authority exists under Public Law 92-249 for the movement of Boy Scouts, Scouters, and officials via military capabilities other than those of the Military Airlift Command or the Military Sealift Command.

(o) *Transportation by vessels of the Military Sealift Command (MSC).* (1) The MSC does not operate any ships suitable for carriage of passengers on transoceanic routes. Although pertinent directives and Public Law 92-249 authorize the movement of Boy Scouts on Military Vessels, the MSC has no capability to provide such transportation.

(2) The MSC is an industrial-funded organization and charges the military service for sealift services provided in accordance with established rates. The host command will be responsible to compensate the MSC for any equipment or material moved on MSC ships. The limitations inherent in Public Law 92-249 stipulate that transportation support provided will be at no cost to the Government. Under these directions, Boy Scout equipment or materiel is not authorized movement on a space available basis without prior approval of the Secretary of Defense. Such approval is not anticipated.

(3) All billings for transportation provided by MSC will be forwarded to the appropriate Commander-in-Chief/Commander of the support major Army command (MACOM). Reimbursement will be requested by the MACOM Commander from the Boy Scouts of America.

(p) *Transportation of oversea based scouts, scouters, and other authorized personnel by military airlift to national or international jamborees.* (1) Space required reimbursable transportation by Military Airlift Command (MAC) airlift over established MAC channels is authorized from points outside the Continental United States (OCONUS) to aerial ports within CONUS, or to other oversea locations and return. Such transportation will be provided only to the extent that it does not interfere with the requirements of military operations, and only to those Boy Scouts, Scouters, and officials residing overseas and certified by the Boy Scouts of America (BSA) as representing the BSA at the Jamboree. Certification by the BSA will be in the form of a letter identifying each such individual as their authorized representative at the Jamboree. This letter of authorization must be presented to the sponsoring overseas command.

(2) Boy Scouts, Scouters, officials and their equipment will be moved after all space-required traffic, but before any space-available traffic.

(3) Each passenger is authorized the normal accompanying free baggage allowance of 66 pounds while traveling on MAC aircraft. It is not contemplated that any excess baggage allowance will be authorized.

(4) Transportation of Boy Scouts, Scouters, officials, and their equipment provided by MAC controlled aircraft will be reimbursed at the common user tariff rates assessed U.S. Government Traffic, as contained in AFR 76-11.

(5) On the basis of letters of authorization issued by the BSA, the BSA will monitor services provided by the Department of Defense. One copy of each BSA letter of authorization will be forwarded to the Commander, US Army Materiel Development and Readiness Command, ATTN: DRCMM-SP, 5001 Eisenhower Avenue, Alexandria, VA 22333, for planning purposes. This letter of authorization should specify whether one way or round trip transportation is requested.

(6) DACROM responsibilities include the following:

(i) Compiling a passenger forecast to be submitted to MAC in accordance with AR 59-8/OPNAVINST 4630.18C/AFR 76-38/MCO 4630.6B.

(ii) Providing Military Traffic Management Command (MTMC) an information copy of the passenger forecast.

(iii) Submitting all passenger requirements for one way and round trip transportation originating overseas to the appropriate overseas command.

(7) The responsibilities of the sponsoring overseas command include:

(i) Verifying that Scout passengers are officially authorized representatives of BSA in accordance with paragraph (p)(1) of this section.

(ii) Making all necessary passenger reservations with MAC, for transportation originating overseas, in accordance with AR 55-6/AFR 76-5/OPNAVINST 4630.23/MCO P4630.11. The oversea command will submit CONUS outbound return passenger requirements to Commander, Military Traffic Management Command, ATTN: MTMC-PTO-P, Washington, D.C. 20315.

(iii) Issuing each passenger a MAC Transportation Authorization (DD Form 1482) for transportation from the overseas location and return, when round trip transportation has been requested. The customer identification code, item (7) of the DD Form 1482, should be designated—JBWJ—which was approved by MAC as the permanent CIC for direct billing purposes to HQ, Boy Scouts of America, North Brunswick, New Jersey, 08902.

(iv) Ensuring that each Scout passenger has a completed DD Form 1381, signed by a parent, guardian or other legally responsible individual.

(v) Evaluating the use and necessity of military airlift within or between overseas locations. This evaluation will include such factors as reasonable travel time, number of connections required, and assurance of Scout group integrity. Surface transportation will normally be used for travel within an overseas area.

(8) The responsibilities of the MTMC include:

(i) Evaluating the return outbound passenger requirements and making the necessary transportation arrangements so as to maintain Scout group integrity at all times.

(ii) Assisting the BSA in completing required documentation and insuring that passengers are ready prior to the return flight.

(iii) Pub. L. 92-249 does not provide authorization for the use of the Department of Defense transportation by Scouts, Scouters, and Officials of foreign nations. All requests to transport such persons should be forwarded through the unified command channels to the Office of the Assistant Secretary of Defense (Public Affairs). However, DOD does not contemplate authorization for the use of MAC aircraft for other than U.S. Scouts, Scouters, and Officials.

(iv) Use of military helicopters in support of medical evacuation, VIP, press and photo-services—The Director of Army Aviation, the Department of the Army Staff Judge Advocate, and the Comptroller of the Army have furnished the general opinion that Public Law 92-249 authorizes the use of Military helicopters in support of the above described services to the extent they are reasonably available and permits the use of appropriated funds.

(q) *Determination of charges and settlement.* (1) All property on which repair cost is claimed will be held at the depot or post, camp or station until final charges are determined and a release is given by CDR, DARCOM, Department of the Army.

(2) The commodity command (military department) will prepare the following information and statement, and forward them, to CDR, DARCOM, Department of the Army, for final review:

(i) Complete Property Transaction Record and supporting documents.

(ii) Proper accounts for which reimbursement received for shortages and repairs are to be deposited.

(iii) The following statement: "The losses and/or damages indicated on the Property Transaction Report in the amount of $—— represent the total claim by (appropriate commodity command or military department) relative to commodity command or military deparment property loaned to (Boy Scouts of America). Upon settlement and deposit to the proper account, the CDR of the commodity command or military department releases the (Boy Scouts of America) from further obligations."

(iv) Statements as to the general type of repair (e.g., tentage, repair tears, insert new panels, replace grommets) will be reported on separate addendum to the Property Transaction Record for items requiring repair.

(3) The CINC/CDR, MACOM, will prepare the following information and statement for property furnished for assets in the command and will forward this to CDR, DARCOM:

(i) Same as (q)(2)(i) of this section.

(ii) Same as (q)(2)(ii) of this section.

(iii) The following statement: The losses and/or damages indicated on the Property Transaction Record in the amount of $—— represent the total claim by (appropriate Army) relative to (appropriate Army) property loaned to (Boy Scouts of America). Upon settlement and deposit to the proper account, the CINC/CDR, MACOM releases the (Boy Scouts of America) from further obligations.

(iv) Same as (q)(2)(iv) of this section.

(4) CDR, DARCOM, will review the charges, inspect property to be repaired, if necessary, reconcile any discrepancies and determine final charges to be levied against the supported activity. Approved list of charges will be forwarded to the CINC/CDR, MACOM, for collection, and property being held for repair will be released.

(5) The CINC/CDR, MACOM, will prepare and dispatch a letter to the supporting activity and request payment made payable to the Treasurer of the United States. Upon receipt of payment, collection documents will be prepared and appropriate fiscal accounts, as furnished by the commodity command (military departments) ((q)(2) and (3) of this section) credited. The MACOM Surgeon will take action to reimburse the DLA stock fund for expendable medical supply losses reported. The CINC/CDR, MACOM, will close the Property Transaction Record Account.

(6) The CINC/CDR, MACOM, will advise the CDR, commodity command (military departments and CDR, DARCOM, DA) that settlement has been accomplished. Commodity command (military department) Property Transaction Records will be closed upon receipt of the foregoing advice.

(7) The CDR, DARCOM will advise the CINC/CDR, MACOM, to return the bond to Boy Scouts of America.

(8) In the event of unsatisfactory settlement, the proceeds of the bond will be used to satisy the claim. The Power of Attorney executed in connection with the agreement will be invoked and proceeds collected from the bond (fig. 7-7).

[FR Doc. 79-2908 Filed 1-26-79; 8:45 am]

[4910-14-M]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 78-89]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Miami River, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Dade County Department of Transportation, the Coast Guard is changing the regulations governing the drawbridges across the Miami River to exclude the present restricted period on Saturday (i.e., the draws will open on signal). This change reflects decreased vehicular congestion on Saturday. This action results in less restriction on Saturdays for vessel traffic through the bridges.

EFFECTIVE DATE: This amendment is effective on March 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: On August 28, 1978, the Coast Guard published a proposed rule (43 FR 38434) concerning this amendment. The Commander, Seventh Coast Guard District, also published these proposals as a Public Notice dated August 29, 1979. Interested persons were given until September 29, 1978 to submit comments.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr. Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Twelve letters and one petition with ten signatures were received, all of which supported the proposal.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising paragraph (a) of § 117.448 to read as follows:

§ 117.448 Miami River, Fla.; highway bridges from mouth to and including city of Miami bridge at Northwest 27th Avenue, Miami.

(a) Except as otherwise provided in paragraphs (b), (c), and (d) of this section, the owners of or agencies controlling these bridges shall not be required to open the drawspans for the passage of vessels from 7:30 to 9 a.m. and from 4:30 to 6 p.m., on all days other than Saturdays, Sundays, and the following legal holidays: New Year's Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day.

• • • • •

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

Dated: January 20, 1979.

J. B. HAYES,
Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79-2965 Filed 1-26-79; 8:45 am]

[4910-14-M]

[CGD2-79-1-R]

PART 165—SAFETY ZONES

Safety Zone—Upper Mississippi River, Mile 0 to Mile 126

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This amendment to the Coast Guard's Safety Zone Regulations establishes the Upper Mississippi River, Mile 0 to Mile 126, as a safety zone. This safety zone is established to prevent the destruction or loss of any vessel in this area. This area has been made especially hazardous by the presence of extremely heavy ice conditions, and this hazard will be amplified as efforts are undertaken to break the ice and clear the channel.

DATES: This amendment is effective at 6 P.M., CST, 18 January 1979 and will remain effective until further notice.

FOR FURTHER INFORMATION CONTACT:

CAPT. GLENN F. YOUNG, USCG, c/o Commander, Second Coast Guard District, 1430 Olive St., St.

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Louis, MO 63013, TEL: 314 425-4614.

SUPPLEMENTARY INFORMATION: This amendment is issued without publication of a notice of proposed rulemaking and is effective in less than 30 days from the date of publication, because public procedures on this amendment are impractical due to the emergency nature of the ice conditions, and due to the additional hazard that will be created by icebreaking efforts scheduled to begin on 22 January 1979.

DRAFTING INFORMATION: The principal persons involved in the drafting of this rule are CAPT. R. W. H. BARTELS, USCG, Project Officer, and LCDR K. J. BARRY, USCG, Project Attorney, c/o Commander, Second Coast Guard District, 1430 Olive St., St. Louis, MO 63103 TEL: 314 425-4614. In consideration of the above, Part 165 of Title 33 of the Code of Federal Regulations is amended by adding § 165.203, to read as follows:

§ 165.203 Upper Mississippi River, Mile 0 to Mile 126.

(a) *Safety Zone:* All the waters of the Upper Mississippi River from Mile 0 to Mile 126 are a safety zone.

(b) *Special regulations.* No vessel may enter into or proceed within the safety zone described in subsection (a) without the express permission of the Commander, Second Coast Guard District, 1430 Olive St., St. Louis, MO 63103, TEL: 314 425-4614.

(92 STAT. 1475 (33 U.S.C. 1225); 49 CFR 1-46 (n)(4).)

Dated: January 18, 1979.

W. E. CALDWELL,
Rear Admiral, U.S. Coast Guard Commander, Second Coast Guard District.

[FR Doc. 79-2975 Filed 1-26-79 8:45 am]

[3640-01-M]

Title 35—Panama Canal

CHAPTER I—CANAL ZONE REGULATIONS

PART 10—ACCESS TO INFORMATION CONCERNING INDIVIDUALS

General Routine Use

AGENCY: Canal Zone Government and Panama Canal Company.

ACTION: Final rule.

SUMMARY: On December 14, 1978, the Canal Zone Government and the Panama Canal Company published a proposed rule to establish a new general routine use in the FEDERAL REGISTER (43 FR 58394). No comments requiring amendment of the proposed rule were received, and the rule is now adopted without change. The rule establishes a new general routine use applicable to all systems of records maintained by the Canal Zone Government and the Panama Canal Company. The routine use permits the Canal agencies to release information from their systems of records to other agencies of the United States, and to officials of the Government of the Republic of Panama, for the purpose of planning the implementation of the Panama Canal Treaty of 1977 and related agreements.

EFFECTIVE DATE: January 30, 1979.

ADDRESS: Panama Canal Company (Administrative Services Division), Box M, Balboa Heights, Canal Zone.

FOR FURTHER INFORMATION CONTACT:

Mrs. Hazel M. Murdock, Assistant to the Secretary, Panama Canal Company, Room 312, Pennsylvania Building, 425 13th Street N.W., Washington, D.C. 20004 (telephone 202-724-0104).

Accordingly, Appendix A to Part 10 of Title 35, Code of Federal Regulations, is amended by the addition of a new paragraph 7. The introductory paragraph to Appendix A and the new paragraph 7 read as follows:

APPENDIX A—GENERAL ROUTINE USES

Information pertaining to individuals which is maintained in any system of records under the control of the Panama Canal Company or Canal Zone Government is subject to disclosure, as a routine use of such information, to any of the following persons or agencies under the circumstances described:

• • • • •

7. To the extent necessary for planning the implementation of the Panama Canal Treaty of 1977 and related agreements, information may, upon approval by the Chief, Administrative Services Division (Agency Records Officer) or that offical's designee, be disclosed to officials of the Government of the Republic of Panama and to U.S. Government agencies which will, under the Treaty, assume functions now performed by the Panama Canal Company or the Canal Zone Government.

Dated: January 17, 1979.

H. R. PARFITT,
Governor of the Canal Zone, President, Panama Canal Company.

[FR Doc. 79-2864 Filed 1-26-79; 8:45 am]

[3410-11-M]

Title 36—Parks, Forests, and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 200—ORGANIZATION, FUNCTIONS, AND PROCEDURES

Subpart A—Organization

ORGANIZATIONAL CHANGES AND CORRECTIONS

AGENCY: Forest Service, USDA.

ACTION: Final rule (Organization statement).

SUMMARY: The organizational description of the Forest Service is updated to reflect a current listing of land management units and research facilities and a name change for Region 5, from "California Region" to "Pacific Southwest Region." This organizational description is required to be published in the FEDERAL REGISTER by the Administrative Procedure Act.

EFFECTIVE DATE: January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Thomas R. Jones, Administrative Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, 202-447-3093.

Part 200 of Title 36 of the Code of the Federal Regulations is amended as follows:

§ 200.1 [Amended]

1. In paragraph (c)(2) of § 200.1, revise the listing of National Forest System land units to read as follows:

154 Proclaimed or designated National Forests
19 National Grasslands
26 Purchase Units
17 Land Utilization Projects
24 Research and Experimental Areas
45 Other Areas

§ 200.2 [Amended]

2. In § 200.2, revise paragraph (a)(1) to read as follows:

(a) • • •

(1) *National Forests.* Each Forest has a headquarters office and is supervised by a Forest Supervisor who is responsible to the Regional Forester. Two or more proclaimed or designated National Forests, or all of the Forests in a State, may be combined into one Forest Service Administrative Unit headed by one Forest Supervisor. Each Forest is divided into Ranger Districts. The Alaska Region is composed of two National Forests without Ranger Districts; with one Forest divided into three areas, each administered by a Forest Supervisor.

• • • • •

3. In paragraph (d) of § 200.2, in the listing of National Forest by Regions, change the name of Region 5 from "California Region" to "Pacific Southwest Region."

(81 Stat. 54 (5 U.S.C. 552).)

Dated: January 22, 1979.

JOHN R. MCGUIRE,
Chief, Forest Service.

[FR Doc. 79-2996 Filed 1-26-79; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 1036-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This rulemaking approves an administrative revision to the Louisiana State Implementation Plan (SIP) showing the change in location of an ozone and sulfur dioxide sampling site in New Orleans and the deletion of the list of equipment needed to complete the SIP network. The sampling site was moved because the original location was no longer available. Since the location of the new sampling site is in close proximity to the location of the original site, no significant differences in monitoring results will occur. The list of equipment, as compiled is obsolete.

EFFECTIVE DATE: January 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Jerry Stubberfield, Chief, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214/767-2742).

SUPPLEMENTARY INFORMATION: On April 3, 1978, after adequate notice and public hearing, the Louisiana Air Control Commission (LACC) submitted a SIP revision to the Environmental Protection Agency which was approved and adopted by the Commission on March 28, 1978. The revision proposed that (1) sampling site number 2 of Table II in the Louisiana SIP be changed from "Campsite", corner of Orleans and Lafitte Avenue 29°58', 90°4', to State Office Building, 325 Loyola Avenue, New Orleans, 29°57', 90°4', (2) site "S-2" be deleted from the Remarks column of the sulfur dioxide continuous sampling section of the Table I and added to the Remarks column of sulfur dioxide 24-hour sampling section of Table I, and (3) the list of equipment needed to complete the SIP network be deleted as it is obsolete and no longer of any value in the plan. That page which carried the equipment list will read "Intentionally Left Blank". The Louisiana SIP, as amended, specifies a monitoring site for ozone and sulfur dioxide to be operated in New Orleans at the intersection of Orleans Avenue and Lafitte Street. This site was located on city owned property. In late 1974 the City of New Orleans removed the building, requiring the LACC to move the monitoring equipment. It was moved approximately ¾ mile southwest of the original site, to the State Office Building at 325 Loyola Avenue, which maintains surroundings similar to the original site. Both sites are in a commercial district with well traveled streets and approximately ¼ mile from a limited access highway. Analysis of the ozone data from the original and the new site locations show no significant differences. The lack of personnel coupled with mechanical and maintenance difficulties precluded the operation of a continuous SO_2 monitor at the new site. Instead, the Commission is using the non-continuous EPA reference method to monitor SO_2 concentrations.

CURRENT ACTION: The EPA is promulgating an administrative revision to the Louisiana State Implementation Plan (SIP) which will involve changes to the Air Quality Surveillance Network.

This notice of final rulemaking is issued under the authority of Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410-(a).

Dated: January 23, 1979.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart T—Louisiana

1. In § 52.970, paragraph (c) is amended by adding paragraph (10) as follows:

§ 52.970 Identification of plan.

• • • • •

(c) • • •

(10) An administrative revision of the Air Quality Surveillance Network was submitted by the Louisiana Air Control Commission on April 3, 1978. (Non regulatory)

[FR Doc. 79-2987 Filed 1-26-79; 8:45 am]

[6560-01-M]

[FRL 1016-7]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Texas Regulation V

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This rule approves, in part, Texas Regulation V, Control of Air Pollution from Volatile Carbon Compounds, submitted by the Governor on July 20, 1977. The revision was submitted to replace regulations promulgated by EPA on July 21, 1977. The approved parts of Regulation V will improve the State's capability to control volatile carbon compounds and attain the national standards for photochemical oxidants.

EFFECTIVE DATE: January 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Jerry Stubberfield, Chief, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270 (214-767-2742).

SUPPLEMENTARY INFORMATION: On July 20, 1977, the Governor of Texas, after adequate notice and public hearing, submitted a revision to Regulation V, Control of Air Pollution from Volatile Carbon Compounds. EPA reviewed the regulation and with the exception of Rules 507 and 510.3, determined it to be approvable. Accordingly, a proposed approval of Rules 510.1 and 510.2 were published in the FEDERAL REGISTER on July 27, 1978 (43 FR 32440), and EPA proposed to revoke §§ 52.2283 and 52.2289. In addition, EPA proposed disapproval of Sections 507 and 510.3. Interested persons were given 30 days in which to comment on these proposed actions. Comments were received from the Texas Chemical Council and from Monsanto. These comments centered on EPA's proposed disapproval of Section 507 of Texas Regulation V.

PUBLIC HEARING REQUIREMENTS

Both comments suggested that EPA is required to hold a public hearing prior to disapproval of Section 507

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since it is currently an approved part of the State Implementation Plan (SIP), and was not revised in the Governor's submittal on July 20, 1977. The section of the Clean Air Act cited as requiring such hearing was Section 110(c). This section of the Act addresses public hearing requirements for regulations proposed by the Administrator. In EPA's action concerning Section 507, no regulation has been proposed. EPA has simply proposed to exclude a State rule from the SIP on the basis that application of the rule by the State violates Section 110(i) of the Act which specifies the methods for modifying the SIP. Therefore, there is no requirement for EPA to hold a public hearing prior to final action on Section 507.

EFFECTS OF SECTION 507 DISAPPROVAL

In EPA's proposed action on Section 507, the effects of disapproval on facilities previously granted exemptions were not clearly stated. It is not the intent of EPA to require immediate compliance with Regulation V by exempted facilities upon disapproval of Section 507. Section 113(d) of the Clean Air Act allows issuing a delayed compliance order for non-complying facilities until July 1, 1979, if facilities are unable to comply immediately.

CURRENT ACTION

This action approves revised Sections 510.1 and 510.2 of Texas' Regulation V, and disapproves Sections 507 and 510.3. These actions are being promulgated as proposed by EPA on July 27, 1978. The rationale for these actions was provided in the proposed rulemaking, and therefore, will not be repeated in this notice. Sections 52.2283 and 52.2289 of 40 CFR Part 52 are being revoked.

This rulemaking is issued under the authority of Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410-(a).

Dated: January 23, 1979.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart SS—Texas

1. Section 52.2270 is amended by revising paragraph (c) to read as follows:

§ 52.2270 Identification of plan.

* * * * * *

(c) The plan revisions listed below were submitted on the dates specified.

(1) Certification that statewide public hearings had been held on the plan was submitted by the Texas Air Control Board (TACB) on February 8, 1972. (Nonregulatory.)

(2) A discussion of its policy concerning the confidentiality of certain hydrocarbon emission data was submitted by the TACB on May 2, 1972. (Nonregulatory.)

(3) A discussion of the source surveillance and extension sections of the plan was submitted by the TACB on May 3, 1972. (Nonregulatory.)

(4) A discussion of minor revisions to the plan was submitted by the Governor on July 31, 1972. (Nonregulatory.)

(5) Revisions of section XI, paragraph C.3: rule 9: regulation V and control strategy for photochemical oxidants/hydrocarbons in Texas designated regions 7 and 10; regulation VII; and control strategy for nitrogen oxides in regions 5, 7, and 8 were submitted by the TACB on August 8, 1972.

(6) A request that inconsistencies in the plan concerning the attainment dates of primary air standards be corrected was submitted by the Governor on November 10, 1972. (Nonregulatory.)

(7) Revisions to regulation IV, regulation V, the general rules and control strategy for photochemical oxidants/hydrocarbons, and a request for a two year extension to meet Federal standards for photochemical oxidants was submitted by the Governor on April 13, 1973.

(8) Revisions to regulation IV (Control of Air Pollution from Motor Vehicles) were adopted on October 30, 1973, and were submitted by the Governor on December 11, 1973.

(9) A revision of priority classifications for particulate matter, sulfur oxides, and carbon monoxide was submitted by the Governor on March 21, 1975. (Nonregulatory.)

(10) Revisions to rule 23, concerning compliance with new source performance standards, and rule 24, concerning compliance with national emission standards for hazardous air pollutants were submitted by the Governor on May 9, 1975.

(11) Administrative revisions were submitted by the TACB with the semi-annual report in 1974 for sections I, II, III, IV, XI and XIII, and with the semi-annual report in 1975 for sections I, II, XI, and XII. (Nonregulatory.)

(12) A revision of section IX, Air Quality Surveillance, was submitted by the Governor on August 2, 1976. (Nonregulatory.)

(13) Revisions to section IX, Air Quality Surveillance Plan, which include changes of several air quality monitoring sites, were submitted by the TACB on August 12, 1977. (Nonregulatory.)

(14) Administrative revisions to section X, the Permit System, were submitted by the TACB in 1973, 1974, 1975, and 1977. (Nonregulatory.)

(15) Revisions to regulation V for control of volatile carbon compound emissions, as amended on December 10, 1976, were submitted by the Governor on July 20, 1977.

2. Section 52.2275 is amended by adding paragraphs (b) and (c) as follows:

§ 52.2275 Control strategy: Photochemical oxidants (hydrocarbons).

* * * * * *

(b) Section 507 of Texas Regulation V is disapproved since its application by the State violates the requirements of Section 110(i) of the Clean Air Act, as amended.

(c) Section 510.3 of revised Regulation V, which was submitted by the Governor on July 20, 1977, is disapproved.

§ 52.2283 [Revoked and Reserved]

3. Section 52.2283 is revoked and reserved.

§ 52.2289 [Revoked and Reserved]

4. Section 52.2289 is revoked and reserved.

[FR Doc. 79-2986 Filed 1-26-79; 8:45 am]

[6560-01-M]

[FRL 1032-6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Yolo-Solano Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, take no action on changes to the Yolo-Solano Air Pollution Control District (APCD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: February 28, 1979.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105, Attn: Douglas Grano, (415) 556-2938.

SUPPLEMENTARY INFORMATION: On August 9, 1978, in FR 35347, EPA published a Notice of Proposed Rulemaking for revisions to the Yolo-Solano APCD's rules and regulations submitted on June 22, 1978 by the California Air Resources Board for inclusion in the California SIP.

The changes contained in this submittal and being acted upon by this notice include the following: language changes to incorporate the recodification of the California Health and Safety Code; deletion of an exemption for solid waste burning; changes to rules regarding organic solvents; changes in the rule governing fuel burning equipment; and an administrative change in the rule providing for the place of hearings.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as SIP revisions.

Rules concerning new source review have been revised; however, no action is being taken at this time and these rules will be acted upon in a separate FEDERAL REGISTER notice.

The State also submitted regulations concerning New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) on June 22, 1978. These NSPS and NESHAPS regulations implement Sections 111 and 112 of the Clean Air Act, and are not appropriate for inclusion in a SIP under Section 110 of the Act. Therefore, these regulations will be neither approved nor disapproved by EPA as part of an applicable implementation plan. They will, however, be reviewed in determining whether to delegate authority to implement and enforce the NSPS and NESHAPS regulations in the APCD under the appropriate provisions of Sections 111 and 112. Announcement of such delegation would appear in a separate FEDERAL REGISTER notice.

A list of the rules being considered by this action was published as part of the Notice of Proposed Rulemaking and can be found in 43 FR 35347 (August 9, 1978). Comments were received from the Yolo-Solano APCD during the 30-day public comment period. No other comments were received.

The APCD commented on actions EPA has taken with regard to Rule 2.16. The APCD noted the differences between the July 19, 1974 submittal of Rule 2.16, *Fuel Burning Heat and Power Generators*, which was disapproved by EPA (43 FR 25676), and the earlier approved and currently applicable rule, *Fuel Burning Equipment*, submitted on February 21, 1972. Although the APCD agrees that allowable emissions for post-1972 fuel burning units are increased under the disapproved rule, the District argued that the rule also provides for a strengthening of control, including an emission limitation on NO_x for pre-1972 sources where there are presently no limitations in the SIP.

Nevertheless, the July 19, 1974 submittal of Rule 2.16 was disapproved because it included a relaxation in particulate matter limits without an adequate control strategy demonstration that this relaxation would not interfere with the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). EPA cannot approve subparagraph c.2 to Rule 2.16, submitted June 22, 1978 and being considered in this notice, because that subparagraph is intended to revise a rule which was never approved by EPA and is not presently a part of the applicable SIP. Therefore, EPA will take no action on this rule. The February 21, 1972 submittal of Rule 2.16, *Fuel Burning Equipment*, remains Federally enforceable as part of the applicable SIP. The APCD is encouraged to resubmit Rule 2.16 with an adequate control strategy demonstration, which should be in accordance with the specific requirements of 40 CFR 51.13(e).

The APCD also commented on Rule 6.5(a), *Standards for Granting Applications*, which allows the granting of a special permit for agricultural burning based on economic factors. Although economic factors often are considered in the development of limitation rules, the overriding requirement of Section 110 of the Clean Air Act is that the SIP provides for the attainment and maintenance of the NAAQS. Since Rule 6.5(a) does not include provisions to consider the permit's impact on the NAAQS, it could allow emissions that might cause or contribute to a violation of the air quality standards. That is, the Clean Air Act does not allow economic factors to be used as the sole basis in granting exceptions to emission limits. Economic exceptions are acceptable only if the rule includes adequate safeguards to protect the NAAQS. Action will be taken on rule 6.5(a) in a separate FEDERAL REGISTER notice.

It is the purpose of this Final Rulemaking notice to approve all changes contained in the June 22, 1978 submittal and incorporate them into the California SIP with the exception of those rules not being acted upon.

EPA is taking no action on the amendments to subparagraph (c)(2) of Rule 2.16, *Fuel Burning Heat or Power Generators*. These amendments place limitations on the emission rates of sulfur compounds and particulate matter when burning an alternate fuel. However, these provisions apply to the July 19, 1974 submittal of Rule 2.16 [43 FR 25676], which was disapproved by EPA because it allowed for increased emission rates, particularly during the use of alternate fuels, without including an adequate control strategy demonstration as required by 40 CFR 51.13. Since there are no provisions for alternate fuel use in the previously approved and currently applicable February 21, 1972 submittal of Rule 2.16, *Fuel Burning Equipment* [37 FR 10842], the June 22, 1978 submitted amendments are not appropriate for inclusion in the California SIP at this time, and thus no action will be taken. The February 21, 1972 submittal shall remain in effect.

Additionally, the EPA is taking no action in this notice on Rule 6.5, *Standards for Granting Applications*. Action will be taken on this rule in a separate FEDERAL REGISTER notice.

It is also the purpose of this notice to correct a clerical error in 40 CFR 52.280 paragraph (a)(2)(i)(A). The FEDERAL REGISTER notice dated June 14, 1978 (43 FR 25677) mistakenly stated that the submittal date for the previously approved and currently applicable Rule 2.16, *Fuel Burning Equipment*, was June 30, 1972. The submittal date for this rule was actually February 21, 1972.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

AUTHORITY: Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410 and 7601(a)).

DOUGLAS M. COSTLE,
Administrator.

Dated: January 23, 1979.

Incorporation by reference provisions approved by the Director of the FEDERAL REGISTER.

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c)(44)(iv) is added as follows:

§ 52.220 Identification of plan.

* * * * * *

(c) * * *

(44) * * *

(iv) Yolo-Solano APCD.

(A) Amended Rules 1.2 (preamble), 1.4, 2.8(c)(2), 2.13(h)(4), 2.15, 2.17, 2.20, 4.4(b), 5.1, 5.4(e)(1), 5.10, 5.11, and 6.7(f).

(B) Previously approved and now deleted (without replacement) Rule 2.8(b)(4).

* * * * * *

2. Section 52.280, paragraph (a)(2)(i)(A) is revised as follows:

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§ 52.280 Fuel burning equipment.

(a) • • •
(2) • • •
(i) • • •

(A) Rule 2.16, *Fuel Burning Heat or Power Generators*, submitted on July 19, 1974 is disapproved; and Rule 2.16, *Fuel Burning Equipment*, submitted on February 21, 1972 and previously approved as part of the SIP in 40 CFR 52.223, is retained.

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[FR Doc. 79-2985 Filed 1-26-79; 8:45 am]

[6560-01-M]

[FRL 1032-2]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for the City of Orrville, Municipal Power Plant, Orrville, Ohio[1]

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to the City of Orrville. The Order requires the City of Orrville to bring air emissions from its Boilers Nos. 9, 10, 11, 12 and 13 at Orrville, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). The City of Orrville's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (the Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter Kelly, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On May 31, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 23612) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for the City of Orrville. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to the City of Orrville by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places the company on a schedule to bring its Boilers Nos. 9, 10, 11, 12 and 13 at Orrville, Ohio, into compliance as expeditiously as practicable with Regulation OAC 3745-17-10, a part of the federally approved Ohio State Implementation Plan. The City of Orrville is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the City of Orrville to delay compliance with the SIP regulations covered by the Order until July 1, 1979.

Compliance with the Order by the City of Orrville will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that the City of Orrville is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act. U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place the City of Orrville on schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601.)

Dated: January 23, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending the table in § 65.400 to reflect the approval of the following order as follows:

§ 65.400 Federal Delayed Compliance Orders Issued Under Section 113(d) (1), (3), and (4) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
City of Orrville Municipal Power Plant.	Orrville, Ohio.....	EPA-5-79-A-2.....	May 31, 1978.	OAC 3745-17-10.	July 1, 1979

[FR Doc. 79-2984 Filed 1-26-79; 8:45 am]

[6560-01-M]

SUBCHAPTER E—PESTICIDE PROGRAMS

[OPP-260032; FRL 1046-7]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Editorial Amendment

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On August 11, 1978, EPA published a rule in the FEDERAL REGISTER which established a new tolerance for residues of the herbicide terbacil on mint hay (peppermint and spearmint). The new tolerance level was established at 2 ppm. At that time, the old tolerance of 0.1 ppm should have been deleted from the regulations. This rule deletes the old tolerance of 0.1 ppm from the regulations in § 180.209.

EFFECTIVE DATE: Effective on January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward Gross, Program Support Division (TS-757), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/755-4854).

SUPPLEMENTARY INFORMATION: On August 11, 1978 (43 FR 35697), a tolerance was established for residues of the herbicide terbacil (3-*tert*-butyl-5-chloro-6-methyluracil) and its metabolites 3-*tert*-butyl-5-chloro-6-hydroxymethyluracil, 6-chloro-2,3-dihydro-7-hydroxymethyl-3,3-dimethyl-5*H*-oxazolo (3,2-a)pyrimidin-5-one, and 6-chloro-2,3-dihydro-3,3,7-trimethyl-5*H*-oxazolo (3,2-a)pyrimidin-5-one (calculated as terbacil) in or on the raw agricultural commodity mint hay (peppermint and spearmint) at 2 parts per million (ppm). Existing tolerances for residues of terbacil in or on peppermint hay and spearmint hay at 0.1 ppm should have been deleted at the time the 2 ppm tolerance was established. This rulemaking document editorially amends 40 CFR 180.209 by deleting peppermint and spearmint hay at 0.1 ppm from the regulation.

Since this change is nonsubstantive in nature and merely clarifies and editorially amends an existing regulation, notice and public rulemaking procedures pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(B) are not prerequisite to the promulgation of this regulation. This order is effective on January 29, 1979.

Dated: January 24, 1979.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.209 is amended by deleting peppermint hay and spearmint hay at 0.1 ppm from the table in paragraph (a) as follows:

§ 180.209 [Amended]

In § 180.209 *Terbacil; tolerances for residues*, "Peppermint hay" and "Spearmint hay" at 0.1 part per million are deleted from the list of commodities in the table in paragraph (a).

[FR Doc. 79-2981 Filed 1-26-79; 8:45 am]

[4110-12-M]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 50—POLICIES OF GENERAL APPLICABILITY

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

Federally Funded Sterilizations

AGENCY: Public Health Service; Health Care Financing Administration, HEW.

ACTION: Final Rule: Change of Effective Date.

SUMMARY: On November 8, 1978, the Public Health Service, the Health Care Financing Administration, and the Office of Human Development Services, published three parallel sets of regulations governing expenditures for sterilizations under various HEW programs. (43 FR 52146, 52171, 52173.) These regulations provide that Federal funding is available for sterilizations only if the individual to be sterilized has given informed, written consent in accordance with the specific requirements detailed in the regulations. Except for two specified situations, the consent must be obtained on an approved consent form at least 30 days before the date of sterilization.

The effective date of these rules was set at February 6, 1979 (90 days after the date of publication). This meant that they would apply to all sterilizations performed on or after February 6. However, because of the requirement that consent be obtained, in most cases, 30 days before the procedure, the February 6 effective date called for the consent forms to be distributed by January 7. We have learned that this was not feasible, particularly with respect to distribution by State agencies for the Medicaid program.

In order to allow the States adequate time to meet the requirements of these rules, we are delaying their effective date until March 8, 1979. This means that the regulations published on November 8, 1978 apply to all sterilizations performed on or after March 8, 1979.

To ensure uniformity, we are also delaying the effective date of the Public Health Service regulation.

In a separate notice published elsewhere in this issue, we have delayed the effective date of the Office of Human Development Services (OHDS) sterilization regulation.

EFFECTIVE DATE: The rules published on November 8, 1978 are effective on March 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Paul Willging, 202-245-0128.

Dated: January 23, 1979.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc. 79-3008 Filed 1-26-79; 8:45 am]

[4110-12-M]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 220—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN: TITLE IV, PARTS A AND B OF THE SOCIAL SECURITY ACT

PART 222—SERVICE PROGRAMS OF AGED, BLIND OR DISABLED PERSONS: TITLES I, X, XIV, AND XVI OF THE SOCIAL SECURITY ACT

PART 228—SOCIAL SERVICE PROGRAMS FOR INDIVIDUALS AND FAMILIES: TITLE XX OF THE SOCIAL SECURITY ACT

Federal Financial Participation in State Claims for Sterilization

AGENCY: Office of Human Development Services (OHDS), HEW.

ACTION: Final Rule: Change of Effective Date.

SUMMARY: The effective date for the rules governing expenditures for sterilizations funded by OHDS (published on November 8, 1978, at 43 FR 52173) is delayed from February 6, 1979 until March 8, 1979. The reasons for this delay are explained in the notice delaying the effective date of the sterilization regulations of the Public Health Service and the Health Care Financing Administration, published elsewhere in this issue.

EFFECTIVE DATE: The regulations published on November 8, 1978 are effective on March 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Mrs. Johnnie U. Brooks 202-245-9415.

Dated: January 23, 1979.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc. 79-3009 Filed 1-26-79; 8:45 am]

[1] A copy of the order was submitted as a part of the original document.

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[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-822]

PART 19—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Amendment of Rule Concerning Misuse of Information

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: Because the Government in the Sunshine Act requires advance notice of the subject and date of Commission meetings, FCC amends standards of employee conduct to permit disclosure of such information and extends *ex parte* rules to prohibit *ex parte* communications from any interested person who knows that the question of designating a case for hearing will be considered at a Commission meeting.

EFFECTIVE DATE: February 2, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTRACT:

Upton Guthery, Office of General Counsel, 202-632-6444.

ORDER

Adopted: November 30, 1978.
Released: January 23, 1979.

1. Section 19.735-206 of the rules and regulations currently prohibits staff "disclosure of information about the content or scheduling of agenda items." Because the Government in the Sunshine Act requires seven days notice of the subject and the date for consideration of such items, and because disclosure as to scheduling is sometimes necessary for other reasons, it is appropriate to note Sunshine disclosure as an exception to this general prohibition and to eliminate that part of the prohibition relating to scheduling.

2. This section also prohibits "disclosure of actions or decisions by the Commission prior to the public release of such information." Insofar as this provision relates to actions or decisions at a Commission meeting opened to the public under the Sunshine Act, it is no longer appropriate. Members of the public who are unable to attend a Commission meeting should be afforded, upon request, the same access to information concerning actions at an open meeting as those who did in fact attend. We are therefore amending this provision to apply only to actions taken at Commission meetings which are closed to the public or by circulation.

3. *Accordingly, it is ordered,* Effective February 2, 1979, That § 19.735-206 is amended as set out in the Appendix hereto. Authority for this amendment is contained in Sections 4 (i) and (j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j) and 303(r). Because the amendments involve matters of procedure and internal standards of conduct, the prior notice and effective date provisions of 5 U.S.C. 553 are inapplicable.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

WILLIAM J. TRICARICO,
Secretary.

APPENDIX

Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In Part 19, § 19.735-206 is revised to read as follows:

§ 19.735-206 Misuse of information

Except as provided in § 19.735-203(c), or as authorized by the Commission, an employee shall not, directly or indirectly, disclose to any person outside the Commission any information, or any portion of the contents of any document, which is part of the Commission's records or which is obtained through or in connection with his Government employment, and which is not routinely available to the public and, with the same exceptions, shall not use any such documents or information except in the conduct of his official duties. Conduct intended to be prohibited by this section includes, but is not limited to, the disclosure of information about the content of agenda items (except as provided in the Government in the Sunshine Act, Pub. L. 94-409) or other staff papers to persons outside the Commission, and disclosure of actions or decisions made by the Commission at closed meetings or by circulation, unless otherwise directed by the Commission, prior to the public release of such information.

[FR Doc. 79-2898 Filed 1-26-79; 8:45 am]

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[4910-60-M]

Title 49—Transportation

CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 178—SHIPPING CONTAINER SPECIFICATIONS

[Docket No. HM-156; Amdt. No. 178-63]

Flattening Test Requirement for Seamless Cylinders

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the regulations in Part 178 of Title 49, Code of Federal Regulations, pertaining to flattening tests by deleting the requirement that certain seamless cylinders be hydrostatically tested prior to the flattening test and by requiring that the longitudinal axis of the cylinder be perpendicular to the knife edges during flattening testing. This amendment allows flexibility as to when the sample cylinder may be selected, and assures uniformity in the procedures used in performing the flattening tests.

EFFECTIVE DATE: On January 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Douglas A. Crockett, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, 2100 Second Street S.W., Washington, D.C. 20590 (202-426-2075).

SUPPLEMENTARY INFORMATION: On January 19, 1978, the Materials Transportation Bureau published a Notice of Proposed Rulemaking, Docket HM-156, Notice 78-2 (43 FR 2741), which proposed these amendments. The background and basis for these amendments were discussed in that notice. Interested persons were invited to give their views prior to the closing date of March 20, 1978. The only comment received was in favor of the rule change as proposed. The commenter also suggested that the word "longitudinal" be included to clarify the orientation of the cylinder to the knife edges during testing, and the suggestion has been adopted.

Analysis of the proposed amendments and comment thereon indicate that cost of regulatory enforcement will not be significantly affected, nor would additional costs be imposed on the private sector, consumers, or Federal, State or local governments.

Primary drafters of this document are Jose Pena, Technical Services Branch, Office of Hazardous Materials Regulation and Evan Braude, Office of Chief Counsel, Research and Special Programs Administration.

Since these amendments are relaxation of existing rules, and place no additional burden on any person, they are being made effective before February 28, 1979.

In consideration of the foregoing, Part 178 of Title 49 of the Code of Federal Regulations is amended as follows:

1. In § 178.36, § 178.36-15 is revised to read as follows:

§ 178.36 Specification 3A; seamless steel cylinders or 3AX; seamless steel cylinders of capacity over 1,000 pounds water volume.

. . . . . .

§ 178.36-15 Flattening test.

Between knife edges, wedge shaped, 60-degree angle, rounded to ½-inch radius; test 1 cylinder[1] taken at random out or each lot of 200 or less cylinders. Longitudinal axis of the cylinder must be at approximately a 90-degree angle to knife edges.

. . . . . .

2. In § 178.37, § 178.37-15 is revised to read as follows:

§ 178.37 Specification 3AA; seamless steel cylinders made of definitely prescribed steels or 3AAX; seamless steel cylinders made of definitely prescribed steels of capacity over 1,000 pounds water volume.

. . . . . .

§ 178.37-15 Flattening test.

Between knife edges, wedge shaped, 60-degree angle, rounded to ½-inch radius; test 1 cylinder[1] taken at random out of each lot of 200 or less cylinders. Longitudinal axis of the cylinder must be at approximately a 90-degree angle to knife edges.

. . . . . .

3. In § 178.44, § 178.44-17 is revised to read as follows:

§ 178.44 Specification 3HT; inside containers, seamless steel cylinders for aircraft use made of definitely prescribed steel.

. . . . . .

§ 178.44-17 Flattening test.

Between knife edges, wedge shaped, 60-degree angle, rounded to ½-inch radius; test 1 cylinder[1] taken at random out of each lot of 200 or less cylinders. Longitudinal axis of the cylinder must be at approximately a 90-degree angle to knife edges.

. . . . . .

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that this final amendment will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C. on January 17, 1979.

L. D. SANTMAN,
Director, Materials Transportation Bureau.

[FR Doc. 79-2958 Filed 1-26-79; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-34-M]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[7 CFR Part 2900]

ESSENTIAL AGRICULTURAL USES OF NATURAL GAS

Availability of Draft Environmental Impact Statement

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of availability of draft environmental impact statement and request for comments.

SUMMARY: Notice is hereby given that the Office of Energy (OE) has prepared a Draft Environmental Impact Statement (DEIS) in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA) in connection with the proposed rule by the Secretary of Agriculture to certify the essential agricultural uses of natural gas to the Secretary of Energy under Section 401 of the Natural Gas Policy Act (Pub. L. 95-621). (43 FR 54938, November 24, 1978).

This statement examines the impacts of certification of essential agricultural uses of interstate natural gas that will protect such users from curtailment of gas from interstate pipelines.

DATE: Comments must be received on or before February 16, 1979.

ADDRESS: Send comments to: Director, Office of Energy, U.S. Department of Agriculture, Rm. 226-E, Administration Building, 12th and Independence Ave. S.W., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Weldon Barton, (202) 447-2455.

SUPPLEMENTARY INFORMATION: It has been necessary to reduce the usual period for draft comment to February 16, 1979 in order to comply with the provisions of Section 401 of the Natural Gas Policy Act (Pub. L. 95-621) which require the Secretary of Agriculture's certification of essential agricultural uses to be made to the Secretary of Energy in time to enable the necessary implementing rules to be issued by March 9, 1979 (120 days after enactment of the NGPA).

Additional information may be secured on request, submitted to Weldon V. Barton, Director, Office of Energy, Room 226-E, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-2455.

Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the OE Draft Environmental Impact Statement have been sent to various Federal, State and local agencies, as outlined in the Council of Environmental Quality guidelines. The Draft Environmental Impact Statement may be examined during regular business hours at the Office of Energy in the South Agriculture Building, 12th Street and Independence Avenue, SW., Washington, D.C., Room 5173. Copies of the OE DEIS may be obtained upon request to the OE at the above address.

Comments concerning the DEIS should be addressed to the Director, Office of Energy at the address given above. Comments must be received on or before February 16, 1979 to be considered in connection with the proposed action.

Final OE Action with respect to this matter will be taken only after OE has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C. this 25th day of January 1979.

WELDON V. BARTON,
Director, Office of Energy.

[FR Doc. 79-3104 Filed 1-26-79; 8:45 am]

[4410-10-M]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 212]

VOIDANCE OF NONRESIDENT ALIEN BORDER CROSSING CARDS ON GROUNDS OF ABANDONMENT OF RESIDENCE IN CANADA OR MEXICO

Proposed Rules

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This is an amendment to the regulations of the Immigration and Naturalization Service concerning grounds for voidance of Mexican and Canadian nonresident alien border crossing cards. The amendment is necessitated by the need to clarify Service policy respecting the validity of border crossing cards held by aliens who have abandoned their residence in the country in which they resided when the card was issued. The intent of the proposed regulation is to provide for voidance of Mexican or Canadian border crossing cards held by aliens who have abandoned residence in Mexico or Canada.

DATES: Written representations should be submitted on or before: March 30, 1979.

ADDRESSES: Please submit representations in duplicate to the Commissioner of Immigration and Naturalization, 425 Eye Street, N.W., Room 7100, Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, D.C. 20536. Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This notice of proposed rule making is issued under the provisions of section 553 of Title 5 of the United states Code (80 Stat. 383).

The proposal adds a new paragraph (d-1) to 8 CFR 212.6 which will provide that a border crossing card shall be voided where it is found that the holder has abandoned his residence in the country in which he resided at the time the card was issued.

This amendment is necessary because it has always been Service policy to restrict the use of Mexican and Canadian Border Crossing Cards to citizens and residents of those two countries respectively. This amendment will clarify that policy and further provide that should the holder abandon his Mexican or Canadian residence the card will be voided.

The Form I-586 referred to in the proposed rule is the new ADIT card which will be machine-readable and will be used as a border crossing card by both Mexican and Canadian residents when the system becomes operational.

Interested persons are invited to submit written data, views and arguments concerning this proposed rule to the Commissioner of Immigration and Naturalization at the address shown above. Oral representations may not be presented in any manner. All relevant material received on or before the closing date indicated above will be considered.

In the light of the foregoing, it is proposed to amend Title 8 of Chapter I of the Code of Federal Regulations as set forth below:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

In Part 212, it is proposed to amend § 212.6 by adding a new subparagraph (d-1) to be entitled *"Voidance on grounds of abandonment of residence in Canada or Mexico"*, to read as follows:

§ 212.6 Nonresident alien border crossing cards

. . . . . .

(d-1) *Voidance on grounds of abandonment of residence in Canada or Mexico.* When it is found that the holder of an I-185, I-186, or I-586 has abandoned residence in the country upon which the benefit was granted, the card shall be voided.

. . . . . .

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

Dated: January 23, 1979.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 79-2961 Filed 1-26-79; 8:45 am]

[4410-10-M]

[8 CFR Part 214]

APPLICATION TO ACCEPT OR CONTINUE EMPLOYMENT BY A-1 AND A-2 NONIMMIGRANTS

Proposed Formal Procedure

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed Rule.

SUMMARY: This proposed amendment of the regulations of the Immigration and Naturalization Service establishes a formal procedure under which the spouses and unmarried dependent sons and unmarried dependent daughters of aliens classified as A-1 and A-2 nonimmigrants and serving as officers or employees of diplomatic or consular establishments may apply for permission to accept or continue employment.

Currently, spouses and dependents of these nonimmigrants apply under an informal procedure to the Office of Protocol of the Department of State for permission to accept or continue employment.

It is necessary to publish formal regulations pertaining to the employment of these nonimmigrants at this time because section 401(a) of the Foreign Relations Authorization Act of 1979 provides that the President shall seek to conclude bilateral and multilateral agreements with foreign countries to facilitate the expansion of employment opportunities for family members of U.S. Government personnel stationed abroad.

This statutory provision requires permission to work granted on the basis of this proposed regulation to be reciprocal. Its benefits will extend to family members of foreign diplomatic and consular officials whose governments extend similar employment opportunities to members of families of United States diplomatic and consular officials.

The proposal is intended to incorporate existing formal procedures in the regulations, and to ensure compliance with the employment reciprocity requirement set forth in section 401(a) of the Foreign Relations Authorization Act of 1979.

DATES: Representations must be received on or before March 30, 1979.

ADDRESSES: Please submit written representations, in duplicate, to the COMMISSIONER OF IMMIGRATION AND NATURALIZATION, Room 7100, 425 Eye Street, NW., Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service. Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

This notice of proposed rulemaking would amend 8 CFR 214.2(a) to add a new paragraph (2) which will establish formal regulations governing the employment of spouses and unmarried dependent sons and unmarried dependent daughters of aliens classified as A-1 and A-2 nonimmigrants and serving as officers or employees of diplomatic or consular establishments.

At the present time, requests for employment by spouses and unmarried dependent sons and unmarried dependent daughters of aliens classified as A-1 and A-2 nonimmigrants and serving as officers or employees of diplomatic consular establishments are submitted to and approved by the Office of Protocol of the Department of State because it is the responsibility of that Department to determine whether an alien is entitled to A-1 or A-2 status.

The Immigration and Naturalization Service and the Department of State feel that the procedures for determining eligibility for employment by A-1 and A-2 nonimmigrants should be published in the regulations. In addition, section 401(a) of the Foreign Relations Authorization Act of 1979 provides that the President shall seek to conclude bilateral and multilateral agreements with foreign countries to expand employment opportunities in those countries for family members of United States Government personnel stationed abroad.

Therefore, the employment privileges extended by this proposed rule are to be reciprocal. Under this regulation, spouses and unmarried dependent children of diplomatic and consular officials from foreign countries may obtain permission to work in this county if the host-country governments provide for acceptance of similar employment opportunities by spouses and unmarried dependent children of United States diplomatic and consular officials and employees of similar rank stationed in those countries.

The effect of this proposal on the U.S. labor market has been examined and it has been determined that any adverse effects would be minimal or nonexistent for several reasons. There are about 6,000 family members of working age in the Washington, DC area who potentially could be affected by the proposed regulation, and about 4,000 additional family members in the rest of the country. Of those,

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about 500 at any one time have been working with permission granted by the department of State's Office of Protocol, about 200 of these being sons and daughters who are full-time students. It is estimated that there are about 1,200 spouses in the DC area and 900 spouses in the rest of the country who are not working but who would be interested in doing so. Of these, only about half, or 600 and 450 respectively, are likely to find employment in positions which will qualify for approval under the regulation. This is because the regulation prohibits approval for a spouse whose employment will be in an occupation on the Department of Labor's Schedule B, or whose occupation is otherwise determined by the Department of Labor to be one for which there are available sufficient resident workers. (Schedule B is an extensive list of positions, mostly unskilled, for which the Department of Labor has determined there is an ample supply of workers across the country.) Of the estimated 1,050 spouses finding approvable employment, many will not qualify because their countries prohibit acceptance of similar employment opportunities by spouses of U.S. officials. As a result, it is expected that only about 550 more A-1 and A-2 spouses will be employed than are employed now. Under the present informal procedures, there are no restrictions on the part-time and summer employment of unmarried dependent sons and daughters of A-1 and A-2 principals as long as they are full-time students. Likewise, the proposed regulation does not prohibit such dependents from accepting employment in jobs listed on Schedule B. The proposed regulation will, however, introduce reciprocity as a factor, thereby reducing the total number of A-1 and A-2 dependents who are also full-time students working at any one time from 200 to about 100. Considering spouses and dependent student sons and daughters together, the proposed regulation is likely to add approximately 450 persons to the United States labor force. Slightly more than half of these will be in the washington, DC area and the rest will be scattered about the country. As the reciprocity provision will reduce the number of approvals for unmarried dependents who are students, there will be a net reduction of aliens employed in Schedule B jobs, the area in which most unemployment is found.

It is believed that the reciprocity clause of this regulation will expand employment opportunities for the family members, particularly spouses, of officers and employees of United states diplomatic and consular offices abroad. This will particularly be so in industrialized economies such as our own.

B. Outline of the Proposed Rule

New subparagraph (2) will provide that the A-1 or A-2 spouse, unmarried dependent son or unmarried dependent daugheter of an alien who is an employee or officer of a diplomatic or consular office in the United States admitted to the United States as a nonimmigrant under section 101(a)(15)(A) (i) or (ii) of the Act, may apply for permission to accept or continue employment of Form I-566. The application is first submitted to the Visa Office of the Department of State through the Office of Protocol, which will verify the official standing of the principal alien and family. The application may be approved if the Visa Office determines that similar employment opportunities for family members of United States diplomatic and consular officials are not prohibited by the government employing the principal alien, and if the Visa Office and the Service are satisfied that both the applicant and the principal alien are maintaining A-1 or A-2 status, that, except for the part-time work of A-1 or A-2 dependents who are students, the proposed employment is not in an occupation listed in the department of Labor Schedule B or otherwise in an occupation for which there is an oversupply of U.S. workers in the employment area, and that the employment is not contrary to the interests of the United states. Permission to accept or continue employment granted under this section will be for incremental periods of 2 years each. There shall be no appeal from a denial of an application under this section. In the unlikely event that an A-1 or A-2 alien is currently working with permission in a Schedule B occupation, he or she may continue in that employment for a period of two years following the effective date of this regulation. An A-1 or A-2 nonimmigrant who is working without authorization as of the effective date of this regulation must apply for permission to continue that employment within 90 days of the effective date of this regulation. However, previous unauthorized employment will not be held against such an applicant.

The Service shall inform the applicant by letter whether the application is approved or denied, and if denied, the reasons therefor. The Service shall also inform the Internal Revenue Service and Department of Labor whenever and I-566 application authorizing employment for an A-1 or A-2 spouse or unmarried dependent is approved.

C. Proposed Rule

It is propoed to amend Chapter I of Title 8 of the Code of Federal Regulations as set forth below.

PART 214—NONIMMIGRANT CLASSES

In Part 214, it is proposed to amend 8 CFR 214.2(a) by designating the existing paragraph as subparagraph (1) *General*, and by adding a new subparagraph (2) *Employment*. As amended, 8 CFR 214.2(a) is proposed to read as follows:

§ 214.2 Special requirements for admission, extension and maintenance of status.

(a) Foreign government officials—(1) *General.* • • •

(2) *Employment.* The spouse, unmarried dependent son or unmarried dependent daughter habitually residing with a foreign government official classified as a nonimmigrant under section 101(a)(15)(A)(i) or (ii) of the Act as an officer or employee assigned to a diplomatic or consular office in the United States may be granted permission to accept or continue employment in the United States if an application to do so has first been favorably recommended by an authoritized representative of the Department of State and approved by the District Director of the Service as indicated below. To apply, the spouse or unmarried dependent son or unmarried dependent daughter shall first submit Form I-566 to the Visa Office of the Department of State through the Office of Protocol. The form shall be accompanied by a certification by the diplomatic mission of the Government employing the prinicpal alien that the applicant is the spouse or unmarried dependent son or unmarried dependent daughter of an official of that Government whose assignment is expected to last more than six months. The applicant shall also submit with the application a statement from the propective employer describing the positon and salary offered, the duties of the position and verification that the applicant possesses the necessary qualifications for the position. The applicant shall also submit his or her own sworn statement, or, in the case of a minor, the statement of the principal alien, acknowledging that all income earned from such employment is taxable. The application may be approved if both the authorized representative of the Department of State and the District Director of this Service at Washington, DC are satisfied that: (i) Both the principal alien and the applicant desiring employment are maintaining A-1 or A-2 status; (ii) the proposed employment is not in an occupation listed in the Department of Labor Schedule B (20 CFR 656) or otherwise determined by the Department of Labor to be one for which there is an oversupply of qualified U.S. workers in the area of proposed employment, except in the case of the employment of an unmarried dependent son or unmarried dependent daughter in A-1 or A-2 status who is a full-time student, if the employment is part-time, consisting of not more than 20 hours per week and/or if it is temporary employment of not more than 12 weeks at a time during school holiday periods: *Provided*, that if an A-1 or A-2 alien was authorized to accept full-time employment in a Schedule B occupation prior to the effective date of this regulaton he/she may continue in that employment for a period of 2 years following the effective date of this regulation; (iii) employment of a similar nature for family members of United States Government officials assigned to a diplomatic or consular office in the country employing the principal alien is not prohibited by the host country government; and (iv) the proposed employment would not be contrary to the interests of the United States. Employment of A-1 or A-2 aliens who have criminal records, or who have violated the immigration and nationality laws or regulations or who worked illegally or who cannot establish that they paid taxes on income from previous U.S. employment may be considered contrary to the interests of the United States. However, an A-1 or A-2 alien who is working without authorization on the effective date of this regulation must apply for authority to continue that work within 90 days of the effective date of this regulation. He/she must comply with the terms of this regulation in all respects except for the provision relating to illegal employment, and the fact of such illegal employment will not be construed against him/her in considering that application for employment. Permission to accept employment may not be granted to A-1 or A-2 spouses, unmarried dependent sons or unmarried dependent daughters if the principal alien will be stationed in this county for a definite period of six months or less. Permission to accept or continue employment under this section shall be granted in increments of not more than two years each. There shall be no appeal from a denial of permission to accept or continue employment under this section. The Service will inform the A-1 or A-2 applicant by letter whether the application has been granted or denied and if denied, of the reasons therefor. When an application is approved, the Service shall inform the Internal Revenue Service and Department of Labor. A family member of a principal alien classified A-3 may not be employed in the United States under these regulations.

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(Sec. 103 and 214; 8 U.S.C. 1103 and 1184; Interpret or apply sec. 401(a) of the Foreign Relations Authorization Act of 1979)

D. Comments Invited

In accordance with the provisions of section 553 of Title 5 of the United States Code, interested persons are invited to submit relevant data, views and arguments concerning this proposed rule to the COMMISSIONER OF IMMIGRATION AND NATURALIZATION, Room 7100, 425 Eye Street, N.W., Washington, DC 20536 on or before March 30, 1979. Please submit all comments in writing, in duplicate.

Dated: January 19, 1979.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

Dated: January 23, 1979.

BARBARA M. WATSON,
Assistant Secretary of State for Consular Affairs.

[FR Doc. 79-2992 Filed 1-26-79; 8:45 am]

[4410-10-M]

[8 CFR Part 274]

ILLEGAL TRANSPORTATION OF ALIENS INTO THE UNITED STATES

Seizure of Vessels, Vehicles, and Aircraft

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed Rule.

SUMMARY: This notice of proposed rulemaking sets forth proposed amendments to the regulations of the Immigration and Naturalization Service under which vehicles, vessels, and aircraft used to transport aliens into the United States in violation of law may be seized by authorized and designated immigration officers and forfeited to the United States. The proposed regulations also provide that if a seized conveyance was stolen, or the owner had no knowledge of the illegal activity, it shall be returned to the owner expeditiously. These proposed regulations are necessary and intended to comply with the directive of the Congress that the agency promulgate implementing regulations which provide for the prompt return to the owner of conveyances which are not in fact subject to seizure and forfeiture under this statute.

DATES: Representations must be received on or before March 30, 1979.

ADDRESSES: Please submit written representations, in duplicate to the COMMISSIONER OF IMMIGRATION AND NATURALIZATION, Room 7100, 425 Eye Street, N.W., Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service. Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: On November 2, 1978, the President signed Pub. L. 95-582 into law. Section 2 of that statute amends section 274 of the Immigration and Nationality Act to provide that any vehicle, vessel, or aircraft which is used in the commission of a violation of subsection (a) of section 274 of the Act shall be subject to seizure and forfeiture except when the owner, master, or other person in charge of the vehicle, vessel, or aircraft was not, at the time of the alleged illegal act, a consenting party or privy thereto or where the illegal act occurred while the vessel, vehicle, or aircraft was in the illegal possession of any person other than the owner, as established by the criminal laws of the United States, or of any States. This statute further provides that should the conveyance be improperly seized, it shall be expeditiously returned to the owner, master, or other person in charge thereof, and the Government shall not charge any expense incidental to the seizure to that individual. This statute also provides that all provisions of law relating to the seizure, forfeiture, and disposition of vessels, vehicles, and aircraft for violations of customs law shall apply to violations of the provisions of this statute subject to the exceptions noted.

These proposed regulations are intended to implement this statute. They consist of 16 sections including definitions; regulations relating to officers who will make seizures; conveyances subject to seizure and duties of the regional commissioners relating to their custody; regulations respecting the expeditious return to the owner of improperly seized conveyances; procedures to be followed when a vehicle is to be seized and forfeited to the Government and procedures for the filing of petitions for remission or mitigation of forfeiture.

In the light of the foregoing, the following amendments are proposed to be made to Chapter I of Title 8 of the Code of Federal Regulations.

In Part 274 it is proposed to revise the title of the Part, revise § 274.1, and add new §§ 274.2-.16 as set forth below:

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PART 274—SEIZURE AND FORFEITURE OF VEHICLES, VESSELS AND AIRCRAFT

Sec.
274.1 Definitions.
274.2 Officers who will make seizures.
274.3 Custody and other duties of the regional commissioner.
274.4 Conveyances subject to seizure.
274.5 Return to owner of improperly seized conveyances; opportunity for personal interview.
274.6 Appraisal.
274.7 Notice to registered owner and lien holder of seizure.
274.8 Advertisement.
274.9 Requirements as to claim and bond.
274.10 Summary forfeiture.
274.11 Judicial forfeiture.
274.12 Petitions for remission or mitigation of forfeiture.
274.13 Provisions applicable to particular situations.
274.14 Time for filing petitions.
274.15 Handling of petitions.
274.16 Holder of a valid lien or other third party interest in a vehicle.

AUTHORITY: The provisions of §§ 274.1-.16 are issued under section 274(b) of the Immigration and Nationality Act (8 U.S.C. 1324(b)), as amended by Pub. L. 95-582 (92 Stat. 2479), and Sec. 103 of the Act (8 U.S.C. 1103).

§ 274.1 Definitions.

As used in this part, the following terms shall have the meanings specified:

(a) The term "consenting party or privy to the illegal act" means that the person knew of the illegal activity. A person shall be presumed to have knowledge of an illegal activity if the facts and circumstances are such that a person of reasonable diligence would be expected to know of the illegal activity.

(b) The term "conveyance" means a vessel, vehicle, or aircraft as used in section 274(b) of the Act. A trailer shall be considered a vehicle if it is being towed or readily capable of being towed. However, an immobilized house trailer which has been placed on permanent foundations, which is not readily mobile, is not a vehicle subject to seizure.

(c) The term "custodian" means the regional commissioner who under section 274.3 has been designated to receive and maintain in storage all conveyances seized pursuant to the Act.

(d) The term "lienholder" means a person who holds a security interest in a conveyance.

(e) The term "owner" means the person who holds primary and direct title to the conveyance, as opposed to a person who holds a security interest in the conveyance.

(f) The term "person" means an individual, partnership, corporation, joint business enterprise, or other entity capable of owning a conveyance.

(g) The term "record" means an arrest followed by a conviction, except that a single arrest and conviction and the expiration of any sentence imposed as a result of such conviction, all of which occurred more than ten years prior to the date the petitioner acquired his interest in the seized property, shall not be considered a record: *Provided, however,* That two convictions shall always be considered a record regardless of when the convictions occurred: *And provided further,* That the regional commissioner may, in his discretion, consider as constituting a record, an arrest or series of arrests in which the charge or charges were subsequently dismissed for reasons other than acquittal or lack of evidence.

(h) The term "related crime" means any crime related to the illegal bringing in, harboring, transportation, entry, reentry, or importation of aliens.

(i) The term "reputation" means repute with a law enforcement agency or among law enforcement officers or in the community generally, including any pertinent neighborhood or other area.

(j) The term "regional commissioner" means the regional commissioner of the Immigration and Naturalization Service.

(k) The term "seizure" means the act of taking the vehicle into the custody of the Service for the express purpose of forfeiting it in accordance with the provisions of section 274(b) of the Act. Nothing contained in this part shall be construed as prohibiting an immigration officer from holding the conveyance temporarily, not to exceed 72 hours, for the purpose of investigating the ownership of the conveyance in order to determine whether such conveyance is subject to seizure under section 274(b)(1) of the Act. Such temporary holding shall not constitute a seizure within the meaning of section 274(b)(1) of the Act, and no cost shall be incurred by the Government under section 274(b)(2) of the Act by reason of such temporary holding. Such temporary holding shall be without prejudice to the right of the owner to regain possession of the vehicle from the Service up until the time when a seizure under this part occurs.

(l) The term "valid lien or other third party of interest" as used in section 274(b)(2) of the Act and this part means a security interest in a vehicle which is held by a person who establishes that he meets the minimum requirements for remission set forth in § 274.12(f), and whose petition for remission submitted under this part has been granted.

(m) The term "attorney fees associated with such seizure and forfeiture" as used in § 274(b)(2) of the Act and this part means Government attorney fees which would otherwise be chargeable as an item of cost to a person seeking to reclaim the conveyance.

(n) The term "costs of transportation" as used in § 274(b)(2) of the Act and this part refers solely to costs of transportation of the conveyance which was done at the request of the U.S. Government as was directly related to the seizure. It shall not include any costs incurred by an owner in transporting the conveyance from the place where the Government makes it available for return to him in accordance with § 274.5 of this part.

(o) Any term not defined in this section shall have the definition set forth in section 101 of the Act and in § 1.1 of this chapter.

§ 274.2 Officers who will make seizures.

For the purpose of carrying out the provisions of section 274(b) of the Act, all immigration officers are authorized and designated to seize such conveyances as may be subject to seizure thereunder.

§ 274.3 Custody and other duties of the regional commissioner.

An officer seizing a conveyance under the Act shall store the conveyance in a location designated by the custodian, generally in the judicial district of the seizure. The regional commissioners are designated as custodians to receive and maintain in storage all conveyances seized pursuant to the Act. The regional commissioners are also authorized to dispose of any conveyances pursuant to the Act and any other applicable statutes or regulations relative to disposal, and to perform such other duties (not inconsistent with the provisions of the Act) regarding such seized conveyances as are imposed on the district directors of the U.S. Customs Service with respect to seizures under the Customs law, including the maintenance of appropriate records concerning the temporary detention, seizure and disposition of seized vehicles.

§ 274.4 Conveyances subject to seizure.

Generally, any conveyance which an immigration officer has probable cause to believe has been used in the commission of a violation of section 274(a) of the Act may be subject to seizure. However, a conveyance which has been used in a violation of section 274(a) of the Act is *not* subject to seizure if:

(a) The owner, master, or other person in charge of the conveyance was not a consenting party or privy to the illegal act; or

(b) The alleged illegal act occurred while the conveyance was in the illegal possession of someone other than the owner as established by the criminal laws of the United States or of any state (as defined in section 101(a)(36) of the Act).

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§ 274.5 Return to owner of improperly seized conveyances; opportunity for personal interview.

(a) The Service shall attempt with due diligence to ascertain the ownership of any conveyance held temporarily, in accordance with § 274.1(k) of this part, in order to determine whether such conveyance is subject to seizure under section 274(b)(1) of the Act.

(b) The owner of a conveyance seized hereunder shall be informed that he may, within 72 hours after receipt of notice of seizure, request a personal interview with an immigration officer (other than the officer who initially encountered the conveyance) at which time the owner may present any evidence and arguments that he might have that the conveyance was not properly seized. If such officer determines that the conveyance was not subject to seizure, the conveyance shall be returned to the owner without any expense (including the types of expenses set forth in paragraph (c)).

(c) If at any time after a seizure has taken place, the regional commissioner finds that the conveyance was not in fact subject to seizure, the regional commissioner shall immediately notify the owner of the conveyance by letter, return receipt requested, that the conveyance is available for return to him in accordance with the provisions of section 274(b)(2) of the Act. The conveyance shall be made available to the owner at the place of storage or place of seizure whichever, the owner may request. In such cases, the owner shall not incur any expenses, including costs of transportation, storage, damage, and attorney's fees associated with the seizure and forfeiture. In the event that the conveyance involved is the subject of judicial forfeiture proceedings instituted in accordance with section 274(b) of the Act and § 274.11 of this part, the regional commissioner shall immediately notify the U.S. Attorney that the conveyance is required to be returned to the owner in accordance with section 274(b)(2) of the Act, and that judicial forfeiture proceedings must be terminated. The notice to the owner shall also state that if the conveyance remains unclaimed for 60 days following the receipt of the notice provided in this paragraph, it shall be considered to be voluntarily abandoned to the government, and the regional commissioner shall dispose of such conveyance in accordance with the provisions of 40 U.S.C. 304g.

§ 274.6 Appraisal.

The custodian shall appraise the conveyance to determine the domestic value at the time and place of seizure. The domestic value shall be considered the retail price at which such or similar conveyance is freely offered for sale. If there is no market for the conveyance at the place of seizure, the domestic value shall be considered the value in the principal market nearest the place of seizure.

§ 274.7 Notice to registered owner and lienholder of seizure.

Whenever a seizure takes place, notice shall be given to the registered owner(s) and any known lienholder(s) notifying them of the seizure of their conveyance and the contemplated forfeiture. Such notice shall be accompanied by copies of the applicable regulations, section 274 of the Act, and the proposed advertisement if such advertisement is required under section 274.8 of this part. The owner shall be informed of the provisions of section 274.5(b).

§ 274.8 Advertisement.

(a) If the appraised value does not exceed $10,000, the custodian shall cause a notice of the seizure and of the intention to forfeit and sell or otherwise dispose of the conveyance to be published once a week for at least three successive weeks in a newspaper of general circulation in the judicial district in which the seizure occurred. A copy of this notice shall be sent to the registered owner(s) of the conveyance and to any known lienholder(s) in accordance with § 274.7 of this part.

(b) The notice shall: (1) describe the conveyance seized and show the motor and serial numbers, if any; (2) state the time, cause, and place of seizure; and (3) state that any person desiring to claim the property may, within 20 days of the date of first publication of the notice, file with the custodian a claim to the conveyance and a bond with satisfactory sureties in the sum of $250; and (4) state that a petition for remission or mitigation may be filed with the regional commissioner in accordance with § 274.12 of this part.

§ 274.9 Requirements as to claim and bond.

(a) The bond shall be rendered to the United States, with sureties to be approved by the custodian, conditioned that in case of condemnation of the conveyance the obligor shall pay all costs and expenses of the proceedings to obtain such condemnation. If a person certifies under oath that he is unable to pay the $250 bond to obtain a judicial determination of forfeiture, the regional commissioner may waive the bond requirement. When the claim and bond are received by the custodian, he shall, after finding the documents in proper form and the surety satisfactory, immediately transmit the documents, together with a description of the conveyance and a complete statement of the facts and circumstances surrounding the seizure, to the United States Attorney for the judicial district in which the seizure was made for the purpose of proceeding to a condemnation of the conveyance in the manner prescribed by law. If the documents are not in satisfactory condition when first received, the person claiming the conveyance and furnishing the bond shall be advised by letter as to the inadequacy of the documents and advised that he has 20 days from the date of the letter to correct the documents. If correction is not made within the time allowed, the documents may be treated as of no effect and the case shall proceed as though they had not been tendered.

(b) The filing of the claim and the posting of the bond does not entitle the claimant to possession of the conveyance. However, it does stop the summary forfeiture proceedings. The bond posted to cover costs may be in cash, certified check, or on Treasury Department Form 171 with satisfactory sureties. The costs and expenses secured by the bond are such as are incurred after the filing of the bond including storage costs, safeguarding, court fees, marshal's costs, etc.

§ 274.10 Summary forfeiture.

If the appraised value does not exceed $10,000, and a claim and bond are not filed within the 20 days previously mentioned, the custodian may declare the conveyance forfeited. The custodian shall prepare the declaration of forfeiture and forward it to the Commissioner as notification of the action he has taken. Thereafter, the conveyance shall be retained in the custodian's region or delivered elsewhere for official use, or otherwise disposed of, in accordance with the official instructions received by the custodian.

§ 274.11 Judicial forfeiture.

If the appraised value is greater than $10,000, or a claim and satisfactory bond have been received for a conveyance appraised at $10,000 or less, the custodian shall immediately transmit a description of the conveyance and a complete statement of the facts and circumstances surrounding the seizure to the U.S. Attorney for the judicial district in which the seizure was made for the purpose of instituting condemnation proceedings. The U.S. Attorney shall also be furnished the newspaper adveristement if such advertisement was required by § 274.8.

§ 274.12 Petitions for remission or mitigation of forfeiture.

(a) Any person having a legal or equitable interest in any conveyance

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which has been seized, or forfeited either summarily or by court proceedings, may file a petition for remission or mitigation of the forfeiture. Such petition shall be filed in triplicate with the regional commissioner having jurisdiction over the judicial district in which the seizure occurred. The petition shall be addressed to the regional commissioner if the conveyance is subject to summary forfeiture pursuant to section 274.10, and addressed to the Attorney General if the conveyance is subject to judicial forfeiture pursuant to § 274.11. The petition must be executed and sworn to by the person alleging interest in the conveyance.

(b) The petition shall include the following: (1) a complete description of the conveyance, including motor and serial numbers, if any, and the date and place of seizure; (2) the petitioner's interest in the conveyance, which shall be supported by bills of sale, contracts, or other satisfactory evidence; and (3) the facts and circumstances, to be established by satisfactory proof, relied upon by the petitioner to justify remission or mitigation.

(c) When the petition is for the restoration of the proceeds of sale, or for value of the conveyance placed in official use, it must be supported by satisfactory proof that the petitioner did not know of the seizure prior to the declaration of condemnation of forfeiture and was in such circumstances as prevented him from knowing of the same.

(d) If the petitioner is the owner of the vehicle, and establishes that he was not a consenting party or privy to the illegal act, or that the alleged illegal act occurred while the conveyance was in the illegal possession of someone other than the owner as established by the criminal laws of the United States or of any state, the procedures relating to petitions for remission or mitigation shall be inapplicable, and the mandatory return provisions of § 274.5(c) shall apply instead.

(e) The regional commissioner shall not remit a forfeiture unless the petitioner:

(1) establishes a valid, good faith interest in the seized conveyance;

(2) establishes that he at no time had any knowledge or reason to believe that the conveyance in which he claims an interest was being or would be used in a violation of the law; and

(3) establishes that he at no time had any knowledge or reason to believe that the owner had any record or reputation for violating laws of the United States or of any state for related crime; and

(4) establishes that he has taken all reasonable steps to prevent the illegal use of the conveyance.

§ 274.13 Provisions applicable to particular situations.

(a) Mitigation: In addition to his discretionary authority to grant relief by way of complete remission of forfeiture, the regional commissioner may, in the exercise of his discretion, mitigate forfeitures of seized conveyances. This authority may be exercised in those cases where the petitioner has not met the minimum conditions for remission but where there are present other extenuating circumstances indicating that some relief should be granted to avoid extreme hardship. Mitigation may also be granted where the minimum standards for remission have been satisfied, but the overall circumstances are such that, in the opinion of the regional commissioner, complete relief is not warranted. Mitigation shall take the form of a money penalty imposed upon the petitioner in addition to any other sums chargeable as a condition to remission. This penalty is considered as an item of cost payable by the petitioner.

(b) Straw purchase transactions: If a person purchases in his own name a conveyance for another who has a record or reputation for related crimes, and if a lienholder knows or has reason to believe that the purchaser of record is not the real purchaser, a petition filed by such a lienholder shall be denied unless the petitioner establishes compliance with the requirements of section 274.12(e) as to both the purchaser of record and the real purchaser. This rule shall also apply where money is borrowed on the security of property held in the name of the purchaser of record for the real purchaser.

(c) Notwithstanding the fact that a petitioner has satisfactorily established compliance with the administrative conditions applicable to his particular situation, the regional commissioner may deny relief if there are unusual circumstances present which, in his judgement, provide reasonable grounds for concluding that remission or mitigation of the forfeiture would be contrary to the interests of justice.

§ 274.14 Time for filing petitions.

(a) In order to be considered as timely filed, a petition for remission or mitigation of forfeiture should be filed within 30 days of the receipt of the notice of seizure. If a petition for remission or mitigation forfeiture has not been received within 30 days of the notice of seizure, the property will either be placed in official government service or sold as soon as it is forfeited. Once the property is placed in official use, or is sold, a petition for remission or mitigation of forfeiture can no longer be accepted.

(b) A petition for restoration of proceeds of sale, or for the value of property placed in official use, must be filed within 90 days of the sale of the property, or within 90 days of the date the property is placed in official use.

§ 274.15 Handling of petitions.

Upon receipt of a petition, the regional commissioner shall request an appropriate investigation. If the petition involves a case which has been referred to the U.S. Attorney for institution of court proceedings, the regional commissioner shall transmit the petition to the U.S. Attorney for the judicial district in which the seizure occurred. He shall notify the petitioner of this action.

§ 274.16 Holder of a valid lien or other third party interest in a vehicle.

In the event that a vehicle is forfeited and sold, the holder of a valid lien or other third party interest (as defined in § 274.1(l)) in the vehicle shall have such interest satisfied without expense. However, the money paid to such interest-holder shall not exceed the proceeds of the sale, or in the case of a vehicle placed in official use, the appraised value of the vehicle.

PUBLIC COMMENTS INVITED

In accordance with 5 U.S.C. 553 the Service invites representations of interested parties on these proposed rules. All relevant data, views, or arguments submitted on or before March 30, 1979, will be considered. Representations should be submitted in writing, in duplicate, to the Commissioner if Immigration and Naturalization at the address shown at the beginning of this notice.

Dated: January 25, 1979.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 79-3120 Filed 1-26-79; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-WE-26-AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-9 Series Airplanes Including Military Type C-9A, C-9B, and VC-9C

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This Notice proposes to amend an existing Airworthiness Directive (AD) applicable to McDonnell Douglas DC-9 series airplanes to require a continuing inspection if repair of the DC-9 elevator is accomplished in accordance with a certain procedure. This amendment is considered necessary to provide for assurance of continued structural integrity of the DC-9 elevator after repair.

DATES: Comments must be received on or before April 2, 1979.

ADDRESSES: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, ATTN: L. A. Eisenberg, C1-750, 54-60.

Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, Telephone: 213-536-6351.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

This Notice proposes to amend Amendment 39-3119, AD-78-01-12, which currently requires inspection for cracks and repair or replacement of the elevator spar on McDonnell Douglas Model DC-9 series airplanes. After the issuance of Amendment 39-3119, the manufacturer, at the request of several operators, revised DC-9 Service Bulletin 55-28 to permit the use of an alternate repair method for cracked spars. This alternate repair involves the use of an external leading edge cuff/doubler, whereas the standard repair in the DC-9 Structural Repair Manual provides a repair which splices in a new spar section or replaces the spar. The alternate repair described above is considered acceptable under the terms of Paragraph (c) of the AD; however, use of the alternate repair requires that the repetitive inspection interval of 3600 flight hours presently prescribed for the structural repair manual methods be reduced to 1800 flight hours for this specific repair. Therefore, the FAA is considering amending Amendment 39-3119 by changing Paragraph (c) to require a repetitive inspection interval of 1800 flight hours time in service if repairs are accomplished per DAC Service Sketch 2737A on McDonnell Douglas Model DC-9 series airplanes.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by amending Amendment 39-3119, AD-78-01-12, by adding the following sentence to the end of Paragraph (c):

• • • "If the cracked spar is repaired per McDonnell Douglas Service Sketch 2737A, the repetitive inspection procedures of Paragraph (a) of this AD must be accomplished on the repaired area at intervals of 1800 hours." • • •

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044 and set forth in interim Department of Transportation Guidelines.

Issued in Los Angeles, California on January 16, 1979.

LEON C. DAUGHERTY,
Director, FAA Western Region.

[FR Doc. 79-2960 Filed 1-26-79; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-SO-62]

FEDERAL AIRWAY

Proposed Revocation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke Victor Airway V-35W between Macon, Ga., and Albany, Ga., since this airway segment is not being used. This action would support FAA's continuing review of airway utilization and eliminate routes, where possible, to reduce chart clutter.

DATES: Comments must be received on or before February 28, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 78-SO-62, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-8525.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P. O. Box 20636, Atlanta, Ga. 30320. All communications received on or before February 28, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the

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closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would revoke alternate Airway V-35W between Albany, Ga., and Macon, Ga. This airway segment is not being used and is no longer required for the expeditious and efficient movement of traffic. Subpart C of Part 71 was republished in the FEDERAL REGISTER on January 2, 1979, (44 FR 307).

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 307) as follows:

Under V-35

"Albany, Ga.; Macon, Ga.; including a west alternate via INT Albany 013° and Macon 240° radials;" would be deleted and

"Albany, Ga.; Macon, Ga.;" would be substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D. C. on January 23, 1979.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-2943 Filed 1-26-79; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 79-ASW-1]

TRANSITION AREA

Proposed Alteration: Patterson, Louisiana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of the action being taken is to propose alteration of a transition area at Patterson, La. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing the instrument approach procedures to the Harry P. Williams Memorial Airport. The circumstance which created the need for the action is that higher performance aircraft are utilizing the airport requiring additional controlled airspace for their protection.

DATES: Comments must be received by February 28, 1979.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart G § 71.181 (44 FR 442) of FAR Part 71, the description of the Patterson, La., transition area reflects the controlled airspace designed for aircraft executing instrument approach procedures within a 5-mile radius of the Harry P. Williams Memorial Airport. Criteria III (turbojets) aircraft are utilizing the airport and require expansion of the transition area to an 8.5-mile radius to provide the necessary additional controlled airspace for their protection.

COMMENTS INVITED

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before February 28, 1979, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Patterson, La., transition area. The FAA believes this action will enhance IFR operations at the Harry P. Williams Memorial Airport by providing additional controlled airspace for aircraft executing instrument approach procedures established for the airport. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 2, 1979 (44 FR 442).

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) by altering the Patterson, La., transition area as follows:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Harry P. Williams Memorial Airport (latitude 29°42'40" N., longitude 91°20'18" W.), and within 3.5 miles each side of the 228° bearing from the Patterson RBN (latitude 29°42'32" N., longitude 91°20'14" W.) extending from the 8.5-mile radius area to 11.5 miles southwest of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 3, 1978).

Issued in Fort Worth, Tex., on January 16, 1979.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc. 79-2947 Filed 1-26-79; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-EA-114]

TRANSITION AREA

Proposed Alteration; Ogdensburg, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notices proposes to alter the Ogdensburg, N.Y., Transition Area, over Ogdensburg International Airport, Ogdensburg, N.Y. This alteration is required due to development of a new LOC RWY 27 instrument approach procedure. The instrument approach procedure requires a widening of the transition area extension to protect aircraft utilizing the instrument approach.

DATES: Comments must be received on or before March 12, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before March 12, 1979, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by amending the description of the Ogdensburg, N.Y., 700-foot floor transition area as follows:

a. Delete, "within 3.5 miles each side of a 075° bearing from the Ogdensburg RBN, (44°41'30" N., 75°24'25" W.), extending from the 5-mile radius area to 11.5 miles east of the RBN."

b. Following, "Ogdensburg International Airport, Ogdensburg, N.Y.," insert, "; within 4.5 miles each side of a 075° bearing from the Ogdensburg RBN (44°41'30" N., 75°24'25" W.) extending from the RBN to 11.5 miles east of the RBN,"

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749 (49 U.S.C. 1348(a))); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Jamaica, New York, on January 15, 1979.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc. 79-2949 Filed 1-26-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 792 3014]

WOODLAND MOBILE HOMES, INC., ET AL.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Santa Rosa, Calif. seller of mobile homes and other consumer products and its affiliate, Woodland Mobile Homes, Inc. of Nevada, to cease failing to make available to prospective buyers, prior to purchase, the text of written warrantees offered for mobile homes and other consumer products as required by federal regulations.

DATE: Comments must be received on or before March 27, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

William A. Arbitman, Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102. (415) 556-1270.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

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[File No. 792 3014]

WOODLAND MOBILE HOMES, INC., ET AL.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of Woodland Mobile Homes, Inc., a corporation, and Woodland Mobile Homes, Inc. of Nevada, a corporation, and Allan Borgia, individually and as an officer of said corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Woodland Mobile Homes, Inc., and Woodland Mobile Homes, Inc. of Nevada, corporations, and Allan Borgia, individually and as an officer of said corporations, and it now appearing that Woodland Mobile Homes, Inc., and Woodland Mobile Homes, Inc. of Nevada, corporations, and Allan Borgia, individually and as an officer of said corporations, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Woodland Mobile Homes, Inc., by its duly authorized officer; Woodland Mobile Homes, Inc. of Nevada, by its duly authorized officer; Allan Borgia, individually and as an officer of said corporations; and counsel for the Federal Trade Commission that;

1. Proposed respondent Woodland Mobile Homes, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California. Its principal office and place of business is located at 333 South E Street, Santa Rosa, California 95404.

Proposed respondent Woodland Mobile Homes, Inc., of Nevada, an affiliate of Woodland Mobile Homes, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada. Its principal office and place of business is located at 440 Gentry Way, Reno, Nevada 89502.

Proposed respondent Allan Borgia is an officer of said corporations. He formulates, directs and controls the policies, acts and practices of said corporations and his address is the same as that of said Woodland Mobile Homes, Inc.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form an the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplated that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more complaints reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

ORDER

I. DEFINITIONS

For the purposes of this order the definitions of the terms "consumer product," "warrantor," and "written warranty" as defined in Section 101 of the Warranty Act shall apply. The definition of the term "binder" as defined in § 702.1(g) of the Pre-Sale Rule shall apply.

II.

It is ordered, That respondents Woodland Mobile Homes, Inc., and Woodland Mobile Homes, Inc. of Nevada, corporations, their successors and assigns, and their officers, and Allan Borgia, individually and as an officer of said corporations, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or any other device, in connection with the advertising, offering for sale, and sale of mobile homes or other consumer products, do forthwith cease and desist from:

1. Failing to make available in respondents' display area for prospective buyers' review prior to sale, the text of any written warranties offered or granted by the manufacturers of mobile homes and consumer products sold by respondents.

With respect to mobile homes, "display area" means a prominent location inside each mobile home.

2. Maintaining a binder or series of binders to satisfy the requirements of Paragraph 1, above, unless such binder or binders are located in each mobile home being displayed for sale by respondents, and such binder or binders include at least one copy of each written warranty applicable to the mobile home and the consumer products contained in the mobile home.

In utilizing any such binder or binders respondents shall:

(a) Provide prospective buyers with ready access thereto; and

(b) (1) Display such binder(s) in a manner reasonably calculated to elicit the prospective buyers' attention; or

(2) (i) Make such binder(s) available to prospective buyers on request; and

(ii) Place signs reasonably calculated to elicit the prospective buyers' attention in prominent locations within each mobile home, advising such prospective buyers of the availability of the binder(s), including instructions for obtaining access; and

(c) Index such binder(s) according to product or warrantor; and

(d) Clearly entitle such binder(s) as "Warranties" or other similar title.

III.

It is further ordered, That respondents post, in a prominent location in each mobile home being displayed for sale, a sign two feet (length) by two feet (width), reasonably calculated to elicit prospective buyers' attention, which contains a verbatim reproduction of the following language:

IMPORTANT!

NOT ALL WARRANTIES ARE THE SAME

We provide warranties for you to compare before you buy

Please ask to see them

Check: Full or limited?

What costs are covered?
What do you have to do?
Are all parts covered?
How long does the warranty last?

Such sign shall be posted for a period of not less than three years from the effective date of this order. The language in such sign shall be unencumbered by other written or visual matter, shall be indented and punctuated as indicated in this paragraph, above, and shall be printed in black against a solid white background, as follows:

a. The word "Important" shall serve as the title of the notice and shall be printed in capital letters in 42 point boldface type followed by an exclamation mark.

b. The next phrase shall be printed on a separate line in capital letters and in 42 point boldface type.

c. The next two phrases shall be printed on separate lines and in 36 point medium face type.

d. Each succeeding phrase shall be printed on a separate line and in 24 point medium face type.

IV.

1. *It is further ordered*, That respondents deliver a copy of this order to cease and desist to all present and future employees, salespersons, agents, independent contractors, and other representatives of respondents engaged in the sale of mobile homes or consumer products on behalf of respondents, and secure a signed statement acknowledging receipt of the order from each such person.

2. *It is further ordered*, That respondents instruct all present and future employees, salespersons, agents, independent contractors, and other representatives of respondents, engaged in the sale of mobile homes or other conumer products on behalf of respondents, as to their specific obligations and duties under the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (Pub. L. 93-637, 15 U.S.C. Section 2301 *et seq.*), all present and future implementing Rules promulgated under the Act, and this order.

3. *It is further ordered*, That respondents institute a program of continuing surveillance to reveal whether respondents' employees, salespersons, agents, independent contractors, or other representatives are engaged in practices which violate this order.

4. *It is further ordered*, That respondents maintain complete records for a period of not less than three (3) years from the date of the incident, of any written or oral information received which indicates the possibility of a violation of this order by any of respondents' employees, salespersons, agents, independent contractors, or other representatives. Any oral information received indicating the possibility of a violation of this order shall be reduced to writing, and shall include the name, address and telephone number of the informant, the name and address of the individual involved, the date of the communication and a brief summary of the information received. Such records shall be available upon request to representatives of the Federal Trade Commission during normal business hours upon reasonable advance notice.

5. *It is further ordered*, That respondents maintain, for a period of not less than three (3) years from the effective date of this order, complete business records to be furnished upon request to the staff of the Federal Trade Commission, relating to the manner and form of their continuing compliance with all the terms and provisions of this order.

6. *It is further ordered*, That the corporate respondents notify the Commission at least thirty (30) days prior to any proposed change such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporate respondents which may affect compliance obligations arising out of this order.

7. *It is further ordered*, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of 10 years from the date of service of this order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment. Each such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order

8. *It is further ordered*, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

WOODLAND MOBILE HOMES, INC., ET AL.

[File No. 792 3014]

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Woodland Mobile Homes, Inc.; Woodland Mobile Homes, Inc. of Nevada; and Allan Borgia, their president.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Woodland Mobile Homes, Inc. is engaged in the sale of mobile homes which are equipped with refrigerators, dishwashers, water heaters, furnaces, and other appliances. The mobile homes and appliances are covered by warranties.

The complaint alleges that respondents violated the Federal Trade Commission Act and the Magnuson-Moss Warranty Act by failing to disclose warranty terms to buyers prior to sale, as required by the Rule Concerning the Pre-Sale Availability of Written Warranty Terms, the implementing rule of the Warranty Act. The Rule requires that warranties be disclosed through one or more of the following methods:

1. Displaying the warranty text in close conjunction with the product;

2. Maintaining a binder containing the warranties;

3. Displaying a package on which the warranty text appears; or

4. Displaying a sign containing the warranty text.

The order requires specifically that respondents disclose warranty terms as required by the Warranty Act and the Rule. The order requires respondents to post, in each mobile home displayed, a sign which tells buyers that warranties are available and alerts them to check for certain important warranty terms.

The order will benefit consumers by requiring that they be given full information regarding warranty terms in order to enable them to more effectively compare warranties.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-2997 Filed 1-26-79; 8:45 am]

[4310-05-M]

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR Chapter VII]

SURFACE COAL MINING AND RECLAMATION OPERATIONS

Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U. S. Department of the Interior, Washington, D.C., 20240.

ACTION: Notice of addition of document to administrative record for the national permanent program regulations.

SUMMARY: A memorandum summarizing three conversations relating to the proposed rules, between a Program Analysis Officer in the Office of Policy Analysis of the Department of the Interior, and employees of the U.S. Environmental Protection Agency and the U.S. Mine Safety and Health Administration, and a faculty member at the Carnegie Mellon University, has been placed in the administrative record.

ADDRESS: The memorandum is available for review in Room 120, U. S. Department of the Interior, South Building, 1951 Constitution Avenue, Washington, D.C., 20240.

FOR FURTHER INFORMATION CONTACT:

Ron Drake, Special Assistant to the Director, Office of Surface Mining, U. S. Department of the Interior, Washington, D.C., 20240, (202) 343-5371.

SUPPLEMENTARY INFORMATION: On September 18, 1978, OSM proposed rules to implement a nationwide permanent program for the regulation of surface and underground coal mining by the states and the Federal Government as required by the Surface Mining Control and Reclamation Act of 1977, 43 FR 41661-41940. After receiving extensive comments the administrative record was closed on November 27, 1978.

On January 4, 1979, OSM reopened the administrative record in order to place in it a catalogue of oral and written contacts between the Council of Economic Advisors and parties outside the Executive Office of the President with regard to OSM's proposed rules and to receive comments on those contacts. The administrative record was again closed on January 22, 1979.

In the context of preparing a response to a request for documents under the Freedom of Information Act, the Department has discovered that three telephone contacts between

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a Program Analysis Officer in the Office of Policy Analysis of the Department of the Interior, and persons outside the Department and the Executive Office of the President, which occurred after the rules were proposed, were not recorded in the administrative records. Accordingly, a memorandum summarizing those three contacts has been placed in the administrative record and is available for public inspection between 8:00 A.M. and 4:30 P.M. on all weekdays except Federal holidays.

Dated: January 24, 1979.

HOPE M. BABCOCK,
Deputy Assistant Secretary for Energy and Minerals.

[FR Doc. 79-2959 Filed 1-26-79; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 162]

[CGD 78-050]

TOWS NAVIGATING PASS MANCHAC

AGENCY: Coast Guard, DOT.

ACTION: Supplementary Notice of Proposed Rule Making and Public Hearing Rescheduling.

SUMMARY: The Coast Guard is taking this action because certain important information was obtained after the original notice was published. This information, namely the bridgetender's logs, reflects the regularity of barge traffic and has enabled the Coast Guard to more accurately assess the economic impact of the proposed rule.

DATES: 1. Comments must be received on or before March 28, 1979. 2. Rescheduling of Public Hearing: The Coast Guard will hold a public hearing at 9:30 a.m. on March 13, 1979 at the New Orleans Hilton, Poydras at the Mississippi River, New Orleans, Louisiana 70140, (504) 561-0500 in the Prince of Wales Room.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81) (CGD 78-050), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Lieutenant (jg) George W. Molessa, Jr. (G-WLE-4/73), Room 7315, Department of Transportation, Nassif Building, Washington, D.C. 20590, (202) 426-4958.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting a comment should include name and address, identify this notice (CGD 78-050) and the specific section of the proposal to which the comment applies, and give reasons for each comment. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. It is requested that anyone desiring to make comments notify the Executive Secretary of the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-1477 at least 10 days before the scheduled date of the public hearing and specify the approximate length of time needed for the presentation. Comments at the public hearing will normally be heard in the order the requests to comment are received. It is urged that a written summary or copy of the oral presentation be included with the request.

DRAFTING INFORMATION

The principal persons involved in the drafting of this proposal are: Lieutenant (jg) George W. Molessa, Jr., Project Manager, Office of Marine Environment and Systems, and Mr. Michael N. Mervin, Project Counsel, Office of the Chief Counsel.

DISCUSSION OF SUPPLEMENTARY NOTICE

In the December 21, 1978 edition of the FEDERAL REGISTER, the Coast Guard published a Notice of Proposed Rule Making limiting the length of tows navigating Pass Manchac. Since that time, it has been brought to our attention that because the Illinois Central Gulf Railroad bridge is a drawbridge, the statistical data necessary in determining the regularity of barge traffic, the bridgetender's logs, are available for examination.

This information has enabled the Coast Guard to more accurately assess the economic impact of the proposed regulation. The logs from October 1976 to September 1977 indicate that about 14 tows per month would have had to comply with the regulation, had it already been in effect. If the industry complied by making extra roundtrips, the estimated cost is over $250,000 annually. If the industry complied by conducting the "tripping procedure" mentioned in the preamble of the original notice, the estimated cost is $50,000 annually. A Supplementary Draft Evaluation has been prepared and is included in the public docket.

The public hearing that was originally scheduled for February 7, 1979 has been cancelled.

The purpose of this supplementary notice is to give interested persons sufficient time to study the new information and prepare comments as well as oral presentation for the hearing.

Dated: January 20, 1979.

J. B. HAYES,
Admiral,
U.S. Coast Guard Commandant.

[FR Doc. 79-2964 Filed 1-26-79; 8:45 am]

[4310-70-M]

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

BIG CYPRESS NATIONAL PRESERVE, FLA.

Establishment of Special Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed regulations set forth below are necessary to implement the provisions of the Act of October 11, 1974, (16 U.S.C. 698f et seq., 88 Stat. 1258), establishing Big Cypress National Preserve. The Act requires the Secretary of the Interior to publish such rules and regulations as he deems necessary and appropriate to limit or control the use of Federal lands and waters with respect to:

(1) Motorized vehicles.
(2) Exploration for and extraction of oil, gas, and other minerals.
(3) Grazing.
(4) Draining or constructing of works or structures which alter the natural water courses.
(5) Agriculture.
(6) Hunting, fishing, and trapping.
(7) New construction of any kind.
(8) Such other uses as the Secretary determines must be limited or controlled in order to carry out the purposes of the Act.

Since Congress intended that the above uses, nontraditional in many units of the National Park System, may be permitted when they do not interfere with the natural and historic significance of the area, it is necessary to exempt Big Cypress National Preserve from the restrictions now imposed by many of the general regulations governing the operation of the National Park System. The publication of these special regulations will modify the application of the general regulations and eliminate any conflict between the administrative regulations found in Parts 1 through 6 of Title 36 of the Code of Federal Regulations and the Big Cypress National Preserve establishment Act (16 U.S.C. 698f et seq., 88 Stat. 1258). The regulations, in addition, do not address the benefits provided to the Miccosukee and Seminole Indian Tribes "to continue their usual and customary use and occupancy of Federal or federally acquired lands and waters within the preserve." These Tribal prerogatives, preserved by legislation, are currently under study and will be the subject of a separate Notice of Rulemaking.

DATES: Written comments, suggestions or objections will be accepted until March 30, 1979.

ADDRESSES: Written comments should be directed to: Superintendent, Everglades National Park, P.O. Box 279, Homestead, Florida 33030.

FOR FURTHER INFORMATION CONTACT:

Mr. Ralph Miele, Management Assistant, Everglades National Park, telephone: (305) 247-6211, Ext. 50, or

Mr. Irvin L. Mortenson, Park Manager, Big Cypress National Preserve, telephone: (813) 262-1066.

BACKGROUND

The Act of October 11, 1974 (16 U.S.C. 698f) establishing the Big Cypress National Preserve provides in part, that "Such lands shall be administered . . . in a manner which will assure their natural and ecological integrity in perpetuity in accordance with the provisions of this Act, and with the provisions of the Act of August 25, 1916 * * *.". Section 4 (b) of the Act, requires, in pertinent part, that the Secretary shall publish such other rules and regulations as he deems necessary and appropriate to limit or control the use of Federal lands and waters with respect to:

(1) Motorized vehicles.
(2) Exploration for an extraction of oil, gas, and other minerals.
(3) Grazing.
(4) Draining or constructing of works or structures which alter the natural water courses.
(5) Agriculture.
(6) Hunting, fishing, and trapping.
(7) New construction of any kind.
(8) Such other uses as the Secretary determines must be limited or controlled in order to carry out the purposes of the Act.

General regulations issued pursuant to the Act of August 25, 1916 (16 U.S.C. 3), are found in Title 36 of the Code of Federal Regulations, Parts 1 through 6 and are applicable to Big Cypress National Preserve by virtue of its being part of the National Park System. There are some inconsistencies between these general regulations and the Act of October 11, 1974, relating to hunting, off-road vehicle use and certain special resource uses such as the exploration and extraction of oil, gas and other minerals, grazing and agriculture. The special regulations proposed herein will provide relief from or otherwise modify the restrictions now imposed by Parts 1 through 6 of Title 36 of the Code of Federal Regulations.

The proposed regulations will limit and control certain activities which heretofore have been unrestricted and, since they will phase out some adverse uses of the Preserve lands, the National Park Service has determined that the proposal has little potential for causing a significant environmental impact. Therefore, an Environmental Impact Statement is not needed.

An Environmental Assessment and Review of the Assessment are on file and available for inspection upon request at the Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Georgia 30349, and at the Superintendent's office, Headquarters building, Everglades National Park 33030, for 60 days from the date of this notice.

The assessment considers the nature of the resources, available alternatives, their impacts, mitigating values, adverse effects, a description of the alternative selected as the proposed action, and additional considerations that provide a basis for the conclusion that an Environmental Statement is not needed.

Several workshops were held which were attended by persons from the local communities, members of conservation organizations, oil company personnel, residents and users of the Preserve, and other interested parties. Numerous oral and written comments and suggestions were received and have been considered in the development of the proposed regulations.

MOTORIZED VEHICLES

It is recognized that public access into the Preserve is generally by the use of motorized vehicles. Congress has authorized regulation of the use of all-terrain vehicles in order to assure the preservation of the natural and ecological integrity of the Preserve (House Report No. 93-502).

The resource planning process will provide for the designation of specific areas or trails within the Preserve open for the use of off-road vehicles. Within other areas of the Preserve, off-road vehicles use will be prohibited or otherwise restricted in some manner. This process will incorporate public participation by providing an opportunity to comment on any such proposed action. This process will also include coordination with appropriate Federal, State and local agencies. The goal is to analyze and evaluate alternatives and produce decisions which best provide for the protection of the natural and historic resources, promotion of safety for all users, minimize use conflicts, and accomplish all other resource objectives of the Preserve. Analysis and evaluation of off-road vehicle use will take into consideration the criteria contained in Sections 3 and 4 of E.O. 11644 (37 FR 2877) as amended by E.O. 11989 (42 FR 26959) and shall consider factors such as noise, safety, quality of the various recreational experiences provided, potential impacts on soil, watershed, vegetation, fish, wildlife, habitat, and conflicts between existing or proposed uses of the same or neighboring lands.

The public will be provided an opportunity to participate in the designation of areas and trails relating to off-road vehicle use. Except in emergencies, or when the Superintendent determines that off-road vehicle use will cause or is causing considerable adverse effects on the soil, vegetation, wildlife habitat or cultural resources, advance notice will be given to the public of any intention to designate an area or trail, or to close or restrict such areas or trails. A public notice of the proposed action shall be published in the "FEDERAL REGISTER" and the public shall be provided a period of 30 days to comment on the proposed designations or revisions.

Since factors listed in E.O. 11644, as amended, may change over a period of time, broad language is used to allow for establishing limits to protect the integrity of the Preserve. Due to the great diversity of design and types of vehicles used, language has been incorporated which will include all present day and future types of transportation, to minimize future changes in the regulations.

A total of 63 comments were received during workshops relative to restrictions on motorized vehicles (off-road vehicles). Three (3) wanted no restrictions for camp owners, fourteen (14) wanted no restrictions, and forty-six (46) said restrictions were necessary, ranging in degree from limiting vehicle size and weight to no vehicles in parts of the Preserve.

Owners of improved property wanted assurance of access to their property at all times. Some property owners wanted to restrict the general public. Many commented on the vegetative damage and deep ruts caused by very large vehicles. Hikers wanted their trails restricted to foot travel only. Vehicle operators wanted to run the hiking trails and/or be allowed to cross them.

Several commented on vehicle equipment and operating standards, e.g., spark arrestors, lights, safety flags and those regulations pertaining to passenger safety. Certain portions have been rephrased and additions made to achieve greater clarity, the desired safety aspects, and to conform with

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the terms of Executive Order 11644 (37 FR 2877).

Numerous comments were received relative to vehicle size and weight. Most condemned the large vehicles used by oil companies. Many claimed their own vehicles did no damage. One suggested a weight limit of 4000 pounds on 4 tires of at least a 12.00 size as being non-damaging. Some expressed the thought that ruts caused by vehicles would disappear in a year. Many wanted to stop the damage being done, and called attention to the numerous scars now present. A majority of comments suggested a weight or size limit is needed. Specific regulations addressing these issues are not proposed at this time, pending the completion of a study period to determine the effects of motorized vehicle use on Preserve lands.

The majority of the public response indicated a desire to protect the Preserve and still use motorized vehicles for transportation. Since it is the express intent of the Congress to limit and control the use of motorized vehicles to assure the natural and ecological integrity of the Preserve, it is proposed that a new Part 7.86(a) is needed to allow a limited use of motorized vehicles within the Big Cypress National Preserve.

Camp Structures

For many years the area of the Big Cypress was an uncharted, unsurveyed wilderness. Several hundred structures ranging from single room, one-story shacks to well-built, multi-story houses have been built on lands the builders or occupants did not own. The builders and occupants have no legal status to retain rights to occupy or maintain the structures on Federal lands.

Title 16 of the United States Code, Section 698h(a) provides for the owner of "improved property," where construction began before November 23, 1971, to retain for himself, and his heirs and assigns a right of use and occupancy for a definite term of not more than twenty-five years following acquisition by the Secretary, or in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. No such provisions were made for the above described cabin owners who did not "own" the lands under the cabin. There is no legal right for these individuals to continue the occupancy of the land on which the cabins are constructed. Extended use of such property is not in the best interest of the Preserve. However, the long, customary use of such property by the individuals, and the sizeable investment that many have made require consideration of an alternative means of orderly termination of this use. The legislation in establishing the Preserve did not specifically address this problem. Accordingly, it is proposed, for structures in existence prior to the effective date of the regulations, that a nonrenewable, . nontransferrable permit be issued to the occupant, provided the occupant acknowledges in the permit that he does not have legal title to the land. The permit would have a term of five (5) years from the effective date of the regulations or upon acquisition for Preserve purposes by the Federal government of that land upon which the structures are located, whichever occurs first. Occupants of the structures may continue to use the structures under this permit provided that the structures are in a safe and sound condition and meet applicable sanitary requirements. Occupants must also agree to vacate at the end of the 5-year period. There will be no extensions of these permits beyond the initial 5-year period. Other provisions of the permit would include reasonable use fees and the option of salvaging or removing the structure from Preserve lands at any time prior to the expiration of the 5-year period. The burden of proof of ownership of a structure shall be that of the claimant. No responsibility, liability, or burden would be placed upon the Federal government, except as a result of its own actions, for the protection, suitability, safety, or compliance with State or local laws for the structures.

Public comments and suggestions received ranged from that of immediate eviction, to phasing out, leasing, and allowing occupants to remain with numerous restrictions. Since unauthorized residence on Federal lands is prohibited by 36 CFR 5.15 and the legislation establishing the Preserve did not provide for the non-owners of lands who built structures, the phase-out procedure provides the most equitable solution.

Aircraft Use

The use of light aircraft for the transportation of persons and supplies to and from prepared airstrips within the Preserve may be permitted when they are operated in a manner which will assure the natural and ecological integrity of the Preserve. It is estimated that approximately 35 such airstrips are now being used within the area. Since 36 CFR 2.2 restricts the operation or use of aircraft to sites designated by special regulations, it is proposed that some of the airstrips presently in use within the Preserve may continue to be used in accordance with an annual special use permit which may be obtained by the former owners or users of the land upon which the airstrips are located. Applicants will be required to supply a sketch showing location, size, type of landing surface and camps served by the airstrip. Permittees will be responsible for the proper operation and maintenance of airstrips in accordance with appropriate Federal and State regulations. The government shall not be responsible or held liable or incur any liability for damages in connection with the operation of permitted airstrips. A map showing the location of all airstrips under special use permit shall be available for public inspection at the office of the Superintendent.

Numerous comments and suggestions were received relative to the operation of airstrips. Many suggested that Federal Aviation Administration (FAA) regulations and licensing should prevail. The FAA, however, does not license private airstrips. It may recommend and approve, but leaves the licensing to the State and/or County. Aircraft operations are covered by 36 CFR 2.2(d), which requires that all aircraft be operated in accordance with current applicable regulations of the Federal Aviation Administration.

Several suggestions were received that advocated complete, unrestricted use of the existing airstrips. Since the quality of improvements such as type of landing surface, markings, lights, length, etc., are not uniform, some constraints are necessary to limit and control this activity in the interest of public safety and to protect the ecological integrity of the Preserve.

Provisions are made for the controlled use of helicopters in authorized gas and oil exploration and extraction activities.

Watershed Protection

Since the major purpose for establishing the Preserve was to protect the watershed, priority consideration must be given to insure that no significant alteration of the natural water courses nor changes in the quality or quantity of the water will occur. Section 5.7 of Title 36 of the Code of Federal Regulations prohibits the unauthorized construction of structures, roads, trails, paths, or other ways, and 36 CFR 2.24 imposes certain sanitation requirements upon users of the Preserve. Florida Statutes 373, 387, and 403 provide miscellaneous laws related to controlling pollution of surface and underground waters.

The Federal Water Pollution Control Act, Pub. L. 92-500, 33 USCA 1251 et seq., provides for regulation of pollutants from point source discharges but does not regulate non-point sources. Dade, Monroe, and Collier County water and sanitation laws are not uniform. The above citations of the various water laws leaves largely untouched non-point sources of pollution such as runoff of pesticides and fertilizers from farm lands, although

these are significant sources of pollution. Therefore, paragraph (d), Watershed Protection, is necessary to provide that the waters of the Preserve receive interim protection. Specific regulations to control the introduction of any pollutant, contaminant, agricultural chemical or other deleterious material into the surface or subterranean waters of the Preserve are currently under study and will be the subject of proposed rulemaking under paragraph (d)(1) which is currently reserved.

Comments from the public indicated that drainage structures already built adjacent to or within the Preserve are detrimental to the purposes for which the Preserve was established and suggested that these be blocked or filled to restore natural water levels.

Several suggested that agricultural chemical use be banned.

A summary of comments indicates that almost all persons wanted assurance that the watershed would be adequately protected and restored to former natural conditions, if possible.

Hunting, Fishing and Trapping

Many comments and suggestions were directed toward greater protection of wildlife. Some went so far as to suggest that there wouldn't be any game left unless enforcement was begun soon.

Several commented that year round hunting should be stopped.

Several wanted dogs banned, or restricted to the first week of hunting, and no dog training within the Preserve.

Some stated that firearms were needed for protection, while others thought they should be allowed only during open hunting season.

One recommendation was to not allow trapping.

The Act establishing the Big Cypress National Preserve provides, that the Secretary *shall* permit hunting, fishing and trapping in accordance with Federal and State laws. However, he may, after consultation with the appropriate State agency having jurisdiction over these activities, restrict these activities for reasons of public safety, administration, floral and fauna protection and management, or public use and enjoyment.

The National Park Service has consulted with the Florida Fresh Water Fish and Game Commission and there is mutual agreement to make the Preserve a Cooperative Wildlife Management Area governed by Florida Regulations 16E-802 and by paragraph (e) as set forth below.

Grazing

Grazing on public lands within the Preserve is permitted only pursuant to an agreement with the National Park Service (see 36 CFR 5.16).

Grazing has historically occurred on certain lands within the Preserve and it is considered appropriate that they be allowed to continue in accordance with rules that will limit and control the activity in order to carry out the purposes of the Act.

Public comments were almost unanimous for restricting grazing to the area that was currently being grazed.

Other comments were to limit grazing to beef cattle only, prohibit improvement of new pasture, and restrict fertilizer and pesticide applications.

Accordingly, a new paragraph (f), Grazing, is needed to limit and control grazing activities on Federal lands within the Preserve.

Agriculture

Regulations to limit and control agriculture are not necessary since there are no active agricultural activities within the Preserve.

Oil, Gas and Minerals

The National Park Service proposed regulations, on December 18, 1977 (42 FR 63058), Title 36 CFR, Chapter 1, Part 9, which will control all activities resulting from the exercise of rights to oil and gas not owned by the United States on lands within any unit of the National Park System. This is to insure that such activities are conducted in a manner consistent with the purposes for which the National Park System and each unit thereof was created, to prevent or minimize damage to the environment or other resource values, and to insure that the pristine beauty of the units are preserved. Because of the proposed servicewide regulations, additional special regulations are not proposed. The public has had the opportunity to review and comment on the proposed servicewide oil and gas regulations at the time of their publication.

Native American Rights

The proposed regulations do not address the benefits provided to the Miccosukee and Seminole Indian Tribes by the Big Cypress Preserve Establishment Act (16 U.S.C. 698f et seq., 88 Stat. 1258). The Act provides that members of the Miccosukee Tribe and members of the Seminole Tribe of Florida shall be permitted, subject to reasonable regulations established by the Secretary, to continue their usual and customary use and occupancy of Federal or federally acquired lands and waters within the Preserve, including hunting, fishing and trapping on a subsistence basis and traditional tribal ceremonies. These Tribal prerogatives, preserved by legislation, are now under study and will be the subject of a separate notice of rulemaking.

Authority

Section 3 of the Act of August 25, 1916 (39 Stat. 535 as amended, 16 U.S.C. 3); Act of October 11, 1974 (88 Stat. 1260, 16 U.S.C. 698i); 245 DM (27 FR 6395) as amended; National Park Service Order No. 77 (38 FR 7478, as amended).

Drafting Information

The following National Park Service personnel were the primary authors of these proposed regulations: John M. Good, Superintendent, Everglades National Park; Jack E. Stark, Former Superintendent, Everglades National Park; Claude W. McClain, Assistant Superintendent, Everglades National Park; Ralph Miele, Management Assistant, Everglades National Park; Irvin L. Mortenson, Park Manager, Big Cypress National Preserve; and Michael V. Finley, Division of Ranger Activities and Protection, Washington, D.C.

Impact Analysis

The National Park Service has determined that these rules are not significant rules and do not require a regulatory analysis under Executive Order 12044; nor is it a major Federal action significantly affecting the quality of the human environment which would require preparation of an Environmental Impact Statement.

Boyd Evison,
Acting Associate Director, Management and Operations, National Park Service.

January 24, 1979.

In consideration of the foregoing, it is proposed to amend Part 7 of Title 36 of the Code of Federal Regulations by the addition of a new section 7.86 as follows:

§ 7.86 Big Cypress National Preserve.

(a) *Motorized Vehicles.*

(1) *Definitions.*

(i) The term "motorized vehicle" means automobiles, trucks, glades or swamp buggies, airboats, amphibious or air cushion vehicles or any other device propelled by a motor and designed, modified for or capable of cross country travel on or immediately over land, water, marsh, swampland or other terrain, except boats which are driven by a propeller in the water.

(ii) The term "operator" means any person who operates, drives, controls or has charge of a motorized vehicle.

(iii) The term "preserve lands" means all federally owned or controlled lands and waters administered by the National Park Service within the boundaries of the Preserve.

(2) *Travel in Preserve Areas.*

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(i) Areas open to motorized vehicles:

(A) The area south and west of Loop Road (State Road #94.)

(B) The area north of Tamiami Trail.

(C) The above areas open to travel by motorized vehicles are shown on a map numbered BC-91,001, dated November 1975, which is available for public inspection in the office of the Superintendent.

(D) Even though an area or route outside of an established public road or parking area has been established as open for motor vehicle use, the Superintendent may temporarily or permanently close or restrict the use of the areas and routes designated for use of motor vehicles, or close or restrict such areas or routes to the use of particular types of motor vehicles by the posting of appropriate signs, or by marking on a map which shall be available for public inspection at the office of the Superintendent, or both. In determining whether to close or restrict the uses of the areas or routes under this paragraph, the Superintendent shall be guided by the criteria contained in Sections 3 and 4 of E.O. 11644 (F.R. 2877) as amended, and shall also consider factors such as other visitor uses, safety, wildlife management, noise, erosion, geography, vegetation, resource protection, and other management considerations. Prior to making a permanent closure of an area or route, notice of such intention shall be published in the "FEDERAL REGISTER" and the public shall be provided a period of 30 days to comment.

(ii) All other areas are closed to motorized vehicles except as provided below:

(A) The areas between the Loop Road (State Hwy. #94) and the Tamiami Trail (U.S. Hwy. #41), except that the Superintendent may issue a permit to allow reasonable access for legal residents or oil and gas activities.

(B) Big Cypress Florida Trail, Section 1. One marked main hiking trail, from Tamiami Trail to Alligator Alley; and the two marked loop trails are closed to the use of all motorized vehicles, except that vehicles may cross the trails.

(C) The above areas closed to travel by motorized vehicles are shown on a map numbered BC-91,001, dated November 1975, which is available for public inspection in the office of the Superintendent.

(3) *Operations, Limitations and Equipment.*

(i) Vehicle operation.

(A) Off-road vehicle permits shall be required after December 31, 1979.

(B) Motorized vehicles shall not be operated in a manner causing, or likely to cause, signficant damage to or disturbance of the soil, wildlife habitat, improvements, cultural, or vegetative resources. Cutting, grading, filling or ditching to establish new trails or to improve old trails is prohibited, except under written permit where necessary in the exploration for and extraction of oil and gas.

(C) Passengers shall not ride on the fenders, hood, roof or tailgate, or in any other position outside of a moving vehicle.

(D) Motorized vehicles shall not be used to tow a person, on a sled, skis, box, surfboard, parachute, kite or other device.

(ii) Vehicle Limitations and Equipment.

(A) (RESERVED)

(B) The Superintendent, by the posting of appropriate signs or by marking on a map, which shall be available for public inspection in the office of the Superintendent, may require during dry periods, that a motorized vehicle or a particular class of motorized vehicle, operated off established roads and parking areas, shall be equipped with a spark arrestor that meets Standard 5100-1a of the Forest Service, U.S. Department of Agriculture, or the 80 percent efficiency level when determined by the appropriate Society of Automotive Engineers (SAE) Standard.

(C) A motorized vehicle, except an airboat, when operated off of established roads and parking areas, from one-half hour after sunset to one-half hour before sunrise, shall display at least one forward-facing white headlight and one red lighted taillight, which shall be visible from a distance of 500 feet to the front and rear under clear atmospheric conditions.

(D) Airboats and amphibious vehicles shall fly a safety flag at least 10 inches wide by 12 inches long at a minimum height of 10 feet above the botton of the vehicle or boat, and shall display one white light aft visible for 360° when running during periods of darkness.

(b) *Camp Structures.*

(1) Buildings or other structures, on lands not owned by claimants to these structures, existing prior to the effective date of these regulations, may be occupied and used by said claimants pursuant to a nonrenewable, nontransferrable permit. This use shall be for a maximum term of five (5) years from the date of Federal acquisition for preserve purposes of the land upon which the structures are situated or five years from the effective date of these regulations, whichever occurs first, *provided, however,* That the claimant to the structures by his application:

(i) Shows proof of ownership of the structure,

(ii) Submits a sketch and photograph of the structure and a map showing its geographic location, and

(iii) Agrees to vacate or remove the structure from the preserve upon the expiration of the permit.

(iv) The claimant acknowledges in the permit that he/she has no interest in the real property.

(2) Structures built after the effective date of these regulations will be removed upon acquisition by the Federal government of the lands upon which the structures are situated.

(3) Structures that are razed or destroyed by fire or storm, or deteriorate structurally to the point of being unsafe or uninhabitable shall not be rebuilt and the permit shall be cancelled.

(4) The National Park Service reserves the right to full and unrestricted use of the lands under permit including, but not limited to, such purposes as managed hunting programs executed in accordance with applicable State Game and Fish laws and regulations, use of existing roads and trails, and unrestricted public access.

(c) *Aircraft: Designated Landing Sites.*

(1) Except as provided for below, aircraft may be landed in the Preserve only at improved landing strips which were in existence at the time the lands were acquired for Preserve purposes, or the effective date of these regulations, whichever occurs first. A permit may be issued to the former land owner or airstrip user upon application which shall include a sketch showing location, airstrip license, if any, size of strip, type of landing surface, height of obstructions, special markings, and camps served.

(2) A map showing the locations, size, and limitations of each airstrip designated under a permit shall be available for public inspection at the office of the Superintendent.

(3) Rotorcraft used for purposes of oil and gas exploration or extraction, as provided for in Part 9 Subpart B of this chapter, may be operated only in accordance with an approved operating plan or a permit issued by the Superintendent.

(d) *Watershed Protection.*

(1) (RESERVED)

(2) The provisions of all Federal and Florida statutes pertaining to protection of waters and watersheds are applicable to the lands and waters of the Preserve.

(e) *Hunting, Fishing and Trapping.*

(1) Hunting, fishing and trapping are permitted in accordance with the general regulations found in Parts 1 and 2 of this chapter and applicable Florida law governing Cooperative Wildlife Management Areas.

(f) *Grazing.*

(1) Grazing privileges shall be available under permit to owners or lessees who were actually using land within the Preserve for grazing purposes on October 11, 1974, or who elected to request a permit at the time the land was acquired for Preserve purposes (See 36 CFR 5.16.)

(2) Such permit may be renewed during the lifetime of the permittee or his spouse.

(3) The breach of any of the terms or conditions of the permit or the regulations applicable thereto shall be grounds for termination, suspension or denial of grazing privileges.

(4) Failure to use land under permit for grazing or to renew the permit shall automatically terminate the permit and grazing privileges, *provided, however,* That a permittee may be granted a nonuse permit on an annual basis, not to exceed three consecutive years. Permitted nonuse beyond this time may be granted if necessitated by reasons clearly outside the control of the permittee.

(5) Annual fees based on Departmental regulations (43 CFR 4125.1-1 (m)) will be charged for all livestock grazing upon Preserve lands.

(6) Each permittee shall comply with the range management plan approved by the Superintendent for the area under permit.

(7) State laws and regulations relating to fencing, sanitation and branding are applicable to graziers using Preserve lands.

(8) The National Park Service reserves the right to full and unrestricted use of the lands under permit including, but not limited to, such purposes as managed hunting programs executed in accordance with applicable State Game and Fish laws and regulations, use of existing roads and trails, unrestricted public access, and the right to revoke the permit if the activity is causing or will cause considerable adverse effect on the soil, vegetation, watershed or wildlife habitat.

(9) Corporations formed by owners or lessees who were actually using lands within the Preserve for grazing purposes on October 11, 1974, may be issued annual permits for a period not to exceed twenty-five (25) years from the date of acquisition for preserve purposes.

[FR Doc. 79-2869 Filed 1-26-79; 8:45 am]

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 35]

[FRL 1004-1]

GRANTS FOR RESTORING PUBLICLY OWNED FRESHWATER LAKES—STATE AND LOCAL ASSISTANCE

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposed regulation establishes policies and procedures by which States may apply for grants to assist in carrying out approved methods and procedures for restoring publicly owned freshwater lakes, and protecting them against degradation, as authorized by section 314 of the Clean Water Act (33 U.S.C. § 1251 *et seq.*).

DATES: The public is invited to submit comments which must be received by EPA on or before March 30, 1979.

EFFECTIVE DATE: The provisions of these regulations govern only those clean lakes grants that are awarded on or after the final regulation promulgation date. Grants that are awarded before the promulgation date will not be affected by these regulations and will continue according to their original terms subject to the regulations under which the funds were awarded.

ADDRESSES: Submit comments, in writing, to Mr. Alexander Greene, Director, Grants Administration Division (PM-216), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-585), Environmental Protection Agency, Washington, D.C. 20460. Telephone: (202) 755-0100.

SUPPLEMENTARY INFORMATION: Section 314 of the Clean Water Act (33 U.S.C. § 1251 *et seq.*) provides the authority for Federal financial assistance for the restoration of publicly owned freshwater lakes. The program is called the clean lakes program.

Section 314 requires that each State prepare and submit a report to the Environmental Protection Agency (EPA) indicating: (1) an identification and classification of all publicly owned freshwater lakes in that State according to "eutrophic" condition; (2) procedures, processes, and methods (including land use requirements) to control sources of pollution of these lakes; and (3) methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of these lakes. Section 314 also provides financial assistance to States to implement lake restoration and protection methods and procedures that the Administrator has approved.

The Congress, in section 62 of Pub. L. 95-217, amended section 314(b) of the Clean Water Act by adding the following: "The Administrator shall provide financial assistance to States to prepare the identification and classification surveys required in subsection (a) (1) of this section." On July 10, 1978, EPA published a notice in the FEDERAL REGISTER that financial assistance would be provided to States for the identification and classification of publicly owned freshwater lakes according to trophic condition. EPA also would provide financial assistance for establishing a priority ranking for lakes in need of restoration, or conducting diagnostic or feasibility studies to determine methods and procedures to protect or restore the quality of those priority lakes (43 FR 29617). Each State can use up to $100,000 Federal funds for these studies. No award can exceed 70 percent of the eligible cost of the proposed project.

EPA carefully evaluated the performance of the clean lakes program during 1977 to determine how it might be improved, and based on this evaluation, developed the revised procedures contained in this regulation. EPA conducted meetings during this review with many State representatives. We later asked for and received comments from the States on draft recommendations that might improve the program. We considered and included those comments, where appropriate, into this proposed rule.

A principal concern that many States raised during the 1977 program review centered on the level of Federal financial assistance for clean lakes grants. First, the States indicated that they needed Federal support in order to develop technically sound lake restoration proposals. Second, they believed that the Federal share for implementing selected lake restoration methods and procedures should be increased above the current 50 percent level. During the program review we informed the States that we would review the possibility of increasing the Federal share by 5 to 10 percent above the 50 percent level.

The regulation provides the maximum allowable grant assistance level, 70 percent, to conduct diagnostic-feasibility studies to select the best available lake restoration procedures. Regarding the second concern, EPA has receved no quantitative documentation to indicate that increasing the support level by 5 or 10 percent would be effective in encourageing greater participation among the States in the clean lakes program. EPA is concerned that if we increase the support level by 5 or 10 percent, the limited annual appropriations will be used for fewer lake restoration projects. Based on direct discussions with State water quality representatives from the New England and Great Lakes States during the evaluation, and considering the comments receved from the States, EPA believes that the current 50 percent funding level is appropriate for implementing lake restoration procedures. This funding formula requires sufficient State/substate (non-Federal) commitment to ensure the

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best project implementation and proper maintenance of the project after implementation is completed. EPA is interested in receiving comments on this issue.

Another change in program procedures involves the eligibility of grant recipients. Section 314 allows grants to be made *only to the States*. States can elect to have substate agencies do part of the work that is specified in particular grants. Provisions contained in § 35.1615 allow States to enter into interagency agreements for this purpose.

In order to receive and include the largest amount of additohal input in the proposed section 314 regulations, EPA distributed in mid-August 1978 a draft copy of the proposed regulations to all of the States and Territories, 18 prominent environmental and public interest groups, to other Federal, State, and local agencies at their request, and to all program offices within EPA. Thirty-two responses have been received, but additional responses are anticipated and those comments will be considered in drafting the final regulations. Many of the comments received were helpful and were incorporated into the proposed regulations. Some of the concerns raised are discussed in the following pragraphs.

There were a significant number of questions regarding grant eligibility, administrative responsibility and establishing priorities for clean lakes projects. In the past, EPA used its research and demonstration grant regulations to award clean lakes grants since section 314 regulations were not developed. The research and demonstration authority allows grants to be made to substate entities as well as to States. However, since the proposed regulations are written specifically for section 314 of the Act, only State agencies will be eligible to receive clean lakes grant assistance. Since many States would prefer that substate entities carry out clean lakes grant activities, § 35.1615 allows delegation of the clean lakes grant activities to substate agencies by interagency agreement.

Even though tasks specified in clean lakes grants are delegable, the State ultimately is responsible. Therefore, all of the grant limitations and conditions specified under § 35.1650 are directed at the State. A particular question was raised about the State guaranteeing the non-Federal share required to support a clean lakes grant (see § 35.1650-3(a)(1)). This grant condition does not require that all non-Federal grant support money come from the State, and EPA expects that in most cases a significant portion, if not all, of the required non-Federal share will be provided from substate agency resources. The manner in which a State chooses to provide the matching grant share is not rigidly defined; however, the State must ensure that adequate non-Federal funds are available at the time the grant is accepted.

EPA received questions regarding the amount of annual funding that is available to the clean lakes program, and the manner in which EPA administers these monies. As with all publicly supported programs, appropriations from the Congress to the clean lakes program are limited. However, since the amount of these appropriations is relatively small, EPA cannot effectively allocate this money directly among all the States. Further, direct allocation is complicated by the variable needs of individual projects, by the fact that lakes are not uniformly distributed across the country, the fact that lake restoration needs of individual States fluctuate unpredictably, and the fact that States vary greatly in their ability to support lakes restoration projects. In order to ensure the most equitable distribution from available funding, EPA believes that clean lakes program appropriations should remain in a central account where all States can compete for the available Federal support on the basis of merit and demonstrated need. EPA will monitor continuously the distribution of funds to ensure an equitable distribution of annual appropriations among the States. EPA will take into account the lake restoration needs that States express to EPA as their annual water quality management plans.

EPA has considered other administrative methods for receiving and evaluating grant applications and making grant awards. Each method has its merits and demerits. EPA is interested in receiving further comments on the method they propose to use as well as alternative methods. These alternative methods could include a National competition where the regulation would specify a deadline for proposal submission. After the deadline EPA would evaluate all applications received against one another and award proposals with the highest rating based on the review criteria (see § 35.1640-1). This method could be modified where EPA would consider only the first priority proposals during a first round of evaluation, then the second priority proposals would be considered, and so forth, until all applications are evaluated or available funds are exhausted. We believe any method that specifies a deadline for submitting applications will increase the time EPA would require to reach a grant decision, possibly as much as six months. A third method could involve an allotment procedure of appropriated funds to the States or to the EPA Regional offices for disbursement to States within their jurisdictions. However, the only basis EPA has at this time to allocate funds would be an equal allotment to the 50 States, Territories and the District of Columbia.

To assure that the best projects are funded, EPA is requiring that States annually establish priority rankings for clean lakes projects. The priorities should reflect a State's Water Quality Management Plan and should consider the review criteria that the EPA will use in evaluating specific proposals (see § 35.1640-1). The review criteria are not weighted because EPA believes States should be allowed to emphasize certain factors above others, and that different States may emphasize different factors. EPA also requires that all projects provide for adequate public participation according to the procedures presented in Part 25 of this chapter. (Part 105 currently addresses public participation; Part 105 will be replaced by Part 25 when the latter is promulgated). Public participation requirements appear under §§ 35.1620-2, 35.1620-4 and Appendix A of this regulation. Until Part 25 is promulgated, the term Part 25 shall mean Part 105.

Since priorities within States are subject to change and unforeseen lake restoration needs can arise during the year that require priority attention, the proposed regulation (see § 35.1620-5(a)) allows States to alter priorities during the year and add projects to priority lists through a petition process.

In order to be eligible for clean lakes program assistance after January 1, 1982, States must have surveyed and classified their publicly owned freshwater lakes they believe are in need of protection or restoration. This survey is required under section 314(a) of the Act, and the information is necessary for States to establish priorities on clean lakes projects. The requirement does not mean that all of a State's publicly owned freshwater lakes must be surveyed, but that the States must provide EPA with survey results and a rationale for having selected specific lakes. As noted earlier, funding support for this purpose is being made available to the States through the July 10, 1978, FEDERAL REGISTER notice (43 FR 29617). Until January 1, 1982, States can apply for clean lakes program assistance without a complete lake survey; however, all grant applications received by EPA must include a State priority certification (see § 35.1620-2(a)).

Other significant concerns centered on the amount and type of technical information required in grant applications and the work to be conducted under clean lakes grants. The information required in a Phase 1 grant application, as specified under § 35.1620-2(b), is not excessive and is readily available to a grant applicant. Moreover, the information requirements are the same as those EPA specified in the July 10, 1978, FEDERAL REGISTER notice for conducting lake classification surveys. The required information is essential to provide EPA a sufficient technical basis to judge the merits of a proposed Phase 1 project and to make an appropriate funding decision.

Similarly, the scope of work requirements specified in Appendix A to this proposed regulation are the minimum amount of information to allow EPA to adequately assess project merits and to reach a technically sound Phase 2 grant funding decision. EPA understands that in certain situations some variation in these requirements might be advantageous to make a project more cost-effective without diminishing EPA's ability of adequately evaluating all relevant technical aspects of the project. Such situations will be dealt with on a case by case basis, with careful consultation between the grant applicant or grantee and EPA. If a grant applicant or grantee doubts the appropriateness of certain information requirements that are in the regulations, they should immediately contact the EPA Regional Office or Headquarters. This will minimize problems that could arise.

Some reviewers expressed their strong belief that protecting lakes is as important in some instances as restoring lakes, and that the clean lakes program should not be limited to lake restoration. Since the inception of clean lakes program, EPA has advocated that we will give water pollution controls, or lake protection measures, priority consideration in any clean lakes project for both high quality and degraded lakes. It is the EPA policy to support in-lake treatment measures only when pollution control is not sufficient to return a degraded lake to a useful condition in a reasonable amount of time.

In these and other regulations, EPA is developing the concept of a State/EPA Agreement. The Agreement will provide a way for EPA Regional Administrators and States to coordinate a variety of programs under the Clean Water Act, the Resource Conservation and Recovery Act, the Safe Drinking Water Act and other laws administered by EPA. Since this subpart governs only that part of the State/EPA Agreement which relates to Phase 1 and Phase 2 clean lakes grants, other programs included in the State/EPA Agreement will be governed by provisions found elsewhere in this chapter. In Fiscal Year 1979, the Regional Administrator and the State must develop the State/EPA Agreement sufficiently to assure a clean lakes grant will be consistent with the State/EPA Agreement. Beginning in FY 1980, State programs funded under section 314 of the Act will be part of the State/EPA Agreement and the State/EPA Agreement must be completed before grant award. EPA will issue guidance concerning the development and the content of the State/EPA Agreement.

REGULATORY ANALYSIS: We have determined that this proposal does not require regulatory analysis under Executive Order 12044.

EVALUATION: Section 2(d)(8) of Executive Order 12044 requires that each regulation be accompanied by a plan for evaluating a regulation after it is issued. In order to comply with this requirement, EPA will conduct an evaluation of this regulation which will either be presented in the section 304(j) report, which is scheduled to be published in December 1981, or published separately at that time.

Dated: January 17, 1979.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to add Subpart H to Part 35 of Title 40 to read as set forth below:

Subpart H—Grants for Restoring Publicly Owned Freshwater Lakes

Sec.

35.1600 Purpose.
13.1603 Summary of clean lakes grant program.
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35.1605-2 Freshwater lake.
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35.1620-3 Environmental evaluation.
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35.1620-5 State priority.
35.1620-6 State and local clearinghouse procedures.
35.1630 State lake classification surveys.
35.1640 Application review and evaluation.
35.1640-1 Application review criteria.
35.1650 Grant award.
35.1650-1 Project period.
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35.1650-3 Grant conditions.
35.1650-4 Grant payment.
35.1650-5 Reports.
Appendix A—Guidance for Diagnostic-Feasibility Studies.

AUTHORITY: Secs. 314 and 501 of Pub. L. 92-500 (86 Stat. 816; 33 U.S.C. § 1251 *et seq.*) as amended by Pub. L. 95-217.

§ 35.1600 Purpose.

This subpart supplements the EPA general grant regulations and procedures (Part 30 of this chapter) and establishes policies and procedures for grants to assist States in carrying out approved methods and procedures for restoration (including protection against degradation) of publicly owned freshwater lakes.

§ 35.1603 Summary of clean lakes grant program.

(a) Under Section 314 of the Clean Water Act, EPA may provide financial assistance to States to implement methods and procedures to restore publicly owned freshwater lakes. Although grants may be awarded only to States, these regulations allow States, through intergovernmental agreements, to delegate some or all of the required work to substate agencies.

(b) The only projects that are eligible for grant assistance must deal with publicly owned freshwater lakes. The State must have assigned a priority to restore the lake, and the State must certify that the lake project is consistent with the State Water Quality Management Plan developed under the State/EPA Agreement. The State/EPA Agreement is a means for EPA Regional Administrators and States to coordinate a variety of programs under the Clean Water Act, the Resource Conservation and Recovery Act, the Safe Drinking Water Act and other laws administered by EPA.

(c) These regulations provide for Phase 1 grants and Plase 2 grants. The purpose of a Phase 1 grant is to allow a State to conduct a diagnostic-feasibility study to determine a lake's trophic characteristics and to evaluate possible solutions and to recommend a feasible program to restore and preserve the quality or the lake. A Phase 2 grant is to be used for implementing recommended methods and procedures for controlling pollution or restoring the lake. The fact that EPA has awarded a Phase 1 grant to a State does not obligate EPA to award a Phase 2 grant to that State. Additionally, the award of a Phase 1 grant is not a prerequisite for receiving a Phase 2 grant. However, a Phase 2 grant application for a proposed project which was not evaluated under a Phase 1 grant must contain the information specified in Appendix A.

(d) EPA will evaluate all applications for Phase 1 and Phase 2 grants in accordance with the application review criteria of § 35.1640-1. The review criteria include technical feasibility, public benefit, reasonableness of proposed costs, environmental impact, and the State's priority ranking of the lake project.

(e) Before awarding grant assistance, the Regional Administrator must determine that pollution control measures in the lake watershed authorized by secton 201, included in an approved

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208 plan or required by section 402 of the Act have been completed or are being implemented according to a schedule that is included in an approved plan or discharge permit. Clean lakes funds may not be used to control the discharge of pollutants from a point source, where the cause of pollution can be alleviated through a municipal or industrial permit under section 402 of the Act or through the planning and construction of wastewater treatment facilities under section 201 of the Act.

§ 35.1605 Definitions.

The terms used in this subpart have the meanings defined in section 502 of the Act. In addition, the following terms shall have the meaning set forth below.

§ 35.1605–1 The Act.

The Clean Water Act, as amended (33 U.S.C. § 1251 *et seq.*).

§ 35.1605–2 Freshwater lake.

Any inland pond, reservoir, impoundment, or other similar body of water that has public recreational value, that exhibits no oceanic and tidal influences, and that has a total dissolved solids concentration of less than 1 percent.

§ 35.1605–3 Publicly owned freshwater lake.

A freshwater lake that offers public access to the lake through publicly owned contiguous land so that any member of the public may have the same or equivalent opportunity to enjoy privileges and benefits of the lake as any other member of the public or as any resident around the lake. If the user fees are charged for public use and access, the fees must be used solely of maintance of the access and recreational facilities, or for improving the lake.

§ 35.1605–4 Nonpoint source.

Pollutions sources which generally are not controlled by establishing effluent limitations under sections 301, 302, and 402 of the Act. Nonpoint source pollutants are pollutants which are not traceable to a discrete identifiable origin, but which generally result from runoff, precipitation, drainage, or seepage.

§ 35.1605–5 Eutrophic lake.

A lake that exhibits any of the following characteristics: (a) biomass accumulations of primary procedures; (b) rapid organic and inorganic sedimentation and shallowing; or (c) seasonal dissolved oxygen deficiencies in the bottom waters and a subsequent shift in species composition of aquatic fauna to forms that can tolerate lower concentrations of oxygen.

§ 35.1605–6 Trophic condition.

A relative description of a lakes biological productivity based on the availability of plant nutrients. The range of trophic conditions is characterized by the terms of oligotrophic for the least bilogically productive, to eutrophic for the most biological productive.

§ 35.1605–7 Desalinization.

Any mechanical procedure or process where some or all of the salt is removed from lake water and the freshwater portion is returned to the lake.

§ 35.1605–8 Diagnostic-feasibility study.

A two part study to determine a lake's current condition and to develop possible methods for lake restoration and protection.

(a) In the diagnostic portion of the study, information and data is gathered to determine the limnological, morphological, demographic, socioeconomic, and any other pertinent characteristics of the lake and its watershed. The purpose of gathering this information is to lead to an understanding of the quality of the lake, specifying the location and loading characteristics of significant sources polluting the lake.

(b) The feasibility portion of the study includes: (1) performing an analysis of the diagnostic information to define methods and procedures for controlling the sources of pollution; (2) determining the most energy and cost efficient procedures to improve the quality of the lake for maximum public benefit; (3) developing a technical plan and milestone schedule for implementing pollution control measures and in-lake restoration procedures; and (4) if necessary, conducting pilot scale evaluation.

§ 35.1610 Grant eligibility.

EPA shall award grants for restoring publicly owned freshwater lakes to a State agency designated by the State's Chief Executive. The award will be for projects which meet the requirements of this subchapter. EPA will not award grants for lakes that are used only as drinking water supplies.

§ 35.1615 Substate agreements.

States may make financial assistance available to substate agencies by means of a written interagency agreement transferring grant funds from the State to those agencies. The agreement shall be developed, administered and approved in accordance with the provisions of 40 CFR 33.240 (Intergovernmental agreements). A State may enter into an agreement with a substate agency to perform all or a portion of the work stated in a particular clean lakes grant agreement. All interagency agreements must be submitted to the Regional Administrator. If the sum involved exceeds $100,000, the agreement must be approved by the Regional Administrator before funds may be released by the State to the substate agency. The agreement shall incorporate by reference the provisions of this subchapter making such provisions applicable to the substate agency. The agreement shall specify outputs and the budget required to perform the associated work in the same manner as a grant agreement between the State and EPA.

§ 35.1620 Grant application requirements.

Grant applications will be processed in accordance with subpart B of Part 30 of this subchapter. Applicants for grants assistance under the clean lakes program shall submit EPA form 5700–33 (original with signature and two copies) to the appropriate EPA Regional Office (see 40 CFR Part 30.130). EPA will evaluate proposals under § 35.1640. Before applying for assistance, applicants should contact the appropriate Regional Administrator to determine EPA's current funding capability.

§ 35.1620–1 Types of grants assistance.

EPA will provide assistance in two phases in the clean lakes program.

(a) *Phase 1-Diagnostic-feasibility studies.* Phase 1 grants of up to $100,000 per award (requiring a 30 percent non-Federal match) are available to support diagnostic-feasibility studies (see Appendix A).

(b) *Phase 2-Implementation.* Phase 2 grants (requiring a 50 percent non-Federal match) are available to support the implementation of pollution control or in-lake restoration methods and procedures including final engineering design.

§ 35.1620–2 Contents of grant applications.

(a) All applications shall contain a written State certification that the project is consistent with the State Water Quality Management Plan (see § 35.1511 of this subchapter). Additionally, the State must indicate the priority ranking for the particular project (see § 35.1620–5).

(b) Phase 1 grant applications shall contain a narrative statement that describes the specific procedures that will be used by the grantee to conduct the diagnostic-feasibility study including a description of the public participation to be involved (see § 25.11 of this chapter), a milestone schedule, itemized estimated costs and a justification for those costs. For each lake being investigated, the Phase 1 grant application must also include the following information:

(1) The legal name of the lake, reservoir, or pond.

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(2) The location of the lake within the State, including the latitude and longitude, in degrees and minutes, of the approximate center of the lake.

(3) A description of the physical characteristics of the lake, including its maximum depth (in meters); its mean depth (in meters); its surface area (in hectares); its volume (in cubic meters); the presence or absence of stratified conditions; and major hydrologic inflows and outflows.

(4) A summary of available chemical and biological data demonstrating the current water quality of the lake.

(5) A description of the type and amount of public access to the lake, and the public benefits that will be derived by implementing pollution control and lake restoration procedures.

(6) A description of any recreational uses of the lake that are impaired due to degraded water quality. Indicate the cause of the impairment, such as algae, vascular aquatic plants, sediments, or other pollutants.

(7) A description of the lake water shed in terms of size, land use (list each major land use classification as a percentage of the whole), and the general topography, including major soil types.

(8) An identification of the major point source pollution discharges in the watershed. Indicate if the sources are currently controlled under the National Pollutant Discharge Elimination System (NPDES), and if so, include the permit numbers. If the information is available, applicants should indicate or estimate the percent contribution of total nutrient and sediment loading to the lake by the identified point sources.

(9) An indication of the major nonpoint sources in the watershed. If the sources are being controlled describe the control practice(s), including best land management practices.

(10) A description of the local interests and fiscal resources committed to restoring the lake.

(11) An indication of the lake restorative measures anticipated, including watershed management, and a projection of the net improvement in water quality.

(12) A statement of known or anticipated adverse environmental impacts resulting from the project.

(13) A description of the proposed monitoring program to provide the information required in Appendix A of this regulation.

(b) Phase 2 grant applications must contain the information specified in Appendix A in order to receive funding consideration. The appropriate areawide or State 208 planning agency must certify in writing as part of the application that the proposed Phase 2 lake restoration proposal is consistent with any approved 208 planning. Phase 2 grant applications must also contain all permits that are required for the discharge of dredged or fill material under section 404 of the Act.

§ 35.1620–3 Environmental evaluation.

Phase 2 applicants are required to submit an evaluation of the environmental impacts of the proposed project in accordance with the requirements in Appendix A of this regulation.

§ 35.1620–4 Public participation.

(a) In accordance with this Part and Part 25 of this chapter, the grant applicant shall provide for, encourage, and assist public participation in developing a proposed project for lake restoration.

(b) A Phase 1 grantee must solicit public comment in developing, evaluating, and selecting alternatives; in assessing potential adverse environmental impacts; and in identifying measures to mitigate any adverse impacts that were identified. The grantee shall provide information revelant to these decisions, in fact sheet or summary form, and distribute them to the public at least 30 days before the grantee finally selects a proposed course of lake restoration. A formal or informal meeting with the public shall be held after all pertinent information is distributed, but before a method of lake restoration is finally selected. If there is significant public interest in the grant activity, an advisory group to the study process shall be formed in accordance with the requirements of § 25.3(d)(4) of this chapter.

(c) A formal public hearing shall be held before the grantee finally selects the alternative for lake restoration if the alternative involves major construction, dredging, or significant modifications to the environment, or if the grantee or the Regional Administrator determines that a hearing would be beneficial. A summary of the grantee's response to all public comments, along with copies of any written comments, shall be prepared and submitted to EPA with a Phase 2 application.

(d) Where a proposed project has not been studied under a Phase 1 grant, the applicant for a Phase 2 grant shall provide an opportunity for public consultation with adequate and timely notice before the applicant submits the application to EPA. The public shall be given the opportunity to discuss the proposed project, the alternatives, and any potentially adverse environmental impacts. A public hearing should be held where the proposed project involves major construction or dredging or significant modification of the environment. The grant applicant shall provide a summary of his responses to all public comments and submit the summary, along with copies of any written comments, as part of the application.

(e) Public consultation may be coordinated with related activities to enhance the economy, the effectiveness, and the timeliness of the effort, or to enhance the clarity of the of the issue. This procedure cannot be detrimental by discouraging the widest possible participation by the public.

§ 35.1620–5 State priority.

(a) A State shall submit to the Regional Administrator as part of its annual work program (§ 35.1511 of this subchapter) a description of the activities it will conduct during the fiscal year to classify its lakes according to trophic condition (§ 35.1630 of this subpart) and to set priorities for implementing clean lakes projects within the State. The work plan must indicate on a priority basis the grant applications that will be submitted by the State for Phase 1 and Phase 2 grants during that fiscal year, along with the rationale used to establish project priorities. A State may petition the Regional Administrator to modify the EPA approved priority list.

(b) Clean lake restoration priorities should be consistent with the Statewide water quality management strategy (see § 35.1515–2 of this subchapter). In establishing priorities on particular lake restoration projects, States should use as criteria the application review criteria (§ 35.1640–1) that EPA will use in preparing funding recommendations for specific projects. If a State chooses to use different criteria, the State should indicate this to the Regional Administrator as part of the yearly work program.

§ 35.1620–6 State and local clearinghouse procedures.

In accordance with § 30.305 of this subchapter, all requirements of OMB Circular A–95 must be met prior to application submission to EPA.

§ 35.1630 State lake classification surveys.

States that wish to participate in the clean lakes program shall be required to establish and submit to EPA by January 1, 1982, a classification, according to trophic condition, of their publicly owned freshwater lakes that are in need of restoration or protection. States that have not complied with this requirement by January 1, 1982, will not be eligible for Federal financial assistance under this subpart until they meet this requirement.

§ 35.1640 Application review and evaluation.

EPA will review grant applications as they are received. EPA Headquarters may request peer review by appropriate experts to assist with technical

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evaluation. Funding decisions will be based on the merit of each application in accordance with the application review criteria under § 35.1640–1 of this subpart. Phase 1 grant applications will be considered separately from Phase 2 grant applications. Twenty percent, but not exceeding $5 million, of annual appropriations for the clean lakes program may be set aside to fund Phase 1 applications.

§ 35.1640–1 Application review criteria.

(a) EPA will consider the following criteria when evaluating both Phase 1 and Phase 2 applications:

(1) The technical feasability of the project, and where appropriate, the estimated improvement in lake water quality using the information supplied by the grant applicant; and the anticipated positive changes that the project would produce in the overall lake ecosystem, including the watershed, such as the net reduction in sediment, nutrient, and other pollutant loadings.

(2) The extent of anticipated benefits to the public. EPA will consider such factors as (i) the degree, nature and sufficiency of public access to the lake; (ii) the size and characteristics of the population residing near the lake which would use the improved lake for recreational and other purposes; (iii) the amount and kind of public transportation available for transport of the public to and from the public access points; (iv) whether other relatively clean publicly owned freshwater lakes already adequately serve the population; and (v) whether the restoration would benefit primarily the owners of private land adjacent to the lake.

(3) The degree to which the project considers the "open space" policies contained in sections 201(f), 201(g)(6), and 208(b)(2)(A) of the Act, as they are applicable.

(4) The reasonableness of the proposed costs relative to the proposed work, the likelihood that the project will succeed, and the potential public benefits.

(5) The means for controlling adverse environmental impacts which would result from the proposed restoration of the lake. EPA will give specific attention to the environemental concerns listed in Appendix A.

(6) The State priority ranking for a particular project. However, after consulting with the State, EPA can fund projects that are not the first priority according to the State's ranking.

(b) For Phase 1 applications, the review criteria presented in paragraph (a) of this section will be modified in relation to the smaller amount of technical information and analysis that is available in the grant application. Specifically, under criteria (a)(1) EPA will consider a technical assessment of the proposed project approach to meet the requirements stated in Appendix A to this regulation. Under criteria (a)(2), EPA will consider the degree of public access to the lake and the benefit. Under criteria (a)(5), EPA will consider known or anticipated adverse environmental impacts that have been identified in the application or that EPA can presume will occcur.

§ 35.1650 Grant award.

(a) Under § 30.345 of this Part, within 90 days after EPA has received a complete application, the application will either be (1) approved for funding by the Assistant Administrator for Water and Waste Management as the grant approving official, with a grant awarded by the Regional Administrator in an amount determined to be appropriate for the project; (2) returned to the applicant due to lack of funding; or (3) disapproved. The applicant shall be promptly notified by EPA in writing of any funding decisions.

(b) Applications that were disapproved can be submitted as new applications to EPA if the applicant resolves the issues indicated during EPA review. In the case of applications returned due to lack of funding, the applicant may resubmit them when additional appropriations are made available. If applications that were returned to States because of lack of funds are resubmitted with the highest State priority in the following fiscal year, these proposals will be given priority review by EPA in that fiscal year.

§ 35.1650–1 Project period.

(a) Phase 1 grants shall be approved for a project period of up to two years.

(b) Phase 2 grants shall be approved for a project period of up to four years. Implementation of complex projects and projects incorporating major construction may have longer project periods if approved by the Regional Administrator.

§ 35.1650–2 Limitations on awards.

(a) Before awarding grant assistance, the Regional Administrator shall determine that: (1) The applicant has met all of the applicable requirements of § 35.1620 of this subpart; and

(2) In fiscal year 1980 and subsequent fiscal years, State programs funded under section 314 of the Act are part of a State/EPA Agreement which must be completed before the grant is awarded.

(b) Before awarding Phase 2 grants, the Regional Administrator shall further determine that:

(1) When a Phase 1 grant was awarded, the final report prepared under a Phase 1 grant is used by the grantee to apply for a Phase 2 implementation grant. Only the lake restoration procedure selected under the Phase 1 grant as the best alternative can be implemented under a Phase 2 grant.

(2) Pollution control measures in the lake watershed authorized by section 201, included in an approved 208 plan, or required by section 402 of the Act have been completed or are being implemented according to a schedule that is included in an approved plan or discharge permit.

(3) The project does not include costs for controlling point source discharges of pollutants in cases where the cause(s) of pollution can be alleviated by permits issued under section 402 of the Act, or by the planning and construction of wastewater treatment facilities under section 201 of the Act.

(4) The "open space" policy presented in sections 201(f), 201(g)(6), and 208(b)(2)(A) of the Act has been considered appropriately by a State or substate agency in any wastewater management activities being implemented by them in the lake watershed through construction grants awarded by EPA under section 201 of the Act.

(5) The project does not include costs for harvesting aquatic vegetation, or for chemical treatment to alleviate temporarily the symptoms of eutrophication, or for maintaining lake aeration devices, or for providing other similarly palliative methods and procedures. However, a project may include a cost for such procedures when the grant applicant can verify that these procedures are the most energy efficient and cost effective approaches to provide a usable recreational lake facility. These approaches can be supported only where pollution in the lake watershed has been controlled to the greatest practicable extent, and where such methods and procedures are a necessary part of a project during the project period. EPA will determine the eligibility of such a project, based on the justification that the applicant has presented for the proposed restoration, the estimated time period for improved lake water quality, and public benefits associated with the restoration.

(6) The project does not include costs for desalinization procedures for naturally saline lakes.

(7) The project does not include costs for purchasing or long-term leasing of land to provide public access to a lake.

(8) The project costs associated with procedures for mitigating adverse environmental impacts resulting from lake restoration or protection cannot exceed 20 percent of the Phase 2 grant.

(9) The project does not include costs resulting from litigation against the grantee by EPA.

(10) The project does not include costs for measures to mitigate adverse environmental impacts that are not identified in the approved project scope of work. (EPA may allow additional costs for mitigation after it has reevaluated the cost-effectiveness of the selected alternative and has approved a request for a grant increase from the grantee.)

§ 35.1650–3 Grant conditions.

(a) In addition to the EPA General Grant conditions (Subpart C and Appendix A of Part 30 of this chapter), each clean lakes grant is subject to the following conditions:

(1) The State agrees to pay the non-Federal share of the project costs.

(2) The State agrees to monitor the project to provide, at a minimum, all of the information and procedures required in paragraph (a)(3) of Appendix A of this regulation, as well as any specific measurements that would be necessary to assess specific aspects of the project. The exact water quality monitoring program for each awarded project will be approved by the project officer in consultation with the State.

(b) In addition to the conditions stated in paragraph (a) to this subsection, Phase 1 grants are subject to the following condition. Before selecting the best alternative for controlling pollution and improving the lake, as required in paragraph (b)(1) of Appendix A of this regulation, and before undertaking any other work stated under paragraph (b) of Appendix A, the grantee must submit an interim report to the project officer. The interim report must include a discussion of the various available alternatives and a technical justification for the alternative which the grantee most likely will choose. The grantee must obtain EPA approval of the selected alternative before conducting additional work under the grant.

(c) In addition to the conditions stated in paragraph (a) to this subsection, Phase 2 grants are subject to the following conditions:

(1) The State agrees to manage and maintain the project for at least ten years after the project is completed in such a way that all pollution control measures supported under the grant will continue at the level of efficiency as at the end of the grant project period. The State will provide reports regarding project maintenance as required in the grant agreement.

(2) The State agrees to upgrade its water quality standards to reflect a higher water quality use classification if this was achieved for the subject lake, as required in 40 CFR section 130.17(c)(2).

(3) If an approved project allows purchase of equipment for lake maintenance, such as weed harvesters and aeration equipment, the State agrees to maintain and operate the equipment according to an approved lake maintenance plan for a period specified in the grant agreement, but in any case for not less than the time period it takes to completely amortize the equipment, or five years, whichever is greater.

(4) If primary adverse environmental impacts result from implementing approved lake restoration or protection procedures, the State shall include measures to mitigate these adverse impacts as part of the work under the grant.

§ 35.1650–4 Grant Payment.

Under § 30.615 of this chapter, EPA generally will make payments through letter of credit as the grantee accomplishes milestones that were in the approved application. However, the Regional Administrator may place any grantee on advance payment, except for construction projects, or on cost reimbursement, as he determines necessary.

§ 35.1650–5 Reports.

(a) States with Phase 1 grants shall submit quarterly progress reports (original and one copy) to the project officer within 30 days after the end of each quarter. These reports shall include the following:

(1) Work progress relative to the milestone schedule, and difficulties encountered during the quarter.

(2) Water quality monitoring data along with a brief analysis of these data to document the existing water quality of the lake, and where appropriate, sources of pollution to the lake.

(3) A justification of expenditures in the past quarter and those anticipated in the next quarter.

(b) States with phase 2 grants shall submit quarterly progress reports (original and one copy) to the project officer within 30 days after the end of the quarter. The Phase 2 quarterly progress report shall contain all of the information required for Phase 1 quarterly progress reports indicated in paragraph (a) of this subsection. This report also must include a discussion of the changes in water quality which appear to have resulted from the lake restoration activities implemented during the quarter.

(c) States shall prepare a final report for all grants in accordance with § 30.635–2 of this subchapter and the EPA manual on "Scientific and Technical Publications," May 14, 1974, as revised or updated. The States shall submit the report within 90 days after the project is completed.

APPENDIX A

GUIDANCE FOR DIAGNOSTIC-FEASIBILITY STUDIES

Phase 1 clean lakes projects must include in their scope of work at least the following information, preferably in the order presented and under appropriate subheadings.

(a) A diagnostic study consisting of:

1. An identification of the lakes to be restored or studied, including their names, the State in which they are located, their location within the State, their general hydrologic relationship to associated upstream and downstream waters and the approved State water quality standards for the lake under study.

2. A geological description of the drainage basin including soil types and soil loss to stream courses that are tributary to the lake.

3. A description of the public access to the lakes including the amount and type of public transportation to the access points.

4. A description of the size and characteristics of the population residing near the lake which would use the improved lake for recreation and other purposes.

5. A summary of historical lake uses, including recreational uses up to the present time, and how these uses may have changed because of water quality degradation.

6. If a particular segment of the lake user population is or will be more adversely impacted by lake degradation, this should be explained.

7. A statement regarding the water use of the lake compared to other lakes within a 50-mile radius.

8. An itemized inventory of known point source pollution discharges affecting or which have affected lake water quality over the past 5 years, and the abatement actions for these discharges that have been taken or are in progress. If corrective action for the pollution sources is contemplated in the future, the time period should be specified.

9. A description of the land uses in the lake watershed, with an indication of what percentages of the watershed each uses, and discussion of the amount of nonpoint pollutant loading produced by each identified land use category.

10. A discussion and analysis of historical baseline limnological data. This presentation must include the present trophic condition of the lake as well as its surface area, maximum depth, average depth, hydraulic residence time, the area of the watershed draining to the lake, and the physical, chemical, and biological quality of the lake and important lake tributary waters. Bathymetric maps should be provided. If dredging is expected to be included in the restoration activities, representative bottom sediment core samples must be collected and analyzed according to EPA approved methods for phosphorus, heavy metals, and persistent organic chemicals where appropriate. An assessment of the phosphorus (and nitrogen when it is the limiting lake nutrient) inflows and outflows associated with the lake and a hydraulic budget including ground water flow must be included. Vertical temperature and dissolved oxygen data must be determined for the lake if the hypolimnion becomes anoxic and, if so, for how long and over what extent of the bottom. Total and soluble phosphorus (P); and nitrite, nitrate, ammonia and organic nitrogen (N) concentrations must be determined for the lake. Chlorophyll a values should be measured for the upper mixing zone. Representative alkalinities should be determined. Algal assay bottle test data or total N to total P ratios should be used to define the growth limiting nutrient. The extent of algal blooms, and the predominant algal genera

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must be discussed. Algal biomass should be determined through cell density counts and volumetric mass counting and reported in biomass of each major genus identified. Secchi disk depth and/or suspended solids should be measured and reported. The portion of the shoreline and bottom that is impacted by vascular plants (submersed, floating, or emersed higher aquatic vegetation) must be estimated and that estimate must include an identification of the predominant species.

11. An identification and discussion of the biological resources in the lake, such as fish populations, and a discussion of the predominant genera of zooplankton and phytoplankton and the major known ecological relationships.

(b) A feasibility study consisting of:

1. An identification and discussion of the alternatives considered for pollution control or lake restoration and an identification and justification of the selected alternative after considering all alternatives. This should include a discussion of expected water quality improvement, technical feasibility, and estimated costs that are attached to each alternative. The discussion of each alternative and the selected lake restoration procedure must include detailed descriptions specifying exactly what activities would be undertaken under each, showing how and where these procedures would be implemented, illustrating the engineering specifications that would be followed including preliminary engineering drawings to show in detail the construction aspects of the project, and presenting a quantitative analysis of the pollution control effectiveness and the lake water quality improvement that is anticipated.

2. A discussion of the particular public benefits expected to result from implementing the project, including new public water uses that may result from the enhanced water quality.

3. A proposed monitoring program indicating the water quality sampling schedule. A single in-lake site should be sampled monthly during the months of September through April and biweekly during May through August. This site should be located in an area that best represents the limnological properties of the lake, preferably the deepest point in the lake. Additional sampling sites may be warranted in cases where lake basin morphometry creates distinctly different hydrological and limnological subbasins; and/or where major lake tributaries adversely affect lake water quality. The sampling schedule may be shifted according to seasonal differences at various latitudes. The biweekly samples should be scheduled to coincide with the period of elevated biological activity. If possible, a set of samples should be collected immediately following spring turnover of the lake. Samples should be collected between 0800 and 1600 hours of each sampling day unless diel studies are part of the monitoring program. Samples should be collected between one foot below the surface and one foot off the bottom, and should be collected at intervals of every five feet, or at six equal depth intervals, whichever number of samples is less. Collection and analyses of all samples should be conducted according to EPA approved methods. All of the samples collected should be analyzed for total and soluble phosphorus; nitrite, nitrate, ammonia, and organic nitrogen; pH; temperature; and dissolved oxygen. Representative alkalinities should be determined. Samples collected in the upper mixing zone should be analyzed for chlorophyll *a*. Algal biomass should be determined through algal genera identification, cell density counts, and volumetric mass counting; and reported in terms of biomass of each major genera identified. Secchi disk depth and/or suspended solids should be measured at each sampling period. The monitoring program for each clean lakes project should include all of the information mentioned above, in addition to any specific measurements that are found to be necessary to assess certain aspects of the project. Based on the information supplied by the applicant and the technical evaluation of the proposal, a detailed monitoring program will be established for each approved project and will be a condition of the grant agreement. Phase 2 grant projects will be monitored for at least one year after construction or pollution control practices are completed to evaluate project effectiveness.

4. A proposed milestone work schedule for completing the project with a proposed budget and a payment schedule that is related to the milestone.

5. A detailed description of how non-federal matching funds will be obtained for the proposed project.

6. A description of the relationship of the proposed project to pollution control programs such as the section 201 construction grants program, the section 208 areawide wastewater management program, the Soil Conservation Service programs under P.L. 83-566, the Department of Housing and Urban Development programs, and any other local, State, regional and Federal programs which may be related to the proposed project.

7. A summary of public participation in developing and assessing the proposed project under § 25.15 of this chapter.

8. Copies of all permits necessary to satisfy the requirements of section 404 of the Act. If the approved project includes dredging activities or other activities requiring permits, the State must obtain from the U.S. Army Corps of Engineers or other agencies the necessary permits required for the discharge of dredged or fill material under section 404 of the Act or other Federal, State or local requirements. Should additional information be required to obtain these permits, the State shall provide it. A Phase 2 grant shall not be awarded until all necessary section 404 permits have been obtained. Copies of section 404 permit applications must be provided to EPA at the time they are submitted to the U.S. Army Corps of Engineers. After reviewing the 404 permit applications, the project officer may provide recommendations for appropriate controls and treatment of supernatant derived from dredged material disposal sites to ensure the maximum effectiveness of lake restoration procedures.

(c) States shall complete and submit an environmental evaluation taking into consideration the questions listed below. In many cases the questions cannot be satisfactorily answered with a mere "Yes" or "No." Grantees are encouraged to address other considerations which they believe apply to their project.

1. Will the proposed project result in the displacement of any people?

2. Will the proposed project deface existing residences or residential areas? What mitigative actions such as landscaping, screening, or buffer zones have been considered? Are they included?

3. Will the proposed project be likely to lead to a change in established land use patterns, such as increased development pressure near the lake? To what extent and how will this change be controlled through land use planning, zoning, or through other methods?

4. How does this project conform to areawide waste treatment management plans, if any, developed under section 208 of the Act?

5. Will the proposed project adversely affect a significant amount of prime agricultural land or agricultural operations on such land?

6. Will the proposed project result in a significant adverse effect on parkland, other public land, or lands of recognized scenic value?

7. Has the State Historical Society or State Historical Preservation Officer been contacted by the grantee? Has he responded, and if so, what was the nature of that response? Will the proposed project result in a significant adverse effect on lands or structures of historic, architectural, archaeological or cultural value?

8. Will the proposed project lead to a significant long-range increase in energy demands?

9. Will the proposed project result in significant and long range adverse changes in ambient air quality or noise levels? Short term?

10. If the proposed project involves the use of in-lake chemical treatment, what long and short term adverse effects can be expected from that treatment? How will the grantee mitigate these effects?

11. Does the proposal contain all the information that EPA requires in order to determine whether the project complies with Executive Order 11988? Is the proposed project located in a floodplain? If so, will the project involve constructing of structures in the floodplain? What steps will be taken to reduce the possible effects of flood damage to the project?

12. If project involves physically modifying the lake shore or its bed, through dredging, for example, what steps will be taken to minimize any immediate and long term adverse effects of such activities? When dredging is employed, where will the dredged material be deposited, what can be expected and what measures will the grantee employ to minimize any significant adverse impacts from its deposition?

13. Does the proposed project proposal contain all information that EPA requires in order to determine whether the project complies with Executive Order 11990? Will the proposed project have a significant adverse effect on fish and wildlife, or on wetlands or any other wildlife habitat, especially those of endangered species? How significant is this impact in relation to the local or regional critical habitat needs? Have actions to mitigate habitat destruction been incorporated into the project? Has the applicant properly consulted with appropriate State and Federal fish, game and wildlife agencies and with the U.S. Fish and Wildlife Service? What were their replies?

14. Describe any feasible alternatives to the proposed project, in terms of environment impacts, commitments of resources, public interest and costs and why they were not proposed?

15. Describe other measures not discussed previously that are necessary to mitigate adverse environmental impacts resulting from the implementation of the proposed project.

[FR Doc. 79-2983 Filed 1-26-79; 8:45 am]

[6560-01-M]

[40 CFR Part 52]

[FRL 1048-5]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Notice of Proposed Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposal announces receipt of a request from the State of New York to revise its State Implementation Plan (SIP). The proposed revision was submitted by the State as a substitute for the East and Harlem River Bridge Toll Strategy for New York City, which had been part of the currently approved SIP. As required by the 1977 Amendments to the Clean Air Act, the elimination of the bridge toll strategy was to be initiated by a request from the Governor of New York, including a certification that the SIP would be revised by August 7, 1978 to include certain measures to establish, expand, or improve public transportation to meet basic transportation needs, and to implement transportation control measures necessary to attain and maintain national ambient air quality standards. The Governor submitted such a request which resulted in the elimination of the bridge toll strategy. In fulfillment of his certification that he would revise the SIP, the Governor submitted to the Environmental Protection Agency (EPA) on August 6, 1978 a proposed SIP revision. This submittal is the subject of this FEDERAL REGISTER notice. Based on a initial review, the EPA finds that the State's proposed SIP revision is deficient. Consequently, EPA proposes herein to disapprove it. However, the State currently is preparing an improvement to the original submittal. EPA believes that this improvement will correct the deficiencies found in this submittal.

DATE: Written comments must be received on or before February 28, 1979.

ADDRESS: Written comments should be submitted to: Eckardt C. Beck, Regional Administrator, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007.

Copies of the proposal, including EPA's initial review thereof, December, 1978, are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Room 908, Region II Office. 26 Federal Plaza, New York, New York 10007.

U.S. Environmental Protection Agency, Central Docket Section, Waterside Mall, Room 2903 B, 401 M Street, S.W., Washington, D.C. 20460.

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

New York State Department of Environmental Conservation, Region 2, 2 World Trade Center, 61st Floor, New York, New York 10047.

New York State Department of Transportation, 1220 Washington Avenue, Building 5, Room 115, State Campus, Albany, New York 12232.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, Room 908, New York, New York 10007, 212-264-2517.

SUPPLEMENTAL INFORMATION:

A. Background

Under the 1970 Clean Air Act each state was required to develop a State Implementation Plan (SIP) that provided for the attainment and maintenance of air quality standards. In addition to emission controls on stationary sources and the federal new car emission control program, the Clean Air Act (Section 110(a)(2)(B)) specifically required that states implement transportation control measures where necessary to meet the air quality standards. As a result of a suit filed by the Natural Resources Defense Council (*NRDC* v. *EPA*, 475 F. 2d 968 (1973)), the U.S. Court of Appeals for the District of Columbia Circuit ordered the Administrator of the Environmental Protection Agency (EPA) to require submission during 1973 of complete SIP's, including transportation control measures where necessary.

The Governor of New York State submitted a SIP revision on April 17, 1973 which included the required transportation control measures for the New York City metropolitan area. This revision, as approved by EPA in 1973, included Strategy B-7, "Imposition of Tolls on All East River Bridges and Harlem River Bridges." The goal of this strategy was to create a uniform toll structure for all bridges to the borough of Manhattan in New York City, thereby reducing unnecessary travel by vehicles attempting to avoid existing tolled facilities. In addition, the surplus of funds generated from the strategy would have been available for mass transportation or other high priority programs.

The 1973 SIP revision contained a schedule calling for imposition of the tolls by January 1977. However, after approval of the SIP revision, necessary preliminary steps for the implementation of Strategy B-7 were not taken by the State. Consequently, the EPA Region II Administrator issued an Administrative Order in 1975 to require implementation of this strategy. Later, federal court orders also were obtained by environmental groups to require implementation of the strategy. In *Friends of the Earth III* (*Friends of the Earth* v. *Carey*, 552 F.2d 25 (1977)), the U.S. Court of Appeals for the Second Circuit held, on January 18, 1977, that requiring the State and City of New York to implement the State's own SIP was constitutional. Subsequently, the U.S. District Court, on February 18, 1977, ordered the State and city to comply with a schedule requiring the imposition of bridge tolls by August 1978.

In August 1977, the 1970 Clean Air Act was amended. The 1977 Amendments to the Clean Air Act include a new section 110(c)(5)(A) which provides that any measure in a SIP which requires a toll or other charge for the use of a bridge located entirely within one city must, upon application by the Governor, be eliminated from the plan by the Administrator of EPA. Section 110(c)(5) provides that this application must include a certification by the Governor that he will revise the SIP by August 7, 1978 to include comprehensive measures to establish, expand or improve public transportation measures, and to implement transportation control measures necessary to attain and maintain national ambient air quality standards.

Under provisions of this section, on October 19, 1977 the Governor of New York applied to the Administrator of EPA to eliminate the requirement for bridge tolls on all East and Harlem River bridges. On December 5, 1977, by notice in the FEDERAL REGISTER (42 FR 61453), the bridge toll requirement was removed from the SIP. Subsequently, the EPA Administrator, in a June 20, 1978 letter to the Governor, provided guidance as to the elements that a SIP revision should contain to meet the requirements of Section 110(c)(5)(B).

On July 26, 1978, the State held a public hearing on the SIP revision required by Section 110(c)(5)(B). This revision could not fully address the Administrator's June 20 guidance because the guidance was received by the State after the revision had been printed. The revision consisted of a document entitled, "New York State Air Quality Implementation Plan for Mass Transit Improvements in the New York City Metropolitan Area," June 1978. (The contents of this docu-

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ment are summarized in Section C of this notice.) The Governor submitted this document to the Administrator in a letter dated August 6, 1978.

B. Requirements of Section 110(c)(5)(B)

Section 110(c)(5)(B) of the Clean Air Act requires that the SIP be revised to include comprehensive measures to establish, expand or improve public transportation to meet basic transportation needs. This necessitates that these needs be identified in the SIP and that an evaluation be made as to what extent existing and planned measures satisfy basic transportation needs. The assessment of basic transportation needs must also account for the impact of any decreased reliance on the provate automobile that might be necessary to provide for the attainment and maintenance of air quality standards.

Section 110(c)(5)(B) also requires that, for the purpose of implementing public transportation measures as would be necessary to meet basic transportation needs, the revised SIP must include requirements to use Federal grants and State or local funds in a manner consistent with the terms of their legislation. This requires the identification of the funding needs of the comprehensive measures to achieve basic transportation needs and any shortfall in presently available funds.

Another requirement of Section 110(c)(5)(B) is that the comprehensive measures provide for emission reductions equivalent to the reductions which were expected to be achieved through the eliminated tolls. This means that the revised SIP should contain a determination of the expected emission reductions and a demonstration that they will be obtained from the comprehensive measures. The final major requirement is that the comprehensive measures include transportation controls necessary to attain and maintain the national ambient air quality standards.

C. Contents of Proposed Revision Submitted by the State

The plan submitted by the Governor on August 6, 1978 consisted of an introduction, programs related to the public transit fare, transportation system management improvements, transit financing and calculation of emission reductions. These programs are generally described below.

Introduction.—The proposed plan revision submitted by the State to replace Strategy B-7, "Imposition of Tolls on All East River Bridges and Harlem River Bridges," is based on three objectives for the public transit system:

1. Retain the current ridership level;
2. Maintain the physical integrity and reliability of the system; and
3. Achieve improvements in service and attractiveness of the existing system and thereby achieve some increase in ridership.

The proposed SIP revision places emphasis on rail service improvements, with express bus service expansion held as a back-up strategy. Express bus service is considered as an interim approach for areas of high auto use and poor rail service and where rail service improvements are not possible in the near future.

Public Transit Fare.—The proposed SIP revision reiterates the announced intention of the Governor of New York State and Mayor of New York City to maintain current transit fares through 1981. The revision further states that, over the long term, a reasonable goal is to maintain transit fares at a level such that diversion from transit to auto travel because of fare changes will not take place. If, in the future, fare increases or service cutbacks occur that result in a significant number of people shifting from transit to auto use, then the SIP will be revised to add other strategies to offset the impact on air quality of this shift.

Transportation System Management and Improvement Elements.—In addition to stabilizing fare levels, the plan's objectives, contingent on several conditions, are to:

1. Provide more transit service on existing subway and suburban rail routes where appropriate to reduce overcrowding, and provide more frequent service, particulary during off-peak periods.
2. Accelerate the level of transit rehabilitation to retain the physical integrity and operational safety of the existing system and improve environmental factors of the system consistent with modern standards of noise, temperature levels, and physical appearance.

To meet these objectives, the revision commits to improve the subway system, commuter rail system, collection-distribution system, express bus service and work hour scheduling (staggered work hours).

Transit Financing.—The plan revision describes the public transit financing program for the region. It states that the policy of the State and City of New York is to provide adequate levels of public financing to the region's public transit system. The proposal presents current operational assistance levels and concludes that it is important for the federal government to approve an increase in the level of operating assistance.

The revision also summarized the components of the sources and uses of current and future annual capital programs. It concludes that the magnitude of the rehabilitation needs, particularly of the City subway system, necessitate increased funding levels beyond those currently received for the transit system to continue to serve its vital functions.

Emission Reductions from the SIP Revision.—The revision contains calculations of expected hydrocarbon reductions resulting from those changes in vehicle-miles-travelled (VMT) occurring from implementation of the substitute strategies. Calculations included in the 1973 plan revision and updated in a State report were identified as indicating that tolls on East and Harlem River Bridges would lower VMT in New York City by about one percent. Since the current average weekday City VMT is 36,000,000, bridge tolls were estimated by the State as being capable of lowering VMT by 360,000.

The plan references an evaluation performed by the Tri-State Regional Planning Commission of the impact of various public transit strategies, including some of those contained in the proposed SIP revision. Rail and express bus service improvements coupled with the establishment or expansion of park and ride lots were analyzed by Tri-State. Based on this analysis, the State estimated that the proposed SIP revision will produce in the region a diversion from auto use to transit sufficient to cause a reduction in VMT equal to that described above for the toll strategy.

D. EPA Review of Proposed Revision

EPA has found the plan revision to be deficient in several respects and, consequently, inadequate to satisfy statutory requirements of Section 110(c)(5)(B). Therefore, EPA is proposing disapproval. This proposed action is being taken for the following reasons:

1. The proposed revision contains no certification that a full examination of basic transportation needs was completed or indicatin of the extent to which the public transit improvements identified in the plan meet these needs. General objectives of the public transit system were identified in the proposed revision but they were, in most cases, qualitative in nature.
2. The proposed revision presents a package of measures which are intended to improve the public transit system. However, the extent to which these measures result in the transportation system meeting basic transportation needs could not be determined from the information contained in the plan.
3. A schedule containing increments of progress in sufficient detail to monitor implementation of the identified measures was not provided.

4. Similarly, a schedule was not provided to monitor implementation progress of the measures which will achieve emissions reductions equivalent to those expected from the eliminated bridge tolls.
5. A program for evaluating, adopting and implementing alternative transportation measures for attainment and maintenance of air quality standards was not included in the plan.
6. The proposed revision did not review and allocate all revenue sources to determine which funds could be applied for public transit or transportation control purposes.
7. In order to determine what funding is necessary for the comprehensive measures, the proposed revision should have contained a long-range projection of operating expenses for the Metropolitan Transportation Authority. This was not provided.

E. Improvements to the Proposed Revision

At the July 26, 1978 public hearing on the proposed SIP revision, the Hearing Officer announced that the public comment period was extended until August 23, 1978. This was done because public notification for the hearing was inadequate as a result of delays in publishing the notice of the hearing in the newspaper. In the Governor's August 6, 1978 letter, it was suggested that a further submission, based on a review of public comments received subsequent to the submittal date, might be made to modify the proposed SIP submission. This was elaborated upon in a December 1, 1978 letter from the Commissioner of the New York State Department of Transportation (NYSDOT), where it is indicated that the State would prepare a supplemental submission to address any public comments which were not covered in the August 6, 1978 submittal. In addition, the Commissioner informed EPA that the hearing record had been extended to October because of the problems with the hearing notice and the subsequent strike of New York City newspapers.

In addition to the changes that were expected to be made to the submittal as a result of public comments, frequent meetings among representatives of EPA, the Governor's Office, NYSDEC and NYSDOT have resulted in a commitment by the State to improve its plan to enable EPA to review it against the provisions of Section 110(c)(5)(B). The nature of the improvements to be made were documented in December 19, and December 20, 1978 letters between Regional Administrator Beck and the Director of State Operations, Thomas Frey. A schedule for this work was developed jointly by EPA and the State which calls for a public hearing in March and submittal of an improved plan by April 1, 1979. EPA expects that if the improvements conform to the agreement reached, the submittal will be approvable and EPA will be able to expedit its review to ensure a decision by June 30, 1979.

F. Purpose of This Notice

EPA has the responsibility under Section 110(a)(2) to take formal approval or disapproval action for any SIP revision proposed by a State. The disapproval action proposed in this notice is taken to meet this obligation. The public is advised that comments may be submitted as to whether the proposed revision to the New York State Implementation Plan should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed plan revision will be based on whether it meets the requirements of Section 110(c)(5)(B) of the Clean Air Act and EPA regulations in 40 CFR Part 51.

(Sections 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7601))

Dated: January 12, 1979.

ECKARDT C. BECK,
Regional Administrator.

[FR Doc. 79-2978 Filed 1-26-79; 8:45 am]

[6560-01-M]

[40 CFR Part 180]

[FRL 1047-1; PP 8E2084/P101]

PESTICIDE PROGRAMS

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerance for the Pesticide Chemical Terbacil

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the herbicide terbacil on caneberries. The proposal was submitted by the Interregional Research Project No. 4. This regulation would establish a maximum permissible level for residues of terbacil on caneberries.

DATE: Comments must be received on or before February 28, 1979.

ADDRESS COMMENTS TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M Street, SW, Washington DC 20460.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA (202/755-4851).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Arkansas, California, Florida, Michigan, New Jersey, Oregon, and Washington, has submitted a pesticide petition (PP 8E2084) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.209 be amended by the establishment of a tolerance for combined residues of the herbicide terbacil (3-*tert*-butyl-5-chloro-6-methyluracil) and its hydroxylated metabolites (calculated as terbacil) in or on the raw agricultural commodity caneberries (blackberries, raspberries, boysenberries, dewberries, loganberries, and youngberries) at 0.1 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The Toxicological data considered in support of the proposed tolerance included a two-year rat feeding study with a no-observable-effect level (NOEL) of 250 ppm, a two-year dog feeding study with an NOEL of 250 ppm (the highest level fed). Based on the two-year dog feeding study NOEL and using a 100-fold safety factor, the acceptable daily intake (ADI) is 0.0125 milligram (mg)/kilogram (kg) of body weight (bw)/day.

Studies currently lacking include an oncogenicity study in a second mammalian species and a teratology study. Additional mutagenicity testing will be required when EPA guidelines are finalized.

Tolerances have previously been established for residues of terbacil on a variety of raw agricultural commodities at levels ranging from 5 ppm to 0.1 ppm. The metabolism of terbacil is adequately understood, and an adequate analytical method (microcoulometric gas chromatography) is available for enforcement purposes. Although the above toxicology studies are lacking, based on the available information and the insignificance of caneberries in the diet, it is concluded that the tolerance of 0.1 ppm on caneberries should be established.

The pesticide is considered useful for the purpose for which a tolerance is being sought, and it is concluded that the tolerance of 0.1 ppm on caneberries established by amending 40 CFR 180.209 will protect the public health. It is proposed, therefore, that

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the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request within 30 days after publication of this proposal in the FEDERAL REGISTER that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 8E2084/P101". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: January 23, 1979.

HERBERT S. HARRISON,
Acting Director,
Registration Division.

AUTHORITY: Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).

It is proposed that Part 180, Subpart C, § 180.209 be amended by alphabetically inserting caneberries at 0.1 ppm in the table to read as follows:

§ 180.209 Terbacil; tolerances for residues.

• • • • •

Commodity:	*Parts per million*
• • • • •	
Caneberries (blackberries, boysenberries, dewberries, loganberries, raspberries, and youngberries)	0.1
• • • • •	

[FR Doc. 79-2979 Filed 1-26-79; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 661]

COMMERCIAL AND RECREATIONAL SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Extension of Public Comment Period

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Extension of Public Comment Period.

SUMMARY: So that new information on the status of the salmon runs for 1979 may be reviewed and commented on, the Pacific Fishery Management Council has decided: (a) to make the new information available at its meeting during February 7–8, 1979; (b) to extend the public comment period until February 28, 1979; and (c) to postpone making its final decision on management measures for the salmon fisheries until its meeting during March 7–8, 1979.

DATES: Submit written comments to either of the contact persons listed below on or before February 28, 1979.

FOR FURTHER INFORMATION:

Mr. Lorry Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR 97201, (503) 221-6352.

Mr. Donald R. Johnson, Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, WA 98109, (206) 442-7575.

SUPPLEMENTARY INFORMATION: On December 11, 1978, a notice was published in the FEDERAL REGISTER (43 FR 57931) that public hearings on the Draft Supplemental Environmental Impact Statement/Fishery Management Plan (FMP) for these salmon fisheries would be held during January 2–6, 1979, and that written comments would be accepted until January 22, 1979.

The Pacific Fishery Management Council originally intended to make its final decision and recommendations on the salmon fishery management plan for 1979, at its February meeting, because an extension of the 1978 plan with very little change was proposed. However, the Council has since become aware of the possibility that the 1979 chinook and coho salmon runs are anticipated to be considerably lower than normal, and further restriction in the sport and commercial harvest of salmon may be required. Additional data will be available at the Council's February meeting. To give the public adequate time to comment fully on this new data, the Council extended the closure of the public comment period from January 22, to February 28, 1979. The Council will also decide at its February meeting whether additional public hearings are warranted. The final decision on recommendations for amendments to the salmon FMP for 1979 will be made by the Council at its March 8–9 meeting in Eureka, California.

Copies of the draft supplement to the Environmental Impact Statement/Fishery Management Plan for the Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California, commencing in 1978, are available from either of the contact persons listed above.

Dated: January 23, 1979.

WINFRED R. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

[FR Doc. 79-2954 Filed 1-26-79; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

NATIONAL FOREST SYSTEM ADVISORY COMMITTEE

Meeting

The National Forest System Advisory Committee will meet at 9:00 a.m. on February 20 and 21 in Room 3840-46, South Agriculture Building, U.S. Department of Agriculture, Washington, D.C.

This Committee, comprised of 12 members from a broad spectrum of geographic and interest areas, advises the Secretary of Agriculture and the Forest Service on the planning and management of the National Forests. Current management issues that will be discussed include RARE II, the Resources Planning Act, reforestation, National Grasslands management, and land management planning. Dr. M. Rupert Cutler, Assistant Secretary for Conservation, Research and Education, will chair the meeting.

The meeting will be open to the public. Persons who wish to attend should notify the Committee's Executive Secretary, James C. Overbay, USDA-Forest Service, P.O. Box 2417, Washington, D.C. 20013, telephone (202) 447-6341. Written statements may be filed with the Committee before or after the meeting.

JEROME A. MILES,
Deputy Chief.

JANUARY 24, 1979.

[FR Doc. 79-2994 Filed 1-26-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket No. 34226]

APPLICATION OF EASTERN AIR LINES, INC. FOR APPROVAL OF ACQUISITION OF CONTROL OF NATIONAL AIRLINES, INC.

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on February 13, 1979, at 9:30 a.m. (local time) in Room 1003, Hearing Room D, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served on January 23, 1979, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., January 23, 1979.

RICHARD J. MURPHY,
Administrative Law Judge.

[FR Doc. 79-2993 Filed 1-26-79; 8:45 am]

[6335-01-M]

CIVIL RIGHTS COMMISSION

OHIO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Ohio Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 3 p.m. on February 24, 1979, in the Netherland Hilton, 5th and Race Streets, Cincinnati, Ohio 45201.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss report on Administration of Justice/Police Project interviews, and discussion of project proposal. Report of potential SAC member recruitment.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 24, 1979.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc. 79-2909 Filed 1-26-79; 8:45 am]

[6335-01-M]

TENNESSEE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Tennessee Advisory Committee (SAC) of the Commission will convene at 7 a.m. and will end at 11 p.m. on February 16, 1979, in the Chattanooga Hilton Hotel, Director's Room, 1400 Market Street, Chattanooga, Tennessee 37402.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Building, 75 Piedmont Avenue, N.E. Atlanta, Georgia 30303.

The purpose of this meeting report on the SAC Chairpersons' conference; progress report on Police/Community relations seminars in Tennessee; Status report on Police/Community Relations in Memphis and strategy formulation to deal with the continual shooting of unarmed suspected (youthful) felons by the Memphis Police.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 24, 1979.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc. 79-2910 Filed 1-26-79; 8:45 am]

[3510-17-M]

DEPARTMENT OF COMMERCE

Office of the Secretary

COMMERCE TECHNICAL ADVISORY BOARD

Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and the Office of Management and Budget Circular A-63 of March 1974, the Secretary of Commerce has determined that the renewal of the Commerce Technical Advisory Board (CTAB) is in the public interest in connection with the per-

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formance of duties by the Department.

The Committee was established by the Secretary of Commerce on January 30, 1963, and chartered in January 1973 pursuant to Executive Order 11007. The charter was renewed on January 10, 1975 and again on January 10, 1977. The purpose of the Committee is to advise the Secretary of Commerce on the technical activities of the Department of Commerce and recommend measures to increase their value to the business community. The Committee's advice is transmitted to the Secretary by the Assistant Secretary for Science and Technology, who also serves as chairman of the Committee.

The advice of the Committee has been very useful for the Department in scientific policy formulation and program planning by assessing the future and continuing role of the Department's scientific and technical agencies in terms of the changing requirements of industry and commerce. The Committee has been used continuously as a sounding board in scientific policy decisions. To the end that economic growth may be promoted, the Committee suggests ways of stimulating research and development by private industry for private industry, and in helping industry get the maximum benefit from Federally-sponsored research and development. The Committee also advises on all matters of Federal science and technology policies directly related to productivity, inflation, employment, and the U.S. balance of trade position.

The Committee will continue with a representation of approximately 20 members and will operate in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised Charter will be filed with appropriate members of Congress and with the Library of Congress.

Inquiries for the Committee may be addressed to the Director, Commerce Technical Advisory Board, Office of the Assistant Secretary for Science and Technology, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: January 19, 1979.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 79-2861 Filed 1-26-79; 8:45 am]

[3510-17-M]

MARINE FISHERIES ADVISORY COMMITTEE

Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and the Office of Management and Budget Circular A-63 of March 1974, the Secretary of Commerce has determined that the renewal of the Marine Fisheries Advisory Committee (MAFAC) is in the public interest in connection with the performance of duties by the Department.

The Committee was established by the Secretary of Commerce on February 17, 1971, pursuant to Executive Order 11007. The Committee charter was renewed on January 3, 1973, and amended on June 14, 1974, to include a provision to establish subgroups of its own members as necessary. The charter was again renewed on December 20, 1974, and January 10, 1977. The purpose of the Committee is to advise the Secretary of Commerce on matters pertinent to the Department's responsibilities for fisheries resources and on means to facilitate cooperation between public and private interests in these matters. Committee advice is transmitted to the Secretary through the Administrator, NOAA, who also serves as Chairman of the Committee. Actions concerned with these recommendations are generally implemented through the Assistant Administrator for Fisheries, NOAA, and the National Marine Fisheries Service (NMFS).

The advice of the Committee has been very useful to the Department and NOAA/NMFS in fishery policy formulation and program planning, particularly since NMFS is a constituency-oriented agency and the Committee represents a collective voice for the many and diverse interests concerned with marine fishery resources. The Committee has been used continually as a sounding board in policy decisions, many times changing the course of such policy.

The Committee will continue with a balanced representation of 27 members and will operate in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised Charter will be filed with appropriate committees of the Congress, and with the Library of Congress.

Inquiries or comments may be addressed to the Executive Secretary, Marine Fisheries Advisory Committee, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

Dated: January 19, 1979.

ELSA A. PORTER,
Assistant Secretary for Administration, DOC.

[FR Doc. 79-2862 Filed 1-26-79; 8:45 am]

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

FOREIGN AVAILABILITY SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, February 13, 1979, at 1:30 p.m. in Room 3817, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975. On October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

The Subcommittee meeting agenda has four parts:

(1) Opening remarks by the Subcommittee Chairman.
(2) Presentation of papers or comments by the public.
(3) Review of East European and U.S.S.R. computer processing data rates.
(4) Review of work program for 1979.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available by calling Mrs. Margaret Cornejo, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C., telephone: A/C 202-377-2583.

For further information, contact Mr. Richard J. Isadore, Acting Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4738.

Dated: January 25, 1979.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-3162 Filed 1-26-79; 9:30 am]

[3510-25-M]

LICENSING PROCEDURES SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, February 13, 1979, at 9:00 a.m. in Room 3817, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was initially established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommended areas where improvements can be made.

The Subcommittee meeting agenda has six parts:

1. Opening remarks by the Subcommittee Chairman.
2. Presentation of papers or comments by the public.
3. Review status of pending Subcommittee recommendations to the Department of Commerce.
4. Review and discussion of the Government accounting Office report, October 31, 1978, on "Administration of U.S. Export Licensing Should Be Consolidated To Be More Responsive To Industry."
5. Discussion and clarification of "Qualified Product/General Distribution License."
6. Review of licensing procedures applying to repair parts and supplies, including recent revisions of GLR and Service Supply License.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

For further information, contact Mr. Richard J. Isadore, Acting Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4733.

Copies of the minutes of the meeting can be obtained by calling Mrs. Margaret Cornejo, Operations Division, Office of Export Administration (202) 377-2538.

Dated: January 25, 1979.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-3163 Filed 1-26-79; 9:30 am]

[3710-08-M]

DEPARTMENT OF DEFENSE

Department of the Army

ARMED FORCES EPIDEMIOLOGICAL BOARD

Partially Closed Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 920463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board.

Date of Meeting: 15-16 February 1979.

Time: 0900-1700 15 February, 0830-1400 16 February.

Place: Conference Room 3092, Walter Reed Army Institute of Research, Walter Reed Army Medical Center, Washington, DC.

Proposed Agenda: The proposed agenda will include briefings on National Security Planning, AFEB subcommittee progress reports, a report on the November 1978 USAMRIID meeting and the Armed Forces Preventive Medicine Officers will discuss their current activities. The meeting will conclude with a Board executive session.

2. The meeting will be partially closed to the public because there will be classified briefings and classified discussions concerning National Security. The portion of the meting that will be closed is between 0900-1030 hours, 15 February 1979. This portion will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof.

3. All other portions of the meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should contact the Executive Secretary, DASG-AFEB, Room 1B472 Pentagon, Washington, D.C. 20310 (Telephone 695-9115).

Dated: January 17, 1979.

CHARLES W. HALVERSON,
CDR, MSC, USN, Executive Secretary.

[FR Doc. 79-2870 Filed 1-26-79; 8:45 am]

[3710-08-M]

ARMY SCIENCE BOARD

Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

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NAME OF COMMITTEE: Army Science Board.

DATES OF MEETING: 20-21 February 1979.

PLACE: Headquarters, 7th Infantry Division and Fort Ord, California.

TIME: 0800-1800 hours, 20 February 1979—Partially Closed. 0800-1700 hours, 21 February 1979—Open.

PROPOSED AGENDA: The meeting is partially closed because the members will receive classified briefings and classified discussions on studies done by certain ASB Members which relate to the offensive and defensive postures of the U.S. and other nations. The portion of the meeting that will be closed is between 0800-1200 hours, 20 February 1979. This portion will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof.

ROBERT F. SWEENEY,
Lieutenant Colonel, GS, Executive Secretary, Army Science Board.

[FR Doc. 79-2871 Filed 1-26-79; 8:45 am]

[3620-01-M]

DEPARTMENT OF DEFENSE

Defense Logistics Agency

PRIVACY ACT OF 1974

Amendment to System of Record

AGENCY: Defense Logistics Agency (DLA).

ACTION: Notice of amendment to system of records.

SUMMARY: The Defense Logistics Agency proposes to amend a system of records subject to the Privacy Act of 1974. Specific change to the system being amended is set forth below followed by the system published in its entirety as amended.

DATES: This system shall be amended as proposed without further notice on February 28, 1979 unless comments are received on or before February 28, 1979, which would result in a contrary determination and require republication for further comments.

ADDRESS: Any comments, including written data, views or arguments concerning the amendment should be addressed to the System Manager identified in the record system.

FOR FURTHER INFORMATION CONTACT:

Mr. Anthony W. Hudson, Staff Director, Civilian Personnel, HQ DLA, Cameron Station, Alexandria, VA. 22314, telephone 202-274-6025.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency (DLA) systems of records notices as prescribed by the Privacy Act have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 51388) September 28, 1977.
FR Doc. 78-25678 (43 FR 40904) September 13, 1978.
FR Doc. 78-25919 (43 FR 42379) September 20, 1978.

The proposed amendment is within the purview of the provisions of 5 U.S.C. 552a(o) of the Privacy Act which requires submission of an altered system report.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 23, 1979.

AMENDMENT

S434.15 DLA-KP

System name:

S434.15 Automated Payroll, Cost and Personnel System (APCAPS) Personnel Subsystem (42 FR 51420) September 28, 1977.

Change:

Categories of records in the system:

In the last sentence of the first paragraph after the word sex, add: "minority Group designator".

S434.15 DLA-KP

System name:

434.15 Automated Payroll, Cost and Personnel System (APCAPS) Personnel Subsystem

System location:

Offices of Civilian Personnel at:
Defense Construction Supply Center (DCSC)
Defense Electronics Supply Center (DESC)
Defense General Supply Center (DGSC)
Defense Personnel Support Center (DPSC)
Defense Property Disposal Service (DPDS)
Defense Depot Memphis (DDMT)
Defense Depot Ogden (DDOU)
Defense Depot Tracy (DDTC)
Defense Depot Mechanicsburg (DDMP)
Defense Logistics Agency Administrative Support Center (DASC)

Categories of individuals covered by the system:

Defense Logistics Agency (DLA) civilian employees serviced by Offices of Civilian Personnel at the activities listed under LOCATION and other Department of Defense civilian employees who are both serviced by the Offices of Civilian Personnel and paid by the activities listed under LOCATION.

Categories of records in the system:

Employee data segment of APCAPS data bank, including data being manually collected prior to implementation of the automated record system. For the civilian personnel segment of APCAPS, the employee data segment of the APCAPS data bank contains, for civilian employees, current personnel data on employment status and selected personal data, such as Social Security Number (SSN), name, sex, minority group designator, date of birth, age, physical handicap, Government insurance, military reserve status, retired military status, education, whether individual passed the Federal Service Entrance Examination or the Professional and Administrative Career Examination, status preceding employment with DLA, U.S. citizenship, and veterans preference.

Position data segment of APCAPS data bank. For the civilian personnel segment of APCAPS, the position data segment of the APCAPS data bank contains position data pertinent to established positions, both those positions occupied by a civilian employee as well as those not so occupied.

Personnel history file. The personnel history file contains a profile of selected civilian employee personnel data as of the most recent transaction processed against it, as well as a chronological extract of all prior transactions processed on the employee.

Authority for maintenance of the system:

5 U.S.C., Sec. 301, 302; EO 10561; Federal Personnel Manual, Chapter 293.

Routine uses of records maintained in the system, including catagories of users and the purposes of such uses:

Purposes of the system are to effect Federal personnel actions, maintain the Federal personnel service control system, fulfill Federal personnel reporting requirements, and provide information to officials of DLA for effective personnel management and personnel administration.

Prospective employees. For employment determination purposes.

Credit firms. For verification of data for credit determination purposes.

Taxing authorities. For tax administration purposes.

Officials of the Executive Branch. For performance of official duties.

Officials of the Legislative Branch. For performance of official duties.

Officials of the Judicial Branch. For performance of official duties.

Hospitals, medical offices and institutions. For medical/hospital administration purposes.

Executor or administrator of the estate of a deceased employee, former employee, or annuitant, or next-of-kin. For estate settlement purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer magnetic tapes or discs. Computer paper printouts. Paper records in file folders.

Retrievability:

Information identified to a specific civilian employee is accessed and retrieved by Social Security Number.

Safeguards:

Records are either secured in locked storage and/or file cabinets or under the constant observation of personnel office officials during duty hours. During non-duty hours, records are either secured in locked storage and/or file cabinets; the records file area is locked, and/or the building in which the records are stored is protected by building security guard. If the records area is not protected by security guard, all records must be locked. Individually identifiable personnel documents will either be handcarried or will be transmitted in envelopes addressed to a specific office or individual and marked to be opened by addressee only. Magnetic tapes and disc are kept in the computer room which is itself a security container with locked door and access limited to persons appropriately cleared and identified. Tapes and disc packs are stored in a tape library when not used in processing, and are logged in and out only to cleared personnel with an official need. Reports with individual data are closely controlled. Computer personnel who process these reports are appropriately cleared and maintain continuous observation of reports during all processing phases. Individual requesting information must identify himself/herself and his/her relationship to the individual upon whom the record information is being requested. Individual other than the individual of record must specify what information is requested and the purpose for which it would be used if disclosed. Personnel office official determines if request is reasonable and consistent with provisions of the Freedom of Information Act and the Privacy Act of 1974. In order to prevent unauthorized modification of records contents, original records documents may only be reviewed in the presence of a witness designated by the Personnel Office.

Physical access, that is the ability to obtain the record, is limited to:
Personnel office officials
Civil Service Commission officials
Data processing officials
Supervisors for those records for which they are authorized to maintain.

Responsible officials are granted temporary custody of an original record in order to monitor the review of the record by the individual to whom it pertains, when the individual is geographically remote from the personnel office.

Retention and disposal:

Records which are filed in the Official Personnel folder (OPF) are retained in the personnel office until the employee leaves the agency. At that time the permanent portion of the OPF is transferred to the gaining Federal agency and temporary OPF records are destroyed by shredding or burning. Copies of records which are furnished to the employee concerned, may be retained at his or her discretion. Copies of records authorized to be maintained by supervisors or other operating offices are destroyed by shredding or burning when the employee leaves the agency. Operating records maintained within the Civilian Personnel Office may be retained up to three years, as needed. At that time, or sooner, they may be destroyed by burning or shredding.

System manager(s) and address:

Staff Director, Civilian Personnel, HQ DLA and Directors of Civilian Personnel at DCSC DPDS, DESC, DGSC, DPSC, DDMT, DDOU, DDTC DDMP, OR DASC.

Notification procedure:

Written or personal requests may be directed to the SYSMANAGER at the activity where the record is maintained. Individual must provide name (last, first, middle intitial) and SSN in order to determine whether or not the system contains a record about him/her. If a written request, individual must provide a return address.

For personal visits, the individual should be able to provide some acceptable identification, such as employing office identification card.

Record access procedures:

Written requests are required. The request is to contain the name of the individual (last, first, middle initial), SSN, return mailing address, telephone number where individual can be reached during the day, and a signed statement certifying that the individual understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to 5,000 dollars. Complete records are maintained only on magnetic tapes or discs and are not available for access by personal visits.

Contesting record procedures:

The agency's rules for contesting contents and appealing initial determination by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Agency supervisors and administrative personnel, medical officials, previous Federal employers, U.S. Civil Service Commission, applications and forms completed by individual.

Systems exempted from certain provisions of the act:

None

[FR Doc. 79-2916 Filed 1-26-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CS75-348, *et al.*]

BOW VALLEY PETROLEUM INC. & BOW VALLEY COAL RESOURCES, INC.

Applications for "Small Producer" Certificates [1]

JANUARY 18, 1979.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 14, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and sub-

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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ject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the Public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date Filed	Applicant
CS75-348 [1]	Jan. 2, 1979	Bow Valley Petroleum Inc. & Bow Valley Coal Resources, Inc., 1700 Broadway, Suite 900, Denver, Colorado 80290
CS79-149	Dec. 18, 1978	Owl Petroleum Company, 1770 St. James Place, Suite 604, Houston, Texas 77056
CS79-150	Dec. 15, 1978	Robert A. Bobinson, 9999 Richmond Ave., Suite 151, Houston, Texas 77042
CS79-151	Dec. 18, 1978	E. G. Bilderback, Jr., 9999 Richmond Ave., Suite 151, Houston, Texas 77042
CS79-152	Dec. 18, 1978	Pauline P. Thagard, 9999 Richmond Ave., Suite 151, Houston, Texas 77042
CS79-153	Dec. 15, 1978	Joseph P. Driscoll, Suite 1100-8333 Douglas, Dallas, Texas 75225
CS79-154	Dec. 15, 1978	Santa Fe Minerals, Inc. (a wholly-owned subsidiary of Santa Fe Int'l Corp.), 3131 Turtle Creek Blvd.—Suite 700, Dallas, Texas 75219
CS79-155	Dec. 18, 1978	Warren Drilling Co., Inc., P.O. Box 1218, Owensboro, Kentucky 42301
CS79-156	Dec. 18, 1978	Macquest Petroleum, Inc., 302-1300-8th Street S.W., Calgary, Alberta, Canada T2R 1B2
CS79-157	Dec. 19, 1978	Lela Gae Jacoby, 970 Fourth Financial Center, Wichita, Kansas 67202
CS79-158	Dec. 19, 1978	Gene McGill, P.O. Drawer H, Alva, Oklahoma 73717
CS79-159	Dec. 18, 1978	French & Walker, Inc., 3232 Liberty Tower, Oklahoma City, Okla. 73102
CS79-160	Dec. 18, 1978	Robert M. Gilbert and Frances Gilbert, 1318 47th Avenue, Greeley, Colorado 80631
CS79-161	Dec. 18, 1978	E. Max Gilpin, P.O. Box 1341, Shreveport, Louisiana 71162
CS79-162	Dec. 20, 1978	Barbara P. Janney, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-163	Dec. 20, 1978	Beatrice H. Guthrie, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-164	Dec. 20, 1978	Michael Hale Holden, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-165	Dec. 20, 1978	Audrey H. Charlson, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-166	Dec. 20, 1978	Sonia Holden Evers, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-167	Dec. 20, 1978	Sonia P. Scherr-Thoss, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-168	Dec. 20, 1978	Howard Phipps, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-169	Dec. 20, 1978	Anne P. Sidamon-Eristoff, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-170	Dec. 20, 1978	Howard Phipps, Jr., *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-171	Dec. 20, 1978	Diana de la Valdene, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-172	Dec. 20, 1978	Raymond R. Guest, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-173	Dec. 20, 1978	Townsend B. Martin, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-174	Dec. 20, 1978	John Eugene Phipps, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-175	Dec. 20, 1978	Colin S. Phipps, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-176	Dec. 20, 1978	Ogden Phipps, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-177	Dec. 20, 1978	Audrey P. Holden, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-178	Dec. 20, 1978	Sarah Janney, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-179	Dec. 20, 1978	Stuart S. Janney III, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-180	Dec. 20, 1978	J. Gordon Douglas III, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-181	Dec. 20, 1978	Bruce C. Farrell, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-182	Dec. 20, 1978	Wendy Farrell Waldorf, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-183	Dec. 20, 1978	Ogden Mills Phipps, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056

Docket No.	Date Filed	Applicant
CS79-184	Dec. 20, 1978	Cynthia Phipps, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-185	Dec. 20, 1978	John M. Kingsley, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-186	Dec. 20, 1978	Albert C. Bostwick, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-187	Dec. 20, 1978	Constantine Sidamon-Eristoff, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-188	Dec. 20, 1978	John H. Phipps, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-189	Dec. 20, 1978	Alastair B. Martin, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-190	Dec. 20, 1978	Elizabeth Kingsley, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-191	Dec. 20, 1978	Dorothy B. Moore, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-192	Dec. 20, 1978	Harriet Phipps, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-193	Dec. 22, 1978	Houston Corporation, Trustee, *et al.*, 1100 Esperson Building, Houston, Texas 77002
CS79-194	Dec. 20, 1978	Margaret Boegner, *et al.*, 2200 South Post Oak Rd.—Suite 700, Houston, Texas 77056
CS79-195	Dec. 22, 1978	Joe F. Abendroth, 1500 Beck Building, Shreveport, Louisiana 71101
CS79-196	Dec. 22, 1978	Robert F. Tarpy, 1500 Beck Building, Shreveport, Louisiana 71101
CS79-197	Dec. 26, 1978	Aztec Minerals, Inc., P.O. Box 1365, Parkersburg, W. Va. 26101
CS79-198	Dec. 21, 1978	MacDonald Explorations, Inc., 10th Floor, 640 8th, S.W., Calgary, Alberta, Canada T2P 1G7
CS79-199	Dec. 26, 1978	Matthews-Bunn Operating Company, Inc., Route #1, Box 4, Mansfield, Louisiana 71052
CS79-200	Dec. 26, 1978	Frank Matthews Operating Company, Inc., Route #1, Box 4, Mansfield, Louisiana 71052
CS79-201	Dec. 26, 1978	Ferguson Oil & Gas Company, Inc., 2700 Liberty Tower, Oklahoma City, Okla. 73102
CS79-202	Dec. 26, 1978	Ennex Production Company, Suite 1020; 101 Park Ave. Bldg., Oklahoma City, Okla. 73102
CS79-203	Dec. 26, 1978	BLB Oil & Gas, Inc., Box 758, Stinnett, Texas 79083
CS79-204	Dec. 26, 1978	Cherokee II Drilling Partnership, Ltd., Suite 200, 200 North Harvey, Oklahoma City, Okla. 73102
CS79-205	Dec. 26, 1978	Amarex Drilling Fund, Ltd., Partnership No. A-1, Suite 200, 200 North Harvey, Oklahoma City, Okla. 73102
CS79-206	Dec. 26, 1978	Amarex Drilling Program, Ltd., Partnership No. 73/74-A, Suite 200, 200 North Harvey, Oklahoma City, Okla. 73102
CS79-207	Dec. 26, 1978	Amarex Drilling Program, Ltd., Partnership No. 73/74-B, Suite 200, 200 North Harvey, Oklahoma City, Okla. 73102
CS79-208	Dec. 26, 1978	Amarex Exploratory Programs, Ltd., Partnership No. 1, Suite 200, 200 North Harvey, Oklahoma City, Okla. 73102
CS79-209	Dec. 26, 1978	Ferris Oil and Gas Company, Suite 200, 200 North Harvey, Oklahoma City, Okla. 73102
CS79-210	Dec. 26, 1978	Amarex Year End Private Drilling, Program, Ltd.—1974, Suite 200, 200 North Harvey, Oklahoma City, Okla. 73102
CS79-211	Dec. 26, 1978	Kiowa Company, Suite 200, 200 North Harvey, Oklahoma City, Okla. 73102
CS79-212	Dec. 26, 1978	Amarex Private Drilling Program, Ltd.—1974, Suite 200, 200 North Harvey, Oklahoma City, Okla. 73102
CS79-213	Dec. 26, 1978	Amarex Private Drilling Program, Ltd.—1976, Suite 200, 200 North Harvey, Oklahoma City, Okla. 73102
CS79-214	Dec. 20, 1978	Frank Walters, Pernell, Okla. 73076
CS79-215	Dec. 27, 1978	Connie J. McGill Allen, P.O. Drawer H, Alva, Oklahoma 73717
CS79-216	Dec. 27, 1978	Ivanhoe Petroleum Company, P.O. Box 130, Beaver, Oklahoma 73932
CS79-217	Dec. 28, 1978	Lynal Exploration Company, P.O. Box 52185, Lafayette, Louisiana 70505
CS79-218	Dec. 26, 1978	Herndon Oil and Gas Company, P.O. Box 489, Tulsa, Oklahoma 74101
CS79-219	Dec. 28, 1978	Rebel Oil Company, 2080 Liberty Tower, Oklahoma City, Okla. 73102
CS79-220	Dec. 28, 1978	Lynal, Ltd., P.O. Box 52185, Lafayette, Louisiana 70505
CS79-221	Dec. 29, 1978	Russell P. Freeman d.b.a. Continental Energy, South Star Route, Garden City, Kansas 6846
CS79-222	Jan. 2, 1979	Court Petroleum Corporation, 1240 First National Center, Oklahoma City, Okla. 73102
CS79-223	Jan. 2, 1979	Energy Exploration & Production, Inc., Suite 600, 1012 Baltimore Avenue, Kansas City, Missouri 64105
CS79-224	Jan. 2, 1979	Way Enterprises, Inc., P.O. Box 1756, Midland, Texas 79702
CS79-225	Jan. 2, 1979	David J. Lankford, 600 Johnson Building, Shreveport, Louisiana 71101

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Docket No.	Date Filed	Applicant
CS79-226	Jan. 2, 1979	Jim N. Wedeberg, 800 Johnson Building, Shreveport, Louisiana 71101
CS79-227	Jan. 2, 1979	Dee Jay Oil Company, 800 Johnson Building, Shreveport, Louisiana 71101
CS79-228	Jan. 2, 1979	James C. Brown, P.O. Box 9158, Amarillo, Texas 79105
CS79-229	Jan. 2, 1979	Cecil L. Brown, P.O. Box 9158, Amarillo, Texas 79105
CS79-230	Jan. 2, 1979	Robert S. Brown, P.O. Box 9158, Amarillo, Texas 79105
CS79-231	Jan. 2, 1979	Burdette O. Brown, P.O. Box 9158, Amarillo, Texas 79105
CS79-232	Jan. 2, 1979	Albert L. Brown, P.O. Box 9158, Amarillo, Texas 79105
CS79-233	Jan. 2, 1979	Lillian F. Brown, P.O. Box 9158, Amarillo, Texas 79105
CS79-234	Jan. 2, 1979	Alice E. Brown Jordan, P.O. Box 9158, Amarillo, Texas 79105
CS79-235	Jan. 2, 1979	Alfred W. Brown, P.O. Box 9158, Amarillo, Texas 79105
CS79-236	Jan. 2, 1979	C. Willienell Zimmer Haynes, P.O. Box 9158, Amarillo, Texas 79105
CS79-237	Jan. 2, 1979	John P. Zimmer, P.O. Box 9158, Amarillo, Texas 79105
CS79-238	Jan. 2, 1979	Albert William Zimmer, P.O. Box 9158, Amarillo, Texas 79105
CS79-239	Jan. 2, 1979	Harold W. Ochsner, P.O. Box 9158, Amarillo, Texas 79105
CS79-240	Jan. 3, 1979	Martin Oil Commencing Company, P.O. Box 36078, Denver, Colorado 80236
CS79-241	Jan. 3, 1979	Trigg Drilling Company, Inc., P.O. Box 18605, Oklahoma City, Okla. 73154
CS79-242	Jan. 3, 1979	DeWitt T. Langford, d.b.a. Langford Oil & Gas Company, 1029 Shive Lane, Suite S-3, Bowling Green, Kentucky 42101
CS79-243	Jan. 3, 1979	Justin L. Henderson and P. D. Farr, II d.b.a. P-J Resources, 253 Carr Avenue, Clarksburg, W. Va. 26301
CS79-244	Jan. 8, 1979	E. J. Giering, III, 808 Warren Drive, West Monroe, Louisiana
CS79-245	Jan. 8, 1979	David L. Johnston, 2100 Forsythe Avenue, Monroe, Louisiana 71201
CS79-246	Jan. 2, 1979	George A. Brown, P.O. Box 9158, Amarillo, Texas 79105
CS79-247	Jan. 9, 1979	The Ann Gordon Singer 1978 Trust, Arthur Keith Whitelaw III, Trustee, 1910 Lincoln Center Building, 1660 Lincoln Street, Denver, Colorado 80264
CS79-248	Jan. 9, 1979	Mike Kahn Oil Company, Drawer 831, Seminole, Oklahoma 74868

[1] Being noticed to reflect that the smaller producer certificate held by Flying Diamond Oil Corporation in Docket No. CS75-348, is amended to read Bow Valley Petroleum Inc., and Bow Valley Coal Resources, Inc., who now own all the outstanding stock of Flying Diamond Oil Corporation.

[FR Doc. 79-2743 Filed 1-26-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180257; FRL 1046-2]

OREGON AND WASHINGTON DEPARTMENTS OF AGRICULTURE

Issuance of Specific Exemptions to Use Metribuzin To Control Cheatgrass on Winter Wheat and Barley

The Environmental Protection Agency (EPA) has granted specific exemptions to the Oregon and Washington State Departments of Agriculture (hereafter referred to as "Oregon" and "Washington") to use the herbicide metribuzin in a single post-emergence application for the control of cheatgrass on a maximum of 100,000 acres in Oregon and 280,000 acres in Washington. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the applications on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., S.W., Room E-315, Washington, D.C. 20460.

According to Oregon and Washington, cheatgrass (downy brome) is an annual grass weed found throughout both States; cheatgrass infestation of winter wheat is a problem every year, but the problem is particularly severe this year due to excessive summer moisture that has resulted in favorable conditions for seed germination. Oregon estimated that loss due to competition with cheatgrass might run as much as $5,250,000 if an effective herbicide was not applied; Washington estimated a loss of $12,600,000.

Atrazine is registered for cheatgrass control in Oregon and Washington; however, Atrazine should not be applied post-emergence and the winter wheat and barley are presently emerging.

Therefore, a single post-emergency application of metribuzin (4-Amino-6-(1,1 -dimethylethyl)-3- (methylthio)-1,2,4-triazin-5(4H)-one), distributed under the trade names of Sencor and Lexone, was requested. A maximum of 100,000 acres in the following counties of eastern Oregon may require treatment: Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco. A maximum of 280,000 acres in Washington east of the crest of the Cascade Mountains may require treatment. Application instructions were to be furnished by the Oregon and Washington Departments of Agriculture. Application of metribuzin to winter wheat and barley in these two States is expected to pose minimal hazard to the environment.

After reviewing the applications and other available information, EPA determined that (a) pest outbreaks of cheatgrass on winter wheat and barley have occurred; (b) there is no effective pesticide presently available for use to control cheatgrass in Oregon and Washington; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the cheatgrass is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, Oregon and Washington have been granted specific exemptions to use the pesticide noted above until April 1, 1979, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. A single post-emergence application of Lexone 50WP (EPA Reg. No. 352-375) or Sencor 50WP (EPA Reg. No. 3125-277) may be made at a rate of 0.25 to 0.50 pound active ingredient per acre;

2. Applications will be made with ground or air equipment;

3. Spray mixture volumes of 10-40 gallons per acre will be applied by ground equipment or 5-10 gallons by aircraft;

4. A maximum of 100,000 acres in Oregon in the counties named above and 280,000 acres in Washington counties east of the crest of the Cascade Mountain may be treated;

5. All applications will be made by qualified growers or by State-licensed commercial applicators. Information on rates and timing will be furnished by Oregon State University research specialists and extension agents and Washington State Unversity extension agents;

6. Precautions will be taken to avoid spray drift to non-target areas;

7. Residue levels of metribuzin and its triazinone metabolites are not expected to exceed 0.75 part per million (ppm) in or on wheat grain, 1.0 ppm in or on wheat straw, and 2.0 ppm in or on wheat forage. Wheat grain and straw with residues which are not in excess of these levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. Treated fields may not be grazed for 14 days following application;

9. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

10. Oregon and Washington are responsible for ensuring that all of the provisions of these specific exemptions are met, and must submit reports summarizing the results of these programs by July 15, 1979; and

11. The EPA shall be immediately informed of any adverse effects resulting from the use of metribuzin in connection with these exemptions.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: January 22, 1979.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-2990 Filed 1-26-79; 8:45 am]

[6560-01-M]

[OPP-66049; FRL 1046-4]

PESTICIDE PROGRAMS

Cancellation of Certain Pesticide Products

On February 17, 1976 the Administrator, Environmental Protection Agency (EPA) issued a Decision and Order cancelling certain registered uses of mercury compounds as fungicides and bacteriocides. (This Order was published at 41 FR 16497, April 19, 1976.) Following the issuance of the Order, several parties filed petitions for review pursuant to Section 16(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Several registrants appealed this Order by commencing court action. On August 19, 1976, the Administrator issued a "Settlement and Order" with respect to those registrations. In accordance with the settlement, the effective date of the Order of February 17, 1976 was stayed until August 31, 1978 insofar as it cancelled (a) registrations for mercurial seed treatment pesticide products, and (b) registrations for mercurial fungicide products for use against summer turf diseases.

Pursuant to the Settlement and Order, notice is hereby given that the registrations of the following pesticide products were cancelled effective August 31, 1978. Under the Settlement and Order, products produced before August 31, 1978 will be treated as "existing stocks," the continued sale, distribution and use of which will be permitted.

Reg. No.	Product Name	Registrant
7501-5	Mist-O-Matic Drill Box Treatment	Gustafson, Inc., 6350 LBJ Freeway, Dallas, TX 75240
7501-2	Mist-O-Matic Liquid Seed Disinfectant.	Do.
538-149	Pro Turf Broad Spectrum Fungicide	O. M. Scott & Sons, Co., Maryville, OH 43040
538-148	Pro Turf Fertilizer Plus Fungicide	Do.
538-150	Pro Turf California Fertilizer Plus Fungicide.	Do.
605-37	Gallotox Liquid Seed Disinfectant	Guard Chem. Co., One Ave. L., Newark, NJ 07105

Dated: January 22, 1979.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-2988 Filed 1-26-79; 8:45 am]

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[6560-01-M]

[OPP-30130A; FRL 1046-3]

PESTICIDE PROGRAMS

Approval of Application to Register Pesticide Product Containing New Active Ingredient

On April 29, 1977, notice was given (42 FR 21837) that AgBioChem, Inc., 3 Fleetwood Court, Orinda, CA 94563, had filed an application (EPA File Symbol No. 40230-R) with the Environmental Protection Agency (EPA) to register the pesticide product GALLTROL-A containing 1.7 x 10^{10} colony forming units/plate of the active ingredient agrobacterium radiobacter which was not previously registered at the time of submission. As stated in the April 29, 1977 notice, the pesticide is primarily used for control of crown gall on non-bearing nut and fruit tree transplants. Additionally, pursuant to 40 CFR 162.8(a)(3), the company has requested, and the Agency has granted, waivers of certain toxicity and all environmental chemistry, and environmental safety data.

This application was approved January 5, 1979, and the product has been assigned the EPA Registration No. 40230-1. GALLTROL-A is classified for general use. A copy of the approved label and list of data references used to support registration are available for public inspection in the office of the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Program, Rm. 401, East Tower, 401 M St., SW., Washington, D.C. 20460. The data and other scientific information used to support registration, except for the material specifically protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in accordance with Section 3(c)(2) of FIFRA, within 30 days after the registration date of January 5, 1979. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) identify the product by name and registration number and (2) specify the data or information desired.

Dated: January 22, 1979.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-2989 Filed 1-26-79; 8:45 am]

[6560-01-M]

[FRL 1046-8; PP 6G1708/T182]

METOLACHLOR

Renewal Temporary Tolerances

On February 8, 1978, th Environmental Protection Agency (EPA) announced (43 FR 5564) in response to a pesticide petition (PP 6G1708) submitted by Ciba-Geigy Corp., P.O. Box 1142, Greensboro, N.C. 27409, a renewal of temporary tolerances for combined residues of the herbicide metolachlor (2-chloro-*N*-(2-ethyl-6-methylphenyl *N*-(2-methoxy-1-methylethyl)) acetamide and its metabolites determined as 2-([2-ethyl-6-methylphenyl]amino) propanol and 4-(2-ethl-6-methylphenyl)-2-hydroxy-5-methyl (calculated as the herbicide) in or on the raw agricultural commodities soybean forage and hay at 1.25 parts per million (ppm); soybeans at 0.1 ppm; and meat, milk, poultry, and eggs at 0.02 ppm.

This renewal expired January 6, 1979. (Permanent tolerances are being established for residues of metolachlor and the above metabolites in or on soybeans at 0.1 ppm and eggs, meat, milk, and poultry at 0.02 ppm.)

Ciga-Geigy Corp. requested a one-year renewal of the temporary tolerances on soybean forage and hay at 1.25 ppm both to permit continued testing to obtain additional data and to permit the marketing of the soybean forage and hay when treated in accordance with the provisions of the experimental use permit 100-EUP-43 that was renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that a renewal of the temporary tolerances of 1.25 ppm on soybean forage and hay would protect the public health. Therefore, the temporary tolerances have been renewed on condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Ciba-Geigy Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire January 6, 1980. Residues not in excess of 1.25 ppm remaining in or on soybean forage and soybean hay after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Ms. Willa Garner, Product Manager 23, Registration Division (TS-767), Office of Pesticide Programs, 401 M St., SW., Washington D.C. 20460 (202/755-1397).

(Sec. 408(j), Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a(j)))

Dated: January 23, 1979.

HERBERT S. HARRISON,
Acting Director, Registration Division.

[FR Doc. 79-2980 Filed 1-26-79; 8:45 am]

[6560-01-M]

[FRL 1047-2; PFT-35]

PESTICIDE PROGRAMS

Filing of Food Additive Petition

Elanco Products Co., Division of Eli Lilly & Co., P.O. Box 1750, Indianapolis, IN 46206, has submitted a petition (FAP 9H5202) to the Environmental Protection Agency (EPA) which proposes to amend 21 CFR 193 by establishing a regulation permitting the use of the herbicide fluridone (1-methyl-3-phenyl-5-[3-(trifluoromethyl)-phenyl]-4-(1*H*)pyridinone) in connection with an experimental program involving the use of the herbicide in an aquatic plant management systems with a tolerance limitation of 0.1 part per million in potable water. Notice of this submission is given pursuant to the provisions of section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St., S.W., Washington D.C. 20460. Inquiries concerning this petition may be directed to Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone at 202/755-1397. Written comments should bear a notation indicating the petition number.

Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: January 23, 1979.

HERBERT S. HARRISON,
Acting Director, Registration Division.

[FR Doc. 79-2977 Filed 1-26-79; 8:45 am]

[6560-01-M]

[FRL 1047-4]

ENVIRONMENTAL IMPACT STATEMENTS

Availability

AGENCY: Office of Federal Activities. Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of January 15 to 19, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from January 26, 1979 and will end on March 12, 1979. The 30-day wait period for final EIS's will be computed from the date of receipt by EPA and commenting parties.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Federal Activities, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT:

Kathi Weaver Wilson, Office of Federal Activities, A-104, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460 (202) 755-0780.

SUMMARY OF NOTICE: Appendix I sets forth a list of EIS's filed with EPA during the week of January 15 to 19, 1979, the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the FEDERAL REGISTER and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: January 24, 1979.

WILLIAM N. HEDEMAN, Jr.,
Director, Office of Federal Activities.

APPENDIX I

EIS'S FILED WITH EPA DURING THE WEEK OF JANUARY 15 TO 19, 1979

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Final

Angelina National Forest, Timber Management Plan Several County, Tex., January 15: The proposed action is implementation of an eight year timber management plan for the Angelina National Forest. The Angelina National Forest is located in Angelina, San Augustine, Jasper and Nacogdoches Counties in east Texas and lies on both sides of the 114,500 acre Sam Rayburn Reservoir, approximstely 391,000 acres of land lie inside the forest boundary, of which thirty-nine percent or 154,991 acres is national forest land. Private land ownership within the forest boundary is mixed and includes home sites, farm and pasture land, and woodlands. This plan proposes evenages forest management on the commercial forest for production of timber products. (USDA-FS-R8-(DES(ADM)-78-07) Comments made by: EPA, AHP, USDA, DOT, DOI, State agencies, groups and individuals. (EIS Order No. 81303)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Final

Alaska Coast High Seas Salmon Fishery, FMP Alaska, January 19: The proposed action is to adopt and implement a fishery management plan for the High Seas Salmon Fishery of the coast of Alaska east of 175 degrees east longitude under provisions of Title III of the Fishery Conservation and Management Act of 1976. This act extends jurisdiction over fishery resources and establishes a program for their management. The purpose of the management plan is to manage ocean salmon resources off the coast of Alaska and the troll fishery on those resources. Comments made by: DOC, CGD, State and Local agencies individuals and businesses. (EIS Order No. 90076)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attention: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, 202-693-6795.

Final

Flood Control, Central and Southern Florida, Hendry County, Fla., January 19: Proposed is the Hendry County segment of the Central and Southern Florida flood control project. This section of the proposal consists of a canal and control structure designed to remove flood waters more efficiently and prevent overdrainage of 261 sq. mi. area in Eastern Hendry County, with an integrated pumping station and canal system, the project will also provide for the conveyance of agricultural water supply from lake Okeechobee during periods of drought for distribution to part of the project area and to Big Cypress Seminole Indian Reservation which is located about 5 miles south of the project area. (Jacksonville district). Comments made by: USDA, DOI, EPA, State and local agencies. (EIS Order No. 90075).

DEPARTMENT OF DEFENSE, ARMY

Contact: George Q. Cunney, Jr., Acting Chief, Environmental Office, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, 202-694-4269.

Final

Fort Irwin National Training Center, San Bernardino County, Calif., January 19: Proposed is the establishment of a National Training Center at Fort Irwin located in the High Mojave Desert, San Bernardino County, California. The purpose is to pro-

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vide simulated full-scale combat situations to support the Army's combined arms tactical unit training and to integrate similar exercises with the Air Force, Navy and Marine Corps. The proposed program would involve reopening post facilities with construction and rehabilitation proceeding operations. Fort Irwin was selected from eleven alternative sites. Comments made by: USDA, DOD, DOI, DOT, EPA, NASA, State and local agencies, groups, individuals and businesses. (EIS Order No. 90078).

DEPARTMENT OF DEFENSE, NAVY

Contact: Mr. Ed Johnson, Head, Environmental Impact Statement/RDT&E Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, 202-697-3689.

Draft

New Naval Regional Medical Center, San Diego County, Calif., January 18: Proposed is the replacement of approximately 69 substandard buildings with a modern Naval Regional Medical Center (NRMC) located in San Diego County, California. The NRMC will include: A 600-bed acute area and 300-bed light care hospital, outpatient and emergency medical care facilities, the Naval School of Health Sciences, and parking facilities. The existing major surgical facility will be retained, upgraded, and converted to other uses. Renovation will be planned such that the structure can be reconverted to a medical facility under emergency conditions. Five alternatives, including nine alternate sites are considered. (EIS Order No. 90070).

DEPARTMENT OF ENERGY

Contact: Mr. Robert Stern, Acting Director, Division of NEPA Affairs, Department of Energy, Federal Building, Room 7119, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 566-9760.

BONNEVILLE POWER ADMINISTRATION

Draft

Southwest Oregon area service, facility plan FY79s, several counties in Oregon and Idaho, January 19: Proposed is the facility planning supplement to the BPA FY 1979 program for the southwest Oregon service area to allow power generated in Wyoming to be delivered and to facilitate the exchange of electric power between the Pacific Northwest and the Middle Snake region. Construction of two transmission facilities proposed includes: (1) 500 kV line from Brownlee substation in Idaho to Slatt substation near Arlington, Oregon and (2) 500 kV line from Buckley to Malin, Oregon. The new transmission line would provide backup to the overall system. (DOE-EIS-0005-DS-2.) (EIS Order No. 90072.)

GENERAL SERVICES ADMINSTRATION

Contact: Mr. Andrew E. Kauders, Executive Director, Environmental Affairs Division, General Services Administration, 18th and F Streets, NW., Washington, D.C. 20405, (202) 566-0405.

Final

Charlestown Naval Auxiliary Landing Field, Washington County, R.I., January 19: This action involves the disposing of Federal Properties which have been determined to be no longer needed for the purposes for which they were formerly used. Charlestown Naval Auxiliary Landing Field (NALF) is located in the southern tier of Washington County of Rhode Island, Charlestown and the abutting Communities of Hopkinton, Richmond, South Kingstown, and westerly are the five communities most liable to be subjected to changes brought about by proposals to reuse the Charlestown NALF. Comments made by: USDA, DOE, DOI, State, and local agencies, groups, individuals, and businesses. (EIS Order No. 90077.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-6308.

Draft

Denver Metropolitan Areawide Plan, several counties in Colorado, January 18: Proposed is the approval of the Denver Regional Council of Governments (DRCOG) Regional Growth and Development Plan as the basis for evaluating future housing development applications of HUD assisted or insured housing in the Denver Metropolitan area. The counties involved are: Denver, Boulder, Jefferson, Adams, and Arapahoe. Approval of this plan would allow HUD to discontinue its practice of preparing a full EIS for each project unless conditions are found which have not been dealt with adequately in this statement which examines the over-all cumulative impacts of areawide development. (EIS Order No. 90067.)

Brays Village East Subdivision, Harris County, Tex., January 16: Proposed is the issuance of HUD Home Mortgage Insurance for the Brays Village East Subdivision located in Harris County, Texas. The development will encompass approximately 96.4 acreas and will be composed of 616 single-family homes. (HUD-R06-79-54D.) (EIS Order No. 90063.)

Dale City Subdivision, Prince William County, Va., January 16: Proposed is the issuance of HUD home mortgage insurance for Dale City located in Prince William County, Virginia. The plan applies to approximately 3,500 acres which will encompass 5,263 single family houses, 1,036 townhouses and 4,152 apartments. The development, when completed, will also contain 332 acres for commercial use, 208 acres for utilities and major highways, 851 acres for parks and open space and 500 acres for schools and other uses. (EIS Order No. 90064.)

Final

Woodland Oaks Subdivision, Harris County, Tex., January 16: Proposed is the acceptance for mortgage insurance purposes of the Woodland Oaks subdivision in Harris County, Texas. Project plans call for the development of 475.907 acres into a community composed of single-family homes. (HUD-R06-76-46F.) Comments made by: EPA, DOI, USDA, COE, AHP, State agencies. (EIS order No. 90062.)

SECTION 104(h)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

Adams Normandie 4321 Redevelopment, Los Angeles, Los Angeles County, Calif., January 19: The purpose of the proposed project is to eliminate blighted conditions in the project area through the initiation and encouragement of rehabilitation and new development. The goal of the Adams Normandie 4321 Redevelopment, which is located in the city and county of Los Angeles, California, includes the rehabilitation of dwellings and commercial structures which do not comply with current standards, newly constructed dwellings for low/moderate income and the elderly, new commercial and manufacturing development and expansion of park and recreation facilities. (EIS Order No. 90073.)

Charleston Center, Redevelopment, Charleston County, S.C., January 18: Proposed is a mixed-use development plan for Charleston Center in Charleston County, South Carolina. The plan will consist of hotel/commercial/convention facilities and parking, The project, which is located on 8.5 acres in the lower peninsula of Charleston City, also includes improvements of: the adjacent area, street system, and related infrastructure. The city of Charleston has withdrawn the draft EIS previously filed on this project. (EIS order No. 90068.)

Final

Navy Yard City, Rehabilitation, Bremerton, Kitsap County, Wash., January 17: Proposed is the rehabilitation of existing housing and improvement of public services in and around Navy Yard City, Kitsap County, Washington. The project will include: 1) improvement/resurfacing of streets along WA-3, 2) construction of sidewalks, 3) installation of a storm drainage system, 4) improvement of coverage of the sanitary sewer system, 5) construction of a new fire station, 6) construction of a covered play area, and 7) rehabilitation of existing housing. Comments made by: DOI, EPA, USDA, State and local agencies. (EIS Order No. 90066.)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

NATIONAL PARK SERVICE

Draft

Grand Canyon National Park, Burro Control, Mohave and Coconino Counties, Ariz., January 15: Proposed is a management and restoration plan within four areas impacted by feral burros in Grand Canyon National Park, Mohave and Coconino Counties, Arizona. The plan proposes to remove approximately 500 feral burros, primarily by shooting and secondarily by herding, and to fence a 2.5 mile section of the Park boundary to prevent ingress of burros from surrounding Federal lands. The alternatives considered include: (1) no action, (2) total removal of burros by live removal techniques, (3) partial retention of burros in the park, and (4) other methods to achieve total or partial reduction. (DES-79-4.) (EIS Order No. 90059.)

Final

Cumberland Gap N.P. Master Plan, Kentucky, Tennessee, and Virginia, January 19: Proposed is a master plan for the Cumberland Gap National Historical Park, located in Kentucky, Virginia, and Tennessee. The plan calls for relocation of US 25E, recreating the wilderness appearance of Historic Cumberland Gap, construction of a motor-history trail serving Hensley settlement, and boundary changes requiring land acquisition in Kentucky and Tennessee. The relocation of US 25E will have significant economic, ecologic, and sociologic impacts on the park and region. (FES 79-2.) Comments made by: COE, DOI, DOT, EPA, TVA, State agencies, groups. (EIS Order No. 90074.)

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GEOLOGICAL SURVEY

Final

Coal Creek Mine, Mining and Reclamation Plan, Campbell County, Wyo., January 18: Proposed is the approval of the surface mining and reclamation plan for the Coal Creek Mine, Campbell County, Wyoming. The plan proposes mining about 330 million tons of coal at a production rate of 4.5 million tons during the first two years and 10 million tons during the following thirty-two years. Mining operations will occur on State, private, and 5,800 acres of federally owned land. The coal will be used for electric power generation in the Midwest and in the South. (FES 79-01.) (EIS order No. 90071.)

OHIO RIVER BASIN COMMISSION

Contact: Mr. Fred E. Morr, Chairman, Suite 208-20, Ohio River Basin Commission, 36 East Fourth Street, Cincinnati, Ohio 45202, 513-684-3831.

Final

The Ohio Main Stem CCJP and Study Report, several counties in Ohio, January 17: Proposed is a plan for 35,000 square miles of the Ohio River main stem in the States of Illinois, Indiana, Kentucky, Ohio, Pennsylvania, and West Virginia, the plan includes 594 projects relating to: Watersheds, navigation, reservoirs, flood protection, water quality, State parks/public areas/wild and scenic rivers, local and regional parks/historical sites, natural areas, wildlife habitat, embayments, wetlands, and islands. The EIS finalizes four draft statements: No. 80259, dated March 17, 1978 and No. 80313, No. 80314, No. 80315, dated March 31, 1978. Comments made by: USDA, USA, DOC, DOE, EPA, HEW, HUD, DOI, USCG, State agencies, groups. (EIS order No. 90065.)

DEPARTMENT OF TRANSPORTATION

Contact Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Final

Arundel Expressway, MD-648 to MD-100, Anne Arundel County, Md., January 15: The proposed highway improvement consists of the continuation of the Arundel Expressway on new location from Old Annapolis Road (Maryland Route 648) in Glen Burnie southerly to Maryland Route 100. The project involves 2.1 miles of 4-lane divided highway. (FHWA-MD-EIS-75-04-F.) Comments made by: USDA, USCG, DOT, EPA, DOI, State and local agencies. (EIS Order No. 90058.)

MI-20 Bridge replacement, Big Rapids, Mecosta County, Mich., January 19: Proposed is the selection of a location and alignment for a bridge to replace the current structure carrying MI-20 (Maple Street) over the Muskegon River in the city of Big Rapids, Mecosta County, Michigan. Plan implementation calls for the construction of the bridge and reconstruction of approaches, including widening of up to 2,100 feet (640 meters) of MI-20 in Big Rapids. Adverse impacts include the displacement of 0 to 24 residential units, depending upon the alternate selected, and 7 commercial establishments; increased traffic; and increased noise pollution. (FHWA-MICH-EIS-7706-F.) Comments made by: DOI, USDA, DOC, DOE, State and local agencies. (EIS Order No. 90079.)

Final

Jefferson Freeway (KY-84), 31W to KY-155, Jefferson County, Ky., January 15: Proposed is the construction of approximately 23 miles of the Jefferson Freeway (KY-84) in Jefferson County, Kentucky. The freeway generally forms a ten-mile radius of circumferential belt line around Louisville. KY-84 would begin at Dixie Highway (US 31W) and extends northeasterly to its terminus at Taylorville Road (KY-155). The freeway will be a fully controlled access facility of four-lanes. (FHWA-KY-EIS-73-04-F.) (EIS Order No. 9060.)

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APPENDIX II

EXTENSION/WAIVER OF REVIEW PERIODS ON EIS'S FILED WITH EPA

FEDERAL AGENCY CONTACT	TITLE OF EIS	FILING STATUS ACCESSION NO.	DATE NOTICE OF AVAILABILITY PUBLISHED IN FR	WAIVER EXTENSION	DATE REVIEW TERMINATES
GENERAL SERVICES ADMINISTRATION MR. ANDREW E. KAUDERS EXECUTIVE DIRECTOR, ENVIRONMENTAL AFFAIRS DIVISION GENERAL SERVICES ADMINISTRATION 18TH AND F STREETS, N.W. WASHINGTON, D.C. 20405 (202) 566-0405	CHARLESTOWN NAVAL AUXILIARY LANDING FIELD	FINAL 90077	SEE APPENDIX I 01/29/79	EXTENDED	03/20/79
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT MR. RICHARD H. BROUN, DIRECTOR OFFICE OF ENVIRONMENTAL QUALITY DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT 451 7TH STREET, S.W. WASHINGTON, D.C. 20410 (202) 755-6308	DENVER METROPOLITAN AREAWIDE PLAN	DRAFT 90067	SEE APPENDIX I 01/29/79	EXTENDED	03/26/79
DEPARTMENT OF DEFENSE, AIR FORCE COL. LUIS F. DOMINGUEZ DEPARTMENT OF THE AIR FORCE ROOM 5D431, PENTAGON WASHINGTON, D.C. 20330 (202) 697-7799	PAVE PAWS RADAR SYSTEM OPERATION, OTIS AFB	DRAFT 81363	01/02/79	EXTENDED	02/27/79

APPENDIX III

EIS'S FILED WITH EPA WHICH HAVE BEEN OFFICIALLY WITHDRAWN BY THE ORIGINATING AGENCY

FEDERAL AGENCY CONTACT	TITLE OF EIS	FILING STATUS ACCESSION NO.	DATE NOTICE OF AVAILABILITY PUBLISHED IN FR	DATE OF WITHDRAWAL
NONE				

APPENDIX IV

NOTICE OF OFFICIAL RETRACTION

FEDERAL AGENCY CONTACT	TITLE OF EIS	STATUS NUMBER	DATE NOTICE PUBLISHED IN FR	REASON FOR RETRACTION
DEPARTMENT OF AGRICULTURE MR. BARRY FLAMM COORDINATOR ENVIRONMENTAL QUALITY ACTIVITIES U.S. DEPARTMENT OF AGRICULTURE ROOM 359A WASHINGTON, D.C. 20250 (202) 447-3965	ANGELINA NATIONAL FOREST, TIMBER MANAGEMENT PLAN	FINAL 81303	12/18/78	THE FINAL EIS WAS NOT MADE AVAILABLE TO THE PUBLIC WHEN THE NOTICE OF AVAILABILITY WAS PUBLISHED BY EPA. THEREFORE, THE NOTICE OF THE FEIS IS RETRACTED AND REFILED AS PART OF THIS NOTICE (SEE APPENDIX I).

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APPENDIX V

AVAILABILITY OF REPORTS/ADDITIONAL INFORMATION RELATING TO EIS'S PREVIOUSLY FILED WITH EPA

FEDERAL AGENCY CONTACT	TITLE OF REPORT	DATE MADE AVAILABLE TO EPA	ACCESSION NO.
DEPARTMENT OF DEFENSE, ARMY CORPS DR. C. GRANT ASH OFFICE OF ENVIRONMENTAL POLICY ATTN: DAEN-CWR-P OFFICE OF THE CHIEF OF ENGINEERS US ARMY CORPS OF ENGINEERS 1000 INDEPENDENCE AVENUE, S.W. WASHINGTON, D.C. 20314 (202) 693-6795	ILLINOIS WATERWAY CALUMET-SAG NAVIGATION PROJECT, MAINTENANCE DREDGING AND DISPOSAL	01/16/79	90061

APPENDIX VI

OFFICIAL CORRECTION

FEDERAL AGENCY CONTACT	TITLE OF EIS	FILING STATUS ACCESSION NO.	DATE NOTICE OF AVAILABILITY PUBLISHED IN FR	CORRECTION
DEPARTMENT OF DEFENSE, ARMY CORPS DR. C. GRANT ASH OFFICE OF ENVIRONMENTAL POLICY ATTN: DAEN-CWR-P OFFICE OF THE CHIEF OF ENGINEERS US ARMY CORPS OF ENGINEERS 1000 INDEPENDENCE AVENUE, S.W. WASHINGTON, D.C. 20314 (202) 693-6795	WESTFIELD RIVER, LOCAL PROTECTION PROJECT	DRAFT 81387		THE AVAILABILITY OF THIS DEIS SHOULD HAVE BEEN ANNOUNCED IN THE FR DATED DECEMBER 12, 1978. THE SCHEDULED REVIEW PERIOD WILL TERMINATE ON JANUARY 29, 1979.

ABSTRACT:

MASSACHUSETTS
COUNTY: HAMPDEN
THE PROPOSED WESTFIELD RIVER LOCAL PROTECTION PROJECT IS LOCATED IN WESTFIELD, HAMPDEN COUNTY, MASSACHUSETTS. THE PROJECT CALLS FOR TWO U-SHAPED DIKE AND WALL SYSTEM, ONE BETWEEN WESTFIELD RIVER AND LITTLE RIVER AND THE OTHER BETWEEN WESTFIELD RIVER AND POWDERMILL BROOK. ALSO, INCLUDED IS THE CONSTRUCTION OF THREE NEW DIVERSION CHANNELS FOR THE SAME THREE STREAMS. OTHER ESSENTIAL PARTS OF THE DIKE SYSTEM WOULD BE 5 STREET GATES, 1 RAILROAD GATE, 6 PONDING AREAS, 2 SANDBAG STRUCTURES, AND 2 PUMPING STATIONS TO REMOVE INTERIOR RUNOFF.
(NEW ENGLAND DIVISION)

[FR Doc. 79-2999 Filed 1-26-79; 8:45 am]

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[6560-01-M]

[FRL 1046-6; OPP-00085]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Open Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a two-day special subcommittee meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:00 a.m. to 5:00 p.m. each day on Wednesday and Thursday, February 14 and 15, 1979. The meeting will be held in Room 1112A, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va., and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766), Rm. 803, Crystal Mall, Building No. 2, at the above address, telephone 703/557-7560.

SUPPLEMENTARY INFORMATION: In accordance with Section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under Sections 6(b) and 25(a) prior to implementation. The purpose of this meeting is to discuss the following topics:

Subpart H—Label Development (draft), and Subpart I—Experimental Use Permits (draft) of the Guidelines for Registering Pesticides in the United States.

Any member of the public wishing to attend this meeting should contact Dr. H. Wade Fowler, Jr., at the address shown above. Time will be allotted for brief comments by the public each day; interested persons should contact Dr. Fowler for special instructions regarding oral statements. Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to ensure appropriate consideration by the Advisory Panel. All statements will be made a part of the record and will be taken into consideration by the Panel in formulating comments.

All interested persons are further advised that the meeting announced in this notice is a subcommittee meeting of the Advisory Panel for the purpose of conducting preliminary reviews of draft proposed rulemaking. Formal review of topics considered by the subcommittee will be conducted by the FIFRA Scientific Advisory Panel at a later date.

(Sec. 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 186) and sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770).)

Dated: January 24, 1979.

EDWIN L. THOMAS,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-2982 Filed 1-26-79; 8:45 am]

[6560-01-M]

[FRL 1047-3, OPP-50350A]

ELANCO PRODUCTS CO.

Issuance of Experimental Use Permit; Correction

In FR doc. 77-35033 appearing at page 61891 in the issue of Wednesday, December 7, 1977, in experimental use permit No. 1471-EUP-58, the following correction should be made in the center section describing the experimental use permit granted to Elanco Products Company, Indianapolis, Indiana 46206.

The sentence starting on line 13 of the description should read: "• • • The experimental use permit is effective from November 9, 1977 to July 9, 1979 • • •"

Dated: January 23, 1979.

HERBERT S. HARRISON,
Acting Director, Registration Division.

[FR Doc. 79-2976 Filed 1-26-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before February 19, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 5600-37.
Filing party: Charles F. Warren, Esq., Warren & Associates, P. C., 1100 Connecticut Avenue, N.W., Washington, D.C. 20036.
Summary: Agreement No. 5600-37 would extend, indefinitely, the authority granted the Philippines North America Conference to establish through and joint rate intermodal arrangements. The authority is presently set to expire on February 17, 1979.

Agreement No. 9735-10.
Filing party: John T. Reed, National Executive Secretary, Steamship Operators Intermodal Committee, 450 Mission Street, San Francisco, California 94105.
Summary: Agreement No. 9735-10, by the member lines of the Steamship Operators Intermodal Committee, modifies their basic agreement by providing that actions of the Executive Council shall require unanimous vote except that actions receiving two-thirds vote of the Executive Council shall be submitted to the individual member lines. Such actions then receiving two-thirds majority of the member lines will be adopted.

Agreement No. 9735-11.
Filing party: John T. Reed, National Executive Secretary, Steamship Operators Intermodal Committee, 450 Mission Street, San Francisco, California 94105.
Summary: Agreement No. 9735-11, by the member lines of the Steamship Operators Intermodal Committee, modifies their basic agreement by adding as areas of common interest to the member lines (1) the intermodal movement of containers, (2) the structure of rates and rules pertaining to intermodal movements, (3) governmental regulation of intermodal movements and (4) free time rules pertaining to containers and related equipment. This amendment also provides that the parties, as a whole, may consult with individual rail, motor, or air carriers, forwarders, shippers or insures in addition to associations of same as their agreement presently provides.

Agreement No. 10182-3.
Filing party: Howard A. Levy, Esq., Suite 727, 17 Battery Place, New York, New York 10004.
Summary: Agreement No. 10182-3, among the parties of the Eurogulf Self-Policing Agreement would amend Article 4.1 of the basic agreement and Section 1 of the Annex by deleting all references to the *Executive Director of the Associated North Atlantic Freight Conferences* contained therein. The term "Executive Director" as used in the agreement shall mean the chief executive officer of the independent neutral body so appointed to serve as the exclusive enforcement authority.

Agreement No. T-3769.
Filing party: Leslie E. Still, Jr., Senior Deputy City Attorney, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.
Summary: Agreement No. T-3769, between the City of Long Beach (Port) and Sohio Transportation Company of California (Sohio), provides for the Port's 22-year lease to Sohio of certain premises at the Port of Long Beach, California, to be used as a pipeline right-of-way, a tank farm site, and a marine terminal site. The premises are to be operated by Sohio as a common carrier for the acceptance, conveyance and transportation of crude oil delivered in vessels to the terminal. Sohio, whose name will be changed to Pactex Pipeline Company, will operate and maintain a crude oil receiving terminal and transmission facility, primarily for the transport of North Slope Alaska Crude oil. As compensation, Sohio shall: (1) reimburse Port for the cost of improvements to the premises as outlined in the agreement; (2) pay Port a throughput charge of $.011 per net barrel of crude oil off-loaded at the premises; and (3) pay charges for pilotage, and for fresh water and electricity pursuant to the Port's tariff. Sohio shall collect and keep dockage charges assessed according to the Port's tariff. During the period of improvement construction and prior to the assessment of throughput charges, Sohio shall pay the Port $8,333.33 per month for the use of the premises.

By Order of the Federal Maritime Commission.

Dated: January 24, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-2957 Filed 1-26-79; 8:45 am]

[6730-01-M]

AHJOO FOWARDERS SERVICE ET AL.

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (Stat. 422 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Ahjoo Forwarders Service (Yong Yul Ro, dba), 955 S. Western Avenue, Suite 100, Los Angeles, CA 90006.
American Lamprecht Transport Inc., 148-36 New York Blvd., Jamaica, NY 11434.
Officers:
Jacob Epprecht, Vice President
Roland Schenk, Vice President
Adolf Lamprecht, President
James E. Brown, 300 East Russell Blvd., Thornton, Colorado 80299.
Transcontainer Transport Inc., c/o Peter U. Jordi, 265 High Street, Nutley, NJ 07110.
Officers:
Peter U. Jordi, President
Linda Sharon Jordi, Secretary/Treasurer
All-Freight Packers & Forwarders, Inc., 1441 Red Gum Street, Anaheim, CA 92806.
Officers:
John H. Adams, Vice President
Wm. M. Adams, President
Tamara H. Adams, Secretary/Treasurer
James J. Gallegos & Co. (James J. Gallegos, dba), 10910 So. La Cienega Blvd., Inglewood, CA 90304.
Pacific Air Cargo (Gerry A. Dango, dba), 2700 West Third Street, Rm. 110, Los Angeles, CA 90057.
Amana Express International Inc., 161-15 Rockaway Blvd., #1, Jamaica, NY 11434.
Officers:
Spiro Efstathiadis, President
Helen Efstathiadis, Secretary/Treasurer
Nicholas Tassa, Vice President
Samuel Focarino, Vice President
G. & C. Freight Services Inc., 20 Vesey Street, Rm. 1410, New York, NY 10007.
Officers:
Byron Leslie, President/Treasurer
Linda Pollackov, Secretary/Vice President
K.A.B. Inc., 216 Harris Ct., San Francisco, CA 94080.
Officers:
Keith R. Haas, President
Bruce G. Main, Vice President
Gemini International Company., P.O. Box 660274, Miami Springs, FL 33166.
Officers:
Edward Weitz, President
Mike Zambri, Vice President
Cartway Shipping Inc., 501 SW 71st. Avenue, Miami, FL 33144.
Officers:
Raciel Cartaya, President
Raciel A. Cartaya, Secretary
Josefina Cartaya, Treasurer
Sergio Cartaya, Vice PresidentPresident/Treasurer
Sergio A. Cartaya, Vice President
Diana Cartaya, Vice Treasurer
Leschaco, Inc., 8552 Katy Freeway, Houston, TX 77024.
Officers:
Herbert Conrad, Chairman
Walter Vollmer, Director
Hans Ehlers, Board Member
Manfred Lenga, President
Horst Kleist, Ex-Vice President
Hans Hillmann, Vice President
Hana Forwarding Co., Inc., 7255 Clarewood, Houston, TX 77036.
Officers:
Claude F. Spang, President/Director
Clyde L. McGuire, Executive Vice President/Director
Cynthia C. Godoy, Secretary/Treasurer/Director
Cargo Dispatch Intl. (Enrique J. Cepero, dba), 340 NW 56th Avenue, Miami, FL 33126.
Vincent F. Messina dba Messina & Co., 239 Prescott Street, #503, East Boston, MA 02128.
Love Shipping Corporation, P.O. Box 520625, Miami, FL 33152.
Officers:
Olga Mayra Guerrero-Mashour, President
Caribmar Forwarding Co., Inc., 3500 NW 114th Street, Miami, FL 33167.
Officers:
Irene Reed, President
C. Neil Smith, Jr., Vice President
Pamela I. Smith, Secretary/Treasurer
Jade International CHB Inc., 714 S. Isis Street, Inglewood, CA 90301.
Officers:
David G. Harlow, Vice President
Jack L. Coppock, Vice President
Tsutomu Aoyagi, President
Clifford Douglas, Secretary
Maudeen S. Lambert & Company (Maudeen S. Lambert, dba), 7 Drayton St., Suite 514 American Bldg., Savannah, GA 31402.
Donald Charles Shefferly, 5383 Lewis, Lot #158, Toledo, OH 43612.
Ferguson Shipping & Forwarding Co., Inc., 3474 Yale Street, Houston, TX 77018.
Officers:
Jean Ferguson, President
David Redford, Secretary
Michael Ferguson, Treasurer
Kalfesh Transport International (Mark J. Kalfesh, dba), 2122 Gray Falls, Houston, TX 77077.
Murphy Worldwide Transportation Services, Inc., 3434 State Road, Cornwells Heights, PA 19020.
Officers:
Thomas W. Murphy, President
Marion C. Murphy, Vice President
Thomas R. Cavanaugh, Secretary/Treasurer
Robert H. Latimer, Executive Vice President
Betty L. Celaya, Vice President International

By the Federal Maritime Commission.

Dated: January 24, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-2956 Filed 1-26-79; 8:45 am]

[6730-01-M]

[Docket No. 79-5]

LEONARD T. BUTLER D.B.A. MANUFACTURERS FORWARDING—INDEPENDENT OCEAN FREIGHT FORWARDER APPLICATION AND INTERMODAL SALES, INC. POSSIBLE VIOLATIONS OF SECTIONS 15 AND 18(b)(3).

Order of Investigation and Hearing

Leonard T. Butler as a sole proprietor d.b.a. Manufacturers Forwarding filed an application with the Commission for a license as an independent ocean freight forwarder. During the course of the Commission's investigation of Leonard T. Butler d.b.a. Manufacturers Forwarding, information was received which may indicate that:

1. Intermodal Sales, Inc. of which Mr. Butler is President and majority stockholder under the trade name Intermodal Services, Inc., maintains with the Commission an NVOCC tariff as required by section 18, Shipping Act, 1916. Evidence deduced in the course of the investigation appeared to demonstrate that Intermodal Services, Inc. violated section 18(b)(3), Shipping Act, 1916, (46 U.S.C. 817) on at least eleven of the nineteen shipments it handled during the period January 15, 1978 through May 12, 1978 in charging, demanding or collecting a greater, lesser or different compensation for the transportation of property than the

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rates and charges specified in its tariff on file with the Commission.

2. Intermodal Sales Inc. d.b.a. Intermodal Services, Inc. appeared to violate section 15, Shipping Act, 1916, (46 U.S.C. 814) in that it and Seaway Express Lines, a vessel operating common carrier by water, entered into an exclusive, non-competitive cooperative working agreement subject to the filing and approval requirements of the aforementioned section 15, implementing that agreement in carrying out its terms without the pre-requisite Commission sanction.

In view of the above, Leonard T. Butler, 52% owner and President of Intermodal Sales, Inc. would appear to lack the fitness to properly carry on the business of forwarding and to conform to the provisions of the Shipping Act, 1916, and the requirements, rules and regulations of the Commission issued thereunder as required by section 44 and the Commission's Rules and Regulations issued pursuant to section 44 of the Shipping Act, 1916.

Pursuant to section 510.8 of the Commission's General Order 4 (46 CFR 510.8), the Commission, on October 30, 1978, advised Leonard T. Butler d.b.a. Manufacturers Forwarding of its intent to deny the application for the reasons set out hereinabove. In accordance with General Order 4 an applicant may, within 20 days of receipt of such advice, request a hearing on the application.

By letter dated November 6, 1978, Leonard T. Butler d.b.a. Manufacturers Forwarding requested the opportunity to show at a hearing that the denial of the application is unwarranted.

NOW, THEREFORE, IT IS ORDERED, That pursuant to sections 15, 18(b), 22 and 44 (46 U.S.C. 814, 817, 821 and 841(b)) of the Shipping Act, 1916 and section 510.8 of the Commission's General Order 4 (46 CFR 510.8) a proceeding is hereby instituted to determine:

1. Whether Intermodal Sales Inc. d.b.a. Intermodal Services, Inc. has violated section 15 Shipping Act, 1916, by entering into an exclusive non-competitive cooperative working agreement with Seaway Express Lines without the pre-requisite Commission approval;

2. Whether Intermodal Sales, Inc. d.b.a. Intermodal Services, Inc. has violated section 18(b)(3), Shipping Act, 1916, by transporting property at rates and charges other than those specified in its tariff on file with the Commission, and

3. Whether, in light of the evidence, adduced pursuant to the foregoing issues, together with any other evidence adduced, Leonard T. Butler d.b.a. Manufacturers Forwarding possess the requisite fitness, within the meaning of section 44(b), Shipping Act, 1916, to properly carry on the business of forwarding and to conform to the provisions of the Shipping Act, 1916, and the requirements, rules and regulations of the Commission issued thereunder.

IT IS FURTHER ORDERED, That Leonard T. Butler d.b.a. Manufacturers Forwarding and Intermodal Sales, Inc. be made the Respondents in this proceeding and that the matter be assigned for public hearing before an Administrative Law Judge at a date and place to be determined by the Administrative Law Judge presiding, but in no event, later than July 20, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue is such that an oral hearing and cross/examination are otherwise necessary for the development of an adequate record;

IT IS FURTHER ORDERED, That this Order be published in the FEDERAL REGISTER and a copy thereof be served upon the Respondent;

IT IS FURTHER ORDERED, That any person other than Respondents and the Commission's Bureau of Hearing Counsel, having an interest and desiring to participate in this proceeding, may do so by filing a timely petition for leave to intervene pursuant to section 502.72 of the Commission's Rules;

IT IS FURTHER ORDERED, That all future notices issued by or on behalf of the Commission, including notice of time and place of hearing or of prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-2955 Filed 1-26-79; 8:45 am]

[6770-01-M]

FOREIGN CLAIMS SETTLEMENT COMMISSION

PRIVACY ACT OF 1974

Systems of Records: Annual Publication

The purpose of this document is to give notice that the Privacy Act Systems of Records identified in a notice published at 42 FR 48152, September 22, 1977, with an amending notice published at 42 FR 57346, November 2, 1977, continue in effect without change. This notice is issued in compliance with the annual publication requirements of 5 U.S.C. 552a(e)(4).

Dated at Washington, D.C., on January 22, 1979.

WAYLAND D. MCCLELLAN,
General Counsel.

[FR Doc. 79-2858 Filed 1-26-79; 8:45 am]

[1616-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on January 22, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB and ICC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before February 13, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

CIVIL AERONAUTICS BOARD

The CAB requests clearance of the application and notice requirements governing unused nonstop route authority contained in a new Part 321 of the Board's Procedural Regulations. This new Part supersedes the original application and notice requirements found in Subpart R of 14 CFR Part 302, Rules of Practice in Economic Proceedings. (PR-180, October 18, 1978; 43 FR 49549, October 24, 1978). The CAB estimates respondents will number approximately 75 Certificated Route Air Carriers and respondent burden will average 5 hours.

INTERSTATE COMMERCE COMMISSION

The ICC request clearance of a new Annual Report, Form R-3, required to be filed by approximately 470 Class III line-haul railroads, switching and terminal companies and stockyard companies, pursuant to Section 20 of the Interstate Commerce Act. Data collected by Form R-3 will be used for economic regulatory purposes. The establishment of this report resulted from the Commission's designation of a Class III railroad classification. This class will be required to file Form R-3 annually starting with the calendar year beginning January 1, 1978. Reports are mandatory and available for use by the public. The ICC estimates reporting burden for carriers will average 22 hours per annual report.

ICC's Final Rule in Docket No. 36730 (Sub-No. 1), decided December 11, 1978, service date December 22, 1978, promulgated Form R-3, Annual Report, Class III Railroads. Although the Rule specified that the new Form R-3 becomes effective for the reporting year beginning January 1, 1978, this effective date is contingent upon ICC's compliance with 44 U.S.C. 3512 which precludes the collection of information from ten or more persons until the Comptroller General has had the opportunity to advise that the information is not presently available from other Federal sources and that the proposed report forms are consistent with the provisions of section 3512. This notice represents the beginning of our review.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 79-2863 Filed 1-26-79; 8:45 am]

[4110-89-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Education

PUBLIC AND NONPUBLIC ELEMENTARY AND SECONDARY SCHOOL FINANCING

Review of Draft Study Plan

AGENCY: Department of Health, Education, and Welfare

ACTION: Notice of Availability for Public Review.

SUMMARY: The *draft study plan* describes the proposed research agenda for the study of public and nonpublic elementary and secondary school financing mandated by the Education Amendments of 1978.

DATE: January 26, 1979

LOCATION: Room 4145, 400 Maryland Ave., S.W., Washington, D.C. 20202.

CONTACT: William E. McLaughlin, (202) 245-6996.

SUPPLEMENTARY INFORMATION: The Education Amendments of 1978 direct the Secretary of the Department of Health, Education, and Welfare to conduct a comprehensive, three-year study of elementary and secondary school finance. The legislation provides the following framework for the study:

(1) Investigation of the availability of reliable and comparative data on the status and trends in financing elementary and secondary education.

(2) Conduct of studies necessary to understand and analyze the trends and problems affecting the financing of elementary and secondary education, both public and nonpublic, including the prospects for adequate financing during the next ten years.

(3) Development of recommendations for Federal policies to assist in improving the equity and efficiency of Federal and State systems for raising and distributing revenues to support elementary and secondary education.

The authorizing legislation requires that the Secretary submit a *study plan* to Congress by March 1, 1979. The Department has prepared an ititial *draft* of this research program and is seeking review by interested groups and individuals. Comments received by February 9 will be considered.

Dated: January 22, 1979.

MARY BERRY,
Assistant Secretary for Education.

Dated: January 22, 1979.

BEN W. HEINEMAN,
Acting Assistant Secretary for Planning and Evaluation.

[FR Doc. 79-2974 Filed 1-26-79; 8:45 am]

[4110-83-M]

Health Resources Administration

GRADUATE MEDICAL EDUCATION NATIONAL ADVISORY COMMITTEE

Notice of Filing of Annual Reports

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources Administration Federal Advisory Committee has been filed with the Library of Congress:

Graduate Medical Education National Advisory Committee

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, North Building, Room 1436, 330 Independence Avenue, S.W., Washington, D.C. 20201, Telephone (202) 245-6791. Copies may be obtained from Dr. Robert Graham, Health Resources Administration, Office of the Administrator, Room 10-37, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-7202.

Dated: January 18, 1979.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 79-2872 Filed 1-26-79; 8:45 am]

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RESULTS OF POSTAL VOTING PROCEDURES ON PROPOSALS TO ADD CERTAIN MAMMALS AND INSECTS TO THE CONVENTION OF INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service announces the results of postal procedures under the Convention on International in Endangered Species of Wild Fauna and Flora on certain proposals made by the United Kingdom. The Parties decided to include the Himalayan population of musk deer in Appendix I, and the remainder of the genus to which it belongs on Appendix II. They also decided to include three genera of birdwing butterflies in Appendix II. The actions enter into force on February 16, 1979, except as to Parties which enter reservations. The Service requests comment as to whether any reservation should be so entered. Since objections were made to the proposals to include Hartmann's mountain zebra and Grevy's zebra in Appendix II, a postal vote by the Parties will be conducted. The Service announces how and why it will vote.

DATE: All comments concerning a possible reservation on the Himalayan population of the Musk deer and the birdwing butterfly genera will be considered if received by February 5, 1979.

ADDRESS: Comments should be sent to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Arthur Lazarowitz, Staff Legal Assistant Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703-235-2418.

SUPPLEMENTARY INFORMATION: On August 18, 1978 the Service published an advanced notice requesting public comment within 30 days on a United Kingdom postal procedures proposal to amend the Convention by including Grevy's zebra, *Equus grevyi*, Hartmann's mountain zebra, *Equus zebra hartmannae*, and the Himalayan population of the musk deer, *Moschus moschiferus*, (in lieu of *Moschus moschiferus moschiferus*) in Appendix I; and by including the balance of genus *Moschus* and three birdwing butterfly

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genera, *Ornithoptera*, *Trogonoptera* and *Troides* in Appendix II.

All comments received by September 18, 1978 were to have been considered by the Service in making any reply or objection to these proposals. Objections were to have been received by the Secretariat before November 18, 1978. During the period October 1 to November 11, 1978, the Service could not consider or take any action with regard to these proposals due to a lapse in its authorization for endangered species programs. In light of the limited time available to the Service no replies or objections were submitted to the Secretariat.

The Secretariat has communicated the comments it had received from several Parties and has informed the Parties that no objections were made with regard to the birdwing butterfly and musk deer proposals. This being so, the amendments relevant to these taxa as set forth above will enter into force on February 16, 1979 with respect to all Parties unless a Party enters a reservation on or before that date. The Service requests public comments as to whether a reservation should be entered by the United States with regard to these amendments. A Party which enters a reservation will be treated as a State not a Party to the Convention with respect to trade in the species concerned. Under current practice, this would mean that trade between the United States and other Parties would require documentation similar to that which would be required had no reservation been entered.

Objections were received by the Secretariat to the proposals to include Grevy's zebra and Hartmann's mountain zebra in Appendix I. These proposals have been submitted to the Parties for a postal vote. Adoption must be by a two-thirds majority. Ballots must be received by the Secretariat by February 3, 1979. If ballots are not cast by at least one-half of the Parties, these proposals will be referred to the Second Meeting of the Conference of the Parties to be held in San Jose, Costa Rica, March 19-30, 1979. The Service has received several comments with regard to these proposals and has considered them in determining how it shall vote. Following is a summary and analysis of the comments received as to each species subject to the postal vote, and a statement showing how and why the Service intends to vote.

Inclusion of Hartmann's Mountain Zebra in Appendix I

The United States Endangered Species Scientific Authority ("ESSA"), the staff of the New York Zoological Society and the Riverbanks Zoological Park of Columbia, South Carolina support this proposal. Riverbanks cites population levels of 7,000 individuals. Safari Club International, which opposes the proposal, states that an additional 4,200 individuals are in protected areas of Namibia, and that listing on Appendix I would effectively end trophy hunuting. Trophy hunting currently provides cattle ranchers with an additional source of income. Without this source of income, asserts Safari Club, the ranchers would destroy the Hartmann's mountain zebra which competes with their cattle for food. Safari Club International as well as the conservation authorities in Namibia would support a proposal to include the species in Appendix II.

The Service supports this proposal and will so cast its ballot. The Hartmann's mountain zebra has been severely depleted from its historical levels. An Appendix I listing would provide particularly strict regulation in order not to endanger their survival. It would prohibit importations of specimens to be used primarily for commercial purposes. It would allow importations of trophies of this species where the ESSA advised that such importations would provide "countervailing benefits" to the species concerned.

Inclusion of Grevy's Zebra in Appendix I

ESSA, the staff of the New York Zoological Society and the Riverbanks Zoological Park support this proposal. Information obtained by the New York Zoological Society from a survey by the Kenya Rangeland Ecological Monitoring Unit indicates that there are 13,718 individuals in Kenya as of this year. This contradicts recently published estimates of 1,500 individuals. In spite of this increased population estimate, the Kenyan authorities fear that export of items from illegally taken specimens represents a real threat to the species. Safari Club International opposes the proposal because of the increased number of individuals found and because it believes Kenya trade controls are sufficient.

The Service supports the addition of Grevy's zebra to Appendix I and will so cast its ballot. Although recent surveys have found larger populations than were originally estimated, management control of these populations is apparently difficult and rather different from those for Hartmann's mountain zebra discussed above. Much of the population occurs in areas which are neither privately owned nor susceptible to effective policing. As a result there has apparently been substantial poaching and illegal trade. The Service believes that stronger international controls are essential to prevent uncontrolled exploitation.

The Service will publish a Federal Register notice announcing the results of the postal voting or of any action taken at the Second Meeting of the Conference of the Parties should there be an insufficient number of ballots cast. If the proposals are approved, that notice will also request comments with regard to whether a reservation should be entered.

Dated: January 23, 1979.

Lynn A. Greenwalt,
Director, U.S. Fish and Wildlife Service.

[FR Doc. 79-2901 Filed 1-26-79; 8:45 am]

[4310-84-M]

Bureau of Land Management

OUTER CONTINENTAL SHELF, MID-ATLANTIC

Outer Continental Shelf Leasing Systems, Sale No. 49

Section 8(a)(8) (43 U.S.C. 1337(a)) of the Outer Continental Shelf Lands Act, as amended, requires that, at least 30 days before any lease sale, a notice be submitted to the Congress and published in the Federal Register:

(A) Identifying the bidding systems to be used and the reasons for such use; and

, (B) Designating the tracts to be offered under each bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

Bidding Systems To Be Used

In OCS Lease Sale No. 49, a system employing a cash bonus bid with a constant royalty fixed at 16⅔ percent will be used on 53 tracts. This system is authrized by Sec. 8(a)(1)(A) of the OCS Lands Act, as amended. A system employing a cash bonus bid with a royalty established according to a semi-logarithmic sliding scale will be used on 58 tracts. This system is authorized by Sec. 8(a)(1)(C) of the OCS Lands Act, as amended. The use of the sliding scale royalty system was first introduced in OCS Lease Sale No. 43 and used again in OCS Lease Sales No. 45, No. 65 and No. 51, as part of the commitment by the Department of the Interior and the Department of Energy to develop and test new bidding systems.

The sliding scale is designed to establish higher royalty rates for larger reservoirs with higher production rates. In such cases, the expected bonus would be reduced, which may improve competition for leases. This would also tend to reduce the likelihood of production losses that could result if royalty rates are set by other means, such as royalty bidding at levels so high that production is made uneconomic. These production losses are dependent upon the different exploration, development and production costs for the specific area. Because the assumed costs were different in the Sale No. 49 area than other areas, the formula provided for this sale is slightly different from that utilized in recent sales.

The sliding scale used in Sales No. 43 and No. 45 was linear in form. Although this form is easy to depict it has three disadvantages which may affect the socially optimal level of production. At certain levels of production, a linear royalty causes abrupt jumps in the royalty rate charged on increments in output leading producers to make socially non-optimal production decisions in order to minimize these royalty impacts on revenues. Marginal royalty rates also can reach very high levels even though average rates are low. In addition, because production costs are non-linear it can be shown that the royalty rate schedule should more closely conform to the functional form of these costs in order to minimize production losses.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than $15.929026 million, a royalty of 16.66667 percent in amount or value or production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $15.929026 million, but less than or equal to $3423.822697 million, the royalty percent due on the unadjusted value is given by the formula

$R_i = b(\mathrm{Ln}(V_i/S))$

Where:

R_i = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter ,

$b = 9.0$

V_i = the value of production in quarter , adjusted for inflation, in millions of dollars

$S = 2.5$

When the adjusted quarterly value of production is greater than $3423.822697 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

When the adjusted quarterly value of production is greater than $3423.822697 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

[4310-84-C]

Figure 1
Form of the Sliding Royalty Schedule

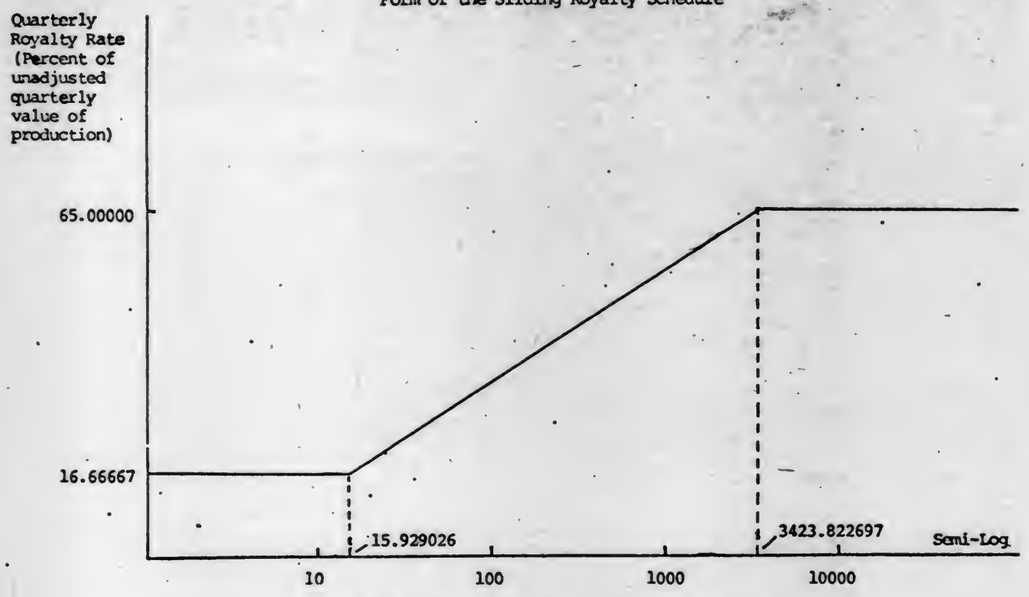


TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(1) Actual Value of Quarterly Production (Millions of Dollars)	(2) GNP Fixed Weighted Price Index	(3) Inflation Factor[a]	(4) Adjusted Value of Quarterly Production[b] (V_j, Millions of $)	(5) Percent Royalty Rate (R_j)	(6) Royalty Payment[c] (Millions of Dollars)
10.000000	200.0	4/3	7.500000	16.66667	1.666667
30.000000	200.0	4/3	22.500000	19.77502	5.932506
90.000000	200.0	4/3	67.500000	29.66253	26.696277
270.000000	200.0	4/3	202.500000	39.55004	106.785108
810.000000	200.0	4/3	607.500000	49.43755	400.444155
10.000000	250.0	5/3	6.000000	16.66667	1.666667
30.000000	250.0	5/3	18.000000	17.76673	5.330019
90.000000	250.0	5/3	54.000000	27.65424	24.888816
270.000000	250.0	5/3	162.000000	37.54175	101.362725
810.000000	250.0	5/3	486.000000	47.42926	384.177006

a Column (2) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

b Column (1) divided by Inflation Factor.

c Column (1) times Column (5).

[4310-84-M]

TRACTS TO BE OFFERED FOR BONUS WITH A FIXED SLIDING SCALE ROYALTY

49-1, 49-2, 49-3, 49-4, 49-5, 49-6, 49-7, 49-8, 49-9, 49-10, 49-11, 49-13, 49-15, 49-16, 49-17, 49-18, 49-38, 49-39, 49-43, 49-46, 49-84, 49-85, 49-86, 49-87, 49-88, 49-89, 49-90, 49-91, 49-92, 49-93, 49-94, 49-95, 49-96, 49-97, 49-98, 49-99, 49-101, 49-102, 49-104, 49-105, 49-106, 49-107, 49-108, 49-109, 49-110, 49-111, 49-112, 49-113, 49-114, 49-115, 49-116, 49-118, 49-119, 49-120, 49-123, 49-124, 49-125, and 49-126.

TRACTS TO BE OFFERED FOR BONUS BIDDING WITH A FIXED CONSTANT ROYALTY

Bids on the remaining tracts to be offered at this sale must be on a cash bonus with a fixed royalty of 16⅔ percent.

The selection of tracts of be offered under the sliding scale royalty system was made for the following reasons:

1. A sufficient number of tracts was needed to provide data for valid statistical analysis while limiting the risk of losses cause by unforeseen problems which could arise in the use of any new bidding system A sample size of approximately 52 percent or 58 tracts was determined to be appropriate.

2. The range and distribution of the characteristics of sliding scale royalty tracts were to match, as closely as possible, the range and distribution of the characteristics of the tracts being offered in the sale. Such characteristics include estimated resources, water depth, structure depth, favorable vs. unfavorable location of tracts on structures, and the distribution of tracts across trends.

ARNOLD E. PETTY,
Acting Associate Director,
Bureau of Land Management.

Approved: January 23, 1979.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 79-2708 Filed 1-23-79; 11:00 am]

[4310-84-M]

MID-ATLANTIC OUTER CONTINENTAL SHELF OIL AND GAS LEASE SALE NO. 49

Bidding and Sale Information

1. *Authority.* This notice is published pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343), as amended, and the regulations issued thereunder (43 CFR Part 3300).

2. *Filing of Bids.* Sealed bids will be received by the Manager, New York Outer Continental Shelf (OCS) Office, Bureau of Land Management, 26 Federal Plaza, Suite 32-120, New York, New York 10007. Bids may be delivered, either by mail or in person, to the above address until 4:30 p.m., e.s.t., February 27, 1979; or by personal delivery to Felt Forum, 8th Avenue and 33rd Streets, New York, New York 10001, between the hours of 8:30 a.m., e.s.t., and 9:30 a.m., e.s.t., February 28, 1979. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., e.s.t., February 28, 1979. All bids must be submitted and will be considered in accordance with applicable laws and regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 43 FR 49856, October 25, 1978.

3. *Method of Bidding.* A separate bid in a sealed envelope, labeled "Sealed bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., e.s.t., February 28, 1979," must be submitted for each tract. A suggested form appears in paragraph 17 of this notice. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, certified check, or money order payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 13 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is qualified under 43 CFR Subpart 3302. The suggested form for this statement to be used in joint bids appears in paragraph 18. Other documents may be required of bidders under 43 CFR 3302.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. *Bonus Bidding With a Fixed Sliding Scale Royalty.* Bids on tracts 49-1, 49-2, 49-3, 49-4, 49-5, 49-6, 49-7, 49-8, 49-9, 49-10, 49-11, 49-13, 49-15, 49-16, 49-17, 49-18, 49-38, 49-39, 49-43, 49-46, 49-84, 49-85, 49-86, 49-87, 49-88, 49-89, 49-90, 49-91, 49-92, 49-93, 49-94, 49-95, 49-96, 49-97, 49-98, 49-99, 49-101, 49-102, 49-104, 49-105, 49-106, 49-107, 49-108, 49-109, 49-110, 49-111, 49-112, 49-113, 49-114, 49-115, 49-116, 49-118, 49-119, 49-120, 49-123, 49-124, 49-125, and 49-126, must be submitted on a cash bonus bid basis with the percent royalty due in amount or value of production saved, removed or sold fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the percent royalty due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64 and Sec. 6(b) of the lease form.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than $15.92026 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $15.929026 million, but less than or equal to $3423.822697 million, the royalty percent due on the unadjusted value or amount of production is given by

$$R_j = b[\mathrm{Ln}\,(V_j/S)]$$

Where:

R_j = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j
b = 9.0
Ln = natural logarithm
V_j = the value of production in quarter j, adjusted for inflation, in millions of dollars
S = 2.5

When the adjusted quarterly value of production is greater than $3423.822697 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, R_j, the calculation will be rounded to five decimal places (for example, 18.59859 percent). This calculation will incorporate the adjusted quarterly value of production, V_j, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 19.743026 millions of dollars).

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

V 4 4 / 2 0 J A 2 9 7 9 UMI

[4310-84-C]

Figure 1
Form of the Sliding Royalty Schedule

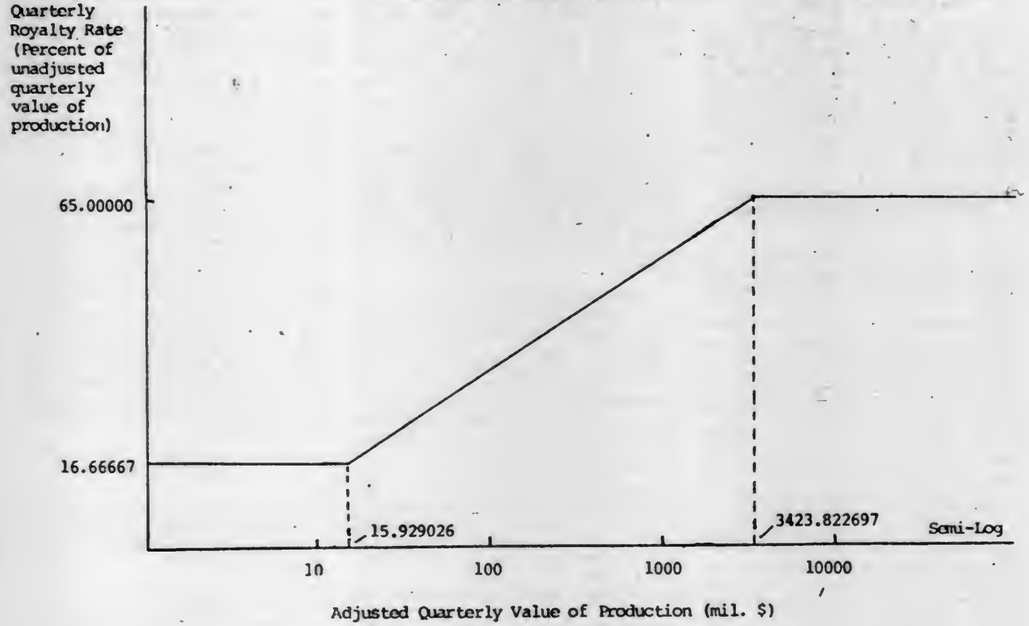


TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

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10.000000	200.0	4/3	7.500000	16.66667	1.666667
30.000000	200.0	4/3	22.500000	19.77502	5.932506
90.000000	200.0	4/3	67.500000	29.66253	26.696277
270.000000	200.0	4/3	202.500000	39.55004	106.785108
810.000000	200.0	4/3	607.500000	49.43755	400.444155
10.000000	250.0	5/3	6.000000	16.66667	1.666667
30.000000	250.0	5/3	18.000000	17.76673	5.330019
90.000000	250.0	5/3	54.000000	27.65424	24.888816
270.000000	250.0	5/3	162.000000	37.54175	101.362725
810.000000	250.0	5/3	486.000000	47.42926	384.177006

a Column (2) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

b Column (1) divided by Inflation Factor.

c Column (1) times Column (5).

[4310-84-M]

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold as determined pursuant to 30 CFR 250.64 and Sec. 6 (b) of the lease form. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

Leases awarded on the basis of a cash bonus bid with fixed sliding scale royalty will provide for a yearly rental or mininim royalty payment of $8 per hectare or fraction thereof.

Bidders for these tracts should recognize that the Department of Energy is authorized, under Section 302 (b) and (c) of the Department of Energy Organization Act, to establish production rates for all Federal oil and gas leases.

5. *Bonus Bidding With a Fixed Constant Royalty.* Bids on the remaining tracts to be offered at this sale must be on a cash bonus basis with a fixed royalty of 16⅔ percent. Leases which may be issued will provide for a yearly rental payment or minimum royalty payment of $8 per hectare or fraction thereof. A suggested cash bonus bid form is shown in paragraph 17.

6. *Equal Opportunity.* Each bidder must have submitted by 9:30 a.m., e.s.t., February 28, 1979, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971).

7. *Bid Opening.* Bids will be opened on February 28, 1979, beginning at 10 a.m., e.s.t. at the address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, February 28, 1979, that bid will be returned unopened to the bidder, as soon thereafter as possible.

8. *Deposit of Payment.* Any cash, cashier's checks, certified checks, bank drafts, or money orders submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

9. *Withdrawal of Tracts.* The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

10. *Acceptance or Rejection of Bids.* The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) The bid is from the highest responsible, qualified bidder; and

(c) The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $62 or more per hectare or fraction thereof.

11. *Successful Bidders.* Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental and satisfy the bonding requirements of 43 CFR 3304.1 within the time provided in 43 CFR 3302.5.

12. *Protraction Diagram.* Tracks offered for lease may be located on the following protraction diagrams which are available from the Manager, New York Outer Continental Shelf Office at the address stated in paragraph 2, at $2 each.

(a) Outer Continental Shelf Official Protraction Diagram No. NJ 18-3.

(b) Outer Continental Shelf Official Protraction Diagram No. NJ 18-5 Salisbury.

(c) Outer Continental Shelf Official Protraction Diagram No. NJ 18-6.

(d) Outer Continental Shelf Official Protraction Diagram No. NJ 18-8 Chincoteague.

13. *Tract Descriptions.* The tracts offered for bid are as follows:

NOTE.—There are gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental statement are not included in this notice.

V 4 4 / 2 0 J A 2 9 7 9 UMI

V 4 4 / 2 0 J A 2 9 7 9 UMI

[4310-84-C]

OCS OFFICIAL PROTRACTION DIAGRAM NO. NJ 18-3
(Approved October 31, 1974)

Tract	Block	Description	Hectares
49-1	163	All	2304
49-2	164	All	2304
49-3	206	All	2304
49-4	207	All	2304
49-5	208	All	2304
49-6	247	All	2304
49-7	248	All	2304
49-8	250	All	2304
49-9	251	All	2304
49-10	252	All	2304
49-11	289	All	2304
49-12	330	All	2304
49-13	333	All	2304
49-14	374	All	2304
49-15	376	All	2304
49-16	377	All	2304
49-17	378	All	2304
49-18	420	All	2304
49-19	639	All	2304
49-20	721	All	2304
49-21	722	All	2304
49-22	724	All	2304
49-23	726	All	2304
49-24	732	All	2304
49-25	765	All	2304
49-26	766	All	2304
49-27	767	All	2304
49-28	770	All	2304
49-29	773	All	2304
49-30	774	All	2304
49-33	809	All	2304
49-34	810	All	2304
49-35	811	All	2304
49-38	854	All	2304
49-39	856	All	2304
49-43	898	All	2304
49-46	943	All	2304
49-47	946	All	2304
49-51	989	All	2304

OCS OFFICIAL PROTRACTION DIAGRAM NO. NJ 18-5 SALISBURY
(Approved October 31, 1974)

Tract	Block	Description	Hectares
49-55	1009	All	2304

OCS OFFICIAL PROTRACTION DIAGRAM NO. NJ 18-6
(Approved October 31, 1974)

Tract	Block	Description	Hectares
49-56	20	All	2304
49-57	21	All	2304
49-58	63	All	2304
49-59	64	All	2304
49-61	98	All	2304
49-62	102	All	2304
49-63	103	All	2304
49-64	107	All	2304
49-66	140	All	2304
49-67	141	All	2304
49-68	146	All	2304
49-69	147	All	2304
49-70	149	All	2304
49-71	150	All	2304
49-72	151	All	2304
49-73	183	All	2304
49-74	186	All	2304
49-75	188	All	2304
49-76	191	All	2304
49-77	192	All	2304
49-78	193	All	2304
49-79	227	All	2304
49-80	233	All	2304
49-81	234	All	2304
49-82	270	All	2304
49-83	278	All	2304
49-84	402	All	2304
49-85	403	All	2304
49-86	404	All	2304
49-87	405	All	2304
49-88	449	All	2304
49-89	450	All	2304
49-90	451	All	2304

OCS OFFICIAL PROTRACTION DIAGRAM NO. NJ 18-6 (Cont'd.)
(Approved October 31, 1974)

Tract	Block	Description	Hectares
49-91	491	All	2304
49-92	493	All	2304
49-93	494	All	2304
49-94	495	All	2304
49-95	534	All	2304
49-96	535	All	2304
49-97	537	All	2304
49-98	538	All	2304
49-99	539	All	2304
49-101	581	All	2304
49-102	582	All	2304
49-104	623	All	2304
49-105	626	All	2304
49-106	665	All	2304
49-107	666	All	2304
49-108	667	All	2304
49-109	668	All	2304
49-110	709	All	2304
49-111	710	All	2304
49-112	711	All	2304
49-113	751	All	2304
49-114	752	All	2304
49-115	753	All	2304
49-116	754	All	2304
49-118	795	All	2304
49-119	796	All	2304
49-120	797	All	2304
49-123	837	All	2304
49-124	838	All	2304
49-125	839	All	2304
49-126	840	All	2304
49-132	969	All	2304

OCS OFFICIAL PROTRACTION DIAGRAM NO. NJ 18-8 CHINCOTEAGUE
(Approved December 2, 1976)

Tract	Block	Description	Hectares
49-133	40	All	2304
49-134	41	All	2304
49-135	84	All	2304
49-136	85	All	2304

[4310-84-M]

14. *Lease Terms and Stipulations.* All leases issued as a result of this sale will be for an initial term of 5 years. Leases issued will be on Form 3300-1 (September 1978), available from the Manager, New York Outer Continental Shelf Office, at the address stated in paragraph 2. Section 6 of the lease form will be amended for tracts offered on a cash bonus basis with a fixed sliding scale royalty, listed in Paragraph 4, as follows:

Sec. 6 *Royalty on Production.* (a) To pay the lessor a royalty of that percent in amount or value of production saved, removed or sold from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than $15.929026 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $15.929026 million, but less than or equal to $3423.822697 million, the royalty percent due on the unadjusted value or amount of production is given by

$$R_j = b[Ln(V_j/S)]$$

Where:
R_j = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j
b = 9.0
Ln = natural logarithm
V_j = the value of production in quarter j, adjusted for inflation, in millions of dollars
S = 2.5

When the adjusted quarterly value of production is greater than $3423.822697 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, R_j, the calculation will be rounded to five decimal places (for example, 16.59859 percent). This calculation will incorporate the adjusted quarterly value of production, V_j, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 19.743026 millions of dollars) * * *.

Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale. In the following stipulations the term Supervisor refers to the Atlantic Area Oil and Gas Supervisor for Operations of the Geological Survey and the term Manager refers to the Manager of the New York OCS Office of the Bureau of Land Management.

STIPULATION No. 1

If the Supervisor having reason to believe that a site, structure or object of historical or archeological significance hereinafter referred to as "cultural resource", may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archeologist shall be submitted by the lessee to the Supervisor and to the Manager for review.

If such cultural resource indicators are present the lessee shall: (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the supervisor, on the basis of further archeological investigation conducted by a qualified marine survey archeologist or underwater archeologist using such survey equipment and techniques as deemed necessary by the Supervisor, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archeologist or underwater archeologist shall be submitted to the Supervisor and Manager for their review. Should the Supervisor determine that the existence of a cultural recource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the Supervisor has given directions as to its preservation.

The lessee agrees that if any site, structure, or object of historical or archeological significance should be discovered during the conduct of any operations of the leased area, he shall report immediately such findings to the Supervisor, and make every reasonable effort to preserve and protect the cultural resource from damage until the Supervisor has given directions as to its preservation.

STIPULATION No. 2

If biological populations or habitats which may require additional protection are identified by the Supervisor in the leasing area, the Supervisor will require the lessee to conduct environmental surveys or studies, as approved by the Supervisor, to determine the extent and composition of biological populations or habitats, and the effects of proposed or existing operations on the populations or habitats which might require additional protective measures. The Supervisor shall provide written notice to the lessee of his decision to require such surveys. The nature and extent of any surveys or studies will be determined by the Supervisor on a case-by-case basis.

Based on any surveys or studies which the Supervisor may require of the lessee, the Supervisor may require the lessee to: (1) relocate the site of operations so as not to affect adversely the significant biological populations or habitats deserving protection; or (2) modify operations in such a way as not to affect adversely the significant biological populations or habitats deserving protection; or (3) establish to the satisfaction of the Supervisor that such operations will not adversely affect the significant biological populations or habitats, deserving protection.

Operations, including siting, must be conducted to insure the protection and continued viability of significant biological populations or habitats in a manner consistent with the other purposes of the Outer Continental Shelf Lands Act, as amended.

The lessee shall submit all data obtained in the course of such surveys to the Supervisor, with the locational information for drilling or other activity. The lessee may take no action that might result in any effect on the biological populations or habitats until the Supervisor provides written directions to the lessee, with regard to permissible actions.

In the event that important biological populations or habitats are identified subsequent to commencement of operations, the lessee shall make every reasonable effort to preserve and protect all biological populations and habitats within the lease area, until the Supervisor provides written instructions to the lessee with regard to the biological populations or habitats identified.

STIPULATION No. 3.

Pipelines will be required, (1) if pipeline rights-of-way can be determined and obtained, (2) if laying such pipelines is technically feasible and environmentally preferable, and (3) if, in the option of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with the participation of Federal, State, and local government and industry. Where feasible and environmentally preferable, all pipelines, including both flow lines and gathering lines for oil and gas, shall be buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries trawling gear, and other factors as determined on a case-by-case basis.

Following the completion of pipeline installation, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the Supervisor. Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels pursuant to the Ports and Waterways Safety Act of 1972, as amended (42 U.S.C. 391a).

V 44 / 20 JA 29 79 UMI

V 4 4 / 2 0 J A 2 9 7 9 UMI

STIPULATION No. 4

Drilling cuttings and drilling muds shall be disposed of by shunting the material through a downpipe to a depth of 20-50 feet below the ocean surface or by transporting these materials to pre-selected disposal sites approved by the Supervisor, and the Environmental Protection Agency. Based on the compostition of produced formation waters and the site-specific environmental conditions, the Supervisor may require reinjection of such formation waters.

STIPULATION No. 5

(Leases for the following tracts will include this stipulation, which will apply only to operations within the designated portion of such tracts: 49-22, NE¼SE¼; 49-28, SE¼; and 49-29, SE¼NW¼.)

Before operations may proceed on the designated portion of this lease block lessee must demonstrate to the Supervisor's satisfaction that a particular hazardous accumulation of shallow gas does not exist, or that drilling plans can be designed to assure safe operations in the area.

STIPULATION No. 6

(Leases for the following tracts will include this stipulation, which will apply only to operations within the designated portions of such tracts: 49-29, S½SE¼; 49-30, S½, NE¼, SE¼NW¼; 49-51, S½, NE¼, S½NW¼, NE¼NW¼; 49-56, SE¼, S½NE¼; 49-58, E½; 49-64, S½, NE¼, SE¼NW¼; 49-70, S½, S½NE¼; 49-71, S½, NE¼, S½NW¼; 49-76, S½, S½NE¼; 49-80, S½SE¼, NE¼SE¼; 49-81, S½, NE¼, S½NW¼, NE¼NW¼; 49-88, SE¼SW¼; 49-92, W½; 49-94, E½SE¼; 49-96, SE¼, SE¼NE¼; 49-97, W½; 49-98, SE¼SE¼; 49-99, S½, NE¼, SE¼NW¼; 49-101, S½, NW¼; 49-102, S½, NE¼, S½NW¼; 49-104, E½NE¼, SW¼NE¼, 49-107, SE¼SE¼; 49-108, S½, S½NE¼, SE¼NW¼; 49-111, E½, SE¼SW¼; 49-113, W½; 49-115, E½SE¼, SE¼NE¼; 49-118, W½; 49-119, S½SE¼; 49-120, S½, NE¼; 49-124, E½; 49-125, S½, NW¼; 49-126, S½, NE¼, E½NW¼, SW¼NW¼; 49-132, E½SE¼; 49-135, SE¼SE¼; and 49-136, S½, NE¼.)

Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the designated portion of this lease block unless or until the lessee has demonstrated to the Supervisor's satisfacton that mass movement of sediments is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location. If exploratory drilling operations are allowed, site specific surveys shall be conducted to determine the potential for slumping and mass movement of sediments. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas are allowed all sump blocks or mass movements of sediments in the lease block must be mapped. Down-hole pressure-actuated control devices must be located below the base of the slump blocks located in the area in order to protect the environment in case such mass movement occurs at the proposed location. This may necessitate all exploration for and development of oil and gas be performed from locations outside of the area of unstable sediments, either within or outside of this lease block.

STIPULATION No. 7

(To be included only in leases resulting from this sale for tracts 49-24, 49-47, 49-57, 49-59, 49-72, 49-77, 49-78, 49-83, 49-105, 49-109, 49-112, and 49-116.)

Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within this lease block unless or until the lessee has demonstrated to the Supervisor's satisfaction that mass movement of sediments is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location. If exploratory drilling operations are allowed, site specific surveys shall be conducted to determine the potential for slumping and mass movement of sediments. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas are allowed all slump blocks or mass movements of sediments in the lease block must be mapped. Down-hole pressure-actuated control devices must be located below the base of the slump blocks located in the area in order to protect the environment in case such mass movement occurs at the proposed location. This may necessitate all exploration for and development of oil or gas be performed from locations off this lease block and outside of the area of unstable sediments.

STIPULATION No. 8

(To be included only in lease resulting from this sale for tracts 49-1, 49-2, 49-3, 49-4, 49-5, 49-6, 49-7, 49-8, 49-9, 49-10, 49-20, 49-21, 49-22, 49-25, 49-26, 49-27, 49-33, 49-34, 49-35, 49-38, 49-39, 49-43, 49-46, 49-47, 49-51, 49-55, 49-56, 49-57, 49-58, 49-59, 49-61, 49-62, 49-63, 49-64, 49-66, 49-67, 49-68, 49-69, 49-70, 49-71, 49-72, 49-73, 49-74, 49-75, 49-76, 49-77, 49-78, 49-79, 49-80, 49-81, 49-82, 49-83, 49-84, 49-85, 49-86, 49-87, 49-88, 49-89, 49-90, 49-91, 49-92, 49-93, 49-94, 49-96, 49-97, 49-98, 49-99, 49-101, 49-102, 49-105, 49-123, 49-124, 49-132, 49-133, 49-134, 49-135, and 49-136)

(a) Whether or not compensation for such damage or injury might be due under a theory of strict liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occurs in, on, or above the Outer Continental Shelf, to any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by or on behalf of the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors or subcontractors, or any of their officers, agents, or employees being conducted as a part of, or in connection with, the programs and activities of the Commanding Officer, Fleet Area Control and Surveillance Facility, Virginia Capes OPAREA, Naval Air Station, Oceana, Virginia. The lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees.

Notwithstanding any limitation of the lessee's liability in Sec. 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of theri officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against and to defend at its own expense the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against, and to defend at its own expense the United States against, all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installations, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

(b) The lessee, when operating or causing to be operated on its behalf boat or aircraft traffic into the individual designated warning areas, shall enter into an agreement with the Commanding Officer, Fleet Area Control and Surveillance Facility, Virginia Capes OPAREA, Naval Air Station, Oceana, Virginia, utilizing an individual designated warning area prior to commencing such traffic. Such agreement will provide for positive control of boats and aircraft operating into the warning areas at all times.

STIPULATION No. 9

(To be included only in leases resulting from this sale for tracts 49-55, 49-56, 49-57, 49-58, 49-59, 49-61, 49-62, 49-63, 49-64, 49-66, 49-67, 49-68, 49-69, 49-70, 49-71, 49-72, 49-73, 49-74, 49-75, 49-76, 49-77, 49-78, 49-79, 49-80, 49-81, 49-82, 49-83, 49-84, 49-85, 49-86, 49-87, 49-88, 49-89, 49-90, 49-91, 49-92, 49-93, 49-94, 49-96, 49-97, 49-98, 49-99, 49-101, 49-102, 49-103, 49-104, 49-105, 49-106, 49-107, 49-108, 49-109, 49-110, 49-111, 49-112, 49-113, 49-114, 49-115, 49-116, 49-118, 49-119, 49-120, 49-123, 49-124, 49-125, 49-126, 49-132, 49-133, 49-134, 49-135, and 49-136.)

(a) Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risk of damage or injury to persons or property, which occurs in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or persons who are agents, employees or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by or on behalf of the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors or subcontractors, or any of their officers, agents, or employees being conducted as a part of, or in connection with, the programs and activities of the National Aeronautics and Space Administration (NASA), Wallops Flight Center. The lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees.

Notwithstanding any limitation of the lessee's liability in Sec. 14 of the lease, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors, or subcontractors, or any of their officers, agents or employees. The lessee further agrees to indemnify and save harmless the United States against and to defend at its own expense the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against, and to defend at its own expense the United States against, all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors, or subcontractors doing business with the lessee in connection with the programs and activities of the NASA, Wallops Flight Center whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors or any of their officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

(b) The lessee, when operating or causing to be operated on its behalf, boat, ship, or aircraft traffic into the leased area or surrounding area of the lease, including any part of the Outer Continental Shelf between the 35th and 39th parallels, shall enter into an agreement with the Director, Wallops Flight Center prior to commencing such traffic. Such agreement shall provide for positive control of boats, ships, and aircraft operating in the above designated areas and will provide for the avoidance of interference with the programs and activities of the NASA Wallops Flight Center.

(c) Upon recommendation by the Director, Wallops Flight Center when the activities of the NASA Wallops Flight Center may endanger personnel or property, the lessee agrees, upon receipt of the notice from the Supervisor, to evacuate all personnel from all structures on the lease and to shut-in and secure all wells and other equipment, including pipelines on the lease, within forty-eight (48) hours or within such longer period as may be specified by the Supervisor. The Supervisor shall not require evacuation of personnel and shutting-in and securing of equipment for a period of time greater than seventy-two (72) hours; however, such period of time may be extended by subsequent notice from the Supervisor. Equipment and structures may remain in place on the lease during such time as the evacuation remains in effect.

(d) The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from the leased area or surrounding area of the lease, including any part of the Outer Continental Shelf between the 35th and 39th parallels, in accordance with the requirements specified by the Director, Wallops Flight Center, to the degree necessary to prevent damage to, or unacceptable interference with, the programs and activities of the NASA, Wallops Flight Center.

Necessary monitoring, control and coordination with the lessee, his agents, employees, invitees, independent contractors or subcontractors, will be effected by the Director, Wallops Flight Center; provided, however, that control of such electromagnetic communication shall in no instance prohibit all manner of electromagnetic communications during any period of time between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

STIPULATION No. 10

(To be included in any leases resulting from this sale for the sliding scale royalty tracts listed in paragraph 4 of this notice.)

(a) The royalty rate on production saved, removed or sold from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.12(e)). The Director, Geological Survey, may grant a reduction for only one year at a time. Reduction of royalty rates will not be approved unless production has been underway for one year or more.

(b) Although the royalty rate specified in Sec. 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16⅔ percent of the production saved, removed or sold from the lease area may be taken as royalty in amount, except as provided in Sec. 15(d) of this lease: the royalty on any portion of the production saved, removed or sold from the lease in excess of 16⅔ percent may only be taken in value of the production saved, removed or sold from the lease area.

15. *Information to Lessees.* On September 18, 1978, the OCS Lands Act Amendments of 1978 were enacted. Some sections of current regulations applicable to OCS leasing operations are inconsistent with this new legislation, and the legislation requires the issuance of some new regulations. The inconsistencies will be corrected by rulemakings and the new regulations will be issued as soon as possible. Nevertheless, bidders are notified that provisions of the OCS Lands Act Amendments shall apply to all leases offered at this lease sale and shall supersede all inconsistent provisions in current regulations applicable to OCS leasing operations.

Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes. Corps of Engineers permits are required for construction of any artifical islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with the Outer Continental Shelf Lands Act, as amended.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are also advised that in accordance with Sec. 16 of each lease offered at this sale the lessor may require a lessee to operate under a unit, pooling or drilling agreement and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a royalty rate based on a sliding scale.

In the enforcement of Stipulation 2, the Supervisor will receive recommendations from a committee composed of designated representatives of the Bureau of Land Management, U.S. Fish and Wildlife Service, U.S. Geological Survey, the National Marine Fisheries Service, the Environmental Protection Agency, and representatives of the affected States. It is intended that this committee will remain in existence throughout the operating life of the field. The Supervisor will consult with the committee in identifying areas of resources of biological importance on the conduct of the biological surveys by lessees, and on the appropriate course of action after the surveys have been conducted.

The committee has completed a preliminary review of the sale area and has determined that it will recommend to the Supervisor that no preexploration surveys be required on any of the tracts offered, with the possible exception of those noted below. The committee may recommend that surveys be required prior to development.

Exception The BLM is currently funding a study of the canyon areas in the Mid and North Atlantic regions. This Canyon Assessment Study shall involve an analysis of historical data and a field surveys of ten of the seventeen canyon blocks. The analysis of historical data, available in April, 1979, may provide information on the faunal communities in Tracts 49-92, 49-96, 49-97, 49-101, 49-104, 49-113, 49-118, 49-124, 49-125, and 49-126. Preliminary interpretations of the field surveys, conducted in Tracts 49-113, 49-118, 49-124, 49-125, and 49-126, shall be available in July, 1979. Seven other blocks, although not included in the Canyon Assessment Study, may also be evaluated at that time because of their bathymetric characteristics. These tracts are 49-88, 49-106, 49-109, 49-111, 49-116, 49-120, and 49-132. Based on the analysis of the historical and field data, the committee may recommend to the Supervisor that preexploration surveys be required on any or all of the above mentioned tracts.

In applying safety, environmental, and conservation laws and regulations, the Supervisor, in accordance with

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Sec. 21(b) of the OSC Lands Act, as amended, will require the use of the best available and safest technologies which are determined to be economically feasible. To the extent practicable, the Supervisor will consult with the relevant Federal agencies and the affected State(s) in the execution of these responsibilities.

16. *OCS Orders.* Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Mid-Atlantic Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

17. *Suggested Bid Form.* It is suggested that bidders submit their bids to Manager, New York Outer Continental Shelf Office, in the following form:

OIL AND GAS BID

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf specified below:

Tract No.

Total Amount Bid

Amount per Hectare

Amount of Cash Bonus Submitted with Bid

Proportionate Interest of Company(s) Submitting Bid

Company

Percent Interest

Address

N.Y. Misc. No.

Signature (Please type signer's name under signature)

18. *Required Joint Bidders Statement.* In the case of joint bids, each joint bidder is required to execute a joint bidder's statement before a notary public and submit it with his bid. A suggested form for this statement is shown below.

JOINT BIDDER'S STATEMENT

I hereby certify that _____ (entity submitting bid) is eligible under 43 CFR 3302 to bid jointly with the other parties submitting this bid.

Signature (Please type signer's name under signature)

Sworn to and subscribed before me this ___ day of _____ 19___

NOTARY PUBLIC
State of _____
County of _____

Dated: January 23, 1979.

ARNOLD E. PETTY,
Acting Associate Director, Bureau of Land Management.

Approved:
CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 79-2707 Filed 1-23-79; 11:00 am]

[4310-84-M]

[Serial No. AR-032505]

ARIZONA

Order Providing for Opening of Public Lands

1. Pursuant to the Act of March 1, 1907 (34 Stat. 1052; 43 U.S.C. 682) entitled "an Act to authorize the sale of public lands for cemetery purposes", a patent was issued on the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 7 S., R. 27 E.,
Sec. 21, SE¼NW¼SE¼, NE¼SW¼SE¼, NW¼SE¼SE¼.

The area described aggregates 30 acres in Graham County, Arizona.

2. The lands have not been used by the patentee for the purposes allowed by the granting Act and have been reconveyed to the United States.

3. The lands are located approximately 9 miles east of Safford, Arizona. Topography varies from gentle rolling to level desert land. Elevation is approximately 3100 feet above sea level.

4. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the subject lands are hereby opened to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.). The lands have been and remain open to filing under the mineral leasing laws. All valid applications received at or prior to 10:00 a.m., on March 1, 1979, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: January 18, 1979.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-2905 Filed 1-26-79; 8:45 am]

[4310-84-M]

[LA 0153533]

CALIFORNIA

Termination of Proposed Withdrawal and Reservation of Land

JANUARY 17, 1979.

Notice of National Park Service, U.S. Department of the Interior, application LA 0153533 for withdrawal and reservation of lands from the mining laws for the Death Valley National Monument Area was published as FR Doc. 59-7557 on pages 7337 and 7338 of the issue of September 11, 1959, and amended by FR Doc. 63-10914 on pages 11083 and 11084 of the issue of September 16, 1963, and FR Docs. 62-7607 and 62-7611 on pages 7659 and 7660 of the issue of August 2, 1962. The applicant has cancelled its application.

SAN BERNARDINO MERIDIAN

T. 18 N., R. 5 E.,
Sec. 2, E½NW¼ and E½W½NW¼.
T. 19 N., R. 5 E.,
Sec. 35, SW¼.
T. 21 N., R. 4 E., unsurveyed,
Sec. 11, SW¼;
Sec. 14, W½.
T. 23 N., R. 1 E., unsurveyed,
Sec. 3, NW¼.
T. 23 N., R. 2 E., unsurveyed,
Secs. 11 and 12;
Sec. 13, N½;
Sec. 14, N½.
T. 24 N., R. 1 E., unsurveyed,
Sec. 4, SW¼;
Sec. 21, E½NE¼.
T. 24 N., R. 2 E., unsurveyed,
Sec. 9, All;
Sec. 14, E½.
T. 25 N., R. 2 E., unsurveyed,
Sec. 13, NE¼;
Sec. 21, N½N½.
T. 26 N., R. 1 E.,
Sec. 13, All;
Sec. 14, N½;
Sec. 24, N½;
Sec. 36, All.
T. 26 N., R. 2 E.,
Sec. 1, SW¼;
Secs. 2, 3, and 4;
Sec. 5, Lots 1 and 2 of NE¼, Lots 1 and 2 of NW¼; N½SW¼, and SE¼;
Sec. 6, Lots 1 and 2 of NE¼ and E½ of Lot 2 of NW¼;
Sec. 9, E½, E½NW¼, and NW¼NW¼;
Secs. 10 and 11;
Sec. 12, W½;
Sec. 13, W½;
Sec. 14, All;
Sec. 15, NE¼;
Sec. 19, All;
Secs. 23 and 24;
Sec. 30, E½;
Sec. 31, All.
T. 27 N., R. 1 E.,
Secs. 1, 2, and 3;
Sec. 4, Lots 28, 29, 30, 31, and 32, N½, and W½SE¼;
Sec. 9, Lots 8, 9, 10, 11, 12, 13, and 14, and E½E½;
Secs. 10 through 15, inclusive;
Sec. 21, S½, NW¼, and S½NE¼;
Secs. 22 through 24, inclusive;
Sec. 25, N½, NE¼SW¼, and SE¼;
Sec. 26, N½N½ and SE¼NE¼;
Secs. 27 and 28;
Sec. 35, N½.
T. 27 N., R. 2 E.,
Sec. 6, Lot 1 of NW¼, W½ Lot 2 of NW¼, Lot 2 of SW¼, E½SW¼, W½SE¼, and SE¼SE¼;
Sec. 7, All;
Sec. 17, SE¼NW¼, W½NW¼, SW¼, and SW¼SE¼;
Secs. 18, 19, and 20;
Sec. 21, SW¼NW¼ and SW¼;
Sec. 27, SW¼;
Secs. 28, 29, 30, 31, 32, and 33;
Sec. 34, W½ and S½SE¼;
Sec. 35, S½SW¼.
T. 28 N., R. 1 E.,
Secs. 33, 34, and 35.

MOUNT DIABLO MERIDIAN

T. 11 S., R. 42 E.,
Sec. 13, SW¼;
Sec. 14, E½SE¼;
Sec. 24, W½;
Sec. 26, S½SE¼;
Sec. 35, N½NE¼.
T. 13 S., R. 46 E.,
Sec. 35, NE¼;
Sec. 36, NW¼.
T. 14 S., R. 40 E., unsurveyed,
Sec. 25, E½;
Sec. 36, E½.
T. 14 S., R. 41 E., unsurveyed,
Secs. 30 and 31;
Sec. 32, W½SW¼.
T. 14 S., R. 45 E.,
Sec. 18, NW¼.
T. 15 S., R. 40 E., unsurveyed,
Sec. 1, NE¼.
T. 15 S., R. 41 E., unsurveyed,
Sec. 5, W½NW¼;
Sec. 6, All.
T. 15, S., R. 46 E.,
Sec. 31, S½;
T. 16 S., R. 46 E.,
Sec. 5, All;
Sec. 6, N½.
T. 16 S., R. 44 E.,
Sec. 13, NE¼.
T. 16½ S., R. 44 E.,
Sec. 31, E½SE¼;
Sec. 32, W½SW¼.
T. 17 S., R. 44 E., unsurveyed,
Sec. 22, SE¼;
Sec. 27, NE¼.
T. 16 S., R. 45 E.,
Sec. 18, Lots 1 and 2.
T. 18 S., R. 45 E., unsurveyed,
Sec. 24, NE¼.
T. 19 S., R. 44 E., unsurveyed,
Sec. 22, SE¼;
Sec. 23, S½;
Sec. 28, NW¼.
T. 19 S., R. 45 E.,
Sec. 26, S½;
Secs. 35, All.
T. 20 S., R. 45 E.,
Sec. 2, All;
Sec. 3, SE¼;
Sec. 10, W½ and NE¼;
Sec. 11, N½N½;
Sec. 15, E½NW¼, W½NE¼, and SE¼;
Sec. 22, E½ and SW¼;
Sec. 27, N½.
T. 21 S., R. 46 E.,
Sec. 20, N½ and N½S½.

The lands total 62,304 acres, more or less.

The lands remain withdrawn from the public land laws and the mining laws for Death Valley National Monument by Act of Congress of September 28, 1976 (90 Stat. 1342; 16 U.S.C. 1901).

JOAN B. RUSSELL,
Acting Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 79-2873 Filed 1-26-79; 8:45 am]

[4310-70-M]

NATIONAL PARK SERVICE

GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Areas Advisory Commission will be held on February 24, 1979 at 9:30 a.m. (PST) at Tamalpais High School Student Center, Miller Avenue and Camino Alto, Mill Valley, CA.

The Advisory Commission was established by Pub. L. 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service system in Marin and San Francisco couties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Secretary
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Ms. Daphne Greene
Mr. Peter Haas, Sr.
Mr. John Jacobs
Ms. Gimmy Park Li
Mr. Joseph Mendoza
Mr. John Mitchell
Mr. Merritt Robinson
Mr. Jack Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

The major agenda items will be a vote upon the Marin County GGNRA pet policy guidelines, a Northeast Waterfront Committee report, a Fort Mason Committee report, a procedures committee report, and an update on the Sir Francis Drake ceremony.

This meeting is open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact Lynn H. Thompson, General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, CA 94123, telephone 415-556-2920.

Minutes of the meeting will be available for the public inspection by March 24, 1979 in the Office of the General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, CA.

Dated: January 19, 1979.

LYNN H. THOMPSON,
General Superintendent, Golden Gate National Recreation Area.

[FR Doc. 79-2866 Filed 1-26-79; 8:45 am]

[4310-70-M]

PICTURED ROCKS NATIONAL LAKESHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Pictured Rocks National Lakeshore Advisory Commission will be held February 24, 1979, at 10 a.m. (EDT), at the Munising Community Center, Munising, Michigan.

The Commission was established by Public Law 89-668 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the development of the Pictured Rocks National Lakeshore.

The members of the Commission are:

Dr. John Tanton (Chairman)
Mr. Leo Gariepy
Mr. Glenn C. Gregg
Mr. David C. West
Mr. James Becker

Matters to be addressed at the meeting will include a discussion of the Park Buffer Zone and General Development priorities. A brief report on planning progress will also be offered.

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Donald F. Gillespie, Superintendent, Pictured Rocks National Lakeshore, P.O. Box 40, Munising, Michigan 49862, telephone 906-387-2607.

Minutes of the meeting will be available for public inspection two weeks after the meeting at Pictured Rocks National Lakeshore headquarters at Sand Point, four miles east of Munising, Michigan.

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Dated January 16, 1979.

RANDALL R. POPE,
Acting Regional Director, Midwest Region.

[FR Doc. 79-2865 Filed 1-26-79; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-58]

CERTAIN FABRICATED STEEL PLATE FROM JAPAN

Commission Action on the Presiding Officer's Recommendation

Background. The United States International Trade Commission instituted investigation No. 337-TA-58 on Certain Fabricated Steel Plate From Japan on September 11, 1978. The investigation was based upon the allegations contained in a complaint filed on behalf of the Steel Plate Fabricators Association (Complainant) under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337). Notice of the institution of the complaint was published in the FEDERAL REGISTER on September 15, 1978 (43 FR 41299). Named as respondents in that notice were four Japanese corporations, Ishikawajima-Harima Heavy Industries, Kobe Steel Co., C. Itoh & Co., and Japan Steel Works.

On November 6, 1978, Complainant filed a motion for termination of the section 337 investigation and a request for the institution of an investigation under section 332 of the Tariff Act of 1930 (19 U.S.C. 1332). In its motion, Complainant stated continuation of the investigation would be wasteful of the resources of itself and the Commission staff. Complainant also contended that more productive results would be obtained from a nonadjudicative Commission investigation under section 332.

On December 8, 1978, the presiding officer issued his recommended determination. The presiding officer determined and recommended that there is no evidence of violation of section 337 owing to alleged collusive bidding and individual and concerted actions implementing predatory pricing schemes facilitated by alleged sales at unusually low or below cost prices. This recommended determination was rendered under Commission rule 210.53(a) (19 CFR 210.53(a)). In addition, the presiding officer recommended that Complainant's motion to terminate be granted. Finally, the presiding officer determines that Complainant's request for an investigation under Section 332 was not properly before him.

Commission determination and order. Having considered Complainant's motion to terminate this investigation and request for a Section 332 investigation, the subsequent submissions of the parties and the recommended determination of the presiding officer, and the entire adminstrative record, the Commission determines that there is no violation of section 337 of the Tariff Act of 1930, as amended, by reason of the importation into the United States and the sale of steel plate that is the subject of this investigation, and that an investigation under section 332 of the Tariff Act of 1930 is not warranted.

Therefore, the Commission grants Complainant's motion to terminate and denies Complainant's request for an investigation under secton 332.[1]

Complainant has failed to establish on the record that a past or present violation of section 337 existed or exists. Therefore, the respondents are entitled to a determination of no past or present violation of the statute in the importation into the United States or in the sale of fabricated steel.

Complainant joined to its motion for termination of the present investigation a "request for institution of Investigation under 19 U.S.C. 1332". In support of this request, Complainant stated:

> Far more productive results (than a continuation of the 337 investigation) would obtain from a non-adjudicative Commission investigation and report to the President and to Congress as to the products identified in the Complaint. Such an investigation and report, undertaken pursuant to 19 U.S.C. sec. 1332, would serve the dual purposes of alerting appropriate governmental officials of the severe problems the domestic steel plate fabricating industry faces from unfair foreign competitive practices, and of accumulating data essential to future investigations under Section 337.

The presiding officer correctly found that he lacked authority to institute a 332 proceeding and that such authority was exclusively within the province of the Commission in the absence of delegation of power. In short, Complainant's request was addressed to the wrong party. However, in this case we believe that the request should be treated as properly before the Commission, since there would be no benefit to the parties or to the Commission by requiring Complainant to refile the request.

Complainant's request for a section 332 investigation is denied at this time for the following reasons. First, Complainant has failed to describe the scope of the proposed investigation. Second, Complainant has failed to come forward with any factual support for its allegations of unfair trade practices. Third the Commission is by this order terminating an investigation concerning the same subject matter. Finally, there has been no showing that a section 332 investigation would be of benefit to Complainant or in the public interest.

Issued: January 24, 1979.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-2991 Filed 1-26-79; 8:45 am]

[1] Commissioner Alberger notes that respondent Ishikawajima-Harima Heavy Industries (IHI) made a cross motion for termination on the basis of default by the complainant. The presiding officer recommended denial of the motion. Since the Commission is granting the present motion it is unnecessary to address respondent's request for default. The investigation being terminated, all pending motions are moot.

[6820-49-M]

NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD, 1979

MEETING

In accordance with Section 10(a) of the Federal Advisory Committee Act (5 USC Appendix I), announcement is made of the following National Commission meetings schedule to assemble on February 8 and 9, 1979.

NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD

February 8, 1979—10:00 A.M. to 12:00 Noon; 1:00 P.M. to 5:00 P.M.
February 9, 1979—9:00 A.M. to 12:00 Noon; 1:00 P.M. to 3:30 P.M.
New Executive Office Building (Room 2010), 726 Jackson Place, N.W., Washington, D.C. 20506.

OPEN MEETING

Contact: Barbara P. Pomeroy, Executive Director, National Commission on the International Year of the Child, Room 505, 600 E Street, N.W., Washington, D.C. 20471.

Purpose: The National Commission serves as the focal point for the observance of all International Year of the Child activities in the country, and for all United States cooperation on International Year of the Child observances with other countries. It will provide a forum for examining the fundamental needs of children; it will create a better understanding of the needs of children; both in the United States and abroad; it will encourage and/or coordinate Federal, State, and local programs to meet these needs; and it will write a report to the President on its activities and findings, including recommendations of future actions relating to the well-being of children.

The Commission will assess and identify programs which could be endorsed or replicated nationally; receive and disseminate information, ideas, and proposals for improving the well-being of the nation's children; encourage local citizen support for meeting the basic human needs of children; such as health, nutrition, legal rights, education and physical development; and foster the creation of new programs and the improvement of existing programs directed at permanently improving the status of children.

Agenda: The Commissioners will address the aforementioned issues, especially in relation to the following: (a) media, (b) public awareness, (c) participation of children in program development, (d) children around the world, and (e) the development of special projects.

Attendance by the public will be limited to space available.

BENEDICT J. LATTERI,
Administrative Officer, National Commission on the International Year of the Child.

JANUARY 23, 1979.

[FR Doc. 79-2912 Filed 1-26-79; 8:45 am]

[7537-01-M]

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Arts

MEDIA ARTS PANEL (AFI/ARCHIVAL)

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Media Arts Panel (AFI/Archival) to the National Council on the Arts will be held February 13, 1979, from 9:00 a.m. to 5:30 p.m., in Room 1426, Columbia Office Complex, 2401 E Street NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

JANUARY 19, 1979.

[FR Doc. 79-2874 Filed 1-26-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-348A 50-364A]

ALABAMA POWER CO. (JOSEPH M. FARLEY NUCLEAR PLANT UNITS 1 AND 2)

Order Regarding Argument

JANUARY 23, 1979.

The Board will hear argument on the exceptions filed by all parties in this antitrust case at 9:30 a.m. on Wednesday, February 28, 1979, in the Commission's Public Hearing Room, 5th floor, 4350 East-West Highway, Bethesda, Maryland.

Counsel for the Alabama Power Company will be heard first and is allotted one hour to open; counsel for the other parties will have ninety minutes for their arguments, that time to be divided equally among them unless some other arrangement is agreed to; counsel for Alabama Power will then have one-half hour for its closing argument.

Parties on the same side are encouraged to consolidate their arguments so that common issues are argued by one counsel only; duplicative arguments are obviously an inefficient use of the time available. Moreover, any attempt to touch upon every subject covered in the briefs would be neither helpful nor appropriate. Rather, it would be more useful for counsel to attempt to justify their main points by responding to the arguments most forcefully developed in their opponents' briefs.

Each party shall, by letter to the Board Secretary, promptly acknowledge receipt of this notice and advise us of the name, address and telephone number of counsel who will argue on its behalf.

It is so ordered.

For the Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 79-2877 Filed 1-26-79; 8:45 am]

[7590-01-M]

[Docket No. 50-293]

BOSTON EDISON CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 36 to Facility Operating License No. DPR-35, issued to Boston Edison Company (the licensee), which revised the license and Technical Specifications for operation of the Pilgrim Nuclear Power Station Unit No. 1 (the facility) located near Plymouth, Massachusetts. The amendment is effective as of its date of issuance.

This amendment changes the license and Technical Specifications relating to the receipt, possession, and use of byproduct, source and special nuclear material.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated November 12, 1976, as supplemented October 16 and November 2, 1978, (2) Amendment No. 36 to License No. DPR-35, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 17th day of January 1979.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-2878 Filed 1-26-79; 8:45 am]

[7590-01-M]

[Docket No. 50-325]

CAROLINA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Facility Operating License No. DPR-71, issued to Carolina Power & Light Company (the

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licensee) for operation of the Brunswick Steam Electric Plant, Unit No. 1 (the facility), located in Brunswick County, North Carolina. The amendment is effective as of its date of issuance.

The amendment adds a Special Test Exception to allow lowering the reactor vessel water level for extended maintenance during the current refueling outage.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated January 18, 1978, (2) Amendment No. 18 to License No. DPR-71, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 19th day of January 1979.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-2879 Filed 1-26-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-454, 50-455, 50-456, 50-457]

COMMONWEALTH EDISON CO.

Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

COMMONWEALTH EDISON CO. (Byron Station, Units 1 and 2; and Braidwood Station, Units 1 and 2) Construction Permit Nos. CPPR-130, CPPR-131, CPPR-132, and CPPR-333

This action is in reference to a notice published by the Commission on December 15, 1978, in the FEDERAL REGISTER (43 FR 58659-60) entitled "Receipt of Application for Facility Operating Licenses; Notice of Consideration of Issuance of Facility Operating Licenses; Notice of Availability of Environmental Reports; and Notice of Opportunity for Hearing".

The Chairman of this Board and his address is as follows:

Edward Luton, Esq., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The other members of the Board and their addresses are as follows:

Dr. A. Dixon Callihan, Union Carbide Corporation, P.O. Box Y, Oak Ridge, Tennessee 37830.

Dr. Franklin C. Daiber, College of Marine Studies, University of Delaware, Newark, Delaware 19711.

Dated at Bethesda, Md., this 23rd day of January 1979.

ROBERT M. LAZO,
Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 79-2880 Filed 1-26-79; 8:45 am]

[7590-01-M]

[Docket No. 50-255]

CONSUMERS POWER CO.

Proposed Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has received from the Consumers Power Company (the licensee) a request dated January 3, 1979, for any commission review and approval required to replace the steam generators at the Palisades Plant (the facility) located in Covert Township, Van Buren County, Michigan. Such replacement will entail the issuance of an amendment to Provisional Operating License No. DPR-20.

Accordingly, notice is hereby given that the Commission has under consideration an amendment to this license which would authorize the licensee to remove the steam generators now in use in the facility, to replace such steam generators with new steam generators and to return the facility to operation using the new steam generators.

The Commission will not issue the amendment: (1) Until the completion of a Safety Evaluation on the licensee's request by its Office of Nuclear Reactor Regulation and the completion of any environmental review which may be required by the Commission's regulations in 10 CFR Part 51; and (2) unless favorable findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations have been made.

By February 28, 1979, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel), will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party. Contentions shall be limited to the matters within the scope of the amendment under consideration. A petition that sets forth contentions relating only to matters outside the scope of the amendment under consideration will be denied. Persons whose petitions are denied for such reason, and persons whose contentions are denied as outside the scope of the amendment under consideration, may file requests with respect to such matters with the Director of the Office of Nuclear Reactor Regulation in accordance with 10 CFR 2.206.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Dennis L. Ziemann: (petitioner's name and telephone number): (date petition was mailed); (plant name); and (publication date and page number of this FEDERAL REGISTER notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to M. I. Miller, Esquire, Isham, Lincoln & Beale, Suite 4200, One First National Plaza, Chicago, Illinois 60670, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a) (i)–(v) and 2.714(d).

As part of its authority to regulate the conduct of the hearing, if one is held, the presiding Atomic Safety and Licensing Board may, in accordance with 10 CFR Part 2, Appendix A, upon request of a party or on its own initiative, consider a particular issue or issues, encompassed within the amendment under consideration, separately from and prior to other issues; and may issue a separate initial decision thereupon, if deemed appropriate, which shall be dispositive of such issue(s) in the absence of appeal or Commission or Appeal Board review, before hearing on and consideration of the remaining issues in the proceeding.

For further details pertinent to these matters, see the licensee's letter dated January 3, 1979, and the enclosed Steam Generator Repair Report, in addition to other material that may be submitted by the licensee in support of this action, all of which are or will be available for public inspection at the NRC's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

Dated at Bethesda, Md., this 19th day of January, 1979.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 79-2876 Filed 1-26-79; 8:45 am]

[7590-01-M]

[Docket No. 50-322]

LONG ISLAND LIGHTING CO.

Relocation of Local Public Document Room

Notice is hereby given that the Nuclear Regulatory Commission has relocated the Local Public Document Room (LPDR) for Long Island Lighting Company's Shoreham Nuclear Power Station being built in Suffolk County, Long Island, New York.

The Shoreham LPDR document collection has been on file at the Comsewogue Public Library in Port Jefferson since 1971; but, due to a space problem, they can no longer continue to serve as a local public document room and asked that the material be moved.

Members of the public may now inspect documents and correspondence relating to the proposed Shoreham Station at the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786. The Library's hours of operation are as follows: Monday and Wednesday from 1:00 pm to 9:00 pm; Tuesday, Thursday and Friday from 10:00 am to 9:00 pm; and Saturday from 10:00 am to 5:00 pm.

Documents and correspondence relating to the Shoreham Station are also available for inspection and copying at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Dated at Bethesda, Md., this 23d day of January, 1979.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch No. 4, Division of Project Management.

[FR Doc. 79-2881 Filed 1-26-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-245 and 50-336]

NORTHEAST NUCLEAR ENERGY CO., CONNECTICUT LIGHT AND POWER CO., HARTFORD ELECTRIC LIGHT CO., AND WESTERN MASSACHUSETTS ELECTRIC CO.

Issuance of Amendments to Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 57 to Provisional Operating License No. DPR-21 and Amendment No. 47 to Facility Operating License No. DPR-65 to Northeast Nuclear Energy Company, The Connecticut Light and Power Company, The Hartford Electric Light Company, and Western Massachusetts Electric Company, which revised the Technical Specifications for operation of the Millstone Nuclear Power Station, Unit Nos. 1 and 2, located in the Town of Waterford, Connecticut. The amendments are effective as of their date of issuance.

These amendments modify the Environmental Technical Specifications to allow test and improvements to the design of the fish barrier in the discharge canal and to reflect changes necessitated by a reorganization of the Nuclear Engineering and Operations Departments.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and

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regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated March 21, 1978 and August 15, 1978, (2) Amendment Nos. 57 and 47 to License Nos. DPR-21 and DPR-65, respectively, and (3) the Commission's related evaluation as contained in the letter transmitting these amendments. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 12th day of January, 1979.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 79-2882 Filed 1-26-79; 8:45 am]

[7590-01-M]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO., ET AL. (TROJAN NUCLEAR PLANT)

Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this control building proceeding.

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Dr. W. Reed Johnson

Dated: January 18, 1979.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 79-2883 Filed 1-26-79; 8:45 am]

[7590-01-M]

[Docket Nos. STN 50-556, STN 50-557]

PUBLIC SERVICE CO. OF OKLAHOMA, ASSOCIATED ELECTRIC COOPERATIVE, INC. AND WESTERN FARMERS ELECTRIC COOPERATIVE, INC. (BLACK FOX STATION, UNITS 1 AND 2)

Order Rescheduling Oral Argument

JANUARY 19, 1979.

At intervenors' request, the argument previously calendared for January 31, 1979 has been rescheduled for 10:00 a.m., *Tuesday, March 27, 1979*, in Courtroom Number 3, United States Courthouse, 333 West 4th Street, *Tulsa, Oklahoma.*

The time allotted for presentation of argument and notice of matters which the Board particularly wishes addressed will be announced subsequently. No later than March 5, 1979, each party shall inform the Board Secretary of the name, address and telephone number of counsel who will present oral argument on its behalf.

It is so ordered.

For the Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 79-2884 Filed 1-26-79; 8:45 am]

[7590-01-M]

[Docket Nos. STN 50-556, STN 50-557]

PUBLIC SERVICE CO. OF OKLAHOMA, ASSOCIATED ELECTRIC COOPERATIVE, INC., AND WESTERN FARMERS ELECTRIC COOPERATIVE (BLACK FOX STATION, UNITS 1 AND 2)

Order Resuming Evidentiary Hearing on Health and Safety Issues

Please Take Notice and It Is Hereby Ordered that the evidentiary hearing on health and safety issues will resume at 9:30 AM on February 19, 1979 and, on weekdays and Saturdays, will continue through March 3, 1979. The location of the hearing is as follows:

Courtroom No. 3
United States Courthouse
333 West 4th Street
Tulsa, Oklahoma

While members of the public are invited to attend the public sessions of this evidentiary hearing, certain sessions will conducted *in camera* pursuant to the Board's Protective Order issued January 5, 1979.

It is so ordered.

For the Atomic Safety and Licensing Board.

Dated at Bethesda, Md., this 19th day of January 1979.

SHELDON J. WOLFE, *Esquire, Chairman.*

[FR Doc. 79-2885 Filed 1-26-79; 8:45 am]

[7590-01-M]

[Docket No. 50-244]

ROCHESTER GAS AND ELECTRIC CORP.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 22 to Provisional Operating License No. DPR-18, issued to Rochester Gas and Electric Corporation (the licensee), which revised the Technical Specifications for operation of the R. E. Ginna Plant (the facility) located in Wayne County, New York. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications relating to the offsite and onsite management organization.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 11, 1978 (transmitted by letter dated October 16, 1978), and (2) Amendment No. 22 to License No. DPR-18, including the Commission's related transmittal letter. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 17th day of January 1979.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 79-2886 Filed 1-26-79; 8:45 am]

[7590-01-M]

[Docket No. 50-259]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 47 to Facility Operating License No. DPR-33 issued to Tennessee Valley Authority (the licensee), which revised the Technical Specifications for operation of the Browns Ferry Nuclear Plant, Unit No. 1 (the facility) located in Limestone County, Alabama. The amendment is effective as of the date of issuance.

This amendment permits operation of Browns Ferry Unit No. 1 in Cycle No. 3 following the second refueling outage.

The application for this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 8, 1978, as supplemented by letters dated October 5, 1978, November 30, 1978, December 5, 1978, December 14, 1978, January 8, 1979 and January 9, 1979, (2) Amendment No. 47 to License No. DPR-33, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 17th day of January 1979.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-2887 Filed 1-26-79; 8:45 am]

[7590-01-M]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 49 to Facility Operating License No. DPR-28, issued to Vermont Yankee Nuclear Power Corporation which revised Technical Specifications for operation of the Vermont Yankee Nuclear Power Station (the facility) located near Vernon, Vermont. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications relating to the standby gas treatment systems.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated June 8, 1976, as supplemented May 11, 1978, (2) Amendment No. 49 to License No. DPR-28, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 19th day of January 1979.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-2888 Filed 1-26-79; 8:45 am]

[7590-01-M]

[Docket Nos. 50-280, 50-281]

VIRGINIA ELECTRIC AND POWER CO.

Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 47 and 46 to Facility Operating License Nos. DPR-32 and DPR-37, issued to Virginia Electric and Power Company for operation of the Surry Power Station Unit Nos. 1 and 2 (the facilities) located in Surry County, Virginia. These amendments are effective as of the date of issuance.

The amendments approve the steam generator repair program for the Surry Power Station, Units 1 and 2 and provide license conditions related to the repair and post-repair operations.

The amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Notice of Proposed Issuance of Amendments to Facility Operating Licenses in connection with this action was published in the FEDERAL REGISTER on October 27, 1977 (42 FR 56652). No request for hearing was filed in response to that notice.

The Commission has prepared an environmental impact appraisal for the license amendments and has concluded that an environmental impact statement for this particular action is not warranted because the action will not significantly affect the quality of the human environment.

For further details with respect to this action, see (1) Amendment Nos. 47 and 46 to DPR-32 and DPR-37, (2) the Commission's related Safety Evalua-

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tion dated December 15, 1978 and (3) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, N.W., Washington, D.C. and at the Swem Library, College of William and Mary, Williamsburg, Virginia. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 20th day of January 1979.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-2889 Filed 1-26-79; 8:45 am]

[7590-01-M]

[Docket No. 50-305]

WISCONSIN PUBLIC SERVICE CORP., WISCONSIN POWER AND LIGHT CO. AND MADISON GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. DPR-43 issued to Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company (the licensee) which revised Technical Specifications for operation of the Kewaunee Nuclear power Plant located in Kewaunee, Wisconsin. The amendment is effective as of the date of issuance.

The amendment corrects the definition of rated power, updates the listing of safety-related shock suppressors, corrects several errors in the listing of fire detectors, corrects the minimum auto start pressure for fire pumps, and deletes a definition relevant to Cycle 1 only.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 10, 1978, (2) Amendment No. 25 to Facility Operating License No. DPR-43, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Kewaunee Public Library, 314 Milwaukee Street, Kewaunee, Wisconsin 54216. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 19th day of January, 1979.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-2890 Filed 1-26-798; 8:45 am]

[7590-01-M]

PETITIONS FOR RULEMAKING

Issuance of Quarterly Report

The Nuclear Regulatory Commission has issued the December 31, 1978, quarterly report on petitions for rulemaking. This report is issued in accordance with 10 CFR 2.802 and is a quarterly summary of petitions for rulemaking that are pending final action.

A copy of this report, designated NRC Petitions for Rulemaking Pending Final Action as of December 31, 1978, is available for inspection and copying at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C.

Requests for single copies of this report, or request to be placed on an automatic distribution list for single copies of future reports, should be made in writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555.

Dated at Bethesda, Md., this 18th day of January 1979.

For the Nuclear Regulatory Commission.

JOSEPH M. FELTON,
Director, Division of Rules and Records, Office of Administration.

[FR Doc. 79-2891 Filed 1-26-79; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 20893; 70-5741]

SOUTHWESTERN ELECTRIC POWER CO. AND PUBIC SERVICE CO. OF OKLAHOMA

Proposed Rail Car Maintenance Facility Agreement Between Subsidiaries

JANUARY 19, 1979.

Notice is hereby given that Southwestern Electric Power Company ("SWEPCO"), P.O. Box 21106, Shreveport, Lousiana 71156, and Public Service Company of Oklahoma ("PSO"), P.O. Box 201, Tulsa, Oklahoma 74102, both electric utility subsidiaries of Central and South West Corporation ("CSW"), a registered holding company, have filed post-effective amendments to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a), 7, 9(a) and 10 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application-declaration, as amended, which is summarized below, for a complete statement of the proposed transaction.

By orders dated April 6, 1976 and August 9, 1976 (HCAR Nos. 19468 and 19643) issued in this proceeding, SWEPCO was authorized to acquire, finance, construct and operate a unit train repair shop ("Repair Shop") near Alliance, Nebraska. The Repair Shop is to be used for the maintenance and repair of railroad cars for the transportation of coal to SWEPCO's generating plants. The previous order of August 9, 1976 stated that no rail transportation services utilizing the subject cars shall be provided by SWEPCO for any associated company in the CSW system except pursuant to a further order of this Commission.

PSO has under construction two 450 Mw coal-fired generating units at its Northeastern Station near Oologah, Oklahoma. The coal for these units will come from a Wyoming mine, a distance of about 1,100 miles from the Northeastern Station. To make transportation over such distance feasible PSO will use unit trains. The details respecting the purchase and the financing arrangements for the unit trains will be the subject of a separate filing with the Commission. PSO's trains will run over the same Burlington Northern tracks through Alliance, Nebraska as SWEPCO's unit trains. The Repair Shop can be expanded to handle all of PSO's maintenance needs through the addition of labor force and equipment without the need to construct additional plant space.

SWEPCO and PSO ("the Companies") have now filed post-effective amendments proposing that they enter into a Rail Car Maintenance Facility Agreement ("Facility Agreement") which provides for PSO's participation in the cost and the use of the Repair Shop. The Companies propose a formula for the sharing of lease payments, all other costs capitalized according to generally accepted accounting principles, and general operation and maintenance costs. The Companies propose that the above itemized costs be shared between them on a "Cost Ratio", a proportion equal to the ratio that each Comapny's direct labor costs for its rail cars actually repaired or inspected at the Facility bears to the total direct labor costs for all rail cars owned by the Companies repaired or inspected at the Facility. The "Cost Ratio" will be determined of the last day of each calendar month commencing with the month of the first delivery of PSO rail cars. Each Company will pay the actual direct costs of inspection and maintenance of its own rail cars, including parts, maintenance, labor and other expenses capable of direct assignment to a specific rail car. All costs to PSO will be determined in accordance with Rule 91.

In the event that leasehold improvements are made in the future, the Companies agree that they will share the costs of such improvements on such terms and conditions as are agreed to by the Companies at the time of such improvements and as are approved by further application to the Commission. In reaching such agreement the Companies have indicated that full consideration will be given to which Company's increased number of rail cars necessitated the improvement.

Pursuant to the Facility Agreement, PSO has been granted an irrevocable option to elect to take legal title to a certain portion of the Repair Shop at such time as SWEPCO acquires legal title to the Repair Shop. PSO's option will allow it to take title to a portion in a percentage equal to the proportion that leasehold and capital payments made by PSO bears to the total leasehold and capital payments related to the Repair Shop made by both PSO and SWEPCO.

PSO intends to include the full amount of its lease and capital payments in determining its fuel costs for purposes of the fuel cost adjustment clauses in its rates, subject to applicable regulatory authority approval. SWEPCO will treat PSO's payments in the nature of sublease payments and they will be credited to its fuel costs for purposes of its fuel cost adjustment clause.

SWEPCO, pursuant to the Facility Agreement, will retain all the tax benefits of its equitable ownership of the repair shop and PSO will receive as a credit to the payments required by the Facility Agreement a share of such tax benefits based on a weighted average cost ratio for each fiscal year.

It is stated that no state commission, and no federal commission other than this Commission has jurisdiction over the proposed transaction. Fees and expenses to be incurred in connection with the proposed transaction are estimated at $6,000, including legal fees of $5,000.

Notice is further given that any interested person may, not later than February 12, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as further amended by said post-effective amendments, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addressed, and proof of service (by affidavit or, in case of attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendments, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2906 Filed 1-26-79; 8:45 am]

[8010-01-M]

[Release No. 6017; 18-30]

THE THOMPSON, HINE AND FLORY

Filing of Application Pursuant to Section 3(a)(2) of the Securities Act of 1933 for an Order Exempting From the Provisions of Section 5 of the Act Interests or Participations in the Thompson, Hine and Flory Profit-Sharing Plan

Notice is hereby given that Thompson, Hine and Flory (hereinafter referred to as the "Applicant" or the "Firm"), National City Bank building, Cleveland, Ohio 44114 a law firm organized as a partnership under the laws of the State of Ohio, on January 11, 1979, filed an application for exemption from the registration requirements of the Securities Act of 1933 (the "Act") for participations or interests issued in connection with the Thompson, Hine and Flory Profit-Sharing Retirement Plan (the "Plan"). All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

The Plan covers the Firm's partners and lawyer and non-lawyer employees, of whom 42 partners, 24 lawyers, and 46 non-lawyer employees were participating on November 30, 1978. All employees of the Firm are eligible to participate in the Plan if they participated in the Plan prior to December 1, 1976, or have completed three years of service with the Firm and are at least 25 years of age.

Applicant states that the Plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case, Applicant's partners) who are employees within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954, as amended (the "Code"), and therefore, is excepted from the exemption provided by Section 3(a)(2) of the Act for interests or participations in employee benefit plans of corporate employers. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act, any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

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DESCRIPTION AND ADMINISTRATION OF THE PLAN

Applicant states that the Plan was originally adopted in 1969 and was amended and restated in its entirety, effective as of December 1, 1976, in order to comply with the Employee Retirement Income Security Act of 1974 ("ERISA"). The Internal Revenue Service has issued a ruling to the effect that the Plan, as so amended and restated continues to be a qualified plan under Section 401 (a) of the Code. The Plan is an "employee pension benefit plan" subject to the fiduciary standards and to the full reporting and disclosure requirements of ERISA.

Applicant makes annual contributions to the Plan on behalf of all participants in amounts equal to specified percentages of their compensation. In addition, each participant may make voluntary contributions of not more than 10% of such participant's aggregate compensation for all years during which the person has been a participant, subject to certain limitations. Since November, 1976, participants may elect to direct voluntary contributions to either an Income Fund which principally invests in government securities and corporate bonds, or a General Fund, which principally invests in common stocks and bonds.

Applicant states that the Society National Bank of Cleveland is trustee (the "Trustee") for the Plan under an Amended Trust Agreement (the "Trust Agreement"). Under the Trust Agreement, the Trustee is solely responsible for the investment of amounts contributed to the Plan, except where the Firm has appointed an investment manager. Currently, the Income Fund is managed by the Trustee, while the General Fund is managed by Alexander, Van Cleef & Wood, a division of Alliance Capital Management Corporation and a registered investment adviser.

Applicant represents that none of the assets of the Plan have or will be invested in any collective or commingled fund containing assets other than assets of the Plan.

The Plan is administered by the Firm's Retirement Committee, which presently consists of three partners of the Firm. The Retirement Committee has general authority to control the operation of the Plan and to supervise its administration. It also has authority to employ investment counsel, accountants and other experts to assist in the administration of the Plan.

Applicant states that were the Firm a corporation, rather than a partnership, interests or participations issued in connection with the Plan would be exempt from registration under Section 3(a)(2) of the Act, because no person who would be an "employee" within the meaning of Section 401(c)(1) of the Code would participate in the Plan. Applicant submits that the mere fact that were the Firm conducts its business as a partnership rather than as a corporation should not result in a requirement that interests in the Plan be registered under the Act.

Applicant states that the Firm's partners not permitted to participate in the Plan, the interests or participations issued in connection with the Plan would be exempt under Section 3(a)(2) since no other persons covered by the Plan would be "employees" within the meaning of Section 401(c)(1) of the Code. Applicant submits that there is no valid basis for a contrary result merely because the Plan also covers partners in the Firm.

Applicant further submits that the characteristics of the Plan are essentially typical of those maintained by many single corporate employers and the legislative history of the relevant language in Section 3(a)(2) of the Act does not suggest intent on the part of Congress that interests issued in connection with single-employer Keogh plans necessarily should be registered under the Act. Rather, Congress excluded interests issued in connection with Keogh plans from the Section 3(a)(2) exemption primarily out of concern over interests or participations in commingled or collective Keogh funds which might be marketed by sponsoring financial institutions to self-employed persons unsophisticated in the securities field. The Plan is not a master or prototype plan and Plan assets are not invested in or commingled with assets of any other plans or collective funds, and the Plan, like similar plans of large corporations, has been specifically tailored to meet the Firm's own particular requirements.

Applicant represents that it has not distributed and does not intend to distribute any type of promotional material relating to the Plan (other than such material as Applicant is required under ERISA to distribute to participants). In addition, Applicant makes available to Plan participants on request the latest interim financial statements of the Plan.

Applicant states that it is engaged in furnishing legal services of a type which necessarily involves sophisticated and complex financial matters and, accordingly, is able to represent adequately its interests and the interests of its employees who are participants in the Plan.

Applicant concludes that for the foregoing reasons, granting the requested exemption would be appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 13, 1979, at 5:30 P.M., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following February 13, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-2907 Filed 1-26-79; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0073]

COMMUNICATIONS FUND, INC.

Filing of an Application for a Transfer of Control of a Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to Section 107.701 of the Regulations governing small business investment companies (13 CFR 107.701) (1979), to transfer control of Communications Fund, Inc. (CF), 1271 Avenue of the Americas, New York, New York 10020, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act).

Communications Fund, Inc., was licensed by SBA on July 27, 1961. Its present paid in capital and paid-in surplus is $171,250.

The proposed transfer of control and ownership is subject to and contigent upon approval by SBA.

The outstanding stock of CF is owned 100 percent by the Communications Corporation of America (CCA). Mr Walliser is CF's current President, Treasurer and General Manager. The change in ownership and control would result from the sale of CCA's outstanding stock presently owned 87 percent by Blair Walliser to Jordan S. Cohen and three other investors.

After the transfer of control the officers, directors and shareholders of CCA will be as follows:

Name and Title

Jordan S. Cohen, 307 Lester Court, West Hempstead, New York 11552, President, Director, 59%.
David P. Catsman, 1110 Brickel Avenue, Miami, Florida 33131, Counsel, Director, 16.1%.
Leonard D. Pearlman, 969 Park Avenue, New York, New York 10017, Vice President, Director, 19.6%.
Charles Kaufman, CPA, 3671 Hudson Manor Terrace, Riverdale, New York 10463, Comptroller, Director, 5.3%.
Jack Farber, 5708 Bamboo Circle, Tamarac, Florida 33319, Director.

These individuals will serve in similar capacities as officers and directors of CF under Jordan Cohen who will be its General Manager.

Matters involved in the SBA consideration of the application include the general business reputation and character of the proposed owners and management, including adequate profitability and financial soundness, in accordance with the Act and SBA Rules and Regulations promulgated thereunder.

Any person may on or before February 13, 1979 submit to the SBA written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: January 22, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-2859 Filed 1-26-79; 8:45 am]

[8025-01-M]

[License No. 01/01-0295]

MANSFIELD CAPITAL CORP.

Issuance of License To Operate as a Small Business Investment Company

On December 27, 1978, a Notice was published in the FEDERAL REGISTER (43 FR 60363) stating that Mansfield Capital Corporation, Mountain Road, Stowe, Vermont 05672, had filed an application with the Small Business Administration, pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1978)) for a License to operate as a small business investment company.

Interested persons were given until the close of business on January 11, 1979, to submit written comments on the Application to the SBA.

Notice is hereby given that no comments were received and, having considered the Application and all other pertinent information, the SBA approved the issuance of License No. 01/01-0295, to Mansfield Capital Corporation on January 22, 1979, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalogue of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: January 22, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-2962 Filed 1-26-79; 8:45 am]

[4710-10-M]

DEPARTMENT OF STATE

[Public Notice CM-8/153]

ADVISORY COMMITTEE ON THE LAW OF THE SEA

Partially Closed Meeting

In accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) as amended by Pub. L. 94-409 Section 5(c), notice is hereby given that the Advisory Committee on the Law of the Sea will meet in closed sessions on Thursday, March 8 and in both open and closed sessions on Friday, March 9, 1979. The open session of the meeting will convene Friday at 2:30 p.m. in the Dean Acheson Auditorium, U.S. Department of State, 21st and C Streets, NW., Washington, D.C.

The purpose of the closed meeting is to discuss specific conference issues and formal planning and policy preparations for the U.S. Delegation to the Eighth Session of the Third United Nations Conference on the Law of the Sea to be held in Geneva beginning March 19, 1979. During these closed sessions, documents classified under the provisions of Executive Order 12065 will be discussed.

These documents relate to the issues which the United States will be negotiating at the Conference. The documents are exempt under 5 U.S.C. 552b (c) (1), and are required to be withheld from disclosure in the public interest.

The issues cover such subjects as freedom of navigation on the high seas and in international straits, national security interests, the nature of a deep seabeds mining regime and proposed deep seabed mining legislation, the breadth of the continental margin, the juridical status of the economic zone, fisheries, vessel source pollution, scientific research, dispute settlement, and other related topics involving U.S. national security matters. Premature disclosure of the contents of these documents could adversely affect our foreign relations interests and jeopardize the chances of obtaining a timely and satisfactory Law of the Sea Treaty.

The open session of the Advisory Committee meeting will discuss all principal agenda issues to be considered during the Third United Nations Conference on the Law of the Sea, including those issues stated above, but will not examine the classified items discussed during the closed session.

The Advisory Committee on the Law of the Sea represents a broad cross-section of industries, professions, academic disciplines and other public groups. As such, it will comprehensively review the proposals which will come before the Conference.

At the open session, beginning at 2:30 p.m., March 9, the general public attending may participate in the discussion subject to instructions of the Chairman.

As entrance to the State Department is controlled, members of the public who wish to attend the open session should contact Mr. Thomas Okada by March 2 and provide their name and affiliation to facilitate their attendance. Mr. Okada's telephone number is (area code 202) 632-8232.

Dated: January 10, 1979.

ALAN BERLIND,
Director, Office of the Law of the Sea Negotiations.

[FR Doc. 79-2875 Filed 1-26-79; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 79-015]

PORT ACCESS ROUTES

Relationship to OCS and Gas Leases

The Coast Guard is undertaking a study of the potential vessel traffic density and the need for safe access routes for vessels in the North Atlantic Ocean. The results of this study could cause restrictions on the manner in which specific areas leased after the date of this Notice may be explored and developed for natural resources. Any action taken as a result of the study would be consistent with subsections 4(c)(1) and 4(c)(2) of the Ports and Waterways Safety Act

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(PWSA), (Pub. L. 95-474, 92 Stat. 1473).

The area to be studied extends from the coast of the United States to the 1800 meter curve (approximately 1000 fathoms) or the limit of Canadian jurisdiction on the Outer Continental Shelf, from 35° N. Latitude to 43° N. Latitude. This study is being conducted under the standards contained in sub-section 4(c)(3)(A) of the PWSA. As a result of this study it is anticipated that suitable ships' routing measures, such as shipping safety fairways and/or traffic separation schemes, may be proposed in a future FEDERAL REGISTER. Implementing regulations of any routing measures will be in accordance with the PWSA and the Administrative Procedures Act. In accordance with the PWSA, the Coast Guard will consult with the Secretaries of State, Interior, Commerce, and the Army, and the Governors of the affected States, concerning this matter.

This study continues the process initiated by the U.S. Army Corps of Engineers (COE) for provisional access routes in the study area because the responsibility for establishing access routes is now vested in the Secretary of Transportation (delegated to the Coast Guard) by the amended PWSA. All comments received by the COE in response to prior Notices will be considered by the Coast Guard in any conclusions reached by the study. Specifically, the Coast Guard has received from the COE all comments as a result of the following Notices:

a. "Notice of Proposal to Establish Shipping Safety Fairways in the North Atlantic" dated February 22, 1978. This Notice contained the proposal for a comprehensive system of shiping safety fairways that had been submitted by the Council of American Master Mariners (CAMM). (Copies may be obtained from the North Atlantic Division, Corps of Engineers, 90 Church Street, New York, NY 10007.);

b. "Port Access Routes in the North Atlantic Ocean" dated June 30, 1978. This Notice contained the Coast Guard's proposal for providing safe access routes to New York Harbor and Delaware Bay. (43 FR 28523); and

c. "Provisional Access Routes (PARs) in the North Atlantic Ocean" dated November 21, 1978. This gave notice of a public hearing on the subject, which was held in New York, NY on December 13, 1978. (43 FR 54269)

The Coast Guard is interested in receiving additional views from interested parties who have information that might pertain to the safe routing of ships as affected by other reasonable uses of the area. Written comments should include the docket number (CGD 79-015), the name and address of the person submitting the comments, and the reason for the comment.

Further information can be obtained from and comments should be submittd to:

LT William Chubb, c/o Commander (mps), Third Coast Guard District, Bldg. 108, Governors Island, New York, New York 10004, (212) 668-7179 or
LCDR John Bannan, c/o Commandant (G-WLE-4/73), U.S. Coast Guard, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-4958.

This is the initial study to be conducted by the Coast Guard under subsection 4(c) of the PWSA. The Coast Guard intends to publish a schedule of studies, which will consider all areas of the U.S. coasts, within the next three months.

F. P. SCHUBERT,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

JANUARY 24, 1979.

[FR Doc. 79-2963 Filed 1-26-79; 8:45 am]

[4910-13-M]

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA)

SPECIAL COMMITTEE 132—AIRBORNE AUDIO SYSTEMS AND EQUIPMENT

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Special Committee 132 on Airborne Audio Systems and Equipment to be held February 21 through 23, 1979, in Conference Room 7B, DOT/Federal Aviation Administration Building, 800 Independence Avenue, S.W., Washington, D.C., commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Sixth Meeting held August 1 through 3, 1978; (3) Review of Proposed Changes to Draft Final Report; and (4) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on January 18, 1979.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 79-2919 Filed 1-26-79; 8:45 am]

[4910-13-M]

DEVELOPMENT OF ACTIVE BEACON COLLISION AVOIDANCE SYSTEM (BCAS) TECHNICAL STATUS

Meeting

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of Meeting.

SUMMARY: This notice announces an informal public meeting sponsored by the FAA on the technical status of development of the Active BCAS, including the characteristics of equipment hardware and software.

DATE: Meeting to be held February 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. R. L. Bowers or Mr. William Hyland, Aircraft Separation Assurance Branch, ARD-250, Communications Division, Systems Research and Development Service, Federal Aviation Administration, 2100 Second Street, SW., Washington, D.C. Telephone Numbers—Mr. William Hyland (202) 426-0986. Mr. R. L. Bowers (202) 426-9382.

SUPPLEMENTARY INFORMATION: This meeting concerns the development of Active Beacon Collision Avoidance System (BCAS). Notice is given that on February 21, 1979, an informal public meeting will be held in Room A-166 of Lincoln Laboratory, 244 Wood Street, Hanscom Field, Lexington, Mass. 02173. The purpose of this one-day meeting is to provide information on the technical status of development of Active BCAS, including the characteristics of equipment hardware and software. The briefing will review the Active BCAS performance requirements implied by the recently published Draft National Standard. The principal elements of the system being developed at Lincoln Laboratory and results of earlier feasibility tests will be described. The approach to the major hardware components will be reviewed and descriptions of the software will be presented including estimates of the processing capacity required for the principal software functions.

Interested persons are requested to contact the FAA, Mr. William Hyland at (202) 426-0986 or Mr. Richard Bowers at (202) 426-9382, for further information concerning the meeting, and to preregister, as space will be limited.

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Preregistration should be completed by February 14, 1979. Authority: Section 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a)).

Issued in Washington, D.C., on January 22, 1979.

DAVID J. SHEFTEL,
Director, Systems Research and Development Service, ARD-1.

[FR Doc. 79-2920 Filed 1-26-79; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

AUTOMOTIVE FUEL ECONOMY PROGRAM

Report to Congress

JANUARY 23, 1979.

The attached document "Automotive Fuel Economy Program, Third Annual Report to Congress" has been prepared pursuant to Section 502(a)(2) of the Motor Vehicle Information and Cost Savings Act (Pub. L. 92-513), as amended by the Energy Policy and Conservation Act (Pub. L. 94-163), which requires in pertinent part that "each year, beginning in 1977, the Secretary shall transmit to each House of Congress, and publish in the FEDERAL REGISTER a review of average fuel economy standards under this part."

JOAN CLAYBROOK,
Administrator.

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[4910-59-C]

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AUTOMOTIVE FUEL ECONOMY PROGRAM

THIRD ANNUAL
REPORT TO THE CONGRESS

JANUARY 1979

U.S. DEPARTMENT OF TRANSPORTATION
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
WASHINGTON, D.C. 20590

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[4910-59-M]

PREFACE

This Third Annual Report to the Congress is a comprehensive analysis of the Automotive Fuel Economy Program, established in December 1975 by the Energy Policy and Conservation Act (Pub. L. 94-163), and implemented by the applicable sections of Title V: "Improving Automotive Efficiency" of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) as amended. Section 502(a) of the act requires the submission of a report and publication in the FEDERAL REGISTER by January 15 of each year, as well as the inclusion of a comprehensive analysis of the fuel economy program in the report to be transmitted not later than January 15, 1979.

By Title V, the Secretary of Transportation was required to implement a program for improving the fuel economy of new automobiles in the U.S. market and to administratively establish passenger car fuel economy standards for 1981 through 1984, and light truck fuel economy standards beginning with the 1979 model year. Fuel economy standards have currently been promulgated for passenger cars for the 1981-84 model years and for light trucks for the 1979-81 model years.

As directed by the Act, this report includes an analysis of the ability of motor vehicle manufacturers to meet the average fuel economy standard for model year 1985, as well as an evaluation of the program's impact on the conservation of fuel, the nation's dependence on foreign petroleum sources, the consumer, the automotive industry and the national and regional economies.

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EXECUTIVE SUMMARY

This is the Third Annual Report to Congress on the progress and achievements of the Automotive Fuel Economy Program. The Energy Policy and Conservation Act, December 22, 1975, the first major "energy crisis" legislation enacted after the oil embargo of 1973-74 required that the automobile industry almost double the fleet-average fuel economy of passenger cars over the 1975 to 1985 decade, raising fleet-average fuel economy from slightly less than 14 miles per gallon (mpg) for 1974 model year to 27.5 mpg by the 1985 model year. The Secretary of Transportation was required to administratively establish, at the maximum feasible level, passenger car fuel economy standards for 1981 through 1984, and light truck fuel economy standards beginning with the 1979 model year.

At this point, fuel economy standards have been promulgated for passenger cars for the 1981-84 model years and for light trucks for the 1979-81 model years. Current passenger automobile standards increase to 27.5 mpg in 1985; standards for two-wheel-drive light trucks reach 18.0 mpg, and those for four-wheel-drive light trucks reach 15.5 mpg in 1981.

These standards will result in the conservation of 220 billion gallons of gasoline for vehicles produced from MY 1978 through MY 1990 relative to the fuel economy levels in effect prior to the establishment of these standards. Using these standards, total annual passenger automobile and light truck gasoline consumption would have reached 131 billion gallons in 1990, compared with the 97 billion gallons now expected in the same year. With motor vehicles now accounting for almost one-half of the petroleum consumed in the U.S., these savings will reduce anticipated passenger car and light truck petroleum consumption by about 28 percent in the 1990's. While placing a dollar value on these savings understates their real value to the Nation, it does place the accomplishments of the program in perspective. Conservatively valuing gasoline at 65 cents per gallon, the total present value of the fuel saved through 1990 in 1978 dollars (discounted at 10%) is $60 billion.

During 1977 the U.S. imported foreign oil at the rate of 8.7 million barrels[1] each day. This amounted to a cost of $45 billion. In comparison, the total trade deficit was $26.5 billion. The high cost associated with foreign oil, as well as the uncertainty of its source of supply (for example, the recent experience in Iran), make reduced dependency upon imports a National goal. If the average fuel economy of the existing fleet were now at the levels specified for 1985 for cars and 1981 for light trucks, foreign oil imports would have dropped by 26% down to 6.4 million barrels per day, with a $12 billion reduction in our annual trade deficit.

To achieve these fuel savings, the auto industry will have to accelerate the pace at which they introduce new technology into production vehicles, accompanied by a concomitant increase in their capital spending relative to historical rates and levels. This acceleration will be significant. Our current analysis projects that from 1978 to 1984, the period of peak capital investment, aggregate investment will rise by $11.5 billion to $36.0 billion from a trend spending level of $24.5 billion.

Currently, auto manufacturers, even when introducing what they charac-

[1] 42 gallons=1 barrel.

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terize as a completely new car, do not replace all components. While car models undergo major change on a five-year cycle, the life of an engine or transmission design, for example, can be twenty years. Under the fuel economy program, manufacturers cannot achieve the mpg levels specified merely by restyling an existing car body and placing it on an existing powertrain. Rather, compliance with the standards requires that the whole vehicle body and structure be downsized, the powertrain be redesigned, and weight be eliminated throughout the vehicle.

Our current assessment confirms that the fuel economy levels specified in the statute can be achieved by all domestic manufacturers without a significant change in the mix of their fleet and without a reliance on diesel engines. Further it appears that most foreign manufacturers can meet the standards without any diesels, but that a few of the limited-line manufacturers will have to rely on diesels to meet the standards.

The National Highway Traffic Safety Administration (NHTSA), which administers the Fuel Economy program, recently requested further comments on these and other findings as part of the final preparation for this report to Congress. Several responses from the industry now question the economic practicability of meeting the standards currently set. The continuing refinement of information with respect to technological development in a dynamic and changing economy is not unexpected. The statute required that the standards for MY 1981 through 1984 passenger car fuel economy be established at the maximum feasible level and be issued by July 1, 1977, to provide the industry with plenty of time to implement them in an orderly fashion. At that time, the manufacturers publicly committed themselves to meet those standards. The Department of Transportation (DOT) will continue to assess the situation using the best and most recent information in order to determine whether significant changes in earlier findings have occurred and whether rulemaking to modify these standards would be justified and in the public interest.

Based upon data developed in the course of our rulemaking proceedings, as well as more recent (August–October 1978) information supplied by the manufacturers in response to NHTSA questionnaires, DOT believes that the average purchaser of a 1985 model year car will realize a net reduction in operating expenses over the life of that car on the order of $500 when compared to a 1977 model.

Our assessment shows that both the consumer and the national economy are better off as a result of this fuel economy program. To achieve these benefits the standards are having a significant impact on the industry. The Congress, in establishing the program, devised a unique measurement instrument, fleetwide average fuel economy, to permit diversity in the market while still assuring steady improvement in fuel conservation. Thus, through proper balancing of the mix of vehicles (having below- and above-standard fuel economies) produced and sold, a manufacturer can satisfy a broad range of consumer demand with his annual fleet and still meet the applicable fuel economy standard.

In meeting these standards, manufacturers are required to accelerate their spending levels to keep pace with the accelerated changeover cycle that the standards require. It is important to differentiate between the measurement device of average fuel economy and the specific standards set by Congress and by Department rulemaking action. Both the degree of energy saving to be attained and the challenge to the industry are the result of the latter.

The Department has concluded that the measurement device of average fuel economy is appropriate for the automobile industry. It balances the need to save fuel with the goal of insuring consumers a range of choices, and it has developed a regulatory scheme which is flexible and yet fosters the improvements sought by Congress. Our current assessment indicates that the statutory 27.5 mpg level for MY 1985 is both technologically feasible and economically practicable for each automobile manufacturer. This is not to say that the difficulty each manufacturer faces in meeting the standards is equal. Rather the relative effort that each manufacturer will have to make will depend upon its financial strength, technical capability and the nature of its product line.

The domestic automobile manufacturing industry is one of the most highly concentrated industries in the U.S. For decades, it has been growing more concentrated, with the larger manufacturers realizing larger profits. Our analysis demonstrated anew that any program requiring a large financial commitment from the manufacturers imposes a heavier burden on smaller manufacturers than on larger ones. These burdens are not dissimilar from the normal business demands routinely faced by smaller manufacturers; such burdens, in fact, have been major factors leading to the high level of concentration in the industry. In addition to the smaller domestic manufacturers, the foreign limited line manufacturers who produce larger cars face unique types of problems. These manufacturers generally have average fuel economy that exceeds the early standards but they have targeted their production at a specific market segment and, unlike a full-line manufacturer, cannot offset lower fuel economy on one line of vehicles with higher fuel economy on other lines.

For both classes of manufacturers, but particularly for the smaller domestic producers, serious problems could develop in the event of a serious economic downturn since the manufacturers are faced with what they believe to be a nondeferable investment schedule. Thus, on November 22, 1978, the Department issued a notice seeking comments on whether it should seek revisions in the basic statute as a result of these issues. The Department also continued its own assessment of the factors involved to see if reasonable modifications to the program could be devised.

Responses to the notice confirmed some of the Department's findings, but revealed no workable approach to modifying the statute, short of increasing the size limit under which companies are eligible for exemption from the standards (for whom alternative standards are developed). The statute now permits exemptions for manufacturers with worldwide production below 10,000 vehicles per year. A number of commenters recommended that this level be raised to manufacturers with *sales* in the *U.S. market* of less than 100,000 vehicles. However, there are significant elements of unfairness in the development of company-specific standards for large worldwide manufacturers making this an unattractive alternative.

The Department examined other options involving slippage of implementation schedules, or lowering of standards applied to smaller manufacturers, but could not develop any modifications that, in its view, successfully eliminated or even mitigated problems faced by these procedures without entailing either a significant loss in energy conservation, competitive disadvantages, equity problems, or massive administrative difficulties.

The statute does provide, however, sufficient latitude to modify regulations if the economy were to falter and auto sales were to decline dramatically. The Secretary has the authority under the law to revise regulations if it is determined that the standards that were "economically practicable" in a healthy economy prove to be "impracticable" in a recession.

The Department now recommends only that the system of credits and penalties under the Act be modified. The Act now imposes a substantial penalty on manufacturers who fall below the specified standards, although it does not prohibit the sale of

cars in such a situation. Further, if the Federal Trade Commission (FTC) determines that imposition of a penalty would result in a substantial lessening of competition, the Secretary then has the authority to waive or reduce the penalty. In any case, the statute permits credits to be earned by exceeding a particular year's standard, which then be carried forward (or backward) for one year and applied against possible penalties in those years. DOT recommends that credits be allowed to be carried forward (or backward) for three years to enable manufacturers to benefit from their early conservation efforts and better balance future planning.

In commenting on the notice, both Ford and GM asserted that the selection of maximum feasible fuel economy passenger car standards for 1981 through 1984 was imposing a very large cost penalty on them and, ultimately, on the consumer. Both manufacturers argue that reaching 27.5 mpg in 1985 in 1.5 mpg annual increments from the 20 mpg-1980 level is far more cost-effective than the path selected through the rulemaking process (which would increase fuel economy by 2 mpg in each of the years 1981, 1982 and 1983).

The Department is prepared to reexamine the regulations when substantial new information indicates that the basis for its findings are significantly changed. Both manufacturers have been requested to specify what factors have changed since the July 1977 regulation establishing the 1981–84 passenger car standards that would justify amending them.

It is important to note that while costs to the industry might be revised upwards in the face of more recent data, the cost of oil is also increasing. As recently as December 18, 1978, OPEC announced another 15% increase in the price of oil. Thus, under the current schedule of standards, consumers and the national economy are both in a better position to deal with this price increase than they would have been with a lower standard. Moreover, as the price of oil increases in the future, long after industry investments have been made, the benefits of this program will increase still further. It may be readily concluded that the benefits of the fuel economy program to the Nation are significantly greater than its costs.

I. Introduction

In December 1975, the Congress enacted the Energy Policy and Conservation Act (Pub. L. 94-163). It established the automotive fuel economy regulatory program by adding Title V—"Improving Automotive Efficiency" (The Act) to the Motor Vehicle Information and Cost Savings Act and required that the Secretary of Transportation report annually, not later than January 15 of each year beginning in 1977, on the progress made under that program. It also established the fuel economy labeling, and mileage guide programs, and the Federal fleet purchase program of fuel efficient vehicles.

This is the Third Annual Report. As required, it contains a comprehensive analysis of the program and specifically assesses the ability of motor vehicle manufacturers to meet the average fuel economy standard of 27.5 mpg for model year (MY) 1985 passenger automobiles set by the Congress. Included in the analysis is an examination of the manufacturers' capability to comply with each of the present fuel economy standards, as well as an evaluation of the program's impacts on: conservation of fuel; the nation's dependence on foreign petroleum sources; the consumer; the automotive industry; and, the national economy. This report also examines the structure of the program and makes recommendations for modifications. It reports on the fuel economy labeling program and the Federal fleet purchasing program. In addition, as required by section 305 of the Department of Energy Act of 1978—Civilian Applications (Pub. L. 95-238), it evaluates the utilization of advanced automotive technology.

Several key events in the recent history of automotive fuel economy are listed below:

DOT starts R&D program on automotive fuel economy

1973
- Oil embargo, "energy crises" starts
- GM starts plans for downsized standard car
- Average fuel economy of model year 1974 cars is 14 mpg

1974
- DOT - EPA report to Congress on Fuel Economy
- Auto manufacturers voluntarily agree to improve fuel economy by 40% by MY 1980

1975
- Congress established automotive fuel economy regulatory program

1976
- Report of Federal Task Force on Motor Vehicle Goals Beyond 1980
- Average fuel economy of 1977 model car is 17.6 mpg

1977
- DOT issues passenger automobile standards for model years 1981-84

1978
- DOT issues light truck standards for model years 1980-81
- Average fuel economy of 1979 model cars is 19.7 mpg

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II. BACKGROUND

A. OVERALL ENERGY DEMAND AND SUPPLY

Reducing energy consumption is a national priority because of the limited availability of petroleum. The Department of Energy[2] projects increased U.S. demand for petroleum products and increased U.S. dependence on foreign petroleum supplies.

Domestic demand for refined petroleum products (Table II-1) experienced a 2.3 percent average annual growth rate between 1972-1978. This 1972-1978 average rate was much lower than historical growth rate trends because of the 1973-1974 oil embargo. The sharp increases in energy prices after the embargo, coupled with the 1974-1975 recession, constrained the total increase in petroleum demand to 15 percent from 1972 to 1978; during that same period, however, the portion of U.S. petroleum supplied by imports increased to 42 percent.

TABLE II—1. *Total U.S. Refined Petroleum Products Domestic Demand*

Year	Thousand Barrels/Day
1972	−16,367
1973	−17,306
1974	−16,653
1975	−16,322
1976	−17,461
1977	−18,418
1978 (Jan-Sept)	−18,814

Source: "Monthly Energy Review," U.S. Department of Energy, Energy Information Administration, November 1978, p. 18.

Table II-2 illustrates this growing importance of, and dependence upon, imports. Through the sixties, petroleum imports were stable at about 20 percent of total consumption. As noted above, by the late 1970's, the share of domestic demand supplied by imports had approximately doubled.

TABLE II-2.—*Percent of U.S. Domestic Demand for Crude and Refined Petroleum Supplied directly by OPEC Countries and All Importers*

Year	Total imports	OPEC countries
1960	19	13
1961	19	13
1962	20	12
1963	20	12
1964	20	12
1965	21	13
1966	21	12
1967	20	10
1968	21	10
1969	22	9
1970	22	9
1971	25	11
1972	29	13
1973	36	17
1974	36	20
1975	37	22
1976	42	29
1977	47	33
1978 (Jan-Aug)	42	35

[2]U.S. Department of Energy, Energy Information Administration.

Sources: (1) "Annual Report to Congress—Volume III, 1977, Statistics and Trends of Energy Supply, Demand, and Prices," U.S. Department of Energy, Energy Information Administration, May 1978, pp. 23 and 27; (2) "Monthly Energy Review", U.S. Department of Energy, November 1978, pp. 16-19.

Domestic petroleum production is not likely to keep pace with increased demand, even if the slower-than-historical growth rates continue. The Energy Information Administration, Department of Energy, predicts that domestic production will grow at a rate of only 3.1% annually between 1976 and 1979, with production shifting to frontier sites (implying greater costs) such as offshore areas. These sites are expected to provide 30% of domestically-produced oil by 1990.

Oil imports currently cost the U.S. about $45 billion a year. This import bill is a major factor in the U.S. balance-of-trade deficit, which in turn has led, in significant part, to a decline in international confidence in the dollar. A further consequence of this deficit is added inflation, with both imported and domestically produced goods rising in price. Since forecasts predict that the United States will continue to be the major importer of petroleum, the ability and willingness of petroleum suppliers to continue to expand production in response to increasing world demand is particularly critical for the U.S. Although recent public reports indicate that Mexico could become a major new source of supply for meeting world petroleum demand, it is not yet clear when Mexican petroleum will be available in sufficient volume to significantly affect the world market. Moreover, substitution of petroleum imports from Mexico for petroleum imports from OPEC countries will only reduce the U.S. balance-of-trade deficit if Mexican oil is priced below the world level.

B. TRANSPORTATION ENERGY DEMAND AND SUPPLY

Federal policies to influence energy use in transportation are critical since the transportation sector, in the aggregate, is the major consumer of petroleum-based fuels. Transportation accounts for 55% of the total U.S. consumption of petroleum (Table II-3). Of this amount, 72% is gasoline.

TABLE II-3.—*Petroleum Consumption by Sector, 1976*

Sector	Petroleum consumption (000's barrels/day)	% of total consumption
Transportation	9,571	54.8
(Passenger Cars & Trucks)	(7,963)	(45.6)
(Other Transportation)	(1,608)	(9.2)
Industrial	3,210	18.4
Residential-Commercial	2,992	17.1
Electric Utilities	1,510	8.7
Miscellaneous	178	1.0
Totals	17,461	100.0

Source: "Annual Report to Congress: Statistics and Trends of Energy Supply, Demand, and Prices," Volume III, 1977, U.S. Department of Energy, Energy Information Administration, May, 1978, p. 35.

Passenger cars and trucks consume approximately 83 percent of the energy used in transportation (Table II-4). They are virtually totally dependent on petroleum-based fuels. The significance of automobiles, as energy consumers, is further indicated by the fact that automobiles are responsible for about 91% of domestic passenger travel.

TABLE II-4.—*Petroleum Consumption by Transportation Mode*

Mode	Percent*
Passenger Cars	57.0
Trucks	26.2
Air Transport	7.9
Water Transport	5.0
Railroads	2.8
Buses	0.7
Transit	0.3
Motorcycles	0.3

*Does not total 100% due to rounding.

Source: National Transportation Statistics, Transportation Systems Center, U.S. DOT, September 1978.

Gasoline consumption fluctuated similarly to total petroleum consumption in response to the 1973-74 oil embargo. During 1976-78, consumption exceeded the 1973 levels and continued to grow, although at a slightly slower rate than the pre-embargo rate. According to the Energy Information Administration, average motor gasoline use was 7.4 million barrels per day during the first 9 months of 1978, 3% more than the average for the same period in 1977.

III. PROGRAM DESCRIPTION AND ACHIEVEMENTS

A. REQUIREMENTS AND RESPONSIBILITIES

The Act establishes a conservation program for passenger automobiles and light trucks. It specifies that average fuel economy standards must be set at the maximum feasible levels. These levels are determined while considering the following criteria: (1) Technological feasibility; (2) economic practicability; (3) the effect of other Federal standards on fuel economy; and, (4) the need of the Nation to conserve energy. A "feasible technology" must be sufficiently developed to be usable in mass production in time to comply with the standards. Although "economic practicability" is not explicit defined, the criteria applied required that mandated automobile fuel economy improvements be achievable without threatening the financial survival of the industry. The third criterion required consideration of the possible adverse effects of safety and emissions standards on fuel economy, while the last criterion has been discussed previously.

Within the Department, the National Highway Traffic Safety Administration (NHTSA) has been delegated the responsibility for administering the fuel economy program. The Act also assigned responsibilities to the Federal Energy Administration (now in the Department of Energy), the Environmental Protection Agency, the Federal Trade Commission, and the General Services Administration. The responsibilities of these other agencies include:

The Department of Energy (DOE)

- Working with EPA on the fuel economy labelling requirements.
- Assessing the energy outlook.
- Publishing and distributing the mileage guides.

The Environmental Protection Agency (EPA)

- Establishing rules for the fuel economy labelling program.
- Developing fuel economy testing and calculation procedures.
- Preparing the gas mileage guides.
- Vehicle testing for standards compliance, labelling and the gas mileage guide.

The Federal Trade Commission (FTC)

- Assessing the effects on competition that would result from the payment of civil penalties for noncompliance with standards.
- Regulating the use of EPA fuel economy values in advertising.

The General Services Administration (GSA)

- Purchasing fuel efficient passenger automobiles and light trucks for use by Federal agencies.

The Act requires that fuel economy standards be established for new four-wheeled motor vehicles sold in the U.S. up to 6,000 pounds gross vehicle weight rating (GVWR). Standards may also be set for vehicles up to 10,000 pounds GVWR. These vehicles, together, are categories as passenger automobiles and light trucks (pick-ups, vans and utility vehicles). In standard setting, both passenger cars and light trucks are treated separately; standards pertain to the average fuel economy performance of a manufacturer's annual model year production fleet of vehicles by category: Passenger cars or light trucks or to categories of light trucks (e.g., two-wheel- or four-wheel-drive light trucks). Standards for categories of passenger cars are not permitted except for manufacturers producing fewer than 10,000 units worldwide.

The Act specifies fleet-average fuel economy standards for passenger automobiles at 18 miles per gallon (mpg) in MY 1978, 19 mpg in MY 1979, 20 mpg in MY 1980, and 27.5 mpg in MY 1985, and thereafter. The Secretary of Transportation, in accordance with his statutory responsibility, set standards for MY's 1981-1984 in June 1977 at the following levels: 22 mpg in MY 1981, 24 mpg in MY 1982, 26 mpg in MY 1983, and 27 mpg in MY 1984.

If the Secretary of Transportation decreases the standard for MY 1985 (and thereafter) below 26.0 mpg, or raises it above 27.5 mpg, either House of Congress may disapprove the action within 60 calendar days of its submission to Congress.

B. ASSUMPTIONS

In selecting the fuel economy levels for the 1981-84 AFE standards the NHTSA made the following assumptions regarding the automobile industry and automobile performance: (1) A rapid, but not an unreasonable, rate of introduction of technology; (2) a 10-percent reduction in vehicle acceleration; and, (3) the use of a wide range of technological options including: weight reduction; improved transmissions and lubricants, reduced aerodynamic drag; reduced accessory losses; and reduced tire rolling resistance. Shifts in the mix of automobile sizes and the use of diesel engines were not considered necessary to meet the standards—although either or both of these options might be used by manufacturers in their individual approaches to meeting the standards.

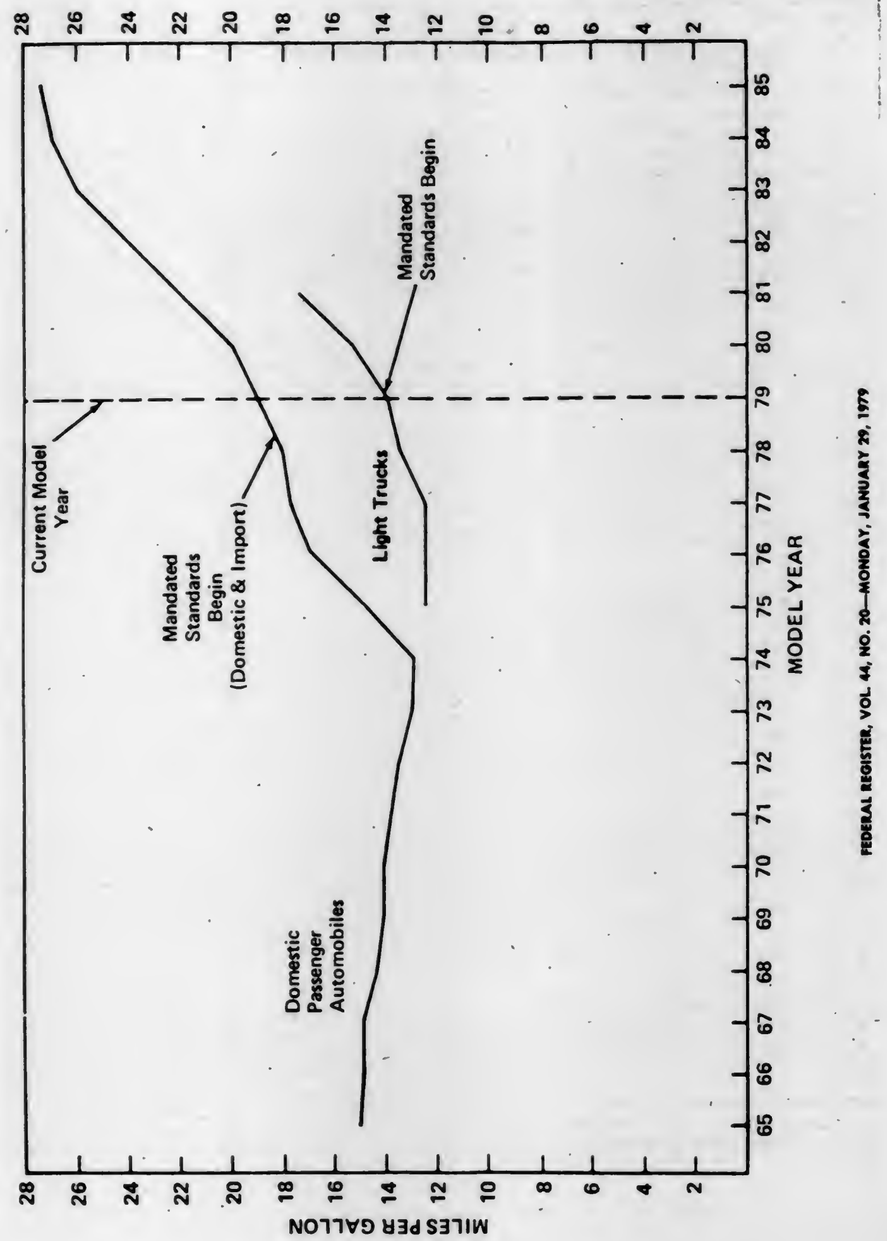
C. ESTABLISHED FUEL ECONOMY STANDARDS

NHTSA issued fuel economy standards for light trucks beginning with MY 1979, covering vehicles up to 6,000 pounds GVWR; these standards also applied to captive imports (vehicles imported by a domestic producer and sold as part of its product line). Standards levels were established at 15.8 mpg for four-wheel-drive, general-utility vehicles, and at 17.2 mpg for all other light trucks. Manufacturers of four-wheel-drive, general-utility vehicles can include these vehicles with their other light trucks and meet the 17.2 mpg standard. In March 1978, these standards were further expanded to include MY 1980 and MY 1981 vehicles up to 8500 pounds GVWR. For two-wheel-drive light trucks, the standards are 16.0 mpg in MY 1980 and 18.0 mpg in MY 1981. Standards for four-wheel-drive vehicles were set at 14.0 mpg and 15.5 mpg, respectively, for MY 1980 and 1981. An additional set of standards was established at 14 mpg and 15 mpg for MY 1980 and MY 1981, respectively, for manufacturers whose light truck fleets are powered exclusively by basic engines which are not also used in passenger automobiles. (These separate standards were set to avoid undue burden on manufacturers which had not had the benefit of several years development of fuel-economic passenger automobile engines).

The MY 1981 light truck standards are to be reduced by 0.5 mpg if EPA has not fully approved improved lubricants for use in fuel economy testing by January 1, 1980. Captive imports may not be included in a domestic manfacturer's fleet after model year 1979 for purposes of determining compliance with the established standards. NHTSA has received a petition for lowering the MY 1981 light truck standard; analysis of this petition is currently being conducted, with a decision expected in the early part of 1979.

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Figure III-1
New Vehicle Fleet Average Fuel Economy



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Until 1974, the fuel economy of new domestic passenger automobiles had steadily declined for a number of years, but the trend was reversed beginning in MY 1975 (see Figure III-1). The trend of fuel economy values for light trucks is also upward, and that trend is expected to continue. Later sections of this report will show that it is technically feasible for most automobile manufacturers to meet the passenger automobile average fuel economy standard of 27.5 mpg in MY 1985 and simultaneously comply with established safety and emissions regulations. The domestic manufacturers can meet the 1985 standard without the use of diesel engines by employing existing techniques to reduce weight (redesign, material substitution, and new models), improving engines and transmissions, and applying other available technology. (The special situation of low volume manufacturers will be discussed later in the text.)

D. CONSERVATION IMPACTS

The program has not been in effect for a sufficiently long time to permit measurement of real vehicle fuel savings, as distinguished from other factors affecting fuel consumption. However, program effectiveness with respect to potential fuel conservation can be estimated by making the reasonable assumption that the larger domestic manufacturers comply with, but do not exceed, the standards. The level of energy savings can only be determined by comparing energy consumption associated with the standards higher fleet-average miles per gallon (mpg) to the estimated (or assumed) level of fleet-average mpg in the absence of those standards. This latter level, the baseline for measuring fuel savings, is equivocal. The manufacturers might have continued to produce vehicles of the same fuel economy level existing in 1975, (when the statute was passed), or as that existing in 1978 (1979 for light trucks) when the standards first became effective. However, the manufacturers faced with compelling market forces then developing might have increased fleet-average fuel economy on their own initiative, although in all probability, to some lower level than those mandated under the program. Savings could also be computed using the manufacturers' 1974 voluntary goal of a 40% improvement for passenger automobiles by 1980. Any one of the above has merit. However, the actual magnitudes of yearly fleet-average fuel economy levels which *would* have been attained through the effects of market forces, or by the voluntary program, will never be know. For this report, fuel savings are evaluated with reference to a MY 1977 base, the year before the mandatory standards became effective and the latest year for which full data are available.

By any measure, the fuel economy program has contributed, and will continue to contribute, major benefits to the Nation by reducing fuel consumption. Projecting fuel savings estimates through MY 1990, cumulative passenger automobile fuel savings, beginning with MY 1978, will approximate 145 billion gallons, with an estimated concomitant cost savings of $39 billion (discounted [3] present value at 65 cents per gallon)—assuming that the established MY 1985 fuel economy standard remains unchanged through 1990. Similarly, if the fuel economy standards for light trucks remain at the MY 1981 standard, the fuel savings from MY 1978 through 1990 will approximate 75 billion gallons of fuel, yielding an estimated savings of $21 billion. Between MY's 1978 and 1990, the automobile and light truck fleets will use about 15% less fuel than they would have if the MY 1977 fuel economy levels remained unchanged.

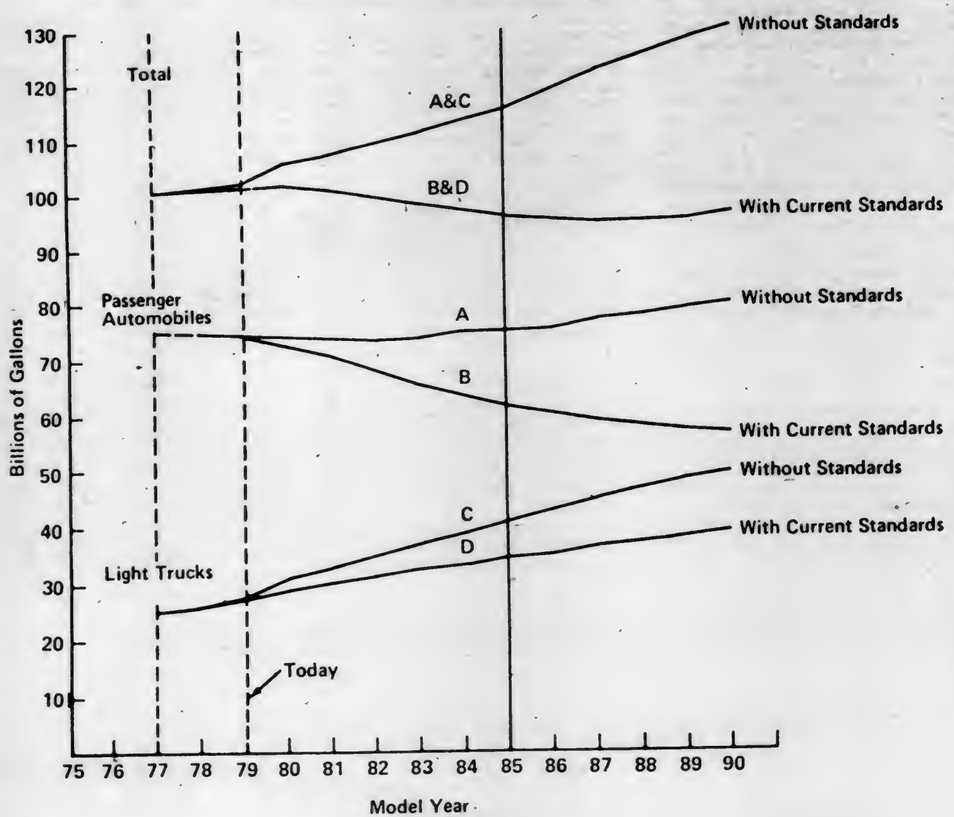
Figure III-2 illustrates the reduction in fuel consumption based upon anticipated compliance with the fuel economy standards which have been enacted to date for both passenger automobiles and light trucks. It shows a projected reduction during calendar year 1985 of 13.5 billion gallons resulting from the passenger car standards, and of 3.5 billion gallons resulting from the light truck standards. Reduction in the fuel consumption of these vehicles, in 1985, is thus projected to be 17.0 billion gallons, or 15% of the total that would have been consumed.

The promulgated standards for Model Year 1981 light trucks are estimated to save approximately 5.8 billion gallons of fuel over the lifetime of the MY 1981 light truck fleet compared to that fleet's projected consumption if light truck fuel economy remained at the estimated MY 1979 level.

[3] 10% discount rate.

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Figure III-2
Projected Annual Fuel Consumption



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These estimates of potential fuel savings are based on the fuel economy values which EPA assesses for each manufacturer. Recently, there has been considerable controversy over EPA's fuel economy measurements because of the difference between its measurements and the actual miles per gallon experienced by cars on the road. Preliminary studies show that the EPA-measured value is consistently higher than the actual on-the-road fuel economy. DOE studies have pointed out a further complication; that the discount from the EPA test results varies with the fuel economy value itself—so that cars with high mpg test results have more of a discount than cars with low mpg test results. Although these limitations exist, the EPA assessments comprise the most complete and reliable data on U.S. automobiles. In this report, baseline values as well as projected values of fuel economy are based on EPA assessments; thus, the differences between them are real.

During the 1970's, light truck sales have increased almost three times as rapidly as passenger automobile sales. Since light truck fuel economy is much below that of cars, the total amount of fuel consumed by light trucks has significantly increased in a short time span.

Since 1975, the U.S. Department of Energy and its predecessor agencies have been actively encouraging petroleum conservation in all sectors. The Department of Transportation has assumed major responsibility for transportation sector programs such as carpooling, the 55 mph national speed limit, the voluntary program for trucks and buses, and transportation and highway efficiency improvements. These programs, in the aggregate, have the potential for saving as much as 16.4 billion gallons of fuel annually (depending upon the percent of compliance); this saving is in addition to the savings resulting directly from fuel economy standards.

E. OPTIONS FOR STANDARDS MODIFICATION

The Secretary is also authorized to prescribe rules reducing 1978, 1979, or 1980 average passenger automobile fuel economy requirements for a manufacturer which demonstrates that more stringent Federal automobile standards in other areas are likely to produce a reduction in fuel economy despite the use of a "reasonably selected technology" (i.e., one which minimizes Federal standards fuel economy losses). Relevant Federal standards include: (1) Emissions standards under the Clean Air Act, (2) motor vehicle safety standards under the National Traffic and Motor Vehicle Safety Act of 1966, (3) noise emissions standards under the Noise Control Act of 1972, and (4) property loss reduction standards under the Motor Vehicle Information and Cost Savings Act.

The Act provides that post-1980 average fuel economy standards may be increased by the Secretary as long as the amended standard is promulgated at least 18 months before the beginning of the model year to which the amendment applies. Any person who may be adversely affected by rules authorized by the Act for defining terms, setting average fuel economy standards, determination of average fuel economy, and automobile labeling may, at any time prior to 60 days after such rule is prescribed, petition for a judicial review. Judicial review pursuant to a civil penalty assessment may be obtained by filing a notice of appeal within 30 days after the date of assessment determination.

Section 502(c) of the Act provides that low volume manufacturers (those manufacturing less than 10,000 passenger automobiles world-wide in the affected year, and the second model year preceding the affected year) can petition for reduction from average fuel economy standards. A rule establishing the format and content requirements for petition was issued in July 1977. A low volume manufacturer must have submitted a petition for exemption at least 12 months before the beginning of model year 1979, and must submit subsequent petitions as least 24 months before the beginning of model year 1980 and thereafter. If an exemption is granted, NHTSA establishes an alternative maximum feasible average fuel economy standard applicable to that manufacturer. The petition must contain financial data, sales figures and projections, product mix and engineering data, and fuel economy projections by fleet and by model type.

The Agency's proposed decisions are published in the FEDERAL REGISTER to invite comments. Exemptions are granted only if NHTSA determines that the standard otherwise applicable is more stringent than the maximum feasible average fuel economy attainable by the low volume manufacturer.

Six low volume manufacturers petitioned for exemption from the 1978 standards. One was found to be ineligible because it is controlled by a larger manufacturer; four were granted exemptions and a proposed decision has been published relative to the sixth.

F. FUEL ECONOMY MEASUREMENT

The EPA is responsible for testing vehicles and calculating a manufacturer's fleet average fuel economy values. The fuel economy values for most vehicles are determined on the basis of tests performed on vehicles submitted by the auto industry to EPA to demonstrate compliance with emission standards. Some few vehicles are tested only for fuel economy purposes under precisely controlled conditions by professional drivers in a laboratory on a dynamometer. To represent the usage pattern of the average vehicle, 55 percent of the final fuel economy value is produced from a "city test" simulating a 7.5 mile, stop-and-go trip at an average speed of 20 mpg and involving both cold and hot starts. The remaining 45 percent is produced from a "highway test" simulating a 10 mile, non-stop trip at an average speed of about 50 mph.

EPA selects a representative sample of each manufacturer's fleet (passenger automobiles or specific classes of light trucks) and uses the fuel economy values to calculate a corporate, production-weighted average fuel economy. Testing is done largely before the start of the model year so that the manufacturers' models may be certified as meeting emission standards. An *expected* manufacturer's average fuel economy may be estimated from production plans. The actual average fuel economy, however, can be computed only after the end of the model year when actual production and sales data are available.

G. COMPLIANCE/NON-COMPLIANCE CONSIDERATIONS

The use of an *average* standard allows the manufacturer to balance off his sales of larger, below-standard models with compensating sales of smaller, above-standard models. Manufacturers failing to comply with applicable average fuel economy standards are liable for civil penalties. For each one-tenth mpg shortfall in the average, the Secretary of Transportation is authorized to assess a charge of $5 per vehicle manufactured. The penalty burden may be lightened by the Secretary to prevent manufacturer bankruptcy, preserve competition in the automobile industry (given a finding by the Federal Trade Commission), or allow for the effects on a manufacturer resulting from extraordinary circumstances (acts of God, fires, strikes). Manufacturers exceeding applicable AFE standards receive credits which may only be applied to any civil penalty imposed in the preceding model year, or in the succeeding model year. A credit is applicable only within the same category of vehicle for which the credit was earned.

The National Energy Conservation Policy Act, Public Law 95-619, amends the Act and gives the Secretary authority to raise the amount of civil penalty to $10 for each one-tenth of a mile, using rulemaking procedures. To do so, the Secretary must conduct

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hearings in order to determine the magnitude of energy conservation, impacts on competition, and impacts on imports of raising the penalty.

H. RESEARCH AND DEVELOPMENT

During the past 5 years, DOT has developed the capability to conduct comprehensive assessments of the ability of manufacturers to improve the fuel economy of their products and to assess the impacts of those improvements on the industry, the consumer, and on the National economy. These assessments can be made in such areas as technology, engineering, manufacturing cost, economic, and marketing consequences.

The objectives of this research and development (R&D) program are to develop, maintain, and update the data bases and the analytical tools necessary for rulemaking and policy formulation activities in the area of automotive energy conservation. In FY 1978, approximately $6.0 million was spent on private sector R&D contracts.

The R&D program is divided into six areas:

(1) *Assessment of Automotive Technology,* which deals with the identification and evaluation of production and projected hardware available to manufacturers for achieving fuel economy improvements. This includes both passenger automobiles and light trucks with less than 10,000 pounds GVWR (individually and in fleets) and encompasses weight and acceleration reduction, engine and drive train improvements, use of alternative engines and transmissions, improved lubricants, reduced accessory losses, and reduced aerodynamic drag and rolling resistance.

(2) *Effects of Federal Standards on Fuel Economy,* which deals primarily with possible fuel economy effects resulting from emission, noise, safety, and damageability standards (either in effect or under consideration). It also deals with the effects of other Federal standards (occupational safety, health, and environmental) on manufacturing plants and production capabilities.

(3) *Industrial Analysis,* which addresses the evaluation of manufacturability and costs of technological improvements, both individually and in combinations; the assessment of manufacturers' capabilities and leadtimes in implementing fuel economy improvements; and, capital requirements and the feasibility of obtaining capital.

(4) *Economic Analyses and Impact Evaluation,* which focuses on the identification and evaluation of impacts of fuel economy standards (and other related conservation actions) on automobile prices, automobile demand, and employment, and on the cost of ownership and operation of automobiles. It also deals with domestic competition, imports, and aggregated economic effects on the automotive sector of the economy, on the national economy, on petroleum and other national resources, on air quality, and on highway safety. Important considerations in these analyses are fuel availability and price.

(5) *Market Analyses and Impact Evaluation,* which examines the mutual interactions between automobile products offered by the manufacturers and their acceptance in the marketplace within the context of fuel economy standards, Government policies, and fuel prices. The impacts of these products on consumer choice and vehicle usage patterns are important in assessing the impacts of the program and are, therefore, under continuing investigation.

(6) *Implementation of Innovation in the Motor Vehicle Industry,* which deals with the assessment of the responses from the motor vehicle industry to Federal initiatives and regulations in safety, fuel economy and emissions, and the assessment of policy alternatives to stimulate innovation in the industry to produce "socially responsible" motor vehicles.

The research and development program has produced comprehensive data bases and methodologies in all technical areas. In Automotive Technology the contract work which produced the data bases for spark ignition and diesel engines has demonstrated, on the basis of preliminary results, that a 3000 lb. automobile can achieve 33 mpg fuel economy at emission levels below the statutory 1981 standards of .41/3.4/1.0 for HC, Co and NO_x, respectively. The establishment of this data base has also resulted in the turbo-diesel Volkswagen Rabbit with 60 mpg, and 40 mph frontal crash protection. In the Industrial Analysis area, a comprehensive data base of the plants facilities, tooling, employment, production capacity, and conversion costs for the automotive manufacturers and suppliers has been developed to support analyses of urban impacts, and financial impacts on manufacturers. A corresponding data base has been developed which encompasses manufacturability, costs, and lead times for components and vehicles. In the Market Analysis area, consumer discussion groups are being conducted to probe consumer attitudes and preferences in energy conservation and fuel efficient vehicles.

The results of the Automotive Fuel Economy Research Contract program have been presented at the Automotive Fuel Economy Research and Analysis Program Contractor's Coordination Meetings held in April and December 1978. These contract results, together with material obtained from manufacturers and other sources, are documented in source documents which represent the state of knowledge on the various specific subjects. Source documents are not rule-specific and cover a time period which extends beyond the period covered by current rulemaking activities. Source documents prepared or initiated in FY 1978, are as follows:

- "Impact of Federal Regulations on the Financial Structure of the Motor Vehicle Industry."
- "Future Potential of the Spark Ignition Engine."
- "Material, Labor, and Capital Requirements for Implementation of Federal Motor Vehicle Regulations."
- "Future Potential of the Diesel Engine."
- "Motor Vehicle Weight Reduction."

The state of our knowledge on diesel particulate emissions and their potential health effects was reported in a workshop on that subject, held in April 1978.

I. PUBLIC INFORMATION PROGRAM

The Act requires several public information activities. Automobiles manufactured more than 90 days after FY 1976 must bear labels indicating vehicle fuel economy, estimated annual fuel costs, and the fuel economy range of comparable automobiles. The EPA is responsible for prescribing the form, content, and display requirements for these labels.

The EPA must also prepare annually a booklet (*The Gas Mileage Guide* [1]) providing information on fuel economy of automobiles manufactured in a given model year, including estimated annual fuel costs associated with automobile operation. The Department of Energy must publish and distribute the booklets, which automobile dealers are required to make available without charge to their customers.

NHTSA is responsible for the enforcement of the *Gas Mileage Guide* regulations which provide that failure to comply with consumer information requirements may result in a civil penalty of not more than $10,000 for each violation. To date, NHTSA has investigated 368 new dealerships across the country. Of these 368 dealerships, 46 percent were not in compliance with the regulations. These cases are being adjudicated. Dealership compliance is likely to improve rapidly as more dealers become aware of the active enforcement program.

[1] The first edition is published with the gas mileage available in September of each year, the beginning of the model year for domestic manufacturers. A second is published in February with more complete data on vehicles certified later for both foreign and domestic manufacturers.

J. FEDERAL PURCHASING PROGRAM

Section 510 of Title V requires that all passenger automobiles acquired by all executive agencies, in each fiscal year between 1977 and 1985, achieve a fleet average fuel economy of not less than 18 mpg, or the average fuel economy standard applicable to the individual automobile manufacturers, whichever is greater. This section defines acquisitions as those vehicles purchased or leased for a period of 60 continuous days or more. Specifically excluded from this program were passenger automobiles designed to perform combat related missions, law enforcement work, and emergency rescue work. In July 1977, these requirements were extended to include light trucks, effective in FY 1978. As mandated by Executive Order, the fleet average fuel economy for all passenger automobiles federally acquired must exceed the statutory fuel economy standard by 2 mpg in FY 1978, 3 mpg in FY 1979, and 4 mpg in FY 1980-85. No automobile may be acquired if the mpg rating is below the standard for that particular year. The applicable fleet average fuel economy objectives, by fiscal year, are as follows:

TABLE III—1. *Fleet Average Fuel Economy Objectives*

Fiscal year	Average fuel economy standard (mpg)	GSA fleet average fuel economy objectives
1978	18.0	20.0
1979	19.0	22.0
1980	20.0	24.0
1981	22.0	26.0
1982	24.0	28.0
1983	26.0	30.0
1984	27.0	31.0
1985	27.5	31.5

During the FY 1977, Federal executive agencies acquired 18,670 passenger automobiles. The fleet average fuel economy was 19.3 mpg, resulting in a gasoline savings of approximately 11.12 million gallons (or 265,000 barrels) of gasoline over the expected useful life of the vehicles. Through August 31, 1978, agencies had acquired 13,594 vehicles attaining a fleet average fuel economy of 21 mpg. This will result in a gasoline saving of 14.4 million gallons (or 343,000 barrels) of gasoline over the 60,000 miles expected life of the vehicle. The gasoline savings for both years are based upon the premise that, in the absence of this program, Federal Agencies would have continued to acquire a combination of 8 cylinder midsize and standard sedans and station wagons which are less fuel efficient. Additonal savings are expected in FY 1979 as the fleet average fuel economy objective increases to 22 mpg, the fuel economy standard rises to 19 mpg, and the program is extended to include light trucks of 6,000 pounds GVWR. There will be an even greater savings in subsequent years as the CSA program is extended to include light trucks up to 8,500 pounds GVWR and the differential between the GSA passenger automobile fleet average fuel economy and the fuel economy standard rises to a maximum of 4 mpg.

K. REPORTING REQUIREMENTS

The Act requires manufacturers to submit reports semiannually to DOT containing: (1) Information on manufacturers' abilities to comply with applicable fuel economy standards; (2) a plan describing steps taken by the manufacturer to comply with the standards; and, (3) such additional information as may be required by the Secretary.

Two reports required by the Act have previously been submitted by the Secretary of Transportation to the Congress:

(1) *Effective of Miles-Per-Gallon Meters as a Means to Conserve Gasoline in Automobiles,* July 1976, and (2) *Advisability of Regulating Electric Vehicles for Energy Conservation,* August 1976.

IV. TECHNICAL OUTLOOK

A. FROM 1979 THRU 1985

Introduction

This section discusses the technical capability of motor vehicle manufacturers to comply with the present fuel economy standards, those set by the Act, and those established by the Secretary of Transportation.

When the Department of Transportation issued passenger car standards for Model Years 1981 through 1984, supporting documentation for those standards included the Rulemaking Support Paper dated July 1977, and the Final Impact Assessment dated June 30, 1977. Subsequently, at hearings conducted by the Subcommittee on Science, Technology, and Space of the Senate Committee on Commerce, Science and Transportaton, executives of each of the four major U.S. passenger car manufacuturers stated that they would meet the imposed standards—and would monitor and adjust production schedules, if necessary, to insure compliance.

The Department of Transportation/NHTSA does not purport to be able to predict the exact path that each manufacturer will adopt for complying with the standards. Rather, NHTSA has projected product plans for each manufacturer, assuming implementation rates of fuel economy improvements which are technologically feasible for the appropriate vehicles. In these plans, each automobile configuration is separately projected into the future. Engine, transmission, related component and assembly capacities are then coordinated with manufacturing plans. The values used for the technological improvements to fuel economy are based on manufacturers' responses to questionnaires and on estimates developed by the NHTSA technical staff on the basis of engineering fundamentals and information in the open literature.

The Rulemaking Support Paper for the 1981-1984 passenger car standards presented detailed evidence in support of the conclusion that techholgy would be available for achieving the required standards. The analysis was specific for each of the domestic manufacturers and did not include the additional fuel economy improvements that could be achieved either by shifts in the mix of models toward cars with smaller interior volume or by the application of diesel engines. Nor did the analysis include other potential technologies for improving fuel economy, such as turbocharging and engines in which some of the cylinders can be deactivated (dual-displacement engines). These technologies provided an even larger safety margin in case some of the ongoing developments are not fully successful.

In the last 18 months, since the passenger car standards were issued, the NHTSA has updated its information base and its methodology for estimating technologically feasible fuel economy for each manufacturer. It has used test data on later model cars, additional information received in response to information requests from the automobile manufacturers and suppliers, additional research results, and information from the trade press. The earlier conclusion that the average fuel economy standards of 27.5 miles per gallon for each of the domestic passenger automobile manufacturers is technologically feasible for model year MY 1985 has been confirmed by the latest analyses. Each manufacturer has a wide range of technical options which can be combined in various proportions to meet the fuel economy standard.

Because manufacturers have been less concerned with fuel economy for light trucks, less information has been available. The first efforts to develop data comparable to that available for passenger cars occurred with the initial rulemaking for MY 1979 and continued with the rulemaking for MY's 1980-81. More data is being developed in the course of rulemaking for light trucks for MY's 1982-1984. A proposal is expected this Spring.

An important factor complicating light truck fuel economy projections is the difference in car/light truck usage. While the car is designed to transport passengers, the light truck is

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primarily designed to carry heavy and/or bulk cargo. The light truck is also designed to carry loads on unprepared surfaces (e.g., those encountered at construction sites, recreational areas, etc.). Many owners may use their trucks to maximum capability only rarely, if at all. Consumers who might want somewhat "less truck" in terms of hauling capability do not now have a suitable alternative available in today's market. The small imports do not provide the cab space desired by many people, nor are their truck beds sized to accommodate standard building materials used in this country. In addition, the current foreign exchange rates are rapidly placing these trucks at a considerable price disadvantage when compared with the lightest domestic trucks. There is a size gap between the smallest domestically produced light trucks and the largest imported light trucks. As "intermediate" size pickups and vans are introduced, light truck fleet fuel economy can be expected to increase.

Seven categories of technological improvement have been identified which could lead to increased fuel economy in the mid-eighties for both passenger automobiles and light trucks (see Table IV-1). The major ones are weight reduction, and engine and transmission improvements. The following paragraphs discuss each category in more detail.

Weight Reduction

The NHTSA estimates that the average inertia weight of new passenger automobiles can be reduced from about 3,900 lbs. in MY 1977 to about 3,000 lbs. in 1985. This reduction by itself could increase fuel economy by about 23% (assuming that acceleration performance is held constant).

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TABLE IV-1

Representative Fuel Economy Improvement Techniques for Passenger Cars and Light Trucks In the Mid-Eighties

Technology	Typical Improvement in Fuel Economy from 1978 (1)	
1. Weight Reduction (downsizing, materials substitution, and/or alternate configurations for body or powertrain)	10% reduction in weight increases fuel economy by 8% at constant acceleration performance.	
2. Engine Improvement		
Improved Spark Ignition Engine Efficiency		
a. Optimized control	1-3%	
b. Engine quality	0-20% (2)	
Alternate Engines		
a. Diesel	25%	
b. PROCO	20%	
Turbocharging	car-specific depending on replacement of current engine by a smaller turbocharged engine. Typically 5-10% improvement in fuel economy	
3. Transmission Improvement		
Improved Automatic Transmission related to current 3-speed		
a. Locked-up torque converter	3-6%	
b. Wide range 3-speed	2%	
c. Wide range 4-speed	5%	
d. Improved efficiency	1-2%	
e. Improved engine/transmission matching	1-2%	
f. 4-speed with locked-up torque converter	8-11%	
Overdrive Manual Transmission	5%	
4. Improved Lubricants		
a. Crankcase		
1. lower viscosity	1%	3% total
2. friction modified	1%	
b. Rear axle lower viscosity	1%	
5. Reduced Parasitic Losses	1-4%	
6. Reduced Tire Rolling Losses	5%	
7. Improved Aerodynamics		
a. Complete Body redesign	5%	
b. Add-on devices	3%	

(1) These values are not necessarily additive
(2) As compared to an average 1978 engine.

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There are a number of ways to accomplish such a weight reduction including:

- Substituting new vehicles with smaller external dimensions, while maintaining interior space, into the same market class (downsizing),
- Redesigning current smaller exterior dimension vehicles and providing them with a nameplate of a vehicle with a larger size market image (also called downsizing),
- Substituting lighter weight materials (materials substitution),
- Introducing smaller, lighter weight engines, and other components,
- Applying front wheel drive in a new design,
- Using modified space arrangements (minivans replacing station wagons),
- Using various combinations of these approaches.

Downsizing has been the main weight reduction technique applied since MY 1977. General Motors, Ford, and Chrysler have introduced new vehicles that are smaller in external dimensions and lighter than the automobiles they replaced, while retaining or increasing interior roominess, The manufacturers used all-new designs and facelifts in the process. The first round of downsizing will probably be completed by the early eighties. Some additional downsizing will probably take place later, but most of the major car lines will have been subjected to this process by the early 1980's. (Mix shift, a mechanism for reducing the average weight which is different from downsizing, includes a reduction in utility—downsizing does not.)

In addition to "downsizing" the vehicle, redesign of many of the components to achieve further weight savings is possible. As an example, it is estimated that about 75 lbs. could be saved from an average vehicle by using lighter engine and accessory components.

Material substitution means that aluminum, plastic, and HSLA (High Strength, Low Alloy) steel are substituted for carbon steel, the main component of current automobiles and light trucks. All of these lighter weight materials are expected to be used to a greater extent in the mid-eighties than they are today. The mix of substitute materials will depend on the development of production techniques and the relative economic advantage of the different materials. The use of aluminum and plastic materials may be limited by supplier/industry production capacitities. There does not appear to be a limitation on the availability of HSLA steel in the mid-eighties. This subject is discussed further in Section V.

Reduction in the size and weight of the engine can be accomplished, while maintaining the needed power, by applying turbocharging. The weight of a turbocharged engine of a given power level will be in the range of 100 to 250 pounds lighter than that of a conventional engine.

The use of front wheel drive is also expected to provide substantial savings in weight when compared to conventional rear-wheel-drive automobiles. Several models now use front-wheel drive, and General Motors has announced plans to use this technology throughout its products by the mid-eighties.

Still another way to reduce vehicle weight is to use an alternate vehicle configuration, such as a van type space arrangement as a replacement for station wagons. It appears possible to reduce vehicle weight by 500 to 700 pounds with the van type arrangement.

Engine Improvements

The possible fuel economy improvement to be realized through engine improvements depends on the engine type. Three types were considered: spark ignition (SI), compression ignition (diesel), and continuous combustion (gas turbine, Stirling, steam).

The spark ignition engine is expected to be the dominant engine in the mid-eighties, accounting for about 90% of the new vehicle fleet. On the average, the fuel economy of spark ignition engines will be little changed from 1978 to the mid-eighties due to the scheduled tightening of emission standards. NHTSA considered four factors in arriving at this conclusion. They are:

- The diversity of the baseline (1978) engines,
- The changes in emission standards between now and the mid-eighties,
- The fuel economy improvement potential attainable by changing control strategies,
- The fuel economy improvement potential achievable through engine design-variable changes.

Diesel engines are already being used in some car and light truck models. Manufacturers' plans indicate that about 10% of the new passenger car fleet may be diesel, with fuel economy improvements of at least 25% at the same performance level. The extent of diesel engine application is brought into question by concern over the possible health effects of diesel particulate emissions. This issue is discussed later in more detail.

Currently, two types of stratified-charge engines are either under development or in production: the open-chamber and divided-chamber types. Current indications are that the divided-chamber engine (such as the Honda CVCC) has little or no advantage in efficiency over a conventional homogeneous charge SI engine at the 1981 emissions level, particularly in the large engine/vehicle combinations.

The open-chamber stratified charge engine (such as the Ford PROCO) is approximately 20% more fuel efficient than a comparable homogeneous charge SI engine. The open-chamber stratified charge concept should work very well in rotary engines as well, due to the gas dynamics that occur in this design. Several manufacturers are experimenting with this concept, and one or more production engines may appear in the eighties.

The open-chamber stratified charge engine could work in trucks, but it is likely that it will be allocated to passenger cars in the early 1980's where it can be developed under less severe operating conditions. Light truck usage may follow with these engines introduced in the low-load-range portion of the light truck market (as has been the case with the Oldsmobile light duty automotive diesel).

Continuous combustion engines (e.g., Stirling, gas turbine) are not expected to be in production before 1990 at the earliest. Several development programs now underway are expected to provide fuller understanding of the fuel economy such engines could achieve in production.

Transmission Improvements

The fuel economy of passenger automobiles and light trucks can be increased by the use of advanced transmissions.

One significant cause of energy loss in automatic transmissions is the loss inherent in torque converter slippage. A lock-up clutch on the torque converter eliminates this slippage and increases fuel economy between 3 to 6 percent. Chrysler has introduced such a feature on some three-speed automatic transmissions in model year 1978, and other manufacturers are expected to follow. By the mid-eighties, it is expected that most automatic transmissions will incorporate either lock-up clutches or other means of mechanically by-passing the torque converter to avoid losses.

Further gains in fuel economy are possible by adding an overdrive, either in the form of a wide range three-speed (a change from the conventional ratios) or a fourth gear. With an overdrive transmission, a 2 to 5 percent fuel economy improvement is possible which is additive to that obtained from the torque converter lock-up.

Improved Lubricants

Recently, a number of new lubricants featuring reduced-viscosity and/or friction-modifying additives have been introduced. At present the friction-modified oils are not approved by

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the EPA for use in fuel economy certification testing. The EPA, however, does allow their use in EPA durability vehicles, and it is assumed that by the early eighties these oils will have been approved for use in fuel economy testing and that the total fleet will be using them. The 1981 light truck fuel economy standard has a one-half mile per gallon contingency; i.e., the standard is reduced by one-half mile per gallon if the EPA does not approve the use of these oils. It is projected that a 3% improvement is possible with the use of both low-viscosity and friction-modified oils in the engine crankcase and driveline.

Reduced Engine Accessory Power Requirements

Reducing the loads placed on the engine by accessories will have a positive effect on fuel economy. The engine accessories include the oil pump, water pump, fan, air pump, and alternator, and, for the bulk of automobiles sold in this country, air conditioning and power steering pump. All of these accessories, because they require engine power to operate, have an adverse influence on fuel economy. An increase in fuel economy of up to 2% is possible with improved individual accessory components. Improvements of 2-4% are possible through the use of improved accessory drives (which would reduce the engine power needed to drive the accessories at higher engine speeds). The improvement with accessory drives is not generally additive to the improvements from individual accessory components.

Reduced Tire Rolling Losses

By the early eighties, the NHTSA projects that tire rolling resistance can be reduced by 35% over today's radial tire, resulting in a 5% improvement in the fuel economy of passenger automobiles. The improvements for light trucks may not be so large. The 35% rolling resistance reduction will be achieved by combinations of technical design and operational improvements in the following four areas: (1) Type of rubber base stock and additives used in rubber compounds, (2) cord and belt material, (3) increased inflation pressure, and (4) use of an oversized tire operated in an under-loaded condition.

Reduced Aerodynamic Drag

The NHTSA estimates that fuel economy can be improved by 5% through the early 1980's when new body designs are introduced, or by 3% through the use of aerodynamic add-on devices. Presently, at highway speeds approximately half the amount of energy being consumed by the engine is used to overcome aerodynamic drag. It is estimated that it may ultimately be possible to reduce the aerodynamic drag of passenger automobiles by 20 to 50% by careful body design.

Advanced Vehicle Designs

Through its Research Safety Vehicle (RSV) Program, the Department has shown that a "socially responsible" automobile can be a near-term reality by demonstrating that the production of vehicles with high fuel economy, excellent safety characteristics, and low emissions is not only feasible, but practical. Under the Program, one contractor has modified an existing four-door, five-passenger car in such a way that its fuel economy is predicted to be more than 28 mpg, its emissions can meet the currently more-stringent California emission standards, and its structure can sustain zero damage in a 7 mph frontal crash (current standard is 5 mph) and provide occupant protection at 40-45 mph (as compared to 30 mph for the existing standard). These improvements can be made at minimum cost, using existing production techniques, and with high probability of consumer acceptance.

The RSV Program has also demonstrated even more innovative concepts in design and technology. A prototype 2,250 pound two-door, four-passenger vehicle with a mid/rear transverse spark ignition engine has been developed which not only surpasses the most stringent emission and safety requirements, but also is projected to attain a fuel economy of nearly 35 mpg and sustain no permanent damage in a 10 mph frontal crash. The vehicle utilizes new materials and production processes, including the use of lightweight, foam-filled metal sides and front.

This structure provides increased energy absorption (and occupant protection) while reducing weight to improve fuel economy, The industry has shown interest in this structural concept, and one manufacturer is establishing, in contract with the government's contractor, to attempt prototype applications while another is closely following the evaluation of the concept.

Average Fuel Economy Projections

Projections of fuel economy for the 1980 through 1985 passenger car fleets are presented in Table IV-2. Similar assessments were conducted in the course of rulemaking to establish the 1981 through 1984 passenger car standards. On balance, the conclusions reached during the 1981-84 rulemaking (and published in the Rulemaking Support Paper dated July 1977) are similar to those resulting from the most recent assessments. These analyses indicate that all domestic manufacturers can exceed the scheduled standards for each year through 1985.

The specific fuel economy levels shown for each domestic manufacturer do differ from earlier estimates, but not to any significant degree. For the most part, these differences are attributable to the use of more recent EPA certification data than that used during the rulemaking. In this case, 1978 model year information was used because it is the most complete data base for passenger cars is not yet complete).

TABLE IV-2.—*Domestic Manufacturer Automobile Average Fuel Economy Projections*

[Miles per Gallon]

Manufacturer	Model year					
	1980	1981	1982	1983	1984	1985
AFE Standard	20.0	22.0	24.0	26.0	27.0	27.5
American Motors	21.5	23.6	24.6	24.8	28.7	29.5
Chrysler	21.8	24.3	25.9	26.8	28.9	30.1
Ford	21.7	24.7	25.3	27.6	29.1	29.7
General Motors	22.5	23.7	25.3	26.4	28.6	29.8

It should be noted that manufacturers' plans are always being revised, and within the last month, some manufacturers have indicated substantial changes. These changes obviously are not reflected in Table IV-2 and are now being evaluated by the Department.

The case where the manufacturers could use no diesel engines was also considered. This case affects only Chrysler and General Motors. The Chrysler fuel economy values shown in Table IV-2 would be reduced by 0.1 mpg in 1984 and 1985 if diesel engine use should not be permitted. For General Motors, model years 1984 and 1985 average fuel economy estimates are 28.0 and 28.7 mpg, respectively, without diesel engines (instead of those values shown in Table IV-2). If Ford's PROCO program is not included, Ford fuel economy estimates would

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be reduced to 27.3 mpg, 28.2 mpg and 28.4 mpg for model years 1983 through 1985, respectively.

The NHTSA estimates that all of the foreign manufacturers (not including low volume manufacturers) can meet the mandated standard of 27.5 mpg in 1985, although Mercedes-Benz, BMW, Volvo, and Peugeot would apparently fall below 27.5 mpg without diesel engines in their fleets. These four manufacturers historically have produced a limited line of vehicles for market segments that until recently were not covered by the domestic manufacturers. These foreign manufacturers believe a change in vehicle size or characteristics will adversely affect the marketability of their products. Their approaches to increasing fuel economy appear to rely more on technology that does not include weight reduction through downsizing. Further, it appears that if Mercedes does not take sufficient steps to reduce the weight of their vehicles, they must increase their diesel market share to more than 60% if they are to meet the 1985 standard. The analysis shows that none of the four manufacturers can meet the standard without diesel engines unless they reduce their vehicle weights substantially.

Diesel Engines

The future of the diesel engine as a powerplant in light duty vehicles is highly uncertain due to increasingly stringent, federally-mandated emission standards and an unknown ultimate degree of acceptance by consumers in the marketplace. Emission control technology for diesel engines and the concomitant tradeoffs with fuel economy is in its infancy, and it is difficult to make projections of future performance with a high degree of confidence. Nonetheless, it seems quite apparent from the limited data available that the fuel savings potential of the diesel is considerable.

When compared to average 1978 spark ignition (SI) engines, after adjusting for equivalent performance, currently-produced diesel-powered passenger cars and light trucks show fuel economy advantages ranging anywhere from 22 to 52 percent. Currently-produced diesels for these light duty vehicles are all naturally-aspirated, indirect-injection engines, with the sole exception of the turbo-charged Mercedes 300 SD. Advanced technologies, such as turbo-charging and direct fuel injection, offer near-term potential to further increase fuel economy at least an additional 15 to 20% above that of the currently-produced diesels. Further out in time, various technologies hold promise for even greater fuel economy improvements while simultaneously reducing emissions and improving performance.

Some of these technologies include: turbo-compounding, variable compression ratio, water emulsions, alternative fuels, and advanced fuel injection systems (higher pressures and/or electronic control of timing and volume).

As in the case of the spark ignition engine, a number of vehicle characteristics affect the diesel-powered vehicle's fuel economy. The diesel's sensitivities to these vehicle characteristics are different from those of the SI engine because of differences in their part-load performance characteristics. In general, the diesel-powered vehicle will achieve a larger increase in fuel economy than an SI-powered vehicle for similar reductions in aerodynamic drag and tire rolling losses.

Two major issues that may preclude a significant increase in diesel penetration are the unknown health effects associated with diesel exhaust particulates and the potential requirement to meet stringent NO_x emission levels while simultaneously lowering particulate emissions.

EPA and DOE have ongoing research programs investigating the potential health effects associated with diesel exhaust. The outcome of this research will, of course, bear heavily on determining the stringency of future emission standards and the viability of the diesel as a future alternative powerplant. This research is designed to provide at least preliminary answers by the fall of 1979, prior to the point in time when the manufacturers must make large capital expenditures on tooling in order to meet the fuel economy standards. EPA has made it quite clear, however, that automobile manufacturers are completely responsible for insuring that the use of diesel engines does not constitute an unreasonable risk to human health.

Recently, EPA has proposed particulate standards of 0.6 g/mile in 1981 and 0.2 g/mile in 1983. The relative ability of diesel passenger cars to simultaneously meet the proposed particulate levels and the 1981 gaseous emission standards of 0.41 HC/3.4 CO/1.0 NO_x g/mile with a given control technology is dependent on vehicle and engine size. Current DOT-funded research on diesel emissions indicates that the combination of the 1981 gaseous emission standards with a 0.2 to 0.3 g/mile restriction of particulate emissions can only be considered highly likely in a vehicle with an inertia weight of 2500 lbs. or less, utilizing injection retardation and turbocharging. Vehicles between 2500 and 3500 lbs. can achieve an emission standard of 0.41/3.4/1.5 in combination with particulate levels of about 0.3 g/mile. Naturally-aspirated engines in this same weight class would yield about 0.5 g/mile particulate levels. The lower NO_x level and proposed 1983 particulate standard of 0.2 g/mile can possibly be achieved in this weight class with technologies which may include modifications to current diesel fuel and the use of oxidation catalysts, in addition to injection retardation and turbocharging. Since these technologies have not been developed and tested, their potentials are yet to be demonstrated. Finally, DOT has seen no data where vehicles exceeding 3500 lbs. inertia weight, using currently available technology, are meeting the 1981 gaseous emission standards in combination with a 0.2 g/mile particulate level, and it is not clear that engines for these vehicles can be designed using currently demonstrated technology. Particulate traps will be required in addition to all of the above technology. As of today, traps have not demonstrated effectiveness for longer periods than 5000 miles and, thus are not currently practical for production vehicles. This discussion is intended to provide perspective on this issue based on data on hand today and not to prejudge the outcome of EPA's regulatory proceeding.

EPA Test Procedures

The Act requires that the EPA establish the fuel economy testing and calculation procedures for determining fleet average fuel economy values for a manufacturer. The procedure is required by law to yield results comparable to those obtained under the procedures for model year 1975. The EPA is required to develop and provide mileage information to the public in a *Gas Mileage Guide* and on labels for vehicles. The Act requires measurement of fuel economy in conjunction with emissions to the maximum extent possible, although it does not expressly require that fuel economy testing for developing mileage guide and standards compliance information be conducted at the same time. However, to date, practical considerations have dictated that it be done in this manner.

Two significant issues have arisen out of the above constraints. First, EPA has issued a number of "guidelines" for manufacturers to follow in emissions certification and fuel economy testing. EPA contends that the guidelines have been necessary to close loopholes in the test procedure and render "more accurate" test results. The DOT has agreed with EPA's efforts along these lines in principle. The manufacturers, on the other hand, contend that EPA has continually revised its procedures since 1975, to the extent that the present fuel economy test procedures no longer yield results comparable to those obtained under the 1975 test procedures, as required in the Act. DOT has insufficient information at this time to judge the validity of either argument,

although it is recognized that the effects may be sizeable. It is imperative that this issue be carefully studied in 1979; the steps to accomplish this are presently being undertaken.

The second issue concerns the ability of the EPA test procedure to accurately predict "real-world" fuel economy. Ever since EPA began publishing mileage information begining with 1973 model year cars, there has been a growing public awareness of a descrepancy between the test ratings and real-world performance. Moreover, an examination of the data over time reveals a trend indicating the discrepancy may be growing rather than diminishing. These findings are of concern from several viewpoints. From the consumer's viewpoint, the purchaser of a vehicle is receiving less fuel economy than expected. From the national viewpoint, less energy is being conserved than expected. The sources of the discrepancies are many and varies, e.g., driving habits, ambient temperature, road load, engine accessory loading, and production vs. certification vehicle considerations. More work is required to quantify the effects of the various discrepancies and adjust the test procedure and/or mileage guide accordingly. The apparent conflict between the desirability of achieving more representative fuel economy figures and the statutory requirement that the test procedure for compliance remain equivalent to 1975 is an issue that DOT will address in the coming year with EPA and DOE.

B. TOWARD THE 1990'S [5]

Although it is premature to attempt to quantify average fuel economy standards for the late 1980's and 1990's, it is possible and necessary to confront some of the basic issues. These include the need for further improvements in fuel economy, the rate of such improvements, the availability of technology, economic practicability, and the Government role.

As the Secretary of Transportation pointed out in his speech before the Detroit Economic Club in December 1978, the existing fuel economy standards, as challenging as they may be for some to meet, will not suffice for the future. By the early 1990's the effect of the present fuel economy standards largely will have been realized and energy demand will spurt again under the continuing demand for mobility. Unless cooperative and constructive efforts are initiated now, sufficient supplies of affordable fuel will not be available. Beyond 1985, even a one mile-per-gallon improvement in fuel economy per year for new cars probably will not be sufficient to offset increases in total demand for motor fuel. Thus, it is necessary to focus on the things that must be done to make major increases in average fuel economy (e.g., to again double the fleet fuel economy averge to something like 50 miles per gallon, or its equivalent, before the new century). Advances now being made in automotive fuel economy are the result of technology developments which occurred over the past twenty years or so. The NHTSA estimates that most of the currently known technologies for improving fuel economy will have been utilized by 1990. By that time, the possibilities for further fuel economy improvements using existing commercial technologies will come close to being exhausted, although incremental improvements will still be possible. But, if the next generation of cars and light trucks is to meet the conditions of the 1990's it is necessary to begin now to develop advanced automotive technologies so that they will be ready for commercialization. Two primary avenues exist for further increases in fuel economy: (1) The use of lighter weight vehicles; and (2) the application of engines with lower specific fuel consumption than current engines (e.g., improved diesels, stratified charge, and Stirling engines).

Concerning lighter weight vehicles, by 1990 downsizing will have gone as far as possible, and only massive shifts in the mix of cars sold will allow a reduction in average vehicle weight. Consumers would have to accept smaller cars, or cars with lower acceleration capability, to achieve fuel economy increases without new technologies or materials application. However, lighter vehicles can be expected to result from the widespread use of composite materials such as fiber-reinforced plastics, and the further application of monocoque type design. Together, these techniques could reduce the average weight of passenger automobiles by about 500–700 pounds below that expected by the mid-eighties. The weight reduction anticipated for light trucks is about two hundred pounds. Unfortunately, to achieve these weight savings, new production practices would need to be developed by the auto industry. Although the practices in themselves would be different from those used today, they could be introduced into fleet manufacture in the industry's normal evolutionary manner.

Concerning engines with lower specific fuel consumption, one engine type which could provide improved fuel economy in the nineties is an advanced version of the diesel engine (although turbocharged spark ignition engines of new designs also offer significant improvements over today's spark ignition engines). Widespread application of such diesel engines could increase fuel economy by 40–50 percent over current spark ignition engines. The part-load fuel economy of the diesel shows significant improvement over that of the spark ignition engine. The widespread application of diesel engines, however, awaits the resolution of questions concerning the health effects of diesel exhaust emissions and appropriate control technology, as previously discussed.

If it were possibe to develop the light weight designs, and the health effects of controlled diesel engine exhausts were found to be acceptable, fuel economy values in the range of 50 mpg for the passenger automobile fleet and 30 mpg for the light truck fleet would be technologically achievable.

An insight into the fuel consumption implications of higher average fuel economy levels can be gained by looking at Figures IV-1A and IV-1B which show an estimated range of fuel consumption and cumulative fuel saving for the passenger automobile fleet between the years 1985 and 2005. The curves show the projections for possible future fleet average standards of 27.5 mpg, as well as higher levels. Figure IV-1B projects a cumulative saving of between 4 and 6 billion barrels by the year 2005 with higher fuel economy levels than the 27.5 mpg standard maintained indefinitely.

The cost of the required change in the industry to achieve these fuel economy projections is difficult to estimate without considerably more analysis than has been completed to date. It is important, however, to realize that the technology needed, while understood, is not yet available for production. The research and development needed to bring this technology into being must still be done. It is also important that the Federal Government take action now and in the early 1980's to insure that the Nation will have available the technological ability to achieve future improvements in fuel economy.

[5] The speech of the Secretary of Transportation before the Detroit Economic Club in December 1978 served to focus public attention on this subject.

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Figure IV-1B

Potential Fuel Consumption and Fuel Savings for Future Passenger Automobiles

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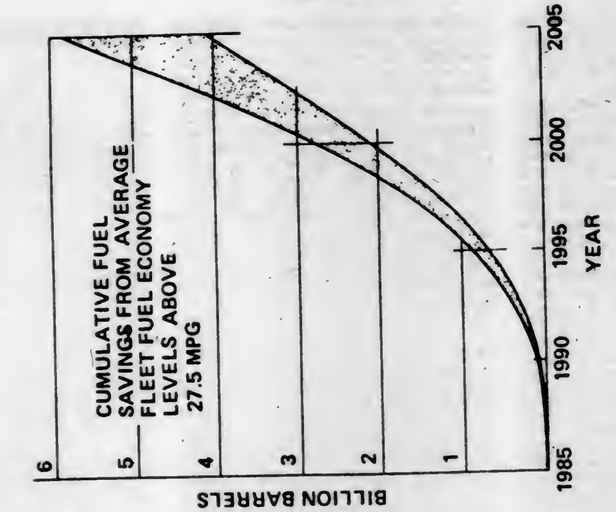
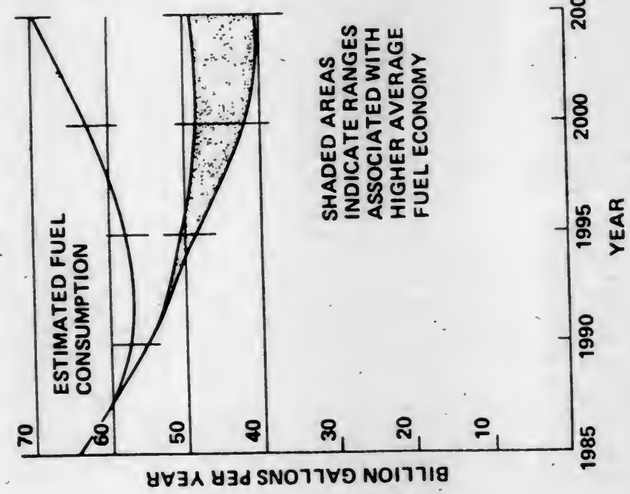


Figure IV-1A



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The Department has taken a definitive step forward by suggesting a conference of leaders in the auto industry and within government agencies that support and regulate that industry. The industry has been invited to join with the Government in a coordinated program dedicated to developing the advance automotive technology that will allow major advances in fuel economy and safety.

It is necessary that the auto industry and the government jointly focus on long range goals as well as short term objectives, since the long range program may well exceed the commercial capabilities of the industry alone. The Federal Government can and must play a key role in fostering and, to the extent possible, assisting is such a development program. Substantial sums of tax dollars are already being invested in automotive-related research and development.

Federally-supported research and development programs should be the catalyst for a concerted, cooperative government-industry effort toward the goal of greatly increased fuel economy that serves national, industrial, and consumer interests. The committed involvement of industry and the private sector is required to overcome the common technical problems that stand in the way of that goal

Considerable effort has already been applied to the development of the automobile of the 1990's. An assortment of experimental safety vehicles, with improved crash protection and fuel economy, have been built and tested under the direction of the Department of Transportation. The industry has carried out, and is presently conducting with the support of the Department of Energy, a variety of alternative engine programs—the Stirling,[6] the turbine, the electric and hybrids. There are other more exciting prospects—advances that depend on significant developments in materials, heat transfer technologies and energy storage systems.

C. UTILIZATION OF ADVANCED AUTOMOTIVE TECHNOLOGY

With the passage of the Department of Energy Act of 1978—Civilian Applications on February 25, 1978, the Congress placed a specific requirement on the Secretary of Transportation to report annually on "the extent to which the automobile industry utilizes advanced automotive technology which is or could be made available to it," including "recommendations which may encourage the utilization" of such technology. Due to the close relation between this requirement and the purpose of this report, the report required by the DOE Act of 1978 is included here. Three topics are covered in highlight fashion: the evaluation process, the extent of technology application, and recommendations. Refer also to the preceding parts of Section IV.

NHTSA's ongoing evaluation of the extent to which the automobile industry utilizes advanced technology was continued during 1978. In June, questionnaires were sent to the major domestic and selected foreign manufacturers of passenger automobiles seeking, among other things, information on the technological improvements the manufacturers foresee through the mid-eighties and intend to use. The light truck manufacturers were presented with a similar request in July 1978. A symposium on Technology, Government and the Automotive Future, jointly sponsored by the Department and Harvard University, was held in October 1978. In December, the Secretary called for a Government-Industry meeting to explore what can be done to foster the development and utilization of advanced technology by the U.S. automotive industry.

A number of new technologies have been introduced, or are planned for introduction in the near future. These include:

- Diesel Engines—These engines are increasingly being used in automobiles sold in the United States. General Motors now offers two diesel engines, and it appears to be ready to introduce additional diesel engines. Other manufacturers already offering diesel-powered cars include Mercedes-Benz, Peugeot, and Volkswagen. A number of other manufacturers are actively working on diesel engines for cars. Work performed under contract to DOT by Chrysler, Volkswagen and Fiat is aimed at developing a data base on diesel engine technology. Manufacturers, however, are completely responsible for diesel engines emission control treatment.
- Turbo-charged Spark Ignition Engines—General Motors, Ford, Saab, and Porsche are now offering turbocharged engines in at least one of their lines of automobiles. Volkswagen has developed, under contract to DOT, test data showing that a turbocharged spark ignition engine in a 3000 lb. inertia weight vehicle can achieve 33 mpg EPA composite fuel economy, while meeting 1981 emission standards.
- Stratified Charge Engines—Ford has been developing a direct-injection stratified charge engine, called PROCO, for a number of years. It appears this engine will be in production in the early 1980's.
- Other engines—The Department of Energy is sponsoring development of gas turbine and Stirling engines and has a major program to develop and demonstrate electric and hybrid vehicles.
- Electronic Controls—Most of the manufacturers will be introducing electronic engine and emissions controls (spark advance, air/fuel mixture, and exhaust gas recirculation).
- Improved Transmissions—The four-speed automatic transmission with lock-up clutch will be introduced in model year 1980 or 1981. Widespread application of this technology is expected.
- Downsizing—This was the major technique starting in 1977 in which the external dimensions of some automobile models were reduced without reducing the internal dimensions in order to make large reductions in weight.
- Material Substitution—Since 1975, the application of high-strength low-alloy steel, plastics and aluminum has increased in passenger automobiles and light trucks. Ford Motor Company has announced its intention to introduce a graphite fiber reinforced component in the 1980 Mustang.
- Front Wheel Drive—General Motors has publicly stated that the major part of its product line will utilize front-wheel drive in the mid-eighties. New front-wheel drive vehicles will be introduced in MY 1979 by General Motors. Currently, the Chrysler Omni/Horizon is a front-wheel drive automobile.
- Computer-Aided Design—This is a technology not obvious to the consumer; however, the application of advanced design techniques has allowed the more rapid introduction of downsized vehicles and different materials. It permits better structural design for both crashworthiness and durability while reducing weight.

The Department is still studying what can be done to encourage the utilization of advanced technology in the automobile industry. It appears that the rate of introduction will be influenced by financial considerations. At this time, it is premature to present recommendations pending the outcome of the discussions between the Federal Government and the manufacturers recently proposed by the Secretary.

V

ECONOMIC IMPACTS

Having reviewed in Section IV the various factors involved in the technological feasibility of achieving the statutory standard of 27.5 mpg by 1985, and why that achievement should not

[6] Ford Motor Company recently announced cancellation of its participation in the DOE Stirling Program because it needed all its resources to meet fuel economy and emission standards, not because of any serious doubts about the potential of the engine itself.

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be a problem, attention is now directed to a review of associated economic impacts. The technological improvements to reach the 1985 standards (as well as those of intermediate years) will require significant increases in the capital spending patterns of the industry, will probably result in an increase in real prices of vehicles, and will continue to have major impacts on the auto industry. The fuel savings described earlier generate real benefits for the consumer (in excess of the estimated increases in vehicle prices), and serve as a significant aid to the Nation's economic health. The impacts of the program on the consumer, the auto industry, and the national economy are discussed below.

A. IMPACT ON CONSUMERS

There are several basic areas in which the fuel economy standards may affect consumers. First, there is a decreased amount of gasoline consumed resulting in a reduction in lifetime operating cost. Second, there is an increase in the initial vehicle cost. Finally, there are possible changes in acceleration characteristics and vehicle appearance.

In order to determine the present value of the cost of gasoline saved resulting from the increasing vehicle miles per gallon, three basic assumptions were made:

(1) Vehicle lifetime and miles travelled are approximately 10 years and 100,000 miles for passenger cars and 14 years and 134,000 miles for light trucks. Both types of vehicles are driven a greater number of miles per year when they are new than when they are old.

(2) The discount rate used to obtain the present value of monetary savings was 10%, and,

(3) The price of gasoline was taken to be 65 cents [7] per gallon.

Tables V-1 and V-2 show: (1) The amount of fuel saved over the lifetime of passenger cars and light trucks, respectively; (2) the incremental present value of the fuel savings over the average previous model year vehicle; and, (3) the cumulative effect relative to a model year 1977 vehicle. Note that the average MY 1981 light truck will be saving 2,181 gallons of gasoline in comparison to the MY 1978 light truck, which is more than the average MY 1985 passenger car will be saving in comparison to a MY 1977 passenger car—2,045 gallons of gasoline. This occurs for two reasons. First, a light truck is estimated to travel 134,000 miles over its lifetime in comparison to 100,000 miles for passenger cars. Second, the 1978 light truck has a low base fuel economy level and, thus, a greater potential to save fuel. Hence, an increase of only 3.8 mpg results in a 28% increase in fuel economy. Note, however, that over their respective lifetimes, the average MY 1981 light truck will use about 40% more fuel than an average MY 1978 passenger car. Similarly we note that a 1 mpg improvement in the 1979 passenger automobile over its 18 mpg predecessor saves 292 gallons while a 1 mpg improvement in the 1984 model over its 26 mpg predecessor saves only 142 gallons. As the base gets higher, we have to redouble our efforts to continue saving.

TABLE V-1.—*Fuel Savings for New Passenger Automobile Purchasers*

[Lifetime (100,000 miles) fuel savings per passenger automobile as a result of increasing fuel economy standards over previous model year's level]

	Standard (MPG)	Gallons saved		Present value of fuel savings per car [1]	
		Incremental [2]	Cumulative [3]	Incremental [2]	Cumulative [3]
Model year:					
1978	18.0	126	126	$56	$56
1979	19.0	292	418	131	187
1980	20.0	263	681	118	305
1981	22.0	455	1136	203	508
1982	24.0	379	1515	169	677
1983	26.0	321	1836	143	520
1984	27.0	142	1978	64	884
1985	27.5	67	2045	30	914

[1] Savings based upon fuel price of 65 cents per gallon, discounted 10 percent annually back to the purchase year.

[2] "Incremental" indicates savings over the previous year's model; "Cumulative" indicates savings over the 1977 base year model, which averaged 17.6 miles per gallon.

TABLE V-2.—*Fuel Savings for New Light Truck Purchasers*

[Lifetime (134,000 miles) fuel savings per truck as a result of increasing fuel economy standards over previous model year's level]

	Fuel economy [2] (MPG)	Gallons saved		Present value of fuel savings per truck [1]	
		Incremental	Cumulative	Incremental	Cumulative
Model year:					
1979 [3]	14.0	355	355	$137	$137
1980	15.6	982	1337	378	515
1981	17.3	844	2181	325	840

[1] Savings based upon fuel price of 65 cents per gallon, discounted 10 percent annually back to the purchase year.

[2] Fuel economy based on projected sales mix of 4-wheel drive and 2-wheel drive vehicles.

[3] Model Year 1979 compared to estimated MY 1978 average light truck fuel economy of 13.5 miles per gallon.

Passenger automobiles and light trucks are expected to increase slightly in price as a result of fuel economy regulations. DOT estimates of North American [4] capital spending by General Motors, Ford, and Chrysler (based primarily on manufacturers' plans) indicate significant increases over historical spending levels. It is estimated that these additional capital expenditures and related product engineering costs, and costs of introducing a new product, if allocated over all vehicles, will result in an approximate $400 increase in the total cost of MY 1985 passenger cars and light trucks.[5] This estimate does not include the effects of variable manufacturing costs which may either increase (due to use of technologies such as turbochargers and 4-speed automatic transmissions) or decrease (due to material cost savings from weight reduction by downsizing). On balance, it is expected that variable manufacturing costs will increase slightly. However, any price increase resulting from manufacturing costs due to fuel economy regulations alone should be more than offset by the lifetime fuel savings of $914 for an average MY 1985 passenger car, and $840 for a MY 1981 light truck.

[7] The price used is somewhat low by 1979 pump prices. The effect is to understate the savings slightly and make the computation conservative.

[4] U.S. domestic and Canadian.

[5] The Department has assumed model changes for light trucks after MY 1981 even though fuel economy standards for these years have not been promulgated at this time.

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To date there have been few problems concerning consumer acceptance of lighter automobiles. General Motors' downsized large cars were an instant success when introduced in MY 1977. GM's downsized mid-size cars sold slowly at first, but sales recovered completely later in the model year. Ford's lightweight Fairmont/Zephyr line achieved record sales for a new model in its first year. Chrysler's Omni/Horizon line of small cars has also done extremely well since its introduction; an indication of its success is the much higher than average rate of foreign car trade-ins by purchasers of this model.

The issue of consumer acceptance of lower acceleration capabilities is still unresolved (particularly, since acceleration capabilities have been promoted by the industry for so many years). This second major fuel-saving approach involves the reduction in the power (and, therefore, size and weight) of the engine relative to the weight of the entire vehicle. Not only does the overall weight decrease save fuel, but the engine cruises somewhat closer to full throttle which is more efficient for most spark ignition engines. The apparent consumer drawbacks would be the loss of acceleration at lower speed, a lack of reserve power at high speed and a decrease in maximum speed up a grade. All of these would be expected to generate consumer resistance. In practice, however, little such resistance has thus far been detected. Earlier reductions in power-to-weight ratio occurred about the time of the introduction of the catalytic converter (which allowed retuning of the engine for better response), and the imposition of the national 55 mpg speed limit (which allowed gearing for better low speed performance and reduced the need for high speed reserve or hill climbing). As a result, any perceptible degradation in performance has not reached the point where manufacturers would expect customer resistance. The response to still smaller engines is not known, and close attention (through market surveys and other means) will be directed to this area.

An issue which has been raised recently by automobile manufacturers relative to consumer impacts is their claim that the current fuel economy standards would result in price increases much higher than the cost savings realized by the buyers of these fuel efficient vehicles. In short, in their view, the currently established standards would not be cost-beneficial for the consumer. There are, in fact, two questions involved: (1) How correct is the NHTSA analysis of consumer costs and and benefits? and (2) what bearing does such an analysis have on setting fuel economy standards? Relative to the first question, the operating cost portion of the analysis is straightforward and conservative since recent OPEC actions will make gasoline more expensive than the value used in this analysis. The present value computation technique is well known. Moreover, the estimate of cost-based changes in price used the best and most recent information available to DOT. The Department will continue to examine new information as it becomes available and will refine the consumer cost-benefit analysis accordingly. At present that analysis still indicates that the standards are very cost-beneficial.

Relative to the second question, the statute does not make the cost-effectiveness of the standards an explicit basis for rulemaking. Rather, the Secretary is directed to consider technological feasibility, economic practicability, the effect of other Federal standards on fuel economy, and the need of the Nation to conserve energy. While it is obviously desirable for any Federal rulemaking to produce a net consumer benefit, the relationship between individual monetary savings and national benefits resulting from energy conservation is not clearly defined. Since the Act explicitly cites the latter, it might be interpreted that the intent of Congress was to achieve energy conservation even at the cost of some consumer self-sacrifice. Of course, the Department will make every effort possible under the law to minimize consumer costs. The present standards provide a very significant benefit for consumers.

B. IMPACT ON AUTOMOTIVE MANUFACTURERS

Operational Effects

To understand the fundamental effect that the fuel economy program has had, and will continue to have, on the automotive manufacturing industry, it is useful to consider how the industry operates and how various technological changes to meet the fuel economy standards compare to historical patterns of change within the industry.

Traditionally, the domestic auto industry (while introducing new models every year) has never redesigned all cars each year. Full-line manufacturers have generally made significant changes to the body or frame in each line every 3 to 6 years, and minor changes during intervening years. Thus, over a several-year period, full-line manufacturers have revised the configuration of their entire product lines. However, the manufacturing life of certain components is frequently much longer. Some basic engines have been in production for over 20 years, and it is common for the manufacturer to retain axles, transmissions, and other major vehicle components unchanged while making major overall vehicle revisions.

In reponse to the fuel economy program, the manufacturers hae altered this cycle. Since the program's goals will be largely met by changing the sizes and structures of vehicles, by reducing weights, and by making major changes to engines and drivetrains, the industry is and will be accelerating its changeover cycle and increasing the scope of those changes.

There is no doubt that such a mandated program of change may place burdens on the industry and entail some risks. The next section analyzes the costs and risks, but it is useful here to consider the benefits to the manufacturers from the program.

To begin with, the vehicles will need to be redesigned from the ground up. Rather than patching a new body style on an old drivetrain, the cars can be engineered as a coherent unit to incorporate the best technology for fuel economy, occupant protection, damage protection and emissions control. Manufacturers can build in, rather than add on, features to improve the quality and durability of their product.

In this period of change, there will be an opportunity to modernize and upgrade plants and facilities now approaching obsolescence. The newest and most efficient machinery and processes can be incorporated into the planning for a significant improvement in productivity.

Not all of the changes to the automobiles involve an increase in cost. For example, one benefit of downsizing is a reduction in the amount of materials needed to produce an automobile. Based on the average 1977 cost of materials (excluding overhead, amortization, etc.), the cost reduction attributable to a 700 pound downsizing is conservatively estimated to be $210 per vehicle.[10] These are the variable costs that the industry would have incurred without downsizing.

The industry will also be in a more competitive position with respect to foreign vehicles, both in the United States and abroad. At home, with increased competition in the small car market—long the domain of Japanese and European imports—the import share of vehicle sales should decline. Conversely, with the production of more standardized parts, as well as more fuel-efficient vehicles (so necessary in Europe where the price of gasoline is 3 to 4 times that in this country), the industry is expected to compete more actively and effectively overseas. The development of a "world

[10] Final Impact Assessment of the Automotive Fuel Economy Standards for Model Years 1981-84 Passenger Cars, June 30, 1977, DOT/NHTSA, Washington, D.C., P. I-6, ($0.30/lb.×700 lbs.)

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car" is on the horizon and although Chrysler has recently sold its European subsidiaries (Chrysler still has partial ownership of Peugeot), the other companies are planning to expand their overseas activities.

Ford has long been the domestic leader in sales overseas; moreover, its foreign operations are very profitable. General Motors, to compete more effectively overseas with Ford and foreign manufacturers, has doubled the assets of its overseas division and anticipates becoming the world's major producer of small cars.[11] American Motors, based on negotiations with Renault, also expects increased access to overseas markets, using Renault's dealer network for AMC's very profitable Jeeps and possibly its passenger cars.

It is only reasonable to ask, however, why extensive redesign of the product and modernization of the plant could not take place under normal circumstances if they were so badly needed. What is special about the fuel economy program which facilitates those changes? Redesign, retooling and rebuilding, of course, does not come free and those costs will be reflected in the price of the cars for sale. In normal times, any manufacturer attempting such an ambitious program unilaterally would not only face the investment and innovation risks, but also the risk that competitors could seriously underprice it, in the short term particularly. While the changeover would offer great long-term benefits, the manufacturer who attempted it alone could be at a severe short-term disadvantage. GM might have the resources to go it alone, but as the industry sales leader, may lack the incentive. Ford, Chrysler and AMC probably could not risk it.

The mandated fuel economy program forces all the manufacturers to make the changeover together. The competitive risk is not that one manufacturer will hang back and underprice the rest, but rather that one will do a better job in changeover than the others. All new cars will cost more, but, as was shown earlier, the cost will be more than offset by savings on fuel. Furthermore, because of the present situation of the dollar in international markets, domestic manufacturers are relatively free from foreign price competition. It will mean work, and there are risks, but there is not likely to be a better opportunity for the U.S. automobile industry to revitalize.

No group within the industry is more excited by the challenges associated with these efforts than the automotive engineer. Engineers and others in the industry are inspired by the program's goals and have publicly stated their enthusiasm for the opportunity to use their skills to the fullest extent.[12] This kind of reaction itself often sparks innovations which might not otherwise have a favorable environment in which to flower.

Capital Requirements

One of the most common measures used to determine the effect of the program on manufacturers is the increased level of capital investment (special tools and property, plant, and equipment) associated with making fuel economy improvements. Section IV discussed a variety of capital and non-capital intensive technologies available to improve fuel economy. Many of these technological options require capital investments for their implementation (e.g., downsizing, new engine lines or transmission facilities). The magnitudes of annual capital expenditures will depend on the technologies chosen and the rate of which they are introduced.

Different companies will choose different technologies and strategies to achieve compliance. For example, some may elect to buy components from suppliers, reducing their capital investment requirements but increasing their variable manufacturing costs. This strategy increases consumer cost or lowers the manufacturer's margin of profit but reduces the financial risk and allows greater flexibility. The capital investment is demanded of the suppliers along with some of the risk. If the overall costs of the components are higher and are reflected in the vehicle price, the manufacturer may risk consumer resistance. As an alternative strategy, a company could invest heavily in high technology production processes to reduce manufacturing cost with the concomitant risk that the product would be successful and remain in production long enough to pay off the investment. In the design area, fuel economy standards might be met by substituting a smaller engine if one were available in production. Both investment and manufacturing cost changes could thus be small, but the loss of acceleration capability could risk consumer resistance. Any of the multitude of available strategies has certain associated costs and risks. Companies will choose among them on the basis of their market position, current product line, capability of raising capital and past experience.

The costs discussed below are based on DOT analyses using manufacturer and supplier information as the basis of the estimates. Under the previous historical pattern, North American capital spending for the 1978–84 period, the time during which capital investments for model years 1979–85 would be made, would have been approximately $24.5 billion, in 1978 dollars. Based upon analyses of the cost of anticipated changes, it is estimated that the auto industry will need to invest approximately $36.0 billion during the same time period—an increase of $11.5 billion or 47 percent. It is useful to place these costs in perspective. The seven years, 1978–84, will also witness North American automobile industry revenues projected at $590 billion. This, additional investment is less than 2 percent of total revenues. These estimates do not necessarily imply that all future capital investments are necessary for complying with the fuel economy standards. Rather, these estimates reflect certain combinations of technologies which the automobile manufacturers have indicated they are likely to use in order to improve their fleet average fuel economy.

The increase in investment discussed here in but one measure of possible costs of the program. These figures should not be interpreted as meaning the cost of meeting all government regulations is $36.0 billion, or that the cost of fuel economy standards equivalent to the $11.5 billion increase in investment. To separate the costs of a redesigned car into regulatory and non-regulatory costs is a difficult, if not an impossible, task. Some costs are brought about by market pressures, others by competitive decisions. The numbers discussed in this section only reflect an analysis of historical auto

[11] GM President, Elliot Estes, Harbridge House, Inc., Corporate Strategies of the Automotive Manufacturers, Vol. II, Strategic Histories, pp. 112 and 114, Boston, Mass., November 1978.

[12] Mr. Stuart Frey, Chief Vehicle Engineer, Car Engineering Group, Ford Motor Company: "Let me say that the task ahead is the kind the engineer relishes because it puts a premium on ingenuity and creativity. I believe I speak for all of my colleagues in the industry when I say I'm delighted to be part of the action." (1)

Mr. Philip Caldwell, President of the Ford Motor Company: "I think a lot about the problem but the important point is we will be able to do something we never had the opportunity to do before through these changes. If you can get two for one—that is, if you meet required Federal changes and make the company more efficient, this makes the business fun.

I think our people sense this. Our younger people are really going to have a ball. Sure there are challenges and things to be concerned about. But how many people have to the opportunity to have a clean sheet of paper?" (2)

E. A. Cafiero, President, Chrysler Corporation: "Our $7.5 billion, five-year program to completely renew Chrysler's entire product line gives us an unparalleled opportunity to make a quantum leap in the productivity, quality, and competitive positions." (3)

(1) "Engineering Trends," speech delivered at University of Michigan, August 9–11, 1978.

(2) *Automotive News*, October 2, 1978, pp. 3 and 42.

(3) Annual Stockholders Meeting, May 2, 1978.

history investment patterns which indicates that, to meet fuel economy requirements while maintaining traditional manufacturing and marketing practices (such as offering a full range of styling options within each market class), a significant acceleration in industry investment level is likely.

As noted previously, these capital investment requirements are affected by the rate at which the options are introduced, as well as the nature of the options themselves. In this connection, the manufacturers have raised the issue that by increasing the fuel economy standards by 2 mpg per year in 1981 to 1983, instead of using a linear increase of 1.5 mpg per year to attain the 1985 standards of 27.5 mpg, an unduly burdensome task has been placed on the manufacturers that will not result in commensurate reductions in fuel consumption or consumer expenditures. For example:

- Chrysler estimates that the standards, as established, "will increase the automobile industry's capital requirements beginning in 1979 by $2.5 to $3.0 billion"[13] as compared to equal 1.5 mpg increments.
- Ford stated that the difference in fuel savings in 1985 between the current standards and straightline standards is only slight. By straightlining, the risks of introducing major new and costly technology risks of consumer rejection could be substantially reduced. At the same time, investment costs could be spread out more efficiently—those mitigating the inflationalry impact.[14]

Recent industry positions on this question are summarized in Appendix A as responses to NHTSA's request for public comments (Docket FE 78-02). This continuing dialogue between the industry and the Department is a vital part of the rulemaking process. The NHTSA is continually reevaluating the capabilities of the manufacturers in light of domestic and world conditions, both for the purpose of setting new rules and of modifying rules already set as may be appropriate. It is not in the best interests of the Nation or the industry for the Department to vacillate on rules which must form the bases of long range corporate planning. The Act contains adequate provisions for making changes to the current standards if the facts warrant.

During the next 5 years the number of new or resized engine and transmission lines planned to be put in operation is over 3 times the historical average of 3 new or modified lines per year. This planned change is the outcome of industry plans as it gears to reduce production of large engines in favor of small engines. Similarly, changes will be made in the transmission lines as manufacturers switch production from three-speed rear-wheel-drive automatic transmissions to four-speed rear-wheel-drive automatic transmissions, and to front-wheel drive transmissions.

However, the important impact of the fuel economy program on the industry relates directly to the fact that the industry must have the resources directly to generate an "extra" $11.5 billion in capital. This ability to make increased investments while maintaining financial health is the criterion which was of prime importance in determining whether the standards are "economically practicable." The Department largely views this criterion to mean that the investment requirements are within the industry's capability but not so stringent as to threaten economic hardship for the industry as a whole.

Congress recognized that different firms in the industry have different financial capabilities. The legislative history includes a discussion of the relatively small number of firms in the industry but at the same time stated that the standards ". . . should not be keyed to the single manufacturer which might have the most difficulty acheiving a given level of average fuel economy."[15] If the standards were to be set at the level to present no risk to the least capable manufacturer, the fuel economy attainable by the program could be greatly diminished. Thus, the "need to conserve energy" was to be balanced with the various abilities of the separate companies.

Based on industry information, Table V-3 provides the average estimated annual increases in capital investment required for each of the three largest domestic automobile manufacturers[16] between 1978 and 1984 compared with historical investment trends. While the investment requirements for the industry as a whole are useful in placing broad issues in perspective, the process of examining the financial impacts on individual manufacturers uncovers one of the most important economic issues related to the fuel economy regulatory program. The values in Table V-3 show that the capital investments anticipated by the industry are not distributed uniformly among the manufacturers.

[13] "Inflation and Automobile Regulation," Chrysler Corp., May 22, 1978.

[14] "State of the U.S. Automotive Industry," Ford Motor Company, p. 26, June 13, 1978.

[15] Conference Report on *Energy Policy and Conservation Act, Report Number 94-516, December 8, 1975, pp. 154-155.*

[16] Data for American Motors Corp. are not included as AMC is presently unable to supply sufficient cost information to the Department because of its ongoing negotiations with Renault.

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Table V-3
North American Capital Investments Per Calendar Year: 1978-84*
(Billions of 1978 Dollars)

Year	General Motors			Ford			Chrysler			Total		
	Trend	Projected	Increase	Trend	Projected	Increase	Trend	Projected	Increase	Trend	Projected	Increase
1978	2.3	3.2	0.9	0.8	1.3	0.5	0.4	0.4	–	3.5	4.9	1.4
1979	2.3	3.3	1.0	0.8	1.7	0.9	0.4	0.5	0.1	3.5	5.5	2.0
1980	2.3	3.9	1.6	0.8	1.6	0.8	0.4	0.9	0.5	3.5	6.4	2.9
1981	2.3	3.5	1.2	0.8	1.3	0.5	0.4	0.5	0.1	3.5	5.3	1.8
1982	2.3	3.5	1.2	0.8	1.4	0.6	0.4	0.5	0.1	3.5	5.4	1.9
1983	2.3	3.5	1.2	0.8	0.9	0.1	0.4	0.4	–	3.5	4.8	1.3
1984	2.3	2.5	0.2	0.8	0.8	–	0.4	0.4	–	3.5	3.7	0.2
Totals	16.1	23.4	7.3	5.6	9.0	3.4	2.8	3.6	0.8	24.5	36.0	11.5

*The investments are best estimates for North American automobile and light truck poduction for the domestic "big three" manufacturers.

[4910-59-M]

Prior to discussing the significance of the additional investments, a brief introduction to the companies' financial sources is necessary. Auto manufacturers generally depend on internal cash flows to meet capital expenditure investment—traditionally, manufacturers have not incurred significant amounts of long-term debt. Sales revenues are the prime determinant of the magnitude of cash flows. Retained earnings from the profit on sales provide one source of capital. Depreciation and amortization of property and equipment must supply most of the remainder, or the company must look for outside sources of capital. While GM and Ford have fairly easy access to outside capital, Chrysler is currently in a less favorable position with respect to the capital market." Table V-4 shows the magnitude of seven-year cumulative projections of cash in-flow for the individual manufacturers for North American operations as estimated by the Department through the use of publicly available information and assuming normal sales conditions. Normal sales are based on the historical annual growth of motor vehicle sales for the industry of approximately 2 percent. These estimates indicate that the cumulative cash in-flow produced by General Motors' car and light truck operation may be nearly three times the cash inflow generated by Ford, and almost twelve times that of Chrysler. This is disproportionate, as GM has twice the sales of Ford and 5 times those of Chrysler. Similarly, Ford, with roughly 2-3 times Chrysler's sales, generates almost 4 times the amount of cash flowing into the company.

"Historically, the auto industry has had an aversion to borrow even though their credit rating would have made borrowing easy. For example, Dun & Bradstreet, Nov. 1978 lists the credit rating of GM, Ford, and Chrysler as high, high, and good, respectively.

The significance of these figures is not a good indicator of relative financial ability. Rather, the large companies generate significantly more cash flow per vehicle sold than do the smaller ones.

TABLE V-4.—*Calendar Year 1978-1984 Cumulative Projections of North American Fund Sources Planned Spending—Normal Sales*

[Billions of 1978 dollars]

Manufacturer	Chrysler	Ford	General Motors
Earnings after Taxes	0.26	5.13	15.53
Depreciation and Amortization	2.99	7.67	19.16
Total Cash In-flow	3.25	12.80	37.49

Having estimated the magnitude of the revenue available during the 1978-84 period, a comparison of cash outflows is necessary. In addition to the capital investments to be made as shown in Table V-3, funds must also be used for dividend payments and other purposes (e.g., debt requirement). These are shown in Tables V-5, V-6, and V-7.

These projections are based on DOT's best judgment of conditions and business practices within the industry and among the individual firms, consistent with the maintenance of continued financial viability. For example, in each of the cases below, stock dividends are assumed to remain constant and positive in each year. This is primarily because auto stocks are generally considered to have less than average growth potential due to the mature nature of the industry. Thus, to attract investment funds from this source, firms must be prepared to offer relatively stable dividend payments. The magnitude of the dividends are based on historical levels for each company, and are assumed constant in the absence of other projections.

Table V-5
General Motors North American
Sources and Uses of Funds
Planned Spending — Normal Sales
(Billions of 1978 Dollars)

Calendar Year	1978	1979	1980	1981	1982	1983	1984
Fund Sources							
Cash In-Flow	4.98	5.14	5.13	5.36	5.47	5.54	5.87
Fund Uses							
Cash Out-Flow	5.34	5.55	6.10	5.70	5.68	5.67	4.67
• Dividends	1.96	1.96	1.96	1.96	1.96	1.96	1.96
• Planned Capital Spending	3.20	3.30	3.90	3.50	3.50	3.50	2.50
• Other Payments*	0.18	0.29	0.24	0.24	0.22	0.21	0.21
Net Cash-Flow							
Cash Surplus (Deficit)	(0.36)	(0.41)	(0.97)	(0.34)	(0.21)	(0.13)	1.20

*Other uses of funds include required payments on debt incurred prior to 1978 and payments due on other credit arrangements. Surplus or deficit is recorded after payment of these additional uses of funds.

Table V-6
Ford North American
Sources and Uses of Funds
Planned Spending — Normal Sales
(Billions of 1978 Dollars)

Calendar Year	1978	1979	1980	1981	1982	1983	1984
Fund Sources							
Cash In-Flow	1.62	1.62	1.77	1.87	1.87	2.01	2.04
Fund Uses							
Cash Out-Flow	1.73	2.41	2.18	1.80	1.89	1.31	1.27
• Dividends	0.36	0.36	0.36	0.36	0.36	0.36	0.36
• Planned Capital Spending	1.29	1.74	1.55	1.33	1.40	0.85	0.80
• Other Payments*	0.08	0.31	0.27	0.11	0.13	0.10	0.11
Net Cash-Flow							
Cash Surplus (Deficit)	(0.11)	(0.79)	(0.41)	0.07	(0.02)	0.70	0.77

*Other uses of funds include required payments on debt incurred prior to 1978 and payments due on other credit arrangements. Surplus or deficit is recorded after payment of these additional uses of funds.

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Table V-7
Chrysler North American
Sources and Uses of Funds
Planned Spending — Normal Sales
(Billions of 1978 Dollars)

Calendar Year	1978	1979	1980	1981	1982	1983	1984
Fund Sources							
Cash In-Flow	0.44	0.46	0.48	0.48	0.48	0.45	0.46
Fund Uses							
Cash Out-Flow	0.66	1.02	1.07	0.66	0.70	0.55	0.61
• Dividends	0.08	0.08	0.08	0.08	0.08	0.08	0.08
• Planned Capital Spending	0.40	0.55	0.87	0.46	0.48	0.40	0.40
• Other Payments*	0.18	0.39	0.12	0.12	0.14	0.07	0.13
Net Cash-Flow							
Cash Surplus (Deficit)	(0.22)	(0.56)	(0.59)	(0.18)	(0.22)	(0.10)	(0.15)

*Other uses of funds include required payments on debt incurred prior to 1978 and payments due on other credit arrangements. Surplus or deficit is recorded after payment of these additional uses of funds.

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In the case of planned capital spending, DOT estimates indicate that Chrysler may have a cumulative cash deficit of $1.8 billion during the peak capital spending years of 1978–82 and $2.0 billion for the seven-year period. Under this condition, Chrysler may be required to generate more than $300 million per year from external funding sources.[18] The Chrysler Corporation has experienced a significant decline in its market share since the beginning of the 1970's. This competition-induced decline has placed the firm in a relatively weak financial position and has lessened its ability to finance planned capital expenditure programs. In order to keep its capital investment requirements low, Chrysler is turning to domestic and foreign component suppliers which reduces its profit margin per vehicle. Chrysler's planned capital expenditures are intended to modernize their operations and product offerings to remain competitive, keep their full line of vehicle offerings, and comply with the fuel economy standards. These planned investments may be difficult to achieve in a serious economic downturn. However, as discussed earlier, there are other paths which Chrysler can choose to comply with the standards.

Recent actions such as the sale of foreign operations, the issuance of new stock, and a recent loan by several insurance companies have put Chrysler in a better position to meet its targeted spending levels than it was 6 months ago. Publicly, Chrysler executives have expressed confidence that they can achieve success now that their new "master plan" is in place.[19]

The estimate of Ford's cash deficit for capital spending is $1.3 billion for 1978–82. General Motors' cash deficit is estimated at $2.3 billion for the same period. (It should be noted that during this period Ford is projected to pay out dividends of $1.8 billion, and General Motors is projected to pay out almost $10.0 billion in dividends.) Both General Motors and Ford could generate cash flows of this magnitude through debt issues. Also, GM and Ford, with profitable overseas operations, could shift resources to make up any short-term deficits, although such a use of funds could affect overseas competitive positions in the long run.

American Motors' financial situation is not analyzed because of the current uncertainty of their negotiations with Renault. They, however, also have expressed optimism over the future. AMC's chief executive states that AMC will remain profitable, even in a recession.

Effects on Competition

Before examining the impacts of the program on competition, it must first be stated that the domestic automobile industry is not homogeneous. General Motors produces about half of the new vehicles made in the U.S., and has revenues double those of the second largest company, Ford. Chrysler and AMC, on the other hand, *combined* have only half the revenues of Ford, or a quarater of those of GM. Neither the scale of operation nor the resources available among the domestic companies can be said to be uniform.

In addition, there has been a long-term trend toward concentration in the automobile industry. Nearly half a dozen firms ceased production between 1945 and 1965 (Studebaker, Packard, Willys, Hudson, Kaiser, etc.), long before Government regulations were first issued. Among the remaining four large firms, Chrysler's share of the car and light truck market has fallen from about 15.5 percent in 1970 to about 11.5 percent in 1977[20] and AMC's has been cut in half in the last 2 years from 4 percent in 1975 to less than 2 percent in 1977.

The central question that must be addressed is whether, in the face of the increasing concentration in the industry, the fuel economy program adds to these pressures. To the extent that a program requires large capital investment, it imposes a heavier burden on smaller manufacturers which do not have the same financial strength as GM or Ford. On a daily basis, smaller companies operate at a disadvantage with or without Government regulation because they exist in an industry that requires large capital investments.

The special difficulty of the mandated program is that it sets a time schedule for investments and, for the manufacturer which borrows to make the capital investments, sets a schedule of repayments. If things go well, the added costs are covered in the prices of the cars and over several years the revenues will pay off the debt. But the manufacturer has lost the opportunity to defer investments or payments if revenues falter. If sales slump for the industry as a whole, the provisions of the Act would allow the standards to be revised to reflect the change in economic practicability. If a new design fails to sell as well as the competition, the manufacturer will be in trouble. A manufacturer who makes a major product mistake is in trouble any time, but the mandated schedule heightens the risk.

On the other hand, there are risks to small manufacturers in not having a mandated program. In view of the competitive pressures for fuel economy improvements, especially from the foreign manufacturers, some companies are going to make rapid fuel economy improvements anyway which some of the smaller manufacturers might defer and find themselves at a competitive disadvantage in the marketplace. The standards provide a large measure of stability for all manufacturers.

Foreign manufacturers are also affected by the program. If domestic manufacturers market more small cars, there will be more direct competition between the major foreign manufacturers and the domestic companies. Indeed, domestic manufacturers may make further inroads into the import's 15–20 percent of the market, in addition to those resulting from the recent dollar devaluations. They should also be in a stronger position to weather a future oil shortage when demand for smaller fuel-economical vehicles would increase greatly. Depending upon product offerings, this shift may benefit Chrysler and AMC. An example is Chrysler's successful introduction of the Omni/Horizon models.

The regulations may also have a competitive impact on limited-product-line manufacturers which do not build mini- or subcompact cars. For example, a number of foreign manufacturers have traditionally built cars which compared in size to American mid-size models. By comparison to American cars of their class, they were fuel-efficient and had relatively short wheelbases. For these limited-line manufacturers, the steps needed to meet an average fuel economy standard targeted at full-line manufacturers could mean significant changes in their marketing image unless they use diesel engines in large numbers. The degree of change that some limitedline manufacturers may be forced to make places a different burden on them than on their competitors, U.S. and foreign, because of the greater market risk involve.

In both instances, the case of smaller full-line manufacturers and the case of some limited-line manufacturers, the fact that they must meet an average fuel economy standard places them under pressures that could possibly lead to further concentration in the industry. DOT believes that further concentration in the industry is undesirable. First, there would be a reduction in choices available to consumers. Second, much of the innovation in

[18] Contractual studies funded by NHTSA, e.g., by Harbridge House, Inc., and the Futures Group, also show that smaller manufacturers may have difficulty in financing their planned capital expenditures, although these studies did not assess whether the absence of fuel economy requirements would have altered that picture.

[19] N.Y. Times, December 17, 1978.

[20] *Corporate Strategies of Automotive Manufacturers*, Vol. III, Harbridge House, Inc., July 1978 and *Final Impact Assessment of Light Truck and Van Fuel Economy Standards for FY's 1980–81*, NHTSA, March 15, 1978.

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the industry which has originated from the smaller manufacturers would decline. It would certainly not benefit the Nation if future innovation is stifled because entry into the American market becomes harder.

If accelerated investment requirements tend to foster concentration, reductions in those requirements for the entire industry by reducing fuel economy standards would lessen some of those pressures. However, a lowest-common-denominator approach to fuel economy regulation, while possibly solving problems of smaller full-line manufacturers and a few limited-line producers, does so only at the cost of increasing petroleum consumption as it lowers the fuel economy improvement attained by the majority of manufacturers, and it was specifically proscibed in the Conference report on the Act. The Department has set the fuel economy requirements with all of the issues considered and balanced as carefully as possible.

The Act recognizes that at least one class of manufacturers (low volume manufacturers) would need relief from the requirements of the law. Thus, in order to encourage diversity, manufacturers of fewer than 10,000 passenger automobiles worldwide may be exempted from the established standards and must meet alternative standards tailored to their individual capabilities.

In addition, the Congress was aware of the financial differences among the domestic auto manufacturers and provided relief mechanisms for possible financial difficulties. The provision of civil penalties and credits acts as a safety-valve mechanism when a manufacturer, despite its efforts, cannot comply with the standard. The Secretary can modify the penalties to prevent bankruptcy or insolvency, when the violation is a result of an act of God, a strike, or a fire, or when the Federal Trade Commission has determined that the modification of such penalty is necessary to prevent a substantial lessening of competition.

Recognizing then, that although the statute can have the possible effect of increasing competition but might also increase pressure for concentration in the industry, with an accompanying reduction of competition and lessening of the incentive to innovate, the Department has examined alternatives to the current statutory scheme for small full-line manufacturers and limited-line manufacturers.

The Act was examined to determine what changes, if any, should be advanced to insure that the program did not result in any serious anti-competitive pressures.

DOT explored options where implementation schedules could slip, or lower standards would apply to smaller manufacturers. DOT also analyzed the development of company-specific standards or class standards. However, no modification could be devised that could successfully eliminate or significantly mitigate the potential problems faced by smaller producers or limited-line manufacturers without creating equally serious equity or regulatory problems. The Department concluded that the problems faced by the various classes of manufacturers are largely inherent in the structure of the industry. The Department, therefore, recommends only that the system of credits and penalties under the Act be modified. The Act now imposes a substantial penalty on manufacturers who fall below the specified standards. It also permits credits to be earned by exceeding a particular year's standard, which can then be carried forward (or backward) for one year and applied against possible penalties in those years. The Department recommends that credits be allowed to be carried forward (or backward) for three years to enable manufacturers to benefit from their early conservation efforts and better balance future planning.

A number of manufacturers have raised the point that failure to meet the fuel economy standards involves a violation of the law, regardless of whether the short fall involves a penalty or involves the use of credits being carried forward or backward. The manufacturers have expressed strong reluctance to engage in any corporate planning that would involve violations. While the Department believes that the fuel economy standards are reasonable and feasible, it is also recognized that Congress intended to provide manufacturers with some degree of flexibility through the penalty provision. If the concept in the present law of penalties and violations does, in fact, inhibit the occasional use of the flexibility which Congress built into the statute, then, it is possible that consideration might be given to a proposal that would assess a tax or fee in lieu of the penalty. It is not clear, however, that such a change would result in the manufacturers modifying their behavior, in view of the size of the penalties, the stigma of not meeting the standards, and the competitive disadvantage in the marketplace.

DOT also analyzed the degree to which potential anti-competitive pressures would be increased if the economy were to suffer a downturn. Certainly in a severe economic downturn, companies with a weaker financial base will find their resources strained more severely. However, the statute does provide sufficient latitude in the standards' enforcement to preclude severe financial impacts on the industry in such an event. Thus, if a serious decline in auto sales occurs in conjunction with a severe economic downturn, the Department has the authority to revise the standards since regulations that were "economically practicable" in a healthy economy might not be so in a recession. Because of investment lead-time considerations, of course, the relief granted would necessarily have to be in the form of modified standards established for the period two-to-three years beyond the year (or years) in which the economic downturn/sales decline occurs. This would allow manufacturers to delay commitment of scarce resources to capital requirements for subsequent year models until the economy recovered.

There is no practical way to protect a manufacturer in advance from the results of product mistakes or poor management decisions. Neither does it appear desirable to take any blanket action that would lower the market incentive for excellence on the part of any producer of motor vehicles.

C. IMPACT ON MATERIAL AND COMPONENT SUPPLIERS

The domestic automobile manufacturers purchase a large amount of materials and components from outside suppliers. As these manufacturers implement changes to improve the fuel efficiency of their vehicles, material and component suppliers are being challenged to provide light weight, efficient components for the new designs of autos and trucks. There are new opportunities for many suppliers to increase their business with the major manufacturers

The automobile manufacturing industry used approximately 100 pounds of aluminum in each of its MY 1977 automobiles. In MY 1985 the industry may require an increase of approximately 200 pounds per vehicle, which represents 1.4 to 2.0 million tons over the MY 1977 level.

The aluminum industry is defined to include both the aluminum ingot producers and the aluminum processors. About 1 million tons/year of aluminum are consumed by the domestic motor vehicle industry; this represents about 15 percent of the domestic aluminum ingot capacity of 6 million tons/year. The production of the 1985 passenger car and light truck fleet may consume about 2 million tons/year of aluminum if material substitution techniques are heavily emphasized. The projected rate of aluminum consumption by the motor vehicle industry will be two to five times the present rate.

Since the domestic motor vehicle manufacturers are beginning to increase their aluminum capacity, employment in aluminum foundries should substantially increase.

The reinforced plastics industry is an industry with growing capacity. The amount of plastics consumed by the motor vehicle industry has been projected to grow from about 165 lbs. per motor vehicle in 1977 to about 350 lbs. per vehicle by 1985. The plastics industry will be called upon to supply up to an additional 2 million tons of plastic to the automotive industry. Mandated standards have provided the plastics industry with a unique opportunity to displace cold-rolled sheet carbon steel with reinforced plastics in some applications. The plastics industry has a major advantage in the competition with the mature steel industry, in that the plastics industry is used to applying a larger fraction of their technical resources to application engineering. Employment outlook in the plastics industry looks promising.

The steel industry, unlike the aluminum and plastic industries, does not face the need to expand capacity to meet the future demands of the automotive industry. Planned vehicle weight reduction programs through MY 1985 are likely to balance the increase in manufacturing volume, thus keeping the demand for steel by the automotive sector at a level near that of 1977.

The motor vehicle industry consumes about 40 percent of the hot-rolled, and about 50 percent of the cold-rolled sheet steel produced in the United States. Hot-rolled steel is primarily used for motor vehicle structural parts such as the frame and chassis, and the cold-rolled steel is used for hang-on parts such as fenders, hoods and side panels.

The impact of fuel economy standards on the steel industry will in part depend on the rate of replacement of carbon sheet steel panels, hoods, and fenders with reinforced plastics. If the 1985 motor vehicle remains predominantly steel, the primary impact of fuel economy standards will be a leveling of demand for steel by the auto industry. This leveling will occur despite increasing motor vehicle sales because the increase in manufacturing demand for steel historically associated with increasing sales will be counter-balanced by reduced steel usage per vehicle as downsizing continues. On the other hand, if sheet-aluminum-reinforced plastics are used extensively for hang-on parts, there will be a significant drop in the use of cold-rolled sheet steel, and employment gains would shift to the aluminum and plastic industries.

All the major components of a motor vehicle in cast iron are potential candidates for redesign in cast aluminum. The current domestic capacity for engineered cast iron casting is about 7 million tons. The motor vehicle industry currently uses more than 50 percent of this capacity. By 1985, it is projected that the demand by the auto industry for engineering cast iron will be cut by half, from 4 million tons to 2 million tons. The reduction in cast iron demand will result both from cast aluminum substitution and the use of 4 and 6 cylinder engines rather than 8 cylinder engines.

As the demand for cast iron is cut back, the domestic motor vehicle manufacturers will bring work into their own central foundries rather than sending the work out to the smaller independent foundries which, in the past, have provided overflow capacity. The fall-off in demand for iron castings, combined with EPA clean air and water requirements, could result in a rapid consolidation of the domestic iron casting capacity. The major domestic motor vehicle manufacturers may even subcontract their unused capacity.

An essential factor in meeting mandated fuel economy is the capacity of the machine tool industry to design, build, and install the production facilities necessary to mass produce the required powertrains. It is estimated that between thirty and forty new engine and transmission lines will be required by the motor vehicle industry in the next six years in order to produce the necessary engines and transmissions.

An engine, transmission or component manufacturing process consists, in part, of a series of transfer lines that automate the metal cutting process. For example, an engine line includes one transfer line to automatically machine the block, and another transfer line to automatically machine the cylinder head. The total transfer line industry has an annual sales volume of about $350 million; the motor vehicle industry utilizes about one-half the capacity of the transfer line industry.

The changeover of engines, transmissions and components to meet fuel economy standards are seen by the transfer line sector of the machine tool industry as an unprecedented demand with an uncertain future. The general machine tool industry consists of a large number of suppliers; they will have no difficulty in providing the necessary general machine tool capacity. This is not the case for the transfer line industry. The design, development, and installation of a transfer line requires specialized skills and floor space, which only a few companies have available. (A transfer line is, in general, operated and checked out at the supplier's plant before being installed on the final production site.)

For some of the less specialized metal cutting transfer lines, the motor vehicle manufacturers are going overseas; however the transfer lines for the most complex engine and transmission components will likely continue to be custom built in the Detroit area.

The employment in the transfer line sector of the machine tool industry will increase moderately in the Detroit area. The employment increase may, however, prove to be transitory, and is primarily limited by the near term availability of trained machine tool designers.

D. IMPACT ON THE NATIONAL ECONOMY

Employment

Employment levels in the domestic automobile manufacturer and equipment supplier industries increased from 774,000 workers in 1975 to 890,600 workers in 1977. The growth rate of employment is projected to peak in 1978 and then stabilize at about 1 percent per year through 1985, yielding a total of just over one million employees in that year.

Industry employment in the future will be based on the following changes:

(1) As a result of retail price increases, sales might increase at a slower rate than would be projected in the absence of standards. However, this is not likely to result in a reduction in employment because of anticipated sales growth, but only a slowing of the rate of employment increase. The effect on domestic employment would be further reduced because of greater price increases on imported vehicles.

(2) Investment may increase employment in the capital equipment suppliers industry.

(3) The fuel savings and resulting increase in disposable income should increase overall U.S. employment slightly as the additional expenditures ripple through the economy.

(4) A potential failure to meet a standard by a manufacturer may result in reduced sales if the manufacturer decides to curtail production of the less fuel-efficient vehicles as a means of complying.

(5) Some domestic manufacturers may purchase components overseas, which would adversely affect the domestic employment. This, however, would be a short-term phenomenon.

(6) An increase in the export of domestically-produced vehicles, as is now planned, would increase domestic employment.

(7) The elimination of "captive imports" in fuel economy calculations and the incentive for foreign countries to domestically produce vehicles—such as is already being done by Volkswagen—will increase employment.

The overriding factor will be the continuing growth in motor vehicle sales volume. Increasing sales volumes in the automobile industry are in turn primarily dependent upon a healthy overall economic environment.

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Gross national product

Fuel economy regulations are unlikely to have any measurable impact on Gross National Product (GNP). As we noted previously, the cost to each consumer for automobile will be somewhat less (depending upon the difference between the increased purchase price and decreased fuel costs of the new automobiles). This will result, mainly, in a re-allocation in consumers' budgets between transportation expenditures and other expenditures and possibly a slight stimulus to the economy. In addition there would be the positive effect on GNP resulting from a decrease in the consumption of foreign oil which would lessen the level of income leakages from the domestic economy.

The impact of investment on GNP may be either neutral or positive. In some cases, the investment undertaken by automobile manufacturers may simply displace investment that would have been undertaken by other sectors of the economy; while in other cases, there may be a net increase in overall investment.

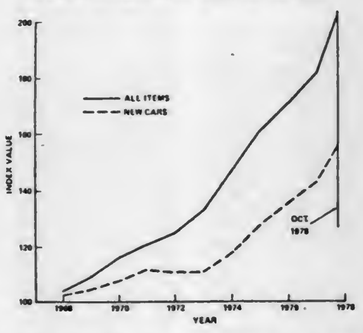
Inflation

Traditionally, prices in the motor vehicle industry have not increased at as rapid a rate as has the overall consumer price index (Figure V-1). Undoubtedly, the fuel-economy-related technology improvements embodied in new vehicles will result in some additions to the vehicle costs and retail prices of those vehicles.

It is important to recognize, however, that an upward influence on vehicle price is not the only effect of fuel economy improvements. Such improvements will also result in reduced ownership and operating costs to the consumer over the life of the vehicle. Such cost reductions will significantly exceed initial purchase price increases, thus more than compensating for the effects of the initial price increases.

The perceived impact on inflation in any one year of vehicle price changes and fuel economy improvement is complicated. Savings in operating cost are spread over the life of the car but weighted toward the early portion because of greater usage. On the other hand, many buyers finance automobile purchases and spread the cost over several years. For the purchaser who finances the car over three years, the fuel cost savings will roughly balance out the addition to financing payments from the fuel economy changes.

Figure V-1
Consumer Price Indexes / U.S. City Average / 1967 = 1000



The Nation's bill for imported oil is quite high and has contributed to domestic inflation, the balance of trade deficit, and a decline in the value of the dollar overseas. The fuel economy program would mitigate inflation rather than cause it by lowering the consumption of imported oil. It is estimated by NHTSA that more fuel efficient passenger cars and light trucks will decrease fuel consumption by 1.4 million barrels per day (MBD) in 1985, and 2.2 MBD by 1990. Such savings would permit a reduction in projected U.S. oil imports by 15 percent in 1985 and 20 percent [21] in 1990. At the crude oil price of $14.50 per imported barrel, the oil savings from improved fuel economy in the U.S. would permit reductions in import expenditures of $7.2 billion in 1985 and $11.8 billion by 1990. These dollar savings are of sufficient magnitude that they could by themselves serve to substantially reduce the U.S. balance of trade deficit, strengthen the dollar in the world market, and help mitigate domestic inflation.

[21] Based on oil imports data contained Annual Report to the Congress, Vol. II, 1977, Energy Information Administration, U.S. Department of Energy, 1977, pp. 137-138.

VI. Program Improvements

The administration of the automotive fuel economy program over the last three years has revealed to NHTSA two areas of the Act which could be improved. These are minor in the sense that few barrels of fuel are involved, but they are major to those automobile manufacturers who must deal with them. Accordingly, the following recommendations for changes to the Act, relating to (1) low volume manufacturers and (2) domestic production of foreign cars, are proposed.

A. Low Volume Automobile Manufacturers

The statute provides automobile manufacturers producing less than 10,000 vehicles per year an opportunity for an exemption from established fuel economy standards, providing that an alternative fuel economy standard is established for them based upon maximum feasible average fuel economy criteria. By this provision, all manufacturers, even the very small ones, are even-handedly pressured to improve fuel economy. Experience in administering this section of the statute demonstrates:

1—The time consumed in the process of setting an alternative standard (especially the information gathering), by both the manufacturer and NHTSA, is not justified by the possible fuel economy gain. The process is particularly burdensome on small manufacturers because of the effort necessary to gather or develop required data and information to support their exemption petitions.

2—Small manufacturers have been less able to predict future fuel economy improvement than large manufacturers because their technical expertise is very limited and their dependence on suppliers makes them unable to control their access to advanced technology.

3—Low volume automobile manufacturers typically do not have the engineering or financial resources for changing current methods of operation.

Most petitions have been received by NHTSA from manufacturers which build a relatively small number (200-300 per year) of very expensive and very luxurious vehicles designed specifically for the wealthy. The largest petitioner, Checker, is unique in that it is an American manufacturer that produces 5,000 taxis per year.

Public opinion concerning exemptions varies from those who request exemption for all low volume manufacturers, "in the name of common sense," to those who would force the manufacturers of very expensive, very luxurious vehicles to comply with the existing standards and pass on the appropriate penalties to their wealthy customers.

No significant fuel savings can be obtained from the low volume manufacturers. Alternate standards, set at the maximum feasible level, impose a heavy regulatory burden on small business, and use NHTSA's resources on tasks that conserve little fuel.

Based upon this conclusion, the most logical alternative appears to be to exempt these companies from the provisions of the statute. It is also imporant that any solution be fair to all manufacturers. However, all the options that were examined still resulted in an unreasonable administrative burden being imposed on these companies with no commensurate reduction in fuel consumed. Therefore, the Department recommends that automobile manufacturers producing fewer than 10,000 vehicles per year be exempt from both the fuel economy standards and the statute's semiannual reporting requirements.

RECOMMENDATION 1: Section 502(c) of the Motor Vehicle Information and Cost Savings Act be amended by the revision of its text to read:

"(c) The requirements for passenger automobiles of this section and Sections 502(a) and 505(a) do not apply to a manufacturer in any year in which it manufactured (whether or not in the United States) fewer than 10,000 passenger automobiles."

B. Domestic Production of Foreign Automobiles

The statute allows domestic manufacturers to include "captive imports" with their domestic fleets for the purpose of calculating their corporate average fuel economies in model years 1978 and 1979. After model year 1979, the domestic fleet will be comprised of only the cars which have at least 75 percent of their content (or value added) produced in the United States and Canada. The captive imports will be considered a separate fleet for average fuel economy calculations. Both fleets of cars must comply with the standards.

Congressional intent of this provision was to discourage domestic manufacturers from importing large numbers of fuel efficient vehicles to the detriment of employment in the U.S. automobile manufacturing industry. However, the provision has unexpectedly created a situation which discriminates against foreign manufacturers who are establishing, or who want to establish, automobile production facilitites in the U.S. (thus creating domestic employment opportunities).

Thus, while the provision originally was aimed at preventing "job exportation," it may reduce the potential for employment growth in the U.S. automobile manufacturing industry by acting as a disincentive for foreign corporations to produce automobiles in this country.

At least three foreign manufacturers have expressed an interest in U.S. production of part of their fleets. One such manufacturer, Volkswagen, has suggested that the Act be amended to allow a manufacturer to average the fuel economies of its foreign and domestic fleets together if their combined average fuel economy would exceed that of the imported fleet alone.

The Volkswagen proposal would encourage foreign manufacturers who have decided to build cars in the U.S. to produce their most fuel efficient vehicles here. However, it would discourage foreign manufacturers from producing their more labor-intensive automobile in the U.S.A. If a manufacturer can meet the fuel economy standards by counting its foreign and domestic fleets together, there is no reason to favor domestic production of high fuel economy vehicles over the lower ones.

Another alternative would be to raise the value added requirement for domestic manufacturers to 90 percent. Although this would help somewhat, foreign manufacturers would still be discouraged from achieving the 100 percent domestic-added content which would maximize U.S. employment opportunities. It appears that any percentage value-added requirement creates a disincentive for foreign manufacturers to maximize domestic content.

Because of the apparent drawbacks of the previous proposals, the following recommendation is offered and is believed to be capable of maximizing employment and competitive benefits while not changing the percentage limit on the U.S./Canada value-added content.

It is recommended that the statute be amended to allow a manufacturer to average U.S. assembled automobiles with imports if U.S. production began after the Act was passed. This proposal would continue the existing statute's discouragement of job exportation by domestic manufacturers and eliminate its current disincentive to U.S. production by foreign manufacturers.

RECOMMENDATION 2: Section 503 (b) (1) of the Motor Vehicle Information and Cost Savings Act be amended by the addition, following the word "manufacturer" in the first sentence, of the phrase, "other than a manufacturer whose domestically manufactured production commenced after December 22, 1975."

Appendix A—Summaries of Comments on Automotive Fuel Economy Program Issues and Conclusions

A. Introduction

On January 27, 1978, the National Highway Traffic Safety Administration (NHTSA), Office of Automotive Fuel Economy, issued a request (Docket No. FE 78-02, Notice 1) for public comments on four tentative conclusions which it planned to include in this (January 1979) Annual Report to the Congress, as well as on four associated issues relating to competition, equity, technological innovation, and other matters. The request, published in Federal Register Vol. 43, No. 228, Monday, November 27, 1978, is reproduced in its entirety in Appendix B. It is recommended that the reader consult Appendix B for the complete presentation of each of the four since, because of their length, inclusion here would be distractive. The subsequent summaries of comments on these issues are keyed in a one-to-one correspondence, to the order in which the issues are cited in Appendix B.

The purpose of the request was to obtain as broad a range of pertinent viewpoints as possible to assist NHTSA in its rulemaking activities and in preparing this report. Responses to the request included submissions from motor vehicle manufacturers, private citizens, public and special interest groups, and Federal and state government agencies.

Summaries of the responses received are presented in Sections *B* and *C* which follow. No "adhoc" analyses or evaluations of the responses (taken individually or collectively) are attempted in this Appendix since all of the factors and concerns raised in the responses are addressed, in their appropriate contexts, within the body of this report.

B. Summaries of Responses to NHTSA's Tentative Conclusions

The notice indentified the four tentative conclusions formulating NHTSA Fuel Economy Program findings to date. A summary of comments received follows. The individual conclusions on which the various comments were focused are included here, as well as in Appendix B, for clarity and ease of reference.

1. "The technology is available that will enable manufacturers to achieve an average fuel economy of 27.5 mpg without reducing vehicle interior space or significantly affecting performance and without significantly changing the mix of size classes."

Nine commenters disagreed with this conclusion. Eight were manufacturers, each of whom stressed that *their* product would be changed significantly. The only non-manufacturer comment entailed a statement by the DAA[1] that, unless diesel engines were used extensively, passenger automobiles would get smaller and less safe.

Most manufacturers detailed their plans for significant changes in model mix, interior volume and performance. Rolls-Royce stated that the conclusion does hold true for it because it is a very small manufacturer without a large "mix" of vehicles. Chrysler said that its fleet will have reduced acceleration and reduced interior volume and that its sales mix will change to include a much higher percentage of the smallest vehicles. DBAG stated that its plans call for some change in comfort and convenience options normally offered in the U.S. Also, DBAG noted it would reduce acceleration on some gasoline models. BMW indicated its automobiles will change by introducing a diesel engine for one or more models, and sales of the heavier cars may be curtailed in the future. AM concludes that the high volume, full-line manufacturers will have to

[1] Abbreviations are used for manufacturer interest groups and government agency names and titles to facilitate readability. A list identifying the abbreviations is included at the end of this appendix.

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compromise vehicle interior space, reduce vehicle responsiveness and alter sales mix from that which existed in 1975-77 model years.

Ford indicated the conclusion is wishful thinking on NHTSA's part. The technology on which Ford's predictions are based are the PROCO and/or diesel engines. They indicated that neither engine is "available" at the present time because of various problems yet to be solved. Ford also said the second round of downsizing will decrease interior volume unless very expensive materials are used and indicated that smaller engines in its vehicles will cause reduced vehicle acceleration.

GM stated that the rise of standards at the rate of two miles-per-gallon per year will cause all manufacturers to introduce unproven technology and that there will be compromises in vehicle acceleration and owner utility. GM stated that much of the available technology is "high risk," and may not be "commerically practicable in production hardware."

Renault indicated that their interior volume and sales mix will probably change.

2. "The significant changes in automotive design needed to achieve 27.5 mpg by 1985 will require increases in automotive industry investment above traditional levels, although such investments, for the industry as a whole are economically practicable and yield cost-effective improvements in fuel economy."

Commenters to this conclusion generally agreed that capital expenditures to meet fuel economy standards would be large, but disagreed that they were economically practicable or cost-effective.

Ford stated its costs were double those identified in previous analyses and that it will be pressed to the limit. In comparing the costs of compliance to the cost of alternate sources of gasoline such as from tar sands and shale, etc., Ford stated the standard of 27.5 mpg will not be cost-beneficial. GM asked for a more complete review of the capital expenditures and stated a reasonable interpretation of "economic practicability" requires more than a demonstration that fuel economy benefits exceed the cost of vehicle changes. Chrysler stated that although larger companies are better able to finance investments for fuel economy there is still a question whether it is economically practicable for any company to do so. Chrysler indicated it would revise its compliance timing in the event of a recession.

BL and R-R said that the cost is beyond the benefit derived from a 27.5 mpg level. Renault stated that although it agrees that compliance will be costly, it believes it will need new technical ideas and that overall, the standards will result in less service to the public. DBAG stated that it cannot develop a reasonable corporate strategy to comply with 27.5 mpg in 1985. Volvo believes that limited-line manufacturers are at a disadvantage to meet capital requirements for the quick introduction of new models, presumably to meet the FE standards and has cited its average of seven elapsed years between model changes.

DOE stated, "A manufacturer's inability to obtain the needed financing would probably result from some other structural problem such as the position of the company within the market or internal problems, rather than the standards."

3. "The economic and competitive effects of achieving that average fuel economy level will vary from manufacturer to manufacturer."

General agreement on this point was given by eight commentors.

Chrysler agreed and cited conclusions from TSC and Harbridge House reports. AM indicated there would be a struggle to increase mixes of cars sold and that some companies could be hurt. Ford agreed but also stated that differental standards are not a desirable remedy. DOE stated that if AFE standards will tend to lessen competition, NHTSA should examine other alternatives than applying different standards to individual manufacturers. DOE suggested use of the Section 508 (b), remission of civil penalties, as a "relief valve."

4. "Beyond 1985, average fuel economy levels in excess of 27.5 mpg are technologically possible."

R-R disagrees and states that luxury and comfort would be reduced too far for its customers. Renault simply opposes higher standards. GM agrees but suggests that increases in FE beyond 1985 be made at a slow pace. Chrysler agrees but stated this is not a technical question but an economic one. Ford states the conclusion is misleading because the real question is not technical feasibility but instead is, "will nearly everyone be willing to drive a subcompact?"

C. SUMMARY OF RESPONSES TO ISSUES

In connection with NHTSA's interest in the effects of the average fuel economy concept and with the four tentative conclusions addressed in Section B, above, NHTSA invited comments on issues surrounding the following four topics:

(1) The program's impact on small full-line manufacturers.

(2) The program's impact on limited-line manufacturers.

(3) The program's impact on very small manufacturers.

(4) (The potential for) improving fuel economy after 1985.

In general, the issues surrounding these topics relate to competition, equity, technological innovation, capital investment, etc. It is recommended that the reader consult Appendix B for the complete presentation of each of these issues.

Summary of Comments on Issue 1—The Programs Impact on Small Full-Line Manufacturer's

Chrysler identified itself as a small full-line manufacturer and expressed the desire for an adjustment in fuel economy standards which would allow it to retain its "traditional market share." It compared its position with GM regarding the ability to raise capital and of the competitive disadvantage created by existing regulations.

Ford and GM objected to the NHTSA suggestion that small full-line manufacturers should get treatment different from other full-line manufacturers. Ford claimed differential standards would be inequitable, odious, and unfortunate. Ford further contended that differential standards would penalize efficient manufacturers and would introduce "political processes into an arena that ought to be governed by the logic of the marketplace" and concluded without any equivocation that it is against differential standards for small full-line manufacturers. GM also stated that DOT should not suggest new legislation which would "significantly alter our free market economy" and which would not be fair, equitable, or in keeping with our traditional principles. GM also said this type of standard setting would penalize foresight, efficiency and success. The DOE and CAS were against the idea of separate standards. DOE opposed the application on the "lowest common denominator principle" in setting overall standards and suggested that companies who received civil penalties can seek relief in a remission hearing as provided in the statute. Similarly, CAS asked that the question be left for a remission hearing.

Summary of Comments on Issue 2—The Program's Impacts on Limited-Line Manufacturers

Eight commenters believed that either the Act or the regulations should be changed to assist limited-line manufacturers. Five of the seven are "limited-line" manufacturers, and made the following suggestions:

IH—The Notice cited only foreign manufacturers of passenger automobiles. The same consideration should be given to domestic light truck manufacturers.

AM—Change the Act or regulations for the same reasons of inequity that were found for small full-line manufacturers.

VOLVO—Report the problems of limited-line manufacturers to Congress and find a solution to the problem.

BMW—Change the Act to grant relief for those with a small percentage of U.S. total sales i.e. less than one-half percent.

DBAG—Amend the Act to give relief by first defining a limited-line manufacturer (LLM) and then by making a judgment of eligibility for relief based on whether a particular LLM had taken all reasonable steps to achieve the goals of the Act.

The DAA and AIADA recommended complete exemption for limited-line manufacturers, the AIADA requesting that low volume exemptions extend up to 100,000 U.S. sales annually rather than the 10,000 worldwide sales now in force.

Those opposed to assistance to limited-line manufacturers were Ford, GM, DOE and Chrysler. The same Ford and GM arguments against differential treatment for small full-line manufacturers apply to limited-line manufacturers. In addition, both manufacturers expressed negative effects a change would have on the U.S. international economic posture.

DOE stated limited-line manufacturers should not need or want lower standards for three reasons:

1. They must be competitive with others in Corporate Average Fuel Economy (CAFE).

2. They have good technology.

3. They can use diesels.

Chrysler stated that differential treatment of limited-line manufacturers by the Act is not in the best interest of the transportation industry, balance of trade, U.S. employment and the national economy.

Comments on the impact of the Act or impact of changes to the Act might have on limited-line manufacturers were widely varied. AIADA noted the very small amounts of fuel that may be saved through these manufacturers. Renault noted that manufacturers who were technologically ahead in meeting safety standards had a head-start in meeting fuel economy schedules. Volvo indicated the Act could operate "in restraint of trade." BMW claimed that 25 percent of its R&D budget now committed to fuel economy would increase to 40 percent by 1985. IHC asked for 1981 light truck standards to be "extended" to 1985 to allow these firms sufficient lead time to implement technical changes. BL stated that the capital expenditures for higher fuel economy for foreign firms could only be amortized over its U. S. sales, not its entire fleet, thus placing foreign manufacturers at a competitive disadvantage.

As "captive imports" are gradually separated from domestic AFE computation, VW will be in a unique positon of having to separate its high mpg Rabbit, made in Pennsylvania, from its heavier Audi's and Dashers. In order to eliminate competitive this disadvantage to VW (believed to be unforeseen by Congress) VW suggests that the statute be amended such that if a comparison of a manufacturer's AFE shows his domestic fleet having a higher mpg than his total fleet, then the AFE used for the enforcement of the standard would be the total fleet AFE. This would encourage foreign firms to build their high mpg cars in the U.S. and create U.S. jobs.

Summary of Comments on Issue 3—The Program's Impact on Very Small Manufacturer's

Five comments were received on this issue. The DAA suggested a total exemption with reliance on diesels to achieve high fuel economy. Rolls-Royce stated that the present system is equitable enough but the administrative burden would be lessened by extending exemptions to 1985 instead of considering them on a yearly basis. Chrysler requested that exemptions not be allowed since, in a small way, they hurt domestic sales. Ford did not oppose exemptions for the very small manufacturers but vigorously opposed changing the eligibility criterion above 10,000 per year. The C.A.S. opposes exemptions for expensive luxury cars but approves exemptions for inexpensive cars. C.A.S. points out that by following its suggestions, NHTSA would save much time and effort since denying petitions does not entail the administrative burden of granting them. C.A.S. proposed NHTSA use remission of civil penalties as a method of assistance to those companies who might have financial difficulties in payment of a penalty.

Summary of Comments on Issue 4—Improving AFE After 1985 and into the 1990's

Ten commenters provided opinions on the fuel economy of automobiles beyond 1985. Two were other public agencies and each expressed their desire for higher standards in the future than the 27.5 mpg established for MY 1985 automobiles. These agencies are joined in this regard by two others commentors, the C.A.S. and Mr. Scarnecchia. DOE asked for quick settlement of the question about the permissible use of diesels in the future so that manufacturers could enjoy the longest lead time to increase mpg after 1985 as possible. DOE felt that a 5-10 mpg improvement by 1990 was possible with the use of diesels. The New York DOT generally supported higher standards after 1985 and specifically wished to include standards compliance on a state by state basis (fuel economy of total automobiles sold in each state should meet the established average standard). The New York DOT warned of offsetting effects of increased light truck purchases. C.A.S. expressed their support for higher standards but gave no time table for this action. Mr. Scarnecchia expected his engine (a gyro-reciprocating engine) would average 60-65 mpg in a 1800-2200 pound car for the 1980's and 90's and exceed present emissions standards.

The manufacturers who responded opposed higher standards or at least, warned about the high risk resulting from such standards with the commensurate low benefits which would result. Renault was against higher standards and cited restriction of consumer choice beyond the 27.5 mpg point. Ford and Chrysler stated the costs would be very high and public acceptance of such vehicles is unknown.

GM offered a plan which had the 1985 standards at 26.0 mpg and which increased them to 27.5 by 0.5 mpg per year. This slow pace was presented for NHTSA to study and analyze. GM also indicated that any faster pace to higher mpg would be a high risk to the industry's manufacturers. IH asked for sufficient time before 1985 to be able to introduce fuel economy improvements into the light truck fleet in order to gradually improve fuel economy, most of which would take place after 1985. BMW stated it was too early to project fuel economy in the 1990's.

Other Issues and Opinions

In addition to responses to the tentative conclusions reached by NHTSA and the issues identified, commentors took the opportunity to express additional opinions or concerns. Several of these expressions are summarized as follows:

(1) Mr. Rivkin cited findings that the great majority of air pollutants were naturally caused and not a result of automobile engines. He wished to rescind emission controls and thereby gain fuel economy.

(2) The DAA urged tax incentives for use of diesels and the purchase by GSA of a diesel passenger car fleet. This would, said DAA, allow the use of today's large cars, and any safety hazards from increased small car use would be reduced.

(3) Rolls-Royce, British Leyland, BMW and Mercedes-Benz included withdrawal from the U.S. market as a probable choice of action in the face of stiff mpg standards, especially if diesels are not allowed.

(4) Mercedes-Benz stated that a merger with a firm which made very high mpg cars, so as to mathematically reach a higher CAFE, was rejected as not being truly saving of fuel or within their corporate aims.

(5) DOE and the Center for Auto Safety made comments on the growing disparity between the EPA mpg figures and that attained by most drivers, and stated this issue should be fully explored.

(6) Many manufactures showed special concern over customers reaction and preference, and cited the high risks attendant on this aspect of future change to performance and service. Among those commentors was BMW with a market survey report and also, generally, the comments of GM, Chrysler, Rolls-Royce, IH, AM, Ford and Renault.

(7) No Japanese manufacturers submitted comments.

APPENDIX B

DEPARTMENT OF TRANSPORTATION

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

[Docket No. FE 78-02; Notice 1]

AUTOMOTIVE FUEL ECONOMY PROGRAM REPORT TO CONGRESS

Request for Public Comments

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Request for public comments.

SUMMARY: Title V of the Motor Vehicle Information and Cost Savings Act, as amended, requires this agency to submit a comprehensive report on its automotive fuel economy program to Congress by January 15, 1979. This notice invites public comment to assist the agency in preparing that report.

DATE: Comments must be received on or before December 8, 1978.

ADDRESS: Comments should refer to the docket number and must be submitted in writing to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. William Devereaux, Office of Automotive Fuel Economy, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-755-9384).

SUPPLEMENTARY INFORMATION: The Federal automotive fuel economy program was initiated by Congress in December 1975 with the passage of the Energy Policy and Conservation Act. The passage of this legislation was in response to the national concern with the depletable nature and uncertain availability of most of the energy upon which this country depends for its economic and social well-being. It also reflected the need to implement a national program for conserving energy. The adverse effects of the gasoline shortages of the winter of 1973-1974, the inflationary effect of rising fuel costs on almost all goods and services, and this country's increasing dependence upon foreign petroleum sources dramatized that need.

The significance of petroleum for this country was further demonstrated in 1975 by the fact that 46 percent of its annual energy needs were met by petroleum. Over half of the petroleum was used for transportation. Highway transportation accounted for 46 percent of all petroleum consumed. These figures are essentially the same today.

Title III of the Energy Policy and Conservation Act added a new Title V to the Motor Vehicle Information and Cost Savings Act (the Act), 15 U.S.C. 2001 *et seq.* The Act provides for the establishment of average fuel economy standards applicable to the manufacturers of passenger automobiles beginning with the 1978 model year and light trucks and vans beginning with the 1979 model year.

The average fuel economy standards do not require that individual vehicles achieve a particular level of fuel economy. Instead,

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they require that the fleet or corporate average of a manufacturer achieve the levels in the standards. Thus, a manufacturer may produce vehicles with fuel economy less than that specified for a particular year as long as it produces a sufficient number with fuel economy above the standard so that the average of all of its vehicles for that year is equal to or greater than the standard. The rationale for Congress' specifying average standards instead of the minimum performance standards used in most regulatory programs was in part to give the manufacturers flexibility in devising their compliance strategies. Specification of average standards was also intended to enable the agency to affect model mix in setting fuel economy standards while avoiding any undue limitation of consumer choice as to vehicle capacity and performance.

Section 502 of the Act establishes passenger automobile standards of 18 mpg, 19 mpg, and 20 mpg for model years 1978–1980, respectively, and 27.5 mpg for model year 1985 and thereafter. The earlier standards were largely based on the 1974 study by the Department of Transportation and Environmental Protection Agency on the potential for improving automotive fuel economy. Pursuant to a Congressional directive to set maximum feasible standards for model years 1981–1984 that result in steady progress toward the 1985 standard, the Department set standards of 22 mpg, 24 mpg, 26 mpg, and 27 mpg for model years 1981–1984, respectively. Section 502 provides that in determining maximum feasible levels of fuel economy the agency is to consider technological feasibility, economic practicability, the effects of Federal vehicle emissions, safety, damageability and noise standards on fuel economy, and the national need to conserve energy. The agency is authorized to modify the standard of 27.5 mpg for model year 1985 and thereafter if it finds that the maximum feasible standard is higher or lower than that level. As to light trucks and vans, the agency has thus far set fuel economy standards for 1979–1981 vehicles in those categories.

Not later than January 15 of each year, the agency is required to provide Congress with a report reviewing the fuel economy standards. The annual report due January 15, 1979, is a special report in that it is required to include a comprehensive analysis of the entire fuel economy program. The 1979 report must assess the ability of the vehicle manufacturers to comply with the standard of 27.5 mpg for 1985 passenger automobiles. It must also transmit any proposals it has for legislative amendments to improve the fuel economy program.

The purpose of this notice is to invite public comment on the subject of the 1979 report to aid the agency in making recommendations to the Congress. The agency is vitally interested in improving its ability to achieve the goals of the automotive fuel economy program while minimizing the burdens and giving appropriate consideration to the possible economic and other implications of significant increases in automotive industry investment. The agency is examining such matters as the degree of success of the fuel economy program in conserving petroleum to date, the future contributions which the program can make to energy conservation, and the past and possible future impacts of the program on the automotive industry, the consumer, and the national economy.

The issues of primary interest to the agency are the fuel economy levels achievable in 1985 and thereafter and the economic consequences of applying a single average fuel economy standard to all manufacturers. The agency has determined that this application of average standards has the potential for affecting the various different size manufacturers in disparate and possibly unintended ways. These differing impacts could affect the rate and degree of future progress of the automotive fuel economy program and the costs of that progress.

The 1979 report will not set forth any final conclusions about the passenger automobile fuel economy standard levels for 1985. The agency could reach those conclusions only after making detailed analyses of the plans and capabilities of the manufacturers and making judgments about the complex technological, economic, and other issues in the context of a rulemaking proceeding. However, based upon the agency's analysis to date of the significant body of information provided over the past three years by the manufacturers and other members of the public and generated by the agency's own research, the agency is prepared to make the following four tentative conclusions.

1. The technology is available that will enable manufacturers to achieve an average fuel economy of 27.5 mpg by 1985 without reducing vehicle interior space or significantly affecting performance and without significantly changing the mix of size classes.

2. The significant changes in automotive design needed to achieve 27.5 mpg by 1985 will require increases in automotive industry investment above traditional levels, although such investments, for the industry as a whole are economically practicable and yield cost-effective improvements in fuel economy.

3. The economic and competitive effects of achieving that average fuel economy level will vary from manufacturer to manufacturer.

4. Beyond 1985, average fuel economy levels in excess of 27.5 mpg are technologically possible.

In connection with the agency's interest in the effects of the average fuel economy concept and with these tentative conclusions, the agency invites comments on the four issues below relating to competition, equity, technological innovation, and other matters.

I. The Program's Impact on Small Fuel Line Manufacturers

The large full line manufacturers are better able than the small full line manufacturers to generate internally the capital necessary to comply with the 1985 standard. These small full line manufacturers are at a competitive disadvantage since they are more likely to need to raise capital externally in the high cost money market. The highly concentrated nature of the automotive industry in this country increases the significance of this situation. Are these problems and their effect on future fuel economy standards sufficiently significant that the Act should be modified to accommodate the small full line manufacturers by treating them differently from the full line ones? Is it more equitable to require these small full line manufacturers to meet the same standards as the full line manufacturers or to require them to make the same degree of effort relative to their capacities as those full line manufacturers? If modification should be made, what type is most desirable? What impact would such modification have on the future benefits, costs, and other impacts of the fuel economy program?

II. The Program's Impact on Limited Line Manufacturers

Although many foreign manufacturers produce small passenger automobiles that are very fuel efficient, there are some limited line foreign manufacturers that have traditionally built slightly larger, less fuel efficient passenger automobiles. These limited line manufacturers, which include Saab, Mercedes Benz, Volvo, Peugeot, and BMW, typically import relatively small numbers of these vehicles. While the agency is prepared to conclude tentatively that they can meet the 1985 standard of 27.5 mpg, some of the major changes that they must make for that purpose may not be deemed by those manufacturers to be either justifiable solely to enable their vehicles to be marketed in this country or consistent with the preferences of the segment of the market in this country to which they have traditionally attempted to appeal. At some point, not necessarily before or during 1985, the effect of the fuel economy standards could be to cause these manufacturers to withdraw from the United States market or to necessitate their changing their vehicle line significantly. In the interest of preventing further concentration of the automotive industry and of preserving the presence in this country of manufacturers which in some cases have contributed valuable research and innovations in safety and other areas, should the statute be modified to accommodate them by treating them differently from other manufacturers? Is it more equitable to require these limited line manufacturers to meet the same standards as the other manufacturers or to require them to make the same degree of effort relative to their capabilities as those other manufacturers? If modification should be made, what type is most desirable? What impact would such modification have on the future benefits, costs, and other impacts of the fuel economy program?

III. The Program's Impact on Very Small Manufacturers

The Act permits low volume manufacturers (under 10,000 passenger automobiles produced annually worldwide) to apply for an exemption from the generally applicable fuel economy standards and meet lower, alternative standards. While setting alternative standards for exempted manufacturers instead of granting them complete exemptions seems equitable, it results in very small fuel savings due to the almost miniscule combined total production of the low volume manufacturers. Does equity require the continued setting of those standards given such small savings? Is the setting of alternative standards a sufficiently productive activity to warrant continued expenditure of Federal resources for that purpose and the imposition of significant administrative burdens on the low volume manufacturers? Conversely, some commenters in rulemaking proceedings to exempt certain low volume manufacturers have suggested that the agency use its discretionary authority to require those low volume manufacturers selling very expensive vehicles to meet the generally applicable fuel economy standards. How should such low volume manufacturers be treated under the fuel economy program?

IV. Improving Fuel Economy After 1985

Based upon the information available to NHTSA, the technology is already available to achieve the 1985 statutory standard of 27.5 mpg. It is also clear that there are no technological impediments to further significant fuel economy improvements in the years after 1985. What is not yet clear, however, is precisely what measures will be necessary to achieve these further gains, at that pace they can reasonably be implemented, what they will cost, and what their impact will be upon the vehicle manufacturers and suppliers. The agency is seeking public comment on these questions and, in their light, on the nature and timing of regulatory actions appropriate through the mid-1990's.

NHTSA also seeks public comment about what other governmental actions should be undertaken to ensure that new technoogy becomes available to permit continuing significant fuel economy improvements into the 1990's.

Interested persons are invited to submit comments on the issues raised by this notice. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information should be submitted to the Chief Counsel, NHTSA, at the address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information would result in significant competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4), and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comment filed after the closing date will also be considered. However, the agency's ability to consider late comments will be severely limited by the deadline for submitting the 1979 report.

Issued on November 20, 1978.

Michael M. Finkelstein,
Associate Administrator for Rulemaking.

[FR Doc. 78-33060 Filed 11-21-78; 8:45 am]

Acronyms and Abbreviations

AFE Average Fuel Economy
AFES Average Fuel Economy Standards
AIA Automobile Importers of America, Inc.
AIADA American Imported Automobile Dealers Association Inc.
AMC American Motors Corporation
BL British Leyland Motors Inc.
BMW BMW (Bavarian Motor Works) of North American, Inc.
BTU British Thermal Unit
CAS Center for Auto Safety
CAFE Corporate Average Fuel Economy
CO Carbon Monoxide
CVCC Controlled Vortex Combustion Chamber
DAA Diesel Automobile Association
DBAG Daimler-Benz AG
DOE Department of Energy
DOT Department of Transportation
EPA Environmental Protection Agency
EPCA Energy Policy and Conservation ACT (also "the Act")
FE Fuel Economy
g/mile grams per mile
GM General Motors Corporation
GNP Gross National Product
GVWR Gross Vehicle Weight Rating
HC Hydro-Carbons
HSLA High Strength, Low Alloy
IH International Harvester Company
MBD Million Barrels per Day
mpg miles-per-gallon
mph miles-per-hour
MY Model Year
NHTSA National Highway Traffic Safety Administration
NOx Oxides of Nitrogen
NPRM Notice of Proposed Rulemaking
NY DOT New York Department of Transportation
OAFES Office of Automotive Fuel Economy Standards
OPEC Organization of Petroleum Exporting Countries
PROCO Programmed Combustion
R&D Research and Development
R-R Rolls-Royce Motors LTD
RSV Research Safety Vehicles
SI Spark Ignition
TSC Transportation Systems Center of DOT
VW Volkswagen of America, Inc.

[FR Doc. 79-2900 Filed 1-26-79; 8:45 am]

[4810-35-M]

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1978, Rev., Supp. No. 9]

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS: CHANGES IN STATES OF INCORPORATION

On December 31, 1978, Hudson Insurance Company, a New York corporation, and Skandia America Reinsurance Corporation, a New York corporation, changed their States of incorporation from New York to Delaware. The companies were last listed as an acceptable surety on Federal bonds at 43 FR 28697 and 43 FR 28702 respectively, June 30, 1978.

A certificate of authority as an acceptable surety on Federal bonds is hereby issued under Sections 6 to 13 of Title 6 of the United States Code, to Hudson Insurance Company and Skandia America Reinsurance Corporation incorporated in the State of Delaware. The new certificates replace the companies' former Treasury certificates, effective December 31, 1978. An underwriting limitation of $817,000 and $4,534,000 has been established for Hudson Insurance Company and Skandia America Reinsuance Corporation, respectively. The underwriting limitations are the same as were established as of July 1, 1978, under the certificates issued to the companies in their previous States of incorporation.

Federal bond-approving officers need take no action with respect to bonds accepted prior or subsequent to the changes in the companies' states of incorporation. They may, however, annotate their reference copies of Treasury Circular 570, 1978 Revision at pages 28697 and 28702 to reflect the changes.

Certificates of authority expire on June 30, each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewals as long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1, in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: January 22, 1979.

D. A. Pagliai,
Commissioner, Bureau of Government Financial Operations.

[FR Doc. 79-2860 Filed 1-26-79; 8:45 am]

[4810-40-M]

[Supplement to Dpt. Circular, Public Debt Series—No. 1-79]

Office of the Secretary

TREASURY NOTES OF SERIES P-1981

Interest Rate

January 24, 1979.

The Secretary announced on January 23, 1979, that the interest rate on the notes designated Series P-1981, described in Department Circular—Public Debt Series—No. 1-79, dated January 18, 1979, will be 9¾ percent.

Interest on the notes will be payable at the rate of 9¾ percent per annum.

SUPPLEMENTARY STATEMENT: The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

[FR Doc. 79-2903 Filed 1-26-79; 8:45 am]

[4810-25-M]

CLASS LIFE ASSET DEPRECIATION RANGE SYSTEM

Study of Assets Used To Manufacture Rubber Products and Finished Plastics Products

The Office of Industrial Economics (OIE), of the Office of the Secretary of the Treasury, has initiated a study of guideline depreciation periods and repair allowance percentages for assets used in the manufacture of rubber products and finished plastics products currently covered by asset guideline Titles 30.1, 30.11, 30.2, and 30.21 [Revenue Procedure 77-10, I.R.B. 1977-12 (3/21/77)], under the Class Life Asset Depreciation Range System (Secs. 167(m) and 263(e)), Internal Revenue Code of 1954.

All persons interested in this study may submit comments in writing to OIE. Persons who are interested in submitting relevant information are invited to attend a meeting in Washington, D.C., on February 8, 1979, at which information needs and procedures for obtaining and analyzing the requisite information will be discussed. Agenda for the meeting, exact time and place, and background material may be obtained by writing to OIE.

All communications concerning this study should be addressed to: Office of Industrial Economics, Project 30.1 and 30.2, P.O. Box 28018, Washington, D.C. 20005.

Dated: January 24, 1979.

Approved by:

KARL RUHE,
Director, Office of Industrial Economics.

[FR Doc. 79-2911 Filed 1-26-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 16]

ASSIGNMENT OF HEARINGS

JANUARY 24, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 143993 (Sub-4F), Black Hills Trucking, Inc., now assigned for continued hearing March 27, 1979 (4 days), at Casper, Wyoming and will be held at Ramada Inn 123 West E St., and will be continued on April 2, 1979 (2 weeks) at Denver, Colorado and will be held at Executive Plaza, 1405 Curtis St. I & S 8863, Switching and Minimum Carload Charges Houston, Texas now being assigned March 13, 1979, (9 days), at Houston, Texas, in a hearing room to be later designated.

MC 23618 (Sub-34F), McAllister Trucking Company, A Cor-DBA Matco, now assigned for hearing on March 13, 1979, (1 day), at Dallas, Texas, in a hearing room to be later designated.

MC 61403 (Sub-256F), The Mason and Dixon Tank Lines, Inc., now assigned for hearing on March 14, 1979, (3 days), at Dallas, Texas, in a hearing room to be later designated.

37064, OKC Corporation V. Missouri-Kansas Texas Railroad, Company, ETAL, now assigned for hearing on March 19, 1979, (2 days), at Dallas, Texas, in a hearing room to be later designated.

MC 42000 (Sub-6), Texas Interstate Motor Express, Inc., now assigned for hearing on March 21, 1979, (3 days), at Dallas, Texas, in a hearing room to be later designated.

MC 119619 (Sub-126F), Distributors, Service Co., now assigned continued hearing February 27, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 9325 (Sub-75F), K Lines, Inc., now assigned March 14, 1979, at Portland, Oregon, is postponed to March 22, 1979, (2 days), at Portland, Oregon and continued to March 26, 1979, (3 days), at San Francisco, Calif., hearing rooms to be designated later.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2966 Filed 1-26-79; 8:45 am]

[7035-01-M]

[Notice No. 12]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 18, 1979.

IMPORTANT NOTICE: The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 808 (Sub-54TA), filed October 25, 1978, and published in the FEDERAL REGISTER issue of December 5, 1978, and republished as corrected this issue. Applicant: ANCHOR MOTOR FREIGHT, INC. 21111 Chagrin Boulevard, P.O. Box 22005, Cleveland, OH 44122. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, from Linden, NJ to points in AZ, AR, CA, CO, ID, IA, KS, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY, under a continuing contract or contracts with General Motors Corporation, for 180 days. SUPPORTING SHIPPER(S): General Motors Corporation, 20007 Van Dyke Avenue, Warren, WI 48090. SEND PROTESTS TO: Mary Wehner, ICC, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199. The purpose of this republication is to show NE in lieu of ME as previously published.

MC 25798 (Sub-351 TA), filed December 26, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, 502 E. Bridges Avenue, Auburndale, FL 33823. Representative: Tony G. Russell, P.O. Box 1186, Auburndale, FL 33823. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at Dakota City, NE., and Sioux City, IA., to points in CA., for 180 days. There is no environmental impact involved in this application. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Iowa Beef Processors, Inc., P.O. Box 515, Dakota City, NE 68731. SEND PROTESTS TO: Donna M. Jones Transp. Asst., ICC, Monterey Building, Suite 101, 8412, N.W., 53rd Terrace, Miami, FL. 33166.

MC 29934 (Sub-19TA), filed December 18, 1978. Applicant: LOBIONDO BROTHERS MOTOR EXPRESS, INC., P.O. Box 160, Bridgeton, NJ 08302. Representative: Martin Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. *Merchandise as dealt in by wholesale, retail, chain grocery and food business houses*, from the plantsite and storage facilities of Ralston-Purina Company at Hampden Township, Cumberland County, PA to points in NY on and south of I-84, and points in NJ, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Ralston-Purina Company, Checkerboard Square, St. Louis, MO 63188. SEND PROTESTS TO: John P. Lynn, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 50069 (Sub-538TA), filed December 18, 1978. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, OH 43616. Representative: William P. Fromm (Same as above). *Petroleum products, vehicle body sealers, sound deadening compounds and accoustical control items* in bulk, in tank vehicles, from Warren County, MS to points in the US except AK and HI, for 180 days. Restricted to shipments originating at the facilities of Quaker State Oil Refining Corp. located in Warren County, MS. SUPPORTING SHIPPER(S): Quaker State Oil Refining Corp., P.O Box 989, Oil City, PA 16301. SEND PROTESTS TO: ICC, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 83217 (Sub-77TA), filed December 15, 1978. Applicant: DAKOTA EXPRESS, INC., 550 East 5th Street South, South St. Paul, MN 55075. Representative: K. O. Petrick, 550 East 5th Street South, South St. Paul, MN 55075. *Meats, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A and C of Appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 290 and 766 (except commodities in bulk and hides)*, from the facilities of Iowa Beef Processors, Dakota City, NE and Sioux City, IA to points in MI, OH, PA, NY, CT, MA, RI, DE, MD, DC, NJ, NH, VT, ME, WV and VA. Restricted to traffic originating at the facilities of Iowa Beef Processors, Inc., Dakota City, NE and Sioux City, IA and destined to the points in the named states or in foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Iowa Beef Processors, Inc., Dakota City, NE 68731. SEND PROTESTS TO: Delores A. Poe, Trans. Asst., I.C.C., 414 Federal Bldg. & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 106037 (Sub-5TA), filed November 21, 1978, and published in the FEDERAL REGISTER issue of January 10, 1978, and republished as corrected this issue. Applicant: ROADWAY TRANSPORT LIMITED, 25 Selfield Road, Rexdale, Ontario, Canada M9W 1E8. Representative: Robert G. Gawley, P.O. Box 184, Buffalo, NY 14221. *Trucks and buses and parts and accessories thereof*, moving at the same time with the vehicles of which they are a part and on which they are to be installed in initial and secondary movements in driveway and truckaway service, from ports of entry on the International Boundary line between United States and Canada located on the Detroit River to Willow run, MI, on traffic having a prior movement in foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): General Motors of Canada Limited, Oshawa, Ontario L1G 1K7. SEND PROTESTS TO: ICC, 910 Federal Building, 111 West Huron Street, St. Buffalo, NY 14202. The purpose of this republication is to show the complete scope of the application as previously omitted.

MC 107541 (Sub-54TA), filed December 12, 1978. Applicant: WASHINGTON-OREGON LUMBER FREIGHTERS, INC., 12925 N.E. Rockwell Drive, Vancouver, WA 98665. Representative: Edward A. Francom (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over regular routes, transporting: (1) *Roofing materials*, (2) *pipe, cement and asbestos combined or plastic pipe*, and (3) *plastic pipe*, (1) from Pittsburg, CA to points in Benton, Deschutes, Lane, Linn, Marion, Polk, Yamhill, Clackamas, Washington, and Multnomah Counties, OR; and Clark, Cowlitz, Whatcom, Skagit, Chelan, Snohomish, King, Pierce, Thurston, Grant, Lincoln, Spokane, Yakima, Benton, Franklin and Walla Walla Counties, WA, (2) from Stockton, CA to points in Deschutes, Crook, Jefferson, Lane, Benton, Linn, Marion, Polk, Clackamas, Yamhill, Washington, Multnomah, and Umatilla Counties, OR; and Clark, Cowlitz, Whatcom, Skagit, Chelan, Snohomish, King, Pierce, Thurston, Yakima, Benton, Franklin, Walla Walla, Grant, Lincoln an Spokane Counties, WA, and (3) from McNary, OR to points in Sacramento, San Joaquin, Contra Costa, Alameda, Santa Clara, San Mateo, San Francisco, San Bernardino, Los Angeles, Orange, and Riverside Counties, CA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Johns-Manville Sales Corporation, 2600 Campus Drive, San Mateo CA 94403. SEND PROTESTS TO: R. V. DuBay, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 108341 (Sub-128TA), filed December 6, 1978. Applicant: MOSS TRUCKING COMPANY, INC., P.O. Box 26125, Charlotte, NC 28213. Representative: Francis J. Ortman, Wisconsin Avenue, Suite 605. *Zinc, zinc alloy and zinc products* from the facilities of Jersey Miniere Zinc Company, Montgomery County, TN, to points in AL, GA, SC, NC, VA, MD, DE, DC, NJ, PA, NY, MA, CT, and RI, for 180 days. SUPPORTING SHIPPER(S) King's Department Stores, Inc., 150 California Street, Newton, MA 02158. SEND PROTESTS TO: D. S. TERRELL PRINCE, 800 Brair Creek Rd—Rm CC516 Mart Office Building, Charlotte, NC 28205.

MC 109124 (Sub-57TA), filed December 27, 1978. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: H. David McKnight (same address as applicant). *Iron and steel*

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articles, from the facilities of Jones & Laughlin Steel Corp., located at Cleveland, OH, to points in Illinois, Indiana, Michigan and PA, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Jones & Laughlin Steel Corp., Room 121, 1600 West Carson Street, Pittsburgh, PA 15263. SEND PROTESTS TO: ICC, Room 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 109584 (Sub-186TA), filed December 6, 1978. Applicant: ARIZONA PACIFIC TANK LINES, P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same as above). *Inedible animal fats and vegetable oils*, in bulk, in tank vehicles, from Albuquerque and Clovis, NM to points in AZ an CA, for 180 days. Applicant has also filed an underlying *ETA* seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): Valley Rendering Company, Inc., P.O. Box 1444, Clovis, NM 88101. SEND PROTESTS TO: D/S Roger L. Buchanan, ICC, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 109818 (Sub-38TA), filed December 14, 1978. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Meat, meat products, meat by-products, and articles distributed by meat packing houses* (except hides and commodities in bulk), from the facilities of Geo A. Hormel & Co. at Fremont, NE to Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPERS(S): Geo A. Hormel & Co., P.O. Box 800, Austin, NM 55912. SEND PROTESTS TO: Herbert W. Allen, I.C.C., 518 Federal Bldg., Des Moines, IA 50309.

MC 111812 (Sub-605TA), filed December 27, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma, P.O. Box 1233, Sioux Falls, SD 57101. Part I—*Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds*, (except in bulk, in tank vehicles), and filters from points in Warren County, MS to points in CO, CT, DE, FL, GA, IA, IL, KS, ME, MD, MA MN, MO, NC, NE, NH, ND, NJ, NY, SC, SD, VT and WI; and Part II—*Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds, filters, materials, supplies and equipment* as are used in the manufacture, sale and distribution of the commodities named in Part I above, (except in bulk, in tank vehicles) from points in IL, NY, OH and SC to points in Warren County, MS. Restricted in Parts I and II above to shipments originating at or destined to the facilities of Quaker State Oil Refining Corporation located in Warren County, MS. For 180 days. Supporting shipper: Quaker State Oil Refining Corporation, P.O. Box 989, Oil City, PA 16301. Send protests to: Mr. James L. Hammond, District Supervisor, Bureau of Operatings & Compliance, Interstate Commerce Commission, Room 455, Federal Building, Pierre, South Dakota 57501.

MC 112713 (Sub-234TA), filed December 26, 1978. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Avenue, Shawnee Mission, KS 66207. Representative: John M. Records (same address as applicant). *Chemicals*, in vehicles equipped with mechanical refrigeration, From Winchester, VA, to points in Arizona, California and CO, for 180 days. An underlying ETA seeks to 90 days authority. SUPPORTING SHIPPER(S): J. T. Baker Chemical Co., 3085 Shawnee Drive, Winchester, VA 22601. SEND PROTESTS TO: John V. Barry DS, ICC, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 113434 (Sub-120TA), filed December 19, 1978. Applicant: GRABELL TRUCK LINE, INC., A-5253 144th Avenue, Holland, MI 49423. Representative: Ms. Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. *Vinegar*, in bulk, in tank vehicles, from the facilities of Heinz U.S.A. at Holland, MI to the facilities of Heinz, U.S.A. at Winchester, VA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Heinz U.S.A. Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. SEND PROTESTS TO: C. R. Flemming, ICC, 225 Federal Building, Lansing, MI 48933.

MC 114273 (Sub-515TA), filed December 14, 1978. Applicant: CRST, Inc., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same as applicant). *Drugs, medicines, cosmetics, plastic boxes, weed killing compounds, and animal or poultry feed supplements and materials and supplies used in the manufacture and production of, and rejected and/or damaged shipments of the commodities named above (except commodities in bulk)*, between the plant sites, warehouses, and storage facilities utilized by Eli Lilly and Company, located at or near Clinton, Indianapolis, and Lafayette, IN, Omaha, NE, on the one hand and on the other, points in IA, MN, ND and SD, VA, MD and NE, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Eli Lilly & Company, 1555 S. Kentucky Ave., Indianapolis, IN 46206. SEND PROTESTS TO: Herbert W. Allen, I.C.C., 518 Federal Bldg., Des Moines, IA 50309.

MC 114301 (Sub-102TA), filed December 18, 1978. Applicant: DELAWARE EXPRESS CO., P.O. Box 97, Elkton, MD 21921. Representative: Maxwell A. Howell, 1511 K Street NW., Washington, D.C. 20005. *Dry plastic materials*, in bulk, between Greensboro, MD, on the one hand, and, on the other, Winchester, VA; Burlington, Trenton, Chesilhurst and Pitman, NJ; Frackville and Lebanon, PA, and Bethel, CT, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): J. L. Moorshead Co., Inc., P.O. Box 308, Sunset Avenue, Greensboro, MD 21639. SEND PROTESTS TO: William L. Hughes, ICC, 1025 Federal Building, Baltimore, MD 21201.

MC 115162 (Sub-443TA), filed December 27, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). *Asphalt roofing and related building materials*, (except commodities in bulk, in tank vehicles), from Mobile, AL, to Harris County, TX., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): GAF Corporation, 1361 Alps Road, Wayne, NJ 07470. SEND PROTESTS TO: Mabel E. Holston Transp. Asst., ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 116254 (Sub-225TA); filed December 27, 1978. Applicant: CHEMHAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman (same address as applicant). *Weed-killing chemicals, liquid*, (in bulk, in tank vehicles), From Lemoyne, AL, to Omaha, NE., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Stauffer Chemical Company, Westport, CT 06880. SEND PROTESTS TO: Mabel E. Holston Transp. Asst., ICC, Room 1616, 2121 Buidling, Birmingham, AL 35203.

MC 116254 (Sub-226TA), filed December 27, 1978. Applicant: CHEMHAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman (same address as applicant). *Hexamethylene diamine* (in bulk, in tank vehicles), from the facilities of Monsanto Company, Decatur, AL, to Kankakee, IL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, MO 63166. SEND PROTESTS TO: Mabel E. Holston Transp. Asst., ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 116254 (Sub-227TA), filed December 27, 1978. Applicant: CHEMHAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman, P.O. Box 339, Florence, AL 35630. *Titanium dioxide slurry* (in bulk, in tank vehicles), from the facilities of E. I. DuPont de Nemours & Company, at New Johnsonville, TN, to points in CA, and Jacksonville, FL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): E. I. DuPont de Nemours & Company, 1007 Market Street, Wilmington, DE 19898. SEND PROTESTS TO: Mabel E. Holston Transp. Asst., ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 118318 (Sub-36TA), filed December 5, 1978. Applicant: IDA-CAL FREIGHT LINES INC., P.O. Box M, Nampa, ID 83651. Representative: Timothy R. Stivers, Registered Practitioner, P.O. Box 162, Boise, ID 83701. *Meats, meat products, and meat by-products and articles*, distributed by meat packinghouses, from Spokane County, WA to points in CA, NV, and ID, for 180 days. Applicant has filed an underlying *ETA* seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): Hygrade Food Products Corp., Box 2567, Term Annex, Spokane, WA 99220. SEND PROTESTS TO: D/S Barney L. Hardin, ICC, 1471 Shoreline Drive, Suite 110, Boise, ID 83706.

MC 118535 (Sub-130TA), filed December 28, 1978. Applicant: TIONA TRUCK LINE, INC., 111 South Prospect, Butler, MO 64730. Representative: Tom Ventura, 111 South Prospect, Butler, MO 64730. *Dry alumina* (in bulk), from Benton and Bauxite, AR, to the Kansas City, KS-MO Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Aluminum Company of America, 1501 Alcoa Building, Pittsburgh, PA 15219. SEND PROTESTS TO: John V. Barry DS, ICC, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 118831 (Sub-171TA), filed December 14, 1978. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 7007, High Point, NC 27264. Representative: Ben H. Keller III, P.O. Box 7007, High Point, NC 27264. *Dimethyl Terephthalate, molten*, between Old Hickory, TN and Circleville, OH, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): E. I. DuPont De Nemours & Co., 1007 Market St., Wilmington, DE 19898. SEND PROTESTS TO: Archie W. Andrews, I.C.C., P.O. Box 26896, Raleigh, NC 27611.

MC 119741 (Sub-127TA), filed December 14, 1978. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, P.O. Box 1235, Fort Dodge, IA 50501. *Aluminum scrap*, from the facilities of Wilkinson Manufacturing Co., at Calhoun, NE, to Terre Haute, IN, for 90 days. An underlying ETA seeks 90 days authority, SUPPORTING SHIPPER(S): Wilkinson Manufacturing Co., Fort Calhoun, NE 68023. SEND PROTESTS TO: Herbert W. Allen, I.C.C., 518 Federal Bldg., Des Moines, IA 50309.

MC 119741 (Sub-130TA), filed December 19, 1978. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, (same as above). *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, (except hides and commodities in bulk, in tank vehicles), as described in Sections A and C of Appendix I to the report in descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from Omaha, NE to points in IA, MN, MO, and WI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Palamera Beef Corporation, 25th and Z Streets, Omaha, NE 68127. SEND PROTESTS TO: Herbert W. Allen, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 119789 (Sub-533TA), filed December 14, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. *Frozen foods*, from Pecos, TX to points in the United States (except AK, HI, and TX), 180 days. SUPPORTING SHIPPER(S): Foster Frozen Foods, P.O. Box 1389, Pecos, TX 79772. SEND PROTESTS TO: Opal M. Jones, Trans. Asst., I.C.C., 1100 Commerce Street, Rm. 13C12, Dallas, TX 75242.

MC 125996 (Sub-62TA), filed November 7, 1978, and published in the FEDERAL REGISTER issue of December 22, 1978, and republished as corrected this issue. Applicant: ROAD RUNNER TRUCKING, INC., 2225 South 400 West, Salt Lake City, UT 84115. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. *Meats, meat products, meat by-products and articles distributed by meat packing houses* (except hides and commodities in bulk), from the facilities of George A. Hormel & Co., at Austin and Minneapolis-St. Paul commercial zone, MN, and Fort Dodge and Ottumwa, IA, to points in AZ, CA, OR, UT, WA, and CO, for 180 days. SUPPORTING SHIPPER(S): George A. Hormel & Co., P.O. Box 800, Austin, MN 55912. SEND PROTESTS TO: L. D. Helfer, ICC, 5301 Federal Building, Salt Lake City, UT 84138. The purpose of this republication is to add California (CA) to the territorial description as previously omitted.

MC 127042 (Sub-236TA), filed December 14, 1978. Applicant: HAGEN, INC., 3232 Highway 75 North, P.O. Box 98, Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same as above). *Foodstuffs*, except in bulk, from Kansas City, MO to points in IA, MN, NE, and WI, for 180 days. SUPPORTING SHIPPER(S): Thomas V. Lappin, Traffic Mgr., Commercial Distribution Center Inc., 16500 E. Truman Rd., Independence, MO 64051. SEND PROTESTS TO: Carroll Russell, I.C.C., Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 127478 (Sub-12TA), filed December 18, 1978. Applicant: WILLIAM M. HAYES, d.b.a. HAYES TRUCKING CO., P.O. Box 31, Winterville, GA 30683. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Frozen foodstuffs*, from the facilities of Kitchens of Sara Lee at New Hampton, IA to points in FL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Kitchens of Sara Lee, 500 Waukegan Road, Deerfield, IL 60015. SEND PROTESTS TO: Sara J. Davis, ICC, 1252 W. Peachtree Street, N.W., Room 300, Atlanta, GA 30309.

MC 133689 (Sub-248TA), filed December 27, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First St., SW, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Dairy products* from Belle Plaine, MN to Flemington, NJ., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Valley Processors, Inc., 425 West Beaver Street, Belle Plaine, MN 56011. SEND PROTESTS TO: Delores A. Poe Transp. Asst., ICC, 414 Federal Building & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 133937 (Sub-29TA), filed December 7, 1978. Applicant: CAROLINA CARTAGE CO., INC., 1638 E. Vesta Avenue, College Park, GA 30337. Representative: Leonard A. Jasklewicz, 1730 M Street, NW, P.O. Box 1075, Washington, DC 20036. *Such commodities* as are dealt in by catalog and retail department stores, and materials, supplies, and equipment, including garments on hangers from points and places in NC, SC, GA, FL, AL, MS, KY, and TN to the facilities of J.L. Hudson Co. in MI, OH, and IN, for 180 days. SUPPORTING SHIPPER(S): J.L. Hudson Co., 14225 West Warren Avenue, Dearborn, MI 48126. SEND PROTESTS TO: T/A Sara K. Davis, ICC, 1252 W. Peachtree Street, NW, Room 300, Atlanta, GA 30309.

MC 135399 (Sub-15TA), filed December 18, 1978. Applicant: HASKINS TRUCKING, INC., P.O. Drawer 7729,

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Longview, TX 75602. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. *Cleaning, scouring, washing, and buffing compounds, and such other commodities as are dealt in or distributed by manufacturer of the above commodities,* from the facilities of Rochester Germicide Co., Inc., at or near Montgomery, IL to Memphis, TN; Atlanta, GA; New Orleans, LA; Dallas, TX; Tampa, FL; San Diego, Los Angeles, and San Francisco, CA; St. Paul, MN; Des Moines, IA; St. Louis, MO; and Indianapolis, IN, for 180 days. SUPPORTING SHIPPER(S): Rochester Germicide Co., P.O. Box 1515, Rochester, NY 14603. SEND PROTESTS TO: Opal M. Jones, ICC 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 135874 (Sub-142TA), filed November 16, 1978, and published in the FEDERAL REGISTER issue of December 28, 1978, and republished as corrected this issue. Applicant: LTL PERISHABLES, INC., 550 East Fifth Street South, South St. Paul, MN 55075. Representative: K. O. Petrick (same as above). *Alcoholic beverages, supplies and equipment used in the sales of alcoholic beverages,* from the facilities of Joseph E. Seagram & Sons, Inc., at Louisville, KY and Lawrenceburg, IN to Superior, WI, Sioux Falls and Rapid City, SD, Bismarck and Fargo, ND, Hibbing, Golden Valley, Long Prairie, Minneapolis and St. Paul, MN, for 180 days. Restricted to traffic originating at the facilities of Joseph E. Seagram & Sons at Louisville, KY and Lawrenceburg, KY and destined to the named points. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Joseph E. Seagram & Sons, Inc., 800 Third Avenue, New York, NY 10022. SEND PROTESTS TO: Delores A. Poe, ICC, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401. The purpose of this republication is to show St. Paul, MN in lieu of St. Paul, NM, as previously published.

MC 135874 (Sub-151TA), filed December 27, 1978. Applicant: LTL PERISHABLES, INC., 550 E. 5th Street So., South St. Paul, MN 55075. Representative: K. O. Petrick, 550 E 5th Street So., South St. Paul, MN 55075. *Alcoholic beverages* (except commodites in bulk), from Chicago, and Pekin, IL; Allen Park, MI; Clermont, Frankfort, Louisville, Owensboro, Bardstown and Lawrenceburg, KY; Lawrenceburg, IN; Cincinnati, OH; Newark, and Hawthorne, NJ; Farmingdale, New York, and Hammondsport, NY; and St. Louis, MO to Rapid City, SD. Restricted to traffic originating at the named origins and destined to Rapid City, SD, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Western Wholesale Liquor Co., P.O. Box 1356, Rapid City, SD 57709. SEND PROTESTS TO: Delores A. Poe Transp. Asst., ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 136605 (Sub-83TA), filed December 14, 1978. Applicant: DAVIS BROS, DIST., INC., P.O. Box 8058, 216 Trade Street, Missoula, MT 59807. Representative: Allen P. Felton (same as above). (1) *Baking, electric, setup and KD ovens, and* (2) *Parts, components, and accessories for the above,* from the facilities of DISPATCH INDUSTRIES located at or near Minneapolis, MN to points in the United States in and west of ND, SD, NE, KS, OK, and TX except AK and HI, for 180 days. SUPPORTING SHIPPER(S): Dispatch Industries, Inc., 619 S.E. 8th Street, Minneapolis, MN. SEND PROTESTS TO: Paul J. Labane, I.C.C., 2602 First Ave. North, Billings, MT 59101.

MC 138308 (Sub-59TA), filed December 14, 1978. Applicant: KLM, INC., Old Highway 49 South, P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. *Canned and preserved foodstuffs,* from the facilities of Heinz U.S.A., Division of H. J. Heinz Company at or near Pittsburgh, PA, to points in AR, OK, TX, restricted to traffic originating at the named facilities and destined to the named states, for 180 days. SUPPORTING SHIPPER(S): Heinz U.S.A., Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. SEND PROTESTS TO: Alan C. Tarrant, I.C.C., Rm. 212, 145 East Amite Bldg., Jackson, MS 39201.

MC 138609 (Sub-32TA), filed December 14, 1978. Applicant: ROBERT L. ARNOLD, d.b.a. PLANTATION TRANSPORT CO., 1506 Gillionville, P.O. Box 1171, Albany, GA 31702. Representative: Robert L. Arnold (same as above). *Wooden pallets and boxes,* from points in Randolph County, GA to all points in FL and AL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Burgin Lumber Company, Villa Nova Street, Cuthbert, GA 31740. SEND PROTESTS TO: G. H. Fauss, Jr., I.C.C., Box 35008, 400 West Bay St., Jacksonville, FL 32202.

MC 138875 (Sub-119TA), filed December 27, 1978. Applicant: SHOEMAKER TRUCKING COMPANY, an Idaho corporation, 11900 Franklin Road, Boise, Idaho 83705. Representative: F. L. Sigloh (as above). *Gypsum wallboard, joint compound and materials and supplies used in the application thereof,* from Sigurd, UT to points in OR and ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Scott A. Keller, Transportation Analyst, Georgia-Pacific Corporation, 900 SW Fifth Ave., Portland, OR 97204. Send Protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Room 110, 1471 Shoreline Drive, Boise, ID 83706.

MC 138875 (Sub-120TA), filed December 15, 1978. Applicant: SHOEMAKER TRUCKING COMPANY, an Idaho corporation, 11900 Franklin Road, Boise, Idaho 83705. Representative: F. L. Sigloh (as above). *(1) Feed, feed ingredients & supplements; and (2) materials & supplies used in the manufacture and distribution of (1) above; (3) commodities, the transportation of which would be otherwise exempt from regulation, under Section 203(b)(6) IC Act, when transported in mixed loads (except in bulk, in tank vehicles),* from Minneapolis and Owatonna, MN to Idaho Falls, Twin Falls, and Caldwell, ID. Supporting Shipper(s): Jack Toeller, Director of Operations, Idah-Best, Inc., P.O. Box 818, Caldwell, ID 83605. Send Protests to: Barney L. Hardin, I.C.C., Suite 110, 1471 Shoreline Dr., Boise, ID 83706.

MC 138882 (Sub-185TA), filed December 27, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Foodstuffs,* except frozen and commodities in bulk, (1) from the facilities of Vlasic Foods, Inc., located at Bridgeport, Imlay City and Memphis, MI to the facility of Vlasic Foods, Inc., located at Greenville, MS, and (2) From the facilities of Vlasic Foods, Inc., located at Greenville, MS to points in AL, AR, CO, FL, GA, KS, KY, LA, MO, NM, OK, TN, TX, IL and IN, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Vlasic Foods, Inc., 33200 West 14 Mile Road, West Bloomfield, MI 46033. SEND PROTESTS TO: Mabel E. Holston, Transp. Asst., ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138902 (Sub-10TA), filed December 20, 1978. Applicant: ERB TRANSPORTATION CO., INC., P.O. Box 65, Crozet, VA 22932. Representative: Harry C. Ames, Jr., 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. *Frozen Foods* (except in bulk, in tank vehicles), from points in Cumberland County, NJ to points in AR, GA, IL, IN, IA, KS, KY, MI, MO, OH, NC, SC, TN, VA, WV, and those in PA on and west of U.S. Highway 219 for 180 days. An underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Seabrook Foods, Inc., 5118 East Clinton Way, Fresno, CA 93727. Send protests to: Paul D. Collins, District Supervisor, 10-502 Federal Building, 400 North Eighth Street, Richmond, VA 23240.

MC 139923 (Sub-53TA), filed December 26, 1978. Applicant: MILLER TRUCKING CO., INC., P.O. Drawer D, Stroud, OK 74079. Representative: Daniel O. Hands, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Food and food products* (except commodities in bulk), from the facilities of Burnette Farms Packing Company located at or near Keeler, MI, to Fort Smith and Little Rock, AR and OK and TX, restricted to traffic originating at the named origin and destined to the named destinations, for 180 days. An underlying ETA has been filed for 90 days authority. Supporting shipper: Burnette Farms Packing Company, P.O. Box 128, Keeler, MI. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Court House Building, 215 Northwest Third, Oklahoma City, OK 73102.

MC 140118 (Sub-10TA), filed October 4, 1978, and published in the FEDERAL REGISTER issue of November 21, 1978, and republished as corrected this issue. Applicant: S. T. L. TRANSPORT, INC., P.O. Box 9776, 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards, Raymond A. Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Empty glass containers,* from Bridgeton, NJ, Clarion, PA; Huntington and Fairmont, WV; and Brockport, NY, to points in CT, MA, NY, and PA; and (2) *Plastic pails,* from Watertown, MA to points in NJ and NY, under a continuing contract or contracts with Empire State Bottle Co., of Syracuse, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Empire State Bottle Co., of Syracuse, Inc., 4100 Milton Avenue, Syracuse, NY 13219. SEND PROTESTS TO: ICC, U.S. Courthouse and Federal Building, 100 S. Clinton Street, Room 1259, Syracuse, NY 13260. The purpose of this republication is to show correct address of representative as Webster, NY in lieu of Wesster, NY, and also to show Brockport, NY in lieu of Blockport, NY in part (1) of the territorial description.

MC 140890 (Sub-2TA), filed December 14, 1978. Applicant: D D & D TRUCK LINES, INC., 270 U.S. Highway 90 East, Baldwin, FL 32234. Representative: Dan R. Schwartz, 1729 Gulf Life Tower, Jacksonville, FL 32207. *Machine flattened automobiles,* from points in GA to points in FL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Mid-Georgia Auto Recycling, 2763 Coral Way, Macon, GA 31211. SEND PROTESTS TO: G. H. Fauss, Jr., I.C.C., Box 35008, 400 West Bay Street, Jacksonville, FL 32202

MC 142559 (Sub-78TA), filed December 14, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. *Scales, power transmission machinery, motors, controls, elevators and escalators, industrial components, and materials, equipment and supplies as are used in the manufacture and distribution thereof* (except commodities in bulk, and except those commodities which because of size or weight require the use of special equipment), (1) Between Cleveland, OH and Lawrenceburg, KY, on the one hand, and on the other, Mishawaka, IN, Rogersville, TN, Greenville and Spartanburg, SC, and points in the States of WA, OR, CA, NV, NE, KS, TX, GA, NC, PA, NY, NJ, and MA, (2) From Mishawaka, IN to Greenville, SC, and (3) From Columbiana, OH to points in GA, for 180 days. SUPPORTING SHIPPER(S): Reliance Electric Corporation, 220 Eastview Drive, Brooklyn Heights, OH 441431. SEND PROTESTS TO: Mary Wehner, I.C.C., 731 Federal Office Bldg., 1240 East Ninth St., Cleveland, OH 44199.

MC 142559 (Sub-79TA), filed December 26, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, Ohio 44114. Representative: John P. McMahon, George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, Ohio 43215 (614) 228-1541. *Automotive accessories* and *materials, equipment* and *supplies* used in the manufacture and distribution thereof (except commodities in bulk) between Boston and Chelsea, MA and the commercial zones thereof, on the one hand, and, on the other, points in the United States (except AK and HI), for 180 days. SUPPORTING SHIPPER(S): Mark Fore/Vatco Industries, Div., of Beatrice Foods Co., 109 Brookline Avenue, Boston, MA 02215. SEND PROTESTS TO: Mary Wehner DS, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 143540 (Sub-9TA), filed November 17, 1978, and published in the FEDERAL REGISTER issue of January 8, 1979, and republished as corrected this issue. Applicant: MARINE TRANSPORT COMPANY, 2321 Burnette Blvd., P.O. Box 2142, Wilmington, NC 28402. Representative: Jean H. Lewis, 9525 Trojan Center, Richmond, VA 23229. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Bakery ingredients,* from the facilities of Globe Products Company, Inc., at or near Clifton, NJ to points in AL, AR, LA, MS, NC, OK, TN and TX, under a continuing contract or contracts with Globe Products Company, Inc., for 180 days. SUPPORTING SHIPPER(S): Globe Products Company, Inc., P.O. Box 927, Clifton, NJ 07015. SEND PROTESTS TO: Archie W. Andrews, ICC, P.O. Box 26896, Raleigh, NC 27611. The purpose of this republication is to show complete scope of application as previously omitted.

MC 143815 (Sub-3TA), filed December 27, 1978. Applicant: R & D TRUCKING COMPANY, INC., Church Road, Lauderdale Industrial Park, Florence, AL 35630. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Hard surface floor covering materials, supplies and equipment,* used in the installation and maintenance thereof, (except commodities in bulk), when moving with the above, from the facilities of American Biltrite, Inc., in Mercer County, NJ, to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and TN, under a continuing contract or contracts, with Amtico Flooring, Division American Biltrite, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Amtico Flooring, Division American Biltrite, Inc., 575 Technology Square, Cambridge, MA 02139. SEND PROTESTS TO: Mabel E. Holston Transp. Asst., ICC, Room 1616, 2121 Building, Birmingham, Al 35203.

MC 144117 (Sub-23TA), filed December 18, 1978. Applicant: TLC LINES, INC., P.O. Box 1090, 1666 Fabick Drive, Fenton, MO 63026. Representative: Elaine M. Conway, 10 S. LaSalle Street, Suite 1600, Chicago, IL 60603. *Starch and chemicals and materials, equipment and supplies used in the manufacture and distribution of starch and chemicals,* except in bulk, from the facilities of National Starch and Chemical Company, located at or near Meredosia, IL; Indianapolis, IN; Bloomfield, Finderne and Plainfield, NJ, to points in AZ, CA, ID, NV, NM, OR, TX, UT and WA, restricted to the transportation of traffic originating at the above named origins and destined to the above named destinations, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): National Starch & Chemical Co., P.O. Box 6500, Bridgewater, NJ 08807. SEND PROTESTS TO: P. E. Binder, ICC, Room 1465, 210 N. 12th Street, St. Louis, MO 63101.

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MC 144117 (Sub-24TA), filed December 18, 1978. Applicant: TLC LINES, INC., 1666 Fabick Drive, P.O. Box 1090, Fenton, MO 63026. Representative: Jack H. Blanshan, Suite 200, 205 W. Toughy Avenue, Park Ridge, IL 60068. *Photographic materials, equipment, chemicals and supplies,* from the facilities of Eastman Kodak Company, San Ramon, Hollywood and Whittier, CA and Dallas, TX and points in the commercial zones of the named destination cities, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Eastman Kodak Compnay, 2400 Mount Road Boulevard, Rochester, NY 14650. SEND PROTESTS TO: P. E. Binder, ICC, Room 1465, 210 N. 12th Street, St. Louis, MO 63101.

MC 144630 (Sub-4TA), filed December 7, 1978. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46012. Representative: Donald W. Smith, Suite 945—9000 Keystone Crossing, Indianapolis, IN 46240. *Glassware, chinaware and plastic articles,* from Lancaster, OH, to points in CA, AZ, NV, WA, OR and UT, for 180 days. Applicant has also filed an underlying *ETA* seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): Anchor Hocking Corporation, 109 North Broad Street, Lancaster, OH 43130. SEND PROTESTS TO: D/S J. H. Gray, Bureau of Operations, ICC, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 145441 (Sub-10TA), filed December 29, 198. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72219. Representative: E. Lewis Coffey (Same address as applicant). *Foodstuffs,* (except in bulk), from Marysville, OH., to points in California, Oregon and TX., for 180 days. SUPPORTING SHIPPER(S): The Nestle Company, Inc., 100 Bloomingdale Road, White Plains, NY 10605. SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145808 (Sub-1TA), filed December 7, 1978. Applicant: RED ARROW DELIVERY SERVICE CO., INC., Metropolitan Airport, Air Cargo Bldg., Nashville, TN 37217. Representative: Rudy Yessin, 314 Wilkinson Street, Frankfort, KY 40601. *General commodities,* except classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading. In straight or mixed loads over irregular routes, between Metropolitan Airport, Nashville, Tennessee, on the one hand and Greater Cincinnati Airport, Erlanger, KY, John F. Kennedy International Airport, New York, NY, McGhee Tyson Airport, Knoxville, TN, Lovell Field, Chattanooga, TN, O'Hare International Airport, Chicago, IL on the other, between Metropolitan Airport, Nashville, TN, Atlanta International Airport, Atlanta, GA, Memphis International Airport, Memphis, TN, Standiford Field, Louisville, KY, and points in Bedford, Benton, Cannon, Carroll, Cheatham, Coffee, Crockett, Cumberland, Davidson, Decautur, Dekalb, Dickson, Franklin, Gibson, Giles, Henderson, Henry, Hickman, Houston, Humphries, Jackson, Lawrence, Lewis, Lincoln, Macon, Madison, Marshall, Maury, Montgomery, Moore, Perry, Putnam, Robertson, Rutherford, Smith, Steward, Sumner, Trousdale, Warren, Wayne, Weakley, White, Williamson, Wilson County, TN; Allen, Barren, Butler, Calloway, Christian, Edmondson, Graves, Logan, Marshall, Simpson, Todd, Trigg, Warren County, KY; Jackson, Madison, Lauderdale, Limestone County, AL, and the city of Decautur, AL. RESTRICTION: Restricted to the transportation of shipments having a prior or subsequent movement by aircraft, for 180 days. Applicant has also filed an underlying *ETA* seeking up to 90 days of operating authority., SUPPORTING SHIPPER(S): There are approximately 89 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the filed office named below. SEND PROTESTS TO: D/S Joe J. Tate, Bureau of Operations, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 145849 (Sub-1TA), filed December 26, 1978. Applicant: CHARLES MONIN AND JOSEPH MONIN d/b/a MONIN TRUCKING, 300 W. John Rowan Blvd., Bardstown, KY 40004. Representative: Robert H. Kinker, 314 W. Main Street, P.O. Box 464, Frankfort, KY 40602. *Malt beverages and related advertising material and display racks,* from Evansville and Ft. Wayne, IN, Detroit, MI, Eden, NC, Cincinnati, OH, Memphis, TN and Milwaukee, WI and their commercial zones to Bardstown, Ky and its commercial zone, and empty malt beverage containers on return, for 180 days. An underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Hoffman Distributing Co., George N. Hoffman, President, Box 344 Beechwood Ave., Bardstonw, KY 40004, and, Bardstown Distributing Company, William J. Smith, Partner, 850 West Stephen Foster Ave., P.O. Box 499, Bardstown, KY 40004. Send protests to Linda Sypher, District Supervisor, Interstate Commerce Commission, 426 U.S. Post Office, 601 W. Broadway, Louisville, KY 40202.

MC 145873TA, filed December 12, 1978. Applicant: RAMSEY TRUCKING, INC., Hudson Drive, Chattanooga, TN 37405. Representative: H. Owen Maddux, 808 Maclellan Building, Chattanooga, TN 37402. *Coal,* in bulk, in dump vehicles, between points in TN, AL and GA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): The Little Fawn Coal Corporation, P.O. Box 511, Trenton, GA 30752. SEND PROTESTS TO: Glenda Kuss, ICC, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 145886 (Sub-1TA), filed December 19, 1978. Applicant: NEWPORT TRUCK SERVICE, INC., 1846 4th Avenue, Newport, MN 55055. Representative: Stanley C. Olsen, Jr., 4601 Excelsior Boulevard, Minneapolis, MN 55416. *Meat, meat products, meat byproducts and articles distributed by meat packinghouses,* from South St. Paul, MN to points in CA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Armour Food Company, P.O. Box 239, South St. Paul, MN 55075. SEND PROTESTS TO: Delores A. Poe, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 145905TA, filed December 18, 1978. Applicant: Z. H. HURT, d.b.a. Z. H. HURT ENTERPRISES, P.O. Box 83, Bonita, CA 92002. Representative: Willian H. Shawn, Suite 501, 1730 M Street, NW, Washington, DC 20036. *General commodities* (except commodities of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), between points in the Los Angeles, CA commercial zone the San Diego, CA commercial zone, and points in Imperial County, CA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Clipper Exxpress Company, 3401 West Pershing Road, Chicago, IL 60632. Roberts Consolidated Industries, 600 North Baldwin Park Boulevard, City of Industry, CA 91749. Burlington Northern Air Freight, 2361 Air Lane Road, San Diego, CA 92101. SEND PROTESTS TO: Irene Carlos, ICC, Room 1321 Federal Building, 300 North Los Angeles St., Los Angeles, CA 90012.

MC 145910 (Sub-1TA), filed December 26, 1979. Applicant: LAURENCE A. MESSAM, d.b.a. RITTMAN PARCEL DELIVERY, P.O. Box 363, Rittman, Ohio 44270. Representative: John L. Alden, 1396 West Fifth Avenue, P.O. Box 12241, Columbus, Ohio 43212. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Plastic articles,* except commodities in bulk, between the facilities of Imperial Plastics, Inc. at or near Rittman, OH, on the one hand, and on the other, Wilmington, DE, Des Moines, IA, Fort Wayne and Indianapolis, IN, Chicago, Decatur, and McHenry, IL, Lousiville, KY, Clinton, MD, Everett, MA, Detroit, Marine City, Holly, Kalamazoo and Potterville, MI, Minneapolis, MN, Clifton, NJ, Depew, NY, Pittsburgh, Zelienople, Punxsutawney, Indiana, New Kensiggton and Philadelphia, PA, Gallatin, Memphis and Nashville, TN, and Henderson, TX under a continuing contract or contracts with Imperial Plastics, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Imperial Plastics, Inc., P.O. Box 301, Rittman, OH. 44270. SEND PROTESTS TO: Frank L. Calvary DS, ICC, 220 Federal Bldg., and U.S. Courthouse, 85 Marconi Blvd., Columbus, OH 43215.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-2968 Filed 1-26-79; 8:45 am]

[7035-01-M]

[Notice No. 11]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 17, 1979.

IMPORTANT NOTICE:

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE: All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 6741 (Sub-9TA), filed December 7, 1978. Applicant: F. S. WILLEY CO., INC., d/b/a Willey's Express, 28 Center Street, Laconia, NH 03246. Representative: Frank M. Willey (Same as above). *General commodities,* except those of unusual value, dangerous explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, between all points in NH. Applicant proposes to interline with other carriers at Springfield, Marlboro, Brockton Southboro, Leominster, Framingham, Boston, Woburn, Burlington, No. Reading, Stoneham and Lowell, MA; Nashua, Manchester, Concord, Laconia, Littleton and Pencook, NH; and White River Junction, VT, for 180 days. Applicant has also filed an underlying *ETA* seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): There are approximately 23 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the filed office named below. SEND PROTESTS TO: D/S Ross J. Seymour, Bureau of Operations, ICC, Rm 3, 6 Loudon Road, Concord, NH 03301.

MC 15735 (Sub-30TA), filed December 7, 1978. Applicant: ALLIED VAN LINES, INC., P.O. Box 4403, Chicago, IL 60680. Representative: Ronald C. Nesmith, Law Department (Same as above). *Subassemblies, parts, components, and supplies* used in the manufacture of computers and computer equipment, when moving in mixed loads with third proviso household goods as defined at 49 CFR 1056.1(a)(3), (1) between points in Essex, Hampden, Hampshire, Middlesex, and Worcester Counties, MA; Hillsborough and Rockingham Counties, NH; Chittenden County, VT; and Kennebeck County, ME, on the one hand, and, on the other, points in Maricopa County, AZ; Boulder and El Paso Counties, CO; Orange, San Francisco, San Mateo, Santa Clara, Alameda and Los Angeles Counties, CA; and Bernalillo County, NM; (2) between Boulder County, CO; El Paso County, CO; Maricopa County, AZ; Bernalillo County, NM; Orange County, CA; San Francisco County, CA; San Mateo County, CA; Santa Clara County, CA; Alameda County, CA; and Los Angeles County, CA, for 180 days. SUPPORTING SHIPPER(S): Digital Equipment Corp., 444 Whitney St., Northbor, MA 01532. SEND PROTESTS TO: T/A, Lois M. Stahl, ICC, 219 Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 28956 (Sub-22TA), filed December 12, 1978. Applicant: MCKAY'S TRUCK LINE, INC. 908 North Pacific Highway, P.O. Box 634 Albany, OR 97321. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Avenue, Portland, OR 97210. *Paper* (pulpboard), between the facilities of Willamette Industries, Inc., Western Kraft Paper Group, at or near Millersburg, OR and Wheeler, WA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Willamette Industries, Inc., Western Kraft Paper Group, P.O. Box 339, Albany, OR 97321. SEND PROTESTS TO: A. E. Odoms, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 33641 (Sub-No. 137 TA), filed December 20, 1978. Applicant: IML FREIGHT, INC. P.O. Box 30277 Salt Lake City, UT 84119. Representative: Thomas A. Scott, P.O. Box 30277; Salt Lake City, UT 84119. *Foodstuffs* (except in bulk), *other than frozen,* from the facilities of Pillsbury Corp. at Terre Haute, IN, to the facilities of Pillsbury Corp. at Clearfield, UT, restricted to shipments originating at and destined to the above named facilities, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): The Pillsbury Company, 608 Second Avenue South, Minneapolis, MN 55402 (Joyce S. Alfton, Manager, Truck and Air Freight, Grocery Products Co.,). SEND PROTESTS TO: L. D. HELFER, I.C.C., 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 43269 (Sub-70TA), filed December 11, 1978. Applicant: WELLS CARGO, INC, 1775 East 4th Street, Reno, NV 89512. Representative: David N. Inwood, P.O. Box 1511, Reno, NV 89505. *Diatomaceous earth* (diamtomite) in bulk in dump vehicles, from points in NV to points in CO, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Eagle Picher Industries, Inc., P.O. Box 1869, Reno, NV 89505. SEND PROTESTS TO: ICC, 203 Federal Building, 705 N. Plaza Street, Carson City, NV 89701.

MC 52657 (Sub-74E TA), filed December 7, 1978. Applicant: ARCO AUTO CARRIERS, INC., 16 West 151 Shore Court, Burr Ridge, IL 60521. Representative: James Bouril (Same

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as above). *Trailers* (except those designed to be drawn by passenger automobiles), from Randolph, OH to IL, IN, KY, TN and WV, for 180 days. Applicant has also filed an underlying *ETA* seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): East Mfg. Corp., P.O. Box 277, Randolph, OH 44265. SEND PROTESTS TO: Lois M. Stahl, Transportation Assistant, ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 63417 (Sub-185TA), filed December 7, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (Same as above). *Expanded Polyethelene products,* from Biola, CA to points in AZ, AR, CO, KS, NV, NM, OK, TX, UT, for 180 days. SUPPORTING SHIPPER(S): Packaging Industries of CA, Gregory G. Palmieri, Plant Manager, 12719 H Street, Biola, CA 93606. SEND PROTEST TO: D/S Paul D. Collins, Bureau of Operations, Rm 10-502 Federal Building, 400 North 8th Street, Richmond, VA 23240.

MC 69281 (Sub-47TA), filed December 8, 1978. Applicant: DAVIDSON TRANSFER & STORAGE CO., 698 Fairmount Avenue, Towson, MD 21204. Representative: Henry J. Bouchat, P.O. Box 58, Baltimore, MD 21203. *Paper, pulpboard, and paper pulpboard or woodpulp products,* serving West Point, VA as an off-route point in connection with carrier's presently authorized regular route operations, for 180 days. Applicant has also filed an underlying *ETA* seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): Mark G. Drexler, The Chesapeake Corp. of VA, Box 311, West Point, VA 23181. SEND PROTEST TO: D/S W. L. Hughes, ICC, 1025 Federal Building, Baltimore, MD 21201.

MC 88161 (Sub-93TA), filed December 18, 1978. Applicant: INLAND TRANSPORTATION CO., INC., 6737 Corson Avenue South, P.O. Box 80128, Seattle, WA 98108. Representative: Stephen A. Cole, 6737 Corson Avenue South, Seattle, WA 98108. *Gases Compressed, sulphur dioxide,* in bulk, in tank vehicles, from port of enty on the U.S. Canada boundary line located near Northport, WA to Ladora, CO, for 180 days. SUPPORTING SHIPPER(S): Cominco American Incorporated, P.O.Box 3087, Spokane, WA 99220. SEND PROTESTS TO: T/A Shirley M. Holmes, Bureau of Operations, ICC, 858 Federal Building, Seattle, WA 98174.

MC 99969 (Sub-4TA), filed December 12, 1978. Applicant: HUNTLEY TRUCKING COMPANY, Route 1, New Plymouth, OH 45654. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. *Coal,* in bulk, in dump vehicles, from Waterloo Township, Athens County, Starr Township, Hocking County, and Brown Township, Vinton County, OH to West Columbia, Mason County, WV, restricted to traffic having a subsequent movement by water, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Valley Coal Corporation, P.O. Box 148, Union Furnance, OH 43518. SEND PROTESTS TO: Frank L. Calvary, ICC, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

MC 100666 (Sub-417TA), filed December 11, 1978. Applicant: MELTON TRUCK LINES, INC., 1129 Grimmett Drive, P. O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson. 280 National Foundation Life Building, Oklahoma City, OK 73112. *Prefabricated steel buildings, knocked down, and parts and accessories of prefabricated steel buildings, and iron and steel articles* from the facilities of INRYCO, Inc., at Milwaukee, WI to points in AZ, CO, KS, MO, NC and SC, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): INRYCO, Inc., Box 393, Milwaukee, WI 53201. SEND PROTESTS TO: Connie A. Guillory, ICC, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 103798 (Sub-23TA), filed December 8, 1978. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Cheese* from Paynesville, MN to Clinton, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): Associated Milk Producers, Inc., P.O. Box 455, New Ulm, MN 56073. SEND PROTEST TO: Delores A. Poe, Transportation Assistant, ICC, Bureau of Operations, 414 Federal Building & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 105159 (Sub-37TA), filed October 17, 1978, and published in the FEDERAL REGISTER issue of December 11, 1978, and republished as corrected this issue. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main Street, Red Wing, MN 55066. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Feed and feed ingredients, grain, soybean and seed products and by-products,* except commodities in bulk in tank vehicles, from plant and storage facilities of Archer Daniels Midland Company, Red Wing, MN to points in CO, KS, NE, MO, SD, ND, IA, WI, and IL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Archer Daniels Midland Company, P. O. Box 1470, Decatur, IL 62625. SEND PROTESTS TO: Delores A. Poe, ICC, 414 Federal Building and U. S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401. The purpose of this republication is to show Iowa (IA) in lieu of Louisiana (LA) as previously published.

MC 105774 (Sub-5TA), filed December 8, 1978. Applicant: C. E. Johnson, Jct. U.S. Hwy 281 and U.S. Hwy 24, Osbourne, Kansas 67473. Representative: Erle W. Francis, 700 Kansas Avenue—Suite 719, Topeka, Kansas 66603. (1) *Iron and steel articles* to be used in manufacture of agricultural machinery, and parts and materials to be used in manufacture of agricultural machinery, from Chicago and Quincy, IL, Kansas City, MO-KS, St. Louis, MO, Houston, TX, and Oklahoma City, OK, to the facilities of Kent Manufacturing, Inc., at or near Tipton, KS. (2) *Agricultural machinery and parts,* from the facilities of Kent Manufacturing, Inc., at or near Tipton, KS to all points in AL, AR, CO, CT, DE, GA, ID, IL, IN, IA, KY, LA, MD, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI and WY, for 180 days. Applicant states it does not intend to tack or interline. Applicant has also filed an underlying *ETA* seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): Kent Manufacturing, Inc., Tipton, KS 67485. SEND PROTESTS TO: D/S Thomas P. O'Hara, Bureau of Operations, ICC, 256 Federal Building & U.S. Courthouse, 444 S.E. Quincy, Topeka, KS 66683.

MC 10641 (Sub-56 TA), filed October 27, 1978. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 31577, Charlotte, NC 28231. Representative: Thomas G. Sloan, P.O. Box 31577, Charlotte, NC 28231. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities,* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the facilities of Liquid Paper Corp., at or near Greenville, TX as an off-route point in connection with applicant's existing regular-route authority between Atlanta, GA & Ft. Worth, TX., restricted to traffic moving to, from, or through Atlanta, GA., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Liquid Paper Corp., P.O. Box 5909, Dallas, TX 75222. SEND PROTESTS TO: Terrell Price DS, 800 Briar Creek

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Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 107515 (Sub-1192 TA), filed December 7, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby & Richard M. Tettelbaum, Serby & Mitchell, P.C., Fifth Floor, Lenox Towers South, 3390 Peachtree Road, NE, Atlanta, GA 30326. *Malt beverages* (except in bulk), in vehicles equipped with mechanical refrigeration, from Winston-Salem, NC, to the facilities of City Beverage Co., Atlanta, GA. Applicant has also filed an underlying *ETA* seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): City Beverage Co., 565 Western Avenue, NW, Atlanta, GA 30314. SEND PROTESTS TO: Transportation Assistant Sara K. Davis, ICC, 1252 W. Peachtree Street, NW., Room 300, Atlanta, GA 30309.

MC 107515 (Sub-1197 TA), filed December 18, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, 5th Floor, NE, Atlanta, GA 30326. *Frozen foods,* from the facilities of The Pillsbury Company at or near Minneapolis and St. Paul, MN to AZ, CA, ID, OR, UT, WA and CO, for a period of 180 days. An underlying ETA seeks 90 days authority. RESTRICTION: The authority set forth herein is restricted to the transportation of traffic originating at the above named origins and destined to the above named destinations. Supporting shipper: The Pillsbury Company, 608 Second Avenue, S., Minneapolis, MN 55402. SEND PROTESTS TO: Sara K. Davis, I.C.C., 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 111231 (Sub-252TA), filed December 11, 1978. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds* (except in bulk, in tank vehicles), *and filters,* from points in Warren County, MS to points in AR, IL, IN, KS, MI, MO, OH and TX, restricted to shipments originating at or destined to the facilities of Quaker State Oil Refining Corporation, located in Warren County, MS, for 180 days. SUPPORTING SHIPPER(S): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. SEND PROTESTS TO: William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 117344 (Sub-280TA), filed December 11, 1978. Applicant: THE MAXWELL CO., 10380 Evendell Drive, Cincinnati, OH 45215. Representative: John C. Spencer (same as above). *Paint,* in bulk, in tank vehicles, from Connersville, IN, to Ambridge, PA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPERS(S): H. H. Robertson Company, 14th Street, Ambridge, PA 15003. SEND PROTESTS TO: Paul J. Lowry, ICC, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 117786 (Sub-44TA), filed December 11, 1978. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Road, Phoenix, AZ 85014. *Paper,* from West Carrollton, OH to points in WA, OR, CA, AZ, NV, ID, MT, UT, WY, CO, NM, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPERS(S): West Carrollton Parchment Company, P.O. Box 98, West Carrollton, OH 45449. SEND PROTESTS TO: Andrew V. Baylor, ICC, Room 2020 Federal Building, 230 N. First Avenue, Phoenix, AZ 85025.

MC 117786 (Sub-45TA), filed December 12, 1978. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85009. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. *Charcoal, charcoal briquettes, fireplace logs, charcoal lighter fluid, in cans or cartons, hickory chips* (not charred) for flavoring purposes, *vermiculite,* from Jacksonville, TX to points in AZ, CA, CO, NV, NM, UT, OK, OR, and WA, for 180 days. SUPPORTING SHIPPER(S): The Kingsford Company, P.O. Box 1033, 1700 Commonwealth Building, Louisville, KY 40201. SEND PROTESTS TO: Andrew V. Baylor, ICC, Room 2020 Federal Building, 230 N. First Avenue, Phoenix, AZ 85025.

MC 117820 (Sub-24TA), filed December 12, 1978. Applicant: AURELIA TRUCKING CO., 2121 Petit Street, Port Huron, MI 48060. Representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. (1) *Foodstuffs* (except in bulk), from the facilities of P. V. Foods, Inc., at or near Poplar, WI to points in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, MA, ME, MD, MI, MO, MN, MS, NC, NE, NJ, NY, OH, OK, PA, RI, SC, TN, VA, VT and WV; and (2) *materials and supplies* used in the manufacture of foodstuffs, (except in bulk), from the destination states listed in (1) above to the facilities of P. V. Foods, Inc., at or near Poplar, WI, for 180 days. Restricted in (1) and (2) above to traffic originating at the named origins and destined to the named destinations. SUPPORTING SHIPPER(S): P. V. Foods, Inc., Suite 180, 2021 E. Hennepin, Minneapolis, MN 55413. SEND PROTESTS TO: Tim Quinn, ICC, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48224.

MC 118142 (Sub-198TA), filed December 5, 1978. Applicant: M. BRUENGER & CO., INC., 6250 No. Boradway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. *Meat, meat products, meat by-products, and articles* distributed by meat packing houses, as described in sections A and C of Appendix I to the Report and Descriptions in Motor Carrier's Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of York, NE to Fresno, Los Angeles, and Lodi, CA, for 180 days. Applicant has also filed an underlying *ETA* seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): York Packing Company, York, NE 68467. SEND PROTESTS TO: M. E. Taylor, District Supervisor, ICC, 101 Litwin Building, Wichita, KS 67202.

MC 118159 (Sub-304TA), filed December 11, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Boulevard, Fort Lauderdale, FL 33308. *Paper and paper products,* from the facilities of The Mead Corporation at or near Kingsport, TN to points in CT, ME, MA, NH, those points in NJ on and north of a line beginning at Camden, NJ and extending along NJ Hwy 70 to NJ Hwy 88, and then along NJ Hwy 88 to the Atlantic Ocean at Point Pleasant Beach, those points in NY on and east of a line beginning at Oswego, NY and extending along NY Hwy 57 to U.S. Hwy 11, then along U.S. Hwy 11 to the NY-PA State line, PA, RI, VT, and WV, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): The Mead Corporation, Courthouse Plaza N.E., Dayton, OH 45463. SEND PROTESTS TO: Connie Stanely, ICC, Room 240 Old U.S. Post Office, 215 Northwest Third, Oklahoma City, OK 73102.

MC 119726 (Sub-154TA), filed December 11, 1978. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 130 E. Washington Stret, Suite 1000, Indianapolis, IN 46204. *Plastic containers and closures,* from the warehouse facilities of the Continental Glass, at or near Indianapolis, IN to Carbondale, IL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Continental Glass Company, 8230 Allison Avenue, Indianapolis, IN 46268. SEND

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PROTESTS TO: Beverly J. Williams, ICC, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 119726 (Sub-155TA), filed December 11, 1978. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 130 E. Washington Street, Suite 1000, Indianapolis, IN 46204. *Metal containers* from the plantsites and warehouses, of National Can Corporation at or near Marion and Archibold, OH to Pascagoula, MS, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): National Can Corporation, 8101 West Higgins Road, Chicago, IL 60631. SEND PROTESTS TO: Beverly J. Williams, ICC, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianaplis, IN 46204.

MC 119798 (Sub-531TA), filed December 6, 1978. Applicant: SOUTHWEST SUPPLY, INC., 350 Roanoke Street, Bluefield, WV 24701. Representative: John M. Friedman, 2930 Putman Avenue, Hurricane, WV 25526. *(1) Ice cream and frozen desserts and (2) milk, dairy cultured products and ice cream and frozen desserts,* from (1) Philadelphia, PA and (2) Bluefield, WV, to (1) Bluefield, VA, Logan, Huntington and Parkersburg, WV, and (2) Parkersburg, WV, for 180 days. SUPPORTING SHIPPER(S): Fairmont Foods Company, P.O. Box 588 (2065 Virginia Avenue), Bluefield, VA. SEND PROTESTS TO: Secretary, ICC, 3108 Federal Bldg., 500 Quarrier Street, Charleston, WV 25301.

MC 123054 (Sub-23TA), filed December 7, 1978. Applicant: R & H CORPORATION, 295 Grand Avenue, Box 469, Clarion, PA 16214. Representative: Williams J. Lavelle, Attorney-at-Law, 2310 Grant Building, Pittsburgh, PA 15219. *Glass containers,* from Hartford and Dayville, Connecticut to Paducah, Kentucky and Detroit, Michigan, for 180 days. Applicant has also filed an underlying *ETA* seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): Glass Containers Corporation, 1301 South Keystone Avenue, Indianapolis, IN 46203. SEND PROTESTS TO: D/S John J. England, Bureau of Operations, ICC, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 124117 (Sub-31TA), filed November 20, 1978. Applicant: EARL FREEMAN & MARIE FREEMAN, d/b/a MID-TENN EXPRESS, P.O. Box 101, Eagleville, TN 37060. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. *Malt beverages, related advertising materials, containers and pallets,* between Evansville, IN and its commercial zone, on the one hand, and on the other, points in MS and NC, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): G. Heileman Brewing Company, Inc., 925 S. 3rd St., LaCrosse, WI 54601. SEND PROTESTS TO: Joe J. Tate, I.C.C., Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 124159 (Sub-9TA), filed December 11, 1978. Applicant: DAGGETT TRUCK LINE, INC., Frazee, MN 56544. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Prepared food products,* from the facilities of Barrel O'Fun located at or near Perham, MN, to points in MT and ND, for 180 days. SUPPORTING SHIPPER(S): Barrel O'Fun, Inc., Box L, Perham, MN 56573. SEND PROTESTS TO: Ronald R. Mau, ICC, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 124949 (Sub-3TA), filed December 7, 1978. Applicant: HI-LINE TRUCKING, INC., P.O. Box 628, Sidney, MT 59270. Representative: Joe Gerbase, Anderson, Symmes, Brown, Gerbase, Cebull & Jones, 404 North 31st Street, Billings, MT 59101. *Pipe* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, used in or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, from Sidney and Glendive, MT to Divide, Burke, Renville, Bottineau, Williams, Mountrail, Ward, McKenzie, Mercer, Billings, Dinn, Oliver, Golden Valley, Stark, Morton, Burleigh, Slope, Hettinger, Grant, Bowman, Adams, McLean, McHenry, Sioux, and Emmons Countries, ND, for 180 days. Applicant has also filed an underlying *ETA* seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): Brownlie, Wallace, Armstrong & Bander Oil Co., Searing Route 15B, Sidney, MT 59270; Misco-United Supply, Inc., Misco Building, Wichita, KS 67202; N. L. Acme Tool, P.O. Box 1347, Glendive, MT 59330. SEND PROTESTS TO: D/S Paul J. LeBane, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 133966 (Sub-55TA), filed October 24, 1978, and published in the FEDERAL REGISTER issue of January 4, 1978, as MC 133966 (Sub-56TA), and republished as corrected this issue. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, PA 18707. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. (1) *Metal containers,* with or without lids, from Hanover Township, PA to Albert Lea, MN, Bowling Green, OH; Chicago, Il; Cincinnati and Columbus, OH; Detroit, MI; Kansas City, KS; Kansas City, MO; Louisville, KY; Milwaukee, WI, Newark, NJ, and New York, NY, and their commercial zones; and (2) *products* used in the manufacturing, distribution, and sales of metal containers, with or without lids, from Bryan, OH, Chicago, IL, and Elizabeth, NJ to Hanover Township, PA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Bertels Can Company, Hanover Industrial Estates, Wilkes-Barre, PA 18703. SEND PROTESTS TO: Paul J. Kenworthy, ICC, 314 U.S. Post Office Building, Scranton, PA 18503. The purpose of this republication is to add Kansas City, MO as a destination point in part (1) of the territorial description.

MC 136077 (Sub-11TA), filed December 11, 1978. Applicant: REVBER CORP., 2216 Old Arch Road, Norristown, PA 19401. Representative: Sheri B. Friedman, 1600 Land Title Building, 100 S. Broad Street, Philadelphia, PA 19110. *Lime* in packages, bags and in bulk, from G. and W. H. Corson, Inc., in Plymouth Meeting, Montgomery County, PA to points in GA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): G. & W. H. Corson, Inc., Plymouth Meeting, PA. SEND PROTESTS TO: T. M. Esposito, ICC, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 136315 (Sub-46TA), filed December 7, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. *Glue extenders,* in containers, from Memphis, TN to the facilities of Georgia-Pacific Corporation at Louisville and Taylorsville, MS, for 180 days. SUPPORTING SHIPPER(S): Georgia-Pacific Corporation, P.O. Box 520, Crossett, AR 71635. SEND PROTESTS TO: Alan C. Tarrant, District Supervisor, ICC, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 139193 (Sub-90TA), filed November 9, 1978, and published in the FEDERAL REGISTER issue of December 29, 1978, and republished as corrected this issue. Applicant: ROBERTS & OAKE, INC., Blue Ridge Tower, Suite 820, 4240 Blue Ridge Boulevard, Kansas City, MO 64135. Representative: Jacob P. Billig, 2033 K Street, NW, Suite 300, Washington, DC 20006. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses,* as described in Sections A and C

of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk, hides and skins), from Montgomery, AL to all points in the U.S. (except AK, AL and HI), restricted to a transportation service, performed under a continuing contract or contracts with John Morrell & Co., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): John Morrell & Co., Chicago, IL. SEND PROTESTS TO: John V. Barry, ICC, Room 600, 911 Walnut, Kansas City, MO 64106. The purpose of this republication is to correctly describe the commodities sought to be transported thereby.

MC 139495 (Sub-401TA), filed December 12, 1978. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, KS 67901. Representative: James E. McCarty (same as above). *Paper and paper products,* from the facilities of Champion International Corporation at or near Cincinnati and Hamilton, OH, Bentonville and Little Rock, AR, Los Angeles, Sacramento, San Francisco, CA, Colorado Springs and Denver, CO, Clinton and Des Moines, IA, Kansas City, Topeka and Wichita, KS, Minneapolis and St. Paul, MN; Kansas City and St. Louis, MO, Lincoln and Omaha, NE; Oklahoma City and Tulsa, OK; Portland, OR; Salt Lake City, UT; Kent, Seattle and Tuwila, WA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Champion International Corporation, Knightsbridge Drive, Hamilton, OH 45020. SEND PROTESTS TO: M. E. Taylor, ICC, 101 Litwin Building, Wichita, KS 67202.

MC 14189 (Sub-1TA), filed December 12, 1978. Applicant: HUNTER TRUCKING, INC., 805 32nd Avenue, Council Bluffs, IA 51501. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Lumber,* from Evanston, WY, to points in IA, IL, IN, MI and OH. Applicant intends to interline at Evanston, WY, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are approximately four statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Carroll Russell, ICC, Suite 620, Union Pacific Plaza, 110 North 14th Street, Omaha, NE 68102.

MC 141804 (Sub-157TA), filed December 6, 1978. Applicant: WESTERN EXPRESS, Div. of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. *Alcoholic beverages* from Detroit, MI to points in CA, for 180 days. SUPPORTING SHIPPER(S): Joseph E. Shagrams & Sons, Inc., 800 Third Avenue, New York, NY 10022. SEND PROTESTS TO: Irene Carlos, Transportation Assistant, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 142114 (Sub-4TA), filed November 29, 1978. Applicant: RETAIL EXPRESS, INC., 9 Stuart Road, Chelmsford, MA 01824. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores (except commodities in bulk and frozen foodstuffs), between the facilities of King's Department Stores, Inc., and Mammoth Mart, Inc., at points in CT, DE, IN, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, TN and VA, under a continuing contract(s) with King's Department Stores, Inc., for 180 days. SUPPORTING SHIPPER(S): King's Department Stores, Inc., 150 California Street, Newton, MA 02158. SEND PROTESTS TO: John B. Thomas, ICC, 150 Causeway Street, Boston, MA 02114.

MC 143471 (Sub-8TA), filed December 7, 1978. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 301 Mt. Rushmore Road, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. *Gypsum wallboard* from Albuquerque, NM to points and places in CO, NE, SD, and WY for 180 days under a continuing contract or contracts with Knecht Industries, Inc., including its wholly owned, unincorporated divisions of Building Material Distributors, Big K Cash & Carry, Mastercraft Factory, Homes by Knecht, Mastercraft Homes and Knecht Lumber Company. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): Dan Baker, TM, Knecht Industries, Inc., 301 Mt. Rushmore Road, Rapid City, SD 57701. SEND PROTESTS TO: James Hammond, District Supervisor, Interstate Commerce Commission, Room 455 Federal Building, Pierre, SD 57501.

MC 143659 (Sub-6TA), filed December 7, 1978. Applicant: VALLEY TRUCKING, INC., Box 55, Rural Route 2, Fargo, ND 58107. Representative: James B. Hovland, 414 City Building, P.O. Box 1680, Fargo, ND 58107. *Meats, meat products, meat by-products and articles* distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Huron Dressed Beef at or near Huron, SD, to points in ND, NE, KS, MN, IA, MO, WI, IL, IN, MI and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): Huron Dressed Beef, P.O. Box 924, Huron, SD 57350. SEND PROTESTS TO: Ronald R. Mau, District Supervisor, Bureau of Operations, ICC, Rm. 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102

MC 143775 (Sub-49TA), filed December 20, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85302. Representative: Michael R. Burke, 6601 West Orangewood, Glendale, AZ 85302. *Frozen Foods,* from the facilities of Pet Incorporated, Frozen Foods Division at or near Benton Harbor, Frankfort, and Hart, MI and South Bend, IN, to points in AR, LA, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Pet Incorporated, Frozen Foods Division, P.O. Box 392, St. Louis, MO 63166. SEND PROTESTS TO: Andrew V. Baylor, I.C.C., Rm. 2020 Federal Bldg., 230 N. First Ave., Phoenix, AZ 85025.

MC 144018 (Sub-3TA), filed December 8, 1978. Applicant: ROBERT L. DRINKARD TRUCKING, INC., P.O. Box 2951, Eugene, OR 97403. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. *Fibrous fuel pellets* from Brownsville, OR to Tacoma, Orting, Spokane, Pullman and Fort Steilacoom, WA, and Kellogg and Boise, ID, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): Bio-Solar Research & Development Corp., 1500 Valley River Drive, Suite 220, Eugene, Oregon 97401. SEND PROTESTS TO: D/S A. E. Odoms, Bureau of Operations, ICC, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 144089 (Sub-4TA), filed December 11, 1978. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Iron and steel articles,* (1) between the facilities of Florida Steel Corporation at Charlotte and Raleigh, NC and Aiken, SC, on the one hand, and, on the other, points in AL, KY, GA, NC, SC, TN, VA, and WV; and (2) between the facilities of Republic Steel Corporation at or near Charlotte, NC, Bristol, TN, and Seneca, SC, on the one hand, and, on the other, points in AL, GA, KY, NC, SC, TN, VA, and WV, for 180 days. SUPPORTING SHIPPER(S): Florida Steel Corp., P.O. Box 31067,

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Charlotte, NC 28231. Republic Steel Corp., P.O. Box 6778, Cleveland, OH 44101. SEND PROTESTS TO: Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 144184 (Sub-2TA), filed December 18, 1978. Applicant: R. T. PUGH MOTOR TRANSPORTATION, INC., 233 Whiley Avenue, Lancaster, Ohio 43130. Representative: James Duvall, 220 West Bridge Street, Dublin, Ohio 43107. *Glass cullet*, in bulk, in dump vehicles, from Marion, Ohio to the facilities of Anchor Hocking Corporation, at or near Winchester, Indiana, for 180 days. SUPPORTING SHIPPER(S): Anchor Hocking Corporation, 109 North Broad Street, Lancaster, OH 43130. SEND PROTESTS TO: D/S Frank L. Calvary, ICC, 220 Federal Building & U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

MC 144233 (Sub-2TA), filed December 11, 1978. Applicant: RAJEAN, INC., Highway 64 East, Russellville, AR 72801. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. *Zinc oxide, zinc dust, zinc slabs, and zinc dross* (except commodities in bulk in tank vehicles), from the facilities of St. Joe Zinc Company located in Josephtown, Potter Township, Beaver County, PA to points and places in TN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): St. Joe Zinc Company, Two Oliver Plaza, Pittsburgh, PA 15222. SEND PROTESTS TO: William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145022 (Sub-3TA), filed December 6, 1978. Applicant: MARSH BROTHERS TRUCKING SERVICE, INC., 1811 Howell Avenue, Dayton, OH 45407. Representative: Jerry B. Sellman, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. *Coal*, from points in Boyd, Breathitt, Carter, Clay, Elliott, Estill, Floyd, Greenup, Jackson, Knott, Johnson, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Madison, Magoffin, Martin, Menifee, Morgan, Owsley, Perry, Rockcastle, Rowan, Whitley, and Wolfe Counties, KY, to Montgomery County, OH, for 180 days. Applicant has also filed an underlying *ETA* seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): General Motors Corporation, Earl H. Omlor, Traffic Manager, P.O. Box 824, Dayton, OH 45401, Danis Coal Corporation, D. L. Quarterson, Vice President, 260 Northland Boulevard, Cincinnati, OH 45246. SEND PROTESTS TO: Paul J. Lowry, District Supervisor, Bureau of Operations, ICC, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 145072 (Sub-4TA), filed December 4, 1978. Applicant: M. S. CARRIERS, INC., 7372 Eastern Avenue, Germantown, TN 38138. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Soap products*, from Memphis, TN to points in IL, IN, OH, MI, NC, GA, AL, OK, and TX, for 180 days. SUPPORTING SHIPPER(S): Valley Products Co., P.O. Box 16745, Memphis, TN 38116. SEND PROTESTS TO: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Street, 100 North Main Building, Suite 2006, Memphis, TN 38103.

MC 145102 (Sub-2TA), filed December 8, 1978. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Paul M. Daniell, 1200 Gas Light Tower, 235 Peachtree Street, NE, Atlanta, GA 30303. *Meat, meat products, meat by-products and articles* distributed by meat packinghouses as described in Sections A & C Appendix I to the report in Descriptions in motor carrier Certificates 61, M.C.C. 209 and 766 (except hides and commodities in bulk) from the facilities utilized by John Morrell & Co. at Estherville, IA and St. Paul and Worthington, MN to points in CA, for 180 days. SUPPORTING SHIPPER(S): John Morrell & Co., at 208 S. LaSalle Street, Chicago, IL 60604. SEND PROTESTS TO: Gail Daugherty, Transportation Assistant, ICC, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Rm 619, Milwaukee, Wisconsin 53202.

MC 145104 (Sub-1TA), filed November 27, 1978. Applicant: MIL-CO TRUCKING, INC., 319 S. Main Street, West Unity, Ohio 43570. Representative: James W. Muldoon, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, Ohio 43215. Rock salt in bulk, from the facilities of Material Service Co., Chicago, Illinois; Ireland and Lester Dock, St. Joseph, Michigan; and Truckway Service Inc. Dock, Toledo, Ohio; to the State of Indiana, for 180 days. An undelying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Domtar Industries, Inc., 9950 W. Lawrence Ave., Schiller Park, IL 60176. SEND PROTESTS TO: I.C.C., 313 Federal Office Bldg., 234 Summit St., Toledo, OH 43604.

MC 145383 (Sub-1TA), filed October 5, 1978, and published in the FEDERAL REGISTER issue of November 21, 1978, and republished as corrected this issue. Applicant: JAMES RENALDO AND GAY ROSE RENALDO, dba, KAI MOTOR FREIGHT, I-295 and Harmond Road, Gibbstown, NJ 08027. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, washing and polishing soaps and compounds, varnishes, rust preventatives, oils and greases* (except in bulk), and on return, *materials, equipment and supplies* used in the manufacture, sale and distribution thereof (except in bulk) from Avenel, NJ to points in AR, FL, GA, NC, SC, TN, and TX, under a continuing contract or contracts with Economics Laboratory, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Economics Laboratory, Inc., 255 Blair Road, Avenel, NJ 07001. SEND PROTESTS TO: John P. Lynn, ICC, 428 East State Street, Room 204, Trenton, NJ 08608. The purpose of this republication is to show *soaps* in lieu of *scaps* in the commodity description, and also to add Texas (TX) to the territorial description as previously omitted.

MC 145684 (Sub-1TA), filed November 6, 1978, and published in the FEDERAL REGISTER issue of December 29, 1978, and republished as corrected this issue. Applicant: T. H. SOSSAMAN, P.O. Drawer 33, Hereford, TX 79045. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry animal and poultry feeds, and equipment and supplies* used in the raising of livestock, in mixed loads with dry animal and poultry feeds, (except liquid commodities in bulk, in tank vehicles); and (2) *materials, equipment and supplies* used in the manufacture and distribution of dry animal and poultry feeds, (except liquid commodities in bulk, in tank vehicles), (1) from Hereford, TX to points in OK, NM, NE, KS, and CO; and (2) from points in OK, NM, NE, KS, and CO to Hereford, TX, under a continuing contract or contracts with Moorman Manufacturing Company, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Moorman Manufacturing Company, Hereford, TX. SEND PROTESTS TO: Haskell E. Ballard, ICC, Box F-13206 Federal Building, Amarillo, TX 79101. The purpose of this republication is to show protestants complete address.

MC 145836TA, filed December 6, 1978. Applicant: RALPH O. SOOTS, d/b/a Tryco Trucking Company, P.O. Box 8825, Charlotte, NC 28208. Representative: Ralph O. Soots, P.O. Box 8825, Charlotte, NC 28208. *Such commodities* as are dealt in by retail department stores and materials, supplies and equipment used by department stores between facilities of Belk Stores located in Charlotte, NC, Johnson City, TN, Knoxville, TN, Nashville, TN and Atlanta, GA, for 180 days. Applicant has also filed an underlying *ETA* seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): Belk Stores Services, Inc., 308 E. Fifth St., P.O. Box 31788, Charlotte, NC. SEND PROTESTS TO: D/S Terrell Price, 800 Briar Creek Road, Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 145839TA, filed December 6, 1978. Applicant: ASSOCIATED TRUCKING, INC., 2500 Broadway—Dept. 13, Camden, NJ 08104. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Leaf springs, iron and steel castings and/or forgings*, from Baltimore, MD and Camden, NJ to points in United States east of the Mississippi River, and points in TX, NE, OK, MO and LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): ATZ Industrial Co. Ltd., 2340 Lucerne Road, Suite 23, Montreal, Quebec H3R 2J8. SEND PROTESTS TO: T/S John P. Lynn, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 145930TA, filed December 20, 1978. Applicant: WILLIAM E. MOROG, d/b/a JONICK & CO., 2815 E. Liberty, Vermilion, OH 44089. Representative: Michael M. Briley, Attorney at Law, 300 Madison Ave., 12th Fl., Toledo, OH 43603. *Lime and limestone products*, in bulk, from Carey, Delaware, Huron, Maple Grove and Spore, OH to Chicago, IL (and its commercial zone) and all points in the states of KY, MI, NY, PA and WV, for 180 days. SUPPORTING SHIPPER: Federal Lime and Stone Co., 20600 Chagrin Blvd., Cleveland, OH 44122. SEND PROTESTS TO: I.C.C., 313 Federal Office Bldg., 234 Summit St., Toledo, OH 43604.

MC 145942 (Sub-1TA), filed November 27, 1978. Applicant: WILLIAM E. HILL d/b/a BILL HILL TRUCKING, Route No. 18, East, Hamler, Ohio 43524. Representative: Michael Spurlock, 275 East State Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat* and *bone meal* (*meat scraps*) and *blood meal*, (1) between Columbus, Wauseon and Massillon, OH, on the one hand, and, on the other, points in Lansing, Battle Creek, and Chelsea, MI, and Ft. Wayne, IN.; (2) between Mishawaka, IN, on the one hand, and, on the other, points in Lansing, Battle Creek, and Chelsea, MI, Delta and Gilboa, OH; (3) between Coldwater and Detroit, MI, on the one hand, and, on the other, points in Delta and Gilboa, OH, and Ft. Wayne, IN. RESTRICTION: The authority sought herein is limited to a transportation service to be performed under a continuing contract with the Agri-Trading Corporation of Hutchinson, MN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Agri-Trading Corporation, P.O. Box 457, Hutchinson, MN. SEND PROTESTS TO: I.C.C., 313 Federal Office Bldg., 234 Summit St., Toledo, OH 43604.

PASSENGER AUTHORITY

MC 109736 (Sub-44TA), filed December 12, 1978. Applicant: CAPITOL BUS COMPANY, 1061 South Cameron Street, Harrisburg, PA 17104. Representative: S. Berne Smith, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108. *Passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, (1) Between Harrisburg, PA and Baltimore-Washington International Airport, MD, serving the intermediate points of Manchester and Springettsbury Townships, York County, PA, in conjunction with traffic moving to or from the Baltimore-Washington International Airport only, and serving the junction of Interstate Hwy 83 and PA Hwy 114 and the junction of MD Hwy 46 and Baltimore-Washington Parkway for purposes of joinder only, from Harrisburg, PA, over Interstate Hwy 83, to junction Interstate Hwy 695, then over Interstate Hwy 695 to junction Baltimore-Washington Parkway, then over Baltimore-Washington Parkway to junction MD Hwy 46, then over MD Hwy 46 to Baltimore-Washington International Airport, and return over the same route, (2) Between the junction of Interstate Hwy 83 and PA Hwy 114 and the Capital City Airport, serving no intermediate points and serving the junction Hwy 114 and the Capital City Airport, serving no intermediate points and serving junction of Interstate Hwy 83 and PA Hwy 114 for purposes of joinder only, from the junction of Interstate Hwy 83 and PA Hwy 114, then over PA Hwy 114 to the Capital City Airport, and return over the same route, (3) Between the junction of Interstate Hwy 83 and Interstate Hwy 76 and the junction of Interstate Hwy 76 and U.S. Hwy 15, serving no intermediate points, from the junction of Interstate Hwy 83 and Interstate Hwy 76, then over Interstate Hwy 76 to junction U.S. Hwy 15, and return over the same route, (4) Between Harrisburg, PA, and the Harrisburg International Airport, serving the intermediate point of the junction of Interstate Hwy 283 and Interstate Hwy 76 (Interchange No. 19) for purposes of joinder only, from Harrisburg, PA, Interstate Hwy 83 to junction Interstate Hwy 283, then over Interstate Hwy 283 to junction PA Hwy 283, then over PA Hwy 283 to Airport Access Road (LR 1081 Spur A), then over Airport Access Road to the Harrisburg International Airport, and return over the same route, (5) Between the junction of Interstate Hwy 283 and Interstate Hwy 76 and the junction of Interstate Hwy 76 and Interstate Hwy 83, serving no intermediate points, from the junction of Interstate Hwy 283 and Interstate Hwy 76, then over Interstate Hwy 76 to junction Interstate Hwy 83, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. There are approximately (7) statement of support attached to this application which may be examined a the I.C.C., in Wash. D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Charles F. Myers, I.C.C., P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

PASSENGER AUTHORITY

MC 123481 (Sub-2TA), filed December 11, 1978. Applicant: BROWN LINES, INC., 22 First Street West, Kalispell, MT 59901. Representative: Charles A. Webb, Room 800, M Street NW., Washington, D.C. 20036. *Passengers and their baggage*, in the same vehicle with passengers, in special operations, in round-trip pleasure and sightseeing tours, beginning and ending at Kalispell, Libby and Troy, MT and extending to points in the United States (including AK but excluding HI), for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are approximately (6) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Paul J. Labane, ICC, 2602 First Avenue North, Billings, MT 59101.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-2969 Filed 1-26-79; 8:45 am]

[7035-01-M]

[Notice No. 152]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the

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quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representatives(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77919, filed November 1, 1978. Transferee: WALKUP DRAYAGE AND WAREHOUSE CO., a Corporation, 11th and Pine Street, P.O. Box 24463, Oakland, CA 94623. Transferor: D'Onofrio Drayage, Inc., 1404 Franklin Street #318, Oakland, CA 94612. Representative: Michael S. Rubin, Attorney at Law, 256 Montgomery Street, San Francisco, CA 94104. Authority sought for purchase by transferee of the operating rights set forth in Certificate of Registration No. MC-99286 (Sub-No. 2), issued October 23, 1974, to transferor evidencing a right to engage in transportation in interstate commerce as described in Decision No. 82048, dated October 30, 1973, issued by the Public Utilities Commission of California. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77931, filed November 14, 1978. Transferee: EDEN VAN LINES, INC., 375 E. Railroad Avenue, Liberal, KS 67901. Transferor: Davis Van & Storage, Inc. 10208 W. 96th Terr., Overland Park, KS 66214. Representative: Larry E. Gregg, Attorney at Law, 641 Harrison Street, Topeka, KS 66603. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC-92082 (Sub-No. 1), issued October 2, 1959, as follows: Petroleum, petroleum products, in containers, agricultural machines, filling station equipment and supplies, from Garden City, KS, and points within 50 miles thereof, to points in Colorado on and east of U.S. Hwy. 85; malt beverages, from points in Colorado on and east of U.S. Hwy. 85, to Garden City, KS, and points within 50 miles thereof; household goods and livestock, between Garden City, KS, and points within 50 miles thereof, on the one hand, and, on the other points in Colorado on and east of U.S. Highway 85, household goods, between points in that part of Kansas on and west of U.S. Hwy. 183, on the one hand, and, on the other, points in Colorado, Nebraska, Oklahoma, and Texas (except Garden City, KS, and points within 50 miles thereof, and points in that of Colorado on and east of U.S. Hwy. 85); emigrant movables and household goods, between Great Bend, KS, and points within 25 miles of Great Bend, on the one hand, and, on the other, points in Colorado, Missouri, and Oklahoma; and machinery, materials, supplies, and equipment, incidental to, or used in, the construction of, development, operation and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between points in Kansas. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77949, filed December 8, 1978. Transferee: THE FILM TRANSIT COMPANY, a Corporation, 2011 West 50th Street, Cleveland, OH 44102. Transferor: Film and Package Delivery, Inc., 1555 East 40th Street, Cleveland, OH 44103. Representative: James Duvall, Attorney at Law, 220 West Bridge Street, Dublin, OH 43017. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate of Registration No. MC-120290 (Sub-No. 1), issued September 29, 1972, evidencing a right to engage in transportation in interstate commerce as described in that portion of Certificate No. 3409-R, as was embraced in predecessor's certificate of registration, transferrd and reissued March 15, 1972, by the Public Utilities Commission of Ohio. Transferee presently holds authority from this Commission under Certificate of Registration No. MC-97684 (Sub-No. 1), and does not seek temporary authority under Section 210a(b).

MC-FC-77973, Filed December 20, 1978. Transferee: JON W. McCARTER, McCarter Transit, 2589 Darlington Road, Beaver Falls, PA 15010. Transferor: Beaver Valley Motor Coach Company, a Corporation, Box 238, New Brighton, PA 15066. Represntative: John A. Pillar, Attorney for Transferee, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. Samuel P. Delisi, Attorney for Transferor, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. Authority sought to puchase by transferee of the operating rights of transferor as set forth in Certificates Nos. MC-117173 and MC-117173 Subs-No. 1 and 2, issued August 19, 1958, April 26, 1961, and May 17, 1962, respectively as follows: Passengers and their baggage, and express and newspapers in the same vehicle with passengers, over regular routes, between Sewickley, PA and Negley, OH, serving all intermediate points, between East Livepool, OH and Rochester, PA, serving all intermediate points, and between Sewickley, PA and Pittsburgh, PA, serving all intermediate points; and passengers and their baggage, in the same vehicle with passengers, in round trip special and charter operations, beginning and ending at points in Beaver County, PA and extending to points in the United States including Alaska, but excluding Hawaii. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-2967 Filed 1-26-79; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

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[6320-01-M]

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[M-191 Amdt. 2, Jan. 23, 1979]

NOTICE OF ADDITION OF ITEM TO THE JANUARY 24, 1979 MEETING AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., January 24, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 3a. Delegation of authority to the Director, Bureau of International Aviation to permit him to grant or deny applications under § 416(b) for exemptions from § 402 where the course of action is clear under current Board policies. (OGC)

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This item would allow the Director, BIA, to grant exemptions from § 402 when the course of action is clear under current Board policies. The staff work on the delegation had proceeded on the assumption that there would be a February 1, 1979 Board meeting which would consider the recommended delegation. Staff resources which would otherwise process pending exemption applications were allocated on the assumption that the recommended delegation would be discussed and approved on February 1, 1979. On January 22, 1979, the staff working on the delegation learned that there would be no scheduled Board meeting between January 24, 1979 and February 7, 1979. Staff work on the delegation is now completed but the staff work necessary to process pending applications via Board order, as opposed to delegation, has not begun. Accordingly, the following Members have voted that agency business requires the addition of this Item to the January 24, 1979 agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-186-79 Filed 1-25-79; 9:06 am]

[6712-01-M]

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, January 31, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

Agenda, Item No., and Subject

General—1—Revocation of type approvals for five models of FM wireless microphones.
General—2—Establishing date for filing waiver of FCC divestiture requirement for monopoly newspaper-broadcast combinations.
General—3—Amendments of Parts 2, 81, 83 and 91—to provide frequencies, standards and procedures for on-board communications in the Industrial and Maritime Mobile Services.
General—4—Amendment of Parts 81 and 83 to provide for the use of single sideband emission A3J (suppressed carrier) on the maritime mobile radiotelephone frequency 2182 kHz. (Gen Docket No. 78-208).
General—5—Amendment of Part 81 of the rules to require applicants for public coast stations to meet certain financial qualifications.
General—6—Fee Refund Program—$20 and below.
General—7—Report and Order regarding Phase I of the Fee Refund Program.
General—8—Application of Ex Parte Rules to declaratory ruling request of McGraw-Hill Broadcasting regarding acquisition of McGraw-Hill, Inc., by American Express Company.
General—9—Commission briefing on Freedom of Information Act request covering internal documents involving Common Carrier regulation from 1950-1970.
Common Carrier—1—Transportation Microwave Corporation's request for an extension of the waiver of Sections 2.106, 21.120 and 21.701 of the Commission's Rules and Regulations.
Common Carrier—2—Western Union International Tariff for Partial Month's Service.
Common Carrier—3—ITT World Communications Inc. tariff revisions to establish rates and regulations for telex service between ITT gateway telex subscribers and Mexico.
Cable Television—1—Petitions for Reconsideration of Commission's decision in *Arlington Telecommunications Corp.*, FCC 76-781, filed by National Association of Broadcasters, et al.
Cable Television—2—Petition for Reconsideration filed by Citizens Committee for Expansion of Commercial Television to the State of Delaware and Application for Review filed by WBOC-TV, Inc., WBOC-TV, Salisbury, Maryland.
Cable Television—3—Petition for waiver filed by Global Cable TV, which proposes to operate a cable television system serving the Village of Lancaster, New York.
Assignment and Transfer—1—Application to assign the license of FM station KFMR, Fremont, California from Alameda Broadcasting, Inc. to Robert L. Williams, Inc. and James E. Coyle, d/b/a Spanish Metro, (BALH-2721), et al.
Complaints and Compliance—1—Application for Review filed by William A. Albaugh of the Broadcast Bureau's ruling denying his Fairness Doctrine complaint against WETA-TV, Washington, D.C.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone number (202) 632-7260.

Issued: January 24, 1979.

[S-192-79 Filed 1-25-79; 3:22 pm]

[6140-02-M]

3

FEDERAL ENERGY REGULATORY COMMISSION.

NOTICE OF MEETING, JANUARY 24, 1979

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b.

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: January 31, 1979, 10 a.m.

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PLACE: 825 North Capitol St. NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED:

AGENDA

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the Office of Public Information.

POWER AGENDA—243RD MEETING, JANUARY 31, 1979, REGULAR MEETING

CAP-1.—Docket No. ER79-89, Missouri Public Service Company.
CAP-2.—Docket No. ER79-57, New England Power Company.
CAP-3.—Docket No. ER79-79, Ohio Power Company, Appalachian Power Company and Wheeling Electric Company.
CAP-4.—Docket No. ER79-105, Alcoa Generating Corporation.
CAP-5.—Docket Nos. ER77-528 and ER77-616, Northern States Power Company of Minnesota.
CAP-6.—Docket No. ER78-291, Northern States Power Company (Minnesota).
CAP-7.—Docket No. EL78-18, Highlands v. Alcoa, et al. Docket No. ER76-826, Nantahala Power and Light Company.
CAP-8.—Project Nos. 2284 and 2834, Central Maine Power Company.

GAS AGENDA—243RD MEETING, JANUARY 31, 1979, REGULAR MEETING

CAG-1.—Docket No. RP74-100 (PGA No. 79-3), National Fuel Gas Supply Corporation.
CAG-2.—Docket No. RP79-25, Southern Natural Gas Company.
CAG-3.—Docket No. RP73-23 (PGA No. 79-2), Lawrenceburg Gas Transmission Corporation.
CAG-4.—Docket No. RP75-8, Commercial Pipeline Company, Inc.
CAG-5.—Docket Nos. RP78-78 and RP78-76, Natural Gas Pipeline Company of America.
CAG-6.—Docket No. RP72-134, Eastern Shore Natural Gas Company.
CAG-7.—Docket No. RP74-41 (AP79-1), Texas Eastern Transmission Corporation.
CAG-8.—Docket Nos. RP72-156 (PGA 79-1), RP72-164 (DCA 79-1) and RP77-139, Texas Gas Transmission Corporation.
CAG-9.—Docket No. CP77-337, Algonquin Gas Transmission Company.
CAG-10.—Docket Nos. CP76-37 and RP77-97, El Paso Natural Gas Company.
CAG-11.—Docket No. RP72-157, Consolidated Gas Supply Corporation.
CAG-12.—Docket Nos. RP76-39 and RP77-6, Sea Robin Pipeline Company.
CAG-13.—Docket No. RP75-79, Lehigh Portland Cement Company v. Florida Gas Transmission Company.
CAG-14.—Docket No. RI77-104, Kennedy & Mitchell, Inc.
CAG-15—Docket No. CI79-164, Kerr-McGee Corporation. Docket No. CI79-23, Continental Oil Company. Docket No. CI79-8, The Superior Oil Company. Docket No. CI78-617, Atlantic Richfield Company. Docket No. CI75-367, Pennzoil Company. Docket No. CI79-169, Transco Exploration Company.
CAG-16.—Docket Nos. CI76-590, et al., Appalachian Exploration and Development, Inc., et al.
CAG-17.—Docket No. CP76-169, C. B. Gas Gathering, Inc.
CAG-18.—Docket No. CI78-462, CIG Exploration, Inc.
CAG-19.—Docket No. CI78-726, Champlin Exploration, Inc.
CAG-20.—Docket Nos. CI78-628, et al., Louisiana Land Offshore Exploration Company, Inc., et al.
CAG-.—Docket No. CP73-184, Colorado Interstate Gas Company. Docket No. CI73-485, CIG Exploration, Inc.
CAG-22.—Docket No. CP79-134, Texas Gas Transmission Corporation and Tennessee Gas Pipeline Company.
CAG-23.—Docket No. CP70-195, Natural Gas Pipeline Company of America.
CAG-24.—Docket No. CP78-427, United Gas Pipe Line Company.
CAG-25.—Docket No. CP79-35, Colorado Interstate Gas Company. Docket No. CP79-68, Mountain Fuel Supply Company.
CAG-26.—Docket No. CP75-141, Natural Gas Pipeline Company of America.
CAG-27.—Docket No. CP79-5, Northern Natural Gas Company.
CAG-28.—Docket No. CP78-334, National Fuel Gas Supply Corporation.
CAG-29.—Docket No. CP79-11, Southern Natural Gas Company.
CAG-30.—Docket No. CP77-627, Tennessee Gas Pipeline Company and Columbia Gulf Transmission Corporation.
CAG-31.—Docket No. CP75-37, Mountain Fuel Supply Company. Docket No. CP75-281, Colorado Interstate Gas Company.
CAG-32.—Docket No. CP71-132, Columbia Gas Transmission Corporation, Atlantic Seaboard Corporation, Cumberland and Allegheny Gas Company, Home Gas Company, Kentucky Gas Transmission Corporation, the Manufacturers Light and Heat Company, the Ohio Fuel Gas Company and United Fuel Gas Company.
CAG-33.—Docket No. CP78-300, Texas Gas Transmission Company.
CAG-34.—Docket No. OR79-1, Williams Brothers Pipeline Company.

POWER AGENDA—243RD MEETING, JANUARY 31, 1979, REGULAR MEETING

I. LICENSED PROJECT MATTERS

P-1.—Project No. 176, Escondido Mutual Water Company, City of Escondido, California and Vista Irrigation District. Docket No. E-7562, Secretary of the Interior acting in his capacity as trustee for the Rincon, La Jolla and San Pasqual Bands of Mission Indians v. Escondido Mutual Water Company and City of Escondido, California. Docket No. E-7655, Vista Irrigation District. Project No. 559, San Diego Gas & Electric Company.

II. ELECTRIC RATE MATTERS

ER-1.—Docket No. ER79-106, Central Main Power Company.
ER-2.—Docket No. ER79-21, Missouri Utilities Company.
ER-3.—Docket No. ER79-107, Upper Peninsula Power Company.
ER-4.—Docket No. ER78-512, Wisconsin Electric Power Company.
ER-5(A).—Docket No. ER78-19 (Phase I) and ER78-81, Florida Power and Light Company.
ER-5(B).—Docket No. ER78-325, ER78-376 and ER78-19, et al., Florida Power and Light Company
ER-6.—Docket No. ER76-285 (Phase II), Public Service Company of New Hampshire.
ER-7.—Docket No. E-7704, the Electric and Water Plant Board of the City of Frankfort, Kentucky v. Kentucky Utilities Company, Docket No. E-7669, Public Service Company of Indiana. Docket No. E-7937, Indianapolis Power & Light Company. Docket No. E-8053, Kentucky Utilities Company.
ER-8.—Docket No. ER77-521, Arizona Public Service Company.
ER-9.—Docket No. ER77-402, Philadelphia Electric Company.

GAS AGENDA—243RD MEETING, JANUARY 31, 1979, REGULAR MEETING

I. PIPELINE RATE MATTERS

RP-1.—Docket No. RP79-23, Distrigas of Massachusetts Corporation. Docket No. RP 79-24, Distrigas Corporation.
RP-2.—Docket No. RP74-41, Texas Eastern Transmission Corporation.

II. PRODUCER MATTERS

CI-1.—Docket No. CI75-677, Union Texas Petroleum, a division of Allied Chemical Corporation. Docket No. CS68-21, Joseph I. O'Neill.
CI-2.—Docket No. CI77-119, Cities Service Oil Company.
CI-3.—Docket No. CI78-968, United Gas Pipe Line Company.

III. PIPELINE CERTIFICATE MATTERS

CP-1.—Docket No. CP73-340, Colorado Interstate Gas Company. Docket No. CP74-243, Northern Natural Gas Company. Docket No. CI74-430, Colorado Oil and Gas Corporation and Gas Producing Enterprises, Inc.
CP-2.—Docket No. CP78-325, Texas Gas Transmission Corporation. Docket No. CP79-7, Tri-State Gas Company.
CP-3.—Docket No. CP78-446, El Paso Natural Gas Company, Michigan Wisconsin Pipe Line Company.
CP-4.—Docket No. CP74-160, et al., Pacific Indonesia LNG Company, et al. Docket No. CP75-140, et al., Pacific Alaska LNG Company, et al. Docket No. CP75-83-2, et al., Western LNG Terminal Company, et al. ERA Docket No. 77-001-LNG, Pacific Indonesia LNG Company, et al.
CP-5.—Mountain Fuel and Northwest Pipeline Corporation (continuation of emergency transaction under § 157.45).

IV. OIL PIPELINE MATTERS

IS-1.—Docket No. IS78-1, Phillips Pipe Line Company.

MISCELLANEOUS AGENDA—243RD MEETING, JANUARY 31, 1979, REGULAR AGENDA

M-1.—Docket No. RM79-3, annual reports pursuant to Part 276 of the interim regulations under NGPA and proposed changes to the filing requirements.

KENNETH F. PLUMB,
Secretary.

[S-187-79 Filed 1-25-79; 11:35 am]

[6720-01-M]

4

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, No. 14, page 4093, Friday, January 19, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., January 24, 1979.

PLACE: 1700 G Street, NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

CHANGES IN THE MEETING:

The following item has been removed from the closed meeting agenda and will now be considered at the open meeting immediately before it:

Application by NLT Corporation and NLT Capital Corporation, Nashville, Tennessee to acquire Great Southern Corporation, Houston, Texas, and its subsidiary State Savings and Loan Association, Salt Lake City, Utah.

The following item has been removed from the open meeting agenda and will now be considered at the closed meeting immediately after it:

Consideration of proposed acquisition of Home Savings and Loan Association, Reno, Nevada, by United States Leasing International, Inc., San Francisco, California.

No. 214, January 24, 1979.

[S-185-79 Filed 1-25-79; 9:06 am]

[6735-01-M]

5

JANUARY 24, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 2 p.m., January 31, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: This meeting may be closed.

MATTER TO BE CONSIDERED: *Glenn Munsey v. FMSHRC, No. 77-1619* (D.C. Cir., November 29, 1978). This meeting involves the Commission's position in the above civil proceeding. 29 CFR 2701.7 (44 FR 2576).

CONTACT PERSON FOR MORE INFORMATION:

Joanne Kelly, 202-653-5632

[S-189-79 Filed 1-25-79; 12:42 pm]

[6210-01-M]

6

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 2:30 p.m., Thursday, February 1, 1979. The closed portion of the meeting will commence at the conclusion of the open discussion.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Part of the meeting will be open; part will be closed.

MATTERS TO BE CONSIDERED:

OPEN PORTION

1. Consumer affairs compliance program.
2. Proposed monitoring pursuant to Regulation 2 (Truth in Lending) of open credit plans secured by consumers' residences.
3. Proposals to implement Titles VIII and IX of the Financial Institutions Regulatory and Interest Rate Control Act.
4. Any agenda items carried forward from a previously announced meeting.

NOTE.—The open portion of this meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office and copies may be ordered for $5 per cassette by calling 202-452-3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Rserve System, Washington, D.C. 20551.

CLOSED PORTION

1. Conceptual design and target budget for the proposed new building of the Federal Reserve Bank of San Francisco.
2. Proposed purchases, under competitive bidding, of computer equipment within the Federal Reserve System.
3. Federal Reserve Bank and Branch director appointments.
4. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
5. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: January 25, 1979.

GRIFFITH GARWOOD,
Deputy Secretary of the Board.

[S-188-79 Filed 1-25-79; 12:42 pm]

[7590-01-M]

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: January 31 and February 1, 1979.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

WEDNESDAY, JANUARY 31, 9:30 A.M.

1. Discussion of Decision in Offshore Power Systems (ALAB-500) (Approximately 1 hr.—open meeting, portions may be closed).
2. Briefing on Major Issues in Siting and Licensing Legislation (continued from January 23) (Aproximately 1½ hrs.—public meeting).

WEDNESAY, JANUARY 31, 1:30 P.M.

1. Continuation of Briefing on Siting and Licensing Legislation (Approximately 2 hrs.—public meeting).

THURSDAY, FEBRUARY 1, 9:30 A.M.

1. Briefing on EEO Program (Approximately 1 hr.—public meeting).
2. Briefing on Upgrade Rule and Supporting Guidance (Approximately 1½ hrs.—public meeting).

WEDNESDAY, JANUARY 31, 2 P.M.

1. Discussion of Proposed Authorization Testimony (continued from January 25) (if required) (Approximately 1 hr.—public meeting).
2. Affirmation session (Approximately 10 min.—public meeting). (a) FOIA Appeal by A. Kranish; (b) Settlement in Midland (Tentative).
3. Discussion of Personel Matter (Approximatey 2 hrs.—closed—exemption 6).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: January 24, 1979.

WALTER MAGEE,
Office of the Secretary.

[S-190-79 Filed 1-25-79; 2:13 am]

[7910-01-M]

8

RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 4095, January 19, 1979.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Thursday, January 25, 1979; 1:30 p.m.

MATTERS TO BE CONSIDERED: Division Meeting concerning: Kings Point Industries, Inc., (Consol.) Fiscal Years 1969, 1970 and 1971.

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CHANGE IN MEETING: Date changed to: Tuesday, January 30, 1979, 1:30 p.m.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: January 26, 1979.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-191-79 Filed 1-25-79; 2:24 pm]

[8120-01-M]

9

[Meeting No. 1209]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Wednesday, January 31, 1979.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

MATTERS FOR ACTION:

OLD BUSINESS

1. Extension and amendment of personal service contract with Arthur Anderson & Co., Atlanta, Georgia, for advice and assistance in connection with TVA's Materials Management System, requested by the Office of Planning, Budget, and Systems.
2. Req. No. 823205— Electrode boiler packages for the Yellow Creek Nuclear Plant.

NEW BUSINESS

PERSONNEL ACTIONS:

1. Temporary change of status for Joe Neal Benson from Director, Division of Power Construction, to Assistant to the Manager of Power, Chattanooga, Tennessee.
2. Change of status for Alvin R. Brown from Area Construction Manager to Acting Director, Division of Power Construction.

CONSULTING AND PERSONAL SERVICE CONTRACTS:

1. Consulting contract with Harold H. Rossi, New York, New York, in connection with radiological hygiene issues and policies, requested by the Division of Environmental Planning.
2. Consulting contract with Karl Z. Morgan, Atlanta, Georgia, in connection with radiological hygiene issues and policies, requested by the Division of Environmental Planning.
3. Consulting contract with Leonard A. Sagan, Palo Alto, California, in connection with radiological hygiene issues and policies, requested by the Division of Environmental Planning.

PURCHASE AWARDS:

1. Req. No. 153791—Indefinite quantity term contract for light distillate oil for the Colbert, Johnsonville, Gallatin, and Allen Steam Plants.

POWER ITEMS:

1. Agreement with Kerr-McGee Nuclear Corporation for acquisition of a uranium property interest in New Mexico and for operating and milling arrangements.

REAL PROPERTY TRANSACTIONS:

1. Filing of condemnation suits.

DATED: January 24, 1979.

CONTACT PERSON FOR MORE INFORMATION:

Lee C. Sheppeard, Acting Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-566-1401.

[S-184-79 Filed 1-25-79; 9:06 am]

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MONDAY, JANUARY 29, 1979
PART II



COMMUNITY SERVICES ADMINISTRATION

■

IMPROVING GOVERNMENT REGULATIONS

Semi-annual Agenda

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[6315-01-M]

COMMUNITY SERVICES ADMINISTRATION

IMPROVING GOVERNMENT REGULATIONS; EXECUTIVE ORDER 12044 SUBMISSION

Semi-annual Agenda

AGENCY: Community Services Administration.

ACTION: Semiannual Publication of Significant Regulations Under Review or Development at this time.

SUMMARY: The Community Service Administration in accordance with Executive Order 12044 hereby publishes the agenda of regulations which are under review or development at this time.

FOR FURTHER INFORMATION CONTACT:

John H. Sowders, 202-254-6208.

WILLIAM W. ALLISON,
Deputy Director.

[6315-01-C]

SEMI-ANNUAL AGENDA

FOR

COMMUNITY SERVICES ADMINISTRATION

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Appendix A

TYPE OF REGULATION New	Revised	SUBJECT AND DESCRIPTION	REASON FOR DEVELOPMENT OR REVISION	LEGAL BASIS	STATUS OF PROPOSED REGULATION: INITIAL ANNOUNCEMENT	PREVIOUSLY ANNOUNCED: WHEN	CURRENT STATUS	FOR FURTHER INFORMATION CONTACT
	X	OEO Instruction 6400-01, The Organization of Community Action Agency Boards and Committees and OEO Instruction 6402-02, Standards of Eligibility for Members of Governing Bodies and Policy Advisory Committees of Community Action Agencies and Single Purpose Agencies.	Need to simplify and update all regulations pertaining to boards of organizations funded under Title II of the EDA	Title II, EDA		6-16-78	Comments on proposed rule closed 1-26-79	Timothy McTighe 254-5047
	X	OEO Instruction 6710-1 and changes thereto, applying for a CAP grant	Need to reduce and simplify the paper-work process by which grantees apply for Local Initiative funding under Section 221 and in the process to strengthen the capabilities and focus more sharply the efforts of both CSA and grantees on achieving the purposes of the EDA.	Title II, EDA	X		Proposed rule under development	Fumie Gray 254-6410

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TYPE OF REGULATION New	TYPE OF REGULATION Revised	SUBJECT AND DESCRIPTION	REASON FOR DEVELOPMENT OR REVISION	LEGAL BASIS	STATUS OF PROPOSED REGULATION: INITIAL ANNOUNCEMENT	STATUS OF PROPOSED REGULATION: PREVIOUSLY ANNOUNCED: WHEN	STATUS OF PROPOSED REGULATION: CURRENT STATUS	FOR FURTHER INFORMATION CONTACT
X		Due process rights for applicants Denied CSA-Funded Benefits	This regulation is being developed in response to a Court Order, Greig v. Olivarez, which found that CSA denied plaintiffs due process of law by not mandating an appellate review procedure for those applicants whose applications for Emergency Energy Assistance had been denied. CSA will develop an appellate procedure to cover all of its programs.	Title VI, EOA	X		Program reopened, appellate procedure for all programs filed as a proposed rule on 12-14-78	Ms. Jacqueline Lemire 254-5047
	X	OEO Instruction 6302-2 and Change 1 thereto: CAAs: Eligibility and Establishment	In order to implement Section 201(c) of the EOA as amended by the Economic Opportunity Amendments of 1978.	Title II, Section 210(c) and Title VI of the EOA	X		Under development	Ms. Joan Lenihan 254-5670

TYPE OF REGULATION New	TYPE OF REGULATION Revised	SUBJECT AND DESCRIPTION	REASON FOR DEVELOPMENT OR REVISION	LEGAL BASIS	STATUS OF PROPOSED REGULATION: INITIAL ANNOUNCEMENT	STATUS OF PROPOSED REGULATION: PREVIOUSLY ANNOUNCED: WHEN	STATUS OF PROPOSED REGULATION: CURRENT STATUS	FOR FURTHER INFORMATION CONTACT
	X	CSA Instructions 6900-01, 6900-02, 6900-03, 6900-4, Personnel Policies and Procedures; 6901-1, Employment of Persons with Criminal Records; 6901-2, Assistance to Vietnam-Era Veterans; 6903-1, Policies and Procedures on $15,000 per Year Salary Limitation; 6903-3, Payment for Overtime and Authorization for Compensatory Time; 6906-01, Social Security Coverage for Employees under CAP Grants; 6907-01, Policy Guidance on Lobbying Activities; 6907-2, Limitation with Respect to Unlawful Demonstrations, Rioting and Civil Disturbances; 6907-3, Employee Participation in Direct Action; 6907-4, Outside Employment of Grantee and Delegate Agency Personnel; 6909-01, Conflicts of Interest in Community Action's Program Contracts; 6909-1, Prohibition Against Acceptance of Gifts and Gratuities	In response to Executive Order 12044 Improving Government Regulations, CSA is planning to revise its entire series of policy statements on grantee personnel management.	None		11/16/78	Comments period on notice of proposed rule making will close 12/16/79	Timothy McTighe 254-5047

SEMI-ANNUAL AGENDA

(4)
Appendix A

FOR

COMMUNITY SERVICES ADMINISTRATION

TYPE OF REGULATION New	TYPE OF REGULATION Revised	SUBJECT AND DESCRIPTION	REASON FOR DEVELOPMENT OR REVISION	LEGAL BASIS	STATUS OF PROPOSED REGULATION: INITIAL ANNOUNCEMENT	STATUS OF PROPOSED REGULATION: PREVIOUSLY ANNOUNCED: WHEN	STATUS OF PROPOSED REGULATION: CURRENT STATUS	FOR FURTHER INFORMATION CONTACT
	X	CSA Instruction 6132-2a, Community Food and Nutrition Program	To inform applicants regarding FY-79 application and review process for this program.	Title II, EOA	X		Under development	Herold Gore 254-6226
	X	OEO Instructions 7570-1, Applying for a New Research or Demonstration Grant under the EOA; 7570-2, Applying for a Continuation of a Research or Demonstration Grant; 7570-3, Amendment Procedures for a Research or Demonstration Grant under EOA; 7570-4, Preparing a Budget for a Research or Demonstration Grant under EOA.	These regulations will be revised in order to reflect organizational relationships, to clarify language, and include elements developed as part of the Grantee Program Management System.	Title II, Sec 232	X		Under development	Ms. Barbara Pinn 254-5047
	X	CSA Instruction 6168-2b, Summer Youth Recreation Program.	This regulation is being revised in order to implement the Economic Opportunity Amendments of 1978 which ament Section 222(a)(6) under which this program is authorized.	Title II, 222(a)(6) of EOA of 1964 as amended	X		Under development	Nolen Lewis 254-5267

SEMI-ANNUAL AGENDA

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Appendix A

FOR

COMMUNITY SERVICES ADMINISTRATION

TYPE OF REGULATION New	TYPE OF REGULATION Revised	SUBJECT AND DESCRIPTION	REASON FOR DEVELOPMENT OR REVISION	LEGAL BASIS	STATUS OF PROPOSED REGULATION: INITIAL ANNOUNCEMENT	STATUS OF PROPOSED REGULATION: PREVIOUSLY ANNOUNCED: WHEN	STATUS OF PROPOSED REGULATION: CURRENT STATUS	FOR FURTHER INFORMATION CONTACT
	X	CSA Instruction 7501-1, Role of the State Offices of Economic Opportunity	To make substantive changes based on new legislative requirements, preliminary evaluation findings, experience gained in operating programs, and need to strenghten the multiyear and state plan requirements.	Title II, Sec 231, EOA	X		Work group formed and proposed draft under development	Ms. Faye Rattner 254-5280

[FR Doc. 79-2295 Filed 1-26-79; 8:45 am]

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MONDAY, JANUARY 29, 1979
PART III



DEPARTMENT OF ENERGY

Economic Regulatory Administration

POWERPLANT AND INDUSTRIAL FUEL USE ACT (EXISTING FACILITIES)

Proposed Implementation Rules; Hearings

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[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR PARTS 504, 506, and 507]

[Docket No. ERA-R-78-19]

HEARINGS ON PROPOSED RULES TO IMPLEMENT THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Public Hearings on New and Existing Facilities.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby announces a series of public hearings on its proposed rules for implementation of the Powerplant and Industrial Fuel Use Act of 1978 (FUA). Public Law 95-620 concerning existing facilities. These public hearings are being combined with those concerning new facilities, notice of which was previously published in the January 18, 1979 FEDERAL REGISTER (44 FR 3721). Procedures governing the conduct of these hearings are presented with this Notice. Proposed rules concerning existing facilities are being published concurrently with this Notice. Notice of public hearings on the Draft Environmental Impact Statement concerning implementation of FUA was published in the January 9, 1979 FEDERAL REGISTER (44 FR 2004).

DATES: Public hearings will be held on February 7, 1979, and if required, on February 8, 1979, in Boston, Massachusetts; February 14, 1979, and if required, February 15, 1979 in Salt Lake City, Utah; February 21, 1979, and if required, February 22, 1979 in Tampa, Florida; and March 1, 1979, and if required, March 2, 1979 in Lexington, Kentucky. All hearings will begin at 9:30 a.m. Written comments on existing facilities are due by March 26, 1979, 4:30. p.m. and on new facilities by March 2, 1979, 4:30 p.m. Requests to speak are due by 4:30 p.m. on the following dates: February 5, 1979 for the Boston hearing; February 7, 1979 for the Salt Lake City hearing; February 14, 1979 for the Tampa hearing and February 21, 1979 for the Lexington hearing.

ADDRESSES: Send all written comments to: Department of Energy, Public Hearing Management, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461, Docket No. ERA-R-78-19. Where possible, comments on separate issues should be clearly identified to allow efficient review and consideration.

City	Hearing Date	Location	Requests To Speak
Boston, Mass	Feb. 7	Shawmut Bank Bldg., Conf. Rm. 8th Fl., 1 Federal Street, Boston, Mass.	Dept. of Energy, 150 Causeway Street, Room 700, Boston, Mass., (617) 223-5257
Salt Lake City, Utah	Feb. 14	Salt Palace, 100 S.W. Temple, Room 128, Salt Lake City, Utah.	Dept. of Energy, 1075 S. Yokon Street, P.O. Box 26247, Belmar Branch, Lakewood, Colorado, (303) 234-2420
Tampa, Fla	Feb. 21	Sheraton Tampa Motor Hotel, Ballroom, 500 E. Cass Street, Tampa, Fla.	Dept. of Energy, 1655 Peachtree, St. N, Atlanta, Ga. (404) 257-2051
Lexington, Ky	Mar. 1	Hyatt Regency, Washington Room, 400 W. Pine Street, Lexington, Kentucky.	Dept. of Energy, 1655 Peachtree, St. N, Atlanta, Ga., (404) 257-2051

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street, N.W., Washington, D. C. 20461, (202) 634-2170.

John L. Gurney (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, Room 2130, 2000 M Steeet, N.W., Washington, D. C. 20462, (202) 632-6690.

Robert Davies (Fuels Regulation-Program Office), Economic Regulatory Administration, Department of Energy, Room 7202, 2000 M Street, N.W., Washington, D. C. 20261, (202) 254-3910.

James H. Heffernan (Office of General Counsel), Department of Energy, Room 6144, 12th & Pennsylvania Avenue, N.W., Washington, D. C. 20461, (202) 633-9296.

SUPPLEMENTARY INFORMATION: On November 9, 1978, FUA issued proposed rules for implementation of FUA pertaining to new facilities (November 17, 1978, 43 FR 53974). Concurrently with this Notice ERA is issuing proposed rules for implementation of FUA pertaining to existing facilities. Because of the interrelationship and similarity of the two subjects, ERA has decided to hold one group of public hearings for both new and existing facilities.

FUA prohibits or restricts the use of petroleum and natural gas by existing electric powerplants and allows ERA to issue rules and orders prohibiting or restricing the use of petroleum and natural gas by certain existing electric powerplants and major fuel burning installations. The proposed rules establish procedures and criteria by which users may petition for exemption from the prohibitions of the Act. The rules also establish a requirement for a Fuels Decision Report which must be submitted as part of any petition for exemption.

PUBLIC HEARINGS:

1. *Procedure for Request to Make Oral Presentation.*

The times and places for the hearings are indicated in the "Dates" and "Addresses" sections of this Notice. If necessary to present all testimony, a hearing will be continued to 9:30 a.m. of the next business day following the first day of the hearing.

Interested persons who would like to participate in any hearing should contact the appropriate Regional Office of DOE as listed above in the "ADDRESSES" section of this Notice. A request to participate in any hearing shall be in writing and signed by the person making the request. Please provide a phone number where we may contact you through the day before the hearing.

Participants should bring 50 copies of their testimony and each exhibit to be presented to ERA with them on the day of the hearing. We will notify each person selected to be heard before 4:30 p.m., February 6, 1979 for the Boston hearing; February 12, 1979 for the Salt Lake City hearing; February 14, 1979 for the Tampa hearing; and February 23, 1979 for the Lexington hearing.

2. *Conduct of the Hearings.* We reserve the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at each of the hearings. These will not be judicial-type hearings. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at either of the hearings to the addresses indicated above for requests to speak before 4:30 p.m. of the day before the hearing. If you wish to have a question asked at a hearing, you may submit the question, in writing to the presiding officer. The ERA or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officer.

Transcripts of the hearings will be made and the entire record of each of the hearings, including the transcripts, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of a hearing from the reporter.

(Department of Energy Organization Act, Pub. L. 95-91); Powerplant and Industrial Fuel Use Act, Pub. L. 95-620)

Issued in Washington, D.C., January 23, 1979.

HAZEL R. ROLLINS,
Deputy Administrator,
Economic Regulatory Administration.

[FR Doc. 79-2855 Filed 1-24-79; 10:21 am]

[6450-01-M]

[10 CFR Parts 500, 501, 502, 503, 504, 505, 506 and 507]

[Docket No. ERA-R-78-19]

POWERPLANT AND INDUSTRIAL FUEL USE ACT (EXISTING FACILITIES)

Proposed Implementation Rules

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is proposing rules to implement certain provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) which prohibit or restrict the use of petroleum and natural gas by certain existing electric powerplants and allows ERA to issue rules and orders prohibiting or restricting the use of petroleum and natural gas by certain existing electric powerplants and major fuel burning installations. FUA will become generally effective on May 6, 1979, one hundred and eighty days after the date of enactment, but DOE may adopt regulations to implement FUA at any time. These proposed rules establish procedures and criteria by which ERA will issue rules and orders prohibiting or restricting the use of petroleum and natural gas, and by which users may petition for exemption from the prohibitions of the Act and from prohibitory rules and orders issued by ERA. Further, these proposed rules solicit additional comment on certain issues, and amend certain rules contained in the Notice of Proposed Rulemaking published in the FEDERAL REGISTER on November 17, 1978 (43 FR 53974).

DATES: Comments by March 26, 1979, 4:30 p.m.; Hearing dates: To be announced.

ADDRESSES: All comments to: Public Hearing Management, Docket No. ERA-R-78-19 Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. Hearing locations: To be announced.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street NW., Washington, D.C. 20461, 202-634-2170.

Stephen M. Stern (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, Room 2130, 2000 M Street NW., Washington, D.C. 20461, 202-632-6621.

Robert Davies (Fuels Regulation—Program Office), Economic Regulatory Administration, Department of Energy, Room 7202, 2000 M Street NW., Washington, D.C. 20461, 202-254-3910.

James Heffernan (Office of General Counsel), Department of Energy, Room 6144, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-633-9296.

SUPPLEMENTARY INFORMATION:

I. Background
II. Coverage of FUA
A. New Powerplants
B. Existing Powerplants
C. New Installations
D. Existing Installations
III. Other Related Actions
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APPENDIX—FERC Notice of Proposed Rulemaking (Determination of Powerplant Design Capacity)

I. BACKGROUND

(See prior FEDERAL REGISTER Notice, 43 FR 53974, November 17, 1978).

II. COVERAGE OF FUA

The prohibitions and exemptions provided for in FUA apply to four major categories of users: new powerplants, new installations, existing powerplants, and existing installations. ERA will therefore organize its rules to include in four separate Parts all applicable rules relating to the prohibitions and exemptions for each user category. Additionally, Part 500 sets forth General Policy and Definitions; Part 501 (Administrative Procedures and Sanctions) sets forth various procedural provisions; Part 502 (Fuels Decision Report) identifies certain requirements which must be included in petitions for exemption; Part 507 (Fuel Classification and Reporting Requirements) sets forth definitions of and reporting requirements for "petroleum" and "nautral gas"; and Part 508 (Special Rule for Temporary Public Interest Exemption) identifies near-term measures to encourage the use of natural gas in place of petroleum.

FUA addresses the major user categories as follows:

A. NEW POWERPLANTS (PART 503)

See Notice of Proposed Rulemaking published in the FEDERAL REGISTER November 17, 1978 (43 FR 53974).

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B. EXISTING ELECTRIC POWERPLANTS (PART 504)

(1) Existing electric powerplants, which used an alternate fuel as a primary energy source at any time during calendar year 1977, may not use petroleum as a primary energy source in excess of that amount used during 1977 unless a permit to increase such use has been obtained from ERA.

(2) An existing powerplant may not use natural gas as a primary energy source unless the powerplant used natural gas as a primary energy source at any time during calendar year 1977. In such an instance, the powerplant shall not increase its proportional use of natural gas above the average yearly proportion of natural gas used during the calendar years 1974 through 1976 or during the first two years of its operation, if it began operations on or after January 1, 1974. In addition, an existing powerplant is prohibited from using natural gas as a primary energy source on or after January 1, 1990 unless a System Compliance Plan has been approved or an exemption granted by ERA.

ERA published, on January 5, 1979, (44 FR 1694) a proposed rule (Part 508) which provides for a special temporary public interest exemption to the statutory prohibitions against increased natural gas use by existing powerplants.

(3) We may also prohibit, by rule or order, an existing powerplant from using natural gas and/or petroleum as a primary energy source provided that we find that the powerplant has or had the technical capability to use an alternate fuel as a primary energy source, that it could have such capability without substantial physical modification or substantial reduction in its rated capacity, and that it is financially feasible to use an alternate fuel. In instances where we find that the use of a mixture of petroleum or natural gas and an alternate fuel as a primary energy source is technically and financially feasible, we are also authorized to prohibit a powerplant from using amounts of petroleum or natural gas in excess of the minimum percentage needed to maintain reliability of operation and fuel efficiency in such mixture.

(4) As in the case of a new powerplant, we may grant a temporary or permanent exemption from the prohibitions, whether imposed by statute, rule, or order, if you demonstrate that certain physical, economic, environmental or legal factors preclude compliance as indicated in Part 504 of these proposed rules.

C. NEW INSTALLATIONS (PART 505)

See Notice of Proposed Rulemaking published in the FEDERAL REGISTER November 17, 1978 (43 FR 53974).

D. EXISTING INSTALLATIONS (PART 506)

(1) We may prohibit, by rule or order, an existing installation from using petroleum or natural gas as a primary energy source provided that we find that the installation has or had the technical capability of using an alternate fuel as a primary energy source, that it could have such capability without substantial physical modification or substantial reduction in its rated capacity, and that it is financially feasible to use an alternate fuel. In instances where we find that the use of a mixture of petroleum or natural gas and an alternate fuel is technically and financially feasible, we are also authorized to prohibit an installation from using amounts of petroleum or natural gas in excess of the minimum percentage needed to maintain reliability of operation and fuel efficiency in such mixture.

(2) As in the case of a new installation, we may grant a temporary or permanent exemption from the prohibition, whether imposed by rule or order, if you demonstrate that certain physical, economic, environmental or legal factors preclude compliance as indicated in Part 506 of these rules.

III. OTHER RELATED ACTIONS

A. FORMS

We will publish proposed forms in the FEDERAL REGISTER and solicit public comments at a later date for new facility exemptions and requirements. We may also publish proposed forms and solicit public comments at a later date for existing facility exemptions and requirements.

B. GUIDELINES

From time to time, ERA may develop, as necessary, formal guidelines in support of regulations promulgated under FUA, and may publish them in the FEDERAL REGISTER for public review and comment.

C. DETERMINATION OF POWERPLANT DESIGN CAPACITY

Pursuant to Section 103(a)(18)(D) of the Act, the Federal Energy Regulatory Commission has issued proposed rules under which a powerplant's design capacity may be determined. These proposed rules were issued December 29, 1978 (Docket No. RM79-10).

The proposed rules establish guidelines for determining the design capacity of the four different types of generating units: steam-electric generators, combustion turbines, combined cycle units and internal combustion engines. For your convenience, a copy of the proposed rule is attached as an appendix to these proposed rules.

IV. SPECIFIC COMMENTS REQUESTED

We have issued these proposed rules to focus public attention and discussion on the provisions of FUA relating to existing facilities, and to expedite implementation of this program. In some instances, we have proposed alternatives for your consideration. In all cases, we solicit your comments on any issue before we reach a final decision on these regulations, not only on the specific issues, but on the alternate proposals we enumerate below as well.

The Notice of Proposed Rulemaking published in the FEDERAL REGISTER November 17, 1978 (43 FR 53974) relating to new facilities contained Parts 500, 501, 502, 503, and 505 of the proposed rules to implement the Powerplant and Industrial Fuel Use Act. Part 500 (Policy and Definitions), Part 501 (Administrative Procedures and Sanctions), and Part 502 (Fuels Decision Report) apply to these proposed rules as well as those published on November 17, 1978. We recommend that you review the November 17, 1978, notice concurrently with this one. This preamble addresses certain issues for existing facilities, new facilities, and both new and existing facilities.

A. EXISTING FACILITIES

1. *Use of Natural Gas by Existing Powerplants and Installations* (Parts 500 and 508). We propose to amend § 500.1 (General Policy) appearing in the FEDERAL REGISTER November 17, 1978, (43 FR 53981) to add a statement on the use of natural gas (including propane) by certain existing electric powerplants and installations.

We favor the use of renewable energy sources, coal, uranium and other alternate fuels wherever possible. To the extent that the near-term choice for certain existing facilities is limited to petroleum or natural gas, we generally prefer the use of natural gas and propane over middle distillates, kerosene-base jet fuels and imported residual fuel oils.

We propose to reflect this policy in implementing Title III and Section 401, Title IV, of the Act with respect to installations and powerplants.

We have published, on January 5, 1979, (44 FR 1694), a proposed rule (Part 508) which provides a special temporary public interest exemption to the statutory ban on increased natural gas use by existing powerplants.

Under Section 401 of the Act, we have the discretion to prohibit the use of natural gas in existing (non-MFBI) petroleum-capable boilers used for space heating. To avoid stimulating increased use of petroleum, we do not plan to prohibit the use of natural gas in these boilers.

These policies further the national strategic objective to reduce our dependence on foreign oil supplies as well as encouraging more vigorous interfuel competition between oil and gas and reducing our overall level of oil imports. We will monitor the continued availability of natural gas and propane and amend these policies as changing circumstances may require.

2. *Pre-Order Conference* (§ 501.33). We will generally convene a conference pursuant to § 501.33 prior to issuance of a proposed prohibition order to an existing facility. Such a conference, which shall be convened at the discretion of ERA, would primarily for the exchange of views and information to assist ERA in determining whether a prohibition order proceeding should be initiated.

3. *Fuels Decision Report* (Part 502). We are proposing that only petitioners for exemptions from the statutory prohibitions on existing powerplants and from final prohibition orders for existing powerplants and installations be required to submit a Fuels Decision Report as part of their petition for exemption. Petitioners requesting exemptions from proposed prohibition orders would not be required to submit a Fuels Decision Report, but would be required to satisfy all applicable evidentiary requirements for the exemption requested in their written submission to ERA. The proposed regulations pertaining to the Fuels Decision Report (Part 502) appear in the FEDERAL REGISTER Notice of November 17, 1978 (43 FR 53974).

4. *Coverage of Prohibitions* (Parts 504 and 506). Parts 504 and 506, as proposed, cover statutory prohibitions against the increased use of petroleum by existing powerplants (Section 405 of the Act), prohibitions against and restrictions upon the use of natural gas by existing powerplants (Section 301 of the Act), and prohibitions against the use of petroleum or natural gas by order to existing powerplants and installations issued on a case-by-case basis (Section 303(a) of the Act). These proposed regulations do not address prohibitions applicable to categories of facilities (Section 303(b) of the Act) which may be adopted by subsequent rules.

5. *Increased Petroleum Use in Existing Powerplants* (§ 504.1). Under the authority provided in Section 405 of the Act, we propose to prohibit the increased use of petroleum in any existing powerplant which used an alternate fuel as a primary energy source during calendar year 1977, unless we grant a permit.

A permit for increased use shall not be granted unless you demonstrate all of the following: (i) the unavailability of alternate fuel (including electricity) and natural gas (including propane), (ii) certification by the Administrator of EPA, or an appropriate State agency, that without the permission to use petroleum rather than an alternate fuel (including electricity) and natural gas (including propane) the powerplant will be unable to comply with requirements of the Clean Air Act, (iii) a good faith effort to minimize the quantity and the duration of the need for increased use of petroleum, and (iv) certification by the appropriate State regulatory authority that the increased use of petroleum by the powerplant is necessary to prevent impairment of reliability of service in your electric region (after considering the availability of power from contiguous systems, power pools and other sources).

We have also proposed that the applicant for this permit prepare a Fuels Decision Report. This Fuels Decision Report would provide a demonstration of the applicant's good faith efforts to comply with the prohibition by minimizing the quantity and duration of petroleum need through use of alternate fuels (including electricity), mixtures, conservation efforts and natural gas (including propane). We encourage EPA or the relevant State agency to review this Fuels Decision Report as part of the applicant's good faith effort to minimize petroleum use. We invite comments on this proposal.

6. *ERA Findings for Issuing Orders Prohibiting Natural Gas and Petroleum* (Parts 504 and 506). Prior to issuing a final order prohibiting a powerplant or installation from burning petroleum or natural gas as a primary energy source, we must find that: the unit is or previously was technically capable of burning an alternate fuel; the unit can burn that fuel without a substantial physical modification to, or derating of, the unit; and it is financially feasible to use an alternate fuel.

In making our technical capability finding, we propose to assume that units are capable not only of burning the fuels for which they were specifically designed, but that certain units are also technically capable of burning selected alternate fuels which were not included in the purchaser's design specifications. For example, units capable of burning natural gas are also technically capable of burning other gaseous fuels such as gas derived from coal. Similarly, units constructed as to be capable of burning petroleum are also inherently capable of burning alcohol from coal.

In assessing whether a "substantial physical modification" would occur as a result of converting to an alternate fuel, we propose to consider the conversion feasible if the unit has the requisite furnace configuration and tube spacing. Adjustments required to install pollution control equipment such as precipitators or scrubbers generally will not be viewed as substantial modifications to the unit.

We propose that a derating of less than 25 percent of a unit's design capacity will not be considered "substantial." These proposed regulations stipulate that any reduction in useful capacity resulting from the addition of pollution control equipment to the unit will not be included in computing the level of derating. However, where alternate sources of energy are available to operate pollution control equipment required for a particular unit, ERA may consider the cost of using such alternate energy in its cost calculation.

The "financial feasibility" criteria are composed of both a unit-specific evaluation identical to the "substantially exceeds" cost calculation test and an assessment of the affected firm's capability to raise the necessary capital to finance the conversion.

7. *System Compliance Option* (§ 504.4). We are publishing the proposed rules on the System Compliance Option as a section under Part 504 of these proposed rules rather than as a separate Part 507 as stated in the FEDERAL REGISTER Notice of November 17, 1978. The System Compliance Option provides the opportunity for utilities to comply with the prohibitions contained in FUA on a system-wide basis rather than on a individual powerplant basis. We have proposed that utilities agree to implement fuel conservation measures to reduce their overall natural gas and petroleum use as a condition for approval of their system compliance plan. We particularly solicit your comments on the type of conservation measures which could be effected, their relationship to other provisions of the new national energy legislation, and on other terms and conditions which would fulfill the objectives of FUA. We also solicit information on whether the System Compliance Option is a viable mechanism for compliance, on how many utilities are likely to select this option, and on the costs, problems, and benefits associated with the acceptance of a system compliance plan.

Please note that under FUA subsection 501(b) you must submit proposed system plans to ERA before January 1, 1980.

8. *Cost Calculations* (Parts 504 and 506). The cost calculations for existing powerplants and installations are performed in much the same way as for new units. The exceptions are noted below.

(a) *Capital Outlays.* We propose that capital outlays for existing units will be calculated over the *remaining* useful life of the unit.

(b) *Capacity Factor.* We propose that the annual capacity factor be the average capacity factor for the last

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five years of operation or the life to date of the existing unit whichever is shorter. For existing powerplants, we are considering an alternate approach which permits the petitioner to rebut this five year average annual capacity factor assumption by considering the impact of changes in the use of other existing powerplants in his electric region.

To rebut this five year average capacity factor (FYACF) assumption, you would have to demonstrate that, over the remaining useful life of the powerplant under consideration, it would operate at an average annual capacity factor significantly different from the five year average capacity factor. Your projected average annual capacity factor for this powerplant would have to exceed or fall short of FYACF by at least ten (10) percent to constitute a significant difference. You would have to calculate the annual capacity factor for the powerplant under consideration on the basis that the powerplant would be economically dispatched with all other powerplants in your electric region, as if that electric region were one large utility.

We are also considering evaluating the economic dispatch on an area larger than the electric region. The electric regions proposed by ERA were designated in the regulations published on November 17, 1978, governing new facilities (43 FR 53987).

We invite your comments on the administrative and the technical feasibility of, as well as necessity for, this alternate approach. Comments on other alternative approaches which would address the impact of altered dispatch ordering on the cost of the existing powerplant under consideration are encouraged. We also invite comment on whether the average annual capacity factor for the powerplant under consideration should be a simple average of the yearly annual capacity factors or an average weighted by the annual discount factors used to compute cost.

You should note that electricity is defined by FUA as an "alternate fuel" and should be taken into account in your evaluation.

B. NEW AND EXISTING FACILITIES

1. *Mandatory Versus Discretionary Exemptions* (§ 500.1). We propose to amend § 500.1 (General Policy) appearing in the FEDERAL REGISTER November 17, 1978, (43 FR 53974) to clarify the difference between mandatory and discretionary exemptions. A list of mandatory exemptions and a list of discretionary exemptions appear in this amendment. Mandatory exemptions will be granted upon a satisfactory showing that you may have met the required evidentiary burden. We may grant discretionary exemptions if you have met the required evidentiary burden and we have decided that granting an exemption would be consistent with the Act, with national energy policy, and in the public interest.

2. *Alternate Fuel Definition* (§ 500.2(a)(7)). (a) *Steam.* We are considering adding "steam" to the list of energy sources constituting alternate fuels. Alternatively, we are evaluating the merits of adding steam to the list only if the steam is derived from alternate fuels or from an approved cogenerating facility. Comments are invited.

(b) *Petroleum Related Resources.* We are considering whether indigenous, petroleum-related resources *which would otherwise remain unexploited* should be classified as "alternate fuels" as a means of increasing our national energy supplies. In this regard, the National Petroleum Refiners Association (NPRA) has recommended that oil from heavy oil sands and tar sands be designated an alternate fuel. Similarly, the California Energy Commission has suggested classifying extremely low-gravity crude oil as an alternate fuel. We request comments on (i) whether ERA should classify these crude oils as an alternate fuel only where they could not otherwise be produced; (ii) if so, how this could be determined; (iii) if we should consider API gravity as a relevant factor, what would be an appropriate cutoff for the measure of gravity and whether we should consider other specifications besides gravity, (iv) how should we make allowances for low-gravity crude oil which is produced or transported with other lighter crudes; (v) whether the Act permits general designation of these petroleum related fuels as "alternate fuels" or whether we must evaluate each fuel at individual locations under the "commercially unmarketable" and other provisions of the "petroleum" definition (Part 507).

Alternatively, we could define these petroleum related fuels as "petroleum", but provide special treatment for mixtures of alternate fuel with these petroleum related fuels. Sections 212(d) and 312(d) of the Act provide for permanent exemptions for mixtures containing alternate fuels and less than a certain percentage of petroleum. In order to encourage the use of heavy oil sands, tar sands and extremely low gravity crude oil, we could approve mixtures containing alternate fuels and at least ninety percent (90 percent) heavy oil sands, tar sands or extremely low gravity crude oils. We request comments on the technical merits and likely impact of this proposal and what mixture percentage should be specified for heavy oil sands, tar sands and extremely low gravity crude oils in powerplants and installations.

3. *Definition and Minimum Size of Units within Aggregation* (§ 500.2(a)(51) and (52)). Section 103(a)(7)(A) and 103(a)(10)(A) of FUA define electric powerplants and major fuel-burning installations in terms of a single unit which by design is capable of a fuel heat input rate of 100 million Btu's per hour or greater, or in terms of two or more units located at the same site which in the aggregate are by design capable of a fuel heat input rate of 250 million Btu's per hour or greater.

In applying the prohibitions and exemptions under FUA, the emphasis is on the unit. However, for purposes of aggregating units at the same site to determine whether such units are subject to the provisions of the Act, FUA employs a site test. There may be several units at a site which individually are under the 100 million Btu's per hour threshold, but when considered together meet the site aggregation test of 250 million Btu's per hour. Each of the units contributing to the aggregation would then be subject to the pertinent provisions of the Act.

Thus, for example, where each of the existing units at a site are smaller than 100 million Btu's per hour and when aggregated do not equal or exceed 250 million Btu's per hour, the units would not be subject to FUA at that time. If a new unit is constructed or acquired at such site and the contribution of the new unit causes the aggregation threshold to be reached, all of the units contributing to the aggregation would then be subject to the Act.

In instances where all units at the same site are new units (for purposes of FUA, all units for which construction or acquisition began on or after April 20, 1977 are presumed to be new) and are not individually large enough to meet the 100 million Btu's per hour test, such units may become subject to the provisions of FUA pertaining to new units whenever they collectively reach the 250 million Btu's per hour threshold.

As a result of this threshold having been reached, all these new units would either have to be retrofitted or cease operation unless the prohibitions of the Act could be complied with.

For purposes of aggregation, DOE earlier proposed to exclude any unit with a design capacity to consume any fuel, less than 50 million Btu's per hour. ERA is withdrawing this earlier proposed aggregation minimum because of subsequent information indicating that units smaller than 50 million Btu's per hour in capacity can be constructed or modified to utilize an alternate fuel in a technically and financially feasible manner. ERA invites comment covering whether a lower aggregation cut-off should be specified or, in the alternative, whether an unreasonableness standard should be employed for purposes of aggregation on a case-by-case basis.

To determine whether units are at the same site for purposes of aggregation, we propose that units which are located within 10 miles of each other, and are owned, operated or controlled by a single firm are presumed to be located at the same site. Furthermore, units located within ten miles of each other and providing output to more than one company are presumed to be located at the same site.

We specifically solicit comments on the above proposals, particularly with respect to the petroleum and natural gas savings which would result and the statutory language and legislative history of FUA.

4. *Internal Combustion Generating Units* (§ 500.2(a)(52)). Section 103(a) of FUA defines the term electric powerplant as "any stationary electric generating unit, consisting of a boiler, a gas turbine, or a combined cycle unit, *which produces electric power for purposes of sale or exchange* (emphasis added) * * *." Under Section 103(a) of FUA, the term MFBI is defined as a "stationary unit consisting of a boiler, gas turbine unit, combined cycle unit, or *internal combustion engine* (emphasis added) * * * (which does) not include any electric powerplant."

In the proposed rules on new facilities published on November 17, 1978, § 500.2 (a), we propose to define a major fuel burning installation (MFBI) as a "stationary unit consisting of a boiler, combustion turbine unit, combined cycle unit, or internal combustion engine, including an internal combustion engine used for generation of electricity * * *."

That regulatory definition was proposed to correct the omission of an internal combustion engine from the statutory definition of an electric powerplant. ERA believes this omission was inadvertent. There does not appear to be any legislative history to explain that omission. ERA believes that the fact of production of electric power for sale or exchange is the controlling factor in the definition of this category of unit, rather than the fact that the term "internal combustion engine" was omitted in the statutory definition of an electric powerplant.

ERA is now considering three alternatives. First, ERA is considering retaining the November 17, 1978 proposal. Second, ERA is considering an alternate definition of electric powerplant which would include an internal combustion engine. For purposes of this alternative, the phrase "a unit which produces electric power for the purpose of sale or exchange" would be given considerable weight, and the phrase "consisting of a boiler, gas turbine, or a combined cycle unit", would be regarded as simply illustrative of the types of units which can produce electricity for sale or exchange and not as an exhaustive list of the possible types of such units. The third alternative is for ERA to withdraw the November 17, 1978 proposal and not to define such internal combustion engines as either powerplants or MFBI's but, instead, to rely on legislative clarification and amendment of the statutory definition of electric powerplant so as to include the term "internal combustion engine"

We welcome comments on each of these alternatives.

5. *Definition of Primary Energy Source* (§500.2(a)(66)). The FEDERAL REGISTER inadvertently did not publish the correct definition of Primary Energy Source. Moreover, the Delaware Solid Waste Authority has suggested expansion of our definition of Primary Energy Source as reflected in (iii) below. We now propose the definition to read:

"Primary Energy Source" means the fuel or fuels used for normal operation by any existing or new electric powerplant or major fuel burning installation, except—

(i) Minimum amounts of fuel required for unit ignition, startup, testing, flame stabilization and control use;

(ii) Minimum amounts of fuel required to alleviate or prevent unanticipated equipment outages and emergencies directly affecting health, safety or welfare which would result from electric power outages; and

(iii) In the case of solid waste and resource recovery facilities, minimum amounts of fuel required for control use including fuels used in secondary boilers during scheduled maintenance and equipment outages.

6. *Filing Fees* (§ 501.20). The Department of Energy (DOE) has earlier proposed to require the payment of certain filing fees as a prerequisite to the submission of petitions for exemption (42 FR 53989, November 17, 1978). Under Title V of the Independent Offices Appropriation Act (IOAA) (31 U.S.C. 483(a)), collection of fees is authorized for administrative processing and review related to regulatory programs such as that established under FUA. Fees are authorized by the IOAA where an agency issues permits or exemptions to identifiable recipients. The proceeds of the fees are paid to the Treasury of the United States and cannot be used by the DOE. The IOAA authorizes collection of reasonable fees by a regulatory agency for specific administrative and processing expenses incurred by that agency in connection with receiving and reviewing petitions for permits or exemptions, where the permits or exemptions would result in direct value or special benefit to an identifiable recipient, such as a petitioner for an exemption from the prohibitions of FUA.

7. *"Substantially Exceeds" Index* (Parts 503, 504, 505 and 506). We propose to designate a specific index as the decision point for the substantially exceeds test. The specific ratio selected as the index will probably be between 1.3 and 1.8, but a higher index may be selected. We are using an index of 1.5 in these proposed regulations for illustrative purposes. We intend to review the index periodically. We invite comments on the magnitude of the index. We further invite comments on whether the same "substantially exceeds" index should be used throughout the regulations. Should the same index be used for new and existing facilities? Should the same index be used for different types of facilities (e.g., combustion turbines, base loaded boiler powerplants)? Should the same index be used for statutory prohibitions and prohibitions by order? Should the same index be used for facilities proposing the use natural gas as for those proposing to use petroleum? Should the same index be used for a temporary exemption as for a permanent exemption? Should the same index be used for general requirements (e.g., alternative power supply) as for exemptions?

8. *No Alternative Power Supply* (§ 503.7 and § 504.13). We are proposing to require that, as part of the demonstration that no alternative power supply exists, a utility demonstrate that the incremental amount of electricity required cannot be obtained from the existing system through improved performance of existing facilities, system conservation measures, utility assisted end use conservation measures (including reduction in demand through utility purchases of insulation for customers), and load management techniques. This treatment was suggested, in part, by the Environmental Defense Fund. We solicit comments on this proposal, and on the manner in which a utility might make such a demonstration.

In order to be consistent with the calculation of cost, we are revising the procedures to evaluate alternative supply of power through amendments to § 503.7. These amendments specify that the cost of purchased power be calculated as a total cost, not a cost per kilowatt hour as previously specified. In addition, these amendments specify that you must evaluate purchasing electricity until an alternate fuel-fired plant can be operational, as well as separately evaluating both purchasing electricity and operating an alternate fuel fired plant.

We solicit comments on whether alternative power supplies should be cal-

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culated on a total cost or cost per kilowatt hour basis.

9. *Fuel Classification and Reporting Requirements* (Part 507). (a) *Restructuring of Natural Gas and Petroleum. Definitions.*

In the FEDERAL REGISTER of November 17, 1978 (43 FR 53987), we defined the terms "natural gas" and "petroleum" in § 500.2(d) and (e), respectively. In this notice, we have established a separate Part 507, entitled Fuel Classification and Reporting Requirements which contains and amends these definitions. Proposed changes to these definitions are identified in (i) and (ii) below.

(i) *Natural Gas Definition.* In the proposed rules for new facilities published on November 17, 1978, we proposed to define the term "natural gas" (§ 500.2(d)) to exclude natural gas produced by the user from a well acquired by the user prior to July 18, 1977, the maximum efficient production rate (MEPR) of which is less than 250 million Btu's per day. Such gas would have been defined as an "alternate fuel". Natural gas produced from wells with a MEPR of less than 250 million Btu's per day which were acquired on or after July 18, 1977, would be defined as "natural gas" rather than as an alternate fuel. The purpose of the proposed definition was to preclude users from escaping the statutory prohibitions on natural gas use simply by purchasing wells which meet the MEPR criteria. We also stated in the preamble that we were evaluating the merit of limiting the amount of natural gas burned from such wells acquired prior to July 18, 1977.

After reviewing the legislative history, we have decided to replace these definitions. We now propose to place no restrictions upon the acquisition of these wells or upon the use by producers of natural gas produced therefrom. We do propose, however, to institute an annual reporting requirement of consumption by large utility users of natural gas produced from these wells, under our authority pursuant to Section 711.

In calculating the MEPR of a well, consistent with Section 103(a)(3)(B)(ii) of FUA, we also propose to include the Btu value of any crude oil, gas condensate, and natural gas liquids which may be produced from the well, in addition to the Btu value of the natural gas.

We have also included occluded methane in coal seams in the definition of unmarketable gas, as proposed by the Governor of West Virginia. We ask comments on this proposal as well as on other types of natural gas substitutes which might be included.

(ii) *Petroleum Definition.* The National Petroleum Refiners Association (NPRA) has suggested that all waste gases, liquids, and solids from refinery or other industrial operations be categorized as "commercially unmarketable" because consumption within the refinery or petrochemical site constitutes the most efficient disposition of these energy sources. Comments are requested on this proposal as well as on the specific definitions proposed in § 507.2(b).

(b) *Reporting Requirements.* We have proposed that users of fuels deemed not to be natural gas and petroleum as defined in Part 507 need only annually report to ERA that they are using such fuels and provide certain information. Since no subsequent certification by ERA would be required, this approach would reduce the administrative burden upon both users and the Government.

We ask comments on whether ERA should reserve the authority to determine at a later date that such fuels should not be excluded from the definitions of natural gas or petroleum, based on the evidence submitted by users. Alternatively, ERA could require users to advertise for a specified period of time the availability of such fuels for potential purchase (by users, natural gas pipelines, and distribution companies. If potential purchasers stated a willingness to purchase such fuels, ERA would then determine that they should not be excluded from the definitions of natural gas or petroleum under the Act. In this regard, should we prescribe appropriate procedures in our regulations setting forth a fixed period for users to advertise the availability of such fuels before it is deemed to be unmarketable? If so, should this be done through the states, the ERA the FERC, or some other mechanism?

d. *New Facilities* (Published on November 17, 1978, (43 FR 53974). 1. *Definition of New Electric Powerplant* (§ 500.2(a)(51)(ii)(B)). We propose additional criteria to determine the point at which a previously "existing powerplant" may be designated "new". We feel the addition is necessary to prevent conversion of existing plants (e.g., combustion turbines to combined cycles) which would result in increased petroleum consumption. We propose to accomplish this by revising Section 500.2(a)(51)(ii)(B) to read "(B) which, on a cumulative basis since April 20, 1977, has been reconstructed or refurbished or added to, to the extent that the cost of such reconstructin, refurbishment, or addition equals or exceeds 50 percent of the price of a replacement unit, on a cumulative basis after November 9, 1978, or which changes the thermal cycle of the unit." We solicit comments on this proposed change.

2. *Permanent Fuels Mixtures Exemption* (§ 505.28). ERA invites additional public comments on new MFBI's which plan to use fuel mixtures of less than 25 percent natural gas or petroleum. As written, § 505.28 would require a petitioner to present extensive documentary evidence that he could not utilize less than 25 percent petroleum or natural gas in a mixture with alternate fuels. In light of § 212(d)(2) of FUA, which states that for installations, the Secretary shall not establish a percentage use of petroleum or natural gas less than 25 percent, we invite comments on whether petitioners who propose to construct installations that will consume less than 25 percent petroleum or natural gas in a mixture should be required to comply with only the annual reporting requirement contained in proposed § 505.28(c).

VI. COMMENT PROCEDURES

A. WRITTEN COMMENTS

You are invited to participate in this Rulemaking by submitting data, views or arguments with respect to the issues set forth in this Notice. Comments should be submitted to the address indicated in the "ADDRESSES" section of this Notice and should be identified on the outside envelope and on documents submitted with the designation "Powerplant and Industrial Fuel Use Act" Docket No. ERA-R-78-19. You should submit fifteen copies. Where possible, comments on separate distinct issues should be physically separated and annotated to allow efficient review and consideration. All comments received will be available for public inspection in the DOE Reading Room, GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. We will consider all comments received by March 2, 1979, 4:30 p.m. regarding the November 17, 1978, Notice and by March 26, 1979, 4:30 p.m. regarding specific issues raised in this Notice.

You should identify separately any information or data you consider to be confidential and file one copy of your submission with the confidential portions deleted. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. PUBLIC HEARINGS

The time, date and locations for the public hearings are being announced in the FEDERAL REGISTER concurrently with these proposed rules.

A draft regulatory analysis of the proposed regulations, as contemplated by Executive Order No. 12044, was attached as an appendix to the proposed rules published in the FEDERAL REGISTER November 17, 1978 (43 FR 53974, November 17, 1978). Copies may also be obtained from the ERA, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, (202) 634-2170. In addition, a draft Environmental Impact Statement (EIS) has been prepared pursuant to the National Environmental Policy Act (NEPA) and is available for review in Room B-110, 2000 M Street, N.W., Washington, D.C.

(Department of Energy Organization Act, Public Law 95-91; Powerplant and Industrial Fuel Use Act of 1978, Public Law 95-620; Title V of the Independent Offices Appropriation Act of 1952, 65 Stat. 290, 31 U.S.C. 483(a); Executive Order 12009, 42 FR 46267).

In consideration of the foregoing, it is proposed to make the following amendments to Title 10, Chapter II, Subchapter E of the Code of Federal Regulations as proposed on November 17, 1978, 43 FR 53974, and it is proposed to add new Parts 504, 506 and 507 to Subchapter E, as set forth below.

Issued in Washington, D.C. on January 22, 1979.

DAVID J. BARDIN,
Administrator,
Economic Regulatory
Administration.

SUBCHAPTER E—ALTERNATE FUELS

AMENDMENTS

10 CFR, Chapter II, Subchapter E, as proposed on November 17, 1978, 43 FR 53974, is amended as follows:

1. The citation of authority appearing at page 53980 of the November 17, 1978 FEDERAL REGISTER is amended to read as follows:

(Department of Energy Organization Act, Pub. L. 95-91; Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620; Title V of the Independent Offices Appropriation Act of 1952, 65 Stat. 290, 31 U.S.C. 483(a); Executive Order 12009, 42 FR 46267).

2. The Table of Contents to Subchapter E is amended by deleting § 500.2(d) (Natural Gas) and § 500.2(e) (Petroleum) appearing at page 53980 of the November 17, 1978 FEDERAL REGISTER.

3. The Table of Contents to Subchapter E is amended by deleting Part 507 (System Compliance) appearing at page 53981 of the November 17, 1978 FEDERAL REGISTER.

PART 500—POLICY AND DEFINITIONS

4. Section 500.1 (General policy) appearing at page 53981 of the November 17, 1978 FEDERAL REGISTER is amended by adding new paragraphs (m) and (n) to read as follows:

§ 500.1 General policy.

* * * * * *

(m) *Mandatory and discretionary exemptions.* (1) The following mandatory exemptions will be granted upon a satisfactory showing that the petitioner has met the required evidentiary burden:

(i) *Temporary exemptions for existing units.* (A) Lack of alternate fuel supply;
(B) Site limitations;
(C) Environmental requirements;
(D) Use of synthetic fuels;
(E) Use of innovative technologies;
(F) Units to be retired;
(G) Peakload powerplants; and
(H) Reliability of service.

(ii) *Temporary exemptions for new units.* (A) Lack of alternate fuel supply;
(B) Site limitations;
(C) Environmental requirements; and
(D) Use of synthetic fuels.

(iii) *Permanent exemptions for existing units.* (A) Lack of alternate fuel supply;
(B) Site limitations;
(C) Environmental requirements;
(D) Fuel mixtures;
(E) Emergency purposes;
(F) Peakload powerplants;
(G) Powerplants with design capacity of less than 250 million Btu's;
(H) Use of LNG;
(I) Installations served by certain international pipelines; and
(J) Product or process requirements.

(iv) *Permanent exemptions for new units.* (A) Lack of alternate fuel supply;
(B) Site limitations;
(C) Environmental requirements;
(D) Fuel mixtures;
(E) Emergency purposes;
(F) Peakload powerplants;
(G) Product or process requirements; and
(H) Lack of adequate capital.

(2) The exemptions listed below are discretionary and ERA may grant such exemptions if the petitioner meets the required evidentiary burden and ERA decides that it would be consistent with the Act, with national energy policy, and in the public interest to do so.

(i) *Temporary exemptions for existing units.* (A) Public interest.

(ii) *Temporary exemptions for new units.* (A) Public interest; and
(B) Use of petroleum by installation with design capacities of less than 300 million Btu's.

(iii) *Permanent exemption for existing units.* (A) State or local requirements;
(B) Cogeneration;
(C) Intermediate load powerplants; and
(D) Scheduled equipment outages.

(iv) *Permanent exemptions for new units.* (A) State or local requirements;
(B) Cogeneration;
(C) Reliability of service powerplants;
(D) Intermediate load powerplants; and
(E) Scheduled equipment outages.

(n) *Use of natural gas by existing powerplants and installations.* National energy policy favors the use of renewable energy sources, coal, uranium and other alternate fuels wherever possible. To the extent that the near-term choice for certain existing facilities is limited to petroleum or natural gas, we generally prefer the use of natural gas and propane over middle distillates, kerosene-base jet fuels and imported residual fuel oils. This policy furthers our national strategic objective to reduce our dependence on foreign oil supplies as well as encouraging more vigorous interfuel competition between oil and gas and reducing our overall level of oil imports. We will reflect this policy in implementing Title III and Title IV of the Act. Specifically, under Section 401 of the Act, we have the discretion to prohibit the use of natural gas in existing (non-MFBI) petroleum-capable boilers used for space heating. In order to avoid stimulating increased use of petroleum, we do not plan to prohibit the use of natural gas in these boilers.

PART 501—ADMINISTRATIVE PROCEDURES AND SANCTIONS

[See 43 FR 53988, November 17, 1978]

PART 502—FUELS DECISION REPORT

[See 43 FR 54001, November 17, 1978]

PART 503—NEW ELECTRIC POWERPLANTS

5. Section 503.7 (No alternative power supply—permanent exemptions) appearing at page 54022 of the November 17, 1978 FEDERAL REGISTER is amended to read as follows:

§ 503.7 No alternative power supply—permanent exemptions.

(a) *Application.* Section 212 of the Act provides for a permanent exemption for lack of alternate fuel supply, site limitations, environmental requirements, inability to obtain adequate capital, State or local requirements, fuel mixtures, emergency purposes, reliability of service, or intermediate load. To qualify for one of these exemptions, you must demonstrate to the satisfaction of ERA that, despite diligent good faith efforts, there is no alternative supply of electric power which is available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service which you could obtain. ERA assumes that you will be unable to demonstrate that there is no alternative supply of electric power if the expected date of plant operation is more than 10 years from the date you apply for an exemption. For proposed

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plants expected to be operational within 10 years from the date you submit your petition, you must demonstrate to the satisfaction of ERA all of the following.

(1) You cannot purchase electricity from another utility at a cost which does not substantially exceed the cost of your proposed plant using imported petroleum. You may include transmission costs to your service area in your cost calculation. ERA will consider any source of electricity which does not substantially exceed the cost of your proposed plant using imported petroleum to be within a reasonable distance and at a reasonable cost. For this subpart the cost index will be the same as that used in the cost calculation. (§ 503.5).

(2) You cannot construct and operate an alternate fuel fired plant either within or outside your service area at a cost which does not substantially exceed the cost of using imported petroleum. See § 503.5 for instructions on calculations of cost. You may include transmission costs for power delivery to your service area.

(3) You cannot purchase electricity and construct and operate an alternate fuel fired plant at a cost which does not substantially exceed the cost of your proposed plant using imported petroleum. ERA will consider any combination of purchased electricity and an alternate fuel fired plant that costs less than (1.5) times the cost of your proposed plant using imported petroleum to be at a reasonable cost. For this subpart the cost index will be the same as that used in the cost calculation. (§ 503.5).

(4) You cannot meet load requirements with existing facilities by improving the performance of existing facilities, employing system conservation measures, assisting end use customers to conserve electricity, and implementing load management techniques.

(b) *Evidence.* You must include in your Fuels Decision Report the following substantial evidence to corroborate the above requirements:

(1) A detailed description of your methodology to calculate the cost for purchased electricity and the cost for your proposed plant as required in paragraph (a)(1) of this section;

(2) A detailed description of your methodology to calculate the cost for purchased electricity and an alternate fuel fired plant, and your proposed plant as required in paragraph (a)(3) of this section;

(3) Identification and explanation of all figures used in your calculation supporting paragraphs (a)(1) and (a)(3) of this section;

(4) A description of your efforts to purchase electricity;

(5) All data required by § 503.5 (cost calculation) supporting paragraph (a)(2) of this section;

(6) A detailed description of each of the methods your considered as required by paragraph (a)(4) of this section together with an estimate of the cost of implementing each of the methods; and

(7) An estimate of the kilowatt hour savings or additional kilowatt hour potential, as applicable, for each of the methods you considered as required by paragraph (a)(4) of this section.

10 CFR, Chapter II, Subchapter E, as proposed on November 17, 1978, 43 FR 53974, is amended by adding Parts 504, 506 and 507 to read as follows:

PART 504—EXISTING ELECTRIC POWERPLANTS

Subpart A—Restriction on the Use of Petroleum

Sec.

504.1 Prohibition against the increased use of petroleum.

Subpart B—Prohibitions and Systems Compliance Option

504.2 Purpose and scope.
504.3 Statutory prohibitions.
504.4 Electric utility system compliance option.
504.5 Prohibitions by order (case-by-case).

Subpart C—General Requirements for Exemptions

504.10 Purpose and scope.
504.11 Fuels Decision Report.
504.12 Cost calculation for existing powerplants.
504.13 No alternative power supply—general requirement for permanent exemptions.
504.14 Use of mixtures—general requirement for temporary exemptions.
504.15 Use of mixtures—general requirement for permanent exemptions.
504.16 Use of fluidized bed combustion not feasible—general requirement for permanent exemptions.
504.17 Terms and conditions; compliance plans.

Subpart D—Temporary Exemptions for Existing Electric Powerplants

504.20 Purpose and scope.
504.21 Lack of alternate fuel supply.
504.22 Site limitations.
504.23 Inability to comply with applicable environmental requirements.
504.24 Future use of synthetic fuels.
504.25 Use of innovative technologies.
504.26 Powerplants: public interest exemption.
504.27 Retirement.
504.28 Temporary exemption for powerplants necessary to maintain reliability of service.
504.29 Peakload powerplants.

Subpart E—Permanent Exemptions for Existing Electric Powerplants

504.30 Purpose and scope.
504.31 Lack of alternate fuel supply.
504.32 Site limitations.
504.33 Inability to comply with applicable environmental requirements.
504.34 State or local requirements.
504.35 Cogeneration.
504.36 Permanent exemption for certain fuel mixtures containing natural gas or petroleum.
504.37 Emergency purposes.
504.38 Peakload powerplants.
504.39 Intermediate load powerplants.
504.40 Use of natural gas by powerplant with capacity of less than 250 million Btu's per hour.
504.41 Use of liquid natural gas.

AUTHORITY: Department of Energy Organization Act, Pub. L. 95-91; Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620; Title V of the Independent Offices Appropriation Act of 1952, 65 Stat. 290, 31 U.S.C. 483(a); Executive Order 12009, 42 FR 46267.

Subpart A—Restriction on the Use of Petroleum

§ 504.1 Prohibition against the increased use of petroleum.

(a) Pursuant to section 405 of the Act, ERA hereby prohibits any existing electric powerplant, which during calendar year 1977 used an alternate fuel as a primary energy source, from using petroleum as a primary energy source in excess of the quantities of petroleum used in the powerplant as a primary energy source during that year unless ERA issues a permit authorizing the increased use of petroleum.

(b) *Eligibility.* ERA shall not issue the permit unless you demonstrate to the satisfaction of ERA all of the following:

(1) You made a good faith effort to obtain an alternate fuel (including electricity) and natural gas;

(2) You made a good faith effort to minimize the quantity and duration of need for increased petroleum as reflected in a Fuels Decision Report;

(3) You supplied a copy of your Fuels Decision Report for review by the Administrator of the Environmental Protection Agency or the appropriate State air pollution control agency;

(4) The Administrator of the Environmental Protection Agency or the appropriate State air pollution control agency certifies to the ERA: you cannot comply with the requirements of the Clean Air Act, including any applicable implementation plan, as defined in 110(d) of the Clean Air Act, without permission to use petroleum rather than an alternate fuel (including electricity) and natural gas (including propane); and

(5) The appropriate State regulatory authority has certified to ERA that the increased use of petroleum by the powerplant is necessary to prevent impairment of reliability of service in your electric region.

(c) *Evidence.* To submit an adequate application to ERA for a permit to increase use of petroleum you must submit a Fuels Decision Report as specified in Part 502 of these regulations. You must include in your Fuels Decision Report evidence that you sought the full range of alternate fuels (including alternate source of power) and natural gas (including propane) which could alleviate conditions in paragraphs (b)(4) and (5) of this section. You also must include in your Fuels Decision Report evidence that you sought to minimize the quantity and duration of increased petroleum use and Certificates from the Administrator of EPA, or the appropriate State air pollution control agency, and the appropriate State regulatory authority as specified in paragraphs (b)(4) and (5) of this section.

(d) ERA shall issue the permit only for the quantity and duration it determines necessary under paragraphs (b)(1), (2), (4), or (5) of this section for the increased use of petroleum.

Subpart B—Prohibitions and Systems Compliance Option

§ 504.2 Purpose and scope.

(a) *Purpose.* This subpart sets forth the statutory prohibitions imposed on existing electric powerplants by the Act and establishes the procedures ERA intends to employ in administering and implementing its authority to prohibit electric powerplants from using petroleum and natural gas. Also set out in this part are the procedures applicable to the systems compliance option.

(b) *Scope.* This subpart applies to all existing electric powerplants. Any person who has any ownership or interest in, or who operates, rents, or leases a powerplant, is subject to the prohibitions of the Act and the penalties as specified by the Act.

§ 504.3 Statutory prohibitions.

(a) Section 301(a)(1) of the Act prohibits the use of natural gas as a primary energy source by any existing electric powerplant on or after January 1, 1990, unless, and to the extent that, the powerplant is granted either a temporary or permanent exemption under this Part of a Systems Compliance Option has been approved.

(b) Section 301(a)(2) of the Act prohibits the use of natural gas as a primary energy source in any existing electric powerplant before January 1, 1990, unless it used natural gas as a primary energy source anytime during calendar year 1977, or unless, and to the extent that, the powerplant is granted either a temporary or permanent exemption under subpart D or E of this part.

(c) Section 301(a)(3) of the Act prohibits the use of natural gas as a primary energy source in any existing electric powerplant, in any calendar year before 1990, in greater proportions than the average yearly proportion of natural gas which:

(1) The powerplant used as a primary energy source in calendar year 1974 through 1976; or

(2) If the powerplant began operations on or after January 1, 1974, the powerplant used as a primary energy source during the first two calendar years of its operation.

(d) Any prohibition against your use of natural gas on of after January 1, 1990 will be stayed while any petition you have filed for an exemption is resolved. The stay will include the time required for judicial review. Your petition for exemption may be filed at any time after May 8, 1979, the effective date of FUA, but it must be filed at least one year before the date the prohibition is first to take effect.

§ 504.4 Electric utility system compliance option.

(a) *General.* Section 501 of the Act provides for an electric utility system compliance option. You will be considered in compliance with any prohibition on existing powerplants relating to the use of natural gas if ERA has approved a system compliance plan for you. No exemption, except an emergency exemption, for use of natural gas will be available for those plants covered by an approved plan.

(b) *Requirements for Approval.* To qualify you must provide the information requested and demonstrate to the satisfaction of ERA your commitment to the terms listed below. Your proposed plan must be submitted before January 1, 1980 and include the following:

(1) Identification of all powerplants owned or operated by you that would or could be subject to prohibitions under Title III (Existing Facilities) relating to the use of natural gas if a plan for you were not approved;

(2) Identification of those plants covered in paragraph (b)(1) of this section that you feel would be entitled to an exemption if a plan were not approved;

(3) A commitment that if a plan is approved you shall not use natural gas or petroleum as a primary energy source in a new baseload powerplant;

(4) A commitment that if a plan is approved you wil not use natural gas on and after January 1, 1990 in excess of (i) 20 percent of your base period usage of natural gas adjusted for emergency or peakload purposes if applicable, or, if lower; (ii) your minimum peakload requirement;

(5) A commitment that if a plan is approved, on or after January 1, 1990 you will not use natural gas in peakload or intermediate load plants identified in paragraph (b)(2) of this section unless it is necessary to prevent impairment of reliability of service;

(6) A commitment that on and after January 1, 2000 you will not use natural gas as a primary energy source unless ERA grants you a temporary extension;

(7) A commitment that upon approval of the system compliance plan you will obtain natural gas used by your system only under the provisions of a contract (i) which you executed prior to November 9, 1978, other than under an extension or renewal of the contract on or after November 9, 1978, or (ii) which you executed prior to November 9, 1978, or an extension or renewal on or after November 9, 1978 but, only if the contract extension or renewal has been approved by ERA;

(8) A 10 year forecast, to be annually revised and extended, which provides support for a conclusion by ERA that the commitments in your system compliance plan will be met. The forecast should include demand for electricity, construction plans and a financial plan.

(9) A plan for use of fuel conservation measures that will minimize your natural gas and petroleum consumption.

(c) *Calculations of 1990 natural gas volumes for § 504.4 (b)(4)(i).* For purposes of this section volumes of natural gas are the sum of the following:

(1) 20 percent of the natural gas used in calendar year 1976 by your powerplants that were placed in service on or before January 1, 1976;

(2) 10 percent of the natural gas used in the first 24 months of service by your powerplants which were placed in service after January 1, 1976 and before May 8, 1979;

(3) Natural gas volumes for emergency purposes consistent with § 504.37 of these regulations if approved by ERA; and

(4) Natural gas volumes for peakload purposes consistent with § 504.38 of these regulations if approved by ERA; and

(5) Natural gas volumes, if approved by ERA, required (i) because of delays which occurred, despite diligent good faith efforts in the construction of powerplants which will use a primary energy source other than natural gas, or (ii) because without increased volumes reliability of service would be impaired.

(d) *Calculation of minimum peakload requierments for § 504.4(b)(4)(ii).* For purposes of this section the minimum peakload requirement is the volume of natural gas required to generate 17.1 percent of the total electricity by your company in 1990.

(e) *Fuel Conservation Measures for § 504.4(b)(9).* Fuel conservation measures include any activity, service, or investment that would result in lower

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consumption of natural gas and petroleum as primary energy sources. Such measures include:

(1) End-use conservation measures, which conserve electric energy generated with natural gas and petroleum by reducing the load to be served;

(2) load management measures, which shape the load so that it may be served by other generation facilities which use less natural gas and petroleum or which use natural gas and petroleum more efficiently. Load management measures include, but are not limited to, time-of-use rates and direct control of customer loads; and

(3) Generation efficiency measures, which conserve natural gas and petroleum by increasing the efficiency of the generation process.

(f) *Temporary extension.* ERA may grant a five-year extension with respect to the use of natural gas if you demonstrate that such gas is needed for:

(1) Emergency purposes consistent with § 504.37 of these regulations, or

(2) Peakload purposes consistent with § 504.38 of these regulations.

(g) *Evidence.* To submit an adequate plan for review by ERA you must include in your plan substantial evidence to corroborate the requirements in § 504.4(b) of this section. Evidence shall include the following:

(1) Identification of your affected powerplants;

(2) Ten-year forecasts of your electric demand, construction plans, and financial plans with sufficient detail to conclude that the commitments in your plan will be carried out;

(3) A schedule for an orderly progression to meet the 1995 and 2000 commitments; and

(4) A description of contracts with appropriate state regulatory authorities regarding the commitments contained in your plan.

(5) A description of the fuel conservation measures planned or of such alternative measures as may be indicated, including:

(i) The amount of natural gas and petroleum likely to be consumed;

(ii) The specific end-loads to be served by the system; and

(iii) A description of the proposed fuel conservation measures including their practicability, effectiveness, cost, anticipated savings, and implementation steps.

(h) *Reporting.* You must annually update the information contained in your plan, including progress on implementing your proposed conservation measures.

(i) *Terms and conditions.* ERA will condition approval of your system compliance plan on such terms and conditions as we determine to be appropriate, including the use of effective fuel conservation measures which are practicable and consistent with the purposes of the Act.

(j) *Plan revision revocation.* (1) A system compliance plan may be revised or modified for substantially changed circumstances supported by clear and convincing evidence.

(2) A revision to a system compliance plan may be proposed by you or by ERA on its own motion. No proposed revision will be effective without your approval and the approval of ERA.

(3) ERA may revoke a system compliance plan after notice to you and an opportunity for an informal hearing of its intention to revoke based upon a finding by ERA that the system compliance plan is no longer consistent with the purposes of the Act.

(k) *Waiver of certain prohibitions.* Section 216 of the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619) prohibits utilities from supplying, installing or financing certain end-use conservation measures. Petitions for system compliance plans that propose fuel conservation measures prohibited by NECPA prohibition should include a specific request that the NECPA prohibition be waived by the Secretary.

§ 504.5 Prohibitions by order (case-by-case).

(a) ERA may prohibit, by order, the use of natural gas or petroleum as a primary energy source in an existing electric powerplant if ERA finds that:

(1) The powerplant has, or previously had, the technical capability to use alternate fuel as a primary energy source;

(2) The powerplant presently has this technical capability or could acquire the technical capability without:

(i) A substantial physical modification of the unit; or

(ii) A substantial reduction in the rated capacity of the unit; and

(3) It is financially feasible for the powerplant to use an alternate fuel as its primary energy source.

(b) ERA must make a proposed finding regarding the technical capability of a unit to use alternate fuel as identified in paragraph (a)(1) of this section prior to the date of publication of the notice of the proposed prohibition. ERA will publish this finding in the FEDERAL REGISTER along with the notice of the proposed prohibition.

(c) Your powerplant shall be considered technically capable of using alternate fuel as its primary energy source if:

(1) The powerplant was designed so as to be capable of using a specific alternate fuel as primary energy source, with or without modification of the unit; or

(2) ERA determines that the powerplant is capable of using an alternate fuel as its primary energy source even though the unit was not spcifically designed for that alternate fuel.

(d) Your powerplant does not require substantial physical modification if it has the requisite furnace configuration and the requisite tube spacing to burn an alternate fuel.

(e) No substantial reduction in the rated capacity of the unit will be presumed to occur if the derating does not exceed 25 percent. ERA will not consider the loss of design capacity caused by the use of pollution control equipment.

(f) It is financially feasible for your powerplant to use an alternate fuel as its primary energy source if:

(1) The cost of using an alternate fuel does not substantially exceed the cost of using imported petroleum, as determined by utilizing the cost calculation described in § 504.12 of these regulations; and

(2) You have the ability to raise the capital necessary to convert the unit to burn an alternate fuel as its primary energy source.

(g) If ERA finds that it is technically and financially feasible for your powerplant to use a mixture of petroleum or natural gas and alternate fuel as its primary energy source, ERA may prohibit you, by order, from using petroleum or natural gas in amounts exceeding the minimum amount necessary to maintain the reliability of your operation consistent with maintaining reasonable fuel efficiency of the mixture.

(h) ERA may not issue a final order to your powerplant if you demonstrate by written submission that your facility would be eligible for an exemption under the criteria set out in this part for any applicable exemption, or if you have demonstrated to the satisfaction of ERA that the required findings stated in paragraph (a) of this section cannot be made. However, if your powerplant would be eligible only for a temporary exemption, ERA may issue you a final order that will take effect at the expiration of the temporary exemption.

(i) ERA may not issue a final order, under this section to your powerplant unless prior to issuance of the order there has been published in the FEDERAL REGISTER a notice of the proposed order. This notice shall provide a period of no less than 49 days in which interested persons may file written data, views and arguments and also provide an opportunity for interested persons to request a public hearing on the proposed order. It is during this public comment period that the recipient is given the opportunity to challenge the findings ERA must make prior to issuance of a final order and/or to demonstrate that the installation is eligible for an exemption.

[6450-01-C]

EQ 1 $$R = \frac{\text{COST (ALTERNATE)}}{\text{COST (OIL)}}$$

(ii) Calculate the cost of using an alternate fuel and imported petroleum with equation 2.

EQ 2 $$\text{COST} = I + \frac{OM_1 + FL_1}{(1+K)^1} + \frac{OM_2 + FL_2}{(1+K)^2} + \ldots + \frac{OM_N + FL_N}{(1+K)^N} - \frac{S_P}{(1+K)^P}$$ 1/

(iii) Calculate investment (I), operations and maintenance (OM), and fuel (FL) for equation 2 using equations 3, 4, and 5.

EQ 3 $$I = I_o + \frac{I_1}{(1+K)^1} + \frac{I_2}{(1+K)^2} + \ldots + \frac{I_N}{(1+K)^N}$$

EQ 4 $$OM = 8760 \times ACF \times O \times C$$

EQ 5 $$FL = 8760 \times ACF \times C \times f \times H$$

(5) The terms in equations 1 through 5 are defined as follows:

1/ The electric power industry is a regulated industry. Its profits depend upon its regulators as well as its costs. Since there are many regulatory bodies, which do not always act the same way, we decided not to be concerned with the profits, per se, but only with the costs to society of producing electricity. The income taxes paid by the utilities are transfer payments, from a societal point of view, and therefore are not included in the calculation.

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(j) If ERA cannot issue your powerplant a final order because your facility is eligible for a permanent exemption, or if the effective date of the order is delayed during the period that a temporary exemption is in effect, ERA will take the necessary action to assure that you comply with the terms and conditions of the order granting the exemption.

(k) ERA may not issue your powerplant an order under this section if your powerplant has been identified as a member of a category subject to a final rule at the time of an issuance of the proposed order.

Subpart C—General Requirements for Exemptions

§ 504.10 Purpose and scope.

This subpart establishes the general requirements necessary to qualify for either a temporary or permanent exemption under this Part and sets out the methodology for calculating the cost of using an alternate fuel and the cost of using imported petroleum.

§ 504.11 Fuels decision report.

(a) Before ERA will accept a petition for either a temporary or permanent exemption from a final prohibition order issued under this Part, you must include as part of your petition a Fuels Decision Report as described in Part 502. The Fuels Decision Report shall contain the analysis and documentation of the evidence required in support of your exemption request.

(b) If you are requesting a temporary or permanent exemption from a proposed prohibition order issued under this part, you are not required to submit a Fuels Decision Report as part of your written submission. Your submission must include, however, all of the evidence required by the applicable section of the regulations pertaining to the exemption.

§ 504.12. Cost calculations for existing powerplants.

(a) *General.* (1) If you are requesting an exemption for an existing powerplant on the basis that the cost of using an alternate fuel as a primary energy source or the cost of using an alternate power supply substantially exceeds the cost of using imported petroleum, you must use the comparative cost test provided in this section.

(2) The cost of using an alternate fuel in lieu of imported petroleum as a primary energy source, or the cost to use an alternate power supply will be deemed to be substantially in excess of the cost to use imported petroleum were the ratio of the former to the latter is greater than the index sex periodically ERA. Initially, ERA sets the index at (1.5). ERA will revise the index from time to time after public notice and an opportunity to comment. Revisions shall become effective for all ERA decisions after final publication.

(3) The cost test takes into consideration capital outlays, operation and maintenance expenses, and delivered fuel expenditures. There are two comparative cost tests—a General Cost Test and a Special Cost Test. You must demonstrate eligibility for a permanent exemption on the basis that the cost of using alternate fuel as a primary energy source substantially exceeds the cost of using imported petroleum. You must use the procedures specified in the General Cost Test (Section b). You must demonstrate eligibility for a temporary exemption using the procedure specified in the General Cost Test (Section b) or the Special Cost Test (Section c).

(4) The General Cost Test differs from the Special Cost Test with respect to the time period over which costs are calculated. When using the General Cost Test, the cost must be computed for the remaining useful life of the powerplant. When using the Special Cost Test, the cost is computed only for the term of the exemption.

(b) *Cost calculation—general cost test.* (1) You may be eligible for a permanent exemption if you demonstrate that the cost of using an alternate fuel starting with each successive year within the first ten years of the exemption will always substantially exceed the cost of using imported petroleum in the powerplant from the time the exemption becomes effective until the end of the powerplant's useful life. You will have to show that the cost of using an alternate fuel starting in each of the first ten years of this exemption and using oil or natural gas until the start of using an alternate fuel, substantially exceeds the cost of using only imported petroleum. In the case where you are comparing the costs of using an alternate power supply, you need only compare the cost of using the alternate power supply from the time the exemption becomes effective until the end of the useful life of the powerplant to the cost of using imported petroleum in the proposed powerplant over the same time period. If the costs of the former substantially exceeds the latter, you may be eligible for a permanent exemption.

(2) ERA will not grant a permanent exemption if a temporary exemption solves the cost problem within ERA's definition. Therefore, if the cost computed with successive starting dates for alternate fuel use (for the first 10 years of the exemption) does not always substantially exceed the cost of using imported petroleum, you would only be eligible for a temporary exemption. The length of the temporary exemption would be the minimum period where the costs of using alternate fuel always substantially exceeds the cost of using imported petroleum. For example, if you can burn coal, but the coal will not be available from a bona fide supplier for 2 years, ERA may grant a temporary exemption and allow the burning of natural gas based on an acceptable certification of the schedule of delivery of coal.

(3) For the General Coal Test, ERA defines cost as the sum of the annual outlays for capital, operations and maintenance and delivered fuel, discounted to the present.

(4) To conduct the test, you must use the equations that follow:

(i) Calculate the ratio (R) of the cost of using an alternate fuel to the cost of using imported petroleum with equation 1.

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R—The ratio of the cost of using an alternate fuel to the cost of using imported petroleum.

COST—The total discounted cost in dollars, of constructing and operating the plant for the remaining useful life of the powerplant.

I—Discounted total net capital outlay in dollars, excluding investment tax credits and "Advances in Aid of Construction" (as per FERC system of accounts). May include investment in additional transmission facilities to deliver power to your service area. (ERA will not consider investment tax credits for oil or gas fired powerplants.)

I_o—Net capital outlay in dollars up to the time the exemption becomes effective.

I_1-I_n—Yearly new capital outlay from first year of the exemption through the remaining life of the plant.

OM—Annual cost in dollars of operating and maintaining the unit starting when the exemption becomes effective. May include expenditures for wheeling power to your service area.

S_p—Salvage value of equipment rendered unless by changing the fuel from oil or natural gas to alternate fuel in year p.

ACF—Annual capacity factor of the plant expressed as a fraction (see Section d).

O—Operations and maintenance in dollars per Kwh at the annual capacity factor ($/Kwh).

C—Design capacity of the plant in KW.

FL—Annual delivered fuel expenditures in dollars starting when the exemption becomes effective.

F—Delivered fuel expenditures to the plant expressed in dollars per Btu.

H—Heat input rate for the plant in Btu per KWH.

P—Year fuel is changed from oil or natural gas to alternate fuel.

K—The real cost of capital expressed as a fraction (see Section d).

N—The remaining useful life of the powerplant (see Section d).

8760—The number of hours in a year.

(6) Fuel transportation costs are part of delivered fuel expenditures except where you must acquire capital equipment to deliver the fuel. The capital outlays for this equipment are included in the capital outlay terms. The operations and maintenance costs of this equipment are included in the operations and maintenance terms. Similarly, the cost of delivering power to your service area should be included in the operations and maintenance costs unless you must construct transmission facilities in which case you may include these expenditures in the capital outlay term.

(7) The step by step procedure that follows shows the comparison that you must make. It outlines the equipment and fuel comparisons as well as the time comparisons. If you are using the test to demonstrate eligibility for a lack of alternate fuel supply exemption begin with step (i). If you are using the test to demonstrate that there is no alternate supply of power, use only steps (ii), (iv), (v) and (vi).

(i) Compute the cost (COST) of using an alternate fuel or alternate power supply with equation (2).

(ii) Compute the cost (COST) of using an alternate fuel with equation (2) assuming an alternate fuel is not used as the primary energy source until the end of the first year of the exemption and that oil or natural gas is used for the first year of the exemption. Capital investment, operating and maintenance and fuel expenditures should reflect postponed use of alternate fuel (e.g., installation of scrubber when used).

(iii) Successively compute the cost (COST) of using an alternate fuel with equation (2) assuming alternate fuel is postponed until the end of the second through tenth year of the exemption (and oil or natural gas is used in the years preceding alternate fuel use).

(iv) Compute the cost (COST) of using oil or natural gas with equation (2).

(v) If you are comparing the use of an alternate power supply with the use of imported petroleum, compute the ratio of the cost of using the alternate power supply to the cost of using oil or natural gas. Otherwise, compute the ratios (R) of the cost of using an alternate fuel at the beginning of the exemption, and successively at the end of the first through tenth year of the exemption to the cost of using oil or natural gas from the start of the exemption throughout the remaining useful life of the powerplant with equation (1).

(vi) If all the ratios (R) are greater than, for illustrative purposes, 1.5 (an index to be set periodically by ERA), your exemption would be granted. If one or more of the ratios (R) is equal to or less than 1.5 and a series of ratios (R), starting with the case where alternate fuel is used for the start of operation, are all greater than 1.5, a temporary exemption would be granted for the minimum period in which the cost of starting to use alternate fuel, deferred year by year, always exceeds 1.5.

(8) The following table shows the hypothetical results of four sets of calculations.

HYPOTHETICAL RESULTS OF FOUR SETS OF CALCULATIONS

Year in Which Alternate Fuel Use Commences	Case I	Case II	Case III	Case IV
At Start of Exemption	1.7	.17	1.7	1.3
1	1.7	.17	1.7	1.3
2	1.7	.17	1.7	1.3
3	1.4	.17	1.7	1.3
4	1.4	.17	1.4	1.3
5	1.4	.17	1.4	1.0
6	1.4	.17	1.2	1.0
7	1.4	.17	1.2	1.0
8	1.5	.17	1.2	1.0
9	1.6	.17	1.2	1.0
10	1.7	.17	1.2	1.0

The results of the above table shows that: a two year temporary exemption would be granted in Case I, a permanent exemption would be granted in Case II, a three year temporary exemption would be granted in case III, and no exemption would be granted in Case IV.

(c) *Cost calculations—special cost test.* (1) You may be eligible for a temporary exemption if you demonstrate that the cost of using an alternate fuel will substantially exceed the cost of using imported petroleum over the period of the proposed exemption. The period of the exemption cannot exceed ten years. You will have to show that the cost of using an alternate fuel substantially exceeds the cost of using imported petroleum for the first year of the exemption, the first two years of the exemption, and each successive year of the exemption, up to the period of the proposed exemption.

(2) The factors included in the computation are (i) the operations and maintenance and the delivered fuel expenditures incurred during the proposed exemption, and (ii) the capital outlays associated with the exemption.

(3) To conduct the test, you must use the equations that follow.

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$$\text{EQ 6} \quad R = \frac{\text{COST (ALTERNATE)}}{\text{COST (OIL)}}$$

(ii) Calculate the cost using equation 7

$$\text{EQ 7} \quad \text{Cost} = I + \frac{OM_1 + FL_1}{(1+k)^1} + \frac{OM_2 + FL_2}{(1+k)^2} + \ldots + \frac{OM_p + FL_p}{(1+k)^p} - \frac{Sp}{(1+k)^p}$$

(iii) Calculate investment (I), operations and maintenance (OM), and fuel (FL) for equation 7 using equations 8, 9, and 10.

$$\text{EQ 8} \quad I = I_o + \frac{I_1}{(1+k)^1} + \frac{I_2}{(1+k)^2} + \ldots + \frac{I_p}{(1+k)^p}$$

$$\text{EQ 9} \quad OM = 8760 \times ACF \times O \times C$$

$$\text{EQ 10} \quad FL = 8760 \times ACF \times C \times f \times H$$

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(4) The terms in equations 6 through 10 are defined as follows:

R—The ratio of the cost of using an alternate fuel to the cost of using imported petroleum.

COST—The total discounted cost in dollars, associated with the exemption, of constructing and operating the powerplant.

I—Discounted total net capital outlay in dollars excluding investment tax credits and "Advance in Aid of Construction" (as per FERC system of accounts) until the end of the proposed exemption. The investment in the basic powerplant (that which would be required if a change in the primary energy source where not being proposed) itself is not included in this comparison. (ERA will not consider investment tax credits for oil or gas fired powerplants.)

I_o—Net capital outlay in dollars up to the time the exemption is effective.

I_1—I_p—Yearly net capital outlay from the first year of this exemption until the change to alternate fuel.

OM—Annual Cost in Dollars of operating and maintaining the powerplant during the exemption.

S_p—Salvage value of equipment rendered useless by changing from oil or natural gas to alternate fuel in year, P.

ACF—Annual capacity factor of the powerplant expressed as a fraction (see Section d).

O—Operations and maintenance costs in dollars per kWh at the annual capacity factor ($/kWh).

C—Design capacity of the plant in kW.

FL—Annual delivered fuel expenditure in dollars during the exemption.

f—Delivered fuel expenditure to the plant expressed in dollars per Btu (see Section d).

H—Heat input rate for the plant in Btu per kWh.

K—The real cost of capital expressed as a fraction (see Section d).

P—The period of the proposed exemption.

8760—The number of hours in a year.

(5) The step by step procedure that follows shows the comparisons you must make.

(i) Compute the cost (COST) of using an alternate fuel assuming the length of the proposed exemption is one year with equation 7.

(ii) Compute the cost (COST) of using oil or natural gas valued at imported petroleum prices assuming the length of the proposed exemption is one year with equation 7.

(iii) Compute the ratio (R) of the cost of using an alternate fuel for the first year to the cost of using imported petroleum for the first year with equation 6.

(iv) Repeat the calculations made in (i), (ii), and (iii) above assuming the length of the proposed exemption is two years, three years, and so on, up to the period of the proposed exemption.

(v) A temporary exemption would be granted where one or more of the successive ratios (r) are greater than, for illustrative purposes, 1.5 (the index to be established by ERA).

(d) *Information on parameters used in the calculation.* (1) All estimated expenditures, except natural gas, and petroleum products, shall be expressed in real (uninflated) terms using the prices in effect at the time the petition is submitted.

(2) The delivered price of oil or natural gas to be used in the cost calculation must reflect the price of imported oil. The imported petroleum price is reflected in th cost calculation in the following way:

$$PFE = \frac{PICO}{PCCO} \times PF$$

where

PICO=Price of imported crude oil. The most recent refiner acquisition cost of imported crude oil as reported in the FEDERAL REGISTER monthly notice for the DOE Domestic Crude Oil Allocation (Entitlements) Program.

PCCO=Price of composite crude oil. The mnost recent weighted average cost of total reported crude oil receipts as reported in the FEDERAL REGISTER notice for the DOE Entitlements Programs.

PF=Price of your fuel. The most recent actual weighted average cost of your fuel oil (other than gas). Alternatively, if no purchases of fuel oil occurred, or you used natural gas during this month, you should use a simple average of the industrial price of fuel oil (capable of being burned in your facility) sold in your area by at least three suppliers. For proposed natural gas users, you shall use the price of No. 2 distillate fuel oil in this calculation.

PFE=Price of fuel for equation. The cost of oil for use in equation 1.

(3) For existing powerplants, the annual capacity factor shall be assumed to be the average capacity factor for the last five years or the life of the powerplant if the powerplant is less than five years old.

(4) The remaining useful life of a coal, nuclear, oil or natural gas fired powerplant will be 35 years minus the number of years of operation prior to the time effective date of the exemption. You may rebut this presumption with suitable engineering evidence.

(5) The cost of capital for electric utilities is 3.5 percent per year in real terms.

(b) All estimated expenditures will be computed in accordance with generally accepted accounted principles.

(e) *Evidence supporting the comparative cost test.* All petitions for exemption requiring the use of the comparative cost test shall include, but not be limited to, the following information:

(1) A detailed accounting of all capital outlays including a description of all major construction and equipment. All critical assumptions should be stated and sufficient data should be included to support your estimates.

(2) A detailed accounting of all operations and maintenance expenditures including a description of all major elements. All critical assumptions should be stated and sufficient data included to support your estimates.

(3) A detailed accounting of all delivered fuel expenditures including transportation. All critical assumptions should be stated and sufficient data included to support your estimates. The fuel characteristics for each alternate fuel should be included.

(4) If you assume that the remaining useful life of the existing powerplant is less than 35 years, minus the number of years of operation before the effective date of this exemption, all critical assumptions should be stated and sufficient data included to support that position.

(5) The powerplant design capacity and the heat input rate, for each fuel considered.

(f) *Example of calculations.* (1) You are considering converting a powerplant from oil to coal. In this particular situation, the delivered cost of coal is much greater for the first three years after the proposed conversion than it will be in later years because of a transportation problem. Do you qualify for an exemption? If so, is it permanent or temporary?

(2) To determine if you qualify for a permanent exemption, you would have to use the General Cost Test and compute the ratios of the cost to use 1) coal for the remaining useful life of the powerplant after the effective date of the exemption, 2) imported petroleum for the first year of the exemption and coal for the remainder of the useful life of the powerplant, 3) imported petroleum for the first two years of the exemption and coal for the remainder of the useful life of the powerplant * * *, and 11) imported petroleum for the first 10 years of the exemption and coal for the remainder of the useful life of the powerplant to the cost of using imported petroleum for the remaining useful life of the

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powerplant after the effective date of the exemption.

(3) All eleven ratios would have to be higher than 1.5 (index to be established by ERA) to qualify for a permanent exemption. However, if a series of successive ratios, starting with the case where alternate fuel is used from the start of the exemption, are all greater than 1.5, you would be eligible for a temporary exemption up to the last year the ratio is greater than 1.5.

(4) In this example, we will only compute the ratios of (i) the cost to use coal for the remaining useful life of the powerplant after the effective date of the exemption and (ii) the cost of using imported petroleum for the first three years of the exemption and coal for the remainder of the useful life of the powerplant, to the cost of using imported petroleum for the remaining useful life of the powerplant, after the effective date of the exemption.

(5) To determine if you qualify for a temporary exemption if you have not already done so with the General Cost Test, you would have to use the Special Cost Test and compute the ratios of the cost to use coal in the powerplant to the cost of using imported petroleum in the powerplant for one, two, and three years after the effective date of the exemption. All three ratios would have to be higher than 1.5 in order to qualify for a three year temporary exemption. In this example, we will only compute the ratio of the cost of using coal to the cost of using imported petroleum for the first three years after the effective date of the exemption.

(6) *Parameters.* A set of hypothetical parameters are given below:

(i) Powerplant conversion to coal without changing capacity or remaining useful life.

Net capital outlay (without scrubber) to convert the powerplant to burn coal—$15,460,000.
Salvage value of equipment rendered useless by shifting from oil to coal—$3,860,000.
Net capital outlay for scrubber—$22,500,000.
Operations and maintenance costs per KWH to burn coal—$0.0025/KWH.

Existing oil burning powerplant.

Operations and maintenance cost per KWH—$0.0015/KWH.
Remaining useful life (after exemption becomes effective)—25 years.
Capacity—250,000 KW.

(iii) Fuel.

Delivered price of oil—$2.52/1,000,000 BTU.
Heat rate of oil—10,000 BTU/KWH.
Delivered price of coal for the first three years after the proposed exemption—$4.28/1,000,000 BTU.
Delivered price of coal for the fourth through twenty-fifth year after the proposed conversion—$1.35/1,000,000 BTU.
Heat rate for coal—10,000 BTU/KWH.

(7) *Analysis.* (i) The annual fuel and operations and maintenance expenditures are developed below.

Delivered coal expenditures for the first three years after the proposed conversion.

FL = 8760 × ACF × C × f × H = 8760 hr/yr × 0.7x 250,000 KW $4.28/1,000,000 BTU × 10,000 BTU/KWH = $65,610,000/yr.

Delivered coal expenditures for the fourth through twenty-fifth years after the proposed conversion.

FL = 8760 × ACF × C × f × H = 8760 hr/yr × 0.7 × 250,000 KW × $1.35/1,000,000 BTU × 10,000 BUT/KWH = $20,700,000/yr.

Delivered oil expenditures.

FL = 8760 × ACF × C × f × H = 8760 h/yr × 0.7x × 250,000 KW × $2.52/1,000,000 BTU × 10,000 BTU/KWH = $38,630,000/yr.

Operations and maintenance expenditures to burn coal.

OM = 8760 × ACF × O × C = 8760 h/yr × 0.7 × $0.0025/KWH × 250,000 KW = $3,833,000/yr.

Operations and maintenance expenditures to burn oil.

OM = 8760 × ACF × O × C = 8760 hr/yr × × 0.7 $0.0015/KWH × 250,000 KWH = $2,300,000.

(ii) *General cost test.* The relevant cash flows are shown in the following table for the three cases in which computations are being made.

CASH FLOWS FOR GENERAL COST TEST ($ IN THOUSANDS)

Type of cash flow	Year(s)	Case 1—Coal over remaining useful life of powerplant	Case 2—Imported petroleum for first 3 years and coal thereafter	Case 3—Imported petroleum over the remaining life of the powerplant
Investment	0	$15,460+$22,500	0	0
Investment	3	0	$22,500+$15,460	0
Salvage	0	$3,860	0	0
Salvage	3	0	$3,860	0
Operation and Maintenance	1, 2, 3	$3,833/yr.	$2,300/yr.	$2,300/yr.
Operation and Maintenance	4, —, 25	$3,833/yr.	$3,833/yr.	$2,300/yr.
Fuel	1, 2, 3	$65,610	$38,630/yr.	$38,630/yr.
Fuel	4, —, 25	$20,700/yr.	$20,700/yr.	$38,630/yr.

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The following computations are in thousands of dollars.

Case 1. Cost of using coal over the remaining useful life of the powerplant from the start of the exemption.

$$I = I_o + \frac{I_1}{(1+K)^1} + \frac{I_2}{(1+K)^2} + \ldots + \frac{I_N}{(1+K)^N},$$

$$= (15{,}460 + 22{,}500) + \frac{0}{(1.035)^1} + \frac{0}{(1.035)^1} + \ldots + \frac{0}{(1.035)^{25}}$$

$$= 37{,}960$$

$$COST = I + \frac{OM_1 + FL_1}{(1+K)^1} + \frac{OM_2 + FL_2}{(1+K)^2} + \ldots + \frac{OM_N + FL_N}{(1+K)^N} - \frac{S_p}{(1+K)^p}$$

$$= 37{,}960 + \frac{3{,}833 + 65{,}610}{(1.035)^1} + \frac{3{,}833 + 65{,}610}{(1.035)^2} + \frac{3{,}833 + 65{,}610}{(1.035)^3} + \frac{3{,}833 + 20{,}700}{(1.035)^4} + \ldots + \frac{3{,}833 + 20{,}700}{(1.035)^{25}} - \frac{3860}{(1.035)^0}$$

$$564{,}300$$

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Case 2. Cost of using imported petroleum for the first three years of the exemption and coal thereafter.

$$I = \underset{0}{I} + \frac{\underset{1}{I}}{(1+K)^1} + \frac{\underset{2}{I}}{(1+K)^2} + \ldots + \frac{\underset{N}{I}}{(1+K)^N}$$

$$= 0 + \frac{(22,500 + 15,460)}{(1.035)^3}$$

$$+ \$34,240$$

$$COST = I + \frac{\underset{1}{OM} + \underset{1}{FL}}{(1+K)^1} + \frac{\underset{2}{OM} + \underset{2}{FL}}{(1+K)^2} + \ldots + \frac{\underset{N}{OM} + \underset{N}{FL}}{(1+K)^N} - \frac{\underset{p}{S}}{(1+K)^p}$$

$$= 34,240 + \frac{2,300 + 38,630}{(1,035)^1} + \frac{2,300 + 38,630}{(1,035)^2} + \frac{2,300 + 38,630}{(1,035)^3}$$

$$+ \frac{3,833 + 20,700}{(1.035)^4} + \ldots + \frac{3,833 + 20,700}{(1.035)^{25}} - \frac{3,860}{(1.035)^3}$$

$$= 481,000$$

Case 3. Cost of using imported petroleum over the remaining life of the powerplant starting with the effective date of the exemption.

$$I = \underset{0}{I} + \frac{\underset{1}{I}}{(1+K)^1} + \frac{\underset{2}{I}}{(1+K)^2} + \ldots + \frac{\underset{N}{I}}{(1+K)^N}$$

$$= 0 + \frac{0}{(1.035)^1} + \frac{0}{(1.035)^2} + \ldots + \frac{0}{(1.035)^{25}}$$

$$= 0$$

$$COST = I + \frac{\underset{1}{OM} + \underset{1}{FL}}{(1+K)^1} + \frac{\underset{2}{OM} + \underset{2}{FL}}{(1+K)^2} + \ldots +$$

$$+ \frac{\underset{N}{OM} + \underset{N}{FL}}{(1+K)^N} - \frac{\underset{p}{S}}{(1+K)^p}$$

$$= 0 + \frac{2,300 + 38,630}{(1.035)^1} + \frac{2,300 + 38,630}{(1.035)^2} + \ldots + \frac{2,300 + 38,630 + 0}{(1.035)^{25}}$$

$$= 674,600$$

Computation of ratios.

$$R = \frac{COST\ (COAL\ \text{throughout remaining life})}{COST\ (OIL)}$$

$$= \frac{564,300}{674,600} = 0.84$$

$$R = \frac{COST\ (OIL\ \text{first three years, coal thereafter})}{COST\ (OIL)}$$

$$= \frac{481,000}{674,600} = 0.91$$

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Conclusion. Since the ratios are less than 1.5, you would not qualify for a permanent or temporary exemption, using the general cost test.

(iii) *Special cost test.* The relevant cash flows are shown in the following table for the two cases in which computations are being made.

The following computations are in tnousands of dollars.

Case 1. Cost of using coal from the start of the exemption

$$I = I_o + \frac{I_1}{(1+K)^1} + \frac{I_2}{(1+K)^2} + \cdots \frac{I_p}{(1+K)^p}$$

$$= (15,460 + 22,500) + \frac{0}{(1.035)^1} + \frac{0}{(1.035)^2} \cdots + \frac{0}{(1.035)^3}$$

$$= 37,960$$

$$COST = I + \frac{OM_1 + FL_1}{(1+K)^1} + \frac{OM_2 + FL_2}{(1+K)^2} + \cdots + \frac{OM_p + FL_p}{(1+K)^p} - \frac{S_p}{(1+K)^p}$$

$$= + \frac{3,833 + 65,610}{(1.035)^1} + \frac{3,833 + 65,610}{(1.035)^2} + \frac{3,833 + 65,610}{(1.035)^3} - \frac{3,860}{(1.035)^0}$$

$$= 228,652$$

Case 2. Cost of using imported petroleum for the first three years of the exemption (and coal thereafter)

$$I = I_o + \frac{I_1}{(1+K)^1} + \frac{I_2}{(1+K)^2} + \cdots + \frac{I_p}{(1+K)^n}$$

$$= 0 + \frac{(22,500 + 15,460)}{(1.035)^3}$$

$$= 34,240$$

$$COST = I + \frac{OM_1 + FL_1}{(1+K)^1} + \frac{OM_2 + FL_2}{(1+K)^2} + \cdots + \frac{OM_p + FL_p}{(1+K)^p} - \frac{Sp}{(1+K)^p}$$

$$= 34,240 + \frac{2,300 + 38,630}{(1.035)^1} + \frac{2,300 + 38,630}{(1.035)^2} + \frac{2,300 + 38,630}{(1.035)^3} - \frac{3860}{(1.035)^3}$$

$$= 145,400$$

Computation of ratio.

$$R = \frac{\text{COST (COAL FOR PERIOD OF EXEMPTION)}}{\text{COST (OIL FOR PERIOD OF EXEMPTION)}}$$

$$= \frac{228,652}{145,400} = 1.57$$

Conclusion. If ERA had set the index at 1.5, you would be granted a temporary exemption.

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CASH FLOW FOR SPECIAL COST TEST (IN THOUSANDS)

Type of Cash Flow	Year(s)	Case 1.—Coal Over Remaining Useful Life of Powerplant	Case 2.—Petroleum for First 3 Yrs and Coal Thereafter
Investment	0	$15,460+$22,500	0
Investment	3	0	$22,500+15,460
Salvage	0	$3,860	0
Salvage	3	0	$3,860
Operation and Maintenance	1, 2, 3	$3,833/yr.	$2,300/yr
Fuel	1, 2, 3	$65,610/yr.	$38,630/yr.

§ 504.13 No alternative power supply—General requirement for permanent exemptions.

(a) *Application.* Section 312 of the Act provides for a permanent exemption for State or local requirements and intermediate load. To qualify for one of these exemptions, you must demonstrate to the satisfaction of ERA that despite diligent good faith efforts, there is no alternative supply of electric power which is available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service which you could obtain. You must demonstrate to the satisfaction of ERA all of the following.

(1) You cannot purchase electricity from another utility at a cost which does not substantially exceed the cost of your existing plant using imported petroleum. You may include transmission costs to your service area in your cost calculation. ERA will consider any source of electricity which does not substantially exceed the cost of your existing plant using imported petroleum to be within a reasonable distance and at a reasonable cost. (For this subpart the cost factor will be the same as that used in the cost calculation.)

(2) You cannot construct and operate an alternate fuel fired plant either within or outside your service at a cost which does not substantially exceed the cost of using imported petroleum. See § 504.12 for instructions on calculations of cost. You may include transmission costs for power delivery to your service area.

(3) You cannot purchase electricity and construct and operate and alternate fuel fired plant at a cost which does not substantially exceed the cost of your existing plant using imported petroleum. ERA will consider any combination of purchased electricity and alternate fuel fired plant that costs less than 1.5 times the cost of your existing plant using imported petroleum to be at a reasonable cost. (For this subpart the cost factor will be the same as that used in the cost calculation.)

(4) You cannot meet load requirements with existing facilities by improving the performance of existing facilities, employing system conservation measures, assisting end use customers to conserve electricity, and implementing load management techniques.

(b) *Evidence.* You must provide the following substantial evidence to corroborate the above requirements:

(1) A detailed description of your methodology to calculate the cost of purchased electricity and the cost for your existing plant as required in paragraph (a)(1) of this section;

(2) A detailed description of your methodology to calculate the cost for purchased electricity and an alternate fuel fired plant, and your proposed plant as required in paragraph (a)(3) of this section;

(3) Identification and explanation of all figures used in your calculations supporting paragraphs (a)(1) and (a)(3) of this section;

(4) A description of your efforts to purchase electricity;

(5) All data required by § 504.12 (Cost Calculation) supporting paragraph (a)(2) of this section;

(6) A detailed description of each of the methods you considered as required by paragraph (a)(4) of this section together with an estimate of the cost of implementing each of their methods; and

(7) An estimate of the kilowatt hour saving or additional kilowatt hour potential, as applicable, for each of the methods you considered as required by paragraph (a)(4) of this section.

§ 504.14. Use of mixtures—General requirement for temporary exemptions.

(a) ERA will not consider a petition for any temporary exemption under Section 311 of the Act to be complete, adequate, or acceptable for filing unless you demonstrate to the satisfaction of ERA in your Fuels Decision Report whether or not the use of a mixture of natural gas or petroleum and an adequate fuel is economically and technically feasible during the period of the proposed exemption.

(b) If ERA determines that use of a particular fuel mixture is technically or economically feasible during the period of the proposed exemption, ERA will condition the granting of any temporary exemption under this Part upon the use of that mixture during the period of the temporary exemption.

§ 504.15 Use of mixtures—General requirement for permanent exemptions.

(a) *Application.* ERA will not consider a petition for any of the following exemptions provided for in Section 312 of the Act (lack of alternate fuel supply, site limitations, environmental requirements, State or local requirements, cogeneration, emergency purposes, intermediate load or use of natural gas in small powerplants) to be complete, adequate, or acceptable for filing unless you demonstrate to the satisfaction of ERA in your Fuels Decision Report that you have considered the use of a mixture(s) for which an exemption under § 504.36 (Fuel Mixtures) of these regulations would be available.

(b) *Demonstration.* EPA will not grant any of the exemptions listed in paragraph (a) of this section unless you demonstrate that use of such a mixture(s) is not economically or technically feasible in the unit for which you are requesting an exemption. To make such a demonstration you must show in your Fuels Decision Report to the satisfaction of ERA that:

(1) If use of a mixture(s) were requirecd, you would be eligible for one of the following permanent exemptions provided for in the Act: lack of alternate fuel supply, site limitations, environmental requirements, or State or local requirements; or

(2) The use of a mixture(s) is not technically or econmically feasible in your specific unit due to design or special circumstances as determined by ERA on a case-by-case basis.

§ 504.16 Use of fluidized bed combustion not feasible—General requirement for permanent exemptions.

(a) *Application.* ERA will not consider a petition for one of the following exemptions provided for in Section 312 of the Act (lack of alternate fuel supply, site limitations, environmental requirements, cogeneration, emergency purposes, intermediate load or use of natural gas in small powerplants) to be complete, adequate or acceptable for filing unless you demonstrate to the satisfaction of ERA in your Fuels Decision Report that you have considered the use of a method of fluidized bed combustion of an alternate fuel.

(b) *Finding.* If ERA determines, on a generic basis, that use of a method of fluidized bed combustion is technically and economically feasible, ERA will deny your request for exemption unless you demonstrate to the satisfaction of ERA that:

(1) If use of a method of fluidized bed combustion were required, you would be eligible for one of the following permanent exemptions provided for in Section 312 of the Act: lack of alternate fuel supply, site limitations, environmental requirements, or State or local requirements; or

(2) The use of a method of fluidized bed combustion is not technically or economically feasible in your specific unit due to design or special circumstances as determined by ERA on a case-by-case basis.

§ 504.17 Terms and conditions; compliance plans.

(a) *Terms and conditions generally.* You must comply with the terms and conditions of an exemption granted under the Act by the ERA, including terms and conditions requiring the use of (1) effective fuel conservation measures, and (2) fuel mixtures.

(b) *Compliance plans for temporary exemptions.* (1) A compliance plan certified by the Chief Executive Officer shall accompany a petition for a temporary exemption. The compliance plan shall include at least the following:

(i) A detailed schedule of progressive events and the dates upon which the events are to take place indicating how compliance with the applicable prohibitions of the Act will occur;

(ii) Documentary evidence of binding contracts for fuel or facilities for the production of fuel which would allow for compliance with the applicable prohibitions of the Act;

(iii) Any other documentary evidence which indicates an intention to comply with the applicable prohibitions of the Act; and

(iv) A detailed statement of the manner in which you intend to comply with § 504.14 of these regulations requiring the use of fuel mixtures as a condition to the granting of a temporary exemption where the use of fuel mixtures is technically and economically feasible.

(2) The exemption shall not be effective until the compliance plan is approved by ERA.

(3) *Revisions of compliance plans.* If the petition is granted, you must submit to ERA an updated compliance plan certified by your Chief Executive Officer:

(i) At the end of each 12 month period from the effective date of the exemption;

(ii) Within one month of an alteration of any milestone in the compliance plan, together with the reasons for the alteration and its impact upon the scheduling of all other milestones in the plan; and

(iii) At any time the ERA, in its discretion, determines that a revised compliance plan is necessary to reflect changes in circumstances.

(c) *Enforcement.* An exemption is subject to termination upon the violation of any provision of an exemption or any provision of the pertinent compliance plan.

Subpart D—Temporary Exemptions for Existing Electric Powerplants

§ 504.20 Purpose and scope.

(a) This subpart implements the provisions contained in Section 311 of the Act with regard to temporary exemptions for existing powerplants.

(b) This subpart establishes the criteria and standards which owners or operators of existing powerplants who petition for a temporary exemption must meet to sustain their burden of proof under the Act.

(c) You shall submit all petitions for temporary exemptions for existing powerplants in accordance with the procedures set out in Part 501 of these regulations.

(d) The duration of any temporary exemption granted under this subpart shall be measured from the date that the applicable prohibition would just apply if the exemption had not been granted.

§ 504.21 Lack of alternate fuel supply.

(a) *Eligibility.* Section 311(a)(1) of the Act provides for a temporary exemption due to lack of an alternate fuel supply. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) You made a good faith effort to obtain an adequate and reliable supply of an alternate fuel of the quality necessary to conform to th design and operational requirements of the existing powerplant;

(2) For the period of the proposed exemption, the cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source as defined in § 504.12 (cost calculation) of these regulations; and

(3) You will be able to comply with the applicable prohibitions at the end of the proposed exemption period.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA you must include in your petition the following substantial evidence to corroborate the above requirements:

(1) A description of the approach and methodology you used to search for and evaluate the use of the alternate fuels you considered;

(2) A description of the detailed design requirements for the existing powerplant (as specified by the purchaser), including capacity, alternate fuel capability, and all other specifications;

(3) A description of the specific fuel characteristics of all the fuels which can be used by the existing powerplant;

(4) Evidence that you sought to obtain the full range of alternate fuels and fuel characteristics which could be used by the existing powerplant, including bid requests, and/or advertisements for supply contracts and all responses thereto, as well as evidence of any other arrangements you attempted to make to secure supplies;

(5) Evidence of the contracts or other arrangements you have made to insure a reliable and adequate supply of an alternate fuel at the end of the proposed exemption; and

(6) All data required by § 504.12 (Cost Calculation) of these regulations necessary for computing the cost calculation formula.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with Section 314 of the Act and § 504.17 of these regulations simultaneously with submission of your petition to satisfy ERA requirements for petition adequacy. You must submit an updated compliance plan as required by § 504.17 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account any extensions or renewals, may not exceed ten years.

§ 504.22 Site limitations.

(a) *Eligibility.* Section 311(a)(2) of the Act provides for a temporary exemption due to a site limitation. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA, that one or more of the following specific physical limitations relevant to the operation of your powerplant exist which, despite your diligent good faith, cannot be overcome before the end of the proposed exemption period:

(1) Alternate fuels would be inaccessible;

(2) Transportation facilities for alternate fuels would be unavailable;

(3) Adequate facilities for handling, using or storing an alternate fuel would be unavailable;

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(4) Adequate means for controlling and disposing of wastes would be unavailable;

(5) Adequate and reliable supply of water would be unavailable; or

(6) Other site limitations exist which would not permit the operation of the existing powerplant using an alternate fuel.

(b) *Evidence to be submitted in support of the petition.* To submit an adequate petition for review by ERA, you must include in your petition the following substantial evidence to corroborate the above criteria:

(1) Evidence that the site limitation is a physical limitation, and not a requirement of Federal, state, or local law which could be the basis of an exemption under § 504.34 (State or local requirements);

(2) Evidence that alternative means for overcoming the specific site limitations were considered, with a detailed description of the efforts made to overcome the site limitations set out in your petition;

(3) Evidence of the equipment or space requirements for which the site limitation is claimed; and

(4) Evidence of contracts or other arrangements you have made to insure that the site limitation will be overcome and that you will comply with the applicable prohibitions at the end of the proposed exemption period. Examples of evidence relevant to establishing a site limitation for purposes of a temporary exemption are as follows:

(i) Detailed documentation of impediments, including rights of way problems, site diagrams, maps of the surrounding areas and other items essential to the showing of a site limitation;

(ii) Identification of transportation facilities relevant to the specific site of the powerplant and demonstration why existing transportation facilities cannot be utilized or new facilities constructed;

(iii) Copies of bid requests, and advertisements, and other evidence of general efforts made to secure alternative transportation facilities;

(iv) Identification of potential alternate fuel storage locations within a reasonable geographic area surrounding the powerplant;

(v) Detailed scale site plans of the entire facility which include those areas not directly involved with the specific powerplant;

(vi) A specific listing of all equipment necessary and not currently available to properly handle alternate fuels;

(vii) Copies of bid requests, and advertisements and other evidence of general efforts made to secure alternative fuel storage facilities;

(viii) Copies of quotes from bona fide suppliers, indicating lead times for purchase and installation of required ancillary storage of handling equipment;

(ix) Specific listing of any equipment necessary and not currently available to properly control and dispose of waste;

(x) Identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the powerplant;

(xi) A description of efforts made to secure offsite disposal areas, including the cost of acquisition of the sites, transportation facilities and waste handling costs involved in their use; and

(xii) Copies of bid requests, and advertisements, and other evidence of general efforts made to secure waste control and disposal equipment.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with Section 314 of the Act and § 504.17 of these regulations simultaneously with submission of your petition to satisfy ERA requirements for petition adequacy. You must submit an updated compliance plan as required by § 504.17 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account any extensions or renewals, may not exceed five years.

§ 504.23 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 311(a)(3) of the Act provides for a temporary exemption due to an inability to comply with applicable environmental requirements. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that despite diligent good faith efforts:

(1) You are unable to comply immediately with the applicable prohibitions imposed by the Act or orders by ERA without violating applicable Federal or State environmental requirements;

(2) You will be able to comply with the applicable prohibitions imposed by the Act or ERA orders by the end of the temporary exemption period.

(b) *Evidence required in support of the petition.* To submit an adequate petition for review by ERA, you must provide in your petition the following substantial evidence to corroborate the above requirements:

(1) A detailed explanation why the facility cannot burn an alternate fuel or comply with the prohibitions of the Act without violating applicable environmental requirements;

(2) Copies of all technical studies that you have relied upon with regard to consideration of alternate fuels, pollution control equipment; variances, State Implementation Plan revisions, and delayed compliance orders;

(3) Copies of requests for bids, all responses received, and contracts signed, if any, for an alternate fuel supply and for the purchase and installation of pollution control equipment; and

(4) Copies of correspondence with the State or EPA concerning variances, State Implementation Plan revisions, delayed compliance orders, solid waste permits or approvals, or modifications to National Pollution Discharge Elimination System (NPDES) permits.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with Section 314 of the Act and § 504.17 of these regulations simultaneously with submission of your petition to satisfy ERA requirements for petition adequacy. You must submit an updated compliance plan as required by § 504.17 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account extensions or renewals, may not exceed 5 years.

§ 504.24 Future use of synthetic fuels.

(a) *Eligibility.* Section 311(b) of the Act provides for a temporary exemption based upon the future use of synthetic fuels. ERA shall grant you such exemption if you demonstrate to the satisfaction of ERA that:

(1) You will be able to comply with the applicable prohibitions, rule or order by the end of the proposed exemption period by the use of synthetic fuel as a primary energy source in your powerplant;

(2) Your will not be capable of complying with the applicable prohibitions by using an alternate fuel in your powerplant before the end of the proposed exemption period.

(b) *Evidence required in support of a petition.* To submit an adequate petition of review by ERA you must include in your petition the following substantial evidence to corroborate the above requirements:

(1) Copies of economic and technical feasibility studies pertaining to the adoption of an innovative technology for use of an alternate fuel in your powerplant;

(2) A complete description of the innovative technology you propose to use including explanation of its innovative characteristics, detailed engineering and design specifications, and a description of the specific fuel characteristics of the alternate fuel(s) which can be used with the innovative technology;

(3) Reliable evidence of the financial and contractual commitments you have made to construct or modify, operate and maintain equipment which represents an innovative technology for use of an alternate fuel

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with Section 314 of the Act and § 504.17 of these regulations simultaneously with submission of your petition to satisfy ERA requirements for petition adequacy. You shall submit an updated compliance plan as required by § 504.17 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption may be granted for a period of up to five years and may be extended for an additional five years, but so extended may not exceed 10 years.

§ 504.25 Use of innovative technologies.

(a) *Eligibility.* Section 311(c) of the Act provides for a temporary exemption based upon the use of innovative technologies. ERA shall grant you an exemption if you demonstrate to the satisfaction of ERA that:

(1) You will be able to comply with the applicable prohibitions, rule or order at the end of the proposed exemption period by adoption of a technology for the use of an alternate fuel which ERA has determined to be an innovative technology.

(2) You will not be capable of complying with the applicable prohibitions by using an alternate fuel in your powerplant before the end of the proposed exemption period.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA you must include in your petition the following substantial evidence to corroborate the above requirements:

(1) Copies of economic and technical feasibility studies pertaining to the adoption of an innovative technology for use of an alternate fuel in your powerplant;

(2) A complete description of the innovative technology you propose to use including explanation of its innovative characteristics, detailed Engineering and design specifications, and a description of the specific fuel characteristics of the alternate fuel(s) which can be used with the innovative technology;

(3) Reliable evidence of the financial and contractual commitments you have made to construct or modify, operate and maintain equipment which represents an innovative technology for use of an alternate fuel and which will be used at the end of the proposed exemption period; and

(4) Copies of bid requests, advertisements, contracts and/or other agreements you have made to insure a reliable and adequate supply of an alternate fuel at the end of the proposed exemption;

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with Section 314 of the Act and § 504.17 of these regulations simultaneously with submission of your petition to satisfy ERA requirements for petition adequacy. You shall submit an updated compliance plan as required by § 504.17 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption may be granted for a period of up to 5 years and may be extended for an additional 5 years, but so extended may not exceed 10 years.

§ 504.26 Powerplants: public interest exemption.

(a) *Eligibility.* Section 311(e) of the Act provides for a temporary public interest exemption. ERA may grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) You are unable to comply with the applicable prohibitions imposed by the Act, or order or rule issued by DOE, except in extraordinary circumstances, during the period for which the exemption is requested, but that you will be capable of complying at the end of the proposed exemption period;

(2) You are not eligible for a temporary exemption based on lack of alternate fuel supply, site limitations, environmental requirements, synthetic fuels, innovative technologies, retirement, peakload, or reliability of service;

(3) The granting of the petition is in accord with the purposes of the Act and is in public interest.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA you must include in your petition substantial evidence to corroborate the above requirements.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with Section 314 of the Act and § 504.17 of these regulations simultaneously with submission of your petition to satisfy ERA requirements for petition adequacy. You must submit an updated compliance plan as required by § 504.17 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account extensions or renewals, may not exceed 5 years.

(e) *Special rule for temporary public interest exemption.* Part 508 provides criteria and expedited procedures for you to petition for a temporary public interest exemption from the prohibitions against the use of natural gas contained in section 301(a) (2) and (3) of the Act if you own or operate an existing powerplant which is using a middle distillate as a primary energy source.

§ 504.27 Retirement.

(a) *Eligibility.* Section 311(d) of the Act provides for a temporary exemption for retirement. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) The powerplant will be retired at or before the expiration of this temporary exemption;

(2) You will not be capable of complying with the application prohibitions contained in Title III, Subtitle A of FUA by consuming alternate fuels before retirement of the powerplant.

(b) *Evidence required in support of the petition.* To submit an adequate petition for review by ERA you must include in your petition the following substantial evidence to corroborate the above requirements:

(1) A detailed engineering analysis explaining why the powerplant cannot use alternate fuels prior to retirement;

(2) Copies of FPC form No. 12 including Schedules A & B, filed by the operating utility during the previous two years;

(3) Copies of reports filed by the operating utility during the two years preceding the petition with its Reliability Council detailing 10 year projections of changes in generating capacity. (These reports are required by FPC Form No. 383-4.);

(4) Any state PUC permits necessary for the retirement of a powerplant; and

(5) Any other documentary evidence which indicates the reasons for retirement and plans for replacement or substitution of the retired powerplant.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with Section 314 of the Act simultaneously with submission of your petition to satisfy ERA requirements for petition adequacy. You shall submit an updated compliance plan as required by § 504.17 (except § 504.17 (b)(1)(ii)) of these regulations and as required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account extensions or renewals, may not exceed 5 years.

(e) *Restriction.* In the event this exemption is granted you will not be eligible for any other exemption under Title III, Subtitle B of the Act.

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§ 504.28 Temporary exemption for powerplants necessary to maintain reliability of service.

(a) *Eligibility.* (1) Section 311(g) of the Act provides for a temporary exemption to maintain reliability of service. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that you are not capable of complying with the applicable prohibitions imposed by the Act or by ERA order without an impairment of reliability of service as measured by the loss of load probability technique described in paragraphs (a)(2) and (a)(3) of this section.

(2) You must calculate reliability of service utilizing the loss of load probability (LOLP) technique. The LOLP must be computed for your electric region for the period of time the plant is unavailable for operation or available at a reduced capacity. It is to be calculated as the sum of either the weekly or the monthly estimates of hourly load/capacity deficits. You may decide whether to perform the calculation using weekly or monthly data. The LOLP calculation must take into consideration equipment forced outage rates, projected customer electrical demand, and generating capacity projections for the electric region, including existing generating capacity, planned generating capacity additions and projected firm bulk electrical purchases and sales, and projected retirements. If necessary, you may also calculate LOLP with modifications to account for transmission constraints, energy shortages, and other factors that are not adequately addressed by adhering to the foregoing specifications.

(3) Reliability of service is impaired if the LOLP at the time the plant is out of service or operates at reduced capacity, including all available emergency reliability connections and other bulk power ties, is greater than one day in five years.

(b) *Evidence supporting the petition.* To submit an adequate petition for review by ERA you must provide the following substantial evidence to corroborate the above requirements:

(1) All data you used in determining the loss of load probability;

(2) An explanation including equations of how you are calculating the loss of load probability; and

(3) A showing that modifications to the plant could not have been scheduled at a different time so that reliability would not be impaired.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with Section 314 of the Act and § 504.17 of these regulations simultaneously with submission of your petition to satisfy ERA requirements for petition adequacy. You must submit an updated compliance plan as required by § 504.17 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account extensions or renewals, may not exceed ten years, or extend beyond December 31, 1994, in the case of natural gas whichever comes first.

§ 504.29 Peakload powerplants.

(a) *Eligibility.* (1) Section 311(f) of the Act provides for a temporary exemption for peakload powerplants. ERA shall grant you such an exemption if you certify to ERA that the powerplant will be operated solely as a peakload powerplant for the period of the exemption.

(2) Your powerplant is operated solely as a peakload powerplant if the electrical generation of the powerplant in kilowatt hours does not exceed, for any 12-calendar-month period, the powerplant's design capacity multiplied by 1,500 hours.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA your petition must be accompanied by a sworn statement signed by the Chief Executive Officer of the electric utility which will operate the powerplant certifying that the powerplant is to be operated solely as a peakload powerplant. The certification must set forth the design capacity of the powerplant and the maximum allowable generation of the powerplant in kilowatt hours according to the definition of peakload for each 12 months of operation as a peakload powerplant.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with Section 314 of the Act and § 504.17 of these regulations simultaneously with submission of your petition to satisfy ERA requirements for petition adequacy. You shall submit an updated compliance plan as required by § 504.17 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(d) *Liability for operating in excess of exemption.* The operation of a peakload powerplant which has been granted this exemption in excess of that allowed by the exemption shall be subject to penalties under Title VII, Subtitle C of the Act unless the powerplant meets the criteria set forth in section 721(c) of the Act.

(e) *Duration.* This temporary exemption, taking into account extensions or renewals, may not exceed 5 years or in the case of natural gas extend beyond December 31, 1994 whichever comes first.

(f) *Reporting requirement.* If the petition is granted, you must report to ERA, at the end of each 12-month period from the first day of the month following the effective date of the exemption and, if applicable, upon reaching the maximum number of hours of permitted operation within each 12-month period, the name, location, and design capacity of the exempted unit, the number of hours of operation permitted by the exemption, and the number of hours of actual operation.

Subpart E—Permanent Exemptions for Existing Electric Powerplants.

§ 504.30 Purpose and scope.

(a) This subpart implements the provisions contained in Section 312 of the Act with regard to permanent exemptions for existing electric powerplants.

(b) This subpart establishes the criteria and standards which owners or operators of existing powerplants that petition for a permanent exemption must meet to sustain their burden of proof under the Act.

(c) You must submit all petitions for permanent exemptions for existing powerplants in accordance with the procedures set out in Part 501 of these regulations.

§ 504.31 Lack of alternate fuel supply.

(a) *Eligibility.* Section 312(a)(1)(A) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) You made a good faith effort to obtain an adequate and reliable supply of an alternate fuel of the quality necessary to conform to design and operational requirements of the existing powerplant; and

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the remaining useful life of the existing powerplant as defined in § 504.12 (Cost Calculation) of these regulations.

(b) *Evidence in support of a petition.* To submit an adequate petition for review by ERA, you must include in your petition the following substantial evidence to corroborate the above requirements:

(1) A detailed description of the design requirements for the existing powerplant (as specified by the purchaser), including capacity, alternate fuels capability, and all other pertinent specifications;

(2) A description of the spcific fuel characteristics of all the fuels which can be used by the existing powerplant;

(3) Evidence that you sought the full range of alternate fuels and fuel characteristics which could be used by the existing powerplant, including bid requests and/or advertisements for supply contracts, all proposals and responses thereto, as well as evidence of any other arrangements you attempted to make to secure supplies;

(4) All data required by § 504.12 of these regulations (Cost Calculation) necessary for computing the cost calculation formula; and

(5) A description of the approach and methodoloy you used to search for and evaluate the use of the alternate fuels you considered.

§ 504.32 Site limitations

(a) *Eligibility.* Section 312(a)(1)(B) of the Act provides for a permanent exemption due to a site limitation. ERA shall grant you such an exemption if you demonstrate to the satisfacton of ERA that, despite food faith efforts:

(1) Alternate fuels are inaccessible as a result of a specific physical limitation to the operation of the existing powerplant;

(2) Transportation facilities for alternate fuels would be unavailable;

(3) Adequate facilities for handling, using or storing alternate fuels would be unavailable;

(4) Adequate means for controlling and disposing of wastes would be unavailable;

(5) Adequate and reliable supply of water would be unavailable; or

(6) Other site limitations exist which would not permit the operation of the existing powerplant using an alternate fuel, and these limitations cannot be resonably expected to be overcome within five years after effective date of the prohibition.

(b) *Evidence to be submitted in support of the petition.* To submit an adequate petition for review by ERA, you must include in your petition the following substantial evidence to corroborate the above criteria.

(1) Evidence that the site limitation is a physical limitation, and not a requirement of Federal, State, or local law which could be the basis of an exemption under § 504.34 (State or local requirements);

(2) Evidence that alternative means for overcoming the specific site limitations were sought, with a detailed description of the efforts made to overcome the site limitations set out in your petition; and

(3) Evidence of the equipment or space requirments for which the site limitation is claimed. Examples of evidence relevant to establishing a site limitation for purposes of a permanent exemption are as follows:

(i) Detailed documentation of impediments, including rights of way problems, site diagrams, maps of the surrounding areas and other items essential to the showing of a site limitation;

(ii) Identification of transportation facilities relevant to the geographic site of the powerplant and demonstration why existing transportation facilities cannot be utilized or new facilities constructed;

(iii) Copies of bid requests, advertisements and evidence of general efforts made to secure alternative transportation facilities;

(iv) Identification of potential alternate fuel storage locations within a reasonable geographic surrounding the powerplant;

(v) Detailed scale site plans of the entire facility which include those areas not directly involved with the specific powerplant;

(vi) A specific listing of all equipmpent necessary and not currently available to properly handle alternate fuels;

(vii) Copies of bid requests, and advertisements and evidence of general efforts made to secure alternative fuel storage facilities;

(viii) Copies of quotes from bona fide supplier, indication lead times for purchase and installation or required ancillary storage or handling equipment;

(ix) Specific listing of any equipment necessary and not currently available to properly control and dispose of waste;

(x) Identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the powerplant;

(xi) A description of efforts made to secure off-site disposal area, including the cost of acquisition of the sites, transportation facilities and waste handling costs involved in their use; and

(xii) Copies of bid requests, advertisements, and general efforts made to secure waste control and disposal equipment.

§ 504.33 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 312(a)(1)(C) of the Act provides for a permanent exemption due to the inability to comply with the applicable environmental requirements. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that, despite good faith efforts you cannot burn alternate fuels without violating applicable environmental requirements within five years after the effective date of the prohibition.

(b) *Evidence supporting petition.* To submit an adequate petition for review by ERA, you must include in your petition the following substantial evidence to corroborate the above requirements:

(1) A detailed explanation why the facility cannot comply with the prohibitions of the Act within five (5) years without violating applicable environmental requirements;

(2) Copies of all technical studies that you have relied upon with regard to consideration of alternate fuels, pollution control equipment, variances, State Implementation Plan revisions, and delayed compliance orders;

(3) Copies of requests for bids, all responses received, and contracts signed, if any, for an alternate fuel supply and for the purchase and installation of pollution control equipment; and

(4) Copies of correspondence with the State or EPA concerning variances, State Implementation Plan revisions, delayed compliance orders, soiid waste permits or approvals, or modifications to NPDES permits.

(c) *Prepetition actions.* It is recommended that you request a meeting with ERA and EPA or the appropriate State regulatory agency to discuss options for complying with the prohibitions.

§ 504.34 State or local requirements.

(a) *Eligibility.* Section 312(b) of the Act provides for a permanent exemption due to certain State or local requirements. ERA may grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) With respect to the site of the powerplant, the operation of the existing powerplant using an alternate fuel is infeasible because of a state or local requirement;

(2) If such state or local requirement is under a building code or nuisance or zoning law, no other exemption under Title III, Subtitle B of the Act could be granted;

(3) You have, in good faith, attempted unsuccessfully to obtain a waiver or variance from the state or local requirement or have demonstrated why none is available; and

(4) The granting of the exemption would be in the public interest and would be consistent with the purposes of this Act.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA, you must provide the following substantial evidence to corroborate the above requirements:

(1) A copy of the pertinent state or local requirement with its citation and its legislative history;

(2) The identification and location of the administrative body which implements the requirement;

(3) A description of your attempts to obtain a waiver or a variance from the requirement;

(4) A description of any activities you were involved in pertaining to the enactment of the requirement;

(5) A description of equipment, procedures, advance planning time and

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costs necessary to comply with the requirement;

(6) A detailed description of why compliance is infeasible;

(7) The impact upon you and/or your local community, if any, should this petition be denied;

(8) An explanation of the reasons why granting this exemption would be in the public interest; and,

(9) An analysis of why you cannot qualify for an exemption under Subtitle B if such state or local requirement is under a building code or nuisance or zoning law.

§ 504.35 Cogeneration.

(a) *Eligibility.* Section 312(c) of the Act provides for a permanent exemption for cogeneration. ERA may grant you such an exemption if you demonstrate to the satisfaction of ERA that you meet at least the following minimum criteria:

(1) You are unable to comply with the applicable prohibitions; and

(2) There are economic and other benefits of cogeneration with petroleum or natural gas, which are unobtainable through the use of an alternate fuel.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA you must include in your petition the following substantial evidence to corroborate the above requirements:

(1) Documentary evidence which demonstrates that you considered the use of alternate fuels, including a description of the fuel alternatives you examined and the factors important in your decision to reject the use of alternate fuels. Such factors would include lack of alternate fuel supply, site limitations, or environmental requirements;

(2) The design specifications of the existing unit;

(3) An engineering description of the system, including existing system output and uses thereof, with sufficient detail to ensure that the unit qualifies as a cogeneration facility;

(4) A detailed economic and engineering analysis demonstrating the benefits of cogenerating with petroleum or natural gas and demonstrating that these benefits are not obtainable through the use of alternate fuels.

(5) A comparison of the total oil and gas consumption by the existing cogeneration facility and the best feasible alternatives, including the effect on oil or gas used by the electric utility or by other affected parties; and

(6) An analysis of the immediate and long-term economic impacts on parties not directly involved with the facility (for example, the other customers of the utility receiving the electricity).

§ 504.36 Permanent exemption for certain fuel mixtures containing natural gas or petroleum.

(a) *Eligibility.* Section 312(d) of the Act provides for a permanent exemption for certain fuel mixtures. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) You propose to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source;

(2) You are not capable of complying with the applicable prohibitions; and

(3) The amount of petroleum or natural gas you propose to use in the mixture will not exceed the minimum percentage of the total Btu heat input needed to maintain operational reliability consistent with maintaining a reasonable level of fuel efficiency.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA you must include in your petition the following substantial evidence to corroborate the above requirements:

(1) A complete description of the fuel mixture, component elements of the mixture, and percentage of each component to be utilized;

(2) The design specifications for the unit for which you are requesting an exemption;

(3) An engineering assessment of the proportions of petroleum or natural gas needed to maintain operational reliability and an adequate level of fuel efficiency; and

(4) Documentary evidence which demonstrates that you have considered the use of alternate fuels as a primary energy source. You must include a description of the supply alternatives you considered, the cost and availability of each alternate fuel considered, and the factors important in your decision to reject the use of an alternate fuel as a primary energy source; and

(5) If the amount of natural gas you impose to use in the mixture exceeds the minimum percentage needed to maintain operational reliability and an adequate level of fuel efficiency, documentary evidence which demonstrates that the natural gas will be mixed with synthetic fuels derived from municipal wastes or agricultural wastes and that use of an increased percentage of natural gas would encourage the use of alternate or new technologies which use renewable sources of energy.

(c) *Reporting requirement.* If the exemption is granted, you must submit an annual report to ERA certifying that the affected units have used no more than the percentage of oil or natural gas specified in the exemption order. The certification shall be executed by your Chief Executive Officer.

§ 504.37 Emergency purposes.

(a) *Eligibility.* Section 312(e) of the Act provides for a permanent exemption for emergency purposes. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(a) You are unable to comply with the applicable prohibitions or orders or rules issued by ERA;

(2) You shall operate and maintain the powerplant for emergency purposes only.

(b) *Definition.* For the purposes of this permanent exemption an emergency exists when the operating utility has been required to curtail its industrial customers by 10 percent or more from expected non-interruptible demand.

(c) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA you must provide substantial evidence to corroborate the above requirements. The evidence submitted must include at a minimum:

(1) A certificate executed by the Chief Executive Officer of the operating utility stating that emergency operation under the provisions of this exemption will occur only when the utility has curtailed industrial customers by 10 percent or more from expected non-interruptible demand; and

(2) Documentary evidence which demonstrates that you considered the use of alternate fuels, including a description of the fuel alternatives you examined and the factors important in your decision to reject the use of alternate fuels. Such factors would include lack of alternate fuel supply, site limitations, environmental requirements, certain State or local requirements, or other reasons which would preclude the use of an alternate fuel.

(d) *Reporting requirement.* At the end of each 12 month period from the effective date of the exemption, you must report to ERA the monthly and annual total generating capacity used and amounts of electricity generated under the provisions of this exemption with a description of the purposes of use.

§ 504.38 Peakload powerplants.

(a) *Eligibility.* (1) Section 312(f) of the Act provides for a permanent exemption for peakload powerplants. ERA shall grant you such an exemption if you demonstrate to ERA that:

(i) The powerplant will be operated solely as a peakload powerplant for the remaining life of the powerplant;

(ii) You are not capable of complying with the applicable prohibitions imposed by the Act or by ERA order without an impairment of reliability of service as measured by the loss of load probability technique described in

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paragraphs (a)(3), and (a)(4) of this section; and

(iii) Modification of the powerplant to permit compliance with the prohibitions of the Act—

(A) Is technically infeasible; or

(B) Would result in an unreasonable expense as described in the cost calculations portion (see § 504.12) of these regulations.

(2) Your powerplant is operated solely as a peak-load powerplant if the electrical generation of the powerplant in kilowatt hours does not exceed, for any 12-calendar-month period, the powerplant's design capacity multiplied by 1,500 hours.

(3) You must calculate reliability of service utilizing the loss of load probability (LOLP) technique. The LOLP must be computed for your electrical region using the first 12-month period of the proposed exemption. It is to be calculated as the sum of either the weekly or the monthly estimates of hourly load/capacity deficits. You may decide whether to perform the calculation using weekly or monthly data. The LOLP calculation must take into consideration equipment forced outage rates, projected customer electrical demand, and generating capacity projections for the electrical region, including existing generating capacity, planned generating capacity additions and projected retirements. If necessary, you may also calculate LOLP with modifications to account for transmission constraints, energy shortages, and other factors that are not adequately addressed by adhering to the foregoing specifications.

(4) Reliability of service is impaired if the LOLP including all available emergency reliability connections and other bulk power ties, is greater than one day in five years.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA you must provide the following substantial evidence to corroborate the above requirements:

(1) A sworn statement signed by the Chief Executive Officer of the electric utility which will operate the powerplant certifying that the powerplant is to be operated solely as a peakload powerplant; the certification must set forth the design capacity of the powerplant and the maximum allowable generation of the powerplant in kilowatt hours according to the definition of peakload for each 12 month period of operation as a peakload powerplant;

(2) All data you used in determining the loss of load probability;

(3) An explanation including equations of how you are calculating the loss of load probability;

(c) *Liability for operating in excess of exemption.* The operation of a peak-load powerplant which has been granted this exemption in excess of that allowed by the exemption shall be subject to penalties under Title VII, Subtitle C of the Act unless the powerplant meets the criteria set forth in section 721(c) of the Act.

(d) *Reporting requirement.* If the petition if granted, you must report to ERA, at the end of each 12 month period from the first day of the month following the effective date of the exemption and, if applicable, upon reaching the maximum number of hours of permitted operation within each 12 month period, the name, location, and design capacity of the exempted unit, the number of hours of operation permitted by the exemption, and the number of hours of actual operation.

§ 504.39 Intermediate load powerplants.

(a) *Eligibility.* Section 312(g) of the Act provides for an exemption for use of petroleum as a primary energy source by intermediate load powerplants. ERA may grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) The Administrator of the EPA or the Director of the appropriate State air pollution control agency has certified that the use of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded as described in (c) below:

(2) The intermediate load powerplant operated will replace no more than the equivalent generating capacity of existing units which:

(i) Permanently cease operation within one month of ERA's granting the intermediate load powerplant this exemption;

(ii) Use natural gas or petroleum as a primary energy source;

(iii) Are owned by the same person who is to operate the existing powerplant;

(iv) Are capable of using coal as a primary energy source; and

(v) Would cause or contribute to a pollutant concentration in a manner described in paragraph (a)(1), of this section;

(3) The powerplant is and shall continue to be operated only as an intermediate load powerplant in which the electrical generation, in kilowatt hours, for any 12-calendar-month period, shall not exceed the powerplant's design capacity multiplied by 3,500 hours;

(4) The net heat input rate for the powerplant will be maintained at or less than 9,500 Btu's per kilowatt hour throughout the useful life of the powerplant;

(5) The powerplant has the capability to use a synthetic fuel derived from an alternate fuel as a primary energy source.

(b) *Evidence supporting the petition.* To submit an adequate petition for review by ERA, you must include in your petition the following substantial evidence to corroborate the above requirements:

(1) A copy of your application for air quality certification for this unit filed with the EPA or State air pollution control agency, and all supporting documentation filed with or subsequent to the application;

(2) A description of the existing powerplants to be replaced, if any, by the intermediate load powerplant which shall include:

(i) The name and location of each of the existing powerplants;

(ii) The volume of fuel consumed by type for the previous two years by the existing powerplants;

(iii) The corporate ownership of the existing powerplants;

(iv) Evidence that the existing powerplants are capable of using coal; and

(v) The reasons for claiming that the existing powerplants would cause or contribute to a pollutant concentration if they used coal as a primary energy source;

(3) An affidavit executed by the Chief Executive Officer of the electric utility which will operate the powerplant certifying that the powerplant shall be operated at all times in the future only as an intermediate load powerplant. The certification shall set forth the design capacity of the powerplant and the maximum allowable generation of the powerplant in kilowatt hours for its first 12 months of operation from the date the petition for the exemption is filed.

(4) An affidavit executed by the Chief Executive Officer and a qualified engineer of the operating utility of the powerplant which certifies that the powerplant can operate at a heat rate of 9,500 Btu's per kilowatt hour or less throughout the useful life of the powerplant;

(5) An affidavit executed by the Chief Executive Officer and a qualified engineer of the operating utility certifying that the powerplant will meet the synthetic fuels capability requirement described in paragraph (a)(5) of this section. The affidavit must include a description of the specific characteristics that make the intermediate load powerplant capable of using a synthetic fuel; and,

(6) Identification and description with appropriate documentation of the synthetic fuels you have selected and a description of the basis for your

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decision to select that particular fuel, including any marketing studies, contracts or other documents relating to that selection.

(c) *Air quality certification to the Secretary.* Your petition is not complete unless the Administrator of the Environmental Protection Agency or the Director of the appropriate State air pollution control agency has certified to the Secretary that the use by the powerplant of an alternate fuel as a primary energy source will cause or contribute to a concentration in an air quality control region or any area within the region of a pollutant for which any national ambient air quality standard is or would be exceeded.

The air quality certification shall be an essential part of the ERA administrative record on the petition and the record shall not be complete without it. The certificate shall include at least a specification of each alternate fuel considered by EPA or the appropriate State air pollution control agency in reaching its decision regarding certification.

(d) *Reporting requirements.* If the petition is granted, you must report to ERA, at the end of each 12 month period from the first day of the month following the effective date of the exemption and, if applicable, upon reaching the maximum number of hours of permitted operation within each 12 month period, the name, location and design capacity of the exempt unit, the number of hours of operation permitted by the exemption, the number of hours of actual operation, and efforts taken to seek and obtain a synthetic fuel for use in the powerplants.

(e) *Periodic review.* ERA shall, from time to time, review this exemption and shall terminate it when he finds that there is available a supply of synthetic fuel suitable for use by the exempt powerplant.

(f) *Enforcement.* Violations of the provisions of this exemption shall subject you to the maximum penalties provided for by Part 501, Subpart O of these regulations.

§ 504.40 Use of natural gas by powerplant with capacity of less than 250 million Btu's per hour

(a) *Eligibility.* Section 312(h) of FUA provides for a permanent exemption for the use of natural gas by powerplants with a capacity of 250 million Btu's per hour or less. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) The design capacity of the powerplant for consuming fuel (or mixture thereof) is less than a heat input rate of 250 million Btu's per hour;

(2) The electrical generation of the powerplant in 1976 and 1977 exceeded, in kilowatt hours, the powerplants design capacity multiplied by 3500 hours; and

(3) The powerplant is not capable of burning coal without—

(a) A substantial physical modification of the unit, as determined by the nature of the modifications and the cost calculation formula contained in Section 504.12 of these regulations; or

(b) A derating of greater than 25%.

(b) *Evidence required to support the petition.* To submit an adequate petition for review by ERA, you must include the following substantial evidence to corroborate the above requirements:

(1) The purchaser's design specifications and date of installation for the powerplant;

(2) A detailed history of the fuel consumption of the powerplant for 1976 and 1977 on a monthly basis for each fuel consumed;

(3) An itemized list of the modifications required to burn coal as a primary energy source, the estimated cost for each modification, and the time required to make these modifications, to include copies of all pertinent engineering documents utilized to arrive at these estimates;

(4) A current plot plan of the facility and an additional plot plan indicating the modifications needed to burn coal as a primary energy source;

(5) Comparative costs for burning natural gas as opposed to converting to and burning coal, in accordance with the cost calculations set out in § 504.12; and

(6) The derating factor, if any, anticipated from burning coal as a primary energy source in the unit(s) and a detailed description of the formulas and assumptions used to arrive at that factor.

(c) *Restriction.* (1) This exemption may only apply to the prohibitions under Section 301 of FUA and prohibitions by final rules or orders issued before January 1, 1990;

(2) A petition for this exemption must be submitted to DOE for filing on or before December 31, 1988.

§ 504.41 Use of liquified natural gas.

(a) *Eligibility.* Section 312(i) of the Act provides for a permanent exemption for the use of liquified natural gas (LNG). To qualify you must demonstrate to the satisfaction of ERA that:

(1) The Administrator of the EPA or the appropriate State air pollution control agency has certified that the use of coal or any available coal derived fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded (air quality certification);

(2) The Administrator of the EPA or the appropriate State air pollution control agency has certified that you will be unable to use coal or any available coal derived fuel as a primary energy source without violating applicable environmental requirements (environmental certification); and

(3) The LNG to be used at your powerplant will be produced in a foreign country.

(b) *Evidence required in support of the petition.* To submit an adequate petition for review by ERA you shall include the following substantial evidence to corroborate the above requirements:

(1) Copies of your applications for an air quality certification and an environmental certification filed with the EPA or State air pollution control agency which request certification for coal and all available coal derived fuels, and copies of all supporting documentation filed with or subsequent to the applications; and

(2) The name of the country that will be the source of your LNG, the name of the company that owns the LNG terminal through which your LNG will be imported and the name and location of such terminal, and the name of the company that will be supplying you with LNG.

(c) *Air quality certification to the Secretary.* (1) Your petition is not complete unless the Administrator of the Environmental Protection Agency or the Director of the appropriate State air pollution control agency has certified to the Secretary that the use by the powerplant of an alternate fuel as a primary energy source will cause or contribute to a concentration in an air quality control region or any area within the region of a pollutant for which any national ambient air quality standard is or would be exceeded, and that you will be unable to use coal or a fuel derived from coal without violating applicable environmental requirements.

(2) The air quality certification and the environmental certification shall be an essential part of the ERA administrative record on the petition and the record shall not be completed without it. The certificate shall include at least a specification of each type of coal and fuel derived from coal considered by EPA or the appropriate State air pollution control agency in reaching its decision regarding certification.

(d) *Reporting requirement.* If the petition is granted, your must report to ERA, at the end of each 12 month period from the first day of the month following the effective date of the exemption and, if applicable, upon reaching the maximum number of hours of permitted operation within each 12 month period, the name, location and design capacity of the exempt unit, the number of hours of operation permitted by the exemption, the number of hours of actual operation, and efforts taken to seek and obtain a synthetic fuel for use in the powerplants.

(e) *Periodic review.* ERA shall, from time to time, review this exemption and shall terminate it when he finds that there is available a supply of synthetic fuel suitable for use by the exempt powerplant.

(f) *Enforcement.* Violations of the provisions of this exemption shall subject you to the maximum penalties provided for by Part 501 Subpart O of these regulations.

PART 505—NEW MAJOR FUEL BURNING INSTALLATIONS

[See 43 FR 54030, November 17, 1978]

PART 506—EXISTING MAJOR FUEL BURNING INSTALLATIONS

Subpart A—Prohibitions

Sec.
506.1 Purpose and scope.
506.2 Prohibitions by order (case-by-case).

Subpart B—General Requirements for Exemptions

506.10 Purpose and scope.
506.11 Fuels Decision Report.
506.12 Cost calculation for existing installations.
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506.14 Use of mixtures—general requirement for permanent exemptions.
506.15 Use of fluidized bed combustion not feasible—general requirement for permanent exemptions.
506.16 Terms and conditions; compliance plans.

Subpart C—Temporary Exemptions for Existing Major Fuel-Burning Installations

506.20 Purpose and scope.
506.21 Lack of alternate fuel supply.
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Subpart D—Permanent Exemptions for Existing MFBI's

506.30 Purpose and scope.
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506.35 Cogeneration.
506.36 Permanent exemption for certain fuel mixtures containing natural gas or petroleum.
506.37 Emergency purposes.
506.38 Product/process requirements.
506.39 Scheduled equipment outages.
506.40 Installations served by certain international pipelines.

AUTHORITY: Department of Energy Organization Act, Pub. L. 95-91; Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620; Title V of the Independent Offices Appropriation Act of 1952, 65 Stat. 290, 31 U.S.C. 483(a); Executive Order 12009, 42 FR 46267.

Subpart A—Prohibitions

§ 506.1 Purpose and scope.

(a) *Purpose.* This subpart establishes the procedures ERA intends to employ in administering and implementing its authority to prohibit installations from using petroleum or natural gas.

(b) *Scope.* This subpart applies to all existing major fuel burning installations. Any person who has any ownership or interest in, or who operates, rents or leases an installation, is subject to the prohibitions of the Act and the penalties as specified by the Act.

§ 506.2 Prohibitions by order (case by case).

(a) ERA may prohibit, by order, the use of natural gas or petroleum as a primary energy source in an existing major fuel burning installation if ERA finds that—

(1) The installation has, or previously had, the technical capability to use an alternate fuel as a primary energy source;

(2) The installation has this technical capability or could acquire the technical capability without:

(i) A substantial physical modification of the unit, or

(ii) A substantial reduction in the rated capacity of the unit;

(3) It is financially feasible for the installation to use an alternate fuel as its primary energy source.

(b) ERA must make a proposed finding regarding the technical capability of a unit to use an alternate fuel as identified in paragraph (a)(1) of this section prior to the date of publication of the notice of the proposed prohibition. ERA will publish this finding in the FEDERAL REGISTER along with the notice of the proposed prohibition.

(c) Your installation shall be considered technically capable of using an alternate fuel as its primary energy source if:

(1) The installation was designed so as to be capable of using a specific alternate fuel as the primary energy source, with or without modification; or

(2) ERA determines that the installation is capable of using an alternate fuel as the primary energy source, even though the unit was not specifically designed for that alternate fuel.

(d) Your installation does not require substantial physical modification if it has the requisite furnace configuration and the requisite tube spacing to burn an alternate fuel.

(e) No substantial reduction in the rated capacity of the unit will be presumed to occur if the derating does not exceed 25 percent. ERA will not consider the loss of design capacity caused by the use of pollution control equipment.

(f) It is financially feasible for your installation to use an alternate fuel as its primary energy source if (1) the cost of using an alternate fuel does not substantially exceed the cost of using imported petroleum, as determined by utilizing the cost calculation described in § 506.12 of these regulations; and (2) you have the ability to raise the capital necessary to convert the unit to burn an alternate fuel as its primary energy source.

(g) If ERA finds that it is technically and financially feasible for your installation to use a mixture of petroleum or natural gas and an alternate fuel as its primary energy source, ERA may prohibit you, by order, from using petroleum and natural gas in amounts exceeding the minimum percentage of the total Btu heat input of the primary energy sources necessary to maintain reasonable fuel efficiency of the mixture. The minimum percentage (determined by ERA) may not, however, be less than 25 percent.

(h) ERA may not issue a final order to your installation (covered by this section) if you demonstrate by written submission that your facility would be eligible for an exemption under the criteria set out in this Part for any applicable exemption, or if you have demonstrated to the satisfaction of ERA that the required findings stated in paragraph (a) of this section cannot be made. However, if your installation would be eligible only for a temporary exemption, ERA can issue you a final order that will take effect at such time as the temporary exemption would have expired.

(i) ERA may not issue a final order under this section to your installation unless prior to issuance of the order there has been published in the FEDERAL REGISTER a notice of the proposed order. This notice shall provide a period of no less than 49 days in which interested persons may file written data, views and arguments and also provide an opportunity for interested persons to request a public hearing on the proposed order. It is during this public comment period that the recipient is given the opportunity to challenge the findings ERA must make to issue a final order and/or to demonstrate that the installation is eligible for an exemption.

(j) If ERA cannot issue your installation a final order because your facility is eligible for a permanent exemption,

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or if the effective date of this order is delayed during the period that a temporary exemption is in effect, ERA will take the necessary action to assure that you comply with the terms and conditions of the order granting the exemption.

(k) ERA may not issue your installation an order under this section if your installation has been identified as a member of a category subject to a final rule at the time of the issuance of the proposed order.

Subpart B—General Requirements for Exemptions

§ 506.10 Purpose and scope.

This subpart establishes the general requirements necessary to qualify for either a temporary or permanent exemption under this Part and sets out the methodology for calculating the cost of using an alternate fuel and the cost of using imported petroleum.

§ 506.11 Fuels decision report.

(a) Before ERA will accept a petition for either a temporary or permanent exemption from a final prohibition order issued under this Part, you must include as part of your petition a Fuels Decision Report as described in Part 502. The Fuels Decision Report shall contain the analysis and documentation of the evidence required in support of your exemption request.

(b) If you are requesting a temporary or permanent exemption from a proposed prohibition order issued under this Part, you are not required to submit a Fuels Decision Report as part of your written submission. Your submission must include, however, all of the evidence required by the applicable section of the regulations pertaining to the exemption.

§ 506.12 Cost calculation for existing installations.

(a) *General.* (1) If you are requesting an exemption for an existing installation on the basis that the cost of using an alternate fuel as a primary energy source substantially exceeds the cost of using imported petroleum, you must use the comparative cost test provided in this section.

(2) The cost of using an alternate fuel in lieu of imported oil or gas as a primary energy source will be deemed to be substantially in excess of the cost of using imported oil or gas where the ratio of the former to the latter is greater than the index set periodically by ERA. Initially, ERA sets the index at (1.5). ERA will revise the index from time to time after public notice and time to comment. Revisions shall become effective for all ERA decisions after final publication.

(3) The cost test takes into consideration capital outlays, operation, and maintenance expenses, delivered fuel expenditures, and the effect of depreciation and taxes on cash flow. There are two comparative cost tests—a General Cost Test and a Special Cost Test. To demonstrate your eligibility for a permanent exemption on the basis that the cost of using an alternate fuel as a primary energy source substantially exceeds the cost of using imported petroleum, you must use the procedures specified in the General Cost Test (Section b). To demonstrate your eligibility for a temporary exemption, you may use either the procedures specified in the General Cost Test (Section b) or the Special Cost Test (Section c).

(4) The General Cost Test differs from the Special Cost Test with respect to the time period over which costs are calculated. When using the General Cost Test, the cost is computed for the remaining useful life of the installation. When using the Special Cost Test the cost is computed only for the term of the exemption.

(b) *Cost calculation—General cost test.* (1) You may be eligible for a permanent exemption if you demonstrate that the cost of using an alternate fuel starting with each successive year within the first ten years of the exemption will always substantially exceed the cost of using imported petroleum in the unit from the time the exemption becomes effective until the end of the installation's useful life. You will have to show that the cost of using an alternate fuel starting in each of the first ten years of the exemption and using oil or natural gas until the start of using alternate fuel, substantially exceeds the cost of using only imported petroleum.

(2) ERA will not grant a permanent exemption if a temporary exemption solves the cost problem within ERA's definition. Therefore, if the cost computed with successive starting dates for alternate fuel use (for the first ten years of the exemption) does not always substantially exceed the cost of using imported petroleum, you would only be eligible for a temporary exemption. The length of the temporary exemption would be the minimum period within which the cost of using alternate fuel always substantially exceeds the cost of using imported petroleum. For example, if you can burn coal but the coal will not be available from a bona fide supplier for 2 years, ERA may grant a temporary exemption and allow the burning of natural gas based on an acceptable certification of the schedule of delivery of coal.

(3) In the General Cost Test, ERA defines cost as the sum of the annual after-tax cash outlays for capital, operations and maintenance, and delivered fuel, and the effect of depreciation and taxes on cash flow discounted to the present.

(4) To conduct the test, you must use the equations that follow:

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(i) Calculate the ratio (R) of the cost of using an alternate fuel to the cost of using imported petroleum with equation 1.

EQ 1 $$R = \frac{\text{COST (ALTERNATE)}}{\text{COST (OIL)}}$$

(ii) Calculate the cost of using an alternate fuel and imported petroleum with equation 2.

EQ 2 $$\text{COST} = I + \frac{(1-t)(OM + FL) - (t)(DPR)}{(1+K)^1}_1 + \frac{(1-t)(OM + FL) - (t)(DPR)}{(1+K)^2}_2 + \ldots + \frac{(1-t)(OM + FL) - (t)(DPR)}{(1+K)^N}_N - \frac{Sp}{(1+K)^P}$$ 1/

(iii) Calculate investment (I), for equation 2 using equation 3.

EQ 3 $$I = I_o + \frac{I_1}{(1+K)^1} + \frac{I_2}{(1+K)^2} + \ldots + \frac{I_N}{(1+K)^N}$$

1/ This definition of cost follows accepted industry practice of basing investment decisions on the after-tax cash flow associated with investment, depreciation and operating expenses.

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(5) The terms in equations 1 through 3 are defined as follows:

R—The ratio of the cost of using an alternate fuel to the cost of using imported oil or gas.

COST—The total discounted after-tax cost in dollars of constructing and operating the installation for the remaining useful life of the installation.

I—Discounted total net capital outlay in dollars excluding investment tax credits.

I_o—Net capital outlay in dollars up to the time the exemption becomes effective.

I_1-I_N—Yearly net capital outlays from first year of the exemption through the remaining useful life of the installation.

OM—Annual cost in dollars of operating and maintaining the installation starting when the exemption becomes effective.

t—Federal income tax rate (see Section d).

FL—Annual delivered fuel cost in dollars starting when the exemption becomes effective (see Section d).

P—Year fuel is changed from oil to alternate fuel.

K—The real cost of capital expressed as a fraction (see Section d).

N—The remaining useful life of the installation (see Section d).

DPR—Annual depreciation using the method which depreciates the asset as quickly as allowed by law. Includes all relevant equipment, not just the equipment included in I.

Sp—Salvage value of equipment rendered useless by changing the fuel from oil or natural gas to alternate fuel in year P.

(6) The step by step procedure that follows shows the comparisons that you must make. It outlines the fuel comparisons as well as the time comparisons.

(i) Compute the cost (COST) of using an alternate fuel with equation 2.

(ii) Compute the cost (COST) of using an alternate fuel with equation 2 assuming an alternate fuel is not used as the primary energy source until the end of the first year of the exemption and that oil or natural gas is used for the first year of the exemption. Capital investment, operating and maintenance and fuel expenditures should reflect postponed use of alternate fuel (e.g., installation of scrubber when used).

(iii) Successively compute the cost (COST) of using an alternate fuel with equation 2 assuming use of an alternate fuel is postponed until the end of the second through tenth year of the exemption (and oil or natural gas is used in the years preceding alternate fuel use).

(iv) Compute the cost (COST) of using oil or natural gas with equation 2.

(v) Compute the ratios (R) of the cost of using an alternate fuel at the beginning of the exemption, and successively at the end of the first through tenth year of the exemption to the cost of using oil or natural gas from the start of the exemption throughout the remaining useful life of the installation with equation 1.

(vi) If all the rations (R) are greater than, for illustrative purposes, (1.5) (an index to be set periodically by ERA), your installation would meet the cost criteria for a permanent exemption. If one or more of the ratios (R) are equal to or less than (1.5) and a series of ratios (R) starting with the case where alternate fuel is used from the start of operation, are all greater than (1.5), a temporary exemption would be granted for the minimum period in which the cost of using an alternate fuel, deferred year by year, always exceeds (1.5).

(7) The following table shows the hypothetical results of four sets of calculations.

HYPOTHETICAL RESULTS OF FOUR SETS OF CALCULATIONS

Year in Which Alternate Fuel Use is Commenced	Case I	Case II	Case III	Case IV
At Start of Exemption	1.7	1.7	1.7	1.3
1	1.7	1.7	1.7	1.3
2	1.7	1.7	1.7	1.3
3	1.4	1.7	1.7	1.3
4	1.4	1.7	1.4	1.3
5	1.4	1.7	1.4	1.0
6	1.4	1.7	1.2	1.0
7	1.4	1.7	1.2	1.0
8	1.4	1.7	1.2	1.0
9	1.4	1.7	1.2	1.0
10	1.4	1.7	1.3	1.0

The results of the above table shows that: a two year temporary exemption would be granted in case I, a permanent exemption would be granted in Case II, a three year temporary would be granted in Case III, and no exemption would be granted in Case IV.

(c) *Cost calculation-special cost test.* (1) You may be eligible for a temporary exemption if you demonstrate that the cost of using an alternate fuel will substantially exceed the cost of using imported petroleum over the period of the proposed exemption. The period of the exemption cannot exceed ten years. You will have to show that the cost of using alternate fuel substantially exceeds the cost of using imported petroleum for the first year of the exemption, the first two years of the exemption, and each successive year of the exemption, up to the period of the proposed exemption. ERA will limit the duration of a temporary exemption to the shortest time possible.

(2) The calculation takes into consideration (i) the operations and maintenance and delivered fuel expenditures incurred during the proposed exemption, (ii) the effect of depreciation and taxes on cash flow during the proposed exemption and, (iii) the capital outlays associated with the exemption.

(3) To conduct the test you must use the equations that follow:

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(i) Calculate the ratio (R) of the cost of using an alternate fuel to the cost of using imported petroleum with equation 6.

$$\text{EQ 6} \quad R = \frac{\text{COST (ALTERNATE)}}{\text{COST (OIL)}}$$

(ii) Calculate the cost using equation 7.

$$\text{EQ 7} \quad \text{Cost} = I + \frac{(1-t)(OM + FL_1) - (t)(DPR_1)}{(1+K)^1} + \frac{(1-t)(OM + FL_2) - (t)(DPR_2)}{(1+K)^2} + \ldots\ldots\ldots + \frac{(1-t)(OM + FL_p) - (t)(DPR_p)}{(1+K)^p} : - \frac{Sp}{p}$$

(iii) Calculate investment (I) using equation 8.

$$\text{EQ 8} \quad I = I_o + \frac{I_1}{(1+K)^1} + \frac{I_2}{(1+K)^2} + \ldots\ldots\ldots + \frac{I_p}{(1+K)^p}$$

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(4) The terms in equations 6 through 8 are defined as follows:

R—The ratio of the cost of using an alternate fuel to the cost of using imported petroleum.

COST—The total discounted after-tax cost in dollars, associated with the exemption, of constructing and operating the installation.

I—Discounted total net capital outlay in dollars excluding investment tax credit until the end of the proposed exemption. The investment in the basic installation itself (that which would be required if a change in the primary energy source were not being proposed) is not included. (ERA will not consider investment tax credits for oil- and gas-fired installations.)

I_o—Net capital outlay in dollars up to the time the exemption is effective.

I_1-I_p—Yearly net capital outlay from the first year of the exemption until the change to alternate fuel.

OM—Annual cost in dollars of operating and maintaining the installation during the exemption.

Sp—Salvage value of equipment rendered useless by changing from oil or natural gas to alternate fuel in year P.

t—Federal income tax rate (see Section d).

FL—Annual delivered fuel cost in dollars during the exemption (see Section d).

K—The real cost of capital expressed as a fraction (see Section d).

P—The period of the proposed exemption.

DPR—Annual depreciation using the method which depreciates the asset as quickly as allowed by law. Includes all relevant equipment, not just that equipment included in I.

(5) The step by step procedure that follows shows the comparison you must make.

(i) Compute the cost (COST) of using an alternate fuel assuming the length of the proposed exemption is one year with equation 7.

(ii) Compute the cost (COST) of using oil or natural gas valued at imported petroleum prices assuming the length of the proposed exemption is one year with equation 7.

(iii) Compute the ratio (R) of the cost of using an alternate fuel for the first year to the cost of using imported petroleum for the first year with equation 6.

(iv) Repeat the calculation made in (i), (ii), and (iii) above assuming the length of the proposed exemption is two years, three years, four years, and so on, up to the period of the proposed exemption.

(v) A temporary exemption would be granted, where one or more successive ratios (R) are greater than, for illustrative purposes, (1.5) (the index established by ERA).

(d) *Information on parameters used in the calculation.* (1) All estimated expenditures, except natural gas and petroleum products, shall be expressed in real (uninflated) terms using the prices in effect at the time the petition is submitted.

(2) The delivered price of oil or natural gas to be used in the cost calculation must reflect the price of imported oil. The imported petroleum price is reflected in the cost calculation in the following way:

$$PFE = \frac{PICO}{PCCO} \times PF$$

where

PICO=Price of imported crude oil. The most recent refiner acquistion cost of imported crude oil as reported in the FEDERAL REGISTER monthly notice for the DOE Domestic Crude Oil Allocation (Entitlements) Program.

PCCO=Price of composite crude oil. The most recent weighted average cost of total reported crude oil receipts as reported in the FEDERAL REGISTER notice for the DOE Entitlements Program.

PF=Price of your fuel. The most rcent actual weighted average cost of your fuel oil (other than natural gas). Alternatively, if no purchases of fuel oil occurred, or you used natural gas during that month, you should use a simple average of the industrial price of fuel oil (capable of being burned in your facility) sold in your area by at least three suppliers.

For proposed natural gas users, you shall use the price of No. 2 distillate fuel oil in this calculation.

PFE=Price of fuel for equation. The cost of oil for use in equation 1.

(3) For existing installations, the annual capacity factor shall be assumed to be the average capacity factor for the last five years or the life of the installation, if the installation is less than five years old. You may rebut this presumption with suitable engineering evidence.

(4) The remaining useful life of major fuel burning installations shall be 40 years minus the number of years of operation before the effective date of the exemption. You may rebut this presumption with suitable engineering evidence.

(5) The cost of capital for major fuel burning installations is 7.0 percent per year in real terms.

(6) The Federal income tax rate is 46 percent.

(7) All estimated expenditures will be computed in accordance with generally accepted accounting principles.

(e) *Evidence supporting the comparative cost test.* All petitions for exemption requiring the use of the comparative cost test shall include, but not be liminted to, the following information:

(1) A detailed accounting of all capital outlays including a description of all major construction and equipment. All critical assumptions should be stated and sufficient data should be included to support your estimates.

(2) A detailed accounting of all operations and maintenance expenditures including a description of all major elements. All critical assumptions should be stated and sufficient data included to support your estimates.

(3) A detailed accounting of all delivered fuel expenditures including transportation. All critical assumptions should be stated and sufficient data included to support your estimates. The fuel characteristics for each alternate fuel should be included.

(4) If you assume that the remaining useful life of the installation is less than 40 years minus the number of years of operation before the effective date of the exemption, all critical assumptions and sufficient data to support that position.

(5) A detailed accounting of the depreciation which should include the depreciable base and its tax life. All critical assumptions should be stated and sufficient data included to support your estimates.

(f) *Example of calculations.* (1) You are considering converting a major fuel burning installation from oil to coal. In this particular situation, the delivered cost of coal is much greater for the first three years after the proposed conversion than it will be in the later years because of a transportation problem. Do you qualify for an exemption? If so, is it permanent or temporary?

(2) To determine if you qualify for a permanent exemption, you would have to use the General Cost Test and compute the ratios of the cost to use 1) coal for the remaining useful life of the installation after the effective date of the exemption; 2) imported petroleum for the first year of the exemption and coal for the remainder of the useful life of the installation; 3) imported pertroleum for the first two years of the exemption and coal for the remainder of the useful life of the installation, * * * ; and 11) imported petroleum for the first ten years of the exemption and coal for the remainder of the useful life of the installation to the cost of using imported petroleum for the remaining useful life of the installation after the effective date of the exemption.

(3) All eleven ratios would have to be higher than (1.5) (assumed index established by ERA) to qualify for a permanent exemption. However, if a series of successive ratios, starting with the case where alternate fuel is used from the start of the exemption, are all greater than (1.5), you would be eligible for a temporary exemption up to the last year the ratio is greater than (1.5).

(4) In this example, we will only compute the ratios of (i) the cost to use coal for the remaining useful life of the installation after the effective date of the exemption and (ii) the cost to use imported petroleum for the first three years of the exemption and coal for the remainder of the useful life of the installation, to the cost of using imported petroleum for the remaining useful life of the installation after the effective date of the exemption.

(5) To determine if you qualify for a temporary exemption, if you have not already done so with the General Cost Test, you would have to use the Special Cost Test and compute the ratios of the cost to use coal in the installation to the cost to use imported petroleum in the installation for one, two, and three years after the effective date of the exemption. All three ratios would have to be higher than (1.5) in order to qualify for a three-year temporary exemption. In this example, we will only compute the ratio of the cost of using coal to the cost to using imported petroleum for the first three years after the effective date of the exemption.

(6) *Parameters*—a set of hypothetical parameters are given below:

(i) Installation conversion to coal without changing capacity or remaining useful life:

Net capital outlay (without scrubber) to convert the installation to burn coal.—$890,000.
Salvage value of equipment rendered useless by shifting from oil to coal.—223,000.
Net capital outlay for scrubber.—2,575,000.
Operations and maintenance costs per year to burn coal.—858,000.

(ii) Existing oil burning installation.

Book value of installation.—2,668,000.
Operations and maintenance cost per year.—258,000.
Remaining useful life (after exemption becomes effective).—30 years.

(iii) Fuel.

Annual cost to burn imported oil.—2,163,000.
Annual cost to burn coal for the first three years of after the proposed conversion.—3,447,000.
Annual cost to burn coal for the fourth through thirtieth year after the proposed conversion.—1,159,000.

(7) *Analysis.* (1) *General cost test.* The relevant cash flows are shown in the following table for the three cases in which computations are being made.

CASH FLOWS FOR GENERAL COST TEST IN (IN THOUSANDS)

Type of cash flow	Year(s) flow occurs	Case 1—Coal over remaining useful life of installation	Case 2—Imported Petroleum for first 3 years and Coal Thereafter	Case 3—Imported petroleum over the remaining life of the installation
Investment	0	$890+$2,575	0	0
Investment	3	0	$890+2,575	0
Salvage	0	223	0	0
Salvage	3	0	$223	0
Operation & Maintenance	1, 2, 3	$858/yr.	$258/yr.	$258/yr.
Operation & Maintenance	4, —, 30	$858/yr.	$858/yr.	$258/yr.
Fuel	1, 2, 3	$3,477/yr.	$2,163/yr.	$2,163/yr.
Fuel	4, —, 30	$1,159/yr.	$1,159/yr.	$2,163/yr.
Effect of Taxes and Depreciation	1, —, 30	(1)	(1)	(1)

[1] Depreciation is greater of double declining balance or straight line over remaining period. For the purposes of this example all equipment is depreciated in the same way.

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The following computations are in thousands of dollars.

Case 1. Cost of using coal over the remaining life of the powerplant from the start of the exemption.

$$I = I_o + \frac{I_1}{(1+K)^1} + \frac{I_2}{(1+K)^2} + \ldots + \frac{I_N}{(1+K)^N}$$

$$= (890 + 2,575)\left[\frac{0}{(1.07)^1} + \frac{0}{(1.07)^2} + \ldots + \frac{0}{(1.07)^{30}}\right]$$

$$= \$3,465$$

$$COST = I + \frac{(1-t)(OM_1 + FL_1) - (t)(DPR_1)}{(1+K)^1}$$

$$+ \frac{(1-t)(OM_2 + FL_2) - (t)(DPR_2)}{(1+K)^2} + \ldots$$

$$+ \frac{(1-t)(OM_N + FL_N) - (t)(DPR_N)}{(1+K)^N} - \frac{S_p}{(1+K)^p}$$

$$COST = 3,465 + \frac{(1-0.46)(858 + 3477) - 0.46 \times DPR_1}{(1.07)^1}$$

$$+ \frac{(1-0.46)(858 + 3477) - 0.46 \times DPR_2}{(1.07)^2}$$

$$+ \frac{(1-0.46)(858 + 3477) - 0.46 \times DPR_3}{(1.07)^3}$$

$$+ \frac{(1-0.46)(858 + 1159) - 0.46 \times DPR_4}{(1.07)^4}$$

$$+ \ldots + \frac{(1-0.46)(858 + 1159) - 0.46 \times DPR_{30}}{(1.07)^{30}}$$

$$- \frac{223}{(1.07)^0}$$

$$= 18,623$$

Case 2. Cost of using imported petroleum for the first three years of the exemption and coal thereafter.

$$I = I + \frac{I_1}{(1+k)^1} + \frac{I_2}{(1+k)^2} + \ldots + \frac{I_N}{(1+K)^N}$$

$$= 0 + \frac{(2,575 + 890)}{(1.07)^3}$$

$$= 2,828$$

$$COST = I + \frac{(1-t)(OM_1 + FL_1) - (t)(DPR_1)}{(1+k)^1}$$

$$+ \frac{(1-t)(OM_2 + FL_2) - (t)(DPR_2)}{(1+k)^2} + \ldots$$

$$+ \frac{(1-t)(OM_N + FL_N) - (t)(DPR_N) - S_p}{(1+k)^N (1+k)^p}$$

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$$\text{COST} = 2{,}828 + \frac{(1-0.46)\ (258 + 2{,}163) - 0.46 \times \text{DPR}_1}{(1.07)^1} + \frac{(1-0.46)\ (258 + 2{,}163) - 0.46 \times \text{DPR}_2}{(1.07)^2} + \frac{(1-0.46)\ (258 + 2{,}163) - 0.46 \times \text{DPR}_3}{(1.07)^3} + \frac{(1-0.46)\ (858 + 1{,}159) - 0.46 \times \text{DPR}_4}{(1.07)^4} + \ldots\ldots + \frac{(1-0.46)\ (858 + 1{,}159) - 0.46 \times \text{DPR}_{30}}{(1.07)^{30}} - \frac{223}{(1.07)^3}$$

$$= 15{,}426$$

Case 3. Cost of using imported petroleum over the remaining useful life of the installation starting with the effective date of the exemption.

$$I = I_o + \frac{I_1}{(1+k)^1} + \frac{I_2}{(1+k)^2} + \ldots. + \frac{I_N}{(1+k)^N}$$

$$= 0 + \frac{0}{(1.07)^1} + \frac{0}{(1.07)^2} + \ldots. + \frac{0}{(1.07)^{30}}$$

$$= 0$$

$$\text{COST} = I + \frac{(1-t)\ (OM_1 + FL_1) - (t)(DPR_1)}{(1+k)^1} + \frac{(1-t)\ (OM_2 + FL_2) - (t)(DPR_2)}{(1+k)^2} + \ldots + \frac{(1-t)\ (OM_N + FL_N) - (t)(DPR_N)}{(1+k)^N} + \frac{S_p}{(1+k)^p}$$

$$\text{COST} = 0 + \frac{(1-0.46)\ (258 + 2{,}163) - 0.46 \times \text{DPR}_1}{(1.07)^1} + \frac{(1-0.46)\ (258 + 2{,}163) - 0.46 \times \text{DPR}_2}{(1.07)^2} + \ldots\ldots$$

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$$+ \frac{(1-0.46)\,(258 + 2,163) - 0.46 \times DPR_{30}}{(1.07)^{30}}$$

$$= 15,605$$

Computation of ratios.

$$R = \frac{\text{COST (COAL THROUGHOUT LIFE)}}{\text{COST (OIL)}}$$

$$+ \frac{18,623}{15,605} = 1.19$$

$$R = \frac{\text{COST (OIL FIRST THREE YEARS, COAL THEREAFTER)}}{\text{COST (OIL)}}$$

$$= \frac{15,426}{15,605} = 0.99$$

Conclusion. Since the assumed index is (1.5), you would not qualif for a permanent exemption, or a temporary exemption using the General Cost Test.

(ii) Special Cost Test. The relevant cash flows are shown in the following tables for the two cases in which computations are being made.

CASH FLOW FOR SPECIAL COST TEST (IN THOUSANDS)

Type of Cash Flow	Year(s)	Case 1 Coal Over Remaining Useful Life of Installation	Case 2 Imported Petroleum First 3 Yrs. & Coal Thereafter
Investment	0	$890 + 2,575	0
Investment	3	0	$890 + $2,575
Salvage	0	223	
Salvage	3	0	$223
Operation & Maintenance	1, 2, 3	$ 858/yr.	$258/yr.
Fuel	1, 2, 3	$3,477/yr.	$2,163/yr.
Effects of Taxes and Depreciation	1, 2, 3	Depreciation is greater of double declining balance or straight line over remaining period. For the purposes of this example, all equipment is depreciated depreciated in the same way.	

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The following computations are in thousands of dollars.

Case 1. Cost of using coal from the start of the exemption

$$I = I_o + \frac{I_1}{(1+k)^1} + \frac{I_2}{(1+k)^2} + \ldots + \frac{I_p}{(1+k)^p}$$

$$= (890 + 2,575) + \frac{0}{(1.07)^1} + \frac{0}{(1.07)^2} + \frac{0}{(1.07)^3}$$

$$= 3,465$$

$$COST = I + \frac{(1-t)(OM_1 + FL_1) - t.DPR_1}{(1+k)^1} + \frac{(1-t)(OM_2 + FL_2) - t.DPR_2}{(1+k)^2} + \ldots + \frac{(1-t)(OM_p + FL_p) - t.DPR_p}{(1+k)^p} - \frac{S_p}{(1+k)^p}$$

$$COST = 3,465 + \frac{(1-0.46)(858 + 3,477) - 0.46 \times DPR_1}{(1.07)^1} + \frac{(1-0.46)(858 + 3,477) - 0.46 \times DPR_2}{(1.07)^2} + \frac{(1-0.46)(858 + 3,477) - 0.46 \times DPR_3}{(1.07)^3} - \frac{223}{(1.07)^0}$$

$$= \$8,922$$

Case 2. Cost of using imported petroleum for the first three years of the exemption (and coal thereafter)

$$I = I_o + \frac{I_1}{(1+k)^1} + \frac{I_2}{(1+k)^2} + \ldots + \frac{I_p}{(1+k)^p}$$

$$= 0 + \frac{(2,575 + 890)}{(1.07)^3}$$

$$= \$2,828$$

$$COST = I + \frac{(1-t)(OM_1 + FL_1) - t.DPR_1}{(1+k)^1} + \frac{(1-t)(OM_2 + FL_2) - t.DPR_2}{(1+k)^2} + \ldots + \frac{(1-t)(OM_p + FL_p) - t.DPR_p}{(1+k)^p} - \frac{S_p}{(1+k)^p}$$

$$COST = \$2,828 + \frac{(1-0.46)(258 + 2,163) - 0.46 \times DPR_1}{(1.07)^1} + \frac{(1-0.46)(258 + 2,163) - 0.46 \times DPR_2}{(1.07)^2} + \frac{(1-0.46)(258 + 2,163) - 0.46 \times DPR_3}{(1.07)^3} - \frac{223}{(1.07)^3}$$

$$= 5,460$$

Computation or ratio.

$$R = \frac{\text{COST (COAL FOR PERIOD OR EXEMPTION)}}{\text{COST (OIL FOR PERIOD OF EXEMPTION)}}$$

$$\frac{8,922}{5,460} = 1.63$$

Conclusion. If ERA had set the index at 1.5, you would be granted a temporary exemption.

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§ 506.13 Use of mixtures—general requirement for temporary exemption.

(a) ERA will not consider a petition for a temporary exemption under Section 311 of the Act to be complete, adequate or acceptable for filing unless you demonstrate, to the satisfaction of the ERA in your petition, whether or not the use of a mixture of natural gas or petroleum and an alternate fuel is economically and technically feasible during the period of the proposed exemption.

(b) If ERA determines that the use of a particular fuel mixture is technically and economically feasible during the period of the proposed exemption, ERA will condition the granting of any temporary exemption under this Part upon the use of that mixture during the period of the temporary exemption.

§ 506.14 Use of mixtures—general requirement for permanent exemption.

(a) *Application.* ERA will not consider a petition for any of the following exemptions provided for in Section 312 of the Act (lack of alternate fuel supply, site limitations environmental requirements, State or local requirements, cogeneration, emergency purposes, product/process requirements, or scheduled equipment outages) to be complete, adequate, or acceptable for filing unless you demonstrate to the satisfaction of ERA in your petition that you have considered the use of a mixture(s) for which an exemption under § 506.36 (Fuel Mixtures) of these regulations would be available.

(b) *Demonstration.* ERA will not grant any of the exemptions listed in subsection (2) unless you demonstrate that use of such a mixture(s) is not economically or technically feasible in the unit for which you are requesting an exemption. To make such a demonstration, you must show in your petition to the satisfaction of ERA that:

(1) If use of a mixture(s) were required, you would be eligible for one of the following permanent exemptions provided for in the Act: lack of alternate fuel supply, site limitations, environmental requirements, or state or local requirements; or

(2) The use of a mixture(s) is not technically or economically feasible in your specific unit due to design or special circumstances as determined by ERA on a case-by-case basis.

§ 506.15 Use of fluidized bed combustion not feasible-general requirement for permanent exemption.

(a) *Application.* ERA will not consider a petition for one of the following permanent exemptions provided for in Section 312 of the Act (lack of alternative fuel supply, site limitations, environmental requirements, state or local requirements, cogeneration, emergency, product/process, or equipment outages), to be complete, adequate or acceptable for filing unless you demonstrate in your petition to the satisfaction of ERA that you have considered the use of a method of fluidized bed combustion of an alternate fuel.

(b) *Finding.* If ERA determines, on a generic basis, that use of a method of fluidized bed combustion is economically and technically feasible, ERA will deny your request for exemption unless you demonstrate to the satisfaction of ERA that:

(1) If use of a method of fluidized bed combustion, were required, you would be eligible for one of the following permanent exemption provided for in Section 312 of the Act: lack of alternate fuel supply, site limitations, environmental requirements, or state and local requirements; or

(2) The use of a method of fluidized bed combustion is not technically or economically feasible in your specific unit due to design or special circumstances as determined by ERA on a case-by-case basis.

§ 506.16 Terms and conditions; compliance plans.

(a) *Terms and conditions generally.* You must comply with the terms and conditions of an exemption granted under the Act by the ERA, including terms and conditions requiring the use of (1) effective fuel conservation measures and (2) fuel mixtures.

(b) *Compliance plans for temporary exemptions.*

(1) A compliance plan certified by your Chief Executive Officer must accompany a petition for a temporary exemption. The compliance plan shall include at least the following:

(i) A detailed schedule of progressive events and the dates upon which the events are to take place indicating how you will comply with the applicable prohibitions of the Act;

(ii) Documentary evidence of binding contracts for fuel or facilities for the production of fuel which you require to comply with the applicable prohibitions of the Act;

(iii) Any other documentary evidence which indicates your intention to comply with the applicable prohibitions of the Act; and

(iv) A detailed statement of the manner in which you intend to comply with § 506.13 of these regulations requiring the use of fuel mixtures as a condition to the granting of a temporary exemption where the use of fuel mixtures is technically and economically feasible.

(2) The exemption shall not be effective until the compliance plan is approved by ERA.

(3) Revisions of Compliance Plans. If the petitions is granted, you must submit to ERA an updated compliance plan certified by your Chief Executive Officer:

(i) At the end of each 12 month period from the effective date of the exemption;

(ii) Within one month of an alteration of any milestone in the compliance plan, together with the reasons for the alteration and its impact upon the scheduling of all other milestones in the plan; and

(iii) At any time the ERA, in its discretion, determines that a revised compliance plan is necessary to reflect changes in circumstances.

(c) *Enforcement.* Any exemption is subject to termination upon the violation of any provision of the exemption or any provision of the pertinent compliance plan.

Subpart C—Temporary Exemptions for Existing Major Fuel Burning Installations

§ 506.20 Purpose and scope.

(a) This subpart implements the provisions contained in Section 311 of the Act with regard to temporary exemptions for existing installations.

(b) This subpart establishes the criteria and standards which owners or operators of existing installations who petition for a temporary exemption must meet to sustain their burden of proof under the Act.

(c) You must submit all petitions for temporary exemptions for existing installations in accordance with the procedures set out in Part 501 of these regulations.

(d) The duration of any temporary exemption granted under this subpart shall be measured from the date that the applicable prohibition would first apply if the exemption had not been granted.

§ 506.21 Lack of alternate fuel supply.

(a) *Eligibility.* Section 311(a)(1) of the Act provides for a temporary exemption due to lack of an alternate fuel supply. ERA shall grant such an exemption if you demonstrate to the satisfaction of ERA that:

(1) You made a good faith effort to obtain an adequate and reliable supply of an alternate fuel of the quality necessary to conform to the design and operational requirements of the existing installation;

(2) For the period of the proposed exemption, the cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source as defined in § 506.12 (Cost Calculation) of these regulations; and

(3) You will be able to comply with the applicable prohibitions, rule or order at the end of the proposed exemption period.

(b) *Evidence required in support of a petition.* In order to submit an adequate petition for review by ERA you must include in your petition the following substantial evidence to corroborate the above requirements:

(1) A description of the approach and methodology you used to search for an evaluate the use of the alternate fuels you considered.

(2) A description of the detailed design requirements for the existing installation including capacity, alternate fuel capability, and all other specifications;

(3) A description of the specific fuel characteristics of all the fuels which can be used by the existing installation;

(4) Evidence that you sought to obtain the full range of alternate fuels and fuel characteristics which could be used by the existing installation, including bid requests and/or advertisements for supply contracts and all response thereto, as well as evidence of any other arrangements you attempted to make to secure supplies;

(5) Evidence of the contracts or other arrangements you have made to insure a reliable and adequate supply of an alternate fuel at the end of the proposed exemption; and

(6) All data required by § 506.12 (Cost Calculation) of these regulations necessary for computing the cost calculation formula.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with Section 314 of the Act and § 506.16 of these regulations simultaneously with submission of your petition in order to satisfy ERA requirements for petition adequacy. You must submit an updated compliance plan as required by § 506.16 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account any extensions or renewals, may not exceed 10 years.

§ 506.22 Site limitations.

(a) *Eligibility.* Section 311(a)(2) of the Act provides for a temporary exemption due to a site limitation. ERA shall grant you such an exemption if you demonstrate, to the satisfaction of the ERA, that one or more of the following specific physical limitations relevant to the operation of your installation exist which, despite your diligent good faith efforts, cannot be overcome before the end of the proposed exemption period.

(1) Alternate fuels would be inaccessible as a result of a specific physical limitation relevant to the operation of the existing installation;

(2) Transportation facilities for alternate fuels would be unavailable;

(3) Adequate facilities for handling, using or storing an alternate fuel would be unavailable;

(4) Adequate means for controlling and disposing of wastes would be unavailable;

(5) Adequate and reliable supply of water would be unavailable; or

(6) Other site limitations exist which would not permit the operation of the existing installation using an alternate fuel.

(b) *Evidence required in support of the petition.* To submit an adequate petition for review by ERA, you must include in your petition the following substantial evidence to corroborate the above criteria:

(1) Evidence that the site limitation is a physical limitation, and not a requirement of a Federal, State, or local law which could be the basis of an exemption under Section 506.34 (State or local requirements);

(2) Evidence that alternative means for overcoming the specific site limitations were considered, with a detailed description of the efforts made to overcome the site limitations set out in your petition;

(3) Evidence of the equipment or space requirements for which the site limitation is claimed.

(4) Evidence of the contracts or other arrangements you have made to insure that the site limitation will be overcome and that you will comply with the applicable prohibitions at the end of the proposed exemption period. Examples of evidence relevant to establishing a site limitation for purposes of a temporary exemption are as follows:

(i) Detailed documentation of impediments, including rights of way problems, site diagrams, maps of the surrounding areas and other items essential to the showing of a site limitation;

(ii) Identification of transportation facilities relevant to the specific site of the installation and a demonstration why existing transportation facilities cannot be utilized or new facilities constructed;

(iii) Copies of bid requests, advertisements and other evidence of general efforts made to secure alternate transportation facilities;

(iv) Identification of potential fuel storage locations within a reasonable geographic area surrounding the existing installation;

(v) Detailed scale site plans of the entire facility which include those areas not directly involved with the specific installation;

(vi) A specific listing of all equipment necessary and not currently available to properly handle alternate fuel;

(vii) Copies of bid requests, advertisements and other evidence of general efforts made to secure alternative fuel storage facilities;

(viii) Copies of quotes from bona fide suppliers, indicating lead times for purchase and installation of required ancillary storage or handling equipment;

(ix) Specific listing of any equipment necessary and not currently available to properly control and dispose of waste;

(x) Identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the existing installation;

(xi) A description of efforts made to secure offsite disposal areas, including the cost of acquisition of the sites, transportation facilities and waste handling costs involved in their use; and

(xii) Copies of bid requests, advertisements, and other evidence of general efforts made to secure waste control and disposal equipment.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with Section 314 of the Act and § 506.16 of these regulations simultaneously with submission of your petition to satisfy ERA requirements for petition adequacy. You must submit an updated compliance plan as required by § 506.16 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account any extensions and renewals, may not exceed five years.

§ 506.23 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 311(a)(3) of the Act provides for a temporary exemption due to an inability to comply with applicable environmental requirements. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that despite diligent good faith efforts:

(1) You are unable to comply with rules or orders of ERA without violating applicable Federal or state environmental requirements; and

(2) You will be able to comply with rules or orders of ERA by the end of the temporary exemption period.

(b) *Evidence required in support of the petition.* To submit an adequate petition for review by ERA, you must provide the following substantial evidence to corroborate the above requirements:

(1) A detailed explanation why the facility cannot immediately burn an alternate fuel without violating applicable environmental requirements;

(2) Copies of all technical studies that you have relied upon with regard

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to consideration of alternate fuels, pollution control equipment, variances, State Implemenation Plan revisions, and delayed compliance orders;

(3) Copies of requests for bids, responses received, and contracts signed, if any, for an alternate fuel supply and for the purchase and installation of pollution control equipment; and

(4) Copies of correspondence with the State or EPA concerning variances, State Implementation Plan revisions, delayed compliance orders, solid waste permits or approvals, or modifications to National Pollution Disposal Elimination System permits.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with Section 314 of the Act and § 506.16 of these regulations simultaneously with submission of your petition to satisfy ERA requirements for petition adequacy. You must submit an updated compliance plan as required by § 506.16 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption taking into account extensions and renewals, may not exceed 5 years.

§ 506.24 Future use of synthetic fuels.

(a) *Eligibility.* Section 311(b) of the Act provides for a temporary exemption based upon the future use of synthetic fuels. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) You will be able to comply with the applicable rule or orders at the end of the proposed exemption period by the use of synthetic fuel as a primary energy source in your installation; and

(2) That you will not be capable of complying with the applicable rule or orders by using an alternate fuel in your installation before the end of the proposed exemption period.

(b) *Evidence required in support of the petition.* To submit an adequate petition for review by ERA you must include in your petition the following substantial evidence to corroborate the above requirements:

(1) Copies of economic and technical feasibility studies pertaining to the use of synthetic fuels by your installation;

(2) Reliable evidence of the financial commitments you have made to construct, operate and maintain equipment which will use synthetic fuel as the primary energy source at the end of the proposed exemption period,

(3) Copies of bid request, advertisements, contracts and/or other agreements relating to the production, purchase, and transportation of synthetic fuel; and

(4) Information with regard to permits that may be required by Federal or State Agencies for the operation of an installation using synthetic fuels.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accord with Section 314 of the Act and § 506.16 of these regulations simultaneously with submission of your petition to satisfy ERA requirements for petition adequacy. You shall submit an updated compliance plan as required by § 506.16 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption may be granted for a period of up to five years and may be extended for an additional five years, but so extended may not exceed ten years.

§ 506.25 Use of innovative technologies.

(a) *Eligibility.* Section 311(c) of the Act provides for a temporary exemption based on the use of innovation technologies. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) You will be able to comply with the applicable rule or order at the end of the proposed exemption period by adoption of a technology for the use of an alternate fuel which ERA has determined to be an innovative technology;

(2) You will not be capable of complying with the applicable rule or order before the end of the proposed exemption period.

(b) *Evidence required in support of the petition.* To submit an adequate petition for review by ERA you must include in your petition the following substantial evidence to corroborate the above requirements.

(1) Copies of economic and technical feasibility studies pertaining to adoption of an innovative technology for use of an alternate fuel in your installation;

(2) A complete description of the innovative technology you propose to use including explanation of its innovative characteristics, detailed design and engineering specifications, and a description of the fuel characteristic of the alternate fuels which can be used with the innovative technology;

(3) Reliable evidence of the financial and contractual commitments you have made to construct or modify, operate, and maintain equipment which represents an innovative technology for the use of alternate fuel and which will be used at the end of the proposed exemption period; and

(4) Copies of bid requests, advertisements contracts, and/or other arrangements you have made to insure a reliable and adequate supply of an alternate fuel at the end of the proposed exemption.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with Section 314 of the Act and § 506.16 of these regulations simultaneously with submission of your petition to satisfy ERA requirements for petition adequacy. You shall submit an updated compliance plan as required by § 506.16 of these regulations and as required by the terms and conditions of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption may be granted for a period of up to 5 years and may be extended for an additional 5 years, but so extended may not exceed 10 years.

§ 506.26 Retirement.

(a) *Eligibility.* Section 311(d) of the Act provides for a temporary exemption for retirement. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) The installation will be retired at the expiration of this temporary exemption;

(2) You will not be capable of complying with the applicable prohibitions contained in Title III, Subtitle A of the FUA by consuming coal or other alternate fuels before retirement of the installation.

(b) *Evidence required in support of the petition.* To submit an adequate petition sufficient for review by ERA you must include in your petition the following substantial evidence to corroborate the above requirements:

(1) A detailed engineering analysis explaining why the installation cannot use alternate fuels prior to retirement;

(2) Any other documentary evidence which indicates the reasons for retirement and plans for replacement or substitution of the retired installation;

(c) *Compliance plan.* You must submit to ERA a compliance plan in accord with Section 314 of the Act simultaneously with submission of the petition to satisfy ERA requirements for petition adequacy. The petitioner shall submit an updated compliance plan as required by § 506.16 except § 506.16(b)(1)(ii) these regulations and by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account extensions and renewals, may not exceed 5 years.

(e) *Restriction.* In the event this exemption is granted you will not be eligible for any other exemption under Title III, Subtitle B of the Act.

§ 506.27 Public interest exemption.

(a) *Eligibility.* Section 311(c) of the Act provides for a temporary public interest exemption. ERA may grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) You are unable to comply with the applicable rule or orders, except in extraordinary circumstances, during the period for which the exemption is requested, but that you will be capable of complying at the end of the proposed exemption period;

(2) You are not eligible for a temporary exemption based on lack of alternate fuel supply, site limitations, environmental requirements, synthetic fuels, innovative technologies, or retirement; and

(3) The granting of the exemption request is in accord with the purposes of the Act and is in the public interest.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA you must include in your petition substantial evidence to corroborate the above requirements.

(c) *Compliance plan.* You must submit to ERA a compliance plan in accordance with Section 314 of the Act and § 506.16 of these regulations simultaneously with submission of your petition to satisfy ERA requirements for petition adequacy. You must submit an updated compliance plan as required by § 506.16 of these regulations and as required by the terms of any order granting an exemption under this subpart.

(d) *Duration.* This temporary exemption, taking into account extensions and renewals, may not exceed 5 years.

Subpart D—Permanent Exemptions for Existing MFBI's

§ 506.30 Purpose and scope.

(a) This subpart implements the provisions contained in Section 312 of the Act with regard to permanent exemptions for existing major fuel burning installations.

(b) This subpart establishes the criteria and standards which owners or operators of existing installations who petition for a permanent exemption must meet to sustain their burden of proof under the Act.

(c) You must submit all petitions for permanent exemptions for existing installations in accordance with the procedures set out in Part 501 of these regulations.

§ 506.31 Lack of alternate fuel supply.

(a) *Eligibility.* Section 312(a)(1)(A) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported oil. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) You made a good faith effort to obtain an adequate and reliable supply of an alternate fuel of the quality necessary to conform to design and operational requirements of the existing installation; and

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source, as defined in § 506.12 (Cost Calculation) of these regulations during the remaining useful life of the existing installation.

(b) *Evidence in support of a petition.* In order to submit an adequate petition for review by ERA, you must include in your petition the following substantial evidence to corroborate the above requirements:

(1) A description of the detailed design requirements for the existing installation, including capacity, alternate fuels capability, and all other pertinent specifications;

(2) A description of the specific fuel characteristics of all the fuels which can be used by the existing installations.

(3) Evidence that you sought the full range of alternate fuels and fuel characteristics which could be used by the existing installation, including bid requests, and/or advertisements for supply contracts, all responses you received, as well as evidence of any other arrangements you attempted to make to secure supplies;

(4) All data required by § 506.12 of these regulations (Cost Calculation) necessary for computing the cost calculation formula; and

(5) A description of the approach and methodology you used to search for and evaluate the use of the alternate fuel you considered.

§ 506.32 Site limitations.

(a) *Eligibility.* Section 312 (a)(1)(B) of the Act provides for a permanent exemption due to a site limitation. ERA shall grant you such an exemption if you demonstrate to the satisfaction of the ERA that, despite good faith efforts:

(1) Alternate fuels would be inaccessible as a result of a specific physical limitation to the operation of the existing installation;

(2) Transportation facilities for alternate fuels would be unavailable;

(3) Adequate facilities for handling, using or storing alternate fuels would be unavailable;

(4) Adequate means for controlling and disposing of wastes would be unavailable;

(5) Adequate and reliable supply of water would be unavailable; or

(6) Other site limitations exists which would not permit the operation of the existing installation using an alternate fuel and that these limitations cannot be reasonably expected to be overcome within five years after the application for exemption from the rule or order is filed.

(b) *Evidence required in support of the petition.* In order to submit an adequate petition for review by ERA, you must include in your petition the following substantial evidence to corroborate the above criteria:

(1) Evidence that the site limitation is a physical limitation, and not a requirement of a Federal, State, or local law which could be the basis of an exemption under § 506.34 (State or local requirements);

(2) Evidence that alternate means for overcoming the specific site limitation were sought, with a detailed description of the efforts made to overcome the site limitation set out in your petition; and

(3) Evidence of the equipment or space requirements for which the site limitation is claimed. Examples of evidence relevant to establishing a site limitation for purposes of a permanent exemption are as follows:

(A) Detailed documentation of impediments, including rights of way problems, site diagrams, maps of the surrounding areas and other items essential to the showing of a site limitation;

(B) Identification of transporation facilities relevant to the geographic site of the installation and demonstration showing why existing transportation facilities cannot be utilized or new facilities constructed;

(C) Copies of bid requests, advertisements and evidence of other general efforts made to secure alternative transportation facilities;

(D) Identification of potential alternate fuel storage locations within a reasonable geographic area surrounding the installation;

(E) Detailed scale site plans of the entire facility which include those areas not directly involved with the specific installation;

(F) A specific listing of all equipment necessary and not currently available to properly handle alternate fuels;

(G) Copies of bid requests, advertisements and evidence of other general efforts made to secure alternate storage facilities;

(H) Copies of quotes from bona fide suppliers, indicating lead times for purchase and installation for required ancillary storage or handling equipment;

(I) Specific listing of any equipment necessary and not currently available to properly control and dispose of waste;

(J) Identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the installation;

(K) A description of efforts made to secure off site disposal area transpor-

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tation facilities and waste handling costs involved in their use; and

(L) Copies of bid requests, advertisements, and evidence of other general efforts made to secure waste control and disposal equipment.

§ 506.33 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 312(a)(1)(C) of the Act provides for a permanent exemption due to inability to comply with applicable environmental requirements. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that, despite good faith efforts, you cannot burn alternate fuels without violating applicable environmental requirements within five years after the application for exemption is filed.

(b) *Evidence supporting petition.* To submit an adequate petition for review by ERA, you must include in your petition the following substantial evidence to corroborate the above requirements:

(1) A detailed explanation why the facility cannot comply with the prohibition of the Act within five years without violating applicable environmental requirements;

(2) Copies of all technical studies that you have relied upon with regard to consideration of alternate fuels, pollution control equipment, variances, State Implementation Plan revisions, and delayed compliance orders;

(3) Copies of requests for bids, responses received, and contracts signed, if any, for an alternate fuel supply and for the purchase and installation of pollution control equipment; and

(4) Copies of correspondence with the State or EPA concerning variance, State Implementation Plan revisions, delayed compliance orders, solid waste permits or approvals, or modifications to NPDES permits.

(c) *Prepetition actions.* It is recommended that you request a meeting with ERA nad EPA or the appropriate State regulatory agency to discuss options for complying with the prohibitions.

§ 506.34 State or local requirements.

(a) *Eligibility.* Section 312(b) of the Act provides for an exemption due to certain State or Local requirements. ERA may grant you such an exemption if you demonstrate to the satisfaction of the ERA that:

(1) With respect to the site of the installation the operation of the installation using an alternate fuel is infeasible because of a State or Local requirement;

(2) If such State or local requirement is under a building code or nuisance or zoning law, no other exemption under Title III, Subtitle B of the Act could be granted;

(3) You have, in good faith, attempted unsuccessfully to obtain a waiver or a variance from the State and local requirement or have demonstrated why none is available; and

(4) The granting of the exemption would be in the public interest and would be consistent with the purposes of the Act.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA, you must provide the following substantial evidence to corroborate the above requirements:

(1) A copy of the pertinent State or local requirement with its citation and its legislative history;

(2) The identification and location of the administrative body which implements the requirements;

(3) A description of your attempts to obtain a waiver or a variance from the requirements;

(4) A description of any activities you were involved in pertaining to the enactment of the requirements;

(5) A description of equiment, procedures, advance planning time and costs necessary to comply with the requirements;

(6) A detailed description of why compliance is infeasible;

(7) The impact upon you and/or your local community, if any, should your petition be denied;

(8) An explanation of the reasons why granting this exemption would be in the public interest; and

(9) An analysis of why you cannot qualify for an exemption under Title III, Subtitle B if such State or local requirement is under a building code, nuisance or zoning law.

§ 506.35 Cogeneration.

(a) *Eligibility.* Section 312(c) of the Act provides for a permanent exemption for cogeneration. ERA may grant you such an exemption if you demonstrate to the satisfaction of ERA at least the following minimum criteria:

(1) You are unable to comply with the applicable rule or order;

(2) That there are economic and other benefits of cogeneration with petroleum or natural gas which are unobtainable through the use of an alternate fuel.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA you must include in your petition the following substantial evidence to corroborate the above requirements:

(1) Documentary evidence which demonstrates that you considered the use of alternate fuels, including a description of the fuel alternatives you examined and the factors important in your decision to reject the use of alternate fuels. Such factors would include lack of alternate fuel supply, site limitations, or environmental requirements;

(2) Design specifications for the existing unit;

(3) An engineering description of the system, including existing system output and uses thereof, with sufficient detail to insure that the unit qualifies as a cogeneration facility;

(4) A detailed economic and engineering analysis demonstrating the benefits of cogeneration with petroleum or natural gas and demonstrating that these benefits are not obtainable through the use of alternate fuels;

(5) A comparison of the total oil and gas consumption by the existing cogeneration facility and the best feasible alternative, including the effect on oil or gas used by the installation or by other affected parties; and

(6) An analysis of the immediate and long-term economic impacts on parties not directly involved with the facility.

§ 506.36 Permanent exemption for certain fuel mixtures containing natural gas or petroleum.

(a) *Eligibility.* Section 312(d) of the Act provides for a permanent exemption for certain fuel mixtures. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) You propose to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source;

(2) You are not capable of complying with the applicable prohibitions; and

(3) The amount of petroleum or natural gas you propose to use in the mixture will not exceed the minimum percentage of the total Btu heat input of the primary energy sources of the installation needed to maintain operational reliability consistent with maintaining a reasonable level of fuel efficiency.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA you must include in your petition the following substantial evidence to corroborate the above requirements:

(1) A complete description of the fuel mixture, component elements of the mixture, and percentage of each component to be utilized;

(2) The design specifications for the unit for which you are requesting an exemption.

(3) An engineering assessment of the proportions of petroleum or natural gas needed to maintain operational reliability and an adequate level of fuel efficiency; and

(4) Documentary evidence which demonstrates that you have considered the use of alternate fuels as a primary energy source. You must include a description of the supply alternatives you considered, the cost and availability of each alternate fuel considered, and the factors important in your decision to reject the use of an alternate fuel as a primary energy source.

(c) *Reporting requirement.* If the exemption is granted, you must submit an annual report to ERA certifying that the affected units have used no more than the percentage of oil or natural gas specified in the exemption order. The certification shall be executed by your Chief Executive Officer.

§ 506.37 Emergency purposes.

(a) *Eligibility.* Section 312(e) of the Act provides for a permanent exemption for emergency purposes. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) You are unable to comply with the applicable prohibitions;

(2) You will operate and maintain the installation for emergency purposes only.

(b) *Definition.* For the purposes of this permanent exemption, an emergency exists when operation is necessary for (1) plant protection, or (2) the preservation of human health, including services to hospitals, public transportation facilities, sanitation, water supply and pumping, or other essential services. Secondary services which support essential services are excluded.

(c) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA you must provide the following substantial evidence to corroborate the above requirements:

(1) Certification executed by the Chief Executive Officer stating that emergency operation under the provisions of this exemption will occur only when plant protection or the preservation of human health is required;

(2) Documentary evidence which demonstrates that you considered the use of alternate fuels, including a description of the alternate fuels you examined and the factors important in your decision to reject the use of alternate fuels. Such factors would include lack of alternate fuel supply, site limitations, environmental requirements, certain State or local requirements, or other reasons which would preclude the use of an alternate fuel;

(3) An estimate of the emergency generating capacity required for the first three 12 month periods of exempt operation to be used for plant protection and for preservation of human health;

(4) A list of specific uses described by the terms plant protection and preservation of human health, as provided in subparagraph (b) above;

(5) The total emergency generating capacity for which exemption is requested; and

(6) Identification and description of previous exemptions, if any, granted under the provisions of this subsection.

(d) *Reporting requirement.* At the end of each 12 month period from the effective date of the exemption you must report to ERA the monthly and annual total generating capacity used and amounts generated under the provisions of this exemption with a description of the purposes of use.

§ 506.38 Product or process requirements.

ERA has made a preliminary determination that this exemption (Section 311(k) of the Act) applies solely to certain nonboiler categories. The Act provides ERA with the discretionary authority to promulgate rules prohibiting oil and natural gas use by these categories of non-boilers. ERA does not intend to issue rules pertaining to those categorical prohibitions at this time. Therefore, we do not intend to issue at this time regulations governing the eligibility and evidence requirements for granting this exemption.

§ 506.39 Scheduled equipment outages.

(a) *Eligibility.* Section 312(1) of the Act provides for a permanent exemption to meet scheduled equipment outages. ERA may grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) You are unable to comply with the applicable rule or order;

(2) Your routine maintenance schedule does not permit continuing operation unless ERA grants this exemption and the reasons why; and

(3) The pertinent unit will be used only during those periods when other units are not in operation for reason of scheduled outages.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA you must include in your petition the following substantial evidence to corroborate the above requirements:

(1) A schedule of operations for the pertinent unit estimating the number of hours per year and fuel consumption for projected use during the next 12 months of operation;

(2) A description of the maintenance schedule for all units located at the facility specifically identifying those units at the facility which will be out of service for scheduled maintenance at times when the unit for which the exemption is requested, is operating; and

(3) Documentary evidence which demonstrates that you considered the use of alternate fuels, including a description of the alternate fuels you examined and the factors important in your decision to reject the use of alternate fuels. Such factors would include lack of alternate fuels supply, site limitations, environmental requirements, or certain State or local requirements.

(c) *Reporting requirements.* ERA will rely upon the schedule of operation of the unit submitted with the petition as the permanent schedule for exempt use. You must notify ERA in advance of any changes to this schedule.

§ 506.40 Installations served by certain international pipelines.

(a) *Eligibility.* Section 312(j) of the Act provides for a permanent exemption for the use of natural gas by installations served by certain international pipelines. ERA shall grant you such an exemption if you demonstrate to the satisfaction of ERA that:

(1) Your primary source of natural gas is under a contract with a pipeline between the United States and Canada;

(2) The contract was signed before April 21, 1977;

(3) The natural gas would revert to Canada if you are not granted an exemption;

(4) The pipeline serves high priority users;

(5) You would suffer substantial financial penalty if the contract were concelled and there is no available relief from the penalty; and

(6) The revenues from the transportation and sale of natural gas under your contract are essential to the economic vitality of the pipeline.

(b) For purposes of this section the term "high priority user" means any residential user of natural gas or any commercial user whose consumption of natural gas on a peak day is less than 50 MCF.

(c) *Evidence required in support of the petition.* To submit an adequate petition for review by ERA you must provide the following substantial evidence to corroborate the above requirements.

(1) A copy of your contract with international pipeline with the applicable sections underlined;

(2) A certification from the natural gas supplier of the pipeline that the natural gas would revert to Canada upon cancellation of the contract;

(3) A certification by the pipeline that it serves high priority users and a description of those users;

(4) An explanation of the substantial financial penalty that would be incurred;

(5) An explanation of why *force majeure* would not apply to the contract cancellation;

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(6) A description of your attempt to transfer your contract as described in Section 731 of the Act; and,

(7) A decision from the Federal Energy Regulatory Commission that the revenues from the transportation and sale of natural gas under your contract are essential to the economic vitality of the pipeline.

PART 507—FUEL CLASSIFICATION AND REPORTING REQUIREMENTS

Sec.

507.1 Purpose and scope.
507.2 Definition of fuels.
507.3 Exclusions from the definition of natural gas.
507.4 Exclusion from the definition of petroleum.
507.5 Reporting requirements of powerplants using natural gas from small wells.
507.6 Reporting requirements on use of commercially unmarketable natural gas.
507.7 Reporting on use of commercially unmarketable by-products of refinery operations

AUTHORITY: Department of Energy Organization Act, Pub. L. 95-91; Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620; Title V of the Independent Offices Appropriation Act of 1952, 65 Stat. 290, 31 U.S.C. 483(a); Executive Order 12009, 42 FR 46267.

§ 507.1 Purpose and scope.

(a) *Purpose.* This subpart excludes certain gaseous and liquid from the terms "natural gas" and "petroleum" for the purposes of the Act and requires reporting by certain users of such excluded fuels.

(b) *Scope.* This subpart applies to use of such excluded fuels in all new and existing electric powerplants and major fuel burning installations.

§ 507.2 Definition of fuels.

(a) Natural gas means any fuel consisting in whole or in part of natural gas; liquid petroleum gas; synthetic gas derived from petroleum or natural gas liquids; or any mixture of natural gas and synthetic gas, except as designated in § 507.3(f) of this part. Natural gas does not include any of the fuels excluded by § 507.3.

(b) Petroleum means crude oil and products derived from crude oil. Petroleum does not include any of the fuels excluded by § 507.4.

§ 507.3 Exclusions from the definition of natural gas.

(a) Natural gas does not include gas specifically designated as an alternate fuel in these regulations § 500.2(a)(7)).

(b) Natural gas does not include that which is commercially unmarketable, by reason of quality, quantity or distance from existing transportation networks. Gas is commercially marketable unless:

(1) No interstate pipeline, intrastate pipeline or local gas distribution company has made a bona fide offer to purchase such gas; and

(2) The gas is transported from the well to the user's powerplant or installation by a direct pipeline performing only that function.

(c) Natural gas does not include that produced by the user from a well, the maximum efficient production rate of which is less than 250 million Btu's per day. For purposes of this subparagraph—

(1) "produced by the user" means

(i) All gas produced by the well, where such gas is delivered for use in the user's facility through a gas delivery, gathering or transportation system which could not deliver such gas to any other market, or

(ii) Only that amount which represents the user's net working (mineral) interest in the gas produced from such wells, where such gas is delivered for use in the user's facility through a gas delivery, gathering or transportation system which would deliver such gas to any other market.

(2) "maximum efficient production rate" (MEPR) means that rate at which production of natural gas and oil may be sustained without damage to the reservoir or the rate which may be sustained without damage to the ultimate recovery of oil or gas through the well. The MEPR must include the Btu value of any crude oil, gas condensate, and natural gas liquids which may be prduced from the well, in addition to that of the natural gas.

(d) Natural gas does not include occluded methane in coal seams;

(e) Natural gas does not include synthetic gas derived from an alternate fuel which is not mixed with natural gas;

(f) Natural gas does not include mixtures of natural gas and synthetic gas derived from alternate fuels for which the person proposing to use the gas certifies to ERA that:

(1) He owns, or is entitled to receive at the point of manufacture, synthetic gas derived from alternate fuels;

(2) The Btu content of such synthetic gas is equal to or greater than the Btu content of the natural gas to be covered by this subsection, plus the approximate Btu content of any natural gas consumed or lost in transportation;

(3) He delivers or arranges for the delivery of, such synthetic gas to a pipeline or pipelines which by transport or displacement are capable of delivering such synthetic gas, mixed with natural gas, to facilities owned by the user; and

(4) All necessary permits, licenses, or approvals from appropriate Federal, State and local agencies (including Indian tribes) have been obtained for construction and operation of the facilities for the manufacture of the synthetic gas involved, except that for purposes of the prohibition under Section 201 (2) of the Act against powerplants being constructed without the capability of using coal or the construction of synthetic gas facilities shall be required under this subparagraph to be certified and documented.

§ 507.4 Exclusion from the definition of petroleum

Petroleum does not include:

(a) Petroleum products specifically designated as alternate fuels in these regulations (§ 500.2(a)(7));

(b) Synthetic gas derived from crude oil and its derivatives;

(c) Liquid petroleum gas;

(d) Petroleum coke or waste gases from non-refinery industrial operations; and

(e) Liquid, solid, or gaseous by-products of refinery operations which are commericallly unmarketable by reason of—

(1) Quality, where the by-products, including components such as butane and propane which can be extracted from the by-products, could not—

(i) Reasonably be expected to be used in non-refinery operations; and

(ii) Be produced and distributed at a price which would provide adequate revenue to pay the operating expenses of this production and distribution; or

(2) Quantity, where—

(i) Insufficient or sporadic quantities of the by-product, including components such as butane and propane which can be extracted from the by-products, are produced to maintain an adequate and reliable supply to a potential user; and

(ii) No dependable market exists for these by-products, or components of the by-products, which can support a price which will provide adequate revenue to pay the operating expenses of the production and distribution of the by-product or its components.

§ 507.5 Reporting requirements of powerplants using natural gas from small wells.

If you own or operate a powerplant which uses or intends to use more than 4.0 billion Btu's per day of natural gas produced from wells with a maximum efficient production rate of less than 250 million Btu's per day (§ 507.3(c), you must report to ERA by January 30, 1980, and annually thereafter:

(a) Facilities using such gas;

(b) Yearly quantities and the Btu value of such gas used in each such facility;

(c) The number, location and total daily production of all such wells which were acquired prior to November 9, 1978; and

(d) the number, location and total daily production of all such wells which were acquired on or after November 9, 1978.

§ 507.6 Reporting requirements on use of commercially unmarketable natural gas.

(a) If you use or intend to use natural gas which you consider to be commercially unmarketable (§ 507.3(b)), you must file a report to ERA by January 30, 1980, and annually thereafter, the following:

(1) The facilities which are burning such gas;

(2) Yearly quantities and the Btu value of such gas used in each such facility;

(3) The number and location of each well producing gas burned in each such facility;

(4) The quantity of gas produced from each such well over the past twelve months and the MEPR of each such well;

(5) A production of the total quantity of such gas you intend to use from such wells over the next twelve months; and

(6) Certification by the Chief Executive Officer that the gas is transported from the well to the facility site by a direct pipeline serving only the single site.

§ 507.7 Reporting on use of commercially unmarketable by-products of refinery operations.

(a) If you use or intend to use gaseous or liquid by-products of refinery operations which you consider to be commercially unmarketable (§ 507.4), you must file a report with ERA by January 30, 1980, and annually thereafter including the following:

(1) The facilities which are burning such by-products;

(2) A description of the gaseous or liquid by-products, including the components of those by-products which could physically be extracted, notwithstanding the fact that you may not own the equipment necessary to perform this extraction;

(3) Monthly production levels of these by-products and their components; and

PART 508—SPECIAL RULE FOR TEMPORARY PUBLIC INTEREST EXEMPTION

[See 44 FR 1694, January 5, 1979]

APPENDIX

FEDERAL ENERGY REGULATORY COMMISSION

[18 CFR Part 285]

[Docket No. RM79-10]

Determination of Powerplant Design Capacity; Notice of Proposed Rulemaking

DECEMBER 29, 1979.

Section 103(a)(18)(D) of the Powerplant and Industrial Fuel Use Act of 1978 (Act) Pub. L. 95-1749, requires the Federal energy Regulatory Commission (Commission) to promulgate rules under which a powerplant's design capacity may be determined. The determination of a powerplant's design capacity is necessary because it is an element of each of the statutory definitions of the terms "peakload powerplant", "intermediate load powerplant", and "base load powerplant" as provided in section 103(a)(18) of the Act. The definitions of those terms will be used to determine the applicability of certain temporary and permanent exemptions from sections 201 and 202 of the Act, which proscribe the use of natural gas or petroleum as a primary energy source in new electric powerplants, under sections 212(g) and 212(h). The definitions are also to be used to determine the applicability of certain temporary and permanent exemptions from sections 301 and 302 of the Act, relating to existing electric powerplants, under sections 311(f), 312(f), and 312(g) of the Act. Finally, determinations regarding design capacity are necessary under section 501 of the act, Electric Utility System Compliance Option, in order to determine if existing electric utilities are in compliance with Title III of the Act.

Discussion

The Commission proposes that the rules contained herein be used to determine a powerplant's design capacity. There are a number of powerplant capacity ratings used by the electric power industry. However, these are used principally for operational purposes, reflecting seasonal weather conditions, degradation of a powerplant, or other factors, and may be substantially different from a powerplant's design capacity. The Commission has established criteria that the design rating should be (1) determinable unequivocably from the manufacturer's data and ordinarily not change during a powerplant's physical life, unless there is substantial modification of the unit; (2) a familiar and recognizable quantity throughout the electric power industry; and (3) a published value readily available to any party interested in obtaining it. These criteria and the proposed rules evolving therefrom were developed in consultation with the Staff of the Secretary of Energy. The proposed rules are summarized below:

(1) The design capacity of a steam-electric generating unit shall be its maximum generator nameplate rating which has been reported to the Energy Information Administration on EIA Form (formerly FPC Form 12).

(2) The design capacity of a combustion turbine shall be its peak load rating as defined by both the American National Standards Institute (ANSI) and by the International Standards Organization (ISO). This peak load rating, which applies to units operating for peaking service with a maximum of 2,000 hours per year operation, is based on an ambient temperature of 59 degrees Fahrenheit (15 degrees Celcius) and a pressure of 14.696 psia (sea level). This should be the capacity rating reported to the Energy Information Administration on EIA Form (formerly FPC Form 12). If those reported ratings are based on different conditions, they will be adjusted to ISO standard conditions for the purposes of the Powerplant and Industrial Fuel Use Act.

(3) The design capacity of a combined cycle unit shall be the sum of its combustion turbine peak load rating, based on ANSI/ISO standard conditions, and the maxim um generator nameplate rating of the steam turbine portion of the unit.

(4) The design capacity of an internal combustion engine shall be the capacity rating which has been reported to the Energy Information Administration on EIA Form —— (formerly FPC Form 12).

The Commission solicits comments from interested parties concerning how well the proposed rules support the criteria established by the Commission. Also, the Commission is interested in any problems or concerns regarding the applicability of the proposed rules in meeting the requirements of the Act.

Public Comment Procedures

Interested persons may participate in this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 30, 1979. Each person submitting a comment should include his name and address, identify the notice (Docket No. RM79-10), and give reasons for any recommendations. An original and 14 conformed copies should be filed with the Secretary of the Commission. Comments should indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours.

(Department of Energy Organization Act, P.L. 95-91, E.O. 12009, 42 F.R. 46267, Powerplant and Industrial Fuel Use Act of 1978, P.L. 95-1749)

In consideration of the foregoing, the Commission proposes to amend Chapter I of Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

Chapter I of Title 18 is amended by adding a new Subchapter J to read as follows:

SUBCHAPTER J—REGULATIONS UNDER THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

PART 285—RULES GENERALLY APPLICABLE TO POWERPLANT AND INDUSTRIAL USE

§ 285.101 *Determination of powerplant design capacity.* For purposes of this subchapter, a powerplant's design capacity shall be determined as follows:

(a) *Steam-electric generating unit.* The design capacity of a steam-electric generating unit shall be taken as the maximum generator nameplate rating which has been reported to the Energy Information Administration on EIA Form —— (formerly FPC Form 12).

(b) *Combustion turbine.* The design capacity of a combustion turbine shall be taken as its peak load rating as defined by both the American National Standards Institute

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(ANSI) and by the International Standards Organization (ISO). This peak load rating, which applies to units operating for peaking service with a maximum of 2,000 hours per year operation, is based on an ambient temperature of 59 degrees Fahrenheit (15 degrees Celcius) and a pressure of 14.696 psia (sea level). If capacity ratings as reported to Energy Information Administration on EIA Form —— (formerly FPA Form 12) are based on different conditions, these reported ratings will be adjusted to ISO standard conditions.

(c) *Combined cycle unit.* The design capacity of a combined cycle unit shall be taken as the sum of its combustion turbine peak load rating, based on ANSI/ISO standard conditions, and the maximum generator nameplate rating of the steam turbine portion of the unit.

(d) *Internal combustion engine.* The design capacity of an internal combustion engine shall be taken as the capacity rating which has been reported to the Energy Information Administration on EIA Form —— (formerly FPC Form 12).

[FR Doc. 79-2856 Filed 1-24-79; 10:21 am]

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Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—OFFICE OF PERSONNEL MANAGEMENT

PART 351—REDUCTION IN FORCE

Retention Preference

AGENCY: Office of Personnel Management.

ACTION: Interim regulation with comments invited for consideration in final rulemaking.

SUMMARY: These amendments provide that a preference eligible employee with a service-connected disability of 30 percent or more is entitled (1) to be retained over other preference eligible employees in the determination of retention standing, and (2) to receive a specific notice, with a right of review by the Office, if an agency finds that the employee is not able to fulfill the physical requirements of a position to which he/she would otherwise have been assigned under part 351. The changes are required by Sections 307 (e) and (g) of Pub. L. 95-454 (The Civil Service Reform Act of 1978).

DATES: Effective Date: January 11, 1979, and until final regulations are issued. Comment Date: Written comments will be considered if received no later than April 2, 1979.

ADDRESS: Send written comments to Ted Dow or Thomas A. Glennon, Office of Personnel Management, 1900 E Street, N.W. Washington, D.C. 20415, (202) 632-5623.

FOR FURTHER INFORMATION CONTACT:

Ted Dow or Thomas A. Glennon, Office of Personnel Management 1900 E Street, N.W. Washington, D.C. 20415, (202) 632-5623.

SUPPLEMENTARY INFORMATION: Pursuant to section 533(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

The following specific changes are made in Part 351:

(1) A new Subpart A is added to the regulations, consisting of the statutory requirements for retention preference, as found in Subchapter I of Chapter 35 of title 5, United States Code.

(2) An original § 351.201(g) is included to explain that an employeee in the Senior Executive Service is not covered by Part 351.

(3) Section 351.501(a)(2) is amended to include new retention subgroup AD.

(4) Section 351.501(a)(3) is amended to clarify how employees are ranked within a subgroup.

(5) Section 351.501(e) is amended to delete the definition of employees included in subgroup A, and to incorporate the definition of employees included in new retention subgroup AD.

(6) Section 351.501(f) includes the definition of employees included in subgroup A; this definition was formerly incorporated in § 351.501(e).

(7) Section 351.501(g) includes the definition of employees included in subgroup B; this definition was fromerly incorporated in § 351.501(f).

(8) An original § 351.701(d) is included to cover the right of certain disabled preference eligible employees to receive a notice from the employing agency if it finds that the employee is unable to fulfill the physical requirements of a position which would have otherwise been offered to the employee under part 351.

(9) Section 351.705(a)(3) is amended to permit an agency, at its discretion, to adopt administrative assignment provisions permitting an employee in subgroup III-AD to displace an employee in subgroups III-A or III-B, or an employee in subgroup III-A to displace an an employee in subgroup III-B.

Accordingly 5 CFR Part 351 is amended as follows: (1) by adding a new Subpart A as follows:

PART 351—REDUCTION IN FORCE

Subpart A—Statutory Requirements

Sec.
351.101 Statutory requirements

AUTHORITY: 5 U.S.C. 1302, 3502.

Subpart A—Statutory Requirements

§ 351.101 Statutory requirements.

This subpart sets forth for the benefit of the user the statutory requirments governing retention preference in reduction in force:

§ 3501. Definitions; application.

(a) For the purpose of this subchapter, except section 3504—

(1) "active service" has the meaning given it by section 101 of title 37;

(2) "a retired member of a uniformed service" means a member or former member of a uniformed service who is entitled, under statute, to retired, retirement, or retainer pay on account of his service as such a member; and

(3) a preference elegible employee who is a retired member of a uniformed service is considered a preference elegible only if—

(A) his retirement was based on disability—

(i) resulting from injury or disease received in line of duty as a direct result of armed conflict; or

(ii) caused by an instrumentality of war and incurred in the line of duty during a period of war as defined by sections 101 and 301 of title 38;

(B) his service does not include twenty or more years of full-time active service, regardless of when performed by not including periods of active duty for training; or

(C) on November 30, 1964, he was employed in a position to which this subchapter applies and thereafter he continued to be so employed without a break in service of more than 30 days.

(b) Except as otherwise provided by this subsection and section 3504 of this title, this subchapter applies to each employee in or under an Executive agency. This subchapter does not apply to an employee whose appointment is required by Congress to be confirmed by, or made with the advice and consent of, the Senate, or to a member of the Senior Executitve Service. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 428, amended Pub. L. 94-183, § 2(8), Dec. 31, 1975, 89 Stat. 1057, amended Pub. L. 95-454, § 404(a), Oct. 13, 1978, 92 Stat. 1165.

§ 3502. Order of retention.

(a) The Office of Personnel Management shall prescribe regulations for the release of competing employees in a reduction in force which give due effect to—

(1) tenure of employment;

(2) military preference, subject to section 3501(a)(3) of this title;

(3) length of service; and

(4) efficiency or performance ratings.

In computing length of service, a competing employee—

(A) who is not a retired member of a uniformed service is entitled to credit for the

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total length of time in active service in the armed forces;

(B) who is a retired member of a uniformed service is entitled to credit for—

(i) the length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(ii) the total length of time in active service in the armed forces if he is included under section 3501(a)(3) (A), (B), or (C) of this title; and

(C) who is an employee in or under the Department of Agriculture is entitled to credit for service rendered as an employee of a county committee established pursuant to section 590h(b) of title 16, or of a committee or an association of producers described in section 610(b) of title 7.

(b) A preference eligible described in section 2108(3)(C) of this title who has a compensable service-connected disability of 30 percent or more and whose performance has not been rated unacceptable under a performance appraisal system implemented under chapter 43 of this title is entitled to be retained in preference to other preference eligibles.

(c) An employee who is entitled to retention preference and whose performance has not been rated unacceptable under a performance appraisal system implemented under chapter 43 of this title is entitled to be retained in preference to other competing employees. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 428, amended Pub. L. 90-367, § 3, June 29, 1968, 82 Stat. 278; Pub. L. 90-623, § 1(23), Oct. 22, 1968, 82 Stat. 1313, amended Pub. L. 95-454, § 307(e), Oct. 13, 1978, 92 Stat. 1149.)

§ 3503. Transfer of functions.

(a) When a function is transferred from one agency to another, each competing employee employed in the function shall be transferred to the receiving agency for employment in a position for which he is qualified before the receiving agency may make an appointment from another source to that position.

(b) When one agency is replaced by another, each competing employee employed in the agency to be replaced shall be transferred to the replacing agency for employment in a position for which he is qualified before the replacing agency may make an appointment from another source to that position. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 429, amended Pub. L. 95-454, § 307(f), Oct. 13, 1978, 92 Stat. 1149.

§ 3504. Preference eligibles; retention; physical qualifications; waiver.

(a) In determining qualifications of a preference eligible for retention in a position in the competitive service, an Executive agency, or the government of the District of Columbia, the Office of Personnel Management or other examining agency shall waive—

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the Office or other examining agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

(b) If an examining agency determines that, on the basis of evidence before it, a preference eligible under section 2108(3)(C) of this title who has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of the position, the examining agency shall notify the Office of the determination and, at the same time, the examining agency shall notify the preference eligible of the reasons for the determination and of the right to respond, within 15 days of the date of the notification, to the Office. The Office shall require a demonstration by the appointing authority that the notification was timely sent to the preference eligible's last known address and shall, before the selection of any other person for the position, make a final determination on the physical ability of the preference eligible to perform the duties of the position, taking into account any additional information provided in any such response. When the Office has completed its review of the proposed disqualification on the basis of physical disability, it shall send its findings to the appointing authority and the preference eligible. The appointing authority shall comply with the findings of the Office. The functions of the Office under this subsection may not be delegated. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 429, amended Pub. L. 95-454, § 307(g), Oct. 13, 1978, 92 Stat. 1149.)

(2) In § 351.201, paragraph (g) is added. As amended, § 351.201 reads as follows:

§ 351.201 Use of regulations.

(a) Each agency shall follow this part when it releases a competing employee from his/her competitive level by separation, demotion, furlough for more than 30 days, or reassignment requiring displacement, when the release is required because of lack of work, shortage of funds, reorganization, reclassification due to change in duties, or the exercise of reemployment rights or restoration rights.

(b) This part does not require an agency to fill a vacant position. However, when an agency, in its discretion, chooses to fill a vacancy by an employee who has been reached for release from his/her competitive level for one of the reasons named in paragraph (a) of this section, this part shall be followed.

(c) This part does not apply to the change of an employee from regular to substitute in the same pay level in the Post Office Department field service.

(d) An agency authorized to administer alien employee programs under section 444 of the Foreign Service Act of 1946, as amended (22 U.S.C. 889), may include special plans for reduction in force in its alien employee programs. In these special plans an agency may give effect to the labor laws and practices of the locality of employment by supplementing the selection factors in Subparts D and E of this part to the extent consistent with the public interest. Subpart I of this part does not apply to actions taken under the special plans authorized by this paragraph.

(e) This part does not apply to the termination of a temporary promotion or to the return of an employee to the position from which he/she was temporarily promoted or his/her reassignment or demotion to a different position that is not at a lower grade or level than the position from which he/she was temporarily promoted.

(f) This part does not apply to the release from his/her competitive level of a National Guard technician under section 709 of title 32, United States Code.

(g) This part does not apply to an employee in the Senior Executive Service.

(3) In § 351.501, paragraph (a) (2), (3), (e), (f), and (g) are amended. As amended, § 351.501 reads as follows:

§ 351.501 Tenure groups and subgroups—competitive service.

(a) Each agency shall classify the competing employees on a retention register who occupy positions in the competitive service in the following groups and subgroups on the basis of tenure of employment and veteran preference. The descending order of retention standing:

(1) By groups is group I, group II, group III;

(2) Within each group is subgroup AD, subgroup A, subgroup B;

(3) Within each subgroup persons are ranked beginning with the earliest service date.

(b) Group I includes each career employee who is not serving a probationary period. A career employee in an obligated position is in group I only when competing for positions at and below the grade in which he/she last served on a permanent basis.

(c) Group II includes each employee serving a probationary period, each career-conditional employee, and each career employee in an obligated position.

(d) Group III includes each indefinite employee, each employee serving under a temporary appointment pending establishment of register, each employee in status quo, and each employee serving under other nonstatus nontemporary appointment.

(e) Subgroup AD includes each preference eligible employee who has a compensable service-connected disability of 30 percent or more.

(f) Subgroup A includes each preference eligible employee not included in subgroup AD.

(g) Subgroup B includes each nonpreference eligible employee.

(4) In § 351.701 paragraph (d) is added. As amended, § 351.701 reads as follows:

§ 351.701 Qualifications for assignment.

(a) Except as provided in § 351.702, an employee is qualified for assignment under § 351.603 if the employee:

(1) Meets the Office standards and requirements for the position, including any minimum educational requirement;

(2) Is physically qualified for the duties of the position;

(3) Meets any special qualifying condition which the Office has approved for the position; and

(4) Has the capacity, adaptability, and any special skills needed to satisfactorily perform the duties and responsibilities of the position without undue interruption to the activity.

(b) An agency may not consider the sex of an employee as a factor in determining the employee's qualification for a position, except when the position is one for which restriction of certification of eligibles by sex is found justified by the Office.

(c) An employee who is carried on leave of absence because of a compensable injury and is released from his/her competitive level may not be denied an assignment right solely because the employee is not physically qualified for the duties of the position when the physical disqualification resulted from the compensable injury. Such an employee must be afforded appropriate assignment rights subject to his/her recovery as provided by 5 U.S.C. 8151 and Part 353 of this chapter.

(d) If an agency determines that, on the basis of evidence before it, a preference eligible employee who has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of a position to which the employee would otherwise have been assigned under this Part, the agency must notify the Office of this determination. At the same time, the agency must notify the employee of the reasons for the determination and of the right to respond, within fifteen days of the notification, to the Office, which will require the agency to demonstrate that the notification was timely sent to the employee's last known address. The Office should make a final determination concerning the physical ability of the employee to perform the duties of the position; This determination must be made before the agency may select any other person for the position. When the Office has completed its review of the proposed disqualification on the basis of physical disability, it must send its finding to both the agency and the employee. The agency must comply with the findings of the Office. The functions of the Office under this paragraph may not be delegated to an agency.

(5) In § 351.705 paragraph (a)(3) is amended. The section reads as follows:

§ 351.705 Administrative assignment.

(a) An agency may, in its discretion, adopt provisions which:

(1) Provide for assignments across competitive areas;

(2) Permit a competing employee to displace an employee with lower retention standing in the same subgroup when it cannot make an equally reasonable assignment by displacing an employee in a lower subgroup;

(3) Permit an employee in subgroup III–AD to displace an employee in subgroup III–A or III–B, or permit an employee in subgroup III–A to displace an employee in subgroup III–B; or

(4) Provide competing employees in the excepted service with assignment rights similar to those in § 351.703 and in paragraphs (a) (1), (2), and (3) of this paragraph.

(b) Provisions adopted by an agency under paragraph (a) of this section:

(1) Shall be consistent with this part;

(2) Shall be uniformly and consistently applied in any one reduction in force;

(3) May not provide for the assignment of a less-than-full-time employee to a full-time position;

(4) May not provide for the assignment of an employee in a competitive position to a position in the excepted service; and

(5) May not provide for the assignment of an excepted employee to a position in the competitive service.

(5 U.S.C. 1302, 3502.)

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-3161 Filed 1-29-79; 8:45 am]

[3410-30-M]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—CHILD NUTRITION PROGRAMS

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

Notification of Authority Citations

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notification of authority citations.

SUMMARY: At 43 FR 23983, June 2, 1978, at 43 FR 29263, July 4, 1978, and at 43 FR 58542, December 15, 1978, the Food and Nutrition Service adopted final rules making certain changes in the regulations concerning the Special Supplemental Food Program for Women, Infants and Children (WIC Program). This document adds the authority citations under which these amendments were issued.

DATE: The effective dates are June 2, 1978, for the rule document published at 43 FR 23983; July 4, 1978 for 43 FR 29263; and December 15, 1978, for 43 FR 58542.

FOR FURTHER INFORMATION CONTACT:

Jennifer R. Nelson, Director, Supplemental Food Programs Division, Food and Nutrition Service U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8206.

SUPPLEMENTAL INFORMATION: The proper authority citations for all of the rule documents published at 43 FR 23983, at 43 FR 29263, and at 43 FR 58542 are as follows:

(Sec. 10, Pub. L. 89-642, 80 Stat. 889 (42 U.S.C. 1779); sec. 14, Pub. L. 94-105, 89 Stat. 518 (42 U.S.C. 1786))

(Catalog of Federal Domestic Assistance, Program No. 10.557.)

Signed at Washington, D.C., on January 22, 1979.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 79-2895 Filed 1-29-79; 8:45 am]

[3410-02-M]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 2; Docket No. AO-71-A71]

PART 1002—MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the order based on industry proposals considered at a public hearing held in February 1976. More than the required two-thirds of the dairy farmers who voted in a referendum approved the order as amended.

The amended order changes the procedure for classifying unaccounted for

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disappearances (shrinkage) of milk in a handler's operations. Under the change, shrinkage will be classified on essentially the same basis as now provided under most other Federal milk orders. This action will improve slightly the ability of handlers regulated under this order to compete for fluid milk sales with handlers regulated under other nearby Federal milk marketing orders.

EFFECTIVE DATE: March 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202-447-4829.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued January 9, 1976; published January 14, 1976 (41 FR 2092).

Extension of Time for Filing Briefs—Issued April 15, 1976; published April 21, 1976 (41 FR 16660).

Recommended Decision (Partial)—Issued April 5, 1977; published April 11, 1977 (42 FR 18950).

Extension of Time for Filing Exceptions to the Recommended Decision (Partial)—Issued May 6, 1977; published May 11, 1977 (42 FR 23841).

Final Decision (Partial)—Issued August 12, 1977; published August 17, 1977 (42 FR 41582).

Order Amending Order—Issued September 27, 1977; published September 30, 1977 (42 FR 52379).

Recommended Decision—Issued October 5, 1978; published October 11, 1978 (43 FR 46853).

Final Decision—Issued December 5, 1978; published December 11, 1978 (43 FR 57914).

FINDINGS AND DETERMINATIONS

The following findings and determinations supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth below.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New York-New Jersey marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the New York-New Jersey marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. Section 1002.41 is revised to read as follows:

§ 1002.41 Classes of utilization.

Subject to the conditions set forth in §§ 1002.42 through 1002.46, the classes of utilization shall be as follows:

(a) Class I-A milk shall be all skim milk and butterfat:

(1) Disposed of as a fluid milk product:

(i) Inside the marketing area;

(ii) As route disposition in an other order marketing area;

(iii) To an other order plant and assigned under such other order to Class I;

(iv) In packaged form to an other order plant if such product is not defined as a fluid milk product under such other order; and

(v) To a partially regulated plant under an other order and there applied as an offset to Class I sales in any other order market;

(2) Contained in inventory of packaged fluid milk products on hand at the end of the month except as provided in paragraph (c)(3) of this section;

(3) In shrinkage assigned to Class I-A pursuant to paragraph (d) of this section; and

(4) Not specifically accounted for as Class I-B or Class II milk.

(b) Class I-B milk shall be all skim milk and butterfat:

(1) Disposed of as a fluid milk product outside the marketing area, except as provided in paragraphs (a)(1) (ii) through (v) and (c) (3), (4) and (5) of this section; and

(2) In shrinkage assigned to Class I-B pursuant to paragraph (d) of this section.

(c) Class II milk shall be all skim milk and butterfat:

(1) Disposed of in any product other than a fluid milk product;

(2) Disposed of as a fluid milk product in bulk to any establishment (other than a plant defined in § 1002.8) at which food products are processed and packed and at which establishment there is no disposition of fluid milk products other than those received in consumer packages for consumption on the premises;

(3) Contained in inventory of fluid milk products in bulk which are on hand at the end of the month, and also with respect to any plant not defined in § 1002.8 (b) or (d) in inventory of fluid milk products in packaged form;

(4) Disposed of as a packaged fluid milk product to an other order plant and assigned under such other order as a fluid milk product to Class II;

(5) Disposed of in bulk as a fluid milk product to an other order plant and assigned to Class II under such other order;

(6) In skim milk represented by the nonfat solids added to a fluid milk product for fortification which is in excess of the volume included within the fluid milk product definition pursuant to § 1002.15;

(7) Contained in fluid milk products that are disposed of for animal feed;

(8) Contained in fluid milk products that are dumped, if the market administrator is notified in advance and is given the opportunity to verify such disposition;

(9) Contained in fluid milk products that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond his control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(10) In shrinkage of skim milk and butterfat, respectively, at a plant that is allocated pursuant to § 1002.42 to the receipts specified in § 1002.42(b)(1), but not to exceed the following:

(i) Two percent of the skim milk and butterfat, respectively, in pool milk received from producers;

(ii) Plus 2.0 percent of the skim milk and butterfat, respectively, in milk received from pool units;

(iii) Plus 2.0 percent of the skim milk and butterfat, respectively, in milk received from units other than pool units, exclusive of the quantity for which Class II utilization was requested by the handler;

(iv) Plus 1.5 percent of the skim milk and butterfat, respectively, in receipts of fluid milk products in bulk from other pool plants;

(v) Plus 1.5 percent of the skim milk and butterfat, respectively, in receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

(vi) Plus 1.5 percent of the skim milk and butterfat, respectively, in receipts of fluid milk products in bulk from plants other than those defined in § 1002.8 (b) or (d), exclusive of the quantity for which Class II utilization was requested by the handler; and

(vii) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (c)(10) (i) through (vi) of this section;

(11) In shrinkage of skim milk and butterfat, respectively, at a plant that is allocated pursuant to § 1002.42 to the receipts specified in § 1002.42(b)(2).

(d) Shrinkage in excess of the amounts assigned to Class II pursuant to paragraph (c) (10) and (11) of this section shall be assigned pro rata to Class I-A and Class I-B in accordance with the respective volumes of skim milk and butterfat actually accounted for in each such class.

2. Section § 1002.42 is revised to read as follows:

§ 1002.42 Shrinkage.

Shrinkage shall be allocated to a handler's receipts at each plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, at each plant.

(b) Shrinkage of skim milk and butterfat, respectively, shall be prorated between the respective quantities of skim milk and butterfat:

(1) In receipts described in § 1002.41(c)(10); and

(2) In other source milk not specified in § 1002.41(c)(10) which was received in bulk fluid form.

3. In § 1002.45(a), new subparagraphs (1-a) and (7-a) are added to read as follows:

§ 1002.45 Allocation of skim milk and butterfat classified.

* * * * * * *

(a) * * *

(1-a) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1002.41(c)(10);

* * * * * * *

(7-a) Add to the remaining pounds of skim milk in Class II the pounds subtracted pursuant to paragraph (a) (1-a) of this section;

* * * * * * *

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Effective date: March 1, 1979.

Signed at Washington, D.C., on January 25, 1979.

P. R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

[FR Doc. 79-3180 Filed 1-29-79; 8:45 am]

[3410-02-M]

[Milk Order No. 126; Docket No. AO-231-A46]

PART 1126—MILK IN THE TEXAS MARKETING AREA

Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action provides for changes in the present order provisions based on industry proposals considered at a public hearing held June 13-14, 1978. The amendments would modify the basis on which a person may qualify as a "producer-handler" under the order. They also would allow handlers to divert milk between pool distributing plants and would modify the payment requirements of the order. The amendments are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

EFFECTIVE DATE: MARCH 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued May 26, 1978, published June 1, 1978 (43 FR 23725). Suspension Order: Issued June 22, 1978, published June 27, 1978 (43 FR 27776). Partial Recommended Decision: Issued August 4, 1978, published August 8, 1978 (43 FR 35047). Partial Final Decision: Issued September 1, 1978, published September 8, 1978 (43 FR 40030). Final Order: Issued September 26, 1978, published September 29, 1978 (43 FR 44824). Recommended Decision: Issued October 11, 1978, published October 16, 1978 (43 FR 47584). Final Decision: Issued December 18, 1978, published December 28, 1978 (43 FR 60573).

FINDINGS AND DETERMINATIONS

The findings and determinations set forth below are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the Texas order and of the previously issued amendments to it. All of the previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Texas marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of

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feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determination.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Texas marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. Section 1126.10(c) is revised as follows:

§ 1126.10 Producer-handler.

* * * * *

(c) Whose receipts of fluid milk products (including such products which he obtains at a location other than his processing plant for distribution on his routes) during the month from pool plants do not exceed the lesser of 5 percent of his Class I disposition during the month or 10,000 pounds;

* * * * *

2. Section 1126.13(d) is revised as follows:

§ 1126.13 Producer milk.

* * * * *

(d) Diverted from a pool plant described in § 1126.7(a) for the account of the handler operating such plant to another pool plant, except that milk diverted to a plant operated by a cooperative association may not be milk of the cooperative association's members. Milk so diverted shall be priced at the plant to which diverted; or

* * * * *

3. Section 1126.73(g)(1) is revised as follows:

§ 1126.73 Payments to producers and to cooperative associations.

* * * * *

(g) * * *

(1) On or before the 26th day of each month, an amount determined by multiplying such receipts during the first 18 days of the month by the Class III price for the preceeding month. If the handler so elects, such price may be adjusted by the butterfat differential specified in § 1126.74 for the preceding month; and

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Effective date: March 1, 1979.

Signed at Washington, D.C., on January 25, 1979.

P. R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

[FR Doc. 79-3161 Filed 1-29-79; 8:45 am]

[3410-34-M]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Areas Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: The purpose of these amendments is to quarantine portions of Tulare County, a portion of Fresno County, a portion of Kern County, and additional portions of San Luis Obispo County in California; and portions of Nowata County in Oklahoma because of the existence of cattle scabies. Psoroptic cattle scabies was confirmed from specimens collected from cattle in these areas by the Veterinary Services Laboratories in Ames, Iowa. Therefore, in order to prevent the dissemination of cattle scabies it is necessary to quarantine the infested areas.

EFFECTIVE DATE: January 24, 1979.

FOR FUTHER INFORMATION CONTACT:

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8322.

SUPPLEMENTARY INFORMATION: These amendments quarantine portions of Tulare County, a portion of Fresno County, a portion of Kern County, and additional portions of San Luis Obispo County in California; and portions of Nowata County in Oklahoma because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the areas quarantined.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended as follows:

1. In § 73.1a, in paragraph (c) relating to the State of California, new paragraphs (c)(6), (c)(7), (c)(8), and (c)(9) are added, and new paragraph (h) relating to the State of Oklahoma is added as set forth below.

§ 73.1a Notice of quarantine.

* * * * *

(c) * * *

(6) The premises of Montgomery Gill, Strathmore, Tulare County, California, comprised of:

(i) *Premises No. 1.* Secs. 16, 17, 18, 19, 20, 21, and 30, T. 20 S., R. 28 E.; secs. 13, 24, and 25, T. 20 S., R. 27 E.; and,

(ii) *Premises No. 2.* Secs. 5, 6, 7, 8, 17, and 18, T. 21 S., R. 28 E.

(7) The premises of Fresno Ag-Recycler, Firebaugh, Fresno County, California, Section 11, T. 13 S., R. 14 E.

(8) The premises of Richard Rudnick, Onyx, Kern County, California, Section 4, T. 26 S., R. 35 E.

(9) The premises of J. R. Davis, Atascadero, San Luis Obispo County, California, comprised of:

(i) *Home premises.* SE¼ of sec. 33, T. 27 S., R. 12 E.; and

(ii) *Paradise Valley premises.* Secs. 18 and 19, T. 28 S., R. 12 E.; secs. 13 and 14, T. 28 S., R. 11 E.

* * * * *

(h) Notice is hereby given that cattle in a certain portion of the State of Oklahoma are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following area in such State is hereby quarantined because of said disease:

The premises of the Halsell Ranch, Lenapah, Nowata County, Oklahoma, Sections 31, 34, 35, and 36, T. 28 N., R. 17 E.; E½ sec. 5, E½ sec. 8, sec. 17, and 20, T. 27 N., R. 16 E.; secs. 1, 2, 3, 4, 9, 10, 11, 12, 14, 15, 16, 21, 22, 34, 35, and 36, SW¼ sec. 6, NW¼ sec. 13, N½ sec. 28, T. 27 N., R. 17 E.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

These amendments impose certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant informtion available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and contrary to the public interest, and good cause is found for making the amendments effective before March 1, 1979.

Done at Washington, D.C., this 24th day of January 1979.

NOTE.—This final rulemaking is being published under emergency procedures as authorized by E.O. 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the possibility of the spread of cattle scabies into other States or Territories of the United States is severe enough to constitute an emergency which warrants the publication of this quarantine without waiting for public comment. These amendments to the regulations covering cattle scabies will be scheduled for review under provisions of E.O. 12044 and Secretary's Memorandum 1955. The review will include preparation of an Impact Analysis Statement which will be available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. 301-436-8695.

M. T. GOFF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-2998 Filed 1-29-79; 8:45 am]

[1505-01-M]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 335—SECURITIES OF INSURED STATE NONMEMBER BANKS

Proxy Statements, Tender Offers and Other Matters

Correction

In FR Doc. 78-35924 appearing at page 60561 in the issue for Thursday, December 28, 1978, in the third column of page 60562, under paragraph (A)(1) of § 335.4(h)(5)(iv), in the last line change "* * * of similar arrangement." to read "* * * or similar arrangement; or" and run it into the following paragraph, which should have begun "*(4)*" instead of "(4)". Also in that paragraph, the words "* * * a security or power specified in paragraphs (1), (2) or (3), above . . ." should have read "* * * a security or power specified in paragraphs *(1)*, *(2)* or *(3)*, above, * * *".

[6720-01-M]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 79-64]

PART 544—CHARTER AND BYLAWS

Bylaws Regarding Age Limitations on Directors and Officers

JANUARY 24, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final Rule.

SUMMARY: The 1978 amendments to the Age Discrimination in Employment Act upped the permissible mandatory retirement age from 65 to 70 for all employees and certain officers of Federal savings and loan associations. This rule conforms optional Federal association bylaws to statutory changes, which became effective January 1, 1979. Permissible mandatory retirement age of directors is also raised to 70 in keeping with the spirit of the law.

EFFECTIVE DATE: January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Telephone number (202) 377-6440.

SUPPLEMENTARY INFORMATION: Pub. L. 95-256, approved April 6, 1978, amended sections of the Age Discrimination in Employment Act of 1976 (ADEA) which affect hiring and retirement policies of Federally-chartered savings and loan associations, and other institutions, which employ 20 or more people. Effective January 1, 1979, Federal associations may not refuse employment to an applicant on the basis of any age between 40 and 70 years. Also, employees may not be involuntarily retired before age 70, except for certain executives. The ADEA permits mandatory retirement at age 65 of persons who (1) have been employed in bona fide executive or high policy-making positions for at least two years immediately preceding retirement, and who (2) upon retirement will be immediately entitled to nonforfeitable annual retirement benefits of $27,000 or more, More detailed information on this exempted category will be provided by the United States Department of Labor. Interested persons may wish to comment on the Labor Department proposal which appeared in the FEDERAL REGISTER on December 12, 1978 (43 FR 58148); the comment period closes February 12, 1979. The Department also published a document regarding employee benefit plans on September 22, 1978 (43 FR 43264).

Federal associations which have adopted Bank Board approved optional bylaws regarding age limitations on employment and retirement of directors and officers (12 CFR 544.6(h) and (i)) may adopt the revised optional bylaws which reflect ADEA changes. Other alternatives are to prepare new bylaws in these categories for Bank Board approval, or to rescind existing optional bylaws without replacing them.

EXPLANATION OF AMENDMENTS: Present paragraphs (h) and (i) of § 544.6 are among Bank Board approved optional bylaws which Federal associations may adopt. Under present optional bylaws (h) and (i), no person may be employed or continue as an officer or director of a Federal association if he or she is over the age chosen by that association, which age may range from 65 to 70. Mandatory retirement age is the same.

As revised to conform to ADEA, paragraphs (h) and (i) set these permissible employment and mandatory retirement age limits at 70, or above, according to the association's policy. Exceptions for mandatory retirement at age 65 of certain executives in accordance with ADEA is also covered. Federal associations which adopt

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these revised bylaws must be guided by the Labor Department's interpretation of executives who qualify under the exception, and should therefore refer to that Department's proposal noted above and any final action based on it.

The Bank Board finds that (1) notice and public procedure are unnecessary under 5 U.S.C. 553(b) and 12 CFR 508.11 for these amendments because their immediate adoption to reflect the new statutory amendments discussed above is in the public interest, and (2) publication of the amendments for the 30-day notice period specified in 5 U.S.C. 553(d) and 12 CFR 508.14 prior to their effective date is unnecessary for the same reason.

Accordingly, 12 CFR Part 544 of the Rules and Regulations for the Federal Savings and Loan System are hereby amended by revising § 544.6 (h) and (i) to read as set forth below, effective January 31, 1979.

§ 544.6 Amendment to bylaws.

* * * * *

(h) *Age limitation on directors.* No person (fill in any age 70 or above) years of age shall be eligible for election, reelection, appointment or reappointment to the board of directors of the association. No director shall serve as such beyond the annual meeting of the association immediately following his or her becoming (fill in age used above), except that a director serving on (fill in bylaw adoption date) may complete his or her term as director. This age limitation does not apply to an advisory director.

(i) *Age limitation on officers.* No person (fill in any age 70 or above) years of age shall be eligible for election, reelection, appointment or reappointment as a officer of the association. No officer shall serve beyond the annual meeting of the association immediately following his or her becoming (fill in age used above) except that an officer serving on (fill in bylaw adoption date) may complete his or her term. However, an officer shall, at the option of the board of directors, retire at age 65 if he or she has served in an executive or high policy-making post for at least two years imediately prior to retirement, and is immediately entitled to nonforfeitable annual retirement benefits of at least $27,000.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 79-3107 Filed 1-29-79; 8:45 am]

[7535-01-M]

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Final Rule—Refund of Interest

AGENCY: National Credit Union Administration.

ACTION: Final Rule.

SUMMARY: This rule provides Federal credit unions the option to authorize refunds of interest that vary according to different classes of loans.

EFFECTIVE DATE: Immediately effective January 30, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Robert M. Fenner, Assistant General Counsel, Office of General Counsel, at the above address. Telephone: (202) 632-4870.

SUPPLEMENTARY INFORMATION: On January 3, 1979, the Administration published a proposed amendment (44 FR 895) to its rule on interest refunds (12 CFR 701.24) that would provide Federal credit unions the option to vary interest refunds according to certain classes of loans, and to exclude from a refund any class of loans that has not made a significant contribution to the earnings making the refund possible. Previously, the rule had required that any refund be given to all members who paid interest, and that the amount of each member's refund be determined by the application of a uniform percentage to the amount of interest paid.

Twelve sets of written comments were submitted on the proposal; two from credit union trade associations and ten from individual credit unions. All commentors supported the proposal, some suggesting minor changes. Upon evaluation of the comments, and after further staff review, the amendment is being made final with certain changes as explained below.

SUMMARY OF COMMENTS

Classes of Loans. Section 701.24(b) of the amendment allows the board of directors of a Federal credit union to vary the percentage of an interest refund according to different classifications of loans, such classifications to be established using the criteria of 12 CFR 701.21-1(c): Type of line of credit or loan plan, purpose of the loan and type or value of security in relation to the amount of the loan. (Section 701.21-1(c) is the Administration's regulation providing that interest rates charged on loans may vary according to these same criteria.)

Some commentors suggested that the authority to vary the refund percentage should not be limited to these criteria, but rather, that a more relaxed standard, such as a "reasonable basis for the classification," be imposed. Considering, however, that the legislative history of the interest refund authority indicates it is intended as a "readjustment of the interest rate" (S. Rep. No. 394, 83d Cong., 1st Sess. 1 (1953)), the Administration believes the criteria for allowing varying rates of refund should be consistent with those for varying the interest rate charged. (This is not to say that the board must, in authorizing a varying refund, use the same actual classifications set forth in their loan policy, but only that the same criteria set forth in § 701.21-1(c) be used.)

One commentor suggested that the minutes of the board of directors' meeting reflect the reasoning behind any decision to vary interest refunds. The Administration believes it will be good policy for a board to document its reasons in this fashion, thus making its decision accountable to the members. A new § 701.24(d) has been added accordingly. (Because of this and another addition discussed below, § 701.24(c)-(e) of the proposal have been redesignated as § 701.24(e)-(g), respectively.)

Another commentor questioned whether a board of directors would remain free to declare a uniform refund. It is the Administration's intent only to provide varying refunds as an optional method. Thus, a board of directors may still choose to authorize a strictly uniform refund (same percentage applied to all loans), or the board may choose to authorize a uniform refund subject to exclusion of one or more classes of loans as discussed below.

Excluding classes of Loans. Section 701.24(b) of the proposed amendment would allow the board to exclude any "class" of loans from an interest refund if it determined those loans had not made a significant contribution to the earnings that made the refund possible. The word "classification" has been used in the final rule, for purposes of consistency and in order to clarify that the § 701.21-1(c) criteria apply in defining any group of loans that will be excluded from a refund (subject to the following exception).

The commentors were nearly unanimous in suggesting that, in addition to excluding unprofitable "classifications" of loans from an interest refund, the board be given the discretion to exclude delinquent loans. Some commentors suggested that the regulations specify the degree of delinquency necessary to warrant exclusion. The Administration agrees that it may be appropriate under certain conditions to exclude delinquent loans. First, consistent with the Administration's requirements for reporting delinquent loans, a loan should be excluded only if it is two months or more delinquent. Subject to that minimum standard, the board of directors should make its own good faith determination as to the degree of delinquency beyond which loans have not made a sufficient contribution to earnings to warrant a refund.

The provisions with respect to excluding loans have been revised to reflect these determinations, and in the interest of clarity they have been segregated from the provisions concerning varying the rate of refund and are set forth in the final rule as § 701.24(c).

Three commentors suggested that the board of directors be permitted to exclude classes of loans for reasons other than that of an insignificant contribution to earnings. The Administration believes, however, that this requirement should be retained in as much as Congress has indicated its intent that the refund authority be used to benefit those borrowers who made the refund possible. *See,* S. Rep. No. 394, 83d Cong., 1st Sess. 2 (1953). In this regard, it is not the administration's intent to require detailed cost accounting procedures, but rather only a good faith determination based on a review of the expense and income data available under the credit union's existing accounting procedures.

Reestablishing terminated Accounts. Section 701.24(e) of the rule (§ 701.24(c) in the proposal) provides that, when authorizing an interest refund for a current dividend period, the board may also authorize a refund for any previously omitted dividend period during the calendar year. Two commentors suggested that in authorizing a refund for a previously omitted period, the board not be required to reestablish accounts of persons who were members as of the close of that period but have since terminated their membership. Although the Administration recognizes the administrative burden of this requirement, it is constrained from relaxing it, in that the statutory interest refund authority entitles "* * * members of record at the close of business on the last day of [the] dividend period * * *" to share in the refund for that period (12 U.S.C. 1761b).

IMMEDIATE EFFECTIVE DATE

The amendments are being made immediately effective in order that they may be used by Federal credit unions in their December 31, 1978, refunds (which will in most cases be authorized no later than January 31, 1979).

LAWRENCE CONNELL,
Administrator.

JANUARY 25, 1979.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

Accordingly, 12 CFR 701.24 is revised to read as follows:

§ 701.24 Refund of interest.

(a) The board of directors of a Federal credit union may authorize an interest refund to members who paid interest to the credit union during any dividend period and who are members of record at the close of business on the last day of such dividend period.

(b) The amount of interest refund to each member shall be determined as a percentage of the interest paid by the member. Such percentage may vary according to reasonable classifications of loans. Distinctions among classifications shall be based upon one or more of the criteria set forth in 12 CFR 701.21-1(c).

(c) Based upon a determination that such loans have not made a significant contribution to the earnings that make the refund possible, the board of directors may exclude from an interest refund (1) any classification of loans determined in accordance with paragraph (b) of this section, and (2) all loans delinquent at least two months, or all loans delinquent for such greater period as is determined by the board.

(d) The board of directors minutes shall document the reasons for any decision to vary interest refund rates or exclude certain loans from a refund.

(e) The board of directors may authorize an interest refund for a dividend period only during such time as it may declare a dividend. However, if in a given calendar year a credit union has dividend periods more frequent than annual and an interest refund was not authorized for one or more dividend periods, the board, during the time permitted for the declaration of the current dividend, may authorize an interest refund for the current dividend period and for any one or more of the omitted dividend periods.

(f) The board of directors shall not authorize an interest refund for any dividend period unless dividends have been declared and paid on share accounts.

(g) An interest refund shall be recorded on the books of the credit union as a reduction of interest income.

[FR Doc. 79-3095 Filed 1-29-79; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 9045]

The Raymond Lee Organization, Inc., Et Al.

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This order, among other things, requires a New York City idea promotion company and two individual parties to cease misrepresenting the nature and value of their services; their qualifications and ability to refine and successfully promote inventions, ideas, and products; and the probability of financial gain to their clients. The firm is further required to include specified statements in promotional literature and contracts which cite the number of recent customers who achieved financial success through the firm's efforts; disclose that additional costs may be incurred; and advise potential purchasers that the company makes no evaluations as to the patentability and marketability of submissions. Additionally, the order requires the firm to provide purchasers with a ten-day cooling-off period in which to cancel their contracts and receive full refunds.

DATES: Complaint issued July 15, 1975. Final order issued November 1, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Harriet Guber Mulhern, Attorney, New York Regional Office, Federal Trade Commission, 2243-EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007. (212) 264-1232.

SUPPLEMENTARY INFORMATION: In the Matter of The Raymond Lee Organization, Inc., a corporation, Raymond Lee, individually and as an officer of said corporation, and Lawrence Peska, individually and as a former officer of said corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.15 Business status, advantages or connections; 13.15-5 Advertising and promotional

[1] Copies of the Complaint, Initial Decision, Final Order and Opinion of the Commission are filed with the original document.

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services; 13.15-20 Business methods and policies; 13.15-30 Connections or arrangements with others; 13.15-100 History; 13.15-195 Nature; 13.15-225 Personnel or staff; 13.15-245 Prospects; 13.15-250 Qualifications and abilities; 13.15-255 Reputation, success, or standing; 13.15-265 Service; § 13.42 Connection of others with goods; § 13.60 Earnings and profits; § 13.90 History of product or offering; § 13.110 Endorsements, approval and testimonials; § 13.155 Prices; § 13.155-5 Additional prices unmentioned; § 13.160 Promotional sales plans; § 13.205 Scientific or other relevant facts; § 13.250 Success, use or standing; § 13.275 Undertakings, in general; § 13.285 Value. Subpart-Claiming Or Using Endorsements or Testimonials Falsely or Misleadingly: § 13.330 Claiming or using endorsements or testimonials falsely or misleadingly; 13.330-94 Users, in general. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-40 Furnishing information to media; 13.533-45 Maintain records. Subpart-Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1370 Business methods, policies, and practices; § 13.1395 Connections and arrangements with others; § 13.1435 History; § 13.1490 Nature; § 13.1513 Operations generally; § 13.1520 Personnel or staff; § 13.1535 Qualifications; § 13.1540 Reputation, success or standing; § 13.1553 Services.—Goods: § 13.1615 Earnings and profits; § 13.1650 History of product; § 13.1665 Endorsements; § 13.1685 Nature; § 13.1697 Opportunities in product or service; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1755 Success, use or standing; § 13.1765 Undertakings, in general; § 13.1775 Value.—Prices: § 13.1778 Additional costs unmentioned.—Promotional Sales Plans: § 13.1830 Promotional sales plans. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1854 History of products; § 13.1863 Limitations of product; § 13.1870 Nature; § 13.1882 Prices; 13.1882-10 Additional prices unmentioned; § 13.1895 Scientific or other relevant facts. Subpart-Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.1935 Earnings and profits; § 13.2015 Opportunities in product or service; § 13.2063 Scientific or other relevant facts; § 13.2099 Undertakings, in general.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

The Final Order, including further order requiring report of compliance therewith, is as follows:

FINAL ORDER

This matter having been heard by the Commission upon the appeal of respondents from the initial decision, and upon briefs and oral argument in support thereof and opposition thereto, and the Commission, for the reasons stated in the accompanying opinion, having determined to deny the appeal of respondents and sustain the initial decision with certain modifications:

It is ordered, That the initial decision of the administrative law judge, pages 1-156, be adopted as the Findings of Fact and Conclusions of Law of the Commission, except to the extent inconsistent with, modified or otherwise indicated in the accompanying Opinion.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered, That the following Order to Cease and Desist be, and it hereby is, entered:

ORDER

I

It is ordered, That The Raymond Lee Organization, Inc., a corporation, its successors and assigns, Raymond Lee, individually and as an officer of said corporation, Lawrence Peska, individually and as a former officer of said corporation, and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, with the exception of those offering patent and trademark services to attorneys and registered patent agents only, in connection with the advertising, offering for sale or sale of services relating to the introduction, promotion, development, licensing, marketing or sale of ideas or inventions to industry, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, that any of respondents, or their officers, agents, representatives or employees, are registered patent attorneys or patent agents, or are licensed, recognized or qualified to prepare, file, amend or prosecute patent applications before the United States Patent and Trademark Office, or before any patent offices located in foreign countries, unless such is a fact.

2. Representing, directly or indirectly, that respondents provide potential purchasers of their services with an evaluation or appraisal of the patentability, merit or marketability of their inventions or ideas, unless respondents provide fair, competent, and objective evaluations or appraisals of such inventions or ideas.

3. Representing, directly or indirectly, that corporations or other business organizations are seeking inventions, new products or new product ideas through respondents, or that respondents have any special access to such corporations or other business organizations, unless respondents are regularly retained by corporations or other businesses to find new product ideas. Where respondents represent that they have access to, or are retained by, specific corporations or business organizations, respondents must in fact be retained by those corporations or organizations.

4. Representing, directly or indirectly, that any person, firm, organization, governmental agency or official has endorsed, used, or has used and been satisfied with respondents' services, unless such is a fact and such person, firm, organization, governmental agency or official has given prior written consent for such representation.

5. Misrepresenting any material aspect of respondents' services or business practices.

II

It is further ordered, That respondents cease and desist from:

1. Representing, directly or indirectly, that respondents will develop or refine inventions or ideas for new products submitted to them by their customers, unless respondents disclose in conjunction with and adjacent to such representations the following statement:

Our role in the development of your idea or invention is limited solely to the preparation of illustrations and drawings.

Such statement shall be made in a clear and conspicuous manner in print at least as large as the print containing the representation; or in the broadcast media, the statement shall be read at a rate of speed at least as slow as the slowest part of the advertisement.

2. Representing, directly or indirectly, that respondents introduce, promote or negotiate with manufacturers regarding clients' ideas or inventions, unless respondents disclose in conjunction with and adjacent to such representations the statement set forth in paragraph 5 below.

3. Making, directly or indirectly, any earnings or success claims for respondents' clients generally, or for any specific client, unless respondents disclose in conjunction with and adjacent to such representations the statement set forth in paragraph 5 below.

4. Representing, directly or indirectly, that potential purchasers of respondents' services may or will receive financial gain from an idea or invention, unless respondents disclose in conjunction with and adjacent to such representations the statement set forth in paragraph 5 below.

5. Failing to disclose the following statement as required by paragraphs 2, 3, and 4:

"In (*date*), we sold our complete service to (*total number*) customers. Of these, (*number*) received more money from our services than they paid us."

Such statement shall be made in a clear and conspicuous manner in print at least as large as the print containing the representation; or in broadcast media, the statement shall be read at a rate of speed at least as slow as the slowest part of the advertisement; and the following definitions shall apply:

(a) "Total number" includes all clients who contracted for respondents' services during any three of the five calendar years preceding the calendar year in which the representation is made: *Provided*, That clients who contracted only for preliminary product research need not be included. All numbers shall be stated in Arabic numerals.

(b) "Date" shall be the three calendar years selected for purposes of (a) above.

III

It is further ordered, That respondents shall include the disclosure statement set forth in Appendix A at least once in pamphlets, brochures, and other promotional literature, excluding media advertisements:

1. This disclosure shall be made in a clear and conspicuous manner,

(a) In print at least as large as the largest print in the promotional literature other than respondents' name, but in no case smaller than 10 point boldface type;

(b) Set off by a black or colored border that contains only the disclosure statement; and

2. For purposes of the disclosure statement depicted in Appendix A, the following definitions shall apply:

(a) "Total number" includes all clients who contracted for respondents' services during any three of the five calendar years preceding the calendar year in which the promotional literature is distributed; provided that clients who contracted only for preliminary product research need not be included. All numbers shall be stated in Arabic numerals.

(b) "Date" shall be the years selected for purposes of (a) above.

3. If respondents provide fair, competent, and objective evaluations or appraisals, they may omit from the disclosure statement the following language: "We do not evaluate the merits of your idea or tell you whether it can be patented or marketed."

IV

It is further ordered, That respondents shall:

1. Furnish a retainable duplicate copy of the Appendix A disclosure statement with each research agreement, development and marketing contract or other client service contract. Such disclosure statement shall be set forth either on the contract itself or in a separate document that contains no other information and that is attached to and easily detachable from the contract.

2. Have each prospective purchaser of respondents' services acknowledge in writing on the contract or on the separate disclosure document, as appropriate, the receipt of the disclosure statement in Appendix A.

V

It is further ordered, That respondents shall furnish the notice of cancellation set forth in Appendix B to each purchaser of respondents' services, including purchasers of preliminary product research agreements, development and marketing contracts or other client service contracts: *Provided*, That such notices need not be furnished and such rights do not apply when all contact between respondents and a prospective purchaser prior to execution of any such agreement or contract is by mail and/or telephone.

1. The notice of cancellation shall be made in the following manner,

(a) The notice of cancellation form shall be furnished in duplicate, attached to the contract and easily detachable.

(b) The notice shall be in at least 10 point boldface type with a heading in 16 point extra-boldface type.

2. Within ten (10) days after receipt of a signed notice of cancellation, respondents shall refund all monies that have been paid to respondents pursuant to the cancelled transaction.

VI

It is further ordered, That respondents shall maintain the following records for a three-year period and make them available for examination and copying by a duly authorized representative of the Federal Trade Commission, upon reasonable notice, during normal business hours:

1. A copy of each advertisement, each radio script, and each television script and film published or disseminated by respondents.

2. Records disclosing the date or dates each advertisement, script or film was published or disseminated.

3. The name and address of each publication or broadcast media disseminating each advertisement, script or film.

4. A copy of each brochure, flyer or other type of promotional literature published or disseminated by respondents.

5. Copies of signed disclosure statements made pursuant to Part IV of this order.

6. Copies of signed notices of cancellation made pursuant to Part V of this order.

7. Copies of all product research agreements, development and marketing contracts, and other client service contracts.

VII

It is further ordered, That respondents shall:

1. Forthwith deliver a copy of this Order, incorporating its provisions, to all present and future salespersons or other persons engaged in the sale of respondents' services and secure from each such salesperson or other person a signed statement acknowledging receipt of a copy of this Order and their written agreement to adhere thereto.

2. Notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance obligations arising out of this Order.

3. Promptly notify the Commission for a period of ten (10) years of the discontinuance of any business, occupation or employment concerned with the introduction, promotion development, licensing, marketing or sale of ideas or inventions and of the affiliation with any other such business, occupation or employment. Such notice shall include a description of respondents' ownership, duties and responsibilities in any other such business, occupation or employment. The expiration of this paragraph shall not affect any other obligations arising under this Order.

VIII

It is further ordered, That each individual respondent and every firm, partnership, association, corporation or other business entity that each individual respondent controls or manages, and which offers, or purports to offer, any service or program to assist a customer in making money do forthwith cease and desist from:

1. Misrepresenting, directly or indirectly, the nature or value of such service or program.

2. Misrepresenting, directly or indirectly, the earnings potential of a customer who purchases or uses such service or program.

3. Representing, directly or indirectly, that any person, firm, organization,

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governmental agency or official has endorsed, used, or has used and been satisfied with such service or program, unless such is a fact and such person, firm, organization, governmental agency or official has given prior written consent for such representation.

4. Otherwise misrepresenting any material aspect of respondents' service, program or business practices.

IX

It is further ordered, That nothing herein shall relieve respondents of any obligations respecting contracts required by federal law or the law of the state in which the contract is made. When such obligations are inconsistent with any provision of this Order, respondents shall notify the Commission of such inconsistency and request advice as to compliance herewith.

X

It is further ordered, That respondents shall, within sixty (60) days after entry of this Order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this Order.

By the Commission. Commissioner Pitofsky did not participate in consideration of this matter.

APPENDIX A

NOTICE

You should be aware that

- we do not evaluate the merits of your idea or tell you whether it can be patented or marketed;
- in (*date*), we sold our complete service to (*total no.*) customers. Of these, (*no.*) received more money from our services than they paid us;
- in addition to the money you pay us, you may have to pay attorneys' fees, Patent Office fees, and other charges in connection with our program. Ask us for complete price information.

APPENDIX B

NOTICE OF CANCELLATION

If you change your mind, you can cancel this contract within 10 business days after you signed it. If you mailed us the contract, you can cancel it within 10 business days after you put the contract in the mail.

There will be no penalty or obligation if you cancel. Within 10 days after we get your notice, we'll return any money you paid us under this contract.

To cancel this contract, sign and date this notice, or send a letter or telegram of your own telling us you want to cancel. Mail it or give it to us by midnight of the tenth business day after the contract was signed, or after you mailed the contract to us.

Send the notice, letter or telegram to:

name of seller _____

address _____

I hereby cancel this contract.

signature _____

date _____

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-3094 Filed 1-29-79; 8:45 am]

[6450-01-M]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION, DEPARTMENT OF ENERGY

[Docket Nos. RM79-3, RM79-4]

PUBLICATION OF PRESCRIBED MAXIMUM LAWFUL PRICES UNDER THE NATURAL GAS POLICY ACT OF 1978 AND AMENDMENTS TO REGULATIONS RELATING TO MINIMUM RATE GAS

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final Rule.

SUMMARY: Notice is hereby given that the Federal Energy Regulatory Commission is publishing maximum lawful prices and inflation adjustment factors for February, March and April 1979 and is amending its regulations regarding pricing and filing requirements for minimum rate gas. The price of such gas is to be stated in terms of Mcf's rather than MMBtu's. Collection of such price is subject to the blanket affidavit filing requirements for producers.

DATES: *Effective Date:* January 25, 1979.

Comments: Written comments by March 1, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Romulo L. Diaz, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426 (202) 275-3771.

Howard Kilchrist, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426 (202) 275-4539.

AMENDMENTS TO REGULATIONS

Issued January 25, 1979.

Publication of Prescribed Maximum Lawful Prices Under the Natural Gas Policy Act of 1978 and Amendments to Regulations Relating to Minimum Rate Gas, Docket No. RM79-3, Docket No. RM79-4.

A. BACKGROUND

On December 1, 1978, the Federal Energy Regulatory Commission (Commission) issued Interim Regulations (43 FR 56448, December 1, 1978), implementing the Natural Gas Policy Act of 1978 (NGPA), Pub. L. No. 95-621, 92 Stat. 3350. Sections 271.101(a), 271.202, 271.302, 271.402(a), 271.602, 271.702, 271.802, 271.902 and 273.201(a)(1) of the interim regulations set forth the maximum lawful prices per MMBtu for deliveries made in December 1978 and January 1979. Section 271.102(c) sets forth the monthly inflation adjustment factors. Section 101(b)(6) of the NGPA requires that the Commission compute and make available maximum lawful prices and inflation adjustments at least five days before the beginning of any month for which such figures apply. Pursuant to that mandate, the Commission hereby amends its interim regulations implementing the NGPA to add to the existing price tables, prices and inflation adjustments for the months of February, March, and April 1979.

The Commission has received many comments through its written comment procedures, toll-free telephone inquiry line, and NGPA Implementation Seminars regarding pricing and filing requirements relating to minimum rate gas as defined in § 271.402(b)(a) of the interim regulations. Prices applicable to minimum rate gas were included in §§ 271.101(a) and 271.402(a) which set forth maximum ceiling prices prescribed under sections 104 and 106(a) of the NGPA for natural gas committed or dedicated to interstate commerce as of November 8, 1978. Final regulations issued by the Commission on November 17, 1978 (43 FR 55756, November 29, 1978), and amended by the Commission on December 28, 1978 (44 FR 1100, January 4, 1979) established filing requirements for collection of those prices. In response to comments received on pricing and filing, the Commission has decided to amend these regulations to restate the price for minimum rate gas and to insure that collection of that price is subject to the mandatory blanket affidavit filing requirements imposed in § 154.94(h).

B. SUMMARY OF AMENDED REGULATIONS

The interim regulations are being modified to include the maximum lawful prices and inflation adjustments for February, March, and April 1979. The subparts of Part 271 of Subchapter H of the interim regulations so affected, and the types of natural gas to which these subparts apply, are as follows: Subpart A—Summary. Tables and Caculations (§§ 271.101(a) and 271.102(c)); Subpart B—New Natural Gas and Certain Natural Gas Produced from the Outer Continental Shelf (§ 271.202); Subpart C—New, Onshore Production Wells (§ 271.302); Subpart D—Natural Gas Committed or Dedicated to Interstate Commerce (§ 271.402(a)); Subpart F—Intrastate Rollover Contracts (§ 271.602); Subpart G—High-Cost Natural Gas (§ 271.702); Subpart H—Stripper Well Natural Gas (§ 271.802); and Subpart I—Other Categories of Natural Gas (§ 271.902). Further, Part 273 of Subchapter H is amended by adding the maximum lawful prices for February, March, and April 1979 to Subpart B—Interim Collection Authority (§ 273.201(a)(1)).

The interim regulations are also being amended to express the price for minimum rate gas in terms of Mcf's rather than MMBtu's. This modification is necessary because the April 20, 1977, minimum rate of 18.0 cents per Mcf established in § 2.56b(b) of this chapter is not subject to an adjustment for Btu content, unlike the other maximum lawful prices set forth in the tables in §§ 271.101(a) and 271.402(a). In order to correctly state the price for minimum rate gas, we shall remove the category "Minimum rate gas" from the tables in §§ 271.101(a) and 271.402(a) which list the maximum lawful prices for gas subject to the provisions of sections 104 and 106(a) of the NGPA and do so in terms of MMBtu's. A separate paragraph (c)(4) has been added to § 271.402 to indicate the price per Mcf to be charged under the NGPA for minimum rate gas in December 1978, and in January, February, March, and April 1979.[1]

A conforming amendment relating to minimum rate gas is required in § 154.94(h) of the final regulations setting forth the filing requirements for producers qualifying for a maximum lawful price under section 104(b)(1)(A) or 106(a) of the NGPA. Under § 154.94(h)(1), a producer is required to file a blanket affidavit under which he may collect the applicable maximum lawful price where he has established qualification for a base rate under the Natural Gas Act. One of the prerequisites for establishment of such base rate, as set forth in § 154.94(h)(2)(ii), is that the collection of the base rate be permissible under the applicable sales contract. However, application of this rule would exclude minimum rate gas from the blanket affidavit procedures because minimum rate gas is permitted to be sold at a rate in excess of the applicable sales contract rate. In order to make it clear that the blanket affidavit filing procedure applies to minimum rate gas, we shall amend § 154.94(h)(2)(ii) to provide an exception to the requirement that the collection of the base rate be permissible under the applicable sales contract, for minimum rate gas. Affidavits previously submitted which reflect the "Applicable NGPA Rate" for minimum rate gas in terms of a price per MMBtu need not be amended to reflect that such rate is a price per Mcf. The Commission will consider such previously submitted affidavits to conform with the amendments adopted herein.

[1] For consistency with other NGPA prices, a producer may convert the price per Mcf to an MMBtu equivalent, if necessary.

C. COMMENT PROCEDURES

Although these amendments to the regulations are being issued effective immediately, interested persons are invited to submit written comments, data, views, or arguments with respect to this action. An original and 14 copies should be filed with the Secretary of the Commission. All comments received prior to March 1, 1979, will be considered by the Commission, and if appropriate, further revisions will be made. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours. Comments should be submitted to the FERC, 825 North Capitol Street, N.E., Washington, D.C. 20426 and should reference Docket Nos. RM79-3 and RM79-4.

D. EFFECTIVE DATE

The Commission is making these amendments effective upon the date of issuance of this order upon a finding that good cause exists to proceed without compliance with the notice, public procedure and effective date provisions of 5 U.S.C. 553. The NGPA requires that maximum lawful prices and inflation adjustments be made available at least five days before the beginning of the month to which they apply. Unless amendments regarding minimum rate gas are made effective immediately, and prior to the termination of the 60-day period for comments on the interim regulations, producers (most of whom bill in January for deliveries made in December) may bill and file incorrectly for minimum rate gas. Thus good cause exists to make all of these amendments effective upon issuance of this order.

(Natural Gas Act, as amended, (15 U.S.C. 717 *et seq.*), Energy Supply and Environmental Coordination Act, (15 U.S.C. 791, *et seq.*), Federal Energy Administration Act, (15 U.S.C. 761, *et seq.*), Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350, Department of Energy Organization Act, Pub. L. 95-91, E. O. 12009, 42 F.R. 46267).)

In consideration of the foregoing, Part 154 of Subchapter E and Parts 271 and 273 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, are amended as set forth below, effective immediately.

By the Commission.

KENNETH F. PLUMB,
Secretary.

SUBCHAPTER E—REGULATIONS UNDER NATURAL GAS ACT

PART 154—RATE SCHEDULES AND TARIFFS

§ 154.94 [Amended]

1. Section 154.94 is amended in paragraph (h)(2)(ii) by inserting at the beginning of subclause (C) the phrase, "except in the case of minimum rate gas (as defined in § 271.402(b)(9) of this chapter),".

SUBCHAPTER H—REGULATION OF NATURAL GAS SALES UNDER THE NATURAL GAS POLICY ACT OF 1978

PART 271—CEILING PRICES

§ 271.101 [Amended]

2. Section 271.101(a) is amended by revising Tables I and II to read as follows:

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[6450-01-C]

Table I - Summary of certain gas ceiling prices.

(Prices in $/MMBtu)

Subpart of Part 271	NGPA Section	Category of Gas	Maximum Lawful Price for Deliveries made in:				
			Dec. 1978	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979
B	102	New Natural Gas, Certain OCS Gas	$2.078	$2.096	$2.116	$2.136	$2.156
C	103	New, Onshore Production Wells	1.969	1.980	1.993	2.006	2.019
G	107	High-Cost (below 15,000' only) Natural Gas	2.078	2.096	2.116	2.136	2.156
H	108	Stripper Wells	2.224	2.243	2.264	2.285	2.306
I	109	Not Otherwise Covered	1.630	1.639	1.650	1.661	1.672

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Table II - Certain gas committed or dedicated to interstate commerce on November 8, 1978.

Subpart of Part 271	NGPA Section	Category of Natural Gas	Type of Sale or Contract	Maximum Lawful Price per MMBtu for Deliveries Made in:				
				Dec. 1978	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979
D	104	Post-1974 gas	All producers	$1.630	$1.639	$1.650	$1.661	$1.672
		1973-1974 Biennium gas	Small producer	1.379	1.387	1.396	1.405	1.414
			Large producer	1.058	1.064	1.071	1.078	1.085
	106(a)	Interstate Rollover gas	Small producer	0.702	0.715	0.715	0.715	0.715
			Large producer	0.603	0.607	0.611	0.615	0.619
	104	Replacement contract gas or re-completion gas	Small producer	0.771	0.775	0.780	0.785	0.790
			Large producer	0.593	0.596	0.600	0.604	0.608
		Flowing gas	Small producer	0.393	0.395	0.398	0.401	0.404
			Large producer	0.332	0.334	0.336	0.338	0.340
		Certain Permian Basin gas	Small producer	0.462	0.465	0.468	0.471	0.474
			Large producer	0.405	0.407	0.410	0.413	0.416
		Certain Rocky Mountain gas	Small producer	0.462	0.465	0.468	0.471	0.474
			Large producer	0.393	0.395	0.398	0.401	0.404
		Certain Appalachian Basin gas	North subarea contracts dated after 10-7-69	0.368	0.370	0.372	0.374	0.376
			Other Contracts	0.344	0.346	0.348	0.350	0.352

3. Section 271.102(c) is amended to read as follows:

§ 271.102 Calculation of inflation adjustment for certain maximum lawful prices.

* * * * *

(c) *Inflation adjustment.* The following table contains the inflation adjustment applicable for each month beginning with May 1977, and ending with April 1979:

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Table III - Inflation adjustment.

Month of Delivery	Factor by which price in preceding month is multiplied
1977	
May	1.00636
June	1.00636
July	1.00431
August	1.00431
September	1.00431
October	1.00463
November	1.00463
December	1.00463
1978	
January	1.00597
February	1.00597
March	1.00597
April	1.00889
May	1.00889
June	1.00889
July	1.00581
August	1.00581
September	1.00581
October	1.00581
November	1.00581
December	1.00581
1979	
January	1.00581
February	1.00667
March	1.00667
April	1.00667

4. Section 271.202 is amended to read as follows:

§ 271.202 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurs in the calendar month of:	*The maximum lawful price is:*
December 1978	$2.078
January 1979	2.096
February 1979	2.116
March 1979	2.136
April 1979	2.156

5. Section 271.302 is amended to read as follows:

§ 271.302 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurs in the calendar month of:	*The maximum lawful price is:*
December 1978	$1.969
January 1979	1.980
February 1979	1.993
March 1979	2.006
April 1979	2.019

6. Section 271.402 is amended in paragraph (a) to read as follows:

§ 271.402 Maximum lawful prices.

(a) *Ceiling prices.* Unless a different rate is applicable under paragraph (c) of the section, the maximum lawful price for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

NGPA Section	Category of Natural Gas	Type of Sale or Contract	Maximum Lawful Price per MMBtu for Deliveries Made in: Dec. 1978	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979
104	Post-1974 gas	All producers	$1.630	$1.639	$1.650	$1.661	$1.672
	1973-1974 Biennium gas	Small producer	1.379	1.387	1.396	1.405	1.414
		Large producer	1.058	1.064	1.071	1.078	1.085
106(a)	Interstate Rollover gas	Small producer	0.702	0.715	0.715	0.715	0.715
		Large producer	0.603	0.607	0.611	0.615	0.619
104	Replacement contract gas or re-completion gas	Small producer	0.771	0.775	0.780	0.785	0.790
		Large producer	0.593	0.596	0.600	0.604	0.608
	Flowing gas	Small producer	0.393	0.395	0.398	0.401	0.404
		Large producer	0.332	0.334	0.336	0.338	0.340
	Certain Permian Basin gas	Small producer	0.462	0.465	0.468	0.471	0.474
		Large producer	0.405	0.407	0.410	0.413	0.416
	Certain Rocky Mountain gas	Small producer	0.462	0.465	0.468	0.471	0.474
		Large producer	0.393	0.395	0.398	0.401	0.404
	Certain Appalachian Basin gas	North subarea contracts dated after 10-7-69	0.368	0.370	0.372	0.374	0.376
		Other Contracts	0.344	0.346	0.348	0.350	0.352

§ 271.402 [Amended]

7. Section 271.402 is amended in the last line of paragraph (b)(9) by striking out "(a)" and inserting in lieu thereof, "(c)".

8. Section 271.402 is amended in paragraph (c)(1) by deleting "2.56(h)", and inserting in lieu thereof, "2.56b(h)"; in paragraph (c)(2) by deleting "(d)(1)", and inserting in lieu thereof, "(c)(1)" and in paragraph (c)(3) by deleting "(d)(1), or (d)(2)", and inserting in lieu thereof, "(c)(1), or (c)(2)".

9. Section 271.402 is amended in paragraph (c) by adding a new subparagraph (4) to read as follows:

§ 271.402 Maximum lawful prices.

• • • • • •

(c) *Applicable higher rates.* • • •

(4) Notwithstanding § 270.101(b), the minimum rate for minimum rate gas (at 14.73 psia and 60°F) is the amount determined in the following table:

If delivery occurs in the calendar month of:	*The rate per Mcf for minimum rate gas is:*
December 1978	$0.203
January 1979	0.204
February 1979	0.205
March 1979	0.206
April 1979	0.207

10. Section 271.602 is amended to read as follows:

§ 271.602 Maximum lawful price.

(a) The maximum lawful price for a first sale of natural gas under an intrastate roll- over contract to which section 106(b)(1) of the NGPA applies shall be the higher of:

(1) (i) The maximum lawful price paid under the expired contract, per MMBtu, in the case of the month in which the effective date of such rollover contract occurs; and

(ii) In the case of any month thereafter, the maximum lawful price, per MMBtu, prescribed under this paragraph for the preceding month adjusted for inflation in accordance with § 271.102; or

(2) The amount determined under the following table:

If delivery occurs in the calendar month of:	*The maximum lawful price is:*
December 1978	$1.121
January 1979	1.128
February 1979	1.136
March 1979	1.144
April 1979	1.152

(b) The maximum lawful price, per MMBtu, for natural gas to which section 106(b)(2) of the NGPA (relating to certain State or Indian natural gas production interests) applies shall be the amount determined in accordance with the following table in lieu of the amount determined under the table under paragraph (a)(2) of this section:

If delivery occurs in the calendar month of:	*The maximum lawful price is:*
December 1978	$2.078
January 1979	2.096
February 1979	2.116
March 1979	2.136
April 1979	2.156

11. Section 271.702 is amended to read as follows:

§ 271.702 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurs in the calendar month of:	*The maximum lawful price is:*
December 1978	$2.078
January 1979	2.096
February 1979	2.116
March 1979	2.136
April 1979	2.156

12. Section 271.802 is amended to read as follows:

§ 271.802 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurs in the calendar month of:	*The maximum lawful price is:*
December 1978	$2.224
January 1979	2.243
February 1979	2.264
March 1979	2.285
April 1979	2.306

13. Section 271.902 is amended to read as follows:

§ 271.902 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the amount determined in accordance with the following table:

If delivery occurs in the calendar month of:	*The maximum lawful price is:*
December 1978	$1.630
January 1979	1.639
February 1979	1.650
March 1979	1.661
April 1979	1.672

[FR Doc. 79-3097 Filed 1-29-79; 8:45 am]

[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 78N-0341]

ANTIBIOTIC DRUGS

Combination Otic Solutions and Suspensions

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document revokes the provisions for certification or release of certain combination otic solutions and suspensions. The products are regarded as lacking substantial evidence of effectiveness.

DATES: Effective Monday, March 12, 1979; objections and requests for hearing by March 1, 1979.

ADDRESS: Objections and requests for hearing to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

William R. Durbin, Jr., Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER notices cited below, the Food and Drug Administration (FDA) classified certain combination otic solutions and suspensions as possibly effective or lacking substantial evidence of effectiveness for their labeled indications.

In accordance with provisions in a notice published in the FEDERAL REGISTER of December 14, 1972 (37 FR 26623), the products were allowed to remain on the market based upon medically justified need, pending reevaluation of the published classification or completion of scientific studies to determine their effectiveness under the Drug Efficacy Study Implementation (DESI) program.

One sponsor, Burroughs Wellcome & Co., Inc., submitted testimonial letters concerning Aerosporin Otic Solution and Lidosporin Otic Solution. The

PART 273—COLLECTION AUTHORITY; REFUNDS

14. Section 273.201(a)(1) is amended to read as follows:

§ 273.201 Transitional rule for certain new wells.

(a) *General rule.* (1) The price determined under the following table may be charged and collected for any first sale of natural gas from a new well to which this section applies:

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submissions provided no evidence that adequate and well-controlled studies, as required by §§ 300.50 and 314.111(a)(5)(ii) (21 CFR 300.50 and 314.111(a)(5)(ii)), had been conducted. Isolated case reports, random experience, and reports lacking the details that permit scientific evaluation cannot be considered (see § 314.111(a)(5)(ii)(c)). The submissions therefore did not support the efficacy of the firm's products.

Because no other person has submitted data or protocols or has conducted additional clinical studies on the drug products described below, the drugs are now reclassified as lacking substantial evidence of effectiveness. The temporary exemption granted by the December 14, 1972 notice, as it pertains to these drugs, is revoked in a notice appearing elsewhere in this issue of the FEDERAL REGISTER.

All of these products are antibiotic drugs subject to the provisions of section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357). If a certification regulation exists for a product listed below, the applicable regulation is cited. Products without a regulation citation have been released pending a final determination as to their effectiveness.

1. DESI 8426, published October 23, 1971 (36 FR 20546):

New Drug Application (NDA) 60-756; Aerosporin Otic Solution containing polymyxin B sulfate, acetic acid, and propylene glycol; Burroughs Wellcome & Co., Inc., 3030 Cornwallis Rd., Research Tringle Park, NC 27709 (21 CFR 448.430).

2. DESI 8674, published June 29, 1972 (37 FR 12855):

NDA 50-208; Neomycin-Polymyxin Otic with Hydrocortisone and Diperodon containing neomycin sulfate, polymyxin B sulfate, hydrocortisone, and diperodon hydrochloride; Kasco Laboratories, Inc., Cantiague Rd., Hicksville, NY 11802.

NDA 50-224; Neo-Polycin Otic Suspension containing neomycin sulfate, polymyxin B sulfate, and dyclonine hydrochloride; Dow Pharmaceuticals, Division Dow Chemical Co., P.O. Box 68511, Indianapolis, IN 46268.

NDA 50-225; Neo-Polycin HC Otic Suspension containing neomycin sulfate, polymyxin B sulfate, dyclonine hydrochloride, and hydrocortisone acetate; Dow Pharmaceuticals.

NDA 60-080; Auracort Otic Solution containing neomycin sulfate, polymyxin B sulfate, pramoxine hydrochloride, and hydrocortisone; Philips Roxane Laboratories, Division of Philips Roxane, Inc., 330 Oak St., P.O. Box 1738, Columbus, OH 43216.

NDA's 60-787, 61-669; Bro-Parin Sterile Otic Suspension containing polymyxin B sulfate, neomycin sulfate, sodium heparin, and hydrocortisone; Riker Laboratories, Inc., Subsidiary 3M Co., 19901 Nordhoff St., Northridge, CA 91324 (21 CFR 444.442c).

NDA 60-927; Florotic Otic Suspension containing nystatin, neomycin sulfate, polymyxin B sulfate, and fludrocortisone acetate; E.R. Squibb & Sons, Inc., P.O. Box 400, Princeton, NJ 08540 (21 CFR 449.450).

3. DESI 50171, published August 19, 1971 (36 FR 16129):

NDA 50-171; Lidosporin Otic Solution containing polymyxin B sulfate, lidocaine hydrochloride, and propylene glycol; Burroughs Wellcome & Co., Inc.

4. DESI 50205, published August 19, 1971 (36 FR 16130):

NDA 50-205; that part pertaining to Chloromycetin Otic containing chloramphenicol and benzocaine; Parke, Davis & Co., GPO Box 118, Joseph Campau at the River, Detroit, MI 48232 (21 CFR 455.410).

5. Two other products, not reviewed by the National Academy of Sciences-National Research Council, are identical or similar to a product named above and have been released pending a final efficacy determination. These drugs are also considered lacking substantial evidence of effectiveness for their labeled indications and are affected by this notice:

a. Otoreid-HC (NDA-60-688), containing neomycin sulfate, polymyxin B sulfate, diperodon, and hydrocortisone, Reid-Provident Laboratories, Inc., 25 Fifth St. NW., Atlanta, GA 30308; and

b. Otocort (NDA 60-730), containing neomycin sulfate, polymyxin B sulfate, hydrocortisone, and dibucaine hydrochloride, Lemmon Pharmacal Co., P.O. Box 30, Sellersville, PA 18960.

The combination of neomycin-polymyxin (neomycin sulfate and polymyxin B sulfate), which also was named in the December 14, 1972 notice, has never been approved for marketing.

In addition to the drugs named above, some of the DESI notices applied to other preparations not included in this notice. They have been either reclassified as effective or withdrawn from the market.

Accordingly, the Director of the Bureau of Drugs concludes that (1) the antibiotic drug regulations should be amended to revoke provisions for certification of all of the above named drugs that are covered by a certification regulation and (2) no certification regulation should be issued for any product named above or for any identical, similar, or related product, as defined in § 310.6 (21 CFR 310.6), that, in the absence of a certification regulation, has been released pending a final effectiveness determination. The products are no longer eligible for release.

In a continuing effort to maintain regulations that are current, the provisions for certifying chloramphenicol topical are being revoked because no requests for certification of that product have been received.

The Director has determined that this document does not contain an agency action covered by 21 CFR 25.1(b); therefore, consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357)) and under authority delegated to the Commissioner (21 CFR 5.1 and redelegated to the Director of the Bureau of Drugs (21 CFR 5.78), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

§ 444.442c [Revoked]

1. In Part 444 by revoking § 444.442c *Neomycin sulfate-polymyxin B sulfate-hydrocortisone otic suspension; neomycin sulfate-polymyxin B sulfate-hydrocortisone-sodium heparin otic suspension* and marking it "Reserved."

PART 448—PEPTIDE ANTIBIOTIC DRUGS

2. In Part 448 by revising § 448.430 to read as follows:

§ 448.430 Polymyxin B sulfate-hydrocortisone otic solution.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Polymyxin B sulfate-hydrocortisone otic solution contains in each milliliter 10,000 units of polymyxin B and 5 milligrams of hydrocortisone in a suitable and harmless vehicle. Its polymyxin B sulfate content is satisfactory if it contains not less than 90 percent and not more than 130 percent of the number of units of polymyxin B that it is represented to contain. It is sterile. Its pH is not less than 5.0 and not more than 7.0. The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1), except safety.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain the following:

(i) Results of tests and assays on—

(*a*) The polymyxin B sulfate used in making the batch for potency, loss on drying, pH, and identity; and

(*b*) The batch for potency, sterility, and pH.

(ii) Samples required:

(*a*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 5 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample (usually 1.0 milliliter) with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section, except if the steroid prevents solubilization, use 0.25 milliliter of the sample in lieu of 1 milliliter and proceed as directed in paragraph (e)(2) of that section.

(3) *pH.* Proceed as directed in § 436.202 of this chapter using the undiluted solution.

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PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS

§ 449.450 [Revoked]

3. In Part 449 by revoking § 449.450 *Nystatin-neomycin sulfate-polymyxin B sulfate-fludrocortisone acetate for otic solution* and marking Subpart E "Reserved."

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

4. Part 455 is amended:

a. By revising § 455.410 to read as follows:

§ 455.410 Chloramphenicol otic.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Chloramphenicol otic is a solution of chloramphenicol in a suitable and harmless vehicle. Each milliliter contains 5.0 milligrams of chloramphenicol. Its potency is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of milligrams of chloramphenicol that it is represented to contain. It is sterile. Its moisture content is not more than 2 percent. Its pH is not less than 4 and not more than 8. The chloramphenicol used conforms to the standards prescribed by § 455.10(a)(1), except safety.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain the following:

(i) Results of tests and assays on—

(*a*) The chloramphenicol used in making the batch for potency, pH, specific rotation, melting range, absorptivity, and crystallinity; and

(*b*) The batch for potency, sterility, moisture, and pH.

(ii) Samples required:

(*a*) The chloramphenicol used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 20 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample with sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to obtain a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 1 to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using the sample diluted with an equal volume of distilled water.

§ 455.510b [Reserved]

b. By revoking § 455.510b *Chloramphenicol otic; chloramphenicol topical* and marking it "Reserved."

Any person who will be adversely affected by this order may file objections to it, request a hearing, and show reasonable grounds for the hearing. It is the responsibility of every manufacturer or distributor of an antibiotic drug product to review every antibiotic order published in the FEDERAL REGISTER to determine whether it covers any product that the person manufactures or distributes.

Any person who decides to seek a hearing must file (1) on or before March 1, 1979, a written notice of appearance and request for hearing, and (2) on or before April 2, 1979, the data, information, and analyses on which the person relies to justify a hearing, as specified in § 430.20 (21 CFR 430.20). Any other interested person may submit comments on this order. The procedures and requirements governing this order, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of a hearing are contained in § 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions and denying a hearing.

All submissions under this order must be filed in five copies, identifying the Docket Number appearing in the heading of this order, with the Hearing Clerk, Food and Drug Administration (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This order will become effective Monday, March 12, 1979. If objections are filed, the effective date will be extended as necessary to rule on them.

(Secs. 502, 507, 52 Stat. 1050-1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357).)

In accordance with Executive Order 12044, the economic effects of this rule have been carefully analyzed, and it has been determined that the rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: January 19, 1979.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 79-2897 Filed 1-29-79; 8:45 am]

[4110-03-M]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 510—NEW ANIMAL DRUGS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The Food and Drug Administration (FDA) amends the regu-

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lations to reflect approval of a new animal drug application (NADA) filed by Critic Mills, Inc., providing for the use of a 2-gram-per-pound tylosin premix for making complete swine feeds, and to add Critic Mills, Inc., to the list of approved NADA sponsors.

EFFECTIVE DATE: January 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Critic Mills, Inc., Beardstown, IL 62618, filed an NADA (116-041V) providing for the safe and effective use of a premix containing 2 grams of tylosin (as tylosin phosphate) per pound for making complete swine feeds used to increase rate of weight gain and to improve feed efficiency. Approval of this application relies upon safety and effectiveness data contained in Elanco Product Co.'s approved NADA 12-491V. This approval does not constitute reaffirmation of the referenced NADA, nor does it constitute reaffirmation of the drug's safety and effectiveness. In addition, Critic Mills, Inc., has not previously been included in the regulations under the list of approved sponsors. The regulations are amended to include this firm.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Room 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and code number of sponsors of approved applications.

• • • • •

(c) • • •

(1) • • •

Firm name and address	Drug listing No.
• • • • •	
Critic Mills, Inc., Beardstown, IL 62618...	023055
• • • • •	

(2) • • •

Drug listing No.	Firm name and address
• • • • •	
023055....	Critic Mills, Inc., Beardstown, IL 62618.
• • • • •	

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(59) to read as follows:

§ 558.625 Tylosin.

• • • • •

(b) • • •

(59) To 023055: 2 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

• • • • •

Effective date. This regulation is effective January 30, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(b)(i)).)

Dated: January 22, 1979.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-3028 Filed 1-29-79; 8:45 am]

[4110-03-M]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The Food and Drug Administration (FDA) amends the regulations to reflect approval of a supplemental new animal drug application (NADA) filed for J. C. Feed Mills, providing for the use of a 10-gram-per-pound tylosin premix for making complete swine feeds.

EFFECTIVE DATE: January 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: J. C. Feed Mills, Inc., 1050 Sheffield, P.O. Box 224, Waterloo, IA 50704, is the sponsor of an NADA (98-429V) previously approved for safe and effective use of a 2-gram-per-pound tylosin premix (tylosin as tylosin phosphate) and now additionally approved for safe and effective use of a 10-gram-per-pound tylosin premix. The premix is used to manufacture a complete swine feed, indicated for increased rate of weight gain and improved feed efficiency. Approval of this application relies upon safety and effectiveness data contained in Elanco Products Co.'s approved NADA 12-491V. This approval does not constitute reaffirmation of the referenced NADA or of the drug's safety and effectiveness. The regulations are amended to reflect this approval.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Room 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.625 is amended by revising paragraph (b)(35) to read as follows:

§ 558.625 Tylosin.

• • • • •

(b) • • •

(35) To 039741: 2 and 10 grams per pound, paragraph (f)(1)(vi)(*a*) of this section.

• • • • •

Effective Date. This regulation is effective January 30, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: January 22, 1979.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-3029 Filed 1-29-79; 8:45 am]

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[1505-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7571]

PART 54—PENSION EXCISE TAX REGULATIONS

Employee Stock Ownership Plans

Correction

In FR Doc. 78-32151 appearing at page 53718 in the issue for Friday, November 17, 1978, in the first column of page 53719, in the 7th line of paragraph (iii) of § 54.4975-11(a)(3), the reference to "• • • § 54.4975(b) (10), (11), and (12) • • •" should have been "• • • § 54.4975-7 (b) (10), (11), and (12) • • •".

[3810-70-M]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY

SUBCHAPTER F—TRANSPORTATION

[DoD Directive 3005.7] [1]

PART 177—EMERGENCY REQUIREMENTS, ALLOCATIONS, PRIORITIES, AND PERMITS FOR DOD USE OF DOMESTIC CIVIL TRANSPORTATION

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Final Rule.

SUMMARY: This rule updates and expands DoD policy on emergency requirements, allocations, priorities, and permits for DoD use of domestic civil transportation covering both peacetime emergency planning and transportation operations during periods of national emergency. This revised rule clarifies assigned responsibilities of DoD components and delineates the interaction between the Departments of Defense and Transportation.

EFFECTIVE DATE: July 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Arden R. Loyd, Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), Washington, D.C. 20301, Telephone 202-697-1903.

SUPPLEMENTARY INFORMATION: This revision supersedes the rule appearing in FR Document 68-10521 (33 FR 12314), August 31, 1968.

Accordingly, 32 CFR Chapter I is amended by a revision of part 177, reading as follows:

PART 177—EMERGENCY REQUIREMENTS, ALLOCATIONS, PRIORITIES, AND PERMITS FOR DOD USE OF DOMESTIC CIVIL TRANSPORTATION

Sec.
177.1 Purpose.
177.2 Applicability and Scope.
177.3 Concept.
177.4 Policy.
177.5 Responsibilities.

AUTHORITY: The provisions of this Part are issued under 5 U.S.C. 301.

§ 177.1 Purpose.

This Part is reissued to update Department of Defense (DoD) policy and guidance concerning emergency requirements, allocations, priorities and permits governing DoD use of civil transportation within the continental United States (CONUS) except that (a) provided by the Civil Reserve Air Fleet (CRAF); (b) involving the Defense Civil Preparedness Agency; and (c) related to civil works projects performed by the Corps of Engineers.

§ 177.2 Applicability and scope.

(a) The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, and the Defense Agencies (hereafter referred to collectively as "DoD Components").

(b) Its provisions cover peacetime emergency planning as well as transportation operations during periods of national emergency.

§ 177.3 Concept.

The Department of Transportation (DoT) provides national emergency civil transportation policies, plans, and procedures. The Department of Defense receives emergency guidance on the use of civil transportation from the (a) Secretary of Transportation, in time of national emergency, and (b) Department of Transportation Emergency Organization (DoT EO) Regional Offices, in case of regional isolation.

§ 177.4 Policy.

(a) DoD transportation plans for and operations during national emergencies will (1) conform to national policies and guidance; and (2) be carried out by DoD organizational elements rather than by a new organizational structure created specifically for that purpose. Actual operations under the provisions of this Part will be effected in the event of an emergency.

(b) Control of transportation and traffic management by the Department of Defense will remain at the national level (see § 177.5(a)), unless conditions of isolation require independent regional action. In this case, regional authorities will assume the responsibility detailed in §177.5(b), and will act in conformance with approved plans implementing this Part.

§ 177.5 Responsibilities.

(a) *National Control.*

(1) *The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L))*, will:

(i) Establish in conjunction with the Assistant Secretary of Defense (Program Analysis and Evaluation) priorities within the Department of Defense to conform with national program priorities. These priorities will be coordinated with the Joint Chiefs of Staff (JCS).

(ii) Analyze and validate DoD short-term requirements for civil transportation received from the JCS, and ensure the coordination of the ASD(PA&E) on those requirements affecting DoD strategic mobility.

(iii) Submit requests for civil transportation, and receive alloted capability from the DoT.

(iv) Transmit allocation of civil transportation capability to the JCS, together with guidance on procurement and related comments, and ensure coordination with the ASD(PA&E).

(2) *The Assistant Secretary of Defense (Program Analysis and Evaluation)* will:

(i) Analyze, validate, and submit long-term requirements for civil transportation to the ASD(MRA&L) for subsequent submission to the DoT.

(ii) Coordinate with the DoT and the DoD Components concerned to determine data requirements and develop methods of analysis to accurately project DoD long-term civil transportation requirements.

(3) *The Joint Chiefs of Staff* will (i) review DoD transportation requirements (as submitted by the other DoD Components through the Military Traffic Management Command (MTMC)), and (ii) forward them with appropriate recommendation to the ASD(MRA&L) or ASD(PA&E), as appropriate. Upon receipt of allocations from the ASD(MRA&L), the JCS will determine the relative urgency of the requirements submitted by the DoD Components and suballocate among them in accordance with such determinations.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA. 19120. Attention: Code 301.

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(4) *The Military Departments and other DoD Components* will:

(i) Develop and submit to the MTMC their requirements for all CONUS movements to be accomplished by civil transportation resources.

(ii) Prescribe their priorities of movement within guidance provided by the ASD(MRA&L) in coordination with the JCS.

(5) *The MTMC* will:

(i) In accordance with DoD Directive 5160.53,[1] "Single Manager Assignment for Military Traffic, Land, Transportation, and Common-User Ocean Terminals," March 24, 1967, manage the movement of passengers and cargo, consistent with established national and DoD Component movement priorities.

(ii) Consolidate, collate, and evaluate requirements from a traffic management standpoint and submit the consolidated transportation requirements with analyses indicating shortages of capability and recommended action to the JCS. After suballocation to the DoD Components by the JCS, MTMC will manage the movement of passengers and cargo in conformance with established allocations and movement priorities in coordination with the DoD Components.

(iii) Administer permits when required for the movement of passengers and cargo, in accordance with national policies and guidance.

(b) *Regional Isolation.* In the event of regional isolation during a national emergency:

(1) *Regional Representatives of DoD Components* will develop and submit their transportation requirements to the MTMC area commander, together with information as to the relative urgency of movement. If communication is not possible with the area commander, such transportation requirements will be submitted direct to the DoD Regional Military Emergency Coordinator at the Regional Preparedness Committee/Regional Resources Advisory Board (RPC/RRAB). The locations and geographical areas of responsibility for these regions are identified in enclosures (3) and (4) of DoD Directive 5030.45,[1] "Department of Defense Representation on Office of Preparedness (OP), GSA, Regional Preparedness Committee," December 14, 1973.

(2) *The MTMC area commanders* will:

(i) Consolidate, collate and evaluate requirements from a traffic management standpoint and submit such requirements, with a request for allocation, to the DoT EO Regional Office.

(ii) Manage the movement of passengers and cargo in accordance with established allocations and DoD Component movement priorities.

(iii) Inform the DoD Regional Military Emergency Coordinator of any deficit in allocations to meet requirements.

(3) *The DoD Regional Military Emergency Coordinator,* as principal DoD representative to the Federal Preparedness Agency Regional Preparedness Committee (or Office of Defense Resources Regional Resources Advisory Board) (DoD Directive 5030.45, [1]) will establish relative priorities of movement for DoD traffic and resolve matters of major policy impact, as required.

(c) *Preallocations.* General responsibilities for the preallocation of civil transport capability are the same as those responsibilities defined for national control in subsection § 177.5(a). A Memorandum of Understanding between the Departments of Defense and Transportation concerning the Defense Emergency Prestocked Bulk Fuel Distribution Plan, provides for preallocation of civil motor carrier tractor-tank trailer capability to support the plan. Specific responsibilities for preallocations to support this plan are defined as follows:

(1) The ASD(MRA&L) will serve as the primary DoD point of contact with the DoT on all matters relating to military requirements and policy coordination.

(2) The Commander, MTMC, will maintain direct liaison with DoT on allocation matters.

(3) The Commander, Defense Fuel Supply Center (DFSC), will:

(i) Maintain the plan; develop and submit requirements through the Defense Logistics Agency (DLA) for civil motor carrier tractor-tank trailer capability to support the plan.

(ii) Release civil carriers tractor-trailer after completing required workload.

(iii) Maintain direct liaison with participating carriers in matters relating to mission planning, control, and operational agreement.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 25, 1979.

[FR Doc. 79-3037 Filed 1-29-79; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 1047-8; PP 7E1996/R194]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Aldicarb

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide aldicarb on pecans. The regulation was requested by the Interregional Research Project No. 4. This rule establishes a maximum permissible level for residues of aldicarb on pecans.

EFFECTIVE DATE: Effective on January 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202/755-4851).

SUPPLEMENTARY INFORMATION: On December 8, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 57623) in response to a pesticide petition (PP 7E1996) submitted to the Agency by the Interregional Research project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Alabama, Georgia, Mississippi, and South Carolina. This petition proposed that 40 CFR 180.269 be amended by the establishment of a tolerance for combined residues of the insecticide aldicarb (2-methyl - 2 - (methylthio)propionaldehyde *O*-methylcarbamoyl)oxime) and its cholinesterase-inhibiting metabolites 2-methyl-2-(methylsulfinyl)propionaldehyde *O*-(methylcarbamoyl)oxime and 2-methyl-2-(methylsulfonyl) propionaldehyde *O*-(methylcarbamoyl)oxime in or on the raw agricultural commodity pecans at 0.5 part per million (ppm). No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.269 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before March 1, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, 401 M St., SW, Washington, DC 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on January 30, 1979, Part 180, Subpart C, § 180.269 is amended by adding a tolerance for residues of aldicarb on pecans at 0.5 ppm as set forth below.

Dated January 25, 1979.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.269 is amended by alphabetically inserting pecans at 0.5 ppm in the table to read as follows:

§ 180.269 Aldicarb; tolerances for residues.

Commodity:	Parts Per million
Pecans	0.5

[FR Doc. 79-3154 Filed 1-29-79; 8:45 am]

[3510-22-M]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 671—TANNER CRAB OFF ALASKA

Early Closure of Portion of Registration Area H (Cook Inlet) to Fishing by U.S. Vessels

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/Commerce.

ACTION: Final Regulation.

SUMMARY: The Director, Alaska Region ("Regional Director"), National Marine Fisheries Service (NMFS) issues a final regulation (Field Order) applicable to fishing by vessels of the United States in the Alaska Tanner crab fishery, in accordance with the fishery management plan (FMP) for Tanner Crab Off Alaska, and the regulations implementing this FMP (50 CFR 671.27(b) (see 43 FR 57419). This Field Order closes the Southern District of the Cook Inlet Registration Area to fishing for Tanner crab by vessels of the United States effective beginning at 11:59 P.M. Pacific Standard Time (PST) on January 26, 1979, rather than on April 30, 1979, as currently provided in 50 CFR 671.26(e)(2)(i). The closure remains in effect until November 1, 1979. Public comments are invited until March 29, 1979.

EFFECTIVE DATES: 11:59 P.M. Pacific Standard Time, January 26, 1979. Public comments are invited until March 29, 1979. Comments may be sent to: Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, Juneau, Alaska 99802, Telephone (907) 586-7221.

FOR FURTHER INFORMATION:

Contact Mr. Rietze at the above address.

SUPPLEMENTARY INFORMATION: The FMP for Tanner Crab off Alaska (43 FR 21170) provides for in-season adjustments to season and area openings and closures. The FMP's implementing regulations at 50 CFR Part 671 (43 FR 57149) specify in § 671.27(b) that these decisions shall be made by the Regional Director in accordance with the criteria set out in that section. On October 20, 1978, the Assistant Administrator of Fisheries, NOAA, with the approval of the Administrator, NOAA, delegated to the Regional Director authority to promulgate Field Orders making in-season adjustments.

50 CFR 671.26(e) creates six districts within Registration Area H (Cook Inlet). The districts were created, in part, to prevent overfishing of individual Tanner crab stocks by allowing closure of a particular district when the desired harvest level in that district is reached. The FMP states that there are "three Tanner crab stock units within the Cook Inlet area that are separated geographically". One of these stock units is the Southern, or Kachemak Bay, stock. 50 CFR 671.26(e)(2)(i) currently provides that the season for harvest of Tanner crab by vessels of the United States is December 1 through April 30 in the Southern District "subject to adjustment by the Regional Director pursuant to 671.27." While the overall optimum yield (OY) of 5.3 million pounds for Registration Area H has not yet been reached, the State of Alaska's 1978 Tanner crab index survey indicates that there are 2.4 to 2.5 million pounds of legal male Tanner crab available for harvest in the Southern District. Current catch rate information indicates that that amount of Tanner crab will be harvested by approximately January 27, 1979, earlier than anticipated when 50 CFR 671.26(e)(2)(i) was implemented. In order to prevent overfishing of the Tanner crab stocks in the Southern district of Registration Area H, the Regional Director has determined, in accordance with 50 CFR 671.26(b) and Department Administrative Order 218-7 (43 FR 2083), and following consultation with the Commissioner, Alaska Department of Fish and Game, that an emergency exists and that the Southern District of the Cook Inlet Registration Area should be closed at 11:59 P.M. PST on January 26, 1979 rather than on April 30, 1979.

The Regional Director further finds that, in order to protect the resource, public comment prior to issuance of this Field Order is impracticable and contrary to the public interest. However, public comments on the necessity for, and extent of, this closure will be received by the Regional Director for a period of 60-days after the effective date of the Field Order. (Address: Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802). During this 60 day period, the data and information upon which this decision is based will be available for inspection during business hours at the NMFS, Alaska Regional Office, Federal Building, Room 453, 709 West 9th Street, Juneau, Alaska.

If comments are received during the 60 day period or before the 60-day period expires, if appropriate, the Regional Director shall reconsider the necessity for the closure and, as soon as practicable after that reconsideration, shall publish in the FEDERAL REGISTER either:

(A) A notice of continued effectiveness of the closure; or

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(B) A notice to modify or rescind the closure.

An environmental impact statement was prepared for the Tanner Crab off Alaska FMP and is on file with the Environmental Protection Agency.

Signed at Washington, D.C., this the 25th day of January 1979.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

(16 U.S.C. 1801 *et seq.*)

In accordance with 50 CFR 671.27(h), 50 CFR 671.26(e)(2)(i) is amended by *deleting* "April 30" and *substituting* "January 26."

[FR Doc. 79-3085 Filed 1-25-79; 1:46 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1079]

[Docket No. AO-295-A33]

MILK IN THE IOWA MARKETING AREA

Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends changes in the present order provisions based on industry proposals considered at a public hearing held September 20-21, 1978. The recommended amendments would modify the definition of a "handler" and revise the basis for pooling distributing plants and supply plants. The proposed changes are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

DATE: Comments are due on or before February 20, 1979.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Hearing: Issued September 5, 1978, published September 8, 1978 (43 FR 40028).

PRELIMINARY STATEMENT

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Iowa marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, on or before 20 days after FEDERAL REGISTER publication. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing conducted at Urbandale, Iowa, on September 20-21, 1978. Notice of such hearing was issued September 5, 1978 (43 FR 40028).

The material issues on the record of the hearing relate to:

1. Unite pooling of distributing plants.
2. Definition of a pool supply plant.
(a) Shipping percentages.
(b) Unit pooling.
3. Handler definition.
4. Producer definition.
5. Plant location adjustments.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Unit pooling of distributing plants.* The pool distributing plant definition should be changed to provide that a handler who operates two or more distributing plants may combine the plants into a unit for the purpose of meeting the pooling standards of the order.

The order now bases a distributing plant's pooling status on the proportion of its milk receipts that is disposed of as Class I route disposition and the percentage of such receipts that is disposed of in the marketing area.

A cooperative association proposed that unit pooling for distributing plants be provided by the order. Under the proposal, the receipts and dispositions, respectively, of each plant in the unit would be combined to determine wheter the unit as a whole meets the total route disposition requirement for a pool distributing plant. However, each plant in the unit would be required to have 15 percent of its receipts disposed of as route disposition in the marketing area, which is the in-area percentage presently provided by the order. The cooperative proposed that a handler who wants to pool distributing plants on a unit basis should notify the market administrator in writing prior to the first month of unit pooling.

The order changes adopted herein are basically the same as the proponent's proposal.

Proponent operates four distributing plants in the Iowa market at Rock Island, Illinois and at Cedar Rapids, Dubuque, and Waterloo, Iowa. It is the only multi-distributing plant operation in the market.

The normal practice of proponent is to dispatch milk from the farms of its members to the nearest distributing plant. In this way, given loads of milk are assigned to a specific plant for a month. By following this procedure, producers' milk is handled with a minimum of transportation cost.

However, the fluid milk needs of distributing plants can fluctuate substantially within a week, and the objective of assigning milk, as indicated, is not always achieved. A given load of milk may be reassigned to three or more plants during a month to assure that the pooling requirements of the individual plants are met.

The allocation of milk supplies among the distributing plants also is affected by the manufacture of Class II products at the distributing plants, which can affect the proportion of the milk receipts at a distributing plant that is disposed of as route disposition.

The spokesman for proponent emphasized that there is no problem of pooling supplies of member milk on the market in total. He stated that a problem exists in the uneconomic movement of milk and wasted energy that results from moving milk among the four distributing plants to achieve the correct proportion of milk receipts to route disposition at each plant to maintain pool status. In addition, proponent claimed there is a substantial operating expense in tracking the movements of milk to assure the pooling of each distributing plant.

The shifting of loads of producers' milk among the plants of a multi-plant handler can accommodate the pooling of producer milk as it has done hereto-

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fore. However, doing so adds to the cost of transporting the milk, increases the cost of recordkeeping, and adds to the cost of auditing the operation. While the practical benefit to producers is the pooling of the milk, such objective can be accommodated more efficiently by the adoption of the proposal to provide unit pooling for distributing plants.

Under the unit pooling provisions provided herein, proponent's four distributing plants could be pooled as a unit, thereby eliminating the inefficient practice of moving milk among distributing plants for pooling purposes.

A further benefit of unit pooling, as indicated by proponent, is that the manufacture of Class II products could be done more efficiently by a multi-plant operator than has been the case. At present, a range of Class II products is processed and packaged at three of proponent's distributing plants. If the cooperative chose, for example, to concentrate the manufacture of cottage cheese at one of the plants, it is not likely under the present pooling standards that the plant could qualify for pooling. The unit pooling of distibuting plants, as provided herein, would provide the possibility for greater Class II product specialization at a single plant without depooling the plant.

To qualify for unit pooling, individual plants would still have to process and package fluid milk products and dispose of at least 15 percent of their receipts as route disposition in the marketing area. Also, a handler would need to notify the market administrator in writing on or before the first day of the month in which plants are to be considered as a unit of his desire for unit pooling. Unit pooling would be continued in each following month without further notification. If plants are to be added to the unit or dropped from it or if the unit is to be discontinued, the handler would need to notify the market administrator in writing on or before the first day of the month in which such change is to be effective.

2. *Definition of pool supply plant.*

(a) *Shipping percentages.* The supply plant shipping percentages should not be increased. Instead, the Director of the Dairy Division should be authorized to increase or decrease the supply plant shipping percentages by up to 10 percentage points as needed to increase shipments to distributing plants for Class I use or to prevent uneconomic shipments for pooling purposes.

The order now provides, in part, that any plant shall be a pool supply plant that is approved by a duly constituted regulatory agency for the handling of Grade A milk and from which during the month the volume of bulk fluid milk products transferred to pool distributing plants during each of the months of September through November is 35 percent or more, and during each of the months of December through August is 20 percent or more, of the total Grade A milk received at the plant from dairy farmers and cooperative associations, including milk diverted from the plant by the plant operator.

A proprietary handler proposed that the shipping percentages be increased to 45 percent for each of the months of September through November, and to 30 percent for each of the remaining months. At the hearing, proponent modified the proposal to provide a shipping percentage of 50 percent for the months of September through November.

As an alternative, proponent proposed that the Director of the Dairy Division be authorized to increase the supply plant shipping percentages by up to 10 percentage points if he finds it necessary to obtain needed shipments. Under the proposal, the shipping percentages so increased could be decreased by the Director but only to the percentages now provided by the order. At the hearing, the handler modified the proposal to provide for a change of up to 15 percentage points during the months of September through November.

The proposal to increase the shipping percentages to a higher fixed level was opposed by another proprietary handler and by four cooperative associations. The alternative proposal was opposed by a proprietary handler and by two cooperative associations.

One cooperative modified the alternative proposal to provide that the Director of the Dairy Division, or the market administrator, be authorized to increase or decrease the shipping percentages from the present level by up to 15 percentage points if he finds such revision is necessary to obtain needed milk shipments for Class I use or to prevent unneeded shipments to distributing plants.

The spokesman for another cooperative said that the association would not oppose a provision to authorize the Director of the Dairy Division to change the shipping percentages temporarily if the change were limited to up to 10 percentage points. Also, any temporary increase in the supply plant shipping percentages should, in his view, be based on a need in the market for Class I milk.

Proponent operates a pool distributing plant at Des Moines, Iowa. About 80 percent of its utilization is Class I and about 20 percent Class II. The plant distributes fluid milk products mainly to stores, schools and other institutions. A minor part of its distribution is on home delivery routes.

Proponent is supplied primarily by four cooperatives, and the milk originates mainly in northeastern Iowa, which is the primary production area for the market. The milk is delivered direct from farms or through pump-over facilities which are not supply plants. The handler receives milk only from members of cooperative associations.

The handler claimed that he was experiencing severe shortages in the milk supply for his plant and that the shortages will be intensified rather than alleviated in the foreseeable future. He stated that the milk utilization data for the market indicate that there are adequate supplies of milk to supply his Class I needs. Nevertheless, he claimed, the reserve supply is not available to proprietary firms.

Proponent stated that nearly 66 percent of the Class I sales of the market are made by cooperative associations that operate pool distributing plants and supply plants. Also, he noted, the reserve supplies for the market are handled by the cooperatives. In these circumstances, proponent claimed, the Department has an obligation to provide order provisions that encourage cooperatives to supply milk to the limited number of proprietary firms on the market.

The handler stated that beginning in July 1978 his firm sought additional milk from some of his suppliers because Class I sales had increased and because one of the suppliers had cut back deliveries somewhat. Most of the suppliers who were asked to increase deliveries did so but not to the full extent desired by proponent. Proponent testified that as a result his plant ran short of milk on one day about a week prior to the hearing and had to cut back processing somewhat.

The proponent also testified that the proportion of milk used in Class I has declined since the Des Moines order was merged into the Iowa order effective May 1, 1977. It was pointed out that in April 1977 the Class I utilization in the Des Moines market was 42 percent, while the Class I utilization in April 1978 under the Iowa order was 38 percent. Proponent observed that the additional milk that has been pooled under the order is being used primarily for Class III use. Proponent claimed that, increasingly, cooperatives are unwilling to interrupt their manufacturing operations to supply milk for Class I use.

Also, proponent stated that the reduced blend prices under the Iowa order that have resulted from the additional milk supplies on the market have made adjoining markets more attractive to producers who traditionally had been affiliated on a direct-ship basis with the regulated markets in Iowa before the several markets were merged under one order. Proponent introduced an exhibit into the record to show that the blend prices of the Iowa market had deteriorated over the past year relative to the Upper Midwest order.

Proponent believes that by increasing the supply plant shipping percentages additional milk will be made available to his pool distributing plant and to other proprietary distributing plants.

A proprietary handler opposed the proposals to increase the supply plant shipping percentages. The spokeswoman for the handler stated that increased shipping percentages would cause uneconomic movements of milk. She claimed that the pool supply plant operated by the handler would then be forced to haul milk solely for qualifying purposes.

A cooperative with a pool supply plant at Pine Island, Minnesota, opposed the proposal to increase the shipping percentages and the alternative proposal to authorize the Director of the Dairy Division to increase them on a temporary basis. The spokesman for the cooperative stated that higher shipping requirements would not make more milk available to Iowa pool distributing plants, as proponent claimed, but actually would cause milk to be disassociated with the market. He claimed that if the cooperative association were to ship milk from its supply plant to proponent's distributing plant as the milk is needed there, the probability is that a substantial proportion of it would be assigned to Class II. The witness indicated that the cooperative's supply plant cannot afford to ship milk to the market for Class II because the order provides for little if any transportation allowance on such shipments. This, coupled with the fact that the transportation rate provided by the order is low in relation to current transportation costs, means that the cooperative would incur a substantial transportation expense for shipments made from its supply plant. It was claimed that higher shipping requirements could result in increased costs to qualify the Pine Island supply plant for pooling, and that this would cause the cooperative to look to alternative markets, such as the Upper Midwest market where very nominal pooling requirements are provided.

The cooperative's spokesman stated further that proponent had asked for an additional supply of milk but that none had been available from the direct-delivered routes with which the association supplies Des Moines handlers. He noted that none of the direct-delivered milk of the cooperative is committed to manufacturing.

Another cooperative association that opposed the proposals introduced an exhibit which showed that suppliers of the Iowa market have supplied all of the Class I needs of the Iowa pool distributing plants. It was the witness' view that this indicates that there is an adequate supply of milk for pool distributing plants.

He reiterated the view of a previous witness that there is no economic incentive to ship milk from a supply plant for Class II use. He testified further that spot shipments of milk normally cost more than milk supplies that are acquired on a regular basis. He attributed proponent's alleged supply problem to proponent's method of operation and to his reluctance to pay prices that are normally associated with erratic demand.

The issue for consideration is whether there is an actual or potential shortage of milk for Class I use at pool distributing plants that requires an increase in the supply plant shipping percentages. Such increase would require that a greater proportion of a supply plant's receipts be shipped to a pool distributing plant to qualify the supply plant for pooling than is now the case.

Data introduced into the record established that suppliers have consistently delivered more than the Class I needs of pool distributing plants. In this connection, the proponent acknowledged that he has had an adequate supply of milk for Class I. The apparent difficulty is that proponent requires a substantial quantity of milk for Class II. While he has obtained a sufficient supply of milk for his total operation (Class I and Class II), he has had to buy some of it from his regular suppliers on a spot basis, which normally is more expensive than a committed supply of milk.

The single, specific instance of a supposed shortage of milk that proponent cited occurred on one day about a week before the hearing. He stated that he had to cut back somewhat on processing of Class II products because he did not have all the milk he needed. He later made up the lost volume on a subsequent day when milk was available.

What is significant is that proponent testified that his objective is to arrange for a basic supply of milk for a year and to make up any additional need that may occur by obtaining additional milk when the need arises. Apparently, on the single day that such additional milk was needed it was not available from suppliers, but was delivered subsequently. This demonstrates not a shortage of milk but rather the consequence of a particular method of operation.

When proponent requests a supply of milk from suppliers, whether it be a regular committed supply or a spot shipment, understandably, he wants it for his total operation, which is about 80 percent Class I and 20 percent Class II. Also, it is apparent from testimony in the record that proponent expects a milk supply for Class II use to be delivered to his plant without any charge for hauling.

The cooperatives from which proponent obtains his supply have not refused to supply him with milk. Only one has reduced deliveries, and proponent indicated that the reduction was minor. Actually, proponent's supplies have increased deliveries to him, but not in the full amount requested. What has occurred is that suppliers are reluctant to ship milk to proponent from supply plants because in doing so the shipments are likely to be allocated to Class II because of proponent's substantial Class II operation. This subjects the supply plant operator to costs he would not incur by manufacturing the milk himself. The order is structured, for economic reasons, to discourage the movement of milk from distant supply plants for Class II (or III) use.

Moreover, direct-ship milk supplies normally are committed in advance. Routes need to be assigned and deliveries scheduled if there is to be an orderly marketing of the milk. Proponent's method of operation, however, results in requests for milk as the need arises. This entails spot shipments of milk, which requires special handling arrangements that make the milk more expensive than supplies that are committed for regular delivery. Proponent has obtained such shipments from his regular suppliers. However, when he buys spot shipments from his regular suppliers, he objects to paying the prices asked because some of the suppliers also are his competitors.

Proponent claimed that he had made extraordinary efforts to acquire adequate supplies. This claim is not persuasive when considered in light of the fact that proponent has not sought a supply of milk from one of the cooperatives in the market that has a substantial portion of the market's reserve supply. Representatives of two cooperatives stated on the record that they were willing to supply milk to proponent for Class I use.

Proponent also claimed that the lower blend prices that have resulted since the merger of several orders in Iowa have made adjoining markets more attractive to producers who traditionally had been affiliated on a direct-ship basis with the individual markets. The record did not substantiate proponent's claim.

In this connection, the final decision of the Iowa order merger stated:

"The Order 63 (Quad Cities-Dubuque) and Order 79 (Des Moines) uniform prices were generally in close alignment with alternative market

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uniform prices in common supply areas during 1975. But the Order 70 uniform price and the Order 78 weighted average uniform price have tended to be somewhat higher than the other uniform prices in the Iowa supply area. Consequently, at the outset of the merger of the orders, it can be expected that the uniform price under the Iowa order will be slightly higher than other order uniform prices in the supply area. This will tend to attract additional milk to the pool and thus reduce the uniform price to where it is comparable to alternative market uniform prices." [1]

Statistics and testimony presented at the hearing indicated that additional milk has been attracted to the pool.

Proponent claimed further that the blend prices of the Iowa order have deteriorated over the past year in relation to the Upper Midwest order. Yet, no group of producers has switched from the Iowa order to the Upper Midwest order as one might expect under such conditions. In fact, the operator of a supply plant at Pine Island, Minnesota, which has the Upper Midwest order as an alternative market, has continued the plant's association with the Iowa order and opposes the adoption of provisions that might force the plant to go off the Iowa market.

It is significant that no other proprietary handler testified cercerning a present or potential milk shortage for Iowa pool distributing plants. One proprietary handler specifically denied that such shortage exists or is prospective and opposed proponent's proposal to increase the shipping percentages, or in the alternative, to provide for temporary changes in the percentages.

It must be concluded that neither the market as a whole nor proponent individually has experienced a shortage of milk for Class I use that warrants an increase in the shipping standards for supply plants. We cannot agree with proponent that the Department has an obligation when establishing the pooling provisions of an order to assure individual handlers of a total supply of milk for all uses. The test of order provisions is whether fluid milk distributors are being adequately supplied with milk for Class I use. This objective is being met for the Iowa market as a whole and for proponent individually.

For these reasons, the Iowa order should not be amended to increase, on a permanent basis, the supply plant shipping percentages.

The order should be amended, however, to provide that the Director of the Dairy Division may increase or decrease the supply plant shipping percentages by up to 10 percentage points when needed to increase shipments to distributing plants for Class I use or to prevent uneconomic shipments for pooling purposes. Before making any revision, the Director should investigate the need for revision, either on his own initiative or at the request of interested persons. If the investigation shows that a revision may be appropriate, the Director should issue a notice stating that a temporary revision of the shipping standards is being considered and inviting views of interested persons with respect to the proposed revision.

The record of this hearing suggests the possibility that unforeseen changes could occur in either milk production or in Class I sales that might justify an immediate but temporary change in the supply plant shipping percentages. Under the current order provisions, a change in the shipping percentages can be made only through the hearing process or by suspension.

Changes in the relationship of milk supplies to sales could occur if a supply plant with substantial milk receipts temporarily switched from the Iowa market to some other market. The situation might warrant a temporary increase in the Iowa order shipping percentages. In such case, neither the time-consuming hearing process nor a suspension action would be appropriate. The emergency might come and go before an order amendment could be made by the hearing process. A suspension action would be incapable of increasing shipping standards because such action can be used only to delete existing provisions temporarily. The limited modification of the shipping percentages by the Director of the Dairy Division, as provided herein, would permit such a change to be made. This limited variation of the shipping percentages would provide the adaptation to current conditions which the proponent and supporters of this alternative proposal desire.

One cooperative that opposed the alternative proposal did so on the basis that the hearing process is a better basis for changing the pooling provisions and is practical because marketing conditions do not change that rapidly.

The other cooperative that opposed the alternative proposal at the hearing did so on the basis that any increase in the shipping standards that might result would increase costs for the association in maintaining the pool status of its supply plant. In a post-hearing brief, however, the representative of the cooperative elaborated on its position after evaluating the testimony and evidence in the hearing record concerning the issue. In its brief, the cooperative opposed the alternative proposal on the grounds that: (1) It would put an undue burden of responsibility on the Director of the Dairy Division, (2) the proposal does not provide a means for the Director to make a determination, (3) the hearing process is a better method of deciding shipping requirements, and (4) it would add an unknown factor to the process of supplying milk to the market, thereby creating doubt and uncertainty. The cooperative was particularly concerned about the latter point. It stressed that handlers determine the need for milk supplies prior to the fall months and that cooperatives and supply plants use these determinations to decide on the markets to which they should attach their milk supplies. In the cooperative's view, prior knowledge of shipping requirements is essential to this decision-making process.

These are valid considerations. We cannot agree, however, that the provisions provided herein would put an undue burden of responsibility on the Director of the Dairy Division. Changes in the shipping standards would not be made without a careful review of the marketing conditions involved. In addition, industry and other views would be sought and carefully studied. These procedure should provide a good foundation for any temporary revision of shipping percentages for the Iowa market.

The provisions provided herein detail the steps by which the Director can make a determination concerning a temporary revison of the Iowa supply plant shipping percentages. This should meet one of the concerns expressed by the cooperative association.

We agree that the hearing process is the preferable method of considering changes in the shipping requirements, and this is the method that is followed in considering any amendment to a Federal milk order. It provides the ideal means of public participation in considering what the provisions of a milk order should be. Nevertheless, some flexibility is desirable to deal with possible emergency situations that cannot be resolved, in a timely way, by the hearing process or by suspension procedures.

As indicated, the cooperative emphasized that handlers determine the need for milk supplies prior to the fall months, and that cooperatives and supply plants use these determinations to decide on the markets to which they should attach milk supplies. In the cooperative's view, prior knowledge of shipping requirements is essential to this decision-making process. We cannot see that provisions for a temporary change in the shipping percentages would interfere with the process in any significant way.

[1] Official notice is taken of the Secretary's decision on proposed amendments to the Des Moines, Iowa, and certain other orders that was issued on March 16, 1977 (42 FR 15849-50).

The provisions provided herein reflect the possibility that some unforeseen circumstance might alter the relationship of supplies to sales in such a way that a temporary increase in shipping percentages is necessary to associate adequate supplies of milk with the market for fluid use. Similarly, action might be needed to reduce the percentages temporarily to prevent uneconomic shipments solely for pooling. The provisions provided herein for temporary changes in the shipping percentages will provide a desirable degree of flexibility to augment the pooling provisions for supply plants.

The temporary revision provided herein is limited to a maximum change of 10 percentage points. The handler who proposed the provisions initially modified the proposal at the hearing to provide that the shipping percentage could be changed up to 15 percentage points in the months of September through November. However, no basis was presented for differentiating the provisions on a seasonal basis. An emergency situation could occur at any time of the year and could involve uneconomic shipments of milk as well as the need to have a larger proportion of a supply plant's receipts moved to distributing plants. The changes adopted herein should be appropriate in providing the flexibility that may be needed to assure the maintenance of orderly marketing on a continuing basis.

It is possible that a temporary reduction in the shipping percentage could result in the unintended pooling of a plant that is normally regulated under another order but which also makes shipments to the Iowa market. Unless the plant operator were able to make unforeseen adjustments in his shipping arrangements, it is possible that his normal level of shipments could result in the plant meeting the reduced Iowa shipping standards. This is not conducive to orderly marketing. For this reason, it is provided that no supply plant may qualify as a pool plant due to the temporary reduction in the shipping percentage unless it had been a pool supply plant during each of the immediately preceding 3 months. A supply plant not meeting the 3-month requirement could be pooled only by meeting the regular shipping percentages for the month.

(b) *Unit pooling.* The proposal to confine the unit pooling of supply plants to plants under the control of a single handler should not be adopted.

The order now provides that two or more supply plants operated by the same handler or by one or more cooperative associations may qualify for pooling as a unit if the unit meets the same shipping requirements that are applicable to a single plant.

The proprietary handler who proposed that the supply plan shipping percentages be increased also proposed this proposal as part of a "package" to make more milk available to the distributing plants of proprietary handlers. Proponent pointed out that the supply plant unit pooling provision is presently being used by the two larger cooperatives serving the market, with a plant of each cooperative being included in one unit. The handler testified that the unit pooling provisions should be restricted as proposed because, in his view, the present provisions are not operating as intended. He stated that the purpose of the present provisions was to allow single-plant cooperatives to operate as a unit for pooling purposes. He claimed that the provision is not being used by such cooperatives but by large multi-plant cooperatives. In proponent's view, requiring the plants in a unit to be owned by a single handler offers the potential that more milk would be made available to proprietary distributing plants.

The proposal was opposed by three cooperative associations on the ground that unit pooling represents an efficient method of supplying the market with milk. In the view of the cooperatives' spokesmen, unit pooling has been a successful innovation for the market.

The Iowa order provides year-round shipping requirements for supply plants that vary seasonally. In the fall and winter of 1977, shipments by the one supply plant unit in the market substantially exceeded the shipments that would have been required of single plants in the absence of the unit provision. During the flush production months of 1978, the shipments of one of the plants in the unit declined to about 10 percent of its receipts. If the unit had not been in operation, additional shipments would have been necessary to maintain the pool status of the plant. As it was, the second plant in the unit had sufficient shipments to qualify both plants. This means that a substantial quantity of milk was available to the market when needed, but that uneconomic movements of milk in the flush to qualify the plant singly were not required.

The purpose of the provision is to facilitate the pooling of milk that is associated with the market and to do so by eliminating energy-wasting shipments solely for pooling purposes. Although proponent stated that the purpose of the provision is to allow only single-plant cooperatives to operate as a unit for pooling purposes, this is not the case. Multi-plant cooperatives may have a valid need for using unit pooling and should be able to avail themselves of this pooling arrangement.

No evidence was presented from which it may be concluded that unit pooling of supply plants by two or more cooperatives threatens the availability of an adequate supply of milk for proprietary distributing plants. Proponent testified that in 1977 his firm had no difficulty obtaining all the milk needed for its operations, both Class I and Class II. Although proponent testified that he was having difficulty in 1978 in getting a sufficient supply of milk for his total operation, the record indicates that both the market and proponent are adequately supplied, presently and prospectively, with milk for Class I needs. There is no basis for concluding that the unit pooling provision will adversely affect the availability of an adequate supply of milk for fluid purposes in the Iowa marketing area. For these reasons, the proposal is denied.

The order should not be amended to allow a proprietary handler operating a supply plant to form a supply plant unit with one or more cooperatives. A proposal to do so was made by a trade association of proprietary plants. As originally proposed, the proposal also would have allowed unit pooling for a distributing plant and one or more supply plants. Proponent dropped this aspect of the proposal at the hearing.

The proposal was opposed by three cooperative associations supplying the Iowa market.

While the proposal was sponsored by a trade association of about 30 proprietary plants, only four of the plants are interested in being associated with the Iowa pool by means of the proposed order change. The four plants are in Grant County, Wisconsin, which is in the southwestern part of the State. The plants, which manufacture cheese, are now regulated by the Chicago Regional order.

The witness for proponent stated that in the Grant County area the Iowa blend price is about 20 cents higher than the Chicago blend price. He indicated that the four cheese plant operators experience strong competition from the Iowa market for milk supplies and that they must pay extra money from plant earnings to keep their producers. He stated that the cost of transporting milk from any of the four plants to Iowa distributing plants makes it economically impractical for the cheese plants to ship milk to such distributing plants.

The purpose of the proposal, as stated by proponent, is to enable the plants to associate with the Iowa market through unit pooling. In this way, he said, the plants could share in the Iowa Class I sales and obtain funds from the Iowa pool to pay their Grade A producers the Iowa blend

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price. In proponent's view, this would enable the plants to retain their Grade A producers in competition with the Iowa market and thereby assure the plants of a continuing supply of milk for cheese manufacture. Proponent's spokesman stated that the plants would be willing to pay a qualifying charge to an Iowa cooperative and ship some Grade A milk (a minimum quantity) to the market for Class I use. He testified that when Grade A producers in the Grant County area associate themselves on a direct-ship basis with the Iowa market they incur transportation costs to get their milk delivered to Iowa pool distributing plants. If proponent's proposal were adopted, the milk of such producers could be pooled under the Iowa order without having to be shipped.

The spokesman for the four plants testified that adoption of the proposal would make additional milk available to the market to supply any Class I shortage and also would provide access to additional manufacturing capacity for reserve milk not needed for fluid use.

It is significant that proponent testified that adoption of the unit pooling proposal by the four proprietary plants would make additional milk available to the Iowa market to supply any shortage of milk for Class I use. The record established that there is no shortage of milk for Class I use in the Iowa market and there is not likely to be in the foreseeable future. Also, there is no basis in the record of this hearing to conclude that the Iowa market is having any problem with the disposition of surplus milk that would require the additional manufacturing capacity that proponent inicated would be a benefit to the market if the proposal were adopted. Adoption of the proposal is not needed for these reasons.

It is observed that the operating function of the four proprietary plants is to manufacture cheese and that the chief interest of the plant operators is to assure a continuing supply of Grade A milk for the plants. Their proposal is aimed at obtaining funds from the Iowa pool to help the plant operators in paying competitive prices to producers in the Grant County, Wisconsin, area to keep them associated with the cheese plants. Any milk that would be supplied to the Iowa fluid market under the scheme would be merely incidental to the plan, and would be the least quantity possible since the primary objective of the plants is to manufacture cheese. From the record it cannot be concluded that the primary function of the plants, or even a minor function, would be to supply the Iowa market with any part of its fluid milk needs.

The unit pooling that is now provided by the order enables cooperative associations that are supplying the fluid milk needs of the market to perform the function more effeciently. Such cooperatives organize the supply of Grade A producers who are associated with the Iowa market and arrange for the necessary transportation. They deliver milk to distributing plants in the quantities agreed upon with the plants and dispose of the milk not needed for fluid use. These marketwide balancing activities are in contrast to the four cheese plants whose function, understandably, is to secure a supply of milk to manufacture their specialty products and to market them effectively.

The present unit pooling provisions of the order also accommodate any proprietary handler whose primary function is to supply the fluid milk needs of the market. In such instance, the handler may unit pool two or more of his supply plants to achieve the same supply efficiencies previously described for cooperative associations.

It is concluded that the present unit pooling provisions of the order are operating effectively, as intended, and that the record of this hearing does not establish the need to revise the provisions as proposed by the four proprietary plants. Accordingly, the proposal is denied.

3. *Handler definition.* Section 1079.9(c) of the handler definition should be revised to include a cooperative association that receives bulk tank milk at a producer's farm for delivery to its *own* pool plant. Also, § 1079.9(b) should be revised to include a cooperative association that diverts milk from its *own* pool plant.

The present handler definition provides in § 1079.9(c) that a cooperative association shall be the handler for milk that it receives for its account from the farm of a producer for delivery to the pool plant of *another* handler in a tank truck owned and operated by, or under the control of, such cooperative. Also, a cooperative association is the handler under § 1079.9(b) for producer milk that it diverts to a nonpool plant from the pool plant of *another* handler. For milk that is received at or diverted from the pool plant of a cooperative association, the order provides that such receipts and diversions shall be reported on an individual plant basis in the same way that proprietary handlers report receipts and diversions for their plants.

A cooperative association that operates four distributing plants and a supply plant that are regulated under the order proposed the adopted changes to simplify its accounting for milk and butterfat. Proponent claimed that these changes would allow it to include on a single report informaton that now must be segregated for inclusion in several reports.

A proprietary handler opposed the proposal to permit a cooperative association to be a handler under § 1079.9(b) for milk that it diverts to a nonpool plant from its own pool plant. The handler opposed the proposal in connection with his general position that the order should make more milk available to proprietary distributing plants.

The order should permit a cooperative association to submit a single report that includes all of its receipts of milk from producers and all of its diverted milk, irrespective of whether the milk is associated with plants of other handlers or the cooperative's own plants. The proponent cooperative association maintains at its headquarters records of its total operations for the market. Such information includes the total pounds and butterfat test of milk received from each producer and data regarding deliveries of such milk to pool plants and diversions to nonpool plants. Since different loads of milk from the same group of producers usually go to several plants during the month (including the cooperative's own pool plants, pool plants of other handlers and nonpool plants), it is necessary for the cooperative to determine which loads of milk were associated with each of its own pool plants, including diversions from such plants to nonpool plants. This information is then reported to each of the cooperative's plants and added to the information contained in the individual plant's report. Specifying that the cooperative association shall be a handler pursuant to § 1079.9(b) and (c) with respect to the quantity of milk received at producers' farms for delivery to its own pool plants or diverted from such plants to nonpool plants would eliminate this extra bookkeeping expense.

The opposition of the proprietary handler to the adoption of the proposal is without merit. The single purpose of the handler in opposing the proposal was to make more milk available to proprietary distributing plants. As indicated in this decision, the pool distributing plants serving the market are presently and prospectively adequately supplied with milk. Accordingly, the basis advanced by proponent for denying the proposal does not provide the ground for doing so.

Making a cooperative association the § 1079.9(c) handler on deliveries of milk to its own distributing plant also is desirable for the purpose of permitting these deliveries to be counted as qualifying shipments for pooling a supply plant of the cooperative. The order now provides that milk that is direct-delivered by a cooperative from farms to the pool plant of another handler may be counted in determining the pool plant status of the cooperative's supply plant. At present, these provisions are suspended through April 1979. The effect of the suspension has been to permit the direct-deliveries by a cooperative from farms to its own distributing plant to be included as a qualifying shipment for pooling a cooperative association's supply plant.

It is appropriate that such deliveries be included as qualifying shipments for pooling a cooperative association's supply plant. Proponent operates a reload station near Davenport, Iowa, a pool supply plant at Dubuque, Iowa, and a pool distributing plant at Rock Island, Illinois. The provisions provided herein will enable the cooperative to ship milk directly from producers' farms to the nearby Rock Island distributing plant and have such deliveries count in qualifying the supply plant at Dubuque. Otherwise, quantities of the milk close to the Rock Island plant would have to be directed elsewhere to provide room at the plant for qualifying shipments from the supply plant. This would entail energy-wasting movements of milk by the cooperative which supplies a substantial proportion of the fluid milk needs of the Iowa market. The provisions provided herein will make these uneconomic shipments of milk unnecessary.

The witness for another cooperative association proposed that diversions by a cooperative association from its own distributing plant not be included in the plant's receipts for purposes of determining its pool plant status. The order now provides that milk diverted by a cooperative association from the distributing plant of another handler not be included in the plant's receipts for purposes of determining the plant's pool plant status. However, when a cooperative association diverts milk from its own distributing plant, the milk is considered as a diversion from the plant and must be accounted for separately from diversions by the cooperative association from other plants.

The witness for the association testified that prior to February 1, 1978, the cooperative association had supplied a proprietary handler's pool distributing plant with its total fluid milk requirements. Milk in excess of the handler's needs was diverted to the cooperative's manufacturing plant as producer milk. At that time none of the diverted milk was included in the handler's receipts for pooling purposes.

On February 1 the cooperative association acquired this distributing plant and now the diversions are included in the plant's receipts. Thus, he stated, the status of pooling the same quantity of milk has changed. Although the total amount of milk diverted by the cooperative is within the diversion limitations that would apply to a § 1079.9(b) handler the cooperative is having difficulty keeping the distributing plant pooled because its diversions cause the plant to fall below the minimum route disposition percentages. The witness claimed that the cooperative could deliver the producer milk to another handler's pool plant and then divert the milk. This, he stated, would be a wasteful exercise.

It is not necessary to include diversions in a plant's receipts when the diverting cooperative operates the plant and exclude such diversions when diverted from another handler's plant. Diversion limitations are set forth in the order that limit the total quantity of producer milk a cooperative association may divert. These provisions effectively limit diversions by a cooperative association to an appropriate level without the necessity of including such diversions as part of the plant's receipts.

4. *Producer definition.* A proposal to amend the "producer" definition of the order should not be adopted.

The producer definition of the order provides that a producer is a dairy farmer who produces Grade A milk and whose milk is received at a pool plant or diverted from a pool plant. The definition excludes a producer-handler and a government institution (such as a university) that produces milk.

A proprietary handler proposed that the definition be amended to exclude a dairy farmer from being an Iowa order producer during the months of January through August if the dairy farmer had been a producer under the St. Louis-Ozarks, Central Illinois, or Southern Illinois orders during the preceding months of September through December. The orders cited provide for seasonal incentive payment plans, which are commonly referred to as "Louisville" plans.

A seasonal incentive payment plan provides that a specified amount of money be withheld from the total pool value in each of several spring months and put into a special fund. In each of several fall months, a proportion of the total amount withheld is paid to producers. The plan is intended to encourage more even production throughout the year.

The proposal was presented by the proprietary handler as part of a package of proposals aimed at making additional supplies of milk available to proprietary distributing plants. In proponent's view, the Iowa market should not absorb seasonal reserve supplies of milk from the three nearby Louisville plan markets. Proponent claimed that this occurs when some of the cooperatives that supply the Iowa market shift producers to those markets in the fall "payout" months and bring them back to the Iowa market for the other months of the year. It was claimed that this shifting of producers tends to lessen the availability of milk supplies in that the Iowa blend prices are depressed "further" during the surplus production months from the influx of producers and during the short production period producers are leaving the market.

Proponent's view is that the proposed change is consistent with the Iowa promulgation decision which established supply plant pooling standards that require continuous association of supply plants with distributing plant outlets. A specific portion of the Iowa final decision previously referred to was quoted as a basis for this view. The quotation is as follows:

"... the pooling standards should require pool milk to be continuously associated with the fluid use outlets as a basis of pooling. Otherwise, excessive supplies of milk could be tied up for manufacturing use at Iowa locations when it is needed for fluid use in Iowa or in more southerly deficit markets. This would tend to force shipment of milk from the more northerly reserve milk supply areas of Minnesota and Wisconsin for bottling use which would entail greater transportation costs.

"Additionally, pooling standards that require continuous association with distributing plant outlets need to be maintained so that the reserve milk supplies in the production area that are pooled on more southerly markets will not be shifted to the Iowa pool during the flush production season. Any such shift of milk supplies seasonally could be accomplished rather easily by handlers who operate pool plants in both markets. Moreover, the seasonal incentive payment plans in the Central Illinois, Southern Illinois, and St. Louis-Ozarks Federal order markets result in seasonal uniform price differences that would encourage such shifts of milk to the Iowa pool in the absence of shipping requirements." [2]

The proposal was opposed by two cooperatives supplying the Iowa market on the ground that the shifting of some producers to other markets in the fall and winter months does not adversely affect the availability of milk to meet the Class I needs of the Iowa market.

It is significant that the supply plant shipping standards of the Iowa order were intended to deal with the above-mentioned circumstances. One of the issues in this proceeding is whether such shipping standards should be increased. The additional issue presented by proponent is

[2] 42 FR 15850

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whether the producer definition of the order needs to be amended as an additional means of dealing with the above-mentioned circumstances. In this connection, proponent's statement of the need to adopt the proposal rests on an alleged serious shortage of milk for Class I at the distributing plants of proprietary handlers. This proposed change of proponent is one of several designed to assure greater supplies.

Proponent testified that some producers had been shifted off the Iowa market to the three markets cited in the fall of 1977, and that this had depleted the availability of milk for fluid use in the Iowa market. In September 1977, presumably after the producers had shifted, the Iowa market had a Class I utilization of 50 percent of producer receipts. For the months of October, November, and December, it was 50 percent, 52 percent, and 49 percent, respectively. There is no basis for determining from the record precisely how much the total supply of milk for the Iowa market was depleted by a shift of some producers to other markets. However, it cannot be concluded that whatever shift occurred resulted in a shortage of milk for Class I use.

Proponent pointed particularly to the fact that an Iowa supply plant at Sully, Iowa (relatively close to Des Moines) had been shifted to the St. Louis market in the fall months of 1977. He stated that the producers who supply the plant had previously supplied him with milk. However, the record suggests that this source of supply for proponent's plant was discontinued several years ago when proponent substantially reduced purchases from the cooperative that operates the Sully plant. In any case, at the time of the hearing, the Sully plant was associated with the Iowa market and the operators testified that it had already been decided to keep it associated with the Iowa market.

It was concluded earlier in this decision that there is no shortage of milk for Class I either for the market or for the proponent. As the alleged severe shortage of milk was the chief basis advanced by proponent for adopting the proposal to amend the producer definition, there is no basis for doing so in this record.

The representative of a cooperative testified that in the past his association had shifted some producers from the Iowa market in the fall months to the Central and Southern Illinois markets. The spokesman stated that it had already been decided at the time of the hearing that the quantity of milk involved would not be increased this year.

One of the cooperatives that opposed the proposal is a substantial supplier of milk to the St. Louis-Ozarks market and the Iowa market. A spokesman for the cooperative testified that during the fall and winter months the cooperative supplements the supply for the relatively large St. Louis-Ozarks market with milk from southeastern and eastern Iowa and from Kansas, Wisconsin and Minnesota. This has been a practice for the past 10 years. To require continuous association of the eastern Iowa supply with the Iowa market would mean that milk from the producers involved would have to be received first at the supply plant at Sully, Iowa, which would involve an uneconomic movement of milk in the opposite direction from where the milk is needed as a seasonal supplemental supply.

For this reason the proposal is denied and further, it is not apparent from this record that the proposal is needed as an adjunct to the supply plant pooling provisions of the order, as claimed by proponent. Accordingly, the proposal is denied.

5. *Plant location adjustments.* The proposal to change the pricing zone for Boone and Story Counties, Iowa, from Zone 1 to Zone 2 should not be adopted. The proposed zone change would have reduced the Class I price 7 cents per hundredweight in these two counties.

Two regulated handlers who operate distributing plants at Boone, in Boone County, proposed the change in pricing zones. The witness for the two handlers testified that prior to December 1971, Boone and Story Counties were priced 10 cents below Des Moines. However, at a public hearing held in 1971, a Des Moines handler proposed that this minus location adjustment be removed. The witness claimed that apparently since there was no opposition to the proposal, the minus 10 cents was removed effective December 1, 1971. He contented that there was no economic evidence provided at the 1971 hearing to support the zone change.

The witness testified that the Boone handlers distribute milk only in Boone and Story Counties and that they compete extensively with handlers to the south and north of them. He cited handlers in Des Moines and Marshalltown, Iowa, and Rochester, Minnesota, with whom they compete. He contended that the present pricing structure places the two handlers at a competitive disadvantage with these major competitors.

On the basis of this record, it is concluded that the price in Boone and Story Counties should continue to be the same as the price at Des Moines. The primary contention of the Boone handlers is that the current pricing structure puts them at a competitive disadvantage with plants in Des Moines and Rochester that distribute milk in Boone and Story Counties. With respect to Des Moines handlers, this would not appear to be the case since the Boone and Des Moines handlers have the same Class I price. In addition, the Des Moines handlers bear the cost of transporting the packaged fluid milk products about 40 miles to deliver it to outlets in the Boone-Story area. Proponents' witness acknowledged that it costs more than 7 cents per hundredweight to deliver packaged products that distance.

With respect to the competitive situation with the Rochester plant, it is noted that the cost of transporting packaged fluid milk products is at least 1.5 cents per hundredweight per 10 miles, which is the location adjustment rate provided under the order. Under the Upper Midwest order, the Rochester plant has a Class I differential of $1.12 per hundredweight. Since Rochester is about 200 miles from Boone, the cost of transporting milk from Rochester to Boone is at least 30 cents per hundredweight. Thus, the Rochester plant has an effective Class I differential of $1.42 at Boone compared to a Class I differential of $1.40 under the Iowa order at Boone.

These figures refute proponents' argument that the order prices put Boone at a disadvantage with its competition from Des Moines and Rochester.

The cooperative association that supplies milk to the Boone handlers opposed the proposal. The witness for the cooperative testified that if the Class I differential at Boone were lowered 7 cents, it is questionable whether the Boone handlers could obtain an adequate supply of milk since producers would take a 7-cent reduction in price. He claimed it is unlikely that producers would accept such a decrease in price because producer milk could be shifted from Boone to Des Moines at the same transportation cost. Therefore, even if the order price were reduced, as proposed, in all probability the Boone handlers would still have to pay the same effective price to the cooperative equal to what they are paying now.

At the time the Iowa orders were considered for merger, an identical proposal was presented by proponents, which was denied. Substantially the same arguments were presented at that time as were presented in this proceeding, and no new points were raised for consideration. There is no basis on the current record for adopting the proposal.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

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General Findings

The following findings and determinations supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they conflict with those set forth below.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions of it would be the same as those contained in the order that is proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Iowa marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1079.7, paragraph (a)(2) is revised, a new paragraph (a)(3) is added, and paragraph (b) is revised to read as follows:

§ 1079.7 Pool plant.

* * * * *

(a) * * *

(2) Not less than 15 percent of such receipts are disposed of as route disposition (except filled milk) in the marketing area; and

(3) A unit consisting of at least two plants of a handler shall be considered as one distributing plant for the purpose of meeting the requirements of this paragraph if:

(i) Fluid milk products are processed and packaged at each plant;

(ii) Each plant meets the requirements of paragraph (a)(2) of this section; and

(iii) The handler notified the market administrator in writing before the first day of the month that the plants should be considered as a unit. The unit shall continue from month to month thereafter without further notification. To add plants to the unit, to drop them, or to discontinue the unit, the handler shall notify the market administrator in writing on or before the first day of the month such change is to be made.

(b) Any plant (which, if qualified pursuant to this paragraph, shall be known as a "pool supply plant") that is approved by a duly constituted regulatory agency for the handling of Grade A milk and from which during the month the volume of bulk fluid milk products transferred to pool distributing plants during each of the months of September through November is 35 percent or more and during each of the months of December through August is 20 percent or more of the total Grade A milk received at the plant from dairy farmers and handlers described in § 1079.9(c), including milk diverted therefrom by the plant operator pursuant to § 1079.13, subject to the following conditions:

(1) The shipping percentages of this paragraph may be increased or decreased up to 10 percentage points by the Director of the Dairy Division if he finds that such revision is necessary to result in needed shipments to pool distributing plants for Class I use, or to prevent uneconomic shipments, subject to the following conditions:

(i) Before making such a finding, the Director shall investigate the need for revision either on his own initiative or at the request of interested persons. If the investigation shows that a revision of the shipping percentage might be appropriate, he shall issue a notice stating that the revision is being considered and invite data, views, and arguments; and

(ii) No plant may qualify as a pool plant due to a reduction in the shipping percentage pursuant to this subparagraph unless it had been a pool supply plant during each of the immediately preceding three months.

(2) For plants located within the States of Iowa, Minnesota, Wisconsin, or that portion if Illinois north of Interstate 80, the shipping requirements of this paragraph may also be met in the following ways:

(i) A cooperative association that operates a supply plant may include as qualifying shipments its deliveries to pool distributing plants directly from farms of producers pursuant to § 1079.9(c);

(ii) A proprietary handler may include as qualifying shipments milk diverted pursuant to § 1079.13(d) to pool distributing plants;

(iii) The operator of a supply plant may include as qualifying shipments transfers of fluid milk products to distributing plants regulated under other Federal orders, except that credit for such transfers shall be limited to the amount of milk, including milk shipped directly from producers' farms, delivered to pool distributing plants under this order; and

(iv) Two or more supply plants operated by the same handler or by one or more cooperative associations may qualify for pooling as a unit by meeting the applicable percentage requirements of this paragraph in the same manner as a single plant if the handler submits a written request to the market administrator prior to the first day of September requesting that such plants qualify as a unit for the period of September through August of the following year.

The request shall list the plants to be included in the unit in the sequence in which they shall qualify for pool plant status based on the minimum deliveries required. If the deliveries made are insufficient to qualify the entire unit for pooling, the plant last on the list shall be excluded from the unit, followed by the plant next-to-last on the list, and continuing in this sequence until remaining plants on the list have met the minimum shipping requirements. Each plant that qualifies as a pool plant within a unit shall continue each month as a plant in the unit through the following August unless the plant fails subsequently to qualify for pooling or the handler submits a written request to the market administrator prior to the first day of the month that the plant be deleted from the unit or that the unit be discontinued. Any plant that has been so deleted from the unit, or that has failed to qualify in any month, will not be part of the unit for the remaining months through August. No plant may be added in any subsequent month through the following August to a unit that qualifies in September.

* * * * *

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2. In § 1079.9, paragraphs (b) and (c) are revised as follows:

§ 1079.9 Handler.

* * * * *

(b) Any cooperative association with respect to milk of a producer that is diverted for the account of the cooperative association from a pool plant in accordance with § 1079.13;

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant in a tank truck owned and operated by, or under the control of, such cooperative association. If the milk is delivered to the pool plant of another handler, the plant operator may be the handler for such milk if both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will purchase such milk on the basis of weights determined from its measurements at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative is the handler pursuant to this paragraph shall be deemed to have been received by the cooperative at the location of the pool plant to which such milk is delivered;

* * * * *

3. In § 1079.42, paragraph (e) is revised as follows:

§ 1079.42 Classification of transfers and diversions.

* * * * *

(e) *Transfers by a handler described in § 1079.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1079.9(c) to a pool plant shall be classified pursuant to § 1079.44 pro rata with producer milk received at the transferee-handler's plant.

4. In § 1079.60, paragraph (g) is revised as follows:

§ 1079.60 Handler's value of milk for computing uniform price.

* * * * *

(g) Subtract, for a handler described in § 1079.9(c) the amount obtained from multiplying the Class III price for the preceding month by the hundredweight of skim milk and butterfat contained in inventory at the beginning of the month that was delivered to a handler's pool plant during the month.

5. In § 1079.71, paragraph (a)(2)(i) is revised as follows:

§ 1079.71 Payments to the producer-settlement fund.

(a) * * *

(2) * * *

(i) The value at the uniform price, as adjusted pursuant to § 1079.75, of such handler's receipts of producer milk and milk received from a handler described in § 1079.9(c). In the case of a handler described in § 1079.9(c), less the amount due from handlers pursuant to § 1079.73, exclusive of differential butterfat values; and

* * * * *

NOTE.—This recommended decision constitutes the Department's Draft Impact Analysis Statement for this proceeding.

Signed at Washington, D.C., on: January 25, 1979.

JAMES E. SPRINGFIELD,
Acting Deputy Administrator,
Marketing Program Operations.

[FR Doc. 79-3170 Filed 1-29-79; 8:45 am]

[3410-34-M]

Animal and Plant Health Inspection Service

[9 CFR Part 91]

ANIMAL EXPORT REGULATIONS

Mexican and Canadian Ports of Embarkation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the animal export regulations by deleting the provisions relating to certain Mexican and all Canadian border ports of embarkation. These border ports of embarkation no longer appear necessary for the exportation of animals to Mexico and Canada because such countries have ports of entry and require inspection of animals prior to their importation into their respective countries, and this country inspects such animals at their point of origin. This document also proposes to correct oversights and typographical errors which exist in the present animal export regulations. The intended effect of this action is to remove the requirement that animals be exported to Mexico and Canada through specified border ports of embarkation and to correct oversights and errors in the present regulations.

DATE: Comments on or before April 2, 1979.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 821, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Harold A. Waters, USDA, APHIS, VS, Room 826, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8383.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to (21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 612, 613, 614, 618; 46 U.S.C. 466a, 466b): 37 FR 28464, 28477; 38 FR 19141, the Animal and Plant Health Inspection Service is considering amending Part 91, Title 9, of the Code of Federal Regulations.

It is proposed that § 91.3(a) of the regulations be amended to remove the requirement that animals being exported to Mexico and Canada must be exported through ports of embarkation listed in § 91.3(a) or through ports designated in special cases by the Deputy Administrator. Both Canada and Mexico have inspection stations at their borders with the United States and at all other places at which they will accept shipments of animals. Animals being exported from the United States to Mexico or Canada are inspected by representatives of those respective countries at such inspection stations, and, prior to entry into those countries, the animals must meet the requirements of the respective country. The Department presently inspects such animals at the location from which such animals are originally moved for export. A requirement that such animals must be exported through ports of embarkation listed in § 91.3(a) or through ports designated in special cases by the Deputy Administrator and be inspected again by the Department appears to be a needless duplication of effort.

This proposal would also delete certain Mexican and all Canadian border ports listed in § 91.3(a)(3) and (4). The Canadian ports of embarkation would no longer be necessary since this proposal would remove the requirement that animals being exported to Canada be exported through such ports of embarkation. Ports of embarkation along the Mexican border would no longer be necessary for exports intended for Mexico since this proposal would remove the requirement that animals being exported to Mexico be exported through such ports of embarkation. However, the Mexican border ports of Brownsville, Laredo, Eagle Pass, Del Rio, and El Paso, Texas, would be retained for exports by land intended for countries other than Mexico but transiting Mexico.

Present footnote 3 and references thereto would be deleted. This footnote provides an address at which further information regarding Canadian border ports listed in § 91.3(a)(4) may be obtained. This footnote would no

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longer be necessary since this proposal would delete the list of Canadian border ports contained in § 91.3(a)(4).

A new footnote 3 would be added to inform affected persons where they may obtain a list of cooperating State-Federal laboratories.

This proposal would amend § 91.6(a) to exclude animals being exported to Mexico or Canada from the requirement that all animals offered for exportation to any foreign country must be inspected by a Veterinary Services veterinarian at an export inspection facility at a port designated in § 91.3(a), or at a port or inspection facility designated by the Deputy Administrator in a special case under § 91.3(b). This requirement would no longer be necessary since this proposal would remove the requirement that animals being exported to Mexico or Canada be exported through such export inspection facilities. Further, representatives of Mexico and Canada presently inspect animals being exported from the United States into their respective countries.

Present § 91.6(d) states that the requirements of § 91.6(a) and (b) shall not apply in the case of animals offered for exportation to Canada through ports along the United States-Canada land border designated in § 91.3(a)(4) or for exportation to Mexico through ports along the United States-Mexico land border designated in § 91.3(a)(3) if the animals are accompanied by an origin health certificate issued and endorsed in accordance with the requirements of § 91.4(a). Section 91.6(c) would no longer be necessary since this proposal would delete the requirement that animals being exported to Mexico or Canada be exported through ports of embarkation designated in § 91.3(a) or (b). Therefore, it is proposed that § 91.6(d) be deleted.

This proposal would amend § 91.3(c)(1) by requiring that inspection facilities at ports of embarkation designated under § 91.3(a) and (b) have a roof adequate to protect the animals from inclement weather over at least three-fourths of the pens and alleys and over all of the inspection area. The present regulation contains a similar requirement in § 91.3(c)(3). This proposal would delete the reference to roof requirements in § 91.3(c)(3). The Department believes that it is more appropriate to place the roof requirements in § 91.3(c)(1) because this subparagraph contains requirements for floors, fences, gates and other parts of the facility. Further, this proposal would add the requirement that the roof cover the entire inspection area. This additional requirement is believed to be necessary because the animals spend a significant amount of time in the inspection area and a roof over such area is necessary to protect the animals being inspected and the persons conducting such inspection from inclement weather. This will also facilitate the inspections during inclement weather.

The proposal would amend § 91.3(b) to add as a condition for designation as a special port by the Deputy Administrator the requirement that the exporter can show to the satisfaction of the Deputy Administrator that the animals to be exported would suffer undue hardship if they are required to be moved to a port of export listed in § 91.3(a). This requirement would be added as a further justification for designation of special ports as ports of embarkation by the Deputy Administrator and should discourage the unnecessary use of this procedure. The reference to the Bureau of Customs has been changed to Director of Customs because it is the Director and not the Bureau who must concur with the Deputy Administrator. Further, the references to designation of inspection facilities in § 91.3(b) has been deleted since only ports having proper inspection facilities are designated as ports of embarkation.

This proposal would amend § 91.3(c)(3) to require that there be a separate area in each facility available for inspection and identification of the animals. This requirement would be added so that animals to be inspected and identified could be separated from the other animals in the facility and thereby facilitate such inspection and identification. This proposal would also amend § 91.3(c)(3) to require that pens and animal restraining devices sufficient for the inspection and identification of each animal be provided in this area of the facility. Presently, § 91.3(c)(3) specifies that a squeeze chute or similar restraining device and a crowding pen or pens be available for individual animal inspection and identification. As written § 91.3(c)(3) is ineffective because squeeze chutes and crowding pens are not necessary or effective for the inspection and identification of all animals. this proposal would correct this situation by requiring that pens and restraining devices shall be provided which are sufficient for the inspection and identification of each animal.

Section 91.4(a) currently requires that animals intended for exportation to Mexico or Canada be accompanied by an origin health certificate to the port of embarkation. Since this proposal would delete the requirement that animals intended for exportation to Mexico or Canada be exported through ports of embarkation, it is proposed that § 91.4(a) be amended to require that such animals be accompanied by the origin health certificate to the United States border. Other minor editorial changes were made for clarity and ease of reading in § 91.4(a).

It is proposed that § 91.4(b) be amended to exclude animals being exported to Canada or Mexico from the requirement that they be inspected, tested, or treated in the manner prescribed in Part 91 prior to the movement of the export shipment to the export inspection facility. This requirement would no longer be necessary since this proposal would delete the requirement that animals being exported to Mexico or Canada be exported through such export inspection facilities. However, these inspection, testing and treatment requirements would be replaced by requiring that all animals intended for export to Canada or Mexico be inspected, tested, or treated in the manner prescribed in Part 91 prior to the movement of the animals from the State of origin. Certain other amendments would be made for editorial reasons.

It is also proposed that the reference to "§ 91.5(b)(5)" in § 91.4(b) and the reference to "§ 915" in § 91.4(c), typographical errors, be corrected to read "§ 91.5(b)" and "§ 91.5" respectively, as originally intended.

It is also proposed that the last sentence in § 91.4(c) be amended to require that the test for brucellosis be conducted in a cooperating State-Federal laboratory in accordance with the Recommended Brucellosis Eradication Uniform Methods and Rules. the Uniform Methods and Rules allow blood samples to be tested by cooperating State-Federal laboratories or by such persons as may be authorized to conduct the standard agglutination tests or card tests. All samples initially tested at other than a cooperating State-Federal laboratory are required to be submitted and confirmed at the cooperating State-Federal laboratory. Under the present regulations some exporters have exported animals after the standard agglutination test and card tests were run but prior to their confirmation in a cooperating State-Federal laboratory. It was not the intent of this Department that animals be exported prior to confirmation of tests at a cooperating State-Federal laboratory. In order to eliminate this continuing problem, this proposal would amend § 91.4(c) to require that blood samples be tested only in a Cooperating State-Federal laboratory.

It is proposed that § 91.4(d) be amended to use the word "animals" rather than "livestock," since the word "animals" is defined in Part 91 and the word livestock is not. This proposal conforms with what was originally intended.

It is also proposed that § 91.4(d) be amended to strike the words "from the premises of origin to the port of embarkation", because this proposal

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would not require animals intended for exportation to Canada or Mexico to be exported through such ports of embarkation.

For this reason it is also proposed that the first sentence in § 91.4(e) be amended to require that animals enroute to Canada or Mexico as well as those enroute to ports of embarkation, can be unloaded only into a facility which shall have been cleaned and disinfected with a disinfectant approved under § 71.10 of this Chapter, under the supervision of an inspector or an accredited veterinarian prior to such unloading.

It is also proposed that § 91.4(e) be amended to apply to animals unloaded for any purpose. As presently written, § 91.4(e) only applies to animals unloaded for feed, water, and/or rest. The Department believes that the purpose for unloading the animals has no bearing on cleaning and disinfecting requirements and therefore proposes to delete the words "for feed, water, and/or rest".

It is proposed that § 91.5(a)(2) be amended to exclude steers and spayed heifers from the brucellosis testing requirements. While steers and spayed heifers over six months of age can contract brucellosis, they do not present a risk of the spread of brucellosis because they are not sexually active animals.

Accordingly, Part 91, Title 9, Code of Federal Regulations, would be amended in the following respects:

1. In § 91.3, the second sentence of paragraph (a), would be amended; (a)(3) would be amended; (a)(4) would be deleted; paragraph (b) would be amended; a sentence would be added to the end of (c)(1), and the first two sentences of (c)(3) would be amended as follows:

§ 91.3 Ports of embarkation and export inspection facilities.

(a) * * * All animals, except animals being exported to Mexico or Canada, shall be exported through said ports or through ports designated in special cases under paragraph (b) of this section:

* * * * *

(3) *Border ports.* Brownsville, Laredo, Eagle pass, Del Rio, and El Paso, Texas.
(4) [Deleted]

* * * * *

(b) In special cases, other ports may be designated as ports of embarkation by the Deputy Administrator, with the concurrence of the Director of Customs, when the exporter can show to the satisfaction of the Deputy Administrator that the animals to be exported would suffer undue hardship if they are required to be moved to a port of embarkation listed in § 91.3(a). Such ports shall be designated only if the inspection facilities are approved as meeting the requirements of paragraph (c) of this section.

* * * * *

(c) * * *

(1) *Materials.* * * * The facility shall have a roof adequate to protect the animals from inclement weather over at least three-fourths of the pens and alleys and over all of the inspection area.

* * * * *

(3) *Inspection implements.* The facility shall have a separate area available for inspection and identification of the animals. Pens and animal restraining devices shall be provided in this area which are sufficient for the inspection and identification of each animal. * * *

2. In § 91.4, paragraphs (a), (b), and (d) are revised. Paragraph (c) is amended by changing the reference to "§ 915" to read "§ 91.5", and the last sentence (including footnote 3) would be amended as set forth below, and in paragraph (e) the first sentence is amended as set forth below:

§ 91.4 General export requirements.

(a) All animals intended for exportation to a foreign country, except animals intended for exportation to Mexico or Canada, shall be accompanied from the State of origin of the export movement to the port of embarkation by an origin health certificate. All animals intended for exportation to Mexico or Canada shall be accompanied from the State of origin of the export movement to the border of the United States by an origin health certificate. The origin health certificates shall certify that the animals were inspected within the 30 days prior to the date of the movement of the animals for export, and were found to be sound, healthy, and free from evidence of communicable disease and exposure thereto. The origin health certificates shall be endorsed by an authorized Veterinary Services veterinarian in the State of origin. The origin health certificates shall individually identify the animals in the shipment as to species, breed, sex, and age, and if applicable shall also show registration name and number, tattoo markings, or other natural or acquired markings.

(b) *Inspection.* All animals in each export shipment, except animals intended for export to Mexico or Canada, shall have been inspected, tested, or treated in the manner prescribed in this Part prior to the movement of the export shipment to the export inspection facility. All animals in each export shipment intended for export to Mexico or Canada shall have been inspected, tested, or treated in the manner prescribed in this Part prior to the movement of the animals from the State of origin. The Deputy Administrator may, upon request of the appropriate animal health official of the country of destination, waive the tuberculosis and brucellosis tests referred to in §§ 91.5(a) (1) and (2), 91.5(b), and 91.5(c) of this Part when he finds such tests are not necessary to prevent the exportation of diseased animals from the United States.

* * * * *

(c) *Testing.* * * * The test for brucellosis shall be conducted in a cooperating State-Federal laboratory [3] in accordance with the Recommended Brucellosis Eradication Uniform Methods and Rules.[1]

(d) *Movement in cleaned and disinfected carriers or containers.* The origin health certificate accompanying animals shall be accompanied by a statement from the issuing accredited veterinarian or inspector that the means of conveyance or container has been cleaned and disinfected since last used for animals with a disinfectant approved under § 71.10 of this Chapter, prior to loading, or that the carrier or container has not previously been used in transporting animals.

(e) *Clean and disinfected facilities for unloading animals.* Animals intended for exportation to Mexico or Canada or en route to a port of embarkation shall be unloaded only into a facility which shall have been cleaned and disinfected with a disinfectant approved under § 71.10 of this Chapter, under the supervision of an inspector or an accredited veterinarian prior to such unloading. * * *

3. Section 91.5(a)(2) would be amended to read:

§ 91.5 Specific export requirements.

(a) * * *

(2) *Brucellosis.* All cattle over six months of age shall be negative to a test for brucellosis conducted as prescribed in "Standard Agglutination Test Procedures for the Diagnosis of Brucellosis" [4] or "Supplemental Test Procedures for the Diagnosis of Brucellosis"; [4] except, that such tests are not required for official vaccinates of dairy breeds under 20 months of age, official vaccinates of beef breeds under 24 months of age, or steers and spayed heifers.

4. Section 91.6(a) would be amended to read as follows, and (d) would be deleted.

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[1] * * *

[2] * * *

[3] A list of cooperating State-Federal laboratories may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Hyattsville, Maryland 20782.

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§ 91.6 Inspection of animals for export.

(a) All animals offered for exportation to any foreign country, except Mexico or Canada, shall be inspected by a Veterinary Services veterinarian at an export inspection facility at a port designated in § 91.3(a), or at a port or inspection facility designated by the Deputy Administrator in a special case under § 91.3(b).

* * * * *

(d) [Deleted]

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 825, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 23rd day of January 1979.

Note.—This proposed rulemaking has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations". While this action has not been designated "significant" under those criteria, an approved Draft Impact Analysis Statement has been prepared and is available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. 301-436-8695.

M. T. GOFF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-2854 Filed 1-29-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 211]

[Docket No. ERA-R-78-3]

SMALL REFINER BIAS

Proposed Amendments to Entitlements Program to Reduce the Level of Benefits Received; Extension of Time to File Written Comments

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of extension of time to file written comments.

SUMMARY: On November 14, 1978, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued a notice of proposed rulemaking and public hearing which contained proposed amendments to the entitlements program to reduce the level of benefits available under the small refiner bias (43 FR 54632, November 22, 1978). In that notice, the deadline set for submission of written comments was January 22, 1979. The ERA hereby extends the time for filing written comments on its proposed rulemaking to February 5, 1979.

DATE: The time for filing written comments is extended to February 5, 1979.

FOR FURTHER INFORMATION CONTACT:

Fred Wolgel, Office of General Counsel, Department of Energy, Room 5134, Washington, D.C. 20461, 202-633-8820.

Issued in Washington, D.C., January 24, 1979.

DOUGLAS G. ROBINSON,
Assistant Administrator, Regulations & Emergency Planning, Economic Regulatory Administration.

[FR Doc. 79-3035 Filed 1-29-79; 8:45 am]

[6720-01-M]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 79-63]

FEDERAL SAVINGS AND LOAN SYSTEM

Policy on Branching

JANUARY 24, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Bank Board proposes to remove the 100 mile restriction on branching of Federal savings and loan associations within a state. The Board believes that revoking the 100-mile restriction will enhance consumer services and promote competition.

DATE: Comments must be received by: March 16, 1979.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Asscciate General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 (202-377-6440).

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board's policy on branching of Federal savings and loan associations allows establishment of branch offices or mobile facilities only within 100 miles of the association's home office unless a state policy is less restrictive. Very few states presently restrict branching beyond 100 miles of the association's home office.

Proponents of retention of this restriction have maintained that it protects small state-chartered associations from aggressive competitive pressures. They also maintain that relaxation of the 100-mile restriction for Federal associations would place state associations at a disadvantage because they would continue to be subject to restrictive state banking department policies.

On the other hand, the restriction encumbers the Bank Board's strong pro-branching policy by requiring unequal treatment of branching applications from Federal associations in states with restrictive branching policies.

After careful analysis, the Bank Board has determined that any branch office which meets the criteria for branching should receive due consideration without arbitrary constraints. The Bank Board believes that revoking the 100-mile restriction in § 556.5(b)(3) of the Regulations for the Federal Savings and Loan System (12 CFR 556.5(b)(3)) will enhance consumer services and promote competition.

Accordingly, the Federal Home Loan Bank Board hereby proposes to revoke 12 CFR 556.5(b)(3).

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. § 1454). Reorg. Plan No. 3 of 1947, 12 FR 4931; 3 CFR 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 79-3106 Filed 1-29-79; 8:45 am]

[6720-01-M]

[12 CFR Parts 545, 561, and 563]

[No. 79-62]

FEDERAL SAVINGS AND LOAN SYSTEM AND FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Investment in Farmers' Home Administration Rural Housing Program Guaranteed Loans

JANUARY 24, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed amendments.

SUMMARY: These proposed regulations would authorize Federal savings and loan associations to invest in Farmers' Home Administration Rural Housing Program guaranteed loans on terms acceptable to the guaranteeing agency under certain conditions. The regulations would also authorize Fed-

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eral associations and other institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation to invest in such loans with loan-to-value ratios exceeding 90 percent of value without the usual requirement of private mortgage insurance or special reserves. The Bank Board's present regulations do not permit significant investment in such loans, and the Bank Board believes it would be beneficial both to savings and loan associations and the communities they serve to allow fuller participation in this program.

DATE: Comments must be received by: March 2, 1979.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G. Street, NW., Washington, D.C. 20552. Comments available for public inspection at this address.

FOR FURTHER INFORMATION, CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Telephone number (202) 377-6440.

SUPPLEMENTARY INFORMATION: These amendments would add a new § 545.6-27 to the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) and revise §§ 545.6-7(b) and 545.8(a)(1)(v). New § 545.6-27 would authorize Federal associations to invest in first-lien loans on residential real estate under the Farmers' Home Administration ("FmHA") Rural Housing Program, subject to specified limitations. These limitations are reflected in a technical revision of § 545.6-7(b) ("Percentage limitations for specific types of loans"). The revision of § 545.8(a)(1)(v) would authorize Federal associations to invest in unsecured loans under the program repayable on terms acceptable to FmHA.

The proposed amendments would also revise §§ 561.15(b), 561.17(a) and 563.9-7(b) of the Rules and Regulations for Insurance of Accounts (12 CFR Parts 561 and 563). The unguaranteed portion of slow loans which are guaranteed under this program would be included as scheduled items (§ 561.15(b)) and as specified assets (561.17(a)). The revision of § 563.9-7(b) excludes secured loans under the program which comply with new § 545.6-27 from the otherwise applicable requirement under § 563.9-7(a) of private mortgage insurance or a specific reserve for loans over 90% of value.

Accordingly, the Bank Board hereby proposes to amend 12 CFR Parts 545, 561, and 563 by adding a new § 545.6-27 and amending §§ 545.6-7(b), 545.8(a)(1)(v), 561.15(b), 561.17(a) and 563.9-7(b), as described below.

§ 545.6-7 [Amended]

1. Amend the second sentence of § 545.6-7(b) by deleting the last "and" and inserting immediately before the period at the end the following: ", and § 545.6-27 (Farmers' Home Administration Rural Housing Program guaranteed loans)".

2. Add new § 545.6-27 as follows:

§ 545.6-27 Farmers' Home Administration Rural Housing Program guaranteed loans.

(a) A Federal association may invest in first-lien loans on residential real estate in its regular lending area guaranteed under the Farmers' Home Administration (FmHA) Rural Housing Program without regard to the loan-to-value-ratio, stated-maturity, and private-mortgage-insurance-or-reserve requirements of this part: *Provided*, (1) At least 80 percent of the principal amount and accrued interest of each loan is guaranteed by FmHA under the program; (2) the loan terms are acceptable to FmHA; and (3) such investment will not cuase the aggregate outstanding balance of the non-guaranteed portions of all such loans held by the association to exceed one-half of its net worth.

(b) Federal associations shall maintain records to verify compliance with the requirements for each investment made under paragraph (a) of this section including the loan note guarantee, lender's agreement, and a certification by an officer of the association that the investment limitation has not been exceeded.

§ 545.8 [Amended]

3. Amend the first sentence of § 545.8(a)(1)(v) by inserting immediately before the period at the end the following: "; except that Farmers' Home Administration Rural Housing Program guaranteed loans made pursuant to § 545.6-27 of this part shall be repayable on terms acceptable to the guaranteeing agency."

4. Revise § 561.15(b) to read as follows:

§ 561.15 Scheduled items.

* * * * *

(b) 20 percent of slow loans which are insured or guaranted, or secured by a first lien on low-rent housing; 20 percent of guaranteed obligations upon which one or more interest payments due have not been paid; and 100% of the unguaranteed portion of slow loans which are Farmers' Home Administration Rural Housing Program loans under § 545.6-27 of this chapter.

* * * * *

§ 561.17 [Amended]

5. In § 561.17(a), remove the penultimate "and" and insert immediately before the period at the end the following: ", and less the guaranteed portion of loans which are Farmers' Home Administration Rural Housing Program loans under § 545.6-27 of this chapter.

§ 563.9-7 [Amended]

6. In § 563.9-7(b) insert immediately before the period at the end the following: ", or to investment in Farmers' Home Administration Rural Housing Program guaranteed loans complying with § 545.6-27 of this chapter".

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 79-3105 Filed 1-29-79; 8:45 am]

[7535-01-M]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Amortization and Payment of Loans to Members

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to provide an exception to the provision of 12 CFR 701.21-2. (Amortization and payment of loans to members), which require monthly payments for lines of credit established for members of Federal credit unions. The exception will permit payments on lines of credit at intervals greater than 1 month where appropriate to coincide with the borrower's receipt of income.

DATES: Comments must be received on or before February 24, 1979.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT:

Layne L. Bumgardner, Office of Examination and Insurance at the above address. Telephone (202) 254-8760.

SUPPLEMENTAL INFORMATION: 1. On August 4, 1977, the Administration adopted the current provisions in 12 CFR 701.21-2(a) and 12 CFR 701.21-3(b)(2) which require that approved lines of credit to credit union members provide for a monthly payment. At the time of issuing the final regulation the Administration recognized the primary purpose of a line of credit in a Federal credit union as being a vehicle for providing improved delivery of credit for consumer goods and services to credit union members. For this reason, the Administration determined that a line of credit must be repaid on at least a monthly basis.

2. Since the regulations requiring monthly repayment on lines of credit have been in effect, the Administration has received numerous letters objecting to the requirement as overly restrictive in view of the permissive provisions of Pub. L. 95-22. The objections were received from credit unions servicing employee groups whose members were paid or received income on an irregular basis over the course of the year. These credit unions had provided loans to their members with repayment terms which coincided with their members' receipt of income prior to the issuance of the line of credit regulations.

3. In view of the above objections the Administration has reviewed the existing regulation and determined that an exception to the monthly payment requirement on lines of credit is appropriate. The exception only applies to lines of credit which are extended to persons who receive their income at intervals greater than 1 month. Furthermore, the exception for repayment of lines of credit to a corporate central by its member has been removed from §§ 701.21-2(a) and 701.21-3(b)(2) and now appears in § 701.21-2(b)(2).

4. Section 701.21-1(e) has been reworded to require the documentation of the interval at which a borrower receives income in the loan file. This section also has been amended to clearly require that a member's creditworthiness be documented in the loan file. Section 701.21-1(a)(4) defines a "loan file" as a file which includes a borrower's application for a loan or line of credit. Since an application is used to determine creditworthiness of the borrower, the Administration believed that the regulation was sufficiently clear. However, it has come to the Administration's attention that in certain instances credit union officials have interpreted the requirement of including an application in the loan file as not requiring complete documentation of the borrower's creditworthiness on the application.

LAWRENCE CONNEL,
Administrator.

JANUARY 24, 1979.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

Accordingly, it is proposed that 12 CFR Part 701 be amended as follows:

§ 701.21-1 [Amended]

1. By rewording § 701.21-1(e) to read as follows:

* * * * *

(e) The loan files of a Federal credit union shall contain evidence of the creditworthiness of the borrower and any endorser, the value of any security provided by a borrower, and the amount of funds and the interval at which the borrower receives funds which are intended to be relied upon for repayment of a loan or line of credit.

2. By deleting the wording "other than a member credit union" in the second sentence of § 701.21-2(a).

3. By adding the following subparagraphs after the end of § 701.21-2(b)(2)(ii):

(b) * * *

(2) * * *

(iii) A line of credit may provide for required payments at intervals of greater than 1 month, but not greater than 12 months, where appropriate to coincide with the member/borrower's receipt of income.

(iv) A line of credit extended by a Corporate Central Federal credit union to its member credit union may provide for required payments at intervals of not greater than 12 months.

4. By deleting the word "monthly" and the wording "(or annual payments in the case of a line of credit extended by a Corporate Central Federal credit union to its member credit unions)" in § 701.21-3(b)(2).

[FR Doc. 79-3096 Filed 1-29-79; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 102]

[Docket No. 78P-0096]

COMMON OR USUAL NAME FOR NONSTANDARDIZED FOOD

Merluccius Productus

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The agency proposes to establish "Pacific hake" or "North Pacific hake" as the common or usual name for food fish of the species *Merluccius productus* (*M. productus*). This action is prompted by a petition submitted to the Food and Drug Administration (FDA) by the Pacific Coast Task Force for Whiting Nomenclature. The intent of this proposal is to provide for the orderly marketing of food fish of the species *M. productus* under a name that is understood and acceptable to consumers.

DATES: Written comments by April 2, 1979; proposed effective date of the final regulation based on this proposal is the date of publication of the final regulation in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: FDA has received a petition from the Pacific Coast Task Force for Whiting Nomenclature requesting that a common or usual name regulation be established that would permit the fish species *M. productus* to be marketed as "whiting."

FDA has also received correspondence in support of this petition. Copies of the petition and correspondence in support of the petition have been placed on file in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

The petition proposed that Part 102 (21 CFR Part 102) be amended by adding the following new section:

§ 102.2—

The common or usual name of the food fish, genus *Merluccius*, derived from the following species, is as follows:

Scientific name and Common or usual name
Merluccius productus—Whiting, Pacific whiting, North Pacific whiting; Hake, Pacific hake, North Pacific hake.

Technically, the regulatory language proposed by the petition would permit fish of the *M. productus* species to be marketed under any of six different common or usual names. This is clearly an unacceptable approach to establishing a common or usual name regulation because of the confusion, probably not intended by the petitioner,

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that this would create for consumers. From the text of the petition, it can be assumed that the intent of the request is to permit *M. productus* to be sold under the common name "whiting." Indeed, all of the petition's arguments are directed at justifying the sale of *M. productus* as "whiting" and not by any other name.

The petition states that historically the name "whiting" was used exclusively for fish of the species *M. bilinearis* and that the name "hake" was used to identify all other *Merluccius* species. The petition also admits that the name most frequently used in the literature in connection with fish of the genus *Merluccius* is "hake."

The petition argues that as the need for additional low-cost fillet blocks for processing into sticks and portions arose, other *Merluccius* species were permitted to be marketed in the United States as "whiting." Accordingly, the petition contends, the name "whiting" is recognized and established as the common name for most *Merluccius* species and, therefore, *M. productus* should be permitted to be marketed under the same name.

The petition further contends that the taxonomic similarities of *M. productus* to other *Merluccius* species that are identified as whiting add support to the practice of using the name "whiting" as the common name to identify the species *M. productus*.

Noting that *M. productus* identified as "whiting" is already imported into this country, the petition presents evidence of the economic benefit to the American fisherman if *M. productus* were allowed to be marketed as "whiting."

FDA recognizes the broad, underlying economic issues involved in this proposal. However, FDA is also concerned that extension of the term "whiting," with or without any modifiers, to *M. productus* may result in consumer deception or confusion.

The agency is aware that *M. productus* is commonly identified as "Pacific hake" or "North Pacific hake" in the fishing trade and in the literature. Furthermore, FDA has no evidence to suggest that *M. productus* is not recognized by consumers as "Pacific hake."

In addition, several articles in the literature indicate that there is a high incidence of abnormally mushy texture in *M. productus* caught off the coasts of Washington and Oregon, and that this texture may adversely affect the acceptability of this fish for food.

Although the name "whiting" has been used to identify fish of certain *Merluccius* species such as *M. hubbsi*, *M. gayi*, and *M. capensis*, it does not follow that *M. productus* should be marketed under the same name if in fact consumers perceive a significant distinction between *M. productus* and other *Merluccius* species.

FDA is concerned that distinction of *M. productus* from other *Merluccius* species is needed because of possible differences in edibility characteristics. FDA is therefore proposing on its own initiative, to establish a common or usual name regulation requiring fish of *M. productus* to be identified as "Pacific hake" or "North Pacific hake" as the common or usual name of this food fish.

Although the agency is proposing "Pacific hake" or "North Pacific hake" as the common or usual name for *M. productus* neither "Pacific whiting" nor "North Pacific whiting" has been ruled out as an acceptable name.

FDA is therefore specifically asking for comment from consumers concerning their understanding of the terms "Pacific hake" and "whiting." Consumers are urged to respond concerning their knowledge of the differences or similarities between the two food fish and whether those differences are sufficient to render it a deceptive practice to permit marketing of *M. productus* under the name "whiting" of "Pacific whiting."

Information not furnished by the petition but used in consideration of the petition is on file in this office of the Hearing Clerk, FDA.

The potential environmental effects of this action have been carefully considered, and the agency has concluded that the action will not significantly affect the quality of the human environment. Under § 25.1(f)(12) (21 CFR 25.1(f)(12)), the agency has determined that this action does not require the preparation of an environmental impact statement and analysis report.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321, 343, 371(a))— and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 102 be amended by adding new § 102.46 to read as follows:

§ 102.46 Pacific hake.

"Pacific hake," or "North Pacific hake," is the common or usual name of the food fish *Merluccius productus*.

Interested persons may, on or before April 2, 1979 submit to the Hearing Clerk (HFA-350), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: January 26, 1979.

WILLIAM F. RANDOLPH
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-3209 Filed 1-29-79; 8:45 am]

[4110-03-M]

[21 CFR Parts 172, 182, and 184]

[Docket No. 78N-0223]

ADIPIC ACID

Proposed Affirmation of GRAS Status as a Direct Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to affirm the generally recognized as safe (GRAS) status of adipic acid as a direct human food ingredient. The safety of this ingredient has been evaluated under the agency's comprehensive safety review. The proposal would list the ingredient as a direct food substance affirmed as GRAS.

DATE: Comments by April 2, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a comprehensive safety review of direct and indirect human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposals (see the FEDERAL REGISTER of July 26, 1973 (38 FR 20040)), initiating this review. Under this review, the safety of adipic acid has been evaluated. In accordance with the provisions of § 170.35(21 CFR 170.35), the Commissioner proposes to affirm the GRAS status of this ingredient.

Adipic acid (1, 4-butanedicarboxylic acid or hexanedioic acid) is reported to be a minor constituent of butter. It has also been found in other fats as a product of oxidative rancidity and in beet juice. Adipic acid has the lowest acidity of any of the acids commonly used in foods, and it has appreciable buffering capacity in the range of pH 2.5 to 3.0. Adipic acid is prepared by the nitric acid oxidation of cyclohexanol or cyclohexanone or a mixture of the two.

Under regulations published in the FEDERAL REGISTER of January 31, 1961 (26 FR 938), adipic acid is listed in § 182.1009 (21 CFR 182.1009) as GRAS for use in food as a buffer and neutralizing agent. The Food and Drug Administration also has issued an opinion letter recognizing the GRAS status of sodium adipate as a buffer and neutralizing agent.

Adipic acid has also been regulated for other specific food additive uses by issuance of the following regulations: (1) in § 172.515 (21 CFR 172. 515), as a synthetic flavoring substance and adjuvant; (2) in § 175.105 (21 CFR 175.105), as a component of adhesives; (3) in § 175.300 (21 CFR 175.300), as a component of resinous and polymeric coatings; (4) in § 175.320 (21 CFR 175.320), as a component of resinous and polymeric coatings for polyolefin films; (5) in § 177.1200 (21 CFR 177.1200), as a component of cellophane; (6) in § 177.1680 (21 CFR 177.1680), as a component of polyurethane resins; and (7) in § 177.2420 (21 CFR 177.2420), as a component of cross-linked polyester resins.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which adipic acid is used and the levels of usage. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to obtain an estimate of consumer exposure to adipic acid. The amount of adipic acid used in food in 1970 was 8.6 million pounds, about 2.5 times the amount used in 1960.

Adipic acid has been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 66 abstracts was reviewed and 14 particularly pertinent reports have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (the Select Committee), selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

Adipic acid labeled with carbon-14 in the 1- and 2-carbon positions and given by stomach tube (250 mg per kg body weight) to fasted male albino rats was almost completely absorbed and up to 70 percent of the radioactivity was exhaled as carbon dioxide within 24 hours. Tissues of the test animals sacrificed at 24 hours contained very little residual radioactivity. Highest activity appeared in the liver and kidneys. Radioactive metabolic products in the urine were identified as urea, glutamic acid, lactic acid, β-ketoadipic acid and citric acid. Some adipic acid also was excreted in the urine. The presence of β-ketoadipic acid suggested that adipic acid is metabolized by β-oxidation. Other evidence in the support of this mechanism was the appearance of succinic acid in the urine of rats fed carbon-14 labeled adipic acid and injected intraperitoneally with malonic acid to inhibit the oxidation of succinic acid. Evidence that acetate is a metabolite of adipic acid was the presence of labeled acetyl-α-phenyl-α-aminobutyric acid in the urine of rats after feeding α-phenyl-α-aminobutyric acid and carbon-14 labeled adipic acid. However, after feeding labeled carbon dioxide in the form of radioactive sodium bicarbonate some of the same metabolic products were isolated from the urine as were found after feeding labeled adipic acid. This indicates that such metabolic products are not necessarily derived directly from adipic acid but may be biosynthesized via carbon dioxide from adipic acid.

Adult rats given 2.4 g adipic acid per kg body weight by stomach tube each day for four weeks excreted 60 to 70 percent of the dose daily in the urine. Excretion dropped essentially to zero within 24 hours after the last feeding. Whole-body analysis of the rats 72 hours after the last feeding disclosed no accumulation of adipic acid in the body tissues. Whole-body analysis of young, growing rats fed the same level of adipic acid for four weeks gave a similar result.

Urinary excretion by rabbits was determined after administration of adipic acid (2.4 g per kg body weight) by stomach tube on two successive days. Collection and analysis of the urine for six days starting on the day of the first treatment showed that an average of 53 percent of the administered dose was excreted unchanged. Excretion reached a maximum on the second day and dropped to zero on the fifth day. In another study, it was found that an average of 61 percent of sodium adipate (0.23 to 0.74 g per kg) injected subcutaneously into rabbits was excreted unchanged in the urine within 24 hours; some increase in urinary oxalic acid was observed.

In four dogs given subcutaneous injections of 10 g of sodium adipate in doses of 250 mg (135 to 200 mg per kg) twice daily for five days, 50 percent of the compound was isolated from the urine.

Rats apparently do not develop a greater capacity to metabolize adipic acid when it is fed over a long period. Animals previously fed the compound for 20 to 25 weeks and those not previously receiving adipic acid were fed 400 to 800 mg per day (1.3 or 2.7 g per kg) for 14 days. The proportion of adipic acid excreted was about equal for the two groups.

In an investigation by Kabelitz of the effect of the dicarboxylic acids on oxalic acid excretion in human adults, the administration of 50 g (0.84 g per kg body weight) adipic acid by stomach tube caused no increase in the urinary excretion of oxalic acid in the two subjects studied. Addition of 150 g of butter, olive oil, lard or margarine to the standard diet for five days prior to administration of the adipic acid did not affect urinary excretion of oxalic acid. Weitzel administered up to 7.3 g (120 mg per kg) of adipic acid per day to three human subjects and concluded that much of the adipic acid was metabolized in the body. In later experiments he administered several dicarboxylic acids, including adipic acid, to human subjects at levels of 40 to 100 mg per kg daily for periods up to nine days. Over 50 percent of the adipic acid was excreted unchanged in the urine of four subjects. No adverse effects of adipic acid ingestion were reported.

The acute toxicity of adipic acid has been determined for various routes of administration in mice, rats, and rabbits. A value of 1900 mg per kg was established as the LD_{50} following oral administration to 39 adult male albino mice as a 6 percent suspension in 0.5 percent aqueous methyl cellulose. The intravenous injection of a 2 percent aqueous solution at a rate of 0.01 ml per second to 39 mice gave an LD_{50} of 680 mg per kg. The LD_{50} for intraperitoneal administration of adipic acid to mice was 275 mg per kg.

In rats given adipic acid orally, the average lethal dose was between 2.43 and 4.86 g per kg. The lower dose produced stomach distension and diarrhea which lasted about 24 hours. At the higher dose, the animals died 10 to 30 hours after feeding. Two determinations of acute toxicity in rats were reported in a recent study. In each case adipic acid was suspended in 0.85 percent saline and given orally by intubation in male rats of average weight about 250 g. An acute LD_{50} of 940 mg per kg was determined by administration of single doses (100 to 3000 mg per kg) to six groups of five rats each. In a second experiment no signs of toxicity were observed after a single dose of 5 g per kg was given to ten rats indicating an acute LD_{50} greater than 5 g per kg. A subacute LD_{50} (14 days) of 3.61 g per kg was established following administration of daily dosages of 3.30 to 5.60 g per kg for five days to five groups of six rats each and observation for a total period of 14 days.

Administered subcutaneously to rabbits, 1 to 2 g per kg of adipic acid was mildly nephropathic, as indicated by changes in blood composition and decreased output of phenolsulphonthalein. Renal function was recovered completely within 48 hours.

No changes in growth rate or in other outward manifestations as compared to controls were found in 55 female rats (92 g average initial weight) fed up to 40 mg (440 mg per kg) adipic acid daily in their diet for four weeks. Of 69 male rats, initial weight 50 g, fed 200, 400, and 800 mg (4 to 16 g per

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kg) sodium adipate daily for five weeks as a dietary component, only those receiving the highest level exhibited signs of toxicity: depressed growth, severe diarrhea, and unkempt appearance. In another study in the same laboratory, young male and female rats given 400 mg (8 g per kg body weight) adipic acid daily for 33 weeks in their diet were not adversely affected. Pregnant rats in this group were able to bear and nurse their young. Young rats (54 g initial weight) fed an inferior diet consisting of crushed wheat supplemented with cod liver oil showed substantial growth impairment when adipic acid at a level of 400 mg per animal per day was included in the diet.

In a 90-day feeding test, young male albino rats were given a laboratory meal diet supplemented with 0.1, 1.0 and 5.0 percent adipic acid and female rats were fed the laboratory meal supplemented with 1.0 percent adipic acid. No adverse effects were noted at the 0.1 and 1.0 percent levels (up to 1.7 g per kg of body weight) but marked retardation of growth resulted at the 5.0 percent level (up to 8 g per kg). Since there was no alteration of food intake and no marked gross pathology at sacrifice, it is assumed that the low pH and high acid consumption at the 5 percent adipic acid level might have influenced food digestion and utilization.

As compared to control animals, young rats given 243 mg adipic acid (up to 3.4 g per kg) daily for four weeks did not differ in growth rate or appearance. A comparable study on adult rats given 730 mg (2.4 g per kg) daily showed no effect on weight or health of the animals.

Young male rats of the Carworth Farm strain were placed on either a basal laboratory diet or on the basal diet supplemented with 0.1, 1, 3, or 5 percent (50, 500, 1500, or 2500 mg per kg) adipic acid or 3 or 5 percent citric acid for two years. Female rats received the diet supplemented with 1 percent adipic acid. During the first several weeks, but not subsequently, the weight gains for the groups given 3 to 5 percent adipic or citric acid were significantly less than those of the controls. After sacrifice, microscopic examination was made of the thyroid, lungs, heart, liver, spleen, kidneys, adrenals, stomach, small intestine, large intestine, pancreas, bone marrow, and testes or ovaries and uterus. There was no difference in organ weights as compared to controls and no significant pathology observed that could be related to ingestion of adipic acid.

In testing of adipic acid for teratogenic effects, pregnant female albino CD–1 outbred mice were given up to 263 mg of adipic acid per kg body weight by oral intubation on day 6 through day 15 of gestation. No discernible effects were observed on nidation or on maternal or fetal survival. The number of abnomalities in the soft and skeletal tissues of the test groups did not differ from the number occurring spontaneously in sham-treated controls. Similar negative results were reported in studies of pregnant female Wistar-derived albino rats given up to 288 mg adipic acid per kg body weight by oral intubation daily from the 6th through the 15th day of gestation, and on pregnant hamsters given daily oral administration of up to 205 mg adipic acid per kg body weight on day 6 through day 10 of gestation.

Adipic acid showed no teratogenic activity when injected into the developing chick embryo at 0 and 96 hours of incubation either via air cell or yolk at dosages up to 300 mg per kg of egg.

Mutagenicity studies on adipic acid were conducted utilizing three mammalian test systems: (1) host-mediated assay in mice with *Salmonella typhimurium* TA–1530 and G–46 and *Saccharomyces cerevisiae* D–3 as test organisms; (2) cytogenic studies in rats; and (3) dominant lethal assay in rats. Adipic acid was administered by oral intubation at dosage levels of 3.75, 37.5 and 375 mg per kg body weight in the *in vivo* tests for both the acute (1 dose) and subacute studies (1 dose per day for five days). Mutagenic tests also were conducted *in vitro* using *S. typhimurium* TA–1530 and G–46, and *S. cerevisiae* D–3 as test organisms; *in vitro* cytogenetic studies using human embryonic lung cultures were performed at 2.0, 20.0, and 200.0 mcg adipic acid per ml. Adipic acid exhibited no mutagenic activity in any of the tests except for tests at acute levels with *S. cerevisiae* D–3 in which a weak positive response was observed.

All of the available safety information on adipic acid has been carefully evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

Investigations on animals and humans show that adipic acid is readily absorbed from the alimentary tract. Much of the absorbed compound is rapidly excreted in the urine but a substantial portion is oxidized to carbon dioxide. The intermediate products formed indicate that it is metabolized by the same route as the fatty acids.

The tolerance of animals to adipic acid is comparable to that of certain normal metabolites such as citric acid. Adipic acid caused no harmful effects in animals in long-term tests in which it was added to the diet in amounts up to at least 1 percent (500 mg per kg body weight per day). This is over 500 times the daily per capita intake estimated from the poundage reported to be used in food in 1970. The available evidence suggests that the metabolism of adipic acid in man is comparable to that of laboratory animals.

It is the conclusion of the Select Committee that there is no evidence in the available information on adipic acid that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future. Based upon his own evaluation of all available information on adipic acid, the Commissioner concurs with this conclusion. The Commissioner therefore concludes that no change in the current GRAS status of adipic acid is justified.

The Commissioner also concludes that the information generated for this safety review forms a sound scientific basis for affirming the GRAS status of adipic acid as a synthetic flavoring agent and adjuvant. Authority for this use now appears in § 172.515. Therefore, the Commissioner proposes to delete the entry for this substance from that section, as it would be superfluous. He also proposes to delete the entry (21 CFR 182.1009) for adipic acid as a multiple purpose food substance, as this section would also be superfluous.

Copies of the scientific literature review on adipic acid, and the report of the Select Committee are available for review at the office of the Hearing Clerk (HFA–305), Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22151, as follows:

Title	Order No.	Price Code	Price*
Adipic acid (Scientific literature review)	PB–230–305/AS	A03	$4.50
Adipic acid (Select Committee report)	PB–266–279/AS	A02	4.00
Adipic acid (Mutagenic evaluation)	PB–248–466/AS	A07	7.25
Adipic acid (Teratogenic evaluation)	PB–221–802	A03	4.50
Adipic acid (Teratogenic evaluation, rabbit)	PB–267–202/AS	A02	4.00

*Price subject to change.

This proposed action does not affect the present use of adipic acid for pet food or animal feed.

After careful consideration of the specifications for adipic acid in the Food Chemical Codex, the Commissioner concludes that they need improvement relative to current standards. Specifically, the Commissioner proposes the adoption of two identity tests and a narrower melting point range for food-grade adipic acid. These changes are specified in the proposed rule. In addition, the Commissioner concludes that the assay test for adipic acid can be significantly improved, and he requests comments from interested persons on improved assay tests that are more specific for adipic acid.

The GRAS status of sodium adipate as a buffer and neutralizing agent was recognized in an FDA opinion letter issued in 1964. However, the Commissioner is unaware of certain information which, in accordance with § 170.35, is required in order to affirm the GRAS status of sodium adipate. In particular, the Commissioner is unaware of the manufacturing methods and food-grade specifications for sodium adipate, the food categories in which it is used, and the usual and maximum use levels in each food category. Because the absence of this information precludes the definition of conditions of safe use, this proposal does not affirm the GRAS status of sodium adipate. Interested persons may include the information described above in any comments submitted in response to this proposal. The Commissioner does not consider himself bound by the 1964 opinion letter. Therefore, if the Commissioner does not receive the information required to affirm the GRAS status of sodium adipate, he may, upon the effective date of the proposed regulation, consider sodium adipate to be a food additive within the meaning of section 201(s) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(s)).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409(d), 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348(d), 371(a))), and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Parts 172, 182, and 184 be amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

§ 172.515 [Amended]

1. In § 172.515 *Synthetic flavoring substances and adjuvants*, by deleting the entry for "Adipic acid; 1, 4-butanedicarboxylic acid" from the list of substances in paragraph (b).

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.1009 [Deleted]

2. By deleting § 182.1009 *Adipic acid.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. By adding new § 184.1009 to read as follows:

§ 184.1009 Adipic acid.

(a) Adipic acid ($C_6H_{10}O_4$, CAS Reg. No. 000124–04–9) is also known as 1, 4-butanedicarboxylic acid or hexanedioic acid. It is prepared by nitric acid oxidation of cyclohexanol or cyclohexanone or a mixture of the two.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972),[1] as amended as follows:

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

(1) The melting range of the ingredient is 151° to 153° C.

(2) The test substance is derivatized to its corresponding amide. The amide is purified by recrystallization from water or aqueous ethanol. The melting range of this substance is 219° to 220° C.

(3) The test substance is derivatized to its corresponding *p* bromophenacyl ester. The ester is purified by recrystallization from ethanol. The melting range of this substance is 153° to 154° C.

(c) The ingredient is used as a flavoring agent as defined in § 170.3(o)(12) of this chapter, leavening agent as defined in § 170.3(o)(17) of this chapter, and pH control agent as defined in § 170.3(o)(23) of this chapter.

(d) The ingredient is used in foods at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in maximum levels, as served, of 0.05 percent for baked goods as defined in § 170.3(n)(1) of this chapter, 0.005 percent for nonalcoholic beverages as defined in § 170.3(n)(3) of this chapter, 5.0 percent for condiments and relishes as defined in § 170.3(n)(8) of this chapter, 0.43 percent for dairy product analogs as defined in § 170.3(n)(10) of this chapter, 0.3 percent for fats and oils as defined in § 170.3(n)(12) of this chapter, 0.0004 percent for frozen dairy desserts as defined in § 170.(n)(20) of this chapter, 0.55 percent for gelatin and puddings as defined in § 170.3(n)(22) of this chapter, 0.1 percent for gravies as defined in § 170.3(n)(24) of this chapter, 0.27 percent for meat products as defined in § 170.3(n)(29) of this chapter, 1.3 percent for snack foods as defined in § 170.3(n)(37) of this chapter, and 0.02 percent or less for all other food categories.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in foods under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in reponse to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before March 27, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

NOTE.—Incorporation by reference approved by the Director of the Office of the Federal Register on July 10, 1973. Reference material is on file at the Federal Register Library.

Dated: January 22, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–3030 Filed 1–29–79; 8:45 am]

[4110–03–M]

[21 CFR Parts 182 and 186]

[Docket No. 78N–0255]

SODIUM OLEATE AND SODIUM PALMITATE

Proposed Affirmation of GRAS Status as Indirect Human Food Ingredients

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Commissioner of Food and Drugs proposes to affirm sodium oleate and sodium palmitate as generally recognized as safe (GRAS) when used as indirect human food ingredients. The safety of these ingredients has been evaluated in a comprehensive safety review being conducted by the agency. The proposal would list sodium oleate and sodium palmitate as indirect human food substances affirmed as GRAS.

DATE: Comments by April 2, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and

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Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is conducting a comprehensive safety review of human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner has issued several notices and proposals (see the FEDERAL REGISTER of July 26, 1973 (38 FR 20040)) initiating this review. Under this review, the agency has evaluated the safety of sodium oleate and sodium palmitate. In accordance with the provisions of § 170.35 (21 CFR 170.35), the Commissioner proposes to affirm the GRAS status of these ingredients for indirect human food use.

Oleic acid (an 18-carbon mono-unsaturated fatty acid) and palmitic acid (a 16-carbon saturated fatty acid) occur as triglyceride esters of natural fats and oils. In some fats and oils oleic acid is present at levels greater than 30 percent. In most animal fats, however, palmitric acid is the principal saturated fatty acid.

Sodium oleate is the sodium salt of oleic acid and exists as a white to yellowish powder with a slight tallow-like odor. Sodium palmitate is the sodium salt of palmitic acid and exists as a white to yellow powder. The sodium salts of oleic and palmitic acids (commonly referred to as soaps) are the products of alkaline hydrolysis of animal and vegetable fats and oils. However, sodium oleate and sodium palmitate are prepared commercially by mixing and heating food grade oleic or palmitic acid with flaked sodium hydroxide.

Under § 182.90 (21 CFR 182.90) soap (sodium oleate and sodium palmitate) is a GRAS substance migrating to food from paper and paperboard products (see regulations published in the FEDERAL REGISTER of June 17, 1961 (26 FR 5421)). FDA has also issued an opinion indicating that sodium oleate is GRAS when used as a component of lubricants with incidental food contact complying with § 178.3570 (21 CFR 178.3570). The sodium salts of fatty acids complying with § 172.860 (21 CFR 172.860) and/or oleic acid derived from tall oil fatty acids complying with § 172.862 (21 CFR 172.862) are also approved under § 172.863 (21 CFR 172.863) for use in food as binders, emulsifiers, and anticaking agents.

Sodium salts of fatty acids are also approved for use in various food-packaging materials. They are listed in § 175.105 (21 CFR 175.105) as components of adhesives, in § 176.170 (21 CFR 176.170) as components of paper and paperboard in contact with aqueous and fatty foods, in § 177.1200 (21 CFR 177.1200) as components of cellophane, in § 177.2260 (21 CFR 177.2260) as components of resin-bonded filters, in § 177.2600 (21 CFR 177.2600) as components of rubber articles intended for repeated use, and in § 178.3910 (21 CFR 178.3910) as components of surface lubricants used in the manufacture of metallic articles. Sodium oleate is listed in § 175.300 (21 CFR 175.300) as a component of resinous and polymeric coatings.

Other GRAS fatty acid salts are not addressed in this proposal. They will be considered in GRAS proposals on tallow, vegetable oils, and vitamin D, and on specifications such as aluminum, magnesium, and zinc.

No data on possible intakes of sodium oleate or sodium palmitate resulting from their use in food-packaging materials have been found. However, FDA concludes that only minute amounts of these ingredients might enter the human food supply as migrants from paper and paperboard packaging materials, and that the amounts would be extremely small in comparison with the substantial quantities of oleic and palmitic acids and sodium that are ingested daily as natural components of food.

Sodium salts of fatty acids have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 148 abstracts was reviewed and 32 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (the Select Committee), chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

No information directly concerned with the absorption, metabolism, excretion, or acute toxicity of sodium oleate and sodium palmitate as such was found by the Select Committee. However, the following three studies are relevant:

Carroll and Richards fed rats for 16 days on diets containing various sources of fat and found that oleic acid was less well absorbed (73 percent) than triolein (99 percent); 40 percent of fed palmitic acid was absorbed while only 22 percent of fed tripalmitin was absorbed. These percentages were based on analyses of feces for unabsorbed lipids. Dietary doses of the fats were approximately 1.2 to 1.4 g per rat per day (about 7 to 8 g per kg per day).

Bergstrom *et al.* administered by gastric intubation 0.5 ml of 1-^{14}C oleic acid (about 1.8 g per kg) to 250 g male rats with cannulated thoracic ducts. After 24 hours, an average of 78 percent of the labeled oleic acid had been absorbed. Of the absorbed oleic acid recovered in lymph from the thoracic duct, about 2 percent was in the form of phospholipids. About 16 percent of the carbon-14 label was recovered as expired $^{14}CO_2$ in 24 hours.

Similar experiments were conducted by Bloom *et al.* who administered ^{14}C-palmitic acid in corn oil enterally. Thoracic duct cannulations were performed on ten male rats, six received the free fatty acid and four received tripalmitin. In 19 to 24 hours, 81 to 95 percent of the labeled palmitic acid was recovered from the thoracic duct lymph. An additional four rats were prepared by cannulation of their larger mesenteric lymph ducts; 69 to 84 percent of the labeled palmitic acid was recovered from the fatty acid fraction of the intestinal lymph.

Oleic and palmitic acids are components of many foods and GRAS food ingredients. Their sodium salts dissociate in the gastrointestinal tract and the fatty acid moieties are transported into the mucosal cells, where they are esterified into triglycerides. A small amount of the free fatty acids is dispersed in the chylomicrons and transported into the general circulation.

Few studies have been reported concerning the sodium salts of oleic or palmitic acids as such, and these, as well as relevant studies on the feeding of the corresponding fatty acids, have usually employed dosage levels that are orders of magnitude higher than would be expected in food due to migration of these salts from packaging materials.

Chauchard *et al.* reported that feeding sodium oleate to rats daily at 22 percent of their diet (about 22 g per kg per day) increased the excitability of the neuromuscular system, shortened nerve chronaxia, and increased muscle chronaxia. The effect was observed within 48 hours after starting the diet. The authors ascribed the effect to a dietary lipid imbalance and found it to be neutralized by addition of B vitamins. Lecoq *et al.*, in continuance of this work, observed similar effects after subcutaneous injection of sodium oleate (dose not indicated) and found that they could be reversed or prevented by daily oral administration of 100 to 200 μg doses of nicotinamide, pyridoxine or pantothenic acid. In neither study was the no-effect level of sodium oleate on neuromuscular excitability determined.

Sunde reported that chicks receiving 5 percent oleic acid in their diet (about 6 g per kg per day) for four weeks showed improved feed utilization and no adverse effects.

Flesch found that the administration of 10 ml of oleic acid (about 2.5 g per kg body weight) by stomach tube every other day for four days to four albino rabbits resulted

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in hair loss, scaling seborrheic lesions on the ears and one death. Doses of 2.5 ml of oleic acid (about 0.6 g per kg) were without adverse effects.

Herting *et al.* fed weanling Holtzman rats a diet containing palmitic acid as 50.4 percent of the ration (about 50 g per kg body weight per day). The palmitic acid was 58 to 60 percent absorbed. Lipogranulomas were produced in adipose tissue within eight weeks. The occurrence of lipogranulomas was greater in the fat associated with the testis or ovary than in that of other tissues. Foreign body-type reactions in perigonadal fat were noted in four of five animals observed for 24 weeks. Simular results were obtained with other saturated fats (stearic acid, ethyl stearate and hydrogenated lard) when fed at about the same levels. When the saturated fat in the diet was replaced with 20 percent corn oil, prompt diminution and eventual disappearance of the lipogranulomas were observed. The investigators ascribed the effect to dietary imbalance produced by a high lipid diet of saturated fatty acids. Experiments at lower dietary levels were not conducted.

Renaud gave seven rats a hyperlipemic diet (32 percent butter; 5 percent cholesterol) supplemented by 5 percent palmitic acid (about 4.6 g per kg body weight per day of palmitic acid) for a six-week period. To initiate thrombosis, a *Salmonella typhosa* endotoxin was injected at the end of the feeding period. Palmitic acid was the most hyperlipemic of the common fatty acids used in these experiments which also included caprylic, lauric, myristic, and stearic acids. Stearic acid was the most thrombogenic, followed by palmitic acid. Robertson *et al.* injected five week-old male and female albino mice subcutaneously with a 5 percent emulsion of oleic acid in 0.25 and 0.5 ml volumes weekly (about 12 to 15 g per kg body weight) for 60 weeks. The growth rate of the animals was normal.

Carroll and Noble fed Sprague-Dawley and Wistar rats a diet supplemented with 15 percent oleic acid (initially about 15 g per kg body weight). They appeared to develop normally and their general health appeared good after five months. Progressive reduction in spermatogenesis, and prolonged estrous cycles occurred but most females bore living young. In general, the animals resembled those subjected to diets deficient in essential fatty acids.

No studies of the carcinogenicity, mutagenicity, or teratogenicity of sodium oleate or sodium palmitate have come to the attention of the Select Committee. It is noted, however, that Nakahara found an intraperitoneal injection of 0.5 ml of a 1 percent solution of sodium oleate in mice (about 0.25 g per kg body weight) to increase their resistance to growth of subsequently transplanted Bashford adenocarcinoma 63. Sodium oleate produced no significant increase in the resistance to cancer already *In situ*. Sodium palmitate at about the same dosage was without effect in these experiments.

Qualified scientists of the Select Committee have carefully evaluated all of the available safety information on sodium oleate and sodium palmitate. The Select Committee believes that:

Although there are no data available to the Select Committee on the amounts of sodium oleate and sodium palmitate used in fabricating food containers or the amounts that might migrate to food therefrom, it is evident that the amount of these compounds that could transfer to foodstuffs in the package would be many orders of magnitude below the quantities of the respective fatty acids normally present as triglycerides in many foods. The sodium salts of the fatty acids are toxicologically indistinguishable from the latter when consumed in small amoupts. The Select Committee recognizes that large amounts of the free fatty acids can distort the physiological processes in a system that is organized to absorb and utilize the triglycerides, but such excesses would not be expected from the use of sodium oleate and sodium palmitate as food packaging material ingredients.

The Select Committee concludes that no evidence in the available information on sodium oleate and sodium palmitate demonstrates, or suggest ressonable grounds to suspect, a hazard to the public when those substances are used as ingredients of paper and paperboard used for food packaging in the manner now practiced or as they might be expected to be used for such purposes in the future. Based upon his own evaluation of all available information on these salts, the Commissioner agrees with this conclusion and therefore finds that no change in the current GRAS status of these salts is justified. Additionally, although the use of sodium oleate as a component of lubricants with incidental food contact was not addressed explicitly in the Select Committee report, the Commissioner concludes that the information developed during the Select Committee safety review also forms a sound basis for affirming this use of sodium oleate as GRAS.

Copies of the scientific literature review on sodium salts of fatty acids and the report of the Select Committee are available for review at the Office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price *
Sodium Salts of Fatty Acids (scientific literature review)	PB-241-068/AS	A05	$6.00
Sodium Oleate and Sodium Palmitate (Select Committee report).	PB-276-414/AS	A02	$4.00

* Price subject to change.

This proposed action does not affect the present use of sodium oleate and sodium palmitate in pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Parts 182 and 186 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.90 [Amended].

1. In § 182.90 *Substances migrating to food from paper and paperboard products* by deleting the entry for "Soap (sodium oleate, sodium palmitate)".

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 186, by adding new §§ 186.1770 and 186.1771, to read as follows:

§ 186.1770 Sodium oleate.

(a) Sodium oleate ($C_{18}H_{33}O_2Na$, CAS Reg. No. 143-19-1) is the sodium salt of oleic acid (*cis*-9-octadecenoic-acid). It exists as a white to yellowish powder with a slight tallow-like odor. Commercially, sodium oleate is made by mixing and heating flaked sodium hydroxide and oleic acid.

(b) Sodium oleate shall meet the requirements of § 172.863 of this chapter.

(c) The ingredient is used as a constituent of paper and paperboard used for food packaging, and as a component of lubricants with incidental food contact in accordance with § 178.3570 of this chapter.

(d) The ingredient is used at levels not to exceed good manufacturing practice in accordance with § 186.1(b)(1).

§ 186.1771 Sodium palmitate.

(a) Sodium palmitate ($C_{16}H_{31}O_2Na$, CAS Reg. No. 408-35-5) is the sodium salt of palmitic acid (hexadecanoic acid). It exists as a white to yellow powder. Commercially, sodium palmitate is made by mixing and heating flaked sodium hydroxide and palmitic acid.

(b) Sodium palmitate shall meet the requirements of § 172.863 of this chapter.

(c) The ingredient is used as a constituent of paper and paperboard used for food packaging.

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(d) The ingredient is used at levels not to exceed good manufacturing practice in accordance with § 186.1(b)(1).

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of these ingredients in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also contitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before April 2, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

Dated: January 22, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-2898 Filed 1-29-79; 8:45 am]

[4110-03-M]

[21 CFR Part 1020]

[Docket No. 75N-0046]

DIAGNOSTIC X-RAY SYSTEMS AND THEIR MAJOR COMPONENTS

Proposed Amendment to Performance Standard

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the performance standard for diagnostic x-ray systems to modify the beam quality (half-value layer) provision of the standard for dental x-ray systems designed for use with intraoral image receptors. The purpose of this amendment is to reduce unnecessary x-radiation exposure to the patient that can result from low voltage, low filtration dental x-ray systems.

DATES: Comments by April 30, 1979, the Food and Drug Administration proposes that the final amendment become effective 1 year after date of publication of the final rule in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

John C. Taschner, Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Many investigators have measured the x-ray exposure to patients or phantoms exposed to dental radiographs to determine those refinements of technique that would result in minimum patient exposure while yielding maximum diagnostic information. The influence of beam quality (waveform, peak accelerating potential, and filtration) on patient exposures and image characteristics has been the focus of numerous investigations, summarized in a literature review by Saulnier and Barr (Ref. 1). A study by Lee (Ref. 2) showed marked increases in the entrance skin, mandibular bone marrow, thyroid, eye, and integral doses as the peak tube potential was decreased from 72 to 44 kilovolts peak (kVp). The entrance skin dose, for example, is approximately 7 times higher for the low-kilovoltage technique, although the amount of exposure at the film for both cases is about the same. There was little apparent difference in the doses as the tube potential was raised from 72 kVp to 91 kVp. The results of this study are in good agreement with those reported by Alcox and Jameson (Ref. 3) in a study conducted under clinical conditions. These studies show that among today's acceptable dental radiographic practices, those employing the lowest peak tube potentials and the least filtration will deliver the greatest radiation doses per film to the dental patient. These high-dose techniques are permitted by current voluntary standards (Refs. 4 and 5) and § 1020.30(m)(1) (21 CFR 1020.30(m)(1)) of the diagnostic x-ray system performance standard.

The higher entrance skin doses result from the fact that more than half of the photons in the spectrum of a low kilovoltage beam are below 27 kiloelectron volts (keV). These photons are readily absorbed by the intervening tissues between the skin and film, contributing heavily to patient dose, but are relatively inefficient in producing a radiographic image. For example, 20 and 40 keV photons have approximately the same mass absorption coefficient in silver, yet the absorption coefficient of the 20 keV photon is 8 times higher in soft tissue and 12 times higher in bone than that of the 40 keV photon, even though the amount of exposure required at the x-ray film to produce a satisfactory dental radiograph is about the same (Ref. 2).

The FDA proposes to amend § 1020.30(m)(1) to require that the half-value layer (HVL) of the useful beam of all dental x-ray systems operating at 70 kVp and below be equivalent to at least 1.5 millimeters (mm) of aluminum Al). Dental x-ray systems operating above 70 kVp would continue to meet the requirements of Table I of § 1020.30(m)(1). The current provisions of the standard require a minimum HVL of 1.2 mm Al at 50 kVp and 1.5 mm Al at 70 kVp. The 50 kVp systems currently produce a normalized entrance skin-to-film exposure ratio of about 18 to 1, a greater ratio than the FDA believes should be tolerated. (Even higher entrance skin-to-film ratios may occur at kilovoltages lower than 50 kVp.) By establishing 1.5 mm Al as the lower HVL limit, the entrance skin-to-film ratio can be reduced to about 13 to 1, closer to the 10 to 1 ratio proposed as the maximum in a draft amendment distributed by the Bureau of Radiological Health (BRH) in October 1975. To achieve an HVL of 1.5 mm Al at 50 kVp, the total filtration in the primary x-ray beam would be about 2.5 mm Al equivalent.

The FDA has taken several actions allowing interested persons to participate in the development of the proposed amendment. The basic concept was presented by BRH on September 19, 1974 at the 12th meeting of the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC). A notice of intent to amend the beam quality provision of the standard with respect to dental x-ray systems, published in the FEDERAL REGISTER of June 19, 1975 (40 FR 25830), invited the public to participate in the development of the proposed amendment by submitting written comments concerning the amendment. A draft of the proposal and supporting rationale was reviewed on September 18, 1975 at the 13th meeting of TEPRSSC. This draft was subsequently distributed on October 1, 1975 to manufacturers, professional associations, State radiation control agencies, and other interested persons on the Bureau's mailing list, inviting comment on the proposal. The draft, the comments received, and the summary of advisory committee meetings are on file with the Hearing Clerk, FDA. In developing this proposal, FDA has considered all comments received on the notice of intent and the October 1, 1975 draft amendment and rationale document. A summary of the comments and the FDA's responses follows:

1. Several comments recommended establishing a minimum peak tube potential (kVp) provision for dental x-ray machines rather than changing the HVL requirements of § 1020,30(m). Suggested minimum values ranged from 50 to 65 kVp.

The purpose of establishing HVL requirements specifically for dental x-ray systems designed for use with intraoral image receptors is to provide x-ray beam qualities that would yield the maximum diagnostic information with the minimum dose to the patient. The FDA believes that to adopt the suggestions would simply cause the elimination of low kilovoltage dental x-ray machines.

2. Several comments disagreed with establishing minimum HVL requirements based on an arbitrary set entrace skin-to-film exposure ratio of 10. They argued that this approach, while eliminating low kilovoltage, low filtration techniques that are responsible for high patient exposure, would permit the use of high kilovoltage, low filtration techniques that would result in patient exposures greater than those presently allowed. These comments, in general, disagreed with the proposal to lower the current minimum HVL requirements at the high kilovoltages but supported increasing the minimum HVL requirements at the lower kilovoltages to upgrade the beam quality of these dental x-ray systems.

The FDA agrees with these comments and has modified the proposed amendment accordingly.

3. Two comments from State radiation control agencies expressed concern that their regulations, which require 2.5 mm Al filtration at 70 kVp and above and 1.5 mm Al filtration below 70 kVp, would be in conflict with the proposed amendment. One comment also stated that dental x-ray equipment meeting the current beam quality standard would become substandard after the effective date of the final amendment and questioned whether the States should allow continued use of such equipment.

The revised x-ray beam quality amendment would apply only to dental x-ray systems manufactured on or after the effective date of the amendment and that operate at about 70 kVp and below. According to section 360F of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263n), State regulations would have to be identical if they apply to newly manufactured x-ray systems and address the same aspect of performance.

Manufacturers' and assemblers' reports filed at BRH from August 1974 through June 1976 indicate that only about 10 percent of the dental x-ray systems currently in use or in the "used" equipment market would not meet the proposed amendment, if the amendment were to be applied by States to equipment purchased before the effective date of the amendment. Because these x-ray systems have been shown to contribute unnecessary x-ray exposure, the FDA encourages State regulatory agencies to consider actions that would require these x-ray systems either to be modified to meet the new proposed provisions or to be phased out of use.

4. One comment asked whether manufacturers would be permitted to comply with the amendment before the effective date.

It is FDA's policy to permit manufacturers to comply with a performance standard for electronic products or an amendment to a standard after its publication as a final rule in the FEDERAL REGISTER but before the effective date if the manufacturers have filed appropriate amendments to their reports under Part 1002 (21 CFR Part 1002). In this case, compliance with the amendment would also be compatible with compliance with existing regulations. Therefore, although the FDA proposes that the amendment will not become effective until 1 year after it is published, manufacturers could adopt performance requirements compatible with the amendment at any time, and the FDA encourages early compliance.

5. One comment stated that establishing different HVL requirements for dental x-ray systems designed for intraoral and extraoral film radiography would prevent a practitioner from using a dental x-ray system for both techniques.

Generally, x-ray systems not capable of operating at 70 kVp and above are unsuitable for extraoral film radiography. For those dental x-ray systems that are designed for the higher kVp range (70 kVp and above), the current minimum beam quality requirements in the standard would be met.

6. One comment stated that the proposed HVL requirements may create difficulties in taking certain intraoral radiographs, namely (a) sialography, (b) detection of low-contrast foreign bodies, (c) fluid study of sinus examination, and (d) soft tissue examinations in general. These examinations all require low tube potentials (40 to 50 kVp) with very little filtration (0.5 to 1 mm Al). If these examinations are made with heavily filtered x-rays at 50 kvp, the exposure times must be increased substantially due to the low tube current of most dental x-ray machines, resulting in unacceptable motion unsharpness in the radiographs.

Little evidence was presented in the written comments received by BRH in regard to the need, based on imaging demands, for the continued allowance for low kilovoltage, low filtration dental x-ray systems. Radiographic practice using these units has repeatedly been shown to result in considerably greater radiation doses to the dental patient. According to assemblers' reports filed at BRH, the low kilovoltage, low filtration dental x-ray systems constituted only about 10 percent of total market from August 1974 through June 1976. The need for such systems is, therefore, not significant, and most dental radiographers do without such equipment. In exceptional cases in which there is a need for equipment that deviates from the standard, a manufacturer could apply for a variance under § 1010.4 (21 CFR 1010.4).

Accompanying the October 1, 1975 draft beam quality amendment was a proposal that would establish a minimum x-radiation exposure rate requirement for dental x-ray systems designed for use with intraoral image receptors. The specific value of 300 milliroentgens (mR) in 2 seconds or less was chosen to provide the capability of making a bitewing radiograph of an adult patient using dental radiographic film of American National Standards Institute Speed Group D in not more than about 3 seconds with dental x-ray equipment that would meet the draft beam quality requirement. Comments received in response to the draft proposal indicated that the minimum exposure rate of 600 mR in 2 seconds or less would seem to be more suitable.

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The FDA is withdrawing the proposed exposure rate requirement because there seems to be no need for it at this time. At present there are no dental x-ray machines being manufactured or imported into the United States that are limited to 50 kVp or less. Therefore, it would appear that certified x-ray systems now being marketed in the United States would meet the minimum exposure rate value of 600 mR in 2 seconds or less while, at the same time, complying with the new beam quality requirement.

REFERENCES

1. Saulnier, V. E. and J. H. Barr, "Compact Foreign-Made X-Ray Generators: An Evaluation of Their Acceptability for Effective Dental Radiography. I. A Review of the Literature," *Oral Surgery, Oral Medicine and Oral Pathology*, 38(5):810-818, November 1974.

2. Lee, W., "Comparative Radiation Doses in Dental Radiography," *Oral Surgery, Oral Medicine and Oral Pathology*, 37(6):962-968, June 1974.

3. Alcox, R. W. and W. R. Jameson, "Patient Exposures from Intraoral Radiographic Examinations," *Journal of the American Dental Association*, 88:568-579, March 1974.

4. National Council on Radiation Protection and Measurements, "Dental X-ray Protection," NCRP Report No. 35, Washington, DC, March 9, 1970; available from NCRP Publications, P.O. Box 4867, Washington, DC 20008.

5. American National Standards Institute, "Dental X-ray Equipment," ANSI MD 156.26, 1975, American National Standards Institute, New York; available from Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The FDA carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file in Docket No. 75N-0046 with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 as amended (42 U.S.C. 263f)) and under authority delegated to the Commissioner (21 CFR 5.1(a)(3)), it is proposed that Part 1020 be amended in § 1020.30 by revising paragraph (m)(1) to read as follows:

§ 1020.30 Diagnostic x-ray systems and their major components.

. . . . . .

(m) • • •

(1) *Half-value layer.* (i) Except for any dental x-ray system designed for use with intraoral image receptors and manufactured on or after (a date 1 year after publication of the final regulation in the FEDERAL REGISTER), the half-value layer (HVL) of the useful beam for a given x-ray tube potential shall not be less than the values shown in Table I.

(ii) For any dental x-ray system designed for use with intraoral image receptors and manufactured on or after (a date 1 year after publication of the final regulation in the FEDERAL REGISTER), the half-value layer (HVL) of the useful beam shall not be less than 1.5 millimeters of aluminum up to and including measured potentials of 70 kilovolts peak. Above 70 kilovolts peak, the half-value layer of the useful beam shall not be less than the value shown in Table I.

(iii) If it is necessary to determine a half-value layer at an x-ray tube potential which is not listed in Table I, linear interpolation or extrapolation may be made. Positive means [2] shall be provided to insure that at least the minimum filtration needed to achieve the above beam quality requirements is in the useful beam during each exposure.

TABLE I

Design operating range (Kilovolts peak)	Measured potential (Kilovolts peak)	Half-value layer (Millimeters of aluminum)
Below 50	30	0.3
	40	0.4
	49	0.5
50 to 70	50	1.2
	60	1.3
	70	1.5
Above 70	71	2.1
	80	2.3
	90	2.5
	100	2.7
	110	3.0
	120	3.2
	130	3.5
	140	3.8
	150	4.1

. . . . . .

Interested persons may, on or before April 30, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: January 22, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-2899 Filed 1-29-79; 8:45 am]

[2] In the case of a system which is to be operated with more than one thickness of filtration, this requirement can be met by a filter interlock with the kilovoltage selector which will prevent x-ray emission if the minimum required filtration is not in place.

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-73-75]

INVESTMENT CREDIT—QUALIFIED PROGRESS EXPENDITURES

Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to qualified progress expenditures for the investment credit. Changes in the applicable tax law were made by sections 301 and 302 of the Tax Reduction Act of 1975 (Pub. L. 94-12, 89 Stat. 26), sections 1701(b) and 1703 of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1520), and section 311(a) of the Revenue Act of 1978. These regulations provide the public with the guidance needed to comply with the law.

DATES: Written comments and requests for a public hearing must be delivered or mailed by April 2, 1979.

The amendments under the Tax Reduction Act of 1975 are proposed to be effective for taxable years ending after December 31, 1974. The amendments under the Tax Reform Act of 1976 are proposed to be effective for taxable years ending after December 31, 1976.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-73-75) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Richard L. Mull of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (202-566-4454, not a toll-free number).

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SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 46 and 47 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to certain changes made by sections 301 and 302 of the Tax Reduction Act of 1975 (89 Stat. 26), sections 1701(b) and 1603 of the Tax Reform Act of 1976 (90 Stat. 1520), and section 311(a) of the Revenue Act of 1978. The proposed regulations are to be issued under the authority contained in section 7805 of the Code (68A Stat. 917, 26 U.S.C. 7805), section 38(b) of the Code (76 Stat. 962, 26 U.S.C. 38), section 46(d)(6) of the Code (89 Stat. 42, 26 U.S.C. 46), and section 47(a)(3)(C) of the Code (89 Stat. 43, 44, 26 U.S.C. 46).

Prior to the Tax Reduction Act of 1975 (1975 Act), a taxpayer could claim the investment credit for qualified property only when the property was placed in service. This rule delayed the benefits of the investment credit for property that took a number of years to construct well beyond the time payments for construction were actually made by the taxpayer. Section 302 of the 1975 Act adds a new section 46(d) to the Code to resolve this problem.

Under section 46(d), a taxpayer may elect to claim the investment credit prior to the time the property is place in service for qualified progress expenditures made by the taxpayer for construction (either by the taxpayer or by another person for the taxpayer) of progress expenditure property. Progress expenditure property is property that has a normal construction period of 2 years or more and that will be new section 38 property having at least a 7-year useful life in the hands of the taxpayer when it is placed in service.

In general, if the taxpayer constructs property himself, qualified progress expenditures are amounts properly chargeable to capital account each year for construction. If another person constructs property for the taxpayer, qualified progress expenditures include amounts paid each year to the other person to the extent they represent construction completed by the other person during the year. Cost accounting records may be evidence of progress made in construction by the other person. However, the taxpayer may not have access to the manufacturer's cost accounting records. Thus, architectural or engineering estimates will also be evidence of progress.

The election to claim the investment credit for qualified progress expenditures may be made for taxable years ending after December 31, 1974, and applies only to progress expenditures made after Januare 21, 1975. The election applies to all progress expenditure property and, in general, cannot be revoked.

Section 1.46-5 (relating to limitation in case of certain regulated companies under section 46(f)), as proposed February 2, 1972, will be redesignated as § 1.46-6 when published as a Treasury decision. The proposed regulations add a new § 1.46-5 to provide rules for claiming the investment credit under section 46(d) for qualified progress expenditures. Under these rules, qualified progress expenditures made during a taxable year are added to the taxpayer's qualified investment otherwise determined under § 1.46-3 for that year. However, qualified progress expenditures made in taxable years beginning before 1980 are not allowed in full in computing the credit in the year they are made, but are phased-in over a 5-year period.

The proposed regulations amend §§ 1.47-1 and 1.47-3 to provide rules for recapturing investment credit for progress expenditure property. In general, those rules are similar to the rules for recapture for other section 38 property. However, a special rule is provided for recapture for certain sale-leaseback transactions.

The proposed regulations contained in this document also reflect certain amendments made by section 301 of the 1975 Act, sections 1701(b) and 1703 of the Tax Reform Act of 1976 (1976 Act), and section 311(a) of the Revenue Act of 1978. Section 301 of the 1975 Act provides an alternative limitation on the amount of tax liability that may be offset by investment credit for public utility property. Sections 701(b) and 1703 of the 1976 Act provide a similar limitation for railroad and airline property. Under the proposed regulations, the alternative limitation is applied to progress expenditure property that is public utility, railroad, or airline property. Section 301 or the 1975 Act also provides that the 10-percent credit applies to qualified progress expenditures. Section 311(a) of the Revenue Act of 1978 extends the 10-percent credit permanently.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place with be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations is Richard L. Mull of the legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.46-3 is amended by adding a new sentence at the end of paragraph (a)(1) to read as follows:

§ 1.46-3 Qualified investment.

. . . . . .

(a) *In general.* • • •

(1) • • • See § 1.46-5 for special rules for progress expenditure property.

. . . . . .

Par. 2. A new § 1.46-5 is added immediately after § 1.46-4 to read as follows:

§ 1.46-5 Qualified progress expenditures.

(a) *In general.* (1) This section applies to taxable years ending after December 31, 1974.

(2) Under section 46(d), a taxpayer may elect to take the investment credit for qualified progress expenditures (as defined in paragraph (d) of this section). In general, qualified progress expenditures are amounts paid for construction of progress expenditure property. The taxpayer must reasonably estimate that the property will take at least 2 years to construct and that the useful life of the property will be 7 years or more. Qualified progress expenditures may not be taken into account if made before the later of (i) January 22, 1975, or (ii) the first taxable year to which an election under section 46(d) applies. In general, qualified progress expenditures are not allowed for the year property is placed in service, nor for the first year or any subsequent year recapture is required under section 47(a)(3). However, a transferee of the taxpayer is entitled to qualified progress expenditures in the year recapture is required and in subsequent years, if the transferee would otherwise be entitled to qualified progress expenditures. There is a percentage limitation on qualified progress expenditures for taxable years beginning before January 1, 1980.

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(b) *Reduction of qualified investment.* Under section 46(c)(4), a taxpayer must reduce qualified investment for the year property is placed in service by qualified progress expenditures taken into account by that person or a predecessor. A "predecessor" of a taxpayer is a person whose election under section 46(d) carries over to the taxpayer under paragraph (g)(3) of this section.

(c) *Definition of progress expenditure property*—(1) *In general.* The term "progress expenditure property" means property constructed by or for the taxpayer, with a normal construction period (as defined in paragraph (c)(2) of this section) of 2 years or more. The taxpayer must reasonably believe that the property will be new section 38 property with a useful life of 7 years or more when placed in service.

(2) *Normal construction period*—(i) The term "normal construction period" means the period the taxpayer reasonably expects will be required to construct the property. The 2-year period begins on the date physical work on construction of the property commences and ends on the date the property is available to be placed in service. The normal construction period does not include, however, construction before January 22, 1975, nor construction before the first day of the taxable year for which an election under section 46(d) is in effect. Physical work on construction of property does not include preliminary activities such as planning or designing, securing financing, exploring, researching, or developing.

(ii) For purposes of section 46(d), the term "construction" means building or manufacturing property from materials and component parts. "Construction" does not include activities such as cultivating orchards, raising livestock, or creating a motion picture film or video tape. Thus, no qualified progress expenditures are allowed for those activities.

(iii) In general, taxpayers should refer to normal industry practice in estimating the normal construction period of particular items. A different period may be used if special circumstances exist making it impractical to make the estimate on the basis of normal industry practice. The estimate must be based on information available at the close of the taxable year in which physical work on the property began, or at the close of the first taxable year for which an election under section 46(d) is in effect, whichever is later. If the estimate is reasonable when made, the actual time it takes to complete the work is, in general, irrelevant in determining whether property is progress expenditure property. However, if there is a significant error in estimating the normal construction period, it may be evidence that the estimate was unreasonable when made. The taxpayer must attach to its tax return a statement of the basis relied upon in estimating the normal construction period.

(iv) The normal construction period of property ends on the date it is expected the property will be available to be placed in service. Property is considered available to be placed in service when construction is completed and the property is available for its assigned function or available for delivery to the site of its assigned function. It is not necessary that property be in a state of readiness for a specifically assigned function. Nor is it necessary that it actually be delivered to the site of its assigned function.

(v) In determining whether property has a normal construction period of 2 years or more, property that will be placed in service separately is to be considered separately. For example, if two ships are contracted for at the same time, each ship is considered separately under this paragraph. However, for property that will be placed in service as an integrated unit, the taxpayer must determine the normal construction period of the integrated unit. If the normal construction period of the integrated unit is 2 years or more, the normal construction period of each item of new section 38 property that is a part of the integrated unit is considered to be 2 years or more. Property is part of an integrated unit only if the operation of that item is essential to performance of the function to which the unit is assigned. The normal construction period for an integrated unit begins on the date the normal construction period of the first item of new section 38 property that is part of the unit begins. The period ends on the date the last item of new section 38 property that is part of that unit is available to be placed in service. The normal construction period of a unit, thus, may be 2 years or more, even if no part of the unit has a normal construction period of 2 years or more.

(3) *Examples.* Paragraph (c)(2) of this section may be illustrated by the following examples:

Example (1). On July 1, 1974, corporation X begins physical work on construction of a machine with an estimated useful life when placed in service of more than 7 years. For its taxable year ending June 30, 1975, X makes an election under section 46(d). For purposes of determining on June 30, 1975, whether the machine is "progress expenditure property", the normal construction period is treated as having begun on January 22, 1975. Thus, the machine will be considered to be progress expenditure property on June 30, 1975, only if the estimated time required to complete construction after June 30 is at least 18 months and 22 days (i.e., 2 years less the period January 22, 1975, through June 30, 1975).

Example (2). (i) On January 1, 1976, corporation X begins construction of a pipeline. The pipeline is in 2 sections. One section extends from city M to city N. The other extends from city N to city O. Oil will be transferred to storage tanks at both city N and city O. Corporation X also begins construction on January 1, 1976, of a pumping station necessary to operation of the pipeline from city M to city N. Construction of a pumping station necessary to operation of the pipeline from city N to city O begins on June 30, 1977. For 1976, corporation X makes an election under section 46(d).

(ii) The section of pipeline from city M to city N and the associated pumping station will be available to be placed in service on January 1, 1977. Construction of the section of the pipeline from city N to city O will be completed on June 30, 1977. However, that section of the pipeline will not be available to be placed in service until completion of the associated pumping station on January 1, 1978.

(iii) The section of pipeline from city M to city N and the section from city N to city O must be considered separately in determining the normal construction period of the property. Each section will be placed in service separately. However, each section of the pipeline and the associated pumping station may be considered an integrated unit. The pumping stations are essential to operation of each section of pipeline. Each section of pipeline and the associated pumping station is placed in service at the same time.

(iv) The section of pipeline from city M to city N is not progress expenditure property, because the normal construction period of that unit is only 1 year (January 1, 1976, to January 1, 1977).

(v) The section of pipeline from city N to city O and the associated pumping station is progress expenditure property, because the normal construction of that integrated unit is 2 years (January 1, 1976, to January 1, 1978). It is immaterial that neither the construction period of that section of pipeline (January 1, 1976 to June 30, 1977) nor the construction period of the associated pumping station (June 30, 1977 to January 1, 1978) is 2 years.

(4) *New section 38 property with a 7-year useful life*—(i) The taxpayer must determine if property will be new section 38 property with a useful life of 7 years or more when placed in service. The determination must be made at the close of the taxable year in which construction begins or at the close of the first taxable year to which an election under section 46(d) applies, whichever is later.

(ii) The determination of whether property will be "new section 38 property" (within the meaning of §§ 1.48-1 and 1.48-2) must be based on the reasonably expected use of the property by the taxpayer. There is a presumption that property will be new section 38 property if it would be new section 38 property if placed in service by the taxpayer when the determination is made. For example, in determining if property is an integral part of manufacturing under section 48(a)(1)(B)(i), it will be presumed property will be new section 38 property if the taxpayer is engaged in manufacturing when the determination is made. Also, significant steps taken to establish a trade or business will be evidence the taxpayer will be engaged in that trade or business when the property is placed in service.

(iii) The determination of whether property will have an estimated useful life of 7 years or more when placed in service must be made by applying the principles of § 1.46-3(e). If the estimated useful life is less than 7 years when the property is actually placed in service, the credit previously allowed under section 46(d) must be recomputed under section 47(a)(3)(B).

(d) *Definition of qualified progress expenditures*—(1) *In general.* A taxpayer's qualified progress expenditures are the sum of (i) qualified progress expenditures for self-constructed property (determined under paragraph (d)(2) of this section), plus (ii) qualified progress expenditures for nonself-constructed property (determined under paragraph (d)(3) of this section). Only amounts includible under § 1.46-3(c) in the basis of new section 38 property may be considered as qualified progress expenditures.

(2) *Self-constructed property*—(i) "Qualified progress expenditures" for self-constructed property (as defined in paragraph (d)(5) of this section) are amounts properly chargeable to capital account in connection with that property. In general, amounts paid or incurred are chargeable to capital account if under the taxpayer's method of accounting they are properly includible in computing basis under § 1.46-3. Amounts treated as an expense and deducted in the year they are paid or incurred are not chargeable to capital account.

(ii) In general, expenditures for materials or other property to be used in construction of self-constructed property are not properly chargeable to capital account until consumed or physically attached in the construction process. Materials that have neither become a part of nor been delivered to the site of the property, but which have been irrevocably allocated to construction of that property are properly chargeable to capital account. Materials are not to be considered irrevocably allocated to use in self-constructed property until physical work has begun on construction of that property. Mere bookkeeping notations are not sufficient evidence that the necessary allocation has been made. Once physical work has begun, materials or other property designed specifically for the self-constructed property may be considered irrevocably allocated to construction of that property at the time of manufacture. In addition, an item delivered to the site of construction may be considered irrevocably allocated if it would be economically impractical to remove the item to another project. For example, assume pumps are delivered to locations on a tundra pipeline. If it costs $1,500 to manufacture the pumps, but it costs $2,500 to remove them to a Seattle construction site, the pumps would be treated as irrevocably allocated to construction of the pipeline. A taxpayer's procedure for determining the time when an item is properly chargeable to capital account for self-constructed property is a method of accounting. Under section 446(e), the method of accounting, once adopted, may not be changed without consent of the Secretary.

(iii) The taxpayer shall maintain detailed records which permit specific identification of the amounts properly chargeable by the taxpayer during each taxable year to capital account for each item of self-constructed property.

(3) *Nonself-constructed property*—(i) In general, "qualified progress expenditures" for nonself-constructed property (as defined in paragraph (d)(6) of this section) are amounts paid by the taxpayer to the manufacturer, but only to the extent progress is made in construction. If the taxpayer pays his own employees to do some of the work, those expenditures are also considered qualified progress expenditures for nonself-constructed property. Qualified progress expenditures for nonself-constructed property do not include amounts paid to another person for construction if those amounts are treated as an expense and deducted in the year in which they are paid.

(ii) If several manufacturers or contractors do work in connection with the same property, section 46(d)(3)(B) must be applied separately to amounts paid to each person. For example, assume the taxpayer contracts with 3 persons to build an item of equipment. The taxpayer contracts with A to build the frame, B to build the motor, and C to assemble the frame and motor. Section 46(d)(3)(B) must be applied separately to amounts paid to A, B, and C.

(iii) For purposes of section 46(d)(3)(B)(i), amounts paid during the taxable year to another person for construction of nonself-constructed property may be in the form of money or property. However, property given as payment may be considered only to the extent it will be includible under paragraph (c) of § 1.46-3 in the basis of the nonself-constructed property when it is placed in service. Qualified progress expenditures under section 46(d)(3)(B)(i) do not include amounts that are merely incurred; they must actually be paid.

(iv) Qualified progress expenditures do not include any amount paid to another person (the "payee") for construction if the amount is paid out of funds borrowed directly or indirectly from the payee. Amounts borrowed directly or indirectly from the payee by any perosn that is related to the taxpayer (within the meaning of section 267) or that is a member of the same controlled group of corporations (as defined in section 1563(a)) will be considered borrowed indirectly from the payee. Similarly, amounts borrowed under any financing arrangement that has the effect of making the payee a surety will be considered amounts borrowed indirectly by the taxpayer from the payee.

(v) Under section 46(d)(3)(B)(ii), payments made in any taxable year may be considered qualified progress expenditures for nonself-constructed property only to the extent they are attributable to progress made in construction (percentage of completion limitation). Architectural or engineering estimates will be evidence of progress made in construction. Cost accounting records also will be evidence of progress. Progress will be presumed to occur not more rapidly than ratably over the normal construction period. However, the taxpayer may rebut the presumption by clear and convincing evidence to the contrary.

(vi) If, after the first year of construction, there is a change in either the total cost to the taxpayer or the total cost of construction by another person, the taxpayer must recompute the percentage of completion limitation on the basis of revised cost. However, the recomputation will affect subsequent taxable years only. The recomputation remains subject to the presumption of pro rata completion.

(vii) If for any taxable year, the amount paid to another person for construction of an item of property under section 46(d)(3)(B)(i) exceeds the percentage of completion limitation in section 46(d)(3)(B)(ii), the excess is treated as an amount paid to the other person for construction for the succeeding taxable year. If for any taxable year the percentage of completion limitation for an item of property exceeds the amount paid to another during the taxable year for construction, the excess is added to the percentage of completion limitation for that property for the succeeding taxable year.

(viii) The taxpayer must maintain detailed records which permit specific identification of the amounts paid to each person for construction of each item of property and the percentage of construction completed by each person for each taxable year.

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(4) *Example.* Paragraph (d)(3) of this section may be illustrated by the following example.

Example. (i) Corporation X, a calendar year taxpayer, agrees to build an airplane for corporation Y to be delivered on December 31, 1984. The airplane is nonself-constructed progress expenditure property. Physical work on construction begins on January 1, 1980.

(ii) The cost of construction to corporation X is $500,000. The contract price is $55,000. Corporation Y makes a $110,000 payment in each of the years 1980 and 1981, and $85,000 payment in 1982, and $135,000 payment in 1983, and a $110,000 payment is 1984.

(iii) For 1980, corporation Y makes an election under section 46(d). Progress is presumed to occur ratably over the 5-year construction period, which is 20 percent in each year. Twenty percent of the contract price is $110,000. The percentage of completion limitation for each year, thus, is $110,000.

(iii) For each of the years 1980 and 1981, the $110,000 payments may be treated as qualified progress expenditures. The payments equal the percentage of completion limitation.

(iv) For 1982, the $85,000 payment may be treated as a qualified progress expenditure, because it is less than the percentage of completion limitation. The excess of the percentage completion limitation ($110,000) over the 1982 payment ($85,000) is added to the percentage of completion limitation for 1983. One hundred and ten thousand dollars minus $85,000 equals $25,000. Twenty-five thousand dollars plus $110,000 equals $135,000, which is the percentage of completion limitation for 1983.

(v) For 1983, the entire $135,000 payment may be treated as a qualified progress expenditure. The payment equals the percentage of completion limitation for 1983.

(vi) For 1984, no qualified progress expenditures may be taken into account, because the airplane is placed in service in that year.

(5) *Definition of self-constructed property*—(i) Property is "self-constructed property" if it is reasonable to believe that more than half of the construction expenditures for the property will be made directly by the taxpayer. Construction expenditures will be considered made "directly" by the taxpayer only if the taxpayer uses his own employees to construct the property. Construction expenditures made directly by the taxpayer include wages and overhead attributable to construction of that property. Construction expenditures made by the taxpayer to a contractor or manufacturer, in general, will not be considered made directly by the taxpayer. Thus, the cost of component parts, such as boilers and turbines, which are purchased and merely installed or assembled by the taxpayer, will not be considered expenditures made directly by the taxpayer for construction. However, expenditures for basic construction materials, such as sheet metal, lumber, glass, and nails, which are used by employees of the taxpayer to construct progress expenditure property, will be considered made directly by the taxpayer.

(ii) The determination of whether property is self-constructed or nonself-constructed property is to be made at the close of the taxable year in which physical work on construction of the property begins, or the close of the first taxable year to which an election under this section applies, whichever is later. Once it is reasonably estimated that more than half of construction expenditures will be made directly by the taxpayer, the fact the taxpayer actually makes half, or less than half, of the expenditures directly will not affect classification of the property as self-constructed property. Similarly, once a determination has been made, classification of property as self-constructed property is not affected by a change in circumstances in a later taxable year. However, a significant error unrelated to a change in circumstances may be evidence that the estimate was unreasonable when made.

(iii) For purposes of determining whether more than half of construction expenditures of an item of property will be made directly by the taxpayer, the taxpayer may take into account only expenditures properly includable by the taxpayer in the basis of the property under the provisions of § 1.46-3(c). Thus, property is self-constructed property only if more than half of the estimated basis of the property to be used for purposes of determining the credit allowed by section 38 is attributable to expenditures made directly by the taxpayer.

(6) *Nonself-constructed property defined.* For purposes of this section, the term "nonself-constructed property" means property that is not self-constructed property. Thus, property is nonself-constructed property if it is reasonable to believe that only half, or less than half, of the expenditures for construction will be made directly by the taxpayer.

(e) *Alternative limitations for public utility, railroad, or airline property.* The alternative limitations on qualified investment under sections 46(a)(7), (8), and (9) for public utility, railroad, or airline property (whichever applies), apply in determining the credit for qualified progress expenditures. The determination of whether progress expenditure property will be public utility, railroad, of airline property (whichever applies) when placed in service must be made at the close of the taxable year in which physical work on construction begins or at the close of the first taxable year for which an election under section 46(d) is in effect, whichever is later. If the taxpayer is in a trade or business described in section 46(c)(3)(B), section 46(a)(8), or section 46(a)(9) (whichever applies) at that time, it is evidence the property will be public utility, railroad, or airline property when placed in service.

(f) *Leased property.* A lessor of progress expenditure property may not elect under section 48(d) to treat a lessee (or a person who will be a lessee) as having made qualified progress expenditures.

(g) *Election*—(1) *In general.* The election under section 46(d)(6) to increase qualified investment by qualified progress expenditures may be made for any taxable year ending after December 31, 1974. Except as provided in paragraph (g)(2) of this section, the election is effective for the first taxable year for which it is made and for all taxable years thereafter unless it is revoked with the consent of the Commissioner. Except as provided in paragraphs (g) (2) and (3) of this section, the election applies to all qualified progress expenditures made by the taxpayer during the taxable year for construction of any progress expenditure property. Thus, the taxpayer may not make the election for one item of progress expenditure property and not for other items. If progress expenditure property is being constructed by or for a partnership, electing small business corporation (as defined in section 1371(b)), trust, or estate, an election under section 46(d)(6) must be made separately by each beneficiary, partner, or shareholder, respectively. The election may not be made by a partnership or electing small business corporation, and may be made by a trust or estate only if the trust or estate in determining its tax liability would be allowed investment credit under section 38 for property subject to the election. The election of any partner, shareholder, beneficiary, trust, or estate will be effective, even if a related partner, shareholder, beneficiary, trust, or estate does not make the election.

(2) *Time and manner for making election.* An election under section 46(d)(6) must be made by filing a written statement with the original return for the first taxable year ending after December 31, 1974 to which the election will apply. In general, the election may not be made on an amended return filed after the time prescribed for filing the original return (including extensions) for that taxable year. However, an election under this section may be made or revoked by filing a statement with an amended return filed on or before [90 days from the date of publication of the Treasury decision] if the due date for filing a return for a taxable year ending after December 31, 1974, is before [90 days from the date of publication of the Treasury decision]. The written statement filed with the tax return (or amended return) must be signed and contain the following information:

(i) The taxpayer name and taxpayer identification number (under section 6109 of the Code),

(ii) A statement that the taxpayer is making the election under section 46(d)(6), and

(iii) A list of all progress expenditure property, indicating whether the property is self-constructed property (as defined in paragraph (d)(5) of this section) or nonself-constructed property (as defined in paragraph (d)(6) of this section).

(3) *Carryover of election in certain transactions.* In general, an election under section 46(d)(6) does not carry over to the transferee of progress expenditure property. However, if under section 47(b) the property does not cease to be progress expenditure property because of the transfer, the election will carry over to the transferee. If so, the election will apply only to the property transferred.

(h) *Partnership, electing small business corporation, and trusts or estates*—(1) *In general.* Each partner, shareholder, trust, estate, or beneficiary of a trust or estate that makes an election under section 46(d) may take into account its share of qualified progress expenditures (determined under paragraph (h)(2) of this section) made by the partnership, electing small business corporation, trust, or estate. In determining qualified investment for the year the property is placed in service, the basis of the property is apportioned as provided in §§ 1.46-3(f), 1.48-6, or 1.48-5 (whichever applies). Each partner, shareholder, trust, estate, or beneficiary that made the election must reduce qualified investment under section 46(c)(4) for the year the property is placed in service by qualified progress expenditures taken into account by that person.

(2) *Determination of share of qualified progress expenditures.* The share of qualified progress expenditures of each partner, shareholder, trust, estate, or beneficiary that makes an election under section 46(d) must be determined in accordance with the same ratio used under §§ 1.46-3(f)(2), 1.48-5(a)(1) or 1.48-6(a)(1) (whichever applies) to determine its share of basis (or cost). The last sentence of § 1.46-3(f)(2)(i) must be applied by referring to the date on which qualified progress expenditures are paid or chargeable to capital account (whichever is applicable).

(3) *Examples.* Paragraph (h) may be illustrated by the following examples.

Example (1). (i) Corporation X contracts to build a ship for partnership AB that qualifies as progress expenditure property. The contract price is $100,000. Physical work on construction of the ship begins on January 1, 1980. The ship is placed in service on December 31, 1983.

(ii) The AB partnership reports income on the calendar year basis. Partners A and B share profits equally. For A's taxable year ending December 31, 1980, A makes an election under section 46(d). B does not make the election.

(iii) For each of the years 1980, 1981, 1982, and 1983, the AB partnership makes $25,000 payments to corporation X. The payments made in 1980, 1981, and 1982 are qualified progress expenditures. The 1983 payment is not a qualified progress expenditure, because the ship is placed in service in that year.

(iv) For each of the years 1980, 1981, and 1982, A may take into account qualified progress expenditures of $12,500. A had a 50 percent partnership interest in each of those years.

(v) For 1983, A and B's share of qualified investment is $50,000 each. Qualified investment for the ships is $100,000. A and B's shares are $50.000 each, because each had a 50 percent partnership interest in 1983. However, A must reduce its $50,000 share for 1983 by $37,500, which is qualified progress expenditures taken into account by A. B's share is not reduced, because B did not take into account qualified progress expenditures.

Example (2). (i) The facts are the same as in example (1) except that on June 30, 1983, the partnership agreement is amended to allow a new partner, C. The partners agree to share profits equally. The partners' interest in the ship is the same as their interest in profits.

(ii) For each of the years 1980, 1981, and 1982, A may take into account qualified progress expenditures of $12,500 because A has a 50 percent partnership interest in those years.

(iii) For 1983, A, B, and C's share of qualified investment is $33,333 each, because each had a 33⅓ percent partnership interest in that year. A must reduce its share to zero, because it took $37,500 into account as qualified progress expenditures. In addition, the excess of the $37,500 over the $33,333 applied as a reduction is subject to recapture under section 47(a)(3)(B). B and C's shares are not reduced, because neither taxpayer took into account qualified progress expenditures.

(i) [Reserved]

(j) *Limitation on qualified progress expenditures for taxable years beginning before 1980*—(1) *In general.* (i) Under section 46(d)(7), qualified progress expenditures for any taxable year beginning before January 1, 1980, are limited. The taxpayer must apply the limitation under section 46(d)(7) on an item by item basis. In general, the taxpayer may take into account the applicable percentage (as determined under the table in section 46(d)(7)(A)) of qualified progress expenditures for each of those years. In addition, the taxpayer may take into account for each of those years 20 percent of qualified investment for each of the preceding taxable years determined without applying the limitations of sections 46(d)(7).

(k) The applicable percentage under section 46(d)(7)(A) may be applied only for one taxable year that ends within a calendar year in determining qualified investment for an item of progress expenditure property. For example, calendar year partners of a calendar year partnership may increase qualified investment for 1976 by 30 percent of qualified progress expenditures made in 1975 for an item of property. If the partnership incorporates in 1976 and the taxable year of the corporation begins on July 1, 1976, and ends on June 30, 1977, qualified investment of the corporation for its taxable year beginning on July 1, 1976, cannot be increased by 20 percent of the 1975 expenditure.

(2) *Example.* Paragraph (j) may be illustrated by the following example:

Example. (i) Corporation X contracts with A on January 1, 1976, to build an electric generator that qualifies as nonself-constructed progress expenditure property. A will build the generator at a cost of $125,000. Corporation X agrees to pay A $150,000. Corporation X reports income on the calendar year basis. Corporation X makes an election under section 46(d) for 1976. Physical work on construction begins on January 1, 1976. Corporation X makes payments of $30,000 to A for construction of the generator in each of the years 1976, 1977, 1978, 1979, and 1980. A incurs a cost of $25,000 in each of those years for construction of the property. The property is placed in service in 1980.

(ii) For 1976, qualified investment for corporation X in the generator is $12,000, which is 40 percent of the payment made in 1976.

(iii) For 1977, corporation X may increase qualified investment by $24,000. Eighteen thousand dollars of that amount is 60 percent of the 1977 payment. The remaining $6,000 is 20 percent of the $30,000 payment made in 1976.

(iv) For 1978, corporation X may increase qualified investment by $36,000. Twenty-four thousand dollars of that amount is 80 percent of the 1978 payment. The remaining $12,000 is 20 percent of the $30,000 payment made in 1976, plus 20 percent of the $30,000 payment made in 1977.

(v) For 1979, corporation X may increase qualified investment by $48,000. Thirty thousand dollars of that amount is 100 percent of the 1979 payment. The remaining $18,000 of that amount is 20 percent of the $30,000 payments made in each of the years 1976, 1977, and 1978.

(vi) Qualified investment for corporation X for 1980 is $30,000. The $30,000 is the basis (or cost) of the generator ($150,000), reduced by qualified progress expenditures allowed with respect to that property ($120,000).

(k) *Ten percent credit*—(1) *In general.* The 10-percent credit applies to qualified progress expenditures made after January 21, 1975. For self-constructed progress expenditure property, the 10-percent credit applies in the year the property is placed in service to a portion of the qualified investment that remains after reduction for qualified progress expenditures under section 46(c)(4). The 10 percent ap-

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plies only to the portion of the remaining qualified investment in the self-constructed property that is attributable to construction after January 21, 1975. For nonself-constructed progress expenditure property, the 10-percent credit applies in the year the property is placed in service to the entire portion of qualified investment that remains after the reduction for qualified progress expenditures. However, the 10-percent credit applies to nonself-constructed property only if the property is acquired and placed in service after January 21, 1975.

(2) *Example.* Paragraph (k) may be illustrated by the following example:

Example. (i) Corporation X agrees to build a ship for corporation Y. The ship is nonself-constructed property and corporation Y makes an election under section 48(d). Construction begins in 1973. The ship is acquired and placed in service in 1980. The contract price is $400,000.

(ii) For 1975, 1976, 1978, and 1979, qualified progress expenditures total $250,000. The 10-percent credit applies to those expenditures.

(iii) For 1980, qualified investment for the ship is $400,000, which is the contract price. Corporation Y must reduce qualified investment by $250,000, which is the amount of qualified progress expenditures. The 10-percent credit applies to the $150,000 of qualified investment that remains after the reduction for qualified progress expenditures.

Par. 3. Section 1.47-1 is amended by adding a new sentence at the end of paragraph (a)(1)(i) and by adding a new paragraph (g) to read as follows:

§ 1.47-1 Recomputation of credit allowed by section 38.

(a) *General rule*—(1) *In general.* (i) * * * For special rules relating to recomputation of credit allowed by section 38 if progress expenditure property (as defined in § 1.46-5(c)) ceases to be progress expenditure property with respect to the taxpayer, see paragraph (g) of this section.

* * * * *

(g) *Special rules for progress expenditure property.* Under section 47(a)(3), a recapture determination is required if property ceases to be progress expenditure property (as defined in § 1.46-5(c)). Property ceases to be progress expenditure property if it is sold or otherwise disposed of before or after it is placed in service. For example, cancallation of the contract for progress expenditure property or abandonment of the project by the taxpayer will be considered a "disposition" within the meaning of § 1.47-2. A cessation occurs if progress expenditure property ceases to be property that will be section 38 property with a useful life of 7 years or more when placed in service. In general, a sale and leaseback is treated as a cessation. However, see paragraph (g)(2) of § 1.47-3 for special rules for certain sale and leaseback transactions. Recapture determinations for progress expenditure property are to be made in a way similar to that provided under §§ 1.47-1 through 1.47-6. Reduction of qualified investment must begin with the most recent credit year (*i.e.*, the most recent taxable year the property is taken into account in computing qualified investment under § 1.46-3 or 1.46-5).

Par. 4. Section 1.47-3 is amended by redesignating paragraph (g) as paragraph (g)(1) and adding a new paragraph (g)(2) to read as follows:

§ 1.47-3 Exceptions to the application of § 1.47-1.

* * * * *

(g) *Sale-and-leaseback transactions*—(1) *In general.* * * *

(2) *Special rule for progress expenditure property.* The sale and leaseback (or agreement or contract to leaseback) of progress expenditure property (including any contract rights to the property), in general, will be treated as a cessation described in section 47(a)(3)(A) with respect to the seller-lessee. However, a sale and leaseback (or agreement or contract to leaseback) will not be treated as a cessation to the extent qualified investment passed through to the lessee under section 48(d) in the year the property is placed in service equals or exceeds qualified progress expenditures for the property taken into account by the lessee. If a sale-leaseback transaction is treated as a cessation, qualified investment must be reduced and the credit recomputed, beginning with the most recent credit year (*i.e.*, the most recent year property is taken into account in computing qualified investment under § 1.46-3 or 1.46-5). The amount of the reduction is the amount, if any, by which qualified progress expenditures taken into account by the lessee in all prior years exceeds qualified investment passed through to the lessee under section 48(d).

JEROME KURTZ,
Commissioner of Internal revenue.

[FR Doc. 79-3001 Filed 1-29-79; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 230]

WHALING

Taking of Bowhead Whales by Indians, Aleuts, or Eskimos for Subsistence Purposes

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Proposed Rulemaking.

SUMMARY: At its 30th Annual Meeting held in London on June 26-30, 1978, the International Whaling Commission (the "IWC") adopted an amendment to the Schedule of the International Convention for the Regulation of Whaling, 1946 (the "Convention") which established a quota for the taking of the Bering Sea stock of bowhead whales for calendar year 1979 of 18 landed or 27 struck, whichever occurs first. Under the rules of procedure of the IWC, the Schedule to the Convention containing the 1979 quota became effective, on October 19, 1978.

On April 3, 1978, the National Oceanic and Atmospheric Administration "NOAA" promulgated regulations under the Whaling Convention Act of 1949, 16 U.S.C. 916 et seq. (the "Act"), which allocated the then available 1978 quota among the nine Alaskan villages which engage in subsistence whaling (43 FR 13883, amended May 24, 1978, 43 FR 22213, further amended on August 29, 1978, 43 FR 38609. Those regulations expired December 31, 1978. These proposed rules are to implement the 1979 management program.

DATE: Comments may be submitted on or before March 1, 1979.

ADDRESSES: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal Program Manager, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, Telephone: (202) 634-7461.

SUPPLEMENTARY INFORMATION: Prior to 1977, the IWC Schedule exempted the Native subsistence harvest of bowhead whales from its otherwise total prohibition on the hunting of bowheads. In 1977, the IWC removed that exemption and established a 1978 quota of 12 landed or 18 struck, whichever occurred first. In response to the action of the IWC, the United States, in cooperation with Alaskan Eskimos and other interested groups, mounted research, management and weapons improvement programs. The results of those programs are set forth in extensive detail in a publication entitled *A Special Report to the International Whaling Commission: Bowhead Whales* (U.S. Department of Commerce, NOAA, June 1978) (the "Report").

The Report concluded that, based upon observation made in Spring, 1978, the population of the stock of bowhead whales which migrates past Alaskan Eskimo whaling villages is in the range of 1,763-2,865 whales, with 2,264 bowheads considered the best available estimate. These figures were considerably higher than the population estimate of approximately 1,300 which was used by the IWC in establishing the 1978 quota.

At the 30th Annual Meeting of the IWC, the U.S. Commissioner, on the basis of the results of the population figures appearing in the Report, requested an increase in the bowhead quota for the 1979 calendar year, and the IWC agreed.

Regulations in effect during 1978 allocated the available quotas to the whaling villages. Reassignments were made in the course of the whaling season to distribute equitably the available quotas to the villages. A similar allocation system is proposed herein for the 1979 season based upon the harvest statistics for 1978.

Regulations in effect in 1978 contemplated formal application and issuance of licenses to Eskimo whalers under the provisions of the Act. It was recognized that geographic and cultural factors dictated that normal licensing procedures be modified. In spite of accommodations made to facilitate implementation of a licensing system, time and geographic difficulties prevented issuance of formal licenses during 1978. Consequently, in 1979 NOAA is proposing to confer a license to whale upon each whaling captain through the promulgation of these regulations.

Representatives of the Assistant Administrator will contact native whaling captains before and during the whaling season to obtain the information necessary to complete the reports described in § 230.76.

The regulations proposed for 1979 have been streamlined and simplified to facilitate understanding and compliances in accordance with Executive Order 12044. NOAA will continue to seek the cooperation of the Alaska Eskimo whaling community to implement those regulations. NOAA considers the fee for a whaling license set forth in the Act inappropriate for subsistence whaling under a quota and therefore proposed that it be waived.

In order to assure participation from those members of the public sector affected by the proposed regulations, NOAA will issue a press release announcing the publication of the proposed regulations and will also send copies of the proposed regulations directly to the Alaska Eskimo Whaling Commission, the village councils of Savoonga, Gambell, Wales, Kivalina, Point Hope, Wainwright, Barrow, Kaktovik, and Nuigsut, and to U.S. conservation organizations. In addition, meetings with those interested will be held in Washington, D.C. and Alaska.

In order to assure that final regulations are published in time to allow field personnel an opportunity to implement the regulations before the beginning of the spring bowhead hunt, it will not be possible to provide the 60 day comment period for significant regulations proposed by Executive Order 12044. The Administrator of NOAA has approved reducing this comment period to 45 days. A Draft Supplemental Environmental Impact Statement has been prepared with respect to these amendments.

1. 50 CFR Part 230 is proposed to be amended by revising § 230.10(b) to read as follows:

§ 230.10 Licenses and scientific permits.

* * * * *

(b) No permit or license shall be issued except as provided in § 230.13 and §§ 230.70 through 230.77. Licenses issued under § 230.73 shall be governed solely by the requirements of §§ 230.70 through 230.77.

2. 50 CFR Part 230 is proposed to be amended by revising § 270.70—270.77 and the undesignated center heading to read as follows:

SUBSISTENCE

Sec.
230.70 General.
230.71 Definitions.
230.72 Prohibited acts.
230.73 Licenses.
230.74 Quotas.
230.75 Salvage of Stinkers.
230.76 Reporting by Whaling Captains.
230.77 Penalties.

AUTHORITY: Whaling Convention Act (WCA 16 U.S.C. 916a-1).

SUBSISTENCE

§ 230.70 General.

The provisions of §§ 230.70 through 230.77, which govern subsistence whaling for bowhead whales, shall expire on December 31, 1979.

§ 230.71 Definitions.

(a) As used in §§230.70 through 230.77 of this Part 230:

(1) "Assistant Administrator" means the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration;

(2) "Bowhead" means a whale of the Bering Sea stock of bowhead whales, *Balaena mysticetus;*

(3) "Calf" means any bowhead which is less than 21 feet in length as measured from the point of the upper jaw and the notch between the tail flukes;

(4) "Landing" means bringing a bowhead or any parts thereof onto the ice or land in the course of whaling operations;

(5) "Whaling captain" or "captain" means any Indian, Aleut, or Eskimo domiciled in a whaling village who is in charge of a vessel and a whaling crew;

(6) "Stinker" means a dead unclaimed bowhead found upon a beach, stranded in shallow water, or floating at sea;

(7) "Strike" means hitting a bowhead with a harpoon, lance, or explosive dart;

(8) "Whaling" means the hunting, striking, harassing, killing, or landing of bowheads, but does not include the salvage or processing of any stinker;

(9) "Whaling crew" means those persons under the control of a captain, who collectively participate as a unit in whaling;

(10) "Whaling village" means any of the villages of Gambell, Savoonga, Wales, Kivalina, Point Hope, Wainwright, Barrow, Nuigsut, and Kaktovik in the State of Alaska; and

(11) "Wasteful manner" means a method of whaling which is not likely to result in the landing of a struck bowhead or which does not include all reasonable efforts to retrieve the bowhead.

§ 230.72 Prohibited acts.

(a) No person shall engage in whaling except a whaling captain licensed pursuant to § 230.73 or a member of a whaling crew under the control of a captain.

(b) No whaling captain shall engage in whaling for any calf or any bowhead whale accompanied by a calf.

(c) No whaling captain shall engage in whaling in a wasteful manner.

(d) No whaling captain shall engage in whaling without an adequate crew or without adequate supplies and equipment.

(e) No person may receive money for participation in native subsistence whaling.

(f) No whaling captain shall continue to whale after, (1) the quota set forth in § 230.74 for his village of domicile is reached, or (2) the license under which he is whaling is suspended as provided in § 230.73(b).

(g) No whaling captain shall claim domicile in more than one whaling village.

(h) No person may salvage a stinker without complying with the provisions of § 230.75.

(i) No whaling captain shall engage in whaling with a harpoon, lance, or explosive dart which does not bear a permanent distinctive mark identifying the captain as the owner thereof.

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§ 230.73 Licenses.

(a) A license is hereby issued to a whaling captain.

(b) The Assistant Administrator may suspend the license of any whaling captain who fails to comply with these regulations.

§ 230.74 Quotas.

(a) During the calendar year 1979, the quota for bowheads is allocated among whaling villages as follows:

(1) Savoonga—2 whales landed or 3 struck, whichever occurs first;

(2) Gambell—2 whales landed or 3 struck, whichever occurs first;

(3) Wales—1 whale landed or 1 struck, whichever occurs first;

(4) Kivalina—1 whale landed or 2 struck, whichever occurs first;

(5) Pt. Hope—2 whales landed or 3 struck, whichever occurs first;

(6) Wainwright—2 whales landed or 3 struck, whichever occurs first;

(7) Barrow—5 whales landed or 7 struck, whichever occurs first;

(8) Kaktovik—2 whales landed or 3 struck, whichever occurs first;

(9) Nuigsut—1 whale landed or 2 struck, which ever occurs first.

(b) When the number of bowheads struck or landed by whaling captains domiciled in a whaling village equals the quota for such whaling village as set forth in paragraph (a) of this section, whaling by all captains domiciled in that whaling village shall cease. All license holders shall be notified promptly by the Assistant Administrator for Fisheries using all reasonable means of communication. Licenses held by whaling captains domiciled in a whaling village which has reached its quota shall not be valid after the quota for that whaling village has been reached.

(c) If for any reason the landing or struck quota for whaling villages is not reached, the part of the quota which remains may be reassigned by the Assistant Administrator to a second whaling village: *Provided*, that if any other whaling village has exceeded its quota, the Assistant Administrator shall not reassign the quota if he determines that it is likely to result in the total number of whales landed or struck exceeding the bowhead quota then in effect under the Schedule to the International Convention for the Regulation of Whaling. In making such reassignment, the Assistant Administrator shall consult with representatives of as many whaling villages as time reasonably permits.

§ 230.75 Salvage of stinkers.

(a) Any person salvaging a stinker shall submit to the Assistant Administrator or his representative an oral or written report describing the circumstances of the salvage within 12 hours of such salvage. He shall provide promptly to the Assistant Administrator or his representative each harpoon, lance, or explosive dart found in or attached to the stinker. The device shall be returned to the owner thereof promptly unless it is retained as evidence of a possible violation.

(b) There shall be a rebuttable presumption that a stinker has been struck by the captain whose mark appears on the harpoon, lance, or explosive dart found in or attached thereto, and, if no strike has been reported by such captain, such strike shall be deemed to have occurred at the time of recovery of the device.

§ 230.76 Reporting by whaling captains.

(a) A representative of the Assistant Administrator may request each whaling captain licensed pursuant to § 230.73 to provide a written statement of his name and village of domicile and a description of the distinctive marking to be placed on each harpoon, lance and explosive dart. Representatives of the Assistant Administrator may provide each captain a form approved by the Assistant Administrator to facilitate reporting under this paragraph.

(b) Each whaling captain shall provide to appropriate representatives, on request, an oral or written report of whaling activities including but not limited to the striking, attempted striking, or landing of a bowhead whale and where possible, specimens from landed whales. The Assistant Administrator is authorized to provide technological assistance to facilitate prompt reporting and collection of specimens from landed whales, including but not limited to ovaries, ear plugs, and baleen plates. The report shall include at least the following information.

(1) The number, dates, and locations of each strike, attempted strike, or landing;

(2) The length (as measured from the point of the upper jaw and the notch between the tail flukes), the extreme width of the flukes, and the sex of the bowhead(s) landed;

(3) The length and sex of a fetus, if present in a landed bowhead whale;

(4) An explanation of circumstances associated with the striking or attempted striking of any bowhead whale not landed; and

(5) The number of bowhead whales sighted by the whaling captain or any member of the whaling crew.

§ 230.77 Penalties.

Any person who whales in contravention of these regulations, or violates any other provision of the Whaling Convention Act shall be subject to the penalties set forth in 16 U.S.C. 916e and 916f, and any other penalties provided by law.

Dated: January 24, 1979.

JACK W. GEHRINGER,
Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 79-3036 Filed 1-29-79; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6050-01-M]

ACTION

COMPETITIVE DEMONSTRATION GRANTS

Availability of Funds

The Office of Policy and Planning of ACTION announces the availability of funds for fiscal year 1979 for demonstration grants under the Special Volunteer Programs authorized by the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113, Title I, Part C, 42 U.S.C. 4992).

Applications are due by 5 p.m. on April 30, 1979. All applications received by that time and date, or postmarked five (5) days before that date by the U.S. Postal Service, will be considered. Applications received by the closing date which are complete and conform to the requirements of this program announcement, will be competitively reviewed for the award of approximately twenty (20) grants. The purpose of the competitive process is to identify and support innovative volunteer service projects which have potential for widespread use.

Only applications from private nonprofit incorporated organizations and public agencies will be considered.

A. OBJECTIVES OF THESE SPECIAL VOLUNTEER PROGRAMS

To strengthen and supplement efforts to meet a broad range of human, social, and environmental needs, particularly those related to poverty, by encouraging and enabling persons from all walks of life and from all age groups to perform constructive volunteer service; to test or demonstrate new or improved volunteer delivery systems or methods; to encourage wider volunteer participation, particularly on a short-term basis, and to identify particular segments of the poverty community which could benefit from volunteer efforts.

Priority consideration will be given to demonstration projects emphasizing the needs of displaced spouses and victims of family violence; deinstitutionalization of the elderly, mentally retarded, mentally ill, imprisoned, and terminally ill; economic development through the use of rural credit unions, cooperative farms, and better methods of food and energy production; and rural energy needs, especially modification of low-income persons' energy consumption habits, helping poor people gain access to weatherization assistance, reduction of utility rates through citizen action, and acquiring alternative energy sources.

Projects emphasizing activities other than those set forth above will be considered for award if they meet the described objectives of the Special Volunteer Programs, but will not receive priority consideration.

B. ELIGIBLE APPLICANTS

State and local government agencies and private non-profit incorporated organizations.

C. AVAILABLE FUNDS AND SCOPE OF GRANTS

Subject to the availability of fiscal year 1979 funding, approximately $750,000 will be available for approximately twenty (20) grants ranging in size from approximately $15,000 to $200,000. They will be awarded for periods of not more than twelve (12) months. Subject to the availability of funds and if warrented by the nature of the project additional 12-month continuation grants may be awarded after competitive review.

Publication of this announcement does not obligate ACTION to award any specific number of grants, or to obligate the entire amount of funds available, or any part thereof, for demonstration grants under the Special Volunteer Programs.

D. GENERAL CRITERIA FOR GRANT SELECTION

Grant applications will be reviewed and evaluated against the general criteria outlined below, as well as more specific evaluation criteria which are included in the application kit (see section E below).

—Promise of developing innovations or knowledge in areas of priority, and of significance to national program development.

—Carefully formulated measurable time phased objectives and feasibility of methods for meeting those objectives.

—Capability of proposed staff.

—Likelihood of completion of project within proposed timetable.

—Feasibility of proposed budget.

—Potential for replication of the project model; plans for implementation and dissemination of results of project, including any products for use by others.

—Commitment from collaborating agencies and organizations where such could be expected to contribute to the value or success of the project.

—Adequacy of plans for data gathering and evaluation.

—While applicants are not required to contribute a specific portion of project costs, they are encouraged to do so. Applicants capable of such contributions should specify the sources and amounts of non-federal contributions, and the sources and nature of in-kind non-federal contributions.

E. AVAILABILITY OF FORMS

To be eligible for consideration, an application must be prepared and submitted in accordance with this announcement and the forms, instructions and program guidelines contained in the grant application kit. The kit may be obtained on or after January 31, 1979, by written request, from the Chief, Grants Branch, Room P-200, ACTION, 806 Connecticut Avenue, N.W., Washington, D.C. 20525. To expedite requests, please furnish a self-addressed gummed label, including "RGA No. 79-02," on the label. Telephone requests will not be honored. Kits will be sent only to private non-profit organizations and public agencies.

Requests for copies of the application kit will be honored if received within twenty (20) calendar days after date of availability referenced above. Requests received after this date will be filled on a first-come, first-served basis until the supply is exhausted.

F. APPLICATION REVIEW PROCESS

All eligible applications which have been submitted by the deadline date (see section G below) will be reviewed and rated by an ACTION headquarters rating panel composed of a minimum of three (3) ACTION and/or other Federal agency staff members with expertise in special volunteer programs. The highest rated applications will be submitted to the ACTION Assistant Director for Policy and Planning for final selection. The grant awards will be made by the Chief, Grants Branch, ACTION.

Prior to making final selections, the Assistant Director for Policy and Planning will transmit to the appropriate ACTION Regional and State Directors

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copies of the best qualified grant applications along with the panel's evaluation criteria, for their review and comment. Their comments will be used by the Assistant Director in making the final selections.

G. APPLICATION SUBMISSION AND DEADLINE

One signed original and two (2) copies of all completed applications must be submitted to the Chief, Grants Branch, at the above address. Applications are due not later than 5 p.m. EDST, April 30, 1979. All applications received by that date, or postmarked on or before April 25 by the U.S. Postal Service, will be considered.

Applications which do not conform to this announcement, or are received late, or are incomplete, will not be accepted for review.

Date of Signature: January 24, 1979.

SAM BROWN,
Director.

[FR Doc. 79-3083 Filed 1-29-79; 8:45 am]

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

INTERIM DESIGNATION

Designation on an Interim Basis of the Eastern Iowa Grain Inspection & Weighing Service, Inc.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces the designation on an interim basis of the Eastern Iowa grain Inspection & Weighing Service, Inc., as an official agency to provide grain inspection services under the U.S. Grain Standards Act, as amended, for the area normally serviced by the Kankakee Grain Inspection Bureau, Inc., effective January 15 through midnight, February 13, 1979.

DATE: Interim Designation Effective January 15 through February 13, 1979.

FOR ADDITIONAL INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 14th & Independence Avenue, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: As a result of administrative action resulting in a consent order, the designation of the Kankakee Grain Inspection Bureau is suspended effective January 15 through midnight February 13, 1979.

In order to provide an orderly continuation of needed official grain inspection services, the Eastern Iowa Grain Inspection & Weighing Service, Inc., Blue Grass, Iowa, has been granted a designation on an interim basis to provide official grain inspection services effective January 15 through midnight February 13, 1979, for the area normally serviced by the Kankakee Grain Inspection Bureau, Inc. Requests for service during this time period from applicants normally serviced by the Kankakee agency should be directed to Eastern Iowa Grain Inspection & Weighing Service, who will be operating out of the Kankakee Grain Inspection Bureau's office at 550 North Fifth Avenue, P.O. Box 102, Kankakee, Illinois 60901, (815) 932-2851, or at Eastern Iowa's office at R.R. #1, Box 588, Blue Grass, Iowa 52726, (319) 322-7149.

On February 14, 1979, the interim designation will terminate and the Kankakee Grain Inspection Bureau, Inc., will resume providing official inspection services in its area.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); 7 CFR 26.99; 7 CFR 26.101)

Done in Washington, D.C. on: January 24, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-3113 Filed 1-29-79; 8:45 am]

[3410-02-M]

OFFICIAL AGENCY DESIGNATION

Cancellation of Designation of the Plainview Grain Inspection and Weighing Service, Inc.—Official Designation of Plainview Grain Inspection & Weighing Service, Inc.—Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the cancellation of designation of the Plainview Grain Inspection and Weighing Service, Inc., the official agency owned by a grain exchange at Plainview, Texas, and the designation of a new official agency which is owned by Robert W. Davis, Edna H. Davis, and A. W. DeBerry, which will retain the name of Plainview Grain Inspection & Weighing Service, Inc., to perform grain inspection services under the U.S. Grain Standards Act, as amended, effective October 25, 1978. This notice also proposes a geographic area within which the agency will operate.

DATE: Comments by March 16, 1979.

FOR ADDITIONAL INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, 14th & Independence Avenue, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

On August 18, 1978, a notice was published in the FEDERAL REGISTER (43 FR 27574) announcing that (1) the Plainview Grain Inspection and Weighing Service, Inc., Plainview, Texas, requested that its designation as an official inspection agency be transferred to Robert W. Davis, Chief Inspector of the agency, Edna H. Davis, and A. W. DeBerry, licensed inspectors with the agency; and (2) Mr. Davis et al have applied for designation in accordance with Section 7(f)(1) of the Act (7 U.S.C. 79(f)(1)) to operate as an official agency which will retain the name of the Plainview Grain Inspection & Weighing Service, Inc.

Interested persons were given until September 18, 1978, to submit written views and comments with respect to the requested transfer of designation and/or to apply for designation to operate as an official agency at Plainview, Texas. No comments were received regarding the August 18, 1978, notice. No additional applications were received, other than the application from Mr. Davis et al.

The FGIS has conducted the required investigation of the Plainview Grain Inspection & Weighing Service, Inc., which included onsite reviews of their inspection points (specified service points).

NOTE: Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result of this investigation and after due consideration of the request for transfer, the Plainview Grain Inspection & Weighing Service, Inc., owned by Mr. Davis et al was selected for designation under the Act to perform official inspection functions (other than appeal inspection), not including official weighing, and the designation of the Plainview Grain Inspection and Weighing Service, Inc., was canceled, effective October 25, 1978.

A document designating the Plainview Grain Inspection & Weighing Service, Inc., as an official agency was signed on October 25, 1978. Said designation also includes an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned to the Plainview Grain Inspection & Weighing Service, Inc., on an interim basis pending final determination in this matter is:

Bounded on the North by: The northern Deaf Smith County line from State Route 214 east to U.S. Route 385; U.S. Route 385 south to Farm to Market Road (FM) 1062; FM 1062 east to State Route 217; State Route 217 east to the Prairie Dog Town Fork of the Red River; Prairie Dog Town Fork of the Red River southeast to the northern Briscoe County line; the Briscoe County line east; the northern Hall County line east to U.S. Route 287;

Bounded on the East by: U.S. Route 287 southeast to the eastern Hall County line; the Hall County line south; the southern Hall County line west to the eastern Motley County line; the Motley County line south;

Bounded on the South by: The southern Floyd County line west; the southern Motley County line west; the western Floyd County line north to FM 37; FM 37 west to FM 400; FM 400 north to FM 1914; FM 1914 west, including Hale Center, Texas, to FM 179; FM 179 south to FM 37; FM 37 west to U.S. Route 84; U.S. Route 84 northwest to FM 303; and

Bounded on the West by: FM 303 not including Sudan, Texas, north to U.S. Route 70; U.S. Route 70 west to the western Lamb County line the Lamb County line north; the northern Lamb County line east to the western Castro County line; the Castro County line north to the southern Deaf Smith County line; the Deaf Smith county line west to State Route 214; State Route 214 north to the northern Deaf Smith County line.

Interested persons may obtain maps of the proposed geographic area from the Compliance Division, Delegation and Designation Branch.

The specified service points of the Plainview Grain Inspection & Weighing Service, Inc., are 1100 North Broadway Street, P.O. box 717, Plainview, Texas 79072; and Progressive Road (1 block west of Highway 60), Hereford, Texas 79045. These service points are located within the agency's proposed geographic area. a specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspector is located. The designation document provides for the inclusion of service points which may be established in the future within the agency's assigned geographic area.

Publication of this notice does not preclude future amendment of this designation, consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to the Plainview Grain Inspection & Weighing Service, Inc. All views or comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 14th & Independence Avenue, S.W., Room 2405, Auditors Building, Washington, D.C. 20250. All materials submitted should be mailed to the Director not later than March 16, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 4, Pub. L. 94-582, 90 Stat. 2868 (7 U.S.C. 75a); sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note))

Done in Washington, D.C. on: January 24, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc 79-3112 Filed 1-29-79; 8:45 am]

[3410-11-M]

Forest Service

MODOC GRAZING ADVISORY BOARD

Cancelled Meeting

The Modoc Grazing Advisory Board meeting set for February 15, 1979 is hereby cancelled. The meeting will be rescheduled for a later date.

KENNETH C. SCOGGIN,
Forest Supervisor.

JANUARY 22, 1979.

[FR Doc. 79-3031 Filed 1-29-79; 8:45 am]

[3410-16-M]

Soil Conservation Service

AUTHORIZATION FOR WATERSHED PLANNING

A concerned State Conservationist of the Soil Conservation Service has been authorized to provide planning assistance to local organizations for the indicated watershed. The State Conservationist may proceed with investigations and surveys as necessary to develop watershed plans under authority of the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and in accordance with requirements of the National Environmental Policy Act of 1969, Pub. L. 91-190.

Persons interested in this project may contact the State Conservationist listed below:

Waimanalo Watershed, Island of Oahu, Hawaii State Conservationist—Jack P. Kanalz, Soil Conservation Service, P.O. Box 50004, Honolulu, Hawaii 96850

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program.)

Dated: January 19, 1979.

VICTOR H. BARRY, Jr.,
Deputy Administrator for Programs.

[FR Doc. 79-3002 Filed 1-29-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

CHALLENGE AIR TRANSPORT, INC.

Application for an All-Cargo Air Service Certificate

JANUARY 24, 1979.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 9, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 34327, from Challenge Air Transport, Inc. of Miami, Florida for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before February 20, 1979. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It

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shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-3124 Filed 1-29-79; 8:45 am]

[6320-01-M]

KODIAK—WESTERN ALASKA AIRLINES

Final Subsidy Mail Rate

This is an order tentatively proposing a final subsidy mail rate for Kodiak-Western Alaska Airlines, Inc., for annual periods beginning July 1, 1978, and thereafter.

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Order (79-1-156 establishing a final subsidy mail rate for Kodiak-Western Alaska Airlines, Inc., for annual periods beginning July 1, 1978, and thereafter.

SUMMARY: The Board adopted an order directing Kodiak-Western Alaska Airlines, Inc., (KWA) to show cause why an annual subsidy mail rate of $411,283 should not be established for that carrier for annual periods beginning July 1, 1978, and thereafter. The order also proposes a new payment formula which is designed to distribute the subsidies in amounts roughly proportional to the carrier's seasonal needs for subsidy support.

DATES: Parties must file notices of objection by February 5, 1979 and must file objections by February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

John R. Hokanson or James Craun, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5132.

SUPPLEMENTARY INFORMATION: A final subsidy mail rate for KWA for the period December 16, 1976, through June 30, 1978, will be proposed in a separate order to be issued later.

The complete text of Order 79-1-156 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-1-156 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

PHYLLIS T. KAYLOR,
Secretary.

JANUARY 24, 1979.

[FR Doc. 79-3123 Filed 1-29-79; 8:45 am]

[6320-01-M]

[Docket 33115, et al.; Order 79-1-68]

BRANIFF AIRWAYS, INC. ET AL.

Applications for Amendments to Certificates of Public Convenience and Necessity; Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of January 1979.

In the matter of applications of Braniff Airways, Inc., Hughes Airwest, American Airlines, Inc., Western Air Lines, Inc., Trans World Airlines, Inc., Continental Air Lines, Inc., Northwest Airlines, Inc., Allegheny Airlines, Inc., Ozark Airlines, Inc. (Dockets 33115, 33298, 33202, 33315, 33524, 33543, 33607, 33674, 33671, 33996, 34067) for amendment of their certificates of public convenience and necessity pursuant to section 401 of the Federal Aviation Act of 1958, as amended.

Beginning on July 31, 1978, with an application from Braniff Airways for authority to provide nonstop service between Salt Lake City, on the one hand, and Denver and Dallas/Fort Worth, on the other (Docket 33115), we have received numerous applications requesting authority to serve Salt Lake City markets. In all, we have received applications from eleven carriers for authority to serve Salt Lake City and twenty-six points in the continental United States. The markets requested by each applicant are contained in appendix A.*

The Utah Air Travel Commission (UATC) has demonstrated great interest in the requests for new Salt Lake City authority and has on several occasions informed us of its position on the matters raised. Essentially, it opposes an all-points Salt Lake City service investigation because of the delay that it would cause in securing air service to its top priority markets, and reserves the right to seek expedited treatment for those priority markets.[1] It sees an immediate need for service to St. Louis, Atlanta, Dallas/Fort Worth, Boise, Albuquerque, and Eugene,[2] and has also specifically requested expedited treatment for the salt Lake City-Albuquerque-San Antonio market.[3]

We tentatively conclude, on the basis of the tentative findings below, that it is consistent with the public convenience and necessity to award multiple permissive authority on a Category II subsidy-ineligible basis in the Salt Lake City-Albuquerque/Atlanta/Boise/Dallas/Fort Worth/San Antonio markets and to grant the applications of Allegheny, American, Braniff, Continental, Airwest, Northwest, Ozark, Western, TWA, to the extent that they request authority in these markets, and any other fit, willing and able applicants, whose fitness, willingness and ability can be established by officially noticeable data.[4] Further, we tentatively conclude that no oral evidentiary hearing is needed here since there are no material determinative issues of fact requiring such a hearing for their resolution.

These markets are those for which the community is most interested in having new authority now. Therefore, in the interest of expedition, this order will be limited to these markets.[5][6] We will deal with the remaining requests for Salt Lake City authority in subsequent proceedings.

Under the Airline Deregulation Act of 1978, we must approve an application for certificate authority unless we find, by a preponderance of the evidence, that approval would not be consistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). The new Act creates a presumption that the grant of all applications is consistent with the public convenience and necessity. It places on any opponents of these applications the burden of proving them inconsistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). To give such opponents a reasonable opportunity to meet an admittedly heavy burden of proof, it is our view that applicants must indicate what type of service they would provide if they served the markets at issue. This does not mean that an applicant must show that it will provide service if it receives authority, but rather what the nature of its service would be if it decided to serve. We will give all existing and would-be applicants 15 days from the date of service of this order to supply data,[7] in order to give interested persons sufficient information on the nature of the applicant's proposal to assess consistency with the public convenience and necessity. Our tentative findings concerning all applicants that have not filed illustrative service proposals are contingent on such filings.

Upon review of all the facts and pleadings in this case, we have tentatively determined that there is no reason why we should not grant multiple awards. Our tentative conclusions comport with the letter and spirit of the Airline Deregulation Act of 1978, particularly the declaration of policy set forth in Section 102 which instructs us to rely, to the maximum extent possible, on competitive forces, including potential competition.[8] See our general conclusions about the benefits of multiple permissive authority in *Improved Service to Wichita Case, et al.*, Order 78-12-108, December 14, 1978. Accordingly, we conclude that it is desirable to award the additional authority sought by the applicants, whether or not services are in fact operated. The existence of additional operating rights in markets now being served by incumbent carriers or authorized to be served will best effect the statute's policy objectives of placing maximum reliance on the decisions of the marketplace. This will occur because newly authorized carriers may actually enter the market in order to satisfy unmet demand, both in terms of price and service, or because incumbents will be encouraged by the realistic threat of entry to meet that demand. Because demand is dynamic in character and therefore constantly changing, the most effective means to assure that competitive forces will operate quickly and efficiently is to award multiple operating authority to carriers that are fit, willing and able to provide service.[9]

Notwithstanding the foregoing tentative conclusions in support of multiple permissive authority in this proceeding, we wish to make clear that we in no way desire to deter objections that might be asserted under the 1978 Act by air carriers, civic interests or other interested persons. The new statute contains a completely revised declaration of policy in section 102, as well as numerous additional and modified substantive provisions. Some of these statutory changes relate to considerations not expressly covered in the preceding statute. For example, while diversion from existing carriers will not be given decisive weight in rejecting applications for new authority except upon an extraordinary showing of financial jeopardy on the part of one or more existing air carriers, with the consequent loss of air service which cannot be immediately replaced, other provisions suggest that the Congress desires us to take into account other factors. These include, but are not limited to, satellite airport questions and the degree of concentration within the industry and safety. Any party in this proceeding may explain in full why the authority that we propose to grant should not issue. Such explanations should apply specifically to the applications in issue, and should be sufficiently detailed to overcome the statutory presumption of favorable treatment that the Act bestows on applications.

Finally, upon review of the environmental evaluations submitted by Braniff, Airwest, Western, Northwest and Continental in their applications, to which no answers have been filed, we find that our decision to award them authority does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, or a major regulatory action under the Energy Policy and Conservation Act of 1975. We reserve judgment on the environmental consequences of other applications, pending submission of environmental data.

We will give interested persons 30 days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; replies will be due within 10 days thereafter. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a proceeding that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections. We remind objectors that under the 1978 Act they have the burden of proving why the awards proposed here will not be consistent with the public convenience and necessity.

Accordingly, 1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated above and amending the certificates of public convenience and necessity of the following carriers so as to authorize them to provide nonstop operations between the points listed, as follows:

a. Allegheny Airlines for Route 97 between Salt Lake City, on the one hand, and Albuquerque, Atlanta and Dallas/Fort Worth, on the other;

b. American Airlines for Route 4 between Salt Lake City, on the one hand, and Albuquerque, Dallas/Fort Worth and San Antonio, on the other;

c. Braniff Airways for Route 9 between Salt Lake City, on the one hand, and Dallas/Fort Worth, on the other;

d. Continental Air Lines for Route 29 between Salt Lake City, on the one hand, and Albuquerque and San Antonio on the other;

e. Hughes Airwest for Route 76 between Salt Lake City, on the one hand, and Albuquerque, Dallas/Fort Worth and San Antonio, on the other;

f. Northwest Airlines for Route 3 between Salt Lake City, on the one hand, and Albuquerque, Atlanta, Boise, Dallas/Fort Worth and San Antonio, on the other;

g. Ozark Air Lines for Route 107 between Salt Lake City, on the one hand, and Albuquerque, Atlanta, Boise, Dallas/Fort Worth and San Antonio, on the other;

h. Trans World Airlines for Route 2 between Salt Lake City, on the one hand, and Albuquerque, on the other;

i. Western Air Lines for Route 19 between Salt Lake City, on the one hand, and Albuquerque, Atlanta, Boise, Dallas/Fort Worth and San Antonio, on the other;

and amending, to grant any of the authority in issue, the certificates of any

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* Appendices A through C filed as part of the original document.

[1] *See* Answer of the UATC to Western's motion to consolidate, October 6, 1978, Docket 33524.

[2] *See* Answer of the UATC to American's motion to consolidate, October 13, 1978, Docket 33315.

[3] *See* Answer of the UATC to Airwest's petition for show cause order, October 16, 1978, Docket 33202.

[4] Officially noticeable data consist of information filed with us under section 302.24(m) of our Rules of Practice. Applicants whose cannot be so established must make a showing of fitness, as well as dealing with any questions under sections 408 and 409 of the Act. Should such applications be filed, we will then consider how to deal with them procedurally.

On the basis of officially noticeable data, we find that Allegheny, American, Braniff, Continental, Airwest, Northwest, Ozark, Western, and TWA are citizens of the United States and are fit, willing and able to perform the air services proposed and to conform to the provisions of the Act and our rules, regulations and requirements.

[5] The Salt Lake City-St. Louis market has already received consideration in Order 78-10-98, Oct. 10, 1978 and the Salt Lake City-Eugene exemption application of Frontier Airlines (Docket 33608) was granted in Order 78-12-71, December 11, 1978.

[6] The carriers requesting authority in each of these markets appear in Appendix B. A summary of the pleadings filed by each of the carriers relating to the above five markets is found in Appendix C.

[7] They should submit an illustrative schedule of service in the markets at issue, which shows all points that they might choose to serve, the type and capacity of the equipment they would likely use and the elapsed trip time of flights in block hours over the segments. For the markets at issue only, they should also provide an environmental evaluation as required by Part 312 of our Regulations, and an estimate of the gallons of fuel to be consumed in the first year of operations in the markets if they instituted the proposed service, as well as a statement on the availability of the required fuel.

[8] Section 102(a) specifies as being in the public interest, among other things: "The placement of maximum reliance on competitive market forces and on actual and potential competition (a) to provide the needed air transportation system, and (b) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital" and "The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services."

[9] In the Boise-Denver case, Docket 32115, the issue arose as to how many more carriers the Boise airport can now accommodate. An initial decision was served on December 28, 1978. Interested persons may comment on the Boise airport issue as it concerns this case.

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other fit, willing and able applicants the fitness of which can be established by officially noticeable material;

2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings and conclusions, or certificate amendments set forth here, to file and serve upon all persons listed in paragraph 9, no later than February 26, 1979, a statement of objections, together with a summary of testimony, statistical data and other material expected to be relied upon to support the stated objections; answers shall be due no later than March 8, 1979;

3. If timely and properly supported objections are filed, we will accord full consideration to the matters and issues raised by the objections before we take further action; [10]

4. In the event no objections are filed, we will deem all further procedural steps to have been waived and we may proceed to enter an order in accordance with the tentative findings and conclusions set forth here;

5. We grant the motions of Braniff, Airwest, American, Western, TWA, Continental, Northwest, Allegheny and Ozark to consolidate their applications to the extent that they request authority in the markets at issue here;

6. We grant TWA's motion to sever its Salt Lake City-St. Louis and Salt Lake City-Denver applications from its Salt Lake City-Albuquerque/St. Louis/Denver application in Docket 33543;

7. We direct American, TWA, Continental, Northwest, Allegheny, Ozark and any other applicant for the authority in issue to file the data set forth in footnote 7 no later than February 9, 1979; and

8. We will serve a copy of this order upon all persons named in the service lists of Dockets 33115, 33298, 33202, 33315, 33524, 33543, 33674, 33607, 33671, 33996, and 34067.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[11]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-3119 Filed 1-29-79; 8:45 am]

[6320-01-M]

[Docket 32774; Order 79-1-99]

NORFOLK-VIRGINIA BEACH-PORTSMOUTH-CHESAPEAKE-SUFFOLK PARTIES

Petition for Investigation Into Service Cuts Proposed by United Air Lines, Inc.; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 18th day of January, 1979

On May 31, 1978, the Norfolk Parties[1] filed a petition, under sections 404(a) and (b) of the Federal Aviation Act, for an investigation into the service cuts proposed by United Air Lines in the Norfolk-Washington (National Airport) market. Petitioners request a hearing on their complaint or, in the alternative, an order to show cause directing United to give up five of its slots at Washington National Airport to another carrier willing to supply replacement services.

In support of their petition, the Norfolk Parties contend that the elimination of United's flights between Norfolk and Washington National Airport effective June 9, 1978, would leave the market with grossly inadequate service;[2] that neither Baltimore-Washington International Airport nor Dulles International Airport meets the needs of the market; that United is the largest carrier of passengers in the Norfolk-Washington National Airport market;[3] the schedule pattern in the market was already deficient before United proposed to cut its service and will be seriously inadequate after the cutbacks;[4] that while the decrease in frequencies amounts to only 35.7 percent, the reduction in capacity amounts to nearly 40 percent because three of the remaining flights are operated with YS-11 aircraft with a seating capacity of only 58; that the cutbacks are planned during a period of peak demand; that the need for service to National Airport is based in part on the fact that Norfolk is the headquarters for the United States Atlantic Fleet and for NATO Supreme Allied Command Atlantic Operations; that Norfolk is also dependent on National Airport as a connecting hub and gateway to other cities; that the use of other airports would greatly inconvenience Norfolk passengers since such travel would involve a backhaul; and that Norfolk's efforts to obtain replacement service have been hampered by the combination of the lack of available slots at the National Airport and the price ceilings imposed by the Board in the *Domestic Passenger-Fare Investigation*. Norfolk attached to its petition numerous letters opposing the cutback in service by United.

Answers to the petition were filed by the Department of Defense and by United. DOD supports the petition, stating that over 13,000 official DOD travelers per year use Norfolk-Washington air service, with the greatest damand for reservatons in the early morning and evening hours; that curtailment of the current service will be detrimental to many DOD passengers in the performance of essential military travel; that serious disruption to casual travel of Navy, Marine Corps, and civilian workers and their dependents, who make up over 30 percent of the Tidwater population, is probable, particularly during peak holiday periods; and that neither Baltimore-Washington International Airport nor Dulles International Airport is as convenient for such travel, given that the vast majority of official travel of the DOD between Norfolk and Washington s for business at the Pentagon or in downtown Washington, D.C.

United contends that it is not the major participant in the Norfolk-Washington National market;[5] that is fulfilling its certificate requirements by serving the Washington area through Baltimore and Dulles International Airports;[6] that it is United's intent to deemphasize local schedules in the market whild placing more emphasis on service between Norfolk and more distant destinations; that the service cutbacks it has made are not a violation of the Act; that the alternative request of the Norfolk Parties for an order to show cause why it should not give up five of its slots at National Airport is without merit; and that the petititon should be dismissed.

The Norfolk Parties filed a motion for leave to file an otherwise unauthorized document,[7] to which was attached a reply to United's answer. They contend that the data used to support the argument that United is not participating in a large percentage of Norfolk-Washington, traffic are misleading and were taken from an unrepresentative year; [8] and that the unwillingness of United to give up some of its slot allocations at National Airport to a replacement carrier should not be countenanced by the Board.

On July 24, 1978, the Norfolk Parties filed a petition in Docket 21866 (*Domestic Passenger-Fare Investigation*) for a waiver from our rate-making policies to the extent necessary to allow them to bid at higher than Phase 9 prescribed fares for carrier services in the Norfolk-Washington market. Specifically, they propose to seek contract arrangements with a willing carrier or carriers to replace the loss of United's service in that market. They contend that they need relief from DPFI fare ceilings in order to attract service, and that even under our proposed rule-making (EDR-353, PDR-52, and PSDR-51),[9] only a modest increase above DPFI levels would be permissible in a market of this nature. They seek permission to bid much higher for the services (or particular flights such as peak period movements) of a willing carrier or carriers in the Norfolk-Washington National market.[10] Finally, they filed a motion to consolidate the waiver request with their petition in Docket 32774.

We have decided to dismiss Norfolk's petition. After is was filed, Congress passed the Airline Deregulation Act of 1978. Under the new Act, maximum reliance is placed on competitive market forces and actual and potential competition to provide needed service (section 102(a) (4) and (9)). Further, a new comprehensive program has been created, in section 419, to guarantee that essential air services are provided to smaller communities, where necessary with direct subsidy. In this more competitive climate carriers have the freedom to reduce or eliminate service at points or in markets except where "essential air transportation" would be impaired. Under these circumstances, the adequacy of service provision can no longer be used to fix a carrier's frequencies above the "essential" level.[11]

We recognize, however, that Washington is a major destination for Norfolk travelers, and by this order we are inviting applications for authority in the Norfolk-Washington (National Airport) market.[12] Such applications may be in the form of certificate amendment or exemption requests. We intend to process certificate applications by show-cause procedures if circumstances permit.[13] With a total of 199,130 O&D plus connecting passengers in 1977, or 545 passengers per day, the market might very well be attractive to potential new entrants. Such service may be more feasible for a carrier other than United with a different route structure or aircraft fleet mix. We will act upon any applications filed in response to this order as expeditiously as possible.

In addition to their petition, the Norfolk Parties filed a waiver request which would permit a higher-than-normal fare in the Norfolk-Washington market. As indicated in footnote 9, *supra*, we have adopted a new policy for domestic fares designed to permit maximum flexibility according to the needs of particular markets. The new section dealing with upward fare flexibility, 399.33(a), is purposely broad: "coach fare proposals priced above this ceiling or the upper limits specified under section 399.31(h) should be suspended *unless otherwise justified*" (emphasis added).[14] This new fare policy establishes a suspend-free ceiling, but it does not preclude just and reasonable and otherwise lawful increases above the ceiling. Thus, any carrier is free to file for an increased fare in the Norfolk-Washington market. Whether the characteristics of this market could justify higher prices cannot, of course, be determined on this record. Norfolk's petition for a waiver is therefore moot and will be dismissed.[15]

ACCORDINGLY,

1. We dismiss the petition filed by the Norfolk Parties in Docket 32774;

2. We dismiss the petition filed by the Norfolk Parties in Docket 21866 for a waiver of the rate making policies and the motion to consolidate the petition with the petition in Docket 32774;

3. We grant the motion of the Norfolk Parties for leave to file an otherwise unauthorized document; and

4. We will serve this order on United Air Lines; National Airlines; Piedmont Aviation; all other certificated carriers; the Norfolk Parties; the Department of Defense; and the Postmaster General.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board: [16]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-3118 Filed 1-29-79; 8:45 am]

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

ELECTRONIC INSTRUMENTATION TECHNICAL ADVISORY COMMITTEE

Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Wednesday, February 14, 1979, at 9:30 a.m. in Room 4833, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975, October 21, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Section 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to electronic instrumentation, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee will meet only in Executive Session to discuss matters

[10] Since provision is made for the filing objections to this order, we will not entertain petitions for reconsideration.

[11] All Members concurred.

[1] The Norfolk Port and Industrial Authority, the City of Norfolk, City of Suffolk, City of Virginia Beach, Chesapeake Chamber of Commerce, Norfolk Chamber of Commerce, Portsmouth Chamber of Commerce, Suffolk Chamber of Commerce, and Virginia Beach Chamber of Commerce.

[2] The remaining service would be two daily round trips by National Airlines and two and one-half round trips daily by Piedmont Aviation.

[3] The Parties indicate that during 1977 United enplaned and transported about 36 percent of the traffic carried by the three certificated carriers on nonstop flights in the market.

[4] The petition refers to gaps in departures from Norfolk between 10:45 a.m. and 9:50 p.m., and to Norfolk between 9:25 a.m. and 1:45 p.m. and between 5:45 p.m. and 9:45 p.m.

[5] United states that during 1976 it carried only 19 percent of the local and connecting passengers between Norfolk and Washington according to O&D survey data, and that for the same year, its on-board traffic consisted of only 22 percent local passengers with the balance of 78 percent consisting of through or beyond passengers.

[6] United plans to move its flights from Naltonal Airport to Balitmore, adding its service to four daily round trips by Allegheny Airlines in the Norfolk-Baltimore market.

[7] We will grant the motion.

[8] Norfolk states that 1976 represented a low point for United in terms of both traffic and service in the Norfolk-Washington market.

[9] On August 25, we adopted as a final rule, PS-80, effective September 5, 1978, which amends Part 399 regarding domestic passenger fare levels and structures and discount fares.

[10] They state that they request waiver authority to permit the approval of any fare proposal in this market agreed to by them in a contract with the carrier or carriers involved. They propose to negotiate with interested carriers (including United) and enter into an appropriate agreement or agreements which would specify both an agreed fare level and an agreed service level.

[11] We note that historically, before the passage of the 1978 Act, we relied primarily on competition to assure adequacy of service.

[12] We are aware of the views expressed by Norfolk that the slot allocation situation at National Airport will prevent replacement service. The whole matter of allocation of slots at congested airports is under review by the FAA and our staff, and Norfolk will be free to participate in any proceeding which may be undertaken to deal with this question. It is a complex problem that cannot be considered on an *ad hoc* basis, and we will not here require United to give up any of its slots at National Airport.

[13] In the case of carriers or applicants not holding combination certificates, we will make a preliminary investigation to determine whether we should proceed, in the first instance, by show-cause procedures, or whether we should set such applications before an Administrative Law Judge for full hearing.

[14] Justifications could relate to particular operating factors, special market needs, higher cost service, etc.

[15] Consideration will, of course, be given to the views of Norfolk and DOD filed in connection with any subsequent tariff proposal to establish fares above the ceiling.

[16] All Members concurred.

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properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

For further information, contact Mr. Richard J. Isadore, Acting Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4738.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Electronic Instrumentation Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on December 27, 1978 (43 FR 60328).

Dated: January 25, 1979.

LAWRENCE J. BRADEY,
Acting Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 79-3164 Filed 1-29-79; 8:45 am]

[3510-25-M]

HARDWARE SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, February 14, 1979, at 9:00 a.m. in Room 4833, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the Charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (1) Maintenance of the processor performance tables and further investigation of total systems performane; and (2) Investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee meeting agenda has four parts:

GENERAL SESSION

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of work program for the current year.

EXECUTIVE SESSION

4. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act. Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Subcommittee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on September 14, 1978 (43 FR 41073).

For further information, contact Mr. Richard J. Isadore, Acting Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4738.

Copies of the minutes of the open portion of the meeting can be obtained by calling Mrs. Margaret Cornejo, Operations Division, Office of Export Administration (202) 377-2583.

Dated: January 25, 1979.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 79-3165 Filed 1-29-79; 8:45 am]

[3510-25-M]

TECHNOLOGY TRANSFER SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, February 14, 1979, at 1:00 p.m. in Room 4833, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee was initially established on April 10, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) world wide availability and actual utilizaton of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Technology Transfer Subcommittee was formed to examine the impact of transferring Automatic Data Processing technology to Communist destinations.

The Subcommittee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Review of possible future activities for the Subcommittee for 1979.
(4) Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4) the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Subcommittee members have appropriate security clearances.

The complete Notice of Determinations to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on September 14, 1978 (43 FR 41072).

For further information, contact Mr. Richard J. Isadore, Acting Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4738.

Copies of the minutes of the open portion of the meeting can be obtained by calling Mrs. Margaret Cornejo, Operations Division, Office of Export Administration (202) 377-2583.

Dated: January 25, 1979.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 79-3166 Filed 1-29-79; 8:45 am]

[3510-08-M]

National Oceanic and Atmospheric Administration

PROPOSED ALASKA COASTAL MANAGEMENT PROGRAM

Public Hearings on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) Prepared on the Proposed Alaska Coastal Management Program.

The hearing schedule is:

Tuesday, February 27, 1979, 2:00 p.m. and 7:00 p.m., Alaska Court & Office Building, Supreme Court Room A, Juneau, Alaska.
Wednesday, February 28, 1979, 2:00 p.m. and 7:00 p.m., Anchorage Historical & Fine Arts Museum, 121 West 7th Avenue, Anchorage, Alaska.

The views of interested persons and organizations on the adequacy of the impact statement and/or the Proposed Alaska Coastal Management Program are solicited, and may be expressed orally or in written statements. Persons or organizations wishing to be heard on this matter should contact the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (phone: 202/634-4253), so that an appearance schedule may be prepared. In addition, requests for presentations will be accepted immediately prior to the hearing. Presentations are scheduled on a first-come, first-served basis, and should be limited to ten minutes in order to assure that all views can be heard. Office of Coastal Zone Management staff may wish to question speakers following the conclusion of his/her statement. If time permits, additional statements (and general discussion) may be scheduled at the conclusion of presentations. No verbatim transcript of the hearing will be maintained; but staff present will record the general thrust of the remarks.

As part of his review of the Alaska Coastal Management Program, the Assistant Administrator for Coastal Zone Management will consider fully all comments received at these hearings, as well as written statements submitted to, and received by OCZM on or before March 5, 1979. As part of the procedures leading toward approval of this program, a Final Environmental Impact Statement will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines which reflect his consideration of these comments. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Dated: January 24, 1979.

R. L. CARNAHAN,
Acting Assistant Administrator for Administration.

[FR Doc. 79-3159 Filed 1-29-79; 8:45 am]

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[3510-60-M]

National Telecommunications and Information Administration

FREQUENCY MANAGEMENT ADVISORY COUNCIL

Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the Frequency Management Advisory Council (FMAC) will meet from 9:30 a.m. to 3:30 p.m. on February 15, 1979, in the Aspen Room at the National Telecommunications and Information Administration, 1325 "G" Street, N.W., Washington, D.C. (Public entrance to the building is on "G" Street, between 13th Street and 14th Street, N.W.)

The Council was established on July 19, 1965. The objective of the Council is to advise the Secretary of Commerce on radio frequency spectrum allocation matters and means by which the effectiveness of Federal Government frequency management may be enhanced. The Council consists of 11 members whose knowledge of telecommunications is balanced in the functional areas of manufacturing, analysis and planning, operations, research, academia and international negotiations.

The agenda items for the meeting will be:

(1) Approval of the Draft Record of the January 10, 1979 meeting.

(2) FMAC study of the proposed Communications Act of 1978—progress report, review and discussions.

(3) Any other business of the Council.

(4) Scheduling of the next meeting.

The meeting will be open to public observation; and a period will be set aside for oral comments or questions by the public. Each person will be limited to 10 minutes. More extensive questions or comments should be submitted in writing before February 14th. Other public statements regarding Council affairs may be submitted at any time before or after the meeting. Approximately 15 seats will be available for the public on a first-come first-served basis.

Copies of the minutes will be available on request.

Inquiries may be addressed to the Council Contral Officer, Mr. Charles L. Hutchison, National Telecommunications and Information Administration, Room 268, 1325 "G" Street, N.W., Washington, D.C. 20005, telephone 202-724-3301.

Dated: January 25, 1979.

LLOYD C. DOBSON,
Committee Liaison Officer, National Telecommunications and Information Administration.

[FR Doc. 79-3111 Filed 1-29-79; 8:45 am]

[3710-08-M]

DEPARTMENT OF DEFENSE

Department of the Army

HISTORICAL ADVISORY COMMITTEE

Open Meeting

1. In accordance with Section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Committee: Department of the Army Historical Advisory Committee.
Date: 6 April 1979.
Place: Conference Room, 6A-092, Forrestal Building, Washington, DC 20314.
Time: 1000-1140; 1345-1515.
Proposed Agenda: 1000-1140—Review of historical activities. 1345-1515—Discussion of activities and executive session of the committee.
Purpose of meeting: The committee will review the past year's historical activities based on reports and manuscripts received throughout the year and formulate recommendations through the Chief of Military History to the Chief of Staff, US Army and the Secretary of the Army for advancing the purposes of the Army Historical Program.

2. Meetings of the Advisory Committee are open to the public. Due to space limitations, attendance may be limited to those persons who have notified the Advisory Committee Management Office in writing, at least five days prior to the meeting of their intentions to attend the April 6 meeting.

3. Any members of the public may file a written statement with the Committee before, during or after the meeting. To the extent that time permits the Committee Chairman may allow public presentations of oral statements at the meeting.

4. All communications regarding this Advisory Committee should be addressed to LTC J. H. Ferguson, Advisory Committee Management Officer for the Chief of Military History, Room 6B-018, Forrestal Building, Washington, DC 20314.

Dated: January 17, 1979.

JAMES H. FERGUSON,
LTC, IN, Executive Officer

[FR Doc. 79-3099 Filed 1-29-79; 8:45 am]

[3810-70-M]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON ENDURING STRATEGIC COMMUNICATIONS, COMMAND AND CONTROL AND INTELLIGENCE

Advisory Committee Meeting

The Defense Science Board Task Force on Enduring Strategic Communications, Command and Control and Intelligence will meet in closed session on 23 February, 1979 in Colorado Springs, Colorado.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Enduring Strategic Communications, Command and Control and Intelligence has been scheduled for 23 February 1979 to review Aerospace Defense Command command and control systems and related plan and studies. The Task Force is focusing on the long term problems in strategic communications, command and control and intelligence and will complement concurrent studies being performed by Strategic Air Command and the United States Navy.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in Section 552(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, DOD/WHS.

JANUARY 25, 1979.

[FR Doc. 79-3033 Filed 1-29-79; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON ENDURING STRATEGIC COMMUNICATIONS, COMMAND AND CONTROL AND INTELLIGENCE

Advisory Committee Meeting

The Defense Science Board Task Force on Enduring Strategic Communications, Command and Control and Intelligence will meet in closed session on 21 and 22 February 1979 in Omaha, Nebraska.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Enduring Strategic Communications, Command and Control and Intelligence has been scheduled for 21 and 22 February 1979 to review Strategic Air Command command and control systems and related plans and studies and to receive subcommittee progress reports. The Task Force is focusing on the long term problems in strategic communications, command and control and intelligence and will complement concurrent studies being performed by Strategic Air Command and the United States Navy.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in Section 552d(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, DOD/WHS.

JANUARY 25, 1979.

[FR Doc. 79-3034 Filed 1-29-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM78-12; Order No. 17-A]

ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Order Confirming the Incentive Rate of Return Mechanism and Denying Petition for Reconsideration and Clarification

JANUARY 17, 1979.

I. BACKGROUND

On December 1, 1978, in Order No. 17 (in the above-referenced docket), the Federal Energy Regulatory Commission (Commission) appended certain Incentive Rate of Return (IROR) terms and conditions to the conditional certificates of public convenience and necessity for the Alaska Natural Gas Transportation System (ANGTS). These conditions were developed pursuant to a rulemaking. An original notice (May 8, 1978) and a revised notice (September 15, 1978) of proposed rulemaking were issued soliciting comments on the IROR mechanism. The Commission in Order No. 17 solicited further comments and scheduled an oral argument before the Commission on the sole issue of the inclusion of an allowance for funds used during construction (AFUDC) in the Cost Performance Ratio of the IROR mechanism. Written comments were received on December 19, 1978, from three interested parties: (1) the Alaskan Northwest Natural Gas Transportation Company, a Partnership; (2) the Northern Border Pipeline Company, and (3) the Office of Regulatory Analysis, Federal Energy Regulatory Commission. Representative of these same parties presented oral arguments to the Commission on December 21, 1978. Members of the Commission attending were Don S. Smith (presiding), Charles B. Curtis, Georgiana Sheldon, and Matthew Holden, Jr. This order affirms the terms and conditions in Order No. 17 and provides additional information concerning future proceedings to implement the IROR mechanism.

II. AFUDC IN THE COST PERFORMANCE RATIO

In their comments on the revised notice of September 15, the project sponsors (Alaskan Northwest and Northern Border) stated that the IROR mechanism as proposed in the revised notice was unacceptable to the sponsors and would result in the sponsors seeking Federal financial assistance. The major area of concern to the sponsors was the inclusion of AFUDC in the Cost Performance Ratio and a consequent reduction in the IROR if there are delays in construction. In response to valid criticisms and in order to make AFUDC consistent with other cost components in the Cost Performance Ratio, the Commission in Order No. 17 made four changes to or clarifications of the IROR mechanism. These are:

1. AFUDC will be calculated from a Real Rate of Return on equity and debt, after removing the effects of inflationary expectations, instead of the nominal or current dollar rates.

2. The IROR will not be reduced for delays occurring prior to the granting of a final certificate of public convenience and necessity by the Commission.

3. The Change in Scope procedure, to be the subject of a separate rulemaking, ". . . will absolve the project sponsors of responsibility for delays which are clearly the fault of the government."[1]

4. The rulemaking on Change in Scope will also address the issue of ". . . what other delays and cost increases are truly beyond the project sponsors' control."[2]

The net effect of these adjustments to the IROR mechanism is to greatly reduce the penalty for delay. However, because of the importance given to the AFUDC issue by the sponsors, the Commission concluded that submittal of additional written comments and presentation of oral arguments were appropriate before a final ruling on this matter.

[1] Order No. 17, *op. cit.* mimeo p. 6.
[2] *Ibid.*

III. RESOLUTION OF THE AFUDC ISSUE

Upon consideration of the written and oral views and comments received on the AFUDC issue, it is this Commission's judgment that AFUDC should remain in the Cost Performance Ratio as provided by the Commission in Order No. 17. In reaching this judgment the Commission is appreciative of the incentive effects discussed by the Commission's Office of Regulatory Analysis (ORA) but is at least equally influenced by a factor discussed during the oral argument by both the Office of Regulatory Analysis [3] and Alaskan Northwest,[4] sponsor of the Alaskan segment of the ANGTS: namely, the relationship of the Commission's decision to the Canadian IROR mechanism.

The filed capital costs which are to form the basis for the Canadian IROR mechanism are specified in Annex III to the "Agreement between the United States of America and Canada on Principles Applicable to a Northern Natural Gas Pipeline." [5] These filed costs, which are to be in the denominator of the Canadian IROR mechanism's Cost Performance Ratio,[6] contain an allowance for AFUDC. Similar treatment for the sponsors of the U.S. segments requires inclusion of AFUDC in the IROR Cost Performance Ratio for the U.S. companies.

While deciding that AFUDC should be included in the Cost Performance Ratio, the Commission, as previously stated,[7] is sympathetic to the project sponsors' concerns about delays caused by the government. As specified in Order No. 17, it is the Commission's intention that the Change in Scope procedure will hold the project sponsors harmless for delays caused by the government.

In proceeding to resolve the remaining issues, the Commission observes that the consumer of gas delivered by the ANGTS shares with the project sponsors an interest in a regulatory environment that provides a fair distribution of the risks and benefits associated with the ANGTS, because of the potential impact of that environment on consumer costs. Both the project sponsors and gas consumers

[3] Oral Argument held December 21, 1978, in Docket No. RM78-12, Tr. 21.
[4] *Ibid.*, Tr. 40.
[5] This Agreement was made a part of the Decision and Report to Congress on the Alaska Natual Gas Transportation System; Executive Office of the President, Energy Policy and Planning; transmitted to the Congress under the provisions of the Alaska Natural Gas Transportation Act, September 22, 1977. The Agreement is pp. 47-83 of the *Decision*.
[6] "Proposed Approach to Incentive Rate of Return for the Northern Pipeline"; Canada, National Energy Board; October 5, 1978; p. 2 of Regulations.
[7] Order No. 17, mimeo p. 6.

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have a legitimate right to identify which delays and cost increases are the fault of the government and which are the fault of the project sponsors, and to hold each accountable for its actions. Thus, providing a credible, fair regulatory environment is an important to gas consumers as it is to the project sponsors. The Commission's complete IROR mechanism will contribute to such an environment.

CERTIFICATION PROCEDURES AND SCHEDULES

The Commission notes the view, expressed by counsel for the Alaskan Northwest Natural Gas Transportation Company, that

> [n]o assessment of the [impact on private financing] of the December 1 order [Order No. 17] is possible until the related issues which have been carved out for later resolution have been answered.[8]

The Commission shares this view and recognizes its role in resolving the remaining issues. Indeed, the discussion presented herein regarding certification procedures and schedule is an expression of the Commission's intention to expedite resolution of the remaining issues.

The Commission understands that putting the various pieces of the IROR mechanism in place one at a time, by means of Order No. 17, the Change in Scope procedure, and so forth, makes it somewhat difficult for the project sponsors to evaluate the overall impact of the IROR mechanism on the project as an investment proposition. In this regard, the Commission takes note of the sponsors' Joint Petition for Reconsideration and Clarification,[9] which in effect requests deferral of final Commission action on the matters addressed in Order No. 17 until more of the IROR pieces are in place.[10]

Against this request the Commission must balance Northwest Alaskan's concerns about "• • • delay and its Siamese twin, uncertainty." [11] The Commission does not anticipate that its resolution of any of the matters addressed by Order No. 17 (or by this Order) will change. Therefore, in the interest of providing some certainty about the matters which the Commission has previously addressed, and in the interest of focussing the efforts of both the Commission and other interested parties on the matters which remain to be resolved, the Commission denies the sponsors' request for reconsideration.

The Commission also understands the project sponsors' concerns that the equity support for expenditures required to develop the project to the point of filing for final certification is difficult to generate if "[t]he equity sponsors must invest their equity to find out if their equity investment is sound." [12] The Commission is willing to do what it properly can to expedite the certification process or to modify it so as to reduce risk to investors in a manner consistent with the Commission's general mandate to protect the public interest. With regard to the procedure and timetable for determining the various rates of return and the overall IROR schedule, the Commission offers the following elaboration upon its comments on this subject in Order No. 17:

1. Project company tariff/Operation Phase Rate determination: The Commission expects a report by the end of January 1979 from the Alaskan Delegate on tariff issues in the context of the risk allocation framework during the operation phase. That report should provide sufficient discussion to serve as framework for setting the Operation Phase Rate, as well as for acting on the project sponsors' proposed tariff.

Upon completion of the report, the Commission will order filing of tariff applications by a date certain for each segment of ANGTS. The Commission expects to circulate concurrently to interested parties for comment the tariff filings and the Delegate's report, then to act on the tariff filings according to an expedited schedule to be specified in the Commission's Order.

Upon approval of the project company tariff, the Commission will immediately begin a rulemaking for setting the Operation Phase Rate. The Commission will order that the filing from the project sponsors contain enough information about their intended financing plan to allow an evaluation of financial risks along with all operation phase risks.

2. Non-incentive Rate determination: The Alaskan Delegate should also report to the Commission within 30 days of issuance of this order regarding project risks during construction other than those associated with the IROR mechanism. The Commission intends to utilize this report as the basis for a rulemaking to determine the Project Risk Premium.

The Project Risk Premium added to the Operation Phase Rate comprises the Non-Incentive Rate. As the Non-Incentive Rate is used to compute AFUDC during the pre-construction period, establishing this rate should allow the project sponsors to evaluate the potential return on project development expenditures.

3. Change in Scope Procedure/Center Point/IROR Risk Premium/Marginal Rate: the Alaskan Delegate advises that these issues are strongly interrelated, and there is no obvious procedural route other than sequentially resolving them. The Commission restates its request that the Alaska Delegate work with the project sponsors to develop a schedule and procedure to resolve these matters and to report to the Commission. The Commission will then order a schedule and procedure to provide guidance to the applicants, the Commission staff, and other interested parties.

4. Certification Cost and Schedule Estimates: The Commission recognizes that certain key considerations in establishing the Certification Cost and Schedule Estimates have not yet been determined. For the Alaska segment, the principal outstanding issues are the proximity of the gas pipeline to the oil pipeline, the maximum allowable operating pressure, and application of the environmental and other technical stipulations; for Northern Border, the stipulations are the principal problem. The Alaskan Delegate advises that these matters are approaching resolution, as is the question of cost estimate formats for their submission.

The Commission also recognizes that some aspects of the cost estimates will not be known with any degree of precision prior to completion of the sponsors' project development program, some months hence. The Commission expects, however, that the changing reliability of the Certification Cost and Schedule Estimates can best be handled through the Change in Scope procedure and establishment of the Center Points for Northern Border and the Alaska segment. Accordingly, the Commission plans to order filing of the Certification Cost and Schedule Estimates no later than 60 days after resolution of the principal issues enumerated in the previous paragraph.

V. FINDINGS

(1) After reviewing the written comments and oral arguments submitted pursuant to Commission Order No. 17, the Commission finds that modification of the terms and conditions set forth in Order No. 17, which are appended to the conditional certificates of public convenience and necessity for the Alaska Natural Gas Transportation System issued by order on December 16, 1977 (Docket Nos. CP78-123, *et al.*), is not warranted.

[8] Oral Argument, Tr. 9.

[9] Joint Petition of Northern Border Pipeline Company and Alaskan Northwest Natural Gas Transportation Company for Reconsideration and Clarification, filed December 29, 1978, in Docket No. RM78-12.

[10] The present petition is being reviewed by the Commission in its discretion, since Section 10 of the Alaska Natual Gas Transportation Act (15 U.S.C. section 719(h)) makes no provision for rehearing. Our actions herein should not be construed as indicating that the standards and procedures of judicial review under the Natural Gas Act are in any way applicable to Order No. 17.

[11] Oral Argument, Tr. 7.

[12] Oral Argument, Tr. 10.

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(2) The Joint Petition for Reconsideration and Clarification, filed December 29, 1978, is hereby denied.

(Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565, E.O. No. 12009, 42 F.R. 46267 (September 15, 1977), Natural Gas Act, 15 U.S.C. sections 717, *et seq.*, Alaska Natural Gas Transportation Act, 15 U.S.C. section 719(g)).

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3020 Filed 1-29-79; 8:45 am]

[6450-01-M]

[Docket No. E-9408]

AMERICAN ELECTRIC POWER SERVICE CORP.

Conference

JANUARY 19, 1979.

Take notice that on February 7, 1979, a conference of all parties in the above entitled docket will be convened at 10:00 a.m. at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426. The conference is being convened at the request of counsel for American Electric Power Service Corporation and will be for the purpose of discussing any further procedures which may be neccessary due to the lapse of time from the Initial Decision issued in the docket on February 23, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3010 Filed 1-29-79; 8:45 am]

[6450-01-M]

[Docket No. RP72-134]

EASTERN SHORE NATURAL GAS CO.

Adjustment to Rates and Charges

JANUARY 23, 1979.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on January 15, 1979, tendered for filing the following revised tariff sheets:

To be Effective February 1, 1979
Ninth Revised Sheets No. 5 and No. 6
Superseding Eighth Revised Sheets No. 5 and No. 6
Ninth Revised Sheets No. 10, No. 11 and No. 12

The revised tariff sheets track a similar filing by Eastern Shore's supplier Transcontinental Gas Pipe Line Corporation (Transco).

Copies of this filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3012 Filed 1-29-79; 8:45 am]

[6450-01-M]

[Docket No. ES78-23]

EDISON SAULT ELECTRIC CO.

Application

JANUARY 23, 1979.

Take notice that on January 15, 1979, Edison Sault Electric Company, a Michigan corporation qualified to do business in that State, with its principal business office in Sault Ste. Marie, Michigan, filed an application pursuant to Section 204 of the Federal Power Act, seeking authority to issue up to $1,300,000 of short-term notes to be issued from time to time on or before December 31, 1979, with a final maturity date not later than December 31, 1980.

The short-term debt will be used to provide interim financing for Company's construction program.

Any person desiring to be heard or to make any protests with reference to said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D. C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before February 5, 1979. The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3011 Filed 1-29-79; 8:45 am]

[6450-01-M]

[Docket No. ES79-22]

GULF STATES UTILITIES CO.

Application

JANUARY 23, 1979.

Take notice that on January 15, 1979, Gulf States Utilities Company (Applicant) filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of $75,000,000 principal amount of First Mortgage Bonds, via competitive bidding. Applicant is incorporated under the laws of Texas with its principal business office at Beaumont, Texas, and is engaged in the electric utility business in portions of Louisiana and Texas. Natural gas is purchased at wholesale and distributed at retail in the City of Baton Rouge and vicinity.

The proceeds from the sale of the new securities will be used to pay off the Company's outstanding commercial paper and short-term notes previously authorized by the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 5, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D. C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3013 Filed 1-29-79; 8:45 am]

[6450-01-M]

[Docket No. ER77-533]

LOUISIANA POWER & LIGHT CO.

Intent to Act

JANUARY 22, 1979.

On December 22, 1978, Louisiana Power & Light Company (LP&L) renewed its motion for reconsideration of the Commission's order issued October 18, 1978, which dismissed as moot LP&L's motion to disqualify Wallace E. Brand and the law firm of Pearce & Brand from continued representation of the cities of Winnfield, Vidalia, Jonesville, Louisiana (Cities) in the above docketed proceeding. The Commission intends to issue an order on LP&L's request. Therefore, the motion shall not be deemed denied under § 1.12(e) of the Commission's Rules.

In order to aid the Commission in its determination of the issue, counsel for Cities is requested to respond to the motion within ten days from the date of this order.

The Commission orders:

LP&L's renewed motion for reconsideration of the Commission's order issued October 18, 1978, shall not be deemed denied under § 1.12(e) of the Commission's Rules.

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By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3014 Filed 1-29-79; 8:45 am]

[6450-01-M]

[Docket No. RA79-10]

MILLTOWN SKELGAS, INC.

Filing of Petition for Review Under 42 U.S.C. 7194

JANUARY 23, 1979.

Take notice that Milltown Shelgas, Inc. on December 21, 1978 filed a Petition for Review under 42 U.S.C. section 7194(b) (1977 Supp.) from an order of the Secretary of Energy, issued on November 24, 1978, denying in part, exception relief from the Mandatory Petroleum Price Regulations.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before February 12, 1979 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement, Department of Energy, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3015 Filed 1-29-79; 8:45 am]

[6450-01-M]

[Docket Nos. E-8586 and E-8587]

PUBLIC SERVICE CO. OF INDIANA, INC.

Extension of Time

JANUARY 22, 1979.

On January 11, 1979, the Public Service Company of Indiana filed a motion for an extension of time to answer the "Motion for Order on Remand" filed in this proceeding on January 3, 1979, by Crawfordsville, Frankfort, Logansport and Peru, Indiana. The motion states that counsel for the movants do not oppose the requested extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including January 31, 1979 for the filing of answers to the January 3, 1979 motion.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3016 Filed 1-29-79; 8:45 am]

[6450-01-M]

[Docket No. RA79-5]

SABRE REFINING, INC.

Filing of Petition for Review Under 42 U.S.C. 7194

JANUARY 23, 1979.

Take notice that Sabre Refining, Inc., on January 8, 1979 filed a Petition for Review under 42 U.S.C. Section 7194(b) (1977 Supp.) from an order of the Secretary of Energy issued on November 3, 1978, denying in part, exception relief from the Mandatory Petroleum Allocation Regulations.

Copies of the petition for review have been served on the Secretary, Department of Energy.

Any person desiring to be heard with reference to such filing should on or before February 12, 1979 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement, Department of Energy, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, North Capitol St., N.E., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3017 Filed 1-29-79; 8:45 am]

[6450-01-M]

[Docket No. ER 78-76]

SOUTHERN CO. SERVICES

Filing of Proposed Settlement Agreement

JANUARY 23, 1979.

Take notice that on January 11, 1979, the Southern Company Services, Inc. filed a proposed Settlement Agreement concerning settlement of the issues raised in its newly filed Amendment No. 1 to the Southern Company System Procedures Under the Intercompany Interchange Contract. Also filed were new computational and support schedules attendant to the Amendment No. 1, all for calendar year 1978. The proposed amendment was filed with the Commission on November 30, 1977.

The proposed settlement was filed with the Presiding Administrative Law Judge.

On January 12, 1979, the Presiding Administrative Law Judge certified the proposed Settlement Agreement to the Commission for its consideration and determination.

The proposed Settlement Agreement would have Southern Company Services, Inc. (SCSI) and Mississippi Power Company, Gulf Power Company, Georgia Power Company, and Alabama Power Company (Operating Companies of the Southern Company and signatories to the Intercompany Interchange Contract (IIC)) file computational and support schedules in order to incorporate in the determination of the monthly capacity rates, a rate of return on common equity of 13.25 percent for Alabama, Georgia, and Gulf Power Companies and 13.50 percent for Mississippi Power Company. Furthermore, the Operating Companies will amend the filed computational and support schedules to incorporate in the determination of the monthly capacity rates a change in the treatment of Account 281 which concerns Accelerated Amortization. This change is in accordance with the Commission's Opinion No. 12, *Minnesota Power and Light Company* (1978), and the Order Approving the Settlement Agreement in Docket No. ER77-86 (1978).

The Operating Companies will calculate the capacity payments between themselves and the Pool for 1978 at the revised monthly capacity rates shown in Exhibit No. 1 to the Settlement Agreement. All refunds will be made with interest at 9 percent per annum from the date of each monthly payment.

Any person wishing to do so may submit comments in writing concerning the proposed Settlement Agreement to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 on or before February 12, 1979. The proposed Settlement Agreement is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3018 Filed 1-29-79; 8:45 am]

[6450-01-M]

[Docket No. RP72-99]

TRANSCONTINENTAL GAS PIPE LINE CO.

Order Approving and Adopting Settlement

JANUARY 19, 1979.

I. SUMMARY

We here adopt the settlement resulting from an offer by Transcontinental Gas Pipe Line Company (Transco) which has been accepted by most of the parties to this proceeding. We have considered the points raised by those who object and have determined, over those objections, that the curtailment plan embodied in the settlement is equitable. We have evaluated the alternatives to the settlement and conclude that acceptance of the settlement is the course of action that most advances the public interest.

The matter is before us because of the Court's remand in *State of North Carolina* v. *FERC*, Nos. 76-2102, *et al.* (D.C. Cir. July 13, 1978) [1] of a permanent curtailment plan promulgated in October 1976 by the Federal Power Commission (FPC) for the Transco system. The Court in *State of North Carolina* directed that the actual current impact on end-use at the burner-tip be considered in the "implementation of a curtailment plan for the Transco system" [2] and required that the issuance of compensation be considered on its merits based on an adequate record. [3] Except for the compensation issue (which will be the subject of further proceedings), acceptance of the settlement ends further consideration of this remand.

The present order is the second one in this docket in as many weeks. Our order of January 4, 1979 [4] expressed the Commission's interpretation of the settlement offer with particular emphasis on the relationship of the settlement to Title IV of the Natural Gas Policy Act of 1978 (NGPA) relating to curtailment priorities. We sought the parties' further comments on the settlement as construed in the January 4, 1979 order. We required the submittal of affidavits by Transco's customers indicating the end-use impact of the proposed settlement plan. Oral argument on the settlement and the order was set for January 12. The January 4 order expressed the hope that the parties would give serious consideration to the settlement offer as a long-term resolution of the controversies over a curtailment plan for Transco's system. The comments, affidavits and oral presentation of the parties all indicate that they have done so.

The proposal we accept today was formulated by Transco, its customers, and other parties to the proceeding before us. Our acceptance is of the settlement as a whole. Except to the extent our January 4, 1979 order interpreting various provisions of the settlement may have done so, we have not modified, varied or deleted any of the terms of that proposal. Of course, as clearly stated in the January 4 order, the Commission cannot be bound by the settlement, if and to the extent, it may in the future be found to conflict with our statutory duties. We believe on the basis of the submissions and the oral argument that the Commission's interpretation of the settlement is understood and accepted by the parties.

The Commission has evaluated the settlement initiated by Transco and its customers in accordance with Section 4 of the Natural Gas Act. We have obtained considerable information about Transco's curtailment situation in the seven years that this proceeding has been ongoing before this Commission and the FPC. The settlement must be evaluated in light of the complex and unsuccessful search during that period for a resolution of the disputes among the components of the Transco system.

We have also been provided with a thorough picture of the Transco system's current gas supply and demand status. We have examined the proposed settlement, the two rounds of comments submitted by the parties in November 1978, the comments and affidavits of customers and parties submitted January 11, 1979, and the oral presentations of January 12, 1979 which provided yet further information about the proposed settlement. Our examination of these materials, consideration of the Court remand and the extensive record developed in this docket over the last seven years, leads us to conclude that the settlement constitutes a reasonable means of resolving the curtailment controversies on the Transco system.

It is in the public interest to end this long-running litigation that extends back to 1972 and our evaluation has lead us to conclude that accepting the proffered settlement is the most feasible method to achieve this result. Moreover, we think that the settlement holds the promise, together with Transco's improved supply situation, of bringing stability and certainty to Transco's curtailment situation for some time into the future.

II. SCOPE OF THIS ORDER

This order encompasses all pending curtailment matters on the Transco system with only two exceptions. [5] Included are the remand in *State of North Carolina*, the Settlement Agreement, Motions filed on August 11 and October 18, 1978 [6] and matters not finally resolved by the FPC at the time of adoption of the current plan. [7]

[1] All references herein are to the Court's July 13 slip opinion without renumbering of footnotes to reflect the one added (footnote 20, p. 21) by the *per curiam* order issued August 29, 1978. The opinion is reported in advance sheet form at 584 F.2d 1003 (December 18, 1978). The advance sheets do not reflect the August 29, 1978 amendment.

[2] *Id.* at 26.

[3] *Id.* at 31.

[4] *Transcontinental Gas Pipe Line Corporation*, Docket No. RP72-99, Order Interpreting Proposed Settlement, Requesting Comments and Setting Oral Argument (issued January 4, 1979).

[5] The first is the pending appeal in *Transcontinental Gas Pipe Line Corporation, et al., v. FERC* No. 74-2036 (D.C. Circuit). *See*, Article VIII of Settlement Agreement. The second is Docket No. RP75-51 (Investigation of Revised Curtailment Level on the System of Transcontinental Gas Pipeline Corporation). *See*, Initial Decision, June 21, 1977.

[6] The North Carolina Group (State of North Carolina and North Carolina Utilities Commission, Piedmont Natural Gas Company, Inc., Public Service Company of North Carolina, Inc., and North Carolina Natural Gas Corporation) filed with the Commission on August 11, 1978, a motion to modify Transco's curtailment plan. Numerous answers were filed in response to this motion, most of them in opposition thereto. On October 18, 1978, two members of the North Carolina Group, the State of North Carolina and North Carolina Utilities Commission, filed two motions seeking action on the remand. The first of these two motions requested that we set the second one (seeking immediate imposition of revised interim plan of curtailment) for consideration the week of October 23. We denied the first motion by order issued October 27, 1978. We now deny the remaining motions. In general, the motions argue that *State of North Carolina* mandates revision of the Opinion No. 778 plan in advance of hearing. Various candidate plans were proposed. We do not agree that change in advance of hearing is required by the Court's decision. Opinion No. 778 was remanded, not reversed. Also, one of the options urged upon us by the North Carolina Group and apparently assumed as the norm by the Court in *State of North Carolina*—pro rata or proportionate curtailment—has been affected by the passage in the interim of the NGPA. However, it is unnecessary for us to here guage the full extent of the NGPA's impact on that option. The substantial opposition registered to such a plan, particularly when contrasted with the support for the proposed settlement, indicates it is not a viable alternative in this case.

[7] The permanent curtailment plan established by the FPC in Opinion No. 778 (October 8, 1976) and Opinion No. 778-A (December 8, 1976) was based upon end-use principles and was implemented on a fixed-base period; however, since the hearing record did not reflect the same end-use profiles as ultimately selected, the FPC instituted a data verification committee (DVC) to assist in preparing a revised fixed end-use base period. A number of issues were returned to the DVC for initial examination (and were not therefore encompassed by the Court's July 13, 1978 decision). An extensive series of DVC reports and FPC and Commission orders have ensued, as well as several petitions for appellate review. The current status of these matters are as follows: Three

Footnotes continued on next page

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III. Summary of Settlement

Our January 4, 1979 order contained a detailed summary of the settlement. Accordingly, we limit our discussion here to the main features of the proposal.

The settlement contains a simple and certain method for allocating supplies. It specifies the allocation for each customer at varying supply levels. The plan will continue in effect so long as annual supplies available to the so-called large volume customers remain above 636,440 Mdt. (Article II).[8] Transco has indicated that this level will be exceeded for 1978–1979 and that it expects to stay at or above 636,440 Mdt for three to four years thereafter.[9]

The settlement proposal is designed to achieve several objectives. Transco summarized these in its November 22, 1978 submittal.

> "The 'Offer of Settlement * * * was developed as a means of allocating the available supplies on the Transco system for the next several years in a manner which protects actual high priority markets on the system without the necessity of a lenghty data collection and hearing process. One indication that the settlement will actually protect the high priority markets on the system is the fact that, as a result of a recent survey of its customers, Transco has determined that, barring some unforeseen extraordinary circumstance, the allocation procedures set forth in the settlement will enable all of its distribution customers to serve their high priority markets without the necessity of those customers acquiring emergency supplies for this coming winter. The responses of the customers in this regard have been specifically conditioned upon approval of the settlement * * *." [10]

The settlement is comprehensive. It will clear the Commission's and the D.C. Circuit's docket of matters relating to the Opinion No. 778 plan and is also designed to minimize future litigation over the effects of the NGPA by anticipating, through revised allocations, the requirements under that Act as best they can be foreseen at this time.[11] Our January 4 order endorsed this approach and provided our views thereon. No one has objected to that order.[12] We incorporate Section III of that order herein. That material is attached hereto as Appendix "A".

IV. Commission Acceptance of Settlement

A. Background

Establishment of pipeline curtailment plans has been a regulatory responsibility most of this decade. Early on, the Supreme Court in *FPC* v. *Louisiana Power & Light Co.*, 406 U.S. 621, 643 (1972) recognized the necessity for the Commission to have the latitude to make pragmatic judgments reflecting the needs arising in particular curtailment situations. The Court stated:

> "Since curtailment programs fall within the FPC's responsibilities under the head of its 'transportation' jurisdiction, the Commission must possess broad power to devise effective means to meet these responsibilities. FPC and other agencies created to protect the public interest must be free, 'within the ambit of their statutory authority, to make the pragmatic adjustments which may be called for by particular circumstances.'" (citing *FPC* v. *Natural Gas Pipe Line Co.*, 315 U.S. 575 (1942)).

Louisiana Power & Light's emphasis on pragmatism, applicable originally to selection of procedures for use in processing curtailmants, has equal application to the substantive formulation of such plans.[13] Moreover, it has been widely recognized that the Commission must be permitted some latitude to experiment in evolving just and reasonable curtailment plans, particularly when it is called upon to approve a settlement which is the product of extensive negotiations among the parties.[14] Transco is a case study in that experimentation. A number of interim plans formulated by the pipeline and its distributors on a year-to-year basis and submitted as settlements, were approved by the FPC. The exception to this process—the rejection by the FPC of a proposed interim settlement with a compensation feature—was ultimately overturned by the Court.[15] The FPC's quest for an acceptable curtailment plan for the Transco system ended in October 1976 when it promulgated the Opinion No. 778 plan as a permanent plan.

This Commission has now been advised in the *State of North Carolina* case that the Opinion No. 778 plan could not stand as a *permanent* plan unless reaffirmed, based on required end-use impact assessments and after full consideration of the compensation issue. Thus, the matter of Transco's curtailment plan was to some extent reopened on July 13, 1978 by virtue of the Court's decision. The actions which this Commission would have taken in compliance with that directive at the time of its issuance are relatively clear. In order to provide full record support for an Opinion No. 778 type end-use plan, we would have referred the matter to an Administrative Law Judge for compilation of a record to compare, based on 1977–1978 end-use data, the impacts of the Opinion 778 plan with a pro rata plan. In addition, that comparison would have included an assessment of the impacts of both types of plans assuming their operation in 1972–1973 base period. Moreover, an examination of the reasons why market profiles had changed from 1973 to 1978 would have been required. Data on changes in supplies occurring since the base period would also have been required in order to provide the Commission with all the information needed to make a current determination on the issue of treatment of full versus partial requirements customers.

State of North Carolina, alone, requires consideration of these matters. *But*, the *State of North Carolina* decision is not the only consideration that we now have before us when considering probable revisions to the Transco curtailment plan. The NGPA will affect such a plan and should be considered at this time.

We have recently considered the effects of the *State of North Carolina* decison and the NGPA in another curtailment case which, like this one, has had a long history. In *United Gas Pipe Line Company* (Opinion 32 and Opinion 32-A),[16] we determined that we had to return that case to the Judge and directed a conference of the parties in order to determine how best to proceed in light of these new judicial and statutory requirements.

We took our action in *United* reluctantly: "To continue a case that has been in process so long and so extensively is an exceedingly difficult and unhappy decision. The Commission has searched long and hard but unsuccessfully for an alternative to this decision . . ." [17] The proposed settlement now before us was developed based on Transco's and the parties' consideration of the Court's decision and the NGPA. It must therefore receive our most serious consideration as an alternative to the course we were required to follow in *United*. Our purpose is to determine whether the proposed settlement "promises to fulfill the Commission's announced objectives." [18] In the curtailment area, as highlighted by *States of North Carolina* and the NGPA, these objectives focus principally on protection of high priority end-uses. We evaluate the settlement and the limited opposition to it with special attention to this consideration.

B. Analysis

The principal opponent of the settlement as interpreted and construed by our January 4, 1979 order is Philadelphia Gas Works (PGW). It is the only party at this point to argue that continuation of the Opinion No. 778 plan with its concomitant requirement for hearings to consider the impact assessments required by the *State of North Carolina* is a superior alternative to the settlement. We have previously outlined what continuation of the Opinion No. 778 plan would involve.[19] We turn now to a consideration of the proposed settlement to see whether the basic objective of protection for high priority end-users is secured by that plan.

PGW urges that the impact assessment requirement of *State of North Carolina* [20] is applicable to the proposed settlement. We agree, but, unlike PGW, believe that the information supplied in the course of this proceeding provides a basis for making the requisite assessment. We do not contend that the impact assessment information provided by Transco's customers is necessarily of such detail as to support promulgation by this agency of a detailed end-use plan such as that represented by Opinion No. 778. However, in the context of the settlement proposal which enjoys the overwhelming support of Transco's customers, the assessment is adequate. It indicates no unacceptable impacts to any party will accrue under the proposed settlement. Moreover, it will mitigate some of the impacts urged as accruing under the existing Opinion No. 778 plan. For example, industrial plants that would cease to receive gas this winter with continuation of the Opinion No. 778 plan will now receive gas by virtue of the settlement allocations.[21]

Our assessment is tailored to the "particular circumstances" [22] of this case. The parties were in negotiations on the settlement in September–October, 1978. Transco filed its offer of settlement October 31. Because of operational concerns relating to changing Transco's curtailment plan after the winter season had commenced, Commission action was requested by November 30.[23] Our January 4, 1979 order sought to balance the need for expedition caused by these operational concerns with our perceived need for an additional round of comments by the parties on the settlement as construed and interpreted in that order.[24]

As to the impact assessment requirement, our January 4 order stated:

> "Considerable information has been submitted which addresses this concern (*e.g.*, EIA Form 50 material provided by the staff and the comments of the parties on the proposed settlement). However, additional information as to the impact of the proposed plan on end-use is desirable. *Accordingly, we are directing that each of Transco's customers file an affidavit with the Commission on this subject by January 11, 1979.* What we desire, given the brief time period allowed, is each customer's best available assessment of the plan's impact. We do not specify a rigid format. However, each affidavit must include a discussion of the distributor's ability to serve its residential, commercial and industrial customers as a result of deliveries contemplated under the settlement through October 31, 1979. Impacts such as potential shut-down of industrial facilities should also be noted." (p. 18).

Assessment affidavits were required of all Transco customers. We first consider those of the small volume customers. The affidavit registering support for the settlement submitted by the Northeast Georgia Gas Section of the Georgia Municipal Association on behalf of approximately one-half [25] of all Transco's small volume customers is representative of comments of the whole group:

> "Terms of the original settlement [in 1973] provide base date figures for the G/OG customers of TRANSCO in amounts necessary to serve their high priority customers at that time. These provisions have been extended without increase from year to year through annual settlements (and were perpetuated by Opinion No. 778). These entitlements have been adequate to serve our high priority markets in most cases with the supplement of 268 gas in some cases.
>
> This year's settlement provides relief in the exchange of entitlements between G/OG customers and provides for increases in high priority loads beyond 1979/80 provided TRANSCO's supply remains at or above 680 BCF.
>
> Lacking a settlement, all of these cities would be locked in on entitlements established in 1973 and would not permit the cities to continue fully serving existing high priority markets, nor attach any future high priority markets. Some high priority industries served would have to resort to higher priced alternate fuels or 268 gas. With the uncertainty of inflation, this could result in economic dislocations." (Affidavit, January 8, 1979.)

As stated earlier, this affidavit is representative of the view of the other members of the small volume class of customers. Accordingly, we conclude as to them that the impacts accruing under the plan are acceptable.

Similarly, none of the affidavits submitted by the large volume customers indicate that the settlement plan will jeopardize the ability of these customers to provide service to high priority needs. The only possible adverse impact noted—including that by PGW—will be the increased use of supplemental supplies by those distributors who will receive less gas under the settlement plan than under the Opinion No. 778 plan, if it were continued in effect. These impacts are offset by the statement of a number of distributors that acceptance of the settlement plan will permit them to reduce or eliminate purchases which would otherwise be required in order to continue service to high priority requirements.[26]

In terms of the impact assessment process employed in this case, the Public Service Commission of the State of New York stated:

Footnotes continued from last page

issues are in hearing: (1) Ceiling on Lost and Unaccounted for Gas, (2) Farmers Chemical Base Period Use of Gas and (3) Classification of Make-up Air Heaters. A fourth issue dealing with "intercompany transfers" was returned to us by Court order, September 22, 1978 for further examination by the DVC. A fifth category involving similar questions is the DVC report of January 30, 1978 (submitted per our Order of November 17, 1977). Some of these items (*e.g.*, items 2 and 3) may be affected by the new legislation. All five items deal with the remanded interim plan which will be superseded by the settlement plan. Acceptance of the settlement ends Commission consideration of these items. Article IX of the settlement stipulates that related Court appeals will be withdrawn.

[8] Article VI of the settlement governs allocation to small volume customers. While entitlements for this class of customers are the same for the first year as Opinion No. 778, the flexibility provisions incorporated in Article VI make the settlement attractive for members of this group. *See*, p. 6, *infra*.

[9] Transco statement filed January 9, 1979.

[10] Miller affidavit attached to Transco Answer, November 22, 1978, at p. 1. The affidavits filed on January 11, 1979 support this view.

[11] January 4, order at 13.

[12] This not to say, however, that there is no opposition to the settlement. Philadelphia Gas Works has opposed it. We deal with its objection, *infra*.

[13] The Supreme Court in *Louisiana Power & Light* emphasized the importance of the Commission utilizing: * * * each pipeline's unique knowledge of its customer's needs, ability to substitute other fuel sources, and other relevant considerations. (406 U.S. at 645).

[14] *See, e.g., Philadelphia Gas Works* v. *FPC*, 557 F.2d 840 (D.C. Cir. 1977).

[15] *Consolidated Edison* v. *FPC*, 511 F.2d 372, 381 (D.C. Cir. 1974).

[16] Docket Nos. RP71-29 *et al.* (Phase II) issued October 31, 1978, and November 2, 1978.

[17] *United*, Opinion 32, (slip opinion, p. 27).

[18] *Michigan Consolidated Gas Company* v. *FPC*, 283 F.2d 204, 224 (D.C. Cir. 1960).

[19] *Supra*, pp. 11–12.

[20] The Opinion 778 plan was remanded in *State of North Carolina* for the Commission to "first, *determine* and second, *consider* the impact of the opinion on ultimate users in the implementation of the curtailment plan for the Transco system." *State of North Carolina* at 26.

[21] *See*, Comments and affidavits of the Commission of Public Works of The City of Laurens, Fort Hill Natural Gas Authority, and the City of Union, South Carolina, filed January 11, 1979.

[22] *Louisiana Power & Light Co.*, *supra*, p. 10.

[23] Transco as well as the parties, by comments submitted November 13 and November 22, emphasized the necessity for prompt action if the settlement was to be viable.

[24] January 4, 1979 Order at 2.

[25] Seventeen member cities are included in the affidavit. Two of the cities are in Alabama.

[26] *See, e.g.*, City of Shelby, North Carolina (affidavit, January 8, 1979); Consolidated Edison (affidavit, January 10, 1979); Public Works of City of Laurens, South Carolina, Fort Hill Natural Gas Authority, and the City of Union, South Carolina (affidavits submitted January 11, 1979); Eastern Shore Natural Gas Company (affidavit, January 11, 1979); Lynchburg Gas Company (affidavit, January 10, 1979); City of Danville, Virginia (affidavits January 8, 1979 and October 27, 1978); Public Service Company of North Carolina, Inc. (affidavit, January 9, 1979); South Jersey Gas Company (affidavit, January 10, 1979) and Southwestern Virginia Gas Co. (affidavit, January 9, 1979). Transco's sole direct served industrial customer will also be able to reduce its emergency purchases. *See* affidavit of Owens-Corning Fiberglass Corporation dated January 11, 1979.

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"[T]he statements already made by Transco's customers coupled with the additional data to be provided by them and Transco pursuant to the Commission's order, constitutes in our view appropriate pragmatic compliance with the Court mandate in [*State of North Carolina*] that the Commission revaluate the current impact of any Transco curtailment plan." [37]

We agree. The process used in compiling the material for our assessment of the effects of the plan is a "pragmatic" one "called for by [the] particular circumstances" of this case, *Louisiana Power & Light*.[38] Moreover, the settlement and the result it produces are clearly consistent with the spirit of the *State of North Carolina* decision.

As to the impact of the settlement on PGW, it is true that the company will receive less gas under the settlement than it would under the Opinion No. 778 plan in its present form. However, a substantial question exists as to whether, assuming a hearing, the Opinion No. 778 plan would not be revised along the lines of the settlement.

We here quote from our January 4, 1979, order on this point (pp. 16-19):

"The Court observed that in accordance with the October 1976 tariff filing, PGW was a 'favored' customer who also has access to other pipelines supplies (besides Transco's). (footnote omitted) The Court's remand, of course, would require that we consider whether adjustments should be made in that circumstance based on an examination to determine whether

'• • • without the shift effected in the name of end use by the 778 plan, any of the five favored customers would have insufficient *pipeline* gas to serve high-priority uses which could be served by the disfavored customers absent the transfer.' (Slip Op. 24, emphasis added).

Transco, in its reply comments, provides the following information which would appear to effectively negate PGW's opposition to the settlement.

'With respect to Philadelphia Gas Works, staunch and consistent advocate of the Opinion No. 778 plan despite the fact that it has been remanded by the Court of Appeals, (footnote omitted) no contention is made by PGW that the basic allocations provided by the settlements will not permit PGW to serve fully its markets without resort to emergency gas. Indeed, as shown by the attached statement by Mr. Miller, PGW would be receiving this winter from its *pipeline* sources substantially more gas than it received last year and it is Mr. Miller's opinion that PGW will be able to serve its markets under the offer of settlement without acquiring emergency gas.' (footnote omitted) (Transco Answer at page 2, emphasis ours)."

In sum, Transco's November 22, 1978 analysis indicated PGW would be in an improved situation this winter as compared with last year, taking into account pipeline supplies currently available from both Transco and Texas Eastern. While the precise figures as to PGW's total *pipeline* supply are in conflict,[39] we find, based on our knowledge of the supply situation of Transco, Texas Eastern and PGW (as indicated in its oral presentation and affidavit) that the variance in the figures is not significant. Even assuming PGW's figures, the impact on PGW of the revised allocations incorporated in the settlement plan when compared with those under the Opinion No. 778 plan would not be material.[40] It is evident, as PGW's affidavit states, that as between the two plans, PGW will use more supplemental supplies under the settlement than it would otherwise. This impact is not unique to PGW.[41] However, other customers similarly situated to PGW now desire to have this settlement approved. We believe that their decisions, based on impacts similar to those of PGW, deserve considerable weight.[42]

We therefore accept the settlement over PGW's objection.[43] However, it should be clearly understood that we do not suggest that PGW's position is wholly without merit.[44] Rather, PGW's views must in this instance give way in order to permit adoption of an equitable alternative superior to the course PGW would have us follow.[45]

We now turn to the question of whether the settlement should be made binding on all parties to the proceeding. The settlement and our order of January 4, 1979 shall be construed as binding on all parties. In this regard, State of North Carolina and the North Carolina Utilities Commission suggested at oral argument [46] that they might have statutory duties under North Carolina statutes [47] which could come into conflict with Article VIII of the settlement, if they were bound by it. We gather, however, that such conflict does not presently exist.[48] If such a conflict should arise in the future, we request that North Carolina immediately bring the matter to our attention so that it may then be evaluated in accordance with our January 4, 1979 order which recognizes that future adjustments may be appropriate where based on "unforeseen circumstances." [49] Accordingly, the State of North Carolina and the North Carolina Utilities Commission will be bound by the settlement and the January 4, 1979 order.

As a concluding matter, we address a concern raised by some of the parties in their January 11, 1979 comments (*e.g.*, Brooklyn Union and Long Island Lighting Company) or in oral argument (Penn Gas & Water, Tr. 7009-7010). This item also deals with treatment of future requests for adjustment of the curtailment plan based on "unforeseen circumstances." [50] Brooklyn Union, for example, asks us in accepting the settlement, to clarify our January 4 order to the extent of indicating that "changes result[ing] from the voluntary relinquishment of supply by Transco customers, unjustified failure to maintain or secure non-Transco supplies or voluntary attachment of new or additional loads" [51] will not constitute an "unforseen circumstance" as that term is used in the January 4 order.

We agree the foregoing factors identified by Brooklyn Union should not serve as a basis for future adjustment of the settlement plan. Certainly, they were not within our contemplation when we issued the January 4, 1979 order indicating that requests based on "unforseen circumstances" would be considered. Rather, our concern was principally as to the scope of NGPA as ultimately determined through implementing regulations.[52]

V. Compensation

State of North Carolina remanded the matter of compensation to us for further consideration.[53] However, since we have not decided whether to examine the compensation issue through a general rulemaking [54] or by individual proceedings, we defer setting the compensation issue for hearing at this time. In this regard we would expect to rule shortly upon the appropriate procedural course to be followed.

The Commission finds and orders: The settlement offer filed by Transco October 31, 1978, as construed and interpreted by the Commission's order of January 4, 1979 in this docket, is hereby approved and adopted by the Commission in accordance with this order as a just and reasonable curtailment plan. The Commission will require that tariff sheets implementing the Settlement be filed within 10 days of the date of this order. The Commission also finds it appropriate to waive its regulations to the extent necessary to permit the tariff sheets to become effective as of November 1, 1978.

By the Commission.

Kenneth F. Plumb,
Secretary.

Appendix "A" to "Order Approving and Adopting Settlement" Issued January 19, 1979

This Appendix A is the attachment referred to at page 9 of the January 19, 1979 order and consists of a quotation from the Commission's "Order Interpreting Proposal Settlement, Requesting Comments and Setting Oral Argument" issued in this docket January 4, 1979. The part of the January 4, 1979 order here quoted is Section III dealing with Article VIII of the Settlement. That Section is as follows:

III. Article VIII of Settlement

A. Background

Brooklyn Union Gas Company (Brooklyn Union) stated in its initial comments that it considered Article VIII to be of vital importance in achieving stability for all customers on the Transco system. The Company emphasized the necessity for agreement by all *the parties* to this provision. Article VIII distinguishes between the obligations of *parties* and representations made by *customers* of Transco. As will be made clear, we believe Brooklyn Union's principal concerns should be over the representation of the customers. Because of the importance of this Article, we set it out in full.

"Article VIII

Resolution of Pending Issues and Satisfaction of High Priority Requirements

The *parties* hereto agree that, except for the compensation questions reserved in Article VII hereof and in the pending appeal in *Transcontinental Gas Pipe Line Corporation, et al.* v. *F.E.R.C.*, No. 742036 in the United States Court of Appeals for the District of Columbia Circuit, all pending curtailment issues on Transco's system in Docket No. RP7299, whether related to the court remand referred to in Article I hereof or related to outstanding Commission orders concerning issues not resolved by Opinion Nos. 778 and 778-A, shall be deemed to be resolved by this Agreement in a manner consistent with the Natural Gas Act and the Natural Gas Policy Act of 1978. In addition, all *customers* presently expect that, during the effectiveness of this Agreement, adequate supplies from Transco and other sources, including but not limited to emergency gas supplies, will permit service to all high priority consumers. Therefore, while this Agreement remains in effect under the terms of Article II hereof, the *parties* agree that no modifications of the curtailment plan embodied in this Agreement and, except for emergency relief as defined in Section 13.3 of the General Terms and Conditions of Transco's FERC Gas Tariff, no relief from the effect of the curtailment plan embodied in this Agreement shall be sought either under 2.78(b) of the Commission's General Policy and Interpretations promulgated under the Natural Gas Act or under Title IV of the Natural Gas Policy Act of 1978." (Emphasis Ours).

In sum, this provision has two components. It is intended to wipe the slate clean of all pending curtailment matters except those identified pertaining to compensation. The matters resolved by this part of Article VIII basically pertain to the Opinion 778 plan. The second aspect of this Article relates to the proposed plan and future conduct relating to it. In this latter area, the comments indicate that at least one basic purpose of the provision is to assure that the distribution companies who have received substantial additional gas under the settlement would not be able at a later date to submit requests for allocations under the NGPA which were intended to be covered by the settlement. Avoidance of a double recovery is Article VIII's aim.

The distinction made in Article VIII between parties and customers takes on significance when assessing the comments received on the proposed settlement. It appears to us that the customers about which Brooklyn Union is perhaps rightly concerned have responded in a manner consistent with the provision which states that to the extent dependent on the settlement, supplies received would be adequate to serve all high priority requirements—including those recognized under the NGPA. For example, North Carolina Natural indicated in its initial comments that the volumes allocated under the settlement agreement would be sufficient and that by utilizing its full storage capacity, it "should be able to serve under normal weather conditions its essential firm markets for both the winter periods and the annual periods, including the Farmers Chemical Association nitrogen fertilizer facility at Tunis, North Carolina." [55] On the other hand, Farmers Chemical, a party to the curtailment proceeding but not a directly-served customer of Transco, states that while it has no objection to the allocations, it is not waiving rights under the NGPA, including the right to have Trans-

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[37] Comments of the Public Service Commission of the State of New York upon Commission Order Interpreting Proposed Settlement, dated January 10, 1979 at pp. 1-2.

[38] *Supra*, pp. 9-10.

[39] Our comparison is of volumetric information listed at Tr. 6973, 7038-39, 7060-61. A good part of this conflict dealt with Texas Eastern's supply situation. In that regard, we take official notice of the telegram sent to this Commission November 1, 1978 by Texas Eastern: "This is to advise that commencing approximately 8:00 a.m. (E.S.T.) November 2, 1978, the curtailment on Texas Eastern's system will be temporarily discontinued. The curtailment will be reinstated as circumstances require". It seems reasonably clear to us that since both Texas Eastern and Transco are enjoying improved supply situations, PGW will have more gas made available to it this year than last, notwithstanding a minor reduction to it of Transco volumes under the settlement (as compared to Opinion No. 778).

[40] *See, Pennsylvania Gas & Water Co.* v. *FPC*, 463 F. 2d 1242, 1246 (D.C. Cir. 1972).

[41] *See*, for example, affidavits of Public Service Electric and Gas Company, January 10, 1979 and Brooklyn Union, January 11, 1979.

[42] PGW has also argued that the settlement plan can not be adopted unless the existing Opinion No. 778 plan is determined to be unjust and unreasonable based on an assessment of the impacts of that plan. We disagree. The proposed plan was formulated by Transco and its customers and proposed to us for our examination to determine whether the plan is in the public interest as constituting a just and reasonable plan. The submittal is plainly in the nature of a section 4 filing. Thus the requirement for deciding whether the existing plan is unjust and unreasonable does not apply. *See, Southern Natural Gas Company* v. *FPC*, 557 F.2d 1122 (5th Cir. 1977).

[43] We are empowered to do so where we determine, based on substantial record evidence, that the settlement is just and reasonable. *Placid Oil Co.* v. *FPC*, 483 F.2d 880 (5th Cir. 1973) *Aff'd sub nom. Mobil Oil Co.* v. *FPC*, 417 U.S. 283, 313 (1974). The material recently provided by the parties to this proceeding, alone, supports the conclusion that the settlement and the curtailment plan embodied therein constitutes a reasonable means of resolving the long-standing controversies relating to curtailment on the Transco system. We also apply our experience and expertise, a significant part of which has been gained in dealing with Transco's situation, in confirming this result.

[44] This statement also applies to the earlier opposition expressed by Elizabethtown Gas Company. We do not minimize their concern nor contribution to this proceeding. Again, however, their proposal is a less attractive one than the settlement.

[45] PGW also argues that Section 605, "Conserved Natural Gas" of the Public Utility Regulatory Policies Act of 1978 operates to prevent our acceptance of the settlement. This section provides that in the event of curtailment plan revision and update based on current use, the original base period volumes will be maintained (subject to emergency allocation) where reductions in current actual use are demonstrated by the distributor to be attributable to conservation measures implemented by the distributor. Other than argue the applicability of this provision, PGW has made no attempt to show how (or to what extent) the provision would inure to its benefit. Under these circumstances and in the context of an otherwise unanimous settlement, we cannot agree that the section precludes our acceptance of the settlement.

[46] Tr. 6990.

[47] We know of no statutory responsibilities placed on North Carolina by the NGPA which would be affected by the settlement. Since we are not ourselves waiving any statutory obligations under the NGPA, we would accord similar treatment to North Carolina should it prove appropriate.

[48] The Initial Comments of State of North Carolina and North Carolina Utilities Commission filed November 13, 1978 indicate (p. 3) that their principal problem with the waiver of rights provision is its "permanent" nature. They indicate an inability to waive such rights as they may have under the NGPA "for the indefinite future."

[49] The January 11, 1979 comments of PGW (p. 2) express a reservation by PGW of its rights under the NGPA. We have made the settlement binding on all parties and thus cannot recognize this reservation. However, We do not now foreclose the possibility that PGW's present position may be one factor to be considered in the future should PGW file for adjustment under the NGPA. As stated in our January 4, 1979 Order, we would expected to do that which is "reasonable under the circumstances" (p. 12).

[50] January 4 order p. 6-13 (attached). *See* particularly, pp. 8-9, 11-13.

[51] Tr. 6969.

[52] Several of these have since been published in draft form. *See*, Notice of Proposed Rulemaking on "Interim Regulations for the Implementation of Section 401 of the Natural Gas Policy Act of 1978", Docket No. RM79-13; issued January 10, 1979; and "Proposed Regulation for the Implementation of Section 401 of the NGPA of 1978", Docket No. RM79-15. issued January 12, 1979.

[53] PGW has raised an objection to that portion of the settlement largely excluding compensation from its operation (Initial Comments, p. 6) on grounds that this issue should not be severed from consideration of volumetric allocations. However, as in the case of other PGW objections, we feel that the benefits of the alternative presented by the settlement proposal outweigh the detriment PGW outlines.

[54] *See*, Preliminary Notice of Proposed Rulemaking, Docket No. RM78-4, issued November 20, 1977. *See also, El Paso Natural Gas Company*, Order Denying In Part And Granting In Part Application For Rehearing, January 13, 1978 at p. 6.

[55] Initial Comments, North Carolina Natural Corporation, November 13, 1978, at 1.

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co's allocations to conform with the new law.[16] But Farmers Chemical's assertion as to reservation of right under the NGPA is immaterial since its supplier, North Carolina Natural, has indicated that it will have adequate supplies to meet Farmers Chemical's requirements.

North Carolina Natural, Public Service Company of North Carolina and Piedmont, however, do express a reservation about one aspect of Article VIII. Fundamentally, they note that the proposed plan could become a *de facto* permanent plan if Transco's future supplies continue as projected. They urge a limit on the time during which the plan would be impervious to change based on the NGPA. In addition, they suggest that it should not serve as a bar if circumstances arise which were not reasonably foreseeable. But all state, in essence, that it is not their desire that Article VIII be abolished or that its basic intent be distorted. Piedmont, for example, states that it "agrees that the allocations in the settlement Agreement should be considered permanent except in the event of circumstances not presently reasonably foreseeable."[18] We think that these are reasonable, responsible requests. We believe our interpretation of Article VIII and its relation to the NGPA adequately recognizes these concerns without sacrificing the benefits of certainty and stability which would otherwise accrue under the settlement.

One party who is not a customer—the State of North Carolina and the North Carolina Utilities Commission (filing jointly)—takes exception to Article VIII. This exception is mitigated somewhat by the statement that North Carolina is unable to waive for the *indefinite future*, whatever rights may be granted to it by the new statutes (referring to NGPA). We respect North Carolina's views as a representative of the ultimate consumer in the State of North Carolina. We are not certain, however, that North Carolina's reservation is material in a light of the comments by distributors in the State of North Carolina who, as customers of Transco, offer representations more nearly in compliance with the spirit of Article VIII."

The views of another party—also not a customer—are pertinent. The New York Public Service Commission, by reply comments supporting the settlement, states:

"We recognize that a number of parties otherwise supporting or not objecting to the Transco proposal have raised questions or caveats with respect to Article VIII. Since New York supports the Article as a necessary and integral part of any settlement, we wish to set forth our views thereon. We do not read Article VIII as binding upon the Commission in the event it determines that regulations adopted pursuant to Section 401-403 of the NGPA require modifications to an effective curtailment plan. We do understand Article VIII to reflect the understanding of the parties that the Transco plan was drafted in the light of the provisions of the NGPA and that accordingly they will not initiate action to upset the plan on grounds that they might be entitled to additional gas from Transco under such general regulations as may be prescribed under the new Act. We can understand that, as indicated in the Piedmont comments, circumstances not presently reasonably foreseeable might arise during the period in which the settlement is in operation which might justify a petition to reopen the proceeding. But there obviously is no settlement if those parties securing significant immediate benefits in terms of additional gas could within a year or so demand more on the basis of the regulations adopted pursuant to the NGPA." (Comments p. 2-3)

We believe the standards set forth below for dealing with NGPA requests post-settlement are generally consistent with the views expressed by the New York Public Service Commission.

B. Article VIII and NGPA

We start with the fundamental assumption that, as between the parties, the waiver of rights provision of Article VIII may be given effect.[19] As to its application to this agency, we make clear at this point that we would not be bound by Article VIII, if (and to the extent) we are in the future presented with the situation where performance of our statutory duties (under either the Natural Gas Act or the National Energy Act) is found to conflict with this provision. Most, if not all the parties, appear to recognize that this must be the case.

The NGPA and other legislative initiatives constituting the National Energy Act are newly enacted and their full effect cannot be reasonably foreseen at this time. In the curtailment area, the relevant provisions of the NGPA are contained in Sections 401 and 402. Implementation of Section 402 (industrial process gas) will require substantial end use information which is not now uniformly available on an updated basis. It thus is not of immediate concern.

Implementation of Section 401, however, must be accomplished to the maximum extent practicable not later than 120 days [19] after the date of enactment of the NGPA. At that time, it will be necessary to consider whether the then existing curtailment plans of interstate pipelines can adequately protect essential agricultural users from curtailment. Under these circumstances, we cannot now say whether the deliveries under the subject settlement would meet all the ultimate requirements of Section 401. However, it would be the Commission's intent to fully consider the impact on this settlement in implementing Section 401 for Transco's customers. In other words, we would attempt to maintain the integrity of the settlement to the extent reasonable under the circumstances.[20]

For example, in the case of a customer [21] who indicated acquiescence in Article VIII but later sought modification based on the NGPA, such a request would be examined, assuming it complied with the basic provisions of the NGPA such as Title IV, to determine whether a double recovery was being sought by the customer.[22] In this instance, a customer's representation by comments submitted in this proceeding would be measured against those contained in the application. A full explanation of any discrepancies would be required.

We believe the views we have expressed are consistent with NGPA requirements. That Act will, of course, affect curtailment plans. However, it does not require that adjustments be blindly made, but rather "to the maximum extent practicable." [23] The settlement proposal is consistent with this concept to the extent it anticipates requirements under the NGPA (as best they can be foreseen at this time) and provides for modification of the existing Opinion No. 778 plan at this time.

[FR Doc. 79-3019 Filed 1-29-79; 8:45 am]

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[16] Comments of Farmers Chemical Association, Inc., November 13, 1978, at 1.

[17] Initial Comments of Piedmont Natural Gas Company, Inc., November 13, 1978, at 1.

[18] There *may* be an exception. The sole entity, who is both a customer and a party, to register unqualified opposition to Article is the City of Danville, Virginia. Danville in *its initial comments* stated: "Danville supports the settlement plan with the following qualifications. The allocated volumes are not sufficient to serve the City's high priority markets, but at least the allocations are better than under the Opinion 778 plan. We cannot possibly agree, as Article VIII requires, to waive any right of the City has under law, i.e., the Natural Gas Policy Act of 1978." (Comments of the City of Danville, Virginia, filed November 14, 1978, at p. 4.) Transco, by reply, states that "The winter and annual allocations to the City of Danville in the first year, when combined with the available supplies of gas under FPC Order No. 533 and FERC Order No. 2 will provide more than enough gas for Danville to serve its residential and commercial customers and industrial customers utilizing natural gas for feedstock, process and plant protection purposes." Transco, (Miller Affidavit at p. 3.) Danville received 2697 Mdt in 1977-1978. Under Opinion 778, in 1978-1979, they would receive 3179 Mdt; under the settlement they will receive 4167 Mdt. It is thus clear Danville will receive a significant increase under the settlement relative to its size. The question of possible additional allocations may be moot since Danville in Reply Comments filed November 24, 1978 states:

"Apparently some parties were concerned that Danville's reservation about Article VIII indicated acceptance of the curtailment plan's volumes, along with an intent to see additional volumes because of rights under the [NGPA]. In clarification, Danville's reservation on Article VIII simply means that the Commission cannot be prohibited by a settlement agreement among Transco's customers from carrying out its responsibilities under the Natural Gas Act, the [NGPA] or any other law.

"* * * Danville continues to support the settlement agreement as a long-term plan * * *" (Reply Comments, pp. 1-2)

[19] Some elements of Article VIII are analogous to provisions which have previously been approved by this Commission. For example, the settlement in *Southern Natural*, Opinion No. 5, Opinion And Order Approving Settlement Describing Permanent Curtailment Plan, Docket No. RP 74-6 *et al.* (November 17, 1977) approved a provision which provides that plan may not be contested for a period of two years. (Slip Op. at 22).

[19] Proposed regulations dealing with § 401 will issue very shortly.

[20] At the same time, proponents of Article VIII must recognize that the settlement would not be considered to be inviolate. In the past, the FPC and this Commission have attempted to recognize unique load characteristics, customer blend and operating requirements of individual pipelines in the formulation of curtailment plans. In promulgating rules for the implementation of Title IV of the NGPA, the Commission will continue to adhere to that policy. Indeed, Section 502(c) of the NGPA contemplates such exceptions to our rules "as may be necessary to prevent special hardship, inequity, or on an unfair distribution of burdens."

[21] We assume ultimate consumers who are neither parties nor customers would not be directly affected by the provision. It does not bar such rights as they may have under the NGPA, but rather appears to re-direct them, at least in the first instance, to the distributor-customer.

[22] Transco's Answer also includes this pertinent statement: "If the Commission should approve the settlement embodied in the offer, it would be the intent of Transco to strive to protect the integrity of this settlement, including the provisions of Article VIII, based upon circumstances existing at the present time and reasonably foreseeable for the future. While we would not expect the Commission to attempt to waive any of

Footnotes continued on next page

Footnotes continued from last page

its statutory responsibilities and while it is always possible that unforeseen changed circumstances could intervene Transco would expect that any private party and any state and local governmental body would have an extremely heavy burden of persuasion if such party accepts the present fruits of the settlement and later attempts to overcome any essential feature of the settlement." (*Id.* p. 3-4) The standard announced above in the text of this order should not necessarily be equated with that of "an extremely heavy burden of persuasion." However, the Commission would accommodate the settlement solution where possible.

[23] NGPA sections 401-402. *See also*, H. R. Rep. No. 95-1752, 95th Cong., 2d Sess. 112-115 (October 19, 1978).

[6540-01-M]

Economic Regulatory Administration

[Docket Nos. ERA-R-77-3 and ERA-R-77-7]

FINAL ENVIRONMENTAL IMPACT STATEMENT CONCERNING MOTOR GASOLINE DEREGULATION AND AN AMENDMENT TO THE MANDATORY PETROLEUM PRICE REGULATIONS ALLOWING REFINERS TO ALLOCATE INCREASED COSTS TO GASOLINE (THE GASOLINE "TILT").

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Availability of Final Environmental Impact Statement.

SUMMARY: The Economic Regulatory Administration of the Department of Energy announces the availability of a final environmental impact statement (EIS) on the pending proposals to deregulate motor gasoline and to amend the Mandatory Petroleum Price Regulations to allow refiners to allocate increased costs to gasoline (the gasoline "tilt").

FOR FURTHER INFORMATION CONTACT:

William E. Caldwell (Economic Regulatory Administration), Department of Energy, 2000 M Street, Room 2304, Washington, D.C. 20461, (202) 254-8034.

William L. Webb (Media Relations), Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, (202) 634-2170.

Robert J. Stern, NEPA Affairs Division, Department of Energy, 20 Massachusetts Avenue, Washington, D.C. 20545, (202) 376-5998.

J. Thomas Wolfe (Office of General Counsel), Department of Energy, 20 Massachusetts Avenue, Room 8217, Washington, D.C. 20545.

SUPPLEMENTARY INFORMATION

I. Background

On November 17, 1978, DOE issued a notice of availability of a "Draft Environmental Impact Statement: Motor Gasoline Deregulation" (43 F.R. 54125, November 20, 1978). On December 5, 1978, DOE issued a notice of availability of a draft environmental impact statement on an amendment to the Mandatory Petroleum Price Regulations allowing refiners to allocate increased costs to gasoline (the gasoline "tilt") (43 F.R. 57609, December 8, 1978). Each of these two notices referred to the same EIS, which considers both the gasoline tilt and deregulation proposals. DOE held a public hearing on this draft EIS on December 19, 1978, and received written comments thereafter. In accordance with the provisions of the National Environmental Policy Act, DOE has considered all the comments received on the draft EIS, and has prepared a final EIS which addresses the environmental consequences that may result from the gasoline tilt and motor gasoline deregulation, and their reasonably available alternatives.

II. Availability of Final EIS

Copies of the final environmental impact statement can be obtained from ERA's Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. In addition, copies are available for public review in the DOE Freedom of Information Reading Room, GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585. Copies have been provided to the Environmental Protection Agency, other interested Federal agencies, State Clearinghouses, persons who commented on the draft EIS, and others known to be interested in the final EIS.

Issued in Washington, D.C. January 29, 1979.

David J. Bardin,
Administrator,
Economic Regulatory Administration.

[FR Doc. 79-3371 Filed 1-29-79; 12:25 pm]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1048-1]

ADMINISTRATOR'S TOXIC SUBSTANCES ADVISORY COMMITTEE

Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of Open Meeting.

SUMMARY: There will be a meeting of the Administrator's Toxic Substances Advisory Committee from 9:00 a.m. to 5:00 p.m. on Friday, February 16, 1979. The meeting will be held in Room 3906, Waterside Mall, EPA, 401 M Street, SW., Washington, D.C. and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Ms. Susan Vogt, Executive Secretary Administrator's Toxic Substances Advisory Committee, Office of Toxic Substances (TS-793), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Telephone: (202) 426-7861.

SUPPLEMENTAL INFORMATION: The purpose of this meeting is to discuss matters related to EPA's implementation of the Toxic Substances Control Act (Pub. L. 94-469). The agenda includes:

1. EPA procedures concerning risk assessment
2. Proposed Section 5 Premanufacture Notification rules
3. Draft EPA Guidance for Premanufacture Testing
4. Other matters concerning the implementation of the Toxic Substances Control Act

The meeting will be open to the public and time will be set aside for public comments. Any member of the public wishing to present an oral or written statement should contact Ms. Susan Vogt at the address or phone number listed above.

Dated: January 24, 1979.

Steven D. Jellinek,
Assistant Administrator for Toxic Substances.

[FR Doc 79-3153 Filed 1-29-79; 8:45 am]

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[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

EXECUTIVE COMMITTEE MEETING

The next Executive Committee Meeting will be on Thursday, February 15, 1979, 9:30 a.m. in Conference Room 7200, Nassif Building, 400 Seventh Street, S.W. (at D Street), Washington, D.C.

AGENDA

1. Call to Order.
2. Administrative Matters.
3. Acceptance of FY-79 First Quarter Financial Statement.
4. New business.

SPECIAL COMMITTEE No. 73

"Minimum Performance Standards (MPS) Marine Omega Receiving Equipment"

Notice of 5th Meeting, Thursday, February 22, 1979—9:30 a.m., Conference Room 7200, Nassif (DOT) Building, 400 Seventh St., S.W. (at D Street), Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Reports of Working Groups.
4. Reviews of draft MPS

M. H. Carpenter, Co-Chairman, CDR T. P. Nolan, Co-Chairman, Maritime Institute of Technology & Graduate Studies, Linthicum Heights, Maryland 21090, Phone: (301) 636-5700.

SPECIAL COMMITTEE No. 71

"VHF Automated Radiotelephone Systems"

Notice of 15th Meeting, Tuesday, February 27, 1979—10:00 a.m. (Full day meeting), Conference Room A-110, F.C.C. Annex, 1229-20th Street, N.W., Washington, D.C.

AGENDA

1. Call to Order.
2. Administrative Matters.
3. Review of Digital Selcall Functions and Formats.
4. Discussions of cost elements for Selcall base Automated Radiotelephone Systems.
5. U.S. Coast Guard presentation of safety-related requirements to be served in an automated VHF/UHF system.

John J. Renner, Chairman SC-71, Advanced Technology Systems, Inc., 3426 N. Washington Blvd., Arlington, VA. 22201, Phone: (703) 525-2664.

SPECIAL COMMITTEE No. 74

"Digital Selective Calling"

Notice of 2nd Meeting, Wednesday, February 28, 1979—9:30 a.m., Conference Room 7200, Nassif (DOT) Building, 400 Seventh St., S.W. (at D Street), Washington, D.C.

AGENDA

1. Committee organization.
2. Establishment of Working Group goals.
3. Review of timetable.

Captain B. F. Hollingsworth, Chairman, SC—74, U.S. Coast Guard Headquarters, Washington, D.C., Phone: (202) 426-1345.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are perferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-3110 Filed 1-29-79; 8:45 am]

[6720-01-M]

FEDERAL HOME LOAN BANK BOARD

[No. 79-60]

FEDERAL SAVINGS AND LOAN ADVISORY COUNCIL

Renewal of Charter

Pursuant to the provisions of Section 8a of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1428a), the following notice has been adopted by the Federal Home Loan Bank Board for publication in the FEDERAL REGISTER:

Pursuant to the provisions of Section 9 of the Federal Advisory Committee Act (5 U.S.C. App. I), and the implementing regulations issued by the Office of Management and Budget, the Federal Home Loan Bank Board, having determined, that the continuation of the Federal Savings and Loan Advisory Council is in the public interest in connection with the performance of the duties imposed on it by law, hereby renews the existence of the Federal Savings and Loan Advisory Council for two years to January 31, 1981, and in connection therewith reissues the following charter (which appears as Section 8a of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1428a)) to the said Council:

FEDERAL SAVINGS AND LOAN ADVISORY COUNCIL

CHARTER

There is hereby created a Federal Savings and Loan Advisory Council, which shall continue to exist as long as the Bank Board biannually determines, as a matter of formal record, with timely notice in the FEDERAL REGISTER, to be in the public interest in connection with the performance of duties imposed on the Council by law. The Council shall, in all other respects, be subject to the provisions of the Federal Advisory Committee Act. The Council shall consist of one member for each Federal Home Loan Bank district to be elected annually by the Board of directors of the Federal Home Loan Bank in such district and twelve members to be appointed annually by the Bank Board to represent the public interest. Each such elected member shall be a resident of the district for which he is elected. All members of the Council shall serve without compensation, but shall be entitled to reimbursement from the Bank Board for actual subsistence expenses, not to exceed $50.00 per day and transportation and other incidental travel expenses in accordance with the Federal Travel Regulation, as amended. The Council shall meet in Washington, District of Columbia, at least twice a year and oftener if requested by the Bank Board. The Council may select its chairman, vice chairman, and secretary, and adopt methods of procedure, and shall have power—

(1) To confer with the Bank Board on general business conditions, and on special conditions affecting the Federal Home Loan Banks and their members and the Federal Savings and Loan Insurance Corporation.

(2) To request information, and to make recommendations, with respect to matters within the jurisdiction of the Bank Board and the Federal Savings and Loan Insurance Corporation.

The Federal Home Loan Bank Board also has directed, in connection with the foregoing, that—

1. The Federal Savings and Loan Advisory Council's estimated budget of $46,000 shall be paid for by the self-supporting Federal Home Loan Bank System, and none of its annual operating costs shall be charged to or paid by the United States;

2. The said Charter of the Federal Advisory Council shall not be amended, altered, or repealed except by Congress or by the Federal Home Loan Bank Board; and

3. The said Charter shall terminate on January 31, 1981, unless reissued prior to that date by the Federal Home Loan Bank Board.

THE SAVINGS AND LOAN ADVISORY COUNCIL,
J. J. FINN,
Executive Secretary.
THE FEDERAL HOME LOAN BANK BOARD,
RONALD A. SNIDER,
Assistant Secretary.

[FR Doc. 79-3093 Filed 1-29-79; 8:45 am]

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[6730-01-M]

FEDERAL MARITIME COMMISSION

PRIVACY ACT OF 1974

System of Records

Notice is hereby given that the Federal Maritime Commission pursuant to 5 U.S.C. 552a(e)(4) and (11) of the Privacy Act of 1974 (Pub. L. 93-579), proposes to adopt the following additional notice of system of records.

Interested parties may participate in this proceeding by filing with the Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573 on or before February 19, 1979 an original and 15 copies of their views and comments pertaining to the routine use portion of the notice. All suggestions for changes in the text should be accompanied by drafts of the language thought necessary to accomplish the desired changes and should be accompanied by supportive statements and arguments. If no comments are received on or before March 1, 1979, the routine uses described herein will be adopted as proposed by the Commission.

FRANCIS C. HURNEY,
Secretary.

FMC-22

System name:

Investigatory Files—FMC.

System location:

Bureau of Enforcement, FMC, 1100 L Street, N.W., Washington, D.C. 20573. Records may also be located at the FMC District Offices listed in the Appendix.

Categories of individuals covered by the system:

Records may be maintained on individuals involved in investigations and enforcement actions instituted by the Federal Maritime Commission. These individuals could include employees, owners, officers and directors of steamship companies, ocean freight forwarders, shippers, consignees, brokers and other entities associated with ocean transportation. Included would be individuals alleged to have violated the Shipping Act, 1916; the Intercoastal Shipping Act, 1933; the Federal Water Pollution Control Act, 1972; the Trans-Alaska Pipeline Authorization Act, 1973; and Public Law 89-777, insofar as they relate to certification; and regulations and/or orders of the Commission. Also included would be individual applicants routinely investigated in connection with licenses and certificates issued by the FMC pursuant to its statutory authority.

Categories of records in the system:

Reports from law enforcement or investigative agencies, investigators, or sources of information; investigative and intelligence data; documented violations; warning letters and information regarding applications for certification and licensing, if appropriate. Includes any information on alleged or proven violators of the statutes or parts thereof over which the FMC has jurisdiction.

Routine uses of records maintained in the system, including categories of users and purposes of such uses:

1. In the event that a system of records maintained by the FMC to carry out its functions indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. A record from this system of records may be disclosed, as a routine use, to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an FMC decision concerning the assignment, hiring or retention of an individual, the issuance of a security clearance, or the issuance of a license, grant or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a Federal, State, local or international agency, in response to its request, in connection with the assignment, hiring or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

5. A record in this system of records may be disclosed, as a routine use to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of such joint committee.

6. A record in this system of records may be disclosed, as a routine use, to the Department of Justice in connection with determining whether disclosure thereof is required by the Freedom of Information Act (5 U.S.C. 552).

7. A record in this system may be transferred, as a routine use, to the Civil Service Commission: for personnel research purposes; as a data source for management information; for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained; or for related manpower studies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained in paper form in filing cabinets.

Retrievability:

Information filed by case of subject file. Records pertaining to individuals are accessed by reference to the Bureau of Enforcement's name—relationship index system.

Safeguards:

Records are located in locked metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access. Files are maintained in buildings that have 24 hour security guards.

Retention and disposal:

Retained for a reasonable period of time. Disposition is recorded.

System manager and address:

Director, Bureau of Enforcement, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

Record access procedures:

Persons wishing to obtain information on the procedures for gaining access to records, contesting the contents of these records, or appealing initial determinations, may contact or address their inquiries to: Privacy Act Officer, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

Contesting record procedures:

See record access procedures above.

Record source categories:

Individual shippers, carriers, freight forwarders, those authorized by the individual to furnish information, trade sources, investigative agencies,

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investigative personnel of the Bureau of Enforcement and other sources of information.

APPENDIX

Atlantic District, Federal Maritime Commission, 6 World Trade Center, Suite 614, New York, New York 10048.
Pacific District, Federal Maritime Commission, 525 Market Street, Suite 2520, San Francisco, CA 94105.
Gulf District, Federal Maritime Commission, P.O. Box 30550, New Orleans, LA 70190.
Great Lakes District Office, Federal Maritime Commission, Customs Building, 610 South Canal Street, Chicago, IL 60607
Puerto Rico District Office, Federal Maritime Commission, U.S. District Courthouse, Federal Office Building, Rm. 762, Carlos Cardon Street, Hato Rey, Puerto Rico 00917.

[FR Doc. 79-3103 Filed 1-29-79; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 78N-0339; DESI 50205]

DRUG AND HUMAN USE: DRUG EFFICACY STUDY IMPLEMENTATION

Otic Preparation Containing Chloramphenicol

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice announces that chloramphenicol otic solution is effective for the indication described below.

EFFECTIVE DATE: January 30, 1979.

ADDRESS: Communications forwarded in response to this notice should be identified with the reference number DESI 50205, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville MD 20857.

Amendments (identify with NDA number): Division of Anti-Infective Drug Products (HFD-140), Rm. 12B-45, Bureau of Drugs.

Requests for opinion regarding the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

William R. Durbin, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 50205) published in the FEDERAL REGISTER of August 19, 1971 (36 FR 16130), the Commissioner of Food and Drugs announced his conclusions pursuant to evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

NDA 50-205; Chloromycetin Otic containing chloramphenicol and benzocaine; Parke, Davis & Co., Joseph Campau at the River, Detroit, MI 48232.

The notice stated that the drug was possibly effective for the treatment of superficial bacterial infections of the external ear. Parke Davis later amended its new drug application to provide for a reformulated single-ingredient product containing chloramphenicol. The amendment was approved on May 16, 1975.

Based upon a review of all available evidence, the Director of the Bureau of Drugs concludes that this drug is safe and effective for the indications set forth below. Elsewhere in this issue of the FEDERAL REGISTER the agency is amending 21 CFR 455.410 to provide for the reformulated product. Batches of drugs for which certification is requested should provide for labeling containing the following Indications section:

Chloramphenicol otic is indicated for the treatment of superficial infections of the external auditory canal caused by susceptible strains of various gram-positive and gram-negative organisms including:

Staphylococcus aureus, Escherichia coli, Haemophilus influenzae, Pseudomonas aeruginosa, Aerobacter aerogenes, Klebsiella pneumoniae and Proteus speices.

Deeper infections should be treated with appropriate systemic antibiotics.

Batches of such drugs with labeling bearing indications other than those published in this announcement are no longer acceptable for certification or release.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357)) and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70)

Dated: November 10, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 79-2894 Filed 1-29-79; 8:45 am]

[4110-03-M]

[Docket No. 78N-0340]

DRUGS FOR HUMAN USE; DRUG EFFICACY STUDY IMPLEMENTATION

Revocation of Exemption for Continued Marketing of Otic Combinations

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revoking the temporary exemption under which certain combination otic solutions and suspensions have been allowed to remain on the market, labeled for their less-than-effective indications, beyond the time limit established for implementation of the Drug Efficacy Study. The exemptions are no longer needed as the effectiveness classifications of these products have now been resolved.

EFFECTIVE DATE: January 30, 1979.

FOR FURTHER INFORMATION CONTACT:

William R. Durbin, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a final rule, appearing elsewhere in this issue of the FEDERAL REGISTER, FDA is revoking provisions for the certification or release of certain combination otic solutions and suspensions. These drugs, described below, have been allowed to remain on the market beyond the time limit established for implementation of the Drug Efficacy Study on the condition that manufacturers undertake additional clinical studies to determine their effectiveness. The temporary exemption to permit continued marketing was announced in a notice published in the FEDERAL REGISTER of December 14, 1972 (37 FR 26623). One sponsor, Burroughs Wellcome, submitted numerous testimonial letters about its products. The submissions provided no evidence that adequate and well-controlled studies as described in 21 CFR 314.111(a)(5)(ii) and 21 CFR 300.50 had been conducted. Isolated case reports, random experience, and reports lacking the details that permit scientific evaluation cannot be considered (21 CFR 314.111(a)(5)(ii)(c)). The submissions therefore did not support the efficacy of the firm's products. Since no other person has submitted additional data, or conducted the necessary studies, the exemption granted by the December 14, 1972 notice is hereby revoked for the following combination otic solutions and suspensions in Category IV.

1. DESI 8426 published October 23, 1971 (36 FR 20546).

NDA 60-756; Aerosporin Otic Solution containing polymyxin B sulfate, acetic acid, and propylene glycol; Burroughs Wellcome & Co., Inc., 3030 Cornwallis Rd., Research Triangle Park, NC 27709.

2. DESI 8674 published June 29, 1972 (37 FR 12855).

NDA 50-208; Neomycin-Polymyxin Otic with Hydrocortisone and Diperodon containing neomycin sulfate, polymyxin B sulfate, hydrocortisone, and diperodon hydrochloride, Kasco Laboratories, Inc., Cantiague Rd., Hicksville, NY 11802.

NDA 50-224; Neo-Polycin Otic Suspension containing neomycin sulfate, polymyxin B sulfate and dyclonine hydrochloride; Dow Pharmaceuticals, Division Dow Chemical Co., P.O. Box 68511, Indianapolis, IN 46268.

NDA 50-225; Neo-Polycin HC Otic Suspension containing neomycin sulfate, polymyxin B sulfate, dyclonine hydrochloride and hydrocortisone acetate; Dow Pharmaceuticals.

NDA 60-080; Auracort Otic Solution containing neomycin sulfate, polymyxin B sulfate, pramoxine hydrochloride and hydrocortisone; Philips Roxane Laboratories, Division of Philips Roxane, Inc., 330 Oak St., P.O. Box 1738, Columbus, OH 43216.

NDA 60-787; 61-669; Bro-Parin Sterile Otic Suspension containing polymyxin B sulfate, neomycin sulfate, sodium heparin, and hydrocortisone; Riker Laboratories, Inc., Subsidiary 3M Co., 19901 Nordhoff St., Northridge, CA 91324.

NDA 60-927; Florotic Otic Suspension containing nystatin, neomycin sulfate, polymyxin B sulfate, and fluorocortisone acetate; E. R. Squibb, P.O. Box 400, Princeton, NJ 08540.

3. DESI 50171 published August 19, 1971 (36 FR 16129).

NDA 50-171; Lidosporin Otic Solution containing polymyxin B sulfate, lidocaine hydrochloride, and propylene glycol; Burroughs Wellcome & Co., Inc.

4. DESI 50205 published August 19, 1971 (36 FR 16130).

NDA 50-205; that part pertaining to Chloromycetin Otic containing chloramphenicol and benzocaine; Parke, Davis & Co., GPO Box 118, Joseph Campau at the River, Detroit, MI 48232.

In addition to the drugs named above, some of the DESI notices referred to other products in this exempt category that have been either reclassified as effective or withdrawn from the market as follows: VoSol Otic Solution (NDA 12-179) and VoSol *HC* Otic Solution (NDA 12-770) were reclassified as effective for certain indications in a notice (DESI 12179) published in the FEDERAL REGISTER of July 19, 1974 (39 FR 26462). Coly-Mycin S Otic (NDA 50-356), Cor-Otic PN Ear Drops (NDA 90-263), Cortisporin Otic Drops (NDA 60-613), Pyocidin Otic Drops (NDA 61-606) and Cortomixin Sterile Ear Drops (NDA 60-719) were reclassified as effective for certain indications in a notice (DESI 8674) published in the FEDERAL REGISTER of August 9, 1973 (38 FR 21513). Revocation of provisions for certification or release of Achromycin Ear Solution (NDA 50-275) and Terramycin-Polymyxin Otic Powder (NDA 61-087) was published in the FEDERAL REGISTER of September 19, 1974 (39 FR 33665). The combination of neomycin-polymyxin (neomycin sulfate and polymyxin B sulfate) has never been approved for marketing. Reformulated Chloromycetin Otic (NDA 50-205) is classified as effective in a notice appearing elsewhere in this issue of the FEDERAL REGISTER.

Inasmuch as the temporary exemption for the products is no longer relevant, it is hereby revoked. Accordingly, the December 14, 1972 notice is amended by deleting the following section:

IV. COMBINATION OTIC SOLUTIONS OR SUSPENSIONS

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 505, 701, 52 Stat. 1052-1053 as amended, 1055-1056 as amended (21 U.S.C. 355, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

Dated: January 23, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-2893 Filed 1-29-79; 8:45 am]

[4110-03-M]

[Docket No. 78N-0382]

ETHICON, INC.

Premarket Approval of Ethilon/Nurolone Nylon (Nonabsorbable) Surgical Sutures

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device amendments of 1976 of Ethilon/Nurolone Nylon (Nonabsorbable) Surgical Sutures sponsored by Ethicon, Inc., Somerville, NJ. After reviewing the General and Plastic Surgery Device Classification Panel's recommendation, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 1, 1979.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be addressed to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Keith Lusted, Bureau of Medical Devices (HFK-402), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION: The sponsor, Ethicon, Inc., Somerville, NJ submitted an abbreviated new drug application (ANDA) for premarket approval of Ethilon/Nurolone Nylon (Nonabsorbable) Surgical Sutures to FDA on August 19, 1976. The application was reviewed by the General and Plastic Surgery Device Classification Panel, an FDA advisory committee, which recommended approval of the application. On July 10, 1978, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 540-574), nonabsorbable surgical sutures (nylon) were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)), nonabsorbable surgical sutures (nylon) are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the FEDERAL REGISTER of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regarded as new drugs.

A summary of the information on which FDA's approval is based is available upon request from the Hearing Clerk (address above).

OPPORTUNITY FOR ADMINISTRATIVE REVIEW

Section 515(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(g)) authorizes any interested person to petition for administrative review of FDA's decision to approve

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this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of the FDA administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition must be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petition must designate the form of review that the petitioner requests (hearing or independent advisory committee) and must be accompanied by supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing any petition, FDA will decide whether to grant or deny the petition by notice published in the FEDERAL REGISTER. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may at any time on or before March 1, 1979, file with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 23, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-3021 Filed 1-29-79; 8:45 am]

[4110-35-M]

Health Care Financing Administration

MEDICARE AND MEDICAID HOSPICE PROJECTS

Extension of Closing Dates for Hospice Project Applications

On October 27, 1978, we announced our intention to conduct demonstration projects with organizations providing hospice services. (See 43 FR 50376) Closing dates for project applications were January 15, 1979, for applications from hospice programs, and January 29, 1979, for applications from Medicaid State agencies.

We are extending the closing date and time for such applications. In order to be considered for selection under the invitation for participation in the demonstration project, applications must be received by the Project Grants Branch at the address shown below not later than 4:30 p.m., Washington, D.C. time, Wednesday, February 28, 1979. No applications received after 4:30 p.m. on February 28, 1979, will be accepted with the exception of those sent by registered, certified, or express mail and postmarked at least 5 working days in advance of this closing date, The U.S. Postal Service postmark on the package will establish the date the application was mailed.

Please address or deliver applications to: Health Care Financing Administration, Project Grants Branch, Room 4200-C, Mary E. Switzer Building, 330 C Street, S.W., Washington, D.C. 20201.

On the outside of the envelope, clearly indicate "Hospice Project."

This address should not be altered. Additions of an employee's name or other designations can result in misrouting and delayed receipt, in which case the application will not be considered timely. Also, applicants planning to deliver applications by hand are reminded that the Project Grants Branch office will not accept any hospice project applications after 4:30 p.m. on February 28, 1979.

The original invitation and instructions for the project specified that separate applications are required for Medicare and Medicaid participation in the hospice projects. The hospice program must submit the application directly to HCFA for Medicare participation. *Only the Medicaid State agency* can legally apply to HCFA for Medicaid participation. The State agency will have to review each hospicer program application; therefore, hospice programs that have not already done so should contact the State Medicaid agency as soon as possible in order to give the State agency ample time to complete its application. Some State agencies may have already submitted their applications in accordance with the original closing date. In such cases, an amended Medicaid application may be submitted.

Dated: January 24, 1979.

LEONARD D. SCHAEFFER,
Administrator, Health Care Financing Administration.

[FR Doc. 79-3007 Filed 1-29-79; 8:45 am]

[4110-83-M]

Health Resources Administration

Annual Reports of Federal Advisory Committees

Filing

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463, the Annual Report for the following Health Resources Administration Federal Advisory Committee has been filed with the Library of Congress:

NATIONAL COUNCIL ON HEALTH PLANNING AND DEVELOPMENT

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, North Building, Room 1436, 330 Independence Avenue, S.W., Washington, D.C. 20201, Telephone (202) 245-6791. Copies may be obtained from Ms. S. Judy Silsbee, Office of the Administrator, Health Resources Administration, Room 10-27, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-7175.

Dated: January 22, 1979.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 79-3005 Filed 1-29-79; 8:45 am]

[4110-83-M]

NATIONAL COUNCIL ON HEALTH PLANNING AND DEVELOPMENT

Rechartering

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, (5 U.S.C. Appendix I), the Health Resources Administration announces the rechartering by the Secretary, HEW, on January 4, 1979, of the National Council on Health Planning and Development.

Authority for this Council is continuing and a charter will be filed in accordance with section 14(b)(2) of Pub. L. 92-463 no later than January 4, 1981.

Dated: January 22, 1979.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 79-3003 Filed 1-29-79; 8:45 am]

[4110-83-M]

NATIONAL ADVISORY COUNCIL ON NURSE TRAINING

Rechartering

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, (5 U.S.C. Appendix I), the Health Resources Administration announces the rechartering by the Acting Secretary, HEW, on January 12, 1979, of the National Advisory Council on Nurse Training.

Authority for this Council is continuing and a charter will be filed in accordance with section 14(b)(2) of

Pub. L. 92-463 no later than December 24, 1980.

Dated: January 22, 1979.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 79-3004 Filed 1-29-79; 8:45 am]

[4110-84-M]

Health Services Administration

PROJECT GRANTS FOR HOME HEALTH SERVICES

Announcement of Availability of Grants

The Health Services Administration announces that competitive applications are being accepted for home health services project grants and demonstration grants for the training of home health personnel under the authority of sections 339(a) and 339(b) of the Public Health Service Act (42 U.S.C. 255).

DEVELOPMENT AND EXPANSION OF SERVICES

Section 339(a) authorizes grants to public and private nonprofit entities for support of the development and expansion of home health services as defined in Section 1861(m) of the Social Security Act in areas in which such services are not otherwise available. A continuing resolution, H. J. Res. 1139, makes continuing appropriations for fiscal year 1979 of $5 million available for the award of grants under this section.

Regulations governing such grants, published in the FEDERAL REGISTER on June 3, 1977 (42 FR 28692), state that the Secretary of Health, Education, and Welfare will give preference to approvable applications for projects that will serve catchment areas in which a high percentage of the population is elderly, medically indigent, or both (referred to below as "preference areas") (*see*, 42 CFR 51e.107).

Applications which propose to serve preference areas, as defined in the regulations, will be considered for funding during the first of two funding cycles. Only those applications proposing to serve preference areas will be accepted for review during the first funding cycle. However, it is anticipated that during the second cycle funds will be available for both the funding of projects which propose to serve preference areas, and those which propose to serve non-preference areas. Completed applications must be received at the appropriate Regional Office by March 1, 1979. Applications must be received by the appropriate Health Systems Agency(s) (for both grant cycles) at least 60 days prior to the date applications are to be submitted to the Regional Office. Grant applications for the second funding cycle must be received at the Reginal Office by June 1, 1979.

TRAINING OF PERSONNEL

Section 339(b) of the Public Health Service Act authorizes the Secretary to make demonstration grants to public and nonprofit private entities to assist them in training professional and paraprofessional personnel to provide home health services. H. J. Res. 1139 makes a continuing appropriation of $1 million for fiscal year 1979 available for implementation of the Home Health Services Training Program. The Secretary has determined that this appropriation will be available for the award of grants to projects for training home health aides. Grant applications must be received at the Regional Office by may 1, 1979. Applications must be received by the appropriate Health Systems Agency(s) at least 60 days prior to the date applications are to be submitted to the Regional Office.

Instructions and related information may be obtained from the representatives of the Home Health Services Program at the appropriate Department of Health, Education, and Welfare Regional Office (as set forth below). Representatives may be contacted for consultation and technical assistance relative to the development of an application for each of the home health services grant authorties. Regulations which will, among other things, establish procedures for the approval of applications for training grants will be forthcoming. Until regulations are issued, all information and guidance provided is subject to the qualification that it reflects preliminary policies only; subsequent policies reflected in the regulations may require revisions in applications.

Dated: January 22, 1979.

GEORGE I. LYTHCOTT, M.D.
Administrator, Health Services Administration.

Ms. Rita Pope, DHEW/PHS/Region I, Division of Health Services Delivery, Primary Health Care, Rm. 1409, John F. Kennedy Federal Bldg., Boston, Massachusetts 02203, 617-223-5845.

Ms. Barbara Hinck, DHEW/PHS/Region II, Division of Health Services Delivery, Primary Health Care, 26 Federal Plaza, New York, New York 10007, 212-264-2540.

Mr. Walter Ihle, DHEW/PHS/Region III, Division of Health Services Delivery, Primary Health Care, P.O. Box 13716, Philadelphia, Pennsylvania 19101, 215-596-1570.

Ms. Pat Atkinson, DHEW/PHS/Region IV, Division of Health Services Delivery, Primary Health Care, 101 Marietta Towers, Atlanta, Georgia 30323, 404-221-2032.

Ms. Susan Kamp, DHEW/PHS/Region V, Division of Health Services Delivery, Primary Health Care, 300 South Wacker Drive, Chicago, Illinois 60606, 312-353-1723.

Mrs. Vicki Wright, DHEW/PHS/Region VI, Division of Health Services Delivery, Community Health Development, 1200 Main Tower Building, 17th Floor, Dallas, Texas 75202, 214-655-6530.

E. June Smith, R.N., DHEW/PHS/Region VII, Division of Health Services Delivery, Family and Child Services, 601 E. 12th St., 5th Fl. W., Kansas City, Missouri 64106, 816-374-5777.

Mr. Michael Oliva, DHEW/PHS/Region VIII, Division of Health Services Delivery, Primary Health Care, 1961 Stout Street, Denver, Colorado 80294, 303-837-4781.

Mr. Gordon Soares, DHEW/PHS/Region IX, Division of Health Services Delivery, 50 United Nations Plaza, Rm. 304, San Francisco, California 94102, 415-556-1371.

Ms. Norma Ewan, DHEW/PHS/Region X, Division of Health Services Delivery, Family and Child Health, 1321 Second Avenue, Mail Stop 506, Seattle, Washington 98101, 206-442-1020.

[FR Doc. 79-3006 Filed 1-29-79; 8:45 am]

[4110-92-M]

Office of Human Development Services

FEDERAL COUNCIL ON THE AGING, LONG TERM CARE COMMITTEE

Meeting

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. 1, sec. 10, 1976) that the Long Term Care Committee of the Council will hold a meeting on Tuesday, February 20, 1979 from 9:30 a.m. to 12:30 pm., Room 339A, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

The agenda will consist of a discussion of issues in long term care with representatives of Federal Departments.

Further information on the Council may be obtained from the FCA Secretariat, Federal Council on the Aging, Washington, D.C. 20201, telephone 202-245-0441. FCA meetings are open for public observation.

Dated: January 22, 1979.

NELSON H. CRUIKSHANK,
Chairman, Federal Council on the Aging.

[FR Doc. 79-3026 Filed 1-29-79; 8:45 am]

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[4110-08-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

REPORT ON BIOASSAY OF DIBUTYLTIN DIACETATE FOR POSSIBLE CARCINOGENICITY

Availability

Dibutyltin diacetate (CAS 1067-33-0) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for the possible carcinogenicity of dibutyltin diacetate was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as a catalyst for polymerization reactions and as a stabilizer for chlorinated organic compounds. Dibutyltin diacetate was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, there was no conclusive evidence for the carcinogenicity of dibutyltin diacetate in male Fischer 344 rats or B6C3F1 mice of either sex. The loss of tissues taken from high dose female rats in this bioassay precluded an evaluation of the carcinogenicity of dibutyltin diacetate to female Fischer 344 Rats.

Single copies of the report, Bioassay of Dibutyltin Diacetate for Possible Carcinogenicity (T.R. 183), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: December 21, 1978.

THOMAS E. MALONE,
Acting Director,
National Institutes of Health.

[FR Doc. 79-2575 Filed 1-29-79; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF P-NITROSODIPHENYLAMINE FOR POSSIBLE CARCINOGENICITY

Availability

p-Nitrosodiphenylamine (CAS 156-10-5) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for the possible carcinogenicity of p-nitrosodiphenylamine was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as a rubber vulcanization accelerater and as an intermediate in the manufacture of other chemicals. p-Nitrosodiphenylamine was administered in the feed, at either of two concentrations to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, p-nitrosodiphenylamine was carcinogenic when administered in the diet to male B6C3F1 mice, causing hepatocellular carcinomas. The chemical was also carcinogenic in male Fischer 344 rats, causing liver neoplasms. No evidence was provided for the carcinogenicity of p-nitrosodiphenylamine in female B6C3F1 mice or in female Fischer 344 rats.

Single copies of the report, Bioassay of p-Nitrosodiphenylamine for Possible Carcinogenicity (T.R. 190), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: December 21, 1978.

THOMAS E. MALONE,
Acting Director,
National Institutes of Health.

[FR Doc. 79-2574 Filed 1-29-79; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

ILLINOIS

[Docket No. NFD-661; FDAA-3068-EM]

Emergency Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of an emergency for the State of Illinois (FDAA-3068-EM), dated January 16, 1979, and related determinations.

DATED: January 16, 1979.

FOR FURTHER INFORMATION CONTACT:

A. C. Reid, Acting Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974: (88 Stat. 143); notice is hereby given that on January 16, 1979, the President declared an emergency as follows:

I have determined that the impact of an abnormal accumulation of snow resulting from a series of blizzards and snowstorms in the State of Illinois is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of Illinois.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Robert E. Connor of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas of the State of Illinois to have been adversely affected by this declared emergency.

The Counties of:

Boone	Lake
Bureau	LaSalle
Carroll	Lee
Cook	McHenry
DeKalb	Ogle
DuPage	Peoria
Grundy	Putnam
Henry	Stephenson
JoDaviess	Whiteside
Kane	Will
Kendall	Winnebago

The period of emergency assistance is hereby limited to a maximum of five days, from 12:01 AM on the date of the President's declaration, January 16, 1979, except in those cases where unusual circumstances warrant extensions of time.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX
Federal Disaster
Assistance Administration.

[FR Doc. 79-3108 Filed 1-29-79; 8:45 am]

[4210-01-M]

KENTUCKY

[Docket No. NFD-660 FDAA-568-DR]

Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice amends the Notice of major disaster declaration for the Commonwealth of Kentucky (FDAA-568-DR), dated December 12, 1978.

DATED: January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

A. C. Reid, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: The Notice of major disaster for the Commonwealth of Kentucky dated December 12, 1978, and amended on December 17, 20, and 31, 1978, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 12, 1978.

The County Of: Jefferson

Federal assistance extended under this designation will be for emergency chemical waste disposal assistance only.

(Catalog of Federal Domestic Assistance No. 14, 701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal
Disaster
Assistance Administration.

[FR Doc. 79-3109 Filed 1-29-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Wyoming 65876]

WYOMING

Application

JANUARY 18, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 36 N., R. 93 W.,
Sec. 19, lot 2 and SW¼NE¼, SE¼NW¼.

The proposed pipeline will transport natural gas produced from the #7-19 Federal Fuller well, at a location in the SW¼NE¼ of section 19 into an existing Madden F26 natural gas pipeline located in lot 2 section 19, T. 36 N., R. 93 W., Fremont County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc. 79-3032 Filed 1-29-79; 8:45 am]

[4310-31-M]

Geological Survey

[General Mining Order No. 2]

Requirements for Exploration and Reclamation Plans On Federal and Indian Lands for All Minerals Except Oil and Gas, Geothermal Resources, and Coal

AGENCY: Department of the Interior, Geological Survey.

ACTION: Proposed Issuance of General Mining Order No. 2.

SUMMARY: In carrying out lease management responsibilities under provisions of the Mining Leasing Acts, the Conservation Division requires specific information in exploration and reclamation plans to assure protection of water resources, nonmineral resources, and the enyironment. Accordingly, this proposed General Mining Order establishes uniform exploration and reclamation plan requirements for operations on Federal and Indian lands for solid minerals except coal. Compliance with these requirements will be mandatory for all plans submitted on or after the effective date of this Order and will ensure that all plans are consistent with and responsive to existing regulations and terms of exploration permits for protection of water resources, other nonmineral resources, the environment, and reclamation of areas affected by operations.

DATES: In order to implement more fully the purposes and objectives of operating regulations for exploration and reclamation, all concerned parties representing the mining industry and the general public are invited and encourage to submit comments and suggested modification or amendments to the proposed General Mining Order No. 2. Written comments and suggested modifications or amendments must be received on or before April 2, 1979.

ADDRESSES: Comments should be sent to: Acting Chief, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 620, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT:

Mr. Andrew V. Bailey, Chief, Branch of Mining Operations, Conservation Division, U.S. Geological Survey, National Center, MS 620 Reston, Virginia 22092 (703) 860-7506.

DRAFTING INFORMATION: The primary author of this proposed Order is Mr. Brinton C. Brown, Chief, Orders Section, Conservation Division, U.S. Geological Survey, 12201 Sunrise Valley Drive, Reston, Virginia 22092, (703) 860-7506.

GENERAL MINING ORDER No. 2

Under the authority contained in 25 CFR Parts 171 and 177 and 30 CFR Part 231, operations other than casual use on Federal and Indian mining leases and permits issued under the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.); the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351 et seq.); Section 402, Reorganization Plan No. 3 of 1946 (60 Stat. 1099); and the various statutes relating to mining on Indian lands may be conducted only in accordance with a plan approved by the appropriate Mining Supervisor of the Geological Survey (GS). Casual use, as used in this Order, means activities which do not cause significant surface disturbance or damage to lands, water resources, other resources, and improvements. Such activities do not include the use of heavy equipment, explosives, or vehicular movement off established roads and trails.

Five copies of all plans shall be submitted to the appropriate Mining Supervisor showing in detail the proposed prospecting, exploration, testing, reclamation, and abandonment operation to be conducted. All plans shall be consistent with and responsive to the regulations and the requirements of the exploration permit or lease for the protection of mineral and nonmineral resources; for the proper filling, plugging, or sealing of drill holes; and for the reclamation of the surface of the lands affected by the

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operation. Each plan will be evaluated on its individual merits, within the context of the provisions in the permit or lease.

If circumstances warrant or if development of an exploration and reclamation plan for the entire operation is dependent upon unknown factors which cannot, or will not, be determined except during the progress of the operation, a partial plan may be approved by the Mining Supervisor and supplemented and approved from time to time. A partial plan shall include all of the information in the outline which is available with an explanation of why the missing information is not available and when it will become available.

All data and plans submitted under this Order shall be available for inspection under the Freedom of Information Act, as amended, except geological and geophysical data and interpretations of such data, maps, trade secrets, financial information, and related files for which the permittee or lessee requests proprietary status, provided that such status is determined by the Mining Supervisor to be warranted and is approved by the Director, GS, Department of the Interior, or his designee. If any confidential information is included in the exploration plan and identified as such by the permittee or lessee, it shall be considered in accordance with provisions of 43 CFR Part 2. Proprietary information to be kept confidential shall be clearly identified by the permittee or lessee by marking the top of each page of the document with the words "CONFIDENTIAL INFORMATION." All pages so marked shall be physically separated from the other portions of the exploration and reclamation plan.

Before submitting an exploration and reclamation plan for approval, the permittee should have a brief informal meeting with the Mining Supervisor, appropriate State representative, if required, and a representative from the surface managing agency so that each can state their objectives, expectations, and answer questions that arise. After the meeting, the permittee or lessee should have a better idea of how much detail is required for each of the various parts of the plan outline.

Exploration plans may be required to be revised or supplemented at any time by the Mining Supervisor to adjust to changed conditions or to correct oversights. If the operator seeks to change an approved plan, he shall submit a written statement including appropriate maps and other information justifying the proposed revision to the Mining Supervisor for approval of the change. In a case where multiple use is involved, the appropriate Oil and Gas or Geothermal Supervisor will also participate in the approval process.

All plans submitted for approval shall show the following information as appropriate to the proposed or existing operation:

GENERAL

1. Names, addresses, and telephone numbers of persons responsible for operations under the plan to whom notices and orders are to be delivered.

2. Permit or lease identification numbers.

3. Location of operations by State, county, and either latitude and longitude to the nearest 10 seconds of the northeastern most part of the lease, or quarter-quarter section, township, and range of the northeasternmost point on the lease or permit area.

4. List MSHA, EPA, State, or other local permit numbers and any other documents necessary for operations with their status and approval dates, and a statement of other legal documents that are a basis for legal right to commence operations.

5. Identify contractors by name who will perform operations under this exploration plan.

6. Names and addresses of surface owners.

7. Status of surface use and access agreements from public right-of-ways to the lease or permit land.

EXPLORATION PLAN

A. DESCRIPTION OF THE AREA TO BE EXPLORED

(1) A brief description of topography, geology, soil characteristics, water, vegetation, fish, wildlife (particularly threatened and endangered species), and any other pertinent features that may be affected by the proposed exploration and the method for monitoring the effects.

(2) A description of the present land use within and adjacent to the area of exploration.

(3) Suitable maps and/or aerial photographs showing existing topographic, historical, cultural, and drainage features, the proposed location of drill holes, trenches, drifts or entries, access roads, and other items as required by the Mining Supervisor.

(4) Copy of archeological and cultural resource clearances, if required by the surface managing agency or other Government Agency.

B. PROPOSED EXPLORATION ACTIVITY

(1) A narrative description of the method of exploration; size, types and quantity of equipment to be used; methods of handling drilling fluids and muds, blowout preventers, character, amount and time of use of explosives or fire, including safety precautions which will be taken during their use.

(2) Estimated timetable for each phase of the work and final completion of the program.

(3) General description of the method of preparing the exploration site, e.g., excavation and stockpiling of topsoil. Include location and size of areas upon which vegetation will be removed or soil will be laid bare, grading and clearing of drill sites, excavation of reserve pits, dimensions of individual drill sites, access road building operations, and capacity, character, standards of construction and size of all structures, and facilities to be built.

(4) General description of the method of testing: metallurgical or solution mining testing (in situ), beneficiation testing or other testing.

C. ABANDONMENT AND RECLAMATION

(1) Method for plugging drill holes.

(2) Measures to be taken for surface reclamation which shall take into account the impact of the proposed operation on adjacent land uses and shall include, as appopriate:

(a) A reclamation schedule.

(b) Method of grading, backfilling, and contouring including road abandonment, cross-ditching, and access barricades, if appropriate.

(c) Method of soil preparation, fertilizer, and mulch application.

(d) Type and mixture of shrubs, trees, grasses, or legumes to be planted.

(e) Method of planting, including quantity and spacing.

D. MEASURES FOR PREVENTING POLLUTION

(1) *Surface Waters.* A description of the surface waters of the area and planned controls during construction and operation for compliance with all applicable Federal and State water quality standards to prevent degradation of streams, ponds, lakes, rivers, wetlands, or other surface waters, including:

(a) Avoidance of cuts or fills near or in streams or wetlands which will result in siltation or debris accumulation.

(b) Planned crossings of perennial streams, lakes, wetlands, and/or rivers, including crossing methods.

(c) Planned road surfacing material including status of roads, either permanent or temporary.

(d) A plan for prevention of siltation of surface waters by using water bars, catch-basins, plant cover, and other methods.

(2) *Groundwater.* An assessment of the probable impacts of the anticipated operation upon the groundwater quality and quantity of the area and plans to minimize the impacts.

(3) *Other.* Measures to be taken to prevent or control fire, soil erosion, pollution of air, damage to fish and wildlife or their habitat and other natural resources, hazards to public health and safety, damage to land improvements, and damage to scenic, historical cultural, and archeological values.

E. MAPS

All maps and aerial photos submitted in connection with exploration plans shall include the following information as appropriate to the proposed operation:

(1) Mine name, if applicable; permittee's or lessee's name; permit or lease number or numbers; county and either secton, township(s), and range(s), or latitude and longitude; and permit or lease boundary lines.

(2) Map scale, register of map extension dates, and true north designation.

(3) Legend describing all symbols on map.

(4) Public survey of land lines and corners. If the project includes an exploratory mine, show distance and bearing from mine opening to appropriate section corner. Also include location of pilot plant or testing sites, if any.

(5) Locations and surface elevations of drillholes.

(6) Identification number, symbol, or letter and location of each survey station.

(7) The mine workings (if applicable) and conceptual mine plans (if available).

(8) Topographic, historical, cultural, and natural drainage features; roads and vehicular trails; name of watershed and location of perennial and intermittent surface streams or tributaries.

(9) Location of all roads and surface structures to be built for exploration project. Show existing roads that will be used, proposed drill hole access roads that must be constructed, if any, and pipelines or other facilities.

W. A RADLINSKI.
Acting Director.

Dated: January 23, 1979.

[FR Doc. 79-3098 Filed 1-29-79; 8:45 am]

[4310-31-M]

KNOWN RECOVERABLE COAL RESOURCE AREA

McCallum, Colo., Revision

Effective May 25, 1978, and pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and section 8A of the Mineral Leasing Act of February 25, 1920, as added by section 7 of the Federal Coal Leasing Amendments Act of 1975 (P.L. 94-377, August 4, 1976), Federal Lands within the State of Colorado have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(6) COLORADO

Revised McCallum (Colorado) Known Recoverable Coal Resource Area (KRCRA); May 25, 1978, 179,242 acres were added within the KRCRA. Total area now classified for leasing is 226,015 acres.

A diagram showing the boundaries of the area classified has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: January 22, 1979.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 79-3084 Filed 1-29-79; 8:45 am]

[4310-31-M]

KNOWN RECOVERABLE COAL RESOURCE AREA

Wasatch Plateau, Utah, Revision

Effective March 1, 1977, and pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and section 8A of the Mineral Leasing Act of February 25, 1920, as added by section 7 of the Federal Coal Leasing Amendments Act of 1975 (P.L. 94-377, August 4, 1976), Federal lands within the State of Utah have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(44) UTAH

Revised Wasatch Plateau (Utah) Known Recoverable Coal Resource Area (KRCRA); March 1, 1977; 56,613 acres were added within the KRCRA. Total area now classified for leasing is 353,453 acres.

A diagram showing the boundaries of the area classified has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: January 22, 1979.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 79-3086 Filed 1-29-79; 8:45 am]

[4310-03-M]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before January 19, 1979. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, DC 20240. Written comments or a request for additional time to prepare comments should be submitted by February 9, 1979.

CHARLES HERRINGTON,
Acting Keeper of the National Register.

ALASKA

Kobuk Division

Point Hope, *Ipiutak Archeological District.*

ARKANSAS

Jefferson County

Pine Bluff, *Trulock-Cook House,* 703 W. 2nd Ave.

CALIFORNIA

Mariposa County

Yosemite Village vicinity, *Mc Gurk Cabin,* S of Yosemite Village.

DELAWARE

Kent County

St. Jones Neck Multiple Resource Area, various locations in County.

FLORIDA

Dade County

Hialeah, *Hialeah Park Race Track,* E. 4th Ave.

JA 30 79
UMI

KENTUCKY

Bell County

Middlesboro vicinity, *Cumberland Gap Historic District*, E of Middlesboro on U.S. 25 (also in Tennessee and Virginia).

MASSACHUSETTS

Barnstable County

Chatham vicinity, *Monomoy Point Lighthouse*, Monomoy National Wildlife Refuge.

MINNESOTA

Goodhue County

Rural Goodhue County Multiple Resource Area.

Wabasha County

Lake City vicinity, *Rahilly, Patrick Henry, House*, 3 mi. W of Lake City on SR 15 (boundary increase).

MISSISSIPPI

Adams County

Natchez vicinity, *Mount Repose*, N of Natchez on MS 555.

Lauderdale County

Meridian, *Highland Park*, roughly bounded by 15 and 19th Sts., 37th and 42nd Aves.

MISSOURI

Jackson County

Raytown, *Rice-Tremonti House*, 8801 E. 66th St.

Miller County

St. Elizabeth vicinity, *Boeckman Bridge*, SE of St. Elizabeth over Big Tavern Creek.

Morgan County

Gravois Mills vicinity, *Old St. Patrick's Church*, S of Gravois Mills on SR 0.

Platte County

Parkville, *Mackay Building*, Park College campus.

St. Louis County

Bridgeton, *Payne-Gentry House*, 4211 Fee Fee Rd.

NEVADA

Carson City (independent city)

Sadler, Gov. Reinhold, House, 310 Mountain St.

NEW JERSEY

Cape May County

Avalon, *Avalon Life Saving Station*, 76 W. 15th St.

Monmouth County

Asbury Park, *Asbury Park Convention Hall*, Ocean Ave.

Morris County

Long Valley, *German Valley Historic District*, NJ 24.

Union County

Berkeley Heights, *Littel-Lord Farmstead*, 23 and 31 Horseshoe Rd.

NEW MEXICO

Anasazi Sites Within the Chacoan Interaction Sphere Thematic Resources, various locations in state.

TEXAS

El Paso County

El Paso, *Toltec Club*, 602 Magoffin Ave.

Val Verde County

Del Rio and vicinity, *San Felipe Springs Irrigation System.*

[FR Doc. 79-2720 Filed 1-29-79; 8:45 am]

[4310-05-M]

Office of Surface Mining Reclamation and Enforcement

AVAILABILITY OF MINE PLAN

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Major Modification of Existing Coal Mining and Reclamation Plan.

SUMMARY: Pursuant to § 211.5(b) of Title 30, CFR, Notice is hereby given that the Office of Surface Mining has received the following mine plan for a coal mining and reclamation operation on Federal coal lands:

LOCATION OF LANDS

Applicant—Western Energy Company.
Mine Property Name—Colstrip Mine "Area B".
State—Montana.
County—Rosebud.
OSM Reference Number—MT 0002-6.
General Description of Affected Lands—853.4 Acres in Sec. 4, 9 & TIN in R41E of the Montana Principal Meridian.

This application is available for public review in the library of Region V Offices of the Office of Surface Mining, Room 270, Post Office Building, 1823 Stout Street, Denver, Colorado.

This Notice is issued at this time for the convenience of the public. The OSM has not yet determined whether the plan is adequate and may, during the course of its reviews, request additional information. Any additional information so obtained will also be available for public review. Prior to a final decision on this mine plan, the Office of Surface Mining will issue a Notice of Pending Decision pursuant to § 211.5(c)(2) of Title 30, Code of Federal Regulations. Copies of the mining plan are also being sent to the offices of the Bureau of Land Management and the Geological Survey in Billings, Montana.

DATES: Comments on or objections to the plan should be received by the Region V office on or before March 1, 1979.

ADDRESSES: Comments should be sent to the Regional Director, Office of Surface Mining and Reclamation and Enforcement, Region V, 1823 Stout Street, Denver, Colorado 80202.

PAUL L. REEVES,
Deputy Director.

[FR Doc. 79-3116 Filed 1-29-79; 8:45 am]

[4510-30-M]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 29th day of January 1979.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING JANUARY 23, 1979

Name of applicant and location of enterprise	Principal product or activity
The Eggink Company Greeley, Colorado.	Farm machinery and other metal products.

[FR Doc. 79-3155 Filed 1-29-79; 8:45 am]

[4510-43-M]

Mine Safety and Health Administration

[Docket No. M-78-131-C]

JEWELL RIDGE COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Jewell Ridge Coal Corporation, Lebanon, Virginia 24266 has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its No. 11 mine in Buchanan County, Va. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

(1) Soon after the purchase of haulage cars for the petitioner's mine in 1964, safety problems with their automatic chains and handles occurred. For example, the chains would become inoperable because of stiff turning conditions.

(2) At that time, the handles and bars on the haulage cars were removed and replaced with a hand bar. A hand bar is on each piece of haulage equipment and at all loading points.

(3) The petitioner contends that the hand bars now in place are more effective and safer than automatic couplers. Automatic couplers are to prevent miners from going between haulage cars. But the structure of the mine, due to a number of sharp turns, would necessitate that miners place themselves between cars if automatic couplers are mandated. The hand bars prevent such occurrences.

(4) The petitioner concludes that their hand bars will achieve no less protection than that provided by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before March 1, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 23, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-3125 Filed 1-29-79; 8:45 am]

[4510-43-M]

[Docket No. M-78-126-C]

WESTMORELAND COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Box 185, Quinwood, West Virginia, 25981, has filed a petition to modify the application of 30 CFR 75.1100 (fire fighting equipment) to its No. 7 Mine in Nicholas County, W. Va. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

(1) Due to sub-zero temperatures during the winter months, the water line provided for the No. 1 Belt at the petitioner's mine is subject to freezing from the drift inby for a distance of 4,100 feet.

(2) A freeze in the line would render the fire-fighting system ineffective and useless during an emergency and result in a diminution of safety.

(3) As an alternative, the petitioner proposes to keep this protion of the water line dry during the winter months.

(4) In an emergency, the miner stationed at the No. 2 Belt Head, a distance of 4,100 feet from the drift, would be told by the telephone to open a valve at that point to fully charge the system with water.

(5) The petitioner states that this alternative will achieve no less protection than that provided by the standard.

REQUESTS FOR COMMENTS

Persons interested in this petition may furnish written comments on or before March 1, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 23, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-3126 Filed 1-29-79; 8:45 am]

[4510-26-M]

Occupational Safety and Health Administration

UTAH STATE STANDARDS

Approval

1. *Background.* Part 1953 of title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On January 10, 1973, notice was published in the FEDERAL REGISTER (38 FR 1178) of the approval of the Utah Plan and the adoption of Subpart E to Part 1952 containing the decision.

The Utah Plan provides for the adoption of Federal Standards as State Standards by:

1. Advisory Committee recommendation.

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2. Publication in newspapers of general/major circulation with a 30-day waiting period for public comment and hearing(s).

3. Commission order adopting the standards and designating an effective date.

4. Providing certified copies of Rules Regulations or Standards to the Office of the State Archivist.

Section 1952.113 of Subpart E sets forth the State's schedule for adoption of Federal Standards. By letter dated December 14, 1978, from Ronald L. Joseph, Administrator, Utah Occupational Safety and Health Division, to Curtis A. Foster, Regional Administrator, and incorporated as part of the Plan, the State submitted rules and regulations concerning 29 CFR 1910.1018 for Occupational Exposure to Inorganic Arsenic, 43 FR 19584, Friday, May 5, 1978 and 43 FR 28472, Friday, June 30, 1978. These standards, which are contained in the Utah Occupational Safety and Health Rules and Regulation for General Industry, were promulgated per the requirements of Utah Code annotated 1953, Title 63-46-1, and in addition, published in newspapers of general/major circulation throughout the State. No public comment was received and no hearings held. The Standard for Occupational Exposure to Inorganic Arsenic was adopted by the Industrial Commission of Utah, Archives File Number 2998 on October 27, 1978, pursuant to Title 35-9-6 Utah Code Annotated 1953.

2. *Decison.* The State submission having been reviewed in comparison with the Federal Standards, it has been determined that the State Standards are identical to the Federal Standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Room 1554, Federal Office Building, 1961 Stout Street, Denver, Colorado, 80294; Utah State Industrial Commission, UOSHA Offices at 448 South 400 East, Salt Lake City, Utah, 84111; and the Technical Data Center, Room N2439R, 3rd Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Utah State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

The Standards were adopted in accordance with the procedural requirements of State law which permitted public comments, and further public participation would be repetitious.

This decision is effective January 30, 1979.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Denver, Colorado, this 4th day of January 1979.

CURTIS A. FOSTER,
Regional Administrator.

[FR Doc. 79-3122 Filed 1-29-79; 8:45 am]

[4510-28-M]

Office of the Secretary

APPLICATION FOR WORKER ADJUSTMENT ASSISTANCE

Investigations Regarding Certifications of Eligibility

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified as set forth below. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 12, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 12, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 24th day of January 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: (Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bernard Screen Printing Corporation (ACTWU).	New Hyde Park, New York.	1/22/79	1/19/79	TA-W-4,733	printing of textiles
Chrysler Corporation (UAW)	Highland Park, Michigan	1/15/79	1/10/79	TA-W-4,734	engines for Chrysler cars & trucks
Disco Togs (ACTWU)	New York, New York	1/9/79	1/2/79	TA-W-4,735	retail outlet store for Suzzette Fashions, Inc.
G.C. Fashions, Inc. (ACTWU)	Glencow, Long Island, New York.	1/9/79	1/2/79	TA-W-4,736	ladies' jackets & coats
Jo Feld Fashions (ACTWU)	New York, New York	1/9/79	1/2/79	TA-W-4,737	showroom
Melmar Fashions (ILGWU)	Asbury Park, New Jersey	1/12/79	1/10/79	TA-W-4,738	Contractor of ladies' coats, suits, & jackets
Paul Hats, Inc. (workers)	Worcester, Mass.	1/19/79	1/12/79	TA-W-4,739	ladies' hats
Portec, Inc., Belting Products Division (IAM & AW).	Paducah, Kentucky	1/19/79	1/15/79	TA-W-4,740	PVC belting, cotton belting and corrugated belting
Rainette Fashions (ACTWU)	Jersey City, New Jersey	1/19/79	1/2/79	TA-W-4,741	women's raincoats and jackets
Sexwood Sportswear (ILGWU)	Deer Park, New York	1/19/79	1/15/79	TA-W-4,742	ladies' jackets
Suzzette Fashion, Inc. (ACTWU)	New York, New York	1/19/79	1/2/79	TA-W-4,743	showroom, samples, patterns, etc.
Textron, Inc., Talon Division (workers).	Meadville, Pa.	1/22/79	1/19/79	TA-W-4,744	metal and nylon zippers, buttons, snaps, hooks, & eyes for clothing, luggage, sleeping bags & footwear

[FR Doc. 79-3150 Filed 1-29-79; 8:45 am]

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[4510-28-M]

APPLICATION FOR WORKER ADJUSTMENT ASSISTANCE

Investigations Regarding Certifications of Eligibility

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade act of 1974 ("the act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absulute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 12, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 12, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 22d day of January 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: (Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ellen Kate Clothing Company (ILGWU).	Newburgh, N.Y.	1/16/79	1/12/79	TA-W-4727	ladies' rainwear and sportswear
LTV Corporation Hill Annex Mine & Plant (USWA).	Caulmet, Minn	1/15/79	1/1/79	TA-W-4728	iron ore concentrates
Massey-Ferguson, Inc. (UAW)	Akron, Ohio	1/15/79	1/11/79	TA-W-4729	industrial construction equipment
A. O. Smith Corp. Automotive Div. (workers).	Milwaukee, Wis	1/15/79	1/9/79	TA-W-4730	front suspension control arms for Chrysler cars & vans
U.V. Industries, Inc. Fierro Operations (USWA).	Bayard, N. Mex	1/17/79	12/20/78	TA-W-4731	copper ore and copper concentrates
Westinghouse Electric Corp. Lamp Division (workers).	Trenton, N.J	1/15/79	1/11/79	TA-W-4732	light bulbs

[FR Doc. 79-3151 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4377; TA-W-4377A]

BRENTWOOD SPORTSWEAR INC.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4377 and TA-W-4377A: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 14, 1978 in response to a worker petition received on November 9, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing men's sweaters, knit shirts and bathing trunks at Brentwood Sportswear, Incorporated, Philadelphia, Pennsylvania. The investigation revealed that the plant primarily produces men's sweaters and knit shirts. The investigation was expanded to include the New York, New York sales office of Brentwood Sportswear, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55013). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Brentwood Sportswear, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased from 20.4 million units in 1975 to 26.5 million units in 1976 and to 28.3 million units in 1977. Imports increased to 33.2 million units in the first three quarters of 1978 as compared to 22.6 million units in the first three quarters of 1977.

U.S. imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased from 66.2 million units in 1975 to 74.0 million units in 1976 and to 75.2 million units in 1977. U.S. imports increased to 82.5 million

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units in the first three quarters of 1978 as compared to 54.6 million units in the same period of 1977.

A Departmental survey conducted with customers of Brentwood Sportswear, Incorporated revealed that major customers reduced their purchases of men's sweaters and knit shirts from Brentwood and increased their purchases of imported sweaters and knit shirts in 1977 compared to 1976 and in the first eight months of 1978 compared to the like period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's sweaters and knit shirts produced at the Philadelphia, Pennsylvania facility of Brentwood Sportswear, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that facility and of the New York, New York sales office of Brentwood Sportswear, Incorporated. In accordance with the provisions of the Act, I make the following certification:

All workers of the Philadelphia, Pennsylvania facility and the New York, New York sales office of Brentwood Sportswear, Incorporated who became totally or partially separated from employment on or after October 27, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-3127 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4329]

BRODY INC. OF DEKALB

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4329: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 6, 1978 in response to a worker petition received on November 1, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's fall and spring coats at Brody Incorporated of Dekalb, Dekalb, Illinois.

The Notice of Investigation was published in the FEDERAL REGISTER on November 17, 1978 (43 FR 53851-52). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Brody Incorporated of Dekalb, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's coats and jackets increased both absolutely and relative to domestic production in 1977 compared to 1976. Imports declined slightly, in absolute terms, in the first three quarters of 1978 compared to the same period in 1977.

The Department conducted a survey of a sample of Brody Incorporated of Dekalb's customers representing a significant proportion of sales in 1976 and in 1977. The survey revealed that some customers decreased their purchases from the subject firm while increasing purchases of imports in 1977 compared to 1976 and in the first three quarters of 1978 compared to the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the women's coats produced at Brody Incorporated of Dekalb, Dekalb, Illinois contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Brody Incorporated of Dekalb, Dekalb, Illinois engaged in employment related to the production of women's coats who became totally or partially separated from employment on or after October 30, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-3128 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4305]

CHICAGO RIVET AND MACHINE CO., COLD HEADING AND DRILLING DEPARTMENTS

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4305: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 30, 1978 in response to a worker petition received on October 25, 1978 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing rivets and automatic rivet setting equipment at the Bellwood, Illinois plant of Chicago Rivet and Machine Company. The investigation revealed that the petition was filed only on behalf of workers engaged in the production of rivets in the Drilling and Cold Heading Departments of the Bellwood plant.

The Notice of Investigation was published in the FEDERAL REGISTER on November 7, 1978 (43 FR 51866). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Chicago Rivet and Machine Company, its customers, (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales and/or production.

None of the customers of Chicago Rivet who were surveyed purchased imported rivets in 1976, 1977 or the January-October 1978 period. Production performed at the Bellwood plant is being transferred to other domestic facilities of Chicago Rivet and Machine Company.

CONCLUSION

After careful review, I determine that all workers of the Chicago Rivet and Machine Company, Cold Heading and Drilling Departments, Bellwood, Illinois are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-3129 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4160]

CLINTON SHIRT CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the department of Labor herein presents the results of TA-W-4160: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 14, 1978 in response to a worker petition received on September 13, 1978 which was filed on behalf of workers and former workers producing shirts, skirts and sundresses for little girls at Clinton Shirt Corporation, Clinton, Kentucky. Clinton Shirt Corporation is a subsidiary of Garan, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43587). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Clinton Shirt Corporation, Garan, Incorporated, their customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation indicated that declines in production at Clinton Shirt corporation resulted from production shifts among several plants of the parent firm, Garan, Incorporated. Production also changed from a relatively simple to a more complex garment.

The major product line of the Clinton Shirt Corporation plant consists of girls' knit shirts, sizes 4 to 14. Girls' shirts in infant and toddler sizes were also produced at the plant in 1976 and 1977. Production of shirts in infant and toddler sizes fell to insignificant levels at the Clinton Shirt Corporation plant during the first nine months of 1978. Girls' woven shirts and sundresses were also produced at the plant in 1978, at insignificant levels.

Clinton Shirt Corporation is part of the girls' Knit Shirt Division of Garan, Incorporated. This division expanded from two plants to three in 1978. In addition, two new plants were opened to produce infant and toddler shirts, the first late in 1976 and the second in October of 1977.

Garan, Incorporated's largest customer did not import girls' knit shirts.

CONCLUSION

After careful review, I determine that all workers of Clinton shirt corporation, Clinton, Kentucky, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc 79-3130 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4265]

COOL-RAY, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein , resents the results of TA-W-4265: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 17, 1978 in response to a worker petition received on October 13, 1978 which was filed on behalf of workers and former workers purchasing frames, shaping lenses and assembling sunglasses at Cool-Ray, Incorporated, Chelsea, Massachusetts.

The notice of Investigation was published in the FEDERAL REGISTER on October 27, 1978 (43 FR 50271). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Cool-Ray, Incorporated, its customers, the Optical Manufacturers Association, the Sunglass Association of America, the U.S. Department of Commerce, the U.S. International Trade Commision, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of sunglasses increased from 75.6 million pairs in 1976 to 86.8 million pairs in 1977, and increased from 65.8 million pairs in the first nine months of 1977 to 73.5 million pairs in the first nine months of 1978.

The Department conducted a survey of Cool-Ray, Incorporated's customers. The survey revealed that some customers increased purchases of imported sunglasses during the period January through September 1978 compared with the same period in 1977. Some customers who increased import purchases during that period, reduced purchases from Cool-Ray, Incorporated during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with sunglasses produced at Cool-Ray, Incorporated, Chelsea, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Cool-Ray, Incorporated, Chelsea, Massachusetts engaged in employment related to the production of sunglasses who became totally or partially separated from employment on or after October 10, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-3131 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4369]

EASTERN KNITTING MILLS

[TA-W-4400]

SOMERSET KNITTING MILLS, INC., PHILADELPHIA, PA.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4369 and TA-W-4400: investiga-

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tions regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the act.

Investigations were initiated on November 13, 1978 and November 16, 1978 in response to worker petitions received on November 6, 1978 and November 14, 1978 which were filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing men's sweaters and men's knit shirts at Eastern Knitting Mills, Blenheim, New Jersey and producing men's sweaters and knit shirts at Somerset Knitting Mills, Incorporated, Philadelphia, Pennsylvania. The investigation revealed that Somerset produces only men's sweaters.

The Notices of Investigation were published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55011, 55012-13). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Eastern Knitting Mills, Somerset Knitting Mills, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Although Eastern Knitting Mills and Somerset Knitting Mills, Incorporated are two separate companies under common ownership, sales data is not kept by individual company. The combined sales of Eastern and Somerset increased from 1976 to 1977 and increased in the January through October period of 1978 compared to the same period of 1977.

Production of sweaters and knit shirts at Eastern Knitting Mills increased in quantity in 1977 compared to 1976 and in the first ten months of 1978 compared to the like period of 1977.

Production of sweaters at Somerset Knitting Mills increased in quantity in the January through November period of 1978 compared to the same period of 1977.

CONCLUSION

After careful review, I determined that all workers of Eastern Knitting Mills, Blenheim, New Jersey and Somerset Knitting Mills, Incorporated, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of January 1979.

HARRY J. GILMAN
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-3132 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-3907]

EDMOS CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3907: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 26, 1978 in response to a worker petition received on June 22, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing double knit fabrics at Glen Cove, New York plant of Edmos Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29364-5). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Edmos Corporation, its customers, the American Textile Manufacturers Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of finished fabric, including woven and knitted fabric of cotton, wool and man-mades increased in the first nine months of 1978 compared to the same period in 1977. However, the ratio of imports to domestic production has been below 2 percent for the last several years.

The Department of Labor conducted a survey of Edmos Corporation's customers. None of the customers surveyed decreased purchased of double knit fabrics from Edmos Corporation while increasing purchases of imported double knit fabrics. Most of the customers surveyed did not purchase any imported double knit fabrics.

CONCLUSION

After careful review, I determine that all workers of Edmos Corporation, Glen Cove, New York, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-3133 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4116]

EDMOS CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4116: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 28, 1978 in response to a worker petition received on August 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing double knit fabrics at the Whitney, South Carolina plant of Edmos Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on September 8, 1978 (43 FR 40070). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Edmos Corporation, its customers, the American Textile Manufacturers Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of finished fabric, including woven and knitted fabric of cotton, wool and man-mades increased in the first nine months of 1978 compared to the same period in 1977. However, the ratio of imports to domestic production has been below 2 percent for the last several years.

The Department of Labor conducted a survey of Edmos Corporation's customers. None of the customers surveyed decreased purchases of double knit fabrics from Edmos Corporation while increasing purchases of imported double knit fabrics. Most of the customers surveyed did not purchase any imported double knit fabrics.

CONCLUSION

After careful review, I determine that all workers of Edmos Corporation, Whitney, South Carolina, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-3134 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4479]

ERNST STRAUSS, INC.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4479: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 6, 1978 in response to a worker petition received on November 27, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's coats at Ernst Strauss, Los Angeles, California. The investigation revealed that the plant primarily produces women's sportswear.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59165-66). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Ernst Strauss, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certificate of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of workers increased in 1977 compared with 1976 and increased in the first eleven months of 1978 compared with the like period of 1977. Average quarterly employment increased in every quarter when compared with the same quarter of the previous year from the first quarter of 1977 through the third quarter of 1978. Production workers are paid on a piece-work basis. Payroll data indicates that the adjusted average monthly wages have not decreased significantly. There is no immediate threat of separation of workers at this plant.

CONCLUSION

After careful review, I determine that all workers of Ernst Strauss, Incorporated, Los Angeles, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-3135 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4026]

FARMLAND INDUSTRIES, INC.

Negative Determination Regarding Application for Reconsideration

By letters of November 20, 1978, and January 3, 1979, a union official of the Oil, Chemical and Atomic Workers International Union requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of Farmland Industries, Inc., Fort Dodge, Iowa. The determination was published in the FEDERAL REGISTER on October 27, 1978, (43 FR 50263).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears, on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union official cites that imports of anhydrous ammonia from Russia and Mexico have caused separations from employment at Farmland Industries, Inc. He further claims that the Department's denial notice did not take into account certain projections of data, namely, (1) had imports of anhydrous ammonia in the first six months of 1978 been extended to the full year then such imports would have increased by 102,000 tons over that in 1977, and (2) had the customer survey covered all of Farmland's customers the "contributed importantly" test would have been met.

The official asserts, through personal testimony, that imports of anhydrous ammonia from Russia and Mexico occurred in 1978. The findings of the investigation, nevertheless, indicated such imports are already included in the U.S. aggregate import statistics which declined absolutely and relatively in the first half of 1978 compared to the same period in 1977, from 614,000 tons to 590,000 tons and from 7.2 percent to 6.9 percent of production, respectively. Simply to extend the half-year industry and import data to the full year, as he suggests, would be a questionable procedure.

In the Department's survey of Farmland's customers, 40 customers reported representing 30 percent of Farmland's sales in 1977. Only one small customer switched to imports of anhydrous ammonia in 1977 and his decline in purchases from Farmland was by a de minimus amount. This customer represented only one percent of Farmland's sales in 1977 and in the first six months of 1978. Not one of the other customers surveyed imported in either 1977 or 1978.

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

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Signed at Washington, D.C., this 25th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-3136 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4421]

FAVORITE FOOTWEAR, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4421: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiation on November 27, 1978 in response to a worker petition received on November 20, 1978 which was filed by the United Shoe Workers of America, Local Council 13 on behalf of workers and former workers producing hard sole and soft sole men's slipper shoes at Favorite Footwear, Incorporated, Long Island City, New York. The investigation revealed that the plant also produces boys' children's and ladies' slippers.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Favorite Footwear Incorporated, its customers, the American Footwear Industries Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of house slippers increased from 23.9 million pairs in 1975 to 28.0 million pairs in 1976, and decreased slightly to 27.8 million pairs in 1977 while remaining well above the 1973-1975 levels. The ratio of imports to domestic production increased from 33.9 percent in 1975 to 43.1 percent in 1976, and decreased slightly to 42.1 percent in 1977 while remaining well above the 1973-1975 levels.

The Department of Labor conducted a survey of Favorite Footwear's customers. In 1977 and 1978, many of the customers surveyed decreased purchases of slippers from Favorite Footwear and increased purchases of imported slippers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's, boys', ladies' and children's slippers produced at Favorite Footwear, Incorporated, Long Island City, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Favorite Footwear, Incorporated, Long Island City, New York who became totally or partially separated from employment on or after October 14, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-3137 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4407]

FISHER CONTROLS CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4407: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 21, 1978 in response to a worker petition received on November 14, 1978 which was filed by the United Automobile, Aerospace, and Agricultural Implement Workers of America on behalf of workers and former workers producing control valves and electonic components at the Marshalltown, Iowa plant of Fisher Controls Company

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56951-56952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Fisher Controls Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Fisher Controls consists of two operating subdivisions: E.P.C. and V.R.C. Total sales and production of Fisher Controls increased in 1977 compared to 1976. Sales and production of E.P.C. increased in 1977 compared to 1976 and in January-October 1978 compared to the same period of 1977. V.R.C. produces automatic control valves, field mounted instrumentation and pressure and gas regulators.

Only two of the surveyed customers of Fisher Controls purchase imported automatic control valves, instrumentation, or regulators and these involved very minor purchases. Customers indicated that their requirements for control valves were determined by the level of domestic and foreign capital investment, which had decreased in 1978 compared to 1977. The high technical standards and the requirement for a service network limits import competition in the domestic market.

CONCLUSION

After careful review, I determine that all workers of the Marshalltown, Iowa plant of Fisher Controls Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-3138 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4384]

LA MODA SPORTSWEAR

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 14, 1978 in response to a worker petition received on November 13, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at La Moda Sportswear, Paterson, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55013). No public hearing was requested and none was held.

The petitioner requested withdrawal of the petition in a letter. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C. this 14th day of January, 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-3140 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4371]

NEW YORK IMPERIAL FOUNDATIONS, INC.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4371: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 13, 1978 in response to a worker petition received on November 6, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing brassieres and girdies.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55012). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of New York Imperial Foundations, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With respect to workers producing girdles and without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The ratio of imports to domestic production is small. In 1977 the ratio was 6.8 percent.

A survey of the major customers of New York Imperial Foundations, Incorporated revealed that none of the customers purchased imported girdles in 1977 and 1978.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With respect to workers producing brassieres, it is concluded that all of the requirements have been met.

U.S. imports of brassieres, bralettes, and bandeaux increased from 8,751 thousand dozens in 1976 to 9,507 thousand dozens in 1977 and increased from 7,067 thousand dozens in the first three quarters of 1977 to 7,918 thousand dozens in the same period of 1978. The ratio of imports to domestic production increased from 51.7 percent in 1976 to 59.3 percent in 1977.

A survey of the major customers of New York Imperial Foundations, Incorporated revealed that some customers increased purchases of imported brassieres in the first eleven months of 1978 compared to the same period of 1977, while decreasing purchases from the subject firm.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with brassieres produced at New York Imperial Foundations, Incorporated, Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act. I make the following certification.

All workers of New York Imperial Foundations, Incorporated, Brooklyn, New York engaged in employment related to the production of brassieres who became totally or partially separated from employment on or after December 31, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-3141 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4388]

PHILIP LINGERIE, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4386: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 14, 1978 in response to a worker petition received on November 13, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' lingerie at Philip Lingerie, Incorporated, Paterson, New Jersey. The investigation revealed that the plant primarily produces women's sportswear, robes and swimwear.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55013). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Philip Lingerie, Incorporated, its manufacturers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Manufacturers accounting for all of the production of Philip Lingerie, Incorporated did not import any finished garments and did not use foreign contractors to produce the garments in 1977 and 1978.

CONCLUSION

After careful review, I determine that all workers of Philip Lingerie, Incorporated, Paterson, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-3142 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4460]

REVERE TEXTILE PRINTS, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4460: investigation regarding

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certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 30, 1978 in response to a worker petition received on November 6, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union of America on behalf of workers and former workers producing printed fabric at Revere Textile Prints, Incorporated, Sterling, Connecticut.

The Notice of Investigation was published in the FEDERAL REGISTER on December 8, 1978 (43 FR 57692-3). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Revere Textile Prints, Incorporated, the U.S. Department of Commerce, the U.S. Iternational Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Since Revere Textile Prints, Incorporated operated as a commission printer and finisher of fabric, sales are equal to production. Sales, as recorded in quantity of square yards of finished fabric, increased during the period January through November 1978 as compared to the same period in 1977. In addition, sales increased quarterly as compared to each previous quarter during the period October 1, 1977 through September 30, 1978.

Concurrent with these increases of sales, employment at Revere increased during the period January through November 1978 as compared to the same period in 1977.

CONCLUSION

After careful review, I determine that all workers of Revere Textile Prints, Incorporated, Sterling, Connecticut are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-3143 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4432]

SADDLEMAKERS MANUFACTURERS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4432: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 27, 1978 in response to a worker petition received on November 20, 1978 which was filed on behalf of workers and former workers producing leather belts and leather and fabric combination handbags at Saddlemakers Manufacturers, Inc., Worcester, Massachusetts. The investigation revealed that the plant primarily produces handbags.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952-56953). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Saddlemakers Manufacturers, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of handbags increased in quantity from 1976 to 1977 and continued to increase during the first three quarters of 1978 compared to the same period of 1977. The ratio of imports to domestic handbag production increased from 111.1 percent in 1976 to 116.6 percent in 1977.

Customers of Saddlemakers who were surveyed reduced purchases of handbags from Saddlemakers while increasing purchases of handbags from foreign sources.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with handbags produced at Saddlemakers Manufacturers, Incorporated, Worcester, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Saddlemakers Manufacturers, Incorporated, Worcester, Massachusetts who became totally or partially separated from employment on or after March 17, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-3144 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4226]

STANDARD PATTERN CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4226: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 29, 1978 in response to a worker petition received on September 29, 1978 which was filed on behalf of workers and former workers producing papers, junks, soles-cuts, woods, die tins, marker papers and fiber markers, (shoe patterns) at Standard Patent Company, Inc., Manchester, New Hampshire. The investigation revealed that the corporate name is Standard Pattern Company, Inc. The investigation further revealed that the firm produces an insignificant amount of bottomstock.

The Notice of Investigation was published in the FEDERAL REGISTER on October 17, 1978 (43 FR 44795-6). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Standard Pattern Company, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

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Standard Pattern Company, Inc., Manchester, New Hampshire primarily produces papers, junks, woods, die tins, marker papers, and fiber markers.

The petitioners allege that increased imports of non-rubber footwear contributed importantly to the decline in sales or production and to the separations of workers producing shoe patterns at Standard Pattern Company, Inc. Manchester, New Hampshire.

Imports of non-rubber footwear cannot be considered to be like or directly competitive with shoe patterns. Imports of shoe patterns must be considered in determining import injury to workers producing shoe patterns.

U.S. imports of shoe patterns were negligible in 1976, 1977, and during the first three quarters of 1978.

Customers of Standard Pattern Company, Inc. who were surveyed indicated that they did not import shoe patterns in 1976, 1977 or during the first three quarters of 1978.

CONCLUSION

After careful review, I detemine that all workers of Standard Pattern Company, Inc., Manchester, New Hampshire are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-3145 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4263]

TENNESSEE HANDBAGS, INC.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4263: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 16, 1978 in response to a worker petition received on October 11, 1978 which was filed on behalf of workers and former workers producing ladies' handbags at Tennessee Handbags, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on October 27, 1978 (43 FR 50269). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Tennessee Handbags, Incorporated, The National Handbag Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

Imports of ladies' handbags increased from 90.2 million units in 1976 to 92.8 million units in 1977. Imports increased from 67.2 million units in January through September of 1977 to 104.9 million units for the same period of 1978. The ratio of imports of domestic production increased from 111.1 percent in 1976 to 116.6 percent in 1977.

Tennessee Handbags, Incorporated began importing ladies' handbags in April 1977. Tennessee Handbags, Inc. increased imports in the second and third quarters of 1978 compared to the same quarters of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' handbags produced at Tennessee Handbags, Incorporated, Dandridge, Tennessee contributed importantly to the decline in production and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Tennessee Handbags, Incorporated, Dandridge, Tennessee engaged related to the production of ladies' handbags who became totally or partially separated from employment on or after October 6, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Adminstration, and Planning.

[FR Doc. 79-3146 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4471]

W. F. HOFFORD, INC.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 6, 1978 in response to a worker petition received on November 20, 1978 which was filed on behalf of workers and former workers producing insulated underwear and full fashioned sweaters at W. F. Hofford, Inc., Weissport, Pennsylvania.

The investigation revealed that workers and former workers also produced leotards and bodysuits.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59165-59166). No public hearing was requested and none was held.

W. F. Hofford, Incorporated, Weissport, Pennsylvania is a successor firm to Lafemme Knitting Mills, Incorporated, Weissport, Pennsylvania (TA-W-3157). All workers of Lafemme Knitting Mills, Incorporated were certified eligible to apply for adjustment assistance on August 11, 1978. Since the intent of the certification under TA-W-3157 is to cover workers separated from Lafemme Knitting Mills, Incorporated and its successor firm W. F. Hofford, Incorporated, this investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 23rd day of January, 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-3139 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4216]

WALDON MANUFACTURING CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4216: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 26, 1978 in response to a worker petition received on September 22, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's trousers at Waldon Manufacturing Company in Walnut, Mississippi. The investigation revealed that the plant also produces men's walk shorts. Waldon Manufacturing Company is a subdivision of McGregor-Doniger, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on October 10, 1978 (43 FR 46591-46592). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officals of McGregor-Doniger, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

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In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' dress and sport trousers and shorts increased from 55,508 thousand units in 1975 to 73,209 thousand units in 1976 and to 76,419 thousand units in 1977. Imports increased to 48,690 thousand units in the first six months of 1978 compared to 33,860 thousand units in the same period of 1977. The ratio of imports to domestic production was 38.0 percent in 1977.

Customers of McGregor-Doniger, Incorporated have shown an increasing reliance on foreign sources to fulfill their demand for men's dress slacks and walking shorts during the first three quarters of 1978 compared to the same period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress slacks and walking shorts produced at Waldon Manufacturing Company, in Walnut, Mississippi contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Waldon Manufacturing Company in Walnut, Mississippi who became totally or partially separated from employment on or after September 21, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-3147 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4358]

WILLOFORM MANUFACTURING CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4358: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 7, 1978 in response to a worker petition received on November 6, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers at Willoform Manufacturing Company, Incorporated, New York, New York. The investigation revealed that the plant primarily produces brassieres and girdles.

The Notice of Investigation was published in the FEDERAL REGISTER on November 17, 1978 (43 FR 53852). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Willoform Manufacturing Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of brassieres, bralettes, and bandeaux increased from 8,751 thousand dozen in 1976 to 9,507 thousand dozen in 1977 and increased from 7,067 thousand dozen in the first three quarters of 1977 to 7,918 thousand dozen in the first three quarters of 1978.

U.S. imports of corsets and girdles increased from 231 thousand dozen in 1976 to 269 thousand dozen in 1977 and increased from 188 thousand dozen in the first three quarters of 1977 to 294 thousand dozen in the first three quarters of 1978.

The Department conducted a survey of some of Willoform Manufacturing Company's customers and it was found that some of these customers had decreased purchases from Willoform and increased purchases of imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with brassieres and girdles produced at Willoform Manufacturing Company, Incorporated, New Yord, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Willoform Manufacturing Company, Incorporated, New York, New York engaged in employment related to the production of brassieres and girdles who became totally or partially separated from employment on or after November 2, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of January 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-3148 Filed 1-29-79; 8:45 am]

[4510-28-M]

[TA-W-4217]

WINDON MANUFACTURING CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4217: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 26, 1978 in response to a worker petition received on September 22, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's sport shirts at Windon Manufacturing Company in Winona, Mississippi. Windon Manufacturing Company is a subdivision of McGregor-Doniger, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on October 10, 1978 (43 FR 46591-46592). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of McGregor-Doninger, Incorporated, its customers, the U.D. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' woven dress, business, sport and uniform shirts increased from 65,004 thousand units in the first six months of 1977 to 76,216 thousand units in the first six months of 1978. The ratio of U.S. imports to domestic production increased from 36.8 percent in 1975 to 53.9 percent in 1976 and to 54.7 percent in 1977.

Windon Manufacturing Company was a wholly owned subsidiary of McGregor-Doniger, Incorporated producing men's sport shirts for sale by the parent firm. McGregor-Doniger, Incorporated increased its purchases of imported men's sport shirts 100 percent in 1977 as compared to 1976 and by 176.8 percent in the first eight months of 1978 over the same period of 1977. Company imports were an increasing proportion of total sales in the first six months of 1978 compared to the first six months of 1977.

A Departmental survey of the customers of McGregor-Doniger, Incorporated revealed that several customers increased their purchases of imported men's sport shirts and decreased purchases from McGregor-Doniger, Incorporated from 1976 to 1977 and during the first nine months of 1978 compared to the like period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's sport shirts produced at Windon Manufacturing Company in Winona, Mississippi contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Windon Manufacturing Company in Winona, Mississippi who became totally or partially separated from employment on or after September 21, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22d day of January 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-3149 Filed 1-29-79; 8:45 am]

[4510-29-M]

Pension and Welfare Benefit Programs

CLASS EXEMPTION FOR CERTAIN TRANSACTIONS INVOLVING EMPLOYEE BENEFIT PLANS AND BROKER-DEALERS (PROHIBITED TRANSACTION EXEMPTION 79-1)

AGENCY: Department of Labor.

ACTION: Grant of class exemption.

SUMMARY: This exemption allows persons who serve as fiduciaries for employee benefit plans to effect securities transactions for those plans under certain circumstances. In the absence of this exemption, the effecting of such transactions might be prohibited by the Employee Retirement Income Security Act of 1974 (hereinafter the Act or ERISA) and the Internal Revenue Code of 1954 (hereinafter the Code). The exemption will replace a temporary exemption which was granted in October, 1975 and which will expire on April 30, 1979 pursuant to an extension being granted herein. The permanent exemption contains a number of conditions not present in the temporary exemption now in effect.

EFFECTIVE DATES: January 30, 1979, as to the temporary exemption; May 1, 1979, as to the permanent exemption.

FOR FURTHER INFORMATION CONTACT:

Federic G. Burke, Office of Fiduciary Standards, Division of Exemptions, Pension and Welfare Benefit Programs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-8195. This is not a toll free number.

SUPPLEMENTARY INFORMATION: On November 24, 1978 notice was published in the FEDERAL REGISTER (43 FR 55005) that the Department of Labor and the Internal Revenue Service (hereinafter collectively referred to as the Agencies) had under consideration a proposed class exemption from the restrictions of section 406 of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) of the Code.[1] The proposed class exemption, requested in applications filed by the Securities Industry Association (SIA)[2] and by seven broker-dealer firms,[3] applies to certain securities transactions effected on behalf of employee benefit plans by persons who are fiduciaries for those plans. As further discussed below, a temporary class exemption which is now in effect and which permits such transactions is due to expire on February 1, 1979.[4]

Upon consideration of the comments and testimony received, the Department of Labor (the Department) is adopting the proposed exemption with certain modifications, including an extension of the existing temporary exemption. Discussed below are the exemption's provisions and the major public comments.

I. DESCRIPTION OF THE EXEMPTION

Until April 30, 1979, the effecting of securities transactions on behalf of employee benefit plans by persons who are fiduciaries with respect to those plans will be covered by paragraph I(a) of Prohibited Transaction Exemption 75-1. That exemption, as original adopted, was to expire on May 1, 1978[5], was extended by Prohibited Transaction Exemption 78-10 until February 1, 1979,[6] and is being further extended in the accompanying exemption. The existing temporary exemption authorizes persons who ordinarily effected brokerage and incidental clearance, stettlement or custodial services on May 1, 1975 to continue to furnish those services until April 30, 1979.

Unlike the temporary exemption contained in paragraph I(a) of Prohibited Transaction Exemption 75-1, the permanent class exemption being adopted herein generally conditions the effecting or executing[7] of securities transactions on behalf of a plan upon a person's complying with a number of specific requirements designed to protect the interests of plan participants and beneficiaries.[8] The exemption is available to fiduciaries except, generally, when a person is a fiduciary with respect to a plan by reason of being a plan trustee or plan administrator, or is an employer of any employees covered by the plan. To engage in brokerage transactions on

[1] The exemption was proposed, public comments were received and a public hearing was scheduled in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) as implemented by Executive Order 12108 (44 FR 1065, January 3, 1979) transferred the authority of the Secretary of the Treasurey to issue exemptions of the type requested to the Department of Labor. Thus, the Department of labor alone conducted the public hearing and is issuing this exemption.

[2] The SIA filed Exemption Application Nos. D-1026 and D-1114.

[3] Exemption Application No. D-1176.

[4] The Agencies in their notice published on November 24, 1978 allowed 30 days for written comments to be filed. The 30-day period, which is shorter than those the Agencies have provided in the past for some proposed exemptions, was deemed appropriate in view of the desirability of deciding whether any further relief should be granted in this area before the existing exemption expired.

[5] 40 FR 50845, October 31, 1975.

[6] 43 FR 32196, July 25, 1978. Although Prohibited Transaction Exemption 78-10 was adopted after May 1, 1978, it was made retroactive to that date.

[7] In most cases, a broker-dealer availing itself of the permanent class exemption will be required to comply with Rule 11a2-2(T) of the Securities and Exchange Commission (SEC) under the Securities Exchange Act of 1934. That rule permits a broker-dealer to effect, but not to execute, securities transactions for accounts which it manages. Although the Department has not distinguished between the broker-dealer services of effecting and executing securities transactions in its exemption, a broker-dealer acting pursuant to the exemption in many cases will be able only to effect, and not to execute, for a plan because of the limitation set out in Rule 11a2-2(T).

[8] As discussed below, the limitations in the exemption are not applicable with respect to certain individual retirement accounts ("IRAs") or plans in which the only participants are partners or sole proprietors, or the spouses of such persons (certain "Keogh" or "H.R. 10" plans). Furthermore, as also discussed below, certain of the limitations are not applicable when a fiduciary is acting to "recapture" brokerage commissions for the plan.

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behalf of a plan, a broker must receive written authorization, expressly permitting such activities, from a plan fiduciary who is independent of the broker. In most cases, the written authorization cannot be effective for more than one year unless the independent fiduciary approves its continuance in writting at least annually. Where the authorization takes the form of a contract that is binding upon the plan, the plan is required to have the right to terminate the contract, without penalty, upon not more than 60 days' notice to the broker.

The exemption places on the broker a duty to provide any information which it reasonably believes to be necessary, and which is reasonably available, to enable the independent plan fiduciary to determine whether to grant or renew an authorization to provide both advisory and brokerage services. Moreover, the independent fiduciary has the right to request, and the broker has the obligation to supply, any additional information reasonably necessary and available to make this determination.

The exemption also requires a person effecting or executing securities transactions on behalf of a plan to disclose periodically certain additional information to the authorizing plan fiduciary. Specifically, the broker must supply the fiduciary with a report not less frequently than every three months disclosing the total of all transaction-related charges incurred by the plan in connection with transactions in which the broker performed any of the functions permitted by the exemption. That report must also indicate the portion of the total transaction related charges the broker has retained and the portion it has paid to other persons for execution or other services. The report must also contain a statement that makes clear that brokerage commissions in the United States are not fixed by any stock exchange or by any other authority and are subject to negotiation. In addition, the independent plan fiduciary must be furnished with information concerning transaction-related commission rates which the broker anticipates assessing in the coming three months for transactions of the type normally entered into by the plan.

II. Discussion of Comments Received

A. *Unconditional Exemption for Certain Individual Retirement Accounts and Certain Keogh Plans.* The Department's regulation 29 CFR § 2510.3-2(d)(1) provides that Title I of ERISA is inapplicable to individual retirement accounts ("IRAs") as defined in section 408(a) of the Code, so long as certain conditions are met.[9] Furthermore, under the Department's regulation 29 CFR § 2510.3-3(b), "Keogh" or "H.R. 10" plans which cover only partners or sole proprietors, or their spouses, are not considered employee benefit plans within the meaning of section 3(3) of Title I of ERISA. Therefore, the providing of brokerage services to such IRAs and Keogh plans is not subject to the prohibited transaction provisions of Title I of ERISA, even in the absence of an exemption. Such IRAs and Keogh plans, however, remain subject to the prohibited transaction provisions of Title II of ERISA. Thus, persons who are fiduciaries and who provide brokerage services to the above-described IRAs or Keogh plans would have to comply with the conditions of the exemption, notwithstanding the inapplicability of Title I, unless additional relief is granted.

Certain commentators suggested that, where a fiduciary is performing brokerage services for an IRA or Keogh plan which is not subject to Title I of ERISA, the conditions of the exemption are not necessary to protect plan participants, because the participants are directly exercising control over their accounts. It was also argued that to require that those conditions be met would result in unnecessary costs being incurred by these IRAs and Keogh plans for brokerage services.[10] The Department believes that these arguments have merit and is amending the exemption to provide that certain conditions need not be met when persons provide brokerage services to an IRA of the type described in 29 CFR § 2510.3-2(d)(1) or to a Keogh plan of the type described in 29 CFR § 2510.3-3(b). It should be noted, however, that the conditions of the exemption must be met where a fiduciary performs brokerage services for any other type of IRA or Keogh plan.

(B) *Recapture Exception.* As noted above, the relief provided in the exemption being adopted is generally not available where the person providing brokerage services is a fiduciary by reason of being a plan trustee or administrator or an employer of employees covered under the plan.[11]

In the preamble to the proposed exemption, the Agencies noted that restricting the exemption in this manner would have the effect of preventing a plan administrator, plan trustee or employer from using a related broker-dealer organization to "recapture" brokerage commissions for the plan; that is, to perform brokerage services for the plan and to return or credit to the plan all profit earned in connection with such services. In response to the Agencies' request for comment concerning the practice of recapture in situations covered by the proposed exemption, certain commentators indicated that some investment managers, who are plan administrators, plan trustees, or employers of employees covered by a plan currently attempt to recapture brokerage commissions for employee benefit plans by offsetting against management fees charged those plans any allocable profit earned by the investment manager (or its broker-dealer subsidiary) in connection with effecting or executing brokerage transactions for those plans. The Department has decided to modify the condition making the exemption inapplicable to such persons by providing that a person who is a fiduciary by reason of being a trustee or administrator of a plan or an employer of employees covered by the plan may effect and execute securities transactions for the plan so long as it is doing so for the purpose of recapturing brokerage commissions for the plan.[12] The Department is also modifying the exemption to provide that, to the extent a fiduciary is acting to recapture brokerage commissions it need receive only an initial, and not an annual, written authorization from an independent plan fiduciary to engage in such activity.[13] A person providing brokerage services pursuant to a recapture arrangement, however, must comply with the other conditions contained in this exemption.

C. *Broker-Dealer Sponsored Plans.* One commentator argued that a broker-dealer should not be prevented from effecting and executing securities transactions on behalf of a plan covering its employees. The commentator contended that an employer's inability under the exemption to provide services to a plan which it sponsors would lead to increased costs for such a plan since it would be forced to arrange for brokerage services with outside organizations. The Department is not persuaded that this argument has merit. Broker-dealers may perform brokerage services for plans which they sponsor when such services are undertaken to recapture commissions, when such services are provided in accordance with the provisions of section 408(b)(2) or when such services are performed at no charge to the plan. On the other hand, the Department has determined that permitting the plan sponsor to supply brokerage services to the plan at a profit is unjustifiable, since an employer of employees covered by a plan, like a plan trustee or plan administrator might have a relationship to, and influence over, a plan that would not be limited sufficiently by the presence of an independent plan fiduciary.

D. *Form Used For Written Authorization.* After noting some similarity between the written authorization required by the Department in this exemption and an authorization required by the Securities and Exchange Commission (SEC) under Rule 11a2-2(T), one commentator asked if one document may be employed to satisfy the requirements of both agencies. Such procedure would satisfy the applicable condition of the class exemption, so long as the document used contains all information required by the exemption.

E. *Annual Renewal Requirement.* A number of commentators questioned the need for the independent plan fiduciary's written authorization to be renewed annually. Certain of those commentators suggested that annual renewal requirements in general are unnecessarily burdensome. Other commentators argued that such requirements would present practical problems for brokerage firms, since some plans might not respond to repeated requests for renewed authorization.

The Department has not adopted the suggestion that the annual renewal requirement be deleted from the exemption. The Department believes that such a requirement provides a continuing safeguard against the conflict of interest which exists when a plan fiduciary can select itself to provide brokrage services at a profit for a plan. As noted above, however, the Department has removed the annual renewal requirement for those persons providing services in connection with the recapture of commissions.

F. *Supplying Fiduciaries With Necessary Information.*

(1) *Information Reasonably Necessary.* As a condition to effecting or executing securities transactions on behalf of a plan, a broker must provide information it reasonably believes is necessary to enable the independent plan fiduciary to determine whether to grant or renew an authorization to provide multiple services. One commentator sugggested that this information should generally consist of schedules of commission rates and descriptions of alternative service packages. Such information about commission rates and available packages would seem to be helpful to a plan fiduicary; however, this information may not be all that is needed to allow a fiduciary to assess properly his plan's relationship with a broker-dealer. The question whether other information would be necessary would, of course, depend upon the circumstances.

(2) *Information Resonably Available.* It was argued by one commentator that requiring the broker to supply information that it "reasonbly believes to be necessary" is unfair because the broker could be forced to provide information about its competitors or business practices that it might not possess and could not easily obtain. The Department is amending the exemption to make clear that the person effecting or executing securities transactions must provide only information that is reasonably available to that person.[14]

G. *Reports of Transaction-Related Charges.* The proposed exemption contained a requirement that a broker-dealer provide an authorizing fiduciary with a report, not later than 30 days after the end of each calendar quarter, diclosing certain data about brokerage charges incurred by the plan during the preceding quarter. A number of issues concerning this requirement were raised in the testimony and comments received by the Department.

(1) *Time for Supply Reports.* The Department is modifying the exemption to permit these reports to be furnished not less frequently than every three months, without requiring that the reports necessarily be furnished at the end of each calendar quarter. This change is designed to assist broker-dealers who otherwise might be forced to re-program their data processing systems to provide statements at the end of calendar quarters.

In addition, certain commentators suggested that the length of time allowed for preparation of the periodic reports should be extended, since the reports must include data which may not be available to a broker-dealer until some time after the end of the three-month period. The Department has adopted this suggestion and is increasing the time for delivery of the periodic report to not later than 45 days after the end of the period to which the report relates.

(2) *Meaning of "Incurred by the Plan".* One commentator asked whether a broker-dealer engaging in services covered by the exemption on behalf of a pooled account in which employee benefit plans participate must diclose the total of transaction-related charges incurred by the pooled account or must disclose the allocable percentage of charges incurred by each plan participating in the account. A report showing each plan's allocable share of a pooled account's transaction-related charges, the commentator argued, would be of little value in informing plan fiduciaries of the nature and magnitude of the broker-dealer's services for the pooled account and

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[9] Under the regulation, Title I is inapplicable only if: (1) no contributions to the plan are made by the employer or employee association; (2) participation is completely voluntary for employees or members; (3) the sole involvement of the employer or employee organization is to permit the sponsor to publicize the program, and to collect contributions on behalf of the sponsor through payroll deductions or dues checkoffs; and, (4) the employer or employee organization receives no consideration in the form of cash or otherwise, other than reasonable compensation for services actually rendered in connection with payroll deductions or dues checkoffs.

[10] In this regard, it might be noted that an IRA established by an individual is generally viewed as an account established by a "natural person" under section 11(a)(1)(E) of the Securities Exchange Act of 1934. *See* Securities Exchange Act Release No. 14713 (April 27, 1978), 43 FR 18557 (May 1, 1978). To the extent that an IRA is viewed as a natural person, a broker-dealer managing the IRA can provide brokerage services for the account without complying with the requirements of the SEC's Rule 11a2-2(T).

[11] This condition is included because a broker having such a relationship to the plan might have so great an influence over the general operation of the plan that an independent plan fiduciary would not be able to examine critically and objectively multiple services arrangements, and thus approval of these arrangements by such a fiduciary might not be sufficient to protect plan participants and beneficiaries.

[12] Under section 408(b)(2) of ERISA and the Department's regulation 29 CFR § 2550.408b-2(e)(3) thereunder (as well as section 4975(d)(2) of the Code and regulation 26 CFR 54.4975-6 thereunder) a fiduciary may, without special exemption, perform services for a plan and be reimbursed for certain direct expenses incurred in connection with those services. The exemption granted herein is necessary to permit recapture to the extent that recapture might involve the allocation of *indirect* expenses, such as overhead costs, to the plan.

[13] At the hearing on the proposed exemption, the American Council of Life Insurance (ACLI) also argued that making the exemption unavailable to a broker who is a plan administrator, plan trustee or employer of employees covered by the plan and requiring annual approval by an independent plan fiduciary often would effectively preclude sponsors of pooled accounts in which plans participate from providing those accounts with brokerage services for profit pursuant to the exemption. In light of this argument, the ACLI requested special treatment for pooled accounts. The Department believes that the primary purpose of the exemption—i.e., permitting plans to secure brokerage services at lower costs and allowing plans, particularly smaller ones, to obtain individual investment management services where such services might not otherwise be available—does not require pooled accounts to be treated specially. In addition, the dangers presented by the potential conflict of interest which exists under the circumstances described above outweigh the benefit to be derived from permitting the sponsor to perform brokerage transactions for the account. For the reasons suggested in footnote 11, *supra*, it is doubtful that approval by an independent plan fiduciary would be a sufficient safeguard in such an arrangement. Thus, no special relief is being provided under the exemption to enable a sponsor of a pooled account to effect or execute for profit securities transaction on behalf of the account.

[14] It was also suggested that some information, which is available to the broker, might be proprietary. The Department is not prepared to permit plan fiduciaries to enter into arrangements under the class exemption without possessing all available and relevant information. If the broker determines that such necessary information must be withheld for business reasons, that plan may not enter into an arrangement with the broker under the class exemption.

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would be an unnecessary expense. The Department is altering the exemption to clarify that broker-dealers engaging in securities transactions for pooled accounts pursuant to the exemption need disclose only the total of transaction-related charges incurred by the pooled account.

(3) *Computing Transaction-Related Charges.* Under the exemption, a person effecting or executing securities transactions on behalf of a plan is required to disclose to the authorizing fiduciary the amount of transaction-related charges retained by the broker, and the amount paid to other broker-dealers for execution or other services in connection with the transactions. Certain commentators maintained that broker-dealers have established compensation relationships with other broker-dealers that would make complying with this requirement difficult. The Department is not altering the condition requiring a breakdown of fees paid to other broker-dealers, because it would deem this condition to be satisfied by a reasonable approximation where precise figures are not available.[18]

H. *Fixed Brokerage Commissions.* One commentator pointed out that the required statement that brokerage commissions are not fixed by any stock exchange or other authority is inaccurate, since some foreign exchanges continue to establish commission rates. In view of this comment, the Department has amended the exemption to require a fiduciary effecting or executing securities transactions to state, in substance, in its report to the independent authorizing fiduciary that brokerage commissions in the United States are not fixed by any stock exchange or other authority and are subject to negotiation.

I. *Schedules of Anticipated Rates.* A number of commentators maintained that the availability of the exemption should not be conditioned on the authorizing plan fiduciary's receiving a schedule of anticipated commission rates. It was argued that such schedules might be of limited usefulness because a plan fiduciary is free to negotiate commissions with a broker-dealer before allowing the broker to execute any securities transaction. The Department believes, however, that the independent fiduciary will likely find anticipated commission rates helpful in determining whether to authorize a fiduciary to provide the plan with brokerage services. Therefore, the condition requiring disclosure of such rates is not being deleted from the exemption.

J. *Contract Terminations.* The proposed exemption provided in part that a contract between a broker-dealer and a plan covering services permitted by the exemption must be terminable by the plan on not more than 60 days' notice. The exemption has been modified to make clear that, where a contract relates both the services permitted by the exemption and to other matters, only the portion of the contract covering services permitted by the exemption, and not the entire contract, must be terminable by the plan on 60 days' notice.

K. *Replacing the Term "Broker-Dealer".* In their proposal, the Agencies used the term "broker-dealer" when referring to those individuals whose services might be covered by the exemption. The Department has replaced the term "broker-dealer" in the final exemption with the term "person" to make clear that the exemption applies with respect to any person who may be deemed to be effecting or executing securities transactions for a plan. As modified, the wording of the exemption also conforms to that used in Prohibited Transaction Exemption 75-1.

L. *Defining "Independent Plan Fiduciary".* A number of commentators suggested that the final exemption define "independent fiduciary". The Department does not believe it would be useful to attempt to anticipate and describe all situations in which a fiduciary might not be deemed to be independent for purposes of the exemption.

M. *Extending Prohibited Transaction Exemption 78-10.* In publishing the proposed exemption, the Agencies stated that they would consider extending Prohibited Transaction Exemption 78-10 to allow broker-dealers to complete certain adjustments made necessary by the proposed exemption. Based upon comments and testimony received, the Department has concluded that a 90-day extension of Prohibited Transaction Exemption 78-10 is appropriate to afford broker-dealers sufficient time to adapt their data processing systems to the proposed exemption and to disseminate to plan fiduciaries information and receive the written approval required by the exemption. Accordingly, the Department is extending Prohibited Transaction Exemption 78-10 until April 30, 1979, and is making the conditions of this exemption effective on May 1, 1979.

GENERAL INFORMATION: The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of participants and beneficiaries.

(2) This exemption is supplemental to, and not in derogation of, any other provision of the Act and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The class exemption is applicable to particular transaction only if the transaction satisfies the conditions specified in the class exemption.

EXEMPTION

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and based upon the entire record including the written comments submitted in response to the notice of November 24, 1978, and the testimony given at the public hearing of January 3, 1979, the Department makes the following determinations:

(a) The class exemption set forth herein is administratively feasible;

(b) It is in the interests of plans and of their participants and beneficiaries; and

(c) It is protective of the rights of participants and beneficiaries of plans.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1.

I. Until April 30, 1979, the restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act), and the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) of the Code, shall not apply to the effecting or executing of any securities transaction on behalf of an employee benefit plan by a person who is a fiduciary with respect to the plan, acting in such transaction as agent for the plan, and to the performance by such person of clearance, settlement, or custodial functions incidental to such transactions, if such person ordinarily and customarily effected such securities transactions and performed such functions on May 1, 1975.

II. Effective May 1, 1979, the restrictions of section 406 of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) of the Code, shall not apply to the effecting or executing of any securities transactions on behalf of an employee benefit plan by a person who is a fiduciary with respect to the plan and who is acting is such transactions as agent for the plan and to the performance by such person of clearance, settlement, custodial or other functions incidental to such transactions provided that, except as provided in paragraphs (h) and (i) of this exemption, the following conditions are met:

(a) Such person is not a trustee or administrator of the plan or an employer of any employee covered by the plan;

(b) Such transactions are effected or executed and such other functions are performed pursuant to a written authorization executed by a fiduciary of the plan who is independent of such person;

(c) Such written authorization continues in effect for more than one year only if such continuance is authorized in writing, at least annually, by a plan fiduciary who is independent of such person;

(d) No such authorization is made or renewed unless the person receiving the authorization furnishes the authorizing plan fiduciary with any reasonably available information that the person receiving the authorization reasonably believes to be necessary to determine whether such authorization should be made or renewed and any other reasonably available information regarding the matter that the authorizing fiduciary may reasonably request.

(e) The person effecting or executing such transactions or performing such other functions furnishes the authorizing fiduciary with a report containing the information described in this paragraph (e), not less frequently than every three months and not later than 45 days following the period to which the report relates. Such report shall disclose:

(i) the total of all transaction-related charges incurred by the plan during the preceding three months in connection with transactions in which such person performed any of the functions permitted by this exemption;

(ii) the amount of the transaction-related charges retained by such person and the amount of such charges paid to other persons for execution or other services; and

(iii) rates for transaction-related charges anticipated to be charged in the coming three months for transactions of the type normally entered into by the plan.

For purposes of paragraph (e) the words "incurred by the plan" shall be construed to mean " incurred by the pooled account" when such person effects or executes securities transactions or performs such other functions on behalf of a pooled account in which a plan participates;

(f) The report described in paragraph (e) of this exemption contains a statement to the effect that brokerage commissions in the United States are not fixed by any stock exchange or other authority and are subject to negotiation; and

(g) In any case where such transactions are effected or executed or such functions are performed pursuant to a contract to which the plan is a party, the portion of such contract which authorizes the effecting or executing of such transactions or the performing of such functions is terminable by the plan, without penalty, on not more than sixty days' notice.

(h) In any case where the person effecting or executing such transactions returns or credits to the plan all profits earned by such person in connection with such transactions, conditions (a) and (c) of this exemption shall not apply.

(i) In any case where the person effects or executes such transactions or performs such other functions on behalf of an individual retirement account which meets the conditions of 29 CFR § 2510.3-2(d), or on behalf of a plan, other than a training program, which has no employees within the meaning of 29 CFR § 2510.3-3, conditions (a) through (g) of this exemption shall not apply.

For purposes of this exemption:

(1) The term "person" shall include such person and any affiliate of such person.

(2) The term "affiliate" of a person shall include:

(a) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such person;

(b) Any officer, director, partner, employee or relative (as defined in section 3(15) of the Act) of such person; and

(c) Any corporation or partnership of which such person is an officer, director or partner.

Signed at Washington, D.C, this 23rd day of January 1979.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 79-2857 Filed 1-24-79; 12:09 pm]

[18] The Department notes that the SEC's Rule 11a2-2(T) requires a broker to disclose the amount of compensation it retains in connection with effecting transactions. To the extent that the broker makes precise computations to comply with the SEC rule, it would be able, and thus would be required, to supply the necessary information under the class exemption without relying upon approximations. The SEC staff has taken the position that where a precise computation of this amount is impossible or impracticable, an estimate stated within a range of not more than 10% (e.g., 75-85%) is acceptable for purposes of Rule 11a2-2(T), provided that certain conditions are met. *See* letter from SEC Division of Market Regulation to Bernard H. Garil, January 17, 1979. An estimate which conforms to the conditions of that letter would be acceptable for purposes of the exemption, where more precise computations are impossible or impracticable.

[4510-29-M]

[Prohibited Transaction Exemption 79-2]

EMPLOYEE BENEFIT PLANS

Exemption From Prohibitions Respecting a Transaction Involving Daniel Industries, Inc. Employees' Profit Sharing and Retirement Plan (D-495)

AGENCIES: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption enables the Daniel Industries, Inc. Employees' Profit Sharing and Retirement Plan (the Plan) to sell a parcel of real property to Daniel Industries, Inc. (Daniel).

FOR FURTHER INFORMATION CONTACT:

Robert N. Sandler, Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, telephone (202) 523-8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 7, 1978, notice was published in the FEDERAL REGISTER (43 FR 51880) of the pendency before the Department of Labor and the Internal Revenue Service (the Agencies) of an exemption from the provisions of sections 406(a)(1), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed on behalf of Daniel.

The notice set forth a summary of the facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Agencies in Washington, D.C. The notice also in-

vited interested persons to submit comments on the requested exemption to the Department of Labor (the Department). In addition, the notice stated that any interested person might submit a written request that a hearing be held relating to the requested exemption.

No public comments or requests for a hearing were received by the Department.

The application was filed with both the Department and the Internal Revenue Service, and the notice of pendency of the exemption was issued by both Agencies. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this exemption is issued solely by the Department.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require among other things, a fiduciary to discharge his duties respecting the plan solely in the interests of participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

EXEMPTION

In accordance with section 408(a) of the Act and Section 4975(c)(2) of the Code, the procedures set forth in ERISA Proc. 75-1 (40 FR 18471, April 28, 1975) and based upon the entire record, the Department makes the following determinations:

(i) The exemption is administratively feasible;

(ii) The exemption is in the interests of the Plan and of its participants and beneficiaries; and

(iii) The exemption is protective of the rights of participants and beneficiaries of the Plan.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Proc. 75-1.

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(c)(1)(A) through (E) of the Code shall not apply to the purchase of 13.881 acres of real property located in Houston, Harris Country, Texas by Daniel from the Plan for $1,130,000 cash, provided that such amount is not less than the fair market value of such property.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete and that the application accurately describes all material terms of the transactions consummated pursuant to the exemption.

Signed at Washington, D.C. this 19th day of January 1979.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-3160 Filed 1-29-79; 8:45 am]

[4510-27-M]

Wage and Hour Division

CERTIFICATE AUTHORIZING THE EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act (52 Stat. 1062, as amended; U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and Administrative Order No. 1-76 (41 FR 18949), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as listed.

The following certificates were issued under the apparel industry learner regulations (29 CFR 522.1 to 522.9, as amended and 522.20 to 522.25, as amended). The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Elder Mfg. Co., Webb City, MO; 10-31-78 to 10-30-79. (Men's and boys' shirts)

R. Fox, Ltd., Belleville, IL; 12-11-78 to 12-10-79; 10 learners for normal labor turnover purposes. (Men's pants)

Franklin Ferguson Co., Inc., Florala, AL; 12-19-78 to 12-18-79. (Men's and boys' shirts)

McCreary Mfg. Co., Stearns, KY; 12-8-78 to 12-7-79. (Men's shirts)

Monticello Mfg. Co., Monticello, KY; 12-8-78 to 12-7-79. (Men's and boys' shirts)

Rector Sportswear Corp., Rector, AR; 11-15-78 to 11-14-79. (Men's pants)

J. H. Rutter Rex Mfg., Co., New Orleans, LA; 10-12-78 to 10-11-79. (Men's shirts and pants)

Stapleton Garment Co., Inc., Stapleton, GA; 9-23-78 to 9-22-79. (Boy's and men's pants)

Sullcraft Mfg. Co., Inc., Dushore, PA; 10-25-78 to 10-24-79; 10 learners for normal labor turnover purposes. (Boys' and men's pajamas)

Wyoming Valley Garment Co., Wilkes-Bare, PA; 11-28-78 to 11-27-79; 10 learners for normal labor turnover purposes. (Men's slacks)

The following plant expansion certificate was issued authorizing the number of learners indicated.

Flushing Shirt Mfg. Co., Inc., Waynesburg, PA; 11-6-78 to 5-5-79; 20 learners for plant expansion purposes. (Men's shirts)

The following certificate was issued under the knitted wear industry regulations (29 CFR 522.1 to 522.9, as amended and 522.30 to 522.35 as amended).

Junior Form Lingerie, Corp., Boswell, PA; 10-11-78 to 10-10-79; 5 percent of the total number of factory production workers for normal labor turnover purposes.

The following certificate was issued under the glove industry learner regulations (29 CFR 522.1 to 522.9, as amended and 522.60 to 522.65 as amended).

Burnham-Edina Mfg. Co., Edina, MO; 11-8-78 to 11-7-79; 5 learners for normal labor turnover purposes. (Work gloves)

Each learner certificate has been issued upon the representations of the employer which, among other things were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available.

The certificate may be annulled or withdrawn as indicated therein, in the manner provided in 29 CFR, Part 528. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before February 14, 1979.

Signed at Washington, D.C. this 22d day of January 1979.

ARTHUR H. KORN,
Authorized Representative of the Administrator.

[FR Doc. 79-3121 Filed 1-29-79; 8:45 am]

[7536-01-M]

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

HUMANITIES PANEL ADVISORY COMMITTEE

Meeting

JANUARY 16, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in Room 807, from 9:00 a.m. to 5:30 p.m. on 14 February 1979.

The purpose of the meeting is to review applications in the Social Sciences that have been submitted to the General Research Program of the National Endowment for the Humanities, for projects beginning 1 March 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee, Management Officer.

[FR Doc. 79-3062 Filed 1-29-79; 8:45 am]

[7536-01-M]

HUMANITIES PANEL ADVISORY COMMITTEE

Meeting

JANUARY 15, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506, in room 1134, from 9 a.m. to 5:30 p.m. on February 15, 1979 and February 16, 1979.

The purpose of the meeting is to review the applications submitted to the Research Tools Program of the National Endowment for the Humanities, for projects in the fields of the History and Law beginning June 15, 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chariman's Delegation of Authority to close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15 Street, N.W., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee, Management Officer.

[FR Doc. 79-3063 Filed 1-29-79; 8:45 am].

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50-321 and 50-366]

GEORGIA POWER CO., ET AL.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 62 to Facility Operating License No. DPR-57 and Amendment No. 3 to Facility Operating License No. NPF-5 issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, located in Appling County, Georgia. The amendments are effective as of their date of issuance.

The amendments revise the surveillance requirements for the Reactor Protection System Power Supplies while the licensee replaces an inadequate undervoltage protection trip.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated January 18 and 19, 1979, (2) Amendment No. 62 to License No. DPR-57, (3) Amendment No. 3 to License No. NPF-5, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 22nd day of January 1979.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-3069 Filed 1-29-79; 8:45 am]

[7590-01-M]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operat-

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ing License No. DPR-36, issued to Maine Yankee Atomic Power Company, which revised Technical Specifications for operation of the Maine Yankee Atomic Power Station (the facility), located in Lincoln County, Maine. The amendment is effective as of its date of issuance.

The amendment deletes the monitoring requirements used to determine the effects of the condenser cooling water system on plankton and larval organisms and the effects of plant operation on the marine ecosystem of Back River and Montsweag Bay. The environmental report frequency has also been changed from semiannual to annual.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmentl impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to this action, see (1) the application for amendment June 27, 1978, (2) Amendment No. 43 to License No. DPR-36, and (3) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine. A copy of items (2) and (3) may be otained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 22nd day of January 1979.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-3090 Filed 1-29-79; 8:45 am]

[7590-01-M]

[Docket No. 50-289]

METROPOLITAN EDISON CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (the licensees), which revised Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications for TMI-1 to permit removal to storage prior to the Cycle 5 refueling outage of the steel gate presently separating spent fuel pools A and B.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration. The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 26, 1978, as supplemented and revised January 11, 1979, (2) Amendment No. 48 to License No. DPR-50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 18th day of January 1979.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-3091 Filed 1-29-79; 8:45 am]

[7590-01-M]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.144, "Auditing of Quality Assurance Programs for Nuclear Power Plants," describes a method acceptable to the NRC staff for complying with the Commission's regulations with regard to auditing of quality assurance programs for nuclear power plants. This guide endorses ANSI/ASME N45.2.12-1977, "Requirements for Auditing of Quality Assurance Programs for Nuclear Power Plants."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.144 will, however, be particularly useful in evaluating the need for an early revision if received by March 30, 1979.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of the latest revision of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 22nd day of January 1979.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 79-3088 Filed 1-29-79; 8:45 am]

[7590-01-M]

[Docket No. 50—305]

WISCONSIN PUBLIC SERVICE CORP., ET AL. (KEWAUNEE NUCLEAR POWER PLANT)

Reconstitution of Board

Mr. Glenn O. Bright was a member of the Atomic Safety and Licensing Board for the above proceeding. Because of a schedule conflict Mr. Bright is unable to continue his service on this board.

Accordingly, Dr. Emmeth A. Luebke, whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed a member of this board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland this 24th day of January 1979.

ROBERT M. LAZO,
Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 79-3087 Filed 1-29-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 01/23/79 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes—

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

TENNESSEE VALLEY AUTHORITY

TVA/KUB Time-of-Day Posttest Questionnaire
TVA 6233C
Single-Time
110 Elec. Res. Customers Participating in T-O-D Test 110 Responses; 55 hours
Ellett, C.A., 395-5080

REVISONS

DEPARTMENT OF ENERGY

Housing Unit Energy Assessment
EIA-84
Single-Time
50 Households From the EIA-84 Sample 50 Responses; 75 hours
Hill, Jefferson B., 395-5867

DEPARTMENT OF LABOR

Bureau of Labor Statistics
Job Openings Pilot Survey and Monthly Report on Labor Turnover
DL-1219 & BLS 3115
Monthly
Non Agricultural Establishments 592,400 Responses; 80,980 hours
Off. of Federal Statistical Policy & Standard, 673-7974

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Ass't Sec'y)
Notice of Property Transfer and Application for Insurance Benefits
HUD 1025
On Occasion
FHA Approved Mortgagees 25,000 Responses; 6,250 hours
Strasser, A., 395-5080

Administration (Office of Ass't Sec'y)
Title I Claim For Loss
HUD 637
On Occasion
Banks, Savings & Loans, Etc. 18,000 Responses; 9,000 hours
Strasser, A., 395-5080

Housing Production and Mortgage Credit
Application for Project Mortgage Insurance
FHA-2013 NH-ICF 2013
On Occasion
All Multifamily Sponsors 4,100 Responses; 12,500 hours
Strasser, A., 395-5080

Housing Production and Mortgage Credit
Request for Extension of Title I Claim Period
FHA-299
On Occasion
Banks, Savings & Loans, Credit Unions, Etc. 10,000 Responses; 1,000 hours
Strasser, A., 395-5080

Housing Production and Mortgage Credit
Application for Homeownership Assistance Under Section 235(i)
FHA 3100
On Occasion
Seller Mortgagors and/or Mortgagees 100,000 Responses; 50,000 hours
Strasser, A., 395-5080

Housing Production and Mortgage Credit
Application for Tenant Eligibility for Rent Supplement
FHA 2501
On Occasion
Tenants Assisted by Housing Owner or Manager 50,000 Responses; 25,000 hours
Strasser, A., 395-5080

Housing Production and Mortgage Credit
Nonprofit Hospital—Section 242—Application for Project Mortgage Insurance
FHA-2013 (Hosp)
On Occasion
Project Sponsors 100 Responses; 50 hours
Strasser, A., 395-5080.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-3100 Filed 1-29-79; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

DEXTRINES AND SOLUBLE OR CHEMICALLY TREATED STARCHES DERIVED FROM POTATO STARCH FROM THE EUROPEAN ECONOMIC COMMUNITY

Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and an investigation is being initiated to determine whether or not benefits which constitute a bounty or grant within the meaning of the countervailing duty law are granted by the European Economic Community to manufacturers or exporters of potato starch derivatives. A preliminary determination will be made no later than June 8, 1979, and a final de-

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termination no later than December 8, 1979.

EFFECTIVE DATE: January 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael E. Crawford, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: A petition was received in satisfactory form on December 8, 1978, from the Corn Refiners Association, Inc., Washington, D.C., alleging that payments conferred by the European Economic Community (EEC) upon the manufacture or exportation of dextrines and soluble or chemically treated starches derived from potato starch constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303). Member States of the European Community include Belgium, Denmark, the Federal Republic of Germany, France, Ireland, Italy, Luxemburg, the Netherlands and the United Kingdom. Imports covered by this investigation are classified under item 493.30, Tariff Schedules of the United States (TSUS).

The petition alleges that the European Community has granted a production subsidy and premium payments to potato starch producers.

The petition further alleges that at least one potato starch producer in the Netherlands has received, and others may be eligible to receive, preferential financing and other financial assistance from the Government of the Netherlands for complying with environmental protection requirements.

The petitioner also has claimed that a high EEC import levy on corn indirectly benefits the potato starch manufacturers by placing EEC corn starch producers at a competitive disadvantage and therefore constitutes a bounty or grant. The Treasury Department, however, does not consider the imposition of a high import levy on corn to constitute a bounty or grant within the meaning of the countervailing duty law of the United States. Accordingly, there shall be no further investigation concerning this allegation.

Pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination within 6 months of the receipt of a petition in proper form and a final determination within 12 months of the receipt of such petition, as to whether or not any bounty or grant is being paid or bestowed within the meaning of the statute.

Therefore, a preliminary determination as to whether or not alleged payments or bestowals conferred by the EEC upon the manufacture, production or exportation of potato starch derivatives constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended, will be made no later than June 8, 1979. A final determination will be made no later than December 8, 1979.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and § 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954 and § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JANUARY 23, 1979.

[FR Doc. 79-3102 Filed 1-29-79; 8:45 am]

[4810-22-M]

TOMATO PRODUCTS FROM THE EUROPEAN COMMUNITY

Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that a petition has been received and an investigation is being initiated to determine whether or not benefits which constitute a bounty or grant within the meaning of the countervailing duty law are granted by the Commission of the European Community to manufacturers or producers of tomato products. A preliminary determination will be made no later than February 22, 1979, and a final determination no later than August 22, 1979.

EFFECTIVE DATE: January 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W. Washington, D.C. 20229, telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on August 22, 1978, alleging that payments made by the Commission of the European Community (EC) to manufacturers or producers of tomato products constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303). Imports covered by this investigation are tomato products provided for in items 141.65 and 141.66 of the Tariff Schedules of the United States, Annotated (TSUSA).

The bounties or grants are allegedly bestowed as a result of the authorization of payments to processors approved by the Commission of the EC. This action was announced in Regulation No. 1515/78 of June 30, 1978 (*Official Journal* No. L178/61).

Pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed as defined by the statute within six months of the receipt of a petition in proper form and a final decision within twelve months of the receipt of such petition. Therefore, a preliminary determination in this case will be made no later than February 22, 1979, and a final determination will be issued no later than August 22, 1979.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303 (a)(3)), and § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order 165, Revised November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JANUARY 23, 1979.

[FR Doc. 79-3101 Filed 1-29-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 16]

ASSIGNMENT OF HEARINGS

JANUARY 25, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellations or postponements of hearings in which they are interested.

MC 89084 (Sub-6F), Interstate Heavy Hauling, Inc., now assigned for hearing on March 21, 1979, (3 days), at Portland, Oregon, in a hearing room to be later designated.

MC 129704 (Sub-2F), Clarence B. Blankenship DBA, Troy Cab Co., now assigned for continued hearing on February 13, 1979, at the Offices of Interstate Commerce Commission, Washington, DC.

MC-F 13727, Beaufort Transfer Company-Purchase-Langer Truck Line, Inc, now assigned March 15, 1979 (2 days), at St. Louis, Missouri in a hearing room to be later designated.

MC 133689 (Sub-230F), Overland Express, Inc., application dismissed.

MC 128257 (Sub-120), May Trucking Company, now assigned May 19, 1979 (3 days) at Portland, OR in a hearing room to be later designated.

MC 57591 (Sub-19F), Evans Delivery Company, Inc., now being assigned continued hearing February 26, 1979, at the offices Interstate Commerce Commission, Washington, D.C.

MC 143059 (Sub-24F), Mercer Transportation Co., now being assigned March 12, 1979 (1 week) at Portland, Oregon and will be held at in a location to be later designated.

AB 84 (Sub-2), Illinois Terminal Railroad Company Abandonment of Trackage Rights Over Illinois Central Gulf Railroad Company From Mont to Springfield in Madison, Macoupin, Montgomery, and Sangamon Counties and FD 28868 Illinois Terminal Railroad Company-Trackage Rights Over Illinois Central Gulf Railroad Company Between Springfield and Wood River, IL and FD 28870, Illinois Terminal Railroad Company Construction And Operation of A Line Of Railroad at Wood River, Madison County, IL now being assigned March 19, 1979 (1 week), at Springfield, Illinois in a hearing room to be later designated.

FD 21478, Great Northern Pacific and Burlington Lines, Inc., Merger, Etc., Great Northern Railway Company, et al. and FD 21478 (Sub-4), Great Northern Pacific and Burlington Lines Inc. Merger, Etc. Great Northern Railway Company, et al. now being assigned for prehearing February 6, 1979 at Washington, D.C. and will be held at the offices of the Interstate Commerce Commission.

36948, E & M Furniture & Appliance, Incorporated v. Burlington Northern, Inc., now being assigned for hearing March 13, 1979 (2 days) at St. Louis, Missouri and will be held in a hearing room to be later designated.

MC 58885 (Sub-33F), Atlanta, Motor Lines, Inc., now assigned for hearing on February 6, 1979, at Atlanta, Georgia is postponed indefinitely.

MC 124170 (Sub-90F), Frostways, Inc., now assigned for hearing on February 12, 1979, at New York, New York and will be held in Room E-2222, Federal Bldg.

MC 143059 (Sub-20F), Mercer Transportation Co., now assigned for hearing on February 12, 1979, at St. Louis, Missouri and will be held in U.S. Court and Customs House, Room 829.

MC 144420 (Sub-1F), Malibu Beach Boat Sales & Service, Co., Inc., now assigned for hearing on February 7, 1979, at St. Louis, Missouri and will be held in Room 829, U.S. Court and Custom House.

MC 144844 (Sub-1F), Ozark Transportation, Inc., now assigned for hearing on February 15, 1979, at St. Louis, Missouri and will be held in Court Room 3, 7th Floor, Bankruptcy Court.

MC 9812 (Sub-9F), C. F. Kolb Trucking Co. Inc., now assigned for hearing on February 13, 1979, at St. Louis, Missouri and will be held in Room 829, Federal Building, U.S. Court and Custom House.

MC 136602 (Sub-7F), Arizona Western Transport, Inc., now assigned for hearing on February 7, 1979, at Phoenix, Arizona and will be held in Federal Building and Post Office, Tax Court Room 235.

MC 107064 (Sub-129F), Steere Tank Lines, Inc., now assigned for hearing on February 12, 1979, at Albuquerque, New Mexico and will be held in The Institute of Law, Bratton Hall.

MC 126305 (Sub-88), Boyd Brothers Transportation Co. Inc., now assigned for hearing on February 8, 1979, at Birmingham, Alabama and will be held in the Wage and Hour Conference Room.

MC 143059 (Sub-21F), Mercer Transportation Co., now assigned for hearing on February 7, 1979, at Birmingham, Alabama and will be held in U.S. Court and Federal Building, Room 430.

MC 134922 (Sub-24B), B. J. McAdams, Inc., now assigned for hearing on February 6, 1979, at Birmingham, Alabama and will be held in U.S. Court and Federal Building, Room 430.

AB 43 (Sub-50), Illinois Central Gulf Railroad Company Abandonment Between Wanilla and Byram, in Larence, Copiah and Hunds Counties, Mississippi, now assigned for hearing on February 12, 1979, at Jackson, Mississippi and will be held in Grand Jury Room, U.S. Courthouse.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3115 Filed 1-29-79; 8:45 am]

[7035-01-M]

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 25, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before February 14, 1979.

FSA NO. 43657, Korea Shipping Corporation, Ltd.'s No. 101, intermodal rates on general commodities in containers, from ports in Japan and Korea to rail carriers' terminals at U.S. Atlantic and Gulf Coast ports, by way of U.S. Pacific Coast ports, to be published in Trans-Pacific Freight Conference of Japan/Korea, Agent, Tariff No. 1, I.C.C. No. 1. Grounds for relief-water competition.

By the Commission.

H.G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3114 Filed 1-29-79; 8:45 am]

[7035-01-M]

[Permanent Authority Decisions Volume No. 2]

PERMANENT AUTHORITY APPLICATIONS

Decision-Notice

Decided: January 5, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the commission will result in its dismissal.

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Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code and the Commission's regulations. Except where specifically noted, this decision in neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that, applicant's operations shall conform to the provisions of 49 U.S.C. 10930 (1978) (formerly section 210 of the Interstate Commerce Act.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a noncomplying applicant shall stand denied.

By the Commission, Review Board Number 2, Members, Boyle, Eaton, and Liberman. (Board Member Boyle not participating).

H. G. Homme, Jr.,
Secretary.

MC 531 (Sub-365F), filed November 6, 1978. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, in tank vehicles, from Lake Charles, LA, to points in TX. (Hearing site: Houston, TX.)

MC 531 (Sub-366F), filed November 6, 1978. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *vegetable oils*, in bulk, in tank vehicles, from points in NJ, to points in TX. (Hearing site: San Francisco, CA.)

MC 1334 (Sub-21F), filed September 13, 1978. Applicant: RITEWAY TRANSPORT, INC., 2131 W. Roosevelt, Phoenix, AZ 85005. Representative: Robert R. Digby, P.O. Box 6849, Phoenix, AZ 85005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Windmill Ranch and Red Lake, AZ: from Windmill Ranch in Yavapia County, AZ over unnumbered county road to junction U.S. Hwy 89A, then over U.S. Hwy 89A, to junction U.S. Hwy 89, then over U.S. Hwy 89 to junction U.S. Hwy 160, then over U.S. Hwy 160 to Red Lake, and return over the same route, serving no intermediate points. (Hearing site: Phoenix, AZ.)

MC 3252 (Sub-106F), filed October 23, 1978. Applicant: MERRILL TRANSPORT CO., a corporation, 1037 Forest Avenue, Portland, ME 04104. Representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *commodities*, in bulk, from Orrington, ME, (a) to points in NH, VT, MA, RI, CT, NY, NJ, and PA, and (b) to the ports of entry on the International Boundary line between the United States and Canada located in ME. (Hearing site: Portland, ME, or Boston, MA.)

MC 30844 (Sub-632F), filed October 26 1978. Applicant: KROBLIN REFRIGERATED EXPRESS, INC., P.O Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (Same as above). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *flour*, from Minneaplois, MN, to points in AR, IA, KS, MO, and OK; and (2) *foodstuffs and bird feed* (except commodities in bulk), from Minneapolis, New Ulm, and Wabasha, MN, to those points in the United States in and east of MN, WI, IL, KY, TN, MS, and LA. (Hearing site: St. Paul, MN.)

MC 31389 (Sub-263F), filed November 14, 1978. Applicant: MCLEAN TRUCKING COMPANY, a Corporation, P.O. Box 213, Winston-Salem, NC 27102. Representative: David F. Eshelman (same address as applicant). To operate as a *common carrier*, by motor vehicle, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Philadelphia and Allentown, PA, over PA Hwy 309, (2) between Allentown, PA and Somerville, NJ, over U.S. Hwy 22, (3) between Allentown and Scranton, PA, over PA Hwy 9, (4) between junction U.S. Hwy 22 and PA Hwy 33 and Scranton, PA, from junction U.S. Hwy 22 and PA Hwy 33 over PA Hwy 33 to junction PA Hwy 611 near Stroudsburg, PA, then over PA Hwy 611 to junction PA Hwy 423, then over PA Hwy 423 to junction Interstate Hwy 380, then over Interstate Hwy 380 to Scranton, and return over the same route, (5) between Bartonsville, PA and Netcong, NJ, over Interstate Hwy 80, (6) between junction Interstate Hwys 380 and 84 and Matamoras, PA, over Interstate Hwy 84, (7) between Matamoras, PA and Montgomery, NY, from Matamoras over Interstate Hwy 84 to junction NY Hwy 211, then over NY Hwy 211 to Montgomery, and return over the same route, (8) between Scranton and Shamokin Dam, PA, over U.S. Hwy 11, (9) between Scranton and Milford, PA, over U.S. Hwy 6, (10) between Scranton, PA and the PA-NY State line, (a) over U.S. Hwy 11, and (b) over Interstate Hwy 81, (11) between Scranton and Harrisburg, PA, over Interstate Hwy 81, (12) between junction Interstate Hwys 81 and 78 and Allentown, PA, over Interstate Hwy 78, (13) between Harrisburg, PA and the PA-NY State line, over U.S. Hwy 15, (14) between Scranton and Mansfield, PA, over U.S. Hwy 6, (15) between Williamsport and Towanda, PA, over U.S. Hwy 220, (16) between Towanda and Sayre, PA, over U.S. Hwy 220, (17) between junction Interstate Hwy 80 and PA Hwy 715 near Tannersville, PA and junction Interstate Hwy 80 and U.S. Hwy 15 at or near White Deer, PA, over Interstate Hwy 80, (18) between Harrisburg, and Lancaster, PA, from Harrisburg over PA Hwy 441 to junction PA Hwy 283, then over PA Hwy 283 to Lancaster, and return over the same route, (19) between Lancaster and Allentown, PA, over U.S. Hwy 222, (20) between Lancaster, PA and Conowingo, MD, over U.S. Hwy 222, (21) between Chambersburg and Philadelphia, PA, over U.S. Hwy 30, (22) between Harrisburg, PA and Baltimore, MD, over Interstate Hwy 83, (23) between Sunbury and Reading, PA, over PA Hwy 61, (24) between Philadelphia and Harrisburg, PA, over U.S. Hwy 422, (25) between Wilmington, DE and junction U.S. Hwy 30 and PA Hwy 100 near Exton, PA, from Wilmington over U.S. Hwy 202 to junction PA Hwy 100, then over PA Hwy 100 to junction U.S. Hwy 30, and return over the same route, (26) between Harrisburg and Pittsburgh, PA, from Harrisburg over Interstate Hwy 76 to junction U.S. Hwy 30 near Irwin, then over U.S. Hwy 30 to Pittsburgh, and return over the same route, (27) between Harrisburg, PA and junction Interstate Hwy 80 and U.S. Hwy 220, from Harrisburg over U.S Hwy 322 to junction U.S. Hwy 220 near Martha Furnace, PA, then over U.S. Hwy 220 to junction Interstate Hwy 80, and return over the same route, (28) between junction U.S. Hwy 322 and PA Hwy 144 and junction PA Hwy 144 and U.S. Hwy 220, over PA Hwy 144, (29) between junction Interstate Hwy 80 and U.S. Hwy 15 and West Middlesex, PA, over Interstate Hwy 80, serving junction Interstate Hwy 80 and U.S. Hwy 220 for the purposes of joinder only, (30) between the PA-MD State line and Harrisburg, PA, over U.S. Hwy 11, (31) between Harrisburg, PA and Nashville, TN, from Harrisburg, over Interstate Hwy 81 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Nashville, and return over the same route, (32), between Clarks Ferry and Sunbury, PA, over PA Hwy 147, (33) between Exton and Allentown, PA, from Exton over PA Hwy 100 to junction PA Hwy 9, then over PA Hwy 9 to Allentown, and return over the same route, (34) between Millersburg and Matamoras, PA, over U.S. Hwy 209, (35) between the PA-MD State line and Harrisburg, PA, over U.S. Hwy 15, (36) between junction Interstate Hwy 80 and PA Hwy 64 near Clintondale, PA and Lock Haven, PA, from junction Interstate Hwy 80 and PA Hwy 64 over PA Hwy 64 to junction U.S. Hwy 220, then over U.S. Hwy 220 to Lock Haven, and return over the same route, (37) between Lock Haven and Williamsport, PA, over U.S. Hwy 220, and (38) serving points in PA in and east of Tioga, Lycoming, Clinton, Union, Snyder, Juniata, and Franklin Counties as intermediate and off-route points in connection with the routes in (1) through (37) above. (Hearing site: Washington, DC.)

MC 42487 (Sub-884F), filed October 17, 1978. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, a Delaware Corporation, 175 Linfield Drive, Menlo Park, CA 94025. Representative: H. P. Strong, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities*, (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Marlin-Rockwell, Division of TRW, at or near Flowery Branch, GA, as off-route points in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Washington, DC, or Cleveland, OH.)

MC 48958 (Sub-167F), filed December 4, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., A Nebraska Corporation, 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *vehicles* (except self-propelled), *freight carts, trucks, trailers, and wagons*, from the facilities of Hawkins Manufacturing Company, at or near Pierce, CO, to points in AZ, CA, NV, NM, OK, TX, and UT. (Hearing site: Denver, CO.)

MC 49567 (Sub-11F), filed October 12, 1978. Applicant: GOLDEN BROS., INC., 234 East McClure St., Kewanee, IL 61442. Representative: Donald S. Mullens, 4704 W. Irving Park Road, Chicago, IL 60641. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *heating systems and power boilers, and* (2) *parts* for the commodities in (1) above, from Kewanee, IL, to points in CA, GA, KY, NC, NJ, NV, OK, SC, TN, TX, VA, and WV, under continuing contracts with Kewanee Boiler Corporation, of Kewanee, IL. (Hearing site: Chicago, IL.)

MC 56244 (Sub-65F), filed October 27, 1978. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R.D. No. 2, Gardners, PA 17324. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk and frozen foods), and *pet foods*, from Jessup, MD, to points in OH and those points in PA on north, and west of a line beginning at Lake Erie and extending along Interstate Hwy 79 to junction Interstate Hwy 76, then along Interstate Hwy 76 to the PA-OH State Line, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 59367 (Sub-129F), filed October 16, 1978. Applicant: DECKER TRUCK LINE, INC. P.O. Box 915, Fort Dodge, IA 50501. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *meats, meat products, meat byproducts, and articles distributed by meatpacking houses*, (except hides and commodities in bulk), and (b) *foodstuffs*, when transported in mixed loads with the commodities in (1)(a) above, from the facilities of Jones Dairy Farm, at Fort Atkinson and Jefferson, WI, to points in AZ, CA, and CO; (2) *meats, and meat products*, (except commodities in bulk), from the facilities of Stoppenback, Inc., at Jefferson, WI, to points in CA, CO, NM, OR, and WA; and (3) (a) *meats, meat products, meat byproducts, articles distributed by meat-packing houses, and foodstuffs*, (except hides and commodities in bulk), and (b) *materials and supplies* used in the manufacture and distribution of the commodities in (3)(a) above, (except commodities in bulk), between the facilities of Hillshire Farm Company, at or near New London, WI, on the one hand, and, on the other, those points in the United States in and west of LA, AR, MO, IL, and WI (except AK and HI), restricted in (1), (2), and (3) above to the transportation of traffic originating at the named origins or destined to the named destinations. (Hearing site: Milwaukee or Madison, WI.)

MC 59488 (Sub-45F), filed December 4, 1978. Applicant: SOUTHWESTERN TRANSPORTATION COMPANY, A Delaware Corporation, 1766 El Camino Real, P.O. Box 990, Burlingame, CA

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94010. Representative: Lloyd M. Roach, 7600 South Central Expressway, P. O. Box 226187, Dallas, TX 75266. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Darling Store Fixtures, at or near Corning, AR, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Little Rock, AR, or Memphis, TN.)

NOTE.—Dual operations are involved in this proceeding.

NOTE.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343(a) [formerly Section 5(2) of the Interstate Commerce Act], or submit an affidavit indicating why such approval is unnecessary.

MC 59957 (Sub-52F), filed October 12, 1978. Applicant: MOTOR FREIGHT EXPRESS, a Corporation, P. O. Box 1029, York, PA 17405. Representative: Walter M. F. Neugebauer (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Bard-Parker, Division of Becton Dickinson and Company, at or near Hancock, NY, to Chicago, IL, restricted to the transportation of traffic originating at the named origin and destined to the named destination. (Hearing site: Newark, NJ.)

MC 60612 (Sub-19F), filed November 8, 1978. Applicant: TISCHLER EXPRESS, INC., 8408 Elliston Drive, Wyndmoor, PA 19118. Representative: Ira G. Megdal, 499 Cooper Landing Road, Cherry Hill, NJ 08002. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Allentown, Williamsport, and Dupont, PA, on the one hand, and, on the other, Essington, PA, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Philadelphia, PA, or Camden, NJ.)

MC 69371 (Sub-10F), filed July 26, 1978, previously noticed in the FR of October 19, 1978. Applicant: NORMAN TRANSPORTATION LINES, INC., 6201 Lee Rd., Maple Heights, OH 44137. Representative: John H. Baker, 435 Delaware Ave., Buffalo, NY 14202. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by grocery and food business houses, and (2) *equipment, materials, and supplies* used in the conduct of grocery and food business houses, (except commodities in bulk, in tank vehicles), (a) between points in Lucas, Ottawa, Sandusky, Erie, Huron, Richland, Lorain, Ashland, Cuyhoga, Medina, Wayne, Lake, Geauga, Portage, Summit, Stark, Tuscarawas, Ashtabula, Trumbull, Mahoning, Columbiana, Jefferson, Carroll, and Harrison Counties, OH, Erie, Crawford, Warren, McKean, Mercer, Venango, Forest, Lawrence, Butler, Clarion, Armstrong, Allegheny, Westmoreland, Beaver, and Washington Counties, PA, Niagara, Erie, Chautauqua, Cattaraugus, Allegany, Steuben, Livingston, and Chemung Counties, NY, Brooke, Marshall, Ohio, Hancock, Harrison, Marion, Wood, Wetzel, Tyler, Doddridge, Upshur, Ritchie, and Pleasants Counties, WV, and (b) between Altoona, PA, on the one hand, and, on the other, those points named in (a) above, under continuing contract(s) in (1) and (2) above with The Great Atlantic & Pacific Tea Company, Inc., of Montvale, NJ, insofar as the following counties are concerned: Lucas, Ottawa, and Sandusky Counties, OH; Warren, Mckean, Armstrong, Allegheny, Westmoreland, and Washington Counties PA; Niagara, Erie, Chautauqua, Cattaraugus, Allegany, Steuben, Livingston, and Chemung Counties, NY; Brooke, Marshall, Ohio, Hancock, Harrison, Marion, Wood, Wetzel, Tyler, Doddridge, Upshur, Ritchie, and Pleasants Counties, WV. (Hearing site: Buffalo, NY.)

NOTE.—This republication modifies the commodity description and the contracting shipper statement.

MC 76074 (Sub-3F), filed September 7, 1978. Applicant: DEEHAN'S EXPRESS, INC., 32 O'Brien Avenue, Whitman, MA 02382. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *general commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in MA; and (2) *steel and aluminum*, from Randloph, MA to points in RI. CONDITION FOR ISSUANCE OF A CERTIFICATE: Concidental cancellation at applicant's written request of its certificate of registration in MC 76074 (Sub-2). Hearing site: Boston, MA)

MC 82492 (Sub-207F), filed November 13, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: William C. Harris (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of Cole's Bakeries, at or near Muskegon, MI, to those points in NY in and west of Broome, Cortland, Onodaga, and Oswego counties, those points in PA on and west of U.S. Hwy 219, and points in IN, KY, OH, and TN. (Hearing site: Chicago, IL, or Washington, DC.)

MC 96992 (Sub-12F), filed November 9, 1978. Applicant: HIGHWAY PIPELINE TRUCKING CO., a Corporation, P.O. Box 1517, Edinburg, TX 78539. Representative: Kenneth R. Hoffman, 1102 Perry-Brooks Building, Austin, TX 78701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), (1) from the facilities used by Texsun Corporation, at or near Weslaco, Harlingen, and Corpus Christi, TX, to those points in the United States in and west of MI, OH, KY, TN, AL, and FL and (2) from the facilities used by Texsun Corporation, at or near Trafalgar and Plymouth, IN, to points in MN, IA, MO, WI, IL, MI, IN, KY, OH, PA, and WV. (Hearing Site: McAllen or Laredo, TX.)

MC 97394 (Sub-18F), filed September 8, 1978. Applicant: BOWLING GREEN EXPRESS, INC., Plum Springs Road, P.O. Box 1899, Bowling Green, KY 42101. Representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Louisville, KY, and Cincinnati, OH, over Interstate Hwy 71, serving no intermediate points. CONDITION: Prior or coincidental cancellation applicant's written request of applicant's duplicating alternate route authority in MC 97394 (Sub-16). (Hearing site: Cincinnati, OH.)

MC 105813 (Sub-250F), filed November 20, 1978. Applicant: BELFORD TRUCKING CO., INC., 1759 S.W. 12th Street, P.O. Box 2009, Ocala, FL 32670. Representative: Arnold L. Burke, 180 N. LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic film*, from Birmingham, AL, to points in IL, IN, KY, MI, MO, NY, OH, TN, and WI. (Hearing site: Birmingham, AL.)

MC 106074 (Sub-69F), filed October 23, 1978. Applicant: B & P MOTOR LINES, INC., P.O. Box 741, Forest City, NC 28043. Representative: Arlyn L. Westregren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Spencer Foods, Inc., at or near Schuyler, NE, to points in NC, SC, GA, and FL. (Hearing site: Omaha, NE.)

MC 106401 (Sub-58F), filed November 1, 1978. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 31577, Charlotte, NC 28231. Representative: Thomas G. Sloan (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of American Paper Tube Co., at or near Port Gibson, MS as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Jackson, MS, or Washington, DC.)

MC 107002 (Sub-537F), filed November 13, 1978. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, MS 39204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry chemicals*, in bulk, in tank vehicles, from Memphis, TN, to points in AR, AL, FL, KS, LA, MS, NC, OK, and SC. (Hearing site: Memphis, TN.)

MC 107012 (Sub-289F), filed November 9, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials and supplies* used in the manufacture of air conditioners (except commodities in bulk), from points in IL, IN, OH, MI, MD, KY, and TN, to the facilities of Fedders Corporation, at or near Edison, NH. (Hearing site: New York, NY, or Washington, DC.)

MC 107012 (Sub-290F), filed November 9, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Stephen C. Clifford (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass bowls*, from the facilities of Anchor-Hocking Inc., at or near Lancaster, OH, to the facilities of Sunbeam Appliance Company, at or near Dumas, AR and Chicago, IL. (Hearing site: Little Rock, AR, or Washington, DC.)

MC 107012 (Sub-291F), filed November 9, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from the facilities of Fancher Furniture Co., at or near Salamanca, NY, to the facilities of Temple Stuart Co., at or near Baldwinville, MA. (Hearing site: Boston, MA, or Washington, DC.)

MC 107012 (Sub-292F), filed November 9, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *luggage*, from points in RI, to points in the United States (except AK and HI). (Hearing site: Providence, RI, or Boston, MA.)

MC 107012 (Sub-293F), filed November 9, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *glass containers and closures* for glass containers, (a) from the facilities of Ball Corporation, at or near Asheville, NC, to points in AL, AR, CA, CO, FL, GA, ID, IN, KY, LA, MS, NJ, NY, OH, OR, PA, TN, UT, VA, and WA, (b) from the facilities of Ball Corp., at or near El Monte, CA, to points in AR, CO, GA, ID, IL, IN, KS, MN, MO, NC, OK, OR, TX, UT, and WA, (c) from the facilities of Ball Corp., at or near Muncie, IN, to points in AR, CA, CO, FL, GA, ID, IA, KS, KY, ME, MN, NJ, NY, NC, OK, OR, TX, UT, and WA; and (d) from the facilities of Ball Corp., at or near Okmulgee, OK, to points in AR, CA, CO, GA IA, IL, IN, ID, KS, LA, MO, NJ, NY, NC, OR, PA, TX UT, VA, and WA; (2) *metal containers* and *ends* for metal containers, (a) from the facilities of Ball Corp., at or near Fairfield, CA, to points in CO, FL, MO, NJ, OH, TX, and VA, (b) from the facilities of Ball Corp., at or near Golden, CO, to points in CA, FL, MI, OH, VA, and WY, (c) from the facilities of Ball Corp., at or near Williamsburg, VA, to points in CA, CO, FL, MD, MO, NJ, NC, OH, and TX, and (d) from the facilities of Ball Corp., at or near Findlay, OH, to points in the United States (except AK and HI); (3)(a) *glass containers, closures* for glass containers, and (b) *accessories and books* used in home canning, in mixed loads with glass containers and closures for glass containers, from facilities of Ball Corporation, at or near Muncie IN, to points in AL, AR, CA, CO, GA, IA, ID, KS, MN, NJ, NY, NC, OK, OR, PA, TN, TX, WA, and WY; and (4) *materials, supplies*, and *equipment* used in the manufacture of glass containers and metal containers and closures for glass containers and metal containers (except commodities in bulk), from points in the United States (except AK and HI), to the facilities of Ball Corporation, at or near (a) Asheville, NC, (b) El Monte and Fairfield, CA, (c) Findlay, OH, (d) Golden, CO, (e) Muncie, IN, (f) Mundelein, IL, (g) Okmulgee, OK, and (h) Williamsburg, VA. (Hearing Site: Indianapolis, IN, or Louisville, KY.)

MC 107012 (Sub-294F), filed November 13, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles*, from the facilities of The Vollrath Company, at or near Gallaway and Arlington, TN, to points in the United States (except AK and HI). (Hearing Site: Milwaukee, WI, or Chicago, IL.)

MC 107012 (Sub-295F), filed November 13, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gary M. Crist (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *kitchen applicances*, from the facilities of Munsey Products, Inc., at or near Little Rock, AR, to points in FL, GA, LA, NC, SC, TX,

and VA. (Hearing Site: Little Rock, AR; or Washington, DC.)

MC 107012 (Sub-296F), filed November 13, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Stephen C. Clifford (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from the facilities of the Rachlin Furniture of Carolina, Inc., at or near Winnsboro, SC, to points in IL, IN, MI, OH, TN, LA, KY, AL, FL, MS, MN, and IA. (Hearing Site: Columbia, SC, or Washington, DC.)

MC 107012 (Sub-297F), filed November 13, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Stephen C. Clifford (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, in cartons, from Lewisburg, PA, to points in TN. (Hearing Site: Philadelphia, PA, or Washington, DC.)

MC 107012 (Sub-300F), filed November 13, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *artificial Christmas trees*, from the facilities of Marathon Carey McFall Company, at or near Montgomery, Avis, Jersey Shores, and Harrisburg, PA, and Longview, TX, to points in the United States (except AK and HI). (Hearing Site: Harrisburg, PA, or Washington, DC.)

MC 107403 (Sub-1139F), filed November 17, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sugar*, in bulk, in tank and hopper-type vehicles, from points in LA, to points in AL, AR, FL, GA, IL, IN, KY, MI, MS, MO, NC, OH, OK, SC, TN, and TX. CONDITION: Pursuant to the Decision in MC-107403 (Sub-No. 1101F), served October 19, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC-107403 (Sub-No. 1101F), (Hearing site: Washington, DC.)

MC 107403 (Sub-1140F), filed November 17, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, in tank vehicles, from points in Madison Parish, LA, to points in AL, AR, CT, DE, FL, GA, IL, IN, KY, MS, MO, MD, MI, ME, NH, NJ, NC, OH, PA, RI, SC, TN, VA, VT, WI, WV, and DC. CONDITION: Pursuant to the Decision in MC-107403 (Sub-No. 1101F), served October 19, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC-107403 (Sub-No. 1101F), (Hearing site: Washington, DC.)

MC 107403 (Sub-1141F), filed November 20, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, from the facilities of Atlantic Cement Company, Inc., at or near Ravena, NY, to points in OH, MI, and IN. CONDITION: Pursuant to the decision in MC-107403 (Sub-No. 1101F), served October 19, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC-107403 (Sub-No. 1101F), (Hearing site: Washington, DC.)

MC 107403 (Sub-1142F), filed, November 21, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *muriatic acid*, in bulk, in tank vehicles, from Birmingport, AL, to points in FL, GA, MS, NC, SC, and TN. CONDITION: Pursuant to the decision in MC-107403 Sub No. 1101F, served October 19, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC-107403 Sub 1101F. (Hearing site: Washington, DC.)

MC 107403 (Sub-1143F), filed November 21, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lubricating oils and hydraulic fluids*, in bulk, in tank vehicles, from Carrollton, GA, to points in AL, AR, LA, MS, TX, WV, and FL. CONDITION: Pursuant to the decision in MC-107403 Sub No. 1101F, served October 19, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC-107403 Sub 1101F. (Hearing site: Washington, DC.)

MC 10743 (Sub-1144F), filed November 21, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum lubricating oils and hydraulic systems fluids*, in bulk, in tank vehicles, from Carrollton, GA, to points in NC, SC, VA, and TN. CONDITION: Pursuant to the decision in MC-107403 Sub No. 1101F, served October 19, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC-107403 Sub 1101F. (Hearing site: Washington, DC.)

MC 10743 (Sub-1145F), filed November 21, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wax*, in bulk, in tank vehicles, from Lima, OH, to points in IN. CONDITION: Pursuant to the decision in MC-107403 Sub 1101F, served October 19, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC-107403 Sub 1101F. (Hearing site: Washington, DC.)

MC 108053 (Sub-152F), filed November 17, 1978. Applicant: LITTLE AUDREY'S TRANSPORTATION COMPANY, INC., P.O. Box 129, Fremont, NE 68025. Representative: Arnold L. Burke, 180 N. LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from points in IL, IN, MI, OH, and WI, to points in AZ, CA, ID, MT, NV, NM, OR, UT, WA, and WY. (Hearing site: Chicago, IL.)

MC 108053 (Sub-154F), filed November 20, 1978. Applicant: LITTLE AUDREY'S TRANSPORTATION COMPANY, INC., P.O. Box 129, Fremont, NE 68025. Representative: Arnold L. Burke, 180 N. LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by food business houses, from points in AZ and CA, to Bismarck and Fargo, ND, Mitchell, SD, Hopkins, MN, Des Moines, IA, Omaha, NE, Green Bay and Milwaukee, WI, Champaign, IL, and Fort Wayne, IN. (Hearing site: Omaha, NE.)

MC 108341 (Sub-120F), filed November 2, 1978. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 8409, Charlotte, NC 28208. Representative: Jacks F. Counts, P.O. Box 26125, Charlotte, NC 28213. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tractors* (except truck tractors, and tractors which weigh 15,000 pounds or more), from Portsmouth, VA, to points in VA, TN, NC, SC, and GA, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Chicago, IL, or Washington, DC.)

MC 109443 (Sub-29F), filed November 20, 1978. Applicant: SEABOARD TANK LINES, INC., Monahan Avenue, Sunmore, PA 18512. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry litharge*, in bulk, from Dunmore, PA, to points in NC and SC. (Hearing site: Washington, DC.)

MC 110563 (Sub-253F), filed November 21, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery and confectionery products*, from Philadelphia, PA, to points in CO, IA, NE, KS, and Kansas City, MO. (Hearing site: Philadelphia, PA, or Washington, D.C.)

MC 112822 (Sub-467F), filed November 13, 1978. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, 1401 N. Little Street, Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats meat products and meat byproducts*, and *articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in CA, ID, MN, OR, UT, WA, and WI, restricted to the transportation of traffic originating at the named origin. (Hearing site: Wichita or Kansas City, KS.)

MC 113651 (Sub-296F), filed November 6, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and prepared foodstuffs*, from the facilities of Heinz U.S.A., Division of H. J. Heinz Company, at or near Pittsburgh, PA, to points in KS, MN, MO, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destinations. (Hearing site: Pittsburgh, PA.)

MC 114273 (Sub-487F), filed November 21, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals and cleaning compounds*, (except commodities in bulk, in tank vehicles), from Macedonia, OH, to Albert Lea, MN, Cedar Rapids and Storm Lake, IA, Kansas City, MO, Omaha, NE, and Chicago, IL. CONDITION: The certificate to be issued shall be limited to 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, D.C.)

MC 114273 (Sub-488F), filed November 21, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *railway car truck adapters*, from Canton, OH, to points in IA, IL, KS, MN, MO, and NE. CONDITION: The certificate to be issued shall be limited to 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-489F), filed November 21, 1978. Applicant: CRST, INC., P.O Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural chemicals and pesticides*, (except commodities in bulk, in tank vehicles), from Clinton, IA, to Columbus, OH. CONDITION: The certificate to be issued shall be limited to 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-490F), filed November 21, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and feed business houses, between Clinton and Davenport, IA, on the one hand, and, on the other, points in IN, MI, and OH, restricted to the transportation of traffic originating at or destined to the facilities of Ralston Purina Company. CONDITION: The certificate to be issued shall be limited to 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-491F), filed November 21, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals and plastic materials*, (except commodities in bulk, in tank vehicles), from the facilities of BASF Wyandotte, at Finderne, South Brunswick, and Washington, NJ, to Chicago, IL, and Cedar Rapids and Sumner, IA, restricted to the transportation of traffic originating at the named origin facilities. CONDITION: The certificate to be issued shall be limited to 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-492F), filed November 21, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes; transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in*

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Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in CO, DE, IL, IN, IA, KY, MD, MI, MN, MO, NE, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VA, WV, WI, and DC, restricted to the transportation of traffic originating at the named origin facilities. CONDITION: The certificate to be issued shall be limited to 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114457 (Sub-444F), filed October 24, 1978. Applicant: DART TRANSIT COMPANY, a Corporation, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rubber articles, plastic articles, rubber materials, and plastic materials*, from the facilities of Entek Corporation of America, at Irving, TX, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), from the destination points in (1) above, to the origin facilities in (1) above. (Hearing site: Austin, TX, or St. Paul, MN.)

MC 114552 (Sub-183F), filed November 13, 1978. Applicant: SENN TRUCKING COMPANY, a Corporation, Post Office Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., Post Office Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *composition board*, and *materials* and *supplies* used in the installation and distribution of composition board (except commodities in bulk), (1) from Trenton, NJ, to points in VA, NC, SC, GA, FL, AL, TN, KY, AR, MS, LA, OK, and TX, and (2) from Jamesburg, NJ, to points in VA, NC, SC, GA, FL, AL, TN, KY, and MS. (Hearing site: Washington, DC.)

MC 114632 (Sub-186F), filed November 9, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in the United States (except AK, HI, and KS), restricted to the transportation of traffic originating at the named origin facilities. (Hearing Site: Wichita or Kansas City, KS.)

NOTE.—Dual operations are involved in this proceeding.

MC 114632 (Sub-187F), filed November 13, 1978. Applicant: APPLE LINES, INC., P. O. Box 287, Madison, SD 57042. Representative: David Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *gypsum, gypsum products*, and *materials* and *supplies* used in the manufacture, installation, and distribution of gypsum products, between the facilities of Georgia-Pacific Corporation, Gypsum Division, at Cuba, MO, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Philadelphia, PA, or Kansas City, MO.)

NOTE.—Dual operations are involved in this proceeding.

MC 114632 (Sub-188F), filed November 13, 1978. Applicant: APPLE LINES, INC., P. O. Box 287, Madison, SD 57042. Representative: David Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foodstuffs* (except commodities in bulk), from the facilities of Continental Freezers of Illinois, at or near Chicago, IL, to points in CO, IA, IN, KS, KY, MI, MO, NE, ND, OH, SD, and WI. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are involved in this proceeding.

MC 114632 (Sub-189F), filed November 13, 1978. Applicant: APPLE LINES, INC., P. O. Box 287, Madison, SD 57042. Representative: David Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of United States Cold Storage, at or near Chicago, IL, to points in IN, IA, KS, KY, MN, MO, NE, ND, OH, PA, SD, and WI. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are involved in this proceeding.

MC 115162 (Sub-441F), filed November 6, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *furfural residue*, from Memphis, TN, to points in AL, FL, MS, GA, NC, SC, TX, LA, MO, MD, OK, and AR. (Hearing site: Memphis, TN, or Birmingham, AL.)

MC 115601 (Sub-26F), filed November 1, 1978. Applicant: BROOKS ARMORED CAR SERVICE, INC., 13 East 35th St., Wilmington, DE 19802. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave., NW., Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coin, currency, negotiable and non-negotiable instruments and securities*, (1) between Philadelphia, PA, and Wilmington, DE, on the one hand, and, on the other, points in Mercer, Ocean Burlington, Gloucester, Salem, Camden, Cumberland, Cape May, and Atlantic Counties, NJ, and (2) between Wilmington, DE, on the one hand, and, on the other, those points in PA in and east of McKean, Elk, Clearfield, Cambria, and Bedford Counties, PA, under continuing contract(s) with the Federal Reserve Bank of Philadelphia. (Hearing site: Philadelphia, PA.)

NOTE.—Dual operations are involved in this proceeding.

MC 115841 (Sub-653F), filed November 2, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666—11th Street, NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products, meat by-products, and articles* distributed by meat packinghouses, and (2) *foodstuffs* (except the commodities in (1) above), from MN, IL, and WI, to points in NC, SC, TN, GA, FL, AL, MS, AR, LA, OK, TX, NM, AZ, CA, WA, and OR. (Hearing site: Chicago, IL, or Minneapolis, MN.)

MC 116077 (Sub-401F), filed October 24, 1978. Applicant: DSI TRANSPORTS, INC., 4550 Post Oak Place Drive, P.O. BOX 1505, Houston, TX 77001. Representative: Pat H. Robertson, 500 West Sixteenth St., P.O. BOX 1505, Houston, TX 78767. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *titanium dioxide*, in bulk, in tank vehicles, from Hamilton, MS, to points in KY and MI. (Hearing site: Dallas, TX, or New Orleans, LA.)

MC 116371 (Sub-11F), filed October 31, 1978. Applicant: LIQUID CARGO LINES LIMITED, P.O. Box 269, Clarkson, Ontario, Canada. Representative: John W. Ester, 100 West Long Lake Rd., Suite 102, Bloomfield Hills, MI 48013. To operate as a *common carrier*, by motor vehicle, in foreign commerce, over irregular routes, transporting *liquid sugar*, in bulk, in tank vehicles, from ports of entry on the International Boundary line between the United States and Canada on the Niagara River, to points in NY, OH, and PA. (Hearing site: Buffalo, NY, or Detroit, MI.)

MC 116725 (Sub-27F), filed December 6, 1978. Applicant: INDIAN VALLEY ENTERPRISES, INC., 855 Maple Avenue, Harleysville, PA 19438. Representative: John W. Frane, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic lamp holders, metal stampings, plastic diffusers, and fluorescent lighting fixture parts*, (2) *parts for the commodities* in (1) above, and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, from Perkasie and Philadelphia, PA, and Livingston, Paterson, and Newark, NJ, to the facilities of American Fluroescent Corporation, at Chicago, IL, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Harrisburg, PA.)

MC 116763 (Sub-457F), filed November 20, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same as above). To operate as a *common carrier*, motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *furniture, such commodities* as are dealt in by discount and variety stores, (except foodstuffs, furniture, and commodities in bulk), and (2) *foodstuffs*, (except commodities in bulk, *and furniture*, in mixed loads with the commodities in (1) above, from the facilities of K-Mart Corporation, at or near Charlotte, NC, to points in IA, IL, IN, MI, MN, OH, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destinations. (Hearing site: Detroit, MI.)

MC 117786 (Sub-35F), filed October 16, 1978. Applicant: RILEY WHITTLE, INC., a Kentucky Corporation, P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Road, Phoenix, AZ 85014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fats and oils*, (except commodities in bulk), *restaurant supplies, foodstuffs, and restaurant furniture and fixtures*, and (2) *shellfish, poultry, fresh agricultural commodities and fish*, the transportation of which is otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6) [formerly Section 203(b)(6) of the Interstate Commerce Act], in mixed loads with the commodities in (1) above, between Carpinteria, CA, and Florence, KY, restricted to the transportation of traffic originating at or destined to the facilities used by Sambo's Restaurants, Inc. (Hearing site: Phoenix, AZ.)

MC 117883 (Sub-233F), filed November 21, 1978. Applicant: SUBLER TRANSFER, INC., One Vista Drive, Versailles, OH 45380. Representative: Neil E. Hannan, P.O. Box 62, Versailles, OH 45380. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and converters of paper and paper products, (except commodities in bulk, in tank vehicles), from the facilities of Diamond International Corporation, at Cincinnati, Hamilton, and Middletown, OH, to points in CT, DE, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NJ, NH, NY, PA, RI, VT, VA, WV, WI, and DC, restricted to the transporation of traffic originating at the named origin facilities and destined to the named destination points. (Hearing site: Columbus, OH or Washington, DC.)

MC 119441 (Sub-46F), filed November 2, 1978. Applicant: BAKER HIWAY EXPRESS, INC., P.O. Box 506, 555 Commercial Parkway, Dover, OH 44622. Representative: E. H. van Deusen, P.O. Box 97, 220 West Bridge St. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *clay* (except in bulk), from points in GA and SC, to points in OH. (Hearing site: Columbus, OH.)

MC 123255 (Sub-187F), filed December 4, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, OH 43055. Representative: C.F. Schnee, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverage*, from Newark, NJ, to points in MI. (Hearing site: Columbus, OH.)

MC 123255 (Sub-188F), filed December 4, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, OH 43055. Representative: C.F. Schnee, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bakery goods*, from the facilities of Interbake Foods, Inc., at or near Richmond, VA, to points in IL, IN, KY, MI, NJ, OH, PA, and WI. (Hearing site: Columbus, OH.)

MC 123407 (Sub-508F), filed October 23, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. MILLER, JR. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *roofing tile*, from Belvidere, IL, to points in IL, IN, IA, OH, and WI. (Hearing site: Chicago, IL.)

MC 123872 (Sub-93F), filed November 8, 1978. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in GA, NC, SC, VA, and TN, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Washington, DC, or Dodge City, KS.)

MC 124692 (Sub-249F), filed November 14, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59801. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Cascade Steel Rolling Mills, at or near McMinnville, OR, to points in CA. (Hearing Site: Portland, OR, or San Francisco, CA.)

MC 125433 (Sub-173F), filed November 16, 1978. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: David J. Lister (same as above). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *insulated building and roofing panels, and equipment, materials, and supplies* used in the installation of insulated building and roofing panels, (except

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commodities in bulk), from the facilities of Panel Era Corporation, at or near (a) Chicago, IL, (b) Atlanta, GA, (c) Dallas, TX, (d) Salt Lake City, UT, and (e) Washington, DC, to points in the United States (except HI), restricted to the transportation of traffic originating at the named facilities, and *(2) materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), from points in the United States (except HI) to the origin facilities named in (1) above, restricted in to the transportation of traffic destined to the indicated facilities. (Hearing site: Salt Lake City, UT, or Dallas, TX.)

MC 125691 (Sub-3F), filed October 19, 1978. Applicant: MICHAEL J. FITZGIBBON, d.b.a. FITZ FREIGHT TRANSFER, P.O. Box 1144, Miami, OK 74354. Representative: David A. Cherry, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of George A. Hormel & Co., at (a) Miami, OK, and (b) Rockville and Springfield, MO, to points in AR, KS, MO, and OK. (Hearing site; Tulsa, OK, or Springfield, MO.)

MC 126057 (Sub-5F), filed September 19, 1978. Applicant: MARQUAND EXPRESS, INC., P.O. Box 149, Marquand, MO 63665. Representative: William H. Shawn, 1730 M St., NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Marquand, MO, and points between 15 miles of Marquand, on the one hand, and, on the other, points in MO. (Hearing site: St. Louis or Jefferson City, MO.)

MC 127042 (Sub-230F), filed November 8, 1978. Applicant: HAGEN, INC., P.O. Box 98—Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in AZ, CA, CO, ID, IL, IN, IA, MI, MO, MN, MT, NE, NV, ND, OR, SD, UT, WA, WI, and WY, restricted to the transportation of traffic originating at the named origin facilities (Hearing Site: Wichita, KS.)

MC 127042 (Sub-231F), filed November 8, 1978. Applicant: HAGEN, INC., P.O. Box 98—Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), (1) from the facilities of Wilson Foods Corporation, at (a) Albert Lea, MN and (b) Cherokee, IA, to points in CA, OR, UT, and WA, and (2) from the facilities of Wilson Foods Corporation at Des Moines, IA, to points in CA, restricted in (1) and (2) to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing Site: Dallas, TX, or Kansas City, MO.)

MC 128273 (Sub-324F), filed November 17, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers, converters, and printers of paper and paper products, (except commodities in bulk, in tank vehicles), between the facilities of Kimberly-Clark Corporation, in Calhoun County, MI, on the one hand, and, on the other, points in the United States (except AK, HI, and MI). (Hearing site: Detroit, MI, or Washington, DC.)

MC 128353 (Sub-5F), filed November 16, 1978. Applicant: LEE J. PRENTICE, Box 325, West Bend, IA 50597. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *crushed rock*, in bulk, from points in Webster, Humbolt, and Pocahontas Counties, IA, to the facilities of Southern Minnesota Beet Sugar Coop, at or near Renville, MN. (Hearing site: Minneapolis, MN.)

MC 128951 (Sub-21F), filed November 2, 1978. Applicant: ROBERT H. DITTRICH, d/b/a BOB DITTRICH TRUCKING, P.O. Box 816, New Ulm, MN 56073. Representative: Charles E. Nieman, 1110 Northwestern Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizer and fertilizer ingredients*, from Minneapolis, MN, to points in IA, WI, ND, SD, and NE. (Hearing site: Minneapolis or St. Paul, MN.)

NOTE.—DUAL OPERATIONS ARE INVOLVED.

MC 129788 (Sub-15F), filed July 6, 1978. Applicant: NASS TRUCK LINES, INC., a Delaware Corporation, P.O. Box 'H', Wenona, IL 61377. Representative: E. Stephen Heisley, 805 McLachen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate and foreign commerce, transporting *glass containers*, from Streator, IL, to points in the Lower Peninsula of MI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 133095 (Sub-226F), filed December 4, 1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting *alcoholic beverages* (except in bulk), from New Orleans, LA, to points in LA, TX, AR, TN, OH, FL, GA, CO, OK, SC, IL, MO, and CA. (Hearing site: Dallas, TX.)

MC 133523 (Sub-6F), filed November 20, 1978. Applicant: EUGENE STONE TRUCKING, INC., 11449 Valley View Road, Northfield, OH 44067. Representative: Richard H. Brandon, 220 West Bridge Street, P.O. Box 97, Dublin, OH 43017. To operate as a *contract carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commmission, commodities in bulk, and those requiring special equipment), between those points in the United States in and east of WI, IA, MO, AR, and LA, under continuing contract(s) with The Standard Oil Company of Ohio. (Hearing site: Columbus, OH.)

MC 133591 (Sub-53F), filed November 2, 1978. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main St., Winchester, KY 40391. To operate as a *common carrier*, by motor vehicle

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in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of M & M/Mars, Division of Mars, Inc., at or near Cleveland, TN, to points in IL, IA, MO, AR, LA, NE, KS, OK, TX, NM, AZ, CO, UT, NV, CA, OR, and WA, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: St. Louis, MO, or Washington, DC.)

NOTE.—Dual operations are involved.

MC 133855 (Sub-137F), filed December 6, 1978. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of wood products, between Klamath Falls and Bend, OR, and El Paso and Amarillo, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 134405 (Sub-56F), filed December 4, 1978. Applicant: BACON TRANSPORT COMPANY, a corporation, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *petroleum, petroleum products, and chemicals*, in bulk, in tank vehicles, between points in AR, KS, MO, OK, and TX. (Hearing site: Oklahoma City, OK, or Dallas, TX.)

MC 134645 (Sub-29F), filed December 7, 1978. Applicant: LIVESTOCK SERVICE, INC., 1420 Second Avenue South, St. Cloud, MN 56301. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials, equipment, and supplies* used in the manufacture and distribution of refrigerators, freezers, and cooling units, (except commodities in bulk), from points in the United States (except AK and HI), to the facilities of Franklin Manufacturing Company, at St. Cloud, MN. (Hearing site: St. Paul, MN.)

NOTE.—Dual operations are involved.

MC 134872 (Sub-12F), filed October 23, 1978. Applicant: GOSSELIN EXPRESS, LTD., a corporation, 141 Smith Boulevard, Thetford Mines, Quebec, Canada. Representative: Neil D. Breslin, 600 Broadway, Albany, NY 12207. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting (1) *agricultural implements, and* (2) *parts and accessories* for agricultural implements, from the ports of entry on the international boundary line between the United States and Canada located at Champlain, NY, Derby Line, VT, and Detroit, Port Huron, and Sault Ste Marie, MT, to points in NY, TN, IL, IN, MT, and ND. (Hearing site: Albany, NY.)

MC 135197 (Sub-15F), filed October 4, 1978. Applicant: LEESER TRANSPORTATION, INC., Route 3, Palmyra, MO 63461. Representative: Leonard A. Jaskiewicz, 1730 M St., NW, Suite 501, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal and poultry feed and feed ingredients*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of American Cyanamid Company, in Marion County, MO, on the one hand, and, on the other, points in AL, AZ, CA, CT, DE, FL, GA, ID, ME, MD, MA, NV, NJ, NH, NM, NC, OR, PA, RI, SC, UT, VT, VA, WA, and WV. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 135283 (Sub-46F), filed November 20, 1978. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., 432 So. Stuhr Road, P.O. Box 2122, Grand Island, NE 68801. Representative: Lavern R. Holdeman, 521 South 14th Street, Suite 500, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *electric motors*, from Fort Smith, AR, to the facilities of Caldwell Manufacturing Co., a Division of Chief Industries, Inc., at or near Kearney, NE, restricted to the transportation of traffic originating at the named origin point and destined to the named facilities. (Hearing site: Kearney or Grand Island, NE.)

MC 136916 (Sub-20F), filed October 17, 1978. Applicant: LENAPE TRANSPORTATION CO., INC., P.O. Box 227, Lafayette, NJ 07848. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt and salt products*, in bulk, from Port Newark, NJ, to points in CT, DE, ME, MD, MA, NH, NY, PA, RI, VA, VT, and DC. (Hearing site: New York, NY.)

MC 138157 (Sub-97F), filed October 20, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, a California Corporation, 2931 South Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned foods and canned pet foods*, from San Diego, CA, to points in AL, AR, FL, GA, IL, IN, KY, LA, MI, MS, NC, NJ, OH, OK, PA, SC, TN, TX, VA, and WV. (Hearing site: San Diego or Los Angeles, CA.)

NOTE.—Dual operations are involved.

MC 138432 (Sub-10F), filed November 6, 1978. Applicant: GARLAND GEHRKE, Rural Route 1, Lincoln, IL 62656. Representative: James R. Madler, 120 W. Madison St., Rm. 718, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *non-alcoholic beverages*, from St. Louis, MO, to Bloomington and Lincoln, IL. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 138635 (Sub-69F), filed December 6, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Munford Refrigerated Warehouse, Division of Munford Incorporated, at or near Atlanta, GA, to points in AL, DE, LA, MS, NC, SC, TN, WV, and VA. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations are involved.

MC 138882 (Sub-174F), filed November 13, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and bottled foodstuffs*, (1) from the facilities of Bruce Foods Corp., at Cade and Lozes, LA, to points in AL, FL, GA, NC, SC, TN, and MS, and (2) from the facilities of Bruce Foods Corp., at Wilson, NC, to points in AL, FL, GA, NC, SC, TN, MS, and LA. (Hearing Site: Lafayete or New Orleans, LA.)

MC 138882 (Sub-176F), filed November 13, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O.

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Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel articles*, from the facilities of Litho-Strip Corp., at Chicago and Bridgeview, IL, to Kansas City, MO. (Hearing Site: Chicago, IL, or Birmingham, AL.)

MC 139973 (Sub-56F), filed November 9, 1978. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MS 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rug cleaning machines and parts for rug cleaning machines*, and (2) *cleaning and scouring compounds* (except commodities in bulk), from Fresno, CA, to Fenton, MO. (Hearing site: St. Louis or Kansas City, MO.)

NOTE.—Dual operations are involved.

MC 139979 (Sub-4F), filed October 26, 1978. Applicant: AMERICAN COLLOID CARRIER CORPORATION, P.O. Box 951, Scottsbluff, NE 69361. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bentonite clay, processed clay, foundry moulding sand treating compounds, lignite, water impedence boards, salt, and farm supplies*, between points in AZ, CA, ID, NV, OR, and WA, on the one hand, and, on the other, points in AR, CO, IL, IA, KS, LA, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TX, UT, WI, and WY, (2) *bentonite clay, processed clay, foundry moulding sand treating compounds, lignite, water impedence boards, salt, farm supplies, and construction materials*, (except commodities in bulk, in tank vehicles), between points in AZ, CA, ID, NV, OR, and WA, (3) *construction materials*, between points in AZ, CA, ID, NV, OR, and WA, on the one hand, and, on the other, points in CO, IA, MI, MN, MT, NE, NM, ND, OH, SD, UT, WI, and WY, and (4) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (3) above, between points in AZ, CA, ID, NV, OR, and WA, on the one hand, and, on the other, points in AR, CO, IL, IA, KS, LA, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TX, UT, WI, and WY, under continuing contract(s) in (1), (2), (3), and (4) above, with American Colloid Company, of Skokie, IL. (Hearing site: Denver, CO, or Chicago, IL.)

MC 140033 (Sub-76F), filed November 6, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, Suite 1125 Exchange Park, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *barbeque grills*, from Mabank, TX, to points in CA, MO, AR, IL, LA, MS, IN, FL, GA, and AL. (Hearing site: Dallas, TX.)

NOTE.—Dual operations are involved.

MC 140675 (Sub-2F), filed November 20, 1978. Applicant: CHARLES C. KVARE, INC., R. R. 3, Pelican Rapids, MN 56572. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. To operate as a *common carrier*, by motor vehicles, in foreign commerce only, over irregular routes, transporting *feed ingredients*, from Weeping Water, NE, to the ports of entry on the international boundary line between the United States and Canada, located in ND, MT, and MN. (Hearing site: Fargo, ND, or Minneapolis, MN.)

MC 140829 (Sub-152F), filed November 17, 1978. Applicant: CARGO CONTRACT CARRIER CORP., A New Jersey Corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Ave., Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in vehicles equipped with mechanical refrigeration, from the facilities of Nalco Chemical Company, at Chicago, IL, to points in AL, AR, CT, DE, FL, GA, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, NE, NH, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 141376 (Sub-5F), filed October 11, 1978. Applicant: CERTARO TRUCKING COMPANY, A Corporation, 14 Muller Road, Oakland, NJ 07436. Representative: Joseph R. Siegelbaum, 17 Academy Street, Newark, NJ 07102. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chemicals*, and *cleaning, washing, scouring, and defoaming compounds*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, and (2) *materials, equipment, and supplies* used in the manufacture and sale of the commodities in (1) above, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between Harrison and Kearny, NJ, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, OK, and TX under continuing contract(s) with Drew Chemical Corporation, of Boonton, NJ. (Hearing site: New York, NY, or Newark, NJ.)

MC 142062 (Sub-16F), filed November 6, 1978. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Drawer P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building board, wall boards, and insulation board, and* (2) *materials, equipment and supplies*, used in the installation of the commodities in (1) above, (except commodities in bulk), from the facilities of Armstrong Cork Co., at or near Beaver Falls, PA, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, under continuing contract(s) with Armstrong Cork Co., of Lancaster, PA. (Hearing site: Pittsburgh, PA.)

MC 142851 (Sub-3F), filed November 3, 1978. Applicant: ERVIN D. JANDREAU, P.O. BOX 1, St. Francis, ME 04774. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101. To operate as a *contract carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *wood residues*, from the facilities of Woodlands Improvement Corp., in Aroostook County, ME, to ports of entry on the international boundary line between the United States and Canada, located at or near Houlton, Fort Kent, and Madawaska, ME, under continuing contract(s) with Woodlands Improvement Corp., of Fort Kent, ME. (Hearing site: Portland, ME, or Boston, MA.)

MC 143127 (Sub-16F), filed October 23, 1978. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: John M. Nader, 1600 Citizens Plaz, Louisville, KY 40202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass bottles*, from the facilities of the National Bottle Company, at or near Vienna, WV, to points in KY, NJ, NY, and PA. (Hearing site: Philadelphia, PA, or Rochester, NY.)

Note.—Dual operations are involved.

MC 143267 (Sub-37F), filed October 23, 1978. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, OH 44255. Representative: Neil Jackson, 1155 15th St., NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials, asbestos cement pipe, plastic pipe, and materials*, used in the installation of plastic pipe, from the facilities of Johns-Manville Sales Corporation, at (a) Waukegan, IL, and (b) Wilton, IA, and the facilities of Johns-Manville Perlite Corp., at Rockdale, IL, to points in NY, OH, PA, WV, and the Lower Peninsula of MI. (Hearing site: Washington, DC, or Cleveland, OH.)

MC 143531 (Sub-4F), filed November 2, 1978. Applicant: POWDER RIVER MOTOR TRANSPORT CORPORATION, 388 East 900 South, Provo, UT 84601. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. To operate as a *contract carrier*, by motor vehicles, in interstate or foreign commerce, over irregular routes, transporting (1) *wooden buildings*, knocked down, and (2) *materials and supplies* used in the erection of the commodities named in (1) above, from Tacoma, WA, to points in the United States (except AK, HI, WA, MN, IL, OR, CA, MT, ID, UT, NV, AZ, WY, CO, NM, and MO), under continuing contract(s) with Lindal Cedar Homes, Inc., of Seattle, WA. (Hearing site: Washington, DC.)

MC 143607 (Sub-1F), filed October 24, 1978. Applicant: BAYWOOD TRANSPORT, INC., 2611 University Parks Drive, Waco, TX 76710. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *textiles, textile products, and chemicals*, (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between Waco, TX, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Bayly Corp., of Waco, TX. (Hearing site: Houston, TX, or Washington, DC.)

MC 143775 (Sub-41F), filed December 6, 1978. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85302. Representative: Michael R. Burke (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fruit juices and apple products*, (except liquid commodities in bulk), from Cashmere, Selah, and Wenatchee, WA, to points in AZ, CA, CO, ID, NV, OR, NM, TX, and UT. (Hearing site: Seattle, WA, or Washington, DC.)

NOTE.—Dual operations are involved.

MC 143775 (Sub-43F), filed December 11, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85302. Representative: Michael R. Burke (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from points in Franklin and Adams Counties, PA, to points in AR, LA, MS, OK, TN, and TX. (Hearing site: Philadelphia, PA, or Washington, DC.)

NOTE.—Dual operations are involved.

MC 144293 (Sub-5F), filed September 20, 1978. Applicant: GEORGE McFARLAND, SR., Box 21, Oakland, MN 56076. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs* (except candy, cherries, and commodities in bulk), from the facilities of Geo. A. Hormel & Co., at or near Beloit, WI, to points in IL, IN, MI, MN, and OH, (2) *foodstuffs, meat byproducts, and such commodities* as are used by canning plants, (except hides, candy, cherries, and commodities in bulk), from points in IL, IN, MI, MN, and OH, to the facilities of Geo. A. Hormel & Co., at or near Beloit, WI, restricted in (1) and (2) to the transportation of traffic originating at and destined to the named points, and (3) *malt beverages*, from Milwaukee, WI, to Rochester and Owatonna, MN. (Hearing site: St. Paul, MN.)

MC 144561 (Sub-2F), filed November 1, 1978. Applicant: EDWARD B. GIBSON, 4116 Oakhill Lane, Jonesboro, AR 72401. Representative: John R. Henry, 404 Market, Harrisburg, AR 72432. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials*, from Jonesboro, AR, to Thayer, Alton, West Plains, Willow Springs, Mountain View, Doniphan, Poplar Bluff, Sikeston, Parma, Malden, Kennett, Charleston, East Prairie, Caruthersville, Portageville, Dexter, Steele, and New Madrid, MO, under continuing contract(s) with Builders Material Company, of Jonesboro, AR. (Hearing site: Jonesboro, AR.)

MC 144762 (Sub-2F), filed November 8, 1978. Applicant: TANK LINES LIMITED, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Richard H. Streeter, 1729 H Street, NW, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *fish oil, in bulk*, from the port of entry on the international boundary line between the United States and Canada, located at or near Calais, ME, to Philadelphia, PA. (Hearing Site: Washington, DC.)

MC 144902 (Sub-1F), filed November 6, 1978. Applicant: ACE BEVERAGE COMPANY, a corporation, 906 Aronson Avenue, P.O. Box 1933, Billings, MT 59103. Representative: Charles A. Murray, Jr., 207A Behner Building, 2822 Third Avenue North, Billings, MT 59101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, (1) from Milwaukee, WI, Los Angeles, CA, and Portland, OR, to Billings, MT, under continuing contract(s) with Dunham Distributing, Inc., of Billings, MT, (2) from St. Paul, MN, and Milwaukee, WI, to Billings, MT, under continuing contract(s) with Fred Briggs Distributing Co., of Billings, MT, and (3) from St. Louis, MO, LaCrosse and Milwaukee, WI, and Minneapolis, MN, to Miles City, MT, under continuing contract(s) with M & C Beverage, Inc., of Miles City, MT. (Hearing site: Billings, MT.)

MC 145157 (Sub-2F), filed October 18, 1978. Applicant: GORDON D. AND VELMA J. JOHNSON, d.b.a. PRODUCTIVE PRODUCTS CARRIER, 1213 Georgene, N.E., Albuquerque, NM 87112. Representative: Gordon D. Johnson, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe and plastic pipe fittings*, (1) from the facilities of Spartan Products Company, at Anaheim, CA, to points in NM and points in El Paso, Hale, Lubbock, Potter, and Randall Counties, TX, and (2) from the facilities of Lone Star Plastic Pipe Company, at Ennis, TX, to points in NM. (Hearing site: Albuquerque or Santa Fe, NM.)

MC 145247 (Sub-1F), filed October 20 1978. Applicant: HERSCHEL T. LAMB, d.b.a. CAROLINA SOUTHERN, 2816 Stratford Road, Winston Salem, NC 27103. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting (1) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carriers Certificates*, 61 M.C.C. 209 and 766, (except commodities in bulk), and (2) *foodstuffs*, when moving in mixed loads with the commodities, and in (1) above, from Washington, DC to points in GA and FL, under con inuing contract(s) with District Hotel Supply Co., Inc., of Washington, DC. (Hearing site: Washington, DC.)

MC 145485F, filed September 26, 1978. Applicant: DAVIS CARTAGE COMPANY, a corporation, Corunna, MI 48817. Representative: William B.

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Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *sugar beet products*, from points in Bay, Huron, Saginaw, Sanilac, and Tuscola Counties, MI, to (a) ports of entry on the International Boundary line between the United States and Canada, located in MI, and (b) to points in MI, restricted to the transportation of traffic having an immediately subsequent movement by water. (Hearing site: Detroit, MI.)

NOTE.—Dual operations are involved.

MC 145526F, filed October 13, 1978. Applicant: CTC TRANSPORTATION, INC., 431 Gravier Street, New Orleans, LA 70130. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household goods*, in containers, between Long Beach, Oakland, and Los Angeles, CA, Houston, TX, New Orleans, LA, Jacksonville, FL, Savannah, GA, Charleston, SC, Norfolk, VA, and Baltimore, MD, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: New Orleans, LA.)

MC 145557F, filed October 11, 1978. Applicant: LIBERTY TRANSPORT, INC., 4614 South 40th St., St. Joseph, MO 64503. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, in containers, and *supplies* used in the distribution of malt beverages, from the facilities of the Adolf Coors Company, at or near Golden, CO, to points in Atchison, Holt, Nodaway, Worth, Gentry, Andrew, DeKalb, Buchanan, Clinton, Caldwell, Daviess, and Harrison Counties, MO. (Hearing site: Kansas City, MO.)

MC 145634F, filed October 27, 1978. Applicant: PHILLIP W. GOETTLING d.b.a. GOETTLING TRANSPORTATION, 2006 Benfield Road, Severna Park, MD 21146. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, NW, Washington, DC 20005. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *laboratory equipment and supplies, and photographic equipment and supplies*, from Baltimore, MD, to Washington, DC, under continuing contract(s) with VWR Scientific Inc., of Baltimore, MD. (Hearing site: Washington, DC.)

MC 145637F, filed October 24, 1978. Applicant: B & B EXPRESS, INC., P.O. Box 5552, Station B, Greenville, NC 29606. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *synthetic staple fiber, synthetic fiber yarn, and synthetic plastics*, from Irmo and Columbia, SC, Bermuda Hundred, VA, and Milledgeville, GA, to points in CA and NV; and (2) *warp beams, bobbins, pallets, forms, interior packaging, and packing trays*, from points in CA, to points in SC. (Hearing site: New York, NY.)

MC 145773F, filed November 17, 1978. Applicant: KIRK BROS. TRANSPORTATION, INC., 800 Vandemark Road, Sidney, OH 45365. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *refrigeration compressors and condensing units, and parts, accessories, and attachmens* for refrigeration compressors and condensing units, between the facilities of Copeland Corporation, at (a) Hartselle, AL, and (b) Fostoria, Sidney, Wapakoneta, and West Union, OH, on the one hand, and, on the other, points in the United States (except AK and HI), (2) *scrap materials*, from the facilities named in (1) above, to points in the United States (except AK and HI), and (3) *equipment, materials, and supplies* used in the manufacture of the commodities named in (1) above, from points in the United States (except AK and HI) to the facilities named in (1) above, under continuing contract(s) in (1), (2), and (3) with Copeland Corporation, of Sidney, OH. (Hearing site: Columbus, OH.)

MC 145848F, filed December 6, 1978. Applicant: CROSLAND TRUCKING, INC., 3170 Broadway, Ville Brossard, Quebec J4Z 2P5. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *lumber, lumber products, and building materials*, (except commodities in bulk), between ports of entry on the international boundary line between the United States and Canada located in ME, NH, NY, and VT, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, ME, MD, MI, NH, NJ, NY, NC, OH, PA, RI, VA, VT, WV, WI, and DC, under continuing contract(s) with (1) Barvi Ltée, of Lavalle, Quebec, Canada, and (2) Les Matériaux Blanchet, Inc., of St. Thanthile, Quebec, Canada. (Hearing site: Boston, MA.)

MC 107583 (Sub-60F), filed October 10, 1978. Applicant: SALEM TRANSPORTATION CO., INC., 133-03 35th Avenue, Flushing, NY 11354 Representative: George H. Rosen, 265 Broadway, P.O. Box 348, Monticello, NY 12701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in special operations, beginning and ending at points in the New York, NY, Philadelphia, PA, Baltimore, MD, Wilmington, DE, and Washington, DC, commercial zones, and extending to Atlantic City, NJ. (Hearing site: New York, NY, or Newark, NJ.)

MC 144673 (Sub-1F), filed November 17, 1978. Applicant: WISE WAY TRANSPORTATION, LTD., 583 Margaret Street, Victoria, B.C., Canada V8Z 6C9. Representative: Michael D. Duppenthaler, 211 So. Washington Street, Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter and special operations, beginning and ending at the ports of entry on the international boundary line between the United States and Canada at or near Blaine, Lynden, Sumas, and Port Angeles, WA, and extending to points in WA, OR, CA, NV, UT, and ID. (Hearing site: Seattle or Bellingham, WA.)

MC 145236F, filed August 14, 1978, previously noticed in the FEDERAL REGISTER issue of November 28, 1978. Applicant: MT. HOOD LIMOUSINE, INC., 8705 S.W. Barnes Road, Portland, OR 97225. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in special operations, between Portland, OR, on the one hand, and, on the other, Timberline Lodge near Government Camp, OR, and Bowman's Resort near Weeme, OR, limited to the transportation of not more than fifteen (15) passengers in any one vehicle, not including the driver thereof, and restricted to the transportation of passengers having an immediately prior or subsequent movement by rail or air. (Hearing site: Portland, OR.)

NOTE.—This republication shows that special operations are requested in lieu of charter operations, and shows a restriction previously omitted.

W-1308 (Sub-2F), filed December 18, 1978. Applicant: BLAINE F. CLAYPOOL, d.b.a. RED WING EXCURSIONS, 318 North Franklin Street, Lake City, MN 55041: Representative: Stephen A. Lawrence, 3154 North Service Drive, Red Wing, MN 55066.

To operate as a *common carrier*, by water, by self-propelled vehicles, in interstate or foreign commerce, transporting *passengers and their baggage*, in regular daily scheduled sightseeing trips and special charter sightseeing trips, between points and ports along the Mississippi River from 8 miles north of Red Wing, MN, to and including Alma, WI. NOTES: (1) This application is made for seasonal operations from the opening of the river for navigation (approximately April 15) to the close of navigation (approximately November 15) of each year. (2) This is a major regulatory action as defined in 49 CFR § 1106.5(a)(8). CONDITION: Carrier must submit additional information on energy conservation and energy efficiency as provided in 49 CFR § 1106.5(C)(1-3) and (5-6). See *The Energy Policy and Conservation Act of 1975*, 357 I.C.C. 599, 604 (1978). This additional information must (1) be direct, (2) include a general statement of conclusions, (3) provide a brief description of the basis for any conclusions reached, including the methodology employed, (4) include pertinent statistics where appropriate, and (5) where conclusions cannot be reached explain the reasons for failing to reach conclusions. (Hearing site: Rochester or St. Paul, MN.)

[FR Doc. 79-2972 Filed 1-26-79; 8:45 am]

[7035-01-M]

[Permanent Authority Decisions Volume No. 31]

PERMANENT AUTHORITY APPLICATIONS

Decision-Notice

Decided: January 8, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The orginal and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247 (e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the precedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its porposed contract carrier service will be consistent with the public interest and the national transporation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, of the Unites States Code and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a mojor regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 (1978) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a noncomplying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

H. G. HOMME, Jr.
Secretary.

MC 531 (Sub-364F), filed November 6, 1978. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wine, grape concentrate*, and *distilled spirits*, in bulk, in tank vehicles, from Edison, CA, to points in MS. (Hearing site: Los Angeles, CA.)

MC 10343 (Sub-33F), filed November 14, 1978. Applicant: CHURCHILL TRUCK LINES, INC., U.S. Hwy 36 West, P.O. Box 250, Chillicothe, MO 64601. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Wichita, KS, and Dallas, TX; from Wichita over Interstate Hwy 35 to junction Interstate Hwy 35 East, then over Interstate Hwy 35 East to Dallas, and return over the same route, (2) between Wichita, KS, and Fort Worth, TX; from Wichita over Interstate Hwy 35 to junction Interstate Hwy 35 West, then over In-

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terstate Hwy 35 West to Fort Worth, and return over the same route, (3) between Topeka, KS, and McAlester, OK; from Topeka over U.S. Hwy 75 to its junction with the Indian Nation Turnpike, then over the Indian Nation Turnpike to junction U.S. Hwy 270, then over U.S. Hwy 270 to McAlester, and return over the same route, (4) between Topeka, KS, and Muskogee, OK; from Topeka over U.S. Hwy 75 to Tulsa, OK, then over the Muskogee Turnpike to Muskogee, and return over the same route, (5) between Wichita, KS, and Muskogee, OK; from Wichita over Interstate Hwy 35 to junction U.S. Hwy 64, then over U.S. Hwy 64 to Muskogee, and return over the same route, (6) between Wichita, KS, and Muskogee, OK; from Wichita over Interstate Hwy 35 to junction with the Cimarron Turnpike, then over the Cimarron Turnpike to Tulsa, OK, then over the Muskogee Turnpike to Muskogee, and return over the same route, and (7) between Wichita, KS, and McAlester, OK; from Wichita over Interstate Hwy 35 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction with the Indian Nation Turnpike, then over the Indian Nation Turnpike to junction U.S. Hwy 270, then over U.S. Hwy 270 to McAlester, and return over the same route; serving no intermediate points, as alternate routes for operating convenience only in connection with routes (1) through (7) above. (Hearing site: Wichita, KS.)

MC 19553 (Sub-42F), filed November 21, 1978. Applicant: KNOX MOTOR SERVICE, INC., P.O. Box 5206, Rockford, IL 61125. Representative: Roland Rice, Suite 501, Perpetual Building, 1111 E Street, N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Peoria, IL, and Havana, IL; from Peoria over U.S. Hwy 24 to junction IL Hwy 78, then over IL Hwy 78 to Havana, and return over the same route, serving no intermediate points, (2) between Peoria, IL, and junction IL Hwy 121 and U.S. Hwy 136 over Interstate Hwy 74 to IL Hwy 121 to junction U.S. Hwy 136, and return over the same route, serving no intermediate points, (3) between El Paso, IL, and Heyworth, IL, over U.S. Hwy 51, serving no intermediate points, (4) between Peoria, IL, and Bloomington, IL, over Interstate Hwy 74, serving Bloomington as a point of joinder only, (5) between Bloomington, IL, and McLean, IL, over Interstate Hwy 55, serving no intermediate points, (6) between Havana, IL, and junction IL Hwy 16; from Havana over IL Hwy 78 to junction U.S. Hwy 67 at Jacksonville, then over U.S. Hwy 67 to junction IL Hwy 16, and return over the same route, (7) between junction IL Hwy 121 and U.S. Hwy 136, and Sullivan, IL, over IL Hwy 121, (8) between Heyworth, IL, and Vandalia, IL, over U.S. Hwy 51, (9) between McLean, IL, and Litchfield, IL, over Interstate Hwy 55, (10) between Havana, IL, and Pana, IL; from Havana over IL Hwy 97 to junction IL Hwy 29, then over IL Hwy 29 to Pana, and return over the same route, (11) between Clinton, IL, and Springfield, IL, over IL Hwy 54, (12) between Sullivan, IL, and junction IL Hwy 32 and IL Hwy 16 over IL Hwy 32, (13) between junction IL Hwy 16 and U.S. Hwy 67, and junction IL Hwy 16 and IL Hwy 32 over IL Hwy 16, (14) between Jacksonville, IL, and Decatur, IL, over U.S. Hwy 36, (15) between Decatur, IL, and junction IL Hwy 48 and Interstate Hwy 55, over IL Hwy 48, (16) between Havana, IL, and Heyworth, IL, over U.S. Hwy 136, (17) serving Peoria, IL, and El Paso, IL, and points in IL on and bounded by a line beginning at Havana, IL, and extending south along IL Hwy 78 to junction U.S. Hwy 67, then south along U.S. Hwy 67 to junction north boundary line of Madison County, IL, then east along the north boundary line of Madison and Bond Counties, IL, to junction north boundary line of Bond County, IL, with the west boundary line of Fayette County, IL, then north along the west boundary line of Fayette County, IL, to junction IL Hwy 185, then southeast along IL Hwy 185 to Vandalia, IL, then north along U.S. Hwy 51 to junction north boundary line of Fayette County, IL, then east along the north boundary lines of Fayette and Effingham Counties, IL, to junction north boundary line of Effingham County, IL, with IL Hwy 32, then north along IL Hwy 32 to junction U.S. Hwy 36, then west along U.S. Hwy 36 to Decatur, IL, then north along U.S. Hwy 51 to junction U.S. Hwy 136, and then west along U.S. Hwy 136 to point of beginning as off-route points in connection with applicant's present regular-route operations, in (6) through (16) serving all intermediate points. (Hearing site: Chicago, IL, or Washington, DC.)

NOTE.—The purpose of this application is to convert the irregular-route authority in MC-19553 Sub 32 to regular-route authority.

MC 28088 (Sub-44F), filed December 12, 1978. Applicant: NORTH & SOUTH LINES, INC., 2710 S. Main Street, Harrisonburg, VA 22801. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425—13th Street, NW, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk and frozen foods), from points in Frederick, Shenandoah, and Rockingham Counties, VA, and Berkeley County, WV, to points in AL, AR, GA, LA, MS, SC, TN, and TX. (Hearing site: Roanoke, VA, or Washington, DC.)

MC 29643 (Sub-12F), filed November 22, 1978. Applicant: WALSH TRUCKING SERVICE, INC., 50 Burney Avenue, Massena, NY 13662. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, and (2) *commodities* used in the manufacture, distribution, and sale of paper and paper products, (except commodities in bulk), between Pulaski, NY, on the one hand, and, on the other, points in VT, NH, MA, RI, CT, NY, NJ, PA, DE, and MD. (Hearing site: Syracuse, NY.)

MC 32083 (Sub-4F), filed November 22, 1978. Applicant: DONNIE A. DIXON, INC., Route 9, Box 378, Greenville, NC 27834. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Bertie, Martin, and Pitt Counties, NC, restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing site: Raleigh, NC.)

MC 32882 (Sub-104F), filed November 13, 1978. Applicant: MITCHELL BROS. TRUCK LINES, 3841 N. Columbia Boulevard, Portland, OR 97217. Representative: Edward G. Rawle, 1229 N. Blue Gum Avenue, Anaheim, CA 92806. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *buildings* and *metal prefabricated structural components and panels*, from points in Utah County, UT, to points in the United States (except AK and HI). (Hearing site: Salt Lake City, UT, or Los Angeles, CA.)

MC 32882 (Sub-105F), filed November 13, 1978. Applicant: MITCHELL BROS. TRUCK LINES, 3841 N. Columbia Blvd., Portland, OR 97217. Representative: Edward G. Rawle, 1229 N. Blue Gum Avenue, Anaheim, CA 92806. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *insulated building and roofing panels*, and *equipment, materials, and supplies* used in the installation of insulated building and roofing panels, (except commodities in bulk), from the facilities of Panel Era Corporation, at or near Chicago, IL, Washington, DC, Atlanta, GA, Dallas, TX, and Salt Lake City, UT, to points in the United States (including AK, excluding HI); and (2) *materials, equipment*, and *supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), from points in the United States (including AK, excluding HI), to the facilities of Panel Era Corporation, at or near Chicago, IL, Washington, DC, Atlanta, GA, Dallas, TX, and Salt Lake City, UT, restricted in (1) and (2) to the transportation of traffic originating at or destined to the facilities of Panel Era Corporation, at or near Chicago, IL, Washington, DC, Atlanta, GA, Dallas, TX, and Salt Lake City, UT. (Hearing Site: Salt Lake City, UT, or Los Angeles, CA.)

MC 41406 (Sub-95F), filed October 24, 1978. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials and construction materials*, (except commodities in bulk), from the facilities of Celotex Corporation, (a) at or near Dubuque, IA, and Chicago and Wilmington, IL, to points in IA, IL, IN, KS, KY, MI, MN, MO, ND, NE, NY, OH, PA, SD, WI, and WV, (b) at or near Sunbury, PA, to points in IL, IN, KY, MI, OH, and WV, (c) at or near Chester, WV, to points in KY, MO, NY, OH, and WV, and (d) at or near Lockland, OH, to points in IL, IN, KY, MD, MI, MO, NY, PA, WI, and WV, (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk, in the reverse direction). (Hearing site: Chicago, IL, or Washington, DC.)

MC 48441 (Sub-28F), filed November 8, 1978. Applicant: R.M.E. INC., An Indiana Corporation, P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are used or dealt in by manufacturers and converters of paper, paper products, and plastic articles (except in bulk), from the facilities of Brown Co., at Kalamazoo and Parchment, MI, to points in IL, IN, MO, and those points in WI on, south, and east of a line beginning at Lake Michigan near Sheboygan, WI, and extending along WI Hwy 23 to intersection WI Hwy 11, then along WI Hwy to intersection U.S. Hwy 61, then south along U.S. Hwy 61 to the WE-IL State line; and (2) *paper*, and *paper articles*, from the facilities of Georgia-Pacific Corp., at Kalamazoo, MI, to points in MO, IL, and IN. (Hearing site: Detroit, MI.)

MC 51146 (Sub-653F), filed October 19, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting 1(a) *wood products, millwork, and parts and accessories* for wood products and millwork, and (b) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named above, (except commodities in bulk), from Pella, IA, to points in the United States, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in 1(a) above, (except commodities in bulk), in the reverse direction; and (3) *plumbing fixtures, fittings, and plumbing equipment*, from Evansville and Rockport, IN, to points in MN, NE, and WI. (Hearing site: Chicago, IL.)

MC 51146 (Sub-655F), filed October 31, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin (same address as applicant). To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, (except commodities in bulk), from the facilities of The Mead Corporation, at Lynchburg, VA, to points in MI and OH. (Hearing site: Chicago, IL.)

MC 61396 (Sub-362F), filed October 23, 1978. Applicant: HERMAN BROS., INC., 2565 St. Mary's Avenue, P.O. Box 189, Omaha, NE 68101. Representative: Duane L. Stromer (same as above). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *compressed gases, liquid oxygen, liquid nitrogen, liquid argon, gaseous helium, and liquid carbon dioxide*, in bulk, (1) from Cleveland, OH to points in PA, (2) from Niagara Falls, NY, to points in MI, OH, and PA, (3) from Parkersburg, WV, to points in IL, IN, KY, MI, OH, and PA, (4) from Portage, MI, to points in IA, IL, IN, NY, OH, and WI, (5) from Dayton, OH, to points in IL, IN, KY, MI, NY, and PA, and (6) from Chicago, IL, to points in IN, KY, MI, OH, WI. CONDITION: The certificate authorizing the above operation shall be limited in point of time to a period expiring 5 years from the date of issuance. (Hearing site: Cleveland, OH, or Omaha, NE.)

NOTE.—The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under Section 11343(a) (formerly Section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 73165 (Sub-458F), filed December 12, 1978. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, Birmingham, AL 35202. Representative: R. Cameron Rollins (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *material handling equipment, winches, compaction and road making equipment, rollers, mobile cranes, and highway freight trailers*, and (2) *parts, attachments, and accessories* for the commodities in (1) above, (except commodities in bulk), between the facilities of Hyster Co., at or near (a) Danville and Kewanee, IL, (b) Crawfordsville, IN, and (c) Berea, KY, on the one hand, and, on the other, points in AL, AR, FL, LA, GA, MS, TX, and TN, restricted to the transportation of traffic orginating at or destined to the named above facilities. (Hearing site: Washington, DC, or Atlanta, GA.)

MC 76993 (Sub-28F), filed November 17, 1978. Applicant: EXPRESS FREIGHT LINES, INC., 4924 South 13th Street, Milwaukee, WI 53221. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Milwaukee, WI, and Muskegon, MI; from Milwaukee over Interstate Hwy 94 to its junction with U.S. Hwy 31 at or near Benton Harbor, MI, then over U.S. Hwy 31 to its junction with Interstate Hwy 94, then over Interstate Hwy 94 to its junction with Interstate Hwy 196 at or near Millburg, MI, then over Interstate Hwy 196 to its junction with U.S. Hwy 31 at or near Holland, MI, then over U.S. Hwy 31 to Muskegon, and return over the same route, serving all intermediate points, (2) between Muskegon, MI, and Detroit, MI, over Interstate Hwy 96, serving the intermediate point of Grand Rapids, MI, (3) between St. Joseph, MI, and Detroit, MI, over Interstate Hwy 94, serv-

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ing the intermediate points of Kalamazoo and Battle Creek, MI, (4) between White Pigeon, MI, and Grand Rapids, MI; from White Pigeon over U.S. Hwy 12 to its junction with U.S. Hwy 131 at or near White Pigeon, then over U.S. Hwy 131 to Grand Rapids, MI, and return over the same route, serving all intermediate points, (5) between Holland, MI, and Grand Rapids, MI, over Interstate Hwy 196 to Grand Rapids, serving all intermediate points, (6) between St. Joseph, MI, and South Bend, IN; from St. Joseph over U.S. Hwy 31 and U.S. Hwy 33 to South Bend, and return over the same route, serving all intermediate points, (7) between Coldwater, MI, and Battle Creek, MI; from Coldwater over U.S. Hwy 12 to junction Interstate Hwy 69 and U.S. Hwy 27 at or near Coldwater, then over Interstate Hwy 69 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Battle Creek, and return over the same route, serving all intermediate points, (8) between Jackson, MI, and Lansing, MI, over U.S. Hwy 127, and return over the same route, (9) between junction Interstate Hwy 96 and U.S. Hwy 23 near Brighton, MI, and Ann Arbor, MI, over U.S. Hwy 23, (10) between Holland, MI, and Kalamazoo, MI; from Holland over U.S. Hwy 31 to its to junction with MI State Hwy 40 at or near Holland, then over MI State Hwy 40 to its junction with MI State Hwy 89 at or near Allegan, MI, then over MI State 89 to its junction with U.S. Hwy 131 at or near Plainwell, MI, then over U.S. Hwy 131 to Kalamazoo, MI, and return over the same route, (11) between Holland, MI, and Battle Creek, MI; from Holland over U.S. Hwy 31 to its junction with MI State 40, then over MI State Hwy 40 to MI State Hwy 89 at or near Allegan, MI, then over MI State Hwy 89 to Battle Creek, and return over the same route, (12) between junction MI State Hwy 89 and MI State Hwy 66 at or near Battle Creek, MI, and junction MI State Hwy 66 and Interstate Hwy 94; from junction MI State Hwy 89 and MI State Hwy 66 at or near Battle Creek, MI, then over MI State Hwy 66 to its junction with Interstate Hwy 94, and return over the same route, serving no intermediate points and serving the termini for joinder purposes only, (13) between South Bend, IN, and St. Joseph, MI; from South Bend over Temporary Bypass Route U.S. Hwy 31 and 33, or Bypass U.S. Hwy 31 and 33 when completed, to their junction with U.S. Hwy 31 and 33, at or near Niles and Berrien Springs, MI, then over U.S. Hwy 31 and 33 to St. Joseph, MI, service in connection with routes (1) through (7), is authorized at all points in Muskegon, Kent, Ionia, Ottawa, Allegan, Barry, Eaton, Van Buren, Kalamazoo, Calhoun, Berrien, Cass, St. Joseph, and Branch Counties, MI, in connection with carrier's regular-route operations, service (8) through (13) are alternate routes for operating convenience only. (Hearing site: Milwaukee, WI.)

MC 78228 (Sub-100F), filed December 8, 1978. Applicant: J MILLER EXPRESS, INC., an Ohio Corporation, 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foregin commerce, over irregular routes, transporting *salt*, in bulk, in dump vehicles, from the facilities of Morton Salt, Division of Morton-Norwich Products, Inc., at Fairport Harbor, OH, to points in PA. (Hearing site: Washington, DC or Pittsburgh, PA.)

MC 82841 (Sub-239F), filed November 6, 1978. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" St., Omaha, NE 68127. Representative: Donald L. Stern, 610 Xerox Bldg., Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electrical switchgear, electrical panels, and electrical control and relay switchboards*, and (2) *components, parts, and accessories* for the commodities named in (1) and (2) above, from the facilities of E. A. Pedersen Company, at Omaha, NE, to points in OR and WA. (Hearing site: Omaha, NE.)

MC 83835 (Sub-154F), filed December 12, 1978. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, TX 75222. Representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *material handling equipment, winches, compaction and road making equipment, rollers, mobile cranes, and highway freight trailers*, and (2) *parts, attachments, and accessories* for the commodities in (1) above, (except commodities in bulk, between the facilities of Hyster Company, at or near (a) Danville and Kewanee, IL, (b) Crawfordsville, IN, and (c) Berea, KY, on the one hand, and, on the other, points in CO, KS, LA, MO, NE, NM, OK, and TX, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Washington, DC, or Atlanta, GA.)

MC 102616 (Sub-966F), filed October 16, 1978. Applicant: COASTAL TANK LINES, INC., a Delaware corporation, 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rolling processing fluids, wire drawing compounds, and lubricating oils*, in bulk, in tank vehicles, from the facilities of The Ironsides Co., at or near Columbus, OH, to points in AZ (except Phoenix), CA, CO, DE, ID, KS, LA, MA, ME, MN, MS, MT, ND, NH, NM, NV, OH, OK, OR, RI, SD, UT, VT, WY, and DC, and (2) *Materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in bulk, in tank vehicles, from points in the United States (except AK, HI, Smackover, AR, Savannah, GA, Jeffersonville, IN, Ashland, KY, Elkridge, MD, Austin, MN, St. Louis, MO, Weehawken, NJ, Buffalo, NY, Bradford, Marcus Hook, Petrolia, Franklin, Philadelphia, and Bainbridge, PA, Houston, TX, Norfolk, VA, Madison, WI, and Lake Charles, LA), to the facilities of the Ironsides Co., at or near Columbus, OH. (Hearing site: Columbus, OH, or Chicago, IL.)

MC 103926 (Sub-84F), filed October 24, 1978. Applicant: W. T. MAYFIELD SONS TRUCKING CO., a Corporation, P.O. Box 947, Mableton, GA 30059. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *self-propelled articles*, weighing 15,000 pounds or more, and (2) *attachments, parts, and accessories* for the commodities named in (1) above, from Baltimore, MD, Norfolk, VA, Charleston, SC, Savannah, GA, Jacksonville, FL, Mobile, AL, and New Orleans, LA, to Wausau, WI, and points in AL, AR, FL, GA, KY, LA, MD, MS, NC, SC, TN, and VA, restricted to the transportaion of shipments having a prior or subsequent movement by water. (Hearing site: Atlanta, GA, or Chicago, IL.)

MC 105656 (Sub-10F), filed October 25, 1978. Applicant: TOM PASQUALE, d.b.a. PASQUALE TRUCKING, P.O. Box 295, Logansport, IN 46947. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as defined in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Logansport, IN, to points in WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 107012 (Sub-299F), filed November 13, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *adhesives, solvents, materials and supplies* used in the installation of carpet, carpet cushion, and carpet underlay (except commodities in bulk), from the facilities of General Felt Industries, at or near Camden, NJ, to points in OH, IN, MI, WI, IL, MO, IA, MN, ND, SD, NE, KS, OK, TX, NM, CO, WY, MT, ID, UT, AZ, NV, CA, OR, and WA. (Hearing Site: New York, NY, or Washington, DC.)

MC 107012 (Sub-301F), filed November 13, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bicycles, tricycles, motorized bicycles, wagons, riding toys, and dome climbers*, and *parts, accessories, attachments, and tools* used in connection with bicycles, tricycles, motorized bicycles, wagons, riding toys, and dome climbers, from the facilities of AMF, Inc., at or near Olney, IL, and Little Rock, AR, to points in the United States (except AK and HI). (Hearing Site: Chicago, IL, or Washington, DC.)

MC 107012 (Sub-302F), filed November 15, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Stephen C. Clifford (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *barbeque grills*, from the facilities of Temtex Products, Inc., at or near Nashville, TN, to points in KY, FL, GA, AL, LA, MS, TX, OK, NC, SC, AR, KS, CO, and VA, and (2) *fireplaces*, from the facilities of Temtex Products, Inc., at or near Nashville, TN, to points in MT, WY, CO, NM, ND, SD, NE, KS, OK, TX, MN, IA, AR, LA, MS, AL, GA, FL, NC, SC, VA, and KY. (Hearing Site: Nashville, TN, or Washington, DC.)

MC 107012 (Sub-303F), filed November 15, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Stephen C. Clifford (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *solar panels* and *accessories* for solar panels, and *equipment, materials, and supplies* used in the installation of solar panels and accessories for solar panels, from Aurora, CO, to points in the United States (except AK and HI). (Hearing Site: Denver, CO, or Washington, DC.)

MC 107012 (Sub-304F), filed November 15, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same as above). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *(1) uncrated packaging equipment, and (2) parts and accessories* for uncrated packaging equipment in uncrated packaging equipment, from points in MN and WI, to points in the United States (except AK and HI). (Hearing site: Minneapolis, MN, or Washington, DC.)

MC 107012 (Sub-305F), filed November 15, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tool and utility boxes*, from the facilities of Able, Inc., at or near Jonesboro, AR, to points in the United States (except AK, HI, and AR). (Hearing Site: Memphis, TN, or Washington, DC.)

MC 107012 (Sub-307F), filed November 15, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Stephen C. Clifford (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carpet cushion and automotive felt*, from the facilities of Dixie Manufacturing Company, Inc., at or near Norfolk, VA, to points in PA, NJ, NY, MA, CT, RI, ME, NH, VT, and GA. (Hearing Site: Washington, DC, or Norfolk, VA.)

MC 107012 (Sub-308F), filed November 17, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *floor coverings, and materials and supplies* used in the manufacture, installation, and distribution of floor coverings, from the facilities of Bigelow Sanford, Inc., at or near Lyerly, GA and Landrum and Greenville, SC, to Houston, TX. (Hearing Site: Greenville, SC, or Washington, DC.)

MC 107012 (Sub-309F), filed November 17, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sporting goods equipment, recreational equipment, and physical fitness equipment*, from the facilities of Frabill Manufacturing Company, at or near Milwaukee, WI, to points in the United States (except AK, HI, and WI). (Hearing Site: Chicago, IL, or Washington, DC.)

MC 107012 (Sub-310F), filed November 17, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lamps, lamp shades, lights, lighting fixtures, display racks and stands, and parts and accessories* for the foregoing commodities, from the facilities of V. L. Industries, Inc., at or near Hialeah, FL, to points in the United States (except AK, HI, and FL). (Hearing Site: Miami, FL, or Washington, DC.)

MC 107012 (Sub-311F), filed November 17, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials, parts, and supplies* used in the manufacture or new furniture, from points in CT and MA to the facilities of Futorian Corporation, at or near New Albany, Tupelo, Guntown, and Okolona, MS, and Rocky Mount and Turkey, NC. (Hearing Site: Memphis, TN, or Washington, DC.)

MC 107012 (Sub-312F), filed November 17, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *appliances and appliance parts*, from the facilities of Chambers Corp., at or near Oxford, MS, to points in the United States (except AK and HI). (Hearing Site: Memphis, TN, or Little Rock, AR.)

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MC 107012 (Sub-313F), filed November 17, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *automobile and truck service equipment, supplies, and accessories, and liquid fuel containers*, from the facilities of Huffy Corporation, Automobile Products Division, at or near Delphos, OH, to points in the United States (except AK, HI, and OH). (Hearing Site: Columbus, OH, or Washington, DC.)

MC 107012 (Sub-314F), filed November 17, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *carpet, carpet padding, and carpet underlay*, from Natalia, Marlin, and Fort Worth, TX, to points in the United States (except AK and HI); and (2) *household appliances and fixtures*, from Dallas, Cleburne, and Mineral Wells, TX, to points in the United States (except AK and HI). (Hearing Site: Dallas or Houston, TX.)

MC 107012 (Sub-315F), filed November 17, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from Nashua, NH, to points in PA. (Hearing Site: Dallas, TX, or Washington, DC.)

MC 107012 (Sub-318F), filed November 17, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *decorations and ornaments*, (1) from Cleveland, OH, to the facilities of Rauch Industries, Inc., at or near Gastonia, NC, and (2) from the facilities of Rauch Industries, Inc., at or near Gastonia, NC, to points in the United States (except AK, HI, and NC). (Hearing Site: Charlotte, NC, or Washington, DC.)

MC 107012 (Sub-319F), filed November 17, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Stephen C. Clifford (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printed materials*, from Minneapolis, MN, to Kingsport, TN, and points in NC. (Hearing Site: Charleston, SC, or Washington, DC.)

MC 107012 (Sub-321F), filed November 17, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household appliances*, from Hattiesburg and Waynesboro, MS, to points in AZ, CA, CO, ID, MT, NV, NM, OR, WA, WY, and UT. (Hearing Site: Hattiesburg, MS, or Washington, DC.)

MC 107012 (Sub-322F), filed November 17, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same addess as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from points in MS, to points in AL, AR, FL, GA, KY, LA, NC, SC, TN, TX, and VA. (Hearing site: Jackson, MS, or Washington, DC.)

MC 107403 (Sub-1146F), filed November 24, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, in tank vehicles, from Lake Charles, LA, to points in PA, MD, DE, LA, WV, SC, CT, VA, RI, and DC. CONDITION: Pursuant to the decision in MC 107403 (Sub-1101F), served October 19, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC 107403 (Sub-1101F). (Hearing site: Washington, DC.)

MC 107403 (Sub-1147F), filed November 22, 1978. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *molten sulphur*, in bulk, in tank vehicles, from Indianapolis, IN, to points in IL, KY, and OH. CONDITION: Pursuant to the decision in MC 107403 (Sub-1101F), served October 19, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC 107403 (Sub-1101F). (Hearing site: Washington, DC.)

MC 107678 (Sub-69F), filed December 21, 1978. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, TX 77015. Representative: David A. Sutherlund, 1150 Connecticut Avenue, NW, Suite 400, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof; and (2) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and (d) the injection or removal of commodities into or from holes or wells, between those points in the United States in and west of MN, IA, MO, AR, and LA (including AK, but excluding HI). The person who is a director of both applicant and a holding company of several carriers should file an affidavit showing he is not in control of both companies through management or file an application for common control under 49 U.S.C. § 11343. (Hearing site: Denver, CO.)

MC 108473 (Sub-43F), filed October 19, 1978. Applicant: ST. JOHNSBURY TRUCKING COMPANY, INC., 87 Jeffrey Avenue, Holliston, MA 01746. Representative: Francis P. Barrett, 60 Adams Street, P.O. Box 238, Milton, MA 02187. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Easton, PA, and Columbia, PA, from Easton over U.S. Hwy 22 to junction PA Hwy 309, then over PA Hwy 309 to junction U.S. Hwy 222, then over U.S. Hwy 222 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Columbia, and return over the same route, (2) between Easton, PA, and Harrisburg, PA; (a) from Easton over U.S. Hwy 22 to PA Hwy 309, then over PA Hwy 309 to junction U.S. Hwy 222, then over U.S. Hwy 222 to junction U.S. Hwy 422, then over U.S. Hwy 422 to U.S. Hwy 322 to Harrisburg, and return over the same route, (b) over U.S. Hwy 22, (3) between Easton, PA, and Northumberland, PA; from Easton over PA Hwy 248 to U.S. Hwy 209, then over U.S. Hwy 209 to PA Hwy 93, then over PA Hwy 93 to U.S. Hwy 11, then over U.S. Hwy 11 to Northumberland, and return over the same route, (4) between Easton, PA, and Berwick, PA; from Easton over PA Hwy 248 to U.S. Hwy 209, then over U.S. Hwy 209 to PA Hwy 93, then over PA Hwy 93 to Interstate Hwy 81, then over Interstate Hwy 81 to U.S. Hwy 11, then over U.S. Hwy 11 to Berwick, and return over the same route, (5) between Easton, PA, and Pittston, PA; from Easton over PA Hwy 248 to U.S. Hwy 209, then over U.S. Hwy 209 to PA Hwy 9, then over PA Hwy 9 to Pittston, and return over the same route, (6) between Pottsville, PA, and Millersburg, PA, over U.S. Hwy 209, and (7) between Pottsville, PA, and Muncy, PA; from Pottsville, over PA Hwy 61 to PA Hwy 147, then over PA Hwy 147 to Muncy, and return over the same route, in (1) thru (6) serving all intermediate points and off-route points in PA within 50 miles of Pottsville, PA, in connection with carrier's authorized regular-route operations. (Hearing site: Boston, MA.)

MC 108523 (Sub-10F), filed November 22, 1978. Applicant: POLMAN TRANSFER, INC., Route 3 Box 470, Wadena, MN 56482. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pet foods* (except commodities in bulk), from Perham, MN, to the ports of entry on the international boundary line at Portal, ND, and Sweetgrass, MT. (Hearing site: St. Paul, MN.)

NOTE.—Dual operations may be involved.

MC 109818 (Sub 37F), filed December 11, 1978. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52808. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs and inedible food products*, (except commodities in bulk), from the facilities of Termicold Corporation, at or near Bettendorf, IA, to points in IN, KY, MI, and OH. (Hearing site: Chicago, IL.)

MC 110325 (Sub 87F), filed December 11, 1978. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Building, 1221 Baltimore Avenue, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Honda of America Mfg., Inc., at or near the Intersection of U.S. Hwy 33 and Benton Road (OH County Road 157), Allen Township, Union County, OH, as an off-route point in connection with applicant's otherwise authorized regular-route operations. The persons who may be in common control of applicant and any other regulated carrier must file an affidavit to show why an application for common control is unnecessary or file an application under 49 U.S.C. § 11343. (Hearing site: Columbus, OH.)

MC 110525 (Sub-1272F), filed December 11, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downington, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sodium bifluoride*, in bulk, in tank vehicles, from Paulsboro, NJ, to Tahawus, NY. (Hearing site: New York, NY.)

MC 110525 (Sub 1273F), filed December 8, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downington, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *arsenic acid*, in bulk, in tank vehicles, from Bryan, TX, to points in FL, GA, IN, IA, KY, NC, SC, and VA. (Hearing site: Dallas, TX.)

MC 111401 (Sub-535F), filed November 6, 1978. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in AZ, AR, CA, CO, ID, IL, IA, KS, LA, MS, MO, MT, NE, NM, NV, ND, OK, OR, SD, TN, TX, UT, WA, and WY, restricted to the transportation of traffic originating at the above-named origin facilities. (Hearing site: Wichita, KS, or Kansas City, MO.)

MC 111545 (Sub-266F), filed December 12, 1978. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: Robert E. Born (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *materials handling equipment, winches, compaction and road making equipment, rollers, mobile cranes, and highway freight trailers*, and (2) *parts, attachments, and accessories* for the commodities named in (1) above, (except commodities in bulk), between the facilities of Hyster Co., at or near (a) Danville and Kewanee, IL, (b) Crawfordsville, IN, and (c) Berea, KY, on the one hand, and, on the other, points in AL, FL, GA, IA, KS, MN, MO, NE, NC, SC, TN, VA, and WI. (Hearing site: Washington, DC, or Atlanta, GA.)

MC 111611 (Sub-41F), filed November 7, 1978. Applicant: NOERR MOTOR FREIGHT, INC., 205 Washington Ave., Lewistown, PA 17044. Representative: William D. Taylor, 100 Pine St., Suite 2550, San Francisco, CA 94111. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fibrous glass reinforced plastic pipe*, and *pipe fittings*, from the facilities of Owens-Corning Fiberglas Corporation, at or near Valparaiso, IN, to points in the United States (except AK and HI). (Hearing site: San Francisco, CA, or Harrisburg, PA.)

MC 111812 (Sub-601F), filed November 13, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Ralph H. Jinks (same as above). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *diatomaceous earth and diatomaceous products*, from the facilities of Johns-Mansville Corporation, at or near Lompoc, CA, to points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, AD, and WI. The person acting as a director of the owner of the holding company of applicant and Chairman of the Board of another motor carrier should file an

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affidavit why approval of the possible common control is not necessary or file an application for approval of such possible common control under 49 U.S.C. § 11343.

MC 113855 (Sub-458F), filed December 12, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a North Dakota corporation, 2450 Marion Road, SE, Rochester, MN 55901. Representative: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *material handling equipment, winches, compaction and road making equipment, rollers, mobile cranes, and highway freight trailers*, and (2) *parts, attachments, and accessories* for the commodities in (1) above, (except commodities in bulk), between the facilities of Hyster Co., at or near Danville and Kewanee, IL, Crawfordsville, IN, and Berea, KY, on the one hand, and, on the other, points in AZ, CA, CO, ID, MN, MT, NE, NV, NM, ND, OR, SD, UT, WA, and WY, restricted to the transportation of traffic originating at or destined to the above named facilities. (Hearing site: Washington, DC.)

MC 113974 (Sub-56F), filed October 30, 1978. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., a corporation, 211 Washington Avenue, Dravosburg, PA 15034. Representative: James D. Porterfield (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, (1) from Philadelphia, PA, and points in NJ, to points in GA, and (2) from Atlanta, GA, to points in AL, AR, FL, KY, MS, NC, SC, and TN. (Hearing site: Pittsburgh, PA, or Washington, DC.)

NOTE.—The person or persons who it appears may be engaged in common control must either file an application under 49 U.S.C. Section § 11343(a) (formerly Section 5(2)) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 114045 (Sub-522F), filed December 5, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products*, (except commodities in bulk), from Bristol, PA, to points in CA and TX. (Hearing site: Chicago, IL, or Dallas, TX.)

MC 114211 (Sub-384F), filed November 8, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Maverick Tube Corp., at or near Union, MO, to points in AL, AR, GA, IA, KS, LA, MN, MS, NE, ND, OK, SD, TN, TX, and WI. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 114273 (Sub-485F), filed November 21, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commisison, commodities in bulk, in tank vehicles, and those requiring special equipment), from the facilities of Texas Shippers Association, Inc., at Chicago, IL, to Amarillo, Dallas, Ft. Worth, and Lubbock, TX, restricted to the transportation of traffic moving on freight forwarder bills of lading and further restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. Condition: The certificate to be issued shall be limited to 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-486F), filed November 21, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Detroit, MI, to Peoria, Pekin, and Clinton, IL. Condition: The certificate to be issued shall be limited to 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate. (Hearing site: Chicago, IL, or Washington, DC.)

MC 115162 (Sub-442F), filed November 17, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Box 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe and plastic pipe fittings*, from Henderson, KY, to points in IN. (Hearing Site: Evansville, IN, or Louisville, KY.)

MC 115826 (Sub-359F), filed October 26, 1978. Applicant: W. J. DIGBY, INC., a Nevada corporation, 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by a manufacturer of toilet preparations (except commodities in bulk), between Cockeysville, MD, and Holyoke, MA, on the other hand, and, on the other, points in the United States (except AK and HI). Dual operations may be in issue. (Hearing site: Denver, CO.)

MC 117815 (Sub-302F), filed December 6, 1978. Applicant: PULLEY FREIGHT LINES, INC., 405 S.E. Twentieth, Des Moines, IA 50317. Representative: Michael L. Carter (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of M&M/Mars, at or near Cleveland, TN, to points in IN, IL, IA, OH, MN, MO, and WI. (Hearing site: Des Mointes, IA, or Chicago, IL.)

MC 117883 (Sub-234F), filed November 21, 1978. Applicant: SUBLER TRANSFER, INC., One Vista Drive, Versailles, OH 45380. Representative: Neil E. Hannan, P.O. Box 62, Versailles, OH 45380. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and converters of paper and paper products, (except commodities in bulk, in tank vehicles), from the facilities of the Sorg Paper Company, at Middletown, OH, to points in CT, DE, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NJ, NH, NY, PA, RI, VT, VA, WV, WI, and DC, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destinations. (Hearing site: Columbus, OH, or Washington, DC.)

MC 117975 (Sub-9F), filed November 22, 1978. Applicant: MOTOR EXPRESS, INC., P.O. Box 604, Edinburg, TX 78539. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages*, from Galveston, TX, to points in LA, and (2) *malt beverage containers and cooperage*, in the reverse direction. (Hearing site: Houston or Dallas, TX.)

MC 118318 (Sub-39F), filed December 12, 1978. Applicant: IDA-CAL FREIGHT LINES, INC., P.O. Drawer M, Nampa, ID 83651. Representative: Timothy R. Stevens, P.O. Box 162, Boise, ID 83701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat by-products, and articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from points in Spokane County, WA, to points in AZ, CA, ID, NV, and UT. The person or persons in common control with applicant and any other motor carrier must file an affidavit explaining why approval of such common control is unnecessary or file an application for approval of such common control under 49 U.S.C. § 11343. (Hearing site: Boise, ID, or Salt Lake City, UT.)

MC 119741 (Sub-117F), filed November 6, 1978. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., NW, P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodites in bulk, in tank, vehicles), from the facilities of Dubuque Packing Company, at Le Mars, IA, to points in IN, IA, KS, MI, MN, MO, NE, OH, and WI, restricted to the transportation of traffic originating at the above-named origin facilities and destined to the above-indicated destinations. (Hearing site: Sioux City, IA.)

MC 119741 (Sub-119F), filed November 9, 1978. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., NW, P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), between the facilities of Dold Foods, Inc., at Wichita, KS, on the one hand, and, on the other, points in IL, IA, MN, MO, NE, ND, SD, and WI, restricted to the transportation of traffic originating at the above-named origin and destined to the above-named destinations. (Hearing site: Wichita, KS.)

MC 119765 (Sub-67F), filed December 7, 1978. Applicant: EIGHT WAY XPRESS, INC., an Iowa corporation, 5402 South 27th Street, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Chicago, IL, to points in NE, IA, and SD. (Hearing site: Chicago, IL, or Omaha, NE.)

MC 119968 (Sub-12F), filed December 11, 1978. Applicant: A. J. WEIGAND, INC., 1046 Tuscarawas Avenue, North, Dover, OH 44622. Representative: Paul F. Beery, 275 E. State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sodium bicarbonate*, and *materials and supplies* used in the manufacture of sodium bicarbonate, in bulk, between Old Fort, OH, on the one hand, and, on the other, points in the United States (except AK, HI, and OH). (Hearing site: Columbus, OH, or Washington, DC.)

MC 119988 (Sub-177F), filed December 11, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, TX 75901. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper articles*, (a) from the facilities of International Paper Company, at or near Mobile, AL, and Moss Point, MS, to points in AZ, AR, CA, CO, LA, OR, and TX, and (b) from the facilities of International Paper Company, at or near Bastrop, LA, to points in CA; and (2) *materials and supplies* used in the manufacture of paper and paper products (except commodities in bulk, in tank vehicles), from points in AZ, AR, CA, CO, LA, OR, and TX, to the facilities of International Paper Company, at or near Mobile, AL, and Moss Point, MS. (Hearing site: Dallas, TX, or Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 119991 (Sub-25F) filed November 7, 1978. Applicant: YOUNG TRANSPORT, INC., P.O. Box 3, Logansport, IN 46947. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials*, and (2) *materials and supplies* used in the installation of the commodities named in (1) above (except commodities in bulk), from the facilities of Bird & Son, Inc., at or near Chicago, IL, to points in KY, KS, IN, IA, MN, MO, NE, ND, OK, SD, TN, and WI. (Hearing site: Boston, MA, or Washington, DC.)

MC 120761 (Sub-47F), filed October 25, 1978. Applicant: NEWMAN BROS. TRUCKING COMPANY, A Corporation, 6559 Midway Rd., P.O. Box 18728, Forth Worth TX 76118. Representative: Clint Oldham, 1108 Continental Life Bldg., Forth Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, (2) *machinery, materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, and (3) earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, (a) between points in AR, KS, LA, MS, NM, OK, and TX, (b) between AR, KS, LA, MS, NM, OK, and TX, on the one hand, and, on the other, points in AZ, CA, CO, MT, NE, NV, ND, SD, UT, and WY. (Hearing site: Dallas, TX.)

MC 123294 (Sub-51F), filed October 12, 1978. Applicant: WARSAW TRUCKING CO., INC., 1102 West Winona, Warsaw, IN 46580. Representative: H. E. Miller, Jr., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from Cincinnati, Dayton, Hamilton, and Middletown, OH, to points in IL, IN, IA, MI, MN, MO and WI. (Hearing site: Cincinnati or Columbus, OH.)

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MC 124211 (Sub-345F), filed November 8, 1978. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of sporting goods and recreational equipment (except commodities in bulk), between the facilities of Frabill Manufacturing Co., at Milwaukee, WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Milwaukee, WI.)

NOTE.—Dual operations may be involved.

MC 125368 (Sub-39F), filed December 11, 1978. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: Roland Lowell, Sixth Floor, United American Bank Bldg., Nashville, TN 37219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass and glass products*, from the facilities of Libbey-Owens-Ford Glass, Inc., at or near Laurinburg, NC, to points in FL and TX. (Hearing site: Washington, DC, or Chicago, IL.)

MC 125951 (Sub-38F), filed November 6, 1978. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 700 West Center Rd., Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of Wilson Foods Corporation, at or near Cherokee, IA, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC, restricted to the transporation of traffic originating at the above-named origin facilities and destined to the above-indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

Note.—Dual operations are involved.

MC 126111 (Sub-9F), filed November 6, 1978. Applicant: SCHAETZEL TRUCKING COMPANY, INC., 520 Sullivan Drive, Fond du Lac, WI 54935. Representative: William Patrick Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sweetened condensed milk*, from Neenah, WI, to points in GA, IL, PA, IN, and TX, under contract with Galloway Company, of Neenah, WI. (Hearing site: Milwaukee, WI.)

MC 126305 (Sub-98F), filed December 11, 1978. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., Route 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paneling*, and *materials, equipment, and supplies*, used in the manufacture and sale of paneling, between the facilities of Pan American Gyro-Tex Company, at or near Jasper, FL, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, CO, NM, and TX. (Hearing site: Birmingham or Montgomery, AL.)

MC 126305 (Sub-99F), filed December 11, 1978. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., Route 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of United States Steel Corporation, at or near (a) Gary, IN, and (b) Joliet and South Chicago, IL, to points in AL, FL, GA, KY, LA, MS, and TN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Birmingham or Montgomery, AL.)

MC 127304 (Sub-16F), filed October 30, 1978. Applicant: CLEAR WATER TRUCK CO., INC., 9101 North West Street, Valley Center, KS 67147. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, transporting (1) *meats, meat products and meat byproducts, and articles* distributed by meat-packing houses, as described in sections A and C, of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in the United States (except AK, KS, and HI); and (2) *commodities* used by meat packers in the conduct of their business when destined to and for use by meat packers from points in the United States (except AK, KS, and HI), to the facilities of MBPXL Corporation, at or near Dodge City, KS, under contract with MBPXL Corporation, of Wichita, KS. (Hearing site: Wichita, KS.)

NOTE: Dual operations are involved in this proceeding.

MC 129032 (Sub-65F), filed November 13, 1978. Applicant: TOM INMAN TRUCKING, INC., 6015 So. 49th West Ave., Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and feed business houses, between the facilities of Ralston-Purina, at or near Davenport and Clinton, IA, on the one hand, and, on the other, points in IN, MI, and OH. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 133095 (Sub-228F), filed December 7, 1978. Applicant: TEXAS CONTINENTAL EXPRESS, IN., P.O. Box 434, Euless, TX 76039. Representative: Mark C. Ellison, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rubber gloves, administrations sets, inpatient treatment kits*, and (2) *drugs and intravenous solutions*, in containers, in vehicles equipped with mechanical refrigeration, from Rocky Mount, NC, to Jersey City, NJ, and Dedhan, MA. (Hearing site: Chicago, IL, or Atlanta, GA.)

MC 133095 (Sub-229F), filed December 11, 1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from the facilities of International Paper Company, at Corinth and Ticonderoga, NY, to points in the United States (except AK and HI). (Hearing site: Buffalo, NY.)

MC 133405 (Sub-7F), filed November 30, 1978. Applicant: BOWIE HALL TRUCKING, INC., P.O. Box 353, Waldorf, MD 20601. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages*, from Williamsburg, VA, to points in ME, NH, VT, MA, RI, and CT, and (2) *containers, dunnage, and pallets*, in the reverse direction. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved.

MC 134235 (Sub-13F), filed December 1, 1978. Applicant: KUHNLE BROTHERS, INC., 15625 Chillocothe Road, P.O. Box No. 128, Chagrin Falls, OH 44022. Representative: Kenneth T.

Johnson, Bankers Trust Building, Jamestown, NY 14701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *unit construction drainage systems*, and (2) *parts and components* for the commodities in (1) above, from the facilities of Aco Drain, Incorporation, at or near Chardon, OH, to points in MI, WI, IL, MO, IN, PA, NY, WV, VA, KY, TN, MS, AL, GA, NC, SC, and FL. (Hearing site: Cleveland, OH.)

NOTE.—Dual operations may be involved.

MC 136605 (Sub-82F), filed November 30, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *poly coated iron and steel articles*, from the facilities of Simcote, Inc., at or near St. Paul, MN, to points in the United States in and west of ND, SD, NE, KS, OK, and TX (except AK and HI). (Hearing site: Minneapolis, MN.)

MC 138875 (Sub-118F), filed December 7, 1978. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *copper wire, copper rod, and copper cable*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), from the facilities of Continental Copper and Steel Industries, Inc., at Linden, NJ, to the facilities of Continental Copper and Steel Industries, Inc., at West Jordan, UT, restricted to the transportation of traffic originating at the named origin and destined to the named destination. (Hearing site: New York, NY, or Washington, DC.)

MC 138882 (Sub-175F), filed November 13, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles*, from the facilities of Aim Packaging, Inc., at or near Port Clinton, OH, to those points in the United States in and east of WI, IL, KY, TN, and MS. (Hearing site: Cleveland or Toledo, OH.)

MC 138882 (Sub-177F), filed November 17, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and feed business houses, in containers, from the facilities of Ralston Purina Company, at or near Dunkirk, NY, to points in OH, PA, and WV. (Hearing Site: St. Louis, MO, or Montgomery, AL.)

MC 139906 (Sub-20F), filed October 19, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORP., 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *granular insulating material*, in bags, from Santa Ana, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

NOTE.—Dual operations are involved in this proceeding.

MC 140118 (Sub-13F), filed December 11, 1978. Applicant: S.T.L. TRANSPORT, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from points in OH and PA, to points in NY, under contract with Container Corporation of America, of Philadelphia, PA. (Hearing site: Philadelphia, PA, or Syracuse, NY.)

NOTE.—Dual operations may be involved in this proceeding.

MC 140118 (Sub-14F), filed December 13, 1978. Applicant: S.T.L. TRANSPORT, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *beverages* (except malt beverages), in cans and bottles, (1) from Boston, MA, to points in CT, ME, NH, NJ, NY, PA, RI, and VT, under contract with White Rock Products Corp., of Boston, MA, and (2) from Springfield, MA, to points in NY, under contract with Country Club Soda Co., Inc., of Springfield, MA. (Hearing site: Boston, MA, or Syracuse, NY.)

NOTE.—Dual operations may be involved in this proceeding.

MC 140241 (Sub-33F), filed November 6, 1978. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: William B. Barker, 641 Harrison St., Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *shredded rubber*, in bags, from Wichita, KS, to points in the United States (except AK and HI). (Hearing site: Kansas City, MO.)

MC 141273 (Sub-5F), filed November 21, 1978. Applicant: CARL NEESAM, 228 West Chestnut Street, Pardeeville, WI 53954. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed and feed ingredients, grain, soybean, and seed products and seed byproducts* (except commodities in bulk, in tank vehicles), from the facilities of Archer Daniels Midland Company, at or near Red Wing, MN, to points in CO, IL, IA, IN, KS, MO, NE, ND, SD, and WI. (Hearing site: Chicago, IL, or Minneapolis, MN.)

MC 141652 (Sub-29F), filed November 17, 1978. Applicant: ZIP TRUCKING, INC., Post Office Box 5717, Jackson, MS 39208. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree Street, N.E., Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *covered copper wire, fluorescent lamp ballasts*, and *equipment, materials, and supplies* used in the manufacture and distribution of covered copper wire and fluorescent lamp ballasts, (1) between Mendenhall and Gallman, MS, and Blytheville, AR, and (2) between Blytheville, AR, on the one hand, and, on the other, points in AZ, CA, CO, CT, MD, MA, NJ, NM, NY, OR, PA, UT, VA, and WA. (Hearing Site: New York, NY, or New Orleans, LA.)

MC 141804 (Sub-163F), filed October 30, 1978. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., a Nevada corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *warp beams, bobbins, pallets, forms, interior packaging, and packing trays*, from points in CA to points in SC. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142262 (Sub-4F), filed November 13, 1978. Applicant: BERNARD PAVELKA TRUCKING, INC., Route 1, Box 263B, Hastings, NE 68901. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor

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vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts* and *articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except commodities in bulk), (1) from Gibbon, NE, to points in WI (except Milwauke, WI), IL (except Chicago, IL), points in MN and IA, under contract with Gibbon Packing, Inc., of Gibbon, NE, and (2) from the facilities of Dugdale Packing Company, at or near Darr, NE, to points in KS, MO, IA, MN, WI, IL, KY, IN, OH, and MI, under contract with Dugdale Packing Company, of St. Joseph, MO. (Hearing Site: Lincoln, ME.)

MC 142508 (Sub-42F), filed December 12, 1978. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printed matter*, from the facilities of Quad-Graphics, Inc., at or near Pewaukee, WI, to points in the United States (except AK, HI, and WI), restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 142603 (Sub-7F), filed November 17, 1978. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles*, from South Deerfield, MA, and Danville, KY, to points in the United States (except AK and HI), under a continuing contract with Deerfield Plastics Co., Inc., of South Deerfield, NA. (Hearing site: Springfield or Boston, MA.)

MC 142703 (Sub-15F), filed November 6, 1978. Applicant: INTERMODAL TRANSPORTATION SERVICES, INC., 750 West Third Street, Cincinnati, OH 45214. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *genral commdities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Louisville, KY, on the one hand, and, on the other, points in IN, restricted to the transportation of traffic having a prior or subsequent movement by rail or water. (Hearing site: Columbus, OH.)

MC 143002 (Sub-5F), filed October 19, 1978. Applicant: C.D.B., INCORPORATED, 5170 36th Street, S.E., Grand Rapids, MI 49508. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household and personal care products*, and *materials and supplies* used in the manufacture and distribution of household and personal care products, between Ada, MI, on the one hand, and, on the other, the port of entry on the International Boundary line between the United States and Canada, at Sweetgrass, MT, under contract with Amway Corporation, of Ada, MI. (Hearing site: Grand Rapids or Lansing, MI.)

MC 143436 (Sub-17F), filed October 25, 1978. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, IN 46227. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery, dessert preparations, gumball machines and stands, and display and advertising materials*, in vehicles equipped with mechanical refrigeration, from the facilities of Leaf Confectionery, Inc., at or near Chicago, IL, to points in IN, KY,ME, OH, and WV. (Hearing site: Indianapolis, IN.)

MC 143553 (Sub-4F), filed November 20, 1978. Applicant: DIXON LEASING CO., INC., Old Egg Harbor Road, Lindenwold, NJ 08021. Representative: Calvin F. Major, 200 West Grace Street, Suite 415, Richmond, VA 23220. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corrugated asphalt, roofing* and *roofing accessories, rudge rolls, skylight sheets*, and *filler strips*, from Fredericksburg, VA, Philadelphia, PA, and Lindenwold and Port Elizabeth, NJ, to points in AL, AR, CO, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI, under a continuing contract with Onduline U.S.A., Inc., of Fredericksburg, VA. (Hearing site: Richmond or Fredericksburg, VA.)

MC 143775 (Sub-42F), filed December 12, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *toilet preparations, washing and scouring compounds, health and beauty care products, drugs, and display racks*, from the plantsite of Noxell Corporation, at Cockeysville, MD, to points in WA, OR, NV, CA, AZ, NM, and TX. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved.

MC 144622 (Sub-27F), filed November 13, 1978. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip Glenn (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs, rubber articles, plastic articles, and drugs*, (1) from the facilities of Ross Laboratories, a division of Abbott Laboratories, at Columbus, OH, to points in AR, LA, TX, and OK, restricted to the transportation of traffic originating at the named origin, and (2) from the facilities of Ross and Abbott Laboratories, a division of Abbott Laboratories, at Altavista, VA, to points in AR, CA, CO, IL, LA, OK, KS, MO, TN, TX, UT, OR, and WA, restricted to the transportation of traffic originating at the named origin. (Hearing site: Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 144674 (Sub-3F), filed October 30, 1978. Applicant: MJL Leasing, Inc., 623 East Main Street, Santa Paula, CA 93060. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *commodities* dealt in by distributors of food service supplies (except foodstuffs), between Long Island City, NY, and points in Los Angeles County, CA, under contract with Seneca-Delco Corporation, of Long Island City, NY. (Hearing site: Los Angeles, CA.)

MC 145126 (Sub-2F), filed October 26, 1978. Applicant: JERRY D. MARTIN, d.b.a. MARTIN TRUCKING CO., West Williams Street, Route 2, Cardington, OH 43315. Representative: James Duvall, P.O. Box 97, 220 West Bridge Street, Dublin, OH 43017. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *scales*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, assembly, and servicing of scales, between points in the United States, under contract with Toledo Scales, a Division of Reliance Electric Corporation, of Worthington, OH. (Hearing site: Columbus, OH.)

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MC 145152 (Sub-24F), filed November 15, 1978. Applicant: BIG THREE TRANSPORTATION, INC., Post Office Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *toilet preparations and toilet articles* (in vehicles equipped with mechanical refrigeration), from the facilities of Roux Laboratories, Inc., at or near Jacksonville, FL, to those points in VA on U.S. Hwy 1, points in AL, AR, CT, DE, GA, MA, MD, ME, MS, NH, NJ, NY, OK, PA, RI, VT, and DC. (Hearing site: Jacksonville, FL, or Fayetteville, AR.)

MC 145226 (Sub-2F), filed October 23, 1978. Applicant: HALES TRANSPORT COMPANY, INC., P.O. Box 692, Bridgeport, TX 76026. Representative: Billy R. Reid, P.O. Box 9093, Fort Worth, TX 76107. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *crushed stone*, from the facilities of Dolese, at or near Davis, OK, to Frisco and Farmers Branch, TX, under contract with Freeway Ready Mix, of Farmers Branch, TX. (Hearing site: Dalias, TX.)

MC 145281 (Sub-2F), filed October 30, 1978. Applicant: JAMES P. KEEGAN CO., INC., P.O. Box 426, Kinderhook, NY 12106. Representative: Frank T. Meehan, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) between New York, NY, on the one hand, and, on the other, points in Albany, Columbia, Dutchess, Greene, Montgomery, Oneida, Orange, Rennselaer, Saratoga, Schenectady, Schoharie, Ulster, and Westchester Counties, NY, and (b) between points in Albany, Columbia, Dutchess, Greene, Montgomery, Oneida, Orange, Putnam, Rennsselaer, Saratoga, Schenectady, Schoharie, Ulster, Washington, and Westchester Counties, NY; and (2) *lumber, lumber products*, and *roofing materials*, from Albany, NY, to points in CT, VT, and those in MA on and west of Interstate Hwy 91. (Hearing site: Albany or New York, NY.)

MC 145385 (Sub-1F), filed December 11, 1978. Applicant: SHADE TRANSPORTATION SYSTEMS, INC., 800 Heritage Road, DePere, WI 54115. Representative: David V. Purcell, 1330 Marine Plaza, 111 East Wisconsin Avenue, Milwaukee, WI 53202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of paper forms and printing paper, (except newsprint and commodities in bulk), (a) between DePere, WI, on the one hand, and, on the other, points in the United States (except AK and HI), and (b) between points in CO, GA, IL, IN, IA, KS, KY, MD, MI, MN, MO, NJ, NY, NC, OH, PA, and VA, under contract with Shade Information Systems, Inc., of DePere, WI. CONDITIONS: Said carrier shall conduct separately its contract carrier operation and its other business activities. Carrier shall maintain separate accounting systems for each such business. Carrier shall not transport property as both a private and for-hire carrier at the same time and in the same vehicle. (Hearing site: Green Bay, WI, or Milwaukee, WI.)

MC 145596F, filed October 17, 1978. Applicant: A & M EXPRESS, INC., 618 United American Bank Bldg., Nashville, TN 37219. Representative: Robert L. Baker (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *mining equipment, motors, and conveyors, and parts* for mining equipment, motors, and conveyors, and (2) *commodities* used in the manufacture and distribution of mining equipment, motors, and conveyors, between Rutherford County, TN, on the one hand, and, on the other, those points in the United States in and east of ID, UT, and AZ. (Hearing site: Nashville, TN, or Washington, DC.)

MC 145668F, filed November 6, 1978, and previously published in the FEDERAL REGISTER on December 19, 1978. Applicant: DACA, INC., 19450 North Hwy 99, Acampo, CA 95220. Representative: Fred H. Mackensen, 9454 Wilshire Blvd., Suite 400, Beverly Hills, CA 90212. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts* and *such commodities as are used by meat packers in the conduct of their business when destined to an for use by meat packers*, as described in sections A and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), between Lodi, CA, on the one hand, and, on the other, those points in the United States west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the boundary line between MN and WI, then along the eastern boundary of MN to the International Boundary line between the United States and Canada (except AK and HI), under contract with Goehring Meat Inc., of Lodi, CA. (Hearing site: Los Angeles, CA.)

NOTE.—The purpose of this republication is to include the state of MN in the territorial description.

MC 145695 (Sub-1F), filed December 11, 1978. Applicant: DISTRIBUTION SHIPPING COMPANY, INC., 200 Route 17 South, Mahwah, NJ 07430. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from South Hackensack, NJ, to Jacksonville, Orlando, Miami, Pompano Beach, and Tampa, FL, Greenville, SC, Charlotte and Raleigh, NC, Atlanta, GA, Louisville, KY, Montgomery, AL, Fort Worth, TX, and New Orleans, LA; under contract with Monterey Canning Company, Winn-Dixie Stores, Inc., of Jacksonville, FL. (Hearing site: New York, NY.)

MC 145701F, filed November 6, 1978. Applicant: D. C. TRANSPORT, INC., 916 South Riverside Ave., St. Clair, MI 48079. Representative: John W. Bryant, 900 Guardian Bldg., Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *salt and salt products*, (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of salt and salt products, from the facilities of Diamond Crystal Salt Company, at St. Clair, MI, and Akron, OH, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and DC; and (3) *materials, equipment, and supplies* used in the manufacture and distribution of salt and salt products (except commodities in bulk), in the reverse direction. (Hearing site: Detroit, MI, or Washington, DC.)

MC 145743 (Sub-2F), filed November 20, 1978. Applicant: TFS, INC., Box 126, Rural Route 2, Grand Island, NE 68801. Representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fiberglass buildings, fiber glass building sections and building panels, structural building components, and building equipment*, and (2) *materials, equipment, supplies, and accessories* used in the construction of

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buildings, (except commodities in bulk), between the facilities of Concept Fiberglass Homes, Inc., at or near Grand Island, NE, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Grand Island or Lincoln, NE.)

NOTE.—Dual operations may be involved.

MC 145655 (Sub-3F), filed December 12, 1978. Applicant: TYSON FOODS, INC., 2210 Oaklawn, P.O. Drawer E, Springdale, AR 72764. Representative: Michael H. Mashburn, 111 Holcomb Street, P.O. Box 869, Springdale, AR 72764. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from points in FL, IN, LA, MI, MO, NC, OH, TN, TX, VT, WA, and WI, to Springdale, AR, under contract with Northwest Arkansas Paper Company, of Springdale, AR. (Hearing site: Fayetteville or Fort Smith, AR.)

[FR Doc. 79-2973 Filed 1-29-79; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3)

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[6714-01-M]

1

FEDERAL DEPOSIT INSURANCE CORPORATION.

CHANGE IN SUBJECT MATTER OF AGENCY MEETING

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 4:00 p.m. on January 24, 1979, the Corporation's Board of Directors voted, on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), to withdraw the following item from consideration:

Memorandum and resolution proposing the adoption of a Joint Statement, revised, regarding the Classification of Assets, the Appraisal of Bonds and the Treatment of Securities Profits in Bank Examinations.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: January 25, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-193-79 Filed 1-26-79; 11:18 am]

[6714-01-M]

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FEDERAL DEPOSIT INSURANCE CORPORATION

CHANGES IN SUBJECT MATTER OF AGENCY MEETING

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 4:30 p.m. on January 24, 1979, the Corporation's Board of Directors voted, on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), to withdraw the following matter from the agenda for consideration at the meeting:

Application of American State Bank, McCook, Nebraska, for Federal deposit insurance.

The Board further determined, by the same majority vote, that Corporation business required the addition of the following matters to the agenda for the meeting, on less than seven days' notice to the public:

Recommendation regarding the liquidation of assets acquired by the Corporation from Northern Ohio Bank, Cleveland, Ohio (Case No. 43,796-L).

Memorandum regarding the liquidation of assets acquired by the Corporation from The Drovers' National Bank of Chicago, Chicago, Illinois (Legal Division memorandum dated January 23, 1979).

The Board then determined, by the same majority vote, that the public interest did not require consideration of these matters in a meeting open to public observation and that such matters could be considered in a meeting closed to public observation by authority of subsections (c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B) and (c)(10)).

The Board also determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: January 25, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-194-79 Filed 1-26-79; 11:18 am]

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federal register

TUESDAY, JANUARY 30, 1979
PART II



DEPARTMENT OF ENERGY

PROCUREMENT REGULATIONS HANDBOOK NO. 1

Internal Procedures and Policy for Source Evaluation and Selection Process

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[6450-01-M]

DEPARTMENT OF ENERGY

[Procurement Regulations Handbook No. 1]

PROPOSED PROCUREMENT REGULATIONS HANDBOOK

Internal Policy and Procedures, Source Evaluation and Selection Process

AGENCY: Department of Energy

ACTION: Proposed Procurement Regulations Handbook No. 1.

SUMMARY: The proposed procurement regulations handbook would establish internal policy and procedures for the Department of Energy in the source evaluation and selection process. The Handbook provides guidance to source selection officials, source evaluation boards and others who will participate in the preparation of requests for proposals, evaluations of proposals, preparation of source evaluation reports, presentations to selection officials and selection of offerors. The source evaluation board process is a process utilized by DOE to evaluate proposals submitted in response to formal requests for proposals above a specified dollar amount. The objectives of the process are to:

(1) Assure the efficient and effective expenditure of Government funds

(2) Optimize the opportunity for attainment of DOE program objectives

(3) Obtain adequate and effective competition in the acquisition of goods and services

(4) Assure impartial, equitable and thorough evaluation of proposals and other information received

(5) Provide necessary data to the source selection official to permit the selection of the best offer.

The provisions of this Handbook will be used in appropriate major procurements as provided for in DOE—Directives and Procurement Regulations and for other situations as determined by the Secretary, Deputy Secretary, or Under Secretary.

DATE: Comments must be received on or before February 28, 1979 to be considered.

ADDRESS: Comments should be addressed to Ms. Margaret W. Sibly, Office of Public Hearing Management, Department of Energy, Room 2221C, 20 Massachusetts Avenue NW, Washington, DC 20545.

FOR FURTHER INFORMATION CONTACT:

Robert J. Walsh, Procurement Policy Branch, Policy and Procedures Division, Procurement and Contracts Management Directorate, Room 308RB, 400 1st Street, NW, Washington, DC 20545. Telephone: 202-376-9057.

SUPPLEMENTARY INFORMATION: Under Section 644 of the Department of Energy Organization Act (Pub. L. 95-91, 91 Stat. 565, 42 U.S.C. 7254) the Secretary of The Department is authorized to prescribe such procedural rules and regulations as he may deem necessary or appropriate to effectuate the functions vested in him. To the extent that section 501 of The Department of Energy Organization Act (42 U.S.C. 7191) relating to the opportunity for oral presentation is applicable to the proposed handbook, our preliminary view is that no substantial issue of fact or law exists and that this proposed handbook is unlikely to have a substantial impact on the Nation's economy, or large numbers of individuals or businesses. This preliminary conclusion is based on the fact that the ERDA-SEB Handbook was used as the baseline for the DOE Handbook with revisions made to make it consistent with the DOE Organization and relatively minor substantive changes. A final determination of whether there should be an opportunity for the presentation of oral views will be made after an evaluation of the comments on the proposed handbook and consideration of the views of those requesting an opportunity for oral presentations.

Interested persons are invited to participate by submitting data or views with respect to the proposed handbook. Comments should be identified on the outside envelope and on documents submitted with the designation "Proposed Procurement Regulations Handbook No. 1". Ten copies should be submitted. All comments will be available for public inspection at the Department of Energy Freedom of Information Room, Room GA-152, 1000 Independence Avenue, Washington, DC 20585, between 8:00 AM and 4:30 PM, Monday through Friday, except for Federal holidays. All written comments received will be carefully assessed and fully considered prior to the publication of the handbook as a final regulation.

NOTE.—The Department of Energy has determined that the proposed Procurement Regulations Handbook does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107. The Department has also determined that the proposed handbook will not affect the quality of the environment and that the requirements of section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275 do not apply.

Dated: January 24, 1979.

For the Department of Energy.

HILARY J. RAUCH,
Deputy Director, Procurement and Contracts Management, Directorate.

The following Procurement Regulations Handbook No. 1 is proposed.

PROCUREMENT REGULATIONS HANDBOOK
No. 1

SOURCE, EVALUATION BOARD HANDBOOK[1]

DEPARTMENT OF ENERGY

Washington, D.C. 20545

FOREWORD

This Handbook is published to provide a compilation of significant policies and procedures applicable to the source evaluation and selection process. It provides guidance to source selection officials, source evaluation boards and others who will participate in the preparation of requests for proposals, evaluation of proposals, preparation of source evaluation board reports, presentations to selection officials and selection of officers.

The source evaluation board process is a process utilized by the DOE to evaluate proposals submitted in response to formal requests for proposals above a specified dollar amount. The objectives of the process are to:

- Assure the efficient and effective expenditure of Government funds.
- Optimize the opportunity for attainment of program objectives.
- Obtain adequate and effective competition in the acquisition of goods and services.
- Assure impartial, equitable and thorough evaluation of proposals and other information received.
- Provide necessary data to the source selection official to permit the selection of the best offer.

The provisions of this Handbook shall be used in appropriate major procurements as provided for in DOE-Directives and Procurement Regulations and for other situations as determined by the Secretary, Deputy Secretary or Under Secretary.

The source evaluation and selection process is dynamic and will require the exercise of astute judgment throughout the process. Therefore, the chairperson of the source evaluation board and the source selection official are expected to exercise their judgment with the advice of the legal and procurement members, in making appropriate variations and adaptations that are necessary in individual situations: *Provided*, That these do not constitute a departure from the basic policies and intent of this Handbook. Advance approval of substantive variations from

[1]ERDA Source Evaluation Board Handbook dated June 30, 1977, is hereby superseded.

the Handbook must be obtained from the Director, Procurement and Contracts Management Directorate to assure compliance with pertinent regulations, statutes and sound procurement practice.

In the event of inconsistency between the provisions of this Handbook and other DOE directives, regulations, management issuances, etc., the provisions of this Handbook govern insofar as source evaluation board (SEB) operations are concerned.

The provisions of this Handbook are applicable to all elements of DOE and are effective on the effective date of this Handbook except for those SEB activities already begun where the process is too far along to permit their application. This Handbook may also be used as guidance for other types of competitive solicitations such as Program Opportunity Notices (PONs).

This publication will be available to other Government agencies, contractors, and the public in general through sale of this document by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The Director, Procurement and Contracts Management Directorate is responsible for keeping this Handbook in a current status and therefore it is not to be rewritten, in whole or in part, by any other office in DOE. Comments or suggested revisions should be transmitted to: DOE, Washington, D.C. 20545, Attention: Director, Procurement and Contracts Management Directorate, Director, Policies and Procedures Division.

M. J. TASHJIAN,
Director, Procurement and Contracts Management Directorate.

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CHAPTER I—ESTABLISHMENT OF SOURCE EVALUATION BOARDS

101. *Determination of Requirements*

Prior to the establishment of a Source Evaluation Board (SEB) it is extremely important that the requirements of the program office are clearly and concisely defined and agreed to by the program officials. It is the responsibility of the cognizant program office or field office to determine its requirements consistent with its mission, giving appropriate consideration to budgetary and program approval documents. Before an SEB is established the program office should prepare in draft a detailed statement of work. This statement of work should clearly define what is to be done and the key milestones and objectives. The draft statement of work will be used by the SEB in preparing the request for proposals (RFP).

102. *Designation and Duties of Source Evaluation Board Members, Ex-Officio Members and Advisors*

a. The Secretary, Deputy Secretary, Under Secretary or an Assistant Secretary ordinarily will be the source selection official and will designate the board members. In those instances where a field office manager is delegated authority as the source selection official, the field office manager will designate the board members, and any reference in this manual to duties to be performed by the Director, Procurement and Contracts Management Directorate or the SEB Secretariat will be performed by personnel appointed by the field office manager.

b. To establish a Headquarters SEB (an SEB where the source selection official is a Headquarters official) the program director should submit a complete procurement request together with the names and position titles of the suggested chairperson, executive secretary, voting members, legal (nonvoting) member, ex-officio members, and advisors of the proposed SEB to the Director, Procurement and Contracts Management Directorate. It should be noted that the SEB process involves a substantial amount of full-time effort on the part of board members; therefore, this should be considered in nominating individuals for board membership. The Procurement and Contracts Management Directorate—SEB Secretariat will prepare a memorandum and letter establishing the SEB, as presented in Appendix #1, naming board and exofficio members and advisors and send it to the source selection official for review and approval.

c. Changes in the board membership will be made only with the approval of the source selection official. The letter designating the change will be prepared and issued in the same manner as the original letter establishing the board. The chairperson, however may replace the executive secretary without approval of the source selection official.

d. In suggesting the composition of the board, consideration should be given to the following:

(1) *Board Membership*—In keeping with the importance of the source evaluation and selection process, source evaluation boards should be composed of highly qualified DOE technical and business personnel. When appropriate, personnel from other Federal Government agencies may serve as board members. The board chairperson and secretary normally will be from the program orga-

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nization having cognizance of the procurement. The executive secretary will not have a vote.

It is desirable that at least one person who will be given a key technical assignment on the project to which the procurement is directed be designated a board member. At least two members of every SEB shall be from organizations other than the cognizant program office. One of these two members shall be from the procurement organization. To provide continuity in negotiation of the resulting contract, the procurement member normally should be that individual who, it is anticipated, will negotiate the contract.

The Assistant General counsel for Procurement or counsel for the supporting field activity will designate for each SEB a legal (nonvoting) member who will serve as a representative of the Office of General Counsel. Since the legal member does not have a vote, the legal member's presence will not be required at all meetings of the board. However, the legal member will be available on an as needed basis and advice will be sought from that member in all important or potentially controversial actions of the Board and all actions of legal significance. The legal member will be timely informed of all SEB activities and meetings.

The board should be small in size, normally not exceeding five voting members. Each voting member will have one vote.

(2) *Board Chairperson*—The chairperson of the board is its principal operating executive. The chairperson is in charge of and responsible for procedural aspects of the board activities, including:

Assuring that all board members have reviewed the SEB Handbook in detail.

Scheduling and conducting all board meetings and deliberations.

Designating, after consultation with board members, necessary committees and advisors (in addition to those appointed by the Source Selection Official) and appointing chairpersons of such committees.

Assuring that the SEB executives secretary prepares board records summarizing its meetings and substantiating all board findings, conclusions and recommendations.

Resolving all board procedural matters not specifically covered in this Handbook. If a significant problem develops, it should be brought to the attention of the SEB Secretariat and the legal member.

(3) *Board Executive Secretary*—The board executive secretary will perform those duties assigned by the chairperson such as those identified in Appendix #2.

(4) *Ex-Officio Members*—Boards may have as nonvoting ex-officio members the cognizant assistant secretary-level official, program director, or field office manager. The SEB Secretariat shall provide an ex-officio member to every SEB even though not specifically designated in the letter establishing the SEB. Ex-officio members will be required to comply with DOE conflict of interest regulations and nondisclosure of information requirements. The role of the ex-officio member is to provide advice and assistance to the board and to the source selection official and to receive periodic progress reports as appropriate. Ex-officio members are not to direct the board to take a particular action or to be involved in the day-to-day operation of the board. The cognizant contracting office may also have a procurement representative as an ex-officio member on the board when the contracting office is not otherwise represented on the board by such an individual. This will aid in the continuity in negotiations.

(5) *Advisors and Committee Members*—Only personnel from DOE, other Federal Government agencies and DOE prime managment or operating contractors may be used as advisors or committee members when their services are necessary and available. These individuals will be required to comply with DOE conflict of interest regulations and non-disclosure of information requirements. Advisors and committee members will be utilized in discrete areas where they have a special expertise and will not be given access to overall board activities.

103. *Role of Source Selection Official*

a. The source selection official (SSO) will be a senior DOE official specifically designated for that purpose. His role starts with the determination of requirements and establishment of a source evaluation board to evaluate proposals. A copy of the Procurement Plan/Schedule of the SEB will be forwarded to the SSO through the SEB Secretariat. The SSO may request periodic written reports of progress against the schedule. It is the source selection official's task to make the selection decision by judging which of the proposals are most advantageous to the Government, all things considered. The selection official should, in the light of the Government's stated requirements and evaluation criteria in the RFP, consider, as appropriate, the relative quality and suitability of what is being offered by each proposer, the likelihood of its being performed and how much each offer would probably cost the Government. In making his selection, he must consider all factors pertinent to the choice and make the necessary tradeoff judgments as may be required between quality, schedule, and price. The board will not recommend the selection of a contractor, but will report its findings and conclusions and answer all questions raised by the source selection official and assist him with any special analyses or other requirements for clarifying matters related to the final selection.

b. (1) The selection of offerors will be made by the Source Selection Official in light of the SEB's presentation after consultation with senior staff. It is generally desirable to select a single offeror for negotiation. However, there may be cases where the Source Selection Official may determine that it is in the best interests of the Government to select from offers in the form of fully definitized contractual instruments. This may occur when the Source Selection Official has serious questions about the outcome of negotiations, or when the evaluation is so close as to not provide meaningful discrimination. In this event, the Source Selection Official, may if appropriate, establish, or direct the SEB to establish, a new or revised competitive range and direct that discussions be reopened with all offerors then in the competitive range.

(2) If the Source Selection Official directs discussions be reopened, it will be the responsibility of the SEB to obtain and present to the Source Selection Official for consideration and final selection, fully definitized best and final offers in the form of signed contractual instruments from each offeror.

c. The Source Selection Official shall, unless otherwise provided by rule or regulation, have the authority and responsbility to make the affirmative determinations required by 42 U.S.C. 5918(b) as to whether (1) there is little or no likelihood an organizational conflict of interest would exist as a result of an award or (2) that such conflict will be avoided after appropriate conditions have been included in the award instrument. In the event the Source Selection Official determines that a conflict of interest exists and that such conflict cannot be avoided by including appropriate conditions in the award instrument, the Source Selection Official, provided that person is the Secretary, the Deputy Secretary, the Under Secretary, or an Assistant Secretary, may nevertheless authorize award if the Source Selection Official determines that it is in the best interests of the United States to made such award and the award instrument includes appropriate conditions in such contract agreement, or aggrangement to mitigate such conflict.

d. After selection had been made, the Office of General Counsel will prepare a concise selection statement which will provide the rationale for the selection decision. The selection statement will be formally coordinated with the SEB Chairperson and SEB Secretariat prior to submission to the source selection official. The selection statement will be dated, signed by the source selection official, and retained in the official contract files. Appropriate notifications and announcements will be made after the selection decision, in accordance with Chapter VII.

104. *Safeguards to Preserve Integrity of SEB Process*

a. Everyone who participates in the evaluation process (board members, committee members, advisors) is required to sign a Confidentiality Certificate (Appendix #3). The chairperson should brief all board committee members and advisors on the sensitivity of the SEB process, the prohibition against unauthorized disclosure of information and the requirements pertaining to conflict of interest. Each individual involved in the evaluation should inform the chairperson in writing whenever the individuals participation in board activities might embarrass the Government because of a real, apparent or possible conflict of interest. Whenever conflicts between SEB activities and a participants personal interests are disclosed, that conflict must be jointly resolved by the SEB chairperson and legal member and the SEB file so documented. In the event of disagreement, or for conflicts involving either the chairperson or legal member, the matter should be promptly presented to the General Counsel or designee for resolution.

b. During SEB activities, including written or oral discussions, participants will not reveal any information concerning the evaluation to anyone who is not also participating in the same proceedings and then only to the extent that such information is required in connection with such proceedings. 18 U.S.C. 1905 prohibits the unauthorized disclosure of business, confidential, or trade secret information unless authorized by law.

c. The right to information relating to SEB activities on a need-to-know basis normally does not extend to the chain of supervision of board members. However, nothing in the Handbook precludes reasonable, general progress reports of board activities by the board chairperson to ex-officio members and the source selection official nor the consultation between the legal and procurement members and their superiors as to proper procurement procedures.

CHAPTER II—PREPARATION OF REQUEST FOR PROPOSALS

201. *Role of Program Office and Procurement*

a. The cognizant procurement representative and program office will work together in the development of the draft request for proposals. The effectiveness of any evaluation is dependent, in large measure, on the quality of the RFP and whether it will lead to the submission of comparable proposals. Therefore special care and attention should be devoted to the development of the RFP. Ordinarily the preparation of the draft RFP will be initiated prior to the establishment of the SEB and be available for the first or second meeting of the board. The complete statement of work, specifications, project objectives and schedule are the primary responsibility of the program office while the business aspects are primarily the responsibility of the procurement representative. In the development of the RFP, special consideration will be given to the qualification criteria, evaluation criteria and the requirements for price and cost information.

b. Pending any subsequent revision of the RFP format, the following format should be used. The RFP should contain a covering letter transmitting the RFP to prospective offerors. The RFP will contain general instructions and have the following enclosures as appropriate:

I Description of Work or Services
II Qualification Criteria
III Evaluation Criteria
IV Price/Cost Considerations
V Representatives and Certifications
VI Proposal Format
VII Draft Contract
VIII Other Information

c. When the draft RFP has been completed and reviewed by the cognizant procurement office, it will be submitted to the SEB for review and modification. At an appropriate stage in the process either before or after the SEB is established, the draft RFP or portion thereof may be published for comment by the Director, Procurement and Contract Management Directorate.

02. *Transmittal Letter*

a. The transmittal letter of the RFP should include the following areas:

1. Briefly describe the work to be done of the services to be furnished.

2. Identify the point of contact for all questions or inquires.

3. Describe the type of contract that is contemplated, i.e., cost-reimbursement or fixed price, and any special incentive or cost participation features.

4. Provide an overview of the RFP briefly describing each of the enclosures.

5. Indicate that it is DOE's policy to discourage "brochuremanship" and unnecessarily costly proposal preparation. Proposals should be prepared with maximum economy, consistent with the particular procurement, to ensure that the resources of both proposers and evaluators are efficiently utilized.

6. Provide a brief schedule of major activities of the SEB such as:

—Preproposal Conference Date
—Proposal Due Date
—Tentative Board Visit Dates
—Tentative Source Selection Decision Date

7. State the exact time and place where proposals are due and the number of copies required.

8. Request an acknowledgement of receipt of the RFP, indicating whether or not the organization intends to submit a proposal and attend the preproposal conference.

b. In addition, an attachment to the transmittal letter should cover the following areas:

1. Describe the technical, business and management evaluation criteria and clearly indicate their relative importance. It is not sufficient to merely rank the criteria in terms of "primary," "secondary," and next in importance. For example, if the first of five criteria represents 72% of the total score and six times the weight of the second most important criterion, the predominant value of that criterion should be indicated in the RFP in some narrative manner.

The criteria should also be listed in descending order of importance. The major evaluation criteria may be divided into subcriteria which should be described in terms of their relative importance and also be listed in order of relative importance. The actual numerical weights assigned to the evalution criteria will not be included in the RFP.

2. Indicate the relative importance of cost in relation to the technical, business and management evaluation criteria.

3. State if a preproposal conference will be held; give details as to when, where and necessary limitations on the number of attendees. If security clearance or other special administrative arrangements are necessary to secure admittance to a conference, so state. Details of conference procedures should be determined and stated. If written questions are to be submitted by attendees for answers at the conference, offerors should be informed as to how and when they will be submitted and to whom. Other administrative details should also be stated, if known at the time, e.g., restrictions on recording of proceedings. Sufficient time must be permitted for potential offerors to review the RFP prior to any preproposal conference.

4. Inform all prospective offerors that DOE may solicit, from available sources, relevant information concerning the offeror's record of past per-

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formance and use such information in the evaluation and selection process.

5. State that each offeror should represent that the proposal will remain in effect for a specified period of time, e.g., 120 days from the date designated for receipt of proposals.

6. Indicate that the person signing the proposal must have the authority to commit the proposer to all of the provisions of the proposal.

7. State that, in order to receive proper handling and in consideration of the Freedom of Information Act, any information in the offeror's proposal which is considered to be trade secrets, commercial or financial information, priviledged or confidential or of a personal nature should be specifically identified.

8. State that the RFP does not commit the Government to pay any costs incurred in the preparation or submission of any proposal or to procure or contract for any services.

9. State that proposals should contain the most favorable terms to DOE which the offeror can submit and that DOE reserves the right, without qualification, to select any proposal as a basis for negotiation or to reject any and all proposals.

10. State that late proposals will be treated in accordance with FPR 1-3.802-1 Consideration of Late Proposals.

11. State that the Contracting Officer is the only individual who can legally commit the Government to the expenditure of funds in connection with this proposed procurement. Any other commitment, either explicit or implied, is invalid.

12. State that the source evaluation process will be conducted in accordance with the DOE-SEB Handbook and that a copy may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

13. When appropriate, state that the number of awards anticipated or that multiple awards may be made.

203. *Description of Work or Services*

This enclosure to the RFP, which should become part of the draft contract, should describe in appropriate detail the work or services to be procured including deliverables. Wherever possible, it should also identify specific objectives, goals and intermediate milestones that will be used to measure the contractor's performance in regard to technical, schedule and cost aspects. Requirements for work to be performed under the resulting contract must be adequately described in the draft contract (including its statement of work). Any such requirements set forth in other portions of the RFP, e.g., the transmittal letter, instructions, criteria, may not effectively bind the offeror or may be omitted from the resulting contract.

204. *Qualification Criteria*

Qualification criteria, if any, should be sparingly employed where there are elements of special experience, capability, facilities, or other factors which are essential to the program performance aspects of the procurement. Qualification criteria must be clearly stated, and restricted to elements which are essential to the successful completion of the contract work. Stated another way, they are go/no go criteria which depict the minimum qualifications for a particular procurement. In addition, the area of organizational conflict of interest may be a qualification criteria (see Chapter IV, Section 403). The purpose of qualification criteria is to discourage unqualified organizations from incurring the time and expense associated with the submission of proposals when they clearly have no opportunity for selection.

205. *Evaluation Criteria*

a. The evaluation criteria will consist of those elements which the board must examine in each proposal to determine an offeror's:

Understanding of the work to be performed, including environmental and safety issues;
Technical, business and management approach;
Potential for completing the job as specified in the RFP;
Probable cost based upon offerors approach;
Relative qualifications and experience of both the proposer and key individuals proposed;
Comparative competitive status;
Offerors commitment and assumption of risk.

b. Too many evaluation criteria are as detrimental to an effective evaluation of a proposal as are too few. The evaluation process should be aimed at ascertaining and assessing distinctions among significant aspects of the work to be performed rather than identifying the relatively unimportant differences to be expected when multiple proposals are received. Evaluation criteria will be limited to the minimum number which will:

Allow for the above determinations to be made and
Indicate significant differences or distinguishing features among proposals.

There are no restrictions on the kinds of evaluation criteria which may be used, as long as they are disclosed in the RFP and relate to the purposes of the procurement. The specific criteria used will depend on the particular circumstances, however, they will generally fall into the following major categories: (a) Technical; (b) business and management; and (c) cost.

D. Each evaluation criterion should be stated clearly and concisely. The discipline of delineating criteria will highlight overlap or redundancy among the several criteria so that the descriptions can be reworked to eliminate overlapping or redundant concepts and double scoring. The criteria set out in the RFP must be used in evaluation and will not be changed without the approval of the SSO and amendment of the RFP.

206. *Evaluation Criteria—Price and Cost Considerations*

a. This enclosure to the RFP should indicate the relative importance of cost in the evaluation and describe the type of cost information and the format to be used by the offerors. Cost, especially in the case of a cost-reimbursement type contract, should be measured in terms of cost realism in addition to the lowest estimated cost. An unrealistic cost proposal may reflect adversely on an offeror's understanding of the project.

b. In cost-reimbursement type contracts, particularly if there is a lengthy performance period, it may be necessary to forecast general economic factors and the anticipated demand for essential materials. Because these forecasts could materially affect the estimated contract costs and offerors may have little or no control over them, the RFP should specify the estimating assumptions which are to be used.

c. For example, in estimating the cost of a program to be performed over a five-year period, offerors would find it necessary to project the rate of inflation and the national demand for a given fuel. Because neither of these factors is within the control of an offeror and because cost estimates would be materially affected by the projections, the RFP should include the assumptions to be used in proposal preparation. Otherwise, there could be no assurance that the cost projections submitted would provide a valid basis for comparison.

d. When detailed cost estimates are requested, the cost information should be furnished in regard to major subcontracts. The offerors' proposed costs are to be related to the proposed contract period of performance, escalated, as necessary, to cover geographical differences, union agreements, personnel practices, and normal economic conditions peculiar to the offeror. For long term periods of performance (usually beyond 3 years) or for unusual economic conditions, the RFP should state the additional economic escalation rates that are to be used by the offerors in projecting their costs.

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207. *Representations and Certifications*

Include the most current representations and certifications form covering small business, contingent fee, equal employment opportunity, cost accounting standards, clean air and water certifications, etc.

208. *Proposal Format*

a. This enclosure to the RFP should prescribe the format that each offeror should follow in preparing its proposal in response to the RFP. The proposal format should conform to the RFP format and should be separated into sections. Generally the following format is suitable:

Part I General information covering such areas as: cognizant Government agencies, representations and certifications, information required for the Fact Sheet, etc.
Part II Information related to qualification criteria.
Part III Information related to technical evaluation criteria.
Part IV Information related to business and management evaluation criteria.
Part V Price and Cost information.
Part VI Comments on draft contract.
Part VII Other information.

b. Supporting information should be keyed to the appropriate part and paragraph in the RFP. For ease of evaluation, it may be desirable to prescribe the use of separate volumes addressing the technical evaluation criteria, business and management evaluation criteria; and price and cost information. To the extent practicable, specify the use of graphs, charts and tables which will facilitate the comparison of proposals. In addition, consideration should also be given to specifying a limited number of pages for each part of the proposal.

209. *Draft Contract*

This enclosure should contain the draft contract or, as a minimum, all required and special clauses likely to affect an offeror's willingness to submit a proposal.

210. *Other Information.*

It is the policy of DOE to provide small business/minority business firms an equitable opportunity to participate in DOE procurements with the objective of assuring that such firms receive their fair share of DOE contracts. Since the provisions of this Handbook apply to procurements which are of a high dollar value and may be beyond the capabilities of small business/minority business it is important that appropriate consideration is given, under Business and Management Evaluation Criteria to offeror's small and minority business subcontracting programs. Therefore each RFP should contain a provision requiring the offeror to describe its proposed small and minority buiness programs to be followed during the period of performance of the proposed contract.

CHAPTER III—FUNCTIONS AND RESPONSIBILITIES OF THE SEB—PRIOR TO RECEIPT OF PROPOSALS

301. *Administrative Matters*

a. *Conduct of Board Activities*

1. The SEB will be convened as directed by the chairperson. A simple majority of the voting members of the board constitutes a quorum for conducting board business. Board duties will take priority over normal duty assignments.

2. Attendance at board meetings is necessary to the evaluation process and members will attend except for compelling reasons. When the chairperson determines that a member's failure to attend meetings is prejudicial to the evaluation, the chairperson may request the source selection official to require the member's attendance or to replace such individual. It is the responsibility or the board chairperson to arrange for adequate and secure working space and facilities for the board. It is desirable to have a conference room fully dedicated to the SEB for its use during this process.

3. Full discussion of all matters considered by the board is encouraged. Differences of opinion should be explored with the objective of reaching a consensus or a common understanding on statements of issues which reflect fairly the differing views of board members.

4. Contacts with offerors and the private sector should be handled by one member of the board, normally the procurement member or SEB executive secretary as authorized by the chairman. Board members, advisors, and committee members will advise the chairperson of any inquiries received concerning the board's proceedings or the composition of the board directed to them from any source outside the board. An appropriate record of such inquiries shall be included in the file.

b. *Protection of Board Information*

Procedures shall be established for the secure handling of proposals, worksheets, records of meetings, reports and other documentation relating to the SEB process. All proposals, SEB reports and briefing charts will be numbered and controlled by the board secretary. Information given to and transfers between committees should be kept to a minimum and only provided on a need-to-know basis as approved by the SEB chairperson. Committee members and advisors should not be given the weights assigned to the evaluation criteria.

Requests for information should be carefully considered by the board and its legal member and, if it is decided to release certain information, it should be made available to all potential or actual offerors. After receipt of proposals, no information regarding the number or identity of the offerors or any information contained in their proposals will be made available to the public or to anyone whose official duties do not require such knowledge.

c. *Protests*—Everyone involved in the process and especially the chairperson of the SEB should do everything possible in regard to the RFP and the evaluation process to assure impartial, equitable and thorough treatment is accorded all potential and actual offerors in order to avoid any organization being given an unfair competitive advantage over any other organization. Offerors may file a protest with the Agency or with the General Accounting Office if the offeror believes that the board has not followed established procedures or has conducted the competition in such a way as to give one or more offerors an unfair competitive advantage. The ultimate effect of such a protest, if filed before award, could be to hold up the award, and, if filed after award, could be to invalidate such award. If the chairperson becomes aware of any protest that may be or has been filed, the chairperson should immediately notify the procurement member on the board who will in turn notify the appropriate individual in the Procurement and Contracts Management Directorate. The SEB chairperson should also notify the SEB secretariat and the legal member.

d. *Freedom of Information Act*—Any requests for information under the Freedom of Information Act should be directed to the cognizant Freedom of Information Act officer. The SEB chairperson should also notify the SEB secretariat. No information which could provide an advantage to one or more offerors should be released prior to award of all contracts contemplated by the solicitation.

302. *Preparation of Procurement Plan/Schedule*

An initial task of the board will be to review the procurement plan and schedule indicating how the board expects to accomplish its assignment. This procurement plan/schedule will be prepared in draft form by the procurement office and program office and will be submitted to the chairperson at the first or second meeting of the board. It will provide comments in relation to the following areas as appropriate:

Brief description of work or services to be procured;
Period of performance and proposed type of contract;
Responsible technical office;
Responsible contracting office;

Total estimated amount of the procurement;
Status of congressional appropriations and authorizations, if applicable;
Tentative qualification criteria, if any;
Tentative evaluation criteria—technical, business and management;
Tentative price/cost considerations;
Procurement schedule starting with establishment of board through expected award of contract;
Special considerations such as determinations to be made by the SSO.

b. After the procurement plan/schedule has been reviewed by the board it will be forwarded by the chairperson to the source selection official and Procurement and Contracts Management Directorate—SEB Secretariat. This document should be marked "Official Use Only" and transmitted in a sealed envelope to be opened only by addressee.

303. *Organization of the SEB*

a. The source evaluation board will be composed of the chairperson, members, executive secretary, legal member (nonvoting), ex-officio members and advisors as designated by the source selection official. Based upon the circumstances surrounding the particular procurement, the chairperson, with the advice of the board, will decide whether to establish committees and appoint additional advisors. It is anticipated that on most major procurements there will be a need for technical, business/management and cost committees. Committees may be established and convened prior to receipt of proposals.

b. To ensure board control, coordination and exchange of ideas, the chairperson of each committee should, if practicable, be a voting member of the board. Each committee chairperson will exercise the same responsibility with respect to procedural matters for the committee as does the board chairperson for the SEB. The findings and conclusions of committees shall be purely advisory.

304. *Review and Approval of RFP*

a. The procurement office and the cognizant program office will develop a draft RFP which will be submitted to the SEB for review and approval. It is important that the board carefully reviews the RFP to be sure that it clearly states the requirements and is fully understood by the board members. The board should make such modifications as it deems necessary to assure itself that the RFP will be able to accomplish its objectives.

b. When ready to start board work on the RFP, the chairperson will formally convene the board. Members will familiarize themselves with the objectives of the procurement and any unique considerations involved. Proposed qualification criteria will be reviewed, changed, as appropriate, and approved. Evaluation criteria will be reviewed for validity and susceptibility of being rated in order to distinguish among competing proposals. As part of this review, particular attention will be paid to the narrative definitions, developed for evaluation criteria in order to eliminate any overlap, conflict or redundancy. The board will change, as appropriate, and approve the evaluation criteria to be used.

c. Once evaluation criteria are established, the board will determine the weights to be assigned to each, depending on its relative importance to the accomplishment of the procurement objectives. Complementary to this, a rating plan will be agreed upon. The establishment of appropriate evaluation criteria and weights prior to release of the RFP is required to assure impartial evaluation. Evaluation criteria and weights assigned will not be altered after proposals are opened.

d. In its review of the RFP, the board should be mindful that it is DOE policy to obtain maximum competition consistent with the nature of the procurement. However, in view of the distinctive characteristics of many DOE programs and in the interest of the public, those companies which do not possess minimum qualifications and resources necessary to perform the proposed work should not be encouraged to incur proposal and other expenses involved in competitive submission. To accomplish this objective without limiting meaningful competition requires early and intense effort on the part of the board, working in conjunction with the program and procurement staff elements most familiar with the requirements. Timely attention to program requirements of the proposed procurement by the board will permit prompt identification of qualification criteria against which source list may be screened so that only qualified concerns are asked to submit proposals.

e. *Qualification criteria* should be employed only where it is possible for the board to establish qualification criteria which are:

Demonstrably justified from the nature of the particular procurement objective; and,
Susceptible to objective application to all potential sources.

Qualification criteria are not intended to restrict competition but to discourage proposal preparation by sources which have no real possibility of receiving the award.

f. *Evaluation criteria.* Weights and the rating plan selected should be established on a case-by-case basis in order to fit them to the significant factors of the particular procurement. Technical excellence, business/management capability and cost aspects all may be equally important factors in one selection while, in another, because of the conditions under which the selected contractor will perform, one or two may have limited significance.

The relative importance of the technical, business/management and cost criteria depends on the nature of the products or services to be procured, with technical considerations having paramount importance in research and development. Nevertheless, any factor may tip the balance when competition is very close.

g. Ordinarily the RFP will require the submission of complete proposals at one point in time. However, under special conditions it may be desirable to solicit technical proposals first and call for submission of cost proposals at a later date. Prospective contractors frequently work and rework technical proposals until immediately prior to submission in order to present the best proposal possible in the time allowed. In such circumstances, if DOE has required the simultaneous submission of a cost proposal covering the proposed work, the figures submitted by the potential contractor may be of questionable value, even for estimating purposes. Some delay in the date when cost proposals are required may be more than compensated for by a greater reliability of cost estimates and the resultant time saving made possible in later negotiations with the successful offeror. When delay in submission of cost proposals is appropriate, the RFP will include the closing date for both technical and cost proposals. In no event, however, may a competitive range be established until after receipt and consideration of technical and required cost information.

305. *Development of Source List*

The procurement office and the cognizant program office will develop a draft list of sources based upon the nature of the procurement and the draft RFP. This draft source list will be reviewed and amended as appropriate by the board based upon careful consideration of factors affecting the procurement. Prior to the issuance of the RFP, appropriate notice will be placed in the Commerce Business Daily, in accordance with FPR 1-1.1003. Such notice and any other public announcements should include any qualification criteria that will appear in the RFP.

306. *Development of Rating Plan*

a. The best rating plan for a particular procurement is dependent on the objectives of that procurement. The rating plan should be developed prior to the issuance of the RFP. Before receipt of proposals, the board should reexamine its determination of weights to be assigned and the rating plan to be used. Where some adjustment appears necessary to accomplish the procurement objectives, such adjustment may be made without formally amending the RFP prior to receipt of proposals, only if consistent with the terms of the RFP and the relative importance of the criteria expressed therein. After receipt of proposals, no changes may be made in the evaluation criteria or in the weight assigned to each.

b. Two principal methods of rating selected evaluation criteria have been used: Numerical and adjective. The numerical method involves assigning numerical values or weights corresponding to the relative importance of the factor being evaluated in order to provide a means of comparison. The adjective method uses adjective ratings (e.g., "outstanding", "good", etc.) to provide a means of comparison. Numerical weights will be assigned to the technical evaluation criteria and they will be point scored. However business/management evaluation criteria will not ordinarily be assigned numerical weights. When not assigned numerical weights, adjective ratings will be used to rate these criteria. In situations where management capabilities and business expertise is the primary service being procured such as in operating and some support service requirements, numerical weights and scoring may be appropriate for business/management evaluation criteria. Cost will not be assigned a numerical weight or point scored or adjective rated.

c. While infinite variations are possible, there are advantages in using a standard method when the nature of the evaluaton permits. However, certain cautions must be observed with respect to all numerical and adjective rating plans:

They are only as good as the judgments made in selecting criteria and weights. They do not ensure the mathematical certitude that the numbers might lead one to believe.

When the number of subdivisions to be rated is not kept to a necessary minimum, they tend to introduce an "averaging out" effect among all proposals, thus making it difficult to differentiate in important areas of evaluation.

d. Depending on the rating plan employed, the manner in which a board reaches its final composite position may be through averages, curves, board consensus or any other means which are reasonable and followed consistently. The method of reaching composite ratings will be part of the rating plan established prior to the opening of proposals. In developing the rating plan the board should arrive at a common understanding or definition of the numerical scale and adjectives in terms of strengths and weaknesses.

e. For illustration and guidance only, it is noted that a frequently used method is to assign numerical weights to each technical evaluation criterion and subcriterion stated in the RFP which effectively reflects its proportionate importance to all the technical evaluation criteria. Determination of importance and assigning weights to each criteria obviously requires a considered judgment in the light of the procurement objectives. Assume that a total of 100 points is used as the maximum weight for the technical evaluation criteria and using a scale of 0–10 points to reflect the boards evaluation of each criteria and subcriterion the board would then arrive at a total maximum possible rating of 1000 points.

f. In regard to the business/management evaluation criteria a frequently used method is to assign adjectives such as: outstanding, good, satisfactory, poor, unsatisfactory; to each criterion to reflect the evaluation by the board.

g. Once the rating plan has been established, the board should develop worksheets to be used by each board member for rating each proposal against the technical and business/management evaluation criteria.

h. As an example, a rating sheet that may be used for rating the evaluation criteria for proposals received is presented as Appendix #4. This sample rating sheet provides for assignment of a particular weight to each evaluation criterion and, in turn, to each subcriterion on the basis of a sum total thereof of 100. It also indicates that each criterion or subcriterion would be rated on the basis of a scale of 0 to 10. Under this rating plan each board member would evaluate each offeror's proposal and then, using the assigned ratings as coefficients, arrive at the number of points assigned to each offeror by multiplying the numerical ratings by the assigned weights and totaling the scores for each evaluation criterion.

307. *Issuance of RFP*

After the RFP has been reviewed and formally approved by the board, it will be submitted to the Procurement and Contracts Management Directorate, Director, Program Support, who will appoint a solicitation review panel and distribute copies of the RFP and allied documents to each member. The panel will be convened not sooner than three working days after receipt of the RFPs by its members. This review will be conducted by appropriate staff, including the program office. While this review is taking place, the board should be finalizing the source list, rating plan and the announcement for the Commerce Business Daily as drafted by the procurement office and program office. The RFP will be modified as appropriate by the SEB and approved for release after receipt of comments from the solicitation review panel and the SSO who may require a briefing on the RFP prior to its release. The RFP will be signed by the procurement member on the board. Each organization requesting an RFP should be given a copy or an opportunity to review the RFP and reference material in a public document room or other appropriate location.

The SEB will also forward a copy of the RFP and subsequent modifications to the SEB Secretariat.

308. *Preproposal Conference*

a. A preproposal conference should be held for all procurements significant enough to justify a formal SEB. The preproposal conference permits prospective offerors the opportunity to gain a better understanding of the objectives of the procurement. It also offers the board an opportunity to stress the importance of significant elements of the RFP in order that interested organizations may judge whether to incur the cost of proposal preparation.

b. Ordinarily, the chairperson will make the necessary arrangements and conduct the preproposal conference. Interested organizations normally expect a general presentation followed by the opportunity to ask specific questions. Questions should be submitted in writing prior to the conference and qualified DOE personnel should be available at the conference to answer them. Questions received at the conference may be answered orally but it should be emphasized that the official answers will be distributed in writing.

c. It is ordinarily not desirable to tape or permit taping of the proceeding of the pre-proposal conference or distribute verbatim minutes. However, a summary of the preproposal conference should be issued. The board chairperson will assure that the official DOE position in response to all pertinent questions discussed at the preproposal conference is furnished in writing to recipients of the RFP. It is essential that provisions of the RFP are not changed in the course of a preproposal conference. The terms of an RFP may be changed only by formal written amendment signed by the procurement representative who signed the RFP.

CHAPTER IV—EVALUATION PROCESS

401. *Methodology Used to Evaluate Proposals*

a. Once proposals are received and opened the chairperson and members

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are expected to spend virtually full time in the evaluation until completion of the SEB report. Upon receipt of proposals, the board chairperson will again require each board member, advisor and committee member to inform the chairperson in writing if participation in board activities might cause embarrassment because of a real, apparent or possible conflict of interest situation.

b. All proposals will be numbered and logged in (date and time of receipt) and held by the executive secretary, unopened, in a secure place, until after the due date and time specified for receipt in the RFP. If any proposal is received after the due date and time it will be treated in accordance with FPR 1-3.802-1. Normally the board will be convened as soon as possible after the due date for receipt of proposals at which time proposals should be distributed and assigned by number to each board member. The board should then review the methodology to be followed in evaluating proposals.

c. The initial phase of the evaluation will be a review by the board to determine whether or not each proposal satisfies the formal requirements of the RFP and meets the qualification criteria specified. Any proposal not meeting the qualification criteria should be eliminated from further consideration and the offeror should be notified in writing by the SEB Chairperson. Such notification should be given promptly and briefly state the rationale for elimination of the proposal from further consideration.

d. After review has been made for compliance with the qualification criteria, the board should start its evaluation of proposals in accordance with the technical and business/management evaluation criteria and cost aspects. The board chairperson will give each committee an appropriate number of proposals or portions thereof, evaluating criteria or areas to be evaluated, instructions regarding the committee functions and all data considered necessary. The committee chairperson will ordinarily be a board member and will be responsible for instructing the members as to committee functions, responsibilities and procedures. Committee members will not be told the weights assigned to the areas they are evaluating.

e. A committee is a factfinding arm of the board. As a general rule, it will function under the same contraints as the board and will be expected to:

Examine, in detail, each proposal or portion thereof for the purpose of rating the assigned evaluation criterion in accordance with the rating plan approved by the board for the committee's use.
Submit written reports covering committee evaluation as set forth below.

f. While oral reports may be given to the board, the committee function requires the submission of a written report. This report shall include:

Copies of individual and composite worksheets showing scores or ratings and supporting comments.
Any strengths of a proposal which significantly affected the rating.
Any weaknesses of a proposal which significantly affected the rating.
Any specific information bearing on the assigned ratings which the committee, or any member thereof, desires to bring to the attention of the board.

g. All reports submitted by committees will be retained as part of the board records but normally will not be included as part of the board report to the source selection official. However, when it appears that a committee report is so significant that its inclusion is necessary to the source selection official's understanding of the board's action, that report may be included.

h. Committee reports and findings will be reviewed by the board. In establishing the initial rating of each proposal, the board will not merely accumulate committee scores and rank proposals accordingly. Each board member will consider the committee ratings and rankings, taking cognizance of any reservations or qualifications stated by the committee and their own review of proposals and other information known to the board.

402. *Basis for Elimination of Proposals Before Initial Board Ratings*

a. Proposals may be eliminated from further consideration before the intial ratings if the proposal is so grossly and obviously deficient as to be totally unacceptable on its face. For example:

It does not represent a reasonable initial effort to address itself to the essential requirements of the RFP, or clearly demonstrates that the offeror does not understand the requirement of the RFP; or

In research, development or demonstration procurements, numerous and/or substantial design deficiences are inherent in the proposal and sufficient correction or improvement to consider the proposal acceptable would require virtually an entirely new technical proposal.

b. Simple technical non-responsiveness, in the sense in which the term is used in formal advertising, is never sufficient to constitute unacceptability if the proposal is otherwise competitive.

c. The complete rationale for the elimination of any proposal shall be recorded in the board files. Prompt written notification by the SEB Chairperson which will include a brief statement of the rationale shall be given to each offeror who has been eliminated from further consideration. (Ref. Chapter VII, Paragraph 704.)

403. *Organizational Conflicts of Interest*

a. The SEB is responsible for assuring that organizational conflicts of interest are considered and, where appropriate and consistent with Department policy, that suitable provisions are included in the solicitation.

b. When acceptance of an organizational conflicts of interest clause or submission of an organizational conflicts of interest disclosure, or both, are set forth in the solicitation as qualification criteria, noncomplying offerors will be notified:

(1) Of the noncompliance;

(2) That failure to fully correct within a specified time may be treated as a refusal to comply in which case no further consideration shall be given the proposal; and

(3) Any attempt to modify their proposal in a manner which affects price, quantity, quality, schedule, or the offeror's competitive position may constitute a late modification under the provisions of the solicitation.

c. When an organizational conflicts of interest disclosure is required, the Board shall to the extent feasible, verify the completeness, adequacy, and accuracy of such statements through written and oral discussions, inquiries to sources of relevant information, and appliction of the knowledge of the Board members.

d. The Board shall provide to the Selection Official as part of its report: (1) Any information uncovered bearing on (a) the ability of any offeror within the competitive range to perform in an impartial, technically sound, and objective manner, or (b) obtaining an unfair competitive advantage, and (2) any proposal to mitigate or avoid organizational conflicts of interest. The board should also ascertain and report whether the offeror is precluded from proposing or receiving award by restrictions placed in other Federal Government contracts.

404. *Price and Cost Considerations*

a. Proposed cost, for either cost-reimbursement or fixed-price type contracts, is not to be point scored. Proposed cost is a function of the technical approach, the manpower, the facilities, the organization, and the uncertainties of the work and the economy. The board is to determine, by analysis, its own estimate of what it probably will cost each offeror, given each offeror's approach, experience, organization, personnel and similar factors including the board's estimate of what it will cost after correcting correctable deficiencies. Cost and price analysis of proposals should be performed by cost and pricing personnel and their assistance should be requested.

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b. Price and cost information should be evaluated by the appropriate committee and the board in terms of the proposed cost in order to assist in the determination of the competitive range. A more detailed cost and price analysis may be performed in appropriate cases.

c. One of the principal aims of the board, in its detailed analysis of costs of those offerors in the competitive range, is to determine the validity of the proposed cost, the probable cost to the Government of each proposal, the probable cost differences among the offerors and their causes, and the level of the board's confidence in its analysis and projection of costs. If the board concludes that an offeror's approach or plan for accomplishing the work will require modification, the board should report the probable costs after such modification.

d. All cost information including prime and subcontract amounts which are or should be present in an offeror's cost proposal are to be analyzed by the board and the board's estimate of probable cost to the Government for each proposal should be included in its report. In the analysis of cost proposals appropriate engineering or technical assessments should be made of the quantitative and qualitative factors and these should be used in preparing the cost analysis report. In the event that board members have different opinions as to the cost analysis, these differing opinions shall be reported.

e. Cost may be used in the ultimate decision by the source selection official to judge the value of the work to be done and the quality of product or service to be furnished, and not as an addition to the cumulative score of the other analyses. To illustrate, assume three offerors in the competitive range with scores and cost estimates as follows:

Offeror	Technical Score	Bus/mgt rating	Offeror's proposed cost	Probable cost
A	925	Good	$3.8 Mil.	$4.7 Mil.
B	870	Outstanding	2.3 Mil.	2.8 Mil.
C	830	Poor	2.9 Mil.	3.1 Mil.

All three are technically acceptable, and identified weaknesses in each proposal are thought to be correctable in final negotiations. Offeror A's technical proposal is considered the best. Consistent with the language in the RFP regarding the relative importance of cost, the questions to be decided, in order to make the selection, are whether its proposal is worth the additional cost, and whether business/management factors enhance or detract from the proposal.

f. If a complete detailed cost estimate is not necessary to select a contractor for certain types of requirements, e.g., operating contracts, discrete limited portions of the work may be broken out, such as overhead, and a detailed estimate requested covering such areas. In these situations, limited cost estimates together with data relating to cost control systems and innovative ideas should be requested for use in assessing the offeror's understanding of the requirements and to indicate his cost consciousness. In those cases where limited cost information is requested and analyzed, it will normally play a major role in the selection. However, cost must always be a factor, even though relatively insignificant, in any seclection.

g. Assistance can be provided by the Office of the Controller in the evaluation of cost proposals. In special cases, and at the request of the board, the Office of the Controler will arrange for the development of an independent cost estimate.

405. *Initial Ranking and Determination of Competitive Range*

a. Following review of committee reports, etc., each board member will complete an evaluation of each proposal and develop tentative strengths and weaknesses in relation to each evaluation criteria. After this has been accomplished the board as a whole should meet and discuss in detail the individual strengths and weaknesses developed by each board member and if possible arrive at a common understanding of the major strengths and weaknesses and the potential correctability of each proposer's weaknesses (Ref. Appendix 5). Each board member will then tentatively rate and rank the proposals remaining in the competition. Generally, and depending on the rating plan employed, ranking will be accomplished by totaling the numerical scores assigned by each voting member to the evaluation criteria and developing an average rating for each offeror.

b. After the board has tentatively ranked the proposals remaining in competiton, proposals will be reviewed to determine which are within the competitive range, considering the technical and business/management evaluations and price and cost considerations. In making this determination, the board will evaluate the potential for improving the competitive position of the proposals by written and/or oral discussions. A proposal is in the competitive range unless it is so technically inferior or out of line with regard to price (cost) that meaningful negotiations are precluded. To put it another way, a proposal is in the competitive range unless there is no real possibility, taking into account the other more acceptable proposals, that it can be improved to the point where it becomes the most acceptable. The competitive range should not be reduced to a single offeror without coordinating with the SSO.

c. There is no purpose in considering a proposal to be in the competitive range simply because it could be improved to the point where it would be acceptable to the Government if better proposals were not submitted, when, in fact, such better proposals have been received. For this reason, it is not proper to establish eligibility on the basis of a predetermined passing grade. Instead, the rating actually achieved and the assessed strengths and weaknesses must be the basis for establishing the competitive range.

d. When proposals are determined not to be in the competitive range, they should be eliminated from further evaluation and the proposers promptly notified in writing by the SEB Chairperson. Such notification shall include a brief statement of the board's rationale. The report and presentation to the source selection official requires that each proposal received be commented on by the board; therefore, detailed documentation of the reasons for eliminating any proposal from consideraiton will be prepared by the board as its evaluation proceeds.

406. *Verification of Offeror's Experience.*

a. The source evaluation process not only contemplates a thorough appraisal of prospective contractors' proposals but also requires consideration of other information bearing on the probability of quality and timely performance, the logic of the proposed plan of execution, the realism of estimated costs and the responsibility and cost-consciousness of the offeror's management. Past performance may indicate what an organization may do if awarded a contract. The board will therefore verify for offers in the competitive range such matters as:

Management and technical capability of personnel,
Availability of existing facilities (both Government-owned and contractor-owned),
Adequacy of the offeror's accounting practices and cost controls,

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Offeror's record in forecasting and meeting program schedules, and
Offeror's record of performance on DOE or other projects.

b. Pre-award surveys, facility capability reports, procurement system reviews and audit reports which bear on an offeror's performance and capabilities may be available from other Government offices.

c. In checking an offeror's capabilities, experience and record of performance, the checks should be directed toward comparable and related projects, e.g., facilities used, type, scope and complexity of work to be performed, organizational entities involved and personnel requirements. Generally the chairperson of the business/management committee will be responsible for obtaining such historical and experience data as may be necessary to satisfy the board as to an offeror's capability and record of performance.

d. Board records will reflect the information considered and the source(s) from which obtained, together with any explanations or corrective actions indicated by offerors whose previous performance had been criticized. In addition, the board should also check on the offeror's equal employment opportunity program and small business and minority business programs. Comments shoud be obtained in regard to compliance with existing Government requirements in these areas and plans for the future if they are selected for the procurement.

e. Information relating to each offeror's financial capabilities covering financing arrangements, balance sheet, profit and loss experience, cash flow, etc., and performance should be obtained, evaluated and commented on. Information relating to the areas covered on the Fact Sheet (Appendix #6) should also be obtained and a separate Fact Sheet should be prepared on each offeror in the competitive range.

407. *Visits to Offerors' Facilities*

a. Inspections at the facilities of competing offerors may be a valuable part of the board's evaluation process and could be conducted at the same time as the written and/or oral discussions. For instance, in procurements where significant experimental research, development testing, fabrication or other work (the quality of which may be affected by an offeror's plant or facilities) is to be performed, a complete evaluation normally would require an on-site visit by the board. For other procurements, such certain service-type contracts, facility inspections may serve no useful purpose.

b. Actual visits to the facilities of competing offerors should be made prior to completion of the board's work unless it is determined by the chairperson, in consultation with the board members, that such visits would not help the board determine the relative capabilities of the competitors.

c. Preliminary planning is essential to effective facility visits. The board must decide what it wants to see and discuss, and with whom, keeping in mind that each offeror is to receive equal treatment and the opportunity to demonstrate its capability, capacity and interest. To make the visits more productive, selected questions and a tentative agenda should be provided in advance to each offeror being visited. In addition, arrangements conducive to the accomplishment of the visit's purposes must be made prior to the visit. While courtesy requires that an offeror be permitted appropriate welcoming and general remarks, steps should be taken to avoid elaborate presentations and briefings; these use up valuable time. Information and impressions gained during facility inspection should be reflected in the ultimate evaluation by the board. Asking similar questions of all offerors permits a ready basis of comparison. The size of the group should be kept small. A full day for visiting each offeror ordinarily will permit adequate and equal opportunity for discussions.

408. *Written and/or Oral Discussions*

a. The board will conduct written and/or oral discussions with all offerors whose proposals are in the competitive range. The extent of discussions will depend on the circumstances of the procurement and the proposals submitted. The board should be careful in its written and/or oral discussions to avoid technical transfusion or technical leveling between offerors. Discussions should be sufficiently probing and detailed to assure the board's understanding of the proposal. SEB members should employ oral discussions as a means of evaluating the abilities of personnel proposed by the offeror and their comprehensions of the offeror's proposal.

The aims of such discussions are to:

Assess the project team to be assigned to the project and other key personnel.
Review, with the offeror and with cognizant Government personnel, experience on related projects, particularly to permit the offeror to explain any adverse aspects of its performance record and any remedial action taken.
Clarify any aspects of the proposal.
Gauge the degree of capacity and interest to undertake the project in light of other work planned or in process.

b. *Research, Development, Demonstration, Operating and Management Contracts*

1. For research, development, demonstration, operating and management contracts the discussions are intended to assist the SEB: In understanding fully the proposals and their strengths and weaknesses based upon the individual efforts of each proposer; in assuring that the meanings and points of emphasis of RFP provisions have been adequately conveyed to the offerors so that all are competing equally on the basis intended by the Government; in evaluating the personnel proposed by each firm; and in presenting a report to the selection official that makes the differences among proposals clear and visible.

2. In all research, development, demonstration, operating and management contracts, the board shall point out aspects of the proposal which are not clear, or which are not substantiated.

3. However, where the meaning of a proposal is clear and the proposal contains a weakness which is inherent in an offeror's management, engineering or scientific judgment, or is the result of its own lack of competence or inventiveness in preparing its proposal, the board shall not point out that weakness, unless this can be done without risk of technical transfusion or the divulgence of other offerors proprietary concepts. Discussions are useful in ascertaining the presence or absence of strengths and weakenesses. Understanding of the meaning and validity of the proposed approaches, solutions and cost estimates is essential to a sound selection. Offerors should not be informed of the relative strengths or weaknesses of their proposals in relation to those of other proposers. In the course of discussions, Government participants should be careful not to transmit information which could give leads to one proposer as to how its proposal may be improved or which could reveal a competitor's ideas.

4. The foregoing guidelines are not all-inclusive; careful judgment must be exercised in the light of all the circumstances of each procurement to promote the most advantageous selection from the standpoint of the Government while at the same time maintaining the fairness of the competitive process.

c. *Contracts other than Research, Development, Demonstration, Operating and Management*—

1. For other than research, development, demonstration, operating and management, contracts the specifications ordinarily describe the Government's requirements with more particularity than is possible in research, development, demonstration, operating and management contracts and therefor less emphasis is placed on an offeror's introduction of scientific, engineering and management innovations. For these types of procurements the board will conduct discussions in accordance with the provisions of the above paragraphs except for the following difference.

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2. The board, in written or oral discussions, shall point out instances in which aspects of a proposal contains a weakness in relation to the Government's requirements. But, as provided above, the board shall neither point out the relative strengths or weaknesses of a proposal in relation to those of other proposers, nor transmit information which could give leads to one proposer as to how its proposal may be improved or which could reveal a competitor's ideas.

d. *Cost Information*—The board shall point out cost or price elements that do not appear justified and encourage offerors to submit their most favorable cost proposals. Care must be exercised not to disclose to any offeror its relative position with respect to others in competition.

e. *Documentation*—Written reports will be made of the areas covered during written and/or oral discussions.

f. *Common Cutoff Date*—Each offeror shall be given a reasonable opportunity, with a common cutoff date for all, to support and clarify its proposal. An offeror may, on its own initiative, revise its proposal and make corrections or improvements until the established cutoff date.

g. *Discussions vs. Negotiations*—Discussions normally refer to those communciations between the Government and the offerors which serve, up to the point of source selection, to point out ambiguities, uncertainties and, where appropriate, weaknesses in proposals. (When the source selection official has directed additional discussions leading to best and final offers in the form of fully definitized contractual instruments, discussions shall be as provided in Section 603.) The term "negotiations" normally refers to the process of definitizing a final agreement on price, terms and conditions with a selected firm, although no factor which could have had any effect on the selection process may be changed. Negotiations with a selected firm necessarily take place following the common cutoff date imposed for formal proposal revisions during the discussions phase. Negotiations, in this sense, are not subject to an imposed common cutoff date although the Government may impose deadlines during the negotiation process.

409. *Comparison of Proposals in Competitive Range*

Following the common cutoff date for receipt of any clarification, support or revised proposals, the board will continue its evaluation. Depending on the nature of information received, the chairperson may reconvene the committees to perform additional evaluation of their respective areas in the light of new information received.

a. In its evaluation, the board should give careful consideration to information received relating to offeror's experience, financial capabilities, equal employment opportunity programs, and small business and minority business programs.

b. The tentative strengths and weaknesses developed on those offers in the competitive range should be reviewed in detail and modified as appropriate based upon all information now available to the board. The rationale for any changes to the tentative strengths and weaknesses should be clearly documented. After full discussion and development of the final strengths and weaknesses, each voting board member should prepare a final rating sheet for each offeror in the competitive range.

410. *Final Ranking of Proposal*

The final evaluation is to arrive at findings and conclusions which will permit the source selection official to select the particular proposal which offers the best promise of achieving the procurement objectives. After determining the board ratings and or rankings based on the technical and business/management evaluation criteria, the board will reevaluate the price/cost information submitted and develop the probable cost to the Government for each offer in the competitive range.

CHAPTER V—SEB REPORT

501. *Preparation of SEB Report*

a. The board will prepare a report of its findings and conclusions. These findings and conclusions shall set forth the consensus of the board and composite ratings, depending on the rating system used. The report should discuss the proposals in the descending order of competitive ranking. All members will sign the report as confirmation that it represents their collective opinion. All reports will be serially numbered and controlled by the secretary of the board.

b. If any board member has serious reservations concerning any part of a proposal these will be discussed in detail and considered by the board for possible adjustment of the rating and ranking. If the differences cannot be resolved and the deficiency, if existing, could be considered critical to the effort, the member's position will be made an annex to the board report.

c. In extraordinary circumstances, should it become apparent to the SEB that adherence to the established criteria, weights or rating plan will result in substantial error in ranking the proposals, the board will report this to the SSO thru the SEB Secretariat for direction.

502. *SEB Report Outline*

This section provides guidance on the format and content of the SEB report to the source selection official. This guidance is appropriate for most procurements. If a specific procurement has peculiarities which cause the proposed format to be impractical, the chairperson may alter it. The depth of detail and the use of schedules or other information is governed by the nature and scope of the subject being presented.

The SEB report will contain a title page (Appendix No. 7), a foreword page (Appendix No. 8) and a table of contents, including page numbers, consistent with the SEB Report Outline that follows.

SEB REPORT OUTLINE

A. EXECUTIVE SUMMARY

1. *Description of Procurement and RFP*—Briefly describe the work or services being procured, the qualification criteria, evaluation criteria and price/cost considerations.

2. *Proposals Received*—Indicate number of organizations that were sent an RFP and list in alphabetical order each of the organizations that submitted a proposal.

3. *Determination of Competitive Range*—Indicate rationale followed by the board in determining the competitive range. List the offerors by technical and business/management ranking, indicating ratings and price/cost considerations in relation to each proposal.

4. *Final Ranking*—Indicate major reasons for final technical and business/management rankings. Include the final technical and business/management ratings and price/cost considerations in relation to each proposal.

5. *Special Considerations*—Include any areas that would be of special interest to the source selection official, i.e., significant objections or complaints received during SEB process, time constraints on contract award, potential organizational conflicts of interest, determinations to be made by the SSO, legislative authorizations, etc.

B. DESCRIPTION OF THE WORK OR SERVICES

1. *The Procurement*—Provide a narrative description of the work or services being procured together with the objectives. Explain any procurement history and follow-on effort which has been programmed or for which program approval is to be requested. Describe relationship with other efforts in process or planned. Explain any particular technical complexities which had an important effect on the solicitation of sources or the evaluation of proposals.

2. *Program Approval*—Identify the approval document which authorized

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the procurement, showing title and numerical identification, date approved and title of approving official.

3. *Funding*—State the funding applicable to the effort as follows:

a. Total Government estimated amount of the contract.
b. Estimated amount to be initially obligated in the contract.
c. Estimated cost of follow-on effort to be procured under a separate contract.
d. Specific appropriations, if applicable.

Procurement Approach—Discuss any special procurement considerations which applied to the procurement. Give reasons for proposed contract type.

C. *BOARD MEMBERSHIP AND CHRONOLOGY*

1. *Board Membership*—Provide the name, functional title and organizational assignment of the chairperson, members, secretary, legal member (nonvoting), ex-officio members and any committee members and advisors used by the board.

2. *Chronology*—Provide a chronology of major events connected with the source evaluation, such as:

a. Date of establishment of board by selection official.
b. Date or dates the board approved the evaluation criteria, criteria definitions, weights, source list and RFP.
c. Date RFP was issued.
d. Date and place of preproposal conference.
e. Closing date for submission of original proposals.
f. Date of beginning of proposal evaluation by the board.
g. Date or dates and disposition of any late proposals or late modifications received.
h. Date of initial rating of proposals.
i. Date of determination of competitive range.
j. Date or dates of verification of offerors' experience and record of past performance.
k. Date or dates and place of discussions with offerors.
l. Common cutoff date for receipt of any clarification, support or revised proposals.
m. Date board completed its evaluation and arrived at final rating of proposals.
n. Date of completion of SEB report.

D. REQUEST FOR PROPOSALS

1. *Qualification Criteria*—State the specific qualification criteria included in the RFP and explain why each was necessary.

2. *Evaluation Criteria*—State the technical and business/management evaluation criteria, their definitions and the relative importance of each. Explain the rationale for the relative importance assigned to each evaluation criterion. Set forth excerpts from the RFP which describe the evaluation criteria and their relative importance.

3. *Price and Cost Considerations*—Include excerpts from the RFP dealing with price and cost factors and any cost sharing arrangements. Indicate relative imortance of cost in the evaluation.

4. *Amendments to RFP*—Describe each amendment to the RFP and the reasons therefore.

5. *Development of Source List*—Indicate the methodology and rationale used in the development of the source list. Include the date of the CBD announcement and the total number of firms that were sent an RFP.

6. *Preproposal Conference*—State the date and place held and number of organizations represented.

7. *Organizational Conflicts of Interest*—If the RFP included coverage of organizational conflicts of interest matters, so state.

E. EVALUATION PROCESS

1. *Proposals Received*—List in alphabetical order the offerors submitting proposals indicating the name and address of each offeror and major subcontractors.

2. *Methodology Used to Evaluate Proposals*—Describe the methodology used by the board to evaluate proposals indicating the role of the board members, committees, and advisors, and any other individuals or organizations that participated in the evaluation process. Describe the rating plan and techniques used by the board in relation to the evaluation criteria.

3. *Basis for Elimination of Proposals Before Initial Ratings*—Indicate the reasons for elimination of any proposals before the initial ratings such as late proposals, proposals not meeting the qualification criteria, totally unacceptable proposals, etc.

4. *Description of Technical Aspects of Proposals*—Briefly describe the technical aspects of each proposal still in the competition.

5. *Initial Ranking of Proposals*—Describe the approach used in arriving at the initial technical and business/management ratings and rankings indicating the rating and major strengths and weaknesses identified at this stage of the process for each offeror in descending order of competitive ranking. In addition, describe the evaluation of price and cost information.

6. *Determination of Competitive Range*—Describe the rationale used to determine the competitive range. Indicate the consideration given to strengths and weaknesses, potential for improving the competitive position of proposals by written and/or oral discussions, technical and business/management ratings and price/cost information. Also provide the basis for not including proposals in the competitive range especially at the break point (in the competitive range vis-a-vis outside the competitive range).

7. *Verification of Offeror's Experience*—For each offeror in the competitive range, describe method used to verify experience and record of performance and results of such verification. Provide comments in regard to technical, schedule and cost performance on major contracts performed for the Government.

8. *Changes to Initial Ranking of Proposals*—Indicate the rationale for any changes to the technical or business/management ratings and rankings or price/cost considerations as a result of written/oral discussions, clarification and support, revisions, etc. Provide a summary of the primary points covered during written and/or oral discussions.

9. *Final Ranking of Proposals*—Provide the final board technical and business/management ratings and or rankings in the descending order of competitive ranking and major price and cost considerations in regard to each proposal in the competitive range. Indicate the relative rankings by technical and business/management criteria. In addition, provide in summary form the significant differences among proposals.

10. *Description of Final Revised Proposals in Competitive Range*—Provide in narrative form in the descending order of competitive ranking:

a. An expanded description of the technical and business/management aspects of each final revised proposal in the competitive range in order to present an overview and understanding of each proposers approach.

b. The major strengths and weaknesses for each offeror in the competitive range relating each strength or weakness to the appropriate criterion. Estimate the potential for correction of the major weaknesses identified. State the board's estimate of any significant change in price/cost that would result from the correction of weaknesses during negotiations after selection.

c. Each offeror's estimated price/cost in the traditional breakdown (material, labor, overhead, general and administrative, fee, etc.) and provide the board's evaluation of each final revised proposal in the competitive range. Comment on the validity of the proposed price and cost, describe the differences among offerors, the probable price and cost to the Government of each proposal and the probable cost differences among offerors and their causes.

11. *Limited Cost Considerations*—In those procurements where only limited cost information is requested due to the nature of the procurement, e.g., operating contracts, the report should describe the cost information requested and obtained. This description should comment, as appropriate, on the validity of the proposed cost, the differences among offerors, the probable cost to the Government of each proposal and the probable cost differences among offerors and their causes. Comments should also be provided in regard to the importance of this area in the evaluation process as stated in the RFP.

12. *Objections or Complaints Received*—Describe in detail any objections or complaints received during the SEB process, e.g., RFP, proposal due date, cutoff date for clarification, possible or actual protests, etc. Describe any procedural irregularities or special problems faced by the board.

13. *Organizational Conflicts of Interest*—If the RFP included coverage of organizational conflicts of interest matters, describe the manner in which the Board discharged its responsibilities and discuss any relevant information obtained.

F. ADDITIONAL CONSIDERATIONS FOR OFFERORS IN COMPETITIVE RANGE

1. *Offerors Financial Capabilities*—Provide information to reflect the offerors' financial capabilities as needed to perform under the proposed contract, e.g., describe financing arrangements, comment on offerors' balance sheet, profit and loss experience, cash flow, etc.

2. *Offerors' EEO, Small Business and Minority Business Programs*—Provide comments in regard to each of the above areas based upon information received in proposals and from other sources.

3. *Special Areas of Concern*—Provide any information that is of special concern or may be helpful to the source selection official, e.g., organizational conflict of interest.

G. ATTACHMENTS

1. Fact sheet on each offeror in the competitive range.
2. Briefing charts.

CHAPTER VI—PRESENTATION TO SOURCE SELECTION OFFICIAL

601. *Suggested Briefing Charts*

This section prescribes the requirements and procedures for the board's presentation to the source selection official. While the provisions of this section are directed specificially to the board presentation to members of the Office of The Secretary, when they act as the source selection official, the basic requirements and responsbilities apply to all source evaluation board presentations.

The chairperson of the board is responsible for conducting the presentation to the source selection official. It is the chairperson's function to convey the results of the boards deliberations in a manner calculated to permit an informed and objective selection of the best source for the particular procurement. The presentation should include vu-graph transparencies covering the following areas:

Overview of Presentation—Briefly state those areas to be covered during the presentation and the decision or decisions to be made.

Board Membership—Provide name, functional title, and organizational assignment of the chairperson, members, secretary, legal member (non voting), and ex-officio members.

Description of Procurement—Briefly describe the work or services to be procured, and its relationship to the total project. Indicate type of contract contemplated, period and estimated amount. Indicate funding status by fiscal year.

Chronology of Major Events—Provide a chronology of the major events of the source evaluation board's activities.

Qualification Criteria—State the specific qualification criteria included in RFP and explain why each was necessary.

Evaluation Criteria—State the technical and business/management criteria included in RFP, their definitions and their relative importance.

Price and Cost Considerations—State the importance of price and cost in the evaluation and coverage included in RFP.

Proposals Received—Indicate total number of RFPs issued and list in alphabetical order each of the firms submitting a proposal.

Proposals Eliminated before Initial Rating—Indicate rationale for elimination of each proposal before the initial board rating.

Initial Ranking—List the offerors remaining in the competition in descending order of competitive ranking indicating: name of offeror, technical rating, business/management rating, proposed cost and probable cost.

Proposals Eliminated from the Competitive Range—Indicate rationale for elimination of each proposal from the competitive range.

Determination of Competitive Range—List the offerors in the competitive range in descending order of competitive ranking indicating: name of offeror, technical rating, business/mangement rating and proposed and probable cost. Describe rationale followed by the board in determining the competitive range especially at the break point.

Changes Due to Written/Oral Discussions, Revisions etc.—List the offerors in the competitive range in descending order of competitive ranking indicating: Name of offeror, major reasons for changes to the initial rating and ranking.

Final Ranking—List the offerors in the competitive range in descending order of competitive ranking indicating: name of offeror, technical rating, business/management rating and proposed cost and probable cost.

Decription of Each Proposal in the Competitive Range—Describe the technical and business/management aspects of each proposal in the competitive range in order to present an overview and understanding of each proposers approach. Use graphics of the proposed design, management, or organization and other matters which are effectively conveyed in that manner.

Strengths and Weaknesses—In descending order of the offeror's overall technical ranking, indicate criterion by criterion, the major strengths and weaknesses of each offeror in the competitive range. Indicate the estimated cost of correcting weaknesses that could have a signficant cost impact.

Limited Cost Considerations—In those cases where only limited cost information is obtained, describe information obtained and its significance in the evaluation.

Organizational Conflicts of Interest—Whenever offerors are required to disclose information relating to organizational conflicts of interest provide the results of these disclosures and other pertinent information. Indicate any problems relating to conflicts of interest.

Summary—Highlight reasons for rankings of offerors. Describe roles of offerors—management team, associate contractors, major subcontractors, etc.

SUMMARY TABLE

Proposal	Initial Tech. Score	Final Tech. Score	Bus/Mgt Rating	Proposed Cost	Probable Cost	Ind. Cost Estimate
A						
B						
C						

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Future Actions—Indicate any special areas that may be of interest to the source selection official, the negotiation team, expected award date, etc.

602. *Arrangements for Presentations*

a. Normally, the oral presentation to the selection official will be preceded by a preliminary presentation to the cognizant program official one level below the SSO and to the Director, Procurement and Contracts Management Directorate and the Assistant General Counsel for Procurement. The SEB Secretariat will make the necessary arrangements for these presentations and authorize admission to the presentation. The presentations will be composed of two basic parts, a written board report and oral briefing supported by pertinent graphic or illustrative material. The Director, Procurement and Contracts Management Directorate will assure that the presentation is arranged and conducted in a business like manner, is complete and informative and the supporting data to be presented is kept to the minimum necessary for a final decision. To assist in this responsibility the SEB Secretariat will work with the chairperson of the board in reviewing the draft final report and briefing prior to the preliminary presentation. As a result of the preliminary presentation, the board may be directed to reconvene to pursue procedural omissions or to revise the method of presentation; however, it may not be directed to change the criteria, weights or rating plan used or change the proposal ratings or rankings.

b. The SEB Secretariat shall determine when the board findings and conclusions are to be presented to the selection official, arrange the time and place of presentation, determine after recommendation by the chairperson, who will attend the final presentation, and assure that all appropriate DOE officials involved in a particular procurement are formally requested to attend the presentation. The board chairperson will organize and personally make the oral presentation first to the cognizant senior program official and then to the selection official.

c. The board chairperson will distribute a copy of the SEB report, five days in advance of the preliminary presentation to each individual invited to the preliminary presentation by the Director, Procurement and Contracts Management Directorate. Following the presentation to the selection official, a copy of the SEB report may be retained by the selection official, the cognizant senior program official, and the SEB Secretariat. All other copies except as otherwise directed by the Director, Procurement and Contracts Management Directorate will be collected by the board executive secretary and placed in the official SEB files.

603. *Selection Decision*

a. After the presentation by the SEB chairperson, the source selection official will normally hold an executive session that will be attended by key senior staff personnel representing the various disciplines e.g. program office, controller, counsel, procurement, and the chairperson of the SEB. During this session, the report and presentation will be discussed together with other information available to the senior staff and the source selection official. The outcome of the executive session might indicate a need for additional information or time to study the alternatives or the selection decision.

b. (1) The SEB procedures are intended to provide the Source Selection Official with sufficient information to select an offeror (or offerors) for negotiation on the basis of its proposals. However, it is within the discretion of the Source Selection Official to direct discussions be reopened and that best and final offers be obtained on the basis of fully definitized contractual instruments. If the Source Selection Official so directs, the SEB Secretariat shall prepare a letter, with the advice and assistance of the legal member, for the signature of the Source Selection Official setting forth any special instructions. The Source Selection Official may, at this time, establish or direct the SEB to establish a new or revised competitive range. Any offerors eliminated from further consideration shall be promptly notified in writing by the SEB Chairperson.

(2) Additional discussions should be conducted by *ad hoc* contract definitization teams headed by experience contract negotiators. Where appropriate, separate teams may be appointed for each offeror; however, care should be taken to assure that each of the team's actions are coordinated so as to provide a common and equitable basis for evaluation of the best and final offers. For this reason, the chief procurement officer of the activity supporting the SEB should designate a senior procurement official with general oversight responsibilities to ensure, in cooperation with the SEB, that team actions are so coordinated.

(3) Such additional discussions should have as their objective finalized offers in the form of complete contract documents which are the most advantageous to the Government obtainable from each offeror. The teams should seek correction of each offeror's correctable weaknesses using whatever technical and other information which the Government is entitled to use for this purpose. Care should be taken to avoid transferring the ideas of one offeror to another. Similarly, the most favorable prices, estimated costs, fees, contractual terms, and business arrangements should be sought without engaging in "auctioning" techniques. Each team is responsible for assuring to the extent possible that the advantages and disadvantages of the terms and arrangements are identified and that offerors are informed of terms and arrangements which may cause their proposal to be significantly downgraded.

(4) Upon completion of such discussions, the Board shall furnish each offeror with a contractual instrument reflecting the negotiating team's understanding of the position of the offeror as developed by these discussions and shall request each offeror to submit, by a time common to all offerors, its best and final offer on the basis of such instruments fully executed by the offerors.

(5) Upon receipt of complete contract documents signed by the offerors, the SEB shall conduct a final evaluation, focusing on a comparative analysis of the offers, their relative strengths and weaknesses, their negotiated cost business arrangements and any other factors which might influence the selection.

(6) After completing this evaluation, the SEB shall submit a written report of its findings and conclusions to the Source Selection Official.

(7) The written report shall include the following:

Brief discussion of significant weaknesses and strengths of the proposals with emphasis on key discriminators;

Changes to the strengths and weaknesses as a result of the additional discussions;

Comparative analysis of the results of the additional discussions, identifying the advantages and disadvantages of each offeror in terms of the most favorable arrangement for the Government;

How instructions given by the Source Selection Official were carried out;

Other information that should be considered by the Source Selection Official.

(8) The SEB Secretariat shall then make arrangements for a presentation to the Source Selection Official, which official shall then select the contract offering the most favorable terms to the Government, technical, cost, business terms and other factors considered.

Chapter VII—Actions After Selection Decision

701. *Preparation of Selection Statement*

After the selection decision has been made, the Office of General Counsel will prepare the selection statement which will record the rationale for the decision. The selection statement will be formally cordinated prior to submission to the source selection official with the chairperson of the SEB and the SEB Secretariat. The selection statement will not contain specific weights, or scores. It should be concise and self contained and include the following:

Brief description of the procurement.
Number of organizations solicited and names of organizations submitting proposals.
Competitive range determination and rationale for other eliminations of proposals.
Description of proposals in competitive range together with discussions of significant strengths and weaknesses.
Selection decision and rationale.

The source selection official will sign and date the selection statement; the original will be sent to the SEB Secretariat.

702. *Notifications and Announcements*

Prior to the presentation to the source selection official the SEB Secretariat in coordination with the program office, SEB chairperson and appropriate staff will perpare a tentative plan that will provide for appropriate notifications and public announcements. Public announcements will be coordinated with the SEB Secretariat and may be released prior to completion of the source selection statement if approved by the SSO.

703. *Negotiation Instructions*

The Director, Procurement and Contracts Management Directorate (SEB Secretariat) will send negotiation instructions, contract review and approval requirements and the original of the selection statement to the cognizant procurement office.

704. *Debriefing of Unsuccessful Offerors*

Upon written request, unsuccessful offerors, those eliminated from the competition at earlier stages, as well as those in contention up to the final selection, will be accorded formal debriefings, ordinarily by the board chairperson, with the assistance of the procurement representative and others as appropriate. These debriefings will be confined, as much as possible, to the areas in which the offeror could have improved its proposal, and will not reveal confidential business information nor discuss the relative merits of other proposals to any greater extent than the selection statement. A copy of the selection statement should be made available at the debriefings as a means of conveying the Government's overall selection rationale. Debriefings will be provided at the earliest feasible time which normally shall be after announcement of the selection decision and prior to the award of the contract. However, where the exigency of the situation will not permit delaying the award in order to debrief unsuccessful offerors, such debriefing may be conducted after award.

b. The purpose of the debriefing is to enable the organization to understand why its proposal was not selected with the objetive of improvement of future proposals submitted to the Government. Therefore, no comparisons will be made to other offerors' proposals and the specific weights and scoring will not be revealed or discussed. The debriefings should ordinarily comment on the following areas:

Overview of SEB process
Review of RFP
Discussion of weakness in offeror's proposal using the RFP and selection statement to prepare for the debriefing
Questions by offeror
Request for comments from the offeror on the SEB process, e.g., RFP, preposal conference, field visits, etc.

c. A record of each debriefing will be prepared and signed by the chairperson and included in the SEB file.

705. *Transfer/disposal of files*

During the course of its activities the board will accumulate certain data or documentation. Such documentation, or back-up material, normally will include; summaries of board meetings, the RFP, proposals; working papers, such as rating or scoring sheets and check lists, and committee reports. These papers constitute the basis for the board report and will be preserved. After the board has completed its activities, the official SEB files will be purged of excess copies of material including SEB reports and transferred to the procurement office that will be responsible for negotiating the contract. A complete copy of each proposal received will be retained in the official files. In the case of the successful offeror, additional copies of the proposal and modifications should be retained for use during negotiation and administration of the resulting contract.

Sample Letter Establishing an SEB

TO: (Board Chairperson)
FROM: (Source Selection Official)

SOURCE EVALUATION BOARD FOR (Title of SEB) _____

Pursuant to Chapter 1 of the DOE Source Evaluation Board Handbook, I hereby designate the following individuals to serve as members of the Source Evaluation Board for (Title of SEB) _____

Chairperson: (Name, Functional Title, Organizational Assignment) _____

Other Members: (Name, Functional Title, Organizational Assignment) _____

Executive Secretary: (Name, Functional Title, Organization Assignment) _____

Legal Member (Nonvoting): (Name, Functional Title, Organizational Assignment) _____

Ex-Officio Members: (Name, Functional Title, Organizational Assignment) _____

The Source Evaluation Board will conduct its busines in accordance with the provisions of the DOE Source Evaluation Board Handbook and applicable policies and procedures in the FPR and DOE-PR. It will be the responsibility of the Chairperson to determine that the board members and other participants are fully conversant with the instructions contained in the cited publications especially those related to conflict of interest and non-disclosure of information. Board duties will take precedence over other normal duties of the board members. The SEB Secretariat will provide the Board with a briefing on the SEB process and any other assistance or guidance required in the performance of its duties.

The Chairperson of the SEB will convene the board as soon as possible to finalize the procurement plan/schedule and the RFP. After completing these tasks the Chairperson will submit the procurement plan/schedule to me through the SEB Secretariat. The RFP will be submitted to the Procurement and Contract Management Directorate, Director, Program Support for review and comment by a solicitation review panel. After such review and appropriate modification, please arrange with the SEB Secretariat for a briefing to me prior to release of the RFP.

If a schedule slippage is anticipated which would delay the release of the RFP or the final presentation to me, please notify me through the SEB Secretariat.

All information shall be kept privy to the members of the board and to properly designated persons on a need-to-know basis. The right to information on a need-to-know basis normally does not extend to the normal chain of supervision affecting any member of the board. However, general progress reports on board activities may be made by the board Chairperson to ex-officio members and the source selection official.

Date: _____

Source Selection Official.

cc:
Director, Procurement and Contracts Management Directorate
SEB Secretariat

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APPENDIX No. 1

DUTIES AND RESPONSIBILITIES OF THE SEB EXECUTIVE SECRETARY

The executive secretary as the principal assistant to the board chairperson will attend all board meetings and, as necessary and subject to the direction of the chairperson, will accomplish such tasks as the following:

1. Obtain secure work areas for conduct of board activity.
2. Develop and implement procedures to control access to SEB work areas to ensure safeguarding of board proceedings and data.
3. Obtain material, supplies and equipment needed by the board.
4. Obtain a signed confidentiality certificate from all board members, legal member, secretary, committee members and advisors.
5. Arrange for the preparation, reproduction, control and distribution of all material relating to the activity of the SEB and its committees. This includes source list, RFPs, informational reports, records of preproposal conference proceedings, proposals, oral discussions, rating sheets, press releases, etc.
6. Prepare and distribute agenda for board meetings.
7. Obtain and distribute applicable procedures, policies, instructions, etc., to board members and others involved.
8. Follow-up on action items assigned to board members to ensure the board's schedule is maintained.
9. Summarize board meetings, obtain the chairperson's approval and distribute copies to all board members and others as directed by the chairperson. Originals of the summaries will be retained in the official SEB files.
10. Assist in preparing and assembling the board's report and presentation charts and arranging for reproduction and distribution.
11. Schedule debriefings and prepare the appropriate record.
12. Dispose of all excess material with concurrence of chairperson.
13. After the formal selection announcement, accumulate package and forward documentation pertinent to the board's work to the cognizant procurement office for permanent retention.
14. Survey the area where board activity occurred and arrange for the return of equipment and materials as appropriate.

APPENDIX No. 2

CONFIDENTIALITY CERTIFICATE

TO: _____
(Chairperson, SEB)

In anticipation of my participation in the (Name of Board, Committee), formed to evaluate the proposals submitted in response to the request for proposals for the (Description of Name of Project), I certify that I will not disclose except pursuant to the order of a court of competent jurisdiction any information either during the proceedings of the source evaluation or any subsequent time, concerning the evaluation, to anyone who is not also authorized access to the information by the SEB Handbook, law or regulation, and then only to the extent that such information is required in connection with such person's official responsibilities. Furthermore, I will report to the Chairperson any communication concerning the procurement or the board's composition and activities directed to me from any source outside the board.

Name: _____
Date: _____

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SAMPLE RATING SHEET

PROPOSER: _____ EVALUATOR: _____ DATE: _____

EVALUATION CRITERIA	ELEMENT* WEIGHT X EVALUATION = POINTS	
I. TECHNICAL CRITERIA		
A. UNDERSTANDING OF AND COMPLIANCE WITH REQUIREMENTS	___ X ___ =	___
B. SOUNDNESS OF TECHNICAL APPROACH	___ X ___ =	___
C. KEY PERSONNEL/ALTERNATES	___ X ___ =	___
D. PROGRAM/PROJECT TEAM'S EXPERIENCE	___ X ___ =	___
E. FIRM'S EXPERIENCE ON SIMILAR PROJECTS	___ X ___ =	___
TOTAL	100	1000 MAXIMUM RATING
	SATISFACTORY	UNSATISFACTORY
II. BUSINESS MANAGEMENT CRITERIA		
A. MANAGEMENT PLAN	_____	_____
B. MANAGEMENT CONTROL SYSTEM (QUALITY, SCHEDULE, COST)	_____	_____
C. MANAGEMENT'S COMMITMENT	_____	_____
D. COMPLIANCE WITH THE REQUEST FOR PROPOSAL- DRAFT CONTRACT	_____	_____
E. PAST PERFORMANCE AND PLANS FOR SMALL AND MINORITY BUSINESS PARTICIPATION	_____	_____
III. COST CRITERIA		
A. REALISM OF THE PROPOSED COST	_____	_____
B. PROBABLE COST TO THE GOVERNMENT	$	
C. TO THE EXTENT TOTAL OR COST ELEMENT CEILINGS WERE INCLUDED, THE MAXIMUM PROBABLE COST LIABILITY TO THE GOVERNMENT	$	

*Board members will evaluate such evaluation criteria and determine the rating to be inserted in the evaluation column using only the following numbers: 10, 8, 5, 2, 0

Appendix 4

SAMPLE WORK SHEET

LIST OF STRENGTHS AND WEAKNESSES

PROPOSER: _____ EVALUATOR: _____ DATE: _____

	MAJOR STRENGTHS	MAJOR WEAKNESSES	REQUIRED CORRECTION
I. TECHNICAL CRITERIA			
A. UNDERSTANDING OF AND COMPLIANCE WITH REQUIREMENTS			
B. ETC.			
II. BUSINESS MANAGEMENT CRITERIA			
A. MANAGEMENT PLAN			
B. ETC.			
III. COST CRITERIA			
A. THE REALISM OF THE PROPOSED COST			
B. PROBABLE COST TO THE GOVERNMENT			

Appendix 5

[6450-01-M]

FACT SHEET

Name of Offeror: _____

Address: _____

1. Name and address of the parent corporation and major affiliates or subsidiaries.
2. Place where offeror will perform work and identification of major personnel, facilities and financial resources that will be available.
3. Indicate offeror's sales volume for each of the past three years and projection for the period of performance for the proposed contract.
4. List major current contracts held by offeror indicating:
Customer, Description, Type of Contract, Amount, Completion Date.
5. Provide comments of technical, schedule and cost performance in regard to each contract listed in (4) above.
6. Other data as appropriate.

Official Use Only

SOURCE EVALUATION BOARD REPORT

FOR

(TITLE OF SEB)

TO

(SOURCE SELECTION OFFICIAL)

DEPARTMENT OF ENERGY

(HQ OR FIELD OFFICE)

Date: _____

Official Use Only

APPENDIX No. 7

Official Use Only

FOREWORD

THIS REPORT COVERS THE EVALUATION BY THE SOURCE EVALUATION BOARD FOR

(TITLE OF SEB)

Distribution is limited to those strictly on a need-to-know basis and this material must be treated as "OFFICIAL USE ONLY". If transmitted by mail, the report must be sealed in an envelope addressed to the appropriate individual with the notation on the envelope as follows:

"TO BE OPENED ONLY BY ADDRESSEE,

CONTAINS SEB REPORT"

This report will be collected after the presentation to the source selection official. This report is submitted by:

(Name, Chairperson) _____
(Name, Member) _____
(Name, Member) _____
(Name, Member) _____
(Name, Member) _____
(Name, Legal Member (Nonvoting)) _____

(Name, Executive Secretary) _____

Official Use Only

APPENDIX No. 8

[FR Doc. 79-3092 Filed 1-29-79; 8:45 am]

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federal register

TUESDAY, JANUARY 30, 1979
PART III



MERIT SYSTEMS PROTECTION BOARD

OFFICE OF SPECIAL COUNSEL

Interim Procedures for Operations

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[6325-01-M]

Title 5—Administrative Personnel

CHAPTER II—MERIT SYSTEMS PROTECTION BOARD

SUBCHAPTER B—SPECIAL COUNSEL REGULATIONS

OFFICE OF SPECIAL COUNSEL

Interim Procedures for Operations

AGENCY: Merit Systems Protection Board.

ACTION: Publication of Interim Regulations.

SUMMARY: These regulations establish interim procedures for the operations of the Office of Special Counsel under Reorganization Plan No. 2 of 1978 (43 FR 36037) and the Civil Service Reform Act of 1978 (Pub. L. No. 94-454). Proposed final regulations for public comment will be published shortly, however, comments relating to the interim regulations are hereby solicited.

DATES: The interim regulations are effective January 11, 1979. There is no deadline for submission of comments.

ADDRESS: Send comments to: Office of Special Counsel, 1717 H Street NW., Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT:

Shigeki J. Sugiyama or Lynn R. Collins, Office of Special Counsel. Phone: 202-653-7107.

SUPPLEMENTARY INFORMATION: These regulations are issued pursuant to the authority vested in the Special Counsel by 5 U.S.C. 1206(k) as enacted under the Civil Service Reform Act of 1978 (Pub. L. 94-454) which became effective January 11, 1979. That section of title 5, U.S. Code, provides that the Special Counsel may prescribe regulations relating to the receipt and investigation of matters under the jurisdiction of the Special Counsel. The matters under the jurisdiction of the Special Counsel are set forth in Section 204 of Reorganization Plan No. 2 of 1978 (43 FR 36037) and 5 U.S.C. 1205, *et seq.* and include, *inter alia*, the investigation and prosecution of persons responsible for committing prohibited personnel practices; arbitrary and capricious withholding of information; patterns and practices of prohibited practices; reprisals against employees and applicants for employment who disclose agency and employee misconduct; prohibited discrimination, and prohibited political activity by Federal employees and certain state and local employees.

The Special Counsel determines that the need to establish and promulgate procedures for carrying out his responsibilities under the applicable provisions and requirements of the Civil Service Reform Act of 1978 (Pub. L. 94-454), which became effective January 11, 1979, establishes good cause for publishing regulations immediately.

Accordingly, 5 CFR is amended by adding Subchapter B, entitled "Special Counsel Regulations", to Chapter II, consisting of Parts 1251, 1252, 1253, 1254, 1260, 1270, 1271, 1272, 1273, 1274, 1275 and 1276 as follows:

SUBCHAPTER B—SPECIAL COUNSEL REGULATIONS

PART 1251—INVESTIGATIVE JURISDICTION OF THE SPECIAL COUNSEL

Sec.

1251.101 Matters Subject to Investigation.
1251.102 Investigations.
1251.103 Action on Results of Investigations.

AUTHORITY: 5 U.S.C. 1205, 1206; Sec. 204 of Reorganization Plan No. 2 of 1978.

§ 1251.101 Matters subject to investigation.

The Special Counsel shall accept and investigate, subject to the conditions of and pursuant to the procedures set forth in § 1251.102 of this subchapter—

(a) Allegations of or information concerning political activities by certain State and local officers and employees prohibited by Chapter 15 of title 5, United States Code;

(b) Allegations of or information concerning political activity by Federal employees prohibited by subchapter III of Chapter 73 of title 5, United States Code;

(c) Allegations of or information concerning prohibited personnel practices as defined in section 2302(b) of title 5, United States Code;

(d) Allegations of or information concerning activities prohibited by any civil service law, rule, or regulation, including partisan political intrusion in personnel decisionmaking, not otherwise provided for by this section, except when the matter may be more appropriately resolved under an administrative appeals procedure;

(e) Allegations or information implicating any employee in any prohibited discrimination found by any court or appropriate administrative authority to have occurred in the course of any personnel action, except when the Special Counsel determines that such allegation may be more appropriately resolved under an administrative appeals procedure;

(f) Allegations or information that an employee who has authority to take, direct others to take, recommend, or approve any personnel action, with respect to such authority, has taken, failed to take, or has threatened to take any personnel action affecting an employee or applicant for employment as a reprisal for—

(1) Any disclosure of information, not specifically prohibited by law and not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health or safety; or

(2) Any disclosure of information which the employee or applicant reasonably believes evidences a violation of any law, rule, or regulation, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health or safety made to the Special Counsel or the agency Inspector General or other employee designated by the head of the agency to receive such information;

(g) Allegations of or information concerning the arbitrary or capricious withholding of information prohibited under section 552 of title 5, United States Code, except that the Special Counsel shall make no investigation under this subsection of any withholding of foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by Executive order; and

(h) Allegations of or information concerning the giving of knowingly false testimony or knowingly making false allegations before the Merit Systems Protection Board or its designee, or any official or employee of the Office of Special Counsel by a Federal employee.

§ 1251.102 Investigations.

(a) The Special Counsel shall accept and investigate allegations under § 1251.101 received from employees, applicants for employment, or any other source, when the complainant provides information or the Special Counsel has information which—

(1) Is sufficient for determining or it is determined that the matter is under the investigative jurisdiction of the Special Counsel; and

(2) Sufficiently describes the activity so that it may be reasonable to believe that a violation of law, rule, or regulation may have occurred or is likely to occur.

(b) The Special Counsel will not initiate an investigation of an allegation or information or will terminate an investigation of such an allegation or information when it is determined that—

(1) There are insufficient grounds upon which to base further inquiry;

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(2) The matter is not under the investigative jurisdiction of the Special Counsel; or

(3) The facts presented or before the Special Counsel in support of the allegation are effectively refuted by the information of record or by other reliable, probative and substantial evidence.

(c)(1) If the Special Counsel, after a preliminary inquiry, determines that a full investigation is not warranted, he or she shall terminate his or her inquiry and may close the case with an appropriate notation in the case control file. The complainant shall be notified of the determination and the reasons therefor.

(2) Upon completion of a full investigation the Special Counsel shall prepare a report of the investigation.

(3) If the Special Counsel closes the case after a full investigation, he or she shall furnish a written statement notifying the complainant of the termination of the investigation and the reasons therefor.

(d) The Special Counsel may, in the absence of an allegation, conduct an investigation for the purpose of determining whether there are reasonable grounds to believe a practice has occurred, exists, or is to be taken, over which he or she has investigative and/or prosecutorial jurisdiction.

§ 1251.103 Action on results of investigations.

(a) Upon conclusion of an investigation under § 1251.101 not otherwise terminated under the provisions of § 1251.102(b), the Special Counsel may—

(1) Close the case where the Special Counsel finds that the allegation or information upon which the investigation was initiated was not supported by the facts as determined by the investigation; or

(2) Initiate, on the basis of the investigative findings, corrective action pursuant to paragraph (b) of this section, disciplinary action pursuant to paragraph (c) of this section, or both.

(b) When it is determined that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken which requires corrective action, the Special Counsel shall report such determination with the supporting facts and, when appropriate, recommendations to the Merit Systems Protection Board, the agency involved, and to the Office of Personnel Management, and may report such determination with supporting facts and recommendations to the President. If the agency involved fails to take any action recommended within a reasonable period, the Special Counsel may request the Board to consider the matter pursuant to 5 U.S.C. 1206(c)(1)(B).

(c) When the investigation reveals that disciplinary action against any employee subject to investigation is required under law or is otherwise warranted, the Special Counsel shall prepare a complaint setting forth, with specificity, the offense charged and a recommendation concerning the disciplinary action, if any, he believes warranted by the facts of the case, including a statement of supporting facts, and shall file the complaint with the Merit Systems Protection Board. The complaint and statement of supporting facts shall contain the information required by § 1260.101 of this subchapter and shall be served on the employee at the same time it is filed with the Board. Additionally, in the case of violations of provisions of Chapter 15 of title 5, United States Code (political activity of certain State and local officers and employees), the complaint, including the statement of supporting facts, shall be served on the State or local agency as well as the officer or employee.

(d) When in the judgment of the Special Counsel the results of an investigation would warrant the taking of disciplinary action against an employee in a confidential, policy-making, policy-determining, or policy-advocating position appointed by the President by and with the advice and consent of the Senate (other than an individual in the Foreign Service of the United States), the Special Counsel shall submit the complaint including a statement of supporting facts and the employee's response to the complaint to the President, in lieu of presenting the complaint before the Merit Systems Protection Board.

(e) When the Special Counsel believes that there is in an agency a pattern of prohibited personnel practices not otherwise appealable to the Board under any law, rule or regulation, the Special Counsel may file a complaint with the Merit Systems Protection Board against the agency involved to obtain an order for appropriate corrective action. If this determination includes or is in the form of disciplinary charges against an employee, such charges will be filed and served in accordance with the provisions of paragraph (c) of this section.

(f) If, in connection with any investigation under § 1251.101, the Special Counsel determines that there is reasonable cause to believe that a criminal violation by an employee has occurred, the Special Counsel shall report the determination to the Attorney General and to the head of the agency involved, and shall submit a copy of the report to the Director of the Office of Personnel Management and the Director of the Office of Management and Budget. The referral of an alleged criminal violation to the Attorney General shall not prohibit the Special Counsel from conducting any investigation or proceeding concerning prohibited personnel practices instituted under § 1251.101.

(g) If, in connection with any investigation under § 1251.101, the Special Counsel determines that there is reasonable cause to believe that a violation of any law, rule, or regulation has occurred not involving matters within the jurisdiction of the Special Counsel to initiate disciplinary or corrective action, the Special Counsel shall report the violation to the head of the agency involved, and the head of the agency shall, within 30 days of the receipt of the report from the Special Counsel, certify to the Special Counsel that he has personally reviewed the report and specify the action that has been taken, or is to be taken and when the action will be completed.

PART 1252—[RESERVED]

PART 1253—DISCLOSURES OF INFORMATION

Sec.

1253.101 Applicability.
1253.102 Action on allegations or information.
1253.103 Disclosure of identity of disclosing employee or applicant for employment.
1253.104 Referral to Agency heads; reports from Agency heads.
1253.105 Referral to Agency heads under 5 U.S.C. 1206(b)(7).
1253.106 Failure of Agency head to file report.
1253.107 Review of Agency report.
1253.108 Foreign intelligence or counterintelligence information.

AUTHORITY: 5 U.S.C. 1205, 1206; sec. 204 of Reorganization Plan No. 2 of 1978.

§ 1253.101 Applicability.

This part applies to disclosures of information not specifically required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs, by an employee or applicant for employment which the employee or applicant reasonably believes evidences a violation of any law, rule or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to the public health or safety.

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§ 1253.102 Action on allegations of information.

Allegations or information described in § 1253.101 shall be processed by the Special Counsel pursuant to §§ 1253.103–1253.107 when the employee or applicant for employment provides information which describes the matter sufficiently so that—

(a) It can be reasonably determined that the matter falls within the applicability of this part; and

(b) It can serve as a basis for a preliminary investigation by the Special Counsel to determine whether a further investigation or other action and response by the agency affected is appropriate.

§ 1253.103 Disclosure of identity of disclosing employee or applicant for employment.

The identity of any employee or applicant for employment who discloses information pursuant to this part, may not be disclosed without the consent of the employee or applicant during any investigation by the Special Counsel or by an agency pursuant to a referral from the Special Counsel, unless the Special Counsel determines that the disclosure of the identity of the employee or applicant is necessary in order to carry out the functions of the Special Counsel.

§ 1253.104 Referral to agency heads; reports from agency heads.

(a) If after review of the information received under this Part (but not later than 15 days after receipt of the information), the Special Counsel determines that there is a substantial likelihood that the information discloses a violation of any law, rule or regulation, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health or safety, he or she may, if the information was transmitted to the Special Counsel by an employee or former employee or applicant for employment in the agency which the information concerns, or by any employee who obtained the information in connection with the performance of the employee's duties and responsibilities, require the head of the agency to conduct an investigation of the information and any related matters and submit to the Special Counsel a written report setting forth the findings of the head of the agency. Any report required by the Special Counsel under this section shall be submitted within sixty (60) calendar days after the date on which the Special Counsel transmitted the information to the head of the agency, or within any reasonable longer period of time agreed to in writing by the Special Counsel or designee of the Special Counsel.

(b) Any report required under this section shall be reviewed and signed by the agency head and shall include: A summary of the information with respect to which the investigation was initiated; a description of the conduct of the investigation; a summary of any evidence obtained from the investigation; a listing of any violation or apparent violation of any law, rule, or regulation; a description of any corrective action taken or planned to be taken as a result of the investigation, including, but not limited to, changes in agency rules, regulations, or practices, restoration of any aggrieved employee, disciplinary action against any employee, and referral to the Attorney General of any evidence of a criminal violation.

(c) Any report required under this section shall be submitted, by the agency head, to the Congress and the President, as well as the Special Counsel.

(d) The Special Counsel will transmit a copy of the agency head's report to the party who made the disclosure to the Special Counsel except when the report includes evidence of criminal violations referred to the Attorney General.

§ 1253.105 Referral to agency heads under 5 U.S.C. 1206(b)(7).

If the Special Counsel does not require an investigation by the head of the agency, the head of the agency shall, within a reasonable time (but no later than 60 days) after the information was transmitted to him or her by the Special Counsel, inform the Special Counsel, in writing, of what action has been or is to be taken and when such action will be completed. The Special Counsel shall promptly inform the complainant of the report of the agency head and provide the complainant with a copy of the report of the agency head.

§ 1253.106 Failure of agency head to file report.

Whenever the Special Counsel does not receive a required report from an agency head within the time specified in § 1253.104 or § 1253.105, the Special Counsel may transmit a copy of the information which he or she transmitted to the agency head to the President and to the Congress together with a statement noting the failure of the agency head to file the required report.

§ 1253.107 Review of agency report.

Upon receipt of any report of the head of an agency under § 1253.104, the Special Counsel shall review the report and determine whether the findings of the head of the agency appear reasonable and the agency's report contains the information required.

§ 1253.108 Foreign intelligence or counterintelligence information.

Any disclosure under this part involving foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or Executive order, shall be transmitted by the Special Counsel to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

PART 1254—FILING OF COMPLAINTS AND ALLEGATIONS

Sec.
1254.101 Place of filing.

AUTHORITY: 5 U.S.C. 1206.

§ 1254.101 Place of filing.

All complaints, allegations, and information under this subchapter shall be transmitted to the Office of the Special Counsel, Merit Systems Protection Board, 1717 H Street, NW., Washington, D.C. 20419.

PART 1260—PROSECUTIONS

Sec.
1260.101 Complaint—contents.
1260.201 Stay of personnel actions.
1260.301 Enforcement of Board decisions.
1260.302 Petition for withholding order.
1260.401 Hearings on complaints filed by the Special Counsel.
1260.501 Dismissal by the Special Counsel.

AUTHORITY: 5 U.S.C. 1205, 1206, 1207; Sec. 204 of Reorganization Plan No. 2 of 1978.

§ 1260.101 Complaint—contents.

In addition to the charges which specify the law, rule, or regulation violated, including a statement of supporting facts, the complaint shall inform the employee of his or her right to reply to the Board personally, in writing, or both, pursuant to the rules and regulations of the Board providing for a reply within 15 days of receipt of the complaint. The complaint shall also inform the employee that: He or she must serve a copy of any such reply upon the Special Counsel; pursuant to the Board's rules, no decision on the proposed action will be effected sooner than 30 days after receipt of the complaint by the employee; and of his or her right to be represented by counsel.

§ 1260.201 Stay of personnel actions.

(a) The Special Counsel may request any member of the Board to order a stay of any personnel action for 15 calendar days if the Special Counsel determines that there are reasonable grounds to believe that the personnel action was taken, or is to be taken, as a result of a prohibited personnel practice. Where administratively practicable, the petition for stay shall be served upon the agency official or office which has taken or is taking the personnel action. The stay shall be effective on order of the Board member or on the fourth calendar day (excluding Saturdays, Sundays, and legal holidays) following submission of the petition to the Board member provided the Board member does not deny the stay within three calendar days of submittal.

(b) The Special Counsel may request any member of the Board to extend the period of any stay for a period of not more than 30 calendar days.

(c) The Special Counsel may request the Board to order a further extension of the stay for such period as the Board considers appropriate.

§ 1260.301 Enforcement of Board decisions.

(a) The Special Counsel shall accept and investigate complaints pursuant to the procedures of Part 1251 of this subchapter, of knowing and willful refusal or failure of an employee to comply with an order of the Merit Systems Protection Board.

(b) If after review of the report of investigation, the Special Counsel determines that disciplinary action should be taken against an employee for failure to comply with an order of the Board, he or she shall prepare a complaint setting forth the substance of the violation charged with specificity, including a statement of supporting facts, and shall file the complaint with the Board.

(c) The complaint, including the statement of supporting facts, shall be served upon the employee at the same time it is filed with the Board, and shall contain the information required by § 1260.101 of this title.

§ 1260.302 Petition for withholding order.

When the Special Counsel determines that a State or local agency has failed to remove an employee after a decision by the Merit Systems Protection Board under section 1505 of title 5, United States Code, or that the employee was reemployed within 18 months in a State or local agency of the same State, the Special Counsel may initiate proceedings for a withholding order as provided under section 1506 of the same title, by filing a petition for a withholding order with an administrative law judge designated by the Board.

§ 1260.401 Hearings on complaints filed by the Special Counsel.

Any employee against whom the Special Counsel presents a complaint to the Merit Systems Protection Board shall, pursuant to the regulations of the Board, have the right to a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer, to be represented by an attorney or other representative, to a hearing before the Board or an administrative law judge designated by the board, to have a transcript kept of any hearing, to a written decision and reasons therefor, and a copy of any final order on the complaint.

§ 1260.501 Dismissal by the Special Counsel.

The Special Counsel, or his or her designee may, with leave of the Board or administrative law judge, file a dismissal of all or part of a complaint at any time prior to the close of the hearing before the Board or administrative law judge. Prosecution by the Special Counsel with respect to any of the charges so dismissed shall thereupon terminate.

PART 1270—ANCILLARY MATTERS

Subpart A—Discovery

Sec.
1270.101 Subpenas.
1270.102 Testimony and evidence.
1270.103 Depositions and interrogatories.
1270.104 Witness fees.

Subpart B—Prohibition on Disciplinary Action During Pendency of Investigation by Special Counsel

1270.201 Prohibition on disciplinary action during pendency of investigation by Special Counsel.

Subpart C—Advisory Opinions; Intervention; Requests to Merit Systems Protection Board to Review Office of Personnel Management Regulations

1270.301 Advisory opinions.
1270.302 Intervention.
1270.303 Requests to Merit Systems Protection Board to Review Office of Personnel Management Regulations.

Subpart D—Disclosure of Identity of Employee or Applicant by Special Counsel

1270.401 Disclosure of identity of employee or applicant by Special Counsel.

AUTHORITY: 5 U.S.C. 303, 1205, 1206; Sec. 204 of Reorganization Plan No. 2 of 1978; 5 CFR 5.3.

Subpart A—Discovery

§ 1270.101 Subpenas.

(a)(1) The Special Counsel may issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia. The subpena shall command each person to whom it is directed to attend and give testimony or to produce documents or other tangible evidence at a time and place specified therein. A subpena may be served by a representative of the Special Counsel or a U.S. Marshal. Service of a subpena upon a person named therein shall be made by delivering a copy thereof to such person.

(2) The subpena must be signed by the Special Counsel; *Provided however*, That designees may be authorized by the Special Counsel to sign his or her name and issue a subpena upon a specific delegation by the Special Counsel. Subpenas may not be signed in blank.

(b)(1) In the case of contumacy or failure to obey a subpena issued by the Special Counsel, the Special Counsel may request the United States District Court for the judicial district in which the person to whom the subpena is addressed resides, or is served, to issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Upon any failure to obey an order of the court granted pursuant to the application of the Special Counsel, the Special Counsel may request the court to hold the person or persons to whom the order was directed in contempt of court.

(2) Application to a federal court for enforcement of a subpena issued under this section may be made by the Special Counsel or his or her designee.

§ 1270.102 Testimony and evidence.

(a) Pursuant to Civil Service Rule V, § 5.4 (5 CFR 5.4), as amended, all officers and employees in the executive branch, or applicants or eligibles for positions therein, shall give to the Special Counsel, or his or her authorized representatives, all information, testimony, and documentary evidence in regard to matters inquired of arising under the laws, rules, and regulations administered by the Special Counsel.

(b) Whenever required by the Special Counsel, or his or her authorized representatives, such persons shall subscribe such testimony and make oath or affirmation thereto before an officer authorized by law to administer oaths. Such oath may be administered by any officer or employee of the Office of Special Counsel authorized to administer such oaths.

§ 1270.103 Depositions and interrogatories.

The Special Counsel may order the taking of depositions and order responses to written interrogatories. Depositions shall be taken before an officer authorized to administer oaths. Reasonable notice shall be given to the person to be deposed concerning

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the time, place and subject of the deposition. Answers to interrogatories shall be served upon the Special Counsel or his or her authorized representative within thirty (30) days of the date of receipt of the interrogatories unless an extension of time has been granted by the Special Counsel or his or her representative.

§ 1270.104 Witness fees.

(a) Witness fees and mileage allowances shall be paid by the party requesting the witness to appear, or asking for and receiving a subpena requiring the attendance of a witness or the production of documents or other materials, and shall be tendered to the witness or person who is directed to product documents or other materials along with the subpena, or, if the witness appears voluntarily, at the time of appearance. When the witness is subpenaed or appears at the request of the United States or an officer or agency thereof, fees and mileage need not be tendered with the subpena or prior to the appearance of the witness or production of evidence; payment shall be made by the agency on whose behalf the witness appeared or was subpenaed, upon the certificate of the Special Counsel or his or her designee that the witness appeared and/or produced documents or other evidence.

(b) Witness fees and mileage allowances payable under this section shall be the same as those paid subpenaed witnesses in the courts of the United States, as set forth in section 1821 of title 28, United States Code.

(c) Employees of the Federal Government who appear voluntarily or pursuant to subpena and who appear in official duty status shall not be entitled to any witness fees or mileage allowance (other than that to which they are entitled under the Federal Travel Regulations).

Subpart B—Prohibition on Disciplinary Action During Pendency of Investigation by Special Counsel

§ 1270.201 Prohibition on disciplinary action during pendency of investigation by Special Counsel.

During any investigation initiated by the Special Counsel, no disciplinary action shall be taken against any employee for any alleged prohibited activity under investigation or for any related activity without the approval of the Special Counsel.

Subpart C—Advisory Opinions; Intervention; Review of Office of Personnel Management Regulations

§ 1270.301 Advisory opinions.

The Special Counsel shall not issue any advisory opinion concerning any law, rule, or regulation (other than an advisory opinion concerning chapter 15 of title 5, U.S. Code, dealing with political activity of State and local officers and employees, or subchapter III of chapter 73 of title 5, U.S. Code, dealing with political activity of Federal officers and employees).

§ 1270.302 Intervention.

The Special Counsel may, in his or her discretion, intervene or otherwise participate in any proceeding before the Merit Systems Protection Board and shall comply with the rules of the Board.

§ 1270.303 Requests to the Merit Systems Protection Board to review Office of Personnel Management regulations.

The Special Counsel may, in his or her discretion, file a written complaint with the Merit Systems Protection Board, requesting the Board to review the validity of any provision of any rule or regulation issued by the Director of the Office of Personnel Management. Such complaint shall specify the manner in which application of specific provisions of the rule or regulation has resulted or will result in causing any employee or agency to violate any prohibited personnel practice, and will be accompanied by supporting facts or evidence.

Subpart D—Disclosure or Identity of Employee or Applicant by Special Counsel

§ 1270.401 Disclosure of identity of employee or applicant by Special Counsel.

The identity of the employee or applicant may not be disclosed without the consent of the employee or applicant during any investigation concerning allegations of prohibited personnel practices or disclosures of information under 5 U.S. Code 1206(a) and 1206(b)(1), unless the Special Counsel determines that the disclosure is necessary in order to carry out the functions of the Special Counsel.

PART 1271—PUBLIC INFORMATION

Sec.
1271.101 Public List of Matters Referred to Agencies.

AUTHORITY: 5 U.S.C. 1206.

§ 1271.101 Public list of matters referred to agencies.

The Special Counsel shall maintain and make available to the public a list of noncriminal matters referred to heads of agencies under § 1251.103(g) and Part 1253 of this subchapter, together with reports by the heads of agencies received under Part 1253 and certifications by heads of agencies received under § 1251.103(g).

PART 1272—FREEDOM OF INFORMATION

Sec.
1272.101 Policy.
1272.102 Procedures for obtaining records.
1272.103 Service charge for information.
1272.104 Appeals.
1272.105 Disclosures by authorized official only.

AUTHORITY: 5 U.S.C. 552.

§ 1272.101 Policy.

Upon receipt by the Office of the Special Counsel of a request for agency records under the Freedom of Information Act (5 U.S.C. 552) that are reasonably described, the records shall be provided promptly unless it is determined that one or more of the exemptions under subsection (b) of that Act should be applied to withhold the records.

§ 1272.102 Procedures for obtaining records.

Requests for records may be made in person or in writing and, except in unusual circumstances, a determination shall be made on a request within 10 days (excluding Saturdays, Sundays, and legal holidays). Requests in writing should be addressed to the Office of the Special Counsel, 1717 H Street, NW., Washington, D.C. 20419. Requests in person may be made by appearing at that address during business hours on a regular business day. Requests in writing should be clearly and prominently marked "Freedom of Information Act Request".

§ 1272.103 Service charge for information.

(a) Request for records of the Office of the Special Counsel are subject to the following fees for search and duplication:

Photocopies, per page, $0.10.
Manual records search, $5.00 per hour.

Where copies of records have already been made available to an individual in the course of agency proceedings or otherwise, the cost of photocopies to that individual or his or her representative shall be fifteen (15) cents per page. Fees for search and duplication of automated records shall be provided upon request.

(b) Requests that do not specify that whatever fees are involved shall be acceptable or acceptable up to a designated amount will be deemed not received for purposes of the time limits for a determination until the requester, after being promptly notified of the anticipated fees, agrees to payment.

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(c) When the anticipated fees exceed fifty ($50.00) dollars, a deposit of twenty (20%) percent of that amount must be made within thirty (30) days after the requester is so advised. Records will not be released until the deposit is received.

§ 1272.104 Appeals.

Any denial, in whole or in part, of a request for records of the Office of the Special Counsel may be appealed to the Special Counsel or his/her designee. The appeal shall be in writing and addressed to the Special Counsel at 1717 H Street, NW., Washington, D.C. 20419. Except in unusual circumstances, the Special Counsel or his/her designee shall make a determination on the appeal within twenty (20) days (excluding Saturdays, Sundays, and legal holidays) after it is received. When a request is denied on appeal, the requester shall be advised of his or her right to seek judicial review.

§ 1272.105 Disclosures by authorized official only.

No employee or former employee of the Office of the Special Counsel shall, in response to a demand of a court or other authority, produce or disclose any information or records acquired as part of the performance of his or her official duties or because of his or her official status without the prior approval of the appropriate official of the Office of the Special Counsel.

PART 1273—PRIVACY

Sec.
1273.101 Records maintained on individuals.
1273.102 Access to records and identification.
1273.103 Medical records.
1273.104 Requests for amendment of records.
1273.105 Appeals.
1273.106 Exemptions.

AUTHORITY: 5 U.S.C. 552a.

§ 1273.101 Records maintained on individuals.

Information on individuals that are maintained in any group or system of records by the Office of the Special Counsel and which are retrieved by the name of the individual or some identifying particular assigned to the individual, shall be subject to the Privacy Act (5 U.S.C. 552a). The terms used in this part that are defined in that section shall have the meanings set forth therein.

§ 1273.102 Access to records and identification.

(a) Individuals may request access to records pertaining to them that are maintained as described in section 1273.101 by addressing an inquiry to the Office of the Special Counsel either by mail or by appearing in person at the offices of the Special Counsel at 1717 H Street, NW., Washington, D.C. 20419, during business hours on a regular business day. Requests in writing should be clearly and prominently marked "Privacy Act Request". Requests for copies of records shall be subject to duplication fees set forth in § 1273.103 of this subchapter.

(b) Individuals making a request in person shall be required to present satisfactory proof of identity, preferably a document bearing the individual's photograph. Requests by mail or submitted other than in person should contain sufficient information to enable the Office of the Special Counsel to determine that the requester and the subject of the record are one and the same. To assist in this process, individuals should submit their name and address, date and place of birth, social security number, and any other known identifying information such as an agency file number or identification number and a description of the circumstances under which the records were compiled.

§ 1273.103 Medical records.

When a request for access involves medical records that are not otherwise exempt from disclosure, the requesting individual may be advised, if it is deemed necessary, that the records will be provided only to a physician designated in writing by the individual. Upon receipt of the designation, the physician will be permitted to review the records or to receive copies by mail upon proper verification of identity.

§ 1273.104 Requests for amendment of records.

Individuals may request amendment of records pertaining to them that are subject to this part. Requests should be addressed, in writing, to the Special Counsel and be clearly and prominently marked "Privacy Act Request". Requests for amendment should include identification of the records together with a statement of the basis for the requested amendment and all available supporting documents and materials. Requests for amendment shall be acknowledged not later than ten (10) days (excluding Saturdays, Sundays, and legal holidays) after receipt and a determination on the request shall be made promptly.

§ 1273.105 Appeals.

When a request for access or amendment has been denied, a written appeal may be submitted to the Special Counsel or his/her designee. A final determination on the appeal shall be issued within thirty (30) days (excluding Saturdays, Sundays, and legal holidays) after receipt. Where unusual circumstances prevent a determination within that time period, the time for a determination may be extended an additional thirty (30) working days after the requesting individual has been advised in writing of the reasons for the extension and the estimated date a determination will be made. Where the final determination denies a request for amendment, the requesting individual shall be notified of his or her right to file a concise statement of reasons for disagreeing with the final determination. A copy of the statement shall be appended to the disputed record and provided to persons to whom the record is disclosed and to prior known recipients of the record. The Office of the Special Counsel may also attach to the statement a concise account of its reasons for not making the amendments requested. The final determination shall contain a notice of the right to judicial review.

§ 1273.106 Exemptions.

The Office of the Special Counsel may claim exemptions from the provisions of the Privacy Act at subsections (c)(3) and (d) as permitted by subsection (k) for records subject to the Act that fall within the category of investigatory material described in paragraphs (2) and (5) and testing or examination material described in paragraph (6) of that subsection. The exemptions for investigatory material are necessary to prevent frustration of inquiries into allegations of prohibited personnel practices or political activity and to protect identities of confidential sources of information. The exemptiom for testing or examination material is necessary to prevent the disclosure of information which would potentially give an individual an unfair competitive advantage or diminish the utility of established examination procedures. The Office of the Special Counsel also reserves the right to assert exemptions for records received from another agency that could be properly claimed by that agency in responding to a request and the office of the Special Counsel may refuse access to information compiled in reasonable anticipation of a civil action or proceeding.

PARTS 1274, 1275 and 1276—[RESERVED]

Issued on January 26, 1979, at Washington, D.C.

H. PATRICK SWYGERT,
Special Counsel of the Merit Systems Protection Board.

[FR Doc. 79-3171 Filed 1-29-79; 8:45 am]

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federal register

TUESDAY, JANUARY 30, 1979
PART IV

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PROTECTION OF HISTORIC AND CULTURAL PROPERTIES

Final Amendments

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[4310-10-M]

Title 36—Parks, Forests, and Public Property

CHAPTER VIII—ADVISORY COUNCIL ON HISTORIC PRESERVATION

PART 800—PROTECTION OF HISTORIC AND CULTURAL PROPERTIES

Amendments to Existing Regulations

AGENCY: Advisory Council on Historic Preservation.

ACTION: Final amendments to regulations.

SUMMARY: These regulations implement Section 106 of the National Historic Preservation Act 1966, as amended (16 U.S.C. 470), and two Presidential directives issued pursuant to Section 106—Executive Order 11593, May 13, 1971, "Protection and Enhancement of the Cultural Environment" (36 FR 8921, 16 U.S.C. 470), and the President's Memorandum on Environmental Quality and Water Resources Management, July 12, 1978. The regulations have been amended to reflect changes and additions to the Council's authorities, as well as experience gained in working with the process since the last publication of regulations in 1974. These amendments are intended to expedite and clarify the commenting process required by Section 106 of the National Historic Preservation Act.

EFFECTIVE DATE: March 1, 1979.

FOR FURTHER INFORMATION CONTACT:

John M. Fowler, Acting General Counsel, Advisory Council on Historic Preservation, 1522 K Street, NW, Washington, D.C. 20005, 202-254-3967.

SUPPLEMENTARY INFORMATION:

Background

The Advisory Council on Historic Preservation is publishing these final amendments to its existing regulations to implement Section 106 of the National Historic Preservation Act, as amended (16 U.S.C. 470f). The purpose of Section 106 is to protect properties included in or eligible for inclusion in the National Register of Historic Places through review and comment by the Council on Federal undertakings that affect such properties. Properties are listed on the National Register or declared eligible for listing by the Secretary of the Interior. As implemented through these regulations, the Section 106 process is a public interest process in which the Federal agency proposing an undertaking, the State Historic Preservation Officer, the Council, and interested organizations and individuals participate. The process is designed to assure that alternatives to avoid or mitigate an adverse effect on a National Register or eligible property are adequately considered in the planning processes. The regulations are binding on all Federal agencies and specify the manner in which the Council will render its comments to Federal agencies when their undertakings affect properties included in or eligible for inclusion in the National Register of Historic Places. To facilitate processing of the large volume of cases submitted for Council comment each year, the regulations provide for agency consultation with the Council staff and State Historic Preservation Officers to reduce the number of undertakings that require consideration by the full Council.

The purpose of the present amendments is to reduce procedural delay, encourage agencies to develop internal regulations to comply with the requirements of the Act and these regulations, to clarify the process since the last publication of the Council's regulations in 1974, and to implement the directives in the President's Memorandum on Environmental Quality and Water Resources Management.

In late 1977, the Council staff began a reassessment of the existing regulations codified in 1974 in 36 CFR Part 800, in an effort to determine what changes, clarifications, or modifications were necessary. In July of 1978, the President issued the Memorandum on Environmental Quality and Water Resources Management which directed the Chairman of the Council to review and promulgate regulations implementing the Act and the Memorandum by March 1, 1979. Accordingly, the existing regulations were amended to reflect changes in statutory authority, experience gained in implementing the procedures since 1974, and to meet the demands of the President's Memorandum.

The Council published proposed amendments to the existing regulations in the FEDERAL REGISTER on October 30, 1978, and invited public comment for a 30 day period. A number of Federal agencies and others requested extension of the comment period. On November 28, 1978, the Council published notice in the FEDERAL REGISTER extending the comment period for an additional thirty days until December 29, 1978, providing for a 60 day comment period in total. A public briefing for interested agencies, organizations, and individuals on the proposed amendments was held on December 11, 1978. Council staff also actively cooperated with the Secretary of the Interior's Water Policy Implementation Task Force on Environmental Statutes. The Task Force was convened in response to the directives contained in the President's Memorandum. The Task Force was charged with reviewing the draft regulations and informally offering comments to the Council on whether the regulations comply with the directive.

Pursuant to the President's Memorandum, agencies with consultation responsibilities under the Act must develop regulations to be approved by the Chairman of the Council in response to these regulations. Such agencies must publish regulations no later than three months after the effective date of these regulations. Other agencies may choose to adopt counterpart regulations specifically tailored to their particular program needs as stipulated in these regulations.

These regulations issued pursuant to 16 U.S.C. 470s were adopted by unanimous vote of the full Council in open session on January 17, 1979. As directed by the President, the amended regulations will be effective March 1, 1979.

Summary of Major Changes

The flow of the commenting process established by the 1974 regulations remains basically unchanged in the present amendments. However, the regulations have been renumbered and rearranged from the 1974 publication for greater clarity. The following major changes have been made in the regulations:

1. Section 800.4(a) has been substantially revised to provide further guidance to Federal agencies on the identification of National Register and eligible properties.

2. A new § 800.5 has been added to define the responsibilities of State Historic Preservation Officers in the commenting process.

3. Section 800.6(d) authorizes the Chairman to appoint a panel of five members of the Council to consider undertakings in lieu of consideration by the full Council.

4. A new § 800.7 has been added dealing with resources discovered during construction.

5. A new § 800.8 has been added dealing with Programmatic Memoranda of Agreement allowing an agency to obtain the Council's comments for a particular program or class of undertakings that would otherwise require numerous individual requests for comments.

6. Section 800.9 revises the original section dealing with the National Environmental Policy Act to reflect new Council on Environmental Quality regulations.

7. A new § 800.11 has been added to authorize counterpart regulations permitting agencies to develop regulations which, if approved by the Chairman, may be used to meet certain requirements of these regulations.

8. A new § 800.15 has been added dealing with public participation in the Section 106 review process.

9. A new § 800.14 has been added on Supplementary Guidance. The Supplementary Guidelines included in the proposed amendments have been deleted. Supplementary Guidelines II and IV have been included in § 800.13.

10. Throughout the amended regulations, time limits have been established to expedite the process while encouraging maximum public participation.

Comments and the Council's Response

The Council received 128 comments prior to the close of the comment period on December 29, 1978. An additional 16 comments were received between December 30, 1978, and the Council meeting on January 17 and 18, 1979. All comments were submitted to the Council members for review prior to the meeting. Comments were received from 32 Federal agencies, 27 State Historic Preservation Officers, 33 State or local governments, and 52 private organizations or individuals, and one U.S. Senator.

Section 800.1 Purpose and Authorities

The section was slightly reworded in response to several suggestions to make the language closer to that of the Act and Executive Order. A section was added summarizing the President's Memorandum on Environmental Quality and Water Resources Management.

Section 800.2 Definitions

Section 800.2(c) was clarified in response to several agency comments that the scope of the term "undertaking" was too broad and unclear. Of particular concern was the inclusion of activities proposed by Federal agencies for Congressional authorization or appropriation. This definition is not to be construed as requiring general program authorization and program appropriation requests to be reviewed under these regulations. The purpose is to ensure proper and timely consideration of specific activities that will have significant impacts on National Register or eligible properties and that provide limited opportunity after Congressional action to consider alternatives to avoid or mitigate these impacts. Such activities are usually major Federal construction projects that are proposed for Congressional approval at a specific site or with specific design features, such as a dam. Section 106 review would be appropriate prior to authorization or, in the case of projects authorized without prior Section 106 compliance, during the agency's formulation of a budget request to be submitted to the Office of Management and Budget. In either event agencies should complete their Section 106 responsibilities prior to making submissions to the Office of Management and Budget. Agencies will comply with the requirements of OMB Circular A-10, which concerns budget confidentiality.

Authorizations for programs that will have uniform adverse effects on National Register or eligible properties and where the legislative terms of authorization may severely limit the opportunity to avoid or mitigate adverse effects on a case by case basis are also included. An example would be the recent Special Bridge Replacement Program, which, in its original form, prohibited the use of funds for anything but replacement of unsafe bridges. The result was that alternatives such as rehabilitation were foreclosed when a particular National Register or eligible bridge was proposed for replacement. When seeking Council comments on such a program agencies should follow the provisions of § 800.8, "Programmatic Memorandum of Agreement."

The definition of eligible property contained in § 800.2(f) has been rewritten to more closely reflect statutory language and was changed in response to a Federal member agency. Several commenters were of the opinion that the Council should review only those undertakings affecting properties actually listed on the National Register. Such a limitation is contrary to the mandate of the National Historic Preservation Act, and was not adopted.

A definition of the area of the undertaking's potential environmental impact is contained in § 800.2(o). Several comments expressed concern about the difficulty in defining this term. The definition no longer includes reference to secondary effects and is consistent with the definition adopted by the Council on Environmental Quality. This new section has been modified since the draft amendments by the addition of the requirement that the boundaries of such an area are to be determined by the Agency Official and the State Historic Preservation Officer.

Section 800.2(p), Consulting Parties, is a new section. Many commenters expressed confusion as to who the parties to the consultation process were.

Section 800.3 Criteria of Effect and Adverse Effect

Section 800.3 was the subject of many comments. The entire section has been reworked for greater clarity. A definition of direct and indirect effects has been added and the definition deliberately tracks that used by the Council on Environmental Quality for purposes of the National Environmental Policy Act. The new language of this section is now tied closely to the National Register Criteria. One commenter suggested that only significant effects be covered by these regulations. This comment was not adopted because it is contrary to statutory requirements.

Section 800.4 Federal Agency Responsibilities

This section describes the means by which a Federal agency should identify National Register or eligible properties and determine whether an undertaking affects such properties and provides for coordination with the State Historic Preservation Officers. A large number of comments were received on the entire section. Many Federal agencies felt that further clarification of the entire section was needed. In response to these comments, the section has been re-structured. The Council has adopted a reasonable effort standard for Federal agencies to meet in identifying National Register and eligible properties. Federal agency responsibilities for determination of effect are also set forth in this section. The ultimate responsibility for compliance with the regulations rests with the Federal agency and cannot be delegated by it.

Section 800.4(a) has been altered in response to numerous comments including several from Federal agencies. The section has been re-drafted to set forth a logical sequence needed to identify properties. Throughout the process of identification, there should be consultation between the Agency Official and the State Historic Preservation Officer. The section makes clear that an agency can request the Council's comments simultaneously with a request for eligibility from the Secretary of the Interior. The Council believes that the reorganized section is clearer and that it will allow agencies to know in more precise terms what is required to identify National Register or eligible properties.

Section 800.4(b), Determination of Effect, also received numerous comments from Federal agencies and others. The section on No Effect (800.4(b)(1)) has been clarified concerning how an objection can be made and the manner in which the Executive Director will respond.

Section 800.4(c) concerning Determination of No Adverse Effect has been clarified in response to several comments. No Adverse Effect Determinations must be made in consultation with the appropriate State Historic Preservation Officer and evidence of contact with a State Historic Preservation Officer must be included in the documentation forwarded to the

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Council if the State Historic Preservation Officer does not respond to a request under the provisions of § 800.5.

Section 800.4(d) has been slightly altered in response to several comments. The transmittal of a Preliminary Case Report will be the request for the comments of the Council.

A new § 800.4(e) has been added providing that good faith consultation would prevent an agency from proceeding with an undertaking until the Council has provided its comments. The section, while appearing in substantially the same form in several sections in the draft amendments, is now one section. It is included as one section at the request of a Federal agency member of the Council.

SECTION 800.5 STATE HISTORIC PRESERVATION OFFICER RESPONSIBILITIES

Section 800.5, State Historic Preservation Officer Responsibilities, is a new section. The section establishes deadlines for response on the part of this official, after which the process may continue if no response has been received. Pursuant to a substantial number of comments, however, lack of response by the State Historic Preservation Officer will no longer be deemed concurrence, although the review may still proceed. Several commenters suggested that the "shoulds" used in this section be changed to "shalls." The suggestion was rejected because the Council lacks authority to impose mandatory requirements on these State officials.

SECTION 800.6 COUNCIL COMMENTS

This section concerns the manner in which the Council will render its comments. There were a substantial number of comments on this section. In response to these comments, numerous changes were made to clear up ambiguities and make the Council's commenting process more expeditious.

Section 800.6(a) concerns the manner in which the Executive Director will respond to an agency Determination of No Adverse Effect. In response to comments, a specific time limit has been placed on the Executive Director's acceptance of adequate documentation and the time period for review of such Determinations of No Adverse Effect has been reduced from the 45 days stipulated in the 1974 regulations to 30 days.

A new § 800.6(a)(2) provides that the Executive Director may specify conditions to remove an objection to a No Adverse Effect Determination. Several commenters suggested that the State Historic Preservation Officer should be included in this process. It is the intention of the Council to include the State Historic Preservation Officer through the addition of a provision in § 800.6(a)(2) which allows the Executive Director to consult the State Historic Preservation Officer and other interested parties.

Section 800.6(b) parallels the existing regulations. However, several changes have been made, including provisions for specific time limits throughout the consultation process. Although a number of commenters felt that parties in interest to an undertaking should have the status of a consulting party, these comments were not adopted because the Council does not believe that it can impose such a uniform requirement due to the wide variety of agency programs. At the request of several Federal agencies, a lead agency provision is also included in this section.

In response to comments, § 800.6(b)(3) has been changed to provide that the public information meeting should be held near the site of the undertaking.

A new § 800.6(b)(6) on acceptance of adverse effect has been included. Previously, the Council equated acceptance of Adverse Effect with mitigation measures such as recording of a structure that was being demolished. The Council realizes that there are circumstances in which adverse effects on National Register or eligible properties must be accepted in the public interest. In such instances, the adverse effect will be accepted, generally with a proviso that a recording effort be part of the agreement.

Section 800.6(b)(7) has been clarified in response to comments. Any one of the consulting parties may declare a failure in the consultation process upon written notice to the Executive Director who is required to notify the Chairman of the failure within 15 days.

Section 800.6(c) concerning the Memorandum of Agreement has been rewritten in response to comments. An important change from the existing regulations is an expedited method for preparing the Memorandum of Agreement. A Federal agency will prepare a proposal, which together with the written concurrence of the State Historic Preservation Officer can be transmitted to the Executive Director and incorporated into the Memorandum of Agreement.

Many commenters agreed with the Council that this would speed up the process, but only if there were time limits placed on the process for ratification of an agreement. The Council agreed and a limit of 10 days has been imposed for transmittal of such Memoranda to the Chairman.

A new § 800.6(c)(3) dealing with the effect of a Memorandum of Agreement has been added. This subsection provides that if an agency fails to carry out the terms of the agreement that the comments of the Council must again be requested. Several commenters suggested that in such instances agencies should be admonished that no further action on the undertaking should proceed until the Council has commented. The Council agrees and this section has been revised accordingly.

In response to comments, § 800.6(c)(4) has been changed to provide that any signatory to the agreement can request a change in the terms. At the request of several commenters a new section has also been added which requires the Agency Official to provide a report on actions taken to carry out the terms of the agreement.

Section 800.6(d) dealing with Council meetings has been revised in response to comments. When the Chairman decides against consideration by the Council of a proposed undertaking, it can be scheduled if three members of the Council object. The proposed amendments would have required that a majority of the members object. Numerous commenters felt that such a large number was unrealistic. A major change from the 1974 regulations is the provision for a panel of members to consider an undertaking on behalf of the full Council. Such a panel would be composed of 5 members, three non-Federal members and two Federal members, neither of whom represents the agency proposing the undertaking. The Council believes that this provision will serve to both increase the number of cases referred for Council consideration and to expedite those cases. Several Council members felt that consideration of an undertaking by a panel would not be representative of the full range of views provided by the entire Council membership. After discussion at the full Council meeting on January 17, 1979, it was agreed that panel consideration of an undertaking may be advantageous in some situations. However, the Council felt that this provision should be re-examined in one year to determine the effectiveness of panel review of undertakings.

A number of comments were received on the section dealing with the review of a panel decision. Many commenters pointed out that an appeal of a panel decision by any one of the parties involved as proposed in the draft amendments could actually delay the process rather than speeding it up. The Council agrees with this assessment and the appeal provision has been deleted. However, if an agency determines not to follow the comments of a panel after considering the comments, it must provide notice to the Chairman in order to provide opportunity to have the matter considered by the full Council. Because of the nature of panel consideration of an undertaking, the comments were not adopted which suggested that no consideration of an undertaking beyond a panel was necessary.

In response to comments, time limits for notice of Council meetings and statements to the Council have been extended to provide ample opportunity for public participation. Section 800.6(d)(5) has been changed to provide that the comments of the Council will be issued within 15 days after a meeting and that such comments will be made available to interested parties, including the State Historic Preservation Officer.

SECTION 800.7 RESOURCES DISCOVERED DURING CONSTRUCTION

This section was proposed as a addition to the 1974 regulations. As originally proposed, the section was intended to establish a limited time period for the Council to provide its comments to an agency when a resource eligible for the National Register was discovered during the actual construction of a project after an agency had previously completed its Section 106 responsibilities. While there were several unqualified endorsements, the majority of the commenters felt that the section as proposed would cause undue project delays resulting in additional costs. The section was substantially rewritten in light of these comments. The mandatory halt of construction has been eliminated, although the Council believes that good faith consultation requires that an agency make reasonable efforts to avoid foreclosing options while the Council's comments are being sought. As drafted, § 800.7 applies only to those resources discovered during construction that meet the National Register Criteria. Agencies that discover National Register eligible properties during construction are required to comply with the provisions of the Archeological and Historic Preservation Act of 1974. The Council is adopting, as the standard for Section 106 compliance, mitigation acceptable to the Secretary of the Interior under the provisions of the Archeological and Historic Preservation Act. Therefore, an agency will be deemed to have met its responsibilities to afford the Council an opportunity to comment if it complies with the provisions of the Archeological and Historic Preservation Act, unless the Secretary determines that certain aspects of the undertaking warrant Council consideration. If Council consideration is determined to be necessary, a 30-day time limit has been placed on the transmittal of comments. The Council believes that this provision will serve to reduce time delays and effectively protect the resource.

SECTION 800.8 PROGRAMMATIC MEMORANDUM OF AGREEMENT

This section was developed as a means of allowing the Council to comment on a particular program or class of actions that would otherwise require multiple individual requests for comments under the regulations. This will expedite the review process and eliminate individual reviews of undertakings that are repetitive in nature. For example, the Council has executed a programmatic agreement with the National Park Service concerning the Park planning system. Under the terms of the agreement, individual actions taken to implement a master plan for a particular park that has previously been reviewed by the Council will normally not be subjected to further Council review.

A number of commenters suggested that the process include the State Historic Preservation Officers in States affected by such an agreement or the National Conference of State Historic Preservation Officers when the agreement is nationwide in scope. The regulations have been revised to specifically allow for such participation. Other changes have been made in the section to clarify ambiguities pointed out by a number of commenters.

SECTION 800.9 COORDINATION WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

This section sets forth the manner in which the review conducted under Section 106 should be coordinated with that required by the National Environmental Policy Act. This section elaborates on § 800.2 of the 1974 regulations and has been developed in consultation with the staff of the Council on Environmental Quality. It is the intention of the two agencies to issue joint supplementary guidance on this subject in the near future. The purpose of the section is to combine to the maximum extent possible the information on resources, evaluation of effects, and analysis of alternatives required by the separate statutes. For most projects, the Council's comments should be requested during the preparation of the draft environmental impact statement. Some commenters noted several classes of Federal projects which cannot be coordinated in this manner. The regulations have been revised to specifically provide for this situation. It is the Council's objective to provide its comments on an agency undertaking that requires an environmental impact statement in time to be included in the final statement. This should result in less paperwork and reduce delays in fulfilling agency environmental review responsibilities by allowing a single document to be used to meet the information requirements of both statutes.

SECTION 800.10 COORDINATION WITH THE PRESIDENT'S MEMORANDUM ON ENVIRONMENTAL QUALITY AND WATER RESOURCES MANAGEMENT

This section recapitulates the mandates contained in the Memorandum to agencies with water resources responsibilities to develop regulations to implement the Council's Section 106 regulations. A number of commenters requested the Council to add requirements for additional review of the required regulations and to develop stringent standards for the regulations. The Council will issue guidance to agencies to develop such regulations.

SECTION 800.11 COUNTERPART REGULATIONS

This section has been revised to allow Federal agencies greater flexibility in implementing the procedural requirements of these regulations. Section 800.11 as proposed in the draft amendments dealt briefly with the development of agency procedures under Section 1(3) of Executive Order 11593. The revised section was developed from suggestions received from several Federal agencies. Under this section, an agency may choose to develop counterpart regulations that can be tailored to meet the specific requirements of its planning and decision making processes. Section 800.11 would permit agencies to develop counterpart regulations for meeting their responsibilities under Section 800.4. This section requires that the regulations be jointly drafted with the Executive Director and approved by the Chairman and provides an opportunity for public participation.

SECTION 800.12 INVESTIGATION OF THREATS TO NATIONAL REGISTER AND ELIGIBLE PROPERTIES

This section deals with situations where the Council has reason to believe that a Federal undertaking affecting a National Register or eligible property has not been reviewed in accordance with these regulations. Several clarifications were made to this section in response to specific comments. Some Federal agencies expressed a desire that the Council use discretion in investigating such threats. The Council intends to do so. Previously, these provisions were included in § 800.13(b). In the draft of the proposed amendments § 800.13(a) included a provision for comment or report on non-Federal undertakings. This section has been deleted because it is based on the Council's general advisory authorities under Section 202 of the Act and not on Section 106. The Council will continue to exercise its general advisory authority under Sec-

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tion 202 and will consider matters in the public interest.

SECTION 800.13 REPORTS TO THE COUNCIL

This section sets standards for information that should be provided to the Council to enable it to make informed comments on Federal undertakings. Sections 800.13(a) and (b) were previously included in the Supplementary Guidelines section. A large number of commenters requested that these standards for adequate documentation be codified. The Council agrees with these comments and believes that codifying these sections will make the requirements clear to all the consulting parties and the public. Section 800.13(c) dealing with Reports for Council Meetings includes a new section prescribing the Secretary of the Interior's Report. This section requests the Secretary to verify existing information on the historical or cultural significance of a National Register or eligible property and reflects the current practice of the Council. A number of commenters felt that the section was not entirely clear concerning how reports for Council meetings should be coordinated. The section has been re-drafted to respond to these comments.

SECTION 800.14 SUPPLEMENTARY GUIDANCE

This is a new section which provides that the Executive Director may issue further guidance to interpret certain portions of the regulations.

SECTION 800.15 PUBLIC PARTICIPATION

This is a new section which is designed to encourage public participation throughout the process established by the regulations. A number of comments urged that the regulations contain more explicit direction concerning the means of involving the public. Several suggested that such reference to public participation be included in various specific sections. The Council believes that a specific section dealing with public participation will best serve to fulfill the intended purpose of involving the public. The Council notes that its process is advisory and does not constitute formal administrative hearings. Therefore, this section is intended for guidance and is not to be construed as setting a strict legal standard. For example, the use of the word "notice" in subsection (b) is not intended to be a formal legal requirement, but rather a means of informing the public of an opportunity to participate in the process.

OTHER

The Supplementary Guidelines contained in the publication of the draft amendments have been deleted. Supplementary Guidelines II and IV have been codified as part of § 800.13. Supplementary Guideline I, the Criteria of the National Register of Historic Places, is contained in 36 CFR 60.6. Supplementary Guideline III, Determinations of No Effect and No Adverse Effect for Archeological Resources, will not be published at the present time. The Council's Task Force on Archeology will be considering this guideline and it will be revised based upon recommendations of the Task Force. This Guideline received numerous comments and they have been provided to the Task Force for its consideration.

CONCLUSION

The Council made a conscientious effort to incorporate all valid comments in these final amendments. As noted, revisions have been made to the regulations which we believe will serve to make the Section 106 commenting process an open and public process that can be tailored to the needs of individual agencies. The Council believes that the regulations set a clear standard for agencies to follow in meeting their Section 106 responsibilities, while being sufficiently flexible to respond to the wide variety of agency programs and needs.

The Council has determined that these amendments are not significant regulations within the meaning of Executive Order 12044 and consequently do not require a regulatory analysis. The purpose of these amendments is to simplify existing regulations and to clarify language in conformance with the goals enunciated by Executive Order 12044.

The Council has determined that an Environmental Impact Statement under the National Environmental Policy Act is not required.

PRINCIPAL AUTHORS

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ROBERT R. GARVEY, Jr.,
Executive Director.

Part 800 is revised to read as set forth below:

PART 800—PROTECTION OF HISTORIC AND CULTURAL PROPERTIES

Sec.

800.1 Purpose and authorities.
800.2 Definitions.
800.3 Criteria of effect and advance effect.

REVIEW OF INDIVIDUAL UNDERTAKINGS

800.4 Federal Agency Responsibilities.
800.5 State Historic Preservation Officer Responsibilities.
800.6 Council comments.
800.7 Resources discovered during construction.

FEDERAL PROGRAM COORDINATION

800.8 Programmatic Memorandum of Agreement.
800.9 Coordination with the National Environmental Policy Act (42 U.S.C. 4321 et seq.)
800.10 Coordination with the Presidential Memorandum on environmental quality and water resources management.
800.11 Counterpart regulations.

OTHER PROVISIONS

800.12 Investigation of threats to historic properties.
800.13 Reports to the Council.
800.14 Supplementary guidance.
800.15 Public participation.

AUTHORITY: Pub. L. 89-665, 80 Stat. 915 (16 U.S.C. 470), as amended, 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976), 92 Stat. 3467 (1978); E.O. 11593, 3 CFR 1971 Comp, p. 154; President's Memorandum on Environmental Quality and Water Resources Management, July 12, 1978.

§ 800.1 Purpose and authorities.

(a) The National Historic Preservation Act of 1966, as amended, established the Advisory Council on Historic Preservation as an independent agency of the United States to advise the President and the Congress on historic preservation matters, recommend measures to coordinate Federal historic preservation activities, and comment on Federal actions affecting properties included in or eligible for inclusion in the National Register of Historic Places. Its members are the Secretary of the Interior, the Secretary of Housing and Urban Development, the Secretary of Commerce, the Administrator of General Services, the Secretary of the Treasury, the Attorney General, the Secretary of Agriculture, the Secretary of Transportation, the Secretary of State, the Secretary of Defense, the Secretary of Health, Education, and Welfare, the Chairman of the Council on Environmental Quality, the Chairman of the Federal Council on the Arts and Humanities, the Architect of the Capitol, the Secretary of the Smithsonian Institution, the Chairman of the National Trust for Historic Preservation, the President of the National Conference of State Historic Preservation Officers, and 12 citizen members from outside the Federal Government appointed for five-year terms by the President on the basis of their interest and experience in the matters to be considered by the Council.

(b) The Council protects properties of historical, architectural, archeological, and cultural significance at the national, State, and local level by reviewing and commenting on Federal actions affecting National Register and eligible properties in accordance with the following authorities:

(1) Section 106 of the National Historic Preservation Act. Section 106 requires that Federal agencies with direct or indirect jurisdiction over a Federal, federally assisted or federally licensed undertaking afford the Council a reasonable opportunity for comment on such undertakings that affect properties included in or eligible for inclusion in the National Register of Historic Places prior to the agency's approval of any such undertaking.

(2) Section 1(3) of Executive Order 11593, May 13, 1971, "Protection and Enhancement of the Cultural Environment." Section 1(3) requires that Federal agencies, in consultation with the Council, institute procedures to assure that their plans and programs contribute to the preservation and enhancement of non-federally owned historic and cultural properties.

(3) Section 2(b) of Executive Order 11593, May 13, 1971, "Protection and Enhancement of the Cultural Environment." Federal agencies are required by Section 2(a) of the Executive Order to locate, inventory, and nominate properties under their jurisdiction or control to the National Register. Until such processes are complete, Federal agencies must provide the Council an opportunity to comment on proposals for the transfer, sale, demolition, or substantial alteration of federally owned properties eligible for inclusion in the National Register.

(4) The President's Memorandum on Environmental Quality and Water Resources Management. The Memorandum directs the Council to issue final regulations under the National Historic Preservation Act by March 1, 1979, and further directs Federal agencies with water resource responsibilities and programs to publish procedures implementing the Act not later than three months after promulgation of final regulations by the Council. Federal agencies' procedures are to be reviewed and, if they are consistent with the Council's regulations, approved by the Council within 60 days and published in final form.

§ 800.2 Definitions.

As used in these regulations:

(a) "National Historic Preservation Act" means Pub. L. 89-665, approved October 15, 1966, an "Act to establish a program for the preservation of additional historic properties throughout the Nation and for other purposes" (80 Stat. 915, 16 U.S.C. 470, as amended; 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976), 92 Stat. 3467 (1978)), hereinafter referred to as "the Act."

(b) "Executive Order" means Executive Order 11593, May 13, 1971, "Protection and Enhancement of the Cultural Environment" (36 FR 8921, 16 U.S.C. 470).

(c) "Undertaking" means any Federal, federally assisted or federally licensed action, activity, or program or the approval, sanction, assistance, or support of any non-Federal action, activity, or program. Undertakings include new and continuing projects and program activities (or elements of such activities not previously considered under Section 106 or Executive Order 11593) that are: (1) Directly undertaken by Federal agencies; (2) supported in whole or in part through Federal contracts, grants, subsidies, loans, loan guarantees, or other forms of direct and indirect funding assistance; (3) carried out pursuant to a Federal lease, permit, license, certificate, approval, or other form of entitlement or permission; or, (4) proposed by a Federal agency for Congressional authorization or appropriation. Site-specific undertakings affect areas and properties that are capable of being identified at the time of approval by the Federal agency. Non-site-specific undertakings have effects that can be anticipated on National Register and eligible properties but cannot be identified in terms of specific geographical areas or properties at the time of Federal approval. Non-site-specific undertakings include Federal approval of State plans pursuant to Federal legislation, development of comprehensive or area-wide plans, agency recommendations for legislation and the establishment or modification of regulations and planning guidelines.

(d) "National Register" means the National Register of Historic Places. It is a register of districts, sites, buildings, structures, and objects of national, State, or local significance in American history, architecture, archeology, and culture that is expanded and maintained by the Secretary of the Interior under authority of section 2(b) of the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461) and Section 101(a)(1) of the National Historic Preservation Act implemented through 36 CFR Part 60. The National Register is published in its entirety in the FEDERAL REGISTER each year in February. Addenda are usually published on the first Tuesday of each month.

(e) "National Register property" means a district, site, building, structure, or object included in the National Register.

(f) "Eligible property" means any district, site, building, structure, or object that meets the National Register Criteria.

(g) "National Register Criteria" means the criteria established by the Secretary of the Interior to evaluate properties to determine whether they are eligible for inclusion in the National Register. (See 36 CFR 60.6.)

(h) "Decision" means the exercise of or the opportunity to exercise discretionary authority by a Federal agency at any stage of an undertaking where alterations might be made in the undertaking to modify its impact upon National Register and eligible properties.

(i) "Agency Official" means the head of the Federal agency having responsibility for the undertaking or a designee authorized to act for the Agency Official.

(j) "Council" means the Advisory Council on Historic Preservation as established by Title II of the Act.

(k) "Chairman" means the Chairman of the Advisory Council on Historic Preservation or a member designated to act for the Chairman.

(l) "Executive Director" means the Executive Director of the Advisory Council on Historic Preservation as established by Section 205 of the Act, or a designee authorized to act for the Executive Director.

(m) "State Historic Preservation Officer" means the official, who is responsible for administering the Act within the State or jurisdiction, or a designated representative authorized to act for the State Historic Preservation Officer. These officers are appointed pursuant to 36 CFR Part 61.2 by the Governors of the 50 States, Guam, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of the Mariana Islands, and the Mayor of the District of Columbia.

(n) "Secretary" means the Secretary of the Interior or a designee authorized to carry out the historic preservation responsibilities of the Secretary under the Act, Executive Order 11593, and related authorities.

(o) "Area of the undertaking's potential environmental impact" means that geographical area within which direct and indirect effects generated by the undertaking could reasonably be expected to occur and thus cause a change in the historical, architectural, archeological, or cultural qualities possessed by a National Register or eligible property. The boundaries of such area should be determined by the Agency Official in consultation with the State Historic Preservation Officer as early as possible in the planning of the undertaking.

(p) "Consulting parties" means the Agency Official, the State Historic Preservation Officer, and the Executive Director.

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§ 800.3 Criteria of effect and adverse effect.

The following criteria shall be used to determine whether an undertaking has an effect or an adverse effect in accordance with these regulations.

(a) *Criteria of Effect.* The effect of a Federal, federally assisted or federally licensed undertaking on a National Register or eligible property is evaluated in the context of the historical, architectural, archeological, or cultural signficance possessed by the property. An undertaking shall be considered to have an effect whenever any condition of the undertaking causes or may cause any change, beneficial or adverse, in the quality of the historical, architectural, archeological, or cultural characteristics that qualify the property to meet the criteria of the National Register. An effect occurs when an undertaking changes the integrity of location, design, setting, materials, workmanship, feeling, or association of the property that contributes to its significance in accordance with the National Register criteria. *An* effect may be direct or indirect. Direct effects are caused by the undertaking and occur at the same time and place. Indirect effects include those caused by the undertaking that are later in time or farther removed in distance, but are still reasonably foreseeable. Such effects may include changes in the pattern of land use, population density or growth rate that may affect on properties of historical, architectural, archeological, or cultural significance.

(b) *Criteria of Adverse Effect.* Adverse effects on National Register or eligible properties may occur under conditions which include but are not limited to:

(1) Destruction or alteration of all or part of a property;

(2) Isolation from or alteration of the property's surrounding environment;

(3) Introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting;

(4) Neglect of a property resulting in its deterioration or destruction.

(5) Transfer or sale of a property without adequate conditions or restrictions regarding preservation, maintenance, or use.

REVIEW OF INDIVIDUAL UNDERTAKINGS

§ 800.4 Federal Agency responsibilities.

As early as possible before an agency makes a final decision concerning an undertaking and in any event prior to taking any action that would foreclose alternatives or the Council's ability to comment, the Agency Official shall take the following steps to comply with the requirements of Section 106 of the National Historic Preservation Act and Section 2(b) of Executive Order 11593. It is the primary responsibility of each Agency Official requesting Council comments to conduct the appropriate studies and to provide the information necessary for an adequate review of the effect a proposed undertaking may have on a National Register or eligible property, as well as the information necessary for adequate consideration of modifications or alterations to the proposed undertaking that could avoid, mitigate, or minimize any adverse effects. It is the responsibility of each Agency Official requesting consultation with a State Historic Preservation Officer under this section to provide the information that is necessary to make an informed and reasonable evaluation of whether a property meets National Register criteria and to determine the effect of a proposed undertaking on a National Register or eligible property. Although a Federal agency may require non-Federal parties to undertake certain steps required by these regulations as a prerequisite to Federal action and may authorize non-Federal participation under this section and in the consultation process under Section 800.6 pursuant to approved counterpart regulations, the ultimate responsibility for compliance with these regulations remains with the Federal agency and cannot be delegated by it.

(a) *Identification of National Register and Eligible Properties.* It is the responsibility of each Federal agency to identify or cause to be identified any National Register or eligible property that is located within the area of the undertaking's potential environmental impact and that may be affected by the undertaking.

(1) The Agency Official shall consult the State Historic Preservation Officer, the published lists of National Register and eligible properties, public records, and other individuals or organizations with historical and cultural expertise, as appropriate, to determine what historic and cultural properties are known to be within the area of the undertaking's potential environmental impact. The State Historic Preservation Officer should provide the Agency Official with any information available on known historic and cultural properties identified in the area (whether on the National Register or not), information on any previous surveys performed and an evaluation of their quality, a recommendation as to the need for a survey of historic and cultural properties, and recommendations as to the type of survey and/or survey methods should a survey be recommended, and recommendations on boundaries of such surveys.

(2) The Agency Official shall, after due consideration of the information obtained pursuant to § 800.4(a)(1), determine what further actions are necessary to discharge the agency's affirmative responsibilities to locate and identify eligible properties that are within the area of the undertaking's potential environmental impact and that may be affected by the undertaking. Such actions may include a professional cultural resource survey of the environmental impact area, or parts of the area, if the area has not previously been adequately surveyed. The recommendations of the State Historic Preservation Officer should be followed in this matter.

(3) The Agency Official, in consultation with the State Historic Preservation Officer, shall apply the National Register criteria to all properties that may possess any historical, architectural, archeological, or cultural value located within the area of the undertaking's potential environmental impact. If either the Agency Official or the State Historic Preservation Officer finds that a property meets the National Register Criteria or a question exists as to whether a property meets the Criteria, the Agency Official shall request a determination of eligibility from the Secretary of the Interior in accordance with 36 CFR Part 63. The opinion of the Secretary respecting the eligibility of a property shall be conclusive for the purposes of these regulations. If the Agency Official and the State Historic Preservation Officer agree that no identified property meets the Criteria, the Agency Official shall document this finding and, unless the Secretary has otherwise made a determination of eligibility under 36 CFR Part 63, may proceed with the undertaking.

(4) The Agency Official shall complete the preceding steps prior to requesting the Council's comments pursuant to Section 800.4(b)-(d). The Agency Official may, however, initiate a request for the Council's comments simultaneously with a request for a determination of eligibility from the Secretary when the Agency Official and the State Historic Preservation Officer agree that a property meets the National Register Criteria. Before the Council completes action pursuant to § 800.6, the Secretary must find the property eligible for inclusion in the National Register.

(b) *Determination of Effect.* For each National Register or eligible property that is located within the area of the undertaking's potential environmental impact, the Agency Official, in consultation with the State Historic Preservation Officer, shall apply the Criteria of Effect, (§ 800.3(a)), to determine whether the undertaking will have an effect upon the historical, architectural, archeological, or cultural characteristics of the property that qualified it to meet National Register Criteria.

(1) *No Effect.* If the Agency Official, in consultation with the State Historic Preservation Officer, finds that the undertaking will not affect these characteristics, the undertaking may proceed. The Agency Official shall document each Determination of No Effect, which shall be available for public inspection. If the State Historic Preservation Officer objects or other timely objection is made to the Executive Director to an Agency Official's Determination of No Effect, the Executive Director may review the Determination and advise the Agency Official, the State Historic Preservation Officer and any objecting party of the findings within 15 days.

(2) *Effect determined.* If the Agency Official or the Executive Director finds that the undertaking will have an effect upon these characteristics, the Agency Official, in consultation with the State Historic Preservation Officer, shall apply the Criteria of Adverse Effect, set forth in section 800.3(b), to determine whether the effect of the undertaking may be adverse.

(c) *Determinations of no adverse effect.* If the Agency Official, in consultation with the State Historic Preservation Officer, finds the effect on the historical, architectural, archeological, or cultural characteristics of the property not to be adverse, the Agency Official shall forward adequate documentation (See § 800.13(a)) of the Determination, including written evidence of the views of the State Historic Preservation Officer, to the Executive Director for review in accordance with Section 800.6. If the State Historic Preservation Officer fails to respond to an Agency Official's request as provided in Section 800.5, the Agency Official shall include evidence of having contacted the State Historic Preservation Officer.

(d) *Adverse effect determination.* If the Agency Official finds the effect on the historical, architectural, archeological, or cultural characteristics of the property to be adverse, or if the Executive Director does not accept an Agency Official's Determination of No Adverse Effect pursuant to review under Section 800.6, the Agency Official shall:

(1) Prepare and submit a Preliminary Case Report requesting the comments of the Council (See § 800.13(b)),

(2) Notify the State Historic Preservation Officer of this request, and

(3) Proceed with the consultation process set forth in § 800.6.

(e) *Suspense of action.* Until the Council issues its comments under these regulations, good faith consultation shall preclude a Federal agency from taking or sanctioning any action or making any irreversible or irretrievable commitment that could result in an adverse effect on a National Register or eligible property or that would foreclose the consideration of modifications or alternatives to the proposed undertaking that could avoid, mitigate, or minimize such adverse effects.

§ 800.5 State Historic Preservation Officer responsibilities.

(a) The State Historic Preservation Officer should participate in the review process established by these regulations whenever it concerns an undertaking located within the State Historic Preservation Officer's jurisdiction.

(b) Unless a longer time is agreed to by the Agency Official, the failure of a State Historic Preservation Officer to respond to an Agency Official's request for consultation under Section 800.4 within 30 days after receipt shall not prohibit the Agency Official from proceeding with the review process under these regulations.

(c) The State Historic Preservation Officer, with the Agency Official and the Executive Director, should participate in any consultation under § 800.6(b) and sign any Memorandum of Agreement developed under § 800.6(c) of these regulations. Failure of a State Historic Preservation Officer to participate in a consultation under § 800.6(b) or to sign a Memorandum of Agreement as provided in § 800.6(c)(1) within 30 days of receipt without notifying the Executive Director and the Agency Official that the State Historic Preservation Officer disagrees with the terms of the Agreement shall not prohibit the Executive Director and the Agency Official from concluding the Agreement and having it ratified by the Chairman in accordance with § 800.6(c)(2).

§ 800.6 Council comments.

The following subsections specify how the Council will respond to Federal agency requests for the Council's comments required to satisfy an agency's responsibilities under Section 106 of the Act and Section 2(b) of the Executive Order.

(a) *Response to determinations of no adverse effect.* (1) Upon receipt of a Determination of No Adverse Effect from an Agency Official, the Executive Director will review the Determination and supporting documentation. Normally, the Executive Director will concur without delay. If the documentation is not adequate, the Executive Director will so inform the Agency Official within 15 days. Unless the Executive Director objects to the Determination within 30 days after receipt of an adequately documented Determination, the Agency Official will be considered to have satisfied the agency's responsibilities under Section 106 of the Act, Section 2(b) of the Executive Order, and these regulations, and may proceed with the undertaking.

(2) If the Executive Director objects to a Determination of No Adverse Effect, the Executive Director shall specify the basis for the objection and may specify conditions which will eliminate the objection. As appropriate, the Executive Director may consult the Agency Official, the State Historic Preservation Officer, and other interested parties in specifying conditions. If the Agency Official accepts the conditions in writing, the conditions will be incorporated into the agency's Determination and the Executive Director's objection will be withdrawn. The Agency Official then will be considered to have satisfied the agency's responsibilities under Section 106 of the Act, Section 2(b) of the Executive Order, and these regulations, and may proceed with the undertaking.

(3) If the Agency Official does not accept the Executive Director's conditions or if the Executive Director objects to a Determination of No Adverse Effect without specifying conditions that would remove the objection, the Executive Director shall initiate the consultation process pursuant to § 800.6(b).

(b) *Consultation Process.* The Agency Official, the State Historic Preservation Officer, and the Executive Director shall be the consulting parties to consider feasible and prudent alternatives to the undertaking that could avoid, mitigate, or minimize adverse effects on a National Register or eligible property. When an undertaking involves more than one Federal agency, these agencies may, upon notification to the Executive Director, coordinate their consultation responsibilities through a single lead agency. Grantees, permittees, licensees, or other parties in interest, and representatives of national, State, or local units of government and public and private organizations, may be invited by the consulting parties to participate in the consultation process.

(1) *Preliminary Case Report.* The Agency Official shall provide copies of the report to the consulting parties at the initiation of the consultation and make it readily available for public inspection.

(2) *On-site inspection.* At the request of any of the consulting parties, the Agency Official shall conduct an on-site inspection.

(3) *Public Information Meeting.* At the request of any of the consulting parties, the Executive Director shall conduct a meeting open to the public, where representatives of national, State, or local units of government, representatives of public or private or-

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ganizations, and interested citizens may receive information and express their views on the undertaking, its effects on the National Register or eligible property, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties. The Agency Official shall provide adequate facilities for the meeting near the site of the undertaking and shall afford appropriate notice to the public, generally at least 15 days in advance of the meeting.

(4) *Consideration of Alternatives.* Upon review of the proposed undertaking and after any on-site inspection or public information meeting, the consulting parties shall determine whether there are feasible and prudent alternatives to avoid the adverse effects on National Register or eligible property. If the consulting parties cannot agree on an alternative to avoid, they shall consult further to determine if there are alternatives that could satisfactorily mitigate the adverse effects.

(5) *Avoidance or Satisfactory Mitigation of Adverse Effect.* If the consulting parties agree upon a feasible and prudent alternative to avoid or satisfactorily mitigate the adverse effects of the undertaking on the National Register or eligible property, they shall execute a Memorandum of Agreement in accordance with § 800.6(c) specifying how the undertaking will proceed to avoid or mitigate the adverse effect.

(6) *Acceptance of Adverse Effect.* If the consulting parties determine that there are no feasible and prudent alternatives that could avoid or satisfactorily mitigate the adverse effects and agree that it is in the public interest to proceed with the proposed undertaking, they shall execute a Memorandum of Agreement in accordance with § 800.6(c) acknowledging this determination and specifying any recording, salvage, or other measures to minimize the adverse effects that shall be taken before the undertaking proceeds.

(7) *Failure to Agree.* Upon the failure of the consulting parties to agree upon the terms for a Memorandum of Agreement, or upon notice of such failure by any of the consulting parties to the Executive Director, the Executive Director shall notify the Chairman within fifteen days and shall recommend whether or not the matter should be scheduled for consideration at a Council meeting. The Agency Official and the State Historic Preservation Officer shall be notified in writing of the Executive Director's recommendation.

(c) *Memorandum of Agreement*—(1) *Preparation of Memorandum of Agreement.* It shall be the responsibility of the Executive Director to prepare each Memorandum of Agreement required under these regulations. Unless otherwise requested by the Executive Director, the Agency Official shall prepare a proposal for inclusion in the Agreement that details the actions agreed upon by the consulting parties to be taken to avoid, satisfactorily mitigate, or accept the adverse effects on the property. The State Historic Preservation Officer's written concurrence shall be included in this proposal by the Agency Official. If the Executive Director determines that the proposal represents the agreement of the consulting parties, he shall within 10 days forward it as a Memorandum of Agreement to the Chairman for ratification pursuant to § 800.6(c)(2). If the Executive Director determines that the proposal does not adequately represent the agreement reached by the consulting parties, it may be returned to the Agency Official, or a Memorandum of Agreement revising the proposal may be submitted to the Agency Official and the State Historic Preservation Officer. As appropriate other parties in interest may be invited by the consulting parties to indicate their concurrence with the proposal or to be a signatory to the Agreement.

(2) *Review of Memorandum of Agreement.* Upon receipt of an executed Memorandum of Agreement, the Chairman shall institute a 30-day review period. Unless the Chairman notifies the Agency Official that the matter has been placed on the agenda for consideration at a Council meeting, the Agreement shall become final when ratified by the Chairman or upon the expiration of the 30-day review period with no action taken. Copies will be provided to signatories and notice of executed Memoranda of Agreement shall be published in the FEDERAL REGISTER. The Memorandum of Agreement should be included in the final environmental impact statement prepared pursuant to the National Environmental Policy Act.

(3) *Effect of Memorandum of Agreement.* Agreements duly executed in accordance with these regulations shall constitute the comments of the Council and shall evidence satisfaction of the Federal agency's responsibilities for the proposed undertaking under Section 106 of the Act, Section 2(b) of the Executive Order, and these regulations. Failure to carry out the terms of a Memorandum of Agreement requires that the Federal agency again request the Council's comments in accordance with these regulations. In such instances, until the Council issues its comments under these regulations the Agency Official shall not take or sanction any action or make any irreversible or irretrievable commitment that could result in an adverse effect with respect to National Register or eligible properties covered by the Agreement or that would foreclose the Council's consideration of modifications or alternatives to the proposed undertaking that could avoid or mitigate the adverse effect.

(4) *Amendment of a Memorandum of Agreement.* If a signatory determines that the terms of the Memorandum of Agreement cannot be met or believes a change is necessary, the signatory shall immediately request the consulting parties to consider an amendment of the Agreement. Amendments will be executed in the same manner as the original Agreement.

(5) *Report on Memorandum of Agreement.* Within 90 days after carrying out the terms of the Agreement, the Agency Official shall report to all signatories on the actions taken.

(d) *Council Meetings.* The Council does not hold formal administrative hearings to develop its comments under these regulations. Reports and statements will be presented to the Council in open session in accordance with a prearranged agenda. Regular meetings of the Council generally occur quarterly.

(1) *Response to Recommendation for Consideration at Council Meeting.* Upon receipt of a notice and recommendation from the Executive Director concerning consideration of a proposed undertaking at a Council meeting, the Chairman shall determine within 15 days whether or not the undertaking will be considered and shall notify the Executive Director, the Agency Official, and the State Historic Preservation Officer of his decision. The Agency Official shall and the State Historic Preservation Officer should provide such reports and information as may be required to assist the Chairman in this determination.

If the Chairman decides against consideration of the undertaking at a Council meeting, a written summary of the undertaking, any recommendations for action by the Federal agency, and the decision shall be sent to each member of the Council. The Chairman shall also notify the Agency Official and the State Historic Preservation Officer and other parties in interest of the decision. If three members of the Council object within 10 days of the Chairman's decision, the undertaking shall be scheduled for consideration at a Council meeting. Unless three members of the Council object, the chairman shall notify the Agency Official, the State Historic Preservation Officer, and other parties in interest in writing that the undertaking may proceed. Such notice shall be evidence of satisfaction of the Federal agency's responsibilities for the proposed undertaking under Section 106 of the Act, Section 2(b) of the Executive Order, and these regulations.

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(2) *Decision to Consider the Undertaking.* When the Council will consider an undertaking at a meeting, the Chairman shall either designate five members as a panel to hear the matter on behalf of the full Council, or schedule the matter for consideration by the full Council.

(i) A panel shall consist of three non-Federal members, one as Chairman; and two Federal members, neither of whom shall represent the Federal agency involved in the undertaking. The panel shall meet to consider the undertaking within 30 days of the Chairman's decision unless the Agency Official agrees to a longer time.

(ii) The full Council will consider an undertaking at the next regularly scheduled meeting and no less than 60 days from the date of the Chairman's decision. In exceptional cases the Chairman may schedule the matter for consideration at a special meeting of the full Council to be held less than 60 days from the date of the decision.

(iii) Prior to any panel or full Council consideration of a matter, the Chairman will notify the Agency Official and the State Historic Preservation Officer, and other parties in interest of the date on which the undertaking will be considered. The Executive Director, the Agency Official, and the State Historic Preservation Officer shall prepare reports in accordance with § 800.13. Reports required from the Agency Official and the State Historic Preservation Officer must be received by the Executive Director at least 21 days before any meeting. Failure by the Federal agency to submit its report may result in postponement of consideration of the undertaking.

(3) *Meeting Notice.* Generally, 21 days notice of all meetings involving Council review of undertakings in accordance with these regulations shall be given by publication in the FEDERAL REGISTER. In exceptional cases, no less than 7 days notice shall be given by publication in the FEDERAL REGISTER.

(4) *Statements to the Council.* An agenda shall provide for oral statements from the Executive Director; the Agency Official; other parties in interest; the Secretary of the Interior; the State Historic Preservation Officer; representatives of national, State, or local units of government, and interested public and private organizations and individuals. Parties wishing to make oral remarks should notify the Executive Director at least two days in advance of the meeting. Parties wishing to have their statements distributed to Council members prior to the meeting should send copies of the statements to the Executive Director at least 7 days in advance.

(5) *Comments of the Council.* The written comments of the Council will be issued within 15 days after a meeting. Comments shall be made to the head of the Federal agency requesting comment or having responsibility for the undertaking. Immediately after the comments are made to the Federal agency, the comments of the Council will be forwarded to the President and Congress as a special report under authority of Section 202(b) of the Act and a notice of availability will be published in the FEDERAL REGISTER. The comments of the Council shall be available to the State Historic Preservation Officer, other parties in interest, and the public upon receipt of the comments by the head of the Federal Agency. The comments of the Council should be included in the final environmental impact statement prepared pursuant to the National Environmental Policy Act.

(6) *Review of Panel Decision.* Upon receipt of the panel's comments after a meeting, the head of the Federal agency shall take these comments into account in reaching a decision in regard to the proposed undertaking. If the agency determines not to follow the panel's comments, the Agency Official shall immediately provide written notice of this decision to the Council. The Chairman may convene a meeting of the full Council to consider the matter within 30 days of receipt of such notice. In the interim period the Agency Official shall not take or sanction any action or make any irreversible or irretrievable commitment that could result in an adverse effect on the National Register or eligible property or that would foreclose the Council's consideration of modifications or alternatives to the proposed undertaking that could avoid or mitigate the adverse effect. If the Chairman decides against consideration of the proposed undertaking, the consulting parties shall be immediately notified and the undertaking may proceed.

(7) *Agency Action in Response to Council Comments.* Upon receipt of the Council's comments after a meeting, the head of the Federal agency shall take these comments into account in reaching a final decision in regard to the proposed undertaking. When a final decision regarding the proposed undertaking is reached by the Federal agency, the Agency Official shall submit a written report to the Council describing the actions taken by the Federal Agency in response to the Council's comments; the actions taken by other parties pursuant to the actions of the Federal Agency; and the effect that such actions will have on the affected National Register or eligible property. Receipt of this Report by the Chairman shall be evidence that the agency has satisfied its responsibilities for the proposed undertaking under Section 106 of the Act, Section 2(b) of the Executive Order and these regulations. The Council may issue a final report to the President and Congress under authority of Section 202(b) of the Act describing the actions taken by the agency in response to the Council's comments including recommendations for changes in Federal policy and programs, as appropriate.

(8) *Continuing Review Jurisdiction.* When the Council has met and commented upon an undertaking that will require subsequent site-specific undertakings by a Federal agency, the Council's comment extends only to the undertaking as reviewed. The Agency Official shall ensure that subsequent actions related to the undertaking that have not been considered by the Council will be submitted to the Council for review in accordance with these regulations.

§ 800.7 Resources discovered during construction.

(a) *Federal Agency Responsibilities.* If a Federal agency has previously met its responsibilities for identified National Register and eligible properties under Section 106 of the Act, Section 2(b) of the Executive Order, these regulations, and the National Environmental Policy Act (42 U.S.C. 4321 et seq.), and an Agency Official finds or is notified after contruction has started that an undertaking will have an effect on a previously unidentified National Register or eligible property, the Federal agency may fulfill its responsibilities under Section 106 of the Act, Section 2(b) of the Executive Order, and these regulations, by complying with the requirements of the Archeological and Historic Preservation Act (16 U.S.C. 469(a)) as implemented by the Secretary, unless the Secretary determines that the significance of the property, the effect, and any proposed mitigation actions warrant Council consideration. If the Secretary determines the Council's comments are warranted, the Agency Official shall request the comments of the Council.

(b) *Council Comments.* Within 30 days of receipt of a request for comments from an Agency Official under this section, the Executive Director, with the concurrence of the Chairman, shall transmit comments on behalf of the Council to the Agency Official or the Chairman shall convene a meeting of the Council pursuant to § 800.6.

FEDERAL PROGRAM COORDINATION

§ 800.8 Programmatic Memoranda of Agreement.

(a) *Application.* At the request of an Agency Official, the Council will consider execution of a Programmatic Memorandum of Agreement to fulfill

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an agency's responsibilities under Section 106 of the Act and Section 2(b) of the Executive Order for a particular program or class of undertakings that would otherwise require numerous individual requests for comments under these regulations. Within 30 days after the request, the Executive Director will notify the agency official whether a Programmatic Memoranda of Agreement may be used. Generally, Programmatic Memorandum of Agreement may be used in the following types of situations:

(1) Non-site-specific undertakings, including Federal approval of State plans pursuant to Federal legislation, development of comprehensive or area-wide plans, agency recommendations for legislation, and the establishment or modification of regulations and planning guidelines.

(2) Undertakings that are repetitive in nature and have essentially the same effect on National Register or eligible properties.

(3) Programs that are designed to further the preservation and enhancement of National Register or eligible properties.

(4) Programs with statutory time limits for project application and approval that would not permit compliance with these regulations in the normal manner.

(b) *Consultation Process.* Upon determination by the Executive Director that a Programmatic Memorandum of Agreement is appropriate, the Agency Official and the Executive Director shall consult to develop a Programmatic Memorandum of Agreement. When the Agreement will affect a particular State or States, the appropriate State Historic Preservation Officer may be a party to the consultation. When the Agreement involves issues national in scope, the President of the National Conference of State Historic Preservation Officers or a designated representative may be a party to the consultation. The Executive Director may invite other parties, including other Federal agencies with responsibilities which may be affected by the Agreement, to participate in the consultation and may hold a Public Information Meeting (see § 800.6(b)(3)) on the proposed Agreement.

(c) *Preparation of the Agreement.* It shall be the responsibility of the Executive Director to prepare each Agreement. At least 30 days before executing an Agreement, the Council shall publish notice of the proposed Agreement in the FEDERAL REGISTER inviting comments from Federal, State, and local agencies and the public. The Council will make copies available to interested parties and to appropriate A-95 clearinghouses.

(d) *Execution of the Agreement.* After consideration of comments received and completion of any necessary revisions, the Executive Director, the Agency Official, and other parties, if appropriate, shall sign the Agreement and it shall be sent to the Chairman for ratification.

(e) *Chairman's Review.* Upon receipt of a signed Agreement, the Chairman shall review the Agreement and within 30 days shall take one of the following actions:

(1) Ratify the Agreement, at which time it will take effect.

(2) Submit the Agreement to the full Council for approval.

(3) Disapprove the Agreement.

(f) *Effect of the Agreement.* An approved Programmatic Memorandum of Agreement shall constitute the comments of the Council on all individual undertakings carried out pursuant to the terms of the Agreement and, unless otherwise provided by the Agreement, shall satisfy the agency's responsibilities under Section 106 of the Act, Section 2(b) of the Executive Order, and these regulations for all undertakings carried out in accordance with the Agreement.

(g) *Notice.* Notice of an approved Programmatic Agreement shall be published by the Council in the FEDERAL REGISTER. Copies shall be distributed through appropriate A-95 clearinghouses and the consulting parties shall make copies readily available to the public. The Programmatic Memorandum of Agreement should be included in the final environmental impact statement prepared pursuant to the National Environmental Policy Act.

(h) *Term.* Unless otherwise provided by the Agreement, duly executed Programmatic Memorandum of Agreement shall remain in effect until revoked by any one of the signatories. The Agency Official shall submit a report annually to the Executive Director and other signatories on all actions taken pursuant to the Agreement, including any recommendations for modification or termination of the Agreement. The Executive Director and other signatories shall review the report and determine whether modification or termination of the Agreement is appropriate.

§ 800.9 Coordination With Agency Requirements Under the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

Section 101(b)(4) of the National Environmental Policy Act (NEPA) declares that one objective of national environmental policy is to "preserve important historic, cultural, and natural aspects of our national heritage and maintain, wherever possible, an environment which supports diversity and variety of individual choice." In order to meet this objective, Federal agencies should coordinate NEPA compliance with the separate responsibilities of the National Historic Preservation Act and Executive Order 11593 to ensure that historic and cultural properties are given proper consideration in the preparation of environmental assessments and environmental impact statements. Agency obligations pursuant to the National Historic Preservation Act and Executive Order 11593 are independent from NEPA requirements and must be complied with even when an environmental impact statement is not required. Agencies should also be aware that the threshold for compliance with Section 106 and the Executive Order is less than that for preparation of an environmental impact statement. The former applies to any Federal, federally assisted or federally licensed undertaking having an effect on a National Register or eligible property, while the latter extends only to major Federal actions significantly affecting the human environment. Where both NEPA and the Act or Executive Order are applicable, the Council on Environmental Quality, in its National Environmental Policy Act—Regulations (40 CFR 1502.25), directs that draft environmental impact statements prepared under Section 102(2)(C) of NEPA shall, to the fullest extent possible, be prepared with and integrated with other environmental impact analyses and related surveys and studies required by other authorities—such as the National Historic Preservation Act and Executive Order 11593. Preparation of a draft environmental impact statement may fulfill the requirements for reports and documentation under these authorities.

Circulation of the statement for comment pursuant to Section 102(2)(C) of NEPA shall constitute a request for Council comments under Section 800.4 of these regulations if Federal agencies so request in cover letters circulated with draft environmental impact statements. To coordinate the independent responsibilities of the Act and NEPA, Federal agencies should undertake compliance with these regulations whenever National Register or eligible properties may be affected by an undertaking. The following subsections indicate the appropriate means of coordinating the substance and timing of agency compliance with NEPA, Section 106, and Section 2(b). The Council will review agency environmental impact statements in accordance with this section. Adherence to these provisions will provide Federal agencies with an adequate record of the consideration of National Register and eligible properties during the planning process and will facilitate the production of a single document to meet the requirements of NEPA, Section 106, Executive Order 11593, and these regulations.

(a) It is normally intended that the Section 106/Executive Order commenting period run concurrently with the NEPA review process. Initiation of the consideration of historic and cultural resources should coincide with the initiation of other environmental reviews. To the maximum extent possible, agencies should reflect the status of compliance with Section 106, the Executive Order, and these regulations in all documents prepared under NEPA (environmental assessments, draft environmental impact statements, and final environmental impact statements) to provide the public with the fullest and most complete information available on effects on historic and cultural resources and alternatives to reduce those effects. If the commenting process under Section 106 and the Executive Order is not completed before the final environmental impact statement is issued, as with undertakings where subsequent design stage reviews occur, agencies should include the council's comments in any supplemental statement that is prepared pursuant to NEPA.

(b) Federal agencies should initiate compliance with Section 106 of the Act and the Executive Order in accordance with these regulations during initial environmental assessments that are undertaken to meet the requirements of NEPA and agency environmental procedures. In any event, this should occur no later than during the preparation of the draft environmental impact statement. Identification of National Register and eligible properties should be carried out in accordance with § 800.4 of these regulations. Potential effects should then be evaluated in accordance with the Criteria of Effect and Adverse Effect in § 800.3 of these regulations. The environmental assessment and the draft environmental impact statement should fully describe any National Register or eligible properties within the area of the undertaking's potential environmental impact and the nature of the undertaking's effect on them.

(c) If evaluation of the effect resulted in a Determination of No Effect or No Adverse Effect under § 800.4, that finding, along with supporting documentation, should be included or referenced in the environmental assessment and the draft environmental impact statement.

(d) If evaluation of the effect resulted in a Determination of Adverse Effect, that finding and a copy of the agency's request for the Council's comments in accordance with § 800.4(d)(1) of these regulations should be included in or referenced in the environmental assessment and the draft environmental impact statement. Agencies should include all available relevant information on National Register and eligible properties, the effects of the undertaking and alternative courses of action so that the draft environmental impact statement can be submitted as the preliminary case report under § 800.13(b) of these regulations. In some instances, the Section 106/Executive Order commenting process will be completed prior to issuance of a draft environmental impact statement. In that event, the comments of the Council should be included in the draft.

(e) Completion of the Council commenting process in accordance with these regulations should precede issuance of the final environmental impact statement. Comments of the Council obtained pursuant to § 800.6 or § 800.8 of these regulations should be incorporated into the final statement.

(f) The Council, in its review of environmental impact statements for undertakings that affect National Register or eligible properties, will look for evidence of proper compliance with Section 106 of the Act, Section 2(b) of the Executive Order, and these regulations. The Council's views on the agency's compliance with those authorities will be included in its comments on environmental impact statements.

§ 800.10 Coordination with the Presidential Memorandum on Environmental Quality and Water Resources Management.

Federal Agencies with water resources responsibilities shall, not later than three months after publication of these regulations as finally adopted in the FEDERAL REGISTER, publish procedures to implement these regulations as required by the Presidential Memorandum on Environmental Quality and Water Resources Management. Each agency shall consult with the Council while developing its procedures and shall provide an opportunity for public review and comment on their proposed regulations. Agency procedures shall be effective when the Chairman approves them as conforming to the Presidential Memorandum and these regulations. Agency procedures must at a minimum include acceptable measures to prevent or mitigate losses of historic or cultural resources and provisions to insure that all projects not yet constructed will comply with these regulations. Additionally, such procedures shall prescribe a clear way to identify funding for environmental mitigation in an agency's appropriation requests. The procedures shall be approved by the Chairman within 60 days if they are consistent with these regulations. Once in effect they shall be filed with the Council and made readily available to the public. Agencies are also encouraged to publish explanatory guidance for the procedures.

§ 800.11 Counterpart regulations.

Individual Federal agencies may, in accordance with Section 1(3) of the Executive Order, the President's Memorandum on Environmental Quality and Water Resources Management, and these regulations, choose to adopt counterpart regulations related to their specific programs and authorities to assist in meeting their responsibilities under Section 106 of the Act and Section 2(b) of the Executive Order.

(a) Responsibilities of individual Federal agencies pursuant to § 800.4 may be met by counterpart regulations jointly drafted by that agency and the Executive Director and approved by the Chairman. The Federal agency shall provide ample opportunity for public participation in the development of such counterpart regulations, including publication in the FEDERAL REGISTER as proposed and final rule making with provision for a minimum 60 day period for public comment. Once in effect such counterpart regulations may, as appropriate, supercede the requirements of § 800.4. The Federal agency shall file approved counterpart regulations with the Council and shall make them readily available to the public.

(b) Counterpart regulations may include:

(1) A definition of undertaking as it applies to that agency's particular activities and programs,

(2) Methods to identify National Register and eligible properties for each class of undertakings,

(3) Methods to evaluate effects on National Register or eligible properties,

(4) Authorization for non-Federal participation in the consultation process, and

Standards, guidelines and other measures to ensure avoidance or mitigation of adverse effects on National Register and eligible properties for each class of undertakings.

(c) To the maximum extent possible, counterpart regulations developed pursuant to this section should be intergrated with agency regulations for the National Environmental Policy Act.

OTHER PROVISIONS

§ 800.12 Investigation of threats to National Register and eligible properties.

(a) The Council is frequently advised by State Historic Preservation Officers and others of undertakings that threaten National Register or eligible properties and that appear to involve a Federal agency. In order to protect

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these properties, the Executive Director investigates these matters, generally by writing to the Federal agency that appears to be involved in the undertaking. Federal agencies should respond to these inquiries within 30 days. If there is Federal involvement in the undertaking, the agency shall fulfill its responsibilities under these regulations.

(b) The Council will exercise its authority to comment to Federal agencies under these regulations in certain special situations even though written notice that an undertaking will have an adverse effect has not been received.

§ 800.13 Reports to the Council.

In order to meet responsibilities under these regulations, the Council prescribes that certain reports and documents be made available to it. The content of such reports is set forth below. The purpose is to provide sufficient information for the Council to evaluate the significance of affected National Register and eligible properties, understand the objectives and requirements of the undertaking, assess the effect in terms of the criteria specified in these regulations, and analyze the feasibility and prudence of alternatives. The Council further recognizes that the Act requires that National Register and eligible properties should be preserved "as a living part of our community life and development," and considers those elements in an undertaking that have relevance beyond historical and cultural concerns. To assist it in weighing the public interest, the Council seeks information not only bearing upon physical, esthetic, or environmental effects but also information concerning economic, social, and other benefits or detriments that will result from the undertaking. Agencies should consider these reports in the context of their compliance with the National Environmental Policy Act and incorporate their content in environmental assessments, draft environmental impact statements and final environmental impact statements as specified in § 800.9.

(a) *Documentation for Determination of No Adverse Effect.* Adequate documentation of a Determination of No Adverse Effect pursuant to § 800.4 should include the following information:

(1) A description of the agency's involvement with the proposed undertaking with citations of the agency's program authority and applicable implementing regulations, procedures, and guidelines;

(2) A description of the proposed undertaking including, as appropriate, photographs, maps, drawings, and specifications;

(3) A list of National Register and eligible properties that will be affected by the undertaking, including a description of the property's physical appearance and significance;

(4) A brief statement explaining why each of the Criteria of Adverse Effect (See Section 800.3) was found inapplicable;

(5) Written views of the State Historic Preservation Officer concerning the Determination of No Adverse Effect, if available; and,

(6) An estimate of the cost of the undertaking, identifying Federal and non-Federal shares.

(b) *Preliminary Case Reports.* Preliminary Case Reports should be submitted with a request for comments pursuant to Section 800.4 and should include the following information:

(1) A description of the agency's involvement with the proposed undertaking with citations of the agency's program authority and applicable implementing regulations, procedures, and guidelines;

(2) The status of this project in the agency's approval process;

(3) The status of this project in the agency's National Environmental Policy Act compliance process and the target date for completion of all environmental responsibilities;

(4) A description of the proposed undertaking including, as appropriate, photographs, maps, drawings, and specifications;

(5) A description of the National Register or eligible properties affected by the undertaking, including a description of the properties' physical appearance and significance;

(6) A brief statement explaining why any of the Criteria of Adverse Effect (See § 800.3) apply;

(7) Written views of the State Historic Preservation Officer concerning the effect on the property, if available;

(8) The views of other Federal agencies, State and local governments, and the other groups or individuals, when known;

(9) A description and analysis of alternatives that would avoid the adverse effects;

(10) A description and analysis of alternatives that would mitigate the adverse effects; and,

(11) An estimate of the cost of the undertaking, identifying Federal and non-Federal shares;

(c) *Reports for Council Meeting.* Consideration of an undertaking by either the full Council or a panel pursuant to § 800.6 is based on reports from the Executive Director, the Agency Official, the Secretary of the Interior, the State Historic Preservation Officer, and others. The reports consist of the following:

(1) *Secretary of the Interior's Report.* The report from the Secretary shall include a verification of the legal and historical status of the property and an assessment of the historical, architectural, archeological, or cultural significance of the property.

(2) *Agency Official's Report.* The report from the Agency Offical requesting comments shall include a general discussion and chronology of the proposed undertaking; an account of the steps taken to comply with the National Environmental Policy Act (NEPA); any relevant supporting documentation in studies that the agency has completed; an evaluation of the effect of the undertaking upon the property, with particular reference to the impact on the historical, architectural, archeological, and cultural values; steps taken or proposed by the agency to avoid or mitigate adverse effects of the undertaking; a thorough discussion of alternate courses of action; and an analysis comparing the advantages resulting from the undertaking with the disadvantages resulting from the adverse effects on National Register or eligible properties. The Agency Official shall arrange for the submission and presentation of any report by a grantee, permittee, licensee, or other party receiving Federal assistance or approval to carry out the undertaking.

(3) *Other Federal Agency Reports.* A report from any other Federal agency involved in the undertaking or a related action that affects the property in question, including a general description and chronology of that agency's involvement and its relation to the undertaking being considered by the Council.

(4) *State Historic Preservation Officer's Report.* A report from the State Historic Preservation Officer should include an assessment of the significance of the property within the State preservation program; an evaluation of the effect of the undertaking upon the property and its specific components; an evaluation of known alternate courses of action; a discussion of present or proposed participation of State and local agencies or organizations in preserving or assisting in preserving the property; an indication of the support or opposition of units of government and public and private agencies and organizations within the State; and the recommendation of the State Historic Preservation Officer.

(5) *Executive Director's Report.* A report from the Executive Director shall include a description of the actions taken pursuant to these regulations, an evaluation of the effect of the undertaking on the property, a review of any known alternate courses of action, an analysis comparing the advantages resulting from the undertaking with the disadvantages resulting from the adverse effects on National Register or eligible properties and recommendations for Council action.

(6) *Other Reports.* The Council will consider other pertinent reports, statements, correspondence, transcripts, minutes, and documents received from any and all parties, public or private. Reports submitted pursuant to this section should be received by the Council at least 7 days prior to a Council meeting.

§ 800.14 Supplementary Guidance.

The Executive Director may issue further guidance to interpret these regulations to assist Federal agencies and State Historic Preservation Officers in meeting their responsibilities. The guidelines are for informational purposes only and will be published in the FEDERAL REGISTER and will be readily available to the public.

§ 800.15 Public Participation.

The Council encourages maximum public participation in the review process under these regulations. The Council, Federal agencies, and State Historic Preservation Officers should seek assistance from the public including other Federal agencies, units of local and State government, public and private organizations, individuals and federally recognized Indian tribes in evaluating National Register and eligible properties, determining effect, and developing alternatives to avoid or mitigate an adverse effect. The public has considerable information available that could assist Federal agencies, the State Historic Preservation Officer and the Council in meeting their responsibilities under these regulations. The Council especially urges that Federal agencies make every effort to involve grantees, permittees, licensees, and other parties in interest in the consultation process. To this end, the Council, the Agency Official, and the State Historic Preservation Officer should:

(a) Make readily available, to the extent possible, documents, materials, and other information and data concerning the undertaking and effects on National Register and eligible properties that may be of interest to the public. Such information should be made available within the limits of the Freedom of Information Act (5 U.S.C. 552) and need not necessarily include information on budget, financial, personnel, and other proprietary matters or the specific location of archeological sites. Material to be made available to the public by the agency and the State Historic Preservation Officer should be provided to the public at the minimum cost permissible.

(b) Make the public aware of Public Information Meetings (§ 800.6(b)(3)), full or panel Council meetings (§ 800.6(d)), and the availability of other information related to the review process under these regulations such as a Determination of No Effect, a Determination of No Adverse Effect, a Memorandum of Agreement (See § 800.6(c)) or a Programmatic Memorandum of Agreement (See § 800.8). The purpose of such notice is to inform persons, agencies, and organizations that may be interested or affected by the proposed undertaking of the opportunity to participate in the review process under these regulations. This may include:

(1) Mailing notice to those who have requested it on an individual undertaking or Programmatic Memorandum of Agreement.

(2) Use of notice in local newspaper, local media, and newsletters that may be expected to reach potentially interested persons.

(3) Posting of notice on- and off-site in the area where the undertaking is proposed to be located.

(c) Solicit relevant information from the public during the identification of National Register and eligible properties, the evaluation of effects, and the consideration of alternatives.

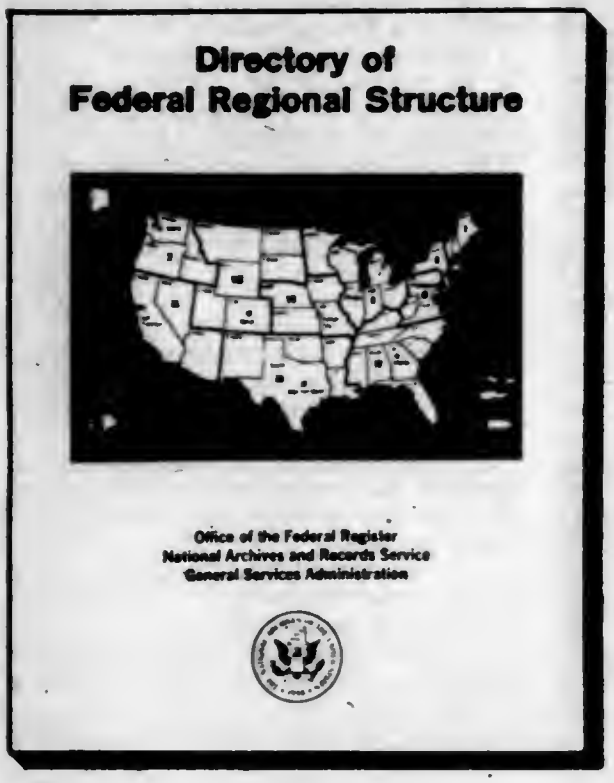
(d) Hold or sponsor public meetings on proposed undertakings and make diligent efforts to include the public.

[FR Doc. 79-3248 Filed 1-29-79; 8:45 am]

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WEDNESDAY, JANUARY 31, 1979

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
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CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02-M]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES),[1] DEPARTMENT OF AGRICULTURE

PART 26—GRAIN STANDARDS

United States Standards for Corn; Correction

AGENCY: Federal Grain Inspection Service.

ACTION: Notice of Correction.

SUMMARY: Action to correct alphabetic designation of the section on special grades, special grade requirements, and special grade designations for corn.

EFFECTIVE DATE: January 31, 1979.

FOR ADDITIONAL INFORMATION CONTACT:

James L. Driscoll, Director, Standardization Division, 1400 Independence Avenue, SW., Room 0629-S, Washington, D.C. 20250, (202) 447-9329.

In FR Document 78-1681 appearing at page 2816 in the issue for Friday January 20, 1978, in the third column on page 2816 in § 26.353 "(c) *Special grades, special grade requirements, an special grade designations for corn.*" shoud be "(d) *Special grades, special grade requirements, and special grade designations for corn.*"

(Sec. 5, Pub. L. 94-582, 90 Stat. 2869 (7 U.S.C. 76).)

Done at Washington, D.C. January 24, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-3168 Filed 1-30-79; 8:45 am]

[1] Including matters within the responsibility of the Federal Grain Inspection Service.

[3410-07-M]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

PART 1890w—EMERGENCY LOANS AND RURAL HOUSING DISASTER LOANS

Deletion

AGENCY: Farmers Home Administration, USDA.

ACTION: Deletion.

SUMMARY: The Farmers Home Administration (FmHA) deletes regulations regarding Emergency and Rural Housing Disaster Loans. This action is taken as a result of a review of regulations presently in the Code of Federal Regulations which indicated that the provisions were obsolete and no longer necessary. The intended effect of this action is to simplify Agency Regulations by the removal of extraneous materials.

EFFECTIVE DATE: January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph H. Linsley, Directives Management Branch, Phone: 202-447-4057.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration deletes Part 1890w of Subchapter G, Chapter XVIII, Title 7 in the Code of Federal Regulations. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This deletion however, is not published for proposed rulemaking since its purpose is only to remove obsolete material and therefore result in a simplification of the regulations. The official making this determination is Mr. James E. Lee, Assistant Administrator, Farmer Programs, Farmers Home Administration, Room 5019, Washington, D.C. 20250. A copy of the Impact Statement prepared by FmHA is available from Mr. Joseph H. Linsley, Chief, Directives Management Branch, Room 6316, South Agriculture Building, Washington, D.C. 20250. This action has not been determined significant under the USDA criteria implementing Executive Order 12044.

PART 1890w [DELETED]

Therefore, Part 1890w, "Emergency Loans and Rural Housing Disaster Loans" is hereby deleted from Subchapter G, Chapter XVIII, Title 7 in the Code of Federal Regulations.

(7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Dated: January 24, 1979.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 79-3210 Filed 1-30-79; 8:45 am]

[6714-01-M]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 336—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Employees Required To File Disclosure Statements Under Title II of the Ethics in Government Act

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: This provision amends the present § 336.735-32 of FDIC regulations to conform with Civil Service Commission's interpretation of the Ethics in Government Act of 1978 that only employees holding GS-16 positions or above are required to file disclosure statements under the Act. Consequently, § 336.375-32 states that employees holding positions at GS-16 level or higher shall file disclosure statements under the Act rather than filing statements of employment and financial interest under Part 336.

EFFECTIVE DATE: This amendment is effective on January 31, 1979.

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FOR FURTHER INFORMATION CONTACT:

Mark Rosen, Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, D.C. 20429 (202-389-4637).

SUPPLEMENTARY INFORMATION: On October 26, 1978, the Ethics in Government Act (the "Act") was signed by the President. Title II of the Act provides for the disclosure of personal finances by employees or Special Employees whose positions are classified at "GS-16 or above * * * or the rate of basic pay for which is fixed (other than under the General Schedule) at a rate equal to or greater than the minimum rate of basic pay for GS-16." Based on this language of the Act, the present § 336.735-32 was written to require employees who receive salaries equal to or greater than the minimum rate of basic pay fixed for GS-16 positions to file under the Act rather than under Part 336.

Recently, however, the Civil Service Commission has determined that Congress intended the Act to cover only individuals holding GS-16 positions or positions that are equivalent to GS-16 on another pay scale. Because the present § 336.735-32 could be incorrectly read to require certain employees below GS-16 level to file under the Act, the Commission has requested that this section be amended to remove any possible ambiguity.

The FDIC has determined that notice of, public participation in, and delaying the effective date of this amendment are unnecessary since the purpose of this amendment is to remove an ambiguity in the present regulations. The requirements of section 553(b) and 553(d) of Title 5 of the United States Code, and §§ 302.1, 302.2, and 302.5 of the FDIC's regulations are, therefore, inapplicable.

Accordingly, 12 CFR 336.735-32 is revised to read as follows:

§ 336.735-32 Employees not required to submit statements.

Employees or Special Employees who hold positions at GS-16 level or above shall file disclosure statements under Title II of the Ethics in government Act of 1978 rather than statements of employment and financial interest under this Part 336.

(12 U.S.C. 1819; 5 CFR 735.104; E.O. 11222.)

By direction of the Board of Directors dated January 24, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 79-3219 Filed 1-30-79; 8:45 am]

[8010-01-M]

Title 17—Commodity and Securities Exchange

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15533; File No. S7-613]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Securities Transactions by Members of National Securities Exchanges

AGENCY: Securities and Exchange Commission.

ACTION: Temporary rule, rule amendments and interpretations.

SUMMARY: Section 11(a)(1) of the Securities Exchange Act of 1934 prohibits a member of a national securities exchange from effecting certain types of transactions on that exchange. That section will become fully effective on February 1, 1979. The Commission is announcing the adoption of (i) interpretations concerning the application of the section to transactions effected through the use of several automated trading and order-handling facilities operated by national securities exchanges; (ii) interpretations concerning certain exemptions under the section for specified types of exchange member trading; (iii) a new temporary rule under the section permitting exchange members to effect, for their own accounts or the accounts of their associated persons, bona fide hedge transactions between or among securities entitling the holder to sell or acquire the same equity security, which would include option-to-option hedging; and (iv) amendments to a previously adopted temporary rule concerning exchange members' proprietary trading.

DATES: The effective date of the interpretations, the temporary rule, and the rule amendments adopted herein is February 1, 1979. Comments must be received by April 1, 1979.

ADDRESSES: Interested persons should submit six copies of their written data, views and arguments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should refer to File No. S7-613. All submissions will be made available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Arnold Y. Dean, Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202-755-4372).

SUPPLEMENTARY INFORMATION:

INTRODUCTION

Section 11(a)(1) of the Securities Exchange Act of 1934 (the "Act")[1] makes it unlawful for a member of a national securities exchange to effect a transaction on that exchange for (i) its own account, (ii) the account of an associated person of the member, and (iii) an account as to which the member or an associated person of the member exercises investment discretion.[2] These accounts are collectively referred to herein as "covered accounts." Section 11(a)(3) provides that Section 11(a)(1) shall not become effective until February 1, 1979 with respect to transactions effected on a national securities exchange by a person that was a member thereof on February 1, 1978.[3]

The prohibitions of Section 11(a)(1) are qualified by seven exemptions. Five of the exemptions apply to specific types of exchange member trading.[4] An exemption also is provided in Section 11(a)(1)(E)[5] for transactions for accounts of natural persons and their estates and trusts. In addition, Section 11(a)(1)(G)[6] exempts transactions for members' accounts if (i) those members are engaged primarily in certain enumerated kinds of business (the "business mix" test)[7] and (ii) such transactions are effected in compliance with Commission rules assuring that the transactions are not inconsistent with fair and orderly markets and "yield" priority, parity and precedence in execution to orders for the accounts of persons other than members or persons associated with members.

The Commission has extensive rulemaking authority to expand or contract the coverage of the prohibition in Section 11(a)(1). Section 11(a)(1)(H)[8] authorizes the Commission to exempt from Section 11(a)(1) any transaction of a kind which it determines, by rule, to be consistent with the purposes of Section 11(a)(1), the protection of investors, and the maintenance of fair and orderly markets. Section 11(a)(2) authorizes the Commission to adopt rules to regulate or to prohibit certain transactions that are not unlawful under Section 11(a)(1), including transactions that are effected in the over-the-counter markets.[9] Finally, Section 11(c) permits the Commission, upon application of an exchange having limited volume of transactions and meeting certain other requirements, to exempt that exchange and its members from all or part of Section 11(a) and the rules thereunder.[10]

In March and April 1978, the Commission exercised its rulemaking authority under Section 11(a), as well as other authority under the Act, by adopting rules and amendments to a previously adopted temporary rule.[11] The Commission adopted the "effect versus execute" rule,[12] the "look-through" rule,[13] the "bond trading" rule,[14] and amendments to the "proprietary trading" rule.[15] In addition, the Commission interpreted the term "investment discretion," which is defined in Section 3(a)(35) of the Act,[16] and provided guidance on the availability of the statutory exemptions under Section 11(a) and of the exemptions it had created by rule. In May 1978, the Commission published a release drawing attention to the enactment of legislation that delayed the full effectiveness of Section 11(a)(1) until February 1, 1979.[17]

The Commission is issuing this release to address a number of interpretive and other matters. First, certain questions remain as to the application of Section 11(a) in the context of initiatives for the development of a national market system under Section 11A of the act.[18] In particular, the Commission reviews below the status of transactions for covered accounts in the Intermarket Trading System (the "ITS") and in the Multiple Dealer Trading Facility of the Cincinnati Stock Exchange, Inc. (the "CSE Trading Facility"). Second, the Commission is publishing interpretations pertaining to the statutory exemptions under Sections 11(a)(1)(A) and (D) for block positioning, bona fide arbitrage, risk arbitrage, and bona fide hedge transactions. Third, the Commission is adopting a new, temporary, exemptive rule permitting members to effect, for their own accounts or the accounts of their associated persons, bona fide hedge transactions involving securities entitling the holder to acquire or sell the same equity security, which would include option-to-option hedging. Finally, the Commission is adopting an amendment to the proprietary trading rule to permit revenues from certain exempted bond trading to be counted as "eligible income" for purposes of that rule, and is deleting a provision in that rule that applied to orders executed before January 1, 1979.

The remainder of this release consists of the following sections:

I. Section 11(a)(1) and the National Market System.
II. Exemptions under sections 11(a)(1)(A) and (D).
III. Temporary exemptive rule for bona fide hedge transactions in certain securities (temporary rule 11a1-3(T)).
IV. Amendments to the proprietary trading rule (temporary rule 11a1-1(T)).
V. Solicitation of comments.
VI. Statutory basis.

I. SECTION 11(a) AND THE NATIONAL MARKET SYSTEM

A. BACKGROUND

In its February 1978 recommendation to the Congress that legislation be enacted to delay the full effectiveness of Section 11(a)(1), the Commission expressed its concern that full implementation of the prohibitions of that section on May 1, 1978 would be undesirable in light of the continuing rapid pace of economic, technological and regulatory changes in the markets. The Commission referred particularly to the development of market linkage, order routing, and limit order protection systems for a national market system.[19]

During the last year, two experimental facilities have been initiated by the securities industry and the self-regulatory organizations as a means of accomplishing certain statutory objectives for a national market system. These two systems, the ITS and the CSE Trading Facility, currently are operated on a pilot basis and permit transactions to be effected through

[1] 15 U.S.C. 78k(a)(1).

[2] In addition to being subject to Section 11(a), exchange member firms are subject to comparable provisions in the Employee Retirement Income Security Act of 1974 ("ERISA"), Pub. L. No. 94-402, 94th Cong., 1st Sess. (1974), in connection with, among other things, exercising investment discretion over an employee benefit plan that is subject to ERISA. In that regard, the Department of Labor (the "Department") has extended to May 1, 1979 a temporary class exemption delaying the application of those ERISA provisions. In addition, the Department has adopted a permanent class exemption allowing persons who serve as fiduciaries for employee benefit plans to effect securities transactions for those plans under certain circumstances. Department of Labor, Class Exemption for Certain Transactions Involving Employee Benefit Plans and Broker-Dealers (Prohibited Transaction Exemption 79-1) (Jan. 23, 1979). Unlike Section 11(a)(1), ERISA and the class exemption also apply to (i) non-member broker-dealers that provide such services to employee benefit plans and (ii) transactions effected for employee benefit plans in the over-the-counter market by exchange members and by non-member broker-dealers acting as fiduciaries for those plans.

[3] 15 U.S.C 78k(a)(3). As originally enacted in 1975, Section 11(a)(3) delayed until May 1, 1978 the effective date of Section 11(a)(1) for transactions by persons who were exchange members on May 1, 1975. Section 11(a)(3) was amended in 1978 to delay until February 1, 1979 the effective date of Section 11(a)(1) for transactions by persons who were exchange members on February 1, 1978. Pub. L. No. 95-283, 95th Cong., 2d Sess. § 19 (1978).

[4] These exemptions are: (i) transactions by a dealer acting in the capacity of market maker; (ii) transactions for the account of an odd-lot dealer in its registered securities; (iii) certain stabilizing transactions to facilitate a distribution of securities; (iv) certain arbitrage, risk arbitrage and hedge transactions; and (v) transactions to offset transactions made in error. Sections 11(a)(1)(A) through (D) and (F), 15 U.S.C. 78k(a)(1)(A) through (D) and (F).

[5] 15 U.S.C. 78k(a)(1)(E).

[6] 15 U.S.C. 78k(a)(1)(G).

[7] *See* text accompanying nn. 67-69, *infra*.

[8] 15 U.S.C. 78k(a)(1)(H).

[9] 15 U.S.C. 78k(a)(2). Under Section 11(a)(2), the Commission, by rule, as it deems necessary or appropriate in the public interest and for the protection of investors, to maintain fair and orderly markets, or to assure equal regulation of exchange markets and over-the-counter markets, may regulate or prohibit (i) transactions not prohibited by Section 11(a)(1) that are effected on exchanges by members for covered accounts (other than market maker or odd-lot dealer transactions; (ii) over-the-counter transactions for covered accounts by members and non-member broker-dealers (other than market maker transactions); and (iii) exchange transactions for covered accounts by non-member broker-dealers (other than market maker transactions). The Commission's authority under Section 11(a)(2) is complemented by Sections 11(b) and 15(c)(5), 15 U.S.C. 78k(b) and 78o(c)(5), and by its general rulemaking authority under Section 23(a)(1), 15 U.S.C. 78w(a)(1).

[10] 15 U.S.C. 78k(c). The Commission has used its authority under Section 11(c) in the past to exempt regional exchanges from the requirements under Rules 11a-1 (17 CFR 240.11a-1) and 11b-1 (17 CFR 240.11b-1). *See* Securities Exchange Act Release Nos. 7290 (Apr. 9, 1964), 7330 (June 2, 1964), and 7485 (Nov. 23, 1964), 29 FR 5168 (Apr. 15, 1964), 29 FR 7380 (June 8, 1964), and 29 FR 15862 (Nov. 26, 1964).

[11] *See* Securities Exchange Act Release Nos. 14563 (Mar. 14, 1978) (the "March 1978 Release"), and 14713 (Apr. 27, 1978) (the "April 1978 Release"), 43 FR 11542 (Mar. 17, 1978) and 43 FR 18557 (May 1, 1978). *See also* Securities Exchange Act Release Nos. 13388 (Mar. 8, 1977) (the "March 1977 Release") and 12055 (Jan. 27, 1976) (the "January 1976 Release"), 42 FR 16745 (Mar. 29, 1977) and 41 FR 8075 (Feb. 24, 1976).

[12] Temporary Rule 11a2-2(T), 17 CFR 240.11a2-2(T).

[13] Rule 11a1-2, 17 CFR 240.11a1-2.

[14] Temporary Rule 11a1-4(T), 17 CFR 240.11a1-4(T).

[15] Temporary Rule 11a1-1(T), 17 CFR 240.11a1-1(T).

[16] 15 U.S.C. 78c(a)(35).

[17] Securities Exchange Act Release No. 14795 (May 24, 1978), 43 FR 23777 (June 1, 1978).

[18] 15 U.S.C. 78k-1.

[19] Letters from Harold M. Williams to Walter F. Mondale, Thomas P. O'Neill, Jr., Harley O. Staggers and Harrison A. Williams (Feb. 22, 1978), and Memorandum of the Securities and Exchange Commission in Support of its Recommendation that the Congress Delay the Full Effectiveness of Section 11(a) until November 1, 1979. The Commission's memorandum is reprinted in *Report, together with Additional Views, to Accompany H.R. 11567*, H.R. Rep. No. 95-1010, 95th Cong., 2d Sess. (1978).

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the use of the facilities of existing national securities exchanges. The mechanics of the two systems differ, and each system has different implications for the development of a national market system. The operation of the ITS and the CSE Trading Facility, however, raises certain questions regarding the application of Section 11(a) to trading that occurs through them.

B. APPLICATION OF SECTION 11(a) TO EXISTING AUTOMATED FACILITIES MAINTAINED BY NATIONAL SECURITIES EXCHANGES

1. *ITS.* The ITS began operation in April 1978. It establishes a communications network linking several national securities exchanges [20] and permits members on the trading floor of a participating exchange to send orders for the purchase and sale of certain multiple traded securities to any participating exchange.[21] The ITS provides facilities and procedures for (i) display on the floors of each of the participating exchanges (at the designated trading posts for ITS-traded securities) of composite quotation information disseminated pursuant to Rule 11Ac1-1 under the Act,[22] thereby permitting members of each participating exchange to determine readily the best bid and offer available from any participant for a particular multiple traded security, (ii) routing of "commitments to trade" and administrative messages between and among the participants, and (iii) participation, under certain conditions, by members of all participating exchanges in opening transactions on those exchanges.[23]

The Commission has reviewed the operation of the ITS in terms of the prohibitions of Section 11(a)(1) and the exemptions thereunder. One question that has arisen under Section 11(a) concerning the ITS is whether a commitment to trade sent through the ITS by a firm that is a member of both the exchange from which it was sent and the exchange at which it was received would satisfy the off-floor transmission requirement [24] in the effect versus execute rule, Temporary Rule 11a2-2(T). A "commitment to trade"—which, for purposes of the Commission's rules under Section 11(a)(1), would be treated as an order—transmitted through the ITS is sent from the exchange floor where the order originated and is received directly on the receiving exchange's floor. In view of the ITS's method of operation, the Commission believes that an order executed on the floor of an exchange, after having been transmitted to that exchange through the ITS from another exchange, should be deemed to have been transmitted from off the floor of the exchange on which the order is executed.[25] The order would qualify for exemption under the effect versus execute rule [26] if it is effected in compliance with the other conditions set forth in that rule.[27]

2. *CSE Trading Facility.* The CSE Trading Facility began operation in April 1978.[28] It is an automated electronic communication system designed by the Cincinnati Stock Exchange, Inc. (the "CSE") for multiple dealer trading. Through it, bids and offers of competing dealers, as well as public bids and offers, are consolidated for execution. The process of execution is fully automated and is governed by certain auction-type principles. The CSE Trading Facility accepts orders, in certain securities that are either listed on the CSE or admitted to unlisted trading ("designated issues"), from several classes of "users": (i) members of the CSE, (ii) "access non-members" of the CSE, and (iii) specialists and exchange market makers in designated issues registered as such on other exchanges who may (along with CSE members) become approved dealers on the CSE. Members of the CSE and approved dealers may enter both agency and principal orders; access non-members of the CSE may enter only agency orders.[29] Transactions for covered accounts effected by members of the CSE in the CSE Trading Facility would be subject to Section 11(a)(1).

The Commission has reviewed the operation of the CSE Trading Facility in terms of the prohibition of Section 11(a)(1) and the exemptions thereunder. Unlike certain order routing systems in operation today, the CSE Trading Facility is an electronic market in which CSE members may effect transactions directly as dealers. Thus, for purposes of Section 11(a) and the Commission's rules, it does not appear appropriate to treat covered account transactions effected in the CSE Trading Facility in essentially the same manner as transactions involving only order routing systems such as DOT [30] and the ITS.

Nevertheless, the Commission believes that Section 11(a)(1) may not in fact have a substantial impact on current operation of the CSE Trading Facility because several of the exemptive provisions apply to trading through the CSE Trading Facility. For example, a CSE member who is an approved dealer and, with respect to a security, holds himself out in the CSE Trading Facility as being willing to buy and sell such security for his own account on a regular or continuous basis [31] would be entitled to rely on the market maker exemption in Section 11(a)(1)(A).

Other transactions in the CSE Trading Facility for covered accounts by CSE members who are approved dealers and transactions by other CSE members would also need a statutory exemption under Section 11(a)(1) or an exemption pursuant to one of the rules under Section 11(a). In the case of proprietary trading by CSE members, the exemption provided by Section 11(a)(1)(G) and Temporary Rule 11a1-1(T) thereunder will apply to any member that meets the "business mix" test set forth in those provisions since the yielding procedures required by Section 11(a)(1)(G)(ii) [32] are appropriately reflected in the CSE rules applicable to the CSE Trading Facility.[33] In the case of accounts as to which the CSE member exercises investment discretion,[34] the Commission believes that an exemption under the effect versus execute rule will be available where either (i) the initiating member arranges to have another member enter the order for such an account into the CSE Trading Facility, or (ii) the initiating member enters the order itself at a limit price that is higher, in the case of an order to sell, or lower, in the case of an order to buy, than the best bid or offer, as the case may be, that is currently displayed in the CSE Trading Facility.[35]

II. EXEMPTIONS UNDER SECTIONS 11(a)(1)(A) AND (D)

Section 11(a)(1) contains a number of exemptions for principal transactions by members and their associated persons. In order to assist exchanges and exchange members in complying with Section 11(a), the Commission has determined to set forth certain interpretive statements concerning the application of the market making, bona fide arbitrage, risk arbitrage, and bona fide hedge exemptions provided in Sections 11(a)(1)(A) and (D).

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[20] At this time, the participating exchanges in the ITS are the American Stock Exchange, Inc. (the "Amex"), the New York Stock Exchange, Inc. (the "NYSE"), the Boston Stock Exchange, Inc., the Midwest Stock Exchange, Inc., the Pacific Stock Exchange, Inc. (the "PSE") and the Philadelphia Stock Exchange, Inc. (the "Phlx").

[21] *See* Securities Exchange Act Release Nos. 14661 and 14662 (Apr. 14, 1978), 43 FR 17419, 17422 (Apr. 24, 1978).

[22] 17 CFR 240.11Ac1-1.

[23] *See* Securities Exchange Act Release Nos. 14661 and 14662 (Apr. 14, 1978), 43 FR 17419, 17422 (Apr. 24, 1978).

[24] The off-floor transmission requirement in the effect versus execute rule provides that the order for the covered account must be transmitted from off the exchange floor. Temporary Rule 11a2-2(T)(a)(2)(ii). *See* letter to Philip J. Lo Bue, Senior Vice President of the PSE, from Richard A. Steinwurtzel of the Commission's staff (Dec. 22, 1978), Securities and Exchange Commission File No. S7-613 ("File No. S7-613").

[25] *See* Rule 11a2-2(T)(a)(2)(ii). An ITS order would thus be treated under Temporary Rule 11a2-2(T) in a manner similar to an order sent to an exchange floor through one of several intra-market order routing systems, *e.g.*, the NYSE Designated Order Turnaround ("DOT") System. March 1978 Release, n. 41. In that regard, the Commission notes that orders sent to the Amex floor through the Amex's Post Execution Reporting System and the Amex Options Switching System are similar to DOT orders and that the use of those systems would satisfy the off-floor transmission requirement in Temporary Rule 11a2-2(T).

Two other intra-market facilities, the PSE's Communications and Execution System ("COMEX") and the Phlx's Automated Communications and Execution System ("PACE"), differ from order routing facilities such as DOT and automated trading facilities like the CSE Trading Facility. COMEX and PACE combine automated order routing, formula pricing, and automatic execution functions. Execution of COMEX market orders is effected automatically at prices determined by a formula designed to approximate the execution price the order would have received had it been transmitted instead to the NYSE or the Amex. The PSE is in the process of changing its COMEX pricing formula. For securities included in the ITS, COMEX would automatically execute an order at a price the order could have received had it been transmitted through the ITS. For securities not included in the ITS, the new COMEX formula would produce an execution at whichever was the best bid or offer from among the bids disseminated by the NYSE and the PSE specialist pursuant to Rule 11Ac1-1 under the Act. Limit orders in the COMEX system are routed to the appropriate specialist and executed manually. Orders in the PACE system are executed automatically pursuant to a pricing formula. Unlike ITS, DOT and the CSE Trading Facility, PACE and COMEX permit the entry of agency orders only; the application of requirements under the effect versus execute rule to these systems is therefore limited to orders for managed accounts.

In the case of both PACE and COMEX, the initiating member relinquishes any ability to influence or guide the execution of its order at the time that order is transmitted into the system. While the execution of the order is thereafter automatic and does not involve any independent executing member, the design of those systems insures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the floors of the Phlx or the PSE. Consequently, the Commission believes that executions obtained through either system should be regarded as satisfying paragraphs (a)(2)(i), (a)(2)(ii) and (a)(2)(iii) of the effect versus execute rule.

[26] The ITS also permits specialists on participating exchanges who open their markets in ITS securities to obtain pre-opening indications of interest ("pre-opening notifications") in certain circumstances from other specialists registered in those securities on other participating exchanges. To the extent a specialist who is a member of two participating exchanges effects principal transactions on one of those exchanges in response to pre-opening notifications, the specialist may effect those transactions in reliance on the market making exemption under Section 11(a)(1)(A).

[27] The effect versus execute rule has two other conditions that might present a problem for members using the ITS. First, the covered account transaction must be executed otherwise than by an associated person of the initiating member. Second, the initiating member and its associated persons must not participate in the execution of the covered account transaction after the transmission of the order from off the exchange floor. Temporary Rule 11a2-2(T)(a)(2)(i) and (iii).

In the case of an initiating member that is a member of two exchanges participating in the ITS, it is conceivable that an associated person of the initiating member might unknowingly participate (*e.g.*, as a specialist or a floor broker) on the other side of a covered account transaction that had been transmitted from one exchange to the other. A similar problem could arise with respect to a single exchange's trading floor. In that case, an associated person of the initiating member also might unknowingly participate on the other side of a covered account transaction which had simply been transmitted by the initiating member to an unaffiliated member on the exchange floor.

The conditions under Temporary Rule 11a2-2(T)(a)(2)(i) and (iii) were not intended to cover such fortuitous events. Accordingly, the Commission believes that an initiating member does not violate these two conditions in these cases if the associated person's participation is limited to acting for the order on the other side of the initiating member's transaction and if neither the initiating member nor its associated person knows, or has reason to know, that the associated person will so participate.

[28] Securities Exchange Act Release No. 14674 (Apr. 18, 1978), 43 FR 17894 (Apr. 26, 1978). The Commission recently approved an extension of the operation of the CSE Trading Facility from January 31, 1979 to January 31, 1980. Securities Exchange Act Release No. 15413 (Dec. 15, 1978), 44 FR 129 (Jan. 2, 1979).

[29] CSE Rule 9D3 (Temporary). According to the auction-type principles programmed into the CSE Trading Facility, execution priority is granted to orders first by price (*i.e.*, the highest bid and lowest offer) and then, as to orders at the same price, by time of entry, except that "public agency orders," regardless of time of entry, are granted priority over other orders at the same price. A "public agency order" is "any order for the account of a person other than an Approved Dealer, a Member or a person who could become an Approved Dealer by complying with this Rule with respect to his use of the System, which order is represented, as agent, by a User." *Id.* Once entered, a public agency order which has not been executed may be removed in only three circumstances: (1) upon cancellation, (2) in connection with a transfer of the order to another exchange, or (3) in order to permit the approved dealer or member who entered the order to execute such order as principal pursuant to a prior guarantee to provide such execution in the event a trade takes place in another market at the specified limit price. *Id.*

[30] *See* n. 25, *supra.*

[31] *See* Section 3(a)(38) of the Act, 15 U.S.C. 78c(a)(38).

[32] 15 U.S.C. 78k(a)(1)(G)(ii).

[33] CSE Rule 9D3 (Temporary) provides, in essence, that a CSE member's proprietary order must yield priority, parity, and precedence in execution to orders for the account of persons who are not members or associated with members of the CSE. An exception to that general principle is provided in the case of orders entered in the CSE Trading Facility by a non-CSE member who is a specialist on another national securities exchange and has become an approved dealer. Orders for that type of non-CSE member would not be within the class of non-member orders to which members' orders must yield.

That limited exclusion is appropriate in the CSE's case. Under the CSE's access provisions, non-CSE member specialists who have become approved dealers (unlike other non-members of the CSE) are afforded all the trading rights and advantages available to CSE members and, therefore, should not be afforded the benefit which the Congress, in fashioning Section 11(a)(1)(G)(ii), intended to restrict to non-members who do not enjoy any privileged rights of access to exchange markets.

[34] *See* Section 3(a)(35) of the Act, 15 U.S.C. 78(c)(35). *See also* March 1978 Release at text accompanying nn. 19-23. An exemption under the effect versus execute rule would not be needed, of course, if the account was a "natural person" account to which Section 11(a)(1)(E) applies. *See* April 1978 Release at text accompanying nn. 34-36.

[35] The CSE Trading Facility is similar to PACE and COMEX in that the facility itself performs the execution function that on exchange floors is performed by members themselves. A CSE member who entered a market order into the CSE Trading Facility for immediate execution against an existing bid or offer in the system would have met the off-floor transmission requirement (paragraph (a)(2)(ii) of the effect versus execute rule) and the requirement that the member not participate in the execution of the order after transmission (paragraph (a)(2)(iii) of that rule). Unlike PACE and COMEX, however, a CSE member can achieve immediate and direct control over the execution of a market order up to the time of execution. For that reason, the Commission believes that the initiating member would not satisfy the requirement in paragraph (a)(2)(i) of that rule that he not execute the order directly. The entry of an order into the CSE Trading Facility hitting an existing bid or offer involves the initiating member directly in executing the order.

On the other hand, where an order is entered into the CSE Trading Facility by a member at a limit price away from the market, the resulting transaction satisfies the requirement in paragraph (a)(2)(i) of the effect versus execute rule. Such an order would be queued along with other orders awaiting execution and the member would not retain any ability to control the timing of execution or otherwise to enjoy the kind of special order-handling advantages inherent in being on an exchange floor. (Similar principles may well apply to limit orders entered in electronic limit order loading mechanisms that are currently being developed by other exchanges. *See, e.g.*, letter to George A. Fitzsimmons, Secretary of the Commission, from James E. Buck, Secretary of the NYSE (May 31, 1978), Securities and Exchange Commission File No. S7-735. *See also* April 1978 Release at n. 16.) The CSE member entering an order away from the market would remain subject to the limitation on transaction-related compensation contained in paragraph (a)(2)(iv) of that rule in effecting transactions for an account (other than one described in Section 11(a)(1)(E) of the Act) as to which it or one of its associated persons exercises investment discretion.

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The Commission believes that, in light of the purposes of Section 11(a)(1), custom in the securities markets and the usage of those terms among the highly specialized securities traders and arbitrageurs who engage in those activities are the best determinants of the meaning and application of those terms under Section 11(a)(1). In fact, specialized technical terms such as "block positioner," "bona fide arbitrage," "risk arbitrage" and "bona fide hedge" are largely descriptive of custom and practice in the securities markets.

The legislative history of Section 11(a) indicates that the Congress believed that the transactions for which exemptions were provided in Section 11(a)(1) either contributed to the fairness and orderliness of exchange markets, or at least had not given rise to serious problems.[36] It does not appear from the legislative history that the Congress intended to impose excessively rigid limits on the activities of arbitrageurs and other specialized "upstairs" traders in connection with block positioning transactions and transactions of the types listed in Section 11(a)(1)(D). Section 11(a)(1) was not designed to narrow or complicate those activities unduly.

The Commission has concluded nevertheless that it should provide some interpretive guidance concerning the scope of the exemptions provided for those activities in order to assist exchange members who seek to establish their entitlement to any such exemption. In providing such guidance, which is intended solely for purposes of Section 11(a)(1) and is not controlling in other contexts,[37] the Commission believes, at present, that it would be unwise, if not impossible, to provide a complete description of these activities.[38] Such a description, even if accurate, could rapidly become obsolete as trading practices and the markets evolve. In part for that reason, the Commission's statements are not intended to be exclusive; they do not provide any comprehensive definitions. Furthermore, the Commission's statements should not be construed by negative implication to make the exemptions in Sections 11(a)(1) (A) and (D) inapplicable to activities that are not specifically covered by the discussion and that would normally and properly be considered to be within those specialized terms.

Since exchange members may effect principal transactions under the effect versus execute rule regardless of whether a statutory exemption is also available, exchange members do not need to rely on statutory exemptions for principal transactions unless they plan to use their own associated persons on the exchange floor to participate in executing those transactions or, for other reasons, do not plan to rely on the effect versus execute rule for those transactions. At the same time, it appears that exchange member firms currently engaged in block positioning, arbitrage and hedge transactions frequently execute those transactions directly on exchanges. If the exemptions in Section 11(a)(1)(D) were construed too narrowly, such an interpretation would disadvantage specialized "upstairs" traders in a fashion that the Congress does not appear to have contemplated.

A. BLOCK POSITIONING TRANSACTIONS

Section 11(a)(1)(A) exempts any transaction by a dealer acting in the capacity of a "market maker." The term "market maker," as defined in Section 3(a)(38) of the Act,[39] includes a "block positioner." In January 1976, the Commission posed several questions concerning the meaning of that term. The Commission asked whether or not the definitions of that term under certain exchange rules and Commission reporting rules, and the credit regulations adopted by the Board of Governors of the Federal Reserve System, would be appropriate for the purposes of Section 11(a)(1) and, if not, what would be an appropriate definition. The Commission also asked whether restrictions should be adopted governing permissible time periods for liquidating, or "lay-off," transactions in which the block positioner's securities position is liquidated after the block transaction has been effected.

The commentators' responses generally favored a broad definition of the term "block positioner." [40] The Association of the Bar of the City of New York and the NYSE rejected the definitions set forth in Rule 17a-17 under the Act and Regulation U.[41] They suggested that the term "block positioner" should be defined to mean any dealer who (i) has and maintains net capital as defined in Rule 15c3-1 under the Act [42] (or in the net capital rules of the appropriate exchange) of $1,000,000, (ii) engages in the activity of purchasing long or selling short as principal, from time to time, from or to one or more unrelated customers [43] a block of stock with a current market value of $200,000 or more, in a single transaction (or in several transactions at approximately the same time from a single source), to facilitate a sale or purchase by such customers, and (iii) sells the securities comprising the block as rapidly as possible, commensurate with the circumstances. The commentators opposed specific time limits for lay-off transactions in view of the large sums of capital at risk in block transactions, the volatility of conditions in the exchange markets, and the difficulty of predicting the amount of time that is necessary to liquidate a block of stock under a particular set of circumstances.

The Commission believes that the term "block positioner" is generally used to describe a broker-dealer that facilitates the execution of a block transaction in an equity security by positioning at least some part of the block—that is, by purchasing securities for its own account to fill all or a part of a customer's block sale order, or by selling securities for its own account, as either a short sale or a sale from its inventory, to fill all or a part

[36] *Securities Acts Amendments of 1975, Report of the Senate Comm. on Banking, Housing and Urban Affairs to Accompany S. 249*, S. Rep. No. 94-75, 94th Cong., 1st Sess. 99 (1975).

[37] *See, e.g.*, Section 16(e) of the Act, 15 U.S.C. 78p(e); Rule 10a-1 (e)(7)and (e)(8), 17 CFR 240.10a-1 (e)(7) and (e)(8); Rule 15c3-1, 17 CFR 240.15c3-1; and Rule 16e-1, 17 CFR 240.16e-1.

[38] *Cf.* letter to Andrew M. Klein of the Commission's staff from Judith Shepard presenting the views of Goldman, Sachs & Co. and Salomon Brothers (Jan. 5, 1979), File No. S7-613.

[39] Section 3(a)(38), 15 U.S.C. 78c(a)(38), provides that the term "market maker" means "any specialist permitted to act as a dealer, any dealer acting in the capacity of block positioner, and any dealer who, with respect to a security, holds himself out (by entering quotations in an interdealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis."

[40] *See* March 1977 Release, Appendix A, at text accompanying nn. 55–68.

[41] 17 CFR 240.17a-17 and 12 CFR 221.3(z)(2). Rule 17a-17 defines the term "block positioner" for purposes of that rule to mean any registered dealer or exchange member in compliance with applicable capital requirements who, among other things, (i) engages, from time to time, in the activity of buying long or selling short as principal, from or to a customer, a block of stock with a market value of $200,000 or more in a single transaction, or in several transactions at approximately the same time from a single source to facilitate a sale or purchase by such customer; (ii) sells the shares comprising the block as rapidly as possible commensurate with the circumstances; and (iii) does not hold, except under exceptional circumstances and then only for five day extension periods, such block continuously for more than 20 business days and before the expiration of such 20 business day period either extinguishes the exempt credit received or brings such credit into conformity with the initial margin requirements of Regulation U. The definition of the term "block positioner" in Regulation U parallels the definition of that term in Rule 17a-17.

[42] 17 CFR 240.15c3-1.

[43] The suggested definition would have excluded purchases and sales from or to (i) a partner of the dealer or (ii) a joint venture or other entity which has as a participant a partner of the dealer, the dealer itself, or a person associated with the dealer, as defined in Section 3(a)(18) of the Act, 15 U.S.C. 78c(a)(18).

of a customer's block purchase order.[44] An exchange member may be presumed to be acting in the capacity of a "block positioner" for purposes of the market-maker exemption under Section 11(a)(1)(A) if that member is a dealer who establishes a position by purchasing long or selling short as principal from or to a customer with which it is not associated some or all of a block of an equity security [45] in a single transaction (or in several transactions at approximately the same time) to facilitate a purchase or sale by such customer. A transaction liquidating part or all of a position (long or short) so acquired may be presumed to qualify as a block positioner's transaction if liquidation of the position acquired has not been delayed for tax purposes, investment purposes, or other purposes unrelated to the current state of the market in the security involved.

B. ARBITRAGE AND HEDGE TRANSACTIONS

Section 11(a)(1)(D) provides an exemption for any "bona fide arbitrage transaction" as well as "any risk arbitrage transaction in connection with a merger, acquisition, tender offer, or similar transaction involving a recapitalization." [46] In the January 1976 Release, the Commission solicited public comment on these exemptions. In discussing whether there should be time limits on block positioning "lay-off" transactions exempt under Section 11(a)(1)(A),[47] the Commission asked whether time limits would be appropriate for arbitrage transactions. It also asked whether arbitrageurs should be subject to the limitations or obligations of exchange market makers or specialists.[48]

The commentators generally believed that limitations should not be imposed on the arbitrage or hedge exemptions and that the Commission's authority to modify the exemptions under Section 11(a)(1) was significantly limited. One commentator suggested that the primary function and benefit of arbitrage is to narrow spreads between markets or between similar and exchangeable securities or securities which are expected to become similar or exchangeable in the future. The NYSE stated that its criteria for a "bona fide" arbitrage transaction are: (i) the possibility of a profit after expenses, (ii) the necessity of an existing equivalent bid, and (iii) practically simultaneous purchases and offsetting sales.[49]

1. *Bona fide arbitrage.* The term "bona fide arbitrage" generally describes an activity undertaken by market professionals in which essentially contemporaneous purchases and sales are effected in order to "lock in" a gross profit or spread resulting from a current differential in pricing. For example, an arbitrageur may effect an offsetting purchase and sale of the same security in different markets on the basis of an existing price differential between those markets, or may effect offsetting transactions in the same market in a security and another security convertible into the first.[50] In either event, the essence of the bona fide arbitrage is a bona fide effort to profit from an existing price differential. Bona fide arbitrage has been thought to be beneficial to the markets in that it tends to reduce irrational pricing disparities.

The Commission understands that many transactions currently being undertaken by those who are regularly engaged in arbitrage involve some limited, intentional delay (usually a matter of minutes or hours but sometimes, under extraordinary circumstances, as long as a day or even two days) in between the transaction in which the first leg of the arbitrage is established and the subsequent transaction in which the second, offsetting, leg is completed.

Known as "legging" or "legging in," the practice of introducing a delay between putting down the first leg and completing the second leg of the arbitrage is frequently designed to permit the market professional to combine the opportunity to profit from a spread existing at the time the first leg is put down with the opportunity to profit from a favorable short-term price movement, widening the spread, before the arbitrage is completed.[51] Indeed, in situations where the initial spread is very small, the attendant transaction costs, risks and carrying charges may make it uneconomical to attempt the arbitrage unless the existing spread can be combined with an expected favorable intra-day or other very short term price movement. Also, the legging in practice may be adopted in circumstances where market conditions, such as the inability of the market to absorb a large transaction without significant price movement, make it advisable to avoid immediate execution of an entire arbitrage order.

In light of the legislative history and unique purposes underlying Section 11(a),[52] the Commission believes that the bona fide arbitrage exemption in Section 11(a)(1)(D) should be construed very broadly. While the term "bona fide arbitrage" in other contexts is not generally used to describe transactions that are not essentially contemporaneous, the Commission believes that the types of market operations described above should be viewed as bona fide arbitrage within the special meaning of Section 11(a)(1)(D). The "legging in" technique departs from the classic notion of bona fide arbitrage as a simultaneous, or essentially simultaneous, pair (or group) of transactions, and injects some limited element of market prediction and market risk into what would otherwise be purely an activity aimed at profiting from contemporaneous pricing differentials. Nevertheless, in the Commission's view, where a member has begun an arbitrage in the presence of an existing pricing differential (although perhaps one not great

[44] *See* Securities Exchange Act Release No. 15219, Oct. 6, 1978), 43 FR 47495 (Oct. 16, 1978). Although the term "block" is not defined in the Act or in the rules thereunder, the Commission has stated in the past that the term "block transaction" means a transaction in which a member firm, by reason of the size of the order in relation to conditions in the exchange market reasonably concludes that it is in the interest of the customer to search and negotiate for a matching interest on the other side of the market (including negotiating as principal with the customer) rather than to accept or submit a bid or offer in the ordinary course of the auction market. Securities Exchange Act Release No. 8791 (Dec. 31, 1969). *See also* NYSE Rules 97.10 and 127.10, New York Stock Exchange Guide (CCH) ¶¶ 2097.10 and 2127.10.

[45] For purposes of Section 11(a)(1), a customer's order may be presumed to be a block order if it represents at least 10,000 shares, or a quantity of securities that has a current market value of at least $200,000, whichever is less. *See* NYSE Rule 127.10. Contrast the block guidelines under Rule 10b-10, Securities Exchange Act Release No. 15219 (Oct. 6, 1978), 43 FR 47495 (Oct. 16, 1978), and under proposed Rule 13e-2(d), Securities Exchange Act Release No. 10539 (Dec. 6, 1973), 38 FR 34341 (Dec. 13, 1973).

[46] Section 11(a)(1)(D) also exempts "bona fide hedge" transactions in certain securities from the prohibitions of Section 11(a)(1). The hedge exemption is discussed at text accompanying nn. 58–61, *infra*.

[47] *See* text accompanying nn. 39–45, *supra*.

[48] January 1976 Release, Question 1.

[49] *See* March 1977 Release, Appendix A, at text accompanying nn. 69–75.

[50] *See* March 1977 Release, Appendix A, at text accompanying nn. 69–75. Although the need for a statutory exemption for members' trading is lessened in view of the Commission's effect versus execute rule, Temporary Rule 11a2-2(T) under the Act, the requirement under that rule that a member arrange to have an independent member execute the transaction may effectively prevent member firms from engaging in certain kinds of arbitrage transactions where the spread sought to be realized, or "cash flow," is sufficiently small to make the hiring of an independent broker uneconomical.

[51] For example, in a bona fide arbitrage between a common stock and a convertible debt security, the arbitrageur who believed the price of the common stock would decline in the immediate future might effect a short sale in the stock before making a long purchase in the convertible debt security; if the prediction were accurate, the proceeds on the short sale would be maximized and the arbitrageur could expect to acquire the convertible debt security after the stock price (and the convertible debt security price) declined. If, instead, the arbitrageur believed the stock price would shortly rise, he might effect the transactions in the reverse order.

[52] *See* text accompanying n. 36, *supra*.

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enough to outweigh expected transaction costs and carrying charges), time lags alone on the order of those discussed above do not in and of themselves cause the transaction no longer to be covered by the Section 11(a)(1)(D) exemption.[53]

2. *Risk arbitrage.* The term "risk arbitrage" is itself a misnomer in that the transactions to which it is generally applied do not involve arbitrage in the classic sense of an effort to "lock in" a profit resulting from an existing spread, or differential, between the prices of the same security in different markets or of one security and a second security convertible into the first. Rather, risk arbitrage involves a risking of capital on a contingent event; to be exempt under Section 11(a)(1)(D) it must be in connection with a proposed merger, acquisition, tender offer, or other similar transaction involving a recapitalization ("risk arbitrage event").[54]

The Commission believes that the exemption for risk arbitrage in Section 11(a)(1)(D) applies to transactions which are effected with a view to profiting from the consummation of a risk arbitrage event as well as to transactions effected in order to profit from the unsuccessful termination of such an event. It applies regardless of whether the risk arbitrage event involves a proposed exchange of securities or cash tender offer or acquisition.[55] The exemption applies only to transactions effected after the public announcement of the risk arbitrage event [56] and before completion or termination of the risk arbitrage event. In addition, the exemption applies to transactions that liquidate a risk arbitrage position before completion or termination of the risk arbitrage event or within a reasonable period of time thereafter.[57]

3. *Hedge transactions.* Section 11(a)(1)(D) also provides an exemption for "any bona fide hedge transaction involving a long or short position in an equity security and a long or short position in a security entitling the holder to acquire or sell such equity security * * *." The Act does not otherwise specify what type of transaction will result in a "bona fide hedge." While the application of that term is largely a matter of custom and practice, the Commission believes that it implies that an appreciable offset of risk, for all or part of the position being hedged, must be involved.[58]

A bona fide hedge may be established either by contemporaneous transactions in two securities where each position acquired reduces the risk of the other,[59] or by a single transaction in which a position acquired in one security reduces the risk of a previously established position in another security.[60] To the extent, however, that a position does more than offset the risk of the position or positions on the other side, the excess position is not part of a "bona fide hedge" for purposes of Section 11(a)(1)(D). Where a bona fide hedge has been established, the exemption under Section 11(a)(1)(D) also applies to the transaction or transactions that liquidate the hedge.[61]

[53] In some circumstances, an arbitrage begun in good faith may be abandoned because of unfavorable (and unexpected) market changes. In such circumstances, the failure to complete the arbitrage would not cause the transaction establishing the first leg to cease to qualify for exemption as "bona fide arbitrage" under Section 11(a)(1)(D). The question whether the first transaction was part of a contemplated arbitrage involes a factual determination. One relevant, although not necessarily determinative, consideration would be whether that transaction was effected in an account reserved primarily for arbitrage and like transactions by an exchange member regularly engaged in arbitrage. *See* Section 1233(f) of the Internal Revenue Code of 1954, as amended, 26 U.S.C. 1233(f), and the regulation thereunder, 26 CFR 1.1233-1(f)(3).

[54] One leading risk arbitrageur has described risk arbitrage activities as follows:

An arbitrageur is not an investor in the formal sense of the word; *i.e.*, he is not normally buying or selling securities because of their investment value. He is, however, committing capital to the "deal"—the merger, tender offer, recapitalization, etc.—rather than to the particular security. He must thus take a position in the deal in such a way that he is at the risk of the deal, and not at the risk of the market. He accomplishes this by taking a short position in the securities which are being offered, as part of the deal, in exchange for the securities which he purchases.

Wyser-Pratte, *Risk Arbitrage*, Bulletin Nos. 74-75, New York University Graduate School of Business Administration, Institute of Finance (May 1971) at 11-12.

[55] The term "risk arbitrage" is customarily applied to the activities of arbitrageurs in connection with both cash and exchange tender offers, mergers and acquisitions. Section 11(a)(1)(D) refers to "any risk arbitrage transaction in connection with a merger, acquisition, or tender offer. . . ." No distinction is made between cash offers and exchange offers. Moreover, while risk arbitrage in the context of a cash tender offer or cash merger is in some respects indistinguishable from other types of speculation on the future value of a particular security, it does resemble other forms of arbitrage and risk arbitrage in other respects. Like other forms of risk arbitrage, it involves speculation on a particular deal rather than on the corporate fortunes of the issuer or issuers involved. Like bona fide arbitrage between the prices of a security in differing markets, risk arbitrage in the context of a cash tender offer or cash merger involves differing prices for the same security in what may be viewed as two markets, the current market price and the contingent parity value if the risk arbitrage event is consummated. At the same time, of course, not every purchase of a target company's stock is undertaken as risk arbitrage. Generally, risk arbitrage (as opposed to other speculative trading not covered by Section 11(a)(1)(D)) is undertaken only by professional arbitrageurs who are regularly engaged in that activity. Generally, it is undertaken for their own accounts or the accounts of their firms, but it is sometimes undertaken on behalf of others. Risk arbitrageurs generally maintain separate accounts for tax and other purposes. The presence or absence of any such factor would not be determinative, but would be relevant, as to whether a claim to the risk arbitrage exemption was proper.

[56] The first public announcement pertaining to such an event often does not contain the precise terms of the offer or other risk arbitrage event. Where it does not, arbitrageurs cannot determine the exact amount of the consideration to be offered. Nevertheless, the amount of the premium over market value is generally within a predictable range. In that situation, arbitrageurs generally assume that the premium will be within that range, and structure their transactions accordingly, even in the absence of an announcement of all the price terms.

[57] A position assumed by a risk arbitrageur could of course be maintained for tax or investment purposes after the termination or completion of the risk arbitrage event. The later liquidation of such a position would not, however, be considered to be risk arbitrage for purposes of the Section 11(a)(1)(D) exemption.

[58] For example, while the risk of a short stock position might theoretically be reduced by a "deep-out-of-the-money" long call position, there generally would not be any realistic expectation that the call would offset any appreciable amount of the risk assumed in the short stock position. In such a case the two positions would not involve a bona fide hedge for purposes of Section 11(a)(1)(D). At the same time, a transaction establishing an "in-the-money" or "near-the-money" long call position covering 100 underlying shares of stock could be a hedge transaction for purposes of Section 11(a)(1)(D) for part of a preexisting short stock position of much greater size.

The question whether particular combinations of stock positions and options positions result in risk reduction in each of the positions involves subjective judgments as to the volatility and risk characteristics of those positions. For example, "ratio" hedges are frequently used when the risk involved in a stock position is offset by the writing of options. In such ratio hedges, the number of underlying shares deliverable upon exercise of the options exceeds the number of shares in the stock position that is being hedged. The hedge ratio reflects a calculation of the relative degree of risk involved in each position. In establishing a suitable ratio, some industry participants use the "delta factor" derived from the Black-Scholes pricing formula; the delta factor predicts price movements in an option as a function of movements in the underlying stock. Other industry participants have developed their own models. The Commission recognizes that the calculation of volatility and risk can only be approximate, and believes that, for purposes of Section 11(a)(1)(D), the determination of what constitutes an offset may be made by the use of any responsible method of calculating the risk of stock and options positions.

[59] For example, a bona fide hedge may involve essentially contemporaneous transactions in a stock and in one or more options to buy or sell that stock where the stock and option positions so acquired reduce the risks of each other. Where a bona fide hedge position is established by contemporaneous transactions, each such transaction qualifies for the hedge exemption.

In addition, the Commission recognizes that the "legging in" technique discussed above is used also in establishing hedges and that a similar "legging out" technique is used in liquidating some hedges. The Commission believes that, where either technique is used, the hedging exemption should apply on the same basis as is discussed above in connection with bona fide arbi-

Footnotes continued on next page

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trage. *See* text accompanying nn. 51-53, *supra*.

[60] A transaction to hedge a previously established position does not retroactively confer a hedge exemption on the transaction that established the original position. For example, a short stock position that had been established on February 1 could be hedged by a long call transaction on March 1. In that example, only the March 1 long call transaction could qualify as a bona fide hedge transaction. The February 1 short stock transaction would not, even though it later became involved in a hedge; if the transaction establishing the February 1 position had violated Section 11(a), the violation would not be cured by the March 1 transaction.

[61] When a hedge is liquidated, the hedge exemption applies to the transaction or transactions that eliminate the hedge, regardless of whether the transaction that originally established the position being liquidated was an exempt bona fide hedge transaction. If a hedge is eliminated by liquidating all the positions at the same time, or by legging them out, each liquidating transaction qualifies for the hedge exemption. For example, where a short stock position established on February 1 was hedged contemporaneously by a long call position, or was hedged at a later time (*e.g.*, on March 1) by such a position, both positions could be liquidated, or "legged out," under the hedge exemption. If, on the other hand, a hedge is eliminated by liquidating only one of the positions that constituted the hedge, only that liquidating transaction qualifies for the hedge exemption; transactions liquidating the remaining positions that had formerly been, but were no longer, part of an existing hedge would not qualify for the hedge exemption (unless a hedge had been reestablished involving those positions). For example, where the hedge referred to above was eliminated by the liquidation of only the February 1 short stock position, that transaction would qualify for the hedge exemption, but the later liquidation of the March 1 long call position would not qualify under the hedge exemption (unless a hedge had been reestablished by acquiring a third position—*e.g.*, another short stock position).

III. Temporary Exemptive Rule for Bona Fide Hedge Transactions in Certain Securities (Temporary Rule 11a1-3 (T))

With respect to the exemption for "bona fide hedge" transactions, the wording of Section 11(a)(1)(D) refers, on the one hand, to a position in an equity security and, on the other hand, to a position in a security entitling the holder to acquire or sell that security. By its terms, the exemption does not apply to a hedge that involves options exclusively. The Commission currently believes, however, that it is appropriate to accord such options hedges a temporary exemption. That conclusion is prompted in part by the fact that members of the options exchanges currently conduct such activities on those exchanges and that the prohibition of such activities by Section 11(a)(1) could cause unnecessary disruption in the operation of the options markets without serving the purposes of Section 11(a).[62] While the market making exemption under Section 11(a)(1)(A) applies to proprietary trading by floor members who are acting as market makers,[63] option-to-option hedging by other members does not have any exemption comparable to the Section 11(a)(1)(D) exemption.

The options markets have developed substantially since the time Section 11(a) was adopted. Options hedging strategies are part of the options activities of professional traders. Even though the Commission has not completed its evaluation of the current operations of the options markets, it currently believes that exemptive relief under Section 11(a)(1)(H) for options hedging transactions is appropriate to avoid any immediate disruption. Furthermore, it appears that the Congress may possibly have intended to include option-to-option hedging under the exemption for bona fide hedge transactions when it enacted Section 11(a) as part of the Securities Acts Amendments of 1975.[64]

The legislative history of Section 11(a)(1)(D) indicates that certain persons believed that its wording would in fact cover hedging between or among options positions.,[65] As noted above, however, it does not appear to the Commission that the language of Section 11(a)(1)(D) accomplishes that purpose.

The Commission is adopting a temporary rule, Temporary Rule 11a1-3(T), that would establish an exemption comparable to the hedging exemption in Section 11(a)(1)(D) for, among other things, option-to-option hedging. The temporary rule would permit members of a national securities exchange to effect, for their own accounts or the accounts of their associated persons, bona fide hedge transactions between or among securities entitling the holder to sell or acquire the same equity security, which would include option-to-option hedging. The exemption provided by the temporary rule does not exempt transactions for accounts with respect to which a member or an associated person thereof exercises investment discretion,[66] in view of the potential fiduciary problems which the Congress identified with respect to transactions for such accounts.

The Commission has not adopted Temporary Rule 11a1-3(T) as a permanent rule for two reasons. First, the options markets have developed substantially since the time Section 11(a) was adopted, and the Commission has been studying those developments with a view to determining any appropriate and necessary regulatory action. The Commission has not completed its review of current market operations

[62] *See* letter to Andrew M. Klein of the Commission's staff from Judith Shepard, presenting the views of Goldman, Sachs & Co., and Salmon Brothers (Jan. 5, 1979), and letter to Lee A. Pickard of the Commission's staff from Pope, Ballard, Shepard & Fowle on behalf of Harris Associates, Inc. (Jan. 5, 1977), File No. S7-613. Exchange members could, after February 1, 1979, employ unaffiliated brokers, pursuant to the effect versus execute rule (Temporary Rule 11a2-2(T)), to effect the transactions between or among options. The Commission does not currently believe any useful purpose would be served in compelling exchange members to use an unaffiliated broker in order to effect such transactions.

[63] *See* March 1978 Release, at text accompanying n. 69.

[64] Pub. L. No. 94-29, § 6 (June 4, 1975).

[65] In February 1975, the Senate Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs held hearings on S. 249, the Senate's version of the Securities Acts Amendments of 1975. At that time, Section 11(a)(1)(D) provided an exemption for "any bona fide arbitrage transaction." In its written statement (Mar. 13, 1975) to the Subcommittee, the Chicago Board Options Exchange, Inc. (the "CBOE") commented that it was important that certain members' trading be preserved from the prohibition of Section 11(a)(1). The CBOE then stated:

In particular, subparagraph (D), exempting "any bona fide arbitrage transaction" is important to an options market, since arbitrage type spread transactions among the various options series and arbitrage between an options position and a position in the underlying stock serve important functions in maintaining proper price relationships and otherwise contributing to a fair and orderly market.

The CBOE apparently believed that bona fide arbitrage transactions included the hedge transactions it described in its letter. The CBOE suggested expansion of Section 11(a)(1)(D) to assure that such transactions were exempted; to accomplish this result it proposed language that is precisely the same as the language which the Congress ultimately adopted as Section 11(a)(1)(D). *Hearings on S. 249 before the Subcomm. on Securities of the Senate Comm. on Banking, Housing and Urban Affairs to Accompany S. 249*, 94th Cong., 1st Sess., Appendix at 485-486 (1975). *See* letter to Roger D. Blanc of the Commission's staff from Bernard H. Garil on behalf of Oppenheimer & Co. Inc. (Dec. 27, 1978), File No. S7-613.

[66] Such transactions may, of course, be effected pursuant to an available statutory or rule exemption under Section 11(a)(1), such as Section 11(a)(1)(E) or the effect versus execute rule (Temporary Rule 11a2-2(T)).

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conducted by options traders and others and is not able to conclude finally whether the options trading that would be covered by the temporary rule should be exempted permanently. Second, although option-to-option hedging is an existing practice among securities professionals, its place in an active trading environment in which Section 11(a) is fully effective has not been gauged. The Commission plans to continue its consideration of Temporary Rule 11a1-3(T) and, if necessary, to revisit these issues at a later date.

Commentators are requested to provide their views on the issues discussed above and on any other matters relating to the adoption of Temporary rule 11a1-3(T) that they believe the Commission should consider.

IV. Amendments to the Proprietary Trading Rule (Temporary Rule 11a1-1(T))

The proprietary trading rule was adopted under Section 11(a)(1)(G) to implement that provision's exemption for members' proprietary transactions. Under Section 11(a)(1)(G), as implemented, a member may effect a transaction for its own account if, among other things, (i) the member derives more than 50% of its gross income from certain types of business (the "business mix" test), and (ii) the transaction yields priority, parity, and precedence in execution to orders for the account of persons who are not members or associated with members of the exchange.

The Commission is responding below to comments concerning whether revenues derived from exempt bond trading activities may be included within the categories of business enumerated in the "business mix" test (referred to in the April 1978 Release as "eligible income"). The Commission also briefly reviews below the treatment under Section 11(a) of covered account orders which are left before February 1, 1979 on limit order books maintained on exchange floors but which are not executed until after that date.

A. Bond Trading Revenues

In April 1978, the Commission adopted the bond trading rule (Temporary Rule 11a1-4(T)) to exempt from Section 11(a)(1) all bond transactions on an exchange for the account of a member or its associated person. Two persons commented on the bond trading rule. While they supported that rule, they contended that revenues from proprietary transactions under the bond trading rule should be considered as "eligible income" for purposes of the "business mix" test under Section 11(a)(1)(G)(i). They stated that these revenues are derived from activities which have beneficial and constructive effects on the exchange markets. They also observed that revenues derived from transactions exempted under paragraphs (A), (B) and (D) of Section 11(a)(1) are deemed to be "eligible income" for purposes of the "business mix" test of the proprietary trading rule, and stated that revenues derived from exempt bond trading deserve similar treatment.[67]

In adopting the bond trading rule, the Commission concluded that principal bond trading on exchanges provides a relatively liquid market for transactions of small size, that exchange bond markets do not appear to offer exchange members an opportunity for special "time and place" advantages, and that such trading would not raise any of the problems concerning institutional exchange membership articulated by the Congress when it enacted Section 11(a).[68] Furthermore, when the proprietary trading rule was amended to permit revenues from transactions exempted under paragraphs (A), (B) and (D) of Section 11(a)(1) to be treated as "eligible income" for purposes of the "business mix" test, the Commission stated that such transactions represent a "traditional" securities business and that the Congress believed them to have a beneficial, or at least not deleterious, impact on the exchange markets.[69]

The reasons behind that revision of the proprietary trading rule are equally applicable with respect to revenues derived by members from exchange bond trading activities. Accordingly, the Commission is adopting an amendment to paragraph (b) of the proprietary trading rule, to permit members to count as "eligible income" for purposes of the "business mix" test revenues derived from effecting transactions under the bond trading rule.

B. Pre-February 1979 Limit Orders

In the April 1978 release, the Commission adopted a new paragraph (c) to the proprietary trading rule. That paragraph provides that any limit order that was left with a specialist or any other person maintaining a limit order book on a national securities exchange before May 1, 1978, and not executed before that date, shall be deemed, if executed before January 1, 1979, to be an order for the account of a person who is not, and is not associated with, a member. Paragraph (c) was summarily adopted to avoid the significant problem of marking orders left on limit order books for purposes of the proprietary trading rule within the extremely short time that remained before May 1, 1978, when Section 11(a)(1) was originally scheduled to become fully effective.

The Commission believes that the exchanges have had sufficient time to alert their members to this problem and to encourage or require members to mark any orders left on limit order books for purposes of the proprietary trading rule. Accordingly, the Commission is rescinding paragraph (c) of the proprietary trading rule and is not adopting any comparable rule for the period following January 1, 1979.

V. Solicitation of Comments

The Commission hereby requests all interested persons to provide data, views, and arguments on the new temporary rule, the rule amendments, and the interpretations adopted herein, and any other matters pertaining to Section 11(a) of the Act. Comments must be submitted by April 1, 1979 in accordance with the instructions set forth near the beginning of this release under the caption "ADDRESSES."

VI. Statutory Basis

The Securities and Exchange Commission, acting pursuant to the Securities Exchange Act of 1934, and particularly Sections 2, 3, 6, 11, 11A, and 23 thereof (15 U.S.C. 78b, 78c, 78f, 78k, 78k-1, and 78w), hereby adopts Temporary Rule 11a1-3(T) and an amendment to paragraph (b) of Temporary Rule 11a1-1(T), and rescinds paragraph (c) of that rule. The adoption and rescission shall both take effect on February 1, 1979. The Commission has determined that Temporary Rule 11a1-3(T), and the amendment to Temporary Rule 11a1-1(T), are consistent with the purposes of Section 11(a), the protection of investors, and the maintenance of fair and orderly markets.

The Commission finds, in accordance with Section 4(b)(B) of the Administrative Procedure Act (the "APA"),[70] that notice and public procedure on the adoption of Temporary Rule 11a1-3(T) are impracticable and contrary to the public interest. Accordingly, the Commission finds that good cause exists to adopt Temporary Rule 11a1-3(T) without notice and public procedure. The trading activity covered by the exemption provided by Temporary Rule 11a1-3(T) is ongoing and has occurred in the past. Although the Commission has raised substantial questions about options trading and the operations of options exchanges,[71] the Commission has not concluded at this time that the trading activity covered by the temporary rule has caused serious problems or has resulted in disruption of the exchange markets. On the other hand, the effectiveness of Section 11(a) with respect to all exchange members and their associated persons on February 1, 1979, without the exemptive relief accorded by the adoption of Temporary Rule 11a1-3(T), could disrupt existing trading patterns in a fashion that the Congress appears not to have contemplated. The problem raised by the exclusion of option-to-option hedging from the exemption provided by Section 11(a)(1)(D) was addressed by three commentators, who urged the Commission to take appropriate action to exempt such exchange transactions from the prohibition of Section 11(a)(1). Adoption of the temporary rule effective February 1, 1979, the date Section 11(a)(1) becomes generally effective, will alleviate certain of the options trading problems that implementation of Section 11(a)(1) would otherwise cause. For the reasons expressed above, the Commission finds good cause to make the temporary rule effective less than 30 days after its adoption, in accordance with Section 4(c) of the APA.[72] In addition, publication is not required because the temporary rule grants an exemption.

The amendment to paragraph (b) of Temporary Rule 11a1-1(T) is an extension of the exemptive treatment accorded to exchange bond trading under Temporary Rule 11a1-4(T), which was adopted in April 1978. That rule was addressed by only two commentators, both of which requested the Commission to adopt an amendment similar to the one adopted today. Moreover, the amendment clarifies the treatment of bond trading revenues under the "business mix" test in Section 11(a)(1)(G)(i), and temporary Rule 11a1-1(T) and thus permits members in the bond business to complete their preparations for the full effectiveness of Section 11(a)(1) on February 1, 1979. In view of the foregoing discussion, and the February 1, 1979 date for full effectiveness of Section 11(a)(1), the Commission finds that notice and public procedure in accordance with Section 4(b)(B) of the APA are impracticable, unnecessary and contrary to the public interest. Accordingly, the Commission finds that good cause exists to adopt the amendment concerning bond trading revenues to paragraph (b) of Temporary Rule 11a1-1(T) without notice and public procedure. For the same reasons, the Commission finds good cause to make that amendment effective less than 30 days after its adoption, in accordance with Section 4(c) of the APA. In addition, publication of notice before that amendment's effectiveness is not required because that amendment broadens an existing exemption.

The Commission finds that neither Temporary Rule 11a1-3(T) concerning bona fide hedge Transactions in certain securities, including options, nor the amendment, concerning bond trading revenues, to paragraph (b) of Temporary Rule 11a1-1(T), will impose any burdens on competition that are not necessary or appropriate in furtherance of the purposes of the Act. Temporary Rule 11a1-3(T) will create an exemption from Section 11(a)(1) that the Commission believes is necessary or appropriate to prevent possible disrupton of options trading and diminution of the ability of securities traders to offset the risks they assume in effecting other transactions. The amendment to Temporary Rule 11a1-1(T) will broaden an existing exemption under that rule. In addition, it will avoid any disparity in treatment between exchange members relying on Temporary Rule 11a1-4(T) and members relying on certain other statutory exemptions since the amendment permits a member to count revenues earned from exchange bond transactions as "eligible income" for purposes of the "business mix" test in Section 11(a)(1)(G)(i) and Temporary Rule 11a1-1(T).

The Commission's rescission of paragraph (c) of Temporary Rule 11a1-1(T) deletes a provision which refers to transactions effected before January 1, 1979. The Commission finds that notice and public procedure in accordance with Section 4(b) of the APA would be unnecessary, that good cause exists to make the rescission amendment effective less than 30 days after its adoption and that the rescission of paragraph (c) will not impose any burdens on competition.

Part 241 of Chapter II of Title 17 of the Code of Federal Regulations is amended, effective February 1, 1979, by the inclusion of this release therein. Part 240 of Chapter II of Title 17 of the Code of Federal Regulations is amended, effective February 1, 1979, by amending paragraph (b) and deleting paragraph (c) of § 240.11a1-1(T), and by adding § 240.11a1-3(T), as follows:

§ 240.11a1-1(T) Transactions yielding priority, parity and precedence.

* * * * *

(b) A member shall be deemed to meet the requirements of section 11(a)(1)(G)(i) of the Act if during its preceding fiscal year more than 50 percent of its gross revenues was derived from one or more of the sources specified in that section. In addition to any revenue which independently meets the requirements of section 11(a)(1)(G)(i), revenue derived from any transaction specified in paragraph (A), (B), or (D) of section 11(a)(1) of the Act or specified in 17 CFR 240.11a1-4(T) shall be deemed to be revenue derived from one or more of the sources specified in section 11(a)(1)(G)(i). A member may rely on a list of members which are stated to meet the requirements of section 11(a)(1)(G)(i) if such list is prepared, and updated at least annually, by the exchange. In preparing any such list, an exchange may rely on a report which sets forth a statement of gross revenues of a member if covered by a report of independent accountants for such member to the effect that such report has been prepared in accordance with generally accepted accounting principles.

(c) [Deleted]

§ 240.11a1-3(T) Bona fide hedge transactions in certain securities.

A bona fide hedge transaction effected on a national securities exchange by a member for its own account or an account of an associated person thereof and involving a long or short position in a security entitling the holder to acquire or sell an equity security, and a long or short position in one or more other securities entitling the holder to acquire or sell such equity security, shall be deemed to be of a kind which is consistent with the purposes of section 11(a)(1) of the Act, the protection of investors, and the maintenance of fair and orderly markets.

(Secs. 2, 3, 6, 11, 11A, and 23, 89 Stat. 97, 104, 110, 111, 156 (15 U.S.C. 78b, 78c, 78f, 78k, 78k-1, 78w), Secs. 2, 3, 11, 23, 48 Stat. 881, 882, 885, 891, 901, as amended).

By the Commission.

George A. Fitzsimmons,
Secretary.

January 29, 1979.

[FR Doc. 79-3450 Filed 1-30-79; 8:45 am]

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[67] Responses of Asiel & Co. (July 24, 1978) and Mabon, Nugent & Co. (May 24, 1978), File No. S7-613. *See* Rule 11a1-1(T)(b).

[68] April 1978 Release, at text accompanying nn. 11-13.

[69] *Id.*, at text accompanying n. 23.

[70] 5 U.S.C. 553(b)(B).

[71] *See, e.g.*, Securities Exchange Act Release No. 14056 (Oct. 17, 1977), 42 FR 56706 (Oct. 27, 1977).

[72] 5 U.S.C. 553(d).

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Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

SUBCHAPTER A—GENERAL RULES

[Docket No. RM79-3]

PART 2—GENERAL POLICY AND INTERPRETATIONS

SUBCHAPTER E—REGULATIONS UNDER THE NATURAL GAS ACT

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

SUBCHAPTER H—REGULATION OF NATURAL GAS SALES UNDER THE NATURAL GAS POLICY ACT OF 1978

PART 270—RULES GENERALLY APPLICABLE TO REGULATED SALES OF NATURAL GAS

PART 271—CEILING PRICES

PART 273—COLLECTION AUTHORITY; REFUNDS

PART 274—DETERMINATIONS BY JURISDICTIONAL AGENCIES

PART 275—COMMISSION DETERMINATIONS AND COMMISSION REVIEW OF JURISDICTIONAL AGENCY DETERMINATIONS

PART 276—REPORTS

SUBCHAPTER I—OTHER REGULATIONS UNDER THE NATURAL GAS POLICY ACT OF 1978

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS

Filing Requirements Under Interim Regulations Implementing the Natural Gas Policy Act of 1978

JANUARY 26, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of filing requirements.

SUMMARY: On December 1, 1978, (43 FR 56448) the Federal Energy Regulatory Commission issued regulations implementing the Natural Gas Policy Act of 1978 (NGPA). This Notice directs parties making filings in compliance with the NGPA regulations to follow the guidelines established herein regarding format and number of copies to be filed.

EFFECTIVE DATE: February 5, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (Reference Docket No. RM79-3).

FOR FURTHER INFORMATION CONTACT:

Matthew Stover, Office of the Secretary, Federal Energy Regulatory Commission 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275-4166, or

Marvin Hirsh, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275-4623.

JANUARY 26, 1979.

The formal requirements for pleadings, documents, and other papers filed with the Federal Energy Regulatory Commission are specified in 18 CFR 1.15. A number of parties making filings pursuant to the Commission's regulations implementing the Natural Gas Policy Act of 1978 (NGPA) have failed to comply with the provisions of § 1.15. In order to clarify filing procedures under the NGPA and minimize paperwork burdens on the public, this Notice provides rules by which to make filings under the NGPA.

Any filing received by this Commission after February 5, 1979, pursuant to regulations implementing the NGPA shall be deemed deficient and rejected if the filing does not conform to the terms of this Notice.

Notice is hereby given that:

GENERAL. Unless otherwise indicated by this Notice, all filings made with the Commission pursuant to regulations implementing the NGPA shall be made in conformance with 18 CFR 1.15.

TITLE. Pleadings, documents, or other papers filed with the Commission shall clearly show:

(1) the section of NGPA under which they are filed;

(2) the section of the Commission's Regulations under which they are filed;

(3) the name of the person in whose behalf the filing is made.

TRANSMITTAL. The original and each conformed copy of all filings shall bear a transmittal letter listing:

(1) a description of each item included in the filing;

(2) an indication of any item for which the filing party requests confidentiality pursuant to 18 CFR 275.206.

CONFIDENTIALITY. It is the filing party's responsibility to identify on the transmittal letter and segregate within the filing all items for which confidential treatment is requested pursuant to 18 CFR 275.206.

FORM. Pleadings, documents, and other papers filed with the Commission pursuant to the NGPA shall be typewritten on letter size paper 8 to 8½ inches wide by 10½ to 11 inches long. The impression shall be on only one side of the paper unless there are more than four pages.

(1) *Exceptions.* Well logs, graphs, maps, and charts will be accepted in excess of 8½ inches wide by 11 inches long only if they cannot be legibly provided on letter size paper.

COPIES. The § 1.15 requirement that documents be filed in an original and either 14 or 19 copies has been reduced for filings under most sections of the NGPA regulations. Except as noted in the following table or otherwise required by the rules and regulations of the Commission, filings under the NGPA shall be made in an original and five conformed copies.

Section of NGPA regulations	Description	Original	Copies
157.48(b)(1)(i)	Petition Requesting Waiver	1	14
270.202(d)	Application for adjustment	1	14
271.402(c)(3)	Petition for Special Relief	1	14
271.1105 & 271.1106	Applications for Determination, Costs, or Adjustment	1	14
274.207(c) & (e)	Alternative Filing Requirements	1	14
275.201(d)	Protest of Determination	1	14
275.202(d)	Comments and/or Request for Informal Conference	1	14
275.204	Protest of Determination	1	14
275.205(b)	Petition to Reopen Proceedings	1	14
275.206(b)	Request for Disclosure of Confidential Information	1	14
286.102(a)	Petition for Rehearing	1	14
286.102(d)(1)	Initial or Reply Brief	1	19

Any inquiries concerning filing requirements under the Natural Gas Policy Act of 1978 should be made to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275-4166.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3311 Filed 1-30-79; 8:45 am]

[6570-06-M]

Title 29—Labor

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1601—PROCEDURAL REGULATIONS

706 Designation

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on designation of certain State and local fair employment practices agencies so that they may handle employment discrimination charges within their jurisdiction, filed with the Commission. Additionally, changes in nomenclature are made with regard to other, previously designated, agencies.

DATE: Effective January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Boyce Nolan, Equal Employment Opportunity Commission, Office of Field Services, State and Local Division, 2401 E Street, NW., Washington, D.C. 20506, telephone 202/634-6040.

SUPPLEMENTARY INFORMATION: Publication of this amendment to § 1601.74(a) effectuates the designation of the following agencies as 706 Agencies:

Georgia Office of Fair Employment Practices [1]
New Mexico Human Rights Commission

Notice of the proposed designation of the foregoing agencies as 706 Agencies was published in the September 7, 1978 issue of the FEDERAL REGISTER, 43 FR 39831, with notice that written comments must have been filed with the Commission on or before September 15, 1978. The Commission received two comments from interested persons on the operation of one agency, but nothing substantive as to the legality and to finalizing 706 designation of the agency.

In keeping with its new 706 designation, the Georgia Office of Fair Employment Practices is no longer designated a notice agency, and that designation is therefore deleted.

In addition to the new designations, corrections are being made regarding two previously designated Agencies. The name "Wichita (Kansas) Commission on Civil Rights" is corrected to read "Wichita (Kansas) Civil Rights and Equal Employment Opportunity Commission." The name "Dade County (Florida) Fair Housing and Employment Commission" is corrected to read "Dade County (Florida) Fair Housing and Employment Appeals Board."

With the addition of the above mentioned agencies and noted corrections, § 1601.74 (a) and (b) are amended as follows:

§ 1601.74 Designated 706 and notice agencies.

(a) The designated 706 Agencies are:

Alaska Commission for Human Rights
Alexandria (Virginia) Human Rights Office
Allentown (Pennsylvania) Human Relations Commission
Arizona Civil Rights Division
Augusta/Richmond County (Georgia) Human Relations Commission
Austin (Texas) Human Relations Commission
Baltimore (Maryland) Community Relations Commission
Bloomington (Indiana) Human Rights Commission
California Fair Employment Practices Commission
Charlestown (West Virginia) Human Rights Commission
Colorado Civil Rights Commission
Commonwealth of Puerto Rico Department of Labor
Connecticut Commission on Human Rights and Opportunities
Dade County (Florida) Fair Housing and Employment Appeals Board
Delaware Department of Labor
District of Columbia Office of Human Rights
East Chicago (Indiana) Human Relations Commission
Evansville (Indiana) Human Relations Commission
Fairfax County (Virginia) Human Rights Commission
Florida Commission on Human Relations
Fort Wayne (Indiana) Metropolitan Human Relations Commission
Fort Worth (Texas) Human Relations Commission
Gary (Indiana) Human Relations Commission
Georgia Office of Fair Employment Practices
Howard County (Maryland) Human Rights Commission
Hawaii Department of Labor and Industrial Relations
Idaho Commission on Human Rights
Illinois Fair Employment Practices Commission
Indiana Civil Rights Commission
Iowa Commission on Civil Rights
Kansas Commission on Civil Rights
Kentucky Commission on Human Rights
Lexington-Fayette (Kentucky) Urban County Human Rights Commission
Lincoln (Nebraska) Commission on Human Rights
Madison (Wisconsin) Equal Opportunities Commission
Maine Human Rights Commission
Maryland Commission on Human Relations
Massachusetts Commission Against Discrimination
Michigan Civil Rights Commission
Minneapolis (Minnesota) Department of Civil Rights
Minnesota Department of Human Rights
Missouri Commission on Human Rights
Montana Commission for Human Rights
Montgomery County (Maryland) Human Relations Commission
Nebraska Equal Opportunity Commission
Nevada Commission on Equal Rights of Citizens
New Hampshire Commission for Human Rights
New Jersey Division on Civil Rights, Department of Law and Public Safety
New Mexico Human Rights Commission
New York City (New York) Commission on Human Rights
New York State Division on Human Rights
Ohio Civil Rights Commission
Oklahoma Human Rights Commission
Omaha (Nebraska) Human Relations Department
Oregon Bureau of Labor
Orlando (Florida) Human Relations Department
Pennsylvania Human Relations Commission
Philadelphia (Pennsylvania) Commission on Human Relations
Pittsburgh (Pennsylvania) Commission on Human Relations
Prince Georges County (Maryland) Human Relations Commission
Rhode Island Commission for Human Rights
Rockville (Maryland) Human Rights Commission
St. Paul (Minnesota) Department of Human Rights
Seattle (Washington) Human Rights Commission
Sioux Falls (South Dakota) Human Relations Commission
South Bend (Indiana) Human Rights Commission
South Carolina Human Affairs Commission
South Dakota Division of Human Rights
Springfield (Ohio) Human Relations Department
Tacoma (Washington) Human Rights Commission
Utah Industrial Commission
Vermont Attorney General's Office, Civil Rights Division
Virgin Islands Department of Labor
Washington State Human Rights Commission
West Virginia Human Rights Commission
Wheeling (West Virginia) Human Rights Commission
Wichita (Kansas) Civil Rights and Equal Employment Opportunity Commission
Wisconsin Equal Rights Division, Department of Industry, Labor, and Human Relations
Wyoming Fair Employment Practices Commission

(b) The designated notice agencies are:

Arkansas Governor's Committee on Human Resources
North Dakota Commission on Labor
Ohio Director of Industrial Relations
Raleigh (North Carolina) Human Resources Department, Civil Rights Unit

(Sec. 713(a), 78 Stat. 265 (42 U.S.C. 2000e-12(a)))

[1] The Georgia Office of Fair Employment Practices has been designated as a 706 Agency for all charges covering the employment practices of the departments of the State of Georgia only.

Dated: January 23, 1979.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 79-3223 Filed 1-30-79; 8:45 am]

[4310-05-M]

Title 30—Mineral Resources

CHAPTER VII—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, DEPARTMENT OF THE INTERIOR

[INT FES 79-3]

PERMANENT REGULATORY PROGRAM

Availability of the Final Programmatic Environmental Impact Statement

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Notice of availability of the final programmatic Environmental Impact Statement (FES).

SUMMARY: OSM has prepared an FES in connection with its permanent program rulemaking under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), (Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. § 1201 *et seq.*)). Copies of the FES are being made available today. Final decisions on OSM's regulations have not yet been made. The "preferred alternative", *i.e.*, the regulations being considered for publication under section 501(b) of SMCRA, is included in the FES as Appendix C.

DATES: Agency review period ends February 15, 1979.

ADDRESSES: Copies of the FES are available for inspection or may be obtained at the following OSM offices:

OSM Headquarters, Department of the Interior, Room 120, 1951 Constitution Ave., NW., Washington, D.C. 20240.
OSM Region I, First Floor—Thomas Hill Building, 950 Kanawaha Boulevard, East, Charleston, West Virginia 25301.
OSM Region II, 530 Gay Street, S.W., Suite 500, Knoxville, Tennessee 37902.
OSM Region III, Federal Building and Courthouse, Ohio and Pennsylvania Streets, Indianapolis, Indiana 46205.
OSM Region IV, 601 East 12th Street, Room 1768, Kansas City, Missouri 64106.
OSM Region V, Room 270—Old Post Office Building, 1823 Stout Street, Denver, Colorado 80205.

FOR FURTHER INFORMATION CONTACT:

Frank Anderson, Chief, Branch of Environmental Analysis, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240 (202) 343-5287.

SUPPLEMENTARY INFORMATION: Pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 *et seq.*) and Section 702 of SMCRA, OSM has prepared a final programmatic Environmental Impact Statement on regulations to implement the permanent regulatory program. The FES evaluates the adverse and beneficial environmental impacts of the preferred alternative being considered for issuance under Section 501(b) of SMCRA and other alternatives. The three major components of the preferred alternative include: (1) regulations concerning environmental and public health and safety performance and design standards, and permit application and bonding requirements; (2) regulations covering the procedures for preparation and submission of state programs for the Secretary's approval and for the substantive review criteria used for approval; and (3) regulations governing the development and implementation of a Federal program for a State.

A notice of availability of the draft programmatic environmental impact statement (DES) was published in the FEDERAL REGISTER on October 4, 1978. (43 FR 45886-87).

Public hearings on the DES were held between October 31, 1978, and November 2, 1978, in Washington, D.C., Indianapolis, Indiana, and Denver, Colorado. Extensive comments on the DES, received during the comment period and public hearings, were considered in preparation of the FES. Copies of written comments and OSM's responses are included in the FES as Appendices B and A, respectively.

Pursuant to the Guidelines for Preparation of Environmental Impact Statements of the Council on Environmental Quality (CEQ), a decision whether to promulgate as final rules the preferred or another alternative may not be taken "sooner than thirty (30) days after the final text of an environmental statement (together with comments) has been made available to the Council, commenting agencies, and the public." (40 C.F.R. § 1500(b)). CEQ Guidelines also provide that modifications to the thirty-day period for agency review may be made after consultation with CEQ. (Since the publication of the CEQ Guidelines, this responsibility has been transferred to the Environmental Protection Agency.) The Department of Interior, by letter of January 25, 1979, from the Assistant Secretary, Energy and Minerals, to the Administrator of the Environmental Protection Agency has requested approval to shorten the agency review period from 30 to 15 days. This request was granted on January 29, 1979. Accordingly, the fifteen-day period will expire on Wednesday, February 15, 1979.

Dated: January 29, 1979.

HOPE M. BABCOCK,
Deputy Assistant Secretary, Energy and Minerals.

Approved:

LARRY E. MEIEROTTO,
Deputy Assistant Secretary for Policy, Budget and Administration.

[FR Doc. 79-3464 Filed 1-29-79; 3:09 pm]

[1505-01-M]

Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

PART 245—ISSUE OF SUBSTITUTES OF LOST, DESTROYED, MUTILATED, AND DEFACED CHECKS DRAWN ON THE U.S. TREASURY

Requirements for Undertaking of Indemnity

Correction

In FR Doc. 78-35193 appearing at page 59059 in the issue for Tuesday, December 19, 1978, in § 245.3, the paragraph which begins at the top of the middle column of page 59060 and is designated "(a)" should have been designated "(1)".

[6560-01-M]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1045-5]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for the Town of Mars Hill, Maine

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby issues a Delayed Compliance Order to the Town of Mars Hill, Maine. The Order requires the municipality to bring air emissions from its open burning dump into compliance with certain regulations contained in the federally-approved Maine State Implementation Plan (SIP). The Town of Mars Hill's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule takes effect on January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. William Torrey, engineer, 617/223-5330 or Mr. Wesley Marshall, attorney, 617/223-5600 both at EPA, Region I, Room 2103, J.F.K. Federal Building, Boston, Massachusetts, 02203.

ADDRESSES: The Delayed Compliance Order, supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing issuance of the Order are available for public inspection and copying during normal business hours at: EPA, Region I, Room 2103, J.F.K. Federal Building, Boston, Massachusetts, 02203.

SUPPLEMENTARY INFORMATION: On November 14, 1978, the Regional Administrator of EPA's Region I Office published in the FEDERAL REGISTER, 43 FR 52752, a notice setting out the provisions of a proposed delayed compliance order for the Town of Mars Hill, Maine. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments or requests for a public hearing were received in response to the proposal notice.

Therefore, a delayed compliance order effective this date is issued to the Town of Mars Hill, Maine by the Administrator of EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The Order places the Town of Mars Hill, Maine on a schedule to bring its solid waste disposal system into compliance as expeditiously as practicable with Section 100.2.2 of the Maine Department Environmental Protection Air Pollution Control Regulations, a part of the federally-approved Maine State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and reporting requirements. Although Section 113(d)(C) of the Act normally requires emission monitoring in an ORDER, no reasonable system of emission monitoring for the Town of Mars Hill's open burning dump site exists. If the conditions of the Order are met, it will permit the Town of Mars Hill to delay compliance with the SIP regulation covered by the Order until June 15, 1979. The Town is unable to immediately comply with these regulations.

EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place the Town of Mars Hill, Maine on a schedule for compliance with the applicable requirement of the Maine State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: January 26, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending § 65.240 to read as follows:

§ 65.240 Federal delayed compliance orders issued under Section 113(d)(1), (3), and (4) of the act.

* * * * *

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
(Town of Mars Hill)	(Maine)	(A-85-78-649)	(November 14, 1978)	(100.2.2)	(June 15, 1979)

[FR Doc. 79-3293 Filed 1-30-79; 8:45 am]

[6560-01-M]

[FRL 1031-8]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES CERTIFICATION AND TEST PROCEDURES

Technical Amendment

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is making a technical amendment to Part 86 of the EPA regulations. The purpose of this technical amendment is to adjust that portion of the light-duty truck (LDT) class definition pertaining to frontal area. The current limit includes as LDT's those vehicles of less than 46 square feet frontal area. The amended limit is 45 square feet.

DATES: These amendments are effective January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

John F. Anderson, Standards Development and Support Branch Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, Phone: (313) 668-4496.

SUPPLEMENTARY INFORMATION: The intent of establishing a frontal area cutpoint was to exclude from the LDT class certain vehicles which fell within the LDT weight class, but which were considered to be used primarily for commercial purposes. As stated in the preamble to the December 28, 1976 FEDERAL REGISTER notice promulgating the new LDT class definitions, "EPA has accepted the contention that delivery vans which are designed to carry only commodities, and are now characterized by much larger frontal areas than pickup trucks and conventional vans, are properly regulated as heavy-duty vehicles." A cutpoint of 46 square feet frontal area was established for this purpose, based upon data submitted by manufacturers of affected vehicles.

EPA has determined that frontal area measurements used to establish this cutpoint were inappropriately determined by the manfacturers, in that outboard mirrors were included in the frontal area. These mirrors, which are specifically excluded under the definition of basic vehicle frontal area, added just over 1 square foot to the measurements. The result of removing mirror area is to place some smaller step vans in the LDT class, even though the stated intention of the regulations is to exclude such vehicles.

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The inconsistency is easily remedied by adjusting the cutpoint based upon the revised data. For this purpose, the 46 square foot cutoff is being amended to 45 square feet.

By issuing the following technical and clerical amendments directly as a final rule, EPA is foregoing the prior issuance of a notice of proposed rulemaking (NPRM) and the opportunity for public comment on the proposal provided by the NPRM. The issuance of a proposal and opportunity for public comment is unnecessary and is contrary to the public interest. The amendments simply correct the regulations and impose no additional burden on the regulated industry in complying with the regulations. For these reasons, EPA finds good cause to dispense with public comment proceedings in accordance with 5 U.S.C. § 553(b).

NOTE.—The Environmental Protection Agency has determined that this document is not a "significant" regulation and does not require preparation of a Regulatory Analysis under Executive Order 12044.

Dated: January 26, 1979.

DOUGLAS M. COSTLE,
Administrator.

Part 86 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

1. section 86.079-2 is amended by revising the definitions of "heavy-duty vehicle" and "light-duty vehicle" to read as follows:

§ 86.079-2 Definitions.

* * * * *

"Heavy-duty vehicle" means any motor vehicle rated at more than 8500 pounds GVWR or that has a vehicle curb weight of more than 6000 pounds or that has a basic vehicle frontal area in excess of 45 square feet.

* * * * *

"Light-duty truck" means any motor vehicle rated at 8500 pounds GVWR or less which has a vehicle curb weight of 6000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

(2) Designed primarily for transportation of persons and has a capacity of more than 12 persons, or

(3) Available with special features enabling off-street or off-highway operation and use.

* * * * *

(Sec. 202, 301(a) of the Clean Air Act as amended [42 U.S.C. 7521, 7601(a)]).

[FR Doc. 79-3287 Filed 1-30-79; 8:45 am]

[6560-01-M]

SUBCHAPTER E—PESTICIDE PROGRAMS

[PP 7F2013/R191; FRL 1048-4]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Cyano(3-phenoxyphenyl)methyl-4-chloro-α-(1-methylethyl)benzeneacetate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-α-(1-methyl)benzeneacetate in or on cottonseed and the fat of milk, cattle, goats, hogs, horses, and sheep. The regulation was requested by Shell Chemical Co. This rule establishes maximum permissible levels for residues of the subject insecticide in or on cottonseed and the fat of milk, cattle, goats, hogs, horses, and sheep.

EFFECTIVE DATE: Effective on January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington DC 20460 (202/426-9425).

SUPPLEMENTARY INFORMATION: On May 4, 1978 notice was given (43 FR 19290) that Shell Chemical Co., Suite 200, 1025 Connecticut Ave. NW, Washington, DC 20036, had filed a pesticide petition (PP 7F2013) with the EPA.

This petition proposed that 40 CFR 180 be amended to establish tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-α-(1-methylethyl)benzeneacetate in or on the raw agricultural commodities cottonseed at 0.2 part per million (ppm) and the fat of milk and the fat of livestock at 0.02 ppm. (The petitioner has clarified the term "livestock" to mean cattle, goats, hogs, horses, and sheep.) No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a rat acute oral toxicity study with a lethal dose (LD_{50}) of 1-3 grams (g)/kilogram (kg) of body weight (bw) in water and 450 milligrams (mg)/kg bw in dimethylsulfoxide (DMSO); a 90-day dog feeding study with a no-observable-effect level (NOEL) of 500 ppm; teratology studies in mice and rats (both negative at the highest dose of 50 mg/kg bw/day); the following studies assessing neurological effects: a hen study negative at 1 g/kg bw for five days, a rat acute study with an NOEL of 200 mg/kg bw, a rat subchronic feeding study with an NOEL of 150 ppm with no cumulative effects, a dog subchronic feeding study with an NOEL of 500 ppm (the highest dose fed), and 18-month mouse feeding study with an NOEL of 100 ppm with no oncogenic effects at the highest level fed (3,000 ppm), a 24-month rat feeding study with an NOEL of 250 ppm (the highest level fed) with no oncogenic effects, and a three-generation rat reproduction study with an NOEL of 250 ppm (the highest level fed); and the following mutagenicity studies: mouse dominant lethal (negative at 100 mg/kg bw, which was the highest level fed), mouse host-mediated bioassay (negative at 50 mg/kg bw, which was the highest level fed), Ames in vitro (negative), and a bone marrow cytogenic study in the Chinese hamster (negative at 25 mg/kg bw).

Based on the two-year rat feeding study with an NOEL of 250 ppm and using a 100-fold safety factor, the acceptable daily intake (ADI) is 0.025 mg/kg bw/day. No tolerances have previously been established for residues of the subject insecticide. The theoretical maximal residue contribution (TMRC) in the human diet from these tolerances is 0.01 mg/day/1.5-kg diet.

The metabolism of the subject insecticide is adequately understood, and an adequate analytical method (gas chromatography with electron capture detection) is available for enforcement purposes. No actions are currently pending against registration of the subject insecticide nor are any other considerations involved in establishing the proposed tolerances. Although some studies and research are still in progress, the proposed tolerances are fully supported by the data available. The tolerances established by amending 40 CFR 180 will be adequate to cover residues that would result in the meat, fat (including milk fat), and meat byproducts of cattle, goats, hogs, horses, and sheep as delineated in 40 CFR 180.6(a)(2), and there is no reasonable expectation of residues in poultry or eggs as delineated in 40 CFR 180.6(a)(3).

The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances of 0.2 ppm in or on cottonseed and 0.02 ppm in the fat of milk, cattle, goats, hogs, horses, and sheep established by amending 40 CFR 180 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before March 2, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, 401 M St., SW., Washington 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on January 31, 1979, Part 180 is amended as set forth below.

Dated: January 25, 1979.

(Section 408(d)(2) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(d)(2)].)

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, is amended by adding the new § 180.377 to read as follows:

§ 180.377 Cyano(3-phenoxyphenyl)methyl-4-chloro-α-(methylethyl) benzeneacetate; tolerances for residues.

Tolerances are established for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-α-(1-methyl)benzeneacetate in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Cattle, fat	0.02
Cattle, mbyp	0.02
Cattle, meat	0.02
Cottonseed	0.2
Goats, fat	0.02
Goats, mbyp	0.02
Goats, meat	0.02
Hogs, fat	0.02
Hogs, mbyp	0.02
Hogs, meat	0.02
Horses, fat	0.02
Horses, mbyp	0.02
Horses, meat	0.02
Milk, fat	0.02
Sheep, fat	0.02
Sheep, mbyp	0.02
Sheep, meat	0.02

[FR Doc. 79-3296 Filed 1-30-79; 8:45 am]

[6560-01-M]

SUBCHAPTER R—TOXIC SUBSTANCES CONTROL

[FRL 1047-7; OTS 084002]

PART 730—HEALTH AND SAFETY STUDY REPORTING REGULATIONS

Revocation of Rule

AGENCY: Environmental Protection Agency.

ACTION: Revocation of Rule.

SUMMARY: The Environmental Protection Agency (EPA) has decided to revoke the rule published on July 18, 1978 under section 8(d) of the Toxic Substances Control Act (43 FR 30984-30988). This rule required submission of lists and copies of health and safety studies on ten chemical substances and categories of substances recommended for testing rules by the Interagency Testing Committee (ITC). Companies subject to the rule were required to submit lists and copies of existing studies by October 16, 1978 (43 FR 41205). There was also a continuing requirement to submit ongoing studies when completed and studies initiated after October 16, 1978 until such time as rules under section 4(a) had been promulgated for the substances, or the Administrator had published a FEDERAL REGISTER notice stating his reasons for not initiating such rules.

On September 15, 1978, the Dow Chemical Company (Dow) filed in the United States Court of Appeals for the Third Circuit a Petition for Review of the rule, *The Dow Chemical Company v. United States Environmental Protection Agency, et al.* Docket No. 78-2203. Dow has raised the following issues:

1. Whether the final regulation's requirement to submit lists and copies of studies on chemicals manufactured or processed for product research and development was in excess of the statutory authority of the Agency.

2. Whether the final regulation's requirement to submit copies of studies on chemicals which a company does not manufacture, process or distribute, was in excess of the statutory authority of the Agency.

3. Whether as a consequence of the Agency's decision to broaden, without prior announcement, the scope of the final regulation in comparison with the notice of proposed rulemaking, petitioner was deprived of the right to adequate notice and a fair opportunity to comment, under the Administrative Procedure Act.

Reporting under the rule was substantially completed by October 16, 1978, except for the few reports expected to be made on studies completed between that date and the time that testing rulemaking procedures are initiated under section 4 of TSCA. Dow did not request a stay of the rule, but has, itself, submitted a substantial amount of studies and has presumably complied with the rule. It appears, therefore, that EPA has received almost all the important information it would receive under the subject rule.

In addition, EPA is in the process of developing another rule under section 8(d) for the purpose of obtaining health and safety studies on other chemicals recommended by the ITC. The Agency expects to have a proposal published within three months. The new rule will probably also include the substances and categories subject to the rule being revoked today. Even though Dow feels it did not have adequate notice and fair opportunity to comment on certain aspects of the July 18, 1978 rule, it will certainly have adequate opportunity to raise those issues when the next section 8(d) rule is proposed. EPA, however, does not intend to change its interpretation of the scope of its statutory authority. The Agency entertains no doubt that it has the authority under TSCA section 8(d) to require submission of lists and copies of studies from persons who manufacture or process the substance in question for purposes of product research and development, and that it may obtain copies of studies on substances from persons in possession of such studies whether or not such persons manufacture, process or distribute the substances. However, EPA will accept comments on the issue of whether under any given section 8(d) rule the Agency should exercise the full extent of its authority. The Agency will not decide whether to exercise such authority prior to consideration of such comments.

While EPA does not concede that it failed to comply with the legal requirements of the Administrative Procedure Act in providing opportunity for notice and comment to Dow, EPA does admit that Dow has raised substantial questions on the matter and, as a matter of fairness and in order to aid in Agency decision-making, EPA wishes to have additional public input on the issues raised by Dow.

Since EPA has already received substantial information under the instant rule, EPA feels it would best use its resources by revoking the July 18, 1978 rule and considering all issues at a later date, as soon as practicable, in a rule which covers both the chemicals subject to the July 18 rule and additional chemicals recommended by the ITC. In this way, all of the current comment and controversy can be addressed in the context of the rule with future effect rather than a rule which has already been complied with and would soon be superseded in any

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event. Accordingly, 40 CFR Part 730 is hereby revoked.

FOR FURTHER INFORMATION:

John B. Ritch, Jr., Industry Assistance Office, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, 800-424-9065; in Washington call 554-1404.

Dated: January 26, 1979.

DOUGLAS COSTLE,
Administrator.

[FR Doc. 79-3284 Filed 1-30-79; 8:45 am]

[6820-25-M]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER F—ADP AND TELECOMMUNICATIONS

[FPMR Amdt. F-36]

PART 101-36—ADP MANAGEMENT

Low Dollar Value ADP Excess Supply Type Items

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation updates GSA's policies and procedures by establishing minimum reporting levels for nationwide screening of excess ADP supplies and support equipment; by providing for high priority reassignment of excess ADPE to back up the Government's installed base; and by clarifying the meaning of "lease" pertaining to excess ADPE. These changes will expedite screening low dollar excess ADPE items and improve the operation and management of the excess program.

EFFECTIVE DATE: January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

L. Perlman, Procurement Policy and Regulations Branch, Policy and Evaluation Division, Office of Policy and Planning (202-566-0634).

Subpart 101-36.3—Reutilization of Automatic Data Processing Equipment and Supplies

1. Section 101-36.301-1 is amended by revising paragraphs (b) and (d) to read as follows:

§ 101-36.301-1 Automatic data processing equipment.

. . . . . .

(b) Auxiliary or accessorial equipment such as plotters, communications terminals, source data automation recording equipment (optical character recognition equipment, paper tape typewriters, magnetic tape cartridge and card typewriters, and other data acquisition devices), etc., acquired for use in conjunction with digital, analog, or hybrid computer equipment, either cable connected, wire connected, or self-standing and whether selected or acquired with a computer or separately; and/or

. . . . . .

(d) ADP supplies and support equipment such as but not limited to electronic data processing (EPD) paper, seal bands, tapes, canisters, reels, control panels and wires, certifying and cleaning equipment, winders, splicers, cabinets, safes, and racks peculiar to ADP operations.

2. Section 101-36.303 is revised to read as follows:

§ 101-36.303 Reutilization of excess ADPE.

The primary source of supply for meeting ADPE requirements is excess. To obtain maximum reutilization and to minimize the procurement of new ADPE, excess and exchange/sale ADPE shall be made available for transfer to other Federal agencies in accordance with the provisions of this Subpart 101-36.3. Excess ADP supplies and support items with a unit original acquisition cost (OAC) of $1,500 or less shall be made available for transfer to other Federal agencies in accordance with the provisions of Subpart 101-43.3. Any need for excess ADPE expressed by a Federal agency, including the Senate, the House of Representatives, the Architect of the Capitol and any activities under the Architect's direction, the District of Columbia, and mixed-ownership Government corporations, shall take precedence over disposal, provided such need is made known to GSA prior to shipment or delivery in case of donation or prior to removal of the property from Government control in case of sale.

3. Section 101-36.303-2(a) is amended to revise paragraphs (2) and (2)(v) to read as follows:

§ 101-36.303-2 Considerations for use of excess Government-owned or Government-leased ADPE.

. . . . . .

(a) . . .

(2) To obtain maximum economic advantage to the Government, reutilization of excess owned ADPE to satisfy requirements generally shall be considered in the following priority order:

. . . . . .

(v) To cannibalize in order to have a parts source of supply for maintenance. In instances where maintenance support has been discontinued or significantly curtailed, reuse priority may be given to agencies seeking to support their installed base.

. . . . . .

4. Section 101-36.306 is amended by revising the introductory paragraph to read as follows:

§ 101-36.306 Requests for transfer of excess ADPE or exchange/sale ADPE.

Requests for transfer of excess ADPE or reimbursable transfer of exchange/sale ADPE between Federal agencies shall be accomplished in accordance with this subpart by completing an SF 122, Transfer Order Excess Personal Property. (Transfers of excess ADP supplies and support items with a unit OAC of $1,500 or less shall be accomplished by the Federal Property Resources Service in accordance with FPMR Subpart 101-43.3.) The SF 122 shall contain the name and telephone number (commercial and FTS) of the agency official to be contacted regarding transportation details.

. . . . . .

Subpart 101-36.47—Reports

5. Section 101-36.4702 is revised to read as follows:

§ 101-36.4702 Reporting excess or exchange/sale ADPE.

Excess ADPE or exchange/sale ADPE shall be reported on an original and four copies of SF 120, Reports of Excess Personal Property (illustrated at § 101-36.4901-120), and, when necessary, SF 120A, Continuation Sheet (Report of Excess Personal Property). (Excess ADP supplies and support equipment, as defined in FPM 101-36.301-1(d), with an OAC of $1,500 or less shall be reported to the Federal Property Resources Service for regional office screening in accordance with FPMR 101-43.4901.) Any questions should be referred to the General Services Administration (CDSDE), Washington, DC 20405, for resolution.

(a) The SF 120 shall be submitted to the above address by the holding agency at least 90 calendar days before the anticipated release date as determined by the holding agency. This report is exempt from reports control in accordance with FPMR Subpart 101-11.11. Excess ADPE in the hands of Government contractors may be reported on an appropriate contractor inventory appended to an SF 120: *Provided*, The reporting format includes an adequate commercial description and other appropriate data required by paragraph (b) of this section.

(b) The SF 120 shall include the appropriate condition code designation as defined in § 101-36.301-17 and shall contain the manufacturer's name, equipment type and model number, and full description of the ADPE to determine whether the ADPE may satisfy another agency's requirement. Since ADPE suppliers have adopted no uniform method of identifying certain ADPE systems, components, features, cables, or other devices such as terminators and junction boxes used with the equipment, the complete nomenclature for such equipment as used by the supplier shall be identified and reported on the SF 120. Parts or devices shall not be removed subsequent to reporting the ADPE to GSA as excess. If any part or device has been removed from the ADPE, a statement identifying those parts or devices shall be made on the SF 120. In addition, the status of each individual component and feature shall be shown to indicate whether it is leased, purchased, or leased with option to purchase. If the equipment is leased or leased with option to purchase, the fair value shall be shown on the SF 120. The fair value is the difference between original acquisition cost and accrued purchase option credits. Government-owned and leased ADPE shall not be reported on the same SF 120.

(c) By the time Government-owned ADPE becomes excess to an agency's needs, it may be obsolete in relation to new technology, or the supplier may no longer produce the equipment or develop and maintain software necessary for the operation of the equipment. Accordingly, information such as the availability of software packages, engineering drawings, maintenance manuals, and other technical literature relating to Government-owned ADPE shall be included on the SF 120.

(d) The words "Exchange/Sale Property" and the statement: A written administrative determination has been or will be made to apply the exchange allowance or proceeds of sale to the acquisition of similar items by other than lease, shall be displayed prominently on the original and four copies of the SF 120 when reporting ADPE that is to be replaced pursuant to exchange/sale provisions of Part 101-46. Lease includes the acquisition of ADPE under any plan, e.g., fixed term, extended term rental, or other such plan wherein payments are still due. Without exception, both cash (sale) or exchange (trade-in) offers shall be solicited. The acquisition costs and the reimbursement required, which shall not be greater than the cash (sale) or exchange (trade-in) that the reporting agency has received for the specific ADPE, shall be shown on the SF 120. In addition, the following information must be forwarded with the SF 120:

(1) The identity of the offeror of the cash or exchange offer (enclose copy of offer with the SF 120);

(2) The type of replacement equipment;

(3) The method of acquisition for the replacement equipment;

(4) The anticipated purchase price for the replacement equipment;

(5) The delegation of procurement authority (DPA) number assigned by GSA for the replacement equipment if a DPA is required; and

(6) The name and telephone number of the contracting officer. Until this information is received, the equipment will not be entered into exchange/sale screening. Exchange/sale reports received with inadequate screening time (in noncompliance with the 90-day requirement in § 101-36.4702, above) will be disapproved and entered into screening as excess ADPE. If there is any change to a cash or exchange offer subsequent to the submission of an SF 120, a revised SF 120 indicating the new cash or exchange offer shall be promptly submitted to GSA. Agencies will be advised promptly, in writing, of the date the original or revised SF 120 is received by GSA. Such equipment shall not be sold or exchanged prior to written authorization from GSA. (See § 101-36.4901-120(c) for a specimen description of SF 120 when reporting exchange/sale ADPE.)

(e) Excess ADPE that is located on or within excess real property falling under the provisions of Part 101-47 shall be reported in accordance with this § 101-36.4702. The SF 120 reporting this excess ADPE to GSA shall be so annotated.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Dated: January 16, 1979.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 79-3213 Filed 1-30-79; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1354]

PART 1033—CAR SERVICE

Chessie System Authorized To Use Open Hoppers in Unit-Grain-Trains

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Service Order No. 1354.

SUMMARY: The Chessie is unable to furnish shippers covered hopper cars for eight consecutive trips as required by tariff. Chessie has a supply of open hopper cars available. Service Order No. 1354 waives the eight-consecutive-trip provision and authorizes the substitution of open hopper cars.

DATES: *Effective 12:01 a.m., January 26, 1979. Expires 11:59 p.m., April 30, 1979.*

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone (202 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: January 24, 1979.

An acute shortage of covered hopper cars for transporting shipments of grain exists on The Baltimore and Ohio Railroad Company and The Chesapeake and Ohio Railway Company, collectively known as Chessie. That line has published certain rates in Traffic Executive Association-Eastern Railroad Tariff 794-F, ICC C-1206 which require the shipment of eight consecutive lots of grain, each to comprise 6,370 net tons loaded into not more than sixty-five (65) covered hopper cars. During the current winter shutdown of Great Lakes shipping, Chessie intends to make available to grain shippers open hopper cars normally used in the movement of coal to Great Lakes ports. As the eight consecutive trips may not be completed before the open hoppers are needed for coal loading, Chessie plans to assign two sets of open hopper equipment and to allow the eight trainload shipment minimum to be met on the basis of four trips each. The Chessie has requested authority to waive the eight-consecutive-trip provisions of this tariff rule, and to substitute open hopper cars for covered hopper cars to be operated concurrently in two sets

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each comprising not more than 82 open hopper cars.

It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1354 Service Order No. 1354.

(a) *Chessie System authorized to use open hoppers in unit-grain-trains.* The Baltimore and Ohio Railroad Company and The Chesapeake and Ohio Railway Company, collectively known as Chessie, is authorized to waive the eight-consecutive-trip requirement applicable to 8,370 ton shipments of grain published in Item 370 of Traffic Executive Association-Eastern Railroad Tariff 794-F, ICC C-1206, supplements thereto or reissues thereof. Chessie is authorized to substitute open hopper cars for covered hopper cars for these shipments. Chessie is authorized to operate concurrently two sets of open hopper equipment, each comprising not more than eighty-two (82) open hopper cars, in order to complete the eight trainload shipment minimum on the basis of four trips each. All other provisions of that tariff shall remain fully in effect.

(b) *Rules and Regulations Suspended.* The operation of all other tariff provisions or of other rules and regulations insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Appplication.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:01 a.m., January 26, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3309 Filed 1-30-79; 8:45 am]

[7035-01-M]

[No. MC-C-3437]

PART 1041—INTERPRETATION—CERTIFICATES AND PERMITS

PART 1047—EXEMPTIONS

PART 1062—EXEMPTIONS

Motor Transportation of Property Incidental to Transportation by Aircraft

AGENCY: Interstate Commerce Commission.

ACTION: Correction to final rules.

SUMMARY: The rules adopted in this proceeding expand air terminal areas to a zone extending 35 miles from the boundary of the pertinent airport, as well as a zone extending 35 miles from the corporate limits of any municipality any part of whose commercial zone falls within 35 miles of that airport. In the interest of clarity, certain changes are necessitated in the final rules, as well as in the Commission Decision, which adopted them.

EFFECTIVE DATE: May 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Frederick Stocker, Telephone 202-275-7907.

SUPPLEMENTARY INFORMATION: The necessary changes clarify the definition of the term "air terminal zone" and the application of the rules. Changes (1) and (2) below affect the Commission Decision which adopted the concerned final rules, and they will be identified by reference to the appropriate page in the Decision where the changes are necessitated. Change (3), however, affects the final rules which were attached to the Decision and published in 44 F.R. 3295, at 3296, on January 16, 1979. Consequently, the necessary changes noted in (3) below will be identified by reference to both the appropriate page of the Decision and FEDERAL REGISTER citation.

(1) At page 95 of the Commission's Decision [*Motor Transp. of Property Incidental to Air,* 131 M.C.C. 87 (1978)], line 17 from the top of the page, delete the following language "the 35-mile air terminal zone" and insert "35 miles of the boundary of the pertinent airport."

(2) At page 97 of the involved decision, the third line from the bottom of the page, delete "49 CFR 1047.40(c)" and insert "49 CFR 1047.40(b)(1)".

(3) The final rules adopted in this proceeding, which appear at page 103 of the involved decision, and at 44 FR 3295, 3296, published January 16, 1979, should be amended by deleting § 1047.40(a)(4) and 1047.40(b) and inserting the following:

§ 1047.40 Motor transportation of property incidental to transportation by aircraft.

* * * * *

(4) must take place within a zone (the "air terminal zone") extending 35 miles from the boundary of the airport at which the shipments are received or delivered, as well as 35 miles from the corporate limits of any municipality any part of whose commercial zone falls within 35 miles of that airport's boundary.

(b) Exceptions.

(1) The Commission may, on its own motion or in response to a petition filed by any person, establish a different air terminal zone for a particular airport.

(2) In emergency situations, where air carriers substitute motor transportation for air transportation due to adverse weather conditions, equipment failure, or other causes beyond the air carrier's control, the substituted service will qualify as incidental to transportation by aircraft if it is performed at the expense of an air carrier on a through air bill of lading.

* * * * *

The changes noted above will be incorporated, as pertinent, into both the Decision of the Commission which will be bound in the Motor Carrier Cases reporter series, and into the codified rules. Certain other less consequential changes will be made in the Commission's Decision to correct typographical errors.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3314 Filed 1-30-79; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1064 and 1065]

[Docket Nos. AO-23-A51, AO-86-A38]

MILK IN THE GREATER KANSAS CITY AND NEBRASKA-WESTERN IOWA MARKETING AREAS

Final Decision on Proposed Amendments to Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision changes the funding rate for the advertising and promotion program of each order from a fixed level to a rate tied to the level of producers' pay prices in each market. The funding level is increased from five cents to an initial level of eight cents per hundredweight. The changes are necessary to restore the promotional effort in these markets to the level initially contemplated by producers and to keep the funding rate current with changes in the economy. The decision is based on industry proposals considered at a public hearing held October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing: Issued September 29, 1978, published October 4, 1978 (43 FR 45881).

Recommended decision: Issued December 15, 1978, published December 21, 1978 (43 FR 59511).

PRELIMINARY STATEMENT

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the marketing areas mentioned above. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Omaha, Nebraska, on October 23, 1978, pursuant to notice thereof issued on September 29, 1978 (43 FR 45881).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Marketing Program Operations, on December 21, 1978, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. At the end of Issue No. 1, a new paragraph has been added.

2. Issue No. 2 of the recommended decision, entitled "Need for emergency action", dealt with a request to omit the recommended decision. Since that issue is now moot, it is not included in this final decision.

The material issues on the record of the hearing relate to:

1. Funding rate for the advertising and promotion program.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Funding rate for the advertising and promotion program.* The funding rate for the advertising and promotion programs under the Kansas City and Nebraska-Western Iowa orders should be changed from the present fixed 5-cent rate to a rate determined yearly by multiplying the simple average of the monthly uniform prices applicable under each order for the months of October-December by 0.75 percent and rounding to the nearest cent. The resulting figure should be the funding rate beginning the following April and should continue for a 12-month period until the procedure is repeated.

The advertising and promotion programs were established under the Kansas City and Nebraska-Western Iowa orders in April 1973. The programs have been funded since their inception through a monthly 5-cent per hundredweight assessment on milk delivered during the month by participating producers. The money is deducted by the market administrator in the computation of the blend price and is turned over to an agency composed of producer representatives. Certain reserves are withheld by the market administrator to cover refunds to those producers not participating in the program and administrative costs.

The advertising and promotion agency is responsible for the development and implementation of programs and projects approved by the Secretary and designed to carry out the purpose of the Act. The scope of the agency's activities may include the establishment of research and development projects, advertising on a nonbrand basis, sales promotion, and educational and other programs designed to improve or promote the domestic marketing and consumption of milk and its products. The advertising and promotion program is a voluntary program. Accordingly, each producer, on a quarterly basis, is given an opportunity to request a refund of the money withheld from him.

The funding rate adopted herein was proposed by Mid-America Dairymen, Inc. (Mid-Am), whose members represent 82 percent of the producers participating in the Greater Kansas City advertising and promotion program and 61 percent of the producers participating in the Nebraska-Western Iowa advertising and promotion program. The cooperative's representative testified that the current funding rate is no longer generating adequate revenues to support advertising and promotion activitives at levels initially contemplated by producers when such activities were initiated under both orders. He indicated that the continuance of the fixed 5-cent funding rate has resulted in a cutback in the advertising and promotion program under each order because the funds generated have remained virtually constant while the costs for television, radio, and newspaper advertising have risen sharply.

At the request of the cooperative, a representative of the United Dairy Industry Association (UDIA) presented data in support of the cooperative's position that additional funds are needed by the agency. These data indicated that the costs of advertising through the various medias in the Kansas City area since 1974 have increased by 83 percent for television, 43 percent for radio, and 85 percent for newspapers. In the Nebraska-Western Iowa area for the same period, compa-

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rable advertising costs have increased 83 percent, 69 percent, and 45 percent, respectively. In addition, this witness testified that the cost of scientific research has been increasing at the rate of 8 percent per year. He stated that, as a result of these escalating costs, UDIA has been forced to hold its research budget at the same dollar level as budgeted in 1974.

A spokesman for Associated Milk Producers, Inc., (AMPI), a cooperative with producers on both the Kansas City and Nebraska-Western Iowa markets, also testified in support of a higher funding level and of tying the funding rate to changes in the uniform price to producers. This, he said, would not only bring the rate up to a more reasonable level but also would allow the rate to fluctuate in the future with changes in economic conditions.

The proposed increase in the funding rate for the advertising and promotion programs is warranted in view of the increased costs for advertising that have occurred since the programs were established under the orders. The greatest increase in the cost of advertising has occurred in local television. In terms of a dollar's worth of advertising expenditure in 1974, television advertising currently costs $1.83 in both markets. The cost of newspaper and radio advertising also has increased but not to the same extent as the cost of television advertising. One dollar's worth of radio time in 1974 now costs $1.43 in the Kansas City market and $1.69 in the Nebraska-Western Iowa market. One dollar's worth of newspaper advertising in the two markets now costs $1.85 and $1.45 respectively.

Based upon the increased costs for radio and newspaper advertising in these markets, the funding rates would need to be increased by 2.9 cents for Order 65 and 3.2 cents for Order 64 to enable the agencies to purchase the same quantity of advertising as when the programs were initiated. Cost increases for television advertising would warrant an increase of about 4 cents to maintain the 1974 level. The funding rate adopted herein is in line with these increases in advertising costs.

If the proposed funding rate were now in effect, the assessment for the period from April 1978 through March 1979 would be 7 cents per hundredweight under both orders. This is based on average uniform prices under Orders 64 and 65 of $9.84 and $9.63, respectively, for the last quarter of 1977. On the basis of uniform prices for the months of October through November 1978, it appears likely that the funding rate for the period of April 1979 through March 1980 would be 8 cents per hundredweight. (The uniform prices for October and November 1978 averaged $11.07 under Order 64 and $10.88 under Order 65. An average uniform price in excess of $10.00 during the last quarter of 1978 would assure an 8-cent rate.)

The proposed rate as a percent of the uniform price is in line with the rate at which producers originally funded the programs. In 1973, when the advertising and promotion programs were adopted in the Kansas City and Nebraska-Western Iowa markets, the 5-cent rate was equal to 0.71 and 0.72 percent, respectively, of each market's average uniform price for the year. By 1977, the 5-cent rate represented only 0.53 and 0.54 percent, respectively, of the annual average uniform price in each market. The reason for this decline is that the annual average uniform prices for the Kansas City and Nebraska-Western Iowa markets increased from $7.07 and $6.92, respectively, in 1973 to $9.45 and $9.30 in 1977, while the 5-cent funding rate remained constant. As mentioned previously, the revised funding rate adopted herein would have provided an assessment rate during 1977 of 7 cents per hundredweight, which is equal to 0.75 and 0.74 percent, respectively, of the annual average uniform price for the Nebraska-Western Iowa and Kansas City markets (approximately the same percentage rate that was in effect during 1973).

A minor change should be made in the refund procedure with respect to producers who have transferred to either the Nebraska-Western Iowa or Kansas City market from another Federal order market with an advertising and promotion program. Presently, a producer who is participating in an advertising and promotion program under another order and then transfers to either the Order 64 or Order 65 market is required to participate in the advertising and promotion program for the market to which he transferred until the start of the next quarter. This should be changed with respect to a producer transferring to either of these two markets if the producer was under an order with a lower funding rate. In such case, the producer should be treated like a new producer and should be given the opportunity to request a refund of his money withheld for the advertising and promotion program under Order 64 or 65, as the case may be.

Previously, it was presumed that a producer who was participating in an advertising and promotion program under one order would be willing to participate in a similar program under any other order since the rate of withholding was the same. However, since the rate of withholding under Orders 64 and 65 would be somewhat higher than the rate now applicable under several other Federal orders, a producer should be given an opportunity upon coming onto these markets to decide if he wants to participate in the program under these orders at the higher rate.

Conforming changes have been made in the orders to recognize that the current references in several sections to "weighted average price plus 5 cents" or "uniform price plus 5 cents" would no longer be appropriate. In implementing the revised funding rate for the advertising and promotion programs, the provisions for computing the uniform price have been modified. A "weighted average price" would first be computed that would not include any deduction of the money to be withheld for such programs. Thus, the current references to "weighted average price plus 5 cents" and "uniform price plus 5 cents" are changed to read "weighted average price". Under the adopted changes, the uniform price computations would continue, however, to reflect the deductions applicable for funding the advertising and promotion programs.

The changes adopted herein that relate to the Advertising and Promotion Program should be implemented in two steps. It is preferable from an operational standpoint that the change in the funding rate become effective at the beginning of a calendar quarter. At this stage of the proceeding, it appears that the rate change could be made effective on April 1, 1979. The orders provide, however, that producers who desire not to participate in the program during the April-June period must submit their refund requests during the period of March 1 through March 15. Therefore, the provisions directing the market administrator to compute the funding rate and to notify producers of the new rate sould be made effective prior to March 1, 1979. In this way, producers would be aware of the forthcoming rate change when deciding whether or not they want to participate in the program during the following calendar quarter.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

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General Findings

The findings and determinations set forth below are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and the previously issued amendments to them. All of the previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

No exceptions were filed.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the orders regulating the handling of milk in the Greater Kansas City and Nebraska-Western Iowa marketing areas which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreements, be published in the Federal Register. The regulatory provisions of the marketing agreements are identical with those contained in the orders as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval of the Advertising and Promotion Program and Determination of Representative Period

November 1978 is hereby determined to be the representative period for the purpose of ascertaining whether the proposed order provisions, relating to the advertising and promotion program in the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the Greater Kansas City and Nebraska-Western Iowa marketing areas are separately approved or favored by producers, as defined under the terms of the orders (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within each respective marketing area.

(This decision constitutes the Department's Final Impact Analysis Statement for this proceeding.)

Signed at Washington, D.C., on January 24, 1979.

JERRY C. HILL,
Deputy Assistant Secretary.

Order[1] amending the orders regulating the handling of milk in the Greater Kansas City and Nebraska-Western Iowa marketing areas.

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid marketing areas.

The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing areas, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders as hereby amended regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Greater Kansas City and Nebraska-Western Iowa marketing areas shall be in conformity to and in compliance with the terms and conditions of the orders, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreements and order amending the orders contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on December 15, 1978, and published in the Federal Register on December 21, 1978 (43 FR 59511) shall be and are the terms and provisions of this order, amending the orders, and are set forth in full herein.

PART 1064—MILK IN THE GREATER KANSAS CITY MARKETING AREA

1. Section 1064.61 is revised to read as follows:

§ 1064.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute in the following manner the "uniform price" (and "weighted average price") per hundredweight of milk of 3.5 percent butterfat content that was received from producers:

(a) Combine into one total the values computed pursuant to § 1064.60 for all handlers who filed the reports prescribed by § 1064.30 for the month and who made the payments pursuant to §§ 1064.71 and 1064.73 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1064.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1064.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price".

(f) Subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1064.121(e). The result shall be the "uniform price" for milk received from producers.

§ 1064.71 [Amended]

2. In § 1064.71(a)(2)(ii), the words "plus 5 cents" are deleted.

§ 1064.73 [Amended]

3. In § 1064.73(d)(2), the reference "§ 1064.61(a)" is changed to read "§ 1064.61."

§ 1064.75 [Amended]

4. In § 1064.75, the reference "§ 1064.61(a)" in paragraph (a) is changed to read "§ 1064.61" and the words "plus 5 cents" in paragraph (b) are deleted.

§ 1064.76 [Amended]

5. In § 1064.76(a)(4), the words "plus 5 cents" are deleted wherever they appear.

§ 1064.1134 [Amended]

6. In the section numbered as § 1064.1134, the section number in the heading is changed to read "§ 1064.113."

7. In § 1064.120, the reference "§ 1064.61(a)(4)" in paragraph (d) is changed to read "§ 1064.121(b)" and paragraph (c) is revised to read as follows:

§ 1064.120 Procedure for requesting refunds.

* * * * *

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the end of the ensuing calendar quarter may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such calendar quarter pursuant to § 1064.121(b). Such eligibility for refund shall not apply to a dairy farmer who during the first 15 days of such December, March, June, or September was a producer under another order with an advertising and promotion program if the refund notification period under the other order was the same as under this order and if the funding rate under the other order was at least equal to the funding rate under this order.

* * * * *

8. In § 1064.121, the introductory text of paragraph (b) and paragraph (b)(2) and (3) are revised and new paragraphs (e) and (f) are added as follows:

§ 1064.121 Duties of the market administrator.

* * * * *

(b) Each month set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (e) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

* * * * *

(2) Refund to producers the amount of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1064.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section by the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

* * * * *

(e) As soon as possible after the beginning of each year, compute the rate of withholding by multiplying the simple average of the monthly "uniform prices" for the last quarter of the preceding year by 0.75 percent and rounding the result to the nearest whole cent. This rate shall apply during the 12-month period beginning with April of the current year.

(f) As soon as possible after the rate of withholding is computed, notify in writing each producer currently on the market and any new producer that subsequently enters the market of the withholding rate. This notification shall be repeated annually thereafter only if there is any change in the rate from the previous period.

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

1. Section 1065.61 is revised to read as follows:

§ 1065.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute in the following manner the "uniform price" (and "weighted average price") per hundredweight of milk of 3.5 percent butterfat content that was received from producers:

(a) Combine into one total the values computed pursuant to § 1065.60 for all handlers who filed the reports prescribed by § 1065.30 for the month and who made the payments pursuant to §§ 1065.71 and 1065.73 for the preceding month;

(b) Subtract an amount equal to the total value of the plus location adjustments computed pursuant to § 1065.75;

(c) Add an amount equal to the total value of the minus location adjustments computed pursuant to § 1065.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1065.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price."

(g) Subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1065.121(e). The result shall be the "uniform price" for milk received from producers.

§ 1065.71 [Amended]

2. In § 1065.71(a)(ii), the word "uniform" is changed to read "weighted average" and the words "plus 5 cents" are deleted.

3. In § 1065.75, paragraph (c) is revised to read as follows:

§ 1065.75 Plant location adjustment for producers and on nonpool milk.

* * * * *

(c) For purposes of computations pursuant to §§ 1065.71 and 1065.72, the weighted average price shall be adjusted at the rates set forth in § 1065.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

§ 1065.76 [Amended]

4. In § 1065.76(a)(4), the words "uniform price plus 5 cents" are changed to "weighted average price" wherever they appear.

5. In § 1065.120, the reference "§ 1065.61(e)" in paragraph (d) is changed to read "§ 1065.121(b)" and paragraph (c) is revised to read as follows:

§ 1065.120 Procedure for requesting refunds.

* * * * *

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the end of the ensuing calendar quarter may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such calendar quarter pursuant to § 1065.121(b). Such eligibility for refund shall not apply to a dairy farmer who during the first 15 days of such December, March, June, or September was a producer under another order with an advertising and promotion program if the refund notification period under the other order was the same as under this order and if the funding rate under the other order was at least equal to the funding rate under this order.

* * * * *

6. In § 1065.121, the introductory text of paragraph (b) and paragraph (b)(2) and (3) are revised and new paragraphs (e) and (f) are added as follows:

§ 1065.121 Duties of the market administrator.

* * * * *

(b) Each month set aside into an advertising and promotion fund, separately accounted for, and amount equal to the withholding rate for the month as set forth in paragraph (e) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

* * * * *

(2) Refund to producers the amount of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1065.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section by the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such calendar quarter less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

* * * * *

(e) As soon as possible after the beginning of each year, compute the rate of withholding by multiplying the simple average of the monthly "uniform prices" for the last quarter of the preceding year by 0.75 percent and rounding to the nearest whole cent. This rate shall apply during the 12-month period beginning with April of the current year.

(f) As soon as possible after the rate of withholding is computed, notify in writing each producer currently on the market and any new producer that subsequently enters the market of the withholding rate. This notification shall be repeated annually thereafter only if there is any change in the rate from the previous period.

[FR Doc. 79-3169 Filed 1-30-79; 8:45 am]

[3410-02-M]

UNITED STATES DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132, 1138]

[Docket Nos. AO-231-A47, etc.]

MILK IN THE TEXAS AND CERTAIN OTHER MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR Parts	Marketing areas	Docket Nos.
1126	Texas	AO-231-A47
1073	Wichita, Kansas	AO-173-A36
1097	Memphis, Tennessee	AO-219-A35
1102	Fort Smith, Arkansas	AO-237-A29
1104	Red River Valley	AO-298-A29
1106	Oklahoma Metropolitan	AO-210-A42
1108	Central Arkansas	AO-243-A33
1120	Lubbock-Plainview, Texas	AO-328-A22
1132	Texas Panhandle	AO-362-A31
1138	Rio Grande Valley	AO-335-A27

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends changes in the present order provisions based on an industry proposal which was considered at a public hearing held November 6, 1978. The recommended amendments would increase the funding rate for the advertising and promotion program of each order and also tie such rate to the level of producer pay prices in the 10 orders. The funding period for the program would be changed from a quarterly period to a semiannual period. Producers who do not want to participate in the program would have one month instead of 15 days to submit refund requests. Refunds to producers would be made on a monthly basis rather than quarterly. The recommended changes in funding rate are necessary to restore the promotional effort in these markets to the level initially contemplated by producers and to keep the funding rate current with changes in the economy.

DATE: Comments are due on or before February 15, 1979.

ADDRESS: Comments (six copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agriculture Marketing Service, U.S. Department

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of Agriculture, Washington, D.C. 20250, (202)447-4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of hearing: issued October 20, 1978, published October 25, 1978 (43 FR 49810).

PRELIMINARY STATEMENT

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the aforesaid marketing areas. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in six copies. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing conducted at Dallas, Texas, on November 8, 1978. Notice of such hearing was issued October 20, 1978 (43 FR 49810).

The material issues on the record relate to:

1. The level of the funding rate for the Advertising and Promotion program.

2.Revision of administrative provisions of the Advertising and Promotion program:

(a) Semiannual operating periods.

(b) Time period for market administrator to refund deductions to nonparticipating producers.

(c) Term of office of Agency members.

(d) Conforming changes.

(i) Semiannual preparation of Agency budgets.

(ii) Announcement by market administrator of the funding rate.

(iii) Miscellaneous conforming changes.

(iv) Changes required to accommodate to the seasonal base plan provisions scheduled to become effective on September 1, 1979.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *The level of the funding rate for the Advertising and Promotion Program.* The funding rate for the advertising and promotion program under each of the 10 orders included in this proceeding should be modified by changing the present 5-cent rate to a rate determined yearly by multiplying the simple average of the "weighted average prices" applicable during the preceding calendar year for each of the 10 orders by 0.8 percent.

Under the revised funding formula, a simple average of the monthly "weighted average prices" for the preceding calendar year under each of the 10 orders involved in this proceeding would be computed by the market administrator of the respective order as soon as possible after the end of the preceding calendar year to determine the annual weighted average price for each order.[1] A simple average of the annual weighted average prices for the 10 markets would then be computed to determine the annual weighted average price for the 10-markets combined. This annual weighted average price would then be multiplied by 0.008 and rounded to the nearest ¼-cent to determine the actual rate of assessment to be effective for the following July 1-June 30 period.

The advertising and promotion program applicable under the 10 orders was made effective in April 1973. The program has been funded since its inception through a monthly 5-cent per hundredweight assessment on milk delivered during the month by participating producers. The money is deducted by the market administrator in the computation of the blend price and turned over to an agency of producer representatives. Certain reserves are withheld by the market administrator to cover refunds to producers and administrative costs.

The advertising and promotion agency under each of the 10 orders is responsible for the development and implementation of programs and projects approved by the Secretary and designed to carry out the purposes of the Act. The scope of the agency's activities may include the establishment of research and development projects, advertising on a non-brand basis, sales promotion, and education, and other programs designed to improve or promote the domestic marketing and consumption of milk and its products.

An increase in the funding rate was proposed by Associated Milk Producers, Inc. (AMPI), on behalf of more than 4,000 dairy farmer members whose milk is marketed as producer milk under the 10 orders included in this proceeding. The cooperative's representative testified that the costs of operating the agencies in the separate markets had escalated since the program was initiated while revenue to support the agencies had not kept pace. For this reason, the cooperative proposed that the revenue for funding the program be fixed as a percentage of the producer's income in order to keep pace with the inflationary trend in the nation's economy.

The cooperative representative indicated that the advertising and promotion activities of the 10 separate agencies are coordinated through the Southwest United Dairy Industry Association (UDIA) which was formed for that purpose in 1973. Southwest UDIA provides assistance to the separate order agencies in their overall budget preparation and program development. This is accomplished through the development of a proposed program for the 10-market region by Southwest UDIA. The proposed program is then presented to each of the order agencies for their consideration and approval. Each of the 10 agencies contributes to the total cost of the overall program based upon the funds available through the advertising and promotion program of the respective order.

Proponent cooperative indicated that the advertising and promotion agencies in the 10 federal orders allot approximately 50 percent of their funds to Dairy Council, Inc. (DCI). The remaining funds of the separate agencies of the 10 orders are expended through coordinated advertising and promotion activities recommended by Southwest UDIA and approved by the separate agencies.

At the request of the proponent cooperative, a representative of DCI presented information at the hearing regarding the Council's organizational structure, its activities and its need for additional funds to operate a more effective program. The representative stated that DCI is a non-profit, nutrition, education and communications organization. It is an affiliated unit of National Dairy Council (NDC) and has its headquarters in San Antonio, Texas. At the time of the hearing, DCI maintained 17 field offices in major cities throughout the 10 Federal order markets. Its staff consists of nutritionists, dietitians, home economists, and communication specialists who disseminate nutritional information to 21.5 million people in six states.

The representative indicated that the advertising and promotion agencies under each of the 10 orders involved in this proceeding invest in the Council's basic program. Each agency's investment is proportionate to the funding by participating producers of the respective orders. In addition, two agencies were investing funds in supplementary programs to intensify the Council's efforts in the respective markets.

The Council's representative indicated that additional funds are needed to restore the Council's activities to the level of operation in effect when the advertising and promotion program was initiated in 1973 under the 10 orders. Funds available to DCI at that time permitted an expenditure of 4.08 cents per capita. DCI's funding in 1978 averaged 5.3 cents per capita. The representative contended, however, that its per capita investment in 1978 when adjusted to reflect changes in the Consumer Price Index since 1973 averaged 2.25, or approximately one-half of the initial funding rate in 1973.

As further evidence of the need to increase the funding rate, proponent cooperative introduced data on advertising costs in the 10 markets. The data indicated that the cost of television advertising had increased significantly in the six years between 1972 and 1978. Newspaper and radio advertising costs in the 10 markets increased during the same six-year period but to a lesser extent than television advertising costs.

To keep the funding rate of the advertising and promotion program current with changes in the economy, the cooperative's representative proposed that the funding rate be tied to the pay price that dairy farmers receive for their milk. Then, the actual contribution by the dairy farmer would change as the price for his milk changes. The cooperative proposed that the new rate be determined by multiplying the annual average of producer pay prices in the 10 markets for the preceding year by 0.8 percent. The new rate would approximate the level at which producers initially funded the program when the rate was first established in 1973. At that time the 5-cent rate represented approximately 0.75 percent of blend prices received by dairy farmers in the 10-market area.

A further reason cited by the cooperative's representative for tying the funding rate to the pay price is that it would eliminate the need for holding hearings to establish a new rate reflecting changes in the prices received by dairy farmers and cost increases of operating the program resulting from inflationary pressures in the economy.

The representative contended that the rate of deduction for funding the program should be a common rate for the 10 orders. He held that the separate agencies under each of the 10 orders, through the funding of Dairy Council and Southwest UDIA, fund and operate advertising, promotion and nutrition education programs in common throughout the 10-order area. Also, the cooperative held that the procurement area of the handlers regulated under the 10 orders constitutes one area of reserve milk supply for the 10 orders. Producers under the 10 orders are shifted, as needed, to balance the fluid milk requirements of regulated handlers daily, weekly, and seasonally. For these reasons, he proposed that the funding rate be the same for the 10 orders, a rate based upon a simple average of the blend prices of the 10 orders for the preceding calendar year.

The proposed increase in the funding rate for the advertising and promotion program is warranted in view of the increased costs for advertising that have occurred since the program was established under the 10 orders. The greatest increase in the cost of advertising has occurred in local television. In terms of a dollar's worth of advertising in 1972, television advertising in the 10-market area currently costs $2.78 (simple average of the television advertising charges in 13 major cities located in the 10-market area). The cost of newspaper and radio advertising in the 10-market area also has increased but not to the same extent as television advertising. One dollar's worth of radio advertising in 1972 now costs $1.45 while the previous one dollar's worth of newspaper advertising now costs $1.88.

Based upon the increased costs for radio advertising, the funding rate would need to be increased by 2½ cents to enable the agencies to purchase the same quantity of advertising as when the program was initiated. To purchase the same quantity of newspaper advertising, a 4-cent increase would be necessary. To purchase the same quantity of television advertising, a 9-cent increase would be necessary.

Under the funding rate adopted herein, the withholding rate for July 1979–June1980 would be 9 cents (a 4-cent increase over the current rate) per hundredweight. Thus, the funding rate adopted herein is somewhat higher than the cost increases for radio advertising and somewhat less than the cost increases for television advertising. The funding rate, however, is in line with the cost increases for newspaper advertising.

Also, the proposed rate as a percentage of the weighted average price is in line with the rate at which producers in the 10 markets originally funded the program. In 1973, when the advertising and promotion program was adopted, the 5-cent rate was equal to 0.75 percent of the weighted average price for the preceding year. By 1978, the 5-cent rate represented only 0.45 percent of the annual weighted average price. The reason for this decline, of course, is that the annual weighted average price increased from $6.79 in 1972 to $11.05 in 1978, while the 5-cent funding rate has remained constant.[2]

The proposed funding rate of 0.8 percent of the annual weighted average price will permit the advertising and promotion programs in the 10 markets to be operated at the level initially contemplated by producers. Also, by tying the funding rate to the level of producer pay prices, producers will be assured that promotional efforts by the agencies can be maintained at the same level despite changes in the economy.

2. *Revision of administrative provisions of the Advertising and Promotion program.*

(1) *Semiannual operating periods.* The yearly operation of the advertising and promotion program in the 10 orders involved in this proceeding shall consist of two semiannual periods, July-December and January-June. A producer who does not want to participate in the advertising and promotion program shall submit two requests during the year to obtain a refund of his deductions. Such requests must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

Under the current provisions of the 10 orders, the advertising and promotion agencies conduct their operations on a quarterly basis. Producers who participate in the program fund the program for a calendar quarter. Those producers who do not want to participate in the program during a calendar quarter must submit a request to the market administrator during the first 15 days of the month preceding such calendar quarter.

Proponent cooperative proposed that the program be operated semiannualy rather than quarterly. The cooperative's representative contended that the current quarterly operations do not provide sufficient time for the agencies to complete the required administrative procedures in a satisfactory manner. He noted, in particular, that additional time is needed by the agencies to prepare budgets.

It is apparent that the operation of the program by the agencies would be facilitated by the adoption of the coo-

[1] For computations prior to the month of July 1979, the month when the market administrator first computes a weighted average price for each of the 10 markets, it will be necessary to use the "uniform price plus 5 cents." Also, for the computations involving the Memphis, Tennessee and Port Smith, Arkansas milk orders, which are individual-handler pool orders, it will be necessary to use a market-wide weighted average price.

[2] Official notice is taken of the monthly "Computation of Uniform Price" for each of the 10 orders involved in this proceeding for the period of January through December 1978.

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perative's proposal to operate the program on a semiannual basis. Under the provisions adopted herein, agency members would have the interval following the close of the refund request period and the beginning of the subsequent semiannual period, or one month, in which to prepare and submit to the Secretary for approval a budget showing the projected amounts to be collected during the subsequent semiannual period and how such funds are to be disbursed by the Agency. Presently, the agencies have the interval between the close of the refund request period and the beginning of the subsequent quarterly period, approximately one-half month, to prepare their budgets. Extending such interval to one month will allow the agencies sufficient time to estimate the funds available to operate the program, to prepare a budget reflecting the proposed disposition of such funds and to obtain the Secretary's approval of the proposed budget.

A further advantage of operating the advertising and promotion program on a six-month's basis is that additional time can be made available for producers to submit refund requests. Under the provisions adopted herein, producers would have one month in which to submit refund requests instead of the 15 days currently provided.

One disadvantage of extending the operating period of the advertising and promotion program from a quarterly to a semiannual basis is that a producer who forgets to file for a refund would be required to participate in the program for six months. Presently, a producer who fails to file for a refund must participate in the program for only a calendar quarter since he has an opportunity to file for a refund every 3 months. In view of the longer operational periods recommended herein, it is concluded that an additional safeguard against a producer's inadvertent failure to file for a refund on a timely basis should be provided under the orders. Accordingly, the orders should specify that the market administrator shall notify in writing all producers during the months of March and September of the opportunity during the following months of April and October, respectively, to submit refund requests for deductions to be made during the subsequent 6-month period.

(b) *Time period for market administrator to refund deductions to nonparticipating producers.* The market administrator shall make monthly refunds to each producer who has made an application for a refund of the assessment against his marketings that is used to fund the advertising and promotion program.

Currently, producers under the 10 orders who apply for a refund receive such refund from the market administrator following the calendar quarter during which such deductions are made.

Proponent cooperative proposed that refunds to producers be made every two months. Its representative contended that producers who do not want to participate in the program should not have their funds withheld any longer than necessary.

A producer who testified at the hearing contended that money should not be deducted from a producer's paycheck to fund the advertising and promotion program unless the producer authorized the deduction. He indicated that currently producers who do not want to participate in the program are deprived for a lengthy period of time of the use of funds due such producer.

The objections raised by the producer have merit. However, if the orders were amended so that funds were not deducted from money due non-participating producers, there would be no way of preserving the confidentiality of producers who do not wish to participate in the advertising and promotion program. Currently, only the market administrator knows which producers are not participating in the program. Under the changes suggested by the producer, the market administrator would need to release the identity of those producers who do not want to pariticpate in the program to the proprietary handler or cooperative association that is responsible for making payments to such producer. The release of such information would make it less likely that a producer would be able to make a voluntary decision whether or not to participate in the program.

The principal complaint against the withholding of funds of producers who do not want to participate in the program is that such producers lose the use of such funds for up to 90 days. Adoption of the cooperative's proposal that refunds be made every 2 months would, of course, reduce the length of time that funds would be withheld from producers. Proponent presented no persuasive reason, however, for limiting the market administrator to refunding deductions every two months. In view of the complaints regarding the length of time that deductions are withheld, it is concluded that the market administrators of the respective orders should refund deductions to producers on a monthly basis. Such change will reduce to a minimum the amount of time that producer's funds are withheld by the market administrator and permit the identity of nonparticipating producers to continue to remain confidential.

(c) *Term of office of agency members.* The term of office of each person who is a member of the agency operating under each of the 10 orders involved in this proceeding on June 30, 1979, shall expire on that date. Thereafter, the term of office of each member of such agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

Currently, the term of office of members of each agency is for one year. However, the term of office for members of the 10 agencies do not run concurrently. Under the Texas order, the annual term of office is from July 1 through June 30; under the Oklahoma Metropolitan, Red River Valley, Wichita, Texas Panhandle, Lubbock-Plainview and Rio Grande Valley orders, the term of office is from December 1 through the following November 30; and under the Fort Smith, Central Arkansas, and Memphis orders, the term of office is from January 1 through December 31 of each year.

The major cooperative proposed that the term of office of the members of each agency be identical. It proposed that the term of office of each agency begin on July 1, 1979, and that members serve annually thereafter. The cooperative contended that identical terms of office among the 10 agencies would facilitate the operation of the advertising and promotion program in the 10-market area.

The proposal by the cooperative should be adopted. Adoption of the proposal would permit Southwest U.D.I.A. which is responsible for coordinating the advertising and promotion functions of the 10 agencies to operate more effectively and efficiently. By providing for concurrent terms of office of the separate agencies, the organization would be assured of dealing with the same agency members during a one-year time span.

(d) *Conforming changes.*

(i) *Semiannual preparation of Agency budgets.* The Agency of each of the 10 orders involved in this proceeding shall submit to the Secretary for approval prior to each semiannual period a proposed budget showing the anticipated income of the Agency and the proposed disbursement of such funds.

The provisions of the respective orders currently provide that the Agencies shall prepare quarterly budgets.

The changes adopted herein were proposed by proponent cooperative as conforming changes.

Proposed amendments previously discussed and recommended for adoption would provide for funding each agency semiannually instead of quarterly. It is necessary, therefore, that each agency prepare budgets semiannually instead of quarterly.

(ii) *Announcement by the market administrator of the funding rate.*

Prior to each April and October, the market administrator in notifying each producer in writing of the opportunity to submit a request for deductions withheld for the advertising and promotion program during the immediately following period of July through December or January through June, as the case may be, shall specify the withholding rate to be applicable during the respective period. Each new producer subsequently entering the market shall be notified in writing of the current withholding rate.

Proponent cooperative proposed that the market administrator shall notify producers on or before March 15 of each year of the withholding rate to be effective for the following months of July through June.

The adoption of a withholding rate that changes in relation to the pay prices of producers makes it necessary that producers be notified annually of the withholding rate. Producers need this information prior to the period for submitting refund requests so that they may then decide whether or not they want to fund the program at the new rate. It is necessary, therefore, that the market administrator notify producers in writing prior to April 1 of the withholding rate to be effective during the 12 months beginning on July 1. The announcement of the rate by the market administrator should be included in the notice given to producers during March and September of the opportunity to submit refund requests.

(iii) *Miscellaneous conforming changes.* Conforming changes have been made in the separate orders to recognize that the current references in several sections to "adjusted uniform price plus 5 cents" ("weighted average price plus 5 cents" in Central Arkansas order) will no longer be appropriate. In implementing the revised funding rate for the advertising and promotion program, the orders have been revised to provide for the computation of a "weighted average price" instead of an "adjusted uniform price plus 5 cents" or "weighted average price plus 5 cents." The weighted average price would be computed without the deduction for funding the advertising and promotion program. Under the adopted changes, the uniform price computation would continue, however, to reflect the deduction applicable for funding the advertising and promotion program.

One of the sections of the Texas order involving the advertising and promotion program, § 1126.123, "Initial operating procedures under merger of orders," should be deleted. The initial operating period for the Texas order has ended and, thus, § 1126.123 no longer serves any purpose in the operation of the Texas order. Accordingly, § 1126.123 is hereby deleted.

A producer proposed at the hearing that provisions of the advertising and promotion program be revised to permit producers who do not participate in the program to vote in referendums to select Agency members and to require that Agency members be elected at large rather than as representatives of producer groups.

The proposed changes desired by this producer are outside the scope of the proposals set forth in the notice of hearing. Accordingly the changes desired by the producer cannot be dealt with in this proceeding.

(iv) *Changes required to accommodate to the seasonal base plan provisions scheduled to become effective on September 1, 1979.* It is necessary that the provisions implementing seasonal base plans in 7 orders involved in this proceeding and the amendment of current seasonal base plans in 3 remaining orders involved in this proceeding, each of which are scheduled to become effective on September 1, 1979, be changed to conform to amendments to the advertising and promotion provisions scheduled to be effective at an earlier date.

Seven of the 10 orders involved in this proceeding currently provide for the computation of the uniform price each month. However, as the result of a prior proceeding, these orders would be changed on September 1, 1979, to provide for the computation of uniform base and excess prices during the months of March through July. During the remaining months of the year, the orders would continue to provide for the computation of a uniform price during such months. The three remaining orders currently provide for seasonal base plans. However, the method of computing the uniform base and excess prices under the 3 orders is also scheduled to be modified on September 1, 1979, resulting in a uniform method of price computation of the base and excess prices in the 10 orders involved in this proceeding.

A separate set of amendments incorporating the changes in the advertising and promotion program that are adopted herein in the seasonal base plan amendments scheduled to become effective on September 1, 1979, are set forth under the heading "Amendment of order provisions which were issued on August 29, 1978 (43 FR 39324) and which are scheduled to become effective on September 1, 1979."

General Findings

The findings and determinations set forth below are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments to them. All of the previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner, as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in the aforesaid specified marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were consid-

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ered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

AMENDMENT OF ORDER PROVISIONS NOW IN EFFECT

PART 1126—MILK IN THE TEXAS MARKETING AREA

1. Section 1126.61 is revised to read as follows:

§ 1126.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the "uniform price" (and "weighted average price") per hundredweight for milk of 3.5 percent butterfat content received at pool plants at which no location adjustment applies as follows:

(a) Combine into one total the values computed pursuant to § 1126.60 for all handlers who filed the reports prescribed by § 1126.30 for the month and who made the payments pursuant to § 1126.71 for the preceding month;

(b) Add not less than one-fourth of the unobligated balance in the producer-settlement fund;

(c) Add the aggregate of all minus location adjustments and substract the aggregate of all plus location adjustments pursuant to § 1126.75;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1126.60(f); and

(e) Substract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price."

(f) Substract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1126.121(e). The result shall be the "uniform price" for milk received from producers.

2. In § 1126.71, paragraph (b)(4) is revised to read as follows:

§ 1126.71 Payments to the producer-settlement fund.

. . . . . .

(b) • • •

(4) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value was computed pursuant to § 1126.60(f).

. . . . . .

3. In § 1126.75, paragraph (b) is revised to read as follows:

§ 1126.75 Plant location adjustments for producers and on nonpool milk.

. . . . . .

(b) For purposes of computing the value of other source milk pursuant to § 1126.71, the weighted average price shall be adjusted by the amount set forth in § 1126.52 that is applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

4. In § 1126.76, paragraph (a)(4) is revised to read as follows:

§ 1126.76 Payments by handler operating a partially regulated distributing plant.

. . . . . .

(a) • • •

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price shall not be less than the Class III price); and

. . . . . .

5. Section 1126.112 is revised to read as follows

§ 1126.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

6. In § 1126.113, paragraph (c)(1) is revised to read as follows:

§ 1126.113 Selection of Agency members.

. . . . . .

(c) • • •

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

. . . . . .

7. In § 1126.116, paragraph (d) is revised to read as follows:

§ 1126.116 Duties of the Agency.

. . . . . .

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

. . . . . .

8. In § 1126.120, paragraphs (b) and (c) are revised to read as follows:

§ 1126.120 Procedure for requesting refunds.

. . . . . .

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files and application with the market administrator by the end of the month immediately following the month in which he acquires Producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June.

9. In § 1126.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b) (2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1126.121 Duties of the market administrator.

. . . . . .

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1126.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

. . . . . .

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1126.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1126.110 through 1126.122).

. . . . . .

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1126.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

§ 1126.123 [Deleted]

10. Section 1126.123 is deleted.

PART 1073—MILK IN THE WICHITA, KANSAS MARKETING AREA

1. Section 1073.61 is revised to read as follows:

§ 1073.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the "uniform price" (and "weighted average price") per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1073.60 for all handlers who filed the reports prescribed by § 1073.30 for the month and who made the payments pursuant to § 1073.71 for the preceding month;

(b) Deduct the amount of the plus adjustments and add the amount of the minus adjustments, which are applicable pursuant to § 1073.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1073.60(f); and

(e) Subtract not less than 4 cents not more than 5 cents per hundredweight. The result shall be the "weighted average price."

(f) Subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1073.121(e). The result shall be the "uniform price" for milk received from producers.

2. In § 1073.71, paragraph (a)(2)(ii) is revised to read as follows:

§ 1073.71 Payments to the producer-settlement fund.

(a) • • •

(2) • • •

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1073.60(f).

. . . . . .

3. In § 1073.75, paragraph (b) is revised to read as follows:

§ 1073.75 Plant location adjustments for producers and on nonpool milk.

. . . . . .

(b) For purposes of computations pursuant to §§ 1073.71(a)(2)(ii) and 1073.72 the weighted average price shall be adjusted at the rates set forth in § 1073.52, applicable at the location of the nonpool plant(s) from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

4. In § 1073.76, paragraph (a)(4) is revised to read as follows:

§ 1073.76 Payments by handler operating a partially regulated distributing plant.

. . . . . .

(a) • • •

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and weighted average price shall not be less than the Class III price); and

. . . . . .

Texas, et al—Recommended Decision

5. Section 1073.112 is revised to read as follows:

§ 1073.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

6. In § 1073.113, paragraph (c)(1) is revised to read as follows:

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§ 1073.113 Selection of Agency members.

• • • • • •

(c) • • •

Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

• • • • • •

7. In § 1073.116, paragraph (d) is revised to read as follows:

§ 1073.116 Duties of the agency.

• • • • • •

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

• • • • • •

8. In § 1073.120, paragraphs (b) and (c) are revised to read as follows:

§ 1073.120 Procedure for requesting refunds.

• • • • • •

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June.

9. In § 1073.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b) (2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1073.121 Duties of the market administrator.

• • • • • •

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1073.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

• • • • • •

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1073.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1073.110 through 1073.122).

• • • • • •

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragaph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1073.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

PART 1097—MILK IN THE MEMPHIS, TENN., MARKETING AREA

1. Section 1097.61 is revised to read as follows:

§ 1097.61 Computation of uniform price for each handler (including weighted average price and uniform price for base milk and excess milk).

(a) The market administrator shall compute for each handler a "weighted average price" for each month and for each of the months of August through February a "uniform price" per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(1) Adjust the amount computed pursuant to § 1097.61 by adding or subtracting, as the case may be, the total of the location adjustments applicable pursuant to 1097.75;

(2) For each handler operating a fluid milk plant receiving milk from a handler described in § 1097.9(c), prorate the resulting amount between such milk and producer milk;

(3) Add the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform prices for the preceding month;

(4) Divide the resulting amount by the total hundredweight of producer milk received by the handler and deduct any fraction of a cent per hundredweight. The result shall be the "weighted average price."

(5) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1097.121(e). The result shall be such handler's "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute for each handler with respect to producer milk, a uniform price for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Follow the computations and adjustments provided in paragraph (a)(1) through (3) of this section;

(2) Compute the value of excess milk received by such handler as producer milk and bulk milk from a handler described in § 1097.9(c) as follows:

(i) Multiply the quantity of such milk, not in excess of the total Class III milk included in these computations, by the Class III price;

(ii) Multiply the remaining quantity of such milk, not in excess of the total Class II milk included in these computations, by the Class II price;

(iii) Multiply the remaining quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(3) Divide the total value of excess milk obtained in paragraph (b)(2) of this section by the total hundredweight of such excess milk and reduce to the nearest cent. The resulting figure, less the withholding rate for the advertising and promotion program as computed in § 1097.121(e), shall be the uniform price for such handler for excess milk;

(4) Subtract, for each handler, the total value of such handler's excess milk obtained in paragraph (b)(2)(iv) of this section from the value of all milk obtained for such handler pursuant to paragraph (b)(1) of this section; and

(5) Divide the amount obtained in paragraph (b)(4) of this section by the total hundredweight of base milk received by such handler and deduct any fraction of a cent per hundredweight. The result, less the withholding rate for the advertising and promotion program as computed in § 1097.121(e), shall be the uniform price for such handler for base milk.

2. Section 1097.112 is revised to read as follows:

§ 1097.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

3. In § 1097.113, paragraph (c)(1) is revised to read as follows:

§ 1097.113 Selection of Agency members.

• • • • • •

(c) • • •

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

• • • • • •

4. In § 1097.116, paragraph (d) is revised to read as follows:

§ 1097.116 Duties of the agency.

• • • • • •

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

• • • • • •

5. In § 1097.120, paragraphs (b) and (c) are revised to read as follows:

§ 1097.120 Procedure for requesting refunds.

• • • • • •

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June.

6. In § 1097.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b)(2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1097.121 Duties of the market administrator.

• • • • • •

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1097.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

• • • • • •

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1097.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the

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provisions of the advertising and promotion program (§§ 1097.110 through 1097.122).

• • • • •

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1097.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

PART 1102—MILK IN THE FORT SMITH, ARKANSAS MARKETING AREA

1. Section 1102.61 is revised to read as follows:

§ 1102.61 Computation of uniform price for each handler (including weighted average price and uniform prices for base milk and excess milk).

(a) The market administrator shall compute for each handler a "weighted average price" for each month and for each of the months of August through February a "uniform price" per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(1) Adjust the amount computed pursuant to § 1102.60 by adding the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform price(s) for such handler for the preceding month;

(2) Add an amount equal to the sum of the deductions to be made for location ajustments pursuant to § 1102.75;

(3) Divide the resulting amount by the total hundredweight of producer milk received by the handler and deduct any fraction of a cent per hundredweight. The result shall be the "weighted average price."

(4) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1102.121(e). The result shall be such handler's "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute for each handler with respect to milk received from producers, a uniform price for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Follow the computations and adjustments provided for in paragraph (a) (1) and (2) of this section;

(2) Compute the value of excess milk received by such handler from producers as follows:

(i) Multiply the quantity of such milk, not in excess of the total Class III milk included in these computations, by the Class III price;

(ii) Multiply the remaining quantity of such milk, not in excess of the total Class II milk included in these computations, by the Class II price;

(iii) Multiply the remaining quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(3) Divide the total value of excess milk obtained in paragraph (b)(2) of this section by the total hundredweight of such excess milk and reduce to the nearest cent. The resulting figure, less the withholding rate for the advertising and promotion program as computed in § 1102.121(e), shall be the uniform price for such handler for excess milk;

(4) Subtract, for each handler, the value of such handler's excess milk obtained in paragraph (b)(2)(iv) of this section from the value of all milk obtained for such handler pursuant to paragraph (b)(1) of this section; and

(5) Divide the amount obtained in paragraph (b)(4) of this section by the total hundredweight of such handler's base milk included in this computation and deduct any fraction of a cent per hundredweight. The result, less the withholding rate for the advertising and promotion program as computed in § 1102.121(e), shall be such handler's uniform price for base milk.

2. Section 1102.112 is revised to read as follows:

§ 1102.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

3. In § 1102.113, paragraph (c)(1) is revised to read as follows:

§ 1102.113 Selection of Agency members.

• • • • •

(c) • • •

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

• • • • •

4. In § 1102.116, paragraph (d) is revised to read as follows:

§ 1102.116 Duties of the Agency.

• • • • •

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

• • • • •

5. In § 1102.120, paragraphs (b) and (c) are revised to read as follows:

§ 1102.120 Procedure for requesting refunds.

• • • • •

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June.

6. In § 1102.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b)(2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1102.121 Duties of the market administrator.

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1102.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

• • • • •

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1102.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1102.110 through 1102.123).

• • • • •

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1079, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1102.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

PART 1104—MILK IN THE RED RIVER VALLEY MARKETING AREA

1. Section 1104.61 is revised to read as follows:

§ 1104.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the "uniform price" (and "weighted average price") per hundredweight of milk of 3.5 percent butterfat content received as follows:

(a) Combine into one total the values computed pursuant to § 1104.60 for all handlers who filed the reports prescribed by § 1104.30 for the month and who made the payments pursuant to §§ 1104.71 and 1104.73 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1104.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1104.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price."

(f) Subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1104.121(e). The result shall be the "uniform price" for milk received from producers.

2. In § 1104.71, paragraph (a)(2)(ii) is revised to read as follows:

§ 1104.71 Payments to the producer-settlement fund.

(a) • • •

(2) • • •

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value was computed pursuant to § 1104.60(f).

• • • • •

3. In § 1104.75, paragraph (b) is revised to read as follows:

§ 1104.75 Plant location adjustments for producers and on nonpool milk.

• • • • •

(b) For the purpose of computations pursuant to §§ 1104.71 and 1104.72, the weighted average price shall be adjusted at the rate set forth in § 1104.52(a) applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price); and

• • • • •

4. In § 1104.76, paragraph (a)(4) is revised to read as follows:

§ 1104.76 Payments by handler operating a partially regulated distributing plant.

• • • • •

(a) • • •

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price shall not be less than the Class III price); and

• • • • •

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5. Section 1104.112 is revised to read as follows:

§ 1104.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

6. In § 1104.113, paragraph (c)(1) is revised to read as follows:

§ 1104.113 Selection of Agency members.

* * * * *

(c) * * *

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

* * * * *

7. In § 1104.116, paragraph (d) is revised to read as follows:

§ 1104.116 Duties of the Agency.

* * * * *

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

* * * * *

8. In § 1104.120, paragraphs (b) and (c) are revised to read as follows:

§ 1104.120 Procedure for requesting refunds.

* * * * *

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with this first delivery and extending through the following month of June.

9. In § 1104.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b) (2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1104.121 Duties of the market administrator.

* * * * *

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1104.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

* * * * *

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1104.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1104.110 through 1104.122).

* * * * *

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132, and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.6 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1104.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

PART 1106—MILK IN THE OKLAHOMA METROPOLITAN MARKETING AREA

1. Section 1106.61 is revised to read as follows:

§ 1106.61 Computation of uniform price (including weighted average price).

For each month, the market administrator shall compute the "uniform price" (and "weighted average price") per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1106.60 for all handlers who made the reports prescribed in § 1106.30 and who made

the payments pursuant §§ 1106.71 and 1106.73 for the preceding month.

(b) Add the aggregate of the values of all allowable location adjustments to producers pursuant to § 1106.75.

(c) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 1106.72.

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1106.60(f).

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price."

(f) Subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1106.121(e). The result shall be the "uniform price" for milk received from producers.

2. In § 1106.71, paragraph (a)(2)(ii) is revised to read as follows:

§ 1106.71 Payments to the producer-settlement fund.

(a) * * *

(2) * * *

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value was computed pursuant to § 1106.60(f).

* * * * *

3. In § 1106.75, paragraph (b) is revised to read as follows:

§ 1106.75 Plant location adjustments for producers and on nonpool milk.

* * * * *

(b) For the purpose of computations pursuant to §§ 1106.71 and 1106.72, the weighted average price shall be adjusted at the rates set forth in § 1106.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price); and

* * * * *

4. In § 1106.76, paragraph (a)(4) is revised to read as follows:

§ 1106.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(a) * * *

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price shall not be less than the Class III price); and

* * * * *

5. Section 1106.112 is revised to read as follows:

§ 1106.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

6. In § 1106.113, paragraph (c)(1) is revised to read as follows:

§ 1106.113 Selection of Agency members.

* * * * *

(c) * * *

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

* * * * *

7. In § 1106.116, paragraph (d) is revised to read as follows:

§ 1106.116 Duties of the Agency.

* * * * *

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

* * * * *

8. In § 1106.120, paragraph (b) and (c) are revised to read as follows:

§ 1106.120 Procedure for requesting refunds.

* * * * *

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with this first delivery and extending through the following month of June.

9. In § 1106.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b) (2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1106.121 Duties of the market administrator.

* * * * *

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1106.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

* * * * *

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who

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has made application for such refund pursuant to § 1106.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1106.110 through 1106.122).

• • • • •

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1106.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

PART 1108—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

1. Section 1108.61 is revised to read as follows:

§ 1108.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the "weighted average price" for each month and the "uniform price" for each of the months of August through February per hundredweight of milk of 3.5 percent butterfat content as follows;

(1) Combine into one total the values computed pursuant to § 1108.60 for all handlers who filed the reports prescribed by § 1108.30 for the month and who made the payments pursuant to §§ 1108.71 and 1108.73 for the preceding month;

(2) Add an amount equal to the total value of the location adjustments computed pursuant to § 1108.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1108.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price" for milk.

(6) For each of the months of August through February, subtract from the weighted average price computed pursuant to paragraph (a)(5) of this section the withholding rate for the advertising and promotion program as computed in § 1108.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk as follows:

(1) Subtract from the amount resulting from the computations made pursuant to paragraph (a)(1) through (3) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(2) Compute the aggregate value of excess milk by assigning such milk in series beginning with Class III, to the hundredweight of producer milk in each class, multiplying the quantities of milk so assigned to each class by the respective class prices and adding together the resulting amounts;

(3) Divide the aggregate value of excess milk obtained in paragraph (b)(2) of this section by the total hundredweight of such milk and subtract not less than 4 cents nor more than 5 cents per hundredweight;

(4) Subtract the withholding rate for the advertising and promotion program as computed in § 1108.121(e). The result shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(5) Subtract the aggregate value of excess milk obtained in paragraph (b)(2) of this section from the value of milk obtained in paragraph (b)(1) of this section;

(6) Divide the result obtained in paragraph (b)(5) of this section by the total hundredweight of base milk of handlers included in these computations and subtract not less than 4 cents nor more than 5 cents per hundredweight; and

(7) Subtract the withholding rate for the advertising and promotion program as computed in § 1108.121(e). The result shall be the uniform price for base milk or 3.5 percent butterfat content received from producers f.o.b. market.

2. In § 1108.71, paragraph (a)(2)(ii) is revised to read as follows:

§ 1108.71 Payments to the producer-settlement fund.

(a) • • •

(2) • • •

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value was computed pursuant to § 1108.60(f).

• • • • •

3. In § 1108.75, paragraph (b) is revised to read as follows:

§ 1108.75 Plant location adjustments for producers and on nonpool milk.

• • • • •

(b) For purposes of computations pursuant to §§ 1108.71 and 1108.72 the weighted average price shall be adjusted at the rates set forth in § 1108.52 applicable at the location of the nonpool plant from which the milk was recieved, except that the adjusted weighted average price shall not be less than the Class III price.

4. In § 1108.76, paragraph (a)(4) is revised to read as follows:

§ 1108.76 Payments by handler operating a partially regulated distributing plant.

• • • • •

(a) • • •

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price

shall not be less than the Class III price); and

• • • • •

5. Section 1108.112 is revised to read as follows:

§ 1108.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

6. In § 1108.113, paragraph (c)(1) is revised to read as follows:

§ 1108.113 Selection of agency members.

• • • • •

(c) • • •

(1) Promptly after the effective date of this amending order, and annualy thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

• • • • •

7. In § 1108.116, paragraph (d) is revised to read as follows:

§ 1108.116 Duties of the Agency.

• • • • •

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

• • • • •

8. In § 1108.120, paragraphs (b) and (c) are revised to read as follows:

§ 1108.120 Procedure for requesting refunds.

• • • • •

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June.

9. In § 1108.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b) (2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1108.121 Duties of the market administrator.

• • • • •

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1108.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

• • • • •

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1108.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1108.110 through 1108.122).

• • • • •

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1108.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

PART 1120—MILK IN THE LUBBOCK-PLAINVIEW MARKETING AREA

1. Section 1120.61 is revised to read as follows:

§ 1120.61 Computation of uniform price (including weighted average price).

For each month, the market administrator shall compute the "uniform price" (and "weighted average price")

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per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1120.60 for all pool handlers who made the reports prescribed in § 1120.30 for the month and who have made the payments required pursuant to § 1120.71 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1120.75;

(c) Add an amount equal to not less than one-half of the unobligated balance on hand in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in such computations;

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1120.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price."

(f) Subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1120.121(e). The result shall be the "uniform price" for milk received from producers.

2. In § 1120.71, paragraph (a)(2)(ii) is revised to read as follows:

§ 1120.71 Payments to the producer-settlement fund.

(a) • • •

(2) • • •

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1120.60(f).

• • • • •

3. In § 1120.75, paragraph (b) is revised to read as follows:

§ 1120.75 Plant location adjustments for producers and on nonpool milk.

• • • • •

(b) For purposes of computations pursuant to §§ 1120.71 and 1120.72 the weighted average price shall be adjusted at the rates set forth in § 1120.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

4. In § 1120.76, paragraph (a)(4) is revised to read as follows:

§ 1120.76 Payments by handler operating a partially regulated distributing plant.

• • • • •

(a) • • •

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price shall not be less then the Class III price); and

• • • • •

5. Section 1120.112 is revised to read as follows:

§ 1120.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

6. In § 1120.113, paragraph (c)(1) is revised to read as follows:

§ 1120.113 Selection of Agency members.

• • • • •

(c) • • •

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

• • • • •

7. In § 1120.116, paragraph (d) is revised to read as follows:

§ 1120.116 Duties of the Agency.

• • • • •

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

• • • • •

8. In § 1120.120, paragraphs (b) and (c) are revised to read as follows:

§ 1120.120 Procedure for requesting refunds.

• • • • •

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June.

9. In § 1120.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b)(2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1120.121 Duties of the market administrator.

• • • • •

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1120.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

• • • • •

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1120.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1120.110 through 1120.122).

• • • • •

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1120.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

PART 1132—MILK IN THE TEXAS PANHANDLE MARKETING AREA

1. Section 1132.61 is revised to read as follows:

§ 1132.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the "uniform price" (and "weighted average price") for all milk of 3.5 percent butterfat content f.o.b. pool plants located within 100 miles of the city hall of Amarillo, Texas, as follows:

(a) Combine into one total the values computed pursuant to § 1132.60 for all handlers who made the reports prescribed in § 1132.30 for such month, except those in default of payments required pursuant to § 1132.71 for the preceding month;

(b) Add an amount equal to the sum of the location adjustments to be made pursuant to § 1132.75;

(c) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1132.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The result shall be the "weighted average price."

(f) Subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1132.121(e). The result shall be the "uniform price" for milk received from producers.

2. In § 1132.71, paragraph (a)(2)(ii) is revised to read as follows:

§ 1132.71 Payments to the producer-settlement fund.

(a) • • •

(2) • • •

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1132.60(f).

• • • • •

3. In § 1132.75, paragraph (b) is revised to read as follows:

§ 1132.75 Plant location adjustments for producers and on nonpool milk.

• • • • •

(b) For purposes of computations pursuant to §§ 1132.71 and 1132.72, the weighted average price shall be adjusted at the rates set forth in § 1132.52 applicable at the location of the nonpool plant from which the milk was received (but the resulting price shall not be less than the Class III price).

4. In § 1132.76, paragraph (a)(4) is revised to read as follows:

§ 1132.76 Payments by handler operating a partially regulated distributing plant.

• • • • •

(a) • • •

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price shall not be less than the Class III price); and

• • • • •

5. Section 1132.112 is revised to read as follows:

§ 1132.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

6. In § 1132.113, paragraph (c)(1) is revised to read as follows:

§ 1132.113 Selection of Agency members.

• • • • •

(c) • • •

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

• • • • •

7. In § 1132.116, paragraph (d) is revised to read as follows:

§ 1132.116 Duties of the Agency.

• • • • •

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the agency.

• • • • •

8. In § 1132.120, paragraphs (b) and (c) are revised to read as follows:

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§ 1132.120 Procedure for requesting refunds.

• • • • •

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June.

9. In § 1132.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b) (2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1132.121 Duties of the market administrator.

• • • • •

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1132.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

• • • • •

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1132.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1132.110 through 1132.122).

• • • • •

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1132.120(b) and of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

PART 1138—MILK IN THE RIO GRANDE VALLEY MARKETING AREA

1. Section 1138.61 is revised to read as follows:

§ 1138.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the "uniform price" (and "weighted average price") per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1138.60 for all handlers who filed the reports prescribed by § 1138.30 for the month and who made the payments pursuant to §§ 1138.71 and 1138.73 for the preceding month;

(b) Add an amount equal to the sum of the deductions for location adjustments computed pursuant to § 1138.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1138.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price."

(f) Subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1138.121(e). The result shall be the "uniform price" for milk received from producers.

2. In § 1138.71, paragraph (a)(2)(ii) is revised to read as follows:

§ 1138.71 Payments to the producer-settlement fund.

(a) • • •

(2) • • •

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1138.60(f).

• • • • •

3. In § 1138.75, paragraph (b) is revised to read as follows:

§ 1138.75 Plant location adjustments for producers and on nonpool milk.

• • • • •

(b) For purposes of computations pursuant to §§ 1138.71 and 1138.72, the weighted average price shall be adjusted at the rates set forth in § 1138.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

4. In § 1138.76, paragraph (a)(4) is revised to read as follows:

§ 1138.76 Payments by handler operating a partially regulated distributing plant.

• • • • •

(a) • • •

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price shall not be less than the Class III price); and

• • • • •

5. Section 1138.112 is revised to read as follows:

§ 1138.112 Term of office.

The term of office of each person who is a member of the Agency on June 30, 1979, shall expire on that date. Thereafter, the term of office of each member of the Agency shall be one year or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

6. In § 1138.113, paragraph (c)(1) is revised to read as follows:

§ 1138.113 Selection of Agency members.

• • • • •

(c) • • •

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

• • • • •

7. In § 1138.116, paragraph (d) is revised to read as follows:

§ 1138.116 Duties of the Agency.

• • • • •

(d) Prepare and submit to the Secretary for approval before each January through June and July through December period a budget showing the projected amounts to be collected during the period and how such funds are to be dispersed by the Agency.

• • • • •

8. In § 1138.120, paragraphs (b) and (c) are revised to read as follows:

§ 1138.120 Procedure for requesting refunds.

• • • • •

(b) Except as provided in paragraph (c) of this section, the request must be submitted during the month of April for milk to be marketed during the following July through December period and during the month of October for milk to be marketed during the following January through June period.

(c) Upon first acquiring producer status under this part, a dairy farmer may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld as follows:

(1) If he acquires producer status during the months of April through September and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of December; or

(2) If he acquires producer status during the months of October through March and files an application with the market administrator by the end of the month immediately following the month in which he acquires producer status, he shall be eligible for refund on all his marketings against which an assessment is withheld beginning with his first delivery and extending through the following month of June.

9. In § 1138.121, paragraph (a), the introductory text of paragraph (b), paragraphs (b)(2) and (3), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1138.121 Duties of the market administrator.

• • • • •

(a) Promptly after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1138.113(c).

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (d) of this section times the amount of producer milk included in the uniform price computation for such month. The amount set aside shall be disbursed as follows:

• • • • •

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer, but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) After the end of each month, make a refund to each producer who has made application for such refund pursuant to § 1138.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1138.110 through 1138.122).

• • • • •

(e) As soon as possible after the beginning of each year, compute the rate of withholding as follows:

(1) Compute a simple annual average of the monthly weighted average prices (the uniform prices plus 5 cents for months prior to July 1979) for the preceding year for each of the following milk orders: Wichita, Kansas; Memphis, Tennessee (weighted average price for the market); Fort Smith, Arkansas (weighted average price for the market); Red River Valley; Oklahoma Metropolitan; Central Arkansas; Lubbock-Plainview, Texas; Texas; Texas Panhandle; and Rio Grande Valley (Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132 and 1138, respectively, of this chapter);

(2) Compute a simple average of the prices resulting from the computations pursuant to paragraph (e)(1) of this section; and

(3) Multiply the price computed pursuant to paragraph (e)(2) of this section by 0.8 percent and round to the nearest one-half cent. This rate shall apply during the 12-month period that begins with July of the current year.

(f) Prior to each April and October, notify each producer in writing, of the opportunity to submit a request for a refund as specified in § 1138.120(b) and

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of the withholding rate that will be applicable in the immediately following period of July through December or January through June, as the case may be. Each new producer that subsequently enters the market shall be notified in writing of the current withholding rate.

AMENDMENT OF ORDER PROVISIONS WHICH WERE ISSUED ON AUGUST 29, 1978 (43 FR 39324) AND WHICH ARE SCHEDULED TO BECOME EFFECTIVE ON SEPTEMBER 1, 1979

PART 1126—MILK IN THE TEXAS MARKETING AREA

1. Section 1126.61 is revised to read as follows:

§ 1126.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the "weighted average price" for each month and the "uniform price" for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content at pool plants at which no location adjustment applies as follows:

(1) Combine into one total the values computed pursuant to § 1126.60 for all handlers who filed the reports prescribed in § 1126.30 for the month and who made the payments pursuant to § 1126.71 for the preceding month;

(2) Add not less than one-fourth of the unobligated balance in the producer-settlement fund;

(3) Add the aggregate of all minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1126.75;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1126.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price."

(6) For each of the months of August through February, subtract from the weighted average price computed in paragraph (a)(5) of this section the withholding rate for the advertising and promotion program as computed in § 1126.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1126.121(e) from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a)(1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the Class III price for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations;

(iv) Subtract not less than 4 cents nor more than 5 cents; and

(v) Subtract the withholding rate for the advertising and promotion program as computed in § 1126.121(e).

2. Section 1126.75 is revised as follows:

§ 1126.75 Plant location adjustments for producers and on nonpool milk.

(a) In making the payments required pursuant to § 1126.73, the uniform price and the uniform price for base milk for the month shall be adjusted by the amounts set forth in § 1126.52 according to the location of the plant where the milk being priced was received.

(b) For purposes of computing the value of other source milk pursuant to § 1126.71, the weighted average price shall be adjusted by the amount set forth in § 1126.52 that is applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the class III price.

PART 1073—MILK IN THE WICHITA, KANS., MARKETING AREA

1. Section 1073.61 is revised to read as follows:

§ 1073.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the "weighted average price" for each month and the "uniform price" for each of the months of August through February per hundredweight of milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1073.60 for all handlers who filed the reports prescribed by § 1073.30 for the month and who made the payments pursuant to § 1073.71 for the preceding month;

(2) Deduct the amount of the plus adjustments and add the amount of the minus adjustments, which are applicable pursuant to § 1073.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1073.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price."

(6) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1073.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1073.121(e) from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a) (1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the Class III price for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations;

(iv) Subtract not less than 4 cents nor more than 5 cents; and

(v) Subtract the withholding rate for the advertising and promotion program as computed in § 1073.121(e).

2. Section 1073.75 is revised to read as follows:

§ 1073.75 Plant location adjustments for producers and on nonpool milk.

(a) For producer milk received at plants located outside zone 1 the uniform price and the uniform price for base milk shall be increased or decreased by an adjustment for each such plant at the rates specified in § 1073.52(a).

(b) For purposes of computations pursuant to §§ 1073.71(a)(2)(ii) and 1073.72, the weighted average price shall be adjusted at the rates set forth in § 1073.52, applicable at the location of the nonpool plant(s) from which the milk was received, except that the adjusted weighted average price shall not be less than the class III price.

PART 1097—MILK IN THE MEMPHIS, TENN., MARKETING AREA

1. Section 1097.61, paragraph (b) is revised as follows:

§ 1097.61 Computation of uniform price for each handler (including uniform prices for base milk and excess milk).

* * * * *

(b) For each month of March through July, the market administrator shall compute for each handler with respect to producer milk, a uniform price for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1097.121(e) from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a) (1) through (3) of this section, subtract, for each handler, an amount computed by multiplying the Class III price for the month times the hundredweight of excess milk received by such handler as producer milk and bulk milk received from a handler described in § 1097.9(c);

(ii) Divide the resulting amount by the total hundredweight of such handler's base milk and deduct any fraction of a cent; and

(iii) Subtract the withholding rate for the advertising and promotion program as computed in § 1097.121(e).

PART 1102—MILK IN THE FORT SMITH, ARK., MARKETING AREA

1. In § 1102.61, paragraph (b) is revised as follows:

§ 1102.61 Computation of uniform price for each handler (including uniform prices for base milk and excess milk).

* * * * *

(b) For each month of March through July, the market administrator shall compute for each handler with respect to milk received from producers, a uniform price for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1102.121(e) from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a)(1) through (2) of this section, subtract, for each handler, an amount computed by multiplying the Class III price for the month times the hundredweight of such handler's excess milk;

(ii) Divide the resulting amount by the total hundredweight of such handler's base milk, and deduct any fraction of a cent; and

(iii) Subtract the withholding rate for the advertising and promotion program as computed in § 1102.121(e).

PART 1104—MILK IN THE RED RIVER VALLEY MARKETING AREA

1. Section 1104.61 is revised as follows:

§ 1104.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight of milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1104.60 for all handlers who filed the reports prescribed by § 1104.30 for the month and who made the payments pursuant to §§ 1104.71 and 1104.73 for the preceding month;

(2) Add an amount equal to the total value of the location adjustments computed pursuant to § 1104.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1104.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price."

(6) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1104.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1104.121(e) from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a)(1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the Class III price for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations;

(iv) Subtract not less than 4 cents nor more than 5 cents; and

(v) Subtract the withholding rate for the advertising and promotion program as computed in § 1104.121(e).

2. Section 1104.75 is revised as follows:

§ 1104.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1104.73 for producer milk received at a pool plant, the uniform price and the uniform price for base milk shall be reduced according to the location of the pool plant at the rate set forth in § 1104.52(a);

(b) For the purpose of computations pursuant to §§ 1104.71 and 1104.72, the weighted average price shall be adjusted at the rate set forth in § 1104.52(a) applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price); and

(c) In making payments to producers pursuant to § 1104.73 for producer milk diverted from a pool plant to a nonpool plant, the uniform price and the uniform price for base milk shall be reduced according to the location of the nonpool plant at which the milk is received at the rate set forth in § 1104.52(a).

PART 1106—MILK IN THE OKLAHOMA METROPOLITAN MARKETING AREA

1. Section 1106.61 is revised as follows:

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FEDERAL REGISTER, VOL. 44, NO. 22—WEDNESDAY, JANUARY 31, 1979

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§ 1106.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the "weighted average price" for each month and the "uniform price" for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1106.60 for all handlers who made the reports prescribed in § 1106.30 and who made the payments pursuant to §§ 1106.71 and 1106.73 for the preceding month.

(2) Add the aggregate of the values of all allowable location adjustments to producers pursuant to § 1106.75.

(3) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 1106.72.

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1106.60(f).

(5) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price."

(6) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1106.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk be deducting the withholding rate for the advertising and promotion program as computed in § 1106.121(e) from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a) (1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the Class III price for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations;

(iv) Subtract not less than 4 cents nor more than 5 cents; and

(v) Subtract the withholding rate for the advertising and promotion program as computed in § 1106.121(e).

2. Section 1106.75 is revised as follows:

§ 1106.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments to producers pursuant to § 1106.73 for producer milk received at a pool plant, the uniform price and the uniform price for base milk shall be reduced according to the location of the pool plant at the rates set forth in § 1106.52;

(b) For the purpose of computations pursuant to §§ 1106.71 and 1106.72, the weighted average price shall be adjusted at the rates set forth in § 1106.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the class III price); and

(c) In making payments to producers pursuant to § 1106.73 for producer milk diverted from a pool plant to a nonpool plant, the uniform price and the uniform price for base milk shall be reduced according to the location of the nonpool plant at which the milk is received at the rates set forth in § 1106.52.

PART 1108—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

1. In § 1108.61 the introductory text of paragraph (a) (immediately preceding subparagraph (1)), and paragraph (a)(6) and (b) are revised as follows:

§ 1108.61 Computation of uniform price (including weighted average price and base and excess prices).

(a) the market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk containing 3.5 percent butterfat content as follows:

* * * * *

(6) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1108.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1108.121(e) from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraphs (a)(1) through (e) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the Class III price for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations;

(iv) Subtract not less than 4 cents nor more than 5 cents; and

(v) Subtract the withholding rate for the advertising and promotion program as computed in § 1108.121(e).

PART 1120—MILK IN THE LUBBOCK-PLAINVIEW, TEX., MARKETING AREA

1. Section 1120.61 is revised as follows:

§ 1120.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1120.60 for all pool handlers who made the reports prescribed in § 1120.30 for the month and who have made the payments required pursuant to § 1120.71 for the preceding month;

(2) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1120.75;

(3) Add an amount equal to not less than one-half the unobligated balance on hand in the producer-settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in such computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1120.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price."

(6) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1120.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1120.121(e) from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a)(1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the Class III price for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations;

(iv) Subtract not less than 4 cents nor more than 5 cents; and

(v) Subtract the withholding rate for the advertising and promotion program as computed in § 1120.121(e).

2. Section 1120.75 is revised as follows:

§ 1120.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price and the uniform price for base milk to be paid for milk which is received from producers at pool plants located either outside the State of Texas or within the State but north of the counties of Parmer, Castro, Swisher, Briscoe, Hall, and Childress and 100 miles or more from the city hall of Lubbock, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced at the rate set forth in the table contained in § 1120.52 according to the location of the pool plant at which such milk was received from producers; and

(b) For purposes of computations pursuant to §§ 1120.71 and 1120.72 the weighted average price shall be adjusted at the rates set forth in § 1120.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the class III price).

PART 1122—MILK IN THE TEXAS PANHANDLE MARKETING AREA

1. Section 1132.61 is revised as follows:

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§ 1132.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the "weighted average price" for each month and the "uniform price" for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat content f.o.b. pool plants located within 100 miles of the City Hall of Amarillo, Tex., as follows:

(1) Combine into one total the value computed pursuant to § 1132.60 for all handlers who made the reports prescribed in § 1132.30 for such month, except those in default of payments required pursuant to § 1132.71 for the preceding month;

(2) Add an amount equal to the sum of the location adjustments to be made pursuant to § 1132.75;

(3) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1132.60(f).

(5) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price."

(6) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1132.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1132.121(e) from the class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a)(1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the Class III price for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweight of base milk included in these computations;

(iv) Subtract not less than 4 cents nor more than 5 cents; and

(v) Subtract the withholding rate for the advertising and promotion program as computed in § 1132.121(e).

2. Section 1132.75 is revised as follows:

§ 1132.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payment pursuant to § 1132.73 the uniform price and the uniform price for base milk to be paid for milk which is received from producers at a pool plant located 100 miles or more from the City Hall, Amarillo, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

	Rate per hundredweight (cents)
Distance from the Amarillo City Hall (miles):	
100 but less than 110	15.0
For each additional 10 miles of fraction thereof an addition	1.5

(b) For purposes of computations pursuant to §§ 1132.71 and 1132.72, the weighted average price shall be adjusted at the rates set forth in § 1132.52 applicable at the location of the nonpool plant from which the milk was received (but the resulting price shall not be less than the class III price.)

PART 1138—MILK IN THE RIO GRANDE VALLEY MARKETING AREA

1. Section 1138 is revised as follows:

§ 1138.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the "weighted average price" for each month and the "uniform price" for each of the months of August through February per hundredweight for milk of 3.5 percent butterfat, content as follows:

(1) Combine into one total the values computed pursuant to § 1138.60 for all handlers who filed the reports prescribed by § 1138.30 for the month and who made the payments pursuant to §§ 1138.71 and 1138.73 for the preceding month;

(2) Add an amount equal to the sum of the deductions for location adjustments computed pursuant to § 1138.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

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(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1138.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price."

(6) For each of the months of August through February, subtract from the weighted average price the withholding rate for the advertising and promotion program as computed in § 1138.121(e). The result shall be the "uniform price" for milk received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the uniform price for excess milk by deducting the withholding rate for the advertising and promotion program as computed in § 1138.121(e) from the Class III price for the month.

(2) Compute the uniform price for base milk as follows:

(i) From the amount resulting from the computations pursuant to paragraph (a)(1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(ii) Subtract an amount computed by multiplying the Class III price for the month times the hundredweight of excess milk;

(iii) Divide the resulting amount by the total hundredweights of base milk included in these computations;

(iv) Subtract not less than 4 cents nor more than 5 cents; and

(v) Subtract the withholding rate for the advertising and promotion program as computed in § 1138.121(e).

2. Section 1138.75 is revised as follows:

§ 1138.75 Plant location adjustments for producers and on nonpool milk.

(a) For producer milk received at pool plants located in zones II and III or at pool plants located outside the marketing area and more than 100 miles, as determined by the market administrator, from the nearest of the county courthouses in El Paso County, Tex., or Bernalillo, or Santa Fe Counties, N. Mex., there shall be deducted from the uniform price and the uniform price for base milk an adjustment for each such plant for milk at the rates specified pursuant to § 1138.52.

(b) For purposes of computations pursuant to §§ 1138.71 and 1138.72, the weighted average price shall be adjusted at the rates set forth in § 1138.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

(This recommended decision constitutes the Department's Draft Impact Analysis Statement for this proceeding.)

Signed as Washington, D.C., on January 25, 1979.

JAMES E. SPRINGFIELD,
Acting Deputy Administrator,
Marketing Program Operations.

[Fr Doc. 79-3172 Filed 1-30-79; 8:45 am]

[3410-07-M]

Farmers Home Administration

[7 CFR Part 1933]

LOAN AND GRANT PROGRAMS

Community Facility Loans; Withdrawal of Proposed Rule

AGENCY: Farmers Home Administration, USDA.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Farmers Home Adminstration (FmHA) withdraws a proposed rule concerning § 1933.18(a)(9)(ii)(B) of Subpart A, Part 1933, Chapter XVIII, Title 7 in the Code of Federal Regulations. This proposal would have amended its loan regulations concerning the bidding of specified materials for projects financed by FmHA. It was published in the FEDERAL REGISTER Vol. 43, No. 226 of Wednesday, November 22, 1978, at page 54652. As of January 25, 1979, 83 comments have been received and the comments received were generally not supportive of the proposal. All written comments which have been received will be fully considered; however, the proposal is withdrawn to allow sufficient time for FmHA to further study its bidding requirements.

FOR FURTHER INFORMATION CONTACT:

Lonney H. Posey, telephone 202-447-5717.

(7 U.S.C. 1989, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 7 CFR 2.70;

Dated: January 25, 1979.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc. 79-3211 Filed 1-30-79; 8:45 am]

[6714-01-M]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 347]

FOREIGN ACTIVITIES OF INSURED STATE NONMEMBER BANKS

Requirements for Establishing and Operating Foreign Branches and for Acquiring and Holding Ownership Interests in Foreign Entities

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: FDIC proposed to promulgate a new regulation that will implement Section 301 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, Public Law 95-630 ("FIRIRCA"). The proposed regulation would give it control over the establishment and operation of foreign branches and the acquisition of the shares of foreign entities by insured State chartered banks that are not members of the Federal Reserve System (nonmember banks) similar to that exercised by the Federal Reserve Board with respect to foreign branches and foreign acquisitions of banks which are members of the Federal Reserve System (member banks).

DATE: Comments must be received on or before: March 2, 1979.

ADDRESS: Interested persons are invited to submit written data, views or arguments regarding the proposed regulations to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429. All written comments will be made available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT:

Jerry L. Langley, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429. 202-389-4237.

SUPPLEMENTARY INFORMATION: Section 301 of FIRIRCA provides that no insured State nonmember bank shall establish or operate any foreign branch, except with the prior written consent of the Corporation and upon such conditions and pursuant to such regulations as the Corporation may prescribe. As defined in the statute, the term "foreign branch" means any office or place of business located outside the United States, its territories, Puerto Rico, Guam, American Samoa, or the Virgin Islands, at which banking operations are conducted.

Section 301 also provides that when authorized by State law, an insured State nonmember bank may, with the prior written consent of the Corporation and under such conditions and regulations as the Corporation may prescribe, acquire and hold, directly or indirectly, ownership interest in banks or other entities which are organized under the law of a foreign country or a dependency or insular possession of the United States and are not engaged, directly or indirectly, in any activity in the United States except as is incidental to the international or foreign business of the foreign bank or entity. Further, the section authorizes an insured State nonmember bank, in a manner prescribed by the Corporation, to make loans or purchase the securities of affiliates without regard to the restrictions under 12 U.S.C. 1828(j).

The new regulation would require insured State nonmember banks: (1) to obtain FDIC's prior written consent before establishing its first branch in a foreign country or acquiring any ownership interest in a foreign bank or other foreign financial entity; (2) to provide 30-day notice to the FDIC concerning its intent to relocate an existing foreign branch or to increase the number of foreign branches in a location where it has an authorized foreign branch; and (3) to maintain a specific system of records, controls, and reports with respect to its foreign activities exercised under the new regulation. Also, for competitive reasons, the regulation would authorize foreign branches to exercise certain additional powers to the extent such powers are usual in connection with the transaction of the buisness of banking in the places where they shall transact business.

Further, the regulation would permit an insured State nonmember bank to make loans to or purchase securities of foreign banks or other foreign financial entities without regard to the restrictions under 12 U.S.C. 1828(j), but subject to specific requirements in the regulation.

In general, the provisions of the Corporations' proposed regulation are similar to those in 12 CFR Part 213 which were established by the Federal Reserve Board to govern the foreign activities of member banks. This accords with the Congressional intent that is reflected in the legislative history of FIRIRCA.

Section 347.3 of the proposed regulation pertains in part to new notice requirements concerning the relocation or addition of foreign branches and refers to information required under §§ 303.2 and 303.3 of the Corporation's regulations. These sections do not now contain provisions outlining the information to be provided in the notice. However the Sections will be amended to provide the necessary instructions if the notice requirements are adopted in the final regulation. Generally, the required information for the notice of an intent to establish an additional foreign branch would consist of the following information: proposed name and location of the branch, proposed fixed asset investment, lease terms, security arrangements, estimated deposit volume, projected time required to operate profitably, date the branch is to be established, and status of required governmental approvals. The required information for the notice of an intent to relocate a foreign branch would contain the following information: location to which the branch is to be moved, reason for the relocation, any substantial change in fixed assets, anticipated deposit volume or branch earnings, the expected date for relocation, and status of required governmental approvals.

Also, § 347.4(c) of the proposed regulation refers to information that is to be submitted by an insured State nonmember bank under § 303.9 of the Corporation's rules and regulations when applying for the Corporation's consent to acquire and hold ownership interest in a foreign bank or other foreign financial entity. Section 303.9 does not now contain a provision covering the required information for such applications. However, the Section will be amended to recite the same information requirement now contained in 12 CFR 213.4(c) for the acquisition of shares of foreign entities by member banks of the Federal Reserve System if the requirements proposed under § 347.4(c) are adopted in the final regulation.

Accordingly, the Board of Directors of the Federal Deposit Insurance Corporation proposes to add 12 CFR Part 347 to its rules and regulations as set forth below.

PART 347—FOREIGN ACTIVITIES OF INSURED STATE NONMEMBER BANKS

Sec.
347.1 Authority and scope.
347.2 Definitions.
347.3 Foreign branches.
347.4 Acquisition and holding of stock in foreign banks or other financial entities.
347.5 Loans or extensions of credit to foreign banks or other financial entities.
347.6 Conditions.

AUTHORITY: Secs. 3(o), 18(d), 18(f), Federal Deposit Insurance Act, as amended by sec. 301, Pub.L. 95-630, 92 Stat. 3641 (12 U.S.C. 1813 (o), 1828 (d), 1828(f)).

§ 347.1 Authority and scope.

Under sections 3(o), 18(d), and 18(f) of the Federal Deposit Insurance Act, as amended by section 301, Pub.L. 95-630, 92 Stat. 3641 (12 U.S.C. 1813(o), 1828(d), 1828(j)), the Federal Deposit Insurance Corporation (the "Corporation") prescribes the following regulation relating to (a) foreign branches of insured State nonmember banks, (b) the acquisition and holding of stock in foreign banks and other financial entities, and (c) loans or extensions of credit to or for the account of such foreign banks or other financial entities.

§ 347.2 Definitions.

For the purposes of this part—

(a) "Foreign branch" means any office or place of business of an insured State nonmember bank located outside the United States, it territories, Puerto Rico, Guam, American Samoa, or the Virgin Islands, at which banking operations (excluding representative offices solely concerned with new business development or public relations) are conducted.

(b) "Foreign country" or "country" means any foreign nation or colony, dependency, or possession thereof.

(c) "Foreign bank" means a bank organized under the law of a foreign country or any dependency or insular possession of the United States which is principally engaged in a commercial banking business and not engaged, directly or indirectly, in any activity in the United States except as, in the judgment of the Board of Directors of the Federal Deposit Insurance Corporation, shall be incidential to the international or foreign business of such foreign bank.

(d) "Other financial entities" includes foreign institutions other than foreign banks that are organized under the law of a foreign country or any dependency or insular possession of the United States for the sole purpose of holding the shares of foreign banks or performing nominee, fiduciary, or other banking services incidental to the activities of a foreign branch or banking affiliate of an insured State nonmember bank.

§ 347.3 Foreign branches.

(a) *Establishing and moving foreign branches.* A foreign branch may not be established or operated without the prior written consent of the Corporation. This consent may be obtained through the branch application procedures set forth under Part 303. If an insured State nonmember bank has established an authorized foreign branch, it may, unless otherwise advised by the Corporation, establish other branches and move authorized existing branches in that country after *thirty days'* notice to the Corporation concerning each such branch by submitting the information required under either § 303.2 or 303.3, as appropriate, to the Regional Director of the

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Region in which the main office exists.

(b) *Existing foreign branches.* Any insured State nonmember bank that has a foreign branch at the time of the effective date of this Part shall apply within 90 days thereafter for Corporation aproval of such branch under the procedures set forth in Part 303 for establishing branches.

(c) *Further powers of foreign branches.* In addition to its other powers, a foreign branch may, subject to paragraph (d) of this section and § 347.6 and so far as is usual in connection with the transaction of the business of banking in the places where it shall transact business:

(1) Guarantee customers' debts or otherwise agree for their benefit to make payments of the occurrence of readily ascertainable events[1] if the guarantee or agreement specifies its maximum monetary liability thereunder; but, except to the extent secured, no insured State nonmember bank may have such liabilities outstanding (i) in an aggregate amount exceeding 50 percent of its capital and surplus or (ii) for any customer in excess of the amount by which 10 percent of its capital and surplus exceeds the aggregate of such customer's "obligations" to it subject to the limitations for national banks under 12 U.S.C. 84;

(2) Accept drafts or bills of exchange drawn upon it;

(3) Acquire and hold securities (including certificates or other evidences of ownership or participation) of the central bank, clearinghouses, governmental entities, and development banks of the country in which it is located, unless after such an acquisition the aggregate amount invested by the branch in such securities (exclusive of securities held as required by the law of that country or as authorized for national banks under 12 U.S.C. 24) would exceed 1 percent of its total deposits on the preceding year end call report date (or the date of such acquisition in the case of a newly approved branch which has never reported);

(4) Underwrite, distribute, buy, and sell obligations of the national government of the country in which it is located;[2] but no bank may hold, or be under commitment with respect to, obligations of such a government as a result of underwritiing, dealing in, or purchasing for its own account, in an aggregate amount exceeding 10 percent of its capital and surplus;

(5) Take liens or other encumbrances on foreign real estate in connection with its extensions of credit, whether or not of first priority and whether or not such real estate is improved or has been appraised.

(6) Extend credit to an executive officer of the branch in an amount not to exceed $100,000 or its equivalent, in order to finance the acquisition or construction of living quarters to be used as the officer's residence abroad, providing each such credit extension is promptly reported to its home office; *Provided, however,* That with the specific prior approval of the parent bank's board of directors, such amount limitation may be exceeded when necessary to meet local housing costs.

(7) Pay to any officer or employee of the branch a greater rate of interest on deposits than that paid to other depositors on similar deposits with the branch;

(8) Act as insurance agent or broker.

(d) *Limitations.* Nothing in paragraph (c) of this section shall authorize a foreign branch to engage in the general business of producing, distributing, buying, or selling goods, wares, or merchandise, or, except as permitted by paragraph (c)(4) of this section, to engage or participate, directly, or indirectly, in the business of underwriting, selling, or distributing securities.

(e) *Suspending operations during disturbed conditions.* The officer in charge of a foreign branch may suspend its operations during disturbed conditions which, in the officer's judgment, make conduct of such operations impracticable; but every effort shall be made before and during such suspension to serve its depositors and customers. Full information concerning any such suspension shall be promptly reported to the branch's home office, which shall immediately send a copy thereof to the Corporation.

§ 347.4 Acquisition and holding of stock in foreign banks or other financial entities.

(a) *General.* When authorized by State law, an insured State nonmember bank may, with the prior consent of the Corporation and subject to the provisions of this part, acquire and hold, directly or indirectly, the stock or other evidences of ownership in one or more foreign banks or other financial entities without regard to the provisions of 12 U.S.C. 1828(j): *Provided,* That the aggregate amount invested directly or indirectly (other than through a corporation organized under section 25(a) of the Federal Reserve Act) in the stock or other evidences of ownership of all foreign banks and other financial entities, taken together with investments by the bank in the shares of corporations organized under section 25(a) of the Federal Reserve Act, shall not exceed 25 percent of the bank's capital and surplus. Nothing contained in this part shall prevent the acquisition and holding od stock of other evidences of ownership in a foreign bank or other financial entities where such acquisition is necessary to prevent a loss upon a debt previously contracted in good faith; but such stock or other evidences of ownership shall be disposed of within 12 months from the date of acquisition unless such time is extended by the Corporation.

(b) *Limitations.* Stock or other evidences of ownership in a foreign bank or other financial entities shall be disposed of as promptly as practicable if (1) Such bank or other financial entities should engage in the business of underwriting, selling, or distributing securities in the United States or (2) The insured State nonmember bank is advised by the Corporation that its holding is inappropriate under this Part. The terms "stock," "shares," and "evidences of ownership" in this section include any right to acquire stock, shares, or evidences of ownership, except that prior Corporation consent is not required for the acquisition and exercise of stock rights in lieu of dividends which are declared on shares already held by an insured State nonmember bank and which do not result in an increase in percentage ownership of the foreign bank or other financial entities.

(c) *Required Information.* An insured State nonmember bank may apply for the consent of the Corporation to acquire and hold, directly or indirectly, the stock or other evidences of ownership in a foreign bank or other financial entities by filing the information specified in § 303.9. An insured State nonmember bank that already has ownership interest in such foreign bank or entity shall apply within 90 days from the effective date of this Part for Corporation approval of such holdings.

(d) *Reports.* An insured State nonmember bank shall immediately inform the Corporation, through the Regional Director of the Region in which the bank is located, of any acquisition or dispostion of stock in a foreign bank or other financial entity, including the cost and number of shares acquired pursuant to this section.

§ 347.5 Loans or extensions of credit to foreign banks or other financial entities.

An insured State nonmember bank which holds directly or indirectly[3] stock or other evidences of ownership in a foreign bank or other financial entities may make loans or extensions of credit to or for the account of such foreign bank or other financial entity without regard to the provisions of 12 U.S.C. 1828(j).

§ 347.6 Conditions.

(a) *Records, controls and reports.* An insured State nonmember bank exercising any powers under this Part shall maintain a system of records, controls and reports that, at minimum, provide for the following:

(1) *Risk assets.* To permit assessment of exposure to loss, information furnished or available to the head office should be sufficient to permit periodic and systematic appraisals of the quality of loans and other extensions of credit. Coverage should extend to a substantial proportion of the risk assets in the branch or subsidiary, and include the status of all large credit lines and of credits to customers also borrowing from other offices of the bank. Information on credit extensions should include (i) a recent financial statement of the borrower and current information on the borrower's financial condition;

(ii) credit terms, conditions, and collateral;

(iii) data on any quarantors; (iv) payment history; and (v) status of corrective measures employed.

(2) *Liquidity.* To enable assessment of local management's ability to meet its obligations from available resources, reports should identify the general sources and character of the deposits, borrowing, etc., employed in the branch or subsidiary with special reference to their terms and volatility. Information should be available on sources of liquidity—cash, balances with banks, marketable securities, and repayment flows—such as will reveal their accessibility in time and any risk elements involved.

(3) *Contingencies.* Data on the volume and nature of contingent items such as loan commitments and guaranties or their equivalents that permit analysis of potential risk exposure and liquidity requirements.

(4) *Controls.* Reports on the internal and external audits of the branch or subsidiary in sufficient detail to permit determination of conformance to auditing guidelines. Such reports should cover (i) verification and identification of entries on financial statements; (ii) income and expense accounts, including descriptions of significant chargeoffs and recoveries; (iii) operations and dual-control procedures and other internal controls; (iv) conformance to head office guidelines on loans, deposits, foreign exchange activities, proper accounting procedures, and discretionary authority of local management; (v) compliance with local laws and regulations; and (vi) compliance with applicable U.S. laws and regulations.

(b) The continued or prospective exercise of any power under this Part shall be subject to any notice interpreting or applying the provisions of the Part that an insured State nonmember bank may receive from the Corporation, and such bank shall immediately comply therewith.

(c) The Corporation may from time to time require an insured State nonmember bank to make reports at such time and in such forms as the Corporation may prescribe regarding the exercise of any power under this part and to submit information regarding compliance with this part.

By order of the Board of Directors, January 24, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 79-3313 Filed 1-30-79; 8:45 am]

[1] Including, but not limited to, such types of events as nonpayment of taxes, rentals, customs duties, or costs of transport and loss or nonconformance of shipping documents.

[2] Including obligations issued by an agency or instrumentality, and supported by the full faith and credit, of such government.

[3] Whether through a corporation organized under section 25(a) of the Federal Reserve Act, or otherwise.

[6450-01-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Chapter I]

[Docket No. RM79-14]

NATURAL GAS POLICY ACT OF 1978

Regulations Implementing the Incremental Pricing Provisions

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of informal public conference and inquiry.

SUMMARY: On February 12, 1979, Commissioner George R. Hall will convene an informal public conference to discuss implementation of the incremental pricing provisions of Title II of the Natural Gas Policy Act of 1978. He will also meet informally with the Gas Committee of the National Association of Regulatory Utility Commissioners (NARUC), the NARUC Ad Hoc Committee on National Energy Act implementation issues and any other interested state commissioners on February 20, 1979. This meeting is open for observation by any interested member of the public.

DATES: Public conference, 10:00 a.m., February 12, 1979; NARUC conference, 2:00 p.m., February 20, 1979; Written comments, February 12, 1979; Requests to speak at the public conference, February 2, 1979.

ADDRESSES: Conferences: Hearing Room A, 825 North Capitol Street, N.E., Washington, D.C. 20426; Written comments and requests to speak: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb, Secretary Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C., 202-275-4166.

SUPPLEMENTARY INFORMATION:

JANUARY 12, 1979.

In the matter of regulations implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978; notice of informal public conference and inquiry.

On February 12, 1979, Commissioner George R. Hall will convene an informal public conference to discuss implementation of the incremental pricing provisions of Title II of the Natural Gas Policy Act of 1978 (NGPA). The public meeting will begin at 10:00 a.m. on February 12, 1979, in Hearing Room A at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. Written comments may be submitted on or before February 12, 1979.

Additionally, at 2:00 p.m. on February 20, 1979, Commissioner Hall will meet informally with the Gas Committee of the National Association of Regulatory Utility Commissioners (NARUC), the NARUC Ad Hoc Committee on NEA implementation issues and any other interested state public utility regulatory commissioners who may wish to attend. This meeting will be held in Hearing Room A, and the public is invited to observe the proceedings.

Title II of the NGPA requires that by November 9, 1979, the Commission promulgate regulations to provide for incremental pricing of natural gas used in certain industrial boiler fuel facilities. The Commission's staff task force working on Title II implementation has identified several approaches that could be utilized to implement this policy.

The task force favors, at this time, the approach discussed in the appended "Staff Task Force Proposal for Regulations to Implement Incremental Pricing" (Attachment A). A paper that sets out various options is also attached (Attachment B).

Under the option presently favored by the Commission's staff task force, on May 1 and November 1 of each year a surcharge would be imposed by each natural gas supplier subject to Title II of the NGPA on each of its sale-for-resale customers and industrial boiler fuel customers to recover costs subject to incremental pricing. The surcharge would be stated as a flat dollar amount which would be collected during the succeeding six months in six equal monthly installments.

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The staff task force's preferred approach would result in a surcharge which would be based entirely on actual amounts of gas consumed and actual costs of gas. It would avoid the need for projections. It is the task force's judgment that this approach would effectively carry out the objectives of Title II and would be the least burdensome regulatory arrangement for all parties concerned, including customers, distribution companies, pipelines and state and federal regulatory commissions.

Under the Staff Proposal, a reporting mechanism would be established so that all companies would get the information needed to impose incremental pricing surcharges. Additionally, the proposal would establish procedures so that by November 15, 1979 (one and a half months before the date by which pipelines would be required to begin booking costs in their incremental pricing surcharge accounts, January 1, 1980), each industrial boiler fuel facility would be informed as to whether it is exempted from incremental pricing.

Comments on the task force's proposal are requested, as well as comments on other approaches that should be considered.

The regulations proposed in the attached staff task force proposal deal only with the process of determining and collecting the incremental pricing surcharge. The proposal does not address the very significant question of whether the alternative fuel cost ceiling on incremental prices should be the price of No. 2 or No. 6 fuel oil. This issue is being addressed separately.

Data and information are needed for analysis and evaluation of what should be the regions for determining alternative fuel costs and what should be the ceiling on incremental pricing for each region. On December 29, 1978, a form (Attachment C) [1] was sent by the Energy Information Administration (EIA) to interstate pipelines, local distributors, state commissions, and other interested persons. Responses to the EIA questionnaire will be used by the staff in developing a proposed draft Notice of Proposed Rulemaking to establish the ceilings for each region.

A series of regional meetings to consider the alternative fuel cost ceiling issue is being planned to permit public discussion and comments on the forthcoming Notice of Proposed Rulemaking. Consequently, Commissioner Hall requests that comments on the staff task force's proposal for the basic incremental pricing rule not be directed to the issue of alternative fuel cost ceilings. Those wishing to comment, at this time, on this aspect of Title II should return the form appended as Attachment C.

The staff task force's proposal has not been presented to the Commission for its consideration. Commissioner Hall believes, however, that the staff would benefit from having input from interested commentators during the process of developing a formal proposal to the Commission. Also, Commissioner Hall would like to identify and develop various alternatives that the Commission might wish to consider. To these ends, he has instituted this informal comment and discussion process. This Notice should not be interpreted as implying any decision or even disposition on the part of the Commission with respect to how Title II should be implemented. Also, this informal opportunity for comment is intended to supplement but not supplant the opportunity for comment that will be provided when the Commission takes action on Title II implementation.

Interested persons and groups are invited to participate in the inquiry and informal conference by making oral presentations, by submitting written comments, or both. Persons wishing to make oral presentations at the conference should notify the Secretary of the Commission on or before February 2, 1979, in writing and should indicate the amount of time desired. The Secretary will make available by noon, February 7, 1979, a schedule of presentations. Time for individual oral presentations will be limited, so group presentations are encouraged.

Written comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any comments received will be included in a public reading file in the Commission's Office of Public Information. Parties who intend to make oral presentations at the February 12, 1979, conference are urged to bring copies of any written comments they may have for distribution to the conference participants.

Attachments.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A—STAFF TASK FORCE PROPOSAL FOR REGULATIONS TO IMPLEMENT INCREMENTAL PRICING

A. *General.*

1. *Purpose.* In accordance with Title II of the Natural Gas Policy Act of 1978 (NGPA), certain costs of acquiring gas will be passed through as a surcharge on sales of gas used for boiler fuel in certain industrial boiler fuel facilities.

2. *Applicability.*

a. *Costs.* Costs described in part C below which are incurred by natural gas suppliers on or after January 1, 1980, shall be subject to incremental pricing.

b. *Natural gas suppliers.* Interstate pipelines and local distribution companies, as defined below, shall be subject to incremental pricing.

3. *Definitions.*

a. "Interstate pipeline" means any person engaged in natural gas transportation subject to the jurisdiction of the Commission under the Natural Gas Act.

b. "Local distribution company" means any person other than an interstate pipeline that receives gas directly or indirectly from an interstate pipeline and which is engaged in the sale of natural gas for resale or for ultimate consumption. A person is not considered as having received gas directly or indirectly from an interstate pipeline if the only service performed by an interstate pipeline for the purchaser is a transportation service.

c. "Natural gas supplier" means an interstate pipeline or a local distribution company.

d. "Boiler fuel use" means the use of any fuel for generating steam or electricity.

e. "Industrial boiler fuel facility" means any industrial facility which uses natural gas as a boiler fuel.

f. "Industrial facility" means any facility which uses natural gas primarily in a process which creates or changes raw or unfinished materials into another form or product.

g. "Pricing period" means each six month period ending December 31 and June 30.

h. "Surcharge billing period" means each six month period beginning May 1 and November 1.

B. *Exemptions and adjustments.*

1. *General.* Natural gas used for purposes described in section 3 below shall be exempt from incremental pricing. Direct sale customers may obtain an exemption for such gas in the manner described in section 4 below. Adjustments as may be necessary to prevent special hardship or unfair distribution of burdens may be obtained in the manner described in section 5 below.

2. *Definitions.*

a. "Qualifying cogenerator" means the owner or operator of a qualifying cogeneration facility as provided in section 3(18)(c) of the Federal Power Act, as amended by section 201 of the Public Utility Regulatory Policies Act of 1978.

b. "Qualifying cogeneration facility" means a cogeneration facility which:

(1) Meets the requirements prescribed in § ——— of the Commission's Regulations; and

(2) Is owned by a person not primarily engaged in the generation or sale of electric power (other than electric power solely from cogeneration facilities or small power production facilities).

c. "School" means a facility the primary function of which is the delivery of instruction to regularly enrolled students in attendance at such facility. Facilities used for both educational and non-educational activities are not included under this definition unless the latter activities are merely incidental to the delivery of instruction.

d. "Hospital" means a facility the primary function of which is the delivery of medical care to patients who remain at the facility. Outpatient clinics or doctor's offices are not included in this definition. Nursing homes and convalescent homes are included in this definition.

e. "Agricultural use" means any use of natural gas which is certified by the Secretary of Agriculture under 7 CFR § 2900.3 as an "essential agricultural use" pursuant to section 401(c) of the NGPA.

3. *Exempt end-uses.* Natural gas used for the following purposes shall be exempted from incremental pricing under this part:

a. All gas used for boiler fuel by an industrial boiler fuel facility which was in existence on the date of enactment and did not consume more than an average of 300 Mcf per day for boiler fuel during any calendar month during calendar year 1977;

b. All gas used by a qualifying cogenerator in a qualifying cogeneration facility;

c. All gas used in a facility for the generation of electricity by an electric utility;

d. All gas used by schools, hospitals, and similar institutions; and

e. All gas used by any facility to the extent of any agricultural use of natural gas.

4. *Obtaining an exemption.*

a. *General.* This section describes procedures by which direct sale customers of natural gas suppliers may obtain an exemption for natural gas used for the purposes described in section 3 above.

b. *Determination of industrial boiler fuel facilities.* Prior to October 1, 1979, each natural gas supplier shall determine which facilities served by it are industrial boiler fuel facilities, as defined above, which were in existence on November 9, 1978.

c. *Exemption on the basis of company records.*

(1) Prior to October 1, 1979, each natural gas supplier shall determine from an examination of its records which industrial boiler fuel facilities, as identified under paragraph b above, were such that:

(i) The facility did not use more than an average of 300 Mcf per day during any calendar month during calendar year 1977; or

(ii) The facility did not use more than an average of 300 Mcf per day for boiler fuel during any calendar month during calendar year 1977.

(2) natural gas used by an industrial boiler fuel facility for which an affirmative determination is made under (1) above, shall be exempt from incremental pricing.

d. *Exemption on the basis of affidavit.*

(1) *Service of exemption form.* Not later than October 1, 1979, each natural gas supplier shall mail or otherwise supply an exemption form, as described in (2) below, to each facility on such natural gas supplier's system which the natural gas supplier determined to be an industrial boiler fuel facility in existence on November 9, 1978, but which the natural gas supplier did not determine to be exempt.

(2) *Contents of exemption form.*

(i) The exemption form shall be designed by the natural gas supplier which is to mail or otherwise supply it and shall contain matter as described in (ii) below.

(ii) The exemption form shall provide the recipient with an opportunity to respond to the following questions:

(A) Did the recipient, on the basis of records, documents or data in its possession, consume no more than an average of 300 Mcf per day for boiler fuel during any calendar month during calendar year 1977?

(B) Is the recipient a qualifying cogeneration facility?

(C) Is the recipient a facility used for the generation of electricity by an electric utility?

(D) Is the recipient a school, hospital or similar institution?

(E) Does the recipient consume natural gas as boiler fuel for agricultural use?

(F) If the recipient answers questions (E) affirmatively, does it also consume natural gas as boiler fuel for purposes other than agricultural uses?

(iii) The exemption form shall provide the recipient with definitions of terms used in the form which are in accordance with the definitions given in section 2 above.

(iv) The exemption form shall indicate the record retention obligation which may be incurred by recipient under (5) below.

(v) The exemption form shall contain such other information as may be necessary for completion and return of the form.

(3) *Reply date.* Any recipient of the exemption form shall, in order to obtain an exemption from incremental pricing, mail or otherwise return the form no later than October 20, 1979, to the natural gas supplier which sent it.

(4) *Exemption.*

(i) *Questions (A) Through (D).* If a recipient of an exemption form affirmatively responds to any of the questions (A) through (D), as set out in (2)(ii) above, and returns the form, signed and dated by a responsible officer, under oath, then natural gas used by the recipient shall be exempt from incremental pricing under this part.

(ii) *Question E.*

(A) If the recipient of an exemption form affirmatevely responds to question (E) as set out in (2)(ii) above, indicating that the recipient consumes natural gas as boiler fuel for an agricultural use, and returns the form, signed and dated by a responsible officer, under oath, then, except as provided in (B) below, natural gas used by the recipient shall be exempt from incremental pricing under this part.

(B) If the recipient of an exemption form affirmatively responds to question (F), indicating that the recipient consumes natural gas for boiler fuel not only for agricultural uses, but for purposes other than agricultural uses, then the natural gas supplier which sent the form shall determine the extent to which natural gas is used for boiler fuel for other than agricultural uses and whether the natural gas used for boiler fuel for such other purposes is subject to incremental pricing under this part.

(5) *Record retention.* If the recipient of an exemption form obtains an exemption as a result of affirmatively responding to question (A), the recipient shall retain all records, documents or data which formed the basis of the responses and shall make such records, documents or data available during regular business hours for public inspection in a convenient form and place.

e. *Confirmation of exemption.* No later than November 15, 1979:

(1) Each industrial boiler fuel facility which qualified for an exemption under paragraphs c or d above, shall be provided by its natural gas supplier with written confirmation that it has obtained an exemption from incremental pricing under this part; and

(2) Each industrial boiler fuel facility which did not qualify for an exemption under paragraphs c or d shall be provided with writen notification by its natural gas supplier that natural gas consumed at the facility will be incrementally priced under this part.

f. *Special relief.* An industrial boiler fuel facility which qualifies for an exemption under section 3 above, but which failed to obtain an exemption through the procedures established in paragraphs c or d, shall be granted an exemption by its natural gas supplier as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens.

5. *Adjustments.* Pursuant to section 502(c) of the NGPA, any person may apply to the Commission for an interpretation, modification, or rescission of, exception to or exemption from the incremental pricing regulations or any other issued under them.

a *Standards for granting adjustments.* An application for an adjustment shall, consistent with other purposes of the NGPA, be granted as may be necessary to prevent special hardship, inequity, or any unfair distribution of burdens.

b. *Procedures.* An application for an adjustment shall be subject to the requirements and procedures set forth in § 1.41 of the Commission's Regulations.

C. *Determination of costs subject to incremental pricing.*

1. *Costs subject to incremental pricing.* The costs specified below are acquisition costs which shall be subject to incremental pricing.

a. *New natural gas.* In the case of new natural gas (as defined in section 102(c) of the NGPA), any portion of the first sale acquisition costs of such natural gas which exceeds the incremental pricing threshold applicable for the month in which the delivery of such natural gas occurs shall be subject to incremental pricing.

b. *Natural gas under intrastate rollover contract.* In the case of natural gas delivered under a rollover contract which was not committed or dedicated in interstate commerce on November 8, 1978, any portion of the first sale acquisition costs of such natural gas which exceeds the incremental pricing threshold applicable for the month in which such delivery occurs shall be subject to incremental pricing.

c. *New onshore production well gas.* In the case of natural gas produced from any new, onshore production well (as defined in section 103(3) of the NGPA), any portion of the first sale acquisition cost of such natural gas which exceeds the incremental pricing threshold applicable for the month in which the delivery of such natural gas occurs shall be subject to incremental pricing.

d. *LNG imports.*

(1) Subject to (2) below, in the case of liquefied natural gas imported into the United States, any portion of the first sale acquisition cost of such natural gas (whether or not liquefied when acquired) which exceeds the incremental pricing threshold applicable for the month in which such liquefied natural gas enters the United States shall be subject to incremental pricing.

(2) Costs of liquefied natural gas imported into the United States shall not be subject to incremental pricing if:

(i) the importation of the liquefied natural gas was authorized under section 3 of the Natural Gas Act on or before May 1, 1978;

(ii) an application for such authority was pending under section 3 of the Natural Gas Act on such date; or

(iii) in connection with the granting of any authority under the Natural Gas Act to import such liquefied natural gas, the Secre-

[1] Filed as a part of original document.

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tary of the Department of Energy determines that a contract binding on the importer or other substantial financial commitment was made on or before May 1, 1978.

(3) Clauses (ii) and (iii) of (2) shall not apply with respect to any liquefied natural gas imports if, in connection with the granting of any authority under the Natural Gas Act to import liquefied natural gas, the Secretary of the Department of Energy determines that the costs of such imports shall be subject to incremental pricing.

e. Natural gas (other than LNG) imports.

(1) Subject to (2) below, in the case of natural gas (other than liquefied natural gas) imported into the United States, any portion of the first sale acquisition cost of such imported natural gas which exceeds the maximum lawful price, per million Btu's computed under section 102 of the Natural Gas Policy Act (relating to new natural gas) for the month in which such natural gas enters the United States without regard to section 110 of the NGPA, shall be subject to incremental pricing.

(2) Subject to (3) below, (1) shall only apply to cost of volumes of natural gas (other than liquefied natural gas) imported into the United States which exceed both the maximum for the month in which such delivery of natural gas occurs, as specified by contract entered into on or before May 1, 1978, and in effect when such delivery occurs, and the volume of natural gas imported into the United States by the interstate pipeline involved during calendar year 1977.

(3) Notwithstanding (2) above, (1) shall apply to the first sale acquisition costs of volumes of natural gas (other than liquefied natural gas) imported into the United States which exceed the volume of natural gas imported into the United States by the interstate pipeline involved during calendar year 1977 if, in connection with the granting of any authority under the Natural Gas Act to import such natural gas, the Secretary of the Department of Energy determines that (1) shall apply with respect to such natural gas imports.

f. Stripper well natural gas. In the case of stripper well natural gas (as defined in section 108(b) of the NGPA), any portion of the first sale acquisition cost of such natrual gas which exceeds the maximum lawful price, per million Btu's computed under section 102 of the NGPA (relating to new natural gas) for the month in which the delivery of such gas occurs without regard to section 110 of the NGPA, shall be subject to incremental pricing.

g. High-cost natural gas. In the case of High-cost natural gas, (as defined in section 107(c) of the NGPA), any portion of the first sale acquisition cost of such natural gas which exceeds 130 percent of the most recent weighted average per barrel cost (as determined and published for incremental pricing purposes by the Energy Informaton Administration of the Department of Energy) of No. 2 fuel oil landed in the greater New York City metropolitan area during the third month preceding the beginning of the pricing period during which delivery of such natural gas occurs, divided by a Btu conversion factor of 5.8 million Btu's per barrel, shall be subject to this part.

h. Alaska Natural Gas Transportation System. In the case of natural gas produced from the Prudhoe Bay Unit of Alaska, (as defined in section 2 of the NGPA) and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976, the following amounts shall be subject to incremental pricing:

(1) any portion of the first sale acquisition cost of natural gas which is not described in (2) below and which exceeds the maximum lawful price, per million Btu's, computed under section 109 of the NGPA (relating to other categories of natural gas) for the month in which delivery of such natural gas occurs without regard to section 110 of the NGPA; and

(2) any amount paid to any person (other than the producer of such natural gas or an affiliate of such producer) for, or attributable to, any compressing, gathering, processing, treating, liquefying, or transporting such natural gas, or any similar service provided with respect to such natural gas, before the delivery of such natural gas to such system.

i. Increased state severance taxes.

(1) Subject to (2), any portion of the cost of natural gas at any first sale attributable to any increase in the amount of state severance taxes (as defined in section 110(c) of the NGPA), which results from a provision of state law enacted on or after December 1, 1977, shall be subject to incremental pricing.

(2) Any increase in state severance taxes resulting from a change in the method of computation of such tax by reason of any provision of state law enacted on or after December 1, 1977, shall not be subject to incremental pricing if, as of the effective date of such change in method of computation, such increase does not result in an increase in the level of such tax, expressed as a percentage of the weighted average first sale price of natural gas produced in such state, above the percentage of such average first sale price which such tax constituted on the day before such effective date, and such provision of law is equally applicable to natural gas produced in such state and delivered in interstate commerce and to natural gas produced in such state and not so delivered. The price to be used in determining the weighted average first sale price shall be the price paid at the fist sale which is used by such state in administering such tax (or an imputed value, if the state uses and event other than a first sale in administering such tax).

j. Transactions under section 311(b) of the NGPA. In the case of any sale under section 311(b) of the NGPA by an intrastate pipeline to an interstate pipeline or a local distribution company, any portion of the cost paid by the purchaser to the intrastate pipeline which exceeds the incremental pricing threshold for the month in which the delivery of the natural gas occurs shall be subject to incremental pricing.

k. Pipeline produced gas.

(1) In the case of any natural gas produced by an interstate pipeline which is priced in its overall cost of service without regard to the cost of producing the gas, any portion of the first sale acquisition cost imputed under section 3 below shall be subject to incremental pricing if it would have been so subject under paragraphs a through h had the gas been produced by an independent producer and purchased by the interstate pipeline at the imputed level.

(2) Gas produced by interstate pipelines which is treated, for rate purposes, on a cost of service basis shall not be subject to incremental pricing.

(3) Costs of gas produced by producers affiliated with interstate pipelines shall be treated as production by an independent producer and shall be subject to incremental pricing except to the extent that different treatment has been found appropriate under the Natural Gas Act.

l. Surcharges paid to other pipelines. The amount of any incremental pricing surcharge paid by any pipeline for natural gas acquired by such pipeline from another pipeline shall be subject to incremental pricing.

2. Gas qualifying under more than one provision. If natural gas qualifies under more than one paragraph of section 1 above, the paragraph which reflects a determination made in accordance with section 101(b)(5) of the NGPA shall be applicable.

2. First sale acquisition cost.

a. General. For purposes of this part, the first sale acquisition cost of natural gas is:

(1) the price paid, per million Btu's, in any first sale of such natural gas in the case of any natural gas produced in the United States and acquired in such first sale; or

(2) the price paid for such natural gas, per million Btu's at the point of entry to the United States, in the case of natural gas or liquefied natural gas imported into the United States.

b. State severance taxes. Any amount of State severance taxes paid at any first sale shall not be included in determining the price paid for purposes of (1) and (2) of paragraph a above.

(c) Pipeline produced gas. A first sale acquisition cost shall be imputed to gas produced by an interstate pipeline which is priced in its overall cost of service without regard to the cost of producing the gas. The imputed cost shall be the maximum lawful price which would have been paid under Title I of the NGPA if the gas had been produced by an independent producer. The determination of this maximum lawful price shall be made by the body which, by terms of the NGPA and the regulations promulgated thereunder, would make the determination if the gas had been produced by an independent producer.

4. Incremental pricing threshold.

a. General. For purposes of this part, the incremental pricing threshold applicable for any month shall be:

(1) $1.48 per million Btu's in the case of March, 1978; and

(2) in the case of any month thereafter, the amount, per million Btu's, determined under this section for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor (as defined in section 101(a) of the NGPA) applicable for such month.

b. Publication. Not later than 5 days before the beginning of any month, commencing with January, 1980, the Commission shall publish the incremental pricing threshold applicable for such month. As soon as possible thereafter, such incremental pricing threshold shall be published in the FEDERAL REGISTER.

D. Incremental pricing amounts and surcharges.

1. General. During a six month pricing period, each interstate pipeline and local distribution company served by an interstate pipeline will accumulate in an unrecovered incremental gas costs account the difference between its actual first sale acquisition cost of natural gas and the appropriate incremental pricing threshold or other

amount. During the succeeding six month surcharge billing period, the accumulated balance, plus carrying charges accrued during the pricing period, plus any incremental pricing surcharges passed on by a supplier, will be recovered by means of incremental pricing surcharges. These surcharges, subject to the alternative fuel cost ceiling, shall be determined on the basis of the maximum surcharge absorption capabilities of the customers of the interstate pipeline or local distribution company.

2. Accounting.

a. General. For incremental pricing purposes, each natural gas supplier shall establish an unrecovered incremental gas costs account, an unrecovered incremental surcharges account and an incremental gas cost adjustments account.

b. Establishment of accounts.

(1) *Unrecovered gas costs account.* Each natural gas supplier shall establish an unrecovered incremental gas costs account. Such account shall be designated account 192.1, Unrecovered Incremental Gas Costs, for interstate pipelines following the Uniform System of Accounts, Parts 201 and 204 of this chapter. Separate subaccounts shall be established in the unrecovered incremental gas costs account for each six month pricing period so as to keep separate the costs debited in accordance with paragraph c below. The underlying records of each pricing period subaccount shall be maintained to permit identification of each purchase that gave rise to costs being charged to the account; the provision of the Commission's Regulations under which the costs associated with such purchase qualify for inclusion in the account; the carrying charges debited to the account; the computations by which such carrying charges were determined; and any other charges to the account.

(2) *Unrecovered incremental surcharges account.* Each natural gas supplier shall establish an unrecovered incremental surcharges account. Such account shall be designated account 192.2, Unrecovered Incremental Surcharges, for interstate pipelines following the Uniform System of Accounts, Parts 201 and 204 of this chapter. The underlying records of this account shall be maintained so as to permit ready identification of each incremental pricing surcharge debited to the account in accordance with paragraph e below.

(3) *Incremental gas cost adjustments account.* Each natural gas supplier shall establish an incremental gas cost adjustments account. Such account shall be designated account 805.2, Incremental Gas Cost Adjustments, for interstate pipelines following the Uniform System of Accounts, Part 201 of this chapter. Such account shall be designated account 731.2, Incremental Gas Cost Adjustments, for interstate pipelines following the Uniform System of Accounts, Part 204 of this chapter.

c. Debiting the unrecovered incremental gas costs account. Each pricing period subaccount of the unrecovered incremental gas costs account shall be debited with:

(1) costs described in paragraphs a through k of part C, section 1 above which are incurred during such pricing period;

(2) carrying charges accrued on the accumulated or remaining balance in the subaccount; and

(3) any other costs as permitted by order of the Commission.

d. Crediting the unrecovered incremental gas costs account.

(1) The unrecovered incremental gas costs account shall be credited and the incremental gas cost adjustments account shall be debited when costs included in the unrecovered incremental gas costs account are recovered by means of incremental pricing surcharges.

(2) On the date a natural gas supplier's incremental pricing surcharges become effective, such natural gas supplier shall credit the unrecovered incremental costs subaccount for the most recently completed pricing period with any amount debited during that most recently completed pricing period which, due to the alternative fuel cost ceiling on incremental prices, cannot be collected by way of incremental pricing surcharges. Amounts so credited shall be collected as provided below.

e. Debiting the unrecovered incremental surcharges account. A natural gas supplier's unrecovered incremental surcharge account shall be debited with any incremental pricing surcharge which is billed to it by its supplier in accordance with a tariff sheet filed by such supplier in accordance with the Commission's regulations.

f. Crediting the unrecovered incremental surcharges account. The unrecovered incremental surcharges account shall be credited and the incremental gas costs adjustment account shall be debited for those amounts which are recovered by means of an increment pricing surcharge.

g. Carrying charges.

(1) *General.* A natural gas supplier may accrue carrying charges on balances of the costs described in paragraphs a through k of part C section 1 above and accumulated in the natural gas supplier's unrecovered incremental gas costs account. Accural of carrying charges shall be in accordance with either (2) or (3) below.

(2) *Interstate pipelines.*

(i) Carrying charges may be accrued by interstate pipelines on monthly ending balances in each pricing period subaccount of the unrecovered incremental gas costs account, exclusive of accumulated carrying charges and exclusive of any related amounts in account 283 or account 190 as of the end of the immediately preceding month.

(ii) The rate for computation of carrying charges shall be the current rate of interest or interstate pipeline refunds established by the Commission.

(iii) Carrying charges shall be debited to the related unrecovered incremental gas costs subaccount for the current pricing period and credited to account 419, Interest and Divident Income.

(iv) In order for an interstate pipeline to be eligible for carrying charges, the interstate pipeline shall adopt the principles of interperiod income tax allocation in connection with balances recorded in the unrecovered purchased gas cost account, with the resulting tax effects to be recorded in account 283, Accumulated Deferred Income Taxes—Other, or account 190, Accumulated Deferred Income Taxes, as appropriate, in accordance with the provisions of those accounts.

(3) *Local distribution companies.* Carrying charges may be accrued by local distribution companies on amounts accumulated in their unrecovered incremental gas costs accounts, unless prohibited by an appropriate state or local regulatory authority.

3. Incremental pricing surcharge.

a. General. On May 1 and November 1 of each year, each natural gas supplier shall impose an incremental pricing surcharge on each of the non-exempt industrial boiler fuel facilities which it directly serves and on each of its sale for resale customers. Each surcharge shall be collected in six equal monthly installments during the surcharge billing period commencing on the date the surcharge is imposed. Surcharges shall be calculated to recover, subject to the limitation of the alternative fuel cost ceiling:

(1) the actual balance accumulated in the natural gas supplier's unrecovered incremental gas costs subaccount for the most recently completed pricing period, including carrying charges, as of the day before commencement of the surcharge billing period;

(2) carrying charges which will be accrued on the remaining balances in such subaccount during the surcharge billing period;

(3) any incremental pricing surcharge imposed on the natural gas supplier by its own supplier(s) for the most recently completed pricing period.

b. Surcharges on direct sales.

(1) *General.* The incremental pricing surcharge to be collected by a natural gas supplier from each of the non-exempt industrial boiler fuel facilities which it directly serves shall be the lesser of:

(i) the maximum surcharge absorption capability of the non-exempt industrial boiler fuel facility, as determined in the manner described in (2) below; or

(ii) the non-exempt industrial boiler fuel facility's pro rata share of the sum of the actual balance accumulated in the natural gas supplier's unrecovered incremental gas costs subaccount for the most recently completed pricing period plus any incremental pricing surcharge(s) imposed on the natural gas supplier by its own supplier(s) for the most recently completed pricing period, such share being determined in the manner described in (3) below.

(2) *Maximum surcharge absorption capability (direct sales).* The maximum surcharge absorption capability for a non-exempt industrial boiler fuel facility shall be calculated by its natural gas supplier in accordance with the following formula:

$$M=[(A-R)(V)]$$

where:

M = Maximum surcharge absorption capability of the non-exempt industrial boiler fuel facility.

A = Alternative fuel cost ceiling applicable to the non-exempt industrial boiler fuel facility for the most recently completed pricing period.

R = Rate per million Btu's (before inclusion of any incremental pricing surcharge) at which the non-exempt industrial boiler fuel facility purchased gas from the natural gas supplier during the most recently completed pricing period.

V = Volume of natural gas (at 1,000 Btu's per cubic foot) purchased from the natural gas supplier and used by the non-exempt industrial boiler fuel facility for boiler fuel use during the most recently completed pricing period, as determined in accordance with section 5 below.

(3) *Pro rata share.* A non-exempt industrial boiler fuel facility's pro rata share of the sum of the actual balance accumulated in its natural gas supplier's unrecovered incre-

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mental gas costs subaccount for the most recently completed pricing period plus any incremental pricing surcharge(s) imposed on the natural gas supplier by its own supplier(s) for the most recently completed pricing period shall be determined by the ratio between:

(i) the maximum surcharge absorption capability of the non-exempt industrial boiler fuel facility, as determined in accordance with (2) above; and

(ii) the sum of the maximum surcharge absorption capabilities of the nonexempt industrial boiler fuel facilities on the natural gas supplier's system, as determined for the most recently completed pricing period in accordance with (2) above, plus the sum of maximum surcharge absorption capabilities reported to the natural gas supplier by its sale for resale customers for the most recently completed pricing period in accordance with part E, section 1 below.

c. *Surcharges on sales for resale.*

(1) *General.* The incremental pricing surcharge to be collected by a natural gas supplier from each of its sale for resale customers shall be the lesser of:

(i) the maximum surcharge absorption capability of the sale of resale customer, as determined by the customer in the manner described in (2) below, and reported to the natural gas supplier pursuant to part E, section 1 below; or

(ii) the sale for resale customer's pro rata share of the sum of the actual balance accumulated in the natural gas supplier's unrecovered incremental pricing subaccount for the most recently completed pricing period plus any incremental pricing surcharge(s) imposed on the natural gas supplier by its own suppliers for the most recently completed pricing period, such share being determined in the manner described in (3) below.

(2) *Maximum surcharge absorption capability (sale for resale).* The maximum surcharge absorption capability of a sale for resale customer shall be the sum of the maximum surcharge absorption capabilities of the non-exempt industrial boiler fuel facilities on the customer's system, as determined in accordance with b(2) above, plus the sum of the maximum surcharge absorption capabilities reported to the customer by its own sale for resale customers, multiplied by the percentage determined by dividing the volume of natural gas purchased by the customer from the natural gas supplier during the most recently completed pricing period by the total volume of natural gas purchased by the customer from all sources during that period:

$$C = \Sigma[\Sigma(M_1 + M_2 + \dots M_n) + \Sigma(M'_1 + M'_2 + \dots M'_n)]\frac{S}{T}$$

where:

C = Maximum surcharge absorption capability of the sale for resale customer.

M = Maximum surcharge absorption capability as computed for each non-exempt industrial boiler fuel facility on the customer's system for the most recently computed pricing period in accordance with paragraph b above.

M = Maximum surcharge absorption capability reported to the sale for resale customer by each of its own sale for resale customers for the most recently completed pricing period in accordance with part E, section 1 below.

S = Volume of natural gas (at 1,000 Btu's per cubic foot) purchased by the sale for resale customer from the natural gas supplier during the most recently completed pricing period.

T = Total volume of natural gas (at 1,000 Btu's per cubic foot) purchased by the sale for resale customer from all sources during the most recently completed pricing period (including, in the event that the sale for resale customer is an interstate pipeline, any pipeline produced gas to which a first sale gas acquisition cost is imputed under part C, section 3 above.

(3) *Pro rata share.* A sale for resale customer's pro rata share of the sum of the actual balance accumulated in its natural gas supplier's unrecovered incremental gas costs subaccount for the most recently completed pricing period plus any incremental pricing surcharge(s) imposed on such natural gas supplier by its own supplier(s) for such most recently completed pricing period shall be determined by the ratio between:

(i) the maximum surcharge absorption capability reported to the natural gas supplier by the sale for resale customer for the most recently completed pricing period in accordance with part E, section 1 below; and

(ii) the sum of the maximum surcharge absorption capabilities of the non-exempt industrial boiler fuel facilities on the natural gas supplier's system, as determined for the most recently completed pricing period in accordance with b(2) above, plus the sum of maximum surcharge absorption capabilities reported to the natural gas supplier by its sale for resale customers for the most recently completed pricing period in accordance with part E, section 1 below.

4. *Alternative fuel cost ceiling.*

a. *General.* In no event shall the incremental pricing surcharge billed to a non-exempt industrial boiler fuel facility, when stated in terms of cents per million Btu's of gas used for boiler fuel purposes during the most recently completed pricing period, exceed the difference between:

(1) the applicable alternative fuel cost for the most recently completed pricing period, as determined and published in accordance with paragraph b; and

(2) the total tariff rate per million Btu's (before inclusion of any inclusion of any incremental pricing surcharge) applicable during the most recently completed pricing period for sales of gas to the facility.

b. *Alternative fuel cost.* Subject to a determination made under section 204(e)(2) of the NGPA to reduce the applicable alternative fuel cost to a level not lower than that of No. 6 fuel oil, the alternative fuel cost applicable to a non-exempt industrial boiler fuel facility for a pricing period shall be the most recent cost, per million Btu's, of No. 2 fuel oil published for purposes of administering this part by the Energy Information Administration prior to the beginning of the pricing period for the region, as defined by the Commission by rule, in which the facility is located.

5. *Determination of volumes.*

a. *Metered boilers.* For purposes of section 3 above, if all the gas-consuming boilers in a non-exempt industrial boiler fuel facility are metered, the volume of natural gas purchased and used by the non-exempt industrial boiler fuel facility for boiler fuel during a pricing period shall be the volume of natural gas shown by the meters to have been actually consumed by the boiler during such period.

b. *Unmetered boilers.* For purposes of section 3 above, if it is not the case that all the gas-consuming boilers in a non-exempt industrial boiler fuel facility are metered, the volume of natural gas purchased and used by the non-exempt industrial boiler fuel facility for boiler fuel during a pricing period shall be the volume of natural gas shown by the meters to have been actually consumed by the boiler during such period.

6. *Recovery of amounts in excess of maximum surcharge absorption capabilities.* The amount in a natural gas supplier's unrecovered incremental gas costs subaccount for a pricing period which, due to the alternative fuel cost ceiling, cannot be recovered through incremental pricing surcharges during the succeeding surcharge billing period:

a. shall in the case of interstate pipelines, be credited to such subaccount, debited to account 191, Unrecovered Purchased Gas Costs, and collected under the Commission's provisions governing recovery of unrecovered gas costs as set forth in § 154.38(d)(4) of the Commission's regulations; and

b. shall, in the case of local distribution companies, be recovered in the manner permitted by an appropriate state or local authority.

E. *Reporting and filing requirements.*

1. *Reporting procedures.*

a. *General.* In order to determine the incremental pricing surcharge to be billed to each customer for the most recently completed pricing, each natural gas supplier which purchased gas from another natural gas supplier during such period shall report to such supplier the maximum incremental pricing surcharge which it can absorb. After all appropriate information regarding maximum surcharge absorption capabilities has been supplied to the natural gas supplier which is furthest upstream, proposed incremental pricing surcharges shall be computed by each natural gas supplier and reported downstream until the sale for resale customer which is furthest downstream has received the information. The entire sequence of reporting upstream and downstream shall be completed in a period of time sufficient to permit all parties involved to file revised tariff sheets with the appropriate regulatory bodies within a period of time such that proposed incremental pricing purchasing may become effective May 1 or November 1, as appropriate.

b. *Upstream reporting.* Within a period of time as determined by the natural gas suppliers involved, but such that all appropriate information regarding maximum absorption capabilities will be supplied to the most upstream natural gas supplier within 45 days after the end of the most recently completed pricing period, each natural gas supplier shall, subject to paragraph c below, report its maximum surcharge absorption capability to its natural gas supplier.

c. *Upstream reporting to multiple suppliers.*

(1) If a natural gas supplier received gas from more than one natural gas supplier, the maximum surcharge absorption capability to be reported under paragraph b shall be prorated, subject to (2) below, among the various natural gas suppliers on the basis of the volumes purchased from each of the suppliers during the most recently completed pricing period.

(2) If a natural gas supplier produced gas during the most recently completed pricing period and a first sale acquisition cost is imputed to such gas under part C, section 3, paragraph c above, the volume of such gas shall be included in prorating the maximum surcharge absorption capability which is to be reported by the natural gas supplier.

d. *Downstream reporting.* When upstream reporting is completed in accordance with paragraphs b and c, incremental pricing surcharges shall be computed by each natural gas supplier for each of its customers, sale for resale and direct sale. Such surcharges shall be reported to sale for resale customers within sufficient time to enable the most downstream sale for resale customer to file a revised incremental pricing surcharge rate schedule either with this Commission as provided in section 3 below, or with a state or local regulatory body, as may be appropriate, so that the surcharge may become effective on May 1 or November 1, as appropriate.

e. *Scheduling by the Commission.* To the extent that the Commission finds that in particular instances natural gas suppliers have not voluntarily arranged for the reporting of information in accordance with this section, the Commission shall prescribe by order in such instances an appropriate schedule for the expeditious transmission of the information necessary to meet the deadlines prescribed above.

2. *Incremental pricing surcharge provisions.*

a. *General.* Each interstate pipeline shall establish an incremental pricing surcharge provision in its FERC Gas Tariff. The incremental pricing surcharge provision shall provide for the passthrough of the costs described in part C, section 1 above, by means of an incremental pricing surcharge.

b. *Filing date.* The incremental pricing surcharge provision shall be filed with the Commission and served on all parties by November 1, 1979. The provision shall become effective on January 1, 1980, unless disapproved in whole or in part by the Commission.

3. *Tariff sheets.*

a. *General.* On or before October 1, 1980, each interstate pipeline shall file with the Commission a tariff sheet reflecting the incremental pricing surcharges which the interstate pipeline proposes to be effective for each of its direct sale and sale for resale customers during the surcharge billing period commencing November 1, 1980. Revisions of the original incremental pricing surcharge tariff sheet shall be filed on April 1 and October 1 of each year, as necessary, to revise the previously effective incremental pricing surcharge tariff sheet. Surcharges reflected in the original incremental pricing surcharge tariff sheet or in any revision thereof shall be calculated as provided by this part and the incremental pricing surcharge provision filed by the interstate pipeline.

b. *Effective date.* Any tariff sheet filed on April 1 or October 1 pursuant to paragraph a above, shall become effective on May 1 or November 1, respectively, and shall not be subject to suspension.

c. *Refunds.* Amounts collected under any tariff sheet filed pursuant to paragraph a above, shall be collected subject to refund if the Commission so provides within thirty days after such tariff sheet is filed.

d. *Form and filing requirements.* Any tariff sheet filed pursuant to paragraph a above, shall be subject to the provisions and requirements of Part 154 of the Commission's Regulations.

e. *Service.* Simultaneously with the filing of a tariff sheet pursuant to paragraph a above, the interstate pipeline which files the tariff sheet shall provide a copy to each jurisdictional customer subject to the tariff sheet and to each interested state commission.

f. *Material to be submitted.* Any tariff sheet filed pursuant to paragraph a above, shall be accompanied by:

(1) a report containing detailed computations which show clearly the derivation of the incremental pricing surcharges to be imposed on the pipeline's customers;

(2) a tabulation showing, by month, the amounts accumulated in the appropriate pricing period subaccount of the unrecovered incremental gas costs account which are to be recovered by the proposed incremental pricing surcharges set out in the tariff sheet;

(3) tabulations showing that the proposed incremental pricing surcharges are less than or equal to the maximum surcharge absorption capability of each of the customers to be subject to the surcharges under the tariff sheet; and

(4) calculations showing the determination of any amounts which could not be recovered through the interstate pipeline's incremental pricing surcharges during the surcharge billing period and which were debited to account 191, Unrecovered Purchased Gas Costs.

g. *Additional information.* The Commission may, upon receipt of a tariff sheet filed pursuant to paragraph a, require the submission of additional information as it deems necessary and appropriate.

4. *Informational filings.* For information purposes, on April 1 or October 1 of each year, commencing October 1, 1980, each local distribution company shall tender to both the Commission and the Energy Information Administration:

a. a copy of any original or revised tariff sheet or similar instrument which the local distribution company filed with a state or local regulatory body to put into effect incremental pricing surcharges during the succeeding surcharge billing period; or, in lieu thereof if no such filing was made,

b. a statement setting forth the incremental pricing surcharges which will be billed during the succeeding surcharge billing period.

ATTACHMENT B—OPTIONS FOR IMPLEMENTING INCREMENTAL PRICING

I. INTRODUCTION

Title II of the Natural Gas Policy Act of 1978 (NGPA) requires the Commission to implement incremental pricing. This is to be done in two phases.

First, under section 201, within 12 months after the NGPA is enacted, the Commission must prescribe a rule for incremental pricing of gas sold to large industrial boiler fuel facilities. Rules providing for a ceiling on incremental pricing and for certain exemptions must be in place when this Phase I rule goes into effect.

Secondly, within 18 months after enactment of the NGPA, the Commission is required to prescribe an amendment to the section 201 rule to extend incremental pricing to other categories of industrial facilities. Additionally, the Commission must prescribe certain further rules on exemptions from incremental pricing within 18 months.

The Section 201 rule will go into effect without Congressional review, whereas the amendments to the rule will take effect only if not disapproved by either house of Congress.

II. THE INCREMENTAL PRICING RULE REQUIRED BY SECTION 201

Section 204 of the NGPA outlines the basic structure of the rule the Commission is to prescribe under Section 201. Pipelines shall be required to establish an incremental pricing account. Any costs subject to incremental pricing under Section 203 plus any carrying charges permitted by the Commission shall be debited to the account.

The Section 201 rule must provide "one or more methods" for clearing the incremental pricing account by way of a surcharge. The surcharge shall be based on the amount in the account and the volume delivered directly or indirectly by a pipeline for boiler fuel use to incrementally priced industrial boiler fuel facilities during a future or preceding calendar period.

The Section 201 rule must provide a method for reducing the surcharge to the extent that it would cause the rates charged to an incrementally priced industrial boiler fuel facility to exceed the appropriate alternative fuel cost. Initially, any reduction in the surcharge may be recovered from facilities for which rates have not yet reached the level of alternative fuel costs.

Once all users are billed at the level of the alternate fuel cost, any amount left in an incremental pricing account may be flowed through a regular purchased gas adjustment (PGA) account on a rolled-in basis.

III. OPTIONS

The staff's incremental pricing task force has considered a variety of passthrough methods, four of which are presented in this paper as Options A, B and C. Although these options vary in approach and present different administrative demands, each one would meet the various requirements in Title II.

Options A and B are basically extensions of the existing PGA regulations and develop surcharges stated in cents per MMBtu to be applied to future sales. The amounts to be recovered by way of the surcharge would be based on actual experience during prescribed test periods. A and B differ only with respect to the treatment of costs which cannot be recovered from industrial boiler fuel facilities because of the alternative fuel cost ceiling on incremental prices.

Options A and B have the advantages of embodying a well-known approach, but there are significant difficulties associated with these two options. These difficulties suggest there should be a departure from the traditional approach. Staff has developed Option C under which surcharges would be stated in terms of flat dollar amounts. A summary description of each option follows:

Option A:

Each interstate pipeline and distributor subject to Title II shall establish an incremental pricing account in which it shall

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record the costs which are subject to incremental pricing under section 203.

The amount to be recovered each six months will be the amount accumulated in the incremental pricing account during a preceding six month period ending no more than 90 days prior to the effective date of the surcharge. The surcharge will be calculated by dividing the amount to be recovered by the volumes which it is estimated will be sold by the pipeline or distributor and ultimately used for non-exempt industrial boiler fuel purposes during the six months the surcharge will be in effect. For each monthly billing period each non-exempt industrial boiler fuel facility will be billed for an amount calculated by multiplying the cents-per-MMBtu surcharge by the volumes which the seller estimated he would sell to the facility during the billing period for boiler fuel use.

Since the volumes which are multiplied by the cents-per-MMBtu surcharge are those estimated to be sold and used for boiler fuel in incrementally priced facilities during a billing period, not those actually sold and used, the amount billed may be more than the amount the distributor collects from his incrementally priced industrial end-users, assuming the distributor bills on the basis of actual usage. Additionally, the distributor may be surcharged for more than he can collect from his non-exempt industrial boiler fuel customers due to the alternative fuel cost ceiling on incremental prices. In either case, if there is an undercollection, the distributor will have to report the amount of undercollection to his pipeline supplier. The undercollected amount will be credited against the amount the pipeline will surcharge the distributor during the succeeding six month period for which a surcharge is calculated.

If the pipeline supplying the retailer purchases, in turn, from another pipeline, the pipeline supplying the distributor will have to report to its pipeline supplier the amount that was undercollected. This "reporting back" process will continue up the chain of supplying pipelines until the reporting reaches the pipeline which purchases from the producer. That "first sale" pipeline will book the undercollected amounts in its incremental pricing account to be recovered in the next six month period for which it calculates a surcharge.

The reporting back of undercollected amounts will be complex in the instances where a distributor or a pipeline has a number of pipeline suppliers. Undercollections which are reported back along a chain of pipeline suppliers will have to be prorated among the various pipeline suppliers.

Comment:

As previously stated, Option A is an extension of FERC's existing PGA procedures. The complicated "return" of amounts which were unrecovered by distributors as a result of either the use of estimates or the alternative fuel cost ceiling would render this option very burdensome, however. Dollars "returned" to the pipeline would have to be reallocated among incrementally priced customers during a succeeding period. Additionally, since estimated volumes will be used to calculate and bill the incremental pricing surcharge, disputes may arise over the estimates used.

Option B:

The procedure for accumulating an amount in an incremental pricing account and for calculating a surcharge would be the same as in Option A. The only difference would be that undercollections experienced by a distributor (or a pipeline serving direct industrial customers) during a preceding six month period would be reported only to the pipeline suppliers directly serving the distributor. The undercollections would be prorated among the pipeline suppliers, and the prorated amounts would be booked in their incremental pricing accounts for inclusion in their respective surcharges to the distributor during the succeeding six month period. Thus, the "reporting back" along a chain of pipeline suppliers which occurs in Option A would not occur with Option B.

Comment:

Option B is simpler than Option A, insofar as a distributor's undercollections would have to be reported only to his immediate pipeline suppliers. The option is still cumbersome, though.

Option C:

Each pipeline will establish an incremental pricing account. Amounts subject to incremental pass-through will be placed in the account during a six-month accumulation period (January 1 through June 30 and July 1 through December 31) to determine the amount available for flow-through during an upcoming six-month recovery period.

After each accumulation period, for each non-exempt industrial boiler fuel facility on its system, each interstate pipeline will compute a flat dollar amount equal to the difference between the actual billings it rendered for the period, excluding any incremental costs, and the amount it could have billed if it were billing at the level of the applicable alternative fuel prices. Also, each local distributor will compute the difference between its actual billings to end users and what it could have billed if billings were at the level of alternative fuel prices. This information will then be reported to supplying pipelines. Pipelines will compile the information so supplied.

Each pipeline will then develop a lump sum semi-annual surcharge for each of its customers. The surcharges will be collected in six equal monthly installments, May 1 or November 1 as appropriate. If the amount of "incremental" dollars to be passed through is less than what the pipeline's customers are capable of passing through, such amount will be prorated between customers on the basis of their ability to absorb incremental costs. If the amount of incremental dollars available, as determined above, exceeds the amount that can be absorbed by a pipeline's customers due to the alternative fuel cost ceiling on incremental pricing, each customer will be surcharged an amount equal to its surcharge absorption capability. The amounts which cannot be recovered through the surcharge will be placed in the deferred purchase gas costs account (Account 191) to be passed through the PGA clause on a rolled-in basis.

Comment:

The staff's incremental pricing task force considers this to be the most desirable of the options. Its primary advantage is that it does not have the spill-back problems found in Options A and B.

Additionally, proceedings concerning the allocation of incremental dollars would be minimized. The use of simultaneous industry-wide filings based on identical determination periods would enable the Commission to obtain uniform data to evaluate the impact of Title II, and only minor modifications to existing pipeline tariffs would have to be made.

Option C requires the full cooperation of pipelines, distributors, state commissions and the FERC in order to work effectively. This procedure would be the least burdensome from a regulatory standpoint, however, at both the state and Federal levels in that most of the problem areas applicable to the other options are resolved.

One concern with this option is that during the respective determination periods customers cannot be sure of what their gas bill will be for that period, although they would be able to determine their maximum liability on the basis of published alternative fuel prices. In view of the overall administrative benefits of Option C, however, staff does not consider this to be a fatal problem.

[FR Doc. 79-3312 Filed 1-30-79; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-3581]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Municipality of Anchorage, Alaska; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 58660 of the FEDERAL REGISTER, on November 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The following sources of flooding were omitted from the original publication:

Source of flooding	Location	Elevation in feet [1]
North Branch of North Fork Little Campbell Creek.	Confluence with North Fork Little Campbell Creek.	133
	Lake Otis Parkway	141
	Upstream of East 68th Avenue.	161
South Fork Little Campbell Creek.	Confluence with Little Campbell Creek.	89
	East 76th Street	90
	Upstream of Old Seward Highway.	98
	Downstream of New Seward Highway.	113
	Upstream of New Seward Highway.	116
Rabbit Creek	Upstream of New Seward Highway.	16
	Upstream of Old Seward Highway.	79
California Creek	Upstream of Alaska Railroad.	30
	Gunnysack Road (extended).	34
	Fern Circle	74
	Beaver Circle	84
	Downstream of Alyeska Road.	97
	Upstream of Alyeska	109
	Crow Creek Road	156
Glacier Creek	Confluence with Turnagain Arm.	22
	Seward Highway	22
	Upstream of Alaska Railroad.	29
	Mineral Circle	90
	Gold Circle	77
	Alyeska Road	106
	Chugach State Park Boundary.	157

[1] Greater Anchorage Area Borough Post Quake, U.S. Coastal and Geodetic Survey, Mean Sea Level Datum of 1972(MSL).

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804 November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2923 Filed 1-30-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4652]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Santa Cruz County, Ariz., Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 47586 of the FEDERAL REGISTER of October 16, 1978.

EFFECTIVE DATE: October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The following corrections are made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ephriam Canyon	State Highway 189 (Northbound Lane)—20 feet downstream from centerline.	3,990
Peck Canyon	Interstate Highway 19 (Northbound Lane) 50 feet downstream from centerline.	3,353
Santa Cruz River	Crebbs Road	3,144
	Confluence with Peck Canyon.	3,351

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2924 Filed 1-30-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5016]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Cotati, Sonoma County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Cotati, Sonoma County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Cotati, California. Send comments to: Mr. Gary Milliman, City Manager, City of Cotati, P.O. Box 428, Cotati, California 94928.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Cotati, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Laguna De Santa Rosa Creek.	Santa Rosa Avenue—50 feet*.	94
	Commerce Avenue—25 feet*.	96
	East Cotati Avenue—75 feet*.	108
	Benson Lane—25 feet*	106

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cotati Creek	1st Private Bridge upstream from the confluence with Laguna De Santa Rosa Creek—50 feet*.	108
	(Old) Redwood Highway—40 feet*.	111
	Valparaiso Avenue—25 feet*.	118
	Cypress Avenue—50 feet*.	121
	Water Avenue—75 feet*.	133

*Upstream from centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2932 Filed 1-30-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5009]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Etna, Siskiyou County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Etna, Siskiyou County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Clerk's Office, City Hall, 442 Main Street, Etna, California. Send comments to: Honorable Jack C. Stacher, Mayor, City of Etna, P.O. Box 460, Etna, California 96027.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Etna, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Johnson Creek	Downstream Corporate Limit.	847
	Upstream Corporate Limit.	888
Etna Creek	500 feet southeast of the intersection of Butcher Street and State Highway 3, at both sides of State Highway 3 road grade.	867
Etna Creek	600 feet northwest of the intersection of Callahan Street and Pleasure Park Road.	2
	700 feet southeast of the intersection of New Callahan Street and Old Callahan Street.	2
	New Callahan Street	1

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2925 Filed 1-30-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5010]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Hawthorne, Los Angeles County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Hawthorne, Los Angeles County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 4455 West 126th Street, Hawthorne, California. Send comments to: Mr. Robert Kenneth Jue, City Manager, City of Hawthorne, City Hall, 4455 West 126th Street, Hawthorne, California 90250.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Hawthorne, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Storm Runoff	Intersection of Hawthorne Boulevard and 116th Street.	70
	Intersection of Prairie Avenue and Imperial Highway.	71

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2926 Filed 1-30-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5011]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Morro Bay, San Luis Obispo County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Morro Bay, San Luis Obispo County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 595 Harbor, Morro Bay, California. Send comments to: Mr. Carl Thorton, City Manager, City Manager, City of Morro Bay, City Hall, 595 Harbor, Morro Bay, California 93442.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Morro Bay, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chorro Creek	Los Osos Baywood-Park Road—80 feet*.	13
Morro Creek	Main Street—40 feet*	26
Unnamed Creek	State Beach Road—40 feet*.	14
	Sandalwood Avenue—40 feet*.	26
	State Highway Route 1—60 feet**.	31
	State Highway Route 1—120 feet*.	42
Noname Creek	Tide Avenue—60 feet*	60
Toro Creek	1st crossing of State Highway Route 1—20 feet**.	14
	1st crossing of State Highway Route 1—30 feet*.	15

*Upstream from centerline.
**Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ
Federal Insurance Administrator.

[FR Doc. 79-2927 Filed 1-30-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5012]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Orange, Orange County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Orange, Orange County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Civic Center, 300 East Chapman Avenue, Orange, California. Send comments to: Mr. Joseph Baker, City Manager, City of Orange, Civic Center, 300 East Chapman Avenue, Orange, California 92666.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Orange, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Santiago Creek	Interstate Highway 22 (Garden Grove Freeway)**	167
	Cambridge Street—50 feet*	201
	Chapman Avenue**	238
	Loma Street—25 feet*	366
	Most Upstream Private Dirt Road—100 feet*	441
	Upstream Corporate Limits	484
Handy Creek	Amopola Avenue—10 feet*	472
	Broadmoor Trail—60 feet***	496
	Broadmoor Trail—50 feet*	504
	Newport Boulevard**	510
Alameda Storm Drain	Hewes Street—50 feet***	349
	Hewes Street—10 feet*	354
	Linda Vista Street—50 feet*	364
	Jamestown Way**	393

		Depth, feet above ground
Santa Ana River	Intersection of Garden Grove Freeway and The City Drive.	3
	Intersection of Orange Freeway and Chapman Avenue.	1
	Intersection of Santa Ana Freeway and Chapman Avenue.	1

*Upstream from centerline.
**Centerline.
***Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator

[FR Doc. 79-2928 Filed 1-30-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5013]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Palm Desert, Riverside County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Palm Desert, Riverside County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Palm Desert, California. Send comments to: Mr. Martin J. Bouman, City Manager, City of Palm Desert, P.O. Box 1977, Palm Desert, California 92260.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Plam Desert, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Depth, feet above ground
Palm Valley Drain	Intersection of Rolling Knoll Drive and Quail Summit Drive.	1
	Intersection of Desert Flower Drive and Starburst Drive.	2
	Intersection of Thrush Road and Frontage Road.	1
	Intersection of Beaver Tail Street and Bursera Way.	1
	Intersection of State Highway 74 and Willow Street.	1
	Intersection of State Highway 74 and El Paseo.	1
	Intersection of Park View Drive and Monterey Avenue.	1
Deep Canyon Channel.	Intersection of Haystack Road and Portola Avenue.	3
Dead Indian Canyon.	700 feet east of the intersection of Irontree Drive and Mariposa Drive.	3
Dead Indian Canyon and Palm Desert Channel.	Intersection of Mesa View Drive and Alamo Drive.	3
	Intersection of Little Bend Trail and Sun Corral Trail.	3
	Intersection of Minnah Way and Marrakesh Drive.	3
	Intersection of El Paseo and Sun Lodge Lane.	2
	Intersection of Portola Avenue and Desert Star Boulevard.	1
	Intersection of San Luis Rey Avenue and Allesandro Drive.	1
	Intersection of San Pascal Avenue and 44th Avenue.	1

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2929 Filed 1-30-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5014]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Riverside County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Riverside County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at County Department of Building and Safety, 4080 Lemon Street, Riverside, California. Send comments to: Mr. Robert Fitch, County Administrator, Riverside County, County Administrative Center, 4080 Lemon Street, Riverside, California 92501.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Riverside County, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bautista Creek	Cedar Avenue—40 feet*	1,676
	Olive Avenue extended—approximately 60 feet**	1,710
	Florida Avenue—40 feet**	1,753
Bear Creek	Washington Street—50 feet*	40
	Calle Tampico—100 feet*	49
	Avenida Obreson—10 feet*	59
	Calle Sonora Extended—20 feet*	110
Bly channel	Van Buren Boulevard—100 feet**	701
	Van Buren Boulevard—30 feet*	706
	Union Pacific Railroad—40 feet*	710
	Jurupa Road—10 feet*	715
	Pelspar Street—150 feet*	730
	Mission Boulevard—70 feet*	739
	Hastings Boulevard—50 feet*	747
Calimesa Channel	Interstate Highway 10 40 feet*	2,373
	Calimesa Boulevard—60 feet*	2,394
	9th Street—50 feet*	2,426
	4th Street—40 feet*	2,450
	3rd Street—30 feet*	2,481
	2nd Street—60 feet**	2,520
	2nd Street—60 feet*	2,527
	West County Line Road—10 feet**	2,556
Country Club Creek	Riverside Freeway—10 feet*	593
	Serfas Road—10 feet*	623
	Mountain View Drive—60 feet**	626
	Mountain View Drive—10 feet*	631
	Paseo Grande—40 feet*	712
Country Club Creek North Tributary	Confluence with Country Club Creek—40 feet upstream of confluence point.	623
	Paseo Grande—50 feet**	700

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Paseo Grande—20 feet*	704
Day Creek	Lucretia Avenue—130 feet*.	634
	64th Street—30 feet*	643
	Linonite Avenue—80 feet*.	656
East Cathedral Channel.	H Street extended—10 feet*.	369
	Grandview Avenue Extended—approximately 320 feet*.	500
	Foothill Drive Extended—approximately 5 feet**.	681
Edgemont B North Fork.	Atchison, Topeka and Santa Fe railroad—80 feet*.	1,520
	Edgemont Street—140 feet*.	1,531
	Dracaea Avenue—60 feet*.	1,538
	Eucalyptus Avenue—40 feet*.	1,549
El Cerrito Channel.	Minnesota Avenue—20 feet*.	790
	Quebec Avenue—30 feet*.	846
	Ontario Avenue—15 feet*.	860
	Marilyn Drive Extended—9 feet*.	871
	Kathy Way Extended—30 feet*.	889
	Corona Freeway—20 feet*.	942
Garden Air Golf Course Wash.	Interstate Highway 10 40 feet*.	2,347
	3rd Street—30 feet*	2,395
	Bryant Street extended—approximately 400 feet*.	2,570
Highland Springs Channel.	East 8th Street—90 feet*.	2,601
	East 8th Street—1,580 feet*.	2,625
Kalmia Street Wash.	Ivy Street—20 feet*	1,085
	2nd Avenue—130 feet*	1,089
	Washington Avenue—70 feet*.	1,096
	Adams Avenue—50 feet*	1,112
	Jefferson Avenue—40 feet*.	1,127
Lakeland Village Channel.	Grand Avenue—35 feet*.	1,285
	Ralley Avenue—5 feet*	1,293
	Southerland Avenue—30 feet*.	1,303
	Brightman Avenue—10 feet*.	1,311
	MacKay Avenue—10 feet*.	1,321
	Borrick Avenue—20 feet*.	1,327
	Hayes Avenue—10 feet*	1,337
Marshall Creek	14th Street—70 feet**	2,595
	14th Street—20 feet*	2,609
Murrieta Creek at Murrieta.	Washington Avenue—10 feet*.	1,061
	Ivy Street—10 feet*	1,085
	Kalmia Street—200 feet*.	1,094
	Tenaja Road—120 feet*	1,107
Murrieta Creek at Temecula.	First Street—200 feet*	1,001
	Main Street—320 feet*	1,005
	Rancho California Road—10 feet*.	1,009
North Cathedral Channel.	Date Palm Road—100 feet*.	288
	Cathedral Canyon Drive—100 feet*.	292
Park Hill Drain	Menlo Avenue—130 feet*.	1,605
	Girard Street—80 feet*	1,620
	Yale Street—10 feet**	1,634
Pigeon Pass Channel.	Fir Avenue—20 feet*	610
	Sunnymead Boulevard—105 feet*.	631
	U.S. Highway 60—220 feet*.	643
Pyrite Channel	Galena Street—10 feet*	772
	Pyrite Avenue—20 feet*	786
	Mission Boulevard—20 feet*.	819
	State Highway 60—70 feet**.	843
Reche Canyon	20 feet upstream of County Line.	1,330
	Unnamed Road—2080 feet upstream of County Line—50 feet*.	1,386
	Unnamed Road—4020 feet upstream of County Line—30 feet*.	1,430
Salt Creek	Murrieta Road—800 feet*.	1,413
	Warren Road—130 feet*	1,503
	Harrison Avenue—10 feet*.	1,507
	Fisher Street—10 feet*	1,510
Santa Ana River	River Road—100 feet*	549
	Hamner Avenue—90 feet*.	592
	Van Buren Boulevard—80 feet*.	606
	Union Pacific Railroad—120 feet*.	730
	Mission Boulevard—180 feet*.	785
	State Highway 60—200 feet*.	806
	Market Street—100 feet*.	812
San Sevaine Channel.	Dodd Street—10 feet*	855
	Bain Street—30 feet*	896
	Jurupa Road—80 feet*	701
	Galena Street—10 feet*	730
	Van Buren Boulevard—10 feet*.	746
Smith Creek	First crossing of the Banning-Idyllwild Panoramic Highway—50 feet*.	2,205
Spring Brook	Orange Street—10 feet*	840
	Riverside Freeway—140 feet**.	872
Sun City Channel A-A.	Ridgemoor Road—10 feet*.	1,412 1,417
	Chambers Avenue—80 feet**.	
Sun City Channel H-H.	Encanto Drive—35 feet*	1,432
Sunnymead Storm Channel.	Cottonwood Avenue—75 feet*.	585
	Dracaea Avenue—80 feet*.	604
	Indian Street—10 feet*	602
	Myers Avenue—140 feet*.	610
	Fir Avenue—45 feet*	619
	Sunnymead Boulevard—10 feet*.	653
	U.S. Highway 60—10 feet*.	668
	Perris Boulevard—15 feet*.	681
	Ironwood Avenue—60 feet**.	762
	Ironwood Avenue—30 feet*.	772
	Kitching Lane—40 feet*	829
Sunnyslope Channel.	Riverview Drive—100 feet*.	779
	Limonite Avenue—80 feet*.	793
	Pacific Avenue—30 feet*	802
	Rustic Lane—60 feet*	822
	Mission Boulevard—40 feet*.	836
Temecula Creek	Escondido Freeway—200 feet*.	980
	Pala Road—80 feet*	1,000
Temescal Wash	El Sobrante Avenue—250 feet*.	680
	Compton Avenue—10 feet*.	640
	Magnolia Avenue—40 feet*.	640
West Cathedral Channel.	State Highway 111—30 feet*.	306
	Terrace Road—45 feet*	470
	Grandview Avenue extended—180 feet*.	596
	Foothill Drive extended—50 feet*.	736
West San Sevaine Creek.	60th Street—10 feet*	600
	58th Street—60 feet*	660
	56th Street—10 feet*	677
	54th Street—10 feet*	690
	Jurupa Road—10 feet*	698
	Bain Street—40 feet*	705
1001 Ranch Drain.	Limonite Avenue—10 feet*.	800
	Lakeside Drive—30 feet*	846
	Live Oak Drive—30 feet*	900
	Ironstone Drive—110 feet*.	990
1001 Ranch Drain West Tributary.	Lakeside Drive—50 feet**.	831
	Lakeside Drive—10 feet*	842
Blind Canyon Channel.	Desert Hot Springs Corporate Limits.	1,487
	525 feet upstream of Desert Hot Springs Corporate Limits.	1,520
Desert Hot Springs Channel.	Cholla Drive—30 feet*	1,135
	West Drive—25 feet**	1,108

*Upstream of centerline.
**Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2930 Filed 1-30-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5015]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Santa Paula, Ventura County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Santa Paula, Ventura County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at at City Hall, 970 Ventura Avenue, Santa Paula, California. Send comments to: Mr. Jim Morrison, City Manager, City of Santa Paula, P.O. Box 569, Santa Paula, California 93060.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Santa Paula, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Santa Clara River	Downstream Corporate Limits.	225
	Palm Avenue Extension*.	238
	8th Street Extension-75 feet**.	244
Pagan Canyon	Santa Paula Street-25 feet**.	286
	Upstream Corporate Limits.	328
Santa Paula Creek	Intersection of Harvard Boulevard and Palm Avenue.	343
	Intersection of Harvard Boulevard and 12th Street.	269
	Intersection of Ojai Road and Orchard Street.	342
	Intersection of Ojai Road and Say Road.	402
	Intersection of Mariposa Drive and Birch Street.	478

Source of flooding	Location	depth in feet above ground
Shallow Flooding	Intersection of Steckel Drive and Main Street.	1
	Intersection of Santa Barbara Street and 11th Street.	2
	Intersection of Ojai Road and Saticoy Street.	3

* At centerline.
** Upstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2931 Filed 1-30-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5017]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Irvington, Essex County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Irvington, Essex County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Engineer's Office, Municipal building, Civic Square, Irvington, New Jersey. Send comments to: Honorable Robert Miller, Mayor of Irvington, Municipal Building, Civic Square, Irvington, New Jersey 07111

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Irvington, Essex County, New Jersey in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Elizabeth River	Yale Avenue	106
	Lyons Avenue	116
	Nye Avenue	122
	Springfield Avenue	124
	Clinton Avenue	136
	Madison Avenue	144
	Corporate Limits	147

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2933 Filed 1-30-79; 8:45 am]

[4210-01-M]

[24 CFR PART 1917]

Docket No. FI-3594

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Colonie, Albany County, N.Y.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 5862 of the FEDERAL REGISTER, on November 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410, (202) 755-5581 or Toll Free Line (800) 424-8872.

The following is a corrected notice:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hudson River	Downstream Corporate Limits.	24
	Upstream Corporate Limits.	24
Delphus Kill	Bike Path	197
	Pollock Road (Downstream).	236
	Pollock Road (Upstream).	243
	Interstate 87 (Downstream).	257
	Interstate 87 (Upstream).	266
	Northbound I-87 entrance Ramp (Upstream).	273
	Northbound I-87 Exhit Ramp (Upstream).	283
Kromma Kill	Corporate Limit	33
	Delaware and Hudson Railroad.	43
	Lincoln Avenue	43
	Spring Street	51
Lisha Kill	Corporate Limit	270
	Consaul Road	278
	Colonie Golf Course Service Road.	287
	State Highway 5	296
	Albany Street (downstream).	298
	Albany Street (upstream).	301
	Dam at Lukens Stables	313
	Private Road	319
	Conrail	324
	Cordell Road (Downstream).	335
Lisha Kill Tributary.	Mouth of Lisha Kill Tributary.	316
	Overland Street	339
	Nutwood Street	340
	Albany Street	342
	Corporate Limits	344
Mohawk River	Corporate Limit (Downstream).	149
	Niagra Mohawk Dam	185
	Crescent Dam	193
	U.S. Highway 9	194
	Interstate 87	196
	Delphus Kill	197
	Shaker Creek	200
	Corporate Limit (Upstream).	200
Sand Creek	Conrail	194
	Exchange Street	194
	Sand Creek Road (Downstream).	194
	Everett road	200
	Russell Road	210
	Private Road	213
	Foot Path (Downstream).	228
	Wilkins Avenue	242
	Foot Path (Upstream)	242
	Dirt Road	257
Shaker Creek	Mouth of Shaker Creek	200
	River Road	200
	Mill Road	236
	Farm Road	249
	State Highway 7	252
	Old Niskayuna road	263
	Pine Grove Road	255
	Sicker Road	260
	Airport Runway 10 (Upstream).	267
	Airport Terminal Road	268
	Airport Road	266
	Ann Lee Home Road	273
	State Highway 155	276

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: January 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2922 Filed 1-30-79; 8:45 a.m.]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5018]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of North Dansville, Livingston County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of North Dansville, Livingston County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the North Dansville Town Hall, 14 Clara Barton Street, Dansville, New York. Send comments to: Mr. Robert F. Hart, Supervisor of North Dansville, North Dansville Town Hall, 14 Clara Barton Street, Dansville, New York 14437.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator

gives notice of the proposed determinations of base (100-year) flood elevations for the Town of North Dansville, Livingston County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Canaseraga Creek	Downstream Corporate Limits.	614
	Hartman Road (Upstream Side).	631
	State Route 436 (Upstream Side).	652
	Upstream Corporate Limits.	721
Mill Creek	Confluence with Canaseraga Creek.	672
	Upstream Corporate Limits (Village of Dansville).	778
Little Mill Creek	Confluence with Mill Creek.	796
	Stone Falls Road (Upstream Side).	836

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2934 Filed 1-30-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5019]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Hunter, Cass County, N. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Hunter, Cass County, North Dakota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Hunter, North Dakota. Send comments to: Honorable Kenneth L. Thompson, Mayor, City of Hunter, City Hall, Hunter, North Dakota 58048.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Hunter, North Dakota, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, vertical datum
South Branch Elm River.	North Dakota Highway 18-50 feet*.	949
	Burlington Northern Railroad-100 feet*.	970
	Dam approximately 3000 feet upstream from the Burlington Northern Railroad-150 feet**.	972
	Dam approximately 3000 feet upstream from the Burlington Northern Railroad-100 feet*.	983

* Upstream from centerline.
** Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4126); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2935 Filed 1-30-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5020]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Eagle Point, Jackson County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Eagle Point, Jackson County, Oregon. These base (100-year)

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flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 136 Main Street, Eagle Point, Oregon. Send comments to: Mr. Robert C. Moore, City Manager, City of Eagle Point, City Hall, 136 Main Street, Eagle Point, Oregon.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Eagle Point, Oregon, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Butte Creek	Corporate Limits (approximately 90 feet upstream from State Highway 62)—at centerline.	1281
	Eagle Point Bridge—80 feet upstream from centerline.	1297

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2936 Filed 1-30-79; 8:45 am]

[4210-01—M]

[24 CFR Part 1917]

[Docket No. FI-5021]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Shady Cove, Jackson County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Shady Cove, Jackson County, Oregon. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 22451 Highway 62, Shady Cove, Oregon. Send comments to: Mr. Joe Sanders, Mayor, City of Shady Cove, City Hall, 22451 Highway 62, Shady Cove, Oregon 97539.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Shady Cove, Oregon, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rogue River	State Highway 62—100 feet *.	1393
	Corporate Limits (1st crossing upstream from State Highway 62)—at centerline.	1400

* Upstream from centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community

Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2937 Filed 1-30-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5022]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Kilbuck, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Kilbuck, Allegheny County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Kilbuck Township Municipal Building. Send comments to: Mr. John Graber, Chairman of the Board of Supervisors of Kilbuck, 119 Pineridge Road, Pittsburgh, Pennsylvania 15237.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Kilbuck, Allegheny County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lowries Run	At the Downstream Corporate Limits.	752
	Private Road located approximately 300 feet above Corporate Limits (Upstream).	753
	Footbridge located approximately 2,300 feet above Corporate Limits (Upstream).	773
	Private Road Located approximately 700 feet below the Upstream Corporate Limits (Upstream).	780
	Footbridge located approximately 500 feet below the Upstream Corporate Limits (Upstream).	781
	Upstream Corporate Limits.	782
Ohio River	At the Downstream Corporate Limits.	719
	At the Upstream Corporate Limits.	719

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2938 Filed 1-30-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5023]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Hill City, Pennington County, S. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town Of Hill City, Pennington County, South Dakota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Hill City, South Dakota. Send comments to: Honorable Ralph Johnson, Mayor, Town of Hill City, Box 395, Hill City, South Dakota 57745.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Hill City, South Dakota, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

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These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Spring Creek	Downstream Corporate Limits.	4949
	Harney Peak Avenue (first crossing)—upstream side.	4967
	Burlington Northern Railroad—most upstream crossing.	4978
	Upstream Corporate Limits.	4989

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 STAT. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2939 Filed 1-30-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5024]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Morton, Lewis County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Morton, Lewis County, Washington. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Main Street, Morton, Washington. Send comments to: Honorable Elmer Jastad, Mayor, City of Morton, P.O. Box 1089, Morton, Washington 98356.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Morton, Washington, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tilton River	County Bridge (State Highway 508)—50 feet upstream of centerline.	911
Lake Creek	Bridge Crossing (1200 feet downstream of U.S. Highway 12)—centerline.	933

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2940 Filed 1-30-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5025]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Pe Ell, Lewis County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Pe Ell, Lewis County, Washington. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Pe Ell, Washington. Send comments to: Honorable Michael Taylor, Mayor, Town of Pe Ell, P.O. Box 215, Pe Ell, Washington 98572.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Pe Ell, Washington, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chehalis River	Highway 6 Bridge-30 feet*.	366
Stowe Creek	Third Street Bridge-40 feet*.	401
	Burlington Northern Railroad Bridge-30 feet*.	406
	Kelso Street Bridge-40 feet*.	415

* Upstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2941 Filed 1-30-79; 8:45 am]

[4210-01—M]

[24 CFR Part 1917]

[Docket No. FI-5026]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Charles Town, Jefferson County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Charles Town, Jefferson County, West Virginia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, Charles Town, West Virginia. Send comments to: Honorable D. C. Master, Mayor of Charles Town, Box 14, Charles Town, West Virginia 25414.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Charles Town, Jefferson County, West Virginia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Evitts Run	Downstream Corporate Limits.	473
	Saint Augustine Avenue Bridge.	486
	Washington Street Bridge.	491
	Upstream Corporate Limits.	498

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: January 19, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-2942 Filed 1-30-79; 8:45 am]

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[Docket No. DCO-78-40; FRL 1048-3]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of Delayed Compliance Orders Issued by the South Carolina Department of Health and Environmental Control to Westvaco Corp., North Charleston, S.C.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposed to approve a delayed compliance order issued by the South Carolina Department of Health and Environmental Control to Westvaco Corporation, North Charleston, South Carolina. The delayed compliance order requires the Westvaco Corporation to bring air emmissions from the lime kilns and recovery furnaces at its North Charleston, S.C., facilities into compliance with an applicable regulation contained in the South Carolina State Implementation Plan (SIP) by June 15, 1979. Because the order has been issued to a major source and permits a delay in compliance with the provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulatons covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before March 2, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Bert Cole, U.S. Environmental Protection Agency, Region IV, Enforcement Division, Air Enforcement Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308, Telephone Number: (404) 881-4298.

SUPPLEMENTARY INFORMATION: Westvaco Corporation operates a Pulp and Paper manufacturing facility at North Charleston, South Carolina. The order under consideration addresses emissions from lime kilns Numbered 1, 2, and 3 and recovery furnaces Numbered 6, 7, and 8 which are subject to South Carolina Air Pollution Control Regulation 62.6, Standard No. 5, Section II. This regulation in pertinent part, limits particulate emissions from lime kilns and recovery furnaces, and is part of the federally-approved South Carolina State Implementation Plan. The order requires final compliance with the regulation by June 15, 1979, through the implementation of the following schedules for the construction or installation of control equipment:

SCHEDULE A—LIME KILNS NUMBERED 1, 2, AND 3

Westvaco shall complete the following increments with respect to these lime kilns on or before the dates specified:

1. January 15, 1978—submit to the Department necessary applications for permits for pollution control equipment for lime kilns numbered 1 and 2. Lime kiln number 3 is presently equipped with pollution control equipment. It is agreed that this increment has been met by Westvaco.

2. May 15, 1978—negotiate and sign critical purchase orders for aforementioned pollution control equipment. It is agreed that this increment has been met by Westvaco.

3. October 15, 1978—begin installation of pollution control equipment.

4. April 15, 1979—complete installation of pollution control equipment.

5. June 1979—submit to the Department acceptable source emission tests certifying that lime kilns numbered 1, 2, and 3 are in compliance with applicable South Carolina Department of Health and Environmental Control, Air Pollution Control Regulations and Standards.

SCHEDULE B—RECOVERY FURNACES 6, 7, AND 8

Westvaco shall complete the following increments with respect to its recovery furnaces numbered 6, 7, and 8 on or before the dates specified.

1. December 1, 1977—negotiate and sign a purchase order for a new electrostatic precipitator for recovery furnaces 6, 7, and 8. It is agreed that this increment has been met by Westvaco.

2. August 1, 1978—begin construction of new electrostatic precipitator for recovery furnaces 6, 7, and 8.

3. March 1, 1979—complete construction of aforementioned electrostatic precipitator.

4. March 1, 1979—tie-in one recovery furnace to aforementioned electrostatic precipitator.

5. April 1, 1979—tie-in a second recovery furnace to aforementioned electrostatic precipitator.

6. May 1, 1979—tie-in a third recovery furnace to aforementioned electrostatic precipitator.

7. June 15, 1979—submit to the Department acceptable source emission tests certifying that recovery furnaces 6, 7, and 8 are in compliance with South Carolina Department of Health and Environmental Control, Air Pollution Control Regulations and Standards.

The Source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. The interim limits which must be adhered to prior to the attainment of the last milestone include the following requirements:

1. Procedures for changing black liquor spray nozzle diameters and/or shutdown of the affected recovery boiler(s) when specified minimum primary precipitator voltages are not maintained.

2. South Carolina has established minimum pressure differentials for lime kiln scrubbers nos. 1, 2, 3, and 4.

3. Minimum header pressures have been determined by South Carolina for the recirculator lines on scrubbers for kilns 1 and 2.

4. The mass feed rate for lime kiln number 4 will remain between 650 and 750 TPD of $CaCO_3$ for the duration of the Order.

5. Whenever the pressure differential across any of the kiln scrubbers drops below the minimum level, the line mud feed to said kiln will cease.

These interim limits will remain in effect until attainment of the final milestone has been demonstrated.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before becoming effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the SIP. Compliance with the proposed order will not exempt the company from complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601.)

Dated: January 18, 1979.

JOHN A. LITTLE,
Acting Regional Administrator, Region IV.

[FR Doc. 79-3295 Filed 1-30-79; 8:45 am]

[4110-86-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

[42 CFR Part 71]

IMPORTATION OF DOGS AND CATS

Decision To Develop Regulations

AGENCY: Center for Disease Control, PHS, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The proposed revision will modify requirements for importation of dogs and cats into the United States, eliminate the inspection requirements for wild dogs (dogs other than domestic dogs, *Canis familiaris*) and wild cats (cats other than domestic cats, *Felis domesticus*), and eliminate vaccination requirements for wild dogs. Rabies vaccination requirements for domestic dogs will be modified to reflect changes in available vaccines and to provide a more expeditious system for immunizing dogs when necessary.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph F. Giordano, Director, Quarantine Division, Bureau of Epidemiology, Center for Disease Control, PHS, HEW, Atlanta, Georgia 30333, telephone (404) 329-3674, or FTS: 236-3674.

Dated: December 21, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

[FR Doc. 79-3305 Filed 1-30-79; 8:45 am]

[4110-86-M]

[42 CFR Part 71]

DISINSECTING OF AIRCRAFT

Decision To Develop Regulations

AGENCY: Center for Disease Control, PHS, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The existing regulation will be revised to eliminate the requirement for routine disinsecting of aircraft on certain international flights landing at airports under the control of the United States. The revision will require disinsecting of aircraft only if it arrives from an area that is infected with insect-borne communicable diseases and is suspected of harboring insects of public health importance, and if the Director of the Center for Disease Control considers the disinsecting to be necessary. The revision will also require that insecticide formulations used in disinsecting aircraft be recommended by the World Health Organization, registered by the United States Environmental Protection Agency, and used in the manner described on the label.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph F. Giordano, Director, Quarantine Division, Bureau of Epidemiology, Center for Disease Control, PHS, HEW, Atlanta, Georgia 30333, telephone (404) 329-3674, or FTS: 236-3674.

Dated: November 14, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

[FR Doc. 79-3304 Filed 1-30-79; 8:45 am]

[4110-92-M]

Office of Human Development Services

[45 CFR Chapter XIII]

OLDER AMERICANS PROGRAM

Grants to Indian Tribes for Community Programs and Multipurpose Senior Centers

AGENCY: Office of Human Development Services, DHEW.

ACTION: Notice of decision to regulate.

SUMMARY: The Administration on Aging (AoA) in the Office of Human Development Services proposes regulations with a 60 day public comment period for a new grant program for Indian tribes. The purpose of this new program is to ensure that social and nutritional services are provided to Indians, age 60 and older, that are comparable to those received by the rest of the general older population in the United States. A secondary purpose of the program is to establish multipurpose senior centers that can also be used as extended care facilities, community center facilities or to provide nutritional services, child care services, and other social services. The Administration on Aging is operating under a continuing resolution in Fiscal Year 1979 in which no new programs may be funded therefore it is not anticipated that this program will begin in this fiscal year.

FOR FURTHER INFORMATION CONTACT:

Mr. Fred Luhmann, Division of State and Community Programs, Administration on Aging, Room 4649, HEW North Building, 330 Independence Avenue, S.W., Washington, D.C. 20201.

Dated: January 24, 1979.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 79-3307 Filed 1-30-79; 8:45 am]

[4110-92-M]

[45 CFR Parts 1320, 1321, 1324, 1326]

OLDER AMERICANS PROGRAM

Grants for State and Community Programs on Aging

AGENCY: Office of Human Development Services, DHEW.

ACTION: Notice of Decision to Recodify.

SUMMARY: The Administration on Aging (AoA) proposes to develop regulations for State and Community Programs on Aging. The basis for this proposed action is the passage of the Comprehensive Older Americans Act Amendments of 1978. These amendments consolidate under one title of the Act three programs: social services, nutrition services, and multipurpose senior centers. These programs were authorized before under three separate titles, III, V, and VII. The Administration on Aging will also revise, or clarify as necessary, the current regulatory provisions which have continued applicability.

FOR FURTHER INFORMATION CONTACT:

Mr. Fred Luhmann, Division of State and Community Programs, Administration on Aging, Room 4649, HEW North Building, 330 Independence Avenue, SW., Washington, D.C. 20201, (202) 472-3057.

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Dated: January 24, 1979.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 79-3308 Filed 1-30-79; 8:45 am]

[4110-39-M]

National Institute of Education

[45 CFR Part 1495]

LEGAL AND GOVERNMENTAL STUDIES RESEARCH GRANTS PROGRAM

Decision To Develop Regulations

AGENCY: National Institute of Education, Department of Health, Education, and Welfare.

ACTION: Notice of decision to develop interim final rules.

SUMMARY: Interim final regulations are to be drafted providing for a research grants program on legal and governmental studies in education that expands previous work done in law and education in light of the Institute's recent reorganization. Approval of interim final rules will be sought on the basis that this program is part of a package of Agency programs which are being considered for consolidation into a new, single comprehensive research grants program regulation which will be offered for public comment. The interim final rules will: a. define a research program so as to: 1) produce systematic knowledge about how legislative, judicial, and administrative policies are developed and implemented at Federal and State levels, and 2) use the increased understanding of the governance process in education to provide a basis for improvements in the capacity of Federal, State, and local participants in the system to carry out their responsibilities; b. specify project and applicant eligibility, type of awards available, review procedures, and evaluation criteria; and c. govern the selection of applicants for funding.

FOR FURTHER INFORMATION CONTACT:

Dr. Donald W. Burnes, Legal and Governmental Studies Team, Law and Public Management, EPO, NIE, 1200 19th Street, NW., Washington, D.C. 20208. (202) 254-6070.

(Catalog of Federal Domestic Assistance No.13.950, Educational Research and Development.)

Dated: January 9, 1979.

MICHAEL TIMPANE,
Acting Director, National Institute of Education.

[FR Doc. 79-3306 Filed 1-30-79; 8:45 am]

[4910-22-M]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[BMCS Docket No. MC-83; Notice No. 79-1]

[49 CFR Part 393]

FEDERAL MOTOR CARRIER SAFETY REGULATIONS

Air Brake System on Commercial Motor Vehicles—NHTSA Standard No. 121

AGENCY: Federal Highway Administration, DOT.

ACTION: Termination of proposed rulemaking.

SUMMARY: The Federal Highway Administration issues this document to terminate the rulemaking action regarding a revision of the Federal Motor Carrier Safety Regulations to require that any antilock system installed on the drive axle of truck tractors to comply with Federal Motor Vehicle Safety Standard 121 be kept operative by motor carriers engaged in interstate or foreign commerce, in order to enhance highway safety.

FOR FURTHER INFORMATION CONTACT:

Mr. William R. Fiste, Jr., Chief, Regulations Division, Bureau of Motor Carrier Safety, 202/426-0033; or Mrs. Kathleen S. Markham, Office of the Chief Counsel, 202/426-0346, Federal Highway Administration, Department of Transporation, Washington, D.C. 20590. Office hours are 7:45 a.m. to 4:15 p.m. ET Monday through Friday.

SUPPLEMENTARY INFORMATION: On March 8, 1978, the Bureau of Motor Carrier Safety (BMCS) issued a notice of proposed rulemaking (43 FR 9626, March 9, 1978) proposing to amend the Federal Motor Carrier Safety Regulations by adding 49 CFR 393.40(d) to require that any antilock system installed on the drive axle of truck tractors to comply with Federal Motor Vehicle Safety Standard No. 121, 49 CFR 571.121, be maintained in operable condition by motor carriers engaged in interstate of foreign commerce. The National Highway Traffic Safety Administration (NHTSA) also issued a notice of proposed rulemaking regarding the antilock device on this date. Subsequently, on April 17, 1978, the United States Court of Appeals for the Ninth Circuit held that until such time as the NHTSA develops evidence that the new braking systems required by the FMVS Standard 121, do not create the possibility of greater danger to the public, those parts of the Standard requiring heavier axles and the antilock device should be suspended. "PACCAR, Inc. v. National Highway Traffic Safety Administration and Department of Transportation," 573 F.2d 632 (9th Cir. 1978). The court held "that more probative and convincing data evidencing the reliability and safety of vehicles that are equipped with antilock and in use must be available before the agency (NHTSA) can enforce a standard requiring its installation." The United States Supreme Court denied certiorari. In accordance with the court's decision, NHTSA cannot at this time enforce the standard requiring the installation of the antilock device; therefore, BMCS cannot require that antilock systems installed on the drive axles of truck tractors to comply with this standard be maintained in operable condition.

In view of the foregoing, BMCS Docket No. MC-83; Notice No. 78-7 is hereby terminated.

The termination of this proposed rulemaking is issued under the authority of 49 U.S.C. 304 and 1655; 49 CFR 1.48 and 301.60.

Issued on: January 16, 1979.

KARL S. BOWERS,
Administrator, Federal Highway Administration.

[FR Doc. 79-3228 Filed 1-30-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1126]

[Ex Parte No. 293 (Sub-No. 3)]

SUBMISSION OF COST DATA TO JUSTIFY REIMBURSEMENT FOR DIRECTED SERVICE

Implementation of Regional Rail Reorganization Act of 1973—Submission of Cost Data To Justify Reimbursement

AGENCY: Interstate Commerce Commission.

ACTION: Adoption of Proposed Rulemaking.

SUMMARY: The Commission is adopting the proposed revisions to 49 CFR Part 1126 published August 17, 1978. See 43 FR 36455. These regulations concern service directed by the Commission under 49 U.S.C. 11125 (formerly 49 U.S.C. 1(16)(b)). The revisions establish a three-stage funding procedure for payment of the costs incurred by the directed carrier. One suggested change in the proposed procedure has been adopted. It requires that the Commission certify to the Treasury Department the amount of the initial and interim payments to be made to the directed carrier within 30 days of the carrier's request.

At the same time, the Commission is revising the regulations at Part 1126 to reflect the recodification of the Interstate Commerce Act, in Pub. L. No. 95-473, and the Commission's new Uniform System of Accounts, 49 CFR 1201.

DATE: These revisions will be effective January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Marvin G. Bober, 202-275-7564.

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 11125 (formerly 49 U.S.C. 1(16)(b)), the Commission has authority to direct a rail carrier to perform essential transportation services which another rail carrier is no longer able to perform, for a period of 60 days (or an extended period of no more than 240 days).

The authority to order directed service is to be used as an interim emergency measure to prevent severe transportation and economic dislocations resulting from the cessation of services. The Commission is required to reimburse the directed carrier for any deficits incurred in the performance of the directed services. Furthermore, the Commission may not direct operations that would substantially impair the ability of the directed carrier to serve adequately its own patrons or to meet its outstanding common carrier obligations.

Both the statute and the existing regulations contemplate payment of all deficits after completion of the directed service period. When the Commission adopted its regulations, it was presumed that the directed carrier would be able to borrow the necessary operating funds, allowing its claim to reimbursement to be assigned to the lending institution. See *Regional Rail Reorg. Act—Submission of Cost Data*, 348 I.C.C. 251, 276 (1975).

However, present circumstances indicate that earlier payment may be necessary to ensure the provision of adequate service. Class I railroads are facing bankruptcy and experiencing cash shortages. The Commission must select as a directed carrier one which has, or can borrow, sufficient cash to meet start-up costs. The carrier must also be able to absorb temporarily any operating losses incurred. There may be instances in which no carrier with sufficient financial resources is available. Financial institutions may be reluctant to supply funds.

To effectuate the statutory program and ensure that directed service will be available when needed, we are revising our regulations to provide for payments to meet a directed carrier's cash requirements.

A three-stage funding procedure is established. First, a directed carrier will receive an immediate payment to cover start-up costs. Second, on the basis of periodic carrier reports on operations and cash position, additional monies will be paid out to remedy any serious cash flow problems. Finally, on completion of the directed service, a final accounting will be made. The Commission will pay any amount determined still owing to the directed carrier. On the other hand, if the directed carrier has received more than it is entitled to, the difference will be payable to the Commission 30 days after determination of the amount.

The procedures are designed to be flexible and not to impose any great burden on the directed carrier. By using these procedures, the directed service will not impair the carrier's own services or its ability to meet its obligations.

The sole comment in response to our notice of the proposed rules was by the Association of American Railroads (AAR). AAR supports the procedure and suggests that we impose time limits on our processing of the initial and interim funding requests. We recognize that directed service is an emergency request and intend to facilitate the service through this funding procedure as expeditiously as possible. The proposed thirty-day time limit meets the spirit of the funding procedure; therefore we have incorporated it into the final regulations.

Revised 49 CFR Part 1126 is reprinted below.

Dated: January 9, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp.

H. G. HOMME, Jr.,
Secretary.

APPENDIX

PART 1126—SUBMISSION OF COST DATA TO JUSTIFY REIMBURSEMENT FOR DIRECTED SERVICE

Sec.
1126.1 Scope of rules in this part.
1126.2 Cost form and certification.
1126.3 Optional Cash Funding Procedures.

Authority: Sec. 601(e), Pub. L. 93-236, 87 Stat. 1021 (49 U.S.C. 11125).

§ 1126.1 Scope of rules in this part.

The rules in this part govern the procedures for the submission of costs and revenues to be followed by carriers subject to the jurisdiction of the Interstate Commerce Commission under Subchapter I of chapter 105, Subtitle IV, Title 49, U.S. Code, which are directed by the Commission to perform service over the lines of other carriers under the provisions of 49 U.S.C. 11125 (formerly 49 U.S.C. 1(16)(b)). The Commission's report in *Regional Rail Reorg. Act—Submission of Cost Data*, 348 I.C.C. 251 (1975), should be used by directed carriers for guidance in the preparation of the cost form. The report and its appendix set forth the Commission's policy as to the costs and revenues, incurred in or attributable to the conduct of directed operations, are allowable for inclusion in the cost form. Only such allowable costs and revenues will be considered by the Commission in its computation of payments due to the directed carrier under the provisions of section 11125.

§ 1126.2 Cost form and certification.

The expenses and revenues incurred in the conduct of directed service shall be recorded in accordance with the cost form and instructions below:

INSTRUCTIONS TO COST FORM

1. Enter in column (7) the expenses directly assignable to the directed traffic moved. This includes wages, rentals and other expenses paid or incurred by the applicant and chargeable only to the directed traffic.

2. Enter in column (8) the portion of common expenses allocable to the directed traffic. Common expenses are those expenses paid or incurred for the movement of the directed traffic which are common or jointly incurred for the movement of other traffic. All expenses should be assigned directly wherever possible. Expenses not directly assignable should be apportioned on the basis of the factor suggested in column (10) or if necessary, on the basis of a more readily available and equitable factor, if such use is justified to the Commission. The relationship of the carriers' own revenues and the directed traffic revenues is an acceptance apportionment factor in cases where there are no other available apportionment factors.

3. Enter in column (9) the total of columns (7) and (8).

4. The cost of rehabilitation of the line necessary to permit operation should be shown in the way and structures accounts. Expenditures for substantial improvements shall require authorization by the Commission.

5. Expenses included in lines 53, 54, 55, 131, 140, 159, 169, 176, 183, 190, 249, and 262 should be identified on a separate sheet.

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COST FORM

Sheet 1 of 15

Line No.	Account Name (1)	Account Number: Salaries and Wages (2)	Materials and Supplies (3)	Purchased Services (4)	General (5)	Total Cols.(2)-(5) (6)	Directed Traffic: Direct (7)	Common Apportioned (8)	Total Cols.(7)+(8) (9)	Suggested Apportionment Factors (10)
	Operating Expenses									
	Way and Structures									
1	Administration - Track	11-13-02	21-13-02	41-13-02	61-13-02		xxx	xxx	xxx	xxx
2	Roadway Maint. - Running	11-11-10	21-11-10	39/40/41-11-10	61-11-10		xxx	xxx	xxx	xxx
3	Roadway Maint. - Switching	11-12-10	21-12-10	39/40/41-12-10	61-12-10		xxx	xxx	xxx	xxx
4	Road Property Damaged - Running	11-11-48	21-11-48	39/40/41-11-48	61-11-48		xxx	xxx	xxx	xxx
5	Road Property Damaged - Switching	11-12-48	21-12-48	39/40/41-12-48	61-12-48		xxx	xxx	xxx	xxx
6	Ties - Running	xxx	21-11-13	xxx	xxx		xxx	xxx	xxx	xxx
7	Ties - Switching	xxx	21-12-13	xxx	xxx		xxx	xxx	xxx	xxx
8	Rails - Running	xxx	21-11-14	xxx	xxx		xxx	xxx	xxx	xxx
9	Rails - Switching	xxx	21-12-14	xxx	xxx		xxx	xxx	xxx	xxx
10	Other Track Material-Running	xxx	21-11-15	xxx	xxx		xxx	xxx	xxx	xxx
11	Other Track Material-Switching	xxx	21-12-15	xxx	xxx		xxx	xxx	xxx	xxx
12	Ballast - Running	xxx	21-11-16	xxx	xxx		xxx	xxx	xxx	xxx
13	Ballast - Switching	xxx	21-12-16	xxx	xxx		xxx	xxx	xxx	xxx
14	Track Laying & Surfacing - Running	11-11-17	21-11-17	39/40/41-11-17	61-11-17		xxx	xxx	xxx	xxx
15	Track Laying & Surfacing - Switching	11-12-17	21-12-17	39/40/41-12-17	61-12-17		xxx	xxx	xxx	xxx
16	Total - Ls. 1 thru 15									Equated Track Miles
17	Administration - Signals	11-13-04	21-13-04	41-13-04	61-13-04		xxx	xxx	xxx	xxx
18	Station and Office Bldgs.	11-13-23	21-13-23	39/40/41-13-23	61-13-23		xxx	xxx	xxx	xxx
19	Motor Veh. Loading & Distribution Facilities	11-13-33	21-13-33	39/40/41-13-33	61-13-33		xxx	xxx	xxx	xxx
20	Facilities for Other Specialized Ser. Opns.	11-13-35	21-13-35	39/40/41-13-35	61-13-35		xxx	xxx	xxx	xxx
21	Signals & Interlockers - Running	11-11-19	21-11-19	39/40/41-11-19	61-11-19		xxx	xxx	xxx	xxx

Sheet 2 of 15

Line No.	Account Name (1)	Account Number: Salaries and Wages (2)	Materials and Supplies (3)	Purchased Services (4)	General (5)	Total Cols.(2)-(5) (6)	Directed Traffic: Direct (7)	Common Apportioned (8)	Total Cols.(7)+(8) (9)	Suggested Apportionment Factors (10)
22	Signals and Interlockers - Switching	11-12-19	21-12-19	39/40/41-12-19	61-12-19		xxx	xxx	xxx	xxx
23	Total - Ls. 17 thru 22									Carloads Handled
24	Administration - Communications	11-13-05	21-13-05	41-13-05	61-13-05		xxx	xxx	xxx	xxx
25	Loco. Serv. Facilities	11-13-27	21-13-27	39/40/41-13-27	61-13-27		xxx	xxx	xxx	xxx
26	Communication Systems	11-13-20	21-13-20	39/40/41-13-20	61-13-20		xxx	xxx	xxx	xxx
27	Total - Ls. 24 thru 26									Revenue Tons
28	Shop Bldgs. - Locomotives	11-13-24	21-13-24	39/40/41-13-24	61-13-24		xxx	xxx	xxx	xxx
29	Shop Bldgs. - Freight Cars	11-13-25	21-13-25	39/40/41-13-25	61-13-25		xxx	xxx	xxx	xxx
30	Shop Bldgs. - Other Equip.	11-13-26	21-13-26	39/40/41-13-26	61-13-26		xxx	xxx	xxx	xxx
31	Road Property Damaged - Other	11-13-48	21-13-48	39/40/41-13-48	61-13-48		xxx	xxx	xxx	xxx
32	Total - Ls. 28 thru 31									Total Repair Expenses
33	Misc. Bldgs. & Structures	11-13-28	21-13-28	39/40/41-13-28	61-13-28		xxx	xxx	xxx	xxx
34	Other Marine Terminals	11-13-32	21-13-32	39/40/41-13-32	61-13-32		xxx	xxx	xxx	xxx
35	Coal Terminals	11-13-29	21-13-29	39/40/41-13-29	61-13-29		xxx	xxx	xxx	xxx
36	Ore Terminals	11-13-30	21-13-30	39/40/41-13-30	61-13-30		xxx	xxx	xxx	xxx
37	Total - Ls. 33 thru 36									Miles of Rd. Trailers Handled, Loaded & Empty
38	TOFC/COFC Terminals	11-13-31	21-13-31	39/40/41-13-31	61-13-31					
39	Administration - Bridges & Bldgs.	11-13-03	21-13-03	41-13-03	61-13-03		xxx	xxx	xxx	xxx
40	Tunnels & Subways - Running	11-11-11	21-11-11	39/40/41-11-11	61-11-11		xxx	xxx	xxx	xxx

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Line No.	Account Name (1)	Account Number: Salaries and Wages (2)	Materials and Supplies (3)	Purchased Services (4)	General (5)	Total Cols.(2)-(5) (6)	Directed Traffic: Direct (7)	Common Apportioned (8)	Total Cols.(7)+(8) (9)	Suggested Apportionment Factors (10)
41	Tunnels & Subways - Switching	11-12-11	21-12-11	39/40/41-12-11	61-12-11		xxx	xxx	xxx	xxx
42	Bridges & Culverts - Running	11-11-12	21-11-12	39/40/41-11-12	61-11-12		xxx	xxx	xxx	xxx
43	Bridges & Culverts - Switching	11-12-12	21-12-12	39/40/41-12-12	61-12-12		xxx	xxx	xxx	xxx
44	Total - Ls. 39 thru 43									Equated Track Miles
45	Sum of Ls. 16,23,27,32,37, 38, and 44									xxx
46	Adminstration - Other	11-13-06	21-13-06	41-13-06	61-13-06		xxx	xxx	xxx	xxx
47	Fringe Benefits - Running	xxx	xxx	xxx	12-11-00		xxx	xxx	xxx	xxx
48	Fringe Benefits - Switching	xxx	xxx	xxx	12-12-00		xxx	xxx	xxx	xxx
49	Fringe Benefits - Other	xxx	xxx	xxx	12-13-00		xxx	xxx	xxx	xxx
50	Casualties & Insurances - Running	xxx	xxx	xxx	52/53 - 11-00		xxx	xxx	xxx	xxx
51	Casualties & Insurances - Switching	xxx	xxx	xxx	52/53 - 12-00		xxx	xxx	xxx	xxx
52	Casualties & Insurances - Other	xxx	xxx	xxx	52/53 - 13-00		xxx	xxx	xxx	xxx
53	Other - Running	11-11-99	21-11-99	41-11-99	61-11-99		xxx	xxx	xxx	xxx
54	Other - Switching	11-12-99	21-12-99	41-12-99	61-12-99		xxx	xxx	xxx	xxx
55	Other - Other	11-13-99	21-13-99	41-13-99	61-13-99		xxx	xxx	xxx	xxx
56	Total - Ls. 46 thru 55									Line 45
57	Depreciation - Running	xxx	xxx	xxx	62-11-00		xxx	xxx	xxx	xxx
58	Depreciation - Switching	xxx	xxx	xxx	62-12-00		xxx	xxx	xxx	xxx
59	Depreciation - Other	xxx	xxx	xxx	62-13-00		xxx	xxx	xxx	xxx
60	Roadway Machines	11-13-36	21-13-36	39/40/41-13-36	61-13-36		xxx	xxx	xxx	xxx
61	Highway Grade Crossings-Running	11-11-22	21-11-22	39/40/41-11-22	61-11-22		xxx	xxx	xxx	xxx
62	Highway Grade Crossings - Switching	11-12-22	21-12-22	39/40/41-12-22	61-12-22		xxx	xxx	xxx	xxx
63	Total - Ls. 57 thru 62									Miles of Road

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Line No.	Account Name (1)	Account Number: Salaries and Wages (2)	Materials and Supplies (3)	Purchased Services (4)	General (5)	Total Cols.(2)-(5) (6)	Directed Traffic: Direct (7)	Common Apportioned (8)	Total Cols.(7)+(8) (9)	Suggested Apportionment Factors (10)
64	Electric Power Systems	11-13-21	21-13-21	39/40/41-13-21	61-13-21					Electric Locomotive Unit Miles or Line 96, 105, & 116
65	Joint Facility - Debit - Running	xxx	xxx	37-11-00	xxx		xxx	xxx	xxx	xxx
66	Joint Facility - Debit - Switching	xxx	xxx	37-12-00	xxx		xxx	xxx	xxx	xxx
67	Joint Facility - Debit - Other	xxx	xxx	37-13-00	xxx		xxx	xxx	xxx	xxx
68	Joint Facility - (Credit) - Running	xxx	xxx	38-11-00	xxx		xxx	xxx	xxx	xxx
69	Joint Facility - (Credit) - Switching	xxx	xxx	38-12-00	xxx		xxx	xxx	xxx	xxx
70	Joint Facility - (Credit) - Other	xxx	xxx	38-13-00	xxx		xxx	xxx	xxx	xxx
71	Total - Ls. 65 thru 70									Miles of Track
72	Small Tools & Supplies	11-13-37	21-13-37	39/40/41-13-37	61-13-37		xxx	xxx	xxx	xxx
73	Snow Removal	11-13-38	21-13-38	30/40/41-13-38	61-13-38		xxx	xxx	xxx	xxx
74	Lease Rentals - Debit - Running	xxx	xxx	31-11-00	xxx		xxx	xxx	xxx	xxx
75	Lease Rentals - Debit - Switching	xxx	xxx	31-12-00	xxx		xxx	xxx	xxx	xxx
76	Lease Rentals - Debit - Other	xxx	xxx	31-13-00	xxx		xxx	xxx	xxx	xxx
77	Lease Rentals - (Credit) - Running	xxx	xxx	32-11-00	xxx		xxx	xxx	xxx	xxx
78	Lease Rentals - (Credit) - Switching	xxx	xxx	32-12-00	xxx		xxx	xxx	xxx	xxx
79	Lease Rentals - (Credit) - Other	xxx	xxx	32-13-00	xxx		xxx	xxx	xxx	xxx

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Line No.	Account Name (1)	Account Number: Salaries and Wages (2)	Materials and Supplies (3)	Purchased Services (4)	General (5)	Total Cols.(2)-(5) (6)	Directed Traffic: Direct (7)	Common Apportioned (8)	Total Cols.(7)+(8) (9)	Suggested Apportionment Factors (10)
80	Joint Facility Rents - Debit - Running	xxx	xxx	33-11-00	xxx		xxx	xxx	xxx	xxx
81	Joint Facility Rents - Debit - Switching	xxx	xxx	33-12-00	xxx		xxx	xxx	xxx	xxx
82	Joint Facility Rents - Debit - Other	xxx	xxx	33-13-00	xxx		xxx	xxx	xxx	xxx
83	Joint Facility Rents -(Credit)- Running	xxx	xxx	34-11-00	xxx		xxx	xxx	xxx	xxx
84	Joint Facility Rents -(Credit)- Switching	xxx	xxx	34-12-00	xxx		xxx	xxx	xxx	xxx
85	Joint Facility Rents -(Credit)- Other	xxx	xxx	34-13-00	xxx		xxx	xxx	xxx	xxx
86	Other Rents - Debit - Running	xxx	xxx	35-11-00	xxx		xxx	xxx	xxx	xxx
87	Other Rents - Debit - Switching	xxx	xxx	35-12-00	xxx		xxx	xxx	xxx	xxx
88	Other Rents - Debit - Other	xxx	xxx	35-13-00	xxx		xxx	xxx	xxx	xxx
89	Other Rents -(Credit) - Running	xxx	xxx	36-11-00	xxx		xxx	xxx	xxx	xxx
90	Other Rents -(Credit) - Switching	xxx	xxx	36-12-00	xxx		xxx	xxx	xxx	xxx
91	Other Rents -(Credit) - Other	xxx	xxx	36-13-00	xxx		xxx	xxx	xxx	xxx
92	Total - Ls. 72 thru 91							xxx		Direct
93	TOTAL - Way & Structures - Sum of Ls. 16, 23, 27, 32, 37, 38, 44, 56, 63, 64, 71, and 92						xxx	xxx		xxx

Sheet 6 of 15

Line No.	Account Name (1)	Account Number: Salaries and Wages (2)	Materials and Supplies (3)	Purchased Services (4)	General (5)	Total Cols.(2)-(5) (6)	Directed Traffic: Direct (7)	Common Apportioned (8)	Total Cols.(7)+(8) (9)	Suggested Apportionment Factors (10)
	Equipment									
	Locomotives									
94	Lease Rentals - Debit	xxx	xxx	31-21-00	xxx		xxx	xxx	xxx	xxx
95	Other Rents - Debit	xxx	xxx	35-21-00	xxx		xxx	xxx	xxx	xxx
96	Total - Ls. 94 and 95									Locomotive Unit Miles
97	Repair & Maintenance	11-21-41	21-21-41	39/41-21-41	61-21-41		xxx	xxx	xxx	xxx
98	Repairs Billed to Others- (Credit)	xxx	xxx	40-21-41	xxx		xxx	xxx	xxx	xxx
99	Equipment Damaged	11-21-48	21-21-48	39/41-21-48	61-21-48		xxx	xxx	xxx	xxx
100	Repairs Billed to Others- (Credit)	xxx	xxx	40-21-48	xxx		xxx	xxx	xxx	xxx
101	Joint Facility Rents - Debit	xxx	xxx	37-21-00	xxx		xxx	xxx	xxx	xxx
102	Joint Facility Rents - (Credit)	xxx	xxx	34-21-00	xxx		xxx	xxx	xxx	xxx
103	Lease Rents - (Credit)	xxx	xxx	32-21-00	xxx		xxx	xxx	xxx	xxx
104	Other Rents - (Credit)	xxx	xxx	36-21-00	xxx		xxx	xxx	xxx	xxx
105	Total - Ls. 97 thru 104									Gross Ton-Miles
	Freight Cars									
106	Repair & Maintenance	11-22-42	21-22-42	39/41-22-42	61-22-42		xxx	xxx	xxx	xxx
107	Repairs Billed to Others - (Credit)	xxx	xxx	40-22-42	xxx		xxx	xxx	xxx	xxx
108	Equipment Damaged	11-22-48	21-22-48	39/41-22-48	61-22-48		xxx	xxx	xxx	xxx
109	Repairs Billed to Others - (Credit)	xxx	xxx	40-22-48	xxx		xxx	xxx	xxx	xxx
110	Lease Rentals - Debit	xxx	xxx	31-22-00	xxx		xxx	xxx	xxx	xxx
111	Lease Rentals - (Credit)	xxx	xxx	32-22-00	xxx		xxx	xxx	xxx	xxx
112	Joint Facility Rents - Debit	xxx	xxx	33-22-00	xxx		xxx	xxx	xxx	xxx
113	Joint Facility Rents -(Credit)	xxx	xxx	34-22-00	xxx		xxx	xxx	xxx	xxx
114	Other Rents - Debit	xxx	xxx	35-22-00	xxx		xxx	xxx	xxx	xxx
115	Other Rents - (Credit)	xxx	xxx	36-22-00	xxx		xxx	xxx	xxx	xxx
116	Total - Ls. 106 thru 115									Freight-Train Car Miles; Cars-loaded & empty

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Line No.	Account Name (1)	Account Number: Salaries and Wages (2)	Materials and Supplies (3)	Purchased Services (4)	General (5)	Total Cols.(2)-(5) (6)	Directed Traffic: Direct (7)	Common Apportioned (8)	Total Cols.(7)+(8) (9)	Suggested Apportionment Factors (10)
	Other Equipment									
117	Repair & Maint. - Trucks, Trailers, & Containers - Revenue Service	11-23-43	21-23-43	39/41-23-43	61-23-43		xxx	xxx	xxx	xxx
118	Repairs Billed to Others - (Credit)	xxx	xxx	40-23-43	xxx		xxx	xxx	xxx	xxx
119	Total - Ls. 117 and 118									Veh.-Miles - Loaded & Empty
120	Floating Equip. - Revenue Service	11-23-44	21-23-44	39/41-23-44	61-23-44		xxx	xxx	xxx	xxx
121	Repairs Billed to Others - (Credit)	xxx	xxx	40-23-44	xxx		xxx	xxx	xxx	xxx
122	Total - Ls. 120 and 121									No. of Carloads Handled
123	Administration	11-21-01	21-21-01	41-21-01	61-21-01		xxx	xxx	xxx	xxx
124	Machinery Repair	11-21-40	21-21-40	39/41-21-40	61-21-40		xxx	xxx	xxx	xxx
125	Repairs Billed to Others - (Credit)	xxx	xxx	40-21-40	xxx		xxx	xxx	xxx	xxx
126	Fringe Benefits	xxx	xxx	xxx	12-21-00		xxx	xxx	xxx	xxx
127	Other Casualties & Insurance	xxx	xxx	xxx	52/53-21-00		xxx	xxx	xxx	xxx
128	Joint Facility - Debit	xxx	xxx	37-21-00	xxx		xxx	xxx	xxx	xxx
129	Joint Facility -(Credit)	xxx	xxx	38-21-00	xxx		xxx	xxx	xxx	xxx
130	Depreciation	xxx	xxx	xxx	62-21-00		xxx	xxx	xxx	xxx
131	Other	11-21-99	21-21-99	41-21-99	61-21-99		xxx	xxx	xxx	xxx
132	Administration	11-22-01	21-22-01	41-22-01	61-22-01		xxx	xxx	xxx	xxx
133	Machinery Repair	11-22-40	21-22-40	39/41-22-40	61-22-40		xxx	xxx	xxx	xxx
134	Repairs Billed to Others - (Credit)	xxx	xxx	40-22-40	xxx		xxx	xxx	xxx	xxx
135	Fringe Benefits	xxx	xxx	xxx	12-22-00		xxx	xxx	xxx	xxx
136	Other - Casualties & Insurance	xxx	xxx	xxx	52/53-22-00		xxx	xxx	xxx	xxx

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Line No.	Account Name (1)	Account Number: Salaries and Wages (2)	Materials and Supplies (3)	Purchased Services (4)	General (5)	Total Cols.(2)-(5) (6)	Directed Traffic: Direct (7)	Common Apportioned (8)	Total Cols.(7)+(8) (9)	Suggested Apportionment Factors (10)
137	Joint Facility - Debit	xxx	xxx	37-22-00	xxx		xxx	xxx	xxx	xxx
138	Joint Facility -(Credit)	xxx	xxx	38-22-00	xxx		xxx	xxx	xxx	xxx
139	Depreciation	xxx	xxx	xxx	62-22-00		xxx	xxx	xxx	xxx
140	Other	11-22-99	21-22-99	41-22-99	61-22-99		xxx	xxx	xxx	xxx
141	Administration	11-23-01	21-23-01	41-23-01	61-23-01		xxx	xxx	xxx	xxx
142	Pass. & Other Rev. Equip.	11-23-45	21-23-45	39/41-23-45	61-23-45		xxx	xxx	xxx	xxx
143	Repairs Billed to Others - (Credit)	xxx	xxx	40-23-45	xxx		xxx	xxx	xxx	xxx
144	Repair & Maint. - Machinery	11-23-40	21-23-40	39/41-23-40	61-23-40		xxx	xxx	xxx	xxx
145	Repairs Billed to Others - (Credit)	xxx	xxx	40-23-40	xxx		xxx	xxx	xxx	xxx
146	Repair & Maint. - Computers & Data Processing Systems	11-23-46	21-23-46	39/41-23-46	61-23-46		xxx	xxx	xxx	xxx
147	Repairs Billed to Others - (Credit)	xxx	xxx	40-23-46	xxx		xxx	xxx	xxx	xxx
148	Repair & Maint. - Work & Other Non-Rev. Equip.	11-23-47	21-23-47	39/41-23-47	61-23-47		xxx	xxx	xxx	xxx
149	Repairs Billed to Others - (Credit)	xxx	xxx	40-23-47	xxx		xxx	xxx	xxx	xxx
150	Equipment Damaged	11-23-48	21-23-48	39/41-23-48	61-23-48		xxx	xxx	xxx	xxx
151	Repairs Billed to Others - (Credit)	xxx	xxx	40-23-48	xxx		xxx	xxx	xxx	xxx
152	Fringe Benefits	xxx	xxx	xxx	12-23-00		xxx	xxx	xxx	xxx
153	Other - Casualties & Insurance	xxx	xxx	xxx	52/53-23-00		xxx	xxx	xxx	xxx
154	Joint Facility Rents - Debit	xxx	xxx	33-23-00	xxx		xxx	xxx	xxx	xxx
155	Joint Facility Rents -(Credit)	xxx	xxx	34-23-00	xxx		xxx	xxx	xxx	xxx
156	Joint Facility - Debit	xxx	xxx	37-23-00	xxx		xxx	xxx	xxx	xxx
157	Joint Facility -(Credit)	xxx	xxx	38-23-00	xxx		xxx	xxx	xxx	xxx
158	Depreciation	xxx	xxx	xxx	62-23-00		xxx	xxx	xxx	xxx
159	Other	11-23-99	21-23-99	41-23-99	61-23-99		xxx	xxx	xxx	xxx
160	Total - Ls. 123 thru 159									Total Repair Expenses

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Line No.	Account Name (1)	Account Number: Salaries and Wages (2)	Materials and Supplies (3)	Purchased Services (4)	General (5)	Total Cols.(2)-(5) (6)	Directed Traffic: Direct (7)	Common Apportioned (8)	Total Cols.(7)+(8) (9)	Suggested Apportionment Factors (10)
161	Lease Rentals - Debit	xxx	xxx	31-23-00	xxx					Assign where Applicable
162	Lease Rentals - (Credit)	xxx	xxx	32-23-00	xxx					Assign where Applicable
163	Other Rents - Debit	xxx	xxx	35-23-00	xxx					Assign where Applicable
164	Other Rents - (Credit)	xxx	xxx	36-23-00	xxx					Assign where Applicable
165	Miscellaneous Rents	xxx	xxx	543	xxx					Assign where Applicable
166	Total Equipment - Sum of Ls. 96, 105, 116, 119, 122, 160, 161-165						xxx	xxx		xxx

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Line No.	Account Name (1)	Account Number: Salaries and Wages (2)	Materials and Supplies (3)	Purchased Services (4)	General (5)	Total Cols.(2)-(5) (6)	Directed Traffic: Direct (7)	Common Apportioned (8)	Total Cols.(7)+(8) (9)	Suggested Apportionment Factors (10)
	Transportation									
	Train Operations									
167	Administration	11-31-01	21-31-01	41-31-01	61-31-01		xxx	xxx	xxx	xxx
168	Fringe Benefits	xxx	xxx	xxx	12-31-00		xxx	xxx	xxx	xxx
169	Other	11-31-99	21-31-99	41-31-99	61-31-99		xxx	xxx	xxx	xxx
170	Other Casualties & Insurance	xxx	xxx	xxx	52/53-31-00		xxx	xxx	xxx	xxx
171	Dispatching Trains	11-31-58	21-31-58	41-31-58	61-31-58		xxx	xxx	xxx	xxx
172	Total - Ls. 167 thru 171									Train-Miles
	Administrative Support Opns.									
173	Administration	11-35-01	21-35-01	41-35-01	61-35-01		xxx	xxx	xxx	xxx
174	Fringe Benefits	xxx	xxx	xxx	12-35-00		xxx	xxx	xxx	xxx
175	Casualties & Insurance	xxx	xxx	xxx	52/53-35-00		xxx	xxx	xxx	xxx
176	Other	11-35-99	21-35-99	41-35-99	61-35-99		xxx	xxx	xxx	xxx
177	Employees Performing Clerical & Acctng. Functions	11-35-76	21-35-76	41-35-76	61-35-76		xxx	xxx	xxx	xxx
178	Communication Systems Oper.	11-35-77	21-35-77	41-35-77	61-35-77		xxx	xxx	xxx	xxx
179	Total - Ls. 173 thru 178									Revenue Tons
	Yard Operations									
180	Administration	11-32-01	21-32-01	41-32-01	61-32-01		xxx	xxx	xxx	xxx
181	Fringe Benefits	xxx	xxx	xxx	12-32-00		xxx	xxx	xxx	xxx
182	Other Casualties & Insurance	xxx	xxx	xxx	52/53-32-00		xxx	xxx	xxx	xxx
183	Other	11-32-99	21-32-99	41-32-99	61-32-99		xxx	xxx	xxx	xxx
184	Oper. Switches, Signals, Retarders & Humps	xxx	21-32-59	41-32-59	61-32-59		xxx	xxx	xxx	xxx
185	Switch Crews	xxx	21-32-64	41-32-64	61-32-64		xxx	xxx	xxx	xxx
186	Controlling Operations	xxx	21-32-65	41-32-65	61-32-65		xxx	xxx	xxx	xxx
187	Yard & Terminal Clerical	xxx	21-32-66	41-32-66	61-32-66		xxx	xxx	xxx	xxx
188	Administration-Special Service	11-34-01	21-34-01	41-34-01	61-34-01		xxx	xxx	xxx	xxx
189	Fringe Benefits - Special Service	xxx	xxx	xxx	12-34-00		xxx	xxx	xxx	xxx
190	Other - Special Service	11-34-99	21-34-99	41-34-99	61-34-99		xxx	xxx	xxx	xxx
191	Casualties & Insurance - Special Service	xxx	xxx	xxx	52/53-34-00		xxx	xxx	xxx	xxx
192	Total - Ls. 180 thru 191									Yd. Switching Loco. unit-miles

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Line No.	Account Name (1)	Account Number: Salaries and Wages (2)	Materials and Supplies (3)	Purchased Services (4)	General (5)	Total Cols.(2)-(5) (6)	Directed Traffic: Direct (7)	Common Apportioned (8)	Total Cols.(7)+(8) (9)	Suggested Apportionment Factors (10)
193	Operating Signals & Interlockers	11-31-59	21-31-59	41-31-59	61-31-59		xxx	xxx	xxx	xxx
194	Highway Crossing, Protection	11-31-61	21-31-61	41-31-61	61-31-61		xxx	xxx	xxx	xxx
195	Operating Drawbridges	11-31-60	21-31-60	41-31-60	61-31-60		xxx	xxx	xxx	xxx
196	Clearing Wrecks	11-31-63	21-31-63	41-31-63	61-31-63		xxx	xxx	xxx	xxx
197	Clearing Wrecks	11-32-63	21-32-63	41-32-63	61-32-63		xxx	xxx	xxx	xxx
198	Frt. Lost or Damaged - Solely Related	xxx	xxx	xxx	51-31-00		xxx	xxx	xxx	xxx
199	Frt. Lost or Damaged - Solely Related	xxx	xxx	xxx	51-32-00		xxx	xxx	xxx	xxx
200	Frt. Lost or Damaged - All Other	xxx	xxx	xxx	51-33-00		xxx	xxx	xxx	xxx
201	Frt. Lost or Damaged - Solely Related	xxx	xxx	xxx	51-34-00		xxx	xxx	xxx	xxx
202	Loss & Damage, Claims Processing	11-35-78	21-35-78	41-35-78	61-35-78		xxx	xxx	xxx	xxx
203	Total - Ls. 193 thru 202									Train-Miles
204	Loading, Unloading & Local Marine	11-34-74	21-34-74	41-34-74	61-34-74		xxx	xxx	xxx	xxx
205	P&D, Marine Line-Haul & Rail Substitute Service	11-34-73	21-34-73	41-34-73	61-34-73		xxx	xxx	xxx	xxx
206	Total - Ls. 204 and 206									Trailers handled-Loaded & Empty
207	Controlling Operations	11-32-65	xxx	xxx	xxx		xxx	xxx	xxx	xxx
208	Yd. & Terminal Clerical	11-32-66	xxx	xxx	xxx		xxx	xxx	xxx	xxx
209	Switch Crews	11-32-64	xxx	xxx	xxx		xxx	xxx	xxx	xxx
210	Operating Switches, Signals, Retarders & Humps	11-32-59	xxx	xxx	xxx		xxx	xxx	xxx	xxx
211	Locomotive Fuel	11-32-67	21-32-67	41-32-67	61-32-67		xxx	xxx	xxx	xxx
212	Electric Power Purchased/ Produced for Motive Power	11-32-68	21-32-68	41-32-68	61-32-68		xxx	xxx	xxx	xxx
213	Servicing Locomotives	11-32-69	21-32-69	41-32-69	61-32-69		xxx	xxx	xxx	xxx
214	Joint Facility - Debit	xxx	xxx	37-32-00	xxx		xxx	xxx	xxx	xxx
215	Joint Facility - (Credit)	xxx	xxx	38-32-00	xxx		xxx	xxx	xxx	xxx
216	Total - Ls. 207 thru 215									Yd. Switching Loco. Unit-Miles

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Line No.	Account Name (1)	Account Number: Salaries and Wages (2)	Materials and Supplies (3)	Purchased Services (4)	General (5)	Total Cols.(2)-(5) (6)	Directed Traffic: Direct (7)	Common Apportioned (8)	Total Cols.(7)+(8) (9)	Suggested Apportionment Factors (10)
217	Engine Crews	11-31-56	xxx	xxx	xxx		xxx	xxx	xxx	xxx
218	Train Crews	11-31-57	xxx	xxx	xxx		xxx	xxx	xxx	xxx
219	Total - Ls. 217 and 218									Accts. 11-31-56 & 11-31-57 Direct Assignment
220	Locomotive Fuel	11-31-67	21-31-67	41-31-67	61-31-67		xxx	xxx	xxx	xxx
221	Electric Power Purchased/ Produced for Motive Power	11-31-68	21-31-68	41-31-68	61-31-68		xxx	xxx	xxx	xxx
222	Servicing Locomotives	11-31-69	21-31-69	41-31-69	61-31-69		xxx	xxx	xxx	xxx
223	Joint Facility - Debit	xxx	xxx	37-31-00	xxx		xxx	xxx	xxx	xxx
224	Joint Facility - (Credit)	xxx	xxx	38-31-00	xxx		xxx	xxx	xxx	xxx
225	Joint Facility - Debit	xxx	xxx	37-34-00	xxx		xxx	xxx	xxx	xxx
226	Joint Facility - (Credit)	xxx	xxx	38-34-00	xxx		xxx	xxx	xxx	xxx
227	Joint Facility - Debit	xxx	xxx	37-35-00	xxx		xxx	xxx	xxx	xxx
228	Joint Facility - (Credit)	xxx	xxx	38-35-00	xxx		xxx	xxx	xxx	xxx
229	Total - Ls. 220 thru 228									Loco. unit-miles incl. train switching
230	Engine Crews	xxx	21-31-56	41-31-56	61-31-56		xxx	xxx	xxx	xxx
231	Train Crews	xxx	21-31-57	41-31-57	61-31-57		xxx	xxx	xxx	xxx
232	Train Inspection & Lubrication	11-31-62	21-31-62	41-31-62	61-31-62		xxx	xxx	xxx	xxx
233	Cleaning Car Interiors	11-33-70	21-33-70	41-33-70	xxx		xxx	xxx	xxx	xxx
234	Adjusting & Transferring Loads	11-33-71	21-33-71	41-33-71	xxx		xxx	xxx	xxx	xxx
235	Car Loading Devices & Grain Doors	11-33-72	21-33-72	41-33-72	xxx		xxx	xxx	xxx	xxx
236	Protective Services	11-34-75	21-34-75	41-34-75	61-34-75		xxx	xxx	xxx	xxx
237	Fringe Benefits	xxx	xxx	xxx	12-33-00		xxx	xxx	xxx	xxx
238	Total - Ls. 230-237									Frt. Train Car-Miles Loaded & Empty incl. Caboose
239	TOTAL TRANSPORTATION - Sum of Ls. 172, 179, 192, 203, 206, 216, 219, 229, & 238						xxx	xxx		xxx

For *, see Sheet No. 15.

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Line No.	Account Name (1)	Account Number: Salaries and Wages (2)	Materials and Supplies (3)	Purchased Services (4)	General (5)	Total Cols.(2)-(5) (6)	Directed Traffic: Direct (7)	Common Apportioned (8)	Total Cols.(7)+(8) (9)	Suggested Apportionment Factors (10)
	General and Administrative									
240	Officers-General Superintendence	11-61-01	21-61-01	41-61-01	61-61-01		xxx	xxx	xxx	xxx
241	Acctg., Auditing & Finance	11-61-86	21-61-86	41-61-86	61-61-86		xxx	xxx	xxx	xxx
242	Management Services & Data Processing	11-61-87	21-61-87	41-61-87	61-61-87		xxx	xxx	xxx	xxx
243	Industrial Development	11-61-90	21-61-90	41-61-90	61-61-90		xxx	xxx	xxx	xxx
244	Personnel & Labor Relations	11-61-91	21-61-91	41-61-91	61-61-91		xxx	xxx	xxx	xxx
245	Legal & Secretarial	11-61-92	21-61-92	41-61-92	61-61-92		xxx	xxx	xxx	xxx
246	Research & Development	11-61-94	21-61-94	41-61-94	61-61-94		xxx	xxx	xxx	xxx
247	Casualties & Insurance	xxx	xxx	xxx	52/53-61-00		xxx	xxx	xxx	xxx
248	Fringe Benefits	xxx	xxx	xxx	12-61-00		xxx	xxx	xxx	xxx
249	Other	11-61-99	21-61-99	41-61-99	61-61-99		xxx	xxx	xxx	xxx
250	Joint Facility - Debit	xxx	xxx	37-61-00	xxx		xxx	xxx	xxx	xxx
251	Joint Facility - (Credit)	xxx	xxx	38-61-00	xxx		xxx	xxx	xxx	xxx
252	Write down of Uncollectible Accounts	xxx	xxx	xxx	63-61-00		xxx	xxx	xxx	xxx
253	Total - Ls. 240 thru 252									Apportion on the basis of total expenses, Ls. 93,166, & 239
254	Marketing	11-61-88	21-61-88	41-61-88	61-61-88		xxx	xxx	xxx	xxx
255	Sales	11-61-89	21-61-89	41-61-89	61-61-89		xxx	xxx	xxx	xxx
256	Public Relations & Advertising	11-61-93	21-61-93	41-61-93	61-61-93		xxx	xxx	xxx	xxx
257	Total - Ls. 254 thru 256									Line 253
258	Total General & Administrative, Ls. 253 and 257						xxx	xxx		xxx
259	TOTAL EXPENSES - Ls. 93, 166, 239, and 258						xxx	xxx		xxx
260	Property Taxes	xxx	xxx	xxx	64-61-00					Miles of Road
261	State Income Taxes	xxx	xxx	xxx	556			xxx		Direct

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Line No.	Account Name (1)	Account Number: Salaries and Wages (2)	Materials and Supplies (3)	Purchased Services (4)	General (5)	Total Cols.(2)-(5) (6)	Directed Traffic: Direct (7)	Common Apportioned (8)	Total Cols.(7)+(8) (9)	Suggested Apportionment Factors (10)
262	Other Taxes Except on Corporate Income or Payrolls	xxx	xxx	xxx	65-61-00					Miles of Road
263	TOTAL TAXES - Ls. 260,261,262	xxx	xxx	xxx			xxx	xxx		xxx
264	Miscellaneous Income Charges	xxx	xxx	xxx	551			xxx		Direct
265	TOTAL - Expenses, Rents & Taxes Sum of Ls. 259, 263, and 264						xxx	xxx		xxx
	Revenues									
266	Freight (Account 101)	xxx	xxx	xxx	xxx		xxx	xxx		Actual
267	All Other	xxx	xxx	xxx	xxx		xxx	xxx		Actual
268	Total Revenues - Ls. 266 and 267	xxx	xxx	xxx	xxx		xxx	xxx		xxx
269	Local/State Subsidies	xxx	xxx	xxx	xxx		xxx	xxx		Actual
270	TOTAL INCOME - Ls. 268 & 269	xxx	xxx	xxx	xxx		xxx	xxx		xxx
271	TOTAL EXPENSES OVER INCOME - L. 265 less 270	xxx	xxx	xxx	xxx		xxx	xxx		xxx
	Computation of Reimbursement									
272	Allowance for profit, L. 268 multiplied by .06 1/	xxx	xxx	xxx	xxx		xxx	xxx		xxx
273	Working Capital 2/	xxx	xxx	xxx	xxx		xxx	xxx		xxx
274	Section 1126.3 Funding Received	xxx	xxx	xxx	xxx		xxx	xxx		xxx
275	Total deficiency plus working capital minus S. 1126.3 Funding Received - L. 271 plus L. 273 minus L. 274	xxx	xxx	xxx	xxx		xxx	xxx		xxx
276	Amount borrowed 3/	xxx	xxx	xxx	xxx		xxx	xxx		xxx
277	Interest allowed 4/	xxx	xxx	xxx	xxx		xxx	xxx		xxx
278	Total expenses plus profit plus interest - Ls. 265, 272 and 277	xxx	xxx	xxx	xxx		xxx	xxx		xxx
279	Reimbursement including an allowance for profit less S. 1126.3 funding received - L. 278 minus L. 270 minus L. 274 5/	xxx	xxx	xxx	xxx		xxx	xxx		xxx

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FOOTNOTES

* Assign engine and train crew expenses direct to carrier's own traffic and directed traffic. Apportion common expenses on the basis of direct assignments to Accounts 11-31-56 and 11-31-57.

1/ Profit is based on 6% of total revenues (line 268). A profit from actual operations above 6% of total revenues may be retained by the directed carrier and no amount for profit will be paid by the Federal Government. Should a profit of less than 6% be earned, the difference between 6% and that % will be paid.

2/ Total expenses in line 265 divided by the total days of the directed operation. Multiply these expenses by a factor of 15 (days) to represent the lag between cash receipts and cash payments.

3/ The amount borrowed should not exceed the permissible limits established in the Ex Parte No. 293 (Sub No. 3) report, unless specifically approved by the Commission.

4/ Apply the average prime rate (per annum) in effect at New York City to line 275, or the prime rate (per annum) in effect at New York City on the date of the loan agreement to line 276, whichever is greater. However, the interest allowed on amounts actually borrowed shall not exceed the amount of interest charged on the loan, if less than the applicable prime rate.

5/ If amount on Line 279 is less than zero, any amount up to the funded amount will be due and payable to the Commission within 30 days. If not paid within the 30-day period the amount due will begin to accrue interest at the average prime rate (per annum) in effect at New York City.

NOTE: If directed service is passenger service use passenger account numbers anywhere applicable. For accounts 11-25-45, 21-25-45, 39/40/41-25-45, 61-25-45, 11-25-48, 21-25-48, 39/40/41-25-48, 61-25-48, 32-25-00, 36-25-00, 31-25-00, and 35-25-00, include in Maintenance of Equipment total and apportion common expenses on the basis of Passenger Train Car-Miles. For accounts 11-41-01, 21-41-01, 41-41-01, 61-41-01, 11-41-57, 21-41-57, 41-41-57, 61-41-57, 11-45-76, 21-45-76, 41-45-76, 61-45-76, 11-41-99, 21-41-99, 41-41-99, and 61-41-99, include in Transportation total and apportion common expenses on the basis of Passenger Train Car-Miles. Include account 102 and all other passenger related revenues with total revenues.

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ATTENTION

Knowing and willful misstatements or omissions of material facts constitute federal criminal violations punishable by up to five years imprisonment and fines of up to $10,000 for each offense. (See 18 U.S.C. 1001, 1003, 287.)

Each person by whom this document is signed certifies that the representations appearing herein and in the appendices attached hereto (including any accompanying schedules and statements) are, to the best of his knowledge and belief, true, correct, and complete, based upon all the information required to be included therein, of which he has any knowledge.

Dated this ——— day of ————, 19——

.....
(Signature of Accounting Officer)

By ————————

.....
(Title

§ 1126.3 Optional Cash Funding Procedures.

(a) The directed carrier may elect to obtain cash funding from the Commission following the procedure set forth below. The funding procedure is separated into three phases. The first is designed to meet the directed carrier's immediate requirements to institute service. The second is an interim accounting and adjustment under which any serious cash flow problems will be remedied. The third phase is the final accounting after completion of the service and computation of the total account reimbursable.

All reports filed should refer to the appropriate ICC account numbers. The records of the directed carrier relating to the directed service will be subject to continuing audit by the Commission.

(b) *Initial Funding.* (1) The initial funding is intended to cover the immediate deficit to be incurred through cash expenditures that must be made before compensating revenues can be generated. Permissible costs which might require lead funding include:

(i) Payroll costs necessary for assignment of crews;

(ii) Immediate maintenance of way or line repairs necessary to make a line operational or in compliance with safety standards;

(iii) Fuel and supplies;

(iv) Immediate rental or maintenance costs for equipment to be used (other than rental payments to the defaulting carrier);

(v) That portion of overhead allocable to developing the initial operation plan; and

(vi) Any other immediate cash requirements.

(2) To enable the Commission to determine initial cash requirements, the directed carrier is required to submit the following items.

(i) A brief description of its initial operating plan for the directed service, outlining the frequency and schedule of service planned, the personnel and equipment to be utilized, the crew change and interchange points to be observed, any immediate maintenance and repair work required, and its fuel and supply needs.

(ii) A statement of its immediate cash requirements, with any supporting evidence deemed necessary.

(iii) A statement of the forecasted costs and revenues attributable to the directed service for the 60 day period, with appropriate explanatory notes.

These are to be submitted as soon as possible, but no later than 15 days after issuance of the directed service order. After the Commission has determined the initial cash requirements (and within 30 days after the directed carrier's submission), it will certify to the Treasury Department that this amount is immediately payable.

(c) *Interim Accounting.* The interim accounting procedure consists of a report filed by the directed carrier at the end of each 30 day period following institution of the directed service. In addition, the carrier may file a report whenever it is experiencing severe cash flow difficulties and desires additional interim funding. The interim reports must contain:

(1) A statement of any revisions to the operating plan.

(2) An unaudited cash flow statement for the period since its last report, and an explanation of any requests for additional cash.

(3) An unaudited statement of costs and revenues attributable to the directed service since its institution, and a statement of the forecasted costs and revenues for the remainder of the directed service period.

Within 30 days after receipt of an interim financing request with supporting data, the Commission will certify to the Treasury Department the amount to be paid the directed carrier.

(d) *Final Accounting.* (1) The final accounting report, to be filed within 180 days after completion of the directed service, should conform to the requirements of Section 1126.2 of this section. Any monies paid under the optional cash funding procedures must be deducted from the amount to be reimbursed (line 279). Also, the base for computation of allowable interest (line 277) must be reduced by the amount paid.

(2) After auditing the claim, the Commission will determine the allowable reimbursement. It will certify to the Treasury Department that the directed carrier be paid that amount by which the allowable reimbursement exceeds the amount paid. Should the amount paid exceed the allowable reimbursement, the difference will be due and payable by the directed carrier to the Commission within 30 days. If not paid within the 30-day period, the amount due will then begin to accrue interest at the prevailing prime rate.

[FR Doc. 79-3182 Filed 1-30-79; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01-M]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON RULEMAKING AND PUBLIC INFORMATION

Notice of Public Meetings

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of four meetings of the Committee on Rulemaking and Public Information of the Administrative Conference of the United States, to be held in the Library of the Conference, 2120 L Street, NW., Suite 500, Washington, D.C. These meetings will be held at 10:30 a.m. on the following days: February 16, 1979; March 16, 1979; March 23, 1979, and April 20, 1979.

The purpose of these meetings is to discuss and take action on various portions of the draft report and recommendations evaluating the Federal Trade Commission's Magnuson-Moss trade regulation rulemakings.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance of each meeting. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meetings; any member of the public may file a written statement with the Committee before, during or after the meetings.

For further information concerning these meetings, contact Stephen L. Babcock (202-254-7020). Minutes of the meetings will be available on request.

RICHARD K. BERG,
Executive Secretary.

JANUARY 24, 1979.

[FR Doc. 79-3183 Filed 1-30-79; 8:45 am]

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

OFFICIAL AGENCY TERMINATION

Termination of Designation of the Corpus Christi Grain Exchange, Corpus Christi, Tex.

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Applications and Comments.

SUMMARY: This notice announces the termination of the designation, effective midnight, November 19, 1978, of the Corpus Christi Grain Exchange (Exchange), Corpus Christi, Texas, as an official agency to perform grain inspection under the U.S. Grain Standards Act, as amended. The Federal Grain Inspection Service is requesting comments from the grain trade and other interested parties regarding the need for designation of a replacement agency to perform official inspection in the area currently being serviced by the Exchange. In addition, interested persons are invited to make application for designation to operate as an official agency at Corpus Christi, Texas.

DATES: Termination effective midnight, November 19, 1978. Applications/comments received by April 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: Pub. L. 94-582 was enacted in 1976 to amend the United States Grain Standards Act, (7 U.S.C. 71 *et seq.*) (hereinafter the "Act"). Section 27 of the Act (7 U.S.C. 74 note) provides that any interior inspection agency providing service on November 20, 1976, the date on which the amended Act became effective, could continue to do so without a designation under the Act until the expiration of a period of time as determined by the Administrator, but not to exceed 2 years after the Act's effective date.

The Corpus Christi Grain Exchange (Exchange), Corpus Christi, Texas, was advised on November 15, 1977, that conflicts of interest, as defined by Section 11(b) of the Act (7 U.S.C. 87(b)), existed in their agency. The Exchange submitted no proposal to effect a satisfactory resolution to these conflicts of interest and therefore was ineligible for designation as an official agency.

Because the Exchange was not eligible for designation under the terms of the amended Act, their current designation terminated midnight, November 19, 1978, in accordance with Section 27 of the Act (7 U.S.C. 74 note).

The Administrator of the Federal Grain Inspection Service (FGIS) is authorized, under the provisions of the Act, to provide official inspection service at locations where it is determined official inspection is needed (7 U.S.C. 79(f)(1)). There have been no applications for the Exchange to perform official inspection services since October 1977, and the FGIS requests comments from the grain trade and other interested parties with respect to the need for an official agency to provide official grain inspection services under the Act in the area formerly serviced by the Exchange, excluding the export port locations which are serviced by FGIS. All comments should be submitted in writing and mailed to the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, not later than April 2, 1979.

Subject to a final determination by the Administrator as to the need for official grain inspection service in this area, interested persons are hereby given opportunity to apply for designation to operate as an official agency at Corpus Christi, Texas, at other than export port locations pursuant to the requirements in Section 7(f)(1)(A) of the amended Act (7 U.S.C. 79(f)(1)(A)) and § 26.96 of the regulations (7 CFR 26.96). Persons wishing to apply for designation to operate as an official agency for the Corpus Christi area should contact the Office of the Director, Compliance Division, at the above mentioned address, for the appropriate forms and mail their application to the Director's Office not later than April 2, 1979.

Official inspection service on domestic grain has been and will be provided by the FGIS in the area previously serviced by the Exchange, from November 20, 1978, until such time as the necessity of a replacement agency is determined. Persons desiring official inspection services during this period should contact Mr. Larry Nafzinger, Field Office Supervisor, United States Department of Agriculture, Federal Grain Inspection Service, 1109½ Railroad Avenue, Portland, Texas, (512) 643-6587.

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NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

In making a final determination as to the need for a replacement agency in the Corpus Christi, Texas, area and the designation of an official agency, if deemed necessary, consideration will be given to all comments filed, any application submitted, and to all other information available to the Administrator. All comments and applications submitted pursuant to this notice will be made available for public inspection at the above Office of the Director during regular business hours (7 CFR 1.27(b)).

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 13, Pub. L. 94-582, 90 Stat. 2880 (7 U.S.C. 87); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note); 7 CFR 26.96)

Done in Washington, D.C., on January 25, 1979.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 79-3202 Filed 1-30-79; 8:45 am]

[3410-05-M]

Office of the Secretary

PUEBLO OF ACOMA INDIAN TRIBE IN NEW MEXICO

Feed Grain Donations

Pursuant to the authority set forth in Section 407 of the Agricultural Act of 1949 as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Pueblo of Acoma Indian Tribe in New Mexico has been materially increased and become acute because of severe and prolonged drought creating a serious shortage of livestock feeds. This reservation is designated for Indian use and is utilized by members of the Indian tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of this tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestockmen who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 31, 1979 or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C., on January 26, 1979.

BOB BERGLAND,
Secretary.

[FR Doc. 79-3208 Filed 1-30-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Order 79-1-160; Dockets 34573, 30670, 33173]

ANCHORAGE-LONDON SERVICE CASE, ET AL.

Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of January, 1979.

In the matter application of Western Air Lines, Inc. and Northwest Airlines, Inc., for new certificate authority.

The Air Services Agreement between the United States and the United Kingdom (Bermuda II) provides for the designation of a U.S. air carrier to operate over an Anchorage-London route. No U.S. carrier has yet been designated to serve this route and only one may be chosen.

Existing service in the market is limited and predominantly foreign-flag. British Airways offers the only direct service, and that is limited to four nonstop flights per week. Connecting flights from Anchorage to London are offered five times a week on foreign-flag carriers via Copenhagen or Amsterdam, and daily on U.S. carriers via Seattle.[1]

We have received applications from Western Air Lines (Docket 30670) and Northwest Airlines (Docket 33173) for certificate authority to perform nonstop service between Anchorage and London.[2] Each applicant has also filed a petition for issuance of an order to show cause why its application should not be granted. In addition, Northwest filed a motion requesting that its application be consolidated with that of Western for contemporaneous consideration.[3]

Western states that it is prepared to begin service in late 1978 or early 1979 and plans initially to offer three nonstop round trips per week with Boeing 707 aircraft. Western further states that each flight will also serve Honolulu, and that its fares from both Honolulu and Anchorage to London will be substantially below existing levels. It projects that it will carry nearly 33,000 passengers over the Anchorage-London segment and will earn a net operating profit of approximately $1,288,000.

Northwest also proposes to provide three round trips weekly in the Anchorage-London market with B-747 aircraft, and would serve Tokyo on each flight beyond Anchorage. Northwest also proposes to offer greatly reduced fares between Anchorage and London, and anticipates that it will carry more than 52,000 passengers between Tokyo and London and more than 11,000 passengers between Anchorage and London during its first year of operations. It forecasts and operating profit of $7.7 million.

Both Western and Northwest have filed answers opposing grant of the other carrier's petition to show cause. Each suggest that its proposal is superior and that the Board should act affirmatively on its petition and deny that of the other carrier. The State of Alaska, the Alaska Transportation Commission and the City Council of the City and County of Honolulu filed answers in support of Western's application. The British Airports Authority filed an answer to Western's application stating that any new service from Anchorage to London should be required to use Gatwick rather than Heathrow Airport.

We have decided to institute the *Anchorage-London Service Case*, Docket 34573, to consider the need for certificated U.S.-flag service between Anchorage and London and which, if any, U.S. carrier should be selected to meet this need. We will deny both applicants' petitions to show cause, but we will consolidate their certificate applications for Anchorage-London authority into Docket 34573.[4]

As is our usual policy in cases where carrier selection is at issue, we will take into account the offer of or failure to offer lower prices in determining whether the public convenience and necessity require the award of certificate authority, and, if so, which carrier should be selected.[5] We therefore expect this proceeding to include an examination of the need for and feasibility of various price/quality options in addition to traditional service benefits. We also want to register our continuing concern with competitive performance in international markets where there are limitations on our ability to designate new competitors. In limited designation situations, we are devising regulatory approaches to create competitive incentives as close as possible to those that exist where our designation powers are not limited. We expect the parties and the judge to explore what those approaches may be. (Examples might include temporary certification, experimental certification, see section 401(d((8) of the Act, as amended; price or service conditions; back-up awards and other possibilities.) We are especially anxious to come up with fair and effective ways to maximize the continuing incentives of the chosen carrier to perform efficiently and offer the optimal combination of price and service options to consumers. We also want to explore ways to replace a chosen carrier which does not perform in that manner. Those parties not familiar with the Board's practice should be aware that we desire to reduce the delay and costs of the evidentiary burden associated with traditional carrier selection cases. We invite parties to explore with the judge ways to reduce the quantity of required exhibit material, eliminate duplication and excessive detail, standardize methodology, and focus on significant facts and assumptions. Resolution of these matters will, of course, remain with the administrative law judge.

Applications, motions to consolidate, and petitions for reconsideration of this order shall be filed within 20 days of the date of service of this order, and responsive answers shall be filed within 10 days thereafter.

Accordingly,

1. We institute the *Anchorage-London Service Case*, Docket 34573, and set it for hearing before an administrative law judge of the Board at a time and place to be designated after any petitions for reconsideration have been acted upon by the Board;

2. This proceeding shall consider whether the public convenience and necessity require certification of a U.S. air air carrier to engage in foreign air transportation of persons, property, and mail, on a subsidy-ineligible basis, between Anchorage, Alaska, and London, England, and between Anchorage, Alaska, and Glasgow-Prestwick, Scotland and if so, which carrier should be authorized to provide the service on each of the routes; and what, if any, terms, conditions, or limitations should be placed on the operation of the carrier;

3. We consolidate the certificate applications of Western in Docket 30670 and Northwest in Docket 33173 into this proceeding;

4. We grant the August 8, 1978, motion of Northwest requesting consolidation of its application with that of Western;

5. We deny the show cause petitions of Western and Northwest;

6. We make the following persons parties to this proceeding: Western Air Lines, Inc.; Northwest Airlines Inc.; the State of Alaska; the Alaska Transportation Commission; and the City Council of the City and County of Honolulu;

7. Applications, motions to consolidate conforming to the scope of this proceeding and petitions for reconsideration of this order shall be filed no later than February 14, 1979, and answers shall be filed no later than February 26, 1979; and

8. All applicants that have not done so, shall file environmental evaluations within 20 days of the date of service of this order.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[6]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-3291 Filed 1-30-79; 8:45 am]

[6320-01-M]

[Docket 32828; Order 79-1-149]

NORTH CENTRAL AIRLINES, INC.

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of January, 1979.

On June 8, 1978, North Central Airlines, Inc. filed an application to amend its certificate for Route 86-F to authorize permissive nonstop service between Milwaukee, Wisconsin and Toronto, Canada. North Central also filed a petition requesting the Board process its application by show cause procedures.

In support of its application and petition, North Central alleges that under the United States-Canada Air Transport Agreement, Milwaukee and Detroit are coterminal points on U.S. Route B.7 to Toronto;[1] that since 1967, North Central has been the U.S. carrier designated to provide service between Detroit and Toronto;[2] that designation of North Central to provide Milwaukee-Toronto service derives naturally and logically from the earlier designation because under the terms of the Agreement only one carrier can be designated by the U.S. to serve the Milwaukee/Detroit-Toronto route unless Canada has given its prior approval for the designation of an additional carrier; and that under these circumstances, North Central must be the carrier designated to provide service between Milwaukee and Toronto.

North Central proposes one daily nonstop round trip between Milwaukee and Toronto in addition to its current four one-stop round trips. North Central will also provide one daily Minneapolis/St. Paul-Toronto one-stop round trip via Milwaukee.[3]

No answers to the application and petition have been filed.

We have decided to issue an order to show cause why North Central's certificate for Route 86-F should not be amended as requested. The U.S.-Canada bilateral provides that only one U.S. carrier can be designated for Milwaukee-Toronto service unless Canada has given prior approval for additional designation. Since North Central currently provides the only service on U.S. Route B.7, and no party has objected to its petition, we see no reason why the carrier should not be given nonstop authority between Milwaukee and Toronto. The new authority would be placed in Category II of the list of North Central's subsidy ineligible points.

Therefore, we tentatively find and conclude that such an amendment of the certificate of public convenience and necessity of North Central is in the public interest, and that an oral evidentiary hearing is not required.[4] We also tentatively find that North

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[1] Japan Air Lines also provides service in the market, but is limited to the carriage of stopover traffic. Source: *Official Airline Guide*, Worldwide Edition, November 1978.

[2] Northwest's application also contains a request to serve Glasgow/Prestwick in addition to London as a terminal point. Its petition to show cause, however, does not address that point.

[3] Western's certificate application was filed on March 28, 1977, and its show-cause petition on July 14, 1978. Northwest's application, petition, and motion were filed on August 8, 1978.

[4] We will also consolidate into Docket 34573, that portion of Northwest's application to serve Glasgow-Prestwick as an additional terminal point. Anchorage-Glasgow-Prestwick authority, like Anchorage-London authority, can only be ganted to one U.S. air carrier, although the same U.S. carrier does not have to be chosen for both routes.

[5] Relying on statements in Order 78-7-128, instituting the *Florida Service Case*, Western suggests that it is no longer the Board's policy to give heavy decisional weight to

Footnotes continued on next page

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low-fare proposals. Western's reliance is misplaced. In that case, we were considering possible grant of permissive authority to *all* fit, willing, and able applicants. Consequently, the offer of or failure to offer low prices would not be of significant decisional importance. However, in cases where carrier selection is still at issue, such as this one, our policy remains one of according substantial weight to pricing proposals.

[6] All Members concurred.

[1] United States-Canada Air Transport Agreement, January 17, 1966, as amended.

U.S. Route B.7 reads: Milwaukee/Detroit-Toronto.

[2] *Detroit/Erie-Toronto Route Case* (Docket 16928), 46 CAB 308 (1967). North Central currently provides five daily (with certain weekend exceptions) Detroit-Toronto nonstop round trips, four of which continue on to Milwaukee (Dec. 1, 1978 OAG).

[3] North Central currently provides three and a half daily two-stop round trips between the Twin Cities and Toronto (OAG, Dec. 1, 1978).

[4] Based upon our review of the environmental evaluation submitted by North Central with its petition, the amendment of the certificate will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. In addition, since the proposed service by North Central will not result in the near-term consumption of 10 million gallons of fuel, our action here will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975 (EPCA).

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Central is a citizen of the United States and is fit, willing and able properly to perform the air transportation authorized by the proposed certificate amendment and to conform to the provisions of the Act and the Board's rules, regulations and requirements.

All interested persons will be given 20 days from the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. Answers to objections shall be filed not later than 10 days thereafter. We expect such persons to direct their objections, if any, to specific issues and to support such objections with detailed analysis. If an oral evidentiary hearing is requested, the objector should state in detail why such a hearing is necessary and what relevant and material facts he would establish through such a hearing which cannot be established in written pleadings. Vague, general or unsupported objections will not be entertained.

Accordingly,

1. We direct all interested persons to show cause why the Board should not (1) make final its tentative findings and conclusions stated here, and (2) subject to the disapproval of the President, issue an amended certificate of public convenience and necessity to North Central in the specimen form attached; [3]

2. We direct interested persons having objections to the issuance of an order making final the Board's tentative findings and conclusions, or to the issuance of the attached specimen certificate to file with the Board not later than February 15, 1979, and serve on the persons named in paragraph 5 below a statement of objections, together with a summary of testimony, statictical data, and any evidence expected to be relied upon to support the statement of objection. Answers to objections shall be due not later than February 26, 1979;

3. We will give full consideration to timely filed and properly supported objections before taking further action, except that we may proceed to enter an order in accordance with the tentative findings and conclusions stated here if we determine that there are no factual issues presented that warrant the holding of an oral evidentiary hearing; [4]

4. In the event no objections are filed, all further procedural steps will be deemed waived, and the Secretary shall enter an order which (1) shall make final the tentative findings and conclusions stated here, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, shall issue an amended certificate to the applicant in the specimen form attached; and

5. We shall serve this order on North Central Airlines, Inc., the Ambassador of Canada in Washington, D.C., and the United States Departments of State and Transportation.

We shall publish this order in the FEDERAL REGISTER and shall transmit a copy to the President of the United States.

By the Civil Aeronautics Board. [7]

PHYLLIS T. KAYLOR,
Secretary.

[SPECIMEN CERTIFICATE]

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(as amended)

for Route 86-F

NORTH CENTRAL AIRLINES, INC.

is authorized, subject to the provisions of Title IV of the Federal Aviation Act of 1958, as amended, and the Board's orders, rules, and regulations, to engage in foreign air transportation of persons, property, and mail, as follows:

1. Between the terminal point Duluth, Minnesota-Superior, Wisconsin, and the terminal point Thunder Bay, Canada.

2. Between the terminal point Detroit, Michigan, and the terminal point Toronto, Canada.

3. Between the coterminal points Duluth/Superior, Minnesota, and Milwaukee, Wisconsin, and the terminal point Winnipeg, Canada.

4. Between the terminal point Milwaukee Wisconsin, and the terminal point Toronto, Canada.

The service authorized is subject to the following terms, conditions and limitations:

(1) The holder shall conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate shall be subject to compliance with such treaties and agreements, and to any other orders issued by the Board for the purpose of requiring compliance with such treaties and agreements.

(2) The holder shall render service between the points named in segments 1 and 2, except as temporary suspensions of service may be authorized by the Board. The authority to serve segments 3 and 4 is permissive.

(3) The holder may continue to serve regularly any point named through the airport last regularly used to serve that point before the effective date of this certificate. Upon compliance with such procedures as the Board may prescribe, the holder may, in addition, regularly serve a point named here through any convenient airport.

(4) The exercise of the authority granted shall be subject to the holder's first obtaining required operating rights from the Canadian government.

(5) The holder's authority to engage in the foreign air transportation of mail in the operations listed in Appendix A, Categories I and II, of Order ——, is limited to carriage on a nonsubsidy basis, i.e., on a service mail rate to be paid entirely by the Postmaster General; the authority listed in these categories shall, for purposes of profit sharing, be treated separately. The authority to operate over the segments listed in Category II is conditioned upon compliance with the interim accounting procedures for profit sharing adopted in Docket 28800.

The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

The holder acknowledges and agrees that it is entitled to receive only service mail pay for the mail service rendered or to be rendered solely in connection with operations specified in paragraph (5), and that it is not authorized to request or receive any compensation for mail service rendered, or to be rendered, in excess of the amount payable by the Postmaster General.

This certificate shall become effective on ——: *Provided, however,* that the continuing effectiveness of the authority granted here shall be conditioned upon the timely payment by the holder of such license fees as may be prescribed by the Board.

The Civil Aeronautics Board has directed its Secretary to execute this certificate, and affix the Board's seal, on the ——.

Secretary.

[FR Doc. 79-3289 Filed 1-30-79; 8:45 am]

[6320-01-M]

[Docket 34436; Order 79-1-158]

U.S.-MIDEAST AND FAR EAST FARE INCREASED: PAN AMERICAN WORLD AIRWAYS, INC.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of January, 1979.

By tariffs filed September 26, 1978, and which became effective on November 10, 1978, Pan American World Airways, Inc. (Pan American), increased its passenger fares in its U.S. Mideast and U.S.-Far East (via the North Atlantic) markets.[1] First-class fares were increased approximately seven percent and normal economy fares were increased by about two to three percent. Most promotional fares took increases ranging between three and seven percent. The carrier stated the increases are to bring fares on these routes more into line with winter fare increases filed for its U.S.-Europe routes; [2] to provide needed additional revenue; and to move the fare structure in the direction favored by the Board through reducing the gap between normal and promotional fares.

[3] In order to give North Central maximum flexibility in scheduling its services, we would make the authority permissive.

[4] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[7] All Members concurred.

[1] Air Tariffs Corporation, Agent, Tariff C.A.B. No. 71.

[2] Pan American's U.S.-Europe normal economy fare increases were suspended by Order 78-10-61, October 5, 1978.

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We find the increases in all normal economy fares and certain first-class fares, all of which were inadvertently allowed to become effective, may be unlawful, and so we will suspend them pending investigation. We will take no action against the revisions to the remaining first-class fares or to the promotional fares, which we will permit to remain in effect.

We have previously suspended proposed increases in transatlantic normal economy fares by Orders 78-9-38, August 23, 1978, 78-10-61, October 5, 1978, 78-10-143, October 20, 1978, and 78-11-93, November 9, 1978.

We have also suspended increased in U.S.-Iran normal economy fares, as well as first-class fares, proposed by Iran Air in Order 78-12-58, November 28, 1978. In those orders, we discussed our reasons for the suspensions at great length. The factors that led to our decisions—chiefly, the virtual absence of price competition in normal economy fares in those markets, the fact that these fares contain generous allowances for facilities unrelated to direct, point-to-point service (e.g., stopover and circuity privileges), and the lack of alternative "on-demand" fares—all apply equally to Pan American's mideast and Far East markets and we incorporate our earlier findings here. There has been no change in market conditions or the carrier's pricing strategy, and Pan American has not proposed on-demand alternatives as we have suggested to all carriers in the past. Consequently, we will suspend the effective increases in its normal economy fares in these two areas.

Certain countries, where first-class fares are increased, have ordered application of a weight-based baggage system in transportation affecting United States points. They are Czechoslovakia, Hungary, Iran, Pakistan, the U.S.S.R., and Yugoslavia. In our Iran Air order, we suspended that carrier's first-class fare increases because it applies the weight system which ties excess-baggage charges to the first-class fare. Hence, the higher fares would have produced increases in excess-baggage charges already found unlawfully high by the Board.[3] For the same reasons we will suspend Pan American's increased first-class fares from these six countries to the United States.

Accordingly, under the Federal Aviation Act of 1958, as amended, particularly sections 102, 204(a) 403, 801 and 1002(j)(2) thereof:

1. We shall institute an investigation to determine whether the fares and provisions set forth in the Appendix hereof, and rules and regulations, or practices affecting such fares and provisions, are or willl be discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and if we find them to be unlawful, to act appropriately to prevent the use of such fares, provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we hereby suspend the trariff provisions specified in the attached Appendix and defer their use from January 25, 1979, to and including January 24, 1980, unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President [4] and it shall become effective on January 25, 1979; and

4. We shall file copies of this order in the aforesaid tariffs and serve them upon Pan American World Airways, Inc.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX

TRANSATLANTIC PASSENGER FARES TARIFF NO. A-1, C.A.B. NO. 71, ISSUED BY AIR TARIFFS CORPORATION, AGENT

1. All Basic Normal Economy Class Fares (YL) in U.S. Dollars and FCU's between New York, New York, on the one hand, and the following points, on the other, on pages shown in connection therewith:

Abadan and Aden on 10th Revised Page 533 and 11th Revised Page 534;
Auckland, Baghdad, Bahrain, Bangkok and Basra on 10th Revised Page 534 and 11th and 12th Revised Pages 535;
Bombay on 6th Revised Page 535 and 11th and 12th Revised Pages 536;
Calcutta and Colombo on 7th Revised Page 537 and 10th and 11th Revised Pages 538;
Dacca, Delhi, Dhahran, Doha and Dubai on 7th Revised Page 538;
Dacca on 10th and 11th Revised Pages 538;
Delhi, Dhahran, Doha and Dubai on 10th and 11th Revised Pages 538-A;
Ho Chi Minh City on 8th and 9th Revised Pages 538-C;
Hong Kong, Isfahan and Jakarta on 5th Revised Page 538-B and 8th and 9th Revised Pages 538-C;
Jeddah, Kabul, Kandahar and Karachi on 5th, 8th and 9th Revised Pages 538-C;
Kathmandu on 5th Revised Page 538-C and 8th Revised Page 538-D;
Kuala Lumpur and Kuwait on 5th, 8th and 9th Revised Pages 538-D;
Madras on 5th, 6th, 8th and 9th Revised Pages 538-E;
Manila on 5th, 8th and 9th Revised Pages 538-F;
Noumea and Okinawa on 6th, 11th and 12th Revised Pages 539;
Peking, Phnom Henh, Rangoon and Rawalpindi on 8th, 9th, 10th, 11th and 12th Revised Pages 540;
Shiraz and Shanghai on 7th, 8th, 9th, 10th and 11th Revised Pages 542; and
Taipei, Teheran and Tokyo on 3rd and 4th Revised Pages 542-A.

2. All basic Normal Economy Class Fares (YL) in U.S. Dollars from New York, New York, on the one hand, to the following points, on the other, on pages shown in connection therewith:

Brisbane on 6th Revised Page 536 and 10th and 11th Revised Pages 537;
Darwin on 7th Revised Page 538;
Darwin on 10th and 11th Revised Pages 538-A;
Melbourne on 5th, 8th and 9th Revised Pages 538-F;
Singapore on 7th, 8th, 9th, 10th and 11th Revised Pages 542; and
Sydney on 3rd and 4th Revised Pages 542-A.

3. All First Class Fares in FCU's to Boston and New York from the following points on the pages shown in connection therewith:

Budapest on 12th Revised Page 528-A;
Belgrade and Bratislava on 6th Revised Page 535 and 11th and 12th Revised Pages 536;
Brno and Budapest on 6th Revised Page 536 and 10th and 11th Revised Pages 537;
Dubrovnik on 7th Revised Page 538 and 10th and 11th Revised Pages 538-A;
Isfahan on 5th Revised Page 538-B and 8th and 9th Revised Page 538-C;
Karachi on 5th, 8th and 9th Revised Page 538-C;
Kiev on 5th Revised Page 538-C and 8th and 9th Revised Pages 538-D;
Leningrad on 5th, 8th and 9th Revised Pages 538-D;
Ljubljana on 5th Revised Page 538-D and 6th Revised Page 538-E;
Moscow on 5th, 8th and 9th Revised Pages 538-F;
Prague and Rawalpindi on 8th, 9th, 10th, 11th and 12th Revised Pages 540;
Shiraz and Split on 7th, 8th, 9th, 10th and 11th Revised Pages 542;
Titograd on 3rd and 4th Revised Pages 542-A; and
Zagreb on 9th, 10th, 11th, 12th and 13th Revised Pages 543.

[FR Doc. 79-3290 Filed 1-30-79; 8:45 am]

[6320-01-M]

[Order 79-1-67, Docket 34073, etc.]

UNITED AIR LINES, INC., ET AL.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 11th day of January, 1979. Ap-

[3] *Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportation*, Order 76-3-81, March 12, 1976, where the Board concluded that space, not weight, is the principal factor determining the value of baggage services; weight may not be the sole determinant of the amount of baggage a passenger may carry without additional charge; and an excess-baggage charge assessed at the rate of one percent of the first-class fare per kilogram is unjust and unreasonable and in violation of section 404(a) of the Federal Aviation Act of 1958. See also Orders 78-4-80, April 14, 1976; 76-1-68, January 17, 1976; 77-4-97, April 20, 1977; 77-3-36, March 7, 1977; and 76-5-26, May 10, 1976.

[4] We submitted this order to the President on January 15, 1979.

[5] All Members concurred.

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plicants of United Air Lines, Inc., American Airlines, Inc., Southern Airways, Inc., Allegheny Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Ozark Air Lines, Inc., Delta Air Lines, Inc., Piedmont Aviation, Inc., Ozark Air Lines, Inc., for certificate authority, Dockets 34073, 32801, 33628, 32917, 34105, 32864, 33892, 33596, 33742, 33679, 33888, 34112, 34113, 33932, 33999, 29622, 34169, 34192, 34221.

INTRODUCTION

This order will deal with two series of pleadings—those concerning applications for Memphis-Houston authority and those relating to applications for Memphis-Norfolk, Denver, Las Vegas, San Diego, San Francisco/Oakland/San Jose, Seattle authority. We have decided to consolidate all pending applications that propose to increase service in these Memphis markets and dispose of them by show cause procedures.

MEMPHIS-NORFOLK, ET AL.

On June 2, 1978, United Air Lines filed an applications to amend its certificate of public convenience and necessity to allow it to provide improved service to Memphis, Tennessee (Docket 32801). It proposed service between Memphis and Norfolk-Virginia Beach-Portsmouth-Chesapeake / Denver / Las Vegas / San Diego / San Francisco / Oakland / San Jose and Seattle-Tacoma. On the same date, it filed a motion for expedited treatment of its application, and submitted its service proposals.[1] In its motion, it emphasized the importance of quickly increasing the operating flexibility at Memphis in order to make Memphis a major transportation hub and draw some of the traffic from the congested Atlanta area. It is convinced that the initiation of these new routes will provide the public with lower fares, better schedules and more direct routings, and it expects to earn a profit of $401,000 in its first year of operation.

On June 13, 1978, Southern Airways filed an application for authority between Memphis and Denver/Las Vegas/San Francisco/Oakland/San Jose and San Diego, and moved to consolidate its application with United's. (Docket 32864) Concurrently, if filed an answer in support of United's request for expedited treatment.

On June 27, 1978, Continental Air Lines filed an answer urging us to include the Memphis-Houston and Memphis-Kansas City markets in any consideration of United's application.[2] On the same date, American Airlines applied for Memphis-San Francisco/Oakland/San Jose authority and moved to consolidate it application with Untied's (Docket 32917).

On October 2, 1978, Allegheny Airlines filed an application for Memphis-Norfolk-Denver/Las Vegas/San Diego/San Francisco/Seattle authority and also moved to consolidate with United's application (Docket 33596).

On December 5, 1978, Delta Air Lines filed a motion to consolidate its application in Docket 29622 for Memphis-Denver authority with United's, and requested exemption authority for that market in Docket 34169. On December 15, 1978, Braniff filed an answer in opposition to Delta's exemption request.

On November 17, 1978, United applied for exemption authority in the markets for which it applied in Docket 32801 (Docket 34073). United's exemption request received support from the City and Chamber of Commerce of Memphis and the Raleigh/Durham Airport Authority.

On November 17, 1978, Continental applied for Memphis-Denver authority and sought consolidation of its application with United's (Docket 34112). It concurrently filed for exemption authority for that market (Docket 34113).[3]

On November 27, 1978, American applied for exemption authority in the Memphis-San Francisco market (Docket 34105).

American, Southern and Continental filed answers stating that they had no objection to the consideration of United's exemption request, provided that their own applications in these markets, found in Dockets 34105 (Memphis-San Francisco, only), 32864 and 34113, respectively, are simultaneously considered.

On December 12, 1978, Ozark applied for Memphis-Norfolk/Denver/Las Vegas/San Diego/San Francisco/Seattle/Tacoma nonstop authority in Docket 34221 and requested consolidation of its application with United's.

We received no answers from any of the incumbents in the markets at issue to any of the pleadings filed.

MEMPHIS-HOUSTON

On October 6, 1978, American filed an application for an amendment to its certificate of public convenience and necessity to allow it to provide nonstop service between Memphis and Houston, (Docket 33628), accompanied by a motion for hearing.

In its motion, American states that the growth of Memphis and Houston in population and in economic status demands additional air service; that the best avenue to improve service is competition; and that it is prepared to bring effective competition to the Memphis-Houston market. It proposes to provide eight daily nonstop flights at convenient hours, which will permit numerous on-line connecting opportunities, and provide low-fare benefits with its Super Saver fares. It expects to generate an operating profit of $2,995,000.

On October 13, 1978, Braniff Airways filed an application for nonstop authority in the identical market, as well as a motion to consolidate its application with that of American (Docket 33679). We also received applications and motions to consolidate from Allegheny Airlines on October 23, 1978 (Docket 33742), Continental on October 31, 1978, (Docket 33888)[4] Southern on October 31, 1978 (Docket 33892), Ozark Air Lines on November 13, 1978 (Docket 33999), and Piedmont Aviation on December 7, 1978 (Docket 34192).

An incumbent in the market, Delta Air Lines, filed an answer in opposition to American's hearing request on November 6, 1978.[5]

On November 6, 1978, we also received a motion from Continental to consolidate its application for Houston-St. Louis-Chicago authority (Docket 33932).[6]

TENTATIVE FINDINGS AND CONCLUSIONS

We tentatively conclude, on the basis of the tentative findings below, that it is consistent with the public convenience and necessity to award multiple authority on a Category II subsidy-ineligible basis in the Memphis-Norfolk/Denver-Las Vegas/San Diego/San Francisco/Oakland/San Jose/Seattle/Houston markets and to grant the applications of United, Southern, American, Allegheny, Braniff, Continental, Ozark, Delta, Piedmont, and any other fit, willing and able applicant whose fitness, willingness and ability can be established by

[1] United's motion received support from the civic parties of Denver, Raleigh/Durham, Memphis, Charlotte, Las Vegas-Seattle, and Richmond. Petitions for leave to intervene were filed by the Denver civic parties and the Commonwealth of Virginia.

[2] Continental subsequently applied for Memphis-Houston authority on October 31, 1978 (Docket 33888). No carriers have applied for Memphis-Kansas City authority, and for that reason, we are denying Continental's request to consolidate that market into the present case.

[3] Continental included its traffic and financial information in its motion to consolidate. Its environmental data was filed in its exemption request.

[4] On November 3, 1978, Continental amended its motion to consolidate by including its service proposals to enable us to process its application along with that of American if we decide to use show cause procedures.

[5] In its answer, Delta stated that American's motion for hearing should be denied because: (1) the Memphis-Houston market is well-served; (2) we have more pressing matters at hand; and (3) since in another proceeding (Docket 33502) American opposed Braniff's motion for hearing on the above two grounds, we should be consistent and deny both hearing requests.

[6] In support of its motion, Continental emphasizes the advantage to us and to the public of conducting broadly-scoped, linear route proceedings.

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officially noticeable data.[7] Further, we tentatively conclude that no oral evidentiary hearing is needed here since there are no material determinative issues of fact requiring such a hearing for their resolution.

Under the Airline Deregulation Act of 1978, we must approve an application for certificate authority unless we find, by a preponderance of the evidence, that approval would not be consistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). The new Act creates a presumption that the grant of all applications is consistent with the public convenience and necessity. It places on any opponents of these applications the burden of proving them inconsistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). To given such opponents a reasonable opportunity to meet an admittedly heavy burden of proof, it is our view that applicants must indicate what type of service they would provide if they served the markets at issue. This doesn't mean that an applicant must show that it will provide service if it receives authority, but rather what the nature of its service would be if it decided to serve. We will give all existing and further applicants 15 days from the date of service of this order to supply data,[8] in order to give interested persons sufficient information on the nature of the applicant's proposal to assess consistency with the public convenience and necessity. Our tentative findings concerning all applicants that have not filed illustrative service proposals are contingent on such filings.

Our tentative conclusions comport with the letter and spirit of the Airline Deregulation Act of 1978, particularly the declaration of policy set forth in Section 101 which instructs us to rely, to the maximum extent possible, on competitive forces, including potential competition.[9] See our general conclusions about the benefits of multiple authority in *Improved Authority to Wichita Case, et al.*, Order 78-12-106, December 14, 1978. Accordingly, we conclude that it is desirable to award the additional authority sought by the applicants, whether or not services are in fact operated. The existence of additional operating rights in markets now being served by incumbent carriers or authorized to be served will best effect the statute's policy objective of placing maximum reliance on the decisions of the marketplace. This will occur because newly authorized carriers may actually enter the market in order to satisfy unmet demand, both in terms of price and service, or because incumbents will be encouraged by the realistic threat of entry to meet that demand. Because demand is dynamic in character and therefore constantly changing, the most effective means to assure that competitive forces will operate quickly and efficiently is to award multiple operating authority to carriers that are fit, willing and able to provide service.

Notwithstanding the foregoing tentative conclusions in support of multiple permissive authority in this proceeding, we wish to make clear that we in no way desire to deter objections that might be asserted under the 1978 Act by air carriers, civic interests or other interested persons. The new statute contains a completely revised declaration of policy in section 102, as well as numerous additional and modified substantive provisions. Some of these statutory changes relate to considerations not expressly covered in the preceding statute. For example, while diversion from existing carriers will not be given decisive weight in rejecting applications for new authority except upon an extraordinary showing of financial jeopardy on the part of one or more existing air carriers, with the consequent loss of air service which cannot be immediately replaced, other provisions suggest that the Congress desires us to take into account other factors. These include, but are not limited to, satellite airport questions, the degree of concentration within the industry and safety. Any party in this proceeding may explain in full why the authority that we propose to grant should not issue. Such explanations should apply specifically to the applications in issue, and should be sufficiently detailed to overcome the statutory presumption of favorable treatment that the Act bestows on applications.

Upon review of the environmental evaluations submitted by American, Continental and United in their applications, to which no answers have been filed, we find that our decision to award them authority does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, or a major regulatory action under the Energy Policy and Conservation Act of 1975. We reserve judgment on the environmental consequences of other applications, pending submission of environmental data.

We have tentatively decided not to hyphenate San Francisco, Oakland and San Jose. If any carrier does not use its Oakland-Memphis or San Jose-Memphis authority, another carrier can obtain that authority under section 401(d)(5) of the Act as long as Oakland and San Jose are listed as separate points on the first carrier's certificate (*See* Order 78-11-41). We find this approach more consistent with the Act's declaration of policy which calls on us to encourage air service at major urban areas through secondary or satellite airports.[10]

We have also decided that it is not consistent with the public interest to grant the exemption requests of United, Delta, Continental, and American. Although the Airline Deregulation Act of 1978 has liberalized the criteria for granting exemptions, certification remains the morm under the Act. We have been shown no deficiencies of service of other reasons for granting the exemptions here and for giving United, Delta, Continental, and American a head-start over the other carriers to whom we propose to grant authority.[11] Moreover, the fact that we

[7] Officially noticeable data consist of that information filed with us under section 302.24(m) of our Rules of Practice. Applicants whose fitness cannot be so established must make a showing of fitness, as well as dealing with any questions under sections 408 and 409 of the Act. Should such applications be filed, we will then consider how to deal with them.

On the basis of officially noticeable data, we find that United, American, Southern, Allegheny, Braniff, Continental, Ozark, Delta and Piedmont are citizens of the United States and are fit, willing and able to perform the air services proposed and to conform to the provisions of the Act and our rules, regulations and requirements.

[8] They should submit an illustrative schedule of service in the markets at issue, which shows all points that they might choose to serve, the type and capacity of the equipment they would likely use and the elapsed trip time of flights in block hours over the segments. For the markets at issue only, they should also provide an environmental evaluation as required by Part 312 of our Regulations, and an estimate of the gallons of fuel to be consumed in the first year of operations in the markets if they instituted the proposed service as well as a statement on the availability of the required fuel.

[9] Section 102(a) specifies as being in the public interest, among other things:

"The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital" and "The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation service."

[10] We will give United 15 days to file any revisions to its illustrative service proposal for the Bay Area.

[11] The 1977 interline and connecting O&D for Memphis-Norfolk was 18,230, served by three round-trip single-plane flights per day; for Memphis-Denver 95,030 with seven round-trip single-plane flights per day (including one nonstop); for Memphis-Las Vegas 9,770 with two round-trip single-plane flights each day; for San Diego 16,490 served by one round-trip single-plane flight and substantial connecting flights; for San Francisco/Oakland/San Jose 44,520 with

Footnotes continued on next page

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have decided to deal with the applications expeditiously through show cause procedures further supports our decision to deny the requested exemptions.

We will give interested persons 30 days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; answers will be due within 10 days thereafter. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a proceeding that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections. We remind objectors that under the 1978 Act they have the burden of proving why the awards proposed here will not be consistent with the public convenience and necessity.

Accordingly, 1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated above and amending the certificates of public convenience and necessity of American Airlines for Route 4, Southern Airways for Route 98, Allegheny Airlines for Route 97, Continental Air Lines for Route 29, Braniff Airways for Route 9, Ozark Air Lines for Route 107, and Piedmont Aviation for Route 87 so as to authorize the carriers to engage in nonstop operations between Memphis, on the one hand, and Houston, on the other; amending the certificate of public convenience and necessity of United Air Lines for Route 51 so as to authorize it to engage in nonstop operation between Memphis, on the one hand, and Norfolk-Virginia Beach-Portsmouth-Chesapeake, Denver, Las Vegas, San Diego, San Francisco, Oakland, San Jose, and Seattle-Tacoma, on the other; amending the certificate of Southern Airways for Route 98 so as to permit it to engage in nonstop operations between Memphis, on the one hand, and Denver, Las Vegas, San Diego and San Franciso, Oakland, and San Jose, on the other; amending the certificate of Allegheny Airlines for Route 97 so as to permit it to engage in nonstop operations between Memphis, on the one hand, and Norfolk-Virginia Beach-Portsmouth-Chesapeake, Denver, Las Vegas, San Diego, San Francisco, and Seattle, on the other; amending the certificates of Continental for Route 29 and Delta for Route 24 so as to permit them to engage in nonstop operations between Memphis, on the one hand, and Denver, on the other; amending the certificate of public convenience and necessity of Ozark Air Line for Route 107 so as to authorize it to engage in nonstop operations between Memphis, on the one hand, and Norfolk, Denver, Las Vagas, San Diego, San Francisco, and Seattle-Tacoma, on the other; and amending, to grant any of the authority in issue, the certificates of any other fit, willing and able applicants, the fitness of which can be established by officially noticeable material;

2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth here, to file with us and serve upon all persons listed in paragraph 12, no later than February 23, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections; answers shall be due no later than March 5, 1979;

3. If timely and properly supported objections are filed, we will accord full consideration to the matters and issues raised by the objections before we take further action;[12]

4. In the event no objections are filed, we will deem all further procedural steps to have been waived and we may proceed to enter an order in accordance with the tentative findings and conclusions set forth here;

5. We grant the motions of Braniff, Allegheny, Continental, Southern, Ozark, and Piedmont to consolidate their applications in Docket 33679, 33742, 33888, 33892, 33999, and 34192, respectively, with American's application in Docket 33628;

6. We deny the motion of Continental to consolidate its application in Docket 33932 with American's application in Docket 33628;

7. We grant the motions of Southern, American, Allegheny, Continental Delta, and Ozark to consolidate their applications in Dockets 32864, 32917, 33596, 34112, 29622, and 34221 respectively, with United's application in Docket 32801;

8. We grant the motions of Continental to consolidate the Memphis-Houston market with our consideration of the Memphis-Norfolk, *et al.* markets; to the extent that Continental requested the inclusion of the Memphis-Kansas City market, its motion is denied;

9. We grant the petitions of the Denver, Norfolk, and Commonwealth of Virginia parties for leave to intervene in Docket 32801;

10. We deny the exemption requests of United in Docket 34073, Continental in Docket 34113, Delta in Docket 34169, and American in Docket 34105;

11. We direct Southern, American, Allegheny, Braniff, Ozark, Delta, Piedmont and any other applicant for the authority in issue here to file the data set forth in footnote 8 no later than February 8, 1979; and

12. We will serve a copy of this order upon all persons named in the service lists of Docket 32801 and 33628.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[13]
Secretary.

[FR Doc. 79-3288 Filed 1-30-79; 8:45 am]

Footnotes continued from last page

four round-trip single-plane flights each day; and Seattle-Tacoma, 9,760 with no single-plane service but numerous connecting flights.

[12] Since provision is made for the filing of objections to this order, we will not entertain petitions for reconsideration.

[13] All Members concurred.

[3510-13-M]

DEPARTMENT OF COMMERCE

National Bureau of Standards

FEDERAL STANDARD COBOL (FIPS PUB 21-1)

Proposed Interpretation

Under the provisions of Pub. L. 89-306 and Executive Order 11717, the Secretary of Commerce is authorized to establish uniform Federal ADP Standards. Interpretation number 5 to Federal Standard COBOL (FIPS PUB 21-1) is being recommended for Federal use. It pertains to the ACCEPT statement and the RECEIVE statement.

This proposed interpretation is in accordance with the Interpretation Procedures for Federal Standard COBOL as contained in Federal Information Processing Standards Publication (FIPS PUB) 29, dated June 30, 1974. The proposed interpretation, if adopted, will serve as an additional specification to Federal Standard COBOL, which is an adoption of the voluntary industry standard that has been developed by the American National Standards Institute.

The proposed interpretation contains a definition of the problem, discussion of the issues, recommended interpretation, supporting justification for the proposed interpretation, necessary clarifications to Federal Standard COBOL to effect the resolution, and the effective date of the interpretation.

Prior to approval of the proposed interpretation by the National Bureau of Standards, it is essential to assure that proper consideration is given to the needs and views of manufacturers, the public and State and Local governments. The purpose of this notice is to solicit such views.

Interested parties may submit comments to the Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, not later than May 1, 1979.

Dated: January 26, 1979

THOMAS A. DILLON,
Acting Director.

FEDERAL STANDARD COBOL

INTERPRETATION NO. 5—THE ACCEPT AND RECEIVE STATEMENTS

Definition of the problem

When an ACCEPT statement or a RECEIVE statement is specified such that there is interaction with a keyboard device, is it permissible for leading spaces to be deleted from the data being accepted or the message being received? Can the operating system (or interface between the keyboard device and executing program) delete leading spaces so that the program expecting the data or message would encounter a nonspace character as the first chracter of the data or message? Arbitrary deletion of these characters may change the meaning of the input data.

Issues

Given the environment where a COBOL program is interacting with a keyboard device through the use of an ACCEPT statement or a RECEIVE statement, it is necessary to determine the extent to which an implementation is permitted to transform the data transmitted from the keyboard device before the data is stored in a receiving item in the COBOL program. In particular, the question must be answered whether or not an allowable transformation of data permits the deletion of transmitted leading space characters.

Recommended interpretation

The interpretation applies to American National Standard COBOL, X3.23-1974 as it has been adopted as Federal Standard COBOL, FIPS PUB 21-1. The interpretation is that it is not permissible for an implementation to cause any data characters, except control characters in the case of the RECEIVE statement, to be deleted in the process of storing data characters into a receiving data item during the execution of an ACCEPT statement or a RECEIVE statement.

Supporting justification

References

(a) The following references to American National Standard COBOL, X3.23-1974, pertain to the issues involved in this interpretation:

(1) Page II-53, Paragraph 5.4.4(1) states:

The ACCEPT statement causes the transfer of data from the hardware device. This data replaces the contents of the data item named by the identifier.

(2) Page II-53, Paragraph 5.4.4.(4) of the ACCEPT statement states, in part:

• • • the transferred data is stored aligned to the left in the receiving data item • • •. If the size of the transferred data exceeds the size of the receiving data item • • • only the leftmost characters of the transferred data are stored in the receiving data item • • •. The remaining characters of the transferred data which do not fit into the receiving data item are ignored.

(3) Page XIII-17, Paragraph 3.4.4(2) states, in part:

The message • • • is transferred to the receiving character positions of the area referenced by identifier-1 aligned to the left without space fill.

(4) Page XIII-18, Paragraph 3.4.4.(7)c states, in part:

If a message size is greater than the area referenced by identifier-1, the message fills the area referenced by identifier-1 left to right starting with the leftmost character of the message • • • the remainder of the message can be transferred to the area referenced by identifier-1 with subsequent RECEIVE statements • • •.

(5) Page XIV-42, Paragraph 3.8, states as one of the primary functions of the Message Control System:

To perform device-dependent tasks, such as character translation and insertion of control characters • • •.

(b) The following references to American National Dictionary for Information Processing, X3/TR-1-77, also pertain to issues involved in this interpretation. Although the specific definitions cited are not included in American National Standard COBOL, X3.23-1974, the definitions are generally accepted within the data processing community and are therefore considered applicable to the terms as used in the COBOL specifications.

(1) Page 41, definition of DATA cross-references Alphanumeric Data.

(2) Page 8, definition of Alphanumeric Data, states:

Data represented by letters and digits, perhaps with special characters and the space character.

(3) Page 95, definition of Message, states, in part:

• • • an ordered series of characters intended to convey information.

(4) Page 25, definition of Character cross-references Alphanumeric Character Set.

(5) Page 8, definition of Alphanumeric Character Set, states:

A character set that contains both letters and digits and may contain control characters, special characters, and the space character.

Discussion

(a) The execution of an ACCEPT statement according to reference (a)(1) causes the transfer of data to the specified receiving data item. Data is defined to include space characters according to references (b)(1) and (b)(2). Therefore, any space character that is a part of the transfer of data from the hardware device, regardless of relative position within the data, becomes a part of the data to be stored in the receiving data item in the COBOL program. Nowhere in the COBOL specifications is an exception made that would allow for the deletion of any particular data character during the execution of an ACCEPT statement.

(b) The description of the functions for the Message Control System according to reference (a)(5) makes it clear that the Message Control System may perform character translation and insertion/deletion of control characters, during the process of transferring a message from/to a data item in the COBOL program. A space character is not a control character according to references (b)(3), (b)(4) and (b)(5).

(c) References (a)(2), (a)(3) and (a)(4) all indicate that the data/message is in effect stored aligned to the left in the receiving area. The only mention of deletion of data has to do with the case when the receiving item is smaller than the data/message. The rightmost characters which are beyond the size of the receiving data item are ignored in the case of the ACCEPT statement. For a RECEIVE statement, the rightmost characters that cannot be contained in the data item can be obtained by subsequent RECEIVE statements.

Clarification to Federal standard COBOL

None.

Effective date of interpretation

The effective data of this interpretation shall be 30 days after the date the approved interpretation is published in the FEDERAL REGISTER.

[FR Doc. 79-3222 Filed 1-30-79; 8:45 am]

[3510-04-M]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copes of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to aviod premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 773,361: Ultrahigh Strength Steels having Improved Fracture Toughness; filed Mar. 1, 1977.

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Patent application 773,362: Process for Ductilizing Tungsten and Tungsten Base Composites; filed Mar. 1, 1977.
Patent application 796,626: Focal-Surface Detector for Heavy Ions; filed May 13, 1977.
Patent application 821,868: Energy-Efficient Regenerative Liquid Desiccant Drying Process; filed Aug. 4, 1977.
Patent application 821,869: Stirring Paddle; filed Aug. 4, 1977.
Patent application 824,192: Core Coil Assembly for Use in Superconducting Magnets and Method for Assembling the Same; filed Aug. 12, 1977.
Patent application 824,572: Method and Apparatus for Controlled Condensation Isotope Separation; filed Aug. 10, 1977.
Patent application 830,972: Spatial Filter System as an Optical Relay Line; filed Sept. 6, 1977.
Patent application 830,973: Gaseous Insulators for High Voltage Electrical Equipment; filed Sept. 6, 1977.
Patent application 831,194: Preparation of High Purity Phosphorus and Compounds Thereof Particularly Radiophosphorus Compounds; filed Sept. 7, 1977.
Patent application 831,302: Up-and-Down Chopper Circuit; filed Sept. 7, 1977.
Patent application 832,488: Sticky Foam; filed Sept. 12, 1977.
Patent application 832,489: Microwave Accelerator E-Beam Pumped Laser; filed Sept. 12, 1977.
Patent application 832,490: Electromagnetic Method for Locating Underground Anomalies; filed Sept. 12, 1977.
Patent application 833,116: Inertial Energy Storage Device; filed Sept. 14, 1977.
Patent application 833,119: Isotopic CF sub 4 Laser; filed Sept. 14, 1977.
Patent application 837,250: Combination Free Electron and Gaseous Laser; filed Sept. 27, 1977.
Patent application 838,011: High Efficiency Laser Amplifier; filed Sept. 29, 1977.
Patent application 838,273: Method for Preparing a Thick Film Conductor; filed Sept. 30, 1977.
Patent application 838,274: Method for Maximizing Shale Oil Recovery from an Underground Formation; filed Sept. 30, 1977.
Patent 4,039,378: Pu—Zr Alloy High-Temperature Activation-Measurement Foil; filed Oct. 26, 1976, patented Aug. 2, 1977. Not available NTIS.
Patent 4,044,457: Method of Fabricating Composite Superconducting Wire; filed Apr. 1, 1976; patented Aug. 30, 1977. Not available NTIS.
Patent 4,047,094: MHD Generator with Improved Network Coupling Electrodes to a Load; filed July 22, 1976; patented Sept. 6, 1977. Not available NTIS.
Patent 4,049,431: High Strength Ferritic Alloy; filed Sept. 30, 1976, patented Sept. 20 1977. Not available NTIS.
Patent 4,049,432: High Strength Ferritic Alloy-D53; filed Sept. 30, 1976; patented Sept. 20, 1977. Not available NTIS.
Patent 4,052,885: Portable Device and Method for Determining Permeability Characteristics of Earth Formations; filed Aug. 24, 1976; patented Oct. 11, 1977. Not available NTIS.
Patent 4,052,976: Non-Tracking Solar Concentrator with a High Concentration Ratio; filed June 30, 1976; patented Oct. 11, 1977. Not available NTIS.
Patent 4,057,462: Radio Frequency Sustained Ion Energy; filed Feb. 26, 1975; patented Nov. 18, 1977. Not available NTIS.
Patent 4,063,005: Cathode for Molten Salt Batteries; filed Oct. 22, 1976; patented Dec. 13, 1977. Not available NTIS.
Patent 4,064,003: Rupture Disc; filed Mar. 29, 1976; patented Dec. 20, 1977. Not available NTIS.
Patent 4,065,602: Wick-and-Pool Electrodes for Electrochemical Cell; filed Mar. 24, 1977; patented Dec. 27, 1977. Not available NTIS.
Patent 4,065,853: Portable Punch and Die Jig; filed Jan. 27, 1977; patented Jan. 3, 1978. Not available NTIS.
Patent 4,066,496: Cryogenic Expansion Joint for Large Superconducting Magnet Structures; filed June 24, 1976; patented Jan. 3, 1978. Not available NTIS.
Patent 4,067,308: Spin Ejector; filed Nov. 2, 1976; patented Jan. 10, 1978. Not available NTIS.
Patent 4,067,702: Isotope Separation by Selective Charge Conversion and Field Deflection; filed July 22, 1976; patented Jan. 10, 1978. Not available NTIS.
Patent 4,069,457: High-Energy Accelerator for Beams of Heavy Ions; filed Feb. 17, 1977; patented Jan. 17, 1978. Not available NTIS.
Patent 4,072,084: Graphite Fiber Reinforced Structure for Supporting Machine Tools; filed Dec. 17, 1976; patented Feb. 7, 1978. Not available NTIS.
Patent 4,073,680: Toroidal Band Limiter for a Plasma Containment Device; filed June 26, 1975; patented Feb. 14, 1978. Not available NTIS.
Patent 4,074,848: Method of Sealing; filed Jan. 27, 1977; patented Feb. 21, 1978. Not available NTIS.
Patent 4,075,312: Process for Recovering Evolved Hydrogen Enriched with at Least One Heavy Hydrogen Isotope; filed June 6, 1977; patented Feb. 21, 1978. Not available NTIS.
Patent 4,077,017: Ultraviolet Radiation Induced Discharge Laser; filed Apr. 4, 1977; patented Feb. 28, 1978. Not available NTIS.
Patent 4,077,838: Pyrolytic Carbon-Coated Nuclear Fuel; filed July 28, 1976; patented Mar. 7, 1978. Not available NTIS.
Patent 4,078,544: Corrugated Cover Plate for Flat Plate Collector; filed Apr. 26, 1976; patented Mar. 14, 1978. Not available NTIS.
Patent 4,078,904: Process for Forming Hydrogen and Other Fuels Utilizing Magma; filed Sep. 28, 1976; patented Mar. 14, 1978. Not available NTIS.
Patent 4,078,907: Separation and Purification of Xenon; filed Feb. 18, 1970; patented Mar. 14, 1978. Not available NTIS.
Patent 4,078,968: Sealed Heat Access Area Enclosure; filed July 28, 1976; patented Mar. 14, 1978. Not available NTIS.
Patent 4,078,969: Core Disruptive Accident Margin Seal; filed Aug. 13, 1976; patented Mar. 14, 1978. Not available NTIS.
Patent 4,079,303: Charging System and Method for Multicell Storage Batteries; filed July 28, 1976; patented Mar. 14, 1978. Not available NTIS.
Patent 4,080,227: Pyrotechnic Filled Molding Powder; filed June 6, 1977; patented Mar. 21, 1978. Not available NTIS.
Patent 4,080,250: Method of Locating a Leaking Fuel Element in a Fast Breeder Power Reactor; filed Nov. 20, 1973; patented Mar. 21, 1978. Not available NTIS.
Patent 4,080,254: Plug-to-Plug Gas Transfer System; filed Apr. 28, 1978; patented Mar. 21, 1978. Not available NTIS.
Patent 4,080,255: Horizontal Baffle for Nuclear Reactors; filed Aug. 31, 1976; patented Mar. 21, 1978. Not available NTIS.
Patent 4,080,273: Method for Photochemical Reduction of Uranyl Nitrate by Tri-N-Butyl Phosphate and Application of This Method to Nuclear Fuel Processing; filed Sept. 7, 1976; patented Mar. 21, 1978. Not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, CDOE 302, Arlington, Va. 22217.

Patent application 832,264: Optic Scattering Acoustic Transducer; filed Sept. 12, 1977.
Patent application 913,935: Self Adjusting Tandem Seal; filed June 8, 1978.
Patent application 918,256: Spin Rate Timing System; filed June 23, 1978.
Patent application 932,838: Variable Segmented Ramp Voltage Synthesizer; filed Aug. 11, 1978.
Patent application 933,017: Ohmic Contacts for Group III–V N-Type Semiconductors Using Epitaxial Germanium Films; filed Aug. 11, 1978.
Patent application 934,659: Green Flare Compositions; filed Aug. 17, 1978.
Patent application 935,423: Simultaneous Yellow Smoke and Yellow Flame Composition; filed Aug. 21, 1978.
Patent application 937,310: Phased-Array Maintenance-Monitoring System; filed Aug. 25, 1978.

[FR Doc. 79-3184 Filed 1-30-79; 8:45 am]

[3810-70-M]

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

DEFENSE SCIENCE BOARD TASK FORCE ON EMP HARDENING OF AIRCRAFT

Advisory Committee Meeting

The Defense Science Board Task Force on EMP Hardening of Aircraft will meet in closed session 22-23 February 1979 at the Pentagon, Room 1E801, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research & Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will review hardening of U.S. aircraft against EMP and related subjects and will provide recommendations for appropriate actions.

In accordance with 5 U.S.C. App. I, § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, DoD/WHS.

JANUARY 26, 1979.

[FR Doc 79-3200 Filed 1-30-79; 8:45 am]

[3810-70-M]

DEFENSE SCIENCE BOARD TASK FORCE ON NAVAL SURFACE SHIP VULNERABILITY

Advisory Committee Meeting

The Defense Science Board Task Force on Naval Surface Ship Vulnerability will meet in closed session on 24 February 1979 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs to the Department of Defense.

A meeting of the Task Force on Naval Surface Ship Vulnerability has been scheduled for 24 February 1979 to review, evaluate, and summarize the vulnerability of naval surface ships with consideration of their effectiveness in carrying out future naval missions.

In accordance with 5 U.S.C. App. I § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, DoD/WHS.

JANUARY 26, 1979.

[FR Doc 79-3201 Filed 1-30-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Bonneville Power Administration

SOUTHWEST OREGON AREA SERVICE DRAFT FACILITY PLANNING SUPPLEMENT TO FINAL ENVIRONMENTAL STATEMENT

Public Meetings

The Bonneville Power Administration (BPA) hereby gives notice of five public meetings to be held to discuss and solicit comments for the Southwest Oregon Area Service Draft Facility Planning Supplement. This environmental statement supplements BPA's Final Fiscal Year 1979 Proposed Program EIS (DOE/EIS-0005) and was prepared pursuant to DOE's implementation of the National Environmental Policy Act of 1969. This supplemental statement assesses the anticipated impacts associated with the construction of two transmission facilities: (1) a 500-kV line from Idaho Power Company's Brownlee Substation in Idaho to BPA's Slatt Substation near Arlington, Oregon, and (2) a 500-kV line from Buckley, Oregon, to Malin, Oregon.

The meeting will be held as follows:

March 5, 1979, Hermiston High School, Hermiston, Oregon, 7:30 p.m.
March 6, 1979, Union County Court House, LaGrande, Oregon, 7:30 p.m.
March 7, 1979, Oregon State Extension Service Building, 3328 Bandenberg Road, Klamath Falls, Oregon 7:30 p.m.
March 8, 1979, Deschutes County Court House Annex, Bend, Oregon, 7:30 p.m.

In addition to the nonconstruction alternative, with its lack of environmental impacts, three other routing alternatives, energy conservation, and load management were identified. The impacts at this planning stage are generalized pertaining to the normally expected effects of constructing this amount of transmission line in the study area being evaluated. More explicit impacts will be detailed when line locations have been decided upon.

All interested parties are urged to attend. All comments are welcomed in order to fully assist the agency in evaluating the environmental factors pertinent to this particular aspect of BPA's Fiscal Year 1979 Program. Comments received will be considered in the preparation of the Southwest Oregon Area Service Final Facility Planning Supplement.

For those who cannot attend the meetings, written comments will be accepted until the close of comment date, March 12, 1979. Copies of the environmental statement, as well as additional or clarifying information, may be obtained by writing or calling the Environmental Manager's Office, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208, 503-234-3361, extension 5137.

Dated at Portland, Oregon, this 24th day of January, 1979.

STERLING MUNRO,
Administrator.

[FR Doc. 79-3247 Filed 1-30-79; 8:45 am]

[6450-01-M]

Economic Regulatory Administration

POWERPLANT AND INDUSTRIAL FUEL USE ACT

Availability of Proposed Guidelines for Preparation of Environmental Reports

AGENCY: Department of Energy.

ACTION: Notice of Availability of Proposed Guidelines for the Preparation of Environmental Reports.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces the availability of proposed guidelines for environmental reports (ER). The ER must be completed by those applicants requesting a permanent exemption for a new powerplant or installation, or a permanent exemption for an existing powerplant or installation relating to cogeneration, scheduled equipment outages, state or local requirements, or intermediate load powerplants. The ER will comprise the Environmental Impacts Chapter of the Fuels Decision Report, and will serve as the starting point for preparation of DOE environmental analyses, environmental assessments, or environmental impact statements.

The proposed guidelines will be revised following the close of the public comment period. The revised guidelines will be placed on file in the ERA Public Document Room. The guidelines may be updated from time to time as DOE deems appropriate. Accordingly, applicants are advised to secure the most current set of guidelines from ERA.

Dates: Written comments by March 26, 1979.

ADDRESS: Written comments to: Office of Public Hearing Management, Department of Energy, Docket Number ERA-R-78-019A, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Steven A. Frank, Division of Coal Utilization, Department of Energy, Room 7202, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-6246

Janine Landow-Esser, Office of General Counsel, Room 8217, 20 Massachusetts Avenue, N.W., Washington, D.C. 20461, (202) 376-4266

Robert Stern, Division of NEPA Affairs/Environment, Department of Energy, Room 7119, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8755

SUPPLEMENTARY INFORMATION: Interested parties are invited to submit written comments with respect to these guidelines to the Office of Public Hearing Management, Docket Number ERA-R-78-019A, Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. All comments should be received by DOE no later than March 26, 1979, in order to ensure consideration.

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Issued in Washington, D.C., on January 25, 1979.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

GUIDELINES FOR PREPARATION OF APPLICANT'S ENVIRONMENTAL REPORT

INTRODUCTION

These guidelines prescribe the organization and content of applicants' environmental reports. The environmental reports will comprise the Environmental Impacts Chapter of the Fuels Decision Report. Environmental reports must be submitted by powerplants and major fuel burning installations at the time an application is filed for any exemption other than those specifically excluded from the provisions of the National Environmental Policy Act by Sec. 763 of the FUA.

New electric powerplants applying for permanent exemptions must prepare the environmental report with respect to the proposed site of such powerplant and reasonable alternative sites.

The environmental reports will be used to assist DOE in its analysis of major Federal actions significantly affecting the quality of the human environment, and will serve as an initial analysis for preparation of DOE environmental assessments and environmental impact statements.

It is the general policy of DOE to expect applicants to consult with appropriate Federal, regional, state and local entities during preparation of the environmental report. In addition, DOE expects the applicant to conduct any studies which are necessary to determine the impact of the proposed and alternative actions.

In order to expedite the processing of exemption applications, DOE recommends that the applicant utilize the environmental report format provided in these guidelines. Applicants are, however, encouraged to consult with DOE (ERA) prior to preparation and filing of the environmental report in order to tailor the report to particular circumstances.

These guidelines are intended to provide an insight into the rationale and scope of environmental reports. They may be updated at any time, without public notification, in the FEDERAL REGISTER or elsewhere. Accordingly, prior to preparation of an environmental report applicants are advised to contact ERA in order to secure the most currrent set of guidelines.

Any information requested by these guidelines which has been included in previous parts of the Fuels Decision Report may be referenced by citing the page and section number in which it appears.

I. DESCRIPTION OF THE EXISTING OR PROPOSED FACILITY

A. SITE LOCATION AND SURROUNDINGS

1. Name and location of the plant

Begin with an introductory paragraph giving the name of the applicant and the location of the (proposed) facility. Location should be specified in terms of proximity to the nearest town(s) and the major cities of the county and state in which the (proposed) facility is situated; also, state the air quality control region,(AQCR) in which the facility is located. A small map should be provided showing where the facility is located in the state, and what roads, railroad facilities, and/or bodies of water provide access to it.

2. Description of the facility

The total amount of land the facility occupies or proposed facility will occupy should be identified; characterize the type and topography of the land. The various components which comprise or will comprise the plant should be detailed. This includes ponds, lagoons, canals, etc. to be constructed as well as structures to be erected. Quantify how much of the existing (proposed) land area of the facility is (will be) developed and how much will remain undeveloped. Indicate which modes of transportation serve (will serve) the site, and describe the current condition of the transportation facilities. To help the DOE visualize the facility configuration, include a schematic diagram of the (proposed) facility.

B. OPERATIONS

1. Description of the facility's current or proposed operations

In this subsection, briefly describe how many megawatts (Mw) or Btu/hour of electricity the utility produces or will produce, or what products are or will be manufactured by the MFBI. For utilities, describe how many powerplants (boiler units) make up or will make up the generating station, and give their respective generating capacities. Specify whether each unit is a peak, intermediate, or baseload unit. MFBI's should provide the number of boilers that are or will be located at the plant, the size of each, and how many pounds of steam per hour each generates, or will generate. Cite the dates for planned retirement of any units.

State the age, design specifications, and operating capacities for the unit(s) for which the exemption is being filed. For utilities and MFBIs, reference the page of the Fuels Decision Report (FDR) or appropriate form which gives the design data for each unit.

2. Fuel capability

All applicants should reference the page of the FDR or appropriate form which lists what fuels or combination of fuels are capable of being fired in the existing or proposed boiler unit(s) as a primary energy source.

In addition, indicate how much fuel (the number of days supply) can be stored on site, the amount of land required, and where it is or will be stored. In addition, specify what type(s) of fuel handling equipment the facility has or plans to acquire.

3. Pollution abatement systems and equipment

a. AIR—Existing facilities must describe any air pollution control equipment in place, and identify what type of equipment serves each stack, i.e., electrostatic precipitators, baghouses, and scrubbers. Name the manufacturer, the size, and design and operational efficiency for each piece of equipment. In addition, state when the equipment was installed, whether it is currently being used, and the projected useful life for compliance with existing regulations. Also, provide a record of "down time", both for control equipment and monitoring equipment. Indicate the location of the monitoring equipment from the stack(s). If the facility has not yet been constructed, describe the air pollution control equipment which will be installed.

b. WATER—Existing or proposed waste water pollution control systems should be enumerated in the following manner: Name the bodies of water from which all processing water is drawn, state the volume of water drawn from the body of water and how it is brought into the facility. For example, is it brought into the facility via a water supply canal? In the description discuss pretreatment and treatment methods of water used by the facility. Indicate if the cooling water system and other powerplant or boiler processes operate on a once-through system or a recirculating system. Specify how liquid wastes from the various process areas are treated. Describe the volume and condition of discharged water, i.e., outline the discharge procedure for waste effluents. Name all bodies of water which are affected. A schematic diagram may be included for brevity.

Applicants with existing facilities must specify the types of fuels and effluents covered in the existing (or proposed National Pollutant Discharge Elimination System (NPDES) permit. Applicants with new facilities must state the types of fuels and effluents which must be covered by an NPDES permit. State whether application has been made for that permit.

c. Solid waste

The location of existing or proposed solid waste disposal facilities should be named. The type of soil and lining at the (proposed) disposal site should be described as well as the site's distance and relationship to nearby surface water or underground aquifers. Give the kind and amount of solid waste which is or will be generated and how it is or will be handled at the facility. If the disposal site is not within the confines of the facility's site, the way in which solid waste is or will be transported and the distance from the facility should be described. Copies of permits, applications, approvals or proposals for solid waste disposal should be included.

II. DESCRIPTION OF THE EXISTING ENVIRONMENT

Provide an overall description of existing conditions or resources which might be affected directly or indirectly by the facility's construction and/or operation; include a discussion of such pertinent topics as:

A. AIR RESOURCES

1. Applicable air pollution standards and classifications

This subsection should begin with a description of the existing ambient air quality within the facility's AQCR and within twenty-five miles of the proposed or existing facility. It should be described in terms of existing and proposed applicable Federal, state, and local standards and regulations. Indicate the air quality control region (AQCR) in which the station is or will be located, and whether or not the AQCR (or the portion in which the facility is located) is an attainment or non-attainment area for each criteria pollutant. Give the location of EPA monitors relative to the plant. The applicable regulations of the State Implementation Plan (SIP) should be cited. Indicate where the data was obtained.

The following two charts should be completed to show which national primary and

secondary ambient air quality standards (NAAQS) are now being violated in the AQCR (place asterisks next to standards which are being violated).

NATIONAL PRIMARY AMBIENT AIR QUALITY STANDARDS

	SO	TSP	CO	NO	Photochemical oxidants
Three-hour standard					
24 hour standard					
Annual standard					
Visibility					

NATIONAL SECONDARY AMBIENT AIR QUALITY STANDARDS

	SO	TSP	CO	NO	Photochemical oxidants
Three-hour standard					
24 hour standard					
Annual standard					
Visibility					

In addition, give the EPA Prevention of Significant Deterioration (PSD) classifications (class I, II, or III) or applicable state requirement with regard to sulfur dioxide and particulates for the AQCR in which the facility is or will be located. Indentify PSD classifications or applicable state requirements of areas likely to be affected by emissions from the facility; or identify nonattainment areas likely to be affected by emissions.

2. Climate

Continue with a brief description (1 or 2 paragraphs) of the existing climate. Specify the temperature range in the winter and summer, and indicate the annual mean temperature. Indicate which season receives the most precipitation, state the monthly average precipitation, the periods of peak and minimum rainfall, and the average humidity. Predominant wind characteristics should be given, stating which direction the winds come from and what direction they take (i.e. the winds are from the east through southerly directions) and the frequency with which they occur. Statements should be supported with a wind rose diagram. The annual wind speed range should be identified. Incidence of storms, such as tornadoes and hurricanes, should be cited. Indicate the frequency of temperature inversions, stagnations, fog, smog or icing. Specify where the information was obtained. Cite the location of monitoring stations.

Discuss terrain features that influence the climate.

B. WATER RESOURCES

1. General description

This subsection should name the predominant water body or bodies (fresh, brackish or saline) in the facility area and their locations relative to the plant. Indicate the current uses of each of body of water (recreation, public water supply, etc.). If the body of water into which the facility discharges is used by other industrial facilities, list them and give their locations relative to the facility applicant.

Described the receiving water body's flow in terms of what body of water it flows into. Indicate the volume and speed of the current. The average flow of water receiving the plant's effluents should be stated in cubic feet per second (cfs); the minimum and peak flow rates should be given. The amount of water that flows or will flow through the facility and the volume the facility consumes or will consume, should be specified in millions of gallons per day (MGD).

2. Applicable water pollution standards and classifications

In one to three paragraphs (1) indicate the state or EPA classification for the bodies of water which are serving as intake and discharge—i.e., water quality limited, effluent limited or other; (2) state applicable water pollution control regulations, (3) indicate whether the facility is or would be located on a designated floodplain or wetland. (Consult 10 CFR Part 1022 for floodplain/wetland identification guidance.)

Give the location and numbers of the nearest EPA/state water quality reading stations above and below the (proposed) facility. Existing facility applicants must include a chart which shows allowable effluent discharge limitations according to the NPDES permit, and readings from the state or Federal monitors for each parameter over the past five years. All applicants must indicate the current ambient background concentrations, as registered by the monitoring stations, of the following pollutants:

a. Dissolved Oxygen (mg/l)
b. BOD
c. Hi COD
d. pH
e. T-ALK
f. Oil/Grease
g. Hardiness
h. P04
i. Cl
j. S04
k. p
l. Dissolved Solids
m. Suspended Solids
n. NH3
o. N0
p. Phenol
q. Fe
r. As
s. Other Trace Metals

Any violations of local, state, or Federal water quality standards which are or may be caused by the facility (including state recreation and fishing standards, and Federal Marine Water Aquatic Life Standards) must be noted.

3. Aquatic ecology

In several paragraphs, identify the most prevalent benthic organisms in each relevant body of water and specify which, if any, are important constitutents of the food chain. Enumerate the types of plankton and fish commonly found in the body of water serving the facility. The presence of aquatic vegetation such as algae, vascular plants and weeds must be described in a separate paragraph.

Any rare or endangered species (see 50 CFR Part 17) found in the facility's vicinity or in the vicinity of any related off-site, areas such as the solid waste disposal site, should be noted along with species of particular commerial or sport value. Indicate the effects of construction and operation of the facility on these species. If impacts are unknown, state the activity being conducted or planned to determine them. Also indicate mitigative measures that are underway or planned.

C. LAND RESOURCES

1. Terrestrial ecology

Terrestrial ecology should be described in several paragraphs. State the types of flora present at the facility site, at all relevant off-facility sites, and in the surrounding areas. Enumerate the fauna that are prevalent, noting any migrant and resident species and their habitats. Specify whether each specie is rare or endangered or whether it is of particular commercial or sport value. Describe the dominant plant and wildlife communities as well as any unique ecosystems or communities. Indicate the effects of construction and operation of the facility on these species.

2. Topography, physiography, and geology

Provide a description of the topographic, physiographic, and geologic features within the (proposed) facility site and surrounding area, and any relevant off-facility sites.

In the description, delineate the generalized regional stratigraphy for the area around the (proposed) facility. The depth from the surface of layers of sand, clay, etc., should be given. Any geologic faults should be noted, giving their relative location and depth. State the probability of occurrence of geologic hazards in the area, such as earthquakes, and slides subsidence, or erosion.

Soil at the site should be briefly described (1 paragraph) in terms of its components—i.e. sand, clay, etc., and the degree of its permeability and drainage. Note whether the U.S. Department of Agriculture has classified the soil type as prime and unique farmland.

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3. Groundwater

Sources of groundwater should be listed by name and location relative to the facility or relevant off-site areas. Identify the location of ground water recharge areas at the facility and at relevant (proposed) off-site areas. Indicate their present water quality uses and any restrictions which may be placed on them (for instance, designation as sole source aquifer pursuant to the Safe Drinking Water Act.) State their depth below ground level. Trace the flow characteristics.

4. Current land use

Describe current land uses. Indicate zoning requirements for the county in which the (proposed) facility and relevant off-site areas are located and that of neighboring counties. Briefly describe whether the (proposed) facility and other relevant sites are in an agricultural, residential or industrial corridor. Identify what percentage of the county in which the facility and other revelant sites are located is in industrial, residential, commercial, recreation, wildlife or other usage. Delineate the type of area which surrounds the facility and other relevant sites developed for the plant's current operations or are projected for development. Give some indication of the uses of adjacent properties.

5. Transportation

The transportation system giving access to the facility and other relevant sites should be described in one or two paragraphs. Major modes of transportation which are used presently by the facility to bring fuel and other raw materials into the plant site (or will be used for the proposed facility) should be listed. The frequency and volume of each shipment should be stated also. Identify the roads which lead into the facility, and cite the major highways nearby which connect the area in which the (proposed) facility is located to other areas. In a sentence or two, describe the existing condition, utilization rate and capacity of the major roads. Name any railroads which lead into the (proposed) facility property and indicate whether or not they are used under current or projected operations. State the current level of traffic on all relevant railroads. If there are any docking facilities, describe what size boat they accommodate, whether they are currently in use or projected for use, and the frequency of use. Describe the level of current non-facility traffic on the relevant water bodies. Include in the discussion transportation systems to any relevant off-site facility areas.

6. Noise

Describe the noise levels of the (proposed) facility in relation to EPA's noise standards. If levels at the facility exceed EPA standards, specify what is being done to bring the facility into compliance.

7. Socio-cultural resources

Identify any historical, archeological, or scenic sites listed on the National Register of Historic Places and/or any other scenic or natural resources within a twenty-five mile radius of the facility.

8. Socio-economic resources

Discuss employment levels at the (proposed) facility.

IV. Environmental Impact Assuming Alternate Fuel

Discuss each topic required with respect to each fuel scenario and each reasonable technology variation for those scenarios.

A. Air Resources

1. Comparative air quality impacts

This subsection is structured to indicate the air quality impact of burning oil, gas, coal, and other alternate fuels and mixtures at the (proposed) facility. Prepare the following chart to show the quantity of pollutants emitted to the atmosphere under each scenario. State the pollution control assumptions underlying each estimate.

Source Characteristics for [Name of] Boiler [1]

	100% oil	100% gas	Current fuel	100% coal	100% fuel alternate	Other proposed mixture
Parameter (a)(b)						
Peak Emission Rates (lh)						
TSP						
NO						
CO						
HC						
SO2						
Oxidents						
Stack Height (m)						
Stack Diameter (m)						
Effluent Exit Termperature (C)						
Effluent Exit Velocity (m/s)						
Volume Flow Rate (m3/s)						

[1] If any fuel scenario is considered by the applicant to be unreasonable or technically infeasible, the applicant should consult with ERA regarding a waiver of this portion of the Environmental Report requirement.

(a) Based on boiler operation at maximum firing rate of million Btu/hr. State what average firing rate would be.

(b) State which EPA model was used to calculate the emissions. Specify the assumptions used in the model. Indicate which person at EPA instructed you to use the model (give name, address, and phone number of the person). Calculate emissions assuming compliance with the best available control technology (BACT), prevention of significant deterioration (PSD) regulations, and lowest achievable emissions rates (LAER), as appropriate.

The next series of charts should compare ground-level concentrations of criteria pollutants under each fuel scenario listed and its effect on current ambient air quality (AAQ). Six separate charts should be prepared for each of the following scenarios: 100% oil, 100% gas, current fuel mix, 100% coal, 100% alternate fuel, and the other proposed mixture(s). A seventh chart should be prepared to compare the background plus facility impact for all fuels considered.

Predicted Maximum Ground Level Concentrations

Pollutant	Average period	Facility impact	Maximum impact distance (KM)	Direction from facility	Current background	Background plus facility impact
TSP	Annual					
	24-hr					
	3-hr					
SO	Annual					
	24-hr					
	3-hr					
NO	Annual					
CO	Annual					
HC	Annual					

Note projected emissions which will cause violations of applicable Federal and state primary and secondary standards in the AQCR under each fuel scenario fuel. For violations occurring under current operations on existing fuels, indicate what is being done to bring the facility into compliance. If known, specify violations of existing standards presently occurring in the AQCR in which the facility is or will be located and whether the applicant owns the other noncompliance source(s). State the distance of the source(s) causing the violations from the facility applicant and what, if anything, is being done to bring emissions into compliance.

2. EPA classification: Prevention of significant deterioration or nonattainment area

EPA has divided the country into nonattainment areas and prevention of significant deterioration (PSD) areas. Applicants located in nonattainment areas are subject to the Clean Air Act's offset policy provisions and to lowest achievable emissions rate (LAER). The non-attainment policy requires a new source locating in a nonattainment area to obtain or purchase offsets to the point where its emissions are more than offset by existing sources. Also, any other stationary sources owned by the applicant which are situated in nonattainment areas must be in compliance with SIP's and NSPS, where applicable.

Applicants located in areas designated as non-attainment by the EPA should give the status of compliance with LAER, permit applications, and attempts to obtain offsets, pursuant to EPA's offset policy requirements.

Applicants located in PSD (attainment) areas are subject to EPA's PSD regulations and visibility requirements. Facilities are required to install best available control technology (BACT). The Clean Air Act's offset policy applies for PSD areas only if the source's emissions will cause violations of national ambient air quality standards (NAAQS). If this is the case, the new source's emissions must be offset so that air quality standards are attained. Applicants located in attainment (PSD) areas must specify the status of compliance with EPA's PSD regulations, attempts to purchase offsets where required, and any other permit applications, where appropriate. Existing facilities must indicate if they are in compliance with the SIP, and if other state and local permits are required. All applicants must identify the impacts of emissions on PSD and non-attachment areas within fifty kilometer (Km) radius of the facility, or at a lesser distance if the concentration will be less than what is specified in the PSD regulations 40 CFR 51.24(b)(19)(c), 43 FR 26380, 26384 (June 19, 1978.)

If, however, the facility's emissions will effect a Class I area which is more than fifty km from the facility, this impact must be considered 40 CFR 51.24(q)(3), 43 FR at 26387.

B. Water Resources

1. Surface water

This portion of the analysis should address surface water impacts.

Existing facilities must refer to the present NPDES permit and indicate how it would have to be modified if the facility received or was denied an exemption from burning coal, or alternate fuels, or constructing coal capability. New facilities must indicate the status of the NPDES permit application and if it includes provisions for coal or other alternate fuel burning. Describe the water intake and discharge facilities and processes which are or would be necessary for operation assuming each fuel scenario discussed in the air quality section. Indicate the amount of water consumed and discharged under each fuel scenario.

In several paragraphs, describe pretreatment and post-treatment of water for all fuel scenarios. Specify how liquid process wastes are or will be treated and how the waste generated differs under each fuel scenario. List all sources of liquid waste under each fuel scenario. State the flow rate of the receiving water in cubic feet per second (cfs). Using EPA approved models,[1] prepare a summary chart on the projected change in ambient water quality of the receiving water body as a consequence of construction or operation under each fuel scenario. Compare existing and projected water quality in terms of applicable local, state and Federal water quality standards for the following parameters listed in Section II, B.2 above. Indicate potential violations under each fuel scenario. Describe accident prevention and control measures for each fuel scenario. If construction or operation of the facility is on or proposed to occur on floodplains or wetlands, discuss all practicable alternatives to construction/operation in the floodplain or wetland, all mitigating measures available, and all necessary permits for such construction/operation.

2. Aquatic ecology

Discuss the impacts of construction and operation under each fuel scenario on aquatic ecology in terms of effects on the unique habitats or feeding grounds. Evaluate the impacts of dredging and increased sedimentation, due to construction, on habitats and species. In several paragraphs, assess the impacts on the aquatic environment of changes in water quality due to construction and/or operation under each fuel scenario—be specific in naming parameters and species affected. Documentation should be submitted to substantiate the analyses. Identify any rare or endangered species located in the aquatic environment, and note the impacts on them of construction and/or operation under each fuel scenario.

C. Land Resources

1. Groundwater

The ground water analysis should compare construction and operational impacts on groundwater under each fuel scenario. Discuss these impacts in relation to compliance with applicable local, state and Federal standards and regulations, including those under the Safe Drinking Water Act.

2. Construction impacts

Indicate required construction activities and land requirements for operation under each fuel scenario.

Specifically, indicate how the land is used now and how many acres of land would be required for facilities such as the coal pile, coal handling equipment, access roads and solid waste facilities. Specify how much land will be cleared and altered all together under each fuel scenario.

3. Regional land use

Describe how operation and construction under each fuel scenario system will affect the regional land use patterns.

Identify effects of activity related to transport, processing, storage, and combustion of each fuel considered on current land use. Indicate whether the construction or operation of any fuel scenario system will conflict with existing or proposed regional land use plans or regulations. If so, cite the plan or regulation and explain the conflict.

4. Fuel transportation

Note any changes in existing transportation requirements that will be incurred as a result of construction or operation under each fuel scenario. Indicate whether or not any projected increases will be beyond the capacity of the system. Provide documentation.

5. Solid waste disposal

Specify the amount of solid waste which will be produced annually under each fuel scenario. Indicate location of (proposed) solid waste disposal sites, and state how the waste would be transported. If the solid waste is going to be disposed of on site, describe how it is going to be handled—i.e. sluiced wet or dry to a pond, etc. Describe how the facility's solid waste disposal practices will comply with the state's and EPA's solid waste regulations, including those promulgated pursuant to the Resources Conservation and Recovery Act of 1976 and the Safe Drinking Water Act.

6. Terrestrial ecology

State known or anticipated effects of construction and operation under each fuel scenario on local flora and fauna. Indicate whether clearing the land for construction and operational activities will cause loss of habitat to rare or endangered species, or species of economic value. Identify impacts on such species. Compare estimated short and long term concentrations of SO2, NO2, and particulates, presented in the preceding sections, with the threshold concentrations for damage to vegetation or animal life indigenous to the surrounding area. In the bibliography include references to sources upon which this discussion is based.

7. Socio-cultural resources

The impacts of construction and operation under each fuel scenario on socio-cultural resources should be described, indicating whether the pollutants or other results of fuel burning (e.g., truck noise and traffic) would significantly affect known historical, archaeological, or cultural resources in the area, or scenic and natural resources.

8. Socio-economic resources

Discuss plant employment levels during construction and operation under each fuel scenario. Utilities should estimate the incremental cost to consumers of construction and operation under each fuel scenario. Also, the impacts on public services during construction and operation under each fuel scenario (sewage treatment plants, municipal water supply, housing stock) must be addressed.

9. Noise

Compare the facility noise levels under each fuel scenario and discuss the impact of their levels on sensitive receptors.

V. Disclosure of Regulatory Actions Regarding the Facility

All applicants must list all state and Federal agencies which are involved in permitting or regulating construction or operation of the facility. State whether an environmental impact statement is being or will be prepared by any other Federal or state

[1] Specify the EPA model which was used, the assumptions underlying the model and the limitations of the model.

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agency which may adequately reflect the facility's construction and operation under each fuel scenario.

VI. BIBLIOGRAPHY

List alphabetically all sources consulted in doing this analysis.

VII. APPENDICES

[FR Doc. 79-3221 Filed 1-30-79; 8:45 am]

[6450-01-M]

Federal Energy Regulatory Commission

[Docket No. CP 76-60]

ARKANSAS LOUISIANA GAS CO. V. McCULLOCH OIL CORP. OF TEXAS

Order Clarifying Prior Order, Rehearing

JANUARY 19, 1979.

On Dec. 20, 1978, McCulloch Oil Corporation of Texas (McCulloch) filed an application for rehearing of the order of November 27, 1978, in this proceeding. That order provded for a formal conference in an effort to obtain the parties' stipulations to relevant facts. This proceeding was initiated by the filing of a complaint by Arkansas Louisiana Gas Company (Arkla) against McCullock, alleging that McCulloch had made and was continuing to make sales to an intrastate pipeline company from reserves that had previously been committed by contract to Arkla. McCulloch answered the complaint denying it is in violation of the Natural Gas Act. Following a settlement between McCulloch and Arkla, Arkla filed a notice of withdrawal of its complaint.

In its application for rehearing, McCulloch requests that the Commission withdraw the portion of the November 27, 1978, order rejecting McCullock's argument that the proceeding before the Commission should be held in abeyance pending resolution of McCulloch's action in U.S. District Court in which it seeks a declaration that as a matter of contract law it is under no obligation to sell gas from the subject reserves to Arkla. McCulloch argues that the Commission's statement in its order that there is an issue of dedication in this proceeding is premature. McCulloch seems to argue that if it is successful in its district court contract action there may be no basis in fact for any dedication issue under the Natural Gas Act. To complete its argument, McCulloch states that where, as here, "insufficient evidence exists to determine the factual background of the case"—and this is so stated in the order of November 27, 1978—the Commission "must withhold any decision as to the issues in the case."

With respect to this latter point, the Commission notes that the November 27, 1978, order merely attempts to provide a mechanism by which the facts necessary for a Commission decision in this matter can be developed. Moreover, that order states that any issue of dedication arising under the Natural Gas Act is a question to be resolved in the first instance by the Commission, as opposed to the courts. However, to the extent that the November 27 order can be read as determining that there is presently a dedication issue in this case, it is hereby clarified to state that if such an issue is determined to exist in this proceeding it shall be a matter for Commission decision.

Further, to the extent that McCulloch prefers that there be no present express determination as to its argument that Commission proceedings be held in abeyance pending McCulloch's district court action, the November 27 order is hereby clarified to the extent necessary to make clear that the Commission shall reserve express determination of McCulloch's request for abeyance. The Commission notes in this regard that notwithstanding McCulloch's position on this issue, it does not object to the formal conference instituted by the November 27, 1978 order.

That proceeding has as its purpose the parties' stipulation to the facts necessary to the Commission's resolution of the matters before it, specifically Arkla's complaint and its request to withdraw that complaint. It is clear, in any event, that McCulloch is not harmed by the procedure implemented by the November 27 order.

Once the Commission has the report of the conference before it, it will decide what further action is appropriate in the circumstances. In this regard, the order of November 27, 1978, clearly withheld any determination of the facts or legal issues in this proceeding.

The Commission orders: The November 27, 1978 order in this docket is hereby clarified in a manner consistent with the discussion in this order.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3264 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-135]

COLUMBIA GAS TRANSMISSION CORP.

Application

JANUARY 24, 1979.

Take notice that on December 27, 1978, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP79-135 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation for two years of up to 300 Mcf per day of natural gas for the account of Fruehauf Corporation (Fruehauf) from mutually agreeable points of receipt from FrueKel, Inc. (FrueKel), an energy subsidiary of Fruehauf, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Fruehauf's Omaha plant has a contract with Metropolitan Utilities District (MUD) to furnish natural gas requirements when the supply is available and by letter dated May 30, 1978, MUD advised Fruehauf that, for the 1978-79 heating season, curtailment would be estimated at 50 days with normal weather and could range to 65 days with extremely cold weather.

Applicant further states that on July 28, 1975, FrueKel and Appalachian Exploration, Inc. entered into an agreement to drill and operate natural gas wells and for the purchase of additional quantities of natural gas, all within Tuscarawas and Guernsey Counties, Ohio and that the gas to be transported hereunder would be produced from wells wholly-owned by FrueKel.

Applicant states that it has agreed to transport up to 300 Mcf of natural gas per day from the date delivery of gas commences. Applicant further states it would receive the volumes of gas to be transported for the account of Fruehauf into its Line O-1460 in Tuscarawas County, Ohio and Line FO-1618 in Guernsey County, Ohio and would deliver such volumes to Panhandle Eastern Pipe Line Company (Panhandle) by reducing Applicant's scheduled receipts from Panhandle at existing points of delivery in Ohio. Further, Panhandle would deliver such volumes to Northern Natural Gas Company (Northern) for delivery to MUD for ultimate delivery to Fruehauf's Omaha plant through existing distribution facilities, it is said.

It is asserted that the transportation authority requested herein is in the public interest in that it would prevent the economic imbalances that would result from a severe curtailment or shutdown of the Omaha facility.

It is further asserted that Applicant has available pipeline capacity, without the construction of additional facilities, to perform the transportation service, and Applicant has agreed to transport the gas subject to the limits of its pipeline capacity and to its service obligations to its CD, WS, SGES, G, and SGS customers.

Applicant states the transportation charge for all volumes delivered into its Line O-1460 would be its average system-wide unit storage and transmission costs exclusive of company-use and unaccounted-for gas, which is currently 23.05 cents per Mcf effective June 1, 1978; for all volumes delivered into its Line FO-1618, the transportation charge would be Applicant's cost exclusive of company-use and unaccounted-for-gas, which is currently 25.95 cents per MCF effective June 1, 1978. Applicant further states it would retain for company-use and unaccounted-for gas a percentage, as reflected in its rate filings, of the total volumes received for the account of Fruehauf, which percentage is currently 2.51 percent effective June 1, 1978.

It is asserted that Fruehauf and FrueKel have indicated that this gas is not and would not be available to the interstate market inasmuch as it was developed solely for Fruehauf's use.

Applicant states that the gas to be transported would replace volumes which Fruehauf is being curtailed in its "high priority" uses.

Any person desiring to be heard or to make any protests with reference to said application should on or before February 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3249 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket No. CP73-288]

CONSOLIDATED GAS SUPPLY CORP.

Petition To Amend

JANUARY 24, 1979.

Take notice that on December 19, 1978, Consolidated Gas Supply Corporation (Petitioner), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP73-288 a petition to amend the order issued on May 9, 1974, in the instant docket pursuant to Section 7(c) of the Natural Gas Act to authorize Petitioner to defer construction of the facilities heretofore authorized, all as more fully set forth in the petition to amend on file with the Commission and open to the public inspection.[1]

Due to changing gas supply and requirement conditions on its system, Petitioner states that it will not need the storage capacity of the Lost Creek Storage Field in Lewis and Harrison Counties, West Virginia, authorized by the aforementioned order. Consequently, Petitioner requests that it be authorized to delay until December 31, 1984, the installation of 12,000 additional horsepower at the Lightburn compressor station and the drilling of four remaining new wells and to delay until December 31, 1979, the reconditioning of four wells.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

[1]This proceeding was commenced before the FPC. By joint regulation of October 1, 1977, it was transferred to the Commission. (10 CFR 1000.1)

[6450-01-M]

CONSOLIDATED OIL & GAS, INC., AND EL PASO NATURAL GAS CO.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

JANUARY 23, 1979.

On January 8, 1979, the Federal Energy Regulatory Commission received notice from the New Mexico Oil Conservation Division of a determination pursuant to 18 CFR 274.104(a) and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

API Well Number: 30-045-23005
Operator: Consolidated Oil & Gas, Inc.
Well Name: Jacquez Com No. 1-A
Field: Blanco Mesaverde
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 146 MMcf

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 15, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3250 Filed 1-30-79; 8:45 am]

[6450-01-M]

CONSOLIDATED OIL & GAS, INC., AND EL PASO NATURAL GAS CO.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

JANUARY 23, 1979.

On January 8, 1979, the Federal Energy Regulatory Commission received notice from the New Mexico Oil Conservation Division of a determination pursuant to 18 CFR 274.104(a) and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

API Well Number: 30-045-23006
Operator: Consolidated Oil & Gas, Inc.
Well Name: Chavez Com No. 1-A
Field: Blanco Mesaverde
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 292 MMcf

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The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 15, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3271 Filed 1-30-79; 8:45 am]

[6450-01-M]

CONSOLIDATED OIL & GAS, INC., AND EL PASO NATURAL GAS CO.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

JANUARY 23, 1979.

On January 8, 1979, the Federal Energy Regulatory Commission received notice from the New Mexico Oil Conservation Division of a determination pursuant to 18 CFR 274.104(a) and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

API Well Number: 30-045-23008
Operator: Consolidated Oil & Gas, Inc.
Well Name: Montoya No. 1-A
Field: Blanco Mesaverde
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 128.0 MMcf

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 15, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3280 Filed 1-30-79; 8:45 am]

[6450-01-M]

CONSOLIDATED OIL & GAS, INC., AND EL PASO NATURAL GAS CO.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

JANUARY 23, 1979.

On January 8, 1979, the Federal Energy Regulatory Commission received notice from the New Mexico Oil Conservation Division of a determination pursuant to 18 CFR 274.104(a) and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

API Well Number: 30-045-23009
Operator: Consolidated Oil & Gas, Inc.
Well Name: Pan Am State No. 1-A
Field: Blanco Mesaverde
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 200.0 MMcf

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 15, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3281 Filed 1-30-79; 8:45 am]

[6450-01-M]

DOYLE HARTMAN AND EL PASO NATURAL GAS CO.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

JANUARY 23, 1979.

On January 15, 1979, the Federal Energy Regulatory Commission received notice from the New Mexico Oil Conservation Division of a determination pursuant to 18 CFR 274.104(a) and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

API Well Number: 30-025-26112
Operator: Doyle Hartman
Well Name: Justis State #2
Field: Langlie Mattix
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 137 MMcf

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 15, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3276 Filed 1-30-79; 8:45 am]

[6450-01-M]

TOM L. INGRAM AND EL PASO NATURAL GAS CO.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

JANUARY 23, 1979.

On January 15, 1979, the Federal Energy Regulatory Commission received notice from the New Mexico Oil Conservation Division of a determination pursuant to 18 CFR 274.104(a) and Section 102 of the Natural Gas Policy Act of 1978 applicable to:

API Well Number: MC-00412
Operator: Tom L. Ingram
Well Name: Jubilee #1
Field: Wildcat—Pennsylvanian
County: Chaves
Purchaser: El Paso Natural Gas Company
Volume: 365 MMcf

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 15, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3275 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket No. RP77-142]

JUAREZ GAS CO., S.A. V. DEL NORTE NATURAL GAS CO.

Complaint and Stipulation and Agreement

JANUARY 23, 1979.

Take notice that on September 30, 1977, Juarez Gas Company, S.A. (Juarez) Av. 16 de Septiembre and Bolivia Street, Ciudad Juarez, Chihuahua, Mexico, filed in Docket No. RP77-142 a complaint and motion for issuance of order to show cause against Del Norte Natural Gas Company (Del Norte) for relief and to require Del Norte to show cause why it is not in violation of the Natural Gas Act, Executive Order No. 10485, and the Order and Permit issued by the Commission on March 4, 1968 in *Southern Union Gas Company, et al.*, Docket Nos. G-513, *et al.*, (39 FPC 223). On December 12, 1978, Juarez and Del Norte filed a stipulation and agreement in settlement of Juarez's claims against Del Norte. The complaint and the stipulation and agreement are on file with the Commission and open to public inspection. In its complaint, Juarez states that by order of March 4, 1968, in *Southern Union Gas Company.* (39 FPC 233), the Commission authorized Del Norte to lease and operate facilities within the city of El Paso, Texas necessary to receive gas from El Paso Natural Gas Company (El Paso), transport such gas to the international boundary, and export the gas (up to 4,131,000 Mcf per year and 27, 584 Mcf Per day) to Juarez and Gas Natural de Juarez, S.A. (Gas Natural).

Juarez says that the order of March 4, 1968, approved a settlement agreement which included a contract between Del Norte and Juarez. The contract authorized Del Norte to receive from Juarez 4.99 cents per Mcf as compensation for transporting the gas from El Paso's facilities to the international border, it is stated. It is further stated that this distance is less than one mile. Juarez states that it is billed on the basis of gas purportedly measured at the Del Norte meter at the international border, rather than on the basis of volumes purchased by Del Norte from El Paso.

Juarez alleges that during the years 1972 through 1976, Del Norte has received from El Paso, on the one hand, and billed Juarez and Gas Natural, on the other, the following volumes of natural gas:

Year	Gas received from El Paso (Mcf)	Del Norte meters (Mcf)	Differences
1972	2,606,288	2,719,857	+113,569
1973	3,566,777	3,770,477	+204,700
1974	3,443,480	3,524,592	+83,112
1975	3,553,031	3,713,297	+160,266
1976	3,822,654	3,876,030	+53,376

Juarez alleged that it had complained to Del Norte regarding the validity of sales volumes and the Btu content of gas it was billed, and had requested Del Norte to make available to Juarez the applicable invoices from El Paso to Del Norte, but that such requests had not been granted.

Juarez, requested that the Commission issue an order to show cause to permit Juarez to establish the following:

That Del Norte has intentionally violated the Natural Gas Act, Executive Order No. 10485, and the Commission's order of March 4, 1968; that Juarez is entitled to substantial refunds for overcharges with interest; and that henceforth, the volumes and Btu content of the gas sold by Del Norte to Juarez be measured at the meters at the El Paso facilities, provided that Juarez be billed for the lesser of the volumes measured at the El Paso meter and the volumes measured at the Del Norte meters near the international boundary.

On October 21, 1977, Del Norte filed its answer to Juarez's complaint. Del Norte stated that the contract between Del Norte and Juarez provides that errors not exceeding two percent in a meter reading are permissible within the meaning of the agreement. Del Norte agreed to make adjustments with interest as a result of any deviation in excess of the two percent tolerance.

A conference between Juarez and Del Norte was held in El Paso, Texas on November 13 and 14, 1978. Juarez and Del Norte filed a joint report on the conference on December 12, 1978. On that same day, Juarez and Del Norte also filed a "Stipulation and Agreement" in settlement of all claims outstanding as of December 12, 1978. Under the agreement, Del Norte would pay Juarez $15,000 without interest. In addition, effective with the first monthly billing period after January 1, 1979, Juarez would receive from Del Norte:

(a) with each Del Norte monthly invoice an exact copy of the applicable El Paso monthly gas volume statement for natural gas delivered to Del Norte through El Paso meter No. 30-009.

(b) each Del Norte billing statement would reflect the actual El Paso monthly gas volumes delivered to Del Norte through El Paso Meter No. 30-009 applicable for such billing period.

Juarez and Del Norte request that the Stipulation and Agreement be approved by the Commission.

Any person desiring to be heard or to make any protest with reference to said complaint and stipulation and agreement should on or before February 12, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 3, 5, 9 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this complaint and stipulation agreement, if no petition to intervene is filed within the time required herein. If a petition for leave to intervene is timely filed, or if the commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3251 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-136]

KENTUCKY WEST VIRGINIA GAS CO.

Application

JANUARY 24, 1979.

Take notice that on December 26, 1978, Kentucky West Virginia Gas Company (Applicant), P.O. Box 1388, Second National Bank Building, Ashland, Kentucky 41101, filed in Docket No. CP79-136 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation and operation of minor facilities and to make deliveries of natural gas to its corporate parent, Equitable Gas Company (Equitable), for resale to 61 right-of-way grantors, all as more fully set forth in the appendix hereto and in the application which is on file with the Commission and open to public inspection.

Applicant asserts that it would, as consideration or part consideration for certain rights-of-way and leases granted in its operating area in eastern Kentucky, provide natural gas service for use by the 61 right-of-way grantors for priority one domestic uses in rural dwellings. It is estimated that the domestic usage by each of these right-of-way grantors would be approximately 250 Mcf of natural gas per year on the average, it is said.

Applicant states that the service sought to be rendered by it through Equitable to the 61 right-of-way grantors in eastern Kentucky primarily would be for priority one domestic needs and would be to the benefit of all the customers of Applicant since it

JA 31 79 UMI

would permit and expedite the construction of facilities necessary for the obtaining and transporting of new supplies of natural gas through easement arrangements. Virtually all of the 61 right-of-way grantors proposed to served granted easements only in reliance upon obtaining service as part of the agreement, Applicant further states.

Applicant estimates the cost of each tap to be $152.00. It is indicated that the cost of facilities would be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

APPENDIX

RIGHT-OF-WAY GRANTORS

1. Ralph G. Thacker, Rt. 6, Box 5514, Pikeville, Kentucky 41501
2. Richard Wells and Gail Wells, Smilax, Kentucky 41764
3. Critie Stewart, et al., Skyline, Kentucky 41851
4. Coy Cornett, Skyline, Kentucky 41851
5. Dave Hall, et ux., Hindman, Kentucky 41822
6. Bessie Napier, et al., Hazard, Kentucky 41701
7. Claude Webb, Langley, Kentucky 41645; W. H. May, Langley, Kentucky 41645; Frasure's Catalog Agency (Ronald Frasure, Pres.), Prestonsburg, Kentucky 41653; Melvin Creech or Jean Creech, Bearville, Kentucky 41715
8. Inez S. Hammonds, widow and Patsy Hammonds, single Star Rt., Prestonsburg, Kentucky 41653; Rowland Gray, Emma Lou Gray, Charles E. Gray and Brenda Gray; Star Rt., Prestonsburg, Kentucky 41653.
9. Michael Hamilton and Joyce Hamilton, Grethel, Kentucky 41631
10. Sarah Hammonds, et al., Star Rt., Prestonsburg, Kentucky 41653; G. B. Lafferty, and Victoria Lafferty, Star Rt., Prestonsburg, Kentucky 41653
11. Molly Owens, Langley, Kentucky 41645
12. Ethel Corder, widow, Garrett, Kentucky 41630; Dave Conley & Gartha Conley, Garrett, Kentucky 41630; Andy Conley, Garrett, Kentucky 41630; Elza Bolen, Garrett, Kentucky 41630; Danny O'Quinn & Billie M. O'Quinn, Garrett, Kentucky 41630; Sally Shear, Garrett, Kentucky 41630; Homer Draughn, Garrett, Kentucky 41630; C. E. Allen, Garrett, Kentucky 41630; Josephine Webb, Garrett, Kentucky 41630
13. Eddie B. Lewis and Richard Lewis, J., Emma, Kentucky 41625
14. Verdie Callahan and Cooley Callahan, Slemp, Kentucky 41763; Harry Fred Hall and Carolyn Hall, Slemp, Kentucky 41763; Everette and Lilly Kelly, Slemp, Kentucky 41763; John L. Bush and Mary Bush, Slemp, Kentucky 41763
15. Bently Combs and Eva Combs, Carrie, Kentucky 41725
16. Bill Stacy and Elizabeth Stacy, Ary, Kentucky 41712; Arminda Hays, et ux., et al., Ary, Kentucky 41712
17. Ted Napier, et al., Darform, Kentucky 41701; Levi Terry, Talcom, Kentucky 41765; Dora Dobson (Tract 1), Hindman, Kentucky 41822; Marlous Napier, Talcom, Kentucky 41765; William H. Terry, Talcom, Kentucky 41765; Willard Ritchie, Talcom, Kentucky 41765; Essie Patrick, Talcom, Kentucky 41765; Dora Dobson (Tract 2), Hindman, Kentucky 41822; Marcus Sizemore, Talcom, Kentucky 41765; Sadie Terry, Talcom, Kentucky 41765; Bettie Sizemore, Talcom, Kentucky 41765; Goodloe Bros. Co., Inc. (Tract 8), 2000 Parkway Towers, Nashville, Tennessee 37207; Goodloe Bros. Co., Inc. (Tract 10), 2000 Parkway Towers, Nashville, Tennessee 37207
18. Curtis Hatfield, Watergap, Kentucky 41665
19. Ronald Frasure, Prestonsburg, Kentucky 41653
20. Ronald Frasure, Prestonsburg, Kentucky 41653
21. Ronald Frasure, Prestonsburg, Kentucky 41653
22. John Canada, Racoon, Kentucky 41557
23. John Coleman, Racoon, Kentucky 41557
24. Willie Ratliff, Elkhorn City, Kentucky 41522
25. Marcus Elloit, West Prestonsburg, Kentucky 41668; Bennie Rose, West Prestonsburg, Kentucky 41668; Nan Robinson, West Prestonsburg, Kentucky 41668
26. Calvin Thacker, Pikeville, Kentucky 41501
27. Dewey and Mildred M. Caudill, Rt. Box 25, Viper, Kentucky 41774; Denver Minlard, Slemp, Kentucky 41763
28. Hazel Tibbs, Pikeville, Kentucky 41501; Carmel Adkins, Pikeville, Kentucky 41501

[FR Doc. 79-3252 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-146]

MICHIGAN WISCONSIN PIPE LINE CO.

Application

JANUARY 24, 1979.

Take notice that on January 9, 1979, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP79-146 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Northwest Pipeline Corporation (Northwest), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that to offset declining gas production from its traditional sources of supply in the Hugoton-Anadarko area of Oklahoma, Texas, and Kansas and offshore and onshore Louisiana, Applicant has embarked on extensive gas exploration and development program in the Rocky Mountains, particularly within the State of Wyoming. It is further stated that as a result of such program, gas reserves attributable to working interests of Applicant have been developed in an approximate 8,000 acre tract encompassing Sections 2-11 and Sections 15-17 Sweetwater County, Wyoming (the Lincoln Road Prospect). It is indicated that Applicant presently does not have any gathering or transmission facilities within the State of Wyoming. Applicant states that it has made transportation arrangements with Northwest in order to make the gas supplies available to its existing pipeline system. Northwest has extensive pipeline facilities in the Rocky Mountains including an existing gathering system connecting the Lincoln Road Prospect to its Big Piney transmission facilities, it is said. It is indicated that pursuant to a gas gathering and transportation agreement dated September 23, 1977, between the two companies, Northwest would gather and transport up to 10,000 Mcf of natural gas per day attributable to Applicant's working interest gas from the Lincoln Road Prospect to its mainline.

The application states that all gas transported by Northwest in its Big Piney transmission facilities is processed for the removal of liquid hydrocarbons at Northwest's Opal Gasoline Plant prior to being delivered to Northwest's mainline system. Applicant states that pursuant to the gas gathering and transportation agreement, it would have the option, prior to the initial deliveries of the Lincoln Road Prospect gas, either (1) to furnish Northwest an amount of plant fuel and shrinkage attributable to the liquid products extracted from Applicant's gas and in turn Northwest would return 100 percent of the net revenues attributable to the liquid products extracted reduced by Northwest's actual cost of service incurred in such extraction operations; or (2) to sell to Northwest 5 percent of the volumes delivered by Applicant from the Lincoln Road Prospect to Northwest for transportation service. It is stated that the price to be paid by Northwest for such gas shall be the applicable national rate in effect at the time, or in the event of deregulation, the average price paid by others, including Northwest, under long-term contracts, for gas produced from the Lincoln Road Prospect. Applicant states that it has elected to sell to Northwest 5 percent of the volumes delivered by Applicant to Northwest.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3253 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket No. RP78-91]

MONTANA-DAKOTA UTILITIES CO.

Tariff Filing (Revision in Curtailment Plan)

JANUARY 19, 1979.

On January 15, 1979, Montana-Dakota Utilities Co. ("MDU"), 400 North Fourth Street, Bismarck, North Dakota 58501, filed pursuant to Section 4 of the Natural Gas Act a new tariff sheet as part of its FERC Gas Tariff, First Revised Volume No. 1. MDU states that the new tariff sheet, entitled First Revised Sheet No. 56, increases from 4,000 to 7,500 the number of new residential and small commercial customers which MDU will be permitted to connect under its FERC curtailment plan, all as more fully set forth in MDU's filing which is on file with the Commission and open to public inspection.

In support of its filing, MDU urges that recent reserve additions, decreased usage per customer, declines in industrial markets, and the needs of potential homebuyers justify an increase from the level of new attachments which has been permitted for the past two calendar years to the newly proposed level of 7,500 per year. MDU states that it does not propose any other changes in its currently effective FERC curtailment plan.

The proposed effective date of the new tariff sheet is February 15, 1979. MDU requests that any suspension of the effective date be limited to one day.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before February 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3285 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket No. RP79-19]

MOUNTAIN FUEL SUPPLY CO.

Order Accepting for Filing and Suspending and Setting for Hearing proposed Rate Increase, Subject to Condition

JANUARY 17, 1979

On December 18, 1979, Mountain Fuel Supply Company ("Mountain Fuel") tendered for filing a proposed rate increase in the transportation rate contained in its special Rate Schedule X-4. The increase would be from 4¢/mcf to 13.2¢/mcf at 14.73 psia. Rate Schedule X-4 is a Gas Purchase and Exchange Agreement between Mountain Fuel and Colorado Interstate Gas Company (CIG) providing for a sale price at the appropriate national rate, of a portion of the gas produced by Mountain Fuel from the Spearhead Ranch area of Wyoming. The rate change is based upon: (1) claimed increases in the investment costs, (2) reduced transportation volumes, and (3) a reduction in the estimated remaining life of the reservoir.

Mountain Fuel supported its $158,000 increase with only Statements L, M, & N even though the increase does not qualify under Section 154.63(b)(4) (Minor Rate Increase) of the Commission's Regulations. In as much as the increase concerns the transportation rate portion of a single rate schedule, for purposes of the filing requirements we shall treat this filing as a minor rate increase and accept the supporting statements as adequate compliance with the Commission's filing requirements.

Based on a review of Mountain Fuel's filing herein, the Commission finds that the proposed higher rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Mountain Fuel's proposed rate increase for filing, suspend its use for five months or until June 18, 1979, when it shall become eligible to become effective in the manner prescribed in Section 4 of the Natural Gas Act, subject to refund, and shall set the matter for hearing, as hereinafter conditioned.

Mountain Fuel's rates reflect corporate federal income taxes calculated at a 48 percent rate. However, since Congress recently adopted a tax measure which reduced the corporate federal income tax rate from 48 percent to 46 percent effective on January 1, 1978,[1]

[1] H.R. 13511, PL 950600 (1978).

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we shall require Mountain Fuel to file revised tariff sheets reflecting the lower rate (46 percent). However, Mountain Fuel shall not be permitted to make offsetting rate adjustments other than those made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

The Commission orders:

(A) Mountain Fuel's proposed rate increase in the Transportation rate contained in Rate Schedule X-4 of its FERC Gas Tariff is hereby accepted for filing and suspended for five months, until June 18, 1979, at which time it may be made effective, subject to refund, upon motion filed by Mountain Fuel in accordance with the Natural Gas Act, as hereinafter conditioned.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Mountain Fuel.

(C) Staff shall serve its top sheets on or before April 20, 1979.

(D) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 C.F.R. 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of a Statement of Position by the Staff in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(E) Thirty days prior to the end of the suspension period prescribed in this order, Mountain Fuel shall file revised tariff sheets reflecting the 46 percent corporate federal income tax rate. However, Mountain Fuel shall not be permitted to make offsetting rate adjustments other than those made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3254 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket No. ER77-584]

NEW ENGLAND POWER CO.

Certification

JANUARY 18, 1979.

Take notice that on August 10, 1978, Presiding Administrative Law Judge Michel Levant certified the motion to terminate Docket No. ER 77-584. The Presiding Judge indicated after the Staff Counsel withdrew its prior objections when New England Power Company submitted additional data and since no other parties have intervened he believes that termination of the above referenced docket is appropriate and in the public interest.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 2, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3255 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-138]

NORTHERN NATURAL GAS CO. AND PANHANDLE EASTERN PIPE LINE CO.

Application

JANUARY 24, 1979.

Take notice that on December 29, 1978, Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, and Panhandle Eastern Pipe Line Company (Panhandle), 3000 Bissonnet Street, Houston, Texas 77001, (Applicants) filed in Docket No. CP79-138 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas in Kearny and Wichita Counties, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they are parties to a gas exchange agreement dated August 11, 1978, which provides for the gathering, delivery and exchange of natural gas produced from certain acreage located in Kearny and Wichita Counties, Kansas. It is stated that the purpose of this exchange is to enable Applicants to receive into their respective pipeline system for general system use, by displacement, natural gas that has been committed by producers from properties which may not otherwise be feasible or economical to connect to the existing system of the Applicant to which the gas is committed.

Applicants further state that they request authorization to add wells to and delete wells from the exchange agreement as required from time to time. Such authorization would be limited to an area in Kearny and Wichita Counties, it is asserted.

It is asserted that the proposed exchange would be on a thermal basis and balancing would be acheived as nearly as practicable each month and any imbalance of deliveries during any month would be corrected by the delivery of gas from the party owing gas to the other at the existing point of interconnection of the facilities of the Applicants in Kiowa County, Kansas.

Applicants further state that they would install jurisdictional facilities required to connect any such exchange well to their system pursuant to their respective budget-type certificates for gas-purchase facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1979, file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3256 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-139]

NORTHERN NATURAL GAS CO.

Application

JANUARY 24, 1979.

Take notice that on December 29, 1978, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed an application in Docket No. CP79-139 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant (1) to construct and operate certain facilities; (2) to operate certain existing facilities in interstate commerce; and (3) to transport gas in interstate commerce, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to construct and operate 50.4 miles of 12-inch pipeline and to operate in interstate commerce 37.5 miles of 12-inch pipeline and 14.0 miles of 8-inch pipeline previously used for the intrastate transportaion of natural gas. The subject facilities would enable Applicant to transport in interstate commerce natural gas purchased and owned in the Vandagriff, Cass Ranch and Gardner Draw Fields in Eddy County, New Mexico, it is stated.

Applicant states that it has entered into gas purchase contracts with Mesa Petroleum Co., Phoenix Resources Company and Estoril Producing Corporation, *et al.*, for the purchase of gas from the above-referenced fields. The three contracts resulted in a dedication of gas from one hundred seventy-five thousand acres in Eddy County, it is said. In addition, the Exploration and Production Division of Applicant is lessee of twenty-five thousand acres in Eddy County, Applicant states. Development on such acreage to date has resulted in proven and probable reserves of approximately 57,000,000 Mcf, it is asserted.

The total cost of Applicant's proposed facilities is estimated to be $6,599,750, which cost will be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3257 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket No. RP78-50]

NORTHWEST PIPELINE CORP.

Continued Informal Conference

JANUARY 17, 1979.

Take notice that on January 30, 1979, at 10:00 a.m. a settlement conference will be held in the instant docket. The conference will continue on January 31, 1979. The conference will be for the purpose of finalizing a stipulation and agreement settling this proceeding.

The conference will be held in Washington, D.C. Parties attending the conference should contact Staff Counsel on the morning of the conference for information on the location of the meeting. Staff Counsel assigned to this case is Donald Shepler, telephone No. 202/275-4211.

Any party desiring to attend said settlement conference is invited to attend.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3258 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Project No. 2149]

PUBLIC UTILITY DISTRICT NO. 1 OF DOUGLAS COUNTY, WASH.

Land Withdrawal (Additional), Washington

JANUARY 19, 1979.

On March 30, 1970, Public Utility District No. 1 of Douglas County, Washington, filed transmission line Exhibit K sheets 1 through 57 (FPC Nos. 2149-167 through -224), pursuant to Article 30 of the license for Project No. 2149 (Wells Hydroelectric Project). This filing included 7.22 acres of United States lands not previously withdrawn for the project.

In accordance with the provisions of Section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the land hereinafter described, insofar as title thereto remains in the United States, is from the date of said filing, reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress:

WILLAMETTE MERIDIAN, WASHINGTON

All portions of the following described subdivision lying within 117.50 feet on either side of the center line survey of the transmission line right-of-way location as delimited on map Exhibit K sheet 53 of 57 (FPC No. 2149-220):

T. 24 N., R. 21 E.,
Sec. 32, NE¼SW¼

The general determination made by the Federal Power Commission at its meeting of April 17, 1922 (2nd Ann. FPC Rept. 128), with respect to lands reserved for transmission purposes only, is applicable to this land.

Copies of the aforementioned map Exhibit K sheet 53, have been transmitted to the Geological Survey and Bureau of Land Management.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3259 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket No. RP78-50]

NORTHWEST PIPELINE CORP.

Continued Informal Conference

JANUARY 17, 1979.

Take notice that on January 30, 1979, at 10:00 A.M. a settlement conference will be held in the instant

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docket. The conference will continue on Janury 31, 1979. The conference will be for the purpose of finalizing a stipulation and agreement settling this proceeding.

The conference will be held in Washington, D.C. Parties attending the conference should contact Staff Counsel on the morning of the conference for information on the location of the meeting. Staff Counsel assigned to this case is Donald Shepler, telephone no. 202/275-4211.

Any party desiring to attend said settlement conference is invited to attend.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3266 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-148]

OKLAHOMA NATURAL GAS CO.

Petition for Declaratory Order

JANUARY 19, 1979.

Take notice that on January 12, 1979, Oklahoma Natural Gas Company (Applicant), 624 South Boston Avenue, Tulsa, Oklahoma, filed in Docket No. CP79-148 a petition pursuant to Section 501 of the Natural Gas Policy Act of 1978 (NGPA) and § 1.7(c) of the Commission's Rules and Regulations (18 CFR 1.7(c)) for an order declaring Oklahoma Natural Gas Company to be an intrastate pipeline as defined in Section 2(16) of the NGPA, all as more fully set forth in the petition on file with the Commission and open to public inspection.

Oklahoma Natural states that it is concerned that without such a clarification, it might be construed that it is a local distribution company as defined in Section 1(17) of the NGPA or that it is exempt from the Natural Gas Act (NGA) *solely* because of Section 1(c) of the NGA and that therefore Oklahoma Natural would not be an intrastate pipeline under the NGPA. If Oklahoma Natural is not an intrastate pipeline within the meaning of the NGPA, then Oklahoma Natural will not be able to (1) transport gas for interstate pipelines under Section 311(a) of the NGPA; (2) sell gas to the interstate pipeline market under Section 311(b) of the NGPA; or (3) make assignments of gas purchase contracts under Section 312 of the NGPA. Applicant states that it is not a local distribution company as that term is defined in the NGPA and that less than 1% of its utility sales is attributable to purchases from interstate pipelines.

Any person desiring to be heard or to make any protest with reference to said petition should on or before February 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3267 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket No RI79-21]

SHELL OIL CO.

Petition for Declaratory Order

JANUARY 19, 1979.

Take notice that on December 18, 1978, Shell Oil Company [Shell] filed a petition pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) requesing that the Commission issue an order removing any uncertainty as to the maximum lawful rate which Shell is entitled to receive for certain wells drilled in the Federal Domain Offshore Louisiana, and also in state waters offshore and the swamp and marsh areas onshore Louisiana.

Shell requests that the Commission clarify whether the utilization of previously set surface casing strings in offshore drilling precludes the producer from attaining the vintage price which would otherwise be attributable to that well.

Shell further states that a similar condition exists in State waters and the swamp and marsh areas of Southern Louisiana, where drilling is performed from a fixed platform. Shell requests clarification as to whether such "milling out" operations are considered a new onshore well, provided that the new well is drilled outside of the existing proration unit.[1]

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3268 Filed 1-30-79; 8:45 am]

[1] Alternatively if the well complies with the provisions of ordering paragraph (p) (Opinion No. 770-A, p. 196, slip opinion), it may qualify as a new onshore well within the meaning of Opinion 770-A although it is within an existing proration unit.

[6450-01-M]

[Docket No. RI79-23]

SOUTHERN UNION GATHERING CO.

Order Rejecting Rate Filings or, in the Alternative, Providing for Hearing on and Suspension of Proposed Changes in Rate and Allowing Rate Changes To Become Effective Subject To Refund

JANUARY 17, 1979.

Southern Union Gathering Company (Southern Union) on December 11, 1978, filed two notices of change in rate, designated as Supplement Nos. 22 [1] and 23 [2] to its FERC Gas Rate Schedule No. 1, proposing to increase the gathering charge from 11.2743¢ to 19.2740¢ per Mcf at 14.73 psia for sales of natural gas to El Paso Natural Gas Company (El Paso) from the Kutz and San Juan Basin Areas, New Mexico. The proposed increases amount to an estimated $2,207,098 in increased annual revenues. Southern Union also filed on December 11, 1978, a new agreement, designated as Supplement No. 21 to its FERC Gas Rate Schedule No. 1, providing for the proposed increases in its gathering charge. In addition, Southern Union filed a statement and comparative cost data in support of its proposed increases.

Southern Union is not engaged in the production of natural gas. It purchases gas from both large and small producers, and then gathers, compresses and processes such gas before reselling the residue gas to El Paso. Southern Union's sale was classified as a producer type sale by the Federal Power Commission in 1955. The price for the sale to El Paso consists of the average wellhead cost of the gas purchased by Southern Union plus its gathering charge.

The rates for Southern Union's sale to El Paso are governed by the Natural Gas Policy Act of 1978 (NGPA) and the Commission's implementing regulations with respect thereto. Section 4 of the Natural Gas Act is not applicable, and therefore the filings are rejected. Any relief from the otherwise applicable maximum lawful price for the first sale must be obtained pursuant ot Section 502(c) of the NGPA.

[1] Covers Kutz Area.
[2] San Juan Basin Area.

Our rejection is without prejudice to Southern Union's right to refile under Section 502(c) of the NPGA. Any request for relief should include detailed cost and volumetric data associated with each of the various functions of the gathering system, i.e., gathering, compression, dehydration, etc. The data should be shown separately for the subject sale, any other jurisdictional sales and intrastate sales. In the event any costs represent allocations, the method of allocation should be detailed. The data should include, but not be limited to, original and net remaining investment (specifying the method of depreciation) for the most recent three year period; total operating expense broken down by category, total revenue broken down by source, and total volumes with Btu content associated with the above costs and revenues. Southern Union may also include any future projections of this data stating the basis for such projections. In addition, identification of the contract, volumes purchased, and prices paid will be necessary for each jurisdictional supplier sale to Southern Union.

However, even if Section 4 of the Natural Gas Act were determined to apply, Southern Union's filings would be treated as a request for special relief. Therefore, the rate change filings would be improper and would be rejected. Southern Union is not entitled to the requested rates unless or until the Commission takes favorable action on the request for relief.

In the alternative, if the rate change filings were made properly under the Natural Gas Act, the proposed increased rates filed by Southern Union may be unjust, unreasonable, unduly discriminatory, or preferential or otherwise unlawful and should be suspended.

The new agreement pertaining to the proposed rates shall be accepted for filing.

The Commission finds: The rate filings should be rejected, or, in the alternative, it is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed changes, and that the supplements relating thereto be suspended and their use be deferred as ordered below.

The Commission orders: (A) For the reasons set forth in the body of this order, Supplement Nos. 22 and 23 to Southern Union's FERC Gas Rate Schedule No. 1 are rejected.

(B) In the event the rate filings are not subject to rejection, under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commission's Rules of Practice and Procedure, a public hearing shall be held concerning the lawfulness of the proposed changes.

(C) Pending hearing and decision thereon, Supplement Nos. 22 and 23 to Southern Union's FERC Gas Rate Schedule No. 1 are suspended and their use deferred until June 11, 1979. The supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by Southern Union or by the Commission. Southern Union shall comply with the refunding procedure required by the Natural Gas Act and Section 154.102 of the Regulations thereunder.

(D) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

(E) Supplement No. 21 to Southern Union's FERC Gas Rate Schedule No. 1, containing the new agreement with El Paso, is accepted for filing as of January 11, 1979.

(F) Southern Union shall file within 30 days of the issuance of this order comments on the propriety of the treatment accorded its proposed rate changes. If Southern Union believes that it is entitled to file for relief other than pursuant to Section 502(c) of the NGPA, it should set forth the applicable section of the Natural Gas Act or the NGPA and should explain the basis for its position.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3260 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket No. CP77-127]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNACO INC., AND EAST TENNESSEE NATURAL GAS CO.

Petition To Amend

JANUARY 24, 1979.

Take notice that on December 27, 1978, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and East Tennessee Natural Gas Company (East Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP77-127 a petition to amend further the order issued February 12, 1977, as amended January 13, 1978, in the instant docket pursuant to Section 7(c) of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) granting a certificate of public convenience and necessity authorizing the transportation of up to 750 Mcf [1] of natural gas per day for a term of two years for Briggs, a Division of the Celotex Corporation (Briggs) from the Tomball Field, Harris County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to order of January 13, 1978, Applicants were authorized to transport natural gas received from a different source, in lieu of from ENERCO Exploration and Management Company, specifically, Texas General Petroleum Corporation and Bill Forney Inc. (General, *et al.*)[2] it is said. Applicants further state that no further change in the February 13, 1978 authorization in respect to the transportation and delivery of gas by Tennessee to East Tennessee and by East Tennessee to Knoxville Utilities Board (KUB) was requested nor required in order to effect deliveries of this new gas supply to Briggs.

It is asserted that Briggs has a continuing need for the gas supplied by its purchases from General, *et al.*, and that authorization expires on February 13, 1979; in order to ensure that Briggs' plant would be able to continue in operation and not be forced to shut down, Applicants request that the Commission further amend the said authorization to provide for the continuation of the presently authorized transportation service for Briggs for another two years, until February 13, 1981.

It is stated that the compensation to be paid by Briggs to Tennessee for the transportation service by Tennessee shall consist of the following charges:

(a) *Demand Charge:* For each month, a demand charge equal to $1.70 per Mcf Multiplied by the Maximum Daily Quantity.

(b) *Volume Charge:* For each month a volume charge equal to 21.64 cents per Mcf multiplied by the total of the Scheduled Daily Volumes during such month.

It is further stated that the compensation to be paid by Briggs to East Tennessee for the transportation service each month is a charge to be determined by multiplying the rate of 27.02 cents per Mcf by the volume of natural gas delivered by East Tennessee to KUB for the account of Briggs.

Applicants stated that under the terms of the gas sale and purchase

[1] The initial order in said docket authorized transportation of 850 Mcf of natural gas per day.
[2] Receipt of the gas would be at the interconnection of the facilities of Tennessee and General, *et al.* at Tennessee's Side Valve 21A-231.

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contract between General, *et al.*, and Briggs the initial charge by General, *et al.* of $1.90 per million Btu's for gas sold to Briggs would increase to $2.00 per million Btu's effective January 18, 1979. Under the terms of an amendment to that contract dated November 1, 1978, the charge would increase to $2.10 per million Btu's effective January 18, 1980 and increase 10.0 cents per year thereafter until termination of the contract, it is said.

Briggs indicated that it would purchase up to 750 Mcf of natural gas on an average day during the proposed two year term, and a total annual quantity of up to 273,750 Mcf.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3261 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket Nos. RP75-13, RP75-113, RP76-137, and RP77-62]

TENNESSEE GAS PIPELINE CO.

Order Consolidating Proceedings on Certain Research and Development Issues

JANUARY 19, 1979.

On December 22, 1978, the presiding judge certified to the Commission a motion filed by Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee) which requests the Commission to consolidate Docket Nos. RP75-13, *et al.* with Docket No. RP77-62 for the purpose of hearing and deciding an issue common to both proceedings: the proper rate treatment to be afforded certain research and development (R&D) expenditures. Tennessee states that the Commission staff joins in its motion.

In Docket No. RP77-62, Tennessee has pending a general rate increase request. Among the issues to be resolved in Docket No. RP77-62 is the proper rate treatment of certain R&D expenditures.

In Docket Nos. RP75-13, *et al.*, most issues have been resolved by virtue of the Commission's May 1, 1978, approval of a settlement agreement. The settlement approved in these dockets, however, specifically reserves certain R&D issues for formal hearing. Testimony and exhibits have already been served in these dockets but no hearing dates have been set.

Based upon a review of Tennessee's motion, the Commission finds that Docket No. RP77-62 and Docket Nos. RP75-13, *et al.*, involve common issues of law and fact. Accordingly, we shall consolidate the two proceedings for purposes of hearing and decision on the R&D issues.

By notice issued July 3, 1978, the Secretary postponed procedural dates in Docket No. RP75-13, *et al.*, pending action upon Tennessee's motion to consolidate. Inasmuch as the proceedings required under Article X of the stipulation and agreement in Docket No. RP75-13, *et al.*, will be conducted pursuant to the procedural schedule established in Docket No. RP77-62, no further formal proceedings on the R&D issue will be required in Docket No. RP75-13, *et al.*

The Commission orders: (A) Docket Nos. RP75-13, *et al.*, and Docket No. RP77-62 are consolidated for purposes of hearing and decision on R&D issues.

(B) The consolidated proceeding shall be conducted pursuant to the procedural schedule set in Docket No. RP77-62.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3269 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket No. CP79-137]

UNITED GAS PIPE LINE CO.

Application

JANUARY 24, 1979.

Take notice that on December 27, 1978, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP79-137 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition by purchase of metering and regulating facilities located in the Bayou Cassotte Area, Jackson County, Mississippi, all as more fully set forth in the application which is on file with the Commisssion and open to public inspection.

United and Chevron, U.S.A. (Chevron) exchange gas at a metering and regulating facility located in the Bayou Cassotte Area, Jackson County, Mississippi pursuant to a certificate of public convenience and necessity in Docket No. CP76-502 issued March 25, 1977, Applicant states. The certificate authorized the exchange of gas for a limited term, not to extend beyond April 1, 1978, and was subsequently amended by the order of the Commission issued March 31, 1978, which extended the limited-term of the exchange for an additional two-year period to April 1, 1980, Applicant further states. The metering and regulating facilities utilized in the exchange were originally installed and are presently owned by Chevron, it is said. The exchange service for which they are presently utilized benefits United alone, and the operation and maintenance of these facilities are performed by personnel employed by United and, accordingly, United submits that these facilities, more properly, should be owned, as well as operated, by United, it is asserted. United has agreed to a purchase price of $30,000, for the said facilities, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commisssion's Rules of Practice and Procedure (18 CFR 157.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petiton to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3262 Filed 1-30-79; 8:45 am]

[6450-01-M]

[Docket No. ER78-506]

WISCONSIN PUBLIC SERVICE CORP.

Order Accepting Proposed Rate Schedules for Filing

JANUARY 24, 1979.

By order issued August 24, 1978 in this docket, the Commission provisionally accepted and suspended Wisconsin Public Service Corporation's (WPS or Company) proposed rate increase to its nine full requirements customers [1] and two partial requirements customers.[2] The filing was provisionally accepted in order that the Commission could review the Company's contracts with certain of its customers to determine if the filing should be rejected as violative of the *Mobil-Sierra* doctrine.[3]

A response was filed by WPS on the *Mobile-Sierra* issue. WPS contends that its contracts with Algoma, New Holstein, Two Rivers, Stephenson and Stratford are not fixed rate contracts because the language in each instance provides for a change in rates. Since a change in rates was contemplated, WPS submits that the only question concerns *how* the change would be made under the contracts. On this point, WPS essentially makes three arguments.

First, WPS states that the contracts are ambiguous with respect to the intent of the parties towards Section 205 filings, so consideration of the conduct of the parties subsequent to the signing of the contracts is proper. WPS submits that a review of the conduct of the parties will indicate that Section 205 filings are consistent with the parties' real contractual expectations. WPS points out that since 1966 it has filed for several rate changes under Section 205. In particular, WPS states that at least three of the requested rate increases have been protested by these customers, but *Mobile-Sierra* defenses have never been raised.[4]

Second, WPS argues that even if the contracts of the parties are construed to generally prohibit Section 205 filings, a contractual modification allowing a Section 205 filing for the instant application was agreed to by the parties in the settlement of its last rate increase in Docket No. ER76-150.[5] WPS specifically refers to paragraph 2 of the settlement agreement which provides:

Moratorium: WPS agrees that it will not increase the settlement rates prior to January 1, 1978. It is understood and agreed that WPS may submit for filing a proposed rate increase and may request a proposed effective date prior to January 1, 1978, provided that WPS requests suspension of the proposed rates until January 1, 1978.

WPS asserts that Paragragh 2 refers only to Section 205 proceedings since it has no application to Section 206 proceedings. Further, WPS contends that paragraph 5 of the settlement agreement entitled "Miscellaneous", which provides in pertinent part that, ". . . Neither WPS nor the customer is to be prejudiced in any future proceeding by this settlement", was not intended to vitiate the agreement of the parties as to the timing of the next rate filing as set forth in the "Moratorium" paragraph.

Thus, WPS submits that the "Moratorium" clause, while not constituting a permanent modification of the parties' contracts, did give the Company the right to make a unilateral filing under Section 205 for its next rate increase application, i.e., the instant filing.

Third, if the Commission concludes that the contracts in question prohibit unilateral filings under Section 205, then WPS contends that a Section 206 proceeding imposing a just and reasonable burden of proof is appropriate inasmuch as all the contracts are "going rate" rather than "fixed price" contracts. *See, United Gas Pipe Co., v. Memphis Gas and Water Division*, 358 U.S. 103 (1958).

In reply, the Cities and Villages of Algoma, Eagle River, Manitowoc, New Holstein, Sturgeon Bay, Two Rivers and Stratford, Wisconsin and Stephenson, Michigan (Intervenors) contend that WPS has failed to demonstrate any modification of the parties' original contracts, either through a course of conduct or by virtue of the settlement agreement in Docket No. ER 76-150.

With regard to the "Moratorium" clause, the Intervenors argue that this provision merely indicates that WPS cannot increase its rates prior to a certain date, but does not mention the basis upon which the Commission should determine when the rate may be placed into effect. Citing *City of Kaukauna v. Federal Energy Regulatory Commission*, 581 F.2d 993 (D.C. Circ. 1978), the Intervenors state that the provision is nothing more than a limitation on when an approved change, that is a change made in accordance with earlier contractual limitations, can take effect.

DISCUSSION

In our view the settlement agreement in Docket No. ER 76-150, to which all of the Intervenors were signatories except the City of Manitowoc, Wisconsin (Manitowoc), controls the propriety of WPS's Section 205 filing in the instant docket for all customers except Manitowoc.[6] We therefore find it unnecessary to interpret the underlying contracts of WPS and the Intervenors or to reach the issue of whether it would be proper to go outside the four corners of those instruments and take into account the conduct of the parties subsequent to the signing of their respective contracts.

As we have recently stated, the initial point of Commission inquiry in resolving *Mobile-Sierra* controversies is the contract of the parties, to establish whether the parties have agreed to a specific rate or whether they agreed to a rate changeable in a specific manner.[7] Regardless of the undelying contracts of WPS and the Intervenors we find that the settlement agreement clearly indicates that it was the intent of the parties to allow a Section 205 filing for the Company's next rate increase application. The language in the previously cited "Moratorium" provision reflects this intent.

The first sentence of the "Moratorium" clause contains a prohibition on rate increases for a particular length of time: "WPS agrees that it will not increase the settlement rates prior to January 1, 1978." The second sentence reflects how the next rate increase will be initiated and when the rate increase can be made operative: "It is understood and agreed that WPS may submit for filing a proposed rate increase and may request a proposed effective date prior to January 1, 1978, provided that WPS requests suspension of the proposed rates until January 1, 1978." This second sentence indicates that the next WPS rate filing was to be made pursuant to Section 205, because "suspension" has no

[1] City of Algoma, City of Eagle River, City of New Holstein, City of Sturgeon Bay, City of Two Rivers and Village of Stratford, Wisconsin; Village of Daggett, and Village of Stephenson, Michigan and Alger-Delta Cooperative Electric Association.

[2] City of Manitowoc, Wisconsin and Consolidated Water Power Company.

[3] *FPC v. Mobile Gas Service Corporation*, 350 U.S. 382 (1956); *FPC v. Sierra Pacific Power Co.*, 350, U.S. 348 (1956).

[4] Docket Nos. E-7627, E-8864 and ER76-150.

[5] *Wisconsin Public Service Corporation*, Docket No. ER76-150, Order Approving Settlement, issued January 10, 1977.

[6] The WPS-Manitowoc contract is discussed *infra*, at 6. Additionally, the Village of Daggett, Michigan, although not a member of the "Intervenors" complaining herein, was a signatory to the ER76-150 settlement agreement, and as a consequence will be bound by our interpretation of the agreement.

[7] *Public Service Company of New Mexico*, Docket Nos. ER78-337 and ER78-338, Order issued December 15, 1978, mimeo at 6.

meaning within the context of a Section 206 proceeding. Further, this sentence evinces the agreement of the parties as to the effective date of the allowable rate increase, i.e., no sooner than January 1, 1978. We agree with WPS, that the "miscellaneous" provision contained in Paragraph 5 does not serve to vitiate the specific agreement of the parties as to the timing and manner of implementing the next rate increase. Rather, we construe this provision as a general statement that cannot override the specific language of the parties contained in the "Moratorium" clause.

We do not find, as the Intervenors have urged, that *Kaukauna* requires a different result. In *Kaukauna*, the contract under review specifically provided that rate changes could be filed under Section 205 with the additional provision that the customer would accept such new or changed rates as would ultimately be made effective through such a proceeding and review. The Court held that while the parties had agreed to a Section 205 filing they had also agreed to delay the implementation of any rate increase until after a Commission decision and any judicial review.[8] Thus, as the Court stated:

> Beyond minimum statutory constraints the effective date of any consensual rate hike is a matter committed to agreement by the parties. (Slip Op. at 7.)

Insofar as *Kaukauna* holds that the parties may not only extend the protection of their agreement to the mechanics of a rate change but also to the effective date of the change, it supports the result reached here. As we previously indicated, the settlement agreement between WPS and the Intervenors not only reflects their mutual assent to a Section 205 filing for the instant rate increase but also provides that the effective date of such increase would be no sooner than Janury 1, 1978.

Our finding that WPS has acted in a manner consistent with the terms of the settlement agreement is limited to the instant filing and the Company does not assert otherwise.[9] Absent a new agreement between WPS and the Intervenors, the permissibility of subsequent rate increase filings will be controlled by the parties' underlying contracts.

We also find that the Company has properly filed under Section 205 for the remaining Intervenor, the City of Manitowoc. This conclusion rests on the language contained in Section 2 of the June 19, 1978 contract between WPS and Manitowoc which provides in pertinent part:

> Nothing contained herein shall be construed as affecting in any way the right of Public Service to unilaterally make application to the Federal Energy Regulatory Commission for a change in said rate schedule, the Service Schedules, rates, charges, classification, or service, or any rule, regulation, or contract relating thereto, under Section 205 of the Federal Power Act and pursuant to the Commission's Rules and Regulations promulgatd thereunder.

In sum, we find that as to Algoma, Eagle River, New Holstein, Stratford, Sturgeon Bay, Two Rivers, Stephenson and Daggett the settlement agreement in Docket No. ER76-150 specifically permitted the Company to make a Section 205 filing for the instant rate increase only. With regard to Manitowoc, the propriety of the Section 205 filing is of a continuing nature under the terms of the WPS-Manitowoc contract.

The Commission orders: (A) Paragraph (B) of the August 24, 1978 order is hereby modified to provide:

> Pending such hearing and decision thereon, the proposed increased rates and charges filed by Wisconsin Public Service Corporation on July 25, 1978 are hereby accepted for filing, suspended and the use thereof deferred until January 29, 1979, when they shall become effective subject to refund.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3263 Filed 1-30-79; 8:45 am]

[8] *Kaukauna, supra,* (Slip Op. at 7). In the contract before us the only reference to action by the Commission is the suspension which WPS would request if a filing had been made before January 1, 1978. Of course, the rate taking effect after suspension by the Commission is normally that proposed by the utility. Until adjudication, the customer is billed under that rate, subject to refund.

[9] *See,* WPS' Response to Intervenors' Allegations on *Mobile-Sierra* Issue, at 10.

[6450-01-M]

HARVEY E. YATES CO. AND NORTHERN NATURAL GAS CO.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

JANUARY 23, 1979.

On January 10, 1979, the Federal Energy Regulatory Commission received notice from the New Mexico Oil Conservation Division of a determination pursuant to 18 CFR 274.104(a) and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

API Well Number: 30-025-25593
Operator: Harvey E. Yates Company
Well Name: Hanlad State #1
Field: None—Wildcat Well
County: None
Purchaser: Northern Natural Gas Company
Volume: Unavailable

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 824 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 15, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3273 Filed 1-30-79; 8:45 am]

[6450-01-M]

HARVEY E. YATES CO. AND EL PASO NATURAL GAS CO.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

JANUARY 23, 1979.

On January 15, 1979, the Federal Energy Regulatory Commission received notice from the New Mexico Oil Conservation Division of a determination pursuant to 18 CFR 274.104(a) and Section 102 of the Natural Gas Policy Act of 1978 applicable to:

API Well Number: 30-015-22400
Operator: Harvey E. Yates Company
Well Name: Empire South Deep Unit #18
Field: und. South Empire Morrow
County: Eddy
Puchaser: El Paso Natural Gas Company
Volume: 2,500 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 15, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3272 Filed 1-30-79; 8:45 am]

[6450-01-M]

YATES PETROLEUM CORP. AND EL PASO NATURAL GAS CO.

Determination by a Jurisdiction Agency Under the Natural Gas Policy Act of 1978

JANUARY 23, 1979.

On January 8, 1979, the Federal Regulatory Commission received notice from the New Mexico Oil Conservation Division of a determination pursuant to 18 CFR 274.104(a) and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

API Well Number: 30-015-22068
Operator: Yates Petroleum Corporation
Well Name: Midwest HH Com #1
Field: Undesignated
County: Eddy
Purchaser: El Paso Natural Gas Company
Volume: 11.580 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 15, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3279 Filed 1-30-79; 8:45 am]

[6450-01-M]

YATES PETROLEUM CORP. AND EL PASO NATURAL GAS CO.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

JANUARY 23, 1979.

On January 8, 1979, the Federal Energy Regulatory Commission received notice from the New Mexico Oil Conservation Division of a determination pursuant to 18 CFR 274.104(a) and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

API Well Number: 30-015-22248
Operator: Yates Petroleum Corporation
Well Name: La Cama Com #1
Field: Wildcat Cisco
County: Eddy
Purchaser: El Paso Natural Gas Company
Volume: 168.350 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 15, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3278 Filed 1-30-79; 8:45 am]

[6450-01-M]

YATES PETROLEUM CORP. AND EL PASO NATURAL GAS CO.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

JANUARY 23, 1979.

On January 8, 1979, the Federal Energy Regulatory Commission received notice from the New Mexico Oil Conservation Division of a determination pursuant to 18 CFR 274.104(a) and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

API Well Number: 30-015-22329
Operator: Yates Petroleum Corporation
Well Name: Siegenthaler IS Com #1
Field: Kennedy Farms Morrow
County: Eddy
Purchaser: El Paso Natural Gas Company
Volume: 299.410 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 15, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3277 Filed 1-30-79; 8:45 am]

[6450-01-M]

YATES PETROLEUM CORP. AND EL PASO NATURAL GAS CO.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

JANUARY 23, 1979.

On January 8, 1979, the Federal Energy Regulatory Commission received notice from the New Mexico Oil Conservation Division of a determination pursuant to 18 CFR 274.104(a) and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

API Well Number: 30-015-22329
Operator: Yates Petroleum Corporation
Well Name: Siegenthaler IS Com #1
Field: Kennedy Farms Atoka
County: Eddy
Purchaser: El Paso Natural Gas Co.
Volume: None.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 15, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3284 Filed 1-30-79; 8:45 am]

[6450-01-M]

YATES PETROLEUM CORP. AND EL PASO NATURAL GAS CO.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

JANUARY 23, 1979.

On January 8, 1979, the Federal Energy Regulatory Commission received notice from the New Mexico Oil Conservation Division of a determination pursuant to 18 CFR 274.104(a) and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

API Well Number: 30-015-22413
Operator: Yates Petroleum Corporation
Well Name: Siegenthaler Is Com #2
Field: Wildcat (Canyon)
County: Eddy
Purchaser: El Paso Natural Gas Co.
Volume: 3.530 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 15, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3285 Filed 1-30-79; 8:45 am]

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[6450-01-M]

YATES PETROLEUM CORP. AND TRANSWESTERN PIPELINE CO.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

JANUARY 23, 1979.

On January 8, 1979, the Federal Energy Regulatory Commission received notice from the New Mexico Oil Conservation Division of a determination pursuant to 18 CFR 274.104(a) and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

API Well Number: 30-015-22852
Operator: Yates Petroleum Corporation
Well Name: Rio Penasco JX Com #1
Field: Wildcat Morrow
County: Eddy
Purchaser: Transwestern Pipeline Co.
Volume: None

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 15, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3282 Filed 1-30-79; 8:45 am]

[6450-01-M]

YATES PETROLEUM CORP. AND TRANSWESTERN PIPELINE CO.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

JANUARY 23, 1979.

On January 8, 1979, the Federal Energy Regulatory Commission received notice from the New Mexico Oil Conservation Division of a determination pursuant to 18 CFR 274.104(a) and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

API Well Number: 30-015-22435
Operator: Yates Petroleum Corporation
Well Name: Ross IZ Com #1
Field: Cemetery Morrow
County: Eddy
Purchaser: Transwestern Pipeline Company
Volume: None

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 15, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3283 Filed 1-30-79; 8:45 am]

[6450-01-M]

YATES PETROLEUM CORP. AND TRANSWESTERN PIPELINE CO.

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

JANUARY 23, 1979.

On January 8, 1979, the Federal Energy Regulatory Commission received notice from the New Mexico Oil Conservation Division of a determination pursuant to 18 CFR 274.104(a) and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

API Well Number: 30-015-22554
Operator: Yates Petroleum Corporation
Well Name: Stonewall EP State Com #4
Field: Burton Flat Morrow
County: Eddy
Purchaser: Transwestern Pipeline Company
Volume: 1296.74 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is available for inspection, except to the extent such material is treated as a confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before February 15, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-3286 Filed 1-30-79; 8:45 am]

[6450-01-M]

Office of Assistant Secretary for Industrial Affairs

PROPOSED SUBSEQUENT ARRANGEMENT

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) for Cooperation in Peaceful Application.

The subsequent arrangement to be carried out under the above mentioned agreement involves transfer of the material listed below for use in the IAEA's Safeguards Analytical Laboratory Evaluation (SALE) program. This program is designed to evaluate the capability of participating laboratories to analyze materials to be safeguarded in the nuclear fuel cycle and to provide the means by which measurement capability may be improved through the interchange of measurement technology.

Contract No.	Countries	Material
WC-CI-4	United States to Taiwan.	87 g U as UO, with 2.1 g U-235 20 g U as U-NO, with 0.8 g U-235
WC-EU-114	United States to Italy.	88.7 g U as UO, with 2.1 g U-235 20 g U as U-NO, with 0.8 g U-235

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 25, 1979.

HAROLD D. BENGELSDORF,
Director for Nuclear Affairs, International Programs.

[FR Doc. 79-3226 Filed 1-30-79; 8:45 am]

[6450-01-M]

PROPOSED SUBSEQUENT ARRANGEMENT

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (Euratom) Concerning the Peaceful Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves the following sale S-EU-528—United States to Italy 50 mg. of plutonium containing Pu-242 enriched to greater than 90% as oxide for use as a standard in analyses performed in the frame of safeguard activities and in IAEA inter-laboratory program evaluation.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 25, 1979.

HAROLD D. BENGELSDORF,
Director for Nuclear Affairs, International Programs.

[FR Doc. 79-3226 Filed 1-30-79; 8:45 am]

[6450-01-M]

LOCAL GOVERNMENT ENERGY POLICY ADVISORY COMMITTEE

Determination To Establish

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), I hereby certify that the establishment of the Local Government Energy Policy Advisory Committee as hereinafter identified, is in the public interest in connection with the performance of duties of the Secretary of Energy imposed by the Department of Energy Organization Act of 1977 and other applicable law. This determination follows consultation with the Administrator of General Services, pursuant to the Federal Advisory Committee Act, the Office of Management and Budget Circular A-63 (Revised) and Executive Order 12024, dated December 1, 1977.

1. *Name of Advisory Committee*—Local Government Energy Policy Advisory Committee.

2. *Purpose*—The Advisory Committee will advise and make recommendations to the Secretary of Energy on matters relating to Federal energy policies, programs and legislation so that the Secretary may reach a judgment as to whether national energy policies are reflective of and responsible to the needs of local governments, that components of the Department are coordinating their activities with local governments, where appropriate, and that intergovernmental communication exists with local governments.

3. *Effective Date of Establishment and Duration*—The Advisory Committee is established, effective 15 days aftger filing of the Charter with the Standing Committees of Congress having legislative jurisdiction over the Department of Energy and the Library of Congress, and will terminate two years thereafter unless properly renewed.

4. *Membership*—The membership of the Advisory Committee will be fairly balanced as required by the Department of Energy Organization Act (P.L. 95-91) and the Federal Advisory Committee Act (P.L. 92-463). It is expected that the membership will be balanced, among other factors, according to geographic distribution, demographic characteristics and balanced as to representation of cities and counties.

5. *Operation*—The Local Government Energy Advisory Committee will operate in accordance with the provisions of Section 624 of the Department of Energy Organization Act (P.L. 95-91), the Federal Advisory Committee Act (P.L. 92-463), Office of Management and Budget Circular A-63 (Revised), and other directives and instructions issued in accordance with the implementation of the Act. Local Government Energy Policy Advisory Committee meetings will be held a minimum of four times a year.

6. *Objectivity*—The advice and recommendations of the Local Government Energy Policy Advisory Committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the Advisory Committee's independent judgment.

Dated: January 25, 1979.

JAMES R. SCHLESINGER,
Secretary.

[FR Doc 79-3185 Filed 1-30-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1048-2]

CALIFORNIA MARINE SANITATION DEVICE STANDARD

Receipt of Petition

Notice is hereby given that two petitions have been received from the State of California requesting determinations by the Administrator, Environmental Protection Agency, pursuant to Section 312(f)(3) of Pub. L. 92-500, as amended by Pub. L. 95-217, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of two areas within the State of California: Avalon Harbor, on Santa Catalina Island, and Channel Island Harbor, at Oxnard. Both areas are in the southern portion of the state.

The State of California has certified that there are two pumpout facilities available to service vessels in Avalon Harbor. These facilities, which are installed on a large float on the east side of the harbor, are open 24 hours a day, and their use is free to the public. The two facilities are operated by the city of Avalon, and the waste collected at the two pumpout facilities is disposed of at the City of Avalon's secondary treatment sewage treatment plant (NPDES Permit Number CA 0054372).

The State of California has also certified that each pumpout facility can service from three to five vessels at one time, depending on vessel length, and that five minutes are required to pump out the average vessel. Peak period accommodation of Avalon Harbor during the summer of 1978 was 347 vessels; however, the two pump out facilities can service a total of approximately 576 vessels per day if required to do so, and both pumpout facilities can accommodate vessels with an 18-foot draft.

The State of California has further certified that there are three pumpout facilities available to service vessels in Channel Island Harbor. All three facilities are operated by the County of Ventura, Channel Island Harbor Manager, and are open 24 hours a day. Pumpout facility No. 1 is located at the Harbor Master's Dock, pumpout facility No. 2 is located at the Launch Ramp day-use dock, and pumpout facility No. 3 is located at the Peninsula Park dock; the three facilities can service approximately 1,500 vessels, considerably more than the present population of 1,150 vessels, and each facility takes approximately five minutes to pump out the average vessel. All three facilities are coin-operated, and provide five minutes of pumping for twenty-five cents ($0.25).

The wastes collected from the three pumpout facilities are discharged to the City of Oxnard's secondary treatment sewage treatment plant (NPDES Permit No. CA 00544097).

The State of California has also certified that pumpout facility No. 1 will accommodate vessels with approximately a 20-foot draft, and that pump out facilities Nos. 2 and 3 are in locations where the harbor is dredged to a depth of 10 feet at mean lower low water.

Comments and views regarding this request for action may be filed on or before March 19, 1979. Such communications, or requests for information or a copy of the applicant's petition, should be addressed to Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, OWWM, Room 2824 Waterside Mall, Washington, D.C. 20460, Telephone: 202/755-0100.

Dated: January 26, 1979.

THOMAS C. JORLING,
Assistant Administrator for Water and Waste Management.

[FR Doc. 79-3292 Filed 1-30-79; 8:45 am]

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[6560-01-M]

[FRL 1048-8; OPP-50400]

ISSUANCE OF EXPERIMENTAL USE PERMITS

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 7182-EUP-19. 3M Company, St. Paul, Minnesota 55101. This experimental use permit allows the use of 2,496 pounds of the herbicide mefluidide on soybeans to evaluate control of weeds. A total of 6,576 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The experimental use permit is effective from March 31, 1979 to March 31, 1980. A temporary tolerance for residues of the active ingredient in or on soybeans has been established. (PM-25, Room: E-301, telephone: 202/755-2196)

No. 100-EUP-59. Ciba-Geigy Corp., Greensboro, North Carolina 27409. This experimental use permit allows the use of 2,080 pounds of the herbicide metolachlor on corn to evaluate control of weeds. A total of 1,044 acres is involved; the program is authorized only in the forty-eight contiguous states. The experimental use permit is effective from February 24, 1979 to February 24, 1980. A permanent tolerance for residues of the active ingredient in or on corn has been established (40 CFR 180.368). (PM-23, Room: E-351, telephone: 202/755-1397)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

STATUTORY AUTHORITY: Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: January 24, 1979.

HERBERT S. HARRISON,
Acting Director,
Registration Division.

[FR Doc. 79-3300 Filed 1-30-79; 8:45 am]

[6560-01-M]

[FRL 1049-1; OPP-50399]

ISSUANCE OF EXPERIMENTAL USE PERMITS

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 100-EUP-43. Ciba-Geigy Corp., Greensboro, North Carolina 11422. This experimental use permit allows the use of 6,720 pounds of the herbicide metolachlor on soybeans to evaluate control of various weeds. A total of 3,302 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Wisconsin, and West Virginia. The experimental use permit is effective from January 6, 1979 to January 6, 1980. Temporary tolerances for residues of the active ingredient in or on soybeans, soybean forage and hay, and in meat, milk, poultry, and eggs have been established. (PM-23, Room: E-351, Telephone: 202-755-1397)

No. 35980-EUP-1. Atlantic and Pacific Research, Inc., North Palm Beach, Florida 33408. This experimental use permit allows the use of 0.4 gram of the plant growth regulator cytokinin on tomatoes. A total of ten acres is involved; the program is authorized only in the State of Ohio. The experimental use permit is effective from March 1, 1979 to October 15, 1979. A tolerance exemption for residues of the active ingredient in or on tomatoes has been established (40 CFR 180.1042). (PM-25, Room: E-301, telephone 202-755-2196)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

STATUTORY AUTHORITY: Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: January 24, 1979.

HERBERT S. HARRISON,
Acting Director,
Registration Division.

[FR Doc. 79-3301 Filed 1-30-79; 8:45 am]

[6560-01-M]

[FRL 1048-7; PP 6G1802/T138]

PESTICIDE PROGRAMS

Establishment of a Temporary Tolerance for Oryzalin; Correction

In FR Doc. 78-9776 appearing at page 15487 in the issue of Thursday, April 13, 1978, the expiration date for the temporary tolerance of 0.1 part per million for residues of the herbicide oryzalin (3,5-dinitro-N^4,N^4-dipropylsulfanilamide) in or on wheat was incorrectly given as November 9, 1978. This date is hereby corrected to read July 9, 1979.

Dated: January 24, 1979.

HERBERT S. HARRISON,
Acting Director,
Registration Division.

[FR Doc. 79-3299 Filed 1-30-79; 8:45 am]

[6560-01-M]

[FRL 1048-6; PP 7G1916/T183]

PESTICIDE PROGRAMS

Extension of a Temporary Tolerance for Mefluidide

The Environmental Protection Agency in response to a pesticide petition (PP 7G1916) submitted to the Agency by 3M Co., 3M Center, St. Paul, MN 55101, established a temporary tolerance for residues of the herbicide mefluidide (*N*-2,4-dimethyl-5-[[(trifluoromethyl) sulfonyl]amino] phenyl acetamide) in or on the raw agricultural commodity soybeans at 0.01 part per million (ppm). This temporary tolerance is scheduled to expire March 31, 1979.

3M Co. requested a one-year extension of this temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of an experimental use permit (7182-EUP-19) that has been extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that an extension of the temporary tolerance would protect the public health. Therefore, the temporary tolerance has been extended on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. 3M Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires March 31, 1980. Residues not in excess of 0.01 ppm remaining in or on soybeans after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Robert Taylor, Product Manager 25, Registration Division (TS-767), Office of Pesticide Programs, 401 M St., SW., Washington DC 20460 (202/755-7013).

STATUTORY AUTHORITY: Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].

Dated: January 25, 1979.

HERBERT S. HARRISON,
Acting Director,
Registration Division.

[FR Doc. 79-3298 Filed 1-30-79; 8:45 am]

[6560-01-M]

[OPP-30141A; FRL 1048-5]

PESTICIDE PROGRAMS

Approval of Application To Register Pesticide Product Containing New Active Ingredient

On March 1, 1978, notice was given (43 FR 8293) that Atlantic and Pacific Research Inc., PO Box 14366, North Palm Beach, FL 33408, had filed an application (EPA File Symbol 35980-R) with the Environmental Protection Agency (EPA) to register the pesticide product SM-3 containing .0001% of the active ingredient cytokinin-like activity equivalent to 100 part per million (ppm) kinetin which was not registered at the time of submission. As stated in the notice, the pesticide is used as a plant regulator on oranges. The application was subsequently amended to include use on tomatoes and to change the name to CYTEX. Additionally, the active ingredient declaration was revised as "cytokinin (as kinetin) 0.001% based on biological activity".

This application was approved November 28, 1978 and the product has been assigned the EPA Registration No. 35980-1. CYTEX is classified for general use. A copy of the approved label and list of data references used to support registration are available for public inspection in the office of the Fedral Register Section, Program Support Division (TS-757), Office of Pesticide Programs, Rm. 401, East Tower, 401 M St., SW, Washington DC 20460. The data and other scientific information used to support registration, except for the material specifically protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) are available for public inspection in accordance with Section 3(c)(2) of FIFRA. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M St., SW, Washington DC 20460. Such requests should: (1) identify the product by name and registration number and (2) specify the data or information desired.

Dated: January 25, 1979.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc. 79-3297 Filed 1-30-79; 8:45 am]

[6570-06-M]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

IMPROVING GOVERNMENT REGULATIONS

Agenda of Significant Regulatory Activity

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual Agenda.

SUMMARY: This agenda announces the significant regulatory actions that EEOC plans to take during the six-month period January 1979—July 1979. This agenda was developed under the guidelines in Executive Order 12044 Improving Government Regulations (43 FR 12661, March 24, 1978). EEOC's purpose in publishing this agenda is to allow interested persons an opportunity to participate in all stages of its rulemaking process.

FOR FURTHER INFORMATION CONTACT:

Peter C. Robertson, Director, Office of Policy Implementation, 202-634-7060.

Signed at Washington, D.C. this 25th day of January 1979.

For the Commission.

ELEANOR HOLMES NORTON,
Chair.

SUPPLEMENTARY INFORMATION: On October 2, 1978, EEOC announced its schedule for publishing its semiannual agenda on January 31, 1979 and July 31, 1979. This initial agenda lists new significant regulations that are being considered, changes that are being considered for existing significant regulations and the significant regulations that will be reviewed during this six-month period.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

REGULATORY AGENDA

A. New regulations

1. Guidelines for the coordination and consulation required by Executive Order 12067.

a. Need for Regulation: E.O. 12067 requires that EEOC insure the effective coordination and consultation among all Federal departments and agencies charged with equal employment opportunity responsibilities. The Executive Order seeks to achieve consistency and uniformity, and to maximize the Federal EEO efforts. These new guidelines will aid in this effort by enunciating the groundrules for this function. The Executive Order is silent on the exact procedures to be followed in the coordination process.

b. Legal Basis: Executive Order 12067. President's Civil Rights Reprganization Plan No. 1 developed pursuant to P.L. 95-17.

c. Contact person: Fran Farmer, Acting Director, Office of Interagency Coordination, 202-653-5490.

2. Guidelines and/or regulations for processing of EEO complaints received by Title VI or other grantmaking agencies and programs.

a. Need for Regulation: Title VI of the Civil Rights Act of 1964 prohibits discrimination in programs which receive Federal financial assistance. Section 604 of Title VI relates narrowly to employment discrimination; that is, Title VI applies to employment discrimination only when it can be shown that the employment is service related, and that the funds are specifically granted to the participant for the purpose of providing employment. Despite this narrow provision, several Title VI and other grantmaking agencies have routinely accepted and investigated employment discrimination complaints. Because the remedies under this narrow provision are not co-extensive with the broad enforcement authority EEOC has, these agencies had been unable to effectively resolve the substantial number of individual or class complaints of discrimination.

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The EEOC under its authority to coordinate Federal EEO efforts (EO 12067) is considering if procedures or guidelines ought be developed for these grantmaking agencies. It may develop appropriate guidelines in consulation with DOJ, which currently has Title VI coordinating authority.

b. Legal Basis: EO 12067. Title VI of the Civil Rights Act of 1967, Section 604, 42 USC 2000d (3).

c. Contract Person: Fran Farmer, Acting Director, Office of Interagency Coordination, 202-653-5490.

B. Changes to existing regulations

1. Sex Discrimination Guidelines.

a. Need for Change: Title VII of the Civil Rights Act of 1972, has been amended by P.L. 95-555 (October 31, 1978) to define sex discrimination to include pregnancy and maternity.

b. Legal Basis: P.L. 95-555 ¶ 701(K) of Title VII of Civil Rights Act of 1964, as amended, 42 U.S.C. ¶ 2000-(K).

(c) Contact person: Merle Morrow, Office of Policy Implementation, 202-634-7060.

d. Regulatory analysis: None is currently anticipated. The Commission views a regulatory analysis as unnecessary. P.L. 95-555, affirms pre-existing EEOC's Guidelines on Sex Discrimination. Only minor changes to the Guidelines are anticipated to exclude the current requirement that employers with health insurance programs pay for all abortions of their employees. Other possible changes to the Guidelines include implementing schedules in accordance with P.L. 95-555 for fringe benefits programs covering pregnancy related medical conditions.

2. Records and Reports

a. Need for change: To further EEOC's enforcement capabilities and to create uniform recordkeeping requirements.

b. Legal Basis: ¶ 709(c) of Title VII of Civil Rights Act of 1964, as amended. 42 U.S.C. ¶ 2000e-8(c).

c. Regulatory analysis: The Commission has made a determination that a regulatory analysis is not required for these regulations. Nevertheless, the Commission is currently re-evaluating this determination.

d. Contact person: William L. Robinson, Esq., Associate General Counsel, Office of the General Counsel, 202—634-6592.

C. Regulations scheduled for review

1. Guidelines on Religious Discrimination.

a. Purpose of review: To determine what changes, if any, are required to be made to these guidelines based on the information received by the Commission through the informational hearings held by the Commission during the Spring of 1978.

b. Contact person: Sara Rearden, Office of Policy Implementation, 202-634-7060.

2. Procedures for EEO in the Federal Government.

a. Purpose of review: Due to Reorganization Plan No. 1 of 1978, effective January 1, 1979, certain functions relating to EEO in the Federal Government have been transferred to the EEOC. (43 FR 60900, and 60998 of December 29, 1978), the Commission believes it appropriate to review existing regulations concerning the Federal EEO program in order to determine what changes, if any, are needed.

b. Contact person: John Rayburn, Office of Field Services, 202-634-6863.

[FR Doc. 79-3156 Filed 1-30-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1655]

OGLETHORPE INTERNATIONAL, JOHN B. HOHENSTEIN III, D.B.A.

Order of Revocation

On January 3, 1979, Oglethorpe International, John B. Hohenstein III d.b.a., P.O. Box 2385, Savannah, Georgia 31402 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1655, effective December 31, 1978.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1, (Revised) section 5.01(c), dated August 8, 1977;

It is ordered, that the Independent Ocean Freight Forwarder License No. 1655 issued to Oglethorpe International, John B. Hohenstein III d.b.a. be and is hereby revoked effective December 31, 1978, without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1655 issued to Oglethorpe International, John B. Hohenstein III d.b.a. be returned to the Commission for cancellation.

It is further ordered, that a copy of this order be published in the FEDERAL REGISTER and served upon Oglethorpe International, John B. Hohenstein III d.b.a.

ROBERT G. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 79-3236 Filed 1-30-79; 8:45 am]

[4110-89-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Assistant Secretary for Education

COMMENTS ON COLLECTION OF INFORMATION AND DATE ACQUISITION ACTIVITY

Pursuant to Section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics, and the U.S. Office of Education have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before March 2, 1979, and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: January 25, 1979.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY: Fall Enrollment in Institutions of Higher Education, 1979 Survey.

2. AGENCY/BUREAU/OFFICE: National Center for Education Statistics/Division of Postsecondary and Vocational Education Statistics/University and College Surveys and Studies Branch.

3. AGENCY FORM NUMBER: NCES 2300-2.3.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY: "* * * The (National) Center (for Education Statistics) shall—* * * collect, collate, and, from time to time, report full and complete statistics on the condition of education in the United States * * *" (Sec. 501(a) of Pub. L. 93-380; Sec. 406(G) of the General Education Provisions Act, 20 U.S.C. 1221e-1). The execution of Pub. L. 89-329, as amended requires the use of college enrollment data in making formula allotments in college work-study programs, state incentive grants, direct loans to students, equipment and remodeling, and others.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE:

VOLUNTARY: This survey is voluntary for all institutions of higher education in the universe for fall 1979.

6. HOW INFORMATION COLLECTED WILL BE USED:

1. The execution of Pub. L. 89-329, as amended, requires the making of formula allotments based upon the data collected from the Fall Enrollment Survey. More specifically the formula allotment programs using higher education survey data are:

Public Law	Program	Data Required
Pub. L. 89-329, Title IV C.....	College Work Study Program.	Total full-time enrollment in Higher Education including proprietary schools. Total estimated high school graduates "Related children" under 18 in families less than $3,000 p.a.
Pub. L. 89-329 as amended by Pub. L. 92-318 Title IV-A, Subpart 3.	State Incentive Grants...	*Total enrollment* in the higher institutions including proprietary schools.
Pub. L. 89-329, Title IV, Part E.	Direct Loans to Students.	Total full-time enrollment in Higher Education including proprietary schools.
Pub. L. 89-329 as amended by Pub. L. 92-318 Sec. 601 (b) equipment & remodeling. Sec. 601 (c) T.V. equip.-remodeling.	Equipment and remodeling.	F.T. & F.T.E. of degree-credit and nondegree-credit enrollment excluding proprietary schools in HEI.
Pub. L. 89-329 as amended by Pub. L. 92-318, Title IV, Part A. Subpart 2.	Supplemental Educational Opportunity Grants Initial Year Awards.	Total full-time and full-time equivalent degree-credit and non-degree-credit enrollment in institutions of higher education and full-time and full-time equivalent enrollment in proprietary schools.
Pub. L. 89-329, Title X, part A-2.	Community Colleges and Occupational Educational; Establishment and Expansion of Community Colleges.	*Population* 16 and over as of 4-1-70.
Pub. L. 89-329 as amended by H.E. Act, Title I Part A.	Community Services Continuing Education.	Total resident *population*.

2. Fall Enrollment data are also used to provide full and complete statistics on the condition of education in the United States, not only in their absolute form as standards of measurement and comparison, and in making projections, but also in combination with other educational variables to calculate indices and perform other analyses.

In addition, these enrollment data are used by other Federal agencies, by Congress, by state education agencies, by institutions of higher education, by private education associations and organizations, by market and other research firms and individuals, and by students.

7. DATA ACQUISITION PLAN:

a. Method of Collection: Mail.

b Time of Collection: October—December 1979.

c. Frequency: Annually.

8. RESPONDENTS:

a. Type: Colleges and Universities.

b. Number: 3130 Institutional Units.

c. Estimated Average Man-Hours Per Respondents: 1.0 hours.

9. INFORMATION TO BE COLLECTED: Numbers of students enrolled in institutions of higher education by sex, and by level of enrollment, and by race, and by field of study.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY: Residence and Migration of College Student, Fall 1979.

2. AGENCY/BUREAU/OFFICE: National Center for Education Statistics.

3. AGENCY FORM NUMBERS: NCES Form 2300-2.8.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY: "Section 406(b) * * * The Center shall collect, collate, and from time to time report full and complete statistics on the condition of education in the United States". (20 U.S.C. 1221-1) Pub. L. 93-380.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE: Voluntary.

6. HOW INFORMATION WILL BE USED:

These data are used by: The Bureau of the Census in conjunction with the 1980 Census; the Bureau of Labor Statistics in their projections of manpower, the Congressional Research Service of the Library of Congress in preparing information for the members of Congress relating both to information regarding their constituencies and in the assessment of changing and developing needs of our Nation with respect to manpower and higher education; the Bureau of Higher and Continuing Education of the U.S. Office of Education, ASE, DHEW; and other Federal agencies.

Uses of the data by Federal agencies include: Assessing whether there are provisions in the State Student Incentive Grant Program and in financial aid programs limiting student mobility; assessing financial aid needs of different regions in the U.S.; analyzing supplemental grant needs by State for the State Student Incentive Grant program; analyzing regional needs for additional program/institutions by determining what institutions are attracting out-of-state students; analyzing trends where contiguous State agreements exist; and assessing potential situations for portability of State grants.

In addition to the above Federal uses, these data are used by many national associations and agencies for the benefit of the higher education sector, by regional associations, State higher education agencies and associations by individual institutions of higher education as well as by private citizens.

7. DATA ACQUISITION PLAN:

a. METHOD OF COLLECTION: Mail.

b. TIME OF COLLECTION: Academic year 1979-80; due date: November 1979.

c. FREQUENCY: Biennially.

8. RESPONDENTS:

a. TYPE: Institutions of Higher Education.

b. NUMBER: 3,200—Universe.

c. ESTIMATED AVERAGE MAN-HOURS PER RESPONDENT: 1.5.

9. INFORMATION TO BE COLLECTED: The data to be collected are the number of newly enrolled students by State of origin as of Fall 1979. Data are to be reported by each of the 3,200 institutions of higher education in the aggregate U.S. They are to report students by Home State and by First-Time Freshmen; First-Time Undergraduate Transfers; First-Time, First

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Professionals; First-Time Graduate; and First-Time unclassified; and whether they are enrolled full or part time.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY: Survey of Salaries, Tenure, and Fringe Benefits of Full-Time Instructional Faculty in Institutions of Higher Education, 1979-80.
2. AGENCY FORM NUMBER: NCES 2300-3.
3. AGENCY/BUREAU/OFFICE: National Center for Education Statistics.
4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY: "* * * the (National) Center (for Education Statistics) shall—* * * collect, collate, and form time to time, report full and complete statistyics on the condition of education in the United States * * *" (Sec. 501(c) of Pub. L. 93-380; Sec. 406(G) of the General Education Provisions Act, 20 U.S.C. 1221 e-1).
5. VOLUNTARY/OBLIGATION NATURE OF RESPONSE: Voluntary.
6. HOW INFORMATION TO BE COLLECTED WILL BE USED: Institutions use the salary by rank and the distribution data to establish their own salary scales. State agencies rely on salary, tenure, and fringe benefit data to determine budgets for their State-supported institutions. Data are reviewed by professional and education associations and by Federal agencies to evaluate the extent to which a salary differential between men and women faculty exists and to monitor the progress of individual institutions, and the profession as a whole, to eliminate this differential. Tenure data are used by the above organizations to evaluate mobility of faculty. Salary and fringe benefit data used by: National Institute of Education to calculate the Higher Education Price Index; the Bureau of Labor Statistics to project salary levels for faculty; the Council of Wage and Price Control to evaluate compliance with the President's anti-inflation guidelines.
7. DATA ACQUISITION PLAN:
a. METHOD OF COLLECTION: Mail.
b. TIME OF COLLECTION: October 1979/February 1980.
c. FREQUENCY: Annually.
8. RESPONDENTS:
a. TYPE: Colleges and Universities.
b. NUMBER: Universe: 3100.
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 8.0 hours.
9. INFORMATION TO BE COLLECTED:

Number of full-time instructional faculty by sex, rank, length of contract, and tenure status and of those contributing their services and/or active members of military organizations.

Total salary outlay of full-time instructional faculty, excluding the military and those contributing their services by sex, rank, and length of contract.

Distribution of full-time faculty by salary interval, sex, rank, and length of contract.

Salaries of continuing faculty by length of contract and rank. Expenditures for fringe benefits for full-time instructional faculty and the number covered by length of contract, type of benefit, and rank.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY: Higher Education General Information Survey of financial Statistics of Institutions of Higher Education for Fiscal Year Ending 1979.
2. AGENCY FORM NUMBER: NCES 2300-4.
3. AGENCY/BUREAU/OFFICE: National Center for Education Statistics/University and College Surveys and Studies Branch.
4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY: "* * * the (National) Center (for Education Statistics) shall—* * * collect, collate, and from time to time, report full and complete statistics on the condition of education in the United States * * *" (Sec. 501 (c) of Pub. L. 93-380; Sec. 406. (G) of the General Provisions Act, 20 U.S.C. 1221 e-1).
5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE: Voluntary.
6. HOW INFORMATION TO BE COLLECTED WILL BE USED: The ways in which the data are used include the following: 1. States and regional agencies to make comparisons between States; 2. Institutions to make comparisons between institutions, to prepare budget requests, and to evaluate resource management; 3. The U.S. Bureau of the Census to report on State and Local governments' finances; 4. the U.S. Office of Education to determine an institution's eligibility for Title III grants; 5. the Boston Company to report on the performance of college and university endowments; 6. The U.S. Bureau of Economic Analysis to study the size, growth and indebtedness of physical plant; 7. education associations, researchers, and individuals to assess the financial condition of institutions, to develop price indexes, and other analytical tools.
7. DATA ACQUISITION PLAN:
a. METHOD OF COLLECTION: Mail.
b. TIME OF COLLECTION: October 1979/March 1980.
c. FREQUENCY: Annually.
8. RESPONDENTS:
a. TYPE: Colleges and Universities.
b. NUMBER: Universe: 3100.
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 2.5 hours.
9. INFORMATION TO BE COLLECTED:
a. Current funds revenues by source;
b. Current funds expenditures by function;
c. Physical plant assets by type of asset;
d. Indebtedness on physical plant by balance and transaction;
e. Endowment assets by book and market values;
f. Statement of changes in fund balances by type of fund;
g. Assessment of financial condition and effect of various factors on it;
h. Balance sheet data;
i. Additional data needed by the U.S. Bureau of Census on the following: 1. Revenues and expenditures items; 2. debt outstanding, issued, and retired; and 3. cash and security holdings by type of asset.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY: Instructions for Completing the Financial Status Report and the Follow Through Grantee Performance Report.
2. AGENCY/BUREAU/OFFICE: U.S. Office of Education, Bureau of Elementary and Secondary Education, Division of Follow Through.
3.AGENCY FORM NUMBER: OE Form 376.
4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY:

"Sec. 551. (a)(1) The Secreatry is authorized to provide financial assistance in the form of grants to local educational agencies, combinations of such agencies, and, as provided in paragraph (2) of this subsection, any other public or appropriate nonprofit private agencies, organizations, and institutions for the purpose of carrying out Follow Through programs focused primarily on children from low-income families in kindergarten and primary grades, including such children enrolled in private nonprofit elementary schools, who were previously enrolled in Headstart or similar programs. Other children enrolled in private nonprofit elementary schools, who were previously enrolled in preschool programs of a compensatory nature which received Federal financial assistance may participate in such Follow Through programs * * *.

"Sec. 553. (a) The Secretary may provide financial assistance through grants or contracts for research, demonstration, or pilot projects conducted by public and private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems of in otherwise furthering the purposes of this part * * *.

"Sec. 556. The Secretary may provide, directly or through grants or other appropriate arrangements (1) technical assistance to Follow Through programs in developing, conducting, and administering programs under this part, and (2) training for specialized or other personnel which is needed in connection with Follow Through programs."

(Economic Opportunity Act of 1964, as amended by Pub. L. 95-568, 42 U.S.C. 2929)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE: Required to obtain or maintain benefits.
6. HOW INFORMATION COLLECTED WILL BE USED: *Program Management* These Instructions will enable all grantees receiving funds under the Follow Through program to meet the reporting requirements in their Grant Terms and Conditions. The report forms will allow the a Office of Education to assess the Follow Through grantees' performance in terms of the objectives stated in their applications as well as to determine the amount of funds obligated.
7. DATA ACQUISITION PLAN:
a. METHOD OF COLLECTION: Mail.
b. TIME OF COLLECTION: 90 days from the end of grant period.
c. FREQUENCY: Annually.
8. RESPONDENTS:
a. TYPE: Local Education Agencies.
b. NUMBER: 141—Universe.
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 2.5.
a. TYPE: Colleges and Universities.
b. NUMBER: 19—Universe.
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 2.5.
a. TYPE: State Education Agencies.
b. NUMBER: 36—Universe.
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 2.5.
9. INFORMATION TO BE COLLECTED:

Follow Through Grantee Performance Report

There are ten items on the Follow Through Grantee Performance Report. Items #1 through 8 consist of basic information such as name of grantee, type of report, and the name of the person preparing the report Item #9 deals with the narrative statements in the report. This narrative statement will be completed in the same format as the narrative statement provided by the grantee in its approved application. Item #10 applies only to those local projects operating supplementary training components for the purpose of helping paraprofessionals employed in the projects with college degrees. The information to be collected is of a very basic nature consisting of such matters as the number of paraprofessionals funded, the ethnic/racial composition of the paraprofessionals, the academic status of the paraprofessionals, and the number of credits earned by the paraprofessionals.

Financial Status Report (HEW 601T)

The Financial Status Report (HEW 601T) is the standard form used by all Office of Education grantees to report financial obligations. There are thirteen items on the report. Items #1 through 9 consist of basic information such as name of grantee, grant number, and type of report. Item #10 consists of the financial data that must be reported according to the functions and activities in the approved budget. These data include total program outlays for the period of the report, non-Federal share of program outlays, total Federal share of program outlays, total unpaid obligations, and unobligated balance of Federal funds.

Item #11 deals with the indirect costs. The data to be collected include type of indirect cost rate, the rate, the base, and the amount of indirect costs. Item #12 allows the grantee to make any remarks believed necessary. Item #13 consists of a certification statement and signature block.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY: Study of Program Management Procedures in the Campus-Based and Basic Grant Programs—Mail Survey.
2. AGENCY/BUREAU/OFFICE: U.S. Office of Education, Office of Evaluation and Dissemination.
3. AGENCY FORM NUMBER: OE 637-1.
4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY: "* * * the Secretary shall transmit to (appropriate Congressional committees) an annual evaluation report which evaluates the effectiveness of applicable programs * * * such report shall * * * contain information on the progress being made * * * describe the cost and benefits of the applicable program * * * identify which sectors of the public receive the benefits of such program * * *" Sec. 417. (a)(1) (B)(C), Pub. L. 93-380 (20 U.S.C. 1226c)
5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE: Voluntary.
6. HOW INFORMATION TO BE COLLECTED WILL BE USED: The major purposes of this study are to evaluate the effectiveness and efficiency of operations and management procedures in terms of achieving the intended benefits of the Campus—Based and Basic Grant Programs; and to recommend appropriate techniques for improvements in the operation and managerial procedures. Data will be gathered from institutions on their policy and practices in financial aid management.
7. DATA ACQUISITON PLAN:
a. METHOD OF COLLECTION: Mail survey.
b. TIME OF COLLECTION: Spring, 1979.
c. FREQUENCY: Single time.
8. RESPONDENTS:
a. TYPE: Financial Aid Officers.
b. NUMBER: 1025.
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 2.0.
9. INFORMATION TO BE COLLECTED: Operating costs; Procedures for keeping, and contents of, financial aid records; Statistical data on aid recipients; Staff training provided; Procedures for informing potential students about financial aid programs; Procedures for developing student aid packages; Type of need analysis system used by the institution; Procedures for validating and correcting information submitted by students on Basic Grant and Campus-Based applications; Procedures used to allocate aid to students, including the notification and delivery of aid and the repackaging of aid; Procedures for monitoring the enrollment of aid recipients and for the recovery of aid from recipients who are no longer eligible.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY: Survey of Parent Involvement Activities in Federal Education Programs (Title I, ESAA, Bilingual and Follow Through).
2. AGENCY/BUREAU/OFFICE: U.S. Office of Education, Office of Evaluation and Dissemination.
3. AGENCY FORM NUMBER: OE 642 -3, -4, -5-, -6, -7.
4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY: Section 417(a)(1) of Pub. L. 93-380 requires that "—the Secretary shall transmit to (appropriate Congressional committees) an annual evaluation report which evaluates the effectiveness of applicable programs * * * such report shall * * * contain information on the progress being made * * * describe the cost and benefits of the applicable program * * * identify which sectors of the public receive benefits of such program * * *" (20 U.S.C. 1226c).
5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE: Voluntary.
6. HOW INFORMATION TO BE COLLECTED WILL BE USED: The

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Commissioner of Education is required by law (Sec. 427 General Education Provisions Act) to promulgate regulations which encourage parental participation where it is determined that such participation increases the effectiveness of such programs. Currently, little information exists concerning the nature or extent of parental participation in the four federal programs beyond some limited information concerning required advisory councils. The present study is designed to collect descriptive data on the nature and extent of both formal and informal parent participation in these educational programs. Such data will be useful to federal policymakers in recommending new regulations and for purposes of reporting to the Congress the costs and benefits of the currently required parent advisory councils. Additionally the study will attempt to identify and disseminate effective strategies or models of parental participation for use by local education agencies and communities.

7. DATA ACQUISITION PLAN:
a. METHOD OF COLLECTION: Interview/Observation.
b. TIME OF COLLECTION: Winter through Spring 1980.
c. FREQUENCY: Once.
8. RESPONDENTS:
a. TYPE: School Principal.
b. NUMBER: Sample—150.
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 1 hour.
a. TYPE: Teachers (Program Staff).
b. NUMBER: Sample—500.
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT; 1 hour.
a. TYPE: Parents.
b. NUMBER: Sample—3700.
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 1 hour.
a. TYPE: School Administrator (Federal Program Coordinator).
b. NUMBER: Sample—50.
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 1 hour.
a. TYPE: Other—Parent Involvement Specialist/Parent Coordinators.
b. NUMBER: Sample—150.
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 1 hour.
9. INFORMATION TO BE COLLECTED:
RESPONDENT TYPE: School Principals—
- Nature and intensity of parent roles in school and district.
- Short and long-term goals for parental involvement.
- History of parental participation activities.
- Nature of school climate.
- Degree of principal's support for parent roles.
- Perceived degree of support for parental participation (district, school staff, community).
- Degree of community enthusiasm for parental participation.
- Perceived effectiveness of school staff-parent working relationships.
- Impacts of parental involvement (on: Federal program, school instructional program, student behaviors, school-community climate, levels of other parental involvement, other).

RESPONDENT TYPE: Teachers—
- Nature and intensity of parent roles in school and district.
- Nature of school climate.
- Personal role in parental involvement.
- Perceived degree of support for parental participation (district, school administration and staff, community).
- Perceived effectiveness of school staff-parent working relationships.
- Impacts of parental involvement.

RESPONDENT TYPE: Parents—
- Nature of school climate.
- Personal history of involvement.
- Perceived degree of support for involvement (district, school administration and staff, community).
- Participating parents:
  —personal involvement role.
  —decision areas for parents.
  —goals for parental involvement.
- Non-participating parents:
  —perception of nature of parent involvement roles.
  —reasons for current non-involvement.
- Impacts of parental involvement.

RESPONDENT TYPE: School Administration—Program Coordinator—
- Nature and intensity of parental involvement activities at district level.
- History of parent participation activities at district level.
- Amount of funding for parental involvement activities.
- Perceived degree of support for parental participation (districts, school staffs, school administration, community).
- Impacts of district-level parental involvement.

RESPONDENT TYPE: Other—Parent Involvement Specialist/Parent Coordinators—
- Nature of parent involvement specialist/parent coordinator role.
- History of parent involvement specialist/coordinator role.
- Short and long-term goals for specialist/coordinator role.
- Impact of federal, state and district guidelines on parental involvement.
- Perceived degree of support for parental participation (district, school staff, school administrators, community).
- Effectiveness of parent involvement specialist/coordinator role on nature and intensity of parental involvement.
- Perceived effectiveness of school staff-parent working relationships.
- Impact of parental involvement.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA AQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY: A Study of Dissemination Efforts Supporting School Improvement.
2. AGENCY/BUREAU/OFFICE: U.S. Office of Education, Office of Evaluation and Dissemination.
3. AGENCY FORM NUMBERS: OE 656 -1, -2, -3, -4, -5.
4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY:
Section 417(a)(1) of Pub L. 95-561 requirement "The Secretary shall transmit to the * * * (Congress) * * * an annual report which evaluates the effectiveness of applicable programs in achieving their legislative purposes together with recommendations relating to such programs for the improvement of such programs which will result in greater effectiveness in achieving such purposes". (20 U.S.C. 2701)

In addition, Part K section 376 of Title III Special Project of Pub. L. 95-561 requires that "The Commissioner shall * * * collect, analyze and disseminate information derived from activities carried out under this title and under part C of Title IV, including information as to which of those activities have been successful in improving the achievement of students in the basic skills". (20 U.S.C. 3041)
5. VOLUNTARY/OBLIGATORY NATURE OF REPONSE: Voluntary.
6. HOW INFORMATION TO BE COLLECTED WILL BE USED: The information collected in the study will be used to provide program managers and Congress with information about the effectiveness of different types of dissemination strategies which support school improvement through fostering adoption/implementation of exemplary programs.
7. DATA ACQUISITION PLAN:
a. METHOD OF COLLECTION: Personal interview, questionnaire, observation.
b. TIME OF COLLECTION: Fall 1979 through Spring 1980.
c. FREQUENCY: Once.
8. RESPONDENTS:
a. TYPE: National Diffusion Network (NDN) contractors.
b. NUMBER: 200.
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: ½ hour.
a. TYPE: SEA/State Personnel.
b. NUMBER: 100.
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 2 hours.
a. TYPE: (1) School Administrators (2) Principals.
b. NUMBER: (1) 200; (2) 200.
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: (1) 2 hours; (2) 2 hours.
a. TYPE: Teachers.
b. NUMBER: 6,000.
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 1 hour.
a. TYPE: Community education leaders.
b. NUMBER: 600.
c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 1 hour.
9. INFORMATION TO BE COLLECTED:
RESPONDENT TYPE: NDN Contractors—
- Communication practices.
- Goals/ objectives.
- Activities/strategies.
- Dissemination perspectives.
- Evaluation procedures.

RESPONDENT/TYPE: SEA/State Personnel—
- Goals/objectives.
- Dissemination activities, strategies, resources.
- Dissemination/change perspectives and information.
- State political factors affecting school improvement.

RESPONDENT TYPE: School Administrators, Principals—
- Goals/objectives.
- Improvement activities, strategies, resources and perspectives.
- Local political factors.
- School climate.
- Perspectives on change.
- District/building demographics.
- Student achievement.

RESPONDENT TYPE: Teachers—
- Goals/objectives.
- Project implementation information.
- Perspectives on change and dissemination.
- Attitudes towards eductional practices.
- School climate.

RESPONDENT TYPE: Community Education Leaders—
- Perceptions of school needs.
- Local political factors.
- Perspectives on school improvement and dissemination.
- Perceptions on educational program impact.
- Participation in school improvement efforts.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY: A Study of ESEA Title VII-Funded and Other Bilingual Education Teacher Training Programs.
2. AGENCY/OFFICE: U.S. Office of Education, Office of Evaluation and Dissemination.
3. AGENCY FORM NUMBERS: OE 661 -1, -2, -3, -4.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY: General Education Provisions Act, Section 417(a)(1) states: "* * * an annual evaluation report which evaluates the effectiveness of applicable programs in achieving their legislated purposes together with recommendations relating to such programs for the improvement of such programs which will result in greater effectiveness in achieving such purposes * * * such report shall—
(A) Set forth goals and objectives in qualitative and quantitative terms * * *
(B) Contain information on the progress being made during the previous fiscal year toward the achievement of such goals and objectives;
(C) Describe the cost and benefits of the * * * program being evaluated * * *
(D) Contain plans for implementing corrective action * * *" (Pub. L. 93-380, 20 U.S.C. 1226(c)).

Also, the "Criteria Governing Grants", published in the FEDERAL REGISTER (June 11, 1976) states: "* * * Evidence that the applicant will cooperate with the Commissioner (or a public or private agency designated by the Commissioner) in the evaluation of the extent to which funds made available under this subpart (Subpart D—Training Programs) have been effective in achieving the purposes of this Part * * *"
5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE: Voluntary.
6. HOW INFORMATION TO BE COLLECTED WILL BE USED:
(a) To estimate the extent to which teacher training programs are helpful in reducing the shortage of bilingual education teachers.
(b) To estimate the extent to which fellowship grantees are employed subsequently as instructors in teacher training programs or other related bilingual education capacity.
(c) To determine the effectiveness of the grants received by IHEs in establishing or improving a training program.
7. DATA ACQUISITION PLAN:
(a) METHOD OF COLLECTION: Site visits to IHEs, mail and telephone survey of graduates.
(b) TIME OF COLLECTION: 1979-1980 Academic Year.
(c) FREQUENCY: Single time.
8. A. RESPONDENTS (IHEs):
(a) TYPE: Administrator.
(b) NUMBER: 40.
(c) ESTIMATED AVERAGE MANHOURS FOR RESPONDENT: 1.0.
(a) TYPE: Project Directors.
(b) NUMBER: 40.
(c) ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 1.0.
(a) TYPE: Instructors.
(b) NUMBER: 80.
(c) ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 1.0.
B. RESPONDENTS:
(a) TYPE: Present and former students in the teacher training programs.
(b) NUMBER: 500.
(c) ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 1.0.
9. INFORMATION TO BE COLLECTED:
RESPONDENT TYPE: IHEs:
- Source(s) of program funding.
- Institutional relationship of bilingual training to IHE.
- How program has evolved over recent years.
- How many students are in the program.
- What student competencies are taught in the school.
- What procedures are used to determine student attainment of these proficiences.

RESPONDENT TYPE: Current and former graduates of IHE training programs:
- Place of employment.
- Duties of employment.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA COLLECTION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY: Study of Supplementary Training Available to Follow Through Parents and Aides.
2. AGENCY/OFFICE: U.S. Office of Education, Office of Evaluation and Dissemination.
3. AGENCY FORM NUMBER(S): OE 662.
4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY: The Follow Through (FT) program was originally authorized in 1967 by the Economic Opportunity Act. The program was reauthorized by Congress in the Economic Opportunity Amendments of 1972. Two years later, the Community Services Act of 1974 re-extended authorization for the program and elaborated on the evaluation aspects of the program: "provide * * * for the evaluation of projects assisted under this part * * * including evaluations that describe and measure the impact of such projects, their effectiveness in achieving stated goals * * *" (Community Services Act of 1974, Pub. L. 93-644, Part B; 42 U.S.C. 2929)
5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE: Voluntary.
6. HOW INFORMATION TO BE COLLECTED WILL BE USED: The purpose of the Supplementary Training component of Follow Through is to allow paraprofessional employed in Follow Through projects to enroll in postsecondary education courses leading to a two-or four-year degree. The principal objective of this study is to present a historical account of Supple-

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mentary Training by gathering information concerning characteristics of projects, participants, and training received. Numbers of students enrolled, budgetary information, dropouts, degrees conferred, achievement of non-traditional students, and present employment status of recipients will be documented in order to (a) determine the degree to which the programs in operation are achieving the objectives of Supplementary Training and (b) propose modification in these training programs if such be necessary.

7. DATA ACQUISITION PLAN:

(a) METHOD OF COLLECTION: Telephone and mail survey of former and present recipients of training funds.

(b) TIME OF COLLECTION: Spring 1979.

(c) FREQUENCY: Single time.

8. RESPONDENTS:

(a) TYPE: Former and present recipients of Follow Through training funds.

(b) NUMBER: 200.

(c) ESTIMATED AVERAGE MAN-HOURS PER RESPONDENT: 0.25.

9. INFORMATION TO BE COLLECTED:

(a) Characteristics of participants:

i. Are trainees parents of Follow Through children? Teachers? Aides?

ii. Educational level prior to training.

iii. Cost per participant.

iv. Did trainee return to Follow Through project after training?

(b) Characteristics of training received:

i. Subject matter field, degree(s) received.

ii. Name of training facility.

iii. Cost per applicant by item (books, tuition, transportation).

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY: Study of Evaluation Practices and Procedures.

2. AGENCY/BUREAU/OFFICE: U.S. Office of Evaluation, Office of Evaluation and Dissemination.

3. AGENCY FORM NUMBER: OE Forms 682-1, -2, -3.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY: Section 1526, "The Commissioner of Education shall conduct a study of evaluation practices and procedures at the national, State, and local levels with respect to federally funded elementary and secondary educational programs and shall include in the first annual report to Congress submitted more than one year after the date of enactment of this Act proposals and recommendations for the revision or modification of any part or all of such practices and procedures. Such proposals and recommendations shall include provisions:

(1) To ensure that evaluations are based on uniform methods and measurements;

(2) To ensure the integrity and independence of the evaluation process; and

(3) To ensure appropriate follow-up on the evaluations that are conducted."

(Pub. L. 95-561; 20 U.S.C. 1231a)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE: Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED: The information collected in this survey will be used to respond to the Congressional request outlined in (4) above.

7. DATA ACQUISITION PLAN:

a. METHOD OF COLLECTION: Interview.

b. TIME OF COLLECTION: Spring or Fall, 1979.

c. FREQUENCY: One.

8. RESPONDENTS:

a. TYPE: School District Administrative Staff.

b. NUMBER: 120.

c. ESTIMATED AVERAGE MAN-HOURS PER RESPONDENT: 1 hour.

a. TYPE: School Principal.

b. Number: 150.

c. ESTIMATED AVERAGE MAN-HOURS PER RESPONDENT: 1 hour.

a. TYPE: Teachers.

b. NUMBER: 450.

c. ESTIMATED AVERAGE MAN-HOURS PER RESPONDENT: 1 hour.

9. INFORMATION TO BE COLLECTED:

RESPONDENT TYPE: School District Administrative Staff—

- Evaluation Procedures, Practices and Uses

RESPONDENT TYPE: Principal's—

- Evaluation Procedures, Practices, Practices and Uses.

RESPONDENT TYPE: Teachers—

- Evaluation procedures, Practices and Uses.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY: A study of the Sustaining Effects of Compensatory Education on Basic Skills: Student Follow Up.

2. AGENCY/BUREAU/OFFICE: U.S. Office of Education, Office of Evaluation and Dissemination.

3. AGENCY FORM NUMBER: OE Form 683 -1, -2.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY:

Section 417(a) * * * the report under this subsection shall include * * * "a survey of how many educationally disadvantaged children participate in such programs and projects and how many educationally disadvantaged children do not" * * * (Pub. L. 93-380; 20 U.S.C. 1226c) "For purposes of the preceding sentence, the term 'educationally disadvantaged children' refers to children who are achieving one or more years behind the achievement expected at the appropriate grade level for such children." Section 183(a) * * * "The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this title. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs or projects." (Pub. L. 95-561; 20 U.S.C. 2833)

Section 417(a)(1) "* * * the Secretary shall transmit to the * * * (Congress) * * * an annual evaluation report which evaluates the effectiveness of applicable programs in achieving their legislated purposes together with recommendations relating to such programs for the improvement of such programs which will result in greater effectiveness in achieving such purposes." (Pub. L. 93-380; 20 U.S.C. 1226c)

5. VOLUNTARY/OBLIGATORY NATURE OF REPSONSE: Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED: The information collected in this survey will be used to report on: (1) The proportions of students who received or did not receive compensatory services in the elementary grades compared with their receipt of such services in the junior high grades; (2) the nature of services received by students in (1); and, (3) the benefits that students derive from their services.

7. DATA ACQUISITION PLAN:

a. METHOD OF COLLECTION: Mail.

b. TIME OF COLLECTION: Spring, 1980.

c. FREQUENCY: Once.

8. RESPONDENTS:

a. TYPE: Students, public elementary/secondary schools.

b. NUMBER: 3150.

c. ESTIMATED AVERAGE MAN-HOURS PER RESPONDENT: .75 hour.

a. TYPE: School administrators and supervisors.

b. NUMBER: 150.

c. ESTIMATED AVERAGE MAN-HOURS PER RESPONDENT: .75 hour.

9. INFORMATION TO BE COLLECTED:

RESPONDENT TYPE: Students, public elementary/secondary schools—

- Nature and quantity of services received.

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- Educational status and plans.

RESPONDENT TYPE: School administrators and supervisors—

- Districts Title I Allocation Practices.
- Districts Title I Implementation Procedures.
- School Compensatory Practices and Procedures.
- Teaching Staff's Compensatory Practices and Procedures.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY: Study of Successful ESAA Programs Supporting Intergroup Relations Activities.

2. AGENCY/BUREAU/OFFICE: U.S. Office of Education, Office of Evaluation and Dissemination.

3. AGENCY FORM NUMBER: OE 684 -1 thru -6.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY: Section 417(a)(1) * * * "* * * the Secretary shall transmit to the * * * (Congress) * * * an annual evaluation report which evaluates the effectiveness of applicable programs in achieving their legislated purposes together with recommendations relating to such programs which will result in greater effectiveness in achieving such purposes." (Pub. L. 93-380; 20 U.S.C. 1226c)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE: Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED: The data collected in the study will be used to provide program managers and Congress with information about the conditions leading to successful intergroup relations in desegretating schools. The information will also be used to provide guidance to other LEAs desiring to implement similar programs.

7. DATA ACQUISITION PLAN:

a. METHOD OF COLLECTION: Mail/Personal Interview.

b. TIME OF COLLECTION: Spring 1980.

c. FREQUENCY: One time.

8. RESPONDENTS:

a. TYPE: 5th grade students receiving ESAA services (OE 684-1)

b. NUMBER: 2,880

c. ESTIMATED AVERAGE MAN-HOURS PER RESPONDENT: 1 hour.

a. TYPE: Teachers, elementary/secondary (OE 684-2).

b. NUMBER: 160.

c. ESTIMATED AVERAGE MAN-HOURS PER RESPONDENT: 2 hours.

a. TYPE: School Administrative Staff (OE 684-3).

b. NUMBER: 192.

c. ESTIMATED AVERAGE MAN-HOURS PER RESPONDENT: 1.3 hours.

a. TYPE: Parents of ESAA students (OE 684-4).

b. NUMBER: 102.

c. ESTIMATED AVERAGE MAN-HOURS PER RESPONDENT: 1 hour.

a. TYPE: District Administrative Staff (OE 684-5).

b. NUMBER: 168

c. ESTIMATED AVERAGE MAN-HOURS PER RESPONDENT: 1.1 hours.

a. TYPE: School Board Members (OE 684-6).

b. NUMBER: 48.

c. ESTIMATED AVERAGE MAN-HOURS PER RESPONDENT: 1 hour.

9. INFORMATION TO BE COLLECTED:

RESPONDENT TYPE: Students—

- Perception of intergroup relations in the school.
- Exposure to intergroup relations services.
- Knowledge of minority group contributions.

RESPONDENT TYPE: Teachers, elementary/secondary—

- Background characteristics of students.
- Types of human relations services and delivery methods.
- Coordination of human relations program.
- Perception of intergroup relations in the school.

RESPONDENT TYPE: School Administrative Staff—

- Administrative leadership in the school.
- Staff commitment to the program.
- Program integration within the school
- Program history.

RESPONDENT TYPE: Parents of ESAA students—

- Staff commitment to the program.
- Perception of intergroup relations in the school.
- Administrative leadership in the school

RESPONDENT TYPE: District Administrative Staff—

- Administrative leadership.
- Staff commitment to the program.
- Program coordination within district.
- Program history.
- Desegregation history in district.

RESPONDENT TYPE: School Board Members—

- Administrative leadership.
- Program continuity.
- Desegregation history.
- Program history.
- Perception of intergroup relations in the school.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY: Survey of Follow Through Student and Sponsor Status.

2. AGENCY/BUREAU/OFFICE: U.S. Office of Education, Office of Evaluation and Dissemination.

3. AGENCY FORM NUMBER: OE 685 -1, -2, -3, -4.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY: Section 555 of Pub. L. 95-568 requires that "* * * the Secretary shall provide * * * for the continuing evaluation of programs under this part, including evaluations that measure and evaluate the impact of programs authorized by this part, in order to determine their effectiveness in achieving stated goals * * *" (45 U.S.C. 2929a).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE: Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED: The Follow Through program focuses on the adoption by local sites of a number of innovative educational practices developed and coordinated by Follow Through sponsors. The data acquisition activity proposed here will allow assessment of the degree to which the practices included in each model are actually implemented in Follow Through classrooms. An earlier study, the *National Longitudinal Evaluation Study* (NLES), provided evaluative information regarding effects on students for early groups of students (through Cohort III) for many, but not all, of the sponsors in the program. This study will acquire information about student achievement and other outcomes associated with all sponsors for a later group of students (Cohort VIII). Additional information about characteristics associated with variability among project sites will address the issues raised, but not investigated, by the NLES. The data collected will be useful to other LEAs which desire information about the effectiveness of the educational practices advocated by the sponsors for improving the educational outcomes for low-income children. The information will also be responsive to the Congressional requirement outlined in (4) above, and will be useful for planning future Follow Through research and development activities.

7. DATA ACQUISITION PLAN:

a. METHOD OF COLLECTION: Interview.

b. TIME OF COLLECTION: Spring, 1980.

c. FREQUENCY: Once.

8. RESPONDENTS:

a. TYPE: Teachers.

b. NUMBER: Sample—1,000 Follow Through teachers.

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c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 1 hour.

a. TYPE: School Administrators.

b. NUMBER: Sample—300 Follow Through coordinators, resource personnel.

c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: ¾ hour.

a. TYPE: Students, elementary.

b. NUMBER: Sample—10,000 third grade Follow Through students.

c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: ½ hour.

a. TYPE: Other (Follow Through Sponsors personnel).

b. NUMBER: Sample—60 project personnel.

c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 1 hour.

9. INFORMATION TO BE COLLECTED:

RESPONDENT TYPE: Teachers—

- Class demographics.
- Measures of Implementation of sponsor approach.
- Teacher background (training, experience).

RESPONDENT TYPE: School Administrators—

- School demographic (including population stability).
- Follow Through Project Implementation measures.
- Sponsor satisfaction.

RESPONDENT TYPE: Students—

- Affective measures (happiness, locus of control, sense of belonging).

RESPONDENT TYPE: Other—Follow Through sponsor personnel—

- Measure of site implementation.
- Site history (level of support, training, problems).

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY: State Evaluation and Performance Report on ESEA Title I for Fiscal Year 1980.

2. AGENCY/BUREAU/OFFICE: U.S. Office of Education, Office of Evaluation and Dissemination.

3. AGENCY FORM NUMBER: OE 686.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY: Section 183, "The models developed by the Commissioner shall specify objective criteria which shall be utilized in the evaluation of all programs and shall outline techniques (such as longitudinal studies of children involved in such programs) and methodology (such as the use of tests which yield comparable results) for producing data which are comparable on a statewide and nationwide basis." Pub. L. 95-561; 20 U.S.C. 2833.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE: Obligatory.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED: The information collected will be tabulated for frequency distributions and descriptions and in the required report to Congress and will be disseminated to all Title I grantees.

7. DATA ACQUISITION PLAN:

a. METHOD OF COLLECTION: Mail.

b. TIME OF COLLECTION: January, 1981.

c. FREQUENCY: annually for descriptive data, biennially for impact data.

8. RESPONDENTS—

a. TYPE: State ESEA Title I Coordinators.

b. NUMBER: 58.

c. ESTIMATED AVERAGE MANHOURS PER RESPONDENT: 400 hours.

9. INFORMATION TO BE COLLECTED:

RESPONDENT TYPE: State Title I Coordinator—

- Participation in Title I (buildings, students, services, racial/ethnic group).
- Parental involvement (advisory councils, other parent activities).
- Personnel (Staff, training).
- Achievement data (statewide average by grade and subject matter).
- Project descriptors (exposure, enrollment, achievement for grades 2, 6, 10).
- Summary program data (students by grade, services and ethnic background; staff).

[FR Doc. 79-3152 Filed 1-30-79; 8:45 am]

[4110-86-M]

Public Health Service

OPEN MEETING ON INFLUENZA

A meeting will be convened by the Surgeon General, Public Health Service, to review and discuss technical questions pertinent to the composition and formulation of influenza vaccines in 1979-1980, and to define individuals at high risk of complications from influenza illness. Specific agenda items will include the review and discussion of: current influenza epidemiology; choice of virus strains for 1979-1980 influenza vaccines; 1978 influenza vaccine trials; vaccine reactions and reaction surveillance; risk of complications from influenza illness; and antiviral drugs.

The meeting will be open to the public, limited only by the space available:

Date: February 12, 1979.

Time: 8:30 a.m.

Place: Wilson Hall, Building 1, National Institutes of Health, Bethesda, Maryland 20014.

Additional information may be obtained from: Dr. Gary R. Noble, Center for Disease Control, Building 7, Room 112, 1600 Clifton Road, N.E., Atlanta, Georgia 30333 (Phones: FTS: 236-3591; Commercial: 404/329-3591).

Dated January 24, 1979.

WILLIAM C. WATSON, Jr.,
Acting Director,
Center for Disease Control.

[FR Doc. 79-3230 Filed 1-30-79; 8:45 am]

[4110-12-M]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women, will hold its Family Policy Task Force meeting on Wednesday, February 14, 1979 from 2:00 to 6:00 p.m. The meeting will be held in Room 303-A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. The agenda will include briefings on Departmental programs and policies relating to family policy issues, including welfare reform and social security.

Further information on the Committee may be obtained from: Susan C. Lubick, Executive Secretary, telephone 202-245-8454. These meetings are open to the public.

Dated: January 12, 1979.

SUSAN C. LUBICK,
Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 79-3441 Filed 1-30-79; 8:45 am]

[4110-12-M]

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women will meet on Thursday, February 15, 1979 from 10:00 a.m. to 5:00 p.m., and on Friday, February 16, 1979 from 9:30 a.m. to 3:00 p.m., Room 303-A HEW-Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. The agenda will include reports from Title IX, Health, Family Policy and Equal Employment Opportunity Task Forces and action decisions based upon those reports.

Further information on the Committee may be obtained from: Susan C. Lubick, Executive Secretary, telephone 202-245-8454. These meetings are open to the public.

Dated: January 12, 1979.

SUSAN C. LUBICK,
Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 79-3442 Filed 1-30-79; 8:45 am]

[4310-02-M]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

IRRIGATION OPERATION AND MAINTENANCE CHARGES

Water Charges and Related Information on the Fort Hall Irrigation Project, Idaho

This notice of operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary—Indian Affairs to the Area Directors in 10 BIAM 3. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9), and also under 25 CFR 191.1(e).

On November 24, 1978, in 43 FR 54998, there was published a notice of proposed assessment rates and related provisions on the Fort Hall Project for Calendar Year 1979 and subsequent years until further notice. These regulations were proposed pursuant to the authority contained in the Acts of March 1, 1907 (34 Stat. 1024), and August 31, 1954 (68 Stat. 1026).

Interested persons were given 30 days in which to submit written comments, views, or arguments regarding the proposed rates and related provisions. During this period no comments, suggestions or objections were submitted. Therefore, the assessment rates and related provisions as set forth below are adopted effective 30 days after date of publication in the FEDERAL REGISTER.

FORT HALL IRRIGATION PROJECT

REGULATIONS AND CHARGES

Administration

The Fort Hall Irrigation Project, which consists of the Fort Hall Unit including ceded area south of the Fort Hall Indian Reservation, the Michaud Unit and the Minor Units on the Fort Hall Indian Reservation, Idaho, is administered by the Bureau of Indian Affairs. The Superintendent of the Fort Hall Agency is the officer-in-charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 191, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations (42 FR 30362, June 14, 1977).

Irrigation Season

Water will be available for irrigation purposes from April 15 to September 30 of each year. These dates may be varied by 15 days depending on weather conditions and the necessity for doing maintenance work.

Methods of Irrigation

Where soil, topography, and other physical conditions are unfavorable for surface irrigation, and the project facilities are designed to deliver water to farm units for sprinkler irrigation, the officer-in-charge may limit deliveries to this type of irrigation.

Distribution and Apportionment of Water

(a) *Delivery.* Water for irrigation purposes will be delivered throughout the irrgation season by either the continuous flow or rotation method at the discretion of the officer-in-charge. If during a time when delivery is by the rotation method, a water user desires to loan his turn to another eligible water user, he shall notify either the watermaster or the ditchrider who may permit such exchange, if feasible.

(b) *Preparation and Submission of a Water Schedule.* If the decision of the officer-in-charge is to deliver water by the rotation method, the watermaster will assist the water users on each lateral in preparing a rotation schedule should they choose to get together and prepare the schedule. In cases where the water users fail to exercise this right before March 1, the watermaster will prepare the schedule which shall be final for the season. Owners of 120 acres or more in one farm unit may elect between the continuous flow and rotation method of delivery, provided such choice does not interfere with delivery to other lands served by the lateral.

(c) *Application for Deliveries of Irrigation Water.* Request for water changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditchrider's regular tour. Pump shut-down, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule will result in strict enforcement of rotation schedules. Water uses will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operating difficulties and waste of water.

Duty of Water

Dependent upon available supplies of water for each unit of the project, the duty of water is based on the delivery to the farm unit of 3.5 acre-feet of water per acre per irrigation season. This duty of water may be varied at the discretion of the officer-in-charge depending on supplies available, but each irrigable acre shall be entitled to its prorata share of the total water supply.

Charges

Bill covering irrigation charges will be issued to the owner of record taken from the Bannock, Bingham or Power County records as of December 31, preceding the due date. In the case of Indian-owned land leased to a non-Indian, when an approved lease contract is on file with the Superintendent of the Fort Hall Agency, operation and maintenance charges will be billed to the lessee of record.

Basic and Other Water Charges

(a) The annual basic water charges for the operation and maintenance of the Fort Hall Irrigation Project lands in non-Indian ownership, and assessable Indian-owned lands leased to a non-Indian or a nonmember of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, Idaho, are fixed for the Calendar Year 1979 and subsequent years until further notice as follows:

(1) Fort Hall Unit basic rate, $13.25 per acre.

(2) Michaud Unit basic rate, $17.75 per acre.

Additional rate for sprinkler irrigation when pressure is supplied by project, $6.50 per acre.

(3) Minor Units basic rate, $10.60 per acre.

(b) In addition to the foregoing charges there shall be collected a minimum charge of $5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus $5.

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Payments

The water charges become due on April 1 of each year and are payable on or before that date. To all assessments on lands in non-Indian ownership, and lands in Indian ownership which do not qualify for free water, remaining unpaid on or after July 1 following the due date, there shall be added a penalty of 1½ percent per month, or fraction thereof, from the due date until paid. No water shall be delivered to any farm unit until all irrigation charges have been paid.

Assessments on Indian Owned Land

When land owned by members of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation is first leased to non-Indians or nonmembers of the tribe, and an approved lease is on file at the Fort Hall Agency, the leased land is not subject to operation and maintenance assessments for 3 years. The 3 years the land is not subject to assessment need not run consecutively. When land has been leased for a total of 3 years, the land, when under lease to non-Indians or nonmembers of the tribe, is subject to operation and maintenance assessments the same as lands in non-Indian ownership and lands owned by nonmembers of the tribe within the project. (See Solicitor's Opinion M 28701, approved September 24, 1936, and the instructions of September 19, 1938, approved September 24, 1938, and instructions of December 1, 1938, approved Decembert 17, 1938.

VINCENT LITTLE,
Area Director.

JANUARY 23, 1979.

[FR Doc. 79-3231 Filed 1-30-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-8448-A2, AA-8448-D2 and AA-8448-E2]

ALASKA

Alaska Native Claims Selection

This decision rejects improper selections filed by various Native corporations and the State of Alaska and approves certain lands for conveyance to Leisnoi, Inc. To aid in the understanding of this decision, the following is a synopsis of the Executive Order and Public Land Order withdrawal history of the subject lands located near Cape Chiniak on Kodiak Island:

Executive Order 8877 of August 29, 1941, withdrew these lands for use of the War Department for military purposes.

Executive Order 9526 of February 28, 1945, amended EO 8877 by adding a paragraph to provide for termination of the withdrawal six months after termination of the national emergency declared by Proclamation No. 2487 of May 27, 1941 (55 Stat. 1647).

Public Land Order 1404 of April 3, 1957, transferred a portion of the lands reserved by EO 8877 from the Department of the Army to the Department of the Navy, partially revoking and amending EO 8877.

Public Land Order 5001 of January 26, 1971, transferred lands from the Department of the Navy to the Department of the Air Force; amended PLO 1404 in part.

Public Land Order 5353 of July 24, 1973 withdrew for Native selection under Sec. 12, certain lands surrounding the Native village of Woody Island. Lands withdrawn for national defense purposes were excepted from withdrawal.

Public Land Order 5558 of December 10, 1975, which was a partial revocation of EO 8877, as amended; transferred lands from the Department of the Air Force to the U.S. Coast Guard;' withdrew lands for Native selection.

I. 14(h) (8) REGIONAL SELECTION APPLICATION REJECTED IN ENTIRETY

On June 3, 1976, Koniag, Inc., Regional Native Corporation filed selection application AA-11556 pursuant to Sec. 14(h)(8) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (85 Stat. 688, 705; 43 U.S.C. 1601, 1613 (Supp. V, 1975)), for lands at Cape Chiniak on Kodiak Island. AA-11556 selected all land withdrawn by PLO 1404 and certain islands located northeast of PLO 1404.

Section 14(h) of ANCSA authorizes the Secretary of the Interior to withdraw unreserved and unappropriated public lands for selection by regional corporations.

On July 23, 1973, PLO 5353 withdrew the subject islands for selection by the village of Woody Island, which later properly selected them. PLO 5558 partially revoked EO 8877, as modified by PLO 1404, as to the lands at the former Chiniak Air Force Station and withdrew these lands for selection by the regional and village corporations, except for a one-acre site which was transferred to the U.S. Coast Guard (remaining within PLO 1404).

At the time of application the lands were either withdrawn for defense purposes (PLO 1404) or withdrawn for and properly selected by Leisnoi, Inc., for the village of Woody Island (PLO 5353: applications AA-8448-B dated October 17, 1974, as amended; and PLO 5558: application AA-8448-A2, D2 and E2, all filed December 16, 1975). The lands described in application AA-11556 do not satisfy the criteria for unreserved and unappropriated lands and, therefore, are unavailable for selection by Koniag, Inc., Regional Native Corporation pursuant to Sec. 14 (h) (8) of ANCSA.

Additionally, in application AA-11556, Koniag, Inc., Regional Native Corporation states it is not their intent to adversely affect the selection of these lands by Leisnoi, Inc.

Accordingly, 14(h)(8) regional selection application AA-11556 is hereby rejected in its entirety:

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

T. 29 S., R. 18 W.
Secs. 26, 27 and 28 (fractional), all;
Sec. 32, except those lands outside PLO 5558;
Secs. 33 and 34 (fractional), all.

Containing approximately 937 acres.

T. 30 S., R. 18 W.
Secs. 3 and 4 (fractional), all;
Secs. 9, 10 and 16 (fractional), all;
Secs. 5, 8, 17 and 20, that portion within PLO 5558.

Containing approximately 2,482 acres.
Aggregating approximately 3,419 acres.

When this decision becomes final, selection application AA-11556 will be closed of record.

II. 14(h)(3) SELECTION APPLICATION REJECTED IN ENTIRETY

On June 3, 1976, Natives of Kodiak, Incorporated filed selection application AA-9106-N pursuant to Sec. 14(h)(3) of the Alaska Native Claims Settlement Act (ANCSA) on December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613 (Supp. V, 1975)) for lands at Cape Chiniak on Kodiak Island. AA-9106-N selected all land withdrawn by PLO 1404 and certain islands to the northeast of PLO 1404.

Section 14(h) of ANCSA authorizes the Secretary of the Interior to withdraw unreserved and unappropriated public lands for selection by the Natives residing in Kodiak.

On July 23, 1973, PLO 5353 withdrew the subject islands for selection by the village of Woody Island, which later properly selected them. Public Land Order 5558 partially revoked EO 8877, as modified by PLO 1404, as to the lands at the former Chiniak Air Force Station and withdrew these lands for selection by the regional and village corporations, except for a one-acre site which was transferred to the U.S. Coast Guard (remaining within PLO 1404). The lands within PLO 5558 were properly selected by Leisnoi, Inc., on December 16, 1975. Since these lands were withdrawn for selection under Sec. 12 of ANCSA and properly selected by Leisnoi, Inc., on the date application AA-9106-N was filed, or still remained withdrawn for military purposes, the lands selected do not satisfy the criteria for unreserved and unappropriated lands.

Furthermore, the Natives of Kodiak, Incorporated could select only lands withdrawn for them by the Secretary of the Interior (43 CFR 2653.7). The lands under discussion have never been withdrawn for selection by Natives of Kodiak, Incorporated.

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Accordingly, 14(h)(3) selection application AA-9106-N is hereby rejected in its entirety:

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

T. 29 S., R. 18 W.,
Secs. 26, 27 and 28 (fractional), all;
Sec. 32, except those lands outside PLO 5558;
Secs. 33 and 34 (fractional), all.

Containing approximately 937 acres.

T. 30 S., R. 18 W.,
Secs. 3 and 4 (fractional), all;
Secs. 9, 10 and 16 (fractional), all;
Secs. 5, 8, 17 and 20 (fractional), that portion within PLO 5558.

Containing approximately 2,482 acres.
Aggregating approximately 3,419 acres.

When this decision becomes final, selection application AA-9106-N will be closed of record.

III. VILLAGE SELECTION APPLICATION REJECTED IN ENTIRETY

On December 13, 1974, Leisnoi, Inc., filed selection application AA-8448-C under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(a) (Supp. V, 1975)), for lands at Cape Chiniak and Middle Bay on Kodiak Island.

The written description of the lands selected by application AA-8448-C and the map differ. Therefore, the map portrayal of the lands selected is used as the controlling document for determining the lands selected (43 CFR 2650.2). The map shows as selected lands withdrawn by PLO 5558, PLO 1404, PLO 1949 and a portion of PLO 5550.

Leisnoi, Inc., the Native village of Woody Island was not among those Native villages listed pursuant to Sec. 11(b)(1). Section 11(b)(3) stated that lands shall be withdrawn purusant to Sec. 11 for selection by villages which are determined to be eligible and not listed in Sec. 11(b)(1). Section 11 states:

The following public lands are withdrawn • • •. The following lands are excepted from such withdrawal: lands in the National Park System and lands withdrawn or reserved for national defense purposes • • •.

On the date application AA-8448-C was filed pursuant to Sec. 12(a)(1) of ANCSA, the lands selected at Cape Chiniak were subject to the military purposes withdrawal made by EO 8877, as amended. Lands at Cape Chiniak became available for village selection (PLO 5558) after the December 18, 1974, deadline for filing Sec. 12(a)(1) selections.

The lands selected at Middle Bay were subject to the military purposes withdrawal made by EO 8278 of October 28, 1939, as amended by PLO 5550, and by PLO 1949. These lands have been continuously subject to military withdrawal from October 28, 1939, until the date of this decision.

Accordingly, since the lands selected by application AA-8448-C were withdrawn for military purposes at the time of filing and throughout the entire Sec. 129a)(1) selection period and, therefore, unavailable for selection by any Native corporation, application AA-8448-C is hereby rejected in its entirety:

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

T. 29 S., R. 20 W., those portions of U.S. Survey 2539 more particularly described as (protracted):
Sec. 3 (fractional), that portion within PLO 5550;
Secs. 4, 5 and 8, that portion within PLO 5550;
Sec. 9, all;
Secs. 10 and 15 (fractional), that portion within PLO 1949 and PLO 5550;
Sec. 16 (fractional), that portion within PLO 5550;
Sec. 17, that portion within PLO 5550.

Containing approximately 2,146 acres.

T. 29 S., R. 18 W.,
Secs. 32, 33 and 34 (fractional), that portion formerly within PLO 1404.

Containing approximately 912 acres.

T. 30 S., R. 18 W.,
Secs. 3 and 4 (fractional), that portion formerly within PLO 1404;
Secs. 5 and 8, that portion formerly within PLO 1404;
Sec. 9 (fractional), all;
Secs. 10, 16, 17 and 20 (fractional), that portion formerly within PLO 1404.

Containing approximately 2,482 acres.
Aggregating approximately 5,540 acres.

When this decision becomes final, selection application AA-8848-C will be closed of record.

IV. STATE SELECTION APPLICATION REJECTED IN PART

The State of Alaska filed general purpose selection application A-063396, as amended, on August 26, 1965, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1970)) for lands in the vicinity of Cape Chiniak on Kodiak Island.

The initial application did not select the lands under military withdrawal EO 8877, as amended. The amendment filed on June 16, 1972 created the current situation wherein the State has selected all of Ts. 29 and 30 S., R. 18 W., Seward Meridian, Alaska.

Section 6(b) of the Alaska Statehood Act states general purpose selections are to be made "• • • from the public lands • • • which are vacant, unappropriated and unreserved at the time of selection." Those lands currently withdrawn by PLO 1404 and PLO 5558, were withdrawn for military purposes from August 29, 1941 (EO 8877, as amended) until PLO 5558 of December 10, 1975, was issued, at which time EO 8877, as amended, was revoked in part and most of the lands withdrawn for Native selection. Approximately 1 acre remains withdrawn for the U.S. Coast Guard by PLO 1404. Therefore, these lands did not satisfy the criteria for unreserved and unappropriated lands at the time the amendment to application A-063396 was filed, nor have they been available for selection at any time since the amendment filing dates.

Accordingly, State selection application A-063396 is hereby rejected as to the following described lands:

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

T. 29 S., R. 18 W.,
Secs. 32, 33 and 34 (fractional), that portion within PLO 5558.

Containing approximately 912 acres.

T. 30 S., R. 18 W.,
Secs. 3 and 4 (fractional), that portion within PLO 5558;
Secs. 5 and 8, that portion within PLO 5558;
Sec. 9 (fractional), that portion within PLO 1404 and PLO 5558;
Secs. 10, 16, 17 and 20 (fractional), that portion within PLO 5558.

Containing approximately 2,482 acres.
Aggregating approximately 3,394 acres.

The state selected lands rejected above was not a valid selections and will not be charged against the village corporation as State selected lands. Further action on the subject State selection application, as to those lands not rejected herein, will be taken at a later date.

V. LANDS UNAVAILABLE FOR SELECTION, VILLAGE SELECTION APPLICATION REJECTED IN PART

On December 16, 1975, Leisnoi, Inc., filed selection application AA-8448-A2 under the provisions of Sec. 12(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)), for lands still withdrawn by PLO 1404.

The subject land was withdrawn for military purposes on August 29, 1941 by EO 8877. The Executive Order was amended several times and the land is currently withdrawn by PLO 1404 for military purposes. On December 10, 1975, PLO 5558 transferred jurisdiction of the land to the U.S. Coast Guard.

Public Land Order 5353 withdrew lands for selection by Leisnoi, Inc. pursuant to Sec. 11 of ANCSA. Section 11 states:

The following public lands are withdrawn • • •. The following lands are excepted from such withdrawal: lands in the National Park System and lands withdrawn or reserved for national defense purposes • • •.

On the date filed, the lands selected by application AA-8448-A2 were subject to the military purposes withdrawal made by EO 8877 of August 29, 1941, as amended. These lands have

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been continuously subject to military withdrawal from this date until the present.

Accordingly, since the lands selected by application AA-8448-A2 were withdrawn for military purposes at the time of filing and throughout the entire Sec. 12(b) selection period and, therefore, unavailable for selection by any Native Corporation, application AA-8448-A2 is hereby rejected in part:

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

T. 30 S., R. 18 W.,
Sec. 9, that portion within PLO 1404.

Containing approximately 1 acre.

VI. LANDS PROPER FOR VILLAGE SELECTION, APPROVED FOR INTERIM CONVEYANCE

Public Land Order 5558 of December 10, 1975, partially revoked military withdrawal EO 8877, as amended, and withdrew these lands for selection by Koniag, Inc., Regional Native Corporation and appropriate village corporation within that Region.

On December 16, 1975, Leisnoi, Inc., for the Native village of Woody Island, filed selection applications AA-8448-A2, AA-8448-D2 and AA-8448-E2 under the provisions of Sec. 12(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)), for the surface estate of certain lands at Cape Chiniak on Kodiak Island.

By Board of Directors Resolution No. 78-13 dated November 22, 1978, Koniag, Inc., Regional Native Corporation allocated the entire acreage contained in PLO 5558 to Leisnoi, Inc., pursuant to Sec. 12(b) of ANCSA. Koniag, Inc., Regional Native Corporation has reallocated a cumulative total of approximately 3,394 acres which does not exceed the regional minimum Sec. 12(b) entitlement of 103,763 acres (43 FR 53062).

This decision approves approximately 3,394 acres of Sec. 12(b) allocation for conveyance to Leisnoi, Inc., for a cumulative total of 3,394 acres pursuant to Sec. 12(b). This conveyance does not exceed the Leisnoi, Inc. Sec. 12(b) allocation of 3,394 acres.

As to the lands described below, the applications submitted by Leisnoi, Inc. are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with any laws leading to acquistion of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(b), aggregating approximately 3,394 acres, is considered proper for acquisition by Leisnoi, Inc., and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

AA-8448-E2

T. 29 S., R. 18 W.,
Secs. 32, 33 and 34 (fractional), that portion within PLO 5558.

Containing approximately 912 acres.

AA-8448-A2 and AA-8448-D2

T. 30 S., R. 18 W.,
Secs. 3 and 4 (fractional), that portion within PLO 5558;
Secs. 5 and 8, that portion within PLO 5558;
Sec. 9 (fractional), that portion within PLO 5558 and excluding PLO 1404;
Secs. 10, 16, 17 and 20 (fractional), that portion within PLO 5558.

Containing approximately 2,482 acres.
Aggregating approximately 3,394 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613 (f) (Supp. V, 1975)); and

2. A right-of-way, A-061264, 200 feet in width, in Sec. 32, T. 29 S., R. 18 W., Seward Meridian, Alaska, for a Federal Aid Highway, Act of August 27, 1958, as amended, 23 U.S.C. 317);

3. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708, 43 U.S.C. 1601, 1616 (b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in casefile AA-8448-ee, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 44c D1, C5, L) An easement sixty (60) feet in width for an existing road, beginning at the western boundary of the former U.S. Naval Reserve at Cape Chiniak, where the State highway right-of-way ends, southeasterly and southerly to the Coast Guard LORAN facility in Sec. 9, T. 30 S., R. 18 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

b. (EIN 44e) An easement sixty (60) feet in width for an existing road from the Coast Guard LORAN facility in Sec. 9, T. 30 S., R 18 W., Seward Meridian, southwesterly to trail EIN 42 D9, L near Sequel Point. The uses allowed are those listed above for a sixty (60) foot wide road easement.

c. (EIN 55 L) A one (1) acre site easement upland of the mean high tide line in Sec. 32, T. 29 S., R. 18 W., Seward Meridian, on the south shore of Chiniak Bay between the beach and the State road. The uses allowed are those listed above for a one (1) acre site.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688; 43 U.S.C. 1601 (Supp. V, 1975)), any valid existing right recognized by said act shall continue to have whatever right to access as is now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. v, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Pursuant to Sec. 14(f) of the Alaska Native Claims Selection Act, conveyance to the subsurface estate of the lands described above shall be granted to Koniag, Inc., Regional Native Corporation, when conveyance is granted to Leisnoi, Inc., for the surface estate, and shall be subject to the same conditions as the surface conveyance.

The only additional lands remaining selected in AA-8448-E2 are the islands to the northeast of Cape Chiniak. There are no additional lands remaining selected in AA-8448-A2 and AA-8448-D2.

The use permit dated December 30, 1975 between Leisnoi, Inc. and the Bureau of Land Management will be terminated upon conveyance to Leisnoi, Inc. pursuant to condition number 1 of said permit.

There are no inland water bodies considered to be navigable within the lands described above.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES and in the KADIAK Times. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until March 2, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

If an appeal is taken, the adverse parties to be served with a copy of the notice of appeal are:

Leisnoi, Inc., P.O. Box 641, Kodiak, Alaska 99615.
Koniag, Inc., Regional Native Corporation, P.O. Box 746, Kodiak, Alaska 99615.
Natives of Kodiak, Incorporated, P.O. Box 164, Kodiak, Alaska 99615.
State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing may be obtained from the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

JUDITH A. KAMMINS,
Chief, Division of ANCSA Operations.

[FR Doc. 79-3227 Filed 1-30-79; 8:45 am]

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[4310-84-M]

[OCS Sale No. 48]

OUTER CONTINENTAL SHELF PROPOSED OIL AND GAS LEASE SALE

Availability of Final Environmental Statement For Southern California

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement relating to a proposed Outer Continental Shelf (OCS) oil and gas lease sale of 217 tracts consisting of 462,087 hectares (1,141,818 acres) of submerged lands on the OCS offshore southern California (OCS Sale No. 48).

Single copies of the final environmental statement can be obtained from the Office of the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 7663 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the final environmental statement will also be made available for inspection in the following public libraries: Bodkir, McCarthy, Sargent and Smith, Attn: Library, 707 Wilshire Boulevard, 51st Pl. Los Angeles, California 90071; Business & Economics Dept., Los Angeles Public Library, 630 W. 5th St., Los Angeles, California 90071; California State University, Library-Documents Section, P.O. Box 4150, Fullerton, California 92634; California State University, Attn: Oviatt Library-Government Documents, 18111 Nordhoff St., Northridge, California 91330; County of Los Angeles Public library, Attn: Government Publications Unit, 320 W. Temple, Los Angeles, California 90012; County of Ventura Library Service Agency, Attn: Documents Section, P.O. Box 771, Ventura, California 93001; Long Beach Public Library, Attn: Government Publications Dept., Ocean & Pacific, Long Beach, California 90802; Loyola University, School of Law Library, 1440 W. 9th Street, Los Angeles, California 90015; San Diego Public Library, Science and Industry Dept., Attn: Dorothy Van Nice, 820 "E" St., San Diego, California 92101; Santa Barbara Public Library, Attn: Reference Section, P.O. Box 1019, Santa Barbara, California 93102; Santa Monica Public Library, Attn: Document Librarian, 1343 6th St., Santa Monica, California 90401; The Sea Library, Attn: Jill Fairchild, 408 Sycamore rd., Santa Monica, California 90402; University of California, Water resources Center Archives, Attn: Beth Willard, Librarian, 2081 Engineering I, Los Angeles, California 90024; University of California, Government Pub. Dept., Gen. Lib., P.O. Box 19557, Irvine, California 92713; University of California, SERIALS, SIO Library, C-075C, La Jolla, California 92093; University of California, The Library, Government Publication Dept., Santa Barbara, California 93106; and University of Southern California, government Documents Dept., P.O. Box 77983, Los Angeles, California 90007.

ARNOLD E. PETTY,
Acting Director, Bureau of Land Management.

Approved:

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 79-2733 Filed 1-30-79; 8:45 am]

[4310-84-M]

[M-41649 (SD)]

SOUTH DAKOTA

Public Lands in Lawrence County, S. Dak.; Realty Action—Noncompetitive Sale

JANUARY 19, 1979.

The following described lands have been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713):

BLACK HILLS MERIDIAN, SOUTH DAKOTA

T. 5 N., R. 3 E.,
Sec. 33: Lot 15.
Containing .38 acres.

The above described lands are being offered as a direct sale to the Homestake Mining Company at the appraised fair market value. The sale of the lands to the Homestake Mining Company will not be held until 60 days after the date of this notice.

Residential homesites and city improvements are situated upon the subject lands. The Homestake Mining Company, after receiving a patent from the United States, will reconvey surface rights to other parties possessing valid rights to the subject lands. Because of the city improvements and the valid preference right interests of the homeowners, the lands are not being offered for sale at public auction.

The sale would resolve a number of land title conflicts and would allow community expansion in the town of Lead to continue in an orderly manner. As such, the public interest would be served by disposing of these public lands.

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This sale is consistent with the Bureau of Land Management's planning for the lands involved and has been discussed with Lawrence County and South Dakota State government officials.

The terms and conditions applicable to the sale are:

1. The patent to Homestake will include a reservation of a right-of-way for ditches and canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. A reservation for street rights-of-way in accordance with the streets network of Lead, South Dakota, will be incorporated in the patent.

3. The sale of these lands will be subject to all existing rights.

4. The mineral rights will be reserved to the United States.

Detailed information concerning the sale, including the Land Report and Environmental Assessment Report, is available for review at the Miles City District Office, Box 940, Miles City, MT 59301.

On or before February 26, 1979, interested parties may submit comments to the Secretary of the Interior, LLM, 320, Washington, D.C. 20240. Any adverse comments will be evaluated by the Secretary of the Interior who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary of the Interior, this realty action will become the final determination of the Department of the Interior.

GEORGE S. NEUBERG,
Miles City District Manager.

[FR Doc. 79-3232 Filed 1-30-79; 8:45 am]

[4310-31-M]

Geological Survey

[INT DES 79-2]

COLSTRIP PROJECT, MONTANA; ENVIRONMENTAL IMPACT STATEMENT

Public Meetings

Notice is hereby given of public meetings to be held to discuss the Colstrip Project draft environmental statement (DES 79-2) and the related draft Corridor Option Summary. The purpose is to present summary information and to solicit comments. The DES assesses the environmental impacts of Federal decisions related to the Colstrip Project. The draft Corridor Option Summary presents disadvantages and advantages of the Colstrip transmission corridor options.

The meetings will be held on February 26, 1979, at 7:00 p.m., at the Ramada Inn, Montana Room, 2900 Harrison Avenue, Butte, Mont., on February 27, 1979, at 7:00 p.m., at the Colonial Inn, Executive Room, 2301 Colonial Drive, Helena, Mont.; on February 28, 1979, at 7:00 p.m., at the Village Red Lion Motor Inn, Bitterroot Room, 100 Madison, Missoula, Mont.; on March 1, 1979, at 7:00 p.m., at the Northern Hotel, Carter Room, Broadway and First Avenue North, Billings, Mont.; and on March 3, 1979, at 9:00 a.m., at the Rosebud County Library, Community Room, Ninth and Cedar, Forsyth, Mont.

Written comments also are invited until March 17, 1979, and should be mailed to Colstrip EIS Manager, Box 758, Kalispell, MT 59901.

Copies of the draft documents were widely distributed for public and agency review. A limited number of additional copies are available and may be requested at the above address.

Dated: January 25, 1979.

J. R. BALSLEY,
Acting Director.

[FR Doc. 79-3218 Filed 1-30-79; 8:45 am]

[4310-70-M]

National Park Service

[Order No. 1]

ADMINISTRATIVE OFFICER; LOWELL NATIONAL HISTORICAL PARK

Delegation of Authority

SECTION 1. *Administrative Officer.* The Administrative Officer, Lowell National Historical Park, Massachusetts may execute, approve and administer contracts not in excess of $10,000 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

(National Park Service Order No. 77 (38 FR 7478) as amended).

Dated: January 18, 1979.

LEWIS S. ALBERT,
Superintendent, Lowell National Historical Park.

[FR Doc. 79-3204 Filed 1-30-79; 8:45 am]

[4310-70-M]

[Order No. 1]

SUPERVISORY PARK TECHNICIAN; ADAMS NATIONAL HISTORIC SITE

Delegation of Authority

SECTION 1. *Supervisory Park Technician.* The Supervisory Park Technician, Adams National Historic Site, Massachusetts may execute, approve and administer contracts not in excess of $2,000 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

(National Park Service Order No. 77 (38 FR 7478) as amended).

Dated: January 19, 1979.

WILHELMINA S. HARRIS,
Superintendent, Adams National Historic Site.

[FR Doc. 79-3205 Filed 1-30-79; 8:45 am]

[4310-10-M]

Office of the Secretary

IMPROVING GOVERNMENT REGULATIONS

Semiannual Agenda of Rules Scheduled for Review or Development

AGENCY: Department of the Interior.

ACTION: Semiannual Agenda of Rules Scheduled for Review or Development.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between January and June 1979, and the status of rules previously scheduled for review. This semiannual agenda is required by Executive Order 12044 and 43 CFR 14.8.

DATES: January to June 1979.

ADDRESSES: Unless otherwise indicated, all Knowledgeable Officials are located at the Department of the Interior, 1800 C Street, NW., Washington, D.C. 20240, Area Code 202.

FOR FURTHER INFORMATION CONTACT:

All comments and inquries with regard to these scheduled rules should be directed to the appropriate Knowledgeable Official.

Dated: January 25, 1979.

CECIL D. ANDRUS,
Secretary.

UNITED STATES DEPARTMENT OF THE INTERIOR

AGENDA OF REGULATIONS SCHEDULED FOR REVIEW OR DEVELOPMENT: JANUARY–JUNE 1979

CFR Citation	Subject	Purpose or review/ development	Significant Yes / No	Regulatory Analysis Yes / No	Expected date(s) of publication (if known)	Knowledgeable official
		OFFICE OF THE SOLICITOR				
41 CFR Subpart 14R-9.1	Inventions and Patents	To conform patent regulations to statutory authority and establish data regulations for the Office of Water Research and Technology.	X	X		D. A. Gardiner, 343-4471 Gersten Sadowsky, 343-4471
41 CFR Subpart 14R-9.2	Data	To revise and issue Department wide data regulations and policy.	X	X		D. A. Gardiner, 343-4471 Gersten Sadowsky, 343-4471
		OFFICE OF HEARINGS AND APPEALS				
43 CFR Part 4, Subpart B	General Rules Relating to Procedures and Practice.	New regulation to revise procedures in § 4.21(c) and limit petitions for reconsideration to one as well as time for filing such petitions.	X	X	Proposed Rule April 1979.	Newton Prishberg, 703-557-9040
		New regulation to revise and clarify § 4.24(aX4) with respect to consideration on appeal of documents exempt from disclosure under 5 U.S.C 552(b).	X	X		
43CFR Part 4, Subpart C	Special Rules Applicable to Contract Appeals.	New procedural rules to implement P.L. 95-563 enacted November 1, 1978, with respect to accelerated appeals involving $50,000 or less and expediting appeals of $10,000 or less.	X	X	Proposed Rule January 1979; Final Rule February 1979.	Russell C. Lynch, 703-557-1450
43 CFR Part 4, Subpart D	Special Rules Applicable to Proceedings in Indian Probate, Including Hearings and Appeals; Tribal Purchase of Interests Under Special Statutes, Including Hearings and Appeals; and Administrative Appeals in Indian Affairs Generally.	New regulations to revise present regulations pertaining to Tribal purchase of certain interests of decedents in trust and restricted lands in Yakima, Warm Springs, and Nez Perce Reservations, as provided by special statutes.	X	X	Proposed Rule June 1979.	Laurie K. Luoma, 703-557-9200
43 CFR Part 4, Subpart E	Special Rules Applicable to Public Land Hearings and Appeals.	New regulation to revise § 4.433 and provide for recommended decisions by administrative law judges where requested by Board of Land Appeals.	X	X	Proposed Rule April 1979.	Newton Frishberg, 703-557-9040

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AGENDA OF REGULATIONS SCHEDULED FOR REVIEW OR DEVELOPMENT: JANUARY–JUNE 1979

CFR Citation	Subject	Purpose or review/development	Significant Yes / No	Regulatory Analysis Yes / No	Expected date(s) of publication (if known)	Knowledgeable official
		OFFICE OF HEARINGS AND APPEALS—Continued				
		New regulation to revise § 4.439 and provide that proposed findings or recommended decisions of administrative law judges shall be served on parties and they may file timely exceptions thereto with the Board of Land Appeals.	X	X		
43 CFR Part 4, Subpart J	Special Rules Applicable to the Alaska Native Claims Settlement Act Hearings and Appeals.	New regulations to revise and clarify present procedural rules and to carry out Secretarial policy decisions on (1) Alaska Native Claims Appeal Board jurisdiction over appeals by persons claiming rights under § 14(c) of the Alaska Native Claims Settlement Act, (2) requirement for standing to appeal, (3) standards for review and burden of proof, and (4) procedure for hearing on questions of fact.	X	X	Proposed Rule February 1979; Final Rule March 1979.	Judith M. Brady, Chairman, Alaska Native, Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, 907-265-5356
43 CFR Part 4, Subpart L	Special Rules Applicable to Surface Coal Mining Hearings and Appeals.	New regulations to provide additional procedural rules for hearings under the permanent regulatory program of the Office of Surface Mining Reclamation and Enforcement.	X	X	Proposed Rule March 1979; Final Rule May 1979.	Bruce R. Harris, 703-557-9037
		OFFICE OF INSPECTOR GENERAL				
43 CFR pt. 20	Employee Responsibilities and conduct.	The Ethics in Government Act of 1978, Pub. Law 95-521 signed by the President on 10-26-78, contains provisions which require a complete revision of existing conflict of interest rules and regulations.	X	X		Gabe Paone, 343-3932
30 CFR pt. 705 and pt. 706	Surface Mining Control and Reclamation Restrictions of Financial Interests of State and Federal Employees.	Changes to these regulations are necessary to clarify problem areas identified after applying the regulations in the first year. Changes will include clarifying definitions and inserting language to simplify Department policy.	X	X		Gabe Paone, 343-3932
43 CFR 7	Employees: Interest in Lands and Resources.	These regulations must be revised to eliminate contradictions with 43 CFR pt. 20.	X	X		Gabe Paone, 343-3932

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UNITED STATES DEPARTMENT OF THE INTERIOR

AGENDA OF REGULATIONS SCHEDULED FOR REVIEW OR DEVELOPMENT: JANUARY–JUNE 1979

CFR Citation	Subject	Purpose or review/development	Significant Yes / No	Regulatory Analysis Yes / No	Expected date(s) of publication (if known)	Knowledgeable official
		OFFICE FOR EQUAL OPPORTUNITY				
43 CFR Part 34	Nondiscrimination in Activities Conducted under and Authorized by Pub. L. 94-586; Alaska Gas Pipeline.	To implement Section 17 of the Alaska Natural Gas Transportation Act. A determination of significance and the decision on preparation of a regulatory analysis have not been made at this time.				Sharon White, Office of the Solicitor, 343-2162
43 CFR Part 17, Subpart B	Nondiscrimination on the Basis of Handicap.	To implement Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, regarding federally-assisted programs administered by the Department. The decision on preparation of a regulatory analysis has not been made at this time.	X		Notice of Intent, January, 1979.	Alton Hancock, Office of the Solicitor, 343-6346
43 CFR Part 17, Subpart C	Nondiscrimination on the Basis of Age.	To implement the Age Discrimination Act of 1975 (42 U.S.C. 6101, *et seq*). This subpart will be based on guidelines developed by HEW..	X	X		James Poole, 343-4331
		GEOLOGICAL SURVEY				
30 CFR Part 241	Leasing and acquisition of water wells.	Update regulations to provide a more practical mechanisms for complying with a statutory requirements.	X	X	Proposed rule, March 1979.	Charles Sours, 860-7521
30 CFR Part 251	Geological and geophysical exploration of the Outer Continental Shelf.	Implement the Outer Continental Shelf Lands Act Amendments of 1978.	X	X	Proposed rule, January 1979; Final rule, May 1979.	Bruce Weetman, 860-7564
30 CFR Part 252	Oil and gas information program.	Implement the Outer Continental Shelf Lands Act Amendments of 1978.	X	X	Proposed rule, January 1979; Final rule, May 1979.	Bruce Weetman, 860-7564
		BUREAU OF MINES				
30 CFR Part 601	Sales of Helium by and Rental of Containers from Bureau of Mines.	Revise fee schedule to reflect increases in costs since 1977.	X	X		Ray D. Munnerlyn, 634-4734
		OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT				
30 CFR Chapter VII, Subchapter R, Part 875.	Reclamation Standards	To implement legislation (Pub. L. 95-87, Title IV).	X	X	Notice of Intent, February 1979; Proposed Rule, March 1979.	M. Richard Nalbandian, 343-4057

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AGENDA OF REGULATIONS SCHEDULED FOR REVIEW OR DEVELOPMENT: JANUARY–JUNE 1979

CFR Citation	Subject	Purpose or review/ development	Significant Yes / No	Regulatory Analysis Yes / No	Expected date(s) of publication (if known)	Knowledgeable official
BUREAU OF LAND MANAGEMENT						
43 CFR Part 1600	Planning, programming and budgeting.	Write regulations incorporating the Bureau of Land Management's planning system into its regulations.	X	X	Final rulemaking about 6/1/79.	R. Jones, 343-5662 R. C. Bruce, 343-8735
43 CFR Part 1700	Advisory Councils	Revise regulations to incorporate policies and procedures of the Federal Land Policy and Management Act of 1976.	X	X	Proposed rulemaking early 1979.	L. Laitala, 343-5629 R. C. Bruce, 343-8735
43 CFR Part 2200	Exchanges of Public Lands	Revise regulations to incorporate policies and procedures of the Federal Land Policy and Management Act of 1976.	X	X	Pre-proposed in early 1979.	M. Millenbach, 343-8731 R. C. Bruce, 343-8735
43 CFR Part 2300	Withdrawal of public lands	Revise regulations to incorporate the policies and procedures of the Federal Land Policy and Management Act of 1976.	X	X	Proposed rulemaking, 6/79.	R. C. Bruce, 343-8735
43 CFR Parts 2540, 2740, and 9180.	Color-of-Title and Omitted Lands.	Revised regulations to incorporate policies and procedures of the Federal Land Policy and Management Act of 1976.	X	X	Final rulemaking about 5/1/79.	S. Spector, 343-8738 R. C. Bruce, 343-8735
43 CFR Part 2610	Carey Act Grants	Re-institute regulations withdrawn because of program inactivity and bring them into conformance with existing programs.	X	X	Final rulemaking in early 1979.	M. Millenbach, 343-8731 R. C. Bruce, 343-8735
43 CFR Part 2740	Recreation and Public Purposes Act.	Revise regulations to incorporate policies and procedures of the Federal Land Policy and Management Act of 1976.	X	X	Proposed rulemaking, 1/79.	M. Millenbach, 343-8731 R. C. Bruce, 343-8735
43 CFR Part 2800	Rights-of-way; principles and procedures.	Revised regulations to incorporate policies and procedures of the Federal Land Policy and Management Act of 1976.	X	X	Proposed rulemaking by 6/79.	J. Stephenson, 343-5441 R. C. Bruce, 343-8735
43 CFR Part 2880	Rights-of-way under the Mineral Leasing Act.	Revise regulations to incorporate policies and procedures of the Federal Land Policy and Management Act of 1976.	X	X	Final rulemaking in early 1979.	J. Stephenson, 343-5441 R. C. Bruce, 343-8735
43 CFR Subpart 3802	Surface protection, Wilderness.	Write regulations providing protection for the surface area of wilderness study areas from mining activity under the 1872 Mining Law.	X	X	Proposed rulemaking, 1/12/79; Final rulemaking, May 1979.	R. Anderson, 343-7722 R. C. Bruce, 343-8735
43 CFR Subpart 3809	Surface Management of unpatented mining claims located on public lands.	Write regulations providing protection of the public lands from undue degradation from mining activity under the 1872 Mining Law.	X	X	Proposed rulemaking, Feb 28, 1979; Final Rulemaking, Aug 1979, Effective Nov 1.	Robert Anderson, 343-7722 Robert C. Bruce, 343-8735
43 CFR Subpart 3828	Surface Management of unpatented mining claims located in the California Desert Cons. Area.	Write regulations providing protection of the public lands in the California Desert Conservation area from undue degradation under the 1872 Mining Law.	X	X	Proposed rulemaking, Feb 1979; Final rulemaking, May 1979.	Robert Anderson, 343-7722 Robert C. Bruce, 343-8735
43 CFR Part 4100	Amendments to the Grazing Administration and Trespass Regulations.	Revise regulations to incorporate changes made by the Public Rangelands Improvement Act.	X	X	Proposed rulemaking early in 1979.	David Little, 343-6011 Robert C. Bruce 343-8735

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AGENDA OF REGULATIONS SCHEDULED FOR REVIEW OR DEVELOPMENT: JANUARY–JUNE 1979

CFR Citation	Subject	Purpose or review/ development	Significant Yes / No	Regulatory Analysis Yes / No	Expected date(s) of publication (if known)	Knowledgeable official
BUREAU OF LAND MANAGEMENT—Continued						
43 CFR Section 4130.5	Amending the Grazing Regulations as they relate to the Grazing Fee.	Revise regulations to incorporate changes made by the Public Rangelands Improvement Act.	X	X	Final rulemaking in early 1979.	Ronald J. Younger, 343-6011 Robert C. Bruce, 343-8735
43 CFR Part 8340	Management of the use of Off-Road Vehicles on the public lands.	Write regulations to provide for the management of the use of off road vehicles on the public lands.	X	X	Final rulemaking in early 1979.	Larry R. Young, 343-9353 Cecil Feeney, 343-8735
43 CFR Part 4300	Coal Leasing	Revise regulations relating to the coal management program ensuring a complete understanding of the preferred program and how it will be implemented. The decision on preparation of a regulatory analysis has not been made at this time. A notice of intent was published in the FEDERAL REGISTER on December 15, 1978.	X		Proposed Rule, March 1979; Final Rule, June 1979.	Don Mitchell, 343-4537
BUREAU OF RECLAMATION						
43 CFR 21	Occupancy of Cabin Sites	To review and make recommendations for modifications and changes if necessary.	X	X		T. C. Cooper, 343-5204
43 CFR 401	Entry on Reclamation Lands.	To bring the CFR into compliance with requirements of P.L. 94-579 (FLPMA).	X	X		T. C. Cooper, 343-5204
43 CFR 402	Sale of Small Tracts	To bring the CFR into compliance with requirements of P.L. 94-579.	X	X		T. C. Cooper, 343-5204
43 CFR 403	Unproductive Land	To bring the CFR into compliance with requirements of P.L. 94-579.	X	X		T. C. Cooper, 343-5204
43 CFR 406	Exchange or amendment of Farm Units.	To bring the CFR into compliance with requirements of P.L. 94-579.	X	X		T. C. Cooper, 343-5204
43 CFR 416	Reclassification of Highland Columbia Project.	To determine the necessity for the continuation in effect of the CFR or needed modifications.	X	X		T. C. Cooper, 343-5204
43 CFR 417	Procedural Methods for Implementing Colorado River Water Conservation Measures with Lower Basin Contractors and Others.	To determine if changes in existing rules are required in order to conserve water in the lower Colorado River Basin.	X	X		Roy H. Boyd, 343-5471
43 CFR 418	Newlands Reclamation Project, Nevada; Truckee River Storage Project, Nevada; and Washoe Reclamation Project, Nevada-California (Truckee and Carson River Basins, California-Nevada); Pyrimid Lake Indian Reservation, Nevada; Stillwater Area, Nevada.	To determine if changes in existing rules are required in order to conserve water in the Truckee and Carson River Basins.	X	X		Roy H. Boyd, 343-5471
43 CFR 420	Off Road Vehicle Use	This was published as a proposed rule in the FEDERAL REGISTER on August 22, 1978.	X	X	Final Rule, January 1979.	T. C. Cooper, 343-5204

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AGENDA OF REGULATIONS SCHEDULED FOR REVIEW OR DEVELOPMENT: JANUARY–JUNE 1979

CFR Citation	Subject	Purpose or review/development	Significant Yes / No	Regulatory Analysis Yes / No	Expected date(s) of publication (if known)	Knowledgeable official
U.S. FISH AND WILDLIFE SERVICE						
50 CFR Part 26	National Wildlife Refuge System—public entry and use.	To review for clarity, necessity, and conciseness, ensure that material is complete and current, and identify those rules that impose unnecessary burdens on the economy. E.O. 12044 and 43 CFR 14.	X	X		Marcus Nelson, 343-4791
50 CFR Part 32	Hunting on wildlife refuge areas.	....do	X	X		Marcus Nelson, 343-4791
50 CFR Part 33	Sport fishing on wildlife refuge areas.	....do	X	X		Marcus Nelson, 343-4791
50 CFR Part 80	Federal aid to States in fish and wildlife restoration.	To review with objective of reducing paperwork burden on States conducting fish and wildlife restoration projects. Significance and necessity of regulatory analysis is undetermined pending results of review.				Charles Phenicie, 703-235-1526
50 CFR Part 18	Marine mammals—manatee protection areas.	To develop rules that would provide procedures for establishing areas in which certain waterborne activities would be restricted or prohibited. (16 U.S.C. 1361-1407).	X	X	Proposed rule, February, 1979; Final rule, May, 1979.	Norman Johnson, 632-2202 Clark Bavin, 343-9242
50 CFR Part 20 Subpart K	Hunting of migratory birds.	To develop rules establishing 1979-80 annual seasons, limits, and shooting hour schedules for migratory birds. Dates of proposed and final rules uncertain (16 U.S.C. 703-711).	X	X	Notice of intent February, 1979.	John P. Rogers, 254-3207
50 CFR Part 403	Fish and Wildlife Coordination Act.	To implement the Fish and Wildlife Coordination Act which concerns the conservation of wildlife in projects involving the control or modification of any stream or other body of water. This Part is being developed in coordination with the Department of Commerce. The decision on preparation of a regulatory analysis has not been made at this time. A notice of intent was published in the FEDERAL REGISTER on September 29, 1978.	X			Karl Stutzman, 343-5715 Bill Garner, Office of the Solicitor, 343-2172

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AGENDA OF REGULATIONS SCHEDULED FOR REVIEW OR DEVELOPMENT: JANUARY–JUNE 1979

CFR Citation	Subject	Purpose or review/development	Significant Yes / No	Regulatory Analysis Yes / No	Expected date(s) of publication (if known)	Knowledgeable official
NATIONAL PARK SERVICE						
36 CFR Part 2	Public Use and Recreation	Several amendments to existing regulations have been proposed that would reduce the number of special regulations required in Part 7.	X	X		Michael Finley, 343-5607
36 CFR Part 7	Special Regulations of the National Park System.	These regulations are submitted by individual park areas. The scope and application of the regulations is limited to a particular problem in a specific unit of the National Park System as opposed to the System as a whole. The number and frequency of these regulations cannot be determined at this time.	X	X		Michael Finley, 343-5607
36 CFR Pts. 2 and 7	Public Use and Recreation; Special Regulations of the National Park System.	Regulations in these parts will require review and may require revision in order to comply with Public Law 94-341 and insure that these regulations do not infringe upon native American traditional religious/ceremonial rights and practices.	X	X		George Gowans, 343-7456
HERITAGE CONSERVATION AND RECREATION SERVICE						
36 CFR Part 1205	National Historic Landmarks.	To amend to reflect new Departmental policies and to transfer from 36 CFR Part 69.	X	X		George F. Emery, 343-6404
36 CFR Part 1210	Recovery of Scientific, Prehistoric, Historic, and Archeological Data: Procedures for Notification, Reporting, and Data Recovery Operations.	To codify existing procedures and standards for Archeological and Historical Preservation Act of 1974 (Pub. L. 93-291) and to transfer from 36 CFR Part 66.	X	X		L. E. Aten, 343-7106
36 CFR Part 1230	Land and Water Conservation Fund State Assistance Program.	To provide a general presentation on the existing requirements and procedures concerning administration of the Land and Water Conservation Fund program. This Part will reference the Heritage Conservation and Recreation Service Grants Manual as the official instrument for providing detailed program guidance.	X	X	Proposed Rule, April 1979.	Rowland Bowers, 343-7801
36 CFR Part 1228	Urban Park and Recreation Recovery Program.	To develop eligibility criteria and a list of those cities eligible for this program as required by Pub. L. 95-625.	X		Interim Rule, March 1979.	Sam L. Hall, 343-5971

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UNITED STATES DEPARTMENT OF THE INTERIOR

AGENDA OF REGULATIONS SCHEDULED FOR REVIEW OR DEVELOPMENT: JANUARY–JUNE 1979

CFR Citation	Subject	Purpose or review/ development	Significant Yes / No	Regulatory Analysis Yes / No	Expected date(s) of publication (if known)	Knowledgeable official
		HERITAGE CONSERVATION AND RECREATION SERVICE—Continued				
		Other sections of this Part will also be developed to present the administrative and recovery action programs. The decision on the preparation of a regulatory analysis has not been made at this time.	X			Do.
		BUREAU OF INDIAN AFFAIRS				
25 CFR Part 47	Revision of the Membership Roll of the Eastern Band of Cherokee Indians, North Carolina.	To determine status and need.	X	X		John Geary, 343-2678
25 CFR Part 48	Enrollment of Indians of the San Pasqual Band of Mission Indians in California.	....do	X	X		Do.
25 CFR Part 20	Financial Assistance and Social Services Program.	To revise current near reservation definition for clarity.	X	X		Do.
25 CFR Part 91	Loans to Indians from the Revolving Loan Fund.	Sections of this Part are scheduled for review as required by current Departmental directives (43 CFR Part 14).	X	X		Robert Nordstrom, 343-5804
25 CFR Part 163	Establishment of Roadless and Wild Areas on Indian Reservations.	To define a roadless area	X	X		Robert Fleak, 343-8433
25 CFR Part 41	Preparation of Rolls of Indians—Qualifications for Enrollment and dealines for Filing.	To include qualifications for enrollment and deadlines for filing for enrollment with tribes for whom the Secretary is preparing rolls to be used in the distribution of judgment funds as requrired by Act of October 19, 1973, or other specific Acts of Congress.	X	X		John Geary, 343-2678
25 CFR Part 42	Enrollment Appeals	Amend to more accurately reflect the purpose of the Part.	X	X	Final Rule, March, 1979.	Do.
25 CFR Part 43g	Preparation of a Roll to Serve as the Basis for the Distribution of Judgment Funds awarded to the Pembina Band of Chippewa Indians.	To determine status and need.	X	X		Do.
25 CFR Part 43h	Preparation of a Roll of Alaska Natives.	....do	X	X		Do.

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UNITED STATES DEPARTMENT OF THE INTERIOR

AGENDA OF REGULATIONS SCHEDULED FOR REVIEW OR DEVELOPMENT: JANUARY–JUNE 1979

CFR Citation	Subject	Purpose or review/ development	Significant Yes / No	Regulatory Analysis Yes / No	Expected date(s) of publication (if known)	Knowledgeable official
		BUREAU OF INDIAN AFFAIRS—Continued				
25 CFR Part 43l	Preparation of a Roll to Serve as the Basis for the Distribution of Judgment Funds awarded Certain Warm Springs Indians.	....do	X	X		Do.
25 CFR Part 43n	Preparation of a Roll for Distribution of Grand River Ottawa Judgment Funds.	....do	X	X		Do.
25 CFR Part 43p	Revision of Membership Roll of Confederated Tribes of Siletz Indians of Oregon.	....do	X	X		Do.
25 CFR Part 46	Enrollment of Indians of the Rincon, San Luiseno Band of Mission Indians in California.	....do	X	X		Do.
25CFR Part 252	Business Practices on the Navajo, Hopi and Zuni Reservations.	To evaluate suggested revisions proposed by field offices of the Bureau..	X	X	Proposed Ruled, January, 1979.	Eugene Suarez, Sr., 343-5786
41 CFR Part 14H	Buy Indian Act Contracting	To set forth Bureau policy with regard to contracting in regulation form.	X	X	Notice of Intent, February, 1979.	Donald F. Asbra, 703-235-8061
25 CFR Part 120a	Land Acquisition	This Part, governing acquisition of trust or restricted lands, is being developed to conform to statutory requirements.	X	X		Raymond W. Jackson, Phoenix Area Office, P.O. Box 7707, Phoenix, AZ 85011, 602-261-4195
25 CFR Part 182	Oil and Gas Contracts	This Part is scheduled for review as required by current Departmental directives (43 CFR Part 14).	X	X		George Skibine, 343-5473
25 CFR Part 121	Issuance of Patents in Fee, Certificates of Competency, Removal of Restrictions, and Sale of Certain Indian Lands.	This Part is scheduled for review as required by current Departmental directives (43 CFR part 14).	X	X		Jack Daughtery, Muskogee Area Office, Muskogee, OK 74401, 918-687-2291
25 CFR		Rules must be developed to implement certain legislation. As of this date, Part numbers have not been assigned. The legislation are:.	X	X		
		Pub. L. 95-561, Title XI—Education Act Amendments.	X	X		Elizabeth Holmgren, 343-3151
		Pub. L. 95-471—The Indian controlled Community College Act.	X	X		Do.
		Pub. L. 94-142—Education of the Handicapped Act.	X	X		Do.

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UNITED STATES DEPARTMENT OF THE INTERIOR

STATUS OF REGULATIONS PREVIOUSLY SCHEDULED FOR REVIEW: MAY–DECEMBER 1978

CFR Citation	Subject	Status	Knowledgeable official
OFFICE OF THE SOLICITOR			
43 CFR Part 1	Practices before the Department of the Interior.	This regulation is still being reviewed and should be published as proposed rulemaking in January, 1979..	John D. Trezise, 343-8216
43 CFR Part 6	Patent Regulations	This regulation is still being reviewed and should be published as proposed rulemaking in February, 1979.	D. A. Gardiner, 343-4471 Gersten Sadowsky, 343-4471
OFFICE OF INSPECTOR GENERAL			
43 CFR Pt. 20	Employee Responsibilities and Conduct.	Legislation requiring revision of this part was signed by the President on October 26, 1978. (Pub. Law 95-521). This legislation creates an Office of Government Ethics in the Office of Personnel Management (Formerly CSC). This new office is charged with developing regulations which are to be used by all federal agencies as guidelines for developing individual agency regulations (Pub. Law 95-521, Section 207). These guideline regulations are expected in early 1979 and 43 CFR pt. 20 will be completely revised in accordance with guidelines received. During the interim period (between now and the time guidelines are received from OPM) significant changes, appendix updates and addition of requirements under Pub. Law 95-372 will be published as amendments to 43 CFR pt. 20. (Expected publication date is January, 1979.).	Gabe Paone, 343-3932
BUREAU OF MINES			
30 CFR 610	Coal analysis for non-Federal applicants.	Formally transferred to the Department of Energy on September 26, 1978. Notice published on page 43459 of the FEDERAL REGISTER.	William Schmidt, Department of Energy, 703-235-2700
30 CFR 651	Bureau of Mines grant programs	Removal of references to MSHA are being held in abeyance pending development of policy regarding grants administration by the Department of the Interior.	Joseph Herickes, 634-4704

UNITED STATES DEPARTMENT OF THE INTERIOR—Continued

CFR Citation	Subject	Status	Knowledgeable official
GEOLOGICAL SURVEY			
30 CFR Part 211	Coal mining operating regulations	Published as final August 22, 1978 (43 FR 163). However, due to revised Office of Surface Mining regulations, these are now being revised and are scheduled to be published as proposed rules in January 1979 and final in March 1979.	Tom Leshendok & Don Ziehl, 860-7506
30 CFR Part 221	Oil and gas operating regulations..	Proposed general revisions to be published in June 1979. Proposed section concerning liquidated damages published as proposed in June 1977 (42 FR 124). Final to be published in April 1979.	Eddie R. Wyatt, 860-7535
30 CFR Part 250	Oil and gas and sulphur operations in the Outer Continental Shelf.	Scheduled to be published as proposed rule in Janury 1979. Final rule to be published in May 1979.	Richard Krahl, 860-7531
30 CFR Part 270	Geothermal resources operations on public, acquired and withdrawn lands.	Published as proposed rule in February 1978 (43 FR 22). Final to be published in April 1979.	Eddie R. Wyatt, 860-7535
43 CFR Part 3100	Oil and gas leasing	To be published as a Notice to clarify the effective date of known geologic structure (KGS) determinations.	Charles Sours, 860-7521
OFFICE OF WATER RESEARCH AND TECHNOLOGY			
18 CFR Chapter IV	Office of Water Resources Research, Department of the Interior.	The present chapter provides the rules of the Secretary of the Interior for implementation of the Water Resources Research Act of 1964. As this Act has been repealed and superseded by the Water Research and Development Act of 1978 (Pub. L. 95-467), this chapter must be revised to reflect the provisions of the new law. It is estimated that a proposed revision will be published in June, 1979.	F. W. Koop, 343-4607 George Cassaday, 343-4607.
BUREAU OF LAND MANAGEMENT			
43 CFR Group 2900	Land use, occupancy, and development.	Pre-proposed rulemaking has been drafted, reviewed in the Bureau of Land Management and is currently under review in the Department.	Mathew Millenbach, 343-8731 Robert C. Bruce, 343-8735
43 CFR Group 2700	Land disposal (sales)	Pre-proposed rulemaking has been drafted, reviewed in the Bureau of Land Management and is currently under review in the Department.	Stephen H. Spector, 343-8738 Robert C. Bruce, 343-8735
43 CFR Group 4000	Grazing Administration	Published in final rulemaking form in the FEDERAL REGISTER on July 5, 1978.	Max T. Lieurance, 343-8011 Robert C. Bruce, 343-8735
43 CFR Part 8260	Recreation management	Published in final rulemaking form in the FEDERAL REGISTER on February 24, 1978.	Larry R. Young, 343-9355 Billy R. Templeton, 343-8735
43 CFR Group 3800	Recordation of mining claims	Final rulemaking has been drafted, reviewed in the Bureau of Land Management and is currently under review in the Department. Final rulemaking is expected to be published in January 1979.	Gene Carlat, 343-7723 Robert C. Bruce, 343-8735

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UNITED STATES DEPARTMENT OF THE INTERIOR—Continued

CFR Citation	Subject	Status	Knowledgeable official
BUREAU OF RECLAMATION			
43 CFR Part 405	Certain Lands Sought to be Covered by Recordable Contracts; Columbia Basin Project.	Part 405 provides for implementation of Section 2 of the Columbia Basin Project Act. That Section was repealed in its entirety by the Act of October 1, 1962. Therefore, these regulations are no longer needed and will be removed in January, 1979.	Vernon S. Cooper, 343-2148
43 CFR Part 409	Leasing and Utilization of Lands in Page, Arizona.	All subject lands have been turned over the the City of Page. Therefore, these regulations are no longer needed and will be removed in January, 1979.	David Williamson, 343-5204
43 CFR Part 430	Rules for Management of Lake Berryessa.	Procedures were determined to be adequate as stated. No changes are recommended.	David Williamson, 343-5204
NATIONAL PARK SERVICE			
36 CFR Pts. 1-4	Miscellaneous provisions; public use and recreation boating; and vehicles and traffic safety.	These revisions are scheduled for publication in January of 1979 as proposed rules.	Michael Finley, 343-5607
36 CFR Pt. 3	Boating	These regulations are currently under review and revision. A publication date has not been set.	James Carrico, 343-5607
36 CFR Pt. 5	Commerical and Private Operations.	These regulations are currently under review and revision. A publication date has not been set.	Richard Tousley, 343-4874
U.S. FISH AND WILDLIFE SERVICE			
50 CFR Part 17	Endangered and threatened wildlife and plants.	This part will require further review due to the extensive 1978 amendments (Pub. L. 95-632) to the Endangered Species Act.	John Spinks, 703-235-2771 Clark Bavin, 202-343-9242 Richard Parsons, 703-235-1937
50 CFR Part 18 Subpart C	Marine mammals general exceptions.	To relieve an existing burden on the public, a proposed rule is being considered that would exempt fossil ivory from registration. Publication dates are uncertain.	Clark Bavin, 202-343-9242
50 CFR Part 18 Subpart F	Marine mammals—State laws and regulations.	A revision was published as a final rule on October 2, 1978, (43 FR 45370), which clarified procedures and criteria for obtaining a waiver of the moratorium on marine mammals.	Norman Johnson, 202-632-2202 Clark Bavin, 202-343-9242
50 CFR Part 19	Airborne hunting	This part is current and a revision is not necessary.	Clark Bavin, 202-343-9242

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UNITED STATES DEPARTMENT OF THE INTERIOR—Continued

CFR Citation	Subject	Status	Knowledgeable official
U.S. FISH AND WILDLIFE SERVICE—Continued			
50 CFR Part 20	Migratory bird hunting	To reduce costs and preclude possible confusion on the part of the public in reading non-current rules codified in 50 CFR, a proposed rule will be published in January, 1979, to eliminate codification of the annual seasons, limits, and shooting hour schedules—which are published in the daily issues of the FEDERAL REGISTER.	John P. Rogers, 202-254-3207
50 CFR Part 21	Migratory bird permits	To permit raptor propagation, a proposed rule is being considered that would implement the raptor amendment to the Endangered Species Act. Publication dates are uncertain.	Clark Bavin, 202-343-9242
50 CFR Part 22	Eagle permits—acts protecting bald and golden eagles.	This part will require further review due to a recent U.S. district court decision that suggested the need of a registration system for possession of pre-Act(s) feathers.	Clark Bavin, 202-343-9242
50 CFR Part 25	National Wildlife Refuge System—administrative provisions.	A proposed rule on closing National Wildlife Refuges was published on August 24, 1978, (43 FR 37732). The final rule should be published in January, 1979.	Ronald Fowler, 202-343-4305
HERITAGE CONSERVATION AND RECREATION SERVICE			
36 CFR Part 61	Criteria for Comprehensive Statewide Historic Surveys and Plans.	To evaluate the effectiveness of the existing interim regulations and publish them in final. To incorporate changes reflecting the creation and reorganization of the Heritage Conservation and Recreation Service. To transfer to 36 CFR Part 1201. It is expected that a final rule will be published in May, 1979.	Carol Shull, 343-5221
43 CFR Part 21	Grants and Allocations for Recreation and Conservation Use of Abandoned Railroad Rights-of-Way.	This Part will be retained since it contains the compliance standards for nine projects approved in fiscal year 1978. It is expected that the contents of this Part will be transferred to 36 CFR Part 1226 in January, 1979.	Rowland T. Bowers, 343-7801
BUREAU OF INDIAN AFFAIRS			
25 CFR Part 252	Business Practices on the Navajo, Hopi and Zuni Reservations.	This Part has been reviewed and changes have been recommended to waive or reduce bond requirements for reservation businesses on the Navajo reservation owned and operated by members of the Navajo tribe.	Eugene Suarez, Sr., 343-5786
25 CFR Part 251	Licensed Indian Traders	The Bureau of Indian Affairs has determined that this Part is current and a revision is not necessary.	Do.
25 CFR Part 261	Housing Improvement Program Eligibility.	do	G. Ronald Peake, 343-4876

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UNITED STATES DEPARTMENT OF THE INTERIOR—Continued

CFR Citation	Subject	Status	Knowledgeable official
	BUREAU OF INDIAN AFFAIRS—Continued		
25 CFR Part 34	Vocational Training for Adult Indians.	Proposed revision published in the FEDERAL REGISTER on October 14, 1977. Final rule should be published before December 31, 1978.	John Jollie, 343-7408
25 CFR Part 80	Indian Business Development Program.	A further review is being considered to determine the status of this program.	Robert Nordstrom, 343-5804
25 CFR Part 93	Loan Guaranty Insurance and Interest Subsidy.	The Bureau of Indian Affairs has determined that this Part is current and a revision is not necessary.	Do.
25 CFR 271	Contents under Indian Self-Determination Act.	The bureau of Indian Affairs in consultation with the Indian people has determined that this Part is current and a revision is not necessary.	Dr. Helen Miller, 343-4796
25 CFR Part 21	Arrangement of States, Territories or other agencies for relief of distress and social welfare of Indians.	This Part is still under review and will continue during the January-June, 1979 review period.	John Geary, 343-2678
25 CFR Part 171	Leasing of Tribal Lands for Mining.	Proposed revision published in the FEDERAL REGISTER on April 5, 1978 (43 FR 18063). Final rule being processed and will be published in January, 1979.	George Skibine, 343-5473
25 CFR Part 177	Plans for Prospecting and Mining of Indian Mineral Lands: Reclamation of Non-Mineral Resources.	....do	Do.
25 CFR Part 183	Leasing of Osage Reservation Lands for Oil and Gas Mining.	The Bureau of Indian Affairs has determined that this Part is current and a revision is not necessary.	Do.
25 CFR Part 161	Rights-of-way over Indian Lands	Proposed revision published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29317). Final rule being processed and will be published in January, 1979.	Richard McDermont, Palm Springs Area, Field Office, 587 S. Palm Canyon Dr. Palm Springs, CA 92262, 714-325-2163
25 CFR Part 104	Individual Indian Money Accounts.	This Part is still under review and will continue during the January-June, 1979 review period.	Shirley M. Crosby, 343-8216
25 CFR Part 105	Deposit of Indian Funds in Banks.	....do	Do.
25 CFR Part 141	General Forest Contracts	....do	Do.
25 CFR Part 174	Leasing of Restricted Lands of Members of Five Civilized Tribes, Oklahoma for Mining.	....do	Do.
25 CFR Part 22	Care of Indian Children in Contract Schools.	This Part is still under review and will continue during the January-June, 1979 review period.	John Geary, 343-2678
25 CFR Part 162	Roads of the Bureau of Indian Affairs.	The Bureau of Indian Affairs has determined that this Part is current and a revision is not necessary.	Robert Fleck, 343-9433
25 CFR Part 273	Education Contracts Under Johnson-O'Malley Act.	This Part will be revised to incorporate the provisions of Pub. L. 95-561 (November 1, 1978) which amends the Johnson-O'Malley Act.	Elizabeth Holmgren, 343-3151
25 CFR Part 274	School Construction Contracts or Services for Tribally Operated, Previously Private Schools.	This Part is still under review and will continue during the January—June, 1979 review period.	Bill Henry, Division of Facilities Engineering, P.O. Box 1248, 500 Gold Ave. SW, Albuquerque, NM 87103, 505-766-2825
25 CFR Part 277	School Construction Contracts for Public Schools.	....do	Do.

[FR Doc. 79-3167 Filed 1-30-79; 8:45 am]

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[4410-01-M]

DEPARTMENT OF JUSTICE

Antitrust Division

[M.D.L. Docket No. 50; Civ. No. 822-70]

UNITED STATES OF AMERICA, PLAINTIFF, V. BRISTOL-MYERS CO., ET AL., DEFENDANTS

Hearing on February 28, 1979

The Court (U.S. District Court for the District of Columbia) now has before it the proposed consent decree which would terminate this antitrust litigation with respect to the suit of the United States against the Beecham defendants. The proposed decree and the government's competitive impact statement have been published in the FEDERAL REGISTER, and the statutory period for the receipt of written comments from the public has now elapsed. The Court has stated that it intends to proceed to a prompt determination of whether the entry of the proposed judgment is in the public interest.

The Court has ordered that a hearing be held concerning the above-mentioned proposal, beginning at 9:30 a.m. on February 28, 1979, in Courtroom 11, United States Courthouse, Third and Constitution NW., Washington, D.C. The Court has further ordered that, by February 9, 1979, any person who so desires shall file with the Court any proposals concerning the order of procedure at the hearing of February 28, 1979, including the names of any witnesses they wish to call and any additional papers concerning the proposed judgment.

This Notice appears by order of the Court.

Dated: January 23, 1979.

CHARLES F. B. MCALEER,
Special Assistant for Judgment Negotiations.

[FR Doc. 79-3233 Filed 1-30-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 24, 1979 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of the Census
April. 1979 Current Population Survey Alimony and Child Support Supplement
CPS-260
Single-time
Eligible interviewed households
28,000 responses; 1,166 hours
Office of Federal Statistical Policy & Standard, 673-7974

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration
Highway Performance Monitoring System
FHWA-1501, FHWA-15011
Other (See; SF-83)
State Highway Agencies
52 responses; 98,800 hours
Geiger, Susan B., 395-5867

EXTENSIONS

NATIONAL SCIENCE FOUNDATION

Students views on careers

Annually
Students
9,000 responses; 900 hours
Laverne V. Collins, 395-3214

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service
Employment questionnaire
I-314
On occasion
Off. or fac. which employ aliens
5,000 responses; 833 hours
Laverne V. Colins, 395-3214

Immigration and Naturalization Service
Report of alien person institutionalized
G-340
On occasion
Correctional institu., hosp. & sanitar.
6,000 responses; 1,500 hours
Laverne V. Collins, 395-3214

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration
Regulations for Application under Section 505 of the 4R Act of 1976
On occasion
Class 1 & 2 railroads
200 responses; 7,000 hours
Geiger, Susan B., 395-5867

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 79-3173 Filed 1-30-79; 8:45 am]

[4310-70-M]

PRESIDENT'S COMMISSION ON THE HOLOCAUST

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the President's Commission on the Holocaust will be held at 11 a.m. on Thursday, February 15, 1979 in the Conference Room, (Room 308), Old Executive Office Building, 17th and Pennsylvania Ave., N.W., Washington, D.C. 20500.

The Commission was established by Executive Order 12093, November 1, 1978, to submit a report to the President and the Secretary of the Interior containing its recommendations with respect to the establishment and maintenance of an appropriate memorial to those who perished in the Holocaust. Also, the Commission's report shall examine the feasibility of obtaining funds for creation and maintenance of the Memorial through contributions by the American people. Further, the Commission shall recommend appropriate ways for the Nation to commemorate April 28 and 29, 1979, which the Congress has resolved shall be "Days of Remembrance of Victims of the Holocaust."

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Those wishing to attend on a first-come, first-serve basis should notify in writing no later than February 7, 1979, Dr. Michael Berenbaum, Deputy Director, President's Commission on the Holocaust, Suite 7233, 726 Jackson Place, N.W. Washington, D.C. 20503 of their intention to attend. Any person may file with the Commission a written statement concerning the matters to be discussed. Persons who wish to file a written statement or who want further information concerning the meeting may contact Dr. Berenbaum at 202-395-7343. The proceedings will be transcribed and the transcripts will be available for public inspection two weeks after the meeting.

Dated: January 25, 1979.

DR. MICHAEL BERENBAUM,
Deputy Director.

[FR Doc. 79-3203 Filed 1-30-79; 8:45 am]

[7905-01-M]

RAILROAD RETIREMENT BOARD

SIGNIFICANT REGULATIONS UNDER DEVELOPMENT OR REVIEW

Semi-annual Agenda

AGENCY: Railroad Retirement Board.

ACTION: Semi-annual agenda of significant regulations under development or review.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

E. E. Koch, Chief Executive Officer, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

In accordance with Executive Order 12044, the Railroad Retirement Board hereby publishes its semi-annual agenda of significant regulations under development or review.

At the present time there are no completely new significant regulations or rules under development or scheduled for development by the Railroad Retirement Board. However, as the Board states in its report under Executive Order 12044, a review and revision of existing regulations has been commenced by this agency. The initial thrust of this project will center on the regulations issued by the Board under the Railroad Retirement Act. The Railroad Retirement Act of 1937, under which the majority of the current regulations was promulgated, was replaced by the Railroad Retirement Act of 1974, effective January 1, 1975, and accordingly there is a need to update the regulations. The parts of the current regulations which will be included in the initial segment of the review and revision project are as follows:

Part 208—Eligibility for an annuity
Part 225—Computation of annuity
Part 232—Spouse's annuities
Part 237—Insurance annuities and lump sums for survivors
Part 238—Residual lump-sum payments

Information concerning the status of the review and revision of the above listed parts of the Board's regulations may be obtained by contacting Mr. Dale G. Zimmerman, General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611, telephone number 312-751-4935 (FTS 387-4935).

By Authority of the Board.

Dated: January 16, 1979.

R. F. BUTLER
Secretary of the Board.

[FR Doc. 79-2630 Filed 1-30-79; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 15511; Filed No. 4-281]

AMERICAN STOCK EXCHANGE, INC. ET AL.

Application; Temporary Order

JANUARY 24, 1979.

In the Matter of American Stock Exchange, Inc., Boston Stock Exchange, Inc., Midwest Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., and Philadelphia Stock Exchange, Inc.; Temp.

Notice is hereby given that the Securities and Exchange Commission has issued an order, pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934 (the "Act"), extending the authorization to certain self-regulatory organizations to act jointly, in accordance with the terms of a plan, as amended, with respect to matters as to which they share authority under the Act in planning, developing, operating and regulating a national market facility consisting of a consolidated quotation system (the "quotation system"). The order conditionally authorizes those self-regulatory organizations to continue implementing that facility on a temporary basis for a period of twelve months as a means of facilitating a national market system in accordance with the requirements of Section 11A of the Act.[1]

INTRODUCTION AND BACKGROUND

On January 26, 1978, the Commission adopted Rule 11Ac1-1 (the "Rule") under the Act which requires

[1] The temporary authorization granted herein includes not only the specific self-regulatory organization named above, but also any other self-regulatory organizations which agrees to become a participant in the quotation system by subscribing to the CQ Plan.

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that every national securities exchange ("exchange") and national securities association ("association") establish and maintain procedures to collect, process and make available to vendors quotations (including size) in reported securities (*i.e.*, securities as to which last sale information is reported in the consolidated transaction reporting system ("consolidated system")).[2] Although the Rule does not require the self-regulatory organizations to implement the Rule on a joint basis, in the release announcing the adoption of the Rule the Commission encouraged the self-regulatory organizations to act jointly to implement the Rule. In response to the Commission's encouragement, on July 25, 1978, the New York Stock Exchange, Inc. ("NYSE") and the American Stock Exchange, Inc. ("Amex") filed with the Commission a "Plan for the Purpose of Implementing Rule 11Ac1-1 under the Securities Exchange Act of 1934" ("CQ Plan" or "Plan"). The CQ Plan (i) establishes joint procedures to govern the collection, processing and dissemination of quotation information by the participating market centers, (ii) provides for selection and evaluation of an exclusive processor to collect quotation information from participants and to make that information available to quotation vendors in a single data stream, and (iii) establishes fees relating to the receipt of quotation information.

On July 28, 1978, the Commission issued a temporary order (the "CQ Order") pursuant to Section 11A(a)(3)(B) of the Act, authorizing any self-regulatory organization executing the Plan[3] (collectively, "participants") to act jointly in accordance with the terms of the Plan in operating and regulating the quotation system. The authorization was, however, conditioned on the participants not implementing that provision of the Plan proscribing the furnishing of quotation information with respect to any reported security which is the subject of a regulatory halt initiated by the "primary" market for that security.

Prior to August 1, 1978, the effective date of the Rule, the NYSE, Amex, Boston Stock Exchange, Inc., Midwest Stock Exchange, Inc., Pacific Stock Exchange, Inc. and Philadelphia Stock Exchange, Inc. executed the CQ Plan. In addition, on January 5, 1979, the participants filed amendments to the Plan contemplating the inclusion of the National Association of Securities Dealers, Inc. ("NASD") as well as certain other substantive concerns. A complete copy of the Plan, as amended, and all comments received with respect thereto are available for public inspection at the Commission's Public Reference Room, Room 6101, 110 L Street, N.W., Washington, D.C.[4]

DISCUSSION OF THE COMMENTS AND THE CQ PLAN AMENDMENTS

In the CQ Order, the Commission solicited public comment on the CQ Plan concerning: (i) the dissemination of quotations during regulatory halts; (ii) the proposed fee schedules for receipt of quotation information disseminated pursuant to the CQ Plan; (iii) the time parameters within which participants are expected to collect quotation information and transmit that information to the processor; and (iv) the provisions concerning the proposed voting arrangements and allocation of revenues. Only the NYSE has submitted comments to the Commission on the CQ Plan.[5]

(A) REGULATORY HALTS

The terms of the CQ Plan provide that, during regulatory halt in a security, called by the "primary" market for that security, all participants must cease communicating quotation information in that security to the CQ Plan processor. Since Rule 11Ac1-1 requires the dissemination of quotations whenever a reported a reported security is traded[6] and because market centers other than the "primary" exchange markets lack alternative facilities to disseminate quotations to vendors during such a regulatory halt, the practical effect of this provision would be to require every participant to halt trading during the pendency of any regulatory halt initiated by the "primary" market.

The Commission indicated in the CQ Order that the regulatory halt provision of the Plan raises legal and policy questions with respect to the appropriateness of halting all trading during a regulatory halt initiated by one market center which we do not believe should be resolved in the context of the approval to the CQ Plan. In addition, because the practical effect of the provision would be to prevent all trading by participating market centers during a regulatory halt initiated by the "primary" market, and, in particular, would prevent any market center from resuming trading after such a halt is initiated and before the "primary" market determines that the regulatory problem giving rise to the halt has been resolved, the implementation of the regulatory halt provision may impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Accordingly, the Commission determined that its temporary order approving implementation of the Plan should be conditioned on the participants not implementing that provision of the Plan which prohibits the dissemination of quotation information for any reported security by any participant during a regulatory halt initiated by the "primary" market with respect to such security.

In its comment letter, the NYSE[7] asserted that the CQ Plan regulatory halt provision furthers the maintenance of a fair and orderly market by prohibiting the dissemination of quotation information when a regulatory problem with respect to a security exists such that the public should not be encouraged to trade such security (*e.g.*, the imminent disclosure of material information concerning such security). The NYSE argued that granting the self-regulatory organizations, particularly the "primary" market, the authority to call regulatory halts permits such halts to be imposed promptly and monitored closely. Furthermore, in the NYSE's view, any potential for abuse would be diminished by the Commission's plenary power to terminate a regulatory halt at such time as the Commission determined that the halt was no longer necessary.

The Commission believes that the regulatory halt provision raises significant concerns. First, the implementation of the provision may have anti-competitive effects on the regional exchanges and the third market, since those markets not only would be required to suspend trading when the NYSE called a regulatory halt, but could not recommence trading until after the NYSE determined that the regulatory concern which had given rise to the halt had been resolved. Second, as a matter of regulatory policy, the provision would, in effect, delegate to the "primary" market for a particular security the power to halt all trading in that security in a manner which may be contrary to the scheme of self-regulation created by the Act. For the foregoing reasons, the Commission has determined to continue to condition its temporary authorization of the CQ Plan on the participants not implementing the regulatory halt provision and hereby requests the CQ Plan participants to execute and file amendments to the Plan eliminating this provision. The Commission's decision to condition its approval of the CQ Plan should not be

[2] Securities Exchange Act Release No. 14415 (January 26, 1978), 43 FR 4342.

[3] Securities Exchange Act Release No. 15009 (July 28, 1979) fn. 1, 43 FR 34851. In addition to the NYSE and Amex, the following self-regulatory organizations have executed the CQ Plan to date: Boston Stock Exchange, Inc., Pacific Stock Exchange, Inc., Philadelphia Stock Exchange, Inc., Midwest Stock Exchange, Inc., and the National Association of Securities Dealers, Inc.

[4] *See* File No. 4-281.

[5] *See* Letter from James E. Buck, Secretary, NYSE, dated September 29, 1978 (the "NYSE Letter").

[6] Rule 11Ac1-1(b)(1).

[7] *See* NYSE Letter, at 1-8.

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construed as a determination that it is not appropriate to delegate to a single self-regulatory organization the authority to initiate and terminate a nation-wide suspension of trading for regulatory reasons. If two or more CQ Plan participants wish to allocate this responsibility to one self-regulatory organization, a plan specifically accomplishing this may be filed pursuant to Rule 17d-2 under the act for appropriate consideration by the Commission under Section 17(d) of the Act.[9] However, we believe that the temporary extension of the CQ Order is not the appropriate context in which to address the generic question of regulatory halt allocation.

(B) FEES FOR CONSOLIDATED QUOTATIONS

The CQ Plan establishes a fee schedule for subscription to consolidated quotation information which creates a permanent two-tier structure for Network A and Network B quotations.[9] Under the two-tier structure, subscribers to either network who are members of a participant are charged a lower fee than are subscribers who are not members of participants.[10] In the case of Network A, the rate for subscribers who are not members of participants is more than 50% higher than the rate for members of participants. For Network B, the disparity is approximately 8%. In addition, for a period of six years,[11] commencing on August 1, 1978, NYSE members subscribing to Network A are charged a fee which is lower than the fee charged to members of other participants.[12]

[9]Rule 17d-2 establishes procedures for filing such a plan.

[9]Network A reports transactions in NYSE-listed securities which occur on any of the participating exchanges, in the "third market," or through the Institutional Networks Corporation. Network B reports transactions in Amex and certain regional exchange listed securities.

[10]Currently, this category of other subscribers includes brokers and dealers who are members of the Cincinnati, Intermountain or Spokane Stock Exchanges and no other self-regulatory organization, broker-dealers registered under Section 15(b) of the Act (SECO brokers) and institutional and private investors.

[11]At the conclusion of the six year period, the fee structure for members of all participating market centers would be identical.

[12]With respect to fees charged to participants, the CQ Plan states that no charge shall be made to any participating market center for receiving any quotation information service provided that (a) such information is furnished at the premises occupied solely by such market center or on the trading floor(s) of such center; (b) such information is used by such center for regulatory and surveillance purposes or for any other purposes specifically approved; and (c) such information is not made available to any person not located on such premises or trading floors. We understand that, pursuant to this provision, the quotation information displayed on participating exchanges, either by means of overhead displays or on interrogation devices generally available to members on the floor of the exchange, is provided without charge.

According to the NYSE, the CQ Plan was established on a "full cost recovery" allocation basis which would eventually result in a rate structure which is identical for all members of participants. The NYSE argues that the six year period in which members of the NYSE and members of other participants are charged differing rates is necessary to avoid a substantial one-time rate increase for NYSE members. In addition, the NYSE argues that the disparity of rates between members of participating market centers and persons who are not such members is justified by the payment of exchange membership fees which provide an additional indirect contribution to the overall maintenance of the operation of a participant.

While the Commission supports the continuation of the efforts by participants to collect and process quotation information and to disseminate such information in a consolidated data stream under the CQ Plan, the Commission believes that the fee structure established by the Plan, particularly the disparate treatment accorded various recipients of quotation information, must be further explored before the Commission can determine whether it is consistent wth the purposes of the Act.

NASD PARTICIPATION AND THE AMENDMENTS TO THE CQ PLAN

In connection with the NASD's recent agreement to disseminate third market quotations through the CQ Plan data stream, the NASD and other participants have agreed to certain amendments to the CQ Plan. These amendments provide for (i) the creation of a CQ Network C (to be administered by the NASD) for unlisted NASDAQ securities which are ultimately designated by the Commission as "qualified" for inclusion in the national market system and for which the dissemination of quotation information is required, (ii) the sharing of expenses for processing and disseminating quotation information between the hours of 9:30 a.m. and 6:30 p.m., eastern time;[13] (iii) the validation of the quotation information format by the CQ Plan processor;[14] and (iv) the dissemination of symbols accompanying third market quotations identifying the broker or dealer responsible for such quotations. The Commission does not object to the inclusion of these amendments in the CQ Plan and its authorization to act in accordance with the terms of the Plan extends to these amendments.

[13]The CQ Plan presently requires sharing CQ Plan expenses incurred between the hours of 9:30 a.m. and 4:15 p.m., eastern time. Prior to the amendment, any participant wishing to disseminate quotations at other times (*e.g.*, the PSE) incurred additional charges.

[14]Validation of quotation information permits the CQ Plan processor to reject any quotations which have been garbled in transmission.

CONDITIONAL NATURE OF ORDER

In determining to extend temporary approval of the CQ Plan, as amended, the Commission believes that the consolidated quotation data stream contemplated by the Plan provides an appropriate basis for the creation of a consolidated quotation system—an essential element of a national market system. As a general matter, the Commission continues to support the cooperative effort of the participants and encourages their efforts to resolve individual differences in making progress toward a national market system.

The Commission has determined to extend for a period of 12 months the authorization to the participants to collect, process and make available quotation information in a consolidated data stream pursuant to the terms of the Plan, as amended, conditioned again on the participants not implementing the regulatory halt provision in the Plan. During that time, the Commission intends to monitor the implementation of the Plan by the participants and to explore the Plan fee structure such that, at the conclusion of the 12 month period, it may determine whether to issue an order authorizing the participants to act jointly in implementing the Plan, as amended, on a permanent basis.

Notice is hereby given that any interested person may submit written views, data and arguments with respect to the Plan, as amended, not later than September 30, 1979. Persons wishing to make such submissions should file six copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. 4-281 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C.

It is hereby ordered, pursuant to Section 11A(a)(3)(B) of the Act, that, subject to the terms and conditions described above, the self-regulatory organizations named above (and any other self-regulatory organization which agrees to be a participant in the CQ Plan) are authorized for 12 months from the date of this order to act jointly in planning, developing, operating or regulating the quotation system in accordance with the terms of the CQ Plan, as amended.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-3174 Filed 1-30-79; 8:45 am]

[8010-01-M]

[Rel. No. 10565; 812-4395]

ASHLAND COAL AND COKE CO. ET AL.

Application for an order declaring that companies are not investment companies or, alternatively, for an order exempting companies from all provisions of the Investment Company Act

Notice is hereby given that Ashland Coal and Coke Company, Poplar Creek Development Company, and Sovereign Pocahantas Company ("Applicants"), 525 Federal Street, Bluefield, West Virginia 24701, have filed an application on November 20, 1978, and an amendment thereto on January 11, 1979, pursuant to Section 3(b)(2) of the Investment Company Act of 1940 ("Act"), for an order of the Commission declaring that Applicants are not investment companies, or, alternatively, for an order pursuant to Section 6(c) of the Act exempting Applicants from all provisions of the Act, terminating by its terms upon the earlier of December 31, 1979, or consummation of the reorganization referred to below. All interested persons are referred to the application and amendment filed with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant Ashland Coal and Coke Company ("Ashland CCC") is a West Virginia corporation incorporated in 1892. Applicant Poplar Creek Development Company ("Poplar Creek") is a West Virginia Corporation incorporated in 1953. Applicant Sovereign Pocahantas Company ("Sovereign Pocahantas") is a West Virginia corporation incorporated in 1929. None of the Applicants is now or has ever been registered as an investment company under the Act.

The application states that each of the Applicants is a member of a group of companies referred to in the application as the Ashland Group, consisting of the three Applicants and five other companies, all of which are engaged in the production of bituminous coal and related businesses in the Virginia, West Virginia and Kentucky region. In combination, the three Applicants own approximately 54% of the outstanding stock of one these companies, Harman Mining Corporation; in excess of 90% of Fairfax Coal Company; approximately 30% of Sovereign Coal Corporation, the balance of which is owned by another company, Ashland Mining Corporation; and slightly in excess of 20% of Majestic Collieries Company. All the outstanding stock of Applicant Sovereign Pocahantas is owned by Applicants Ashland CCC and Poplar Creek. Applicant Ashland CCC also owns approximately 20% of Applicant Poplar Creek.

The application states that Applicants have existed as a part of the Ashland Group in their present organizational structure since 1953 (although Harman Mining did not become a part of the Ashland Group until 1954). Until 1953, all members of the Ashland Group (consisting up to that time, among present companies, only of Ashland CCC, Majestic Collieries, sovereign Pocahantas, Sovereign Coal and Fairfax Coal) were principally engaged directly in the business of bituminous coal production and marketing. In 1953, as a result of poor economic conditions then prevailing in the coal industry, Ashland CCC and Poplar Creek were organized as holding companies for all non-mining assets previously held by Ashland CCC and Majestic Collieries. As a result of the 1953 reorganization, more than 40% of the total assets (less cash and government securities) of Ashland CCC and Poplar Creek came to consist of "investment securities". The application states that the bulk of these "investment securities" consisted of other Ashland Group holdings. Also, as a result of the improvment in the financial position of the operating companies in the Ashland Group, the "investment securities" of sovereign Pocahantas have, in recent years, exceeded 40% of its total assets (less cash and government securities).

The application states that, to the best knowledge of Applicants' management, at no time prior to September, 1978, was the attention of any officer, director or other person responsible for the management and affairs of Applicants ever called to the provisions of the Act. The application states, however, that Applicants believe that each Applicant has at all times qualified for the exemption contained in Section 3(b)(2) of the Act had it applied to the Commission for such an exemption. Additionally, the application states the belief of Ashland CCC that, until some time into the 1960's, it was exempt from all provisions of the Act by virtue of the exemption in Section 3(c)(1) thereof. As of the date of filing the application, the record shareholders of Poplar Creek and Ashland CCC numbered on the order of 105 and 112, respectively. The application also states that Applicant Sovereign Pocahantas is, and at all times relevant to the application has been, exempt by virtue of the provisions of Section 3(b)(1) thereof. In this connection, the application states that at all times up to the date of the application Sovereign Pocahantas' principal business activity has been the marketing of bituminous coal.

The application further states that the shareholders owning Applicant Ashland CCC and Poplar Creek substantially overlap. A similar overlap among substantially the same shareholders exists as to Ashland Mining and Majestic Collieries. Additionally, the application states that three families of persons associated with the Applicants and other related companies either from their organization, or as early shareholders, still control in excess of 50% of the capital stock of Ashland CCC and, when combined with Ashland CCC's holdings in Poplar Creek, in excess of 50% of Poplar Creek. The application further states that the boards of directors and management of the Applicants and other members of the Ashland Group are, and have been for many years prior to 1953, virtually identical. In 1977, 7 of Ashland CCC's 9 directors served as directors of Majestic Collieries, Ashland Mining, and Poplar Creek. No persons serve as directors or principal officers of Sovereign Pocahantas, Sovereign Coal or Fairfax Coal who do not also serve in comparable positions with either Ashland CCC or Poplar Creek. Additionally, the application states that many administrative, legal, accounting, insurance and other services and expenses are shared by members of the Ashland Group. Technical engineering services are provided by Poplar Creek to other members of the Ashland Group.

The application further states, in view of their longstanding historical relationship, the substantial existing and historical overlap among shareholders, the extensive intercompany stockholdings, the virtually identical boards of directors and officers, and the practice of sharing expenses and services among and between the Applicants and other members of the Ashland Group, that the Applicants individually and collectively should be deemed in control of other members of the Ashland Group under the standards set by § 2(a)(9) of the Act. That section states that a person shall be deemed in "control" of another person if it has the power to exercise a controlling influence over the management and policies of such other person.

Applicants represent that "investment securities", calulated at five year intervals, beginning in 1962, other than those of Ashland Group companies do not appear to have exceeded 23% in any year for Ashland CCC, 42% for Poplar Creek, or 12% for Sovereign Pocahantas, without regard to coal reserves which Applicants believe repre-

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sent substantial asset values. Additionally, Applicants represent that calculations of the various revenue categories for each Applicant for the same five year intervals indicate that combined revenue from noninvestment sources and controlled companies has consitituted more than 60% of total revenues in all years in question.

Applicants claim that they have at all times relevant to the application consistently conducted themselves as companies engaged in a non-investment business or businesses through majority-owned or controlled companies or both; and that Sovereign Pocahantas Company has at all times relevant to the application consistently conducted and represented itself as a company primarily engaged directly in the operation of a business other than that of investing, reinvesting, owning, holding, or trading in securities. It is further asserted that Applicants' shareholders have acquired and retained their investments on the basis of the Applicants being companies of that character; Applicants have never offered their securities to the public; and that transfers of Applicants' shares only occur at isolated intervals and then largely as a result of bequests or legacies.

Section 3(a)(3) of the Act defines an investment company as any issuer which is engaged, or proposes to engage, in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Section 3(b)(2) of the Act, however, excepts from the definition of an investment company any issuer which the Commission finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities, either directly or (a) through majority-owned subsidiaries or (b) through controlled companies conducting similar types of businesses.

For the reasons set forth above, Applicant contend that they are entitled to an order of the Commission under Section 3(b)(2) of the Act, finding and declaring that Applicants are primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities through majority-owned subsidiaries or through controlled companies conducting similar types of businesses, and that Applicants are not investment companies.

Alternatively, Applicants contend that they meet the requirements of Section 6(c) of the Act and are entitled to an exemption from all the provisions of the Act pursuant to Section 6(c). Applicants have consented that the entry of an exemptive order pursuant to Section 6(c) will terminate by its terms upon the earlier of December 31, 1979, or consummation of a proposed plan of reorganization involving all three Applicants as well as all the related Ashland Group operating companies. The primary purpose of the proposed reorganization is to simplify and consolidate the various inter-company holdings now existing. Applicants have indicated that they are willing to assume full responsibility for reapplying to the Commission for appropriate exemptive orders from the Act in the event the Commission or any of the companies concludes such action is necessary or advisable in light of the final details of the reorganization.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person or transaction from any provision or provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than February 16, 1979 at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-3175 Filed 1-30-79; 8:45 am]

[8010-01-M]

[Release No. 20898; 70-6135]

GEORGIA POWER CO. AND PIEDMONT-FORREST CORP.

Post-Effective Amendment Regarding Extension of Period for Advances to Newly-Organized Property Company

Notice is hereby given that Georgia Power Company ("Georgia"), a wholly-owned electric utility subsidiary of The Southern Company, a registered holding company, and Piedmont-Forrest Corporation ("Property Company"), a new Georgia business corporation and a subsidiary of Georgia, 270 Peachtree Street NW., Atlanta, Georgia 30302, have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(a), 7, 9(a), 10, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By order in this proceeding dated April 14, 1978 (HCAR No. 20503), Georgia, among other things, was authorized to advance to Property Company up to $62,500,000 as and if necessary to permit Property Company to acquire the land for and cause to be constructed Phase I of a new office building complex for Georgia to be located in downtown Atlanta, Georgia.

Although the application-declaration and the order stated that the advances were for construction of a building to be completed in mid-1981, the application-declaration specified December 31, 1978, as the last date for making the advances and it was so ordered. By post-effective amendment, it is stated that this was an error and that the date should have been December 31, 1981.

Applicants-declarants request that the order of April 14, 1978, be amended accordingly, the amendment to be effective April 14, 1978, the date of the original order. Pending action on this post-effective amendment, Georgia will continue making advances to Property Company pursuant to the emergency provision of Rule 45(b)(3).

Notice is further given that any interested person may, not later than February 20, 1979, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 79-3176 Filed 1-30-79; 8:45 am]

[8010-01-M]

[File No. 1-4091]

HARTFIELD-ZODYS, INC.

Application to Withdraw Common Stock, Par Value $1.00 From Listing and Registration

JANUARY 23, 1979.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the AMERICAN STOCK EXCHANGE, INC ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Hartfield-Zodys, Inc. (the "Company") has been listed for trading on the Amex since November 25, 1957. On December 4, 1978, the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE") and concurrently therewith the stock was suspended from trading on the Amex. In making the decision to withdraw its stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining a dual listing on both exchanges. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for such stock.

The application relates solely to the withdrawal from listing on the Amex and shall have no effect upon the continued listing of such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before February 23, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D. C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-3177 Filed 1-30-79; 8:45 am]

[8010-01-M]

[Release No. 10566; 812-4407]

STATE MUTUAL LIFE ASSURANCE CO. OF AMERICA

Filing or Application for Order Permitting Proposed Acquisition of Certain Notes

Notice is hereby given that State Mutual Life Assurance Company of America ("Applicant"), 440 Lincoln Street, Worcester, Massachusetts 01605, a mutual life insurance company organized under the laws of Massachusetts, filed an application on December 11, 1978, for an order, pursuant to Section 17(d) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 thereunder, permitting Applicant to acquire $1,500,000 in principal amount of a new issue of 10-¼% Junior Subordinated Notes ("Notes") due in 1994 of Northwest Acceptance Corporation ("Northwest"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is the investment adviser of State Mutual Securities, Inc. ("Investment Company"), a closed-end investment company registered under the Act. Applicant states that it has made a commitment to purchase at direct, placement $1,500,000 principal amount of a new issue of 10-¼% Notes due 1994 of Northwest. Applicant and the Investment Company each currently hold $875,000, principal amount of 8-¾% Senior Subordinated Notes due 1988 of Northwest ("8-¾% Senior Notes") issued by Northwest in February and June, 1974. In addition, Applicant owns the following issues of Northwest: (a) $900,000 of 9% Senior Subordinated Notes due 1987 ("9% Senior Notes"), and (b) $500,000 of 7½% Senior Subordinated Notes due 1983 ("7½% Senior Notes"). The 9% and 7½% Senior Notes were acquired by Applicant in 1978 as a result of the merger of Northwest and Union Investment Company.

Pursuant to an order of the Commission issued on February 12, 1973 (Investment Company Act Release No. 7665), corrected on February 27, 1973 (Investment Company Act Release No. 7698) and amended by an order issued on July 28, 1976 (Investment Company Act Release No. 9371) (collectively referred to as the "Order"), Applicant is permitted to invest concurrently in each issue of securities purchased by Investment Company at direct placement in an amount equal to that invested in such issue by Investment Company and to exercise warrants, conversion privileges and other rights at the same time and in the same amount as Investment Company. The Order is subject to several conditions, one being that once the Applicant and the Investment Company have acquired interest in an issuer, neither Applicant nor the Investment Company, unless otherwise permitted by the order of the Commission, may acquire any further interest in such issuer or in any affiliated person of such issuer, or in securities issued by such issuer or affiliated person, other than interests in all respects identical. Applicant asserts that because the Investment Company will not acquire any of the Notes, Applicant may not purchase the Notes unless it first obtains an order of the Commission specifically permitting such purchase. Accordingly, Applicant's commitment is subject to the prior issuance of an order by the Commission permitting such purchase.

Section 17(d) of the Act and Rule 17d-1 thereunder provide that it is unlawful for an affiliated person of a registered investment company, acting as principal, to effect any transaction in which such investment company is a joint participant, without the permission of the Commission. Rule 17d-1

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provides, in pertinent part, that in passing upon applications for orders granting such permission, the Commission will consider whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies, and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Accordingly, Applicant has requested an order, pursuant to Section 17(d) of the Act and Rule 17d-1, permitting Applicant to acquire $1,500,000 in principal amount of the Notes, notwithstanding the present ownership by Applicant and the Investment Company of the 8-⅝% Senior Notes.

Applicant represents that the proposed acquisition of Notes is in no way connected with the sale of the 8-⅝% Senior Notes to Applicant and the Investment Company in 1974 or the acquisition by Applicant of the 9% and 7-½% Senior Notes other than by virtue of the fact that Applicant's acquisition of these securities continued a business relationship with Northwest which commenced in 1974. Applicant states that neither it nor the Investment Company is an affiliated person, as defined in Section 2(a)(3) of the Act, of Northwest or an affiliated person of an affiliated person of Northwest.

Applicant asserts that Northwest will be receiving significant new value in consideration for issuing the Notes, the total issue of which is expected to be $10,000,000, and that a substantial portion of the proceeds received from the sale of the Notes will be used to repay presently outstanding short-term debts owed to banks and will result in an increase of Northwest's capital base. Applicant further asserts that the Notes will reduce Northwest's reliance upon prime-sensitive short-term debt and will, in effect, extend the final maturity of such refinanced bank debt until 1994 (the maturity date of the Notes). Applicant represents that the Notes will rank junior in priority and right of payment to the 8-⅝% Senior Notes and that the 8-⅝% Senior Notes will mature prior to the Notes. According to the application, the proposed purchase of the Notes by Applicant will not materially affect Northwest's ability to meet its obligation to the Investment Company on the 8-⅝% Senior Notes. Also, the Notes will provide Northwest with improved financing capability and flexibility and are non-refundable from lower cost borrowings for a 10-year period (which is beyond the maturity of the 8-⅝% Senior Notes), at which time the Notes may be prepaid only at a premium declining in equal annual increments from 10-½% in 1979 to par in 1994. Applicant states that voluntary prepayment of the Notes prior to the maturity of the 8-⅝% Senior Notes is an unlikely event.

Applicant submits that its proposed acquisition of the Notes is not disadvantageous to the Investment Company and is consistent with the provisions, policies, and purposes of the Act. Applicant asserts that the Notes are not an appropriate investment for the Investment Company and that the Investment Company's Board of Directors has voted to decline participation in the proposed acquisition of the Notes because the 10-½% yield on the Notes is inadequate for the Investment Company at this time in view of the junior subordinated status of the Notes and yields available from comparable unrestricted debt securities. However, in the judgment of the Applicant the Notes would be an attractive investment for it to acquire. Moreover, Applicant asserts that it would be disadvantaged if it is not permitted to acquire a portion of the Notes.

Notice is further given that any interested person may, not later than February 20, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-3178 Filed 1-30-79; 8:45 am]

[8010-01-M]

File No. 1-5864]

VAN DORN CO.

Application To Withdraw Common Shares, No Par Value From Listing and Registration

JANUARY 23, 1979.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the AMERICAN STOCK EXCHANGE, INC. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common shares of Van Dorn Company (the "Company") have been listed for trading on the Amex since February 25, 1969. On January 11, 1979, the shares were also listed for trading on the New York Stock Exchange, Inc. ("NYSE") and concurrently therewith such shares were suspended from trading on the Amex. In making the decision to withdraw its stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining a dual listing on both exchanges. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for such stock.

The application relates solely to the withdrawal from listing on the Amex and shall have no effect upon the continued listing of such shares on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before February 23, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-3179 Filed 1-30-79; 8:45 am]

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[File No. 81-455]

AMERICAN TELECOMMUNICATIONS CORP.

Application and Opportunity for Hearing

JANUARY 24, 1979.

Notice is hereby given that American Telecommunications Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting Applicant from the provisions of Sections 13 and 15(d) of that Act.

The Application states, in part:

1. The Applicant became subject to the periodic reporting requirements of Section 15(d) of the 1934 Act for its common stock in 1971.

2. Applicant's registration under Section 12(g) of the 1934 Act, effective in 1972, was terminated on December 14, 1978.

3. On December 1, 1978, the Applicant was merged into a subsidiary of General Dynamics Corporation ("GD") which is a reporting company under the 1934 Act.

4. As a result of the merger, the Applicant has only one shareholder General Dynamics.

In the absence of an exemption, Applicant would be required to file a report on Form 10-K for the period ended December 31, 1978. Applicant believes that its request for an order exempting it from the reporting provisions of Sections 13 and 15(d) of the 1934 Act is appropriate in view of the facts that it is now a wholly owned subsidiary and has no publicly held securities, there is no trading market for any of its securities, the time effort and expense involved in preparation of the report would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 1100 L St., N.W., Washington, D.C. 20549.

Notice is further given that any interested person, not later than February 20, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capital Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person sumbitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-3190 Filed 1-30-79; 8:45 am]

[8010-01-]

[File No. 81-444]

CAPITOL INDUSTRIES—EMI, INC.

Application and Opportunity for Hearing

JANUARY 24, 1979.

Notice is hereby given that Capitol Industries—EMI Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended. (the "1934 Act") seeking an exemption from the requirements to file reports pursuant to Sections 13 and 15(d) of the Exchange Act.

The Applicant states in part:

1. On October 20, 1978 the Applicant was merged into a successor Delaware Corporation. Pursuant to the merger the publicly held shares of Applicant were automatically converted into cash and Applicant became a wholly-owned subsidiary of EMI North America Holdings, Inc.

2. In the absence of an exemption, Applicant would be required to file pursuant to Sections 13 and 15(d) of the 1934 Act and the rules and regulations thereunder the required periodic reports until the end of the fiscal year ending June 30, 1979. Applicant believes that its request for an order exempting it from the provisions of Sections 13 and 15(d) of the 1934 Act is appropriate in view of the fact that the time, effort and expense involved in preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which may be examined at the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than February 20, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-3191 Filed 1-30-79; 8:45 am]

[8010-01-M]

[Release No. 34-15505; File No. SR-CBOE-78-36]

CHICAGO BOARD OPTIONS EXCHANGE, INC. (THE "CBOE" OR "EXCHANGE")

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 12, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would repeal Sections 7.3 and 7.4 of the CBOE Constitution which relate to the composition of the CBOE Appeals Committee and would substitute a new Rule 2.11. Presently, the Appeals Committee is composed of ten individuals, nine of whom are elected by the CBOE membership and one of whom is appointed by the Chairman of the CBOE Board of Directors. Of the nine elected individuals, at least three must own or directly control their memberships and be engaged primarily in off-floor activities. Under the proposed CBOE Rule 2.11, all members of the Appeals Committee would be appointed by the Chairman of the Board of Directors and without regard to their primary business activity.

PURPOSE OF THE PROPOSED RULE CHANGE

The CBOE states that the purpose of the changes to Sections 7.3 and 7.4 of the CBOE Constitution and of proposed Rule 2.11 is to make the Appeals Committee an appointive rather than an elective Committee. This change in selection procedure has been recommended by the CBOE Nominating Committee in view of the difficulty that the Committee had in finding suitable candidates willing to serve a three-year elective term.

BASIS UNDER THE ACT

The CBOE states that the basis under the Act for the proposed rules change is Section 6(b)(5) in that such rules change will facilitate provision of an appellate body to review any denial, prohibition or limitation by the Exchange of any person seeking membership, association with an Exchange member, access to services offered by the Exchange and will serve to protect investors and the public interest.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

No comments were solicited or received by the CBOE respecting the proposed rules change.

BURDEN ON COMPETITION

The Exchange does not believe the proposed rules change will impose any burden on competition.

On or before March 7, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing wil also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 21, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 18, 1979.

[FR Doc. 79-3196 Filed 1-30-79; 8:45 am]

[8010-01-M]

[File No. 81-433]

COMPAC CORP.

Application and Opportunity for Hearing

JANUARY 24, 1979.

Notice is Hereby Given that Compac Corporation, ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for exemption from the filing requirements of Sections 13 and 15(d) of the 1934 Act.

The Application states in part:

(1) The Applicant is a Delaware corporation subject to the reporting provisions of Sections 13 and 15(d) of the 1934 Act;

(2) As a result of a merger in November 1977, Applicant has only one common stockholder; and

(3) There is no public market for Applicant's securities.

In the absence of an exemption, Applicant is required to file certain reports with the Commission pursuant to Sections 13 and 15(d) of the 1934 Act, including an annual report on Form 10-K for the fiscal year ended September 30, 1978. Applicant argues that no useful purpose would be served in filing the required periodic reports.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the office of the Commission at 1100 L St., N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than February 20, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such, information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-3192 Filed 1-30-79; 8:45 am]

[8010-01-M]

[File No. 81-392]

DIAMOND COAL COMPANY, INC.

Application and Opportunity for Hearing

JANUARY 25,1979.

Notice is hereby given that Diamond Coal Company, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order granting Applicant an exemption from the provisions of Section 15(d) of the 1934 Act.

The Applicant states, in part:

1. On May 30, 1978, Applicant merged with and became a wholly-owned subsidiary of Transcontinental Oil Corporation. As a result of the merger, Applicant no longer has any publicly-owned common stock.

2. The Applicant has filed with the Commission a Form 10-Q for the period ended June 30, 1978 and a Form 8-K to reflect the merger.

Applicant argues that the granting of the exemption would not be consistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than February 20, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereto. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-3193 filed 1-30-79; 8:45 am]

[8010-01-M]

[File No. 81-385]

PEACHTREE DOORS, INC.

Application and Opportunity for Hearing

JANUARY 24, 1979.

Notice is hereby given that Peachtree Doors, Inc. (the "Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), for an order exempting the Applicant from the reporting requirements of Section 15(d) of the Exchange Act.

The Applicant states, in part:

1. Pursuant to a statutory merger effected on March 23, 1978, a wholly owned subsidiary of Indal, Inc. was merged with and into Applicant. As a result of this merger, Applicant is now wholly owned by Indal, Inc. and certain officers of Applicant, and no longer has any public shareholders.

2. Audited financial statements for Applicant for its fiscal year ended September 30, 1977 and unaudited financial statements for the 3 months ended December 31, 1977 were contained in the proxy statement sent to Applicant's shareholders in connection with the merger.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than February 20, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-3194 Filed 1-30-79; 8:45 am]

[8010-01-M]

[File No. 7-5068]

UNION GAS LTD. COMMON STOCK, NPV CLASS A&B

Application for Termination of Unlisted Trading Privileges

JANUARY 25, 1979.

The above named issuer, an Ontario corporation, has submitted an application with the Securities and Exchange Commission, pursuant to Section 12(f)(4) of the Securities Exchange Act of 1934, 15 U.S.C. 78(1)(f)(4) (the "Act") and Rule 12f-3 thereunder, to terminate the unlisted trading privileges for the specified security on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for terminating the unlisted trading privileges include the following:

The common stock of Union Gas Limited ("Union Gas") has been traded on the Amex pursuant to unlisted trading privileges since August 15, 1931. The stock is also traded on the Toronto Stock Exchange. The aggregate number of issued common shares is approximately 18,000,000. Of that number, approximately 380,000 shares are held by individuals having addresses in the United States.[1] In 1978, only 19,800 shares of Union Gas common stock were traded on the Amex. Union Gas asserts that the increasing costs of maintaining unlisted trading privileges on the Amex are not justified by the limited traded volume. The common stock of Union Gas will continue to be traded on the Toronto Stock Exchange.

Any interested person may, on or before February 25, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the Commission should issue an order granting the Union Gas application. In accordance with Section 12(f)(4) of the Act, the Commission will issue an order terminating the unlisted trading privileges in the common stock of Union Gas on the Amex if the Commission finds that such is necessary or appropriate in the public interest or for the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-3195 Filed 1-30-79; 8:45 am]

[8010-01]

[Release No. 34-15534; File No. SR-NYSE-79-1]

NEW YORK STOCK EXCHANGE, INC. ("NYSE")

Self-Regulatory Organization; Proposed Rule Changes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 19, 1979, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change, and has submitted the following statements of the terms of substance and basis and purpose under the Act of the proposed rule change:

TERMS OF SUBSTANCE

The proposed amendment to NYSE Rule 410 would add a new paragraph (b) requiring members and member organizations executing orders for their own accounts in reliance upon Section 11(a)(1)(G) of the Act and Rule 11a1-1(T) [17 CFR 240.11a1-1(T)] thereunder to identify such orders in a manner that will enable the executing member to disclose to other members in the trading Crowd that the order is subject to the provisions of Section 11(a)(1)(G) of the Act and Rule 11a1-1(T) thereunder.

Proposed new Rule 90 mirrors Section 11(a)(1) of the Act by prohibiting a member or member organization from effecting a transaction in any security on the Exchange for his or its account, the account of an associated person, or an account with respect to which the member, member organization or an associated person thereof exercises investment discretion. The term "associated person" as contained in the Rule would have the same meaning as set forth in Section 3(a)(21) of the Act. Exempt from this prohibition are transactions effected pursuant to the exemptions contained in Section 11(a)(1) (A) through (H) of the Act, or a rule adopted thereunder.

The proposed new Rule also provides that no bid or offer made by a member on an order for the account of a member or member organization

[1] Union Gas has by mail notified each of its shareholders having addresses in the United States concerning its review of the need to maintain unlisted trading privileges on the Amex, and has invited comments thereon. Copies of responses received by Union Gas have been included in its application to the Commission.

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subject to Section 11(a)(1)(G) of the Act and Rule 11a1-1(T) thereunder shall be entitled to priority over, parity with, or precedence based on size over any order which is for the account of a person who is not a member, member organization or an associated person thereof.

When a member (other than the specialist in the security) is representing an order in the trading Crowd subject to Section 11(a)(1)(G) and Rule 11a1-1(T) thereunder, he must, immediately before executing such order, clearly announce or otherwise indicate to the specialist and other members present in the Crowd in the security that he is representing an order to be executed pursuant to these provisions.

STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed changes to NYSE Rule 410 and the adoption of proposed new NYSE Rule 90 is to conform NYSE rules to Section 11(a)(1) of the Act, when Section 11(a)(1) becomes applicable to all members of all securities exchanges on February 1, 1979.

The proposed rule changes relate to Section 6(b)(1) of the Securities Exchange Act of 1934 in that they would provide the Exchange with the capacity for it to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members with the Act and the rules and regulations thereunder.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGES

The Exchange has not solicited comments regarding the proposed rule changes and has received none.

BURDEN ON COMPETITION

The Exchange does not believe that the proposed rule changes will impose any burden on competition which is not necessary or appropriate in furtherance of the purposes of the Act.

In submitting the instant rule filing, the NYSE requests that the Commission order approval thereof prior to February 1, 1979, the date on which Section 11(a)(1) of the Act becomes fully effective as to all members of all national securities exchanges. To accomplish this, the NYSE suggests that the Commission accelerate approval upon a finding of good cause (and publication of the reasons for so finding) pursuant to Section 19(b)(2) of the Act. Although the Commission has determined at this time to publish notice of SR-NYSE-79-1 pursuant to Section 19(b)(1) of the Act, such action does not preclude the Commission's finding good cause to approve SR-NYSE-79-1 on an accelerated basis, on or before February 1, 1979.

On or before March 8, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 22, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 29, 1979.

[FR Doc. 79-3445 Filed 1-30-79; 8:45 am]

[8010-01]

[Release No. 34-15535; File No. SR-NYSE-79-2]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Changes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 19, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rules changes as follows:

NEW YORK STOCK EXCHANGE'S ("NYSE'S") STATEMENT OF THE TERMS OF SUBSTANCE OF PROPOSED RULES CHANGES

NYSE RULE 108

NYSE Rule 108 provides that no bid or offer made by a member on the Floor for a proprietary account to establish or increase a position may have parity or precedence based on size over a bid or offer made on an order originated off the Floor. The prohibition does not apply when a member is liquidating a position, and there are exemptions for: i) an odd-lot dealer in a stock in which he is registered to offset a position acquired as odd-lot dealer; ii) to offset a transaction made in error; and iii) for bona fide arbitrage.

(NOTE.—There is a fourth exemption—NYSE Rule 108(c)(4)—pursuant to a limit order given to the specialist in that stock. This exemption relates to orders given to specialists by competitive traders and is being rescinded as a "housekeeping" change in order to conform the Rule to Section 11(a)(1) of the Act.)

The proposed amendments to NYSE Rule 108 would permit a bid or offer made by a member on the floor for a proprietary account to establish or increase a position to have parity and precedence based on size over an order originated off the Floor which is executed in reliance upon Section 11(a)(1)(G) of the Act and Rule 11a1-1(T) [17 CFR 240.11a1-1(T)] thereunder.

NYSE RULE 112

NYSE Rule 112 contains competitive traders' restrictions, but also makes reference to restrictions on specialists. Competitive traders cannot have priority over, parity with or precedence based on size over an off-Floor order when establishing or increasing a position, and may not have precedence based on size when liquidating. Thus, as Rule 112 is worded today, a competitive trader can have priority over, or parity with an off-Floor order when liquidating. Since competitive traders will be trading in reliance on Section 11(a)(12)(G) and Rule 11a1-1(T) thereunder, which require that priority, parity and precedence based on size be yielded in all cases to orders of public customers, Rule 112 is inconsistent with Section 11(a)(1)(G) and Rule 11a1-1(T) thereunder and should be amended.

Three other changes have been made to Rule 112. The first change relates to the current provision that permits a competitive trader's order to have priority over, parity with and precedence based on size over off-Floor orders when the competitive trader's order is placed on the specialist's book. This provision would be inconsistent with Section 11(a)(1) and therefore should be amended.

The second change is intended to place the competitive trader on an equal footing with an off-Floor professional trading in reliance upon Section 11(a)(1)(G) and Rule 11(a)1-1(T) thereunder by permitting the competitive trader to have priority over, parity with and precedence based on size over a "G" order when establishing, increasing or liquidating a position, which is not always available to the competitive trader today.

The third change would, like the proposed amendment to 108, permit specialists to be on an equal footing with off-Floor professionals trading in reliance upon Section 11(a)(1)(G) and Rule 11(a)1-1(T) thereunder by letting specialists have parity with and precedence based on size over a "G" order when establishing or increasing a position.

NYSE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the proposed amendments to NYSE Rules 108 and 112 are as follows:

PURPOSE OF PROPOSED RULES CHANGES

On February 1, 1979, Section 11(a)(1) of the Act will become fully applicable to all members of all national securities exchanges. Orders for the accounts of members and member organizations entered pursuant to Section 11(a)(1)(G) and Rule 11a1-1(T) thereunder will have to be identified so that the member representing them in the market will know that he must yield priority, parity and precedence based on size to orders that are for the accounts of persons who are not members or associated with members. In varying degrees, NYSE Rules 108 and 112 restrict bids and offers of specialists, registered competitive market-makers and competitive traders from having priority, parity or precedence based on size over orders initiated off the Floor. The rules apply regardless of whether the off-Floor order is for a firm proprietary account or for a public customer. The restriction primarily applies when a member is establishing or increasing a position as opposed to liquidating a position.

This concept has been embodied in Exchange rules since 1945 when members were perceived as having a time-place trading advantage by reason of their physical presence on the Trading Floor that permitted them to respond to trading activity in a particular stock before the transaction appeared on the tape. Another consideration was that since orders were not identified as to account, a member handling an off-Floor order would not know what type of account the order was entered for. The effects of the restrictions contained in Rules 108 and 112 have been that:

(i) When establishing or increasing a position, specialists and registered competitive market-makers *can* retain priority, but *cannot* have parity with or precedence based on size over a member's proprietary off-Floor order;

(ii) When establishing or increasing a position, a competitive trader *cannot* have priority, parity or precedence based on size over a member's off-Floor proprietary order;

(iii) When liquidating, specialists and registered competitive market-makers *can* have priority, parity and precedence based on size over a member's off-Floor proprietary order; and

(iv) When liquidating, a competitive trader *can* have priority and parity, but *cannot* retain precedence based on size over a member's off-Floor proprietary order.

When taken together, Section 11(a)(1) of the Act and Exchange Rules 108 and 112 have the following effects on member's proprietary trading:

(i) Section 11(a)(1) and NYSE rules permit specialists, registered competitive market-makers and competitive traders to compete with each other on the Trading Floor.

(ii) Section (a)(1) permits specialists and registered competitive market-makers to compete with any type of off-Floor order but NYSE rules prohibit competition in certain cases.

(iii) Section 11(a)(1) permits a competitive trader to compete with any off-Floor professional, but not with a public customer. The NYSE rules make no such distinction, and prohibit a competitive trader from competing with any off-Floor order.

The proposed changes to NYSE Rules 108 and 112 would place the on-Floor professional on an equal footing with the orders of the off-Floor professional trading in reliance upon Section 11(a)(1)(G) and Rule 11a1-1(T). No changes are with respect to priority, parity and precedence proposed based on size *vis-a-vis* orders of public customers.

While it might be said that being present on the Floor gives a member a better "feel of the market," the off-Floor professional's communications systems provide him with up-to-the-minute news of world events and of market activity on various exchanges. Often, the off-Floor professional is able to make a trading decision based on information he receives and to effect a transaction more rapidly than the on-Floor professional.

STATUTORY BASIS FOR PROPOSED RULES CHANGES

The proposed amendments to NYSE Rules 108 and 112 relate to Sections 6(b)(1) and 6(b)(8) of the Act in that the amendments will: (i) provide the NYSE with the capacity for it to carry out the purposes of the Act and to comply and enforce compliance by its members and persons associated with its members with the Act and the rules and regulations thereunder; and (ii) ensure that the rules of the NYSE do not impose any burden on competition not necessary or appropriate in the furtherance of the purposes of the Act.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULES CHANGES

The NYSE has not solicited comments regarding the proposed rules changes and has received none.

BURDEN ON COMPETITION

The NYSE does not believe that the proposed changes to NYSE Rules 108 and 112 will impose any burden on competition which is not necessary or appropriate in furtherance of the purposes of the Act. In fact, the NYSE believes that the proposed changes will further competition between on-Floor and off-Floor professionals.

In submitting the instant rule filing, the NYSE requested that its proposed amendments to NYSE Rules 108 and 112 be approved on or before February 1, 1979, the date upon which Section 11(a)(1) of the Act and the rules promulgated thereunder become fully applicable to all exchange members. To accomplish this, the NYSE requests that the Commission accelerate approval of SR-NYSE-79-2 upon a finding of good cause (and publication of the reasons for so finding) pursuant to Section 19(b)(2) of the Act. Although the Commission has determined at this time to publish notice of SR-NYSE-79-2 pursuant to Section 19(b)(1) of the Act, such action does not preclude the Commission's finding good cause to approve SR-NYSE-79-2, on an accelerated basis, on or before February 1, 1979.

On or before March 8, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submis-

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sions should refer to the file number referenced in the caption above and should be submitted on or before February 22, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A FITZSIMMONS,
Secretary.

JANUARY 29, 1979.

[FR Doc. 79-3446 Filed 1-30-79; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

NATIONAL ADVISORY COUNCIL

Public Meeting

The Small Business Administration National Advisory Council will meet at 8:30 a.m. on Monday, February 26, 1979, at the Mayflower Hotel, 1127 Connecticut Avenue, N.W., Washington, D.C., to discuss such business as may be presented by members, the staff of the Small Business Administration, and others attending. The meeting will adjourn at 12:00 Noon, on Wednesday, February 28, 1979.

For further information, call K Drew, Deputy Advocate for Advisory Councils, U.S. Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, (202) 653-6748.

Dated: January 25, 1979.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-3197 Filed 1-30-79; 8:45 am]

[8025-01-M]

REGION VI ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of Houston, Texas, will hold a public meeting at 10:00 a.m., on Tuesday, March 6, 1979, in the Small Business Administration Conference Room, 500 Dallas, Suite 705, One Allen Center, Houston, Texas, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call John L. Carey, District Director, U.S. Small Business Administration, One Allen Center, Houston, Texas 77002—(713) 226-4897.

Dated: January 25, 1979.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc 79-3198 Filed 1-30-79; 8:45 am]

[8025-01-M]

REGION VI ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of Little Rock, Arkansas, will hold a public meeting at 1:00 p.m., Thursday, March 29, 1979, in Suite 900, Blue Cross-Blue Shield Building, 7th and Gaines Streets, Little Rock, Arkansas, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Maurice Britt, District Director, U.S. Small Business Administration, P.O. Box 1401, Little Rock, Arkansas 72203, (501) 378-5871.

Dated: January 25, 1979.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-3199 Filed 1-30-79; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

SUSPENSION OF LIQUIDATION UPON EXPIRATION OF COUNTERVAILING DUTY WAIVER AUTHORITY

Amendment of Appendix to Notice

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Amendment of notice.

SUMMARY: This notice amends the Appendix of the previously published "Notice of Suspension of Liquidation Upon Expiration of the Countervailing Duty Waiver Authority."

EFFECTIVE DATE: January 3, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles F. Goldsmith, Economist, Office of Tariff Affairs, Department of the Treasury, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20220; telephone (202)566-2323.

SUPPLEMENTARY INFORMATION: On January 2, 1979, a "Notice of Suspension of Liquidation Upon Expiration of the Countervailing Duty Waiver Authority" was published in the FEDERAL REGISTER (44 FR 141). The Appendix to that notice presented estimated rates of countervailing duties for merchandise subject to outstanding waivers.

Further information has been developed since the publication of that Notice. The Appendix to the instant Notice amends the figures presented previously regarding Certain Fish from Canada, Cheese from the European Economic Community (EEC), Certain Cheese from Finland, Certain Textiles and Textile Mill Products from Brazil, and Canned Hams and Canned Shoulders from the EEC. The rates presented previously for other products are unchanged.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JANUARY 23, 1979.

[4810-22-C]

EEC EXPORT RESTITUTION PAYMENTS ON CHEESE, BY COUNTRY, IN CENTS/POUND

TYPE OF CHEESE-EEC CODE NUMBER	GERMANY	BELGIUM-LUXEMBOURG	NETHERLANDS	DENMARK	U.K.	IRELAND	ITALY	FRANCE
Blue-veined, except Roquefort; #400000	50.6	39.7	39.9	36.1	9.3	32.6	22.2	26.6
Processed; #441010	29.1	20.4	20.5	17.3	-0-	14.8	6.4	9.9
Processed; #441020	22.7	18.6	18.7	17.3	7.1	15.8	11.9	13.6
Processed; #441040	22.7	18.6	18.7	17.3	7.1	15.8	11.9	13.6
Processed; #441030, #441050, #451020	33.4	27.4	27.5	25 5	10.5	23.4	17.6	20.1
Processed; #441060, #451030, #451040	48.8	40.0	40.2	37.1	15.3	34.1	25.7	29.3
Processed; #451050, #461000	57.9	47.4	47.7	44.1	18.2	40.4	30.5	34.8
Grana, Parmigiano, Reggiano; #471011, #471022	94.9	79.9	80.2	75.2	37.7	69.6	55.3	61.7
Fiore, Sardo, Pecorino; #471016	103.1	88.1	88.5	83.5	45.8	77.7	63.4	69.9
Asiago, Caciocavallo, Provolone, Ragusano; #512031	98.1	86.7	87.1	83.5	54.5	78.5	67.6	72.8
Danbo, Edam, Fontal, Fontina, Fynbo, Gouda, Havaiti, Maribo, Samso, Tilsit; #512044	52.2	41.0	41.2	37.2	9.5	33.6	22.8	27.4
Butterkase, Esrom, Italico, Keinhem, Taleggio, Saint-Nectaire, Saint-Paulin; #512054	45.6	36.8	37.0	33.9	12.1	30.9	22.5	26.2
Cantal; #512058	47.2	38.4	38.6	35.5	13.7	32.5	24.1	27.7
Salted Ricotta; #512059	32.1	23.3	23.4	20.2	-0-	17.7	9.3	12.8
Feta; #512082	25.2	16.5	16.5	13.3	-0-	10.9	2.6	6.0
Other; #512087	65.4	54.1	54.3	50.5	22.4	46.5	35.7	40.5
Other; #512092	52.2	41.0	41.2	37.2	9.5	33.6	22.8	27.4
Other; #531011	46.4	31.5	31.7	26.1	-0-	22.1	7.9	13.7
Other; #531022	51.9	37.0	37.2	31.7	-0-	27.5	13.3	19.1
Other; #531031	56.9	42.0	42.2	36.8	-0-	32.4	18.2	24.1
Emmenthaler, Gruyere; #380000	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Cheddar; #485000	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Lowfat cheeses; #512012, #512016, #512022	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Colby, Monterey; #512083	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Cottage cheese; #512098	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Camembert, Brie; no code numbers	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-

Groundfish from Canada:

From Atlantic region (i.e., Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick, and Quebec), 1.17 percent ad valorem.

From the rest of Canada, zero.

Certain Cheese from Finland:

Emmenthaler:	Cuts	zero
	Blocks	zero
	Wheels	24.0¢/lb.
Lappi:		$1.14/lb.
Turunamaa		$1.36/lb.
Kreivi:		$1.66/lb.
Other processed cheeses:		$1.53/lb.

Canned Hams and Canned Shoulders from the EEC:
By Country, In Cents/Pound

	Germany	Belgium-Luxembourg	Netherlands	Denmark	U.K.	Ireland	Italy	France
Hams	46.1	29.1	29.2	23.0	-0-	18.6	2.8	15.5
Shoulders	38.4	24.2	24.3	19.1	-0-	15.5	2.3	13.0

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Certain Textiles and Textile Mill Products from Brazil, exported before January 24, 1979:

For all those goods described in the appendix to the Federal Register notice published on October 13, 1978 (43 FR 47340), except leather wearing apparel and those items specified below, 18.6% ad valorem.

Leather wearing apparel, as described in the section so labeled in the above-cited Federal Register notice, 14.6% ad valorem.

Other items, by TSUSA number:

309.9800,	8.9% ad valorem	702.5400,	12.2% ad valorem	705.4000,	14.6% ad valorem	705.8600,	13.1% ad valorem
309.9900,	8.9% ad valorem	702.5600,	12.2% ad valorem	705.4200,	14.6% ad valorem	706.2005,	12.2% ad valorem
347.6800,	8.9% ad valorem	702.6000,	12.2% ad valorem	705.4300,	14.6% ad valorem	706.2015,	12.2% ad valorem
347.6900,	8.9% ad valorem	702.6500,	12.2% ad valorem	705.4500,	14.6% ad valorem	706.2045,	12.2% ad valorem
347.7000,	8.9% ad valorem	702.7000,	12.2% ad valorem	705.4600,	14.6% ad valorem	706.2205,	13.8% ad valorem
349.1060,	11.6% ad valorem	702.7500,	12.2% ad valorem	705.4800,	14.6% ad valorem	706.2240,	12.2% ad valorem
385.5300,	13.8% ad valorem	702.8000,	12.2% ad valorem	705.5000,	14.6% ad valorem	706.2250,	13.8% ad valorem
385.5500,	13.8% ad valorem	703.0500,	12.2% ad valorem	705.5100,	14.6% ad valorem	706.2280,	13.8% ad valorem
386.0410,	8.9% ad valorem	703.1000,	12.2% ad valorem	705.5300,	14.6% ad valorem	706.2405,	13.8% ad valorem
386.0430,	8.9% ad valorem	703.1510,	12.2% ad valorem	705.5400,	14.6% ad valorem	706.2406,	13.8% ad valorem
386.5010,	8.9% ad valorem	703.1515,	12.2% ad valorem	705.5500,	14.6% ad valorem	706.2411,	13.8% ad valorem
700.7510,	8.0% ad valorem	705.3000,	14.6% ad valorem	705.5700,	14.6% ad valorem	706.2421,	13.8% ad valorem
700.7520,	8.0% ad valorem	705.3510,	14.6% ad valorem	705.5800,	14.6% ad valorem	706.2440,	13.8% ad valorem
702.0600,	12.2% ad valorem	705.3530,	14.6% ad valorem	705.8520,	13.1% ad valorem	706.2450,	13.8% ad valorem
702.1210,	12.2% ad valorem	705.3550,	14.6% ad valorem	705.8540,	13.1% ad valorem	706.2460,	13.8% ad valorem
702.1220,	12.2% ad valorem	705.3560,	14.6% ad valorem	705.8560,	13.1% ad valorem	727.8200,	14.6% ad valorem

Certain Textiles and Textile Mill Products from Brazil, exported on or after January 24, 1979:

For all those goods described in the appendix to the Federal Register notice published on October 13, 1978 (43 FR 47340), except leather wearing apparel and those items specified below, 17.0% ad valorem.

Leather wearing apparel, as described in the section so labeled in the above-cited Federal Register notice, 13.2% ad valorem.

Other items, by TSUSA number:

309.9800,	8.1% ad valorem	702.5400,	10.1% ad valorem	705.4000,	13.2% ad valorem	705.8600,	11.7% ad valorem
309.9900,	8.1% ad valorem	702.5600,	10.1% ad valorem	705.4200,	13.2% ad valorem	706.2005,	10.1% ad valorem
347.6800,	8.1% ad valorem	702.6000,	10.1% ad valorem	705.4300,	13.2% ad valorem	706.2015,	10.1% ad valorem
347.6900,	8.1% ad valorem	702.6500,	10.1% ad valorem	705.4500,	13.2% ad valorem	706.2045,	10.1% ad valorem
347.7000,	8.1% ad valorem	702.7000,	10.1% ad valorem	705.4600,	13.2% ad valorem	706.2205,	12.5% ad valorem
349.1060,	10.2% ad valorem	702.7500,	10.1% ad valorem	705.4800,	13.2% ad valorem	706.2240,	10.1% ad valorem
385.5300,	12.5% ad valorem	702.8000,	10.1% ad valorem	705.5000,	13.2% ad valorem	706.2250,	12.5% ad valorem
385.5500,	12.5% ad valorem	703.0500,	10.1% ad valorem	705.5100,	13.2% ad valorem	706.2280,	12.5% ad valorem
386.0410,	8.1% ad valorem	703.1000,	10.1% ad valorem	705.5300,	13.2% ad valorem	706.2405,	12.5% ad valorem
386.0430,	8.1% ad valorem	703.1510,	10.1% ad valorem	705.5400,	13.2% ad valorem	706.2406,	12.5% ad valorem
386.5010,	8.1% ad valorem	703.1515,	10.1% ad valorem	705.5500,	13.2% ad valorem	706.2411,	12.5% ad valorem
700.7510,	7.4% ad valorem	705.3000,	13.2% ad valorem	705.5700,	13.2% ad valorem	706.2421,	12.5% ad valorem
700.7520,	7.4% ad valorem	705.3510,	13.2% ad valorem	705.5800,	13.2% ad valorem	706.2440,	12.5% ad valorem
702.0600,	10.1% ad valorem	705.3530,	13.2% ad valorem	705.8520,	11.7% ad valorem	706.2450,	12.5% ad valorem
702.1210,	10.1% ad valorem	705.3550,	13.2% ad valorem	705.8540,	11.7% ad valorem	706.2460,	12.5% ad valorem
702.1220,	10.1% ad valorem	705.3560,	13.2% ad valorem	705.8560,	11.7% ad valorem	727.8200,	13.2% ad valorem

[FR Doc. 79-3225 Filed 1-30-79; 8:45 am]

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[4810-22-M]

VISCOSE RAYON STAPLE FIBER FROM SWEDEN

Countervailing Duty Determination

AGENCY: United States Customs Service, Treasury Department.

ACTION: Preliminary Countervailing Duty Determination.

SUMMARY: This notice is to advise the public that as a result of an investigation a preliminary determination has been made that benefits granted by the Government of Sweden to manufacturers or exporters of viscose rayon staple fiber constitute bounties or grants within the meaning of the U.S. countervailing duty law. A final determination will be made not later than April 25, 1979.

EFFECTIVE DATE: January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael E. Crawford, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue, NW, Washington, D.C. 20229, telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: On June 26, 1978, a notice of "Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (43 FR 27631). The notice stated that a petition had been received alleging that a manufacturer of viscose rayon staple fiber received grants from the Government of Sweden which constituted the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (the "Act"). Imports covered by this investigation are classified under items 309.4320 and 309.4325, Tariff Schedules of the United States Annotated (TSUSA).

On the basis of an investigation conducted pursuant to § 159.47(c) of the Customs Regulations (19 CFR 159.47(C)), it has been preliminarily determined that bounties or grants within the meaning of section 303 of the Act are being paid or bestowed, directly, or indirectly, by the Government of Sweden upon the manufacture, production or exportation of viscose rayon staple fiber from Sweden. The bounties or grants are paid under a government program which provides funds to ensure the employment of older workers in certain regions of the country. Further information is required to determine if such assistance constitutes a legitimate defrayal of increased expenses owing to the Swedish policy of long-term job security. At present, the Government of Sweden does not describe any sort of offsets or extra expenses incurred due to the maintenance of these employees on payroll.

Two other programs considered in this case are preliminarily determined not to be bounties or grants; however, more information will be requested from the Government of Sweden before making a final determination. These are:

(1) Interest-free loans provided for acquisition of machinery and equipment for the production of certain fiber which, it is claimed, is not exported to the United States. However, benefits of this sort can confer a bounty, directly or indirectly, if they serve to defray total capital expenditure on the subject merchandise. Further information will be requested in order to determine if this is the case.

(2) The granting of funds provided through a government program devised to stockpile raw materials and maintain extra production capacity for national defense purposes. A company is compensated for the extra expense incurred in providing these services. It is necessary to determine how stockpiles of raw materials and machinery are maintained and what prevents these materials or machines from being used in production for normal market purposes.

A fourth program, which provided grants to combat cyclical unemployment, was discontinued in July 1977, and, therefore, is not considered a bounty or grant.

A final determination will be made not later than April 25, 1979.

An investigation under the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) involving this same product is currently under way. A notice of "Withholding of Appraisement" was published in the FEDERAL REGISTER of November 5, 1978 (43 FR 53533). In accordance with the international obligations of the United States, any determinations made in these investigations will not be duplicative, and the product concerned will not be subject to both dumping and countervailing duties to compensate for the same situation of dumping or export subsidization.

Before a final determination is made, consideration will be given to any relevant data, views or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by his office not later than March 2, 1979. Any request for an opportunity to present views orally should accompany such submission and a copy of all submissions should be delivered to any counsel that has heretofore represented any party to these proceedings.

The preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190, Revision 15, March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47) insofar as they pertain to the issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JANUARY 24, 1979.

[FR Doc. 79-3224 Filed 1-30-79; 8:45 am]

[4830-01-M]

Internal Revenue Service

PUBLIC INSPECTION OF WRITTEN DETERMINATIONS

Notice of Intention to Disclose

AGENCY: Internal Revenue Service, Treasury

ACTION: Notice of Intention to Disclose.

SUMMARY: This document provides notice that the Service intends to make open to public inspection certain written determinations. This notice also explains how any person may determine whether any of the described written determinations pertain to that person, and explains the procedures that person may follow if there is disagreement regarding the proposed deletions. This document does not meet the criteria for significant regulations set forth in paragraph eight of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

DATE: Persons wanting to find out whether their particular written determinations are among those to be made open to public inspection pursuant to this notice are requested to contact the Service by February 15, 1979.

Requests for additional deletions must be submitted by March 7, 1979. A petition in the United States Tax Court must be filed by April 16, 1979. Except for the disputed portion of any document that is the subject of an action brought in the United States Tax Court, the written determinations described in this notice will be made open to public inspection on May 21, 1979.

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ADDRESS: Any questions or correspondence regarding this notice should be sent to: Internal Revenue Service, Attention: T:FP:R, Ben Franklin Station, Post Office Box 7604, Washington, D.C. 20044.

FOR FURTHER INFORMATION:

George E. Freeland of the Rulings Disclosure Branch, Tax Forms and Publications Division, Office of the Assistant Commissioner, Technical; 202-566-4378 or 202-566-6272.

SUPPLEMENTARY INFORMATION: Section 6110(h) of the Internal Revenue Code of 1954 provides that certain written determinations (letter rulings and technical advice memoranda) issued in response to requests submitted before November 1, 1976, shall be open to public inspection. Accordingly, the Service is preparing to open to public inspection the general written determinations issued after July 4, 1967, (except those issued in response to requests submitted after October 31, 1976) that originated in the Engineering and Valuation Branch and the Reorganization Branch, Corporation Tax Division, Office of the Assistant Commissioner (Technical), or predecessor branches, and that involve issues falling within the jurisdiction of those branches. A general written determination is one the Commissioner has not determined to have significant reference value.

Issues falling within the jurisdiction of the Engineering and Valuation Branch and of the Reorganization Branch are those involving:

(a) The application of Federal tax laws in depreciation, depletion, valuation and other engineering issues, including fine arts valuation;

(b) Requests for permission to change methods of accounting for depreciation and depletion;

(c) Plans for the aggregation of nonoperating mineral interests as a single property, and changes to previously approved aggregations of operating interests;

(d) Requests for approval to compute gross income from mining for depletion purposes by use of an alternative method;

(e) Interest on bond obligations incurred for purposes of sewage or solid waste disposal facilities or facilities for the local furnishing of electric energy or gas, and air or water pollution control facilities;

(f) The application of Federal income tax laws to exchanges and distributions in connection with corporate organizations, reorganizations, insolvency reorganizations, liquidations, and spin-offs;

(g) The application of Federal income tax laws to stock dividends, redemptions, exchanges in obedience to Securities and Exchange Commission orders, and to distributions pursuant to the Bank Holding Company Act;

The application of Federal income tax laws to losses on small business stock;

(i) Determinations whether distributions, redemptions, exchanges, or tranfers referred to in sections 306(b)(4), 355(a)(1)(D)(ii), 367, and 1492 of the Internal Revenue Code are in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

All general written determinations issued during the prescribed time periods discussed in this notice and originating in these branches or predecessor branches are intended to be within the scope of this notice.

DELETIONS

Section 6110(c) of the Code requires the Internal Revenue Service to delete certain information from the documents described in this notice. The Service intends to delete names, addresses, and taxpayer identifying numbers, and will also attempt to recognize and delete other identifying details, trade secrets, and the other information described in section 6110(c), before making the written determination open to public inspection.

Persons to whom the written determinations described in this notice pertain (or successors in interest, executors, or authorized representatives of these persons) may contact the Internal Revenue Service to find out whether their particular written determinations are among those to be made open to public inspection pursuant to this notice. These persons may request a copy of their written determinations with proposed deletions indicated. Such requests should be submitted by February 15, 1979. Such requests must indicate the specific name of the party to which the written determination pertains, for example, a corporation acting on behalf of one or more subsidiaries must indicate the name of such subsidiary or subsidiaries. If such a person disagrees with the proposed deletions, that person may indicate any additional information that person believes should be deleted. Any request for additional deletions must be submitted by March 7, 1979, and must include a statement indicating which of the exemptions provided in section 6110(c) of the Code is applicable to each additional deletion requested. If the Service feels it cannot make any or all of the additional deletions requested, the Service will so advise the requester. The requester will then have the right to file a petition in the United States Tax Court. This petition must be filed by April 16, 1979.

ADDITIONAL DISCLOSURE

After the deleted copy of a written determination is made open to public inspection in the National Office Reading Room, any person may request the Service to make additional portions of the written determination open to public inspection. If the Service receives a request that involves disclosure of names, addresses, or taxpayer identifying numbers, the Service will deny the request. If the request involves disclosure of anything other than names, addresses, or taxpayer identifying numbers, the Service will contact the person to whom the written determination pertains before further action is taken.

BACKGROUND FILE DOCUMENTS

After the deleted copy of a written determination is made open to public inspection, any person may request copies of related background file documents. Notice will be provided to the person to whom the written determination pertains if a request for related background file documents is received.

Any notice regarding background file documents or requests for additional disclosure and any other correspondence relating to public inspection of written determinations, will be mailed to the latest address in the Service's written determination file, unless a later address is provided to the Service in connection with these matters.

The written determinations described in this notice will be made open to public inspection by being placed in the National Office Reading Room, Room 1564, Internal Revenue Service Building, 1111 Constitution Avenue, N.W., Washington, D.C. on May 21, 1979. However, the disputed portion of any document that is the subject of an action brought in the United States Tax Court shall not be made available until after a court determination regarding such portion is made.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 79-3000 Filed 1-30-79; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

AVAILABILITY OF SUMMARY REPORT OF 38 U.S.C. 219 PROGRAM EVALUATION

Notice is hereby given that the program evaluation of the Veterans Administration's Exchange of Medical Information has been completed.

Single copies of the Exchange of Medical Information evaluation are available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquiries, specifying the name of the program evaluation desired, to Mr. Errol D. Clark, Director, Program Evaluation and Appraisal Service, Veterans Administration (074), 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: January 25, 1979.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc. 79-3237 Filed 1-30-79; 8:45 am]

[8320-01-M]

AVAILABILITY OF SUMMARY REPORT OF 38 U.S.C. 219 PROGRAM EVALUATION

Notice is hereby given that the evaluation of the Veterans Administration's Department of Veterans Benefits Burial Benefits Program has been completed.

Single copies of the Department of Veterans Benefits Burial Benefits program evaluation are available free. Reproduction of multiple copies can be arranged at the requester's expense.

Direct inquiries, specifying the name of the program evaluation desired, to Mr. Errol D. Clark, Director, Program Evaluation and Appraisal Service, Veterans Administration (074), 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: January 25, 1979.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc. 79-3238 Filed 1-30-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 153]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 31, 1979.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132.

MC FC 78003. By application filed January 16, 1979, BOYD MARTIN ENTERPRISES, INC., Route 5, Box 570, Fulton, MO 65251, seeks temporary authority to transfer the operating rights of ELWOOD LYNCH, AN INDIVIDUAL, 1009 Halleck Street, Moberly, MO 65270, under section 210a(b). The transfer to BOYD MARTIN ENTERPRISES, INC., of the operating rights of ELWOOD LYNCH, AN INDIVIDUAL, is presently pending.

MC FC 78010. By application filed January 16, 1979, WOLTER TRUCK LINES, INC., Greenwood, DE, seeks temporary authority to transfer a portion of the operating rights of BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963, under section 210a(b). The transfer to WOLTER TRUCK LINES, INC., of a portion of the operating rights of BLUE HEN LINES, INC., is presently pending.

MC FC 78012. By application filed January 24, 1979, MIRMAN TRANSPORTATION, INC., 86 Jack London Square, Oakland, CA 94607, seeks temporary authority to transfer a portion of the operating rights of MITCHELL BROS. TRUCK LINES, 3841 N. Columbia Boulevard, Portland, OR 97217, under section 210a(b). The transfer to MIRMAN TRANSPORTATION, INC., of a portion of the operating rights of MITCHELL BROS. TRUCK LINES, is presently pending.

MC FC 78013. By application filed January 23, 1979, COYLE TRANS., INC., 180 W. First Street, South Boston, MA 02127, seeks temporary authority to transfer the operating rights of KEMP TRANSFER, INC., 265 South Main Street, West Bridgewater, MA 02379, under section 210a(b). The transfer to COYLE TRANS., INC., of the operating rights of KEMP TRANSFER, INC., is presently pending.

MC FC 78016. By application filed January 22, 1979, COLORADO-DENVER / WAREHOUSE-DELIVERY, INC., 4902 Smith Road, Denver, CO 80216, seeks temporary authority to transfer the operating rights of SOUTH PARK MOTOR LINES, INC., 1420 38th Street, Denver, CO 80205, under section 210a(b). The transfer to COLORADO-DENVER / WAREHOUSE-DELIVERY, INC., of the operating rights of SOUTH PARK MOTOR LINES, INC., is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3239 Filed 1-30-79; 8:45 am]

[7035-01-M]

Office of Hearings

[Notice No. 17]

ASSIGNMENT OF HEARINGS

JANUARY 26, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 133937 (Sub-25F), Carolina Cartage Company, Inc., now assigned January 23, 1979, at Atlanta, Georgia is now transferred to Modified Procedure.

MC 120651 (Sub-3F), Hires Trucking Co., Inc., now assigned January 31, 1979, at Indianapolis, Indiana is cancelled transfered to Modified Procedure.

MC 113651 (Sub-269F), Indiana Refrigerator Lines, Inc., now assigned for hearing on February 13, 1979, Boston Mass. and will be held on Fifth Floor, 150 Causeway.

MC 144401F, General Oilfield Trucking, Inc., now assigned for hearing on February 5, 1979, at Baton Rouge, Louisiana and will be held in Grand Jury Room 316, U.S. Attorney's Office.

MC 144288F, Evans Reliable Messenger, Inc., now assigned for hearing on February 7, 1979 at New Haven, Connecticut and will be held in The New Court House.

MC 140024 (Sub-119F), J. B. Montgomery, Inc., a Deleware Corporation, now assigned for hearing on February 15, 1979, at Boston, Mass. 150 Causeway, Fifth Floor.

MC 144225, Jadeel Trucking, Inc., now assigned for hearing on February 12, 1979, at Boston, Mass. 150 Causeway, Fifth Floor.

MC 144979F, Daniel P. Geiger, dba Atlantic Limousine Service now assigned February 12, 1979, at Atlantic City, N.J., is postponed to March 16, 1979, (4 days), at Atlantic City, N.J., in a hearing room to be later designated.

MC 143917 (Sub-3F), Sam Young, Inc., now assigned January 26, 1979, at Chicago, Illinois is cancelled transferred to Modified Procedure.

MC 42405 (Sub-36F), Mistletoe Express Service DBA Mistletoe Express, now assigned February 12, 1979, at Oklahoma City, Oklahoma is cancelled transferred to Modified Procedure.

MC 98952 (Sub-54F), General Transfer Company a Delaware Corporation, now assigned for hearing on February 28, 1979, at Room No. 1319, Everett McKinley Dirksen Building.

MC 114273 (Sub-368F), CRST, Inc., now assigned for hearing on February 26, 1979, at Chicago, Illinois and will be held in E. M. Dirksen Building, Room 1319.

MC 135874 (Sub-108F), LTL Perishables, Inc., now assigned for hearing on February 22, 1979, at Chicago, Illinois and will be held in Room 1319, E. M. Dirksen Building.

MC 1515 (Sub-241), Greyhound Lines, Inc., now assigned for hearing on April 17, 1979, (4 days), at the Dallas Marriot, 2101 Stemmons Freeway, Dallas Texas, and continued to April 23, 1979, (1 week), at the Houston Ramada Inn, 4225 North Freeway, Houston, Texas.

MC 143775 (Sub-4F), Paul Yates, Inc., now assigned for hearing on February 21, 1979, at Chicago, Illinois and will be held in Room 1319, E. M. Dirksen Building.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3240 Filed 1-30-79; 8:45 am]

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[7035-01-M]

[Notice No. 18]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 26, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of it application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 2960 (Sub-22TA), filed September 18, 1978, published in the FEDERAL REGISTER of November 14, 1978, and republished this issue. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, 2301 McKinney St., Houston, TX 77023. Representative: E. Larry Wells, Winkle and Wells, Suite 1125, Exchange Park, P.O. BOX 45538, Dallas, TX 75245. By order of the Motor Carrier Board granted authority to applicant to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *General commodities*, with the usual exceptions, from Shreveport and Lake Charles, LA and from points in TX on and east of U.S. Hwy. 277 and U.S. Hwy. 87 in Bowie, Cass, Red River, Navarro, Kaufman, Rockwall, Grayson, Collin, Dallas, Ellis, Johnson, Tarrant, Wise, Cooke, Hood, Parker, Palo Pinto, Jack, Archer, Baylor, Haskell, Throckmorton, Young, Denton, Stevens, Shackleford, Jones, Taylor, Callahan, Eastland, Coleman, Runnels, Concho, Cole, Tom Green, McCulloch, San Saba, Llano, Mason, Gilles- pie, Kendall and Morris Counties, TX, to Houston, TX, restricted to traffic having a prior movement by water.

Notice of this application in the FEDERAL REGISTER on November 14, 1978, failed to reflect Lake Charles, LA as a point of origin. Interested parties may file petitions for reconsideration on or before 15 calendar days from the date of publication of this notice. SEND PETITIONS TO: Secretary, Interstate Commerce Commission, Washington, DC 20423.

MC 69834 (Sub-17TA), filed November 1, 1978, and published in the FEDERAL REGISTER issue of December 22, 1978, and republished as corrected this issue. Applicant: PRICE TRUCK LINE, INC., 2945 North Market, Wichita, KS 67219. Representative: Paul V. Dugan, 2707 West Douglas, Wichita, KS, 67213. *Crayons, educational and school art and hobby supplies, and materials, and supplies* used in the manufacture, packaging, distribution, and selling thereof, over irregular routes, between Winfield, KS, and Easton, PA, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper(s): Binney & Smith, Inc., P.O. Box 431, Easton, PA, 18042. Send protests to: M. E. Taylor, ICC, 101 Litwin Building, Wichita, KS, 67202. The purpose of this republication is to correct the territorial description which read between points in Kansas.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3241 Filed 1-30-79; 8:45 am]

[7035-01-M]

[Notice No. 13]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 19, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 409 (Sub-70TA), filed December 26, 1978. Applicant: SCHROETLIN TANK LINE, INC., P.O. Box 511, Sutton, NE 68979. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Propane in bulk, in tank vehicles*, from Mid American Pipeline Terminal at or near Greenwood, NE to points in SD, for 180 days. SUPPORTING SHIPPER(S): Farmland Industries, Inc., 3315 North Oak Tfwy., Kansas City, MO 64116. SEND PROTESTS TO: Max H. Johnston, I.C.C., 285 Federal Bldg. and U.S. Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 2368 (Sub-88TA), filed December 20, 1978. Applicant: BRALLEY-WILLETT TANK LINES, INC., P.O. Box 495, Richmond, VA 23204. Representative: William T. Marshburn, P.O. Box 495, Richmond, VA 23204. *Chemicals, in bulk*, between Hopewell, VA on the one hand, and on the other, West Memphis, AR and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Allied Chemical Corporation, 1411 Broadway, New York City, New York 10018. SEND PROTESTS TO: Paul D. Collins, I.C.C., Rm. 10-502 Federal Bldg., 400 N. 8th St., Richmond, VA 23240.

MC 18738 (Sub-47TA), filed December 27, 1978. Applicant: SIMS MOTOR TRANSPORT LINES, INC., 610 W. 138th Street, Riverdale, IL 60627. Representative: Eugene Cohn, One No. La Salle Street, Chicago, IL 60606. *Iron and steel products*, from Milwaukee, WI to Chicago, IL, and its commercial zone, for 190 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Douglas Lawson, Raco Steel Co., Inc., 19421 Forest Avenue, Glenwood, IL 60425. SEND PROTESTS TO: Lois M. Stahl, Trans. Asst., Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 41932 (Sub-12TA), filed December 27, 1978. Applicant: BROWNING FREIGHT LINES, INC., 650 South Redwood Road, Salt Lake City, UT 84104. Representative: Ben D. Browning, 1321 S.E. Water Avenue, Portland, OR 97214. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (with the usual exceptions): (1) Between Elko, NV and Owyhee, NV serving all intermediate points via State Hwy. 51, (2), Between Mountain Home, ID and Owyhee, NV over Hwy. 51 serving no intermediate points and serving Owyhee, NV for purpose of joinder only with the authority listed in (1) above, (3) between Twin Falls, ID and Elko, NV serving all intermediate points from Twin Falls, ID to Wells, NV over U.S. 93, then over Interstate Hwy 80 to Elko, NV and return over the same routes, (4) between Wells, NV and Salt Lake City, UT over Interstate Hwy. 80 as an alternate route for operationg convenience only between the authority listed in (3) above and applicant's existing authority, (5) Duck Valley Indian Reservation located in ID and NV as an off-route point in connection with applicant's existing authority in MC-41932, authorizing service between Salt Lake City, UT and Boise, ID over described highways, for 180 days. Tacking, interlining and service to commercial zones is requested. An underlying ETA seeks 90 days authority. There are approximately 45 statements of support attached to this application which may be examined at the I.C.C., in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: L. D. Helfer, I.C.C., 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 111302 (Sub-141TA), filed December 18, 1978. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 90408, 934 44th Avenue North, Knoxville, TN 37209. Representative: David A. Pertersen (same as above). *Ethyl acrylates, butyl acrylate, and methyl methacrylate, in bulk, in tank vehicles*, from the plantsite of Rohm & Hass Co., in Houston, TX to the plantsite of Rohm & Hass Co., in Knoxville, TN, for 180 days. SUPPORTING SHIPPER(S): Rohm & Hass Co., Independence Mall West, Philadelphia, PA. SEND PROTESTS TO: Glenda Kuss, Trans. Asst., I.C.C., Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 112520 (Sub-359TA), filed October 18, 1978. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. (1) *Black liquor* and (2) *white liquor and caustic soda, in bulk, in tank vehicles*, (1) from Charleston, SC to Jesup, GA and (2) from Jesup, GA to Charleston, SC, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): ITT Rayonier, Inc., 126 W. Bay St., P.O. Box 1747, Savannah, GA 31402. SEND PROTESTS TO: G. H. Fauss, Jr., I.C.C., Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 112627 (Sub-31TA), filed December 18, 1978. Applicant: OWENS BROS., INC., P. O. Box 247, Dansville, NY 14437. Representative: S. Michael Richards/Raymond A. Richards, P. O. Box 225, Webster, NY 14580. (1) *Alcoholic beverages, and* (2) *materials, supplies, and equipment used in the manufacture, sale, and distribution of alcoholic beverages*, between Peoria, IL, on the one hand, and, on the other, all points in CT, NJ, NY, and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Dean J. Anderson, Gen. Traffic Mgr., Hiram Walker & Sons, Inc., P. O. Box 479, Peoria, IL 61651. Send protests to: I.C.C., U.S. Courthouse & Federal Bldg., 100 S. Clinton St., Rm. 1259, Syracuse, NY 13260

MC 112713 (Sub-230 TA), filed December 18, 1978. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records (same as applicant). *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities of unusual value and those requiring special equipment, serving the facilities of James David, Inc. near Clinton, TN as a off-route point in connection with carrier's otherwise authorized operations, for 180 days. SUPPORTING SHIPPER(S): James David, Inc., P.O. Box 7240, St. Louis, MO 63177. SEND PROTESTS TO: John V. Barry, Rm. 600, 911 Walnut, Kansas City, Mo. 64106.

MC 113624 (Sub-83 TA), filed December 20, 1978. Applicant: WARD TRANSPORT, INC., P.O. Box 100, Commerce City, CO 80037. Representative: Leslie R. Kehl, Suite 1600, 1660 Lincoln Street, Denver, CO 80264. *Anhydrous ammonia, in bulk, in tank vehicles* from the storage facilities of Gulf Central Pipeline located at or near Aurora, NE to points in KS, SD and WY for 180 days. SUPPORTING SHIPPER(S): Farmland Industries, Inc., P.O. Box 7305, Kansas City, MO 64116. SEND PROTESTS TO: Herbert C. Ruoff, I.C.C., 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 115092 (Sub-75 TA), filed December 12, 1978. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. *Cedar shakes and shingles*, from points in WA, to points in WY, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Dier Lumber Company, Inc., 291 Roymar, Oceanside, CA 92054. (Eric Scott, Vice President). SEND PROTESTS TO: Lyle D. Helfer, I.C.C., 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 117119 (Sub-709 TA), filed December 18, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Lecithin (except in bulk), in vehicles equipped with mechanical refrigeration* from Stuttgart, AR to points in CA, IL, NJ, NY, OH and PA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): American Lecithin Company, P.O. Box 4056, Atlanta, GA 30302. SEND PROTESTS TO: William H. Land, Jr., 3108 Federal Office Bldg., 700 West Capitol, Little Rock, AR 72201.

MC 118159 (Sub-307 TA), filed December 18, 1978. Applicant: NATIONAL REGRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commerical Blvd., Fort Lauderdale, FL 33308. *Porch swings and related accessories* from the plantsite of A & D Chair Company, Inc, at Clanton, AL and Yellville, AR to points in the United States, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: A & D Chair Company, P.O. BOx 368, Yellville, AR 72687 (Robert L. Duncan). Send protests to: Connie Stanley, Trans. Asst., I.C.C., Rm. 240, Old Post Office & Courthouse Bldg., 215 N.W. 3rd., Oklahoma City, OK 73102

MC 118224 (Sub-3 TA), filed December 18, 1978. Applicant: STANDARD FRUIT & VEGETABLE COMPANY, INC., 2111 Taylor Street, Dallas, TX 75201. Representative: Lawrence A. Winkle, Suite 1125 Exchange Park,

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P.O. Box 45538, Dallas, TX 75245. *Bananas*, from Gulfport, MS to Dallas, TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Kroger Co., P.O. Box 226328, Dallas, TX 75266. Chiquita Brands, Inc., 212 Veterans Blvd., Suite 100, Metairie, LA 70005. SEND PROTESTS TO: Opal M. Jones, I.C.C., 1100 Commerce St., Rm. 13C12, Dallas, TX 75242.

MC 118457 (Sub-18 TA), filed December 18, 1978. Applicant: ROBBINS DISTRIBUTING COMPANY, INC., 11104 West Becher Street, West Allis, WI 53227. Representative: Donald S. Mullins, 4704 West Irving Park Rd., Chicago, IL 60641. *Packing House Products*, from the facilities of Birchwood Meat & Provision Co. and Kenosha Beef International in Kenosoha County, WI, to points in the District of Columbia and the States of CT, DE, GA, ME, MD, MA, NH, NJ, NC, PA, RI, SC, TN, VT, VA and WV, for 180 days. SUPPORTING SHIPPER(S): Birchwood Meat & Provision Co., P.O. Box 639, Kenosha, WI 53141. SEND PROTESTS TO: Gail Daugherty, Trans. Asst., I.C.C., U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 118560 (Sub-9 TA), filed December 19, 1978. Applicant: GENERAL TRUCKING CO., INC., P.O. Box 269, Santa Fe Pk., Columbia, TN 38401. Representative: Edward C. Blank, II, Middle Tennessee Bank Bldg., P.O. Box 1004, Columbia, TN 38401. *Silica gravel and silica sand* from Jemison, Alabama, to Maury County, TN. RESTRICTION: Restricted to transportation of commodities listed in dump trucks and dump trailers, and further restricted to traffic originating at the above named location and destined to the above named destination point, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, MO 63166. SEND PROTESTS TO: Glenda Kuss, Trans. Asst., I.C.C., Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 123310 (Sub-17 TA), filed December 27, 1978. Applicant: DOUG ANDRUS & SONS, INC., 1820 West Broadway, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Cedar fencing materials*, from Superior and Troy, MT to points in CO, in and north of Routt, Eagle, Lake, Chaffee, Fremont, Pueblo, Lincoln, Washington and Logan Counties, for 180 days. Restricted to shipments orginating at the facilities of Idaho Cedar Sales Co., and destined to the named destination. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Idaho Cedar Sales Co., P.O. Box 398, Troy, ID 83871. SEND PROTESTS TO: Barney L. Hardin, I.C.C., 1471 Shoreline Drive, Suite 110, Boise, ID 83706.

MC 124078 (Sub-911 TA), filed December 18, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Liquid Chemicals*, in bulk, in water carrier supplied containers, from Decatur, AL to Savannah, GA; Jacksonville, FL and Charleston, SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: MONSANTO COMPANY, 800 N. Lindberg Blvd., St. Louis, MO 63166, R. W. Bradshaw, Supervisor, Bulk Truck Transportation. Send protests to: Gail Daugherty, Trans. Asst., I.C.C., U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 125433 (Sub-186 TA), filed December 18, 1978. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson, 1945 South Redwood Road, Salt Lake City, UT 84104. *Iron and steel articles*, from Portland, OR and its commercial zone to points in CA; for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Metra Steel, P.O. Box 3154, Portland, OR 97208. (Michael S. Pierce, Fleet Mgr.) Northwest Pipe & Casing Co., 9200 Southeast Lawnfield Rd., Clackamas, OR 97015. SEND PROTESTS TO: L. D. Helfer, I.C.C., 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 133204 (Sub-2 TA), filed December 20, 1978. Applicant; KEITH TRUCKING, INC., Route 394 (Levant Road), Falconer, NY 14733. Representative: Ronald W. Malin, Bankers Trust Bldg., Jamestown, NY 14701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, wood and wood products, cabinets, doors, cement asbestos products, plastic products, plastic products, aluminum and aluminum products, products of wood and metal combined, wood and cement asbestos combined, plastic and metal combined, combined, plastic and wood combined, and materials, supplies, machinery and equipment used in the manufacture of the commodities described above*, between the facilities of Overhead Door Corporation, at Cattaraugus (Cattaraugus County), NY, on the one hand, and on the other, to points, to points in AL, CT, DE, GA, IL, IN, KY, MD, MA, MI, MO, NJ, NY, NC, OH, PA, RI, SC, TN, VA and WV, for 180 days under a continuing contract or contracts with Overhead Door Corporation of Cattaraugus, NY. Restricted against the transportation of commodities in bulk, in tank or hopper type vehicles. An underling ETA ser :s 90 days authority. SUPPORTING SHIPPER(S): Overhead Door Corporation, 6250 LBJ Freeway, Dallas, TX 75222. SEND PROTESTS TO: I.C.C., 910 Federal Bldg., 111 West Huron St., Buffalo, NY 14202.

MC 133485 (Sub-25TA), December 13, 1978. Applicant: INTERNATIONAL DETECTIVE SERVICE, INC., 1828 Westminster Street, Providence, RI 02909. Representative: Morris J. Levin, 1050 Seventeenth Street, N.W., Washington, D.C. 20036. *Cobalt metal, escorted by armed guards*, between New York, NY, on the one hand and on the other, Elizabethtown, KY and Cleveland, OH, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Phillip Brothers, 1221 Avenue of the Americas, New York, NY 10020. SEND PROTESTS TO: Gerald H. Curry, I.C.C., 24 Weybosset St., Rm. 102, Providence, RI 02903.

MC 133708 (Sub-36TA), filed December 29, 1978. Applicant: FIKSE BROS., INC., 12647 East South Street, Artesia, CA 90701. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. *Cement*, (in bulk, in pneumatic equipment), from San Diego, CA, to points in AZ., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Melwire Trading Company, Inc., 4400 San Fernando Road, Glendale, CA 91204. SEND PROTESTS TO: Irene Carlos Transp. Asst., ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 133828 (Sub-9TA), filed December 5, 1978. Applicant: CASAZZA TRUCKING CO., 1250 Glendale Avenue, P.O. Box 7154, Sparks, NV 89431. Representative: Earl Casazza, 1250 Glendale Avenue, P.O. Box 7154, Sparks, NV 89431. *Petroleum Products in tank vehicles as described in Appendix XIII, Description in Motor Carrier Certificates 61 M.C.C. 294*, from Richmond, CA to points and places in NV, for 180 days. SUPPORTING SHIPPER(S): Union Oil Company, 123 Camino De La Reina, San Diego, CA. SEND PROTESTS TO: W. J. Huetig, I.C.C., 203 Federal Bldg., 705 North Plaza St., Carson City, NV 89701.

MC 134238 (Sub-13TA), filed December 18, 1978. Applicant: GENE'S INC., 10115 Brookville-Salem Road, Clayton, OH 45315. Representative: Berry & Spurlock Co., 275 E. State Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise, as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business* (except commodities in bulk) in refrigerated vehicles, between the facilities of The Kroger Co., at Cincinnati and Columbus, OH, on the one hand, and, on the other, all points in IN, IL, AR, TX, TN, KY, GA, WV, the lower peninsula of MI, points in PA on and west of U.S. hwy. 219, VA, MO, and points in CA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): The Kroger Co., 1014 Vine St., Cincinnati, OH 45201. SEND PROTESTS TO: Paul J. Lowry, I.C.C., 5514-B Federal Bldg., 550 Main St., Cincinnati, OH 45202.

MC 134477 (Sub-300TA), filed December 12, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring the use of special equipment) which at the time are moving on bills of lading of freight forwarders under Part IV of the Interstate Commerce Act, from the facilities of ABC-Trans National Transport, Inc., and Acme Fast Freight, Inc., at Atlanta, GA and Charlotte, NC to Chicago, IL, for 180 days. SUPPORTING SHIPPER(S): ABC-Trans National Transport, Inc., 201 11th Avenue, New York, NY 10001. Acme Fast Freight, Inc., 2335 New Hyde Park Road, New Hyde Park, NY 11040. SEND PROTEST TO: Delores A. Poe, ICC, 414 Federal Building and U.S Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 134477 (Sub-303TA), filed December 19, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Cleaning, washing, buffing or polishing compounds, textile softener, lubricants, hypochlorite solution, deodorants or disinfectants, paints, stains, or varnishes, plastic bags, and filters (except commodites in bulk)* from the facilities of Economics Laboratory, Inc. at or near Joliet, IL to Hanover, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Economics Laboratory, Inc., Osborn Building, St. Paul, MN 55101. Send protests to: Delores A. Poe, Trans. Asst., I.C.C., 414 Federal Bldg. & U.S. Courthouse, 110 South 4th St., Minneapolis, MN 55401.

MC 135874 (Sub-150TA), filed December 18, 1978. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075. Representative: K. O. Petrick, 550 East 5th Street South, South St. Paul, MN 55075. *Meat, meat products, meat byproducts and articles distributed by meat packinghouses, as described in Sections A and C of Appendix 1 to the report in Descriptions in Motor Carriers Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk and hides)*, from the facilities of Goldberger Foods, Inc., Minneapolis, MN to points in OH, PA, NY, NJ, CT, MA, RI, ED, MD and DC. Restricted to the traffic originating at the facilities of Goldberger Foods, Inc., Minneapolis, MN and destined to the named states, for 180 days. SUPPORTING SHIPPER(S): Goldberger Foods, Inc., 11 West 28th St., Minneapolis, MN 55408. SEND PROTESTS TO: Delores A. POE, Trans. Asst., I.C.C, 414 Federal Bldg. & U.S. Courthouse, 110 South 4th St., Minneapolis, MN 55401.

MC 138415 (Sub-20TA), filed December 18, 1978. Applicant: TRAILER EXPRESS, INC., Box 327, Topeka, IN 46571. Representative: Michael M. Yoder, Box 157, Topeka, IN 46571. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Conoes*, loose or in packages, from the facilities of The Coleman Company, Inc. at Wichita, Kansas, to all points in the United States (except Alaska and Hawaii). RESTRICTED: to transportation for the account of The Coleman Company, Inc. for 180 days. an underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): The Coleman Company, Inc., 250 N. St. Francis Street, Wichita, KS 67201. SEND PROTESTS TO: J. H. Gray, I.C.C., 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802

MC 138777 (Sub-7TA), filed December 18, 1978. Applicant: FETZ INCORPORATED, P.O. Box 47685, Doraville, GA 30340. Representative: Frank D. Hall, Postell & Hall, P. C., Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. *Liquid aluminum sulphate (alum)*, from East Point (Fulton County), GA to all points in NC, SC, AL and TN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Burris Chemical, Inc., P.O. Box 4956, Charleston, SC 20405. SEND PROTESTS TO: Sara K. Davis, I.C.C., 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 140389 (Sub-42TA), filed December 18, 1978. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. *Foodstuffs*, (except in bulk), when moving in mechanically-refrigerated equipment, from the facilities of Munford Refrigerated Warehouse, Division of Munford, Incorporated, at or near Atlanta, GA, to points in AL, FL, IN, KY, LA, MS, NC, SC, TN, VA and WV., for 180 days. SUPPORTING SHIPPER(S): Munford Refrigerated Warehouse, Division of Munford, Inc., 6150 Xavier Drive, S.W., Atlanta, GA 30336. SEND PROTESTS TO: Mabel E. Holston Transp. Asst., ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 140829 (Sub-159TA), filed December 18, 1978. Applicant:. CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Lawn mowers*, from the facilities of Outboard Marine Corporation, at or near Manwa, WI, to points in the states of CO, CT, DC, IA, KS, ME, MD, MA, MO, NE, NH, NJ, NY, OK, PA, RI, TX, VA and VT, restricted to traffic originating at the named origin and destined to points in the named destination states, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Outboard Marine Corporation, 100 Sea Horse Dr., Waukegan, IL 60085. SEND PORTEST TO: Carroll Russell, I.C.C., Suite 620, 10 North 14th Street, Omaha, NE 68102.

MC 141602 (Sub-6TA), filed: December 18, 1978. Applicant: AUTO & TRUCK FORWARDING, INC., 29303 Pacific Street, Hayward, CA 94544. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. *Trucks, truck tractors, and truck chassis, in initial movements, in driveaway and truckaway service*, from the plant site of Mack Western at Hayward, CA to points in the United States (including AK but excluding HI) for 180 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. SUPPORTING SHIPPER(S): Mack Western, 21021 Corsair Blvd., Hayward, CA 94545. SEND PROTESTS TO: Mr. A. J. Rodriguez, I.C.C., 211 Main St., Suite 500, San Francisco, CA 94105.

MC 142559 (Sub-81TA), filed December 18, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland Ohio 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215, (614) 228-1541. *Bicycle, bicycle parts* and *accessories* except commodities in bulk) between the Commercial Zones of Boston, MA; Secaucus, NJ; Miami, FL; Bensenville, IL; New Orleans, LA; Long Beach, CA; Houston, TX; Buffalo, NY; and Westwood, MA, on the one hand, and, on the other, points in the United States; for 180 days. SUPPORTING

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SHIPPER(S): Raleigh Industries, 1168 Commonwealth Ave., Boston, MA 02134. SEND PROTESTS TO: Mary Wehner, I.C.C., 731 Federal Office Bldg., 1240 East Ninth Street, Cleveland, OH 44199.

MC 142772 (Sub-3TA), filed December 26, 1978. Applicant: HRDLICKA ENTERPRISES, INC., Route 7, Box 59, Chippewa Falls, WI 54729. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *Building materials, viz, building and roofing slabs, tiles and panels and related materials, parts, supplies and accessories*, from Cornell, WI to points in IL, IN, KY, OH and the lower peninsula of MI, for 180 days. SUPPORTING SHIPPER(S): Cornell Corporation, 808 South 3rd Street, Cornell, WI 54732. SEND PROTESTS TO: Delores A. Poe, Trans. Asst., I.C.C., 414 Federal Bldg., 110 South 4th Street, U. S. Courthouse, Minneapolis, MN 55401.

MC 143478 (Sub-8TA), filed December 27, 1978. Applicant: G. P. THOMPSON ENTERPRISES, INC., P. O. Box 146, Midway, AL 36053. Representative: Terry P. Wilson, 420 South Lawrence Street, Montgomery, AL 36104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by restaurant chains* (except commodities in bulk), between Jacksonville, FL, on the one hand and on the other, points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN and VA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Henry's Poultry Co., Inc., 2116 W. Beaver Street, Jacksonville, FL 32209. SEND PROTESTS TO: Mabel E. Holston, Trans. Asst., I.C.C., Rm. 1616-2121 Bldg., Birmingham, AL 35203.

MC 143594 (Sub-3TA), filed December 18, 1978. Applicant: NATIONAL BULK TRANSPORT, INC., P.O. Box 5078, Atlanta, GA 30302. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Liquid chemicals*, in bulk, in tank vehicles, from Hamilton County, TN to points in the United States, for 180 days. Supporting shipper: Velsicol Chemical Corporation, 4902 Central Avenue, Chattanooga, TN 37410. W. R. Grace & Co., Davidson Chemical Division, 10 E. Baltimore St., Baltimore, MD 21202. SEND PROTESTS TO: Sara K. Davis, I.C.C., 1252 W. Peachtree St., N. W., Rm. 300, Atlanta, GA 30309.

MC 143775 (Sub-47TA), filed December 20, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, Arizona 85302. Representative: Michael R. Burke, 6601 West Orangewood, Glendale, Arizona 85302. *Paper, in rolls, and paper bags*, from the facilities of Equitable Bag Company at Orange, TX., and its commercial zone, to NY, NJ, PA, WASHINGTON, DC., IL, MN, AZ, AND CA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Equitable Bag Company, Orange TX, 77630. SEND PROTESTS TO: Andrew V. Baylor, I.C.C., Rm. 2020 Federal Bldg., 230 N. First Ave., Phoenix, AZ 85025.

MC 143775 (Sub-48TA), filed December 20, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ. 85302. Representative: Michael R. Burke, 6601 West Orangewood, Glendale, AZ. 85302. (*1*) (*a*) *Adhesives, sealants, solvents, stains, and wood preservatives, and* (*b*) *accessories, equipment, materials and supplies used in the installation maintenance, and distribution of floors, floor coverings, walls and wall covering, in vehicles equipped with mechanical refrigeration*, From the facilities of Roberts Consolidated Industries, in Los Angeles County, California, to points in the United States (except Alaska, California, and Hawaii), for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Roberts Consolidated Industries, 600 N. Baldwin Park Blvd., City of Industry, CA 91749. SEND PROTESTS TO: Andrew V. Baylor, I.C.C., Rm. 2020 Federal Bldg., 230 N. First Ave. Phoenix, AZ 85025.

MC 144027 (Sub-6TA), filed December 27, 1978. Applicant: WARD CARTAGE AND WAREHOUSING, INC., Route No. 4, Glasgow, KY 42141. Representative: Walter Harwood, Attorney, P.O. Box 15214, Nashville, TN 37215. *Wooden or metal curtain rods, with or without fixtures; hooks, iron or steel* from the facilities of Scotscraft, Inc., at or near Scottsville, KY, to the facilities of Kirsch Co., at or near Tampa and Miami, FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper Scotscraft, Inc., Gallatin Road, Scottsville, KY. Send protests to Linda Sypher, I.C.C., 426 U.S. Post Office Building, 602 West Broadway, Louisville, KY 40202.

MC 144844 (Sub-3TA), filed December 18, 1978. Applicant: OZARK TRANSPORTATION, INC., P.O. Box 203, Greenville, MO 63944. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Lumber and lumber products, and wood and wood products*, from points in Wayne, Iron, Reynolds and Madison Counties, MO to points in IL on and north of U.S. Hwy 50 (except Aurora, Morris, Kankakee, Champaign, Chicago, and Clay, and their Commercial Zones), Fort Wayne, Indianapolis, Schneider, Seymour, South Bend and Mt. Vernon, IN, and Milwaukee, Richland Center and Union Grove, WI, for 180 days. An underlying ETA seeks 90 days of authority. SUPPORTING SHIPPER(S): There are approximately three (3) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: P.E. Binder, ICC, Rm 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 145023 (Sub-No. 2TA), filed December 18, 1978. Applicant: C. O. BRUCE & SON, INC. Route 1, Blum, TX 76627. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. *Lumber and lumber products*, from points CA, OR, and WA to points in AR, LA, OK, and TX, for 180 days. There are approximately (5) statement of support attached to this application which may be examined at the I.C.C., in Wash. D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Martha A. Powell, Trans. Asst., I.C.C., Rm. 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 145406 (Sub-5TA), filed December 1, 1978. Applicant: MIDWEST EXPRESS, INC., 380 E. Fourth Street, Dubuque, Iowa 52001. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, Madison, WI 53705. *Meat, meat products*, and *meat by-products* from the facilities of Packerland Packing Co., Inc., located at or near Green Bay, Eau Claire, and Chippewa Falls, WI to points in CA for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: PACKERLAND PACKING CO., INC., P.O. Box 1184, Green Bay, WI 54305. Send Protests To: Herbert W. Allen, I.C.C., 518 Federal Bldg., Des Moines, IA 50309.

MC 145503 (Sub-1TA), filed December 28, 1978. Applicant: ART ANDERSON, INC., P.O. Box 138, Oakford, IL 62673. Representative: Edward D. McNamara, Jr., 907 South 4th Street, Springfield, IL 62703. *Nonpressure nitrogen fertilizer solution*, from Clinton, IA, to Oakford, Monica and Amboy, IL, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Robert F. Reif Traffic Manager, Hawkeye Chemical Co., Box 899, Clinton, IA. SEND PROTESTS TO: Charles D. Little DS, ICC, 414 Federal Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 145506 (Sub-1TA), filed December 27, 1978. Applicant: ODOM TRUCKING CO., INC., Route 4, Box 165, Eufaula, AL 36027. Representative: W. K. Martin, Capell, Howard, Knabe & Cobbs, P.O. Box 2069, Montgomery, AL 36103. *Meat, meat products, meat by-products and articles distributed by meat-packing houses as described in Sections A and C of Appendix I to the report in Motor Carrier Certificates, 61 M.C.C. 209 and 766*, (except hides and skins and commodities in bulk), from the facilities of John Morrell & Co., at or near Montgomery, AL, to points and places in the United States, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): John Morrell & Co., 208 South LaSalle Street, Chicago, IL 60604. SEND PROTESTS TO: Mabel E. Holston Transp. Asst., ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 145764 (Sub-1TA), filed December 27, 1978. Applicant: C & E TRANSPORT, INC., 1600 Morton, Elkhart, IN 46514. Representative: Robert A. Kriscunas, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Salt*, in dump vehicles, From Chicago, IL and St. Joseph, MI to points in Indiana and Michigan, RESTRICTED to traffic originating at the plant site and terminal facilities of DOMTAR Industries, Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: DOMTAR Industries, Inc., Sifto Salt Div., 9950 W. Lawrence Ave., Schiller Park, IL 60176. Send protests to: Justus H. Gray, I.C.C., 343 West Wayne St., Suite 113, Fort Wayne, IN 46802.

MC 145871TA, filed December 12, 1978. Applicant: MICHAEL EARLE McBAIN, dba CENTRAL COURIER SERVICE, 1547 Raccoon Court, Ventura, CA 93003. Representative: Michael Earle McBain (same as above). *General commodities*, weighing 500 pounds or less, between Los Angeles, Ventura, and Santa Barbara Counties, CA, on shipments having a prior or subsequent movement by air, sea or rail, for 180 days. SUPPORTING SHIPPER(S): Schlumberger Offshore Services, 5700 Ralston 306B, Ventura, CA 93003. SEND PROTESTS TO: Irene Carlos, ICC, Room 1321 Federal Building, 300 North Los Angeles St., Los Angeles, CA 90012.

MC 145894 TA, filed December 18, 1978. Applicant: EQUIPMENT SUPPLIES, INC., 7736 West 62nd Place, Summit, IL 60501. Representative: Tom Stock (same as above). *General commodities* (except those of unusual value Class A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), in steamship and/or rail trailers and demountable containers, with or without chassis, between the rail and steamship facilities in the Chicago Commercial Zone as defined by the Commission, and points and places in the states of IL, IN, IA, Lower Pennisula of MI, WI, for 180 days. There are approximately (6) statement of support attached to this application which may be examined at the I.C.C., in Wash, D.C., or copies thereof which may be examined a the field office named below. SEND PROTESTS TO: Lois Stahl, Trans. Asst., I.C.C., Everett McKinley Dirksen Bldg., 219 South Dearborn St., Chicago, IL 60604.

MC 145915 TA, filed December 19, 1978. Applicant: EAGLE TRANSPORT, INC., P.O. Box 189, Montpelier, ID 83254. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Oil Drilling Mud Compounds* from Montpelier, ID to points in the UT Counties of Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summitt, Weber and Wasatch and the WY Counties of Lincoln, Sublette, Sweetwater, Teton and Vinta. Restricted to shipments originating at the named origin and destined to points in the named destination territories, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): IMCO Services, P.O. Box 726, Vernal, UT 84078. SEND PROTESTS TO: Barney L. Hardin, I.C.C., Suite 110, 1471 shoreline Dr., Boise, ID 83706.

MC 145916 TA, filed December 18, 1978. Applicant: ZELL G. HENDERSON D/B/A THE SPA HAULER, 1283 High St., Auburn, CA 95603. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. *Uncrated spas and hot tubs, with a density of less than three (3) pounds per cubic foot*, from points in CA to points in U.S. (except Alaska and Hawaii), for 180 days. an underlying ETA seeks 90 days authority. There are approximately (6) statement of support attached to this application which may be examined at the I.C.C., in Wash, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: W.J. Huetig, I.C.C., 203 Federal Bldg., 705 North Plaza St., Carson City, NV 89701.

MC 145945 (Sub 1 TA), filed December 19, 1978. Applicant: WILLIS LEASING CORPORATION, 3175 Wall Avenue, Ogden, UT 84401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tires and tread rubber*, from Findlay, OH and Texarkana, TX to CO, UT, WY, and ID, under a continuing contract or contracts with Dick Morrison Tire Company, Inc. and Superior Tire Service, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Dick Morrison Tire Company, Inc., 49 East 9th South Street, Salt Lake City, UT 84111 (Robert B. Morrison, President). Superior Tire Service, Inc., 280 North Vernal Ave., Vernal, UT 84078. (K. H. Sowards, President). SEND PROTESTS TO: L. D. Helfer, I.C.C., 5301 Federal Bldg., Salt Lake City, UT 84138.

By the Commission.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 79-3242 Filed 1-30-79; 8:45 am]

[7035-01-M]

[Notice No. 14]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 19, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

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MOTOR CARRIERS OF PROPERTY

MC 26825 (Sub-19TA), filed December 26, 1978. Applicant: ANDREWS VAN LINES, INC., Seventh & Park Ave., Box 1609, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. *Ready-to-eat cereals* (except commodities in bulk), from Omaha, NE to Oakland and Los Angeles, CA; Phoenix, AZ; Denver, CO; Toledo and Cleveland, OH; Pittsburgh, Wilkes-Barre, and Scranton, PA; Buffalo and New York, NY; Lawrence, MA; Elizabeth and Jersey City, NJ; Charlotte, NC; and Jacksonville, Miami and Tampa, FL. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: U.S. Mills, Inc., 4201 N. 28th Ave., Omaha, NE 68111. Send protests to: Mr. Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620 Union Pacific Plaza Bldg., 110 N. 14th St., Omaha, NE 68102.

MC 34027 (Sub-12TA), filed December 7, 1978. Applicant: GEETINGS, INC., P.O. Box 82, Pella, IA 50219. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Wood windows, sliding glass doors, wood folding doors, and partitions*, from Pella, IA to St. Louis, MO., for 180 days. AN underlying ETA seeks 90 days authority. Send protests to: Herbert Allen, District Supervisor, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309. Supporting shippers: PELLA ROLSCREEN COMPANY, Pella, IA. 50219.

MC 51146 (Sub-305TA), filed December 15, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. (1) *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds*, (except in bulk, in tank vehicles) *and filters* from points in Warren County, MS to points in and east of ND, SD, NE, CO, OK, and TX; and (2) *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds, filters, equipment, materials, and supplies* used in the manufacture, sale, and distribution of the commodities named in (1) above (except in bulk, in tank vehicles) from points in AL, GA, IL, IN, KY, NY, OH, OK, PA, RI, SC, VA, and WV to points in Warren county, MS. Restricted in Parts (1) and (2) above to shipments originating at or destined to the facilities of Quaker State Oil Refining Corporation located in Warren County, MS., for 180 days. SUPPORTING SHIPPER(S): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. SEND PROTESTS TO: Connie Stanley Transp. Asst., Room 240 Old Post Office & Court House Bldg., 215 N.W., 3rd, Oklahoma City, OK 73102.

MC 75320 (Sub-206TA), filed: December 26, 1978. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, Missouri 65801. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. (1) *Rubber and rubber products* from the facilities of Denman Rubber Manufacturing Co. at or near Leavittsburg, OH to points in AL, AR, IA, KS, LA, MS, MO, NE, OK, TN, and TX, and (2) *Materials, equipment and supplies* used in the manufacture of rubber and rubber products, except commodities in bulk, from the points listed in Paragraph (1) above to the facilities of Denman Rubber Manufacturing Co. at or near Leavittsburg, OH, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Denman Rubber Mfg., Company, Diehl Road, Leavittsburg, OH 44430. SEND PROTESTS TO: John V. Barry DS, ICC, 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 82492, (Sub-212TA), filed December 26, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, Michigan 49003. Representative: Dewey R. Marselle (Same Address as Applicant). *Chemicals*, except in bulk, From the facilities of National Starch & Chemical Corporation at or near Meredosia, IL, to points in NY in and west of Broome, Cortland, Onondaga and Oswego Counties, and points in OH, KY, TN, MO, KS, NE, MN, IA, WI, IL, IN, and MI., for 180 days. SUPPORTING SHIPPER(S): National Starch & Chemical Corporation, 10 Finderne Avenue, Bridgewater, NJ 08807. SEND PROTESTS TO: C. R. Flemming DS, ICC, 225 Federal Bldg., Lansing, MI 48933.

MC 100327 (Sub-9TA), filed December 14, 1978. Applicant: LONGUEIL TRANSPORTATION, INC., 144 Shaker Road, P.O. Box 473, East Longmeadow, MA 01028. Representative: David M. Marshall, Esq., Marshall and Marshall, 101 State Street—Suite 304, Springfield, MA 01103. *Passengers*, in special operations, beginning and ending at points in Springfield, MA and extending to the plant and facilities of Castle & Cooke Inc., Mushroom Division, East Windsor, CT. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Castle & Cooke Inc., Mushroom Division, 96 Newberry Road, East Windsor, CT 06088. Send protests to: David M. Miller, District Supervisor, Interstate Commerce Commission, 338 Federal Building and U.S. Courthouse, 436 Dwight Street, Springfield, MA 01103.

MC 100327 (Sub-10TA), filed December 14, 1978. Applicant: LONGUEIL TRANSPORTATION, INC., 144 Shaker Road, P.O. Box 473, East Longmeadow, MA 01028. Representative: David M. Marshall, Esq., Marshall and Marshall, 101 State Street—Suite 304, Springfield, MA 01103. *Passengers*, in special operations, between the facilities of Springfield Goodwill Industries, Inc. in Springfield, MA on the one hand, and, on the other, points in Hartford County, CT. for 180 days. Supporting Shipper: Springfield Goodwill Industries, Inc., 285 Dorset Street, Springfield, MA 01108. Send protests to David M. Miller, District Supervisor, Interstate Commerce Commission, 338 Federal Building and U.S. Courthouse, 436 Dwight Street, Springfield, MA 01103.

MC 103051 (Sub-467TA), filed December 27, 1978. Applicant: FLEET TRANSPORT COMPANY, INC., 934-44th Ave., N., Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. *VEGETABLE OIL*, in bulk, in tank vehicles, from Chattanooga, TN to Waverly, IA for 180 days. Supporting shipper: Swift & Company, 115 W. Jackson Blvd., Chicago, IL, 60604. Send protests to: Joe J. Tate, district Supervisor, Interstate Commerce Commission, Suite A-422, Federal Bldg., 801 Broadway, Nashville, TN, 37203. An underlying ETA seeks 90 days authority.

MC 106398 (Sub-855TA), filed December 26, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Oklahoma 74103. Representative: Irvin Tull, Traffic Manager, 525 South Main, Tulsa, Oklahoma 74103. *Concrete wire reinforced planks or slabs, and wood and cement planks and slabs*, from the facilities of Martin Fireproofing Georgia, Inc. at Elberton, GA to all points in CT, DE, DC, IL, MD, MA, NJ, NY, OH, PA, VA and WV. for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Martin Fireproofing Georgia, Inc., P.O. Box 768, Elberton, GA 30635. SEND PROTESTS TO: Connie Stanley Transp. Asst., ICC, Room 240 Old Post Office & Court House Bldg., 215 NW., 3rd, Oklahoma City, OK 73102.

MC 108400 (Sub-116TA), filed December 14, 1978. Applicant: KAW TRANSPORT COMPANY, P.O. Box 12628, North Kansas City, MO 64116. Representative: Harold D. Holwick, P.O. Box 12628, North Kansas City, MO 64116. *Hydrofluoric acid*, (in bulk, in tank vehicles), From St. Joseph, MO., to LaPorte, IN., St. Paul, MN, and Fulton, NY., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Amchem Products, Inc., Ambler, PA 19002. SEND PROTESTS TO: Vernon V. Coble DS, ICC, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 107010 (Sub-66TA), filed December 26, 1978. Applicant: BULK CARRIERS, INC., P.O. Box 423, Auburn, NE 68305. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Propane*, (in bulk, in tank vehicles), From the Mid America Pipeline Terminal at or near Greenwood, NE to points in SD, for 180 days. SUPPORTING SHIPPER(S): Farmland Industries, Inc., Charles D. Rosas, Supervisor-Transportation Service, 3315 North Oak Trafficway, Kansas City, MO 64116. SEND PROTESTS TO: Max H. Johnston DS, 285 Federal Building & U.S. Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 109238 (Sub-7TA), filed December 29, 1978. Applicant: DeHART MOTOR LINES, INC., P.O. Box 368, Highway 64-70 West, Conover, NC 28613. Representative: Joe W. Flowers, P.O. Box 368, Conover NC 28613. *Plastic materials and articles*, (except in bulk, in tank vehicles), from New York, NY and its commercial zone as defined by the Commission to Spartanburg, Roebuck, Anderson, Smoaks and Greenville, SC, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIP>PER(S): Cardan Plastic Products Corp., 181 S. Franklin Avenue, Valley Stream, NY. SEND PROTESTS TO: Terrell Price DS, 800 Briar Creek Road, Room CC 516, Mart Office Building, Charlotte, NC 28205.

MC 109238 (Sub-8TA), filed December 29, 1978. Applicant: DeHART MOTOR LINES, INC., Highway 64-70 West, Conover, NC 28613. Representative: Joe W. Flowers, Highway 64-70 West, Conover, NC 28613. *Merchandise* such as dealt in by wholesale and retail department store chains, from New York, NY to Raleigh and Fuquay Varina, NC, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): (1) Super Dollar Stores, Inc., P.O. Box 12398, Research Triangle Park, NC 27709. (2) Variety Wholesalers, Inc., P.O. Box 12398, Research Triangle Park, NC 27709. SEND PROTESTS TO: Terrell Price DS, 800 Briar Creek Road, Room CC 516, Mart Office Building, Charlotte, NC 28205.

MC 109238 (Sub-9TA), filed December 29, 1978. Applicant: DeHART MOTOR LINES, INC., Highway 64-70 West, Conover, NC 28613. Representative: Joe W. Flowers, Highway 64-70 West, Conover, NC 28613. *Floor coverings and related articles* used in the installation and maintenance thereof, in packages, between Vails Gate, NY and Raleigh, NC, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): R. L. Dresser, Inc., P.O. Box 17083, Raleigh, NC 27619. SEND PROTESTS TO: Terrell Price DS, 800 Briar Creek Road, Room CC 516, Mart Office Building, Charlotte, NC 28205.

MC 109238 (Sub-10TA), filed December 29, 1978. Applicant: DeHART MOTOR LINES, INC., Highway 64-70 West, Conover, NC 28613. Representative: Joe W. Flowers, Highway 64-70 West, Conover, NC 28613. *Compounds, cleaning, scouring, washing, bleaching, buffing or polishing, soap base, deodorizing, disinfecting, fabric or textile softening, and rust preventive lube oils and greases, plastic bags NOI, filters NOI, and paints, stains or varnishes in strait or mixed shipments T/L*, from Avenel, NJ to points in NC and SC, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Economics Laboratory, Inc., 235 Blair Road, Avenel, NJ 07001. SEND PROTESTS TO: Terrell Price DS, 800 Briar Road, Room CC 516, Mart Office Building, Charlotte, NC 28205.

MC 109692 (Sub-77TA), filed December 12, 1978. Applicant: GRAIN BELT TRANSPORTATION COMPANY, Route 13, Kansas City, MO 64161. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. *Hides*, from the facilities of Iowa Beef Processors, Inc. at or near Dakota City, NE, Denison, IA, and Emporia, KS to points in IL, IN, KY, MI, MN, MO, TN, TX, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Iowa Beef Processors, Inc., Dakota City, NE 68731. SEND PROTESTS TO: Vernon V. Coble DS, ICC, 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 112304 (Sub-161TA), filed December 28, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Fred Schmits (Same address as applicant): *Aluminum and aluminum articles*, from the facilities of Kaiser Aluminum & Chemical Corporation at or near Ravenswood, WV, to points in and east of Minnesota, Iowa, Missouri, Kansas, Oklahoma, and TX, for 180 days. SUPPORTING SHIPPER(S): Kaiser Aluminum & Chemical Corporation, R. E. Nowell, Manager, Transportation Services, P.O. Box 98, Ravenswood, WV 26164. SEND PROTESTS TO: Paul J. Lowry DS, ICC, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 113908 (Sub-457TA), filed December 15, 1978. Applicant: ERICKSON TRANSPORT, P.O. Box 3180, Springfield, MD 65804. Representative: Bill Whitehead (Same address as applicant). *Wine, wine products, wine spirits high proof*, (in bulk), from points in CA., to Altus, AR, and the commerical zone thereof, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Wiederkehr Wine Cellars, Inc., Altus, AR. SEND PROTESTS TO: John V. Barry DS, ICC, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 114211 (Sub-389TA), filed December 6, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, 210 Beck Street, Waterloo, IA 50704. Representative: Adelor J. Warren, P.O. Box 420, Waterloo, IA 50704. *Irrigation systems*, from Denver, CO, to points in the U.S., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Aquanomic Irrigation Systems, 4905 Nome Street, Denver, CO 80239. SEND PROTESTS TO: Herbert W. Allen DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 114735 (Sub-94TA), filed December 27, 1978. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th Street, Omaha, NE 68110. Representative: Donald F. Swerczek (Same address as applicant). *Propane*, (in bulk, in tank vehicles), from the Mid America Pipeline Terminal at or near Greenwood, NE, to points in SD, for 180 days. SUPPORTING SHIPPER(S): Farmland Industries, Inc., Charles D. Rosas, Supervisor-Transportation Service, 3315 North Oak Trafficway, Kansas City, MO 64116. SEND PROTESTS TO: Carroll Russell DS, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 117119 (Sub-708TA), filed December 14, 1978. Applicant: Willis Shaw Frozen Express, Inc., P.O. Box 188, Elm Springs, AR 72728. Representative: M. M. Geffon, P.O. Box 156, Mt. Laurel, NJ 06054. *Frozen Foods* (except in bulk) from Wethersfield and Hartford, CT to Anaheim, CA; Dallas, TX; and Bonner Springs, KS for 180 days. SUPPORTING SHIPPER(S): Foodways National, Inc., 1000 Silas Deane Highway, Wethersfield, CT 06109. SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, AR 72201.

MC 118535 (Sub-129TA), filed December 26, 1978. Applicant: TIONA TRUCK LINE, INC., 111 South Prospect, Butler, MO 64730. Representative: Tom Ventura, 111 South Prospect, Butler, MO 64730. *Canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H. J. Heinz

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Co., at or near Iowa City, IA, to points in MO, and points in IL, on and south of Interstate 70, and restricted to traffic originating at the named facilities and destined to the named states, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Heinz U.S.A., Div. of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. SEND PROTESTS TO: John V. Barry DS, ICC, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 119800 (Sub-1 TA), filed December 8, 1978. Applicant: McELROY TRANSPORT CO., INC., P.O. Box 742, Wynnewood, OK 73098. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *Fuel oil,* in bulk, in tank vehicles, from Fort Worth, TX, to the facilities of Pennsylvania Glass Sand Corporation at or near Mill Creek, OK for 180 days, an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pennsylvania Glass Sand Corporation, Berkley Springs, WV 25411. Send protests to Martha A. Powell, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 121060 (Sub-83 TA), filed December 28, 1978. Applicant: ARROW TRUCK LINES, INC., 1220 West 3rd Street, P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. *Aluminum and aluminum articles,* from Belton, SC, to points in Pennsylvania, New York, New Jersey, Indiana, Ohio, Michigan, Alabama, and GA., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Wells Aluminum Southeast, Inc., P.O. Box 627, Belton, SC 29627. SEND PROTESTS TO: Mabel E. Holston, Transp. Asst., ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 124141 (Sub-8 TA), filed December 28, 1978. Applicant: JULIAN MARTIN, INC., Highway 25 South, P.O. Box 3348, Batesville, Arkansas 72501. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, Virginia 22101. *Rough dimension stock lumber,* in vehicles equipped with temperature control, from the facilities of Batesville Casket Co., Inc. at Vicksburg, MS, to the facilities of Batesville Casket Co., Inc. at Nashua, NH, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER: Batesville Casket Co., Inc., Rt. 6, Box 42, Vicksburg, MS 39180. SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Building, Little Rock, AR 72201.

MC 124673 (Sub-27 TA), filed December 27, 1978. Applicant: FEED TRANSPORTS, INC., P.O. Box 2167, Pullman Road, South, Amarillo, TX 79105. Representative: Gail P. Johnson, P.O. Box 2167, Amarillo, TX 79105. *Animal feed ingredients,* (in bulk and in bags), from Lubbock, TX., to points in Arkansas, Kansas, Missouri, and NE., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Progressive Grain Processing Corp., 711 E. 46th Street, Lubbock, TX. SEND PROTESTS TO: Haskell E. Ballard DS, ICC, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 125335 (Sub-45TA), filed December 15, 1978. Applicant: GOOD-WAY, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, PETERSON, BOWMAN, LARSEN & SWANSON, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. (1) *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds* (except in bulk, in tank vehicles), and filters from points in Warren County, MS, to points in FL, GA, IL, IA, KS, MO, NE, NJ, NY, OK, PA, TN, TX, and WI; and (2) petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds, filters, materials, supplies, and equipment as are used in the manufacture, sale, and distribution of the commodities named in part (1), above, (except in bulk, in tank vehicles), from points in IL, NY, and PA to points to Warren County, MS. Restricted in parts (1) and (2), above, to shipments originating at or destined to the facilities of Quaker State Oil Refining Corporation, located in Warren County, MS, for 180 days. Supporting shipper: Quaker State Oil Refining Corporation, J. D. Campbell, General Traffic Manager, P.O. Box 989, Oil City, PA 16301. Send protests to: Charles Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Harrisburg, PA 17108.

MC 125335 (Sub-46TA), filed December 15, 1978. Applicant: GOOD-WAY, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, PETERSON, BOWMAN, LARSEN & SWANSON, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Dakota City, NE, and Sioux City, IA, to points in the States of CT, DE, ME, MD, MA, NH, NY, NJ, PA, RI, VT, VA, WV, and DC, for 180 days. Supporting shipper: Iowa Beef Processors, Inc., Glen C. Echelbarger, Rate Analyst, P.O. Box 515, Dakota City, NE 68731. Send protests to: Charles Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Harrisburg, PA 17106.

MC 133219 (Sub-25TA), filed December 14, 1978. Applicant: NEBRASKA BULK TRANSPORTS, INC., P.O. Box 215, Bennet, NE 68317. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Soybean oil,* in bulk, in tank vehicles, from the facilities of Cargill, Inc. at or near Wichita, KS, to Port of Catoosa, OK. Restricted to commodities having a subsequent movement by water, for 180 days. An underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cargill, Inc., P.O. Box 2696, Wichita, KS 67214. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Building, 100 Centennial Mall North, Lincoln, NE 68508.

MC 135797 (Sub-170TA), filed December 28, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant, Esq., P.O. Box 200, Lowell, AR 72745. *Tools, forgings, tool boxes and packing containers,* (1) Between East Windsor, CT; Springdale, AR and Gastonia, NC; and (2) From East Windsor, CT to Glen Burnie, MD and (3) From Colorado Springs, CO to East Windsor, CT; Springdale, AR; and Gastonia, NC. Restricted to traffic originating at or destined to the facilities of the Moore Company, Inc., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): The Moore Company, Inc., Thompson Rd., East Windsor, CT 06088. SEND PROTESTS TO: William H. Land, Jr., DS, ICC, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, AR 72201.

MC 138686 (Sub-4TA), filed December 28, 1978. Applicant: L.C.W. TRUCKING, INC., P.O. Box 718, 119 East Chavez Street, Edinburg, TX 78539. Representative: L. C. Waller, P.O. Box 718, Edinburg, TX 78539. *Doors, door frames and mouldings,* from ports of entry on the United States-Mexico Border at or near El Paso, TX, restricted to traffic moving in foreign commerce destined to San Antonio, Houston, and Pasadena, TX, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting Shipper(s): Ponderosa, Produce, Inc., P.O. Box 5231, El Paso, TX 79953. Send protests to: Richard H. Dawkins DS, ICC, Room B-400 Federal Building, 727 E. Durango Street, San Antonio, TX 78206.

MC 138875 (Sub-121TA), filed December 15, 1978. Applicant: SHOEMAKER TRUCKING COMPANY, an Idaho corporation, 11900 Franklin Road, Boise, Idaho 83705. Representative: P. L. Sigloh (as above). *Laminated wooden beams,* from the facilities of Glu-Laminated Wood Systems, Inc. located at or near Magna, UT to points in AZ, CA and NV, for 180 days. Supporting Shipper(s): John T. Lever, Jr., President, Glu-Laminated Wood Systems, Inc., 3909 South 8000 West, Magna, UT 84044. Send protests to: Barney L. Hardin, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 110, 1471 Shoreline Drive, Boise, Idaho 83706.

MC 138882 (Sub-184 TA), filed December 27, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Canned and bottled foodstuffs,* from the facilities of Bruce Foods Corp., at Cade and Lozes, LA, to points in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee and MS. from the facilities of Bruce Foods Corp., at Wilson, NC, to points in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, Mississippi, and LA., for 180 days. An underlying ETA seeks up to 90 days authority. Supporting Shipper(s): Bruce Foods Corporation, P.O. Drawer 1030, New Iberia, LA 70560. Send protests to: Mabel E. Holston Transp. Asst., ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 140193 (Sub-3TA), filed December 12, 1978. Applicant: RICH GRANT, INC., 910 West 24th Street, Ogden, UT 84401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting *cheese, cheese products and synthetic cheese,* from MN and WI to the facilities of L. D. Schreiber Cheese Company, Inc., at or near Logan, UT, under a continuing contract or contracts with L. D. Schreiber Cheese Company, Inc., for 180 days. Supporting shipper: L. D. Schreiber Cheese Co., Inc., 425 Pine St., P.O. Box 610, Green Bay, WI 54305. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138. An underlying ETA seeks up to 90 days authority.

MC 140563 (Sub-17TA), filed December 21, 1978. Applicant: W. T. MYLES TRANSPORTATION CO., P.O. Box 321, Conley, GA 30027. Applicant's representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Fibrous glass products and materials, mineral wopl, mineral wool products and materials insulated air ducts, insulating products and materials; glass fibre rovings, yarn and strands, glass fibre mats and mattings; flexible air ducts* (except commodities in bulk), and (2) *Materials, equipment and supplies* used in the manufacture of commodities named in (1) above, (except in bulk), between the facilities of CertainTeed Corporation located at or near Kansas City, KS, on the one hand, and, on the other, points in AL, AR, GA, IN, KY, LA, MD, MI, MS, NJ, NY, OH, PA, TN and VA, for 180 days. An underlying ETA seeking up to 90 days of operating authority. Supporting shipper: CertainTeed Corporation, Insulation Group, P.O. Box 860, Valley Forge, PA 19482. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street, N.W., Room 300, Atlanta, GA 30309.

MC 141064 (Sub-12TA), filed October 4, 1978, and published in the FEDERAL REGISTER issue of November 21, 1978, and republished as corrected this issue. Applicant: NATIONAL FREIGHT LINES, INC., 13032 Arroyo Avenue, P.O. Box 1031, San Fernando, CA 91341. Representative: Bill D. Gardner, 13023 Arroyo, P.O. Box 1031, San Fernando, CA 91341. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Railway car, parts and accessories,* from Chicago, IL; Portage, IN; St. Louis, MO; Buffalo, DePew, Lackawanna and Watertown, NY; Columbus, OH; Wilmerding, PA; Fort Worth and Longview, TX., to Portland, OR., under a continuing contract, or contracts, with FMC Corporation, for 180 days. Supporting shipper(s): FMC Corporation, 4700 N.W., Front Avenue, Portland, Oreg. 97208. Send protests to: Irene Carlos Transp. Asst., ICC, 300 N. Los Angeles Street, Room 1321, Los Angeles, CA. 90012. The purpose of this republication is to include Fort Worth and Longview, TX in the origin states and add PA., to Wilmerding, which was omitted previously in the territorial description.

MC 141273 (Sub-6TA), filed December 14, 1978. Applicant: CARL NEESAM, 228 W. Chestnut Street, Pardeeville, Wisconsin 53954. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, Wisconsin 53705. *Feed* and *feed ingredients, grain, soybean* and *seed products* and *by-products,* except commodities in bulk in tank vehicles, from the facilities of Archer Daniels Midland Company, at or near Red Wing, MN, to points in IN for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Archer Daniels Midland Company, P.O. Box 1470, Decatur, Illinois 62525. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 142059 (Sub-57), filed December 27, 1978. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, Illinois 60436. Representative: Jack Riley, 1830 Mound Road, Joliet, Illinois 60436. *Lumber,* from the ports of entry along the International Boundary line between the United States and Canada located on the Detroit, St. Clair and Niagra Rivers to points in IL, IN, KY, MD, MI, NY, OH, PA, TN, VA, WV and DC. Restricted to transportation of shipments originating at the facilities of Green Forest Lumber Ltd. at Chatham and Windsor, Ontario, Canada for 180 days. Supporting shipper: Green Forest Lumber Ltd., 250 Merton Street, Toronto, Ontario, Canada. Send protests to: Mrs. Lois Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Chicago, Illinois 60604.

MC 142484 (Sub-5TA), filed December 27, 1978. Applicant: STRINGFELLOW TRANSPORTATION COMPANY, INC., 724 Third Avenue North, Birmingham, AL 35203. Representative: Robert E. Tate, P.O. Box 517, Evergeen, AL 36401. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings,* from Henderson, KY, to points in Illinois, Indiana, Michigan and OH, under a continuing contract or contracts, with Cresline Plastic Pipe Co., Inc., for 180 days. SUPPORTING SHIPPER(S): Cresline Plastic Pipe Co., Inc., 851 South U.S. 41, Henderson, KY 42420. SEND PROTESTS TO: Mabel E. Holston, Transp. Asst., ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 142559 (Sub-75TA), filed December 14, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, Ohio 44114. Representative: John P. McMahon, George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, Ohio 43215. *Television picture tubes, parts, materials, equipment* and *supplies* used in the manufacture thereof, except commodities in bulk, from the Commercial Zone of Scranton, PA to the Commercial Zones of Chicago and Evanston, IL., for 180 days. SUPPORTING SHIPPER(S): RCA Corporation, Route 38, Cherry Hill, NJ 08101. SEND PROTESTS TO: Mary Wehner, DS, ICC, 731 Federal Office Building,

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1240 East Ninth Street, Cleveland, OH 44199.

MC 142559 (Sub-80TA), filed December 14, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, Ohio 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. *Soap and cleaning compounds; fuel oil conditioners; ice control compounds; specialty cleaners and chemicals; automotive cleaners and waxes; fuel and oil additives; and household deodorants and disinfectants (except commodities in bulk); and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk)* between Barberton, OH, on the one hand, and, on the other, points in the United States (except AK and HI), for 180 days. SUPPORTING SHIPPER(S): Malco, Products, 361 Fairview Avenue, Barberton, OH. SEND PROTESTS TO: Mary Wehner, DS, ICC, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 143179 (Sub-10TA), filed November 24, 1978. Applicant: CNM CONTRACT CARRIERS, INC., 400 North 10th Street, Council Bluffs, IA 51501. Representative: Foster L. Kent (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic foam products and fiberbond laminated to plastic foam*, from Minneapolis, MN to Chicago, IL; Kokomo, IN; Minot, ND; Oklahoma City and Weatherford, OK; Omaha, NE; and points in WI., under a continuing contract or contracts, with American Converters, Inc., and Federal Package Division, for 180 days. SUPPORTING SHIPPER(S): (1) Jay Markstrom, Secretary/Treasurer, American Converters, Inc., 2705 University Avenue, N.E., Minneapolis, MN 55418. (2) James A. Thole, National Accounts Manager, Lydall, Inc., Federal Package Division, 3401 Nevada Avenue N, Minneapolis, MN 55427. SEND PROTESTS TO: Carroll Russell, DS, ICC, Suite 820, 110 North 14th Street, Omaha, NE 68102.

MC 144726 (Sub-2TA), filed December 15, 1978. Applicant: K.K.W. TRUCKING, INC., 516 West 140th Street, Gardena, CA 90243. Representative: David R. Parker, 717 17th Street, Suite 2600, Denver, CO 80202. *New furniture and commodities which are dealt in by department stores*, from points in Los Angeles, Orange, San Bernardino and Riverside Counties, CA to Phoenix, Tucson and Yuma, AZ; and Las Vegas and Reno, NV, for 180 days. Restriction: Restricted to shipments originating at or destined to the facilities of J. C. Penney Company, Inc. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper; J. C. Penney Company, Inc., 1301 Avenue of the Americas, New York, NY 10019. Send protests to: Ms. Irene Carlos, Transportation Assistant, Interstate Commerce Commission, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 144827 (Sub-12TA), filed October 27, 1978 and published in the FEDERAL REGISTER issue of December 5, 1978, and republished as corrected this issue. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, Memphis, TN 38118. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Air conditioning and heating units* (except commodities which because of size or weight require the use of special equipment), from Davidson County, TN, to points in AL, AR, CT, IL, IN, MI, LA, MS, NJ, NY, OH, OK, PA, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heil Quaker Corporation, 1714 Heil Quaker Blvd., La Vergne, TN 37086. Send protests to: Floyd A. Johnson, DS, ICC, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103. The purpose of this republication is to include LA, in the territorial description which was omitted previously in the summary.

MC 144897 (Sub-2TA), filed December 26, 1978. Applicant: SUN FREIGHTWAYS, INC., 500 East 50th Street, Lubbock, TX 79417. Representative: John C. Sims, P.O. Box 10236, Lubbock, TX 79408. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Amarillo, TX and Clovis, NM: From Amarillo, TX, over U.S. Highway 87 to Canyon, TX, then over U.S. Highway 60 to Clovis, NM and return, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): There are approximately (36) statements of support attached to this application which may be examined at the field office named below. Send protests to: Haskell E. Ballard DS, ICC, Box F-13206 Federal Building, Washington, DC 20423.

MC 145152 (Sub-29TA), filed December 28, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Canned goods*, from the facilities of Oconomowoc Canning Company, at or near Poynette, WI, to points in Alabama, Arkansas, California, Colorado, Florida, Georgia, Kentucky, Mississippi, North Carolina, Ohio, Pennsylvania, South Carolina and TN; for 180 days. Supporting shipper(s): Oconomowoc Canning Company, Kent Road, Poynette, WI 53955. Send protests to: William H. Land, Jr., DS, ICC, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145648 (Sub-1TA), filed November 13, 1978. Applicant: DUDLEY TRUCKING, INC., P.O. Box 1651, Tacoma, WA 98401. Representative: Michael B. Crutcher, 2000 IBM Building, Seattle, WA 98101. *Iron and steel articles and pipe*, Between Portland, OR and Missoula, MT., for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Atlas Iron Works, Inc., 4600 N.E., 138th, Portland, OR 97230. SEND PROTESTS TO: Hugh H. Chaffee DS, ICC, 858 Federal Building, 915 2nd Avenue, Seattle, WA 98174.

MC 145832 (Sub-1TA), filed December 14, 1978. Applicant: INDUSTRIAL CONTAINER TRANSPORT, INC., 196 Industrial Road, P.O. Box 185, Leominster, MA 01453. Representative: David M. Marshall, Esq., Marshall & Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *plastic and plastic articles, and supplies and materials* used in their manufacture and distribution (except in bulk), between the facilities of Plastican, Inc. located at or near Leominster, MA on the one hand, and, on the other, the District of Columbia, Athens, Atlanta, Cairo, Conyers, Decatur, Lithonia, Macon, Marietta, and Savannah, GA, Champagne and points in Cook and Du Page Counties, IL, Fort Wayne, Indianapolis, Terre Haute and Warsau, IN, Louisiana, KY, Canton, Charlotte, Greensboro, Raleigh, and Winston-Salem, NC, Akron, Barberton, Canton, Cincinnati, Cleveland, Columbus, Dayton, Middlefield, Oak Hill and Toledo, OH, Charleston, Columbia, Greenville, Simpsonville and Sumter, SC, Richmond and Winchester, VA, points in CT, DE, MD, MI on the lower peninsula, NH, NJ, NY, PA, RI, VT and WI east of the Wisconsin River and points in Dade, Pasco, Orange, Broward, Polk, Hillsborough, Brevard, Osceola, Indian River, Duval and St. Lucie Counties, FL under a continuing contract or contracts with Plastican, Inc. for 180 days. Supporting Shipper: Plastican, Inc., 196 Industrial Road, P.O. Box 1185, Leominster, MA 01453. Send protests to: David M.

Miller, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 338 Federal Bldg. and U.S. Courthouse, 436 Dwight St., Springfield, MA 01103. ETA for 30 days plus 2 extensions was granted on December 11, 1978.

MC 145865 (Sub-1TA), December 27, 1978. Applicant: METONGA COMPANY, INC., 913 N. Hazeldell Avenue, Crandon, Wisconsin 54520. Representative: Nancy J. Johnson, Attorney, 4506 Regent Street, Suite 100, Madison, Wisconsin 53705. *Nitro carbo nitrate oxidizer*, in bags from the facilities of Atlas Powder Company located at or near White Pine, MI to the Town of Freedom, Outagamine County, WI for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Atlas Powder Company, Park Central 111, 12700 Park Central Place, Suite 1700, Dallas, Texas 75251. Send Protests To: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Federal Building, 517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

MC 145889 (Sub-1TA), December 15, 1978. Applicant: CRICKET EXPRESS, INC., P.O. Box 187, Hastings, NE 68901. Representative: Gailyn L. Larsen, Peterson, Bowman, Larsen & Swanson, 521 So. 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins and pieces thereof*, from the facilities of Dubuque Packing Company, at or near Mankato, KS, to the facilities of Hastings Hide, Inc., in Clay County, NE, for 180 days, an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Hastings Hide, Inc., William E. James, President, P.O. Box 2008, Hastings, NE. Send protests to: Max Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Building and U.S. Court House, 100 Centennial Mall North, Lincoln, NE 68508.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-3243 Filed 1-30-79; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[6320-01-M]

[M-191 Amdt. 3]

CIVIL AERONAUTICS BOARD.

Notice of addition and closure of item to the January 24, 1979 agenda.

TIME AND DATE: 10 a.m., (after regular Board Meeting), January 24, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 14. Dockets 33887, 33984, and 34314, Joint Application of Pan American World Airways, Inc. and Saudi Arabian Airlines, Corp. for approval of a blocked space agreement; application of Saudi Arabian Airlines Corp. for issuance of a foreign air carrier permit; application of Saudi Arabian Airlines Corp. for an exemption from section 402 to permit it to inaugurate service between New York City and Dhahran, Saudi Arabia, on February 1, 1979, (memo 8431-A, BIA, OGC).

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: On January 22 the Board received a letter from the Department of State giving its views on the foreign policy implications involved in the applications. Because the applicants wish to begin the proposed service on February 1 and because of the recency of the Departments letter, the following Board Members have voted that agency business requires the addition of Item 14 to the January 24, 1979 agenda, and that no earlier announcement of this addition was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

This memo concerns strategy and positions that have taken and may be taken by the United States in negotiations with Saudi Arabia. Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the United States Delegation to achieve agreements which would be in the best interest of the United State. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 5552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that any meeting on this item should be closed:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

PERSONS EXPECTED TO ATTEND

Board Members: Chairman Marvin S. Cohen; Member Richard J. O'Melia; Member Elizabeth E. Bailey; and Member Gloria Schaffer.

Assistants to Board Members: Mr. Sanford Rederer; Mr. David M. Kirstein; Mr. Stephen H. Lachter; and Mr. Elias Rodriguez.

Office of the Managing Director: Mr. John R. Hancock.

Bureau of International Affairs: Mr. Rosario J. Scibilia; Mr. David A. Levitt; and Mr. Donald L. Litton.

Office of the General Counsel: Mr. Philip J. Bakes, Jr., and Mr. Peter B. Schwarzkopf.

Bureau of Pricing and Domestic Aviation: Mr. Michael E. Levine and Ms. Barbara A. Clark.

Office of Economic Analysis: Mr. Robert H. Frank.

Bureau of Consumer Protection: Mr. Reuben B. Robertson and Ms. Patricia Kennedy.

Office of the Secretary: Mrs. Phyllis T. Kaylor; Ms. Deborah A. Lee; and Ms. Louise Patrick.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 5552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that this meeting may be closed to public observation.

[S-197-79 Filed 1-29-79; 10:31 am]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, No. 19, Friday, January 26, 1979, p. 5565.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., January 30, 1979.

CHANGES IN THE MEETING: Delete from the agenda: Publication of Futures Prices by the Exchanges (Part 16).

[S-204-79 Filed 1-29-79; 1:11 pm]

[6355-01-M]

3

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: 10 a.m., Commission meeting, Wednesday, January 31, and 9:30 a.m., Thursday, February 1, 1979.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

REVISED AGENDA

STATUS: Open to the public.

ITEMS TO BE DISCUSSED: Mid-year report—The staff will present its mid-fiscal year report on CPSC priorities and activities, as set forth in the Commission's fiscal year 1979 operating plan.

(Agenda approved January 19, 1979. The Commission revised the times of the meetings as of January 26, 1979. The Wednesday meeting will begin at 10; the Thursday meeting will begin at 9:30.)

FOR ADDITIONAL INFORMATION:

Sheldon Butts, Assistant Secretary, 1111 18th Street NW., Washington, D.C. 20207, 202-634-7700.

[S-200-79 Filed 1-29-79; 12:37 pm]

[6355-01-M]

4

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: 10 a.m., Wednesday, February 7, 1979.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the public.

ITEMS TO BE DISCUSSED:

1. BRIEFING ON SUBSTANTIAL PRODUCT HAZARD PROCEDURES AND DELEGATION

The staff will brief the Commission on procedures it follows for handling possible substantial product hazards under section 15 of the Consumer Product Safety Act. The staff has recommended that it be allowed more authority to close routine matters, and has suggested changes in the procedures which would allow it to present industry-proposed corrective action plans to the Commission in a more timely manner. (Briefing previously scheduled for January 24.)

2. BRIEFING ON CELLULOSE INSULATION STANDARD (515D)

The staff will brief the Commission on proposed amendments which would amend the Interim Standard for Cellulose Insulation based on GSA standard HH-I-515C. The proposed amendments would include flame-resistance and corrosiveness requirements of GSA standard HH-I-515D. The Commission will meet to decide on the amendments February 12.

FOR ADDITIONAL INFORMATION:

Sheldon Butts, Assistant Secretary, 1111 18th M Street NW., Washington, D.C. 20207, 202-634-7700.

Agenda approved January 26, 1979.

[S-201-79 Filed 1-29-79; 12:37 pm]

[6355-01-M]

5

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, February 8, 1979.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

ITEM TO BE DISCUSSED: *Upholstered furniture flammability*—At this meeting, the staff will seek further guidance on upholstered furniture flammability.

FOR INFORMATION, CONTACT:

Sheldon Butts, Assistant Secretary, 1111 18th Street NW., Washington, D.C. 20207, 202-634-7700.

[S-202-79 Filed 1-29-79; 12:37 pm]

[6355-01-M]

6

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: 2 p.m., Monday, February 12, 1979.

LOCATION: Third floor hearing room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the public.

ITEM TO BE DISCUSSED: *Cellulose insulation standard (5150)*—The Commission will consider proposed amendments which would amend the Interim Standard for Cellulose Insulation based on GSA standard HH-I-515C. The proposed amendments would include flame-resistance and corrosiveness requirements of GSA standard HH-I-515D. The staff briefed the Commission on the amendments at the February 7 Briefing.

FOR INFORMATION, CONTACT:

Sheldon Butts, Assistant Secretary, 1111 18th Street NW., Washington, D.C. 20207, 202-634-7700.

Agenda approved January 26, 1979.

[S-203-79 Filed 1-29-79; 12:37 pm]

[6712-01-M]

7

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, January 25, 1979.

PLACE: Room 856, 1919 M Street N.W., Washington, D.C.

STATUS: Special open commission meeting.

CHANGES IN THE MEETING: The following items have been deleted:

AGENDA, ITEM NUMBER, AND SUBJECT

Common Carrier—2—Provision of domestic facilities to International Record Carriers by A.T. & T. (CC Docket No. 21499).

Common Carrier—4—Application of French Telegraph Cable Co. seeking authority to establish facilities for the provision of its authorized international services from the gateways of San Francisco and Washington, D.C., in addition to its New York gateway.

Additional information concerning these items may be obtained from the FCC Public Information Office, telephone number 202-632-7260.

Issued: January 25, 1979.

[S-199-79 Filed 1-29-79; 10:13 am]

[6740-02-M]

8

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published January 29, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., January 31, 1979.

CHANGE IN THE MEETING: The following items have been added:

ITEM NUMBER, DOCKET NUMBER AND COMPANY

CI-4. RI78-18, Natural Gas Pipeline Co. of America.

M-2. RM79- , certain sales of natural gas by Intrastate Pipelines.

M-3. Interim rule on section 314 of NGPA, offers and right of first refusal.

M-4. RM79- , treatment of certain production related costs for gas to be transported through the Alaska Natural Gas Transportation System.

KENNETH F. PLUMB, *Secretary.*

[S-198-79 Filed 1-29-79; 10:13 am]

[6730-01-M]

9

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: January 25, 1979, 44 FR 5254.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., January 31, 1979.

CHANGE IN THE MEETING: Addition of the following item to the open session:

6. Trailer Marine Transport Corporation, FMC—F No. 5, and Puerto Rico Maritime Shipping Authority, FMC—F No. 7—Reduced Rates on Bakery Goods and Furniture From South Atlantic Ports to Puerto Rico.

[S-211-79 Filed 1-29-79; 3:08 pm]

[6730—1-M]

10

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: January 24, 1979, 44 FR 5056.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:30 a.m., January 29, 1979.

CHANGE IN THE MEETING: Change in the status from open to partially open and partially closed.

[S-210-79 Filed 1-29-79; 3:08 pm]

[6735-01-M]

13

JANUARY 29, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., February 1, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hold oral argument on the following proceeding in addition to those proceedings cited in the January 24, 1979 notice:

Inland Steel Coal Co. v. Secretary of Labor, Mine Safety and Health Administration, Docket No. IBMA 77-66, VINC 77-164.

It was determined by unanimous vote of the Commissioners that Commission business required that this matter be added and that no earlier announcement of this action was possible.

CONTACT PERSON FOR MORE INFORMATION:

Joanne Kelley, 202-653-5632.

[S-208-79 Filed 1-29-79; 2:47 pm]

[6770-01-M]

12

[F.C.S.C. Meeting Notice No. 1-79]

FOREIGN CLAIMS SETTLEMENT COMMISSION.

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

DATE, TIME, AND SUBJECT MATTER

Tuesday, February 6, 1979 at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic.

Wednesday, February 7, 1979 at 10:30 a.m.—Canceled.

Wednesday, February 14, 1979 at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic.

Wednesday, February 21, 1979 at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic.

Wednesday, February 28, 1979 at 10:30 a.m.—Consideration of decisions involving claims of American Citizens against the German Democratic Republic.

Monday, February 26, 1979, at 2:30 p.m.—Oral hearings on objections to decisions issued under the German Democratic Republic Claims Program: G-0200—Estate of Helen Dietrich, deceased, Roy Dietrich, Executor and G-0510—Elsa Frieda Conklin.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111-20th Street, N.W.; Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111-20th Street, N.W., Washington, D.C. 20579. Telephone: 202-653-6155.

Dated at Washington, D.C., on January 24, 1979.

FRANCIS T. MASTERSON,
Executive Director.

[S-206-79 Filed 1-29-79; 2:31 pm]

[4910-58-M]

13

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Wednesday, February 7, 1979.

PLACE: NTSB board room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTER TO BE CONSIDERED: *Discussion* of the responsibilities of the Chairman under the Independent Safety Board Act with respect to personnel, administrative, and resource matters.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-209-79 Filed 1-29-79; 3:01 pm]

[7590-01-M]

14

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

TIME AND DATE: January 29 and February 1, 1979.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open (changes).

MATTERS TO BE CONSIDERED:

Monday, January 29

3 p.m.: 1. The item titled discussion of decision in S-3 rulemaking (approximately 1½ hours, public meeting), has been *postponed* to Thursday, February 1 at 2 p.m. It is replaced by discussion of proposed authorization testimony (approximately 1½ hours, public meeting) (Continued from January 25).

Thursday, February 1

2 p.m.: 1. The item titled discussion of proposed authorization testimony (approximately 1½ hours, public meeting), is *replaced* by the meeting titled discussion of decision in S-3 rulemaking (approximately 1½ hours, public meeting) which was postponed from January 29.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

[S-207-79 Filed 1-29-79; 2:35 pm]

[7905-01-M]

15

RAILROAD RETIREMENT BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 4556, January 22, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., January 30, 1979.

CHANGES IN THE MEETING: Additional items to be considered at closed meeting:

(7) Appeal of Howard D. Farley under the Railroad Unemployment Insurance Act.
(8) Appeal of John S. Gaul under the Railroad Unemployment Insurance Act.
(9) Appeal from referee's denial of disability annuity application, Robert M. Jones.

[S-196-79 Filed 1-29-79; 10:31 am]

[8120-01-M]

16

TENNESSEE VALLEY AUTHORITY.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 5798, January 29, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m., Wednesday, January 31, 1979.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: Conference room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

CHANGES IN MATTERS TO BE CONSIDERED: The following item is added to the previously announced agenda:

A—PERSONNEL ACTIONS

3. Resolution relating to arbitrators' decisions concerning pay and fringe benefits for salary policy employees resulting from the twenty-seventh annual salary negotiations.

CONTACT PERSON FOR MORE INFORMATION:

Lee Sheppeard, Assistant Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-566-1401.

SUPPLEMENTARY INFORMATION:

TVA BOARD ACTION

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting be changed to include the additional item shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Approved:

S. DAVID FREEMAN,
RICHARD M. FREEMAN.

Disapproved:———————.

JANUARY 26, 1979.

[S-195-79 Filed 1-29-79; 10:13 am]

[8240-01-M]

17

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., February 1, 1979.

PLACE: Board room, room 2-500, fifth floor, 955 L'Enfant Plaza North, S.W., Washington, D.C. 20595.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, No. 19, page 5568, Friday, January 26, 1979.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

CHANGES IN THE MEETING ARE AS FOLLOWS:

Portions Closed To the Public (9 a.m.)

1. Review of Delaware and Hudson Railway Co. proprietary and financial information for monitoring and investment purposes.
2. Litigation report.
3. Review of ConRail proprietary and financial information for monitoring and investment purposes.
4. Consideration of internal personnel matters.

Portions Open To the Public (1 p.m.)

5. Approval of minutes of the January 4, 1979 Board of Directors meeting and the December 15, 1978 meeting of the Executive Committee of the Board of Directors.
6. Annual report.
7. Status of joint USRA/NERCOM study.
8. Status of ConRail alternatives social economic impact studies.
9. Consideration of ConRail request for waiver to financing agreement for merger of Raritan River into ConRail.
10. Consideration of ConRail drawdown request for February 1979.
11. Consideration of D. & H. requests.
12. Contract actions (extensions and approvals).

CONTACT PERSON FOR MORE INFORMATION:

Alex Bilanow, 202-426-4250.

[S-205-79 Filed 1-29-79; 2:50 pm]

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WEDNESDAY, JANUARY 31, 1979
PART II



ENVIRONMENTAL PROTECTION AGENCY

PRIMARY NONFERROUS SMELTER ORDERS

Proposal of National Rules

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 57]

[FRL 1000-5]

PRIMARY NONFERROUS SMELTER ORDERS

Proposal of National Rules

AGENCY: U.S. Environemntal Protection Agency.

ACTION: Proposed rules.

SUMMARY: The rules proposed today would establish the substantive requirements of initial primary nonferrous smelter orders (NSOs) issued under new section 119 of the Clean Air Act and the procedures to be used in issuing those NSOs. Under section 119, NSOs may be granted to eligible smelters by states, with EPA approval, or by EPA. Any smelter receiving an NSO is permitted to defer compliance with the sulfur dioxide emission limitation to which it is subject under an applicable state implementation plan (SIP). Initial NSOs may extend through January 1, 1983; second NSOs, extending through January 1, 1988, may also subsequently be granted, but are not covered by this proposal.

The NSO program that would be established by the proposed rules consists of several elements. First, the rules specify the criteria that the Administrator will use to decide whether a smelter is eligible for an NSO. Under the proposal, a smelter would be found eligible if the Administrator determined, based on the financial information submitted as part of the owner's application, that the smelter could not afford the equipment which would allow it to meet its SIP emission limit. Second, the rules provide for the establishment of certain interim requirements to ensure that the smelter's emissions will not result in violations of the national ambient air quality standards (NAAQS) for sulfur dioxide (SO_2). These requirements include the use of dispersion-dependent techniques (tall stacks and supplementary control systems), the evaluation and control of fugitive emissions, the assumption of legal liability by a smelter for violations of the NAAQS for sulfur dioxide in the areas affected by its emissions, and related monitoring and reporting requirements. The rules also limit the smelter's total sulfur dioxide emissions by requiring the efficient use of an interim level of continuous emission reduction technology, and establish procedures and criteria for a waiver of that requirement for any smelters now without such controls which would be forced to close by the imposition of the interim control requirement.

Smelters receiving NSOs would also be required to conduct or participate in research and development projects designed to develop improved means for meeting SIP requirements. Finally, the regulations would provide for the temporary suspension of SIP requirements during the processing of timely NSO applications.

DATES: Public comment is invited. Written public comments should be postmarked no later than April 1, 1979. Those who wish to make oral comments at the public hearings should, at least ten days before the hearing, contact Ms. Judith Larsen at (202) 755-2583.

Informal public hearings will be held on these proposed rules on March 6 and 7, 1979, in Tucson, Arizona; March 9, 1979, in Seattle, Washington; and on March 15, 1979, in Arlington, Virginia.

The record of each public hearing will be held open for thirty days following the completion of that hearing for submission of rebuttal and supplementary information. Interested persons are reminded that section 307(d)(7)(B) of the Act provides that objections to proposed rules must be raised with reasonable specificity by public comments for those objections to be cognizable during judicial review. In the view of EPA, this requires comments of a technical nature to be accompanied by sufficiently detailed supporting documentation to permit the Agency's technical staff to evaluate the comments in detail. This is particularly important where the information necessary to evaluate the comments properly is in the control of the commenters. Smelter owners and others are therefore encouraged to submit any detailed analyses of technical issues they believe may assist EPA is responding to their concerns.

ADDRESSES: Informal public hearings will be held at the following places:

Address and Date
First Floor Hearing Room, New Court Building, 111 West Congress Street, Tucson, Arizona—March 6 and 7.
Conference Room 12a, U.S. Environmental Protection, Agency, 1200 6th Avenue, Seattle, Washington—March 9.
Conference Room, Hospitality House, 200 Jefferson Davis Highway, Arlington, Virginia—March 15.

Written comments should be addressed to:

Director, Division of Stationary Source, Enforcement (EN-341), Attn: Ms. Judith Larsen, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

The documents on which this proposal is based are contained in docket Number DSSE-78-1. All comments received during the comment period will be promptly added to the docket, and all documents upon which the final rules are based will be included in the docket. The docket will be open for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Firday at:

U.S. Environmental Protection Agency, Central Docket Section, Room 2903B, Waterside Mall, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Ms. Judith Larsen, Division of Stationary Source Enforcement (EN-341), 401 M St., SW., Washington, D.C.20460, Telephone: 202-755-2583.

SUPPLEMENTARY INFORMATION: The remainder of this notice discusses the background of this rulemaking, and the basis, purpose, and contents of the regulations. The text of the proposed regulations follows this discussion.

I. Background

Under Title I of the Clean Air Act, EPA has set national ambient air quality standards (NAAQS) for certain pollutants ("criteria pollutants") including sulfur dioxide. Title I also requires the NAAQS to be met through the establishment of state implementation plans (SIPs) governing emission sources of these pollutants.

Emissions of sulfur dioxide by industrial sources generally fall into two categories: Stack emissions, and fugitive emissions. Fugitive emissions are generally defined as those released through leaks or at transfer points. Because stack emissions are responsible for the great majority of sulfur dioxide emissions, control efforts have traditionally been directed primarily at stack emissions.

The effects of stack emissions on ambient air quality can theoretically be mitigated in either of two ways: constant emission reduction, or dispersion techniques. Constant emission reduction techniques diminish the overall atmospheric loading of pollutants through the use of technologies or raw materials (including fuels) that prevent pollutants from being generated or that remove pollutants from waste gas on a continuous basis.

Dispersion techniques, on the other hand, do not reduce total emissions into the atmosphere on a continuous basis. Dispersion techniques consist of tall stacks, which disperse emissions over a wide geographic area, and of supplementary or intermittent control systems (SCS or ICS), by which emissions are varied (dispersed over time) depending on meteorological conditions. Neither technique necessarily reduces the emission of pollutants either in total or on a constant basis.

Fugitive emissions, in contrast to stack emissions, are emitted at low elevations and cause or contribute to ambient violations primarily in the immediate vicinity of the source. The primary means of controlling fugitive emissions are by preventing their escape (*e.g.*, by plugging leaks), and by capturing the emissions through hooding and comparable techniques and venting them up a stack.

A. Control of Stack Emissions in SIP's

To assure the attainment and maintenance of the NAAQS, the Clean Air Act of 1970 directed the States to formulate implementation plans for the control of each criteria pollutant. States were to develop a combination of emission limitations and other measures, such that the total mix of emission limitations and other measures would result in the attainment and maintenance of standards. Section 110(a)(2)(B); *Train* v. *NRDC*, 421 U.S. 60 (1975).

If several sources in an area contribute to nonattainment of standards, a State may allocate the burdens of control among those sources, as it chooses, as long as the total reduction of emissions is sufficient to attain and maintain ambient standards. As part of the allocation decision, a State may, if it chooses, consider whether it is economically and technologically feasible for a particular source to comply with a given control requirement, such as an emission limitation in the case of industrial stack emissions. If a State determines that economic and/or technological infeasibility would prevent a source from complying with a proposed emission limitation, it may elect to impose a more stringent emission limitation or other control measure on another source and relax the emission limitation on the source for which compliance is believed infeasible, provided that the total mix of control requirements assures attainment of the NAAQS. If a single source's stack emissions are responsible for the entire emissions of a given pollutant in an area, a State must establish an emission limitation for the source that will result in attainment and maintenance of standards, regardless of the economic or technological feasibility of controls for the source. In such a case only that source's emissions are available for control, and there is no possible "mix" to lessen the burden on that source.

Once the emission limitations and other measures necessary to assure attainment and maintenance of standards are established by the State, compliance with those requirements is mandatory. Challenges to the emission limitations based on alleged technological or economic infeasibility are foreclosed if not successfully made at the State level. *Union Electric* v. *EPA*, 427 U.S. 246 (1976).

Two major questions have been raised in litigation concerning control of stack emissions: (1) What can an industrial source do if no existing technology can control its generation of pollutants or remove pollutants from its gas stream on a continuous basis, or if the technology or fuel exists but the source cannot afford it? (2) May dispersion techniques be used in lieu of constant controls to attain and maintain ambient standards?

1. *Technological and Economic Feasibility.* In early litigation, industrial sources claimed that EPA was required to determine if pollution control measures were technologically and economically feasible before approving or promulgating SIP provisions which required their use. These sources contended that Congress did not intend to compel or permit the imposition of requirements that could not be met because of technological or economic constraints. See, *e.g.*, *Buckeye Power, Inc.* v. *EPA*, 481 F.2d 162 (C.A. 6, 1973); *Appalachian Power Co.* v. *EPA*, 477 F.2d 495 (C.A. 4, 1973); *South Terminal Corp.* v. *EPA*, 504 F.2d 646 (C.A. 1, 1974); *NRDC* v. *EPA*, 507 F.2d 905 (C.A. 9, 1974).

The Supreme Court resolved this issue in *Union Electric* v. *EPA*, 427 U.S. 246 (1976). The Court held that in evaluating state implementation plans pursuant to section 110(a)(2), EPA was to determine only whether emission limitations and other measures in the plan would, if complied with, result in the attainment and maintenance of national ambient air quality standards. The Court recognized that failure to consider the technological or economic feasibility of emission limitations and other control measures could lead to the shutdown of certain sources. It concluded, however, that Congress had intended the requirements of SIPs to be technology-forcing, and had intended ambient standards to be attained through scheduled compliance with those requirements, regardless of their feasibility at the time they were established. As long as the plan provided for the standards to be achieved as expeditiously as practicable and in accordance with the other requirements of section 110(a)(2), the Court held that the Administrator must approve the plan, even if a source might have to curtail or terminate production as a result.

Thus, to the extent that control of emissions is necessary to attain the NAAQS, technological and economic feasibility cannot limit the degree of control required in the plan.

2. *Dispersion Techniques.* a. *The Stack Height Guideline.* In addition to the issue of technological and economic feasibility, much of the early litigation focused on the means of controlling stack emissions. A number of sources claimed that they should be permitted to meet standards through the use of tall stacks and other dispersion techniques in lieu of emission limitations requiring constant controls.

This litigation resulted in several opinions interpreting the 1970 Act and holding that Congress had intended that ambient standards be met through constant emission reduction, rather than dispersion techniques. *NRDC v. EPA*, 489 F.2d 390 (C.A. 5, 1974); *Big Rivers, et al. v. EPA*, 523 F.2d 16 (C.A. 6, 1975); *Kennecott Copper Corp. v. EPA (Kennecott I)*, 526 F.2d 1149 (C.A. 9, 1975); *Mision Industrial v. EPA*, 547 F. 2d 123 (C.A. 1, 1976). The cases indicated, however, that use of dispersion as a control technique was acceptable if constant control technology were shown to be unavailable.

EPA published its interpretation of these cases in the *Stack Height Increase Guideline*, 41 F.R. 7450, February 18, 1976. The Guideline defined situations in which sources could receive credit in SIPs for stack height increases. The effect of crediting increases was to reduce the degree of emission limitation required by these sources to attain and maintain ambient standards.

Under the *Guideline*, certain existing sources were permitted to use tall stacks to meet ambient standards for SIP purposes on either a temporary or a permanent basis. In general, the *Guideline* allowed "interim use" of a tall stack for control of stack emissions under section 110 for smelters and older power plants if they could demonstrate that installation of best available control technology (BACT) was economically unreasonable or technically inappropriate, and if they instead employed reasonably available control technology (RACT). While the *Guideline* required that the unreasonableness of applying BACT be demonstrated on a case-by-case basis, it did recognize the likelihood that BACT would be found economically unreasonable for many existing smelters.

The *Guideline* also provided for the determination of what constituted reasonably available control technology for a qualifying source, based on specified factors. For eligible smelters, RACT consisted of at least the control of "strong" gas streams (those rich in sulfur dioxide) through the use of sulfuric acid plants. Under the *Guideline*, this limited level of control was permissible only after a determination that additional control, including associated process changes, was not economically and technologically feasible. The RACT determination was also subject to re-evaluation whenever eco-

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nomic or technological circumstances improved. The *Guideline* did not permit any source to operate wholly without constant controls, since EPA believed that to be precluded by the Act.

Under the interim program described by the *Guideline*, an isolated source such as a smelter was permitted to use a supplementary control system (SCS) in conjunction with RACT to meet ambient standards. An isolated source could use SCS only if it agreed to assume legal liability for any violations of the NAAQS in the area affected by its emissions (the "designated liability area" or "DLA"). The source's proposed SCS, which was used to curtail emissions when ambient air quality monitoring data and meteorological information indicated the possibility of NAAQS violations, was required to be enforceable and reliable for preventing such violations.[1]

b. *Congressional Action.* While Congress was aware of the *Stack Height Increase Guideline* when it enacted the Clean Air Act Amendments of 1977, that legislation embodies a somewhat different approach. Though similar in many respects to the *Guideline*, the Amendments reject a number of the policies described in the *Guideline*, and limit the use of dispersion techniques more narrowly than either the *Guideline* of the court decisions.

The new treatment of dispersion techniques is reflected in sections 110, 123 and 302 of the amended Act. Under section 110(a)(2)(B), a state implementation plan must include emission limitations and such other measures as are necessary to assure attainment and maintenance of standards. Section 302(k) defines an emission limitation as requiring continuous emission reduction technology. Under section 123, the degree of emission limitation (constant control) required of any source in a plan under section 110 may not be reduced to any extent by the unauthorized use of any "dispersion technique."[2] Taken together, in sharp contrast to the earlier *Guideline*, these sections wholly prohibit the use of unauthorized dispersion techniques in SIPs to meet ambient standards.[3]

Consequently, such dispersion techniques cannot be included in a control strategy demonstration submitted as part of the SIP.

Congress did, however, permit limited and temporary use of dispersion techniques in two specific situations for purposes of attaining and maintaining ambient standards, but not as a means of complying with SIP emission limitations. First, administrative enforcement orders issued under section 113(d) may provide for the use of dispersion as an interim control measure if a source is unable to comply with an SIP requirement, the source is notified that it is subject to noncompliance penalties after July 1, 1979, and the source meets the other conditions of section 113(d). Second, section 119, under which these rules are proposed, permits the interim use of dispersion by a nonferrous smelter if it can demonstrate that it is eligible for a primary nonferrous smelter order (NSO).

Apart from the limited circumstances of sections 113(d) and 119, which defer compliance with SIP emission limitations but do not alter those requirements, and the narrow exceptions of section 123, dispersion techniques cannot be employed in lieu of constant controls for any purpose under the Act. Implementation plans submitted under section 110(a)(2) therefore must provide that the necessary degree of emission limitation be achieved solely by constant control measures. Under *Union Electric*, this requirement exists regardless of the technological or economic feasibility of such controls.

B. CONGRESSIONAL TREATMENT OF SULFUR DIOXIDE CONTROL AT SMELTERS

While the 1977 Amendments sharply restrict the permissible uses of dispersion in SIPs, they also grant special relief to the nonferrous metals industry. Section 119 of the Act establishes a new enforcement mechanism called a "primary nonferrous smelter order" (NSO), under which a smelter may temporarily defer compliance with its SIP sulfur dioxide emission limitation and instead meet ambient standards through the use of dispersion techniques.

The NSO program is similar to the program for smelters announced in the *Stack Height Guideline*, with certain important differences. As was the case under the *Guideline*, a smelter is eligible for the program if it cannot afford the control equipment (and associated process changes, where relevant) necessary to comply with its SIP emission limitation. Eligibility is to be determined on a case-by-case basis by the Administrator. Unlike the *Guideline*, section 119 specifies a definite date by which a smelter must comply with the SIP requirements: January 1, 1983, unless the smelter receives a second NSO, in which case the latest possible compliance date is January 1, 1988.

Section 119 also requires the use of certain interim control measures that are essentially the same as under the *Guideline*. Dispersion may be used to meet ambient standards, together with interim constant controls to reduce total sulfur dioxide emissions into the atmosphere. With respect to constant controls, the statute makes mandatory what had been EPA policy under the *Guideline*: Smelters which already treat their strong sulfur dioxide gas streams with sulfuric acid plants (or other constant control systems), and which use dispersion to meet ambient standards, cannot be required to install additional constant control systems, such as scrubbers, during the term of the first NSO unless EPA determines that such additional constant control systems are adequately demonstrated to be reasonably available. Unlike prior policy under the *Guideline*, however, a smelter which has no constant controls may receive a waiver of the interim constant control requirement if the cost of installing such controls would necessitate closure of the smelter. Section 119 also retains the requirement that a smelter conduct or participate in a research program to develop improved means of meeting its SIP emission limitation.

The requirements for the use of supplementary controls under section 119 are also similar to those imposed under the *Guideline*. The systems must be reliable and enforceable, and smelters will be required to assume legal liability for violations of NAAQS for sulfur dioxide in designated liability area (DLAs).

Finally, NSOs under section 119 will require the control of fugitive emissions of sulfur dioxide, where necessary. The fugitive emission control measures that may be required are part of the interim measures necessary to prevent violations of the NAAQS during the term of NSOs; fugitive emission control requirements were also imposed in SIPs containing the earlier program under the *Guideline*, although they were not discussed in the *Guideline*.

[1] The use of a tall stack and RACT by smelters was also conditioned on the conduct of a research program to develop improved means of meeting the SIP emission limitation. This requirement was upheld by the U.S. Court of Appeals for the Ninth Circuit in *Kennecott I*, cited above.

[2] Section 123 defines dispersion technique as a stack height which exceeds good engineering practice or any intermittent or supplemental control of air pollutants varying with atmospheric conditions. Regulations implementing section 123 were proposed by EPA on January 12, 1979, at 44 FR 2608.

[3] Section 123 does authorize sources currently using dispersion techniques to receive full credit for their dispersive effects in determining the required degree of SIP emission limitation, if the stack height was in existence or the dispersion technique implemented prior to the passage of the Clean Air Act of 1970. With one minor exception, only sources which qualify for this credit or whose stacks do not exceed good engineering practice stack height may have the effect of the dispersion technique considered in establishing the degree of emission limitations required in the applicable SIP.

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II. CONTENTS OF THE REGULATIONS

A. DEVELOPMENT

Immediately following the enactment of section 119 on August 7, 1977 as part of the Clean Air Act Amendments of 1977, EPA began to draft provisions to implement the section. In February, 1978, the Agency circulated a preliminary version of those provisions in the form of draft guidance to state agencies and EPA regional offices. EPA solicited comments on the draft guidance from interested parties. Comments were received from three state agencies, seven companies operating primary nonferrous smelters, and two environmental public interest groups. In addition, EPA staff members met with representatives of five companies to discuss their comments and to improve EPA's understanding of the technical problems involved. Several of the companies subsequently supplied data relating to these issues.

EPA has considered the comments and information received in response to the draft guidance. As a result, significant alterations have been made in today's proposal, including a decision to propose the provisions as regulations. EPA remains very interested in receiving more such information in response to this proposal. All comments received will be considered in the promulgation of the final regulations.

B. FORMAT AND SCOPE

The proposed regulations would comprise a new Part 57 of Title 40 of the Code of Federal Regulations. Subparts A through H, proposed today, would contain provisions governing the eligibility of smelters for initial NSOs, the procedures through which NSOs may be issued by EPA or the states, and the required contents of each NSO.

Instead of imposing highly specific requirements, many of the provisions are framed in general terms to permit flexible responses to the particular conditions at each smelter. EPA believes this approach accommodates differences in conditions at the various smelters and increases the opportunity for the use of expertise developed by the state agencies currently regulating these smelters and of further information developed by EPA. These regulations will govern EPA in formulating NSOs for individual smelters and in determining whether NSOs issued by state agencies are approvable under section 119.

EPA has received inquiries from operators of certain molybdenum smelters about the applicability of section 119 to their facilities. Although the proposed regulations specifically address only copper, lead and zinc smelters, the Administrator has not yet determined whether or not Congress intended section 119 to be confined to those facilities. EPA solicits comments on this question, and on what specific changes should be made in the proposed regulations to accommodate other kinds of smelters.

The proposed regulations also contain provisions for issuing NSOs to those few smelters which were subject to the interim SIP provisions described in the *Guideline* and discussed above. Under the proposed regulations, certain interim SIP provisions may be incorporated into an NSO, even if they do not conform precisely to the corresponding provisions otherwise required by the Part 57 regulations. This provision is designed to facilitate transition from SIP requirements already in effect to corresponding NSO requirements without disrupting ongoing compliance with the substance of those requirements, and without penalizing good faith efforts to comply with those requirements. Reliance upon existing SIP provisions would be found by the Administrator where the provisions had been promulgated before the smelter owner's NSO application, where the smelter was in substantial compliance with the required increments of progress. The only SIP requirements covered by this proposed provision would be those which were substantially equivalent to the corresponding NSO provisions otherwise required by Part 57.

The Administrator believes this provision is authorized by section 406 of Pub. L. 95-95, which preserved the effectiveness of existing SIP requirements until modified by EPA, and by sections 119 and 301 of the Clean Air Act. The Administrator also believes the provision is an appropriate exercise of his discretion, in the absence of any specific legislative guidance as to the means of effecting the transition from SIPs to NSOs for the few affected smelters. EPA solicits comment on these provisions.

C. SUBSTANCE OF THE REGULATIONS

1. *Subpart B: The Application.* The provisions of Subpart B establish NSO application procedures and specify the information the smelter owner must provide. Time limitations are placed on various steps in the process to assure prompt issuance of NSOs and to comply with the requirements of section 119.

The application for an NSO would be initiated by a letter of intent submitted by the smelter owner to the state or to EPA, at the owner's election. If a letter of intent is submitted within two weeks after the effective date of these regulations (or of SIP emission limitations promulgated subsequently, as applicable), the smelter would not be required to comply with its SIP sulfur dioxide emission limitation during the time needed to formulate a complete application. This suspension of the emission limitation would also continue for the period necessary to complete action on a timely application. EPA believes that this is consistent with the general intent of Congress that smelters have an opportunity to apply for NSOs as an alternative to compliance with their SIP emission limitations. The limitations on the duration of the suspensions are designed to limit the time during which no enforceable control measures are in effect to the minimum necessary.

Two kinds of information must be submitted as part of the application: Technical and financial. The technical information is primarily that operating information necessary for the state or EPA to formulate the interim measures required by section 119. The financial information, which is to be submitted directly to EPA headquarters by all applicants, is specified in Appendix A to the proposed regulations. The financial information specified in Appendix A will be used to determine, as required by section 119(b)(3), whether the smelter can afford the technology necessary for it to meet its SIP emission limit.

This detailed information is necessary to enable EPA to apply uniform economic criteria to all smelters and to accurately determine the position of an individual smelter in its overall corporate structure. This financial information, which is being required under sections 119 and 114 of the Act, will be subject to confidential treatment as provided by 40 CFR Part 2.

Using this financial information, the Administrator will determine whether the smelter involved can afford the technology needed to comply with its SIP emission limit. The Administrator has tentatively determined that the following technology is adequately demonstrated for the primary nonferrous smelter industry: (a) The acid plant and associated process technology underlying EPA's new source performance standards for copper, lead, and zinc smelters (40 CFR Part 60, Subparts P, Q, and R); and (b) magnesium oxide sulfur dioxide concentration, limestone scrubbing, and the Cominco ammonia scrubbing system. The Administrator is also considering designating the Flakt-Bolliden sodium citrate concentration system as adequately demonstrated. The Administrator's judgments regarding the scrubbing and concentration systems listed here are primarily based on the actual use of the systems at copper, lead, and zinc smelters in various parts of the world, including Canada, Europe, and Japan. The rulemaking docket contains technical support for

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the determinations, and EPA solicits comments on the determinations and supporting material.

In applying for an NSO, a smelter owner will be required to show that under the financial test specified in Appendix A, it cannot afford the use of any of the systems listed above which are applicable to the smelter and which would allow it to comply with its SIP emission limit.

In comments on the draft guidance, a great deal of attention was devoted to the principal economic test suggested for determining whether a smelter can afford to meet its SIP emission limit. That test would have been used to determine eligibility both for an NSO and for a waiver of the interim constant control requirement (on the grounds that permanent closure would result from the imposition of that requirement). A smelter would have been found eligible under the test if, under projected costs, revenues, and operating conditions, the sum of the present value of its future net cash flow (after making the pollution control expenditure) and its terminal value was less than the current salvage value of the smelter.

The effect of this "opportunity cost" test is to simulate the response of a prudent operator to the requirement that the pollution control equipment be installed. If the smelter owner could realize a greater net return on its capital by making the incremental investment elsewhere, a prudent owner using accepted financial principles of decision would choose that alternative investment over the expenditure necessary to continue operating the smelter. Under these circumstances, the cost of the pollution control would be deemed greater than the smelter could afford, and the smelter found eligible.

The Agency initially adopted this test because it believed section 119 was intended to avoid the widespread plant closures that certain members of the industry argued would occur if they were forced to comply with the full constant control requirements of the Act. The industry contended, however, that the test afforded less relief than Congress intended. Some members of the industry also argued that Congress intended that an NSO be granted to any smelter unable to meet its SIP emission limitation simply through the use of existing acid plants, even if the smelter could afford the controls necessary to meet its SIP emission limitation.

The Administrator believes that section 119(b)(3) requires him to determine whether an applicant smelter owner can afford the technology which would enable the smelter to meet its SIP emission limit. While the administrator has stated in the past and continues to believe that such expenditures may prove to be beyond the means of a large portion of the smelting industry at this time, he also believes that the statute requires him to determine what technology is adequately demonstrated to be reasonably available to each applicant smelter on the basis of its own financial position. The Administrator does not believe that an industry-wide determination would be consistent with the intent of Congress, particularly in light of the widely varying financial positions and air quality circumstances of the various nonferrous smelters in the industry.

The Administrator has concluded, however, that the financial test originally suggested may not have provided adequate assurance that all those smelters which Congress would have deemed unable to afford the necessary additional sulfur dioxide control expenditures would be found eligible for NSOs. The opportunity cost test has therefore been modified to provide that assurance.

The eligibility test proposed today, a "net income test," is similar to the opportunity cost test in that it is based on a cash flow analysis, a standard tool of financial analysis. The significant difference is that the net income test permits the smelter to deduct depreciation on its productive assets from its future net cash flow before determining whether it can afford the pollution control expenditure. This in effect reserves an additional portion of the smelter's income for its discretionary use, beyond those future expenditures already taken into account in performing the cash flow analysis.

The Administrator believes that this test fairly implements the intent of Congress that smelters unable to afford the equipment necessary to comply with SIP emission limits be eligible for NSOs, while identifying those facilities on a case-by-case factual basis.

The proposed test is to be applied by an applicant to the smelter's projected position over the period 1979–1985, inclusive. This period was chosen as representative of the smelter's financial position after the installation of controls. In making the projections, the applicant may take into account all reasonably foreseeable expenditures, including other environmental and occupational pollution control costs. Specific assumptions as to what controls will be required are supplied in Appendix A. These assumptions are based on existing requirements and the Agency's best estimates of future requirements. Projected indices for various relevant economic factors, including metals prices, will be supplied by EPA. These factors are identified in Appendix A, and the indices and their bases are available in the rulemaking docket.

Finally, Subpart B requires smelter operators to submit, as part of their applications, draft NSO provisions that comply with the requirements of the regulations. These drafts may be used by the issuing agencies in fashioning NSO provisions.

2. *Subpart C: Constant Control and Related Requirements.* Section 119(d)(1) requires the use of certain interim measures by a smelter during the pendency of an NSO. One measure specifically required is the use of continuous emission reduction technology. Under section 119(d)(4), a smelter which already uses some constant control technology and a supplementary control system cannot be required to use additional constant control systems during its first NSO unless the Administrator determines that they are adequately demonstrated to be reasonably available. The smelter's existing control systems, however, must be well designed, operated, and maintained, and must fully treat the "strong streams" produced by the smelter's process equipment.

The interim constant control requirement is implemented through Subpart C of the proposed regulations. The primary requirement is that the smelter operate its constant controls at their maximum feasible efficiency, that the process and control equipment be maintained in the way best designed to ensure such operation, and that process operations by scheduled and coordinated to facilitate treatment of process gas streams to the maximum extent possible.

a. *Interim Emission Limitations.* Each NSO must also implement the maximum feasible efficiency requirement through a limitation on the concentration of sulfur dioxide in the effluent or tail gas emitted by the control system over a specified averaging period.

Many of the comments on the draft guidance focused on the level at which the concentration limit would be set and the averaging or measuring period over which compliance with that limit would be calculated. The thrust of those comments was that smelter acid plants are highly idiosyncratic, that their efficiencies and performance vary widely both among acid plants and at any given plant from time to time, principally as a function of original plant design and of fluctuation in the concentration and volume of process gases reaching the acid plants, and that the method of setting performance levels suggested in the draft guidance did not adequately account for these factors. The result, according to many of the comments, would have been significant expenditures for acid

plant upgrading, or significant production curtailments, or both.

EPA has considered these comments and the available data in formulating the proposed regulations. The proposed requirements, in the Agency's judgment, now fully account for the problems in attaching enforceable numerical standards to smelter acid plant performance. Specifically, the required concentration limits and averaging periods are to take into account, on a case-by-case basis, both acid plant design and fluctuations in the strength and volume of process off-gases. The regulations would also permit the smelter operator to demonstrate the need for a different averaging period.

The maximum feasible efficiency provision will not require general upgrading of acid plants as a matter of course, but only the correction of serious design or operating deficiencies in control systems. Significant upgrading of control equipment which was properly designed to continuously process the gas it actually receives, and which is properly operated and maintained, should not be necessary. Serious deficiencies are those resulting in significant decreases in the overall efficiency or availability of the control system. A primary example of a serious acid plant deficiency is the use of heat exchangers and associated equipment inadequate to sustain efficient, autothermal operation over the range of gas strengths and volumes routinely generated by the smelter's process equipment. This and other conditions which result in unduly low efficiency or frequent bypassing of the control equipment are not consistent with the requirement of section 119 that NSOs provide for the use of properly designed technology to continuously reduce emissions.

The regulations would also require each NSO to contain a total plant-wide emission limitation governing the total sulfur dioxide emissions from the smelter's stacks. This limit would be calculated at a level which would permit the smelter to operate at its full production capacity, assuming that its control system is operated at the prescribed performance level. The purpose of the plant-wide limit is to prevent the use of dispersion as a substitute for constant control of emissions resulting from capacity expansions. Because the plant-wide limit is calculated at actual capacity, it will not require any production curtailment.

Compliance with the control system performance requirement is to be determined through continuous monitoring. Continuous monitoring, as well as the use of relatively short-term averaging periods, is necessary to ensure the proper operation and maintenance of control equipment (and related process equipment) on a continuous basis.

Compliance with the plant-wide emission limit is not required to be determined on a short-term basis, since the limit is not designed primarily as a check on short-term conditions. For the same reason, the regulations do not require the use of continuous stack monitors to determine compliance with this limit.

b. *Excess Emissions.* The provisions of Subpart C also govern the conditions under which emissions in excess of an interim emission limit or the bypassing of a control system consititute violations of an NSO. These provisions require the reporting of all excess emissions, but do not treat those which the smelter operator is able to demonstrate as resulting from genuine malfunctions, and as to which the operator took appropriate remedial action, as violations of the NSO. This exemption is consistent with the recent decision of the Ninth Circuit Court of Appeals in *Marathon Oil Co. v. EPA*, 564 F.2d 1253 (1977).

In general, any sudden and unavoidable breakdown in process or control equipment is considered a malfunction and not a violation of the NSO. The definition of malfunction (which appears in Subpart A) is intended to account for all genuine, unforeseeable equipment problems which result in excess emissions from the control system. The definition also expressly recognizes that an unavoidable problem can appear suddenly, but be most appropriately repaired a number of days later. Control or process equipment startups and shut-downs resulting from malfunctions are also covered by the exemption. The malfunction provisions are, however, designed to promote improved operation and maintenance procedures by refusing to exempt as malfunctions those breakdowns that could have been foreseen and avoided by the use of such procedures.

The malfunction exemption does not apply where the malfunction results from a serious design deficiency which the smelter owner has failed to correct as required under the NSO. This means, for example, that where an acid plant at a lead smelter is inadequately designed to routinely handle relatively frequent shut-downs of the sintering machine, the acid plant must be upgraded as required to correct that serious deficiency. Excess acid plant emissions that could be prevented by the required upgrading would therefore not be considered the result of sintering machine malfunctions.

The proposed regulations also treat as violations of the NSO any excess emissions occurring during bypassing of control equipment, unless the bypassing is necessitated by a malfunction. Except as discussed below, the provisions therefore effectively prohibit bypassing during periods when the acid plant is shut down for scheduled maintenance, and when more process off-gas is reaching the plant than it is designed to handle.

The corresponding provisions in the draft guidance were the subject of considerable comment. A number or companies argued that it was unreasonable to require the smelter to shut down during scheduled maintenance, with the resulting production loss, simply because its control equipment was unavailable, in view of the fact that ambient standards are to be protected through the use of SCS anyway.

The Administrator disagrees. First, scheduled maintenance, for the purposes of NSOs, is only that maintenance which needs to be performed on a routine basis, on a reasonably periodic or predictable schedule. The best example of scheduled maintenance is screening of catalyst in an acid plant converter. Maintenance necessitated by the detection of an actual, impending, or developing (unforeseeable) equipment failure will usually be treated as malfunction-related, rather than scheduled. The malfunction provisions thus encompass many of the circumstances which the companies identified as shut-downs for scheduled maintenance. Indeed, data submitted by Asarco, Inc. in support of its argument indicate that ony 1.58 percent of the total (1977) copper production at its Hayden, Arizona smelter would have been "lost" if the smelter had been shut down during what, under these provisions, would be regarded as scheduled maintenance.

Moreover, many smelters already schedule periodic shut-downs for maintenance purposes. The Agency believes that careful scheduling of acid plant maintenance cycles would allow a substantial part of that maintenance to be performed during these previously scheduled smelter shut-downs. Furthermore, knowledge that the smelter is scheduled to be shut down for maintenance allows the operator to plan in advance for its projected inventory needs during the shut-down. This advance planning results not in loss of production, but simply in its rescheduling. The administrator also notes that the use of SCS, which the operators seek, also entails production rescheduling, and has apparently proved feasible.

Second, the Administrator believes that permitting planned operation under NSOs without the use of any constant controls during periods of scheduled maintenance is inconsistent with the requirements of section 119 and the intent of Congress. In requir-

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ing the use of an interim level of constant controls, Congress has implicitly placed control equipment on a par with production equipment: each is integral to the operation of the facility. Just as a smelter cannot operate without its production equipment, and schedules, a shut-down for the periodic maintenance of that equipment, the smelter likewise cannot operate without another integral system, its continuous emission reduction equipment. In short, to permit regular, scheduled periods of uncontrolled emissions is not consistent with the requirement for operation with *continuous* controls.

The fact that SCS will be the primary means of protecting ambient standards under an NSO does not alter this conclusion. In requiring the interim use of constant controls, Congress intended to limit the total amount of sulfur dioxide emitted into the atmosphere and transported beyond the immediate vicinity of the smelter. Indeed, this goal led the Administrator to consider the possible need to also ban bypassing during malfunctions, except where injury to people or serious property damage might otherwise result. While that approach was considered, the Agency has concluded that in light of the unpredictable nature of malfunctions, and of the much larger possible production rescheduling or loss associated with requiring shut-downs during repairs of malfunctions, such a requirement is not compelled by the interim constant control requirement of section 119.

Because bypassing during scheduled maintenance would greatly increase the total volume of sulfur dioxide emitted by a smelter permitting such bypassing is incompatible with the goal of limiting overall emissions to the level associated with the operation of interim constant controls at maximum feasible efficiency. In order to provide the maximum flexibility consistent with this goal, however, the proposed regulations would allow bypassing during scheduled maintenance to the extent that additional controls, installed at a smelter under the research and development provisions of its NSO, remove an equivalent amount of sulfur dioxide from the smelter's emissions. Specifically, the new controls would be required to offset on a net (annual) basis the sulfur dioxide emissions occurring during bypassing for scheduled maintenance during that (annual) period. The provision would allow such bypasing throughout the term of the NSO, but would treat emissions occurring before the new controls began operating as violations of the NSO if the new controls failed to operate with the approximate effectiveness originally represented in the NSO application.

The Administrator also believes that permitting bypassing during periods when a control system is receiving more process off-gas than it is designed to handle ("excess gas") is inappropriate, in light of both the Congressional intent underlying section 119 and the consequences of prohibiting such bypassing. In enacting the interim constant control requirement of section 119(d)(1), Congress clearly intended that, as a minimum, all "strong" streams be treated by those controls. Bypassing strong streams around control equipment (in the absence of a malfunction), however, in effect exempts a portion of those streams from the interim constant control requirement.

Moreover, the information available to the Agency does not indicate that a large amount of production curtailment would result from this prohibition. Most smelters, in fact, employ control equipment adequate to handle the gas volume actually generated under current operating procedures, and achieve satisfactory production results under those conditions. Even for those few smelters where current operating procedures result in the generation of excess process gas, this prohibition is not expected to entail large production losses. Information submitted by Asarco, for example, indicates that excess gas bypassing was used for only about one percent of the 1977 production at its Hayden smelter. This percentage could be further reduced, EPA believes, by improved scheduling of operations and, in some cases, by improved maintenance to minimize inleakage of air into the ducts carrying the process gas to the acid plant (thus both reducing total gas volume and improving acid plant performance by preventing dilution). Finally, any smelter in this situation also has the option of upgrading its control equipment to handle the gas actually generated by the process equipment at the smelter.

3. *Subpart D: Supplementary Control System Requirements.* Section 119 permits smelters receiving NSOs to meet ambient standards through the use of dispersion as an interim alternative to the full use of constant controls required by their SIP emission limitations. The pre-eminent requirement for the use of dispersion under section 119 is that the system chosen be enforceable, reliable, and adequate to ensure that the smelter's emissions do not result in violations of the NAAQS in the area affected by those emissions. The statute contains a broad grant of discretion to the Administrator to require that NSOs contain whatever interim measures are necessary to achieve these goals.

Subpart D implements this Congressional directive by requiring that each smelter prevent all violations of NAAQS in the area affected by its emissions (its "designated liability area" or "DLA") through the use of an approved supplementary control system (SCS). The proposed regulations specify the elements necessary for an approvable SCS, but, as a result of comments by state agencies and the industry, provide more flexibility to the issuing agencies in determining the adequacy of a particular system than did the draft guidance. The State of Arizona, for example, has had considerable experience in regulating the use of SCS by smelters, and the proposed regulations are designed to permit the full use of the expertise available in the air pollution control agencies of such states. The regulations are also intended to permit the smelter operators, who have the most actual knowledge of and experience in the use of these systems, to participate fully in the formulation of SCS operating requirements for their smelters.

a. *Ambient and Meteorological Data.* Under the proposed regulations, each SCS would be required to contain several elements. First, the system would have to be able to continuously monitor ambient air quality at all points of expected high concentrations of sulfur dioxide. The siting of monitors would be based on factors specified in the regulations. Based in part on the experience of Arizona, at least seven fixed monitors and one mobile monitor would ordinarily be required.

Each SCS must also be able to predict meteorological conditions which are likely to result in high ambient concentrations of sulfur dioxide, rather than simply relying on monitors to warn of those concentrations as they actually occur. This kind of "open-loop" operation is necessary, in the Administrator's opinion, to give the advance warning necessary to ensure that emission curtailments will be effected in time to prevent violations of ambient standards. Because emission curtailment take some time to complete, and take additional time before their effects on ambient air quality are fully felt, reliance on ambient monitors alone ("closed-loop" operation) would not always provide adequate lead time.

The nature and precision of the specific meteorological capability required to assure adequate lead time will, however, depend largely on site-specific factors, and in some cases National Weather Service information alone may be adequate. The Administrator has therefore decided not to specify in detail in advance the required components of the predictive element of supplementary control systems; likewise, the number and qualifications of the personnel receiving and

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interpreting meteorological information has not been specified. Both, however, must be adequate for fully reliable open-loop operation.

b. *Curtailment Criteria and Operating Manual.* Advance specification of when, how, and by how much emissions will be curtailed to avoid violations of the NAAQS is essential to a successful SCS. The regulations require that curtailment criteria, procedures, and plans be stated in an SCS operating manual, and make the failure to curtail emissions as called for in the manual a violation of the NSO.

A number of smelter operators commented that adherence to curtailment procedures and criteria specified in a manual was impractical, since in their view all the combinations of air quality and meteorology that might arise could not be listed. A number of operators also argued that requiring adherence to the manual left inadequate scope for the exercise of judgment by the SCS operating personnel.

The Administrator believes that neither of these problems is likely to arise under the proposed regulations. The principal variable affecting the need for curtailment is meteorology, both current and predicted. The Agency recognizes that it is not possible to list in advance all of the specific characteristics of each meteorological regime that may occur in the vicinity of a given smelter, and does not intend that the SCS manuals do so. What is intended is that the manuals contain the criteria to be used in evaluating specific meteorological information, including the thresholds, ranges, and combinations of meteorological values which will trigger curtailments.

EPA also recognizes that prediction of incipient meteorological conditions requires the exercise of judgment, and does not intend to preclude reliance on competent and qualified personnel to evaluate the significance of meteorological information as it is acquired. The Agency does intend, however, that this judgment be constrained by a requirement to prevent all violations of ambient standards, and that the procedures contained in the manual be designed accordingly. The regulations therefore would make the failure to curtail emissions when and to the extent indicated by the criteria in the manual, applied to actual conditions, a violation of the NSO. The proposed regulations provide, however, for modification of the manual in light of actual experience. Failure to adhere to certain other procedures in the manual, such as schedules for calibration and maintenance of SCS equipment, would also constitute a violation of the NSO.

c. *Designated Liability Areas; Overlapping DLAs.* The curtailment criteria and SCS manual are required to account for all conditions which could result in violations of NAAQS in the smelter's designated liability area (DLA). The DLA is that area within which the smelter's uncontrolled emissions at maximum production rates may cause or contribute to violations of NAAQS for sulfur dioxide under any probable meteorological conditions. The proposed regulations provide presumptive boundaries for DLAs, depending on the smelter's rate of emissions. The boundaries in the table, which are based on general modelling performed by EPA, may be replaced by any boundaries a smelter owner can demonstrate to include the area affected by the smelter's emissions under all probable meteorological conditions.

As a condition of receiving an NSO, the smelter owner would also be required to consent to legal liability for all violations of the NAAQS for sulfur dioxide within the smelter's DLA. The Administrator believes that SCS can be a reliable and enforceable means of preventing violations of ambient standards only if the smelter operator is clearly responsible for all violations of ambient standards in the areas affected by the smelter's emissions. This approach, which was anticipated by Congress, has been endorsed by the Ninth Circuit Court of Appeals in *Bunker Hill Co. v. EPA*, 572 F.2d 1286 (1977).

A major assumption underlying the use of SCS by a given source is that periodic emission reductions by that source will have sufficient impact on ambient air quality to protect the NAAQS. SCS can therefore ordinarily be permitted only when the source is the primary emitter of sulfur dioxide in the area. Otherwise, there can be no assurance that a particular emission curtailment by the source will be adequate to avoid violations of the standards.

In comments on the draft guidance, a number of companies pointed out that other sources of sulfur dioxide would be located within the designated liability areas of some smelters, and that in some instances the DLAs of two or more smelters might overlap. These companies argued that it would be unfair to make a smelter liable for a violation not caused by its own failure to curtail emissions as called for by its SCS manual. While the Agency recognizes the validity of these comments, it also believes that if the SCS-DLA mechanism is to provide an enforceable and reliable means of preventing violations of the NAAQS, a strong presumption of liability must attach whenever a violation occurs in a smelter's DLA.

The proposed regulations, however, accomodate the companies' concerns to the extent feasible. First, a smelter's curtailment decisions would have to take into account the "permissible emissions" of any other sulfur dioxide sources with the DLA (other than other smelters subject to NSOs, which are treated separately). The "permissible emissions" of other sources would be those allowed under the applicable Clean Air Act emission standard. The regulations would also permit a smelter operator to rebut the presumption of liability for a particular violation of ambient standards in its DLA by showing that the violation was caused by emissions of another source in excess of that source's permissible emissions level. The burden of this showing would be entirely on the smelter.

The regulations also deal with the difficult problem of overlapping DLAs of smelters under NSOs. Smelters with overlapping DLAs would be required to submit joint plans for emission curtailment adequate to ensure that standards will not be violated as a result of their combined emissions. These smelters could, but would not have to, operate a joint SCS. The joint submission would also have to include provisons conclusively allocating liability in the event of a violation in the area of overlap. Any smelter under an NSO would also be required to revise its SCS and submit a joint plan with any other smelter that subsequently applies for an NSO and that would have an overlapping DLA. These measures are consistent with the Congressional intent that NSOs not necessarily be granted simply on a first come, first served basis, and that NSOs take into account the effect of all significant sulfur dioxide sources in an area. The Administrator also regards the provisions governing DLAs having more than one sulfur dioxide source as necessary to make SCS and other NSO interim measures reliable and enforceable.

d. *SCS Development Plan.* The proposed regualtions require each smelter to include in its NSO application a description of its existing SCS (if any) and a specific plan and timetable for developing an approved system. The NSO would require the smelter to operate any existing SCS and to immediately assume liability for violations at existing monitoring sites. It would also incorporate an approved version of the SCS development plan. Once the smelter has completed and demonstrated the reliability of its full system, the NSO would be amended to include the relevant characteristics of the system. The NSO could also be amemded at any time to incorporate improved operating procedures, change in the SCS manual, or other system requirements.

e. *Reporting, Recordkeeping, and Monitoring.* Finally, the proposed regulations would establish certain re-

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porting and recordkeeping requirements in connection with the SCS operations, and would require the installation and operation of continuous sulfur dioxide monitors on a smelter's main stack. The primary purpose of the continuous monitoring requirement is to facilitate the development of improved SCS curtailment criteria by using specific quantitative emission data to construct more accurate models of the effect of the smelter's emissions.

While the Agency is aware that some companies do not believe that the equipment now available for the continuous monitoring of stack gas volumetric flow rate is reliable enough for purposes of compliance determinations, the usefulness of the information for modelling purposes would remain substantial even if periodic problems do initially occur. Moreover, the increased use of these monitors should result in improvements in their performance as additional experience is gained by smelter operators and equipment vendors.

4. *Subpart E: Fugitive Emission Control Requirements.* The use of supplementary controls to prevent violations of ambient standards can be successful only if SCS emission curtailments, which at most smelters involve only stack emissions, reduce ambient concentrations at all necessary points in a smelter's DLA. At many smelters, however, fugitive emissions, which escape into the air at low elevations from various points in the smelting process, can cause violations of ambient standards by themselves or in combination with stack emissions. Because the primary impact of fugitive emissions is usually closer to the smelter than that of stack emissions, the use of an SCS designed to control stack emissions often fails to prevent violations of ambient standards due to fugitive emissions.

Subpart E requires the use of interim measures to deal with this problem. Unlike the draft guidance, these provisions do not necessarily require the immediate installation of equipment to prevent the escape of fugitive emissions and to capture and vent them when they do escape from process points. In discussions and comments on the draft guidance, several companies stated that certain smelters control their fugitive emissions adequately by designing their SCS to curtail emissions when necessary to prevent violations due to fugitive emissions, or through a combination of SCS and engineering measures.

The Administrator remains doubtful that SCS can be reliably used to curtail fugitive emissions, because their diverse emission points make it much more difficult to model and anticipate their effects, and because their less direct relation to processing rates makes the extent and magnitude of necessary processing curtailments more uncertain. The Agency nevertheless believes it reasonable to permit smelters to attempt to demonstrate the reliability of such systems before requiring the use of additional engineering measures (*e.g.*, further hooding) to reduce fugitive emissions. EPA also believes that because a smelter's fugitive emission problem involves a number of site-specific factors, further study of the nature and magnitude of the problem at particular smelters may be justified before a final decision is made on necessary control measures.

Under the proposed regulations, all smelters receiving NSOs would ultimately be required to use whatever measures are necessary to prevent ambient violations resulting wholly or in significant part from fugitive emissions. Any smelter which is unable to show at the time of its application for an NSO that its fugitive emissions have no significant effect on ambient air quality in its DLA would be required to conduct a study of the problem. The study would consist primarily of at least six months of ambient monitoring around the smelter to determine the cause and effect of fugitive emissions of sulfur dioxide, total suspended particulates, arsenic, and lead. The inclusion of these other pollutants in the study is necessary, in the Administrator's judgment, to enable EPA and state agencies to devise or evaluate control strategies for fugitive emissions of sulfur dioxide that will be consistent and compatible with existing or probable EPA and OSHA requirements for the control of process and fugitive emissions of all of these pollutants.[4]

At the conclusion of the study, the NSO will be amended to require whatever control measures are necessary to assure the protection of NAAQS for sulfur dioxide. Those measures may include additional supplementary controls if the smelter can demonstrate that such controls are reliable, enforceable, and adequate to protect standards, and that their use will not interfere with the operation of the primary SCS. Where additional SCS is permitted, the regulations would require the system to be developed, tested, and approved substantially as under Subpart D. Engineering measures would also be required in addition to or in lieu of additional SCS where necessary.

5. *Subpart F: Research and Development.* Section 119(d)(1)(C)(ii) of the Act explicitly requires each smelter to agree, as a condition of receiving an NSO, to commit reasonable resources to a research and development program designed to produce more effective means of meeting its SIP emission limitation. This requirement is implemented through the regulations proposed as Subpart F.

Initially, the Agency had intended to use a formula to determine the adequacy of the resources a particular smelter proposed to devote to research and development. The purpose of using a formula was to ensure that the companies committed resources adequate to produce meaningful projects, and to relate the necessary resources to a smelter's financial position and progress in sulfur dioxide control. One preliminary formula appeared in the draft guidance. Further investigation, however, has not yielded any formula that the Agency feels is really suitable for this purpose. Instead, each applicant would be required to propose a specific project. The proposed regulations contain the basic criteria that EPA will use in deciding whether that proposed project is adequate to satisfy the requirements of section 119.

The proposed criteria reflect several goals. Of first importance is that taken together, projects conducted under NSOs (as well as independently) should result in technology that will allow all smelters to meet their emission limitations as soon as possible, but in no event later than by January 1, 1978, when second NSOs must expire. The regulations therefore provide for the advance approval of projects by EPA, and for the continuing monitoring of their results. In the Administrator's judgment, given the common technological factors throughout the industry nationally, coordination of the project approval and monitoring process on a national basis is essential to maximizing the effectiveness of the limited reasearch and development resources available.

Among the factors the Administrator will consider in assessing any proposed project are: (a) The likelihood that the project will result in more effective means of emission limitation applicable to the smelter and to the industry; (b) the adequacy of the proposed funding both for conducting the project and in comparison to pollution control research expenditure levels in other industries; (c) the probability that the project will improve environmental and occupational control of pollutants other than sulfur dioxide;

[4]The need for additional information on the fugitive emissions of nonferrous smelters is discussed further in an Advance Notice of Proposed Rulemaking (43 FR 46275; October 5, 1978) accompanying EPA's promulgation of national ambient air quality standards for lead (43 FR 46246). Any requirements for air quality monitoring established under NSOs pursuant to the final version of the regulations discussed in the text will be coordinated with corresponding requirements established under the rules suggested in the ANPR.

(d) the possible effects of the project on energy conservation; and (e) other non-air quality health and environmental effects. In assessing the adequacy of funding of a particular project, EPA will also take into account the current level of sulfur dioxide control at the smelter as well as the resources of the corporation operating the smelter.

The Administrator will approve only those projects that appear to carry a reasonable likelihood of producing significant pollution control gains for the smelter or the industry. While the Agency recognizes that the success of a project cannot be predicted in advance, it also believes that without a seriousness of purpose and an adequate financial commitment, success will not occur. It will therefore ordinarily be necessary to propose projects involving at least pilot-scale operations occurring during the first NSO in order to secure project approval. Where appropriate, the Administrator consequently intends to approve company-wide projects, and joint projects that are consistent with antitrust law.

EPA encourages smelter operators to conduct a broad range of projects, including add-on controls, process changes which will produce more treatable gas streams, and new and improved production technology which is low in generation of pollution. The Agency would not, however, regard existing expenditures in the area of process changes undertaken primarily for production-related or economic reasons as satisfying the research requirement. To satisfy the requirement, intensified or expanded efforts would be required.

Finally, the information to be sumitted to EPA under this subpart is being required in part under the authority of section 114 of the Act. It will therefore be protected under Agency regulations governing confidentiality (40 CFR Part 2).

6. *Subpart G: Compliance Schedules.* The proposed regulations require that compliance with each NSO provision be achieved as expeditiously as practicable. Subpart G sets forth the maximum intervals the Agency believes are consistent with this requirement. These timetables are based on the "worst case" assumption that the smelter will not begin to comply with the NSO requirements until the effective date of its NSO. In virtually all cases, however, compliance can be achieved at a considerably faster rate.

7. *Subpart H: Waiver of Interim Constant Control Requirements.* Section 119 permits EPA or a state to grant a waiver from the interim constant control requirement of Subpart C to any smelter which had no constant controls as of the date of enactment of the 1977 Amendments (August 7, 1977) and for which the cost of such interim controls would "necessitate" closure of the smelter for at least one year. Subpart H contains the procedures and criteria governing the granting of a waiver. A request for a waiver must be contained in the smelter operator's NSO application.

The economic criteria used in the proposed regulations to determine the effect of requiring the installation of an acid plant or other control system are recognized financial tests. Short term closure would be viewed as necessary if information supplied in accordance with Appendix A indicates that the smelter's average variable costs at all relevant levels of production (after installation of interim controls) would exceed the weighted average price of smelter output for one year or more. As discussed in connection with Subpart B, permanent closure would be regarded as necessary if the sum of the present value of the smelter's net cash flow plus its terminal value would be less (after installation of controls) than the smelter's liquidation (salvage) value. The Administrator would grant, or would recommend that a state grant, a waiver of the interim constant control requirement to any smelter meeting either of these tests.

Subpart H also contains the procedures which the Administrator would use in conducting the adjudicatory proceeding required by section 119 in reaching his determination as to the effect of the interim constant control requirement on the smelter. Under section 119, the Administrator must hold that hearing within ninety days of receipt of the request. Consequently, these regulations are intended to expedite both pre-hearing procedures and final decisions on waiver requests, while providing applicants and other interested persons a full opportunity to present pertinent information and views.

The procedures proposed here are comparable to procedures proposed by EPA on April 25, 1978 (43 FR 17484) for use in actions on applications for modified permits under section 301(h) of the Clean Water Act. The proposal is based on the "initial licensing" provisions of the Administrative Procedure Act ("APA"), 5 U.S.C. 551 *et seq.* Those provisions govern agency proceedings involving the initial grant of a license or variance where decision-making is likely to involve policy determinations of the type normally made in rulemaking and the decision-making is not conducted in an accusatory context. The statute defines a "license" to include "the whole or part of" any "statutory exemption." Initial licensing would therefore include the initial decision on the granting of such an exemption.

Under the APA, initial licensing proceedings are meant to be substantially less adversary than other formal adjudications, such as administrative penalty assessments and license revocations. In initial licensing, no "separation of functions" requirement forbidding contact between agency trial staff and ultimate decision-makers is imposed (5 U.S.C. 557(b)(1)). In addition, agencies may require that all or part of the evidence be submitted in written form (5 U.S.C. 556(d)). There is no requirement that the presiding administrative law judge prepare an initial decision; instead, any "responsible member" of the agency staff may prepare it. The legislative history of the APA indicates that these exemptions were provided for initial licensing because the decisions involved were thought to be "like rulemaking" in that they would be complex, non-accusatory, and policy-dominated. Because they do not involve accusing anyone of wrong-doing, there is no reason for "separation of functions" within the agency or for an initial decision by a statutorily independent individual. The complexity of the determinations, moreover, requires that the agency be able to draw on its staff experts freely without being hampered by such artificial barriers when they serve no purpose. *The Administrative Procedure Act—A Legislative History*, S. Doc. No. 248, 79th Cong., 2d Sess. 204, 229, 262, 361 (1946).

EPA believes that initial licensing procedures are well-suited to the interim constant control waiver decision. Waiver decisions will involve decision-making on complicated financial issues. They will not be of an "accusatory" or condemnatory nature, but will entail applying the policy of the statute in concrete situations. The policy nature of the waiver determination, moreover, is substantially similar to the initial NSO eligibility determination, which is governed by the informal rulemaking procedures of the APA. In addition, EPA believes procedures such as these are necessary to enable the Administrator to meet the time limit prescribed by Congress.

EPA has attempted to use the initial licensing procedures not only to expedite the decision-making, but also to adapt the administrative evidentiary proceedings to the non-adversary nature of the waiver determination. When a waiver request is received, the Agency will prepare a tentative determination on the request. A hearing will be held on the tentative determination if requested by the smelter operator or other interested parties, and if certain threshold requirements are met. No EPA trial staff will be designated for the hearings. Instead, a panel of agency employees with expert knowledge of, or responsibility for, the

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subjects involved will be present at the hearing and will question the parties, subject to over-all control of the proceeding by an Administrative Law Judge or by a Presidential appointee representing the Administrator. The hearing will be divided into a "legislative" phase at which the parties can present their views and arguments to the panel and be questioned by it, and an "adjudicative" phase at which formal cross-examination can be ordered if certain threshold requirements are met.

After the hearing, the panel will prepare a recommended decision which may be appealed to or reviewed *sua sponte* by the Administrator. In developing his final decision, the Administrator is free to consult with panel members as well as other EPA technical staff. EPA believes this type of procedure not only complies with the literal requirements of the initial licensing provisions of the APA, but also that it better serves the policy of those provisions than would the automatic early use of adjudicative cross-examination procedures.

The Agency also wishes to emphasize that because the proceedings involved here concern highly sensitive financial information, provisions for preserving the confidentiality of that information to the fullest extent consistent with the requirements of section 119 are included in the proposed regulations. In a proceeding conducted under these procedures, parties other than the smelter operator requesting the waiver would not have access to all the detailed financial data used by the Agency in preparing its tentative determination. While this may make it somewhat more difficult for other persons to evaluate the tentative determination, three factors have led the Administrator to conclude that the proposal strikes a reasonable balance between providing opportunities for such parties to affect the ultimate waiver decisions and the confidentiality interests of the companies.

First, the Agency recognizes the sensitivity of some of the financial information involved, and believes that at least some protection of that information is necessary and appropriate. Second, much of the manner in which that information will be evaluated is set forth in Subpart H and Appendix A of today's proposal. Interested parties can therefore also participate in EPA's decisionmaking with respect to waivers at the present rulemaking stage. The Agency urges interested persons to examine those provisions closely, and to indicate in comments whether they believe the treatment afforded by Appendix A and the tests found in proposed section 57.802(f) of the regulations is consistent with the intent of Congress. Finally, while the specific information on which some portions of the tentative determinations are based may be held confidential, the policy determinations on the significance of that information, as well as the qualitative nature of the information where appropriate, will be stated. Taken together, the Administrator believes that the opportunity for public participation represented by this rulemaking and the actual waiver proceedings will enable members of the public to present their views effectively, while recognizing the companies' legitimate interests in preserving the confidentiality of sensitive information.

NOTE.—The Environmental Protection Agency has determined that this notice does not propose a significant regulation requiring a regulatory analysis under Executive Order 12044.

(Secs. 114, 119, and 301 of the Clean Air Act, as amended (42 U.S.C. 7414, 7419, and 7601), and sec. 406 of Pub. L. 95-95.)

Dated: January 22, 1979.

DOUGLAS M. COSTLE,
Administrator.

The Administrator proposes to establish a new Part 57 in Title 40 of the Code of Federal Regulations, to read as follows:

PART 57—PRIMARY NONFERROUS SMELTER ORDERS

Subpart A—General

Sec.
57.101 Purpose and Scope.
57.102 Eligibility.
57.103 Definitions.
57.104 Amendment of the NSO.
57.105 Submittal of Required Plans, Proposals, and Reports.
57.106 Expiration Date.
57.107 The State Agency's Transmittal to EPA.
57.108 Comparable Existing SIP Provisions.

Subpart B—The Application

57.201 Where to Apply.
57.202 How to Apply.
57.203 Contents of the Application.

Subpart C—Constant Controls and Related Requirements

57.301 General Requirements.
57.302 Performance Level of Interim Control.
57.303 Total Plant-wide Emission Level.
57.304 Bypass, Excess Emissions and Malfunctions.
57.305 Compliance Monitoring and Reporting.

Subpart D—Supplementary Control System Requirements

57.401 General Requirements.
57.402 Elements of the Supplementary Control System.
57.403 Consent to Liability.
57.404 Measurements, Records and Reports.
57.405 Formulation, Approval and Implementation of Requirements.

Subpart E—Fugitive Emission Evaluation and Control

Sec.
57.501 General Requirement.
57.502 Evaluation.
57.503 Control Measures.

Subpart F—Research and Development Requirements

57.601 General Requirements.
57.602 Approval of Proposal.
57.603 Criteria for Approval.
57.604 Evaluation of Projects.
57.605 Consent.
57.606 Confidentiality.

Subpart G—Compliance Schedule Requirements

57.701 General Requirements.
57.702 Compliance with Constant Control Emission Limitation.
57.703 Compliance with the Supplementary Control System Requirements.

Subpart H—Waiver of Interim Requirement for Use of Continuous Emission Reduction Technology

57.801 Purpose and Scope.
57.802 Request for Waiver.
57.803 Issuance of Tentative Determination; Notice.
57.804 Request for Hearing; Request to Participate in Hearing.
57.805 Submission of Written Comments of Tentative Determination.
57.806 Presiding Officer.
57.807 Hearing.
57.808 Opportunity for Cross-Examination.
57.809 Ex Parte Contacts.
57.810 Filing of Briefs, Proposed Findings, and Proposed Recommendations.
57.811 Recommended Decision.
57.812 Appeal from or Review of Recommended Decision.
57.813 Final Decision.
57.814 Administrative Record.

Appendix A—Primary Nonferrous Smelter Order (NSO) Application.

AUTHORITY: Sections 114, 119, and 301 of the Clean Air Act, as amended, 42 U.S.C. 7414, 7419, and 7601, and section 406 of Pub. L. 95-95.

Subpart A—General

§ 57.101 Purpose and scope.

The regulations in Subparts A through H govern:

(a) The eligibility of smelters for a first Primary Nonferrous Smelter Order (NSO) under section 119 of the Clean Air Act;

(b) The procedures through which a first NSO can be issued; and

(c) The required contents of each first NSO. Subparts I *et seq.*, will contain NSOs in effect for individual smelters.

§ 57.102 Eligibility.

A primary nonferrous smelter is eligible for an NSO if it meets the following conditions:

(a) The smelter was in existence and operating on August 7, 1977;

(b) The smelter is subject to an approved or promulgated sulfur dioxide (SO_2) State Implementation Plan (SIP) emission limitation which is adequate to ensure that National Ambient Air Quality Standards (NAAQS) for SO_2 are achieved without the use of any unauthorized dispersion techniques; and

(c) The Administrator determines, based on a showing by the smelter owner, that there is no applicable control technology which has been adequately demonstrated to be reasonably available to that smelter which would enable it to comply with its SIP emission limitation for SO_2.

§ 57.103 Definitions.

"Act" means the Clean Air Act, as amended.

"Active use" refers to an SO_2 constant control system installed at a smelter before August 7, 1977 and not totally removed from regular service by that date.

"Adequate SO_2 emission limitation" means a SIP emission limitation which was approved or promulgated by EPA as adequate to attain and maintain the NAAQs without the use of any unauthorized dispersion technique.

"Administrative Law Judge" means an administrative law judge appointed under 5 U.S.C. 3105 (see also 5 CFR Part 930, as amended by 37 FR 16787), and is synonymous with the term "Hearing Examiner" as formerly used in Title 5 of the United States Code.

"Administrator" means the Administrator of the United States Environmental Protection Agency, or the Administrator's authorized representative.

"Ambient air" shall have the meaning given by 40 CFR 50.1(e), as that definition appears upon promulgation of this subpart, or as hereafter amended.

"Ambient air quality" unless otherwise specified, refers only to concentrations of sulfur dioxide in the ambient air.

"An approved measure" refers to one contained in an NSO which is in effect.

"Assistant Administrator for Air and Waste Management" means the Assistant Administrator for Air and Waste Management of the United States Environmental Protection Agency.

"Assistant Administrator for Enforcement" means the Assistant Administrator for Enforcement of the United States Environmental Protection Agency.

"Constant controls and continuous emission reduction technology" mean a system which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis.

"Effective date of an NSO" means the effective date listed in the FEDERAL REGISTER publication of EPA's issuance or approval of an NSO.

"EPA" means the Administrator of the United States Environmental Protection Agency, or the Administrator's authorized representative.

"Fugitive emissions" means any air pollutants emitted to the atmosphere from any locations at the smelter other than final stack emission points.

"Issuance" of an NSO means the final transmittal of the NSO pursuant to § 57.107(a) by an issuing agency (other than EPA) to EPA for approval, or the publication of an NSO issued by EPA in the Federal Register.

"Issuing agency", unless otherwise specifically indicated, includes both EPA and the state or local air pollution control agency to which a smelter's owner has applied for an NSO, or which has issued the NSO. Any showings or demonstrations required to be made under this part to the issuing agency are subject to independent determinations by EPA.

"Judicial Officer" means an attorney who is a permanent or temporary employee of the United States Environmental Protection Agency.

"Malfunction" means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions. A malfunction can exist only for the minimum time necessary to implement corrective measures.

"Maximum production capacity" means either the maximum demonstrated rate at which a smelter has produced its principal metallic final product under the process equipment configuration and operating procedures.

"NAAQS" and "National Ambient Air Quality Standards", unless otherwise specified, refer only to the National Primary and Secondary Ambient Air Quality Standards for sulfur dioxide prevailing on or before August 7, 1977, or a rate which the smelter is able to demonstrate by calculation is attainable with existing process equipment.

"Scheduled maintenance" means any routine, periodic procedure necessary to maintain the integrity or reliability of emissions control performance, regardless of how often the procedure must be employed. It includes the screening or replacement of catalyst, the re-tubing of heat exchangers in sulfuric acid plants, and the routine repair and cleaning of gas cleaning equipment.

"Smelter owner" includes the owner or operator of the smelter.

"Supplementary control system" (SCS) means any technique for limiting the concentration of a pollutant in the ambient air by varying the emissions of that pollutant according to atmospheric conditions. For the purposes of this part, the term supplementary control system does not include any dispersion technique based solely on the use of a stack the height of which exceeds good engineering practice (as determined under regulations implementing section 123 of the Act).

"Unauthorized dispersion technique" refers to any dispersion technique which, under section 123 of the Act and the regulations promulgated pursuant to that section, may not be used to reduce the degree of emission limitation otherwise required in the applicable SIP.

§ 57.104 Amendment of the NSO.

An NSO shall be amended whenever necessary for compliance with the requirements and purposes of this part. A state or local issuing agency may propose to amend any NSO it has issued. Any amendment proposed by a State or local issuing agency shall be subject to approval by EPA to the same extent as was the original NSO. Any smelter owner may apply to the agency which originally issued its NSO for an amendment of the NSO at any time. Such an application shall be accompanied by whatever documentation is required by that agency (or EPA) to support the requested amendment. This section shall not apply to termination or revocation of NSOs, or to a requirement for the use of additional systems of continuous emission reduction technology.

§ 57.105 Submittal of required plans, proposals, and reports.

The failure of a smelter owner to submit any plan, report, document or proposal as required by its NSO or by this part shall constitute a violation of its NSO.

§ 57.106 Expiration date.

Each NSO shall state its expiration date. No NSO shall expire later than January 1, 1983.

§ 57.107 The State Agency's Transmittal to EPA.

(a) *Content and bases of the State or local agency's NSO.* Issuance of an NSO by a State or local agency shall be completed by the State's transmittal to the appropriate EPA Regional Office of:

(1) The text of the NSO;

(2) The application submitted by the smelter owner, any correspondence between the issuing agency and the applicant relating to the NSO, and any material submitted in support of the application;

(3) A concise statement of the State or local agency's findings and their bases; and

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(4) Any documentation prepared by or for the issuing agency in support of the NSO.

(b) *The State or local agency's enforcement plan.* The transmittal under paragraph (a) of this section shall be accompanied by a description of the State's plans for monitoring compliance with and enforcement of the NSO. The transmittal shall also include a description of the resources which will be used to implement those plans.

§ 57.108 Comparable existing SIP provisions.

Notwithstanding any other provision of this part, an NSO may contain provisions to which the affected smelter is subject under the applicable EPA-approved state implementation plan (SIP) for sulfur dioxide in lieu of the corresponding provisions which would otherwise be required under this part if the Administrator determines that those SIP provisions are substantially equivalent to the corresponding NSO provisions which would otherwise be required, and if the Administrator determines that the smelter is in substantial compliance with those SIP provisions. For the purposes of this section, provisions to which the affected smelter is subject under the applicable EPA-approved State Implementation Plan are those which became effective before the smelter owner applied for the NSO.

Subpart B—The Application

§ 57.201 Where to apply.

Any eligible smelter may apply for an NSO to the appropriate EPA Regional Office or to the appropriate State or local air pollution control agency. In all cases, those parts of the application required to be submitted under § 57.203(b) (eligibility) and § 57.602 (research and development) shall be sent directly to the Director, Division of Stationary Source Enforcement (EN-341), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Attention: Confidential Information Unit.

§ 57.202 How to apply.

(a) *Letter of intent.* To initiate an application for an NSO, the owner or operator of a smelter shall send a letter of intent to an appropriate air pollution control agency. The letter of intent shall contain a statement of the owner's intent to apply for an NSO, and an agreement to provide any information required under this subpart and Appendix A. The letter of intent shall be signed by a corporate official authorized to make such commitments. Upon receipt by the issuing agency of any letter of intent postmarked within 2 weeks after the effective date of this subpart, or within 2 weeks after the effective date of any SIP emission limitation for sulfur dioxide which is promulgated or approved after the effetive date of this subpart, the federal SIP emission limitation for sulfur dioxide shall be deemed suspended for 90 days.

(b) *Complete application.* (1) No later than 90 days after the letter of intent has been sent, the smelter owner shall submit its completed application pursuant to § 57.201. The 90 day period may be extended once for 30 days at the discretion of the issuing agency. Receipt of all parts of a substantially complete application postmarked within the original or extended application period shall be deemed to continue the suspension of the federal SIP emission limitation for SO_2 until the issuing agency (other than EPA) issues or declines to issue an NSO, or until EPA issues or declines to issue and NSO. This suspension shall in all cases terminate, however, 90 days after receipt of the substantially completed application, unless extended for good cause at the discretion of the Administrator. Whether or not an application is substantially complete shall also be a decision within the Administrator's sole discretion.)

(2) If an issuing agency transmits an NSO to EPA for approval before the expiration of the suspension of the federal SIP emission limitation, the suspension shall continue until EPA approves or disapproves the NSO. Such action shall be taken by EPA within 90 days of receipt of a transmittal under § 57.107.

§ 57.203 Contents of the application.

(a) *Claim of confidentiality.* The smelter owner may make a business confidentiality claim covering all or part of the information in the NSO application in accordance with 40 CFR Part 2, Subpart B (41 FR 36906 *et seq.*, September 1, 1976, as amended by 43 FR 39997 *et seq.*, September 8, 1978). A claim is completely effective only if it is made at the time of application. A claim shall be made by attaching to the information a notice of confidentiality. Information claimed as confidential will be governed by the provisions of 40 CFR Part 2, Subpart B. If no claim accompanies the information, it may be made available to the public without further notice.

(b) *Eligibility information.* Each smelter owner shall make the showing required by § 57.102(c) by completing and submitting Appendix A to this part as a part of its application. The Administrator shall find a smelter eligible; under § 57.102(c) if the information supplied on Appendix A (plus any necessary supplemental information) shows, according to the criteria, procedures, and tests contained in Appendix A, that (after installation of the full constant control equipment required to comply with its emission limitation) the sum of the present value of the smelter's future net cash flow, less depreciation, plus its terminal value would be less than the smelter's liquidation (salvage) value.

(c) *Current operating information.* A complete NSO application shall also contain the following information:

(1) A process flow diagram of the smelter, including current process and instrumentation diagrams for all processes or equipment which may emit or affect the emission of sulfur dioxide; the characteristics of all gas streams emitted from the smelter's process equipment (flow rates, volumes, compositions, and variations over time); and a list of all monitoring data and strip charts, including all data, charts, logs or sheets kept with respect to the operation of any process equipment which may emit or affect the emission of sulfur dioxide;

(2) The smelter's maximum daily production capactiy (as defined in § 57.103 (r)), as of August 7, 1977; the operational rate (in pounds of charge per hour) of each major piece of process equipment when the smelter is operating at that capacity; and the smelter's average and maximum daily production rate for each product, coproduct, or by-product, by year, for the past 3 years;

(3) The optimal conversion efficiency of an acid plant or other sulfur dioxide control system under the normal process operating conditions (excluding malfunctions) most conducive to optimal conversion efficiency;

(4) The average conversion efficiency of any acid plant or other sulfur dioxide control system during normal process operations (excluding malfunctions) by month, during the past 3 years;

(5) The percent of the time the acid plant or other control system was available for service during each month for the past 3 years, excluding down time for scheduled maintenance, and a full explanation of any major or recurring problems with the system during that time;

(6) The frequency and duration of times during the past 3 years when the SO_2 control system was unavailable because of scheduled maintenance of the system;

(7) A description of all scheduled periodic shut-downs of the smelter during the past 3 years, including their purpose, frequency and duration; and the same information with respect to unscheduled shut-downs;

The gas volume, rates, and SO_2 conncentration which the control system was actually designed to accommodate, taking into account any

modifications made after its installation;

(9) The average montly sulfur balance across the process and control equipment, including fugitive emissions, for the past 3 years; and

(10) A description of engineering techniques now in use at the smelter to prevent the release of fugitive emissions into the atmosphere at low elevations.

(d) *The smelter owner's proposals.* The smelter owner shall submit as part of its application draft NSO provisions which would implement the requirements of Subparts C through G of this part. The issuing agency may use these proposals as the basis for any NSO that may be granted, or may modify these proposals in any way it deems necessary in order to comply with the requirements of this part.

(e) *Additional information.* The smelter owner shall designate in its application a corporate officer responsible and authorized to supply supplemental technical and economic information and explanations as required by the issuing agency during the formulation of the NSO. Failure to supply such information and explanations shall constitute a failure to submit a complete application.

(f) *Request for a waiver of constant controls.* Any request for a waiver of the interim constant control requirement of § 57.301 shall be included in the application for an NSO. The application shall contain all information required by this part which is pertinent to a facility that lacks constant controls. The criteria and procedures for granting the waiver are governed by Subpart H and Appendix A of this part.

Subpart C—Constant Controls and Related Requirements

§ 57.301 General requirements.

Each NSO shall require an interim level of sulfur dioxide constant controls to be operated at the smelter, unless a waiver of this requirement has been granted to the owner under Subpart H of this part. Except as otherwise provided in § 57.304, any constant controls in active use as of August 7, 1977, shall be properly operated and maintained at all times. The NSO shall require the following gas streams to be treated by constant controls:

(a) In copper smelters, off-gases from fluidized bed roasters, flash furnaces, NORANDA reactors, electric furnaces, and copper converters;

(b) In lead smelters, off-gases from the front end of the sintering machine and any other sinter gases which are currently re-circulated;

(c) In zinc smelters, off-gases from multi-hearth roasters, flash roasters and fluidized bed roasters; and

(d) In all smelters, any other process streams which were regularly or intermittently treated by constant controls at the smelter as of August 7, 1977.

§ 57.302 Performance level of interim constant controls.

(a) *Maximum feasible efficiency.* Each NSO shall require: that the smelter operate its constant control systems at their maximum feasible efficiency, including any improvements necessary to correct the effects of any serious deficiencies; that the process and control equipment be maintained in the way best designed to ensure such operation; and that process operations be scheduled and coordinated to treat process gas streams to the maximum possible extent. Maximum feasible efficiency shall be expressed in the NSO in the form of a limitation on the concentration of SO_2 in the tail gas of the control system in combination with an appropriate averaging period, as provided below in paragraphs (b) and (c) of this section.

(b) *The limitation level for SO_2 concentration in the control system tail gas.* The level at which the concentration limitation is set shall take into account fluctuations in the strength and volume of process off-gases to the extent that those fluctuations affect the SO_2 content of the tail gas and cannot be avoided by improved scheduling and coordination of process operations. The limitation shall exclude the effect of any increase in emissions caused by process or control equipment malfunction. the limitation shall take into account unavoidable catalyst deterioration in sulfuric acid plants, but may prescribe the frequency of catalyst screening or replacement. The NSO shall also prohibit the smelter owner from using dilution air to meet the limitation.

(c) *Averaging period.* (1) The averaging period shall be derived in combination with the concentration limitation and shall take into account the same factors described in paragraph (b). The averaging periods established under this paragraph should generally not exceed the following:

(i) For sulfuric acid plants on copper smelters, 12 hour running average;

(ii) For sulfuric acid plants on lead smelters, 6 hour running average;

(iii) For sulfuric acid plants on zinc smelters, 2 hour running average;

(iv) For dimethylaniline (DMA) scrubbing units on copper smelters, 2 hour running average.

(2) A different averaging period may be established if the applicant demonstrates that such a period is necessary in order to account for the factors described in paragraph (b) of this section, provided that the period is enforceable and satisfies the criteria of paragraph (a) of this section.

(d) *Improved performance.* (1) The performance level representing maximum feasible efficiency for any existing control system (*e.g.*, a sulfuric acid plant or a DMA scrubber) shall require the correction of the effects of any serious deficiencies in the system. For the purposes of this paragraph, at least the following problems shall constitute serious deficiencies in acid plants:

(i) Heat exchangers and associated equipment inadequate to sustain efficient, autothermal operation over the full range of gas strengths and volumes routinely generated by process equipment;

(ii) Failure to completely fill all available catalyst bed stages with sufficient catalyst;

(iii) Inability of the gas pre-treatment system to prevent unduly frequent plugging or fouling (deterioration) of catalyst or other components of the acid plant; or

(iv) Blower capacity inadequate to permit the treatment of the full volume of gas which the plant could otherwise accommodate, to the extent that this inadequacy results in bypassing of treatable gas around the plant.

(2) Notwithstanding any contrary provisions of § 57.304(c) (malfunction demonstration), no excess emissions (as defined in § 57.304(a)) shall be considered to have resulted from a malfunction if the smelter owner has not upgraded serious deficiencies in the constant control system in compliance with the requirements of § 57.302(d)(1), unless the smelter owner demonstrates under § 57.304(c) that compliance with those requirements would not have affected the magnitude of the emission.

(e) *Multiple control devices.* (1) At any smelter where off-gas streams can be treated by various existing control systems (*e.g.*, multiple acid plants or a DMA scrubber and an acid plant), the NSO shall require the use of those systems in the combination that will result in the maximum feasible net SO_2 removal.

(2) To the extent that compliance with this requirement is demonstrated by the smelter to result in excess emissions during unavoidable start up and shut down of the control systems, those excess emissions shall not constitute violations of the NSO.

§ 57.303 Total plant-wide emission limitation.

(a) *Calculation of the emission limitation.* Each NSO shall contain a requirement limiting the total allowable emissions from the smelter to the level which would have been associated with production at the smelter's maximum production capacity (as defined in § 57.103(r)) as of August 7, 1977. This limitation shall be expressed in

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units of mass per time and shall be calculated as the sum of stack emissions from uncontrolled processes, captured fugitive emissions, and emissions from any control systems (operating at the efficiency prescribed under § 57.302). These emission rates may be derived from either direct measurements or appropriately documented mass balance calculations.

(b) *Compliance with the emission limitation.* Each NSO shall require the use of specific, enforceable testing methods and measurement periods for determining compliance with the limitation established under paragraph (a) of this section.

§ 57.304 Bypass, excess emissions and malfunctions.

(a) *Definition of excess emissions.* For the purposes of this subpart, any emissions greater than those permitted by the NSO provisions established under § 57.302 (performance level of interim constant controls) or § 57.303 (plant-wide emission limitation) of this subpart shall constitute excess emissions. Emission of any gas stream identified under § 57.301(a), (b), (c), or (d) of this subpart that is not treated by a sulfur dioxide control system shall also constitute an excess emission under this subpart.

(b) *The excess emission report.* Each NSO shall require the smelter to report all excess emissions to the issuing agency, as provided in § 57.305(b) of this subpart. The report shall include the following:

(1) Identity of the stack or other emission points where the excess emissions occurred;

(2) Magnitude of the excess emissions expressed in the units of each applicable emission limitation, as well as the operating data, documents, and calculations used in determining the magnitude of the excess emissions;

(3) Time and duration of the excess emissions;

(4) Identity of the equipment causing the excess emissions;

(5) Nature and cause of such excess emission;

(6) Steps taken to limit the excess emissions, and when those steps were commenced;

(7) If the excess emissions were the result of a malfunction, the steps taken to remedy the malfunction and to prevent the recurrence of such malfunction; and

(8) At the smelter owner's election, the demonstration specified in paragraph (c) of this section.

(c) *Malfunction demonstration.* Except as provided in § 57.302(e)(2), or in paragraph (d) of this section, any excesss emission shall be a violation of the NSO unless the owner demonstrates in the excess emissions report required under paragraph (b) of this section that the excess emission resulted from a malfunction (or an unavoidable start up and shut down resulting from a malfunction) and that:

(1) The air pollution control systems, process equipment, or processes were at all times maintained and operated, to the maximum extent practicable, in a manner consistent with good practice for minimizing emissions;

(2) Repairs were made as expeditiously as practicable, including the use of off-shift labor and overtime;

(3) The amount and duration of the excess emissions were minimized to the maximum extent practicable during periods of such emissions;

(4) The bypass of SO_2 streams (which are otherwise required to be treated) around control systems was limited to the maximum extent practicable; and

(5) The excess emissions were not part of a recurring pattern indicative of serious deficiencies in, or inadequate operation and maintenance of, the process or control equipment.

(d) *Scheduled maintenance exception.* Excess emissions occuring during scheduled maintenance shall not constitute violations of the NSO to the extent that:

(1) The expected additional annual sulfur dioxide removal by any control system (including associated process changes) for which construction had not commenced (as defined in 40 CFR 60.2(g) and (l)) as of August 7, 1977, and which the smelter owner agrees to install and operate under Subpart F, would have offset such excess emissions if the system had been in operation throughout the year in which the maintenance was performed;

(2) The system is installed and operated as provided in the NSO provisions established under Subpart F; and

(3) The system performs at substantially the expected efficiency and reliability subsequent to its initial break-in period.

(e) *EPA emergency authority.* Nothing in this section shall be construed to limit the authority of the Administrator to take any action under section 303 of the Clean Air Act.

§ 57.305 Compliance monitoring and reporting.

(a) *Monitoring.* (1) Each NSO shall require compliance with the control system performance requirements established pursuant to this subpart, to be determined through the use of continuous monitors for measuring SO_2 concentration.

(i) Such monitors must be installed, operated and maintained in accordance with the performance specifications and other requirements contained in Appendix D to 40 CFR Part 52. The monitors must take and record at least one measurement of SO_2 concentration from the effluent of each control system in each 15 minute period.

(ii) The sampling point shall be located at least 8 stack diameters (diameter measured at sampling point) downstream and 2 diameters upstream from any flow disturbance such as a bend, expansion, constriction, or flame, unless another location is approved by the Administrator.

(iii) The sampling point for monitoring emissions shall be in the duct at the centroid of the cross section if the cross sectional area is less than 4.645 m^2 (50 ft^2) or at a point no closer to the wall than 0.914 m (3 ft) if the cross sectional area is 4.645 m^2 (50 ft^2) or more. The monitor sample point shall be in an area of small spatial concentration gradient and shall be representative of the concentration in the duct.

(iv) The measurement system(s) installed and used pursuant to this paragraph shall be subject to the manufacturer's recommended zero adjustment and calibration procedures at least once per 24-hour operating period unless the manufacturer specifies or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. Records of these procedures shall be made which clearly show instrument readings before and after zero adjustment and calibration.

(v) The use of manual source testing methods (equivalent to 40 CFR Part 60, Appendix A) may also be specified as an acceptable additional (but not alternative) method for making compliance determinations.

(2) Each NSO shall require the continuous monitoring of any ducts or flues used to bypass gases, required under this subpart to be treated by constant controls, around the smelter's sulfur dioxide constant control system(s) for ultimate discharge to the atmosphere. Such monitoring shall be adequate to disclose the time of the bypass, its duration, and the approximate volume of gas bypassed.

(b) *Reporting.* (1) Each NSO shall require that the smelter maintain a record of all measurements required under paragraph (a) of this section. Results shall be summarized monthly and shall be submitted to the issuing agency within 15 days after the end of each month. The smelter owner shall retain a record of such measurements for the duration of the NSO and for as long thereafter as may be necessary for the purpose of including such records in an application for a second NSO.

(2) Each NSO shall require that the smelter maintain a record of all measurements and calculations required under § 57.303(b). Results shall be summarized on a monthly basis and shall be submitted to the issuing agency at 6-month intervals. The smelter owner shall retain a record of such measurements and calculations for the duration of the NSO and for as long thereafter as may be necessary for the purposes of including such information in an application for a second NSO.

(3) The report required under § 57.304(b) shall accompany the report required under paragraph (b)(1) of this section.

Subpart D—Supplementary Control System Requirements

§ 57.401 General requirement.

Subject to the provisions of Subpart E, each NSO shall require the smelter owner to prevent all violations of the NAAQS in the smelter's designated liability area (DLA) through the operation of an approved supplementary control system (SCS).

§ 57.402 Elements of the supplementary control system.

Each supplementary control system shall contain the following elements:

(a) *Air quality monitoring network.* An approvable SCS shall include the use of appropriate ambient air quality monitors to continuously measure the concentration of sulfur dioxide in the air in the smelter's DLA.

(1) The monitors shall be located at all points of expected maximum SO_2 concentrations in the smelter's DLA. The determination of the locations where maximum concentrations may occur shall take into account all probable meteorololical and operating conditions, as well as the presence of other sources of SO_2 significantly affecting SO_2 concentrations in the DLA.

(2) The number and location of sites shall be based on dispersion modeling, measured ambient air quality data, meteorological data and other meteorological information. The system shall include the use of at least 7 fixed monitors unless the issuing agency determines, on the basis of a demonstration by the smelter, that the use of fewer monitors would not limit coverage of points of maximum concentration or otherwise reduce the capability of the smelter owner to prevent all violations of the NAAQS in the smelter's DLA. The system shall also include at least one mobile monitor to be sited as the issuing agency may direct from time to time.

(3) All monitors shall be continuously operated and maintained and shall meet the performance specifications contained in 40 CFR Part 53. The monitors shall be capable of routine real time measurement of maximum expected SO_2 concentrations for the averaging times of SO_2 NAAQS.

(4) The smelter owner shall allow unrestricted access to the issuing agency to inspect, verify calibration of, and obtain data from the monitors.

(b) *Meterological network.* The SCS must have a meteorological assessment capability adequate to identify conditions requiring emission curtailment to prevent possible violations of the NAAQS. The meteorological assessment capability shall provide all forecast and current information necessary for successful use of the system's operational manual, which is required by paragraph (e) of this section.

(c) *Designated liability area.* The system shall be required to prevent all violations of the NAAQS within the smelter's DLA. The DLA of any smelter is the area within which the smelter's uncontrolled emissions may cause or significantly contribute to violations of the NAAQS for SO_2 when the smelter is operating at its maximum production capacity under any probable meteorological conditions. The boundaries of that area shall be specified in the NSO.

(1) The DLA shall ordinarily be a circle with a center point at the smelter's tallest stack and a minimum radius as given in the following table:

RADIUS FOR UNCONTOLLED SO_2 EMISSION RATES

Emission rate in tons per hour	Emission rate in grams per sec.	Radius in kilometers
16 or less	4,000 or less	11
24	6,000	16
32	8,000	24
40	10,000	32
48 or more	12,000 or more	40

Minimum radii may be determined from the table by linear interpolation.

(2) The NSO may provide for a DLA with different boundaries if the smelter owner can demonstrate through the use of appropriate dispersion modeling and ambient air quality monitoring data that the smelter's uncontrolled emissions could not cause or significantly contribute to a violation of the NAAQS beyond the boundaries of such a different area under any probable meteorological conditions.

(3) A violation of the NAAQS in the DLA of any smelter shall constitute a violation of that smelter's NSO, unless the issuing agency determines on the basis of a showing by the smelter owner that:

(i) The smelter owner had taken all emission curtailment action indicated by the SCS operational manual; and

(ii) The violation was caused in significant part by emissions of another source(s) which were in excess of the maximum permissible emissions applicable to such source(s), as defined in paragraph (e)(2) of this section.

(d) *Overlapping designated liability areas.* Notwithstanding any other provisions of this subpart, the following requirements shall apply whenever the designated liability areas of two or more smelters do, or may, overlap:

(1) In the case of any NSO applicant that would have a DLA which would overlap with the DLA of any other smelter that has applied for an NSO or has an NSO in effect, the NSO applicant shall include in its application an enforceable joint plan, agreed to by such other smelter(s). In determining whether a joint plan is required, the NSO applicant shall calculate its DLA according to the table in paragraph (c)(1). The DLA of the other smelter shall be calculated according to the table in paragraph (c)(1) unless the other smelter has an NSO in effect, in which case the boundaries in that NSO shall be used. The enforceable joint plan shall provide for:

(i) Emission curtailment adequate to ensure that the NAAQS will not be violated in any areas of overlapping DLAs; and

(ii) Conclusive prospective allocation of legal liability in the event that the NAAQS are violated in the area of overlapping DLAs.

Such plans may, but need not, include the operation of a joint SCS system. Each NSO shall require adherence by the NSO applicant owner to the joint plan for emission curtailment and allocation of liability, unless the issuing agency determines, pursuant to the provisions of paragraph (c)(2) of this section, that the NSO applicant's DLA does not overlap with that of any other smelter.

(2) In the case of any NSO applicant that would have a DLA which would overlap with the DLA of any other smelter whose owner has not applied for an NSO (and does not have an NSO in effect), the NSO applicant's submittal shall contain a written consent, signed by a corporate official empowered to do so. The consent shall state that if, at any time thereafter, the owner of an other smelter applies for an NSO, and the other smelter's DLA would overlap with the NSO applicant's DLA, the NSO applicant will negotiate and submit an enforceable joint plan for emission curtailment and allocation of liability (as described in paragraph (1)). In determining whether it is necessary to submit such a consent, each smelter's DLA shall be calculated according to the table set forth in paragraph (c)(1) of this section. The consent shall state that a joint plan shall be submitted within 90 days of the issuing agency's notification to the NSO applicant of receipt of the other smelter's letter of intent, unless the issuing agency determines that the DLAs do not overlap. Failure of the NSO applicant to submit such a

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plan shall constitute grounds for denial of its NSO application or a violation of an effective NSO, as applicable.

(e) *The SCS operational manual.* Each NSO shall require the smelter to operate in accordance with the provisions of an SCS operational manual approved by the issuing agency. The SCS operational manual shall describe the circumstances under which, the extent to which, and the procedures through which emissions shall be curtailed to prevent violations of the NAAQS in the smelters's DLA. Failure to curtail emissions when and as much as indicated by the manual or to follow the provisons of the manual implementing the requirements of subparagraph (3) of this paragraph shall constitute a violation of the NSO.

(1) The operational manual shall prescribe emission curtailment decisions based on the use of real time information from the air quality monitoring network, dispersion model estimates of the effect of emissions on air quality, and meteorological observations and predictions.

(2) The operational manual shall also provide for emission curtailment to prevent violation of the NAAQS within the smelter's DLA which may be caused in part by emissions from other sources (unless those other sources are smelters subject to NSOs). Such provisions may be designed on the assumption that the emissions from the other sources do not exceed their maximum permissible emissions. As used in this paragraph, maximum permissible emissions for other sources are the highest of (i) SIP emission limitations; (ii) orders in effect under section 113 of the Clean Air Act; or (iii) compliance date extensions under former section 119 of the Clean Air Act (relating to coal conversions).

(3) The SCS operational manual shall include (but not be limited to):

(i) A clear delineation of the authority of the SCS operator to require all other smelter personnel to implement the operator's curtailment decisions;

(ii) The maintenance and calibration procedures and schedules for all SCS equipment;

(iii) A description of the procedures to be followed for the regular acquisition of all meteorological information necessary to operate the system;

(iv) The ambient concentrations and meteorological conditions that will be used as criteria for determining the need for various degrees of emission curtailment;

(v) The meteorlogical variables as to which judgments may be made in applying the criteria stated pursuant to paragraph(e)(3)(iv) of this section;

(vi) The procedures through which and the maximum time period within which a curtailment decision will be made and implemented by the SCS operator;

(vii) The method for immediately evaluating the adequacy of a particular curtailment decision, including the factors to be considered in that evaluation;

(viii) The procedures through which and the time within which additional necessary curtailment will immediately be effected; and

(ix) The procedures to be followed to protect the NAAQS in the event of a mechanical failure in any element of the SCS.

(f) *Continuing review of the SCS.* Each NSO shall require the smelter owner to continously review the design and operation of the SCS to determine what measures may be available for improving the performance of the system. The NSO shall also require the submission of an annual report to the issuing agency detailing the results of this review and specifying measures implemented to prevent the recurrence of any ambient violations.

§ 57.403 Consent to liability.

(a) *The consent.* The NSO shall include a consent, signed by a corporate official empowered to do so, that in any judicial or administrative proceeding to enforce the NSO, the smelter owner will not contest:

(1) Liability for any violation of the NAAQS in the smelter's DLA, except on the grounds that a DLA determination under § 57.402(c)(3) was clearly wrong; or

(2) The conclusive allocation of liability between it and any other smelter(s) for any violation of the NAAQS in an area of overlapping DLAs, pursuant to § 57.402(d).

(b) *Rights not waived by the consent.* This consent shall not be deemed to waive any right(s) to judicial review of any provisions of an NSO that are otherwise available to the smelter owner or operator under section 307(b) of the Clean Air Act.

§ 57.404 Measurements, records, and reports.

(a) *Measurements.* Each NSO shall require the smelter owner to install, operate, and maintain a measurement system(s) for continously monitoring sulfur dioxide emissions and stack gas volumetric flow rates in each stack which could emit 5 percent or more of the smelter's total potential (uncontrolled) hourly sulfur dioxide emissions.

(1) Such monitors shall be installed, operated, and maintained in accordance with the performance specifications and other requirements contained in Appendices D and E to 40 CFR Part 52. The monitors must take and record at least one measurements of sulfur dioxide concentration and stack gas flow rate from the effluent of each affected stack in each fifteen-minute period.

(2) The sampling point shall be located at least eight stack diameters (diameter measured at sampling point) downstream and two diameters upstream from any flow disturbance such as a bend, expansion, constriction, or flame, unless another location is approved by the Administrator.

(3) The sampling point for monitoring emissions shall be in the duct at the centroid of the cross section if the cross sectional area is less than 4.645 m^2 (50 ft^2) or at a point no closer to the wall than 0.914 m (3 ft.) if the cross sectional area is 4.645 m^2 (50 ft^2) or more. The monitor sample point shall be in an area of small spatial concentration gradient and shall provide a sample which is representative of the concentration in the duct.

(4) The measurement system(s) installed and used pursuant to this paragraph shall be subject to the manufacturer's recommended zero adjustment and calibration procedures at least once per 24-hour operating period unless the manufacturer specifies or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. Records of these procedures shall be made which clearly show instrument readings before and after zero adjustment and calibration.

(5) The results of such monitoring shall be submitted in the form and with the frequency specified in the NSO.

(b) *Records.* Each NSO shall require the smelter owner to maintain records of the air quality measurements made, meteorological information acquired, and emission curtailments ordered (including the identity of the persons making such decisions) during the operations of the SCS. These records shall be maintained for the duration of the NSO, and for as long thereafter as may be necessary for purposes of applying for a second NSO, and shall be furnished to the issuing agency upon request.

(c) *Reports.* Each NSO shall require the smelter owner to:

(1) Submit a monthly summary indicating all places and times at which the NAAQS for SO_2 were equalled or violated in the smelter's DLA, and stating the SO_2 concentrations at such times;

(2) Immediately notify EPA and the state agency any time concentrations of SO_2 in the ambient air in the smelter's DLA reaches 0.3 parts per million (800 micrograms/cubic meter), 24-hour average, or exceed the warning stage in any more stringent emergency plan in the applicable state implementation plan; and

(3) Make such other reports as may be specified in the NSO.

§ 57.405 Formulation, approval, and implementation of requirements.

(a) *SCS content of the application.* The requirements of § 57.203(d) shall be satisfied with respect to this subpart as follows:

(1) Each NSO application shall include a complete description of any supplementary control system in operation at the smelter at the time of application and a copy of any SCS operating manual in use with that system.

(2) Each NSO application shall contain proposed NSO provisions for compliance with the requirements of §§ 57.401, 57.402 (c), (d), and (f), 57.403, 57.404, and 57.405(b)(2).

(3) Each NSO application shall include a specific plan for the development of a system fulfilling the requirements of § 57.402 (a), (b), and (e) (covering air quality monitoring network meteorological network, and the SCS operational manual).

(b) *SCS content of the order.* (1) Each NSO shall include an approved version of the plan described in paragraph (a)(3) of this section and shall provide increments of progress towards its completion.

(2) Each NSO shall require the submission of a final report evaluating the performance and adequacy of the SCS developed pursuant to the approved plan. The report shall include:

(i) A detailed description of how the criteria that form the basis for particular curtailment decisions were derived;

(ii) A complete description of each SCS element listed in § 57.402 (a) through (d) (covering monitoring, meteorology, and the DLA), and an explanation of why the elements fulfill the requirements of those sections;

(iii) A reliability study demonstrating that the SCS will prevent violations of the NAAQS in the smelter's DLA at all times. The reliability study shall include a comprehensive analysis of the system's operation during one or more three-month seasonal periods when meteorological conditions creating the most serious risk of NAAQS violations are likely to occur; and

(iv) A copy of the current SCS operational manual.

(c) *Amendment of the NSO.* Each NSO shall be amended, after the submission of the final report required under paragraph (b)(2), to reflect the most current approved elements of the SCS and to fulfill all other requirements of this subpart. Each NSO shall also be subsequently amended (as provided in § 57.104) whenever necessary to reflect improved SCS operating procedures or other system requirements.

Subpart E—Fugitive Emission Evaluation and Control

§ 57.501 General requirement.

Each NSO shall require the smelter owner to use such control measures as may be necessary to ensure that the smelter's fugitive emissions do not result in violations of the NAAQS for SO_2 in the smelter's DLA.

§ 57.502 Evaluation.

(a) *Evaluation at the time of application.* Any smelter owner may demonstrate the impact that fugitive emissions of SO_2 have upon the NAAQS or air quality by means of air quality monitoring data and modeling calculations submitted at the time of application.

(b) *Evaluation during the first 6 months of the NSO.* Any smelter owner who is unable to demonstrate at the time of application for an NSO that the smelter's SO_2 fugitive emissions will not cause or significantly contribute to violations of the NAAQS in the smelter's DLA shall instead submit the design and workplan for a study adequate to assess the actual impact of all of its fugitive emissions upon ambient air quality. The design and workplan of the study shall be approved by the issuing agency and included in the NSO. The study shall commence upon the date when the NSO becomes effective, and an analysis of its results shall be submitted to the issuing agency no later than ten months following that date. The study shall include a 6-month period during which the ambient air shall be monitored to determine the impact of fugitive emissions of sulfur dioxide, arsenic, lead, and total suspended particulates on the ambient air quality in the smelter's DLA.

§ 57.503 Control measures.

The NSO of any smelter subject to the requirements of § 57.502(b) shall be amended as provided in § 57.704(d) to implement the requirement of § 57.501. Measures required to be implemented may include:

(a) *Additional supplementary control.* The use of the supplementary control system, if the additional use of the system does not interfere with the smelter owner's ability to meet the requirements of subpart D; and

(b) *Engineering and maintenance techniques.* The use of engineering and maintenance techniques to detect and prevent leaks and capture and vent fugitive emissions through appropriate stacks. These techniques include but are not limited to:

(1) For reactors, installation and proper operation of primary hoods;

(2) For roasters, installation and proper operation of primary hoods on all hot calcine transfer points;

(3) For furnaces, installation and proper operation of primary hoods on all active matte tap holes, matte launders, slag skim bays, and transfer points;

(4) For converters, installation and proper operation of primary hoods for blowing operations, and where appropriate, secondary hoods for charging and pouring operations;

(5) For sintering machines, installation and proper operation of primary hoods on the sinter bed, all hot sinter ignition points, all concentrate laydown points, and all hot sinter transfer points;

(6) For blast furnaces, installation and proper operation of primary hoods on all active slag and lead bullion furnace tap holes and transfer points;

(7) For dross reverberatory furnaces, installation and proper operation of primary hoods on all active charging and discharging points;

(8) Maintenance of all ducts, flues and stacks in a leak-free condition to the maximum extent possible;

(9) Maintenance of all process equipment under normal operating conditions in such a fashion that out-leakage of fugitive gases will be prevented to the maximum extent possible;

(10) Secondary or tertiary hooding on process equipment where necessary; and

(11) Partial or complete building evacuation as appropriate.

Subpart F—Research and Development Requirements

§ 57.601 General requirement.

Each NSO shall require the smelter to conduct or participate in a specific research and development program designed to develop more effective means of compliance with the sulfur dioxide control requirements of the applicable state implementation plan than presently exist.

§ 57.602 Approval of proposal.

(a) *The smelter owner's proposal.* The smelter owner's NSO application shall include a proposed NSO provision for implementing the requirement of § 57.601, a fully documented supporting analysis of the proposed program, and an evaluation of the consistency of the proposed program with the criteria listed in § 57.603. The application shall also specify:

(1) The design and substantive elements of the research and development program, including the expected amount of time required for their implementation;

(2) The annual expected capital, operating, and other costs of each element in the program;

(3) The smelter's current production processes, pollution control equip-

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ment, and emissions which are likely to be affected by the program;

(4) Potential or expected benefits of the program;

(5) The basis upon which the results of the program will be evaluated; and

(6) The names, positions, and qualifications of the individuals responsible for conducting and supervising the project.

(b) *EPA approval.* If the issuing agency will not be EPA, the smelter owner shall also submit to EPA the information specified in paragraph (a) of this section at the same time it submits that information to the issuing agency. Within sixty days of the receipt of the information described in paragraph (a), EPA shall certify to the issuing agency and to the applicant whether or not in the judgment of the Administrator the smelter owner's final proposals are approvable.

(c) *Optional preproposal.* The smelter owner may, at his option, submit to EPA for its approval and comment a preproposal generally describing the project the owner intends to propose under paragraph (a) of this section. A preproposal may be submitted to EPA at any time prior to the submission of a proposal under paragraph (a) of this section. Within twenty-one days of the receipt of a preproposal, EPA shall certify to the applicant (and to any other issuing agency, as applicable) whether or not the project would be approvable. This certification may include comments indicating necessary modifications which would make the project approvable.

§ 57.603 Criteria for approval.

The approvability of any proposed research and development program shall be judged primarily according to the following criteria:

(a) The likelihood that the project will result in the use of more effective means of emission limitation by the smelter within a reasonable period of time;

(b) Whether the proposed funding and staffing of the project appear adequate for its successful completion;

(c) Whether the proposed level of funding for the project is consistent with the research and development expenditure levels found in other industries;

(d) The potential that the project may yield industrywide pollution control benefits;

(e) Whether the project may also improve control of other pollutants of both occupational and environmental significance;

(f) The potential effects of the project on energy conservation; and

(g) Other non-air quality health and environmental considerations.

§ 57.604 Evaluation of projects.

In any case where the proposed research and development project is to be conducted wholly by the smelter owner, the owner's proposal shall include a provision for the employment of a qualified independent engineering firm to evaluate and prepare written reports on each completed significant stage of the program written reports on each completed significant stage of the program conducted wholly or in part by the smelter owner. In any other case, the proposal shall contain a provision for the preparation of such reports by the person conducting any portion of the project. All reports required by this paragraph shall be submitted to EPA and also to the issuing agency if it is not EPA.

§ 57.605 Consent.

Each NSO shall incorporate by reference a binding written consent, signed by a corporate official impowered to do so, requiring the smelter owner to:

(a) Carry out the approved research and development program;

(b) Grant each issuing agency and their contractors access to any information or data employed or generated in the research and development program, including any process, emissions, or financial records which such agency determines are needed to evaluate the technical or economic merits of the program;

(c) Grant physical access to representatives and contractors of each issuing agency to each facility at which such research is conducted;

(d) Grant the representatives and contractors of EPA and the issuing agency reasonable access to the persons conducting the program on behalf of the smelter owner for discussions of progress, interpretation of data and results, and any other similar purposes as deemed necessary by any issuing agency.

§ 57.606 Confidentiality.

The provisions of section 114 of the Act and 40 CFR Part 2 shall govern the confidentiality of any data or information provided to EPA under this subpart.

Subpart G—Compliance Schedule Requirements

§ 57.701 General requirements.

Each NSO shall require the smelter owner to meet all of the requirements of the NSO as expeditiously as practicable. All NSO requirements shall be immediately effective, except to the extent that the owner is able to demonstrate the necessity for additional time. For requirements not immediately effective, the NSO shall provide increments of progress and schedules for compliance. The schedules set forth in this subpart do not represent the most expeditious compliance practicable for any but those smelters which do not currently have the equipment or systems required by this part.

§ 57.702 Compliance with constant control emission limitation.

Where necessary, each NSO shall require the smelter owner to submit to the issuing agency, within 30 days of the effective date of the NSO, a proposed schedule for compliance with the requirements of Subpart C. No final compliance date shall extend beyond 14 months of the effective date of the NSO, except for a smelter having no constant controls installed at the effective date. The schedule shall include the following increments of progress:

(a) The date by which contracts will be let or purchase orders issued to accomplish any necessary performance improvements;

(b) The date for initiating on-site construction or installation of necessary equipment;

(c) The date by which on-site construction or installation of equipment is to be completed;

(d) The date for achievement of final compliance with emission limitations.

§ 57.703 Compliance with the supplementary control system requirements.

(a) *Operation of existing SCS.* Each NSO shall require the immediate operation of any existing supplementary control system and the assumption of liability for violations of the NAAQS at existing monitor sites.

(b) *Compliance schedule where no SCS exists.* Where necessary, the NSO shall also require compliance with the requirements of Subpart D to be achieved according to the following schedule:

(1) Within 6 months after issuance of the NSO the smelter shall install all operating elements of the system, begin operating the system, complete all other measures specified in its approved SCS development plan, and begin compliance with the requirements of § 57.404.

(2) Within 9 months thereafter the smelter shall submit the SCS Report, assume liability for all violations of the NAAQS within its designated liability area, and comply with all other requirements of Subpart D.

§ 57.704 Compliance with fugitive emission evaluation and control requirements.

(a) *Plan for fugitive emission control.* The NSO shall provide that within 60 days after the submission of the report on the fugitive emission control study required by § 57.502(b), the smelter owner shall submit to the

issuing agency for its approval a proposed fugitive emission control plan for compliance with the requirements of §§ 57.501 and 57.503.

(b) *SCS Report.* If the fugitive emission control plan submitted under paragraph (a) of this section proposes to meet the requirements of §§ 57.501 and 57.503 through the additional use of a supplementary control system, the plan shall demonstrate that the use of supplementary controls at that smelter to prevent violations of the NAAQS resulting from fugitive emissions is practicable adequate, reliable, and enforceable. The plan shall also provide that within four months of the issuing agency's approval of the plan, an additional SCS report shall be submitted for the approval of the issuing agency under § 57.405(b)(2) (the SCS report) of this part describing the system to be used to meet the requirements of § 57.501 (general requirements) and § 57.503(a) (fugitive control through use of SCS). That report need not contain a 3-month study as described in § 57.405(b)(2)(iii).

(c) *Schedule for fugitive control through engineering techniques.* If the plan submitted under paragraph (a) of this section proposes to meet the requirement of §§ 57.501 through the use of engineering techniques to prevent the escape of fugitive emissions at low elevations, the proposed increments of progress for the installation and operation of those measures shall be submitted for the issuing agency's approval within 60 days of the approval of the plan by EPA. Those increments of progress shall not exceed the following:

(1) 30 days after the effective date of the NSO, the smelter shall let contracts or issue purchase orders for construction and installation of necessary equipment.

(2) Within four months thereafter, the smelter shall initiate on-site construction or installation.

(3) Within four months thereafter the smelter shall achieve final compliance with the requirements of § 57.501.

(d) *NSO amendment.* The amendments of the NSO required under § 57.503 shall be effected by the issuing agency as follows:

(1) With respect to the additional use of SCS, upon approval or promulgation of the plan submitted under paragraph (a) of this section and upon approval or promulgation of the requirements for the system described in the additional SCS Report under paragraph (b) of this section;

(2) With respect to the additional use of engineering techniques, upon approval or promulgation of the compliance schedule required by paragraph (c) of this section.

Subpart H—Waiver of Interim Requirement for use of Continuous Emission Reduction Technology

§ 57.801 Purpose and scope.

(a) This subpart shall govern all proceedings for the waiver of the interim requirement that each NSO provide for the use of constant controls.

(b) In the absence of specific provisions in this subpart, and where appropriate, questions arising at any stage of the proceeding shall be resolved at the discretion of the Presiding Officer or the Administrator, as appropriate.

§ 57.802 Request for waiver.

(a) *General.* (1) Each smelter owner requesting a waiver shall complete, sign and submit Appendix A to this part. Copies of Appendix A may be obtained from any EPA Regional Administrator, or from the Director, Division of Stationary Source Enforcement (EN-341), United States Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Claims of confidentiality shall be made as provided in § 57.203.

(2) The smelter owner shall append to the completed and signed Appendix A full copies of all documents, test results, studies, reports, scientific literature and assessments required by Appendix A. To the extent that the material consists of generally available published material, the smelter owner may cite to the material in lieu of appending it to Appendix A. The smelter owner shall specifically designate those portions of any documents relied upon and the facts or conclusions in Appendix A to which they relate.

(b) *Effect of submitting incomplete application.* (1) The Administrator, or a person designated by him to review applications for waivers, may advise the smelter owner in writing whenever he determines that additional information is needed in order to make the waiver eligibility determinations required by section 119(d)(2) of the Act. The smelter owner shall promptly supply such information. All additional information requested under this paragraph and filed in the manner required by paragraph (d) shall be deemed part of Appendix A.

(2) Failure to comply with the requirements of paragraphs (a) and (b)(1) of this section shall be grounds for denial of the requested waiver.

(c) *Time for requesting waivers.* Any request for a waiver must be submitted to the Administrator by the smelter owner at the time of the initial application for an NSO from the State or the Administrator, as the case may be.

(d) *Submission of request.* Two copies of Appendix A (plus attachments) shall be filed with the Administrator, addressed as follows: Director, Division of Stationary Source Enforcement (EN-341), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Attn: Confidential Information Unit.

(e) *Eligibility.* No smelter shall be eligible for consideration under this subpart unless no constant controls were installed at that smelter as of August 7, 1977.

(f) *Criteria for Decision.* The Administrator shall recommend that a waiver be granted for any eligible smelter as to which he finds, in accordance with the methods and procedures specified in Appendix A, that:

(1) The sum of the present value of the smelter's future net cash flow (after installation of interim constant control equipment) plus its terminal value would be less than the smelter's liquidation (salvage) value; or

(2) The smelter's average variable costs at all relevant levels of production (after installation of interim constant control equipment) would exceed the weighted average price of smelter output for one year or more.

§ 57.803 Issuance of tentative determination; notice.

(a) *Tentative determination.* (1) The EPA staff shall formulate and prepare:

(i) A "Staff Computational Analysis," using the financial information submitted by the smelter owner under § 57.802 to evaluate the economic circumstances of the smelter for which the waiver is sought;

(ii) A tentative determination as to whether an interim requirement for the use of constant controls would be so costly as to necessitate permanent or prolonged temporary cessation of operations at the smelter for which the waiver is requested. The tentative determination shall contain a "Proposed Report and Findings" summarizing the conclusions reached in the Staff Computational Analysis, discussing the estimated cost of interim controls, and assessing the effect upon the smelter of requiring those controls. The tentative determination shall also contain a proposed recommendation that the waiver be granted or denied, based upon the Proposed Report and Findings, and stating any additional considerations supporting the proposed recommendation. This tentative determination shall be a public document.

(2) In preparing the Proposed Report and Findings, the EPA staff shall attempt to the maximum extent feasible to avoid revealing confidential information which, if revealed, might damage the legitimate business interests of the applicant. The preceding sentence notwithstanding, the tentative determination shall be accompanied by a listing of all materials con-

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sidered by EPA staff in developing the tentative determination. Subject to the provisions of § 57.814(a), full copies of all such materials shall be included in the administrative record under § 57.814, except that, to the extent the material consists of published material which is generally available, full citations to that material may be given instead.

(b) *Public notice.* Public notice of EPA's tentative determination to grant or deny an application for a waiver shall be given by:

(1) Publication at least once in a daily newspaper of general circulation in the area in which the smelter owner is located; and

(2) Posting in the principal office of the municipality in which the smelter owner is located.

(c) *Individual notice.* Individual notice of EPA's tentative determination to grant or deny an application for a waiver shall be mailed to the smelter owner by certified mail, return receipt requested, and to the air pollution control agency for the State in which the smelter is located.

(d) *Request for individual notice.* EPA shall mail notice of its tentative determination to grant or deny an application for waiver to any person upon request. Each such request shall be submitted to the Administrator in writing, shall state that the request is for individual notice of tentative determination to grant or deny any application for a waiver under section 119(d) of the Clean Air Act, and shall describe the notice or types of notices desired (*e.g.*, all notices, notices for a particular Region, notices for a particular State, notice for a particular city).

(e) *Form of notice.* The notice of tentative determination required to be distributed under paragraphs (b), (c), and (d) of this section shall include, in addition to any other materials, the following:

(1) A summary of the information contained in Appendix A;

(2) The tentative determination prepared under paragraph (a) of this section: *Provided,* That, except in the case of the smelter owner, a summary of the basis for the grant or denial of the waiver may be provided in lieu of the formal determinations required by paragraph (a)(1) of this section;

(3) A brief description of the procedures set forth in § 57.804 for requesting a public hearing on the waiver request, including a statement that such request must be filed within 30 days of the date of the notice;

(4) A statement that written comments on the tentative determination submitted to EPA within 60 days of the date of the notice will be considered by EPA in making a final decision on the application; and

(5) The location of the administrative record and the location at which interested persons may obtain further information on the tentative determination, including a copy of the index to the record, the tentative determination prepared under paragaph (a) of this section, and any other non-confidential record materials.

§ 57.804 Request for hearing; request to participate in hearing.

(a) *Request for hearing.* Within 30 days of the date of publication or receipt of the notice required by § 57.803, any person may request the Administrator to hold a hearing on the tentative determination by submitting a written request containing the following:

(1) Identification of the person requesting the hearing and his interest in the proceeding;

(2) A statement of any objections to the tentative determination; and

(3) A statement of the issues which such person proposes to raise for consideration at such hearing.

(b) *Grant or denial of hearing; notification.* Whenever (1) the Administrator has received a written request satisfying the requirements of paragraph (a) of this section which presents genuine issues as to the effect on the smelter of the requirement for use of constant controls, or (2) the Administrator determines in his discretion that a hearing is necessary or appropriate, the Administrator shall give written notice of his determination to each person requesting such hearing and the smelter owner, and shall provide public notice of his determination in accordance with § 57.803(b). If the Administrator determines that a request filed under paragaph (a) of this section does not comply with the requirements of paragraph (a) or does not present genuine issues, he shall give written notice of his decision to deny a hearing to the person requesting the hearing.

(c) *Form of notice of hearing.* Each notice of hearing disseminated under paragraph (b) of this section shall contain:

(1) A statement of the time and place of the hearing;

(2) A statement identifying the place at which the official record on the application for waiver is located, the hours during which it will be open for public inspection, and the documents contained in the record as of the date of the notice of hearing;

(3) The due date for filing a written request to participate in the hearing under paragraph (d) of this section;

(4) The due date for making written submissions under § 57.805; and

(5) The name, address, and office telephone number of the Hearing Clerk for the hearing.

(d) *Request to participate in hearing.* Each person desiring to participate in any hearing granted under this section, including any person requesting such a hearing, shall file a written request to participate with the Hearing Clerk by the deadline set forth in the notice of hearing. The request shall include:

(1) A brief statement of the interest of the person in the proceeding;

(2) A brief outline of the points to be addressed;

(3) An estimate of the time required; and

(4) If the request is submitted by an organization, a nonbinding list of the persons to take part in the presentation. As soon as practicable, but in no event later than two weeks before the scheduled date of the hearing, the Hearing Clerk shall make available to the public and shall mail to each person who asked to participate in the hearing a hearing schedule.

(e) *Effect of denial of or absence of request for hearing.* If no request for a hearing is made under this section, or if all such requests are denied under paragraph (b) of this section, the tentative determination issued under § 57.803 shall be treated procedurally as if it were a recommended decision issued under § 57.811(b)(2) of this subpart, except that for purposes of §§ 57.812 and 57.813 the term "hearing participant" shall be construed to mean the smelter owner and any person who submitted comments under § 57.803(e)(4).

§ 57.805 Submission of written comments on tentative determination.

(a) *Main comments.* Each person who has filed a request to participate in the hearing shall file with the Hearing Clerk no later than 30 days before the scheduled start of the hearing (or such other date as may be set forth in the notice of hearing) any comments which he has on the request for waiver and EPA's tentative determination, based on information which is or reasonably could have been available to that person at the time.

(b) *Reply comments.* Not later than two weeks after a full transcript of the hearing becomes available (or such other date as may be set forth in the notice of hearing), each person who has filed a request to participate in the hearing shall file with the Hearing Clerk any comments he may have on:

(1) Written comments submitted by other participants pursuant to paragraph (a) of this section;

(2) Written comments submitted in response to the notice of hearing;

(3) Material in the hearing record; and

(4) Material which was not and could not reasonably have been available prior to the deadline for submission of main comments under paragraph (a) of this section.

(c) *Form of comments.* All comments should be submitted in quadruplicate and shall include any affidavits, studies, tests or other materials relied upon for making any factual statements in the comments.

(d) *Use of comments.* (1) Written comments filed under this section shall constitute the bulk of the evidence submitted at the hearing. Oral statements at the hearing should be brief, and restricted either to points that could not have been made in written comments, or to emphasizing points which are made in the comments, but which the participant believes can be more forcefully urged in the hearing context.

(2) Notwithstanding the foregoing, within two weeks prior to either deadline specified by paragraph (a) of this section for the filing of main comments, any person who has filed a request to participate in the hearing may file a request with the Presiding Officer to submit all or part of his main comments orally at the hearing in lieu of submitting written comments. The Presiding Officer shall, within one week, grant such request if he finds that such person will be prejudiced if he is required to submit such comments in written form.

§ 57.806 Presiding officer.

(a) *Assignment of Presiding Officer.* (1) The Administrator shall, as soon as practicable after the granting of a request for hearing under § 57.803:

(i) Appoint a Presiding Officer to chair the hearing panel, who shall be either the Assistant Administrator for Air and Waste Management or the Assistant Administrator for Enforcement; or

(ii) Request that the Chief Administrative Law Judge assign an Administrative Law Judge as Presiding Officer. The Chief Administrative Law Judge shall thereupon make the assignment.

(2) If all parties to the hearing waive their right to have the Agency or an Administrative Law Judge preside at the hearing, the Administrator shall appoint an EPA employee having the qualifications of a Judicial Officer as defined in § 57.103 to serve as Presiding Officer.

(b) *Powers and duties of Presiding Officer.* It shall be the duty of the Presiding Officer to conduct a fair and impartial hearing, assure that the facts are fully elicited, and avoid delay. The Presiding Officer shall have authority to:

(1) Chair and conduct administrative hearings held under this subpart;

(2) Administer oaths and affirmations;

(3) Receive relevant evidence: *Provided,* That the administrative record, as defined in § 57.814, shall be received in evidence;

(4) Consider and rule upon motions, dispose of procedural requests, and issue all necessary orders;

(5) Hold conferences for the settlement or simplification of the issues or the expediting of the proceedings; and

(6) Do all other acts and take all measures necessary for the maintenance of order and for the efficient, fair and impartial conduct of proceedings under this subpart.

§ 57.807 Hearing.

(a) *Composition of hearing panel.* The Presiding Officer shall preside at the hearing held under this subpart. An EPA panel shall also take part in the hearing. In general, the membership of the panel shall consist of EPA employees having special expertise in areas related to the issues to be addressed at the hearing, including economists and engineers. For this reason, the membership of the panel may change as different issues are presented for discussion.

(b) *Additional hearing participants.* Either before or during the hearing, the Presiding Officer, after consultation with the panel, may request that a person not then scheduled to participate in the hearing (including an EPA employee or a person identified by any scheduled hearing participant as having knowledge concerning the issues raised for discussion at the hearing) make a presentation or make himself available for cross-examination at the hearing.

(c) *Questioning of hearing participants.* The panel members may question any person participating in the hearing. Cross-examination by persons other than panel members shall not be permitted at this stage of the proceeding except where the Presiding Officer determines, after consultation with the panel, that circumstances compel such cross-examination. However, persons in the hearing audience, including other hearing participants, may submit written questions to the Presiding Officer for the Presiding Officer to ask the participants, and the Presiding Officer may, after consultation with the panel, and in his sole discretion, ask these questions.

(d) *Submission of additional material.* Participants in the hearing shall submit for the hearing record such additional material as the hearing panel may request within 10 days following the close of the hearing, or such other period of time as is ordered by the Presiding Officer. Participants may also submit additional information for the hearing record on their own accord within 10 days after the close of the hearing.

(e) *Transcript.* A verbatim transcript shall be made of the hearing.

§ 57.808 Opportunity for cross-examination.

(a) *Request for cross-examination.* After the close of the panel hearing conducted under this part, any participant in that hearing may submit a written request for cross-examination. The request shall be received by EPA within one week after a full transcript of the hearing becomes available and shall specify:

(1) The disputed issue(s) of material fact as to which cross-examination is requested. This shall include an explanation of why the questions at issue are factual, rather than of an analytical or policy nature; the extent to which they are in dispute in the light of the record made thus far; and the extent to which and why they can reasonably be considered material to the decision on the application for a waiver; and

(2) The person(s) the participant desires to cross-examine, and an estimate of the time necessary. This shall include a statement as to why the cross-examination requested can be expected to result in full and true disclosure resolving the issue of material fact involved. (b) *Order granting or denying request for cross-examination.* As expeditiously as practicable after receipt of all requests for cross-examination under paragraph (a) of this section, the Presiding Officer, after consultation with the hearing panel, shall issue an order either granting or denying each such request, which shall be disseminated to all persons requesting cross-examination and all persons to be cross-examined. If any request for cross-examination is granted, the order shall specify:

(1) The issues as to which cross-examination is granted;

(2) The persons to be cross-examined on each issue;

(3) The persons allowed to conduct cross-examination;

(4) Time limits for the examination of witnesses; and

(5) The date, time and place of the supplementary hearing at which cross-examination shall take place. In issuing this ruling, the Presiding Officer may determine that one or more participants have the same or similar interests and that to prevent unduly repetitious cross-examination, they should be required to choose a single representative for purposes of cross-examination. In such a case, the order shall simply assign time for cross-examination by that single representative without identifying the representative further.

(c) *Supplementary hearing.* The Presiding Officer and at least one member of the original hearing panel shall preside at the supplementary hearing. During the course of the hearing, the Presiding Officer shall have authority

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to modify any order issued under paragraph (b) of this section. A verbatim transcript shall be made of this hearing.

(d) *Alternatives to cross-examination.* (1) No later than the time set for requesting cross-examination, a hearing participant may request that alternative methods of clarifying the record (such as the submittal of additional written information) be used in lieu of or in addition to cross-examination. The Presiding Officer shall issue an order granting or denying such request at the time he issues (or would have issued) an order under paragraph (b) of this section. If the request is granted, the order shall specify the alternative provided and any other relevant information (*e.g.*, the due date for submitting written information).

(2) In passing on any request for cross-examination submitted under paragraph (a) of this section, the Presiding Officer may, as a precondition to ruling on the merits of such request, require that alternative means of clarifying the record be used whether or not a request to do so has been made under the preceding paragraph. The person requesting cross-examination shall have one week to comment on the results of utilizing such alternative means, following which the Presiding Officer, as soon as practicable, shall issue an order granting or denying such person's request for cross-examination.

§ 57.809 Ex parte contacts.

(a) *General.* (1) At no time after issuance of the tentative determination shall the Administrator, Presiding Officer, or other employee who is or may reasonably be expected to be involved in making a decision on the application for waiver submitted under this part discuss ex parte the merits of proceedings with the smelter owner or any other person outside the Agency or his representative who has filed written comments on the application or tentative determination, requested a hearing, requested to participate in a hearing or participated in a hearing on such application.

(2) Notwithstanding the foregoing, the Administrator, Presiding Officer, or other employee who is or may reasonably be expected to be involved in the decisional process may discuss the merits of the proceedings with any person identified in paragraph (a) of this section if all participants in the proceedings, or their representatives, have been given reasonable notice and opportunity to be present.

(b) *Written communications.* During the pendency of the proceeding, any memorandum or other communication by or on behalf of the smelter owner or any hearing participant addressed to the Administrator, Presiding Officer, or other employee who is or may reasonably be expected to be involved in making a decision on the application for waiver, and relating to the merits thereof, shall be regarded as argument made in the proceeding and shall be served on the smelter owner and all other hearing participants.

(c) *Effect of receipt of ex parte communication.* (1) If the Administrator, Presiding Officer, or other employee who is or may reasonably be expected to be involved in making a decision on the application for waiver receives, or makes or knowingly causes to be made, an oral or written ex parte communication, he shall place in the record:

(i) The written communication, if any;

(ii) A memorandum stating the substance of any oral communication; and

(iii) All written responses and memoranda stating the substance of all oral responses to the materials in paragraph (c) (1) and (2) of this section.

(2) Upon receipt of a communication from a smelter owner, hearing participant, or other interested person outside the Agency, in violation of paragraphs (a) and (b) of this section, the Administrator or Presiding Officer may, to the extent consistent with the interests of justice and the policy of the Act, require such person to show cause why his application, claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

§ 57.810 Filing of briefs, proposed findings, and proposed recommendations.

Unless otherwise ordered by the Presiding Officer, each hearing participant may, within 20 days after reply comments are submitted under § 57.805(b), or if a supplemental hearing for the purpose of cross-examination has been held under § 57.808(c), within 20 days after the transcript of such supplemental hearing becomes available, or if alternative methods of clarifying the record have been used under § 57.808(d), within 20 days after the alternative methods have been employed, file with the Hearing Clerk and serve upon all other hearing participants proposed findings and proposed recommendations to replace in whole or in part the findings and recommendations contained in the tentative determination. Any such person may also file, at the same time, a brief in support of his proposals, together with references to relevant pages of transcript and to relevant exhibits. Within 10 days thereafter each participant may file a reply brief concerning alternative proposals. Oral argument may be held at the discretion of the Presiding Officer on motion of any hearing participant or sua sponte.

§ 57.811 Recommended decision.

As soon as practicable after the conclusion of the hearing, one or more responsible employees of the Agency shall evaluate the record for preparation of recommended decision and shall prepare and file a recommended decision with the Hearing Clerk. The employee(s) preparing the decision will generally be members of the hearing panel and may include the Presiding Officer. Such employee(s) may consult with and receive assistance from any member of the hearing panel in drafting a recommended decision and may also delegate the preparation of the recommended decision to the panel or to any member or members of it. This decision shall contain the same elements as the tentative determination. After the recommended decision has been filed, the Hearing Clerk shall serve a copy of such decision on each hearing participant and upon the Administrator.

§ 57.812 Appeal from or review of recommended decision.

(a) *Exceptions.* (1) Within 20 days after service of the recommended decision, any hearing participant may take exception to any matter set forth in such decision or to any adverse order or ruling of the Presiding Officer prior to or during the hearing to which such participant objected, and may appeal such exceptions to the Administrator by filing them in writing with the Hearing Clerk. Such exceptions shall contain alternative findings and recommendations, together with references to the relevant pages of the record and recommended decision. A copy of each document taking exception to the recommended decision shall be served upon every other hearing participant. Within the same period of time each party filing exceptions shall file with the Administrator and shall serve upon all hearing participants a brief concerning each of the exceptions being appealed. Each brief shall include page references to the relevant portions of the record and to the recommended decision.

(2) Within 10 days of the service of exceptions and briefs under paragraph (a)(1) of this section, any hearing participant may file and serve a reply brief responding to exceptions or arguments raised by any other hearing participant together with references to the relevant portions of the record, recommended decision, or opposing brief. Reply briefs shall not, however, raise additional exceptions.

(b) *Sua sponte review by the Administrator.* Whenever the Administrator determines sua sponte to review a recommended decision, notice of such intention shall be served upon the parties by the Hearing Clerk within 30 days after the date of service of the

recommended decision. Such notice shall include a statement of issues to be briefed by the hearing participants and a time schedule for the service and filing of briefs.

(c) *Scope of appeal or review.* The appeal of the recommended decision shall be limited to the issues raised by the appellant, except when the Administrator determines that additional issues should be briefed or argued. If the Administrator determines that briefing or argument of additional issues is warranted, all hearing participants shall be given reasonable written notice of such determination to permit preparation of adequate argument.

(d) *Argument before the Administrator.* The Administrator may, upon request by a party or sua sponte, set a matter for oral argument. The time and place for such oral argument shall be assigned after giving consideration to the convenience of the parties.

§ 57.813 Final decision.

(a) *After review.* As soon as practicable after all appeal or other review proceedings have been completed, the Administrator shall issue his final decision. Such a final decision shall include the same elements as the recommended decision, as well as any additional reasons supporting his decisions on exceptions filed by hearing participants. The final decision may accept or reject all or part of the recommended decision. The Administrator may consult with the Presiding Officer, members of the hearing panel or any other EPA employee in preparing his final decision. The Hearing Clerk shall file a copy of the decision on all hearing participants.

(b) *In the absence of review.* If no party appeals a recommended decision to the Administrator and if the Administrator does not review it sua sponte, he shall be deemed to have adopted the recommended decision as the final decision of the Agency upon the expiration of the time for filing any exceptions under § 57.812(a).

§ 57.814 Administrative record.

(a) *Establishment of record.* (1) Upon receipt of request for a waiver, an administrative record for that request shall be established, and a Record and Hearing Clerk appointed to supervise the filing of documents in the record and to carry out all other duties assigned to him under this subpart.

(2) All material required to be included in the record shall be a added to the record as soon as feasible after its receipt by EPA. All material in the record shall be appropriately indexed. The Hearing Clerk shall make appropriate arragnements to allow members of the public to copy all nonconfidential record materials during normal EPA business hours.

(3) Confidential record material shall be indexed under paragraph (a)(2) of this section. Confidential record material shall, however, be physically maintained in a separate location from public record material.

(4) Confidential record material shall consist of the following:

(i) Any material submitted pursuant to § 57.802 for which a proper claim of confidentiality has been made under section 114(c) of the Act and 40 CFR Part 2; and

(ii) The Staff Computational Analysis prepared under § 57.803.

(b) *Record for issuing tentative determination.* The administrative record for issuing the tentative determination required by § 57.803 shall consist of the material submitted under § 57.802 and any additional materials supporting the tentative determination.

Record for acting on requests for cross-examination. The administrative record for acting on requests for cross-examination under § 57.808 shall consist of the record for issuing the tentative determination, all comments timely submitted under section §§ 57.803(e)(4) and 57.805, the transcript of the hearing, and any additional material timely submitted under §57.807(d).

(d) *Record for preparation of recommended decision.* The administrative record for preparation of the recommended decision required by § 57.811 shall consist of the record for acting on requests for cross-examination, the transcript of any supplementary hearing held under §57.808(c), any materials timely submitted in lieu of or in addition to cross-examination under 57.808(d), and all briefs, proposed findings of fact and proposed recommendations timely submitted under § 57.810.

(e) *Record for issuance of final decision.* (1) Where no hearing has been held, the administrative record for issuance of the Administrator's final decision shall consist of the record for issuing the tentative determination, any comments timely submitted under § 57.803(e)(4), any briefs or reply briefs timely submitted under § 57.812(a) through (c), and the transcript of any oral argument granted under § 57.812(d).

(2) Where a hearing has been held, the administrative record for issuance of the Administrator's final decision shall consist of the record for preparation of the recommended decision, any briefs or reply briefs submitted under § 57.812(a) through (c), and the transcript of any oral argument granted under § 57.812(d).

§ 57.815 State notification.

The Administrator shall give notice of the final decision in writing to the air pollution control agency of the State in which the smelter is located.

§ 57.816 Effect of negative recommendation.

No waiver of the interim requirement for the use of constant controls shall be granted by the Administrator or a State in the absence of a positive recommendation by the Administrator that such a waiver be granted.

APPENDIX A—PRIMARY NONFERROUS SMELTER ORDER (NSO) APPLICATION

INSTRUCTIONS

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1. *General Instructions*

1.1 *Purpose of the Application*

This application provides financial reporting schedules and the accompanying instructions for requesting a nonferrous smelter order (NSO). In order to support an NSO request, the applicant must submit operating and financial data specified by the schedules included in this application. Specific instructions for completing each schedule are provided in subsequent sections of the instructions. In general, applicants must provide:

(a) Annual consolidated income statements, balance sheets and supporting data covering the five most recent fiscal years of

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operations by the firm controlling a smelter for which the NSO is requested.

(b) A classification of the firm's consolidated financial data into segmented financial reporting summaries that will provide appropriate financial performance indicators by individual operating entity for the firm's mines, concerntrators, smelters, refineries and associated nonferrous operating activities.

(c) Respective "base-case" and adjusted "controls-case" forecasts of operating revenues, operating costs, net income from operations and capital investments for the firm's smelter operations. The "base-case" forecast shall be prepared in terms of anticipated smelter operations without the installation of additional pollution control facilities and the "controls-case" forecast on the basis of anticipated smelter operations after installing additional pollution control facilites required to comply with the smelter's SIP emission limitations.

1.2 *NSO Economic Capability Tests*

Eligibility for an NSO or for a waiver of the interim constant control requirement will be evaluated by the following tests of an applicant's economic capability to undertake additional pollution control expenditures. The test for NSO eligibility employs a present value approach for determining an applicant's economic capability to implement a system of constant control technology that will achieve full compliance with SIP emission limitations. The tests for the waiver of the interim constant control requirements employ variable costing and discounted cash flow standards for evaluating an applicant's economic capability to implement those requirements. The period of analysis for these tests shall be 1979 through 1985, inclusive.

1.2.1 *Net Income Test.* Each applicant must establish that the firm is not economically capable of implementing a system of constant control technology that will achieve full compliance with SIP emission limitation standards.

Inadequate ecomomic capability is defined in this test as an inability to undertake the required installation of new, or modification to existing, constant control facilities without reducing the present value of the smelters net income and terminal value below the smelter's current salvage value under an orderly plan of liquidation.

1.2.2 *Temporary Waiver from Interim Controls.* Applicants that do not have an existing constant controls system may apply for a waiver from requirements for the interim controls. Applicants will be eligible for a temporary waiver from the interim constant control if they can establish pursuant to the reporting procedures in this application that the imposition of such control requirements would economically necessitate closure of the smelter facility for a period of one year or longer. The economic justification for a non-permanent closure under this temporary waiver test is defined as a situation in which the smelter's projected operating revenues for one or more years within the forecast period are inadequate to cover variable operating costs anticipated after installing the required interim control technology. Temporary waivers will be granted for only the period of time over which applicants can establish an inability by the firm to cover its variable operating costs. Interim-control waiver requests based on the smelter's projected inability to earn adequate net income after installation of interim pollution control equipment will be subject to the following "permanent waiver" test.

1.2.3 *Permanent Waiver from Interim Controls.* Applicants without an existing constant controls system will be eligible for a full waiver from the interim use of such controls if they can establish pursuant to the reporting procedure in this application that an imposition of interim control requirements would necessitate permanent closure of the smelter. Economic justification for a permanent closure is defined as a situation in which the present value of future cash flows anticipated from the smelter after installing the required interim control technology are less than the smelter's current salvage value under an orderly plan of liquidation.

1.2.4 *EPA Contact for NSO Inquiries.* Inquiries concerning this portion of the requirements for NSO application should be addressed to: Judith Larsen, Environmental Protection Agency, EN 341, 401 M Street, S.W., Washington D.C. 20460.

1.2.5 *Certification.* The NSO Certification Statement must be signed by an authorized officer of the applicant firm.

1.3 *Confidentiality*

Applicants may request that information contained in this application be treated as confidential. Agency regulations concerning claims of confidentiality of business information are contained in 40 CFR Part 2, Subpart B (41 FR 36902 *et. seq.*, September 1, 1976, as amended by 43 FR 39997 *et. seq.*, September 8, 1978). The regulations provide that a business may, if it desires, assert a business confidentiality claim covering part or all of the information furnished to EPA. The claim must be made at the same time the applicable information is submitted. The manner of asserting such claims is specified in 40 CFR 2.203(b). Information covered by such a claim will be handled by the Agency in accordance with procedures set forth in the Subpart B regulations. No information will be disclosed by EPA as to which a claim of confidentiality has been made except to the extent of and in accordance with 40 CFR Part 2, Subpart B. However, if no claim of confidentiality is made when information is furnished to EPA, the information may be made available to he public without notice to the business.

1.4 *Data Entry*

1.4.1 *Rounding.* All amounts (including both dollar values and physical units) reported in the schedules and exhibits accompanying this application must be rounded to the nearest thousand and expressed in thousands of dollars or units unless otherwise indicated in the instructions.

1.4.2 *Estimates.* Where an applicant's records cannot produce the specific data required by this application, the use of estimates will be allowed if a meaningful estimate can be made without significant distortion of the reported results. Data estimates must be supported by attaching on a separate sheet of paper as part of Exhibit B an explanation identifying where such estimates are used and showing explicitly how the estimates were made.

1.4.3 *Missing Data.* Applicants must provide, where applicable, all operating and financial data requested by this application. Only substantially complete applications can be accepted for processing by the Agency. Questions concerning data entries for which information is not provided by, or cannot reasonably be estimated from, the applicant's existing accounting records should be addressed to the EPA Contact for NSO Inquiries.

1.5 *Use of Exhibits*

In addition to data required by the schedules included in this application, the following information must be attached as exhibits.

1.5.1 *Exhibit A.* Background information on the firm's organizational structure and its associated accounting and financial reporting systems for primary nonferrous activities. This information should include, where applicable, the firm's:

(a) Operating association with and ownership control in consolidated subsidiaries, unconsolidated subsidiaries, joint ventures and other affiliated companies.

(b) Organizational subdivision of its primary nonferrous activities into profit centers, cost centers and/or related financial reporting entities employed to control the operation of its mines, concentrators, smelters, refineries and other associated facilities.

(c) Material and product flows among the smelter subject to this NSO application, other integrated facilities and its affiliated suppliers and/or customers. In the case of integrated facilities, applicants should provide process flow diagrams depicting the operating interrelationships among its mines, concentrators, smelters, refineries and other integrated facilities. For both integrated and nonintegrated facilities, applicants also should describe the proportion contributed to its primary nonferrous activities by material purchases from and product sales to affiliated suppliers and customers.

(d) Annual operating capacity over the five most recent fiscal years for its smelter and associated nonferrous facilities. Operating capacity should be defined in terms of the total quantity of throughput that could have been processed with the available facilities after giving appropriate allowance to normal downtime requirements for maintenance and repairs. Operating capacity data also should consider both capacity balancing requirements among processing steps and annual processing yield rates attainable for each facility.

(e) Weighted average analysis of concentrates processed and tonnage produced annually over each of the five most recent fiscal years by the smelter subject to this application. The operators of integrated facilities also should provide annual data over the five-year period on both the sources of and a weighted average analysis of concentrates and ores processed and tonnage produced by individual profit centers.

(f) Accounting system and policies for recording investment expenditures, operating revenues, operating costs and income taxes associated with its primary nonferrous activities. Applicants also should provide a complete description of allocation techniques employed for assigning investments, revenues, costs and taxes to individual profit, cost or departmental centers for which costs are accumulated. Applicants should further indicate the relationship of cost and/or departmental accounting entities to the firm's established profit centers.

(g) Component income (profit and loss), cash flow, balance sheet and other financial statements available for each existing profit center engaged in mining, concentrating, smelting, refining or further processing activities. Component financial statements should be provided on an annual basis over the applicant's five most recent fiscal years. The statements should be prepared in conformity with generally accepted accounting principles and the data contained therein reconciled with the applicant's consolidated corporate financial statements.

(h) Annual and five-year operating and capital expenditure plans (or budgets) by individual nonferrous profit center. These documents should include previous plans prepared for the five preceding fiscal years as well as the currrent one-year and five-year operating and capital expenditure plans. At least the current one-year and five-year plans should provide a specific breakdown of investment expenditures and operating costs associated with the operation and maintenance of each profit center's existing and proposed pollution control facilities.

1.5.2 *Exhibit B.* Supplemental description and explanation of items appearing in the financial reporting schedules.

1.5.3 *Exhibit C.* Financial data documentation. Applicants must document annual balance sheet, income statement and supporting data reported for the firm's preceding five fiscal years or for that portion of the past five years during which the firm engaged in smelter operations. This documentation should be provided by attaching to the application:

(a) SEC 10-K reports filed by the parent corporation and its unconsolidated subsidiaries for each of the preceding five fiscal years.

(b) Certified financial statements prepared (a) on a consolidated basis for the parent corporation and its consolidated subsidiaries and (b) for the firm's unconsolidated subsidiaries and affiliates. This requirement may be omitted for those years in which SEC 10-K reports have been attached to this Exhibit.

(c) Business Segment Information reports filed with the Securities and Exchange Commission by the firm and its unconsolidated subsidiaries for each of the preceding five years (as available).

2. *NSO Financial Reporting Overview*

2.1 *Relation to Applicant's Accounting Principles.* In completing the NSO financial reporting schedules, applicants should follow the accounting principles used during each respective reporting period to prepare their annual certified financial statements. Applicants must attach as part of Exhibit B, a schedule identifying and explaining any differences in accounting principles applied to reporting in the NSO schedules, and in a firm's certified financial statements the investment expenditures, operating revenues, operating costs, income taxes and other financial transactions associated with the applicant's smelter operations.

2.2 *Transfer Prices on Affiliated Party Transactions.* Certain transactions by the smelter subject to an NSO application may reflect sales to or purchases from "affiliated" customers or suppliers with whom the smelter has a common bond of ownership and/or managerial control. In preparing this application, affiliated party transactions shall be defined as transactions with any entity that the firm, or its owners, controls directly or indirectly either through an ownership of 10 percent or more of the entity's voting interests or through an exercise of managerial responsibility. Applicants must attach as a part of Exhibit B supporting schedules explaining the pricing policies established on affiliated party transactions incorporated in the financial reporting schedules.

Prices on inter-segment material and product transfers within a firm, or on external purchases from and sales to other affiliated suppliers and customers, may differ from the prices on comparable transactions with unaffiliated suppliers and customers. In this event, applicants also should present in the Exhibit B supporting schedules and incorporate in the NSO financial reporting schedules, appropriate adjustments for restating affiliated party transactions. Affiliated party transactions should be restated at either (a) equivalent prices on comparable transactions with unaffiliated parties if such price quotations can be obtained or (b) prices that provide the selling entity with a normal profit margin above its cost of sales if a meaningful comparison with unaffiliated transaction prices cannot be established. A "normal" profit margin should be defined as the gross operating profit per dollar of operating revenue that will provide an after tax rate of return on permanent capital (long term assets less current liabilities) of no more than eight percent.

2.3 *Forecasting Requirements.* Applicants must provide the Agency with at least two sets of financial forecasts covering the period from calendar years 1979 through 1985. The first set of forecasts should be for a "base" case (Schedules D.1 and D.2) reflecting applicant expectations about future smelter operations if additional pollution control facilities are not required. The second set of forecasts should be prepared for an adjusted "controls" case (Schedules E.1 and E.2) reflecting applicant expectations about future smelter operations if additional constant controls are required to comply with SIP sulfur dioxide emission limitations.

Applicants requesting either a temporary or permanent waiver from interim constant control requirements also must provide an additional set of financial forecasts (Schedules F.1 and F.2) reflecting anticipated smelter operations with the installation of such controls.

It is recognized that some line items may be the same under both cases. On the other hand, production interruptions or curtailments due to the installation of additional pollution control facilities may require adjustments to certain revenue and cost estimates in the respective controls cases. The installation of additional pollution control facilities that involve process changes in the smelter's operations also may require specific forecasts by applicants of associated impacts on incremental operating revenues and costs.

Applicants should make their financial forecasts in terms of nominal dollar estimates. Forecasts of selected parameters provided by EPA will furnish guidelines to an applicant in preparing part of the required cost and revenue estimates. In particular, refined copper, zinc and lead price indices provided in nominal-dollar terms should be used directly by the applicant as given—i.e., the stipulated price estimates should not be inflated. In all cases applicants should disclose the index applied to their revenue and cost forecasts.

2.4 *EPA Furnished Forecast Data.* Projections for 1979 through 1985 to be provided by the Agency will include:

(a) Aggregate industry production of copper, lead and zinc

(b) Average capacity utilization factors for primary nonferrous metal producers

(c) Refined prices for copper, lead and zinc

(d) Energy price indices for natural gas, electricity, fuel oil, sulfur and coal

(e) Wage indices for manufacturing labor

(f) Gross National Product price deflator

(g) Weighted average cost of capital for nonferrous metal producers

The wage indices are to be used only to estimate wage increases after the expiration of an applicant's current labor agreements.

2.5 *Applicant Generated Forecasts.* Within the specified limitations, applicants may employ any reasonable method of forecasting by-product, co-product and other prices not provided by the Agency. The method selected should be explained and unit prices or costs provided where applicable. The forecast elements should be compatible with an applicant's historical cost and revenue elements to permit direct comparisons of historical and forecasted data. Applicants should attach as part of Exhibit B appropriate schedules explaining variances between forecasted and historical unit costs for the smelter.

An acceptable method of forecasting by-product (e.g., gold and silver) prices would be to (a) compute an average of the 1978 constant-dollar equivalents to a by-product's 1974–1978 prices and (b) inflate the average price by the forecasted general rate of inflation for each successive year over the 1979–1986 forecast period. Similarly, concentrate prices could be estimated by applying forecasts of the appropriate refined price index to typical contractual terms indicated for 1978 purchases from unaffiliated suppliers.

To the maximum extent practicable, by-product, co-product and (when applicable) unaffiliated concentrate prices should be stated at market prices adjusted to f.o.b. smelter. Adjustments to these pricing bases should be made to reflect differences in grades and types of production. All adjustments should be consistent with expected sales, grades and types of concentrate processed. Applicants should attach as part of Exhibit B schedules describing and explaining the methods used to forecast these revenue and cost items and the adjustments required for these revenue and cost forecasts.

Applicants should explain fully any changes from the historical data that are required to forecast labor productivity, ore/concentrate grade and composition, materials and energy consumption per unit of output, yield rates and other physical input/output relationships.

Existing contractual terms should be used in forecasting those sale or input costs or prices to which the applicant is committed by contracts. The use of contract-dictated prices should be disclosed and supported by attaching as part of Exhibit B the terms and duration of labor and other supplier arrangements.

2.6 *Depreciation.* With the exceptions of Schedules B and C, depreciation refers to that used for Federal income tax purposes. Depreciation in Schedules B and C refers to that used in financial reporting statements.

BASE CASE FORECAST SUMMARY—SCHEDULE A.1

GENERAL

All applicants must complete this schedule and its supporting schedules under the conditions of the "base" case in which no

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additional pollution control facilities are considered.

Line 01—Net Income from Operations. Enter for each year from 1979 through 1985 the amounts reported in Schedule D.1., Line 23.

Lines 02 & 03—Depreciation and Amortization. Enter for each year from 1979 through 1985 the amounts reported in Schedule D.1, Lines 16 and 17.

Line 04—Operating Cash Flow. Enter for each year from 1979 through 1985 the total of amounts reported on Lines 01 through 03.

Line 05—Capital Expenditure Projection. Enter for each year from 1979 through 1985, the amounts reported in Schedule D.2, Line 07.

Line 06—Net Cash Flow Projections. Enter for each year from 1979 though 1985 the difference between amounts reported on Lines 04 and 05.

Line 07—Discount Factors. Amounts entered for each year from 1979 through 1985 have been provided by EPA.

Line 08—Present Value of Future Cash Flows. Enter for each year from 1979 through 1985 the product of Line 06 times Line 07.

Line 09—Terminal Value. Enter under the total column, the estimated terminal value of the smelter. This shall be computed by capitalizing the forecasted net income from operations (Schedule D.1, Line 23) for 1985 by the historical cost of capital as furnished by EPA. Specifically, divide net income from operations by the cost of capital (in decimal form).

Line 10—Discount Factor. Amount entered has been provided by EPA.

11—Present Value of Terminal Salvage Value. Enter the product of Line 09 times Line 10.

Line 12—Present Value of Future Cash Flows. Enter the sum of amounts previously reported on Line 08 for 1979 through 1985.

Line 13—Total Present Value. Enter the sum of Line 11 plus Line 12.

Line 14—Current Salvage Value. Enter the amount reported in Schedule C.2.a, Line 17.

Line 15—Net Present Value. Enter the difference between amounts reported as Lines 13 and 14.

Constant Controls Cask forecast summary—Schedule A.2

GENERAL

All applicants must complete this schedule and its supporting schedules under the conditions where the applicant would undertake sufficient additional investment in pollution control facilities to achieve full compliance with Agency emission limitation standards.

Line 01—Net Income From Operations. Enter for each year from 1979 through 1985 the amount reported in Schedule E.1, Line 23.

Line 02—Constant Controls Capital Investment. Enter the estimated capital outlays for interim controls in the years which outlays would be made. These values shall correspond to the investment estimates shown in the supporting schedules for Line 16 of Schedule E.1.

Line 03—Sustaining Capital. Enter for each year from 1979 through 1985, the amounts reported in Schedule E.2., Line 07.

Line 04—Total. Enter the sum of Line 02 and Line 03 for each year.

Line 05—Adjusted Cash Flow Projections. Enter for each year from 1979 through 1985 the difference between amounts reported on Line 01 and 04.

Line 06—Discount Factors. Amounts entered for each year from 1979 through 1985 have been provided by EPA.

Line 07—Present Value of Future Cash Flows. Enter for each year from 1979 through 1985 the product of Line 05 times Line 06.

Line 08—Terminal Value. Enter under the total column, the estimated terminal value of the smelter. This shall be computed by capitalizing the forecasted net income from operations (Schedule E.1, Line 23) for 1985 by the historical cost of capital as furnished by EPA. Specifically, divide net income from operations by the cost of capital (in decimal form).

Line 09—Discount Factor. Amount entered has been provided by EPA.

Line 10—Present Value of Terminal Salvage Value. Enter the product of Line 08 times Line 09.

Line 11—Present Value of Future Cash Flows. Enter the sum of amounts previously reported on Line 07 for 1979 through 1985.

Line 12—Total Present Value. Enter the sum of Line 10 plus Line 11.

Line 13—Current Salvage Value. Enter the amount reported in Schedule C.2.a, Line 17.

Line 14—Net Present Value. Enter the difference between amounts reported as Lines 12 and 13. Applicants reporting a negative net present value will be eligible for a waiver from full compliance with constant control standards for SIP sulfur dioxide emission limitations. Applicants that do not have an existing system of constant control technology also must complete Schedule A.3 and Schedules F.1 and F.2 to determine their eligibility for a temporary or permanent waiver from interim-control requirements.

Interim Control Case Forecast Summary—Schedule A.3

GENERAL

Applicants that do not have an existing system of constant control technology must complete this schedule and its supporting schedules if they want to request a waiver from interim control requirements.

Line 01—Gross Operating Profit. Enter for each year from 1979 through 1985 the amount reported in Schedule F.1, Line 12. Applicants will be eligible for a temporary waiver from the interim development of constant control technology for sulfur dioxide emissions if the reported gross operating profit is a negative value for one or more years during the 1979 through 1985 forecast period. Applicants also should complete parts B and C to determine eligibility for a permanent waiver from interim-control requirements.

Line 02—Net Income from Operations. Enter for each year from 1979 through 1985 the amount reported in Schedule F.1, Line 23.

Line 03 & 04—Depreciation and Amortization. Enter for each year from 1979 through 1985 the amounts reported in Schedule F.1, Lines 16 and 17.

Line 05—Operating Cash Flow. Enter for each year from 1979 through 1985 the total of amounts reported on Lines 02 through 04.

Line 06—Interim Controls Capital Investment. Enter the estimated capital outlays for interim controls for the years during which outlays would be made. These values shall correspond to the investment estimates shown in the supporting schedules for Line 16 of Schedule F.1.

Line 07—Sustaining Capital. Enter for each year from 1979 through 1985, the amounts reported in Schedule F.2, Line 07.

Line 08—Total. Enter the sum of Line 06 and Line 07 for each year.

Line 09—Net Cash Flow Projections. Enter for each year from 1979 through 1985 the difference between the amounts reported on Line 05 and 08.

Line 10—Discount Factors. Amounts entered for each year from 1979 through 1985 have been provided by EPA.

Line 11—Present Value of Future Cash Flows. Enter for each year from 1979 through 1985 the product of Line 09 times Line 10.

Line 12—Terminal Value. Enter under the Total column, the estimated terminal value of the smelter. This shall be computed by capitalizing the forecasted net income from operations (Schedule F.1, Line 23) for 1985 by the historical cost of capital as furnished by EPA. Specifically, divide net income from operations by the cost of capital (in decimal form).

Line 13—Discount Factor. Amount entered has been provided by EPA.

Line 14—Present Value of Terminal Salvage Value. Enter the product of Line 12 times Line 13.

Line 15—Present Value of Future Cash Flows. Enter the sum of amounts previously reported on Line 11 for 1979 through 1985.

Line 16—Total Present Value. Enter the sum of Line 14 plus Line 15.

Line 17—Current Salvage Value. Enter the amount reported in Schedule C.2.a, Line 17.

Line 18—Net Present Value. Enter the difference between amounts reported on Lines 16 and 17. Applicants reporting a negative net present value will be eligible for a permanent waiver from interim use of a constant control system for sulfur dioxide emissions.

Consolidated Nonferrous Profit and Loss Summary—Schedule B.1

GENERAL

Prepare a separate consolidated profit and loss summary of total nonferrous metals operations for each fiscal year ending in 1974 through 1978 during which the firm engaged in smelter operations. Report in Column (a) for each respective period consolidated revenue and cost data associated with the firm's applicable mining, concentrator, smelter, refinery and/or other nonferrous operations. For firms engaged solely in nonferrous metal operations, amounts reported in Column (a) must agree with the firm's certified consolidated income statements except for reclassifications required to complete individual line items. Itemize the required reclassifications on a separate schedule and attach as part of Exhibit B. Firms with activities in addition to nonferrous metal operations also must attach as part of Exhibit B a schedule reconciling the firm's consolidated nonferrous operating results with its total consolidated income statement data.

Report respective amounts assignable to Mining, Concentrator, Smelter, Refinery and Other Nonferrous operating segments in Columns (d) through (h). Firms with more than one mine, concentrator, smelter, refinery or "other" nonferrous operating entity should report in the specified operating segment column the combined operating results of all such segment entities. Applicants may not, however, combine the operations of more than one segment as identified in this schedule (e.g., the concentrator and smelter segments) without prior consultation with and approval from the Agency.

The amounts assigned to each segment's operations should include both (1) revenues and costs directly attributable to the segment's operating activities and (2) indirect operating costs shared with other segments *to the extent that a specific causal and beneficial relationship can be identified* for the inter-segment allocation of such costs. Do not allocate revenues and costs associated with central administrative activities for which specific causal and beneficial relationships to the activities of individual operating segments cannot be established. Nonallocable items include, but are not restricted to, amounts such as dividend and interest income on centrally administered portfolio investments, central corporate administrative office expenses and interest on long-term debt financing arrangements. Report amounts not directly assignable to Mining, Concentrator, Smelter, Refinery and Other Nonferrous operating segments as nontraceable in Column (c). Provide a detailed explanation of amounts classified as nontraceable on a separate schedule and attach as part of Exhibit B.

Consolidated eliminations reported in Column (b) should reflect only amounts arising from transactions among Mining, Concentrator, Smelter, Refinery and other Nonferrous segment operations reported in Columns (d) through (h) respectively. Explain all reported eliminations on a separate schedule and attach as part of Exhibit B.

Line 01—Operating Revenues. Report operating revenues assignable to each segment's product and service sales and transfers in accordance with pricing policies established for financial reporting purposes. Prepare and attach as part of Exhibit B a schedule classifying operating segment revenues for each fiscal year by (1) sales to unaffiliated customers and (2) inter-segment product transfers and sales to other affiliated customers with whom the applicable segment has a common bond of ownership and/or managerial control. Refer to the NSO financial reporting overview section on "Transfer Prices on Affiliated Party Transactions" for a definition of affiliated customer relationships. Explain in the schedule attached to Exhibit B the pricing policies used for reporting inter-segment product transfers and other sales to affiliated customers.

Line 03—Selling, General and Administrative (SG&A) Expenses. Report SG&A expenses attributable to each segment's annual operating activities. Exclude from SG&A expenses those operating costs to be reported separately on Lines 04 through 08. Attach as part of Exhibit B supporting schedules that (1) segregate SG&A expenses by major expense components, (2) classify the major expense components according to those costs incurred directly by each segment and costs allocated to the segment from indirect cost pools, and (3) explain the basis used in each case for indirect cost allocations.

Line 04—Taxes, Other Than Income Tax. Report all taxes (exclusive of Federal, state, local and foreign income taxes) assignable to each segment's annual operations. Attach as part of Exhibit B a schedule that (1) segregates these operating taxes by major expense component, (2) classifies each expense component according to direct and indirect cost elements and (3) explains the basis used in each case for indirect cost allocations.

Line 05—Exploration and Research Costs. Report exploration and research costs (exclusive of capitalized costs reported in Schedule B.2) that are assignable to each segment's annual operations. Attach as part of Exhibit B a schedule (1) segregating exploration and research costs by major expense components, (2) classifying each expense component according to direct and indirect cost elements and (3) explaining the basis used in each case for indirect cost allocations.

Line 06—Pollution Control Depreciation & Amortization. Report annual depreciation and amortization charges attributable to each segment's investment in pollution control facilities and equipment. Reported charges should be computed in accordance with depreciation and amortization methods adopted for financial reporting purposes in the firm's certified consolidated financial statements. Attach as part of Exhibit B a schedule segregating each segment's pollution control and non-pollution-control facility investments into major depreciable asset components. Describe for each asset component the (1) depreciation method adopted for financial reporting purposes, (2) annual depreciation and amortization charges by applicable fiscal year, (3) classification of annual charges into direct and indirect cost elements and (4) basis used for indirect cost allocations in each case.

Line 07—Other Facility Depreciation, Depletion & Amortization. Report annual depreciation, depletion and amortization charges (exclusive of charges reported on Line 06) assignable to each segment's operations. Refer to the Line 06 instructions for additional reporting requirements.

Line 08—Other Operating Expenses. Report any additional expenses assignable to each segment's annual operations. Attach as part of Exhibit B a schedule (1) segregating these additional expenses into major expense components, (2) classifying each expense component according to costs incurred directly by each segment and costs allocated to the segment from indirect cost pools and (3) explaining the basis used in each case for indirect cost allocations.

Line 09—Total Operating Expenses. Enter the total of amounts reported on Lines 02 through 08 for each segment.

Line 10—Income from Operations. Enter the amount of Line 01 minus the amount on Line 09 for each reporting segment.

Line 11—Income from Unconsolidated Affiliates. Report the total of annual (1) nonferrous segment equity in earnings of unconsolidated subsidiaries and affiliates subject to the "equity" method of accounting and (2) dividend income assignable to nonferrous metal operations from investments in unconsolidated subsidiaries and affiliates accounted for on the "cost" basis. Income from unconsolidated entities should either be assigned to the Other Nonferrous segment in Column (h) where appropriate or reported in Column (c) as nontraceable.

Line 12—Other Dividend & Interest Income. Report dividend income from the consolidated nonferrous segment's portfolio investments in marketable securities and interest income earned by the consolidated segment. Do not assign other dividend and interest income to the operating segments in Columns (d) through (h).

Line 13—Gain/(Loss) from Disposition of Property. Report net gains or losses recognized during each respective fiscal year from disposition of property, plant and equipment. Report such gains or losses in accordance with the firm's normal practice for certified financial statement reporting. If such gains or losses are not significant and are classified otherwise, no reclassification need be made. A note to this effect must be included in Exhibit B.

Line 14—Interest & Financial Charges on Short-Term Debt. Report interest expense and associated financial charges for each respective fiscal year on current liabilities in accordance with the assignment of such liabilities to individual nonferrous reporting segments in Schedule B.2. Do not include interest on the portion of long-term debt due within the current year for each reporting period.

Line 15—Interest & Financial Charges on Other Debt. Report interest expense and associated financial charges, including interest on capitalized leases, on all noncurrent debt directly assignable to the firm's consolidated nonferrous operations. Include interest on the current portion of long-term debt. Do not assign interest expense and financial charges on long-term debt to the operating segments in Columns (d) through (h).

Line 16—Miscellaneous Income & Expenses. Report minority interest in income, foreign currency exchange effects, and other non-operating income and expenses directly assignable to the firm's nonferrous operating segments and not recognized elsewhere on this schedule. Report such items in accordance with the accounting methods used for certified financial reporting purposes.

Line 17—Total Other Income and Expense. Enter the algebraic sum of amounts reported on Lines 11 through 16 for each segment.

Line 18—Net Taxable Income. Enter the amount of Line 10 minus the amount reported on Line 17 for each segment.

Consolidated Nonferrous Capital Investment Summary—Schedule B.2

GENERAL

Prepare a consolidated capital investment summary for total nonferrous metals operations during each fiscal year covered by Schedule B.1. Report in Column (a) for each year consolidated end-of-period asset investment and current liability balances associated with the firm's mining, concentrator, smelter, refinery and/or other nonferrous operations as defined in the instructions for Schedule B.1. For firms engaged solely in nonferrous metal operations, amounts reported in Column (a) must agree with the firm's certified consolidated balance sheets except for reclassifications required to complete individual line items. Itemize these reclassifications on a separate schedule and attach as part of Exhibit B. Firms with activities in addition to nonferrous metal operations also must attach as part of Exhibit B a schedule reconciling the firm's consolidated nonferrous asset investment and current liability balances with comparable data reported in its certified consolidated balance sheets.

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Report amounts assignable to Mining, Concentrator, Smelter, Refinery and Other Nonferrous operating segments in Columns (d) through (h), respectively. The amounts assigned to each segment should include both (1) investments and liabilities directly identifiable with the segment's operating activities and (2) asset investments share with other segments to the extent that a specific causal and beneficial relationship can be established for the inter-segment allocation of such investments. Report amounts not assignable to particular segments as nontraceable in Column (c). Do not allocate to particular segments the costs of assets maintained for general corporate purposes. Provide a detailed explanation of amounts classified as nontraceable on a separate schedule and attach as part of Exhibit B.

Report consolidated eliminations in Column (b). Include only those eliminations applicable to transactions among Mining, Concentrator, Smelter, Refinery and Other Nonferrous segments as indicated in Columns (d) through (h).

Line 01—Cash on Hand and Deposit. Report in Column (a) total cash balances, as defined for certified financial statement reporting, either held by the consolidated nonferrous operating segments or, in the case of firms with activities in addition to nonferrous metal operations, assignable to the consolidated nonferrous operating segments on the basis of a causal and beneficial relationship with total corporate activities. Report in Columns (d) through (h) the respective amounts of such balances assignable to each operating segment on the basis of a causal and beneficial relationship with consolidated nonferrous segment operations. Attach as part of Exhibit B an explanation of the basis used for inter-segment allocations of cash on hand and deposit.

Line 02—Temporary Cash Investments. Report in Column (a) temporary cash investments in time deposits or other short-term securities. Include only those investments either held by the consolidated nonferrous operating segments to meet current-period tax payments and other budgeted expenditures specifically identifiable with their continued operations or, in the case of firms with activites in addition to nonferrous metal operations, assignable to the consolidated nonferrous segments for such purposes. Exclude any temporary cash investments for which no specific future outlay requirement can be identified.

Report in Columns (d) through (h) the respective amounts of temporary cash investments identifiable with each segment's future expenditure plans as indicated above. Attach as part of Exhibit B a schedule classifying temporary cash investments according to identifiable budgeted expenditure requirements.

Line 03 and 04—Net Trade Receivables. Report trade accounts and notes due from unaffiliated customers and from inter-segment transfers or sales to affiliated customers in Lines 03 and 04, respectively. Report the receivables, net of reserves for uncollectible accounts, they are recorded in the firm's financial records for certified financial statement reporting. Attach as part of Exhibit B an explanation of differences, if any, in typical trade credit terms granted by each segment to its affiliated and unaffiliated customers.

Lines 05 and 06—Inventory Investments. Report end-of-period inventories assignable to each segment according to the valuation method used for certified financial statement reporting. Report separately inventories held for resale, including raw materials inventories held for processing and subsequent sale (Line 05) and materials and supplies inventories (Line 06). If LIFO reserves are not specifically identifiable with respect to inventories held for resale, allocate them on a pro-rata basis.

Line 07—Other Current Assets. Report prepaid expenses, deferred charges, non-trade notes and accounts receivable, and other assets classified as current for certified financial statement reporting purposes that are assignable to each segment's operations. Attach as part of Exhibit B a schedule classifying these other current assets according to their types and amounts.

Line 08—Total Current Assets. Enter the total of Lines 01 through 07 for each segment.

Line 09—Gross Facility Investment. Report all capitalized costs classified as property, plant and equipment for certified financial statement reporting that are assignable to each operating segment. Refer to the Line 11 instructions for additional reporting requirements on nonferrous facility investment.

Line 10—Accumulated Depreciation, Depletion and Amortization. Report accumulated depreciation, depletion, amortization and associated valuation charges recorded for certified financial statement reporting purposes in relation to each segment's facility investments as reported on Line 09. Associated valuation charges are defined in Financial Accounting Standards Board (FASB) Statement No. 19 as losses recognized in connection with an impairment in the value of an unimproved property below its acquisition cost. Refer to the Line 11 instructions for additional reporting requirements on nonferrous facility investments.

Line 11—Net Facility Investment. Enter the amount reported on Line 09 minus the amount reported on Line 10 for each segment. Attach as part of Exhibit B a schedule classifying gross facility investments, accumulated depreciation, depletion and amortization charges, and net facility investments by major pollution-control and non-pollution-control components as defined in the supporting depreciation schedule for Schedule B.1, Lines 06 and 07. Identify for each asset component the direct versus joint-use investments assigned to each operating segment and explain the basis used to allocate amounts associated with joint-use facilities among the operating segments.

Line 12—Investments in Unconsolidated Subsidiaries. Report nonferrous segment investments in and advances to unconsolidated subsidiaries and affiliates as recorded on the firm's financial records. These unconsolidated entity investments should either be assigned to the Other Nonferrous segment in Column (h) where appropriate or reported in Column (c) as nontraceable.

Line 13—Other Investments and Advances. Report in columns (a) and (c) only noncurrent receivables, investments in debt and equity securities (exclusive of short-term security investments reported on Line 02) and other portfolio investments assignable to the consolidated nonferrous segment operations.

Line 14—Miscellaneous Non-Current Assets. Report all other assets classified as non-current for certified financial statement reporting and assignable to nonferrous segment operations. Attach as part of Exhibit B a schedule reporting by type and amount the major components of such investments.

Line 15—Total Other Non-Current Assets. Enter the total of Lines 12 through 14 for each respective segment.

Line 16—Total Asset Investment. Enter the total of Lines 08, 11 and 15 for each segment.

Lines 17 and 18—Trade Accounts and Notes Payable. Report trade notes and accounts due respectively on purchases from unaffiliated suppliers (Line 17) and on inter-segment transfers or purchases from affiliated suppliers (Line 18). Attach as part of Exhibit B an explanation of differences, if any, in typical trade credit terms received by each segment from its affiliated and unaffiliated suppliers.

Line 19—Other Expense Accruals. Report payments classified as current for salaries and wages, other employee benefits, operating taxes and related operating expenses previously reported for each segment on Schedule B.1, Lines 02 through 08. Attach as part of Exhibit B a schedule classifying by type and amount the major components of other expense accruals assignable to each segment.

Line 20—Current Notes Payable. Report payments due to nontrade creditors on short-term financing arrangements directly associated with each nonferrous segment's operations. Exclude current installments due on long-term debt financing arrangements, notes due to officers and directors, inter-segment loans or advances and loans or advances from affiliated operating segments within the firm.

Line 21—Other Current Liabilities. Report other nontrade payables, current income taxes payable and other liabilities classified as current for each segment's operations.

Line 22—Total Current Liabilities. Enter the total of Lines 17 through 21 for each segment.

Line 23—Net Capital Investment. Enter the amount reported on Line 16 minus the amount reported on Line 22 for each segment.

SMELTER PROFIT AND LOSS SUMMARY—SCHEDULES C.1 GENERAL

Report annual revenues, costs and income taxes assignable to operation of the smelter subject to this NSO application. Assignable revenues and costs should include only the results of transactions either (a) directly associated with smelter operations or (2) for which the applicant can establish a causal and beneficial relationship with smelter operations. The annual data requested in this schedule should be reported for each of the five fiscal years immediately preceeding the year in which this application is filed or for that portion of the five-year period during which the firm engaged in smelter operations.

Line 01—Primary Metal Sales. Enter for each fiscal year the amount reported in Schedule C.1.a. Line 40.

Line 02—Co-Product & By-Product Sales. Report annual revenues, net of returns and allowances, derived from smelter sales and/or transfers of co-products and by-products to both unaffiliated and affiliated customers. Attach as part of Exhibit B a supporting schedule for each major co-product and by-product component of smelter revenues. Segregate the revenues reported by major co-product and by-product components into

their unaffiliated customer and affiliated customer elements. Report for each component's unaffiliated and affiliated customer revenue elements the (1) average grade of product sold, (2) actual quantity sold, (3) average price per unit and (4) total smelter revenues. Also show for each product line any adjustments required to restate transfer prices and explain the basis for such adjustments. Refer to the NSO Financial Reporting Overview section on "Transfer Prices on Affiliated Party Transactions" for instructions on the restatement of affiliated customer revenues.

Line 03—Tolling Service Revenues. Enter for each fiscal year the amount reported in Schedule C.1.a. Line 53.

Line 04—Other Operating Revenues. Report annual revenues directly associated with smelter operations that have not previously been reported on Lines 01 through 03. Attach as part of Exhibit B a schedule showing the types and amounts of sales reported as other operating revenue. The following non-operating revenue and income items should *not* be included as other operating revenue or as a part of revenues reported on Lines 01 through 03.

- Royalties, licensing fees and other income from intangibles
- Interest and dividend income on portfolio investments
- Equity in income (loss) of unconsolidated subsidiaries and affiliates
- Gain (loss) from discontinued operations and disposal of property
- Minority interest adjustment to consolidated subsidiary income
- Extraordinary items

Line 05—Total Operating Revenue. Enter the total of amounts reported on Lines 01 through 04 for each year.

Line 06—Concentrates Processed. Report the cost of concentrates processed and sold or transferred to unaffiliated and affiliated customers. Concentrates purchased from unaffiliated suppliers should be valued at the actual prices paid. Concentrates purchased from affiliated suppliers should be valued at or, if necessary, restated to equivalent prices quoted by unaffiliated suppliers. If prices used to report revenues are c.i.f. and to report concentrate costs are f.o.b. smelter, all transportation charges paid on the seller's or buyer's account should be excluded from smelter expenses. Attach as part of Exhibit B supporting schedules showing the:

- Annual value of concentrate purchases classified according to purchases from unaffiliated and affiliated suppliers.
- Cost of sales adjustments to concentrate purchases for net annual additions to or withdrawals from concentrate inventories, freight-in on concentrate purchases and inventory spoilage.
- Impact on cost of sales for restating, where applicable, the cost of concentrate purchases from affiliated suppliers to the equivalent prices paid to unaffiliated suppliers.
- Volumes, grades and net prices of concentrate purchases from unaffiliated and affiliated suppliers by type of concentrate purchased.
- Volumes, grades and net prices associated with toll concentrates processed by type of concentrate.

Line 07—Other Materials Costs. Report annual costs incurred for flux, refractories, coke and other materials used by the smelter in its processing of concentrates. Materials purchased from unaffiliated suppliers should be valued at the actual prices paid after adjustment for transportation costs incurred. Materials purchased from affiliated suppliers should be valued at or, if necessary, restated to equivalent prices quoted by unaffiliated suppliers. Include in Exhibit B supporting schedules showing the:

- Annual value of material purchases classified according to purchases from unaffiliated and affiliated suppliers.
- Cost of sales adjustments to material purchases for net annual additions to or withdrawals from material inventories, freight costs on material purchases and inventory loss.
- Impact on cost of sales for restating, where applicable, the costs of material purchases from affiliated suppliers to equivalent prices paid to unaffiliated suppliers.
- Classification of other material costs by major cost factors for each cost component that exceeds 20 per cent of any line item in the cost of sales schedule.

Line 08—Production Labor Costs. Report in each column total direct labor costs incurred by the smelter for processing purchased and toll concentrates.

Include in Exhibit B supporting schedules showing the:

- Manhours and wage rates for major labor classifications.
- Potential impact on wage rates of provisions in the smelter's current labor contracts.
- Explanation of major variances observed in direct labor costs over the five-year period as a result of factors such as strikes or new labor contracts.

Line 09—Pollution Control Costs. Report in each column expenses incurred for operating and maintaining pollution control facilities. All by-product credits associated with pollution control facility operations should be eliminated and reported on Line 02. Depreciation and amortization charges against the smelter's pollution control facilities should be reported separately on Line 16. Attach as part of Exhibit B supporting schedules showing the:

- Major pollution control cost elements with their values classified according to direct and indirect cost factors.
- Techniques used to allocate indirect pollution control costs to major cost pools.

Line 10—Other Production Costs. Report annual smelter overhead and other production costs not previously reported on Lines 06 through 10. By-product credits, if any, should be eliminated and reported on Line 02 as operating revenues. Attach as part of Exhibit B supporting schedules showing the:

- Major cost elements classified according to direct and indirect production costs.
- Disaggregation of major overhead cost components into their fixed and variable cost elements.
- Allocation techniques used in assigning indirect overhead costs to the major cost components.
- Elements of overhead costs represented by purchases from affiliated suppliers and adjustments, if any, required to restate these costs on the basis of equivalent prices paid to unaffiliated suppliers.

Line 11—Total Cost of Sales. Enter the total of amounts reported on Lines 06 through 10 for each year.

Line 12—Gross Operating Profit. Enter the amount reported on Line 05 minus the amount reported on Line 11 for each year.

Line 13—Selling, General and Administrative (SG&A) Expenses. Report SG&A expenses attributable to the smelter's annual operating activities. Exclude those operating costs to be reported separately on Lines 14 through 18. Attach as part of Exhibit B supporting schedules (1) segregating SG&A expenses by major expense components, (2) classifying the major expense components according to those costs incurred directly by smelter operations and costs allocated to the smelter from indirect cost pools and (3) explaining the basis used for indirect cost allocations.

Line 14—Taxes, Other Than Income Tax. Report operating taxes assignable to the smelter in accordance with instructions for Schedule B.1, Line 04.

Line 15—Exploration and Research Costs. Report exploration and research costs assignable to the smelter in accordance with instructions for Schedule B.1, Line 05.

Line 16—Pollution Control Depreciation and Amortization. Report annual depreciation and amortization charges attributable to the smelter in accordance with instructions for Schedule B.1, Line 16.

Line 17—Other Facility Depreciation and Amortization. Report annual depreciation and amortization charges attributable to the smelter in accordance with instructions for Schedule B.1, Line 07.

Line 18—Miscellaneous Operating Expenses. Report additional expenses assignable to the smelter in accordance with the instructions for Schedule B.1, Line 08.

Line 19—Total Other Operating Expenses. Enter the total of amounts reported on Lines 13 through 18 for each year.

Line 20—Income From Operations. Enter the amount reported on Line 12 minus the amount reported on Line 19 for each year.

Lines 21-23—Other Income and Expenses. Report amounts assignable to smelter operations in accordance with instructions for Schedule B.1, Lines 13, 14, and 16.

Line 24—Total Other Income and Expense. Enter the algebraic sum of amounts reported on Lines 21 through 23 for each year.

Line 25—Net Taxable Income. Enter the amount reported on Line 20 minus the amount reported on Line 24 for each year.

SUPPLEMENTAL SMELTER REVENUE DATA—SCHEDULE C.1.a.

GENERAL

Report annual product sales and associated operating revenues, net of returns and allowances, from smelter sales and/or transfers of copper, lead and zinc products and totalling services to both unaffiliated and affiliated customers. Revenues from affiliated customer sales should be stated or, if necessary, restated at prices equivalent to those received on comparable sales to unaffiliated customers. Refer to the NSO Financial Reporting Overview discussion of "Transfer Prices on Affiliated Party Transactions" for instructions on the restatement of affiliated customers revenues.

Lines 01, 14 and 27—Primary Nonferrous Product Sales. Report in thousands of tons the total quantity of copper, lead and zinc products sold in each fiscal year.

Lines 02, 15 and 28—Unaffiliated Customer Sales. Report in thousands of tons the quantities of copper, lead and zinc product sales to unaffiliated customers during each fiscal year.

Lines 03, 16 and 29—Unaffiliated Customer Revenues. Report in thousands of dollars

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the total operating revenues derived from smelter sales of copper, lead and zinc to unaffiliated customers during each fiscal year.

Lines 09, 17 and 30—Unaffiliated Customer Prices. Report the average unit price, computed as operating revenues reported on Lines 03, 16 and 29 divided by the quantities reported on Lines 02, 15 and 28, respectively, received on smelter sales of copper, lead and zinc to unaffiliated customers during each fiscal year.

Lines 05, 18 and 31—Average Product Quality Grade. Report the average quality rating assigned to copper, lead and zinc products purchased by the smelter's unaffiliated customers.

Lines 06, 19 and 32—Affiliated Customer Sales. Report in thousands of tons the quantities of copper, lead and zinc product sales to affiliated customers during each fiscal year.

Lines 07, 20 and 33—Affiliated Customer Revenues. Report in thousands of dollars the total operating revenues derived from smelter sales of copper, lead and zinc to affiliated customers during each fiscal year.

Lines 08, 21 and 34—Affiliated Customer Prices. Report the average unit price, computed as operating revenues reported on Lines 07, 20 and 33 divided by the quantities reported on Lines 06, 19 and 32, respectively, received on smelter sales of copper, lead and zinc to affiliated customers during each fiscal year.

Lines 09, 22 and 35—Average Product Quality Grade. Report the average quality rating assigned to copper, lead and zinc products purchased by smelter's affiliated customers.

Lines 10, 23, and 36—Total Primary Product Revenues. Report total operating revenues derived from the smelter's sales to unaffiliated and affiliated customers of respective copper (Lines 03 + 07); lead (Lines 16 + 20) and zinc (Lines 29 + 33) during each fiscal year.

Lines 11, 24 and 37—Transfer Price Adjustments. Report operating revenue adjustments required to equate affiliated customer transfer prices with unaffiliated customer market prices on smelter sales of copper, lead and zinc during each fiscal year. Attach as part of Exhibit 3 an explanation of the method used for restating transfer prices where such adjustments are necessary.

Lines 12, 25 and 38—Other Revenue Adjustments. Report sales returns and allowances and other adjustments applicable to the segment's revenues derived from copper, lead and zinc product sales. Attach as part of Exhibit B a schedule reporting the types and amounts of such adjustments.

Lines 13, 26 and 39—Adjusted Product Revenues. Enter the algebraic sums of Lines 10 through 12 for adjusted copper sales (Lines 13), Lines 23 through 25 for adjusted lead sales (Line 26) and Lines 36 through 38 for adjusted zinc sales (Line 39).

Line 40—Primary Metal Revenues. Enter for each fiscal year the sum of Lines 13, 26 and 39.

Line 41—Toll Concentrates Processed. Report in thousands of tons the total quantity of toll concentrates processed during each fiscal year.

Lines 42 to 45—Unaffiliated Customer Toll Revenues. Report for each fiscal year the quantity of toll concentrates processed for unaffiliated customers (Line 42); total operating revenues derived from this processing (Line 43), average price charged per ton of concentrate processed (Line 44 = Line 43/42) and the average quality rating assigned to toll concentrates processed for unaffiliated customers (Line 45).

Lines 46 to 49—Affiliated Customer Toll Revenues. Report for each fiscal year the quantity of toll concentrates processed for affiliated customers (Line 46); total operating revenues derived from such processing (Line 47), average price charged per ton of concentrate processed (Line 48 = Line 47/46) and the average quality rating (Line 49) assigned to toll concentrates processed for affiliated customers.

Line 50—Tolling Service Revenues. Enter for each fiscal year the total of amounts reported on Lines 43 and 47.

Line 51—Transfer Price Adjustments. Report operating revenue adjustments required to equate affiliated customer transfer prices with market prices charged to unaffiliated customers on the smelter's tolling services. Attach as part of Exhibit B an explanation of the method used for restating transfer prices where such adjustments are necessary.

Line 52—Other Revenue Adjustments. Report other adjustments applicable to the smelter's tolling service revenues. Attach as part of Exhibit B a schedule reporting the types and amounts of such adjustments.

Line 53—Adjusted Tolling Service Revenues. Enter for each fiscal year the total of amounts reported on Lines 50 through 52.

Smelter Capital Investment Summary—Schedule C.2

General

Report annual end-of-period asset investments and current liabilities associated during the fiscal years indicated in Schedule C.1 with operation of the smelter subject to this NSO application. Reporting procedures applicable to the smelter's capital investment summary will in general coincide with procedures stipulated by the instructions for Schedule B.2. Certain modifications may be required, however, to meet Agency reporting requirements outlined in the following instructions.

Firms with multi-facility smelter operations must segregate data for the specific smelter subject to this application from consolidated smelter operating data reported in Schedule B.2. Applicants also may be required to restate trade receivables and payables for transfer price adjustments on the smelter's transactions with affiliated customers. In addition to these potential modifications in financial reporting procedures, applicants must provide more extensive data for smelter investments in production and pollution control facilities.

Lines 01 & 02—Cash & Temporary Cash Investments. Report total cash balances (Line 01) and temporary cash investments (Line 02) assignable to the smelter's operations at the end of each fiscal year in accordance with instructions provided for Schedule B.2. Attach as part of Exhibit B a schedule classifying the smelter's temporary cash investments associated with identifiable budgeted expenditure requirements if these investments differ from the amounts reported previously for Schedule B.2, Line 02.

Lines 03 & 04—Net Trade Receivables. Report trade accounts and notes, net of reserves for uncollectible items, assignable to the smelter in relation to its unaffiliated (Line 03) and affiliated (Line 04) customer sales and transfers. Trade receivables reported by the smelter as due from affiliated customers should be stated or, if necessary, restated on credit terms equivalent to those received by unaffiliated customers on a sale of comparable products. Attach as part of Exhibit B a schedule showing adjustments in the smelter's receivables investments required to equate trade credit terms extended to affiliated and unaffiliated customers.

Lines 05 & 06—Inventory Investments. Report respective end-of-period investments in raw material, work-in-process and finished good inventories held to support the smelter's future production and sale of products (Line 05) and associated inventories of other materials and supplies (Line 06). Inventory purchased from affiliated suppliers should be stated or, if necessary, restated at market prices prevailing on purchases from unaffiliated suppliers. Attach as part of Exhibit B a schedule (1) describing whether inventories have been valued on a last-in-first-out (LIFO); first-in-first-out (FIFO) or other cost allocation process, (2) describing the smelter's transfer pricing policies on inventory purchases from affiliated suppliers and (3) presenting adjustments required in reported inventory investments to reflect restatements of transfer prices on purchases from affiliated suppliers.

Line 07—Other Current Assets. Report other current assets assignable to the smelter's operations for each respective year in accordance with instructions provided for Schedule B.2. Attach as part of Exhibit B a schedule classifying the smelter's other current assets if these investments differ from the amounts reported previously in Schedule B.2.

Line 08—Total Current Assets. Enter the total of amounts reported on Lines 01 through 07 for each fiscal year.

Lines 09 & 14—Property, Plant & Equipment. Report by individual line item property, plant and equipment investments assignable to smelter operations for each fiscal year. Include in gross facility investments at the end of each period both (1) property, plant and equipment directly associated with the smelter's operations and (2) facilities shared with other operating segments to the extent that a causal and beneficial relationship can be established for the intersegment allocation of such facility investments.

Attach as part of Exhibit B a schedule reporting by individual line item the annual capital expenditures on additional property, plant and equipment investments in the smelter's operations. Further classify these annual capital expenditures into both (1) investments required to maintain the smelter versus investments in smelter expansion and improvement and (2) direct facility versus joint-use facility investments. Explain the method used for allocating capital expenditures on joint-use facilities to the smelter's operations. Refer to the Line 17 instructions for additional reporting requirements on the smelter's facility investments.

Line 15—Total Smelter Investment. Enter the total of amounts reported on Lines 09 through 14 for each respective fiscal year.

Line 16—Accumulated Depreciation & Amortization. Report, in accordance with the Line 10 instructions in Schedule B.2, accumulated depreciation, amortization and other valuation charges assignable to the smelter's investment in property, plant and equipment. Refer to the Line 17 instructions

for additional reporting requirements on smelter facility investments.

Line 17—Net Smelter Investment. Enter the amount reported on Line 15 minus the amount reported on Line 16 for each fiscal year. Attach as part of Exhibit B a schedule depicting additional reporting requirements stipulated by the Line 11 instructions in Schedule B.2 if the supplemental capital investment data differ from amounts reported previously in Schedule B.2, Line 11.

Line 18—Other Non-Current Assets. Report, in accordance with the Line 14 instructions in Schedule B.2, other assets assignable to the smelter's operations for each fiscal year. Attach as part of Exhibit B a schedule reporting by type and amount the major components of such investments if the data differ from information reported previously under Schedule B.2, Line 14.

Line 19—Total Smelter Capital Investment. Enter the total of amounts reported on Lines 08, 17 and 18 for each fiscal year.

Lines 20 & 21—Trade Accounts & Notes Payable. Report trade accounts and notes due on the smelter's purchases from unaffiliated suppliers (Line 20) and on its inter-segment transfers or purchases from affiliated suppliers (Line 21). Trade payables reported by the smelter as due to affiliated suppliers should be stated or, if necessary, restated on terms equivalent to those received from unaffiliated suppliers on a purchase of comparable materials. Attach as part of Exhibit B a schedule showing adjustments required on the smelter's trade payables to equate trade credit terms received from affiliated and unaffiliated suppliers.

Line 22—Other Expense Accruals. Report, in accordance with the Line 19 instructions in Schedule B.2, other expense accruals assignable to the smelter's operations during each fiscal year. Attach as part of Exhibit B a schedule classifying by type and amount the major components of such accruals if the information differs from data reported previously under Line 19 in Schedule B.2.

Line 23—Current Notes Payable. Report, in accordance with the Line 20 instructions in Schedule B.2, payments due to nontrade creditors on debt financing arrangements associated with the smelter's operations.

Line 24—Other Current Liabilities. Report other nontrade payables classified as current obligations assignable to the smelter's operations.

Line 25—Total Current Liabilities. Enter the total of amounts reported on Lines 20 through 24 for each fiscal year.

Line 26—Net Smelter Capital Investment. Enter the amount reported on Line 19 minus the amount reported on Line 25 for each fiscal year.

Cash Proceeds from Liquidation—Schedule C.2.a

General

Applicants should determine the current salvage value of their existing investment in the smelter as the net proceeds that could be derived through an orderly liquidation of the smelter's assets. The net cash proceeds should be reported after an appropriate allowance for disposal costs, contractual claims against the smelter (e.g., labor termination penalties), and income tax effects on the corporation of such liquidation costs.

The applicant must stipulate the most advantageous alternative market (use) for the smelter's facilities. Generally, this market will be:

- Secondary market for used plant and equipment
- Sale for scrap
- Abandonment where the disposal cost exceeds scrap value.

The current net salvage value should be disaggregated into the same property plant and equipment asset groups reported under the historical capital investment summary, Schedule C.2.

Line 01—Current Assets. Enter in Columns 1 and 2, the value of total current assets shown in Line 08 of Schedule C.2 (Historical Capital Investment Summary) for 1978. No gain or loss should be reported in Columns 3 through 5 for the liquidation of current asset investments.

Lines 02-07—Property Plant and Equipment. Enter in Column 1 the appraised liquidation value (in terms of pretax cash proceeds) of the smelter by asset group. This estimate should be certified by a qualified third party professional appraiser and shall represent the best use and highest alternative value of these assets. The liquidation value of any assets which are jointly used by the smelter and other operating segments shall be excluded if upon closure of the smelter, such assets would continue in service for the non-smelter activity.

In Column 2, report the net book value of these assets for which liquidation values have been reported in Column 1. The reported values should correspond with amounts reported for 1978 in Lines 09 through 15 in Schedule C.2 as adjusted for appropriate eliminations of joint-use facilities and reconciliation to a net book value as reported for income taxes. Attach as part of Exhibit B supporting schedules showing all adjustments and conversion of net book value as reported on the financial statements to net book value, that would be used for income tax purposes.

Compute Column 3 as Column 1 less Column 2. The gain (or loss) shown in Column 3 shall be segregated into ordinary income and capital gains components subject to taxation pursuant to applicable income tax rules. Enter ordinary income in Column 4 and capital gains in Column 5.

Line 08—Total. Enter the sum of Lines 02 through 07 for each of the columns.

Line 09—Other Non-current Assets. In Column 1, report the appraised value of other non-current assets in accordance with the instructions for Line 14, Schedule B.2, *except* that any joint asset(s) that would continue in the event of smelter liquidation shall be excluded. This estimate shall be certified by a qualified third party professional appraiser.

In Column 2, report the net book value of the non-current assets directly corresponding to those assets included in the liquidation value estimated under Column 1.

The remaining columns shall be completed in accordance with the instructions given above Lines 02 to 06.

Line 10—Total Smelter Value. Enter the sum of Lines 01, 08 and 09.

Line 11—Total Current Liabilities. Report in both Columns 1 and 2 the value of total current liabilities shown in Line 25 of Schedule C.2 (Historical Capital Investment Summary) for 1978.

Line 12—Gross Liquidation Value. Line 10 less Line 11.

Line 13—Liquidation Costs. In Columns 1, 3, and 4, report the value of any liquidation costs such as labor contract termination penalties, severance pay and related costs, associated with closure of the smelter.

Line 14—Taxable Gain (or Loss). Enter in Columns 4 and 5, enter the differences between Line 12 less Line 13.

Line 15—Income Tax Rate. Enter the marginal income tax rate for 1978 of the firm for ordinary income and capital gains in Column 4 and 5 respectively.

Line 16—Income Tax on Gain (or Loss). In Columns 4 or 5, enter the product of Line 14 multiplied by the marginal income tax rates reported in Line 15. In Column 1 enter the sum of Column 4 plus Column 5.

Line 17—After Tax Cash Proceeds. Line 12 less Lines 13 and 16. This computation applies to Column 1 only.

"Base" Case Pro-Forum Profit and Loss Summary—Schedule D.1

General

Report annual forecasts of operating revenues, operating costs and income taxes anticipated during calendar years 1979 through 1985 from operation of the smelter subject to this NSO application. These *"base" case estimates should be forecast under the assumption that additional sulfur dioxide control facilities beyond those already in operation will not be required* to comply with SIP emission limitations. Report all line items under each column for the years indicated by this schedule.

Line 01—Primary Metal Sales Revenue. Enter the totals reported in Schedule D.1.a, Line 16.

Line 02—Co-Product & By-Product Sales Revenue. Enter the totals reported in Schedule D.1.a, Line 20.

Line 03—Totaling Service Revenues. Enter the totals reported in Schedule D.1.a, Line 25.

Line 04—Other Operating Revenues. Report operating revenues anticipated from sources not accounted for under Lines 01 through 03. Refer to instructions for Line 04 in Schedule C.1 items that should not be included in "other" operating revenues. Attach as part of Exhibit B a schedule showing annual amounts forecasted by individual revenue component for "other" operating revenues associated with the smelter's pro-forma, "base" case operations.

Identify in the supporting schedule any differences in the "other" revenue components reported in Schedules C.1. and D.1 and explain the reasons for such differences.

Line 05—Total Operating Revenues. Report the total of amounts reported on Lines 01 through 04.

Line 06—Concentrate Costs. Enter the totals reported in Schedule D.1.a, Line 30.

Line 07—Other Material Costs. Report total pro-forma costs forecasted for flux, refractories, coke and other materials directly associated with the smelter's processing of concentrates. Attach as part of Exhibit B a schedule showing the annual amounts forecasted by major material cost components. For each cost component, identify the forecasted quantity and unit price elements of material cost and explain the basis for forecasting these quantity and price elements. Identify in the supporting schedule any differences in the "other" material cost components shown in Schedules C.1. and D.1. and explain the reasons for such differences.

Line 08—Production Labor Costs. Enter the totals reported for calendar years 1979 through 1985 in Schedule D.1.a, Line 35.

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Line 09—Production Overhead Costs. Report the total pro-forma costs forecasted for indirect labor, indirect materials and other production overhead costs associated with the smelter's "base" case forecasts. Attach as part of Exhibit B a schedule showing annual overhead costs projected by major cost components associated with the smelter's operations. For each cost component, where appropriate, identify the forecasted quantity and unit price elements of overhead costs and explain the basis for estimating these quantity and price elements. Also identify in the supporting schedule any differences in production overhead cost classifications used in Schedules C.1 and D.1 and explain the reasons for such differences.

Line 10—Pollution Control Costs. Report the total, pro-forma costs forecasted for expenses identifiable with operation and maintenance of the smelter's existing pollution control equipment and facilities. By-product credits associated with operation of the pollution control facilities should be eliminated from the cost accounts and reclassified to Schedule D.1.a, Line 18. Attach a schedule as part of Exhibit B classifying pollution control costs by major cost components. Explain the basis used for estimating each of the cost components. Identify in the supporting schedule any differences in the pollution control cost classifications shown in Schedules C.1 and D.1 and explain the reasons for such differences.

Line 11—Total Cost of Sales. Report the sum of operating costs reported on Lines 06 through 10.

Line 12—Gross Operating Profit. Report the difference between Line 05 minus Line 11.

Line 13—Selling, General & Administrative Expenses. Report the total, pro-forma costs forecasted for administrative, marketing and general corporate overhead functions that directly or indirectly support the smelter's operations. Refer to the NSO Financial Reporting Overview for a general discussion of indirect cost allocations from overhead cost pools. Attach as part of Exhibit B a schedule classifying selling, general and administrative expenses into major cost components. Indicate whether each component represents costs directly assignable to the smelter or indirect costs allocated from other business segments to the smelter. Explain the basis used for estimating the amount of expected costs included in each component and the basis used for allocating indirect cost elements to the smelter. Identify and explain any differences in the selling, general and administrative cost classification used in Schedules C.1 and D.1.

Line 14—Taxes, Other Than Income Taxes. Report the total, pro-forma costs forecasted for property taxes and associated levies paid to governmental units by or for the benefit of the firm's smelter operations. Attach as part of Exhibit B a schedule classifying operating taxes by major cost components. Indicate whether each cost component represents costs directly assignable to the smelter or indirect costs allocated from overhead cost pools. Explain the basis for allocating indirect taxes to the smelter. Identify and explain any differences in the component classifications used in Schedules C.1. and D.1.

Line 15—Exploration and Research Costs. Report the total, pro-forma estimates of costs incurred directly by or for the benefit of the smelter operations. Attach as a part of Exhibit B a schedule classifying the costs by major direct and indirect cost components. Identify and explain any differences in pro-forma versus historical cost classifications used in Schedules C.1 and D.1.

Line 16—Pollution Control Facility Depreciation and Amortization. Report the pro-forma estimates of depreciation and amortization charges associated with the smelter's investment in pollution control equipment and facilities. Attach as part of Exhibit B supporting schedules classifying pollution control facilities by major assets or asset groups. For each facility component, indicate the depreciation or amortization that would be reported for tax purposes. Based on income tax depreciation, report the original cost of the component assets, undepreciated balance of the component assets, the remaining depreciable life and the annual depreciaton or amortization charge. Indicate for each asset component whether the depreciation and amortization charges represent direct cost assignments or indirect cost allocations to the smelter.

Line 17—Other Smelter Facility Depreciation and Amortization. Report the pro-forma estimates of depreciation and amortization charges associated with the smelter's investment in equipment and facilities other than those classifed as pollution control facilities. Attach as part of Exhibit B supporting schedules prepared according to the instructions for Line 16 above.

Line 18—Interest on Short-Term Debt. Report the pro-forma estimates of interest and other financing charges on short-term obligations classified in the smelter's current liabilities on Schedule C.1. Interest and associated financing charges on long-term debt should *not* be included as an expense identifiable with the smelter's operations. Attach as part of Exhibit B a schedule showing the interest-bearing, short-term debt contracts identifiable with the smelter's operations, the interest rate projected for these contracts and the estimated annual interest charges. Identify and explain any differences in the pro-forma versus historical classifcation in Schedules C.1. and D.1. of short-term debt contracts identifiable with the smelter operations.

Line 19—Miscellaneous Operating Expenses. Report only the total of pro-forma operating expenses associated with or allocated to the smelter that cannot be appropriately classified in one of the preceeding line items. Attach as part of Exhibit B a schedule showing the classification of these residual operating expenses into major cost components. Explain the basis used for forecasting the costs under each component. Identify each cost component in terms of direct or indirect cost and explain the basis used for allocating the indirect costs to smelter operations. Identify and explain the differences in the pro-forma versus historical cost classifications included in Schedules C.1. and D.1.

Line 20—Total Other Operating Expenses. Enter the sum of operating costs reported on Lines 13 through 19.

Line 21—Income From Operations. Report the balance obtained by subtracting Line 20 from Line 12.

Line 22—Income Taxes. Multiply income from operations by the sum of the Federal, State and local marginal tax rates. Attach as part of Exhibit B a schedule detailing the estimated marginal tax rate by taxing entity.

Line 23—Net Income From Operations. Report the balance obtained by subtracting Line 22 from Line 21.

Supplemental Revenue and Cost Forecast Information—Schedule D.1.a

General

Report forecasts of annual indicated operating revenue and cost factors anticipated during calendar years 1979 through 1985 from operation of the smelter subject to this NSO application. These *"base" case estimates should be forecast under the assumption that additional sulfur dioxide control facilities beyond those already in operation will not be required* to comply with SIP emission limitations. Report all line items under each column for the years indicated by this schedule.

Lines 01, 06 and 11—Forecasted Unit Sales. Report estimates for the annual quantity of copper, lead and zinc to be produced and sold by the smelter. Attach as part of Exhibit B an explanation of the methods used to make these forecasts. Indicate how the forecasted sales for each product line relate to external forecasts for industry production of copper, lead and zinc and for average annual capacity utilization experience by the industry's nonferrous metals producers. Explain the differences, if any, between historical trends observed in the smelter's copper, lead and zinc sales experience (Schedule C.1.a) and the trends projected by this forecast.

Lines 02, 07 and 12—Forecasted Price Per Unit. Report the estimated per unit market prices to be received on the smelter's projected sales of copper, lead and zinc. Attach as part of Exhibit B an explanation of the method used to make these price forecasts. Explain how forecasted prices relate to external projections of refined prices for copper, lead and zinc. Explain the differences, if any, between historical trends observed in copper, lead and zinc prices reported by the smelter (Schedule C.1.a) and price trends projected by this forecast.

Lines 03, 08 and 13—Forecasted Primary Metal Revenues. Enter the products of quantity and price forecasts for copper (Line 01 × 02), lead (Lines 06 × 07) and zinc (Lines 11 × 12.).

Lines 04, 09 and 14—Revenue Adjustments. Report the estimates of required adjustments, if any, to total copper, lead and zinc revenues for sales returns, allowances and other adjustments factors. Attach as part of Exhibit B a schedule indicating the types and amounts of these estimated revenue adjustments.

Lines 05, 10 and 15—Net Primary Metal Revenues. Enter the net revenue projections after deducting estimated revenue adjustments for the sale of copper (Line 03—04), lead (Line 08—09) and zinc (Line 13—14).

Line 16—Pro-Forma Primary Metal Revenues. Enter for each year the sum of Lines 05, 10 and 15.

Line 17—Forecasted Co-Products Revenues. Report the projected net revenues anticipated for each year from sales of co-products derived from the smelter's operations. Attach as part of Exhibit B a schedule showing by individual type of co-product, the estimated quantity to produced and sold, market price per unit of sales and total revenues derived from the co-product sales. Explain the differences, if any, between historical trends observed in the smelter's co-product sales (Schedule C.1) and revenue trends projected by this forecast.

Line 18—Pollution Control By-Product Revenues. Report projected revenues anticipated from the sale of by-products derived from operation of the smelter's pollution control facilities. Attach as part of Exhibit B a schedule showing by type of by-product produced, the estimated quantity of output, price to be received per unit of output sold and total revenue derived from the by-product sales. Explain the differences, if any, between historical trends observed in the smelter's by-product sales (Schedule C.1) and revenue trends projected by this forecast.

Line 19—Other By-Product Revenues. Report projected revenues anticipated from the sales of gold, silver and other by-products derived from the smelter's operations. Attach as part of Exhibit B a schedule providing additional forecast documentation as specified in the instructions for Line 18.

Line 20—Total Co-Product and By-Product Revenues. Enter for each year the total of Lines 17 through 19.

Line 21—Forecasted Toll Concentrate Processing. Report the projected quantity of toll concentrates to be processed during each year. Attach as part of Exhibit B a description of the projected types and grades of concentrates to be processed and an explanation of the method used in developing these projections.

Line 22—Tolling Service Price Forecast. Report for each year the per-unit price anticipated from the smelter's tolling service processing. Attach as part of Exhibit B an explanation of the method used to develop these market price projections in relation to the types and grades of concentrates expected to be available for processing.

Line 23—Tolling Service Revenue forecast. Enter for each year the product of average quantity and price projections for the smelter's tolling services.

Line 24—Tolling Service Revenue Adjustments. Report the amounts of any adjustments against the smelter's total tolling service revenues. Attach as part of Exhibit B an explanation of the types of adjustments anticipated and the method used in forecasting such adjustments.

Line 25—Net Tolling Service Revenues. Enter for each year the net revenue projection after deducting estimated revenue adjustments on tolling service activities (Line 23 less line 24). Attach as part of Exibit B an explanation of the differences, if any, between historical trends observed in the smelter's tolling service revenues (Schedule C.1) and the revenue trend projected by this forecast.

Line 26—Forcasted Quantity of Concentrate Processed. Report for each year an estimate for the total quantity of concentrates to be processed by the smelter. Attach as part of Exhibit B a description of the types and grades of concentrates available for processing. Explain the method or methods used in developing these concentrate input estimates. Do not include the quantity of toll concentrates.

Line 27—Concentrate Price Forecast. Report for each year the estimated price to be paid per unit of concentrate purchased. Attach as part of Exhibt B an explanation of the method or methods used in projecting the price to be paid for purchased concentrates. Indicate the relationship between projected concentrate prices and the projected types and grades of concentrate purchased as developed on Line 26 above.

Line 28—Total Concentrate Cost. Enter the product of quantity and average per-unit price projections reported for each year on Lines 26 and 27.

Line 29—Concentrate Cost Adjustments. Report estimated adjustments to the cost of concentrates purchased. Attach as part of Exhibit B a description of any required cost adjustments and an explanation of the method used to estimate the amount of such adjustments.

Line 30—Net Cost of Concentrates Processed. Enter for each year the difference between amounts reported on Lines 28 and 29. Attach as part of Exhibit B an explanation of the differences, if any, between historical trends observed in the smelter's cost of concentrates processed (Schedule C.1) and the concentrate costs projected by this forecast.

Line 31—Projected Labor Quantity Requirements. Report for each year the estimated quantity of direct labor hours required to support the processing levels projected in the smelter's revenue forecasts. Attach as part of Exhibit B an explanation of the labor productivity factors considered in estimating the smelter's direct labor requirements.

Line 32—Projected Direct Labor Wage Rates. Report for each year the projected wage rate to be paid per unit of direct labor input. Attach as part of Exhibit B a description of direct labor cost factors under existing labor contracts and an explanation of the method or methods used to project direct labor costs upon the expiration of these contracts.

Line 33—Total Direct Labor Wage Payments. Enter for each year the product of Lines 31 and 32.

Line 34—Supplemental Employee Benefit Forecasts. Report adjustments required to direct labor costs for other employee compensation under supplemental benefit plans. Attach as part of Exhibit B a description of such plans and their costs and an explanation of the method or methods used to project such costs.

Line 35—Total Production Labor Cost. Enter for each year the total of Lines 33 and 34.

Lines 36, 39, 42, 45, and 48—Forecasted Energy Quantities. Report for each year the estimated quantity of energy by industrial type required to support the processing levels projected in the smelter's revenue forecasts. Attach as a part of Exhibit B, an explanation of energy use factors and qualities considered in estimating the smelters energy requirements.

Lines 37, 40, 43, 46, and 49—Forecasted Unit Price. Report for each year the projected price to be paid per unit of energy input by type of energy. Attach as a part of Exhibit B, a description of the energy price factors under existing energy contracts and an explanation of the method or methods used to project unit energy prices after expiration of these contracts.

Lines 38, 41, 44, 47, and 50—Total Payments. Enter the products of quantity and price forecasts for electricity (Lines 36×37), natural gas (Lines 39×40), coal (Lines 42×43), fuel oil (Lines 45×46), and other (Lines 48×49).

Line 51—Forecasted Energy Costs. Enter for each year the total of Lines 38, 41, 44, 47, and 50.

Base Sustaining Capital Investment Summary—Schedule D.2

The applicant should estimate and report, in Schedule D.2, yearly sustaining capital outlays for maintenance of the smelter's existing productive capability. These "base" case estimates should be forecast under the assumption that additional sulfur dioxide control facilities beyond those already in operation will not be required. Major elements of these outlays should be disclosed, as well as the total of such outlays. Estimates shall be restricted to those items which will be capitalized for tax purposes. These outlays shall primarily be for plant replacement, although outlays for improvements and expansion may be included to the extent that improvements and/or expansion, exclusive of required pollution control outlays, can be justified as economically feasible. Estimates of sustaining capital shall exclude any incremental investment for new interim pollution control requirements. Sustaining control investments in facilities shared with other operating segments shall be allocated in accordance with the instructions given below.

Estimates of sustaining capital shall be compatible with productive capacity and cost control requirements underlying the operating revenue and cost forecasts incorporated in Schedule D.1.

Lines 01 to 06—Sustaining Capital. Report by individual line item property, plant and equipment sustaining capital investments assignable to smelter operations for each fiscal year. Include both (1) property, plant and equipment directly associated with the smelter's operations and (2) facilities shared with other operating segments to the extent that a causal and beneficial relationship can be established for the inter-segment allocation of such facility investments.

Attach as part of Exhibit B a schedule disclosing by individual line item the major elements of annual capital expenditures for sustaining capital. Further classify these annual capital expenditures into both (1) investments required to maintain the smelter versus investments in smelter expansion and improvements and (2) direct facility versus joint-use facility investments. Explain the method used for allocating capital expenditures on joint-use facilities to the smelter's operations.

Line 07—Total Smelter Sustaining Capital. Enter the total of amounts reported on Lines 01 through 06 for each respective fiscal year. Transfer the reported total for each respective year to Schedule A.1. Line 05.

"Controls" Case Pro-Forma Profit and Loss Summary—Schedule E.1

General

Report adjusted annual forecasts of operating revenues, operating costs and income taxes anticipated during calendar years 1979 through 1985 from operation of the smelter subject to this NSO application. These *"controls" case forecasts should be based on an assumption that the applicant implements in 1979 a program of additional pollution control facility investments sufficient to achieve full compliance* with the smelter's SIP emission limitations for sulfur dioxide.

The assumed investment program should be based on any adequately demonstrated process system and/or control technology

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that would maximize the smelter's earnings subsequent to installation of the system(s). For this purpose, adequately demonstrated systems include, but are not limited to, the technology underlying EPA's new source performance standards for copper, lead and zinc smelters (40 CFR Part 60, Subparts P, Q and R) and the following control systems: Flakt-Boliden sodium citrate concentration, magnesium oxide concentration, lime-limestone scrubbing and Cominco ammonia scrubbing.

Copper smelters which will process concentrates containing an average of 1,000 pounds per hour or more of arsenic during the forecast period should assume that they will be required to use best engineering techniques to control fugitive emissions of arsenic. Copper smelters should also assume that they will be required to comply with arsenic control standards and measures promulgated by the Occupational Safety and Health Administration (OSHA). All smelters should assume that they will be required to install whatever technology is necessary to reduce their process and fugitive emissions of lead enough to achieve a concentration of 1.5 micrograms per cubic meter (mg/m³) on a 90-day average basis in the ambient air by January 1, 1985.

Report forecasted information required by each individual line item in a manner consistent with the instructions for Schedule D.1. Attach as part of Exhibit B supporting schedules describing and explaining the adjustments required to convert the "base" case forecasts in Schedule D.1 to the estimates reported in Schedule E.1. Transfer the amount reported for each year on Line 23 of this schedule to Schedule A.2, Line 01.

Constant Controls Sustaining Capital Investment Summary—Schedule E.2

The applicant should estimate and report yearly sustaining capital outlays for maintenance of the smelter's existing productive capability. These constant controls case estimates should be forecast under the assumption that full compliance with Agency air standards will be achieved. Major elements of these outlays should be disclosed, as well as the total of such outlays. Estimates shall be restricted to those items which will be capitalized for tax purposes. These outlays shall primarily be for plant replacement, although outlays for improvements and expansion may be included to the extent that improvements and/or expansion, exclusive of required pollution control outlays, can be justified as economically feasible. Estimates of sustaining capital shall exclude any incremental investment for new interim pollution control requirements. Sustaining control investments in facilities shared with other operating segments shall be allocated in accordance with the instructions given below.

Estimates of sustaining capital shall be compatible with productive capacity and cost control requirements underlying the operating revenue and cost forecasts incorporated in Schedule E.1.

Lines 01 to 06—Sustaining Capital. Report by individual line item property, plant and equipment sustaining capital investments assignable to smelter operations for each fiscal year. Include both (1) property, plant and equipment directly associated with the smelter's operations and (2) facilities shared with other operating segments to the extent that a causal and beneficial relationship can be established for the intersegment allocation of such facility investments.

Attach as part of Exhibit B a schedule disclosing by individual line item the major elements of annual capital expenditures for sustaining capital. Further classify these annual capital expenditures into both (1) investments required to maintain the smelter versus investments in smelter expansion and improvements and (2) direct facility versus joint-use facility investments. Explain the method used for allocating capital expenditures on joint-use facilities to the smelter's operations.

Line 07—Total Smelter Sustaining Capital. Enter the total of amounts reported on Lines 01 through 06 for each fiscal year. Transfer the reported total for each year to Schedule A.2, Line 03.

"Interim Controls" Case Pro-Forma Profit and Loss Summary—Schedule F.1

General

Report adjusted annual forecasts of operating revenues, operating costs and income taxes for the years 1979 through 1985 from operation of the smelter, subject to this controls waiver application. These "interim controls" *case forecasts should be based on an assumption that the applicant implements in 1979 a program of interim controls.*

The assumed investment program should be based on the installation and operation of a well-designed sulfuric acid plant to treat all strong gas streams. The "interim controls" projection may, but need not, account for lead and arsenic controls on the same basis as for other applicants. If those controls are taken into account, however, it should be assumed that the SO_2 controls are also in an "interim controls" configuration.

Report forecasted information required by each individual line item in a manner consistent with the instructions for Schedule D.1. Attach as part of Exhibit B supporting schedules describing and explaining the adjustments required to convert the "base" case forecasts in Schedule D.1 to the estimates reported in Schedule F.1. Transfer the appropriate amounts reported for each year from this Schedule to Schedule A.3, Lines 01 and 02.

Interim Controls Sustaining Capital Investment Summary—Schedule F.2

The applicant should estimate and report, in Schedule F.2, yearly sustaining capital outlays for maintenance of the smelter's existing productive capability. Major elements of these outlays should be disclosed, as well as the total of such outlays. Estimates shall be restricted to those items which will be capitalized for tax purposes. These outlays shall primarily be for plant replacement, although outlays for improvements and expansion may be included to the extent that improvement and/or expansion, exclusive of required pollution control outlays, can be justified as economically feasible. Estimates of sustaining capital shall exclude any incremental investment for new interim pollution control requirements. Sustaining control investments in facilities shared with other operating segments shall be allocated in accordance with the instructions given below.

Estimates of sustaining capital shall be compatible with productive capacity and cost control requirements underlying the operating revenue and cost forecasts incorporated in Schedule F.1.

Lines 01 to 06—Sustaining Capital. Report by individual line item property, plant and equipment sustaining capital investments assignable to smelter operations for each fiscal year. Include both (1) property, plant and equipment directly associated with the smelter's operations and (2) facilities shared with other operating segments to the extent that a causal and beneficial relationship can be established for the intersegment allocation of such facility investments.

Attach as part of Exhibit B a schedule disclosing by individual line item the major elements of annual capital expenditures for sustaining capital. Further classify these annual capital expenditures into both (1) investments required to maintain the smelter versus investments in smelter expansion and improvements and (2) direct facility versus joint-use facility investments. Explain the method used for allocating capital expenditures on joint-use facilities to the smelter's operations.

Line 07—Total Smelter Sustaining Capital. Enter the total of the amounts reported on Lines 01 through 06 for each fiscal year. Transfer the reported total for each year to Schedule A.3, Line 07.

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EPA - _____

Environmental Protection Agency

Primary Nonferrous Smelter Order Application

Part I - IDENTIFICATION INFORMATION

1. Firm Name _____ 2. Street/Box/RFD _____
3. City _____ 4. State _____ 5. Zip Code _____
6. IRS Employer Identification No. _____ 7. SEC 1934 Act Registration Number _____

8. Smelter Iden. _____ 9. Street/Box/RFD _____
10. City _____ 11. State _____ 12. Zip Code _____

13. Contact Person _____ 14. Title _____
15. Street/Box/RFD _____ 16. Telephone _____
17. City _____ 18. State _____ 19. Zip Code _____

Part II - CERTIFICATION

I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

Name _____ Title _____
Signature _____ Date _____

TITLE 18 USC 1001 makes it a criminal offense for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

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Base Case Forecast Summary

(Smelter Identification)

Schedule A.1

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		1979	1980	1981	1982	1983	1984	1985	Total
A. Operating Cash Flow Projection:									
1. Net Income from Operations	01								XXXXX
2. Depreciation & Amortization									
a. Pollution control facilities	02								XXXXX
b. Other smelter facilities	03								XXXXX
3. Operating cash flow	04								XXXXX
4. Capital Expenditure Projections	05								XXXXX
5. Net Cash Flow Projections	06								XXXXX
6. Discount Factors	07								XXXXX
7. Present Value of Future Cash Flow	08								XXXXX
B. Net Present Value									
1. Terminal Value	09								
2. Discount Factor	10								
3. Present Value of Terminal Salvage Value	11								
4. Present Value of Future Cash Flows	12								
5. Total Present Value	13								
6. Current Salvage Value	14								
7. Net Present Value	15								

Constant Controls Case Forecast Summary

(Smelter Identification)

Schedule A.2

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		1979	1980	1981	1982	1983	1984	1985	Total
A. Operating Cash Flow Projection:									
1. Net Income from Operation	01								XXXXX
2. Capital Expenditure Projections									
a. Constant Controls	02								XXXXX
b. Sustaining capital	03								XXXXX
c. Total	04								XXXXX
3. Adjusted Cash Flow Projections	05								XXXXX
4. Discount Factors	06								XXXXX
5. Present Value of Future Cash Flows	07								XXXXX
B. Net Present Value									
1. Terminal Value	08								
2. Discount Factor	09								
3. Present Value of Terminal Salvage Value	10								
4. Present Value of Future Adjusted									
5. Cash Flows	11								
6. Total Present Value	12								
7. Current Salvage Value	13								
8. Net Present Value	14								

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Interim Control Case Forecast Summary

(Smelter Identification)

Schedule A.3

Page 1 of 1

		1979	1980	1981	1982	1983	1984	1985	Total
A. Gross Operating Profit	01								XXXXX
B. Operating Cash Flow Projection:									
1. Net Income from Operations	02								XXXXX
2. Depreciation & Amortization									
a. Pollution control facilities	03								XXXXX
b. Other smelter facilities	04								XXXXX
3. Operating cash flow	05								XXXXX
4. Capital Expenditure Projections									
a. Interim controls	06								XXXXX
b. Sustaining capital	07								XXXXX
c. Total	08								XXXXX
5. Net Cash Flow Projections	09								XXXXX
6. Discount Factors	10								XXXXX
7 Present Value of Future Cash Flow	11								XXXXX
C. Net Present Value									
1. Terminal Value	12								
2. Discount Factor	13								
3. Present Value of Terminal Salvage Value	14								
4. Present Value of Future Cash Flows	15								
5. Total Present Value	16								
6 Current Salvage Value	17								
7. Net Present Value	18								

Nonferrous Metals Operations
Consolidated Profit and Loss Summary
For the Year Ended: _____

Schedule B.1

(Smelter Identification)

Page 1 of 1

		Consolidated (a)	Eliminations (b)	Non-traceable (c)	Mining (d)	Concentrator (e)	Smelter (f)	Refinery (g)	Other Nonferrous (h)
A. Operating Revenues	01	$	$	$	$	$	$	$	$
B. Operating Expenses									
1. Cost of sales	02	$	$	$	$	$	$	$	$
2. Selling, general & administrative	03								
3. Taxes, other than income tax	04								
4. Exploration & research costs	05								
5. Depreciation, depletion & amort.									
a. Pollution control facilities	06								
b. Other operating facilities	07								
6. Other operating expenses	08								
7. Total operating expenses	09	$	$	$	$	$	$	$	$
C. Income from Operations	10	$	$	$	$	$	$	$	$
D. Other Income & (Expense)									
1. Income from unconsol. affiliates	11	$	$XXXXXX	$	$XXXXXX	$XXXXXX	$XXXXXX	$XXXXXX	$
2. Other dividend & interest income	12		XXXXXX		XXXXXX	XXXXXX	XXXXXX	XXXXXX	XXXXXX
3. Gain/(loss) from disp. of property	13								
4. Interest expense & financial charges									
a. Short-term debt	14								
b. Other debt financing	15		XXXXXX		XXXXXX	XXXXXX	XXXXXX	XXXXXX	XXXXXX
5. Misc. income & (expense)	16								
6. Total other income & (expense)	17	$	$	$	$	$	$	$	$
E. Net Taxable Income	18	$	$	$	$	$	$	$	$

Nonferrous Metals Operations
Consolidated Capital Investment Summary

(Smelter Identification)

Schedule B.2

Page 1 of 1

		Consolidated (a)	Eliminations (b)	Non-traceable (c)	Mining (d)	Concentrator (e)	Smelter (f)	Refinery (g)	Other Nonferrous (h)
A. Current Assets									
1. Cash on hand & deposit	01	$	$	$	$	$	$	$	$
2. Temporary cash investments	02								
3. Trade receivables, net									
a. Unaffiliated customers	03								
b. Affiliated customers	04								
4. Inventories									
a. Raw materials & products	05								
b. Other materials & supplies	06								
5. Other current assets	07								
6. Total current assets	08	$	$	$	$	$	$	$	$
B. Property, Plant & Equipment									
1. Gross facility investment	09		$	$	$	$	$	$	$
2. Accum. Deprec., Depl. & Amort.	10								
3. Net facility investment	11	$	$	$	$	$	$	$	$
C. Other Non-Current Assets									
1. Invest. in unconsol. subsid.	12	$	$XXXXXX	$XXXXXX	$XXXXXX	$XXXXXX	$XXXXXX	$XXXXXX	$
2. Other investments & advances	13		XXXXXX		XXXXXX	XXXXXX	XXXXXX	XXXXXX	XXXXXX
3. Misc. non-current assets	14								
4. Total other non-current assets	15	$	$	$	$	$	$	$	$
D. Total Asset Investment	16	$	$	$	$	$	$	$	$
E. Current Liabilities									
1. Trade accounts & notes payable									
a. Unaffiliated suppliers	17	$	$	$	$	$	$	$	$
B. Affiliated supplies	18								
2. Other expense accruals	19								
3. Notes payable, current	20								
4. Other current liabilities	21								
5. Total current liabilities	22	$	$	$	$	$	$	$	$
F. Net Capital Investment	23	$	$	$	$	$	$	$	$

Historical Profit and Loss Summary

(Smelter Identification)

Schedule C.1

Page 1 of 1

		1974	1975	1976	1977	1978
A. Operating Revenues						
1. Primary metal sales	01	$	$	$	$	$
2. Co-product & by-product sales	02					
3. Tolling service revenues	03					
4. Other operating revenues	04					
5. Total operating revenues	05	$	$	$	$	$
B. Cost of Sales						
1. Concentrates processed	06	$	$	$	$	$
2. Other materials	07					
3. Production labor	08					
4. Pollution control expense	09					
5. Other production costs	10					
6. Total cost of sales	11	$	$	$	$	$
C. Gross Operating Profit	12	$	$	$	$	$
D. Other Operating Expenses						
1. Selling, general & administrative	13	$	$	$	$	$
2. Taxes, other than income tax	14					
3. Exploration & research costs	15					
4. Depreciation & amortization						
a. Pollution control facilities	16					
b. Other smelter facilities	17					
5. Misc. operating expenses	18					
6. Total other operating expenses	19	$	$	$	$	$
E. Income from Operations	20	$	$	$	$	$
F. Other Income & (Expense)						
1. Gain/(loss) on disposition of property	21	$	$	$	$	$
2. Interest on short-term debt financing	22					
3. Misc. other income & (expense)	23					
4. Total other income & (expense)	24	$	$	$	$	$
G. Net Taxable Income	25	$	$	$	$	$

Supplemental Smelter Revenue Data

(Segment Identification)

Schedule C.l.a

		1974	1975	1976	1977	1978
A. Copper Product Sales						
1. Total Quantity Sold	01					
2. Unaffiliated Customer Sales						
a. Quantity sold	02					
b. Operating revenue	03					
c. Average unit price	04					
d. Ave. product grade	05					
3. Affiliated Customer Sales						
a. Quantity sold	06					
b. Operating revenue	07					
c. Average unit price	08					
d. Ave. product grade	09					
4. Adjusted Copper Revenues						
a. Total copper revenues	10					
b. Transfer price adjustment	11					
c. Other revenue adjustments	12					
d. Adjusted copper revenues	13					
B. Lead Product Sales						
1. Total Quantity Sold	14					
2. Unaffiliated Customer Sales						
a. Quantity sold	15					
b. Operating revenue	16					
c. Average unit price	17					
d. Ave. product grade	18					
3. Affiliated Customer Sales						
a. Quantity sold	19					
b. Operating revenue	20					
c. Average unit price	21					
d. Ave. product grade	22					
4. Adjusted Lead Revenues						
a. Total lead revenues	23					
b. Transfer price adjustment	24					
c. Other revenue adjustments	25					
d. Adjusted lead revenues	26					

Supplemental Smelter Revenue Data

(Smelter Identification)

Schedule C.l.a

		1974	1975	1976	1977	1978
C. Zinc Product Sales						
1. Total Quantity Sold	27					
2. Unaffiliated Customer Sales						
a. Quantity sold	28					
b. Operating revenue	29					
c. Average unit price	30					
d. Ave. product grade	31					
3. Affiliated Customer Sales						
a. Quantity sold	32					
b. Operating revenue	33					
c. Average unit price	34					
d. Ave. product grade	35					
4. Adjusted Zinc Revenue						
a. Total zinc revenues	36					
b. Transfer price adjustment	37					
c. Other revenue adjustments	38					
d. Adjusted zinc revenues	39					
D. Primary Metal Revenues	40					
E. Tolling Service Revenues						
1. Total Toll Concentrates Processed	41					
2. Unaffiliated Customer Revenues						
a. Concentrates processed	42					
b. Operating revenue	43					
c. Average unit price	44					
d. Ave. product grade	45					
3. Affiliated Customer Revenues						
a. Concentrates processed	46					
b. Operating revenue	47					
c. Average unit price	48					
d. Ave. product grade	49					
4. Adjusted Tolling Service Revenues						
a. Total tolling service revenue	50					
b. Transfer price adjustment	51					
c. Other revenue adjustments	52					
d. Adjusted tolling service revenues	53					

Historical Capital Investment Summary

(Smelter Identification)

Schedule C.2

Page 1 of 1

		1974	1975	1976	1977	1978
A. Current Assets						
1. Cash on hand & deposit	01	$	$	$	$	$
2. Temporary cash investments	02					
3. Trade receivables, net						
a. Unaffiliated customers	03					
b. Affiliated Customers	04					
4. Inventories						
a. Raw materials & products	05					
b. Other materials & supplies	06					
5. Other current assets	07					
6. Total current assets	08	$	$	$	$	$
B. Property, Plant & Equipment						
1. Land	09	$	$	$	$	$
2. Buildings & improvements	10					
3. Machinery & equipment	11					
4. Transporation equipment	12					
5. Pollution control facilities	13					
6. Other fixed assets	14					
7. Total smelter investment	15	$	$	$	$	$
8. Less: Accum. depreciation & amort.	16					
9. Net smelter investment	17	$	$	$	$	$
C. Other Non-Current Assets	18	$	$	$	$	$
D. Total Smelter Capital Investment	19	$	$	$	$	$
E. Current Liabilities						
1. Trade accounts & notes payable						
a. Unaffiliated suppliers	20	$	$	$	$	$
b. Affiliated suppliers	21					
2. Other expense accruals	22					
3. Notes payable, current	23					
4. Other current liabilities	24					
5. Total current liabilities	25	$	$	$	$	$
G. Net Smelter Capital Investment	26	$	$	$	$	$

Cash Proceeds from Liquidation

(Smelter Identification)

Schedule C.2.a

Page 1 of 1

		(1) Estimated liquidation value	(2) Reported net book value	(3) Total Gain (loss)	(4) Gain (loss) subject to taxation as: Ordinary income	(5) Capital gain
A. Total Current Assets	01	$	$	$ XXXXX	$ XXXXX	$ XXXXX
B. Property, Plant & Equipment						
1. Land	02	$	$	$	$	$
2. Buildings & improvements	03					
3. Machinery & equipment	04					
4. Transportation equipment	05					
5. Pollution control facilities	06					
6. Other fixed assets	07					
7. Total	08					
C. Other Non-Current Assets	09	$	$	$	$	$
D. Total Smelter Value	10	$	$	$	$	$
E. Total Current Liabilities	11	$	$	$ XXXXX	$ XXXXX	$ XXXXX
F. Gross liquidation value	12	$	$	$	$	$
G. Liquidation Costs	13	$	$ XXXXX	$	$	$ XXXXX
H. Net Taxable Gain (or loss)	14	$ XXXXX	$ XXXXX	$ XXXXX	$	$
I. Income Tax Rate	15	$ XXXXX	$ XXXXX	$ XXXXX	$	$
J. Income Tax on Gain (loss)	16	$	$ XXXXX	$ XXXXX	$	$
K. After Tax Cash Proceeds from Liquidation	17	$	$ XXXXX	$ XXXXX	$ XXXXX	$ XXXXX

Supplemental Revenue and Cost Forecast Information

Schedule D.1.a

(Smelter Identification)

		1979	1980	1981	1982	1983	1984	1985
A. Primary Metal Revenue Forecasts								
1. Pro-forma copper revenues								
a. Forecasted unit sales	01							
b. Forecasted price per unit	02							
c. Total copper revenues	03	$	$	$	$	$	$	$
d. Revenue adjustments	04							
e. Net copper revenues	05	$	$	$	$	$	$	$
2. Pro-forma zinc revenues								
a. Forecasted unit sales	06							
b. Forecasted price per unit	07							
c. Total zinc revenues	08	$	$	$	$	$	$	$
d. Revenue adjustments	09							
e. Net zinc revenues	10	$	$	$	$	$	$	$
3. Pro-forma lead revenues								
a. Forecasted unit sales	11							
b. Forecasted price per unit	12							
c. Total lead revenues	13	$	$	$	$	$	$	$
d. Revenue adjustments	14							
e. Net lead revenues	15	$	$	$	$	$	$	$
4. Pro-forma primary metal revenues	16	$	$	$	$	$	$	$
B. Co-Product & By-Product Revenue Forecasts								
1. Forecasted co-product revenues	17	$	$	$	$	$	$	$
2. Forecasted by-product revenue from:								
a. Pollution control facilities	18							
b. Other smelter processing	19							
3. Total pro-forma revenues	20	$	$	$	$	$	$	$

Supplemental Revenue and Cost Forecast Information

Schedule D.1.a

(Smelter Identification)

		1979	1980	1981	1982	1983	1984	1985
C. Tolling Service Revenue Forecasts								
1. Forecasted quantity of concentrates	21							
2. Forecasted price per unit processed	22							
3. Total tolling service revenues	23	$	$	$	$	$	$	$
4. Revenue adjustments	24							
5. Net tolling service revenues	25	$	$	$	$	$	$	$
D. Concentrate Cost Forecasts								
1. Quantity of concentrate processed	26							
2. Forecasted price per unit purchased	27							
3. Total concentrate costs	28	$	$	$	$	$	$	$
4. Concentrate cost adjustments	29							
5. Net cost of concentrate processed	30	$	$	$	$	$	$	$
E. Production Labor Cost Forecasts								
1. Forecasted direct labor hours	31							
2. Forecasted hourly wage rate	32							
3. Total wage payments	33	$	$	$	$	$	$	$
4. Supplemental employee benefits	34							
5. Total production labor cost	35	$	$	$	$	$	$	$

Schedule D.1.a

Supplemental Revenue and Cost Forecast Information

(Smelter Identification)

		1979	1980	1981	1982	1983	1984	1985
F. Energy Cost Forecasts								
1. Electricity								
a. Forecasted quality kilowatt hours	36							
b. Forecasted price per kwh	37							
c. Total electricity payments	38	$	$	$	$	$	$	$
2. Natural gas								
a. Forecasted quantity in mcf	39							
b. Forecasted price per mcf	40							
c. Total natural gas payments	41	$	$	$	$	$	$	$
3. Coal								
a. Forecasted quantity per tons	42							
b. Forecasted price per ton	43							
c. Total coal payments	44	$	$	$	$	$	$	$
4. Fuel Oil								
a. Forecasted quantity in gallons	45							
b. Forecasted price per gallon	46							
c. Total fuel oil payments	47	$	$	$	$	$	$	$
5. Other (specify)								
a. Forecasted quantity (specific units)	48							
b. Forecasted price per unit	49							
c. Total payments	50	$	$	$	$	$	$	$
6. Forecasted energy costs	51	$	$	$	$	$	$	$

Schedule D.2

Base Sustaining Capital Investment Summary

(Smelter Identification)

		1979	1980	1981	1982	1983	1984	1985
Sustaining Capital								
1. Land	01	$	$	$	$	$	$	$
2. Buildings & improvements	02							
3. Machinery & equipment	03							
4. Transportation equipment	04							
5. Pollution control facilities	05							
6. Other fixed assets	06							
7. Total smelter sustaining capital	07	$	$	$	$	$	$	$

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Schedule E.1

Constant Controls Pro-Forma Profit and Loss Summary

(Smelter Identification)

		1979	1980	1981	1982	1983	1984	1985
A. Operating Revenues								
1. Primary metal sales	01	$	$	$	$	$	$	$
2. Co-product & by-product sales	02							
3. Tolling service revenues	03							
4. Other operating revenues	04							
5. Total operating revenues	05	$	$	$	$	$	$	$
B. Cost of Sales								
1. Concentrates	06	$	$	$	$	$	$	$
2. Other materials	07							
3. Production labor	08							
4. Production overhead	09							
5. Pollution control costs	10							
6. Total cost of sales	11	$	$	$	$	$	$	$
C. Gross Operating Profit	12	$	$	$	$	$	$	$
D. Other Operating Expenses								
1. Selling, general & administrative	13	$	$	$	$	$	$	$
2. Taxes, other than income	14							
3. Exploration & research costs	15							
4. Depreciation & amortization								
a. Pollution control facilities	16							
b. Other smelter facilities	17							
5. Interest on short-term debt	18							
6. Misc. operating expenses	19							
7. Total other operating expenses	20	$	$	$	$	$	$	$
E. Income from Operations	21	$	$	$	$	$	$	$
F. Income Taxes	22	$	$	$	$	$	$	$
G. Net Income from Operations	23	$	$	$	$	$	$	$

Schedule E.2

Constant Controls Sustaining Capital Investment Summary

(Smelter Identification)

		1979	1980	1981	1982	1983	1984	1985
Sustaining Capital								
1. Land	01	$	$	$	$	$	$	$
2. Buildings & improvements	02							
3. Machinery & equipment	03							
4. Transportation equipment	04							
5. Pollution control facilities	05							
6. Other fixed assets	06							
7. Total smelter sustaining capital	07	$	$	$	$	$	$	$

Schedule F.1

Interim Controls Pro-Forma Profit and Loss Summary

(Smelter Identification)

		1979	1980	1981	1982	1983	1984	1985
A. Operating Revenues								
1. Primary metal sales	01	$	$	$	$	$	$	$
2. Co-product & by-product sales	02							
3. Tolling service revenues	03							
4. Other operating revenues	04							
5. Total operating revenues	05	$	$	$	$	$	$	$
B. Cost of Sales								
1. Concentrates	06	$	$	$	$	$	$	$
2. Other materials	07							
3. Production labor	08							
4. Production overhead	09							
5. Pollution control costs	10							
6. Total cost of sales	11	$	$	$	$	$	$	$
C. Gross Operating Profit	12	$	$	$	$	$	$	$
D. Other Operating Expenses								
1. Selling, general & administrative	13	$	$	$	$	$	$	$
2. Taxes, other than income tax	14							
3. Exploration & research costs	15							
4. Depreciation & amortization								
a. Pollution control facilities	16							
b. Other smelter facilities	17							
5. Interest on short-term debt	18							
6. Misc. operating expenses	19							
7. Total other operating expenses	20	$	$	$	$	$	$	$
E. Income from Operations	21	$	$	$	$	$	$	$
F. Income Taxes	22	$	$	$	$	$	$	$
G. Net Income from Operations	23	$	$	$	$	$	$	$

Schedule F.2

Interim Controls Sustaining Capital Investment Summary

(Smelter Identification)

		1979	1980	1981	1982	1983	1984	1985
Sustaining Capital								
1. Land	01	$	$	$	$	$	$	$
2. Buildings & improvements	02							
3. Machinery & equipment	03							
4. Transportation equipment	04							
5. Pollution control facilities	05							
6. Other fixed assets	06							
7. Total smelter sustaining capital	07	$	$	$	$	$	$	$

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federal register

WEDNESDAY, JANUARY 31, 1979
PART III



CONSUMER PRODUCT SAFETY COMMISSION

■

CHILD-RESISTANT AND PROTECTION PACKAGING REQUIREMENTS

Exemption of Certain Size Packages of Erythromycin Ethylsuccinate Granules or Oral Suspensions and Proposed Exemptions of Colestipol and Erythromycin Ethylsuccinate Tablets and Withdrawal of Proposed Exemption for Ogen

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Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER E—POISON PREVENTION PACKAGING ACT OF 1970 REGULATIONS

PART 1700—POISON PREVENTION PACKAGING

Exemption From Child-Resistant Packaging Standards for Certain Size Packages of Erythromycin Ethylsuccinate Granules or Oral Suspensions

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: In this document the Consumer Product Safety Commission (CPSC) issues a final amendment under the Poison Prevention Packaging Act (PPPA) to exempt granules or oral suspensions of erythromycin ethylsuccinate, the total dosage of which does not exceed 8 grams, from the special packaging requirements imposed by the act. The Commission's decision to grant an exemption is based on the relative safety of the product. More specifically, toxicity and injury data indicate a low risk of injury associated with possible accidental ingestion of the drug in the amount requested for exemption by the petitioner, Abbott Laboratories and Ross Laboratories (a division of Abbott).

EFFECTIVE DATE: This amendment is effective January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Sandra Eberle, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6400.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Regulations issued under the Poison Prevention Packaging Act of 1970 (the "PPPA", 15 U.S.C. 1471-1476) establish child-protection packaging requirements for human oral prescription drugs in order to protect children from serious illness or personal injury resulting from handling, using, or ingesting these substances.

On August 1, 1973 the Consumer Product Safety Commission received a petition (PP 74-2) from Abbott Laboratories, North Chicago, Illinois, requesting an exemption from the child-protection packaging requirements for human prescription drugs in oral dosage forms (16 CFR 1700.14(a)(10) for certain erythromycin ethylsuccinate preparations.

The petitioner manufactures erythromycin ethylsuccinate in oral suspension form, among others. The drug is packaged as an oral suspension and marketed in sizes in which the total dosage ranges from 1.2 grams to 38.4 grams. The product is either dispensed as an already mixed suspension, or is reconstituted by the pharmacist or practitioner by adding a specific volume of water to the Abbott container. It is then relabeled and dispensed to the consumer.

Having considered the petition, human experience data, toxicity information, other available information, and comments by the Technical Advisory Committee on Poison Prevention Packaging, the Commission concluded that reasonable grounds were presented to issue a proposed rule to exempt erythromycin ethylsuccinate oral suspensions from the child-protection packaging standards of the PPPA.

Accordingly, the Commission granted the petition and published a notice in the February 11, 1974, FEDERAL REGISTER (39 FR 5197) proposing a rule to exempt erythromycin ethylsuccinate granules for oral suspension and oral suspensions in packages containing not more than 8 grams of the equivalent of erythromycin from the packaging standards. At the same time the Commission suspended the effective date of the child-protection packaging requirements as they applied to this drug.

It might be noted that the February 11, 1974, FEDERAL REGISTER notice proposed to exempt several other products from the child protection packaging requirements and stayed the effective date of the requirements as they applied to the proposed exemptions. The final rule contained herein, however, does not address these other products.

RESPONSE TO COMMENTS

Fifteen comments were received by the Commission in response to the proposed rule. In general the comments were more concerned with the issue of whether any exemptions should be granted to the special packaging requirements rather than the issue of whether erythromycin ethylsuccinate should be exempted. Only two comments specifically addressed the erythromycin ethylsuccinate oral suspension exemption. Five comments addressed the general issue of exemptions and the remaining comments discussed the proposed exemptions of the other drugs which were listed in the February 11, 1974 FEDERAL REGISTER notice.

One of the respondents who commented on the proposed exemption for erythromycin ethylsuccinate oral suspensions opposed the exemption because there is no human experience data cited in support of the proposed exemption. The Commission does cite animal test data but the respondent states that, "extrapolation from animal data to the child is not permissible because of marked interspecies differences in drug disposition and toxicity."

The Commission has not relied solely on animal data in considering this exemption. Rather, the Commission has gathered extensive data including statistics from the National Clearinghouse for Poison Control Centers which indicate that accidental ingestions of this drug by children is not likely to produce serious illness or injury. A discussion of these data is included below. The Commission points out, furthermore, that the use of extrapolations from animal data is a commonly accepted approach among a majority of pharmacologists.

A commenting trade association states that it has no objection to granting the specific drug exemptions proposed by the Commission based on the toxicological information provided in the proposal. This commentor believes however, that "exemptions should be granted with restraint." He believes there could be a public assumption that any "drugs exempted from child-resistant packaging requirements are 'safe' * * *" and that this assumption may be reinforced without Commission restraint in granting exemptions. The commentor recommends that criteria other than toxicological issues be considered by the Commission in granting exemptions.

The Commission exercises great restraint in granting exemptions pursuant to 16 CFR Part 1702 and does not base exemptions on toxicological issues alone. (16 CFR 1702 contains comprehensive regulations concerning submission and processing of petitions for exemption under the PPPA.) Furthermore, the Commission does not concur with respondent's belief that the public will assume that "drugs exempted from child-resistant packaging requirements are 'safe' * * *". The PPPA requires special packaging only if it is found that "the degree or nature of the hazard to children in the availability of such substance, by reasons of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using or ingesting such substance * * *" (Section 3(a)(1)). In promulgating the child-protection packaging standards for human prescription drugs in oral dosage forms, the Commissioner of the Food and Drug Administration indicated that an "across-the-board approach was taken as the most efficient means of implementing the act" (38 FR 9431, at 9432, April 16, 1973). It was recognized however, that exemptions to the standard could and should be granted if appropriate (38 FR 9431, at 9432, April 16, 1973).

Several commentors see problems facing pharmacists in responding to exemptions that are approved by CPSC and suggest means by which the Commission could avoid posing these problems. They identify the problem of notification to pharmacists for products which have been exempted. Cited is a communications barrier created by the language of the exemption proposals which would complicate identification of drug components, their quantity in single dosage units, and "the maximum allowable limit of total drug content allowed by the proposed regulation." One person suggests that pharmacists be "provided with specific information regarding the largest number of dosage units * * * (to be) dispensed in conventional packaging * * *". Otherwise, pharmacists would be required to bear the responsibility of calculating the point at which prescription orders calling for above-average quantities of a drug would have to be packaged with child-protection closures. The commentor uses erythromycin ethylsuccinate oral suspensions to illustrate this problem by pointing out that it is available in a one-pint bottle, but that any order larger than 200 ml. of the preparation would require a child-protection closure.

The Commission is unaware of any problems being experienced by pharmacists in these areas. The pharmacist is a professional who must be aware of laws and regulations relating to his or her profession. He or she is not only cognizant of such laws through formal schooling and State board examinations, but is notified of new laws via trade magazines and professional associations.

Furthermore, the PPPA applies to substances which are being sold to consumers and it is both the manufacturer's and pharmacist's responsibility to specially package substances which are subject to the act. When the manufacturer is the person placing the drug in a package intended for use by a consumer in the household, the manufacturer is responsible for ensuring that it is placed in child-resistant packaging (see 16 CFR 1701.1 (43 FR 11980, March 23, 1978)).

A recommendation was made by two commentors that manufacturers or distributors of exempted products "be required to include a prominent, affirmative statement of the exemption in the product's labeling and in advertisements and other materials used to promote the product." The label should also carry "a maximum allowable limit on the quantity of a drug component * * * expressed in terms of the number of dosage units (or volume in the case of liquids) containing the maximum allowable quantity." It was finally recommended that establishment of a standard symbol be used in identifying exempted products for the pharmacist.

The commentors realize that CPSC has no authority to prescribe such labeling requirements but urges the Commission to cooperate with the Food and Drug Administration in implementing these recommendations. Until the time when such recommendations are adopted, the commentor urges the encouragement of voluntary cooperation on the part of manufacturers and distributors of exempted products.

The PPPA provides no authority for imposing such labeling requirements for prescription drugs. The Commission views the suggestions regarding labels as a matter within the FDA's jurisdiction and the individual manufacturer's discretion. As explained above, however, the Commission has not been made aware of pharmacists being unable to obtain information concerning exemptions.

Other respondents oppose any proposed exemptions because they believe the intent of the PPPA would be compromised. They cite possibilities of idiosyncrasies, hypersensitive reactions, long term effects and inadvertent errors in compounding and dispensing prescriptions as justification for safety packaging for all oral prescription drugs.

The Commission realizes that the potential exists for individual hypersensitive reactions to antibiotics such as erythromycin ethylsuccinate. However, the Commission notes that the reactions that have occurred with this particular drug are rare in comparison to other types of antibiotics and are not specifically associated with overdosage.

The Commission further points out that the concern expressed over inadvertent errors in compounding and/or dispensing prescriptions would not be addressed by safety-packaging regulations, since such errors can occur even though child-resistant packaging is being used. The lack of child-resistant closures is not rationally related to errors in compounding and dispensing prescriptions. This is a concern that must be addressed by proper training and licensure procedures for individual pharmacists.

One comment cites other reasons in support of an across-the-board requirement for safety packaging. The commentor states that low toxicity drugs may not be safely ingested by small children and that there is a lack of both acute and long term reaction data. Various human experience data elements have been evaluated in considering the exemption for erythromycin ethylsuccinate oral suspensions. A review has been made of poison control center reports and medical literature regarding the effects of acute ingestions, symptomatology, and the length of hospitalizations. These sources point to the relative safety of this drug when ingested even by young children (see section on Injury Data below).

Other commentors expressed concern over the fact that consumer education as to the proper handling of prescription products will be made more difficult by the presence of two types of containers in the home which may encourage the tendency to re-use more convenient containers for toxic prescription products. The granting of exemptions, the commentors believe, will foster the development of two categories of drugs (safe and unsafe) in the mind of the adult public so that two standards of drug storage develop in the home.

The Commission notes that even if there were no granted exemptions for prescription drugs under the PPPA, a person could still request noncomplying packaging of a drug. The PPPA clearly envisions the use of both types of packaging (e.g. to meet the demands of the elderly and handicapped who are unable to use special packaging). In regard to the commentors' other concerns about consumer education, the Commission, in conjunction with the Food and Drug Administration, urges persons to keep all medications out of the reach of children and locked up, if possible. The two agencies also inform consumers that neither the absence nor presence of child-resistant closures is an indication of safety of a drug.

Another respondent believes that noncomplying packaging will increase the costs for poison control centers and emergency rooms as well as physicians' fees to parents and detract from the image of physicians and pharmacists as persons concerned about child safety. There is no information that exemptions from packaging regulations contribute to the problems identified. As stated above, the Commission is only authorized under the PPPA to require use of child-resistant packaging upon a showing that the substance is capable of causing serious personal injury or illness.

INJURY DATA

The Commission bases its decision to issue an exemption for erythromycin ethylsuccinate in oral suspensions in part on the lack of any significant adverse human experience data since 1962, when the drug was introduced. The petitioner submitted its own rec-

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ords showing only three reported instances of overdosage, none of which resulted in any significant adverse effects.

Furthermore, an examination of National Electronic Injury Surveillance System (NEISS) and Poison Control Center Data was conducted to determine the number of ingestions, if any, by children under five years of age of erythromycin oral suspensions. This final rule only involves, however, erythromycin ethylsuccinate oral suspensions in packages containing no more than 8 grams of the drug. It was not possible to determine the amount of erythromycin ethylsuccinate (based on package size and concentration) for those products involved in ingestions.

The NEISS data is separated by product codes and in the prescription drug area there are three codes. These codes separate product form and permit the elimination of ingestions which involve the tablet and capsule form of erythromycin/erythromycin ethylsuccinate. An examination of the NEISS in-depth files from 1973 to 1978 revealed no ingestions of erythromycin/erythromycin ethylsuccinate in liquid form by children under 5 years old. An examination of the comments appearing with the NEISS emergency room reports for 1977-78 showed no ingestions of this drug in liquid form by children under 5 years old. The Commission believes that the information that no accidental ingestions by children of the drug in liquid form have been reported through NEISS since 1973 is particularly significant in light of the fact that granules and oral suspensions of the drug have been on the market in noncomplying packaging since 1974, the year the proposed exemption was published.

The National Clearinghouse for Poison Control Centers (NCPCC) data was listed by brand name or generic name. This did not permit the separation of the various product form and consequently, the following statistics reflect the reported ingestions of all forms of erythromycin ethylsuccinate, not just oral suspensions whose total dosage does not exceed 8 grams. Accordingly, NCPCC data reported 668 ingestions of erythromycin/erythromycin ethylsuccinate by children under 6 years old for 1969-1976. Thirty-three of these cases exhibited symptomatology and five cases resulted in hospitalization.

Poison Control Center Contract data for 1976-77 reported 15 ingestions of erythromycin/erythromycin ethylsuccinate in a liquid form involving children under 5 years old. One of these fifteen cases was hospitalized and one case exhibited nausea and vomiting.

The Commission also bases its decision to issue a final exemption on evidence showing that erythromycin ethylsuccinate has very low toxicity and presents little risk in the amount requested for exemption. This is substantiated by documentation in the form of pharmacopeiae and scholarly monographs. Furthermore, the extrapolated oral median lethal dose (LD 50) for 10 kg children would be greater than 85 grams of erythromycin. (Analysis of other experimental data and available pharmacological information, both animal and human, indicates that the oral toxicity of this product is such that this extrapolation may be considered to approximate the anticipated toxicological effect in humans.) The maximum dosage available in the manufacturer's largest exempt size package for oral suspensions is the equivalent of 8 grams of erythromycin and therefore, substantially less than a toxic dose for a 10 kg child.

Findings

Having considered the petition, human experience data from the National Clearinghouse for Poison Control Centers and the National Electronic Injury Surveillance System, as well as medical and scientific literature, and experimental data; and having consulted, pursuant to section 3 of the PPPA, with the Technical Advisory Committee on Poison Prevention Packaging established under section 6 of the act, the Commission finds that erythromycin ethylsuccinate in oral suspension forms that are packaged in dosages not exceeding 8 grams, do not present the degree or nature of hazard to children in their availability, such that special packaging is required to protect young children from serious personal injury or illness resulting from the ingestion of such preparations.

Effective Date

Since this rule grants an exemption, the delayed effective date provisions of the Administrative Procedure Act are inapplicable (5 U.S.C. 553(d)(1)). Accordingly, this rule is effective January 31, 1979.

Conclusion and Promulgation

Having considered the petition, the comments on the proposal, and other relevant material, the Commission concludes that the final rule should be adopted as set forth below.

Accordingly, pursuant to the provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91-601, sections 2(4), 3, 5, 84 Stat. 1670-72; 15 U.S.C. 1471(4), 1472-1474) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92-573, section 30(a), 86 Stat. 1231, 12 U.S.C. 2079(a)), the Commission amends 16 CFR 1700.14 by adding a new paragraph (a)(10)(iii) as follows (the introductory portion of paragraph (a)(10), although unchanged, is included for context):

§ 1700.14 Substances requiring special packaging.

(a) * * *

(10) *Prescription drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c) except for the following:

(iii) Erythromycin ethylsuccinate granules for oral suspension and oral suspensions in packages containing not more than 8 grams of the equivalent of erythromycin.

(Pub. L. 91-601, secs. 2(4), 3, 84 Stat. 1670-72 (15 U.S.C. 1471(4)), 1472, 1474; Pub. L. 92-573, sec. 30(a), 86 Stat. 1231 (15 U.S.C. 2079(a)))

Effective date: January 31, 1979.

Dated: January 25, 1979.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 79-3186 Filed 1-30-79; 8:45 am]

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[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1700]

HUMAN PRESCRIPTION DRUGS IN ORAL DOSAGE FORMS

Proposed Exemption of Colestipol From Child-Protection Packaging Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend the child-resistant packaging regulations to exempt colestipol in powder form in packages containing no more than 5 grams of the drug. (Colestipol is an oral prescription drug used to lower cholesterol.) The exemption is proposed because the information available to the Commission indicates that child-resistant packaging for this product is not necessary to protect young children from serious personal injury or illness, due to the low oral toxicity of the drug, the lack of adverse human experience associated with accidental ingestions, and the fact that the drug is unattractive to children because of its powder form, sandy texture, and lack of flavor. In proposing the exemption, the Commission grants a petition from the Upjohn Company (Petition CP 78-4).

DATES: Comments on this proposed exemption should be submitted by April 2, 1979. If the Commission issues a final regulation concerning the exemption, the Commission proposes that the exemption be effective on the date the final regulation is published in the FEDERAL REGISTER.

ADDRESS: Comments should be addressed to the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Third Floor, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Irwin L. Greif, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301) 492-6755.

SUPPLEMENTARY INFORMATION: The regulations issued under the Poison Prevention Packaging Act of 1970 (the "PPPA", 15 U.S.C. 1471-1476) establish child protection packaging requirements (also called "special packaging") for human oral prescription drugs in order to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting these substances.

On May 1, 1978 the Consumer Product Safety Commission received a petition (PP 78-4) from the Upjohn Company, Kalamazoo, Michigan 49001, requesting an exemption from special packaging for "Colestid" (colestipol) in powder form in a 5 gram foil package. Colestid is a non-absorbed cross-linked polymer that absorbs bile acids and cholesterol. The drug is a hypocholesterolemic agent used to lower serum cholesterol via nonsystemic action. In support of the petition Upjohn submitted the following information: a summary of animal toxicology studies, a summary of clinical experience, a summary of metabolism studies, a summary of marketing experience and reported adverse reactions, a report of a child acceptance study, product and packaging specifications, and labeling. A copy of this information is available in the Commission's Office of the Secretary.

Special packaging is currently required for the drug by the Commission's regulation covering human prescription drugs in oral dosage form at 16 CFR 1700.14(a)(10).

After considering the information available to it, the Commission has decided to grant the petition and to propose an exemption from the child-resistant packaging requirements for the reasons discussed below.

Grounds for Exemption

The Commission's decision to propose the exemption is based on the low acute oral toxicity of the drug, the lack of adverse human experience data associated with the product, and studies indicating that the drug is unattractive to children.

Radioisotopic studies in both animals and man indicate that virtually none of the product is absorbed from the gastrointestinal tract due to its insolubility. In addition, toxicity studies in mice, rats, rabbits, and dogs indicate that the product as formulated does not produce any lethality when ingested in doses up to 4000 mg/Kg. The acute oral LD 50 has been determined to be greater than 4g/kg. (A 10 kg child would have to ingest more than 40 gms. of the product in order to approach the LD 50.) Analysis of other experimental data and available pharmacological information, both animal and human, indicates that the oral toxicity of this product is such that this extrapolation may be considered to approximate the anticipated toxicological effect in humans.

Information available to the Commission shows that the drug is unattractive to children. Results of a study performed by Child-Related Research indicates that children tested did not ingest more than one gram of the product while it was accessible to them. According to the study, the powdery consistency of the product makes it difficult for children to handle and transport the product to their mouths. In addition, the sandy texture and lack of flavor discourages the ingestion of large amounts of the product.

There have not been any overdoses reported for the product. Also the National Electronic Injury Surveillance System does not contain any reports of colestipol poisonings to children under five years of age. There is no ingestion information available from the National Clearinghouse for Poison Control Centers, since the product was first marketed in 1977 and the Clearinghouse information is presently available only through 1976. However, the Commission did have a contract with six Poison Control Centers from October 1976 through October 1977. During this period there were no reported ingestions of the drug.

The Commission solicited the opinion of the Food and Drug Administration (FDA) on the exemption requests. Based on the very low acute toxicity of the product and the results of the product ingestion study conducted by Child-Related Research, FDA concluded that the exemption should be granted.

The Commission also solicited comments from its Technicial Advisory Committee on Poison Prevention Packaging. Of the twelve comments received, ten recommended granting the exemption, citing as reasons the low toxicity and lack of absorption of the drug and the general dislike for the product by the children tested. One comment recommended denial and another recommended granting the petition with reservations, due to the drug's potential for causing gastrointestinal or respiratory distress should a sufficient amount of the drug, in dry form, be ingested or inhaled. However, the product ingestion study indicates that only small amounts of the drug (less than 1 gram in most cases) were actually ingested. With the small amount likely to be ingested, gastrointestinal or respiratory distress is unlikely to occur.

Based on its evaluation of the available toxicity information and human experience data, the Commission finds that this drug in the dosage and form specified does not pose a risk of serious personal illness or injury to children. The Commission emphasizes that this proposed exemption is limited to colestipol in powder form in 5 gram packages and containing no other substance subject to the requirments for special packaging under 16 CFR 1700.14(a)(10). The applicability of 16 CFR 1700.14(a)(10) to ingredients other than colestipol is not affected by this proposal. Products within the scope of this proposal must continue to be in special packaging until the effective date of any final exemption that may be issued.

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In order to help ensure that the requested exemption will apply to as many similarly situated manufacturers as possible, the proposed exemption is phrased in terms of the generic name and total amount of the drug that is present in the package.

CONCLUSION

Having considered the petition, human experience data, and other medical and scientific literature, and having consulted with the Technical Advisory Committee on Poison Prevention Packaging as required by section 3 of the Poison Prevention Packaging Act of 1970, the Consumer Product Safety Commission concludes that an exemption from the requirement of special packaging at 16 CFR 1700.14(a)(10) should be proposed for colestipol in powder form in 5 gram packages.

Accordingly, under provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91-601; secs. 2(4), 3, 5; 84 Stat. 1670-72; 15 U.S.C. 1471(4), 1472, 1474) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92-573; sec. 30(a); 86 Stat. 1371; 15 U.S.C. 2079(a)), the Commission proposes that 16 CFR 1700.14 be amended by adding a new paragraph (a)(10)(xv) as follows (the introductory portion of paragraph (a)(10), although unchanged, is included for context):

§ 1700.14 Substances requiring special packaging.

(a) * * *

(10) *Prescription drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), except for the following:

* * * * *

(xv) Colestipol in powder form in packages containing not more than 5 grams of the drug and containing no other substance subject to the provisions of this section.

(Secs. 2(4), 3, 5, Pub. L. 91-601, 84 Stat. 1670-1672 (15 U.S.C. 1471(4), 1472, 1474))

Interested persons are invited to submit on or before April 2, 1979, written comments regarding this proposed amendment. Comments received after this date will be considered if practicable. Comments and any accompanying data or material should be submitted, preferably in five copies, to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be supported by a memorandum or brief. Comments may be seen in the Office of the Secretary, 1111 18th Street, NW., Third Floor, Washington, D.C. 20207.

Dated: January 25, 1979.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 79-3187 Filed 1-30-79; 8:45 am]

[6355-01-M]

[16 CFR Part 1700]

HUMAN PRESCRIPTION DRUGS IN ORAL DOSAGE FORMS

Proposed Exemption of Erythromycin Ethylsuccinate Tablets From Child-Protection Packaging Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend the child-resistant packaging regulations to exempt erythromycin ethylsuccinate tablets in packages containing no more than 16 grams, total dosage, of the drug. This action is being taken because the information available to the Commission shows child-resistant packaging of this product to be unnecessary given its low oral toxicity and the lack of adverse human experience from accidental ingestions.

DATES: Comments on this proposed exemption should be submitted by April 2, 1979. If the Commission issues a final regulation granting an exemption, the Commission proposes such exemption to become effective on the date the final regulation is published in the FEDERAL REGISTER.

ADDRESS: Comments should be addressed to the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, N.W., Third Floor, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Dr. Fred Marozzi, Division of Safety Packaging and Scientific Coordination, Directorate for Engineering and Science, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 492-6477.

SUPPLEMENTARY INFORMATION: Regulations issued under the Poison Prevention Packaging Act of 1970 (the "PPPA", 15 U.S.C. 1471-1476) establish child-protection packaging requirements for human oral prescription drugs in order to protect children from serious illness or personal injury resulting from handling, using, or ingesting these substances.

On December 5, 1977, the Consumer Product Safety Commission received a petition (PP 78-2) from Abbott Laboratories for the exemption from the child-protection packaging requirements for prescription drugs at 16 CFR 1700.14(a)(10) of E.E.S. Tm Chewable, Erythrocin (R) Ethyl Succinate Chewable Tablets, 200 mg and Pediamycin (R) Chewable Tablets, 200 mg, two brands of 200 mg erythromycin ethylsuccinate tablets produced by Abbott Laboratories and its subsidiary, Ross Laboratories. As reasonable grounds justifying an exemption, Abbott cited the extremely low toxicity of erythromycin ethylsuccinate, and the lack of adverse human experience from its use. In support of this, Abbott attached to its petition a description of the three known incidents of overdosage it had received since the drug was introduced in 1962, several sources from the medical literature citing its relative safety, and reports of tests with laboratory animals showing no deaths or signs in the animals at a dosage of up to 10/g/kg.

Abbott had previously submitted to the Commission an exemption petition covering this same drug, but action on that petition was ended when certain requested information was not provided. The Commission is treating the present request as a new petition. As to the present petition, Abbott's supporting documents make clear that an exemption is being sought only for packages of up to eighty, 200 mg tablets (16 grams, total dosage).

Erythromycin ethylsuccinate is an antibiotic, most often used in the treatment of skin and upper respiratory tract infections, or as a substitute for persons allergic to penicillin. Symptoms produced by overdosage include nausea, vomiting, diarrhea, and abdominal cramps. While these gastrointestinal disturbances cause discomfort, they are rarely severe. As currently marketed by Abbott and Ross Laboratories, erythromycin ethylsuccinate is packaged in cartons containing 50 tablets on a cardboard strip with a foil-polyester backing and a vinyl blister covering each tablet. An exemption, if granted, would allow Abbott (and any other company with a similar product) to eliminate the polyester from the backing, making the individual packages somewhat easier to open.

After considering the information available to it, the Commission has decided to propose an exemption from the child-resistant packaging requirements for the reasons discussed below.

GROUNDS FOR EXEMPTION

The Commission bases its decision to propose an exemption in part on the lack of any significant adverse human experience since 1962, when erythromycin ethylsuccinate was introduced. The petitioner submitted its own records showing only three reported instances of overdosage, none of which resulted in any significant adverse effects. A Commission staff survey of various sources (including the Department of Health, Education, and Welfare National Clearinghouse for Poison Control Centers, the National Electronic Injury Surveillance System, and Poison Control Center Contract Data) revealed that out of 231 reported ingestions of erythromycin ethylsuccinate between 1975 and 1978, only 17 resulted in noticeable symptoms, and in none of these 17 cases was hospitalization required. In addition to the 17 cases with noticeable symptoms, there were two reported hospitalizations. The two were of unspecified duration and no symptoms were given.

The Commission also bases its decision on evidence showing that erythromycin ethylsuccinate has very low toxicity, and that ingestion of even an entire 80 tablet prescription would not be harmful. The data presented by the petitioner indicates that the extrapolated oral median lethal dose (LD 50) for 10 kg children is from 300 to 500 tablets. (Analysis of other experimental data and available pharmacological information, both animal and human, indicates that the oral toxicity of this product is such that this extrapolation may be considered to approximate the anticipated toxicological effect in humans.) Based on this information, an 80 tablet prescription, even if entirely ingested at one sitting by a child, would result in substantially less than a toxic dose. Further, it is unlikely a child could gain access to larger quantities, because prescriptions larger than 80 tablets remain subject to child-resistant packaging requirements.

The Commission solicited the opinion of the Food and Drug Administration (FDA) on the exemption request. Based on the low acute oral toxicity of the drug, FDA concluded that the exemption should be granted.

The Commission also received comments from nine members of the Technical Advisory Committee on Poison Prevention Packaging. Six of the nine favored granting an exemption. Three others recommended denial for various reasons. One reason was the possibility of allergic and drug reactions. Comments solicited from the Food and Drug Administration, however, indicate that allergic reactions to erythromycin, while known to happen, are not specifically related to overdosage. The other reasons cited for denial were (a) the lack of evidence that the easier-to-open blister packaging would sufficiently deter children; and (b) that the amount of erythromycin ethylsuccinate available (16 grams) was considered to be too high. The Committee members who recommended granting the exemption cited the relative low toxicity of the drug and its safety record.

Based on its evaluation of the available toxicity information and human experience data (including that reported to the National Clearinghouse for Poison Control Centers and the National Electronic Injury Surveillance System), as well as other medical and scientific literature, the Commission believes that erythromycin ethylsuccinate, administered orally in tablet form, each tablet containing no more than the equivalent of 200 milligrams erythromycin and in packages containing no more than eighty (80) tablets (16 grams, total dosage) does not pose a risk of serious personal illness or injury to children.

CONCLUSION

In view of the above finding and having consulted, pursuant to section 3 of the Poison Prevention Packaging Act of 1970 with the Technical Advisory Committee on Poison Prevention Packaging established under section 6 of the Act, the Consumer Product Safety Commission concludes that an exemption from the requirement of special packaging for erythromycin ethylsuccinate 200 mg tablets, dispensed in packages of no more than eighty (80) tablets (16 grams, total dosage) should be proposed at 16 CFR 1700.14(a)(10)(xvi), as set forth below. The Commission emphasizes that the proposed exemption is limited to erythromycin ethylsuccinate in the form and dosage described above. Products within the scope of this proposal remain subject to the child-protection packaging requirements until the effective date of any final exemption that may be issued.

Accordingly, pursuant to the provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91-601, secs. 2(4), 3, 5; 84 Stat. 1670-72; 15 U.S.C. 1471(4), 1472, 1474) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92-572, sec. 30(a); 86 Stat. 1371; 15 U.S.C. 2079(a)), the Commission proposes that 16 CFR 1700.14 be amended by adding a new paragraph (a)(10)(xvi) as follows (the introductory portion of paragraph (a)(10), although unchanged, is included for context):

§ 1700.14 Substances requiring special packaging.

(a) * * *

(10) *Prescription drugs.* Any drug from human use that is in a dosage for intended for oral administration and that is required by Federal Law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c) except for the following:

* * * * *

(xvi) Erythromycin ethylsuccinate in tablet form, each tablet containing no more than the equivalent of 200 mg erythromycin dispensed in packages of no more than 80 tablets (16 grams, total dosage).

* * * * *

Interested persons are invited to submit written comments regarding this proposed amendment on or before April 2, 1979. Comments received after this date will be considered if practicable. Comments and any accompanying data should be submitted, preferably in five copies, to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be supported by a memorandum or brief. Comments may be seen in the Office of the Secretary, 1111 18th Street, NW., Third Floor, Washington, D.C. 20207.

Dated: January 25, 1979.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 79-3188 Filed 1-30-79; 8:45 am]

[6355-01-M]

[16CFR Part 1700]

EXEMPTION OF OGEN FROM CHILD PROTECTION PACKAGING REQUIREMENTS

Withdrawal of Proposed Rule

AGENCY: Consumer Product safety Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: In this document the Commission withdraws a proposed rule that would have exempted certain formulations of Ogen, a brand of piperazine estrone sulfate, from the child resistant packaging requirement issued under the Poison Prevention Packaging Act of 1970. The Commission is withdrawing the proposed rule at the request of the manufacturer, Abbott Laboratories, which has stopped distributing Ogen in the packaging in question.

FOR FURTHER INFORMATION CONTACT:

Philip Bechtel, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207 (202) 634-7770.

SUPPLEMENTARY INFORMATION: Under regulations at 16 CFR 1700.14(a)(10), issued under the Poison Prevention Packaging Act of 1970 (PPPA) (15 U.S.C. 1471 et. seq.),

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human prescription drugs in oral dosage forms must be packaged in special (child resistant) packaging. In the FEDERAL REGISTER of March 19, 1976 (41 FR 11555), the Commission proposed an exemption for Ogen 1.25 21-Pak and Ogen 2.5 21-Pak. These products are manufacturer's mnemonic (memory-aiding) dispenser packages containing, respectively, 21 tablets of 1.5 and 3.0 milligrams of piperazine estrone sulfate per tablet. (Ogen is an estrogen-containing drug used in the treatment of hormone deficiency.) The Commission proposed the exemption as a result of a petition (PP 74-40) submitted by Abbott Laboratories on March 7, 1974 requesting the exemption. The Commission's decision to propose the exemption was based on the low toxicity and limited hazard potential of the product. The proposed exemption was limited to Abbott's brand of manufacturer dispenser packages containing not more than 21 tablets of either 1.5 or 3.0 milligrams of piperazine estrone sulfate per tablet. No other manufacturer's brands of piperazine estrone sulfate were covered by the proposal. The Commission received no comments in response to the proposal.

On December 14, 1978, Abbott Laboratories sent a letter to the Commission requesting that the proposal be withdrawn, since the product that would have been covered by the proposed exemption is no longer being distributed in this package. Based on this information, the Commission does not believe that an exemption from the requirement of special packaging is necessary for this product.

Accordingly, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91-601, secs. 2(4), 3, 5, 84 Stat. 1670-72; 15 U.S.C. 1471(4), 1472, 1474) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92-573, sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission withdraws the regulation proposed in the FEDERAL REGISTER on March 19, 1976 (41 FR 11555) that would have exempted Ogen 1.25 21-Pak and Ogen 2.5 21-Pak from the requirement of special packaging at 16 CFR 1700.14(a)(10)(vii).

Dated: January 25, 1979.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

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